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PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Thursday, June 16, 1988*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us in all things, O God, to acknowledge and appreciate the gift of friendship in our relations one with another. We are grateful for others who share our burdens and whose presence brightens the day, who support us with words and deeds and who remember us in their thoughts and prayers. Help us always to see how true friendship can transcend the differences of party or policy, of race or region, of age or position, and make secure that human tie of friendship that binds our hearts in love. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4799. An act to extend the withdrawal of certain public lands in Lincoln County, NV.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4567) "An act making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. STENNIS, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. SASSER, Mr. DECONCINI, Mr. HATFIELD, Mr. MCCLURE, Mr. GARN, Mr. COCHRAN, Mr. DOMENICI, and Mr. SPECTER to be conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4586) "An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1988, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SASSER, Mr. INOUYE, Mr. PROXMIRE, Mr. REID, Mr. STENNIS, Mr. SPECTER, Mr. GARN, Mr. STEVENS, and Mr. HATFIELD to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4587) "An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1989, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BUMPERS, Ms. MIKULSKI, Mr. REID, Mr. STENNIS, Mr. GRASSLEY, Mr. HATFIELD, and Mr. STEVENS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1860. An act entitled the "Federal Land Exchange Facilitation Act of 1987";

H.R. 4567. An act making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4586. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes; and

H.R. 4587. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1989, and for other purposes.

APPOINTMENT AS MEMBERS OF SELECT COMMITTEE TO INVESTIGATE FIRE SAFETY IN THE CAPITOL AND HOUSE OFFICE BUILDINGS

The SPEAKER. Pursuant to the provisions of House Resolution 440, 100th Congress, the Chair appoints to the Select Committee to Investigate Fire Safety in the Capitol and House Office Buildings the following Members:

Mr. WALGREN of Pennsylvania;
Mr. MANTON of New York;
Mr. WELDON of Pennsylvania; and
Mr. BOEHLERT of New York.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL 9 P.M., FRIDAY, JUNE 17, 1988, TO FILE REPORT ON H.R. 1158, FAIR HOUSING AMENDMENTS ACT OF 1988

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until 9 p.m., Friday, June 17, 1988, to file a report on the bill, H.R. 1158, the Fair Housing Amendments Act of 1988.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION ACT, 1989

Mr. YATES. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

Mr. REGULA reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

APPOINTMENT OF CONFEREES ON H.R. 4567, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1989

Mr. BEVILL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4567) making appropriations for Energy and Water Development for the fiscal year ending September 30, 1989, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Alabama? The Chair hears none, and appoints the following conferees: Mr. BEVILL, Mrs. BOGGS, and Messrs. CHAPPELL, FAZIO, WATKINS, THOMAS of Georgia, WHITTEN, and MYERS of Indiana, Mrs. SMITH of Nebraska, Mr. PURSELL, and Mr. CONTE.

APPOINTMENT OF CONFEREES ON H.R. 4587, LEGISLATIVE BRANCH APPROPRIATIONS, 1989

Mr. FAZIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4587) making appropriations for the legislative branch for the fiscal year ending September 30, 1989, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. FAZIO, OBEY, ALEXANDER, MURTHA, and TRAXLER, Mrs. BOGGS, and Messrs. WHITTEN, LEWIS of California, CONTE, MYERS of Indiana, and PORTER.

RETURNING TO THE SENATE S. 1748, PROHIBITING IMPORTS OF IRANIAN PRODUCTS

Mr. ROSTENKOWSKI. Mr. Speaker, I offer a privileged resolution (H. Res. 474) and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 474

Resolved, That the bill of the Senate (S. 1748) to prohibit the import into the United States of all products of Iran, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER. The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 474 is a simple resolution returning to the Senate the bill, S. 1748, because it contravenes the constitutional requirement that revenue measures originate in the House of Representatives. S. 1748, which passed the Senate on October 6, 1987, is a bill to ban the importation of all products from Iran.

This change in our tariff laws constitutes a revenue measure in the constitutional sense, because it would have an immediate effect on Customs revenues. Therefore, I am asking that the House insist on its constitutional prerogatives. While the House, by adopting this resolution, will preserve its prerogative to originate revenue matters, I want to make it clear to all Members that our action does not constitute a rejection of the Senate bill on its merits. In fact, the House passed its own bill, H.R. 3391, prohibiting imports from Iran on October 6, 1987. However, it became unnecessary for the Senate to act on that measure because shortly thereafter the President announced a ban on Iranian imports under authority of the International Economic Emergency Powers Act. Thus, our action today is merely procedural in nature. It makes it clear to the Senate that the appropriate procedure for dealing with tariff matters that affect revenues is for the House to act first on a revenue bill and the Senate to add its amendments and seek a conference.

If, for some reason, the President were to lift the present sanctions on Iran—a step which they do not contemplate—the Senate could immediately take up the House-passed bill and send it to the President.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, I would appreciate it if the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman, would further explain to the House a little bit more about this resolution.

Mr. ROSTENKOWSKI. Mr. Speaker, this resolution has passed both the House and the Senate and has administratively been put into effect by the President, but the Senate, as has been introduced, is a revenue resolution, which is a constitutional prerogative of the House of Representatives.

Mr. ARCHER. Mr. Speaker, I support the chairman in his efforts in this regard.

Mr. ROSTENKOWKSI. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WHERE IS THE LEFT-LEANING FOREIGN POLICY?

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, Vice President BUSH has been going around the country saying that Governor Dukakis has a left-leaning foreign policy.

Governor Dukakis recently addressed the Atlantic Council on European Relations. This is what he said, that we keep the troops in Europe at full levels, that we need to beef up conventional forces, that we cannot continue to go it alone without consulting our allies, that we need to link human rights to economic performance in the Soviet Union, that we have to have more efficient burden-sharing, that we have to pursue negotiations with the Soviet Union, and he commended the President for the INF Treaty.

It sounds like a speech that Vice President BUSH would give himself. What is the objection? Where is the left-leaning foreign policy? Could it be on the South African sanctions issue, or could it be that Vice President BUSH objects to the fact that Governor Dukakis has said that we should not deal with a dictator like Noriega?

Where is this left-leaning foreign policy?

□ 1010

TRANSPLANT FOR EDDIE EVERITT

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, I am here today to address you on a matter of life and death for a man named Eddie Everitt. Eddie is a 42-year-old man with a failing liver. Doctors tell me that Eddie will soon die if he does not receive a liver transplant. In fact, he has already outlived doctors' predictions. Unfortunately, his insurance carrier, will not cover the cost of this operation because they are relying on the standard set by Medicare that "liver transplants are considered experimental surgery."

In this special, life threatening situation, I am asking Secretary Otis Bowen of the Health and Human Services Department to intervene and help Eddie receive the transplant he desperately needs. My personal observation is that there are probably hundreds of cases across our land, much like Eddie Everitt's, where the health care provider makes its determination based on the existing standards and the patient is left in a life threatening situation.

I have also initiated a request encouraging the Public Health Service, through its Office of Health Technology Assessment [OHTA] to reassess its criteria for the funding of liver transplants through the Health Care Financing Administration [HCFA].

I am encouraged by the OHTA response and would urge my colleagues to support this effort by voicing your concern to Dr. Bowen and the appropriate agencies involved in this process.

This could be very beneficial to those who rely on Medicare as well as those who are covered by private insurance companies which follow the standards and regulations set by Medicare.

INITIATION OF BOOK ROYALTY RULES FOR MEMBERS OF THE HOUSE

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, often in life we are plagued by the things that we know that are not so. In the last week the New Republic, Newsweek, and now George Will have all reported that the exemption in the House rules on income limitations for book royalties was initiated by Jim Wright. That is just not so.

I know, because I was the chairman of the commission that wrote those reform rules in 1977. The argument for an exemption for book royalties at that time was first initiated by two Members of this House with impeccable ethical credentials, the gentleman from Arizona [Mr. Udall], and the then gentleman from Illinois, Mr. Anderson. They correctly argued two points.

No. 1, that it did not serve the public interest to prohibit Members from communicating to the public about their views and experiences in book form. They specifically pointed to two books written by the gentleman from Missouri, Mr. Bolling, "Power in the House," and "House out of Order," which proved to be catalysts for a great deal of reform in this House in the latter half of the 20th century.

They also correctly point out that one could not administratively apply a limitation on outside earned income to book royalties because one could not predict ahead of time whether they would have a flop or a best seller.

I would urge each of these three parties to correct the record and restate the facts correctly.

TRIBUTE TO KRISTA JOY CLAFFEY, NATIONAL WINNER OF "LIFE WITHOUT READING" ESSAY CONTEST

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CRAIG. Mr. Speaker, I rise to honor Krista Joy Claffey, a national winner of the Sylvan Learning Corp.'s "Life Without Reading" essay contest.

Krista hails from historical Idaho City, situated deep in the heart of Idaho's Gold Rush territory. Krista's essay entitled "My Frightful Experience," which I will enter in the Record, was one of over 50,000 submitted by elementary and high school students from all over this great Nation.

She graphically depicts what her life would be like, and what bad circumstances she would encounter if her ability to read was taken away.

Tuesday afternoon, I had the distinct pleasure of visiting with this bright little girl and her family in my office. It was interesting to learn that she is taught at home by her mother. Needless to say, her parents are very proud of her. And so is the rest of Idaho.

As our conversation continued, I realized the magnitude of what this young Idahoan has accomplished. Considering that one out of every four high school students in this country leaves high school without being able to read or write properly, it is evident that this young lady has rendered a great service. She has brought some much needed attention to what our children are capable of doing.

It is encouraging to know that the youth of Idaho are so well represented on the national forefront by Krista Claffey.

[Grand prize winning essay, age group 5-10]

"How My Life Would Be Different if I Couldn't Read"

(By Krista Joy Claffey, Age 7)

MY FRIGHTFUL EXPERIENCE

One dreadful morning, I settled in to read my favorite book. The crisp pages fell open. I saw thousands of words before my eyes. Suddenly I realized that I could not read the words! I had lost my ability to read! I would have to find it.

I was on my way out when Mom said, "Please watch your brother. I have to get breakfast ready."

I sat down to read him a book. But I could not read! So I left my little brother to find my lost ability.

I started walking. I saw an orange sign. I couldn't read it, so I kept on walking. I fell straight down, fast! I had fallen into a big hole. I realized the sign must have said, "Danger." I must get out. I started waving my arms and yelling "Help!" Someone finally came and helped me out.

I kept looking for my ability to read. I saw a yard. There was a sign on the gate, but what did it say? I thought it might say, "Welcome," so I went in. I heard a "grrr." What was it? Then I saw a dog. The dog saw me and dashed towards me. I started running as fast as I could, but the dog was faster, and tore my dress. Finally I got out. The sign must have said, "Beware of Dog."

Well, this is not my day. I think I'll go home. But I can't! I would be bored stiff. I can't read.

Just then a man came up. He had a newspaper. He said, "I lost my glasses. Could you read this to me?"

I blushed and explained that I couldn't read. He looked at me, surprised, and walked away.

Then I started getting hungry. I saw a hamburger stand. Or was it an ice cream stand? It smells like hamburgers, so I'll order. But I can't order, because I can't read. I'll go home and ask Mom to make me some lunch.

Uh oh, I'm lost. I can't read the signs, either. I'll have to find a policeman to help me home.

I got home, and Mom said, "I'm busy, the cat is sick. Make some soup."

I said, "But how?"

"Read the directions," Mom answered.

I couldn't read, so I made a quick sandwich.

Then Mom said, "Call the Vet, please."

So I got the phone book. But I couldn't look it up. I had to tell Mom about my lost ability. She was shocked. I started pounding the phone book.

Then I opened my eyes. I was pounding my pillow frantically with my favorite book. I opened the crisp pages. I could read the words! It had all been a terrible dream.

My little brother came in with a book, and snuggled close. I read to him, while I thought of all the blessings of being able to read.

PENTAGON INVESTIGATION

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, no one has been proven guilty of anything in the latest Pentagon scandal. But if there is truth to any of the charges, it confirms our worst fears about the perils of the well-oiled revolving door. The door swings too easily in both directions, from industry, to the Pentagon, and back again to the private sector. It is bad enough that such a situation undermines public confidence in the procurement system. It is far worse to learn that former and current public officials may have broken the law in a rush to cash in on the contacts they gained at taxpayers' expense. Nothing could be lower than that. I believe the time has come to bring a new approach to the Pentagon's acquisition system.

I believe it is time to establish an independent procurement corps, managed and staffed primarily by civilians. This is not a new idea but an idea whose time has come.

We must have an independent, well qualified and well paid cadre of professionals who view defense procurement as a long-term career. They would operate as a buffer between the Pentagon and industry ending this unhealthy, cozy relationship. I would advocate a strict revolving door prohibition, the development of a strict code of ethics, and I would arm the corps with an equally independent inspector general's office.

The fact is we cannot legislate morality. There will always be those willing to sell themselves to the highest bidder, with little or no regard for the national defense. But we must do our best to guard this Government and the people from greed and abuse.

HOUSE AGRICULTURE COMMITTEE ESTABLISHES CONGRESSIONAL DROUGHT TASK FORCE

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, the only thing growing today throughout much of rural America is concern about a potential calamity. From the wheat fields in North Dakota's Red River Valley to the cattle ranches along the Rio Grande, from the cornfields of Ohio to the vegetable and fruit farms of California, much of the Nation's breadbasket is literally drying up.

I and many other Members are deeply concerned about the impact this drought is having on American farmers who are only now beginning to enjoy the positive effects of the 1985 farm bill. We have come too far to allow farmers to slip back into another agricultural depression like the one we experienced in the early 1980's.

Obviously, what the Farm Belt needs more than anything right now is rain. Unfortunately, while the Federal Government has lots of powers it cannot make it rain. But there are other actions the Federal Government can take to help our Nation's farmers weather this most recent crisis.

The drought is not just the farmer's problem. The impact of this year's drought has already been felt at the supermarket where food prices are beginning to rise.

There is also concern about how the drought may impact efforts to expand agricultural experts and regain lost foreign markets.

Yesterday, I, in my capacity as chairman of the House Committee on Agriculture, along with Representative EDWARD MADIGAN, the ranking minority member of the committee, established a 12-member Congressional Drought Task Force. Made up of members of the Agriculture Committee, the task force's mission is to make sure that the areas of rural America suffering from this drought receive the attention in Washington that they so desperately need. A similar task force has been set up by the Senate Committee on Agriculture, Nutrition, and Forestry by its chairman, Senator PATRICK J. LEAHY.

The Congressional Drought Task Force will seek to do several things. First, members of the task force will closely monitor the impact of the current drought throughout the country. Second, members of the task force will assess the adequacy of U.S. Department of Agriculture [USDA] efforts to respond to these emergency conditions. And finally, the members of the task force will help determine the need for additional authority or improvements in existing agricultural programs to assist American farmers during this crisis.

Mr. Speaker, I speak from personal knowledge about the extent and severity of this year's drought. Much of my own congressional district in south Texas is in a drought situation. Livestock producers are selling off their cows because there is no longer any grass or hay to feed them. Crop producers are faced with the increasing certainty of poor yields this year.

The House Committee on Agriculture has been monitoring this situation for several months now. We have met several times with USDA officials in recent weeks to assess the weather effect, the prospects for rain, and to review the existing authority the Secretary of Agriculture has to provide relief to drought-stricken areas. To date, we have convinced USDA to announce several emergency measures, including haying and grazing on diverted crop acreage, purchase of CCC-owned stocks for livestock feed, and cost sharing of feed costs for livestock in approved counties. As of June 14, 1988, 934 counties in 18 States have been approved for the haying and grazing relief alone.

Mr. Speaker, the Committee on Agriculture feels the situation throughout the Midwest, much of the South, and the Far West warrants regular meetings between its Members and USDA. The Congressional Drought Task Force will serve as the committee's and the House of Representatives' liaison with U.S. Department of Agriculture officials during this crisis period.

Besides myself and Mr. MADIGAN, the other members of the Congressional Drought Task Force are: Messrs. HUCKABY of Louisiana, STENHOLM of Texas, GLICKMAN of Kansas, JONTZ of Indiana, JOHNSON of South Dakota, NAGLE of Iowa, JEFFORDS of Vermont, COLEMAN of Missouri, MARLENEE of Montana, and HOPKINS of Kentucky.

We will be happy to counsel and advise with any other Member of the House that is in a drought situation. We welcome their counsel and we welcome their advice, as we work together so that we might have in place, if needed, adequate assistance. Hopefully it will not be needed, but in case it is, we want to be prepared.

IP STRIKE LASTS 1 YEAR

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, in the town of Jay, ME, workers are celebrating a bitter anniversary today. One year out on strike against the International Paper Co. One solid year.

People are hurting. Some are in danger of losing their homes. There is deep and bitter resentment between the families of striking workers and those who came in as replacement workers.

I believe that this strike could have been settled and the workers could have been back on the job long ago, if the company had not decided to hire permanent replacement workers within just a few days of the beginning of the strike a year ago.

Obviously, the initial disputes over work rules and pay could not be negotiated successfully while workers were faced with permanent replacement.

I would like someone to explain to me the difference between being permanently replaced and being fired.

The right to strike, under the National Labor Relations Act, is an illusion for workers if we continue to allow quick and permanent replacement of striking workers. I urge my colleagues to support legislation I have introduced, H.R. 4552, which would prohibit the hiring of permanent replacement workers within 70 days of the beginning of the strike.

CONGRESSIONAL SALARY AND TAX ACT OF 1988

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing a bill which addresses a number of controversial issues important to Members of Congress and our constituents alike. The bill deals with congressional salaries, honoraria, and tax treatment of Members' expenses, and the retention in service of senior congressional staff. I would like to take this opportunity to make a few observations about the bill.

One of the congressional sages with whom we have the privilege to serve, our colleague Mo UDALL, has been quoted as saying that the subject of congressional pay has elicited "more self-righteousness and more passionate oratory and more posturing and more nonsense * * * than almost any other subject."

The action taken earlier this week, in which we again voted to exempt ourselves and other top Government officials from a cost-of-living increase, is a dismal reminder that this is a problem which we will face again and again until we do something imaginative about it.

Last year, during House debate on the President's proposal to implement, at least in part, the recommendations of the Commission on Executive, Legislative, and Judicial Salaries, I rose in strong support of the pay raise. At that time, I suggested a new system to determine congressional pay—a system which would be characterized by honesty and forthrightness.

A number of Members were caught off guard by the simplicity of my proposal. The press certainly did not know what to make of it. Some mistook the fire in my eye for a mere twinkle. I freely admit that my speech then was driven more by frustration with the way we currently set our salaries than by long and careful thought.

Since that time, however, I have regularly returned to the idea, as the current system comes under repeated and continuing criticism. Upon reflection, it strikes me as an idea which responsibly addresses many of the persistent problems which haunt us under the current system.

The bill I am introducing today gives substance to the idea in statutory language. It is my hope that the bill will generate an open and constructive debate on this most difficult issue. I urge my colleagues to give the bill their examination and support.

THE SIGN-IN SALARY SYSTEM

The compensation system I propose would establish a range of salaries and would require Members to sign in somewhere in that range. The low end of the scale would be our current salaries, and the high end would be the salary last recommended by the Quadrennial Commission.

At the beginning of each Congress, Member would be permitted to claim a salary somewhere on the scale. New Members might decide to start somewhere near the bottom, where they would be joined by those unwilling to try to justify a higher level to their constituents.

Those Members with more responsibility or longer tenure would be free to make a statement of their worth to their constituents openly and honestly by signing in at the high end of the scale.

The sign-in system would give us the flexibility we need. For example, Members who live in high-cost areas, such as certain locations on the west coast, the Northeast and Midwest, could take that into account in deciding what salary to claim. Furthermore, it could accommodate such things as experience, expertise, effectiveness, and other factors which are commonly considered in salary negotiations in other lines of professional work.

I do not expect the people of the United States ever to recognize fully the requirements and responsibilities placed on a Member of Congress. Most of our constituents know us through the actions we decide to take or decide not to take, not by the work—sometimes measured in decades—that goes into those decisions.

It is also interesting to note that most of the information reaching our constituents about our work is reported by men and women who make a good deal more than we do.

Our constituents read about the perks and the travel and the staffs; they hear about the good life in the Nation's Capital. I meet with many million-dollar-a-year executives on issues of tax, trade, health-care financing, and so on. I would like to see some of them keep our pace and face up to our problems under our pressures for 2 years at a time.

In being shy about declaring our worth in a honest way, all we do is demean our office and reinforce the public misimpression about public service.

As I indicated last year, I would personally sign in at the highest end of the scale. If the people in the neighborhoods of the Eighth Congressional District of Illinois conclude that having the chairman of the Committee on Ways and Means, in his 30th year of experience in the House, fighting for retention of essential urban programs on their behalf is not worth top dollar to them, then they will be free to make that clear in the next election.

In the following Congress, they would have the opportunity to address their grievances to a freshman Member with a minor committee assignment and relatively limited means of getting the job done. On the other hand, he or she would come at the bargain rate.

In the absence of this kind of flexibility, the legitimate needs of Members to support their families have been accommodated through circuitous routes which have left legislators and constituents alike uncomfortable. Nothing better dramatizes this than the current treatment of honoraria.

TREATMENT OF HONORARIA

Mr. Speaker, I am one who is prepared to defend the current honoraria system. I reject categorically the media's innuendo that the receipt of a fee for helping an audience better understand what goes on in the Congress constitutes a conflict of interest.

Nevertheless, we are well-advised to guard against even the appearance of a conflict of interest, no matter how unfairly suggested. Accordingly, the bill prohibits Members from retaining any honoraria and requires honoraria to be disbursed to tax-exempt charitable organizations.

This policy is consistent with the honest, straightforward compensation system that I proposed. When a Member signs in for a certain salary, reflecting that Member's view of an appropriate level of compensation, there will be no reason for that Member to add another 30 percent of his or her salary through speaking, writing, and appearance fees. The ability to attract such fees is often a function of the Member's position in the Congress anyway, which can and should be taken into account when the salary level is chosen.

As is the case in current law, there would be no limit on the amount of honoraria that Members could earn per year. They simply would not be able to retain any of it for personal use. Members would only retain the right to personally direct those contributions to specific charities.

Members would also continue to be permitted to retain outside earned income, other than honoraria, up to a limit equal to 30 percent of a Member's salary at the time of the bill's enactment. It is my hope that another result of deliberations on this bill will be that the earned income retention limitation will eventually be the same in both Chambers of the Congress.

TAX TREATMENT OF MEMBERS' EXPENSES

The bill also repeals the current $3,000 limit on the deductibility of the living expenses incurred by Members while in Washington on legislative business, putting Members in a position similar to other taxpayers engaged in a trade or business.

This provision addresses a problem which many Members have raised. Due to the differences in distance from home, family situation, and personal preferences, it has been extremely difficult over the years to devise an appropriate tax treatment for Members' expenses which is fair to all. Each approach has generated valid complaints from a number of Members.

Now, however, in the context of a new compensation system which can take many of the variable factors into account, it seems fitting to adopt the simplest approach of all—treat Members of Congress like any other individuals engaged in a trade or business that often takes them away from home. Members of Congress are still different since our district homes must remain our homes even though we spend a large portion of our time in Washington. All Internal Revenue Service regulations on the subject would apply, and the level of deduction ultimately claimed by each Member would be that figure which each individual Member can justify to the IRS.

Like all other taxpayers, Members would only be permitted to deduct these expenses and other miscellaneous deductions to the extent that they exceed 2 percent of adjusted gross income.

SENIOR CONGRESSIONAL SERVICE STUDY

Finally, Mr. Speaker, my bill calls for the next Quadrennial Commission to focus specifically on the very difficult problem of retaining senior congressional staff. The Commission would be directed to make recommendations for the establishment of a system of compensation which is fair, reflective of comparable private sector compensation, and ultimately designed to encourage our best public servants to consider making congressional service a career.

We do not need a statistical study to know that something is wrong in Congress when so few staffers decide to make congressional service their life's work. There is no more established truism in town than that service on the Hill is merely preparation for a more lucrative career in the private sector.

Extensive study and debate have gone into exploring what needs to be done to retain top civil servants in the executive branch. Comparability studies, the establishment of the Senior Executive Service, and professional development programs all are extremely worthy undertakings. However, all those studies and programs have ignored what needs to be done to retain those members of our personal and committee staffs who the Congress can least afford to lose.

My bill directs the next Quadrennial Commission to examine the issue in depth. In conjunction with its report to the President, the next Commission would be required to make recommendations for a definition of Senior Congressional Service status, and a compensation/professional development program aimed at making it possible for our most valuable experts to make congressional service a career instead of a stepping stone.

CONCLUSION

Mr. Speaker, last year I said that I was afraid that the sign in system could never be put into place. I am not so certain today. A lot of Members have told me that they are attracted by the idea. What I do know is that it would represent a giant step toward an honest compensation system in which all Members can have pride. Including as it now does the other proposals I have added to the original idea, I think it is a bill worth pursuing.

Let us be honest with the American people and with ourselves. Then, with heads held high, let us resolve to continue to provide quality representation and public service to our constituents and to the Nation.

DROUGHT IN UNITED STATES URGENT PROBLEM

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the chairman of the Agriculture Committee discussed a moment ago the drought in this country. I wanted to point out to the Members of the House that this is not just crying wolf. This is an urgent problem.

Yesterday we received an analysis from North Dakota State University, the land grant agricultural college in North Dakota, which stated that even if we had 40 days and 40 nights of rain we will have lost one-half of our crop in North Dakota. One might well understand what that means to rural America to lose one-half of their potential income base. Translate that into jobs and we are talking about tens of thousands of jobs we are going to lose in States like North Dakota.

So, my point is this drought is an urgent problem. We are going to have a bill on the floor, and I am going to offer an amendment that may be subject to a point of order later this morning, but I want to tell the chairman of the House Agriculture Committee that I am pleased that he is forming a task force and the drought is a very urgent problem.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, may I say the gentleman from North Dakota is 100 percent right about the need for assistance. The Secretary of Agriculture has the authority to act now, and I suggest the expeditious thing to do is to give him a call. I think he is ready to help.

Mr. DORGAN of North Dakota. The Secretary is getting plenty of calls, the gentleman can be sure of that.

THE TRADE DEFICIT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, everyone is excited in Washington about our trade deficit for the month of April. They say it is down, let me say again, down, to $9.9 billion, roughly $10 billion.

Annualized, most forecasters say it will be $130 billion for this year, and that is the problem. People in Washington think that is good news. Being excited only shows how really bad the problem is in the District of Columbia.

We are still losing manufacturing jobs at a record pace. Many of our American companies are still pulling up stakes and moving overseas, and to boot they have tax breaks where they can defer their income.

The only good news is that we will have a new leader next year to address this trade issue. We need a new trade direction before Japan buys the Statue of Liberty in this country.

TRIBUTE TO FRANK DROZAK

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, at Piney Point, MD, in a setting he helped to build and to enhance, Frank Drozak, labor statesman and devoted servant of our Nation, is being buried today.

Frank Drozak, as president of the Seaman's International Union at a time of decline in the American maritime industry has worked diligently to promote programs of rescue in both Goverment and industry. However, he has also held the vision of an American maritime policy that will bring our Nation safely into the 21st century. His long held interest in the promotion of the economic stability and the military security of the United States as expressed in its maritime policy is evidenced by the positions he has held. Among them are: international vice president of the SIU; executive vice president SIU; executive council of the AFL-CIO, Maritime Trades Department; chairman, general president Offshore Commission; International Labor Organization Joint Maritime Commission; subcommittee chairman of the Public Advisory Commission of Law of the Sea; labor adviser to the Congressional Maritime Caucus; board of governors of the National Maritime Council; and adviser to the Office of the U.S. Trade Representative.

I extend to his valiant wife and helpmate in maritime endeavors, Mary Ann Rogers, and to the members of his personal and his union family, my expressions of gratitude and of sympathy.

□ 1025

GREECE/TURKEY CONFERENCE

(Mr. FEIGHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FEIGHAN. Mr. Speaker, in this season of historic summits, I think it is important to note that the Prime Ministers of Greece and Turkey have just completed 3 days of face to face talks in Athens.

These talks are good news for Greece, good news for Turkey and good news for NATO.

Even though the leaders did not settle the disputes that divide their countries, they did make progress toward peace. The mere fact that they are meeting is a powerful symbol, a sign that a long history of hostility and suspicion may soon be coming to an end.

Of course, that reconciliation will continue only if tangible progress does follow soon. These talks must lead to the withdrawal of Turkish troops from Cyprus, the territorial disputes in the Aegean must be adjudicated, and both sides need the benefits that can flow from more trade and greater economic cooperation. Finally, rapprochement will lighten the load of our own diplomats, who are conducting crucial military and economic negotiations with both sides.

Prime Ministers Papandreou and Ozal will meet again in Ankara this autumn. As that meeting approaches, we should do all we can to encourage their efforts and recognize the risks they're making for peace.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of the bill H.R. 4784, and that I be permitted to include extraneous matter.

The SPEAKER pro tempore (Mr. Dorgan of North Dakota). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Mr. WHITTEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4784) making appropriations for Rural Development, Agriculture, and related agencies programs for the fiscal year ending September 30, 1989, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentlewoman from Nebraska [Mrs. Smith] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. Whitten].

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from New York [Mr. Downey] as Chairman of the Committee of the Whole and requests the gentleman from Ohio [Mr. Feighan] to assume the chair temporarily.

□ 1028

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4784, with Mr. Feighan (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN pro tempore. Under the unanimous-consent agreement, the gentleman from Mississippi [Mr. Whitten] will be recognized for 30 minutes and the gentlewoman from Nebraska [Mrs. Smith] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. Whitten].

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may consume.

STATUS OF THE APPROPRIATIONS BILLS

Mr. Chairman, I would like to report to my colleagues the activities of the Committee on Appropriations.

I am proud of the record that we have made and through the years, may I say, the Committee on Appropriations and the appropriations bills we have reported have been below the President's recommendation. Notwithstanding that our financial situation nationally is bad, but it has not been at the instance of the Appropriations Committee because we have held the line on spending.

In reporting where we stand today, the subcommittees have completed the 13 appropriation bills. The full committee has completed action on 12 of the bills and we meet in full committee later this afternoon on the Interior appropriations bill which will make the 13. Not only that, but we are in the process of moving all the bills through the House.

SITUATION THIS YEAR

I would like to point out for the record the situation which has faced our committee this year: Under the law, the budget resolution conference report was required to be filed April 15. The budget resolution passed the House on March 23 and the Senate on April 14.

With the conference delayed, the House Appropriations Committee was required to proceed in line with the House-passed budget resolution. The House appropriations subcommittees proceeded with the development of their bills. There were approximately 250 days of hearings, over 4,500 witnesses, 92,000 pages of hearings and over 1,200 total requests from our colleagues for things needed in their area of the country.

The House and Senate budget committee finally agreed and the budget conference report was adopted May 28 in the House and June 8 in the Senate, some 53 days late.

Our Committee on Appropriations was then asked to reduce the prior agreement by $1,900,000,000 to meet the new level. This we did.

It is to be remembered that the Committee on Appropriations has consistently held the total of appropriations bills below the overall totals requested by the President. Despite this fact, the Federal debt in 8 years has increased from $900 billion to $2.6 trillion. All this occurred at a time when domestic programs, up until this year, have been reduced 38 percent. However, these funds have not gone to pay on the debt, but to increase funds for other spending.

RURAL DEVELOPMENT AND AGRICULTURE BILL

Mr. Chairman, I think today we bring before the House the most important bill that we will deal with in the course of the year. Eighty-four percent of the land area of our country is classified as rural. Not only is that true, but we also deal here with our largest industry. For agriculture is our largest industry, the consumers' most economical supplier, labor's largest employer, industry's biggest customer, and has been our largest dollar-earner in world trade. Present policies followed by the Department have wrecked our economy.

A NATIONAL BILL

I would like to point out what this bill does insofar as its relationship with other bills and other expenditures by our Government.

The Rural Development, Agriculture, and Related Agencies Appropriations bill funds all of the activities of the Department of Agriculture, with the exception of the Forest Service. It also funds the programs of four related agencies: The Food and Drug Administration, the Farm Credit Administration, the Farm Credit System Assistance Board and the Commodity Futures Trading Commission.

The bill recommends $44,139,155,000 in total budget authority. It is $12 billion less than fiscal year 1988, primarily because of Commodity Credit Corporation. It is $2.5 billion less than the budget request and it is under our 302(b) allocation. Not only is that a splendid record that we have here, but we have restored funds for rural housing and many, many other programs that affect the 84 percent of our country that is not classified as urban. That area is the backbone that we have to look to to operate our country at a time when we have all these national and international problems.

We restored funds for the conservations programs.

We restored funds for the water and sewer programs.

We restored funds for the rural electrification and telephone programs.

These programs are of great importance to the people in our rural areas.

We restored a number of research and extension programs. Programs that are essential to our rural areas and programs that are of great benefit to our cities, such as nutrition aides, urban gardening and development of wholesale markets.

I think we have a good bill.

SCOPE OF BILL

The valuable and essential services funded by the bill provide benefits to Americans in all segments of the economy, both the urban and rural.

Included in the bill is $16.3 billion for food and nutrition such as the WIC Program, food stamps, school lunches, elderly feeding, and other feeding programs which benefit all consumers of the Nation, especially those in urban areas. These programs are discussed in detail in title III of this report.

Included in the bill is over $450 million for marketing and food inspection which helps assure the finest supply of wholesome and healthful food available to consumers at the lowest possible cost anywhere in the world.

The bill is the primary funding mechanism for Federal assistance for rural areas. Rural areas encompass 84 percent of the land area of our Nation. The bill includes $12.4 billion for rural development programs. These programs include such services as rural electric and telephone systems, rural housing, rural water and sewer systems, rural fire protection, farm financial assistance and soil and water conservation and flood protection. Similar programs for our cities are provided for in other appropriations bills, but in larger amounts. These programs are discussed in detail in title II of this report.

The bill includes $6.8 billion to restore prior year losses of the Commodity Credit Corporation, $14.3 billion less than last year. Agricultural programs are funded at $2.2 billion, the same as last year.

It is to be remembered that the charter of the Commodity Credit Corporation provided for proceeds from sales to be available for its operations—the policy of refusing to sell leaves the financial burden to the Government.

CRITICAL SITUATION FACING NATION

We are in a desperate situation.

Despite the fact that the Committee on Appropriations has held the total of appropriations bills below the total of the President's recommendations, our national debt has gone from $932 billion to $2.6 trillion in only 7 years. Ownership of our corporations, including our banks, our newspapers, everything solid, is moving overseas.

For the first time since 1914, we are a debtor nation, our trade was $170 billion in the red in 1987. We spend that much more in foreign countries than they spend in ours. We get foreign countries to let our production in, instead of competing on their basis. The best way to sell is to lay it on the table a favorable price and say "come and get it." That is what every country does, except us. We ignore our own law and our own interests. They claim other countries will retaliate. They retaliate in advance—170 billion dollars' worth in 1987.

Since 1981, 621 banks have failed and more than 368 savings and loan associations have failed. Our steel, textile, and shoe industries, to name a few, have been decimated by foreign imports.

I frequently point out that what we need in this country is productive expenditures. It has been reported in the press that 5 years from now 95 percent of our jobs will be service jobs. That means doing things for each other. I tell them it is just as smart as saying we are all going to make a living taking in each other's laundry.

What we have got to do is return to productive jobs and the one place where wealth is produced is American agriculture.

FAULTY GOVERNMENT POLICY

As I pointed out earlier, until 8 years ago, agriculture was our biggest dollar earner in world trade. They have been holding our commodities off world markets at competitive prices. You do not sell anything unless the price is competitive. Our trade balance has gone in the red some $160 to $170 billion a year. Not only that, but on the domestic front we have had hundreds of farmers to commit suicide because of all the people in the world, the American farmers are the only folks that the Department has required to pay everything they owe at one time.

Not only that, but we have had 261,000 farmers foreclosed in the last 8 years. They were foreclosed despite the law which said they were to be given a new chance.

What has been the cost to the Treasury of this erroneous shift of policy?

Prior to 1981 the total cost of the farm program over its 48-year history was $72.5 billion. In the last 7 years alone the cost has been $115 billion. For the last 8 years the cost is almost twice what had been spent in the first 48 years.

SOUND FARM PROGRAM

How could this have been avoided?

Existing law enables the Government to reinstate the farm programs which operated successfully for 48 years. A program where a fair price was received from the purchaser, both at home and abroad where we kept our price competitive. During those 48 years farmers were, to a degree, kept in balance with industry and labor who are able to pass their increased costs on to the purchaser of their product.

The House of Representatives approved our committee's bill to return to the law where a fair price was to be paid by the purchaser rather than the Treasury, while at the same time retaining our foreign markets through competitive sales.

In conference our provision was disapproved by a vote of 12 to 11. That was in December 1985.

We next reported out H.R. 4515, in May 1986, which would have done the same thing. A rule was not provided protecting the provision and it was struck from the bill by a point of order during consideration by the House.

That provision reads as follows:

> SEC. 105. In view of the financial crisis facing many farmers, resulting from embargoes and suspension of exports in 1973, 1974, 1975, and 1980, the failure to use the Commodity Credit Corporation for a loan program which led to a fair price from the user, the Secretary of Agriculture shall use his authority under existing law to provide for nonrecourse loans on basic agricultural commodities at such levels as will reflect a fair return to the farm producer above the cost of production and to issue such regulations as will carry out this provision and as will provide for payment by the purchaser, rather than by appropriation, for basic commodities sold for domestic use and the Secretary of Agriculture shall issue such regulations as will enable producers of any basic agricultural commodity to produce the amount needed for domestic consumption, to maintain the pipeline, and to regain and retain by competitive sales our normal share of the world market.

Either of these two actions would have allowed the farmer to get his income from the purchaser of his product rather than be dependent upon a check from Treasury. Under the present system, the farm programs provide for the farm producers to sell basic commodities below cost. The beneficiaries are those middleman and processors who are not required to—nor do they—pass the reduced price on to the consumer, as shown by their increased earnings.

EXPORT PROMOTION PROGRAMS

I want to point out that apparently few people understand that the Commodity Credit Corporation was set up for the purpose of supporting prices in relation to industry and labor, and to move our commodities in world trade at competitive prices.

Section 32 of the Agricultural Adjustment Act provides that 30 percent of the import duties shall be used to promote use domestically and foreign. May I say many points have been made about two programs that we currently have in the Department. In the Export Enhancement Program we have given away $2 billion of commodities for the purpose of getting exporters to export goods. All of that money goes to the exporters, but it is charged to the American farmer. I will provide for the RECORD a list of the bonuses paid to date under the Export Enhancement Program.

Export Enhancement Program Exporter Bonus Awards

Exporter	*Total bonuses*
Cargill, Inc	$395,239,201.83
Continental Grain Co	368,931,593.16
Louis Dreyfus Corp	249,913,422.32
Artfer, Inc	140,736,033.20
Peavey Co	92,701,982.48
Richco Grain, Ltd	87,448,682.01
The Pillsbury Co	68,360,275.05
Garnac Grain Co., Inc	54,610,329.94
Bunge Corp	51,605,565.50
Cam USA, Inc	47,137,271.54
Gold Kist, Inc	45,485,211.15
Voest-Alpine Trading USA Corp	37,387,115.40
Union Equity Cooperative Exchange	36,447,331.28
ADM Milling Co	32,204,397.84
Tradigrain, Inc	31,982,849.99
Entrade International, Ltd	30,443,284.48
Conagra Poultry Co	29,053,566.87
Alfred C. Toepfer International, Inc	27,255,251.72
Coprostates, Inc	24,750,051.47
Mitsubishi International Corp	21,892,230.24
Esmah Nevada, Inc	21,662,350.00
Nichimen America, Inc	19,054,975.55
Land O'Lakes, Inc	18,380,000.00
American Marketing Services, Inc., Int	16,594,865.00
Carey Agri-International, Inc	13,625,850.00
Servac International	8,903,316.58
Central States Enterprises, Inc	6,668,777.20
International Multifoods	6,342,031.32
Tradecom, Inc	5,766,048.04
Holstein-Fresian Services, Inc	5,612,170.00
Sunrice, Inc	4,744.960.58
Bartlett & Company	4,335,180.56
Marubeni America Corp	4,265,427.24
Great Western Malting Co	4,181,605.16
Harvest States Cooperatives	3,935,163.15
Balfour MaClaine International, Ltd	3,864,772.89
Nissho Iwai American Corp	3,681,773.86
Froedtert Malt Corp	3,653,748.75
Luzza International Livestock Corp	3,645,000.00
Gress Foods, Inc	3,443,338.00
Amber, Inc	3,165,144.22
Philipp Brothers, Inc	3,161,515.45
Mitsui Grain Corp	3,118,750.64
Italgrani USA, Inc	2,703,079.74
National Food Corp	2,665,313.46
Cereal Food Processors	1,984,140.00
C. Itoh and Co. (America) Inc	1,911,342.26
Rahr Malting Co	1,592,559.89
Elders Grain, Inc	1,400,661.19
Euro-Maghrib, Inc	1,313,648.70
Exodus Holsteins	1,275,720.00
Brown Swiss Enterprises, Inc	1,019,820.00
Golden Genes, Inc	1,014,284.00
T.K. International, Inc	890,325.00
Overseas Grain, Corp	785,572.47
Decoster Egg Farms	640,222.13
Fast Food Merchandisers, Inc	591,461.20
Protimex Corp	462,966.00
First Interstate Trading Co., Inc	461,679.16
Minnesota Malting Co	451,916.51
Dekker North America, Inc	436,000.00
Dsh Livestock International, Inc	370,000.00
Wisconsin Holstein Services, Inc	185,000.00
Midwest Livestock Producers Cooperative	125,520.00
Fleischmann-Kurth Malting Co., Inc	108,607.00
PS International, Inc	17,820.00
United States Egg Marketers, Inc	15,120.00
Hidden Villa Ranch	6,750.00
AJC International, Inc	4,050.00
Total	2,067,831,010.37

Section 32 of the AAA Act provides that 30 percent of the import duties, now something like $4 billion since we opened our doors to everybody—is to be used to support prices and to promote exports. We have now a $110 million program where that money comes from the Commodity Credit Corporation which means it is charged to the farmer. What should be done is you use the section 32, which means it is charged to imports. I will list for the RECORD the companies that have received funds under the targeted export assistance program.

Targeted Export Assistance Program (TEA)

Fiscal year 1987 recipients of TEA funds:	*fiscal year 1987*
Alaska Seafood Marketing Institute	$1,500,000
American Plywood Association	1,980,000
American Seed Trade Association	350,000
California Avocado Commission	420,000
California Cling Peach Advisory Board	5,600,000
California Kiwifruit Commission	500,000
California Pistachio Commission	200,000
California Prune Board	4,500,000
California Raisin Advisory Board	9,800,000
California Table Grape Commission	450,000
Cotton Council International	6,800,000
Eastern U.S. Agricultural and Food Export Council	1,000,000
Florida Department of Citrus	7,000,000
Leather Industries of America	1,500,000
Mid-American International Agri-Trade Council	1,200,000
National Hay Association	300,000
National Peanut Council	4,500,000
National Potato Promotion Board	2,550,000
National Sunflower Association	3,000,000
Northwest Horticultural Council (Pears)	400,000
Northwest Horticultural Council (Apples)	1,500,000
Northwest Horticultural Council (Cherries)	120,000
U.S. Wheat Associates, Inc	3,100,000
Rice Council for Market Development	3,500,000
Southern U.S. Trade Association	800,000
Tobacco Associates	900,000
USA Dry Pea and Lentil Council	2,500,000
U.S. Feed Grains Council	2,800,000
U.S. Meat Export Federation	7,000,000
USA Poultry and Egg Export Council	6,500,000
Walnut Marketing Board	7,000,000
Western U.S. Agricultural Trade Association	1,950,000
Wine Institute	2,600,000
Almond EIPs:	
California Almond Growers Exchange (EIP)	3,513,300
Nicolaysen Farms (EIP)	43,670
Tenneco West (EIP)	50,000
Cal-Almond, Inc. (EIP)	3,000
Mariani Nut Co. (EIP)	165,000
Saulsbury Orchards and Almond Processing, Inc. (EIP)	40,000
Hansa-Pacific Associates, Inc. (EIP)	165,000
T.M. Duche Nut Co., Inc. (EIP)	200,000
Citrus EIPs:	
Sunkist Growers (EIP)	9,549,250
Dole Food Company (EIP)	795,000
Sun Pacific Shippers, Inc. (EIP)	33,750
Sun World, Inc. (EIP)	107,000
Cecelia Orchards Packing Corp. (EIP)	15,000
Mink EIPs:	
Seattle Fur Exchange, Inc. (EIP)	700,000
Moyle Mink Farms (EIP)	200,000
Schumacher Fur Company (EIP)	50,000
Hudson's Bay Company Fur Sales, Inc. (EIP)	550,000
Total	110,000,000

It is the failure to use CCC and section 32 properly that has largely brought our situation to a head.

I would like to point out for the record that when we used the old law, which is still on the books, in 48 years the farmers paid for their farms, sent their children to college like everybody else. For the last 8 years 261,000 have gone broke, we have 70 million acres of land lying idle and at this time we are in terrible shape financially as a nation.

May I point out again that we have increased our national debt from $900 billion to $2.6 trillion.

I say to my friends who are interested in the targeted export assistance program and the export enhancement program, the mistake is not to sell it and get what you can because the money that you receive would be available for operation of the CCC.

As it is, we are giving over $2 billion away in commodities. This cost is charged to the farmer, but the benefits go 100 percent to the exporters.

It is charged to the farmer but the folks who get it are those in the commercial business. Now I am not opposed to that. I just say that you should use the law and the money set up for that purpose and not charge it to the farmer by taking it from CCC.

May I say to you, Mr. Chairman and colleagues, we have done a good job here. We have stayed within the limits all the way down the line, I might add, with some difficulty. But in the process we have done our level best to see that we keep American agriculture healthy. We have done our best for the 84 percent of our country which is classified as rural, and done our best for the urban areas.

In conclusion, Mr. Chairman, I would like to thank the gentleman from Massachusetts, the ranking minority member on the Appropriations Committee, for his cooperation in bringing this bill to the floor and the gentlelady from Nebraska, the ranking minority member on the subcommittee, for her leadership in putting the bill together. I would also like to thank Mr. TRAXLER, Mr. MCHUGH, Mr. NATCHER, Mr. AKAKA, Mr. WATKINS, Mr. DURBIN, and Mr. SMITH, the majority members of the subcommittee and Mr. MYERS, Mr. SKEEN, and Mr. WEBER, the minority members. All the members of the subcommittee worked hard and are dedicated to the American farmer and our country.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Texas, the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. I very much appreciate the gentleman yielding and appreciate his comments and his interest, his concern and his work in helping agriculture and rural America.

I just wanted to bring to the attention of the distinguished gentleman that in reading the bill and the report, we find that in the area of assisting rural America, I am sure inadvertently, the gentleman has cited the wrong statute.

On page 17 beginning on line 11, in authorizing for financially stressed farmers and dislocated farmers, et cetera, mention is made of section 1440 of Public Law 99-198. That has been replaced by Public Law 100-219.

□ 1040

The report language limits the funds herein provided to several States that are not included in the present law, which is Public Law 100-219.

I wonder if the distinguished gentleman from Mississippi would be agreeable to correcting that section and do what the gentleman says he would like to do, do what the committee of jurisdiction intended to be done, and in that way we will be in unison and do exactly what both of us want to do, which is to assist rural America and farmers in distress.

Mr. WHITTEN. Mr. Chairman, may I say to my colleague that this is the first time this has been called to my attention. I agree with the gentleman that our objective is the same in this instance, and if the gentleman will give me time, we will be glad to look into it and see that we are accurate about it.

Now, let me ask, did the new law add to or replace the old law?

Mr. DE LA GARZA. It replaced the old law. In fact, it changed the whole thrust.

Mr. WHITTEN. Did the original statute stay on the books?

Mr. DE LA GARZA. No, because basically it was a part of the Farm Security Act, and then it was a part of the 1972 act.

Mr. WHITTEN. Mr. Chairman, I want to ask my colleague to give us a chance to look into it. We should have no trouble agreeing and making a change so we can bring it up to date.

Mr. DE LA GARZA. I appreciate that. I think I can assure the gentleman that what he wants to do and what we intended should be done can be simply covered by changing section 1440 of Public Law 99-198 to read: Public Law 100-219.

Mr. WHITTEN. We should have no trouble working that out.

Mr. DE LA GARZA. That is the Rural Crisis Recovery Act. I would appreciate the gentleman and/or his staff looking at that, and we will work it out with him. Later on in the discussion I will have another couple of areas of concern, but for now I thank the gentleman kindly for yielding to me at this point.

Mr. WHITTEN. Mr. Chairman, I thank the gentleman very much.

Mr. Chairman, may I point out that we have a meeting scheduled for the full committee to hear the Interior Subcommittee when we get through here.

Mr. Chairman, I reserve the balance of my time.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I yield to myself such time as I may consume. Mr. Chairman, I rise in support of H.R. 4784, making appropriations for rural development, agriculture, and related agencies for fiscal year 1989.

Let me commend my good friend and colleague, the chairman of the full Appropriations Committee and chairman of the Appropriations Subcommittee on Rural Development, Agriculture and the Related Agencies, Mr. WHITTEN, for his leadership and expertise in crafting a bill that significantly addresses the needs of rural America, yet serves an extremely broad spectrum of constituencies.

I am also proud to serve with the other members of the subcommittee who have worked hard in a bipartisan manner on behalf of agriculture, and of all rural residents. They truly recognize the importance of agriculture to the U.S. economy and to the well-being of all Americans. I also want to thank our staff for their dedicated assistance.

Let me stress that the subcommittee tried to address every request in this bill that you, our colleagues, brought to us about nutrition and agriculture in your districts and States. I know I had several concerns in my district and in Nebraska that really needed attention and most of them were included but nowhere near the level I originally had hoped for.

However, since we had such a tight budget we simply could not do all the things we wanted to and that you had asked us to do. I think we have met the priorities and needs of the country in our bill to the best of our abilities.

I can truly say that the subcommittee is presenting a barebones appropriations bill to the House. This bill expands only three major programs: the Women, Infants, and Children Nutrition Program; the Food Safety Inspection Service; and the Food and Drug Administration.

First, the WIC Program has been increased by nearly $125 million for fiscal year 1989 above the 1988 level and is more than $50 million above the President's request. This program has proven itself over and over again as one of the most effective methods of improving our Nation's future citizens' health and prosperity.

Unfortunately, funding limitations have prevented us from being able to serve even half of those eligible for the program.

WIC is not the only nutrition program. Other nutrition programs help disseminate information vital to our citizens' health through the Human Nutrition Information Service and send food for peace to Africa, Asia, South America, and other food-short regions of the world.

We have provided funds to help serve nutritious meals for both the young and the elderly of the United States through programs like the school lunch program and the elderly feeding programs under title III of the Older Americans Act of 1965.

Second, the Food Safety and Inspection Service has been increased by more than $12.9 million above fiscal year 1988 to $405,608,000. This is a vital program to assure that Americans have meat and poultry products that are wholesome, unadulterated, and properly labeled and packaged. While Americans enjoy a nutritious abundant food supply, we must be ever vigilant to ensure that our meat and poultry products are the best and safest possible.

Third, the Food and Drug Administration's appropriation has been increased by more than $31 million to $481,844,000 for fiscal year 1989. The primary goal of the FDA is to protect the consumer by setting standards on food, testing drug safety, conducting research on health hazards, and helping to promote orphan drug development. An orphan drug is a useful drug that is unlikely to be developed and marketed by the private sector.

Although many important issues are addressed in this bill, none is more vital than providing assistance to our farmers and ranchers. Agriculture has been and will continue to be the backbone of America's economic, military, and political strength.

Unfortunately, we have lost more than 261,000 farmers and ranchers or 11 percent of the farm population since 1981.

On the other hand, you and I have both heard how much better off our agricultural producers were in 1987. The United States had record net cash farm income totalling $57 billion in 1987, compared to $52 billion in 1986 and $47.3 billion in 1985. Estimates for 1988 earlier this year indicated an income in the $50 to $55 billion range, but that was before the drought began to take affect and this level cannot be sustained and almost certainly will fall below this range in 1988.

But for now the good news is that the CCC needs only $6.8 billion to restore prior years losses—a substantial drop from $14.3 billion of a year ago—another positive sign of the improvement in the agricultural economy last year. Also dramatic increased exports are helping to reduce total spending on agriculture.

The number of farm workers in the civilian labor force is 2.75 million as of April 1988. This added to the more than 20 million workers who support the production and delivery of food and fiber for our citizens, food and agriculture the largest single industry in the United States. Agriculture employs as many workers as the transportation, steel, and automobile industries combined.

One of the reasons our country has been able to achieve so much is because so little of our family income is used to buy food. In fact, our families spend the smallest percent of their income for food than families do in any other country in the world—only 12.3 percent for all food and 7.9 percent for food purchased for use at home.

But, for every dollar spent on food last year, only 25 cents went to the producer. While at home expenditures for food averaged a 31 cents return to the farm, away from home food purchases only returned 17 cents. This clearly indicates consumers ability and willingness to spend more money for food for convenience and in conjunction with entertainment.

The annual percentage change in the consumer price index [CPI] for food from 1986 to 1987 increased 4 percent for food purchased away from home and 4.5 percent for at home food purchases.

Overall, during 1987 retail food prices rose 4.1 percent but this was largely due to a greater difference in the farm to retail price spread. In other words, producers' portion of the food dollar went down.

Total agricultural exports for fiscal year 1988 are projected to be $33.5 billion and agricultural imports are expected to be around $21.0 billion leaving the United States with a $12.5 agricultural trade surplus.

The agricultural trade surplus is up from the 1986-87 level of $7.3 billion and the 1985-86 level of $5.4 billion, and the dramatic increase in export is helping to reduce the total Government spending on agriculture. It is also continuing a long tradition of helping offset our overall trade deficit, which appears to be finally turning the corner and should continue to do so.

In fact, this year's total new budget—obligational—authority is $12.04 billion below fiscal year 1988. In fiscal year 1988, our bill had $56.18 billion in total obligational authority, and this year it is down to $44.13 billion.

The funding levels of this bill are within the proposed levels in the President's budget—$2.5 billion below the President's request, within the 302(b) allocation, and the outlay allocation. The bill is in line with last year's budget summit agreement.

The Office of Management and Budget has criticized our bill on several points, one of which is the Conservation Reserve Program's cost-share restriction.

I must emphasize the very tough choices we had to make in order to bring a bill to the floor that fell within all our funding restrictions. For example, one of our toughest decisions was about the Conservation Reserve Program [CRP] cost-share assistance for planting cover crops. We decided to limit this to $385 million.

But as we all are painfully aware, we have a very serious problem in the making. I am talking about the drought. As of last night, Nebraska had 50 of the State's 93 counties declared eligible for haying and grazing drought relief on set-aside acres. A total of 934 counties out of 3,067 counties nationwide are now eligible for this relief with the number of counties continuing to increase daily.

Farmers have already enrolled the most marginal and least productive land into the CRP and will have to be enticed very strongly to sign up any more farmland. Furthermore, the drought is raising commodity prices and could substantially reduce our surplus grain reserves if it continues for another 2 or 3 weeks.

Given all the factors, it is highly unlikely the USDA would be able to get farmers to sign up enough acres to meet the farm bill's quota for fiscal year 1989, anyway. And perhaps we should review the actual number of acres we want out of production given the current conditions. The present funding level in the bill still would allow approximately 7 million acres to be enrolled in the CRP.

We have funded $29.4 million in competitive research grants, down from $42.37 in fiscal year 1988. We initiated a stratospheric ozone study program—half of the President's request. This is a very important need, and we did our best to fully fund this worthwhile program designed to maintain our planet's ability to protect our food and our lives from the sun's harmful rays.

Part of answering many of your specific requests and your high priority items is through special research grants through the Cooperative State Research Service. This year, we funded $30 million of these very important projects, a slight decrease from fiscal year 1988 level of $31.18 million. The OMB says these are not top priorities and should be eliminated from the budget. We disagree.

These projects work on such things as animal health research, aquaculture, dairy research, integrated pest management, rural development, tropical and subtropical research, and wood research. As you can plainly see, this is a very broad spectrum of important research affecting every part of the country.

The Office of Management and Budget also criticizes the bill's prohibition against use of so-called normalized farm prices in Federal calculations of cost-benefit ratios for water projects.

Normalized farm commodity prices are imaginary farm commodity prices, arrived at by a bunch of bureaucrats fiddling with mathematical formulas. Supposedly, these formulas would tell us what farm commodity prices would be in the absence of Federal farm programs.

No commonsense person in this country should have any trust in what these economists assume about anything that might happen tomorrow—let alone allowing such assumptions to be used for shaping long range water resources development policies. Such policies take generations to implement.

The effect of applying normalized farm commodity prices in cost-benefit ratios would have the effect of stopping nearly every new water-resource development project in its tracks.

Try that one on the States that are sinking slowly into a second year of drought.

We have once again had to protect the rural citizen's ability to obtain affordable and adequate electric and telephone service, despite objection from the Office of Management and Budget.

The subcommittee rejected the administration's proposal to reform the Rural Electric Administration largely because it would increase costs substantially to rural residents, farmers, and ranchers who are currently in no position to absorb increased energy and communications costs.

This bill also continues to help provide much needed rural housing to low-income families and does not adopt the administration's proposal to expand the rural voucher program. The reason is that vouchers are used with existing units and do not provide for needed additional new construction of homes in rural America.

We have continued with American citizens' desire to protect our valuable natural resources by funding the various conservation programs set up over the years by Congress. Conservation of these resources is key to our future economic security.

In addition, we must continue to provide adequate credit and loans to our Nation's farmers, ranchers, and other rural citizens. No program has been better able to work toward that goal than the Farmers Home Administration.

This agency is responsible for helping to keep youth and vitality in our rural areas by providing low cost funds at critical moments in young men's and women's careers.

Not only are rural people helped in starting their productive lives, but the FmHA in many instances has kept farmers and ranchers in business when nothing else stood between them and the road to foreclosure and bankruptcy.

It would seem contradictory then to accept the Office of Management and Budget's assertion that we should use private debt collection services.

I have outlined just a few of the important activities and agencies funded by the rural development and agricultural appropriations bill. We provide as much funding for nonfarm residents and programs that serve all our citizens as we do farm programs.

I honestly believe no other country on earth goes as far as the United States does in its efforts to protect the livelihoods, health, security, and posterity of its citizens. I am proud to be a part of the process and to share with you the hard work of the Appropriations Committee.

For Nebraska, I thank the subcommittee for approving the following amendments targeted for my State: $335,000 for the Meat Animal Research Center to expand and equip the swine research facility; $250,000 for a University of Nebraska feasibility study and preliminary planning for the Center for Advanced Technology in Lincoln, NE; $40,000 to the Cooperative State Research Service [CSRS] for grants to conduct research on making plastics from cornstarch; $50,000 for milkweed research as a substitute for imported goosedown insulation in the alternative crops division of the CSRS appropriation; Report language asking the USDA to determine future expansion of the swine research facilities at the Meat Animal Research Center in Clay Center, NE; $75,000 to CSRS to complete research for the integrated reproductive management program; $100,000 for the Sandhills Grazing Management Program at the Gudmanson Ranch near Whitman, NE; $418,750 for the Ag-in-Transition Program operated under section 1440 of the farm bill; this is Nebraska's share of $3.35 million divided among Nebraska, Iowa, Missouri, North Dakota, Kansas, Oklahoma, Mississippi, and Vermont; $65,000 to CSRS to continue the crambe and rapeseed research project; $190,000 to the Extension Service for the Managing Mainstreet Business Program; and $47,000 to the Extension Service for the Integrated Reproduction Management Education Program.

I urge you to support H.R. 4784.

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Mr. WHITTEN. Mr. Chairman, I yield myself 1 minute.

I would just like to thank my colleague, the gentleman from Nebraska [Mrs. SMITH] and say what a marvelous job she does as ranking member on the Subcommittee on Agriculture as well as all members of that subcommittee. My colleagues know it is not all glamour to be on the Subcommittee on Agriculture. I happen to be on all subcommittees because I am chairman of the full committee. My friend, the gentleman from Kentucky [Mr. NATCHER] and I have served here for 30 years together, and I want to say again:

The history of this country shows that agriculture is basic to everything we have, and I am glad to have a part in it. I also say again that many people realize that, if industry went broke, we would have a depression. Many realize that if labor went down, we would have a depression. What they do not realize, is that unless we look after agriculture, which is basic to all our wealth, we will have more trouble than we can handle.

I say again that if we left our children and our children's children all the money in the world but let our land deteriorate, they will never make it. If we will take care of the farmer, take care of the land and take care of the forests and all the things that go with it, our children and our children's children can come up with their own money system.

Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Chairman, I rise in strong support of H.R. 4784, and I have some extensive remarks in connection therefor, but I am going to insert them in the RECORD, and I just wish to speak for a moment extemporaneously and support the comments of my colleague, the gentlewoman from Nebraska [Mrs. SMITH], a dear friend and a wonderful supporter of American agriculture, and the chairman of the committee, the gentleman from Mississippi [Mr. WHITTEN], and commend them for the fine jobs they have done on this bill.

I might add that in connection with the issue raised by the gentlewoman from Nebraska [Mrs. SMITH], on the drought that the Nation is now suffering in agricultural areas of our Nation that the consequences of that are going to be very severe, going to increase food prices in the coming months, and it is going to devastate rural America economically.

The Secretary of Agriculture said that he's going to wait until after the harvest time in order to ascertain the full extent of this terrible calamity that is befalling agricultural America. Let me assure the Secretary he does not have to wait until next December before he can see the extent of the pain and the agony that the farmers and the small town people of this country are going to suffer as a consequence of the terrible drought that has now stricken the major bread basket area of our Nation. The damage is becoming clearer and clearer with each passing day.

What we would ask of the Secretary of Agriculture is that he apply the many talents of the personnel of the Department toward finding a resolution of the economic and personal pain that is going to be felt in rural areas in the coming months as a result of diminished crops and no crops. In my own district, for instance, our corn is virtually nonexistent. We are not going to have sugar beets this year, there are not going to be dry beans or not going to be colored beans, and there is not going to be soybeans. Our wheat is next to nonexistent.

In other words, Mr. Chairman, we are faced with an economic calamity, and I am sure this will be heard from both the Department of Agriculture and from OMB, the anticipation of their compassion when they say, "You know those farmers should have had crop insurance." Let me say that I know of only about 8 to 10 percent of the farmers in the district that I represent that can afford crop insurance on the kind of crops that I just talked about: beets, dry beans, and even some of our wheat.

So I would say in conclusion, Mr. Chairman, that what we need is an action Department of Agriculture.

I am pleased that the chairman of the Committee on Agriculture and his counterpart in the Senate are going to form a task force and apply themselves to this issue and that they are going to develop some strategies.

I would like to see the administration engaged and involved here. I know it will not be very long, and they are going to be turning the lights out at the White House; some of us think they turned the lights out about 8 years ago.

But what we need is an administration that has compassion and understanding, some people who are going to say that we are going to do something for rural America, for the farmers and for the small towns because they are going to be so economically disadvantaged come this fall.

□ 1100

We need cooperation. We need support. We need to work together on this particular problem. It is a horrible one.

So trusting and hoping and with the certainty and the knowledge that if the administration fails to act, refuses to do so, as I anticipate they will, but they could surprise me. If they fail, I trust and hope that this Congress will act.

Mr. Chairman, I rise today in support of H.R. 4784, the Agricultural appropriations bill for fiscal 1989. This is an extremely tight bill which has been held to such severe restraint that no one of any conscience can doubt that the subcommittee from which this bill came did all that it could to live up to our need for budget restraint, while balancing that need with those of American agriculture.

I want to compliment and thank the chairman, the gentleman from Mississippi [Mr. WHITTEN], on his outstanding leadership in this very difficult task. I also want to extend my appreciation to the gentlelady from Nebraska [Mrs. SMITH], our ranking minority member, on her cooperation in this very difficult effort.

These continue to be very difficult times for our farmers. The drought conditions prevailing through much of the country are creating a great deal of hardship. Some of these farmers, including many who live in Michigan, have faced disaster after disaster in recent years, but these determined people keep trying to find a way to survive. The recently announced approval for haying and grazing on set-aside and conservation use acres offers good news for some producers, but no one should assume that this portion of assistance will insure the survival of these farmers. More will have to be done in the days ahead, and I hope that we will have the assistance of the Department of Agriculture.

Mr. Chairman, many programs in this bill have been reduced from current funding levels. There are very few new initiatives in this bill. In fact, spending is more than $13 billion below the amount we provided for fiscal 1988.

The choices we had to make were formidable. The conditions imposed by the first concurrent budget resolution required us, along with other subcommittees, to reduce discretionary spending by one percent. This may seem like a very small amount to some of our colleagues, but when one considers that we had frozen funding in so many programs before having to make this reduction, one will see that we actually have made cuts in the real spending levels of these programs.

The matter is particularly devastating in the area of research and extension activities when one takes the time to recognize that there have been very few increases in these programs of any kind in the past several years. As a result, we have actually seen the Federal support for these activities dwindle at a time when, in my opinion, we should be doing much more.

But these are restrained times, and we are prepared to do what is required of us. I would like today to describe some of the details of this funding measure, with a particular emphasis on those projects of importance to the State of Michigan.

Funding for the Agricultural Research Service is increased by nearly $17 million over fiscal 1988. This demonstrates the importance that we place upon the work done by this agency. Without an adequate research base, our ability to maintain our agricultural competitiveness in the future will be severely impaired.

We continued the funding for the food toxicology work under way at Michigan State University. This project has been looking into toxic contaminants in the Great Lakes, and is important for the continued assurances of the safety of fish taken from those bodies of water.

We have also prioritized the many potato research projects undertaken by USDA. This prioritization is in line with the recommendations made by the National Potato Council, and reflects the fact that there is a strong need for our agricultural research programs to respond to the needs of producers, especially when those needs have been as responsibly established as they have been by the council.

We continue wheat bunt and wheat protein research projects that are very important to wheat producers in the Midwest, including Michigan. Disease problems need to be quickly attacked if we are to be sure of our continued availability of a variety of food items.

Our report on the agricultural appropriations bill also calls attention to the nutrition research role of the Agricultural Research Service. The report specifically calls upon the various Human Nutrition Research Centers to review the work under way by the Department of Health and Human Services with respect to the Year 2000 Health Objectives Study. It is essential that the Federal Government speak with one voice on nutrition matters, and that voice is to be that of USDA. This will be a matter that we will watch quite closely, especially in light of the companion language in the report of the Subcommittee on Labor, Health and Human Services, and Education, which reminds the Department of Health and Human Services of the lead role assigned to the Department of Agriculture.

Much was made earlier this year of certain agricultural research projects, including research on blueberry and cranberry problems. I commend our report to our colleagues which most clearly points out that this research affects thousands of growers across the country dealing in crops worth $350 million to our national economy. Most importantly, this Federal money is in partnership with those funds already provided by State and producer-organized research authorities. Consumers must remember that food items do not simply appear in the grocery store, and that the continued availability of such a wide variety of food items is extremely dependent on an active ongoing research program.

Within the ARS buildings and facilities account, we provide $1,250,000 for initial planning work associated with the Food Toxicology Center to be located at Michigan State University. There is no doubt that over the past several years we have encountered a number of instances in which emergency research work needed to be done because of the discovery of unintended substances affecting our food supply. There is no ongoing effort to constantly work on food toxicology matters, and it is the view of the committee that this type of research should be done. The State of Michigan has already contributed greatly to the effort with the work already done at Michigan State University through the Center for Environmental Toxicology and other components of the university. Particularly in tight budget times, we must take advantage of these opportunities to conduct important research in cooperation with existing efforts to deal with critical research needs.

We have also provided important funding for the Cooperative State Research Service. This agency does a deal with its funding since the dollars are usually matched and exceeded by State and private funds. I truly regret that we could not provide greater funding for this agency, but on careful inspection, our colleagues will find that by and large we have merely restored funding, with a very limited number of exceptions.

I must say that I am very pleased that the committee was able to provide an increase in funds for the Saginaw Valley Bean and Beet Farm. The increase to $190,000 is specifically intended for use on a project to determine the special problems associated with the narrow row planting of sugar beets and dry beans. This modified planting method is intended to help producers reduce planting costs. With prices being as low as they have been for these commodities, lowering production costs is an option that must be reviewed to try to help farmers improve their operating margins. This project has been heavily supported by the producers in my district, and is expected to have very meaningful results within a relatively short time.

We also provide this year some funds for a new celery fusarium research project. This $40,000 is necessary to help find a solution to a soil borne fungus which puts in jeopardy the future of celery production in Michigan. Work that has been done on this problem in other locations simply does not apply to the Michigan situation due to differences in climatic conditions, making this a very necessary project.

We have continued basically at last year's funding levels all of the other special research projects in Michigan as we move toward the completion of work on items ranging from apple quality research through asparagus yield decline, blueberry shoestring virus, dairy and beef photoperiod, potato research, stone fruit decline, and wood utilization research.

There is an additional item in the CSRS budget which holds great promise for the future. Within the competitive grant program we provide up to $2.5 million for the Michigan Biotechnology Institute to be used for the development of large scale industrial processes, and use of biotechnology and the manufacturing of new products. This money will again be used to supplement funds provided by industry and university cooperators at the Institute in order to maximize the work done with these Federal dollars.

Last year we provided some first year funding for a North Central Region Aquaculture Center that is shared by Michigan State and Iowa State Universities. This year we increase the funding for this institute to $750,000, still on a shared basis, so that funding within this region is identical to the funding levels provided in the four other regional centers.

A major issue presented to us this year was how to best address our need for increased work on ground-water contamination problems. The National Association of State Universities and Land Grant Colleges proposed a substantial program, which funding limitations would not allow us to consider.

However, we did provide $2 million for the Agricultural Research Service, $2 million for the Cooperative State Research Service, and $1 million for the Cooperative Extension Service to begin a coordinated effort to address our ground-water concerns. Let me say that during our hearings, one key point that we raised was the essential need for these agencies to coordinate efforts with those of the Agricultural Stabilization and Conservation Service, the Soil Conservation Service, and the Environmental Protection Agency. These other agencies have all undertaken some efforts on ground water, so we must be careful to again take advantage of all existing resources as we deal with our budget limitations.

An example of how this cooperation currently works can be found within the Soil Conservation Service. For the past 2 years, and again in this bill, we have funded a subirrigation project in Michigan. This project is designed to find ways to protect ground water from runoff by recovering water in drainage structures, and to reduce the demand for ground water for irrigation purposes by reusing the water in drainage structures. This project involves local demonstrations and research work done at Michigan State University. It has brought together tremendously competent individuals across agency lines, and should serve as a model of cooperation in other parts of the country.

Funding levels for the Cooperative Extension Service remain at essentially current levels. In light of the fact the President's budget has proposed major reductions in many of the specialized extension programs, like farm safety and the expanded food and nutrition education program for example, this restoration even to current levels is an accomplishment.

We also continued funding for the Agricultural Conservation Program for the coming fiscal year. This program is a favorite for elimination of those who design budgets because they know that we will restore this program, so they try to use the dollars for some of their favorite causes. It is a mistake to cut out so vital a conservation program if we are concerned about the future of our soil resources. Matters would be much easier if budget designers were honest about the issue and retained funding because no one has ever seriously criticized the merit of the work. In fact, the benefits of it are obvious when one compares the condition of farmland today to that of the time prior to the program's inception.

The President's budget also proposed to do great injustice to rural areas by eliminating or reducing funding for many Farmers Home rural development programs as well as for rural electric and telephone programs. We have for the most part restored these programs in recognition of the fact that the people of rural America have needs too. They need community facilities. They need good water and sewer systems. They need new and upgraded power and telephone services. Without these USDA programs, many of these necessary services would not be provided. And many of these programs do require local participation either as a cost share, or by virtue of the fact that the program is a loan and not a grant. The fact that the communities pay back these funds is a clear sign of how vital these services are. But the budget cutters ignore the needs of many Americans because someone has the philosophy that these funds can come from other sources. Whenever we ask about these sources, we can never get a credible answer. Commercial bankers don't exist in many rural areas, and many of those who do would never loan money for these rural development projects without the guarantees of the Farmers Home Administration or the Rural Electrification Administration. If our subcommittee did not act, all could seriously question whether or not these services would ever be provided.

Mr. Chairman, I also would like to take this opportunity to discuss funding levels for the Commodity Suplemental Food Program. This program provides nutritious commodities purchased by USDA for distribution to a limited number of mothers, infants, children, and elderly around the country. This feeding program is one of the smallest programs operated by the Department, but it seems to have the greatest difficulty getting the proper attention of the Food and Nutrition Service.

This year the President's budget proposes to merge funding for the CSFP and Women Infants and Children [WIC] Program. We rejected this recommendation. We have absolutely no evidence that this combination will result in a better program for the participants and that is the essential key: our efforts must be geared toward doing what is best for those who are in need of the program, not what is best for administrators.

We provide after making the 1-percent reduction that was applied to all discretionary programs within this bill approximately $53 million for fiscal 1989. This increase is intended to allow for the continued expansion of this program at existing sites, and to allow for expansion to new sites. There is a proposal from the State of Michigan to start CSFP's at additional sites around our State where people are in desperate need of assistance. I hope that the Department will quickly move to approve this application without delay.

But, unfortunately, I am fearful that the administrators will not move expeditiously but rather claim that there action is prevented by some regulation of their own making. So far the State of Michigan has been told that no additional caseload will be available until December. In light of the fact that Department officials already know that existing funds will not be fully utilized, leaving nearly $10 million according to sources within the Department to be carried into fiscal 1989, the Department should move without delay to approve this expansion in Michigan, and at any other location in the country that can demonstrate a need for the assistance.

There have also been some concerns stated in recent weeks about what could be an improper use of WIC formula rebate funds. As our colleagues know, States can now negotiate rebates on the cost of infant formula from various vendors when determining which product will be offered within the State. The rebated funds can then be used to expand WIC assistance to other needy individuals within the State. This is a fine concept which can expand services to needy individuals.

However, there have been reports that some States are, in essence, raiding CSFP caseloads for mothers, infants, and children. The result is that instead of these rebates being used to expand the program to additional needy individuals, the funds are being used to shift participation between programs with the net result being little or no change among the total participation in the two programs within the States.

To make matters even worse, some CSFP administrators are being encouraged to turn over their mothers, infants and children caseload so that they can claim unused caseload which can be converted to serving the elderly in those communities. The only problem is that the caseload conversion is not being approved, so no additional individuals of any age are being served. This is a matter that could be ripe for investigation by the GAO if Department officials do not take proper action to be sure that the intent of truly expanding the program with these WIC rebates is followed.

This development is a most disturbing one. We should not be trying to figure out whether the hungry elderly or the hungry young should eat. Our goal should and must be to expand services to all individuals who need it regardless of age. None has the wisdom of Solomon to make the choice of who should eat and who should not, and it is my view that anyone attempting to take on this role is doing a great injustice to all needy individuals.

I also want to emphasize at this time that within our report we again point out that the Human Nutrition Information Service is to be the lead agency on human nutrition matters within the Federal Government. This agency is supposed to review work underway as part of the Year 2000 Health Objectives Study being conducted by the Department of Health and Human Services insofar as this study deals with human nutrition matters. We want to be sure that the Federal Government speaks with one clear voice on human nutrition matters, and that is why very similar language is contained in the reports accompanying the appropriation bills for the Department of Agriculture and the Department of Health and Human Services.

Mr. Chairman, this is a difficult bill to bring before the House today. It is difficult because there are so many justifiable needs and so limited dollars with which to respond. We turned down literally hundreds of requests for assistance, not because the request was not meritorious but because budget allocations were insufficient. This subcommittee on which I am privileged to serve does the best that it can to meet the many needs of our consuming and producing constituencies. But unless greater funds are provided in budget allocations for the various functions within the Department of Agriculture, including research, extension and conservation activities, we will one day be quite sorry that we did not have sufficient vision when we had the time.

This is a tough bill, but a good bill. I encourage the support of all of our colleagues for its passage.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 5 minutes to my good friend, the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Chairman, I would like to begin by joining my colleagues in commending the chairman of the committee, the gentleman from Mississippi [Mr. WHITTEN], and the ranking member, my leader, the gentlewoman from Nebraska [Mrs. SMITH], for the excellent work they have done on the committee. This is my first term on the Agriculture Appropriation Subcommittee, and it is a tremendous pleasure to work with two such able and experienced legislators. I think the spirit we have on that committee is a bipartisan one, working for the betterment of rural America.

I want to just talk extemporaneously also for a few minutes about a couple things.

First of all, our urban colleagues need to know that although we are talking of some difficult times right now with the drought, and I am going to talk about that a little bit, not everything is bad news in rural America. It seems we have been talking about the bad news for so long that I suspect some of my urban colleagues would like to know if anything ever improves in rural America, and indeed some things have improved over the last couple of years.

This Congress has been generous in its support for agriculture. The 1985 farm bill, which may have had some flaws, has succeeded in doing many good things. Those of us who represent rural America are pleased that farm income is up, that surpluses are down, prices are up and that exports are expanding. We can take some credit for that.

Land values after plunging 75 percent in some parts of my district have now stabilized and even moved up a little bit.

People in rural America began this year feeling relatively more optimistic than they have, at least in my part of the country, the last few years.

The appropriation bill that we are going to pass today will continue to support those programs that are vital to the continued development of rural America.

As has been stated already, this is an extremely tight budget year, and even more commendations are due to the chairman and to the ranking member for having adequately funded the basic programs serving the rural infrastructure in times of extraordinarily tight budget circumstances.

I would just like to take a minute to say that I am particularly pleased that in this year's bill we are able to earmark some funds in the agricultural research budget for agriculture research commodity utilization. What that means very simply is that we are going to try to find new uses for existing agriculture commodities. For too long many of us believed that all our agricultural research has been focused simply on expanding production of corn or soybeans or milk or whatever other crop you may have. Now we are trying to find new uses for those commodities which we so often find are in surplus. That is a forward looking progressive attitude that our committtee is taking a lead on.

As good as this budget is and as much as we can point to improvement in the farm economy in the last couple years, nobody who represents farmers or rural America today can speak on this bill, though, without talking about the same topic that my colleagues have talked about before me, and that is the worsening drought situation that grips virtually all of agricultural America. Some of what I am going to state has already been said, but I am going to repeat it. These are the worst conditions potentially since the 1930's.

What has happened economically in my part of the country is that we have already lost basically most of the small grains and 50 to 75 percent of the first crop of hay.

For those of our colleagues who do not represent rural districts, that may not mean a whole lot. The important point is this. That is the small part of the damage that can be done to the economy of my district and of the districts of most of my colleagues who represent agricultural areas.

We will find out in the next couple weeks if the real severe damage, the total economic disaster that we fear is going to unfold, when we find out if we get enough rainfall to bring the soybean crop and the corn crop to maturation, because that is where the big dollars are for much of agricultural America.

Already in many parts of the Plains we have seen major damage to the No. 1 cash crop, which is wheat; not necessarily in all parts of my district, but certainly in North Dakota and other parts of the Midwest, the wheat crop has been seriously, seriously damaged.

So what can we do about this? We are going to be called upon to do a great deal.

First of all, let me say that I think we are taking a leadership role in the Congress. I think the task force that has been referred to already is positive.

I also think the administration has shown they are going to respond. They have shown that by opening up set-aside acres for haying and grazing in a large number of counties in my district and across the country.

In my conversations with the Secretary, I am confident that although he may not be reacting immediately to what we are asking, I am confident that he is aware of the problem that is unfolding in rural America and that he is going to be responding to that problem as we get a better picture of its magnitude.

There are a couple specific programs that we have passed here in the Congress that we need to be ready to address in the event there is not significant rainfall in the next few weeks.

First of all, many people have alluded already to the Conservation Reserve Program. I support the Conservation Reserve Program. I hope we do not have to open it up; however, if this problem becomes of greater magnitude, we may have to look at haying and grazing on Conservation Reserve Program acres as a last resort.

Finally, we have made advanced deficiency payment available to a lot of farmers. If they do not get their crops, they are not only not going to have the income from the crop, they are going to have to pay back those advanced deficiency payments. That will truly be burdensome.

So I commend again the chairman and the ranking member. I just urge my colleagues to be sympathetic as we continue to talk about the problems unfolding in the drought-ridden Midwest.

The CHAIRMAN pro tempore (Mr. FEIGHAN). The time of the gentleman from Minnesota [Mr. WEBER] has expired.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 1 additional minute to the gentleman from Minnesota [Mr. WEBER].

Mr. TRAXLER. Mr. Chairman, will my distinguished colleague yield?

Mr. WEBER. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, it just occurred to me in our discussions on the drought that it might be helpful if the gentleman were to mention that as food prices increase in the coming months late this year and into next year that we dispel the idea that the farmer somehow or other is going to benefit from those dramatically increasing prices at the food market. Would the gentleman respond to that?

Mr. WEBER. I think the gentleman makes an important point. Again, a lot of us from the Midwest and other agricultural regions get nervous when we see the Eastern press and others talking a lot about rising food prices.

The only reason that commodity prices are rising is because farmers are not going to have anything to sell, so they are going to derive no great income from these prices.

Furthermore, as we repeatedly try to educate our friends from urban areas, most of the farmers' costs are not passed on to consumers. Consumers do not experience large food price increases, primarily because of anything that has happened in terms of the farmer's income, because most of those costs are middleman costs.

The CHAIRMAN pro tempore. The time of the gentleman from Minnesota [Mr. WEBER] has expired.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 1 additional minute to the gentleman from Minnesota [Mr. WEBER].

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. WEBER. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I appreciate the gentleman yielding.

Let me amplify on a point the gentleman made that is important in our region and I think around the rest of the country.

I think what is happening with this drought, and incidentally, the drought in North Dakota is extraordinarily serious. Nearly one-half of the crop is now gone, permanently gone, even if it rains forever from now on.

What is happening is that farmers are going to be double victims of the shrinking deficiency price, because not only do they lose their crops, but also the loss of the crop means market prices for grain commodities, the commodities will increase, and the increase in the market price then will mean a decrease in the deficiency payment.

So the drought which washed away a great deal of the farmers' income not only washed away their incomes on the market side, but also substantially will shrink their deficiency payment. I am going to speak a little later on that subject. The gentleman pointed that out briefly in his comments and I wanted to amplify on that, because I think that is a very serious problem for producers in rural America.

Mr. WEBER. Mr. Chairman, I thank the gentleman for his contribution. All of us are going to have to do a lot to educate our colleagues on some of these complicated farm issues in the next few months.

The CHAIRMAN pro tempore. The time of the gentleman from Minnesota has expired.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 2 additional minutes to the gentleman from Minnesota.

Mr. COATS. Mr. Chairman, will the gentleman yield?

Mr. WEBER. I yield to my colleague, the gentleman from Indiana.

Mr. COATS. Mr. Chairman, I thank the gentleman for yielding.

A number of us just came from a meeting with the Director of the Budget, Jim Miller, and his interagency task force on this subject.

I think the points of the gentleman from Minnesota about the severity of the drought that we are facing and the impact on the national economy are well taken. The forecasts, frankly, are not very good for most of the Nation in the coming weeks.

I think our colleagues need to understand we are not simply talking about whether or not we are going to have sufficient hay for livestock, sufficient corn and other grain crops for food, but this impacts on much of the Nation in a lot of ways that many of us generally do not think about. Water levels on the Mississippi and other navigable rivers are down substantially to the point that it may require additional dredging by the Corps of Engineers or may result in the inability to move traffic up and down these waterways. Forest fires throughout the West and in a number of parts of the country are at substantial risk to the American public, at great cost, not only in loss of forest cover, but in the cost to fight this. So this impacts in a number of ways across the economy that a lot of us do not tend to think of. It is going to impact on every Member in this body.

We need to pay attention to what is going on. We need to be aware of what is going on, sensitive to what is going on, and responsive as a body to what is going on.

I just wanted to add that to what the gentleman from Minnesota said.

Mr. WEBER. Mr. Chairman, I thank the gentleman from Indiana and I thank the gentlewoman from Nebraska for being so generous with her time.

Mr. WHITTEN. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Chairman, the Subcommittee on Agriculture, Rural Development and Related Agencies appropriations brings to the floor for your approval the annual appropriations bill for fiscal year 1989.

The American farmer knows how to produce and today, our country is still the world's largest exporter of food to the other nations of the world. The assets invested in agriculture exceed those of any of the next 10 largest industries. This means that the American farmer is entitled to a fair share of our Nation's income.

The cost of production is increasing each year and it is imperative that we have a price support level that more accurately reflects the cost of production, plus a reasonable profit. Agriculture is the only industry I know of where a seller must accept the price offered or else return home with his commodity.

Mr. Chairman, we can help the American farmer when we help him sell his commodities. This is why our agricultural marketing service, along with several other agencies in the Department of Agriculture are so important today.

Our Soil Conservation Service is just as important today as it was when it was first established on April 27, 1935. This Service, together with the Agriculture Conservation Program has not only been a major factor in holding down pollution, but it has placed us in a position where we can conserve our soil and water resources.

The budget estimate we considered for watershed and flood prevention operations called for $99,149,000. This amount was sent up as a proposal to merge certain operations in our Soil Conservation Program. We commend in this bill the sum of $172,373,000 and this amount should be approved.

Our Foreign Agriculture Service was established on March 10, 1953. As we know, the primary function of this organization is to help American Agriculture in maintaining and expanding foreign markets for agriculture products which are vital to the economic well-being of our country and to the American farmer. This Service, along with our Agriculture Marketing Program plays an important part in the life of our farmer today.

REA is one of our great achievements and certainly, Mr. Chairman, we could not accept the proposal from the Office of Management and Budget for this program for fiscal year 1989. For loan authorizations for the rural electrification and telephone revolving fund, we recommend $861,300,000. For guaranteed loans to rural electrification systems, we recommend a floor of $813,450,000 and a ceiling of $1,961,850,000. For guaranteed telephone loans, we recommend a floor of $119,625,000 and a ceiling of $138,765,000. For our rural telephone bank, we recommend $28,710,000.

Our Extension Service is one of the most important services that is operated by the Agriculture Department today. The amount requested for new obligational authority for fiscal year 1989 was $299,542,000. We recommend in this bill $316,880,000 with the increase being $17,338,000. It is just as important today to carry the message to the American farmer and to the farm wife as it was when this Service was first established.

Mr. Chairman, this is a good bill and I recommend the bill to the committee.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 5 minutes to my good friend, the gentleman from Massachusetts [Mr. CONTE], the ranking member of the full Appropriations Committee.

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 4784, the fiscal year 1989 appropriations bill for rural development and agriculture.

This is the eighth regular appropriations bill to come before the House. But it is one of the trickiest. It has been very carefully crafted. It restores all or most of the funds for rural housing, conservation, research, and extension that are so important to our communities. It fully funds the Food Stamp and Child Nutrition Programs. And for the first time in many years, it fully funds and reimburses the three Farmers Home revolving funds for $8.73 billion in losses.

The committee's recommendations are unusually restrained. There are very few targeted increases. I particularly commend the chairman and the ranking minority member, the gentlewoman from Nebraska, for working very hard to include an additional $125 million for the WIC Program and an increase of $32 million for the expansion of FDA's role in the fight against AIDS.

Last year's summit agreement did not make this easy. Under the new rules, the discretionary spending authority for this bill has been reduced from $54 billion down to $14 billion.

The agriculture appropriations bill is no longer our largest domestic discretionary bill. It has slipped to No. 4.

But look at these numbers very carefully, my friends. Not much has changed. The $40 billion bill here before us is within our 302 allocation of discretionary budget authority by about $770,000. But it is $12.3 billion below 1988 and $2.5 billion below the President's budget.

The only reason we are so far below is because of the CCC. There is less than $6.8 billion for the CCC in this bill. Nearly $15 billion below what we have provided for 1988. The administration estimates a need for only $9.8 billion. And they are alarmed by the committee's reduction.

But it will be a new administration that will have to submit an urgent supplemental next spring.

I would like to remind my colleagues that the CCC has been spending $66 million a day every day since the 1985 farm bill was signed into law; $72 billion in the last 3 fiscal years alone. So I cannot guarantee that the $6.8 billion—or the $3.5 billion we have in reserve—will be enough to cover 1989.

This bill is only the fourth to be considered under the new scorekeeping conventions agreed to in the conference on the budget resolution.

I want to focus on this issue of scorekeeping because it is a very major concern of the administration on this bill.

The differences between OMB and CBO on the bill total $2.5 billion in budget authority and $1.9 billion in outlays. The Director of OMB, Jim Miller, and the Secretary of Agriculture, have issued a very strong veto threat because of this.

I will place the entire text of the "Statement of Administration Policy" in the RECORD when we are back in the House. But while there are no multibillion dollar objectionable new provisions in this bill—as we have had from time to time—the administration does have several valid objections.

These relate to the language on double-dipping and what they call our gross intrusions on executive management.

We will have to address these objections in conference along with the serious scorekeeping problem and several CCC issues before we sent this bill on to the President.

One of the CCC issues involves the sweet defeat of a provision in last year's reconciliation bill uncapping the loan limits on the Honey Program.

At my request, the committee agreed to place a maximum limit on new loans to a handful of the Nation's largest producers who are being paid to forfeit excess production to the CCC.

Today, 93 percent of the honey produced in this country—211 million pounds of honey—is being subsidized. Last year, 81 million pounds were forfeited. This program has grown way out of control.

I have not given up on my fight to phase it out altogether. But I have been working very closely with Chairman DE LA GARZA, Chairman STENHOLM and my good friend ED MADIGAN, the ranking minority member, to find an acceptable improvement to the current free-for-all. We have worked on some compromise language that will carry us through the next farm bill, and I hope it will be accepted by the other body in conference.

Mr. Chairman, I include the following "Statement of Administration Policy":

STATEMENT OF ADMINISTRATION POLICY

H.R. 4784, RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1989 (SPONSORS: MR. WHITTEN AND MRS. SMITH)

This bill, as reported by the Appropriations Committee, is unacceptable to the Administration. If it were presented to the President in its present form, the Secretary of Agriculture and the Director of the Office of Management and Budget would recommend that he veto it. The bill is objectionable because of its gross intrusion into the management responsibilities of the Executive Branch as well as its total disregard for the President's loan program reform proposals and its excessive funding for low priority programs in a time of budget restraint.

Using scoring consistent with the FY 1989 Congressional Resolution, the bill provides funding for discretionary programs that exceeds the President's request by $2.5 billion in budget authority and by $1.9 billion in outlays. Under the scoring conventions in effect at the time of the Bipartisan Budget Agreement (BBA), the President's request is increased by $6.0 billion in budget authority and by $2.7 billion in outlays. The bill also proposes loan and obligation limitations of $14.1 billion, an increase of $4.5 billion over the President's request. These funding levels could in combination with other appropriations legislation jeopardize seriously the BBA spending levels for FY 1989.

Areas of particular concern include:

A continuation of unwarranted intrusion by the Committee into the management of the Office of the Secretary of Agriculture. The bill provides 11 separate appropriations for presidentially-appointed officials. The Committee again has failed to fund the Office of the Assistant Secretary for Natural Resources and Environment and instead provides only $148,500 for the Office of the Assistant Secretary for the Special Services; 36 percent of the FY 1988 level. The bill also specifies that certain Department officials shall report directly to the Secretary. The effect of these actions is to dismiss presidentially-appointed policy officials and to mandate supervisory channels other than those established by the Secretary of Agriculture.

Inclusion of language that restricts enrollment in the Conservation Reserve Program to six million acres during FY 1989. This proposal would arbitrarily halt progress toward the FY 1989 target of 35 million acres of total enrollment that was established by the farm bill for this program. Completion of the Conservation Reserve Program is a major initiative supported by both the Administration and the Congress.

Funding only $29.1 million for competitive research grants rather than the $54.5 million requested in the budget. The Committee level would eliminate competitive grants for Human Nutrition Research and Plant Science Centers and reduce by 50 percent the funding requested by the President for implementation of the international protocol on stratospheric ozone. Instead, the Committee provides $30.6 million, an increase of approximately $25 million over the request, for low priority special grants.

Failure to provide $11 million requested by the President for the urgently needed renovation of the Agricultural Research Service Seed Storage Laboratory at Fort Collins, Colorado. Instead of funding this critically needed facility, the Committee uses the funds for 19 feasibility and planning studies for research facilities that have no demonstrated need and have not even been subject to peer review.

Inclusion of language that would again prohibit efforts to alter the method of computing normalized prices for agricultural commodities. This type of restriction, previously enacted in the FY 1988 Continuing Resolution (P.L. 100-202), requires Federal agencies to use crop prices that include the effects of Department of Agriculture subsidy programs and overstate agricultural benefits when evaluating water projects. This prohibition blocks the Administration's efforts to eliminate "double subsidies"—providing Federally subsidized water to grow Federally subsidized crops.

Total disregard for the Administration's proposals to make long overdue reforms to the costly REA loan program; proposals that would result in outlay savings of $4.3 billion from FY 1989 through FY 1993, while having an insignificant impact on the average REA borrowers' electricity rates. The Committee proposes to continue the highly subsidized and costly REA lending program at the FY 1988 enacted levels.

Continuation of the costly and inefficient traditional rural housing direct loan program at $1.8 billion rather than adopting the Administration's proposal to expand the more cost-effective rural voucher program and terminate the direct loan program. The direct loan programs offered by the Rural Housing Insurance Fund (RHIF) provide construction subsidies to build expensive housing when vouchers can serve more needy families and provide them a greater housing choice.

Rejection of the President's request to continue the gradual shift in the Agricultural Credit Insurance Fund (ACIF) from direct Federal lending to Federal guarantees of private loans, as provided in the farm bill. The Committee funds the ACIF non-disaster direct loan program at $1,027 million, an increase of $527 million from the request, slightly reduces the guaranteed loan level, and includes $596 million instead of the requested $100 million for disaster loans.

Rejection of nearly all of the President's funding proposals for the Agricultural Stabilization and Conservation Service (ASCS) and the Soil Conservation Service (SCS). The Committee proposes an increase over the President's request of $200 million for ASCS and $33 million for SCS and disregards the proposal to fund all SCS water resource activities in a single appropriation.

Inclusion of sections 631 and 633 that restrict USDA's ability to manage its loan program by prohibiting the sale of ACIF loans and denying the use of private debt collections services for delinquent Farmers Home Administration loans. In addition, the Administration opposes prohibitions in legislation precluding the sale of loans without recourse from the RHIF loan portfolio. The President's FY 1989 Budget proposes nonrecourse RHIF sales to net $870 million in FY 1989 receipts. Failure to prevent such prohibitions would preclude the sale and increase the deficit by the $870 million.

The Administration urges the House to address satisfactorily these and other issues discussed in the attachment to ensure that the President is presented a FY 1989 Rural Development, Agriculture, and Related Agencies Appropriations bill he can sign.

RURAL DEVELOPMENT/AGRICULTURE APPROPRIATIONS BILL, 1989 OBJECTIONABLE PROVISIONS

I. FUNDING LEVELS

Rural Electrification Administration (REA). The Administration objects strongly to continuing the highly subsidized REA direct lending program at the FY 1988 enacted levels. REA program goals of providing electric and telephone service have largely been accomplished. The President's budget includes a number of long overdue reforms that would convert the costly 5 percent interest loans to partial REA guarantees of private loans. In addition, the Administration objects to the $325 million appropriation for "interest subsidies and losses" and $28 million for the Rural Telephone Bank (RTB) to purchase Class A stock. The $325 million appropriation represents an unwarranted subsidy that is a costly way of avoiding making the necessary reforms to REA direct lending programs. This appropriation is not needed under the proposed reforms. The RTB appropriation is totally unnecessary since RTB borrowers are financially healthy and can borrow without further assistance.

Rural Housing. The Committee continues the costly and inefficient traditional rural housing direct loan program at $1.8 billion rather than adopting the Administration's proposal to expand the more cost-effective rural voucher program and terminate the direct loan program. The direct loan programs offered by the Rural Housing Insurance Fund are not as effective as vouchers in helping low-income families move to standard housing units.

The Farm Credit Assistance Board. The Committee includes bill language which would restrict the administrative expenses of the Farm Credit Assistance Board and subject its personnel actions to Title 5 of the U.S. Code. Farm Credit legislation created the Farm Assistance Board, a temporary institution established to support the farm credit system. A specific decision was made to provide the board with the greatest possible flexibility in the pursuit of this mission. The Committee language would restrict the board and impair its operation.

Rural Development Insurance. The Administration, as part of its Rural Development Initiative, proposes to continue its program of grants, and direct and guaranteed loans through the Farmers Home Administration. Instead of supporting the administration's proposed loan levels, the bill increases the President's request by $125 million. Moreover, by rejecting the Administration's proposals, the Committee provides disincentives for creditworthy borrowers to seek credit through private markets.

Soil Conservation Service (SCS) and Agricultural Stabilization and Conservation Service (ASCS). The Committee ignores the Administration's proposals to terminate funding for SCS and ASCS programs that should not be financed by the Federal Government or could be better achieved through the conservation activities mandated by the Food Security Act of 1985. In addition, the Committee disregards the administration's proposal to fund all SCS water resources activities in a single appropriations account—the Water Resource Management and Improvement account. In total, the bill provides $233 million more than requested by the President for all SCS and ASCS programs; funding provided at the expense of higher-priority programs and good fiscal policy.

FmHA Housing Grants Programs. The bill provides appropriations at the FY 1988 level for all FmHA housing grant programs proposed for termination by the President. These funds should be used for higher priority programs.

Agricultural Credit Insurance Fund. The Committee rejects the President's request to continue the gradual shift in the Agricultural Credit Insurance Fund (ACIF) from direct Federal lending to Federal guarantees of private loans, as provided in the farm bill, and to fund the Disaster loan programs at anticipated demand levels, or $100 million in FY 1989. The Committee funds the ACIF non-disaster direct loan program at $1,027 million, an incrase of $527 million from the request, slightly reduces the guaranteed loan level, and incldues $596 million for disaster loans. These increases should be used for higher-priority programs that truly require Federal funding.

CCC. The Administration commends the Committee for not proposing a detailed, program-specific appropriation for CCC, as was enacted for FY 1988. However, the Administration urges that the bill support the President's request for a FY 1989 current indefinite appropriation without the funding ceiling proposed in the bill.

Temporary Emergency Food Assistance Program (TEFAP). The Federal Government provides surplus commodities for the needy and pays the cost of processing and transporting these commodities to the States. However, the bill includes an unrequested appropriation of $50 million in grants to States for the State and local distribution of surplus commodities. Funding for State and local distribution should be provided by the States.

Public Law 480. The Administration proposes a program level of over $1.4 billion for P.L. 480, involving a commitment of well over 6 million metric tons of commodities. The bill increases the program level by $40 million, of which $35 million is financed by the appropriation, and $5 million through an unwarranted adjustment to the OMB/CBO agreed upon receipt estimate. The increase could jeopardize the Bipartisan Budget Agreement spending levels for international programs. In addition, the Administration objects to the provision that limits the Administration's flexibility in meeting unforeseen program needs by allowing for only a 10 percent transfer among P.L. 480 titles as compared with 15 percent allowed in the authorization.

Food and Drug Administration. The Administration supports funding for AIDS activities but urges that the House appropriate all such funding in the central account proposed in the Department of Health and Human Service's Office of the Secretary of Health.

Office of the Secretary. The Administration objects to the inclusion of 11 separate appropriations for the Office of the Secretary. The Secretary of Agriculture should have the administrative discretion to determine resource levels for his own staff offices within a single appropriation account.

II. LANGUAGE PROVISIONS

Agricultural Commodities Normalized Pricing. The Administration objects strongly to Section 632, which prohibits efforts to alter the method of computing normalized prices for agricultural commodities in effect on January 1, 1986. This provision requires the Federal water resource agencies (the Departments of the Interior, Army, Agriculture, and the Tennessee Valley Authority) to continue to justify new agricultural development water projects on the basis of agricultural commodity prices that over-state project benefits by including the effects of USDA price support and income maintenance programs for surplus crops. This provision, previously enacted in the FY 1988 Continuing Resolution (P.L. 100-202), would curtail for another year the Administration's efforts to reform the way Federal agencies justify agricultural development water projects. The Administration's new normalized prices would remove the effects of the USDA programs for surplus crops. This is one step the Administration would take to eliminate the "double subsidy"—providing Federally subsidized water (a benefit worth hundreds of millions of dollars annually) to grow Federally subsidized crops.

Conservation Reserve Program. The Administration objects to language that restricts the enrollment of crop year 1989 acreage into the Conservation Reserve Program during FY 1989 to six milion acres. The Food Security Act mandates a minimum goal of 35 million acres for reserve enrollment by the end of crop year 1989 and 40 million by the end of crop year 1990. The cap will not allow these goals to be realized.

Restrictions on Loan Program Management. Sections 631 and 633 restrict the USDA's ability to manage its loan program by prohibiting the sale of ACIF loans and denying the use of private debt collections services to collect delinquent Farmers Home Administration loans. Such restrictions can be counter-productive because they increase costs to the taxpayer and reduce program efficiency and effectiveness. In addition, the Administration opposes prohibitions in legislation precluding the sale of loans without recourse from the RHIF loan portfolio. The President's FY 1989 Budget propose non-recourse RHIF sales to net $870 million in FY 1989 receipts. Failure to prevent such prohibitions would preclude the sale and increase the deficit by the same amount.

Micro-Management and Intrusions in Executive Branch Matters. The Administration objects to the inclusion of language directing the Chief of the Soil Conservation Service (SCS) to report directly to the Secretary of Agriculture, language prohibiting the consolidation of SCS national technical centers, a provision that caps the amount of funding for SCS technicians, and section 617 which disallows the phasing out of the Resource Conservation and Development Program. These provisions are inappropriate intrusions in Executive Branch matters.

Credit to Poland. The Administration urges the House to strike section 620. This provision restricts the President's ability to conduct foreign policy by modifying the terms of existing U.S. commitments to U.S. banks under credit guaranteed to the Polish People's Republic.

Section 622. This provision directs the Secretary of Agriculture to initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act and not less than five new projects under the Flood Control Act. These types of decisions should be reserved for the Federal managers responsible for executing these programs.

Section 626. The bill mandates minimum staffing levels for four USDA bureaus—Farmers Home Administration, Agricultural Stabilization and Conservation Service, Rural Electrification Administration, and Soil Conservation Service. The provision infringes on the Executive Branch's ability to implement programs efficiently and effectively.

Section 634. While the Administration agrees that the honey program is in need of reform, this section might be interpreted as being inconsistent with agreements negotiated at the time of the Bipartisan Budget Agreement.

Commodity Supplemental Food Program. The Administration opposes language that forbids CSFP from reimbursing CCC for commodities donated to the program. The reimbursement of CCC for commodities is a valid program expense, and failure to pay for donated CCC items understates the resources needed to maintain CSFP food packages. This restriction results in unnecessary subsidies to CSFP by CCC.

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Mr. WHITTEN. Mr. Chairman, I yield 3 minutes to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of the Rural Development, Agriculture, and related agencies appropriations bill for fiscal year 1989 and ask unanimous consent to revise and extend my remarks.

At the outset, let me commend my colleagues on the subcommittee for their hard work. I especially want to thank our fine chairman, JAMIE WHITTEN, and our subcommittee's ranking member, VIRGINIA SMITH, for their leadership in formulating this bill.

I also offer warm words of appreciation to our subcommittee staff, Bob Foster, Tim Sanders, and Bob Schmidt for their countless hours of work on this bill.

I don't need to tell anyone in this Chamber how difficult this year has been for the Appropriations Committee. There simply is not enough money for the work that needs to be done, and that is especially true of agriculture programs. Many hard choices had to be made in the process of formulating this bill. In some instances, the funds available are barely adequate to do the job. Nonetheless, the bill is the best that can be expected given the funds available, and is fair and reasonable under the circumstances. I urge every Member to support it.

As in past years, our bill appropriates funds to combat a wide variety of plant pests and animal diseases that afflict crops and livestock. Funds provided to the Animal and Plant Health Inspection Service will be used for control such plant pests as gypsy moth, golden nematode, fire ant, Mediterranean fruit fly, boll weevil, and witchweed. For animal diseases and pests, we have included funds for screwworm, brucellosis, psudorabies, and foot-and-mouth disease. These diseases and pests are among the most serious and damaging known in agriculture and the funds for these programs are urgently needed.

I know that the Animal Welfare Program is an important priority for many members as well as for animal rights groups in our districts. This bill contains $6.2 million for animal welfare programs designed to ensure the humane care and treatment of animals, more than $1 million above the administration's request.

Our bill also restores full funding for the Animal Damage Control Program which protects agriculture from wild and free ranging animals that are a threat to agriculture and a nuisance to public safety. A good example of this program is the rodent control effort in Hawaii. Three species of rats infest Hawaii, causing estimated crop losses of $8 million per year, and wreaking havoc in homes and businesses throughout my State. Rats are a serious health and agricultural pest in my State, and I am grateful for the support Chairman WHITTEN has given this initiative. I point out that this research and control program has nationwide implications, since the results in Hawaii can easily be applied to rodent infestations throughout the United States.

Our bill contains $481 million for the Food and Drug Administration in order to assure the safety, purity and wholesomeness of America's food supply and to evaluate the safety of new drugs and medical devices. Although the amounts provided to the Food and Drug Administration for AIDS is dwarfed by amounts in the budget for the National Institutes of Health, the FDA nonetheless has a very important role in combating this disease.

Our bill contains $40 million specifically for AIDS-related work, an increase of $15 million, or 38 percent over the previous year. As is pointed out in the committee report, these funds will help expedite FDA review of new AIDS therapies, vaccines, and diagnostic kits. I know I speak for all members of the subcommittee when I say that the funds we added to the bill are designed to ensure that the FDA will not become a bottleneck when it comes to bringing new AIDS related products into the marketplace.

Mr. Chairman, time permits me to review only a few of the many worthwhile programs funded in our bill. I have not had a chance to even mention funding for agriculture research, rural housing, farm ownership and operating loans, soil and water conservation, rural electrification, and Public Law 480.

We also have funds in our bill for vital nutrition and domestic feeding programs such as food stamps, WIC, school lunch, temporary emergency food assistance and other important feeding programs. These mandatory programs support those in need, and most or all of the funds contained in our bill were requested by administration.

In summary, this is a good bill, and I urge every Member to support it.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. SKEEN], a member of the subcommittee.

Mr. SKEEN. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I just want to take a few moments to commend the Subcommittee on Rural Development, Agriculture, and related agencies. I am probably one of the few Members who has served on the full Committee on Agriculture of the House and then went to the Subcommitee on Rural Development, Agriculture, and Related Agencies. I am probably one of the few Members of this House who has ever made their living almost totally from agriculture. There are just a few of us around this Congress.

I want to say this: Those folks who work on the full Committee on Agriculture and those who work on the Subcommittee on Rural Development, Agriculture, and related agencies, particularly the gentleman from Mississippi [Mr. WHITTEN], the chairman and the ranking member, the gentlewoman from Nebraska [Mrs. SMITH], do have a great understanding and sensitivity to the problems we have in dealing with American agriculture, still one of the most important economic sectors in our community.

I come from a State that knows a drought situation year after year, and we are in a severe situation now in other parts of the country. Strangely enough, New Mexico is enjoying a rather higher than average moisture year, but we know from experience that another drought is right around the corner for us as well as the rest of the Nation, and I want to commend this committee and the staffs that work on this committee for the kind of forethought that has gone into a lot of legislation that deals with this kind of emergency.

We have authorization and we also have in place the appropriations to deal with this emergency for at least a limited extension of time. We hope that we get through this situation early.

I also want to commend the committee for its attention to the furtherance of agriculture in the biotech area particularly. This committee has always had a sensitivity and a willingness to supply funds that are necessary to advance the biotech research that goes on throughout this country, and I think is the presager of the real future of agriculture in this country.

Agriculture is a marvelous economic entity in this country, but one just does not make much money in the production area.

I think these Members have done a great job, and I want to say I commend them and thank them for the opportunity to work with them.

I heartily support this bill and will have further to say when we get into the amendments.

Mr. WHITTEN. Mr. Chairman, I yield 4 minutes to the gentleman from Oklahoma [Mr. WATKINS], a member of the subcommittee.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I rise in strong support of this legislation.

Mr. Chairman, as a member of the full committee, I rise in support of this bill. H.R. 4784 is a fiscally responsible bill which comes in well below the administration's request and below the Budget Committee's 302(b) allocation. This legislation targets for increases the programs which need increases and holds the line on funding in comparison to the fiscal year 1988 appropriation.

I want to offer my thanks to Chairman JAMIE WHITTEN for report language inserted with his approval on the Farmers Home Administration's Water and Sewer Grants Program and the areas known as colonias on the United States-Mexico border. The language is simple. It encourages Farmers Home to amend its administrative regulations to give priority to those communities in the Southwest which so desperately need Federal dollars to install indoor plumbing and to obtain access to sewage disposal systems. Currently, the agency's regulations give exclusive precedence to areas defined as "truly rural." The colonias in the Southwest do not fit comfortably into that category. Some are truly rural. Others, such as the sprawling third-world slums on the outskirts of El Paso, TX and San Ysidro, CA, are simply unincorporated areas adjacent to major urban centers.

A recent survey published by the Bureau of the Census indicated that eight of the ten poorest communities in the entire United States are located along the United States-Mexico border. The survey uses per capita income as an index of poverty—but it cannot fully convey the squalor in which the residents of the colonias, an estimated 300,000 Americans, actually live. The report language accompanying this bill comprises a small first step, one which Farmers Home will hopefully act upon expeditiously, in bringing relief to these areas. I thank the chairman again for his time and his effort and urge my colleagues to strongly support this bill.

Mr. WATKINS. Mr. Chairman, the fiscal year 1989 Rural Development, Agriculture, and related agencies appropriations bill presented under the leadership of our most able Chairman JAMIE WHITTEN is a good bill crafted with raw courage.

Without question, this has been the most difficult bill to draft since the beginning of the committee. Hard choices had to be made during the course of debate on what should be included in this bill. All of the members of this committee, on both sides of the aisle have been sensitive to budgetary constraints but at the same time have tried to preserve those things that are important to the fabric of this country.

When we first started this process 6 months ago, I would have been doubtful that the product presented today would have arrived in this form. Why? The facts are that once more the administration brought to the Congress a bill that jeopardizes the health and welfare of this Nation.

This bill includes funding for urban as well as rural areas. Included is approximately $16 billion for Food and Nutrition such as WIC, food stamps, school lunches, elderly feeding, and other feeding programs which benefit all consumers of the Nation, especially those in urban areas.

For the first time in the 8 years of the Reagan administration, the words "rural development" were discovered and token funding was forthcoming in the budget. I only wish the enthusiasm would have been greater. This bill is the primary funding mechanism for federal assistance for rural areas. Rural areas comprise 84 percent of the land area of the Nation. Included for rural development programs is $12.4 billion for such services as rural electric and telephone systems, rural housing, rural water and sewer systems, rural fire protection, farm financial assistance, and soil and water conservation and flood protection. In contrast, other appropriations bills provide funding for urban areas but in larger amounts.

Mr. Chairman, the only major increases over last year's levels in this bill are not programs aimed at farmers but at the safety of those outside of the agriculture community. An increase of $105 million is included for the special supplemental food program for women, infants and children [WIC] which is being utilized and needed more than ever across this Nation—including the State of Oklahoma. This program safeguards the health of pregnant, postpartum, and breastfeeding women, infants and childrent who are at nutritional risk because of inadequate nutrition and inadequate income. The investment made in this program saves millions and millions of dollars to the Government in costs associated with health care because of reduced health problems resulting from a better nutritional diet. The benefits of WIC have been nationally recognized in study after study and are indisputable.

A major increase of almost $13 million has been added to the budget of the "Food Safety and Inspection Service" to ensure that our food supply is wholesome, unadulterated, and properly labeled and packaged for the consumer. Again, a program not directed to the agriculture community but is part of this bill and receiving a major increase.

The third major expenditure increase is not in an agriculture program but in the Food and Drug Administration to increase work activities with the acquired immune deficiency syndrome [AIDS]. The committee has included a "little over $40 million" to be dedicated to this effort before taking a 1-percent reduction or a 63-percent increase over the fiscal year 1938 appropriation. In 1984, we had zero dollars basically dedicated to this effort. Despite the budget, the committee has tried to be responsive to this deadly disease. In addition, $22.5 million was included before the 1-percent reduction for the construction of a new building for AIDS research to assist in the development and introduction to the marketplace of AIDS related medical products.

After restoring essential programs to adequate levels and approving increases for a handful of priority programs the committee has held the bill below the President's budget request, below last year's appropriation and below the discretionary budget authority ceiling set by the House. To meet the House ceilings, the committee held most projects and programs to last year's level.

On top of all this, within recent days this committee has dealt with the way this bill has been scored after it was marked up. Provisions were made for such needed corrections. Changes in the Conservation Reserve Program, the Export Enhancement Program, and the Targeted Export Assistance Program were necessary to even bring this bill to the floor. We have dealt with having to take a lions share of a necessary reduction as a result of the late passage of the budget resolution. This reduction was not applied to some committees but this bill took more than its share. This committee has done its job and has done it well I might add.

The Appropriations Committee has consistently held the total of appropriations bills below the overall total requested by the President. Despite this fact, the Federal debt in 8 years has increased from $900 billion to $2.6 trillion.

All this occurred at a time when domestic programs up until this year have been reduced 38 percent. However these funds have not gone to pay the debt but to increase funds for other spending. The Appropriations Committee and the Subcommittee on Rural Development and Agriculture has done their part in deficit reduction.

Mr. Chairman, I call this legislation a water gravy approach bill. For those of you that do not know, water gravy is made from flour, milk, and water—and often refered to as a poor man's meal in Oklahoma. In recent years, we have had a lot of those in the State. And, I would dare say that water gravy is becoming popular across this Nation as we near the end of the last of 8 years of this administration. The bill that is being presented will basically sustain current activities but nothing more. This bill is being held together as a bare bones approach. There is nothing frivolous about this bill.

We have done the best we can. Despite increases in nutrition programs, there will still be children who will not be able to participate in school lunch programs. They will not even get that one nutritious meal for the day. Something has to be terribly wrong with our policies when for our own we cannot provide. But, as I have said—we have done the best possible job under the circumstances.

Any attempts to alter this bill on the floor today will devastate the programs that this committee has preserved. This is a water gravy approach.

The 1-percent cut taken by this committee as a result of the lateness of the budget resolution meant a cut of $20 million in the WIC Program. We have deprived women, with infants and children of having the necessary diet to sustain a good healthy viability and have undoubtedly increased health care costs to the Government in the process.

Let me tell you what a 3-percent cut or another 2-percent cut would do to this bill. Your constituents would receive less than current services. The safety of our food supply would be in jeopardy. Many of the budgets of the USDA agencies are almost totally dedicated for salaries and expenses including the Food Safety Inspection Service. A 3-percent cut would mean furloughing employees for approximately 1 month without pay or dismissing staff. The packers and stockyards would virtually come to a standstill as a result since these kind of individuals must be on the premises for activity to occur. The financial markets would be disrupted with the lack of movement of livestock. Consumer would have a reduced supply of meats at the market, skyrocketing prices on that available at the meat counter. I would hope that our colleagues would recognize any attempt for an across the board cut as cutting off services to your constitutuents.

The amendment to be offered by my colleague, Mr. DioGuardi has no real reason for being offered so, therefore, I am not going to take the time of this body to even discuss the matter. The fact is that restructuring farmers loans will save the Government $600 million. There is a certain amount of these debts that are uncollectible. It is to the advantage of the Government to restucture. Having said that I would urge my colleagues to ignore any attempt by my colleague to continue the acceleration of farmers from the land. the thing he does not realize is that in the process he will be driving up the costs of food for his own constituents. These are family farmers that are served by financing through the Farmers Home Administration.

Since 1981, the number of farmers forced off the land is 261,000 or 11 percent. Department of Labor figures indicate that by the year 2000, the occupation of farming will have decreased by 28.1 percent or a loss of 332,000 farmers, 190,000 farmworkers, and countless other U.S. workers from related and dependent industry.

The question Mr. DioGuardi will be proposing to you today is in part—from where will our food supply come. If you vote for this amendment, you will have decided that you want your constituents to be supplied with food from either corporate agriculture or foreign agriculture with a corresponding loss in U.S. jobs and an increase in the cost of food at the grocery for your constituents. If you vote for this amendment, you will have made that choice for your constituents. I hope you can live with that since your constituents will be dependent on foreign agriculture products that will be more costly and certainly more unhealthy. Many of these commodities are treated with chemicals that are banned for safety reasons in this country. The choice is yours.

It conclusion, the bill offered by this committee is a solid bill that was put together after many months of close study. To unravel the work of this committee now is shortsided judgment to say the least and at the most detrimental to the safety, health, and welfare of this Nation. I urge the bills adoption without amendment.

□ 1125

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Wisconsin, Mr. Steve Gunderson.

Mr. GUNDERSON. Mr. Chairman, I want to compliment the gentlewoman from Nebraska for her work on this bill, and obviously it is a piece of legislation I will be supporting.

But I have consistently come to the floor over the last few years to discuss funding for the Commodity Credit Corporation. Unfortunately I think I ought to forewarn my colleagues that the chances are very good we will be back with a supplemental appropriation to fully fund the CCC based on this legislation. The reality is this year, we are spending $211 billion for the CCC. The President asked for $9.8 billion for 1989; the committee bill before us only appropriates $6.8 billion. So there is a significant gap there.

The committee assumes that the $3 billion difference between their funding level and the administration's can be made up by selling off $3 billion of inventories. I would point out that with the drought before us, the chance to sell in the world market is an option that unfortunately I do not think we are going to have before us.

When a supplemental comes before this Congress to fund agriculture—don't blame the farmers—blame the Congress for not properly funding the CCC.

Mr. ALEXANDER. Mr. Chairman, I rise today in strong support of H.R. 4784, the Rural Development and Agriculture appropriations bill for fiscal year 1989.

The distinguished dean of the House has it exactly right when he says that this is a national bill. This bill appropriates the money to continue the scientific research and commodity program administration that make Americans the best fed and best clothed people on Earth.

This bill also maintains funding for programs that improve the quality of life in rural America: credit programs, housing programs, rural electrification and telephones, rural water and sewer programs, community facilities programs, and home nutrition education programs—all of them vital to the well-being of people in the 24 counties of the First District of Arkansas and hundreds of counties like them across the land.

No one, Mr. Chairman, should be denied the material comforts of life because they live in Newport, AR, rather than New York, NY.

I would like to take just a moment to speak about three items in the bill which are of particular importance to east Arkansas.

The bill includes $452,000 for the 26-county East Arkansas Water Conservation Study, which is a cooperative effort of the Soil Conservation Service, U.S. Geological Survey, Arkansas Association of Conservation Districts, and the 26 local conservation districts.

This study will help Arkansas farmers reduce their input costs and preserve limited ground water supplies. Water conservation is particularly vital in this summer of drought.

The project is a phenomenal success that will serve as a national model for farming areas with similar water problems. In fact, it is so successful that the study will be the keystone of the National Water Management Expo, which will be held in Little Rock next month.

Also included in the bill is a special research grant of $456,000 for the continuation of the Riceland Mosquito Management Program.

Researchers at universities in Arkansas, Mississippi, Texas, Louisiana, and California are cooperating in this excellent project, which provides information that helps communities in rice-growing areas control mosquito populations in economic and environmentally acceptable manners.

The practical applications of the project's research are being demonstrated in the Grand Prairie Mosquito Abatement Program in Arkansas and Prairie Counties, AR.

Finally, the bill rejects the administration's ill-advised proposal to cut animal damage control activities by more than half, and funds the program at the fiscal year 1988 level.

More importantly, the report accompanying the bill directs the Agriculture Department not to repeat this year's performance, when a reallocation of funds nearly destroyed predator control programs in the South and Southwest.

In Arkansas, the blackbird damage control program, which for years has helped Arkansas rice farmers avert millions of dollars in losses to avian pests, had to simply shut down. The Agriculture Department's performance in this matter has been abominable, and cannot be allowed to continue next year.

This bill will help the entire Nation. It is a fine piece of work on the part of Chairman WHITTEN and the subcommittee, and I urge that the House pass it.

Mr. MILLER of California. Mr. Chairman, I rise in support of H.R. 4784, the fiscal year 1989 agriculture appropriations bill.

This bill contains funding for the Special Supplemental Food Program for Women, Infants, and Children—one of the most valuable and effective programs serving low income, nutritionally needy pregnant and lactating women, babies, and young children.

It is, however, disappointing and unfortunate that the Appropriations Committee has provided only a modest increase of approximately $33 million over current services.

Evaluation of the WIC Program have repeatedly and convincingly shown the benefits and significant cost savings of the program.

The select committee's recently released update of its report, "Opportunities for Success: Cost Effective Programs for Children," documented this mounting evidence. In addition to showing that WIC participation reduces infant mortality, low birthweight births and premature births, new evidence documents that WIC helps lower the prevalence of anemia among infants and young children, and improve cognitive skills. Participants considered at the highest risk have benefited the most.

Studies also continue to confirm the cost savings that this program yields: For every $1 invested in the prenatal component of WIC, as much as $3 have been saved in short-term hospital costs.

But, despite the success of the program for participants and the actual and potential returns to public treasury, still less than half of those eligible receive WIC services nationwide, according to a study last year by the U.S. Department of Agriculture. In my own district, there are 5,300 women and children enrolled in the program, but that is only about 28 percent of those estimated eligible by the State.

While we have made steady progress in expanding services to more of those in need, we have a long way to go to ensure that all the eligible pregnant women, infants, and children receive WIC services. The longer it takes for us to reach full participation, the more it will cost over a longer period of time to correct problems affecting millions of American children—problems that could have been averted with effective early intervention through the WIC Program.

Mr. BRUCE. Mr. Chairman, I want to express my support for the research initiatives contained in H.R. 4784, the agricultural appropriations bill. I would like to thank Chairman WHITTEN for his leadership in recognizing the important national priority of agricultural research. The continued support of agricultural research is fundamental toward establishing new and expended uses of agricultural commodities.

According to the USDA, by the year 2000, the worldwide market for biotechnology derived food and agricultural products could reach hundreds of billions of dollars. However, if our Nation's farmers are to benefit there needs to be a greater emphasis placed upon developing comprehensive research programs.

Research initiatives such as the proposed National Soybean Research Laboratory located at the University of Illinois will be capable of transferring scientific advances into meaningful benefits for our farmers. The National Soybean Research Laboratory will combine scientific research in step with a rapidly changing world and domestic markets. Research at the Soybean Lab will also focus on developing new varieties of soybeans, as well as new uses and markets. New ag products such as soy-ink are already beginning to be used in industrial processes. The Champaign-Urbana News Gazette has begun printing daily editions utilizing the advantage of soy-ink and providing increased markets for farm products. A National Soybean Research Laboratory will develop similar products through interdisciplinary research. The facility would coordinate national soybean research and development programs; house and improve the U.S. soybean germplasm and genetic stocks collection; conduct scientific and economic research; and share its work with private industry.

I urge my colleagues to support this agricultural research initiative in an effort to strengthen the competitiveness of U.S. farm exports.

Mr. RAHALL. Mr. Chairman, I rise in strong support for H.R. 4784, fiscal year 1989 appropriations for Rural Development, Agriculture and Related Agencies. This measure appropriates funds for many worthwhile programs that provide critical assistance to those in our society facing unfortunate circumstances. Many of the needy in my home State of West Virginia participate in these programs while we in the State desperately seek to solve the economic woes facing us. I am very pleased that the committee has rejected the Reagan administration's misguided proposals to deeply cut or eliminate many of these crucial programs.

H.R. 4784 appropriates $9.3 billion for the Farmers Home Administration which is responsible for this country's rural development programs, including housing and water and sewer loans and grants. Continued at its fiscal year 1988 level is the rural housing insurance fund which makes rural housing loans used to construct, improve, repair, or replace modest homes. The fund also makes loans for rural rental housing to those who provide moderate-cost rental housing for the elderly. Also of importance to West Virginia are the soil conservation loans made under the fund which include watershed and flood prevention loans.

Another FmHA Program funded in this measure is the rural development insurance fund. The bill provides $330 million for rural water and sewer development loans made under the fund and $109 million for FmHA grants for water and waste disposal development. Additionally, the fund grants rural industrialization loans for the purpose of improving, developing or financing business, industry and employment or improving the economic and environmental climate in rural areas. Such loans are much needed in West Virginia as we in the State eagerly seek to expand our economic base.

H.R. 4784 appropriates $641,900,000 for the Soil Conservation Service which is an indispensable program in West Virginia. The SCC works with conservation districts, watershed groups and Federal and State agencies which work to conserve soil and water resources and reduce damage by floods and sedimentation.

Mr. Chairman, I cannot begin to tell you how vital the money appropriated for domestic food programs is to so many West Virginians. The $4.6 billion for child nutrition programs makes the difference between a happy, productive, well-fed child who participates fully in school activities, and a restless, listless, hungry child who cannot concentrate on his studies because of the gnawing ache in his stomach. I am happy that, despite the administration's suggestions, the funding for this measure will restore the nutrition education and training program and the child care audit program. I feel very strongly that this program, as well as the Special Supplemental Food Program for Women, Infants, and Children [WIC] and the Food Stamp Program, provide an important foundation for our country. In our efforts to become more competitive, we cannot abandon the less fortunate in our society, but rather must make a concerted effort to assist them in their time of need, hoping that they too can one day become more productive members of society.

It has become abundantly clear to me in the past few weeks just how much my constituents in southern West Virginia depend upon the Temporary Emergency Food Assistance Program [TEFAP]. Mr. Chairman, I have received over 1,000 letters in the past few weeks from recipients of TEFAP telling me how vital this program is in their lives. The $50 million appropriated in the bill will fund State grants for distributing surplus agricultural commodities such as dry milk, butter, cheese, and rice—simple foods that you and I take for granted every day—to those who literally cannot provide them for their families. It is unfathomable that the administration would request no funding for this program. Realizing that the continuation of the program is dependent upon the availability of these commodities, I nevertheless must emphasize my strong support for TEFAP.

In closing Mr. Chairman, I urge my colleagues to support this much-needed measure which is of such importance to many in this country.

Mr. GEPHARDT. Mr. Chairman, I urge my colleagues to oppose the amendments offered by Mr. DioGuardi.

These on their face are amendments ostensibly offered to save money. But they are also simply more of the same philosophy that we have seen manifested for years in the administration's farm policy, a policy that first precipitated a farm financial crisis and that remains indifferent to the resulting human crisis.

Regardless of whether you believe that prices for farm products should be high or low, there is little sense in doing what these amendments would potentially do, which would be to deny credit to many hard-working farmers who have a good chance to get back on their feet.

Even if you believe, as the current administration does, that we should have low prices, then you should also realize that debt restructuring is the only practical way you're going to enable our farmers to adjust for the long term.

In recent years, many private lenders have worked with their borrowers to restructure debts so that both borrower and lender could survive the massive depreciation in asset values and income that have occurred. Private lenders, who often lose big when compelled to foreclose, understand that debt restructuring can save them money. It makes good business sense. And it allows farm families to keep their farms.

Under the current administration, Federal agencies have lagged behind. Anyone who has had to deal with the Farmers Home Administration in recent years is more than familiar with the frustration that many of our farmers have faced in dealing with the agency.

Last year we passed—overwhelmingly—the Ag Credit Act to try to require the Farmers Home Administration to respond in a more constructive way to the chronic depression in prices and land values in agriculture. That legislation required FmHA to meet with borrowers and to restructure their debts if doing so produced fewer losses than would result from foreclosure. These amendments defeat the intent of the Ag Credit Act by making it impossible for restructured farmers to meet their credit needs. I urge my colleagues to stand behind our previous efforts and reject these amendments.

Mr. BONKER. Mr. Chairman, as we consider the Agriculture Department Appropriations bill for fiscal year 1989, I would like to call our colleagues' attention to cuts that are being made in two key programs which help U.S. farmers get their products into foreign markets.

This legislation will provide funds for the USDA and related agencies. Most of the programs in the bill will be cut by 1 percent, including the Export Enhancement program and the Targeted Export Assistance Program, which are designed to help U.S. agricultural exporters who have been disadvantaged by the unfair trading practices of competitor nations.

While I applaud Congress for making a concerted effort to stay within budgetary boundaries, we should not be scaling back funding to promote exports. Cutting export assistance to farmers at a time when this country is running record trade deficits is pennywise and pound foolish.

It is crucial that we continue to work to bring the Federal deficit down, but we would be foolhardy to try to do this at the expense of creating jobs. Half of all U.S. wheat exports in the last 2 years have been sold with assistance from the Export Enhancement program. In my home State, one out of every five jobs is directly or indirectly related to agricultural production.

Activities conducted under the TEA Program benefited Washington plywood manufacturers as well as producers of hay, cherries, pears, potatoes, and apples. In fact, sales of Washington apples in Singapore, Hong Kong, and Malaysia have doubled over the last year. While that achievement is not due exclusively to the availability of export assistance, it has certainly been an important factor. Mr. Chairman, other countries are going all out to promote agricultural exports. We simply can't sustain the gains we've made in recent years if we reduce our commitment to this Nation's farmers.

This will be the second time in a month that Congress has failed to appropriate more money for TEA. The trade bill vetoed by President Reagan 3 weeks ago would have appropriated $215 million for the program, which is an increase of more than $100 million. Mr. Chairman, it is time for us to renew our efforts to implement a comprehensive national trade policy. We must send a message to the President that he cannot play any more games with America's competitiveness.

Mr. WHITTEN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes; namely:

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including the direct supervision of the Soil Conservation Service and the Forest Service, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $1,762,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $363,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Deputy Secretary.

OFFICE OF THE ASSISTANT SECRETARY FOR SPECIAL SERVICES

For necessary salaries and expenses to continue the Office of the Assistant Secretary for purposes of providing special services to the Department, $150,000: *Provided,* That none of these funds shall be available for the supervision of Natural Resources and Environmental activities, the Soil Conservation Service, or the Forest Service.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $467,000.

Rental Payments (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $50,659,000, of which $3,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: *Provided,* That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

Building Operations and Maintenance

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $21,297,000.

Advisory Committees (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,494,000: *Provided,* That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees.

Hazardous Waste Management

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, except for expenses of the Commodity Credit Corporation, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $5,000,000, to remain available until expended: *Provided,* That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

Departmental Administration

(INCLUDING TRANSFERS OF FUNDS)

For Budget and Program Analysis, $4,389,000; for Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $21,211,000 and in addition, for payment of the USDA share of the National Communications System, $262,000; making a total of $25,862,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

Working Capital Fund

An amount of $5,708,000 is hereby appropriated to the Departmental Working Capital Fund to increase the Government's equity in this fund and to provide for the purchase of automated data processing, data communication, and other related equipment necessary for the provision of Departmental centralized services to the agencies.

Office of the Assistant Secretary for Governmental and Public Affairs

For necessary expenses of the Office of the Assistant Secretary for Governmental and Public Affairs to carry out the programs funded in this Act, $408,000.

PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $7,826,000 including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000, may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

CONGRESSIONAL RELATIONS

For necessary expenses for liaison with the Congress on legislative matters, $497,000.

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $476,000.

Office of the Inspector General

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $49,541,000 including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95-452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

Office of the General Counsel

For necessary expenses of the Office of the General Counsel, $20,594,000.

Office of the Assistant Secretary for Economics

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $447,000.

Economic Research Service

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $49,336,000; of which $500,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided,* That this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further,* That this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

National Agricultural Statistics Service

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, $63,091,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

World Agricultural Outlook Board

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,820,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

Office of the Assistant Secretary for Science and Education

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $432,000.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $555,755,000: *Provided,* That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further,* That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Agricultural Research Service shall not be in excess of $400 annually: *Provided further,* That appropriations hereunder shall be available to conduct marketing research: *Provided further,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $175,000, except for headhouses connecting greenhouses which shall each be limited to $500,000, and except for ten buildings to be constructed or improved at a cost not to exceed $300,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $175,000 whichever is greater: *Provided further,* That the limitations on alterations contained in this Act shall not apply to a total of $300,000 for facilities at Beltsville, Maryland: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $1,800,000.

BUILDINGS AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $11,000,000: *Provided,* That these funds may be transferred to such other accounts in this Act as may be appropriate to carry out these purposes: *Provided further,* That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $155,545,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a-361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $12,975,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a—582a-7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $24,333,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $30,937,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $29,428,000 for competitive research grants, including administrative expenses; $5,476,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $641,000 for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); $2,168,000 for grants for research and construction of facilities to conduct research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178); and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $4,754,000 for higher education grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,750,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; $2,000,000 for a groundwater quality program; $2,050,000 for grants to States for the establishment and operation of international trade development centers, as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292); $3,900,000 for low-input agriculture as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 4701-4710); and $5,844,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; in all, $284,276,000.

EXTENSION SERVICE

(INCLUDING TRANSFERS OF FUNDS)

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $241,594,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,635,000, of which $39,627,000 shall be derived by transfer from the appropriation "Food Stamp Program" and merged with this appropriation; payments for the urban gardening program under section 3(d) of the Act, $3,500,000; payments for the pest management program under section 3(d) of the Act, $7,164,000; payments for the farm safety program under section 3(d) of the Act, $970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $1,633,000; grants to upgrade 1890 land-grant college extension facilities as authorized by section 1416 of Public Law 99-198, $9,508,000, to remain available until expended; payments for an integrated reproductive management program under section 3(d) of the Act, $47,000; payments for the rural development centers under section 3(d) of the Act, $903,000; payments for extension work under section 209(c) of Public Law 93-471, $935,000; payments for a groundwater quality program under section 3(d) of the Act, $1,000,000; payments for a financial management assistance program under section 3(d) of the Act, $1,427,000; for special grants for financially stressed farmers and dislocated farmers as authorized by section 1440 of Public Law 99-198, $3,350,000; and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $18,291,000; in all, $348,957,000, of which not less than $79,400,000 is for Home Economics: *Provided,* That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the

Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $7,550,000, of which not less than $2,300,000 is for Home Economics.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, $13,446,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $775,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements.

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $421,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b); and to protect the environment, as authorized by law, $329,273,000; of which $4,500,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided,* That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Animal and Plant Health Inspection Service shall not be in excess of $400 annually: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $2,546,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $404,954,000: *Provided,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $8,115,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $36,856,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,655,000; of which $99,000 shall be available for a field office in Hawaii: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, $33,373,000; of which not less than $1,591,000, shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $31,701,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $7,811,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $942,000.

OFFICE OF TRANSPORTATION

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,397,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $9,562,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $413,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241-273); and laws pertaining to the Commodity Credit Corporation, not to exceed $580,000,000, to be derived by transfer from the Commodity Credit Corporation fund: *Provided*, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $5,000: *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further*, That this amount shall be transferred to the Commodity Credit Corporation: *Provided further*, That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursement.

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $200,426,000: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $112,000,000.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1989, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained or anticipated, but not previously reimbursed, but not to exceed $6,828,286,000, pursuant to Section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a-11).

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198).

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $7,200,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager, of which up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore (Mr. FEIGHAN). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title I?

Mr. WHITTEN. Mr. Chairman, on page 17, lines 13 and 14, I ask unanimous consent to strike "Public Law 99-198" and insert "Public Law 100-219."

This would update the situation in line with the suggestions of the gentleman from Texas [Mr. DE LA GARZA], chairman of the legislative committee.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. WALKER. Mr. Chairman, reserving the right to object, I am not certain I wholly understand what we are doing. Has the law been changed so, therefore, there is a new number on the law and we are simply updating the number? Is that correct?

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield, the chairman of the legislative committee called our attention to the fact that they had had a subsequent statute on the same subject, so this just gives the correct statute.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. SCHUMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to speak about the TEA Program, the Targeted Export Assistance Program. This is a program, as my colleagues probably know, that pays private firms, cooperatives and others to advertise certain American farm produce abroad. It is a program that has given money to Dole, and Sunkist, and Pillsbury to the tune of tens of millions of dollars, and the newest industry to join the TEA Program most recently were several mink and fur companies whose advertising we will be subsidizing next year.

I would urge with my colleagues that probably in another time, given the priorities we have, given the budget deficit, that even if the program were extremely well run maybe we ought not to be funding it, given all of the other needs we have in agriculture and in so many other areas. But to boot, the GAO issued a report that was critical to the Department's administration of the Targeted Assistance Program. The report was requested by myself, the gentleman from California [Mr. PANETTA], and the gentleman from California [Mr. BROWN].

The GAO reviewed several elements of the TEA Program, including solicitation of applications, funding allocations and guidelines for evaluations, and their report recommends specific action to correct the problems cited in these areas. The two general rubrics of the problems with the program were the open-ended application process; in other words, not really looking at who should apply in reaching out so that it was easier for the bigger companies to apply. And more importantly, evaluation of whether the programs were actually doing what they said they would so that, for instance, the Sunkist Corp. received $2.4 million for a program. No one asked them to return it but they did because they were not doing anything with the money, and that is to their credit.

So if the chairman of the Appropriations Committee and his committee had not acted to freeze the funding levels for the TEA Program at $110 million, that was last year's level, instead of letting it rise to the projected $325 million, I would have offered an amendment on the floor to do this, as well as to restrict the use of TEA funds for branded advertising.

It strikes me as particularly strange that we are giving brand name, profitable companies money to go advertise abroad. However, since the Committee on Appropriations did freeze TEA funding at $110 million and not at the $325 million mandated in the Food Security Act of 1985, and that the gentleman from California [Mr. PANETTA] and the gentleman from California [Mr. BROWN] have assured me that the Committee on Agriculture will hold oversight hearings on the TEA Program, I will not offer my amendment at this time.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding and appreciate his position on this issue and his cooperation on this issue.

For all of the concerns that have been raised by the GAO report, concerns that I think do need to be looked at, the TEA Program itself has really provided some very valuable assistance in countering the adverse effect of a number of unfair practices of foreign competitors on U.S. exports. We have seen, as a matter of fact, exports increase to Japan in the vicinity of 52 percent, to Taiwan almost a full 146 percent. We have seen new product lines come into place because we have the ability to try to expand these additional markets.

However, as a corequester of the GAO report, I am concerned about the alleged administrative problems that have been reported, and in order to ensure the continued success of this program we have asked that the Department tell us what they are doing in order to address the concerns raised by the GAO report.

We have indicated that the Committee on Agriculture, with the cooperation of the chairman of the subcommittee, the gentleman from California [Mr. BROWN], that we will investigate the findings in the GAO report in an oversight hearing, and I am assured that that hearing will be held this summer, hopefully in early July.

Furthermore, in a letter to Secretary Lyng on June 6 key members of the Committee on Agriculture requested a report by the Department as to the action that has been or will be taken to try to correct these problems in the GAO report.

The 1985 farm bill authorized a new export assistance program known as the Targeted Export Assistance Program [TEA].

Many U.S. export commodities had been forced from their traditional markets by massive foreign export subsidy programs. The Congress enacted this program to offset the adverse effect on U.S. agricultural exports of subsidies, import quotas or other unfair trade practices of foreign countries.

The Congress authorized a spending level of $110 million for fiscal years 1986, 1987, and a level of $325 million in fiscal years 1989 and 1990. I recognize there has been some reduction of funds in this bill but would strongly urge that the program continue to be supported.

TEA is considered by USDA and most of the agricultural community to be a successful part of the 1985 farm bill.

The export successes of TEA surprised even its supporters. Between 1985 and 1986, participating fruit and vegetable sectors posted average export gains to Japan of 52 percent and to Taiwan a full 146 percent over the previous year. Shipments to non-TEA markets dropped an average of 40 percent over this period. Since then, export gains have multiplied. Raisin exports to Korea tripled over last season, for example. Wine sales to Japan increased 56 percent in value during the first 6 months of 1987.

TEA has produced other benefits. It has encouraged U.S. agriculture to develop and promote new product lines that will help put U.S. agriculture ahead of foreign competitors. The recent export strides made in frozen cling peaches are one example. The program has also encouraged cross-sector export cooperation, as in the widely publicized "Grown in the USA" promotional campaign.

For many commodities, particularly high-value products and specialty crops, TEA is the only practical means of overcoming unfair trading practices. GATT is too slow and ambiguous to provide trade relief.

At a time when Congress is actively looking for ways to enhance agricultural export gains, relieve the U.S. trade deficit, and avoid budgetary outlays, TEA provides a creative and highly effective solution.

USDA verifies that TEA commodities have shown far larger sales gains in markets receiving TEA promotion than in markets not covered by TEA. Cling peaches and fruit cocktail exports have increased over 400 percent in TEA markets since the program began; sales in non-TEA markets have stayed the same or dropped. As the program expands, even more spectacular gains are expected.

The Foreign Agricultural Service [FAS] of the U.S. Department of Agriculture [USDA] administers this program. Despite its limited budget and lack of sufficient personnel, it is generally believed that FAS had done a good job getting this new program started. As with all new programs there are bound to be problems and the General Accounting Office [GAO] has issued a report recommending certain changes in the administration of the TEA Program. The House Committee on Agriculture will have oversight hearings this summer to review the recommendations by GAO along with the FAS response.

It is expected that FAS may already have taken steps to resolve the GAO concerns. FAS has conducted vigorous ongoing management review of all issues raised—from evaluations and documentation of the TEA Programs to auditing controls. Pursuant to the review, TEA guidelines have been revised to ensure adequacy of both documentation and accountability requirements. Applicants must now provide greatly expanded details on export issues sustained from unfair trading practices, proposed TEA activities, expected export gains, and industry contributions. Audit requirements and activities have also been stepped up. Compliance reviews have been conducted on all TEA Programs. The fact that reimbursements have been made is also evidence that the system is working as it should.

In addition, some questions were raised about the use of branded promotion. However, a close evaluation of the program would demonstrate that the continued rise of branded promotion is essential to the success of the TEA Program.

Historically, agricultural export promotion and market development activities conducted between FAS and the private sector have been accomplished through: First, generic activities; second, branded activities; or third, some combination of the two. All three options are indispensable to effective export promotion, and thus to TEA success.

For many high-value or consumer-ready products, branded advertising is the principal, if not only means, of foreign market development. For these commodities, foreign consumers make their purchasing selections primarily or solely on the basis of brand identification and brand loyalty.

In many developed, brand-oriented markets, generic advertising conducted alone tends only to elevate consumer interest in the product generally, without guiding the foreign consumer to purchase U.S. brands over foreign-produced brands. Under this set of circumstances, the foreign product may in fact benefit from U.S. generic activities unless they are supported by U.S. brand-identification efforts.

With the initiation of the TEA Program, from 30 to 60 percent of TEA activity funds have been dedicated to branded promotion. The vast majority of this is administered through non-profit commodity organizations, such as the Rice Council, the National Pasta Association, the California Walnut Commission, the California Prune Board, the Potato Board, the Peanut Council, the Wine Institute, the Chocolate Manufacturers Association, and many others. Fully 250 firms and entities throughout the Nation are participating in branded TEA promotion. Thus, if branded promotion were restricted or disallowed under the TEA Program, promotional assistance for a large segment of American agriculture would be substantially impaired, if not negated.

The United States is not alone in recognizing the need for branded promotion. Foreign governments throughout the world support branded advertising. Promotional assistance by EEC countries of branded wine is one example.

The TEA Program has provided valuable assistance in countering the adverse effect of unfair trade practices of foreign competitors on U.S. agricultural exports and developing expanded markets for these agricultural products abroad. Mr. Speaker, if the opportunity should present itself, I urge my colleagues on the Appropriations Committee to support the TEA Program at the levels originally authorized in the Food Security Act of 1985.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I am happy to yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I appreciate the gentleman yielding. I think it is important to put on the record that the very concerns that have been pointed out by the GAO are now being addressed by the Foreign Agricultural Service. In fact, I hope by now they have dealt with all of the problems cited in that report.

I think it is also important that Members understand that the program necessarily includes brand name promotion because brand names are crucial to the overall marketing strategies of so many of these commodities that are being sold in international commerce. There is no favoritism among the brand names, nor is there favoritism toward the brand names in general.

The CHAIRMAN pro tempore (Mr. KLECZKA). The time of the gentleman from New York [Mr. SCHUMER] has expired.

(On request of Mr. PANETTA and by unanimous consent, Mr. SCHUMER was allowed to proceed for 2 additional minutes.)

Mr. SCHUMER. I continue to yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Three-fifths of the TEA Program deals with nonbrand or bulk commodity items, which is where I think the gentleman thinks all of the money should go, but the program is also open to hundreds of participants from every State in the Union. They have filed applications this year in excess of 200 million dollars' worth of program applications, so a smaller number in sum in this area of the bill will be very detrimental to our effort to promote commodity exports overseas.

We have made some tremendous progress in our balance of payments problem with this relatively small program, and while I know the chairman was forced to cut it, given the overall difficulty of meeting our 302(b) allocation to the Agriculture Subcommittee, I am hopeful that with a higher number for budget authority in the Senate we will be able to restore some of the cuts that were made at the last minute in the House.

At a time when we are struggling to promote exports, and when the President has just killed a badly needed trade bill, it is bad policy and bad politics to cut the TEA Program.

Or to amend the TEA Program.

First. The TEA Program is working—it is one of the bright achievements of the 1985 farm bill:

Between 1985 and 1986, fruit and vegetable TEA Program participants have boosted exports to Japan by 52 percent, and to Taiwan by 146 percent; whereas corresponding shipments to non-TEA markets dropped 40 percent.

Raisin sales to Korea increased threefold; as did the value of wine sales to Japan by 56 percent in the first 6 months of 1987.

Cling peaches and fruit cocktail jumped 400 percent in TEA markets worldwide.

The program is one of the few effective responses the United States has to unfair foreign trade practices—the GATT process is long, vague, and ultimately has no teeth. TEA works, and will be particularly important to counteract foreign protectionist moves likely to develop as the dollar falls.

For instance, the EEC has trade practices in effect which have cost the United States oil sea industry approximately $2 billion. EEC kiwi subsidies are on the rise; Norway's seafood subsidies are also expanding.

Now is not the time to lay down our arms.

The program has been unfairly critiqued by some who have not taken the time to really understand it.

The startup difficulties encountered by the GAO were largely already identified by the Foreign Agricultural Service and correction was underway. By now the FAS has dealt with all problems the GAO cities.

The program necessarily includes brand-name promotion. Brand names are crucial to the overall marketing strategies. There is no favoritism among brand names; nor is there favoritism toward brand names in general. Three-fifths of the TEA Program is devoted to nonbranded, or bulk commodities.

The TEA Program is open to hundreds of participants from virtually every State. This year they have filed for excess of $200 million worth of program applications. Since, smaller outfits are applying for the first time.

Mr. SCHUMER. I thank the gentleman from California, and reclaiming my time I would just like to mention a few of the things mentioned in that GAO report that I have been assured the committee will look at.

First, the application process, as I mentioned, and how there will be adequate notification of all potential applicants for the program.

Second, the decisions made by FAS should be fully documented with clear criteria for funding and priorities evaluations, and evaluations should be conducted on every TEA project by an independent third party utilizing criteria for evaluations described in the appendix 3 of the GAO report.

Profits on premiums for the generic certificates should be used for market development purposes only. Profits should be used for program objectives and then exploring the possibility of combining the cooperator and the TEA Program so there might be a net savings in staff and a more efficient program created.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I am happy to yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I concur with the gentleman from New York as to the goals that we want to achieve and assure him and my colleagues that we intend to try to work toward a review of those concerns and hopefully remedy these areas so that we can develop a program that we feel is successful and try to maintain it along those lines.

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The CHAIRMAN pro tempore. (Mr. KLECZKA). The time of the gentleman from New York [Mr. SCHUMER] has expired.

(By unanimous consent, Mr. SCHUMER was allowed to proceed for 2 additional minutes.)

Mr. SCHUMER. I thank both of the gentlemen from California [Mr. FAZIO and Mr. PANETTA] for their concern. I know that, having worked with both of them before, that the program will get a careful look. I understand their support in defense of this program and we can try to work something out for the mutual benefit of all the citizens of the country.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. I thank the gentleman for yielding.

Mr. Chairman, I also want to thank the gentleman for his diligence in helping us to continue to focus on situations which need additional scrutiny and even correction in some cases, which may be the situation with regard to the T Program. I would like to assert the great value of this program in terms of our export program, agricultural export program and the need to continue a proper program in this area. We have scheduled oversight hearings to take up the subject matter of the report and the points that the gentleman has made. I hope that he will see fit to participate in these hearings if he has the time to do so and to help us to determine what remedial measures are necessary and we will pursue those aggressively.

Mr. SCHUMER. I thank the gentleman for both his leadership and his kind invitation, which I will accept.

Again, I thank the chairman of the committee for holding the line on the spending on this program this year while we can examine it and see if it can be corrected.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate the viewpoint of my colleagues who have had the floor and I can agree thoroughly with them as to the need to continue these programs. But I say now that one of the great problems we have and one of the causes of our present form situation is a failure to use the Commodity Credit Corporation as it was intended in the law, and the failure to use section 32 of the Agricultural Adjustment Act. Section 32 provides that 30 percent of the import duties are set aside to promote exports and to support prices.

Those two laws have not been fully used.

Now what we have here and I repeat for the record, the Board of Directors of the Commodity Credit Corporation is composed of the following: Secretary Lyng is the chairman, Mr. Meyers, who is the Deputy Secretary, is the Vice Chairman, and the other members are Mr. Vatour, Mr. Bode, Mr. Gillis, Mr. Wilson, and Mr. Hertz.

Now my understanding of the law is that the Board of Directors of a corporation are obligated to protect the assets of the corporation. To give away the assets of the Corporation when they have authority to sell, thus recovering funds for operations, is at best highly questionable and at its worst, it is likely illegal. What we find is that the Corporation is giving away about $2 billion in commodities to exporters for the purpose of getting them to export commodities. But the Corperation has the authority to sell those commodities for what the traffic will bear. I think the Directors have the obligation to do what they can and protect the Corporation so that we would not have to appropriate this money. They could use the money from sales to operate the Corporation.

Now the problem that my colleague from California has raised is that what the Corporation is doing is clearly authorized by law. They are just getting money from the wrong source. They are getting it from CCC where it is a giveaway. As a matter of fact the program clearly qualified for section 32 funds. Section 32 funds are the 30-percent of the import duties paid.

Section 32 provides that they shall support prices and help with exports. That way the cost is charged to import duties, which makes sense. What the Department is doing is paying these costs out of CCC and charging it to the producer. That is unsound.

Unfortunately in many respects the country has opened its doors to anybody anywhere and we suffer from the low rates they pay on labor back home. We had over 600 truckloads of agriculture products come across the border at one point from Mexico in one day.

Now that does not mean that I am opposed to the current program; it is just that they have the wrong hydrant turned on and the farmers have all the load they can carry. The farmer does not need to be charged that $2 billion that we are giving the exporters. They do not need to be charged for what CCC is giving away. The costs should come out of import duties. May I say again, the farmer should not be charged with these costs as they are under present conditions.

Now my understanding of any corporation is that the Board of Directors is obligated to protect the assets of the corporation. Now someone may come out and show the Corporation has authority run it the way they are but I doubt it. They are giving away commodities that they could sell and if they would sell it, it would greatly help us to operate the Corporation and it would also reduce the amount of money that is being charged to the American farmer. Things are so bad that 261,000 farmers have gone out of business and many of the rest of them are on the verge of it.

I just say we had better straighten this out and charge these costs to the place where it should be charged and not to the farmer who is already bankrupt.

Mr. DIOGUARDI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I plan to offer two amendments to this bill that seek to end funding to farmers who have cost the American taxpayers close to $9 billion. The first amendment would deny new Farmers Home loans to borrowers 2 years in default or who have defaulted on previous loans. And I want to emphasize and make clear that this amendment has absolutely nothing to do with the controversial restructuring proposal approved by Congress last year, which I will address in my second amendment. In addition, I also want to emphasize that my amendments do not affect emergency loans and will not affect farmers hurt by the drought. Any statement to the contrary is simply not true!

Mr. Chairman, I came to Congress after spending 22 years as a practicing CPA with one of the Nation's largest accounting firms. I consider myself to be an expert on financial matters and I can tell you that no mattrer how you package the bailout of the farm economy, the methods we're using today stink and they are part of the structural budget deficiencies that will continue to plague our Nation with enormous budget deficits as far as the eye can see.

The purpose of my amendments is simply to prevent any new expenditure of tax dollars to farmers who have failed to pay back the American people for loans they took out in the past. Everyone knows that you don't lend money to people who never paid you back for previous loans, everyone but the U.S. Government that is. Our current policies are simply throwing good money after bad.

More important, however, farmers themselves object to current FmHA practices.

We have heard from Members of Congress and we have also heard from farmers about the recently published Farmers Home Administration reforms. I think it is time is hear from the administration and some members of the farm community.

I have received many letters and phone calls based on the wide publicity my two amendments have been given. I want to pick just two that I think are typical that are coming from farmers in the very districts that these Members represent.

One is:

DEAR CONGRESSMAN DIOGUARDI: I am a 36 year old farmer from Northern Iowa. I have just read of your effort to prohibit the FmHA from lending money to farmers who can't pay it back or even pay off existing loans * * * [FmHA is] rewarding the poor managers who are also very inefficient farmers. In turn, FmHA is also penalizing every good manager, who is a very efficient farmer * * *. Why help a farmer dig an even deeper hole for himself when you know he can't get out of it to begin with?

Another farmer wrote to me just a couple of weeks ago:

Rep. DIOGUARDI: We are fulltime farmers who started with no help. We borrowed from a conservative banker and understood when money is borrowed, it is to be paid back. * * * Many of those with debt write-downs are again buying more land and expensive equipment, cars, trucks and living it up while the rest of us who paid our bills, and lived within our means are now expected to help bail them out. * * * FmHA was originally created to help young beginning farmers, not as a welfare organization for farmers so deeply in debt. They have no realistic chance to recover no matter how much of a bailout they receive. * * * Perhaps the politicians would do well to look at the other side in this controversy. After all we are the overwhelming majority.

The President himself in the ceremony on signing the farm credit bill, said:

Unfortunately, the Congress declined to require the system to provide as much self-help as we believed was appropriate. * * * The Congress also added other costly provisions that were not necessary to the health of the farm credit system. Of principal concern is the additional forbearance provided to producers that have been substantially delinquent on loans issued directly by the Farmers Home Administration. * * *

It makes little sense to add on new and unnecessary spending in this time of deficits—and I urge Congress to reconsider, and to take its responsibility for the deficit seriously, and to work with us to amend or remove these provisions as soon as possible.

The president of the Virginia Farm Bureau, Robert A. Delano, said:

It's one of those things that probably shouldn't have happened. It's just going to throw more confusion into agriculture. We're already producing excesses. This is one of the ways for the market process to sort out people who had overextended themselves.

We have the director of the Indiana Farmers Home Administration who also wrote. I could go on and on. These views, I think, warrant serious consideration by Members.

[From the Wall Street Journal, Apr. 26, 1988]

JUBILEE TIME AT FARMERS HOME ADMINISTRATION

(By James Bovard)

By flooding America's least competent farmers with easy credit and perpetual bailouts, Congress and the Farmers Home Administration have proved they are no friend to American agriculture and the American taxpayer.

This year, FmHA will provide farmers with $4 billion in direct and guaranteed loans, but many will be "loans" in name only. FmHA was created in 1946 to provide subsidized credit to farmers who could not obtain commercial credit. This ignores the good reason that FmHA borrowers have difficulty getting private loans: They are comparatively bad farmers. Thanks to FmHA, the uncreditworthy get capital on better terms than the creditworthy.

The General Accounting Office noted in a 1986 report that according to FmHA's own records, by far the most frequent cause of an FmHA borrower's bankruptcy is "poor farming practices, such as inadequate care of livestock or crops." GAO surveys found routine cases of "planting crops on land too poor for good production" and "inadequate fertilization and weed and insect control."

FmHA estimates that it will write off nearly $9 billion of bad debt this year. If Pat Robertson had proposed that and called it a biblical "Jubilee" debt forgiveness, many would have snickered. But this is serious—and big—business. Between FmHA and the Farm Credit System, the federal government now controls half of all farm debt and is liable for far more than half of all delinquent and nonperforming farm debts.

Yet, this is only part of the sorry picture: Individuals who bought a farm with an FmHA loan, bungled their business and defaulted on the loan are receiving new FmHA loans to re-buy the same farm and try again.

Congress mandated that FmHA follow a "continuation policy," which basically means FmHA must continue giving loans to insolvent farmers. FmHA must disregard a farmer's inability to repay previous FmHA loans and give the vast majority of its borrowers new loans each year to put in another crop. This guarantees that Congress led by Democratic Reps. Jamie Whitten of Mississippi and Kika de la Garza of Texas, will have to bail out FmHA again and again. When FmHA offered its own limited continuation policy in 1985, the last year for which figures are available, FmHA "lent" almost $1 billion to technically insolvent farmers.

FmHA's lending policies have created much of the problem. FmHA's records show that almost a quarter of its borrowers' failures are due in large part to having received too many FmHA loans. FmHA officials in the past begged farmers to borrow far more money than they could productively use. The agency gave many inept borrowers money to buy land they might have rented; when farmland values fell, the borrowers were ruined.

Almost 60 percent of FmHA's loans are held by delinquent borrowers. The average FmHA farm borrower has a debt-to-assets ratio of 83 percent—compared with 20 percent for all farmers. The Agriculture Department's Economic Research Service says a ratio of more than 40 percent is considered a danger sign, and one of more than 70 percent is widely viewed as a point of no return.

FmHA, in its generosity, is encouraging struggling farmers to continue farming until they financially destroy themselves. As of early 1986, the average FmHA farm borrower had a net worth of $73,000. At that time, 85 percent of FmHA borrowers were losing money farming, with an average annual negative cash flow of $56,000. If the average FmHA borrower had bailed out early in 1986, he could have left farming with a cash sum greater than the average American family's net worth of about $50,000. But if the average FmHA borrower kept farming, and losing $56,000 a year, he would be insolvent within 15 months. "Some of these people are borrowing themselves into oblivion," said Brain Crowley, senior associate director of the GAO, in congressional testimony last year.

FmHA policies in recent years have been a farmland antitakeover policy—preventing better farmers from buying inept farmers' land. Most land being farmed by FmHA borrowers would be plowed regardless of whether the FmHA ever existed. The only difference FmHA makes is that the land is farmed by someone who cannot survive without getting another hundred thousand dollar FmHA handout each year, rather than someone who can make a profit and pay taxes instead.

An Agriculture Department Inspector General report last year noted that FmHA was making no effort to collect on almost a billion dollars in guaranteed loan defaults because FmHA's National Office believed "that losses on guaranteed loans were too small to be concerned about."

FmHA administrator Vance Clark has made some effort to straighten out his agency. Early last year FmHA proposed new regulations to rate loan applicants according to the riskiness of the loans. Congress was outraged, since politicians profit from government credit programs not according to the soundness of the loans but according to their generosity. Rep. Whitten, chairman of the House Appropriations Committee, slashed Mr. Clark's personal office budget. As Mr. Clark observes, some FmHA applicants "don't even possess the basic farming ability—they are selling used cars and they decide to come to us and become a farmer."

Farm credit handouts are a classic case of ill-conceived humanitarianism. The more the government helps each individual farmer plant, the less all other farmers will receive for their harvest. Every time congressmen say they are helping a farmer, they are subsidizing all other farmers' competition.

Congress has created a two-class system of farming—welfare farmers and self-reliant farmers. But every dollar of aid given to welfare farmers makes it more difficult for the self-reliant farmer to prosper and survive. Good farmers had to pay far more to acquire more land because the government bombarded bad farmers with cheap money to bid up the price of farmland. By preventing a shakeout from occurring, Congress ensures that American agriculture will be far less efficient than it would otherwise be.

[From the New York Times, May 29, 1988]

TWO MERCEDES FOR EACH FARMER? FARM SUBSIDIES STIFLE AGRICULTURE

(By James Bovard)

For more than 50 years, American agriculture has been the nation's largest recipient of political intervention and economic aid. Agriculture has been subjected to an almost constant effort by the Federal Government to set prices, control producers and allocate capital. So far, the clearest lesson of farm policy is that members of Congress have no incentive to correct their mistakes.

Federal mismanagement is turning one of America's largest industries into a ball-and-chain on the economy. Every year since 1983, the total cost to consumers and taxpayers of farm welfare has approached—or exceeded—total farm income. Subsidies often exceed the market value of an entire crop, even though many farmers receive no subsidies at all.

Federal agricultural spending—more than $25 billion this year—is the equivalent of giving every full-time subsidized farmer two new $30,000 Mercedes-Benz automobiles. Even though the average full-time farmer has a net worth 10 times greater than the average American family, the average non-farm head of household must work almost one week a year to support farm welfare. These non-farm taxpayers have paid about $160 billion in farm subsidies since 1980 enough to buy every farm, barn and tractor in 30 states.

Farm programs are the epitome of arbitrariness in contemporary America. Department of Agriculture bureaucrats have forced Arizona farmers to abandon three-quarters of their lemon crop to satisfy the department's marketing plans. The department has bankrupted cattlemen to enrich dairymen, bushwhacked drybean growers to reward wheat growers and clobbered soybean growers.

Federal agricultural policy has been a hodgepodge of contradictions since 1929, with conflicting programs to boost and to slash production, to inflate domestic prices and to drive down prices abroad, and with one program to conserve farmland and another to reward farmers for plowing fencerow-to-fencerow. The contradictions have always been there, but the politicans have never stooped to correct them.

The Federal Government's catastrophic misperceptions of market developments have repeatedly devastated farmers. In 1930, the Federal Farm Board tried to corner the grain crop—and helped wreck the world's trading system. In 1973, after two droughts in the Soviet Union, the Agriculture Department announced that a new export era had arrived and that farmers should plant until they drop, thus leading to huge surpluses (and price drops) a few years later. In 1981, the department was so confident that an era of world food shortages had arrived that it supported a farm bill that rapidly decimated American farmers' competitiveness by automatically raising price supports.

Supply control is the heroin of farm policymakers. In the last four years, the Agriculture Department has shut American farms in a quixotic effort to drive up world grain prices. This year, the department will reward farmers for idling almost 80 million acres of farmland—equivalent to the states of Indiana, Ohio, and most of Illinois. These set-asides increase farmers' cost-of-production—but as long as crop prices increase, policymakers proclaim success.

Huge export subsidies are the only way to hide the profound anti-export bias of existing farm programs. American wheat is cheaper in Moscow than in Kansas City, Mo. and American barley is cheaper in Baghdad than in New York. The Agriculture Department is spending three times the world price to export butter and sugar and spends four times the world price to boost rice exports. Even though the United States has a huge comparative advantage in agriculture, only huge export subsidies have prevented America from becoming a net food importer.

The more welfare American farmers have received, the less competitive they have become. Every farm handout program has reduced efficiency, produced higher costs of production or increased Federal control over the farmers. Many farmers have gone bankrupt largely because of receiving too many subsidized Government loans. Up to half the cost of producing tobacco stems from the farmers' rental payments for the licenses to produce that crop.

The nation's farm policy is built largely from worthless, inaccurate information. Statistics on crop yields are vital to the Agriculture Department's judgments on the health and productivity of American agriculture. But different agencies of the department routinely differ by as much as 100 percent in their estimates of the wheat or corn yield of the same cropland. The Farmers Home Administration bases its loan programs on plans intended to help each borrower budget his expenses. But an Agriculture Department Inspector General's report found that more than half the Farm and Home plans were worthless because they were inaccurate, unrealistic and even deliberately manipulated to establish eligibility for additional loans.

The Department of Agriculture and members of Congress defend farm programs as economic democracy—but this usually only means giving a majority the right to seize a minority's property. In the department's referendum on tobacco subsidies, more than 80 percent of the votes were cast by non-farmers who own the licenses the farmers must rent to grow their tobacco. Dairy cooperatives are allowed to cast their members' votes—which is like allowing a landlord to cast votes for his or her tenants. In a nectarine referendum, the Department of Agriculture blatantly tried to bias the election's result and made only a feeble effort to distribute ballots to farmers who might not support continued control over the growers.

Farm policy's failure is starkest in the contrast between subsidized and unsubsidized crops. The vast majority of food products grown in the United States receive no Federal subsidies. During the 1980's, unsubsidized farmers have had lower bankruptcy rates than subsidized farmers.

Agricultural policy epitomizes the mindless paternalism of modern times. The Agriculture Department is a bureaucratic Leviathan that, because it was created to benefit farmers, continues grinding away regardless of how many farmers it harms. In the end, agricultural policy means trusting the honesty of politicians and the wisdom of bureaucrats.

[From the Richmond Times-Dispatch, Mar. 28, 1988]

FmHA BAILOUT

It's possible that Congress really believed it was helping farmers when it passed the Agricultural Credit Act in December. The legislation, which President Reagan signed the following month, required the Farmers Home Administration to do everything possible to restructure loans, including even writing off debt, to keep struggling farmers on their land. Under rules now being drafted by FmHA and scheduled to take effect in June, according to experts, that requirement could mean forgiving almost $7 billion in bad farm debt. Interestingly enough, however, a lot of farmers aren't happy about all this "help."

One problem with the loan write-off, says Virginia Farm Bureau President Robert B. Delano, is that it will encourage marginally efficient farmers to continue producing at a time when the nation is already swamped by commodity surpluses. Going out of business, he said, "is one of the ways for the market process to sort out people" who haven't managed their business well. Why encourage them to continue producing now?

The other complaint farmers have about forgiving the debt is that it will, in a sense, reward inefficient farmers for their mistakes. The new policy suggests that the mistakes which led farmers into debt—bad management, for example, or overbuying of expensive farm equipment—don't matter so much because the resulting debt will be wiped out. Meanwhile, frugal farmers—who have managed their agricultural and financial resources more carefully, who have worked hard to pay off their loans on time—will reap no special government favors but only what the goods they produce will earn in the marketplace. In a state such as Virginia, where the overwhelming majority of farmers have proved to be good credit risks—of those Virginia farm families with FmHA loans, only 17 percent are delinquent—there is bound to resentment of the FmHA bailout, and rightfully so.

Mr. Delano, for one, suspects the loan writeoff is just so much election-year posturing on the part of politicians out to win the votes of beleaguered farmers. Maybe so. Judging from his comments and those of other experts in the fields, we'd say that at least this much is certain: Politicians stand to benefit more from the proposed bailout than would farmers, in whose name it was invoked.

[From the Detroit Free Press, Jan. 6, 1988]

SEED MONEY: CONGRESS COMES TO THE RESCUE OF THE FAILING FARM CREDIT SYSTEM

A venturesome program to infuse the Farm Credit System with $4 billion in cash to rescue the network of financial institutions that make loans to the nation's farmers cleared Congress recently. The Senate passed the bill 85 to 2; so did the House by an overwhelming margin. The comments of both senators and representatives before the vote seemed to suggest that their votes for the bill were based less on political expediency than on the conviction that massive failure of both farmers and lending institutions was imminent if Congress didn't act.

The 1978-1983 recession caused a great tumult in America's Farm Belt as land values plunged and farm indebtedness increased beyond the capabilities of many farmers to make payments on the loans they so easily obtained in the 1970s when land was at a premium. The emergence of a more self-sustaining foreign agricultural community together with the recession caused many farmers to default and some of the lending institutions to fail. The overall loss throughout the Farm Credit System since 1985 is about $5 billion, leaving the system with a net worth of only about $1 billion while the amount of loans outstanding is more than $50 billion. Permitting the system to collapse would be an economic and political catastrophe.

Congress' largesse will be a boon for the system and those who depend on it. The problem is that such dependency must be reduced over time if America's agricultural community is to become competitive in world markets anytime soon. Long-term dependency on loans, for reasons obvious in recent history, should not be encouraged.

The timing of Congress' action on the $4-billion advance may be propitious since farmers, especially those who have successfully held on to fiscally marginal operations, will be planning for spring planting shortly. The farm economy has begun a slow turnaround of late with land and commodity prices rising. An influx of available cash now may move the U.S. farming community toward fiscal health. Loans, though, must be made much more carefully than they were in the 1970s. Farmers must not be permitted to overextend themselves, and loans should be tailored to the clear ability to repay them.

The cost to taxpayers of the new cash program will be about $1 billion, made up chiefly of interest paid on 15-year bonds that will be issued over the next five years to raise the $4 billion. The cost is reasonable, especially in light of the monumental $50 billion in outstanding loans that, if defaulted on, would cost the taxpayers far more.

One positive aspect of the new plan will allow lending institutions that are in trouble to obtain financial aid if they are restructured and they reduce management and administrative costs. The bottom line is that farmers now in need but who can qualify for some of the new cash will be given the opportunity to get back on their feet. The local institutions through which they will borrow will also be helped. That will be good for America as a whole.

[From the Baltimore Sun, May 13, 1988]

FARM BELT GAMBLE

With the 1988 presidential election on the horizon and part of rural America still hurting and disenfranchised, lawmakers threw a bone to an angry, yapping group of agriculture activists last year. The Agricultural Credit Act, signed this spring by the president, requires the Farmers Home Administration to do everything possible to restructure delinquent loans, which includes writing down or outright forgiving farmers' debts to keep floundering family farms in business.

The crux of the pay-back problem is that the agency made an unprecedented number of loans during the mid-1970s. Land prices and crop prices were so inflated then that when borrowers couldn't make their payments, the agency's collateral was also dropping in value. Grudgingly, the FHA accepted the fact that it was going to lose $7 billion. That left two choices: either pay for the legal services required to throw farmers off the land, resell the properties and negotiate new loans or forgive some of the debt and rewrite loans, which would result in almost the same terms as repossession and resale. So the Agricultural Credit Act was a good idea, at least from a fiscal point of view. Politically it was a good move as well; the plan will give 100,000 farmers a second chance.

From a social standpoint, however, the forgive-and-forget act is on shaky ground. There is bound to be a great deal of discontent among those farmers who trudged through the hardest times and came out solvent. Moreover, even with land values rising and a surge in exports, the credit act may do no more than prolong the agony of ailing farmers for a few more years. The act does not require the FHA to ensure a farmer can repay the revised loan before offering it. If a farmer has not been able to make it after 10 or 20 years, there are no guarantees he or she can make it under any circumstances.

Regardless, the real problem still has not been addressed. The FHA has moved dangerously far from its original moorings. When the program was established after the Depression its purpose was to help young farmers get started. But the emphasis shifted; now it's in the risky business of keeping farmers in business after they have lost their credit ratings. The new start offered by the Agricultural Credit Act provides a perfect opportunity for a re-evaluation of purpose. A streamlined agency designed to help new small farmers, with a 10-year cut-off after which private financing would have to be attained, would restore the agency's most valued function and prevent the fiscal travesties of the recent past from occurring again.

[From the Portland Oregonian, Mar. 8, 1988]

FORGIVENESS ON THE FARM

There is plenty of room to sympathize with farmers facing high debts secured by farms that have declined in value. But the Farmers Home Administration should refrain from extending its sympathy to the point that it begins forgiving loans from its debtor farmers.

The Associated Press has reported that rules being prepared by the FmHA to help delinquent borrowers stay on their farms include provisions for debt in excess of the value of the borrower's assets to be written off. The rules are being prepared in response to legislation approved by Congress last year designed to help troubled farmers.

The FmHA is the lender of last resort for farmers unable to borrow money from other sources. Its figures underscore the wisdom of the sources. Of its 261,291 farm borrowers, 127,671—nearly half—are in arrears, with past-due payments totaling about $6.6 billion.

FmHA officials say that forgiving part of a loan makes sense if the government stands to make more keeping a farmer going than foreclosing. Even if that business proposition is true, there's another principle at stake: fairness. The government's forgiving of a portion—sometimes amounting to hundreds of thousands of dollars—of a loan is unfair to all those farmers who have struggled to repay their debts, to say nothing of those who in like circumstances lost their farms.

Certainly, it is appropriate for the lending agency to adopt rules making it easier for farmers to climb out of debt. Extending the length of loans, for instance, could help improve a farmer's cash flow. But a policy of forgiving the loans entirely would be an offensive reward for improvidence.

Likely, the biggest beneficiaries would not be the small, true family farmer but the overextended big business. The average delinquency in California is $218,000 compared to $60,000 in Oregon.

If FmHA rightly or wrongly is construing its congressional mandate as requiring it to forgive loans, Congress should change the mandate. High-risk farmers, the customers of the Farmers Home Administration, should not end up in a better position in regard to their indebtedness than their neighbors who borrowed from other institutions.

The CHAIRMAN pro tempore. The time of the gentleman from New York [Mr. DIOGUARDI] has expired.

(On request of Mr. DE LA GARZA and by unanimous consent, Mr. DioGuardi was allowed to proceed for 2 additional minutes.)

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield to me?

Mr. DIOGUARDI. I am happy to yield to the Chairman.

Mr. DE LA GARZA. I appreciate the gentleman yielding at this point.

Mr. Chairman, I want to inquire of the distinguished gentleman if he has received a communication from CBO in regard to his amendments?

Mr. DIOGUARDI. We have been in touch with the OMB and the GAO, but CBO could not offer an assessment on my proposals.

Mr. DE LA GARZA. The gentleman has not received a communication from them with regard to his amendment?

Mr. DIOGUARDI. I might say, Mr. Chairman, that the General Accounting Office feels that this program is poorly conceived. GAO stated that this approach is needlessly going to encourage bad farmers to come back for new loans and work against the good farmers we have.

Mr. Chairman, not everybody in this country is entitled to be a farmer. I think what we have got to do is to encourage those who have demonstrated that they can produce, that they can be good farmers. These are the people that we want to encourage. By the way, bad farmers represent, I think, less than 5 percent of the people I am talking about.

Mr. DE LA GARZA. That is exactly what the legislation did and that is the fact. The gentleman has stated it correctly, but his public utterances have been to the contrary. That is our concern.

But I would ask the gentleman, the distinguished accountant, and an expert, or so he has entitled himself, has the gentleman kept up with what the FDIC is doing, has the gentleman kept up with what the FSLIC is doing? Pumping money into defunct savings and loans associations and banks, has the gentleman kept up with that?

Mr. DIOGUARDI. Yes; I have.

Mr. DE LA GARZA. Is that a concern of the gentleman's?

Mr. DIOGUARDI. Absolutely.

Mr. Chairman, I have stood up and talked in committee, in the Committee on Banking and I would be glad to speak on that now. It is absolutely ridiculous. We right now in this country have the Mickey Mouse accounting system anyone ever created. We, in Congress, still use the same Mickey Mouse cash basis of accounting that we took New York City off of in 1976 as a price for the bailout.

What is happening here is we are not recording economic reality.

What is going to happen with the gentleman's proposal is that he is going to put more bad loans into the pipeline so that he is going to come back in the future and get another $9 billion bailout.

Mr. DE LA GARZA. Nowhere does our legislation say that FmHA make a loan that they do not feel is a responsible loan, as in other banking—well, not as in other banking institutions, because some of them are in trouble for not making responsible loans. Savings and loans all over the place are in trouble for that reason.

I would be very happy to join with the gentleman to address that issue.

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer an amendment.

The Clerk reads as follows:

Amendment offered by Mr. DORGAN of North Dakota: Page 31, after line 22, insert the following:

SENSE OF CONGRESS REGARDING IMPLEMENTATION OF LOW YIELD DISASTER PROGRAM

Whereas, severe drought conditions are adversely affecting a large number of crop producers in several States;

Whereas the drought conditions have caused commodity prices to increase substantially due to the likelihood that commodity production will be well below normal levels;

Whereas increases in commodity prices will directly result in decreases in deficiency payments to crop producers under commodity programs administered under the Agricultural Act of 1949;

Whereas lower government payments are usually offset by higher market income, leaving producers with the same or higher income;

Whereas producers who suffer substantial crop losses will not benefit from the higher commodity prices because they will have little or no crop to sell;

Whereas producers can normally acquire financial protection against loss of the market value of their crops by purchasing crop insurance;

Whereas, at time of sign-up, crop insurance contracts offered protection only at the price levels that were anticipated at planting time, which are well below current price projections for the coming crop;

Whereas producers who suffer production losses will realize income substantially below their projections even if they have crop insurance, due to the reduced deficiency payments and the fact that crop insurance will not reimburse the producer for the increased market price of the crop which was lost;

Whereas the Agricultural Act of 1949 provides authority to the Secretary of Agriculture to implement a low yield disaster program to make payments to producers if the Secretary determines that "crop insurance indemnity payments under the Federal Crop Insurance Act and other forms of assistance made available by the Federal Government to such producers for such losses are insufficient to alleviate such economic emergency";

Whereas the lower deficiency payments, which are due to the higher commodity prices, will likely result in hundreds of millions of dollars in savings to the Commodity Credit Corporation: Now, therefore, be it

Resolved, That the Secretary of Agriculture should utilize the low yield disaster program authorized under section 107D(c)(2) of the Agricultural Act of 1949 if necessary to compensate producers who have suffered substantial crop losses in 1988 for the amount by which deficiency payments have been reduced, based on the number of bushels a producer's yield is below such producer's farm program payment yield for the affected crop.

Mr. DORGAN of North Dakota (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

Mr. WHITTEN. Mr. Chairman, I reserve a point of order against the amendment.

Mr. DORGAN of North Dakota. Let me indicate at the outset, Mr. Chairman, this is an amendment that I feel very strongly about but I understand that a point of order may rest against the amendment and I would expect to withdraw the amendment. But I do wish to introduce the amendment, to offer it at this time and explain it to Members of the House and explain what we might do as a result of the point of order this morning, what we might do to try to pursue it.

This deals with the drought. We have had some discussions today. The gentleman from Minnesota described what is happening in the part of the country that is suffering from the drought.

Let me say that this s an urgent situation. This is not just somebody saying we have not had enough rain so we are not getting the yields on our crops that we would expect.

We have a very urgent situation in our part of the country. We are going to lose about one-half of our crop according to economists at our land grant college.

☐ 1155

One-half of our crop is gone even if it rains from today until the end of July. We have already lost a substantial amount of our crop. This is a devastating economic calamity to a State like North Dakota. If you lose half of the income from the single largest industry in your State, you have very serious problems.

What does this mean when you lose half your income? Well, it means that you have suffered the kind of drought where we have had less rain in some parts of North Dakota than we had in the 1930's. That is the kind of conditions we have out there.

What happens to the agricultural producer, the farmer? (a) They lose their crop, and then (b) the target price for wheat, corn, or barley that they expected to get, which represents a price the Government would like to see them receive, which represents something close to the cost of production—not quite, but something close to it—the target price provides a deficiency payment to the farmer which represents the difference between the target price and the market price.

The problem is that the drought means less product, less wheat, less barley, and less corn is produced, and, therefore, the market price is increased. But that does not help the farmer because most of the farmers do not have any crop. So while the market prices increase and the farmer is sitting there without a crop to take advantage of the market price increase, the market price increase then reduces the deficiency payment to the farmer, because the difference between the market price and the target price represents the deficiency. The farmers, therefore, become double victims here. No. 1, they lose their crop; and No. 2, they lose their deficiency payment because the drought increases market prices for which they had no crop to market, and it depressed their deficiency price.

What I would like to do is provide some protection for those deficiency prices in order to try to minimize the damage. One way to do that is to use the Low-Yield Disaster Program that was put in place in the 1985 farm bill.

I had a resolution to offer, and that has now been introduced, and this amendment asks the Secretary of Agriculture to use, if necessary, the Low-Yield Disaster Program for that purpose to try to make whole those farmers on the deficiency payment.

The gentleman from Kansas [Mr. GLICKMAN], when I talked to him the other day about it, said that that is exactly what the Low-Yield Disaster Program was designed for, just exactly for this kind of situation.

I understand that a point of order will rest against this amendment, and I, therefore, will withdraw it at the end of my 5 minutes. But I would like to state that the chairman of the Committee on Agriculture said that he supports this amendment. I visited with my friend, the gentlewoman from Nebraska [Mrs. SMITH], and she supports this general concept. The chairman of the Committee on Agriculture indicates that he will bring this with me to the drought task force which has been formed and will attempt to move this along.

Again let me say that we have an urgent problem, and I think the producers across this country are trying to analyze what we can do about it. We cannot make it rain, but we surely can use the disaster and emergency programs that are available in an attempt to minimize the economic calamity that exists in the farm belt.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, the gentleman has stated the problem, and that is that the target prices and the cash prices, because of the artificial prices the drought has created, have put a crimp in the farm program as we envisioned it, and I would welcome the gentleman's cosponsorship of a bill which I dropped in yesterday, H.R. 4823, which attempts to say also that where we have advanced deficiency payments to farmers, they would not have to be repaid to the Government if in fact there were no deficiency payments this year because of the artificial price mechanism of the drought, because they will not have the yield or they will not have the product to sell even though the price has gone up under the law.

Mr. DORGAN of North Dakota. Indeed I will cosponsor that, although I would like to read it first.

Mr. COLEMAN of Missouri. Surely. It is the same concern that the gentleman has.

Mr. DORGAN of North Dakota. It is exactly the same kind of initiative and it is the kind of initiative we must take in order to try to minimize the damage that is occurring here. And time is of the essence. What we have discovered in most instances is that in a disaster of the type that is now occurring in the farm belt often we are there too late without enough. I think we ought to use those programs that we have to our advantage.

The CHAIRMAN pro tempore [Mr. KLECZKA]. The time of the gentleman from North Dakota [Mr. DORGAN] has expired.

(By unanimous consent, Mr. DORGAN of North Dakota was allowed to proceed for 1 additional minute.)

Mr. DORGAN of North Dakota. Mr. Chairman, I think the evidence is that generally it is too little, too late, and I am saying that where the disaster exists, let us all work together. I particularly appreciate the willingness of the chairman of the Committee on Agriculture to work on this.

Let me say finally that I appreciate the position of the chairman of the committee, the gentleman from Mississippi [Mr. WHITTEN].

I want to thank the chairman of the committee for his work on the research on dry edible beans and in some other areas, including potatoes, that are in this bill. This bill is a good bill. There are important things in it, and I want to thank the chairman of the committee.

With that, Mr. Chairman, as I indicated, let me say that I will withdraw my amendment.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I commend my neighbor, the gentleman from North Dakota [Mr. DORGAN], for this forward-looking amendment that he has put before the House. I do hate to see the amendment withdrawn, but if those are the rules of the House and there is a parliamentary point against it, then we will accept that.

The CHAIRMAN pro tempore. The time of the gentleman from North Dakota [Mr. DORGAN] has again expired.

(By unanimous consent Mr. DORGAN of North Dakota was allowed to proceed for 1 additional minute.)

Mr. MARLENEE. Mr. Chairman, if the gentleman will yield further, we do have a task force, and there are many pieces of legislation dealing with the drought and the disaster that will be considered. This is one of a parcel or package of amendments that will be offered, I think, to modify existing regulations and rules.

Again, Mr. Chairman, I commend the gentleman from North Dakota and ask him to join us on the total package of amendments.

Mr. DORGAN of North Dakota. I will indeed. And, Mr. Chairman, let me mention that in withdrawing this amendment, I will attempt to introduce it as a separate resolution this afternoon, and I would hope that the chairman of the Committee on Agriculture would help us move it along on the suspension calendar or move it along with the broader package of drought relief measures that we are going to be considering.

Mr. Chairman, I ask unanimous consent that I be permitted to withdraw the amendment.

The CHAIRMAN pro tempore (Mr. KLECZKA). Is there objection to the request of the gentleman from North Dakota?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

Mr. WHITTEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to say that I certainly agree with my colleague, the gentleman from North Dakota [Mr. DORGAN], and I appreciate his cooperation. This bill will take effect on October 1. This situation the gentleman has described is an immediate concern. The Secretary of Agriculture has authority to do what the gentleman proposes, and I join with the gentleman in urging the Secretary of Agriculture to meet with him. Again let me say that I appreciate the gentleman's cooperation.

Mr. DURBIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to return to the topic that the gentleman from New York [Mr. DIOGUARDI] raised. I think it is one that will be the subject of amendment later as we consider this bill, and I would like to return to it.

I would say to the gentleman from New York that I do not know what the farmers of Westchester County, NY, have told the gentleman about their experience with the Farmers Home Administration. I can tell the gentleman that the farmers in Sangamon County, IL, and all across the Midwest have given me a slightly different set of facts than what the gentleman has perhaps experienced from the letters he has received. In fact, I have had a steady procession over the last 6 years of farmers coming into my office who have been turned down repeatedly by the Farmers Home Administration for loan assistance, and in fact were it not for the intervention of Congress, the Agriculture Committee which I formerly served on, and the Agriculture Subcommittee of the Appropriations Committee, many of these farmers would have been out of business long ago.

If the gentleman would take a look at the statistics which relate to the farm sector during the Reagan administration, he might have a little different approach or perhaps a better evaluation of the crisis that has faced the Farm Belt. Since the Reagan administration took over in 1981, export levels have fallen precipitously. Agricultural exports declined from $43 billion in 1981 to $26.3 billion in 1986, a 39-percent drop. The number of farms has declined from 2.43 million in 1981, the President's first year, to 2.17 million in 1987, an 11-percent decline.

Here, I think, is the most interesting statistic, if the gentleman would just consider it for a moment. Farmland values across America have fallen 35 percent from 1981 to 1987, from an average of $819 an acre in 1981 to $548 an acre in 1987.

The gentleman has acknowledged his expertise; he has indicated to us that he is the only practicing CPA here. He can certainly understand, as we analyze the Farmers Home Administration, that the reason they lost some $9 billion in loans is the fact that the collateral which many farmers have pledged has disappeared because of market forces, and if the Farmers Home Administration has lost some $9 billion in loans, I think it merely reflects what happened to the farmers' economy. It does not indicate mismanagement on the part of the Farmers Home Administration. It frankly, I think, reflects what would happen in industry if the same thing occurred. Total farmers' equity in the United States has fallen from $814 billion in 1981 to $537 billion in 1986, a decline of 34 percent. The list goes on and on.

Mr. DIOGUARDI. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I will yield when I have finished my remarks.

But if this gentleman from New York is coming before us and suggesting that the farmers have pulled the wool over the eyes of the Farmers Home Administration, he just has not been out there to visit these farmers and to share their problems, and he really does not understand what we are faced with here. Farm after farm is facing a crisis, and if they come to the Farmers Home Administration, more likely than not they are turned down.

In those situations where the Farmers Home Administration takes back the land, I want to assure the gentleman that this is not a bargain for the American taxpayer. The land will sit fallow, and there are people waiting, hoping that someone will come along and farm it. Many times the Farmers Home Administration tries to farm it or sell it, with very little success, and the American taxpayer is the loser.

☐ 1205

For this gentleman to come in here and suggest that a farmer who is fortunate enough, the small percentage fortunate enough to have their loans restructured, should then be penalized from receiving operating loans is totally a misguided approach.

I would say to the gentleman from New York that, if we are going to turn our back to the fact that we have had a major reform within the Farm Credit System that has taken place within this Chamber in the last year, if we are now going to try in this appropriations bill to bring in new regulations, we are not doing a service to the taxpayers or to the farmers.

Mr. Chairman, the gentleman may be a CPA. I think he should be a little more cognizant of what is actually happening in this agency, and he should meet with some of these farmers instead of reading two letters on the floor. He might have a little better feeling for what we are facing on the farm bill.

Mr. DIOGUARDI. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from New York.

Mr. DIOGUARDI. Mr. Chairman, I think that the gentleman from Illinois [Mr. DURBIN] well knows the publicity that my two amendments have gotten in his own district, and my office is literally inundated, not with farmers from Westchester County, but from farmers in his district.

Mr. DURBIN. Mr. Chairman, would the gentleman from New York [Mr. DIOGUARDI] like to acknowledge which of my farmers have written?

Mr. DIOGUARDI. Mr. Chairman, I would be happy to make copies of the letters and share them with all of the gentlemen on the other side, but it seems to me that this is not an issue of reducing—I mean the gentleman raised several statistics. Let me give him one:

That in the eighties, the past 8 years, the cost of the Farm Program has gone from $3 billion to $26 billion. That is a very, very large increase.

All I am saying; excuse me, is that this is not an attempt to reduce the appropriation. It is an attempt to redirect the money so it goes to those farmers who have proven that they are good managers so that we do not discourage the good farmers who have paid their bills on time, who have made their payments. These are the very letters that I am getting from the gentleman's district not from mine.

Mr. Chairman, the gentleman should be aware of the fact that a few years ago, fewer than half of the farmers would participate in the Federal Farm Program. Now the vast majority of the farmers participate. They have to to survive.

Mr. DURBIN. Mr. Chairman, I yield to the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman from Illinois for yielding this time to me, and I just want to put this back in proper perspective because the gentleman keeps insisting how much publicity the amendments have generated with farmers, et cetera. The amendments are based on erroneous information and facts. Mr. DIOGUARDI just mentioned, the cost of the programs; let us say they are $25 billion. What do we need to relate to this amount? $25 billion out of what amount?

Mr. Chairman, the total budget is $1 trillion-plus, and everyone is pointing to agriculture like we are causing the deficit. We are the ones causing the enlargement of the national debt. They spend the amount spent on agriculture in 1 month at the Pentagon. A budget of $1 trillion-plus, and all of a sudden we have concern for the amount spent on those who feed and clothe us. I am getting concerned and somewhat frustrated that Members and outsiders with inadequate information, who point a finger too readily would come and say that my amendment has gotten extensive publicity.

Mr. Chairman, the amendments are not based on the correct facts. They do not follow the premises of the legislation that we passed. It is completely erroneous information that is being put out by a sometimes gullible media.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I appreciate the gentleman yielding and let me say that I think the gentleman from New York [Mr. DIOGUARDI] disserves the facts when he suggests somehow that the restructuring that is going on with family farmers is going to folks who are buying fancy cars, and going on trips, and so on. That is a mischaracterization of what is happening, and I think that is unfortunate.

But, Mr. Chairman, let me try and make sure that everybody understands exactly what is done here. I think that the gentleman from New York has swallowed the minnow that has been offered up by the Farmers Home Administration national office which seems to suggest that the restructuring act costs the Government $8 or $9 billion. That is absolutely false. Land values collapsed in this country in rural America, and that $8 or $9 billion was gone.

Now the question that we addressed last year was: Will the Government, the Farmers Home Administration, behave like a banker or like the Farm Credit System behaves? Would it look at that lender and say: Is it less expensive for me to restructure that loan if this is a good farmer and can make it after it is restructured than it is to foreclose? Is it less expensive? Because, if it is, that is what we will do.

That is what the bankers in North Dakota were doing. It is what the Farm Credit System was doing. But the Farmers Home Administration consistently refused in every instance to do it despite the fact that their behavior threw more farmers off the land and cost the Federal Government $600 million more. Now it makes no sense to do that.

Now the gentleman from New York [Mr. DIOGUARDI] comes in offering the language which suggests there is some kind of a scandal here and a colossal waste of money. Mr. Chairman, I submit that, if the gentleman from New York's amendment passes, what he is saying to the American people is that we want the Government to behave in a way that does not make good business sense, and we want the Government to spend another $600 million by throwing people off the land who ought to be allowed to stay on the land because restructuring is less expense than foreclosure, and that is what this issue is about.

Mr. Chairman, I appreciate the gentleman allowing me the opportunity to explain that because, when I heard the gentleman from New York explain his amendment, it occurred to me that he does not have the foggiest idea of what this issue is all about.

Mr. DURBIN. Mr. Chairman, if I might reclaim my time and close, and of course all my colleagues on the committee can ask for their own time.

I would just say that the gentleman from Westchester, NY [Mr. DIOGUARDI] shares the feelings that most of us do, that we have to do our best to economize and cut down the costs to the Government, but, if my colleagues could face these farm families and see what they are going through, if my colleagues believe that to walk into the Farmers Home Administration office is to walk out with a loan automatically, they are sadly mistaken. At best they are restructured. At best they hang on from year to year, and these are not people who are inefficient managers. These are the victims of the farm statistics I read earlier, and the gentleman's amendment does them a great disservice.

The CHAIRMAN pro tempore (Mr. Kleczka). Are there any further amendments to title I?

Mr. WATKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been on the phone in the Cloakroom with a farm family here during the last 5 minutes that is facing a sheriff's sale. I am trying to get the Farmers Home Administration to delay that sheriff's sale so they could try to negotiate to save at least their home, because in our law that we passed we have tried to say to the American farmers and the lending agencies that, if it could cost less money to restructure a loan and keep the family farm and the people together to do that, it makes sense. And some of these farmers have offered 100 pecent of current land prices, current appraisal prices. That means that they could not get any more money; Farm Home could not, if they sold it. In fact, Mr. Chairman, it is going to cost them.

I would say to the gentleman from New York [Mr. DioGuardi] that it is going to cost the Government a lot more to foreclose and go to the sheriff's sale, and again this is a fire sale, so to speak. It is going to cost the taxpayers a lot more.

I would just like to put it in focus. We had the Farm Credit people come before our committee. They have got $52 billion in loans out across America. Nearly 20 percent of those are nonperforming. Now that is something over $10 billion, nearly $11 billion, in nonperforming loans. Look at a Farm Home, and we got something probably close to $8 billion in nonperforming loans.

If we adopt this amendment and if we allowed this lack of opportunity to restructure, then it is going to cost our Government and the taxpayers billions of dollars and cost the American farmer their lives in many cases and their entire holdings.

I would like to say this to the gentleman from New York:

If this amendment passes, I think we need to have an amendment here not allowing the New York banks to restructure the international loans to all the foreign countries that they have loans to. They have opportunities to restructure, and they are restructuring. But of farmers who are trying to prevent them from having the opportunity to restructure, I think it is un-American. I think it is un-American when we say to our American farmers who are feeding us, who are trying to stay on the farm, who are struggling, they are not asking for a handout. They are asking for an opportunity to save their holdings that they have had for in many cases three and four generations. But we allow the large banks in New York City to restructure those loans. We have allowed a big loan to restructure even the finances of New York City.

Mr. Chairman, I think we need to help the American farmers through their struggle. This philosophy is like the President said. Send the farmers, export the farmers; keep the grain.

We are losing something like 300,000 farmers in the last couple of years. If this keeps up at that rate, we are going to have less than 2 percent amount on the farm trying to produce food and fiber at the lowest cost of any area in the world.

□ 1215

Mr. DioGUARDI. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from New York.

Mr. DioGUARDI. First, Mr. Chairman, let me say that we really are talking about less than 5 percent of the farmers. Ninety-five percent-plus are good farmers doing their jobs, making their payments.

I think the gentleman from Texas [Mr. de la Garza] did the FHA a disservice comparing it to FSLIC. You cannot compare with the worst agency that we have right now.

Mr. WATKINS. Mr. Chairman, let me recapture my time.

The gentleman said good farmers. I do not know how the gentleman evaluates good farmers.

Mr. DioGUARDI. They are making their loans.

Mr. WATKINS. I grew up on a farm. I would have made the same decision these American farmers did.

Do you know why they are going off? Because in Reagonomics, the fourth leg of Reagonomics was a tight money market. The tight money market squeezed our inflation, but it squeezed in deflation on the American farm land.

For the first time in my life, the farmer has lost the value of his land because of the tight money market, not any fault of their own.

The gentleman from New York is just flat wrong. If he is a CPA, he needs to look at that angle of it.

Mr. DioGUARDI. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from New York.

Mr. DioGUARDI. Someone said that we are creating thousands of mini-Mexicos in the heartland of America.

Now, we do not want to hurt good farmers.

My amendment, at least the first amendment has nothing to do with restructuring. All it attempts to do is to redirect the program so that we give the money to those people who deserve it, the people who have demonstrated that they can manage farms, that they can pay back their loans and not come back to the same coffer again every time.

Mr. WATKINS. Mr. Chairman, let me recapture my time.

We have many good farmers out there with no fault of their own just grasping at just allowing them to restructure their loans and stay on the farm. We cannot put on them that they are bad farmers. They are good farmers.

Mr. HUCKABY. Mr. Chairman, I move to strike the requisite number of words.

I just would like to point out to the gentleman from New York that the Farmers Home Administration throughout the country has a relatively large inventory of land that has been repossessed in the last number of years.

When we are talking about restructuring a loan, granted we are taking a hit, we are taking a loss, the Government is writing down the debt owed to it; but then this farmer must be able to demonstrate that he can have a cash-flow and pay off the remaining debt.

So I would suggest to the gentleman that in virtually every case the Government is maximizing its position by restructuring these loans, because people are not lined up waiting to buy these farms that the Government would be repossessing if we did not restructure these loans.

So from a business point of view, I think we are significantly better off and from the taxpayers' point of view where the individual can stay there and contribute to the debt, service the debt, rather than the Government absorbing or foreclosing and then carrying this in inventory, and quite often for a number of years.

We have vastly different situations in different parts of the country. In my own area of Louisiana, a few years ago we had three droughts back to back and then a hurricane. We were devastated by the weather. As a result of that, 50 percent of our farmers borrowed from the Farmers Home Administration.

Mr. DioGUARDI. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I am very happy to yield to the gentleman form New York.

Mr. DioGUARDI. Mr. Chairman, every couple of years we are told that this bailout will be the last one. I think this is the way we do business around here, whether it is FSLIC, whether it is any kind of bailout, but right now we are talking about the farm economy, but we keep coming back for more.

I did a calculation. If you boil down the national budget of the United States of America, $1 trillion, so that the average American can understand it, I did it and I put it on a credit card statement because most people understand their American Express or Visa credit cards. They do not understand balance sheets.

I started out with their share of the national debt at the beginning of the year, which was about $17,100. It went up to $18,500 by the end.

Well, an amazing statistic, for the individual taxpayer of this country we spent last year $260 per taxpayer on farm subsidies, but only $70 per taxpayer on all the Justice programs, and we are supposed to have a war on drugs in this country.

It is a relative kind of thing. Last year we appropriated $8 million for emergency homeless funding, and yet we are talking about $9 billion in this bill, much of it going, I believe, to ineffective and inefficient farmers.

If there is anything we should be doing in Congress, and I consider us the board of directors of the United States of America, it is looking at the priorities. We have people who are homeless right now and we cannot get money to them. We have a war on drugs, and yet we spent less than a fourth of what we did per taxpayer relative to the farm subsidy per taxpayer.

When are we going to get sense in this body?

Mr. HUCKABY. Mr. Chairman, may I respond, and then I will yield further.

Talking about priorities, agriculture is still the biggest industry in America. If we force the grass to grow on our farms, it will just be a short while until it engulfs our cities.

Mr. GRANDY. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I am happy to yield to the gentleman from Iowa.

Mr. GRANDY. Mr. Chairman, I thank the gentleman for yielding to me.

Let me just say, Mr. Chairman, I represent a few farmers. I am not from Westchester County, but I have heard from some of my producers the concerns the gentleman from New York raises.

Have we given away too much in the Farm Credit Act? I do not believe so, but I would rise in opposition to this amendment simply to say that the provisions of the Farm Credit Act, the Agricultural Credit Act, are still for the most part unpromulgated. The rules of the Farmers Home Administration will not be out until September. We are looking at a situation right now where it took a committee, a standing committee, a year, 15 hearings, and extensive floor debate to create these borrowers' rights provisions, with which the gentleman from New York disagrees. That would have been the time perhaps to write some correcting language.

I would merely say at this point, although I can agree in sympathy with what the gentleman from New York is saying, I think his amendment is misguided and I think it is terribly ill-timed right now.

We have been discussing at the same time we are discussing the gentleman's amendment the drought in these United States. One of the conditions that has not been discussed is the cost to the farmer of the drought, particularly in areas such as the Northwest which buys power from power marketing administrators. The water levels are going down. The utility prices are going up.

The CHAIRMAN pro tempore (Mr. KLECZKA). The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. HUCKABY was allowed to proceed for 2 additional mintues.)

Mr. GRANDY. Mr. Chairman, will the gentleman continue to yield?

Mr. HUCKABY. I am happy to yield to the gentleman from Iowa.

Mr. GRANDY. Mr. Chairman, I thank the gentleman for continuing to yield.

Let me just say that as the farmer loses his ability to pay off his loans and his costs go up, how can we deny his ability to get credit at the same time?

I would respectfully ask the gentleman from New York to withdraw this amendment, to perhaps bring it to the committee at another time when we might consider technical corrections to the Agricultural Credit Act, but this is misguided and ill-timed.

Mr. HUCKABY. Mr. Chairman, I thank the gentleman for his comments.

Mr. NAGLE. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Iowa.

Mr. NAGLE. Mr. Chairman, I appreciate the gentleman's figures of $9 billion. Unfortunately, the total cost to the Government to bail out the Farm Credit System is actually about $500 million over a 5-year period.

Second, the gentleman has fallen victim to frankly a propaganda campaign by the FmHA. Their original projection of actual loans they would have to write off was $8 billion, of which $6.7 billion they would have to write off anyway because land values will not come back up; so we are talking actually of total outlays to the Government of $1.3 billion, not $9 billion.

I do not have a problem with that when we can spend $10.8 billion rescuing the Federal savings and loan system; when we can send $1 billion last month to one savings and loan bank in Texas; when we can send $1.5 billion to some city in New York State to bail them out because they got in over their heads; so I think it is kind of relative here.

I think the first thing we ought to do here is put the actual facts and figures out. The total cost outlay in terms of loan write-off is $1.3 billion. The total cost to the Government is $500 million.

Mr. SLATTERY. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I am happy to yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Chairman, I thank the gentleman for yielding.

There is another point I wanted to clarify also. The gentleman from New York indicated that somewhere in the neighborhood of $200 was paid by every taxpayer in this country last year to "subsidize the farmers."

Let me just make an observation that in this country, and I think it is important for us to consider this in the context of this discussion, and that is that in this country today our urban friends enjoy the cheapest, the best, most reliable food supply ever known in the history of mankind.

I would observe that for the taxpayers in this country to have to contribute $200 a year during the most expensive time in our history when it comes to the Federal Government's involvement in agriculture is not very much to pay for that cheapest, best, most reliable food supply in the history of the world.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to oppose the two amendments that my good friend, the gentleman from New York [Mr. DIOGUARDI] is considering offering. I think this has resulted as a result of misinterpretation and poor communication between the news media and the Farmers Home Administration concerning a write-off of $4.5 billion from the FmHA farm loan portfolio, and it is also due to a lack of understanding of the provisions of this law.

The key word here, Mr. Chairman, is misinterpretation.

I have seen the headlines implying that the FmHA is in effect, allowing its borrowers to embezzle $9 billion from the taxpayers.

This is a glaring misrepresentation of the FmHA provisions of the Agricultural Credit Act. In fact, these articles were written in February and March, well before the FmHA had written regulations in response to the Agricultural Credit Act.

First of all, let us get the figures straight. The FmHA holds $4.5 billion in delinquent debt, and any amount above that is accumulated interest.

Further, we are dealing with debt that the FmHA already recognizes as uncollectible resulting from 6 years of depression, not recession, depression, in the agricultural economy.

Let us also understand that this amendment does not save the Federal Government any money and would result in future Government outlays.

It is estimated it would cost an additional $600 million and 80,000 farmers and ranchers would be put out of business (published in the Federal Register on May 23, 1988, page 18392).

In fact, the Office of Management and Budget has estimated the Ag Credit Act will likely result in slightly higher return to the taxpayer than if the FmHA proceeded to foreclose immediately on every delinquent loan.

The main problem with this amendment is that the proposed prohibition on new loans to borrowers whose existing loans have been restructured would not adequately protect the Government's current investment in such borrowers.

Once a producer's indebtedness is restructured, he/she therefore is considered current. Many borrowers with restructured loans can be expected to require new operating loans in order to put in their crops or purchase livestock.

Conventional sources of credit are simply not open to them. With no crop and no livestock production, nearly all these borrowers would be forced into default on all their loans.

Because conventional sources of credit are not open to these borrowers, the Federal Government must continue to lend to them so they can produce commodities that can be sold, hopefully at a profit so that the restructured loan can be paid off.

Similarly, borrowers with restructured loans may become delinquent in the future through no fault of their own. The act provides authority for the Agriculture Department to determine whether the delinquency is due to bad management or to forces beyond an individual's control—on a case-by-case basis.

This amendment would tie the hands of the USDA so that default would be the only recourse, if, for example, the incipient nationwide drought were to cause widespread crop failures despite the best, most efficient management imaginable.

The FmHA provisions were written to allow the taxpayers to recover some of the losses from a lingering farm debt problem that has arisen because monetary policy, the overvalued dollar, soaring inflation, excessive interest rates, agricultural trade embargoes (like the Russian wheat embargo), foreign agricultural subsidies far in excess of our own, and other factors beyond the producers control have contributed to the current situation.

The Agricultural Credit Act's loan restructuring provisions were carefully drafted only after months of congressional hearings and debate with testimony taken from the entire spectrum of agricultural interests. The Agriculture Committee heard from over 260 witnesses in 24 separate days of hearings. There was more than ample opportunity to object at that time. Mr. DioGuardi's concerns were never presented.

In fact, the law allows the FmHA to restructure loans only if borrowers meet certain criteria.

First, the delinquency must be due to circumstances beyond the producer's control.

Second, the borrower's loan restructuring proposal must demonstrate the ability to meet all debt obligations lessening the probability of future default.

And finally, the restructured loan must result in a net recovery to the Federal Government that equals or exceeds the loan's net recovery value if the FmHA were to foreclose on the loan.

I urge my colleagues not to take this amendment out of context. As of March 31, the USDA's Economic Research Service estimates that rural lenders hold 8 million acres of farmland valued at $4 billion. The FmHA itself already holds 1.6 million acres, most of which the agency acquired in this decade. This amendment would result in the FmHA acquiring more.

The CHAIRMAN pro tempore (Mr. Kleczka). The time of the gentlewoman from Nebraska has expired.

(By unanimous consent, Mrs. Smith of Nebraska was allowed to proceed for 2 additional minutes.)

Mrs. SMITH of Nebraska. Mr. Chairman, 99 percent of FmHA borrowers operate small and medium sized farms. Thus, the Agricultural Credit Act's loan restructuring provisions are part of a broader, long-standing Federal policy to maintain a family-sized farming system. This amendment would set that policy back.

In Nebraska, there are 5,100 delinquent FmHA borrowers, most interested in restructuring their debt as allowed by the Agricultural Credit Act of 1987. These farmers and ranchers are not poor managers trying to take advantage of the Federal Government, but instead are hard working, honest people, trying to overcome financial burdens brought on by falling land values, soaring inflation, skyrocketing interest rates, incredible deficits, devastating embargoes, an overvalued dollar in foreign markets, plummeting exports, and low commodity prices. These Nebraskans, along with other American family farmers, deserve the opportunity to continue their operations.

In addition, I note the Economic Research Service reports that another 38,500 farms failed in the United States last year. This has contributed to continuing strains on rural communities as young people migrate to urban areas.

And contrary to reports that the FmHA provisions are causing controversy and division in the agricultural community, the legislation was advanced and endorsed by nearly every farm organization, and they still stand behind it. My colleagues should be aware that Mr. DioGuardi's proposal is opposed by the American Farm Bureau, the National Farmers Union, the National Farmers Organization, American Agriculture Movement, National Grange, National Association of Corn Growers, Women Involved in Farm Economics, and many other national organizations.

Let me read from a letter I have received from Mr. John C. Datt, the executive director of the American Farm Bureau Federation:

> The American Farm Bureau, like many other national organizations, oppose Mr. DioGuardi proposals since "there have been no hearings on the issue and only limited discussion." The Farm Bureau believes the DioGuardi amendments "should be defeated and hearings and debate on the issue held prior to its consideration on the floor."

I completely support this position.

Mr. Chairman, this amendment, which seeks such a substantive change in FmHA policy, is more appropriately a matter to be incorporated into authorizing legislation rather than an appropriations bill. There will be another opportunity for Members to fully discuss Mr. DioGuardi's proposal as the debate begins on the 1990 farm bill, and I am certain the agricultural community will welcome the gentleman's input.

I cannot support this amendment because it would inflict undue economic hardship on a large group of farmers and ranchers who are struggling to repay their obligations.

I urge my colleagues to also oppose this proposal.

□ 1230

I think this matter should be incorporated into authorizing legislation, not into an appropriation bill. There will be another opportunity for people to discuss the proposal of the gentleman from New York [Mr. DioGuardi] and if he does bring it up on the floor I hope my colleagues will defeat this proposal.

Mr. DIOGUARDI. Mr. Chairman, will the gentlewoman from Nebraska yield?

Mrs. SMITH of Nebraska. Mr. Chairman, I yield to the gentleman from New York [Mr. DioGuardi].

Mr. DIOGUARDI. Mr. Chairman, first of all I want to make it very clear that if the farmers today are in an emergency condition such as concerns the drought, my amendments would not affect them. They should be allowed, because through no fault of their own, an act of God, they should be allowed to restructure. That is not the issue here. In fact I am willing even to consider, and my first amendment does not deal with restructuring, but I would be willing to consider writing off someone's entire loan and in effect we have done that through our Mickey Mouse budget system here because in effect when we make those loans on a cash basis they become part of the deficit. That is the kind of lousy accounting system we use in the U.S. Government. The Securities and Exchange Commission would not permit a public corporation to use it. That would be called securities fraud. But we use that here in the U.S. Government.

I have a bill that at some time will be introduced on that particular matter.

The issue here is to be sure that in any relending that it is getting to the people who have demonstrated that they can be good farmers, that they can repay the loans. Otherwise what we will be doing is putting in the pipeline another $9 billion of bad loans and we have loans all over the books here, such as FSLIC, EDA, SBA, and by the way my feeling is that the Federal Government should not be in the direct loan business. I hope at one point next year in the Committee on Agriculture hearings that the gentleman from Texas [Mr. DE LA GARZA], the chairman, will give me permission to testify so that we can begin to work out a restructuring of these loans because I believe the Government should be the last-last resort and we should have banks making loans and the Government guaranteeing them.

Mrs. SMITH of Nebraska. Mr. Chairman, reclaiming my time, let me say I think that would be the entirely appropriate place to make the point, to the Committee on Agriculture. Let me say also that as of now the Secretary of Agriculture has the discretionary authority. This is what the bill provides. This is what I think we should keep.

Mr. SLATTERY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the programs contained in the legislation before us today are critical to preserving the economic well-being of rural America for this generation and improving it for the next.

Funding would be maintained for the Rural Electrification Administration, the program that provides essential power and telephone services to hundreds of thousands of rural Americans. The REA program is important today as it was 40 years ago.

This bill continues our commitment to conserve soil resources. The Conservation Reserve Program has already cut total soil erosion by more than 15 percent, while providing farmers with a profitable alternative for erodible land.

School lunch and other child care food programs like the very successful women, infants, and children program are provided for in this bill.

TEFAP, the Temporary Emergency Food Assistance Program will ensure that our agricultural abundance is shared with needy individuals here at home.

Mr. Chairman, there is another program that is critical to the economic well being of America's farmers.

The Export Enhancement Program has enabled nearly $5 billion worth of agricultural commodities to be sold since it began in 1985.

For years, we tried to counter the European Economic Community's subsidies with talk and diplomacy. It didn't work. With the Export Enhancement Program, we started to back up our words with action.

The program has made a big difference in securing our place in the world wheat market. Exports are up 60 percent over a year ago.

With the Export Enhancement Program, U.S. wheat producers have seen their share of the world wheat market jump from 29 percent in 1985/86 to 42 percent in 1987/88.

Without the program, EEC predatory pricing tactics would squeeze U.S. wheat flour completely out of world markets. Current European Community's subsidies are over $200 per ton.

As if these advantages were not enough, EEP is also cost effective. For each dollar of wheat exported, 22 cents is returned to the Treasury in increased tax revenues. For wheat flour exports, 55.8 cents are generated.

In my own State, over 300 jobs depend directly on the continued competitiveness of U.S. wheat flour. Recent flour sales to Yemen and Cameroon could not have been made without EEP.

The Export Enhancement Program forces our economic competitors to play by the rules. It must be continued and fully funded.

Now is not the time to back down on the Export Enhancement Program. Not when we are in the midst of global trade negotiations, not when we are finally recovering our markets from the European Community.

Mr. Chairman, I would like to commend the chairman of the committee, the gentleman from Mississippi [Mr. WHITTEN], and the ranking minority member, the gentlewoman from Nebraska [Mrs. SMITH], for their work on this bill.

Again, Mr. Chairman, I emphasize its importance to rural America and to the future of that part of the country.

Mr. LEHMAN of California. Mr. Chairman, will the gentleman from Kansas yield?

Mr. SLATTERY. Mr. Chairman, I yield to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I rise in opposition to the proposed amendments.

Very briefly, I would point out just a couple of things. First of all I think we should dispel ourselves of the notion that we are in this problem because of good farmers and bad farmers. We are not. There is certainly nothing in the proposed amendments that would tell us what a good farmer is versus what a bad farmer is. Many farmers are in this situation, where they are not current on their loans or they are simply there because they inherited a farm with a large debt, or they are there because they were in a particular commodity that no one could foresee what would happen with, or they are there because of loss of foreign markets in some instances, or they are there because of getting caught in an interest rate pinch. They are not there because they happen to be bad farmers. I think that is a total misconception.

Second, I think as the gentleman from Louisiana [Mr. HUCKABY] adequately pointed out, the notion that we are going to save the Federal Government money by kicking people off land and doing something with the property once we have foreclosed, that is completely fallacious. The fact is the Federal Government will not make any money by taking the property over through the Farmers Home Administration. They will sell it for a serious loss. There is absolutely no guarantee that any better farmer will come along and be able to manage it under any circumstances better than it was managed before. I say to my colleagues do not forget the social cost of taking someone off the property, removing them from their house and hoping they can get a job and feed their family while working somewhere else. It just will not work.

Mr. Chairman, the best thing to do is restructure in this industry as we have restructured in other troubled industries, give these people a chance to do the job they intended to do there in the first place, and let the system work. It will be less expensive than the heartless approach taken by these amendments.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to say I am also a New York State Congressman but I have a slightly different view than my good friend the gentleman from New York [Mr. DIOGUARDI] from Westchester County which is downstate in the New York City area.

I was sitting in my office with some constituents listening and I heard the gentleman from New York [Mr. DIOGUARDI] say something about the fact that he wants to help the good farmer, and I guess our view of the good farmer is somewhat different. I think his view is that the good farmer is a large conglomerate that goes into the business, a bunch of New York City investors who go into the milk producing business for the sole purpose of selling milk to the Federal Government. Maybe that is what a good farmer is.

I will tell my colleagues what I think a good farmer is and I represent the entire Hudson Valley of New York State, an area from 40 miles outside of New York City all the way almost to Lake Placid which is about 240 miles of good dairyland, good farmland. I guess I represent the 20th largest dairy producing district in America and one would not think that of a New York State Congressman, but my farmers have herds of maybe 40 or 50 cattle, some with only 25. Those farmers have a net income of about $12,000 a year trying to operate as farmers. I guess my good friend the gentleman from New York [Mr. DIOGUARDI] would think that that would be a lousy farmer if he can only make $12,000 off a spread, but my farmers who make that $12,000, after they get up at 4 o'clock in the morning and get their kids dressed and off to school, my farmers then go out and milk their cows, produce their products on the farm and then go and work a second job during the day. They drive schoolbuses, they go and work at menial labor so that they are able to push that income from $12,000 up to maybe $25,000 a year.

What the real problem is, I say to my colleagues, is those people are good farmers and the problem is that they are overregulated by the New York State Legislature, for instance, which continually passes this legislation, this Ralph Nader type of thing, all under the disguise of being good consumer-oriented legislation which drives up the cost of producing goods and milk on these farms.

Second, we have all these New York City people making $100,000 or $200,000 or $300,000 a year coming up into my hometown and into my area and buying up farmland which pushes up the tax rate and the value of those lands so high that these poor farmers cannot even stay in business.

I say to my colleague the gentleman from New York [Mr. DIOGUARDI] that we ought to be helping farmers, helping good farmers, and we do not need to help these big conglomerates. They can help themselves. They are a bunch of CPA's and lawyers and doctors who got together and went into the farming business and they are now taking in all these subsidies.

I will support legislation to cut them off, but let us protect the small farmer because he is the one that counts in America today.

Mr. DIOGUARDI. Mr. Chairman, will the gentleman from New York yield?

Mr. SOLOMON. Mr. Chairman, I yield to the gentleman from New York [Mr. DIOGUARDI], my good friend from Westchester.

Mr. DIOGUARDI. Mr. Chairman, the issue here, and I believe the gentleman from New York [Mr. SOLOMON] has made the case, is that we are allowing in this legislation good farmers to lose heart because the letters that I have received, in one case a neighbor of a good farmer, is restructuring. The good farmer says in the letter that he has gotten up early in the morning, he has done the things that a good businessman would do and now he sees his friend down the road, a bad farmer, standing in line for restructuring all the while the good farmer is losing heart. He says, "Is this the way America should be working, encouraging the bad farmer to stay in business when I am making my payments?"

I say to the gentleman from New York [Mr. SOLOMON] that many of his people are good farmers probably making their payments and many may deserve some kind of consideration. The issue is that we have got people who are abusing the system. We have a revolving door. There is a bailout every 2 years here. If they do not make it there is a restructuring, and they can come back. I am not preventing people who are subject to drought or other emergency conditions from getting funding.

Under the provisions of my first amendment, what I am saying is if someone has defaulted on a loan or is in default for 2 years, that person is not entitled to a new loan. What I would do for that person if I could in this legislation is restructure perhaps down to zero so that person can qualify to go to a real bank. I do not want them to come back to the Federal Government because we are lousy bankers. Most of our loans cannot be sold. The loans that are sold we get 50 cents on the dollar or maybe even as little as 30 cents on the dollar and it is killing this country.

All I am saying is let the restructuring go, if necessary, but redirect the money to the people we know who are going to repay. Let us not create $9 billion in the pipeline of bad loans, because our books are flooded with bad loans right now.

□ 1245

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman.

Mr. SKEEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am in opposition to the two proposed amendments.

Mr. Chairman, I rise in opposition to the amendments being proposed by my friend and colleague from New York [Mr. DIOGUARDI].

The primary reason for my opposition is this is not a time to eliminate some much needed flexibility in dealing with Farmers Home Administration loans. Our farmers and ranchers have been seeing some improvement in their financial situation, but difficulties still remain. In fact, I have just returned from a meeting here in the Capitol regarding the severe drought conditions in the West and Midwest. Many of our farmers and ranchers face absolute disaster unless substantial rains falls soon.

The point I want to make is this—there are many circumstances beyond the control of our farmers and ranchers that determine whether an agricultural operation is profitable or goes into the red. We cannot afford to arbitrarily cut off a farmer or rancher from a Farmers Home loan because a drought has set in, or a trade embargo is imposed, or commodity prices fall too low. The circumstances affecting a farmer or rancher are substantial. The regulations governing the review and implementation of loans need to be structured accordingly.

There are good farmers and ranchers who need the ability to restructure a loan in order to stay in business and regain their financial viability. Those operators can not foresee most circumstances that would force them into restructuring a loan.

The reforms made to the Farmers Home Administration have not yet been put into place. We need to see how these changes will work. Further more, attempting to make a major change in agricultural policy should not be debated on the floor of the House when there have been no hearings or discussions on this issue in either the Appropriations Committee or the authorizing committee.

We need to ensure that our good farmers and ranchers have the opportunity to stay in business. Opposing this amendment will help us achieve that objective.

Mr. WHITTEN. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, the members of the subcommittee and I appreciate our colleagues pointing out how disastrous this would be.

As the chairman knows, I have held onto this chairmanship for many years because I consider agriculture basic to everything.

Let us review the situation. The farmers are in this predicament because we opened up our borders to everybody in the world, as far as competition is concerned. Not only that, but we quit selling our surplus commodities in world markets on a competitive basis.

The Government policy forced the bankruptcy of 261,000 farmers. The American farmer is the only one in the world that has had his government tell him, "You have got to pay everything you owe, because we would not sell what you produce"; the only one in the world where his government, by direction of the head of the Farmers Home Administration, said, "You are going to have to pay all you owe, plus what you borrow, in 1 year." We had hundreds of farmers commit suicide because they could not stay in business. We helped bail out every bank, every country, everybody one can think of. I have here a list of the cities we have helped. Not only did they put the farmer out of business because they made him pay everything he owed every year, but when he was foreclosed upon they would not sell his farm to his kinfolks by order of the Director of the Farmers Home Administration. And now Members are saying, "Mr. Farmer, you are the only one in the world that we will not give a chance to recover."

Every foreign country one can think of, we have made allowances for and adjustments. A lot of loans have been made to foreign countries so they could pay domestic banks. We have bailed banks out all over the country, as well as savings and loan associations and cities. All of them have had a chance but, Members say, the farmer cannot. Mr. Chairman, that is a fact.

Mr. Chairman, I am going to ask my colleagues to let us proceed. We are trying on the Committee on Appropriations to do what the leadership asked, get all appropriations bills passed before we go home for the July 4th recess. This afternoon we hope to take the Interior bill before the full committee. I appreciate again so many of you who have made clear what this would do to the American economy.

We are talking about the farmers. No one thought that letting the farm economy deteriorate would pull the country down, but when they let the farmer go down the drain, our debt increased from $900 billion to $2.6 trillion. If anyone has any idea how to handle that debt, where we send $150 billion off the top to foreign countries to pay interest on the debt, if one can tell me how to handle that, please tell me, because I would be glad to know.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will try not to take the entire 5 minutes. We have had considerable debate here on amendments which are not before us, and I am going to continue to contribute to that course.

I want to make a few remarks specifically about some provisions of the bill relating to research and extension which I think are extremely important. However, I will put most of my remarks in the RECORD.

First, let me say that the Congress and the country are fortunate for having as member and chairman of the subcommittee, and of the full committee, a man as dedicated to agriculture as is the gentleman from Mississippi [Mr. WHITTEN]. He has been a great supporter, a knowledgeable friend of agriculture, and I do not have sufficient words to commend him for that. Nevertheless, having said this, there are a few small issues on which we disagree, and I am going to briefly comment on one such specific issue. I do not intend to pursue an amendment or anything of that sort, but I am looking forward to the possibility of further discussion with the committee on this matter. That issue is the funding for the competitive research grants program.

Most of the research funding in this bill, very valuable, important, essential research is funded through a series of programs which are based on formula grants. For the last several years the administration has requested, and many in the Congress have sought to achieve, a slightly larger component of competitive grants within the context of this bill, without in any way harming the formula grant program. Unfortunately in this year's bill, we have seen not only a reduction in the competitive grants far below the administration's request, which I can understand, but there is a continued effort to, shall we say, slightly modify the competitiveness of this grant program by earmarking in the committee report where most of the money will go.

As one who has been guilty of urging this myself on occasion, I am not going to get moralistic about it. I am going to point out that at some point the interests of my State and many other States, as well as the Nation as a whole, are going to collide with the process that is going on here. We already see situations where large research institutions are coming to the Members of Congress and saying, "Look, you are engaging in pork-barrel politics. You are openly or surreptitiously earmarking funds in appropriation and authorizing bills without a competitive grant process."

I only bring this up because it is an issue whose time may not yet have come, but which will come in the not too far distant future. I hope, I dearly hope, that I will not be in conflict with my good friends on the Committee on Appropriations when this time comes.

I think we should explore this and solve the problem cooperatively. But it is a real problem and one which I think that we need to devote our attention to.

Mr. Chairman, I elaborate on this subject somewhat more in my prepared remarks, and I will not belabor it at this point. I think it is more appropriate that I thank the chairman for all of the good things that are contained in this bill. I know how hard he and the subcommittee members, including the ranking Republican member, have worked on this bill, I look forward to continuing to work with them. But I do not want to sweep these potential differences under the rug just because the chairman and the ranking member are such good friends of mine.

Mr. Chairman, let me continue by making some general observations about the bill before us today, making appropriations for rural development, Agriculture, and related agencies for fiscal year 1989. Let me state that I recognize the difficult task which faces the Appropriations Committee in these times of fiscal restraint. I made this same observation to the Subcommittee on Rural Development, Agriculture, and Related Agencies when I testified before them earlier this year. The harsh realities of the budget and the deficit has forced all of us to exercise restraint and has put us all in the position of having to choose between meritorious programs due to limits on funding. Nowhere has this task been more difficult than on the Appropriations Committee and I would like the members of the committee to know that I recognize the effort which their work entails.

The bill before us represents the results of the difficult choices which the members of the full committee and the subcommittee were forced to make. I am pleased that funding for the Soil Conservation Service is up slightly, reflecting the work load which SCS is facing as natural resource and environmental concerns become more important and as we approach deadlines for the conservation plans which are due in 1990. Likewise, I am pleased to see the funding restored for the Agricultural Stabilization and Conservation Service, especially the continuation of funding for the Colorado River Salinity Control Program, which is so important to the Southwestern United States and to Mexico.

I am pleased to see that the funding for the Animal and Plant Health Inspection Service has been maintained. I am also pleased to see a restoration of the Animal Welfare Program funding restored to the fiscal year 1988 levels. As I said in my testimony before the subcommittee, this program has become increasingly controversial in recent years and continued uncertainty about program funding does not contribute to a rational examination of the needs in our animal welfare programs. If any member doubts the depth of public sentiment on this issue I invite them to come to my subcommittee, which has jurisdiction over the Animal Welfare Act, and view the overflowing files of correspondence which we have received on this issue.

As my colleagues know, I take a special interest in the research and education programs at the Department of Agriculture and I would like to turn to those programs now. I am pleased to see that funding for the Agricultural Research Service [ARS] has been proposed for an increase over fiscal year 1988 funding levels. I compliment the members of the committee for making the renovation of the research facility at Beltsville a high priority.

I toured the Beltsville Research Center earlier this year and was very upset with the state of neglect at this facility and in my testimony before the subcommittee urged them to strongly consider funding for the renovation work on this facility. I am also pleased that the committee saw fit to include funding for the construction of a new Salinity Laboratory at Riverside, CA, another aging facility in need of serious work. Also, I want to thank the members of the committee for making funding available for the production of a documentary film about the history of agriculture and the American diet. As our population shifts away from rural areas, and as the numbers of farmers continues to fall, it is important that we find every means to keep the general American public educated about the food and agriculture sector.

I am disappointed that the funding for the Cooperative Extension Service [CES] is down slightly, but I am pleased that the committee was able to restore funding cuts proposed by the administration in a number of critical areas. I am pleased to see an extension initiative in ground water quality and hope that this work will also include surface water, since the hydrologic cycle does not recognize some of these arbitrary distinctions. I hope that next year we will be in a position to fund the proposed program for priority initiatives which will support new and innovative extension programs in the States which do not fall into a specific category already funded under the Smith-Lever section 3(d) programs.

I am disappointed to see that funding was reduced for the Cooperative State Research Service [CSRS] from the fiscal year 1988 funding levels. I am pleased to see an initiative in ground water quality research being initiated as well as funding being proposed for the low-input Agriculture Research Program. These two efforts are becoming increasingly important to agriculture and I hope that funding will increase in future years to keep pace with farmer demand. I am also glad that the committee saw fit to fund the higher education programs of such importance to developing tomorrow's agricultural researchers.

As I stated before, I must take exception to the funding proposed for the Competitive Research Grants Program. This is not a new issue, as my friends on the subcommittee know, and it is a difference of opinion which frequently exists between appropriating and authorizing committees in the legislative arena. For those of my colleagues who are not familiar with my views on this program, I would like to take a moment to explain further my difference of opinion with the Appropriations Committee on this matter.

The Appropriations Committee, quite understandably, needs to assure that the agencies being funded are accountable to the taxpayer. Extended to research funding, this results in a hesitance to fund broad research programs where specific research funding decisions are left up to agencies relying on the peer review process. Over the years, this has led to what I see as a neglect of legitimate funding needs in the Competitive Grants Program which is focused upon basic research problems.

My view, developed over my years of service on the House Agriculture Committee and on the Science, Space, and Technology Committee is that the proper role of Congress is to define the areas of critical research need and opportunity and then let the scientific experts decide which proposal and which institution is best prepared to conduct the research. A farmer does not care which scientist or which institution discovered the breakthrough that allows a profitable operation. That farmer just wants results.

Given this difference in viewpoints, I must disagree with the proposed funding cut in the Competitive Grants Research Program. The National Association of State Universities and Land Grant Colleges recommended funding for this program at $70 million. The National Academy of Sciences, in a report issued in 1987, entitled "Agricultural Biotechnology" found that the funding for this program should be in the neighborhood of $500 million to properly meet reasearch needs in agriculture. Therefore, I am not alone in feeling that a reduction of about $13 million from fiscal year 1988 funding levels is unjustified.

Now, in the report to accompany this bill, there are some specific points which I must bring to the attention of my colleagues. First, a reduction of $11 million in basic plant sciences is troublesome to me. This is the very area where our current knowledge is falling behind the pace needed to bring new technologies to the farmer. This program is the one in greatest need of funding attention.

I am disappointed to see the human nutrition research program deleted. We have designated the USDA as the lead agency for human nutrition research yet we have let this research program languish and now be eliminated. I feel that this program should be restored to show our resolve in keeping USDA as the lead Federal agency in this vital area of research.

Earlier I pointed out the factors which have led to a friendly disagreement over research funding between the Appropriations Committee and myself. This is best shown in my distress at the deletion of funding for the plant science centers initiative and the apparent redirection of that funding for two specific research institutions. The plant science center initiative is one which has been carefully developed at the President's Office of Science and Technology Policy and involves a cooperative funding effort by USDA, the National Science Foundation, and the Department of Energy to fund five focused programs of research on critical plant sciences needs. Through this program, every dollar provided by USDA will leverage $2 from the other agencies, funding which would not otherwise be directed at agricultural needs. This program is to be run on a competitive basis, with panels of scientists evaluating the merit of the funding proposals.

Now, I can understand how the Appropriations Committee would prefer to identify specific institutions which are conducting similar research and choose to fund them, rather than the broad program. However, such a process tends to place scientific considerations secondary to the ability of a given institution to lobby Congress. If the research institutions in my home State had known that this was the process to be followed, they would have foregone the preparation of research proposals, and instead funded more lobbying work in Washington. But they, and I, assumed that a different process would be used to select these centers, one which is set out in the authorizing statute for the Competitive Research Grants Program. I strongly urge my colleagues to take a closer look at the process which is being encouraged by the actions taken in the report language which accompanies this bill.

Again, reasonable people disagree about policy. It is the essence of this institution. I hope that the members of the committee understand that my comments are meant to engage them in a broader policy debate.

Again, I want to thank the Appropriations Committee, its chairman, Mr. WHITTEN, the ranking minority member of the subcommittee, Mrs. SMITH, and all of the committee members for their work. I look forward to a close working relationship with you all.

Mr. FRANK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to express my support for, and appreciation of, the efforts of the gentleman from New York [Mr. DIOGUARDI]. The compassion of the leaders of the Committee on Appropriations is one of the greatest assets we have here.

I think we have historically erred in treating agriculture more separately than we ought to; I mean, it occurs to me here that no one denies that the special problems of agriculture, the crop problems that come because of the weather, the problems of supply and demand, that they cannot be treated like any other commodity, but this Government and the governments of Europe and Japan and all the governments in the Western World have made the terrible error of trying completely to protect agriculture from the operation of the market.

I am particularly interested to see some of my most conservative friends on this line, and I must have missed a footnote in Milton Friedman, Friedrich von Hayek, and Ludwig van Mises, and all these other people who said, "Oh, by the way, none of these apply to agriculture." I must have missed it, because agriculture by Government policy here, in Western Europe and Japan, and it is the most overregulated, oversubsidized and anticonsumer, inefficient, and one thing about the Agriculture Department, and maybe it is relevant when we talk about the weather, agriculture policy in this country as well as in Europe and Japan has a lot in common with the rain. It falls on the just and the unjust alike.

There are needy people who work hard, people who have limited means who are entitled to the kind of help they got in the farm credit legislation. There are people who are too incompetent, and there are people who are, as the gentleman from New York pointed out, much larger than ought to be eligible here, and there are people who, with the best help in the world, are not going to be able to do it.

Part of the problem we have with the farm credit legislation is there is a philosophy that says once a farmer, always a farmer. The Federal Government somehow has an obligation, because people think farming is a morally superior obligation, and that has been the way since Thomas Jefferson that people have thought farming somehow embodied better virtues than making shoes or making automobiles or selling soap, somehow because they are close to the soil, the farmers are entitled to protection that no one else in this society gets.

We do not make such an effort to keep every auto worker, every soap salesman, every doctor, every nurse at work. We have controversy, and a lot of people here, and I am impressed at the fervor with which some people who vote against a 60-day plant-closing notification bill, insist on a network of Government subsidy and regulation that is elaborate and expensive, but that is OK, that is not a violation of free enterprise.

□ 1455

I think in this one area the President of the United States is on the right track. We have to reduce that network of costly and inefficient regulation, and in this particular case the gentleman from New York [Mr. DIOGUARDI] has a set of amendments that are excellent. I gather he is being told he should talk to the Agriculture Committee about that. I hope that committee will be coming forward with a vehicle in that case in which he can present them.

I think we are capable of distinguishing between those farmers who are victims of circumstances and who are entitled to some help and those farmers who should not continue to be kept in business. People say, well, it is going to cost more money if we do it the way the gentleman from New York says. No, because the philosophy is one that says once a farmer always a farmer, we will throw good money after bad, farming is wonderful, farmers are better than the rest of us, and let us keep giving them the money.

I do not want to cut it out, but we ought to be realistic, and I do hope in this spirit of overwhelming compassion that is here that at least a little of it, and the farmers are going to benefit from a lot of it today, I hope a little of it will overlap into Tuesday when we are going to be facing an appropriation bill which makes cuts in funds for the homeless way beyond what we should be doing, and it does not give them what they should get. I hope a little bit of this compassion for the farmer is left over for Tuesday when we deal with the homeless.

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am going to try to return to a discussion of what is actually in the bill and what I am really concerned about is something we talked about a little bit before, and I tried to listen to the chairman's explanation of the figures that we have here, and I am not sure, I am wholly certain I understand it. I want to go back to the figures, and that is on the whole question of the CCC.

I want to make certain that I am right in my interpretation of what is in this document, the report that the subcommittee put out. I think the report tells me that in this year in the CCC area we are spending $21.1 billion, and I think what the administration said was that we ought to cut that by more than 50 percent, down to $9.8 billion. That is a pretty big chunk that the administration cut out of that program. But we want to find some savings in this budget, and so there we go. I mean maybe that is one where we can cut that much.

But then the committee came along, and if I understand this right, the committee cut us down from $9.8 to $6.8 billion. That sounds to me like that is another pretty big chunk, because now we have cut the money we are already spending this year by about 75 percent.

I guess I would just like to know whether or not that figure is real or whether there is a lot of mirrors in the ceiling up here. Is that in fact a realistic presentation of the amount of money that we are going to spend this year in the CCC, going from $21.1 billion down to $6.8 billion?

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, may I say the Commodity Credit Corporation is supposed to be a revolving fund. The CCC supports prices and is supposed to sell surplus commodities it owns for what they will bring in world trade.

Our situation today is largely caused because the Department would not use the law which was used for 48 years. For 48 years the cost of the farm program was $72.5 billion. In the last 8 years it has been $115 billion.

What we have done is tell the CCC to go back to what it is obligated to do under its charter and sell $3 billion of commodities, and use the money to operate so that we do not have to appropriate.

We would be in good shape today if the Department had used the CCC charter and section 32 funds as intended.

So the gentleman is asking what basis we used for reducing the CCC appropriation. I will tell the gentleman that if the Department will do what the charter of the CCC says which is to sell what it has, the money received could be used to operate. We tried to be reasonable and told CCC to sell 3 billion dollars' worth of commodities.

Mr. WALKER. Let me reclaim my time because I go back to page 57 of the report, and I do not find any of these receipts. If that is what the gentleman is saying to them to do, how come I do not find in the 1989 estimates any of those receipts in the program?

I am a little confused. As a matter of fact, I read it that the receipts dropped some, they dropped by about $3 billion.

Mr. WHITTEN. The table the gentleman is talking about is the request of the administration, not the committee's recommendation.

Mr. WALKER. I see. Can the gentleman point to me the page where he shows then that $3 billion of receipts?

Mr. WHITTEN. May I say that the recommendation represents months of hearings and represents the best judgment of all of the members on the subcommittee.

Mr. WALKER. I appreciate that, but what we are saying here now, I am just trying to figure out the funding in the gentleman's bill, and he is telling us that we can go from $21 billion in spending down to $6.8 billion in spending. I applaud that. I think that is wonderful that we have found some program that we can cut 75 percent.

Then the gentleman comes back and says to me that what we want them to do is operate this program like it should be operated, and we are going to get more money in. When I looked at that, I probably did go to the wrong page because I have to tell the gentleman that reading these things is pretty difficult when doing so quickly, so I am probably wrong. I probably went to the wrong page.

But then it seems to me if that is the philosophy, we ought to be able to find somewhere in all these figures that $3 billion in receipts that we are going to get. Can the gentleman tell me where that is?

Mr. WHITTEN. I am sure the gentleman from Pennsylvania voted for the budget resolution. The administration recommended that we take all controls off and let the Department spend anything it wants if it just spends it through the Commodity Credit Corporation, which does not make sense. We are going to have to have control at the Corporation if we are going to hold spending down.

So what we have done is tell the Corporation to use the 10 billion dollars' worth of assets it has, sell those commodities and use the money to operate. We have limited sales of commodities to $3 billion and not the total of $10 billion. We do not want to force the CCC out of business.

The CHAIRMAN pro tempore (Mr. KLECZKA). The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 5 additional minutes.)

Mr. WALKER. Mr. Chairman, I do not disagree with what you are saying. I think that is wonderful that you can show me what we are doing is turning this program around and making it self-sustaining by coming up with some kind of money. I am all for that. But it seems to me that it had better show up somewhere in here, because otherwise it seems to me we have a major problem.

I can tell the gentleman why I think we have a problem. I will tell the gentleman that I think we are showing in here $3 billion in savings in that account for the CCC over the administration's request, but guess what, when I go to the bottom line, how much savings did we actually end up with, bottom line, $2.5 billion. Somehow we took $3 billion more out than we had out in the CCC, but we end up spending by the bottom line one-half of a billion dollars of that. My guess is that that got spent in some places other than the CCC. So we really maybe have got not a $3 billion program just between the administration and you, but we have probably a $3.5 billion problem because of somewhere here we add up a half billion in expenditures.

Are those receipts that we have coming in going to pick up that other one-half of a billion dollars too?

Mr. WHITTEN. May I say that this bill represents our best judgment.

Mr. WALKER. I thank the chairman, but the problem is that we have also had a period of time here for the last few years where the best judgment ended up with massive supplemental bills in the CCC area.

This gentleman is concerned about the fact that we have underfunded the CCC consistently in the past, and then come out here with massive supplemental appropriation bills to fund this program later on, sometimes to the tune of $5 and $6 billion apiece. So if this in fact cannot be shown in the figures, I have got a problem. And it looks to me as though there are lots of mirrors on the ceiling and lots of smoke coming up from the Cloakrooms, because these are not figures that appear to me to be wholly, within this gentleman's judgment, of a real character.

So I am concerned about that, and I just hope that these figures do turn out to be real and we will find out if we come back here with a supplemental appropriation bill.

I thank the gentleman from Mississippi for responding.

Mr. BATES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not often speak on the House floor, and certainly do not pretend to know a lot about the agricultural programs in this country. But I would like to offer my support for the amendments to be offered by the gentleman from New York [Mr. DioGuardi]. At least the first amendment I think has considerable merit.

Just some historical perspective as I see it on this issue. I once was a farmer. I farmed as a young boy. My grandfather homesteaded. I think I have roots in the farming community.

These are painful individual adjustments that we have to make, and as an industry that we have to make. But I think that the time has come when we must begin to change the structure of the farm subsidies in this country. It is not good government and it is not good business.

The era of economic deficits will be with us for the next 20 years at least. We look at the national deficit of $2.5 trillion. We look at the annual budget deficit this year and it is down to $158 billion, hopefully, but that is still a tremendous burden. The trade deficits that we face and the social problems that we have not addressed and will be unable to address because of this era of economic deficits, the homeless, the unemployed, the hard core unemployed, those without adequate health care, the drug problem, the insurance crisis, and everywhere we find that the worst thing that we can do is to build into our economic system a move away from free enterprise, away from capitalism, away from what has built this country and made it strong with Government assistance, not with Government taking the lead, not with Government making the loans, not with Government the one who actually is the one who takes the risks.

I think that I would further associate myself with the remarks of a man who has had the courage on a number of occasions to speak out on important issues in this Congress, the gentleman from Massachusetts, Mr. Barney Frank, who said that we do not have to give special rules for the farmer. Fifty percent of all small businesses in America fail. There is no program to save the small businessman. He fails. But those who succeed, succeed because they have good ideas that will work in the marketplace, they have good products. If we are going to turn around the world international economic crisis that we face, we have to increase our spending, reduce our consumption and increase our productivity. We do not do that by increasing subsidies, by rewriting bad loans.

There is no other industry in America that can get the kind of protection that farmers have had. There is no other group of special interests, perhaps with the exception of the defense industries, that do not get their subsidies in loans, they get them outright in contracts. But with that exception, I think the favored status has to change, and I think we have to look at the politics of this.

The Reagan administration has gone from $7 to $26 billion in the subsidies, and yet they are not appreciated for those subsidies. They have not carried those States, but I do not know if there is a farm vote left in America.

When Harry Truman won in 1948, the farmers were 28 percent of America. Today they are less than 3 percent. When these programs started 48 years ago we were in a depression. There was a different set of circumstances.

Today that era is gone, and I think it is time for us to begin to change. This is a minor amendment the gentleman from New York is going to make on the 2-year default. These are people who have shown that they are not making a go of it, they are not managing their resources. The loans have been rewritten twice, and they have defaulted, and I think it is time to support modest and minor changes in the farm policy in this country.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BATES. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I am sure that the gentleman from California is for a food policy in this country that provides the best food for the people of this country at the lowest cost of any nation in the world.

Mr. BATES. May I respond to the gentleman?

Mr. VOLKMER. Yes, is the gentleman for that?

Mr. BATES. I am for increasing food prices to the true cost of the food and not subsidizing it. I think we should pay the cost of food and not subsidize it, and I am not for the continued subsidies of food prices, artificially low prices.

Mr. VOLKMER. Is the gentleman for a food policy that has continued to provide not only for the people of this country but for other people of the world? Is the gentleman for that food policy?

Mr. BATES. I am not for the present policy that allows us to produce enough food to feed the hungry in the world but does not have the economic or political distribution system to get that food to those people.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. Bates] has expired.

(On request of Mr. Volkmer and by unanimous consent, Mr. Bates was allowed to proceed for 2 additional minutes.)

Mr. BATES. Mr. Chairman, half of the world goes to bed hungry. We are not feeding the hungry of this world, so that is a mistaken conception if one believes that.

Mr. VOLKMER. I think if the gentleman from California would delve into it further, he would find that the food policy of this country has been to provide the best food in the world at the lowest cost to the people of this country and the world. And the persons who are providing that are the farmers of this country, and as the gentleman says, they are less than 3 percent of the people of this Nation.

Now they are subject, however, to conditions as are occurring right now that a small businessman is not ever really, very few of them are subject to, some of them are, but very few, the drought conditions, the flood conditions, the weather conditions, and all of those things. If we do not have a provision, a food policy in this country we could very easily find that in the next year or two we would have a loaf of bread at $5 a loaf, if we want that.

□ 1310

You could have a gallon of milk out here at $10 a gallon if you want that, if you are able to find it, if you are able to get it. Now that has serious implications for a lot of people in this country.

If you want a hamburger it could cost you $6 or $7 as it does in other nations, if that is what you want.

Now that is what you and the gentleman from New York are talking about and I disagree wholeheartedly with that policy, a high food policy for the people of this country.

The CHAIRMAN pro tempore (Mr. KLECZKA). The time of the gentleman from California [Mr. BATES] has expired.

(By unanimous consent Mr. BATES was allowed to proceed for 2 additional minutes.)

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. BATES. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Chairman, I agree with what my colleague from Missouri has said. But the most important thing is this: The very farmers you are talking about whom you would not permit to have access to the Farmers Home Administration are the people who are literally dying in parts of the country being parched by a Sun which has not opened up the skies to provide rain right now.

Now while you may have some truth with respect to some abuses in the system, what you will be doing right now is taking those producers who through hardship may have themselves in the position to survive and making them ineligible for further credit at a time when the weather and the acts of nature are making it impossible for them to survive.

So I understand that while the motives may be good, you are really going to hurt, hurt very desperately a segment of America in rural parts of this country who are coming back. You are saying essentially you want to cut their heads off right now and I would just urge you to rethink your position.

Mr. Chairman, I have two concerns with section 636 of this bill which I want to bring to the attention of the House. No. 1, I believe that it threatens the recovery we have seen in recent months in the agricultural economy, and No. 2, I believe it may set a far-reaching precedent, far beyond this particular legislation.

Section 636 will cap the funding for export enhancement programs during fiscal year 1989 at $770 million by cutting off funds for salaries of employees administering these programs once that amount has been spent. This figure is $130 million below the amount the administration estimated it will spend next year in its budget submission.

The Appropriations Committee has used this difference in funding levels to assure that this bill complies with the budget resolution, not by reducing the appropriations by that amount but by shifting funds from export enhancement programs to other programs in the bill. Let me restate that: This limitation has been incorporated into the bill to assure that other spending programs in the bill can be maintained. The committee is asking the House, then, to agree that it is in the best interest of all of agriculture and all of our farmers to continue to fund certain programs which may be very narrow in scope and very limited in their benefits as opposed to continue to fund a program which has been of enormous benefit to all of American agriculture.

The primary program which may be undermined by this provision will be the export enhancement program. Since this program was initiated in 1985, with widespread, bipartisan support in the Congress, nearly 5 billion dollars' worth of commodities have been sold overseas. The program has been used effectively to counter the unfair trading practices of our competitors, thus assuring that U.S. farmers will have equal, open access to overseas markets, and it has worked.

At a time of increasing concern about our trade deficit, U.S. agricultural exports are the one area of the economy which are helping to stem the outflow of U.S. dollars. The most recently released trade figures indicate this picture is improving. The March 1988 trade surplus—let me repeat, surplus—was the largest positive balance since December 1984. The volume and value of agricultural exports are up more than 20 percent from 1 year ago.

Increases have been especially dramatic for wheat, feed grains, and soybeans and vegetable oils—all of which have benefited from the programs this legislation is trying to hamstring. Wheat and wheat product exports are up 58 percent from 1987, to near record levels; feed grains are up 27 percent; and soybeans and soybean products are up 19 percent.

Not only has the export enhancement program been vital in stimulating this remarkable turnaround in exports, it has helped drawdown the surpluses of U.S. Government-owned commodities. These surpluses have hung over the market for years, depressing commodity prices and farmers' incomes, and costing the taxpayers millions to store each year. Wheat surpluses are forecast to drop to levels not seen since the 1970's, as are soybean surpluses, and corn and other feed grain surpluses are also trending downward.

In sum, we are seeing for the first time in years some light at the end of the tunnel: Exports are up, surpluses are down, and prices are moving up. I ask my colleagues, is this the time to give up the strides we have made, to tell our farmers we will not do anymore, to let the unfair trading practices of our competitors go unchecked? I say no. Now is the time to continue, even redouble our efforts. Now is not the time to restrict these very valuable programs.

Now is also not the time to embark down the road this section of the bill may lead. If the House accepts the premise that it is acceptable to make fundamental programmatic changes by restricting funding for salaries, as section 636 does, in this program, what is to restrict us from at some later date in cutting off funding for personnel administering education programs, environmental programs, defense research, or collecting revenues—to name a few examples—if we do not agree with the goals of those programs? I would tell my colleagues that this legislation and the course it takes is very serious. We have made reforms to get away from legislating and changing authorizing legislation in appropriations bills, and I think that was a sound decision, but I am concerned that this bill may undo those reforms.

In closing, let me say to my colleagues that this section of the bill may undo all the progress we have made in reversing the course of the farm economy in recent months. Now is not the time to abandon that battle, now is the time to continue our efforts. Neither is now the time to embark on the dangerous course this approach to achieving savings sets.

Mr. BATES. I would respond to both of my colleagues: First of all, the farmer is not giving us the low food prices; the American taxpayer is. The American taxpayer is paying for it with the subsidies, some $40 billion, some $70,000 per farm per year. The American taxpayer is paying for those prices.

With respect to the drought, I think it is a serious problem. I think we can target that assistance but I do not think that the bad loans should be rewritten to deal with that problem. I think the tide is coming, the era of easy money for the farmers and the bad farmers in America is over.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise, as I have in the past when the agricultural appropriations bill has been considered by this House, to reaffirm the fact that report language accompanying this bill is merely advisory in nature and does not have the force of law.

This year the report accompanying H.R. 4784 has a number of suggestions as to how the Secretary of Agriculture should administer the programs within his jurisdiction. I would like to make clear that where these suggestions conflict with the statutes authorized by the Committee on Agriculture, the statutes clearly prevail. Further, where the report language accompanying H.R. 4784 would limit the Secretary's discretion to operate the programs as he sees fit, the Secretary is not bound to abide by this report language.

Because I have had only a short time to review this bill and the report, I am sure that I have not noticed every instruction to the Secretary that may contradict the authorizing statute in this regard. However, one such instruction is found on page 119 of the report, where the Committee on Appropriations "recommends" that the Commodity Credit Corporation sell 3 billion dollars' worth of its inventory of agricultural products on the world markets. This recommendation by the Committee on Appropriations runs directly contrary to the goals and mechanisms of our current agricultural export programs.

Similarly, the report recommends that funding for a special grants program for financially stressed and dislocated farmers be limited to programs in only eight States. I am happy to say that we have corrected this through the generosity of the chairman of the Committee on Appropriations for which I thank him. The problem had been that this particular program was first authorized under the Food Security Act of 1985 and subsequently changed in Public Law 100-219 with the intention of helping farmers in need without regard to where they live. So I appreciate very much the distinguished chairman and the Committee on Appropriations working with us in this respect because we are aiming for the same direction and in this respect I think that we have it now where the intent of the authorizing committee and the intention of the Committee on Appropriations is met.

Mr. Chairman, if any of these items had been included in the bill we are considering today, they would have been subject to a point of order for legislating on an appropriations bill. Similarly, report language seeking to achieve these ends does not have the force of law. If it did, it would be subject to the same point of order.

Mr. Chairman, I am concerned, very concerned, that ad hoc mandates, not properly studied by the committees of jurisdiction, could very well achieve an opposite result than the one sought, and could very well endanger the basic law itself.

So I think that we are engaging in what could be a dangerous precedent-setting situation, because if you take these examples, "The Secretary cannot act if the expenditure is above" this amount or "the Secretary cannot act if it is below" this amount, let me inform my colleagues what could happen if this were done with other items.

The Federal Depositor Insurance Fund, if expenditures exceeded a certain level, you cannot pay the salaries of personnel, that is the Committee on Banking. The Pension Benefit Guaranty Corporation outlays, if they surpass a particular level you cannot pay the salaries of personnel that is Committee on Education and Labor and the Committee on Ways and Means. The Work Incentive Program participants in Aid to Families with Dependent Children, if it increased beyond a stated amount you cannot pay the salaries of personnel, this would effect the Committee on Education and Labor and the Committee on Ways and Means. Medicare expenditures, if you would limit that in a similar way, it would affect the Committee on Energy and Commerce. Oil and gas leases, if they fall below a certain level you would not pay the expenditures of those who manage the program, that would affect the Committee on Interior and Insular Affairs. The oil spill liability trust fund payments, if they exceed specified amounts you cannot pay the salaries of personnel, that effects the Committee on Merchant Marine and Fisheries. Veterans' Administration home foreclosures, if they increase over certain levels you cannot pay the salaries of personnel, this would effect the Committee on Veterans' Affairs.

These are areas where, if you went beyond this bill, and you went beyond legislation concerning agriculture, but you used the same precedent or the same working that you have here, a similar effect could occur. That is my concern.

The CHAIRMAN pro tempore. The time of the gentleman from Texas [Mr. DE LA GARZA] has expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 1½ additional minutes.)

Mr. DE LA GARZA. That is my concern. I have no quarrel with the distinguished chairman whom I appreciate very much, and whom I respect and admire. I know that in his heart he is always trying to do what is best.

My concern is that these examples, if they do not legislate, they are on the verge of legislation and we are setting a dangerous precedent, by going beyond the norm of the authorizing legislation in perhaps what could be parliamentarily acceptable, but if it is not, then switching to the report and giving guidance beyond the norm of the statute and/or the authorizing committee's intent. I would hope that as we continue to work in the future, that the distinguished chairman of the Committee on Appropriations and the members of the Committee on Appropriations know and understand that we are readily available, that we are interested in cooperating with them, that we are in good faith willing to work with them and that there is no problem that, together, we cannot resolve for the benefit of those whom we attempt to serve.

Are there any further amendments to title I?

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words and then I hope we can move ahead.

Mr. Chairman, we have made this point many times that the report is not the law, that is true. The report is the intention of the subcommittee and the full committee. Sec. 1301 of title 31 of the United States Code provides that money shall be spent for the purpose for which appropriated, and the report is the best evidence of what was intended. So putting the two together, it is binding on anybody who wants to follow what Congress intended.

May I point out that in 8 years, 261,000 farmers have gone broke, hundreds have committed suicide. The farmers are the only group in the world that was told by the Government they had to pay in 1 year everything they owed. This occurred even though the Government caused their financial problems by withholding the farmers commodities off the world markets and by using the PIK program. Under PIK we reduced 11 percent of our production while our competitors overseas increased their production by 11 percent.

Now we have an amendment that is coming up that will make it so the farmer is the only one in the country who will not be able to get re-established after the Government has caused his financial problems. Farming is the biggest industry we have. Without it the rest of the country will go down. May I say that in the last 8 years our national debt increased from $900 billion to $2.6 trillion.

Our exports have gone to where they are far below our imports. We look on every hand and see what has happened over the last 8 years. We need the gentleman from Texas's help, we need everybody's help if our country is going to bail out of its financial difficulties. Under present conditions foreign countries are buying up our country right and left.

As I point out in our report and this appeared in The Washington Post on March 13:

> During the past five years nearly $800 billion in foreign capital washed across the United States buying up companies, banks, luxury hotels, retail chains, building new factories, established bank accounts, and financing a major portion of the national debt.

Now can you tell me that it will ever be sound for us to do what this amendment wants to do? Is it sound to tell a farmer who lost his farm because the Government would not sell his product in world trade, that the Government now will not help you straighten it out?

I just cannot believe it.

Their is no reason to argue whether the report is binding or not, because it is clear what was intended and that is the best evidence of what the appropriation is for. So putting the two together it should be binding.

Now I agree with my colleague from Texas that the group in charge of agriculture does not follow what this committee says nor what his committee says. But it is time all joined hands and worked together on the situation because if what has happened in the last 8 years continues, we are all going under.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Texas.

Mr. de la GARZA. I thank the gentleman for yielding.

Mr. Chairman, to reiterate again, we have no disagreement in what we are trying to do.

Mr. WHITTEN. Is the gentleman for this amendment or against it, the one that they are talking about?

Mr. de la GARZA. Oh, I am against the amendment.

Mr. WHITTEN. I am glad. We need the gentleman's help. But we need to understand that the Department of Agriculture should listen to the Congress when it explains what is intended. I follow the advice that the gentleman has in his bill. But we have made clear what we believe. That is what it amounts to.

Mr. de la GARZA. I join with the gentleman in opposition to the amendment.

Mr. WHITTEN. I am glad to know the gentleman is against the amendment.

Mr. de la GARZA. I am against the amendment and I join my distinguished chairman.

Mr. DioGUARDI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think just to clarify what will happen here: I have basically two amendments. One of the amendments, the one that would be more harsh would be the one that says that we would not allow anyone to come back and borrow if they had a restructuring. I would be willing to drop that amendment. But the first amendment I think is a modest amendment. All it says is that if an individual farmer has been a bad manager, has not paid or is in default for a 2-year period, that that individual should not be given a new loan. So I would ask the House and urge a "no" vote on a motion to rise here or if the House moves to rise I would urge a "no" vote so that I can at least offer the first amendment, which I think is a modest proposal since it does not reduce the appropriation but it just gets to the issue of who the bad managers are.

Are there further amendments to title I? If not, the Clerk will read.

The Clerk read as follows:

TITLE II—RURAL DEVELOPMENT PROGRAMS

Rural Development Assistance

Office of the Under Secretary for Small Community and Rural Development

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $418,000.

Farmers Home Administration

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $1,844,990,000, of which not less than $1,794,420,000 shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales, and for loans to finance sales or transfers to nonprofit organizations or public agencies of not more than 5,000 rental units related to prepayment; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718).

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $275,310,000, to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided*, That of this amount not to exceed $109,918,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not less than $5,082,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further*, That $160,310,000 is available for expiring agreements and for servicing of existing units without agreements: *Provided further*, That agreements entered into or renewed during fiscal year 1989 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further*, That agreements entered into or renewed during fiscal years 1985, 1986, 1987, and 1988, may also be extended beyond five years to fully utilize amounts obligated.

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e), and 1490a(c)), including $1,381,000 as authorized by section 521(c) of the Act, also including not to exceed $15,000,000 for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to non-profit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act; $3,660,061,000. For an additional amount as authorized by section 521(c) of the Act such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund.

AGRICULTURAL CREDIT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $569,000,000, of which $454,000,000 shall be guaranteed loans; $14,000,000 for water development, use, and conservation loans, of which $3,000,000 shall be guaranteed loans; operating loans, $3,200,000,000, of which $2,300,000,000 shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; and for emergency insured and guaranteed loans, $600,000,000 to meet the needs resulting from natural disasters.

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $3,467,596,000.

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661-664, to be available from funds in the Rural Development Insurance Fund, as follows: insured water and sewer facility loans, $330,380,000; guaranteed industrial development loans, $95,700,000; and insured community facility loans, $95,700,000.

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $1,607,047,000.

RURAL DEVELOPMENT LOAN FUND

For direct loans to intermediary borrowers, as authorized under the Rural Development Loan Fund (42 U.S.C. 9812(a)), to be available from funds in the Rural Development Loan Fund, $6,500,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $109,395,000, to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000, to remain available until expended.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $9,513,000, to remain available until expended.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,000,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,091,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $500,000, to remain available until expended.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $19,140,000.

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310(B)(c) (7 U.S.C. 1932) to any qualified public or private nonprofit organization, $540,000.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: *Provided,* That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, $414,734,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(a) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided,* That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further,* That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $2,675,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That, in addition to any other authority that the Secretary may have to defer principal and interest and forgo foreclosure, the Secretary may permit, at the request of the borrowers, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided,* That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

Rural Electrification Administration

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1989 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1989, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further,* That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), $327,675,000.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901-950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1989 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,447,000.

Office of the Administrator

For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $160,000: *Provided,* That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1989, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $31,124,000: *Provided,* That none of the funds in this Act may be used to authorize the transfer of funds to this account from the Rural Telephone Bank.

Soil Conservation Service

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $403,262,000, of which not less than $5,494,000 is for snow survey and water forecasting and not less than $5,043,000 is for operation and establishment of the plant materials centers: *Provided,* That of the foregoing amounts not less than $310,000,000 is for personnel compensation and benefits: *Provided further,* That the Chief of the Soil Conservation Service shall report directly to the Secretary of Agriculture: *Provided further,* That the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a-590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e-2): *Provided further*, That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas, into a single national technical center.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006-1009), $12,051,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001-1008), $8,651,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001-1005, 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, $172,373,000 (of which $26,271,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $10,000,000 shall be available for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That $7,949,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further*, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), $25,120,000: *Provided*, That $1,207,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,474,000, to remain available until expended (16 U.S.C. 590p(b)(7)).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q), and sections 1001-1004, 1006-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1504, 1506-1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $176,935,000, to remain available until expended (16 U.S.C. 590o) for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided*, That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further*, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further*, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further*, That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further*, That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $11,891,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311), $5,000,000, to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $3,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out the purposes of section 202 of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $4,904,000, for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county committees, approved by the State committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided,* That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further,* That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies.

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the conservation reserve program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831-3845), $1,864,000,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices, for annual rental payments, and for technical assistance: *Provided,* That 4 per centum of the funds available for the conservation reserve program in this Act, but not to exceed $48,362,000, shall be available for payment to technicians of the Soil Conservation Service for services in carrying out the conservation programs of the Food Security Act of 1985: *Provided further,* That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land: *Provided further,* That not to exceed $385,000,000 of the funds in this Act, or otherwise made available by this Act, shall be available to provide cost share assistance on crop year 1989 acreage during fiscal year 1989.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title II?

If not, are there any amendments to title II.

If not, the Clerk will read.

The Clerk read as follows:

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $406,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1769b), and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1788-1789); $4,624,127,000, to remain available through September 30, 1990, of which $530,855,000 is hereby appropriated and $4,093,272,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further,* That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further,* That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary: *Provided further,* That up to $5,200,000 shall be available to develop a system for independent verification of school food service claims.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $19,925,000, to remain available through September 30, 1990. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $1,927,362,000, to remain available through September 30, 1990.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $53,500,000: *Provided,* That funds provided herein shall remain available through September 30, 1990: *Provided further,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2028, 2029), $13,427,955,000: *Provided,* That funds provided herein shall remain available through September 30, 1989, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or work fare requirements as may be required by law: *Provided further,* That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: *Provided further,* That $10,000,000 of the funds provided herein shall be available for the purchase of equipment to improve the processing of food coupons: *Provided further,* That $908,250,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $199,147,000.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided,* That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, $86,494,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $9,013,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

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The CHAIRMAN pro tempore (Mr. KLECZKA). Are there any points of order against title III?

Are there amendments to title III?

The Clerk will read.

The Clerk read as follows:

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $92,017,000: *Provided*, That this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

AGRICULTURAL TRADE MISSIONS

For necessary expenses for agricultural aid and trade missions as authorized by Public Law 100-202, $400,000.

PUBLIC LAW 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $817,000,000, of which $428,200,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales, carryover balances and commodities made available from the inventories of the Commodity Credit Corporation by the Secretary of Agriculture pursuant to sections 102 and 403(b) of said Act, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $630,000,000, of which $630,000,000 is hereby appropriated: *Provided*, That not to exceed 10 per centum of the funds made available to carry out any title to this paragraph may be used to carry out any other title of this paragraph.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $3,827,000: *Provided*, That not to exceed $3,000 of this amount shall be available for official reception and representation expenses as authorized by 7 U.S.C. 1766: *Provided further*, That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581-3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further*, That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1), (3)), $1,000,000: *Provided*, That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further*, That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further*, That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title IV?

Are there any amendments to title IV?

The Clerk will read.

The Clerk read as follows:

TITLE V—RELATED AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $481,844,000: *Provided*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further*, That this appropriation shall be available to employ persons or organizations, on a temporary basis, by contract or otherwise.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $23,950,000.

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $25,612,000: *Provided*, That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued in fiscal years 1988 and 1989, as authorized, $175,000,000: *Provided*, That not to exceed $1,352,000 of the assistance fund shall be available for administrative expenses of the Farm Credit System Assistance Board: *Provided further*, That officers and employees of the Farm Credit

System Assistance Board shall be hired, promoted, compensated, and discharged in accordance with title 5, United States Code.

INDEPENDENT AGENCIES

Commodity Futures Trading Commission

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $33,898,000, including not to exceed $700 for official reception and representation expenses.

Farm Credit Administration

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $35,000,000 (from assessments collected from farm credit system banks), of which not to exceed $1,500 shall be available for official reception and representation expenses, shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249.

TITLE VI—GENERAL PROVISIONS

Sec. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Sec. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1989 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 694 passenger motor vehicles, of which 689 shall be for replacement only, and for the hire of such vehicles.

Sec. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefore as authorized by law (5 U.S.C. 5901-5902).

Sec. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946 and July 28, 1954, and (7 U.S.C. 427, 1621-1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

Sec. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

Sec. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

Sec. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided*, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

Sec. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, $4,500,000 for the contingency fund to meet emergency conditions, and buildings and facilities; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Agricultural Research Service, buildings and facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $5,000,000 for the grasshopper and Mormon cricket control program, Animal and Plant Health Inspection Service; $2,852,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95-113, as amended (7 U.S.C. 3152(a)(3)(B)); and buildings and facilities, Food and Drug Administration.

Sec. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

Sec. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

Sec. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

Sec. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

Sec. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

Sec. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

Sec. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

Sec. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

Sec. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

Sec. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

Sec. 620. During fiscal year 1989, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

Sec. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1988 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act.

Sec. 622. In fiscal year 1989, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

Sec. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

Sec. 624. None of the funds appropriated by this Act may be used to relocate the Hawaii State Office of the Farmers Home

Administration from Hilo, Hawaii, to Honolulu, Hawaii.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided*, That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further*, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further*, That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 631. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 632. None of the funds appropriated in this Act shall be used to alter the method of computing normalized prices for agricultural commodities for use by any Federal agency in evaluating water resources development projects to be undertaken in whole or in part with Federal funds that was in effect as of January 1, 1986.

SEC. 633. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund.

SEC. 634. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out the honey price support program under section 201(b) of the Agricultural Act of 1949 (7 U.S.C. 1446(b)) if the aggregate amount of loans under such program to any one person for a single crop year exceeds $250,000.

SEC. 635. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a targeted export assistance program under section 1124 of the Food Security Act of 1985 if the aggregate amount of funds and/or commodities under such program exceeds $110,000,000.

SEC. 636. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out an export enhancement program (estimated to be $900,000,000 in the President's fiscal year 1989 Budget Request) if the aggregate amount of funds and/or commodities under such programs exceeds $770,000,000.

SEC. 637. Notwithstanding any other provision of this Act, each appropriation item or loan program level made available under this Act shall be reduced by 1 per centum, rounded to the nearest thousands of dollars, except for programs scored as mandatory during fiscal year 1989 and Public Law 480: *Provided*, That such reductions shall be applied proportionally to each program, project, and activity as set forth in the accompanying report (H. Rept. 100-690).

This Act may be cited as the "Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989".

Mr. WHITTEN. Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 75, after line 22 insert the following new section:

SEC. 638. No funds appropriated under this Act shall be expended in any workplace that is not free of illegal use or possession of controlled substances which is made known to the federal entity or official to which funds are appropriated under this Act.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this is the drug-free workplace amendment. This is the short version. The chairman of the subcommittee and I have talked about this, and he was willing to accept the short version. There is no reason for the House to go into a long discussion here. I understand the gentleman is willing to accept this amendment.

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield, on behalf of the committee we accept the amendment.

Mr. WALKER. Mr. Chairman, I thank the gentleman. I understand the minority is also prepared to accept the amendment.

Mrs. SMITH of Nebraska. Mr. Chairman, if the gentleman will yield, we are happy to accept the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

Mr. WHITTEN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DIOGUARDI. Mr. Chairman, I have an amendment at the desk, and, therefore, I demand a recorded vote on the motion to rise.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 310, noes 88, not voting 33, as follows:

[Roll No. 189]

AYES—310

Ackerman
Akaka
Andrews
Annunzio
Anthony
Applegate
Aspin
AuCoin
Baker
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Cheney
Clarke
Clay
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conyers
Cooper
Coyne
Crockett
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frost
Garcia
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Jeffords
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
LaFalce
Lancaster
Lantos
Latta

Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moorhead
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Pursell
Quillen
Rangel
Ravenel
Regula
Richardson
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Schroeder
Schuette
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NOES—88

Anderson
Archer
Armey
Badham
Ballenger
Bartlett
Barton
Bates
Bilirakis
Broomfield
Brown (CO)
Buechner
Bunning
Chandler
Clinger
Coble
Conte
Coughlin
Craig
Crane
Dannemeyer
DeLay
DioGuardi
Dornan (CA)
Dreier
Fawell
Fields
Frank
Frenzel
Gallegly
Gallo
Gingrich
Goodling
Gradison
Green
Gregg
Henry
Hyde
Ireland
Kyl
Lagomarsino
Lent
Lujan
Lukens, Donald
Lungren
Martin (IL)
McCandless
McCollum
McEwen
McGrath
Miller (CA)
Molinari
Morella
Nielson
Parris
Petri
Porter
Rhodes
Ridge
Rinaldo
Ritter
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Scheuer
Schneider
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Smith (NJ)
Smith, Robert (NH)
Stump
Tauke
Thomas (CA)
Upton
Valentine
Vucanovich
Walker
Weldon
Wolf
Wortley
Young (AK)
Young (FL)

NOT VOTING—33

Alexander
Atkins
Barnard
Biaggi
Bliley
Boulter
Bryant
Clement
Courter
Daub
Dowdy
Duncan
Ford (TN)
Gaydos
Jacobs
Jenkins
Kemp
Kolter
Lewis (FL)
Lipinski
Mack
MacKay
Mica
Moody
Mrazek
Packard
Rahall
Ray
Russo
Spence
Stark
Swindall
Torricelli

☐ 1347

Messrs. VALENTINE, TAUKE, GREEN, and McEWEN changed their votes from "aye" to "no."

Messrs. KASICH, FAZIO, and PURSELL changed their votes from "no" to "aye."

So the motion was agreed to.

The result of the vote was announced as above recorded.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. KLECZKA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 4784) making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes, he reported the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The **SPEAKER**. Without objection, the previous question is ordered.

There was no objection.

The **SPEAKER**. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The **SPEAKER**. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER**. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 343, noes 54, not voting 34, as follows:

[Roll No. 190]

AYES—343

Ackerman
Akaka
Andrews
Annunzio
Anthony
Applegate
Aspin
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Coyne
Craig
Crockett
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frost
Gallo
Garcia
Gejdenson
Gephardt
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Jeffords
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kostmayer
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Pursell
Quillen
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Schneider
Schuette
Schulze
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—54

Anderson
Archer
Armey
Badham
Bates
Broomfield
Brown (CO)
Cheney
Crane
Dannemeyer
DioGuardi
Dornan (CA)
Dreier
Early
Fawell
Fields
Frank
Frenzel
Gallegly
Gekas
Gibbons
Gradison
Gregg
Henry
Hertel
Hyde
Ireland
Konnyu
Kyl
LaFalce
Lagomarsino
Lewis (CA)
Luken, Thomas
Lungren
McCandless
McCollum
Moorhead
Nelson
Nielson
Porter
Ritter
Roukema
Saxton
Schaefer
Scheuer
Schroeder
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Smith, Robert (NH)
Stump
Walker

NOT VOTING—34

Alexander
Atkins
Barnard
Biaggi
Bryant
Clement
Courter
Daub
DeLay
Dellums
Dowdy
Duncan
Gaydos
Jacobs
Jenkins
Kemp
Kolter
Lipinski
Lowry (WA)
Mack
MacKay
Mica
Moody
Packard
Petri
Rahall
Ray
Russo
Slaughter (NY)
Spence
Stark
Swindall
Torricelli
Wilson

☐ 1407

The Clerk announced the following pair:

On this vote:

Mr. Lowry of Washington for, with Mr. Jacobs against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I asked for this 1 minute for the purpose of inquiring of the distinguished majority leader the program for next week.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Washington [Mr. FOLEY], the distinguished majority leader.

Mr. FOLEY. Mr. Speaker, I thank the distinguished Republican leader for yielding.

Mr. Speaker, this concludes the legislative business for today.

The House will not be in session tomorrow.

On Monday, June 20, the House will meet at 11 a.m. and we will recess immediately to receive former Members of Congress. The Chair will reconvene the House for legislative business at approximately 12 noon when we will consider the Consent Calendar and 15 bills under suspension of the rules.

They are:

H. Res. 464, to commend the President for his efforts on behalf of human rights while at the Moscow summit;

H.R. 1841, Fishing Vessel Compensation Safety Act amendments;

H.R. 4517, Outer Continental Shelf Operations Indemnification Act;

H.R. 4150, Postal Service Reorganization Act Amendments of 1988;

H.R. 3592, to limit the rate of pay for Postal Service consultants;

H.R. 4276, to designate the James Domengeaux Post Office in Lafayette, LA;

H.R. 4726, to designate the Dan Daniel Post Office in Danville, VA;

S. 2188, technical amendments to the Federal Employee Retirement System Act;

H.R. 2792, to clarify treaties with respect to Indian fishing rights;

H.R. 3880, to extend the Upper Delaware Advisory Council;

H.R. 3960, Charles Pinckney National Historic Site;

H.R. 3559, Canaveral National Seashore Acquisition;

H.R. 4212, Alexander Hamilton National Memorial;

H.R. 4050, Riverside County, CA, Land Survey; and

H.R. 3431, to release a reversionary interest in lands in Bay County, FL.

The House will debate the suspensions but any votes ordered on such suspensions will be postponed until Tuesday, June 21.

On Tuesday, June 21 the House will meet at noon and consider the Private Calendar and H.R. 4800 the HUD-independent agencies appropriation for fiscal year 1989, subject to a rule. Following consideration of the HUD-independent agencies appropriation we will take up the votes ordered on any suspensions which were debated on Monday.

On Wednesday, June 22 the House will meet at 10 a.m. and consider H.R. 4781 the Department of Defense appropriations for fiscal year 1989, subject to a rule.

I might point out that we may schedule some additional legislation for Wednesday in the event that we conclude the Department of Defense appropriation bill at an early hour.

On Thursday, June 23 the House will meet at 10 a.m. and recess immediately, and reconvene at 11 a.m. to receive the Right Honorable Robert J.L. Hawke of Australia, Prime Minister of Australia in joint meeting.

Following the joint meeting we will reconvene for legislative business and consider H.R. 4797 the Department of Transportation appropriation for fiscal year 1989, subject to a rule.

On Friday, June 24, the House will not be in session.

Conference reports, of course, may be brought up at any time and a further program may be announced later.

Mr. MICHEL. Mr. Speaker, if I might inquire of the gentleman from Washington [Mr. FOLEY] is it true that on Tuesday recorded votes that may be rolled over from Monday would come after consideration and disposal of the HUD-independent agencies appropriation bill?

Mr. FOLEY. If the gentleman will yield, the gentleman is correct. We will start with the HUD appropriations and consider any votes later.

Mr. MICHEL. Second, the Speaker has advised me as of a bit ago of his joining in the introduction of the trade bill. Is there any possibility that the trade bill could come up in the House of Representatives next week?

Mr. FOLEY. It is unlikely it will come up next week, I would advise the gentleman. We will certainly notify him of any indication of scheduling of the trade bill should that be the case.

Mr. MICHEL. Mr. Speaker, one further question, the gentleman knows how the majority and minority have been working together in crafting a compromise and a bipartisan effort in the area of fair housing. It is my understanding that some very contentious differences have been ameliorated and that we might very well have that on a track here. Is there any possibility that that could come up next week?

Mr. FOLEY. If the gentleman will continue to yield, there is some possibility. Of course, that is subject to the request of the chairman of the committee, and we would consider promptly any request by him to schedule the legislation. I am not sure that there is a time likely for such consideration other than Wednesday. That is why I mentioned in my remarks that it might be possible to schedule some additional legislation on Wednesday following consideration of the Department of Defense appropriation, if that should conclude early.

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Mr. MICHEL. Mr. Speaker, there is another issue which I am sure the gentleman from Texas [Mr. BARTLETT] would like to address, and on which the gentleman from Illinois is very interested, too, having to do with minimum wage.

Mr. Speaker, I yield to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I inquire of the gentleman from Washington [Mr. FOLEY], the majority leader, that there has been a good deal of rumor, speculation and conversation regarding the amendments to the Fair Labor Standard Act. There was conversation at one point that the bill would come up, and that is 1834, that the bill would come up next week on June 22. Then there were indications it could come up on July 6, and I understand it may come up on July 12.

I wonder if the gentleman could enlighten us so Members can have adequate notice to be prepared as to when the minimum wage bill will come up and under what circumstances and the type of rule that it is likely to be considered under.

Mr. FOLEY. I will tell the gentleman that it will not be scheduled for next week, and as soon as we do have a schedule for it we will announce it to the membership.

Mr. BARTLETT. Mr. Speaker, I think it would be helpful for the whole House to have all Members have an idea when it is scheduled as soon as the decision is made. I know there is a lot of conversation, and I know it would be helpful to have some idea what rule it would come up under and what the rule is the majority leader would recommend.

As the gentleman from Washington knows, the minimum wage is a substantive piece of legislation which has been considered seven times by the House in the last 50 years, and six of those seven under a completely open rule, and the seventh time under a rule in which any rate amendment was in order.

Last week the majority whip said that it would not be closed, and I wondered if the gentleman could enlighten us as to whether, when the bill comes up, if a Member has an amendment that is germane to the legislation, whether that Member will be permitted to offer the amendment.

Mr. FOLEY. Mr. Speaker, I cannot advise the gentleman at this time when the bill will be scheduled, because that decision has not been made. I would reiterate my assurances that when we do decide on which date we are scheduling the bill that we will advise all Members of that promptly.

With respect to the rule, we do not have at this time the recommendation of the committee chairman as to seeking a rule and, of course, it is a determination of the Committee on Rules after hearing testimony from all interested parties what sort of rule to report. I cannot tell the gentleman that it will be an open rule. I assume, as the majority whip has said, that it will not be a closed rule. I cannot assure the gentleman that there will not be some restrictions on the rule. I just do not know that at this point. I would assume that there will be an opportunity for amendments to the bill, but I do not know under what conditions.

Mr. BARTLETT. Just one step further, this is a major piece of legislation, and unless I am incorrect, it seems to me that the majority leadership is probably keeping a pretty firm hand on it and giving recommendations to the Committee on Rules. It is legislation that Members should be permitted to allow the House to work its will and offer amendments that are germane. It does seem to me that both the leadership and the Committee on Rules should let Members know those circumstances, that it is coming up and should make it an absolutely open rule and give Members time to then prepare accordingly.

Mr. FOLEY. I would just like to assure the gentleman that I am not quite in as close control over this legislation as he kindly presumes. We will in due course schedule the legislation. We will advise Members of that, and I am sure in sufficient time for them to be prepared for the debate and discussion of the bill. I cannot tell the gentleman what the rule will be in advance, but it is very often the case that rules that are not completely open or closed have the general approval of the House.

I might point out that some mention has been made that something like 44 percent of the rules in the last year have had some restrictive character. Over half of those rules have passed this House by votes in excess of 350 Members voting for it or by voice vote. There are occasions, and a very great number of occasions, frankly, where it is seen by Members on both sides of the aisle to be helpful to the consideration of legislation that the rule be engaged in some restriction.

Another example might be the Department of Defense authorization bill where 240 amendments were noticed under the rule, and the rule made in order 150 of them, and that rule was adopted by a very large majority from both sides of the aisle.

I would just tell the gentleman that there are many occasions when some restriction on the rule is judged by Members, both Republican and Democratic Members, as facilitating orderly consideration of the bill.

Mr. MICHEL. Mr. Speaker, I might say to the gentleman, the distinguished majority leader and the gentleman from Illinois are going to get together later in the day overall for the program to talk about scheduling and some of the remaining pieces of legislation before we adjourn around here, and I think the gentleman's dialog with the distinguished majority leader will enable us to get a sense of his feeling and those of his colleagues as to how that minimum wage legislation ought to be considered on the floor.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman, but it was not a discussion about defense authorization; it was not a discussion about noncontroversial matters. The fact of the matter is minimum wage has been brought to this floor seven times since 1938, and six out of those seven times it was brought under an absolutely completely open rule, and the seventh time any amendments with regard to the substance of the bill itself were permitted to be made in order with no restrictions at all. It is not a defense authorization. It has been widely discussed. The leadership on that side of the aisle has contacted the leadership on this side of the aisle to try to ask whether the amendments, what one or two amendments would they be interested in. I think the House ought to be allowed to work its will. I appreciate the gentleman for his time.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I thank the distinguished Republican leader for yielding.

I wonder if the distinguished majority leader could help me with respect to H.R. 4481, generally known as the base-closing bill that was earlier simultaneously referred to three committees, and at the time that we had that, we had a dialog with the distinguished chairman of the Committee on Armed Services in which he related that it was the intention of, and the assurance, the leadership to bring that bill to the floor for a separate vote prior to the end of the conference on DOD.

I understand now that in the last couple of days there has been a reiteration of that, with the end of this month as the deadline.

I wondered, could the gentleman help me understand when we might expect that bill and if he will also bear with me, I have not experienced simultaneous referral before. I am not quite sure how that would work.

Mr. FOLEY. Mr. Speaker, I assure the gentleman we do intend to consider the legislation. I do not know exactly what schedule to tell the gentleman to expect at this time, but we will do it, we hope, by July 4.

Mr. ARMEY. Mr. Speaker, it was my understanding that the agreement between the majority leader and the distinguished whip was that it would be done prior to the first of the month. Is that a correct understanding? I am not sure I heard what the gentleman said.

Mr. FOLEY. That is our hope. I will meet any commitment I have made, but I do not understand that I have made an absolute commitment to schedule it before the end of the month. We will try to do it as promptly as possible, and we will try to bring it to the floor, if we can, before the July 4 recess, but I cannot give the gentleman an exact time today.

We intend to schedule the bill for consideration, and I will assure the gentleman it is not an attempt to put it off or to avoid scheduling. We do feel we have an undertaking to bring the bill forward for consideration in the House, and we will do that. I cannot give him a precise date.

Mr. ARMEY. As we had the arrangement earlier in the year, at the time it was withdrawn as amendment to the DOD bill, it was, I think, clearly understood by all parties that it was important that it be brought to the floor prior to the end of the conference committee on the DOD, or the Armed Services authorization bill, and obviously as we move forward now, we worry about the closure of that conference.

Could the gentleman give me any assurance that we would have it on the floor prior to the completion of that conference?

Mr. FOLEY. Mr. Speaker, I cannot do that, because I do not know when the conference is going to end. I can tell the gentleman that the conference could come to an end very quickly, and I cannot assure the gentleman that I could make a schedule consideration for the base-closing bill prior to the conference concluding, but we will discuss it with the gentleman and with the leadership on your side and with the leadership in both parties on the committee and on the conference. We will try to schedule it at an early date. I just do not have the ability to tell the gentleman exactly when that will be. I assure him again we are not trying to avoid an undertaking to bring the bill up; we are attempting to give priority to appropriation bills, and it was the understanding of both the leadership on this side and the gentleman's side that we would try to avoid a continuing resolution this year, and as the appropriation bills are ready for floor action, we are giving priority to their consideration. That is the bulk of the business for next week as it was for this week. We are going to try to accommodate the gentleman if we can. I cannot give him a precise date or assure him that if the conference ends by the end of this week or next week that we will have the bill concluded by that time.

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to the gentleman from Virginia.

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Mr. PARRIS. Mr. Speaker, I thank the gentleman for yielding.

The appropriation bill for the National's Capital was tentatively set for later this afternoon had we completed the business of the House in a timely way, and apparently was then later removed. I just want to ask the majority leader, has there been consideration as to when that might again be the subject of consideration?

Mr. FOLEY. We have not received a request from the chairman of the committee, the gentleman from Mississippi [Mr. WHITTEN] or the subcommittee chairman for rescheduling yet. We will advise the gentleman and other Members as soon as we do know.

We are giving priority to these appropriation bills, as I just said, so it will be in the near future.

Mr. PARRIS. That is my question. The majority leader mentioned the fact that if the DOD bill on Wednesday did not utilize all of the time of the House, other matters might be considered. I was wondering if the gentleman had that D.C. appropriation bill, which is after all one of the 13, in mind?

Mr. FOLEY. If the chairman of the full Committee on Appropriations and the subcommittee chairman ask us to bring the bill up after consideration of DOD, we will give great weight to that request. But I cannot assure the gentleman that is going to happen.

The appropriation bills have priority of consideration. We are anxious to finish them all. I know the gentleman has a major amendment to the D.C. appropriation bill, and we will try to give him as much notice as possible with respect to the schedule.

Mr. PARRIS. I thank the gentleman.

ADJOURNMENT TO MONDAY, JUNE 20, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 a.m. on Monday, June 20, 1988.

The **SPEAKER** pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR THE SPEAKER TO DECLARE RECESSES ON MONDAY, JUNE 20, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses, subject to the call of the Chair, on Monday, June 20, 1988, for the purpose of receiving in this Chamber former Members of Congress.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR THE SPEAKER TO DECLARE RECESSES ON THURSDAY, JUNE 23, 1988, FOR PURPOSE OF RECEIVING IN JOINT MEETING THE PRIME MINISTER OF AUSTRALIA

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Thursday, June 23, 1988, for the Speaker to declare recesses, subject to the call of the Chair, for the purpose of receiving in joint meeting the Prime Minister of Australia.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERSONAL EXPLANATION

Ms. SLAUGHTER of New York. Mr. Speaker, I was unavoidably detained with a constituent during the vote on H.R. 190.

Had I been present I would have voted "aye."

VIRGINIA WINES: A GROWING TRADITION

(Mr. SLAUGHTER of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLAUGHTER of Virginia. Mr. Speaker, Virginia now ranks fourth nationwide in total farm and commercial wine production.

Virginia wines have been a growing tradition since 1607 when the Jamestown settlers first fermented native American grapes. However, it was Thomas Jefferson, Virginia's original wine pioneer, whose travels as Ambassador to France led him to recognize the similarity of Virginia's soil and climate to the great winegrowing regions of Europe.

Jefferson's dream of Virginia emerging as a premium wine State has become an exciting reality in the past decade. Today there are over 40 farm and 130 commercial wineries with an annual production of over 2.9 million gallons. Virginia's wines have won medals in recent international competitions and are now served in leading restaurants and on international air carriers.

Later this month, on June 25 and 26, the annual Virginia Wineries Festival will be held in Front Royal, VA. Over 20,000 people are expected to celebrate Virginia's wine growing tradition. On behalf of the festival, I invite all of my colleagues to join in the festivities.

DESIGNATING PRATT RIVER IN STATE OF WASHINGTON AS WILD AND SCENIC RIVER

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of Washington. Mr. Speaker, I rise today to introduce a bill that will protect a national treasure located in the State of Washington. Along with my colleague, Mr. LOWRY of Washington, I am introducing H.R. 4839, a bill to designate the Pratt River in the State of Washington as a wild and scenic river.

Imagine a pristine river in a roadless valley protected by 5,000-foot ridges. The valley is home to elk, deer, mountain goat, and beavers while the river hosts a healthy population of cutthroat trout. Wildlife flourish in this valley free from any roads and accessible only by hiking trail. Imagine that the river exists as it did hundreds of years ago when it was the hub of an Indian tribe's homeland.

Finally, and most importantly, imagine that this river is within commuting distance from a metropolitan county with a population of nearly 1.4 million people.

This river exists right now in Washington State. But the Pratt River is also threatened. Threatened by planned logging operations and a proposed small hydroelectric dam. If nothing is done the Pratt River and valley will be lost to diversion dams, logging trucks, clear cuts, and access roads.

Completely within the boundaries of the Mount Baker-Snoqualmie National Forest, the Pratt is the longest lowest low elevation river eligible for wild river status in the national forest. The river flows through the valley floor beneath Preacher Mountain and Russian Butte, each over 5,000 feet tall. The valley is free from the disfiguring scars of clear cutting that are so common to this national forest.

The banks of the Pratt are lined with magnificent stands of old growth forest. Cedar trees, with diameters of over 12 feet, and Douglas firs with diameters exceeding 8 feet can still be found, including what is believed to be the largest Douglas firs still standing in King County with circumferences of almost 30 feet.

Cutthroat trout thrive in the Pratt, making it a popular spot for anglers. Further up river, beavers make their home, producing picturesque ponds and pools behind the dams.

Chased by logging from other areas, a wide variety of rare and common owls, woodpeckers, hawks, and other birds have found refuge in low level old growth forests surrounding the Pratt. Spotted owls in particular require old growth forest habitat to live and breed. The low level old growth surrounding the Pratt River is an oasis amongst the heavily logged forests of the Mount Baker-Snoqualmie National Forest for many species of birds.

Tribal elders of the Snoqualmie Indian Tribe have long supported protection of the Pratt River. The river and valley hold special spiritual significance for the tribe, whose ancestors saw much the same view that is available today.

The Forest Service has plans to log the Pratt in the near future. I can understand the Forest Service's dilemma. Faced with an environmentally unrealistic cut level, mandated by congress, the Forest Service is forced to log areas that would normally be left alone. Cost estimates for removing the Pratt's timber suggests a disaster in the making.

I wish that all of you could visit the Pratt River and see for yourselves how stunningly beautiful it is. Walk beneath the ancient trees, happen upon a herd of grazing elk, or fish for trout in the clear pools. There can be no doubt that the Pratt River and valley are truly a national treasure.

H.R. 4834 will designate the Pratt as "wild" under the Wild and Scenic Rivers Act. This designation will prevent any hydroelectric development from taking place and establish a quarter mile protective corridor from the river's banks. The old-growth stands will be saved from the cut that is now planned. In addition, H.R. 4839 specifically mandates the Forest Service to manage the pratt to preserve the rustic recreational opportunities, unique wildlife population, and old growth forest.

H.R. 4839 gives us a unique chance to preserve a wilderness in much the same condition as it existed thousands of years ago. The Pratt River is like no other. Free from any impoundments, inaccessible except by trail, primitive recreational opportunities all framed in a virgin valley and within commuting distance from a major metropolitan area.

OMNIBUS TRADE BILL AND COMPETITIVENESS ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr ROSTENKOWSKI. Mr. Speaker, today I am introducing H.R. 4848, the Omnibus Trade and Competitiveness Act of 1988. This bill makes two changes to the omnibus trade bill that has been overwhelmingly approved by both Houses of Congress. Those changes are the deletion of the plant closing provision and the deletion of the Alaskan oil provision. In addition, a new section has been added to the bill that treats the legislative history of H.R. 3 as the legislative history of this bill. This new section is very important because it is expected that this bill will not be referred to committees and consequently we will not have committee reports. Nor do we expect to have a conference report on this bill.

The President's misguided veto of the original trade legislation has presented us with a difficult choice. We can give up this effort to improve our trade laws and try again in the next Congress, or we can enact the trade bill and pursue the plant closing provision in separate legislation. I believe the wiser course is to pass this trade bill now, while continuing to press for separate plant closing legislation. We need this trade bill. It is the result of a 3 year, bipartisan effort to strenghthen our trade laws and I am convinced that we will never have a better legislative product than this bill.

I understand and share the frustration of the supporters of the plant closing provision. Although the bill still contains needed protections for working men and women, including substantial improvements in the Trade Adjustment Assistance Program, the plant closing provision is so fundamentally fair and decent that failure to enact it this year is hard to accept. Unfortunately, the President's position makes its enactment uncertain.

The American people, and a substantial majority of their Representatives in the House and Senate, want the trade bill and the plant closing legislation to become the law. The President says he doesn't want both and he has demonstrated that he has the votes in the Senate to support his position. I want to send him this trade bill, which I am sure he will sign into law, as expeditiously as possible. I will also support sending him a new plant closing bill in the hope that he now recognizes the importance of this issue and will sign that legislation as well. If he does not, I am confident that the next Congress will make this legislation a top priority and that the next President will sign such a bill.

REFORM NEEDED IN PRESIDENTIAL NOMINATING PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Speaker, just last week, as we completed Presidential primary cycle, the Senate Rules Committee held hearings on reform of the nominating process. Witnesses testified before the committee in support of changes to the present chaotic way we nominate candidates for President of the United States.

Earlier this year, I introduced legislation aimed at bringing a measure of order to the nominating process. My bill, H.R. 4004, would create a system of 10 regional primaries to be held in pairs at 4-week intervals from February to June in Presidential election years. This would allow candidates to concentrate on the States in two areas at monthly intervals, instead of running all over the country in a frantic effort to meet primary and caucus schedules set by competing State legislatures.

The legislation would set five dates on which Presidential primaries or caucuses could be held, beginning with the first Tuesday in February of an election year and continuing at 4-week intervals into June. It would divide the country into 10 regions, and 2 regions chosen at random would be allowed to hold primaries or caucuses on each of the 5 dates.

The dates would be chosen by lot by the Federal Election Commission. The bill provides that the two regions chosen for each date would not be adjoining, to the extent possible, to assure geographic diversity in the nominating process. The States would decide, with the respective national and State party committees, whether to have a primary or caucus or to choose their national convention delegates in some other way on the designated dates.

The way this Nation nominates its Presidential candidates has evolved during two centuries of democracy. Presidential preference primaries and grassroots caucuses have assumed a major role in the selection process. This has contributed to the popular nomination of our Presidential candidates, corresponding with the popular election of the electoral college, which essentially rubber stamps the results of the vote in the election.

The chaotic element comes from the competition between the various States for the honor, the political influence and the business benefits of having early primaries, which extend the primary cycle and exhaust the candidates.

The local caucus system increases the strain on candidates, since it puts a premium on special interest activities who turn out for the caucuses and lay claim to bits of the candidates political soul. The result can be the nomination of a candidate who is fatigued from running all over the country to campaign in widely scattered primary or caucus States. And during that marathon trek, the candidates has likely been forced to take positions that prevent him or her from offering mainstream leadership to the American people.

This year, the March 8 Super Tuesday primaries involved more than 20 States, in an attempt to rationalize the nominating system. But it is inevitably taking our Nation country in the direction of a single national primary, which would be enormously costly and demanding for the candidates.

We need a major change in the way we choose our chief executive—to move from the entangling Presidential primary and caucus system of recent elections to an orderly system of regional Presidential primaries.

THIRD WORLD DEBT SHOULD BE A MAJOR TOPIC AT TORONTO SUMMIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LaFalce] is recognized for 5 minutes.

Mr. LaFALCE. Mr. Speaker, for the past 6 years, I have been closely involved in the issue of Third World debt. I consistently supported the administration and, specifically, the Treasury Department in their efforts to deal with this crisis. In 1985, when Secretary Baker announced his three-pronged strategy aimed at encouraging growth, I once again offered my whole-hearted support.

We now have the benefit of hindsight. Nearly three years after the Secretary's speech in Seoul, the situation has shown very little improvement. Administration rhetoric aside, debtor countries are not growing their way out of the debt problem. Instead, they have had to endure a reverse net transfer of resources amounting to some $30 billion a year. in other words, underdeveloped countries are transferring to developed countries about $30 billion more than they are receiving. This is unconscionable and unsustainable.

Standards of living continue to fall or stagnate in most debtor countries, debt servicing ratios are not improving, and if interest rates bump up, we could be faced with imminent disaster.

The solution is not to continue to muddle through hoping that somehow voluntary commercial lending will resume and resolve the problem. The current situation demands a concerted effort on the part of the major industrialized countries to find ways to reduce the total stock of Third World debt.

Our European allies have recently announced their intention to forgive some loans to the world's poorest countries in order to ease the enormous burden of debtor nations. These proposals put forth by the French and the Germans would primarily help to relieve the debt obligations of sub-Saharan African countries. It is especially encouraging to note that these proposals are likely to be discussed at the upcoming Economic Summit in Toronto.

I was pleased to learn of Secretary Baker's comments at the recent annual meeting of the African Development Bank. In those comments, he outlined that the United States was no longer going to stand in the way of interest rate relief or debt forgiveness offered by other governments in the case of the poorest African countries. However, the administration remains instransigent on the real issues related to Third World debt. As Secretary Baker admitted in his testimony before the House Banking Committee yesterday, "more still needs to be done" to alleviate this problem. He claims he remains open to various debt reduction schemes as long as they are voluntary. But the so-called flexibility of the Baker plan has yet to be demonstrated.

The Reagan administration has a rare and final opportunity to show its commitment to resolving this crisis. By including the much greater problem of debts owed by the larger Latin American countries on the agenda of the Economic Summit, Secretary Baker would truly be confronting this problem. Many of our allies hoped that by placing the issue of debt relief for the poorest African nations on the Toronto agenda, we could begin to address the new approaches being developed to reduce Third World debt.

One such approach worthy of serious consideration is that outlined by James Robinson, chairman of American Express. Mr. Robinson, like many in the business community, has recognized that it is in our own best interest to find imaginative new solutions to the problem of debt. The prospects for improving U.S. trade with Latin America are dim unless the debt service obligations of these countries are significantly reduced.

I would strongly urge President Reagan and Secretary Baker to raise the issue of Third World debt at the next week's summit. By continuing to dig in its heels, the administration only perpetuates this crisis, and ultimately could precipitate an even more devastating disaster.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MacKay] is recognized for 5 minutes.

Mr. MacKAY. Mr. Speaker, due to a previous commitment I missed several votes. Had I been able to vote, I would have voted for the motion to rise and for H.R. 4784 on final passage.

I appreciate having this opportunity to state my position on these measures.

ORDER OF BUSINESS

Mr. LEVINE of California. Mr. Speaker, I ask unanimous consent that my special order precede the special order of the gentleman from Texas [Mr. Gonzalez] today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

UNITED STATES-JAPAN SEMICONDUCTOR AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Levine] is recognized for 60 minutes.

Mr. LEVINE of California. Mr. Speaker, I thank very much the gentleman from Texas [Mr. Gonzalez] for his graciousness in yielding to my special order.

Mr. Speaker, this special order today that I have called pertains to the Japanese noncompliance with market access provisions of the United States-Japan semiconductor agreement, and I called this special order at this time to bring this matter to the attention of my colleagues just before the President begins to engage in the economic summit meetings that he will be having next week.

Mr. Speaker, I come to the House floor raising this issue from a background of generally opposing what had been labeled protectionist amendments and provisions of legislation that have come before this body in the three terms in which I have served here in the House. Members who are familiar with my own voting record and my own attitudes and views with regard to issues that have been I think oversimplified in terms of being labeled between free trade and protectionism will see that my votes fall very much on the so-called free trade side of that spectrum. And I have consistently resisted and opposed a variety of efforts to move toward a much more restrictive and protectionist trade regime.

It is with that background in mind, Mr. Speaker, that I felt that it was extremely important and timely to raise to the membership and those who might be interested some of the background and history that has led to the exasperation that a number of us feel with regard to the Japanese performance within the provisions of the United States-Japan semiconductor agreement.

One of the most important economic issues facing our Nation today I think we all agree is the trade deficit. With Japan alone our deficit was in excess of $60 billion in 1987. A central part of the solution to that trade deficit problem between our country and Japan must be increased penetration of the Japanese market for manufactured American goods.

The United States-Japan semiconductor agreement, which is now nearly 2 years old, offers the promise of achieving a significant increase in United States semiconductor exports to Japan. To enforce a solemn international agreement, to review the competitive disadvantage of American industry, and to reduce our bilateral trade deficit with Japan, the United States, I believe, must remain firm and resolute in its resolve to achieve access to the Japanese market.

Let me review a little bit of the history leading up to this agreement which will help to underscore the frustration that many of us feel with regard to what has recently transpired within its context. Since the 1960's, the United States semiconductor industry has been limited to about a 10-percent market share in Japan. In the beginning, U.S. sales were excluded through quotas, high tariffs, and investment restriction. As these barriers were gradually removed under United States pressure, they were replaced not by the same type of overt, clear barriers, such as those that I just mentioned, but by less transparent but nevertheless effective barriers to penetration of the Japanese market.

In 1983, after 2 years of negotiations, the United States thought that it had obtained full market access with the signing of the United States-Japan semiconductor recommendations. Yet still there was no improvement in United States access to the Japanese market.

Finally, 2 years later, in 1985, the Semiconductor Industry Association filed a formal section 301 trade case against Japan for the denial of market access. This trade case was later suspended in July 1986 with the initialing of the United States-Japan semiconductor agreement.

In that semiconductor agreement, the Japanese Government committed to providing a "gradual and steady" increase in foreign participation in the Japanese semiconductor market. Those were the explicit terms of the agreement, and I quote and underscore "gradual and steady, gradual and steady increase."

The Government of Japan also recognized under that agreement the United States industry expectation that foreign share of the Japanese semiconductor market would rise to over 20 percent by the year 1991 as a result of the agreement. The semiconductor agreement was formally signed by Japanese Ambassador Matsunaga and United States Trade Representative Yeutter on September 2, 1986. Once again, the Japanese acted as if the conclusion of the semiconductor agreement then became the end of the matter. Foreign share of the Japanese market did not increase at all, despite the agreements that were entered into on September 2, 1986.

But this time there was a difference. The United States Government, with the full bipartisan support of the United States Congress, decided finally to take action, to obtain compensation for violation of its agreement with Japan. It was an appropriate action, and it was action that was taken only after a great deal of patience and a great deal of history.

On April 17, 1987, sanctions appropriately were imposed on Japan in the form of an additional 100-percent tariff on $300 million of imports from Japan and $165 million of these sanctions were for violation of the market access portions of the agreement. Let me again emphasize, Mr. Speaker, as I did at the beginning of my remarks, a number of us who supported these sanctions have historically and traditionally resisted any type of legislative action to force these types of compliance, but after decades of exasperation, frustration, and downright resistance, the Congress concluded that they had no option on April 17, 1987, other than to impose these sanctions.

Consideration and implementation of the sanctions did produce a temporary improvement in the United States share of the Japanese semiconductor market.

□ 1440

But the improvement proved to be short lived. The U.S. market share stabilized at about 10 percent and by the first quarter of this year had actually declined to 9.7 percent.

Now let me mention, Mr. Speaker, that without access to the Japanese market, other initiatives to promote competitiveness of the United States semiconductor industry will essentially be undermined and undercut.

Semitech, for instance, who intended to restore United States leadership in semiconductor manufacturing technology, without full access to the Japanese semiconductor market, the world's largest semiconductor market, United States companies will not be able to obtain the same manufacturing scale as their Japanese competitors which would effectively reduce the effectiveness of the Semitech Program.

Furthermore, Mr. Speaker, to position themselves to take advantage of the semiconductor agreement, the American companies have made extraordinary efforts in the Japanese market. They have not simply assumed that the Japanese market should be available without taking the kind of steps and the kind of strides that would be expected of them to be taken. And these efforts include, for example, expending $1.9 billion in 1987 alone and $2.7 billion thus far in 1988 in capital expenditures to increase production capacity; operating 18 design centers, 27 test and quality assurance centers, and 46 sales offices throughout Japan and substantially increasing sales and technical support personnel in Japan.

The rapidly increasing list of quality awards and preferred vendor awards given to American companies by their Japanese customers also provides evidence that American companies are very competitive in the Japanese market if they are simply allowed to be.

U.S. companies have won some 33 of these awards and they have won 13 of them since the semiconductor agreement was signed. Yet we see that market shares does not increase.

Government-to-government and industry-to-industry talks have not led to any improvement in the situation. In fact, Mr. Speaker, industry-to-indusry talks in Tokyo broke down earlier this month when the Japanese side refused to recognize that the objective of the talks was to increase foreign participation in the Japanese market.

The Japanese side refused to ratify language that include a statement that demonstrated that the two sides were working on a agreement "leading to increase foreign market share in Japan," the essence of the objective. And even that language was proposed by the American side to be modified by saying that the Japanese side considers that this can be realized and would welcome this realization and shares this expectation. And then modifying language that says "The attainment of such an expectation depends upon competitive factors including the sales efforts of foreign semiconductor producers and the purchasing efforts of semiconductor users in Japan." Even with that modification, simple expectation language that this agreement would lead to "increased foreign market share in Japan" caused the breakdown of talks 2 years after an agreement has in fact been executed.

Mr. Speaker, my colleague, the gentleman from Washington [Mr. MILLER], and I have recently circulated a letter to a number of our colleagues in the House that we will be sending to President Reagan tomorrow as he embarks upon the economic summit in Toronto next week. In the context of this letter, Mr. MILLER and I are bringing to the attention of a number of our colleagues this specific situation and urging the President to hang tough on these negotiations and on this issue in his economic summit in Toronto when he meets with Prime Minister Takeshita.

It is unbelievable at this point that there could be any doubt whatsoever about the objective of market access efforts. It is were not fully clear to Japan in 1970, 18 years ago, what the point of the United States semiconductor market access effort was, it should have been clear by the 1983 semiconductor recommendations, 5 years ago, and it certainly should have been crystal clear in the context of the SIA trade case and the semiconductor agreement of 2 years ago.

Now there are rumors, Mr. Speaker, that at the economic summit Prime Minister Takeshita may ask President Reagan to remove the market access sanctions against Japan as if the sanctions were the issue. No; Mr. Prime

Minister, the sanctions are not the issue here. The issue is Japanese compliance with an agreement between Japan and the United States; that is the issue.

That should be very clear, that is the issue.

President Regan put it very well at the time he imposed the sanctions when he said:

> We will eliminate these as soon as we have firm and continuing evidence that the dumping in Third World country markets has stopped and access to the Japanese market has improved.

Thus far, there is no firm or continuing evidence that access to the Japanese market has improved and, unfortunately, the evidence not only points in the opposite direction, the situation is getting worse. And that specific language caused the breakdown of the talks just last month.

So, Mr. Speaker, I am here to urge that the President make clear to Prime Minister Takeshita that the burden of removing the market access sanctions rests firmly on Japan.

I also urge the President to request an explanation of continued Japanese noncompliance with the semiconductor agreement.

We must succeed, Mr. Speaker, in obtaining access to the Japanese market and the semiconductor situation offers an excellent test case. This should be the highest priority trade issue for our Government and it should be a major subject of discussion at the economic summit.

Mr. Speaker, I see my colleague from the State of Washington here on the floor and I would be delighted to yield to Mr. MILLER who has coauthored with me the letter that I recently referred to that we will be circulating and sending tomorrow to the President.

I am delighted to yield to the distinguished gentleman from Washington.

Mr. MILLER of Washington. I thank my distinguished colleague from California who has played such an important leadership role on this particular issue as well as many other issues in the international trade arena.

As my colleague, I believe, has already stated, this is an issue that we believe President Reagan should take up directly with Prime Minister Takeshita at next week's economic summit in Toronto.

As we think back to when the sanctions were first imposed, it was clearly stated by our Nation and by the President at that time that those sanctions would say in effect until there was an end to, one, dumping, and until there was a steady increase in access to the Japanese market. And the fact is that despite all the talk over the last several months that increase in access to the Japanese market for our semiconductors has not taken place.

Just a few weeks ago, leaders of our semiconductor industry tried once again to bring that increase in access about in negotiations in Japan, which were unsuccessful.

I think it is important in this sort of situation to understand that this is not a case of an industry trying to blame its own problems or inadequacies on another nation. The proof that the access to Japanese market, which is under 10 percent, the proof that the access reflects unfair barriers is shown by the fact that when our semiconductor industry competes again the Japanese semiconductor industry with the same rules on a neutral playing field, such as the European Common Market, we outsell the Japanese by a substantial margin. It is not even close.

When you look at that situation I think it becomes clear that, yes, Japan, despite the repeal of certain legal restrictions, still retains those informal restrictions which are so aggravating and annoying to our own semiconductor industry.

I had the privilege of visiting my distinguished colleague's State a couple of weeks ago and visiting some of the companies involved in the semiconductor industry and talking with some of the officials, including some who have been involved in the recent negotiations in Japan and I was impressed with the tremendous progressive, aggressive positive attitudes that I saw and heard toward expanding our trade and toward remaining competitive in this important industry. And it is for that reason, among others, that I am just so delighted to join my colleague, Congressman LEVINE, on this special order.

I yield back the floor to my colleague from California.

Mr. LEVINE of California. I thank the gentleman for his remarks with which I share complete agreement.

I would like to mention to the gentleman that I understand the dean of the California delegation, Mr. EDWARDS, is en route to make a couple of comments in the context of this special order. But as we are awaiting his arrival perhaps I might be able to engage the gentleman in a colloquy with regard to several of these issues.

The gentleman serves with great distinction on the Subcommittee on International Economic Policy and Trade and I have had the privilege of working with him on that subcommittee of the Congress and I had the privilege of working with him on a variety of trade-related issues.

The gentleman and I share a philosophy on these issues, that people ought to work from a level playing field and that barriers should be reduced, not increased. The gentleman and I have worked together in a bipartisan manner in terms of trying to see barriers reduced rather than increased.

I would like to ask the gentleman, just based upon his experience now, as a Member of this legislative body, of the Committee on Foreign Affairs Trade Subcommittee, what his view is of the likelihood that we will continue to be able to keep pressures from becoming overwhelming, to respond in kind to the type of restrictions that we see being placed upon this industry; to what extent will our trade legislation be forced to pursue some of these approaches that we have both resisted over the years if the Japanese in this instance and others in similar instances do not act with greater sensitivity toward issues such as these?

Mr. MILLER of Washington. I thank my colleague for yielding.

I think the gentleman raises a very good point. We work hard together to try to prevent the erection of protectionist trade barriers. Both of us share a philosophy that the answer to our trade problems was more trade, not less, and that, therefore, the way to address the issue was to encourage our own exporters to be competitive, to pare back our own bureaucratic export controls, to open foreign markets. That has been our thrust.

I know the gentleman shares my views that any support of response to a specific action should be very carefully taken and it was only after a lot of thought that we supported the action that the President took in imposing sanctions. We hoped that it would lead to more trade, not less. We still hope so.

That is why in our letter we are asking the President to bring this issue up directly with the Prime Minister of Japan. Let us see if we can get the sort of trading relationship where we encourage both countries to export and to export their best products. And some of our best products are in the semiconductor industry.

I yield back to my colleague from California. I believe there are other distinguished colleagues who have come to join us here.

Mr. LEVINE of California. Again, I want to thank very much my friend and colleague from the State of Washington and compliment him on his leadership on this and other related issues in the Congress and thank him for his compelling remarks today.

□ 1455

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. LEVINE of California. Yes, I yield. Mr. Speaker, I am delighted to yield to the very distinguished dean of my delegation, and I welcome him to the floor to participate in this special order.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from California [Mr. Levine] for yielding.

Mr. Speaker, the gentleman from California has provided magnificant leadership in the area of world trade and was a part of the negotiating team that last year was able to work out the agreement with Japan with regard to semiconductors. We had really great hopes for its success last year. We had commitments from the Japanese Government that they would play fair, and that they were for free trade in semiconductor chips as we were.

Senators Cranston and Pete Wilson along with the gentleman from Florida, Mr. Sam Gibbons, and a number of others, all worked on this, and the gentleman from California, Mr. Levine, was, of course, the leader in this effort. We thought we had it made. We thought we were going to have free trade on semiconductor chips, which is an area where we can freely compete with anybody in the whole world. It is a terribly, terribly important part of American industry.

So I compliment the gentleman from California [Mr. Levine] for leading this special order today. The well-being of the United States industrial process is largely dependent in so many ways on the good health of the semiconductor industry. We view with great alarm the breakdown that we hear about of the semiconductor trade agreements between Japan and the United States.

The agreement was reached over a year ago, in September 1986, and we considered it and the world considered it a landmark agreement. Integral to that agreement was the opening of the Japanese semiconductor chip market to United States semiconductor chip companies, with a gradual and steady increase in American access to the Japanese semiconductor chip market.

It is almost impossible to have a one-way street, Mr. Speaker, where the Japanese sell to us in the traditional American free trade atmosphere, and then, when we try to sell our chips, which are competitive with any in the world, to them, somehow or other roadblocks are thrown in the way.

I regret very much that the talks collapsed earlier this month, and that we have been unable to date to work out the problems on this market access issue. Certainly now, and especially in the long run, it is in the best interests of both the United States and Japan to approve our countries' trade relations. We are the world's best friends of Japan, and they are our best friends. We are the best friends they have, and to have something like this happen is devastating not only to world trade but to our day-to-day relations. Where would we be without Japan, and where would Japan be without the United States?

The United States has lived up to its part of the bargain that was struck with Japan in this agreement, and it is imperative—and we want this message to get to Tokyo—that they live up to their part of the bargain. It is depressing that we have to come here and talk about this, but I congratulate the gentleman from California and thank him for taking this important time to bring this subject to the attention of the Congress and the American people. I compliment him, and I join him in his concern and in his efforts to help resolve this difficult problem.

Mr. LEVINE of California. Mr. Speaker, I thank the gentleman very much for his generosity and his kind words, and I thank him also for his very, very able leadership in this area and in so many others on which we in our delegation are honored to work with him. I am very grateful to him for his participation in this special order. I know this is an issue of very great importance to him and to his constituents.

Mr. STALLINGS. Mr. Speaker, will the gentleman yield?

Mr. LEVINE of California. I am very pleased, Mr. Speaker, to yield to the distinguished gentleman from the State of Idaho who has been very much involved in this issue and who is here to join us in offering his remarks on this subject.

Mr. STALLINGS. Mr. Speaker, I congratulate the gentleman from California for reserving this time to discuss the collapse of industry talks on semiconductor trade between the United States and Japan. Over the years I have been especially interested in this issue and, as the Representative in Congress of Boise-based Micron Technology, Inc., one of the last remaining United States competitors in the volume DRAM business, I have seen firsthand the devastating effects Japanese trade practices have had on our domestic industry.

The problems experienced by U.S. semiconductor manufacturers are not accidental. In the mid-1970's, the Japanese Government decided that computers and information services were the kind of industries that Japan wanted to dominate and that entry into the industry would be through volume production of semiconductors and other components. The initial program included Government-sponsored research and development programs, low-interest loans, export assistance, and effectively closing Japanese markets to foreign competition. More recently, Japanese manufacturers engaged in deliberate overproduction, excess exporting, price undercutting, and the dumping of product at less than the cost of production.

The result of this sustained and calculated program: the Japanese now control up to 90 percent of the world market.

In June 1985, because of persistent sales of 64K DRAM chips below costs, Micron Technology filed the first antidumping case in the International Trade Commission and the Department of Commerce. Although skeptics abounded, Micron prevailed at every stage of the proceedings, resulting in an effective antidumping petition. After commencement of the Micron petition, the President's Task Force on Trade became involved, and as a result, the Department of Commerce self-intitiated an antidumping petition for DRAM's above 256K.

Under tremendous pressure, the Japanese entered into the Semiconductor Trade Agreement on July 31, 1986. This agreement promised that there be: First, an end to Japanese dumping in United States markets; second, an end to Japanese dumping in foreign markets; and third, access for United States products in Japanese markets. Unfortunately, for a period after the agreement was signed, the Japanese completely ignored its strictures. In response, the Reagan administration imposed sanctions on a limited class of Japanese electronics imports. At the time, while I supported the President's actions, I urged that the sanctions be broadened to include direct punitive action against Japanese semiconductor imports. Such a tough measure would have fairly addressed the devastating damage done to U.S. producers and to recoup market shares lost by illegal dumping.

Nonetheless, since the sanctions were imposed, the Japanese have generally adhered to the first two requirements under the semiconductor agreement—that is, those relating to the dumping of Japanese products in foreign markets.

Critically important, however, Japan is still not complying with it commitments to open up its domestic market. Under the terms of the agreement, the United States share of the Japanese market should be increasing gradually to over 20 percent by 1991. In 1988, the market share should be about 13 percent and increasing. In reality, the U.S. market share is only 9.7 percent and actually declining. Clearly, something is amiss. Equally clear, something must be done about it.

We cannot sit idly by while Japan continues to violate the bilateral agreement. We must enforce our trade agreements and be prepared to take strong meassures to induce the Japanese to abide by the agreements it negotiates and signs.

What do I suggest. First, the industry talks should be reconstructed. Such talks will provide the forum in which real progress can be made to open access to Japanese markets. Second, the President should raise this issue directly to Prime Minister Takeshita during the upcoming economic summit. Without question, the United States should reject categorically any suggestion that the present sanctions be relaxed or removed. Finally, Mr. Speaker, if the Japanese remain obstinate. I strongly urge the President to expand existing sanctions to include those penalties I recommended earlier: direct punitive action against Japanese semiconductor imports.

By making the agreement work, we can increase United States exports to Japan to by $5 billion and reduce our staggering $60 billion bilateral trade deficit. Without access to the Japanese market, other initiatives to promote the competitiveness of the United States industry, such as Sematech, will be undermined.

In sum, Mr. Speaker, I support free trade. And I am confident that U.S. producers can compete in that environment. But they cannot take on the entire Japanese Government committed to a conspiracy designed to dominate the world semiconductor market. It is time to let the Japanese know that we have had enough.

□ 1505

Mr. LEVINE of California. Mr. Speaker, I very much appreciate the cogent and thoughtful remarks of the gentleman from Idaho [Mr. STALLINGS] and the leadership that he has shown on this extremely important issue, and I thank the gentleman for his participation in this special order.

Mr. Speaker, it is my understanding that the distinguished gentleman from California [Mr. MINETA] is en route to this special order, and while we are awaiting his arrival, perhaps I might be able to engage the gentleman from California [Mr. EDWARDS], my friend and the dean of the delegation, in a colloquy with regard to the issues that we are discussing here today.

Mr. Speaker, I would ask the gentleman in particular the following:

So that the record will be clear, when I am addressing this question to the dean of our delegation, I am addressing it to as able of a lawyer as there is in this body, a person who has a reputation and a record of a fine, solid, thoughtful, disciplined legal mind who has been involved in a variety of legal and constitutional issues through the committee that he chairs and the subcommittee in which he chairs and the work that he has done over the years in the Committee on the Judiciary.

I would ask the gentleman as a lawyer and as somebody who has been involved in a variety of negotiations himself, somebody who is very familar with these issues and with this industry, if there could be any doubt in his mind that the Japanese perhaps misunderstood that the 1986 agreement was an agreement designed to expand market share in Japan.

When the language of the agreement that I quoted in my remarks referred to a steady and gradual, I believe, was the language increase, and I will find the specific three words, but it specifically referred to an increase in market share, and this is an issue that we have been discussing with the Japanese now since the 1960's in one form after another, and the Japanese now pull back from a negotiation claiming that the language that was presented to them referring explicitly to market share is something that they cannot live with.

Does the gentleman from California believe that in any way the Japanese perhaps might be surprised that this was so central to the expectations and assumptions behind this agreement that we would be seeking a specific increase in market share from the Japanese?

Mr. EDWARDS of California. Mr. Speaker, in response to the gentleman from California's [Mr. LEVINE] question, I assure him, as he well knows because he was an important part of the negotiations with the Japanese and with Clayton Yeutter, our Trade Representative, that there is no question but that both sides understood exactly what we were talking about. There was meeting after meeting, not only here, but in Japan as well, and the contract, and that is what it is, Mr. Speaker; it is a contract between two honorable countries, and the contract was very clear.

We, the United States, agreed to certain conditions. We were not asking that the contract be one way. What the United States chipmakers agreed to was that we would also, our people would also, make substantial investments and increase our investments in Japan in order to serve the Japanese electronics market.

For example, Mr. Speaker, our chipmakers, and many of them are, yes, located in Silicon Valley that is represented by the gentleman from California [Mr. MINETA] and of course in southern California to a great extent by the gentleman from California [Mr. LEVINE]. But there are a lot of chipmakers with great talent in Idaho and other States, too.

But, Mr. Speaker, we agreed with them that our chipmakers would increase our commitment in Japan by expanding facilities. That means investing money in Japan that is dedicated to manufacturing circuit designed quality in tests by 68 percent. And do my colleagues know what we did? What our people did? They increased it by nearly 70 percent, that kind of investment. We agreed to increase our employment in Japan. That is jobs for American, for Japanese men and women. We increased total employment in Japan by 27 percent and added technical support personnel by 20 percent.

Mr. Speaker, the United States semiconductor industry remains committed to serving the Japanese market as evidenced by its substantial investments, investments in facilities, personnel and sales activities in Japan.

And we are asking for a very simply response. Nothing new; it is only that the commitments made by Japan, after the solemn negotiations taking place over so many months, assuming good faith on both sides, we are only asking that the commitments be respected.

Mr. Speaker, I again thank the gentleman from California [Mr. LEVINE] for having this discussion today. I hope it receives widespread attention because the message should get out.

We are serious, Mr. Speaker. We are very serious. We are honorable people. We expect honorable response from contractual nations.

Mr. LEVINE of California. Mr. Speaker, I would just take up the final point that the gentleman made. It is a very important point, and he made it in the course of his remarks as well as in the course of his response to my question, and I appreciate the fact that he did refer to the fact that we and the Japanese are good friends.

Mr. Speaker, the two nations do treat each other with a great deal of respect and affection, and we view the people with whom we negotiate in Japan and the Japanese people with a great deal of respect.

And this is not a situation between two nations who are not friends. This is a situation between two nations who have so much in common, who have a great stake in each other's reliance on the word and the bond in the contract that we mutually make with each other. Here we have, as the gentleman from California [Mr. EDWARDS] so clearly demonstrated in his remarks, a binding contract, a contract between two parties.

Now in the international arena, when you have a contract of this type, you do not have the same type of enforcement mechanism that you have in the domestic arena. But nevertheless that contract is every bit as solemn, every bit as clear, every bit as direct as if the contract were made in a domestic arena. And for the United States and Japan, two nations which are so central to the economy of the world, of the Pacific rim in particular, but the entire globe, not to be able to rely upon each other's word in honoring these contracts among friends would be a devastating blow to the international economy.

So, Mr. Speaker, I very much appreciate the gentleman's reference both to the fact that the two nations, we and the Japanese, the United States and Japan, have been dealing from the point of view of mutual respect, mutual honor and, second, his reference to the contractual nature of this agreement and what one party expects from the other once a solemn contract has been executed.

□ 1515

I would ask the gentleman in furthering this colloquy for a bit longer, I would ask the gentleman if it would send an appropriate message if we entered into a trade agreement such as this and then allowed it to lapse. The President is going to the economic summit in Toronto. He will be meeting with the Prime Minister of Japan. If he were asked to ease the sanctions, despite the fact that the other party has not completed, what kind of a message would that sent in terms of the seriousness of purpose that we as a nation attach to solemn agreements, solemn contracts, that we do enter into after extensive, thoughtful and serious deliberations?

Mr. EDWARDS of California. Well, Mr. Speaker, if the gentleman will yield further, in response to the gentleman, it would be an unfortunate message that we would be sending not only to Japan, but to other countries of the world, and especially the Pacific rim countries that we are so interested in dealing with. It would mean that regardless of whether or not a nation complies with its solemn agreements, that the Nation can still have all of the advantages of trade while having it go one way, and that is something that we cannot agree to. It must be a two-way street. It cannot be a one-way alley where one country has it all its own way.

Let me further add, Mr. Speaker, that the consumers of the world are very much at stake also.

We know, Mr. Speaker, that the industries of tomorrow are dependent on chips, on the semiconductors. We have just begun to see the future of semiconductor chips and if we do not have free trade—and what is the definition of free trade? That is honest competition. Then I assure you, Mr. Speaker, that the consumers of the world indeed will be paying more for the day-to-day products that every family needs.

We must have competition. You can only get competition through free trade. A breakdown of the agreement that we have with Japan would strike a serious blow to the free trade of the entire world.

Mr. LEVINE of California. Again I thank the gentleman.

Mr. Speaker, the semiconductor agreement itself, as the gentleman well knows, required a gradual and steady increase in market share from slightly under 10 percent to about 20 percent. In the event that we were looking at that agreement in 1986 at the time that it was signed, it was 10 percent at that time, and we are looking to 20 percent by 1991; if we saw it at 9.7 percent today, is that something that the gentleman would have expected, or would the gentleman have expected some type of increase between 1986 and 1988, pointing to 20 percent in 1991?

Mr. EDWARDS of California. Well, Mr. Speaker, if the gentleman will yield further, all the parties, including the Japanese as a major negotiating party, understood that 10 percent was low, that we could reasonably expect by now it to be, and I think it was planned to be that way, 11 or 12 percent. It is really incredulous that it is not 11 percent, it is not 12 percent. It is down to 9 point something and it is just totally unsatisfactory.

Mr. LEVINE of California. Mr. Speaker, I thank the gentleman, and I would say at least 13 percent at this point in time, but certainly it should be considerably higher than it is.

Again I want to thank the gentleman for his eloquence and his leadership on this issue.

Now, Mr. Speaker, I am delighted to yield to the distinguished gentleman from California [Mr. MINETA], who has also been a very, very effective and able leader on this issue and on so many others and whose district neighbors that of the previous speaker.

Mr. MINETA. Mr. Speaker, I thank the gentleman very much for taking this special order on this very, very important subject.

It has been said that the friendship and alliance between the United States and Japan is the most important in the modern world. I think there is a lot of truth in this. Strategically and economically, I think it would be difficult to overestimate the value of the alliance between our two democracies. But even between good friends, there are sometimes difficulties, problems that need to be resolved or worked out. In the case of our country and Japan, the trade situation in general is such a problem, as we all know.

Approximately 2 years ago, the United States and Japan signed an agreement that was intended to resolve an ongoing trade dispute between our country and Japan. That agreement, the United States-Japan Semiconductor Agreement, contained two basic provisions: First, it called for Japanese semiconductor producers to cease dumping semiconductors on United States and international markets at below-cost prices; and second, it called for the Japanese to open up their domestic semiconductor markets to United States companies. Specifically, the agreement called for an increase in foreign shares of the Japanese semiconductor market to steadily increase from 10 to 20 percent by 1991.

Now as my colleagues are aware, the lack of compliance with that agreement—specifically the continuation of dumping and the continued lack of Japanese market access during 1986 and the beginning of 1987—led the administration to impose sanctions on the Japanese semiconductor industry in April of last year.

Since those sanctions were imposed, there has been improvement in the situation, inasmuch as illegal dumping of semiconductor chips by Japanese companies has ended. Unfortunately, there has been no improvement in the problem of lack of access by United States companies to Japanese semiconductor markets.

Under the terms of the United States-Japan Semiconductor Agreement, it was agreed that the share of foreign manufacturers such as United States semiconductor makers should rise from 10 to 20 percent by 1991. Rather than increasing, however, the market share of United States semiconductor manufacturers in Japanese domestic markets has actually decreased, from 10.4 percent in the last quarter of 1987 to only 9.4 percent by the first quarter of 1988.

In recent months, in order to resolve this problem, representatives of the United States semiconductor industry have been negotiating with their counterparts in Japanese industry. Unfortunately, those talks have now broken down. The reason: The Japanese industry representatives have explicitly refused to acknowledge that the market share of United States producers in Japanese markets could or would increase.

This refusal comes despite nearly $5 billion in capital investments by United States companies, despite U.S. companies opening and operating numerous design centers, test facilities, and sales offices in Japan, and despite U.S. companies increasing dramatically the number of their sales and support personnel in Japan.

Why is this important? Semiconductors are the building blocks of the modern electronics industry. In the United States, that electronics industry employs more than 2.5 million people—more than any other manufacturing industry in our country, more than the aerospace, automobile, and steel industries combined. In addition, in this information age, a healthy electronics and semiconductor industry is vital to the growth and strength of any modern economy, and essential to both military and economic national security.

At the present time, the largest market for semiconductors internationally is in Japan. That means that for United States semiconductor makers to thrive and grow, they must be able to export, and export to Japan.

This is what the United States-Japan Semiconductor Agreement is all about, and why there has been such broad bipartisan support in both the Congress and the administration for the agreement, and for the sanctions that were imposed when that agreement was not lived up to by our economic partners in Japan.

I think it is vital for the United States to be firm in expecting that agreements such as this be lived up to, and I think it is time that the President made this a top priority issue with the Japanese Government, specifically at the upcoming summit.

Again I would like to commend the Chair of our California Democratic delegation, my colleague from San Jose, the gentleman from California, Mr. Edwards, for his leadership on this issue, and the gentleman from California, Mr. Mel Levine, also for his work on this issue. His leadership on the Foreign Affairs Committee has been very vital as he tries to propound a trade policy that makes good foreign policy sense, that makes good trade policy sense and, frankly, also makes good domestic economic policy sense as well.

Mr. LEVINE of California. Mr. Speaker, I thank the gentleman very much for his kind remarks and for his eloquent statement.

I also want to compliment the gentleman for the leadership that he has shown for so many years in this issues and particularly to compliment him for the framework of the remarks that he gave today.

When the gentleman began his remarks, he emphasized that this issue was within the context of a friendship and an alliance between two countries, for whom this friendship and alliance is absolutely essential, and that within this context of friendship and alliance there is a very serious problem that has emerged, but that the ultimate goal is to insure that that freindship and alliance stays on track and that these serious problems can be resolved and to insure that that will occur.

Mr. EDWARDS of California. Well, I thank the gentleman for that observation and I thank the gentleman from California [Mr. Mineta] who has also been a leader with the gentleman from California [Mr. Levine] in this important area.

I think we ought to make it very clear that we are serious, that the United States is serious.

It is all very well to be as friendly as we are with a country like Japan, but this kind of treatment is not acceptable, absolutely not acceptable, and we are going to pursue it. We are going to insist that the President pursue it, and whoever the President is next year we are going to insist that this matter be pursued. We are not going to take it lying down.

Mr. LEVINE of California. And that is a very appropriate point upon which to conclude this special order, Mr. Speaker, because that, is in fact, the essence of what this special order is designed to communicate as the President does go to Toronto to attend the economic summit.

Again, I thank the dean of the California delegation and compliment him for his ability to crystalize the essence of the message that we are trying to communicate in those remarks.

I would conclude by again thanking the gracious gentleman from Texas [Mr. Gonzalez] for allowing our special order to precede his and for his patience in providing us with this time.

I thank very much those who have participated in this special order.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL 6 P.M., FRIDAY, JUNE 17, 1988, TO FILE REPORT ON H.R. 4150, POSTAL REORGANIZATION AMENDMENTS, AND H.R. 4481, DEFENSE SAVINGS ACT (BASE CLOSURE)

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until 6 p.m., Friday, June 17, 1988, to file two legislative reports, one on H.R. 4150, postal reorganization amendments, and the other on H.R. 4481, Defense Savings Act (base closure).

The SPEAKER pro tempore (Mr. Torres). The Chair would ask the gentleman from Texas [Mr. Brooks] if this request has been cleared with the other side.

Mr. BROOKS. It has been, Mr. Speaker; it was cleared with the gentleman from New York [Mr. Horton], the ranking Republican on the Committee of Government Operations, and he concurs in this request.

The SPEAKER pro tempore. Without objection, that statement having been given, the Chair so orders.

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 4781, DEPARTMENT OF DEFENSE APPROPRIATION, 1989

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-709) on the resolution, (H. Res. 475) waiving certain points of order against consideration of the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes, which referred to the House Calendar and ordered to be printed.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore (Mr. Torres). Under a previous order of the House, the gentleman from Texas [Mr. Gonzalez] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I wish to continue "My Advice to the Privileged Orders," as I left off last Friday on the 10th of this month, which in turn was a continuation of the previous Friday, the 3d, and its discussion.

I would like to observe that I was very much interested in the preceding discussion because it has everything to do with what I have been trying to discuss, advise, recommend, and in pursuit of which for 25 years I have been submitting one bit of legislation or another.

□ 1530

That has to do with the overall fundamental question of fiscal and monetary balance and well-being without which all of this talk about how we will do this, how we will do that if our trading partners do not play according to the rules or agreements, all of that is moot because the reason we reached this point is because of the disarray in the other segments, that is in the fiscal and monetary segments.

The words fiscal and monetary are fancy words, and sometimes I think bankers concoct them to exalt the esoteric nature of what they consider to be a self-contained profession. But most professions do that anyway and we are living in a day and time in which we have created a meritocracy, aristocratic in nature, but of a different form where only a select chosen few happen to belong to this priesthood. That is the priesthood of high tech, high mathematics, and similar areas which actually means that democracy as we understand it in America is challenged like it never has been challenged at any time.

The 20th century has not been friendly or kind to democracy. The 20th century has seen the lights go out from one democratic society to another. It has registered the most brutal, the most horrendous type of one human being or groups of human beings murdering others so that we cannot have too much prolonged and sustained disarray in this very important area without giving rise to conflicts and in turn these starting out with economic conflicts, eventually giving rise to force and the unlearned lesson of mankind that nothing is and can be resolved by force.

It is interesting to note that in this particular discussion preceding my special order the question arises as to the ability of a nation that was vanquished by us. Today the highest point of financial, in the sense of monetary and fiscal, and let me say of these two words actually what fiscal means is your domestic tax and revenue system in your country; monetary has to do with the worth, the value of that unit of currency and particularly with respect to the dramatic almost cataclysmic changes insofar as the level of value and the stability of the world's main king, or linchpin of international reserve units, the dollar.

The whole issue as I have tried futilely for 22 years to bring out is the question of the standard of living of us, Americans, our much vaunted standard of living which in turn has been based on a sound value of its currency. Under the Constitution, that, like the policy to declare war, is exclusively inherent in the first article which has to do with the Congress, the policymaking body of this Nation. Of course that is a legal figment as we live today and have for the past three decades. The entities that the Congress created for the purpose of administering the fundamental fiscal and monetary policies of our country, in our case now the Federal Reserve Board created by the Congress in 1913 but today considered sacrosanct as if it was sent from heaven. In the words of John Adams describing his rival and object of his criticism of our beloved George Washington, he referred to George Washington in this way. We like to think all these great founders of our country were kindred spirits, always in harmony, yet some of the severest criticisms that were raised and published and uttered at the time of the creation of our Constitution, if printed today, would be considered absolutely not permissible within the communication of our political figures and much less as a proper legislative type of address.

But old John Adams was a crusty character and he had bitter disputations not only with George Washington but some of the other leaders such as Thomas Jefferson, and he said, "Well, there is that tall Virginian who thinks he was selected as the ancient Hebrews used to select their kings." That is, whoever was the tallest amongst them. "And who thinks that he has been heaven sent, divinely sent, booted, spurred and ready to rise on the backs of hapless mankind."

I think this is pretty much what describes some of the thinking of an entity such as the Federal Reserve Board which is really not a Federal Government entity, and which has usurped and completely abandoned any type of accountability either to the Congress or to the President even though it was created by the Congress of the United States.

How could that happen? It all ties in with what is happening today to us and why these discussions of how disadvantageous we find ourselves in trading with our partners as well as our rivals and how it is not only Japan but Europe. Nobody seems to be discussing that even though some of us have been anticipating the issue since 1966 and the first credit crunch on June 19, 1966, when the prime interest rate was jacked up overnight by 1 whole percentage point. That was something unprecedented up to that time. Everybody was living in a halycon day and time. Everybody was rolling high. Employment was good. The average family was able to have more than one car in their garage. It was having all the conveniences and all the creature comforts that any modern society could have and there was no thought for tomorrow. We were absolutely unconquerable. We had everything at our command. We were the world's leader. All roads led to the United States of America.

We believed in that delusion. All the while, forces that soon would be of such a nature that as of today are uncontrollable in order to define our own destiny in these very matters of fiscal and monetary things which I repeat are at the bottom of every single force of well-being in any society at any time at any age.

Why would some of us be concerned on June 19, 1966? Why was it that I was more concerned than ever when in 1969, also in the month of June, and after my importuning the then chairman of the Banking Committee to which I have belonged since I came here almost 27 years ago, to bring forth the newly appointed Treasurer of the United States of America. His name was Kennedy. He came from the Continental Illinois Bank which incidentally has been nationalized at the cost of about $6 billion to our taxpayers just about 3 or 4 years ago when it went belly up. Why did it go belly up? It was considered like all of our financial giants to be absolutely insufferable. But why? Everything has its cause and these matters that seemed to be enigmatic, almost insoluble, are in fact very susceptible of analysis and solution. But first we must regain the heritage of this democracy and that is very simple. That is respecting and being loyal to the fundamental law of the land which is the Constitution of the United States.

When the Congress created the Federal Reserve Board in 1913 it did so after about 5 years of deliberations following the panic in the economy, or the depression if my colleagues want to call it that, of 1907-08. The Congress formed several committees. In the House of Representatives a very illustrious member of the Banking Committee was named to head a committee. His name was Pujo. Over in the Senate there was a similar type of activity except that in the Senate there was a powerful Senator at the time who happened to have married into the Rockefeller family.

As I have said, in the House no less than 4½ or 5 years ago, finally a bill came out recognizing the fact that at the bottom of the malaise and these cyclical disturbances in the United States going back to the year of 1898 and the one following the Civil War, and the proceedings of Congress right at the time of Lincoln's assassination and reaching back further into the reign of Andrew Jackson and his battle with the first and the second United States banks and before going back to the very beginning, the First and Second Continental Congresses and then of course the framework of our Government getting started in March 1792 under the Constitution.

If we read what the leaders then said, Thomas Jefferson, even Alexander Hamilton who today would be called a conservative, we have used and abused words so much that it is ridiculous to even indulge in that kind of parallelism. But nevertheless they recognized from the very moment of the First Continental Congress, which incidentally is the first 10 years of our Nation, nobody wanted even to think of having such an office as a Presidency. We had the First Continental Congress and we had the Second Continental Congress, they were delegates from the people and the States or the colonies, not a chief magistrate as the word was used during the Constitutional Convention.

But what was uppermost in their minds was they knew that they would have to have fiscal arrangements. They would have to have some kind of banking, as we call it today, facilities. The bankers were all too eager to do it, but the interest rates they wanted to charge were something that led to Thomas Jefferson's denunciation in the strongest words ever written or uttered by any American with respect to what he called the banking class.

□ 1545

Finally they chartered the Bank of North America, but they limited it to 6 percent, and just as in the case of 1941 after the war broke out, the Second World War, and the country would have to borrow money to prosecute the war and win the war, naturally, and the bankers said, "Well now, you can issue these bonds, but you are going to have to pay more interest."

Why is it that we have reached the absurd point of our Government paying—that means the taxpayers—as much as 15 percent on Treasury yield just a few years ago? Fifteen percent, even on short term how could that have happened without a whimper from anybody except a few of our voices? As far as I know, I was about the only one jumping up and down here yelling about it. How could Franklin Roosevelt have waged the war, a World War, and used 46½ percent of our gross national product on the Federal level for the prosecution of the war without ever having to pay more than 2 percent to fund the debt?

What are we paying today? As I am speaking today, we are paying half a billion dollars interest.

Interest by its very definition is the most volatile, the most inflationary force known to man's economic existence. For ages, even going to 7,000 years before the birth of Christ, interest was something that was either totally outlawed with a penalty of death or not, as I said, permitted at all, as it was with the ancient Hebrew kings who even had their 50-year forgiveness, that is, all debts would be forgiven totally after 50 years, but absolutely no interest. The Code of Hammurabi, 7,000 years before Christ, recites prohibitions against what we would call interest today.

If one makes all the extrapolations from the most primitive economic society to today's complex, the essential difference is not any more fundamental than what is happening to us today, and the reasons given for all of these prohibitions through the ages.

No country, history shows, whether it was the ancient kingdoms or the great Empire of Spain, Charles V, Philip II, if one traces the history of interest rates, one would see the rise and decline of empires, and this is where we are today in America.

One cannot have usurious extortionate rates of interest in any society, and my contention has been since 1966, much less than in ours, because ours is predicated very much like a three-legged stool, especially since World War II. It is based on mass production, mass consumption, and mass availability of credit, installment credit, installment purchases which were totally unknown. I remember when we did not have them before the war, and I am old enough to recall.

One cannot have an aberration in such things as this type of economy without having what we have now, the highest peak of business bankruptcies, the highest peak of consumer credit bankruptcies. Our debt bubble can only either be bursting sooner or later, and I am afraid it is inevitable.

Had we heeded the plain writing on the wall we would have had anticipatory legislation, if in case the bubble developed, we could at least ease it out and deflate it, but it has not happened that way, and it is not happening now. It goes back to all of these situations.

If we think that the Japanese are recalcitrant, what do my colleagues think these Western European allies are? For now, the European Community has finally put together a real economic union of Europe. I offer as exhibit 1 the front-page story, June 14, Tuesday, headed, "Europeans Adopt Plan To End Curbs On Capital Flows. Community Takes Action. Economists Predict Pressure On Nations To Harmonize All Monetary Policies."

If one then reads the article one will see that actually the dateline is Luxembourg. How many of us realize that this is the capital of the European Parliament? How many are even aware of the deliberations of the European Parliament? How many listened when I rose on this same House floor right after the first week of May 1979, which was the first day, and I placed it in the RECORD that the New York Times reported the brief communique that resulted from the European economic summit at that time, President Jimmy Carter being President, in Bonn, Germany? The last sentence was, "We agree in principle to the development," and what we use in military terms, "deployment of the EMS," the European Monetary System, "and the ECU," the European Currency Unit.

That sounded so far away and far-fetched. I did not think so, because I have been following in the European publications ever since the Treaty of Rome, going back to the late 1940's in which the blueprint was there for the European Community to develop and finally unify, synthesize, their economic, fiscal and monetary systems, and this is what they have done.

England has yet to join in the ECU and EMS. However, with this announcement that "Europeans Adopt Plan To End Curbs On Capital Flows," what do we mean by capital flows? We mean this is where the money will be going. What this means is that the United States and us Americans and this administration and this President, particularly, boasting of prosperity, that is an illusion, because it is a prosperity funded by borrowing. It is all borrowed money from abroad.

Where are now all these powers that be? The Federal Reserve Board of the United States, considered the central bank, which roughly it might be equivalent to, but which is not the same; our society is structured different.

What is at balance, I repeat, is our American standard of living and our egalitarian society, for we are now developing what Europe has, and that is what they call in Germany a lumpen proletarian class. Europeans have a stratified class system and always have had.

If any of my colleagues think that because we describe them as our ancestry in lineage and the matrix of our institutional lives, that there is anything more than that historical development, then let me disabuse your mind, because the idea is that in America we have dreamed of an equal America, equal opportunity for every American.

□ 1555

But where are we today and especially since the advent of the Reagan administration? The administration's and the President's theorem is, as they used to say in England, the rich man in his castle, the poor man at his gate, each God has made in his state.

But America has not stood for that. That was Europe, and much more in Japan, where my colleagues who have just had the discussion on trade, ought to know that Japan has strict control of interest.

Five and a half years ago I spoke to a leading group of mortgage bankers, and those particularly involved in the secondary mortgage transactions having to do with great, great segments of real wealth, which is our home market segment. If we went the way they were going, Japan was in position. I had met with two members of the Japanese Diet, two industrialists in construction, I met with them here. I am not a traveler, I stay here. They said how they were interested in the American market. They had the ability to set up a single family dwelling unit, put it on the market for $10,000 or less, no more than $10,000 at 7½ percent interest.

I said, all right, gentlemen, I am telling you if you, in what has been a race in greed, and where no matter how much more is still demanded, cannot come in and give America the fulfillment of its dream as reflected in the 1937 and 1947 Basic Housing Act, a home, safe, decent, affordable, and available to any family in America who dream of that and want one, and for 40 years that commitment by Congress was fulfilled until the advent of the Reagan administration.

Where was anybody around? Where were my colleagues who were here then in 1981? I could not get anybody in or out of the subcommittee on either my side or the other side to take on the President's challenge. And his challenge was this, and this is what he told our Speaker then, he said everything you boys have done in the Congress, everything that has been done for the last 30 years has been wrong. It has gotten us into this horrible situation.

What was the horrible situation? Jimmy Carter. He blamed Jimmy Carter for everything from fallen arches to carbuncles and everything else.

But what was the deficit then? Our Nation was a creditor nation still, as it had been since 1914. But as of 3 years ago we are the biggest debtor Nation in the world, and our domestic creditor bubble is the largest ever, over $2 trillion.

Do you have to be an expert, do you have to be a prophet, do you have to have anything but just the minimal common sense to know that you have to account for that and that the best thing to do is anticipate and prepare. No; we have learned nothing.

I include in this vein the New York Times article of June 14 and the corollary to it in the Monday, June 13, New

York Times Business Day page entitled, "Concept of a Central Bank Gains Support in Europe."

The articles referred to follow:

Europeans Adopt Plan to End Curbs on Capital Flows

(By Steven Greenhouse)

Luxembourg, June 13.—The European Community's finance ministers approved a landmark plan today that would end all restrictions on the flow of capital throughout the 12-nation trading bloc.

Under the plan, the member countries would no longer be able to prevent individuals or corporations from opening bank accounts outside their home countries or to restrict banks from lending money to foreigners.

"Today's move is an extremely important step toward helping bring about the economic integration of Europe," one West German official said.

And Geoffrey Dennis, an economist with the James Capel firm in London, said: "The agreement is a very bold move—and slightly bolder than many people were anticipating. So many times before the European Community made vague dates to have programs and never delivered on the nitty-gritty, but this looks like a conspicuous success for the community."

HELP FOR GERMANY EXPECTED

Today's decision is expected to help West Germany, which is likely to attract savings from other European countries because of its low inflation rate. At the same time, the plan will place pressure on France and Italy, which fear that their citizens will rush to deposit their money abroad and thus foster a currency crisis.

Citing this fear, many economists say today's decision will put pressure on European nations to harmonize their monetary policies to keep their inflation as low as West Germany's.

What is more, community officials say, the removal of capital controls will greatly increase pressure to establish a common currency for the 12 nations of the European Community and possibly even a European central bank.

COMPLAINTS FROM COMPANIES

Companies in the European Community have often complained about capital controls. In some nations these controls have taken the form of limiting the amount of foreign currencies that companies can hold or limiting the size of foreign checks they can cash without government authorization.

"It is absolutely necessary to liberalize capital movements within Europe," said Hermann Rempsberger, chief economist for Berliner Handels und Frankfurter Bank in Frankfurt. "Otherwise it won't be possible to have a true common market."

At a news conference after the agreement was announced, Jacques Delors, president of the European Commission, the executive arm of the European Community, said, "Liberalization will trigger further dynamism toward monetary union."

The agreement is subject to approval by the European Parliament, which is not expected to make any major changes in it.

Opponents of capital controls have said they create artificial barriers that tend to balkanize Europe's economy.

Before today's meeting, many European Community officials voiced fear that obtaining an agreement to remove all capital controls would stumble because France and Denmark were concerned that many of their citizens would move their savings abroad to evade taxes. But the French and Danish backed the plan upon inclusion of a provision saying that the European Community would propose means to limit tax evasion later this year and approve a plan to fight such evasion by mid-1989.

Italy, for its part, was hesitant to approve the plan unless the finance ministers agreed to establish an emergency procedure that would allow countries suffering from a run on their currency to reimpose capital controls. Under today's agreement, nations that experience a severe outflow of their currency, which would weaken the currency, will be allowed to institute controls for up to six months but only with approval from the other Common Market nations.

Before today's agreement, Britain, the Netherlands and West Germany had already eliminated all controls on capital flows. Now France, Italy, Belgium, Luxembourg and Denmark will have to end such controls by the end of 1990. Ireland, Spain, Portugal and Greece—the poorest nations in the community and ones that often have inflation problems—will be given until 1992 to end controls on capital, and Portugal and Greece will have an option to extend that deadline to 1994.

One likely effect of today's agreement is that more pressure and more volatility will be created within the European Monetary System, a program in which its eight member nations pledge to keep their currencies within a certain range.

For example, if Italians rush to deposit their money in German or Swiss banks because those nations have lower inflation rates and a less likely chance of devaluing their currencies, such an exodus of lira would push down the value of the Italian currency.

Fearing such an outflow of lira, Italy plans to adopt more restrictive and anti-inflationary economic policies to help bring its inflation rate in line with those in West Germany and Switzerland. Today's agreement ends restrictions on capital flows not only to European Community countries but also to non-community members like Switzerland and the United States.

There has to be all-out harmonization of economic policies or else this can't function," said Liane Launhardt, an economist with Commerzbank in Frankfurt.

For the Italian and French, ending capital controls will be a major change because they have relied on them to help keep their currencies from falling during times of inflation.

Mr. Dennis said that if the French and Italians did not do more to align their economic policies with West Germany's and thus help stabilize their currencies, then they might be forced to take the painful step of raising interest rates to attract funds and keep their currencies from falling. By doing so, they might risk showing down their domestic economies.

Many economists contend that a single European currency should be established to help reduce exchange rate pressure caused by the abolition of capital flows. Indeed, Mr. Delors, the president of the European Commission, said today that "monetary union" would be a major topic when the community's prime ministers meet in Hanover, West Germany, in the semiannual European summit conference.

The Germans, who have long opposed capital controls, hold the six-month rotating presidency of the European Community, and they have made ending capital controls one of their major goals before their term ends June 30.

As part of today's plan, the finance ministers approved a $20 billion safeguard fund to help hard-hit countries protect their currencies.

The French and the Italians will likely call for strengthening procedures in which strong-currency countries like West Germany help shore up the weak currencies of European Monetary System members. They will also likely increase pressure on Britain, which has a more growth-oriented policy than Germany, to join the system.

Among the measures being discussed for fighting tax evasion are harmonizing tax rates between countries, instituting a program of withholding taxes and requiring foreign banks to report income on accounts held by European Community citizens.

Concept of a Central Bank Gains Support in Europe

(By Steven Greenhouse)

Basel, Switzerland, June 12.—When France's former Finance Minister, Edouard Balladur, started pushing the idea of a European central bank six months ago, most government officials and economists said such a far-reaching proposal would go nowhere, mainly because of anticipated West German opposition.

But the proposal has been greeted far more warmly than even its supporters expected, and the next two weeks will prove crucial in determining whether significant advances can be made toward forming such a bank.

West Germany's Foreign Minister, Hans-Dietrich Genscher, has surprised many Bonn watchers in backing the idea of a central bank that transcends national boundaries, saying he hopes the European heads of state will appoint a group of wise men to hammer out differences on the issue when they meet later this month.

"We eventually will have to have a European central bank, but it's still some time off," said Liane Launhardt, an economist with Commerz-bank A.G. in Frankfurt. "But progress is being made in that more and more people are taking the issue seriously and trying to study it."

With European Community finance ministers meeting in Luxembourg Monday and the community's prime ministers meeting on June 27 and 28 in Hanover, West Germany, proponents of a European central bank are pressing for the idea to receive a major push this month.

Advocates, including many French, Italian and Belgian officials, want such a bank partly because they are frustrated that the West German Bundesbank so dominates Europe's monetary system and economy. Supporters of a central bank hope that by having board members from several nations, it would adopt a monetary policy that is more growth-oriented than Bundesbank policy, which has often been criticized for being obsessed with minimizing inflation.

IMPACT OF GERMANY'S DOMINATION

Because West Germany dominates the eight-nation European Monetary System, members often have to eschew expansionary policies to hold down their inflation rates in order to make sure their currency does not fall more than the system allows against the German mark. The European system serves to link exchange rates.

What is more, some countries, most notably France, are unhappy that they have to keep their interest rates high to prevent their currency from falling against the mark.

"Outside Germany we're seeing a move to bring a more balanced relationship with the Bundesbank," said David Mars, European economist with Warburg Securities in London. "Countries like France, Italy, the U.K. and even the Germans' close ally, the Dutch, have become fed up with the German position. They're tiring of Germany's rigid attitude."

Advocates of European economic integration also say a common European currency is needed to eliminate the cost and nuisance of having to change money all the time. But many government officials and economists say that a common currency will not work unless the European countries harmonize their economic policies and probably form a central bank as well.

A CHALLENGE FOR WEST GERMANY

When Mr. Balladur made his central bank proposal he seemed to dare the Germans to put their desires for European economic integration ahead of their fear of inflation. However, Karl Otto Pöhl, president of the Bundesbank, accepted the challenge by saying he supported a European central bank "as a long-term goal," but only if certain conditions were met.

In a speech today in Frankfurt, Mr. Pöhl said such a bank had to have price stability as its absolute priority and had to be completely independent of government.

Economists have interpreted Mr. Pöhl's remarks to mean that the Germans would agree to a European central bank, but only on Germany's terms. "The French might not be enthusiastic about allowing the bank total independence because they don't allow their own central bank total independence," said Ms. Launhardt of Commerzbank.

Nevertheless, Mr. Pöhl has his supporters. Wim Duisenberg, head of the Dutch central bank, said in a speech last week that experience had demonstrated "that the level of inflation is well nigh inversely proportional to the independence of the central bank vis-a-vis its government." He said such independence must be guaranteed for the European cental bank.

CAN HARMONY BE REACHED?

As another condition, Mr. Pöhl said, each national central bank would have to relinquish its power to print money as a means of coping with the nation's budget deficit problems. He also said that Britain should join the European Monetary System and that there should be fixed exchange rates within Europe and complete harmony of government monetary policies. One of the main topics of debate regarding such a bank is whether it could coexist with national central banks or would have to replace them.

"The most important question is what everyone's priorities on monetary policy will be," said Hermann Rempsberger, chief economist for the Berliner Handels-und Frankfurter Bank in Frankfurt. "The Bundesbank stresses keeping inflation down, but other governments are not so keen about keeping inflation at the 1 or 2 percent level."

Despite the differences between West Germany and other countries about a European central bank, the idea is inching forward. Last week West Germany's Economics Minister, Martin Bangemann, said he supported setting up such a bank and hammering out the wrinkles later. Mr. Bangemann has recently expressed interest in being elected president of the European Commission, the European Community's executive arm.

BALL IN GERMANY'S COURT

In his important role as Foreign Minister, the independent-minded Mr. Genscher may have some say in obtaining progress on the central bank issue. West Germany is in the six-month rotating presidency of the European Community until the end of this month, and Mr. Genscher hopes that progress on a European central bank will be one of the accomplishments of the German presidency.

Chancellor Helmut Kohl has said that one of his goals for the German presidency is to win agreement to eliminate all controls on capital flows, like Italian and French limitations on their citizens' depositing of money in foreign banks.

If progress is made on removing capital controls, it could cause an exodus of funds from certain countries. Some economists say this will heighten frustration with the West German mark's dominance of the European Monetary System and as a result increase pressure for a European central bank to reduce German hegemony.

Nevertheless, Mr. Pöhl seems to think such a bank is a long way off. In a recent interview with the Frankfurter Allgemeine Zeitung, he said, "One doesn't have to be a European defeatist to entertain doubts whether the political environment exists to permit some decisions and some ceding of sovereignty as fundamental as creating a European central bank and common currency."

The reason I offer those is because in the meanwhile, and the reason I am impelled to speak, as I have been since I got to the Congress, and I have been making use, as I said last Friday, of this great privilege of special orders since I came here almost 27 years ago, and 1 week after I had been sworn in, so it is not anything that is impelling me other than the fact that I must go on record, because I have been assigned from the beginning to the Committee on Banking, Finance and Urban Affairs. I feel that after 10 years as chairman of the subcommittee of what was called then International Finance, and it has been changed a little since the Reform Act of 1974, but I have been very much concerned because I do read the European journals. I do read the Spanish publications from European Spain, which is now a member of the European Community, as of some 3 or 4 years and no more, Spain and Portugal.

What did that mean? It meant that our market for the export of agricultural products went out because that was our main export customer in that area. But here as a member of the Committee on Banking, Finance and Urban Affairs there has been no reports in the press about how the European financial community ever since October 19 last year and the bust of the stock market have been trying to get American bankers to join in a world agreement called a convergence of agreements on capital standards. That is high-flown language, but what it means is, hey, boys, in America, you know you guys are not only going to break yourselves, but you are going to break every one of us. And even though you have gotten away with murder in the United States because your Government is not doing anything to protect you, we want to have a world agreement as to what it is we will define as the proper capital standards in international finance in which investments are made and how to define the capital.

In my State of Texas, which is wallowing in one of the worst depressions it has faced, and which I warn my colleagues, they might think that this is Texas, and they might think that the failure of over half of the financial institutions, as the savings institutions, and up to now just since January 1 we are reaching that near 100 failure of banks just in Texas alone, and if my colleagues think this is Texas let me say this: In Texas we ought to in a way realize that we are at the cutting edge now. We are just precursors. There is no way the rest of the Nation is going to escape having to face this. My colleagues can talk blithely as the two Senators from Texas when they had hearings on FSLIC, and this is the insurance fund for the savings institutions, which is not only broke, but since 1979, as I pointed out in a speech here, we had no more than about $8 billion or $8.5 billion, even calling on the reserves, that they could borrow in the insurance fund to cover almost what, almost 900 billion dollars' worth of insured savings, and in the banking FDIC, the Federal Deposit Insurance Corporation, the partner insurance fund, and that was in 1979. Since then we have had several hundred more banks go under.

What was the picture there? If FDIC were to borrow its reserve line of credit with the Treasury of $3 billion, it would not be able to put together more than $13 billion to cover $1 trillion of insured deposits now.

Let us face it. How can we come to have that pass? I thought we were in the hands of these conservative, responsible, staunch, pinstriped suit, great panjandrums of financial leadership. I am afraid no matter how much they try, they are mainly and primarily responsible. But the reason is simple. Were we and our leaders uncontrolled by the Government; either the President or the Congress have for greed and greed only jeopardized the economic and financial well being of our Nation. These other countries have looked out for themselves first and foremost, and then whatever they can do after that for somebody else they will.

I just read where in this attempt to have an international agreement on convergence standards of capital that the great chairman of the Bank of England, whose name is Leigh-Pemberton—my colleagues know how the Englishman like to have hyphenated names—he is Mr. Leigh-Pemberton, and he is chairman of the Bank of England, and he said, and I am going to quote: "But it is important that we do not allow our efforts to reach agreement on a common measure to deflect us from bringing into the supervisory net as soon as we can banking activities whose risks are not currently measured. Off-balance sheet transactions, for instance, continue to grow rapidly, but are still largely unsupervised. The events of the past year serve as a sharp reminder that new markets and instruments can contain imperfectly understood risks."

What this good Britisher is telling us is you guys have gotten away with it in America because whatever it is your Congress has set up as regulatory bodies they have just looked the other way or they have been snoozing in bed with the industry their supposed to regulate, and we are not going to allow that to happen to us.

So we are doing two things, we are getting ready to supplant the dollar as the international unit or reserve unit with the creation of the European Community finance system and the European currency unit as the actual value, and so it is in place. For instance, I just read in the European Community's publication where a student in Italy wanting to study in Paris or Belgium can get a grant of $5,000 ECU's. But what does that mean? It means that each ECU is valued at $1.25. In other words, the European currency unit, because of its reserve in gold alone, is stable and valued higher than the dollar.

What are we doing? The gentleman who preceded me talked about the semiconductors in this area of high or middle or low technology. But how can we go out and punish the Japanese for having the wit and the will to allocate the resources of their country toward research and development that we do not? This administration has cut back every basic research. This is where we are. The Japanese are on the verge of a breakthrough on the conductor business. Chips will be outmoded, if they have not been already by the time I am speaking, and who is ahead of us in that? The Japanese.

Should we punish them if the only sin they have committed is looking out for themselves first while we sell out for a mess of pottage our legacy and heritage? Should we go out here and enter into a quarrelsome period, which I think we are about to, with the European Community because finally the dream they have had of unifying Europe and having a United States of Europe, but it is in place, and what does that mean now? It means that economically we have an industrialized section of the world with about 125 million more inhabitants than our country, the United States, and where we are retrogressing even domestically they are progressing in the sense of uniting, erasing the borders, as this article talks about, capital transactions inter-country.

□ 1610

The article is contradictory with the arguments that you hear in the United States and this administration as to why the dollar should be allowed to drop. We had four of the outstanding economists before one of the subcommittees where I am the ranking member and they were talking about "Oh, it will be good," and I said, "Gentlemen, will you tell me how you will fine tune the fall of the dollar? Will you tell me to what point do you think the dollar should fall? What push do we have in the United States to prevent the free fall of the dollar? And if you have a free fall, gentlemen, which one of you is prepared to tell me that that is good?"

Well, they were mum. I think they looked at me as if to say, "Well, where does this character come from? Where does he come from? He is just a politician."

Well, the record is there. Two of those same economists who were the ones that appeared before the committee in 1971 after President Nixon took us off the gold exchange standard on August 15, 1971, and, together, it was an awesome group. And I said so on the record then. You had the head of AFL-CIO, George Meany; you had the Secretary of the Treasury of the United States, my great colleague from Texas, John Connally; then you had the head of the United Automobile Workers Union; then you had the chairman of the board of the great food processors.

Then you had one other great, great corporate panjandrum. And they said, "We are here to ask you to vote for this legislation known as the Economic Stabilization Act of 1971," but in our words it was wage and price controls in peace time. Why? Because something had to be done about inflation. What was the rate of inflation? Five percent. But when you read the bill, that legislation gave the President total power over our economy such as no President, even in time of war, had ever been delegated by the Congress.

Franklin Roosevelt at the height of World War II was never delegated that amount of power that we had in that bill in October of 1971.

I then said, "Well, I don't think I can do anything to stop it," because they said, "We don't want anything changed, not even a comma." I said "Gentlemen, do you know what the frightening aspect about your presence here is? This is what was happening in Germany at the time Hitler was emerging." You had the grand chamber of German economics and you had all these industrial leaders saying "We have got to have some control over this economy." And they did, they got it. And some of them helped finance Mr. Adolf Hitler as well as some of our American corporations like General Electric. But, you know, that is something that is extraneous to this discussion, only in that it is not the particular specific matter of discussion. There have been one or two books written on the subject matter since then which have not received much notoriety. But I say it because what we are confronting today is a replication of what happened to us after World War I; basically no difference. Yes, the scene is different, the names of the countries maybe. After World War I there were some countries that do not exist any longer.

I want to offer another article from the Christian Science Monitor for Friday, May 27, entitled, "No Going Back for EC, Biggest Market in the World."

The article referred to is as follows:

"No Going Back" for EC, Biggest Market in the World

(By John Yemma)

Washington.—Economic merger of the 12 nations of the Europe Community is now "irreversible," says the man who is the driving force behind creation of a single European market by 1992.

"There's no going back on it now," Lord Cockfield (pronounced "co-field"), the British peer who is vice-president of the EC Commission, told a group of reporters this week.

In four years, the biggest, richest market in the world will be created: 320 million people from Britain, France, West Germany, Italy, Spain, Portugal, Greece, Ireland, Belgium, Denmark, Luxembourg, and the Netherlands.

Physical barriers for shipping goods will be abolished. Technical barriers will end on everything from the contents of food to government procurement. Value-added taxes will be coordinated. Banking, insurance, and capital movements will flow freely. Doctors and other professionals will be able to practice where they please.

It will be a giant step toward an economically united Europe. And it is a necessary step if a politically united Europe is ever to follow—though virtually everyone, including Lord Cockfield, sees the postwar dream of a "United States of Europe" as still a far-off possibility.

But "you only get political answers if you go through the economic answers first," he says.

Since the landmark Single Europe Act was passed by European Community members last July, Europe 1992 has sparked lively debate in Europe and other parts of the world. "You even get TV commentators referring to 1992 in the most unlikely contexts," Lord Cockfield says. "I don't think they even know what it's about."

But business knows. Across Europe, businesses are restructuring, buying subsidiaries, and targeting markets throughout the 12-nation bloc. Until now, the hassles of crossing frontiers—from, say, France to Italy—make intra-European business must less attractive than doing business overseas.

In the runup to 1992, a wave of takeovers across borders has taken place—the most famous being the attempt by Italian financier Carlo de Benedetti to grab Société Général de Belgique, which dominates the Belgian economy.

Industry is making plans *now* for an integrated European market by 1992, Lord Cockfield says. This economic imperative will make the pressure for completion very powerful.

And the economic incentive for Europe's governments looks highly attractive, too. Just the act of unifying the market will boost the European Community's gross domestic product by 4½ to 6½ percent, according to a recent EC study. It will also create up to 2 million new jobs, the report says, and keep consumer prices 6 percent lower than what they would be in a divided market.

If such a windfall does occur, other economic steps are likely to follow. There is continued talk about a European central bank and a Europe-wide currency based on the European Currency Unit (or ECU). Lord Cockfield is cagey about this, however, noting that there is "only debate at present, but the debate will end up with decision."

One big impediment is Britain's reluctance to join the European Monetary System's exchange-rate mechanism. Britain is concerned because of the loss of sovereignty that this would entail, given the dominance of the EMS by the West German Budesbank. Recent appreciation of the British pound could also create unfavorable trading conditions for British industry. These might be locked in if the pound were pegged to other European currencies.

"The fact that the UK is not in the European Monetary System creates problems at present," Lord Cockfield says, adding that "it is essential that the UK come into the EMS before 1992."

Another concern—and one of the reasons Lord Cockfield was in Washington this week—is that a single market could lead to a "fortress Europe" when it comes to trade protection. Lord Cockfield denies this will happen, noting that important individual countries (Britain, the Netherlands, West Germany) are anti-protectionist already.

He argues that "if Europe is strengthened, there will be less fear, less need for protectionism, not more."

By the end of the year, laws will be adopted by members of the EC which will show exactly what Europe in 1992 will look like. Even before those laws, Lord Cockfield is bullish on 1992.

"This is the greatest development that has happened since the end of World War II," he says. "It stands on the same basis as Bretton Woods," the agreement that formed the basis of the postwar monetary system. And referring to European unity, he adds, "It is not an end, it is a beginning."

This article quotes Lord Cockfield, the English peer who is vice president of the European Community Commission. He says, "There is no going back on it now." Well, that is true, there is no going back. But there has been a going back for the United States where we are in jeopardy. If the situation in Texas is not handled with dispatch, as I have been advocating now for a whole 2 months—and I am doing it because of a multitude of constituents who are getting their little money, seeing the advertisement in the papers where an institution that is as dead as a doornail except that the regulators, known as the Dallas Federal Home Loan Bank Board, is keeping it alive through what they call managment assignment. I saw in one paper, I think the day before yesterday, where they said this is not so bad because they get experienced or retired people and they have them manage at minimum wages.

Well, is $375,000 a year minimal? That is $175,000 more than the President.

Is $100,000 a month a minimal managerial salary? Well, maybe I do not understand minimal. But that is what is happening.

Now can I blame my little citizen who says, "Well, you know, that is insured because FSLIC says they are insured up to $100,000."

Now let us look at what is happening in Maryland and in Ohio where you had the first break in this house of cards. You have thousands of savers or depositors in both Ohio and in Maryland who had a peculiar structure just like we do in Texas. The peculiarity in Texas is that the saving industry overwhelmingly is a stock corporation and State chartered. There are only four mutuals, and that is made to order for these predators and speculators that came in after the Congress allowed them, with the approval of the 1982 Depository Protection Act in the name of saving S&L's. I was the only one that opposed it. So all I can say is it is no comfort to me to say, "I told you so," because what I am saying now in telling you so is that maybe the pace of business is very leisurely and maybe we have all taken off for our home or the district, but in the meanwhile when this breaks in a matter of months, maybe weeks, the problem is the present regulators are hoping they can hold this thing together until after the November election and then after than let the devil take the hindmost. But I have not remained silent because I have hundreds of these well-meaning constituents who have every reason to think they are protected because the Congress has said we have an insurance fund "that will protect your deposits up to $100,000."

You go ask these people in Maryland and in Ohio who have these frozen accounts. They have not been paid out.

So where are we? Well, you cannot cover such a vast panorama, yet it is all tied in, in a matter of a brief presentation. This is the reason I have broken it up, in order to continue the basic theme and support with some of the accounts that are now being written but about which there has not been anything for months and for years. It is tied in with our massive imbalance in international trade which has already cost us over $2.5 million jobs permanently. These were producer jobs, because as of three and one-half years now we are an importing nation, we are no longer a producer nation and we are a debtor nation. The biggest debtor in the world.

Our money centers of power have gone from New York, London, Zurich, to Tokyo. Tokyo's stock exchange is five times larger than ours.

So I think America and my colleagues, it is time that we more than wake, the time is a "a-wasting" as the saying goes.

I want to offer also a Wall Street Journal article of Wednesday, May 25, the front page of which says, "Branch Bullying: Small Texas Towns Are the Latest Victims of Big Banks' Crisis":

[From the Wall Street Journal, May 25, 1988]

Branch Bullying: Small Texas Towns Are the Latest Victims of Big Banks' Crisis

(By Leonard M. Apcar and Buck Brown)

Lufkin, TX.—When the big Dallas and Houston banks moved into Lufkin in the 1970s, they promised to transform this dusty sawmill town into an East Texas money center.

Suddenly, multimillion-dollar credit lines were available to local companies. Sophisticated trust services were dangled before rich lumber and oil families. Dollars flowed from automated teller machines. Drive-up banks engulfed two square blocks.

With little Lufkin finally enjoying the benefits of big-city banking, people celebrated. The grand-opening of one bank's four-story building was something: hot-air balloons, prizes and an appearance by gold-medal gymnast Mary Lou Retton.

PROMISED PROSPERITY LOST

But today, the "new age" promised by the arrival in Lufkin of Dallas-based First RepublicBank Corp. and Houston-based First City Bancorp. of Texas has sunk into a dark age.

Some Lufkin banks—and hundreds of little ones like them that were absorbed by big Texas banking chains in recent years—now are caught in a mess not of their own making. As loan losses at money-center banks in Dallas and Houston mount, banks all across the state are under strict orders to shovel hard-earned dollars to their sickly, cash-starved holding companies. So the banks are systematically cutting local borrowers' loans and credit lines.

The upshot: Deposits generated in places such as Lufkin are being used to refinance shaky real-estate and energy loans in Dallas and Houston. And with the little banks left with little money to lend, local businesses are being squeezed—some right out of business. The big banks "are just choking the entire state," says F. Hagen McMahon Jr., executive director of the Independent Bankers Association of Texas.

What annoys everyone in Lufkin from a local Chamber of Commerce to the Baptist minister is that the little town had nothing to do with the energy and real-estate lending debacle in Houston and Dallas but is paying the price for it.

SHIFTING FUNDS

As recently as 1985, nearly 66% of the deposits at the little banks now owned by First RepublicBank were recycled back to the small towns as loans. Today, that total has shrunk to 41%, and $1 billion once in borrowers' hands has vanished. And more than half the funds that its local banks invest in loans and securities have gone to Dallas, up from only 14% five years ago.

The never-ending crisis in Texas banking is panicking investors, who have lost millions of dollars. It's rattling the nation's capital, where administration officials fear that federal bailouts of Texas banks and thrift institutions, a third of which are insolvent, could increase the national budget deficit by more than $10 billion.

But numbers of that magnitude mean little to the people in Lufkin (population 32,000) and similar Texas towns. What troubles them is that a Lufkin merchant who had banked without difficulty for 22 years now can't get a $12,000 loan to repair the leaky roof of his store. Or that a local physician is being ordered to repay a $10,000 note for no apparent reason. Or that one of their good friends is going out of business because the big-city bankers arbitrarily cut him off.

"Probably everybody that's in business in Lufkin has had their business whittled down or their borrowing power cut," says an auto dealer, whose own credit line was slashed 20%.

ALREADY-AILING ECONOMIES

Lufkin's economy, like that of many towns big and small in the Southwest, had already been hit hard by the depression in the energy industry. Business and personal bankruptcies in East Texas have soared twentyfold since 1986. Thousands of mill workers, carpenters and oil-field roughnecks have lost their jobs. And now, as businessmen in Lufkin and other little towns turn to First RepublicBank and First City, the money-center banks that once promised them all the financial support they would ever need, they're getting little help.

In Lufkin, chicken farmers Edgar and Gilbert Burton recently filed personal bankruptcy petitions because their bankers refused to carry them until egg sales pick up in the fall. In nearby Henderson, Roger Ellis wakes up in the middle of the night because his Dallas-owned bank, which once promised him an endless supply of credit, is demanding that he pay off his construction company's note even though he has never missed a payment. And in Temple, hundreds of miles west of here, a roofing company was ordered by its Dallas-controlled bank to either pony up a $100,000 deposit or risk losing a $200,000 credit line.

"The banks have gotten a little bit rough and a little bit mean," says James A. Jones, whose Piney Woods Tractor & Implements Inc. in Lufkin has lost sales because the banks refuse to finance some of his customers.

First RepublicBank, whose federal bailout is pending, and First City, whose federally aided $1.5 billion restructuring was completed last month, both acknowledge that they are relying heavily on their small-town banks for funds, but they insist they're still lending money in the big cities and small towns. The problem, they say, is a lack of profitable opportunities anywhere in the state, and they are trying to limit risk.

In any event, a mixture of anger, frustration and feelings of betrayal lingers over Lufkin and other little logging towns nearby. That contrasts sharply with the spirit of optimism in such places a few years ago. Surrounded by abandoned paper mills and shut-in oil wells, these people had turned to the big-city bankers for help. Their own little banks were pressed for funds to expand, and the "friendly bankers" down at First RepublicBank and First City were offering to be helpful.

"The banks promised big stuff," says Roger Mercer, a Nissan dealer here.

And for a time they delivered, opening a spigot of easy credit that created a building boomlet and changed the face of these backwoods towns. Apartment complexes, motels and a country club soon sprouted around Lufkin. There was even talk of turning the area into a tourist mecca using Lake Sam Rayburn, the state's largest man-made lake, as a playground.

Alas, the "boys up in the glass tower," as locals now derisively call them, changed their tune. "They took virtually everything out of the control of the local banks," Mr. Mercer says. The arm-around-the-shoulders friendliness that once greeted customers has given way to straight-arming strapped borrowers. Locals are whispering about a "hit list" of customers that First RepublicBank Lufkin is pressing for repayment.

First RepublicBank Lufkin recently summoned a Lufkin tractor dealer to the bank, where stone-faced accountants unfurled spread sheets showing the mortality rate of firms in his industry. It didn't matter that his loans were current. His company had lost money for two years running, and the odds were stacked against him. Bankers whom the businessman had never seen before said they would have to cut his credit line to $50,000 from $1 million. He was stunned: Without the big credit line, the couldn't finance his inventory, and sales would shrivel.

The tractor dealer eventually found financing at a small, locally owned bank and a large, out-of-town credit company. But he's still fuming. "The dang thing that hacks me off is that all of a sudden I was a statistic and not an individual," he says.

Roger Ellis fears that soon he will become a statistic. For months, the 45-year-old construction contractor has been conducting a self-styled liquidation because First RepublicBank Henderson refused to refinance a $250,000 loan. Mr. Ellis recently sold an excavator, two bulldozers and several trucks to cut his debt to $130,000. But he had to lay off 20 of his 25 workers, and one supplier is suing him for unpaid bills. Meanwhile, he is again digging trenches with his backhoe during the day and going sleepless many nights worrying about his debts. "I feel like I've had all the wind knocked out of me." Mr. Ellis says. "I've been whipped down."

PRESSURE ACKNOWLEDGED

Local bankers acknowledge that corporate officials at First RepublicBank in Dallas have ordered all outlying banks to cut some commercial and real-estate lending. "The pressure is there to identify the problems," says H.J. "Jay" Shands III, the bank's 33-year-old chief executive whose family ran the Lufkin bank before First RepublicBank bought it. And he concedes that the bank's new owners, hardpressed for deposits (federal regulators are pumping between $2.5 million and $3.5 million into the chain's banks each week), are enforcing credit policy rigidly.

"Our policy book was just as thick before the bank was sold," says Mr. Shands, pointing to a three-ring blue binder. "The only difference was we never read it."

Edgar and Gilbert Burton wish they never had. The two Lufkin chicken farmers filed their bankruptcy petitions last month after First RepublicBank Lufkin refused to lend them the $500,000 they needed to feed their 750,000 chickens and meet other obligations. The brothers already owed the bank $2.5 million, and local officials told them that another loan would exceed the Lufkin bank's legal limit. They were told to plead their case with corporate officials at First RepublicBank Dallas, whose now-defunct agricultural-loan division had once lent the funds to purchase a second chicken ranch and just about anything else they wanted.

But their pleas fell on deaf ears. First RepublicBank Dallas "was broker than I was," Edgar Burton says. "If I had any money, they would have wanted to borrow it."

WHOLE TOWN UPSET

The hard line taken by "the boys up in the glass tower" is riling the whole town. In the midst of a meeting, a Lufkin attorney suing First City gets a call from a stunned physician who says one of the banks just ordered him to repay a $10,000 note. The lawyer fuels the flames. "These damn people in Houston and Dallas sure are fangling things up, aren't they?" he says.

Charles S. McIlveene, the pastor of Lufkin's First Baptist Church, says donations had dropped so much that he held off filling two staff openings. Concerned about the church's ability to pay for a $3.5 million expansion, the church opted for a three-year note on the project rather than a shorter term.

The credit squeeze is also creating emotional strain. The manager of Lufkin's Waldenbooks says that the store frequently runs out of "Overcoming Depression" and that tapes on how to deal with stress are a hot item. Local psychotherapists say cases of stress and family tension are soaring. Edgar Burton concedes that at first he was deeply depressed watching the family's business collapse after 33 years. "I've done my crying," he says.

Mr. Shands, the banker, is acutely aware of the pain his bank's credit squeeze is creating in Lufkin. "It hasn't been pleasant," he says. "I wish I'd been a schoolteacher."

The reason I say that is because the same thing is going to be happening nationally. The member of the Federal Home Loan Bank Board has gone up to the east, not to the south. In mentioning the so-called southwest plan for Texas and the region, because that region includes Texas, Louisiana, and Arkansas and the like has said, "We will, and our intention is because Texas has too many institutions—" well, who says Texas has too many institutions and where are there too many? Of course you know where they are. They are in the small rural areas. I do not represent a rural area. My district is 100 percent urban.

But we cannot be isolated and, as I have told the chairman of the FDIC, sooner or later—and it is already sooner—what is happening in the savings institution field is going to spill over to banking. He agreed, he knows that.

But what are we doing about it now? Nothing.

I have instituted a series of planned hearings from the standpoint of home mortgages because most of these institutions in Texas that are going to be sacrificed have most of their portfolio in home mortgage sectors. And, over my dead body is that going to happen; if it is at all humanly possible for anybody to do anything about it. I think the mere fact that for the first time on the record this is being said should help some. But the people back home know it; they are just not being reported because we live in a day and time in which we do not have censorship affirmatively, we have censorship by omission. Whoever has the power to determine what will be reported has the power to censor. And if something does not fit in with what the powers in being like, the tendency has been in my experience to have the entire report omitted.

The record is there for this reason. The basic reason I have availed myself of this privilege is because it is part and parcel of the regular procedures of the United States House of Representatives.

On top of that, it is the only forum that I have with which to communicate in the sense that whether this gets reported or not—and I do not go around making big press releases about my speeches. That is not the question. The question is that as a member of the Committee on Banking and chairman of the unit that has responsibility in that area of home mortgage finance, that has to do with these institutions, I intend to exert all of the available resources to defend and protect that most important and I think the real backbone of America. If we have reached the point where we are going to end up with a wandering tribe of American homeless, rootless, you do not have to be a prophet to know that we do not have long to survive as a viable participatory democracy.

□ 1625

Now, I am not a prophet of doom or gloom. My main problem has been that I am an irrespressible optimist. But I am also a realist, and the facts are there. The arithmetic was there in August 1979 when I came to this same well and pointed out that all the factors were present in the equation, all the variables—and it had not been that way since the Depression—that would now make it possible for not only the United States but the world to face a financial crisis.

I will admit for the record that the very next day—and, remember, at that time there was no televised coverage—the then Chairman of the Federal Reserve Board, a man I considered most enlightened, Arthur Burns, asked me to have breakfast with him, and I did. He wanted to discuss my remarks, and he said he agreed that I was right, but there was not much he could do, although I felt otherwise. I even mentioned section 14(b) of the Federal Reserve Act. Well, he said he could not, and I said, "Well, the reason is what? Why are we in this dilemma? Why has the system not functioned as the Congress set it up and intended it to be?"

"Well, the reason is simple," he said. And I think it was very well and dramatically expressed in that conversation we had. The Chairman said, "Well, all I can do is try to persuade and use moral persuasive power, but when I was at the bankers convention in Honolulu, they almost hissed me out of the room because I was telling them what you are saying."

"But," I said, "Mr. Chairman, you have it in your power. You have it in section 14(b). You can control it. It may be somewhat indirect, but still they will have to listen. You have it in your power to control it on reserve."

"Well, no."

"But why?"

"Well, because all these fellows, all these chairmen come from the same stable. They come from the banks, even Secretaries of State. Henry Kissinger right now is on the payroll as a consultant of the Chase Manhattan Bank."

But what was the basic theme that led to the release of the hostages the day that Mr. Reagan took office? That happened when the Federal Reserve Board official in New York pressed a button and in London released $2.5 billion to the Iranian banking system. That is when our hostages were released.

Toward the end there, the Shah was sent to San Antonio in my district, and at 5:30 in the morning I had a call from an Assistant Secretary of State saying that the Shah was on his way. He said, "He left New York just about a half hour ago, and we noticed that he was going to the Lackland Wilfred Hall hospital. That is in your district?

I said, "Yes, it is right on the edge of my district."

Well, we want to apprise you of that because we would appreciate anything that can be done to cooperate."

I said, "Fine."

My colleagues will recall that at that time there were quite a number of demonstrations, even in San Antonio, on the part of Iranian students who were here studying from Iran and who obviously were against the Shah.

So I went over. I met him. The man he had with him as his secretary was a man who had served as secretary to Vice President Rockefeller when he was here as Vice President, and he came from the Chase Manhattan.

But it was the Chase Manhattan that had a big overhang in Iran—not $2 billion but better than $10 billion. So behind all of this and behind all these posturings, we have finances.

The SPEAKER pro tempore (Mr. TORRES). The time of the gentleman of Texas [Mr. GONZALEZ] has expired.

COMMUNICATION FROM THE HONORABLE GEORGE W. GEKAS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable GEORGE W. GEKAS:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 16, 1988.

Hon. JIM WRIGHT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that a member of my staff, Ms. Ruth Calistri, has been served with a subpoena issued by the Commonwealth of Pennsylvania, County of Lycoming.

After consultation with the General Counsel to the Clerk, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

GEORGE W. GEKAS,
Member of Congress.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the special order taken today by the gentleman from California [Mr. LEVINE].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLEMENT (at the request of Mr. FOLEY), for today, on account of illness.

Mr. RAY of Georgia (at the request of Mr. FOLEY), for June 15 and 16, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ARMEY) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of Washington, for 5 minutes, today.

(The following Members (at the request of Mr. LEVINE of California) to revise and extend their remarks and include extraneous material:)

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. NELSON of Florida, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. MACKAY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ARMEY) and to include extraneous matter:)

Mr. FIELDS.
Mr. GEKAS.
Mr. MICHEL.
Mr. RITTER.
Ms. SNOWE.
Mr. LENT.
Mr. YOUNG of Alaska.
Mr. WORTLEY.
Mrs. SAIKI.
Mr. HERGER.
Mr. YOUNG of Florida.
Mr. CRANE in two instances.

(The following Members (at the request of Mr. LEVINE of California) and to include extraneous matter:)

Mr. THOMAS A. LUKEN.
Mr. SMITH of Florida.
Mr. FLORIO.
Mr. BATES.
Mr. DORGAN of North Dakota.
Mr. DOWNEY of New York.
Mr. TALLON.
Mr. WALGREN.
Mr. HAYES of Illinois.
Mr. DYSON.
Mr. MCMILLEN of Maryland.
Mr. LAFALCE in two instances.
Mr. RODINO.
Ms. OAKAR.
Mr. BEILENSON.
Mr. DWYER of New Jersey.
Mr. LELAND.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1044. An act to establish the San Francisco Maritime National Historical Park in the State of California, and for other purposes;

H.R. 2203. An act to increase the amount authorized to be appropriated with respect to the Sewall-Belmont House National Historic Site;

H.R. 2652. An act to revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes;

H.R. 3927. An act to amend the United States Housing Act of 1937 to establish a separate program to provide housing assistance for Indians and Alaska Natives;

H.R. 4621. An act to provide congressional approval of the Governing International Fishery Agreement between the United States and the Government of the German Democratic Republic;

H.R. 4638. An act to the effective date provision of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988;

H.R. 4799. An act to extend the withdrawal of certain public lands in Lincoln County, NV; and

H.J. Res. 423. Joint resolution, to designate the third week in June 1988 as "National Dairy Goat Awareness Week."

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The Speaker announced his signature to enrolled bills and joint resolution of the Senate of the following titles:

S. 794. An act to amend chapter 13 of title 18, United States Code, to impose criminal penalties for damage to religious property and for obstruction of persons in the free exercise of religious beliefs;

S. 952. An act to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review, and for other purposes;

S. 2156. An act to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget;

S. 2167. An act to amend Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts; and

S.J. Res. 147. Joint resolution designating the week beginning on the third Sunday of September in 1988 as "National Adult Day Care Center Week."

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 4 o'clock and 30 minutes p.m.), under its previous order, the House adjourned until Monday, June 20, 1988, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3813. A letter from the Secretary of Energy, transmitting a report entitled, "Impacts of Alternative Residential Energy Standards—Rule Housing Amendments Study," pursuant to 42 U.S.C. 1472 note; to the Committee on Banking, Finance, and Urban Affairs.

3814. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO during the month of May, 1988, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

3815. A letter from the Acting Secretary of Agriculture, transmitting notification of a proposed new system of records maintained by the Soil Conservation Service, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3816. A letter from the Secretary, Commodity Futures Trading Commission, transmitting notification of two new computer programs, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3817. A letter from the Director, Bureau of Land Management, transmitting a report on the management of the California Desert Conservation Area, purusant to 43 U.S.C. 1781(i); to the Committee on Interior and Insular Affairs.

3818. A letter from the Secretary of Transportation, transmitting a biennial report, "The Status of the Nation's Local Mass Transportation: Performance and Conditions," pursuant to 49 U.S.C. 308(e); to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 475. Resolution waiving certain points of order against consideration of H.R. 4781, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes (Rept. 100-709). Referred to the House Calendar.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4517. A bill to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to provide for indemnification and hold harmless agreements; with an amendment (Rept. 100-710). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. LAFALCE. Committee on Small Business. H.R. 3392. A bill to amend the Small Business Investment Act of 1958 to create the Corporation for Small Business Investment, to transfer certain functions of the Small Business Act to the Corporation, and for other purposes; with an amendment; referred to the Committees on Banking, Finance and Urban Affairs and Ways and Means for a period ending not later than August 5, 1988, for consideration of such provisions of the bill and amendment as fall within the jurisdictions of those committees pursuant to clause 1 (d) and (v), rule X (Rept. 100-708, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MILLER of Washington (for himself and Mr. LOWRY of Washington):

H.R. 4839. A bill designating the Pratt River as a wild river; to the Committee on Interior and Insular Affairs.

By Mr. ROSTENKOWSKI:

H.R. 4840. A bill to establish a pay system under which, within specified limits, Members of Congress would be permitted to designate their own salaries; to amend the Internal Revenue Code of 1986 to repeal the dollar limitation on the amount of living expenses of such Members away from home which are allowable as a deduction; and for other purposes; jointly, to the Committees on House Administration, Post Office and Civil Service, and Ways and Means.

By Mr. FASCELL (for himself, Mr. BROOMFIELD, Mr. SMITH of Florida, Mr. GILMAN, Mr. FEIGHAN, Mr.

Atkins, Mr. Bilbray, Mr. Dornan of California, Mrs. Meyers of Kansas, Mr. Hamilton, Mr. Yatron, Mr. Solarz, Mr. Bonker, Mr. Mica, Mr. Wolpe, Mr. Gejdenson, Mr. Dymally, Mr. Lantos, Mr. Kostmayer, Mr. Torricelli, Mr. Berman, Mr. Levine of California, Mr. Weiss, Mr. Ackerman, Mr. Udall, Mr. Clarke, Mr. Fuster, Mr. Owens of Utah, Mr. Sunia, Mr. Leach of Iowa, Ms. Snowe, Mr. Solomon, Mr. Smith of New Jersey, Mr. Mack, Mr. DeWine, Mr. Miller of Washington, and Mr. Donald E. Lukens):

H.R. 4841. A bill to control illicit narcotics production and trafficking, and for other purposes; jointly, to the Committees on Foreign Affairs, Banking, Finance and Urban Affairs, and Ways and Means.

By Mr. MICHEL (for himself, Mr. Lott, Mr. Cheney, Mr. Lewis of California, Mr. Edwards of Oklahoma, Mr. McCollum, Mr. Archer, Mr. Armey, Mr. Badham, Mr. Baker, Mr. Ballenger, Mrs. Bentley, Mr. Bilirakis, Mr. Bliley, Mr. Blaz, Mr. Boulter, Mr. Brown of Colorado, Mr. Burton of Indiana, Mr. Buechner, Mr. Callahan, Mr. Coble, Mr. Combest, Mr. Davis of Michigan, Mr. Davis of Illinois, Mr. DeWine, Mr. Dickinson, Mr. DioGuardi, Mr. Dornan of California, Mr. Dreier of California, Mr. Emerson, Mr. Fawell, Mr. Fish, Mr. Gallegly, Mr. Gallo, Mr. Gekas, Mr. Gilman, Mr. Grandy, Mr. Gregg, Mr. Gunderson, Mr. Hansen, Mr. Hastert, Mr. Hefley, Mr. Henry, Mr. Herger, Mr. Hiler, Mr. Holloway, Mr. Houghton, Mr. Hunter, Mr. Inhofe, Mr. Ireland, Mr. Kemp, Mr. Kolbe, Mr. Lagomarsino, Mr. Lent, Mr. Lewis of Florida, Mr. Livingston, Mr. Lujan, Mr. Donald E. Lukens, Mr. Madigan, Mr. Martin of New York, Mrs. Martin of Illinois, Mr. McDade, Mr. McEwen, Mr. McGrath, Mr. McMillan of North Carolina, Mr. McCandless, Mr. Miller of Ohio, Mr. Molinari, Mr. Moorhead, Mr. Morrison of Washington, Mrs. Meyers of Kansas, Mr. Myers of Indiana, Mr. Nielson of Utah, Mr. Oxley, Mr. Parris, Mr. Quillen, Mr. Ravenel, Mr. Rhodes, Mr. Rinaldo, Mr. Ritter, Mr. Rogers, Mr. Roth, Mr. Schaefer, Mr. Schuette, Mr. Shaw, Mr. Shumway, Mr. Slaughter of Virginia, Mr. Robert F. Smith, Mr. Smith of New Hampshire, Mr. Denny Smith, Mr. Smith of Texas, Mrs. Smith of Nebraska, Mr. Solomon, Mr. Stangeland, Mr. Stump, Mr. Sundquist, Mr. Swindall, Mr. Thomas of California, Mrs. Vucanovich, Mr. Walker, Mr. Whittaker, Mr. Wylie, Mr. Young of Florida, and Mr. Young of Alaska):

HR. 4842. A bill to combat the production, sale, and use of illicit drugs; jointly, to the Committees on the Judiciary, Agriculture, Armed Services, Banking, Finance and Urban Affairs, Education and Labor, Energy and Commerce, Foreign Affairs, Government Operations, Merchant Marine and Fisheries, Post Office and Civil Service, Public Works and Transportation, Ways and Means, and the Permanent Select Committee on Intelligence.

By Mr. OWENS of New York (for himself, Mr. Waxman, and Mr. Madigan):

H.R. 4843. A bill to authorize the Secretary of Health and Human Services to make grants for demonstration projects for foster care and residential care of infants and young children abandoned in hospitals, and for other purposes; jointly, to the Committees on Energy and Commerce and Education and Labor.

By Mr. ANDERSON (for himself, Mr. Hammerschmidt, Mr. Mineta, and Mr. Gingrich):

H.R. 4844. A bill to direct the Federal Aviation Administration to provide assistance to law enforcement agencies in their efforts with respect to drug trafficking interdiction, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ROSTENKOWSKI:

H.R. 4845. A bill to make technical corrections in pension-related provisions in the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. BONIOR:

H.R. 4846. A bill to amend the Internal Revenue Code of 1986 to provide an income tax credit for expenses incurred by an individual taxpayer for the purchase of television subtitle equipment to be used by a hearing-impaired individual; to the Committee on Ways and Means.

By Mr. DWYER of New Jersey:

H.R. 4847. A bill to amend the Federal Hazardous Substances Act to require the labeling of chronically hazardous art materials and for other purposes; to the Committee on Energy and Commerce.

By Mr. ROSTENKOWSKI (for himself, Mr. Foley, Mr. Coelho, Mr. Rodino, Mr. Brooks, Mr. Dingell, Mr. Fascell, Mr. St Germain, Mr. Pepper, Mr. de la Garza, Mr. Jones of North Carolina, Mr. Roe, Mr. LaFalce, Mr. Hawkins, Mr. Anderson, Mr. Aspin, Mr. Gibbons, Mr. Bonker, Mr. Downey of New York, Mr. Russo, Mr. Matsui, Mr. Guarini, Mr. Mica, Mr. Fauntroy, Mr. Swift, Mr. Sharp, Mr. Wolpe, Mr. Skelton, Mr. Hatcher, Mr. Kastenmeier, Mr. Hughes, Mr. Biaggi, Mr. Gordon, Mr. Price of North Carolina, Mr. Penny, and Mr. Robinson):

H.R. 4848. A bill to enhance the competitiveness of American industry, and for other purposes; jointly, to the Committees on Ways and Means, Agriculture, Banking, Finance and Urban Affairs, Education and Labor, Foreign Affairs, Energy and Commerce, the Judiciary, Government Operations, Merchant Marine and Fisheries, Public Works and Transportation, Small Business, Science, Space and Technology, Rules, and Armed Services.

By Mr. FIELDS:

H.R. 4849. A bill to prohibit the importation of African elephant ivory from any country which does not have a population of African elephants living in the wild, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. WAXMAN:

H.R. 4850. A bill to amend the Public Health Service Act with respect to research programs relating to acquired immune deficiency syndrome; to the Committee on Energy and Commerce.

By Mr. GEKAS:

H.R. 4851. A bill to amend the Controlled Substances Act to provide the death penalty in cases of drug related killings; jointly, to the Committees on Judiciary and Energy and Commerce.

By Mrs. MEYERS of Kansas:

H.R. 4852. A bill to amend the Internal Revenue Code of 1986 to make permanent the limited deduction of health insurance costs of self-employed individuals; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 4853. A bill to amend title 31, United States Code, to establish new requirements and procedures to combat money laundering, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SCHUMER:

H.R. 4854. A bill to encourage economic development in Central America, and to increase the sugar import quota; jointly, to the Committees on Agriculture; Banking, Finance and Urban Affairs; Foreign Affairs; Armed Services; and Ways and Means.

By Mr. SCHUMER (for himself, Mr. Hayes of Louisiana, Mr. Bates, Mrs. Lloyd, Mr. Torres, Mrs. Boxer, Mr. Lehman of Florida, Mr. Downey of New York, Mr. Fazio, Mr. Owens of New York, Mr. Clement, Mr. Foglietta, and Mr. Ackerman:

H.R. 4855. A bill to require commercial lessors of automobiles to provide certain information to rental customers concerning collision damage waivers offered under the lessors' automobile rental agreements; to the Committee on Energy and Commerce.

By Mr. SHAYS (for himself, Mr. Rowland of Connecticut, Mrs. Johnson of Connecticut, Mr. Gejdenson, Mrs. Kennelly, and Mr. Morrison of Connecticut):

H.R. 4856. A bill to amend the Occupational Safety and Health Act of 1970 to improve safety in the construction industry, and for other purposes; to the Committee on Education and Labor.

By Mr. WILLIAMS (for himself, Mr. Martinez, Mr. Owens of New York, and Mr. Gunderson):

H.R. 4857. A bill to amend the Job Training Partnership Act to make a technical change; to the Committee on Education and Labor.

By Mr. DYMALLY:

H.J. Res. 592. Joint resolution designating Labor Day Weekend, September 3-5, 1988, as "National Drive for Life Weekend"; to the Committee on Post Office and Civil Service.

By Mr. DORGAN of North Dakota (for himself, Mr. Marlenee, Mr. Glickman, and Mrs. Smith of Nebraska):

H. Con. Res. 318. Concurrent resolution urging the implementation of the low yield disaster program to alleviate the economic emergency caused by the drought of 1988; to the Committee on Agriculture.

By Mr. ROSTENKOWSKI:

H. Res. 474. Resolution returning to the Senate the bill S. 1748; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LEHMAN of Florida:

H.R. 4858. A bill for the relief of Tibor Rubin; to the Committee on Armed Services.

By Mr. MARTIN of New York:

H.R. 4859. A bill for the relief of Cathy-Anne Hughes; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 504: Mr. Dowdy of Mississippi.

H.R. 592: Mr. Hansen, Mr. Grant, Mr. Kanjorski, Mr. Thomas A. Luken, Mr. Mavroules, Mr. Ackerman, Mr. Sundquist, Mr. Sawyer, Mr. Skelton, Mr. Stratton, and Mr. Lipinski.

H.R. 593: Mr. Richardson.

H.R. 1660: Mr. Derrick.

H.R. 1815: Mr. de Lugo.

H.R. 1957: Mr. Dorgan of North Dakota.

H.R. 2155: Mr. LaFalce.

H.R. 2183: Mr. Sundquist, Mr. DeFazio, Mr. Penny, Mrs. Patterson, Mr. Emerson, Mr. Rahall, Mr. McMillan of North Carolina, Mr. Dymally, Mr. Staggers, Mr. Hubbard, Mr. Clarke, Mr. Valentine, Mr. Craig, Mr. Robinson, Mr. DeWine, Mr. Fazio, Mr. Sikorski, Mr. Whittaker, Mr. Saxton, and Mr. Shays.

H.R. 2852: Mr. Roe.

H.R. 2964 Mr. Owens of New York, Mr. Beilenson, Mr. Foglietta, Mr. Fauntroy, Mr. Olin, Mr. Chapman, Mr. Penny, and Mr. Atkins.

H.R. 3054: Mr. Rangel and Mr. Solomon.

H.R. 3250: Mr. Anthony.

H.R. 3455: Mr. Traficant, Mr. Gallo, and Mr. Tauke.

H.R. 3623: Mr. de Lugo.

H.R. 3723: Mr. Flippo.

H.R. 3871: Mr. Neal and Mr. Chapman.

H.R. 3883: Mr. Fascell, Mr. Mica, and Mr. MacKay.

H.R. 3900: Mr. Oxley.

H.R. 3996: Mr. Daub and Mr. Bevill.

H.R. 4150: Mr. Slaughter of Virginia.

H.R. 4208: Mr. Foglietta, Mr. Hutto, Mr. Lipinski, Mr. Carper, Mr. Bosco, Mr. Manton, Mr. Levine of California, Mr. Saxton, Mr. Miller of Washington, Mr. Weldon, Mr. Ortiz, Mrs. Saiki, and Mrs. Bentley.

H.R. 4221: Mr. Schuette.

H.R. 4340: Mr. Lehman of Florida, Mr. DeFazio, Mr. Erdreich, Mr. Weiss, Mr. Fazio, Mr. Sundquist, Mr. Stratton, Mr. Lewis of Georgia, Mr. Schaefer, Mr. Dwyer of New Jersey, Mr. Skaggs, Mr. Jeffords, Mr. Skelton, Mr. Tauzin, Mr. Coelho, Mrs. Morella, Mr. Kanjorski, Mr. Fascell, Mr. Glickman, Mr. Gray of Illinois, Mr. Hughes, Mr. Dellums, Ms. Pelosi, Mr. Hyde, Mr. Weber, Mr. Edwards of California, and Mr. Pashayan.

H.R. 4442: Mr. Panetta and Mr. Rahall.

H.R. 4446: Mr. Hatcher, Mrs. Meyers of Kansas, and Mr. Hastert.

H.R. 4455: Mr. Smith of New Hampshire and Mr. Fauntroy.

H.R. 4468: Mr. Ridge.

H.R. 4530: Mr. Bates, Mr. Rangel, Mr. Frank, Mr. Smith of Florida, Mr. Richardson, Mr. Garcia, Mr. Owens of New York, Mr. Bustamante, Mr. Espy, Mr. Towns, Mr. Berman, and Mr. Borski.

H.R. 4533: Mr. Evans.

H.R. 4542: Mr. Tallon and Mr. Denny Smith.

H.R. 4546: Mrs. Bentley, Mr. Rangel, Mr. Frost, and Mr. Atkins.

H.R. 4576: Mr. Clinger and Mr. Chandler.

H.R. 4652: Mr. DeWine and Mr. Baker.

H.R. 4680: Mr. Archer and Ms. Kaptur.

H.R. 4758: Mr. Gonzalez and Mr. MacKay.

H.R. 4768: Mrs. Saiki, Mr. Craig, Mr. Lewis of Florida, and Mr. Miller of Washington.

H.R. 4811: Mr. Gilman.

H.J. Res. 138: Mr. Lancaster, Mr. Vento, and Mr. Evans.

H.J. Res. 315: Mrs. Vucanovich, Mr. Bustamante, and Mr. Tallon.

H.J. Res. 317: Mr. Jeffords.

H.J. Res. 330: Mr. Crockett, Mr. Mavroules, Mr. Leach of Iowa, Mr. Moody, Mr. Atkins, Mr. Clay, Mr. Hatcher, Mr. HcHugh, Mr. Rinaldo, Mr. Broomfield, Mr. Rose, Mr. Rangel, and Mr. Carper.

H.J. Res. 458: Mr. Clinger, Mr. Evans, Mr. Kleczka, Mr. Murphy, Mr. Pashayan, Mr. DeWine, Mr. Jontz, Mr. Moakley, Mr. Mfume, and Mr. Atkins.

H.J. Res. 478: Mr. Grandy, Mr. Mineta, Mr. Lipinski, Mr. Skaggs, Mr. Hastert, Mr. Akaka, Mr. Fascell, Mr. Evans, Mr. Lantos, Mr. Carr, Mr. Young of Florida, Mr. Ackerman, Mr. Atkins, Mr. Bliley, Mr. Borski, Mr. Bonior of Michigan, Mr. Buechner, Mr. Flippo, Mr. Garcia, Mr. Dornan of California, Mr. Dorgan of North Dakota, Mr. Hayes of Illinois, Mr. Scheuer, Mr. Smith of New Hampshire, Mr. Wortley, Mr. Robert F. Smith, Mr. Stratton, Mr. Rhodes, Mr. Jontz, Mr. Olin, Mr. Skelton, Mr. Towns, Mr. Callahan, Mr. Rangel, Mr. Parris, Mr. Hatcher, Mr. Chapman, Mr. Hubbard, Mr. Mavroules, Mr. Dwyer of New Jersey, Mr. Dellums, Mr. Jones of Tennessee, and Mr. Nichols.

H.J. Res. 520: Mr. Volkmer, Mr. Schuette, Mr. Vento, Mr. Chapman, Mr. Tallon, Mr. Sunia, Mr. Gallo, Mr. Dingell, Mr. DeWine, Mr. Hayes of Illinois, Mr. Saxton, and Mr. Hughes.

H.J. Res. 549: Mr. Oberstar, Mr. Erdreich, Mr. Levin of Michigan, Mr. Tallon Mr. Levine of California, Mr. Espy, Mr. Lowry of Washington, Mr. Scheuer, Mrs. Morella, Mr. Florio, Mr. Fazio, Mr. Dowdy of Mississippi, Mr. Lancaster, Mr. Edwards of Oklahoma, Mrs. Johnson of Connecticut, Mr. Bryant, Mr. Ackerman, Mr. Vento, Mr. Dellums, Mrs. Bentley, Mr. DeWine, Mr. Mavroules, and Mr. Petri.

H.J. Res. 554: Mr. Bosco, Mr. Morrison of Connecticut, Mr. Erdreich, Mr. Kleczka, Mr. Emerson, Mr. McCloskey, and Mr. Mrazek.

H.J. Res. 556: Mr. Barnard, Mr. Boehlert, Mrs. Byron, Mr. Chapman, Mr. Dyson, Mr. Flake, Mr. Gregg, Mr. Hayes of Louisiana, Mr. Jontz, Ms. Kaptur, Mr. Kasich, Mr. Kolter, Mr. LaFalce, Mr. Lagomarsino, Mr. Lancaster, Mr. Lott, Mr. Miller of Washington, Mr. Porter, Mr. Schaefer, Mrs. Schroeder, Mr. Scheuer, Mr. Robert F. Smith, Mr. Stark, and Mr. Vento.

H.J. Res. 559: Mr. Henry.

H.J. Res. 565: Mr. DeWine, Mr. Petri, Mr. Smith of New Hampshire, Mr. Rangel, Mr. Gray of Illinois, Mr. Atkins, and Mr. Foglietta.

H.R. Res. 573: Mr. Bartlett, Mr. Boulter, Mr. Anderson, Mr. Dixon, Mr. Dymally, Mr. Fazio, Mr. Lungren, Mr. Biaggi, Mr. DioGuardi, Mr. Fish, Mr. Green, Mr. Hochbrueckner, Mr. Rangel, Mr. Schumer, Mr. Solarz, Mr. Towns, Mr. Wortley, Mrs. Collins, Mr. Hayes of Illinois, Mr. Borski, Mr. McDade, Mrs. Lloyd, Mr. Hughes, Mr. Saxton, Mr. Dyson, Mr. Bliley, Mr. Boucher, Mr. Parris, Mr. Tallon, Mr. Atkins, Mr. Frenzel, Mr. Sikorski, Mr. DeWine, Ms. Kaptur, Mr. Gradison, Mr. Bennett, Mr. Smith of Florida, Mr. Hertel, Mr. Levin of Michigan, Mr. Upton, Mr. Blaz, Mr. Dowdy of Mississippi, Mr. Espy, Mr. Gunderson, Mr. Holloway, Mr. Dorgan of North Dakota, and Mr. Daub.

H.J. Res. 584: Mr. Rhodes, Mrs. Boxer, Mrs. Patterson, Mr. Schuette, Mr. Schulze, Mr. Mavroules, Mrs. Collins, Mr. Chapman, Mr. Atkins, Mr. McGrath, and Mr. Lipinski.

H. Con. Res. 302: Mr. Chapman, Mr. Rahall, Mr. Swindall, and Mr. McEwen.

H. Con. Res. 304: Mr. Nielson of Utah.

H. Con. Res. 316: Mrs. Lloyd, Mr. Armey, Mr. Emerson, Mr. Gunderson, Mr. Schuette, Mr. Craig, Mr. Boehlert, Mr. Pashayan, Mr. Baker, Mr. Callahan, Mr. Denny Smith, Mr. Chandler, Mr. Cheney, Mr. Konnyu, Mr. Buechner, and Mr. Shaw.

H. Res. 400: Mr. Bateman, Mr. Bliley, Mr. Johnson of South Dakota, Mr. Lehman of California, Mr. Levine of California, Mr. McCrery, Mr. Madigan, Mr. Mica, and Mr. Price of North Carolina.

H. Res. 467: Mr. Horton, Mr. Denny Smith, Mrs. Meyers of Kansas, Mr. Parris, Mr. Edwards of Oklahoma, and Mr. Craig.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4781

By Mr. ROTH:

—Page 84, after line 12, insert the following new section:

Sec. 8108. Not later than December 31, 1988, the Secretary of Defense shall submit to Congress a report on the causes and circumstances of all deaths of Navy personnel during Navy training since January 1, 1986, and on the actions taken by the Secretary of Defense and the Secretary of the Navy to prevent further such deaths.

SENATE—*Thursday, June 16, 1988*

(Legislative day of Monday, June 13, 1988)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The heavens declare the glory of God; and the firmament sheweth his handiwork.—Psalm 19:1.

The earth is the Lord's and the fulness thereof; the world, and they that dwell therein.—Psalm 24:1.

Eternal God, creator of all that is, You spoke the cosmos into existence and called all that You had made "very good." And we? With a strange indifference to this incalculable legacy—we contaminate all that You made in perfection. We poison streams, rivers, and oceans. We pollute the land so that it loses its fertility. We fill the atmosphere with noxious wastes, we decimate wildlife. And we call it progress. With perverse gluttony, we passionately consume the gifts left us by our forebears, the product of their toil and sacrifice. Borrowing on the future, we expend the legacy we should be leaving our posterity. Patient Father in Heaven, forgive this inordinate abuse. Awaken us to this tragic byproduct of progress. Renew us in gratitude for the past, responsibility in the present, and commitment to the future. Make us good stewards of the incalculable treasure You have given us. In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 16, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

RESERVATION OF THE MINORITY LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the Republican leader be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. BYRD. Mr. President, the rollcall vote will occur today at 10 a.m. on taking up the corporate takeover legislation. That vote was set yesterday. Senators have been notified of it and the vote will go forward.

It is my plan, however, not to proceed further on corporate takeover today, only to vote on the motion to proceed. Once that motion carries, if it does, then the Senate will return to the welfare reform legislation or other legislation. I understand that progress has been made on welfare reform in the discussions and negotiations that have been carried on off the floor. I am hopeful that the Senate will be able to complete action on that measure today.

Mr. President, I ask unanimous consent that I may reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

IS AMERICA WINNING OR LOSING IN INTERNATIONAL ECONOMIC COMPETITION?

Mr. PROXMIRE. Mr. President, is the United States winning the international economic competition? Or are we losing? Are we falling behind West Germany, Japan, and other free world countries? A group that calls itself the Wharton Econometric Forecasting Associates has developed data over the past 18 years to try to answer these questions.

The Wharton study compared the United States economic position in the world with Canada, France, Germany, Italy, Japan, and the United Kingdom. Obviously, the U.S. economy is far bigger than these other developed countries. Our population and the gross national product that measures the size of our economy are both more than twice the size of Japan which is the next largest country that Wharton compared with the United States.

Wharton uses four standards to measure U.S. competitiveness over the recent 18-year period. The first standard measures the output of each employed worker net of the change in foreign obligations. This index indicates a serious loss of American competitiveness. Because this standard measures the resources available for future national consumption, Wharton also considers it a standard of living index. Over the 18 years 1970 to 1987 inclusive this U.S. standard of living index has risen from 95.9 to 108.3. But the standard of living of our six competitors has risen dramatically more. Our competitors' standard of living has soared from 92.4 to 137.4. So on a relative basis, that is our standard compared to our competitors, the American standard of living has declined from 103.8 to 79.9. The Germans zoomed from 93.9 in 1970 to 137.4 in 1987. And the Japanese really took off going from 89.1 in 1970 to a remarkable 155.9 in 1987. In terms we can all understand U.S. labor compensation per manufacturing employee has risen over this period in real dollars from an average annual wage of $15,392 to $16,521.60 with an actual decline since 1978. On the other hand Japanese labor compensation has risen at a much faster rate from $7,025 to $13,542.60. And German labor annual compensation has risen from $14,218.40 in 1970 to $19,594.50 today. German workers today enjoy real wages 18 percent higher than Americans in manufacturing.

The second international competitiveness measure by the Wharton group was based on the share of each nation in world exports. This index showed the United States declining from a 1970 level of 104.1 to 82.6 in 1987. On the other hand the share of world exports of our other six competitors stayed relatively stable, declining only from 99.5 in 1970 to 97.8 in 1987. Japan's share of world exports rose sharply from 88.3 in 1970 to 120.5 in 1987.

A third measure of international competitiveness supplied by Wharton is productivity in the manufacturing sector. The measure is confined to manufacturing productivity because measures across countries of productivity only exist for labor productivity. And international competitiveness is primarily confined to the manufacturing sector.

Productivity is where the United States has suffered the greatest relative decline. In 1970 the U.S. manufacturing productivity of labor was 103.2. By 1986, our productivity index relative to our six competitors had declined to 68.7. During a 17-year period—1970 to 1986, U.S. manufacturing productivity per $1,000 per employee did increase in absolute terms from $26,200 to $32,000. But the productivity of our six competitors climbed from $15,900 to $29,100. Japanese productivity per employee zoomed from $12,800 in 1970 to $31,400 in 1986.

The final measure of competitiveness may tell us more about the future of our competitiveness. It shows where we may be going rather than where we have been in competitiveness. This measures the investment trends. This index includes three components, education expenditures, research and development expenditures and expenditures for plant and equipment. This measure has the benefit of suggesting what might happen in the future. It has the disadvantage of simply providing one element in the forces that will get results in each of these components. As all of us who have served in this body for any length of time understands, the amount our country may spend in each of these critical areas of future competitiveness is only one measure and a highly fallible measure at that of what the expenditure may produce.

So where does the United States stand in this investment measure of productivity? The data supplied by Wharton is incomplete until 1972. In 1972 the relative investment index as compared with the six competitors is 100, in 1986—the latest year with data available—it has declined slightly to 96.2. The German investment index has risen from 100 in 1972 to 107.1 in 1986. The Japanese investment index was 100 in 1972. The last data available in 1984. At that date the Japanese index had risen to 124.6.

U.S. education expenditures as a percent of GNP fell from an index of 7.2 percent of GNP in 1972 to 6.8 percent in 1986. German education expenditures drifted from 4.77 percent of GNP in 1972 down to 4.53 percent in 1986. Japanese education expenditures rose from 4.3 percent of GNP in 1972 to 5.6 percent in 1984.

In nondefense research and development the United States raised its investment slightly from 2.63 percent of GNP in 1970 to 2.7 percent in 1986. Meanwhile German nondefense R&D climbed from 2.06 percent of GNP In 1970 to 2.7 percent in 1986. Japanese nondefense R&D rose most sharply from 1.81 percent of GNP to 2.8 percent.

In investment in plant and equipment the United States increased its investment from 10.79 percent of its GNP in 1972 to 11.86 percent in 1987. Our competitors overall held their investment in plant and equipment steady as a percent of GNP with 14.83 percent in 1972 and 14.99 percent in 1987. Japan maintained far and away the biggest rate of investment with a massive 20.24 percent of their GNP going into plant and equipment in 1972 and 21.09 in 1987.

Finally the U.S. saving rate has been substantially and consistently lower than our six competitors. It has fallen from 16.06 percent of our GNP in 1970 to 14.78 percent in 1987. This compares to our six competitors whose savings rate was 23.03 percent of GNP in 1970 and 22.45 percent of GNP in 1987.

Mr. President, all together by every standard the U.S. international competitive position has deteriorated in the past 17 or 18 years. Our country is still doing well. American real personal income is higher now than it has ever been before. The number of jobs has increased. But we are not moving ahead as effectively as our competitors. When we compare our progress with the combined performance of the economies in Japan, Germany, Canada, Italy, France, and the United Kingdom we lag in each of the four measures. Our living standards have not increased as they have in the other six countries. Our percentage of world trade measured by exports has declined. Our labor productivity has increased less than it has in countries with which we compete. The future outlook is not favorable. The combined index of education expenditures, research and development expenditures and expenditures for plant and equipment as a percentage of our GNP are somewhat less than the investment expenditures of our competitors. And our saving rate is both less and declining more sharply than that of our competitors. We still have the strongest economy on Earth; but we are failing to make the effort necessary to keep it that way.

The PRESIDING OFFICER (Mr. Proxmire). The Senator from Nevada.

(The remarks of Mr. Reid pertaining to the introduction of legislation will be found in the section of today's Record entitled "Statement on Introduced Bills and Joint Resolutions.")

Mr. DANFORTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

DRUG AND ALCOHOL INVOLVEMENT IN RAIL ACCIDENTS

Mr. DANFORTH. Mr. President, yesterday the Federal Railroad Administration announced the most recent case of a railroad accident involving a positive testing for drug or alcohol use. The accident occurred on May 21 of this year. It involved the New Jersey Transit accident near Fair Lawn, NJ, in which the brakeman was killed. The accident involved a head-on collision between two freight trains that had been directed to operate on the same track by the dispatcher. The dispatcher tested positive for marijuana.

On October 29 of last year, the Senate passed its drug-testing legislation for safety-related transportation employees by a vote of 83 to 7. Since October 29 of last year, we have been waiting for the House to act. The House has done nothing. They have not conferred with the Senate on this bill, which is now in conference. In the meantime, people are dying.

Yesterday, the House passed a sense-of-the-House resolution relating to drug testing legislation for transportation employees, and the vote was 377 to 27. So it is clear that the strong majority of the people in the House favor the Senate legislation, and yet there has been inaction on the part of the House.

In addition to the New Jersey Transit accident of May 21, here are the other rail accidents, and I am not talking about airplanes, buses, or trucks. These are just the rail accidents since the beginning of 1988 involving positive testing for drug or alcohol use.

January 14: Two engineers and two brakemen working for Conrail were killed near Thompsontown, PA; a conductor tested positive for marijuana.

January 22: A train master on the Atchison, Topeka & Santa Fe Railroad was killed and two others were injured near Pico Rivera, CA; the conductor tested positive for alcohol use.

January 29: Nineteen were injured when an Amtrak switchman misdirected an Amtrak passenger train down a closed track into some maintenance of way equipment; the switchman tested positive for cocaine, marijuana, methamphetamine, and amphetamines.

February 2: A Union Pacific engineer tested positive for marijuana use after an accident near Durand, KS.

February 18: Two were injured in a Norfolk Southern accident near Davy, WV; the engineer tested positive for marijuana, the brakeman had been drinking alcohol.

March 18: After an accident near Moody, OR, a Burlington Northern engineer tested positive for cocaine.

March 21: An accident took place near Dixon, IL, because a dispatcher directed two Chicago & North Western freight trains down the same track; the dispatcher was legally drunk at the time; the brakeman on both trains tested positive for marijuana.

April 6: Five employees involved in the fatal crash of a Metro North commuter train near White Plains, NY, tested positive for drugs. Seven others were injured. The engineer, who died in the crash, had marijuana in his system, two tower operators tested positive for amphetamines, the third tower operator tested positive for marijuana and the dispatcher tested positive for morphine and codeine.

April 18: A Norfolk Southern accident near Roanoke, VA, caused two injuries; one of the crew members tested positive for marijuana use.

This year alone, 6 have died, 34 have been injured and $12.7 million worth of property has been destroyed in drug and alcohol-related rail accidents. Enough is enough. It is time to enact random drug and alcohol testing legislation for safety sensitive transportation workers in the rail, aviation and truck and bus industries.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DROUGHT CONDITIONS IN THE FARM BELT

Mr. LEAHY. Mr. President, I think all Senators are aware of the terrible drought conditions we are facing throughout the country, the area of the country represented by the distinguished Presiding Officer [Mr. DIXON] and others.

I called a special meeting of the Senate Agriculture Committee on Tuesday and invited Secretary Lyng there and told him our committee is prepared to move at any time. If legislative measures are needed, we will call the committee to meet on a Saturday, in the evening, and on weekends, if necessary.

I notify all Senators that tomorrow morning at 9:30, in room S-207, a special task force of Senators appointed by Senator LUGAR and me will be meeting with the Secretary's appointees and I believe Members of the other body to discuss the drought situation.

There are some administrative steps that are now being taken, and others could be taken.

I also notify Senators that I will go with other members of the Senate Agriculture Committee to parts of the Midwest this weekend—in South Dakota, North Dakota, Montana—to try to assess this situation and to be prepared to move, and I would hope to be able to do this in a bipartisan fashion very quickly.

We want, first, to encourage the Department of Agriculture to take all administrative steps necessary and, second, to be prepared to go with legislation and be able to present legislation to the leadership for consideration, if necessary.

I want Senators to know—because we are receiving a lot of calls—that it is an unparalleled situation facing the Nation today. We have a time when much of the Farm Belt is beginning to come out of the enormous depression it faced in the past few years, when there was a feeling of hope coming through the Farm Belt. That feeling of hope is disappearing with rainless day after rainless day. Many of the people who have struggled to hold on through the past 5 or 6 years with disastrous, falling prices, who thought they might make it, are seeing their crops devastated and in some instances completely wiped out.

They are faced with the worst of a good news/bad news situation—the good news being that because of the shortage, prices are going up; the bad news being that they have no crops to sell.

We could be facing a major economic disaster, one of unprecedented proportions. We have never had a drought this early, certainly never in my lifetime.

I urge Senators who have areas of concern in this matter to attend the meeting tomorrow morning. I will report back to the Senate when we return from our weekend trip.

DROUGHT CONDITIONS IN THE FARM BELT

Mr. MELCHER. I thank the majority leader for his courtesy in permitting me to be recognized now.

Mr. President, I want to echo and reaffirm what Chairman LEAHY has just said about the seriousness of the drought facing the United States this summer.

In my State of Montana, which is one of the States we will tour on Saturday, along with the two Dakotas, we have over half the State in a very serious drought that compares with the droughts of the 1930's.

The actual moisture or precipitation that this part of Montana has received, the drought part, varies between 5 percent of normal and 20 percent to 25 percent of normal. It has caused a withering of the winter wheat and the spring wheat and other spring grains, such as barely.

The cattle people are faced with severe pressure because of lack of grass. There is practically no grass growth this year in about 60 percent of the State of Montana, and cattle herds are being decimated. A few herds can remain intact in this area without some reduction, and some of the herds have to be moved out completely—either sold or moved out of the area of the drought to an area where there is sufficient grass.

It also means that the hay crop for 1988 in this part of the State, 60 percent of the State, will be practically nothing.

While there could be some rain that would be of some assistance, it would be too late for the winter wheat in most cases in the drought area, as it will be for any spring grain. With sufficient rainfall now, there would be some grass growth that would alleviate part of the seriousness of the situation.

Whatever can be done by us in Congress should be done, and done very quickly.

Chairman LEAHY has mentioned a special group, appointed by him and the ranking member of the committee, Senator LUGAR, to work with the Department of Agriculture officials in providing everything that is available under current law. I am part of that group.

I well recognize, as chairman of the subcommittee that deals with all the commodities, that some of the law will very likely have to be changed in order to permit some semblance of maintaining the income of farmers and ranchers this year. In our case, it is particularly tough, in Montana, because we have had a series of bad years. Last year was very good, but it had been preceded by 3 years of drought or partial drought and severe losses by farmers and ranchers.

The purpose of the tour this coming Saturday morning will be an assessment to help us in our work as we meet with the Department of Agriculture officials to determine what should be done administratively, under existing law, and what laws will have to be changed in order to meet this very severe emergency.

Chairman LEAHY has stipulated that he hopes it will be done on a bipartisan nature, and I am sure it will be. I am sure that we will join forces to do what is essential in order to protect farmers and ranchers in the drought areas on the loss of income they are facing and absorbing.

MARI MASENG—NEW COMMUNICATIONS DIRECTOR AT THE WHITE HOUSE

Mr. DOLE. Mr. President, I am pleased to say that the White House today has made an outstanding addition to its staff. Beginning on July 1, Mari Maseng will become President Reagan's Communications Director.

Let me say from longtime, personal experience that the White House had made a smart pick: Mari Maseng is a dedicated worker who will bring talent and grace to a very demanding job.

Her skills are certainly well-known to the Dole family. Both Elizabeth and I have had the pleasure of working with Mari. She was Secretary Dole's Assistant Secretary for Public Affairs at the Department of Transportation, and later she did yeoman's work as my campaign press secretary during my 1988 run for the White House.

I congratulate Mari, and wish her all the best in her new assignment. She is everything you would want in a staffer: tireless, committed and loyal: the President will be well-served.

JAPANESE BARRIERS TO UNITED STATES AIR SERVICES IN JAPAN

Mr. BENTSEN. Mr. President, on June 8, 61 Senators voted to override President Reagan's veto of the omnibus trade bill. While short of the two-thirds majority necessary to accomplish the override, the substantial number of Senators favoring the trade bill, together with the overwhelming vote in the House of Representatives to override the President, demonstrates the desire of Members of Congress to address deepening trade problems aggressively.

The trade bill represented a monumental effort over 2 years to forge market-opening measures. Trade expansion, not protection, is the goal of most Members of Congress.

Unfortunately, that goal is not shared by all of our trading partners, a fact that makes it increasingly difficult to maintain public support for open trade. In particular, one of the most frustrating aspects of our trading relations with Japan is the repeated pattern of taking away with the hand of government bureaucracy what the other hand purports to concede in negotiations. Currently, for example, the Japanese Ministry of Transport refuses to allow use by Federal Express Corp. of its multiple-package airway bills in connection with the new small package express service that Federal Express seeks to initiate to Japan. Japan agreed to this service in a 1985 aviation agreement. A Japanese cargo carrier, Nippon Cargo Airlines, began all-cargo service shortly thereafter and has been operating successfully. The 1985 agreement specifically contemplated use of multiple-package airway bills, which are recognized throughout the world. But now, on the eve of the initiation of Federal Express' service, and after nearly 3 years of operation by Nippon Cargo, the Japanese Government has found that it does not like the use of these airway bills. As a result, an important American service industry is being denied access to Japan.

Mr. President, perhaps the Ministry of Transport was emboldened by the President's veto of the trade bill. If so, its attitude is extremely shortsighted. Bureaucratic denials of trade benefits to U.S. companies are exactly the source of strong sentiment in the United States for a tough, retaliatory trade policy.

The President insists that his administration believes in reciprocity of opportunity in trade relations. He now has a chance to demonstrate that in practice. I urge the President to suspend the right of Nippon Cargo to operate in the United States until the Japanese authorities remove the bureaucratic obstacles they have thrown in the way of our cargo carriers.

BICENTENNIAL MINUTE

JUNE 16, 1789: FIRST NOMINATION SENT TO THE SENATE

Mr. DOLE. Mr. President, 199 years ago today, on June 16, 1789, the U.S. Senate received its first nomination for confirmation. This was not a Cabinet post, or a military or judicial position, as we might suspect, but a diplomatic nomination.

Having chosen Thomas Jefferson to be his Secretary of State, President George Washington submitted the name of William Short to take charge of American affairs at the French court of Versailles. Some Members of the Senate were disappointed that Washington had chosen to make this nomination in writing rather than in person. They had expected the Senate to act as an advisory council to the President, and wished to give the Chief Executive their advice as well as their consent. But while Washington was initially willing to present treaties in person, he feared—correctly, as it turned out—that there would be too many nominations for such personal service.

But all the Senate could do was request that the Acting Secretary of State John Jay, Jefferson being still in France, submit any papers relating to Short's nomination for their consideration. The following day, Jay appeared in the Senate Chamber with the requested papers, and, as the Senate's Executive Journal recorded, the Senate "proceeded to consider the nomination of William Short, esquire." And that is about all we know of the debate, since no transcripts of Senate proceedings were taken in those days.

The Senate continued its debate on Short's nomination the following day, and then voted. Negative votes were recorded by blank ballots while affirmative votes were recorded by the word "aye."

It is worth noting that the Senate took only 3 days to confirm Short, which was the average length of a confirmation during the First Congress.

1988 U.S. CAPITOL HISTORICAL SOCIETY MEDAL

Mr. SIMPSON. Mr. President, I would like to call your attention to the release of the U.S. Capitol Historical Society 1988 Medal commemorating the ratification of the Constitution.

The Historical Society was founded in 1962 as a nonprofit, historic, and educational organization. In that year a very able and respected Congressman, Fred Schwengel, a dedicated National Park Service historian by the name of Cornelius Heine, and leaders of Congress—including the late Senator Hubert Humphrey—realizing the importance of the Capitol as the symbol of our democracy and the greatness of our Nation, decided to create the U.S. Capitol Historical Society. Later, Congressman Schwengel would be called upon to be the president of the society, where he still serves today. He is truly a delightful and remarkable man. At the age of 81 years, he has boundless and enormous energy and continues to work a full schedule. The executive director of the Historical Society is Cornelius Heine, a man of similar energy and interest—and a numismatist of reknown. After an extraordinary career of 30 years in the National Park Service, he accepted his current position in 1979. These two individuals have worked tirelessly together to further the goals of the Historical Society.

The society is charged with the duty of recording on and publishing of the history of our Capitol: its growth, development, and architecture. To that end, it does research and publishes various articles and books on the Capitol and Congress. Recently, the Historical Society was called upon by Congress to perform a special project: to research the history of the House Ways and Means Committee. This important project is certain to shed new light on the history of Congress.

In 1978, the Historical Society was given a special charter by Congress, which included authority to create medals of historic interest. Under the direction of the Society's Medal Advisory Committee, medals are created to commemorate significant events in our country's history that are associated with the Capitol and the Congress. As an avid coin and medal admirer, I am most honored to be a part of that committee.

This is the 11th medal created by the society on a variety of themes. Last year's work commemorated the 200th anniversary of the Constitution. This year, the theme is the ratification of the Constitution and the role of the Federalist papers in the process of ratification. A portion of the profits from all medal sales will go to the Commission on the Bicentennial of the Constitution.

The theme of the 1988 medal is of great significance. After the Constitution was created it needed to be ratified by at least two-thirds of the States in order to establish it as "the law of the land." The ratification process was marked by great debate throughout this fledgling country of ours—about the wisdom of adopting the Constitution at all, and the strong centralized government it would create.

During the debate, 3 authors developed a set of 85 essays to refine the arguments in favor of the Constitution. These papers, penned by Alexander Hamilton, James Madison, and John Jay, became known as "the Federalist Papers" and they were instrumental in bringing together the States to ratify the Constitution.

The 1988 medal commemorates these three great authors and the works they crafted in assisting the ratification process. The medal was designed by the sculptor Eugene Daub, a truly talented and dedicated individual. He has also sculpted numerous other creations of historic significance, including a Liberty Head Medal which was the American Numismatic Society's commemorative piece for the celebration of the 100th anniversary of the Statue of Liberty. Recently, he completed the Christie McAuliffe Children's Memorial Bas Relief for the American Federation of Teachers here in Washington.

I do richly commend the Historical Society and the extraordinary efforts and skills of both former Congressman Fred Schwengel and Cornelius Heine. Through their own energies and vision, they have created this remarkable society and have brought about a greater understanding of the history of our Nation through the issuance of these beautiful commemorative medals. We are all very proud of the society.

WELFARE REFORM

Mr. KARNES. Mr. President, as the Senate takes up welfare legislation I would like to remind my colleagues that an excellent reform bill, S. 1655, has already been offered by the distinguished minority leader. I believe that S. 1655, which includes the reforms sought by the administration, offers a much better opportunity for genuine welfare reform that the costly grabbag of proposals known as the Family Security Act which was reported by the Finance Committee.

I do hope that the current negotiations between Senator DOLE, Senator MOYNIHAN, and the administration will result in significant improvements in S. 1511, such as the inclusion of a minimum percentage of participation by welfare recipients in the Jobs Program and the requirement that States offer to participants work-related activities, including workfare and job search. I commend the minority leader, Senator ARMSTRONG, and others for their efforts to secure the passage of meaningful welfare reform legislation. Comprehensive reform of the vast array of multibillion dollar categorical programs, block grants and entitlements that make up our Nation's welfare system is long overdue. I would like to be able to support and vote for a bill that will provide incentives for people to get off welfare and get to work and will offer an opportunity to end the cruel cycle of dependency which our welfare system has inflicted on so many poor families in America. Without dwelling at this time on the weaknesses and problems I see in S. 1511, let me discuss some of the positive features of Senator DOLE's welfare reform bill. S. 1655 would—

First. Create an employment and training program to help welfare applicants and participants get off the welfare rolls and enter the labor force.

Second. Grant States substantial flexibility in fashioning and implementing their own employment and training programs.

Third. Set realistic participation standards that require States to expand their programs over a 9-year period until 70 percent of their AFDC families are involved in work, job training, job search, or education.

Fourth. Provide $500 million of capped budget authority annually to fund the employment and training programs. With the savings which would be produced by various provisions of the program, the net cost would be around $200 million per year over the first 5 years. The Congressional Budget Office estimates that S. 1511 will increase Federal expenditures by $2.8 billion over 5 years; the admininstration puts the total increase at $3.5 billion.

Fifth. Provide incentives for States to target assistance to potentially long-term recipients—unwed mothers with children under age 3, high school dropouts, and those under age 22.

Sixth. Provide for both child care and health insurance during the transition period from welfare to work.

Seventh. Include new provisions to help States establish paternity and obtain child support payments in cases involving disputed paternity.

Eighth. Include new provisions to strengthen the Federal-State system of collecting child support from noncustodial fathers who live elsewhere.

Ninth. Allow States to operate demonstration programs incorporating up to 22 welfare programs to improve ways to enable welfare recipients to achieve financial independence, improve methods of administering welfare programs, and improve coordination between welfare programs.

Tenth. Create interagency and citizen advisory panels to evaluate the effects of State employment and training programs and State demonstration programs on enabling welfare recipients to achieve financial independence.

Mr. President, in my opinion, S. 1655 would create a comprehensive employment and training program that will help welfare applicants and participants get off welfare and into the work force; in short, it offers a real opportunity for genuine welfare reform.

Mr. President, for this reason I ask that my name be added as a cosponsor of S. 1655.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TENDER OFFER DISCLOSURE AND FAIRNESS ACT

Mr. BYRD. Mr. President, was the motion to proceed made on yesterday?

The PRESIDING OFFICER (Mr. DIXON). The motion to proceed has not been made yet, may I advise the majority leader.

Mr. BYRD. Mr. President, everybody has been notified of our intention to have a vote on this motion.

Mr. President, as I have indicated earlier, it will be my intention, if the Senate approves the motion to proceed to the corporate takeover bill, to put that matter aside for the rest of the day at least. I merely want to get it in the multiple track system. And so with that understanding in mind, I move that the Senate proceed to the consideration of S. 1325, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Georgia [Mr. NUNN], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote YEA.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. MCCAIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 12, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—79

Adams
Armstrong
Baucus
Bingaman
Bond
Boren
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Heinz
Hollings
Humphrey
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simon
Simpson
Specter
Stafford
Stevens
Thurmond
Trible
Warner
Weicker
Wilson

NAYS—12

Bentsen
Boschwitz
Garn
Gramm
Hecht
Helms
Quayle
Roth
Shelby
Symms
Wallop
Wirth

NOT VOTING—9

Biden
Breaux
Dodd
Gore
Heflin
Inouye
McCain
Nunn
Stennis

So the motion to proceed to the consideration of S. 1323 was agreed to.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, it is my intention to go to the nomination of Charles Franklin Dunbar, of Maine, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Yemen Arab Republic shortly.

TENDER OFFER DISCLOSURE AND FAIRNESS ACT

Mr. BYRD. Mr. President, will the Chair lay down the pending business?

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1323) to amend the Securities Exchange Act of 1934 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tender Offer Disclosure and Fairness Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) under current laws and regulations of the Securities and Exchange Commission, investors have not always received timely, adequate, or sufficient information with respect to accumulations of securities in the market and with respect to conduct involved in tender offers;

(2) investors have at times been denied fair treatment in the course of tender offers;

(3) the integrity of the Nation's securities markets and the confidence of the public in them, which are essential to the economic welfare of the country, have been threatened by the conduct of parties in tender offers;

(4) certain individuals and entities have sought to precipitate, intensify, and prolong excessive speculation in connection with acquisitions or proposed acquisitions of issuers of securities to the detriment of such issuers, their shareholders, and the public—

(A) by engaging in acts and practices which circumvent the equal treatment of all shareholders; and

(B) by failing to disclose the nature and extent of their activities, including actions taken to circumvent the purposes and requirements of the law; and

(5) the existing enforcement remedies have not been adequate to deter violations of the Federal laws requiring timely, full, and truthful disclosure of significant accumulations of securities and plans to acquire or seek control of publicly held corporations.

(b) PURPOSES.—Therefore, in order to protect the public interest and assist the Securities and Exchange Commission in its mandate to protect all investors, the purposes of this Act are—

(1) to reduce the opportunities for abuse under the Federal securities laws as currently in effect, and

(2) to expand the protective mechanisms of such laws.

SEC. 3. 10-DAY WINDOW; CONTENTS OF REPORT.

(a) Section 13(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(1)) is amended by striking out "shall within 10 days after such acquisition" and inserting in lieu thereof "shall, within 5 days after such acquisition make a public announcement containing the information prescribed in paragraph (6) of this subsection and".

(b) Section 13(d)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(1)(A)) is amended by inserting before the semicolon at the end thereof the following: "and, if within 30 days preceding the acquisition, such person has had communications regarding his intention to acquire the securities which are the subject of the statement (i) with any other person who has filed a statement pursuant to this section or pursuant to section 13(g) of this title with respect to equity securities of the same class as those subject to the filing person's statement, or (ii) with any other person (other than a broker or dealer acting in the ordinary course of business) who, to the knowledge of the person subject to this subsection, in connection with such communications, acquired or agreed to acquire any such equity securities, the identity of such other person, the fact of each such communication, and the date thereof but not otherwise including the content of such communications".

(c) Section 13(d)(1)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(1)(B)) is amended by striking out "security, a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 3(a)(6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public" and inserting in lieu thereof the following: "security—

"(i) a summary of each agreement or arrangement relating to the extension of credit, the issuance of securities for cash, or the other acquisition of such funds, including the identity of the parties, the term, the collateral, the stated and effective interest rates, all fees to be paid in connection with the agreement or arrangement to any person providing or arranging for the provision of such funds or other consideration, and all other material terms or conditions relative to such loan agreement or arrangement; and

"(ii) any plans or arrangements to finance or repay any amount of such funds representing indebtedness incurred or to be incurred, or if no such plans or arrangements have been made, a statement to that effect".

(d) Section 13(d)(1)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(1)(C)) is amended by inserting before "if" the following: "a designation of the purpose of such purchases or prospective purchases, including whether the purpose of the person filing such statement (i) is to acquire, or influence, the control of the issuer, including participating in or facilitating any transaction having such purpose or effect, and including participating in or facilitating any transaction having the effect of permitting any other person to acquire or influence such control, or (ii) is solely for investment, without any purpose or effect of changing or influencing the control of the issuer, other than by voting the securities in matters coming before the security holders in the ordinary course of business.".

(e) Section 13(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(F) a reasonably itemized statement of all expenses incurred or estimated to be incurred in connection with the acquisition of such beneficial ownership, including filing fees, legal, accounting, financial advisory, investment banking fees, and similar fees and expenses, indicating whether or not such person has paid or will be responsible for paying any or all such expenses.".

(f) Section 13(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(1)) is amended by adding at the end thereof the following:

"Any person required to send and file such a statement may not acquire or agree to acquire, directly or indirectly, the beneficial

ownership of any additional amount of such equity securities after the transaction that required such person to send and file such statement until after such statement has been filed with the Commission and a public announcement has been made in the manner and containing the information prescribed in paragraph (6) of this subsection.".

(g) Section 14(d)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(d)(4)) is amended by adding at the end thereof the following: "Such rules and regulations shall require appropriate disclosures by officers or directors of the issuer of all expenses incurred or estimated to be incurred in connection with the tender offer or request or invitation for tenders, including expenses for legal, accounting, financial, and investment banking services, filing fees, and all other similar fees and expenses, indicating whether or not such person has paid or will be responsible for paying any or all such expenses.".

SEC. 4. TIME FOR FILING AMENDMENTS.

Section 13(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(2)) is amended by inserting after "shall be filed with the Commission" the following: "and a public announcement shall be made not later than the close of business on the next trading day after such change occurs".

SEC. 5. GROUP ACTIVITY, ENFORCEMENT MEASURES, AND CONTENT OF PUBLIC ANNOUNCEMENT.

(a) Section 13(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)) is amended—

(1) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) For purposes of this subsection, the term 'person' shall include two or more persons who act together pursuant to an express or implied agreement or understanding for the purpose of acquiring, holding, or disposing of securities of an issuer, or influencing the management or policies of an issuer, such as by acting (A) as a partnership, limited partnership, syndicate, or other group, whether or not formally organized, (B) pursuant to an arrangement or understanding to indemnify against loss or to hold harmless, or (C) otherwise."; and

(2) by redesignating paragraphs (4) through (6) as paragraphs (6) through (8), respectively, and by inserting after paragraph (3) the following:

"(4) It shall be unlawful for any person who has disclosed in any statement filed under this subsection or any amendment thereto that the acquisition of securities is for investment purposes only, to acquire by tender offer or request or invitation for tenders, directly or indirectly, beneficial ownership of any additional shares of the class of equity security that is the subject of the statement until 60 days after the date an amendment is filed under paragraph (2) of this subsection disclosing that the purpose of the purchases or prospective purchases is to acquire or influence the control of the issuer of such securities unless there has been a material change of circumstances which resulted in a change in the purpose for which such securities are held or were acquired.

"(5) It shall be unlawful for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or to engage in any fraudulent, deceptive, or manipulative acts or practices, in connection with any statement required to be filed under this subsection. The Commission shall, for the purposes of this subsection, by rules and regulations define, and prescribe means reasonably designed to prevent, such acts and practices as are fraudulent, deceptive, or manipulative.".

"(6) The public announcement referred to in paragraphs (1) and (2) of this subsection shall be filed with the Commission and shall be disseminated to one or more nationally recognized financial news services, or otherwise as the Commission may prescribe by rule or regulation, and shall contain the following information and such additional information as the Commission may by rule or regulation prescribe, as necessary or appropriate in the public interest, for the protection of investors, and to carry out the purposes of this paragraph:

"(A) The identity of the person making such announcement.

"(B) Whether the purpose of the person filing such statement or amendment (i) is to acquire or influence control of the issuer, including participating in or facilitating any transaction having such purpose or effect, and including participating in or facilitating any transaction having the effect of permitting any other person to acquire or influence such control, or (ii) is solely for investment, without any purpose or effect of changing or influencing the control of the issuer.

"(C) The number of shares of such security which are beneficially owned by such person and the nature of the beneficial ownership of such securities.".

(b) Section 13(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(g)) is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) For purposes of this subsection, the term 'person' shall include two or more persons who act together pursuant to an express or implied agreement or understanding for the purpose of acquiring, holding, or disposing of securities of an issuer, or influencing the management or policies of an issuer, such as by acting (A) as a partnership, limited partnership, syndicate, or other group, whether or not formally organized, (B) pursuant to an arrangement or understanding to indemnify against loss or to hold harmless, or (C) otherwise.".

SEC. 6. CIVIL LIABILITY.

(a) Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end thereof the following:

"(3)(A) Whenever it shall appear to the Commission that any person (as defined in section 13(d)(3) of this title) has violated, or aided and abetted a violation of, any provision of subsection (d), (f), or (g) of section 13, section 14, or subsection (a) of section 16 of this title, or the rules and regulations thereunder, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, a civil penalty to be paid by such person. The amount of such penalty shall be determined based on the facts and circumstances but shall not exceed 3 percent per day of the value of the securities that are the subject of the violation for each day during the period that the violation continues, but in no event shall the penalty exceed 50 percent of the aggregate value of such securities. The value of the securities for purposes of this paragraph shall be measured by the highest market value of the securities during the period of the violation and shall include all securities required to be reported by such person. Any such penalty shall be payable into the Treasury of the United States. No such action may be brought more than 3 years after the date of the violation on which it is based. If a person upon whom such a penalty is imposed fails to pay such penalty within the time prescribed in the court's order, the Commission shall refer the matter to the Attorney General who shall bring an action in the appropriate United States district court to recover the penalty. The district court shall also have the authority to impose such equitable remedies as the court deems proper to carry out the purposes of subsection (d), (f), or (g) of section 13, section 14, or subsection (a) of section 16 of this title, or the rules and regulations thereunder, as the case may be, including an order enjoining any person violating any such provision from voting securities acquired in connection with such violation, an order to compel divestiture of such securities, or an order enjoining the making of any tender offer or other effort to acquire control for such period of time as the court may order.

"(B) The actions authorized by this paragraph may be brought in addition to any other actions that the Commission or the Attorney General are entitled to bring, and any other remedies that are otherwise available in such actions. For purposes of section 27 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title. The Commission may by rule, regulation, or order exempt any class of persons or transactions from the provisions of this paragraph.".

(b) Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end thereof the following:

"(4) In addition to such other authority as the Commission may otherwise have under this title, the authority vested in the Commission pursuant to section 21(d)(1) of this title to institute an action under this title for violations of sections 7, 13(d), 13(f), and 13(g) of this title, or the rules and regulations thereunder, shall include the authority to seek such equitable relief as the court deems proper to carry out the purposes of those sections, including (A) an order enjoining any person violating any such provision of those sections or rules and regulations from voting securities acquired in connection with such violation, (B) an order to compel divestiture of such securities, or (C) an order enjoining the making of any tender offer or other effort to acquire or influence control of the issuer of such securities for such period of time as the court may order.".

SEC. 7. TENDER OFFERS.

(a) Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by striking out the heading of such section and inserting in lieu thereof the following:

"PROXIES AND TENDER OFFERS"

(b) Section 14(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(d)) is amended—

(1) by striking out paragraph (2);

(2) by redesignating paragraphs (3) through (8) as paragraphs (5) through (10), respectively; and

(3) by inserting after paragraph (1) the following:

"(2) Any person who makes a tender offer for, or a request or invitation for tenders of, shares of any class of any such equity security shall hold such offer, request, or invitation open for a period of at least 35 business days from the date on which such offer, re-

quest, or invitation is first published, sent, or given to security holders, or such longer period as the Commission may, by rule or regulation, prescribe.

"(3) If, during the 35-day period described in paragraph (2), a qualified employee stock ownership plan notifies the offeror, the issuer, or the Commission, of the plan's intent to acquire additional securities of the issuer on terms which are substantially equivalent to other offers, paragraph (2) shall be applied by substituting '95' for '35'.

"(4)(A) For purposes of this subsection, the term 'person' shall include two or more persons who act together pursuant to an express or implied agreement or understanding for the purpose of acquiring, holding, or disposing of securities of an issuer, or influencing the management or policies of an issuer, such as by acting (A) as a partnership, limited partnership, syndicate, or other group whether or not formally organized, (B) pursuant to an arrangement or understanding to indemnify against loss or to hold harmless, or (C) otherwise.

"(B) For purposes of this subsection, the term 'qualified employee stock ownership plan' means an employee stock ownership plan defined in section 4975(e)(7) of the Internal Revenue Code of 1986 which—

"(i) is sponsored by the issuer (or a member of the controlled group) of the equity securities to which the request or invitation for tenders described in paragraph (1) is made,

"(ii) meets the requirements of section 410(b) of the Internal Revenue Code of 1986, and

"(iii) owns securities of the issuer representing at least 10 percent of the outstanding voting securities (of the issuer) on the day on which the 35-day period begins to run and has held such 10 percent for a period beginning at least 6 months before such 35-day period begins to run.

"(5)(A) It shall be unlawful for any person by use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, to acquire, or agree to acquire, directly or indirectly, any shares of any class of any equity security described in paragraph (1) of this subsection if such person is, or after consummation of such acquisition would become, directly or indirectly, the beneficial owner of more than 25 percent of such class unless such acquisition is made pursuant to a tender offer, or a request or invitation for tenders.

"(B) The provisions of this paragraph shall not apply to any acquisition or proposed acquisition of a security if—

"(i) the acquisition of such security, together with all other acquisitions by the same person of securities of the same class during the preceding 12 months, would not exceed 2 per centum of that class;

"(ii) a block of 10 percent or more of the outstanding shares is acquired and such shares were held by the seller for at least 2 years prior to the sale;

"(iii) such acquisition is from one family member to another;

"(iv) such acquisition is made by a person who owned more than 50 percent of the outstanding shares prior to such purchase; or

"(v) the Commission, by rule or regulation, or by order, has exempted such acquisition from the provisions of this subsection as it determines to be necessary or appropriate and consistent with the public interest, the protection of investors, and the purposes of this paragraph.".

(c) Section 14(d)(9) of such Act, as redesignated by subsection (a), is amended by striking out "paragraph (7)" in the last sentence and inserting in lieu thereof "paragraph (9)".

SEC. 8. GREENMAIL.

Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end thereof the following new subsection:

"(h)(1) For the purpose of discouraging manipulative tender offer practices, any profit realized by any person from any disposition, directly or indirectly, to an issuer of securities described in subsection (d)(1), of equity securities of such issuer, shall inure to and be recoverable by such issuer, if such person was the beneficial owner, at the time of such disposition, of more than 3 percent of the class of securities so disposed of, and had held any or all of such securities for less than one year prior to the disposition thereof, unless (A) such disposition has been approved by the affirmative vote of a majority of the aggregate outstanding voting securities of the issuer, or (B) the same offer is made available to all shareholders.

"(2) The Commission shall, by rule, regulation, or by order upon application, conditionally or unconditionally exempt any person, security, or transaction from any or all of the provisions of this paragraph as it determines to be necessary or appropriate and consistent with the public interest, the protection of investors, and the purposes of this paragraph.

"(3) An action to recover profit under this subsection may be brought in any court of competent jurisdiction by the issuer or by the owner of any equity security of the issuer in the name and on behalf of such issuer if the issuer fails or refuses to bring such action within 60 days after request or shall fail diligently to prosecute the same thereafter. No such action shall be brought more than 2 years after the date such profit was realized. This subsection does not apply to any transaction where the profits realized are, or may be, recovered under section 16(b) of this title.".

SEC. 9. REGISTRATION AND REGULATION OF ARBITRAGEURS.

(a) Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended—

(1) by inserting "(A)" after "means"; and

(2) by striking out "otherwise, but" and inserting in lieu thereof "otherwise, and (B) a tender offer arbitrageur. Such term".

(b) Section 3(a) of such Act (15 U.S.C. 78(c)) is amended by inserting before paragraph (48) the following:

"(47)(A) The term 'tender offer arbitrageur' means any person who regularly buys and sells, for its own account or for the account of others, in response to, or in anticipation of, a merger, tender offer, recapitalization, restructuring, or other similar transaction, equity securities of classes that are registered pursuant to section 12 of this title, equity securities that would be required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or equity securities issued by closed-end investment companies registered under the Investment Company Act of 1940.

"(B) The term 'tender offer arbitrageur' does not include—

"(i) any natural person;

"(ii) any issuer, including a separate account, that is registered under the Investment Company Act of 1940 or exempt from registration pursuant to section 3(c)(11) of such Act;

"(iii) any broker or dealer that is registered with the Commission;

"(iv) any 'employee benefit plan' subject to section 401 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101); or

"(v) any person, or class of persons, that the Commission may, by rule or order, as it deems consistent with the public interest and the protection of investors, either conditionally or upon specified terms and conditions or for stated periods, exempt from this definition of 'tender offer arbitrageur'.".

(c)(1) The amendments made by subsections (a) and (b) of this section shall take effect 180 days after the date of enactment of this Act.

(2) No person may continue to act as a tender offer arbitrageur within the meaning of the amendments made by subsections (a) and (b) of this section after the expiration of 270 days after the date of enactment of this Act unless such person has been registered with the Commission as required by the amendment made by subsection (a).

SEC. 10. ERISA AMENDMENTS.

(a) Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following:

"(d) In voting on a merger, combination, or sale of substantially all the assets of, or in tendering or refraining from tendering securities in a tender offer for, a publicly owned business the securities of which constitute assets of a plan, a fiduciary shall take into consideration the long-term as well as the short-term interests of the participants and beneficiaries of the plan and shall not be deemed to have violated this part solely because the fiduciary takes such interests into consideration.".

(b) Section 4044 of such Act (29 U.S.C. 1344) is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding subsection (d)(1) and subject to paragraph (2), a distribution otherwise permitted pursuant to such subsection shall be prohibited if any part of the residual assets of the plan are used to finance, directly or indirectly—

"(A) any acquisition of the securities of the employer pursuant to a tender offer subject to section 14(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(d)) by any person, or

"(B) any acquisition of the securities of the employer in a transaction to which section 13(e) of such Act (15 U.S.C. 78m(e)) applies,

including the repayment, redemption, or refinancing of any indebtedness incurred by such person in connection with any such acquisition.

"(2) Paragraph (1) does not apply to a transaction described in section 4980(c)(3) of the Internal Revenue Code of 1986 (as in effect on the date of enactment of this subsection) if—

"(A) the transfer of assets to the plan is approved by a majority vote of all participants of the employer plan;

"(B) prior to the vote, there is disclosure to the participants of all material facts concerning the transfer of assets to the plan and the acquisition of employer securities by the plan, including—

"(i) the terms of the employee stock ownership plan,

"(ii) the terms of the plan from which the assets are being transferred, and

"(iii) whether or not a new plan will be established in place of the plan from which the assets are being transferred; and

"(C) the vote by the participants is confidential, and takes place within a reasonable period of time following the disclosure required under subparagraph (B).

"(3) For purposes of this subsection:

"(A) The term 'person' means a natural person, company, or partnership including an employer, two or more persons who act together pursuant to an express or implied agreement or understanding for the purpose of acquiring, holding, or disposing of the securities of the employer, or influencing the management or policies of the employer, such as by acting (i) as a partnership, limited partnership, syndicate, or other group whether or not formally organized, (ii) pursuant to an arrangement or understanding to indemnify against loss or to hold harmless, or (iii) otherwise.

"(B) The term 'employer' includes any person that, directly or indirectly, owns or controls 50 percent or more of the voting power or total value of the outstanding stock of an employer.".

SEC. 11. INCREASED ACCESS TO PROXY STATEMENTS FOR SHAREHOLDERS.

Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) There shall be included in any proxy and other solicitation materials (as defined in the rules promulgated under paragraph (1) by the Commission) sent by any issuer to its shareholders pursuant to this subsection, descriptions and other statements of or with respect to any issue to be presented by the issuer for decision by the shareholders (including descriptions and statements or with respect to any candidates for election as directors), and any other proposals and descriptions and statements pertaining to such proposals, that are submitted by person or groups of persons, if such person or group is the beneficial owner of voting equity securities of such issuer representing not less than 10 per centum of the voting power of such issuer's securities. Such descriptions, other statements and other proposals shall receive equal space, coverage, and treatment as is received by the issues and positions on such issues of (or the candidates nominated by) the board of directors or management of such issuer, and shall be subject to such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.".

SEC. 12. CHINESE WALL PROCEDURES.

Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended—

(1) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively; and

(2) by inserting after paragraph (3) thereof the following:

"(4) No broker or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of any security (other than commercial paper, bankers' acceptances, or commercial bills) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest or for the protection of investors to control the dissemination, and prevent the misuse, of material, nonpublic information by such broker or dealer or any person associated with such broker or dealer.".

SEC. 13. INSIDER REPORTS.

Section 16(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78p(a)) is amended by striking out "and within ten days after the close of each calendar month thereafter," and all that follows and inserting in lieu thereof "and thereafter not later than 5 days after any change in beneficial ownership of such securities, shall file with the Commission (and any such exchange) a statement indicating the change, his prior ownership, and his resulting ownership.".

SEC. 14. INCREASED PENALTIES FOR INSIDER TRADING, PERJURY, AND OBSTRUCTION OF JUSTICE.

Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended by adding at the end thereof the following:

"(d) Any person who willfully violates any provision of this title or the rules and regulations thereunder by communicating or by purchasing or selling a security while in possession of material nonpublic information, in a transaction on or through the facilities of a national securities exchange or from or through a broker or dealer, but not including transactions which are part of a public offering by an issuer of securities other than standardized options, shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.

"(e) Any person who willfully in the course of an investigation of a violation of this title relating to the purchasing or selling of a security while in the possession of material nonpublic information violates section 1505, 1510, 1621, or 1622 of title 18, United States Code, shall upon conviction be imprisoned for one year, which shall be in addition to and served consecutively to any other term of imprisonment for the violation.".

SEC. 15. ROLE OF STATE LAW.

(a) The Comptroller General of the United States, in consultation with the Securities and Exchange Commission and the North American Securities Administrators Association, shall conduct a study of State laws which regulate tender offers and other changes of corporate control. Such study shall examine—

(1) the effect such laws have on the number of takeovers attempted and completed;

(2) the rights and economic well-being of shareholders of companies subject to such State laws; and

(3) the impact such laws have on employment.

(b) In conducting the study under subsection (a), the Comptroller General shall examine State laws adopted after January 1, 1982, and before January 1, 1989, and shall submit a report on the study to the Congress not later than October 1, 1989.

SEC. 16. COMMISSION STUDIES.

(a) PROXY VOTING PROCEDURES.—(1) The Securities and Exchange Commission shall conduct a study of the proxy voting process. In carrying out the study under this section, the Securities and Exchange Commission shall hold public hearings and invite the participation of all interested parties including securities issuers, institutional investors, securities firms, and proxy solicitors.

(2) In the course of its study, the Securities and Exchange Commission shall consider—

(A) proposals to make corporate management more responsive to shareholder concerns expressed through proxy voting;

(B) whether proxy voting should be confidential; and

(C) whether bidders in contests for corporate control should have access to proxy machinery on an equal basis with corporate management.

(b) LEVERAGED BUYOUTS.—

(1) The Securities and Exchange Commission shall conduct a study of leveraged buyouts and other going private transactions in which securities of an issuer are being purchased by corporate management.

(2) In the course of such study, the Securities and Exchange Commission shall examine—

(A) whether adequate disclosure is provided to shareholders in such transactions;

(B) whether significant conflicts of interest exist in such transactions and whether shareholders or other corporate stakeholders are being harmed by such conflicts; and

(C) whether appropriate appraisals of the fairness of the offer to take the corporation private are being made available to shareholders and the public.

(c) REPORT ON STUDIES.—Not later than 6 months after the date of enactment of this Act, the Securities and Exchange Commission shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Energy and Commerce of the House of Representatives a detailed report on the results of the studies conducted under this section.

SEC. 17. STUDY OF ONE SHARE-ONE VOTE.

The Commission shall review any and all rules, stated policies, practices, or interpretations of national securities exchanges and national securities associations relating to shareholder voting rights. Not later than October 1, 1988, the Commission shall report to Congress the results of its review, including the effects of such rules on investor protection and the maintenance of fair corporate suffrage.

Mr. BYRD. Mr. President, I ask unanimous consent that the bill with respect to corporate takeovers be temporarily laid aside for the remainder of this day.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The majority leader has the floor.

RECESS FOR 10 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 10 minutes.

There being no objection, the Senate, at 10:29 a.m., recessed until 10:40 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DIXON].

RECESS FOR 10 MINUTES

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, the distinguished Republican leader is engaged in an important discussion right now having to do with the Executive Calendar. I, therefore, ask unanimous consent that the Senate stand in recess for an additional 10 minutes.

There being no objection, the Senate, at 10:41 a.m., recessed until 10:51 a.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. DIXON].

THE EXECUTIVE CALENDAR

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, the distinguished Republican leader and I have been discussing the Executive Calendar. There are several nominations on the Executive Calendar that should be cleared and acted upon.

First, let me ask the distinguished Republican leader as to what nominations are cleared on his side of the aisle beginning with, let us say, page 3.

Mr. DOLE. Let me indicate to the majority leader, while I am obtaining the marked calendar, as far as I know, the only one that is not cleared is the nomination of Mr. Dunbar. We have been working with the distinguished Senator from New Hampshire. Perhaps there is one other nominee, but I will check when I get the marked copy.

The Senator from New Hampshire, Senator HUMPHREY, feels strongly that there should be some special envoy that keeps track of what may be happening in Afghanistan. I think there is an indication, not disagreement, on that position with Secretary Shultz. I have attempted to contact Secretary Shultz this morning. He is testifying in the Appropriations Committee.

I talked to a key member of his staff who indicates Secretary Shultz will seriously consider that proposal which is outlined in a letter he received last evening from the distinguished majority leader and myself. I have now attempted to notify Senator HUMPHREY.

That is the key nomination that is blocking, as I understand, many of the others. Other nominations have been put on hold and are waiting for the disposition of the Dunbar nomination.

Mr. BYRD. Yes, the Republican leader is correct in that regard. So far as I know, there are some holds on other nominations. While holds can be respected for a while, they should not be allowed to delay unduly Senate action on matters.

In this particular instance, the nomination of Mr. Dunbar has been on the calendar since February 17 and there are other nominations that have been on the calendar since February 17. They are being held hostage because of the hold on the Dunbar nomination.

Mr. DOLE. If the majority leader will yield, I understand all other nominations, with the exception of the nomination of John E. Higgins to be a member of the National Labor Relations Board, have been cleared on this side. Of course, the Dunbar nomination is not. Other nominations, I am told, have been cleared.

Mr. BYRD. There is a hold on this side on the last nomination on the Executive Calendar, page 13, but that only went on the Executive Calendar on the 10th of June. So that is not an unreasonable delay. With the exception of that Calendar Order No. 717 and Calendar Order No. 686, I think the Senate will be prepared to move forward on those once the nomination of Mr. Dunbar has been acted upon.

I understand Mr. HUMPHREY is not on the floor yet.

Mr. President, I will move to proceed to the nomination of Mr. Dunbar, and if the distinguished Republican leader suggests the absence of a quorum, of course, that will give Mr. HUMPHREY a little additional time to get here.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I move that the Senate go into executive session to consider the nomination of Charles Franklin Dunbar, Calendar Order No. 520.

The PRESIDING OFFICER. The question is on the motion.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I thank the distinguished majority leader and also the Senator from New Hampshire, Senator HUMPHREY. I just point out this nomination has been out here now since February 17. It is not just this nomination that has been held; there have been other nominations held because there was a hold on that nomination.

A number of those date back to February, April, and May, and a few are just more recently reported nominations from various committees.

So I appreciate the initiative of the distinguished majority leader. I do believe that we can resolve the concern, maybe not to the total satisfaction of the Senator from New Hampshire, but with both the Republican leader and majority leader indicating support generally for his position, I think we would be able to accommodate at least partially his request. At the same time, it will free a number of other nominations that, for no good reason, have been held up. I assume they certainly would like to assume their duties.

I will try again to contact the Senator from New Hampshire. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. Let me indicate for the record that I have just visited with the distinguished Senator from New Hampshire. He believes he has made his point, and he is grateful for the letter that was delivered to Secretary Shultz signed by myself and the majority leader. He is prepared to proceed on the nominations and did not request a rollcall vote.

Mr. BYRD. Mr. President, I thank the able Republican leader.

EXECUTIVE SESSION

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to and the Senate proceeded to the consideration of executive business.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Charles Franklin Dunbar, of Maine, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Yemen Arab Republic.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the subsequent nominations seriatim with the exceptions of Calendar Orders numbered 686 and 692, and 717.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

The legislative clerk read the nomination of Priscilla L. Buckley, of Connecticut, to be a Member of the U.S. Advisory Commission on Public Diplomacy.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will report the next nomination.

The legislative clerk read the nomination of Hershey Gold, of California, to be a Member of the U.S. Advisory Commission on Public Diplomacy.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

The ACTING PRESIDENT pro tempore. The clerk will report the next nomination.

The legislative clerk read the nomination of Donley L. Brady, of California, to be a member of the Board of Directors of the Overseas Private Investment Corporation.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Mitchell E. Daniels, Jr., of Indiana, to be a member of the Board of Directors of the Overseas Private Investment Corporation.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

AFRICAN DEVELOPMENT FOUNDATION

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The clerk read the nomination of David C. Miller, Jr., of the District of Columbia, to be a member of the Board of Directors.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Jay Kenneth Katzen, of Virginia, to be a member of the Board of Directors.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

INTER-AMERICAN FOUNDATION

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of M. Alan Woods, of the District of Columbia, to be a member of the Board of Directors.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

DEPARTMENT OF JUSTICE

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Grace Flores-Hughes, of Texas, to be Director, Community Relations Service.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

AIR FORCE

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Maj. Gen. Keithe E. Nelson to be the Judge Advocate General.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Brig. Gen. David C. Morehouse, to be Deputy Judge Advocate General and major general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Lt. Gen. Robert D. Springer to be lieutenant general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Brig. Gen. John Anderson, Jr., to be major general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Brig. Gen. Edward J. Philbin, to be major general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. Michael Adams, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination is confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. David T. Arendts, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination is confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. Charles J. Bowling, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination is confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. Nicholas Eremita, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination is confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. Don E. Follis, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination is confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. Dennis B. Hague, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination is confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. Frederick R. Keith, Jr., to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination is confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. James E. Kintzi, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination is confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. Gary C. Nelson, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination is confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. David L. Quinlan, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination is confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. Jerald D. Slack, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination is confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. John C. Stafford, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination is confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. Gerald W. Swartzbaugh, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. Joseph A. Washington, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. John W. Wood, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Brig. Gen. John P. McDonough, to be major general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. Donald J. Harlin, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Col. Barbara A. Goodwin, to be brigadier general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

ARMY

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Lt. Gen. Crosbie E. Saint, to be general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Lt. Gen. Gerald T. Bartlett, to be lieutenant general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Lt. Gen. Charles W. Dyke, to be lieutenant general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Lt. Gen. Burton D. Patrick, to be lieutenant general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Maj. Gen. Henry J. Hatch, to be lieutenant general.

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. I would like to take 1 minute to compliment Maj. Gen. Henry Hatch. During and following the catastrophic November 1985 flood in West Virginia, General Hatch made several visits to the State of West Virginia to the flooded areas, and to my office on numerous occasions to discuss the flood recovery work. He was very supportive of the work, and most helpful. I as a Senator from West Virginia express on behalf of my people in those stricken counties our deep appreciation for the work that he did, and for the support that he gave to the recovery efforts. I think because of that work that he did, and the attention that he gave to the efforts, they were expedited. And I think it behooves me to call attention to that fact at this time.

I thank the Chair and I thank the Republican leader.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Lt. Gen. John F. Wall, to be lieutenant general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Brig. Gen. James E. Haught, to be major general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Brig. Gen. Curtis B. Herbert, Jr., to be major general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Brig. Gen. Jerry J. Josten, to be major general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The clerk will read the next nomination.

The legislative clerk read the nomination of Brig. Gen. Douglas J. O'Connor, to be major general.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

Mr. BYRD. Mr. President, I ask unanimous consent that the nominations on pages 8 and 9 and 10 and 11 of the Executive Calendar be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

IN THE ARMY

To be major general

Brig. Gen. Frederick W. Roeder.
Brig. Gen. Paul E. Vallely.

To be brigadier general

Col. Ralph C. Slusher.
Col. George D. Fields, Jr.,
Col. Ralph O. Doughty.
Col. George L. Gunderman.
Col. Robert L. Lame.
Col. Robert E. Gale.
Col. David P. de la Vergne.
Col. Dorothy B. Pocklington.
Col. Thomas E. Mattson.
Col. Larry L. Scheuchzer.
Col. Thomas P. Jones.
Col. Leonard L. Hoch.
Col. Ronald L. Lowe.
Col. Paul D. Webster III.
Col. Bruce G. MacDonald.
Col. James A. Pocock.
Col. Edward M. Crowley.
Col. James E. Ritchie.
Col. Joseph C. Hurteau.
Col. Stephen C. Bisset.
Col. Tommy W. Bonds.
Col. Walter E. Katuzny, Jr.
Col. Barton J. Gilbert.
Col. Gary E. Shamlin.
Col. Thomas W. Sabo.
Col. Richard E. Storat.
Col. Thomas J. Plewes.
Col. Manuel R. Flores.

The U.S. Army National Guard officers named herein for appointment in the grades indicated below, under the provisions of title 10, United States Code, sections 593(a) and 3351(a):

To be major general

Brig. Gen. Phillip B. Finley.

To be brigadier general

Col. Richard C. Alexander.
Col. Stanley M. Heng.
Col. Wayne F. Wagner.

The following-named Army Medical Corps officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, section 611(a) and 624(c):

To be permanent major general

Brig. Gen. Alcide M. Lanoue.
Brig. Gen. Richard T. Travis.
Brig. Gen. James H. Rumbaugh.

To be permanent brigadier general

Col. Richard O. Proctor.
Col. Thomas E. Bowen.
Col. Michael J. Scotti, Jr.
Col. William L. Moore, Jr.

The following-named officers for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, section 611(a) and 624:

To be permanent major general

Brig. Gen. William B. McGrath.
Brig. Gen. Herman C. Kammer, Jr.
Brig. Gen. Thomas B. Arwood.
Brig. Gen. William A. Fitzgerald, Jr.
Brig. Gen. Donald R. Williamson.
Brig. Gen. Louis J. DelRosso.
Brig. Gen. Travis N. Dyer.
Brig. Gen. William E. Harmon.
Brig. Gen. Fred A. Gorden.
Brig. Gen. Richard B. Griffitts.
Brig. Gen. Peter A. Kind.
Brig. Gen. Richard D. Beltson.
Brig. Gen. Leo J. Pigaty.
Brig. Gen. Joe W. Rigby.
Brig. Gen. Paul G. Cerjan.
Brig. Gen. Alonzo E. Short, Jr.
Brig. Gen. Roger K. Bean.
Brig. Gen. Jerry C Harrison.
Brig. Gen. Rudolph Ostovich III.
Brig. Gen. Charles R. Henry.
Brig. Gen. John R. Piatak.
Brig. Gen. Carmen J. Cavezza.
Brig. Gen. Eugene C. Renzi.
Brig. Gen. James H. Johnson, Jr.
Brig. Gen. Paul L. Greenberg.
Brig. Gen. Jerry A. White.
Brig. Gen. Ira C. Owens.
Brig. Gen. J. H. Binford Peay III.
Brig. Gen. Jerome H. Granrud.
Brig. Gen. Caryl G. Marsh.
Brig. Gen. Jack C. Wheeler.
Brig. Gen. William G. Pagonis.
Brig. Gen. Cloyd H. Pfister.
Brig. Gen. Joseph S. Laposata.
Brig. Gen. Charles H. Armstrong.
Brig. Gen. William S.C. Chen.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, Section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Harry E. Soyster.

Mr. BYRD. Mr. President, on page 12, I ask unanimous consent that the nominations under Marine Corps and Navy and continuing on page 13, continuing under Navy, and the nominations under the Department of Commerce be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

IN THE MARINE CORPS

The following named officer of the Marine Corps for appointment to the grade of brigadier general, under title 10, United States Code, section 5046:

Michael E. Rich.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

William R. Etnyre.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Charles H. Pitman.

IN THE NAVY

The following named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. Glenwood Clark, Jr.

The following named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

Vice Adm. William H. Rowden.

DEPARTMENT OF COMMERCE

Jan W. Mares, of Connecticut, to be an Assistant Secretary of Commerce.

W. Allen Moore, of Virginia, to be Under Secretary of Commerce for International Trade.

Mr. BYRD. Mr. President, I ask unanimous consent that the nominations placed on the Secretary's desk in the Air Force, Army, Marine Corps, Navy, appearing on pages 14 and 15, be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Maj. Donald L. Boatright, [redacted], and ending Maj. Patricia L. Baxter, [redacted], which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 26, 1988.

Air Force nominations beginning Maj. Richard L. Ayres, [redacted], and ending Maj. Frank G. Nitsch, [redacted], which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 26, 1988.

Air Force nominations beginning Vianmar G. Pascual, and ending Frank H. Wagner, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 16, 1988.

Air Force nominations beginning Maj. John C. Barber, [redacted], and ending Maj. Kenneth D. Tricinella, [redacted], which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 16, 1988.

Air Force nominations beginning Kevin T. Abraham, and ending Rhonda M. Zoz, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 16, 1988.

Air Force nominations beginning Richard E. Coe, and ending Phillip A. Weaver, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 24, 1988.

Air Force nominations beginning Maj. Norman F. August, [redacted], and ending Maj. Louis J. Verdelli, [redacted], which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 24, 1988.

Air Force nominations beginning Gilbert Westreich, and ending Robert M. Cockey, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 24, 1988.

Air Force nominations beginning William F. Gadberry, Jr., and ending Joseph Wade, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 24, 1988.

Air Force nominations beginning William L. Atkinson, and ending Harris Irene Trowell, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 6, 1988.

Army nominations beginning Leslie M. Hovey, and ending Gilbert Westreich, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 26, 1988.

Army nominations beginning Robert E. Freeman, and ending Christopher T. Finlayson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 26, 1988.

Army nominations beginning Leland E. Hyslop, and ending Rebecca L. Rosier, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 1988.

Army nominations beginning Charles L. Attaway, and ending Royce D. Jones, which nominations were received by the Senate and appeared in the Congressional Record of May 11, 1988.

Army nominations beginning Ronald M. Abe, and ending Judith M. Schuster, which nominations were received by the Senate and appeared in the Congressional Record of May 11, 1988.

Army nominations beginning Merlin G. Anderson, Jr., and ending John D. Werschkul, which nominations were received by the Senate and appeared in the Congressional Record of May 24, 1988.

Army nominations beginning Leslie W. Barham, and ending George A. Millis, which nominations were received by the Senate and appeared in the Congressional Record of May 24, 1988.

Army nominations beginning John K. Atkinson, and ending William R. Fowler, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 1988.

Marine Corps nominations beginning David J. Abbott, and ending Thomas A. Young, which nominations were received by the Senate and appeared in the Congressional Record of May 16, 1988.

Marine Corps nominations beginning Michael J. Aguilar, and ending Michael S. Woodson, which nominations were received by the Senate and appeared in the Congressional Record of May 24, 1988.

Navy nominations beginning Kurt B. Adams, and ending Alan I. Shapiro, which nominations were received by the Senate and appeared in the Congressional Record of April 22, 1988.

Navy nominations beginning Michael Clifford Aaby, and ending Mervyn D. Walter, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 1988.

Navy nominations beginning Michael L. Adams, and ending Roseanne Sobkow, which nominations were received by the Senate and appeared in the Congressional Record of April 28, 1988.

Navy nominations beginning Andrew B. Carlsen, and ending James I. Abbenhaus, which nominations were received by the Senate and appeared in the Congressional Record of May 16, 1988.

Navy nominations beginning Robert R. Ingram, and ending James W. Wilson, which nominations were received by the Senate and appeared in the Congressional Record of May 16, 1988.

Navy nominations beginning Randy P. Amato, and ending Samuel S. Norvell, Jr., which nominations were received by the Senate and appeared in the Congressional Record of May 24, 1988.

Navy nominations beginning Jerry A. Cook, and ending Mark E. Thoman, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 1988.

Navy nominations beginning Howard W. Jones, and ending Brent E. White, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 1988.

Navy nominations beginning Robert Jefferson Adams, and ending James Vincent Rohrscheib, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 1988.

Navy nominations beginning Mark Sheldon Abramovitz, and ending Daniel Ward Merdes, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 1988.

DEPARTMENT OF DEFENSE

Mr. BYRD. Mr. President, I ask that the Chair now proceed to the consideration of Calendar Order No. 692 on page 3.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will read the nomination.

The legislative clerk read the nomination of Kenneth P. Bergquist, of Virginia, to be an Assistant Secretary of the Navy.

The ACTING PRESIDENT pro tempore. The question is on the confirmation of the nomination.

The nomination was confirmed.

MOTION TO RECONSIDER EN BLOC

Mr. BYRD. Mr. President, I ask unanimous consent that a motion to reconsider the vote be en bloc by which the various nominees were confirmed be in order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I move to reconsider en bloc the vote by which the nominations have been confirmed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask that the President be immediately notified of the confirmations of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the able Republican leader and I thank the Chair.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I have been informed that discussions are continuing on the welfare reform bill, and there are various Senators who are needed in the course of those discussions, the distinguished Republican leader being one. There is nothing else that I know of that the Senate can move to take up at this moment.

It has been indicated to me by Senators on both sides of the aisle that they will not be ready to proceed with the welfare reform bill until noon.

Does the distinguished Republican leader have anything else he would like to proceed with at this point, or any statement?

I thank the leader.

RECESS UNTIL NOON

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12 noon today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Thereupon, at 11:19 a.m., the Senate recessed until 12 noon; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Conrad].

The PRESIDING OFFICER. In my role as a Senator from the State of North Dakota, I suggest the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 15 MINUTES

Mr. BYRD. Mr. President, discussions are still under way with respect to the welfare reform bill, and the distinguished Republican leader is in those discussions. For the moment, therefore, I will not proceed until I get further word concerning that measure and other measures. I ask unanimous consent that the Senate stand in recess for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 12:02 p.m., recessed until 12:17 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Shelby].

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LET'S FINISH START

Mr. PELL. Mr. President, it is my fervent hope that the mood of pessimism concerning the possibility of resolving the remaining issues of the strategic arms reduction talks before the Reagan administration ends can be removed. What is needed here is for the two leaders of the superpowers, as General Secretary Gorbachev suggests, "to pound the table" and achieve some of the breakthroughs that are necessary to bring the

START Treaty to fruition. The underbrush has been pretty well removed by the excellent work of the negotiators in Geneva. What remains is to resolve the four major outstanding issues, and that will take the personal intervention of the two superpower leaders.

I hope they will get on with this task. If they don't, the alternative is to wait for the next administration which, if it follows precedent, will want to reexamine all understandings that have so far been reached and will take, if history is our guide, a year or two to reinvent the wheel and get where we are today.

In this regard, I read an excellent editorial that appeared in the International Herald Tribune of June 11-12, 1988, and ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

START CAN BE FINISHED

Conventional wisdom now holds that it is too difficult to resolve the remaining issues in the Strategic Arms Reduction Talks before the Reagan administration ends. But just because the issues are complicated does not mean a treaty is beyond reach. The ultimate prize is well worth the strain: an agreement that cuts long-range nuclear forces nearly in half.

Unless the president moves quickly, however, he risks more than delay. The treaty's prospects could come unstuck politically. What is needed is renewed will in the administration to make critical compromises, and a sense of urgency in Congress.

Conservatives, worried about the administration's failure to delineate the nuclear balance after a treaty, fear further compromise. European leaders and American liberals meanwhile assume that the next president won't have much trouble finishing START.

That is a dangerous assumption for two reasons. One is politics. The American right is already rumbling that even its hero, Ronald Reagan, is ready to give away the store. Just imagine the decibel level when the right is joined next year by conservatives from the present administration who fear arms control is going too far too fast. Neither Michael Dukakis nor George Bush would easily find the two-thirds needed for Senate treaty approval.

The second reason is that neither Mr. Bush nor Mr. Dukakis knows the subject well. Mr. Bush's answers at news conferences are often misinformed; he was not even aware of exactly what was being eliminated by the Euromissile treaty. Mr. Dukakis ducks details. Presidents need not know technical details and either man could, in office, master the background soon. But considering everything else a new president must do, it would take months to build the confidence necessary to make the required compromises. By then, the old anti-arms-control coalition could reassemble.

By contrast, the Reagan team is in a strong position to finish START. Secretary of State George Shultz; Paul Nitze, the senior arms control adviser; Max Kampelman, the senior negotiator, and others could proceed promptly on the four outstanding issues: space-based defenses and the Antiballistic Missile Treaty, sea-launched cruise missiles, mobile ballistic missiles and verification.

Space-Based Defenses. Mr. Reagan wants Soviet agreement to conduct "star wars" tests that Moscow believes would violate the ABM Treaty. In return, he would agree not to deploy until the mid-1990s. But hardly anyone thinks that a reliable system could be deployed until much later, if ever. Congressional majorities have repeatedly backed Moscow's argument that the proposed Regan tests would exceed ABM Treaty limits.

There are two solutions. One is simply to reaffirm a restrictive reading of the ABM Treaty and agree to review the matter in a few years as more is learned about defenses. The other is to work out guidelines for some limited testing. Either remedy is better than leaving the issue hanging, thus forfeiting Washington's bargaining leverage.

Sea-Launched Cruise Missiles. Longer-range ground-launched cruise missiles have been banned by the new Euromissile treaty, but the two sides have agreed to allow air-launched cruise missiles. U.S. experts still have not decided whether the sea-launched variety would help American security. All agree, however, on the difficulty of verifying limits. The best approach is to ban further deployments for two or three years until answers are clearer.

Mobile Ballistic Missiles. These have been an American idea to enhance the survivability of land-based forces. But Moscow has moved ahead with deployments while Washington still debates the future of its own mobile missiles, Midgetman and MX. The rationale for mobile missiles remains correct, and Moscow finally has come to accept it. Such missiles must be permitted. As for verifying limits, this can be done by checking factories and requiring all mobile missiles to be situated in designated areas.

Verification. The two sides have already agreed to dramatic provisions for on-site inspections. Details can be worked out without becoming obsessive. The best way for Washington to gain additional confidence is to expand its spy satellite systems.

Washington and Moscow have been exploring these issues for a decade. The only thing left to explore is political will. If Mr. Reagan can, quickly, find the strength and courage, he will leave his most lasting legacy—a treaty that creates genuine hopes for reducing the risk of nuclear war.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAMILY SECURITY ACT OF 1988

The Senate resumed consideration of S. 1511.

Mr. BYRD. Mr. President, I am now informed by the distinguished manager of the bill, Mr. Bentsen; the equally distinguished Senator from New York [Mr. Moynihan]; and the equally distinguished and able Republican leader that things are ready to move now on welfare reform. They are ready to go foward on it. Therefore, I shall yield the floor. Before doing so, I ask the Chair, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1511.

Mr. BYRD. I thank the Chair.

Mr. BENTSEN. I thank the majority leader.

Mr. President, we have been having negotiations on welfare reform now for several days, with the strong assistance of the minority leader and the distinguished Senator from Colorado and the leadership of my friend from New York, the principal sponsor of this piece of legislation. I think we have made some headway. A compromise has been reached, and I think a general consensus has been brought about. I am quite optimistic that we will be able to move along on this piece of legislation and, hopefully, finish it today or tomorrow.

I yield the floor.

Mr. DOLE. Mr. President, let me confirm what the distinguished chairman has said.

I would guess that on five major issues, we have agreed on about four and one-half. There is still one, on unemployed parents, on which the White House has a slightly different view.

I think I state it correctly that we have sort of agreed informally, at a conference, on four and one-half issues. We will continue to see if there is something we might do to satisfy the President, and we will make every effort to keep all nonrelated amendments off, whether minimum wage, child care, or whatever. They are certainly worthwhile and will be discussed later, but hopefully not on this bill.

So, I say to Members on this side that we have essentially reached an agreement and that if amendments are not related to the bill itself, hopefully they can be offered somewhere else. Maybe it will be prayer in school. I have heard that floated around. That can be offered at another time.

I commend the Senator from New York [Mr. Moynihan], who started blazing this trail several months ago, and the chairman of the Finance Committee, who has done an outstanding job, as well as Senator Packwood and Senator Chafee on this side; also, the Senator from Colorado [Mr. Armstrong], who has been mentioned by the chairman. The Senator from Colorado has been pursuing some of the issues that I think are important to many of us, and we have reconciled our differences in those areas, except for the one very small area.

I hope we can move quickly on this legislation. There might be an amendment on the two unemployed parents problem, in an effort to demonstrate to the White House that we have made an effort to negotiate and the effort to have it adopted, but I do not see it happening, unless we can work it out.

Mr. BENTSEN. Mr. President, if the minority leader will yield, we might have an amendment on food stamps, a waiver provision. But, in general, the consensus was that we would be opposing most amendments and trying to discourage the offering of those amendments. I understand that there may be something on the two-parent family.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. BENTSEN. I yield.

Mr. BYRD. Is there likely to be an amendment offered dealing with ESOPS?

Mr. BENTSEN. One of the Senators has been discussing that. I do not know what decision has been made in that regard. On that, it was my understanding that there might be one offered, with the ESOP change being suggested in order to pay for the amendment, to make it revenue neutral. I do not know that a decision has been made on that.

Mr. BYRD. I hope that all Senators who really want to see this bill move forward will enlist their services voluntarily to prevent that amendment from either being called up or adopted, because that amendment certainly will jeopardize this bill.

Mr. BENTSEN. There is no question, from what I have heard thus far from Members, that that will be a controversial amendment if it is offered. Obviously, it would be debated for some lengthy period of time.

Mr. BYRD. I thank the Senator.

Mr. ARMSTRONG. Mr. President, there is one thing on which there is agreement in this Chamber and in the country, and that is that it is time for somebody to do something to fix this country's welfare system.

It is almost like a Rube Goldberg contraption that grinds on mindlessly, year after year, becoming larger, running further and further out of control, straying further and further from the human impulses that prompted us to establish an AFDC program in the first place, a Medicare program, a food stamp program, a housing program.

Distinguished scholars, including the Senator from New York, have written on this with great insight and very persuasively, to show that in reality this huge welfare effort which our country has been making the last few decades is basically not accomplishing its intended purposes. Instead of helping people become independent, instead of empowering them to get back into the mainstream of American life, to be productive, self-sustaining citizens, we have done exactly the opposite.

As we begin the debate on this bill, it might be worthwhile to stop a minute and say: "What is it we are trying to accomplish here? What is it that a thoughtful, humane, responsible, fiscally-sound welfare system would do?"

I probably am not the one who has given the most thought and scholarship to this, and my experience in it does not begin to compare with that of the Senator from New York or some of the others in this Chamber and elsewhere who have been working on this problem for a long time. But I have some notion of what a welfare system should look like and it should be like this: First, a responsible welfare system should, assure that people do not go hungry, that they do not go without clothes or shelter. Second, a responsible, humane welfare system ought never become a way of life.

People who have been concerned about the human side of welfare have emphasized that from the beginning. As long ago as five decades, President Roosevelt made the point that if people stay on welfare for a prolonged period of time, it administers a narcotic to their spirit; that it undermines their humanity; that it makes of them wards of the State; that they are not participating in the American dream. And that is absolutely right. And in every generation and in every year and I will bet in every session of the Senate someone has arisen in this body to point that out; that a welfare system, if it is humane and sound, will not make people dependent, will not perpetuate a cycle of being on welfare from one year to the next and even from one generation to the next.

And yet, Mr. President, that is exactly what has happened. That is precisely what has happened. There are even books being written now about the new dependent subclass, about people who not only are dependent on welfare but whose parents or, in many cases, whose parent, in the singular, was a welfare person and whose grandparent was a welfare person.

I think it is easy to skip into stereotypes. Perhaps many of us in public life are guilty, from time to time, of doing that, of just characterizing people on welfare as loafers, as bums, as people who drive down to their supermarket in a Cadillac and, with a fistful of food stamps, go in and—how did the Senator from New York say it the other day—show up at the supermarket checkout counter with an orange in one hand and a bottle of vodka and food stamps in the other.

Indeed, Mr. President, that is a stereotype. That is an extreme characterization. Though it is rooted in fact, it is not typical.

From my observation and from my contact with people on welfare, I am convinced that the vast majority of them earnestly desire to get off welfare; that they do not like their status. They do not like being dependent. They do not like having to stay around the house while other adults in the community go to work. They do not like having to look their children in the eye when the kids come home and say, "They asked me at school today what does your mother do? What does your father do?" They do not like to have to face that.

Even though, to some extent, their humanity may have been compromised by being dependent on welfare for a long period of time, that these welfare persons—and we are really talking, in a huge number of cases, about welfare mothers—remain human beings, not very much different from the rest of us, with impulses of pride and self-preservation and a desire to achieve an independent status that is not very much different than America's farmers or America's businessmen or even America's Senators.

Mr. President, if it is true that Presidents as far back as Roosevelt and every one of them since then have believed that it is a mistake to have a welfare system that makes people dependent, and if year after year in Congress Senators and Representatives have pointed that out, and if people who are on welfare despise—and I do not think that is too strong a word—despise the notion of being on welfare and of being a dependent person and going from one generation to the next, then how in the world can it be that that is the kind of a system that we have ended up with?

Well, that is my second specification: that a welfare system should not become a way of life. It should not be considered an alternative lifestyle. It should be considered a stopping off point for people who, for one reason or another, either because of the breakup of a family or illness or injury or tragedy or trauma or some other episode for a period of time are unable to care for themselves.

Now, I deliberately exclude from my analysis, Mr. President, those persons who are, for one reason or another, permanently incapacitated or permanently unable to care for themselves. Obviously, a humane, generous, rich country like ours is going to care for those people indefinitely; all their lives, if necessary. But, for able-bodied persons, it is not an alternative.

And that brings me to the third point I want to make about a welfare system in concept. And it is this: People ought to work. People ought to work because it is unfair to ask other people in our society to indefinitely support them in leisure. But there is another reason far more important than fairness to a bunch of taxpayers or a bunch of workers who do not want to be imposed on to pay for the idleness of others, a far more important reason why everybody ought to work as a matter of general principle, and that is, if you are idle, you lose touch with the rest of the world.

I have forgotten who it was, but it may have been Kahlil Gibran who wrote "you work to keep pace with the seasons of the Earth." If you are not a worker, if you are not a part of the scheme of things, if you are not in the mainstream, if you are not doing a job, somehow your humanity is compromised.

So, for the sake of the people involved, much more than for the cost of it or fairness to the taxpayers, the thing that we ought to think about when we consider welfare is people ought to work.

Now, there may be a lot of other benchmarks and specifications. I guess efficiency would be one of them that comes to mind. A system ought to be efficient. It ought to cost as little as we can make it cost to achieve its objectives, and so on.

To the extent it is possible, I think a welfare system ought to be administered at the local level and have a lot of flexibility. And there is probably, if we stopped to think about it, a number of other things that we could add to our list.

But the big three things that come to my mind are what I said at the outset: First, that it ought to care for those who are helpless in their time and need. Second, it ought never to become a way of life. It ought to be a temporary kind of episode in the life of people who are affected. And, third, people ought to work.

Mr. President, I rise as we begin the debate on this bill for several reasons. First, to say that, as one who complained about the bill in its consideration by the Finance Committee, who voted against the recommendation of the Finance Committee, and who railed fairly loudly and at some length about what I perceived as the defects in this bill, I am prepared to state now, as the Senate begins consideration of it, that I think it is about to be improved considerably.

When the bill was reported by the committee, I believed—and indeed I wrote in the committee report—that the result of the passage of the bill in the form it left the committee would be little more than the expenditure of another $3.6 billion of Federal money and $1.6 billion in State funds over the next 5 years and adding thousands more families to the welfare role.

I said that not because I doubted the good intentions of the sponsors, but because it seemed to me that at two or three critical places in the bill we had not really written into the bill those provisions necessary to accomplish its stated purposes; that is, to reduce dependency, to provide education, and to put people to work.

The centerpiece of the bill at that point in time was—well, the center really was missing. The enforcement mechanisms were missing. Let me be specific about it because it is my understanding that, in a committee amendment which will be considered here shortly, the committee intends to address almost all of the concerns which I expressed at that time and which caused me to criticize the bill, which I think will now be very much improved.

I felt at the time that possibly the worst single feature of the bill was the minimum compensation requirement. Under the present law, Mr. President, a person on welfare may not be required to accept a job if the result would be a net loss of income that they are receiving under welfare. In other words, even under the present law, people are permitted and encouraged to weigh welfare against work. I have some real doubt that that is a good policy. But the bill, as it left committee, would have added to the threshold not only the cash value of AFDC, but the food stamp value converted into cash and the cash value of medical care. It just seemed to me that that was raising the threshold unduly.

Well, as I began to complain about this and pointing out this problem, some of the drafters of it came to me and said: "That isn't what we intended." And, honestly, Mr. President, I was pleasantly surprised. I just want to acknowledge publicly that that is what is represented to me and I understand an amendment will be offered which will take care of that problem and, in fact, as I understand it, will say that only the cash benefit will be considered in determining whether or not someone should take a job.

Mr. MOYNIHAN. Will the Senator from Colorado yield for a comment?

Mr. ARMSTRONG. Yes, I am happy to yield to the distinguished Senator.

Mr. MOYNIHAN. May I say he is exactly right. The Senator raised this question. He was right in the way and the form he raised it.

We have corrected it to his satisfaction and I think to our general satisfaction. Out of the five points that the Republican leader mentioned, and we have reached agreement on four and a half, the No. 1 point is the one which the distinguished and able Senator from Colorado raised. We are grateful to him for having done so. It will be point 1 in the committee amendment.

Mr. ARMSTRONG. I am very much appreciative of the Senator's observation, and particularly for straightening this matter out which does alleviate a serious concern that I had with the bill.

A second point that I was concerned about, and about which I spoke and, in fact, about which I offered an amendment when the Finance Committee considered this bill was the question of participation standards. For those of you who have not been following carefully the debate on welfare legislation, or those of you who, frankly, like me, have never followed it at all until quite recently except in the most general way, participation standards or participation rates, as they are called, are the measure of how many people in each State are actually taking part in the programs of education and training that are being offered.

Well, it seemed very strange to me, in fact it just seemed a horrible oversight, for the Finance Committee to report a bill, the essence of which is intended to be to train people and give them education so they can get off welfare, and then not set any benchmark whatsoever of what they should achieve.

The present law contains a requirement that at least 15 percent of the people on AFDC must participate in education and training programs. Regretably, however, though that is in the law, it is fulfilled in many, many cases by sort of a pro forma compliance. In other words, if your name is on a list, you comply, or if you meet a very minimal requirement, the kind of a requirement that actually makes a mockery out of the whole idea that you can fulfill that.

As a consequence, we have participation rates that meet the apparent requirement without actually doing any good. In fact, again, if I may quote the Senator from New York, he mentioned to me when this was under consideration in the Finance Committee that in New York City there is something like three quarters of a million recipients of welfare and something under 2,500 are actually receiving meaningful education and training.

Well, that is shocking. It is shocking because it is an indication of a program that is not working. But, Mr. President, far more important that the fact that some Government program is going off the rails is the loss of human potential. It is shocking when you think of 750,000 people in one city, one community, who are on welfare and such a tiny proportion, less than one-third of 1 percent of them being offered and actually receiving the kind of education and training that would give them at least the hope, not the certainty but the hope, of getting off welfare and getting back in the mainstream and fully recovering their place in the scheme of things.

So it is clear it is not working, the 15-percent participation requirement in the present law.

The President, when he looked at the welfare bill said, you know, if this is really about education, then we ought to get everybody into the program. His suggestion was that we take the 15-percent threshold and escalate it over time so that the States would be, in due course, required to get a large number of people into education and training programs. Frankly, that seemed a reasonable idea to me. The

President's recommendation was that we keep 15 percent at the outset, then raise it 20 percent to the next year, 25 percent the year after that, 30 percent, and so on, gradually up to 70 percent.

I shopped that idea around and it just did not fly. Even though it probably would have been all right with me and would have met the approval of some Senators, I could not get support of anything that went as far as 70 percent. So I offered a 15-, 20-, and 25-percent participation standard, and though there was some interest in it and we got a respectable vote on the issue in committee, it just did not pass.

I am very glad to report, Mr. President, in the committee amendment which is about to be offered we will have a participation rate requirement that will say that in each State a proportion of those who receive cash benefits must participate in an approved activity; that is to say one of the education or training programs. The participation rate is not nearly as high as I would like it, it is not 15, 20, 25, on up to 70 as the President said, it is not 15, 20, and 25 as I said, but it is 10, 14, 18, and 22 percent.

So that is pretty good. What is more important, indeed far more significant, in my opinion, is that it will be clear from the statute and from the intention of the sponsors that we are not talking about pro forma participation. We are talking about real participation under regulations which will be laid down by the department.

This is a little off the subject but it illustrates the point. We were told of many instances where people were alleged to have been taking part in these programs but in fact it was just a pro forma compliance. For instance, somebody in the Job Search Program: What it consists of is that every Monday morning at 10 o'clock, a herd of people shows up at a shopping center and more or less as a group they will go visit four employers and they will walk in and say, well, you do not have any jobs today, have you? And then they go to the next one and visit four stores in 4 minutes and that is their participation in job search.

That is not what we are talking about here. We are talking about the department issuing regulations where people will really be doing something that is meaningful. And I stress there are two large groups of people that have a big stake in this. One, are the taxpayers who are footing the bill and who are entitled to believe they are getting their money's worth. The other large group that has a big stake in this are the welfare recipients who are entitled to have a program that is meaningful; that is going to be the kind of a program that really will give them, if not the certainty, at least the possibility, the chance to be trained and educated and to have a meaningful Job Search Program and so on.

So, Mr. President, I think the second change that is going to be made is a very significant and meaningful one.

While I am on the subject, Mr. President, I want to share an experience that Colorado has had because while the welfare system generally is not working very well, and in fact in many areas it is working scandalously, I would like to report to you that in some parts of my State of Colorado, we have some programs that are working very, very well.

In Weld County, CO, there is a Work and Welfare Program which is a model for the rest of the country, and it brings me to the third issue that I was very much concerned about.

Mr. MOYNIHAN. Would the distinguished Senator yield for another comment?

Mr. ARMSTRONG. Yes; I would be happy to yield.

Mr. MOYNIHAN. If he would forgive me, another Senator was asking me about matters of detail and I had not recognized the Senator had finished his second point about participation rates. He is exactly right; the sequence was exactly as he described it. Of the 4½—I shall refer to the 4½ of the 5 points on which we have reached agreements already—the fifth point, V on our sheet, is the participation standards that the Senator from Colorado spoke of. They are agreed to on both sides of the aisle. His advocacy was obviously effective.

The rates are not as high as was first suggested by the White House, but I think the Senator now accepts the view of the Governors and the heart of this particular thesis behind our bill, which is that we want to go to the hard and difficult cases and we target them, and to go above the 22 percent mark that we are not yet at, let us wait and see how we do with 22 percent, which we will get to very rapidly. For the first time, there will be real participation rates. But I just make one comment.

The Senator said, in describing the three points he would think of—and I would share completely his judgment about what would describe an adequate system of public provision, welfare—he said it was to be a stopping-off place. He is surely right. Except there is a reality in the land, in many parts of it, that welfare is, in fact, not a stopping-off place, sir; it is a starting-off place. The family forms and is on welfare.

It is the phenomenon of single-parent families, of teenage parents. It is a reality we have never had to deal with before. And that is why we have to bring this legislation forth.

I would just put it to you, in my city of New York, which I speak of—I can speak of other cities but let us speak about my own and not point in other directions—one-half the adults in that three-quarter million, slightly larger, 800,000 population, one-half the adults, sir, have never had a day's work. Not ever 1 day's work. So, obviously with the changed circumstance we cannot just say—you know, it is a starting out place but how do you get away from it?

In any event these rates are there, they are going to be in the committee amendment and I want to thank the Senator from Colorado for sticking with his principles.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator from New York for his observations and his kind words and I would like to respond in kind by making a point which is, perhaps, obvious to those who have been close to the discussion but might not be to the others. The Senator from New York did not have to take any of these amendments. The truth of the matter is that he came to the committee with 60 or 63 or 70 cosponsors which is really a burden, when you come to think of it. If you have that many sponsors the temptation is to say we have got the votes. We do not have to look at amendments. We have got the votes. To his credit he did not do that. He was patient in listening to different points of view and in a number of cases, as I have already acknowledged, has accommodated things I was interested in. The chairman of the committee, Senator BENTSEN, and Senator PACKWOOD the same because they really did not have to pay attention to anybody. There is an underlying political reality beyond the boundaries of this Chamber, which I will get to in a moment. But the plain fact of the matter is that they could have rammed this bill through and I could have hollered about it, but they could have stiff-armed everybody and said we have the votes and we will go with it. So I am thankful.

While I am on that theme, let me acknowledge also the Senator was good enough to agree to, and the committee was good enough to accept, a very important antifraud provision which was put in the bill which I believe will save $170 million by the simple expedient of directing the Secretary to promulgate regulations requiring States to have a Preinduction Screening Program similar to that in California—it has been very successful—not with the idea of denying to anyone who is entitled to welfare that they receive it, but to be sure that no one who is not entitled gets on the program through fraudulent means, which is important not only to save some money but also tried the integrity of the program. Again, the committee was forthcoming about that measure.

Mr. MOYNIHAN. Will the Senator allow one further comment?

Mr. ARMSTRONG. Yes.

Mr. MOYNIHAN. I do not think he said everything that needed to be said. I may have missed it. It ought to be recorded that the Senator from Colorado offered that amendment.

Mr. ARMSTRONG. I thank the Senator for his generosity in pointing that out.

Mr. MOYNIHAN. Support for this system will be directly proportionate to the sense it is a fair and honest system. Fraud only hurts the people who need this assistance. The California experience is decisive, and I think he is right, we will not only just save money, but the condition of the persons who receive welfare will have a perceived difference if it is understood this is not a program where fraud is tolerated or is successfully attempted. I want to thank him for that.

Mr. ARMSTRONG. I am grateful to the Senator and thank him for his leadership on this.

Mr. President, I want to sum up this part of the debate just by saying the bill is much improved from what came out of committee, or will be much improved upon the adoption of the committee amendment, and to acknowledge explicitly what I think every Senator would agree with, that society has an obligation to care for its destitute members; that this is our tradition, this is our belief, this is what is in our heart, but also to say that welfare is not a right, per se, in the sense free speech or free worship, or so on, are rights.

The goal of welfare is not to dispense an ever-greater amount of dollar benefits to a larger and larger number of citizens. Our goal is to help people who need help for a temporary period and make them self-sustaining.

Mr. President, having said that about things in the bill that give me great satisfaction that are evidence the bill is moving in the right direction, I am now constrained to point out two large problems that remain. They are two interrelated problems. I will be as simple and direct as I can.

This bill, for the first time, requires every State to put on its AFDC rolls the so-called UP families, the AFDC-UP Program. That is, it requires every State for the first time to give welfare to intact two-parent families.

The social policy involved, frankly, I think is far from clear as to whether that is a good idea or not. My own inclination is to think that if I were a member of the Colorado Legislature, I would seriously entertain that idea.

There is some social policy thinking that says when you pay people a welfare payment, if the family splits up, it encourages the breakup of families. Intuitively, that sounds right. However, Mr. President, there is some good scholarship and quite, indeed, some empirical data which shows the opposite is also true; that if you take an intact family and pay what amounts to a guaranteed income, that it erodes the values that hold a family together. I refer specifically to the Seattle income maintenance experiment and the Denver income maintenance experiment, the so-called DIME Program.

What they found out was this: That if you paid people a guaranteed income, that it encourages sloth, it discourages enterprise, that people work less, families break up more. In every respect, it proves to be undesirable. I just mention that to say the scholarship is divided.

Perhaps as a result of that, it has been the policy of Congress to let each State have the flexibility to either have a UP Program or not. As it turns out, some States have had it and dropped it; some States that did not have it have implemented it. States have gone back and forth. One State has it but only for 6 months per year, and there has been a lot of thought and effort going into this at the local level.

At the present time, I am advised that some 24 States do not have the AFDC-UP provision. In my opinion, that should remain a State option. If a State wishes to have such a program, I do not think we should prevent it, but I also do not think we should require it if it is not absolutely necessary.

AFDC-UP will be costly to the Federal Government. It is going to cost us several hundred million dollars in the next few years. It will also cost the States between $600 million and $800 million by 1993, which means a substantial increase of State resources go into welfare benefits that could otherwise be used for alternative activities—training, education, school programs, universities, roads, whatever it is.

In view of the fact that there is really little evidence to support the idea that I mentioned at the outset, namely, that giving welfare to intact families is good social policy, indeed, there is recent evidence, a GAO study released this month, to the contrary. It just seems to me we are crossing a threshold we should not cross by mandating a nationwide program of welfare for this new group of people that have not been on the mandatory list in the past.

Let me just cite some of that evidence because I would not want anybody to think my concern is only or even primarily a States rights issue, although I have a decent respect for the rights of States and a healthy respect for the creativity and flexibility of State governments. I served in the legislature of my State for a number of years.

I was greatly aggravated every time the Congress and Federal Government passed some new program and said the States had to do it when in our State it did not happen to fit our needs or we thought we knew how to do it better. So I do have a regard for the States and I think they deserve to be considered.

Mr. President, in addition to the States rights argument is the question of social policy. Let me cite findings of the GAO study which I mentioned moments ago. The indication is that where AFDC-UP was discontinued, it is inconclusive whether or not marital breakups ensued. GAO found that between 12 percent and 28 percent of former UP families later joined AFDC as single-parent families. Seventy to ninety percent of former UP families did not resort to AFDC as a single family because of its loss.

In smaller samples, the GAO noted that of 56 former AFDC-UP families in Utah, only 1 reported a family breakup was caused by the loss of UP. Of 531 former UP families in Washington, DC, only 34 reported the loss of the benefit contributed to marital separation. The lesson is that the loss of UP might be a factor or it may not be a factor. We are just not sure.

Those cities who had AFDC-UP since the early 1960's are still experiencing a huge number of female-headed households where no father is present. For example, 33 percent of all households in Baltimore are headed by a female; 27 percent in Chicago, 29 percent in New York; 31 percent in Detroit; 27 percent in Philadelphia.

There is some evidence—I want to be fair about this—there is some evidence to suggest that maintaining family stability is assisted by the UP Program. It is equivocal evidence; it is not conclusive, but there is some evidence on that side of the issue as well.

Mr. MOYNIHAN. Will my distinguished friend yield for a question?

Mr. ARMSTRONG. Could I withhold for just a second because I am about to conclude my train of thought on this and then I will be happy to yield for the Senator's observations.

My point is not that AFDC-UP is a terrible idea or even that it is a bad idea. It may be a good idea. It is not plain to me that the evidence for this is so strong that we ought to preempt the States. That is the question. Some States have found it to be good, some States have looked at it and decided not to. At this moment 5 States have specifically repealed it having had it, 22 States do not have it, 28 States have it. I just think it is a threshold we ought not to cross.

I would be happy to yield.

Mr. MOYNIHAN. I just wanted to agree with his representation as I understand it of the State of what you might call the evidence. I do not think there is anything we would judge as research.

On this general point, the Senator would surely agree that the large fact of our society is that at this point 61 percent of all children being born today can expect to live in a single-parent family before they are age 18. That is the context in which—whatever contributory events, AFDC-UP involvement cannot be much. It is just a new social landscape. We do not have any experience. I am sure the Senator agrees.

Mr. ARMSTRONG. I think the Senator is correct about that, but the fact that it is a new phenomenon does not necessarily suggest that the reasons for the dramatic changes which are occurring are completely unknown.

Mr. MOYNIHAN. No.

Mr. ARMSTRONG. There are certainly some things about them that we do not know, but it does appear to me that, for example, we have a large group of dependent people and in part—well, it is not caused by the tide; it is not caused by the phase of the Moon. It is caused in part by well-intentioned programs of public welfare that have not contained a sufficient incentive to get people trained and back into the job market, that we have made it not a comfortable way station, not a pleasant place to be but sort of a trap. People get on it because they have no choice and then the incentives that are in the program keep them there.

Well, in any case, Mr. President, of my two objections remaining to the bill, one of them is that we are preempting 20-some of the States that have made thoughtful decisions not to implement this UP Program.

My other objection is this. When you think about a program of public welfare, work ought to be part of it—work for its own sake; work as an educational experience; work as a component of justice to the people who are paying the bill, not in lieu of education, not as a substitute for education but just because work for its own sake is a good thing.

I remember vividly the first job I ever had. My father came to me; I was about 11 years old, and he said, "Son, I have some wonderful news for you." What he told me was quite surprising. What he told me was he got me a job in a gas station. It did not seem like such wonderful news at the time, but in retrospect that job which he got for me was one of the greatest gifts that my parents ever gave me.

When my daughter Ann and my son Will came to a similar age, I did the same thing for them. I would judge that probably every Senator who has had children in that age group has tried to do the same thing, not because in our families we needed the money. The marginal contribution which my daughter Ann made when she was 12 or 13 or 14 years old to our income through her earnings in babysitting or working in a retail store or my own son when he worked in a retail store or the other jobs he has had, we could have gotten along without the marginal contributions to our earnings. But it was important for them, for their development. So I believe in work. I believe earnestly for the well-being of the people involved it is important that they work.

It seems to me that a requirement that the States to some limited degree be successful in placing people in work is a good requirement. I want to stress I am not talking about work in lieu of education. I am just talking about work for its own benefit, in many cases simply accompanying education. I am not extolling the virtues of leaf-raking. That is not the kind of jobs I want people to have. But if it comes down to leaf-raking or idleness, I am for leaf-raking.

Mr. President, these two points are not only a matter of public policy and philosophy; they are also a matter of political reality. I would judge that the view which I have expressed about the sanctity of work and about not overruling a lot of the States on the unemployed parent issue is very widely shared. In fact, particularly on the work question, if you just go out on the street and say, "We are thinking about welfare reform; what do you think welfare reform is?" I bet sponstaneously a huge portion of the people you ask that question will say, "I tell you what it is, it is putting those guys to work."

Now, there is also another person in this town who feels very strongly about the issues of work and unemployed parents being pushed into this program over the objection of the 20-some States that do not have them in the program at the present time, and that person's name is Ronald Reagan. He has talked about it a lot. He has been talking about it clear back to the days when he was with General Electric before he even ran for Governor for the first time and reformed the California welfare system and long before he became President of the United States. Nor has his interest in this matter waned in recent years.

As recently as last year, when the Congress was preparing to adjourn, Mr. Reagan picked up the rumor that somebody was going to put a rider on the continuing resolution which would have mandated an AFDC-UP program preempting the States and requiring every State to have AFDC available for UP families. He said, "Look, you put that in there and I am going to veto it." Frankly, in retrospect, I wish it had happened because I thought he should have vetoed the continuing resolution anyway. And you remember later he came in and dropped it on the desk at his State of the Union Address with a great thud and everybody laughed. I thought it was a terrible bill, but we did not put that in there, Congress did not put that particular provision in there precisely because it would invoke a Presidential veto.

Mr. Reagan has spoken on the matter since. He has made it clear that as a matter of public policy he just does not think we ought to preempt the States. Second, Mr. Reagan has made it very clear that he feels, as I do, there ought to be some mandatory work component.

(Ms. **MIKULSKI** assumed the chair.)

Mr. ARMSTRONG. Finally, Madam President, Mr. Reagan has made it clear that if those issues are not resolved he is going to veto this bill. I think this is going to be, when the committee amendment is adopted, a much improved bill over what it was. It is not a good enough bill that the President is going to sign it. It is going to be vetoed.

Now, what will happen if we just push this bill through and the President vetoes it is this, in my opinion. You can all draw your own conclusions, but I think what will happen is that that veto will probably be overridden in the Senate, though I am not sure. He may be able to sustain such a veto in the Senate. I doubt it because, frankly, the Senator from New York has been so skillful and so persistent and is so well informed and is so well regarded by his colleagues and has lined up so many cosponsors that I am going to guess he probably by some margin will win a veto fight here in the Senate. It seems pretty clear that on the issues of AFDC-UP and work a Presidential veto would be sustained in the House of Representatives.

So for that reason I am hopeful that we can find some way to resolve that controversy. I am not speaking for the President in the slightest. But I would recommend to the President that if we could get some measure of work requirement in this bill, something that really said that the States had to achieve some standard of work experience for the people getting this benefit, I would say to him, "Mr. President, you ought to back off on the UP question."

I say that because deep down inside I guess I more or less align myself with those who think it is not wise to subsidize the breakup of families. I am not sure the social policy is ambivalent, the evidence is ambivalent. I do not like to preempt the States but I guess if the tradeoff came down to getting some real work requirement even of modest portions I would say to him, "Mr. President, it is time for both of us to change our minds about the unemployed parent provision." Unfortunately, that is not in here.

I am going to offer an amendment. I may offer two amendments before it is over. I may offer an amendment on the unemployed parent issue. I am certainly going to offer a work amendment. Mr. Reagan's notion which he communicated to us through his representatives from the OMB was everybody ought to work, if it is reform. Everybody that gets welfare ought to work. I tried that idea out on a few people, and it just did not go anyplace. There are too many practical problems to getting every single person, even after you exempt the disabled, those who have little kids and so on—even after you do that—the administrative problems of putting everybody to work are just more than we can cope with.

So I am not going to suggest that we take the President's position on work of 100 percent or 80 percent or 50 percent or even 20 percent. But the amendment which I expect to offer in a few hours, or in fact which I will join the Republican leader, Mr. DOLE, in offering because I think it is his intention to be the chief sponsor, and I hope he will be—the amendment which we will offer will not go as far as any of that. It will just be with respect to these new people of the welfare rolls, the ones that have never been on welfare rolls before, the UP families, but with respect to that group of people where there are two people in the family. So we are not talking about taking anything away from little kids. We are not talking about introducing any new child care problems. With respect to that particular group we are going to ask for some work because we believe in it for the reasons that we have already discussed.

We are not going to say they all have to work. We are only going to say one out of two in each of these families which comprise less than 10 percent of the total population of welfare after they are put on the rolls for the first time in a mandatory way, one out of two ought to work—not for 40 or 30 hours, not for 20 hours, but for at least 16 hours per week they ought to work. That is the very modest requirement. It is one which I hope the Senate will agree to for both reasons of public policy and so that we will get a bill.

Here is the final matter I want to bring up, Madam President, before I yield the floor. In addition to public policy, in addition to tactical situations here on the floor, there is an underlying political context that has to be considered. I have already alluded to it. It is this: The President is going to veto this bill.

A few days ago some of us were sitting around the table, the Senator from New York; the Senator from Oregon [Mr. PACKWOOD]; Senator DOLE; some others of us; and a bunch of staffers. Somebody said, "What is the President going to do?" The President's representative said, "I do not know of a single member of the President's staff in the West Wing who will recommend to the President that he sign this bill." I said, "Look, I don't care what anybody recommends. What I want to know is what does the President say? What is he going to do?" We are not talking about a veto hint; we are not talking about a veto signal; we are not talking about some kind of veiled message, smoke signals, mental telepathy, or anything else. The President has said, "I will veto this bill." He said it last Friday in a public forum. That is what he is going to do. It has been reconfirmed to me three or four times a day every day since.

The only chance of getting his signature on it and therefore I believe the only chance of enacting this—not passing it through this Chamber because it is going to pass in this Chamber by a big margin—the only chance of finally enacting this into law is if we somehow get some component of work in there and then if some of us can go down to him, look him in the eye, and say, "Mr. President, it is time for you to give ground on this other strongly held conviction because we have gotten you a modest victory—a big victory in principle, and small victory in numbers, on this issue."

The argument against our amendment, I think, is fairly straightforward. I am going to state it, though others will want to make the case, and of course, it is their side of the argument. They are entitled to make it, and probably will do a better job than I will. The argument they are going to make is twofold: One, the Governors do not want it, and I believe that to be reasonable. I think most of the Governors with whom we have been in touch do not want this mandated upon them. I say it is like saying most of the State legislatures of the country do not want the unemployed parent provision imposed on them. I do not blame them. I do not blame the Governors for not wanting any requirements put on them. Why would anybody, if you are a Governor, want this requirement put on you? If it is not required, you are perfectly at liberty to do it; but if you are required to do it, you have to not only have the program but you have to administer the program. You have to report on the program. You have to fulfill the requirements of the Federal Government. And there are headaches, you know; it is not from their point of view desirable. It is desirable from the standpoint of public policy; it is desirable, in my opinion, aside from getting the votes, and having the President on board so we do not have to override the veto. It is desirable from a public policy standpoint, in my view, because it is fair.

The other objection which will be raised against this as well is the States do not have the work program in place yet. So they have to create a costly new program in order to fulfill this requirement. I will come back with this issue when the amendment is actually pending. But I do not think that is really going to be the case because as I understand what has already been agreed to will be incorporated in the committee amendment, every State will have at least one program which would fulfill the requirement of the amendment which I am going to offer.

So that is an issue that I think we can put aside. It just comes down to a question of whether or not we want to accommodate the Governors who are one of the moving forces behind this bill or whether we want to accommodate the President and get his signature on it.

Madam President, I am going to yield the floor now. I do so as I again thank the Senator from New York for his patience and for his willingness to accommodate me and others who have been concerned about some aspects of it acknowledging freely this is a very much improved bill. I am really delighted to be able to say that because I did not hesitate to criticize it a few days ago when it came out of committee, and I do not hesitate to praise the progress that is being made. And I just earnestly hope that any Senators who have heard my remarks and the staff's and others will consider the work amendment which I think is the final piece that has to be put in place in order to get this bill passed.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. May I thank my able and learned friend from Colorado for his exposition and for his transparent concern about the people who are dependent on our administration in this regard. He starts with people, not with abstractions, and it is just a luminous quality about him. I want to acknowledge it.

Madam President, the distinguished ranking member of the Senate Committee on Finance in which our bill was reported by a margin of 17 to 3 has been patiently awaiting the floor. I look forward to his remarks.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Madam President, I rise in strong support of S. 1511, the Family Security Act of 1988 introduced by the distinguished senior Senator from New York and others.

Senate consideration of changes to the Aid to Families with Dependent Children [AFDC] Program is long overdue. While criticism has been lodged against this bill from both ends of the political and ideological spectrum—that it does not do enough, that it does too much; that it does not give States enough flexibility, that it gives States too much flexibility—I believe it is a compromise measure which holds great promise.

As an original cosponsor of S. 1511, I would like to give a hearty "pat on the back" to the senior Senator from New York [Mr. MOYNIHAN] for his tireless efforts over the past decade to bring the Nation's attention to the needs of children living in poverty. Welfare reform is complex and forces us all to make difficult policy decisions in this period of Federal fiscal restraint.

The bill before us is based on the premise that the AFDC Program does not meet the needs of families which rely on the program for long-term assistance. For a large portion of the families participating in the AFDC Program, AFDC provides temporary income support during an unstable and stressful period. For about one family in four, AFDC becomes the only means of support for 10 years or more. These are the families which are headed mainly by young single-parent mothers, and which S. 1511 aims to help in their attempt to become self-sufficient.

Strengthening child support enforcement is one of the primary elements of this legislation. According to the Census Bureau, of the 8.8 million mothers with children whose fathers were not living at home in early 1986, 3.4 million, or nearly 40 percent of these mothers had never been awarded support for their children. Of those who were awarded, and entitled to child support in 1986, only half received the full amount due.

Education, employment, and training for welfare recipients is another core element of S. 1511. A new "JOBS" Program would replace the current Work Incentive [WIN] Program. States would be required to target at least half of their expenditures on services for long-term, or potentially long-term, welfare recipients. Within the target groups, States would have to give first priority for participation in JOBS activities to individuals who volunteer. Funding would be available to States for a wide variety of services with basic education and skills training components made mandatory.

In order for families to make the transition from AFDC into JOBS, transitional child care and Medicaid services would be made available. Transitional child care must be guaranteed by States for 9 months. To enhance this provision and to enable more families to enter the work force, we need to expand the supply of affordable, quality child care. S. 1885, the "act for better child care services," has that as its goal and I strongly endorse it as complementary legislation. With regard to Medicaid, S. 1511 requires States to continue Medicaid benefits for 6 months, and to offer affected families the option of continuing their Medicaid coverage for an additional 6 months; of course, those above the poverty level must pay a premium.

Recognizing that children should not be penalized if they are fortunate enough to have two parents instead of one at home, S. 1511 would require States to have a program providing cash assistance to two-parent intact families, in which the principal earner is unemployed. Currently, 27 States—including Hawaii—the District of Columbia, and Guam operate such assistance programs. States have the option to continue these programs for longer than 6 months.

The bill encourages State innovation and flexibility by authorizing the Secretary of Health and Human Services to approve up to 50 demonstration projects under new waiver authority to test other means of using Federal and State funds to help families achieve independence through education, training, and work experience. Importantly, the bill requires that recipients would not suffer a loss of benefits, including inkind benefits, as a result of the demonstration. Participants in work, training, or education activities would have to have access to necessary child care services and would have certain protections relating to wage levels, nondisplacement of current employees, reasonableness of commuting distance, and access to fair hearings.

Mr. President, I am concerned that in the course of Senate consideration of this bill, efforts will be made to weaken some of the crucial elements of the measure and to remove some of the protections for the families affected. I am hopeful that my colleagues will refrain from reducing the transition benefits.

I will oppose the imposition of rigid participation quotas that may limit severely the ability of States to target assistance and to operate cost-effective programs. With high mandatory participation rates, States may be forced to try to spread their funds over large numbers of participants by providing less expensive services such as job search or direct placement while providing fewer services to individuals who need the more intensive and extensive education and training services. States will face large financial burdens if they are required to meet participation standards with limited Federal funds.

Mr. President, we must not leave poor children and families worse off than they are under current law by our actions here this week. At the same time, we must not leave those who are trapped in the current AFDC system—those who want to work but cannot do so for lack of education and training—without the opportunity to become independent.

I urge the passage of S. 1511.

Mr. MOYNIHAN. Madam President, may I express a personal sense of gratitude to the learned, able, and gallant Senator from Hawaii for his comprehensive, detailed, and informed explication of this bill.

The many distinctions that the Senator from Hawaii bears are known to this Chamber and of course the people of Hawaii and the Nation. There is one which I think may not be known, and it is time it was recorded on the Senate floor; and that is that, as a young scholar, a combat-decorated veteran of the Second World War, he was at the Harvard Law School. While at the law school, with a very distinguished career there, somehow—and it baffles me how, but the fact remains—he managed to engage himself in the pathbreaking research of delinquency and family structure which the Gluecks, husband and wife, two sociologists, were carrying out in Somerville, MA.

Am I correct that it was Somerville?

Mr. MATSUNAGA. That is correct.

The Senator from New York, having been a professor at Harvard, must have been at the law school, also.

I did conduct research in families, particularly with reference to delinquent children. The research showed that the overwhelming majority of delinquents and those who were in trouble with the law came from broken families.

Mr. MOYNIHAN. Madam President, here is a man, the Senator from Hawaii, who was present at the creation of our learning on this subject.

I need not tell the distinguished Presiding Officer [Ms. MIKULSKI], who has a master in social work, the importance of the Gluecks research. I see her nodding.

There is the research assistant. There is the man who did the statistics. And that is what we are experiencing on our streets in our cities, the overwhelming incidence of the correlation between family breakup and juvenile delinquency. And that was 40 years ago when the Senator from Hawaii was engaged in that research, which was our first data. And, I say to the Senator, is it not the case, almost two generations later, we look up to see a circumstance in which the average child now born will live in such a family before they are aged 18—the average child. These were the aberrant, the unusual, experiences of the thirties and forties and the normal ones now.

What can this not suggest? I sit at the feet of the master here. I mean, you were there present at the creation.

Mr. MATSUNAGA. Well, if the Senator will yield, the Senator himself has spent so much more time than I have since I was at Harvard Law School and what he has contributed toward alleviating the situation among broken families is tremendous. I think the Nation ought to be grateful to the Senator from New York, and I think will in fact look to this day when the senior Senator from New York played such a major role with foresight, with the future in view as well as the present.

I congratulate the senior Senator from New York, Mr. D. PATRICK MOYNIHAN.

Mr. MOYNIHAN. Madam President, those were extraordinary generous words from an extraordinary generous man. Only someone of his capacity would find it able to be so generous and I wish him to know how much it matters to me.

Madam President, to recapitulate the comments of the majority leader and the Republican leader earlier. We have come to a substantial agreement, in 3 days of negotiations off the floor and some debate on the floor, with respect to a committee amendment which will add some new features to our bill. It might be useful at this point for me to set forth some of these new provisions. In a colloquy with the Senator from Colorado, we alluded to a number of them.

The first, Madam President, and I will use the discussion document, as we call it, most recent of June 16, 10:45 a.m., as we find ourselves being very meticulous about recording our progress.

The first is that of the benefit threshold. We propose to strike the language which has troubled the Senator from Colorado with respect to the net loss of income and to replace with a new hold harmless provision the statement to assure that the family experiences no net loss of cash income because of the reduced or eliminated welfare payments when the individual takes work.

We want people to get work. And if the work pays less than the welfare benefit, we want them not to lose anything by getting the work but we want that to happen and we do. And this is a job we are taking, as we have said many times, a program—the Governors put it so well—an income maintenance program with a mild job component, and we are turning it into a job program with an income maintenance component. That is our first agreement and we are very pleased with it.

The second measure, Mr. President, II, has the heading of "sunsets." And we provide in the bill, as the distinguished Presiding Officer knows, that there is a transition in child care benefits and Medicaid benefits from persons. And, overwhelmingly we are speaking of women, mothers, who leave the AFDC and enter the work force. We do not ask them to give up child care immediately. We have a 9-month transition there. And on Medicaid a 12-month transition, so they do not lose health insurance for their family. Six months is automatic and then for 6 months there is a contributory arrangement. We bring them to an end. We put it in place until December 31, 1993. We will have 5 full years of experience. On January 1, 1993, the Secretary of Health and Human Services will report to the Congress on how this has worked, whether they should be extended or contracted or what the different experiences have been. And we will then, the Congress will, have 1 full year in which to decide how to go forward.

The third, III, is called waiver options. And Madam President, it was the judgment of the Senators who joined in these discussions off the floor that we really did not have to have the provision that provided 50 State waivers of the various proposals within the Committee of Finance legislation. We now have, and we have had in law for the longest while, a system whereby the Secretary of Health and Human Services can issue waivers that States want to experiment, they want to improvise, want to try something new. And we are, therefore, going to delete that provision.

We will also have offered on the floor an amendment that would modify housing and food stamp programs to allow waivers similar to those now permitted for AFDC under section 1115; that is the term which is used. We did not include them ever in our bill because they are not under the jurisdiction of the Finance Committee. Any Senator has a right to offer amendments. We anticipate this. None of the conferees undertook to support this amendment; well, some want to do it. But I would have to say, Madam President, I will move to table the amendment unless some other Senator does.

On the other hand, if I could just digress a moment and being very conscious of being in the presence of the Senator from Maryland, who has professionally engaged her entire life in these matters, to speak about a matter we must not overlook, which is the great diversity of the population we are talking about. Just as there is no individual quite like any other individuals, there is no welfare population like another welfare population. Each city is different. Each county is different. Each State is different.

I might give you an example of a county which has a welfare population that is quite unusual. We heard about it in testimony in our Committee on Finance from the State of California's welfare administrator. I do not immediately bring the county to mind. I should do, and I will correct the Record to do so. But in this particular county in the San Fernando Valley there is a large welfare population, large issue, and it is made up of Hmong tribesmen from Laos. These are very capable people. But they have come as refugees from the Vietnam war. They are a thoroughly attractive and able people, but their own culture, economic and otherwise, was preagricultural. These are not an agricultural people. They are hunter-gatherers, as I think the usage is.

I see the distinguished former president of Duke University is on the floor as I speak on anthropological matters. But these people have difficulty. They do not speak English very well, if at all. They are not well adapted to agricultural work because this is a wholly new experience to them. And they are now on AFDC, AFDC-UP, most of them.

They will not be for long. They will not be for long. You look up and their children will be in engineering colleges and their grandchildren will be in physics departments. I have no doubt about that. But right now they cannot speak English and they have never seen a plow.

They did very well. They would put any one of us in this body—well, I do not want to speak for anyone—but set me down in the places where they lived and I would starve in about 10 days. They did very well in that environment which we would find overwhelmingly hostile. They are adapting to a new one. The State of California has to make arrangements for them. It wants the waiver authority, the improvising authority to do so.

The fourth of our measures, Mr. President, IV, under the heading of "Work Requirements," would require States to include as part of their jobs program, that is job opportunities and basic skills, two of the following three components.

The first is grant diversion; work supplementation, it is sometimes called. This is a program not widely used, but useful where it is done, which takes a young mother—well, head of an AFDC household—whose job skills are really quite low, and says to employers: We will pay part of the cost of employment so that you can produce a wage that would be the equivalent of the welfare benefit, which would not, in fact, be an economic wage for you. But the combination of what is earned and what is supplemented ends up with, one, a person working; and, two, money saved. It is a good thing. It is one of those things you tailor for very individual cases, and we like that.

There is Job Search. Job Search is a universal program. I do not know of a State that does not have it. It is not very complicated. In most instances, it involves putting a person in a room with classified ads and a telephone and call around. Or go around to see the U.S. Employment Service. We have all manner of ways of connecting people up with work. But you have to learn them.

Young people have to learn them. I was, if I may say, once our Assistant Under Secretary of Labor under Presidents Kennedy and Johnson. And at that time, and I would say to this day if you ask what was the most peculiar thing about American industrial life in our advanced economy, it was the enormous difficulties we put in the way of young people moving from school to work. It is a transition and nobody helps you. We can all remember the problems we had ourselves.

Where do you go? How do you do this? In places like West Germany, when I visited there in the sixties, no one leaves the gymnasium without two job offers. Someone says we will give you a job, come over here, we will look at you. We just pour our people out of school. If they do not have family, networks, they do not know how to do this. And that is what our people do not have, is family and networks. It is precisely what welfare means. Half the adult population on welfare in New York City has never had one day's work, not one.

We do not say: Go out there and get a job. Where? You need some help. You need help to learn the subway systems. You need help to learn.

Listen, if you were dropped down in the middle of Laos, you would need help to find the jungle trails. You would not recognize them and you would not spot things that are moving in the dark that you ought to stay away from; or you eat the wrong mushrooms and that will be the end of that. People need this kind of help and Job Search does it.

The last of these three programs is community work experience or approved work experience program. The community work experience, "workfare," as it is generally called, CWEP, which is the rather awkward acronym, is a program which has its defenders and has its detractors and there are not many of either because mostly it just is not around. Nine States have it statewide. It requires people who receive welfare to work off their benefit by doing community work of some kind. Very typically this is done in a State or city municipal office. And sometimes it can be very helpful.

The two Senators from West Virginia swear by it in West Virginia, where the labor markets are not strong, where there is work to be done in municipal settings, and where communities have found it possible to do this. But only nine States have chosen it statewide. Many groups of people feel it just does not add up to anything for people who have alternatives. It is particularly not a very useful idea—and this is where much of our discussion has gone on in the last couple of days—for persons in the AFDC-UP Program; that is unemployed parents. In order to get benefits under the UP Program, which has been optional for States since 1961, you have to have some connection to the work force.

You have to have been employed in recent years under various regulations. And overwhelmingly, the difficulty of these families is that they are out of work. They are unemployed. To give them work experience is not their problem. They have work experience. What they do not have is a job. And clearly Job Search is what they need. If Job Search does not work, then job training is what they need. But just some kind of workfare is not a very productive matter.

I have just received a letter, Madam President, from the distinguished Governor of New Jersey in which he writes about this matter with some vigor. I do not have to tell you that Governor Kean has been an unusually innovative, energetic man. We brought this measure to the floor in the early part of this week. In my opening statement, I cited the testimony before our committee of Governor Kean of New Jersey, when he came before us and said, in the Finance Committee:

> My economic development commissioner tells me New Jersey is going to have 600,000 additional jobs by the year 2000. And we do not have a person to waste. Not that you ever have a person to waste, but we do not have a person to waste anymore.
>
> It is not a question of putting people to work in municipal offices. There are jobs in the private economy for them if they had the skills. And that is what New Jersey wants to give its people.

He says to our colleague and my neighbor and friend, BILL BRADLEY, of a neighboring State, he says:

> DEAR BILL: I am writing to express my opposition to the proposed amendment by Senator Dole to S. 1511, the Family Security Act, which mandates a work requirement for AFDC-UP families. I believe that passage of this amendment is at cross purposes with our goal of creating a welfare system that provides a meaningful education and training experience that will enable welfare families to make the transition to self-sufficiency.
>
> In New Jersey, AFDC-UP families are eligible for the same education, training, and work options as one-parent families. In this way, we are able to design a training program that will fill the gaps in the individual's education and experience that pose barriers to his or her employment. I am concerned that requiring UP recipients to participate in CWEP or grant diversion could actually prolong their stay on the rolls and would, in many cases, be an inappropriate and inefficient use of resources that would be better used in other education and training activities. Additionally, this is contrary to the goal we all share of granting Governors greater flexibility to design and implement a welfare program that meets the needs of individual states' economic and fiscal situations.
>
> I am also concerned that this proposal could impose significant costs to the State. At this time, no county in New Jersey's REACH program administers a CWEP program and only one has expressed any interest in doing so. We currently have only 20 clients participating in grant diversion. Clearly, this proposal would require a significant effort to implement statewide and would run counter to the local decision-making process which is the basis of our program.
>
> As one of the leaders of the National Governors' Association's effort to reform welfare, I believe that we have made every effort to work with the Senate and have crafted a bill that is innovative, reasonable, and creates a welfare system that, first and foremost, fosters self-sufficiency. We stand ready to continue to work with you to see these goals come to fruition.

I could not agree more with Governor Kean's statement that he has been a leader in this effort. We would not be on the floor today without him and his neighbor in Delaware, Governor Castle, and I want to speak especially of Governor Clinton of Arkansas.

Madam President, let me continue this brief summary of the respective committee amendment?

The job search program on the part of any individual may not constitute a jobs program activity for any purpose for more than a total of 4 months in any 12-month period. It is fairly clear to us if 4 months of job search has not produced a job, you need more than job search.

There would be a phase in so that by October 1993, 50 percent of this population would be required to be covered by whatever in the end we require of States that have the UP Program.

Under V, the final proposition, we have participation rates. A percentage of those who are required to participate in the JOBS Program must participate in approved activity, other than simply registration for the program. It has been mentioned that we do not want to be at cross purposes here. The Governors have come to us and said: "Look, we know what we want to do in this program. We want to work on the hard cases."

Half the people who go on welfare, as we say, AFDC, are often on it for 4 years, and some often for 2 years. We know something about the subject. We have worked to see what education and training does for this part of the spectrum, and the answer is it does not do much of anything at all. These are self-sufficient people who have had some trouble in their lives, and they get their lives back together. They need a job; they need a new marriage; that kind of thing.

On the other hand, there is that half of the population in New York City, young women, who have never had a day's work; never had 1 day's work. They are the teenage mothers of children. That is where we say half these efforts must go. These efforts must go to those long-term prospects.

Our primary goal is to do the hard job, and we do not want to dilute it or divert it by participation rates.

Therefore, we have agreed in fiscal 1989 we will be issuing the regulations.

In fiscal 1990, which begins October 1, I suppose, of 1989, we will have to have a 10-percent rate; then 10 percent again in 1991; 14 percent in 1992; 14 percent in 1993; and 22 percent in 1994.

We are having some discussions about whether this will be judged on a quarterly, semiannual, or monthly basis. It is the rule of prudence here. We want to do the sensible thing, and we do not want to load up States with reporting requirements that do not help anybody.

In that regard, we want to make one thing clear: That the mandatory participation rates do not extend to families with children under age 3. We give the States the right at their option to move down and really get at that young sophomore in high school before it is too late. We do not want to discourage that by saying you are going to have to reach percentage levels, so you better move over here in the age range where it is easy. We are talking about percentages of families with children 3 or above.

In that regard, Madam President, the press today reported a rather striking event. The Census Bureau has announced: "For the first time, more than half of new mothers are remaining in the job market."

That is the big change in our setting. I can recall 25 years ago when we discussed work for welfare recipients, and people said: "Why are you making these persons work? You are discriminating against them."

For the first time, we now find the majority of new mothers stay in the labor force. Of course, three-quarters, in round numbers, of married women with children are in the labor force.

Mr. President, I see two distinguished Senators are on the floor. Perhaps I better conclude my remarks by saying that there would be a penalty for failure to meet the matching requirements, and that is as follows:

The Federal matching rate for JOBS Program activities would be reduced to 50 percent. That matching rates varies from 60 percent to 80 percent after the hold harmless—I am sorry about the details—which is at 90 percent. It will cost them money if they do not meet the rates, and we do not expect any State will have to do that. We do not want any State to do that, but we have it in there.

Finally, there is a subset of the participation rate requirements. On December 31, 1994, again, a 5-year study is in order to see how it is going. We learned to study the subject and get some results in the way of fairly dependable information.

There are additional costs involved, Madam President. In fiscal 1991, we are going to spend an additional $70 million. The CBO estimates 130. We estimate 50 in 1993, for a 5-year increase of a quarter of a billion dollars, but we judge that the added stringencies to the program is worth the small added costs.

Madam President, I have no desire to keep the floor if any Senator wishes to speak, and I yield the floor.

Mr. DIXON. Mr. President, I rise to express support for S. 1511, the Family Security Act of 1988.

First, I would like to commend the distinguished Senator from New York, Senator MOYNIHAN, on his persistence for more than a decade in trying to overhaul our Nation's welfare system. S. 1511 is a bipartisan legislative proposal which would significantly reform the system.

I hope that the Senators and representatives of the administration who continue in negotiations and discussions on S. 1511 will soon present results that a majority of us can support. I hope that the results will still emphasize child support enforcement and education and significant job training requirements. Emphasis should also continue to be placed on transitional child care and medical assistance benefits.

Mr. President, the time has come for this country to take seriously the growing number of underclass Americans. Many are able-bodied persons who would become productive and self-sufficient given the opportunity to participate in education and meaningful job training programs.

This Senator is extremely concerned about the welfare of our children. I see a bleak future when I think of our children of today as our leaders of tomorrow.

In 1987, it was estimated that 588,000 children in Illinois were living in families with income below the poverty line. They represented 19 percent, or 1 of every 5 children in my State of Illinois. Approximately 195,000 children under age 5 were living in poor families. They represented 22 percent, or 1 of every 5 childern under age 5.

Additionally, today, one American child of every four is born in poverty. One American child of every 5 under under age 18 lives below the poverty line.

Mr. President, this is a disgrace. These are major problems which do not have, of course, simple solutions. However, I propose that a part of any solution should require the availability of more educational opportunities and significant programs that promote self-sufficiency. We need programs that will assist teenage mothers and other parents in meeting their responsibilities of parenthood. We need programs that will get teenage mothers back into school and adult parents into job training programs and the work force. S. 1511 contains these provisions.

Another major problem is the nonpayment of child support. Evidence shows that it contributes to the high welfare costs. Additionally, evidence shows that it is a major reason that most of our poor are women and children. S. 1511 should close the gaps in the existing Child Support Enforcement Program and aid in alleviating the problem.

Mr. President, I urge my colleagues to join me in supporting S. 1511.

Mr. MOYNIHAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRADLEY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the call for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ADAMS). Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I would like now to be recognized for purposes of speaking on the bill.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I thank the Chair.

Mr. President, I rise to speak in behalf of this Family Security Act of 1988. I commend my distinguished colleague from New York for all of his hard work in bringing the debate on the Family Security Act and the issue of welfare reform to the Senate floor.

Senator MOYNIHAN's Herculean effort for many a decade is to be acknowledged on behalf of the poor. He has forged a bipartisan and bicameral agreement on this difficult issue.

I also commend Senator BENTSEN and all of my colleagues on the Finance Committee for their extensive work.

Mr. President, I wish to bring to the Senate's attention that I am probably the only Senator ever to serve with a master's degree in social work. I am probably the only Senator who has ever been a welfare worker, to have worked in the war on poverty and to have been out on those streets and in those neighborhoods trying to help the poor help themselves. I went into social work because I wanted to do just that, to help people help themselves. One of the reasons I came into politics was to try to bring about the institutional change to make that possible. As a social worker, working in AFDC, I knew we needed to change that system. I knew we needed to do it 25 years ago. This bill is finally about to achieve the first significant welfare reform that we have had since it was created under FDR.

We have known for some time that the welfare system needed to be reformed. The poor who endure it know it needs to be reformed. The social workers and administrators know that we need to reform it. The taxpayers who pay for it know that we need reform.

This bill makes an attempt to change that system. It has some excellent provisions and some provisions that give me a great deal of concern.

What I like about the bill is that it reaffirms parental responsibility, an affirmation that must continually be made. At the same time the act creates a parental opportunity structure. Yes, it talks about people helping themselves, but it also helps create the resources for people to be able to help themselves—through training programs, through the transitional aspects of keeping people on Medicaid and other supplements until they are self-sufficient. And it is those other aspects that provide a safety net to people as they move out into a mainstream economy.

The Finance Committee heard testimony from many who care about this issue. I am pleased that, in reporting out the bill we address today, the committee improved some areas of concern that I had. Throughout the markup process the Finance Committee members were mindful. This reform effort is constrained by the fiscal realities of our difficult budget situation.

The first improvement the committee made was to be more specific about what the State's job training obligations should be. Remedial education, job search, and skills training are essential elements of any jobs program. From being a welfare worker, I know the single mother on welfare can get off the welfare rolls and stay off but she can't do it without either completing her GED or getting job skills or training.

Second, the committee requires States to guarantee child care to recipients who are required to work. As I keep saying as we look to the needs of workers in the year 2000, child care must be provided. We cannot require a single parent to work without helping with day care.

There are, however, important issues I feel still must be adressed in this bill.

First, as a dues paying member of NASW, I believe we must encourage States to increase minimum benefits for recipients. AFDC and other Federal programs produce benefits which vary dramatically from State to State—as much as $118 per month for a three-person family to $617 per month. I would like to see a minimum benefit. If we cannot do that, let us encourage States to increase benefits by adding incentives to those States which provide more to recipients.

Second, the adequacy of transition benefits will be a key element in the success of any program. We need to provide as much of a transition period as is fiscally feasible. I do not believe the total of 12 months medical transition is sufficient. The majority of transitional workers are employed at minimum wage level. Those who earn more do not earn much more. Both kinds of workers will be employed in jobs which offer no health benefits. This is unacceptable. We already have a growing number of uninsured working poor.

I planned to offer an amendment to increase the Medicaid transition benefit to a total of 18 months, by adding an additional 6 months to the first mandatory 6-month extension in the bill. We should give additional transition benefits and this change will benefit all of us in the long run, because more recipients will be able to get off and stay off the rolls.

If we force mothers to chose between the health of their children and a job, they will chose their children every time.

As Senator MOYNIHAN has pointed out in his writings, Medicaid transition benefits are the key issue for the majority of recipients—single mothers must have access to medical care for their children.

I look forward to debating this more fully.

I also must raise a very serious reservation I have about the very broad waiver authority provided in this bill.

An important element of the Senate and House bills before the committee was the flexibility they provide the States. I am a strong supporter of such flexibility the Federal Government should set the standards, guaranteeing all of those who need assistance an even shot at getting it. The adequacy of the system should not vary because of what State a person lives in. I am also concerned about waiving requirements in States for programs such as child support enforcement programs, emergency assistance to needy families, and the title 20 social services block grant. I vigorously oppose the addition of any other programs to the already broad waiver authority. We must ensure against possible negative consequences to those for whom we have created protective programs, like poor children and the elderly.

Last, I must express concern about mandated jobs program participation. I learned long ago that the majority of welfare recipients want to work. Let us send those who want to work a positive message, the right message—here is an opportunity to work. Let's not punish those who are unable to work.

I appreciate the opportunity to talk about this bill and an issue about which I care very deeply. I look forward to continued debate and improvements to this bill.

Mr. President, I recognize that the Senator from New York and those on the Finance Committee went as far as they could go from a fiscal standpoint and from a political standpoint, that our Finance Committee, particularly the Senator from New York, the architect of this reform, wanted to do many more things than he was able to accomplish. One of the reasons we have not been able to bring this bill to the floor this week is that we have a President who says. "Oh, sure, I want to move people to work," but he does not ever want to make sure that there are those opportunity structures to have it there.

One of the things that I know they are criticizing at the White House is the opportunity to provide AFDC to two-parent households when both are unemployed. Well, that is what this program is all about, to help families stay together. We all know that single parenthood is not the best parenthood. We know for years we have talked about the single welfare mother. Well, if you do not provide assistance to two parents, what you create is the sundown dad. We know that dad does not leave. We know he only leaves when the welfare worker is coming around. Do we really want to encourage that? Do we really want to break up familes? It is bad enough that the cruel rules of eligibility are harsh and punitive to begin with but at the same time now we want to ensure that there is the added dimension of the humiliation of the father.

I think maybe we should stop humiliating fathers and start helping fathers and maybe we would have more parental responsibility.

Mr. President, there are other things that I would like to have seen in the bill. I would like to have seen a minimum benefit for welfare recipients. Welfare benefits vary dramatically from one State to another. In one State a family of three might get $118 a month and in another State $671 a month. I would like to see a minimum benefit.

We would also like to have seen the transition benefits expanded. I originally planned to offer an amendment to increase Medicaid transition to a total of 18 months. I would not offer that amendment because I know that the political reality is that it might be a deterrent to the passage of the bill. I happen to think an adequate Medicaid transition requirement of perhaps 18 months would be more of a deterrent against staying on welfare. But we cannot do it, even though we should do it.

Mr. President, those are some of the flaws in the bill, but I can tell you I think that the good far outweighs the bad.

There are those who are going to want to offer weakening amendments to this, and I want to caution them. They seem to think that the people of the United States, when they look at welfare, are harsh, punitive, and want repressive approaches to this legislation. No, the people of America want the people on welfare to move off of welfare, to work as hard as they who are the taxpayers. At the same time, those who offer these regressive amendments should know that those of us on this side of the aisle, when we seek a progressive society, we do not want to foster a permissive society. I think the framework of the legislation really ensures that. So when they want to offer their amendments, they should know that there are those of us over here who will oppose them. We will not oppose them because we want an easy life for those on welfare; we want a better life for those who are on welfare and when they get their training we want them not only to move off for 1 day, 1 week, or 1 year; we want them to move off for a lifetime. That is why, as a dues-paying member of the National Association of Social Workers, I stand with truly a giant in the Senate, the Senator from New York. I am going to vote for this legislation. I know that there are those who would like it to have been better. I would like it to have been better. Senator MOYNIHAN would like it to have been better. But we are going to do the best we can so that the life of those on welfare becomes better.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Before the Senator from Maryland has to leave the floor for yet another responsibility, might I tell her that there is no person in this Chamber in the U.S. Senate whose approval of this legislation means more to me personally. She has given an extraordinary professional life to the study of this subject and practice. She is a dues-paying member of the National Association of Social Workers. I am not. I am not qualified to be. She has earned that right. She has earned it in graduate school, and in the streets of Baltimore. She comes to the floor with a compassion, a heart twice her size, and a regard from this Senator twice that.

We are dealing with the art of the possible. We are not permissive. We are not complacent. We are concerned about our cities and our children. When 1 child in 4 in this country grows up on welfare, well, you have to care about it. And we do. And there is a Senator who has done it, who has put her heart and life into it. I will welcome any other comments on this floor, but when people who are new to the subject, learning about the matters, reading about the people talk, I hope they will also find time to listen to someone who has lived that life, and who has cared for those children. I want to thank her, and say how grateful I am for her support and how much we will need her in the hours to come.

Mr. President, I yield the floor.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 2386

(Purpose: To require the Secretary of Health and Human Services to extend for eighteen months the waiver granted to Minnesota to conduct a prepaid Medicaid demonstration project)

Mr. DURENBERGER. Mr. President, I sent an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] proposes an amendment numbered 2386.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 268, between lines 15 and 16, insert the following new section:

SEC. 509. TWO-YEAR EXTENSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.

Upon application by the State of Minnesota, the Secretary of Health and Human Services shall extend until June 30, 1990, the waiver granted to such State under section 1115 of the Social Security Act to conduct a prepaid medicaid demonstration project.

Mr. DURENBERGER. Mr. President, this is a relatively, in most parts of the country, I suppose, unimportant amendment. In the State of Minnesota, however, it is very significant. On July 1 of 1985, Minnesota was granted a demonstration project Medicaid waiver, under section 1115 of the Medicaid Program. In conjunction with what we call the competitive medical plan system, that is the prepaid managed health plans activities that we are promoting with regard to Medicare, Minnesota has decided to experiment with the managed care concept through HMO-like prepaid managed care plans in three counties of the State of Minnesota: Hennepin County, which is the largest of the metropolitan counties, city of Minneapolis; Dakota County, which is a suburban metropolitan county of the Twin Cities; and then Itasca County, which is a completely rural county in the northern part of Minnesota.

The project was delayed in getting off the ground, and the Health Care Financing Administration has been reluctant on the basis of existing authority, to extend this authority beyond the existing 2 year waiver.

So my amendment simply provides a 2-year extension of the Minnesota prepaid Medicaid demonstration project so that we can have the opportunity in these three test counties to demonstrate to the rest of the country whether or not using these capitated, prepaid, managed care approaches to care for persons who are welfare eligible is a better way to access them to better health care than through the current often underfunded difficult access Medicaid or medical assistance programs.

I hope the managers of this bill will not see any objection to accepting the amendment.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I say to my able distinguished colleague on this matter that I am just not in a position to answer him at this point as the Republican managers are not present. I have just learned that there might be objection on this side. I wonder if I could suggest the absence of a quorum, and we could discuss this.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that my amendment on prepaid Medicaid demonstration projects be temporarily set aside so that I might offer a second amendment.

The PRESIDING OFFICER. Without objection, it is so ordered

AMENDMENT NO. 2387

(Purpose: To promote and protect the relationship between the noncustodial parent and minor child)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] proposes an amendment numbered 2387.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 150, line 3, strike "and".

On page 150, line 9, strike the quotation and end period.

On page 150, between lines 9 and 10, insert the following:

"(iv) no such adjustment is made unless each parent is afforded the opportunity to raise any issue relating to the visitation rights of the noncustodial parent or the access of such parent to information and records regarding the child.".

On page 165, between lines 4 and 5, insert the following new section:

SEC. 125. EXEMPTION OF CERTAIN STATES FROM PROCEDURES RELATING TO THE TREATMENT OF OVERDUE CHILD SUPPORT PAYMENTS AS FINAL JUDGMENTS.

(a) IN GENERAL.—Section 466(d) of the Social Security Act (42 U.S.C. 666(d)) is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2) The procedures described in subsection (a)(9) shall not apply with respect to any State that, as determined by the Secretary, had adopted procedures for the expedited docketing of judgments for child support arrearages.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the date of enactment of this Act.

On page 165, line 5, strike "125" and insert "126".

On page 169, between lines 3 and 4, insert the following new section:

SEC. 126A. COMMISSION ON INTERSTATE CHILD ACCESS.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a Commission to be known as the Commission on Interstate Child Access (in this section referred to as the "Commission") to be composed of 15 members appointed from among individuals knowledgeable in matters involving interstate child access in accordance with the methodology described in paragraph (1) of section 126(b) of this Act.

(b) DUTIES OF COMMISSION.—

(1) Not later than October 1, 1989, the Commission shall hold one or more national conferences on interstate child access reform for the purpose of assisting the Commission in preparing the report required under paragraph (2).

(2) Not later than October 1, 1990, the Commission shall submit a report to the Congress that contains recommendations for improving the interstate system for protecting the visitation rights of non-custodial parents and ensuring that such parents have access to records and information about their children.

(c) OTHER PROVISIONS RELATING TO COMMISSION.—The provisions of paragraphs (2), (3), and (4) of subsection (b) and all of subsections (c), (e), (f), and (g) of section 125 of this Act shall apply to the Commission to the same extent as they apply to the Commission on Interstate Child Support under such section.

Mr. DURENBERGER. Mr. President, this amendment addresses the concerns of access rights for noncustodial parents. A number of us on the Finance Committee and a number of our colleagues have been involved for several years now in the issue of child care and child support enforcement. I think as the President knows and certainly as the manager of this bill appreciates, the essence of really reforming the income maintenance system in this country centers around doing something about the issue of parental responsibility.

For a long time, the Finance Committee has worked on child support enforcement issues. In connection with that, we have always hoped to strike a balance between the rights of both custodial and noncustodial parents.

However for the noncustodial parent under the current system, this is not always possible.

For reasons inherent in our current child support system, noncustodial parents are often denied access to information about the child, and some parents have been cut off completely from any visitation rights to their children. This is especially true in cases that cross interstate lines where visitation is difficult. This is primarily due to the fact that child support and visitation and access rights have always been seen as two separate issues.

Recent trends, however—as is evident by this legislation—have been to establish a sense of parental responsibility in the support of their children and providing for their well-being. A growing number of people believe that this shared responsibility should entail a parental role as well as a fiscal role in the raising of one's child. Studies show that emphasis on child support orders and enforcement need to be augmented by a commitment to ensuring that all children have contact with both parents and that noncustodial parents have access to and information about their children and be able to participate in their daily lives.

This amendment will offer several options to help increase access, visitation, and information rights for the noncustodial parents; including:

First, establishing a National Commission to study and to report on ways to (i) improve child support enforcement and (ii) to ensure visitation rights of parents and access to information about the child.

Second, establishing in the State guidelines the right to access to visitation and information about the child where this does not affect the well-being of the child or the custodial parent.

Third, giving States with expedited docketing procedures an option to be exempt from Federal regulations requiring States to adopt laws that make same-day judgments for overdue payments. This provision is a high priority for Minnesota. Attached is a copy of a letter from the Minnesota State Bar Association that explains the situation further. It does not jeopardize the support payment for the child, and if the current legislation passes it will not apply to all IV-D cases because of the automatic withholding.

The changing nature of family structure over the past 30 years makes it necessary to study our current system and the effects this system will have on the future well-being of our children.

The current system is biased toward the mother 9 to 1 and includes various barriers to access and information by the noncustodial parents.

The system should be designed to first protect the interests of the child.

In the best interests of the child, the noncustodial parent should not be denied access to and information about the well-being of their child.

Visitation and access interference occurs in 30 to 50 percent of child custody and support cases.

While we must continue to push the theme of family responsibility in child support cases, it is also important to make sure that the interests of the total family unit are represented.

Research shows that child support and good relations with the child are improved with access to and information about the child.

This amendment is not designed to do all that. It is just designed to move us in that direction.

I am pleased to have my distinguished colleague from Iowa, Senator GRASSLEY, join me in efforts to offer options and increase access and visitation rights for noncustodial parents.

This amendment would establish a national commission to study and report on ways, first, to improve child support enforcement and, second, to ensure visitation rights by parents and access to information about the child.

It would also give States with expedited docketing procedures an option to be exempt from Federal regulations requiring States to adopt laws that make same-day judgments for overdue payments. This is a provision which has a very high priority in my State of Minnesota.

I ask unanimous consent to have printed in the RECORD a letter written to me on behalf of the family law section of the Minnesota Bar Association.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ORMOND & DEWALT,
Minneapolis, MN, June 10, 1988.

CAROLINE LOOS,
Staff for Senator Dave Durenberger, 154 Senate Russell Building, Washington, DC.

Re: Amendment to Welfare Reform Act.

DEAR MS. LOOS: I chair a committee of the Family Law Section of the Minnesota State Bar Association which is concerned about the automatic entry of judgment for child support arrearages, a procedural requirement of the Title IV-D program.

My committee supports amendment of 42 U.S.C. § 666(d) to include the following additional language to immediately follow the existing langauge:

The Secretary shall exempt a State from the requirements of subsection (a)(9) of this section if it already has in place expedited procedures for the entry of judgments for child support arrearages.

The reasons for our support of such an amendment are set out in the letter of May 23, 1988, from the Family Law Section to L. Kent Wilcox, a copy of which is enclosed for your convenience.

Yours truly,
DEBORAH N. DEWALT.

Chair, Child Support Judgments Committee, Family Law Section, Minnesota State Bar Association.

GARY A. WEISSMAN, CHAIR, MINNESOTA STATE BAR ASSOCIATION, FAMILY LAW SECTION, MINNEAPOLIS, MN, *May 23, 1988*

L. KENT WILCOX,
Acting Program Manager, Office of Child Support Enforcement, Department of Health and Human Services—Region V, Chicago, IL.

DEAR MR. WILCOX: The Family Law Section of the Minnesota State Bar Association supports the State of Minnesota's request for a waiver of the requirement to enact certain legislation complying with the conditions of Section 466(a)(9) of the Social Security Act (codified at 42 U.S.C. Sec. 666(a)(9)) which mandates that each State adopt procedures requiring that "any payment or installment of support under the child support order . . . is (on and after the date it is due)—a judgment by operation of law, with the full force, effect and attributes of a judgment of the State, including the ability to be enforced. . . ."

Federal regulations at 42 CFR Sec. 302.70(d)(2) state that "The Secretary *will* grant a State or political subdivision . . . an exemption . . . for a period not to exceed three years if the State demonstrates that compliance would not increase the effectiveness and efficiency of its Child Support Enforcement Program." (Emphasis Added.) By Chapter 593 of Minnesota Session Laws 1988, Minnesota has enacted legislation mandating that the Commissioner of the Department of Human Services seek an exemption to the federal instant judgment law.

The Family Law Section's support for an exemption stems from the strong conviction of Minnesota family law attorneys that enactment of the federally-mandated legislation will bestow few benefits, if any, upon the intended beneficiaries.

The Family Law Section is composed of attorneys who practice primarily in family law, whether in private practice or as Title IV-D or legal aid attorneys. Its members represent child support obligees as well as child support obligors. The Family Law Section is deeply concerned about the effective and efficient collection of child support arrearages, the objective of the federal legislation. The Family Law Section of the Minnesota State Bar Association believes that existing Minnesota laws prohibiting retroactive modification of child support obligations and requiring expedited entry of judgments of child support arrearages already provide procedures for meeting that objective.

Minnesota's present law dealing with the expedited procedures for docketing judgments for child support arrearages is codified at Minn. Stat. §548.091. Section 548.091 allows for the entering and docketing of a judgment for child support arrearages (in addition to the method of having a judgment entered and docketed through court order) when the following conditions are met:

(1) The obligee or the public authority determines that the obligor is at least 30 days in arrears;

(2) The obligee or public authority serves a copy of an affidavit of default and notice of intent to enter judgment on the obligor by mail at the obligor's last known post office address;

(3) The obligor fails within 20 days after mailing of the notice either to pay all unpaid amounts or to request a hearing on the issue of whether arrears claimed owing have been paid; and

(4) Not less than 20 days after service on the obligor in the manner provided, the obligee or public authority files with the court administrator the affidavit of default together with proof of service and, if payments have been received by the obligee or public authority since execution of the affidavit of default, a supplemental affidavit setting forth the amount of payment received.

(These provisions are included in the statutory notices required of every support obligation.)

Section 548.091 provides an effective and efficient method of enforcing child support obligations by providing incentives for the obligor to pay arrearages before the obligee goes through the expense and paperwork of obtaining a judgment. The focus of the procedure is actual payment of arrearages with a judgment as a secondary resort for those cases which Minnesota family lawyers find the most difficult, that is, the nonpaying obligor who is chronically unemployed or manipulates his or her finances to avoid a child support obligation.

The essential difference between Minnesota existing law and the new federally-mandated legislation as drafted is that current law requires the obligor to be at least 30 days in arrears and allows the obligor notice and 20 days within which to request a hearing. Although the new federally-mandated legislation requires no such waiting periods, the 30 day and 20 day requirements, respectively, do not appear to impose a real hardship on the obligee. Rather, the burden is somewhat balanced between the parties and the parties have the opportunity to resolve the matter without the burden on the system of potentially unnecessary docketing of judgments.

Minnesota has passed legislation eliminating a judge's power to retroactively decrease child support obligations. Minn. Stat. §518.64, Subd. 2. As a result, the obligee is not prejudiced in any way by the procedure in §548.091, which has the benefit of motivating the obligor to pay arrearages before the judgment is entered.

In addition, entry of judgment for arrearages is an enforcement procedure ancillary to the preferred method of income withholding. It assures an obligee of regular payments of current support and provides for additional payments on arrearages at the rate of 20 per cent of the monthly support obligation. Minn. Stat. 518.611, Subd. 2(5)(b). Minnesota has passed legislation establishing a pilot project of mandatory income withholding. Minn. State. §§518.551, Subd. 10 and 516.613. Such procedures put money in the pockets of obligees; entry of a judgment for arrearages, by itself, does not.

Two characteristics of Minnesota law make the automatic judgment provision more cumbersome than the existing procedures under §548.091.

First, Minnesota does not use a centralized system for payment of child support. While all payments in public benefits cases must be made to the Support and Collections Agency of the 87 counties in Minnesota, the majority of obligors in non-public benefits cases make support payments directly to the obligee. The instant judgment provision adds no efficiency to collection of arrearages involving those obligors, as the amount of the arrearages must be constantly verified with the obligee.

Second, Minnesota real estate law requires a distinction between the creation of a judgment and the docketing of the judgment in order to avoid clouds on title. The administrative burden and costs of docketing judgments pursuant to the automatic judgment law is greater than the administrative burden under the present Minnesota law. Governmental and private resources will be directed to docketing frequent judgments rather than focusing on the location and collection of the assets of obligors.

Given the steps Minnesota has already taken to foster the collection of child support and provide coercive sanctions against delinquent child support obligors, the potential burden of the instant judgment law on the collection system appears unnecessary and unduly cumbersome.

The automatic judgment provision will add nothing to ensuring collection of support arrearages in Minnesota, and will create additional administrative burdens for practitioners trying to collect child support arrearages. It is hard to believe the enactment of the federally-mandated legislation will increase the effectiveness and efficiency of Minnesota's Child Support Enforcement Program. The Family Law Section of the Minnesota State Bar Association strongly urges that the Department of Health and Human Services grant Minnesota an exemption from the requirement that the State pass a law complying with 42 U.S.C. 666(a)(9).

Yours truly,

GARY A. WEISSMAN,
Chair of the Family Law Section, Minnesota State Bar Association.

Mr. MOYNIHAN. Mr. President, I am completely in support of both these measures.

The Senator from Minnesota has been the leading advocate on his side—well, there is a side of our committee in these matters—and he knows the respect we have for him and the wish we have to accommodate him.

First of all, he has raised two amendments. For reasons that frankly escape me, we can happily accept an 18-month extension of the Minnesota prepaid Medicaid demonstration project.

Mr. DURENBERGER. Mr. President, I acknowledge with gratitude the comments my colleague has made about our service. It is my judgment that 18 months, given the fact that this has been in effect for some time, is an adequate period of time, and I would amend my amendment to change it from 24 months to 18 months.

The PRESIDING OFFICER. The Chair states that the original amendment has been withdrawn. There are two amendments. It has been set aside. Does the Senator wish at this point to set aside the second amendment and take up the first one?

Mr. DURENBERGER. If that is the judgment of the manager of this bill, I ask unanimous consent that we temporarily lay aside the consideration of what I would call the access rights for noncustodial parents amendment, so that I might be permitted to amend, and hopefully to have adopted, my first amendment, which deals with the prepaid Medicaid demonstration project.

AMENDMENT NO. 2386, AS MODIFIED

The PRESIDING OFFICER. The Chair rules that the first amendment is now pending and the other has been temporarily set aside. The Senator is entitled to modify his amendment.

Is it the intention of the Senator from Minnesota to modify the amendment to read "18 months?"

Mr. DURENBERGER. That is correct—18 months rather than 24 months.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. MOYNIHAN. Mr. President, while the amendment is being sent to the desk, is debate in order?

The PRESIDING OFFICER. Debate is in order.

The amendment will be so modified.

The amendment, as modified is as follows:

> On page 268, between lines 15 and 16, insert the following new section:
>
> SEC. 509. EIGHTEEN-MONTH EXTENSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.
>
> Upon application by the State of Minnesota, the Secretary of Health and Human Services shall extend until December 31, 1989, the waiver granted to such State under section 1115 of the Social Security Act to conduct a prepaid medical demonstration project.

Mr. MOYNIHAN. Mr. President, this is a good amendment. This is a good demonstration project. The Senator from New York, on behalf of the managers of the legislation, indicates that we enthusiastically accept it, and we mean to prevail in conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota, as modified.

The amendment (No. 2386) as modified was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I wonder if my colleague has any objection to the access rights of noncustodial parents amendment.

Mr. MOYNIHAN. Mr. President, I have to say to my friend from Minnesota that there is at least one Senator who would have to be consulted in this regard, and that consultation can take place soon.

I am aware that the Senator from Minnesota has other urgent official matters and that he must necessarily leave the Capitol for Minnesota in a few minutes.

Mr. President, I suggest the absence of a quorum, so that we may consult in this regard.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I rise to express my support for the Family Security Act of 1988 and to commend my good friend, Senator MOYNIHAN, for his outstanding leadership in the Senate's effort to reform our welfare laws.

One of the major criticisms of our current welfare system is that it locks people into public dependency and thereby perpetuates a permanent class of poverty-stricken and undereducated citizens.

The legislation before us today takes a different approach. It places an emphasis on jobs and economic independence. It would, as stated in a New York Times editorial:

> Transform our welfare system from an assistance program with an employment component into an employment program with financial assistance.

I, like Senator MOYNIHAN, believe we can help individuals break the chains of dependence and poverty and still remain a compassionate society.

In my view, a truly compassionate society is one that helps people help themselves.

This is not a novel concept, yet for more than 50 years, our welfare system—(Aid to Families with Dependent Children)—seemingly has done little to help individuals break the chains of poverty.

Today, more than 11 million Americans receive AFDC benefits. More than 7 million of those are children.

That is 7 million children living in poverty—going to sleep hungry, going to school hungry, going through life hungry, often undermotivated or unconcerned.

These children are our Nation's future. And if they or their parents are suffering from hunger or undermotivation or unconcern, then every other American citizen is suffering also. These children soon must be this country's workers, leaders, educators, and taxpayers.

If we ignore their needs now—if we refuse to seriously invest in them and continue to exclude their parents from the economic mainstream, we will not have the skilled, healthy, and productive work force we must have in the future to compete successfully in the global economy. And we will have jeopardized our Nation's social and economic security.

Our world is not the world of 50 years ago. We live in a new world—the competitive, global society of the 21st century. And the key to success in this world is our ability to equip all of our citizens with the tools necessary to become productive, contributing members of our society. That means we must deal with a changing workforce, an outdated educational system, and the critical problems facing our children growing up in poverty and dependence.

NEW MEXICO PERSPECTIVE

In my State of New Mexico, the problems are especially critical.

The Public Voice for Food and Health Policy, in a study profiling rural poverty in New Mexico and three other States—Kentucky, Georgia, and Kansas—revealed that rural poverty in New Mexico was higher than the national norm at the beginning of the 1980's and has worsened since.

In 1979, nearly 18 percent of New Mexico's population lived below the poverty line:

All but one of the State's 32 counties had a poverty rate above the national average of 11.6 percent.

More than half of our counties had poverty rates at least 50 percent above the national average.

Minority populations are suffering the most in New Mexico: 23 percent of the State's Hispanics; 29 percent of its blacks; more than 40 percent of its Indians live below the poverty threshold—compared to about 13 percent of the State's Anglo population.

And these statistics do not begin to convey fully the plight of New Mexico's poor—of America's poor.

Poverty can shackle a person to a life of hardship, a life without the benefit of a good education, a stable job, or adequate health care. And when this happens, we all lose.

WELFARE REFORM

What does all this mean? To me, it means we must overhaul our welfare program now.

Our current system is sorely shortsighted—we give a person or a family a check each month, shut our eyes, cross our fingers, and hope that in time such checks will no longer be needed.

We can do better than that. And I believe we can do it with the legislation before us today.

This legislation offers a rare and valuable opportunity for the Federal Government, working with the States, to improve the quality of life for a portion of our population that desperately needs our help.

At the same time, I believe the provisions crafted by Senator MOYNIHAN, the Finance Committee and the National Governor's Association allow the individual States sufficient latitude to design the type of assistance program best suited to each particular State.

I am particularly hopeful that this bill's education and employment provisions may help many of the New Mexicans now receiving welfare benefits.

As I mentioned earlier, the unemployment rate in my home State is hovering around 9 percent. Much of the problem lies with the fact that many of our traditional industries in New Mexico—mining and oil and gas, for example—are in trouble. We need to make retraining a top priority, and I believe this legislation does that.

I do not mean to suggest that nothing is being done currently. On the contrary, New Mexico has implemented "Project Forward," a successful pilot program to educate, train, and help long-term participants overcome their dependence on public assistance programs. Such planning by States is one of the requirements of the Family Security Act.

However, this is only a pilot program, and the recently enacted State welfare reform measures are still in the early stages. Like all new programs, problems remain to be addressed.

CHILD CARE ISSUE

I would like to discuss in greater detail one of these problems—a problem that necessarily arises whenever a parent is encouraged, or required, to leave the home for work or school: The problem of quality child care.

I do not think anyone will deny that the first 4 or 5 years of a child's life are extremely critical. They are years of rapid growth and development. And that development is uniquely subject to influence from outside sources.

Because we have the power to shape the lives of young Americans for generations to come, and because by enacting this legislation we will shape the lives of thousands of children currently born into poverty, we must pay special attention to the needs of our children.

As I stated earlier, more than 7 million children presently are dependent on our Aid to Families with Dependent Children Program.

That means that the parents of more than 7 million children, who currently receive little or no day care, will soon be required to find day care services for their children while they attend classes or work.

We in the Federal Government must work to cooperate with the States to ensure that any initiative requiring child care includes provisions for the availability of safe and adequate child care. I know that this is a very costly proposition, but I think it is a very wise one.

I am pleased that this legislation ensures States a more stable funding source for child care projects in its entitlement provisions, and that title III of the act ensures some level of transitional child care for newly employed and independent parents.

CONCLUSION

Many people have said that the provisions of this bill do not go far enough. Perhaps we could, and should, do more. I believe this is an issue that must be seriously addressed by us all, and it is one I am pursuing with parents, legislators, businesspersons, and other concerned individuals in my State.

There is much we can, and must, do for our children and for our fellow citizens struggling to break the grip of poverty. We must commit ourselves to helping them help themselves. This legislation—this landmark redirection of our public assistance programs—embodies such a commitment in noble fashion.

I wholeheartedly support it and urge my colleagues and the administration to do likewise.

Mr. MOYNIHAN. Mr. President, I would like to express my great appreciation to my distinguished colleague for his remarks and particularly his remarks on a subject that I know has engaged his attention in great detail, which is that of child care. I am sure that Senator BINGAMAN has noticed in today's press that yesterday the Census Bureau reported that for the first time more than half of new mothers are remaining in the job market; a rapid transition. It is associated with increased education. It is associated with a very flat family income stream. We have still not reached the median income of 1973.

But as recently as 1970, only about 30 percent of such mothers remained in the work force. That is how quickly this has changed. And, therefore, it is a new requirement of the social arrangements. We have a more productive population and we have to make other arrangements.

May I say that one of the things we are very particularly pleased about with this legislation, and which I know the Senator who is a cosponsor feels, is that we have a 9-month transition of child care for mothers who enter the work force and leave AFDC, leave welfare. And the level of payment is the community level. It is not some national standard which is too low for half of the people and too high for the other half. It is whatever New Mexico needs, whatever New York needs. We are prepared to invest a very considerable amount of money, and this because we think in the end there will be a very considerable return.

I do especially thank the Senator for his generous remarks.

Mr. BINGAMAN. Mr. President, let me once again thank the Senator from New York. I do think his awareness of these problems and his long involvement in them are certainly examples for all of us to emulate here in the Congress. I think he has done more than anybody I am aware of to focus the national attention, in a very constructive way, on the very real problems of poorer families in our society. I think the provisions that he refers to relative to child care are clearly a move in the right direction.

I do think, in a way, he is caught in a difficult vise here. There are those who say this bill does not go far enough; there are those who say this bill goes too far.

The legislative process, of course, is one where you do what you can do at the particular time that the issue is decided. I think this bill is a valiant effort to do that. I hope my colleagues will support it wholeheartedly and I hope the administration can be persuaded to as well.

Thank you very much and I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 2387, AS MODIFIED

Mr. DURENBERGER. Mr. President, I have a modification to my so-called visitation amendment. I believe that is the pending business. Am I correct?

The PRESIDING OFFICER. It has been temporarily set aside. If the Senator wishes to call it up at this time, he certainly may request it.

Mr. DURENBERGER. Mr. President, I would like to call up my visitation commission amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is pending.

Mr. DURENBERGER. Mr. President, I send to the desk a modification of my amendment and ask that my amendment be so modified.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment, as modified, is as follows:

On page 150, line 3, strike "and".

On page 150, line 9, strike the quotation and end period.

On page 150, between lines 9 and 10, insert the following:

"(iv) no such adjustment is made unless each parent is afforded the opportunity to raise any issue relating to the visitation rights of the non-custodial parent or the access of such parent to information and records regarding the child.".

On page 165, between lines 4 and 5, insert the following new section:

SEC. 125. EXEMPTION OF CERTAIN STATES FROM PROCEDURES RELATING TO THE TREATMENT OF OVERDUE CHILD SUPPORT PAYMENTS AS FINAL JUDGMENTS.

(a) IN GENERAL.—Section 466(d) of the Social Security Act (42 U.S.C. 666(d)) is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2) The procedures described in subsection (a)(9) shall not apply with respect to any State that, as determined by the Secretary, has adopted procedures for the expedited docketing of judgments for child support arrearages. This in no way affects current law on retroactive modification of child support".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the date of enactment of this Act.

On page 165, line 5, strike "125" and insert "126".

On page 169, between lines 3 and 4, insert the following new section:

SEC. 126A. COMMISSION ON INTERSTATE CHILD ACCESS.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a Commission to be known as the Commission on Interstate Child Access (in this section referred to as the "Commission") to be composed of 15 members appointed from among individuals knowledgeable in matters involving interstate child access in accordance with the methodology described in paragraph (1) of section 126(b) of this Act.

(b) DUTIES OF COMMISSION.—

(1) Not later than October 1, 1989, the Commission shall hold one or more national conferences on interstate child access reform for the purpose of assisting the Commission in preparing the report required under paragraph (2).

(2) Not later than October 1, 1990, the Commission shall submit a report to the Congress that contains recommendations for improving the interstate system for protecting the visitation rights of non-custodial parents and ensuring that such parents have access to records and information about their children.

(c) OTHER PROVISIONS RELATING TO COMMISSION.—The provisions of paragraphs (2), (3), and (4) of subsection (h) and all of subsections (c), (e), (f), and (g) of section 125 of this Act shall apply to the Commission to the same extent as they apply to the Commission on Interstate Child Support under such section.

Mr. DURENBERGER. Mr. President, I would assure my colleagues that one of our colleagues on the Finance Committee who has done a great deal of work on our committee on child support enforcement had some concerns about one part of the admendment which dealt with the exemption for expedited procedures. As I indicated in my earlier comments, this is an area in which the State of Minnesota has already done a great deal of work. I introduced a letter from the Family Bar Section of the Minnesota Bar Association on the subject.

We have modified that section of the amendment, so it applies only to the State of Minnesota rather than to the Nation as a whole. I have been given to understand that, with that modification, the objection to the original amendment has been withdrawn.

I know that my colleague, Senator GRASSLEY, has some comments that he would like to make in support of this amendment, which is as much his work in the past and today as it has been my own.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am pleased to join the Senator from Minnesota in the cosponsorship of this amendment. But I also want to thank the Senator from Minnesota for those kind remarks that he made. I used to be a member of the Senate Finance Committee and at that point was more involved in this legislation than I am now as a member of the Appropriations Committee, but I want to thank the Senator for cooperating with me on some ideas that I had on legislation like this.

Any bill adopted by Congress addressing child support enforcement must first account for the welfare of the children. But legislation must also be sensitive to the rights and responsibilities of mothers and fathers.

This amendment would provide that balance by creating a commission on visitation and developing State laws allowing access to information about their children. The Durenberger amendment would also recognize State procedures for expedited handling of visitation disputes.

As families struggle with change and trauma, the legal structure of our country must facilitate, rather than complicate, the process.

As policymakers, we must proceed carefully in the area of family policy.

The issue of family support for children is critical. This bill recognizes that parents do not forfeit their financial responsibility to their offspring even if they no longer reside with them or have legal custody.

In addition to financial support, children also have the right to access to both parents. Thus, the issue of visitation cannot be ignored in any legislation which addresses child support enforcement.

In 1984, I sponsored an amendment to the child support enforcement bill. This amendment established Governors' commissions in all 50 States to examine custody and visitation issues.

That legislation reflected the view of Congress that visitation is critical to a child's well-being. As noncustodial parents fulfill their financial obligations, emotional support and participation in their children's upbringing must also be fostered.

I realize that financial child support is a very different issue than visitation. I do not agree, however, that mere financial support from a father is sufficient for most children. Children have the right to love and attention from both parents wherever possible.

The amendment which I offered in 1984 provided some consideration for noncustodial parents.

Unfortunately, as administered by the Office of Child Support Enforcement, the Governors' commissions were dominated by the issue of child support. None of the 50 State commissions addressed visitation rights or joint custody.

S. 1511 also needs balance in its treatment of separated parents and support of children.

I appreciate that the committee bill provides $5 million for each of 2 years for research and demonstration projects on enforcement of access. No doubt these programs will provide useful information.

But they will only be a drop in the bucket for the 40 percent of noncustodial parents, typically fathers, who are denied visitation rights with their children.

What is needed is coordinated policy direction for the States.

For example, what happens when a father's children move across the State line or even across the country?

What happens if a noncustodial parent cannot obtain information regarding his child?

S. 1511 provides for a "Commission on Interstate Enforcement on Child Support." This amendment, which I cosponsor with the Senator from Minnesota, simply asks for equal treatment for the equally serious issue of visitation rights.

The Commission would identify good examples of State laws on visitation enforcement and promote them as models for other States. The Commission would make recommendations for handling interstate visitation enforcement. It would be instrumental in State and Federal policy efforts in the issue of visitation, providing coordination at the national level.

The "Interstate Commission on Access Enforcement" might be the best body to review the results of the research and demonstration grants provided in S. 1511. It would serve to ealuate the results and to draw useful conclusions.

Mr. President, I join my colleagues in their concern for child support enforcement. I have played a pivotal role in crafting legislation on that issue in the past.

The right of access of parents to their children, admittedly a difficult problem, also deserves our through attention.

I thank Senator DURENBERGER for his leadership on this amendment and I do hope that my colleagues will support this amendment as a matter of fairness.

Mr. DURENBERGER. Mr. President, while my colleague from Iowa is still here, I understand from the manager of this bill that I still have one small problem in clearing the amendment; that is, we do not have a CBO estimate of cost.

As our colleague from New York indicated earlier—and I will say something about it myself—I am going to be necessarily absent in about an hour, and I will not be able to return in order to finalize this amendment.

I wonder if my colleague from Iowa might be available, if the CBO estimate does come back, later today to make sure this wonderful amendment of ours passes.

Mr. GRASSLEY. Yes.

Mr. DURENBERGER. I thank him for his incredible contribution.

Mr. MOYNIHAN. Will the Senator yield?

Mr. DURENBERGER. Yes.

Mr. MOYNIHAN. Mr. President, may I thank both the distinguished Senators. We are entirely supportive of the proposal they have made. We are under a budgetary constraint that we are continuously under. Just as a matter of routine, we are obliged to ask the CBO to confirm what must be the case, that there is no budgetary implication.

If the distinguished Senator from Minnesota then would ask that his amendment be laid aside, it could be called up the moment we get that clearance and the Senator from Iowa is available. I thank the two Senators for their initiative in this regard.

Mr. DURENBERGER. Mr. President, I ask my amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISABLED WORK INCENTIVE

Mr. DURENBERGER. Mr. President, I had intended also to offer an amendment which would allow disabled individuals to continue their coverage under Medicare after the 2-year limit has expired by paying a reasonable premium.

This amendment is incorporated from a bill which I introduced, S. 936, with Senators COCHRAN, WEICKER, SANFORD, MELCHER, WIRTH, HARKIN, WILSON, and THURMOND as cosponsors.

As they know so well, under current law, disabled workers who successfully return to work, which is our desire for everyone in this country, while still being severely impaired, are eligible for Medicare benefits for either 2 or 3 years after their cash benefits cease.

Current law includes the following provisions to help the disabled persons return to work; it establishes a trial work period where you can continue to receive benefits up to 9 months while you test your ability to work. The months in the trial work period need not be in a row. Generally, only months where a person earns over $75 or 15 hours of self-employment count as trial work months.

After the trial work period, a decision is made as to whether a person has reached substantial gainful activity, which is considered to be a wage level of $300 a month. Medicare benefits, however, remain available to the worker for an additional 24 months, at which time eligibility for the benefits is terminated.

The problem is 2 years after the seriously disabled person has been in the work force and has earned above the level of substantial gainful employment, or $300 a month, the individual loses his or her eligibility for health insurance. These are people who suffer chronic disability, and for them, health insurance is often not available in the private marketplace. Private companies just will not, in many cases, insure persons with serious disability.

The potential loss of Medicare coverage thus poses an almost absolute threat to disabled persons and a disincentive that keeps many of them from seeking jobs or retaining jobs beyond the 2-year limit. It gets even worse if a person is self-employed.

The solution to this problem is offered in this amendment. It would allow disabled individuals to continue their coverage under Medicare after the 2-year limit by paying a reasonable premium. Nobody gets anything for nothing in this new regime of ours.

Recipients would pay the cost for the premium for part A of Medicare, hospital insurance. That cost is currently about $245 a month. They would also pay 4 times the part B premium for enrollees covered under current law. Today they pay about $24.80 a month. This makes the part B premium self-financed. Recipients pay the actual cost or the actual premium for part B.

Because that combination of premium is the only kind of insurance they can get, and it is going to cost over $300 a month and because a lot of disabled persons will not have the kinds of incomes to sustain that, in this amendment we would cap the premium payout, the monthly premium at 10 percent of monthly adjusted gross income.

As a reality, that means, in effect, that the costs of this program would be only $18 million over 5 years, or $6 million over the first 3 years.

The only reason, Mr. President, I am not going to offer this amendment today—and it seems almost ridiculous that I am not doing that in light of what we are doing here with this bill—is because the Finance Committee has made a commitment to itself in the course of this week of trying to come to an agreement on this significant piece of legislation which our colleague from New York has brought to us, that no amendments in areas outside of the so-called welfare or income maintenance areas would be considered.

Since this particular amendment has everything in it that our colleague from New York is trying to do by way of work incentives in keeping people off medical assistance, except for the fact that it draws down on Medicare by a small amount and it amends title XVIII of the Social Security Act rather than title XIX of the Social Security Act, I am, by agreement with my colleagues in the Finance Committee, unable to present the amendment at this time.

I hope I would have an understanding with the author of this bill, again, because of my absolutely required absence from Washington here after about 4 o'clock this afternoon, that if anybody on the committee changes their mind on this issue, that this particular amendment will be brought up, if not by me, perhaps by one of my colleagues who are cosponsors of this amendment or that one of my colleagues on the committee give this legislation a fair hearing and an opportunity to be passed along with this important legislation.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYHIHAN. I ask the distinguished Senator from Minnesota, am I a cosponsor? I would hope I am. If not, may I be?

Mr. DURENBERGER. Mr. President, I ask unanimous consent that my colleague from New York [Mr. MOYNIHAN] be added as a cosponsor to S. 936 and to this amendment.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. MOYNIHAN. In that event, Mr. President, may I give my assurance to the Senator that if there should be a change in our floor discipline, which I hope there will not be, and we have a budgetary provision, I will offer the amendment on behalf of the Senator. But the day will come when the amendment of the Senator will be law. I think we are just saying one subject at a time, one title at a time. It is nothing more than that. But I hope that assurance is useful to the Senator.

Mr. DURENBERGER. Mr. President, that is more than adequate assurance, and I am most grateful to my colleague from New York for adding his name as a cosponsor to this legislation.

If I may, Mr. President, I would like to continue for an additional minute. It has been my pleasure for 10 years to serve on the Senate Finance Committee with Senator MOYNIHAN but for longer than that to enjoy by way of experience the effort he has put in to change the country's attitudes about how we measure a great society. It was with his help that I came to realize after I arrived here that the way a great society measures the quality of that society's commitment to its individuals members is not by how much money we spend on welfare programs principally but how much opportunity we provide for every member of this society of ours and that if people measure their worth by work, by earnings, by savings, by investment, by insurance, by social insurance, as the case may be, than that is truly a great society.

But we also recognize that within any society there are the very elderly and the frail elderly who, for one reason or another, you cannot compel to measure their worth by work because they are not able. And in a great society we know, for our newborns and our very young, it is inappropriate that their worth be measured by how hard they work or how long they work or how much they produce, save, invest, or whatever.

For some period of time in this society there was a recognition of the fact that people who are profoundly disabled in one way or another should not have their worth measured by that standard until they brought it to our attention that they would rather have their worth measured in terms of their ability to earn, to save, to invest, and to insure. And then with the technological revolution of this country it enabled a lot of those persons, all of them hopefully, to be in this same category. So that just leaves the unfortunate in our society who for some period of time cannot earn or live off of savings or invested income enough to pay the water bills and the heat bills and the electric bills and the telephone bills and the rent or the mortgage payment and the education for the kids or the health insurance bills, and so forth, or child care, and for those people this country needs an income maintenance system that actually works.

The gift of the Senator from New York to all of us is that he is providing us with a beginning of that system, a genuine income maintenance system. We do not have to call this the welfare system in this country any more because no longer are we taking people who, for economic reasons, only fall into certain categories and putting them on welfare. We are now in effect saying to everybody in America except the very old, the frail elderly, and the very young, that we will provide you with the opportunity to pay all of those bills and to provide all of those needs through an income maintenance system, income supplements, service supplements as in the case of Medicaid premiums or access to child care. It is a whole change in the way Americans look at themselves as a society.

It is with a great deal of pleasure that I offered myself some time ago to be the chief Republican sponsor of this effort, not being able and not wanting to take any credit for it. I may be able to characterize it, but I cannot take credit, Mr. President, for this work any more than any of the other 98 of us in this body can take credit for it. Really, the credit belongs to the foresight of our colleague from New York. And so I regret I will not be able to be here to watch the eventuality of its passing this body, but I know that the work that he has done in the last few days has gone a long way to making it a reality, which nobody thought was going to be a 1988 reality, and for that I think we are all grateful to him.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. DODD). The Senator from New York.

Mr. MOYNIHAN. Mr. President, the Senator from Minnesota will know what his words have meant to me. He has been the chief sponsor of the legislation on his side and the vote suggests the influence he has with his associations and certainly this Senator. His own work on intergenerational equity is prophetic. I want to use that word prophetic. The Senator has raised a question that the species has never dealt with, the four-generational society. It is a new experience. It is the impact of technology in its most profound way, and anyone who can see the coming and prepare for it is someone we have every reason to be proud of in this Chamber and a reason to look forward to a long association. I dare not continue lest I keep him beyond the appointed time at which he must leave for an urgent secular affair, but he knows of my great good wishes and my deep appreciation for his remarks.

Mr. DURENBERGER. I thank my colleague.

Mr. President, I believe the pending business is still my so-called visitation commission?

The PRESIDING OFFICER. The Chair would inform the Senator from Minnesota that has been laid aside by unanimous consent. The Senator from Minnesota may ask unanimous consent that it be made the pending business.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANFORD. Mr. President, I join a great many of my colleagues in commending Senator MOYNIHAN for the outstanding job he has done in crafting a very significant, yet I think reasonable, welfare reform bill. He has worked long and hard through this Congress, but more than that, he has worked over the years pointing out that we needed improvement, that this kind of legislation was required, and it has taken years of struggle to turn enough opinion around to reach the point that he has reached now.

I think the number of people that have sponsored this legislation pay tribute not only to his dilligence in bringing us to this point but to his wisdom in preparing the kind of bill that could command such broad support.

S. 1511 offers real reform. It places more importance on education and training, and it recognizes the importance of day care and health care services. And by requiring that States cover qualifying two-parent families, it guarantees the integrity of the family unit.

I have been bothered by this same program for almost the same number of years that the Senator from New York has been doing something creative about it. I became concerned when I was Governor and attempted innovations then that simply were not quite ready. The time had not quite come. But even then Senator MOYNIHAN was talking about how this might be done and indeed needed to be done because I could see our program with all of its best paternalistic instincts somehow instead of helping people out of a life of hopelessness, sealing them in, putting them on the shelf for life, and once you are there, there is no escape. There was far too much of that.

Instead of being a maintenance program, it too often became a long-term welfare dependence program. It made it too easy simply to maintain families, and not provide the necessary funding to put forth the necessary effort to lift families out of the cycle of poverty.

Constantly we have been looking for a way not to take care of people in need, but to help them build their own lives by breaking the cycle of poverty. This bill certainly moves in that direction with a great deal of promise.

According to the American Public Welfare Association, "One American child in four is born in poverty today." And the current law allows States to ignore those children born into poor two-parent families even though their needs are as great as those born into poor families headed by only one parent, generally the mother. S. 1511 proposes to change that. North Carolina has already begun to move in this direction, and now provides many two-parent families welfare assistance.

We should not have a welfare system that encourages the breakup of families. Surveys conducted by the Congressional Research Service of States that have discontinued their two-parent coverage show that within a matter of months a significant number of families no longer qualifying for assistance split up. If those families lost their benefits because the father remained in the home, his children also lost their Medicaid eligibility, and their health care protection. We cannot have a welfare system that penalizes small children for having an unemployed father. We can no longer afford not to cover two-parent families.

We also cannot any longer afford a welfare system that ignores the importance of providing transitional services to those families moving from welfare to employment. A great many things stood in the way of moving out of welfare to employment. It is a tremendous risk for somebody to attempt to move out, and one way of looking at it is it is the only group of people in the country that are taxed 100 percent. As they earn money, they lose welfare. So there was very little incentive. Not only was that a difficulty, but it is no secret that child day care and health care benefits are key factors involved in determining whether or not a welfare parent can go to work. And if those are put at risk, there is less and less incentive to make that break for a new kind of life.

The North Carolina Department of Human Resources has studied the impact of health care benefits and found that families who lost those benefits when they left the welfare rolls were three times more likely to return to AFDC than those families that did not lose health care benefits. And there have been many other studies that support similar findings.

A 1985 Government Accounting Office study found that 50 percent of those leaving welfare and returning to work did not have health insurance because their employers did not offer it. And those receiving the lowest wages, those least likely to be able to afford health insurance, are the most likely to have employers who do not provide any health care coverage.

Recognizing the importance that continued health care protection has in moving individuals from welfare to productive jobs should be fundamental to any welfare reform effort. I am pleased that S. 1511 proposes to extend traditional health care protection. Even more fundamental to any real welfare reform is access to child day-care services. The lack of day care is a major barrier preventing welfare mothers from finding and keeping a job.

I have been involved in this in Charlotte, NC, and nowhere is it more evident. We have there a very aggressive program of helping welfare mothers learn skills to break out of welfare, and the only barrier in case after case has been the lack of affordable day care. The public and private facilities for day care have been strained to the point that far too many people who otherwise could move now to lives where they not only got something out of life, but where they contributed something to life simply have found that barrier of leaving the children one they could not surmount. This may very well be one of the most valuable parts of this new concept.

Access to day care is not just a problem for the poor, but it is a greater problem for poor families headed by a single parent. North Carolina has the second-highest number of working mothers with small children in the country. Day care is an extremely important issue in my State. I am delighted that the requirement in S. 1511 will provide child day care to families making this transition from welfare to work.

There is so much more that needs to be done to improve access to day care, but this legislation is certainly a step forward. I am sure that the distinguished Senator from New York would agree with me that this welfare reform legislation does not go as far as it should. There is not any question about it. But is it not great that we have made a start? And if we pass this legislation, as I predict we will, we will have laid the framework for constant improvement to the day when people born into poverty or are falling into poverty can find a way out, when people's lives will not be frozen in hopelessness, but when everyone can, with the help of the rest of us, with the help of society, have a part of the American dream.

I think this is a tremendously important piece of legislation. It is one of the most heartening things that I have seen since I have been in the Senate. I applaud my distinguished colleague, and I certainly hope that the vast number of our colleagues will move rapidly to enact this historic legislation.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I am humbled in the presence of the remarks of the Senator from North Carolina who is himself already a part of American history, a legend in his own State, a warrior, an educator, a Governor, and now a legislator.

He is a symbol of the vast capacities of this society for renewal. There stands a man who did things in North Carolina that could not be done. He did them, and he did them through education; he did them through opportunity; he did them through saying that people have more in them than we know, if we will let it out. That State is his memorial, and his example has enriched us all.

The Senator from North Carolina—paratrooper, educator, Governor, and now a Senator—if he is with us, we are going in the right direction. It is only a beginning, but you begin. The research triangle is only a little triangle, but it is started. We are making that beginning. We are changing those directions and moving in the direction that TERRY SANFORD has pointed out for two generations. I am deeply grateful for his remarks.

Mr. President, I hope Senators will hear that we are on the floor, that the bill is open to amendment. We are not seeking amendments, but that is the right of a Senator. The Republican leader, the distinguished Senator from Kansas, was just here and mentioned to his side of the aisle that the bill is here.

Mr. President, we will stay right here on this floor until this bill is passed, this day. This bill, I think, is going to be one that we will be proud to have had on our calendar.

I thank the Senator from North Carolina.

Mr. SANFORD. I thank the Senator.

Mr. SASSER. Mr. President, I speak out in favor of S. 1511, the Family Security Act introduced by my friend from New York, Mr. MOYNIHAN. It's high time the Federal Government institutes a measure that will improve our current aid to families with dependent children program. Today, the Senate has an opportunity to pass legislation that will do just that.

Our present AFDC program lacks incentives to encourage recipients to get off of the welfare rolls. Consequently, welfare recipients are easily trapped in a cycle of poverty that is becoming increasingly difficult to break. And the frustrations of being trapped in this cycle of poverty are what leads to the fraud and abuse that we have in our present AFDC program.

As my colleagues have stated, one child in every four born in America today is born in poverty. And one child in five spends his or her youth in poverty. These startling statistics hold true in my home State of Tennessee.

The poverty in Tennessee affects all walks of life from the farmers in rural Tennessee to the urban pockets of poverty in Nashville and Memphis. In fact, Mr. President, our largest city, Memphis, has the highest poverty rate of the 100 largest metropolitan areas in America with more than 150,000 of its citizens living in poverty.

Forty-seven percent of all black families and 13 percent of white families in Memphis live in poverty. Even more startling is that the median family income for blacks is one-half that of whites.

The welfare reform legislation that we are considering today takes the first step toward breaking this cycle of poverty. It is an improvement over our current system because it establishes a sort of social contract between the Government and welfare recipients. In this contract, the Government guarantees that it will provide job training and/or welfare benefits for all who are eligible. In return, welfare recipients guarantee that they will participate in job training programs designed to remove them from the welfare rolls.

This type of understanding is essential in breaking the cycle of poverty that exists in America today.

In addition to establishing a social contract, this bill takes several steps to improve the efficiency of the AFDC Program. The AFDC Program allows many parents to skirt their responsibility of providing for their children. This bill will save Federal dollars by forcing parents to acknowledge the financial responsibilities of parenthood. The Government would increase the number of paternity determinations through the use of Social Security number identification.

With positive identification of both parents, child support can be better enforced. Automatic wage withholding for delinquent payments and increased interstate enforcement for noncooperative parents will also force parents to pay some of the cost that the Government is currently paying.

It is troubling to me, Mr. President, that while 72 percent of all mothers with children between the ages of 6 to 18 work, only 5 percent of welfare mothers with children in this age group work. State supported jobs programs mandated under this bill will require mothers to work when their family situation allows them to.

This legislation also assures that child care will be available for those individuals who enter into jobs and job training programs. A lack of child care has been a stumbling block to effective welfare reform in the past. Providing child care for welfare parents will remove this stumbling block which has been the single greatest factor in preventing welfare mothers from working.

Mr. President, the Senate has an excellent opportunity today to follow the lead of the House by passing legislation that will greatly improve our Nation's welfare program. We should not let this opportunity slip by. I support this legislation and I encourage my colleagues to do likewise.

I yield the floor.

Mr. MITCHELL. Mr. President, 11 months ago I joined with my colleague from New York, Senator MOYNIHAN, in introducing S. 1511, the Family Security Act. Since that time, the bill has garnered 62 cosponsors.

I commend Senator MOYNIHAN for his leadership in this area. He is knowledgeable, dedicated, and practical. Without his efforts, this legislation would not now be on the verge of enactment.

As approved by the Finance Committee, the Family Security Act is a carefully balanced effort that will address the problems of the current welfare system in an effective manner. While the bill expands a number of provisions, the measure is deficit neutral—in fact, as estimated by CBO, in each year it produces a modest reduction in the deficit.

Since 1935, when President Roosevelt succeeded in obtaining congressional approval of the Aid to Dependent Children Program (renamed Aid to Families with Dependent Children, AFDC, in 1962), the Nation has debated the issue of how best to aid families below the poverty level.

Every President since Dwight Eisenhower has made welfare reform a priority. But eliminating poverty in the United States has been an elusive goal and welfare caseloads and costs have risen steadily.

Changes enacted during the last 50 years have had one concept in common: the desire to reduce poverty. Unfortunately, the changes have not been accompanied by the resources with which to accomplish that objective.

Nearly 33 million Americans, roughly the same number as in 1965, are poor. The percentage of Americans who are poor is somewhat smaller, due to population growth, but most of the gains took place in the 1960's and 1970's. In fact, this decade has the highest average for any consecutive 6-year period since 1960 with an average 33 million Americans beneath the poverty line each year.

When all programs transfering income from one group to another are taken into account, there has been a substantial reduction in only one major group of poor—the elderly. The poverty rate for those over 65 dropped from 25 percent in 1970 to 12.4 percent in 1986. Why? Because Congress acted to ensure that the elderly receive a decent income.

In the 1970's Congress increased Social Security benefits by 20 percent and then indexed those benefits to inflation. Medicare was enacted in 1965. Supplemental Security Income benefits were established in 1974. These programs have combined to substantially reduce the percentage of our Nation's elderly living in poverty.

On Wednesday, we further protected the elderly by overwhelmingly approving the catastrophic care bill. And, under consideration in both Chambers is legislation that would provide long-term care benefits for the elderly.

However, the vast majority of the poor have not done as well. Today, children are more likely than any other group to be living in poverty. The poverty rate for children has escalated from 14.9 percent in 1970 to over 20 percent in 1986.

While children comprise about 26 percent of the U.S. population, as a group they comprise 40 percent of the poverty population. Today, one out of every five children lives in poverty.

The situation is worse for chldren living with single parents. In 1985, 53.6 percent of the children living with single mothers lived in poverty.

The answer is not to turn our backs on the elderly. Rather, we must turn our attention to the children and other poor.

Some blame poverty on failings of the economy or the educational system. Others blame poverty on deficient values or lack of effort. These disagreements have fueled arguments about what the Government should and should not do to reduce poverty, what the relative roles of Federal and State governments should be in implementing antipoverty policy, and what should be expected of welfare recipients.

Welfare reform is not a new objective. It has eluded both Congress and the White House for decades. The players are different now, but the issue remains the same—how we can best offer a genuine way to bcome self-supporting.

We have learned much about the dynamics and characteristics of AFDC recipients from a study conducted by David Ellwood, Associate Professor of Public Policy at Harvard University's John F. Kennedy School of Government, and Mary Joe Bane, Executive Deputy Commissioner of the New York State Department of Social Services.

That study found that about 70 percent of those who receive AFDC do so for less than 3 years. These people are in transition.

About 25 or 30 percent of those who receive AFDC do so for a decade or more. These long-term users account for almost 60 percent of AFDC recipients at any one time. They use a larger proportion of the total resources and are the most difficult to help. These individuals have some of the following characteristics: they have never been married when they begin receiving AFDC; they have dropped out of high school; they have no recent work experience; and they begin receiving AFDC when they are very young or their youngest child is less than 3 years of age.

The Ellwood and Bane study is significant because it identifies two very different groups of AFDC recipients and two entirely different sets of needs to aid them in attaining self-sufficiency. In the past, Congress did very little to address the long-term dependent group.

However, during this Congress, for the first time, Democrats are advocating work requirements for welfare recipients, and Republicans are endorsing Federal funds for child care and transportation allowances.

With the wealth of information available from recent studies and the bipartisan support apparent for welfare reform, this Congress can achieve true reform.

The legislation we are considering today replaces the AFDC Program with new provisions for child support. The JOBS component of the act wholly replaces the WIN Program and is based on proposals made by the National Governors Association. Transitional services in both Medicaid and child care will aid families in attaining self-sufficiency as opposed to the current system, which often seems to penalize welfare recipients who obtain employment. And, finally the measure will stop the current practice of discrimination against two-parent families where the principal wage earner is unemployed.

Automatic wage withholding under this legislation is an important provision because only a third of all female family heads of households with children report receiving any child-support payments at all. Among poor female heads of households, the figure is about 20 percent. This legislation emphasizes that parents should help in supporting their children, prior to calculating welfare benefits.

AFDC is renamed the Child Support Supplement [CSS] Program to further emphasize the role parents should play.

The Job Opportunities and Basic Skills [JOBS] Program replaces WIN. The JOBS Program will be created and operated by States to provide eligible recipients with education, training, job search, and work experience that will help avoid the long-term dependence on public assistance programs.

The requirement to participate in JOBS is waived when the individual's youngest child is under 3 years of age—a State may lower the age to 1 when child care is needed and not provided; when the recipient is ill or caring for an ill relative; in the third trimester of pregnancy; when the recipient works more than 30 hours per week; or when the recipient lives in an area not served by JOBS.

Regardless of the age of the youngest child, a custodial parent under age 22 who has not completed high school, and who is not otherwise exempt, shall be required to participate in high school or remedial literacy training. If needed, child care must be provided.

While States are given great flexibility in structuring their JOBS programs, they are required to direct 50 percent of JOBS funds to priority recipients. These are defined as individuals who have received welfare payments for more than 2½ years; recidivists—applicants and recipients who have received welfare for any 30 months of the previous 60 months; or custodial parents under age 24 who have little or no work experience or who have not completed high school.

These changes in the JOBS Program will address the group most likely to become long-term dependents as identified in the Ellwood and Bane study. In the past, many of these individuals have been exempt from program participation or ignored because they are the costliest to help, needing the most intensive services to become self-sufficient.

I commend my colleague from New York in specifically targeting this group under the JOBS Program.

I am concerned, however, that the participation rates under the bill might undermine the JOBS Program. I am not at all certain that we can both target the group most likely to be long-term welfare recipients and at the same time comply with participation rates.

While I have reservations concerning that policy, I understand that States will be allowed to apply for a waiver so that if they otherwise comply with the targeting and thus the intent of the JOBS Program, they will not be subject to sanctions.

For those families attempting to move off public assistance, transitional child care and Medicaid eligibility are extended. The Federal Government will match child-care costs at the Medicaid matching rate for 9 months after a family is ineligible for welfare due to increased earnings or the loss of the earnings disregards. The Federal Government will also continue Medicaid coverage for 6 months, and require States to offer families an additional 6 months of Medicaid coverage.

Based on their ability to pay, families will contribute to the cost of the transitional child care, and for the second 6 months of Medicaid.

In addition, the act includes a section originally requested by the administration that allows States to apply for broad waiver authority to experiment with more effective and efficient methods of delivering benefits and services. The legislation allows for up to 50 waiver projects to be in operation at any one time. Recipients who are included in State waiver programs may not have their benefits reduced from what they would have received in the absence of a waiver.

The Family Security Act redefines the problems in the welfare system and addresses those problems in a comprehensive and practical manner. The legislation redirects welfare efforts toward individuals who have been long-term dependents.

We ought not to wait any longer. We have worked on this legislation for well over a year. We have held numerous hearings and examined a multitude of studies. The final bill under consideration today is a sweeping rewrite of our welfare laws, which enjoys a bipartisan cosponsorship of 62 Members.

It is a monumental bill, which will give welfare recipients a real chance to become self-sufficient. I urge my colleagues to act favorably on this important language.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming.

Mr. WALLOP. Mr. President, it had been my intention this afternoon to offer an amendment which would require that no program be funded under this legislation unless the participants are tested for abuse of controlled substances or registered in drug treatment programs. It seems to me that if the American taxpayer, either State or Federal, is being asked to reform this welfare program and move people into the job marketplace, that drug testing in this era, sadly, is part of that.

The committee necessarily would have been put in the rather awkward position of opposing that, partly because of budget reasons and partly because, I think, that its appropriateness in this particular moment is arguable.

But I talked with Senator MOYNIHAN, the able sponsor of this legislation, and he assures me that when it comes time for the drug bill that I could find him in support of a concept such as this; if not this precise wording, at least the concept that would require recipients of these services to be drug tested; to be registered for treatment programs.

It is pretty hard to require immediate participation because we do not have enough programs, but at least we would get on line in order to put them on a road not only to work rehabilitation but to health and family rehabilitation.

Mr. MOYNIHAN. Mr. President, may I thank my distinguished and learned colleague from Wyoming in this matter. First, to make a point about the bill which we will meet in conference, that bill has a provision which, collapsed into English, says if you are receiving AFDC benefits and are also in a substance abuse treatment program, a drug treatment or alcoholic treatment program, and you drop out of that program, you cease to get your benefits under AFDC. Children always get it. I would support that. I think our conferees will.

Mr. WALLOP. I say to my friend that my intention had been to go a little further.

Mr. MOYNIHAN. Preliminary, I say that. Second, we are going to have major drug legislation on the floor of the Senate within a month. We hope it will be bipartisan. I can speak for myself alone. I am cochair of the group on our side doing this work.

I have a simple view about testing: If you are not serious about testing, you are not serious about drugs.

The simple fact is some of the most difficult ones at the moment are ones where there is a period where people are using them who can make a rational choice about whether to stop using them if the continuation means you do not get this and you do not do that. You do not get to be a Vice President; you do not get to be a marine; you do not get to be on public assistance if it comes to that.

I would like to look at the specifics. I know perfectly well there are areas in our country and there are areas in my State where the likelihood of persons exposed to welfare also being exposed to drugs is murderous, and let me say the children are. We have the right to know on behalf of children.

I thank the Senator for his consideration of letting us take this up in the context of a generic bill.

Mr. WALLOP. I thank my friend from New York. I would also say this: It seems very difficult to ask the American taxpayer, whether footing the bill from the standpoint of his State taxes or his Federal taxes, to provide income maintenance so that someone can indulge their other habits. I think the American people would be very supportive of some sort of concept that as long as you are trying to get people work rehabilitated you get them fully rehabilitated, and when they arrive in the work place they will be able to sustain that capability.

Mr. MOYNIHAN. The Senator from Wyoming and I are not always in agreement, and we are not always in disagreement either. I think this is one of the latter cases.

Mr. WALLOP. I thank my friend.

Mr. President, I ask unanimous consent that the amendment that I would have offered be printed in the RECORD along with this colloquy so that when the time comes, we may be able to use that as a point of departure. I thank the Senator from New York.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place, add the following:

Notwithstanding any other provision of law, no program or activity receiving funds under any provision of this Title may receive assistance unless the Director of such program or activity has provided assurances satisfactory to the Secretary that:

(1) each individual applying for assistance from such program or activity, or continuing to receive assistance following the enactment of this Title, shall be required to be tested for abuse of controlled substances, in accordance with regulations promulgated by the Secretary;

(2) it is a condition of receipt of any such assistance that any such individual agree to submit to tests for the abuse of controlled substances at any time, in accordance with regulations promulgated by the Secretary; and

(3) it is a requirement that any individual found to be an abuser of controlled substances shall, whether or not such individual is prosecuted pursuant to the Controlled Substances Act, be required to register in a "qualified drug treatment program," as defined by regulations promulgated by the Secretary, which requires continued testing of such individual as a condition of receiving any assistance from any program or activity receiving assistance under the provisions of this Act.

REGARDING CHILD CARE TAX CREDIT

Mr. WALLOP. Mr. President, I intended to call up an amendment regarding the child care tax credit. Before doing so, I would like to discuss this issue. This amendment includes the language of a bill I introduced on March 17, S. 2187, which would amend the child care tax credit. The existing tax credit for child care is a variable credit with no income cap. It is limited to only two children, and is terminated when a child reaches age 16. As I pointed out in my floor statement when introducing the bill, and in a recent letter to my colleagues, this credit is very discriminatory and in a sense antifamily. First, if a family has more than two eligible children, they cannot use the tax credit for their quote "excess children" unquote. Second, if the parents decide that one parent will remain at home to work on child rearing, they are ineligible for the credit. But, it is this family of one wage earner and one working for no wages at home that is the most in need of the credit because they have on average the lowest family income of two-parent families.

This welfare reform bill makes several changes in child care. It provides extended child care benefits to a parent when that parent leaves welfare and accepts a job. The bill also caps the child care credit for high income families. Neither provision helps the low-income two-parent family. The amendment I am offering today is a strong family amendment. It provides a credit to all families whether both parents are employed outside the home or one parent works at home. The credit is available for each child in the family under age 6. It is refundable to help low-income families who pay high payroll taxes, but may not pay much income tax. It is income related. The lowest income group would receive $400 in credit per child while the higher income groups would receive $150 per child. Lastly, the bill does not require the expansion of the Federal and State bureaucracies to provide the credit.

Mr. BENTSEN. The Senator from Wyoming has raised an interesting issue with this amendment. Does the Senator have a cost estimate for this amendment?

Mr. WALLOP. Both the Joint Tax Committee and the Office of Tax Analysis at the Treasury Department estimate that the bill would cost about $2 billion a year. While the bill does limit the dependent care credit, the cost comes in removing the discrimination against the one wage-earner family and against families with more than two children. There are various ways to provide the revenue offsets for this provision.

Mr. BENTSEN. The Senator is very candid about the cost, but this would be a major obstacle to this legislation.

Mr. WALLOP. Obviously any legislation dealing with this issue, and there are numerous bills on child care, is going to cost money. But, there is also an issue of fairness involved. I do not claim to have all the answers to this problem. Other bills have been or soon will be introduced involving various approaches to revise laws involving child care provisions under the jurisdiction of the Finance Committee. Perhaps a proposal could be developed utilizing the best features of these bills. I noted that the Public Assistance Subcommittee of the Ways and Means Committee held a hearing on this very issue last week. Perhaps the best solution at this time would be to have the Finance Committee schedule a hearing on the child care issue. If the chairman could agree setting up a hearing, I think we could put this issue off to another day.

Mr. BENTSEN. The Senator has made a useful suggestion, and I would be willing to schedule a hearing by the Finance Committee regarding the issue. I look forward to working with the Senator from Wyoming on this matter.

Mr. WALLOP. I appreciate this commitment from my chairman. Mr. President, I would ask that a recent statement by Education Secretary Bennett on this issue be included at the conclusion of my remarks. I will not bring up my amendment at this time.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY WILLIAM J. BENNETT, U.S. SECRETARY OF EDUCATION

Thank you Mr. Chairman, Mr. Tauke, and members of the committee for inviting me to address the issue of child care.

Let me begin my testimony by making what should be an obvious but is an often overlooked point: The issue of "child care" policy is part of the broader issue of how we can best care for and raise our children. As Secretary of Education, I have been reminded time and again of the importance of parents in the education of their children. It is parents who impart to their children moral standards, discipline, life ambitions, and the security and confidence that comes from a sense of deep and permanent love. As the Reverend Martin Luther King, Jr. said, "The group consisting of mother, father and child is the main educational agency of mankind." It is because of the intimate connection between children's education in school and their nurture and upbringing prior to school that I welcome the opportunity to address the issue of child care today.

Because this issue is such an important and sensitive one, it is especially crucial, before we embrace or reject particular public policy proposals, that we be clear about first principles. Let me therefore present the fundamental principles that I believe should guide our efforts in the development of public policies bearing on child care.

1. Any government policy or program in the area of child care should be judged by one standard above all others: Does the policy or program under consideration strengthen or weaken, over the long term, the vital social institutions—especially the family—that bear primary responsibility for the nurture and protection of our children? As President Reagan has said, "Sound public policy must support the family in its mission of child care." In our society, families have the basic responsibility for the care of children. As Michael Novak has said, the family is the original and the best department of health, education, and welfare. If our public policies—however inadvertently—undermine and weaken families; if our public policies do not pay sufficient attention to supporting and strengthening families; then no amount of additional money and new government programs will be able completely to undo the damage.

The primacy of the family in this area does not of course mean that government has no role to play. Government can and must support and supplement the efforts of families in a variety of ways. I for one am willing to consider new proposals and policies and new expenditures. But the best policies on behalf of children will be those that strengthen the families.

This may seem unobjectionable. Everyone says he is for families. But not all public policies are equally good for families. And some public policies may—even if inadvertently, even if only indirectly—damage our nation's families.

That is why I am disturbed by some of the child care proposals now pending before Congress. They seem, however unintentionally, to put families to one side; they seem to accept as inevitable the declining importance and role of the family; and they seem more concerned with creating new structures than with supporting the very best structures possible for our children: our families.

For while it is true that child care has important implications for the workforce, finally and fundamentally, child care is a family issue.

2. A second principle is this: When we analyze child care policies, we must be sensitive to whether our policies discriminate against families that choose to have a parent stay at home to care for their children. The choice as to whether a parent, particularly a parent with young children, should or should not seek employment out of the home must be made by each family. The government should not bias that choice through its policies.

Many of the child care proposals now before Congress address themselves only to the situation of two working parents or a single working parent. These proposals would take tax dollars from all families—including families in which the mother or father, often at considerable financial sacrifice, stays at home to care for their children—and spend them in most cases on families where both parents are working, many of whom are financially better off.

Government policies should be neutral toward the choice of child care arrangements. As Secretary of Labor Ann McLaughlin has said, "We must be careful as we address the child care issue. We are dealing with the most fundamental element of human society, the family. To help families, we must guarantee that federal child care policy is neutral, allowing freedom of choice for both those who work, and those who choose not to."

3. A third principle: For those parents who do choose non-parental care for their children, we should insist on fair and equal treatment for the various types of child care available to them. Government programs should not favor or promote day care in a secular setting over day care in a religious one, or institutional care over informal care. (I might add that many disadvantaged families use informal and religiously affiliated child care, and church-run centers in the inner-city are among the types of child care which some current legislative proposals would not help.) Parents should be able to make decisions of the kind of child care they want, and the government should respect their choice.

4. Fourth principle: When we do spend public money, we should consider targeting funds on those most in need—on lower-income families. As social policy analyst Douglas Besharov has written, "The criterion for evaluating any federal child care program * * * is whether its benefits are directed to those in greatest need."

5. Fifth, and last: In seeking to improve the care for our children, we should resist the temptation to set up government programs that will result in overlapping responsibilities and ever-growing bureaucracies. In particular, we must avoid the all-too-familiar pattern of establishing a federal program that manages to spend large amounts of taxpayers money without benefiting those who most deserve help, or that ends up funding bureaucracies rather than benefiting the intended recipients.

I welcome a fresh, hard look at all of the issues involved in child care. We should not be satisfied with the status quo. Pending legislation contains proposed changes in current tax laws, and there are many other public policy reforms we should consider. They might include a crackdown on absent fathers for the child support they owe, and ensuring that regulations do not hamper the availability and affordability of child care. We should also explore ways to encourage employers to provide child care, as well as urge them to institute practices such as flex-time and part-time work. And we should consider changing laws and regulations that hamper parents from working at home.

We should continue our efforts to improve the delivery of existing services in federal government programs that help disadvantaged children prepare for school, to ensure that such programs are doing all they can and should. Nor ought we shy away from attempts to strengthen the efforts of families through successful programs like Minnesota's Early Childhood Family Education and Missouri's Parents as Teachers, programs through which young and single parents especially (although all parents are eligible) get assistance in becoming better parents.

The care of young children is not an area in which to pinch pennies. But we must not make the mistake of thinking that money alone—money without accountability, money that translates into bureacracy, money that pays for programs that do not embody sound principles—will do the trick. The dashed hopes of many well-intentioned Great Society programs should have taught us this much.

We have heard much in recent months about the needs of working parents. But when we are told, for example, that "working parents require child care," we should remember this: It is children who require child care. We must be sure that our policies recognize that first purpose.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Wyoming.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

AMENDMENT NO. 2389

(Purpose: To make the immediate income withholding provisions mandatory with respect to all support orders initially issued in a State on or after January 1, 1993.)

Mr. BRADLEY. Mr. President, I send an amendment to the desk on behalf of myself, Senator BENTSEN, and Senator DOLE and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself, Mr. BENTSEN, and Mr. DOLE, proposes an amendment numbered 2389.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 145, between lines 19 and 20, insert the following new subsection:

(b) APPLICATION TO ALL CHILD SUPPORT ORDERS.—

(1) Section 466(b)(2) of such Act (42 U.S.C. 666(b)(2)) is amended—

(A) by inserting "(A)" after "(2)";

(B) by striking "Such" and inserting in lieu thereof "In the case of a support order that is initially issued before January 1, 1994, such"; and

(C) by adding at the end thereof the following new subparagraph:

"(B) In the case of a support order that is initially issued on or after January 1, 1994, such withholding must be provided with respect to any child in whose behalf a support order has been issued or modified in the State and must occur without the need for any amendment to the support order involved or for any further action (other than those actions required under this part) by the court or other entity which issued such order.".

(2)(A) Section 466(a)(8) of such Act (42 U.S.C. 666(a)(8)) is amended by striking "if arrearages occur" and inserting in lieu thereof "in accordance with subsection (b)".

(B) Section 466 of such Act (42 U.S.C. 666) is amended by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

On page 146, line 5, strike "amendments made by this section" and insert "amendment made by subsection (a)".

On page 146, between lines 8 and 9, insert the following new paragraph:

(2) The amendments made by subsection (b) shall become effective on January 1, 1994.

On page 146, line 9, strike "(2)" and insert "(3)".

Mr. BRADLEY. Mr. President, I rise to offer an amendment to the welfare reform bill now before us to require immediate wage withholding for all new child support cases entered into after January 1, 1994. My understanding is that we need to delay enactment until 1994 or else a point of order could be raised, given the agreement that has recently been reached on the overall bill. The bill now before us only requires immediate wage withholding for new or modified cases under the jurisdiction of child support agency.

Mr. President, the bill before us makes major improvements in our child support system, but this amendment will strengthen the bill even further. About half of all child support orders in any given year are in arrears. Some analysts estimate that about three-quarters of the child support cases fall into arrears over the course of time. Requiring wage withholding in most cases in a preventative measure—it serves to reduce the probability that a child will not receive the financial support he or she is legally due.

The proposed amendment would not be overly burdensome. It has the same "opt out" provision as under the committee bill. First, if both parents want to opt out of wage withholding, they can. And second, if a State can find good cause not to require withholding, then wages would not have to be withheld.

This amendment is strongly supported by the National Association of Child Support Enforcement Administrators. The association argues that immediate wage withholding for all cases would bring about administrative efficiencies and lead to a better child support system. The amendment is also supported by various groups such as the Children's Defense Fund, the Women's Legal Defense Fund and the National Women's Law Center. They argue that the amendment will lead to more child support for children.

The cost is minimal—$5 million in 1994. Indeed, the child support provision in the bill coupled with this amendment will reduce the 1994 deficit by well over $200 million. The National Council of State Child Support Enforcement Administrators indicates that in the long-term there may be even greater savings, since wage withholding will stop some noncustodial parents from building up arrearages and having to enter the child support system.

If support is withheld from the beginning, it will reduce adversarial actions against parents. Child support is not a punishment. It is an obligation. Immediate wage withholding will also prevent child support from becoming a weapon in an acrimonious divorce. The public interest is clear: it is to see that innocent children receive the care they need and deserve and that both parents acknowledge and accept their responsibilities.

In summary, Mr. President, I believe this amendment will increase efficiency in child support operations, increase the amount of money going to children and not cause undue disruption. I urge the adoption of the amendment. I ask unanimous consent that letters in support of this amendment be included in the RECORD.

There being no objection, the letters were ordered to be printed in the Record, as follows:

NATIONAL COUNCIL OF STATE CHILD SUPPORT ENFORCEMENT ADMINISTRATORS,

June 16, 1988

Hon. BILL BRADLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BRADLEY: This letter is in support of your floor amendment to S. 1511 which would provide for immediate automatic withholding for *all* child support cases, not only for those being enforced through the State IV-D agency.

The National Council of State Child Support Enforcement Administrators believes strongly that immediate withholding in all cases would lead to simplicity and efficiency in the operation of the child support program.

Under present law, the State agency must take steps to impose withholding in IV-D cases when payments are one month delinquent. Non IV-D cases may ask the agency to impose withholding at the same point. As a practical matter, however, imposition of withholding may take several months. Before withholding can begin, the child support agency must:

Identify the case as delinquent,

Locate the absent parent,

Serve notice and offer a hearing to the absent parent, and

Verify the name and location of the employer.

If the absent parent requests a hearing, the delay becomes even greater. Not only the child support agency, but related agencies, the courts and employers spend considerable time and resources on these implementation activities. If withholding begins immediately and automatically in *all* child support court orders, many thousands of cases would never need these services from the child support agency, program operations would be streamlined and administrative costs reduced.

In addition, we believe that total child support collections would increase. Immediate withholding would eliminate the 30 day lag during which the family may receive little or no support. It is during this time that many families are forced to turn to AFDC to tide them over until regular support payments begin. Immediate withholding in all cases would reduce this hardship to children regardless of whether they receive services from the IV-D agency. Not only does this mean more security for children, but reduced grant and administrative costs for the welfare agency.

Finally, the Council believes that income withholding has achieved a new level of acceptance under the 30 day trigger provision and that this acceptance will be greatly magnified under immediate withholding. Many thousands of parents now volunteer for withholding as an easy, effective and painless way to make support payments. Removal of the delinquency provision will remove any remaining stigma now attached to withholding and will make child support payments as simple as direct deposit of a paycheck. We believe that this advantage should be available to all parents regardless of whether they choose to use the State child support agency. Those parents who agree to an alternative arrangement will continue to have that option.

Sincerely,

ANN C. HELTON,
Legislative Chairperson.

JUNE 16, 1988.

Re extending the availability of immediate income withholding to non-IV-D cases.

Hon. BILL BRADLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BRADLEY: We are writing in support of your amendment to S. 1511 which would make immediate income withholding available in all child support cases, not only those handled by IV-D agencies. The dire need to increase child support collections is demonstrated by the fact that in 1985, according to Census Bureau figures, over half of those entitled to child support payments received nothing or less than the full amount of their entitlement. Immediate income withholding is an extremely effective collection device that can be instrumental in addressing this child support payment crisis. Use of this device should not be limited to a select group of child support cases, but, rather, should be available to enforce the rights of all of the millions of American children who are legally entitled to child support.

The current immediate income withholding provisions of S. 1151 limit the applicability of immediate income withholding to child support orders obtained by IV-D agencies. The effect of this limitation is to exclude the majority of custodial parents and their children—those whose initial support awards were part of a divorce action. According to Census Bureau figures, approximately 80% of the 5.4 million child support awards outstanding in the United States in 1985 were held by divorced mothers. While we do not have precise figures, we believe that most of those awards were obtained as part of the divorce action. IV-D agencies, by definition, do not handle divorces since federal reimbursement is not available for doing so. Thus, a mother who obtains her child support order as part of a divorce action will not be a IV-D client at the time the order is entered. Under the current provisions of S. 1151, she therefore would not automatically be eligible for immediate income withholding to enforce her order.

Custodial parents who were not clients of the IV-D agency at the time they obtained their divorce and support orders may, and often do, become clients of the IV-D agency for the purpose of getting collection assistance. In order to initiate income withholding at this later date, however, the IV-D agency generally will have to incur the cost and administrative burden of meeting the various procedural requirements of the 1984 amendments relating to income withholding. Depending on the passage of time since the divorce, the agency may also have to expend resources to locate an absent parent and his or her employer. All of these costs associated with pursuing a separate withholding procedure in cases that were not handled initially by the IV-D agency could be saved if immediate withholding were available at the time of the divorce or the entry of any other non-IV-D child support order. The resulting savings to IV-D agencies should eventually offset most of the state's expenditures for receiving and disbursing payments in non-IV-D cases.

Making immediate income withholding available in all child support cases, without regard to initial IV-D status, will also enable many families to avoid reliance on the IV-D system altogether. The immediate income withholding mechanism will, in many cases, ensure that payments are made regularly from the time the order is entered, obviating the need for collection assistance by a IV-D agency. This will not only lighten the caseload faced by IV-D agencies, but also prevent families from undergoing the extreme financial hardship that results from the long periods of delay currently associated with enforcing child support orders by income withholding through the IV-D system.

Instead of decreasing the caseload of IV-D agencies, the current immediate income withholding provisions of S. 1151 carry the risk of increasing their caseloads by making such withholding available only to parents who use IV-D services to establish child support awards. Indeed, the support of the Association of State IV-D Administrators for universal withholding is motivated in part by the concern that, without general availability of immediate withholding, parents will seek the services of IV-D agencies solely for the purpose of benefitting from immediate withholding, thus increasing demand for IV-D staff and resources.

The experience of states that currently use immediate income withholding as a collection device are proof of its effectiveness. Immediate income withholding has worked particularly well in Texas, the state which has the longest history of immediate withholding and which has a scheme similar to that proposed in this legislation.

Finally, an amendment to make immediate withholding universal is essential to preserve the intent of the 1984 Amendments that there be parallel, though not necessarily identical, provisions for IV-D and non-IV-D cases. In 1984, Congress created specific IV-D withholding requirements. Congress also created a more general requirement that *all* new or modified orders, including non-IV-D orders, had to include a provision for wage withholding if support fell into arrears. The 1984 Amendments thus created a common requirement for IV-D and non-IV-D cases: that provision be made in a new or modified order for withholding when an arrearage accrued. Your proposed amendment will restore that parallelism to S. 1151.

For all of the above reasons, we support your amendment to expand the applicability of immediate income withholding to all child support orders.

Thank you for your attention to this issue, which is of critical importance to the welfare of millions of American children.

Sincerely,

Judith L. Lichtman,

Diane Dodson, Women's Legal Defense Fund; Nancy Ebb, Children's Legal Defense Fund; Nancy D. Campbell, Ann Kolker, National Women's Law Center; Sally Golfarb, NOW Legal Defense and Edducation Fund; Geraldine Jensen, Association for Children for Enforcement of Support (ACES).

Mr. BENTSEN. Mr. President, the amendment of the distinguished Senator from New Jersey is a worthy one and will be helpful. Frankly, we have such a program in Texas now and it works very effectively. When a parent has that kind of an obligation, I think that we ought to see that it remains current, stay up with it, and it will be effective and of great assistance I think. So I am delighted to support the amendment.

Mr. PACKWOOD. Mr. President, on behalf of the minority we find this a very meritorious amendment, and we urge its adoption.

The PRESIDING OFFICER (Mr. Simon). Is there further discussion? If not, the question is on agreeing to the amendment.

The amendment (No. 2389) was agreed to.

Mr. BENTSEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table. The motion to lay on the table was agreed to.

AMENDMENT NO. 2390

(Purpose: To phase out the deduction for meals and entertainment costs for individuals with adjusted gross income over $360,000)

Mr. BRADLEY. Mr. President, I send an amendment to the desk on behalf of myself and Senator Mikulski.

The PRESIDING OFFICER. The Senator from New Jersey should be aware there is a Durenberger amendment pending. He must ask unanimous consent to set that aside.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The Clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Jersey [Mr. Bradley] for himself and Senator Mikulsi, proposes an amendment numbered 2390.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so orderd.

The amendment is as follows:

On page 295, beginning with line 12, strike out all through 296, line 9, and insert the following new section:

SEC. 902. PHASEOUT OF DEDUCTION FOR MEAL AND ENTERTAINMENT EXPENSES OF INDIVIDUALS WITH ADJUSTED GROSS INCOME OVER $360,000.

(a) In General.—Paragraph (1) of section 274(n) of the Internal Revenue Code of 1986 is amended by striking out "80 percent" and inserting in lieu thereof "the applicable percentage".

(b) Applicable Percentage Defined.—Section 274(n) of such Code is amended by adding at the end thereof the following new paragraph:

"(4) Applicable percentage.—For purposes of this subsection, the term 'applicable percentage' means—

"(A) except as provided in subparagraph (B), 80 percent, or

"(B) in the case of a taxpayer who is an individual, 80 percent reduced by 1 percentage point for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $360,000.

In the case of a married individual filing a separate return, subparagraph (B) shall be applied by substituting '$180,000' for '$360,000'."

(C) Conforming Amendment.—Paragraph (1) of section 274(a) of such Code is amended by striking out "80 Percent of" in the heading thereof and inserting in lieu thereof "Certain".

(d) Effective Date.—The amendments made by the Section shall apply to taxable years beginning after December 31, 1988.

Mr. BRADLEY. Mr. President, the bill before us is a very good bill.

The welfare reform portion is a monument to the intelligence and the commitment of the distinguished Senator from New York, Senator Moynihan, and the wisdom of the chairman and ranking member in seeing that this was the time to move a welfare reform bill through the Congress.

Mr. President, the problem with the bill is the way it is funded. We are paying for welfare reform with a tax on child care. In other words, we are robbing Jill to pay Jane. Now, I do not think that the sponsors of this provision realize it, and I do not think that they realize that the funding part of this bill really insults American women. Why do I say that? Because it takes the one tax provision that benefits working mothers and recognizes that day-care is a legitimate cost of earning income and subjects it to a means test.

No other cost of earning income is subjected to a means test, not the cost of a salesman's car, not the cost of a secretary, not even the three-martini lunch. Yet, this bill takes, of all things, child care and says if you are a successful mother who works, you cannot deduct your child care. To me, Mr. President, it is as if the Senate has a big blind spot on this issue.

Now, Mr. President, a little history might be helpful. How did we get to this point? The child care deduction was first adopted in 1954. It was phased out after joint income reached $4,500 and disallowed entirely when family income exceeded $5,100 if the working wife had a husband who was capable of supporting himself. According to the conference report on that bill back in 1954, it says, "A new deduction for child care expenses paid by a working widow, widower, or divorced person or a working mother whose husband is incapacitated."

There was no ambiguity here. In 1954, the only reason a married woman with kids would go to work was if her husband could not work. The presumption of the times was that women with children only worked if there was not a man to support them.

In 1964, the income ceiling was increased to $6,000. In 1971, it was raised to $16,000, and in 1975 it was raised to $35,000. In 1976, frankly, we entered a new era. The Tax Reform Act of 1976 replaced the itemized deduction with a 20-percent tax credit and completely removed the income ceiling. No more talk about having to have an incapacitated husband. The credit was universally available to married couples with kids where both husband and wife worked full time or part time. Why did Congress make such a sweeping change? Because, to quote the legislative history—this is the report, the legislative report:

> Congress believed that such expenses should be viewed more as a cost of earning income than as personal expenses.

The Congress also recognized that by converting the deduction to a credit it was providing a relatively bigger benefit to taxpayers at lower brackets, and so no further income restriction was necessary or, frankly, appropriate.

Now, in 1981, we revisited the issue. We recognized that low-income families had special needs and we responded not by taking the credit away from middle- and upper-income families but by increasing it from 20 to 30 percent for families with incomes below $10,000, phasing it down from 30 to 20 percent as income rose from $10,000 to $28,000.

I support that approach. Indeed, I would like to see the credit made refundable for families with incomes below the poverty level. But I do not want to take it away from successful working women.

Mr. President, as the legislative history shows, this is not the first time that we have had this debate. We had it in the 1970's and apparently we are going to have it again in the 1980's, except now we are taking a giant step backward precisely at a time when we need more, not less, child care. More and more women are working every year. And every year more and more women are graduating from colleges and professional schools.

Since 1972, there has been a 253-percent increase in the number of women in managerial positions, and an 86-percent increase in the number of women in professional positions. By contrast, the number of women in service positions, the lowest paying category, has increased only 38 percent—an 86 percent increase in managerial positions, a 38-percent increase in low-paying service jobs. Women, in other words, are finally getting out of low-paying and part-time jobs and competing with men on equal terms, making it on the same terms—hard work, talent, and tough choices. Equal responsibility, equal pay. Is that not what we say we want? Yet, our attitude toward the child-care credit is simply going in the opposite direction just when child care is becoming increasingly important to a growing number of women.

In my State of New Jersey alone, 60 percent of the children between the ages of 6 and 13 have mothers who work. There are 1,850 centers and programs that care for 105,000 children. By 1990, in New Jersey, we expect 450,000 children with working parents. Nationwide, there are 10½ million children under 6 who have working parents. By 1995, this figure is expected to rise to 15 million children, almost a 33-percent increase over today's figures.

Mr. President, it is particularly ironic with the big push to enact child-care legislation, with Democrats and Republicans vying to see who can be the most pro-child, with people talking about the year of the child, with all of that happening, the U.S. Senate is cutting back on the child-care tax credit.

Mr. President, I know that opponents of this amendment are going to say some of the following things. They are going to say that we are just taking it away from successful women.

Indeed, they might call them rich. Given the big budget deficits is it appropriate to ask rich women to sacrifice? Let us be clear about one thing. I am for taxing the wealthy more than the poor. That is why I don't want to see the special capital gains break put back in for example. But I am against raising taxes on child care for any women, successful or poor. And I am against punishing women for their professional success.

Specifically, who does this bill hit?—women with family incomes above $70,000. My guess is that in most of these families, the woman is making as much, or almost as much, maybe some of them more than the man. Maybe she is a lawyer, a college professor, doctor, CPA, mid-level manager, civil servant. Maybe she is a decorator, realtor, maybe even a licensed electrician. Maybe she is a judge, registered nurse, or a telephone line person. Maybe she is one of the thousands of women who are running their own small businesses. But one thing is for sure, she is successful.

Another thing for sure she is paying taxes. And another thing for sure, she has kids under the age of 16 years. And we are about to tax her child care. We are about to punish her for daring to be a mother who works, for daring to be someone who tries to excel.

Mr. President, the opponents of the amendment are also going to say that we have to means test child care benefits, and target them to low-income women. Indeed, that is the reasoning behind one recent child care proposal that will raise taxes on child care for every American family making more than $20,000, with families with incomes above $40,000 getting no credit at all.

Mr. President, means testing may be a fine idea for some things, but not when it comes to child care and certainly not when we do not means test tax breaks like the three-martini lunch. If we are going to say to working women you cannot get a tax break for your day care costs because you make too much money, why do we not means test the travel and entertainment deductions too? Why do we not tell the lobbyists in this town that if they make more than $100,000 they cannot deduct those fancy lunches or expensive hotels, or those convention holidays? Why do we not say if you make more than $100,000 a year you cannot deduct the cost of your secretary, or the cost of a bookkeeper? For working women, Mr. President, the person providing day care is as legitimate and indispensable as a secretary.

If we are going to means test the Tax Code, then let us do it for everybody. Let us not start with professional women.

Mr. President, if we do not raise taxes on child care, how are we going to pay for welfare reform? Well, there are several options. One of the options is to raise about $800 million by scaling back the tax break for banks and insurance companies that make loans to leverage ESOPS. Under present law these companies get to exclude 50 percent of the interest that they have to pay on loans. An amendment that would raise the same amount of money as the child credit phaseout would reduce that exclusion from 50 percent to zero.

Mr. President, such an amendment would simply scale back one of the many incentives in the code for ESOPS.

Mr. President, I thought long and hard about that amendment when it floated out as a possibility. Over the last several days I found a number of people who became very interested in that. Many people in this body believed that ESOPS are the key to workers' ownership—many people in this body, and I count among them the distinguished majority leader, see ESOPS work in their constituency.

Earlier today the majority leader said that if an ESOP amendment were to be offered to the code it might be a long night coming, that there would be a lot of talk about ESOP provisions being taken out of the code. In other words, he was saying that welfare reform would be in danger. I heard the majority leader when he said that. While I might not agree with him on the merits of how dangerous the threat this ESOP amendment is to his situation in West Virginia, I appreciate what he said. I also appreciate what other Senators have said to me.

As I thought more about this, I said why not join the issue more directly? Indeed, if I pushed the ESOP provision, people would come over here on the floor and make the case about yuppies versus workers. And that might be a case that I could argue. But it might also be a little confusing.

So I decided to pose the choice clearly. And instead of denying a child-care credit to two-earner families, to the professional woman with a family income over $70,000, what I decided instead was to phase out the meals and entertainment deduction for individuals with family income over $360,000, the top one-tenth of 1 percent of the people in this country.

Mr. President, the amendment that I have offered protects the child-care credit but it pays for it by phasing out the meals and entertainment deduction beginning at $360,000, and ending at $440,000.

Mr. President, that is the choice before the Senate. Do we want to means test a provision in the code that benefits successful working women or do we want to means test a provision in the code that benefits the upper one-tenth of 1 percent of the earners in this country?

As I said at the outset, I would rather not have a means test, but the bill before us means tests the tax credit for child care.

For those in this body who might be finding crocodile tears welling up in their eyes as they think about that one-tenth of 1 percent, let us try to be a little realistic.

It is true. The lobbyist invites some of his clients to a hunting lodge for a champagne brunch and an afternoon of duck hunting and helicopters them out there, and on the way talks about a provision in the Tax Code. That is no longer going to be deductible. If there are a lot of Senators out there who have crocodile tears coming down their cheeks because that will not be deductible, they should vote against this amendment.

Mr. President, let us think about that investment adviser who invites a half dozen clients and their spouses to a dinner at a fancy establishment on restaurant row and then buys box seats to some new show somewhere. If there is a Senator who has crocodile tears rolling down his cheeks because that person will no longer be able to deduct that expense, vote against this amendment.

Mr. President, we would go on and on talking about the excesses here, but I think the issue is well framed. Do we want to raise taxes by denying the child care tax credit to successful working women, or do we want to pay for welfare reform, which tries to get the poorest in this country on the first rung of the ladder upward, by paying for it by denying the upper one-tenth of 1 percent of income earners in this country, by denying them a deductible for things like conventions and expensive yacht trips?

I could go on and on. I will wait, with bated breath, the other side of this argument.

I yield the floor.

Mr. PACKWOOD. Mr. President, all of us, I am sure, appreciate the Senator from New Jersey withdrawing his first amendment, which would level a basic income tax on an ESOP stock option plan. For people making $20,000 or $30,000 a year, he was going to change it so that it would raise their taxes in order to eliminate, as he calls it, a tax on working women.

He has cleverly come up with another tax on the very wealthy in order to pay for this. I would like to lay out the perspective, not really for this particular amendment and this particular issue, but a situation we face generally with what we call entitlements, and this is an entitlement.

An entitlement, in the law, means something you are entitled to without any other change of law. It does not take an appropriation by Congress. You are entitled to it. This is an entitlement.

You put your child in a day care center, you take a certain amount of money off your income tax.

First, the Senator from New Jersey—he is a good friend and was rock solid on tax reform, and we would not have tax reform without his leadership early on and to the end—first, the present-day care credit is means tested, very clearly means tested. It starts at a maximum of 30 percent credit. A credit means money that you actually get back from the taxes you owe, as opposed to a deduction, which you simply deduct from your total income, and after you have taken all your deductions, you figure what your tax is.

At the moment, the credit starts at 30 percent, and it phases down to 20 percent at income levels of $28,000, and then stays at 20 percent on up.

To put it in terms of the vernacular, most people who are making $20,000 a year probably cannot afford a sufficient day care payment that they would actually get the maximum credit under this. I realize that you cannot take day care credit for this. But, for this illustration, let us say you pay $100 a month for day care for one child, $1,200 a year, and you are in one of the lower income tax brackets. You get to take 30 percent of $1,200 off your income tax, $360.

As you move up in the income brackets and hit $28,000, that phases down to 20 percent; and if you were still paying the same $100, you get to take 20 percent of $1,200, $240, off your income tax; and that 20 percent remains all the way up to whatever your income level may be, although there is a cap on it.

Your means test is that the poorer people get a larger day care credit than even middle-income people. We wanted to tilt it toward poor people.

Second, we have put a lid on the credit you can take, a maximum lid, of $960 a year, assuming you have two or more children in day care. To put it another way, the maximum credit you can take is 20 percent of $2,400 on one child. That would be $480 times 2—$960—for two children. But at that stage it would not matter if you had 10 children in day care. You could only take $960 in expenses.

Those men and women in upper-income brackets now are paying substantially more than $200 for day care. Most are paying $400 to $500 a month, if they are in this income bracket.

We have means tested it and said: "Even if you are paying $500 a month, $6,000 a year, the 20 percent credit only applies against the first $2,400 you pay." So that is means tested.

We say to the very rich: "If you want to pay $500 a month for day care, that is your privilege, but we are not going to let you take all that as a business expense in this entitlement off your income tax."

Here is where the issue comes, though: We have had budget battle, budget battle, budget battle, and we will have more budget battles about means testing entitlements. Should the very rich get less as an entitlement than the poor?

If we actually wanted to count the very rich—let us say $100,000 up is very rich—they pay abut $130 billion in taxes a year. That would just about cover what we would call all the poverty programs in this country for the very poor, if you count the lower income people on Social Security and food stamps and everything else. It would balance out. You would be taxing the very rich to take care of the very poor, and that is legitimate.

The question that comes on this—and, heaven knows, I think I probably have fought as many battles for what people would call women's issues as anybody else in the Senate—is this: Should we further means test the day care credit for the very highest income levels of this country?

My good friend from New Jersey referred to incomes of $70,000, but that is what we call adjusted gross income for the income tax. Lawyers call it adjusted gross income. That is the level of income upon which you pay tax after you have made all your deductions in terms of actual income, what the normal person thinks of how much you make a year. The income level he is talking about is roughly $85,000 minimum.

Under the bill, as it came out of committee, this 20 percent day care credit would start to be phased down at the

$85,000 level until it is phased out to zero percent at about $110,000 income.

At $85,000 and above you are in the upper 5 percent of income earners in this country. At $100,000 actually you are in the upper 1 percent. The maximum that somebody making that amount of money can take now on their day care credit maximum is $480 for one child and $960 for two children, and that is all they can take.

Can somebody making $100,000 a year, a man and wife together, or single person, because in this particular credit it does not matter whether it is a joint return or single return, afford to forego a tax credit of $960 if they have two or more children in day care in exchange for using that money that would be saved for some other purpose, to aid very low-income people? And that was the tradeoff we made in this bill. If the answer is "No, they cannot afford it," then I think there is probably no entitlement program that we can means test. We even means test Social Security now. We say if people have $25,000 single or $32,000 joint income from other sources other than Social Security, part of their Social Security is taxed. That is the law and has been the law for a number of years.

So the Senator from New Jersey poses an interesting question. But if we cannot means test this, then I am not sure we can means test anything. I do not say that with any malice, and I emphasize once more that I have fought for every day care credit that has ever existed, and I think every one of the major women's efforts forward, in pension reform, or vesting or taking low-income women off the tax rolls, or everything else. But he does pose an interesting question. If the answer is, "No," we cannot even means test for the upper 1 percent of the income earners in this country, if that is the case, then we are going to have a very serious budget problem when the issue comes what entitlements can we means test.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, that is an interestng dilemma. We are talking about provisions affecting, on the one hand, persons making almost $100,000 a year, and affecting, on the other hand, persons making about $360,000. We are talking about people in the top 2½ percent of income earners versus people in whatever the other fraction is. I am sure the Senator from New Jersey has looked at that.

I say to the Senator from Oregon again, I share with him support for the women's organizations and for day care. I am for doing the kinds of things that we have done already on the welfare bill and the reform of the welfare system when we have had a change in our society, when the vast majority of women are working today trying to do things so as to be able to improve the lot for their families.

But as I look at this particular proposal, many things come to mind that I am not sure the proposal has been thought through. How does this apply to a corporation as opposed to a business run directly by an individual? What happens in that kind of a situation?

Suppose the employer owns his business, he is a private entrepreneur. Suppose he runs a cafeteria for his employees and provides that kind of food service to them. Suppose you are operating a barge and you are providing food for the people there. Suppose you have an offshore drilling platform and you are providing food for the people there. That is a business expense.

That is the problem that you run into with legislation that is proposed on the floor in the way of tax legislation when you have not had a chance to have a hearing on it and understand its full ramifications and how it works and have it appear as a surprise.

The Senator was very careful not to tell anyone that I know of what he was going to do. I am not sure that is really the right way to present something like this.

I am delighted to see that the Senator has moved off from his ESOP proposal because there you had a situation where you were going to be penalizing people who were working for a company and perhaps the plant was going to be closing down and they wanted to utilize an ESOP to try to buy it and they were going to try to provide the financing for it. The provision that he was looking at was one that gave a tax credit benefit to the ESOP, in effect, by allowing those employees to borrow at a lower interest rate to buy their own concern.

I thought it would have been a serious mistake to adopt an amendment here on the floor to eliminate that favorable tax provision.

But now the Senator has another one. I have high respect for him and he is a good friend of mine and I am sympathetic to what he is talking about with respect to the phaseout of the child care tax credit. But the Committee bill's phase-out is a compromise. The phase-out starts at $70,000, and is means tested and does not phaseout until it gets up to $93,750 of adjusted gross income. When you are talking about one child you are talking about a $480 credit, and I seriously doubt that someone who has approximately $100,000 income is going to quit work because of the loss of a $480 tax credit.

So, those are the concerns I think of, I say to my distinguished friend, as the first reaction to a piece of legislation that none of us here in the Senate have had a chance to see before, and we on the Finance Committee have not had a chance to have a hearing on to try to explore just what it means.

If it meant just what it says on its surface, and you are talking about someone making $360,000 and someone else making $70,000 or $90,000 and if those would equate in the way of a tax credit, then it is a rather simple and easy decision to make, and I would be quite sympathetic to it.

But I have very serious concerns as to what the full ramifications are of what is set forth here.

And I would like to further explore it frankly with the Senator.

Mr. DOLE. And have hearings.

Mr. BENTSEN. I would be delighted.

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I would like to join the distinguished chairman and the ranking member of the Finance Committee in saying that we admire the Senator from New Jersey for his virtuosity, but we can only regret a certain excess in that regard in this specific.

We have been expecting a measure with respect to ESOP's and, as the Senator sensitively and sensibly understood, there is great opposition to that, and along comes the present proposal which we just do not know enough about. The administrative aspects of collecting a tax like this are sure to be horrendous. The distinction between an individual proprietorship and a corporation would be baffling.

We can sometimes see these things as champaigne and pate and helicopters, and sometimes it is just paying for people who work on a Mississippi 12 barge tow making their way from St. Louis to New Orleans and the food is good but there is not much champaigne and no champaigne at all I would not think.

I would make the point that we are only in the end eliminating the child care credit for families whose actual income, as judged against adjusted gross income after tax credits and allowances have been taken off, would be above $100,000.

The good rule is that about add 15 percent to the adjusted gross income and you get the general sense of what income is.

I would have to say to my friends in the Senate that we have a carefully constructed package. We know what income we will get from the taxes. The chairman has been absolutely faithful to our charge not to spend a penny that we do not collect and come out absolutely even.

The Office of Management and Budget has been over our figures. The

Congressional Budget Office has been over them. We know what we have.

Mr. President, I have to say to our chairman I do not think in a matter of this kind we can give up what we know we have for what we might only hope to get.

The **PRESIDING OFFICER**. The Senator from Maryland.

Ms. **MIKULSKI**. Mr. President, I rise in support of this amendment. First, I wish to compliment the chairman of the committee and also the Senator from New York in finding ways to pay for this bill. However, a lot of the burden for paying for the bill falls on this particular deduction. And child care is really one of our most important work-related expenses. It has been the tradition within our country to allow people to get tax breaks for the cost of doing business. And we were very innovative and progressive some years ago when we made child care a work-related expense.

Now, when we do this, we know that half of all married mothers with infants younger than 2 years old are in the work force. By 1995, two-thirds of all preschool children and four out of five school-age children will have mothers in the work force. Over 70 percent of the working women are working not for something interesting to do but to support their families. And we know that the marketplace cannot do without women.

Now, many will say this should not be a gender issue. And I absolutely agree with that. However, we do know that, by tradition without our society, child rearing is often the primary responsibility of the female. And when it comes, then, for paying for child-rearing expenses outside the home, it comes out of the female side of the ledger.

Now, one of the things we also know is that this credit is the largest source of assistance for child- and adult-dependent care. In 1984, 7.5 million working families used this credit and deducted over $2.6 billion. Capping this credit to pay for welfare reform, I would say, has flaws for several reasons. One, it becomes the only means tested tax break for work-related expenses. Child care is not a luxury and working parents must have it.

It cuts a crucial benefit when luxury tax expenditures, benefiting middle- and upper-middle-income business men and women, in effect. We let them deduct travel and lodging, dues to professional organizations, office furnishings, and meals.

Now, let us come back to why not put a cap on office furnishings? Why not have a cap on that? Right now we can deduct the cost of chairs but not the cost of kids.

I find it very interesting, Mr. President, as I have been in some CEO offices where men sit back, or business leaders, both male and female will sit back on their French sofas, with their Italian chairs, their imported drape fabrics, and tell me that we have to make America competitive.

Mr. President, this is not exactly the Gucci kiddy care crowd. We are talking about people who, with combined incomes, might be in the six digits. But I do not think that is meritorious. I think if you can deduct office furnishings, you should be able to deduct for your kids regardless of your income.

Now, when we come back to the fact that we changed from ESOP's to phasing out deductions for meals for those with over $360,000 to ultimately $440,000, I agree in the fact of the wonderful implication we have on jobs in the restaurant industry.

Maryland has one of the most ethnic communities. Mr. President, when I was a Congresswoman representing the Third Congressional District, they would say to me, "Congresswoman MIKULSKI, where are your boundaries?" And I would say, "Think of every good restaurant in Baltimore and that is my congressional district." Where are my restaurants? There are not only the fancy kind where broccoli is served as an entre with the nouvelle cuisine, I represent Little Italy and Chiapparelli's. I represent Greek Town and the Ikaros Restaurant and communities like that.

We might not have a catfish, but we have crabcakes in a place called Something Fishy, and it smells as good as it tastes good. So I am for the restaurant deductions.

But certainly people who earn incomes of over $440,000 a year can pick up their own cheeseburger tab or their own Gucci lasagna, however it is.

So, Mr. President, I think when it comes to funding children, the Senator from New Jersey makes a very good point that we could come up with this. I think that when we phase out this, turn to the meals deduction phase out for people earning between $360,000 to $440,000, that is gender neutral. I know every woman I know who makes $440,000 a year would rather trade in her meals deduction than trade in her child care.

Mr. President, I yield back the floor, and I really urge serious consideration of this amendment.

Mr. **CHAFEE**. Mr. President, I wish to ask the sponsor of the amendment a question to see if I understand this correctly. Where do we stand under your amendment with the child-care amendment situation? What happens to that under your provision?

Mr. **BRADLEY**. It is existing law.

Mr. **CHAFEE**. It remains as existing law?

Mr. **BRADLEY**. That is correct.

Mr. **CHAFEE**. And so when the bill was originally reported out, we had phased that out at an earlier time; is that not correct?

Mr. **BRADLEY**. If the Senator recalls, in the Finance Committee, when we deliberated this issue, I raised how we were funding this and expressed my concern that we were funding it by essentially removing, but for successful working women, was thought to be a cost of doing business; basically, a business expense. I urged that we consider another approach. I was asked to try to come up with another approach that would raise a similar amount of revenue.

I did come up with another approach, the ESOP provision. And, of course, when I raised the ESOP provision, I understood what lightning lobbying means. Every Senator in this body received calls from however small the ESOP was in his State saying, "This is the end of working America," which, of course, it would not have been. But it was, more or less, a benefit that went to banks. But, nonetheless, I heard that message and came back with this amendment because I knew there would be people on this floor saying, "You are trying to defend the yuppie deduction against the working American."

So, instead, what I have done is to phase out the meals and entertainment deduction at an income level of $440,000. So the choice is pretty clear. The choice is pretty clear. If you want a means test, if you want a means test on a tax credit that benefits successful working women, or do you want to means test your favorite lobbiest so he cannot take you to a hunting lodge on the weekend by helicopter and stuff you full of pheasant? That is really the choice that this amendent poses.

Mr. **CHAFEE**. Where do you get your revenue figures from?

Mr. **BRADLEY**. The revenue figures come from the Joint Tax Committee. That is why we phased it out at the levels they are phased out.

Mr. **CHAFEE**. That would yield how much revenue?

Mr. **BRADLEY**. Eight hundred million dollars.

Surprising is it not, that people who earn over $440,000 a year have that many lunches?

Mr. **CHAFEE**. Well, it is, except I am just wondering what the effect it has on sole proprietorships. The way you portray it, it is individuals. You do not know how that breaks down to sole proprietorships, for example?

Mr. **BRADLEY**. It is individuals. It is not corporations.

Mr. **CHAFEE**. I thank the Senator.

Mr. **BENTSEN**. Will the Senator yield?

Mr. **CHAFEE**. Yes.

Mr. **BENTSEN**. Mr. President, I found the Senator's example an amusing example. Obviously, if that was what this proposal was, that would be ridiculous, and we would all be with you.

But when you get a proposal like this, my concern is that we have not had one witness, no hearings whatsoever, and how far does it really go apart from the lobster stuffing? What happens if you are an entrepreneur and you run a cafeteria for your employees? What happens if you have a barge and a crew on that barge, and you furnish the meals? What happens on an offshore rig when you have a crew there and you furnish meals?

My concern is how far this goes, Senator. If it is just your example, obviously we would all be for it.

Mr. BRADLEY. Let me say to the Senator I do not know too many workers who are on offshore rigs who make more than $440,000 a years.

Mr. BENTSEN. Oh, no, no. We are talking about the employer who provides the meals. At what point is it not considered a legitimate business deduction? Such meals would fall under your proposal?

My concern is I just have not had a chance to truly study it.

Mr. BRADLEY. I understand the concern. The meals and entertainment deduction has been around here for a long time. I remember for example one night when we were here late on the floor of the Senate, a former majority leader pulled out of his pocket an amendment on the three-martini lunch, without any hearings and it went through. And the reason it passed is everybody is quite familiar with the meals and entertainment deduction. What this simply says is look, if you have an income over $440,000, which is the upper one-tenth of 1 percent of the population of this country, you do not get it. It is phased out from $360,000 to $440,000.

Mr. BENTSEN. I must tell you, Senator, if it did only what you say it does, I would accept it in a minute. My concern is knowing whether it goes beyond that.

Mr. BRADLEY. Let me say to the distinguished chairman of the committee, I know of his sensitivity on this issue. I know of his concern for children. And I know that he wants to run the committee in an efficient way.

Let me say, though, that this issue—meals and entertainment deductions—is not an esoteric issue. In terms of the child care tax credit, I did not hear—I do not know how many hearings we had on removing the child care tax credit. I did not see Ann Kolker, who is from the National Women's Law Center testifying before the Finance Committee, or Patricia Royce of the Women's Equity Action League, or representatives of other womens organizations. In other words, working women.

It is a fairly simple issue. The meals and entertainment deduction has been around a long while. It has been around a long while. It is a very familiar provision in the Code and I think that I have been very candid with the chairman that this is really a gender issue.

Mr. BENTSEN. I am sympathetic with the first part of the amendment that would strike the phase-out of the child care credit. I am trying to decide how the rest of it works. I have, obviously, proven over and over again my sympathy to child care. I supported many provisions to improve child care.

Mr. BRADLEY. This is the opportunity to defend child care. This is the opportunity to defend child care for successful working women and the people that will pay for it will be the upper one-tenth of 1 percent of the income earners in this country who will loose the meals and entertainment deduction.

Mr. BENTSEN. Senator, if that is all it is, I am for it, but I want to be sure that is all it is; that we are not talking about entrepreneurs taking care of employees where they have to provide meals and that type of thing.

I yield to the distinguished minority leader.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I am somewhat familiar with the business and entertainment deduction provision. Like the Senator from New Jersey is doing now, I once offered an amendment to limit travel and entertainment deductions, at 3 a.m., after the lobbyists had gone home thinking they were safe. But I guess I now am sort of in the position the distinguished chairman and others are in.

This amendment, as it is now drafted, brings a number of questions to mind. At the start, it seems somewhat unfair to make a distinction between wealthy individuals and wealthy corporations who have the same travel and entertainment expenses.

Why should there be a different tax result if a corporation reimburses an individual for the cost of a business meal than if the individual pays for the meal himself? Do we really think it is so much better to have a corporation pay these expenses?

I also wonder why it should matter in what form an individual conducts his business. Do we really want to encourage people to operate as corporations instead of as sole proprietorships or in partnership form?

What we are doing here is discriminating if you do business as an individual versus as a corporation. Why do we discriminate? Why do we not apply the same rule to corporations? Is there some good reason to discriminate against the individual?

If you have a lot of lavish expenses, I do not know why there should be a difference in the tax treatment if the individual pays the expenses himself or if he is reimbursed by his corporation.

Mr. BRADLEY. Will the Senator yield? The reason the amendment only deals with individuals is because the child care tax credit is only taken away from individuals: individual working women. That is why it is only on the individual side.

Mr. DOLE. I do not know that that quite follows, but I have another question. What happens if the business is operated in partnership form instead of as a corporation? Should there be any difference? If it is a partnership, is it treated as a corporation or an individual?

Mr. BRADLEY. Partnerships are included under the amendment.

Mr. DOLE. So you can be in business as partners and then you are subject to the amendment?

Mr. BRADLEY. That is correct.

Mr. DOLE. So the only ones who avoid the impact of the amendment are the rich corporations; is that correct? Those that can hire lobbyists and lawyers and buzz around the Hill, they are not covered by this amendment?

Mr. BRADLEY. The lobbyists will have to pay. The individual lobbyists will have to pay. They will not get that deduction.

Mr. DOLE. Well, the corporation might decide to reimburse its lobbyist and then the deduction might apply.

But, in any event, it would seem to me that we ought to use the Aiken formula: declare victory and retreat.

I can understand the motivation of the Senator from New Jersey and may not have disagreed with some of his original amendment with an ESOP savings. But I think it was a question of whether that would fly as high as this proposal would fly and it would seem to me that although I have not discussed it with the ranking member of the Finance Committee—it might be in the best interests of moving this bill forward just to accept the amendment.

Mr. BENTSEN. Let me say to the distinguished minority leader, I understand the tenor of what the Senator is trying to achieve and I am sympathetic with the objective. As I have stated repeatedly now, my only concern is you are treating the individual differently from the corporation and the possibility that the corporation will be able to take advantage of the different treatment. My concern is for the individual who might have staff where he had to provide meals.

I am prepared, if the minority would agree with this, to accept the amendment. But I must say in all candor to the Senator that then we are going to study the full ramifications of it. Then I will decide how much enthusiasm I have for it in the conference.

If it does just what you are saying and does not go beyond that, then I will have no problem with it insofar as enthusiastically supporting it. But if we find we will create a very discriminatory situation between corporations and individual entrepreneurs, in the way they treat meals provided for their employees; if I run into those kinds of problems my enthusiasm would wane very quickly.

Mr. President, I say to the distinguished Senator we are prepared to accept the amendment.

Mr. BRADLEY. Just for the record, the code provides an exclusion from income for day care provided by corporate employers. Leaving that benefit in discriminates against people who provide their own. This is really an attempt to get at that.

So if the distinguished chairman is prepared to accept the amendment——

Mr. BENTSEN. That I am.

Mr. BRADLEY. The people in the Chamber will voice vote for the amendment.

Mr. SANFORD. Mr. President, I wish to commend my colleagues, Senators BRADLEY and MIKULSKI, for rethinking their amendment to restore a child care tax credit by not paying for it at the expense of ESOPs.

ESOP'S IMPROVE CORPORATE PERFORMANCE

Employee stock ownership plans [ESOP's] have proven to be a tremendously effective method of redistributing corporate wealth from a small number of affluent stockholders in companies to its individual employees. At the same time, ESOP's have greatly enhanced the performance of these companies. A recent study examining 45 companies that utilized ESOP's reported that during the 5 years before instituting their ESOP's, the companies grew only slightly faster than average for similar non-ESOP companies, growing less than 2-percent faster than the average for annual employment and sales growth. But during the 5 years following their instituting ESOP's, these companies outstripped the average annual employment and sales growth by over 5 percent, a significant jump. Moreover, a substantial 73 percent of the 45 ESOP companies greatly improved their performance after setting up their ESOP's.

EMPLOYERS BENEFIT IN COMPANIES USING ESOP'S

But ESOP's do much more than just stimulate corporate performance: they benefit their employees tremendously. By providing a broader distribution of stock ownership than prevails in most companies, ESOP's ensure that a company's wealth is not restricted to just a limited group of affluent stockholders. According to a 1987 GAO report, 90 percent of corporate stock are owned by just 10 percent of households, with the top 1 percent of households controlling over 58 percent. ESOP's, though, reduce this imbalance, encouraging a financing technique that broadens the ownership benefits attributable to mergers, acquisitions and leverage buyouts. Such transactions totalled $190 billion in 1986, consuming enormous amounts of tax benefits and utilizing a significant portion of the economy's credit capacity while transferring phenomenal quantities of income-producing assets to a few managers, investment bankers and already wealthy investors.

ESOP'S PREDOMINANTLY HELP POORER EMPLOYEES

In companies taking advantage of ESOP's, however, such benefits are spread to all stockholders, predominantly helping less-wealthy employees. This is one major advantage ESOP's have over the dependent care tax credit, which currently helps families in all income brackets. ESOP's, on the other hand, specifically target many lower- and middle-class families that otherwise have no opportunity to increase their equity. In addition, recent ESOP laws provide additional protection for employees nearing retirement age. And ESOP's are subject to the Internal Revenue Code nondiscrimination rules applicable to all qualified employee plans, guaranteeing even distribution of these benefits.

GAINS MORE SUBSTANTIAL THAN TAX CREDIT PROGRAMS

Finally, since leveraged ESOP's tend to be established by growing companies to benefit their employees, they provide the largest benefit per employeee of any of the employee ownership plans and in many instances provide more money to employees than other tax-qualified plans, according to a recent GAO report. This takes place because leveraged ESOP's require companies to transfer stock more quickly to employees as debt is repaid. A recent study found that for companies that had an ESOP in place for at least 5 years, an employee making a salary of $18,000 per year would accumulate $30,000 over 10 years on average, an amount far exceeding any tax savings that could be gained by someone at that income level. Clearly, ESOP's are a more effective way of transferring wealth to poor and middle-class families than any type of tax-credit program.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2390) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TITLE XX REPORTING REQUIREMENTS

Mr. RIEGLE. Mr. President, I would like to engage the distinguished Senator from New York [Mr. MOYNIHAN] in a brief colloquy regarding the treatment of the title XX social services block grant in the bill before us, S. 1511.

I have worked with the Senator from New York and others for several years to protect and improve the social services block grant. He has demonstrated a strong commitment to the people it serves.

This program provides the primary Federal funding to States for child care; for services to prevent or remedy the abuse and neglect of children; and for community based care supporting independent living by the elderly, the physically handicapped and the developmentally disabled.

Severe cuts in funding for this program during the 1980's have had dire consequences for these vulnerable populations. Unfortunately, as part of the Omnibus Budget Reconciliation Act of 1981, Federal reporting requirements regarding the States' use of funds provided by title XX were substantially reduced, making it difficult to precisely identify the services provided, the populations served, the need for services and the impact of budget cuts on programs funded by title XX.

Mr. MOYNIHAN. I thank the distinguished Senator from Michigan for sharing his views with us on this subject. As the Senator knows, the House-passed welfare bill includes a provision that addresses this reporting problem.

Mr. RIEGLE. I would ask my friend whether more stringent Federal reporting requirements regarding the use of title XX funds by the States, such as those in the House bill, would be appropriate to include in a conference report on the welfare reform bill?

Mr. MOYNIHAN. My friend from Michigan makes an excellent point. How can Federal and State officials make informed policy decisions without adequate data? When we meet in conference with the House, I trust the Senate conferees would try to accomodate the Senator's concerns.

Mr. RIEGLE. I thank the Senator from New York, and commend him for his commitment to the children, elderly and disabled persons served by title XX.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, over the last 3½ days a number of us have been trying to work out a compromise, an agreement that would bring about broad bipartisan support for some of the issues that had not yet been fully resolved. We have now concluded our negotiations and I am prepared to bring to the Senate an amendment that would reflect the results of those negotiations.

Mr. MOYNIHAN. Mr. President, might we have order? The chairman of the Finance Committee is making a profoundly important statement.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Texas.

Mr. BENTSEN. I thank the distinguished Senator from New York.

So we have the compromise amendment which has committee support and the support of Senators DOLE, PACKWOOD, MOYNIHAN, and myself. I want to emphasize that it is a compromise on the part of everyone who is involved. Everyone has given some in the process.

The amendment includes five major modifications of S. 1511, and they are as follows: It provides first for a sunset of the Medicaid and child care transition provisions after 5 years. That will give us a chance to really study them and see how they are working and review them at that point.

It requires the States to include two types of work activities as part of their education and training program.

It establishes participation rates for the JOBS program, and we will have a colloquy later to further refine that we mean participation should be meaningful.

It requires a welfare recipient to accept a job if the State assures that the individual's family will experience no net loss of cash income.

It deletes the provision authorizing broad waiver authority for State and local demonstration programs.

Let me describe each of those programs and provisions in a little more detail.

First, the amendment provides for the termination of the Medicaid and child care transition provisions at the end of 1993. A study by the Secretary of Health and Human Services of each of these provisions will be due on January 1 of that year. That will give the Congress a full year to study the Secretary's findings and recommendations, and to decide whether to extend these provisions, with or without modification.

The IRS debt collection provision that is in the committee bill will also expire at the end of 1993. That, in turn, of course, will provide a source of revenue to fund the extension, should the Congress at that point, after the study, decide to do so. I would be quite optimistic that it would.

Second, the amendment requires every State to include as part of its JOBS Program two of the three following activities: job search, grant diversion, and either a community work experience or other work experience program allowed by the Secretary.

These activities will be in addition to the basic education and skills training activities already required by the committee bill.

Third, the amendment requires States to engage a specific percentage of able-bodied adult welfare recipients in the JOBS Program; that is, it establishes participation standards.

The percentage of nonexempt welfare recipients who must participate in an approved JOBS activity is as follows: 10 percent in fiscal years 1990 and 1991; 14 percent in 1992 and 1993; and 22 percent in 1994. States will not be penalized if they fail to meet the participation requirement in the first fiscal year.

One of the problems is that some of the States have none of these provisions in effect. And they must have some transition time in order to be able to meet this requirement.

If a State fails to meet the required percentage in fiscal years 1991 to 1994, its Federal matching rate for the JOBS program will be reduced to 50 percent. That is a substantial penalty at that point.

States are normally eligible for 90-percent matching under the WIN hold harmless provision and 60-percent to 80-percent matching for costs they incur above the WIN hold harmless amount.

The Secretary will have authority to waive all or part of the penalty with respect to a State if he finds that the State: First, is in substantial compliance with other requirements of the JOBS program; second, has made a good-faith effort to meet the participation requirements; and, third, has developed a corrective action plan designed to enable the State to meet the required participation rates within a period specified by the Secretary.

In general, the participation rates will be determined by calculating the average monthly number of participants in the JOBS Program in relation to the number of individuals required by the bill to participate in the program.

However, the amendment recognizes that participation levels may vary somewhat throughout the year. Obviously, it will not be possible to keep levels totally constant, and that is particularly a problem in the early years as States begin gearing up their JOBS Program.

The Senator from New York made some very pertinent points as we arrived at that consensus.

For this reason, in fiscal years 1990 through 1993, the monthly participation rates are calculated in a way that gives special emphasis to months when participation levels are highest.

The participation rate provision will expire at the end of calendar year 1994. The Secretary of HHS is required to issue a study and recommendations with respect to performance standards, including participation rates, within 5 years after enactment. This study will give the Congress the information it needs to determine appropriate participation rates for years after 1994.

Fourth, the amendment modifies the language in S. 1511 with respect to protecting individuals from loss of income as a result of being required to accept employment under the JOBS Program. This is the part that was very important to quite a number of participants.

The amendment provides that an individual may be required to accept a job only if the State assures that the individual's family will experience no net loss of cash income.

Fifth, the amendment deletes the provision in the committee bill that allows up to 50 State demonstration programs under waiver of the statutory requirements of the Social Security Act.

Finally, the amendment also includes several minor and technical provisions.

Mr. President, this compromise amendment moves us a good deal closer to getting a welfare reform bill enacted into law this year. Welfare reform has been on the Senate's agenda for the last two decades. Now we have an opportunity to move beyond debate, and to set an entirely new direction for an outdated and ineffective system that we inherited from the Depression days.

I want to thank my colleagues for their diligent work, contributions, effort, good will, and compromise. The distinguished Republican leader contributed a great deal to bring this about. My friend, the distinguished Senator from Colorado, who had some very strong views on these subjects and participated in our discussions, was quite helpful.

Senator MOYNIHAN, the ranking minority member of the committee, was a driving force in working out these compromises and bringing them to fruition. He is one who always came in at a time when we seemed to be at a deadlock and was able to break the ice.

So I am most appreciative of that. I believe with this amendment we will have a strong majority support on both sides of the aisle. I am optimistic that we will have true reform of the welfare system.

Mr. PACKWOOD. Mr. President, I actually hope we are finishing up the bill here tonight in a very short period of time.

Mr. BENTSEN. So do I.

Mr. PACKWOOD. I have to compliment many of the same people the chairman of the Finance Committee has but especially Senator MOYNIHAN, who has been a rock on this for years. I said in my opening statement he has called on every one of us in our office. He has been willing to compromise and—I do not want to say back down because that sounds like a retreat from principle but compromise where people of genuine concern had questions, and we now have a bill that is worthy, Mr. President, of trying, worthy of trying to see if we can make a dent in the welfare problem in this country.

For those who would say, "Can you guarantee to me this bill will work?" The answer is no, you cannot guarantee it will work. What you can guarantee is that the system we are trying now is not working, has not worked, and is getting worse. If the point of welfare payments is to try to get people off of welfare, to train them, teach them and get them on a job, the present system has failed. The new bill Senator MOYNIHAN has authored is aimed at the hardest core welfare recipients, those who have been on it for at least 30 out of 60 months. The evidence we have is that half of the people on welfare get off of it on their own within, is it 2 years?

Mr. MOYNIHAN. A quarter and two.

Mr. PACKWOOD. A quarter and two. They get off. They do not get welfare payments. They do not have to have job training. They want to work. They find a job and they get off. Those are not the ones we aimed the program at. Those are the ones who are getting back to work now under the present welfare system.

But for too long we have encouraged States, and we frankly have fooled ourselves into thinking we might have had welfare reform by a variety of counts and statistics, and all we are doing is counting those who are probably going to get off without our help anyway. That is not what we need to aim at. This bill is aimed at the ones who are the longest term, hardest hit, usually women but not always, usually without a high school education, often with a child, very difficult to find a job for. You are going to try to train them; you are going to try to teach them, you are going to try to help them. I do not know if it will work, but I think it will do better than what we have tried.

Then Senator BENTSEN and Senator DOLE, the present chairman and former chairman of this committee, helped these negotiations, moving, cajoling, patient, humerous. They have finally gotten us to a place where I think this bill is going to pass 80-20 or better when we have the vote tonight. It is a bill that I think—and we have no promises—the President will sign. Certainly Joe Wright from the Office of Management and Budget has done everything humanly possible to act responsibly, to be on top of the problem. He has not told us that the President will sign this bill. He is not authorized to tell us the President will sign this bill. He has done everything to narrow the differences and to carry back to the administration what we had suggested, bring back on occasion some acceptances, some rejections. I suggest we simply pass the bill, go to conference with the House, we see what we can get out of the House, and we see what the President will do.

But I would predict, when all is said and done, he will look at this bill and say on balance it is a better system than we have. I hope he would sign it. I certainly encourage my fellow Senators to vote—and I hope it will be tonight—to vote for the passage of this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am delighted to join Senator MOYNIHAN and 61 of my distinguished colleagues in the support of S. 1511, the Family Security Act. Senator MOYNIHAN has worked long and hard to bring this bill before us today, and I believe his efforts will not be in vain.

For a great many years now we in the Congress have been trying to do something constructive to improve the public welfare system in our country—to enable it to serve both the poor, and our society, in an efficient, effective and compassionate way. It is, indeed, a tremendous task. The last major effort to accomplish this task was fully 18 years ago, and that bill, the Family Assistance Plan, failed in the Senate. I am confident that S. 1511, the Family Security Act, will not suffer the same fate.

Any reform of the welfare system must serve both the families receiving welfare and the community that is providing that welfare. It seems to me that for the last several years of debate on this issue, we have either been cautioned against making the welfare recipient dependent through Government assistance, or subjecting the recipient and his or her family to a subsistence level of living that stripped both dignity and will. There has never been, until today, an option that provides recipients with meaningful benefits, training and education, and support services, while at the same time eliminating the disincentives to work and helping to break the cycle of welfare dependency.

This measure could not have come at a better time in our Nation's history. Rates of welfare dependency in our Nation are unacceptably high. Even with a Federal expenditure of over $8.6 billion a year for AFDC alone, we are not adequately feeding and caring for the millions of poor children and their families in this country.

Now, let me say a few words about the philosophy behind this bill. Welfare reform means changing our current support system so that we not only sustain those who have fallen on bad times, but we also enable them to move on, move up, and move off the public assistance. This translates, basically, into some very simple, key, components. The first component is the provision for education and training to welfare recipients. We do not get people off of welfare by making them rake leaves as a way of paying off their benefits. Forget paying off. Let us do something constructive. The most cost effective activity in which we can mandate a welfare recipient to participate, is education. Literacy, basic skills, fundamental education, are the key to success in today's job market.

Individuals are not on welfare, families are on welfare. Usually that means mothers with children. That means that whatever job a recipient leaves the welfare roles for must be of the level that can support a family. As such, meaningful reform must include skills training and education so that higher paying, more secure jobs can be obtained and kept.

The second component of meaningful welfare reform is removing the disincentives to getting off the roles. Right now, when a welfare recipient gets a job and leaves the roles, that recipient is generally given 4 months of Medicaid and then all health benefits are cut off. If a mother with a small child is given the choice between working without protecting her child with health insurance, and welfare which would protect her child with health insurance, the rational decision, under current law, is welfare.

S. 1511 provides Medicaid transition for 1 year, to ensure that the incentive and the rational decision is to work, not to collect AFDC. Medicaid transition, and child care transition, which is provided for 9 months, are provisions that are designed to ease transition from public assistance to private employment. We recognize that few benefits are bestowed by most employers before the employee has been on the job for several months.

A third key component of welfare reform is being willing to invest resources in what we call the long-term dependent population. Usually, these are unfortunate people who because of their youth, their lack of education, and their lack of basic skills at the time they enter the roles, stay on the roles for years. Sometimes they manage to work their way off, and then, because of their lack of skills, are back on in 6 months. This bill, S. 1511, mandates that States take the time and make the investment to help this long-term population end their sentence of dependency, get the basic training and skills, and leave the roles for good. And our bill "puts its money where its mouth is," S. 1511 mandates that 50 percent of a State's JOBS Program money must be targeted to this population.

With these three components, S. 1511 goes farther toward meaningful welfare reform than all the efforts we have made since 1930, when the concept of AFDC was begun so that widows and their children would be provided for.

In addition to these three key components, S. 1511 amends child support collection and enforcement law, so that the Family Security Act places new emphasis on family responsibility, making paying child support an obligation, not an option.

The Family Security Act also requires that States provide cash benefits to poverty stricken families who under current law would meet eligibility requirements for AFDC except that for the fact that both parents are present in the household. It is of great importance to me that this bill requires States to provide "AFDC-UP," which is the term for this intact family assistance. There has been a lot of talk lately about the importance of the family as an American institution. It is my belief that this measure includes one of the most profamily initiatives of this Congress. Currently 24 States deny assistance to any poor child whose parents live together. S. 1511 allows poor children to be eligible for benefits regardless of the presence of both parents. Furthermore, this measure requires that for at least one of the two parents to participate in the JOBS Program—so that a child cannot only keep his or her family, but the family can start on the road to self-sufficiency.

Finally, I would like to say a few words about an amendment that I successfully proposed to my colleagues in the Finance Committee during this bill's markup. That amendment was for the formation of a demonstration program called Teen Care. Now we all know that the purpose of welfare reform is to end long-term dependency on welfare benefits. We also know that it is commonly recognized that one of the greatest contributing factors in entering and staying on the welfare roles is teenage pregnancy.

The Children's Defense Fund tells us that a major cause of the high rates of teen pregnancy is low self-esteem and the perception of poor and troubled teens that their "life options" are limited. Marion Wright Edelman, head of CDF, suggests one way of building self-esteem, and thus reducing teen pregnancy, is to provide young people with a "range of nonacademic opportunities for service and for feeling good about themselves—sports, recreation, the arts, and other enrichment activities." My Teen Care proposal does just that.

The Teen Care demonstration program is a very modest proposal designed to coordinate and target existing services to teens, as well as fill the gaps where such programs are missing, or are in need of expansion. This $6 million demonstration project will fund projects in four States in an attempt to address teens and their four major problems: drug abuse, dropping out, pregnancy, and suicide—through a coordinated program that would provide resource referral, general stress management, and coping skill counseling, recreational referral and organization and general oversight.

Teen pregnancy, the dropout rate, teen suicide and drug abuse are but four symptoms of one illness—inadequate development of American teens. Teen Care presents a new approach that is worth investigating. I am excited about its inclusion in this landmark bill.

In conclusion, Mr. President, every so often we, on this floor, deal with a piece of legislation that is really significant, and I think this is one of those times. I think Senator MOYNIHAN deserves tremendous credit for what he has done, of course, with the very able support of the chairman of the Finance Committee, Senator BENTSEN, as well as Senator DOLE and Senator PACKWOOD and the rest of the Finance Committee.

As I said earlier: AFDC, Aid for Families with Dependent Children, now that costs $8½ billion a year and just plain is not working. To address this situation, this bill puts the accent on education and training and targets what we might call the long-term dependent families, those that have been on welfare for extended periods of time. And second, this bill removes some of the disincentives that currently exist for those who are on welfare and are trying to get off. There are two of these disincentives. One is the lack of child care. We provide for 9 months of transitional child care in this bill. And second, we provide for Transitional Medicaid coverage as well, for those families who leave the welfare roles. They will have access to Medicaid coverage for a year after they get off welfare. This is a very, very significant change. Under the current system there is little incentive for these families who go to work, take a job. These jobs may be very low-paying, with no medical coverage provided by the employer, so in some instances recipients are worse off than they were when they were on welfare, this bill attempts to remedy that situation.

I do want to stress that the accent is on the long-term dependent. Over 50 percent of the education funds must be spent on them.

Finally, I would just like to say a word about a demonstration program that I authored and that the Finance Committee accepted that is called "Teen Care." One of the quickest routes to welfare is teenage pregnancies. As I have stated earlier, Marion Wright Edelman, president of the Children's Defense Fund, tells us that the principal reason for high rates of teen pregnancy is low self-esteem and the perception of these poor and troubled teens that their life options are limited. So I created a demonstration grant program to provide these young people with activities and counseling that will increase their sense of well-being, their sense of self-esteem, whether it is through sports or recreation or arts or other enrichment activities. This $6 million program will be conducted in four States, and I am very anxious to see its results.

So I want to pay tribute to all of those who have had a hand in this and particularly the senior Senator from New York, who has been like a bulldog on this subject, shaking this, hanging on to it, tenaciously pushing it, getting more cosponsors, and here we are on the great day where it looks like it is going to pass.

I thank the Chair.

Mr. ARMSTRONG. Mr. President, when we began debate on the bill during the noon hour, I spoke at some length about the issues which are addressed in this amendment and I am not going to repeat that. Obviously, I support the amendment very strongly. I think it greatly improves the bill.

There is one aspect of what I said earlier I want to repeat, because at that time I made a point which I want to make again in the presence of the Senator from Texas, and it is this. The Senator from Texas, the chairman of the Finance Committee, and the Senator from New York, who is the main sponsor of this bill, could have simply said, "We are not taking any amendments. We have got 60 or 70 sponsors around here. We do not have to do anything. Forget it. We are not going to listen; we are not going to pay any attention."

As one who did not hesitate to criticize this bill in pretty strong terms when it came before the committee and was passed by the committee, I want to be equally forthcoming in acknowledging in his presence, since he has returned to the floor, that I am grateful to him for listening and accepting a number of amendments which in my opinion make the bill very much better. I am grateful to him for doing it and I appreciate his courtesy. I appreciate his kind words. I would also appreciate his taking of the next amendment which will be offered immediately following this.

Now, having said that, Mr. President, I am assuming we are just going to take the committee amendment by voice vote. I assume it is a unanimous desire to do so. It really does make a big difference for all the conditions that have been previously stated.

But now, Mr. President, there is still one player in this game who is not going to be satisfied, even after the passage of this committee amendment, and that is the President of the United States.

My friend from Oregon was speculating a moment ago about whether or not he would sign the bill in this form. Well, he is not going to. He has made it very clear that he will not. He has not hinted at this. He has not sort of given us a signal. He has not passed a message out from the door. Puffs of smoke have not risen from the chimney to indicate his intention. He said so. He said, "I'm not going to sign this bill." In fact, what is more he said, "I'm going to veto this bill." He said it in unequivocal terms—he will not sign this bill unless certain conditions are fulfilled. There are at least three of those conditions which have not yet been addressed but which I hope before we complete action on this bill will be addressed.

I understand that the next item of consideration will be the amendment which Senator DOLE and I and others will offer on work. That is the bottom line. I do not want to go into the details of that amendment until it has been presented and Senator DOLE has had his say. But I did not want to let the moment pass for the benefit of anybody who may have been listening a moment ago to think once we pass the committee amendment, then the President is on board because while anybody can guess that he is going to change his mind, he has declared in unmistakable terms his intention to veto this bill unless we solve the problem about work because of his concern about work, the AFDC-UP families and the waiver provision.

So I thank my friend from Texas and I hope that one more time he will listen, be patient, and at least consider the amendment which is coming up next.

Mr. BENTSEN. I thank the distinguished Senator from Colorado. He has been most persuasive and was able to convince us on a number of these points.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I think we have pretty well identified what the compromise is. We certainly have identified many in this room, and more will be identified by those who are participants in working it out.

Above all, I want to thank members of my staff, particularly Sheila Burke—and I know there are other staff people who have been involved. They have been working not just the last 3 days, or the last 3, 4, 5, 6 months, but hours and hours and hours and hours.

I thank those in the White House led by Joe Wright and others, who I think came to us in good faith, worked out some of the problems as indicated. But I want that noted. I am certain others will note the same because they have been working out details, doing the drafting, putting together statements. Obviously, as everyone has said, and as I have said before, the leader in this effort has been Senator MOYNIHAN. I do not know how many letters I have in my office. Some even came when I was not around, saying "I know when you come back you will be interested in welfare reform." That has been very helpful. There is no question about it. Without his effort, we would not be here today. We would put if off until next year, or put it off until the next year.

As I noted at the markup in the Finance Committee, Senator MOYNIHAN should be congratulated on the extraordinary work he has done over the last 2 years in putting together the bill we have before us today. And while I do not agree with all aspects of the bill, I believe he has been serious in his desire to address the many issues that have been raised.

There is no question in my mind that we have finally reached agreement on the need to put work and training at the center of any real reform measure. The initiatives that both Senator MOYNIHAN and I introduced last year seek to achieve this end. So there is no dispute on our goal—it was simply a question of how to get there.

But before noting our areas of disagreement I should note that the Finance Committee bill is without a doubt a clear improvement over the House measure.

First of all with respect to cost, the Senate is far more responsible. The Finance Committee measure has a cost of $2.6 billion as compared to the House bill cost of approximately $7 billion over the same period of time.

The reasons for the differences in cost are of course the areas over which we have the greatest disagreement with the House proposal.

In a major concession to those who were concerned that the costs of this new program would quickly grow, our committee bill contains an overall cost cap on the jobs portion of the bill. So while we have assured the Governors of adequate funding so they are encouraged to put jobs programs into place, we have also protected the Treasury. The House bill is open-ended.

The House also provides for a number of expansions including increasing the income disregards; providing an increased Federal matching rate for benefit increases; providing a full 12-month transition period for child care and finally mandating all States put into place an AFDC/unemployed parent provision.

Alternatively, the Finance Committee bill really focuses its dollars and efforts on work, education or training activities.

Our jobs program is capped; there are only limited benefit increases and our compromise amendment sunsets those; we provide for no change in the disregards and while we mandate coverage of two parent families where the principle wage earner is unemployed, we allow the States to limit coverage to 6 months. More importantly we also target our resources to take the most difficult to serve and require the States to offer real work experience as part of their jobs program.

All of these provisions make the Senate bill a better bill. I would, of course, hope that the Senate would prevail on each of these points in a conference. In fact it is probably safe to say that should we not prevail, and the bill more closely resembles the House measure, I for one could not support it.

PROBLEMS WITH THE SENATE BILL

However, while acknowledging the flaws in the House bill, it is safe to say that our bill also had its problems. I believe, however, that the compromise we are offering addresses a number of these.

As I noted at the time the committee was considering the bill, I was particularly concerned with, first, the need for participation standards; second, the necessity of a sunset on payment for certain services during the transition off welfare, and finally, third, the lack of added authority for the States to experiment under a waiver.

We have, I believe, been able to reach a reasonable accommodation on two of the three issues.

PARTICIPATION STANDARDS

Participation standards are one of those areas where there is little philosophical debate as to the value of some kind of performance measure, but, rather, a division of opinion as to what the measure should be and how quickly it should be put into place.

I believe reasonable participation standards can help to encourage the States to actively pursue the Jobs Program and offer services to a broad array of participants.

By 1992, according to CBO estimates, the States will be given almost four times the Federal resources they now receive under the Social Security Act for WIN, WIN demonstrations and the other new authorities enacted in 1981 and 1982—job search, grant diversion, and the community work experience program or CWEP. These resources will be in addition to those provided to them under the Jobs Training Partnership Act, social services block grant, vocational education, adult education, and other programs which are directed by law to serve populations that include AFDC recipients.

Yet S. 1511 does not really require the States to do anything more than they now are doing in exchange for this flexibility and massive infusion of new Federal resources. They do not have to involve significant numbers of welfare recipients in meaningful employment and training activities. They only are required to have an employment and training program in place.

The amendment we are proposing would require the States to involve a small but increasing number of AFDC recipients in work-related activities.

Under S. 1511, about half of the adult AFDC population is not subject to requirements to participate in employment and training programs. The vast majority of those who are exempt are mothers with children under age 3. The remainder are exempt by virtue of exceptions for caretakers who are incapacitated, live in remote locations, and so on.

Our amendment to add participation standards to S. 1511 would ensure that a significant proportion of the 60 percent of AFDC parents are required to be in some activity which will help them learn to support themselves and their children.

The amendment sets participation standards at 10 percent in 1990 rising in each year until they reach 22 percent.

Given the level of activity the majority of States had achieved in 1985, it seems reasonable to expect that 6 or 7 years later, with more experience and vastly greater resources, all of the States should be able to meet and even exceed the goals outlined in our amendment.

However, because we are not sure of what the real percentage should be over time, we have called for a report by the Secretary which is due within 5 years of enactment of S. 1511. Our compromise proposal would sunset the participation standards in the 5th year, so we will have an opportunity to review the study and make recommendations for the future.

TRANSITION BENEFIT

With regard to the transition benefits, while I would certainly agree that the availability and financing of child care and Medicaid services are a critical component of a work-based welfare system, the record is unclear as to whether or not the provision of these services after someone leaves the welfare rolls is necessary or what the ultimate cost will be. I believe allowing rather than mandating that the States cover these services makes more sense until we have some better sense of what is really necessary. But given that the committee did not agree, in the view of this Senator, the next best thing to do is to sunset these new transition services after a period of time and give us a chance for review.

The bill currently contains a requirement that a study be done examining the impact of the Medicaid benefit. Our amendment would add a study on child care along with the sunset.

WAIVER AUTHORITY

One of the issues of most concern to the administration has been the ability of the States to test out their own theories on how a welfare system should be organized and run. As the Finance Committee was well aware, much innovation has taken place on the State level. It was the administration's hope that we would encourage even more activity by providing a broad waiver authority.

While I recognize that the protection of the beneficiaries from any excesses on the part of the States should be of concern to us, I cannot believe that we are unwilling to trust these same Governors who we are trying to satisfy with other aspects of this bill.

However, try as we might we were unable to get any agreement on this issue except on the need to strike the provision in the committee bill. As drafted, the committee provision would have actually placed restrictions on current authority—obviously not a result the administration had hoped to achieve.

It would be my hope that once the Governors have the opportunity to implement the new jobs program called for by the bill, they will have a better sense of what additional authority they need in order to put into place real welfare reform. At that time, we could revisit the issue and provide more authority.

WORK REQUIREMENT

The other area on which we were unable to reach an agreement and on which I will have a separate amendment, was a specific work requirement. While it is clear that the States will have every incentive to start up programs there really is no absolute requirement that an individual ever go to work. In the view of the administration, at a minimum, one parent in the newly mandated AFDC/UP family should be required to work at least 16 hours per week. Such a requirement would hopefully help maintain the commitment to employment by these individuals.

CONCLUSION

While we were unable to agree on all the outstanding issues, I believe the amendment we are offering today does improve the bill substantially. Participation standards are an important principle and one we should put into place; the transition benefits do deserve our review once we have real experience and cost data; and finally, the requirement that the States offer jobs programs insures that welfare recipients will have a chance to gain some real work experience.

In closing, let me offer my thanks to both Senator MOYNIHAN and Senator BENTSEN for their patience and cooperation. As my distinguished colleague from Colorado, Senator ARMSTRONG, indicated earlier, given the number of cosponsors on the bill, the sponsors could have easily ignored our concerns and proceeded to pass the bill without our help. I am grateful for their willingness to spend the last 3 days trying to sort this issue out.

The time for real welfare reform is here—I for one am anxious to help the States in their efforts to get recipients into meaningful employment and off the rolls. But I add a note of caution, if we find that this new money and expanded authority simply leads to an expansion of the roles and no fundamental change, the Governors will have much to account for. They will also meet with strong resistance in the future for further funding incentives from at least this Senator.

Finally, let me say that it is my hope that I will be in a position to support the bill that finally emerges from conference—however, should it look more like the House than the Senate, and contain little of what we propose today, I will work against it.

I hope before we conclude debate on this measure—we have not been able to put it together. I wanted to go back and look at the last welfare reform bill passed in the Senate. I wanted to read some of the statements Senators made then. I want to go back 20 years and look at welfare reform, and see what Senators who were serving at that time said about welfare reform because, as the Senator from Oregon stated, Senator PACKWOOD, we hope this works.

We do not have any guarantee. I am certain in years past, others who have stood in our places have made similar statements: "We are going to get at the hard core. This is going to work. We are going to do a lot of things." But I believe that this bill offers the best hope.

Again, that is because of the expertise the Senator from New York has had since the late fifties and early sixties. He has worked on this issue, seen a lot of good ideas come and go, a lot of bad ideas come and go. Maybe we will be able to put together something that will lift people out of welfare, will restore dignity, and do all of the things that we want to do.

I happen to think the Senate bill is much, much better than the bill passed by the House. I think the Senate bill is better now than it was when it came out of the committee. I believe, as the Senator from Colorado has pointed out, that we have come a long way.

We did not need to compromise anything, but the bottom line is getting a bill signed by the President. It does not do the Senator from New York any good to spend 2 or 3 years, and then have it go up in smoke with a veto that might be sustained.

So we have made changes. And the chairman of the Finance Committee, as usual, has been accommodating where he could accommodate. Members on both sides have been helpful.

As I noted at the time the committee was considering the bill, I was particularly concerned about the need for participation standards and the necessity of a sunset on payments for certain services during the transition of welfare, and finally the lack of added authority for States to experiment under waiver.

We have addressed particularly participation standards. I think they can help encourage the States. I think there is some feeling that the Governors' idea of reform is in more money and no restraints. Maybe that is not true. I have great faith in our Governors. We think with what we have done here, if the Senate bill should be adhered to primarily in conference, they will have a great deal of help.

I would say finally, as to the participation standards, I hope the President looks at what we have done. To me that should satisfy many of his concerns about whether we are serious, and I know that there is still one amendment to be offered. I do not think that violates the agreement. I think there was a gentleman's understanding that we would try to do something on the UP families. We are not going to offer any amendment on waiver.

So I believe after we adopt this amendment there will be one other amendment maybe, prior to a rollcall, unless there is something I do not know about on the other side. We will be prepared for final passage.

It would be my hope that once the Governors have had the opportunity to implement the new JOBS program called for by the bill, they will have a better sense of what additional authority they need in order to put in place real welfare reform. At that time we could revisit the issue and provide more authority.

As I said, the one area we have not been able to reach an agreement in will be a separate amendment as a specific work requirement. While it is clear that the States will have every incentive to start up programs, there really is no absolute requirement that an individual ever go to work. That is what sticks in the President's craw. There is no requirement in this bill that you ever go to work. And in the view of the administration, a minimum of one parent in the newly mandated AFDC-UP family, should be required to work 16 hours a week. That is the administration's request.

I think that would help get the President on board. And getting the President on board means we might get a number of Republicans and other Democrats who might vote to sustain a veto; not to do so. It means we get a bill. So, even if it does not happen today, there is still going to be a conference, there are still opportunities to work out some arrangement to satisfy the President so he can say in a positive way that "I support the bill." And I think he is willing to do that.

So, whatever emerges from conference, I hope it is much nearer the Senate bill. Because, if it is not, I think we have real problems. Many on this side of the aisle would have real problems. This Senator, for one, would have real problems. But time for real welfare reform is here. I am anxious to help the States in their efforts to get recipients into meaningful employment and off the rolls.

So, it seems to me that we are prepared to move on the amendment. After that, maybe we will have a colloquy.

Mr. **BENTSEN** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Texas.

Mr. **BENTSEN**. Mr. President, I ask unanimous consent that we set aside the pending amendment in order that I may offer an amendment.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

AMENDMENT NO. 2391

Mr. **BENTSEN**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN), for himself, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. DOLE, Mr. ARMSTRONG, and Mr. CHAFEE, proposes an amendment numbered 2391.

Mr. **BENTSEN**. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 145, line 20, strike "(c)" and insert "(b)".

On page 146, line 4, strike "(d)" and insert "(c)".

On page 146, line 5, strike "amendments made by this section" and insert "amendment made by subsection (a)".

On page 146, line 9, strike "(c)" and insert "(b)".

On page 147, line 2, strike "such" and insert "that".

On page 170, line 25, strike "1987" and insert "1986".

On page 171, line 10, strike "(and" and all that follows through "407(b)(2)(B)(i))" on line 12.

On page 175, strike lines 23 and 24 and insert the following:

"(i) shall include—

"(I) basic education and skills training; and

"(II) at least two of the three activities described, respectively, in subclauses (VI), (VII), and (VIII) of clause (ii); and

On page 176, line 10, strike "work" and insert "subject to clause (i)(II), work".

On page 176, line 12, strike "community" and insert "subject to clause (i)(II), community".

On page 176, line 13, insert "(and, at the option of the State, any other work experience program approved by the Secretary)" before the semicolon.

On page 176, line 14, strike "group" and insert "subject to clause (i)(II), group".

On page 179, strike line 21 and all that follows through line 11 on page 180 and insert the following:

"(5) The State agency may require a participant in the program to accept a job under the program (as work supplementation or otherwise) only if the State agency assures that the family of such participant will experience no net loss of cash income resulting from acceptance of such job. Any costs incurred by the State agency pursuant to this paragraph shall be treated as expenditures with respect to which section 403(a)(1) or 403(a)(2) applies.

On page 190, between lines 19 and 20, insert the following:

"(3) Job search by an individual under this subsection shall in no event be treated, for any purpose, as an activity under the program if the individual has participated in such job search for four months out of the preceding 12 months.".

On page 201, line 6, strike the quotation and end period.

On page 201, between lines 6 and 7, insert the following:

"(3)(A) Notwithstanding paragraph (1), the Secretary shall pay to a State an amount equal to 50 percent of the expenditures made by such State in a fiscal year in operating its program established under section 417 (in lieu of any different percentage specified in paragraph (1)(A)) if the State's participation rate (determined under subparagraph (B)) for the preceding fiscal year does not exceed or equal—

"(i) 10 percent if the preceding fiscal year is 1990;

"(ii) 10 percent if such year is 1991;

"(iii) 14 percent if such year is 1992;

"(iv) 14 percent if such year is 1993; and

"(v) 22 percent if such year is 1994.

"(B)(i) The State's participation rate for a fiscal year shall be the average of its participation rates for computation periods (as defined in clause (ii)) in such fiscal year.

"(ii) The computation periods shall be—

"(I) the fiscal year, in the case of fiscal year 1990,

"(II) the first six months, and the seventh through twelfth months, in the case of fiscal year 1991,

"(III) the first three months, the fourth through sixth months, the seventh through ninth months, and the tenth through twelfth months, in the case of fiscal years 1992 and 1993, and

"(IV) each month, in the case of fiscal year 1994.

"(iii) The State's participation rate for a computation period shall be the number, expressed as a percentage, equal to—

"(I) the average monthly number of individuals required or allowed by the State to participate in the program under section 417 who have participated in such program in months in the computation period, plus the number of individuals required or allowed by the State to participate in such program who have so participated in that month in such period for which the number of such participants is the greatest, divided by

"(II) twice the average monthly number of individuals required to participate in such period (other than individuals described in subparagraph (A)(iii) or (B) of section 417(c)(2) with respect to whom the State has exercised its option to require their participation).

For purposes of this subparagraph, an individual shall not be considered to have satisfactorily participated in the program under section 417 solely by reason of such individual being registered to participate in such program.

"(C) Notwithstanding any other provision of this paragraph, no State shall be subject to payment under this paragraph (in lieu of paragraph (1)(A)) for failing to meet any participation rate required under this paragraph with respect to any fiscal year before 1991.

"(D) For purposes of this paragraph, an individual shall be determined to have participated in the program under section 417, if such individual has participated in accordance with such requirements, consistent with regulations of the Secretary, as the State shall establish.

"(E) If the Secretary determines that the State has failed to achieve the participation rate for any fiscal year specified in the numbered clauses of subparagraph (A), he may waive, in whole or in part, the reduction in the payment rate otherwise required by such subparagraph if he finds that—

"(i) the State is in substantial compliance with section 402(a)(19);

"(ii) the State has made a good faith effort to achieve the applicable participation rate for such fiscal year; and

"(iii) the State has submitted a proposal which is likely to achieve the applicable participation rate for the current fiscal year and the subsequent fiscal years (if any) specified therein.".

On page 212, after line 25, insert the following new paragraph:

(3) Effective December 31, 1994, section 403(k)(3) of the Social Security Act, as added by the amendment made by section 202(a)(2) of this Act, is repealed.

On page 216, line 4, strike the quotation and end period.

On page 216, between lines 4 and 5, insert the following:

"(4) No family shall be eligible for such care on or after January 1, 1994.".

(d) Study on Effects of Extending Eligibility for Child Care.—The Secretary of Health and Human Services shall conduct a study on the effectiveness of the amendments made by this section in reducing welfare dependence and assisting families in making the transition from welfare to employment, and such other effects of these amendments as the Secretary may find appropriate, and shall report on the results of such study not later than January 1, 1993.

On page 218, line 15, strike "and".

On page 218, line 19, strike the period and insert "; or".

On page 218, between lines 19 and 20, insert the following:

"(iv) beginning on or after January 1, 1994.

On page 222, line 13, strike "this section" and insert "this subsection".

On page 222, line 20, strike "or".

On page 223, line 12, strike the period and insert "; or"

On page 223, between lines 12 and 13, insert the following:

"(vi) beginning on or after January 1, 1994.

On page 235, between lines 6 and 7, insert the following new paragraph:

(2) Section 417(c)(1)(A)(ii) of the Social Security Act, as added by the amendment made by section 201(b) of this Act, is amended by striking "supplements" and inserting "supplements (and individuals who would be recipients of such supplements if the State had not exercised the option under section 407(b)(2)(B)(i))".

On page 235, line 7, strike "(2)(A)" and insert "(3)(A)".

On page 272, strike line 1 and all that follows through line 18 on page 291.

On page 291, strike "VIII" and insert "VII".

On page 291, line 21, strike "801" and insert "701".

On page 292, line 15, strike "802" and insert "702".

On page 294, line 6, strike "803" and insert "703".

On page 294, line 9, strike "802(a)" and insert "702(a)".

On page 295, line 5, strike "IX" and insert "VIII".

On page 295, strike line 6 and all that follows through line 11 and insert the following:

SEC. 801. TEMPORARY EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NONTAX DEBTS OWED TO FEDERAL AGENCIES.

Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking "July 1, 1988" and inserting "January 1, 1994".

On page 295, line 12, strike "902" and insert "802".

On page 296, line 10, strike "903" and insert "803".

On page 297, line 1, strike "X" and insert "IX".

On page 297, line 5, strike "1001" and insert "901".

On page 297, line 11, strike "1002" and insert "902".

On page 298, line 1, strike "407(b)(1)(B)" and insert "407(b)(1)(B) (as redesignated by section 402(b)(1)(A) of this Act),".

On page 298, line 12, strike "407," and insert "407 (as redesignated by section 402(b)(1)(A) of this Act),".

On page 298, line 23, strike "1003" and insert "903".

On page 299, line 13, strike "1004" and insert "904".

On page 300, line 1, strike "XI" and insert "X".

On page 300, line 6, strike "1101" and insert "1001".

In the table of contents beginning after line 9 on page 300, strike part F.

On page 302, line 1, strike "1102" and insert "1002".

On page 302, line 18, strike "1103" and insert "1003".

On page 304, line 5, strike "1101" and all that follows through "1103" on line 6 and insert "1001, 1002, and 1003".

Mr. BENTSEN. Mr. President, this is the amendment that has been discussed at length, and it is offered on behalf of myself, Senator Moynihan, Senator Packwood, Senator Dole, Senator Armstrong, and Senator Chafee.

The PRESIDING OFFICER. Is there further discussion on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Texas [Mr. Bentsen].

The amendment (No. 2391) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, another part of the informal agreement is we might have a colloquy, myself and the distinguished chairman of the Finance Committee, Senator Bentsen.

Although I am sympathetic with the thrust of Senator Moynihan's welfare reform bill, and I think a number of significant improvements were made in markup by the committee and in the agreement that we have just adopted, I still have one very fundamental concern which I know is shared by the administration.

We are putting up a lot of money, up to $1 billion a year, by 1992. I want to be sure those Federal tax dollars will be used to bring about meaningful participation in the Jobs Program. I understand that the agreement requires States to meet participation standards, and I fully concur in the concept. But it has been suggested that in order to get around the participation rate requirement a State might simply require an individual to report to the employment office once a month, and claim that kind of "drop-in" activity qualifies as participation. That is not what I mean by participation. And I hope that is not what will be allowed to happen under this bill.

Mr. BENTSEN. I say to the distinguished minority leader that I want this program to be effective. I do not want to put welfare recipients into meaningless training and activities that do not really move them off the welfare rolls and into jobs. I do not really believe the States are going to waste our money and theirs by running people through unproductive activities. They are going to be putting up a substantial share of the money for the Jobs Program. So it is their tax dollars also at stake.

The agreement we worked out allows the States to establish their own requirements for participation. But those requirements have to be in accord with regulations issued by the Secretary of Health and Human Services.

Our intent here is to establish the framework by effective participation but on the other hand we do not want to micromanage the States and localities.

We know that different kinds of activities will be appropriate in different areas, and we want to allow the flexibility for States to accommodate those kinds of differences. But make no mistake about it: We intend that participation by welfare recipients in this program be meaningful participation. We want to move people into productive jobs, and reduce the welfare rolls. That is what this bill is all about.

Mr. DOLE. I thank the distinguished chairman of the committee. I understand that—to be in his position and the position of the Senator from New York and everyone else who has been active in this legislation.

The reason I took the floor and entered into this colloquy is that I know sometimes the White House watches our proceedings on the Senate floor, and I wanted to make certain they understood what the intent is. We agree with the President: We want people to find jobs.

Mr. President, during markup of the welfare reform bill the committee made a commitment to conduct close oversight of the implementation of the Jobs Program. Can we assume that the implementation and operation of the participation requirement will be part of the committee's oversight activity?

Mr. BENTSEN. Rest assured that we will do that. I cannot emphasize too strongly that we want this new Jobs Program to be effective, and the committee will do everything in its power to see that it is.

Mr. DOLE. I thank the distinguished chairman.

Again I say that I do not assume too much, but I believe that is also the view of the distinguished principal author of this legislation, Senator MOYNIHAN.

Mr. MOYNIHAN. It surely is.

AMENDMENT NO. 2392

(Purpose: To impose a minimum participation requirement in work supplementation or community work experience programs for parents in two-parent families)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the amendment of the Senator from Kansas will be stated.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2392.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 177, between lines 18 and 19, insert the following new subparagraph:

"(C)(i) Subject to clause (ii), in the case of any family eligible for child support supplements by reason of the unemployment of the parent who is the principal earner, the State agency shall require that at least one parent in any such family participate either in the activity described in subparagraph (A)(ii)(VI) or the activity described in subparagraph (A)(ii)(VII) for a total of at least 16 hours a week during any period in which the parents of the family are required to participate in the program.

"(ii) The requirement under clause (i) shall not be considered to have been met by any State as of—

"(I) October 1, 1993, in the case of any State that as of June 1, 1988, provides aid to families with dependent children to individuals eligible for such benefits by reason of the unemployment of the parent who is the principal earner, or

"(II) October 1, 1994, in the case of any other State;

if the requirement is not met with respect to the applicable percentage (as described in clause (iii)) of all families in the State eligible for child support supplements by reason of the unemployment of the parent who is the principal earner.

"(iii) The applicable percentage described in this clause is—

"(I) in the case of a State described in clause (ii)(I)—

"(aa) 50 percent for the period before October 1, 1994, and

"(bb) 100 percent for any period thereafter; and

"(II) in the case of any other State—

"(aa) 50 percent for the period before October 1, 1995, and

"(bb) 100 percent for any period thereafter.

Mr. DOLE. Mr. President, this amendment which I have already touched on briefly, and is very important to the administration—"the administration" covers a lot of territory—is important to President Reagan. I want the President to sign legislation. In my view, it would be an opportunity for the President to demonstrate his sensitivity, his compassion, and his concern for those at the lower end of the economic scale, and I believe he is most willing to do that.

What he is suggesting and what the administration is suggesting, and what we could not come to an agreement on, is the only area we could not agree on.

The amendment I am offering today, for myself and the distinguished Senator from Colorado and a number of others, insures that a true work requirement will exist for at least a minimum number of recipients in the AFDC Program.

Specifically, what we propose is that by 1994 at least one parent in 50 percent of the AFDC/UP families eligible for benefits be required to work 16 hours per week.

Real welfare reform will be built upon responsibility. We have heard a great deal about the responsibility of the Federal Government and the responsibilities of the States during the welfare reform debate. We have heard far less about the responsibility of the individual.

As I noted earlier, according to CBO estimates, the States will be given almost four times the resources they now receive to devise a jobs program that will help people break the cycle of dependency. An important component of these efforts must be to maintain and strengthen a real work ethic among recipients. In the view of some there is no better way to do this than by requiring that an individual work while still receiving benefits.

This is not to suggest that other activities are not important components of a welfare system. Because we are only requiring that an individual work 16 hours per week, there will be ample opportunity for these individuals to also participate in job training, job search or any other covered activity.

We also recognize that some States may not have actual work programs in place at this time, and that implementation could be costly. The amendment therefore provides that the States that currently have UP programs have until 1993 to involve 50 percent of the required population—and a further year to reach 100 percent. Those States that will just be starting UP programs will have an additional year to come into compliance.

We are also willing to recognize that CWEP programs may not work in every State. The amendment provides that the States could create their own work experience programs and still satisfy the requirements of the law.

CONCLUSION

We are asking for very little in the way of a real work requirement but it helps to underscore our desire for work to play an important part in the welfare system. I think that even the Governors would agree that moving people off the rolls as quickly as possible and into work is a desirable goal. I believe this amendment will help us to achieve that end.

I do not have any real assurances, but I believe that we could convince the President of the United States, if this provision remains and the participation requirements remain, as well as a few other things he feels strongly about, many of which have broad bipartisan support—I believe the Senator from Kansas, the Senator from Colorado, and others could go to the President and say: "You have a work requirement, maybe not what you wanted, maybe it is minimal."

I believe that even the Governors agree that we should move people off the rolls as quickly as possible and that work is a desirable goal. I believe the amendment will help us achieve that end.

So I offer this amendment in the spirit of the agreement, knowing we did a great many things people felt we could not do 2 or 3 days ago.

I urge my colleagues on both sides of the aisle not only to consider the amendment carefully but to also to vote for it. I do not think it will devastate the bill. It is not a major program, but it will have a major impact on the people listening at 1600 Pennsylvania Avenue.

Mr. ARMSTRONG. Mr. President, I certainly agree with what the Republican leader, the Senator from Kansas, has said. He is absolutely right about the enormous practical effects of the adoption of this amendment and, conversely, about the probable outcome if this amendment is not adopted.

This is not a complicated amendment. It is about work. And it seems to me that it is completely consistent with the everyday, man-on-the-street understanding of what life is all about and, for heaven's sake, what welfare reform is all about.

You do not have to hardly go off campus here to find out that anybody who is not an expert on welfare, who does not know what a participation rate is from outer space, who does not know any of the buzzwords, does not know one acronym, has not spent any time thinking about this, but is a good taxpaying citizen who is trying to make ends meet and is upset about the prospect of continuing to finance a welfare system in which more and more people are more and more deeply dependent upon the Government, that is to say, the rest of the taxpayers—you do not have to go very far to find people like that, and ask them what welfare reform is, and what they will tell you is, "I think it would be a good reform if people who receive welfare provide some work."

It just seems just; it is just fair.

Mr. President, it is fair. That is fair. If people are going to get a huge benefit in cash, Medicaid, food stamps, training, education and jobs services, it is fair that they provide some work in return for it.

But that is not the main reason why we ought to get behind this amendment. That is a reason, a worthy reason, but it is not the main reason.

It is also a fact that the cheapest shot around is the notion which you hear expressed in different ways, sometimes explicitly and often just sort as an assumption built into whatever is being discussed that these welfare people are nothing but a bunch of shiftless, malingering, good-for-nothing loafers. I do not think that is true. I suppose in any given group, including welfare recipients, there is probably a certain number of shiftless, good-for-nothing loafers. There might even be a few Senators who fit that description. People sometimes say that they think I am not doing what I ought to. That is true in any group.

But I do not think, by and large, that welfare being dependent upon a system of public assistance is the desired state of life of the recipients. The clients of the welfare system do not like it. In fact, the ones I have talked to hate it. They just despise it. They feel degraded by it. They feel trapped. They feel like they are caught up in a system and cannot get out, and many of them, I do not know whether you can say 80 percent, 90 percent, but most of them, in my opinion, really want to get off. They really want to work. They really want to be productive. They want to be in the mainstream of American life. They want to be able to look their kids in the eye when they come home and say, "What did you do at school? Here is what I did at my job."

They just do not like the status they are in.

So work is important for their sake. It is important and worthy in and of itself.

Mr. President, the Republican leader made a point eloquently that I made perhaps more bluntly a little earlier about getting the President interested in this bill. President Reagan is going to veto the bill if we do not do some things to make it fit his interest. He is a participant. The Constitution assigns him a role in this process. He has not failed to express his interest in it. He has been interested in welfare and welfare reform for a long time. He has spoken about it on many occasions. Nor is he guilty in this instance of being mysterious about his intentions. Sometimes Senators have gone down there and beat on the table and said, "Why didn't you tell us what you were going to do? Why did you wait until after we all voted for a bill to tell us you don't think it is any good and you are going to veto it?"

He has done it in this case. He told us he is going to veto this bill. He told us what he thinks is wrong with it, and our brothers in the House have told us that veto is going to get sustained.

So I think Senator DOLE is correct in saying if we really want to pass this bill and enact it into law, we ought to take what steps we can to get the President to sign it.

Will he sign it if this amendment passes? I cannot promise that. I can promise you he will not if it does not pass, because he has said so.

Lightning may strike. He may have a change of heart after two or three decades of thinking about this problem and talking about it, lecturing about it, giving speeches about it, complaining about it. After having led the way in welfare reform by reforming the California system, maybe he will change his mind between now and whenever this bill hits his desk. I will be amazed if that happens.

But I can tell you this: If this minimal work amendment passes, I am going to vote for this bill and I am going to go down and I think Senator DOLE will and I think there will be others who will say to the President, "Look, Mr. President, this is far from what you asked for, but you ought to take it."

Under those circumstances, I personally believe he will, though I cannot be certain of that.

You see, Mr. President, Ronald Reagan's idea of welfare is that 100 percent of the people who get welfare ought to work, excepting, of course, those who are disabled or for one reason or another incapacitated or have young children or something like that, but in essence Mr. Reagan believes that everybody on welfare ought to do some work along with education, training and whatnot, and I suppose probably generically that point of view is shared by two-thirds or 75 percent of Americans, but there are some practical reasons why we do not offer an amendment to do that.

That is not what this amendment is. This is not an amendment that states everybody has to work. This is not an amendment that says 80 percent of the welfare recipients have to work, or 60 or 40 or 50 or 20 or even 10 percent.

This is an amendment which does not even say that 1 out of 10 people who receive welfare in this country have to work.

What it does say is this: When for the first time we are requiring States to extend AFDC benefits to a group of people who have not been part of the mandated national program before, that is to say the two-parent families, the AFDC-UP families, that with respect only to those families as a matter of national policy we are going to ask for some work, not work as a substitute for education, not work as a substitute for training, just work. Presumably people will also, while working, get some training, get some education, be in a job search, and whatever.

Nor are we saying that even all the people of this select group which would be about 8 percent of the total, not even all of this 8 percent have to work. Only one out of two in each two-parent family has to work. So we are not talking about taking anybody away from young children. We are not talking about increased child-care cost. We are not talking about a burden. And of the one out of two in the 8 percent of families that comprise these two-parent families, we are not saying they have to work 40 hours a week or even 20 hours a week. We are saying 16 hours a week. That honestly is a minimal requirement.

Mr. President, in summary let me just point out the overall context of this amendment. This bill will add to welfare between 60 and 90,000 families with two parents present in the household. We will preempt 20-some States who do not presently have AFDC-UP, that is, the two-parent family program, who have consciously chosen not to have it. It is an option at the present time, and they did not opt to do it. Alabama did not. Alaska did not. Arizona did not. Arkansas did not. Colorado did not. Florida did not. Georgia did not. Idaho did not. Indiana did not. Kentucky opted against it. Louisiana opted against it. Mississippi did. Nevada does not have it. New Hampshire, New Mexico, North Dakota, Oklahoma, Puerto Rico, South Dakota, Tennessee, Texas, Utah, Virgin Islands, Virginia and Wyoming—not one of those States has this program at the present time. We are going to jam it down their throat.

Five States used to have a two-parent welfare program and repealed it, changed their minds after studying it. The scholarship is deeply divided as to whether it is a good idea and there is not much evidence, not very persuasive evidence in my opinion that we ought to preempt the States and force this on them.

But if we are going to take that step, it certainly does seem logical at least to me to ask for some work in return from those persons in two-parent families who are able-bodied, not sick people, not those who are disabled, not those who cannot work, but those who can. That just seems fair to me. As a matter of equity to those who are paying the bills, we ought to do it. As a matter of assistance and help to those who are on the program and who will benefit from that experience, it is a good idea. It is not a burdensome requirement. It is only 16 hours a week.

Mr. President, before I yield the floor I want to send to the desk a report of a highly successful work program which occurs in Weld County, CO. It is an option. It is done under a waiver at the present time, but it can well serve as a model for anybody that wants to try it. It is a program in which in this county, not a very prosperous county in our State for the past several years, it is an agriculture county that has had all the problems that farm communities have had, and yet in our State in a period when unemployment has been rising, when the welfare caseload has been rising in Weld County, CO, where they have this work program, the caseload has been declining and in a survey of the clients of the people who were being required to work, by an overwhelming margin the people involved said it was a good program and said it was a fair program.

I believe and I am going to consult my notes, yes, I am correct, 80 percent of the clients expressed the opinion that the program was worthwhile and 83 percent of the clients support the purpose of the program and reject the notion that the program punishes those who apply for welfare.

Mr. President, I do ask unanimous consent that there be printed in the Record at the conclusion of my remarks this report Colorado—Work and Welfare by State Senator Wayne Allard, who was kind enough to share that information with me.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ARMSTRONG. Last but not least, Mr. President, if I have not persuaded you and I hope I have that this is fair, that it is fair to the people involved, that it is fair to the taxpayers, let me just again make the argument that it will get a bill passed and if we do not add this provision here and now I do not see how it gets added in conference. I do not see how it gets added in the other body, because that just is not in the cards.

If we do not put some measure of required work in right now it is not going to happen, it is not going to come back from conference as if by magic; it just will not be there.

Now, I do not think we can sustain the President's veto in this Chamber. I am not sure. We might. It is possible, but I am not sure.

I think it is very clear that the House will sustain the President's veto. And if the veto comes down over the issue of a little work requirement, a reasonable work requirement, a work requirement with a lot of exceptions and a lot of conditions, the veto will be sustained, in my opinion, and in my opinion it should be.

So I hope Senators will get behind this amendment. If that happens, I will then predict this bill will pass by about maybe 100 to nothing, or close to it.

EXHIBIT 1

COLORADO—WORK AND WELFARE

(By Senator Wayne Allard)

I. INTRODUCTION

This is an overview of Colorado's efforts at welfare diversion, sometimes referred to as workfare. The information contained in this workfare paper is directed toward states which may be developing similar strategies, and toward those individuals seeking changes in federal welfare programs. It is my hope that more latitude can be given to states to develop welfare diversion strategies based on their own demographics and program goals. Welfare diversion with the ultimate goal of work for those who are capable saves tax dollars and creates proud self reliance and individual opportunity.

II. LEGISLATION HISTORY—COLORADO

In 1982, House Bill 1093 granted authority for Colorado counties to implement an eight week Job Diversion Program designed to provide temporary employment. In addition, participants would receive training in job seeking and job holding skills. The legislation also allowed the Job Diversion Program to be financed by the State's share of the welfare grant in the amount the individual would have received from public assistance had they not been diverted.

Weld County was the only Colorado county that opted to implement a Job Diversion Program. In 1983, House Bill 1394 expanded the Job Diversion Program legislation for Weld County to include mandatory participation of single parents if they met the WIN requirements, that is, no children under the age of six (6). This legislation was designed to be implemented by a federal waiver.

In January 1984, a federal waiver authorized Weld County to work with single parents, awarded federal financial participation through grant match, furnished Medicaid for the participants, and provided for an evaluation of the program. The Job Diversion Program (with waiver) began in March of 1984.

In the 1985 legislative session, Senate Bill 25 was passed allowing the Weld County Job Diversion Program to mandate participation of all households whose youngest child was over the age of six (6) months. Weld County has received another federal waiver under Senate Bill 25 and initiated operations July 1, 1986.

In the 1986 legislative session, House Bill 1288 was passed allowing any Colorado county to plan and operate a variety of programs to move welfare applicants and recipients into employment. A state-wide Federal waiver is currently being sought by the Department of Social Services.[1]

The 1986 Colorado Job Strategy is established by integrating four pieces of legislation passed by the Colorado Legislature during the 1986 session: (1) Senate Bill 99—Employment Search; (2) House Bill 1113—Work Supplementation; (3) House Bill 1288—Job Alternative Program; (4) Senate Bill 139—Medicaid Benefits Extension.

The integration of the legislative acts, along with the ongoing Community Work Experience Program (CWEP) and Work Incentive Program (WIN) makes coordination among various county-level programs more attractive and feasible. Colorado experience has indicated that coordination between the Department of Social Services and the Department of Labor and Employment is imperative. In Weld County this has been accomplished by putting both departments under a single administrative head.

III. COLORADO JOBS STRATEGY EFFORT

Colorado Jobs Strategy is an initiative of the Colorado Department of Social Services (CDSS) and the Colorado Department of Labor and Employment (DOLE), to provide AFDC clients/eligibles with a choice between public assistance and employment. It is a locally-managed method for placing applicants for and recipients of Aid to Families with Dependent Children (AFDC) into employment.

Jobs Strategy operates under the premise that most AFDC clients/eligibles would rather have meaningful employment than receive public assistance. Most persons view a job as the most desirable means for maintaining themselves and their families. For them, holding a job provides both financial security and personal satisfaction.

With the Colorado Jobs Strategy, the State has adopted a philosophy of human capital investment. The State recognizes its responsibility to use social service resources to help its clients develop their human potential and to be self-sufficient.

The integration of these legislative acts, along with the ongoing Community Work Experience Program (CWEP) and Work Incentive Program (WIN), makes coordination among the various county-level programs more attractive and feasible.

IV. RESULTS OF WELD COUNTY DIVERSION PROGRAM

The primary assumption, based on program experience, is that people will choose to work rather than receive welfare if they are provided the option. Once an individual is receiving welfare, it is more difficult to break their dependence on the welfare system.

The primary objective of the Job Diversion Program is to help the participant obtain an unsubsidized job. Programmatic support in terms of job search, job development, training, and short term work experience all revolve around obtaining an unsubsidized job.

The offer of job diversion is a viable test that eliminates applicants who are not really available for work or may have other alternatives besides welfare and choose those options rather than the job offered through the program.

The most critical test to determine the success of the Job Diversion Program is the reduction in the size of the welfare caseload.

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[1] Annual Job Diversion Report to Colorado General Assembly from Weld County, January 1987.

The following chart reveals the decrease in Weld County's AFDC/AFDC-U caseload versus the State's increase in caseload. It should be noted that Weld County unemployment rates have been the same or higher than State unemployment rates since 1980.

Weld County vs. State of Colorado—Comparison of 1982 and 1986 annual average caseloads

1982 annual average AFDC/AFDC-U caseload size:	
Weld County	1,323
State of Colorado	26,584
1986 annual average AFDC caseload size:	
Weld County	1,295
State of Colorado	28,316
Percent increase/decrease:	
Weld County	(2.16)
State of Colorado	6.52

Estimated total (Federal, State, local) savings for Weld County on a July 1 to June 31 fiscal year

1982–1983	$1,350,211
1983–1984	1,557,159
1984–1985	1,193,712
1985–1986	950,046

A 1985 University of Colorado at Denver report providing information on 176 individuals who entered the Weld County Job Diversion Program prior to June 1985 revealed that they have positive attitudes regarding the program.

Regarding the mandatory nature of the program, over 86% of the clients thought it was "very fair" or "fair" to require their participation in the Job Diversion Program. The clients (83%) also support the program's purpose and reject the notion that the program punishes those who apply for welfare.

In addition, 80% of the clients expressed the opinion that the Job Diversion Program was worthwhile. In summary, the report states, "No matter how the data is broken down, every sub-group of clients includes a strong majority concluding that the program is worthwhile."

The report also reveals that the educational level of the Job Diversion Program clients is low. On the average, the clients have completed 10.05 years of education and 55% of the clients do not have a High School diploma or GED certificate.

V. FACTS AND FIGURES—COLORADO

1. The State of Colorado spends General Fund monies to support 30% of the direct public assistance aid to persons receiving Aid to Families with Dependent Children (AFDC). The Federal government supports 50% of this public assistance aid, while local governments contribute 20%. Currently, in Colorado, the average length of time that a household receives AFDC is eighteen (18) months.

2. Annual Unemployment Average:

	Weld County percent	State percent
1980	6.9	5.9
1981	6.1	5.5
1982	7.4	7.7
1983	6.6	6.7
1984	6.0	5.6
1985	6.7	5.9

3. Labor Forces Participation Rate—1980 Census:

	Percent
State	67.4
Weld County	62.9

VI. CONCLUSION

Attached are the resource flexibility provisions (waivers) that need to be addressed for county government to integrate, consolidate, and coordinate the following programs toward the goal of a cost-efficient employment program.

1. Job Service Program
2. Welfare Diversion Program
3. Job Training Partnership Act Program
4. Employment Search
5. Work Supplementation
6. Community Work Experience Program
7. Work Incentive Program
8. Food Stamp Recipient Employment Services
9. Child Care Services
10. Medical Assistance Benefits Expansion
11. Education and Training authorized by Carl Perkins Act and other resources.

(Mr. WIRTH assumed the chair.)

Mr. MOYNIHAN. Mr. President, I rise in an unaccustomed position, and yet I think an important one, to say that I speak for the Governors in this matter, from whom we have been hearing the whole day long with ever-increasing concern and urgency that we not take this one step. They have accepted all the others. Simply, it will not help them do what we want them to do and enable them to do with this legislation.

A few details are necessary. We are talking about requiring the Community Work Experience Program for every State in the Nation now. Twenty-eight States have some bit of this. Only nine States have it statewide. Some other States have it in this county or that county. So we, in effect, would be asking 41 States either to make it statewide or, in the case of 22 States, plus Guam, I believe, and Puerto Rico, to inaugurate it.

Mr. President, it is not for nothing that 22 States have not touched this program and only nine have made it statewide. It is simply not thought to be a very effective program. It began in 1981, and it just has not had much enthusiasm from States of all different kinds.

Particularly, there would be no enthusiasm using this program with respect to two-parent families. This is a term—and I suppose the Senate is by now used to it—this is what we call the AFDC-UP, unemployed parent.

Now, to be unemployed, you had to have had an attachment to the work force. To get into this program you had to have worked in 6 out of the 13 quarters immediately preceding or within a year prior to assistance. You had to have had a year and a half's employment out of three and quarter.

These are persons who almost always, Mr. President—in a big and complex world there are exceptions—but, basically, the unemployed parent program is a form of extended unemployment insurance for the people who need it. In some States it is large; in some States it is small. It fluctuates.

One-quarter of the persons going on the AFDC-UP Program are on for less than 6 months. What these people want is jobs and jobs search is what gets it for them. They do not need job training and they do not need to work off their welfare. They are not on welfare. They turn over very quickly and get on with it.

Mr. President, I do not know a man who has served in this body who is more respected than Henry Bellmon of Oklahoma. He had been Governor of Oklahoma when he came here. When he returned, he chose, after a period of branching, to become Governor again.

He writes this letter to his Senators. I would like to take the opportunity to read Henry Bellmon's words written today from Oklahoma City, addressed to Senator NICKLES and Senator BOREN, individually. He writes to Senator NICKLES:

> DEAR DON: Enactment of the welfare bill now pending Senate floor action would be a major step forward. It is very disturbing to hear that this vital legislation is now in jeopardy due to insistence of the White House that overly ambitious "workforce" requirements be established for two-parent AFDC families.

And he goes on to talk about CWEP. He says:

> This would be counterproductive because it would force States to enroll in CWEP people who could be directly placed in regular jobs, or who need literacy or skills training. It would also produce a lot of administrative headaches and costs.

I might interject to say that Governor Kean of New Jersey this morning said to me, "Please don't do it. The cost would be astronomical to New Jersey. Our problem is not finding work in New Jersey, it is training them."

I go back to former Senator Bellmon, now Governor Bellmon:

> In Oklahoma, we have used CWEP as one component of a comprehensive employment and training program. CWEP has been highly successful with a small fraction of the caseload. It is not the best option for most clients.
>
> Oklahoma's plans for the two-parent component of AFDC include use of CWEP for a large fraction of the families which receive benefits for more than 30 days. We expect to keep our two-parent rolls quite small through aggressive job placement, supplemented by remedial education, training, retraining and CWEP.
>
> States have plenty of incentive to hold down the two-parent rolls, and to use CWEP as a component of a broader job placement and training program. I urge the Senate not to endanger final passage of this urgently-needed legislation by adding unworkable and unreasonable requirements.

Mr. President, that is the judgment of one of the most respected men to serve in this Senate in my time, a former Governor, again Governor of Oklahoma, one of the 49 Governors at the Governors' conference who urged this bill upon us.

Mr. President, in view of this, and with great respect to the Republican leader and the Senator from Colorado, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Chair would note that the motion to table has been made and it would take unanimous consent to debate the motion.

Mr. EVANS. Mr. President, I did not hear that motion made. I ask unanimous consent that I might proceed for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. MOYNIHAN. Mr. President, there is no objection. I very much regret that I might have cut off the Senator from Washington, I did not intend to.

Mr. EVANS. I do think that the Senator from Texas wished to speak on this amendment also.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that we might vitiate the request for the yeas and nays and proceed until we have heard those Senators who wish to be heard.

Mr. ADAMS. Reserving the right to object, the motion to table has been made and I understand the desire and I certainly do not object to the granting of time. But the yeas and nays have been ordered. Perhaps we could get unanimous consent to extend the time for the Senator from Washington for 10 minutes.

Mr. MOYNIHAN. Mr. President, could we ask unanimous consent that the Senator from Washington have 10 minutes?

Mr. EVANS. I will not need that much time, but I appreciate that. Senator GRAMM does want to speak as well.

Mr. MOYNIHAN. May we ask unanimous consent that the Senator from Texas have 10 minutes? Is that agreeable?

I make those requests, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Washington is recognized for not to exceed 10 minutes.

Mr. EVANS. Mr. President, I had hoped we could work out this part of the welfare bill for it seems to me, in the conversations I had, at least, with many of my former colleagues, as Governor and with some of those who have worked hard on this bill in this Chamber, that this might well be the last remaining element that divides the administration and the proponents of this bill. Unfortunately, it appears that we cannot work out that last remaining item, and so this amendment is in front of us.

Mr. President, there are only two fundamental reasons for adding a work requirement from the Federal level on each of the States for this particular part of the Welfare Program. Either you fundamentally believe, as a matter of philosophy, that those who receive welfare benefits just simply ought to work for their benefits, or you believe in a work requirement as being an important element in trying to encourage people back to independence and off the welfare rolls.

Mr. President, if the first is true, then we are being monumentally inconsistent in this Chamber. For there are many other shared programs where Federal money flows to the States for partial support of people in a variety of State institutions. We do not even ask those who are prisoners, for the most part, to pay a portion or all of their board and keep. We do not ask those who are in mental institutions to pay for a portion of their keep. We do not ask those who are in institutions for the developmentally disabled to pay for a part of their keep—at least not in most States. And we certainly have not made it a specific requirement.

So, Mr. President, if this is going to be added to the bill purely on the basis of a philosophy which says you must work in order to receive the benefits, then I would presume those who believe that way should add all of these other elements to the amendment so that we could be consistent in saying that anyone who receives a significant benefit ought to in some fashion pay for that benefit: through work, through cash or in whatever other fashion. That simply is not the way we operate, in most of the States of this Nation at least.

If it is an understandable desire to try to encourage people to get off welfare, to encourage them to work their way back toward independence, then that is a laudable objective. But, Mr. President, I have served as a Governor for a long time and I worked both at the State level and in conjunction with the administration's representatives on welfare reform in the Johnson administration, in the Ford administration, in the Nixon administration—I admit to taking something of a sabbatical leave during the Carter administration—but now from the Federal level we are working on welfare reform in the Reagan administration.

In each of these previous proposals there was some discussion or some element of a work requirement.

As the Senator from New York pointed out, some States now have adopted a work requirement and find it useful. Other States have not. But I would say, Mr. President, that we ought to recognize what it is like on the firing line. We are good at passing laws. We are good at making uniform rules for all the country.

We are not so good in understanding the different kinds of circumstances that exist in each one of our States. We are not very good at understanding the extraordinary complexities that we lay on the poor welfare caseworkers who are on the firing line and have to deal with these restrictions or requirements which we place upon them.

I do not think there is a State in this Nation, nor a Governor of any State in this Nation, who needs an incentive or a requirement in order to help people get off welfare rolls and get back into effective and productive work. Because every single State shares with the Federal Government the costs of those who are drawing welfare. The ratios may vary from State to State. In ours it is approximately 50 percent. So they have equally the incentive that we might have in order to reduce the costs of welfare. They need no other incentive.

Many Governors have worked hard to produce what they believe is the best combination of work, of training, of education—whatever combination works best in helping to move these people toward independence and off the welfare rolls.

So, Mr. President, even though I had hoped very much that we could reach some kind of agreement, agreement that would bring the administration and the Congress together in what could be a historic move forward in welfare reform, apparently that is not to be. If the alternative is the particular work requirement that is laid before us in the amendment of the Senator from Colorado, I believe that it is not in the best interests of this bill nor in the best interests of the country and I will join those who would table this particular amendment.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Texas.

Mr. GRAMM. Mr. President, I want to begin by thanking our dear colleague from New York, the leader on this measure, for the time he spent with those who had concerns about it, trying to work out an accommodation. I do not have any doubt about the fact that this bill is better today than it was a week ago. I also want to thank my colleague from Texas, Senator BENTSEN, for engaging in that same activity.

We are down to an impasse over a very small number of issues, but I think they are fundamentally important issues, and I support this amendment. I have joined as a cosponsor of this amendment because I think it is fundamentally important.

I hear our colleague from Washington State talking about incentives Governors have because they are spending money. If Governors were spending their own money on welfare, I would not think this amendment would be required. But, of course, we all know the fellow who pays for all these programs is the guy that does the work and pays the taxes and pulls the wagon in every State in the Union and all over the Nation.

Mr. President, this is not a John Smith provision. This is not a provision that would take us back to Jamestown, that says those who do not work will not eat.

This provision is about as soft in terms of requirement, soft in terms of imposing potential hardship as I can imagine. It applies to a very small set of people. It applies basically to people who are going to be enfranchised by this bill, who are going to become recipients of the benefits of the public purse. They are two-parent families, in which you are requiring only one parent to participate in an approval work experience, and you are requiring that they work for only 16 hours a week. Mr. President, it seems to me that most Americans would subscribe to the opinion that people who are receiving public benefits ought to be working on behalf of the public, they ought to be going to school or be engaged in training, or they ought to be out looking for a job.

This amendment is a far cry from those basic standards which I believe the great majority of the American people would apply to the welfare program. It simply says for those new people who are going to become entitled as a result of this bill, that these people should be required to work a minimum number of hours, 16 hours a week.

Mr. President, I do not see that as cruel and inhuman punishment, since the people paying for these programs are working several times 16 hours a week. Also, I do not buy the idea that work, even relatively menial work, is not of value. The plain truth is there are a lot of people in this country who have trouble holding jobs because they cannot get to work on time; because they cannot or do not want to fit into the regimentation that most persons find to be commonplace and necessary.

Finally, I am not willing to say that there are not a few souls out there that, if they had to work 16 hours a week to get their welfare, might decide: If I have got to work 16 hours a week to get my welfare, maybe I will work 40 hours a week and have more money, accumulate skills, and become part of the mainstream of America.

So I think it is true to say that this amendment is about a principle. The number of people involved is pretty small. The amount of work to be done is relatively insignificant, but the principle is vitally important. And that is: Should we ask a minimum of effort of those who are riding in the wagon when so much effort is being asked of those who are pulling the wagon?

I think this is a vitally important amendment. I think this amendment would give the Senate a unity of purpose. I think this amendment would probably be sufficient to at least make a strong effort to get the President to sign the bill. I am sorry that having come so far in terms of building a consensus that we could not get over this last hurdle.

I want to thank our colleagues on both sides of the aisle who have worked to try to make this a consensus bill. I hope we can adopt this amendment. I do not suffer delusions about the difficulty of doing that. I think it is reasonable, I think it represents prudent policy, and I think the American people are strongly in favor of it. I hope my colleagues will adopt it. I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, it is with both pleasure and concern that I rise today to support S. 1511, the Family Security Act of 1988. Over my years in the U.S. Senate we have considered many welfare reform bills, and I am pleased that we are finally getting ready to pass changes designed to reduce welfare dependency.

I congratulate my good friend from New York for his vigorous efforts to focus our attention on this matter and for bringing us this bill.

Yet, I am concerned that while some have called this bill "welfare reform," that label may not be appropriate. This bill has only relatively modest "reforms," and has as perhaps its most significant change welfare expansion.

America's welfare system has become, over the years, a patchwork of programs designed to ensure that Americans have access to a basic level of income, food, and medical care. Our humane endeavor to reduce the hardships of poverty has brought us to the point where we now spend tens of billions of dollars a year to help the poor.

Only recently, however, has our welfare policy attention really turned to finding ways to encourage self-sufficiency among welfare recipients. The recognition of long-term dependency as a problem our welfare policy must address marks the advent of a significant change in welfare policy—that "welfare reform" represents both changes to reduce dependency, as well as making improvements in benefit delivery.

Let me say that I believe the bill we have before us today does take some initial steps toward real "reform" of the American welfare system.

I would like to mention a few aspects of this bill that I believe move in the right direction. The first significant provision addresses an area that is strongly linked to eliminating welfare dependency: Helping assure that absent fathers take care of their responsibilities to their families.

I am pleased that this bill includes provisions to strengthen Federal child support enforcement standards. The bill will require employers to withhold court-ordered child support payments from the absent parent's paycheck for all new and modified support orders administered by the State welfare agency. In addition, the bill takes steps designed to improve the adequacy of child support awards and paternity establishment.

Let me mention that my State of New Mexico has already adopted laws similar to these. New Mexico has in place a program whereby income tax refunds can be intercepted to collect due child support payments of absent fathers.

In New Mexico's last legislative session, laws were passed that will increase the number of child support hearing officers in the State to expedite adjudication of child support claims. A measure was also adopted that would establish mandatory support standards for child support judgements.

These measures will do much to improve the adequacy of support that absent fathers give to their children. I am pleased that we are adopting similar provisions here on the Federal level.

A second aspect of this legislation I believe is needed is an emphasis on providing job training for welfare recipients through the Job Opportunities and Basic Skills, JOBS, Program. This bill replaces the current work incentives, WIN, Program with an expanded education and job training entitlement for AFDC recipients.

Mr. President, as you know, the States have really led the way in recent years with regard to job training for welfare recipients. My own State of New Mexico, for example, recently implemented an expanded Job Search and Training Program for welfare and food stamp recipients. This program, dubbed project forward, emphasizes contact with local employers and, where appropriate, skill training and development.

I am pleased that the work program authorized in this bill would attempt to target at least some of this help on those experiencing long-term dependency. It is with this group of welfare recipients for whom job training and work experience is desperately needed, and where attention to reducing dependency must be focused.

Mr. President, while this bill makes several reforms that I am pleased to support, I must say that there are aspects of the committee reported bill that concern me, many of which have been addressed by the new committee amendment.

An issue of particular concern to my State of New Mexico would require all States to extend cash benefits to two-parent, AFDC families where the principal wage earner is unemployed. Under current law, it is up to the States to decide whether or not to provide this coverage.

I fully understand, Mr. President, that many families may face very difficult unemployment circumstances, and some kind of support for an unemployed parent is often very much needed. Indeed, that is why we provide unemployment insurance benefits.

Yet, the real question here is whether such a program of long-term welfare payments to able-bodied principal earners should be mandated on the States. This policy would require New Mexico to add nearly 3,000 new cases to its AFDC roles.

When dealing with scarce dollars for their welfare programs—and in designing the best set of programs to bring about self-sufficiency among their low income populatons—States such as New Mexico ought to have the opportunity to spend their extra dollars in other ways, if they have a greater need.

A second area of concern for me were provisions of the new Job Training Program. While moving in the right direction, certain aspects had the potential, I believe, to seriously reduce its effectiveness.

First, I believe it may be necessary to require certain participation standards for the program—ensuring that States enroll some minimum percentage of welfare recipients in the Job Training Program. Given our experience with the current Work Incentives Program, WIN, Program, such standards may be necessary to assure effectiveness. I am glad the committee amendment will implement these standards.

In addition, the bill included a provision prohibiting States from requiring participants to accept a job if it would result in a net loss of income—including cash, food stamps, and Medicaid. Currently, such a requirement applies only to the value of the cash benefits. I fear that requiring replacement of such a large set of benefits could function as a significant barrier to moving recipients into the working world and away from welfare dependency.

Again, the committee amendment has taken care of this concern by deleting this provision.

I would like to make one last observation, Mr. President, and that is with concern to benefit expansions to be granted in this bill to recipients taking jobs and leaving the welfare rolls.

As transitional benefits, this bill would require States to provide child care benefits for 9 months, Medicaid eligibility for 6 months, and Medicaid eligibility with a premium payment for an additional 6 months for recipients who have incomes below 185 percent of the poverty level.

This is a very significant set of provisions since these newly created entitlements are not capped. While I appreciate the goal of these programs to provide incentives to move off welfare, I am concerned that the overall cost of these benefits could be very high if they are kept as an open-ended entitlement.

In addition, it is not clear that such benefits are effective or essential. We do not have good long-term research on this issue. I am glad that the committee amendment would authorize these new benefits only for the next 5 years, and calls for the U.S. Department of Health and Human Services to study these transition provisions.

Let me say that while most of the significant changes in this bill represent welfare expansion, rather than welfare reform, I will support this bill. I applaud the efforts of the Finance Committee in putting together this package, and for including positive steps that will work to reduce welfare dependency.

I also applaud the efforts of the Finance Committee at putting together this compromise amendment—helping craft language that makes significant improvements, and which would significantly help this measure become law.

Yes, this bill may represent more of a welfare expansion than of reform. However, in my mind, the expansion made in this bill would be of far greater help to the poor, and far less costly to society, than other ideas that have been offered to serve the poor—such as increasing the minimum wage and mandating employee benefits.

Parliamentary inquiry, Mr. President. I have an amendment that I understand the managers are going to accept. Is it in order, or must I ask unanimous consent that the pending amendment be temporarily set aside?

The PRESIDING OFFICER. It will take unanimous consent to do that.

Mr. DOMENICI. I make such a request, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. ADAMS. Mr. President, reserving the right to object, there will be an opportunity. I understand there is a motion to table, I say to the Senator from New Mexico. I did not object to the 10 minutes for each party. I understand there will be a period of time after. There is no time limit. Right now there is a motion to table that is pending, and the yeas and nays have been ordered.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. May I say to the Senator from Washington, it is our hope we might dispose of two amendments that will be accepted, and then we can go to the motion to table and then final passage.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

AMENDMENT NO. 2393

(Purpose: To add demonstration projects to test the use of computer "benefit" credit cards)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 2393.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 268, between lines 15 and 16, insert the following new section:

SECTION 509. DEMONSTRATION PROJECTS FOR DEVELOPMENT AND USE OF COMPUTER "CREDIT" BENEFIT CARD TECHNOLOGY IN MAKING BENEFIT PAYMENTS.

(a) IN GENERAL.—Section 1115 of the Social Security Act (42 U.S.C. 1315), as amended by sections 502 and 503 of this Act, is further amended by adding at the end thereof the following new subsection:

"(f)(1) In order to encourage States to plan, design, develop, and implement a system for making benefit payments through use of intelligent 'benefit credit' cards (using computer chip design), any State may establish and conduct a demonstration project under this subsection designed to test whether the use of such a system with respect to either of the programs under titles IV and XIX can enhance the efficiency and effectiveness of program operations while ensuring that individuals receive correct benefit amounts on a timely basis. The benefit credit card developed under any such demonstration project shall contain information, encoded on a computer chip embedded in or on the card, concerning the eligibility of the individual for benefits or services and the amount of benefits or value of services to which such individual is entitled. Such card would be used by an eligible individual to obtain benefits or services, on a monthly basis, from any entity qualified (with repect to the particular program involved) to provide such benefits.

"(2) The Secretary may make grants or award contracts to (or enter into cooperative agreements with) States to assist in financing the demonstration projects under this subsection.

"(3) Demonstration projects under this subsection shall meet such conditions and requirements as the Secretary shall prescribe. Projects shall be designed to maintain the accuracy with which a State provides benefit amounts. Each project shall be conducted for a period of at least one year but in no event may be conducted for a period of more than three years.

(b) Effective Date.—The amendment made by subsection (a) shall become effective on October 1, 1988.

Mr. DOMENICI. Mr. President, it has come to me as I look at our country and see us strive mightily to increase our productiveness that we are quickly reaching a point in our economic history when it is tremendously important that we make productivity gains in the service industries. Some may think that I am talking about making hamburgers cheaper. I am not talking about that. I am talking about the health delivery system and the education system—those very large systems that are service systems in our country.

As a matter of fact, I can predict, at least for myself, with absolute certainty that within the next 10 to 15 years, those are the areas in which the United States is going to have to make some significant productivity gains or we are going to stop increasing our productivity which has been rather dramatically affected in the last 5 or 6 years in a positive way.

Having said that, I include in these remarks, with reference to increasing our productivity in services and delivery systems, that we increase our productivity in the way we manage our social welfare caseload and the management of the day-to-day affairs of programs under the rubric of welfare.

This amendment is a very simple amendment that permits a State to enter into agreements such that they be permitted to experiment with new benefit cards, which I will call intelligent benefit cards; some will call them "smart cards."

What it really means is that the development of the computer chip, tied into appropriate programming, is reaching a state of development where it might be feasible that within certain locales in our country, a welfare recipient would carry a smart card. That smart card would be totally coded and programmed for their entitlement. They would no longer, once they have that card, subject to reasonable rules and regulations, they would not have to bother with such things as filling out individual Medicaid forms, making sure that they have, indeed, not exceeded their entitlement. It might even be it can be a substitute for food stamps in the sense that the benefit amount might be imprinted in these smart computer chips and the recipient may, indeed, at least in the pilot area, be able to use the smart card.

Encapsulated in my amendment is the mandate that these kind of pilots not be considered unless we have the technical capability to imprint the benefits themselves, within the smart card so that we have no fear that our laws would not be followed.

Those smart chips, computer chips in the smart benefit card would, indeed, be so codified that they would give you the benefit and no more. They would be personal, and there would be ways of making sure that they were used only by the beneficiary.

Fifteen years ago this might have sounded like Buck Rogers did before the space program, but this is going to come. Most of the improvements in delivery systems have come in our States. The Senator from New Mexico would just like this to be in our substantive law as an opportunity for our States to experiment with the evolution of this kind of technology in the delivery system.

I believe it has merit and, as I understand it, since it is only permissive, it clearly will not have an additional cost. It seems to the Senator from New Mexico that it is a good idea. I hope it will be adopted.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. This is a good idea, and we are happy to accept the amendment.

The PRESIDING OFFICER. Is there further discussion of the amendment?

Mr. DOMENICI. Mr. President, we hear every day that technological advances, particularly those in the computer area, hold much promise for our Nation's future economic growth and competitive posture in the world.

We also know that one very important key to our economic vitality over the next decade is our ability to improve our productivity as a nation, in particular in service concerns, health care, education, and government activities.

Today I am proposing an amendment which would encourage the States to use new advanced computer technology to provide benefits more efficiently and effectively, and to improve the overall productivity of human service operations.

This amendment would provide for a demonstration program to encourage the use of SMART credit cards in payment of AFDC benefits and Medicaid claims.

The card would carry information on a computer chip, embedded within a credit card media, on the eligibility of the individual and the amount of benefits or services to which he is entitled.

The card would be used by an eligible individual to obtain benefits or services, on a monthly basis, from a qualified provider.

Mr. President, this technology has been evolving over the last few years. It began in France early in this decade, and Japan is well along the way to adopting SMART cards.

Experimentation with this technology has begun slowly in this country. Master-card and Visa have recently signed agreements with research firms to design and test these types of cards for travel and financial services.

The applications of this 64K reprogrammable memory chip embedded in a plastic card are being seen in a number of areas. These include medical services at the Methodist Hospital's Institute of Preventive Medicine and the Baylor College of Medicine in Texas, educational services at the Robert Morris College in Chicago; home health care in Princeton, and insurance in Hartford, CT.

The amendment would authorize a demonstration of such technology in several States, with thorough protections to ensure that individuals obtain correct benefit or service amounts on a timely basis.

These cards have the potential to pare back a whole layer of administrative operations related to writing, mailing, and processing welfare checks and the processing of Medicaid claims. The card could also be coordinated with other programs, such as food stamps.

I want to make absolutely clear that this amendment would in no way change the amount of benefits or services that individuals receive. It would not make more people eligible or fewer people eligible. It will simply demonstrate ways to make the payment process more efficient.

Mr. President, this technology has been developing for some time. Though some initial steps have been taken, the use of such cards has not been implemented vigorously in the human services area. It is time to move forward in applying our technological prowess to the delivery of services to our low income population. It is time we determine whether this technology can work in the public sector.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2393) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent we set aside the vote that has been ordered on the Dole amendment to consider the Durenberger amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I regret very much to say—that Senator Durenberger, who is necessarily absent and explained to us earlier today he would have to be away—that we were unable to accept a number of useful and helpful amendments he offered. An amendment which he and the distinguished Senator from Iowa [Mr. GRASSLEY] offered did raise questions of whether costs would be involved.

The CBO now tells us that there will be costs. They have not been able to fully compute them, but under the circumstances, with regret I have to move to table the amendment with the understanding we will bring it back at the earliest opportunity when we know what the amount of money involved is and when we have a vehicle. I do not want to do that until the distinguished Republican leader indicates this is his understanding.

Mr. DOLE. Will the Senator yield? That is precisely what happened. I think Senator DURENBERGER left with that understanding that if there were costs involved or we could not complete it in time, he did not want to hold up the bill. He strongly supports the bill. I think at this point there is no other recourse.

Mr. MOYNIHAN. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion to lay on the table amendment No. 2387 was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, for what I believe will be our last bit of substantive business on this bill—thank God the majority leader is at hand—the Senator from Washington has two amendments which I think he would like to offer and I know we wish to accept.

The PRESIDING OFFICER. Without objection then the Dole amendment will remain set aside.

Mr. EVANS. Mr. President, I rise today in support of S. 1511, the Family Security Act of 1988. Reform of our important welfare system is long overdue. Welfare programs across the nation are failing to help our poor families and their children. It is time for current rhetoric expressing the importance of family policy and the need for welfare reform to become reality. Hard-core poverty and long-term unemployment continue to haunt millions of Americans. For too long our war against poverty has been poorly fought and the time has come for Congress to develop the necessary tools to provide assistance to those trapped in this bitter struggle.

Today one in four of our children are born in poverty. Our Nation's youth are the backbone of our future—and a country is only as strong as its citizens—we must begin to eliminate the growing numbers of those living in poverty with little hope of moving ahead.

I was an original cosponsor of S. 1511. My distinguished colleague from New York, Senator MOYNIHAN has developed a sound legislative package that would do much to repair the gaping holes in the Federal safety net. He deserves much of the credit for returning this issue to the force of domestic policy debate.

For welfare reform to be a success, we must address the current needs of our children and establish a method to lift people from poverty. We must help them enter the labor market and become self-sufficient. I believe S. 1511 accomplishes this. It is a step in the right direction, responding to these needs and establishing a viable means to aid our poor.

S. 1511 emphasizes parental responsibilities through its child support enforcement provision. It is high time the States establish guidelines for collecting child support. Absent fathers should be responsible for child support payments and this legislation will enforce collection of not only present debts but amounts accumulated from the past.

S. 1511 establishes a method to begin lifting the poor out of poverty. Through replacement of the Work Incentive [WIN] Program with the new JOBS Program, S. 1511 would allow States to provide a broad array of education, employment, and training activities. If implemented correctly these programs will help welfare recipients move from a state of dependency to employment.

I strongly endorse the major elements of this package, many of which are similar to the provisions included in legislation I introduced calling for comprehensive reform of our Federal-State partnership. That measure emphasizes assisting children living in poverty and breaking the generational reliance on public assistance. Most important, it seeks to eliminate those Federal policies which destroy the family. Achieving these goals must be our first priority.

S. 1511 contains a number of provisions which are aimed at these objectives. The legislation, for example, requires all states to join the 26 states already participating in the AFDC-Unemployed Parent Program. The current AFDC Program encourages the separation of parents in order to qualify for benefits. There are some very clear statistics indicating that when a family is desperate and living in a State which has no Unemployed Parent Program the only viable alternative is simply to split up. Invariably, the mother and the children qualify for AFDC while the father leaves the home.

The actual statistics are astounding. My own State of Washington discontinued its AFDC/UP Program in February 1981. In the next 17 months 38 percent of former AFDC-UP families became eligible for regular AFDC benefits, in most instances, because there were no longer two parents in the home. This result is not unique to Washington State. In Missouri, State administrators found that 27 percent of AFDC/UP cases closed after suspension of the program in 1981 were reopened as regular AFDC cases during the next 14 months. I think that is bad social policy. Ultimately, it is going to be costly and the chances of the family regaining economic independence are seriously reduced. It makes no sense for us to have a program which requires a family to be split up before they can receive help when they're poor. The AFDC Program is antifamily and must be changed.

My support for this legislation does not preclude my desire to see it improved in several areas. First, I am disappointed that it does not address the serious short-comings of our existing Federal quality control system used to monitor welfare programs such as AFDC. Second, it does not address the fundamental question of the existing state of our intergovernmental partnership. That relationship is critical to the effective operation of the the new work and training intensive programs contemplated in S. 1511.

During consideration of the 1985 Reconciliation Act, the Senate Finance Committee adopted provisions of legislation I had introduced earlier that year calling for a comprehensive study of the AFDC quality control system. It also placed a 2-year moratorium on the collection of penalties. The committee not only adopted my proposal, but expanded it to include Medicaid. By this action, Congress recognized that there were serious flaws in the existing quality control systems for Federal income assistance programs. Congress called into question the validity of statistical procedures used to measure state performance. We agreed that the purpose of quality control was not to raise Federal revenues or shift program costs from Federal to State budget—or to reduce administrative resources which ironically will result in higher program errors in the future. The purpose of quality control is to provide States with an effective management tool so that program administration can be as cost-efficient as possible. During the Finance Committee's deliberations on S. 1511, I testified to the importance of addressing quality control reform within the context of welfare reform. The two issues logically cannot be separated. In particular, we are asking States to implement a new and more comprehensive AFDC Program without giving them the resources to administer this program efficiently.

Mr. President, let me remind my colleagues of the sobering statistics. In 1984, alone, 45 States exceeded the statutory tolerance level of 3 percent. From fiscal year 1981 to 1984, a total of $597 million in penalties is pending against the States. This figure is expected to reach nearly $1 billion when penalties are calculated through fiscal year 1988. After 4 years of official sanctions, all but two States have received a sanction for their error rates in the AFDC Program. If Congress fails to reform this draconian system, States will not have the resources necessary to implement the new AFDC system called for in S. 1511. That is why I am prepared to offer an amendment implementing the quality control reforms recommended recently by the National Academy of Sciences. This amendment is similar to legislation I introduced earlier today calling for comprehensive reform of the AFDC quality control system. An effective quality control system is critical to the sound operation of the new programs we will implement under S. 1511 and this issue must be a part of our deliberations on this legislation.

The shortcomings in our existing quality control system are really symptomatic of the much larger problem: the irrational and illogical nature of our intergovernmental relationships. I also testified before the Finance Committee on the importance of including this issue in any effort to reform our welfare system.

In 1984, the Committee on Federalism and National Purpose was convened under the auspices of the National Conference on Social Welfare's project on the Federal Social Role. I had the privilege of cochairing with Governor Robb, this committee which was comprised of representatives from all levels of government, having broad and diverse viewpoints. The committee issued a report on federalism which represents a bipartisan and well-reasoned plan to renovate our system of government. I intend to offer an amendment calling upon CBO to make recommendations to Congress on how we can take the initial steps to implement this comprehensive and necessary proposal.

We found that in addition to the nonsensical organization of Federal-State relationships, there was a fundamental lack of trust among various levels of government. Both symptoms have led to excessive regulations, duplication of efforts and a convoluted division of responsibilities. Instead of recognizing the new and advanced capabilities of State and local governments to administer programs requiring individualized services, the Federal Government has maintained a heavy and burdensome presence.

The appropriate role for a Federal Government is to maintain a commitment to fundamental needs requiring national uniformity. At the same time, it should relinquish control of responsibilities best executed by the States. In pursuit of this goal, the committee made several recommendations to improve the effectiveness of Federal welfare programs. I would like to review them briefly.

The consequences of an illogical intergovernmental structure are readily apparent in our present welfare system. The growing economic vulnerability of the poor is aided in large part by the unfairness of our income support programs. The current inequities in AFDC are disgraceful. In January 1987, the maximum AFDC grant for a family of three was $560 in California and $120 in Alabama. To be poor and hungry in New York, however, is not much different than being poor and hungry in Mississippi, Maine, or Missouri. In some States, eligibility ends when family income exceeds 49 percent of poverty level income. Yet, in other States, it extends to families with incomes equal to or above the poverty threshold.

To eliminate these benefit inequities, the committee recommended that the Federal Government establish national minimum benefit levels and eligibility standards for the AFDC and Medicaid Programs. A national benefit floor should be established and maintained for AFDC and food stamps which is between 75 and 90 percent of poverty-level income.

The committee also recommended that the Federal Government assume full policy responsibility for AFDC and Medicaid as well as 90 percent of the financial responsibility of the minimum benefit levels. States should maintain administrative responsibility for these programs. In addition, more emphasis should be placed on State administration of employment programs supporting AFDC by expanding education, training, and placement activities. The welfare system, to the maximum extent possible, should be a jobs system.

While the Federal Government assumes greater policy and financial responsibility for AFDC and Medicaid, it should devolve other areas to State and local government which is an essential element in this new partnership. I am reminded of Alexis de Tocqueville's observation of the dire consequences of, "combining centralized government with that of centralized administration; uniting the habit of executing its commands to the right of commanding; and establishing the general principles of government and descending to the details of their application * * * freedom would soon be banished from the New World."

Specifically, States and localities should assume full financial, policy and administrative responsibility for many community development, local infrastructure, and social service programs. Thus, the more than 200 remaining intergovernmental programs funded by the Federal Government at less than $100 million either should be consolidated into block grants or absorbed into existing programs. The remaining shared programs should be directed more toward localities with the most needy. To accomplish better targeting of resources, more reliance should be placed on States. A relationship with greater dependence on States will foster more trust. Thus, we should use incentives rather than sanctions to hold States and localities accountable for program administration.

In order for States to meet their present and future service obligations, the Federal Government should provide general support grants targeted to States with low fiscal capacity. Until the effects of devolution can be assessed adequately, a transitional Federal assistance program should be established and administered by States for localities with the least fiscal capacity.

Mr. President, I believe our long-term focus should be on developing major proposals for a greater Federal role in AFDC and Medicaid. The key element in this effort is to provide for a tradeoff between Federal and State governments that is both fair and revenue neutral. In some areas, it may be possible to have more than a $1 for $1 tradeoff; for example, for every $10 the Federal Government relinquished, States may be able to pick up $12 or $13. The primary financing method for devolution would be the fiscal dividend gained from federalization of welfare programs. My amendment would provide us with information for a financing mechanism necessary to revitalize the Federal-State partnership.

In conclusion Mr. President, I strongly support S. 1511. I also believe we can make it a better proposal. It is an important first step in building a strong and secure safety net for all our citizens. We must begin the important task of sorting out and returning to State and local governments, programs they can operate more efficiently and more effectively. In the long run, a secure safety net program can be achieved by gradually terminating Federal responsibility for a variety of intergovernmental programs than can be operated better by State or local governments.

AMENDMENT NO. 2394

(Purpose: To provide for a moratorium on the collection of fiscal penalties under the Aid to Families with Dependent Children Program, and for other purposes)

Mr. EVANS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS] proposes an amendment numbered 2394.

Mr. EVANS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

"SEC. . QUALITY CONTROL PENALTY MORATORIUM

"Section 12301 of the Consolidated Omnibus Reconciliation Act of 1985 is amended in subparagraph (b)(1) by striking out the words "the 24 month period" and inserting in lieu thereof "the 36 month period".

Mr. EVANS. Mr. President, this amendment would extend the current moratorium on the collection of penalties or sanctions on error rates in the AFDC Program until the end of this fiscal year.

I have for the last 2 years urged that we embark on a program to devise a new, a better, and more appropriate system for error rates and sanctions in all of our welfare programs. This Senate on numerous occasions has agreed to previous sanctions and has agreed to the study which has now been concluded.

The National Academy of Sciences has sent forth a comprehensive proposal. That comprehensive proposal has been translated into a bill which was introduced by me today. I urge strongly and hope that the Finance Committee would hold urgent or early hearings on this bill of correction so that before the end of this fiscal year we could have in place a new, modern system of calculating error rates and assigning incentives and sanctions for those States that did both an extra good job or an extra poor job.

This amendment would merely ensure that we not attempt to apply sanctions under the old system prior to the end of this fiscal year. I urge its adoption.

I ask the Senator from New York as a distinguished member of the Finance Committee if we could seek early hearings on the National Academy of Sciences bill and hope that we would be able to either move it on its own or add it at some time this session to an appropriate piece of legislation.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I first congratulate and thank the Senator from Washington for his diligence in the Robb-Evans proposals. We think them to be of great importance. We will certainly seek hearings. I would say we will seek them and we will find them. How complete the cycle might be the remainder of the Congress we do not know, but the answer is yes, and I would like to say on behalf of this side of the aisle we accept this amendment and hope it will be approved.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2394) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EVANS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2395

(Purpose: To require the Congressional Budget Office to study the implementation of a national minimum payment standard under the Child Support Supplement Program)

Mr. EVANS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Washington [Mr. EVANS] proposes an amendment numbered 2395.

Mr. EVANS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 240, after line 20, insert the following new section:

SEC. 403A. CBO STUDY ON IMPLEMENTATION OF NATIONAL MINIMUM PAYMENT STANDARD.

(a) IN GENERAL.—The Congressional Budget Office shall conduct a study on the implementation of the amendments proposed by section 101 of the Partnership Act of 1987 (relating to the requirement of a minimum payment standard under part A of title IV of the Social Security Act with a federal matching rate of 90 percent).

(b) DESCRIPTION OF STUDY.—The study conducted under subsection (a) shall assess the extent to which—

(1) the goal of budget neutrality may be preserved by repealing the programs included in, but not limited to, the programs described in the amendments proposed by section 301 of the Partnership Act of 1987 over a more gradual period of time in conjunction with corresponding increases (up to 90 percent) in the federal matching rates under part A of title IV and title XIX of the Social Security Act; and

(2) the effects on local governments of repealing federal programs could be mitigated by providing, over a period of time that corresponds with more gradual increases in the federal matching rates under part A and title XIX, general revenue supplements to those localities with the lowest levels of fiscal capacity and pass throughs to units of local government.

(c) REPORT TO CONGRESS.—The Congressional Budget Office shall report on the results of the study conducted under this section not later than twelve months after the date of enactment of this Act.

Mr. EVANS. Mr. President, 2 years ago I had the privilege to chair a commission with former Governor Robb of Virginia. That commission ended up in a report to the Committee on Federalism and National Purpose. The report was entitled "To Form a More Perfect Union." I was very proud of that report because we started with a commission whose philosophies and backgrounds covered the entire spectrum of American politics. I thought we would be involved in a very interesting and educational and rather exciting exchange of ideas but that there would be little hope we would come together on a comprehensive program that could be adopted by these widely disparate members.

Mr. President, we did come together. We did reach agreement and we did present what I think is a comprehensive and cohesive proposal for the way in which we ought to approach the distribution of responsibilities in our federal system.

Mr. President, I said earlier that I have worked on welfare reform from the gubernatorial viewpoint from the Johnson administration forward and now the privilege to work on it from this particular viewpoint. Always in the past the concern has been to shuck the responsibilities for welfare off on the States and the local communities, and we just did not want to take any real part in it.

We began this study by trying to analyze what legitimately were national as opposed to State or regional or local responsibilities.

It seemed to us, and it seems to me now, Mr. President, that the single most important national domestic responsibility is to ensure that there is a responsible safety net for those people least capable of taking care of their own needs. It is not just welfare. It is the wide variety of programs which ought to be important for us to determine, important for us because it is incomprehensible to me how a family in one State of identical or similar circumstances to a family in another State can receive up to 5 times the benefits as the citizen of the other State. We ought to work toward a more uniform and a more national system, and that was the end result of this comprehensive report.

In order to ensure that it did not break the fiscal back of the Federal Government, this commission also determined that there were a number of programs now on the Federal level which could and should be devolved back to States and local communities and that we could devise a program that would sort out responsibilities in our federal system, do it in a reasonably revenue neutral way, and in doing so really create a national safety net which we have been striving for the better part of 200 years.

Mr. President, this amendment merely asks that the Congressional Budget Office be commissioned to engage in a study based on the bill which was introduced last year coming from this report, and through that study to try to determine how feasible it is to build on the major step we are about to take and move toward successively broadened and a more uniform national safety net and at the same time devolve other programs so that we could do so in a fiscally responsible way.

Mr. President, I believe that this study would be an exceedingly important and interesting and useful addition to what is now being done and may well give us the framework, the map, if you will, for the next several stages in what I believe must be a continuing Welfare Reform Program.

Mr. MOYNIHAN. Mr. President, I once again congratulate the distinguished and able Senator from Washington for this proposal, for his work on that commission. It is my understanding—I wish he would confirm it—that there will be no additional cost for the CBO study. It will be carried out of CBO funds that are available.

Mr. EVANS. Yes.

Mr. MOYNIHAN. And neither this amendment nor the previous one anticipate any additional cost.

Mr. EVANS. That is correct.

Mr. MOYNIHAN. With that understanding, which we are bound by, I state that we are happy to accept this amendment, and we hope it will be approved.

The PRESIDING OFFICER. Is there further debate?

Mr. EVANS. Mr. President, I ask unanimous consent to have printed in the RECORD pages 3 through 27 and 41 through 52 of this report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TO FORM A MORE PERFECT UNION

THE REPORT OF THE COMMITTEE ON FEDERALISM AND NATIONAL PURPOSE

(Daniel J. Evans and Charles S. Robb, Chairmen)

THE CHALLENGE FOR FEDERALISM

American federalism is behind the times. It is out of step with the realities that face our nation today. The national government is involved too little where it is uniquely equipped to perform well, and too much where states and localities could do the job better.

This country's system of federalism was created "to form a more perfect union." The United States has never accepted the idea that national purposes can be achieved only by its national government. Instead, our political system entrusts responsibility for many nationwide concerns to states and localities or to all three levels of government acting together.

To function successfully, such a system must be flexible. American federalism has proved durable and effective because it has undergone a continuing evolution. During most of this century that evolution has been toward both the assumption of greater responsibilities by the federal government and the creation of a greater number of shared programs in which two or more levels of government participate.

For the most part, these developments have taken place for good reasons, and the nation has benefited greatly. At the federal level, counter-cyclical fiscal and monetary policy and programs of income support for the elderly have created a large measure of economic security for the country as a whole. Intergovernmental community development, infrastructural and welfare programs have improved the lives of millions.

This arrangement of governmental responsibilities has accomplished a great deal, but "to form a more perfect union," much more needs to be done.

Many important domestic problems are still not adequately addressed. Among these are the problems of hard-core poverty, long-term unemployment and increasing numbers of children reared in single-parent families. The nation is also troubled by inadequacies in its educational system, the decay of many central cities and continuing problems of equal opportunity and crime. Maintaining and improving our transportation network and other physical infrastructure and protecting the quality of our environment also continue to be pressing national needs.

Looking to the future, we should be preparing to support a large elderly population and to adjust to the dislocations that foreign competition and changes in the structure of our economy have already begun to create. We should also be anticipating the needs of a work force that in the future will be relatively smaller and composed of a larger percentage of women and members of minority groups.

The failure of the United States to come to grips with these and other domestic problems is partly a failure of specific policies. But the nation is unlikely to find and implement new policies unless we realize that our failure to resolve social problems is in large part a failure of the intergovernmental system as well. The growth of federal responsibility and of shared programs that have made so many of our past accomplishments possible has also created obstacles to further progress.

The intergovernmental system has become far too tangled and complex.

The efficiency, responsiveness and initiative of all levels of government have been blunted. Even with recent changes, there are too many shared programs—currently more than 300, totaling over $100 billion in federal expenditures.

The federal government has taken on an unmanageable burden of responsibility, while the abilities of states and localities are not being properly utilized.

There are too many layers of regulation and red tape, and there is too much emphasis on punitive sanctions rather than on incentives to do a good job.

Most important, this system has resulted in programs that fail to make adequate and equitable provision for our citizens' most basic needs. For example:

The two major intergovernmental welfare programs (Aid to Families with Dependent Children and Medicaid) vary enormously in different parts of the country. AFDC benefits are five times as high in some states as in others, and in many states provide under 60 percent of poverty-level income, even when combined with the cash value of food stamps.

Inadequate effort is made to help welfare recipients become self-sufficient through work.

The Medicaid program encourages the use of expensive hospitalization and nursing homes rather than less expensive and more humane community-based services to provide long-term care.

Attempts to manage some shared community development, local infrastructure and social service programs by "remote control" from Washington too often create bureaucratic duplication, inefficiency, waste and delay in meeting essential needs.

Sanctions built into some intergovernmental programs often punish the public more than the program administrators they are intended to control.

Our tangled web of government was created in part because states and localities were deemed unable or unwilling to tackle many social problems. This is far less true today.

Most states have developed a high quality of leadership and administrative capability. Reapportioned legislatures, updated constitutions and more powerful revenue systems have had a dramatic impact. Many states have shown tremendous capacity for innovation in education, economic development, controlling health care costs and other fields. Moreover, the efforts of states to cushion the effects of recent federal budget cuts strongly suggest that key national priorities are embedded in their political culture.

Limited fiscal capacity, however, still handicaps some states, central cities and distressed rural areas. Because their economies are less prosperous, they are unable to raise the revenues needed to support levels of service that are possible for more affluent jurisdictions. This imbalance should be corrected.

The key to the future of federalism rests with our ability to build an intergovernmental system that draws on the best of each level of government, and at the same time reduces or eliminates needless government regulations. States and localities must take on greater responsibility for many programs that are currently shared; other shared programs must become more completely the responsibility of the federal government.

In an environment of high federal deficits, systematic change may seem difficult to accomplish. But fiscal pressures on the federal government make a planned and thoughtful evolution of the federal system all the more important. A greater separation of responsibilities among levels of government would be essential under any circumstances; it is imperative at a time when the nation needs to get the greatest possible productivity from the public sector as a whole.

A NEW DIVISION OF LABOR

This Committee agrees on the necessity for a greater separation of responsibilities. However, we do not agree on what the philosophical basis for such a change should be. In this respect our views mirror those of the nation as a whole. The United States has never developed a commonly held philosophical rationale for division of labor within the federal system.

Some of our members, like many other Americans, believe that any change in intergovernmental relations should be premised on a preference for localism: not only is government close to the people more accountable, but states and localities have now emerged as dynamic entrepreneurs and strategic planners. Other members proceed from a centralist assumption: states and localities must demonstrate that they can carry out responsibilities better than the federal government, which has greater resources and scope, and is responsible to the nation as a whole. Still others have a more pragmatic bias: there is no inherent superiority in any level of government because the standard of judgment should be which can do a better job in each particular case.

Despite these disagreements on underlying principles, we agree on certain guidelines that should be observed in restructuring intergovernmental relations, on the direction that a greater separation of responsibilities should take, and on a wide range of specific changes that should be made in particular shared programs.

To begin with, there is a question of who decides about three functions of government.

The policy function—determining the goals and standards of a program.

The financial function—providing funding for the program and deciding how much is provided.

The administrative function—delivering a government service and deciding on the delivery system.

Shared programs are those in which responsibility for these functions is divided or duplicated. Separating responsibility for programs among levels of government involves either reducing overlap (by placing responsibility for each function wholly in the hands of one level of government) or concentrating authority (by placing all or most functions with the same level) or both.

We do not believe there are any hard and fast rules about which levels of government can perform which functions best. In some cases there may be constitutional implications of choosing one level or another (e.g., when the federal government is constitutionally mandated to perform certain tasks or when state functions may have constitutional protection). Otherwise, experience and common sense suggest the following guidelines for intergovernmental division of labor.

The federal government should have responsibility for programs or functions when:

Nationwide uniformity of policy, finance or administration is important;

It is necessary to raise revenues from the nation as a whole and distribute them to various parts of the country.

States and localities should have responsibility when:

Diversity of policy, finance or administration is important—when solutions to problems should be tailored to different regions and localities;

Experimentation by officials responsible to local electorates and their knowledge or local conditions are key to meeting public needs.

Where state constitutions do not mandate action specifically at the state or local level, states, as distinguished from localities, should have responsibility when:

Local government boundaries create barriers to effectively raising revenues and delivering services;

Resources and responsibilities must be distributed among localities and there is no overwhelming reason for the federal government to decide how they should be distributed.

These guidelines do not incorporate all the criteria that should be used in organizing the federal system. Nevertheless, they indicate the basic directions for separating responsibilities among levels of government.

RECOMMENDATIONS FOR REFORM

Our recommendations for reform center on the intergovernmental programs to which the largest amounts of federal funding are currently directed.

We have devoted much of our attention to welfare programs, specifically Aid to Families with Dependent Children (AFDC) and Medicaid. These are the two largest shared welfare programs, and together they account for more than 25 percent of federal spending through the intergovernmental system. We have also considered manpower, community development, infrastructure and revenue sharing programs. (A description of these and other major intergovernmental programs appears in Appendix A, page 30.)

Because any proposals for reform in these areas have ramifications at each level of government, our recommendations should be regarded as an interconnected package of reforms: we would stand behind all of them collectively, but we would not necessarily support any one recommendation taken in isolation.

Our recommendations are far-reaching and will take several years to implement correctly.

In summary, our recommendations are:

WELFARE

1. The federal government should establish national minimum benefit and eligibility standards for the AFDC and Medicaid programs. In the case of AFDC it should establish a national floor that, when combined with food stamps, is between 75 percent and 90 percent of poverty-level income.
2. It should assume full policy responsibility for these programs, as well as 90 percent of the financial responsibility up to the minimum benefit levels.
3. States should maintain administrative responsibility for AFDC and Medicaid.
4. The employment programs supporting AFDC should be strengthened by expanding education, training and placement activities. To the maximum extent possible, welfare systems should be converted into job systems.
5. The long-term care component of Medicaid should be converted into a federal block grant to states, indexed for changes in the program's cost and the population it serves.

DEVOLUTION

1. States and localities should assume full financial, policy and administrative responsibility for many community development, local infrastructure and social service programs.
2. States and localities should address more effectively the agenda of unresolved issues between them, such as state mandates, regulation and local revenue-raising options.

FISCAL SUPPORT FOR STATES AND LOCALITIES

1. To help states meet their present and future service obligations, the federal government should provide general support grants targeted to states with very low fiscal capacity.
2. Until the effects of devolution can be clearly assessed, a transitional federal asssitance program should be established, administered by states and targeted by them to localities with the greatest problems of fiscal capacity.

INTERGOVERNMENTAL PROGRAMS

1. Remaining shared programs should be better targeted to the most needy beneficiaries and localities. More reliance should be placed on states to accomplish this targeting.
2. Greater use should be made of incentives rather than sanctions to hold states and localities accountable.
3. Many of the more than 200 intergovernmental programs funded by the federal government at under $100 million should be consolidated into block grants or folded into existing programs.

PART TWO: REVIEW OF RECOMMENDATIONS

WELFARE—UNIFORMITY AND ADEQUACY

The benefits paid and the services provided by AFDC and Medicaid should be more uniform.

Currently, these two safety net programs epitomize the complexity and frustrated purposes of the intergovernmental system. The federal government matches state financial contributions to both programs, and policy responsibility is divided among federal, state and local officials. States and localities are responsible for administration, and a maze of regulations and requirements connects all three levels of government.

In the case of AFDC, shared responsibility has resulted in a wide variation of benefit levels and eligibility criteria across the nation. For example, in January 1985, the maximum AFDC grant for a family of three was $555 in California and $118 in Alabama. (Appendix A, Table 2, page 34 documents the full range of AFDC benefits.) In some states eligibility ends when family income exceeds 49 percent of poverty-level income; in other states it extends to families with income equal to or above the poverty threshold.[2]

Likewise, eligibility requirements and services available under the Medicaid program vary widely. The percentage of poor children receiving Medicaid benefits from 20 percent in Wyoming to 74 percent in the District of Columbia.[3] These variations cannot be explained by differences in either the cost of living or fiscal capacity.

Americans are entitled to more equal treatment by programs intended to provide the basic necessities of life. Wherever it occurs, poverty is a blight on our whole society, and Americans in similar circumstances should be treated alike. Children whose early years are damaged by the effects of poverty in one state may later become voters, employees and possibly welfare recipients in other states.

Safety net programs should also furnish benefits that can be expected to provide for basic necessities. Welfare programs in many states fall far short of this mark. Even when combined with the cash value of food stamps, AFDC benefits were at or below 60 percent of poverty-level income in 10 states in 1984, and the median level of benefits was 73 percent of the poverty line.[4]

Only the federal government can effectively bring about greater uniformity and adequacy of welfare services. This is both because it is the only source of nationwide political authority and because it is the only level of government that commands the necessary resources. This logic has been applied to most national income support programs, such as Social Security retirement, Medicare, Food Stamps, and Supplemental Security Income (SSI), and it should be applied to intergovernmental welfare programs as well.

Specifically, we believe that the federal government should:

Establish nationwide benefit floors for AFDC and Medicaid. In the case of AFDC that floor should be set at a level somewhere between the median level of benefits now provided and the highest level. This floor would be a cash grant which, together with the value of food stamps, would equal between 75 percent and 90 percent of poverty-level income. The floor should be adjusted for geographic cost-of-living differences.

Set uniform eligibility standards for both AFDC and Medicaid. This should include nationwide application of the present AFDC-Unemployed Parent (UP) program (which provides benefits to intact families living in poverty when the principal earner is unemployed). It should also include nationwide application of the provisions of Medicaid for coverage of the medically needy (which currently extends protection to certain categories of poor people who are not eligible for income support programs). At present 23 states participate in AFDC-UP, and 36 states extend benefits to the medically needy, using differing standards of eligibility.

Provide 90 percent of AFDC and Medicaid funding up to the minimum benefit floors, with states providing the remainder, in order to insure adequacy and equal treatment.

States should continue to administer these programs because they have developed valuable expertise in performing this function and because the programs should be closely linked at the administrative level with other programs (such as education, training and personal social services) for which they have responsibility. To receive federal assistance, states should be required to provide 10 percent of the benefit floors. This arrangement would give them a continuing financial stake in sound administration.

These changes will streamline and strengthen welfare programs by creating a more clear-cut division of intergovernmental functions and a benefit structure more responsive to national needs. But changes in two other aspects of these programs are also required if the nation is to address more effectively the problem of poverty.

EMPLOYMENT

The AFDC program should place far higher priority on helping long-term beneficiaries become self-sufficient through work.

All able-bodied participants in the program should clearly understand that benefits will be provided only on two conditions: (1) that they participate in education, training or placement activities which can be expected to lead to full-time employment; (2) that they accept work when it is offered and become self-supporting as soon as possible.

In short, all able-bodied beneficiaries must do something: either find work or make a serious effort to improve their job skills and search for work.

These conditions, in turn, place an obligation on government to provide substantial education, training and placement assistance and to stimulate job creation where necessary.

In a nation with a strong work ethic, the public rightly expects recipients of welfare benefits to find employment whenever possible. Moreover, the provision of cash benefits by AFDC and other programs only alleviates the problem of poverty, rather than attacking its root causes.

Welfare beneficiaries will remain poor unless they find a place within the regular, full-time work force. Most poor people who are capable of working want to find jobs, and the nation as a whole has a strong interest in providing them with an opportunity to contribute to the world of work. Idleness and dependency are a waste of valuable human resources.

Employment has long been a goal of the AFDC program, but national policy to accomplish this goal has been largely ineffective. The major problems arise with regard to long-term beneficiaries—those who are dependent on the program for two years or more. Typically they have very limited skills and work experience and are extremely hard to place. Under current policy they are required to register for placement assistance or training provided by the Work Incentive (WIN) program and to accept work if it is offered, and they may also receive assistance from the Job Training Partnership Act (JTPA) and other programs. Partly because the funds available to these programs have been limited and partly because the task is extremely difficult, only limited success has been achieved.

Recent experience in Massachusetts, Maine, Virginia and other states, however, has shown encouraging results. Massachusetts officials report that their program, ET: CHOICES, has placed 20,000 AFDC recipients in private employment, with savings to taxpayers of $60 million. In addition, large-scale experiments by the Manpower Demonstration Research Corporation and other research groups have shown that still more can be done. All of these efforts have involved carefully tailoring a combination of counseling, training, child-care, other social support services and work experience to the needs of individual recipients. Employment of welfare recipients has been increased, and states and localities have demonstrated their commitment and capacity to make major efforts in this area.

States and localities should be encouraged to assume leadership in experimenting with new approaches for converting their welfare systems into job systems. They should have a high degree of flexibility in designing programs and coordinating them with their overall welfare plans. The federal government should provide suitable resources and incentives to encourage these developments.

In short, the nation should make a major effort to enhance the employment prospects of the poor at the same time that it provides more uniform and adequate welfare benefits. The federal government should take primary responsibility for improving welfare assistance, while states and localities can and should take the lead in job programs and integrate them with their economic development plans.

LONG-TERM CARE

In addition to acute-care services, Medicaid provides long-term care services for the elderly, disabled and mentally retarded. For the most part long-term care is not a medical problem. By treating it as such, Medicaid and other programs have created an over-reliance on nursing homes and hospitalization, rather than the use of less costly and more humane alternatives, such as home care and community support services. Because the need for long-term care will increase over the coming decades due to growth in the size of the nation's elderly population, it is essential to develop more efficient and humane systems for providing it.

To encourage the development of better systems, the non-medical component of long-term care should be separated from the rest of the Medicaid program.

The federal government should assume responsibility for financing this component by providing block grants to the states, indexed for changes in the program's cost and the population it serves. States, however, should have policy and administrative responsibility within broad federal guidelines. While this system should achieve cost savings, the block grants will probably have to become larger as the need for long-term care increases.

Our recommendations would simplify the relationships between levels of government in providing this very complex and costly service. They would also encourage greater experimentation, flexibility and broadening of alternatives for care. In all of these respects, a restructured long-term care system would better meet public needs.

DEVOLUTION

States and localities should assume full financial, policy and administrative responsibilities for many community development, local intrastructure and social service programs.

This recommendation assumes a greater federal role in AFDC and Medicaid, as we have proposed, and retention of a strong federal role in other safety net programs for at-risk or vulnerable groups, such as preschool children and the handicapped.

Examples of the types of programs we have in mind for transfer are Community Development Block Grants, Urban Development Action Grants, programs of the Economic Development Administration, mass transit, local service streets and highways, wastewater treatment, new subsidized housing commitments and Title XX social services.

Programs of this kind unquestionably serve important national purposes. The nation is made up of individuals living in particular states and localities, and among the many important aims of government are certainly improving the quality of their neighborhoods, roads and public facilities; bringing them to jobs and jobs to them; and meeting their highly varied personal needs when family or voluntary support systems are unavailable.

But responsibility for advancing these national purposes can and should be entrusted to states and localities. Federal funding and policy direction for many of these programs should be terminated.

This does not mean that we believe the services provided by these programs should be discontinued. On the contrary, we believe they should continue to be provided, and will be provided better, by states and localities.

Devolution should not be equated with elimination.

States and localities are as committed to the well-being of their citizens as the federal government is. In fact, the types of programs we recommend for devolution vividly demonstrate their commitment. Many of these programs consist largely of federal grants for projects designed, implemented and partly funded by states and localities. There is a sense in which they typify the intergovernmental system operating at its best: the federal government invites initiatives from states and localities in areas of high priority and supports the initiatives that federal officials believe are best designed and meet the most pressing needs.

But there is another sense in which programs of this kind embody all of the most troublesome aspects of contemporary federalism. Even admitting that the federal government has performed a valuable service by raising certain priorities for states and localities, why should it continue to supervise programs once those priorities have been adopted by other governmental levels? Why should it, rather than states and localities, decide which specific projects are most worthy? Or, why, for example, should it decide how much funding to develop to mass transit as opposed to neighborhood improvement?

All programs of this kind have at least two things in common: the projects that comprise them are local in their impact, and they take very different forms in each state and locality. To manage them effectively at all involves tailoring each project to meet local circumstances. Moreover, to serve the public most effectually the mix of resources that should be devoted to different programs will differ in each state and locality. Unlike welfare programs, their design and relative level of funding should not be uniform. To advance the national purposes they are intended to serve, design and funding should be extremely diverse.

By placing significant financial and policy responsibility for these programs with the federal government, the intergovernmental system skews priorities, creates delay and often raises costs through complex bureaucratic procedures. Decisions are made at the federal level where officials are least acquainted with local circumstances and lest accountable to local constituencies that will feel the effects of those decisions. Too much reliance on shared programs may also have a chilling effect on state and local activism: officials at these levels may at times hold back on addressing public problems because they presume that initiatives, funds and guidelines will be forthcoming from Washington.

If states and localities are capable of designing, implementing and often partly funding these programs, they are also capable of taking on full responsibility for them without federal strings. Devolution would reduce the administrative burden of all levels of government, set priorities more closely attuned to local needs, and create greater accountability to the voters who are most immediately affected.

It is essential to transfer financial as well as policy and administrative program responsibilities. As long as the financial umbilical cord to the federal government remains, community development, local infrastructure and social service programs will continue to contribute to the intergovernmental tangle. Cutting that cord by devolving a substantial number of these programs would advance a wide range of national purposes.

Some people argue that transferring these programs to states and localities that may not have the tax capacity to support then will create even greater problems. We address this issue with our next recommendation.

FISCAL SUPPORT FOR STATES AND LOCALITIES

The Federal government should provide grants to supplement the general revenues of those states and localities that have extremely limited tax capacity and/or exceptionally great needs for public services.

Differences in fiscal capacity among states and localities have long bedeviled the federal system. There can be no doubt that some states and localities are less affluent or have more severe problems to solve than others. By one recent estimate, the least affluent states with greatest needs would have to carry more than twice as large a tax burden to provide the same level of services as less troubled areas. Such a high level of taxation would be unrealistic and unacceptable to voters. Often, too, raising taxes dramatically would be a self-defeating action because it would discourage badly needed business investment in less affluent areas.

These problems of fiscal capacity are one reason why the present system of shared intergovernmental programs has developed. Since some states and localities could not afford to support many programs to achieve national purposes, federal assistance was extended to all. The result of this logic has been that federal programs that require state and local matching funds have tended to increase the total level of spending by more and less affluent jurisdictions alike and to channel it according to federally established priorities.

Another federal response to inadequate fiscal capacity has been the General Revenue Sharing program. Although somewhat titled toward helping less affluent areas, this program has been restricted in its ability to relieve the fiscal capacity problem. Its funds are distributed among nearly 40,000 localities.

FISCAL CAPACITY GRANTS FOR STATES

We believe that the problem of fiscal capacity should be approached in a more straightforward way. To begin with, there are not enourmous differences among states. Other than a dozen or so significantly less affluent states, and a few with exceptionally great resources, most are close to the national morm. (See Appendix B, pages 36–40.)

To help the least affluent areas provide essential public services at a minimal level of adeqacy, the federal government should provide a system of fiscal capacity grants to states. These grants could be used by state governments for any purposes. In essence, they would be general purpose revenue supplements. But they should be provided only to the dozen or so states with the least resources and the greatest need for public services. Grants should be set at a level that will provide some significant help to the least affluent states in making essential services available, but the federal government should not attempt to equalize state resources on a nationwide basis.

Our proposals largely to federalize AFDC and Medicaid will mean some fiscal relief for most states. But poorer states that generally pay the lowest benefits under these programs will receive the least relief, and in a few cases may be net losers. This, together with the added burden of devolution, indicates that our other proposals do not diminish the need for some form of general purpose federal support targeted to the least affluent areas.

Concerns might arise about this proposal if states with low fiscal capacity were not making a best effort to meet public needs. In this case, citizens in other parts of the country might be reluctant to help. At present, however, most of the less affluent states have levels of tax effort close to the national average. (See Appendix B, Table 1, page 37.)

TRANSITIONAL ASSISTANCE GRANTS FOR LOCALITIES

When the devolution we propose takes place, cities and distressed rural areas with the greatest problems and/or limited tax capacity will have to look to their state governments for assistance. States will have to do more to meet both the needs of these localities and a variety of other public needs. The scope and dynamism of states' recent performance in economic development, education and other fields indicate that they can and will do more.

Unlike most localities, states can aggregate large resources and distribute them to areas of greatest need. Unlike the federal government, they are not burdened with other nation-wide priorities, and they are sensitive to the best mechanisms for delivering services in their jurisdictions. If a combination of our welfare reform and fiscal capacity grant proposals places states on a more level playing field, there is no inherent reason why they cannot address the problems of hard-pressed localities as well or better than the federal government does.

While there are many positive aspects to state-local relations, there are also continuing areas of tension. Among these are unresolved issues of state mandates, regulations and local revenue-raising options. States and localities should overcome their differences on these issues in any event, and the policy changes we propose will make it all the more imperative that they develop new and more mutually supportive relationships. In a diverse nation such as ours, these adjustments will inevitably differ state by state.

Achieving a new relationship between states and localities may take some time, however. Because the programs we would devolve address major national priorities, it is important to insure that this relationship will be responsive to public needs. In the interim, we believe that a transitional federal grant program to assist localities should be established.

Unlike the present revenue sharing program, a transitional assistance program for localities should provide grants to states for targeting and distribution to those localities most in need of general purpose assistance. All states should receive grants, but the program should stipulate that only a certain percentage of localities (perhaps containing no more than 30 or 40 percent of state's population) be aided.

Over time, state and local tax policies and state aid patterns will adjust to both the devolution of federal programs and the greater federalization of AFDC and Medicaid. While a transitional grant program can smooth this process for localities, it is not intended to replace fully or permanently the federal assistance they would lose through devolution. Rather, it is intended to provide lead time for adjustments to a new fiscal and policy environment.

INTERGOVERNMENTAL PROGRAMS

Programs should be seen as a function of problems and not as permanent fixtures. We do not believe that all inter-governmental programs should be eliminated; but we believe that there should be fewer of them, and that they should be managed more effectively.

A major strength of American federalism is its capacity to adapt to changing circumstances. The American people created the federal system; and they do and should use it in any way they see fit, including the creation of shared programs, wherever these are the best response to public needs.

Although we believe that the public interest would be better served with fewer intergovernmental programs, our recommendations would maintain a substantial amount of shared responsibility between levels of government. For example, welfare programs would still be shared (even if streamlined) because states would retain administrative and some financial responsibilities; and we do not expect all community development, infrastructure and social service programs to be devolved. Moreover, while a torrent of new shared programs would not be desirable, future national needs may well warrant the creation of other intergovernmental initiatives.

To achieve national purposes, more rational management of remaining intergovernmental programs is essential. We believe that much progress can be made toward untangling the intergovernmental process if these programs are more selective and better targeted, and if states are held accountable less by punitive sanctions and more by incentives for good performance.

A great deal of complexity could be eliminated from the intergovernmental system if many of the over 200 shared programs the federal government funds at under $100 million were consolidated into a limited number of new block grants or if they were folded into existing programs. (See Appendix C, pages 41-52, for a list of these programs.)

Greater selectivity and targeting would also reduce the waste and confusion in the intergovernmental system. Because too many programs now aid all possible beneficiaries, limited funds are dissipated, and those most in need do not receive enough help. If the goals of programs were more clearly set and more closely focused on the populations or areas of greatest need, intergovernmental programs would have more impact, more straightforward administrative practices could be developed and "gamesmanship" in federal grant-seeking could be reduced.

States can and should play an important role in targeting intergovernmental funds. State officials are often the best authorities on how program goals can be reached in their jurisdictions. They already make these decisions on a day-to-day basis in administering both shared and completely state-managed programs. They are also more sensitive than their federal counterparts to how programs interact at the operational level and more adept at finding the best ways to combine and adapt program structures to meet local needs.

Duplicating state expertise at the federal level is both wasteful and cumbersome. More intergovernmental programs should be cast in the mold that we have set for transitional assistance grants to localities: clear federal objectives for targeting should be set, and states should be held accountable for implementing them.

Today accountability generally means federal sanctions, such as reduced financial support. This approach often is self-defeating, and it creates perverse incentives. The intended beneficiaries of programs suffer more than anyone else, and states are encouraged to concentrate more on avoiding administrative mistakes than on getting the job done.

Greater reliance on incentives is a better way to create accountability. For example, it would be more productive to provide increased resources to reward those states that make the greatest progress in reducing error rates when calculating eligibility than to penalize them for falling below some arbitrary norm.

A more targeted and positive approach to intergovernmental programs and greater reliance on the resources of states are modest steps that would free all levels of government to pursue national purposes more effectively.

FINANCIAL IMPLICATIONS

Our recommendations propose major changes in a great many aspects of the intergovernmental system. These changes will have significant impact on the finances of all levels of government.

All members of the Committee are deeply concerned about present federal budget deficits and believe that they must be reduced. Because of this concern, we want to make clear that our combination of proposals for federalization, devolution and general pupose assistance to states and localities could be implemented in a way that would be fiscally neutral for the federal government, and many members of the Committee believe that this should be a precondition for implementing those proposals.

Our primary goal, however, is not to write a budget document for any level of government in any year. Instead, our goal is to set forth sound principles for improving the federal system and the basic directions that system should take. Financially, our recommendations would result in a series of offsetting costs and benefits to different levels of government that could be combined to have a fiscally neutral effect for any level of government without doing violence to the principles we have set forth.

Also, we assume that our recommendations can be fully implemented only over a period of some years. The financial position of all levels of government amy well change over that time. This will and should have an effect on the details of how the recommendations are carried out.

Because there are many different ways to implement our recommendations, both individually and collectively, the clearest way to disucss their financial implications is to explain the range of costs that might result from each recommendation taken in isolation.

Our proposal to increase federal responsibility for AFDC and Medicaid costs from about 54 percent on average to as much as 90 percent would result (if fully implemented in 1985) in increased federal costs of $20 to $30 billion, depending on exactly what benefit, eligibility and service levels were established. Greater federal spending on these programs would relieve most states of substantial financial obligations. Those states that currently pay high AFDC and Medicaid benefits would gain the most from this change because the federal government would be removing a larger burden of welfare spending from their budgets than from the budgets of low-benefit states.

It is possible that this change might impose additional costs on the few states with very low benefits, depending on precisely where the federal floor for AFDC is established. Paying 10 percent of a benefit level that is at or substantially above the current national average might cost those states more than present arrangements under which they pay as little as 22 percent of a lower benefit level. In most cases, however, our recommendations for AFDC and Medicaid would create a substantial financial bonus for states.

Our recommendations for devolution would place large additional responsibilities on both states and localities, primarily on the latter. Either directly or through states, localities receive substantial support from federal community development, local infrastructure and social service programs. How large a burden discontinuing these programs would place on localities depends on exactly which programs are devolved, what savings result from uncluttering the intergovernmental system, and how large the subsequent state and local effort to perform devolved functions turns out to be.

At the lower extreme, devolving only UDAG and other small community development programs, for example, would impose additional costs on localities of about $1 billion, assuming that they efforts were equal to present federal spending.

At the higher end, a devolution package could be created that was equal to or greater than the additional cost the Federal government would incur by assuming greater responsibility for AFDC and Medicaid.

To help them assume the increased costs of devolution, most states and some localities would receive large financial benefits resulting from greater federal assumption of AFDC and Medicaid responsibilities, and some would receive help from our general purpose fiscal assistance proposals.

Like the cost of devolution, the cost of fiscal capacity grants for states could cover a wide range. For example, if the goal in 1985 were to increase the revenues of the 12 states with the lowest fiscal capacity to within 10 percent of the median per capital reviews for all states, about $3 billion would be required. Both definitions of fiscal capacity and the precise program design require more extensive analysis. In addition any program should recognize differences in "need" for services.

The cost of transitional assistance grants for localities could also vary widely, depending on how large an effort is made to compensate for the effects of devolution. If, for example, the goal in 1985 were to provide targeted transitions assistance in place of several current programs—wastewater treatment, mass transit, CBDG, and general revenue sharing, as well as the smaller economic development programs—a $3 billion fund would be adequate to replace between 20 percent and 30 percent of current funding. The objective of transitional assistance grants, however, should not be to "hold harmless" localities that would be faced with greater responsibilities, but to cushion the impact of devolution until adjustments can be made in state and local fiscal systems to accommodate it.

The overall financial implications of our recommendations, both individually and collectively, therefore, could cover a wide range. We do not specify exactly where they shall fall within that range. The purpose of the intergovernmental system should be to serve the American people as effectively as possible, not to keep government budgets at some arbitrary level. It is far more important to assess whether the people rather than particular levels of government, are "winners" or "losers" from any system of federalism. Our recommendations show how the structure of the federal system can and should change to benefit the American people. We believe that these changes can and should be made within realistic financial constraints.

APPENDIX C.—FEDERAL DOMESTIC GRANT ASSISTANCE PROGRAMS FY 1985 ESTIMATED OBLIGATIONS

[In thousands of dollars[1]]

Sequential count, CFDA ID,[2] and program title	FY 1985 estimated obligations
DEPARTMENT OF AGRICULTURE	
1. 10.003 Morrill-Nelson Funds for Food and Agricultural Higher Education	2,800
2. 10.156 Federal-State Marketing Improvement Program	990
3. 10.200 Grants for Agricultural Research, Special Research Grants	27,674
4. 10.202 Cooperative Foresty Research	12,661
5. 10.203 Payments to Agricultural Experiment Stations Under Hatch Act	152,039
6. 10.205 Payments to 1890 Land-Grant Colleges and Tuskegee Institute	22,770
7. 10.206 Grants for Agricultural Research-Competitive Research Grants	44,620
8. 10.207 Animal Health and Disease Research	5,530
9. 10.209 1890 Research Facilities	9,600
10. 10.405 Farm Labor Housing Loans and Grants	12,000
11. 10.418 Water and Waste Disposal Systems for Rural Communities	115,000
12. 10.420 Rural Self-Help Housing Technical Assistance	13,115
13. 10.475 Cooperative Agreement with States for Intrastate Meat and Poultry Inspection	36,196
14. 10.500 Cooperative Extension Service	330,939
15. 10.553 School Breakfast Program	397,700
16. 10.555 National School Lunch Program	2,674,268
17. 10.556 Special Milk Program for Children	17,321
18. 10.557 Special Supplemental Food Program for Women, Infants, and Children (WIC)	1,423,757
19. 10.558 Child Care Food Program	429,300
20. 10.559 Summer Food Service Program for Children	115,100
21. 10.560 State Administrative Expenses for Child Nutrition	46,880
22. 10.561 State Administrative Matching Grants for Food Stamp Program	840,000
23. 10.564 Nutrition Education and Training Program	5,000
24. 10.565 Commodity Supplemental Food Program	35,039
25. 10.567 Needy Family Program	16,060
26. 10.568 Temporary Emergency Food Assistance (Administrative Costs)	50,000
27. 10.652 Forestry Research	8,655
28. 10.664 Cooperative Forestry Assistance	19,002
29. 10.665 Schools and Roads-Grants to States	224,937
30. 10.666 Schools and Roads-Grants to Counties	10,047
31. 10.668 Additional Lands-Grants to Minnesota	716
32. 10.669 Accelerated Cooperative Assistance Forest Programs on Certain Lands Adjacent to the Boundary Waters Canoe Area	2,940
33. 10.901 Resource Conservation and Development	27,561
34. 10.904 Watershed Protection and Flood Prevention	130,670
DEPARTMENT OF COMMERCE	
35. 11.300 Economic Development-Grants for Public Works and Development Facilities	149,000
36. 11.302 Economic Development-Support for Planning Organizations	19,000
37. 11.303 Economic Development-Technical Assistance	8,000
38. 11.304 Economic Development-Public Works Impact Projects	[3]NI
39. 11.305 Economic Development-State and Local Economic Development Planning	8,000
40. 11.306 Economic Development-District Operational Assistance	100
41. 11.307 Special Economic Development and Adjustment Assistance Program-Sudden and Severe Economic Dislocation or Long-Term Economic Deterioration	33,000
42. 11.407 Commercial Fisheries Research and Development	4,500
43. 11.419 Coastal Zone Management Program Administration Grants	7,143
44. 11.420 Coastal Zone Management Estimate Sanctuaries	4,518
45. 11.421 Energy Impact-Formula Grants	148
46. 11.422 Coastal Energy Impact Grants	215
47. 11.428 Intergovernmental Climate-Programs	200
48. 11.429 Marine Sanctuary Program	1,319
49. 11.550 Public Telecommunications Facilities	24,244
50. 11.800 Minority Business Development-Management and Technical Assistance	35,540
DEPARTMENT OF DEFENSE	
51. 12.400 Military Construction Army National Guard	26,161
52. 12.607 Military Base Reuse Studies and Community Planning Assistance	210
53. 12.608 Impact Assistance for Areas Affected by the East Coast Trident Program	4,500
DEPARTMENT OF HEALTH AND HUMAN SERVICES	
54. 13.110 Maternal and Child Health Federal Consolidated Programs	71,700
55. 13.111 Adolescent Family Life Research Grants	1,600
56. 13.116 Project Grants and Cooperative Agreements for Tuberculosis Control Programs	5,000
57. 13.118 Acquired Immunodeficiency Syndrome (AIDS) Activity	4,850
58. 13.125 Mental Health Planning and Demonstration Projects	13,000
59. 13.217 Family Planning Services	135,793
60. 13.224 Community Health Centers	374,500
61. 13.226 Health Services Research and Development Grants	6,658
62. 13.244 Mental Health Clinical or Service Related Training Grants	22,000
63. 13.246 Migrant Health Center Grants	44,300
64. 13.260 Family Planning-Personnel Training	3,208
65. 13.262 Occupational Safety and Health-Research Grants	6,501
66. 13.263 Occupational Safety and Health-Training Grants	8,760
67. 13.268 Childhood Immunization Grants	42,400
68. 13.293 State Health Planning and Development Agencies	19,100
69. 13.294 Health Planning-Health Systems Agencies	37,515
70. 13.298 Nurse Practitioner Training Programs and Nurse Practitioner Traineeships	12,000
71. 13.600 Administration for Children, Youth and Families-Head Start	1,075,059
72. 13.608 Administration for Children, Youth and Families-Child Welfare Research and Demonstration	12,000
73. 13.612 Native American Programs-Financial Assistance Grants	27,300
74. 13.623 Administration for Children, Youth and Families-Runaway Youth	23,250
75. 13.630 Administration Developmental Disabilities-Basic Support and Advocacy Grants	64,000
76. 13.631 Administration on Developmental Disabilities-Special Projects	2,700
77. 13.632 Administration on Development Disabilities-University Affiliate	9,000
78. 13.633 Special Programs for the Aging-Title III, Parts A and B-Grants for Supportive Services and Senior Centers	265,000
79. 13.635 Special Programs for the Aging-Title III, Part C-Nutrition Services	403,850
80. 13.645 Child Welfare Services-State Grants	200,000
81. 13.646 Work Incentive Program (WIN)	256,760
82. 13.647 Social Services Research and Demonstration	4,000
83. 13.648 Child Welfare Services Training Grants	3,823
84. 18.652 Administration for Children, Youth and Families-Adoption Opportunities	2,000
85. 13.655 Special Programs for the Aging-Title VI-Grants to Indian Tribes	7,500
86. 13.658 Foster Care-Title IV-E	517,223
87. 13.659 Adoption Assistance	35,351
88. 13.661 Native American Programs-Research, Demonstration and Evaluation	700
89. 13.662 Native American Programs-Training and Technical Assistance	1,000
90. 13.665 Community Service Block Grant	368,135
91. 13.667 Social Services Block Grant (Title XX)	2,275,000
92. 13.668 Special Programs for the Aging-Title IV-Training, Research and Discretionary Projects and Programs	24,980
93. 13.669 Administration for Children, Youth and Families-Child Abuse and Neglect State Grants	12,000
94. 13.670 Administration for Children, Youth and Families-Child Abuse and Neglect Discretionary Activities	14,000
95. 13.679 Child Support Enforcement	572,000
96. 13.714 Medical Assistance Program (Medicaid)	22,984,602
97. 13.775 State Medicaid Fraud Control Units	38,688
98. 13.777 State Health Care Providers Survey Certification	86,684
99. 13.808 Assistant Payment-Maintenace Assistance (Federal Share-AFDC)	8,338.784
100. 13.809 Child Support Enforcement Research	500
101. 13.811 Child Support Enforcement Interstate Grants	7,000
102. 13.812 Assistance Payments-Research	2,575
103. 13.815 Refugee Assistance Voluntary Agency Programs	4,000
104. 13.818 Low-Income Home Energy Assistance (LIHEAP)	2,097,704
105. 13.824 Area Health Education Centers	18,000
106. 13.886 Grants for Physician Assistant Training Program	4,800
107. 13.888 Home Health Services and Training Grants and Loans	3,000
108. 13.965 Coal Miners Respiratory Impairment Treatment Clinics and Services	3,300
109. 13.977 Preventive Health Services-Sexually Transmitted Diseases Control Grants	45,510
110. 13.978 Preventive Health Service-Sexually Transmitted Diseases Research. Demonstrations, and Public Information and Education Grants	9,294
111. 13.982 Mental Health Disaster Assistance and Emergency Mental Health	850
112. 13.987 Health Programs for Refugees	5,850
113. 13.988 Cooperative Agreements for State-Based Diabetes Control Programs	5,000
114. 13.991 Preventive Health Services Block Grant	89,000
115. 13.992 Alcohol and Drug Abuse and Mental-Health Service Block Grant	490,000
116. 13.993 Primary Care Block Grant	500
117. 13.994 Maternal and Child Health Services Block Grant	406,300
118. 13.995 Adolescent Family Life-Demonstration Projects	11,138
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
119. 14.169 Housing Counseling Assistance Program	3,500
120. 14.170 Congregate Housing Services Program	4,681
121. 14.174 Housing Development Grants	315,000
122. 14.218 Community Development Block Grants/Entitlement Grants	2,430,278
123. 14.219 Community Development Block Grants/Small Cities Program	1,023,264
124. 14.221 Urban Development Action Grants (UDAG)	656,028
125. 14.223 Indian Community Development Block Grant Program	28,814
126. 14.225 Community Development Block Grants/Secretary's Discetionary Fund/Insular Areas	7,000
127. 14.227 Community Development Block Grants/Secretary's Discretionary Fund/Technical Assistance Program	17,500
128. 14.228 Community Development Block Grants/State's Program	941,353
129. 14.230 Rental Housing Rehabilitation	154,316
130. 14.401 Fair Housing Assistance Program-State and Local	4,700
131. 14.403 Community Housing Resource Board Program	2,194
132. 14.852 Public and Indian Housing-Comprehensive Improvement Assistance Program	[3]NI
133. 15.108 Indian Employment Assistance	25,787
134. 15.114 Indian Education-Higher Education Grant Program	27
135. 15.141 Indian Housing Assistance	23,736
136. 15.142 Self Determination Grants-Indian Tribal Governments	16,483
137. 15.143 Training and Technical Assistance-Indian Tribal Governments	1,113
138. 15.144 Indian Child Welfare Act-Title II Grants	8,820
139. 15.219 Wildlife Habitat Management Technical Assistance	[3]NI
140. 15.250 Regulations of Surface Coal Mining and Surface Effects of Underground Coal Mining	38,134
141. 15.252 Abandoned Mine Land Reclamation (AMLR) Program	293,340
142. 15.503 Small Reclamation Projects	[3]NI
143. 15.600 Anadromous Fish Conservation	3,320
144. 15.605 Fish Restoration	35,060
145. 15.611 Wildlife Restoration	79,100
146. 15.612 Endangered Species Conservation	3,800
147. 15.875 Economic and Political Development of the Territories and the Trust Territory of the Pacifc Islands	159,513
148. 15.904 Historic Preservation Grants-In-Aid	25
149. 15.916 Outdoor Recreation-Acquisition, Development and Planning	102,403
150. 15.919 Urban Park and Recreation Recovery Program	3,042
151. 15.920 Land Acquisition and Development of Comprehensive Management Plant-State of New Jersey-Pinelands National Reserve	6,001
DEPARTMENT OF JUSTICE	
152. 16.540 Junvenile Justice and Delinquency Prevention-Allocation to States	42,935
153. 16.541 Juvenile Justice and Delinquency Prevention-Special Emphasis and Technical Assistance	16,115
154. 16.550 Criminal Justice Statistics Development	2,370
155. 16.560 Justice Research and Development Project Grants	19,632
156. 16.572 Mariel-Cubans	5,000
157. 16.573 Criminal Justice Block Grants	518
158. 16.574 Criminal Justice Discretionary Grants	13,880
159. 16.575 Crime Victim Assistance	42,500
160. 16.576 Crime Victim Compensation	2,400
161. 16.601 Corrections-Training and Staff Development	5,606
162. 16.602 Corrections-Research and Evaluation and Policy Formulation	1,000
163. 16.603 Corrections-Technical Assistance	8,195
DEPARTMENT OF LABOR	
164. 17.207 Employment Service	740,398
165. 17.225 Unemployment Compensation[4]	16,252,100
166. 17,235 Senior Community Service Employment Program	326,000
167. 17.246 Employment and Training Assistance-Dislocatedf Workers	138,250
168. 17.247 Migrant and Seasonal Farmworkers	60,357
169. 17.248 Employment and Training Research and Development Projects	3,850
170. 17.249 Employment services and Job Training-Pilot and Demonstration Programs	15,098
171. 17.250 Job Training Partnership Act (JTPA)	2,610,700
172. 17.251 Native American Employment and Training Programs	62,243
173. 17.500 Occupational Safety and Health	57,399
174. 17.600 Mine Health and Safety Grants	5,170
175. 17.801 Disabled Veterans Outreach Program	59,200
176. 17.802 Veterans Employment Program	9,667
177. 17.804 Local Veterans Employment Representative Program	50,100
DEPARTMENT OF TRANSPORTATION	
178. 20.005 Boating Safety Financial Assistance	13,750
179. 20.106 Airport Improvement Program	925,000
180. 20.205 Highway Planning and Construction	14,240,000
181. 20.214 Highway Beautification-Control of Outdoor Adverstising, and Control of Junkyards	7,283
182. 20.216 Highway Educational Grants	200
183. 20.218 Motor Carrier Safety Assistance Program	14,000
184. 20.303 Grants-in-Aid for Railroad Safety-State Participation	3,323
185. 20.308 Local Rail Service Assistance	14,000
186. 20.500 Urban Mass Transportation Capital Improvement Grants	1,149,387
187. 20.502 Urban Mass Transportation Grants for University Research and Training	2,000
188. 20.503 Urban Mass Transportation Managerial Training Grants	1,556
189. 20.505 Urban Mass Transportation Technical Studies Grants	50,000
190. 20.507 Urban Mass Transportation Capital and Operating Assistance Formula Grants	2,500,000
191. 20.509 Public Transportation for Nonurbanized Areas	100,000
192. 20.511 Human Resource Program	7,500
193. 20.512 Urban Mass Transportation Technical Assistance	35,400
194. 20.600 State and Community Highway Safety	161,396
195. 20.700 Gas Pipeline Safety	4,500
DEPARTMENT OF THE TREASURY	
196. 21.300 State and Local Government Fiscal Assistance-Revenue Sharing	4,566,700

APPENDIX C.—FEDERAL DOMESTIC GRANT ASSISTANCE PROGRAMS FY 1985 ESTIMATED OBLIGATIONS—Continued

[In thousands of dollars[1]]

Sequential count, CFDA ID,[2] and program title	FY 1985 estimated obligations
APPALACHIAN REGIONAL COMMISSION	
197. 23.002 Appalachian Supplements to Federal Grant-in-Aid (Community Development)	23,700
198. 23.003 Appalachian Development Highway System	90,430
199. 23.004 Appalachian Health Programs	3,200
200. 23.005 Appalachian Housing Project Planning Loan, Technical Assistance Grant and Site Development and Off-Site Improvement Grant: State Appalachian Housing Programs	3,000
201. 23.008 Appalachian Local Access Roads	12,435
202. 23.009 Appalachian Local Development District Assistance	4,294
203. 23.010 Appalachian Mine Area Restoration	[5] NA
204. 23.011 Appalachian State Research, Technical Assistance, and Demonstration Projects	1,000
205. 23.012 Appalachian Vocational and Other Education Facilities and Operations	4,000
206. 23.013 Appalachian Child Development	500
207. 23.017 Appalachian Special Transportation Related Planning, Research and Demonstration Program	95
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION	
208. 30.009 Employment Discrimination Project Contracts-Indian Tribes	811
FEDERAL MEDIATION AND CONCILIATION SERVICE	
209. 34.002 Labor-Management Cooperation	1,000
NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES	
210. 45.001 Promotion of the Arts-Design Arts	4,400
211. 45.002 Promotion of the Arts-Dance	8,900
212. 45.003 Promotion of the Arts-Artists-in-Education	5,600
213. 45.004 Promotion of the Arts-Literature	5,100
214. 45.005 Promotion of the Arts-Music	15,300
215. 45.006 Promotion of the Arts-Media Arts: Film/Radio/Television	10,200
216. 45.007 Promotion of the Arts-State Programs	24,300
217. 45.008 Promotion of the Arts-Theater	10,600
218. 45.009 Promotion of the Arts-Visual Arts	6,300
219. 45.010 Promotion of the Arts-Expansion Arts	6,900
220. 45.011 Promotion of the Arts-Intern-Arts	4,200
221. 45.012 Promotion of the Arts-Museums	12,000
222. 45.013 Promotion of the Arts-Challenge Grants	20,580
223. 45.014 Promotion of the Arts-Opera and Musical Theater	6,000
224. 45.015 Promotion of the Arts-Folk Arts	3,100
225. 45.022 Promotion of the Arts-Advancement Grants	2,298
226. 45.023 Promotion of the Arts-Test Program of Support for Local Arts Agencies	2,200
227. 45.151 Promotion of the Humanities-Summer Seminars for Secondary School Teachers	3,018
228. 45.301 Institute of Museum Service	20,653
NATIONAL SCIENCE FOUNDATION	
229. 47.066 Teacher Enhancement and Informal Science Education	25,000
230. 47.067 Materials Development and Research	23,700
231. 47.069 Research Initiation and Improvement	6,990
SMALL BUSINESS ADMINISTRATION	
232. 59.032 Office of Women's Business Ownership	0
VETERANS ADMINISTRATION	
233. 64.005 Grants to States for Construction of State Home Facilities	41,912
234. 64.014 Veterans State Domiciliary Care	11,908
235. 64.015 Veterans State Nursing Home Care	51,031
236. 64.016 Veterans State Hospital Care	3,553
237. 64.203 State Cemetary Grants	4,000
ENVIRONMENTAL PROTECTION AGENCY	
238. 66.001 Air Pollution Control Program Grants	90,708
239. 66.003 Air Pollution Control Manpower Training Grants	0
240. 66.418 Construction Grants for Wastewater Treatment Works	1,900,000
241. 66.419 Water Pollution Control-State and Interstate Program Grants	60,200
242. 66.432 State Public Water System Supervision Program Grants	26,750
243. 66.433 State Underground Water Source Protection-Program Grants	7,500
244. 66.438 Construction Management Assistance Grants	71,243
245. 66.454 Water Quality Management Planning	24,400
246. 66.455 Marine Combined Sewer Overflow Special Fund	30,040
247. 66.600 Environmental Protection Consolidated Grant-Program Support	42,638
248. 66.700 Pesticides Enforcement Program Grants	12,093
249. 66.701 Toxic Substances Compliance Monitoring Cooperative Agreements	1,500
250. 66.702 Asbestos Hazard Abatement School Assistance Program	22,500
251. 66.801 Hazardous Waste Management Financial Assistance to States	47,000
252. 66.802 Hazardous Substance Response Trust Fund	111,000
DEPARTMENT OF ENERGY	
253. 81.041 State Energy Conservation	23,522
254. 81.042 Weatherization Assistance for Low-Income Persons	191,136
255. 81.050 Energy Extension Service	9,801
256. 81.052 Energy Conservation for Institutional Buildings	47,043
257. 81.081 Energy Task Force for the Urban Consortium	1,960
258. 81.086 Conservation Research and Development	1,500
259. 81.090 State Heating Oil Grants	270
FEDERAL EMERGENCY MANAGEMENT AGENCY	
260. 83.410 Community-Based Anti-Arson Program	300
261. 83.501 State Assistance Program	3,240
262. 83.503 Emergency Management Assistance	51,300
263. 83.504 Other State and Local Direction, Control and Warning	1,910
264. 83.505 State Disaster Preparedness Grants	1,290
265. 83.506 Earthquake and Hurricane Preparedness Grants	3,857
266. 83.508 Radiological Instrumentation	[3] NI
267. 83.511 Radiological Protection Program	[3] NI
268. 83.512 State and Local Emergency Operating Centers	9,200
269. 83.513 State and Local Warning and Communication Systems	575
270. 83.514 Population Protection Planning	8,700
271. 83.515 Emergency Braodcast System Guidance and Assistance	400
272. 83.516 Disaster Assistance	275,000
273. 83.518 Emergency Public Information Competitive challenge Grants	150
DEPARTMENT OF EDUCATION	
274. 84.002 Adult Education-State-Administered Program	100,000
275. 84.003 Bilingual Education	139,265
276. 84.004 Civil Rights Technical Assistance and Training	24,000
277. 84.008 Alcohol and Drug Abuse Education	3,000
278. 84.009 Education of Handicapped Children in State Operated or Supported Schools	150,170
279. 84.010 Educationally Deprived Children-Local Educational Agencies	3,200,000
280. 84.011 Migrant Education-Basic State Formula Grant Program	262,458
281. 84.012 Educationally Deprived Children-State Administration	35,607
282. 84.013 Neglected and Delinquent Children	32,616
283. 84.014 Follow Through	10,000
284. 84.023 Handicapped-Innovation and Development	16,000
285. 84.024 Handicapped Early Childhood Education	22,500
286. 84.025 Deaf-Blind Centers	15,000
287. 84.026 Handicapped Media Services and Captioned Films	16,500
288. 84.027 Handicapped Preschool and School Programs	1,271,837
289. 84.028 Handicapped Regional Resource Centers	60,000
290. 84.029 Special Education Personnel Development	61,000
291. 84.030 Handicapped Teacher Recruitment and Information	1,025
292. 84.031 Higher Education-Institutional Aid	148,343
293. 84.034 Public Library Services	73,500
294. 84.035 Interlibrary Cooperation	17,640
295. 84.036 Library Career Training	640
296. 84.039 Library Research and Demonstration	360
297. 84.040 School Assistance in Federally Affected Areas-Construction	20,000
298. 84.041 School Assistance in Federally Affected Areas-Maintenance and Operation	675,000
299. 84.042 Special Services for Disadvantaged Students	70,323
300. 84.044 Talent Search	20,272
301. 84.047 Upward Bound	938,323
302. 84.048 Vocational Education-Basic Grants to States	691,508
303. 84.049 Vocational Education-Consumer and Homemaker Education	31,633
304. 84.051 National Vocational Education Research	6,078
305. 84.053 Vocational Education-State Councils	7,000
306. 84.055 Higher Education-Cooperative Education	14,400
307. 84.060 Indian Education-Formula Grants to Local Educational Agencies and Tribal Schools	45,913
308. 84.061 Indian Education-Special Programs and Projects	10,290
309. 84.062 Indian Education-Adult Indian Education	2,940
310. 84.066 Educational Opportunity Centers	9,317
311. 84.069 Grants to States for State Student Incentives	76,030
312. 84.072 Indian Education-Grants to Indian Controlled Schools	4,410
313. 84.073 National Diffusion Network	10,000
314. 84.077 Bilingual Vocational Training	2,514
315. 84.078 Postsecondary Education Programs for Handicapped Persons	5,300
316. 84.083 Women's Educational Equity	6,000
317. 84.086 Innovative Program for Severely Handicapped Children	4,300
318. 84.091 Strengthening Research Library Resources	6,000
319. 84.099 Bilingual Vocational Instructor Training	553
320. 84.100 Bilingual Vocational Materials, Methods, and Techniques	369
321. 84.101 Vocational Education-Indian and Hawaiian Natives	6,734
322. 84.103 Training for Special Programs Staff and Leadership Personnel	1,088
323. 84.122 Secretary's Discretionary	2,000
324. 84.123 Law-Related Education	2,000
325. 84.124 Territorial Teacher Training Assistance Program	2,000
326. 84.126 Rehabilitation Services-Basic Support	1,100,000
327. 84.128 Rehabilitation Services-Service Projects	32,800
328. 84.129 Rehabilitation Training	21,100
329. 84.132 Centers for Independent Living	22,000
330. 84.133 National Institute of Handicapped Research	39,258
331. 84.141 Migrant Education-High School Equivalency Program	6,300
332. 84.144 Migrant Education-Interstate and Intrastate Coordination Program	2,066
333. 84.146 Transition Program for Refugee Children	16,600
334. 84.149 Migrant Education-College Assistance Migrant Program	1,200
335. 84.151 Improving School Programs-State Block Grants	500,000
336. 84.153 Business and International Education	2,200
337. 84.154 Library Services and Construction Act-Construction	24,500
338. 84.155 Removal of Architectural Barriers to the Handicapped	40,000
339. 84.158 Secondary Education and Transitional Services for Handicapped Youth	6,330
340. 84.159 Handicapped-Special Studies	3,170
341. 84.160 Training Interpreters for Deaf Individuals	900
342. 84.161 Client Assistance for Handicapped Individuals	6,300
343. 84.162 Emergency Immigrant Education Assistance	30,000
344. 84.163 Library Services for Indian Tribes and Hawaiian Natives	2,360
345. 84.164 State Grants for Strengthening the Skills of Teachers and Instruction in Mathematics, Science, Foreign Languages and Computer Learning	90,100
346. 84.165 Magnet School Assistance	75,000
347. 84.168 Secretary's Discretionary Program for Mathematics, Science, Computer Learning and Critical Foreign Languages	9,900
348. 84.169 Comprehensive Services for Independent Living	5,000
349. 84.171 Excellence in Education	4,000
350. 84.172 Construction, Reconstruction, and Renovation of Academic Facilities	28,000
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION	
351. 89.003 National Historical Publications and Records Grants	4,451
Total	114,380,515

[1] Federal assistance to states and localities represented 21.2% of state-local expenditures in 1984, down from a peak of 26.8% in 1978, with almost 90% of the funds concentrated in the 25 largest programs. Since 1981 more than 60 programs have been consolidated or abolished, and some aspects of grant regulation have been simplified. This list of 351 formula and project grants does not include programs that do not provide aid for traditional state or local government activities. In 1985 there were more than 200 such programs with obligations exceeding $6 billion.

[2] Catalog of Federal Domestic Assistance identification number

[3] NI: No information available at time of publication.

[4] These are largely funds from dedicated state taxes deposited with the federal government.

[5] NA: Not applicable.

Source: Unpublished table on the budget concept of grants, General Services Administration, Office of Information Resource Management, 1985 Catalog of Federal Domestic Assistance.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2395) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EVANS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the vote on the Dole amendment be laid aside in order that we may consider an amendment to be proposed by Mr. FORD, which I will send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2396

(Purpose: To provide a technical amendment to the effective dates of Title III of S. 1511, the Family Security Act of 1988)

Mr. MOYNIHAN. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN), for Mr. FORD, proposes an amendment numbered 2396.

On line 12, page 228 of the bill insert before the period: "; except that in the case of the Commonwealth of Kentucky, the amendments made by this title shall become effective on October 1, 1990".

Mr. MOYNIHAN. Mr. President, this, in effect, is a technical amendment, in response to the fact that the Kentucky State legislature will not be in session in time to take advantage of the arrangements we put in place, and this allows them to do that.

Mr. PACKWOOD. Mr. President, I am prepared to accept this amendment, with this caveat: I do not know if there are any other State legislatures that face the same situation, and I would like to leave open the possibility of expanding this in conference or, from the standpoint of equity, dropping them all. With that, I accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2396) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Dole amendment be laid aside in order that an amendment may be offered by the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2397

(Purpose: To add job training provisions for long-term welfare recipients)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER) proposes an amendment numbered 2397.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 204, between lines 2 and 3, insert the following new subsection:

(d) SPECIAL JOB TRAINING PROVISIONS FOR LONG-TERM WELFARE RECIPIENTS.—Section 417 of such Act, as added by the amendment made by section 201(b) of this Act and amended by subsection (a) of this section, is further amended by adding at the end thereof the following new subsection:

"(m)(1) Notwithstanding any other provision of this section, this subsection shall apply to any individual who is required or allowed to participate in the program under this section and who has received aid or supplements (as the case may be) under this title for a period of 24 consecutive months.

"(2) Each State shall establish as part of the program a feeder system utilizing community-based organizations (as referred to in section 4(5) of the Job Training Partnership Act), including Opportunities Industrialization Centers, the National Urban League, the National Council of La Raza, 70,001, National Puerto Rican Forum, Ser-Jobs for Progress, the United Way of America, and other community-based organizations of demonstrated effectiveness to conduct outreach and provide preemployment services to individuals described in paragraph (1) in order to provide such individuals greater access to and benefit more fully from employment opportunities and placement available under the program and to prepare such individuals for gainful employment.

"(3) The outreach and feeder system established by paragraph (2) of this subsection shall include—

"(A) skills assessment for participants and assistance to paticipants with respect to the selection and referral for education and training;

"(B) registration with the Bureau of Employment Security;

"(C) preemployment trainng;

"(D) employment training including vocational, adult, and community college and other postsecondary programs; and

"(E) on-the-job training and other employment preparation activities available under this section. "(4) Preemployment services provided under paragraph (3) may include—

"(A) educational preparation and basic skills development to increase literacy and computational skills;

"(B) programs designed to strengthen the attitude and motivation of youth to achieve and succeed in the work environment;

"(C) guidance and counseling to assist participants with occupational choices and with the selection of employment preparation programs;

"(D) counseling and information, referral, and follow-up to assist participants experiencing personal or family problems, which may cause severe stress, and lead to poor performance or dropping out of the program; and

"(E) parenting and home and family living skills, including nutrition and health education, targeted to teenage parents.".

Mr. SPECTER. Mr. President, this amendment mandates that each State shall establish as a part of the program a feeder system using community-based organizations for job training and, further, that the outreach feeder system established under this program be directed to include certain specific obligations on the part of the States, directed principally to help the severely educationally disadvantaged.

Mr. President, in offering this amendment at this time, I state at the outset that I do not intend to call for a vote; and I do not intend to do so because I full well understand the mood of this body at this time, with the very significant legislative achievement already accomplished by the work of the distinguished Senator from New York——

Mr. MOYHIHAN. Mr. President, I hate to interrupt, but the Senator from Pennsylvania is making an important statement, and I wonder if we can have order.

The PRESIDING OFFICER. The Senator is correct.

The Chair asks the Senator from Pennsylvania to suspend until the Senate is silent.

There are still Senators talking.

The Senator from Pennsylvania may proceed.

Mr. SPECTER. I thank the distinguished Senator from New York for that interruption to call for order. I note that it could not be heard that I was complimenting the distinguished Senator from New York at the time of the interruption. I do so because this bill is a significant——

Mr. BYRD. Mr. President, the rest of us still cannot hear the Senator.

The PRESIDING OFFICER. The majority leader is correct.

The Chair fails to understand why certain Senators who are talking cannot now desist from talking.

They have now done so, and the Senator from Pennsylvania may continue.

Mr. SPECTER. I thank the Chair, and I thank the distinguished majority leader.

Mr. President, this legislation, crafted by the distinguished Senator from New York [Mr. MOYNIHAN], the distinguished Senator from Oregon [Mr. PACKWOOD], the distinguished Senator from Kansas [Mr. DOLE], and the distinguished Senator from Texas [Mr. BENTSEN], and others, is an enormous step forward on welfare, for many reasons.

There are serious concerns which this Senator has, which this Senator expressed on Tuesday morning, at a time when the Senate was not moving with speed, as we are at this juncture, to try to wrap up the bill this evening. I did so in an extended statement and in an extended colloquy with Senator MOYNIHAN at that time, realizing that 10 a.m. on Tuesday was a good time to put my concerns on the Record.

I do believe that now that the compromise has been forged, it is important to crystallize these concerns, and I shall do so reasonably briefly.

I believe there may be a time in the conference when the issues I raised on Tuesday, and summarized briefly this evening, will receive attention. Or, if they do not receive attention in conference, it may be that these areas of concern will be focused upon by the States in their administrative discretion to accommodate these concerns. Or, if they are not accommodated by the States and this administration in this reform legislation, we may be back here in 2, 3, or 4 years to address these issues.

The concerns which this Senator has turned on the fact that there is not a sufficient specification, in my judgment, utilizing community-based organizations and others from the private sector which have very substantial experience in this field. There is not a specification in this act, in my judgment, which is directed in a mandatory way at the severely educationally disadvantaged.

This Senator understands that 50 percent of the jobs funds are directed in a way designed to move toward these groups, but this legislation does not take into account this very important segment of the community sufficiently, in my opinion.

When I had a discussion of this issue with Senator MOYNIHAN on Tuesday morning, I raised the concern that there was not this specification for community-based organizations. Senator MOYNIHAN referred at that time to page 29 of the report, which I have since had time to study, and it crystallizes my concern, because page 29 of the report uses this language:

> In addition, the welfare agencies are directed to consult with education agencies and the agencies responsible for administering job training programs in order to promote the planning and delivery of services under the program with programs under the Job Training Partnership Act and with educational programs, including any program under the Adult Education Act or Carl D. Perkins Vocational Education Act.

Mr. President, that report language, although using the words "directed to consult," is simply insufficient to establish the mandatory requirement that the States establish a feeder system utilizing community-based organizations, such as the Opportunities Industrialization Centers and the National Urban League; and this is the specification in my amendment which would require each State to establish as a part of the program specifying the types of organizations—the National Puerto Rican Forum, the National Council of La Raza, SER—Jobs for Progress, the United Way of America—and specifying, further, that the components which would be included in the outreach and feeder systems would be directed at the severely educationally disadvantaged.

Senator MOYNIHAN had referred in our colloquy to the fact, as he asserted—and I understand his point—that this is the first time we made basic education, job training and job placement an entitlement. That appears in the RECORD of Tuesday. But my concerns, and I expressed them specifically, are that there are not particularization in moving toward those on the lower level.

If I were to call for a vote this evening, I know that the sentiment of the Senate is that there is great achievement in what has been accomplished in the way the bill stands today.

I would not want to see a vote which had very few in favor of such an amendment and would perhaps prejudice what happens in conference.

So, as I say, I do not intend to call this matter to a vote.

I have already placed in the RECORD the analyses from a number of organizations such as the National Urban League, the American Jerish Committee, the Coalition on Human Needs, the League of Women Voters, and the National Council of La Raza, specifying the concerns that the program is not being directed toward these specific individuals.

We were successful in the legislation on JEDI, the Jobs for Employable Dependent Individuals Act, in utilizing these community-based organizations, so I think we are moving ahead in this direction.

I would be hopeful that when this matter moves to conference these concerns would be accommodated; if not accommodated, then that the States would be on notice that these are latent problems which have a very substantial constituency which will be revisited at a later time. Hopefully the States will implement these programs to accomplish these very important results and if not we have established a record. We can return and revisit it at a later date and take whatever action is necessary at a later time.

Mr. President, I yield the floor at this stage.

Mr. MOYNIHAN. May I thank the Senator from Pennsylvania for his thoughtful remarks and continuation of our discussion on Tuesday morning when we talked about Leon Sullivan's work in Philadelphia which is a model in this regard.

I would hope that the report of the conferees when it comes back will contain references very specifically to Senator SPECTER's views.

I share them completely. I am sure the conference will. I know the Senate does.

Mr. SPECTER. I thank the distinguished Senator from New York for those comments.

I would very much appreciate consideration of the conference to the extent that is possible because I want to see this bill crafted as I know the Senator from New York does as comprehensively as possible. The real objective here is to see to it that we provide a bridge or transition to move people from the welfare rolls to the payrolls. If this legislation is to be successful it is going to have to provide the basic education, skills, training, prevocational literacy training, and on the job training needed by the educationally disadvantaged. Further, there is going to have to be a sufficient bridge so that two-parent families are not taken off cash assistance peremptorily.

I hope the States will not utilize their ability to take people off cash assistance in 6 months, that there will be sufficient AFDC and Medicaid to carry them over the bridge and that there not be creaming; that is, the direction not be limited to those who are easy to train or to those who are temporarily out of a job.

This legislation will move to the hardcore unemployed. I have seen the marvelous results—and we talked about this extensively on Tuesday—which Dr. Sullivan has achieved in Philadelphia. I saw this police station house reconverted in 1964 and I saw what he and other community-based organizations have been able to do in this constructive way.

It is a disappointment that we are not able to include that kind of experience to see to it that the States will carry forward in that manner.

Perhaps my concerns will not be brushed aside and there will be a comprehensive program put into effect. If not, the record is established. We shall revisit it at a later date.

Mr. President, I withdraw my amendment and I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment and it is withdrawn.

The Senator from Nebraska.

Mr. EXON. Mr. President, earlier this month Congress passed landmark legislation with the catastrophic health insurance bill. We have the opportunity to once again pass landmark legislation with S. 1511, the Family Security Act of 1988.

I am pleased to join 64 of my colleagues in cosponsoring this bill which embodies the very soul of its author, the very distinguished and capable Senator from New York, Mr. MOYNIHAN. The senior Senator from New York has enjoyed a very distinguished career, much of it devoted to eradicating poverty and strengthening the American family. Mr. President, I know of no other person so dedicated to this issue. And I salute the chairman and the ranking member of the Finance Committee and that committee as a whole for their excellent work.

I support this bill because I support its basic premise—that parents should be the first line of defense in the welfare of their children. First and foremost, this bill strengthens the child support enforcement system by requiring award guidelines, by providing for periodic update of awards, and by providing assistance in establishing paternity. According to 1985 data, 50 percent of the women raising children alone have court orders for child support and are due payment. Of those women, 52 percent will receive only partial payment or no payment at all.

Several years ago, I authored language that closed a loophole in the Bankruptcy Code that now places unwed parents on equal footing with all other single parents, whether divorced or separated. This provision prevents unwed parents from declaring bankruptcy in order to avoid child support payments. I am pleased to see my colleague, Mr. MOYNIHAN, build upon these important restrictions.

Second, this bill replaces the old Work Incentive [WIN] Program with an entirely new job opportunities and basic skills training program called JOBS designed to move welfare recipients off the welfare rolls and into the private work force.

This section of the bill provides education, employment and training for adult welfare recipients, with exceptions for those caring for young children under age 3. States are required to target long-term welfare recipients and those with potential to become long-term recipients.

This bill also provides very important transitional benefits for those who are moving from welfare to work. These include extended child care and Medicaid benefits. I might add that my State of Nebraska has already taken the initiative in this area and extended these benefits. I applaud their actions.

Mr. President, in summary, just let me say that I think this bill moves in the right direction given the fiscal realities of the times. This bill emphasizes employment and self-sufficiency while also realizing the fiscal capac-ity of both the Federal Government and the individual States.

Our welfare system has not been overhauled for many years. For a long time, there has been a consensus in America that we must devise a better system and enact a plan which will help break the cycle of poverty and suffering instead of perpetuating it. Finally, there is hope. Finally, we have legislation before us which gives welfare recipients, their families, and the taxpayers of America a new system where work and hope are watchwords instead of dependency and despair.

Mr. President, I support this bill and urge its swift passage.

The PRESIDING OFFICER. A motion to table the Dole amendment is the pending business and until that is dispensed with one way or another there will be no other business.

Mr. PRYOR. Mr. President, the Aid to Families with Dependent Children [AFDC] Program was enacted in 1935 as a temporary mechanism to maintain the pensions of widows, and to create a system of support for their fatherless children. Today, more than 50 years later, the program has undergone a substantial shift in focus—half of the current AFDC participants are single, unwed mothers in their teens and early twenties. The present welfare structure has established a cycle of dependency for these young women and their children—with little or no incentive to set educational goals or seek employment opportunities.

There have been a number of legislative proposals to restructure the current welfare system in recent years—each has emphasized to some degree the importance of an expanded work component. The bill we are considering today, the Family Security Act of 1988 (S. 1511), takes a multipronged approach, stressing parental responsibility and expanded opportunities in education and training. This legislation presents a fundamental shift in the priorities of the current welfare network, offering a jobs-based system backed by income assistance provisions.

The psychological benefits of employment are clear to everyone, Mr. President—holding a job is an essential factor for the development of self-esteem in both men and women. The jewel of the Family Security Act of 1988 is the Job Opportunities and Basic Skills Training [JOBS] Program, a new plan of education, employment and training. The JOBS plan offers assistance to welfare recipients in developing the skills necessary to acquire and maintain employment. Each State is required to fashion a JOBS Program under an approved set of guidelines, and participation is mandatory for every able-bodied, adult welfare recipient. Exceptions are granted for those caring for children under the age of 3—States have the option of lowering this provision to age 1.

The JOBS proposal also makes school attendance mandatory for parents under 22 who have not graduated from high school, regardless of the age of their children, and further guarantees adequate child care when necessary for participation in the program. The primary responsibility for implementation of the JOBS plan rests with the State welfare agency.

The JOBS Program contains two essential provisions to ensure full participation of all eligible welfare recipients. The importance of the child care guarantee I mentioned above is apparent. The bill also mandates that State agencies must provide reimbursement for transportation and other work-related support services deemed necessary for recipients to enjoy maximum participation in the JOBS plan.

S. 1511 also includes directives for transitional assistance—in those instances where additional support is necessary in the initial stages of employment. Transitional support can be offered in the form of child care and/or medical assistance—the Medicaid extension option. This measure further outlines improved child support enforcement guidelines, including a plan to implement immediate wage withholding for all new and modified child support orders, and increased funding for upgraded laboratory testing techniques involved in the establishment of paternity.

Finally, Mr. President, the Family Security Assistance Act allows welfare benefits to be extended to all two-parent families in which the principal wage earner is unemployed. Twenty-eight States and the District of Columbia already operate this program, referred to as AFDC-UP—for unemployed parent. S. 1511 further permits States to require one or both parents to participate in education and training programs, with payment of benefits dependent on the completion of the work obligations.

Mr. President, I am pleased to have been an original cosponsor of this important piece of legislation, and commend my colleague from New York, Senator MOYNIHAN, for his vision and perseverance. I also want to thank my chairman, Senator BENTSEN, for his essential role in bringing the bill to the Senate floor. The Family Security Assistance Act of 1988, is deserving of swift passage, and I urge my colleagues to approve this measure.

Mr. BOSCHWITZ. Senator MOYNIHAN, I would like to engage in a discussion with you about an amendment to the welfare bill. I have filed an amendment to S. 1511, the Family Security Act of 1988, of which I am a cosponsor. This amendment establishes a Commission to study and submit a report on AFDC and Food Stamp coordination. The members of this commission would be: the Secretary of Agriculture, the Secretary of Health and Human Services, two Senators, two Congressmen, two Governors, and seven other individuals who are State and local officials administering AFDC and Food Stamp Programs, representatives of welfare advocacy groups, or those who have expertise in welfare policy. An identical provision is in H.R. 1720, the Family Welfare Reform Act of 1987, passed by the House of Representatives late last year.

After discussing this amendment with Senator MOYNIHAN, the author of the Senate bill, I have agreed not to offer this amendment at this time.

Mr. MOYNIHAN. I appreciate the cooperation and support of my friend from Minnesota, Senator BOSCHWITZ.

Mr. BOSCHWITZ. Thank you. As you may know, for quite some time I have had an interest in better coordinating and simplifying our welfare programs. Many of these programs have complicated rules and eligibility determination processes. In addition, few of the eligibility criteria or rules are the same for different programs.

Increased coordination and simplification would benefit low-income people who utilize these programs as well as those who administer the programs, both at the State and local level. Many States have taken steps to encourage integration, by restructuring those departments at the State level which administer the programs and by consolidating some program services for the recipients. Despite this action, program differences remain which diminish the effectiveness of these coordination efforts.

The Departments of Agriculture and Health and Human Services, which are responsible for these two programs, have made attempts to coordinate policies, but so far these efforts have not resulted in consistency. In addition, there have been numerous studies and demonstrations supporting the notion of better coordination of services.

I believe significant changes in coordination of the AFDC and Food Stamp Program—as well as other programs which provide services or benefits to low-income people—will have to be addressed by Congress. As a member of the Senate Nutrition Subcommittee, I have been a strong supporter of the Federal nutrition programs including food stamps and have worked with my counterparts on the House side, particularly Congressman PANETTA, to iron out food stamp provisions in nutrition bills.

Since the Commission established by this amendment will have congressional representation, those members should provide the extra push necessary to get recommendations proposed in legislative form. I am hopeful that a Commission of this type would provide sound recommendations for coordinating and simplifying these two programs. This Commission would be instrumental in laying the groundwork for further coordination and simplification of welfare programs. Indeed, I think our ultimate goal should be to coordinate all major welfare programs—those dealing with housing and medical care as well as food stamps and AFDC.

Senator MOYNIHAN, I urge the conferees on this welfare bill to accept the provision in the House bill which creates a Commission to study and report on coordination of the AFDC and Food Stamp Programs.

Mr. MOYNIHAN. I understand and agree with the Senator's concern about coordination of welfare programs. I will urge the Senate conferees to be sensitive to your views on this Commission. I assure you that every consideration will be given to this provision in the House bill when the conference committee meets.

Mr. BOSCHWITZ. Again, thank you Senator MOYNIHAN for your attention to this provision and your assurance that serious consideration will be given to creating a Commission to study coordination of AFDC and the Food Stamp Program when the conference committee meets.

Ms. MIKULSKI. Mr. President, we have learned from years of experience on the State level that education is a crucial component to welfare reform. Maryland as well as other States have discovered that over half of their welfare-to-work participants need remedial education. Yet, as innovative as States have been with their program designs, they are not adequately accounting for the significant effect of learning disabilities as a cause of many remediation needs. Maryland estimates upwards to 30 percent of its clients who need remediation have learning problems and/or learning disabilities. This echoes what many other States believe is happening in their welfare populations. When programs fail to properly diagnose and assist with learning disabilities, inappropriate training will only add to the frustration that learning disabled individuals have experienced for much of their lives, while guaranteeing their failure in the program. Moreover, this oversight will prove costly in wasted training dollars to the programs.

Would the provisions of S. 1511 allow States to establish a systematic process which would routinely include learning disabled identification, diagnostic assessment, and referral to management necessary for their self-sufficiency?

Mr. MOYNIHAN. Yes, and I encourage States to do so. S. 1511 requires States to make an initial assessment of the education and employment skills of each Jobs participant and States are certainly free to screen for learning disabilities as part of this process. When individuals with learning disabilities are identified, States are able, under the Jobs Program, to assign them to a variety of work, education, or training options, including appropriate remedial education.

Ms. MIKULSKI. So those States electing to establish such a process would be eligible for matching funds?

Mr. MOYNIHAN. Yes.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. QUAYLE. Mr. President, I ask unanimous consent to set aside the Dole amendment in order for me to offer an amendment on behalf of myself, Mr. SIMON, and Mr. KENNEDY, an amendment that I believe will be accepted and has been cleared on both sides.

The PRESIDING OFFICER. Without objection, the Senator may proceed.

AMENDMENT NO. 2399

(Purpose: To improve coordination between the Job Training Partnership Act and the programs authorized under title II of the Family Security Act of 1988)

Mr. QUAYLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. QUAYLE] for himself, Mr. SIMON, and Mr. KENNEDY proposes an amendment numbered 2399.

Mr. QUAYLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 180, strike lines 12-16, and insert in lieu thereof the following: "(6)(A) No job opportunities and basic skills program plan under this Title shall be submitted to the Secretary until the Governor has determined that such program is consistent with the criteria for coordinating activities included in the Governor's Coordination and Special Services Plan prepared under Section 121 of the Job Training Partnership Act as such section is in effect on date of enactment of this act.

Mr. QUAYLE. Mr. President, very simply and very much to the point, this amendment is a coordination amendment. Under the Job Training Partnership Act, about 20 percent of the recipients of that act are also recipients of welfare payments. If we are going to applaud the Senators from New York, Texas, and Oregon, who worked very hard on this bill, if we are going to set up a new program that is going to just train, give skills to the welfare recipients, we want to try to get as much coordination as possible.

Senator SIMON had a hearing this last week where the Secretary of Labor was before the committee, and both of us were very interested in how to go about getting the good coordination. What we do not want to do is just create another entity that is going to go out and serve folks without having some deal of coordination with existing programs.

This amendment goes along those lines of coordination. Obviously, we can legislate coordination. The final ultimate conclusion of coordination will remain with those people who are going to run the program.

I believe this amendment gives the direction. We have worked it out, I believe, with the chairman and the ranking member on both sides of the aisle, and I hope it will be accepted.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, this amendment has been examined and we see no objection.

Mr. PACKWOOD. Mr. President, we accept it.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2399) was agreed to.

Mr. GRASSLEY. Mr. President, I rise in support of the Dole-Armstrong amendment. I consider a work requirement an absolute necessity for my support for this legislation. I expect the conference report to contain a like provision or my support for that compromise will be in doubt.

Work should be considered an honor and a privilege and not a punishment.

The PRESIDING OFFICER. The question recurs on the motion to table the Dole amendment.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so orderd.

The question is on the motion of the Senator from New York [Mr. Moynihan] to table the amendment of the Senator from Kansas [Mr. Dole]. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Michigan [Mr. Levin] is necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. Durenberger], the Senator from Nevada [Mr. Hecht], and the Senator from Idaho [Mr. McClure] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 41, nays 54, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—41

Adams
Baucus
Bingaman
Bradley
Breaux
Burdick
Chafee
Chiles
Conrad
Cranston
Daschle
Dodd
Evans
Ford
Fowler
Glenn
Graham
Harkin
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Pryor
Riegle
Sanford
Sarbanes
Sasser
Simon
Stennis
Weicker
Wirth

NAYS—54

Armstrong
Bentsen
Bond
Boren
Boschwitz
Bumpers
Byrd
Cochran
Cohen
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Exon
Garn
Gore
Gramm
Grassley
Hatch
Hatfield
Heflin
Heinz
Helms
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Proxmire
Quayle
Reid
Rockefeller
Roth
Rudman
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—5

Biden
Durenberger
Hecht
Levin
McClure

So the motion to lay on the table amendment No. 2392 was rejected.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, a quicker than usual gavel resulted in my missing this vote. I found the concept appealing behind this amendment, however, it has a very serious flaw. I would have voted to table the amendment because under this amendment, the work requirement could be as little as 16 hours. The better policy would require 40 hours of work, if it is available, minus the time that the welfare recipient would devote to a qualified job training program. In that way, the first priority would be on job training, but welfare recipients could also get work experience, which would benefit themselves and the society at large.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2392) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey will suspend for a few moments. The Senate will be in order. Senators will cease talking.

The Senate will be in order.

Mr. BRADLEY. Mr. President, I thank the Chair. I do not know if the amendment is worth the effort, but I appreciate it.

AMENDMENT NO. 2400

(Purpose: To require the prompt distribution of amounts collected as child support.)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. Bradley] proposes an amendment numbered 2400.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 158, between lines 21 and 22, insert the following new section:

SEC. 121A. REQUIREMENT OF PROMPT STATE DISTRIBUTION OF AMOUNTS COLLECTED AS CHILD SUPPORT.

(a) General.—Section 452 of the Social Security Act, as amended by sections 111 and 121 of this Act, is further amended by adding at the end thereof the following new subsection:

"(i) The standards required by subsection (a)(1) shall include standards establishing time limits governing the period or periods within which a State must distribute, in accordance with section 457, amounts collected as child support pursuant to the State's plan approved under this part.".

(b) Regulations.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to the standards required by the amendment made by subsection (a), and after allowing not less than 60 days for public comments, shall issue final regulations not later than the first day of the tenth month to begin after such date of enactment.

Mr. BRADLEY. Mr. President, the welfare reform bill now before us requires HHS to issue Federal standards establishing time limits in which child support agencies must deliver child support enforcement services, including requests to locate absent parents, to establish paternity, and to initiate proceedings to collect child support. I strongly support this concept. But the bill does not establish standards for the prompt distribution of child support collections. This amendment would require HHS to ensure that child support collected by child support agencies be promptly distributed to its intended recipients. There is no cost to this amendment, according to the Congressional Budget Office.

Current Federal policy gives States inadequate guidance about how quickly they must process and distribute payments of child support that an absent parent makes to the State child support agency. Since there is no pressure on States to distribute the money as quickly as possible, many States consider distribution a low priority, which leads to long delays. These delays in distributing child support collections result in serious harm to families that depend on child support as a regular source of income. Delays in payment of child support to custodial parents are particularly difficult for former AFDC recipients, who are especially vulnerable financially.

Mr. President, delays are sometimes acute. For example, in a Pennsylvania lawsuit, the court found that in one 3-month period there were 76 cases in which the State welfare agency took an average of 6 months to notify the court that families were no longer receiving AFDC so that current support payments should be made to the family instead of to the welfare department. In 73 of the cases in which support was improperly paid to the State, it then took an average of 9 months for the welfare department to authorize a refund, and an additional 4 to 8 weeks to send a refund to the family.

The problem, Mr. President, is not just in Pennsylvania. Mississippi takes over 60 days to get payments to the appropriate recipient. And Connecticut's policy is that child support payments should be paid to the AFDC family 3 months after payments are collected. And in Virginia, child support clients sued the child support agency for its failure to pay child support to the custodial parent once an absent parent had paid support on a family's behalf. In one case, it took 4 months before the child support agency paid the custodial parent any of the money her ex-husband had paid in. In the meantime, she was unable to make payments on her mobile home because she relied on child support to make those payments. Another woman waited 5 months for the State agency to send her support payments her ex-husband had made to the agency, although she provided the agency with the serial numbers of the money orders her ex-husband had used to make payment.

Mr. President, these cases point out that we need Federal timeliness standards on the payment of child support to custodial parents once payments have been made by absent parents. This will significantly help parents who depend on these payments in order to meet basic living expenses for their children. I urge support for this amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, as manager for the majority we have examined the amendment and think it is a worthwhile amendment and have no opposition to it and support it.

Mr. PACKWOOD. Mr. President, same on this side.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2400) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2401

(Purpose: To make technical corrections to the Medicare Catastrophic Coverage Act of 1988)

Mr. BENTSEN. Mr. President, I have some technical amendments to be added to the catastrophic bill and they have been checked on both sides.

I send them to the desk and ask for immediate consideration.

The PRESIDING OFFICER (Mr. LAUTENBERG). The amendment will be stated.

Mr. BENTSEN. Mr. President, they are amendments to the welfare bill for purposes of technical corrections to the catastrophic bill.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 2401.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 291, strike lines 19 and 20 and insert the following:

TITLE VIII—MISCELLANEOUS PROVISIONS

On page 295, between lines 4 and 5, insert the following new section:

SEC. 804. MISCELLANEOUS TECHNICAL CORRECTIONS TO MEDICARE CATASTROPHIC COVERGE ACT OF 1988.

(a) MODIFICATION OF PROVISIONS RELATING TO EMPLOYER MAINTENANCE OF EFFORT.—Section 421 of the Medicare Catastrophic Coverage Act of 1988 is amended—

(1) in subsection (a)(1), by striking "(c)(1)" and inserting "(c)(1)(A)";

(2) in subsection (a)(2), by striking "(c)(2)" and inserting "(c)(1)(B)";

(3) in subsection (b)(1), by striking "of the duplicative part A benefits" and inserting in lieu thereof "of the benefits under part A of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1989) which were not covered under part A of title XVIII of the Social Security Act as such part was in effect on the day before the date of the enactment of this Act";

(4) in subsection (b)(2), by striking "of the duplicative part B benefits" and inserting in lieu thereof "of the benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs) which were not covered under part B of title XVIII of the Social Security Act as such part was in effect on the day before the date of the enactment of this Act";

(5) in subsection (b)(3)(A)(i), by striking "on the basis of" and inserting "as being equal to the respective national";

(6) by amending clause (i) of subsection (b)(3)(B) to read as follows:

"(i) calculate and publish—

"(I) the national average actuarial value for the year involved of the benefits under part A of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1989) which were not covered under such part as such part was in effect before the date of the enactment of this Act, and

"(II) the national average actuarial value for the year involved of the benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs) which were not covered under such part as such part was in effect before the date of the enactment of this Act; and" and

(7) in subsection (b)(3)(B)(ii)—

(A) by inserting "publish" after "(ii)", and

(B) by striking out "such duplicative benefits" and inserting "duplicative part A benefits and duplicative part B benefits".

(b) INCLUSION OF PROVISIONS REPEALING AUTHORITY TO ADMINISTER PROFICIENCY EXAMINATIONS—The Medicare Catastrophic Coverage Act of 1988 is amended by inserting immediately after section 429 the following new section:

"SEC. 430. REPEAL OF AUTHORITY TO ADMINISTER PROFICIENCY EXAMINATIONS.

"(a) REPEAL.—Section 1123 of the Social Security Act (42 U.S.C. 1320a-2) is repealed.

"(b) EFFECT OF REPEAL.—Nothing in the amendment made by subsection (a) shall be construed as affecting the qualification of any individual, who has been determined under the program established under section 1123 of the Social Security Act to be qualified to perform the duties and functions of a health care specialty, to perform such duties and functions.".

(c) CONTINUATION OF COST PASS-THROUGH FOR CERTIFIED REGISTERED NURSE ANESTHETISTS—Section 9320 of the Ombibus Budget Reconciliation Act of 1986 is amended—

(1) in subsection (i), by striking "The amendments" and inserting "Except as provided in subsection (k), the amendments", and

(2) by adding at the end the following new subsection:

"(k) AUTHORIZATION OF CONTINUATION OF PASS-THROUGH—

"(1) Subject to paragraph (2), the amendments made by this section shall not apply during 1989, 1990, and 1991 to a hospital located in a rural area (as defined for purposes of section 1886(d) of the Social Security Act) if the hospital establishes, before January 1, 1989, to the satisfaction of the Secretary of Health and Human Services that—

"(A) as of January 1, 1988, the hospital employed or contracted with a certified registered nurse anesthetist (but not more than one full-time equivalent certified registered nurse anethetist),

"(B) in 1987 the hospital had a volume of surgical procedures (including inpatient and outpatient procedures) requiring anesthesia services that did not exceed 250 (or such higher number as the Secretary determines to be appropriate), and

"(C) each certified registered nurse anesthetist employed by, or under contract with, the hospital has agreed not to bill under part B of title XVIII of such Act for professional services furnished by the anesthetist of the hospital.

"(2) Paragraph (1) shall not apply in 1990 or 1991 to a hospital unless the hospital establishes, before the beginning of each respective year, that the hospital has had a volume of surgical procedures (including inpatient and outpatient procedures) requiring anesthesia services in the previous year that did not exceed 250 (or such higher number as the Secretary determines to be appropriate).

"(3) A hospital to which this subsection otherwise applies for 1990 or 1991 may elect, by notice to the Secretary before the beginning of the year, to terminate treatment under this subsection for that year (and any succeeding year).

"(4) The Secretary shall implement this subsection in such a manner as to maintain budget neutrality consistent with section 1833(l)(3) of the Social Security Act.".

(d) EFFECTIVE DATE.—

(1) The amendments made by this section shall be effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988.

(2) In the event the Medicare Catastrophic Coverage Act of 1988 has not been enacted on or before the date of enactment of this Act, the amendments made by this section are null and void.

Mr. PACKWOOD. Mr. President, the amendments are acceptable.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2401) was agreed to.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 2402

(Purpose: To authorize Indian tribes and Alaska Native organizations to apply to the Secretary of Health and Human Services for authority to administer work, training, and education programs)

Mr. MURKOWSKI. Mr. President, on behalf of Senator STEVENS and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. MURKOWSKI), for himself, and Mr. STEVENS, proposes an amendment numbered 2402.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page , line , delete subsection (l) of Section 417 and insert in lieu thereof the following:

(l)(1) Within six months after the date of enactment of the Family Security Act of 1988, an Indian tribe or Alaska Native organization may apply to the Secretary to conduct a work, training, and education program to carry out the purpose of this section. If the Secretary approves such tribe's or Alaska Native organization's application, the maximum amount that may be paid under section 403(k) to the State in which such tribe or Alaska Native organization is located shall be reduced by the Secretary in accordance with paragraph (2) and an amount equal to the amount of such reduction shall be paid directly to such Indian tribe or Alaska Native organization (without the requirement of any nonfederal share) for the operation of its work, training, and education program. In determining whether to approve an application from an Alaska Native organization, the Secretary shall consider whether approval of the application would promote the efficient and nonduplicative administration of work, education, and training programs in the State.

(2) The amount of the reduction under paragraph (1) with respect to any State in which is located an Indian tribe or Alaska Native organization with an application approved under such paragraph shall be an amount equal to the amount that bears the same ratio to the maximum amount that could be paid under section 403(k) to the State as

(A) the number of adult members of such Indian tribe receiving child support supplements under this part bears to the number of all such adult recipients in the State, or

(B) the number of adult Alaska Natives receiving child support supplements under this part who reside within the boundaries of such Alaska Native organization bears to the number of all such adult recipients in the State of Alaska.

(3) The work, training, and education program set forth in the application of an Indian tribe or Alaska Native organization under paragraph (1) need not meet any requirement that of the program under this section that the Secretary determines is inappropriate with respect to such work, training, and education program.

(4) The work, education, and training program of any Indian tribe or Alaska Native organization may be terminated voluntarily by such tribe or Alaska Native organization or may be terminated by the Secretary upon a finding that the tribe or Alaska Native organization is not conducting such program in substantial conformity with the terms of the application approved by the Secretary, and the maximum amount that may be paid under section 403(k) to the State within which the tribe or Alaska Native organization is located (as reduced pursuant to paragraph (1)) shall be increased by any portion of the amount retained by the Secretary with respect to such program (and not payable to such tribe or Alaska Native organization for obligations already incurred). The reduction under paragraph (1) shall in no event apply to a State for any fiscal year beginning after such program is terminated if no other such program remains in operation in the State.

(5) For purposes of this subsection, an Indian tribe is any tribe, band, nation, or other organized group or community of Indians that—

(i) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(ii) for which a reservation (as defined in paragraph of this subsection) exists.

(6) For purposes of this subsection, a reservation includes Indian reservation, public domain Indian allotments, and former Indian reservations in Oklahoma.

(7) For purposes of this subsection—

(A) An Alaska Native organization is any organized group of Alaska Natives eligible to operate a Federal program under P.L. 93-638 or such group's designee;

(B) The boundaries of an Alaska Native organization shall be those of the geographical region, established pursuant to section 7(a) of the Alaska Native Claims Settlement Act, within which the Alaska Native organization is located (without regard to the ownership of the land within the boundaries);

(C) The Secretary may approve only one application from an Alaska Native organization for each of the twelve geographical regions established pursuant to Section 7(a) of the Alaska Native Claims Settlement Act; and

(D) Any Alaska Native, otherwise eligible or required to participate in a work, education, and training program, residing within the boundaries of an Alaska Native organization whose application has been approved by the Secretary, shall be eligible to participate in the work, education, and training program administered by such Alaska Native organization.

(8) Nothing in this subsection shall be construed to grant or defer any status or powers other than those expressly granted in this subsection or to validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.

Mr. MURKOWSKI. Mr. President, I rise in support of the Family Security Act, S. 1511 because I believe it will give our welfare recipients new means and incentives to move from dependency to self-reliance. As you know, Mr. President, there is broad based agreement that our current welfare program fosters dependency. At this time, there are at least 12 million Americans living on AFDC money, and as many as 60 percent of those AFDC recipients are long term welfare dependents. The fiscal cost of our welfare system is devastating to the Nation. Total AFDC annual benefits have grown from $4.2 billion in 1970 to over $15 billion in 1986. Obviously, there are many reasons why individuals are forced to stay on the welfare rolls: Lack of adequate job skills or literacy, lack of infant child care, lack of medical benefits, or inadequate financial support during training or schooling to name a few.

It was with these concerns that led me to cosponsor S. 1511. S. 1511 establishes mandatory child support, work training and education with transitional assistance—all which I believe will make substantial improvements to our welfare system. While I am not convinced that S. 1511 will solve our welfare problems, I am certain that the direction we are moving in by this legislation—requiring those who receive welfare benefits to participate in education, training, and jobs-search programs—will help welfare recipients move into a meaningful job. With that accomplished, both the welfare recipient and our Nation will benefit from S. 1511.

Mr. President, I join with my colleague and friend, the senior Senator from Alaska, Senator STEVENS, to offer an amendment to S. 1511, The Family Security Act of 1988. The purpose of our amendment is to ensure that the Indian set-aside "jobs" provision in section 417 of the bill works in Alaska.

The Indian set-aside provision authorizes the Secretary of Health and Human Services to approve applications from Indian tribes to administer their own work, training, and education program on Indian reservations. The Federal funds to operate such programs would be set-aside from the amount going to the State in which the reservation is located. The amount of funds set aside for the Indian "jobs" program is based on the ratio of tribal members receiving child support supplements to the total number of such persons in the State receiving child support supplements.

With a few exceptions, we do not have tribes and reservations in Alaska similar to what exists in the lower 48. As a consequence, the formula envisioned by the Indian set-aside "jobs" provision would be impossible to apply in Alaska. We offer this amendment to correct that situation.

First, our amendment authorizes any Alaska Native organization which is eligible to operate a Federal Indian under Public Law 93-638 to apply to administer an Indian set-aside "jobs" program. Any other enitity, including regional non-profit corporations and political subdivisions of the State, may also apply if that entity is designated by an eligible Native organization to apply on behalf of that organization.

The amendment also provides that the geographical regions established by section 7(a) of the Alaska Native Claims Settlement Act [ANCSA] will serve as the basis for administration of a Native set-aside program in Alaska. All Alaska Natives residing within the boundaries of the ANCSA region where the Native organization, whose application has been approved by the Secretary, is located would be eligible to participate in that region's "jobs" program. In addition, all Alaska Native recipients of child support supplements residing in the region will be counted in determining the amount of Federal funds to be set aside for the regions Native operated program.

Finally, Mr. President, the amendment requires the Secretary of Health and Human Services to consider whether approval of an Alaska Native organization's application would promote the efficient and nonduplicative administration of the job program before approving the application. Given the unique situation that exists in Alaska, we believe that such consideration is imperative if the Native set-aside provision is to work efficiently and effectively in Alaska.

I urge its adoption.

Mr. BENTSEN. Mr. President, we find it worthwhile, and we have no objection to it.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, Senator MURKOWSKI and I, the State of Alaska, and the Alaska Federation of Natives support the intent of the tribal set-aside provision in this bill. I commend Senator DASCHLE for his foresight in considering the needs of Indian tribes. We believe, however, that the set-aside provision needs to be fine-tuned to fit the Alaska situation.

There are over 200 Alaska Native villages, some or all of which may qualify as a tribe for purposes of this bill. If 200-plus entities can run their own JOBS programs, the available money will be spread so thin that none of those programs is likely to be very effective.

To prevent this from happening, the proposed amendment would allow 12 Alaska Native organizations to apply to run their own program—one organization for each of the 12 regions in the State created by the Alaska Native Claims Settlement Act. An Alaska Native organization is defined as a group of Alaska Natives eligible to operate a Federal program under Public Law 93-638 or the group's designee. This definition allows Native villages in Alaska to utilize the concept of self-determination by participating in the selection of an entity to administer a work, education, and training program for all eligible Natives residing within the boundaries of that region.

In most States, it is fairly simple to give tribes funds for their tribal members who live on the reservation. In Alaska, however, this is not so easy, because there is only one reservation in the State. The vast majority of Natives live in the State's cities or in Native villages with no defined boundaries. That is why we believe a regional approach, rather than an individual village approach, is best. The boundaries of the 12 regions created by ANCSA are well known. The Alaska Native organization would receive Federal funds based on the number of Alaska Natives who reside within the boundaries of the region in which the organization is located. Metlakatla, the sole reservation in the State of Alaska, would still be covered by the general provisions of the bill dealing with Indian tribes on reservations.

Our amendment protects the interests of Alaska Natives, as well as the interests of the State of Alaska. In most States, Indian reservations are remote from areas where the State itself is likely to provide a program. In those States, there is little reason to fear that the tribal program will duplicate existing State services. That is not the case in Alaska. There are strong Native organizations located in the State's three largest cities, Anchorage, Fairbanks, and Juneau—cities where the State will surely run its own program. Having two programs in a single geographic area could be inefficient and duplicative. To ensure that all eligible participants are covered by a program—are covered by only one program—will require great coordination between the State and the Native programs. Standards will have to be devised for dealing with families that have both Native and non-Native members. Thus our amendment would require the Secretary to consider whether approval of the Native organization's application would promote the official and non-duplicative administration of the JOBS Program before approving the application. The application should be denied if granting it will lead to inefficiency or excessive administrative problems.

I hope my colleagues on the floor will support this amendment. It has been accepted by the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2042) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. I thank my colleagues.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER TO PROCEED TO S. 1966

Mr. BYRD. Mr. President, I thank the Chair. I ask unanimous consent that tomorrow at 10 a.m. the Senate proceed to consideration of S. 1966, Calendar Order No. 690, a bill to amend the Public Health Service Act to improve information and research on biotechnology and human genome, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I ask unanimous consent that my views, as contained in an article dated August 1, 1987, in the Washington Post, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 1, 1987]

TINKERING WITH WELFARE? NO, IT'S A CONSENSUS

The Post faults Congress for "tinkering" with the welfare system and not attempting to reform the benefit programs in a more fundamental way. "There is no consensus" on how to reshape the welfare system, The Post claims [editorial, July 22].

I disagree. I am an original cosponsor of Sen. Daniel Moynihan's Family Security Act of 1987 precisely because it represents a consensus—a consensus on how we can begin to reshape the system to make it more sensitive, helpful and efficient.

It isn't "tinkering" when comprehensive work programs are established to move welfare recipients off the rolls and into gainful employment. "A certain tameness" is not the way I would describe a new child-support enforcement system that would automatically withhold payments from an absent parent's paycheck and penalize states for poor performance in establishing paternity. The beneficiaries would be the poor children who otherwise would not receive support from the absent parent.

These are major steps in social policy. They reflect values that have long been majority values—the value of work, the importance of parental support—but they have not been reflected in our welfare programs.

Moynihan and others who have worked on this proposal should be commended for producing a legislative package that rests firmly on these social values. A majority of mothers of young children are now in the work force, and that is the rationale for proposing that work or training for work be expected of welfare mothers and that child care needs be addressed. Mandatory work requirements accomplish another laudable goal: in some poor families no one has ever been employed.

The work program recommended in the Moynihan bill requires states to provide the service that is most basic to becoming employable; remedial education. The lack of a high school diploma and, more to the point, the inability to read and write are major deficits for many welfare parents who want to work.

The Post is right in noting that other changes might be desirable. Children's advocates, the state welfare commissioners and the governors have all called for equitable welfare benefits and a more rational system for figuring those benefits. The average three-person welfare family in Mississippi now receives $120 a month in AFDC benefits. Finding the will and the dollars to bring benefits in line with living costs will be an important part of this reform effort.

There is a strong consensus on many of the elements of Moynihan's bill. The long list of cosponsors proves the point: 22 Democrats and five Republicans, politically and geographically diverse, signed on as original cosponsors. Several of my Republican colleagues, including Sen. Robert Dole, have pledged to work on a bipartisan welfare reform package in the Senate Finance Committee.

It was President Reagan who gave the issue its visibility when he called for welfare reform in his 1986 State of the Union message. The Moynihan bill, in many respects, reflects the goals and values the President has long supported: strong families and work as a way out of welfare. It is my hope that a well-crafted, bipartisan bill emerging from Congress will gain the approval of the White House.

Throughout the country, states have made enormous strides in moving welfare recipients into private-sector jobs through innovative programs offering a mix of services ranging from basic skills education to sophisticated training. In Mississippi, 1,440 welfare clients were placed in jobs in 1985. With the federal commitment reflected in our bill, states can do even more to prepare welfare parent for independence from the system.

This country's poor families are now served by a fragmented welfare system that has outlived its initial purpose of maintaining widows and orphans. What we need now is commitment to act on the consensus we have reached. Contrary to The Post's view, we do know how to reform the system. The Family Security Act is an important first step. We must get on with it.

—Thad Cochran.

Mr. BENTSEN. Mr. President, I want to again join in the accolades and applaud the distinguished Senator from New York for the marvelous job he has done.

I want to also call attention, once again, to the staff who has done a great job on this particular piece of legislation: Margaret Malone; Joe Humphreys, Marina Weiss, Jim Gould, Pat Oglesby, Norm Richter, Lindy Paull, Rikki Baum, and Sheila Burke.

They have put in some long hours, and I think they have done an extraordinary job. They are to be congratulated for the efforts thay have put into it.

Mr. President, are we ready to go to third reading? I yield to my distinguished colleague, the ranking minority member.

Mr. PACKWOOD. Mr. President, as far as I know, the only amendments that have been cleared have been passed. I think we are ready to go to final passage.

Mr. BENTSEN. I know of no further amendments to be offered on this side.

Mr. CONRAD. Mr. President, the Family Welfare Reform Act represents an important opportunity to lift countless Americans from the quagmire of welfare dependency. It is an important step forward in increasing the effectiveness of our Nation's welfare system.

However, I am concerned about the effectiveness of S. 1511 in meeting certain needs in rural areas.

Under current law, a potential welfare recipient is excluded from receiving AFDC if he or she owns a car with an asset value of more than $1,500. However, that same person could be eligible to receive food stamps if his or her car has a fair market value of under $4,500. And it looks as though the food stamp criteria may be raised to $5,500.

Mr. President, I do not believe that it is either sensible or fair to use two different criteria for those in need of benefits. Nor do I believe that it is sensible or fair to force someone owning a car that may be worth $1,750 to sell it in order to draw those benefits.

Mr. President, this situation wreaks havoc on rural areas. In my own State of North Dakota, people often must drive long distances to reach a job. And if someone is forced to sell their car to draw AFDC and subsequently finds a job that is unaccessible except by car, they're out of luck. That simply makes no sense.

The ideal solution would be to use identical criteria for both food stamp and AFDC eligibility. There is no justification for two different standards regarding the value of a recipient's automobile.

The food stamp criteria are more reasonable than the current AFDC standards. While I would prefer creating identical standards for food stamps and AFDC, according to CBO, using the food stamp standard could cost as much as $500 million over 5 years.

Consequently, until the Finance Committee reached its compromise with the administration, I had intended to offer an amendment that would provide for a 5-year demonstration project. The amendment—identical to a provision in the House-passed bill—would have enabled up to five States to use the food stamp criteria instead of the AFDC critria on automobile valuation when determining welfare eligibility.

However, I understand that the cost of the compromise reached between the committee and the administration would create difficulty for the committee in accepting my amendment.

Therefore, in deference to my friends Senator MOYNIHAN and Senator BENTSEN, as well as the rest of the committee, I will not offer my amendment.

However, I would urge my colleagues on the committee to strongly consider the merits of this provision during their conference with the House.

Mr. President, this demonstration would allow us to test the value of using identical criteria. It also would enable us to determine the actual cost of such a change, and whether or not it would be advisable to use identical criteria on a national scale. It would enable us to better determine the effect of such a change on the welfare system. And under this amendment, poor families in rural areas—who often must drive long distances to reach a job—would have better chances of locating and holding on to jobs that enable them to permanently leave the welfare rolls.

This provision, as it is included in the House-passed bill, represents a small first step toward the solution of a much larger problem. I urge my colleagues to take this into account in conference.

Mr. ADAMS. Mr. President, let me begin by expressing my admiration for the invaluable leadership that my distinguished colleague from New York, Senator MOYNIHAN, has provided on this issue. Nearly 20 years ago, he spoke out and called attention to the growing underclass of women and children living in poverty and dependency as an unintended result of our Federal welfare policy. Now he has succeeded in bringing out the committee and to the floor of the U.S. Senate a challenging and promising proposal for welfare reform. All of us in this Senate, and throughout the Nation, owe him a debt of gratitude for the courage and vision he has shown on this issue.

I am also very proud of what Washington State has accomplished under the leadership of Gov. Booth Gardner. An innovative new welfare plan, the Family Independence Program [FIP], which contains many elements similar to those in S. 1151, is ready to go into operation in the very near future. I am optimistic that FIP will be a success, and will serve as a model for further State initiatives. S. 1151 contains a number of important and overdue reforms in our current welfare system. First, it recognizes that cash assistance that maintains families at a subsistence level is not enough. In order to successfully attain financial independence in our competitive society, individuals must have the necessary educational and job-training tools. This bill increases the emphasis at the Federal level on providing these training and educational opportunities for welfare recipients.

In addition, this legislation acknowledges the need for transition services to assist families as they move out of the welfare system. The bill provides for child care and health insurance for recipients for certain periods of time once they lose eligibility for cash assistance. Without such transition assistance, welfare recipients too often make the horrible discovery that by attempting to move up in life, by looking for work and getting off welfare, they lose all ability to obtain child care for their children, or medical coverage for their families.

The transition services in the bill are, in my opinion, an irreplaceable part of the overall legislative package. I am disappointed that under the committee's substitute amendment it appears these services could possibly end in 5 years, and I hope this provision is deleted in conference.

Finally, I applaud this bill's efforts to address the special needs of the true victims of poverty and dependency, young children. A major portion of this bill is designed to improve our child support enforcement efforts.

Too many men in this country have neglected their responsibilities fathering children and then abandoning the child and the mother, condemning both to dependence on an inadequate welfare system for survival.

I believe in a strong Federal role in assisting low-income individuals. As long as absent fathers have the means themselves to make child-support payments, however, I do not believe this Government has the obligation to bear that responsibility for them.

Because of these important provisions, I am a cosponsor of this legislation and intend to vote for its passage, as long as it is not significantly weakened here on the floor. I do, however, have a number of concerns that I hope will be addressed before this bill becomes law, either here in the Senate or in conference with the House.

First, one major step that the bill attempts to make toward a more progressive welfare policy is the mandate that all States provide assistance to two-parent families under the AFDC-UP Program. The lack of such assistance on a national basis is one of the worst aspects of our current system—it forces one parent to leave home.

Unfortunately, by only mandating 6 months of assistance, the bill not only takes only half a step, but in some cases it could result in half a step backward. This is because those States that have voluntarily adopted full year programs would now have the option of reducing services.

Mr. President, the fact that our current welfare programs can force parents to leave their family in order to ensure that their family will receive benefits is shameful. It is time to address this issue completely, not just halfway.

Second, I have concerns about the mandatory aspects of the Jobs Program. I am not opposed to requiring welfare recipients to work or otherwise participate in job-training or educational activities as a condition of receiving assistance.

A preferable approach, in my opinion, is to proceed under the assumption that welfare recipients do want to get off of assistance, and include ways to ensure participation should that become a problem. This is the approach that has been adopted by the FIP Program in Washington State. In that program, participation is voluntary unless it becomes clear in specific parts of the State that lack of participation is a problem. In addition, FIP exempts certain people from mandatory participation, including mothers of very young children.

Finally, I am also concerned about the Community Work Experience Program provisions in this bill. I am not opposed to the concept of workfare, but I believe it must be very carefully structured. Otherwise, workfare programs can become cheap, easy ways for States to provide limited services, and result in another dead-end trap for recipients.

Therefore, I am troubled by the omission in this bill of certain limiting provisions. These include the lack of a cap on the duration of CWEP assignments, restrictions on repeat assignments, and provisions concerning equal pay and protections against displacement of existing workers.

In conclusion, Mr. President, the bill that is before us today represents a significant attempt to reform our welfare system. This is a very controversial issue, and like all attempts to address such issues, this bill contains many compromises. I support the intent and spirit of this legislation, I applaud Senator MOYNIHAN for his efforts on this issue, and unless this bill is significantly weakened by floor amendments, I will vote for its passage.

Mr. ROTH. Mr. President, today, we have debated the merits of S. 1511, the welfare reform bill introduced by our colleague from New York and reported to this body by the Finance Committee of which I am a member.

I have long been a supporter of reforming the current welfare system, and in fact, during the course of the last year and a half, I commissioned the General Accounting Office to undertake three different studies on the subject of welfare. It was my hope that these studies, which explored both the effects of the current program as well as issues to consider in enacting welfare reform, could make a real contribution to the Senate's deliberations on welfare reform. Based on the findings of these reports, it became even clearer to me that reform of the current system is sorely needed.

However, when this bill was considered in committee, I voted against it. I did so based on the firm belief that although it was called a welfare reform bill, in fact, it fell far short of what I consider true reform. When the bill left the committee, it had no participation requirements. That is, there was no minimum number of welfare recipients that States must get involved in the various work, education, and training activities. When the bill left the committee, job search, grant diversion, and community work experience—the activities specifically aimed at work—were not mandated activities for inclusion in the JOBS Program. When the bill left the committee, no welfare recipient could be required to take a job unless the pay was equal to their Aid to Families with Dependent Children cash grants, food stamps, and the insured value of Medicaid. When it left the committee, it contained expanded benefits, with no check on their effectiveness for an unlimited time into the future. When it left the committee, it was financed in part by eliminating the child care tax credit for some working mothers, when the very families we are trying to help are predominantly female-headed households.

The combined effect of these shortcomings was a bill that would have kept more people on welfare for longer periods of time by expanding benefits and actually creating disincentives to work. I could not call such a bill welfare reform.

During the course of the floor debate and consideration, this legislation has been amended substantially. First, participation requirements for work, education, and training activities have been added. Such requirements are absolutely essential if we are serious about changing the focus of welfare from keeping people on the rolls to helping them leave the rolls. Second, States are required to include at least two real work activities from grant diversion, job search, and community work experience as options for the JOBS Program. Third, a recipient must take a job unless it will result in a loss of cash income without including food stamps and the insured value of Medicaid. Fourth, the transition Medicaid and child care benefits will be subject to a sunset provision after 5 years in order to allow for a thorough evaluation of their effectiveness. Finally, the funding source for the bill is no longer achieved by eliminating the child care tax credit for working mothers.

While these new provisions do not go as far as I would have liked, they do represent a significant step in the right direction. I am pleased that the changes that have been made in the bill are such that today I can cast my vote in favor of the amended legislation.

Mr. RIEGLE. Mr. President, at long last, the Senate is considering a bill today which offers welfare recipients the help they need to get off the rolls and get into the work force. I commend Senator MOYNIHAN for his tireless efforts to reform our welfare system, culminating in his introduction of S. 1511, the Family Security Act.

While this bill is far from perfect, it provides some crucial new assistance for America's poor children and families. The transitional child care and medical assistance offered under this bill address some of the greatest barriers to employment for welfare recipients who seek to attain self-sufficiency.

I cosponsored S. 1511 with some reservations because I felt that welfare reform should be a high priority of this Congress. I will have worked closely with Senator MOYNIHAN and the Finance Committee to improve the bill, and we have made great progress in its child care and health provisions. Yet I believe more work remains to be done in conference to assure that several concerns are addressed.

S. 1511 guarantees 9 months of child care, on a sliding fee scale basis, for children of parents who lose their benefits because they have become employed or increase their work efforts. Reports from across the country cite parents' problems in obtaining adequate child care at reasonable cost as a barrier to stable employment. A recent study of four States, including Michigan, by the General Accounting Office, noted that the supply of child care or affordable child care to meet the needs of employment program participants was inadequate.

I worked with the Senate Finance Committee to amend the bill so that States are allowed to set child care assistance at market rates, a provision included during committee markup. The child care provisions of the bill mark a historic new step for the Federal Government in providing child care to low-income working families.

Another essential component of the bill provides 12 months of Medicaid for all families who lose welfare benefits due to employment. The first 6 months must be provided without charge. During the second 6 months, families with incomes above the poverty level must be charged a premium.

This health insurance protection is crucial to help people make the transition from welfare to work. Studies have shown that families on welfare, often headed by single, young, poorly educated parents with limited work experience, are at special risk of being uninsured. A GAO study found that 50 percent of AFDC recipients who lost their benefits after beginning to work had no insurance 1 year after termination of assistance because their employers offered none. These families need extended Medicaid coverage to make them confident that they can return to work without risking their health, as well as to keep them in health.

The other crucial component of this bill to break the cycle of dependency is the creation of a new job training and basic skills program which helps welfare recipients get off welfare and into the work force.

This bill increases welfare expenditures by $2.8 billion over the next 5 years, and includes major new child care and health benefits to help welfare recipients make a transition to working. S. 1511 expenditures are offset by new tax collections, including nontax debt collection, so the bill will not contribute to the budget deficit.

Mr. President, despite my support for S. 1511, I retain some serious concerns. A bill passed by the other body last December is much more generous and stronger than the Senate bill. The Senate bill needs stronger education and training programs, and better protections for labor.

Although this bill requires States to extend assistance to poor two-parent families with an unemployed principal wage earner, such assistance can be limited to 6 months a year. This places families at risk of losing benefits, or of being forced to separate to continue receiving benefits they need to survive. I will work with my colleagues to ensure that a year-long mandatory AFDC-UP provision is included in the conference agreement on this bill.

Another aspect of this bill which troubles me is the requirement for States to meet participation quotas in their job training programs. This dilutes services over many recipients. Research suggests quotas inhibit well-targeted and cost-effective programs.

Despite these deficiencies, I believe we should enact this bill today so that it may go to conference. S. 1511 contains some long awaited transitional assistance that will encourage welfare recipients to become independent. And I am pleased that restructuring our welfare system is finally getting the attention it deserves.

I hope that the bill is improved even further in conference. If the Reagan administration continues to oppose this bill, and a satisfactory conference agreement cannot be reached, the 101st Congress can consider the issue when it convenes next year, hopefully under an administration which is seriously committed to reform.

Mr. President, I read a recent article in Newsweek by Ramona Parish, who is an AFDC recipient from Roscommon, MI. She is precisely the person this legislation is designed to assist. Like many other Americans on AFDC, she seeks the education needed to find meaningful employment. S. 1511 would help her make that transition. I ask unanimous consent that her statement be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek, May 23, 1988]

MESSAGES FROM A WELFARE MOM

(By Ramona Parish)

Like many other single mothers, I am on welfare. I have received Aid to Families with Dependent Children ever since I divorced my husband six years ago. Living on government aid does several things to people. It destroys their pride and dignity; it makes them dependent on a system that penalizes them for being willing to work. I am not lazy and I want to work. But at this time the best I can hope for is a minimum-wage job that would only undermine my attempts to get ahead. Instead of just being poor, I would become one of the nation's working poor. I cannot survive on $3.35 per hour with three children, without regular child-support payments or health insurance. So I live on AFDC and often feel guilty because I take advantage of this system and its services. But I'm also made to feel ashamed because I cannot pay for things with my own hard-earned money.

To the people behind me on the grocery-store line: You have helped me feel guilty. You chip away at what little pride I have left by snickering to others when I use my food stamps, at the same time commenting loudly about an abuse of taxpayers' dollars. It is because of such comments that I shop in a town 15 miles away, and even there my face reddens with shame.

To all landlords: Some of you believe that because I receive welfare I have no pride in my home or my surroundings. Many times I've called on the phone to ask about a rental and, sight unseen, been turned down when I mention I receive AFDC. I know you have heard that most welfare people will destroy your home and are completely unreliable in paying the rent on time. It doesn't matter if I have excellent references from previous landlords or that I can have the rent payments sent directly to you. On the other hand, there are some of you who will rent *only* to welfare. You like having the money sent to you from social services. You don't care what condition your apartment is in because if I complain about needed repairs (windows that won't open, doors with broken locks), you tell me: "So? Move out." Because there are only a few of you who will rent to AFDC, your apartment will not be empty long.

To my ex-husband: In the past six years I have asked very little from you. Although I appreciate the bags of "used clothing" you sent when I asked if you could help with school clothes, I would have preferred if you had sent child support. Why should I have been the one who was embarrassed when your father stopped by and gave our son a pair of tennis shoes and each of our two daughters $10? You should be the one who is embarrassed—more help from you could make a difference in the way our children live. I make sure they have all their basic needs met, but I get tired of telling them, no, they can't have things they want because I don't have the money.

To my children: I did not intend to raise you on welfare. Bear with me a few more years, for I am trying to make a bad situation better. All of you kids have complained about having to apply for the free-lunch program. I know how ashamed you must feel when you're singled out in the classroom as a free-luncher, and the hurt caused by whispers among your friends that you're poor and your mother is on welfare. I'm sorry for the things I can't afford. But my biggest apology is for the groceries and boxes of toys you saw delivered to the house four years ago by the Old Newsboys organization. Tears still come to my eyes when I think of the question you each asked so innocently, "Mom, I thought people collected these for the poor who can't afford food and toys for the holidays." Little did you know, we were one of the poor. Since that day my pride has not allowed me to accept any more gift baskets.

To all doctors and dentists: Would my hysterectomy which was done three years ago when I was only 28 have been so urgent if I hadn't had Medicaid to pay for it? Could I have avoided having to take estrogen every day for the rest of my life? Although I had a choice of whether to have the surgery or not, I believe scare tactics were used. I wonder if some professionals take advantage of Medicaid recipients because women on AFDC are seen as uneducated and are expected to believe what they are told? And would that explain why so many AFDC women have lost all their teeth? After several extractions—six teeth lost in the six years on AFDC with three more to go soon—I find it difficult to chew my food properly. It's a standard joke now that I'm always the last one to leave the table; in reality, I'm too embarrassed to tell people that dentists suggest pulling teeth because Medicaid won't pay for root canals and crowns.

To all pharmacists: When there is a long line of customers waiting to have their prescriptions filled and I hand you mine, do not shout, "Do you have your current Medicaid card?" Because the shouting is an advertisement that I am on welfare, I will walk around the store until the line is gone. Welfare moms do have some dignity.

To all social-service case workers: When I am willing to help myself and work, why do you take everything away? Can't you at least let me keep the food stamps and medical insurance until I'm above the poverty level? Without these benefits I cannot make it, so I stay on the soaring welfare rolls. I don't want a free ride, but I do need a lift.

To whom it may concern: Do not feel pity for me. I don't want it. I have been given an abundance of self-worth these past two years. Enrolling in college and getting an education is my key to a future without AFDC. Managing a full-time class load, 20 hours a week on a work-study program, and being a mother hasn't been easy, but I've survived. Every time I cash my work-study check, I get back a piece of my pride. I still use my food stamps in another town, but at the same time I use dollar bills that I have earned myself. With each passing semester my head lifts a little higher. What I could use is a smile of understanding and words of encouragement and support. With help, not hindrance, I will make it.

Mr. RIEGLE. Mr. President, I urge my colleagues to vote for enactment of this bill so that we may continue to progress toward a meaningful reform of our welfare system.

Mr. CRANSTON. Mr. President, welfare reform has been an elusive goal for nearly two decades. Part of the problem has been that the term "welfare reform" means very different things to different individuals.

For many, including myself, the purpose of welfare reform should be to restructure and redirect the Aid to Families with Dependent Children in a meaningful way so that it can do a better job in helping needy families become more economically self-sufficient. The purpose of welfare reform should be to remove disincentives to work, improve benefits for those in need, correct inequities in the current system, eliminate unnecessary redtape, and reduce unnecessary welfare costs.

I have always believed that it makes far more sense to help find productive jobs in our communities for individuals who are unable to find work, rather than merely continue to provide them with various welfare benefits. Work is esential to an individual's self-esteem. Self-help and self-sufficiency are concepts embodying deeply held beliefs in our society. Helping employable recipients find jobs that will help them get off welfare will also enable us to concentrate resources upon those individuals who cannot work and need public assistance to survive.

On the other hand, for some, the term "welfare reform" simply means cutting welfare costs. It means devising ways to make receipt of welfare assistance so difficult and onerous that fewer and fewer needy Americans will qualify. That punitive approach to "welfare reform" is shortsighted and inhumane.

Americans are a compassionate and caring people. We want to lend a helping hand to individuals trying to work their way out of poverty and despair and into the mainstream. We care about the needs of vulnerable Americans—such as disabled individuals, elderly individuals, young children, and those who have not had a fair opportunity to compete in our society.

How to achieve the goals of true welfare reform and how to help employable welfare recipients become self-sufficient is not always clear. Individuals of good will have sometimes sharply conflicting views on what is the best approach. For nearly two decades, in Congress after Congress, we have tried to address the need to restructure and retarget the current AFDC system away from welfare dependency and toward self-sufficiency. Time after time, that effort has failed.

Today, as a result of the efforts and tremendous leadership of the Senator from New York [Mr. MOYNIHAN], the Senate has before it a major welfare reform bill designed to help provide a path out of welfare for needy families across the land. It is a remarkable feat given the history of welfare reform, and I join in the many well-deserved tributes which have been paid to Senator MOYNIHAN for his extraordinary efforts in developing and bringing before the Senate this measure. We all owe the Senator from New York a debt of gratitude for the work he has done on this bill. The children and families who will benefit from the provisions of the bill he has championed will also owe him a debt of gratitude. The lives of generations of young children who might otherwise be condemned to welfare dependency will be enhanced as a result of the reforms he has fought for in this legislation.

I will vote in favor of S. 1511.

I was not an original cosponsor of the legislation. I had strong reservations about certain provisions of the bill as introduced. I discussed those concerns in a lengthy meeting with Senator MOYNIHAN. I joined as a cosponsor only after I had assurances that the areas of my concern would be addressed in the committee process. As I will discuss in a moment, I was very pleased with the improvements that the Finance Committee made in these specific areas. Unfortunately, some of the other changes made by the Finance Committee, for example, weakening the unemployed parent provisions, represented a step backward, in my view. However, on balance, I believe that the measure does move in the right direction in terms of helping families move in a positive way off welfare and into the work force.

The committee amendment which was offered and adopted during the floor consideration poses additional problems, particularly in terms of the States' ability to meet the mandated participation rates in a realistic fashion and the likelihood that this provision will increase pressure upon the States to satisfy the mandates by putting into place punitive "workfare" programs. Those programs are generally ineffective in helping welfare recipients gain the skills they need to obtain employment in the private sector. The best approach to getting welfare recipients into the permanent work force is to provide them with the education and training and supportive services like child care that they need to win a place in the private sector employment force. Hopefully, some of these concerns will be addressed in conference, and a better bill will emerge in these areas.

Mr. President, notwithstanding these reservations, I support passage of S. 1511. It has many positive aspects which outweigh its drawbacks.

PROVISIONS OF THE BILL

Mr. President, S. 1511 proposes to amend title IV of the Social Security Act to replace the current Aid to Families with Dependent Children [AFDC] Program with a new program, the Child Support Supplement Program. The new program would strengthen child support enforcement mechanisms and provide for the development of comprehensive work, education, and training programs. It provides for the provision of child care services to assist welfare recipients enter the work force. It is also addresses the inequities in the present system which allows many States to bar two-parent families from welfare assistance.

Mr. President, as I noted earlier, I had strong reservations about the adequacy of S. 1511 as introduced in three specific areas: the education and training components of the JOBS Program, the child care provisions, and elements of the waiver sections of the bill. I urged that the education and training and child care components be strengthened and that the foster care and adoption assistance program be eliminated from the waiver provisions. As one of the principal authors of the Adoption Assistance and Child Welfare Act of 1980—Public Law 96-272—I felt very strongly that the landmark provisions of that law and its protections for foster children should not be waived. I was very pleased that it was deleted from the waiver section of the bill during committe consideration.

The child care provisions were also greatly strengthened, including providing for reimbursements at the market rate for child care, transitional child care benefits which would continue for 6 months after a recipient leaves the welfare program, and an explicit requirement that the States guarantee that child care is available for any recipient required to participate in any of the mandated programs. It is a simple reality that we cannot mandate that the welfare recipients participate in various job-related activities unless child care services are made available. The transitional child care benefit is perhaps one of the most important parts of the legislation since one of the greatest problems which recipients entering the work force face is the loss of child care assistance—the assistance that they need to secure and keep employment.

We need to do much more than just provide 6 months transitional child care support for welfare recipients. I am a cosponsor of the proposed "Act for Better Child Care Services," S. 1885, legislation which would help make child care services more readily available for low and moderate income families. That legislation is greatly needed and would complement the child care provisions in this legislation.

Mr. President, S. 1511 also now requires States make available education and training programs so that welfare recipients can be prepared to enter the job market. The original bill allowed these services to be optional, thereby allowing States simply to mandate punitive workfare programs that would not help prepare welfare recipients for entry into the private sector work force. The committee's change in this provision is very important.

CALIFORNIA HOLD-HARMLESS PROVISION

Mr. President, I want to make note of one technical change which was made in the bill which if not corrected would have seriously impeded welfare reform activity in California and Massachusetts. The bill as reported inadvertently included 1987 as the base year for computing State continuing contribution levels, rather than 1986 as previously indicated. That mistake would have seriously hurt two States—California and Massachusetts—which have pioneered welfare reform activities with the California GAIN Program and the Massachusetts ET Program. As soon as this error was brought to his attention, the Senator from New York [Mr. MOYNIHAN] gave assurances that it would be immediately corrected. I am grateful for his swift action to respond to this problem and to the Finance Committee for recognizing that States which have pioneered in this area should not be penalized for their early efforts to bring about welfare reform.

COMMITTEE FLOOR AMENDMENT

Mr. President, during the Senate's consideration of S. 1511, lengthy negotiations took place which led to the development of a committee amendment which established participation rate requirements for the States to achieve, provided a sunset of the transitional child care and Medicaid benefits in 1993, revised the net loss of income provisions, and required that States provide at least two out of three specific services. Finally, the amendment eliminated entirely the waive provisions in S. 1511. The last provision is greatly welcomed since this particular aspect of the reported bill, which would have authorized the Secretary of Health and Human Services to grant waivers of various provisions of the bill for up to 50 projects, was very troublesome. Although I certainly support allowing demonstration projects to experiment with various approaches, such authority already exists under the Social Security Act. There is little evidence that States need additional authority or encouragement to undertake these demonstration projects.

I am also disappointed that the committee amendment would sunset two of the most beneficial components of the bill—the transitional child care and Medicaid provisions. The amendment, however, provides for a study of the effect of these provisions to be completed before the sunset date thus providing an opportunity for Congress to review the implications of continuing these provisions after 1993. Thus, if this provision prevails in conference, we will still have an opportunity to revisit the issue before the date of expiration of these programs.

As I mentioned earlier, the participation rate requirements pose great risks that they will create undue pressure on States to develop programs that satisfy those requirements, but have no long-term beneficial effect upon helping welfare recipients move into the work force. I am also concerned that the Dole-Armstrong amendment, which I voted to table, will have an adverse effect upon the serious efforts of States to help welfare recipients make the transition into the work force. Hopefully, further revisions of these provisions will take place before the measure is enacted into law.

CONCLUSION

Mr. President, welfare reform is a difficult and controversial process. The bill before us moves in the right direction. It is not perfect, but it deserves our support.

Mr. KERRY. Mr. President, I congratulate my distinguished colleague from New York, Senator MOYNIHAN, for his tireless efforts on the subject of welfare reform in general, and in particular, for his work in bringing the Family Security Act of 1988 to the Senate floor for consideration. I recognize that the road to this point was sometimes a rocky one and that at several points along the way my friend from New York was able to successfully prevent derailment of this effort to reform our current welfare system.

Although I continue to have concerns about specific provisions in the bill which I will elaborate on momentarily, I do feel that we are undertaking a significant and long overdue step toward providing people on welfare with a route out of poverty. Central to this effort are provisions contained in this bill which strengthen child support enforcement; provide education, training and employment opportunities and assist in the transition from welfare to work by providing much needed transitional health and child care benefits.

A very significant element of the bill before us today is the Job Opportunities and Basic Skills JOBS Program. This program replaces the current Work Incentive Program [WIN] and represents a critical Federal investment in providing welfare recipients with genuine employment opportunities along with the necessary training and support services.

The experience of the Massachusetts Employment and Training Choices ["ET"] Program has shown that providing education, job training, and related services can successfully prepare welfare recipients for employment; employment that goes beyond unskilled jobs at or below minimum wage, but rather provides recipients with real jobs at real wages.

In just 5 years, the ET Program has been successful in reducing welfare dependency by more than 25 percent; has saved more than $35 million by removing more than 45,000 individuals from the welfare roles. The success of this experience is transferable to other States and I am pleased to see an emphasis on education, training, and employment in this bill.

Just as important, this bill recognizes an element critical to ensuring the success of any program attempting to move people from welfare to self-sufficiency—that of providing transitional child care and health care benefits.

With our current system, families with children who leave AFDC for employment generally face abrupt terminations of Medicaid coverage and child care assistance two essential supports for working families with children. As a result, families who strive for economic independence often find themselves no better off, and sometimes worse off, than they had been while receiving AFDC. This is a distinct disincentive for families to seek employment and to leave the welfare rolls.

I am also pleased that the bill mandates benefits coverage by the states for two-parent families—the AFDC Unemployed Parent Program AFDC-UP. Massachusetts is currently one of 27 States that has utilized the option to provide benefits to two-parent families. Extending this program to the 23 States currently without the program will further serve the goal of helping families stay together, particularly during difficult economic times. I am troubled, however, by the fact that the AFDC-UP extension contains a time limit. This is not a productive extension of the AFDC-UP Program and carries with it a highly negative potential impact on families and particularly on children. I would urge the conferees to look carefully at removing this time restriction.

Mr. President, the measure before us today is the result of a tremendous amount of hard work, careful compromises, and a good-faith, bipartisan effort. It makes an important first step toward true welfare reform. I am pleased that the bill includes a guarantee for child care and provides States with the financial resources to meet that goal. I am also pleased that the final compromise worked out today eliminates the 50-State waiver demonstration provision.

Although I support this legislation as an important first-step toward genuine welfare reform, and plan to vote for the measure today, I want to stress to my colleagues who will be conferees on this legislation with the House, my reservations about certain provisions contained in the bill we are passing today and areas where I am hopeful that we can make improvements.

First, I am concerned that the bill requires parents with children over the age of 3, and at State option over the age of 1, to participate in the Jobs Program. Although I support the concept of moving people from welfare to work, I am nonetheless sensitive to the importance of the family and the benefits of having mothers at home with their children.

I am also concerned about the potential for an open-ended Community Work Experience Program [CWEP], experience by participants and would urge my colleagues in conference to carefully evaluate placing time limits on those work activities that prove unproductive.

The minor parent provisions contained in this bill are also of concern to me for two reasons. First, requiring pregnant and parenting teens to live with their parents ignores the fact that a great many of these teens live in circumstances of great stress—emotional and economic and quite often these teens are the victims of physical and sexual abuse and drug and alcohol abuse. We must be sensitive to these situations and provide strict protections for these young parents in danger. In addition, when a young parent returns home, the bill contains a provision which "deems" the income of the grandparent to the child even though that income may not be available to the parenting child, resulting, ultimately in a reduction of benefits.

Although I am fully supportive of the Jobs Program, I would have preferred to see it funded as an open-ended Federal match instead of as a capped entitlement. A serious effort at reducing welfare dependency will require a serious investment in quality job training and education.

Finally, I would hope that the conferees would address the issue of minimum benefits. In any endeavor there is a necessary amount of compromise and I understand that minimum benefit levels could not be included in the Senate bill. Nevertheless, it is something that I trust will at least be discussed during the conference on this bill.

The measure before us today makes important strides in the area of work, education and training. Toward that end I would like to indicate my support for a demonstration project developed by Emmanuel College in Boston, MA. Emmanuel has developed a women's resource center that is designed to coordinate educational programs for single women heads of households. It is targeted to AFDC recipients and is meant to provide career opportunities for these recipients. This project, and others like it should be supported as we move forward in welfare reform.

The steps we are taking today are long overdue and begin the process of reforming our welfare system. I again commend my colleague from New York for his continued leadership on this issue and look forward to working to achieve comprehensive welfare reform during this Congress and to provide real employment opportunities for our neediest citizens.

Mr. DODD. Mr. President, I rise in support of S. 1511, the Family Security Act of 1988. My colleagues on the Finance Committee, Senator MOYNIHAN in particular, should be commended for their months of work on this comprehensive piece of legislation.

It is clearly time for us to reevaluate a welfare system that fails to help the less privileged become self-sufficient. It is time for the Congress to develop a welfare system that does not punish a child living in poverty for having two parents, or a single unwed mother; a system that does not trap an unwed or single mother who cannot find childcare.

There is an urgency to replace the current welfare system with one that addresses the needs of today's unemployed parents, unwed mothers and the one out of four children living in poverty. The statistics are staggering. Fourteen percent of the children living in poverty have teenage mothers, and 60 percent will live in single parent households before they are 18 years old. Thirty percent will never finish high school; in some inner cities as many as 60 percent will be high school dropouts. One out of seven will be considered illiterate by his or her 18th birthday. And 35 percent will be on welfare before the age of 18.

Under the current system, a large percentage of welfare recipients have little chance to improve their standard of living: unwed mothers and their children. Many of them receive no child support assistance. Many of them did not finish high school. Many of them have never worked. They do not have the education, work experience or training or child care assistance to enable them to find work. The jobs they do qualify for often do not provide health insurance or child care.

There are many families in which the principle worker is unemployed who do not even qualify for income assistance or Medicaid under welfare, unless they live in one of the 26 States that offer the AFDC-UP Program. The children of these parents are the victims of a faulty Welfare Program. They often go without food, clothes and healthcare just because they are children of married parents.

The discrepancy between the Federal Government's assistance to children in two parent families, children of widowers, and children of unwed mothers is far too great. The current welfare system is outdated and desperately needs the overhaul that has been crafted by Senator MOYNIHAN. S. 1511 attempts to rewrite our welfare system to utilize Federal dollars most efficiently to stimulate hope and progress, to train and educate the unemployed, enforce child support payments more stringently and to provide child care and Medicaid to families working their way off the Federal assistance.

I do not agree with each and every provision of S. 1511. I expect that there will be further changes after Members of the Senate and House meet in conference. I am confident that the end result will be an impressive package of fair, workable, innovative welfare provisions which include education, training, job search, child care, and Medicaid.

Currently, available child care services are few and costly. S. 1511, for the first time, recognizes that the millions of single mothers collecting welfare have little hope of entering the work force without some child care assistance. However, the program is limited in scope and only reaches welfare recipients and those a few months in the work force. For months, I have been working on a comprehensive child care bill, S. 1885, the act for better child care, with the hopes of improving the affordability, quality, and availability of child care services across the board. I would hope, at a future date, that my measure could complement the welfare package.

An important feature of S. 1511 is the provision to extend Medicaid from 6 to 12 months, after income assistance ends, for those recipients fortunate enough to find work. Millions of Americans are not covered by health care insurance. For many of those who find work, one medical crisis is enough to force them to return to welfare. The Medicaid and child care provisions in S. 1511 serve as catalysts to encouraging families to find work. I would hope that the provisions, if they prove successful, would be extended beyond the December 1993 sunset date.

For the record, I would like to mention the provisions with which I have some reservations. I am concerned that there is a 6-month limit on the disbursement of assistance to unemployed parents. A few questions come to mind when I consider the ramifications of limiting income assistance to 6 months. If after 6 months the parents are still unemployed, is it fair to take benefits away from their children? Is 6 months sufficient time to retrain or educate one or both of the parents? What happens if our country is in an economic recession and the jobs are just not there for the retrained parents to turn to? The chances are, if the Federal Government does not set a standard, these families will fall through the cracks, if not today, then as soon as a State, or the Nation as a whole, experiences its next economic recession.

Further concerns of mine include: the absence of restrictions on the time someone is required to participate in workfare, the participation quotas and the requirement that States provide two out of three of the community work experience programs. Again, some questions come to mind. Is it economically feasible for States to adequately provide workfare opportunities to 10 percent of their welfare recipients without jeopardizing education, training, and placement programs? What will States do if they are experiencing high rates of unemployment? Where will they find the jobs for the workfare recipients? The Workfare Program should be a transition into the workplace and not a substitute for employment and independence from the welfare system. Our energies should focus on training, education, and job search assistance. We should prepare welfare recipients to enter or reenter the work force, and if a State is able to offer workfare experience, I encourage it.

Again, I compliment Senator MOYNIHAN on his diligence and commitment to designing a Welfare Program better equipped to deal with the millions of children and parents living in poverty. I encourage my colleagues to support S. 1511.

Mr. STAFFORD. Mr. President, I want to congratulate my colleague from New York [Mr. MOYNIHAN] for the manner in which he has guided this welfare room bill through the Finance Committee and onto the floor of the Senate. He has once again provided us all with a display of his extraordinary talents.

I cosponsored the bill, S. 1511, because I believe we must begin the process of changing our Nation's welfare laws in some critical ways. We must expand the opportunities for education and job training. We must find ways to improve financial and medical support for children living in poor households.

When we get down to it, we are talking about support for poor children in our discussions about single-parent households, and conventional households where both parents are unemployed. We are talking about providing basic health care, nutrition, and educational opportunity to the poor children of this Nation. We must keep our sights on those objectives as this bill works its way through the legislative process.

This thought brings me to some observations that I find troubling about the measure reported by the Finance Committee. Two provisions of the bill that concern me include, first, new options that permit States to impose additional restrictions on the AFDC-Unemployment Parent Program and, second, the expansion of the State demonstration programs under the broad waiver authority that could result in the loss of rights and protections otherwise guaranteed for the poor.

I am inclined to agree with those advocates of the poor that, if each of those provisions were implemented in a State, poor children and their families could turn out to be worse off than under current law.

The JOBS Program does not ensure that parents with limited education and work experience will get the necessary support they need to become self-sufficient. Those Americans with the least education and work experience require more time and resources to get them into the work force. Limitations placed on the resources can only weaken our efforts to help poor families rise out of poverty.

S. 1511 is near the mid-point of its journey to become the law of the land. After the bill passes the Senate, it will have to go to conference with the House version. The House bill differs with the Senate bill in the areas that concern me most. It is my hope that Senate conferees will agree with that view and that the final version of this bill will be closer to the House provisions in these key areas.

I intend to vote for Senate passage of S. 1511, and I shall also oppose any weakening amendments. However, I cannot at this time pledge my support for final passage in the event Senate conferees fail to accept some of the more enlightened provisions of the House bill.

Mr. CONRAD. Mr. President, as a cosponsor of the "Family Security Act of 1987," I rise today in strong support of this important legislation. I would like to commend those members of the Finance Committee who worked so diligently to make this bill, in many ways, a better bill than was originally introduced.

Mr. President, for years our country has struggled to end welfare dependency and move those on the welfare rolls into jobs that enable families to support themselves. We have sought ways to offer the children of disadvantaged Americans a better future. We have sought ways to keep families together in times of crisis, rather than to force them apart. Sometimes we have been successful, other times, we should have done better.

Joe Califano put it well when he called welfare reform the Middle East of domestic politics. It is an area where we have continuously sought solutions, but have found them elusive. Since the "War on Poverty," the Nixon, Ford, Carter, and Reagan administrations all have had their ideas on welfare reform. Some were implemented, some never made it through Congress, and others, such as the 1981 changes pushed through by the Reagan administration, are major reasons for our current debate.

But today, we have a unique opportunity. Today, we can help those dependent on welfare take a critical step toward self-sufficiency.

The mere mention of the word "welfare" evokes strong emotions. For some, there are thoughts of welfare cadillacs and welfare cheats. For others, there is the vision of impoverished children, broken families, and struggle to find a way out of dependency.

But the fact is that most welfare recipients draw benefits only for a relatively short time. Nearly half of the families entering the welfare rolls leave them within 2 years. And half of those on welfare are able to leave on their own. However, 17 percent receive Aid to Families with Dependent Children for 8 or more years. These long-term welfare recipients, who collect more than 60 percent of the benefits, are a major target of this legislation.

Franklin Roosevelt once said, "Better the occasional faults of a government that lives in a spirit of charity than the constant omission of a government frozen in the ice of its own indifference." In few areas does this statement seem more relevant than during the current welfare reform debate.

The "Family Security Act" seeks to end long-term dependence through a combination of child support enforcement, education, training, and the elimination of a variety of current barriers and disincentives to working. As my friend and colleague from Mississippi, Senator COCHRAN, put it, the bill is based on the principle that poor families and society at large have reciprocal responsibilities. Government has an obligation to help those caught in the rut of welfare dependency to cope in mainstream society. Welfare recipients have an obligation either to work or prepare themselves for work, as well as accept the primary responsibility for supporting their children.

The "Family Security Act" makes many important changes, including the establishment of a new Job Opportunities and Basic Skills Training Program to replace the current Work Incentive Program. It requires States to spend at least 50 percent of their JOBS funds on long-term welfare recipients, or those most at risk of becoming long-term recipients. Under JOBS, States also are required to include basic education and skills training among their services and activities—they must provide welfare recipients with these essential tools for self-reliance.

But, Mr. President, some of my colleagues advocate adding "participation rates" to the bill to ensure that JOBS benefits a minimum number of welfare recipients. Indeed, the committee amendment includes participation rates.

Advocates of participation rates believe that participation rates will provide incentive for States to better serve low-skilled members of the welfare population. But they are wrong.

In fact, participation rates could be detrimental to the very people who their proponents seek to target—difficult-to-serve, long-term welfare recipients. Mandatory participation standards, however well-intentioned, are numbers games that would force States to spread their scarce resources too thinly. They could very well undermine the effectiveness of the JOBS Program, giving States incentive to assist more easily employable welfare recipients at the expense of the less fortunate.

However, I am well aware that the participation rates in the committee amendment are much better than what the administration originally proposed. And while I would rather not include them in the bill, I understand that they could be much worse. At the same time, however, I would urge the conference committee to strongly consider the impact and cost of participation rates on individual States—especially large, sparsely populated States.

In addition to the new JOBS Program, another important change made by the bill is the extension of transition benefits for those who find employment. The lack of adequate transition benefits currently is among the major reasons for welfare recidivism—it is a major disincentive to work.

If the first jobs available to former welfare recipients offer minimum wages and no benefits, there is every incentive to slip back onto the welfare rolls. How can a mother on AFDC go to work if it means no medical care for her children? And how can she work if she cannot pay for child care during the day?

Under S. 1511, eligible families are guaranteed child care for 9 months after they leave the rolls. In addition, the bill extends Medicaid coverage for up to 1 year for families who leave AFDC due to earnings.

Adequate transition benefits are absolutely critical to any attempt to lift people from welfare dependency. Yet, some of my colleagues advocate scaling back or even eliminating the transition benefits currently in the bill. And frankly, their reasoning baffles me. They argue that transition benefits will make welfare more attractive than work, but I am convinced that few people who have the opportunity to earn a living would prefer to subsist on welfare.

While they may tell you otherwise, advocates of decreasing transition benefits are in effect advocating the continued long-term welfare dependence of millions of improverished families. Millions.

If anything, the transition should be lengthened, not shortened or eliminated.

The new compromise would sunset these important transition benefits at the end of 1993. I believe that this would be a mistake, but the bill also requires that a study be released a year before the benefits are scheduled to end. The study will discuss the value of transition benefits, and I am confident that it will recommend their continuation. I am confident that as a result, Congress will vote to extend the transition benefits beyond 1993.

Mr. President, there is one additional change made by the bill that I would like to cover. It deals with coverage of two-parent families.

States currently have the option of providing assistance to families where the principal wage earner is unemployed. This program, known as AFDC-UP, is currently operated by 27 States. However, 23 States do not have a UP Program.

The bill would require each State to operate a UP Program.

In States without a UP Program, an unemployed parent must leave his family in order for his children to be eligible for AFDC. The same is often true for Medicaid.

My own State of North Dakota does not currently administer an AFDC-UP Program. I know many North Dakotans who would like to see that changed. They would like to create an atmosphere that not only enables people to escape welfare, but one that does not split families apart. AFDC-UP can provide such an environment.

One more issue surrounding this bill needs discussion. I, and I am sure many of my colleagues as well, have heard from a number of national organizations who are not supporting this bill—some of them church organizations; many of them liberal. They do not think it goes far enough.

These organizations raise some very important points. They would like to further lengthen the time period for transition benefits. They want to increase the time period during which families are eligible for AFDC-UP payments. They do not like several of the provisions in the committee's compromise with the administration. I agree.

It is true that the bill we have before us today is probably not all that is needed. If it is scaled back or weakened, it very well may not be worth passing.

But as it stands now, the legislation we have before us is worth passing. If it is not passed, we likely will not enact any major welfare reform package during the 100th Congress.

Politics is a slow process. Positive change can take a long time—too long a time. Several administrations have tried to change our welfare system, and have met with little success. Now, we have an opportunity to change that.

The President already is reluctant to support even the Senate bill, which is not nearly as generous as the House-passed version. The administration advocates changes that, in my view, would weaken the bill we have now.

So, we have a choice. Do we pass S. 1511, or do we end up with no welfare reform package during the 100th Congress?

The stance of these well-meaning organizations reminds me of the comments of George Bernard Shaw, when he heard that the Honorable Joseph Burgess had given up his seat in Parliament rather than compromise on an important issue. He said:

> When I think of my own character, smirched with compromise, mildewed by expediency, * * * worn out by 25 years pushing to gain an inch here, or straining to stem a backrush, I do think Joe might have put up with just a speck or two on those white robes of his for the sake of the millions of poor devils who cannot afford any character at all because they have no friend in parliament. Who is Joe anyow that he should not risk his soul occasionally like the rest of us?

Mr. President, this is a good bill. It is probably not the ideal bill, but, it moves us in the right direction. It does not add to the budget deficit. It offers hope for a better future for millions of mothers, fathers, and children.

I would again like to compliment the Finance Committee for its hard work in grappling with this difficult topic, and formulating the bill we have before us today.

Mr. GLENN. Mr. President, I rise today in support of S. 1511, the Family Security Act. While I have reservations about certain provisions of this legislation, I belief the bill incorporates many essential elements for a workable welfare reform effort, such as: Improved child support enforcement, job training child care and transportation, transitional health care, and eligibility for two-parent families.

Child support enforcement is long overdue. We must ensure that absent parents take on the responsibity of caring for their children. The statistics show that over 40 percent of the mothers raising children alone are never awarded support and almost 50 percent of the mothers who do receive payment do not receive full payment. It is time that the Federal Government corrects this problem, and I believe this bill accomplishes that objective.

I was particularly glad to see the emphasis on education and job training in this legislation. All too often welfare dependency has been the result of inadequate education, limited job training, unavailable child care, and lack of employment opportunities. This Nation cannot afford the long-term costs of failing to create training and employment opportunities for the poor. Our Nation cannot continue to compete in the world's markets without making maximum use of a productive, trained work force.

The Family Security Act removes one of barriers to employment by ensuring transitional health care and child care. We must stop penalizing recipients who go to work only to see their benefits reduced and their access to free health care through the Federal-State Medicaid Program eliminated.

Last, the establishment in the bill of the AFDC-UP in all States promotes family stability by providing AFDC assistance to families in which the principal earner is unemployed. Twenty-seven States including my State of Ohio, already have this program. It is unconscionable that our system of public assistance encourages an unemployed parent to leave his family in order for his children to be eligible for help under AFDC, and in many cases, for health care under Medicaid as well.

I would like to compliment by colleague from New York Senator MOYNIHAN, on the work he has done in getting this vital legislation to the floor of the Senate for debate. I urge my colleagues to join me in voting in favor of the Family Security Act.

Mr. BRADLEY. Mr. President, the Family Security Act will help many Americans lead more productive, secure lives. The act refocuses our current AFDC Program to help welfare recipients train for and find real jobs that will enable them to provide for their families. The change marks a fundamental shift in this Nations' approach to welfare. Currently, we provide the poor with cash benefits and health care, but we do little to help welfare recipients climb out of poverty and achieve self-sufficiency.

The overwhelming majority of Americans believe that the poor who are able to work should do so, rather than simply receiving a handout. I agree. But we must also provide the training, the access to child care and health care, and the access to jobs that make work a reality as well as a requirement. Americans want to be self-reliant, independent individuals, and I believe that it is our responsibility to give everyone an opportunity to achieve these goals.

Under this bill, States would provide education, training, child care, and jobs for welfare recipients, thus investing today to avoid years of future welfare costs. In the process, people get back their self-respect and control of their own lives.

The bill consolidates existing work-related programs, reducing the fragmentation of services that are so frustrating to recipients and providers alike. These changes are patterned after several effective, successful and innovative job training programs already in operation in many States. Since local conditions vary, States will be able to tailor programs to fit local conditions. This flexibility will aid my own State of New Jersey in its efforts to help welfare recipients through the New Jersey REACH Program.

Still, Mr. President, we should have no illusions. This bill will not eliminate poverty; nor will it eliminate welfare. I am particularly concerned that we ensure that States will, in fact, provide sufficient child care, basis education, and training for welfare recipients. In addition, we must provide support to single parents as they move off the welfare roles by ensuring adequate transitional benefits, such as health care coverage and child care. Also we must support unemployed, two parent families through access to education and training programs as a means to return to full employment.

Mr. President, I am pleased that this bill incorporates several proposals I have made to improve the Child Support Enforcement Program. The terrible record of enforcement in this area has been a national shame and correcting this problem has been a longstanding concern of mine.

In 1984, Congress enacted major legislative changes to significantly improve the collection of child support. I was pleased to sponsor those changes in an attempt to break the shocking spiral of poverty for women and children who were not receiving the support payments to which they were legally entitled. The 1984 Child Support Amendments mandated several steps, including wage withholding if a parent is 1 month in arrears and the establishment of Federal and State income tax refund offsets to collect overdue child support. In addition, Congress in 1986 adopted a bill I introduced prohibiting the courts from wiping out child support arrearages.

The changes we enacted in the Child Support Enforcement Amendments of 1984 and 1986 have yielded significant results. Since 1978, total child support collections have tripled and twice as many children legally established their fathers. That is good news.

But there is still a lot of room for improvement. Despite improved child support efforts, most noncustodial parents fall far behind in their obligations to their children. The statistics, Mr. President, are still shocking.

Currently, only 7 percent of AFDC payments are ever recovered by child support.

The average amount of child support actually received by families—less than $200 a month—is very low and has not increased in real terms since 1970.

Only one-third of the children born out of wedlock have paternities established which then enable them to receive support from their fathers.

Currently, almost 15 million children under the age of 18 live in a household where only 1 parent is present—almost double the 1970 level—and half of those live below the poverty level.

And of the 9 million single-parent mothers, over 40 percent receive no child support awards; of the mothers who are legally entitled to child support, 24 percent never get the money and another 26 percent consistently received less than the amount awarded by the court. Despite improved collections, the overall record is still abysmal.

Mr. President, my home State of New Jersey has been a leader in child support enforcement. The State's efforts to issue guidelines to standardize awards and to review child support cases have improved the financial status of thousands of children. Yet even in New Jersey, only about 11 percent of welfare payments are recouped through child support payments from noncustodial parents. And there are thousands of New Jersey families not on welfare who do not receive the support to which they are entitled. There is clearly room for improvement, even among the States with the best performance.

Mr. President, during Senate consideration of the 1984 Child Support Amendments, I indicated that the 1984 legislative changes might not be enough to correct the abuse and neglect in the system. I warned that further steps would probably be necessary to improve the system. That time has come. In April 1987, I introduced the Child Support Improvement Act which has been integrated into the Family Security Act. The following key provisions of my bill have been incorporated into this legislation:

Expansion of paternity enforcement activities to ensure that fathers are identified.

The establishment and use of uniform guidelines to determine the amount of child support to be awarded.

Automatic review every 2 years of the size of the child support awards to determine if increases or decreases are warranted.

Expanded efforts to find noncustodial parents who fail to meet their obligations.

Immediate wage withholding of support awards in cases that come before the child support agency unless good cause can be shown for an alternate arrangement.

The establishment of a commission to propose improvements in interstate child support cases.

Mr. President, I support immediate wage withholding in all title IV-D and non-IV-D cases, and I have introduced legislation to accomplish that end after my amendment was adopted on this bill it will happen. While the Finance Committee opposed immediate wage withholding for all child support payments at this time, I am pleased that the reported bill at least provided for immediate wage withholding in all IV-D cases. And I am pleased that my colleagues agreed to my amendment to establish immediate wage withholding for all cases starting in 1994.

Mr. President, the Federal Government has a major role in helping families escape poverty, but Federal help should include supporting the principle that families have responsibility to help themselves and that parents have a responsibility to care for their children.

Sadly, too often, noncustodial parents do not fulfill their responsibility. We, as a Nation, have a moral obligation to provide assistance to poor families and their children—but it should only supplement the efforts of parents to support their own children. I am pleased that the bill being considered today recognizes that improvements in child care enforcement should be central to any welfare reform initiative enacted by the Congress.

Mr. President, other aspects of the bill give me pause. There has been much deliberation over the value of participation rate standards as they relate to the JOBS and CSS-UP sections of the bill. While I am sensitive to the concern that we must ensure that welfare recipients participate in education, training, and work experience programs, I am reminded that from the beginning of our efforts to reform the Nation's welfare system we have understood that a key to success is the notion that our limited resources must be targeted to that portion of welfare population most likely to remain on the welfare roles for extended periods of time. Given the capped funding mechanism of the JOBS component of the bill and the increased number of individuals participating in the program, excessive participation rates will dilute and diminish our original goal of targeting services on long-term welfare recipients. Certainly, the Manpower Demonstration Research Corporation's recently completed evaluation of a Cook County, IL, welfare employment program, in which available resources were spread over very large numbers of recipients, shows us that such a tactic does little or nothing to improve employment and earnings for recipients.

We must be very cautious with respect to the temptation to establish high an arbitrary participation targets as harmless and seductive as they may seem on the surface. States must have substantial flexibility to respond to local economic conditions, employment opportunities, and caseload composition. Strict participation rates, whether in relation to single parent families on CSS-UP families severely limits such flexibility.

Mr. President, while I have concerns about the bill, I believe the benefits outweigh the costs, but I will watch carefully what happens in conference. In particular, I oppose and am concerned about the passage of the 16-hour CWEP amendment. How that issue is resolved in conference will influence whether I support the conference report.

I know that the Family Security Act of 1988 is no panacea. Even when it is enacted, many poor individuals and families will need a safety net. But I believe this legislation will enable some of America's have-nots to become haves, and will, I hope, put a lasting crack in the endless cycles of poverty.

Before I complete my statement, Mr. President, I would be remiss if I did not pay special tribute to the chief force behind this legislation. Many people have worked long and hard on this issue over the years. But no one in this body—or perhaps in this country—has toiled in the fields longer than the senior Senator from New York. Without PAT MOYNIHAN we would not be here today with this legislation. I commend him for his leadership, his commitment, and his compassion.

Mr. LEAHY. Mr. President, I rise today to support S. 1511, the Family Security Act of 1988. This bill represents an important overhaul and restructuring of our Nation's welfare system. I want to commend Senator MOYNIHAN for his commitment to and hard work on this legislation. He has successfully gained bipartisan support for this very complex and controversial subject. He has done a thorough job.

Senator MOYNIHAN has stressed that becoming self-sufficient is the goal of the welfare program. To this end, S. 1511 includes provisions that will allow individuals to achieve this goal.

The Family Security Act replaces the Work Incentive Program (WIN) with a new program, the Job Opportunity and Basic Skills Training Program (JOBS). JOBS is based on the results of several successful state demonstration projects. it requires able AFDC recipients to become involved in a broad array of education and training programs to help them improve their skills and learn new ones so that they can get better jobs and become self-sufficient.

It is important that States offer a full range of education and job training activities, such as high school equivalency programs, English as a second language, work supplementation programs, on-the-job training, job readiness, and others. States must not be restrictive. Recipients must be given quality training and education in order to attain meaningful employment.

Furthermore, the JOBS Program must be managed as a State program and funded as an open-ended Federal match, as the bill was originally drafted. If we cap the funding for this program, we send a message to the States that we are not taking the JOBS Program seriously. And it is imperative that the JOBS Program target those individuals who have been receiving benefits for the longest period of time.

The Family Security Act expands the transitional benefit provisions that are critical to getting welfare beneficiaries permanently off the welfare roles. By requiring States to provide child care for 9 months to families who leave the welfare rolls because of increased earnings and in addition, by requiring States to extend Medicaid services to those families for at least 6 months, this legislation assists in the transition from welfare to work. Without these transitional benefits, welfare recipients will never be able to break out of the vicious poverty cycle.

Perhaps the most important provision in the bill is the requirement that all States offer the AFDC-UP program. The AFDC program was initially begun to help widowed mothers, but over the years 24 States have expanded this benefit to include two-parent families, which has become known as AFDC-UP. By offering AFDC-UP, States encourage families to remain together. Those States that do not offer this benefit may be causing families to split up in order that they may receive welfare assistance.

Mr. President, is this the message that we want to be sending out to our Nation's families? No; it is not. The most important thing the Senate can do today is to make every effort possible to keep families together. I am proud of Vermont, because we already offer AFDC-UP. It is imperative that all States offer this program.

It is unfortunate that an amendment was adopted which mandates two-parent AFDC-UP families to participate in the Community Work Experience Program. Statistics show that AFDC-UP families usually receive benefits only for a short time while one parent is seeking full time employment. Forcing that parent to participate in CWEP will simply hinder his or her job search.

While I support the Finance Committee's compromise amendment that was accepted by the Senate, I do have reservations about certain provisions contained in it. First, I am concerned about the establishment of the participation rates that requires States to meet a monthly quota under the JOBS Program. There have been no studies and there is no available data that would support these figures. These random numbers that could have negative impact on States through sanction, deserve further consideration.

Second, it is my hope that the transitional benefits will not be phased out. These child care and health benefits are critically important as the beneficiary leaves the roles and move on to employment. Without these benefits, individuals are doomed to return again and again to the welfare system for assistance.

Mr. President, I am pleased that the Family Security Act is completely self-financing, will not increase the Federal deficit and complies with the Gramm-Rudman-Hollings balanced budget law. The time has come for Congress to revise our welfare system and I am proud to vote in favor of the Family Security Act to see this end accomplished.

Mr. DECONCINI. Mr. President, I rise in support of final passage of S. 1511, the Family Security Act of 1988. Senator MOYNIHAN, as well as many members of the Finance Committee, have worked very long and very hard on this most important issue to the over 11 million Americans who rely upon the AFDC Program. I think everyone in this body would agree that without Senator MOYNIHAN's leadership, especially in the past few days, we would not be voting on this measure today and perhaps not this session.

I am a cosponsor of S. 1511 and have been from nearly its date of introduction. I cosponsored S. 1511 with some reservations and encouraged the leadership and other members of the Senate Finance Committee to increase the Medicaid and child care transitional assistance provisions, increase the funding for visitation counseling as a means to improve child support collections, and to guarantee child care for individuals participating in the JOBS Program. I would like to commend the Finance Committee members again for the modest improvements in these areas.

Having said that I feel I must express some deep regrets that the child care transition benefits were not increased to a minimum of 12 months as was added to H.R. 1720 by the Andrews amendment. I believe that child care is perhaps the greatest obstacle for recipients from leaving the welfare rolls. With all due respect to the sponsor, Senator MOYNIHAN, I believe that the public policy of only allowing 9 months of child care assistance will not achieve the desired result and is penny-wise and pound-foolish. The small addition of 3 months would allow the AFDC recipient to establish a strong financial foundation upon which that family can remain self-sufficient. I certainly am hopeful that the conference committee will do more in these areas.

Despite the costs, I also believe that an extension of the period for which the families would receive Medicaid transition benefits is the most prudent course of action we can take. I hope that the conferees will weigh these issues carefully during the conference with the House of Representatives on this bill.

Despite these deficiencies, I believe we should enact this bill so that the conference can be held. S. 1511 goes a long way toward improving the quality of lives of millions of Americans. It is both a tribute to the compassion of the American people and the ingenuity of its leadership. I am indeed very grateful to have taken part in the restructuring of our welfare system.

I urge my colleagues to vote in support of this bill so we may continue to make progress toward meaningful reform of our welfare system.

Mr. KARNES. Mr. President, it is with some reluctance that I cast my vote in favor of S. 1511, the Family Security Act of 1988. I strongly favor welfare reform. Comprehensive reform of the vast multibillion dollar collection of block grants, entitlements, and categorical programs that make up our Nation's existing welfare system is long overdue. In fact, I am a cosponsor of the Republican welfare reform legislation, S. 1655, introduced by Senator DOLE and offered in the House by Congressman MICHEL. Personally, I believe that S. 1655 would have been a better vehicle for consideration than the bill reported by the Finance Committee. I feel that the Dole bill constituted genuine reform and was more likely to get off welfare and stay off welfare, and enter the work force.

Moreover, I feel that S. 1511, as reported was much too costly and, by expanding welfare benefits was likely to add to the welfare rolls. It also failed to include either real work activities for participants in the new Jobs Program or participation rates to ensure that a minimum number of welfare recipients would benefit from the education, employment, and training provided under that program. Without such standards the States have no incentive to make the resources of the Jobs Program available to a broad cross section of the welfare population, particularly those with limited job skills. In other words, in my view, S. 1511, as reported, provided no guarantee that the Jobs Program would reach those least able to get off the welfare rolls and most in need of such a program.

Fortunately, as a result of lengthy negotiations involving the proponents of this legislation, the distinguished minority leader, administration representatives, Senator ARMSTRONG, and others, S. 1511 has been amended. I am happy to report that with these amendments the Family Security Act is vastly improved, and most if not all of my objections and criticisms have been satisfied. Let me cite a few improvements.

In the original version of the bill, under the Jobs Opportunities and Basic Skills Training Program—or jobs, for short—established under this bill to replace the existing work incentive program, a State would not be able to require a participant to accept any job that would provide minimum compensation less than the combined value of his or her AFDC, food stamps, and Medicaid benefits, unless the State provided supplementary benefits up to that amount. This was a major expansion of current law. As amended, S. 1511 provides that a State can require the welfare recipient to take a job paying less than the AFDC benefit but only if the State continues to pay an AFDC benefit making up the difference between the person's net income—earned income less payroll deductions and income disregards—and the person's former AFDC benefit. In other words, a State can require a person on welfare to take a job provided the State ensures that the welfare family suffers no loss in net income. The recipient remains eligible for food stamps and Medicaid.

I was also concerned that S. 1511 established entitlements for child care and extended Medicaid coverage for jobs participants during the transition period from welfare to work. Fortunately, under the new bill these transition benefits are less costly and less attractive so that they are less likely to induce people to stay on welfare. The amended version will sunset these Medicaid and child care transition benefits—and the IRS debt collection provision which largely funds them—on December 31, 1993. Moreover, the Department of Health and Human Services is directed to study the effectiveness of those benefits in encouraging or discouraging work efforts.

My principal objection to the original bill, namely, the lack of work requirements, has been largely satisfied. The States will be mandated to include in their Jobs programs two of the following: grant diversion—work supplementation—job search, and community work experiences [CWEP] or an approved work experience program. Of course, while the State programs may be required to include these work-related activities, this does not necessarily mean that individual recipients must participate in them.

That is why I am relieved to see included in the amended version participation rates for the overall Jobs Program, ranging from 10 percent in fiscal year 1990 and 1991 to 14 percent in fiscal year 1992 and 1993 to 22 percent in fiscal year 1994.

Moreover, there is a penalty for not meeting that level of participation with a reduction in Federal matching funds, up to 50 percent. The participation rates are to sunset in 1994 and a study of the effect of such standards will be due in 1995.

I am also pleased that title 1 provisions requiring the States to take measures to tighten up the child support enforcement system remain intact. The inclusion of Federal matching funds and minimum standards for establishing paternity, and the requirement that States set procedures for immediate wage withholding from fathers located elsewhere are commendable.

Of course, S. 1511 is far from a perfect bill. I am still troubled by the overall costs of the new Jobs Program. According to CBO estimates, S. 1511 will increase Federal expenditures by some $2.8 billion over 5 years. The administration estimated these costs were even greater—$3.4 billion for the Federal Government over 5 years, and $1.7 billion for the States over 5 years. Those estimates were for the overall program before S. 1511 was amended. With the inclusion of work requirements these costs will probably be even higher.

In my opinion, S. 1511 should have gone much further in reforming the welfare system, but I am satisfied that this Jobs Program is a commendable effort to break with the past. With the various new safeguards I have suggested—State-imposed work requirements for participants, participation standards, less generous transition assistance benefits, and fewer incentives for individuals to apply for and remain on welfare—S. 1511 is much improved, if only the beginning effort.

Real welfare reform should encourage and enable recipients to get off the welfare rolls and into the work force. Real welfare reform should lead ultimately to cutting the overall cost of welfare. Real welfare reform should require actual work on the part of recipients and should include a meaningful standard of participation. Real welfare reform should also allow and encourage the States to experiment with welfare programs, fashioning them to their own needs and conditions without straitjacketing restrictions imposed from Washington. In my opinon, S. 1511, as amended, meets these conditions.

I hope that S. 1511 will prove to be a milestone in a long, arduous, and often frustrating effort on the part of Congress and the States to reform our Nation's welfare system. Our goal remains to bring an end to the cruel cycle of dependency which that system has too long inflicted upon many poor families in America.

Mr. LEVIN. Mr. President, I am pleased to be a cosponsor of this legislation to reform the welfare system. Having once served in the Detroit City Council, I have seen first hand the failings of the current welfare system; its cycle of dependency, its wasting of human potential, and its legacy of despair.

For years, many people have felt that there has to be a better way to address the welfare situation, for the sake of welfare recipients and for the sake of the Nation itself. We have been witnessing a crisis on the slow burn, and have searched for a consensus on a new and constructive approach. Today, by passing this legislation we, at last, have the chance to turn that concern into action.

This legislation recognizes that a welfare check without the roadmap to a job offers the recipient hopelessness at the same time that it creates resentment among the taxpayers who support the system. By requiring that States must have programs under which able-bodied welfare recipients, except those caring for young children under age 3, must participate in a variety of job-related activities, this legislation offers the hope of going beyond long-term income maintenance. Furthermore, the bill recognizes that the transition from welfare dependence to financial independence is a difficult one and provides for the temporary extension of child care and Medicaid benefits.

At the same time, this legislation is sensitive to the financial strains under which many States are operating by providing for additional Federal resources to help fund these expanded job-related programs. It also recognizes the different experiences and needs among the States by allowing them a significant degree of flexibility in establishing the details of their job plans.

Mr. President, this legislation is not the end of the story on welfare reform. Undoubtedly, some elements of this program will not meet our expectations and will need to be reassessed with the benefit of experience. However, it does give us new momentum in the drive to fashion a system in which the dependency on welfare is a chapter in one's life instead of a way of life itself. I congratulate Senator MOYNIHAN for his tenacity and perspicacity which sees fruition today.

Mr. MITCHELL. Mr. President, during Finance Committee consideration of welfare reform, I offered an amendment with Senators DANFORTH and ROCKEFELLER to create, on a demonstration basis, a program to actually create jobs for welfare recipients.

As approved by the committee, nonprofit community development corporations and other nonprofits would apply to the Secretary of Health and Human Services for a grant, which would be used to create permanent jobs for individuals on AFDC.

Grant funds would be used to provide venture capital—loans, interest write-downs, compensating deposits and grants—to private businesses that agree to target job opportunities for welfare recipients.

The idea for this demonstration comes from two sources. First, the President's report on welfare reform—"Up From Dependency," which cites the efforts of several community development corporations [CDC's] in creating jobs for low-income communities. The other basis for our amendment is the actual work done in this field by CDC's.

The grant fund we would establish is modest for the return received in human investment.

I would like to clarify that during the markup, our amendment was the only demonstration project offered that paid for itself. We were the only members to offer an offset so that our proposal would not incur any net new costs.

For the record, I would like to clarify that point, so that during appropriations consideration of funding the demonstrations in this legislation, Members understand that we have already paid for this proposal.

Mr. BENTSEN. That is true and I would like to commend the Senator from Maine in his efforts to maintain the deficit neutral policy of welfare reform. In fact, Senator MITCHELL's offset, as estimated by the Joint Tax Committee, raised slightly more than needed to offset his amendment.

Senator MITCHELL's amendment was approved unanimously in committee and that quite possibly might not have been the case had he not had an offset.

When members of the Appropriations Committee review this legislation, I believe they should fund the Senator's proposal accordingly.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the House companion bill, H.R. 1720.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk read as follows:

A bill (H.R. 1720) to replace the existing AFDC program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare, dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives.

There being no objection, the Senate proceeded to consider the bill.

Mr. BENTSEN. Mr. President, I ask unanimous consent that all after the enacting clause be stricken, and the text of S. 1511, as amended, be substituted in lieu thereof and that the bill be brought to third reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER TO PROCEED TO H.R. 3097

Mr. BYRD. Mr. President, while the distinguished leader on the other side of the aisle is on the floor, I ask unanimous consent that the majority leader may proceed at any time, after consultation with the able Republican leader, to the consideration of Calendar Order No. 603, H.R. 3097, an act to amend the Public Health Service Act to revise and extend the program of assistance to organ procurement organizations, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. It would be my intention to do this tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAMILY SECURITY ACT

The Senate continued with consideration of the bills.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, there will be no more rollcall votes this evening, but there will be rollcall votes tomorrow and probably begin early.

I thank all Senators.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], is absent because of illness.

Mr. SIMPSON. I announced that the Senator from Minnesota [Mr. DURENBERGER], the Senator from Nevada [Mr. HECHT], and the Senator from Idaho [Mr. MCCLURE] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 3, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—93

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—3

Helms
Humphrey
Proxmire

NOT VOTING—4

Biden
Durenberger
Hecht
McClure

So the bill (H.R. 1720), as amended, was passed, follows.

H.R. 1720

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family Security Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Statement of purpose.
Sec. 3. AFDC replaced by the child support supplement program.
Sec. 4. Reorganization and redesignation of title IV.

TITLE I—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

SUBTITLE A—CHILD SUPPORT

Sec. 101. Immediate income withholding.
Sec. 102. Disregard applicable to timely child support payments.
Sec. 103. State guidelines for child support award amounts.
Sec. 104. Timing of notice of support payment collections.

SUBTITLE B—ESTABLISHMENT OF PATERNITY

Sec. 111. Performance standards for State paternity establishment programs.
Sec. 112. Increased Federal assistance for paternity establishment.

SUBTITLE C—IMPROVED PROCEDURES FOR CHILD SUPPORT ENFORCEMENT AND ESTABLISHMENT OF PATERNITY

Sec. 121. Requirement of prompt State response to requests for child support assistance.
Sec. 121A. Requirement of prompt State distribution of amounts collected as child support.
Sec. 122. Automated tracking and monitoring systems made mandatory.
Sec. 123. Additional information source for parent locator service.
Sec. 124. Use of social security number to establish identity of parents.
Sec. 125. Commission on interstate child support.

TITLE II—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

Sec. 201. Establishment of program.
Sec. 202. Related substantive amendments.

Sec. 203. Technical and conforming amendments.
Sec. 204. Regulations; performance standards; studies.
Sec. 205. Effective date.

TITLE III—TRANSITIONAL ASSISTANCE FOR FAMILIES AFTER LOSS OF CSS ELIGIBILITY

Sec. 301. Extended eligibility for child care.
Sec. 302. Extended eligibility for medical assistance.
Sec. 303. Effective date.

TITLE IV—CHILD SUPPORT SUPPLEMENT AMENDMENTS

Sec. 401. Households headed by minor parents.
Sec. 402. Child support supplement program in two-parent families.
Sec. 403. Periodic reevaluation of need and payment standards.
Sec. 404. CBO study on implementation on national minimum payment standard.

TITLE V—DEMONSTRATION PROJECTS

Sec. 501. Demonstration program of grants to provide permanent housing for families that would otherwise require emergency assistance.
Sec. 502. Demonstration projects for developing innovative education and training programs for children receiving child support supplements.
Sec. 503. Demonstration projects to encourage States to employ parents receiving child support supplements as paid child care providers.
Sec. 504. Demonstration projects to test alternative definitions of unemployment.
Sec. 505. Demonstration projects to address child access problems.
Sec. 506. Demonstration projects to expand the number of child care facilities and the availability of child care, with emphasis on increasing child care in rural areas.
Sec. 507. Demonstration projects to expand the number of job opportunities available to certain low-income individuals.
Sec. 508. Demonstration projects to provide counseling and services to high-risk teenagers.
Sec. 509. Eighteen month extension of Minnesota prepaid medicaid demonstration project.
Sec. 510. Demonstration projects for development and use of computer "credit" benefit card technology in making benefit payments.

TITLE VI—PAYMENTS TO AMERICAN SAMOA, THE COMMONWEALTH OF PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Sec. 601. Inclusion of American Samoa as a State under title IV.
Sec. 602. Increase in the amount available for payment to Puerto Rico, the Virgin Islands, and Guam.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Assistant Secretary for Family Support.
Sec. 702. Responsibilities of the State.
Sec. 703. Establishment of preeligibility fraud detection measures.
Sec. 704. Miscellaneous technical corrections to Medicare Catastrophic Coverage Act of 1988.

TITLE VIII—TAX PROVISIONS

Sec. 801. Temporary extension of provisions relating to collection of nontax debts owed to Federal agencies.
Sec. 802. Phaseout of deduction for meal and entertainment expenses of individuals with adjusted gross income over $360,000.
Sec. 803. TINS requirement extended to dependents claimed on tax returns who attain 2 years of age.

TITLE IX—TECHNICAL AND CONFORMING AMENDMENTS RELATING TO REPLACEMENT OF AFDC PROGRAM BY CHILD SUPPORT SUPPLEMENT PROGRAM

Sec. 901. Amendment to heading of title IV.
Sec. 902. Amendments to part A of title IV.
Sec. 903. Amendments to other provisions of the Social Security Act.
Sec. 904. General conforming amendment.

TITLE X—REORGANIZATION AND REDESIGNATION OF TITLE IV; GENERAL CONFORMING AMENDMENT RELATING TO SUCH REORGANIZATION AND REDESIGNATION

Sec. 1001. Table of contents in title IV.
Sec. 1002. Reorganization of parts.
Sec. 1003. Redesignation of sections.
Sec. 1004. General conforming amendment.
Sec. 1005. Quality control penalty moratorium.

SEC. 2. STATEMENT OF PURPOSE.

It is the purpose of this Act to replace the original program of aid to families with dependent children with new provisions for child support that—

(1) stress family responsibility and community obligation in the context of the vastly changed family arrangements of the intervening half century;

(2) enforce the principle that child support must in the first instance come from parents, and only thereafter from the community, which however has the deepest obligation to enable parents to fulfill their responsibilities through expanded opportunities in education and training; and

(3) reflect the need for benefit improvement, program innovation, and organizational renewal at every level in the Federal system.

SEC. 3. AFDC REPLACED BY THE CHILD SUPPORT SUPPLEMENT PROGRAM.

The program under part A of title IV of the Social Security Act, heretofore known as the program of aid to families with dependent children, shall hereafter be known as the child support supplement program, and the aid paid to needy families with dependent children in accordance with State plans approved under part A of title IV of such Act shall hereafter be called child support supplements, as more specifically provided in the amendments made by this Act.

SEC. 4. REORGANIZATION AND REDESIGNATION OF TITLE IV.

Title IV of the Social Security Act, as otherwise amended by this Act, is reorganized and redesignated in title XI of this Act to conform with the purpose of this Act to emphasize child support enforcement and job training as the primary means of avoiding long-term welfare dependence.

TITLE I—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

Subtitle A—Child Support

SEC. 101. IMMEDIATE INCOME WITHHOLDING.

(a) In General.—Section 466(b)(3) of the Social Security Act (42 U.S.C. 666(b)(3)) is amended to read as follows:

"(3)(A) The wages of an absent parent shall be subject to such withholding, regardless of whether support payments by such parent are in arrears, in the case of a support order issued or modified on or after the first day of the twenty-fifth month beginning after the date of enactment of the Family Security Act of 1988, on the effective date of the order; except that such wages shall not be subject to such withholding under this subparagraph if the State finds good cause not to require such withholding, or (in the case of an order that is not an order with respect to an individual with respect to whom an assignment under section 402(a)(26) is in effect) both parents have agreed to an alternative arrangement.

"(B) The wages of an absent parent shall become subject to such withholding, in the case of wages not subject to withholding under subparagraph (A), on the date on which the payments which the absent parent has failed to make under a support order are at least equal to the support payable for one month or, if earlier, and without regard to whether there is an arrearage, the earliest of—

"(i) the date as of which the absent parent requests that such withholding begin,

"(ii) the date as of which the custodial parent requests that such withholding begin, if the State determines, in accordance with such procedures and standards as it may establish, that the request should be approved, or

"(iii) such earlier date as the State may select.".

(b) Application to All Child Support Orders.—

(1) Section 466(b)(2) of such Act (42 U.S.C. 666(b)(2)) is amended—

(A) by inserting "(A)" after "(2)";

(B) by striking "Such" and inserting in lieu thereof "In the case of a support order that is initially issued before January 1, 1994, such"; and

(C) by adding at the end thereof the following new subparagraph:

"(B) In the case of a support order that is initially issued on or after January 1, 1994, such withholding must be provided with respect to any child in whose behalf a support order has been issued or modified in the State and must occur without the need for any amendment to the support order involved or for any further action (other than those actions required under this part) by the court or other entity which issued such order.".

(2)(A) Section 466(a)(8) of such Act (42 U.S.C. 666(a)(8)) is amended by striking "if arrearages occur" and inserting in lieu thereof "in accordance with subsection (b)".

(B) Section 466 of such Act (42 U.S.C. 666) is amended by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(c) Study on Making Immediate Income Withholding Mandatory in All Cases.—The Secretary of Health and Human Services shall conduct a study of the administrative feasibility, cost implications, and other effects of requiring immediate income withholding under part D of title IV of the Social Security Act with respect to all child support awards in a State and shall report on the results of such study not later than three years after the date of enactment of this Act.

(d) Effective Date.—

(1) The amendment made by subsection (a) shall become effective on the first day of the twenty-fifth month beginning after the date of enactment of this Act.

(2) The amendments made by subsection (b) shall become effective on January 1, 1994.

(3) Subsection (c) shall become effective on the date of enactment of this Act.

SEC. 102. DISREGARD APPLICABLE TO TIMELY CHILD SUPPORT PAYMENTS.

(a) IN GENERAL.—Section 402(a)(8)(A)(vi) of the Social Security Act (42 U.S.C. 602(a)(8)(A)(vi)) is amended by striking "of any child support payments received in such month" and inserting in lieu thereof "of any child support payments for such month received in that month, and the first $50 of child support payments for each prior month received in that month if such payments were made by the absent parent in the month when due,".

(b) CONFORMING AMENDMENT.—Section 457(b)(1) of such Act (42 U.S.C. 657(b)(1)) is amended by striking "the first $50 of such amounts as are collected periodically which represent monthly support payments" and inserting in lieu thereof "of such amounts as are collected periodically which represent monthly support payments, the first $50 of any payments for a month received in that month, and the first $50 of payments for each prior month received in that month which were made by the absent parent in the month when due".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the first calendar quarter beginning after the date of enactment of this Act.

SEC. 103. STATE GUIDELINES FOR CHILD SUPPORT AWARD AMOUNTS.

(a) PERIODIC REVIEW OF GUIDELINES.—Section 467(a) of the Social Security Act (42 U.S.C. 667(a)) is amended by inserting ", and shall be reviewed at least once every five years to ensure that their application results in the determination of appropriate child support award amounts" after "action".

(b) APPLICATION OF GUIDELINES.—Section 467(b) of such Act (42 U.S.C. 667(b)) is amended by striking ", but need not be binding upon such judges or other officials" and inserting in lieu thereof "and shall be applied by such judges and other officials in determining the amount of any such award unless the judge or official, pursuant to criteria established by the State, makes a finding that there is good cause for not applying the guidelines".

(c) PERIODIC REVIEW AND ADJUSTMENT OF AWARD AMOUNTS.—Section 466(a) of such Act (42 U.S.C. 666(a)) is amended by inserting immediately after paragraph (9) the following new paragraph:

"(10)(A) Procedures to ensure review, and adjustment as appropriate in accordance with the guidelines established pursuant to section 467(a), of child support orders in effect in the State—

"(i) beginning five years after the date of enactment of the Family Security Act of 1988 or such earlier date as the State may select, not later than 24 months after the establishment of the order or the most recent review—

"(I) in the case of an order with respect to an individual with respect to whom an assignment under section 402(a)(26) is in effect, unless the State has determined, in accordance with regulations of the Secretary, that such a review would not be in the best interests of the child and neither parent has requested review, or

"(II) in the case of any other order being enforced under this part, upon the request of either parent; and

"(ii) during the period (if any) before clause (i) applies—

"(I) in the case of an order with respect to an individual with respect to whom an assignment under section 402(a)(26) is in effect, pursuant to a plan of the State (to be submitted to the Secretary not later than one year after the date of enactment of the Family Security Act of 1988) indicating how and when a periodic review and adjustment of such cases will be performed, or

"(II) in the case of any other order being enforced under this part, not later than 24 months after the establishment of the order or the most recent review where either parent has requested such review and the State has determined (under such criteria as it may establish) that such review and adjustment would be appropriate.

"(B) Procedures to ensure that, with respect to the review and adjustment under subparagraph (A)—

"(i) each parent is notified at least 30 days prior to the commencement of a review under subparagraph (A);

"(ii) each parent to whom clause (i)(II) of such subparagraph applies is notified of his or her right to request a review; and

"(iii) each parent is notified of a proposed adjustment (or determination that there should be no change) in the child support award amount, and is afforded not less than 30 days after such notification to initiate proceedings to challenge such adjustment (or determination).".

(d) DEMONSTRATION PROJECTS FOR EVALUATING MODEL PROCEDURES FOR REVIEWING CHILD SUPPORT AWARDS.—

(1) Not later than April 1, 1989, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall enter into an agreement with each of four States submitting applications under this subsection for the purpose of conducting a demonstration project under part D of title IV of the Social Security Act in the State to test and evaluate model procedures for reviewing child support award amounts.

(2) Notwithstanding section 454(1) of the Social Security Act, a demonstration project conducted under this subsection may be conducted in one or more political subdivisions of the State.

(3) An agreement under this subsection shall be entered into between the Secretary and the State agency designated by the Governor of the State involved. Under such agreement, the Secretary shall pay to the State, as an additional payment under part D of title IV of the Social Security Act, an amount equal to 90 percent of the reasonable costs incurred by the State in conducting a demonstration project under this subsection. Such costs shall not be taken into account for purposes of computing the incentive payment under section 458 of the Social Security Act.

(4) A demonstration project under this subsection shall be commenced not later than September 30, 1989, and shall be conducted for a two-year period unless the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the agreement entered into with the State under paragraph (1).

(5)(A) Any State with an agreement under this subsection shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the project conducted by the State.

(B) The Secretary shall report the results of the demonstration projects conducted under this subsection to Congress not later than six months after all such projects are completed.

(e) EFFECTIVE DATE.—

(1) The amendments made by this section shall become effective one year after the date of enactment of this Act.

(2) Subsection (d) shall become effective on the date of enactment of this Act.

SEC. 104. TIMING OF NOTICE OF SUPPORT PAYMENT COLLECTIONS.

(a) IN GENERAL.—Section 454(5) of the Social Security Act (42 U.S.C. 654(5)) is amended by striking "at least annually" and inserting in lieu thereof "on a monthly basis (or on a quarterly basis for so long as the Secretary determines with respect to a State that requiring such notice on a monthly basis would impose an unreasonable administrative burden)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the first day of the first calendar quarter beginning four years after the date of enactment of this Act.

SUBTITLE B—ESTABLISHMENT OF PATERNITY

SEC. 111. PERFORMANCE STANDARDS FOR STATE PATERNITY ESTABLISHMENT PROGRAMS.

(a) STANDARDS FOR STATE PROGRAMS.—Section 452 of the Social Security Act (42 U.S.C. 652) is further amended by adding at the end thereof the following new subsection:

"(g)(1) A State's program under this part shall be found, for purposes of section 403(h), not to have complied substantially with the requirements of this part unless, for any fiscal year beginning on or after October 1, 1991, its paternity establishment percentage for such fiscal year equals or exceeds—

"(A) 50 percent;

"(B) the paternity establishment percentage of the State for fiscal year 1988, increased by the applicable number of percentage points; or

"(C) the paternity establishment percentage determined with respect to all States for such fiscal year.

"(2) For purposes of this section—

"(A) the term 'paternity establishment percentage' means, with respect to a State (or all States, as the case may be) for a fiscal year, the ratio (expressed as a percentage) that the total number of children—

"(i) who have been born out of wedlock,

"(ii)(I) except as provided in the last sentence of this paragraph, with respect to whom child support supplements are being paid under the State's plan approved under part A (or under all such plans) for such fiscal year or (II) with respect to whom services are being provided under the State's plan approved under this part (or under all such plans) for the fiscal year pursuant to an application submitted under section 454(6), and

"(iii) the paternity of whom has been established,

bears to the total number of children who have been born out of wedlock and (except as provided in such last sentence) with respect to whom child support supplements are being paid under the State's plan approved under part A (or under all such plans) for such fiscal year or with respect to whom services are being provided under the State's plan approved under this part (or under all such plans) for the fiscal year pursuant to an application submitted under section 454(6); and

"(B) the applicable number of percentage points means, with respect to a fiscal year (beginning with fiscal year 1991), 3 percentage points multiplied by the number of fiscal years after fiscal year 1989 and before the beginning of such fiscal year.

For purposes of subparagraph (A), the total number of children shall not include any child who is a dependent child by reason of the death of a parent or any child with respect to whom an applicant or recipient is found to have good cause for refusing to cooperate under section 402(a)(26).

"(3)(A) The requirements of this subsection are in addition to and shall not supplant any other requirement (that is not inconsistent with such requirements) established in regulations by the Secretary for the purpose of determining (for purposes of section 403(h)) whether the program of a State operated under this part shall be treated as complying substantially with the requirements of this part.

"(B) The Secretary may modify the requirements of this subsection to take into account such additional variables as the Secretary identifies (including the percentage of children born out-of-wedlock in a State) that affect the ability of a State to meet the requirements of this subsection.

"(C) The Secretary shall submit an annual report to the Congress that sets forth the data upon which the paternity establishment percentages for States for a fiscal year are based, lists any additional variables the Secretary has identified under subparagraph (A), and describes State performance in establishing paternity.".

(b) Effective Date; Implementation.—

(1) The amendments made by this section shall become effective on the date of enactment of this Act.

(2) The Secretary of Health and Human Services shall collect the data necessary to implement the requirements of subsection (g) of section 452 (as added by this section) and may, in carrying out the requirement of determining a State's paternity establishment percentage for fiscal year 1988, compute such percentage on the basis of data collected with respect to the last quarter of such fiscal year if the Secretary determines that data for the full year are not available.

SEC. 112. INCREASED FEDERAL ASSISTANCE FOR PATERNITY ESTABLISHMENT.

(a) Increased Payments to States.—Section 455(a)(1) of such Act (42 U.S.C. 655(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the semicolon at the end of subparagraph (B) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) equal to 90 percent (rather than the percent specified in subparagraph (A)) of so much of the sums expended during such quarter as are attributable to laboratory costs incurred in determining paternity;".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to laboratory costs incurred on or after October 1, 1988.

Subtitle C—Improved Procedures for Child Support Enforcement and Establishment of Paternity

SEC. 121. REQUIREMENT OF PROMPT STATE RESPONSE TO REQUESTS FOR CHILD SUPPORT ASSISTANCE.

(a) In General.—Section 452 of the Social Security Act, as amended by section 111 of this Act, is further amended by adding at the end thereof the following new subsection:

"(h) The standards required by subsection (a)(1) shall include standards establishing time limits governing the period or periods within which a State must accept and respond to requests (from States, jurisdictions thereof, or individuals who apply for services furnished by the State agency under this part or with respect to whom an assignment under section 402(a)(26) is in effect) for assistance in establishing and enforcing support orders, including requests to locate absent parents, establish paternity, and initiate proceedings to establish and collect child support awards.".

(b) Advisory Committee; Regulations.—

(1) Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall establish an advisory committee. The committee shall include representatives of organizations representing State governors, State welfare administrators, and State directors of programs under part D of title IV of the Social Security Act. The Secretary shall consult with the advisory committee before issuing any regulations with respect to the standards required by the amendment made by subsection (a) (including regulations regarding what constitutes an adequate response on the part of a State to the request of an individual, State, or jurisdiction).

(2) Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to the standards required by the amendment made by subsection (a), and after allowing not less than 60 days for public comment, shall issue final regulations not later than the first day of the tenth month to begin after such date of enactment.

SEC. 121A. REQUIREMENT OF PROMPT STATE DISTRIBUTION OF AMOUNTS COLLECTED AS CHILD SUPPORT.

(a) In General.—Section 452 of the Social Security Act, as amended by sections 111 and 121 of this Act, is further amended by adding at the end thereof the following new subsection:

"(i) The standards required by subsection (a)(1) shall include standards establishing time limits governing the period or periods within which a State must distribute, in accordance with section 457, amounts collected as child support pursuant to the State's plan approved under this part.".

(b) Regulations.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to the standards required by the amendment made by subsection (a), and after allowing not less than 60 days for public comment, shall issue final regulations not later than the first day of the tenth month to begin after such date of enactment.

SEC. 122. AUTOMATED TRACKING AND MONITORING SYSTEMS MADE MANDATORY.

(a) State Requirement.—Section 454(16) of the Social Security Act (42 U.S.C. 654(16)) is amended—

(1) by striking ", at the option of the State,"; and

(2) by striking "an automatic" and inserting in lieu thereof "a statewide automated".

(b) Approval of Advance Automated Data Processing Planning Document.—Section 452(d) of such Act (42 U.S.C. 652(d)) is amended—

(1) by striking "The" in paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (3), the"; and

(2) by adding at the end thereof the following new paragraph:

"(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16) if a State demonstrates to the satisfaction of the Secretary that the State has an alternative system or systems that enable the State, for purposes of section 403(h), to be in substantial compliance with other requirements of this part.".

(c) Implementation.—Section 454 of such Act, as amended by subsection (a) of this section, is further amended—

(1) in paragraph (16), by inserting "(subject to the last sentence of this section)" after "provide" the first place it appears; and

(2) by adding at the end thereof the following new sentence: "A State shall be required to provide the automated data processing and information retrieval system required under paragraph (16) not later than a date specified in the initial advance automated data processing planning document submitted under such paragraph (but in no event later than 10 years after the date such document is submitted to the Secretary).".

(d) Payment to States for Establishment of System.—Section 455(a)(1)(B) of such Act (42 U.S.C. 655(a)(1)(B)) is amended to read as follows:

"(B) in the case of a State that submits the initial advance automated data processing planning document required under section 454(16) not later than October 1, 1990, equal to 90 percent (rather than the percent specified in subparagraph (A)) of so much of the sums expended during any quarter beginning after the date on which such document is submitted and before the date on which the State is required (in accordance with the last sentence of section 454) to provide the automated data processing and information retrieval system as are attributable to the planning, design, development, or enhancement of such system (including in such sums the full cost of the hardware components of such system) if the Secretary finds that the system meets the requirements specified in section 454(16);".

(e) Conforming Amendments.—

(1) Section 452(d)(2) of such Act (42 U.S.C. 652(d)(2)) is amended—

(A) in subparagraph (A), by striking "(A)"; and

(B) by striking subparagraph (B).

(2) Sections 402(e) (42 U.S.C. 602(e)), 452(d)(1) (42 U.S.C. 652(d)(1)), and 454(16) (42 U.S.C. 654(16)) of such Act are each amended by striking "automatic" each place it appears and inserting in lieu thereof "automated".

(f) Effective Date.—The amendments made by this section shall become effective on the date of enactment of this Act.

SEC. 123. ADDITIONAL INFORMATION SOURCE FOR PARENT LOCATOR SERVICE.

(a) In General.—Section 453(e) of the Social Security Act (42 U.S.C. 653(e)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary of Labor shall enter into an agreement with the Secretary to provide prompt access for the Secretary (in accordance with this subsection) to the wage and unemployment compensation claims information and data maintained by or for the Department of Labor or State employment security agencies.".

(b) State Requirement to Assist Secretary in Obtaining Information.—

(1) Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end thereof the following new subsection:

"(h)(1) The State agency charged with the administration of the State law shall take such actions (in such manner as may be provided in the agreement between the Secretary of Health and Human Services and the

Secretary of Labor under section 453(e)(3)) as may be necessary to enable the Secretary of Health and Human Services to obtain prompt access to any wage and unemployment compensation claims information (including any information that might be useful in locating an absent parent or such parent's employer) for use by the Secretary of Health and Human Services, for purposes of section 453, in carrying out the child support enforcement program under title IV.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirement of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until such Secretary is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, such Secretary shall make no further certification to the Secretary of the Treasury with respect to such State.".

(2) Section 304(a)(2) of such Act (42 U.S.C. 504(a)(2)) is amended by striking "or (e)" and inserting in lieu thereof "(e), or (h)".

(c) EFFECTIVE DATE; IMPLEMENTATION.—

(1) The amendments made by this section shall become effective on the date of enactment of this Act.

(2) The Secretary of Health and Human Service and the Secretary of Labor shall enter into the agreement required by the amendment made by subsection (a) not later than 90 days after the date of enactment of this Act.

SEC. 124. USE OF SOCIAL SECURITY NUMBER TO ESTABLISH IDENTITY OF PARENTS.

(a) DISCLOSURE OF SOCIAL SECURITY NUMBER AT TIME OF CHILD'S BIRTH.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended—

(1) in clause (i)—

(A) by inserting "(I)" after "(i)"; and

(B) by adding at the end thereof the following new subclause:

"(II) In the administration of any law involving the issuance of a birth certificate, each State shall, for the purpose of establishing the identity of the parents of the child for which a certificate is issued, require each such parent to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if the parent has more than one such number) issued to the parent unless the State (in accordance with regulations prescribed by the Secretary) finds good cause for not requiring the furnishing of such number. The State shall make numbers furnished under this subclause available to the agency administering the State's plan under part D of title IV in accordance with federal or state law and regulation. Such numbers need not be recorded on the birth certificate."; and

(2) in clause (ii)—

(A) by striking "clause (i) of this subparagraph" and inserting in lieu thereof "subclause (I) of clause (i)", and

(B) by adding at the end thereof the following new sentence: "If and to the extent that any such provision is inconsistent with the requirement set forth in subclause (II) of clause (i), such provision shall, on and after the date of the enactment of such subclause, be null, void, and of no effect.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the first day of the twenty-fifth month to begin on or after the date of enactment of this Act.

SEC. 125. COMMISSION ON INTERSTATE CHILD SUPPORT.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a Commission to be known as the Commission on Interstate Child Support (in this section referred to as the "Commission") to be composed of 15 members appointed in accordance with subsection (b)(1).

(b) APPOINTMENT AND TERM OF MEMBERS; VACANCIES; TRANSACTION OF BUSINESS.—

(1) Members of the Commission shall be appointed as follows from among individuals knowledgeable in matters involving interstate child support:

(A) Four members shall be appointed jointly by the Majority and Minority Leaders of the Senate, in consultation with the chairman and ranking minority member of the Committee on Finance of the Senate.

(B) Four members shall be appointed jointly by the Speaker of the House and the Minority Leader of the House, in consultation with the chairman and ranking minority member of the Committee on Ways and Means of the House of Representatives.

(C) Seven members shall be appointed by the Secretary of Health and Human Services (in this section referred to as the "Secretary").

(2) Members of the Commission shall serve for the life of the Commission. A vacancy on the Commission shall be filled in the manner in which the original appointment was made and shall not affect the powers or duties of the Commission.

(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business. Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

(4) The initial 15 members of the Commission shall be appointed not later than 90 days after the date of enactment of this Act. The first meeting of the Commission shall be called by the Secretary as promptly as possible after all such members are appointed. At such meeting, the members of the Commission shall select a chairman from among such members and shall meet thereafter at the call of the chairman or of a majority of the members.

(c) BASIC PAY.—

(1) Members of the Commission shall serve without pay.

(2) Members of the Commission shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the government service are allowed travel expenses under section 5703 of title 5 of the United States Code.

(d) DUTIES OF THE COMMISSION.—

(1) Not later than October 1, 1989, the Commission shall hold one or more national conferences on interstate child support reform for the purpose of assisting the Commission in preparing the report required under paragraph (2).

(2) Not later than October 1, 1990, the Commission shall submit a report to the Congress that contains recommendations for—

(A) improving the interstate establishment and enforcement of child support awards, and

(B) revising the Uniform Reciprocal Enforcement of Support Act.

(e) POWERS OF THE COMMISSION.—

(1) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States Government.

(2) The Commission may accept, use, and dispose of donations of money and property and may accept such volunteer services of individuals as it deems appropriate.

(3) The Commission may procure supplies, services, and property, and make contracts (but only to the extent or in such amounts as are provided in appropriation Acts).

(4) For purposes of carrying out its duties under subsection (d), the Commission may adopt such rules for its organization and procedures as it deems appropriate.

(f) TERMINATION OF THE COMMISSION.—

(1) The Commission shall terminate on November 1, 1990.

(2) Any funds held by the Commission on the date of termination of the Commission shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts. Any property (other than funds) held by the Commission on such date shall be disposed of as excess or surplus property.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000.

TITLE II—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

SEC. 201. ESTABLISHMENT OF PROGRAM.

(a) STATE PLAN REQUIREMENT.—Section 402(a)(19) of the Social Security Act (42 U.S.C. 602(a)(19)) is amended to read as follows:

"(19) provide that the State has in effect and operation a job opportunities and basic skills training program that meets the requirements of section 417;".

(b) ESTABLISHMENT AND OPERATION OF STATE PROGRAMS.—Part A of title IV of such Act is amended by adding at the end thereof the following new section:

"JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

"SEC. 417. (a) It is the purpose of this section to assure that needy families with children obtain the education, training, and employment that will help them avoid long-term welfare dependence.

"(b)(1) As a condition of its participation in the child support supplement program under this part, each State shall establish and operate a job opportunities and basic skills training program (in this section referred to as the "program") under a plan approved by the Secretary as meeting all of the requirements of this section and (not later than three years after the date of enactment of this section) shall make the program available in each political subdivision of the State (unless the State demonstrates to the satisfaction of the Secretary that it is not feasible to make the program available in each such subdivision because of the needs and circumstances of local economies, the number of prospective participants, and other relevant variables). The State shall, in accordance with regulations prescribed by the Secretary, periodically review and update its plan and submit the updated plan for approval by the Secretary.

"(2) Each State program shall include private sector involvement in planning and program design to assure that participants are prepared for jobs that will be available in the community.

"(3) The State agency that administers or supervises the administration of the State's plan approved under section 402 shall be responsible for the administration or supervision of the administration of the State's program.

"(4) Federal funds made available to a State for purposes of the program shall not be used to supplant non-Federal funds for existing services and activities which promote the purpose of this section. State or local funds expended for such purposes shall be maintained at least at the level of such expenditures for fiscal year 1986.

"(c)(1)(A) Except as otherwise provided in this subsection, each State shall to the extent that the program is available in the applicable political subdivision and State resources otherwise permit—

"(i) require every recipient of child support supplements in the State with respect to whom the State guarantees child care in accordance with section 402(g) to participate in such program; and

"(ii) allow applicants for and recipients of child support supplements who are not required under clause (i) to participate in the program to do so on a voluntary basis.

"(B) A State may require or allow absent parents who are unemployed and unable to meet their child support obligations to participate in the program under this section.

"(C) In determining the priority of participation by individuals from among those groups described in clauses (i), (ii), and (iii) of section 403(k)(2)(B), the State shall give first consideration to applicants for or recipients of child support supplements within any such group who volunteer to participate in the program.

"(D) No State shall be required to require or allow participation of an individual in the program if as a result of such participation the amount payable to the State for quarters in a fiscal year with respect to the program would be reduced pursuant to section 403(k)(2).

"(2)(A) An individual may not be required to participate in the program if such individual—

"(i) is ill, incapacitated, or of advanced age;

"(ii) is needed in the home because of the illness or incapacity of another member of the household;

"(iii) subject to subparagraph (B) and subsection (e)(1)(B), is the parent or other relative of a child under the age of three (or, at the option of the State, any age that is less than three but not less than one), who is personally providing care for the child with only very brief and infrequent absences from the child;

"(iv) works 30 or more hours a week;

"(v) is a child who is under age 16 or attends, full-time, an elementary, secondary, or vocational (or technical) school;

"(vi) is pregnant if it has been medically verified that the child is expected to be born in the month in which such participation would otherwise be required or within the three-month period immediately following such month; or

"(vii) resides in an area of the State where the program is not available.

"(B) In the case of a family eligible for child support supplements by reason of the unemployment of the parent who is the principal earner, subparagraph (A)(iii) shall apply only to one parent; except that, in the case of such family, the State may at its option make such subparagraph inapplicable to both of the parents (and require their participation in the program) if child care is guaranteed with respect to the family.

"(3) Any individual who is required or allowed to participate in the program and who is—

"(A) the parent or relative of a child under the age of six who is providing care for such child, and

"(B) not the principal earner (in the case of a family that is eligible for child support supplements by reason of the unemployment of the parent who is the principal earner);

shall not be required (but may be encouraged) to participate in the program for more than a total of 24 hours a week; except that the State may require an individual to participate on a full-time basis (in excess of 24 hours a week) in any of the educational activities described in subclause (I), (II), or (III) of subsection (e)(1)(A)(ii).

"(4) If an individual who is required or allowed to participate in the program is already attending (in good standing) a school or a course of vocational or technical training designed to lead to employment at the time he or she would otherwise commence participation in the program, such attendance may constitute satisfactory participation in the program so long as such individual continues to participate in good standing. The costs of such school or course of training (whether or not paid by the State) may not be included as expenditures under the State plan for purposes of section 403 (but expenditures by the State for providing, or making reimbursement for the cost of, such child care as is necessary (as determined by the State) for attending such school or course of training may be included).

"(d)(1)(A) The State agency shall make an initial assessment of the education and employment skills of each participant in the program and shall conduct a review of such participant's family circumstances. On the basis of such assessment and review, such agency may develop an employability plan for each such participant which, to the maximum extent possible, reflects the preferences of the participant.

"(B) In making the initial assessment and developing (if at all) the employability plan under subparagraph (A) with respect to any participant in the program who has attained the age of 22 and does not have a high-school diploma, the State agency shall place emphasis on meeting the educational needs of the participant.

"(2) Following the initial assessment and review and the development of the employability plan with respect to any participant in the program, the State agency may require each participant (or the adult caretaker in the family of which the participant is a member) to negotiate and enter into a contract with the State agency that specifies such matters as the participant's obligations, the duration of participation in the program, and the activities to be conducted and the services to be provided in the course of such participation. If the State agency exercises the option under the preceding sentence, each participant shall be given such assistance as he or she may require in reviewing and understanding the contract.

"(3) The State agency may require the assignment of a case manager to each participant and the participant's family. The case manager so assigned shall be responsible for assisting the family to obtain any services which may be needed to assure effective participation in the program.

"(e)(1)(A) In carrying out the program, each State may make available a broad range of services and activities to aid in carrying out the purpose of this section. Such services and activities—

"(i) shall include—

"(I) basic education and skills training; and

"(II) at least two of the three activities described, respectively, in subclauses (VI), (VII), and (VIII) of clause (ii); and

"(ii) may include—

"(I) high school or equivalent education (combined with training when appropriate);

"(II) remedial education to achieve a basic literacy level;

"(III) instruction in English as a second language;

"(IV) post-secondary education (as appropriate);

"(V) on-the-job training;

"(VI) subject to clause (i)(II), work supplementation programs as provided in subsection (f);

"(VII) subject to clause (i)(II), community work experience programs as provided in subsection (g) (and, at the option of the State, any other work experience program approved by the Secretary);

"(VIII) subject to clause (i)(II), group and individual job search as provided in subsection (h);

"(IX) job readiness activities to help prepare participants for work;

"(X) job development, job placement, and follow-up services, as needed, to assist participants in securing and retaining employment and advancement; and

"(XI) other employment, education, and training activities as determined by the State and allowed by regulations of the Secretary.

"(B)(i) Subject to clause (ii), in the case of a custodial parent who has not attained 22 years of age, has not successfully completed a high-school education (or its equivalent), and is required to participate in the program (including an individual who would otherwise not be required to participate in the program solely by reason of subsection (c)(2)(A)(iii)), the State agency shall require such parent to participate in the activities described in subclause (I) or (where appropriate) subclause (II) or (III) of subparagraph (A)(ii).

"(ii) The State agency may require a custodial parent described in clause (i) to participate in training or work activities (in lieu of the educational activities under such clause) if such parent fails to make good progress in successfully completing such educational activities or if it is determined (prior to any assignment of the individual to such educational activities) pursuant to an educational assessment that participation in such educational activities is inappropriate for such parent.

"(C)(i) Subject to clause (ii), in the case of any family eligible for child support supplements by reason of the unemployment of the parent who is the principal earner, the State agency shall require that at least one parent in any such family participate either in the activity described in subparagraph (A)(ii)(VI) or the activity described in subparagraph (A)(ii)(VII) for a total of at least 16 hours a week during any period in which the parents of the family are required to participate in the program.

"(ii) The requirement under clause (i) shall not be considered to have been met by any State as of—

"(I) October 1, 1993, in the case of any State that as of June 1, 1988, provides aid to families with dependent children to individuals eligible for such benefits by reason of the unemployment of the parent who is the principal earner, or

"(II) October 1, 1994, in the case of any other State;

if the requirement is not met with respect to the applicable percentage (as described in clause (iii)) of all families in the State eligible for child support supplements by reason *of the unemployment of the parent who is the principal earner.*

"(iii) The applicable percentage described in this clause is—

"(I) in the case of a State described in clause (ii)(I)—

"(aa) 50 percent for the period before October 1, 1994, and

"(bb) 100 percent for any period thereafter; and

"(II) in the case of any other State—

"(aa) 50 percent for the period before October 1, 1995, and

"(bb) 100 percent for any period thereafter.

"(2) In assigning a participant to any program activity, the State agency—

"(A) shall assure that—

"(i) the assignment takes into account the physical capacity, skills, experience, health and safety, family responsibilities, and place of residence of such participant, and

"(ii) the participant will not be required, without his or her consent, to travel an unreasonable distance from his or her home or remain away from such home overnight; and

"(B) may base the assignment on available resources, the participant's circumstances, and local employment opportunities.

"(3) Wage rates for jobs to which participants are assigned under this section shall be not less than the greater of the Federal minimum wage or applicable State minimum wage. Appropriate workers' compensation and tort claims protection shall be provided to all participants on the same basis as such compensation and protection are provided to other individuals in the State in similar employment (as determined under regulations issued by the Secretary).

"(4)(A) No work assignment under this section (including any assignment made under subsection (f) or (g)) shall result in—

"(i) the displacement of any currently employed worker or position (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits),

"(ii) the filling of established unfilled position vacancies,

"(iii) any infringement of the promotional opportunities of any currently employed individual, or

"(iv) the impairment of existing contracts for services or collective bargaining agreements.

"(B) No participant shall be assigned to fill a job opening under this section when—

"(i) any individual is on layoff from the same or any substantially equivalent job, or

"(ii) the employer has terminated the employment of any regular employee or otherwise reduced its workforce.

"(C) The State shall establish and maintain (pursuant to regulations jointly issued by the Secretary and the Secretary of Labor) a grievance procedure for resolving complaints by regular employees or their representatives that the work assignment of an individual under the program violates any of the prohibitions described in subparagraph (A) or (B). A decision of the State under such procedure may be appealed to the Secretary of Labor for investigation and such action as such Secretary may find necessary.

"(5) The State agency may require a participant in the program to accept a job under the program (as work supplementation or otherwise) only if the State agency assures that the family of such participant will experience no net loss of cash income resulting from acceptance of such job. Any costs incurred by the State agency pursuant to this paragraph shall be treated as expenditures with respect to which section 403(a)(1) or 403(a)(2) applies.

"(6)(A) No job opportunities and basic skills program plan under this title shall be submitted to the Secretary until the Governor has determined that such program is consistent with the criteria for coordinating activities included in the Governor's Coordination and Special Services Plan prepared under section 121 of the Job Training Partnership Act as such section is in effect on date of enactment of this Act.

"(B) The Secretary shall on a continuing basis consult with the Secretaries of Education and Labor for the purpose of assuring the maximum coordination of education and training services in the development and implementation of the program under this section.

"(C) The State agency shall consult with the State education agency and the agency responsible for administering job training programs in the State in order to promote coordination of the planning and delivery of services under the program with programs operated under the Job Training Partnership Act and with education programs available in the State (including any program under the Adult Education Act or Carl D. Perkins Vocational Education Act).

"(7) In carrying out the program under this section, the State agency may enter into appropriate contracts and other arrangements with public and private agencies and organizations for the provision or conduct of any services or activities under the program.

"(f)(1) Any State may institute a work supplementation program under which such State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable to participants in the program as child support supplements and use such sums instead for the purpose of providing and subsidizing jobs for such participants (as described in paragraph (3)(C)(i) and (ii)), as an alternative to the child support supplements which would otherwise be so payable to them.

"(2)(A) Notwithstanding the provisions of section 406 or any other provision of law, Federal funds may be paid to a State under this part, subject to the provisions of this subsection, with respect to expenditures incurred in operating a work supplementation program under this subsection.

"(B) Nothing in this part, or in any State plan approved under this part, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a work supplementation program in accordance with this subsection and subsection (e).

"(C) Notwithstanding section 402(a)(23) or any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this subsection.

"(D) Notwithstanding section 402(a)(1) or any other provision of law, a State operating a work supplementation program under this subsection may provide that the need standards in effect in those areas of the State in which such program is in operation may be different from the need standards in effect in the areas in which such program is not in operation, and such State may provide that the need standards for categories of recipients may vary among such categories to the extent the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

"(E) Notwithstanding any other provision of law, a State may make such further adjustments in the amounts of the child support supplements paid under the plan to different categories of recipients (as determined under subparagraph (D)) in order to offset increases in benefits from needs-related programs (other than the State plan approved under this part) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(F) In determining the amounts to be reserved and used for providing and subsidizing jobs under this subsection as described in paragraph (1), the State may use a sampling methodology.

"(G) Notwithstanding section 402(a)(8) or any other provision of law, a State operating a work supplementation program under this subsection (i) may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program, and (ii) during one or more of the first nine months of an individual's employment pursuant to a program under this section, may apply to the wages of the individual the provisions of section 402(a)(8)(A)(iv) without regard to the provisions of (B)(ii)(II) of such section.

"(3)(A) A work supplementation program operated by a State under this subsection may provide that any individual who is an eligible individual (as determined under subparagraph (B)) shall take a supplemented job (as defined in subparagraph (C)) to the extent that supplemented jobs are available under the program. Payments by the State to individuals or to employers under the work supplementation program shall be treated as expenditures incurred by the State for child support supplements except as limited by paragraph (4).

"(B) For purposes of this subsection, an eligible individual is an individual who is in a category which the State determines should be eligible to participate in the work supplementation program, and who would, at the time of placement in the job involved, be eligible for child support supplements under the State plan if such State did not have a work supplementation program in effect.

"(C) For purposes of this section, a supplemented job is—

"(i) a job provided to an eligible individual by the State or local agency administering the State plan under this part; or

"(ii) a job provided to an eligible individual by any other employer for which all or part of the wages are paid by such State or local agency.

A State may provide or subsidize any job under the program which such State determines to be appropriate.

"(4) The amount of the Federal payment to a State under section 403 for expenditures incurred in making payments to individuals and employers under a work supplementation program under this subsection shall not exceed an amount equal to the amount which would otherwise be payable under such section if the family of each individual employed in the program established in such State under this subsection had received the maximum amount of child support supplements payable under the State plan to such a family with no income (without regard to

adjustments under paragraph (2) of this subsection) for a period of months equal to the lesser of (A) nine months, or (B) the number of months in which such individual was employed in such program.

"(5)(A) Nothing in this subsection shall be construed as requiring the State or local agency administering the State plan to provide employee status to an eligible individual to whom it provides a job under the work supplementation program (or with respect to whom it provides all or part of the wages paid to the individual by another entity under such program), or as requiring any State or local agency to provide that an eligible individual filling a job position provided by another entity under such program be provided employee status by such entity during the first 13 weeks such individual fills that position.

"(B) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

"(6) Any State that chooses to operate a work supplementation program under this subsection shall provide that any individual who participates in such program, and any child or relative of such individual (or other individual living in the same household as such individual) who would be eligible for child support supplements under the State plan approved under this part if such State did not have a work supplementation program, shall be considered individuals receiving child support supplements under the State plan approve under this part for purposes of eligibility for medical assistance under the State plan approved under title XIX.

"(7) No individual receiving child support supplements under the State plan shall be excused by reason of the fact that such State has a work supplementation program from any requirement of this part relating to work requirements, except during periods in which such individual is employed under such work supplementation program.

"(g)(1)(A) Any State may establish a community work experience program in accordance with this subsection. The purpose of the community work experience program is to provide experience and training for individuals not otherwise able to obtain employment, in order to assist them to move into regular employment. Community work experience programs shall be designed to improve the employability of participants through actual work experience and training and to enable individuals employed under community work experience programs to move promptly into regular public or private employment. The facilities of the State public employment offices may be utilized to find employment opportunities for recipients under this program. Community work experience programs shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care. To the extent possible, the prior training, experience, and skills of a recipient shall be used in making appropriate work experience assignments.

"(B) A State that elects to establish a community work experience program under this subsection shall operate such program so that each participant (as determined by the State) either works or undergoes training (or both) with the maximum number of hours that any such individual may be required to work in any month being a number equal to the amount of the child support supplements payable with respect to the family of which such individual is a member under the State plan approved under this part, divided by the greater of the Federal minimum wage or the applicable State minimum wage (and the portion of a recipient's child support supplements for which the State is reimbursed by a child support collection shall not be taken into account in determining the number of hours that such individual may be required to work).

"(C) Nothing contained in this subsection shall be construed as authorizing the payment of child support supplements under this part as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of his participation in a program under this subsection.

"(D) Nothing in this part or in any State plan approved under this part shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a community work experience program in accordance with this subsection and subsection (e).

"(E) Participants in community work experience programs under this subsection may perform work in the public interest (which otherwise meets the requirements of this subsection) for a Federal office or agency with its consent, and, notwithstanding section 1342 of title 31, United States Code, or any other provision of law, such agency may accept such services, but such participants shall not be considered to be Federal employees for any purpose.

"(2) The State agency shall provide coordination among a community work experience program operated pursuant to this subsection, any program of job search under subsection (h), and the other employment-related activities under the program established by this section so as to insure that job placement will have priority over participation in the community work experience program, and that individuals eligible to participate in more than one such program are not denied child support supplements on the grounds of failure to participate in one such program if they are actively and satisfactorily participating in another. The State agency may provide that part-time participation in more than one such program may be required where appropriate.

"(3) In the case of any State that makes expenditures in the form described in paragraph (1) under its State plan approved under section 402, expenditures for the operation and administration of the program under this section may not include, for purposes of section 403, the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in paragraph (1) or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.

"(h)(1) The State agency may establish and carry out a program of job search for individuals participating in the program under this section.

"(2) The State agency may require job search by an individual applying for or receiving child support supplements (other than an individual described in subsection (c)(2)(A) who is not an individual with respect to whom subsection (c)(2)(B) applies)—

"(A) subject to the last sentence of this paragraph, beginning at the time such individual applies for child support supplements and continuing for a period (prescribed by the State) of not more than eight weeks (but this requirement may not be used as a reason for any delay in making a determination of an individual's eligibility for such supplements or in issuing a payment to or on behalf of any individual who is otherwise eligible for such supplements); and

"(B) at such time or times after the close of the period prescribed under subparagraph (A) as the State agency may determine but not to exceed a total of eight weeks in any period of 12 consecutive months.

In no event may an individual be required to participate in job search for more than three weeks before the State agency conducts the assessment and review with respect to such individual under subsection (d)(1)(A).

"(3) Job search by an individual under this subsection shall in no event be treated, for any purpose, as an activity under the program if the individual has participated in such job search for four months out of the preceding 12 months.

"(i)(1) If an individual who is required by the provisions of this section to participate in the program or who is so required by reason of the State's having exercised the option under subsection (c)(2)(B) fails without good cause to participate in such program or refuses without good cause to accept employment in which such individual is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined to be a bona fide offer of employment—

"(A) in the case of a relative who so fails (or refuses), such relative's needs shall not be taken into account in making the determination under section 402(a)(7), and child support supplements for any dependent child in the family (other than a family eligible by reason of the unemployment of the parent who is the principal earner) in the form of payments of the type described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) and (D) thereof) or section 472 will be made unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made;

"(B) in the case of an individual who is the principal earner in a family that is eligible for child support supplements by reason of the unemployment of such principal earner who so fails (or refuses), child support supplements shall be denied to all members of the family;

"(C) in the case of a child who is the only child in the family receiving child support supplements who so fails (or refuses), child support supplements with respect to such family shall be denied;

"(D) in the case of a child who is not the only child in the family receiving child support supplements who so fails (or refuses), child support supplements with respect to such child shall be denied and such child's needs shall not be taken into account in making the determination under section 402(a)(7); and

"(E) in the case of an individual (living in the same household as a child or relative) who so fails (or refuses), such individual's needs shall not be taken into account in making the determination under section 402(a)(7)).

In the case of an individual described in subsection (c)(3), no sanction shall be imposed under this section on the basis of refusal to accept employment if the employment would require such individual to work more than 24 hours a week. For purposes of this subsection, in any situation where child care (or day care for any incapacitated individual living in the same home as a dependent child) is necessary for an individual's participation in the program or acceptance of employment, the lack of such care shall be considered good cause for refusing to participate in such program or accept such employment.

"(2)(A) Any sanction described in paragraph (1) shall continue—

"(i) in the case of the individual's first failure to comply, until the failure to comply ceases;

"(ii) in the case of the individual's second failure to comply, until the failure to comply ceases or three months (whichever is longer); and

"(iii) in the case of any subsequent failure to comply, until the failure to comply ceases or six months (whichever is longer).

"(B) The State agency shall notify a recipient of any failure to comply under this subsection and shall indicate (as part of such notice) what action or actions must be taken to terminate the sanction.

"(j) Each State shall establish a conciliation procedure for the resolution of disputes involving an individual's participation in the program and (if any such dispute is not resolved through conciliation) shall provide an opportunity for a hearing with respect to any such dispute, which hearing may be provided through a hearing process established for purposes of resolving disputes with respect to the program or through the provision of a hearing pursuant to section 402(a)(4), but in no event shall child support supplements be suspended, reduced, discontinued, or terminated as a result of a dispute involving an individual's participation in the program until such individual has an opportunity for a hearing that meets the standards set forth by the United States Supreme Court in Goldberg v. Kelly, 397 U.S. 254 (1970).".

SEC. 202. RELATED SUBSTANTIVE AMENDMENTS.

(a) SEPARATE FUNDING FOR JOBS PROGRAM; FEDERAL FINANCIAL PARTICIPATION.—

(1) Section 417 of the Social Security Act, as added by the amendment made by section 201(b) of this Act, is amended by adding at the end thereof the following new subsections:

"(k)(1) Each State with a plan approved under this section shall be entitled to payments under section 403(k) for any fiscal year in an amount equal to the sum of the applicable percentages (specified in section 403(k)) of its expenditures to carry out the program (subject to limitations prescribed by or pursuant to this section on expenditures that may be included for purposes of determining payment under section 403(k)), but such payments for any fiscal year in the case of any State may not exceed the limitation determined under paragraph (2) with respect to the State.

"(2) The limitation determined under this paragraph with respect to a State for any fiscal year is—

"(A) the amount allotted to the State for fiscal year 1987 under part C of this title as then in effect, plus

"(B) the amount that bears the same ratio to the amount specified in paragraph (3) for such fiscal year as the average monthly number of adult recipients (as defined in paragraph (4)) in the State in the preceding fiscal year bears to the average monthly number of such recipients in all the States for such preceding year.

"(3) The amount specified in this paragraph is—

"(A) $500,000,000 in the case of fiscal year 1989,

"(B) $650,000,000 in the case of fiscal year 1990,

"(C) $800,000,000 in the case of fiscal year 1991, and

"(D) $1,000,000,000 in the case of fiscal year 1992 and each fiscal year thereafter;

reduced by the aggregate amount allotted to all the States for fiscal year 1987 pursuant to part C of this title as then in effect.

"(4) For purposes of this subsection, the term 'adult recipient' in the case of any State means an individual other than a dependent child (unless such child is the custodial parent of another dependent child) whose needs are met (in whole or in part) with child support supplements.

"(l)(1) Within six months after the date of enactment of the Family Security Act of 1988, an Indian tribe or Alaska Native organization may apply to the Secretary to conduct a work, training, and education program to carry out the purpose of this section. If the Secretary approves such tribe's or Alaska Native organization's application, the maximum amount that may be paid under section 403(k) to the State in which such tribe or Alaska Native organization is located shall be reduced by the Secretary in accordance with paragraph (2) and an amount equal to the amount of such reduction shall be paid directly to such Indian tribe or Alaska Native organization (without the requirement of any nonfederal share) for the operation of its work, training, and education program. In determining whether to approve an application from an Alaska Native organization, the Secretary shall consider whether approval of the application would promote the efficient and nonduplicative administration of work, education, and training programs in the State.

"(2) The amount of the reduction under paragraph (1) with respect to any State in which is located an Indian tribe or Alaska Native organization with an application approved under such paragraph shall be an amount equal to the amount that bears the same ratio to the maximum amount that could be paid under section 403(k) to the State as—

"(A) the number of adult members of such Indian tribe receiving child support supplements under this part bears to the number of all such adult recipients in the State, or

"(B) the number of adult Alaska Natives receiving child support supplements under this part who reside within the boundaries of such Alaska Native organization bears to the number of all such adult recipients in the State of Alaska.

"(3) The work, training, and education program set forth in the application of an Indian tribe or Alaska Native organization under paragraph (1) need not meet any requirement that of the program under this section that the Secretary determines is inappropriate with respect to such work, training, and education program.

"(4) The work, education, and training program of any Indian tribe or Alaska Native organization may be terminated voluntarily by such tribe or Alaska Native organization or may be terminated by the Secretary upon a finding that the tribe or Alaska Native organization is not conducting such program in substantial conformity with the terms of the application approved by the Secretary, and the maximum amount that may be paid under section 403(k) to the State within which the tribe or Alaska Native organization is located (as reduced pursuant to paragraph (1)) shall be increased by any portion of the amount retained by the Secretary with respect to such program (and not payable to such tribe or Alaska Native organization for obligations already incurred). The reduction under paragraph (1) shall in no event apply to a State for any fiscal year beginning after such program is terminated if no other such program remains in operation in the State.

"(5) For purposes of this subsection, an Indian tribe is any tribe, band, nation, or other organized group or community of Indians that—

"(i) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

"(ii) for which a reservation (as defined in paragraph (6) of this subsection) exists.

"(6) For purposes of this subsection, a reservation includes Indian reservations, public domain Indian allotments, and former Indian reservations in Oklahoma.

"(7) For purposes of this subsection—

"(A) An Alaska Native organization is any organized group of Alaska Natives eligible to operate a Federal program under Public Law 93-638 or such group's designee;

"(B) The boundaries of an Alaska Native organization shall be those of the geographical region, established pursuant to section 7(a) of the Alaska Native Claims Settlement Act, within which the Alaska Native organization is located (without regard to the ownership of the land within the boundaries);

"(C) The Secretary may approve only one application from an Alaska Native organization for each of the twelve geographical regions established pursuant to section 7(a) of the Alaska Native Claims Settlement Act; and

"(D) Any Alaska Native, otherwise eligible or required to participate in a work, education, and training program, residing within the boundaries of an Alaska Native organization whose application has been approved by the Secretary, shall be eligible to participate in the work, education, and training program administered by such Alaska Native organization.

"(8) Nothing in this subsection shall be construed to grant or defer any status or powers other than those expressly granted in this subsection or to validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.".

(2) Section 403 of such Act (42 U.S.C. 603) is amended by adding at the end thereof the following new subsection:

"(k)(1)(A) In lieu of any payment under subsection (a), the Secretary shall pay to each State with a plan approved under section 417 (subject to the limitation determined under subsection (k)(2) of such section) with respect to expenditures by the State to carry out the program under such section (including expenditures for child care under section 402(g)(1)(A), but only in the case of any State with respect to which section 1108 applies), an amount equal to—

"(i) 90 percent, with respect to so much of such expenditures in a fiscal year as do not exceed the State's expenditures in fiscal year 1987 with respect to which payments were made to such State from its allotment for such fiscal year pursuant to part C of this title as then in effect; and

"(ii) with respect to so much of such expenditures in a fiscal year as exceed the amount described in clause (i)—

"(I) 50 percent, in the case of expenditures for administrative costs made by a State in operating such a program for such fiscal year (other than the personnel costs for staff employed full-time in the operation of such program) and the costs of transportation and other work-related supportive services under section 402(g)(2), and

"(II) the greater of 60 percent or the Federal medical assistance percentage (as defined in section 1118 in the case of any State to which section 1108 applies, or as defined in section 1905(b) in the case of any other State), in the case of expenditures made by a State in operating such a program for such fiscal year (other than for costs described in subclause (I)).

"(B) With respect to the amount for which payment is made to a State under subparagraph (A)(i), the State expenditures for the costs of operating a program established under section 417 may be in cash or in kind, fairly evaluated.

"(2)(A) Notwithstanding paragraph (1), the Secretary shall pay to a State an amount equal to 50 percent of the expenditures made by such State in operating its program established under section 417 (in lieu of any different percentage specified in paragraph (1)(A)) if more than 50 percent of such expenditures are made with respect to individuals who are not described in subparagraph (B).

"(B) An individual is described in this paragraph if the individual—

"(i)(I) is receiving child support supplements, and

"(II) has received such supplements for any 30 of the preceding 60 months;

"(ii)(I) makes application for child support supplements, and

"(II) has received such supplements for any 30 of the 60 months immediately preceding the most recent month for which application has been made; or

"(iii) is a custodial parent under the age of 24 who (I) has not completed a high school education and, at the time of application for child support supplements, is not enrolled in high school (or a high school equivalency course of instruction), or (II) had little or no work experience in the preceding year.".

"(C) The Secretary shall biennially submit to the Congress any recommendations for modifications or additions to the groups of individuals described in subparagraph (B) that the Secretary determines would further the goal of assisting long-term or potential long-term recipients of child support supplements under this part to achieve self-sufficiency, which recommendations shall take into account the particular characteristics of the populations of individual States.

"(3)(A) Notwithstanding paragraph (1), the Secretary shall pay to a State an amount equal to 50 percent of the expenditures made by such State in a fiscal year in operating its program established under section 417 (in lieu of any different percentage specified in paragraph (1)(A)) if the State's participation rate (determined under subparagraph (B)) for the preceding fiscal year does not exceed or equal—

"(i) 10 percent if the preceding fiscal year is 1990;

"(ii) 10 percent if such year is 1991;

"(iii) 14 percent if such year is 1992;

"(iv) 14 percent if such year is 1993; and

"(v) 22 percent if such year is 1994.

"(B)(i) The State's participation rate for a fiscal year shall be the average of its participation rates for computation periods (as defined in clause (ii)) in such fiscal year.

"(ii) The computation periods shall be—

"(I) the fiscal year, in the case of fiscal year 1990,

"(II) the first six months, and the seventh through twelfth months, in the case of fiscal year 1991,

"(III) the first three months, the fourth through sixth months, the seventh through ninth months, and the tenth through twelfth months, in the case of fiscal years 1992 and 1993, and

"(IV) each month, in the case of fiscal year 1994.

"(iii) The State's participation rate for a computation period shall be the number, expressed as a percentage, equal to—

"(I) the average monthly number of individuals required or allowed by the State to participate in the program under section 417 who have participated in such program in months in the computation period, plus the number of individuals required or allowed by the State to participate in such program who have so participated in that month in such period for which the number of such participants is the greatest, divided by

"(II) twice the average monthly number of individuals required to participate in such period (other than individuals described in subparagraph (A)(iii) or (B) of section 417(c)(2) with respect to whom the State has exercised its option to require their participation).

For purposes of this subparagraph, an individual shall not be considered to have satisfactorily participated in the program under section 417 soley by reason of such individual being registered to participate in such program.

"(C) Notwithstanding any other provision of this paragraph, no State shall be subject to payment under this paragraph (in lieu of paragraph (1)(A)) for failing to meet any participation rate required under this paragraph with respect to any fiscal year before 1991.

"(D) For purposes of this paragraph, an individual shall be determined to have participated in the program under section 417, if such individual has participated in accordance with such requirements, consistent with regulations of the Secretary, as the State shall establish.

"(E) If the Secretary determines that the State has failed to achieve the participation rate for any fiscal year specified in the numbered clauses of subparagraph (A), he may waive, in whole or in part, the reduction in the payment rate otherwise required by such subparagraph if he finds that—

"(i) the State is in substantial compliance with section 402(a)(19);

"(ii) the State has made a good faith effort to achieve the applicable participation rate for such fiscal year; and

"(iii) the State has submitted a proposal which is likely to achieve the applicable participation rate for the current fiscal year and the subsequent fiscal years (if any) specified therein.".

(b) PAYMENT OF CHILD CARE, TRANSPORTATION, AND OTHER WORK-RELATED EXPENSES.—Section 402 of such Act (42 U.S.C. 602) is amended by adding at the end thereof the following new subsection:

"(g)(1)(A) Each State agency shall guarantee child care in accordance with subparagraph (B) for each family with a dependent child requiring such care, to the extent that such care is determined by the State agency to be necessary for an individual's participation in employment, education, and training activities under the program under section 417. For purposes of this subsection, the term 'child care' shall be deemed to include day care for each incapacitated individual living in the same home as a dependent child.

"(B) The State agency may guarantee child care by—

"(i) providing such care itself,

"(ii) arranging the care through providers by use of purchase of service contracts, or vouchers,

"(iii) providing cash or vouchers in advance to the caretaker relative in the family,

"(iv) reimbursing the caretaker relative in the family, or

"(v) adopting such other arrangements as the State deems appropriate.

"(C) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for the care) under this paragraph—

"(i) shall not be treated as income for purposes of any other Federal or federally-assisted program that bases eligibility for or the amount of benefits upon need, and

"(ii) may not be claimed as an employment-related expense for purposes of the credit under section 21 of the Internal Revenue Code of 1986.

"(2) In the case of any individual participating in the program under section 417, each State agency (in addition to guaranteeing child care under paragraph (1)) shall provide payment or reimbursement for such transportation and other work-related supportive services as the State determines are necessary to enable such individual to participate in such program.

"(3)(A) In the case of amounts expended for child care pursuant to paragraph (1)(A) by any State to which section 1108 does not apply, the applicable rate for purposes of section 403(a) shall be the Federal medical assistance percentage (as defined in section 1905(b)).

"(B) In the case of any amounts expended by the State agency for child care under this subsection, only such amounts as are within such limits as the State may prescribe shall be treated as amounts for which payment may be made to a State under this part and only to the extent that—

"(i) such amounts do not exceed the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary),

"(ii) such amounts are not expended for the construction or rehabilitation of child care facilities, and

"(iii) the child care involved meets applicable standards of State and local law.".

(c) EXTENSION OF DEMONSTRATION AUTHORITY UNDER WIN PROGRAM.—Section 445 of such Act (42 U.S.C. 645) is amended—

(1) in subsection (b)(1), by striking "June 30, 1987" in the matter preceding subparagraph (A) and inserting in lieu thereof "December 31, 1989"; and

(2) in subsection (d)—

(A) by striking "June 30, 1987" and inserting in lieu thereof "December 31, 1989"; and

(B) by striking "June 30, 1988" and inserting in lieu thereof "September 30, 1990".

SEC. 203. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN PART A OF TITLE IV.—

(1) Section 402(a)(8)(A)(iv) of the Social Security Act (42 U.S.C. 602(a)(8)(A)(iv)) is amended by striking "(but excluding" and

all that follows and inserting in lieu thereof a semicolon.

(2) Section 402(a)(9)(A) of such Act (42 U.S.C. 602(a)(9)(A)) is amended by striking "B, C, or D" and inserting in lieu thereof "B or D".

(3) Section 402(a)(35) of such Act (42 U.S.C. 602(a)(35)) is repealed.

(4) Section 403(a)(3) of such Act (42 U.S.C. 603(a)(3)) is amended—

(A) by striking all of subparagraph (C) that follows "such expenditures" and inserting in lieu thereof "; and"; and

(B) in the matter immediately following subparagraph (C), by striking "services furnished" and all that follows through the semicolon and inserting in lieu thereof "services furnished pursuant to section 402(g);".

(5) Section 403(c) of such Act (42 U.S.C. 603(c)) is repealed.

(6) Section 403(d) of such Act (42 U.S.C. 603(d)) is repealed.

(7) Section 407(b)(2)(A) of such Act (42 U.S.C. 607(b)(2)(A)) is amended by striking "will be certified" and all that follows through "within 30 days" and inserting in lieu thereof "will participate or apply for participation in the program under section 417 within 30 days (unless the program is not available in the area where the parent is living)".

(8) Section 407(b)(2)(C)(i) of such Act (42 U.S.C. 607(b)(2)(C)(i)) is amended by striking ", "section 402(a)(19)(A)" and all that follows through "432(a)," and inserting in lieu thereof "section 417(c),".

(9) Section 407(c) of such Act (42 U.S.C. 607(c)) is amended by striking "to certify such parent" and all that follows and inserting in lieu thereof "to undertake appropriate steps directed towards the participation of such parent in the program under section 417.".

(10) Section 409 of such Act (42 U.S.C. 609) is repealed.

(11) Section 414 of such Act (42 U.S.C. 614) is repealed.

(b) In Other Provisions.—

(1) Part C of title IV of such Act is repealed.

(2) Section 471(a)(8)(A) of such Act (42 U.S.C. 671(a)(8)(A)) is amended by striking "A, B, C, or D" and inserting in lieu thereof "A, B, or D".

(3) Section 1108(a) of such Act (42 U.S.C. 1308(a)) is amended in the matter preceding paragraph (1) by inserting "or, in the case of part A of title IV, section 403(k)" before "applies".

(4) Section 1108(b) of such Act (42 U.S.C. 1308(b)) is amended by striking "and services provided under section 402(a)(19)".

(5) Section 1902(a)(10)(A)(i)(I) of such Act (42 U.S.C. 1396a(a)(10)(A)(i)(I)) is amended by striking "414(g)" and inserting in lieu thereof "417(f)(6)".

(6) Section 1923(a)(1)(D) of such Act (42 U.S.C. 1396s(a)(1)(D)) is amended by striking "414(g)" and inserting in lieu thereof "417(f)(6)".

SEC. 204. REGULATIONS; PERFORMANCE STANDARDS; STUDIES.

(a) Regulations.—Not later than six months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall issue proposed regulations for the purpose of implementing the amendments made by this title, including regulations establishing uniform data collection requirements. The Secretary shall publish final regulations for such purpose not later than one year after the date of enactment of this Act.

(b) Performance Standards.—Not later than five years after the date of enactment of this Act, the Secretary shall—

(1) in consultation with representatives of organizations representing Governors, State and local program administrators, educators, and other interested persons, develop performance standards with respect to the programs established pursuant to section 417 of the Social Security Act that are based, in part, on the results of the studies conducted under subsection (c); and

(2) submit his recommendations for performance standards developed under paragraph (1) to the Congress, which recommendations shall be made with respect to specific measurements of outcomes such as participation rates, income gains, and placement rates.

(c) Implementation and Effectiveness Studies.—

(1)(A) The Secretary shall conduct an implementation study in accordance with subparagraph (B).

(B) The implementation study conducted under subparagraph (A) shall be based on a representative sample of States and localities and shall document with respect to the programs established pursuant to section 417 of the Social Security Act—

(i) the types, mix, and costs of services offered,

(ii) participation rates or activity levels,

(iii) the characteristics of the individuals in the different type of activities,

(iv) the provisions made for child and day care and the extent to which limitations exist with respect to the availability of such care,

(v) the institutional arrangements and operating procedures under which activities are offered in the different locations, and

(vi) such other factors as the Secretary deems appropriate.

(C) There are authorized to be appropriated $500,000 for each of the fiscal years 1989, 1990, and 1991 for the purpose of conducting the implementation study under this paragraph.

(2)(A) The Secretary shall conduct a study in accordance with this paragraph to determine the relative effectiveness of the different approaches for assisting long-term and potentially long-term recipients developed by States pursuant to the program established under section 417 of the Social Security Act.

(B)(i) The study required under subparagraph (A) shall be based on data gathered from demonstration projects conducted in five States chosen by the Secretary from among applications submitted by interested States. Such projects shall be conducted for a period of not less than three years upon such terms and conditions (including those involving payments to the participating States) as the Secretary may provide.

(ii) A demonstration project conducted under this subparagraph shall use specific outcome measures to test the effectiveness of particular programs. Such measures shall include educational status, employment status, earnings, receipt of child support supplements, receipt of other transfer payments, and to the extent possible, poverty status of participating families.

(iii) A demonstration project conducted under this subparagraph shall use experimental and control groups that are composed of a random sample of participants in the program established under section 417 of the Social Security Act. The Secretary shall assure that the experimental design is comparable among localities.

(C) Participating States shall provide to the Secretary in such form and with such frequency as he requires interim data from the demonstration projects conducted under this paragraph. The Secretary shall report to the Congress annually on the progress of such projects and shall, not later than one year after the date of final data collection, submit to the Congress the study required under subparagraph (A).

(D) There are authorized to be appropriated $10,000,000 for each of the fiscal years 1989 through 1993 for the purpose of making payments to States conducting demonstration projects under this section.

(3) The Secretary shall establish such uniform reporting requirements as the Secretary determines are appropriate for the purpose of conducting the demonstration projects required under this section.

(d) Study on Application of Jobs Programs to Indians.—The Secretary of Health and Human Services, in cooperation with the Secretary of the Interior, shall conduct a study of—

(1) the effectiveness of such employment, training, and education programs for low-income individuals as are specifically directed toward Indians in responding to the needs of Indians on reservations;

(2) the effectiveness of such programs as are not specifically directed toward Indians in responding to such needs;

(3) the extent to which such needs are not met by such programs;

(4) how such programs could be better coordinated in responding to such needs;

(5) how such programs could be improved or restructured to more effectively meet such needs;

(6) what sustainable job markets exist in Indian communities (assessed by tribe and region); and

(7) the availability of such support services (as transportation and child care) as are necessary to assist Indians on reservations in participating in such programs and obtaining permanent employment.

The Secretary of Health and Human Services and the Secretary of the Interior shall report to the Congress on the results of the study under this subsection not later than October 1, 1989 (or, if later, one year after the date of enactment of this Act).

SEC. 205. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), the amendments made by this title shall become effective on October 1, 1990.

(b) Special Rules.—

(1)(A) If any State makes the changes in its State plan approved under section 402 of the Social Security Act that are required in order to carry out the amendments made by this title and formally notifies the Secretary of Health and Human Services of its desire to become subject to such amendments as of the first day of any calendar quarter beginning on or after the date on which the proposed regulations of the Secretary of Health and Human Services are published under section 204(a) (or, if earlier, the date on which such regulations are required to be published under such section) and before October 1, 1990, such amendments shall become effective with respect to that State as of such first day.

(B) In the case of any State in which the amendments made by this title become effective (in accordance with subparagraph (A)) with respect to any quarter of a fiscal year beginning before October 1, 1990, the limitation applicable to the State for the fiscal

year under section 417(k)(2) of the Social Security Act (as added by the amendment made by section 202(a)(1) of this title) shall be an amount that bears the same ratio to such limitation (as otherwise determined with respect to the State for the fiscal year) as the number of quarters in the fiscal year throughout which such amendments apply to the State bears to four.

(2) The amendments made by section 202(c) shall become effective on June 30, 1988.

(3) Effective December 31, 1994, section 403(k)(3) of the Social Security Act, as added by the amendment made by section 202(a)(2) of this Act, is repealed.

TITLE III—TRANSITIONAL ASSISTANCE FOR FAMILIES AFTER LOSS OF CSS ELIGIBILITY

SEC. 301. EXTENDED ELIGIBILITY FOR CHILD CARE.

(a) In General.—Section 402(g)(1)(A) of such Act, as added by section 202(b) of this Act, is amended—

(1) by inserting "(i)" before "to the extent"; and

(2) by inserting before the period the following: ", and (ii) subject to the limitations described in section 418, to the extent that such care is determined by the State agency to be necessary for an individual's employment in any case where a family has ceased to receive child support supplements under this part as a result of increased hours of, or increased income from, such employment or as a result of subsection (a)(8)(B)(ii)(II)".

(b) Payment.—

(1) Section 402(g)(3)(A) of such Act, as added by section 202(b) of this Act, is amended—

(A) by inserting "(i)" after "(A)"; and

(B) by adding at the end thereof the following new clause:

"(ii) In the case of amounts expended for child care pursuant to paragraph (1)(A)(ii) (relating to the provision of child care for certain families which cease to receive child support supplements under this part) by any State to which section 1108 applies, the applicable rate for purposes of section 403(a) shall be the Federal medical assistance percentage (as defined in section 1118).".

(2) Section 403(k)(1)(A) of such Act, as added by the amendment made by section 202(a)(2) of this Act, is amended by striking "402(g)(1)(A)" in the matter preceding clause (i) and inserting in lieu thereof "402(g)(1)(A)(i)".

(c) Limitations on Continued Eligibility.—Part A of title IV of the Social Security Act, as amended by section 201(b) of this Act, is further amended by inserting after section 417 the following new section:

"LIMITATIONS ON CHILD CARE FOR FAMILIES AFTER LOSS OF ELIGIBILITY.

"Sec. 418. The limitations described in this section with respect to child care provided under section 402(g)(1)(A)(ii) are as follows:

"(1) A family shall only be eligible for such care—

"(A) if such family was receiving child support supplements under this part in at least three of the six months immediately preceding the month in which the family becomes ineligible for such supplements;

"(B)(i) for a period of nine months after the last month for which the family received child support supplements under this part, and

"(ii) for a total of nine months in any 36-month period (regardless of whether such months are consecutive); and

"(C) for a month in which the family includes a child who is (or would if needy be) a dependent child.

"(2) A family shall not be eligible for such care for any month beginning after the parent or other caretaker relative who is a member of the family has—

"(A) submitted false or misleading information in order to obtain child support supplements under this part;

"(B) been subject to a sanction under section 417(i) (but only if such parent or caretaker relative has been subject to the sanction within the preceding 12 months);

"(C) without good cause, terminated his or her employment, refused to accept employment, or reduced his or her hours of employment; or

"(D) failed to cooperate with the State as required under subparagraph (B) or (C) of section 402(a)(26).

"(3) A family shall contribute to the costs of such care in accordance with a sliding scale based on ability to pay that is established by the State and approved by the Secretary.

"(4) No family shall be eligible for such care on or after January 1, 1994.".

(d) Study on Effects of Extending Eligibility for Child Care.—The Secretary of Health and Human Services shall conduct a study on the effectiveness of the amendments made by this section in reducing welfare dependence and assisting families in making the transition from welfare to employment, and such other effects of these amendments as the Secretary may find appropriate, and shall report on the results of such study not later than January 1, 1993.

SEC. 302. EXTENDED ELIGIBILITY FOR MEDICAL ASSISTANCE.

(a) In General.—Title XIX of the Social Security Act is amended—

(1) by redesignating section 1923 as section 1924, and

(2) by inserting after section 1922 the following new section:

"EXTENDED ELIGIBILITY FOR MEDICAL ASSISTANCE

"Sec. 1923. (a)(1) Notwithstanding any other provision of this title, each State plan approved under this title must provide that each family which was receiving child support supplements pursuant to the plan of the State approved under part A of title IV in at least three of the six months immediately preceding the month in which such family becomes ineligible for such supplements as a result of increased hours of, or increased income from, employment or as a result of section 402(a)(8)(B)(ii)(II) shall, subject to paragraph (3), and without any reapplication for benefits under the plan, remain eligible for assistance under the plan approved under this title during the immediately succeeding six-month period in accordance with this subsection.

"(2) Each State, in the notice of termination of supplements under part A of title IV sent to a family meeting the requirements of paragraph (1)—

"(A) shall notify the family of its right to extended medical assistance under this subsection and include in the notice a description of the circumstances (described in paragraph (3)) under which such extension may be terminated; and

"(B) shall include a card or other evidence of the family's entitlement to assistance under this title for the period provided in this subsection.

"(3)(A) Subject to subparagraph (B), extension of assistance for the six-month period described in paragraph (1) shall be denied to a family for any month—

"(i) in which the family does not include a child who is (or would if needy be) a dependent child under part A of title IV (except that, with respect to a child who is an individual described in clause (i) or (v) of section 1905(a), who would cease to receive medical assistance because of clause (i) of this subparagraph, but who may be eligible for assistance under the State plan because of section 1902(a)(10)(A)(ii), the State may not discontinue such assistance under this subparagraph until the State has determined that the child is not eligible for assistance under the plan);

"(ii) beginning after a month during which the caretaker relative has—

"(I) submitted false or misleading information in order to obtain child support supplements under part A of title IV,

"(II) been subject to a sanction under section 417(i) (but only if the caretaker relative has been subject to the sanction within the preceding 12 months),

"(III) without good cause, terminated his or her employment, refused to accept employment, or reduced his or her hours of employment, or

"(IV) failed to cooperate with the State as required under subparagraph (B) or (C) of section 402(a)(26);

"(iii) beginning after the twelfth month out of the preceding 36 months for which the individual has received assistance under this subsection or subsection (b); or

"(iv) beginning on or after January 1, 1994.

"(B) No denial of assistance shall become effective under subparagraph (A) until the State has provided the family with notice of the grounds for the denial, which notice shall include, in the case of denial under subparagraph (A)(ii)(III), a description of how the family may reestablish eligibility for medical assistance under the State plan.

"(4)(A) Subject to subparagraph (B), during the six-month extension period under this subsection, the amount, duration, and scope of medical assistance made available with respect to a family shall be the same as if the family were still receiving child support supplements under the plan approved under part A of title IV.

"(B) A State, at its option, may pay a family's expenses for premiums, deductibles, coinsurance, or similar costs for health insurance or other health coverage offered by an employer of the caretaker relative (and, if the health insurance or coverage provides more cost-effective coverage, by an employer of the absent parent who is paying child support for a dependent child). In the case of such coverage offered by an employer of the caretaker relative—

"(i) the State may require the caretaker relative, as a condition of extension of coverage under this subsection, to make application for such employer coverage (but only if the State provides, directly or otherwise, for payment of any of the premium amount, deductible, coinsurance, or similar expense that the caretaker relative is otherwise required to pay); and

"(ii) the State shall treat the coverage under such an employer plan as a third party liability (under section 1902(a)(25)).

Payments for coverage under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance.

"(b)(1) Notwithstanding any other provision of this title, each State plan approved under this title shall provide that the State shall offer to each family, which has re-

ceived assistance during the entire six-month period under subsection (a) and which meets the requirement of paragraph (2)(B), in the last month of the period, the option of extending coverage under this subsection for the succeeding six-month period.

"(2)(A) Each State, during the second and fourth month of any extended assistance furnished to a family under subsection (a), shall notify the family of the family's option for subsequent extended assistance under this subsection. Each such notice shall include (i) a statement of monthly reporting requirements, (ii) a statement as to the premiums required for such extended assistance, and (iii) a description of other out-of-pocket expenses, benefits, reporting and payment procedures, and any pre-existing condition limitations, waiting periods, or other coverage limitations imposed under any alternative coverage options offered under paragraph (4)(D).

"(B) Each State shall require that a family receiving extended assistance under subsection (a) report the family's gross monthly earnings (and monthly costs of child care incurred by reason of the employment of the caretaker relative) to the State on such date or dates (as chosen by the State) after the second month of extended assistance under subsection (a).

"(3)(A) Subject to subparagraph (B), extension of assistance for the six-month period described in paragraph (1) shall be denied to a family for any month—

"(i) in which the family does not include a child who is (or would if needy be) a dependent child under part of title IV (except that, with respect to a child who is an individual described in clause (i) or (v) of section 1905(a), who would cease to receive medical assistance because of clause (i) of this subparagraph, but who may be eligible for assistance under the State plan because of section 1902(a)(10)(A)(ii), the State may not discontinue such assistance under this subparagraph until the State has determined that the child is not eligible for assistance under the plan);

"(ii) beginning after a month during which the caretaker relative has—

"(I) submitted false or misleading information in order to obtain child support supplements under part A of title IV,

"(II) been subject to a sanction under section 417(i), (but only if the caretaker relative has been subject to the sanction in the preceding 12 months),

"(III) without good cause, terminated his or her employment, refused to accept employment, or reduced his or her hours of employment, or

"(IV) failed to cooperate with the State as required under subparagraph (B) or (C) of section 402(a)(26);

"(iii) beginning after the twelfth month out of the preceding 36 months for which the individual has received assistance under this subsection or subsection (a);

"(iv) beginning after a month with respect to which the family fails to pay any monthly premium required under this subsection in accordance with regulations prescribed by the Secretary (unless the individual establishes, to the satisfaction of the State, good cause for the failure to pay such premium on a timely basis);

"(v) beginning after a month with respect to which—

"(I) subject to the last sentence of this subparagraph, the family fails to meet the reporting requirement of paragraph (2)(B) (unless the family establishes, to the satisfaction of the State, good cause for such failure), or

"(II) the State determines that the family's average gross monthly earnings (less the costs of such child care as is necessary for the employment of the caretaker relative) during the preceding month exceeds 185 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; or

"(vi) beginning on or after January 1, 1994.

Information described in clause (v)(I) shall be subject to the restrictions on use and disclosure of information provided under section 402(a)(9). The State shall make determinations under clause (v)(II) for a family each time a report described in clause (v)(I) for the family is received. Instead of terminating a family's extension under clause (v)(I), a State, at its option, may provide for suspension of the extension until the month after the month in which the family's extension would otherwise be terminated to allow the family additional time to meet the reporting requirement of paragraph (2)(B) (but only if the family's extension has not otherwise been terminated under clause (v)(II)).

"(B) No denial of assistance shall become effective under subparagraph (A) until the State has provided the family with notice of the grounds for the denial, which notice shall include, in the case of denial under subparagraph (A)(ii)(III), a description of how the family may reestablish eligibility for medical assistance under the State plan.

"(4)(A) During the extension period under this subsection—

"(i) the State plan shall offer to each family medical assistance which (subject to subparagraphs (B) and (C)) is the same amount, duration, and scope as would be made available to the family if it were still receiving aid under the plan approved under part A of title IV; and

"(ii) the State plan may offer alternative coverage described in subparagraph (D).

"(B) At a State's option, notwithstanding any other provision of this title, a State may choose not to provide medical assistance under this subsection with respect to any (or all) of the items and services described in paragraphs (4)(A), (6), (7), (8), (11), (13), (14), (15), (16), (18), (20), and (21) of section 1905(a).

"(C) At a State's option, the State may elect to apply the option described in subsection (a)(4)(B) for families electing medical assistance under this subsection in the same manner as such option applies to families provided extended medical assistance under subsection (a).

"(D) At a State's option, instead of the medical assistance otherwise made available under this subsection, the State may offer families a choice of health care coverage under one or more of the following:

"(i) Enrollment of the caretaker relative and dependent child in a family option of the group health plan offered to the caretaker relative.

"(ii) Enrollment of the caretaker relative and dependent children in a family option within the options of the group health plan or plans offered by the State to State employees.

"(iii) Enrollment of the caretaker relative and dependent children in a basic State health plan offered by the State to individuals in the State (or areas of the State) otherwise unable to obtain health insurance coverage.

"(iv) Enrollment of the caretaker relative and dependent children in a health maintenance organization (as defined in section 1903(m)(1)(A)) less than 50 percent of the membership (enrolled in a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause).

If a State elects to offer under an option to enroll a family under this subparagraph, the State shall pay any premiums, deductibles, coinsurance, and other costs for such enrollment imposed on the family. A State's payment of premiums for the enrollment of families under this subparagraph (not including any premiums otherwise payable by an employer and less the amount of premiums collected from such families under paragraph (5)) shall be considered, for purposes of section 1903(a)(1), to be payments for medical assistance.

"(5)(A) Notwithstanding any other provision of this title (including section 1916), a State shall impose a premium for a family for extended coverage under this subsection, but only if the family's gross monthly earnings (less the monthly costs for such child care as is necessary for the employment of the caretaker relative) exceeds 100 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(B) The level of such premium may vary, for the same family, for each option offered by a State under paragraph (4).

"(C) In no case may the amount of any premium under this paragraph for a family for any month exceed three percent of the family's gross monthly earnings.

"(c) In this section, the term 'caretaker relative' has the meaning of such term as used in part A of title IV.".

(b) Conforming Changes.—

(1) Section 1902(e)(1) of such Act (42 U.S.C. 1396a(e)(1)) is amended by striking "Notwithstanding" and all that follows through the period and inserting in lieu thereof the following: "For provisions relating to extension of coverage for certain families which have received child support supplements pursuant to a State plan approved under part A of title IV and which have earned income, see section 1923".

(2) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended by striking "or" at the end of clause (vii), by inserting "or" at the end of clause (viii), and by inserting after clause (viii) the following new clause:

"(ix) individuals provided extended benefits under section 1923,".

(3) Section 402(a)(37) of such Act (42 U.S.C. 602(a)(37)) is repealed.

(c) Study and Report.—

(1) The Secretary of Health and Human Services shall conduct a study of the impact of the medicaid extension provisions added by the amendments made by this section and shall report on the results of such study not later than January 1, 1993.

(2) The study under paragraph (1) shall include an examination of the extent to which the availability of extended medicaid benefits affects access to and use of medical services, the relative effectiveness of different types of coverage provided by States, and the effect of requiring families to pay premiums or incur any other expenses with respect to such extended benefits.

SEC. 303. EFFECTIVE DATE.

(a) In General.—The amendments made by this title shall become effective on October 1, 1989; except that in the case of the Commonwealth of Kentucky, the amendments made by this title shall become effective on October 1, 1990.

(b) Special Transitional Rule.—For any period after this title becomes effective in which the amendments made by title II of this Act are not yet in effect with respect to a State, any reference in sections 418 and 1923 of the Social Security Act (as added by the amendments made by sections 301(c) and 302(a) of this Act, respectively) to section 417(i) (of the Social Security Act) shall be deemed a reference to section 402(a)(19) (of such Act).

TITLE IV—CHILD SUPPORT SUPPLEMENT AMENDMENTS

SEC. 401. HOUSEHOLDS HEADED BY MINOR PARENTS.

(a) In General.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) by striking "and" at the end of paragraph (39);

(2) by striking the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (40) the following new paragraph:

"(41) provide that—

"(A) subject to subparagraph (B), in the case of any individual who is under the age of 18 and has never married, and who has a dependent child in his or her care (or is pregnant and is eligible for child support supplements under the State plan), (i) such individual may receive child support supplements under the plan for the individual and such child (or for herself in the case of a pregnant woman) only if such individual and child (or such pregnant woman) reside in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home, or reside in a foster home, maternity home, or other adult-supervised supportive living arrangement, and (ii) such supplements (where possible) shall be paid to the parent, legal guardian, or adult relative on behalf of such individual and child; and

"(B) subparagraph (A) does not apply in the case where—

"(i) such individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

"(ii) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

"(iii) the State agency determines that the physical or emotional health or safety of such individual or such dependent child would be jeopardized if such individual and such dependent child lived in the same residence with such individual's own parent or legal guardian;

"(iv) such individual lived apart from his or her own parent or legal guardian for a period of at least one year prior to either the birth of any such dependent child or the individual having made application for child support supplements under the plan; or

"(v) the State agency otherwise determines (in accordance with regulations issued by the Secretary) there is good cause for waiving such subparagraph.".

(b) Effective Date.—The amendments made by this section shall become effective on the first day of the first quarter to begin one year after the date of enactment of this Act.

SEC. 402. CHILD SUPPORT SUPPLEMENT PROGRAM IN TWO-PARENT FAMILIES.

(a) Mandatory Expansion of Coverage.—

(1) Section 402(a) of the Social Security Act, as amended by section 401(a) of this Act, is further amended—

(A) by striking "and" after the semicolon at the end of paragraph (40);

(B) by striking the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(C) by inserting immediately after paragraph (41) the following new paragraph:

"(42) provide that payments of child support supplements will be made under the plan with respect to dependent children of unemployed parents in accordance with section 407.".

(2)(A) Section 402(a)(38)(B) of such Act (42 U.S.C. 602(a)(38)(B)) is amended by striking "(if such section is applicable to the State)".

(B) Section 407(b) of such Act (42 U.S.C. 607(b)) is amended by striking "(b) The provisions" and all that follows through "(1) requires" and inserting in lieu thereof the following:

"(b) In providing for the payment of child support supplements under the State's plan approved under section 402 in the case of families that include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(42), the State's plan—

"(1) shall require".

(C) Section 407(b)(2) of such Act is amended by striking "provides—" and inserting in lieu thereof "shall provide—".

(b) State Flexibility in Structuring Two-Parent Family Program.—

(1) Section 407(b) of such Act, as amended by subsection (a) of this section, is further amended—

(A)(i) by inserting "(1) after "(b)",

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(ii) by redesignating subparagraphs (A), (B), and (C) of such paragraph (1) as clauses (i), (ii), and (iii), respectively,

(iii) by redesignating subparagraphs (A), (B), (C), and (D) of such paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively, and

(iv) by redesignating clauses (i) and (ii) of subparagraph (C) of both such paragraphs (1) and (2) as subclauses (I) and (II), respectively;

(B) in subparagraph (A) (as redesignated by subparagraph (A)(ii)), by striking "shall require" and inserting in lieu thereof "subject to paragraph (2), shall require"; and

(C) by adding at the end thereof the following new paragraph:

"(2)(A) In carrying out the program under this section, a State may design its program to reflect the individual needs of the State and to emphasize education, training, and employment services for unemployed parents and their spouses who are eligible for child support supplements by reason of this section, to the extent provided under this paragraph.

"(B)(i) Subject to clause (ii), with respect to the requirement under section 402(a)(42), a State may, at its option, limit the number of months with respect to which a family receives child support supplements to the extent determined appropriate by the State for the operation of its program under this section.

"(ii)(I) A State may not limit the number of months under clause (i) for which a family may receive child support supplements unless it provides in its plan assurances to the Secretary that it has a program (that meets such requirements as the Secretary may in regulation prescribe) for providing education, training, and employment services (including any activity authorized under section 417) in order to assist parents of children described in subsection (a) in preparing for and obtaining employment.

"(II) In exercising the option under clause (i), a State plan may not provide for the denial of child support supplements to a family otherwise eligible for such supplements for any month unless the family has received such supplements (on the basis of the unemployment of the parent who is the principal earner) in at least six out of the preceding 12 months.

"(C) With respect to the participation in the program under section 417 of a family eligible for child support supplements by reason of this section, a State may, at its option—

"(i) except as otherwise provided in section 417, require that any parent participating in such program engage in program activities for up to 40 hours per week; and

"(ii) provide for the payment of child support supplements at regular intervals of no greater than one month but after the performance of assigned program activities.".

(2) Section 417(c)(1)(A)(ii) of the Social Security Act, as added by the amendment made by section 201(b) of this Act, is amended by striking "supplements" and inserting "supplements (and individuals who would be recipients of such supplements if the State had not exercised the option under section 407(b)(2)(B)(i))".

(3)(A) Section 407(b)(1)(B) of such Act (as redesignated by paragraph (1)(A)) is amended by striking "paragraph (1)(A)" each place it appears and inserting in lieu thereof "subparagraph (A)(i)".

(B) Section 407(c) of such Act (42 U.S.C. 607(c)) is amended—

(i) by striking "subparagraph (A) of subsection (b)(1)" and inserting in lieu thereof "subsection (b)(1)(A)(i)";

(ii) by striking "subparagraph (B) of such subsection" and inserting in lieu thereof "subsection (b)(1)(A)(ii)"; and

(iii) by striking "subparagraph (A) of subsection (b)(2)" and inserting in lieu thereof "subsection (b)(1)(B)(i)".

(C) Section 407(d)(3) of such Act (42 U.S.C. 607(d)(3)) is amended by striking "section 407(b)(1)(C)" and inserting in lieu thereof "subsection (b)(1)(A)(iii)".

(c) Participation in Training and Education Programs as a Quarter of Work.—

(1) Section 407(d)(1) of such Act (42 U.S.C. 607(d)(1)) is amended—

(A) by inserting "(A)" after "means a calendar quarter"; and

(B) by inserting before the semicolon at the end thereof the following: ", or (B) at the option of the State, a calendar quarter in which such individual attended, full-time, an elementary school, a secondary school, or a vocational or technical training course (approved by the Secretary) that is designed to prepare the individual for gainful employment, or in which such individual participated in an education or training program established under the Job Training Partnership Act".

(2) Section 407(d) of such Act (42 U.S.C. 607(d)) is amended by adding at the end thereof the following new sentence:

"Notwithstanding section 402(a)(1), a State that chooses to exercise the option provided under paragraph (1)(B) may provide that the definition of calendar quarter under such option apply in one or more political subdivisions of the State.".

(3) Section 407(b)(1)(A)(iii)(I) of such Act, as redesignated by subsection (b)(1)(A), is amended by inserting ", no more than four of which may be quarters of work defined in subsection (d)(1)(B)," after "(d)(1)".

(4)(A) Section 407(b)(2)(B)(ii) of such Act, as added by the amendment made by subsection (b)(1)(C), is amended by adding at the end thereof the following new subclause:

"(III) Any family that is otherwise eligible for child support supplements that does not receive such supplements in any month solely by reason of the State exercising the option under clause (i) shall be deemed, for purposes of determining the period under paragraph (1)(A)(iii)(I), to be receiving such supplements in such month.".

(B) Section 407(d)(1) of such Act is further amended by striking "a community work experience" and all that follows through the semicolon and inserting in lieu thereof "the program under section 417;".

(d) EXPANSION OF MEDICAID COVERAGE FOR TWO-PARENT FAMILIES.—

(1) Section 1902(a)(10)(A)(i)(III) of such Act (42 U.S.C. 1396a(a)(10)(A)(i)(III)) is amended by striking "pregnant women or children" and inserting in lieu thereof "family members".

(2) Section 1905(n) of such Act (42 U.S.C. 1396d(n)) is amended—

(A) in the matter preceding paragraph (1), by striking "pregnant woman or child" and inserting in lieu thereof "family member";

(B) in paragraph (1)—

(i) by amending subparagraph (B) to read as follows:

"(B) is a member of a family that would be receiving child support supplements under the State plan under part A of title IV pursuant to section 407 if the State had not exercised the option under section 407(b)(2)(B)(i); or", and

(ii) by striking "and" at the end of subparagraph (C);

(C) in paragraph (2)—

(i) by inserting "(A)" after "(2)",

(ii) by striking the period and inserting in lieu thereof "; and", and

(iii) by adding at the end thereof the following new subparagraph:

"(B) a child who is under 18 years of age and who is a member of a family described in paragraph (1)(B); and"; and

(D) by adding at the end thereof the following new paragraph:

"(3) at the option of the State, any individual who is a member of a family described in paragraph (1)(B).".

(e) EVALUATION AND REPORT.—The Secretary of Health and Human Services shall conduct an evaluation of the program under section 407 of the Social Security Act, as amended by this section (which evaluation shall include a comparison of the effects on families and on governments of the individual State approaches in implementing such program), and shall, not later than October 1, 1993, submit a report to the Congress containing the findings of such evaluation together with recommendations for any changes in such program.

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1990.

SEC. 403. PERIODIC REEVALUATION OF NEED AND PAYMENT STANDARDS.

(a) IN GENERAL.—Section 402 of the Social Security Act, as amended by section 202(b) of this Act, is further amended by adding at the end thereof the following new subsection:

"(h)(1) Each State shall reevaluate the need standard and payment standard under its plan at least once every five years, in accordance with a schedule established by the Secretary, and report the results of the reevaluation to the Secretary at such time and in such form and manner as the Secretary may require.

"(2) The report required by paragraph (1) shall include a statement of—

"(A) the manner in which the need standard of the State is determined,

"(B) the relationship between the need standard and the payment standard (expressed as a percentage or in any other manner determined by the Secretary to be appropriate), and

"(C) any changes in the need standard or the payment standard in the preceding five-year period.

"(3) The Secretary shall report promptly to the Congress the results of the reevaluations required by paragraph (1).".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on the date of enactment of this Act.

SEC. 404. CBO STUDY ON IMPLEMENTATION OF NATIONAL MINIMUM PAYMENT STANDARD.

(a) IN GENERAL.—The Congressional Budget Office shall conduct a study on the implementation of the amendments proposed by section 101 of the Partnership Act of 1987 (relating to the requirement of a minimum payment standard under part A of title IV of the Social Security Act with a Federal matching rate of 90 percent).

(b) DESCRIPTION OF STUDY.—The study conducted under subsection (a) shall assess the extent to which—

(1) the goal of budget neutrality may be preserved by repealing the programs included in, but not limited to, the programs described in the amendments proposed by section 301 of the Partnership Act of 1987 over a more gradual period of time in conjunction with corresponding increases (up to 90 percent) in the Federal matching rates under part A of title IV and title XIX of the Social Security Act; and

(2) the effects on local governments of repealing Federal programs could be mitigated by providing, over a period of time that corresponds with more gradual increases in the Federal matching rates under part A and title XIX, general revenue supplements to those localities with the lowest levels of fiscal capacity and pass throughs to units of local government.

(c) REPORT TO CONGRESS.—The Congressional Budget Office shall report on the results of the study conducted under this section not later than twelve months after the date of enactment of this Act.

TITLE V—DEMONSTRATION PROJECTS

SEC. 501. DEMONSTRATION PROGRAM OF GRANTS TO PROVIDE PERMANENT HOUSING FOR FAMILIES THAT WOULD OTHERWISE REQUIRE EMERGENCY ASSISTANCE.

(a) IN GENERAL.—Part A of title IV of the Social Security Act is amended by inserting immediately after section 407 the following new section:

"DEMONSTRATION PROGRAM OF GRANTS TO PROVIDE PERMANENT HOUSING FOR FAMILIES THAT WOULD OTHERWISE REQUIRE EMERGENCY ASSISTANCE

"SEC. 408. (a) In order to ensure that States which incur particularly high costs in providing emergency assistance for temporary housing to homeless families receiving child support supplements may have an adequate opportunity to test whether such costs could be effectively reduced by the construction or rehabilitation of permanent housing that such families can afford with their child support supplements, there is hereby established a demonstration program under which the Secretary shall make grants to those States, selected in accordance with subsection (b), which conduct demonstration projects in accordance with this section.

"(b)(1) Any State which desires to participate in the demonstration program established by subsection (a) may submit an application therefor to the Secretary.

"(2) To be eligible for selection to conduct a demonstration project under such program, a State—

"(A) must be currently providing emergency assistance (as defined in subsection (f)(1)) in the form of housing, including transitional housing;

"(B) must have a particularly acute need for assistance in dealing with the problems of homeless families who receive child support supplements by virtue of the large number of such families and the existence of shortages in the supply of low-income housing in the political subdivision or subdivisions where such project would be conducted; and

"(C) must submit a plan to achieve significant cost savings over a 10-year period through the conduct of such project with assistance under this section.

"(3) The Secretary shall select up to two States, from among those which submit applications under paragraph (1), and are determined to be eligible under paragraph (2), to conduct demonstration projects in accordance with this section. In the event that more than two States are determined to be eligible, the two States selected shall be those with respect to which cost savings (as described in subparagraph (C) of such paragraph) will be the greatest.

"(4) Grants for each demonstration project under this section shall be awarded within six months after the date of the appropriation of funds (pursuant to subsection (h)) for the purposes prescribed in this section.

"(c) For each year during which a State is conducting a demonstration project under this section, the Secretary shall make a grant to such State, in an amount determined under subsection (h)(2), for the construction or rehabilitation of permanent housing to serve families who would otherwise require emergency assistance in the form of temporary housing.

"(d) A grant may be made to a State under subsection (b) only if such State (along with or as a part of its application) furnishes the Secretary with satisfactory assurances that—

"(1) the proceeds of the grant will be used exclusively for the construction or rehabilitation of permanent housing to be owned by the State, a political subdivision of the State, an agency or instrumentality of the State or of a political subdivision of the State, or a nonprofit organization;

"(2) all units assisted with funds from the proceeds of the grant will be used exclusively for rental to families which—

"(A) are eligible, at the time of the rental, for assistance under the State's plan approved under section 402 (and a family with one or more members who meet this requirement shall not be deemed ineligible because one or more other members receive benefits under title XVI),

"(B) have been unable to obtain non-emergency housing at rents that can be paid with *the portion of such assistance allocated for shelter, and*

"(C) if such units were not available to them, would be compelled to live in a shelter for the homeless or in a hotel or motel, or other temporary accommodations, paid for with emergency assistance, or would be homeless;

"(3) the local jurisdiction in which such housing will be located is experiencing a critical shortage of housing units that are available to families eligible for assistance under the State plan at rents that can be paid with the amount of such assistance allocated for shelter; and

"(4) whenever units assisted with grants under the project become available for occupancy, the State will discontinue the use of an equivalent number of units of the most costly accommodations it has been using as temporary housing paid for with emergency assistance, except to the extent that such accommodations are demonstrably needed—

"(A) in addition to the units so assisted, to take account of the emergency assistance caseload, or

"(B) because, due to the condition or location of such accommodations, or other factors, discontinuing the use of such units would not be in the best interests of needy families, provided that the State discontinues the use of an equivalent number of other units it has been using as temporary housing paid for with emergency assistance.

"(e)(1) The average cost to the Federal government per unit of housing constructed or rehabilitated with a grant under a project under this section shall be an amount no greater than the yearly Federal payment of emergency assistance that would be required to provide housing for a family in a shelter for the homeless, a hotel or motel, or other temporary quarters for one year, in the jurisdiction or jurisdictions where the project is located.

"(2) The total amount of Federal payments to a State under this part over the 10-year period beginning at the time construction or rehabilitation commences under the State's project under this section, with respect to the families who will live in housing assisted by a grant under such project (the 'total grant cost' as more particularly defined in subsection (f)(3)), must be lower as a result of the construction or rehabilitation of permanent housing with the grant than the total amount of Federal payments under this part that would have been made if the State made emergency assistance payments with respect to the families involved at the level of the standard yearly payment (as defined in subsection (f)(2)) during such 10-year period. If the 'total grant cost' is not lower than such total amount of Federal payments, the State shall be responsible for paying the difference between such cost and such total amount.

"(3) Any grant to a State under subsection (a) shall be made only on condition (A) that the non-Federal share of the total cost of the construction or rehabilitation of the housing involved is equal to at least the percentage of the current non-Federal share of assistance under the State's plan approved under section 402 (as determined under section 403(a) or 1118), increased by 10 percentage points, and (B) that such State not require any of its political subdivisions to pay a higher percentage of the total costs of the construction or rehabilitation of such housing than it would pay with respect to assistance pursuant to such State plan.

"(f) For purposes of this section—

"(1) the term 'emergency assistance' means emergency assistance to needy families with children as described in section 406(e), and regular payments for the costs of temporary housing authorized as a special needs item under the State plan;

"(2) the term 'standard yearly payment', with respect to emergency assistance used to provide housing for a family in a shelter for the homeless, a hotel or motel, or other temporary quarters during any year in any jurisdiction, means an amount equal to the total amount of such assistance which was needed to provide all housing in temporary accommodations in that jurisdiction (with emergency assistance), in the most recently completed calendar year, at the 75th percentile in the range of all payments of emergency assistance for temporary accommodations, based on the State's actual experience with emergency assistance in such jurisdiction; and

"(3) the term 'total grant cost', with respect to housing constructed or rehabilitated under a demonstration project under this section, means the sum of (A) the Federal share of payments attributable to the construction or rehabilitation of such housing during the 10-year period beginning on the date on which its construction or rehabilitation begins, (B) the Federal share of payments of emergency assistance for temporary housing to the families involved during that part of the 10-year period in which such housing is undergoing construction or rehabilitation (at a level equal to the standard yearly payment), and (C) the Federal share of regular payments of child support supplements under the State plan to such families during the remainder of such 10-year period.

"(g) Whenever a grant is made to a State under this section, the assurances required of the State under paragraphs (1) through (4) of subsection (d) and any other requirements imposed by the Secretary as a condition of such grant shall be considered, for purposes of section 404, as requirements imposed by or in the administration of the State's plan approved under section 402.

"(h)(1) There are authorized to be appropriated for grants under this section the sum of $8,000,000 for each of the first 5 fiscal years beginning on or after October 1, 1988.

"(2)(A) The amount appropriated for any fiscal year pursuant to paragraph (1) shall be divided between the States conducting demonstration projects under this section according to their respective need for assistance of the type involved and their respective numbers of homeless families receiving child support supplements, as determined by the Secretary.

"(B) If any State to which a grant is made under this paragraph finds that it does not require the full amount of such grant to conduct its demonstration project under this section in the fiscal year involved, the unused portion of such grant shall be reallocated to the other State conducting such projects in amounts based on need for assistance of the type involved, as determined by the Secretary.

"(C) Amounts appropriated pursuant to paragraph (1), and grants made from such amounts, shall remain available until expended.

"(i) The Secretary shall prescribe and publish regulations (including such requirements for data and documentation as he may find necessary) to implement the provisions of this section no later than six months after the date of its enactment.".

(b) Effective Date; Repeal.—The amendment made by subsection (a) shall become effective on October 1, 1988, and is repealed effective September 30, 1998.

SEC. 502. DEMONSTRATION PROJECTS FOR DEVELOPING INNOVATIVE EDUCATION AND TRAINING PROGRAMS FOR CHILDREN RECEIVING CHILD SUPPORT SUPPLEMENTS.

(a) In General.—Section 1115 of the Social Security Act (42 U.S.C. 1315) is amended by adding at the end thereof the following new subsection:

"(d)(1) In order to encourage States to develop innovative education and training programs for children receiving child support supplements under State plans approved under section 402(a), any State may establish and conduct one or more demonstration projects, targeted to such children, designed to test financial incentives and alternative approaches to reducing the number of school dropouts, encouraging skill development, and avoiding welfare dependence.

"(2) The Secretary may make grants to States to assist in financing demonstration projects under this subsection.

"(3) Demonstration projects under this subsection shall meet such conditions and requirements as the Secretary shall prescribe, and each such project shall be conducted for at least one year but for no longer than 5 years.

"(4) There are authorized to be appropriated $500,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993 for the purpose of making grants to States to conduct demonstration projects under this subsection.".

(b) Effective Date.—The amendment by subsection (a) shall become effective on October 1, 1988.

SEC. 503. DEMONSTRATION PROJECTS TO ENCOURAGE STATES TO EMPLOY PARENTS RECEIVING CHILD SUPPORT SUPPLEMENTS AS PAID CHILD CARE PROVIDERS.

(a) In General.—Section 1115 of the Social Security Act, as amended by section 502 of this Act, is further amended by adding at the end thereof the following new subsection:

"(e)(1) In order to encourage States to employ or arrange for the employment of parents of dependent children receiving child support supplements under State plans approved under section 402(a) as providers of child care for other children receiving such supplements, up to five States may undertake and carry out demonstration projects designed to test whether such employment will effectively facilitate the conduct of the education, training, and work program under section 417 by making additional child care services available to meet the requirements of section 402(g)(1)(A) while affording significant numbers of families receiving such supplements a realistic opportunity to avoid welfare dependence.

"(2) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this subsection, shall approve up to five applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this subsection, and shall make grants to those States the applications of which are approved to assist them in carrying out such projects. Each project conducted under this subsection shall meet such conditions and requirements as the Secretary shall prescribe.

"(3) There are authorized to be appropriated $1,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993 for the purpose of making grants to States to carry out demonstration projects under this subsection.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on October 1, 1988.

SEC. 504. DEMONSTRATION PROJECTS TO TEST ALTERNATIVE DEFINITIONS OF UNEMPLOYMENT.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with up to 10 States submitting applications under this section for the purpose of conducting demonstration projects in such States to test and evaluate the use, with respect to individuals who received child support supplements under part A of title IV of the Social Security Act (on the basis of the unemployment of the parent who is the principal earner) in the preceding month, of a number greater than 100 for the number of hours per month that such individuals may work and still be considered to be unemployed for purposes of section 407 of such Act.

(b) Inapplicability of Requirement of Statewideness.—Notwithstanding section 402(a)(1) of the Social Security Act, a demonstration project conducted under this section may be conducted in one or more political subdivisions of the State.

(c) Payments.—An agreement under this section shall be entered into between the Secretary and the State agency designated under section 402(a)(3) of the Social Security Act. Such agreement shall provide for the payment of child support supplements under the applicable State plan under part A of title IV of such Act as though section 407 of such Act had been modified to reflect the definition of unemployment used in the demonstration project but shall also provide that such project shall otherwise be carried out in accordance with all of the requirements and conditions of section 407 of such Act (and, except as provided in subsection (b), any related requirements and conditions under part A of such title).

(d) Duration.—A demonstration project under this section may be commenced any time after September 30, 1990, and shall be conducted for such period of time as the agreement with the Secretary may provide; except that, in no event may a demonstration project under this section be conducted after September 30, 1995.

(e) Information and Reports.—

(1) Any State with an agreement under this section shall evaluate the comparative cost and employment effects of the use of the definition of unemployment in its demonstration project under this section by use of experimental and control groups comprised of a random sample of individuals receiving child support supplements under section 407 and shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the project conducted by the State.

(2) The Secretary shall report the results of the demonstration projects conducted under this section to the Congress not later than six months after all such projects are completed.

SEC. 505. DEMONSTRATION PROJECTS TO ADDRESS CHILD ACCESS PROBLEMS.

(a) In General.—Any State may establish and conduct one or more demonstration projects (in accordance with such terms, conditions, and requirements as the Secretary of Health and Human Services shall prescribe) to develop, improve, or expand activities designed to increase compliance with child access provisions of court orders.

(b) Activities Under Project.—Activities that may be funded by a grant under this section include (whether conducted through the executive, legislative, or judicial branches of the State) the development of systematic procedures for enforcing access provisions of court orders, the establishment of special staffs to deal with and mediate disputes involving access (both before and after a court order has been issued), and the dissemination of information to parents.

(c) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 1989 and 1990 for the purpose of making grants to States to assist in financing the project or projects established under this section.

(d) Report.—Not later than July 1991, the Secretary of Health and Human Services shall submit to the Congress a report on the effectiveness of the demonstration projects established under this section in—

(1) decreasing the time required for the resolution of disputes related to child access,

(2) reducing litigation relating to access disputes, and

(3) improving compliance with court-ordered child support payments.

SEC. 506. DEMONSTRATION PROJECTS TO EXPAND THE NUMBER OF CHILD CARE FACILITIES AND THE AVAILABILITY OF CHILD CARE, WITH EMPHASIS ON INCREASING CHILD CARE IN RURAL AREAS.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with not less than five nor more than 10 States submitting applications under this section for the purpose of conducting demonstration projects in accordance with subsection (b) to increase opportunities for child care for those eligible for child support supplements under title IV of the Social Security Act.

(b) Manner of Conducting Project.—

(1) Each State conducting a demonstration project under this section shall contract with one or more nonprofit organizations to carry out such project. A nonprofit organization contracting with a State shall furnish technical and financial assistance to child care providers which meet applicable State or local standards to assist such providers in increasing the availability of child care in a community through such methods as the acquisition, expansion, or rehabilitation of child care facilities and (if the contract with the State provides) through the provision of transportation to assure access to such facilities.

(2) For purposes of paragraph (1), a nonprofit organization is any organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of section 501(c) of such code.

(c) Content of Applications; Selection Criteria.—

(1) Each State submitting an application under this section shall, as part of such application, describe—

(A) the technical and financial assistance that will be made available under the project conducted under this section;

(B) the geographic area that will be primarily served by such project; and

(C) with respect to such area, the number of households receiving public assistance, the number of children eligible for child support supplements under title IV of the Social Security Act, and existing child care opportunities (including the number of available positions for children and the average monthly cost per child).

(2) In selecting States to conduct demonstration projects under this section, the Secretary shall give priority to States—

(A) that propose to conduct the project primarily in communities with a population of less than 50,000; and

(B) with the severest shortage of affordable child care for children eligible for child support supplements under title IV of the Social Security Act.

(d) Duration.—A demonstration project conducted under this section shall be commenced not later than September 30, 1988, and shall be conducted for a three-year period unless the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the agreement entered into with the State under subsection (a).

(e) Information and Report.—

(1) Each State with an agreement under this section shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the demonstration project conducted by the State.

(2) Not later than October 1, 1991, the Secretary shall submit a report to Congress that describes the results of the demonstration projects conducted under this section and contains such recommendations as the Secretary determines are appropriate.

(f) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 1989, 1990, and 1991 for the purpose of making grants to States to conduct demonstration projects under this section.

SEC. 507. DEMONSTRATION PROJECTS TO EXPAND THE NUMBER OF JOB OPPORTUNITIES AVAILABLE TO CERTAIN LOW-INCOME INDIVIDUALS.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with not less than five nor more than 10 nonprofit organizations (including community development corporations) submitting applications under this section for the purpose of conducting demonstration projects in accordance with subsection (b) to create employment opportunities for certain low-income individuals.

(b) Nature of Project.—

(1) Each nonprofit organization conducting a demonstration project under this section shall provide technical and financial assistance to private employers in the community to assist them in creating employment and business opportunities for those individuals eligible to participate in the projects as described in this subsection.

(2) For purposes of this section, a nonprofit organization is any organization (including a community development corporation) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of section 501(c) of such code.

(3) A low-income individual eligible to participate in a project conducted under this section is any individual eligible to receive child support supplements under title IV of the Social Security Act and other individuals whose income level does not exceed 100 percent of the official poverty line as defined by the Office of Management and Budget and revised in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

(c) Content of Applications; Selection Priority.—

(1) Each nonprofit organization submitting an application under this section shall, as part of such application, describe—

(A) the technical and financial assistance that will be made available under the project conducted under this section;

(B) the geographic area to be served by the project;

(C) the percentage of low-income individuals (as described in subsection (b)) and individuals receiving child support supplements under title IV in the area to be served by the project; and

(D) unemployment rates in the geographic areas to be served and (to the extent practicable) the jobs available and skills necessary to fill those vacancies in such areas.

(2) In approving applications under this section, the Secretary shall give priority to applications proposing to serve those areas containing the highest percentage of individuals receiving child care supplements under title IV of the Social Security Act.

(d) ADMINISTRATION.—Each nonprofit organization participating in a demonstration project conducted under this section shall provide assurances in its agreement with the Secretary that it has or will have a cooperative relationship with the agency responsible for administering the job opportunities and basic skills training program (as provided for under title IV of the Social Security Act) in the area served by the project.

(e) DURATION.—Each demonstration project conducted under this section shall be commenced not later than September 30, 1988, and shall be conducted for a three-year period; except that, the Secretary may terminate a project before the end of such period if he determines that the nonprofit organization conducting the project is not in substantial compliance with the terms of the agreement entered into with the Secretary under this section.

(f) EVALUATION AND REPORT.—

(1) The Secretary shall conduct an evaluation of the success of each demonstration project conducted under this section in creating job opportunities and may require each nonprofit organization conducting such a project to provide the Secretary with such information as the Secretary determines is necessary to prepare the report described in paragraph (2).

(2) Not later than October 1, 1991, the Secretary shall submit to the Congress a report containing a summary of the evaluations conducted under paragraph (1), together with such recommendations as the Secretary determines are appropriate.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,500,000 for each of fiscal years 1989, 1990, and 1991 for the purpose of making grants to conduct demonstration projects under this section.

SEC. 508. DEMONSTRATION PROJECTS TO PROVIDE COUNSELING AND SERVICES TO HIGH-RISK TEENAGERS.

(a) FINDINGS AND PURPOSE.—

(1) The Congress finds that—

(A) the incidences of teenage pregnancy, suicide, substance abuse, and school dropout are increasing;

(B) research to date has established a link between low self-esteem, perceived limited life options and the risk of teenage pregnancy, suicide, substance abuse, and school dropout;

(C) little data currently exists on how to improve the self image of and expand the life options available to high-risk teenagers; and

(D) there currently is no Federal program in place to address the unique and significant problems faced by today's teenagers.

(2) It is the purpose of the demonstration projects conducted under this section to provide programs in which a range of non-academic services (sports, recreation, the arts) and self-image counseling are provided to high-risk teenagers in order to reduce the rates of pregnancy, suicide, substance abuse, and school dropout among such teenagers.

(b) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with each of four States submitting applications under this section for the purpose of conducting demonstration projects in accordance with this section to provide counseling and services to certain high-risk teenagers.

(c) NATURE OF PROJECT.—Under each demonstration project conducted under this section—

(1) States shall establish a "Teen Care Plan" that shall consist of the following:

(A) A clearing house where high-risk teenagers will be referred to and encouraged to participate in non-academic activities (arts, recreation, sports) which are already in place in the community.

(B) A survey of the area to be targeted by the project to determine the need to fund and create new non-academic activities in the area.

(C) Counseling services utilizing qualified, locally licensed, psychologists, social psychologists, or other mental health professionals or related experts to provide individual and group counseling to participating high-risk teenagers.

(D) A program to provide participants in the project (to the extent practicable) with transportation, child care, and equipment as is necessary to carry out the purposes of the project.

(2) Each State conducting a demonstration project under this section shall designate two geographical areas within the State to be targeted by the project. One area will serve as the "home base" for the project, where services will be concentrated and in which a local school system will be selected to receive services and provide facilities for resource referral and counseling. The second geographical area will serve as a "peripheral" participant, receiving assistance and services from the home base.

(3) For purposes of this section a high-risk teenager is any male or female who has reached the age of 10 years and whose age does not exceed 20 years, and who—

(A) has a history of academic problems;

(B) has a history of behavioral problems both in and out of school;

(C) comes from a one-parent household; or

(D) is pregnant or is a mother of a child.

(d) APPLICATIONS; SELECTION CRITERIA.—

(1) In selecting States to conduct demonstration projects under this section, the Secretary—

(A) shall consult with the Consortium on Adolescent Pregnancy;

(B) shall consider—

(i) the rate of teenage pregnancy in each State,

(ii) the teenage school dropout rate in each State,

(iii) the incidence of teenage substance abuse in each State, and

(iv) the incidence of teenage suicide in each State; and

(C) shall give priority to States whose applications—

(i) demonstrate a current strong State commitment aimed at reducing teenage pregnancy, suicide, drug abuse, and school dropout;

(ii) contain a "State support agreement" signed by the Governor, the State School Commissioner, the State Department of Human Services, and the State Department of Education, pledging their commitment to the project;

(iii) describe facilities and services to be made available by the State to assist in carrying out the project; and

(iv) indicate a demonstrably high rate of alcoholism among its residents.

(2) Of the States selected to participate in the demonstration projects conducted under this section—

(A) one shall be a geographically small State with a population of less than 1,250,000;

(B) one shall be a State with a population of over 20,000,000; and

(C) two shall be States with populations of more than 1,000,000 but less than 20,000,000.

(e) EVALUATION AND REPORT.—

(1) Each State conducting a demonstration project under this section shall submit to the Secretary for his approval an evaluation plan that provides for examining the effectiveness of the project in both the home base and peripheral area of the State.

(2) Not later than October 1, 1991, the Secretary shall submit to the Congress a report containing a summary of the evaluations conducted by States pursuant to the plans described in paragraph (1).

(f) FUNDING.—

(1) Three-fifths of the total amounts appropriated under this section for each State participating in the projects shall be expended by such State for the provision of services and facilities within the State's designated project home base, and five percent of the three-fifths appropriated for the provision of services within the home base shall be set aside to conduct an evaluation plan as provided for in subsection (e).

(2) Two-fifths of the total amounts appropriated under this section for each State participating in the project shall be expended by such State for the provision of services and facilities within the State's designated peripheral area, and five percent of the two-fifths appropriated for the provision of services within such areas shall be set aside to conduct an evaluation plan as provided for in subsection (e).

(g) DURATION.—A demonstration project conducted under this section shall be commenced not later than September 30, 1988, and shall be conducted for a three-year period; except that, the Secretary may terminate a project before the end of such period if he determines that the State conducting the project is not in substantial compliance with the terms of the agreement entered into with the Secretary under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 1989, 1990, and 1991 for the purpose of funding in equal amounts each State teen care demonstration project conducted under this section.

SEC. 509. EIGHTEEN-MONTH EXTENSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.

Upon application by the State of Minnesota, the Secretary of Health and Human Services shall extend until December 31, 1989, the waiver granted to such State under section 1115 of the Social Security Act to conduct a prepaid medicaid demonstration project.

SEC. 510. DEMONSTRATION PROJECTS FOR DEVELOPMENT AND USE OF COMPUTER "CREDIT" BENEFIT CARD TECHNOLOGY IN MAKING BENEFIT PAYMENTS.

(a) IN GENERAL.—Section 1115 of the Social Security Act (42 U.S.C. 1315), as amended by

sections 502 and 503 of this Act, is further amended by adding at the end thereof the following new subsection:

"(f)(1) In order to encourage States to plan, design, develop, and implement a system for making benefit payments through use of intelligent 'benefit credit' cards (using computer chip design), any State may establish and conduct a demonstration project under this subsection designed to test whether the use of such a system with respect to either of the programs under titles IV and XIX can enhance the efficiency and effectiveness of program operations while ensuring that individuals receive correct benefit amounts on a timely basis. The benefit credit card developed under any such demonstration project shall contain information, encoded on a computer chip embedded in or on the card, concerning the eligibility of the individual for benefits or services and the amount of benefits or value of services to which such individual is entitled. Such card would be used by an eligible individual to obtain benefits or services, on a monthly basis, from any entity qualifed (with respect to the particular program involved) to provide such benefits.

"(2) The Secretary may make grants or award contracts to (or enter into cooperative agreements with) States to assist in financing the demonstration projects under this subsection.

"(3) Demonstration projects under this subsection shall meet such conditions and requirements as the Secretary shall prescribe. Projects shall be designed to maintain the accuracy with which a State provides benefit amounts. Each project shall be conducted for a period of at least one year but in no event may be conducted for a period of more than three years.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1988.

TITLE VI—PAYMENTS TO AMERICAN SAMOA, THE COMMONWEALTH OF PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

SEC. 601. INCLUSION OF AMERICAN SAMOA AS A STATE UNDER TITLE IV.

(a) IN GENERAL.—Section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended by adding at the end thereof the following new sentence: "Such term when used in title IV also includes American Samoa.".

(b) LIMITATION ON PAYMENTS TO AMERICAN SAMOA.—Section 1108 of such Act (42 U.S.C. 1308) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) The total amount certified by the Secretary under parts A and E of title IV (exclusive of any amounts on account of services and items to which, in the case of part A of such title, section 403(k) applies) with respect to a fiscal year for payment to American Samoa shall not exceed $1,000,000.".

(c) CONFORMING CHANGES.—

(1) Section 403 of such Act (42 U.S.C. 603) is amended—

(A) in paragraphs (1) and (2) of subsection (a) by striking "and Guam," each place it appears and inserting in lieu thereof "Guam, and American Samoa,"; and

(B) in subsections (i)(4) and (j) by striking "or the Virgin Islands" each place it appears and inserting in lieu thereof "the Virgin Islands, or American Samoa".

(2) Section 421(b) of such Act (42 U.S.C. 621(b)) is amended by striking "and Guam" and inserting in lieu thereof "Guam, and American Samoa".

(3) The heading of section 1108 of such Act (42 U.S.C. 1308) is amended to read as follows:

"LIMITATION ON PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA".

(4) The last sentence of section 1118 of such Act (42 U.S.C. 1318) is amended by adding before the period the following: "and shall, in the case of American Samoa, mean 75 percentum with respect to part A of title IV".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1988.

SEC. 602. INCREASE IN THE AMOUNT AVAILABLE FOR PAYMENT TO PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM.

(a) IN GENERAL.—Section 1108(a) of the Social Security Act (42 U.S.C. 1308(a)) is amended—

(1) in paragraph (1)—

(A) by striking "or" at the end of subparagraph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) $72,000,000 with respect to each of the fiscal years 1979 through 1988, or

"(G) $82,000,000 with respect to fiscal year 1989 and each fiscal year thereafter;";

(2) in paragraph (2)—

(A) by striking "or" at the end of subparagraph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) $2,400,000 with respect to each of the fiscal years 1979 through 1988, or

"(G) $2,800,000 with respect to fiscal year 1989 and each fiscal year thereafter;"; and

(3) in paragraph (3)—

(A) by striking "or" at the end of subparagraph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) $3,300,000 with respect to each of the fiscal years 1979 through 1988, or

"(G) $3,800,000 with respect to fiscal year 1989 and each fiscal year thereafter.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on October 1, 1988.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. ASSISTANT SECRETARY FOR FAMILY SUPPORT.

(a) IN GENERAL.—Part A of title IV of the Social Security Act, as amended by sections 201(b) and 301(b) of this Act, is further amended by adding at the end thereof the following new section:

"ASSISTANT SECRETARY FOR FAMILY SUPPORT

"SEC. 419. The programs under this part and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided by law.".

(b) COMPENSATION.—Section 5315 of title 5, United States Code, is amended by striking "(4)" at the end of the item relating to Assistant Secretaries of Health and Human Services and inserting in lieu thereof "(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1989.

SEC. 702. RESPONSIBILITIES OF THE STATE.

(a) IN GENERAL.—Section 402(a) of the Social Security Act, as amended by sections 401(a) and 402(a) of this Act, is further amended—

(1) by striking "and" at the end of paragraph (41);

(2) by striking the period at the end of paragraph (42) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (42) the following new paragraph:

"(43) provide that the State agency shall—

"(A)(i) be responsible for assuring that the benefits and services under the programs under this part and part D are furnished in an integrated manner, and

"(ii) to the maximum extent possible (as is otherwise consistent with the provisions of this title), assure that all parents applying for or receiving child support supplements under this part are encouraged, assisted, and required to fulfill their responsibilities to support their children by (I) preparing for, seeking, accepting, and retaining such employment as they are capable of performing, and (II) cooperating in the establishment of paternity and the enforcement of child support obligations; and

"(B) notify each applicant for child support supplements under this part and (at such times as required under regulations of the Secretary) each recipient of such supplements of—

"(i) the education, employment, and training services (including supportive services with respect to such services), and paternity establishment and child support services for which the applicant or recipient (as the case may be) is eligible; and

"(ii) the requirements that must be met in order to be eligible for any such services.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on July 1, 1989.

SEC. 703. ESTABLISHMENT OF PREELIGIBILITY FRAUD DETECTION MEASURES.

(a) IN GENERAL.—Section 402 of such Act, as amended by sections 401(a), 402(a), and 702(a) of this Act, is further amended—

(1) by striking "and" at the end of paragraph (42);

(2) by striking the period at the end of paragraph (43) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (43) the following new paragraph:

"(44) provide (in accordance with regulations issued by the Secretary) for appropriate measures to detect fraudulent applications for child support supplements prior to the establishment of eligibility for such supplements.".

(b) EFFECTIVE DATE; REGULATIONS.—

(1) The amendments made by subsection (a) shall become effective on October 1, 1989.

(2) The Secretary shall issue final regulations with respect to the requirement added by the amendment made by subsection (a)(3) not later than six months after the date of enactment of this Act.

SEC. 704. MISCELLANEOUS TECHNICAL CORRECTIONS TO MEDICARE CATASTROPHIC COVERAGE ACT OF 1988.

(a) MODIFICATION OF PROVISIONS RELATING TO EMPLOYER MAINTENANCE OF EFFORT.—Section 421 of the Medicare Catastrophic Coverage Act of 1988 is amended—

(1) in subsection (a)(1), by striking "(c)(1)" and inserting "(c)(1)(A)";

(2) in subsection (a)(2), by striking "(c)(2)" and inserting "(c)(1)(B)";

(3) in subsection (b)(1), by striking "of the duplicative part A benefits" and inserting in lieu thereof "of the benefits under part A of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1989) which were not covered under part A of title

XVIII of the Social Security Act as such part was in effect on the day before the date of the enactment of this Act";

(4) in subsection (b)(2), by striking "of the duplicative part B benefits" and inserting in lieu thereof "of the benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs) which were not covered under part B of title XVIII of the Social Security Act as such part was in effect on the day before the date of the enactment of this Act";

(5) in subsection (b)(3)(A)(i), by striking "on the basis of" and inserting "as being equal to the respective national";

(6) by amending clause (i) of subsection (b)(3)(B) to read as follows:

"(i) calculate and publish—

"(I) the national average actuarial value for the year involved of the benefits under part A of title XVIII of the Social Secrurity Act (as amended by this Act as of January 1, 1989) which were not covered under such part as such part was in effect before the date of the enactment of this Act, and

"(II) the national average actuarial value for the year involved of the benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs) which were not covered under such part as such part was in effect before the date of the enactment of this Act; and"; and

(7) in subsection (b)(3)(B)(ii)—

(A) by inserting "publish" after "(ii)", and

(B) by striking "such duplicative benefits" and inserting "duplicative part A benefits and duplicative part B benefits".

(b) INCLUSION OF PROVISIONS REPEALING AUTHORITY TO ADMINISTER PROFICIENCY EXAMINATIONS.—The Medicare Catastrophic Coverage Act of 1988 is amended by inserting immediately after section 429 the following new section:

"SEC. 430. REPEAL OF AUTHORITY TO ADMINISTER PROFICIENCY EXAMINATIONS.

"(a) REPEAL.—Section 1123 of the Social Security Act (42 U.S.C. 1320a-2) is repealed.

"(b) EFFECT OF REPEAL.—Nothing in the amendment made by subsection (a) shall be construed as affecting the qualification of any individual, who has been determined under the program established under section 1123 of the Social Security Act to be qualified to perform the duties and functions of a health care specialty, to perform such duties and functions.".

(c) CONTINUATION OF COST PASS-THROUGH FOR CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 9320 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) in subsection (i), by striking "The amendments" and inserting "Except as provided in subsection (k), the amendments", and

(2) by adding at the end the following new subsection:

"(k) AUTHORIZATION OF CONTINUATION OF PASS-THROUGH.—

"(1) Subject to paragraph (2), the amendments made by this section shall not apply during 1989, 1990, and 1991 to a hospital located in a rural area (as defined for purposes of section 1886(d) of the Social Security Act) if the hospital establishes, before January 1, 1989, to the satisfaction of the Secretary of Health and Human Services that—

"(A) as of January 1, 1988, the hospital employed or contracted with a certified registered nurse anesthetist (but not more than one full-time equivalent certified registered nurse anethetist),

"(B) in 1987 the hospital had a volume of surgical procedures (including inpatient and outpatient procedures) requiring anesthesia services that did not exceed 250 (or such higher number as the Secretary determines to be appropriate), and

"(C) each certified registered nurse anethetist employed by, or under contract with, the hospital has agreed not to bill under part B of title XVIII of such Act for professional services furnished by the anesthetist of the hospital.

"(2) Paragraph (1) shall not apply in 1990 or 1991 to a hospital unless the hospital establishes, before the beginning of each respective year, that the hospital has had a volume of surgical procedures (including inpatient and outpatient procedures) requiring anesthesia services in the previous year that did not exceed 250 (or such higher number as the Secretary determines to be appropriate).

"(3) A hospital to which this subsection otherwise applies for 1990 or 1991 may elect, by notice to the Secretary before the beginning of the year, to terminate treatment under this subsection for that year (and any succeeding year).

"(4) The Secretary shall implement this subsection in such a manner as to maintain budget neutrality consistent with section 1833(l)(3) of the Social Security Act.".

(d) EFFECTIVE DATE.—

(1) The amendments made by this section shall be effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988.

(2) In the event the Medicare Catastrophic Coverage Act of 1988 has not been enacted on or before the date of enactment of this Act, the amendments made by this section are null and void.

TITLE VIII—TAX PROVISIONS

SEC. 801. TEMPORARY EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NONTAX DEBTS OWED TO FEDERAL AGENCIES.

Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking "July 1, 1988" and inserting "January 1, 1994".

SEC. 802. PHASEOUT OF DEDUCTION FOR MEAL AND ENTERTAINMENT EXPENSES OF INDIVIDUALS WITH ADJUSTED GROSS INCOME OVER $360,000.

(a) IN GENERAL.—Paragraph (1) of section 274(n) of the Internal Revenue Code of 1986 is amended by striking out "80 percent" and inserting in lieu thereof "the applicable percentage".

(b) APPLICABLE PERCENTAGE DEFINED.—Section 274(n) of such Code is amended by adding at the end thereof the following new paragraph:

"(4) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means—

"(A) except as provided in subparagraph (B), 80 percent, or

"(B) in the case of a taxpayer who is an individual, 80 percent reduced by 1 percentage point for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $360,000.

In the case of a married individual filing a separate return, subparagraph (B) shall be applied by substituting '$180,000' for '$360,000'.".

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 274(n) of such Code is amended by striking out "80 PERCENT of" in the heading thereof and inserting in lieu thereof "CERTAIN".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 803. TINS REQUIREMENT EXTENDED TO DEPENDENTS CLAIMED ON TAX RETURNS WHO ATTAIN 2 YEARS OF AGE.

(a) IN GENERAL.—Paragraph (2) of section 6109(e) of the Internal Revenue Code of 1986 (relating to furnishing number for certain dependents) is amended by striking "5 years" and inserting "2 years".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1988.

TITLE IX—TECHNICAL AND CONFORMING AMENDMENTS RELATING TO REPLACEMENT OF AFDC PROGRAM BY CHILD SUPPORT SUPPLEMENT PROGRAM

SEC. 901. AMENDMENT TO HEADING OF TITLE IV.

The heading of title IV of the Social Security Act is amended by striking "**AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN**" and inserting in lieu thereof "**AID AND SERVICES UNDER THE CHILD SUPPORT SUPPLEMENT PROGRAM**".

SEC. 902. AMENDMENTS TO PART A OF TITLE IV.

Part A of title IV of the Social Security Act is amended—

(1) by striking "AID TO FAMILIES WITH DEPENDENT CHILDREN" and inserting in lieu thereof "CHILD SUPPORT SUPPLEMENT PROGRAM";

(2) in section 401, by striking "State plans for aid and services to needy families with children" and inserting in lieu thereof "State child support supplement plans";

(3) in section 402, by striking "STATE PLANS FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN" and inserting in lieu thereof "STATE CHILD SUPPORT SUPPLEMENT PLANS";

(4) in section 407(b)(1)(B) (as redesignated by section 402(b)(1)(A) of this Act), by striking out "aid to families with dependent children" both times it appears and inserting in lieu thereof "child support supplements";

(5) in section 406(b), by striking "aid to families with dependent children" the first place it appears and inserting in lieu thereof "child support supplements";

(6) in paragraphs (4), (7), (10), (11), (14), (17), and (21), of section 402(a), subsections (a), (b), and (f) of section 403, section 405, subsections (b) (the second place it appears), (f), and (g) of section 406, and subsection (b)(1)(A) of section 407 (as redesignated by section 402(b)(1)(A) of this Act), by striking "aid to families with dependent children" wherever it appears and inserting in lieu thereof "aid in the form of child support supplements"; and

(7) in section 402(a) (in the matter preceding paragraph (1)), paragraph (30) of section 402(a), section 403(a) (in the matter preceding paragraph (1)), section 404(a), section 410(a), and section 412, by striking "plan for aid and services to needy families with children" wherever it appears and inserting in lieu thereof "child support supplement plan".

SEC. 903. AMENDMENTS TO OTHER PROVISIONS OF THE SOCIAL SECURITY ACT.

The Social Security Act is amended—

(1) in sections 452(a)(10), 454(4), 457(d)(3), 472(h), 473(b), and 1115(b) by striking "aid to families with dependent children" wherever it appears and inserting in lieu thereof "aid in the form of child support supplements";

(2) in section 454(16), by striking "aid to families with dependent children program" and inserting in lieu thereof "child support supplement program"; and

(3) in subsections (b) and (c) of section 458, by striking "AFDC" and "non-AFDC" wherever those terms appear and inserting in lieu thereof "CSS" and "non-CSS", respectively.

SEC. 904. GENERAL CONFORMING AMENDMENT.

Any reference to aid to families with dependent children in any provision of law other than those specified in the preceding provisions of this section shall be deemed to be a reference to child support supplements, or to aid in the form of child support supplements, consistent with the amendments made by the preceding provisions of this Act.

TITLE X—REORGANIZATION AND REDESIGNATION OF TITLE IV; GENERAL CONFORMING AMENDMENT RELATING TO SUCH REORGANIZATION AND REDESIGNATION

SEC. 1001. TABLE OF CONTENTS IN TITLE IV.

Title IV of the Social Security Act is amended by inserting after the heading of such title and before the heading of Part A of the title the following table of contents:

"TABLE OF CONTENTS OF TITLE

"PART A—CHILD SUPPORT ENFORCEMENT

"Sec. 401. Appropriation.
"Sec. 402. Duties of the Secretary.
"Sec. 403. Parent Locator Service.
"Sec. 404. State plan for child and spousal support.
"Sec. 405. Payments to States.
"Sec. 406. Support Obligations.
"Sec. 407. Distribution of proceeds.
"Sec. 408. Incentive payments to States.
"Sec. 409. Consent by the United States to garnishment and similar proceedings for enforcement of child support and alimony obligations.
"Sec. 410. Civil actions to enforce support obligations.
"Sec. 411. Regulations pertaining to garnishments.
"Sec. 412. Definitions.
"Sec. 413. Use of Federal Parent Locator Service in connection with the enforcement or determination of child custody and in cases of parental kidnapping of a child.
"Sec. 414. Collection of past-due support from Federal tax funds.
"Sec. 415. Allotments from pay for child and spousal support owed by members of the uniformed services on active duty.
"Sec. 416. Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement.
"Sec. 417. State guidelines for child support awards.

"PART B—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

"Sec. 421. Job opportunities and basic skills training program.

"PART C—CHILD SUPPORT SUPPLEMENT PROGRAM

"Sec. 431. Appropriation.
"Sec. 432. State child support supplement plans.
"Sec. 433. Payment to States.
"Sec. 434. Operation of State plans.
"Sec. 435. Use of payments for benefit of child.
"Sec. 436. Definitions.
"Sec. 437. Dependent children of unemployed parents.
"Sec. 438. Food stamp distribution.
"Sec. 439. Prorating shelter allowance of CSS family living with another household.
"Sec. 440. Technical assistance for developing management information systems.
"Sec. 441. Attribution of sponsor's income and resources to alien.
"Sec. 442. Fraud control.
"Sec. 443. Demonstration program of grants to provide permanent housing for families that would otherwise require emergency assistance.
"Sec. 444. Limitations on child care and medical assistance for families after loss of eligibility.
"Sec. 445. Assistant Secretary for Family Support.

"PART D—CHILD WELFARE SERVICES

"Sec. 450. Appropriation.
"Sec. 451. Allotments to States.
"Sec. 452. State plans for child welfare services.
"Sec. 453. Payment to States.
"Sec. 454. Reallotment.
"Sec. 455. Definitions.
"Sec. 456. Research, training, or demonstration projects.
"Sec. 457. Foster care protection required for additional Federal payments.
"Sec. 458. Payments to Indian tribal organizations.

"PART E—FOSTER CARE AND ADOPTION ASSISTANCE

"Sec. 470. Purpose: appropriation.
"Sec. 471. State plan for foster care and adoption assistance.
"Sec. 472. Foster care maintenance payments program.
"Sec. 473. Adoption assistance program.
"Sec. 474. Payments to States; allotments to States.
"Sec. 475. Definitions.
"Sec. 476. Technical assistance; data collection and evaluation.
"Sec. 477. Independent living initiatives.
"Sec. 478. Exclusion from CSS unit of child for whom foster maintenance payments are made.
"Sec. 479. Collection of data relating to adoption and foster care."

SEC. 1002. REORGANIZATION OF PARTS.

(1) The heading of part A of title IV of the Social Security Act is amended to read as follows:

"PART A—CHILD SUPPORT ENFORCEMENT".

(2) The heading of part B of such title is amended to read as follows:

"PART B—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM".

(3) The heading of part C of such title is amended to read as follows:

"PART C—CHILD SUPPORT SUPPLEMENT PROGRAM".

(4) The heading of part D of such title is amended to read as follows:

"PART D—CHILD WELFARE SERVICES".

(5) The heading of part E of such title is amended to read as follows:

"PART E—FOSTER CARE AND ADOPTION ASSISTANCE".

SEC. 1003. REDESIGNATION OF SECTIONS.

(1) Sections 451 through 467 of title IV of the Social Security Act are redesignated as sections 401 through 417 respectively and are transferred and inserted in part A of such Act.

(2) Section 417 of such Act, as added by the amendment made by section 201(b) of this Act, is redesignated as section 421 and is transferred and inserted in part B of the Act.

(3)(A) Sections 401 through 407, 410, 412, 413, 415, and 416 of such Act are redesignated as sections 431 through 442 respectively and are transferred and inserted in part C of the Act.

(B) Section 408 of such Act, as added by the amendment made by section 501 of this Act, is redesignated as section 443 and is transferred and inserted in part C of the Act after section 442 (as redesignated).

(C) Section 418 of such Act, as added by the amendment made by section 301(b) of this Act, is redesignated as section 444 and is transferred and inserted in part C of the Act after section 443 (as redesignated).

(D) Section 419 of such Act, as added by the amendment made by section 801(a) of this Act, is redesignated as section 445 and is transferred and inserted in part C of the Act after section 444 (as redesignated).

(4) Sections 420 through 428 of such Act are redesignated as sections 450 through 458 respectively and are transferred and inserted in part D of the Act.

SEC. 1004. GENERAL CONFORMING AMENDMENT.

Any reference in title IV of the Social Security Act (as amended by this Act) or any other provision of law to any provision of such title shall be deemed to be a reference to such title as redesignated and reorganized by sections 1001, 1002, and 1003 of this Act.

SEC. 1005. QUALITY CONTROL PENALTY MORATORIUM.

Section 12301 of the Consolidated Omnibus Reconciliation Act of 1985 is amended in subparagraph (b)(1) by striking out the words "the 24 month period" and inserting in lieu thereof "the 36 month period".

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I move that the Senate insist on its amendments and request a conference with the House and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Messrs. BENTSEN, MOYNIHAN, PRYOR, ROCKEFELLER, DASCHLE, PACKWOOD, DOLE, WALLOP, and ARMSTRONG conferees on the part of the Senate.

Mr. BENTSEN. Mr. President, I ask unanimous consent that S. 1511 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the bill be printed as passed by the Senate.

There being no objection, the bill was ordered to be printed.

Mr. BYRD. Mr. President, the Senate has just taken a major step forward in the reform of this country's welfare system with the passage of the Family Assistance Act.

Many Senators—among them the distinguished Republican leader, Mr. DOLE; the chairman of the Finance

Committee, Mr. BENTSEN; the ranking member, Mr. PACKWOOD—have worked long and hard on this bill, modifying it, perfecting it, all with the eye toward attracting broad bipartisan support. The margin of the vote was a testament to the success of their efforts.

The involvement of many of our colleagues in this effort should not diminish the singular role played by my friend, the distinguished senior Senator from New York [Mr. MOYNIHAN]. For some 20 years, Senator MOYNIHAN has been concerned about the problems of families, of poverty, and of welfare, and he has written about these problems thoughtfully and with insight. More than that, Mr. President, he has turned his concerns into action. He not only was a major crafter of the bill that he and 26 cosponsors introduced last September, but also, he worked tirelessly to garner additional support. The bill eventually attracted 64 cosponsors, including myself as one, a testament not only to his perseverance but also to the respect in which Senator MOYNIHAN is held by his colleagues.

During the past few days, Senator MOYNIHAN has been at the center of the negotiations with the administration, and so have Senator BENTSEN, Senator DOLE, Senator PACKWOOD, and other Senators, to further refine the bill and to overcome objections. Senator MOYNIHAN was at meetings early in the day and late into the evening in search of compromise, and that compromise eventually has been adopted.

The people of this country owe to Senator MOYNIHAN a debt of gratitude for his consummate leadership on this most difficult issue over a period of a great number of years. He has demonstrated the very qualities that bring credit to the Senate, and I am proud to call him my friend, and am honored to call him my colleague.

Again, I thank and congratulate all those who have been leaders in this effort. I thank the staffs accordingly.

NOMINATION OF KENNETH P. BERGQUIST

Mr. SIMPSON. Mr. President, we come now to vote on the confirmation of Kenneth P. Bergquist to serve as Assistant Secretary of the Navy, and I am most pleased to offer my wholehearted support for his confirmation. Ken is an outstanding choice.

I have known Ken since my first days here in Washington in January of 1979. I lured him away from the CIA to join my staff as counsel for, among other things, national security affairs. He quickly demonstrated a keen intellect, sharp wit and unerring judgment. His efforts served me and my entire staff so very well, He helped all of us transition from life in Wyoming to the unique and occasionally bizarre activities of Washington.

In 1980, when I became Chairman of the Veterans' Affairs Committee, Ken served as my chief counsel and staff director. We were involved in some heavy legislative lifting, and any success I enjoyed during my time in that role were a direct result of Ken's effectiveness as a consensus builder, motivator and legislative craftsman. Ken truly distinguished himself, not only at the committee, but among the representatives of the many veterans' organizations who keep close tabs on the activities there.

Ken later moved on to ranking positions at the Pentagon and the Department of Justice. While he was seeking to become Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, I wholeheartedly supported him at that time, just as I do now.

Mr. President, as the Senate now votes to confirm Ken Bergquist in the critically important position of Assistant Secretary of the Navy, I trust that you might consider my personal and professional observations. This uniquely talented and spirited individual demonstrates the ideal combination of intellect, experience and prudent judgment to serve at the highest levels of Government—civilian or military. I originally hired Ken to work on my personal staff because of his outstanding military record, his superior academic credentials and his in-depth knowledge of defense, intelligence and foreign relations issues. His service to me was characterized by careful research, development of pragmatic alternatives to solving problems and building consensus to achieve the resolution of gut-hard issues. His departure from my staff was my loss. His confirmation today will be the Navy's, and the Nation's gain.

In conclusion, Mr. President, Ken Bergquist is a man who walks the walk, while others talk the talk. He is able to delegate as well as assume responsibility. He is a man of character and integrity. I commend him to you and urge his confirmation.

NOMINATION OF GRACE FLORES-HUGHES

Mr. SIMPSON. Mr. President, I rise in support of the nomination of Grace Flores-Hughes to be the Director of the Community Relations Service. It has been my distinct pleasure to come to know Grace Flores-Hughes both as a former neighbor of mine and professionally. She is an extraordinary woman who will bring the very best reservoir of talent to the position of the Director of Community Relations Service.

Grace is eminently qualified for this position. She has been serving the Federal Government since 1972, initially as a program specialist in the office of the Assistant Secretary for the Department of Health, Education and Welfare. She later obtained a master's of public administration from Harvard University and has gone forth to make important strides in her personal career development and in public service. I shall not elaborate on it—it is most impressive.

Most recently, Grace Flores-Hughes was appointed Acting Associate Administrator for the Minority Small Business and Capital Ownership Development Section of the Small Business Administration. This appointment was made by our former colleague, SBA Administrator James Abdnor.

In this position as Acting Associate Administrator, she directed the SBA's efforts to assist minority development including the important section 8(a) program which assists businesses owned and controlled by socially and economically disadvantaged persons. She also directed the 7(j) program which provides management and technical aid to clients and small businesses in areas of high employment.

These skills were a natural preparation for her position as Director of CRS. Mr. President, the CRS was created by title X of the Civil Rights Act of 1964 and fulfills its mission by providing onsite dispute resolution assistance through its field of mediators and conciliators working out of the 10 regional offices.

Often the activities of CRS involve the Hispanic and black communities. Grace Flores-Hughes is fluent in Spanish. She has had a good deal of training working with these traditionally disadvantaged groups through her work in the Small Business Administration. With regard to immigration matters, she gave me such good counsel and had a truly remarkable grasp of that issue. She is a fine friend of mine.

The Community Relations Service needs a strong Director with the intellectual and administrative skills of Mrs. Flores-Hughes. Under her direction, I am very confident that the CRS will fully carry out its mandate in reducing community tensions and establishing alternatives for resolving problems relating to race, color or national origin discrimination.

Mr. President, I commend the nomination of Grace Flores-Hughes to the Senate. The Community Relations Service should flourish under her fine stewardship and careful guidance.

VIRGIL THOMSON AT OAKLAND UNIVERSITY

Mr. LEVIN. Mr. President, Virgil Thomson, a legend in American music, will next week begin residency at Oakland University as McGregor professor in the humanities and arts. Thomson, who turns 92 in November, has been a major figure in music since the 1920's.

It was during that decade that Thomson moved to Paris and began an association with Gertrude Stein. His music reflects the influence of Stein and of the other musicians, writers, and painters who made their homes in Paris during the twenties. That influence can be seen in Thomson's refusal to adhere to any one musical doctrine. Rather he has always used techniques of various periods, places, and degrees of complexity.

One of Thomson's best known works is the opera "Four Saints in Three Acts," for which Stein wrote the libretto. Another Thomson composition, a score for the motion picture "The Louisiana Story," won the Pulitzer Prize. It also happens to be one of my favorite pieces of music.

From 1940 to 1954, Thomson was music critic at the New York Herald-Tribune. His reviews are considered masterpieces and continue to be read by students of music, writing, and literary criticism. Thomson left the Trib in 1954 to devote himself to composition and conducting. In 1982, Thomson received an honorary doctorate in music form Harvard. In 1983, he was awarded the sixth annual Kennedy Center Honor for lifetime achievement.

Mr. President, I am frankly envious of the Oakland students and faculty who will have the opportunity to study with this great composer, critic, author, and conductor. As for Oakland University, the Virgil Thomson's residency is another demonstration of its status as a major university center.

THE WORLD BANK CAPITAL INCREASE

Mr. HELMS. Mr. President, this year Congress is being asked to approve an extra 14 billion in cash and guarantees to support a general capital increase for the World Bank. At a time when the U.S. budget deficit is widely proclaimed as public enemy No. 1, the World Bank and its supporters are asking the American taxpayer to support a $74.8 billion capital increase which would nearly double the size of the World Bank.

In my view, the proposed U.S. commitment of $420 million in paid in capital and $13.8 million in callable capital obligations over the next 6 years is a slap in the face to advocates of genuine spending restraint. I believe the majority of American taxpayers feel the same way.

As it is, many of my Senate colleagues have already expressed concern about the harmful effects of World Bank lending on U.S. economic and political interests and the failure of the World Bank to foster free-market economic growth in the Third World. The United States is being asked to support a massive capital increase for the World Bank despite the fact that U.S. objections to bank loans have been routinely ignored. During the last 5 years, the United States opposed 73 World Bank loans—loans, for example, that harm U.S. producers of agricultural products or subsidize brutal Communist regimes. In every 1 of these 73 cases, the World Bank approved the loans in defiance of U.S. "no" votes or abstentions.

Mr. President, the United States has set aside its national interest in the blind trust called the World Bank and now this institution wants a bonus from the U.S. taxpayer. It's time to just say "no."

GENOCIDE CONVENTION IMPLEMENTATION ACT OF 1988

Mr. LEVIN. Mr. President, on February 19, 1986, the Senate ratified the Genocide Convention by a vote of 83 to 11. The vote was the culmination of many years of hard work by Senator PROXMIRE and others, including over a dozen hearings in the Senate, with testimony from more than 200 witnesses. Its ratification makes an important statement about our commitment to human rights. Yet, more than 2 years later, this important human rights convention is still unenforceable in the United States.

The Genocide Convention is not self-executing. Congress must enact implementing legislation to amend the criminal code. Until both Houses pass such a law, genocide is not a crime under U.S. law.

S. 1851, the Genocide Convention Implementation Act of 1988, or the Proxmire Act—a fitting tribute to the esteemed Senator's personal crusade on behalf of the treaty—defines the basic offense of genocide and the punishment for that offense. It has been voted favorably out of the Judiciary Committee and awaits our approval.

Enactment of this legislation is not a symbolic gesture. For too many years nations such as the Soviet Union have called us on this issue in bilateral and multilateral discussions of human and civil rights. Ninety-seven other nations have formally ratified the treaty, including almost every democracy. Our implementation of this treaty affirms our commitment to the rule of law.

There is no more egregious crime than genocide: a crime against people because of their national, racial, religious, or ethnic affiliation. The massacre of some 1.5 million Armenians from 1915 to 1923 was the first act of genocide in the 20th century. It was followed by a Holocaust: The annihilation of 6 million Jews and millions more of other ethnic groups by the Nazis, shocked and horrified the world.

Unfortunately, these are not the last victims of genocide in our time. The deaths of millions of Cambodians and the persecution of the Bahais are a stark reminder that remembering is not enough. Implementation of the Genocide Convention affirms our commitment to try to prevent such crimes from happening again.

Mr. President, as a cosponsor of S. 1851 I call on my colleagues to join me in supporting this important legislation. Let us not wait another 37 years to finish this work. It is time to bring this bill to a vote.

I ask unanimous consent that an article by David Harris of the American Jewish Committee, which appeared in the Washington Jewish Week, appear in the RECORD after my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FINISH THE JOB

(By David A. Harris)

In 1986, thirty-seven years after being presented for ratification, the Genocide Convention was overwhelmingly approved by the Senate (83-11). It was a long overdue step. Popular wisdom to the contrary, however, the U.S. is not yet a formal party to the international treaty. Congress must still pass implementing legislation to make genocide a federal crime punishable in our country. Both Houses should act quickly.

The impetus for the Genocide Convention largely stems from the vision of the late Raphael Lemkin, a Polish Jew who escaped certain death at the hands of the Nazis and who succeeded in resettling in the U.S. Forty-nine members of the Lemkin's family were not as lucky. They were victims of the "Final Solution." Lemkin, who coined the term genocide, dedicated the remainder of his life to redeeming the memory of the victims. What better way than through the recognition of governments, most of whom had remained silent during the war years, that genocide ought to be regarded by the international community as a horrific crime?

Subsequently, in 1948, the United Nations unanimously passed the Genocide Convention. Two days later, the U.S. signed the treaty, and President Truman forwarded it to the Senate for ratification. There it became stalled, the victim of unfounded fears that adherence to the treaty would undermine U.S. sovereignty. Notwithstanding support from every President from Truman to Reagan, with the one exception of Eisenhower, and favorable Senate Foreign Relations Committee recommendation on a half-dozen occasions, parliamentary maneuvering prevented full Senate consideration, "a national shame," as Wisconsin Senator William Proxmire commented.

Indeed, it was Senator Proxmire, frustrated with Senate inaction on this human rights measure, who announced on the Senate Floor on January 11, 1967, that "I intend to speak day after day in this body to remind the Senate of our failure to act . . ." Three thousand speeches later, and after the Soviet bloc had enjoyed a propaganda bonanza because of U.S. unwillingness to ratify a treaty that nearly one-hundred other nations had already approved, the Senate finally acted, though adding some weakening reservations and understandings in the approval measure.

Would such a Genocide Convention have prevented Hitler's genocidal acts? Or did it in any way deter the Pol Pot regime from murdering an estimated three million of its own citizens? Or prevent the victimization of the Hutu in Burundi or the Bahais in Iran? Regrettably, the answer is no. But Nobel Laureate Elie Wiesel, testifying at the 1985 Senate Foreign Relations Committee hearings on the treaty, put it well: "I know the Genocide Convention will not bring back the dead . . . It is too late for the dead. But at least in signing such a convention we could remember the dead without shame. Not to remember them would mean betraying them and betraying ourselves."

It's time for the Congress to act on the treaty implementing legislation contained in H.R. 807, introduced by Rep. Peter Rodino (D-NJ), and the companion Senate measure (S. 1851) sponsored by Senators Biden (D-DE), Metzenbaum (D-OH) and Proxmire (D-WI). As Senator Biden explained, "This bill provides protection to members of any national, ethnic, racial, or religious group by creating a new Federal crime of genocide or attempted genocide for any person who attempts to destroy such a group—in whole or in part—through murder, serious bodily injury, mental or physical torture . . ."

Not only is quick congressional passage of the pending legislation the right statement for our country to make in reaffirming its abhorrence of genocide, but also it would be a fitting tribute to mark the upcoming retirement of Senator Proxmire, the driving Senate force in behalf of U.S. ratification during more than two decades.

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 2:14 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 794. An act to amend chapter 123 of title 18, United States Code, to impose criminal penalties for damage to religious property and for obstruction of persons in the free exercise of religious beliefs;

S. 952. An act to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review, and for other purposes;

S. 2156. An act to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget;

S. 2167. An act to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts;

S.J. Res. 147. Joint resolution designating the week beginning on the third Sunday of September in 1988 as "National Adult Day Care Center Week";

H.R. 1044. An act to establish the San Francisco Maritime National Historical Park in the State of California, and for other purposes;

H.R. 2203. An act to increase the amount authorized to be appropriated with respect to the Sewall-Belmont House National Historic Site;

H.R. 2652. An act to revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes;

H.R. 3927. An act to amend the United States Housing Act of 1937 to establish a separate program to provide housing assistance for Indians and Alaska Natives;

H.R. 4621. An act to provide congressional approval of the Governing International Fishery Agreement Between the United States and the Government of the German Democratic Republic;

H.R. 4638. An act to amend the effective date provision of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988;

H.R. 4799. An act to extend the withdrawal of certain public lands in Lincoln County, NV; and

H.J. Res. 423. Joint resolution to designate the third week in June 1988 as "National Dairy Goat Awareness Week."

The enrolled bill H.R. 4799 was subsequently signed by the Acting President pro tempore [Mr. SANFORD].

At 4 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4567) making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. BEVILL, Mrs. BOGGS, Mr. CHAPPELL, Mr. FAZIO, Mr. WATKINS, Mr. THOMAS of Georgia, Mr. WHITTEN, Mr. MYERS of Indiana, Mrs. SMITH of Nebraska, Mr. PURSELL, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4587) making appropriations for the legislative branch for the fiscal year ending September 30, 1989, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. FAZIO, Mr. OBEY, Mr. ALEXANDER, Mr. MURTHA, Mr. TRAXLER, Mrs. BOGGS, Mr. WHITTEN, Mr. LEWIS of California, Mr. CONTE, Mr. MYERS of Indiana, and Mr. PORTER as managers of the conference on the part of the House.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4775. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1989, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4775. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1989, and for other purposes; to the Committee on Appropriations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SANFORD:

S. 2520. A bill to amend title II of the Social Security Act to provide that excess funds in the trust funds under such title be invested in loans for education and various public works projects to help rebuild the national facilities, and for other purposes; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 2521. A bill to require the Administration of Veterans' Affairs to conduct a study of the prevalence and incidence of certain psychological problems among Asian-American and Polynesian-American Vietnam veterans; to the Committee on Veterans Affairs.

By Mr. EVANS:

S. 2522. A bill to amend part A of title IV of the Social Security Act to improve quality control standards and procedures under the Aid to Families with Dependent Children Program, and for other purposes; to the Committee on Finance.

By Mr. REID (for himself and Mr. LAUTENBERG):

S. 2523. A bill to amend title 23, United States Code, to require States to promptly suspend or revoke the license of a driver found to be driving under the influence of alcohol and for other purposes; to the Committee on Environment and Public Works.

By Mr. PELL (by request):

S. 2524. A bill to provide for participation by the United States in a capital increase of the International Bank for Reconstruction and Development and a replenishment of the African Development Fund, and for other purposes; to the Committee on Foreign Relations.

By Mr. METZENBAUM (for himself, Mr. INOUYE and Mr. KERRY):

S. 2525. A bill to amend the Federal Trade Commission Act to allow certain actions by State attorneys general; to the Committee on Commerce, Science, and Transportation.

By Mr. DURENBERGER:

S. 2526. A bill entitled the "Producer Payment Relief Act of 1988"; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BYRD (for Mr. METZENBAUM (for himself, Mr. KENNEDY, MR. ROTH, Mr. BYRD, Mr. BENTSEN, Mr. DURENBERGER, Mr. GORE, Mr. STAFFORD, Mr. RIEGLE, Mr. DANFORTH, and Mr. SPECTER)):

S. 2527. A bill to require advance notification of plant closings and mass layoffs, and for other purposes; read twice and placed on the calendar.

By Mr. METZENBAUM (for himself, Mr. KENNEDY, MR. ROTH, Mr. BYRD, Mr. BENTSEN, Mr. DURENBERGER, Mr. GORE, Mr. STAFFORD, Mr. RIEGLE, Mr. DANFORTH, and Mr. SPECTER):

S. 2528. A bill to require advance notification of plant closings and mass layoffs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DECONCINI:

S. 2529. A bill entitled the "Cable Compulsory License Non-Discrimination Act of 1988"; to the Committee on the Judiciary.

By Mr. PACKWOOD:

S.J. Res. 340. A designating November 27 through December 3, 1988, as "National Sir Winston Churchill Recognition Week"; to the Committee on the Judiciary.

By Mr. LAUTENBERG:

S.J. Res. 341. A joint resolution to designate September 15, 1988, as "National RSDS Awareness Day."; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for Mr. BAUCUS (for himself, Mr. CHAFEE, Mr. MITCHELL, Mr. STAFFORD, Mr. GORE, Mr. WIRTH, Mr. DURENBERGER, Mr. KERRY, Mr. WARNER, Mr. MATSUNAGA, Mr. PELL, Mr. JOHNSTON, Mr. PRESSLER, Ms. MIKULSKI, and Mr. ROTH)):

S. Res 443. A resolution expressing the sense of the Senate that the seven major industrial nations of the world must take immediate action to protect the Earth's stratospheric ozone layer; considered and agreed to.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SANFORD:

S. 2520. A bill to amend title II of the Social Security Act to provide that excess funds in the trust funds under such title be invested in loans for education and various public work projects to help rebuild the national facilities, and for other purposes; to the Committee on Finance.

INVESTMENT IN TOMORROW ACT

Mr. SANFORD. Mr. President, today I am introducing a bill that I believe will strengthen the future of our Nation in a substantial way. The investment in Tomorrow Act would apply the burgeoning economic leverage of the Social Security trust funds to the building of our Nation for tomorrow's needs.

I have been concerned for some time now about the fiscal health of our Nation and how we are living for today as if the future would take care of itself. We are borrowing to pay for our current needs. In order to do this we are borrowing more and more from our major national savings, the Social Security trust fund, for the future in hopes that our economy will somehow dramatically improve. But the more we borrow, the less likely it is that the economy will prosper.

What we have been doing to the soundness of the trust funds is no less disastrous. We are leaving a big IOU in the trust fund account that will have to be paid by massive increases in income taxes by the year 2010. That is if we are not to default on the promises we made in enacting Social Security and in the recent amendments we made to strengthen that system.

Under current projections the trust funds will exceed the Treasury's need to borrow within the next 6 years. Where will those funds be invested which both guarantees their safety and provides for their sustained growth? By the year 2020 the accumulated fund will exceed $10 trillion.

Let me emphasize that I believe the safeguards for the protection of the trust funds written in the Social Security Act should not be weakened. This bill would uphold those safeguards. In fact, this bill will strengthen the safeguards because buying into the national debt, as we are now doing, will mean Social Security is no safer than a future willingness of Congress to vote massive new tax increases.

While we are borrowing from Peter Junior to pay for Paul Senior's profligacy, we are also postponing any investment in the decaying structure of our Nation. We are not rebuilding the bridges and roads that are quickly becoming obsolete. We are lessening our real investment in higher education. We are not doing enough to build up our depressed areas into viable local economies.

This bill, the Investment in Tomorrow Act, would put the trust funds to work by making them available for guaranteed interest bearing bonds and loans for building or rebuilding of our vital public works, for education, for cleaning up the air and other elements of the environment, and for economic development of poorer regions.

My bill would not give those trust funds away. The trust funds would earn market interest just as they do today. We would put the money to work. It would earn, but meanwhile we would see the benefits of where it was put to work. And we would be doing something solid to strengthen and expand the economy, while improving the lives of all our citizens and coming generations.

The language that would be inserted in the Social Security Act by this bill would make these investments the first priority of the managing trustee. It would not restrict the authority of the trustees but would establish a policy for the evaluation of where the trust funds would be put to work.

I think this bill is just simple common sense. I urge you to join me in improving our outlook for the future by supporting this bill.

By Mr. MATSUNAGA:

S. 2521. A bill to require the Administrator of Veterans' Affairs to conduct a study of the prevalence and incidence of certain psychological problems among Asian-American and Polynesian-American Vietnam veterans; to the Committee on Veterans' Affairs.

STUDY OF PSYCHOLOGICAL PROBLEMS OF ASIAN-AMERICAN AND POLYNESIAN-AMERICAN VIETNAM VETERANS

Mr. MATSUNAGA. Mr. President. I am today introducing a bill to require the Veteran's Administration to conduct a comprehensive study of the prevalence and effect of posttraumatic stress disorder [PTSD] and other psychological problems suffered by Asian- and Polynesian-American Vietnam veterans. This study would parallel and supplement the ongoing National Vietnam Veterans Readjustment Study [NVVRS] of PTSD and other postwar psychological problems required by section 102(a)(1) of Public Law 98-160, the Veterans' Health Care Amendments of 1983.

As the distinguished Members of this body know, the section 102 study, due to be completed this fall, seeks to assess the current experience and status of Vietnam veterans in the United States as well as to describe their needs; the NVVRS was to be the definitive study of their problems. As a result of the perceived importance of the study, women, blacks, and hispanics in disproportionate numbers were included in the study in order that large groups of veterans might be obtained to derive meaningful conclusions about the needs of these particular subgroups.

Unfortunately, no one thought to ensure that Asians and Polynesians also would be oversampled in order that meaningful statements might be made about their needs. Asian- and Polynesian-Americans together constitute the second fastest growing population in the Nation. An understanding of the psychological impact of war on veterans from these groups is therefore increasingly necessary.

Meanwhile, for us in Hawaii, the needs and problems of these subpopulations—which make up almost 60 percent of the State's population—are of immediate consequence. It is a fact, for example, that there is a striking underrepresentation of veterans of Asian and Polynesian ancestry presenting themselves for treatment vis-a-vis veterans of other ethnicities. In addition, preliminary clinical research shows that veterans from these groups may have wartime experiences and reactions that are qualitatively different from those of their caucasian or black former comrades-in-arms. An entirely different outreach and treatment regime may have to be developed in order to meet their needs.

A similar situation most likely exists on the continent as well, particularly on the west coast where the concentration of Asians and Polynesians is relatively high.

Mr. President, my bill simply recognizes that the psychological experience of Asian- and Polynesian-American veterans in Vietnam and their efforts to readjust to civilian life are greatly different in some respects from those of other ethnic and cultural populations. Because only the most preliminary research has been done in this area, it is important that a small study parallel to the NVVRS, using methodologies already developed for the larger study, be conducted in Hawaii, California, and other States with significantly large Asian and Polynesian populations. Such a study would provide the baseline data needed to conduct more extensive investigations into the unique needs of a long-neglected segment of our veterans' population. The VA estimates that the cost of such a study would only amount to between $500,000 to $1 million.

Before closing, I would ask unanimous consent that the bill and copies of two articles, "The Glory and Pain of Fighting for Your Country," by Victor Merina, which appeared in the April 1988 edition of Rice magazine, and "Ethnic Identity and Vietnam: A Japanese-American Vietnam Veteran with PTSD," by Dr. Roger S. Hamada, Dr. Claude Chemtob, Bill Sautner, and Robin Sato, which appeared in the March 1988 edition of the Hawaii Medical Journal, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY REQUIRED.

The Administrator of Veterans' Affairs shall provide for the conduct of a comprehensive study of the following matters:

(1) The prevalence and incidence of the following psychological problems in the population of Asian-American and Polynesian-American Vietnam veterans:

(A) Post-traumatic stress disorder.

(B) Other psychological problems suffered by such veterans in readjusting to civilian life.

(2) The effects of such disorder and such problems on such veterans.

The Administrator shall devote particular attention to veterans who have service-connected disabilities and to women veterans.

SEC. 2. METHODOLOGY.

(a) In General.—Except as provided in subsection (b), the Administrator shall use the same methodology in conducting the study required by section 1 as the Administrator used in conducting the study required by section 102 of the Veterans' Health Care Amendments of 1983 (38 U.S.C. 612A note). The study shall be subject to the same requirements as are specified in subsection (a)(2) of such section, except that references in such subsection to Vietnam veterans shall be deemed to refer only to Asian-American and Polynesian-American Vietnam veterans.

(b) Sampling Methodology.—In sampling the population of Asian-American and Polynesian-American veterans for purposes of the study, the Administrator shall take into account the small size of such population and shall sample a larger number of such veterans than the Administrator would otherwise sample under the methodology referred to in subsection (a). In order to ensure that the sampling conducted for the purposes of such study is cost effective, the Administrator shall conduct the sampling in areas of the United States where there are significant concentrations of such veterans, including Hawaii and California.

SEC. 3. REPORT.

Not later than October 1, 1990, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the results of the study required by section 1.

SEC. 4. DEFINITIONS.

The terms "veteran", "service-connected", and "Vietnam veteran" shall have the same meanings as are provided in section 102(c) of the Veterans' Health Care Amendments of 1983 (38 U.S.C. 612A note).

[From Rice magazine, April 1988]

The Glory and Pain of Fighting for Your Country

(By Victor Merina)

As an Asian-American soldier fighting an Asian-against-American war, Mark Mayeda can pinpoint the precise moment when he first felt the flash of uneasiness and the unsettling sense of recognition that would make his Vietnam experience even more haunting.

It was two decades ago, and Mayeda, a young corporal who had dropped out of high school and joined the Marine Corps, had arrived at Da Nang Air Base in the midst of a war-shattered country, weary from his day-long journey from California. As part of a fresh shipment of combat troops, Mayeda had spent much of the flight struggling with the mixture of terror and anticipation that grips soldiers armed not only with M-16 rifles and patriotic fervor but with stories of wartime death and desolation.

It was the unexpected that Mayeda feared the most. The uncertainty over what awaited him as he stepped down from the plane onto the bloodied soil of Southeast Asia. And he was unprepared for what he saw.

It was daylight as his plane taxied to a stop and unloaded its cargo of Marines on the concrete runway. There was a calmness that belied the fact that a contingent of Viet Cong, only hours before, had infiltrated the base, touching off a fierce firefight. The bodies of the saboteurs lay neatly assembled, ready for the obligatory body count. As he neared the remains, Mayeda could not help but glimpse at the vacant faces of the enemy he had heard so much about.

"What struck me was that while they were dead and lying there, the VC looked like they could have been Asians from anywhere," Mayeda recalls.

"That was probably my first sensation of what it was going to be like being an Asian there. That's what struck me—these were people who could have been my neighbors."

When he arrived "in country" for his Vietnam tour, Mike Watanabe, an Army-draftee-turned-helicopter-mechanic, had already tired of the "slant-eyes" and "slope" jokes and the barbed kidding from his fellow soldiers questioning his true loyalties. During training exercises, he had grown accustomed to Asian-American soldiers dressed in the black pajamas of the VC or scornfully singled out from the ranks as the embodiment of the enemy. Like Watanabe, most were third or fourth generation Japanese Americans who were as far removed from Vietnam as their colleagues-in-arms. But that made little difference to the soldiers who likened them to the "gooks" slaying Americans abroad.

By the time Watanabe landed in Vietnam, Watanabe was aware of his precarious status as an Asian American in Vietnam. His heritage had marked him, and if he didn't know that before he arrived, then the monkey was there to remind him on his first day in camp. The monkey was the trained pet of another GI who had taught it to attack a Vietnamese. Holding the monkey on a long leash, the soldier was with his friends when Watanabe sauntered by. Suddenly, the monkey bolted in Watanabe's direction, intent on taking a bite out of his leg.

The white GIs reacted with laughter, but resurrecting the incident some 17 years later, Watanabe remembers only the shock and anger he felt. "The monkey was just like a trained dog, trained to attack people who appear a certain way," he says. "The GIs were rationalizing and intellectualizing that I was somehow different, but the monkey knew better. He just attacked like he had been taught. That was pretty dramatic."

For Capt. Vincent Okamoto, an Army Ranger and Green Beret who won three Purple Hearts and the Distinguished Service Cross during his Vietnam tour, the lesson he learned overseas was not only dramatic but nearly proved tragic.

It was near the Cambodian border where Okamoto's rifle platoons had dug in for the night. The young officer decided to inspect his men stationed along the perimeter. Before moving into the bush, he shed his helmet and took off any insignias that would attract snipers. Away from his men, he encountered an American howitzer company that immediately challenged him. A soldier demanded to hear the password, but before Okamoto could respond, he heard the sound of a rifle bolt. Then the round of gunfire. "He didn't know there was an Asian American in the perimeter, let alone someone commanding the infantry troops," Okamoto recalls ruefully. "There were flares going off, and all he could see by the light of the flares was someone who was obviously an Asian."

Okamoto, Watanabe and Mayeda are just three of the many Asian Americans and Pacific Islanders among the more than 3 millon veterans who served and fought in Southeast Asia. Their Asian-American compatriots can be found among the 58,000 who died or the 2,000 listed as missing in action. They are among those who came back from the war seemingly unscathed and those who returned wounded. They are also among those who were crippled—psychologically or emotionally—from the trauma of Vietnam.

The exact number of Asian-American Vietnam veterans is unclear. According to the Veterans Administration, an estimated 85,000 Asian Americans served in the armed services during the Vietnam era, including sizeable numbers of those of Chinese, Filipino, Japanese and Korean ancestry. But some feel that the number of Asian Americans may be much larger and that the needs of this particular group of service veterans warrant special attention from federal officials.

Last year, the Vietnam Veterans of America, an organization that lobbies Congress on behalf of vets, passed a resolution urging the Veterans Administration to establish a task force to address the needs of Asian American Vietnam veterans, much as the agency has done to help blacks, Hispanics, women and Native Americans.

"They have never done anything for Asian Americans because the VA claimed that there were not that many of them. But we found that there were quite a few," says Francisco Muniz, a Hispanic-American veteran from Westbury, N.Y., who chairs the minority affairs committee for the Vietnam Veterans of America. "This group is important. Nobody has done anything to help them, and they are hurting."

While counselors at the 189 storefront Vet Centers around the country and those at other public clinics have indeed helped some Asian Americans, many who were hurting over their Vietnam experiences have endured their pain silently. Asian-American vets suffer bouts of depression, anxiety, alienation and rage. They grapple with feelings of isolation, persistent nightmares and pangs of guilt that they had survived a conflict that claimed so many of their friends.

For Asian Americans there were the added problems of fighting in an Asian country and facing an adversary whose very appearance was a mirror image of their own. As the Vietnam Veterans of America had emphasized in their resolution, the service of Asian Americans was "unique in that they had to fight their own race of people." And many did precisely that, as intelligence operators working behind the lines, ground soldiers who leveled Vietnamese villages in search and destroy campaigns and support troops who came to hate the "gooks" as much as anyone.

Some became inured to the inner conflict. Others felt compelled to distance themselves from the enemy and prove themselves to their peers by voicing hatred of the Vietnamese or remaining silent over the racism they witnessed. Most masked their discomfort.

"There is this kind of alienation that many Asian-American vets have felt, not all of them but many of them," says Ford Kuramoto, who operates a Los Angeles County mental health clinic in Hollywood and has counseled Vietnam veterans of Asian heritage. "They felt they were not really accepted as real soldiers or trusted by the others. They felt their race brought with them a stigma they could not shake."

Several years ago, Kuramoto worked with the Veterans Administration to establish a training workshop in San Diego for counselors to better sensitize them to the plight of the Asian American Vietnam veteran. And more recently, Dr. Cole Lew, who runs the clinical program at the San Francisco Vets Center, has embarked on an even more ambitious project to identify the needs of Asian-American veterans. But trying to convince some of these very veterans to confront their feelings and to seek help has proved a difficult task.

Counselors who have sought to reach Asian-American Vietnam vets tell of the painstaking search and the frustrating efforts to convince them to talk about their experiences. They speak of trying to coax out veterans who insist on remaining alone in darkened rooms, shut off from the outside world, to cope with their private demons. And they bear witness to a vast reservoir of distrust.

Men were not only victims in an equal-opportunity war. Lily Adams, who is half-Chinese and had served as a nurse in Vietnam, remembers the rewarding and uncomfortable experiences of being distinctly Asian in an Asian war. Nursing both civilian and military casualties in a brutal conflict, she found Vietnamese patients relating to her and American soldiers relaying their thanks.

After one particularly grueling shift in the operating rooms, Adams recalls walking around the military compound in jeans and civilian wear, struggling to relax and clear her mind of the ordeal, only to be crudely propositioned by American soldiers who had mistaken her for a prostitute. "It really hurt inside that I had just spent 12 hours treating their buddies," Adams says, "and they thought I was just some Vietnamese whore."

The mistaken identities, the questioned loyalties and the confusing bond between ally and enemy have driven Vietnam even deeper inside some vets. Some counselors who managed to persuade Asian-American vets to form small therapy groups, quickly saw members drifting off, never to return. Other counselors, who were used to hearing anguished pleas for help from worried parents or spouses, were surprised to hear little from the Asian-American community.

Part of the problem is the lack of Asian counselors who can relate to the vets, according to veterans, and part of the dilemma is cultural, a deep-seated reluctance to publicly acknowledge any problems and seek outside help.

Mike Watanabe, who now runs the Asian-American Drug Abuse Program in Los Angeles, says he was not hesitant to talk about his experience after returning from Vietnam but considers himself an exception. He likens the general silence to that of an older generation of Japanese Americans, those who were sent to internment camps, who only recently began pouring out their tramma during hearings on the camp conditions.

"For about 30 years, people sat on their emotions until it finally became acceptable to talk about that in a comfortable context," he says, "I think the same thing is happening with Asian vets."

In Seattle, Ed Chow, a former Army captain who left Vietnam in 1967, says it took him years to come to grips with his Vietnam experience, and he agreed that much of those difficulties stemmed from his cultural background.

"'Traditionally, we have been raised not to say anything, and as a result, we tend to keep everything within ourselves," Chow says. "We were taught not to say anything, not to do anything, and if someone said something derogatory to you, your father or mother would say, "ignore them, don't create any waves.'"

For some parents, and even some veterans of previous wars, the plight of the Vietnam survivor is baffling. Unlike their counterparts in previous wars, who were segregated, these Asian-American soldiers were part of the regular armed forces. However, it was that very integration that deepended the rifts between some soldiers.

One Vietnam veteran, who still speaks painfully of his experience and who insists on anonymity, says he can remember looking around his platoon during one chaotic ambush as they sat in the jungles trapped by sniper fire. As they huddled in * * *, he felt his fellow soldiers—the whites, the blacks and the Hispanics around him—staring at him, the lone Asian face in their ranks, and heard them curse him as if he had brought the Viet Cong to their doorstep. "I was petrified," says the soldier. "I was scared of the VC, and I was scared of my own men."

Like some of his fellow combatants, his memory of war spoke nothing of heroism but of the unshakeable reminder that he was an outsider. Even those Asian Americans who enjoyed the trust of their fellow soldiers in the field found the racial tension return when the fighting was over.

"Part of coming back here is confronting being an Asian in society and suppressing those feelings you had being in Asia," says Mayeda, who returned to college after the war and is now a deputy director of the California Self-Help Center of the University of California at Los Angeles.

"That's part of the conflicts that I think Asian Americans have: the conflict about identity and how hard it is to acknowledge that, 'hey, I have some feelings about being there'. That's what's made it hard for Asian American vets—that isolation."

During World War II, many Asian-American soldiers were separated from the regular army troops but had each other. In fact, Japanese American soldiers comprised the most decorated military outfit in U.S. history—the all-Nisei 100th Infantry Batallion and the 442nd Regimental Combat Team. And they included among their ranks two future U.S. senators—Daniel K. Inouye and Spark M. Matsunaga, both of Hawaii.

Vietnam had its own Asian-American war heroes, men and women who were decorated for bravery, including two medal-of-honor winners. But it was a different era and a different outcome with victories measured in body counts and few parades back home. In the Asian-American community, there seemed to be even less interest.

"You went there alone. You were kind of isolated when you were there, and you come back alone," says Okamoto, whose older brothers had served in the military, including the celebrated 442nd.

"I returned from Vietnam at 3:30 in the morning at Travis Air Force base [in Fairfield, Calif.]," he says. "You know, as a kid, I liked Hemingway, I watched a lot of John Wayne films, and I had six older brothers who served in the military. That was even more of a shock than arriving in Vietnam. You feel like saying, "Hey, I'm back from Indochina.' And the universal response that you feel is—'so what'—because there's nobody there to say welcome back."

In Vietnam, Okamoto was wounded three times as an infantry officer and as an intelligence officer with the special forces. His green beret now rests atop a Mozart bust in his Torrence, Calif., office. On the walls are the military decorations and memorabilia he once stowed away.

But Okamoto could not shake his past, even as he became a successful lawyer and banker. He was named a member of the Los Angeles County and California Veterans Commission, and he joined other veterans in seeking help for Asian-American vets. It had taken Okamoto himself several years before he could speak to his wife about his Vietnam experience—he found the healing process a slow one. Today, he understands the struggle some Asian-American veterans still may be having in coping with a war that will not fade.

"No one wanted to hear about it," he says, echoing the words of others. "All these things were bottled up inside, these feelings of frustration and bitterness. No one wanted to listen, it was like talking about cancer at the dinner table. It was simply not done. It was impolite. So those things were bottled up inside. It became a corrosive, an acid, eating away at the vessel."

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ETHNIC IDENTITY AND VIETNAM: A JAPANESE-AMERICAN VIETNAM VETERAN WITH PTSD

(By Roger S. Hamada, PhD, Claude M. Chemtob, PhD Bill Sautner, Med, and Robin Sato, MA)

Prevalence of reported cases of Post Traumatic Stress Disorder (PTSD) among Asian-American Vietnam combat veterans in Hawaii is disproportionately low. We argue that this is due to under-reporting rather than to actual low rate of occurrence. A case description is presented highlighting the unique difficulties of Asian-American veterans, not ony while in Vietnam but also upon their return. It is postulated that these difficulties may increase Asian-American veterans' vulnerability to PTSD. It is further argued that these veterans may initially present with stress-related physical complaints in physicians' practices, rather than in mental-health settings. Guidelines for discriminating PTSD from other stress-related disorders are offered.

A number of Vietnam combat veterans continue to suffer problems of adjustment related to their wartime experience. Many of these problems are associated with post traumatic stress disorder (PTSD), including intrusive memories and nightmares of the war, anger toward an unsympathetic American public that had portrayed these men as perpetrators of an immoral war, and guilt not only for having survived the war when so many of their buddies had not, but also for behavior during the war (see Appendix A). In addition, many veterans suffer a form of PTSD in which they experience no lasting symptoms immediately after returning from combat but do begin to suffer disabling symptoms after extended delays.

Many Hawaii Vietnam veterans suffer adjustment problems associated with their wartime experience. We suspect that a substantial proportion of these veterans are Asian-Americans who are not seeking help from specialized mental-health service providers such as psychiatrists and psychologists. These veterans, like other Asian-Americans, may be deliberately avoiding psychotherapy, and instead somatize and seek medical treatment for their problems.[2] Non-psychiatric physicians may therefore be providing the first points of contact between these veterans and the health-care system.

The purpose of this paper is to alert physicians who have Asian-American Vietnam veteran patients to the potential psychosocial conflicts experienced by these men, which may contribute to both somatic and psychological symptoms.

The nature of the Vietnam war—including the absence of clear lines of battle, widespread use of guerilla tactics, difficulty in discriminating between civilians and combatants, and the resulting high rates of casualties among civilians, women and children—no doubt contributed to the psychological trauma of Vietnam for veterans. Moreover, because the war was fought against an Asian people, it may be hypothesized that Asian-American veterans expereinced Vietnam-related stressors that were unique to their ethnic background, in addition to all the other stressors experienced by veterans in general.

The unique stresses encountered by Asian-American soldiers stemmed, in part, from the promulgation by the military of what has been termed the "gook syndrome."[3,4] The "gook syndrome" was in essence the dehumanization of the Vietnamese people on the basis of race. Its component elements were race consciousness, ethnocentrism, victimization and a sense of technological superiority. In referring to the Vietnamese as "gooks" and "dinks," the military encouraged young soldiers into thinking of Vietnamese as less than human so that the soldiers into thinking of Vietnamese as less than human so that the moral sanctions against killing fellow humans would not apply to killing Vietnamese. The gook syndrome became an accepted norm, which if ignored, threatened one's survival. Leventman and Camocho[3] write: "Those GIs attempting to break away from the syndrome and humanize the Vietnamese risked social isolation from their buddies that could literally threaten survival, especially in combat" (p. 62).

Asian-American soldiers were indoctrinated into the gook syndrome as emphatically and effectively as were the recruits of other ethnic background. Lifton[4] relates an anecdote about visiting the University of Hawaii where he met and appeared on a panel with a young leader of the "new Hawaiian nationalist" movement. Talking with him later, Lifton was surprised to hear that the young man had fought in Vietnam: "Like all the GIs, I just killed everyone. They were all gooks to us. . . . But when I came back [to Hawaii] and looked at all the faces in the shopping center, they looked just like all the people I killed. I felt very strange and very bad" (p. 215). Lifton[4] comments that this young man felt guilt not only about the killing but also about having, in the process, entered into the gook syndrome, since he was a non-white himself.

Ironically, while undergoing intense training designed to mold them into homogenous fighting units and being indoctrinated into the gook syndrome, some Asian-Americans were are the same time singled out critically by "non-coms" and officers because of their ethnicity. A Nisei marine corporal reported being identified as a gook in his training class. "I was used as an example of a gook. You go to class and they say you'll be fighting the VC (Vietcong) or the NVA (North Vietnamese Army). But then the person who was giving the class will see me and he'll say 'He looks just like that, right there.'"[5]

These are but two examples of the many race-related stresses encountered by Asian-American soldiers during the Vietnam involvement. Yet, to our knowledge, there have been no descriptions of PTSD among Asian-Americans. This paucity of information relating to Asian-American Vietnam veterans may be due, in part, to the fact that few such veterans seek help for Vietnam-related problems. According to the Vietnam Vet Center Program national statistics for the six-month period of October 1983 to March 1984, only 0.5% (380 out of 75,169) of the veterans served by Vet Centers were of Asian ancestry.[6] We believe that he low rate of help-seeking by Asian-American veterans stems most likely, not from a low prevalence of adjustment problems in this group, but rather from the well-known reluctance of Asian-Americans to share their personal problems with "outsiders," and from the shame with which psychiatric illness is regarded in this group.[7]

Asian-American and other veterans with war-related adjustment problems do, however, manifest physical as well as psychological symptoms. Significant correlations have been found in the general veteran population between PTSD symptoms and complaints of respiratory, gastrointestinal, nervous system and general health problems.[8] These complaints are in addition to the physical problems occurring secondary to drug and alcohol abuse experienced by veterans with PTSD who try to "self-medicate" against the intrusive dreams, memories, thoughts and feelings that are part of the disorder. Furthermore, as observed by Rogers and Izutsu,[6] "The constant concern for proper behavior and the stigma against mental illness are probably two explanations for the general tendency of the Japanese (as compared with Caucasians) to somatize all illness and to deny the possibility of an emotional component. Being 'ill' is a legitimate, socially acceptable manner of getting care; consequently, [Japanese-American] patients' complaints are usually physical" (p. 96).

Given this trend by Vietnam veterans with PTSD, and particularly by Asian-American veterans, to view physical symptoms as a more acceptable expression of adjustment problems than "mental" symptoms, it is likely that medical doctors and other primary health-care providers will be the first point of contact between these individuals and the health-care system.[2] Such physicians should therefore be sensitive to the possibility that some of their Asian-American patients who are Vietnam veterans and who appear to be functioning adequately in their daily lives may be suffering from symptoms of PTSD.

In light of the paucity of research relevant to the adjustment problems of Asian-American Vietnam veterans, the following case presentation is offered as an example of the unique conflicts that these veterans may be experiencing. This case is proferred as a step toward helping primary health-care providers become acquainted with the kinds of issues with which some of their Asian-American Vietnam veteran patients may be struggling.

CASE DESCRIPTION

A 38-year-old Japanese-American served in the Army in Vietnam during 1968 and 1969. He was originally seen at the Vietnam Vet Center in Honolulu in June 1983. At that time, he presented with complaints of being increasingly disturbed by intrusive and involuntary recollections and memories of Vietnam. In addition, he noted an increase in his use of alcohol and was having increased marital problems. Following this initial contact, he was not seen again until September 1983, at which time he presented in acute crisis, voicing thoughts of killing himself, and appeared severely depressed. He was admitted as an inpatient. During this one-month hospitalization, he was treated for alcohol dependence and depression; he attended a post-traumatic stress-disorder therapy group twice a week. Following his discharge from the hospital, he continued to attend PTSD therapy group sessions regularly, as well as to see a Vet Center counselor in individual therapy. The following information was obtained during individual interviews with the patient.

The patient was born in Japan to a mother who was a Japanese national; his father, a Hawaii-born Japanese-American, was an enlisted man in the Army. The patient had lived in Japan until the age of 10, attending an American school. He recalls feeling singled out as most of his classmates were Caucasian, and he was teased about his ethnicity. Although he reports developing some warm friendships, he recalls having to protect his rights, sometimes by fighting.

The patient recalls his childhood as being characterized by "having too much responsibility, too fast." For example, he was often put in charge of his younger sisters, and was responsible for helping his mother with many household chores. As a result, he had little time to play with other children.

His relationship with his mother was characterized by conflict and anger. He recalls being hit with a ruler and being kept out in the back yard at night. He associated his mother's concern for his school performance with her efforts to maintain the family pride. He reported that his mother held personal and family pride above all other values, and this concern with upholding family pride pervaded all facets of his life. He recounts how, in response to his poor school performance, his mother told him that "[he] was better off dead." He stated, "[Mother] was always ashamed of our family."

When the patient was 10 years old, his father was transferred to Hawaii and brought his family with him. The boy's high school years in Hawaii were a troubling time for him. He reports having few friends and no girlfriends, cutting classes and almost flunking out of school. He chose to enter the military following high school, in part because his grades were poor.

Entry into the military had great significance for him. He seems to have perceived it as an opportunity to redeem himself for the shame he had brought to his family with his poor school performance. The significance of this passage into the military was further underscored by the actions of his paternal grandfather who, in the course of quasi-ritualistic talks with the patient, shared sake with him and talked of honor and of "Bushido, the way of the samurai warrior."

Joining the military was akin to entering the warrior class and being governed by the Bushido code. He resolved, as his grandfather had admonished, to "serve [his country] with pride." This meant that he should "always do [his] best, regardless of [his] own feelings and not to show cowardice in front of [his] friends. . . . Never be afraid." The patient summarized his understanding at that time of his duty as a soldier in the following way: "What it came down to [is], as a samurai, you owe your dedication to the emperor and, as a soldier, you owed your dedication to the president."

The patient reported feeling calm when he received his orders to Vietnam, in contrast to another soldier in his unit, who broke down and cried when he also received Vietnam orders. His father greeted the news of the son's assignment to Vietnam with silence, although the patient felt that his father was "a little scared" for him because his father had also been scheduled to go to Vietnam if he had not retired from the military. When his mother heard of his going to Vietnam, she showed little emotion except to exhort him to "just do your best."

In compliance with this strong personal and family mandate to be a "good samurai," he served with pride in Vietnam. As a combat engineer, he was decorated twice for valor, and was awarded a Purple Heart for wounds suffered in action. By earning these decorations, the patient had upheld his family honor and made his father and grandfather proud of him. In the military, he identified himself proudly as being from Hawaii and acknowledged that "guys from Hawaii . . . always put out a little bit more. What has to be done, they do it."

At the same time, however, the realities of war and military life began to erode the pride that he felt toward serving his country and toward his dedication to the president. Much of this taint derived from race-related incidents and issues. He was often singled out critically because of his race by officers and by fellow GIs who called him "gook." Once, an officer asked him if he spoke English.

His initial reactions to these racial slurs were to consider them a "big joke" and to laugh them off. He considered himself the "token Oriental" in his unit. However, as the racially insensitive comments continued, he began to feel offended and "took it too personally after awhile." At that point, he began fighting with the men who called him a gook, after which the frequency of these comments diminished.

In contrast to, and perhaps in part as a result of, his negative race-related experiences with fellow Americans, the patient reported a number of positive experiences with Vietnamese people. He related how he attended religious services outside the camp boundaries and spent his time among the Vietnamese villagers, how Vietnamese children would gather around to sit and talk with him. "Because I was Oriental . . . they all saw I used to understand more . . . it made me feel that they accepted me some . . . all Orientals."

The patient began to experience ambivalence regarding his loyalties and values—ambivalence together with confusion about whether he should identify himself more strongly with being an Asian or being an American. This ambivalence was catalyzed by the nature of the war in Vietnam. For example, as a combat engineer, he was required to knock down houses of Vietnamese villagers. This job became more and more difficult for him to perform as he began to relate the villagers to his own parents. "You relate to your own parents and somebody comes and knocks their house down. They may be Vietnamese, but they're still Oriental. It's hard not to feel something. . . . You have a conflict going on. Sometimes it's hard to do what's right versus to do what the Americans say to do."

Vietnamese people to whom he extended his friendship were often involved in, and were killed in military encounters with the Americans. An old man with whom the patient had shared cigarettes was killed while participating in an assault against the Americans. A woman and her young daughter who sold soft drinks to the soldiers were killed after blowing up two trucks and killing three Americans. The patient reported dreaming about this incident, particularly about how bullets had ripped the little girl's body apart. He related that as he looked at the girls' body, he thought about his own sister who was about the same age, and he was shocked by a strong feeling that "It's not a war anymore. . . . It's a wholesale slaughter. . . . That's all it is, just kill, kill, kill." This last statement represented a shift in the patient's perception of Vietnam from being a war of honor to being just a context for slaughter, where considerations of justice and fairness did not apply.

Another incident seems to have had a particularly personal impact on the patient. He was with his unit clearing vegetation and came under intense small-arms fire. As they returned fire, he saw an old Vietnamese woman firing a weapon at them with a child beside her holding ammunition. He and other soldiers fired at them, killing the woman and child. Although so many men were firing weapons that it could not be determined who actually fired the bullets that killed the woman and child, the patient described this incident as "I ended up killing another woman." The full impact of this incident only struck him some days later, after he had returned to the rear. He was in an NCO club, drinking, and thinking of the woman and child. "I just kept on drinking and drinking. That's where I got started. . . . I looked at the old lady and I was thinking of my mother. And I was looking at the kid and I was thinking of all my sisters. It was like killing your own kind. My own mother and sisters." The patient epitomizes the poignant and unique dilemma of many Asian-American soldiers who had been in combat in Vietnam: "At that time, it got to a point where it was like fighting your own people. . . . You were put in an impossible situation . . . it's like you were asked to fight against yourself."

DISCUSSION

This man's experience, as described here, consisted of elements that are unique to him, as well as elements that were probably shared by other Asian-American GIs in Vietnam. The unique elements lie in the patient's family situation, including having a Japan-born mother and being raised during his early years on a military base in Japan. Because his family was less acculturated than a Japanese-American family in which parents were first- or second-generation Americans, there may have been a greater emphasis on the importance of family pride and shame in his family.

On the other hand, the patient's experiences in the military of being singled out because of his race, in negative ways (by fellow soldiers), as well as in positive ways (by Vietnamese children), were probably also common to other Asian-American GIs. In addition, his reaction, to being involved in the deaths of Vietnamese civilians and the destruction of their homes and lands were probably also shared, to a greater or lesser degree, by other Asian-American soldiers. For these soldiers, then, the general stress of being of a minority group[9] was compounded by the unique circumstances of being at war with people of similar ethnic background.

Specifically, this man was indoctrinated as an American GI into the "gook syndrome," trained to dehumanize the Vietnamese. Hostile encounters with non-Asian GIs and friendly encounters with Vietnamese people weakened the effects of this indoctrination, however, so that he began to empathize with the Vietnamese people. This growing empathy was accompanied by—increasing identification with his own Asian-ness an identification that was greatly strengthened by the distaste he felt for those aspects of his job that involved destroying the homes and property of, and taking the lives of Vietnamese women and children. These aspects of war had a great impact on him because he imagined his mother and sisters suffering as the Vietnamese women and children were suffering. It is also possible that this revived conflicts in his feelings toward his mother exacerbating his discomfort over any residual angry feelings toward her. The resulting interactions between loyalties and identity and the guilt he experienced were not easily resolvable for the patient; it probably contributed significantly to his persistent depression, PTSD and substance-abuse problems.

In addition to race-related stressors, the patient also experienced the more universal traumas of combat. These traumas included having to dig mass graves for dead Vietcong, being wounded by shrapnel from a land mine, and witnessing the death of his assistant who was killed while operating the patient's machine. It may be postulated that for him, and perhaps for other Asian-American soldiers, race-related stress generally amplified the effects of more commonly experienced, combat-related stressors, thereby placing them at increased risk for suffering the symptoms of PTSD and other sequelae of combat in Vietnam.

One specific way in which race-related stress may have increased the risk for PTSD was by interfering with development of close interpersonal relationships between these GIs and their fellow combat soldiers. It has been argued[10] that the combat unit provided the all-important social context which allowed the numerous acts of violence required in combat, a context that permitted the individual soldier to begin to reconcile his actions with his inner beliefs and values. Being deprived of this social context and support would result in internal conflict and adjustment problems such as those our patient experienced. Stretch[8,11] has reported that the quality of social support received during Vietnam duty may either moderate or exacerbate PTSD symptoms associated with combat experience. He found that veterans who did not receive positive social support while in Vietnam had higher levels of PTSD symptoms than did veterans who did receive positive support from their fellow combat soldiers.

When they returned home from Vietnam, Asian-American soldiers tended, again, to receive little support from their families and to be given little opportunity to talk about and integrate their war experiences. Asian-American soldiers returned from combat to families in which implicit norms proscribed their discussing their war experiences or their feelings about these experiences. It is important for members of Asian-American families, particularly Japanese-American families, to conform to the group norm.[12] The norm in these families is for implicit, nonverbal, intuitive communication rather than for explicit, verbal and rational exchange of information. Family members rely more on non-verbal cues and physical contact for real communication.[7],[12],[13] Such a socio-emotional family context may work against the process of cognitive-emotional assimilation that Horowitz[14] theorizes must take place for the veteran to come to terms with the trauma experienced in war. The failure of this assimilation process results in the cycle of intrusive and avoidant symptoms that characterize post-traumatic stress disorder. In the case of Asian-American veterans like our patient, just being with his family may be a reminder of his traumatic experiences with Vietnamese women and children and may contribute to PTSD symptoms and depression.

Despite the hypothesized increased risk for PTSD and depression among Asian-American veterans, relatively few of these men seek psychological help for problems of adjustment. It may be thought that Asian-Americans are in some way "protected" or "invulnerable" to the effects of extreme traumatic stress. We know of no data, either formal or informal, which would support this contention. Rather, we would argue that low rates of help-seeking among these veterans is a culture-related phenomenon. Yamamoto and Acosta[15] report that the stigma of mental illness in Asian-Americans remains so great that, even among individuals who are third- and fourth-generation Americans, there is hesitation to admit to psychological problems. In addition, the Asian-American veteran may view his military service and its sequelae as part of his obligation (Japanese On to his country.[7]

Symptoms of stress and depression may, instead, be revealed to outsiders as somatic symptoms. Data from Japanese-American college students indicate that they are more likely than Caucasian students to believe that mental illness is caused by somatic rather than psychological factors.[16] Furthermore, depressed Japanese-Americans report more gastrointestinal complaints than depressed Caucasian-Americans.[17] Given these culturally sanctioned means for expressing stress-related symptoms, it is very likely that Asian-American veterans suffering PTSD and depression will initially seek help from primary health-care providers. In our patient's case, we unfortunately do not know whether he had sought help for stress-related symptoms prior to contacting the Vet Center. Nevertheless, based on the research described above and on our own clinical experience, we would suggest that veterans who present with somatic complaints that may be tied to Vietnam-related stress or to current PTSD will tend to share the following characteristics with patients who are suffering general stress-related symptoms: Complaints of gastrointestinal or CNS symptoms or general health problems that do not have clearly established etiologies and are exacerbated by stress; histories of frequent job changes or periods of unemployment, often associated with problems with bosses or supervisors; histories of or currently experiencing marital problems; histories of overuse, abuse, or dependence on alcohol or other drugs.

In addition to these general characteristics, patients who suffer specifically from Vietnam combat-related PTSD will be more likely to range in age from near 40 to their mid-60s and be more likely to have experienced heavy combat in Vietnam. The most widely accepted definition of heavy combat incorporates some or all of the following: Firing at the enemy in a combat situation; repeated exposure to enemy fire with risk of being killed or wounded; seeing people killed or wounded or people who have been killed or wounded; being personally responsible for the death of an enemy; being wounded in combat oneself; being personally responsible for the death of a civilian and experiencing multiple tours of duty in Vietnam.

One or two questions about a patient's possible combat experience (Appendix B) can help the physician discriminate between patients possibly suffering PTSD-related stress symptoms and those patients suffering other stress-related symptoms. In cases of PTSD, it behooves the primary-care providers to be sensitive to the war-related and race-related traumas possibly contributing to symptoms, and to refer these men for adjunctive treatment to psychiatrists and psychologists who specialize in treating combat-related PTSD.

APPENDIX A—DIAGNOSTIC CRITERIA FOR POST-TRAUMATIC STRESS DISORDER[1]

A. The person has experienced an event that is outside the range of usual human experience and that would be markedly distressing to almost anyone.

B. The traumatic event is persistently reexperienced in at least one of the following ways: (It is specified as "delayed onset PTSD" if symptoms do not appear until after six months have elapsed since the traumatic experience.)

(1) Recurrent and intrusive distressing recollections of the event;

(2) recurrent distressing dreams of the event;

(3) sudden acting or feeling as if the traumatic event were recurring (includes a sense of reliving the experience, illusions, hallucinations, and dissociative [flashback] episodes, even those that occur upon awakening or when intoxicated);

(4) intense psychological distress at exposure to events that symbolize or resemble an aspect of the traumatic event, including anniversaries of the trauma.

C. There is persistent avoidance of stimuli associated with the trauma, or numbing of general responsiveness (not present before the trauma), as indicated by at least three of the following:

(1) Efforts to avoid thoughts or feelings associated with the trauma;

(2) efforts to avoid activities or situations that arouse recollections of the trauma;

(3) inability to recall an important aspect of the trauma (psychogenic amnesia);

(4) markedly diminished interest in significant activities;

(5) feeling of detachment or estrangement from others;

(6) restricted range of affect, e.g., unable to have loving feelings;

(7) sense of foreshortened future, e.g., does not expect to have a career, marriage, or children, or a long life.

D. Symptoms of increased arousal (not present before the trauma) persists as indicated by at least two of the following:

(1) Difficulty falling or staying asleep;

(2) irritability or outbursts of anger;

(3) difficulty concentrating;

(4) hypervigilance;

(5) exaggerated startle response;

(6) physiologic reactivity upon exposure to events that symbolize or resemble an aspect of the traumatic event (e.g., a woman who was raped in an elevator breaks out in a sweat when entering any elevator).

E. The disturbance (symptoms in B, C, and D) has a duration of at least one month.

Specify "delayed onset" if the onset of symptoms was at least six months after the trauma.

APPENDIX B—POSSIBLE QUESTIONS FOR ASSESSING DEGREE OF COMBAT EXPOSURE[18]

The following questions are organized such that increasing combat exposure is associated with affirmative responses to questions farther down the list.

1. Were you stationed in Vietnam?
2. Would you say your unit was primarily combat, combat support, or service support?
3. Did you fire a weapon or were you fired upon in combat?
4. Did you see the death or injury of a U.S. serviceman?
5. Were you responsible for the death of an enemy who was in the military?
6. Were you wounded in combat?
7. Were you responsible for the death of an enemy civilian?
8. Did you serve a third tour of duty in Vietnam?

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By Mr. EVANS:

S. 2522. A bill to amend part A of title IV of the Social Security Act to improve quality control standards and procedures under the Aid to Families With Dependent Children Program, and for other purposes; to the Committee on Finance.

IMPROVEMENTS TO AFDC PROGRAM QUALITY CONTROL STANDARDS AND PROCEDURES

● Mr. EVANS. Mr. President, I am introducing legislation which would initiate reform of our current AFDC quality control system. This legislation is culmination of a process we started 3 years ago. During consideration of the 1985 Reconciliation Act, the Senate Finance Committee adopted provisions of legislation I had introduced earlier that year calling for the National Academy of Sciences to conduct a comprehensive review of the AFDC quality control system. The committee expanded my proposal for a study and moratorium on the collection of penalties to include Medicaid.

The time to fix the quality control system is now. As I have said on a number of occasions in previous testimony on this issue, there is something very wrong with a system which indicates that every State in the Union is an inefficient program manager of Federal income assistance programs. In 1984, alone, 45 States exceeded the statutory tolerance level of 3 percent. From fiscal year 1981 to fiscal year 1984, a total of $597 million in penalties is pending against the States. After 4 years of official sanctions, all but two States have received a sanction for their error rates in the AFDC Program.

It is time to stop recounting these sobering statistics—everyone acknowledges the problem. We now are in a position to move ahead with reform. Recently the NAS completed its congressionally authorized study of the AFDC QC system. That is why today I am introducing legislation which would implement the recommendations made by the National Academy of Sciences as well as respond to the concerns of the States.

Before I describe my legislative proposal I would like to review the key findings of the Academy. The report only underlined Congress' conclusion that the quality control system, is in dire need of reform. The panel found, "that the AFDC and Medicaid QC systems lack many of the elements of a comprehensive quality improvement system * * * the QC systems offer little to State and local program managers in support of continued improvement in administration and in the achievement of other program objectives." Specifically, the panel concluded:

Federal monitoring activities for payment accuracy should be separated from other State and Federal quality improvement activities. The panel made this recommendation to alleviate the ill-effects of the existing two-tiered system which hinders quality improvement and unnecessarily fosters conflicts between States and the Federal Government.

Measures of quality should be set against broad program objectives, beginning with the language of intent in the AFDC and Medicaid titles of the Social Security Act. The existing system's exclusive focus on compliance with a numerical tolerance level does not reflect congressional concerns that States become better program managers.

States should develop their own quality improvement strategies which reflect State-by-State differences in caseload composition, population density and other unique factors influencing their error rates. For accountability purposes, these plans would be federally approved and would contain State performance standards.

The new system should offer financial incentives consisting of both incentives and sanctions. Rewards and penalties should be calculated as proportions of the Federal benefit dollars at stake. Standards should be set so that only States at the extreme of good or bad performance are subject to rewards or sanctions.

In summary, the report concluded that the existing system is replete with problems that impede States from becoming better program managers. It calls for an error rate that will take into account regional differences such as caseload and population. It recommends that a broader definition of error be used to measure the important policy objectives of quality control. It calls for a system that will provide an overall indicator of State performance. It envisions that only the extremely bad States will receive fiscal penalties and only the very good States will receive incentive payments. Most important, it recognizes that quality control is a management tool, not a Federal revenue-raising device. Clearly, this report has provided us with the information necessary to enact comprehensive reform.

Mr. President, my legislation adopts the general approach advocated by NAS by requiring States and HHS to negotiate performance standards for program administration. Included in this effort would be the elimination of the existing two-tiered sampling system. HHS and the States should agree on one sample and how it will be made. It will save sparse State resources and hopefully it will foster a more cooperative atmosphere between the States and the Federal Government.

I concur with NAS that we should reject the notion of a national tolerance level. In its report the panel concluded, "that the current performance standards are not scientifically grounded and ignore State-to-State differences in caseload mix that may be beyond the control of state administrators and that may influence measured performance."

Instead, we should allow a State's error rate to vary according to population density, caseload volume, and composition. For example, my bill establishes a standard deviation percentage so that a State's error rate can be adjusted downward if it has an exceedingly high caseload volume for a given quarter or if the caseload composition consists of complex cases such as those with earned income.

It provides a similar adjustment for States with large populations. My proposal allows an adjustment in the tolerance level for standard metropolitan statistical areas. The SMSA is a statistic established by the Bureau of the

Census to show where population density is the greatest in the Nation. It measures not only the population of major cities but also of surrounding areas.

I do disagree with the panel's conclusion that the midpoint of the confidence interval provides the most accurate determination of a State's actual error rate within the statistical range. I understand this conclusion is premised on the belief that the Federal Government should not have to shoulder the entire risk of administering income assistance programs. Stated differently, a State should not be given the benefit of the doubt that its error rate falls below the midpoint. I believe that the States should be given the benefit of the doubt. They have the responsibility of administering Federal programs which take care of the poor—a national responsibility. My legislation would advocate use of the lower bound of the confidence interval as the most accurate and equitable measurement of State error rates. This position was endorsed in a 1981 report on Federal income assistance programs by NAS.

NAS recommended that we broaden the measurement of performance beyond overpayments. Thus, a State's tolerance level would be adjusted upward by an appropriate percentage for its underpayment rate.

My legislation includes "hold-harmless" periods for legislative and administrative changes that affect program eligibility. This provision will allow the caseworker on the frontline time to assimilate the plethora of information he or she has to know to make a proper eligibility determination. In the past, this has been a large contributing factor to State error rates.

I, along with NAS, feel strongly that incentives, as well as sanctions, should be featured in any new quality control system. Thus, my proposal includes an incentive payment program to reward exceptional State performance. Specifically, it would give an incentive payment to States with an error rate less than 3 percent. This payment would be equal to one-half the amount the Federal Government saves because a State's error rate is below 3 percent.

Mr. President, we have made significant progress. The findings of the NAS study are detailed and significant. We now are in a position to initiate substantive reform. I believe we can accomplish this before the end of the 100th Congress. For example, I note that according to CBO's revised estimates, nothing will be collected from the States in AFDC penalties for fiscal year 1989. This estimate gives us a window of opportunity to accomplish reform in a deficit-neutral manner. If we wait until fiscal year 1990 or fiscal year 1991, the amount anticipated in collection begins to climb again. Thus, the longer we delay, the more difficult the task becomes. The number of States subject to fiscal penalties inevitably will reach 50, the amount of money pending in penalties will climb, States will not be able to improve their management efficiency with a continued drain on their dwindling resources. If they are forced to pay sanctions by our inability to act, they will be paid out of State program budgets. And in the end, we will end up hurting the program beneficiaries—the very people we are trying to help. I urge my colleagues to support this important legislation.●

By Mr. REID (for himself and Mr. LAUTENBERG):

S. 2523. A bill to amend title 23, United States Code, to require States to promptly suspend or revoke the license of a driver found to be driving under the influence of alcohol, and for other purposes; to the Committee on Environment and Public Works.

SUSPENSION OF LICENSE OF DRIVERS FOUND TO BE DRIVING UNDER THE INFLUENCE OF ALCOHOL

Mr. REID. Mr. President, for children, the world is a big place—often very frightening. Children stand alone. It seems that everything that they come in contact with is a potential danger. The only real protection that children have is adults—parents. If things get bad for children, they always recognize that they have their mother's hand to hold; someone to protect them.

Just a couple of days ago, as we know, that protection proved to be not enough. In a street, in a suburb of the Nation's Capital, a young girl, a fourth grader, was struck by a car holding her mother's hand, waiting for her school bus. The driver of that car was later charged with drunk driving.

Mr. President, children leave and they are not any longer able to reach out for their mother's hand, but we generally recognize that they are to be taken care of by their teachers, or by other people who are in supervisory capacities, as we send them out into the world.

Again, that protection is not always enough. On May 14, near Carrolton, KY, a man who according to newspaper accounts, had previously been arrested for driving under the influence of alcohol, ran head on into a school bus—27 people, most of them teenagers, were massacred.

According to the police, the man who caused this accident had a blood alcohol level of 0.24, more than twice the blood alcohol level most States deem to be drunk 0.10.

I think it is high time that we recognize that we must do something about this menace that is facing us called drunk drivers.

Alcoholism is recognized by most as a disease and rightfully it should be. But the mere fact that alcoholism is a disease does not mean that we cannot keep people who drink while driving off the street. We have an obligation to do that. We cannot abrogate our responsibility simply because alcoholism is a disease.

A long time ago it was established, prior to the formation of this great country that we live in, that there are certain social principles that must guide us, and one of the most important of those principles is that we have a responsibility to protect each other.

Mr. President, I think that we have to recognize that there are things that we need to do on a national level. Because of this, Senator LAUTENBERG and I are introducing legislation to induce the States to enact more responsible drunk driving laws that:

First, provide for the prompt suspension of the drivers licenses of drunk drivers;

Second, provide for mandatory blood alcohol content testing whenever there is probable cause that a traffic fatality or serious injury is alcohol related;

Third, provide for a per se illegal blood alcohol level of 0.10; this is important, Mr. President. This legislation is not antidrinking. It is antidrunk driving. In fact, a 0.10 still allows somebody to have a few beers. People who drink responsibly could still potentially drive under this 0.10 standard. However, people should not drive when drunk, and

Fourth, provide for the forfeiture of driver registration and license plates of repeat offenders.

Remember, every 22 minutes a person is killed as a result of an alcohol-related traffic injury. Approximately, 25,000 people were killed last year as a result of alcohol-related traffic accidents. This legislation is literally a member of life and death.

I urge my colleagues to support and cosponsor this legislation. This legislation is necessary because we have a national crisis and we must do something to keep these people off the streets.

We, as parents, go through life looking at ways to protect children. Not only our own children but other people's children. We reach out and try to protect them, I guess, against the bruises of the world. We recognize, as we proceed through life, that we cannot protect the children from all the bruises that occur. But, Mr. President, we do have an obligation and we can protect them and ourselves against drunk drivers.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2523

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§159. Expedited drivers license suspension or revocation; mandatory blood alcohol testing; suspension of registration; and minimum blood alcohol level

"(a) The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of the sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) on the first day of each fiscal year succeeding the first fiscal year beginning after September 30, 1990, if—

"(1) the State does not have an expedited driver's license suspension or revocation system which requires that—

"(A) whenever—

"(i) a law enforcement officer has probable cause under State law to believe an individual has committed an alcohol-related traffic offense, and

"(ii) such individual is determined, on the basis of one or more chemical tests, to have been under the influence of alcohol while operating the motor vehicle concerned or refuses to submit to such a test as proposed by the officer,

such officer serve such individual with a notice of suspension or revocation that provides information on the administrative procedures by which a State may suspend or revoke a license for drunk driving and specifies any rights of the driver in connection with such procedures and such officer take possession of the driver's license of such individual;

"(B) after serving such notice and taking possession of such driver's license, the law enforcement officer immediately report to the State entity responsible for administering driver's licenses all information relevant to the enforcement action involved;

"(C) upon receipt of the report of the law enforcement officer, the State entity responsible for administering driver's licenses, if an individual is determined on the basis of one or more chemical tests to have been intoxicated while operating a motor vehicle or is determined to have refused to submit to such a test as proposed by the officer—

"(i) suspend the driver's license of such individual for a period of not less than ninety days if such individual is a first offender, and

"(ii) suspend the driver's license of such individual for a period of not less than one year, or revokes such license, if such individual is a repeat offender;

"(D) such suspension or revocation take effect at the end of a period of not more than fifteen days immediately after the day on which the driver first received notice of the suspension or revocation; and

"(E) the determination required by subparagraph (C) be in accordance with a process established by the State, under guidelines established by the Secretary to ensure due process of law—

"(i) for such administrative determinations, and

"(ii) for reviewing such determinations, upon request by the affected individual within the period specified in subparagraph (D);

"(2) the laws of the State do not provide for mandatory blood alcohol content testing whenever a law enforcement officer has probable cause under State law to believe that a driver of motor vehicle involved in a collision resulting on the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense;

"(3) the laws of the State do not provide for the suspension of the registration of, and the return to the State of the license plates for, any motor vehicle owned by an individual who—

"(A) has been convicted of more than one alcohol-related traffic offense, or

"(B) has been convicted of driving while the driver's license of such individual is suspended or revoked by reason of a conviction for an alcohol-related traffic offense; or

"(4) the driving of a motor vehicle on a public highway, or the right-of-way of a public highway, in such state by a person with a blood alcohol concentration of 0.10 percent or greater is not a violation of the criminal laws of such State.

"(b)(1)(A) Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 1992, shall remain available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section 104(b)(5)(A) but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under section 104(b)(1), 104(b)(2), or 104(b)(6) but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(B) No funds withtheld under this section from apportionment to any State after September 30, 1992, shall be available for apportionment to such State.

"(2) If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), none of the conditions described in paragraph (1), (2), or (3) of subsection (a) exist with respect to such State, the Secretary shall on the first day on which none of such conditions exist with respect to such State apportion to such State the funds withtheld under subsection (a) that remain available for apportionment to such State.

"(3) Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds apportioned under section 104(b)(5)(A) shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are so apportioned.

"(B) Funds apportioned under section 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(4) If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), any condition described in paragraph (1), (2), or (3) of subsection (a) exists with respect to such State, such funds small lapse or, in the case of funds withheld from apportionment under section 104(b)(5) of this title, such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b).".

(b) The table of contents for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new item:

"159. Expedited drivers license suspension or revocation; mandatory blood alcohol testing; suspension of registration; and minimum blood alcohol level.".

By Mr. PELL (by request):

S. 2524. A bill to provide for participation by the United States in a capital increase of the International Bank for Reconstruction and Development and a replenishment of the African Development Fund, and for other purposes; to the Committee on Foreign Relations.

MULTILATERAL DEVELOPMENT BANKS AUTHORIZATION ACT

● Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to provide for participation by the United States in a capital increase of the International Bank for Reconstruction and Development and a replenishment of the African Development Fund, and for other purposes.

This proposed legislation has been requested by the Department of the Treasury and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Acting General Counsel of the Department of the Treasury to the President of the Senate dated March 28, 1988.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SEC. 101. The Bretton Woods Agreements Act (59 Stat. 512, as amended, 22 U.S.C. 286) is amended by adding at the end thereof the following new section:

"SEC. 52. (a) The United States Governor of the Bank is authorized:

"(1) to vote for an increase of six hundred and twenty thousand shares in the authorized capital stock of the Bank; and

"(2) to subscribe on behalf of the United States to one hundred and sixteen thousand, two hundred and sixty-two additional shares of the capital stock of the Bank, except that any subscription to such additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $14,025,266,370, for payment by the Secretary of the Treasury.".

SEC. 102. The African Development Fund Act (90 Stat. 591, as amended, 22 U.S.C. 290g) is amended by adding at the end thereof the following new section:

"SEC. 215. (a)(1) The United States Governor of the Fund is authorized to contribute $315,000,000 to the fifth replenishment of the resources of the Fund.

"(2) Any commitment to make the contribution authorized in paragraph (1) shall be subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $315,000,000, for payment by the Secretary of the Treasury.".

DEPARTMENT OF THE TREASURY,
Washington, DC, March 28, 1988.

Hon. GEORGE BUSH,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill, "To provide for participation by the United States in a capital increase of the International Bank for Reconstruction and Development and replenishment of the African Development Fund, and for other purposes."

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Section 101 of the draft bill authorizes the Secretary of the Treasury to vote for, and to subscribe to shares of, the recently negotiated General Capital Increase (GCI) in the International Bank for Reconstruction and Development (Bank).

The Bank plays a critical role in supporting sustainable growth in developing countries, and in implementing the international debt strategy. The GCI is necessary for the Bank to continue this role. It will assure that the Bank will be able to meet the expected demand for quality lending, and that the Bank's capital will not act as a constraint on its ability to continue to lend for reform and development in its developing member countries.

The GCI represents a major accomplishment supportive of fundamental United States foreign economic policy goals on a range of issues. Under agreements reached in the Bank's Board of Executive Directors, the Bank will take specific steps to ensure that environmental protection becomes a permanent priority in the institution. It will promptly and thoroughly review its policy based lending operations. It will seek to ensure that its financing is complemented by flows from other sources, including private capital flows, thereby putting others on notice that the GCI will not be a substitute for commercial bank lending.

Under those agreements, the Bank will increase its support of the private sector and promote policies and projects that encourage private investment and private enterprise, and strengthen their developmental impact. The Bank will support production of primary commodities only where such production is efficient and provides satisfactory rates of return without subsidies. To maintain a strong financial position, the Bank will credit net income to reserves unless reserves are at a level which, after deductions for loans outstanding to countries in non-accrual status, would represent at least 10 percent of the loan portfolio. The Bank will also have increased access to the local currency portion of paid-in subscriptions, which (with limited exceptions) are expected to be released to the Bank for use in its lending operations.

The United States has 18.75 percent share of the $74.8 billion GCI (116,262 shares of a capital increase of 620,000 shares). To make payment for those shares, the Administration intends to seek appropriations of $70.1 million annually for the paid-in portion of the shares, and program limitations of $2,267 million annually for the callable capital portion of those shares. This amount is slightly lower than that which appears in the President's Budget because negotiations were completed after the Budget was transmitted. United States voting power will be 18.36 percent if all shares of the GCI are subscribed to, and slightly less if new members subscribe to all of the 14,000 shares set aside for them.

AFRICAN DEVELOPMENT FUND

Section 102 of the draft bill authorizes United States participation in the fifth replenishment of the African Development Fund (ADF).

The ADF provides concessional assistance to support high priority projects in the poorest African countries. Its fifth replenishment will mobilize approximately $2.7 billion in support of development in Africa. United States support of the replenishment demonstrates our strong commitment to Africa, and advances our longstanding interests in reducing hunger and poverty in the world's poorest countries and in strengthening the region's premier development institution concerned with these issues.

The fifth replenishment agreement establishes priorities for the ADF that advance important objectives of U.S. international economic policy. The principal beneficiaries of the ADF will continue to be the poorest countries; countries with a per capita gross national product of less than $510 will have an absolute priority in the allocation of ADF resources. ADF operations will focus on promoting economic policies and meet the primary needs of the poorest people in the low-income countries. In working toward these and other goals, the ADF will accord particular attention to the formulation of comprehensive country programs. The agricultural sector will be given top priority in allocating resources and the ADF will expand its lending in new activities, notably those dealing with population, the role of women in development, and the environment.

The United States share of the fifth replenishment is 11.8 percent ($315 million) of the $2.7 billion replenishment, to be paid over a three year period. It should be noted that this level is lower than the U.S. cumulative share of 13.9 percent and the U.S. 15 percent share in the last replenishment.

It would be appreciated if you would lay the proposed bill before the House. An identical proposal has been transmitted to the Speaker of the House.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of the proposed bill to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

D. EDWARD WILSON, Jr.,
Acting General Counsel.●

By Mr. METZENBAUM (for himself, Mr. INOUYE, and Mr. KERRY):

S. 2525. A bill to amend the Federal Trade Commission Act to allow certain actions by State attorneys general; to the Committee on Commerce, Science, and Transportation.

ENFORCEMENT OF FEDERAL TRADE COMMISSION ACT BY STATE ATTORNEYS GENERAL

● Mr. METZENBAUM. Mr. President, today I am introducing legislation authorizing State attorneys general to enforce the Federal Trade Commission Act's prohibition on unfair and deceptive business practices. I am pleased to be joined by Senators INOUYE and KERRY in this effort.

This bill will allow State AG's to enforce this prohibition in any Federal district court and to obtain any relief available under the FTC Act, including injunctions and monetary redress for injured consumers.

This bill does not change the Federal Trade Commission's traditional role as the chief Federal agency with authority to police unfair and deceptive business practices throughout the country. It simply supplements the FTC's powers by giving the States the authority to enforce legal standards established by the FTC and the courts.

This bill reflects the reality that the States, not the Federal Trade Commission, have taken the lead in consumer protection enforcement. Budget cuts over the past 7 years have severely restricted the FTC's ability to police unfair and deceptive business practices. Since 1981 the Commission has suffered dramatic losses in agency funds and staff. Its regional offices—traditionally among the strongest enforcement arms of the Commission—have been hit hardest, having lost more than 50 percent of their people over the past 6 years.

During this period the FTC has devoted its diminished resources to relatively small-scale cases of fraud and deception, while ceding the bigger, more significant cases to the States. The States have willingly accepted and done a superb job in carrying out this responsibility. Most of the recent major national advertising cases, for example, have been brought not by the FTC, but by a State attorney general. In a word, the State's AG's have become indispensable surrogates of the Commission, discharging the enforcement responsibility that the Commission is no longer willing or able to discharge itself.

The effectiveness of the State attorneys general is limited, however, by the fact that they are only able to stop deceptive business practices within their jurisdictions. For example, a deceptive land sales scheme may operate in several States or may move from State to State when local officials take enforcement action. A successful action by a State attorney general, however, generally only benefits his or her own constituents. Consequently, the attorneys general in other affected States must bring duplicative actions if their citizens are also to be protected. This bill makes it easier for all affected consumers to be protected by authorizing State attorneys general to go into any Federal district court and seek relief covering all areas where the fraudulent business operates. In that way, a single case will do the job of several, with significant savings in time and expense.

In exercising this authority, the suing State would have to show that the unfair or deceptive practice affects its residents. Also, to make sure that the FTC Act's prohibition against these practices is interpreted consistently, the Federal Trade Commission is authorized as a matter of right to intervene in any action in order to set out its views of the applicable law.

This bill will enhance the ability of the State to assist the Federal Trade Commission in enforcing the Nation's chief consumer protection statute. While modest in approach, it will compensate for the diminished capacity of the FTC and substantially benefit consumers.

I ask unanimous consent that the text of the bill and a more detailed explanation of the bill be entered into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2525

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Trade Commission Act (15 U.S.C. 41) is amended by redesignating sections 24 and 25 as sections 25 and 26, respectively, and by adding after section 23 the following new section:

"SEC. 24. (a) Any attorney general of a State may bring a civil action in the name of such State, in any district court of the United States having jurisdiction of the defendant, to secure relief, as provided in subsection (c), for any violation of—

"(1) any provision of this Act, or

"(2) any order issued or rule promulgated under this Act,

respecting unfair or deceptive acts or practices in or affecting commerce if the attorney general alleges that such acts or practices affect or may affect the State or its residents.

"(b) No action may be commenced under subsection (a) respecting unfair or deceptive acts or practices unless the Commission and attorneys general of other States have been given written notice of the commencing of the action—

"(1) at least 30 days before the action is to be commenced, or

"(2) as early as practicable if the attorney general commencing the action—

"(A) alleges that the harm to the public from the unfair or deceptive acts or practices is ongoing or may recur, and

"(B) petitions the court for temporary or preliminary relief from such harm.

The Commission may intervene by its own attorneys in any such action, and the attorney general of any other State may intervene in any such action if the State or its residents are or may be affected by the acts or practices with respect to which the action is brought.

"(c) In an action brought under subsection (a) a court may—

"(1) impose a civil penalty in the same manner and circumstances as it could if the action was brought by the Commission or the Attorney General of the United States under subsection (l) or (m) of section 5,

"(2) grant mandatory injunctions and such other and further equitable relief as the court may deem appropriate, and

"(3) grant such relief as the court finds necessary to redress injury to consumers or other persons resulting from the violation of a rule or provision of this Act, including rescission or reformation of contracts, refund of money or return of property, payment of damages, and public notification of the violation.

Relief granted under paragraph (1), (2), or (3) may include relief relating to persons outside the State and relief applicable to conduct outside the State of any attorney general who is a party to the action. An attorney general of any State may petition any court which has jurisdiction of a person subject to an order of a court imposing a civil penalty or granting relief under paragraph (1), (2), or (3), to enforce such order with respect to such person if the attorney general alleges that failure to comply with such order affects or may affect such State or its residents.

"(d) For purposes of this section—

"(1) the term 'attorney general' means the chief legal officer of a State, and

"(2) the term 'State' includes the District of Columbia.".

FEDERAL CAUSE OF ACTION FOR STATE ATTORNEYS GENERAL: EXPLANATION OF THE BILL

This proposed legislation authorizes state attorneys general to enforce the federal prohibition of unfair or deceptive acts or practices in or affecting interstate commerce, now enforced only by the Federal Trade Commission. Under this bill, an Attorney General could individually or in conjunction with others, file an action in federal court seeking a broad range of remedies, including injunctions and monetary redress. State AG's could also bring an action to enforce a Federal Trade Commission Trade Regulation Rule or the terms of FTC orders. In all cases, the state initiating the action would have to show that the unfair or deceptive practices affect or may affect the state's residents or the state government itself. However, relief could extend to citizens of other states if appropriate.

The Federal Trade Commission is the principal federal agency charged with protecting consumers in the case of unfair or deceptive practices occurring on a nationwide basis. This legislation would not change this important role of the FTC. The FTC would continue to be the agency with the resources and expertise to bring most major national cases. However, this additional authority would improve the effectiveness of consumer protection by allowing state attorneys general to bring cases with a national impact as well.

Increasingly, federal budget austerity has shifted more responsibility for consumer protection with the state attorneys general who are closest to the consumer. This bill will clearly allow state AG's to seek remedies that are national in scope rather than limited only to the boundaries of their state. This strengthening of remedies available in consumer protection actions will increase the effectiveness of consumer protection enforcement by the states to be commensurate with their increased responsibility. For example, a deceptive land sales scheme may be operated in several states, harming consumers in many regions of the country. Currently, a successful action by a state AG has generally resulted only in relief limited to the operation of the fraudulent land sales company within a single state. Consequently, other States must duplicate the time and expense of bringing an action. Under this bill, a single action by a state attorney general would result in stopping the company from operating throughout the country.

In addition to authorizing the federal courts to award relief that extends beyond state boundaries, this bill would allow state AG's to enforce Commission rules and orders. In some cases, state law already authorizes states to enforce FTC rules but this bill would insure that all states could do so. By allowing states to enforce FTC rules and orders, the effectiveness of the Federal Trade Commission would also be substantially improved. Currently, the FTC must use its limited staff to enforce a large number of rules and orders. By allowing state AG's to enforce these as well, the chances that a company violating a rule or order would be prosecuted would be much greater and compliance would be correspondingly higher, too.

The decades of federal and state court cases, as well as opinions by the Federal Trade Commission, have created an extensive body of law establishing the meaning of unfair or deceptive acts or practices. The bill authorizes the FTC to intervene in any action in order to encourage a consistent interpretation of the FTC Act. Intervention would allow the FTC to set out its views on the applicable law and appropriate relief if it chose to do so, or to seek additional relief in its own petition. In addition, the bill allows attorneys general of other states whose citizens are affected by the unfair or deceptive practices that are the subject of the initial action to intervene. This provision is intended to allow other state AG's to seek relief for the acts or practices of the same defendant and to have a say in how the residents of their state will be affected by the action.●

By Mr. DURENBERGER:

S. 2526. A bill entitled the "Producer Payment Relief Act of 1988"; to the Committee on Agriculture, Nutrition, and Forestry.

PRODUCER PAYMENT RELIEF ACT

● Mr. DURENBERGER. Mr. President, I rise to introduce today the Producer Payment Relief Act of 1988.

The Producer Payment Relief Act of 1988 amends current agricultural program provisions by removing the possibility that certain grain producers who participated in the 1988 Farm Program would be required to repay the Government the advance deficiency payments they received earlier this year. Without this relief, thousands of Minnesota farmers would be faced with the prospect of repaying either the $0.61/bushel wheat advance deficiency payment or the $0.44/bushel corn advance deficiency payment. This legislation simply acknowledges that the drought has so ravaged the farmers in the upper Midwest that there won't be a 1988 crop to harvest and sell to repay that advance deficiency payment.

Mr. President, I do not think it is necessary to list the names of every county in Minnesota, the Dakotas, Montana, Michigan, Ohio, and Wisconsin which has been declared a disaster area. In fact, it would probably make more sense to leave the description at the State level—because each of these States is past the point where rain will make things normal. If past experience is any indication, it will be years before things return to normal, if ever. To the extent that this legislation removes the cloud of uncertainty from over the head of producers who have suffered significant crop losses, it represents a step back to normalcy.

Under current law, producers who received advance deficiency payments when they signed up for the 1988 Farm Program would be obligated to repay that advance if the average seasonal price for the commodities they grew exceeded the target price. Rather than assist the growing number of farmers who are suffering from catastrophic crop losses, our Farm Program will saddle them with what, for many, is a fatal economic obligation.

In the last several weeks, public awareness and recognition of the growing drought losses has attracted the attention and focused the concerns of elected officials and agricultural leaders to meeting the needs and providing the means to minimize individual and aggregate national costs of the drought. In the last 2 weeks, congressional Representatives and Senators have approached the Secretary of Agriculture seeking relief for livestock farmers whose pastures, normally flush with spring growth, are browned and dormant. As today's announcement by the Secretary to allow limited grazing of CRP acres indicates, even the Secretary's release of set-aside acreage falls short of what is necessary.

In a letter which I transmitted to Secretary Lyng today, I requested that he go beyond the haying and grazing of set-aside acres and address the broad range of problems facing our producers. In particular, I strongly encouraged the Secretary to release CRP acreages under vigilant guidelines to meet the forage needs of livestock farmers in areas so desiccated that these acreages are the only remaining source of additional forage available to forestall massive liquidation of reproductive, income producing livestock.

It is extremely encouraging to see that the Secretary was sensitive to the pleas of Minnesota producers. Hopefully, he will continue on the path he started out today and adopt the recommendations contained in my letter. The changes in agricultural program provisions which I offer in this bill are just the first of a number of alterations which may be necessary to enable our Nation to contend with a drought of unforeseen severity.

Mr. President, I ask unanimous consent that a copy of my letter to Secretary Lyng be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, June 15, 1988.

Hon. RICHARD LYNG,
Secretary of Agriculture, Washington, DC.

DEAR SECRETARY LYNG: Thank you for taking the time to meet with Senator Boschwitz and me last week to discuss the Department's response to the drought which is withering much of Minnesota. Your pledge to maintain same-day responses on the State ASCS emergency haying and grazing of setaside acres requests was very encouraging.

As much as Minnesota producers appreciate your assistance in permitting the haying and grazing of setaside acres, I think that it is important that you keep in mind that the forage on much of Minnesota's setaside acreage is in no better condition than the small grain crops. And as the reports from your employees in the state indicate, the small grain crops in Minnesota are almost a total loss.

Given the severity of the losses experienced by Minnesota farmers, I suspect that it will be necessary for the Department to utilize every disaster response program authorized by the Congress. To the extent that the County and State have completed the assessments required by law, I hope and expect your office to promptly approve requests for eligibility in the Emergency Feed Assistance Program and the Emergency Feed Program. Minnesota livestock producers deserve no less.

In addition—whether they had multi-peril crop insurance or not—it appears that the losses experienced by our small grain producers will leave them in an extremely precarious financial position. As such, I would urge you to adopt a number of proposals advanced by the Minnesota Wheat Growers, particularly the waiving of repayment of advance deficiency payments, approval of planting non-program crops on set-aside acres and open entry into the 0/92 program. Obviously, these options would be limited to those countries declared disaster areas by your office.

Finally, I am sure that your office, like mine, has received countless inquiries regarding the possibility of allowing livestock producers to hay and graze Conservation Reserve Program acreage. In our previous conservations you indicated that opening up Minnesota's entire 4 million acre CRP inventory would be premature. That may be so for the entire 4 million acres, but the hundreds of calls I have been receiving from my constituents indicate that you need to take a closer look at selected counties in my state.

In the event that continued drought conditions compel you to reconsider your position, I would suggest that you give serious consideration to adopting the following safeguards:

1. Haying and Grazing of CRP acres should be restricted to those counties which have been declared a natural disaster area by your office and have setaside acreage whose forage condition is of de minimis value.

2. Livestock producers should be protected by requiring that haying and grazing of CRP acreage not be leased, bartered or sold for a profit.

3. Wildlife should be protected by requiring that haying and grazing occur in a manner designed to reduce waterfowl and pheasant mortality.

4. There should be a requirement that the user of the hay be a livestock producer who has suffered a documented, substantial, loss of livestock feed production.

5. The Soil Conservation Service should be vigilant in ensuring that sufficient cover will remain on CRP acres to control erosion. Overgrazing must not be allowed to occur. If there is damage to the cover crop from haying or grazing then the holder of the contract should be liable for reestablishing a permanent cover crop prior to the beginning of the next planting season.

6. Decisions on the release of individual CRP acreage tracts shall be made only after full consultation and approval of the County SCS office and the Soil and Water Conservation Board.

7. Contracts on CRP acreage which is hayed or grazed should be extended for an additional year.

On behalf of Minnesota's farmers, thank you for your prompt attention to my requests. I eagerly await your reply.

Sincerely,

DAVE DURENBERGER,
U.S. Senator.●

By Mr. METZENBAUM (for himself, Mr. KENNEDY, Mr. ROTH, MR. BYRD, Mr. BENTSEN, Mr. DURENBERGER, Mr. GORE, Mr. STAFFORD, Mr. RIEGLE, Mr. DANFORTH, and Mr. SPECTER):

S. 2528. A bill to require advance notification of plant closings and mass layoffs, and for other purposes; to the Committee on Labor and Human Resources.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

Mr. METZENBAUM. Mr. President, an overwhelming majority of the American people favor mandated advance notice of a plant closing or mass layoff. This Congress already has supported a requirement of 60 days' advance notice because is the fair and decent thing to do. But the President of the United States turned his back on the people; he turned his back on the Congress; he vetoed the trade bill simply because it contained the plant closing provision.

After we failed to override the President's veto, I announced that I would make every effort to enact the plant closing provision into law. That is why today Senator KENNEDY, Senator ROTH and other Senators from both parties are joining me to introduce a new plant closing bill. This bill is identical to the plant closing provision we already passed in the trade bill—not one word has been changed, not one comma has been moved. The bill requires employers to give workers and their communities 60 days' advance notice before the plant shuts its gates or the pink slips are delivered.

I am confident that we can pass this bill quickly. I am confident that once the Senate passes the bill, the House can take it up and pass it quickly. I am hopeful that the President will see the error of his ways and sign this new plant closing bill. But the President and his advisers should not kid themselves. Mandatory advance notice is an issue whose time has come. It is a matter of basic fairness and common human decency and it will become the law of the land.

By Mr. DeCONCINI (for himself, Mr. HATCH, Mr. METZENBAUM, Mr. SIMON, and Mr. PRESSLER):

S. 2529. A bill entitled the "Cable Compulsory License Nondiscrimination Act of 1988"; to the Committee on the Judiciary.

CABLE COMPULSORY LICENSE NONDISCRIMINATION ACT

● Mr. DeCONCINI. Mr. President, together with the ranking minority member of the Subcommittee on Patents, Copyrights, and Trademarks, Senator HATCH, and my distinguished colleagues from the Judiciary Committee, Senator METZENBAUM and Senator SIMON, I am introducing the Cable Compulsory License Nondiscrimination Act of 1988.

By introducing this legislation, I intend to reestablish a more reasonable and balanced relationship between local television broadcasters and cable operators. My objective is to insure that cable subscribers are not denied convenient access to local TV stations in their communities. The legislation would amend section 111 of the Copyright Act to condition the availability of cable television's compulsory license by a reasonable local station carriage requirement. Additionally, the legislation proposes a halt to the practice of some cable systems whereby some local stations are moved from long held cable channels and assigned different and undesirable channel numbers.

This legislation grows out of the fact that the U.S. Court of Appeals for the D.C. Circuit has twice struck down the FCC's must-carry rules. These rules, the most recent of which reflected an industrywide compromise, provided that cable operators may not discriminate in the carriage of local stations by carrying some and not others as long as certain minimum conditions were met. I am confident that virtually every Member of Congress supports the idea of must carry, and I invite my colleagues to join with Senators HATCH, METZENBAUM, SIMON, and myself in implementing these basic rules of fair play in a constitutionally sound manner.

In 1976, Congress enacted the compulsory license which grants to a cable operator the right to take the signal of any television station and resell that signal to cable subscribers. In the case of local TV stations, the cable operator pays nothing for this compulsory license; in the case of distant signals, there is a fee set by the Copyright Royalty Tribunal paid into a general fund and distributed according to a formula to copyright owners.

At the time Congress enacted these provisions, no thought was given to the concept of must carry because the cable industry was in its infancy and struggling to gain a foothold in the market. Today, however, 50 percent of American homes receive cable, and the question of whether or not a particular local broadcast station is carried by the local cable system may be a matter of economic life and death. It is imperative that Congress address this issue to insure that equity and balance are restored both to the law and to the overall economic relationship between the two industries.

The legislation my colleagues and I are introducing is in no way designed to be punitive toward the cable industry nor should it be viewed in any respect as anticable. In fact, the cable industy as represented by its national organization, the National Cable Television Association, has been extremely cooperative on the question of must carry. NCTA was part of the interindustry compromise on must carry which was embodied in the most recent FCC rules on the subject that were, unfortunately, struck down by the courts.

In order to insure the constitutional soundness of the must-carry rules, our legislation makes them part of the congressionally created compulsory license. The compulsory license would no longer be automatically available to cable operators. To qualify for the compulsory license, cable operators would have to comply with the must carry rules which the NCTA had agreed to and which were adopted by the FCC in 1987. Cable systems could choose not to comply with the rules, thus remaining free from any must carry obligations. The operator could then negotiate individually with the local stations for the right to retransmit their signals. Inasmuch as a majority of program services already carried on cable involve a negotiated copyright license and the fact that distant signal compulsory license is unaffected by this legislation, this would be a realistic option.

Our legislation contains two provisions other than the FCC must carry rules incorporated by reference. First, we deal with the issue of channel shifting by cable operators, something that has largely been the result of the court's initial elimination of must carry in 1985. Under the legislation, cable operators would have to carry local stations on specified channel numbers acceptable to the station. For older stations, this would mean using the broadcast number or the cable number in use before the elimination of must carry. For newer stations, the parties would have to reach a mutually acceptable number. In all instances, however, the must carry local stations would have to be placed on the cable lineup in such a manner as to insure that all televisions hooked up to the cable system could receive them.

The second addition to the 1987 FCC must carry regulations made by this legislation involves the creation of what might be termed a may carry area to the benefit of viewers, broadcasters, and cable operators. Currently in the definition of local and distant signals, some stations that are clearly local to a community actually fall into the distant category. This means that the cable operator must pay a fee to carry those signals, usually a sufficient disincentive not to do so. The legislation eliminates these anomolies without adding any new burden onto the shoulders of cable operators. It provides that no station would be deemed distant for any cable system located in the station's television market or within the 50 mile must carry zone. However, this new may carry provision only gives the cable operator the option of carrying the signal without payment of any fee; it does not add any new stations to the must carry obligation.

It might be possible to draft constitutionally sound must carry rules in some other manner, although the FCC has twice failed. This approach is both novel and constitutional because it links must carry to the compulsory license. The compulsory license is a congressionally enacted system that Congress is capable of setting prerequisites for participation in that system. Since Congress enacted the compulsory license to facilitate the carriage of broadcast television signals on cable systems, it is perfectly proper for Congress to enact requirements for such carriage.

I believe that the legislation embodies in its scope and its approach an appropriate response to the problems associated not only with must carry but with a constitutionally sound vehicle. We look forward during the hearing process to working with all the affected groups, including cable operators, public television and foreign language stations so that we might improve the legislation by fine tuning each provision to insure that it strikes the proper balance between the legitimate interest of all parties.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cable Compulsory License Non-Discrimination Act of 1988".

SEC. 2. AMENDMENTS.

(a) COMPLIANCE WITH MUST-CARRY RULES REQUIRED FOR COMPULSORY LICENSE PRIVILEGES WITH RESPECT TO LOCAL BROADCASTS.—Section 111(c) of title 17, United States Code is amended in clause (1) by striking out "where the carriage of the signals" and all that follows through the end of such clause and inserting the following:

"where—

"(A)(i) such secondary transmission takes place entirely within the local service area of such primary transmitter; (ii) the carriage of the signals is permissible under the rules, regulations, or authorizations of such Commission; and (iii) the cable system complies with section 640 of the Communications Act of 1934; or

"(B)(i) such secondary transmission takes place in while or in part beyond the local service area of such primary transmitter; and (ii) the carriage of the signals is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.".

(b) FEDERAL COMMUNICATIONS COMMISSION CERTIFICATION OF CARRIAGE.—Title VI of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"COMPLIANCE WITH MUST-CARRY REQUIREMENTS

"Sec. 640. (a) A cable system complies with the requirements of this section if Federal Communications Commission certifies that the cable system—

"(1) carries, as part of the basic tier of cable service regularly provided to all subscribers at the minimum charge and to each television receiver on which subscribers receive cable service, in full and in their entirety, the signals of television broadcast stations in accordance with sections 76.5 and 76.51 through 76.62 of title 47 of the Code of Federal Regulations as in effect on December 10, 1987; and

"(2) carries each such station on the cable channel on which it was carried on July 19, 1985, or on the channel number assigned to such station by the Commission, at the election of the television broadcast station, or on such other cable channel as may be acceptable to the television broadcast station.

"(b) The requirements of this section shall not be subject to an expiration date.".

(c) DEFINITION OF LOCAL SERVICE AREA.—Section 111(f) of title 17, United States Code, is amended by striking out the fourth paragraph (containing the definition of local service area of a primary transmitter) and inserting the following:

"The 'local service area of a primary transmitter,' in the case of a television broadcast station, comprises: (1) the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, or (2) the area extending 50 air miles from the reference point (as defined in 76.53 of title 47, Code of Federal Regulations) of the station's community of license, if the cable system's principal headened is located within such area, or (3) the area of dominant-influence in which the station is located, as demarcated in the ARB Television Market Analysis for the most recent year (or, if the ARB Televison Market Analysis ceased to be published, such equivalent area as shall be determined by the Register of Copyrights); or in the case of a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico, the area in which it would be entitled to insist upon its signal being retransmitted if it were a television broadcast station subject to such rules, regulations, and authorizations. The 'local service' area of a primary transmitter", in the case of a radio broadcast station comprises the primary service area of such station, pursuant to the rules and regulations of the Federal Communications Commission.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall be effective on the date of the enactment of this Act.

Mr. HATCH. Mr. President, I am pleased to join the distinguished gentleman from Arizona, the chairman of the subcommittee on Patents, Copyrights, and trademarks, in introducing the Cable Compulsory License Nondiscrimination Act of 1988.

The cable compulsory license contained in section 111 of the Copyright Act makes it possible for cable television to carry broadcast programming. By guaranteeing access to broadcast programs, the compulsory license provides a great benefit to cable television systems. This legislation links that benefit to a very important consumer service, namely the guarantee that national cable companies will continue to carry local television stations. Thus, this bill ensures that consumers continue to enjoy convenient access to their local broadcast stations on all cable systems that choose to avail themselves of the compulsory copyright licensing privilege.

This linkage of the compulsory license to carriage of local broadcast television is prudent due to the potential conflict of interest between the cable operators' public service responsibilities and their traditional role as competitor to the broadcasters. While the overwhelming majority of the cable operators have conducted their operations, including the carriage of local broadcast stations, in a responsible manner, this legislation will ensure that the compulsory copyright privilege does not facilitate unfair treatment of local broadcast stations licensed to serve the same area.

The Federal Communications Commission previously maintained regulations regarding carriage of local broadcast stations. Those regulations were an integral part of the legislative history of the compulsory copyright license enacted in the Copyright Revision Act of 1976. In fact, Senator McClellan had proposed to include portions of the FCC's regulations in the text of the cable compulsory license. However, the Congress ultimately agreed to leave the regulatory fine tuning to the FCC and simply adopted a cable compulsory copyright license applicable to any and all signals whose retransmission was "permissible under the rules, regulations, or authorizations of the Federal Communications Commission." S. 1361, section 111(c)(1)(c), reprinted in Senate Report No. 983, 93d Congress, 2d session 1974.

Unfortunately, a Federal appeals court recently invalidated the FCC's must carry rules. As a result, consumers are no longer assured convenient access to their local broadcast stations. Needless to say, these local stations provide important local news, weather, and traffic reports, not to mention their significance in promoting the culture, arts, and enjoyment of the local community.

From the complaints received in my office regarding cable carriage difficulties, I have concluded that linking the compulsory license to local station carriage requirements is necessary to protect these important local television stations. Because the compulsory license is granted by Congress, Congress should be able to make that privilege subject to reasonable conditions. Moreover, our bill is entirely consistent with the original purpose of the compulsory license.

The signal carriage component of our bill refers to modified must-carry rules adopted by the FCC in 1987. Those rules in turn were based upon a compromise reached between the broadcasting and cable television industries. The channel shifting component of our bill is responsive to the rash of cable channel shifts that has occurred in recent years. It is designed to ensure that local stations play a role in decisions regarding the placement and marketing of those broadcast signals for which Congress has provided the cable operator a compulsory copyright license.

Our legislation also extends the copyright free may-carry zone for all local stations out to the boundaries of the 50-mile must-carry zone or the area of dominant influence [ADI] as determined by the major rating services. This technical correction will assure that no local station is deemed a distant signal within its home market.

All of the provisions of our legislation are designed to assure that consumers continue to enjoy convenient access to their local broadcast stations while cable systems provide additional viewing alternatives. The bottom line will be free competition between diverse sources of information and entertainment and a greater quantity and variety of television programming for American consumers.

By Mr. LAUTENBERG:

S.J. Res. 341. Joint resolution to designate September 15, 1988, as "National RSDS Awareness Day"; to the Committee on the Judiciary.

NATIONAL RSDS AWARENESS DAY

●Mr. LAUTENBERG. Mr. President, I am introducing a joint resolution calling on the President to designate September 15, 1988, as National RSDS Awareness Day. RSDS [Reflex Sympathetic Dystrophy Syndrome] is an illness from which many people suffer, but about which little is known. RSDS is a chronic pain disorder which attacks its victims in their extremities and involves the skin, nerves, muscles, blood vessels and bones. In its most advanced stage, RSDS is totally debilitating. The patient is often unable to use the affected limb and suffers incessant pain.

Because little is known about RSDS, it is considered rare and is often misdiagnosed. I learned about this disease from the Reflex Sympathetic Dystrophy Syndrome Association, a grassroots organization headquartered in New Jersey. As the RSDS Association told me, "Those involved in the treatment of this syndrome feel that it is not so rare, but only rarely recognized." Among the symptoms of RSDS are constant pain, which varies in degrees from moderate to severe depending on the patient, loss of motion in the affected area, muscle spasms, swelling, and softening of the bone. RSDS can affect anyone at any age but recent data shows that cases affecting adolescents and young adults are increasing.

In May 1986, the first center for the treatment and study of RSDS was established at Thomas Jefferson University Hospital in Philadelphia. Plans to open a similar facility are currently underway at the New Jersey University of Medicine and Dentistry in Newark. These institutions, along with the Reflex Sympathetic Dystrophy Syndrome Association headquartered in Haddonfield, NJ, deserve to be commended for their efforts to combat this catastrophic illness. And particular credit goes to the cochairpersons of the association, Audrey F. Thomas and Francis J. and Rosalyn M. Davis.

Mr. President, the joint resolution I am introducing today is intended to give this little-known disease some greater visibility. I urge my colleagues to support this joint resolution.

I ask unanimous consent that the text of this joint resolution be printed in the Record following my remarks.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 341

Whereas reflex sympathetic dystrophy syndrome, known as RSDS, is a disabling disease that causes symptoms such as loss of mobility of the limbs, softness of the bones, stiffness in the joints, vasospasms, and muscle spasms;

Whereas RSDS affects individuals of both sexes and all ages;

Whereas individuals afflicted with RSDS suffer excruciating pain without relief;

Whereas research into the causes and effects of RSDS has only recently begun;

Whereas medical researchers face a difficult challenge in attempting to identify the origin of RSDS;

Whereas education of the victims of RSDS and the public about the disease is difficult because of the limited amount of knowledge about the disease and the lack of concensus in the medical profession regarding the proper interpretation of the knowledge;

Whereas the RSDS Association was incorporated on May 18, 1984, to support research of the disease and to aid families of persons suffering from the disease; and

Whereas a day should be designated to recognize the victims of RSDS and to increase the awareness and concern of the people of the United States regarding the research into the causes, cures, prevention, and clinical treatment of the devastating disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congres assembled, That September 15, 1988, is designated as "National RSDS Awareness Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activites.●

ADDITIONAL COSPONSORS

S. 476

At the request of Mr. Dodd, the name of the Senator from North Carolina [Mr. Sanford] was added as a cosponsor of S. 476, a bill to provide assistance in the development of new or improved programs to help younger persons through grants to the States for community planning, services, and training; to establish within the Department of Health and Human Services an operating agency to be designated as the Administration on Children, Youth, and Families; and to provide for a White House Conference on Young Americans.

S. 936

At the request of Mr. Durenberger, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 936, a bill to amend title XVIII of the Social Security Act to permit certain individuals with physical or mental impairments to continue Medicare coverage at their own expense.

S. 1393

At the request of Mr. Heinz, the name of the Senator from Nebraska [Mr. Exon] was added as a cosponsor of S. 1393, a bill to amend title 39, United States Code, to designate as nonmailable matter any private solicitation which is offered in terms expressing or implying that the offeror of the solicitation is, or is affiliated with, certain Federal agencies, unless such solicitation contains conspicuous notice that the Government is not making such solicitation, and for other purposes.

S. 1522

At the request of Mr. Riegle, the name of the Senator from Utah [Mr. Garn] was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1655

At the request of Mr. Karnes, his name was added as a cosponsor of S. 1655, a bill to amend title IV of the Social Security Act to improve the program of aid to families with dependent children by establishing a two-tier system for AFDC families, to require each State to establish a comprehensive work program with an organized intake and registration process for such families, to make necessary improvements in the Child Support Enforcement Program, and for other purposes.

S. 1797

At the request of Mr. Thurmond, the name of the Senator from Nebraska [Mr. Karnes] was added as a cosponsor of S. 1797, a bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax.

S. 1975

At the request of Mr. DeConcini, the name of the Senator from Tennessee [Mr. Gore] was added as a cosponsor of S. 1975, a bill to better enable Federal law enforcement officers to accomplish their missions, to assist Federal law enforcement agencies in attracting and retaining the most qualified personnel, and for other purposes.

S. 2000

At the request of Mr. Cranston, the name of the Senator from Connecticut [Mr. Weicker] was added as a cosponsor of S. 2000, a bill to provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, affectional or sexual orientation, or ethnicity.

S. 2066

At the request of Mr. Roth, the name of the Senator from North Carolina [Mr. Sanford] was added as a cosponsor of S. 2066, a bill relating to the ocean dumping of municipal sludge.

S. 2115

At the request of Mr. Danforth, the name of the Senator from Idaho [Mr.

Symms] was added as a cosponsor of S. 2115, a bill to amend the Internal Revenue Code of 1986 to eliminate tax credits from the passive activity rules, to modify the business credit limitation provisions, and for other purposes.

S. 2199

At the request of Mr. Chafee, the name of the Senator from Alabama [Mr. Shelby] was added as a cosponsor of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2317

At the request of Mr. Symms, the name of the Senator from Nevada [Mr. Hecht] was added as a cosponsor of S. 2317, a bill to repeal certain provisions of law requiring the installation of transponders in all aircraft.

S. 2409

At the request of Mr. Bumpers, the names of the Senator from Florida [Mr. Chiles], the Senator from Vermont [Mr. Stafford], and the Senator from Kentucky [Mr. Ford] were added as cosponsors of S. 2409, a bill to amend the Internal Revenue Code of 1986 to provide a mechanism for taxpayers to designate any portion of any overpayment of income tax, and to contribute other amounts, for payment to the National Organ Transplant Trust Fund, and for other purposes.

S. 2446

At the request of Mr. Rockefeller, the name of the Senator from Florida [Mr. Graham] was added as a cosponsor of S. 2446, a bill to amend title 38, United States Code, to extend for 1 year the authorizations of the Veterans' Administration to furnish respite care to certain chronically ill veterans and to extend the due date for a report on the results of an evaluation of furnishing such care.

S. 2450

At the request of Mr. Chiles, the name of the Senator from Nevada [Mr. Reid] was added as a cosponsor of S. 2450, a bill to provide Federal financial assistance to facilitate the establishment of volunteer programs in American schools.

S. 2452

At the request of Mr. Cranston, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 2452, a bill to place a moratorium on the relocation of Navajo and Hopi Indians under Public Law 93-531, and for other purposes.

S. 2469

At the request of Mr. Heinz, the name of the Senator from Delaware [Mr. Roth] was added as a cosponsor of S. 2469, a bill to amend chapters 83 and 84 of title 5, United States Code, to expedite the processing of retirement applications of Federal employees, and for other purposes.

S. 2478

At the request of Mr. Ford, the names of the Senator from Mississippi [Mr. Cochran], the Senator from Montana [Mr. Melcher], the Senator from Colorado [Mr. Wirth], the Senator from Maine [Mr. Cohen], the Senator from Oklahoma [Mr. Boren], and the Senator from Rhode Island [Mr. Pell] were added as cosponsors of S. 2478, a bill to provide for a 2-year Federal budget cycle, and for other purposes.

S. 2481

At the request of Mr. Trible, the name of the Senator from New Hampshire [Mr. Humphrey] was added as a cosponsor of S. 2481, a bill to ensure the provision of effective military and economic assistance to anti-Communist freedom fighters movements, to prohibit certain direct and indirect assistance to Communist countries, and for other purposes.

S. 2488

At the request of Mr. Dodd, the names of the Senator from West Virginia [Mr. Rockefeller] and the Senator from North Carolina [Mr. Sanford] were added as cosponsors of S. 2488, a bill to grant employees parental and temporary medical leave under certain circumstances, and for other purposes.

SENATE JOINT RESOLUTION 248

At the request of Mr. Quayle, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of Senate Joint Resolution 248, a joint resolution to designate the week of October 2, 1988, through October 8, 1988, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 270

At the request of Mr. Riegle, the names of the Senator from Maine [Mr. Mitchell] and the Senator from Utah [Mr. Hatch] were added as cosponsors of Senate Joint Resolution 270, a joint resolution designating June 26 through July 2, 1988, as "National Safety Belt Use Week."

SENATE JOINT RESOLUTION 295

At the request of Mr. DeConcini, the name of the Senator from Vermont [Mr. Stafford] was added as a cosponsor of Senate Joint Resolution 295, a joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 298

At the request of Mr. D'Amato, the names of the Senator from Louisiana [Mr. Johnston], the Senator from Alabama [Mr. Shelby], the Senator from Idaho [Mr. Symms], and the Senator from Washington [Mr. Adams] were added as cosponsors of Senate Joint Resolution 298, a joint resolution designating September 1988 as "National Library Card Sign-Up Month."

SENATE JOINT RESOLUTION 312

At the request of Mr. D'Amato, the name of the Senator from Vermont [Mr. Leahy] was added as a cosponsor of Senate Joint Resolution 312, a joint resolution designating the week beginning September 18, 1988, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 335

At the request of Mr. Melcher, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of Senate Joint Resolution 335, a joint resolution to designate the last full week of October, October 23 through October 29, 1988, and the last full week of October hereafter as "National Adult Immunization Awareness Week."

SENATE JOINT RESOLUTION 338

At the request of Mr. DeConcini, the name of the Senator from Rhode Island [Mr. Chafee] was added as a cosponsor of Senate Joint Resolution 338, a joint resolution to designate August 1, 1988, as "Helsinki Human Rights Day."

SENATE CONCURRENT RESOLUTION 120

At the request of Mr. Dodd, the names of the Senator from Kansas [Mr. Dole], the Senator from Indiana [Mr. Lugar], the Senator from Maine [Mr. Mitchell], the Senator from Utah [Mr. Hatch], and the Senator from Alaska [Mr. Murkowski] were added as cosponsors of Senate Concurrent Resolution 120, a concurrent resolution urging the Government of Iran to respect the human rights of members of the Baha'i faith, and for other purposes.

SENATE RESOLUTION 442

At the request of Mr. Trible, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of Senate Resolution 442, a resolution expressing the sense of the Senate that the President should convene an International Conference on Combating Illegal Drug Production, Trafficking, and Use in the Western Hemisphere.

SENATE RESOLUTION 443—RELATIVE TO PROTECTION OF THE EARTH'S OZONE LAYER

Mr. BAUCUS (for himself, Mr. Chafee, Mr. Mitchell, Mr. Stafford, Mr. Gore, Mr. Wirth, Mr. Durenberger, Mr. Kerry, Mr. Warner, Mr. Matsunaga, Mr. Pell, Mr. Johnston, Mr. Pressler, Ms. Mikulski, and Mr. Roth) submitted the following resolution; which was considered and agreed to:

S. Res. 443

Whereas, the Montreal Protocol on Substances that Deplete the Ozone Layer provides a framework for all nations of the world to protect the earth's ozone shield;

Whereas, the Ozone Trends Report completed in March 1988 through the effort of over 100 international scientists sponsored by the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Federal Aviation Administration, the World Meteorological Organization and the United Nations Environment Program found undisputed observational evidence that the atmospheric concentrations of source gases important in controlling stratospheric ozone levels (chlorofluorocarbons, halons, methane, nitrous oxide, and carbon dioxide) are increasing on a global scale as a result of human activities and that observed losses of ozone since 1970 are significantly greater than computer models had predicted, especially over the northern hemisphere during the winter months where losses ranging from 2.3% to 6.2% were observed;

Whereas, the computer models used in the formulation of the Montreal Protocol predicted that global ozone depletion would reach 0.8% by 1986, the Ozone Trends Report measured global ozone depletion of 2.5%;

Whereas, there has been a large, sudden, and unexpected decrease in spring-time Antarctic ozone with decreases greater than 50% in the total column, and greater than 95% between an altitude of 15 to 20 kilometers;

Whereas, the Ozone Trends Report found that, since 1979, ozone appears to have decreased by 5% or more at all latitude south of 60 degrees south throughout the entire year;

Whereas, the Ozone Trends Report has raised serious questions about the adequacy of the control measures that are set forth in the Montreal Protocol;

Whereas, ozone depleting chlorofluorocarbons are powerful greenhouse gases projected to be responsible for 15-20% of expected global warming and uncontrolled climate change;

Whereas, the seven major industrial nations including Canada, England, France, Italy, Japan, West Germany and the United States represent over two-thirds of the world's use of chlorofluorocarbons;

Whereas, the leaders of these seven nations will conduct a Summit in June to discuss matters of mutual concern;

Whereas, at last year's summit meeting the leaders of these nations committed to take effective action to address the worldwide impact of stratospheric ozone depletion: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States should call upon the leaders of the major industrial nations of the world at the June Summit to take effective action to protect the earth's stratospheric ozone layer by agreeing to (1) deposit, not later than 1 October 1988, all instruments of ratification, acceptance, approval of the Montreal Protocol; (2) immediately call for a meeting of the parties to the Protocol as soon as possible to consider the latest scientific evidence and to consider the necessity for further control measures; and (3) identify and eliminate, within one year, institutional and legal barriers so as to encourage recycling and conservation to the maximum extent feasible of ozone depleting substances listed in Annex A of the Montreal Protocol; and (4) implement, within one year, domestic recycling and conservation to the maximum extent feasible of ozone depleting substances listed in Annex A of the Montreal Protocol.

AMENDMENTS SUBMITTED

TENDER OFFER DISCLOSURE AND FAIRNESS ACT

SHELBY AMENDMENT NO. 2385

(Ordered to lie on the table.)

Mr. **SHELBY** submitted an amendment intended to be proposed by him to the bill (S. 1323) to amend the Securities Exchange Act of 1934 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REQUIREMENT OF EQUAL SHAREHOLDER VOTING.

(a) IN GENERAL.—Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781) is amended by adding at the end thereof the following new subsection:

"(m)(1) Except as provided in paragraph (2), a security (other than an exempted security) of an issuer many not be registered on a national securities exchange, or be authorized for quotation on an interdealer quotation system operated by a registered national securities association, if—

"(A) on or after July 1, 1988, the issuer takes any action to cause any class of such issuer's voting securities to have fewer or greater than one vote per share on any issue to come before such issuer's shareholders (disregarding any right of such shareholders with respect to cumulative voting in an election of directors); or

"(B) such security is a common stock that is without voting rights

"(2) The prohibitions contained in paragraph (1) with respect to registration and authorization for quotation shall not apply to any security if—

"(A) such security is issued in an initial public offering in which the market capitalization of the issuer does not exceed $20,000,000;

"(B)(i) such security is issued as part of a merger, acquisition, consolidation, or stock dividend, approved by the shareholders of the issuer, and

"(ii) the per share voting rights of such securities is not greater than or less than the voting rights of the issuer's outstanding voting securities; or

"(C) such security is a security described in paragraph (3).

"(3) A security is described in this paragraph, if—

"(A) such security was of a class which was authorized for issuance before July 1, 1988, and is either—

"(i) a security with fewer or greater than one vote per share (as described in paragraph (1)(A)), or

"(ii) a common stock without voting rights; or

"(B) such security is an additional issuance of a security described in subparagraph (A).

"(4) The Commission may adopt such rules, regulations, and orders as may be necessary or appropriate in the public interest or for the protection of investors—

"(A) to implement the provisions of this subsection;

"(B) to define any term used in this subsection;

"(C) to exempt any person or transaction or class of persons or transactions, as not comprehended within the purposes of this subsection, in while or in part, either unconditionally or upon specific terms and conditions; or

"(D) to prescribe means reasonably designed to prevent any person from evading or circumventing the provisions of this subsection.

"(5) For purposes of this subsection:

"(A) The term 'voting securities' includes all equity securities with voting rights on any matter which may come before the issuers' stockholders, but does not include any security which is accorded voting rights only upon the vent of a default or other circumstances which jeopardize the issuer's ability to meet its obligations to the holders of that security.

"(B) The term 'common stock' includes all equity securities with a residual interest in the issuer's assets, except equity securities which carry a fixed rate of return and no additional right to participate in the earnings of the issuer.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date which is 60 days after the date of enactment of this Act.

FAMILY SECURITY ACT

DURENBERGER AMENDMENT NO. 2386

Mr. **DURENBERGER** proposed an amendment, which was subsequently modified, to the bill (S. 1511) to amend title IV of the Social Security Act to replace the AFDC Program with a comprehensive program of mandatory child support and work training which provides for transitional child care and medical assistance, benefit improvement, and mandatory extension of coverage to two-parent families, and which reflects a general emphasis on shared and reciprocal obligation, program innovation, and organizational renewal; as follows:

On page 268, between lines 15 and 16, insert the following new section:

SEC. 509. EIGHTEEN MONTH EXTENSION OF MINNESOTA PREPAID MEDIC-AID DEMONSTRATION PROJECT.

Upon application by the State of Minnesota, the Secretary of Health and Human Services shall extend until December 31, 1989, the waiver granted to such State under section 1115 of the Social Security Act to conduct a prepaid medicaid demonstration project.

DURENBERGER AMENDMENT NO. 2387

Mr. **DURENBERGER** proposed an amendment, which was subsequently modified, to the bill S. 1511, supra; as follows:

On page 150, line 3, strike "and".

On page 150, line 9, strike the quotation and end period.

On page 150, between lines 9 and 10, insert the following:

"(iv) no such adjustment is made unless each parent is afforded the opportunity to raise any issue relating to the visitation rights of the noncustodial parent or the access of such parent to information and records regarding the child.".

On page 165, between lines 4 and 5, insert the following new section:

SEC. 125. EXEMPTION OF CERTAIN STATES FROM PROCEDURES RELATING TO THE TREATMENT OF OVERDUE CHILD SUPPORT PAYMENTS AS FINAL JUDGMENTS.

(a) In General.—Section 466(d) of the Social Security Act (42 U.S.C. 666(d)) is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2) The procedures described in subsection (a)(9) shall not apply with respect to any State that, as determined by the Secretary, has adopted procedures for the expedited docketing of judgments for child support arrearages. This in no way affects current law on retroactive modification of child support.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on the date of enactment of this Act.

On page 165, line 5, strike "125" and insert "126".

On page 169, between lines 3 and 4, insert the following new section:

SEC. 126A. COMMISSION ON INTERSTATE CHILD ACCESS.

(a) Establishment of Commission.—There is hereby established a Commission to be known as the Commission on Interstate Child Access (in this section referred to as the "Commission") to be composed of 15 members appointed from among individuals knowledgeable in matters involving interstate child access in accordance with the methodology described in paragraph (1) of section 126(b) of this Act.

(b) Duties of Commission.—

(1) Not later than October 1, 1989, the Commission shall hold one or more national conference on interstate child access reform for the purpose of assisting the Commission in preparing the report required under paragraph (2).

(2) Not later than October 1, 1990, the Commission shall submit a report to the Congress that contains recommendations for improving the interstate system for protecting the visitation rights of non-custodial parents and ensuring that such parents have access to records and information about their children.

(c) Other Provisions Relating to Commission.—The provisions of paragraphs (2), (3), and (4) of subsection (b) and all of subsections (c), (e), (f), and (g) of section 125 of this Act shall apply to the Commission to the same extent as they apply to the Commission on Interstate Child Support under such section.

SUBSTANTIVE AND TECHNICAL AMENDMENTS TO TITLE 18, UNITED STATES CODE

BENTSEN (AND OTHERS) AMENDMENT NO. 2388

(Ordered to lie on the table.)

Mr. BENTSEN (for himself, Mr. Simpson and Mr. Wallop) submitted an amendment intended to be proposed by them to the bill (S. 2485) making minor substantive and technical amendments to title 18, United States Code, and for other purposes; as follows:

In the appropriate place insert the following:

That section 541(b) of title 11, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (1);

(2) striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following:

"(3) any real or personal property interests or contract rights of a debtor in or to hydrocarbons and other minerals produced with such hydrocarbons to the extent that the debtor has transferred or obligated itself to transfer any or all of such interests or rights pursuant to the terms of a lease, sublease, or farmout agreement, or any agreement with a geologist or engineer which is directly related to such lease, sublease, or farmout agreement, which interests or rights do not become property of the debtor's estate by virtue of any action authorized by section 365 or section 544.".

BRADLEY (AND OTHERS) AMENDMENT NO. 2389

Mr. BRADLEY (for himself, Mr. Bentsen, Mr. Dole, Mr. Moynihan, Mr. Wilson, and Mr. DeConcini) proposed an amendment to the bill S. 1511, supra; as follows:

On page 145, between lines 19 and 20, insert the following new subsection:

(b) Application to All Child Support Orders.—

(1) Section 466(b)(2) of such Act (42 U.S.C. 666(b)(2)) is amended—

(A) by inserting "(A)" after "(2)";

(B) by striking "Such" and inserting in lieu thereof "In the case of a support order that is initially issued before January 1, 1994; such"; and

(C) by adding at the end thereof the following new subparagraph:

"(B) In the case of a support order that is initially issued on or after January 1, 1994, such withholding must be provided with respect to any child in whose behalf a support order has been issued or modified in the State and must occur without the need for any amendment to the support order involved or for any further action (other than those actions required under this part) by the court or other entity which issued such order.".

(2)(A) Section 466(a)(8) of such Act (42 U.S.C. 666(a)(8)) is amended by striking "if arrearages occur" and inserting in lieu thereof "in accordance with subsection (b)".

(B) Section 466 of such Act (42 U.S.C. 666) is amended by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

On page 146, line 5, strike "amendments made by this section" and insert "amendment made by subsection (a)".

On page 146, between lines 8 and 9, insert the following new paragraph:

(2) The amendments made by subsection (b) shall become effective on January 1, 1994.

On page 146, line 9, strike "(2)" and insert "(3)".

BRADLEY (AND MIKULSKI) AMENDMENT NO. 2390

Mr. BRADLEY (for himself and Ms. Mikulski) proposed an amendment to the bill S. 1511, supra; as follows:

On page 295, beginning with line 12, strike out all through 296, line 9, and insert the following new section:

SEC. 902. PHASEOUT OF DEDUCTION FOR MEAL AND ENTERTAINMENT EXPENSES OF INDIVIDUALS WITH ADJUSTED GROSS INCOME OVER $360,000.

(a) In General.—Paragraph (1) of section 274(n) of the Internal Revenue Code of 1986 is amended by striking out "80 percent" and inserting in lieu thereof "the applicable percentage".

(b) Applicable Percentage Defined.—Section 274(n) of such Code is amended by adding at the end thereof the following new paragraph:

"(4) Applicable percentage.—For purposes of this subsection, the term 'applicable percentage' means—

"(A) except as provided in subparagraph (B), 80 percent, or

"(B) in the case of a taxpayer who is an individual, 80 percent reduced by 1 percentage point for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $360,000.

In the case of a married individual filing a separate return, subparagraph (B) shall be applied by substituting '$180,000' for '$360,000'."

(C) Conforming Amendment.—Paragraph (1) of section 274(n) of such Code is amended by striking out "80 percent of" in the heading thereof and inserting in lieu thereof "Certain".

(d) Effective Date.—The amendments made by the section shall apply to taxable years beginning after December 31, 1988.

BENTSEN (AND OTHERS) AMENDMENT NO. 2391

Mr. BENTSEN (for himself, Mr. Moynihan, Mr. Packwood, Mr. Dole, Mr. Armstrong, and Mr. Chafee) proposed an amendment to the bill S. 1511, supra; as follows:

On page 145, line 20, strike "(c)" and insert "(b)".

On page 146, line 4, strike "(d)" and insert "(c)".

On page 146, line 5, strike "amendments made by this section" and insert "amendment made by subsection (a)".

On page 146, line 9, strike "(c)" and insert "(b)".

On page 147, line 2, strike "such" and insert "that".

On page 170, line 25, strike "1987" and insert "1986".

On page 171, line 10, strike "(and" and all that follows through "407(b)(2)(B)(i))" on line 12.

On page 175, strike lines 23 and 24 and insert the following:

"(i) shall include—

"(I) basic education and skills training; and

"(II) at least two of the three activities described, respectively, in subclauses (VI), (VII), and (VIII) of clause (ii); and

On page 176, line 10, strike "work" and insert "subject to clause (i)(II), work".

On page 176, line 12, strike "community" and insert "subject to clause (i)(II), community".

On page 176, line 13, insert "(and, at the option of the State, any other work experience program approved by the Secretary)" before the semicolon.

On page 176, line 14, strike "group" and insert "subject to clause (i)(II), group".

On page 179, strike line 21 and all that follows through line 11 on page 180 and insert the following:

"(5) The State agency may require a participant in the program to accept a job under the program (as work supplementation or otherwise) only if the State agency assures that the family of such participant will experience no net loss of cash income resulting from acceptance of such job. Any costs incurred by the State agency pursuant to this paragraph shall be treated as expenditures with respect to which section 403(a)(1) or 403(a)(2) applies.

On page 190, between lines 19 and 20, insert the following:

"(3) Job search by an individual under this subsection shall in no event be treated, for any purpose, as an activity under the program if the individual has participated in such job search for four months out of the preceding 12 months.".

On page 201, line 6, strike the quotation and end period.

On page 201, between lines 6 and 7, insert the following:

"(3)(A) Notwithstanding paragraph (1), the Secretary shall pay to a State an amount equal to 50 percent of the expenditures made by such State in a fiscal year in operating its program established under section 417 (in lieu of any different percentage specified in paragraph (1)(A)) if the State's participation rate (determined under subparagraph (B)) for the preceding fiscal year does not exceed or equal—

"(i) 10 percent if the preceding fiscal year is 1990;

"(ii) 10 percent if such year is 1991;

"(iii) 14 percent if such year is 1992;

"(iv) 14 percent if such year is 1993; and

"(v) 22 percent if such year is 1994.

"(B)(i) The State's participation rate for a fiscal year shall be the average of its participation rates for computation periods (as defined in clause (ii)) in such fiscal year.

"(ii) The computation periods shall be—

"(I) the fiscal year, in the case of fiscal year 1990,

"(II) the first six months, and the seventh through twelfth months, in the case of fiscal year 1991,

"(III) the first three months, the fourth through sixth months, the seventh through ninth months, and the tenth through twelfth months, in the case of fiscal years 1992 and 1993, and

"(IV) each month, in the case of fiscal year 1994.

"(iii) The State's participation rate for a computation period shall be the number, expressed as a percentage, equal to—

"(I) the average monthly number of individuals required or allowed by the State to participate in the program under section 417 who have participated in such program in months in the computation period, plus the number of individuals required or allowed by the State to participate in such program who have so participated in that month in such period for which the number of such participants is the greatest, divided by

"(II) twice the average monthly number of individuals required to participate in such period (other than individuals described in subparagraph (A)(iii) or (B) of section 417(c)(2) with respect to whom the State has exercised its option to require their participation).

For purposes of this subparagraph, an individual shall not be considered to have satisfactorily participated in the program under section 417 soley by reason of such individual being registered to participate in such program.

"(C) Notwithstanding any other provision of this paragraph, no State shall be subject to payment under this paragraph (in lieu of paragraph (1)(A)) for failing to meet any participation rate required under this paragraph with respect to any fiscal year before 1991.

"(D) For purposes of this paragraph, an individual shall be determined to have participated in the program under section 417, if such individual has participated in accordance with such requirements, consistent with regulations of the Secretary, as the State shall establish.

"(E) If the Secretary determines that the State has failed to achieve the participation rate for any fiscal year specified in the numbered clauses of subparagraph (A), he may waive, in whole or in part, the reduction in the payment rate otherwise required by such subparagraph if he finds that—

"(i) the State is in substantial compliance with section 402(a)(19);

"(ii) the State has made a good faith effort to achieve the applicable participation rate for such fiscal year; and

"(iii) the State has submitted a proposal which is likely to achieve the applicable participation rate for the current fiscal year and the subsequent fiscal years (if any) specified therein.".

On page 212, after line 25, insert the following new paragraph:

(3) Effective December 31, 1994, section 403(k)(3) of the Social Security Act, as added by the amendment made by section 202(a)(2) of this Act, is repealed.

On page 216, line 4, strike the quotation and end period.

On page 216, between lines 4 and 5, insert the following:

"(4) No family shall be eligible for such care on or after January 1, 1994.".

(d) STUDY ON EFFECTS OF EXTENDING ELIGIBILITY FOR CHILD CARE.—The Secretary of Health and Human Services shall conduct a study on the effectiveness of the amendments made by this section in reducing welfare dependence and assisting families in making the transition from welfare to employment, and such other effects of these amendments as the Secretary may find appropriate, and shall report on the results of such study not later than January 1, 1993.

On page 218, line 15, strike "and".

On page 218, line 19, strike the period and insert "; or".

On page 218, between lines 19 and 20, insert the following:

"(iv) beginning on or after January 1, 1994.

On page 222, line 13, strike "this section" and insert "this subsection".

On page 222, line 20, strike "or".

On page 223, line 12, strike the period and insert "; or"

On page 223, between lines 12 and 13, insert the following:

"(vi) beginning on or after January 1, 1994.

On page 235, between lines 6 and 7, insert the following new paragraph:

(2) Section 417(c)(1)(A)(ii) of the Social Security Act, as added by the amendment made by section 201(b) of this Act, is amended by striking "supplements" and inserting "supplements (and individuals who would be recipients of such supplements if the State had not exercised the option under section 407(b)(2)(B)(i))".

On page 235, line 7, strike "(2)(A)" and insert "(3)(A)".

On page 272, strike line 1 and all that follows through line 18 on page 291.

On page 291, strike "VIII" and insert "VII".

On page 291, line 21, strike "801" and insert "701".

On page 292, line 15, strike "802" and insert "702".

On page 294, line 6, strike "803" and insert "703".

On page 294, line 9, strike "802(a)" and insert "702(a)".

On page 295, line 5, strike "IX" and insert "VIII".

On page 295, strike line 6 and all that follows through line 11 and insert the following:

SEC. 801. TEMPORARY EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NONTAX DEBTS OWED TO FEDERAL AGENCIES.

Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking "July 1, 1988" and inserting "January 1, 1994".

On page 295, line 12, strike "902" and insert "802".

On page 296, line 10, strike "903" and insert "803".

On page 297, line 1, strike "X" and insert "IX".

On page 297, line 5, strike "1001" and insert "901".

On page 297, line 11, strike "1002" and insert "902".

On page 298, line 1, strike "407(b)(1)(B)" and insert "407(b)(1)(B) (as redesignated by section 402(b)(1)(A) of this Act),".

On page 298, line 12, strike "407," and insert "407 (as redesignated by section 402(b)(1)(A) of this Act),".

On page 298, line 23, strike "1003" and insert "903".

On page 299, line 13, strike "1004" and insert "904".

On page 300, line 1, strike "XI" and insert "X".

On page 300, line 6, strike "1101" and insert "1001".

In the table of contents beginning after line 9 on page 300, strike part F.

On page 302, line 1, strike "1102" and insert "1002".

On page 302, line 18, strike "1103" and insert "1003".

On page 304, line 5, strike "1101" and all that follows through "1103" on line 6 and insert "1001, 1002, and 1003".

DOLE (AND ROTH) AMENDMENT NO. 2392

Mr. DOLE (for himself and Mr. ROTH) proposed an amendment to the bill S. 1511, supra; as follows:

On page 177, between lines 18 and 19, insert the following new subparagraph:

"(C)(i) Subject to clause (ii), in the case of any family eligible for child support supplements by reason of the unemployment of the parent who is the principal earner, the State agency shall require that at least one parent in any such family participate either in the activity described in subparagraph (A)(ii)(VI) or the activity described in subparagraph (A)(ii)(VII) for a total of at least 16 hours a week during any period in which the parents of the family are required to participate in the program.

"(ii) The requirement under clause (i) shall not be considered to have been met by any State as of—

"(I) October 1, 1993, in the case of any State that as of June 1, 1988, provides aid to families with dependent children to individuals eligible for such benefits by reason of the unemployment of the parent who is the principal earner, or

"(II) October 1, 1994, in the case of any other State;

if the requirement is not met with respect to the applicable percentage (as described in clause (iii) of all families in the State eligible for child support supplements by reason of the unemployment of the parent who is the principal earner.

"(iii) The applicable percentage described in this clause is—

"(I) in the case of a State described in clause (ii)(I)—

"(aa) 50 percent for the period before October 1, 1994, and

"(bb) 100 percent for any period thereafter; and

"(II) in the case of any other State—

"(aa) 50 percent for the period before October 1, 1995, and

"(bb) 100 percent for any period thereafter.

DOMENICI AMENDMENT NO. 2393

Mr. DOMENICI proposed an amendment to the bill S. 1511, supra; as follows:

On page 268, between lines 15 and 16, insert the following new section:

SECTION 509. DEMONSTRATION PROJECTS FOR DEVELOPMENT AND USE OF COMPUTER "CREDIT" BENEFIT CARD TECHNOLOGY IN MAKING BENEFIT PAYMENTS.

(a) In General.—Section 1115 of the Social Security Act (42 U.S.C. 1315), as amended by sections 502 and 503 of this Act, is further amended by adding at the end thereof the following new subsection:

"(f)(1) In order to encourage States to plan, design, develop, and implement a system for making benefit payments through use of intelligent 'benefit credit' cards (using computer chip design), any State may establish and conduct a demonstration project under this subsection designed to test whether the use of such a system with respect to either of the programs under titles IV and XIX can enhance the efficiency and effectiveness of program operations while ensuring that individuals receive correct benefit amounts on a timely basis. The benefit credit card developed under any such demonstration project shall contain information, encoded on a computer chip embedded in or on the card, concerning the eligibility of the individual for benefits or services and the amount of benefits or value of services to which such individual is entitled. Such card would be used by an eligible individual to obtain benefits or services, on a monthly basis, from any entity qualified (with respect to the particular program involved) to provide such benefits.

"(2) The Secretary may make grants or award contracts to (or enter into cooperative agreements with) States to assist in financing the demonstration projects under this subsection.

"(3) Demonstration projects under this subsection shall meet such conditions and requirements as the Secretary shall prescribe. Projects shall be designed to maintain the accuracy with which a State provides benefit amounts. Each project shall be conducted for a period of at least one year but in no event may be conducted for a period of more than three years.

(b) Effective Date.—The amendment made by subsection (a) shall become effective on October 1, 1988.

EVANS AMENDMENT NOS. 2394 AND 2395

Mr. EVANS proposed two amendments to the bill S. 1511, supra; as follows

Amendment No. 2394

At the appropriate place, insert the following new section:

"SEC. . QUALITY CONTROL PENALTY MORATORIUM

"Section 12301 of the Consolidated Omnibus Reconciliation Act of 1985 is amended in subparagraph (6)(1) by striking out the words "the 24 month period" and inserting in lieu thereof "the 36 month period".

Amendment No. 2395

On page 240, after line 20, insert the following new section:

SEC. 403A. CBO STUDY ON IMPLEMENTATION OF NATIONAL MINIMUM PAYMENT STANDARD.

(a) In General.—The Congressional Budget Office shall conduct a study on the implementation of the amendments proposed by section 101 of the Partnership Act of 1987 (relating to the requirement of a minimum payment standard under part A of title IV of the Social Security Act with a federal matching rate of 90 percent).

(b) Description of Study.—The study conducted under subsection (a) shall assess the extent to which—

(1) the goal of budget neutrality may be preserved by repealing the programs included in, but not limited to, the programs described in the amendments proposed by section 301 of the Partnership Act of 1987 over a more gradual period of time in conjunction with corresponding increases (up to 90 percent) in the federal matching rates under part A of title IV and title XIX of the Social Security Act; and

(2) the effects on local governments of repealing federal programs could be mitigated by providing, over a period of time that corresponds with more gradual increases in the federal matching rates under part A and title XIX, general revenue supplements to those localities with the lowest levels of fiscal capacity and pass throughs to units of local government.

(c) Report to Congress.—The Congressional Budget Office shall report on the results of the study conducted under this section not later than twelve months after the date of enactment of this Act.

FORD AMENDMENT NO. 2396

Mr. MOYNIHAN (for Mr. Ford) proposed an amendment to the bill S. 1511, supra; as follows:

On line 12, page 228 of the bill insert before the period: "; except that in the case of the Commonwealth of Kentucky, the amendments made by this title shall become effective on October 1, 1990".

SPECTER AMENDMENT NO. 2397

Mr. SPECTER proposed an amendment to the bill S. 1511, supra; as follows:

On page 204, between lines 2 and 3, insert the following new subsection:

(d) Special Job Training Provisions for Long-Term Welfare Recipients.—Section 417 of such Act, as added by the amendment made by section 201(b) of this Act and amended by subsection (a) of this section, is further amended by adding at the end thereof the following new subsection:

"(m)(1) Notwithstanding any other provision of this section, this subsection shall apply to any individual who is required or allowed to participate in the program under this section and who has received aid or supplements (as the case may-be) under this title for a period of 24 consecutive months.

"(2) Each State shall establish as part of the program a feeder system utilizing community-based organizations (as referred to in section 4(5) of the Job Training Partnership Act), including Opportunities Industrialization Centers, the National Urban League, the National Council of La Raza, 70,001, National Puerto Rican Forum, Ser-Jobs for Progress, the United Way of America, and other community-based organizations of demonstrated effectiveness to conduct outreach and provide preemployment services to individuals described in paragraph (1) in order to provide such individuals greater access to and benefit more fully from employment opportunities and placement available under the program and to prepare such individuals for gainful employment.

"(3) The outreach and feeder system established by paragraph (2) of this subsection shall include—

"(A) skills assessment for participants and assistance to participants with respect to the selection and referral for education and training;

"(B) registration with the Bureau of Employment Security;

"(C) preemployment training;

"(D) employment training including vocational, adult, and community college and other postsecondary programs; and

"(E) on-the-job training and other employment preparation activities available under this section.

"(4) Preemployment services provided under paragraph (3) may include—

"(A) educational preparation and basic skills development to increase literacy and computational skills;

"(B) programs designed to strengthen the attitude and motivation of youth to achieve and succeed in the work environment;

"(C) guidance and counseling to assist participants with occupational choices and with the selection of employment preparation programs;

"(D) counseling and information, referral, and follow-up to assist participants experiencing personal or family problems, which may cause severe stress, and lead to poor performance or dropping out of the program; and

"(E) parenting and home and family living skills, including nutrition and health education, targeted to teenage parents.".

BOSCHWITZ AMENDMENT NO. 2398

(Ordered to lie on the table)

Mr. BOSCHWITZ submitted an amendment intended to be proposed by him to the bill S. 1511, supra; as follows:

On page 291, strike lines 19 and 20 and insert the following:

TITLE VIII—MISCELLANEOUS PROVISIONS

On page 295, between lines 4 and 5, insert the following new section:

SEC. 804. COORDINATION OF CHILD SUPPORT SUPPLEMENT AND FOOD STAMP POLICIES.

(a) Appointment and Membership of Commission.—There is hereby established a Commission on the Coordination of Child Support Supplement and Food Stamp Policies (hereinafter referred to as the "Commission"), consisting of 15 members as follows:

(1) The Secretary of Health and Human Services.

(2) The Secretary of Agriculture.

(3) Two Members of the Senate, one selected by the Majority Leader of the Senate and the other by the Minority Leader of the Senate.

(4) Two Members of the House of Representatives, one selected by the Speaker of the House and the other by the Minority Leader of the House.

(5) Two State Governors, one selected jointly by the Speaker of the House and the Majority Leader of the Senate and the other selected jointly by the Majority Leader of the House and the Minority Leader of the Senate.

(6) Seven other members, including State and local officials responsible for administering the child support supplement and food stamp programs, representatives of welfare advocacy organizations, and individuals with demonstrated expertise in welfare policy, to be selected jointly by the Speaker of the House and the Majority Leader of the Senate in consultation with the Minority Leader of the House and the Minority Leader of the Senate.

(b) Purpose.—It shall be the purpose of the commission—

(1) to study and consider the policies and definitions being implemented or used (under law or administrative practice) in the administration of the child support supplement program under part A of title IV of the Social Security Act and those being so implemented or used in the administration of the food stamp program under the Food Stamp Act of 1977;

(2) to identify the policies and definitions being implemented or used under each such program which are inconsistent or in conflict with those being implemented or used under the other; and

(3) to make recommendations for developing common policies and definitions for use under both programs and thereby eliminating such inconsistency or conflict to the maximum extent possible.

(c) Report.—The commission shall submit to the President and the Congress within one year after the date of the enactment of this Act a full and complete report on its study under this section, including its recommendations for such legislative, administrative, and other actions as may be considered appropriate.

(d) Authorization of Funds.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

QUAYLE (AND OTHERS) AMENDMENT NO. 2399

Mr. QUAYLE (for himself, Mr. Simon, and Mr. Kennedy) proposed an amendment to the bill S. 1511, supra; as follows:

On page 180, strike lines 12-16, and insert in lieu thereof the following: "(6)(A) No job opportunities and basic skills program plan under this Title shall be submitted to the Secretary until the Governor has determined that such program is consistent with the criteria for coordinating activities included in the Governor's Coordination and Special Services Plan prepared under Section 121 of the Job Training Partnership Act as such section is in effect on date of enactment of this act.

BRADLEY AMENDMENT NO. 2400

Mr. BRADLEY proposed an amendment to the bill S. 1511, supra; as follows:

On page 158, between lines 21 and 22, insert the following new section:

SEC. 121A. REQUIREMENT OF PROMPT STATE DISTRIBUTION OF AMOUNTS COLLECTED AS CHILD SUPPORT.

(a) In General.—Section 452 of the Social Security Act, as amended by sections 111 and 121 of this Act, is further amended by adding at the end thereof the following new subsection:

"(i) The standards required by subsection (a)(1) shall include standards establishing time limits governing the period or periods within which a State must distribute, in accordance with section 457, amounts collected as child support pursuant to the State's plan approved under this part.".

(b) Regulations.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to the standards required by the amendment made by subsection (a), and after allowing not less than 60 days for public comment, shall issue final regulations not later than the first day of the tenth month to begin after such date of enactment.

BENTSEN AMENDMENT NO. 2401

Mr. BENTSEN proposed an amendment to the bill S. 1511, supra; as follows:

On page 291, strike lines 19 and 20 and insert the following:

TITLE VIII—MISCELLANEOUS PROVISIONS

On page 295, between lines 4 and 5, insert the following new section:

SEC. 804. MISCELLANEOUS TECHNICAL CORRECTIONS TO MEDICARE CATASTROPHIC COVERGE ACT OF 1988.

(a) Modification of Provisions Relating to Employer Maintenance of Effort.—Section 421 of the Medicare Catastrophic Coverage Act of 1988 is amended—

(1) in subsection (a)(1), by striking "(c)(1)" and inserting "(c)(1)(A)";

(2) in subsection (a)(2), by striking "(c)(2)" and inserting "(c)(1)(B)";

(3) in subsection (b)(1), by striking "of the duplicative part A benefits" and inserting in lieu thereof "of the benefits under part A of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1989) which were not covered under part A of title XVIII of the Social Security Act as such part was in effect on the day before the date of the enactment of this Act";

(4) in subsection (b)(2), by striking "of the duplicative part B benefits" and inserting in lieu thereof "of the benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs) which were not covered under part B of title XVIII of the Social Security Act as such part was in effect on the day before the date of the enactment of this Act";

(5) in subsection (b)(3)(A)(i), by striking "on the basis of" and inserting "as being equal to the respective national";

(6) by amending clause (i) of subsection (b)(3)(B) to read as follows:

"(i) calculate and publish—

"(I) the national average actuarial value for the year involved of the benefits under part A of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1989) which were not covered under such part as such part was in effect before the date of the enactment of this Act, and

"(II) the national average actuarial value for the year involved of the benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs) which were not covered under such part as such part was in effect before the date of the enactment of this Act; and" and

(7) in subsection (b)(3)(B)(ii)—

(A) by inserting "publish" after "(ii)", and

(B) by striking out "such duplicative benefits" and inserting "duplicative part A benefits and duplicative part B benefits".

(b) Inclusion of Provisions Repealing Authority to Administer Proficiency Examinations—The Medicare Catastrophic Coverage Act of 1988 is amended by inserting immediately after section 429 the following new section:

"SEC. 430. REPEAL OF AUTHORITY TO ADMINISTER PROFICIENCY EXAMINATIONS.

"(a) Repeal.—Section 1123 of the Social Security Act (42 U.S.C. 1320a-2) is repealed.

"(b) Effect of Repeal.—Nothing in the amendment made by subsection (a) shall be construed as affecting the qualification of any individual, who has been determined under the program established under section 1123 of the Social Security Act to be qualified to perform the duties and functions of a health care specialty, to perform such duties and functions.".

(c) Continuation of Cost Pass-Through for Certified Registered Nurse Anesthetists—Section 9320 of the Ombibus Budget Reconciliation Act of 1986 is amended—

(1) in subsection (i), by striking "The amendments" and inserting "Except as provided in subsection (k), the amendments", and

(2) by adding at the end the following new subsection:

"(k) Authorization of Continuation of Pass-Through—

"(1) Subject to paragraph (2), the amendments made by this section shall not apply during 1989, 1990, and 1991 to a hospital located in a rural area (as defined for purposes of section 1886(d) of the Social Security Act) if the hospital establishes, before January 1, 1989, to the satisfaction of the Secretary of Health and Human Services that—

"(A) as of January 1, 1988, the hospital employed or contracted with a certified registered nurse anesthetist (but not more than one full-time equivalent certified registered nurse anethetist),

"(B) in 1987 the hospital had a volume of surgical procedures (including inpatient and outpatient procedures) requiring anesthesia services that did not exceed 250 (or such higher number as the Secretary determines to be appropriate), and

"(C) each certified registered nurse anesthetist employed by, or under contract with, the hospital has agreed not to bill under part B of title XVIII of such Act for professional services furnished by the anesthetist of the hospital.

"(2) Paragraph (1) shall not apply in 1990 or 1991 to a hospital unless the hospital establishes, before the beginning of each respective year, that the hospital has had a volume of surgical procedures (including inpatient and outpatient procedures) requiring anesthesia services in the previous year that did not exceed 250 (or such higher number as the Secretary determines to be appropriate).

"(3) A hospital to which this subsection otherwise applies for 1990 or 1991 may elect, by notice to the Secretary before the beginning of the year, to terminate treatment under this subsection for that year (and any succeeding year).

"(4) The Secretary shall implement this subsection in such a manner as to maintain budget neutrality consistent with section 1833(l)(3) of the Social Security Act.".

(d) EFFECTIVE DATE.—

(1) The amendments made by this section shall be effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988.

(2) In the event the Medicare Catastrophic Coverage Act of 1988 has not been enacted on or before the date of enactment of this Act, the amendments made by this section are null and void.

MURKOWSKI (AND STEVENS) AMENDMENT NO. 2402

Mr. MURKOWSKI (for himself and Mr. STEVENS) proposed an amendment to the bill S. 1511, supra; as follows:

On page ——, line ——, delete subsection (1) of Section 417 and insert in lieu thereof the following:

(l)(1) Within six months after the date of enactment of the Family Security Act of 1988, an Indian tribe or Alaska Native organization may apply to the Secretary to conduct a work, training, and education program to carry out the purpose of this section. If the Secretary approves such tribe's or Alaska Native organization's application, the maximum amount that may be paid under section 403(k) to the State in which such tribe or Alaska Native organization is located shall be reduced by the Secretary in accordance with paragraph (2) and an amount equal to the amount of such reduction shall be paid directly to such Indian tribe or Alaska Native organization (without the requirement of any nonfederal share) for the operation of its work, training, and education program. In determining whether to approve an application from an Alaska Native organization, the Secretary shall consider whether approval of the application would promote the efficient and nonduplicative administration of work, education, and training programs in the State.

(2) The amount of the reduction under paragraph (1) with respect to any State in which is located an Indian tribe or Alaska Native organization with an application approved under such paragraph shall be an amount equal to the amount that bears the same ratio to the maximum amount that could be paid under section 403(k) to the State as

(A) the number of adult members of such Indian tribe receiving child support supplements under this part bears to the number of all such adult recipients in the State, or

(B) the number of adult Alaska Natives receiving child support supplements under this part who reside within the boundaries of such Alaska Native organization bears to the number of all such adult recipients in the State of Alaska.

(3) The work, training, and education program set forth in the application of an Indian tribe or Alaska Native organization under paragraph (1) need not meet any requirement that of the program under this section that the Secretary determines is inappropriate with respect to such work, training, and education program.

(4) The work, education, and training program of any Indian tribe or Alaska Native organization may be terminated voluntarily by such tribe or Alaska Native organization or may be terminated by the Secretary upon a finding that the tribe or Alaska Native organization is not conducting such program in substantial conformity with the terms of the application approved by the Secretary, and the maximum amount that may be paid under section 403(k) to the State within which the tribe or Alaska Native organization is located (as reduced pursuant to paragraph (1)) shall be increased by any portion of the amount retained by the Secretary with respect to such program (and not payable to such tribe or Alaska Native organization for obligations already incurred). The reduction under paragraph (1) shall in no event apply to a State for any fiscal year beginning after such program is terminated if no other such program remains in operation in the State.

(5) For purposes of this subsection, an Indian tribe is any tribe, band, nation, or other organized group or community of Indians that—

(i) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(ii) for which a reservation (as defined in paragraph 6 of this subsection) exists.

(6) For purposes of this subsection, a reservation includes Indian reservations, public domain Indian allotments, and former Indian reservations in Oklahoma—

(7) For purposes of this subsection—

(A) An Alaska Native organization is any organized group of Alaska Natives eligible to operate a Federal program under P.L. 93-638 or such group's designee;

(B) The boundaries of an Alaska Native organization shall be those of the geographical region, established pursuant to section 7(a) of the Alaska Native Claims Settlement Act, within which the Alaska Native organization is located (without regard to the ownership of the land within the boundaries);

(C) The Secretary may approve only one application from an Alaska Native organization for each of the twelve geographical regions established pursuant to Section 7(a) of the Alaska Native Claims Settlement Act; and

(D) Any Alaska Native, otherwise eligible or required to participate in a work, education, and training program, residing within the boundaries of an Alaska Native organization whose application has been approved by the Secretary, shall be eligible to participate in the work, education, and training program administered by such Alaska Native organization.

(8) Nothing in this subsection shall be construed to grant or defer any status or powers other than those expressly granted in this subsection or to validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Senate Committee on Energy and Natural Resources.

The hearing will take place Thursday, June 23, 1988, at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony concerning the greenhouse effect and the development of policies for responding to global climate change.

Those wishing to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, room SD-364, Senate Dirksen Office Building, Washington, DC. 20510-6150.

For further information, please contact Leslie Black, professional staff member at (202) 224-9607.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, June 16, 1988 to conduct a hearing on "Drug Abuse: Prevention, Education and Treatment."

The **PRESIDING OFFICER.** Without objection, it is ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 16, 1988, to hold a hearing on the Customs Service budget authorization.

The **PRESIDING OFFICER.** Without objection, it is ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. BYRD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing to consider Vocational Rehabilitation oversight; vocational training of pensioners extension legislation; S. 2207 (assistive animals) and oversight of DM&S assistive programs for disabled persons; S. 2294 (VA proposed health legislation); S. 2396 (legislation to expand the period considered the Vietnam era); S. 2419, (the "Veterans' Housing Amendments of

1988"); S. 2426, (the "Veterans' Administration Insurance Amendments of 1988"); S. 2462 (health care improvements); S. 2463 (MIREC's); S. 2446 (extend respite care); S. 2459 (extend vocational training); S. 2293 (including limit on minor construction); and S. 2394 (bypass civil service procedures) on Thursday, June 16, 1988 in SR-418.

The **PRESIDING OFFICER.** Without objection, it is ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, June 16, 1988, to receive testimony on H.R. 1173, a bill to provide for certain restrictions on the use of lands within boundaries of national parks and monuments; and S. 927 and H.R. 1975, bills to protect caves resources on Federal lands, and for other purposes.

The **PRESIDING OFFICER.** Without objection, it is ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, June 16, 1988 to hold an oversight hearing on the implementation of the Agricultural Credit Act of 1987 with respect to the farm credit system.

The **PRESIDING OFFICER.** Without objection, it is ordered.

SUBCOMMITTEE ON HAZARDOUS WASTES AND TOXIC SUBSTANCES

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Subcommittee on Hazardous Wastes and Toxic Substances, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 16, 1988, to conduct a hearing on applying NEPA (the National Environmental Policy Act) to U.S. activities involving international financial institutions.

The **PRESIDING OFFICER.** Without objection, it is ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 23, 1988, at 2 p.m. to hold a hearing on humanitarian aid to Afghanistan.

The **PRESIDING OFFICER.** Without objection, it is ordered.

ADDITIONAL STATEMENTS

RHODE ISLAND ARTISTS EXHIBIT IN MOSCOW

● Mr. **PELL.** Mr. President, while much of the current cultural exchange between the United States and the Soviet Union focuses on the major arts institutions of each country, there are also some important exchanges taking place that highlight the less well-known but very distinctive art being produced in regions of the United States.

One such exhibition now on display at the Exhibit Hall of the Moscow Artists' Union features the work done by a group of Rhode Island artists known as Nineteen on Paper. One of these artists, Jan Swearer, was responsible for making the contacts that eventually led to this wonderful showing of work that is so representative of my State's artistic community.

The Newport Daily News, June 9, 1988, included an editorial about this exhibition in Moscow and I ask that it be reprinted here for my colleagues to read.

The editorial follows:

NINETEEN R.I. ARTISTS EXHIBIT WORK IN MOSCOW

The Rhode Island art group, "Nineteen on Paper," is showing its work at the Exhibit Hall of the Moscow Artists' Union in the Soviet Hall of Art (Moscow, U.S.S.R.) through the end of June. This is the group's second show in the Soviet Union. In February their works were on display at the Spaso House Gallery in the American Ambassador's Moscow residence, where they were viewed primarily by invited guests.

That show has been transferred to the public exhibition space of the Moscow Artists' Union, where it will be accessible to Russian artists and the general public.

Moscow art-lovers, accustomed to seeing regional art exhibits in the various galleries of the huge Soviet Hall of Art, will find themselves face-to-picture with a regional show from the other side of the world. This exhibit was arranged by artists in Providence and Moscow through contacts made by Jan Swearer, one of the "19," who was in the Soviet Union looking at art for an article on the Soviet contemporary art scene, "Summer 1987." Her husband, Howard R. Swearer, president of Brown University, was simultaneously furthering contacts between Brown and the A.M. Gorki Institute of World Literature, the Space Institute and the USA-Canada Institute.

Dr. Dmitri M. Urnov, of the A.M. Gorki Institute, has been involved in a program with Brown University, and he arranged an informal dinner in the studio of Myron Lukoanov, graphic artist and painter. Several months later, when the show at the Ambassador's residence became fact, "Nineteen on Paper" decided to seek a way to reach beyond diplomatic circles with their art.

Lukoanov, a respected member of the Moscow Artists' Union, offered to arrange a general public showing under the Union's auspices. The Artists' Union is the means by which Soviet artists interact within the art scene. Now it is also the means by which Rhode Island artists can reach the Moscow art community.

The 19 Rhode Island artists produce work in a variety of media and techniques (prints, drawings, paintings, photographs), presenting images from the totally abstract to the representational, each a strong personal statement and together an indication of trends in the New England area.

"Nineteen Rhode Island Artists on Paper" was formed in 1986 to provide a forum for the sharing of many aspects of the creative process, including the presentation of groups of works for exhibition and the sale of members' works in portfolios. The group has exhibited twice in Newport, in Providence, and Boston and plans to show in London and Rome in the coming months.

Group members are Barbara Alpert, Suzanne D'Avanzo, Candis Dixon, Wendy Edwards, Isabelle Famiglietti, Lea Feinstein, Bunny Harvey, Liz Horan, Mary Hutchins, Rebecca Jenness, Riva Leviten, Paula Most, Sylvia Petrie, Margot Rubin, Judith Singsen, Nancy Spencer, Jan Swearer, Gail Whitsitt-Lynch, Estyn Williams, and Carolyn Wolf.●

HONORING THE RETIREMENT OF ANN E. SMITH

● Mr. **D'AMATO.** Mr. President, I rise today to pay special tribute to Ann E. Smith, who retires this year as executive administrator for the Nassau County Board of Cooperative Educational Services. For more than 40 years Ann has dedicated herself to serving the citizens of Nassau County through her work in the fields of health and education. I am pleased to express my personal appreciation for her many contributions to the Nassau community.

Prior to her tenure with Nassau BOCES, Ann served the community well in her position as head nurse of the surgical unit at Central Islip State Hospital. She has also spent more than 8 years as a school nurse in the Northport public schools, where she implemented a number of innovative programs, including an adaptive physical education program and a senior internship program.

As executive director at Nassau BOCES, Ann has succeeded not only in managing a diverse professional staff of more than 70 members, but has also supervised the health and remedial services programs in 42 nonpublic schools and the tutorial programs in several drug rehabilitation centers.

Among the highlights of Ann's many initiatives at Nassau BOCES has been the comprehensive education program for pregnant teenagers she inaugurated 7 years ago. This program has allowed pregnant teenagers to continue working toward a high school diploma while deriving the benefit of guidance counseling, instruction in parenting skills, and psychological services. Remarkably, of the 250 students who have enrolled in this program since 1982, fewer than 1 percent have dropped out of school.

I am certain that the strength of Ann's contributions will be remembered in the local community and beyond long after her retirement next month. On behalf of countless individuals who have come to know and respect Ann Smith during her 40 years of work in Nassau County, I offer sincere congratulations and the best of wishes in all of her future endeavors.●

RHODE ISLANDERS CELEBRATE 1,000 YEARS OF CHRISTIANITY IN RUSSIA

● Mr. PELL. Mr. President, on May 1, 1988, approximately 500 people of various denominations gathered in Rhode Island to celebrate the Russian Christian Millennium.

The event centered around a service of thanksgiving at the Dormition of the Virgin Mary Orthodox Church in Cumberland, RI, which was celebrated by the Reverend Job, Bishop of Hartford and New England. The participants included Christians from all over New England and the Northeast.

Mr. President, I would like to commend all of those who participated in this historical and happy occasion. The celebration was the result of years of planning and hard work by many people. I would like to call particular attention to the efforts of the Reverend George N. Hunt, the Reverend Richard O. Singleton, the Reverend Lionel A. Blaine, Mr. David Cobb, and Miss Alice A. Brickach, who contributed so much to ensure the success of the celebration.

The millenium of Christianity in Russia bears great significance not only for those who practice their faith in the Soviet Union, but also for the many who have emigrated and have brought their religious and cultural heritage to the United States. I am pleased and honored to share their joy with my colleagues in the Senate.●

COSPONSORING S. 2119

● Mr. D'AMATO. Mr. President, I am pleased to rise in support of S. 2119, a bill to assure the continued tax-free treatment of employer-provided group legal services. This bill would amend section 120 of the Internal Revenue Code to make permanent the tax exclusion of group legal services which are provided employees as a work benefit.

Tax exclusion of group legal services is not a new provision. Employees have been allowed to exclude such benefits from their gross income since 1976. Initial enactment of this provision, however, was on a 5-year trial basis, which required Congress to revisit the issue in 1981 and twice thereafter. In each instance we reaffirmed our support for the provision recognizing the many benefits that flow from group legal services.

Group legal services provide valuable and necessary assistance to millions of Americans. With the growing complexity of today's world, the need of ordinary citizens for legal counsel has become greater. Be it a real estate transaction, preparation of a will, or a simple divorce, Americans are frequently confronted with problems of a legal nature, which makes access to a lawyer indispensable. Group legal services are a low cost, effective source for legal counseling.

Mr. President, there is no reason why we should not make this tax exclusion a permanent part of the Tax Code. By making it permanent we remove the cloud hanging over the legal service industry and clear up the uncertainty about legal service tax treatment that now troubles plan participants. Indeed, certainty in this context is crucial. It is unfair to require providers and participants to guess whether Congress will extend the exclusion or not each time the provision is due to expire. Such unpredictability retards the growth and availability of group legal services and hampers financial planning.

I urge my colleagues, Mr. President, to join in our efforts to clarify once and for all the tax treatment of employer-provided group legal services. I also urge our colleagues in the House to send to the Senate a technical corrections bill including this provision so we may finally lay to rest this issue.

SOWETO REMEMBRANCE DAY

● Mr. RIEGLE. Mr. President, in memory of the thousands of victims of the 1976 Soweto uprising and to show solidarity with the courageous peoples of all races in South Africa and throughout the world who are fighting against apartheid, I am pleased to cosponsor Senate Journal Resolution 339 designating June 16, 1988 as "Soweto Remembrance Day."

On this sad and bloody day 12 years ago, more than 1,000 children were brutally murdered, and an additional 5,000 were wounded by South African police. These innocent children were gunned down in the streets of Soweto while protesting the South African Government's ban on allowing schools to educate blacks in their native language.

In marking the anniversary of one of South Africa's most violent attacks on blacks, we cannot ignore South Africa's most recent repressive act. On June 9, 1988, the South African Government extended for another year the nationwide state of emergency that was imposed 2 years ago in an effort to turn back the antiapartheid campaign launched by the black majority. In spite of appeals by South African antiapartheid groups and foreign governments to return the country to normal statutory law, President Pieter W. Botha decided to extend the unjust restrictions on personal freedoms, by suspending constitutional and judicial protection of civil rights.

Since the emergency decree was first imposed 2 years ago, more than 3,000 people, mostly blacks, have died and more than 40,000 black South Africans, including more than 8,000 children, have been detained indefinitely without charge or trial by the South African Government. President Botha's extension of the emergency decree is another indication that the ruling, white minority of South Africa prefers to govern through repression and violence, and remains largely unresponsive to the black majority's call for an end to apartheid and an opening of the democratic process to all South African citizens.

I believe that the United States must actively support the struggle for equity and justice in South Africa. To that end, I urge all of my colleagues to cosponsor S. 556, the Anti-Apartheid Amendments Act of 1988. Adoption of this important legislation will, I believe, strengthen the hand of black South Africans and make clear our Government's opposition to the racist policy of apartheid.●

TRIBUTE TO BERTHOLD GASTER

● Mr. DODD. Mr. President, I rise today to honor an outstanding member of my home State of Connecticut, Mr. Berthold Gaster.

As editor and publisher of the Connecticut Jewish Ledger, Mr. Gaster has an unmatched record of service to the Jewish communities of Hartford and Connecticut. He was honored on June 12 as the recipient of the "1988 Humanitarian Award of Ararat Lodge of B'nai Brith," the oldest lodge in continuous existence in the world. The presentation was made at Beth David Synagogue, at the 137th annual meeting of the lodge.

For many years, Mr. Gaster has dedicated himself tirelessly to the Jewish community of Connecticut. He has chaired the community-wide Holocaust Commemoration for the past 8 years, is a member of the Hall of Fame of Greater Hartford Athletes and Sports Figures Committee, and serves as vice-president of the Hartford District of the Zionist Organization of American and of Agudas Achim Synagogue of West Hartford. A recipient of many journalistic and service awards, Mr. Gaster's political career is also impressive. He has been an appointee of Gov. Ella T. Grasso and Gov. William O'Neill to the Connecticut Historical Commission since 1976. And he has enjoyed a close working relationship with the local and national B'nai B'rith.

Mr. Gaster has dedicated himself to serving the Jewish communities of Connecticut for many years. It is rare to find such a longstanding record of devotion and hard work from a man who has held so many leadership roles. Mr. Gaster has earned the respect of countless Connecticut residents. On behalf of those he has served, I thank Mr. Gaster for his outstanding contribution to the Connecticut Jewish community.●

THE PRESIDENT'S STATEMENT CONCERNING THE BIDEN CONDITION

● Mr. PELL. Mr. President, on Friday, June 10, President Reagan conveyed a formal message to the Senate concerning the Senate's action in approving the INF Treaty. Much of that statement was devoted to commentary on the so-called Biden condition, which the Foreign Relations Committee attached to the INF Treaty resolution of ratification and which the Senate upheld by a vote of 72 to 27 after minor modification. Because the President's formal statement criticizes the Biden condition—and in ways which I judge to be inaccurate—I believe it important to clarify where matters now stand.

Let me comment first on the status of the President's postratification message. What weight or significance does it have? Can the President's statement alter the effect of the Biden condition? I quote from the relevant section of the Foreign Relations Committee report on the INF Treaty:

> * * * the [Biden] condition is binding under domestic law, and obtains its binding effect because the President, in the absence of the resolution of ratification, lacks authority to participate in the Treaty's ratification. He obtains such authority through the resolution of ratification and is governed by any stipulations by which the Senate conditions its consent.
>
> In sum, the President may not act upon the Senate's consent without honoring this condition. Nothing that he or his Administration does, by statement or action, whether before or after the act of ratification, can alter the binding effect of any condition which the Senate places upon its consent to treaty ratification. If the President brings the INF Treaty into force, the [Biden] Condition takes effect.

Mr. President, I think this portion of the committee report demonstrates quite clearly that the Biden condition is binding on the administration, notwithstanding anything in the President's statement. Nonetheless, the President's message to the Senate warrants comment, because it demonstrates a continuing unwillingness of the part of this administration to recognize or acknowledge what was truly at issue.

What was at issue, Mr. President, was the Sofaer Doctrine, a constitutional assertion promulgated by this administration in the course of its efforts to fabricate a rationale for the so-called reinterpretation of the ABM Treaty of 1972. According to the Sofaer Doctrine, executive branch representations to the Senate concerning the meaning of a treaty have binding weight only if such statements meet three criteria: they must, in the judgment of the Executive, have been "generally understood, clearly intended, and relied upon" by the Senate.

These criteria may sound innocent enough, and indeed no one would disagree that if the criteria are met the Executive is bound. But the Sofaer Doctrine asserts much more: that the Executive is bound only if the criteria are met. The implication of this doctrine is profound. For if accepted, it would place upon the Senate a burden of proof to demonstrate its fulfillment of these critieria—a burden that, in practical terms, could only be carried by formal and elaborate Senate conditions on each and every treaty's resolution of ratification.

Clearly, such a practice, if regularized, would have devastating consequences for the treaty process. Yet, in the absence of such explicit assertions of Senate purpose, the Executive could in most cases argue that the Senate had not fulfilled all three of the criteria concerning a particular treaty provision. This would mean that the practical effect of the Sofaer Doctrine, if accepted explicitly or by Senate acquiescence, would be to accord the Executive virtually free reign, in interpreting a treaty, to ignore its own representations to the Senate.

According to the President's June 10 statement, the Biden condition "seeks to alter the law of treaty interpretation." But in fact nothing could be further from the truth. The Biden condition represents a Senate effort to uphold the law, by affirming the clear constitutional principle that a treaty must be interpreted and implemented by the Executive in accord with the original understanding of the treaty shared by the Executive and the Senate when the Senate gives its consent to ratification.

In addition, and very importantly, the condition denotes where evidence of that shared understanding is to be found. According to the Biden condition:

> Such common understanding is based on:
>
> First, the text of the treaty and the provisions of this resolution of ratification; and
>
> Second, the authoritative representations which were provided by the President and his representatives to the Senate and its committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the treaty.

The President's statement strongly implies that this formulation would drastically alter the traditional approach to treaty interpretation because it "subordinates fundamental and essential treaty interpretative sources such as the treaty parties' intent, the treaty negotiating record and the parties' subsequent practices." But let us examine each of these three elements against the accusation that they have been unduly subordinated by the Biden condition.

First, "the treaty parties' intent." Is the administration suggesting that it is constitutionally acceptable for the Executive to enter into a treaty in which the intent of the treaty or a provision thereof may be absent from the text of the treaty or the Executive explanation of the treaty, and then later to assert that this theretofore hidden intent may suddenly supersede the text and the Executive's original explanation to the Senate thereof? If that is the administration's implied assertion, then it is not the Biden condition which subordinates the treaty parties' intent; it is the Constitution.

Next, the treaty negotiating record, which is a precise-sounding phrase for what in reality is no more than the aggregate of any and all internal U.S. Government memoranda which may pertain to the positions adopted by the United States during a negotiation and the events which occur in the negotiation—all as recorded by various U.S. negotiators. Is the administration suggesting that it is constitutionally acceptable for the Executive to enter into a treaty and then to assert at some subsequent point that some paragraph from one of these internal U.S. Government memoranda must take precedence over the text of the treaty and the Executive's explanation to the Senate thereof? If that is the administration's implied assertion, then it is not the Biden condition which subordinates the treaty negotiating record; again, it is the Constitution.

Finally, the parties' subsequent practices. Of course, under international law subsequent practice is a well recognized, albeit secondary, criterion of treaty interpretation. But is the administration suggesting that it is constitutionality acceptable for the Executive to engage in subsequent practice which is at odds with the text of the treaty or with the explanation of that text as presented to the Senate? If that is the administration's implied assertion, then it is not the Biden condition which subordinates the parties' subsequent practices; once again, it is the Constitution.

Mr. President, no one disputes that all three of these elements—intent of the parties, negotiating history, and subsequent practice—may have interpretive significance in the implementation of a treaty. When a question arises which cannot be answered by reference to the treaty text or to the Executive's original description and analysis of the treaty as presented to the Senate, such criteria may be useful in clarifying a fine point of treaty interpretation. But under the Constitution those elements cannot be used to subordinate the text, or the original shared understanding of the text held by the Executive and the Senate when a treaty is ratified. To accept that would be to overturn the essential logic of treatymaking, and to negate the Senate's constitutional role under the Treaty Clause.

This brings us, Mr. President, to the administration's principal claim against the Biden condition, a charge encapsulated in the following sentence in the President's letter:

> As a practical matter, the Senate condition only can work against the interests of the United States by creating situations in which a treaty has one meaning under international law and another under domestic law.

This specter, Mr. President, of "two treaties"—one highly restrictive on the United States and the other less restrictive on the other party—is essentially a false alarm raised by the administration on the basis of argumentation that is neither consistent nor persuasive.

As to consistency, the President's letter itself states that "the administration does not take the position that the executive branch can disregard authoritative Executive statements to the Senate." Indeed, the letter appears to acknowledge that binding weight must be accorded to Executive statements if such statements were "authoritatively communicated to the Senate by the Executive" and if such statements "were part of the basis on which the Senate granted its advice and consent to ratification." Thus, by its own acknowledgment, the administration accepts the principle that some statements by the Executive have binding significance. Accordingly, the administration cannot logically contend that it is the Biden condition which creates the possibility that U.S. obligations under domestic and international law could, under extraordinary circumstances, conflict. Rather, it is the Constitution. The possibility of a conflict between domestic and international obligations inheres even in the administration's model.

What is at issue—and what is solely at issue—is precisely which statements by an administration shall be accorded binding weight. By its assertion of the so-called Sofaer Doctrine, the Reagan administration endeavored to establish criteria which are so difficult to meet that the Executive would, in practice, be bound by few if any of its statements. The Biden condition in contrast affirms in effect that all of the Executive's authoritative explanations are relevant to the Executive's obligations in interpreting and implementing a treaty. Each such authoritative executive branch statement may not in and of itself be binding. But taken collectively, an administration's representations constitute a substantial body of evidence as to what the Executive and the Senate jointly understood a treaty to mean at the time of ratification. And that shared understanding cannot be ignored; it is binding in setting the limits of a President's latitude in treaty interpretation.

I would stress that any potential doubt about the Senate's view on this question was eliminated during consideration of the Biden condition, when administration supporters offered amendments explicitly intended to incorporate into the Biden condition the very elements of the Sofaer Doctrine which the Biden condition was designed to repudiate. I am pleased to note that these amendments were defeated by virtually the same overwhelming Senate majority which upheld the Biden condition.

As to the "two treaties" specter raised by the President's letter, I think it appropriate to quote once again from the Foreign Relations Committee report on the INF Treaty:

> * * * the White House * * * seeks to raise the specter of the United States being bound by constitutional processes to one interpretation of a treaty while the Soviet Union is free to apply a less restrictive interpretation.
>
> This specter—originally raised by Mr. Sofaer while trying to justify the broad ABM Treaty interpretation—is highly theoretical. It is a truism that the Executive has different obligations under domestic and international law, and therefore it is possible to hypothesize situations in which those obligations could conflict. However, in practice this has not proven to be a serious problem and there is no basis for the administration's assertion that the condition "would substantially increase this risk" * * *.
>
> An apparent premise of the Sofaer Doctrine is that practical difficulties would ensue if the Executive were bound by what it tells the Senate, because it would not be an abnormal circumstance for a difference to exist between what was agreed to with the other party and the explanations provided to the Senate. There should be no such difference. It is the Executive's responsibility to ensure sufficient clarity in a treaty and in its explanations thereof to the Senate so that no conflict exists between the shared understanding of the parties on the one hand and the shared understanding of the Executive and the Senate on the other. If, in extremis, such conflict should arise and prove not resolvable by discussion or negotiation with the other party, the United States of course has the option of withdrawing from the treaty.
>
> In sum, this largely theoretical problem should be addressed if and when it arises—not be a preemptive alteration of constitutional principles. The Senate should not accept a doctrine that assumes and protects carelessness or deviousness on the part of the Executive.

In closing, Mr. President, let me say that I agree with certain of the conclusions in President Reagan's message to the Senate. The President states as follows:

> I cannot accept the proposition that a condition in a resolution to ratification can alter the allocation of rights and duties under the Constitution; nor could I, consistent with my oath of office, accept any diminution claimed to be effected by such a condition in the constitutional powers and responsibilities of the Presidency.

Unfortunately, while this particular statement by the President is unarguably true, it contains a false implication: that the Biden condition was aimed at altering the Constitution. In fact, quite the opposite is the case. The sole and fundamental purpose of the Biden condition was to uphold the Constitution by repudiating assertions made by this administration that would, if accepted explicitly or by acquiescence, have undercut the Constitution's allocation of a joint Executive-Senate role in the exercise of the Treaty Power.

Let me then reiterate: The aim of the Biden condition was not to alter constitutional principles or create them, but to defend and reaffirm principles inherent in the Constitution but threatened by the Executive aggrandizement implicit in this administration's promulgation of the Sofaer Doctrine. Fortunately, by means of the Biden condition, that defense and reaffirmation have now been accomplished. The Sofaer Doctrine has been formally and overwhelmingly rejected. And nothing in the President's post-ratification letter has changed or could change that fact.

Mr. President, I ask that there appear in the RECORD at this point the text of the President's June 10 letter. I also call attention to the relevant section of the Foreign Relations Committee report which warrants special attention as a definitive refutation of the points made in the President's letter.

The letter follows:

To the Senate of the United States:

I was gratified the United States Senate gave its advice and consent to the ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate- and Shorter-Range Missiles (INF Treaty). It was my honor to exchange instruments of ratification on June 1 in Moscow, and the Treaty has now entered into force.

During the past 4 months, the Senate has performed its constitutional duties with respect to the advice and consent to this Treaty in an exceptionally serious and diligent manner. On the Administration's part, we spared no effort to respond to the Senate's needs, and to do our best to ensure that the Senate had all the information it needed to carry out its constitutional responsibilities. Administration witnesses appeared in more than 70 formal hearings and many more informal briefings; we provided detailed written answers to over 1,300 questions for the record from the Committees and individual Senators; and we provided access to the negotiating record of the Treaty, comprising 31 bound volumes.

In short, I believe the Executive branch and the Senate took their responsibilities very seriously and made every effort to work together to fulfill them in the common interest of advancing the national security of the United States and our Allies and friends. The Treaty will bear witness to the sincerity and diligence of those in the Executive branch and the Senate who have taken part in this effort.

As noted in my statement issued on May 27, the date of final Senate action, one provision of the Resolution to Ratification adopted by the Senate causes me serious concern.

The Senate condition relating to the Treaty Clauses of the Constitution apparently seeks to alter the law of treaty interpretation. The accompanying report of the Committee on Foreign Relations accords primacy, second only to the Treaty text, to all Executive branch statements to the Senate above all other sources which international forums or even U.S. courts would consider in interpreting treaties. It subordinates fundamental and essential treaty interpretative sources such as the treaty parties' intent, the treaty negotiating record and the parties' subsequent practices.

Treaties are agreements between sovereign states and must be interpreted in accordance with accepted principles of international law and United States Supreme Court jurisprudence. As a practical matter, the Senate condition only can work against the interests of the United States by creating situations in which a treaty has one meaning under international law and another under domestic law. Unilateral restrictions on the United States should be avoided, especially in a treaty affecting vital national security interests. With respect to U.S. law, the President must respect the mutual understandings reached with the Senate during the advice and consent process. But Executive statements should be given binding weight only when they were authoritatively communicated to the Senate by the Executive and were part of the basis on which the Senate granted its advice and consent to ratification. This is in accordance with the legal standards applied by our courts in determining legislative intent. I commend the thoughtful statements made during the Senate debate by Senators Specter, Roth, Wilson, and others which amplify these concerns.

This Administration does not take the position that the Executive branch can disregard authoritative Executive statements to the Senate, and we have no intention of changing the interpretation of the INF Treaty which was presented to the Senate. On the contrary, this Administration has made it clear that it will consider all such authoritative statements as having been made in good faith. Nonetheless the principles of treaty interpretation recognized and repeatedly invoked by the courts may not be limited or changed by the Senate alone, and those principles will govern any future disputes over interpretation of this Treaty. As Senator Lugar pointed out during the debate, the Supreme Court may well have the final judgment, which would be binding on the President and Senate alike. Accordingly, I am compelled to state that I cannot accept the proposition that a condition in a resolution to ratification can alter the allocation of rights and duties under the Constitution; nor could I, consistent with my oath of office, accept any diminution claimed to be effected by such a condition in the constitutional powers and responsibilities of the Presidency.

I do not believe that any difference of views about the Senate condition will have any practical effect on the implementation of the Treaty. I believe the Executive branch and the Senate have a very good common understanding of the terms of the Treaty, and I believe that we will handle any question of interpretation that may arise in a spirit of mutual accommodation and respect. In this spirit I welcome the entry into force of the Treaty and express my hope that it will lead to even more important advances in arms reduction and the preservation of world peace and security.

RONALD REAGAN.

WHITE HOUSE, *June 10, 1988.*●

THE 30TH ANNIVERSARY OF THE EXECUTION OF PRIME MINISTER IMRE NAGY OF HUNGARY

● Mr. DODD. Mr. President, as dawn broke 30 years ago today, Imre Nagy, the legitimate and popular Prime Minister of Hungary, was led to the gallows in a Budapest prison yard and executed. Pal Maleter, his Minister of Defense, and another close associate, Miklos Gimes, were put to death at the same time as part of the Soviet inspired bloody revenge against the revolutionaries of 1956.

Mr. President, there was absolutely no conceivable political or military reason to kill these heroic leaders who were spontaneously elected by the masses during the Hungarian uprising of 1956. By that June 1958, the Hungarian revolution had already been crushed. Soviet domination had been restored in Hungary for over 1½ years, and hundreds of patriots who participated in the revolution had been executed. The only purpose was revenge, and the desire to set a sobering example to all the subjugated peoples of Eastern Europe of the consequences of trying to rid themselves of Soviet colonial power.

Prime Minister Nagy lived as a Communist, and probably died a Communist. He was, however, a rare Communist who tried to reconcile his ideological views with a human approach and a dedication to the well-being, liberty, and independence of his own people. In the Eastern Europe of the mid-fifties, living in the shadow of the Soviet Union, those were irreconcilable aspirations. He was ousted from his first term as Prime Minister by Muscovite hardliners who found his relaxed, liberal way of governing a threat to the existing order. He fell into disfavor for a number of years.

The night of October 23, 1956, as the revolution swept up the students and workers of Budapest, one name was on the lips of the hundreds of thousands of demonstrators: Imre Nagy. It was a remarkable historical occasion. The masses rose against Communist oppression and foreign domination, and at the same time, demanded to be lead by a Communist.

During the short life of the revolution, Imre Nagy's government enjoyed broad-based popular support and took its first steps out of the chaos of the uprising to reestablish order, and to start building a free and independent Hungary. This bright dream was cut short by the brutal Soviet invasion.

We know now that during his secret trail, Prime Minister Nagy was repeatedly offered his life in return for his denunciation of the revolution. He indignantly refused the offer because preserving the purity of the revolutionaries' cause and leaving the historical record immaculate was far more important to him than his own survival.

Mr. President, the Hungarian Revolution of 1956 was one of the most significant historic events of our century, and Imre Nagy was one of its most remarkable statesmen. The present leaders of Hungary may dispute this, but the fact, that today Hungary is governed in a much more enlightened fashion, that its leaders seek the approval and participation of its citizenry, is directly related to the historic sacrifice and legacy of Imre Nagy and his associates.

The remains of Imre Nagy still lie in an unidentified and unmarked grave in a Budapest cemetery as do of all the executed victims of the retribution. Thirty years later, in a relatively prosperous and relaxed Hungary there can be no more reason to keep the relatives of the deceased from properly honoring and reburying the ashes of their beloved. Allowing this to occur would not be a Capitalist or a Socialist gesture, it would be a measure of basic human decency. I strongly hope that the Government of Hungary will soon find the strength and magnanimity to carry through this overdue gesture of reconciliation.●

INFORMED CONSENT: LOUISIANA

● Mr. HUMPHREY. Mr. President, today I have a letter from a woman in Louisiana who has had an abortion. The woman who writes tells us that she is "one of the fortunate ones who have recovered." I only wish that all of the women who write to me could say this. Women who have abortions have no guarantee that they will be given all the facts about the procedure they will go through. But we owe them the dignity of being able to make such an informed decision about abortion. I urge my colleagues to join me in supporting S. 272 and S. 273. I ask unanimous consent that this letter be inserted in the RECORD.

The letter follows:

DEAR SENATOR HUMPHREY, I am one of the fortunate ones who have recovered.

Thirteen years ago I fell in love. I had been raised in a loving, christian home and thought I had high moral standards, but in seemingly no time at all I found I was pregnant.

I was scared and miserable, not to mention ashamed. Yet in my heart, I held a secret love for this baby. Almost immediately, I thought of the wonder of holding my own child in my arms.

It went against all my beliefs and hopes and dreams, but after weeks of intense pressure, I conceded to go to a clinic near the college I attended for counseling. Everything they said was aimed at easing my mind that this abortion was an easy alternative to "the problem." By now, I was emotionally ground down to accept any philosophy, and they seemed so kind and concerned. I wish I would have talked to my mother. She would have truly supported me, but the sly shroud of "confidentiality" offered me its protection.

I was never prepared for the fight my 8-12 week old baby would put up. That night, after placing some kind of substance in my womb to dry up the amniotic fluid, I experienced the worst cramping and fighting and kicking inside. After my boyfriend fled in terror, I was left alone to cry and agonize through the night. Finally all was quiet. The wicked deed had been done. Now all that was left was to face the D & C in the morning. I almost wished it were a firing squad. That was what I deserved.

Finally, springtime came, and love and trust grew again. Still trying to think of myself as "a nice girl," I refused to get any type of contraceptive. I didn't want to seem "prepared."

Stupidly, incredibly, the entire scene replayed itself, only more quickly, with a smaller emotional struggle on my part. Only the baby kicked just as strongly as before.

But I had saved my reputation. One month later, I walked down the aisle in my white wedding gown.

It didn't take long to loathe the animal heart that I developed inside, or build on the resentment or bitterness toward those who had pressured me.

The early trials of marriage were complicated by deep guilt and secret blaming.

Fortunately, I knew who to turn to. Knowing that God had the power to forgive even murderers like me, was the hope that saved our marriage.

At first, I thought maybe we could replace those babies. But now, we have four beautiful, individually brilliant children and I know those two will never, ever be duplicated. I wonder what joy I have deprived the world of. Who did I kill?

ANONYMOUS.●

GEORGE BLEIDT

● Mr. McCONNELL. Mr. President, it is not uncommon for people in rural western Kentucky to enjoy diverse lifestyles that provide them with a wide variety of experiences. This was certainly the case of Mr. George Bleidt, a resident of Cadiz, KY, who recently passed away.

Mr. Bleidt was a cofounder of the Bank of Cadiz, for which he was president for 2 years. He also served as postmaster and unofficial mayor of Golden Pond and worked with U.S. Geological Survey. Additionally, he worked in a general store and served as a funeral director.

Mr. President, I would like to insert into the RECORD an article about the colorful life of this unique individual who will be dearly missed by his many friends in western Kentucky. I am sure all the Members of this body will join me in sending our most heartfelt condolences to his wife, Mary Emma, and family.

The article follows:

[From the Cadiz (KY) Record, June 1, 1988]

RESIDENTS MOURN TWO DEATHS

CADIZ, KY.—Two of the original founders and directors of the Bank of Cadiz and Trust Company died last week following long illnesses.

Cadiz resident George Washington Bleidt, 77, and John Omer Hill, 84 died last Thursday and Wednesday. Both men were instrumental in the organization of the bank and both were active leaders of the Republican Party. Bleidt died at 1:50 p.m. at Trigg County Hospital and Hill died at 1:15 p.m. at Jennie Stuart Medical Center.

Bleidt served as the bank's president in 1970 and 71 during the bank's first two years of operation.

In addition to being active with banking duties, Bleidt was a member of the Cadiz Baptist Church and a leader in the postal service.

Bleidt was the postmaster and unofficial mayor of Golden Pond for almost 30 years. An outgoing man with a gift for storytelling and a deep respect for his region's colorful history, he maintained a personal acquaintance with virtually all of the Trigg County residents of the Between-the-Rivers area during his long tenure.

Born on Feb. 22, 1911—George Washington's birthday—and named for the nation's first president, he was the sixth of seven children in the family of Ernest R. and Della Lane Bleidt. His father, a storekeeper and farmer, had migrated by river to Trigg County from Pittsburgh, Pa., with his parents in the 1880s. The family operated a store and post office at a Between-the-Rivers steamboat landing named Bleidt, Ky.

The Bleidts and others in the migration from Pittsburgh were mostly second-generation German immigrants. They established St. Joseph Catholic Church, the first and only Catholic Church in Trigg County until recent times. The Bleidts later converted to the Baptist faith.

The family lived briefly in Cadiz in the 1920s and then returned to Golden Pond, where George Bleidt graduated from high school in 1930. By that time, he had worked with the United States Geological Survey in eastern Kentucky for two years. Immediately after his high school graduation, he spent a year working near Durango, Co., on the western slope of the Rocky Mountains.

On Feb. 20, 1931, George Bleidt married Mary Emma Wilson of Golden Pond, whose parents were Charles and Elizabeth Carpenter Wilson, both came from families long established in this area.

Bleidt first worked for the post office as a star-route carrier in the mid-1930s. He was associated with his father in-law for a number of years in the operation of Wilson's General Store in Golden Pond. And, he also farmed with his father, Ernest Bleidt. The general store also served as the town's funeral parlor, and Bleidt served as a funeral director.

In 1942, Bleidt was appointed postmaster of Golden Pond, and he held that position until his retirement in 1968. From 1944 to 1945 he served in the U.S. Navy, spending most of his tour of duty at the fleet post office in San Francisco, Ca.●

DISTINGUISHED CITIZENS ASSOCIATED WITH NATIONAL HISTORY DAY

● Mr. KARNES. Mr. President, I rise today to honor the some 250,000 young men and women annually who now participate in National History Day. This program, begun in 1974 in the Cleveland, OH, area to encourage high school students to learn more about the history around them, has grown into a truly national program. Dr. Lois Scharf of Case Western Reserve University is to be commended for her part in moving what began as a local program into the national arena.

I would also like to offer a special note of commendation to sixth grade teacher, Mrs. Mary Lou Green, who teaches at Saint Isidore's in Columbus, NE. Mary has been a part of National History Day almost since its beginning and has played a major part in sending young Nebraska students to the national competition each year.

In addition, I am proud to announce to my Senate colleagues that five Nebraskans: Marcel English, Jonathon Fitzgibbon, Cheryl Stevens, Darin Stringer, and Joshua Yost, all of Red Cloud, NE, took second place in the junior group project category. Their project titled, "Orphan Trains—Stopping for a New Beginning," fits in well with the theme of this year's national convention, "New Frontiers in History: People, Places, Ideas."

Again, congratulations to each and everyone of you for working so hard to bring history alive for all of us.●

FRANK DROZAK—PRESIDENT OF THE SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO

● Mr. MOYNIHAN. Mr. President, I rise today with surpassing sadness. We have lost a friend. The working men and women of this Nation have lost a friend. Frank Drozak was one of those individuals whose life was a story deeply rooted in the American tradition of hard work and dedication; struggle and success—success characterized by a commitment to people—his people, some 90,000 members of the Seafarers International Union of North America.

His life's labor earned him achievements and great success, but he did not desert his peers or his constituency. He stayed with them and defended them. He knew his people well; he was, after all, one of them.

He grew up there in Alabama, eventually finding his way to the docks of Mobile. During the war he served as a U.S. merchant marine gaining both his sealegs as well as his bosun's license. Not unsteadying or insignificant accomplishments. In the course of time and travel he moved up the ranks of the international union becoming its vice president in 1965. In 1980 he was elected, and quite justly so, president of that union which had been his life; he had been with it for so very long. Frank became a member of the AFL-CIO executive council in 1981 where he served as vice president. His talents were extended to numerous boards, councils and committees which are nearly too numerous to count.

He was exceptionally well qualified and so well equipped to lead that great union of his. He will be so very deeply missed. I salute him farewell.●

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

Mr. BYRD. Mr. President, I have indicated to the distinguished Republican leader my intention to initiate rule XIV procedure with respect to a plant-closing bill. Although he is not here to object after the first reading, I am sure Mr. STEVENS or someone else will fulfill that requirement, which helps to get the bill on the calendar through the rule XIV procedure.

Mr. President, I send to the desk, on behalf of Mr. METZENBAUM and other Senators, a bill to require advance notification of plant closings and mass layoffs, and for other purposes. I ask that it be read the first time.

The PRESIDING OFFICER. The bill will be read the first time.

The legislative clerk read as follows:

A bill (S. 2527) to require advance notification of plant closings and mass layoffs, and for other purposes.

Mr. BYRD. Mr. President, I ask that the bill be read the second time.

Mr. STEVENS. Mr. President, on behalf of the minority leader, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. I thank the distinguished Senator from Alaska.

GREAT SMOKY MOUNTAINS NATIONAL PARK

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 580, an act to designate certain lands in the Great Smoky Mountains National Park as wilderness, and for other purposes.

Mr. HELMS. I object.

CLOTURE MOTION

Mr. BYRD. Mr. President, I move that the Senate proceed to the consideration of the Calendar Order No. 580, H.R. 1495, an act to designate certain lands in the Great Smoky Mountains National Park as wilderness, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of H.R. 1495, an act to designate certain lands in Great Smoky Mountains National Park as wilderness, to provide for settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943, and for other purposes.

Senators Jim Sasser, Don Riegle, Ernest F. Hollings, John Glenn, Paul Simon, Spark Matsunaga, Wendell Ford, Alan J. Dixon, J. Bennett Johnston, David Pryor, Dale Bumpers, Christopher Dodd, Terry Sanford, Richard Shelby, Richard G. Lugar, John Melcher and Patrick Leahy.

Mr. BYRD. Mr. President, I shall yield the floor in the event any Senator wishes to address the remarks to this motion. It will be my intention to adjourn the Senate shortly in which case the motion to proceed would die, it being an adjournment, but the vote on the motion to invoke cloture on the motion to proceed would nevertheless occur under rule XXII on Monday, that being the next day following the interim day.

I yield the floor.

Mr. HELMS. Mr. President, let me thank the distinguished majority leader for doing what he always does, shooting square on this matter. I recognize that he felt obliged to call up this bill and he recognizes, I hope, that I have done everything within my power to try to negotiate a compromise, but none has been possible, certainly as of now.

The problem with this bill is that it was offered initially by two Senators from another State presuming to dictate to the people of North Carolina about a matter involving purely North Carolina land; not one square inch of it is in any other State in terms of the area in dispute. The State of North Carolina is solidly opposed to this bill. The State of North Carolina solidly supports my bill which I offered as a compromise. Furthermore, the Veterans of Foreign Wars is opposed to the bill which the distinguished majority leader proposes to be brought up. The Cherokee Nation opposes it, and they are vitally affected adversely by it, as are numerous municipalities and counties in the general area. So as a Senator from North Carolina, I feel obliged to resist this bill and to continue to hope for and to work for a compromise that will be acceptable to my people. And I know the majority leader understands that I am obligated to do that, and I thank him again for his courtesy to me. He has told me all along what he intended to do, and as is customary, the majority leader has followed through on his promises. I thank the Chair, and I yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator from North Carolina.

ADJOURNMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 1 second.

There being no objection, the Senate, at 7:44 p.m., recessed for 1 second; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. LAUTENBERG].

ORDER OF PROCEDURE

RESOLUTIONS AND MOTIONS

Mr. BYRD. Mr. President, I ask unanimous consent that no motions or resolutions over, under the rule, come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALL OF CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the call of the calendar be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business for not to exceed 5 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTECTION OF EARTH'S STRATOSPHERIC OZONE LAYER

Mr. BYRD. Mr. President, I ask unanimous consent to proceed to the consideration of Senate Resolution 443.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 443) expressing the sense of the Senate that the seven major industrial nations of the world must take immediate action to protect the earth's stratospheric ozone layer.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAUCUS. Mr. President, as Washington swelters in 90° heat and the northern plains face the worst drought in years, let us remind ourselves how dependent we are on our environment—and how we have a responsibility to stay the hand of man from altering nature's delicate balance.

During the past few years startling evidence has proven that the fruits of our technological labors are threatening our very atmosphere. I refer to the damaged caused to the Earth's protection ozone layer by chlorofluorocarbons, or CFC's, and halons.

CFC's are the workhorses of modern society. Their creation revolutionized home refrigeration, improving the standard of living for millions. Over the years, CFC's have been used as propellants in aerosals, solvents for cleaning delicate electronics, and as a component of energy saving foam insulation.

CFC's received worldwide acceptance acceptance because they posed no threat to humans and because their chemical stability made them useful for many applications.

However, we have learned that the very properties which make CFC's particularly valuable for our industrial needs present serious environmental consequences for our world's future.

Because of their stability, CFC's drift slowly higher and higher into the atmosphere, unaffected by the environment around them. However, once high in the stratosphere, they react with stratospheric ozone—slowly breaking ozone down into oxygen. As more and more ozone particles react with CFC's, more and more ultraviolet radiation makes its way to our planet's surface.

Stratospheric ozone—and I am not referring to surface ozone that is in the smog resting over the Mall today—absorbs or deflects those harmful ultraviolet radiation away from the Earth's surface. As CFC's continue to deplete the ozone layer, our planet is subjected to increased doses of ultraviolet radiation.

In essence, our sky is falling apart. While some progress was made in the late 1970's when President Carter banned the use of CFC's in aerosols, today CFC use has surpassed the volumes used in 1978.

Fortunately new scientific evidence has stirred the world to action. Studies of the Antarctic ozone hole have proven that CFC's are depleting the ozone layer and that the problem is getting worse. The ozone depletion is so bad that some scientist believe the Antarctic ozone hole, once a seasonal occurence, could become a permanent tear in the Earth's atmosphere.

The recent ozone trends report, a collaborative effort of over 100 of the most emminent scientists in the field, concludes that worldwide ozone depletion is over three times greater than initially predicted.

Questions have been raised as to where an Arctic hole similar to the Antarctic hole exists. Scientists also wonder what effect increased levels of radiation bombarding the oceans will have on the food chain.

Additional studies are underway, but in the meantime this Congress must continue to lead the United States, and the world, in reducing the emissions of ozone depleting CCF and halons into the atmosphere.

An important first step has been taken. Under the auspices of the United Nations Environmental Program, a significant worldwide environmental regulatory agreement to protect the world's stratosphere from ozone depletion has been written. Known as the Montreal protocol, it represents a major breakthrough in worldwide environmental cooperation.

The Senate ratified the Montreal protocol last March. Under the protocol, production of ozone depleting substances is frozen at 1986 levels. After 4 years, production is cut by 30 percent, and then cut an additional 20 percent 2 years hence.

A 50-percent reduction is a major accomplishment. But it is still not enough. We know now that the scientific basis upon which the protocol was funded is grossly out of date and inadequate. New information, particularly the ozone trends report, point to the need for more effort.

The Montreal protocol creates a framework, a mechanism to make more progress toward reducing CFC emissions. And every effort must be made to have it ratified.

To date, only the United States and Mexico have ratified the Montreal protocol. Eleven countries representing two-thirds of the world's CFC production must adopt the protocol for it to become effective.

The damage caused by uncontrolled releases of CFC's is already three times greater than what models used to formulate the Montreal protocol predicted.

Much of the world's use of CFC's is for nonessential uses. Substitutes already exist. Recycling and conservation could reduce usage significantly. Twenty-seven percent alone is used for aerosols.

Just as the United States led the world in banning the use of ozone depleting CFC's in aerosols, both its producers and users are beginning to more aggressively eliminate the use of these substances.

DuPont, the major CFC producer in the United States and the world, has announced that they are going to phase out the production of CFC's controlled by the Montreal protocol. This action represents a long-term solution to the problem posing by ozone depleting substances.

Recently, U.S. users of ozone depleting substances began to unilaterally address the problem.

Dow Chemical Co. set an 18-month schedule to convert to nonfully halogenated CFC's in all Dow products that contain them. The result of this decision is that styrofoam insulation will no longer be made with CFC's currently controlled by the protocol.

Similarly, the food packaging industry announced an aggressive schedule to phase out the use of fully halogenated CFC's as a slowing agent for food packaging materials.

Another significant industrial announcement is the development of a water-based solvent to clean computer chips—a significant replacement for CFC-113. In the area of fire protection for sensitive electronic equipment, a nonhalon technology developed to protect U.S. naval vessels has recently become available.

These U.S. industry actions represent a commitment to reducing stratospheric damage that goes beyond what the protocol calls for.

Just as U.S. industry has begun to respond to the long-term threat, ways to keep in use, fully halogenated CFC's from reaching the atmosphere are receiving serious attention. CFC-113 is now being collected, cleaned and reused through major commercial collection facilities. I recently learned of equipment capable of removing all contaminants from recycled CFC-12. Recycling and conservation offer significant potential to take immediate steps to address the problem.

The use of CFC's in aerosols could be phased out immediately. Substitutes not only exist, but have been proven in the market place. Similarly, large volumes of CFC-12 and CFC-113 can be recycled.

We need to take immediate steps to reduce the use of CFC's. Both recycling and conservation need to become a reality to the maximum extent feasible over the next 12 months. Many companies are using the best available control technologies to contain CFC's. Others are voluntarily moving to substitutes. These types of efforts need to be encouraged.

I submit that the seven economic powers must take the lead to accelerate the phasing out of CFC's. This weekend the leaders of these nations will meet in Toronto for their annual economic summit. The United States should take advantage of this opportunity to press the nations attending the summit to take action to protect the atmosphere.

Therefore, I offer the Senate today a resolution calling for accelerated worldwide action on ozone depletion. Effective action must include first, accelerated ratification of the Montreal protocol; second, a commitment for early consideration of new scientific findings coupled with effective action and third a bilateral commitment by the seven economic powers to take accelerated steps to undertake recycling conservation of CFC's to the maximum extent possible within a year.

The resolution expresses a sense of the Senate that the President should raise these concerns over stratospheric ozone protection at the upcoming economic summit. The other six economic partners at the summit must do what we have done. They must ratify the Montreal protocol. The protocol must be in place this fall so we can move forward.

All of the economic powers of the world must then join in a call to seriously consider the scientific data presented by the ozone trends report. Immediate steps must be taken to accelerate the scientific review called for in the Protocol.

Together, the summit participants must call on Mostafa Tolba, executive director, United Nation's environment program, to speed up the scientific review and press for additional reviews early next year.

Much has been done the past year to protect the ozone layer. But clearly this environmental crisis requires a sustained long term effort by all the governments of the world. U.S. industry is already working toward substitutes for CFC's and new recycling methods. But this problem will not be solved alone, it will only be solved by global cooperation.

Ozone depletion is the most serious global environmental threat the world has ever faced. This Senate must lead the effort to find a solution. It has taken an important first step by ratifying the Montreal protocol. And it can continue to set the pace by urging the major economic powers of the world to move quickly to protect the ozone layer.

I would like to thank the distinguished majority leader for recognizing the urgency of this matter, and for bringing this resolution to the floor. I would also recognize Senator CHAFEE, Senator PELL, Senator BUMPERS, Senator STAFFORD, Senator KERRY, Senator MITCHELL and Senator BURDICK. They all have demonstrated significant leadership in addressing this serious environmental problem.

Mr. WIRTH. Mr. President, I join my colleagues in strong support of this resolution, which would reaffirm the United States commitment to the Montreal Protocol on Substances that Deplete the Ozone Layer. The United States must continue to exercise leadership to protect the Earth's stratospheric ozone layer. I commend the leadership of Senators BAUCUS and CHAFEE in this effort.

In just 14 years, the issue of ozone depletion has evolved from a scientific hypothesis to an urgent global concern. We now know that the composition of the Earth's atmosphere is being changed by human activities. During the relatively short span of 14 years, the scientific community has reached a consensus that continued worldwide emissions of chlorofluorocarbons [CFC's] and halon compounds threaten to break down the stratospheric ozone layer.

The ozone layer shields the Earth, and all living things, from exposure to the Sun's damaging ultraviolet radiation and plays a key role in regulating global temperature levels. In the absence of purposeful multilateral action to halt depletion of the stratospheric ozone layer, the incidence of skin cancer and eye cataracts could increase dramatically. Scientific modeling also suggests that ozone depletion could trigger significant changes in agricultural production and fish and wildlife populations.

We can be proud that the United States has shown great leadership in working with other nations to curb the production and use of CFC's. In 1977, unilateral action by the United States banning the use of CFC's as aerosol propellants cut back CFC emissions significantly. And American industry has demonstrated its ability to lead the world in developing substitutes for CFC's. Shockingly, other industrialized nations of the world have been less than diligent in attempting to reduce CFC consumption and to find alternatives.

The magnitude of the problem is sufficiently vast that the United States cannot solve this problem by itself. In the last decade, the worldwide production and use of CFC's has steadily increased, as new uses for these chemicals were developed. That is why United States persistence was instrumental to the historic agreement that was reached last fall in Montreal by 24 nations, and subsequently by the Soviet Union and six other nations. Along with the United States, signatory nations account for well more than two-thirds of the world's production of CFC's.

The agreement freezes CFC production at 1986 levels and calls for a 50-percent reduction in both the production and use of ozone-depleting CFC's by 1999. This Nation, and the Government of Mexico, has taken the next step toward reducing the threat of these ozone-depleting chemicals by ratifying the Montreal protocol. Unfortunately, other signatories to the Montreal protocol have been slow to complete the ratification process. It is imperative that the President send a strong and clear message to these nations about the urgent need to ratify the protocol.

International research on ozone depletion continues to produce ominous data about the magnitude of this problem. The ozone hole over Antarctica is growing larger and is lasting longer than has been recorded ever before. And an international team of scientists led by NASA concluded earlier this year that during the last 17 years, ozone has decreased by 1.7 to 3 percent in the Northern Hemisphere between 30 and 60 degrees latitude, which includes the United States, Japan, the Soviet Union and Europe.

In light of this new evidence, and as the resolution before us today would affirm, the President also should urge the signatories of the protocol to reconvene negotiations to discuss further reductions in the production and use of ozone depleting substances. I would hope, Mr. President, that these negotiations would establish the groundwork for a new set of negotiations to identify and reduce emissions of carbon dioxide and other gases, including CFC's, that pose an even more vexing problem—global warming.

The public policy implications of global warming for the United States and all nations of the world are nothing short of staggering. Global climatic change could result in significant changes in whether and precipitation patterns that, according to scientific research, could being desert-like climate to the most productive land on Earth—the American Great Plains. The effects on forests and grasslands in the United States and around the world could be equally profound. And dramatic effects could be felt by coastal populations because significant global warming will almost certainly result in sea level rise, with serious implications for coastal cities, water supplies, harbors and estuaries.

It is no secret that human activity is precipitating these ominous trends. With CFC's we are getting a twofer—a substance that simultaneously is depleting the Earth's delicate stratospheric ozone layer and contributing to the buildup of the so-called "greenhouse" gases that could lead to changes in the mean global temperature greater than has been experienced during human experience.

Ozone depletion, and the related concern of the gradual warming of the Earth's atmosphere, are distinct threats to life on this planet as we know it. All nations must work together to address these threats and preserve the delicate balance on Earth between man and the environment. The Montreal protocol is an outstanding example of the enormous advantages of international cooperation in these efforts.

Unfortunately, we are not at the finish line. In fact, there are those that believe we have not left the starting blocks in addressing these issues. The gravity of this problem requires that, at a minimum, signatory nations sign the Montreal protocol and agree to continue cooperating to reduce emissions of the CFC's and other ozone depleting gases. This resolution would reaffirm U.S. leadership in this area and I urge my colleagues to join me in support of this resolution.

Mr. HELMS. Mr. President, the problem of substances depleting the Earth's stratospheric ozone layer is one that requires a world-wide solution.

Mr. President, last September a total of 24 countries signed the Montreal protocol on substances that deplete the ozone layer. This protocol calls for a 50-percent reduction by 1998 in the use of chlorofluorocarbon chemicals [CFC's]. Now 11 countries must ratify the protocol in order for it to enter into effect. Only the United States and Mexico have done so.

This resolution encourages the seven major industrial nations that will meet in Canada next week to ratify the protocol.

Mr. President, this resolution is a compromise fashioned by Senators BAUCUS, PRESSLER and me. The original language called for the total elimination of all "non-essential" uses of ozone depleting substances. The problem with such language is that the concept of "non-essential" is undefined. No one knows what it means. It would be subject to individual interpretation.

Furthermore, that language would have violated one of the basic premises of the Montreal protocol—that each nation would be able to determine how it would comply with the treaty's control requirements and that no attempt be made to single out a specific product. This product neutrality concept was critical to the acceptance of the protocol by several countries.

Mr. President, the United States has already eliminated its nonessential aerosol uses of these CFC compounds. I would be hard pressed to determine from the lengthy list of products that rely on these compounds which are essential or nonessential.

The protocol does, however, specifically refer to cooperation by the parties in promoting technologies for improving the containment, recovery, recycling or destruction of controlled substances or otherwise reducing their emissions.

The resolution follows the intent of the protocol and emphasizes the need for conservation and recycling of ozone depleting substances. Specifically, the resolution calls upon our partners to identify and eliminate legal and institutional barriers to identify and eliminate legal and institutional barriers to recycling so that industry may implement these programs in a cost effective and timely manner.

I believe that our industries in the United States are moving forward on this front in examining ways to improve opportunities for recycling and conservation of the chlorofluorocarbon chemicals. Our industries are acting responsibly here in the United States and we need to encourage industries around the world to do likewise.

Mr. President, it is our hope that other countries will follow the lead that the United States has set and ratify the protocol.

Mr. PRESSLER. Mr. President, I rise in support of the resolution on chlorofluorocarbons [CFC's]. This is a very important issue which needs to be addressed and should be discussed at the upcoming summit meeting.

I fully support international action to reduce CFC emissions, but feel strongly that this problem must be addressed on a multilateral basis. In the 1970's, the United States unilaterally banned the use of CFC's in aerosols. None of the other nations followed. Unilateral actions on CFC's now very likely will have a similar result. We must continue to encourage all the parties to the Nontreal Protocol to take further actions to restrict CFC's as this resolution does.

The resolution emphasizes conservation and recycling of CFC's. Significant reductions in CFC emissions could be achieved through very minor conservation and recycling measures. This is especially true in many other nations that have not taken the actions the United States has taken to reduce CFC emissions.

Mr. President, I have worked with Senator BAUCUS, the sponsor of the resolution, to develop the resolution and urge the Senate to adopt this important resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 443

Whereas, the Montreal Protocol on Substances that Deplete the Ozone Layer provides a framework for all nations of the world to protect the earth's ozone shield;

Whereas, the Ozone Trends Report completed in March 1988 through the effort of over 100 international scientists sponsored by the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Federal Aviation Administration, the World Meteorological Organization and the United Nations Environment Program found undisputed observational evidence that the atmospheric concentrations of source gases important in controlling stratospheric zone levels (chlorofluorocarbons, halons, methane, nitrous oxide, and carbon dioxide) are increasing on a global scale as a result of human activities and that observed losses of ozone since 1970 are significantly greater than computer models had predicted, especially over the northern hemisphere during the winter months where losses ranging from 2.3% to 6.2% were observed;

Whereas, the computer models used in the formulation of the Montreal Protocol predicted that global ozone depletion would reach 0.8% by 1986, the Ozone Trends Report measured global ozone depletion of 2.5%;

Whereas, there has been a large, sudden, and unexpected decrease in spring-time Antarctic ozone with decreases greater than 50% in the total column, and greater than 95% between an altitude of 15 to 20 kilometers;

Whereas, the Ozone Trends Report found that, since 1979, ozone appears to have decreased by 5% or more at all latitude south of 60 degrees south throughout the entire year;

Whereas, the Ozone Trends Report has raised serious questions about the adequacy of the control measures that are set forth in the Montreal Protocol;

Whereas, ozone depleting chlorofluorocarbons are powerful greenhouse gases projected to be responsible for 15-20% of expected global warming and uncontrolled climate change;

Whereas, the seven major industrial nations including Canada, England, France, Italy, Japan, West Germany and the United States represent over two-thirds of the world's use of chlorofluorocarbons;

Whereas, the leaders of these seven nations will conduct a Summit in June to discuss matters of mutual concern;

Whereas, at last year's summit meeting the leaders of these nations committed to take effective action to address the worldwide impact of stratospheric ozone depletion: Now therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States should call upon the leaders of the major industrial nations of the world at the June Summit to take effective action to protect the earth's stratospheric ozone layer by agreeing to (1) deposit, not later than 1 October 1988, all instruments of ratification, acceptance, approval of the Montreal Protocol; (2) immediately call for a meeting of the parties to the Protocol as soon as possible to consider the latest scientific evidence and to consider the necessity for further control measures; and (3) identify and eliminate, within one year, institutional and legal barriers so as to encourage recycling and conservation to the maximum extent feasible of ozone depleting substances listed in Annex A of the Montreal Protocol; and (4) implement, within one year, domestic recycling and conservation to the maximum extent feasible of ozone depleting substances listed in Annex A of the Montreal Protocol.

COMMEMORATION OF 50TH ANNIVERSARY OF JAVITS-WAGNER-O'DAY ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Commitee on the Judiciary be discharged from further consideration of Senate Concurrent Resolution 121, a resolution to commemorate the 50th anniversary of the Javits-Wagner-O'Day Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 121.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 121), to commemorate the 50th anniversary of the Javits-Wagner-O'Day Act.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The concurrent resolution (S. Con. Res. 121) was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 121

Whereas June 25, 1988, is the 50th anniversary of the enactment of the Act commonly known as the Javits-Wagner-O'Day Act, formerly known as the Wagner-O'Day Act (52 Stat. 1196);

Whereas under the Javits-Wagner-O'Day Act, workshops currently provide employment in jobs of direct labor and ancillary support services throughout the United States to more than 4,500 blind and multihandicapped blind employees and vocational rehabilitation clients at 92 workshops and to over 11,000 persons with other severe handicaps at 254 workshops;

Whereas the Javits-Wagner-O'Day Act provides blind and severely handicapped individuals, and the workshops in which they work, with an opportunity to demonstrate their ability to provide quality commodities and services for purchase by the Federal Government;

Whereas the Javits-Wagner-O'Day Act provides an opportunity for persons who are blind or who have other severe disabilities to demonstrate their capacity to lead productive and independent lives;

Whereas under the Javits-Wagner-O'Day Act workshops should, whenever feasible, continue to place their blind and other severely handicapped employees and vocational rehabilitation clients in competitive employment or in training for competitive employment and maintain an ongoing program to assist those employees and vocational rehabilitation clients who are capable of normal competitive employment to obtain jobs in the competitive labor market;

Whereas in addition to hiring persons for direct labor jobs, workshops in the Javits-Wagner-O'Day program should continue and expand their efforts to serve as models of affirmative action by hiring qualified blind and severely handicapped persons for all positions in the work force for which they are qualified, including management and supervisory positions;

Whereas the Committee for Purchase from the Blind and Other Severely Handicapped and any central nonprofit agency or agencies designated by the Committee under the Javits-Wagner-O'Day Act should also continue and expand their efforts to serve as models of affirmative action in hiring qualified blind and severely handicapped persons for all positions, including management and supervisory positions; and

Whereas the Congress reaffirms its support for the continuation and expansion of the Javits-Wagner-O'Day Act to provide improved work opportunities for blind and severely handicapped employees and vocational rehabilitation clients in all workshops: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President of the United States is requested to issue a proclamation commemorating the 50th anniversary of the Javits-Wagner-O'Day Act, which occurs on June 25, 1988, and calling upon the people of the United States to observe the anniversary with appropriate ceremonies and activities designed to reaffirm the Act's historical objectives of providing opportunities for productivity and upward mobility to blind and severely handicapped employees.

REFERRAL—H.R. 3819

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 3819, an act to prohibit additional appropriations for the analysis and study for the Shaws Bend site of the Colorado Coastal Plains be discharged from the Committee on Environment and be referred to the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, does the distinguished Senator from Alaska, my good friend, Mr. STEVENS, have any further business he would like to transact or any statements he would like to make?

Mr. STEVENS. Mr. President, I am delighted to have the inquiry of my good friend from West Virginia, our distinguished majority leader and my great friend, and I have some.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Morning business is closed.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

The PRESIDING OFFICER. The bill will be read a second time.

The legislative clerk read as follows:

A bill (S. 2527) to require advance notification of plant closings and mass layoffs, and for other purposes.

Mr. STEVENS. Mr. President, on behalf of the minority leader, I object to any further proceedings on this bill at this time.

The PRESIDING OFFICER. Objection is heard. This bill will be placed on the Calendar.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, what is the unfinished business now, the Senate having adjourned?

The PRESIDING OFFICER. The unfinished business is S. 1323.

Mr. BYRD. Is that the corporate takeover bill?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that on tomorrow the corporate takeover bill be laid aside temporarily until such time as the Senate has disposed of the two bills that will be taken up by unanimous consent already given or until such time as the majority leader, after consultation with the minority leader, chooses otherwise.

The PRESIDING OFFICER. Without objection, it is so ordered

ORDERS FOR FRIDAY, JUNE 17, 1988

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow, no motions or resolutions over under the rule come over, that the call of the calendar under rule VIII be waived, and that, following the prayer and the recognition of the two leaders under the standing order, there be a period for morning business to extend until 10 o'clock a.m. and that Senators may speak during that period for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, on tomorrow, the Senate will come in at 9:30 a.m. After the recognition of the two leaders or their designees under the standing order and morning business, the Senate, at the hour of 10 o'clock a.m., will proceed to the consideration, by unanimous consent, of Calendar Order No. 690, S. 1966, a bill to amend the Public Health Service Act to improve informaiton and research on biotechnology and the human genome, and for other purposes.

Following the disposition of that measure, or at such time as the majority leader, after consultation with the minority leader, decides otherwise, the Senate will then proceed to the consideration of Calendar Order No. 603, H.R. 3097, an act to amend the Public Health Service Act to revise and extend the program of assistance to organ procurement organizations, and for other purposes.

Upon the disposition of either or both of those measures, and upon the choice of the majority leader as previously ordered, after consultation with the minority leader, the Senate will return to the unfinished business, the corporate takeover legislation.

The motion to proceed to the Great Smoky legislation died with the adjournment, and so there would be no action in relation to that motion tomorrow. Cloture vote will occur on that motion on Monday and a time for a vote would be set, I hope, by agreement between the two leaders and our respective colleagues rather than have the motion voted on under the operation of the rule.

On tomorrow, there will be rollcall votes in relation to the two bills that have been agreed on for action by unanimous consent and I would expect rollcall votes could very well occur, also on the corporate takeover bill tomorrow.

I do not anticipate that the Senate will complete action on that bill tomorrow, but I hope that the Senate can proceed with action on amendments and that progress can be made.

Mr. STEVENS. Mr. President, would the distinguished majority leader yield?

Mr. BYRD. Yes.

Mr. STEVENS. I am informed that there had been a previous concern expressed about Calendar Order 652, S. 1632, concerning the National Science Foundation authorizations and that, in all probability, we can eliminate that tomorrow and the majority leader may wish to take that into consideration. I am not prepared to enter into the agreement now, but we believe we will be able to proceed on that tomorrow if the majority leader wishes to do so.

Mr. BYRD. I think that would be desirable if at all possible. As I understand the distinguished Senator, it would not be possible to enter into an agreement this evening?

Mr. STEVENS. No, I am not authorized to do that, but I am authorized to state to the majority leader we believe the problems have been settled. There is one last matter to be checked out and we believe we will be able to proceed with that tomorrow.

Mr. BYRD. Very well. I thank the distinguished Senator.

Mr. President, that looks like the program for tomorrow. I would expect, as I have already indicated, several rollcall votes during the day, and I yield the floor.

ADJOURN UNTIL 9:30 A.M. TOMORROW

Mr. BYRD. Mr. President, I thank my good friend from Alaska. If there is no further business then to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 9:30 tomorrow morning.

The motion was agreed to; and at 7:57 p.m., the Senate adjourned until tomorrow, Friday, June 17, 1988, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 16, 1988:

DEPARTMENT OF STATE

CHARLES FRANKLIN DUNBAR, OF MAINE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE YEMEN ARAB REPUBLIC.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

PRISCILLA L. BUCKLEY, OF CONNECTICUT, TO BE A MEMBER OF THE U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1989.

HERSHEY GOLD, OF CALIFORNIA, TO BE A MEMBER OF THE U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1990.

U.S. INTERNATIONAL DEVELOPMOENT COOPERATION AGENCY

DONLEY L. BRADY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1989.

MITCHELL E. DANIELS, JR., OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1989.

AFRICAN DEVELOPMENT FOUNDATION

DAVID C. MILLER, JR., OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 1993.

JAY KENNETH KATZEN, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING FEBRUARY 9, 1990.

INTER-AMERICAN FOUNDATION

M. ALAN WOODS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 1992.

DEPARTMENT OF DEFENSE

KENNETH P. BERGQUIST, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

DEPARTMENT OF COMMERCE

W. ALLEN MOORE, OF VIRGINIA, TO BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE.

JAN W. MARES, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

GRACE FLORES-HUGHES, OF TEXAS, TO BE DIRECTOR, COMMUNITY RELATIONS SERVICE, FOR A TERM OF 4 YEARS.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8037, TO BE THE JUDGE ADVOCATE GENERAL, UNITED STATES AIR FORCE:

To be the judge advocate general, U.S. Air Force

MAJ. GEN. KEITHE E. NELSON, [redacted] FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8037 FOR APPOINTMENT AS THE DEPUTY JUDGE ADVOCATE GENERAL, UNITED STATES AIR FORCE, IN THE GRADE OF MAJOR GENERAL:

To be the deputy judge advocate general and major general

BRIG. GEN. DAVID C. MOREHOUSE, [redacted] FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. ROBERT D. SPRINGER, [redacted] FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. JOHN ANDERSON, JR., [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. EDWARD J. PHILBIN, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

To be brigadier general

COL. MICHAEL ADAMS, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. DAVID T. ARENDTS, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. CHARLES J. BOWLING, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. NICHOLAS EREMITA, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. DON E. FOLLIS, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. DENNIS B. HAGUE, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. FREDERICK R. KEITH, JR., [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JAMES E. KINTZI, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. GARY C. NELSON, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. DAVID L. QUINLAN, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JERALD D. SLACK, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JOHN C. STAFFORD, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. GERALD W. SWARTZBAUGH, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JOSEPH A. WASHINGTON, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JOHN W. WOOD, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADES INDICATED, UNDER THE PROVISIONS OF SECTION 624, TITLE 10 OF THE UNITED STATES CODE:

To be major general

BRIG. GEN. JOHN P. MCDONOUGH, [redacted] FR, U.S. AIR FORCE, CHAPLAIN.

To be brigadier general

COL. DONALD J. HARLIN, [redacted] U.S. AIR FORCE, CHAPLAIN.

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 624, TITLE 10 OF THE UNITED STATES CODE:

To be brigadier general

COL. BARBARA A. GOODWIN, [redacted] U.S. AIR FORCE, CHIEF, NURSE CORPS.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. CROSBIE E. SAINT, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. GERALD T. BARTLETT, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CHARLES W. DYKE, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. BURTON D. PATRICK, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. HENRY J. HATCH, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JOHN F. WALL, [redacted], U.S. ARMY.

THE U.S. ARMY RESERVE OFFICERS NAMED HEREIN FOR APPOINTMENT AS RESERVE COMMISSIONED OFFICERS OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. JAMES E. HAUGHT, [redacted]
BRIG. GEN. CURTIS B. HERBERT, JR., [redacted]
BRIG. GEN. JERRY J. JOSTEN, [redacted]
BRIG. GEN. DOUGLAS J. O'CONNOR, [redacted]
BRIG. GEN. FREDERICK W. ROEDER, [redacted]
BRIG. GEN. PAUL E. VALLELY, [redacted]

To be brigadier general

COL. RALPH C. SLUSHER, [redacted]
COL. GEORGE D. FIELDS, JR., [redacted]
COL. RALPH O. DOUGHTY, [redacted]
COL. GEORGE L. GUNDERMAN, [redacted]
COL. ROBERT A. LAME, [redacted]
COL. ROBERT E. GALE, [redacted]
COL. DAVID P. DE LA VERGNE, [redacted]
COL. DOROTHY B. POCKLINGTON, [redacted]
COL. THOMAS E. MATTSON, [redacted]

COL. LARRY L. SCHEUCHZER, [redacted].
COL. THOMAS P. JONES, [redacted].
COL. LEONARD L. HOCH, [redacted].
COL. RONALD L. LOWE, [redacted].
COL. PAUL D. WEBSTER, III, [redacted].
COL. BRUCE G. MACDONALD, [redacted].
COL. JAMES A. POCOCK, [redacted].
COL. EDWARD M. CROWLEY, [redacted].
COL. JAMES E. RITCHIE, [redacted].
COL. JOSEPH C. HURTEAU, [redacted].
COL. STEPHEN C. BISSET, [redacted].
COL. TOMMY W. BONDS, [redacted].
COL. WALTER E. KATUZNY, JR., [redacted].
COL. BARTON J. GILBERT, [redacted].
COL. GARY E. SHAMLIN, [redacted].
COL. THOMAS W. SABO, [redacted].
COL. RICHARD E STORAT, [redacted].
COL. THOMAS J. PLEWES, [redacted].
COL. MANUEL R. FLORES, [redacted].

THE U.S. ARMY NATIONAL GUARD OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A) AND 3351(A):

To be major general

BRIG. GEN. PHILLIP B. FINLEY, [redacted].

To be brigadier general

COL. RICHARD C. ALEXANDER, [redacted].
COL. STANLEY M. HENG, [redacted].
COL. WAYNE F. WAGNER, [redacted].

THE FOLLOWING-NAMED ARMY MEDICAL CORPS OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be permanent major general

BRIG. GEN. ALCIDE M. LANOUE, [redacted], MEDICAL CORPS. U.S. ARMY.

BIRG. GEN. RICHARD T. TRAVIS, [redacted], MEDICAL CORPS, U.S. ARMY.

BRIG. GEN. JAMES H. RUMBAUGH, [redacted], MEDICAL CORPS, U.S. ARMY.

To be permanent brigadier general

COL. RICHARD O. PROCTOR [redacted], MEDICAL CORPS, U.S. ARMY.

COL. THOMAS E. BOWEN, [redacted].

COL. MICHAEL J. SCOTTI, JR., [redacted], MEDICAL CORPS, U.S. ARMY.

COL. WILLIAM L. MOORE, JR., [redacted], MEDICAL CORPS, U.S. ARMY.

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 611(A) AND 624:

To be permanent major general

BRIG. GEN. WILLIAM B. MCGRATH, [redacted], U.S. ARMY.

BRIG. GEN. HERMAN C. KAMMER, JR., [redacted], U.S. ARMY.

BRIG. GEN. THOMAS B. ARWOOD, [redacted], U.S. ARMY.

BRIG. GEN. WILLIAM A. FITZGERALD, JR., [redacted], U.S. ARMY.

BRIG. GEN. DONALD R. WILLIAMSON, [redacted], U.S. ARMY.

BRIG. GEN. LOUIS J. DELROSSO, [redacted] U.S. ARMY.

BRIG. GEN. TRAVIS N. DYER, [redacted], U.S. ARMY.

BRIG. GEN. WILLIAM E. HARMON, [redacted] U.S. ARMY.

BRIG. GEN. FRED A. GORDEN, [redacted], U.S. ARMY.

BRIG. GEN. RICHARD B. GRIFFITTS [redacted], U.S. ARMY.

BRIG. GEN. PETER A. KIND [redacted], U.S. ARMY.

BRIG. GEN. RICHARD D. BELTSON, [redacted] U.S. ARMY.

BRIG. GEN. LEO J. PIGATY [redacted], U.S. ARMY.

BRIG. GEN. JOE W. RIGBY [redacted], U.S. ARMY.

BRIG. GEN. PAUL G. CERJAN, [redacted], U.S. ARMY.

BRIG. GEN. ALONZO E. SHORT, JR., [redacted], U.S. ARMY.

BRIG. GEN. ROGER K. BEAN, [redacted], U.S. ARMY.

BRIG. GEN. JERRY C. HARRISON, [redacted] U.S. ARMY.

BRIG. GEN. RUDOLPH OSTOVICH III, [redacted], U.S. ARMY.

BRIG. GEN. CHARLES R. HENRY, [redacted] U.S. ARMY.

To be permanent major general

BRIG. GEN. JOHN R. PIATAK [redacted], U.S. ARMY.

BRIG. GEN. CARMEN J. CAVEZZA, [redacted] U.S. ARMY.

BRIG. GEN. EUGENE C. RENZI, [redacted], U.S. ARMY.

BRIG. GEN. JAMES H. JOHNSON, JR., [redacted], U.S. ARMY.

BRIG. GEN. PAUL L. GREENBERG, [redacted] U.S. ARMY.

BRIG. GEN. JERRY A. WHITE [redacted], U.S. ARMY.

BRIG. GEN. IRA C. OWENS, [redacted], U.S. ARMY.

BRIG. GEN. J. H. BINFORD PEAY III [redacted], U.S. ARMY.

BRIG. GEN. JEROME H. GRANRUD, [redacted] U.S. ARMY.

BRIG. GEN. CARYL G. MARSH, [redacted], U.S. ARMY.

BRIG. GEN. JACK C. WHEELER, [redacted] U.S. ARMY.

BRIG. GEN. WILLIAM G. PAGONIS, [redacted] U.S. ARMY.

BRIG. GEN. CLOYD H. PFISTER, [redacted] U.S. ARMY.

BRIG. GEN. JOSEPH S. LAPOSATA, [redacted] U.S. ARMY.

BRIG. GEN. CHARLES H. ARMSTRONG, [redacted], U.S. ARMY.

BRIG. GEN. WILLIAM S.C. CHEN, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. HARRY E. SOYSTER, [redacted] U.S. ARMY.

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER OF THE MARINE CORPS FOR APPOINTMENT TO THE GRADE OF BRIGADIER GENERAL, UNDER TITLE 10, UNITED STATES CODE, SECTION 5046:

MICHAEL E. RICH.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

WILLIAM R. ETNYRE, [redacted] U.S. MARINE CORPS.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 UNITED STATES CODE, SECTION 601:

To be lieutenant general

CHARLES H. PITMAN, [redacted] U.S. MARINE CORPS.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be vice admiral

VICE ADM. GLENWOOD CLARK, JR., [redacted]/1444, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be vice admiral

VICE ADM. WILLIAM H. ROWDEN, [redacted]/1210, U.S. NAVY.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING MAJ. DONALD L. BOATRIGHT, [redacted] AND ENDING MAJ. PATRICIA L. BAXTER, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 26, 1988.

AIR FORCE NOMINATIONS BEGINNING MAJ. RICHARD L. AYRES, [redacted] AND ENDING MAJ. FRANK G. NITSCH, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 26, 1988.

AIR FORCE NOMINATIONS BEGINNING VIANMAR G. PASCUAL, AND ENDING FRANK H. WAGNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 16, 1988.

AIR FORCE NOMINATIONS BEGINNING MAJ. JOHN C. BARBER, [redacted] AND ENDING MAJ. KENNETH D. TRICINELLA, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 16, 1988.

AIR FORCE NOMINATIONS BEGINNING KEVIN T. ABRAHAM, AND ENDING RHONDA M. ZOZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 16, 1988.

AIR FORCE NOMINATIONS BEGINNING RICHARD E. COE, AND ENDING PHILLIP A. WEAVER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 24, 1988.

AIR FORCE NOMINATIONS BEGINNING MAJ. NORMAN F. AUGUST, [redacted] AND ENDING MAJ. LOUIS J. VERDELLI, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 24, 1988.

AIR FORCE NOMINATIONS BEGINNING GILBERT WESTREICH, AND ENDING ROBERT M. COCKEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 24, 1988.

AIR FORCE NOMINATIONS BEGINNING WILLIAM F. GADBERRY, JR., AND ENDING JOSEPH WADE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 24, 1988.

AIR FORCE NOMINATIONS BEGINNING WILLIAM L. ATKINSON, AND ENDING HARRIS, IRENE TROWELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 6, 1988.

IN THE ARMY

ARMY NOMINATIONS BEGINNING LESLIE M. HOVEY, AND ENDING GILBERT WESTREICH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 26, 1988.

ARMY NOMINATIONS BEGINNING ROBERT E. FREEMAN, AND ENDING CHRISTOPHER T. FINLAYSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 26, 1988.

ARMY NOMINATIONS BEGINNING LELAND E. HYSLOP, AND ENDING REBECCA L. ROSIER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 26, 1988.

ARMY NOMINATIONS BEGINNING CHARLES L. ATTAWAY, AND ENDING ROYCE D. JONES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 11, 1988.

ARMY NOMINATIONS BEGINNING RONALD M. ABE, AND ENDING JUDITH M. SCHUSTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 11, 1988.

ARMY NOMINATIONS BEGINNING MERLIN G. ANDERSON, JR., AND ENDING JOHN D. WERSCHKUL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 24, 1988.

ARMY NOMINATIONS BEGINNING LESLIE W. BARHAM, AND ENDING GEORGE A. MILLIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 24, 1988.

ARMY NOMINATIONS BEGINNING JOHN K. ATKINSON, AND ENDING WILLIAM R. FOWLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 25, 1988.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING DAVID J. ABBOTT, AND ENDING THOMAS A. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 16, 1988.

MARINE CORPS NOMINATIONS BEGINNING MICHAEL J. AGUILAR, AND ENDING MICHAEL S. WOODSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 24, 1988.

IN THE NAVY

NAVY NOMINATIONS BEGINNING KURT B. ADAMS, AND ENDING ALAN I. SHAPIRO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 22, 1988.

NAVY NOMINATIONS BEGINNING MICHAEL CLIFFORD AABY, AND ENDING MERVYN D. WALTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 26, 1988.

NAVY NOMINATIONS BEGINNING MICHAEL L. ADAMS, AND ENDING ROSEANNE SOBKOW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 28, 1988.

NAVY NOMINATIONS BEGINNING ANDREW B. CARLSEN, AND ENDING JAMES I. ABBENHAUS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 16, 1988.

NAVY NOMINATIONS BEGINNING ROBERT R. INGRAM, AND ENDING JAMES W. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 16, 1988.

NAVY NOMINATIONS BEGINNING RANDY P. AMATO, AND ENDING SAMUEL S. NORVELL, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 24, 1988.

NAVY NOMINATIONS BEGINNING JERRY A. COOK, AND ENDING MARK E. THOMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 25, 1988.

NAVY NOMINATIONS BEGINNING HOWARD W. JONES, AND ENDING BRENT E. WHITE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 25, 1988.

NAVY NOMINATIONS BEGINNING ROBERT JEFFERSON ADAMS, AND ENDING JAMES VINCENT ROHRSHEIB, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 6, 1988.

NAVY NOMINATIONS BEGINNING MARK SHELDON ABRAMOVITZ, AND ENDING DANIEL WARD MERDES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 6, 1988.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE AFRICAN ELEPHANT ANTI-POACHING ACT OF 1988

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. FIELDS. Mr. Speaker, during the past several months, I have spent a considerable amount of time trying to develop a legislative proposal which will protect the African elephant from further poaching in Africa.

I have met with ambassadors from several African countries; officials of the United States Fish and Wildlife Service; and individuals representing sport hunters, conservationists, animal rights organizations, and environmentalists.

While I have received divergent views, no one has disagreed with me when I've said that unless some action is taken now, the African elephant will be decimated in the near future.

I want my colleagues to realize that during the past 10 years, the population of African elephants has declined by almost half. In 1979, the total elephant population in Africa was approximately 1.3 million animals. Today, fewer than 750,000 African elephants are alive.

And the destruction of this magnificent animal has not been confined to just a few African nations. For instance, the African Wildlife Foundation points out that:

In 1973, some 130,000 elephants lived in the Republic of Kenya. In 1987, it was estimated that fewer than 20,000 remained. This is a population loss of 85 percent.

In 1977, the Selous Game Reserve in the United Republic of Tanzania had a population of 109,000 elephants. Today, only half of them, or 55,000, are alive.

In 1976, some 80,000 to 100,000 elephants roamed the plains of the Central African Republic. By 1985, fewer than 15,000 remained.

During the turbulent period of Idi Amin in the 1970's, 80 to 90 percent of Uganda's elephants were slaughtered. A single herd in the Murchison Falls National Park was reduced from more than 9,000 elephants in 1973 to only 25 survivors in 1982.

Before its Civil War, Chad had an estimated 15,000 elephants. Today, fewer than 2,000 elephants live in that nation.

In Southern Sudan, much of the elephant population has been wiped out by marauding groups of poachers.

Finally, a recent aerial count in Somalia revealed more elephant carcasses than live animals.

Why have these elephants been killed in such staggering numbers? The primary reason is the world's growing appetite for ivory.

Since 1980 the annual volume of world ivory was 800 tons. To meet this demand some 70,000 elephants must die each year.

Yet, only 3 percent of this ivory is imported directly from Africa. The bulk of it arrives from such intermediary places as Hong Kong, China, and Japan. We in the United States consume 30 percent of the world's ivory each year. This represents some 7.2 million pieces of jewelry with a value of $11.8 million. Since many experts believe that nearly 80 percent of all imported ivory is poached, purchases in the United States, therefore, account for the deaths of some 27,000 African elephants every year.

With the population of the African elephant declining by nearly 9 percent a year, it is clear that unless some legislative action is taken, and taken quickly, we will witness the annihilation of the African elephant within the next decade.

Why does a Congressman from Houston, TX, care about the African elephant? Well, let me tell you why. As someone who has been a sportsman and a hunter all of his life, I learned early on to have a great appreciation and love for all of God's creatures. I want to see all species preserved, not because I want to hunt a certain animal, but because I want others to be able to experience the joy of seeing these animals in their natural habitat.

There is nothing more exhilarating than watching an elephant periscope the wind with its trunk or trumpet other members of its herd. I believe that we have a responsibility to help save the African elephant for future generations.

Because of my hunting experience, I consider myself a conservationist. The terms hunter, sportsman, and conservationist are not mutually exclusive. In fact, the hunting community has spent millions of dollars trying to save not only the African elephant but also the black rhino, leopard, and many other species.

Before describing my legislative remedy to this problem, it is important to note that there are three types of ivory.

First, there is sports-hunted ivory. It accounts for a minuscule percentage of ivory exports from producing countries. This activity is biologically sound and produces by far the greatest economic return per animal for the producing nation.

In order to legally hunt an elephant, an individual must pay substantial permit and safari fees to the producing nation. Those fees far exceed the commercial value of the ivory itself. Because of this vital infusion of capital, there is a tremendous incentive for elephant protection efforts. Several African countries, most notably Zimbabwe, Botswana, and South Africa, have established outstanding elephant conservation programs.

There is no relationship between the movement of sport-hunted ivory and illegally obtained ivory. It would also be counterproductive to our conservation efforts to ban this type of activity.

The second type of ivory, called legal commercial ivory, is obtained from culling operations, confiscated ivory, or found ivory from natural mortality. While this type of production is biologically neutral, it does provide some financial incentives for elephant conservation.

The third type is illegal commercial ivory, or poached ivory. In almost every case, this activity is biologically unsound in that it leads to the destruction of the elephant population. In addition, it contributes nothing to the economies of the producing nations, and therefore provides little, if any, incentive to conserve elephants or elephant habitat. Our efforts must be directed at stopping this poaching, or at least eliminating the financial incentives which lead poachers to kill elephants. We must remember that poachers are motivated by ivory prices which are greater than a year's wages for most African workers.

Mr. Speaker, after careful deliberation, I believe that the best solution to this serious poaching problem is a straightforward ban on all worked and raw ivory from any country which does not have a native population of African elephants living in the wild.

While I recognize that the United States cannot unilaterally stop the flow of poached ivory, we have a responsibility to take a leadership role in this matter. If we simply waited for the rest of the world to act in time of crisis, it is unlikely we would ever have enacted the Endangered Species Act or the Marine Mammal Protection Act, which are two of our most prominent wildlife protection laws.

I agree that the solution to this problem cannot be confined simply to intermediary countries, but a ban on ivory imported from nonproducing countries is the best place to start. From here we can work with the Convention on International Trade in Endangered Species of Wild Fauna and Flora [CITES] so that it can be more effective on an international scale.

In addition to eliminating tons of poached ivory which flood this country, this legislation will provide important new incentives for African elephant conservation programs. For instance, within a few years, ivory carvers will be forced to move their operations to Africa. By so doing, they will help build the local economies of these nations and provide a powerful incentive to managing the African elephant population in a sound manner.

Mr. Speaker, it is for these reasons that I am pleased to introduce today the African Elephant Anti-Poaching Act of 1988. It is my hope that this bill will stimulate debate so we can move forward this year to consider legislation which will help protect the African elephant. It would be tragic if we looked back 10 years from now and noted that we could have saved the African elephant if only we had the courage to act.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

While I have not yet asked for specific comments on this proposal, several organizations have already added their voices in support. For instance, the African Safari Club of Washington, DC, stated that:

> We should "allow the import of properly documented elephant products from producing nations, while prohibiting imports from nonproducing nations such as Hong Kong, Japan, and Singapore. This would strengthen enforcement procedures by greatly shortening the audit trail. Further, it would favor ivory carvers in producing nations over Oriental carvers. This would increase the value of ivory exported from producing nations, adding to their incentives to conserve elephants.

The president of the world-renowned Game Conservation International, Mr. Harry Tennison, who has traveled throughout Africa for nearly 40 years, has indicated to me that: "In visits to Tokyo, Hong Kong, Singapore, New Delhi, London, and Paris, I see thousands of pieces of ivory for sale that would outnumber the pieces, or pounds of ivory taken legally, by 100 to 1. A ban on all worked or raw ivory from any country which does not have a native population of elephants would be the most effective way to stop the illegal transportation of ivory from one country to another."

Finally, the group Monitor, which represents some 14 major animal rights organizations, has endorsed a ban on all worked or raw ivory from countries which are not members of the Convention on International Trade in Endangered Species of Wild Fauna and Flora [CITES] and do not have a population of native elephants living in the wild.

Mr. Speaker, these two elements are contained in my bill and I hope that we can pass some meaningful legislation which will help ensure a brighter future for one of God's most impressive creatures—the African elephant.

Mr. Speaker, this issue may not be a pressing one for many Members; nor is it likely to help many of our constituents. Nevertheless, as the greatest legislative body in the world, the House must act so that this magnificent species is not destroyed. As Theodore Roosevelt noted: "The nation behaves well if it treats its natural resources as assets which it must turn over to the next generation, increased and not impaired in value."

The road to extinction is a one-way street. I urge my colleagues to join with me in this effort during this, the year of the elephant, by supporting the African Elephant Anti-Poaching Act of 1988.

RACE IS NOW A CLASS ISSUE

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. WALGREN. Mr. Speaker, I would like to call attention to the following preceptive article on the problem of poverty from the May 10 Christian Science Monitor by John Lindsay, former mayor of New York, vice-chairman of the Advisory Commission on Civil Disorder—the Kerner Commission of 1968—and a former Member of the House of Representatives.

[From the Christian Science Monitor, May 10, 1988]

RACE IS NOW A CLASS ISSUE

(By John V. Lindsay)

Most reports by presidential commissions lie forgotten, gathering dust in the Library of Congress. Yet, Americans who hope their country will practice what its Constitution preaches still invoke the report presented to President Lyndon Johnson 20 years ago by the Advisory Commission on Civil Disorders, the so-called Kerner Commission.

This 800-page document accused the United States of having become "two societies, one black, one white, separate and unequal." Following the "long hot summer" of racial discord and urban riots in 1967, this accusation rang true. Our report was unanimous. Whether liberal, conservative, or moderate, every commission member acknowledged incontrovertible evidence of a racially polarized body politic.

Two decades later that polarization has taken a new form. The US now confronts a new crisis in race relations which the Kerner Commission could hardly have anticipated and which better leadership in recent years might have prevented.

America's nonwhite middle class has expanded significantly; that is partly because of the Kerner report and to citizens and political leaders who took the findings seriously. Also, a growing number of blacks and Hispanics occupy leadership positions in city halls and statehouses across the country, as well as in Congress.

While such changes are hallmarks of greater decency and maturity in our national life, many of the poorest of minority citizens have been left far behind in a losing struggle for survival. Backsliding at the federal level on commitments to equal opportunity in employment, job training, low-income housing, and medical care have had devastating results.

Rising crime rates, more homelessness, ascending teen-age birthrates, lower school dropout ages, and heavier traffic in illegal drugs describe the effect on behavior and the tragic circumstances of a growing portion of the population that is disconnected from society as we have known it. What were once regarded as issues of race have become, increasingly, issues of "class," a word never heard in our country before.

In the 20 years since the Kerner report, legislative protections against racial discrimination have diminished, but not erased, the problems of poverty suffered by this "underclass." A new commission examining the difficulties that the Kerner panel investigated would find two societies; divided these days more along lines of economic and personal conduct than of race. Worse, racial polarization has become further exacerbated by the widening gulf between social classes.

This problem, caused by a climate set at the highest levels of government, can only be solved by leadership that reflects the U.S. Constitution's highest principles.

During the last eight years, federal social programs have been indiscriminately slashed. Meanwhile, defense spending has soared extravagantly, and vast tax cuts have taken effect. Pointing to the record budget deficits that its own senior officials created. Washington now cries poor when the poor cry for help. Then, exploiting backlash fears generated by those cries, some political leaders discredit expenditures designed to ease the problems as "throwing tax dollars down the drain."

The result has been a national disaster. Demagogic appeals by self-anointed "law and order" advocates unleash the very lawlessness and amoral behavior that further polarize society between race and class. And political leaders must cease using code words that thinly disguise appeals to racism.

It is essential that America's leadership sets a healing tone in domestic politics. As the Kerner Commission noted, the plight of the disenfranchised casts a long shadow of uncertainty over every American's future. Anarchy in the streets caused by the rootless young who have no stake in society imperils our neighborhoods. We must deal with their pain and anger and protect ourselves from its consequences.

A new presidential commission could identify such malicious political activity for what it is, recommend more enlightened budget priorities, and help the press locate flash points in neighborhoods and in halls of government where racial tensions are at work. The lives of all Americans are blighted by these social conflicts; each of us must contribute to their resolution. How well we face up to this challenge defines our character as a nation.

The task is not an easy one. The longtime neglect of the inner city will not be quickly repaired. Several of this year's presidential candidates have displayed authentic compassion for the underprivileged; yet they come up short on specific solutions to their troubles. More money is necessary, but money will not do the job alone. We need skilled, knowledgeable, and committed men and women to build education, employment, housing, language, job training, antipoverty, and drug problems—and to deal effectively with crime, the most menacing effect of neglect in these areas. The present climate has driven many such able people out of the fold.

Our nation is trying increasingly hard to become more productive industrially, to correct trade imbalances, and to establish better commercial relations with nonwhite nations around the world. At the same time, this country's minorities make up an increasing percentage of the US's total population. We will not be able to move ahead economically on the global stage unless we address the concerns of those minorities here at home.

It is time for another presidential commission to look anew at our divided society and point the way toward the style and substance of leadership that once again can summon the generous, enlightened, and honorable impulses that exist in the American people.

A FRIEND OF THE CHESAPEAKE

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. DYSON. Mr. Speaker, the State of Maryland and the United States have lost a great friend and dedicated scientist following the tragic and untimely death at the age of 49 on June 11, of Dr. Ian Morris.

Dr. Morris became one of the Nation's premier biochemists and researchers and is most prominently known for his position as the director of the University of Maryland's Center for Environmental and Estuarine Studies [CEES].

Dr. Morris started out as a biochemist. Quickly completing his undergraduate degree, he immediately began doctoral studies, which culminated in a teaching position at the University of London. In 1981, he was appointed to head the CEES. In this he oversaw an annual budget of $7 million, and supervised some 240 staff personnel—50 of which held Ph.D rank. Dr. Morris ran the Horn Point Environmental Laboratory, the Chesapeake Laboratory at Solomons Island and the Appalachian Environmental Laboratory located on the campus of Frostburg State College in western Maryland.

Mr. Speaker, Dr. Morris left his mark on the Chesapeake Bay region and my district. I often benefited from his advice in my position on the House Committee on Merchant Marine and Fisheries. His counsel will be sorely missed. It is with deep sadness that I bid him farewell.

A WRECKED ECONOMY WON'T END APARTHEID

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. RITTER. Mr. Speaker, in our own country almost 2 million black workers are jobless which amounts to over 12 percent of the black work force. This, along with other statistics concerning the economic problems of our black population, has stimulated America's concern.

As a result, many legislative proposals and private programs are now under consideration to make long-term investments for blacks and other minorities involving education, training, and job creation.

So why is it this Congress supports sanctions against South Africa which inevitably result in a decrease in the demand for labor and produces widespread unemployment among South African blacks?

Moreover, aside from the problems sanctions pose for our national security and United States industry, I do not believe we can force the end of all apartheid and racism in South Africa by withdrawing our presence. I would advocate increasing the American presence in South Africa. A look at the results of the past sanctions bill will show that sanctions don't work—but really hurt the people we were trying to help and help the people we were trying to hurt. It's backwards policy. It's pointedly counterproductive.

As Helen Suzman—a member of the South African Parliament belonging to the Progressive Federal Party—points out in her op-ed in the June 15 issue of the Washington Post, the Rhodesian-Zimbabwean experience demonstrated that few firms returned after liberation.

Mr. Speaker, I take this opportunity to call Helen Suzman's comments to the attention of my colleagues and include the article at this point.

A WRECKED ECONOMY WON'T END APARTHEID

(By Helen Suzman)

At his enthronement in Cape Town in September 1986, Archbishop Desmond Tutu stated that "the onus is on those who do not want sanctions to provide us with a viable, nonviolent strategy to force the dismantling of apartheid." He has repeated his challenge several times since then.

While I disagree with the underlying premise of this remark—i.e., that sanctions do provide such a strategy—he is certainly justified in asking what the alternative is. And the question is particularly relevant when it comes from a man who does not have a vote, despite the fact, as he has often pointed out, that he is a South African by birth, the head of the Anglican Church in southern Africa and a Nobel laureate.

Short of getting rid of this government and replacing it with a nonracial democracy—which is highly unlikely in the foreseeable future, sanctions notwithstanding—the sad truth is that there is no instant solution that will transform the South African scene. There are, in fact, only the long-term effects of economic expansion within the country itself—that is, the same factors responsible for those noncosmetic changes that have already taken place.

The repeal of job reservation—the law that reserved skilled work for whites—was a result of the increased demand for skilled labor to meet the growing requirements of the economy.

The recognition of black trade unions came about as a result of "wildcat" strikes, no one with whom to negotiate and the need therefore to bring the emerging black labor movement within the purview of the industrial conciliation machinery. The acceptance, at long last, of the permanence of blacks in the urban areas came about because of economic forces motivated by the "push factor" of poverty in the black rural areas and the "pull factor" of job opportunities in the "white urban areas." This irresistible force led finally to the impossibility of implementing effectively the hated Pass Laws and Influx Control, which restricted the mobility of blacks, and to their repeal two years ago.

None of these changes, however, has heralded the removal of such fundamental cornerstones of apartheid as the Race Classification Act or the Group Areas Act and the Land Acts, which designate ownership and occupation of land and property on a racial basis. Nor has the crux issue of political rights for blacks been addressed. But given the obduracy and military strength of the present government, it must be conceded that any prospect of a transfer of power by the National Party government is just not on the agenda. Survival is now the issue, and a siege economy is preferable, according to National Party thinking.

In the unfounded hope, therefore, of the rapid demise of the apartheid regime, it is surely senseless to blunt the only weapon with which blacks can improve their position at the work place, and beyond the work place, through their economic muscle, mobilized in trade union structures, and through their consumer power in the market.

Restriction of the economy through sanctions must inevitably result in a decrease in the demand for labor and widespread unemployment. Why then are sanctions and disinvestment advocated by people who are working for black advancement, thereby undermining the major power base that blacks can obtain? Some, like the archbishop, sincerely believe that this strategy will expedite the dismantling of apartheid. Others hope it will bring down the capitalist system, which they identify with apartheid.

The archbishop encourages disinvestment as well as sanctions, as evidenced by his refusal recently to accept an honorary degree at Tulane University because the trustees of the university had not divested of stocks in companies operating in South Africa.

Surely foreign firms should, instead, be encouraged to continue with their very extensive programs to help lay the foundation for a stable postapartheid society. In the past eight years U.S. corporations in South Africa, for example, spent more than $210 million on education, training and housing of their black employees and their families, on health facilities and on legal aid. Withdrawal of these firms has inevitably meant reduction or even curtailment of these programs, to the detriment of future black leadership and its participation in the post-apartheid era. And once gone, the influence such firms exercised on the local scene is gone too.

Power takes many forms, and in South Africa today, blacks are slowly but surely accumulating economic power as they are drawn into the national economy, not only in ever-increasing numbers but at rising levels of skills. Economic muscle can be used, as has been shown in all industrialized countries, to redress imbalances in wealth, privilege and power.

I do not believe that South Africa will be the exception, though the solution offered is long term, and there is no doubt that blacks are impatient, as one can well understand, for change—fundamental change—now.

The archbishop has stated that if certain demands are met, he will call for the withdrawal of sanctions and presumably of disinvestment. However, once sanctions have been imposed, and once established enterprises have withdrawn, it will take more than the green light from the archbishop to restore normal trade and industrial activity, as the Rhodesian/Zimbabwean example demonstrated: few firms returned after liberation.

Moreover, if the United Nations imposes mandatory sanctions against South Africa, one veto at the Security Council will prevent those sanctions from being lifted.

An expanded economy is the mechanism that creates jobs and wealth in which all must share. Contact and a diplomatic presence within South Africa exercise significant influence. Isolation and a wrecked economy may give moral satisfaction to some of those who oppose apartheid, but this course of action should surely be weighed against the unintended consequences that are likely to result.

A CONGRESSIONAL SALUTE TO JOSEPH F. PREVRATIL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding businessman and leader in southern California, Mr. Joseph F. Prevratil. Joe will be honored on June 22, 1988, as the outgoing president of the Long Beach Area Chamber of Commerce. I am happy to have this opportunity to say a few words about him.

Joseph Prevratil has had a long and distinguished career, beginning when he graduated from Loyola University of Los Angeles in

1960. In 1965, he obtained his juris doctor from Southwestern University School of Law, and began his march to the top. Until 1968, Joe held a variety of administrative and finance executive positions with Honeywell, Inc., Capitol Records, Inc., and U.S. Exchange Corp. In 1968, he became the group vice president for special attractions at Six Flags, Inc., and later moved on to president of Entertainment Environments, Inc. From there, Joe moved to the maritime industry, starting with General Terminal Corp. as the senior vice president and chief operating officer. Joe joined Wrather Port Properties in 1982 as the vice president of operations and since February of 1983, was vice president-general manager and chief operating officer. In February 1984, he became president of Wrather Port properties, Ltd.

Not only has Joe worked hard at his career, but he has also contributed a fair amount of time to many community organizations. He is the past chairman and a member of the Board of Directors of the Long Beach Area Convention and Visitors Council, and a board member of the Downtown Long Beach Associates, the International City Celebration, the Long Beach Civic Light Opera, the Cancer League, the National Association of Accountants, and a trustee of St. Mary's Medical Center.

Joseph Prevratil is the epitome of success. He is an excellent businessman and civic leader, respected by his peers and adversaries alike. My wife, Lee, joins me in extending our warmest congratulations to Joseph Prevratil on this auspicious occasion. We wish Joe, his wife, Joan, and their children, Deborah, Robert, Eric, and Renee, all the best in the years to come.

NATIONAL SCHOOLBUS SAFETY ACT OF 1987

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. SMITH of Florida. Mr. Speaker, exactly 1 year ago tomorrow, the Subcommittee on Elementary, Secondary, and Vocational Education held a hearing on my bill, the National Schoolbus Safety Act of 1987. To mark this anniversary, I would like to take this opportunity to inform my colleagues of the scope and purpose of this bill and clarify some controversial points.

The National Schoolbus Safety Act of 1987 would mandate the installation of seatbelts on new schoolbuses. In addition, it would require mandatory annual inspections of schoolbuses to ensure their continued safety for our schoolchildren. Enactment of this bill would go a long way toward reducing the thousands of injuries associated with schoolbus accidents annually.

The merits of mandatory installation of seatbelts on schoolbuses have been the topic of many debates. It is interesting to note, however, that the opponents of this bill cite unsubstantiated evidence to support their position. Opponents make reference to schoolbus crash tests which not only are over a decade old, but also do not include adequate sideswipes or rollover tests. In fact, after researching this issue thoroughly, I have determined that no Federal agency has conducted a schoolbus crash test in more than 10 years. How can the safety of our Nation's schoolchildren depend on the results of outdated crash tests?

In addition, opponents state that the number of schoolchildren killed annually is minimal. However, they neglect to include the large number of children injured in schoolbus-related accidents. It has been estimated that the cost per child for a new schoolbus equipped with seatbelts is approximatley $23. How many of our children must be injured or killed until we find it economically feasible to take this action?

I urge all of my colleagues to cosponsor this important piece of legislation. These children are our future. They deserve the safest form of transportation available as they ride to and from school. The National Schoolbus Safety Act will accomplish this.

A TRIBUTE TO CANFIELD SCHOOLS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to the Canfield School System, a very special school system in my 17th Congressional District. I had the supreme pleasure recently of speaking to the eighth graders of the Canfield Middle School. I believe that my fellow Members of the U.S. House of Representatives should be aware of this outstanding school system.

Evidence of the excellence of Canfield students is the fact that the average composite A.C.T. score of Canfield pupils is 20.4, while it is 19.3 in Ohio and only 18.7 nationally. There are an amazing 81 Canfield students in the third through eighth grades who have an I.Q. over 130 and are certified as gifted. In fact, the average I.Q. of all Canfield students is an astounding 115—only 15 points below the genius level. Over 70 percent of Canfield graduates attend college, and have grade-point averages in college higher than graduates of other Ohio high schools.

The athletic program of the Canfield Cardinals is extremely successful in both mens' and womens' sports. A beautiful new lockerroom was created at Cardinal Stadium last year to provide spacious dressing and meeting rooms for the Cardinal football and track teams.

The men most responsible for the excellence of Canfield schools is superintendent, James Watkins, high school principal, William Kay, and middle school principal, Dante Zambrini. Mr. Zambrini has just completed an extremely successful first year as middle school principal, and I am confident that he will become a great leader in Ohio education.

Seldom have I been prouder than when I discovered the amazing excellence of Canfield schools. As their Congressman, I salute the students, faculty, and administrators for their exemplary and inspiring schools. Thus, it is with thanks and special pleasure that I join with the people of the 17th Congressional District in paying tribute to one of the best educational programs in the state of Ohio—the Canfield School System.

RITALIN

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. BALLENGER. Mr. Speaker, several other Members and I contacted the Food and Drug Administration, the Drug Enforcement Administration, the Department of Education and the National Institutes of Health to learn more about a drug called Ritalin—methylphenidate hydrochloride.

Ritalin is a drug prescribed for children who suffer the symptoms of attention deficit disorder [ADD]. ADD is commonly known as hyperactivity in children.

I thought you might be interested in reviewing the correspondence we received from the Drug Enforcement Agency and the Department of Education. The letters from the other executive agencies appeared in the CONGRESSIONAL RECORD of June 15, 1988.

U.S. DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION,
Washington, DC. April 5, 1988.

Hon. CASS BALLENGER,
U.S. House of Representatives, Washington, DC

DEAR CONGRESSMAN BALLENGER: This is in response to your letter of February 18, 1988 in which you requested information on methylphenidate. Several of your questions relate to diagnosis efficacy and side effects and will probably be addressed by the Department of Education and the two agencies of the Department of Health and Human Services to which this inquiry was also addressed. Some of the questions raised in your letter are interelated and answers may not be in the same order as the questions in your letter.

In 1955 the Food and Drug Administration (FDA) of the Department of Health and Human Services approved the Ciba-Geigy company's new drug application for Ritalin, Ciba-Geigy's brand name for methylphenidate. Ciba-Geigy has manufactured the product under that name since that time. A California based company, MD Pharmaceutical, Inc., has manufactured and distributed generic methylphenidate since 1977. Methylphenidate is a central nervous system stimulant which is approved by the FDA for the treatment of Attention Deficit Disorder (ADD) and narcolepsy. Data available to the Drug Enforcement Administration (DEA) suggests that most of the drug is used in the treatment of ADD in children.

Methylphenidate is classified under the Controlled Substances Act as a Schedule II stimulant. That category also includes amphetamine, methamphetamine and phenmetrazine (Preludin). There is evidence that methylphenidate is sometimes diverted into the illicit traffic and is the subject of stimulant abuse. As a Schedule II substance methylphenidate is subject to the quota provisions of the Act. Quotas establish limits on the amount of a Schedule II substance which can be produced in a calendar year. The quotas are intended to limit the manufacture of these substances to that necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks. Quotas are also needed to establish a closed system for the legitimate distribution chain, to limit diversion of drugs from the legitimate channels of trade and to avoid overproduction and the consequent increased potential for diversion. The aggregate production quota places a limit on the amount of a given substance which can be produced in a calendar year. Bulk manufacturers are granted manufacturing quotas which are the amounts of Schedule II controlled substances individual companies can produce in a given calendar year. The aggregate production quotas for methylphenidate and the manufacturing quotas for the two manufacturers for this substance have been increasing since 1982.

Until market shares started to shift in 1982, most of the methylphenidate distributed was produced by Ciba-Geigy. In that year, 1,132 kilograms of the drug were sold, most of which was produced by Ciba-Geigy. By 1987, sales of the substance had increased to 1,949 kilograms with more than two-thirds of the market held by Ciba-Geigy. During that period, sales for Ciba-Geigy increased somewhat while sales for the generic manufacturer increased many fold. These increases in sales by the two manufacturers required concomitant increases in the quotas.

Despite constant increases in the methylphenidate aggregate production quotas beginning in 1982, both manufacturers asked DEA for large increases in the aggregate production quota and individual manufacturing quotas for methylphenidate in 1986. The total requests appeared to greatly exceed any change in the population for which it is customarily prescribed, and no justification was initially offered other than increased orders. DEA made repeated requests of both companies to provide evidence of increased medical need, but none was received. Alternatively, it appeared that the market was being affected by increased competition.

In light of these concerns, DEA notified each manufacturer that an initial quota would be granted for 1986 sufficient to cover immediate needs subject to a final review in March. Each company was asked to respond to a list of requests for data to enable a final decision. Subsequently, a quota was established which provided for a 47 percent increase over the previous year. In 1986, Ciba-Geigy submitted a request for a hearing contesting the established quota. An administrative hearing was held in 1986 and 1987, during which new evidence of medical need was presented. I have not yet rendered a decision in the matter, but the quotas were further increased as a result of this new evidence. The final 1986 aggregate production quota was set at 50 percent higher than that of 1985, and the amount which both companies were allowed to distribute was increased by 30 percent.

Over the past 12 to 18 months, public inquiries concerning methylphenidate have consistently surpassed those for any other individual drug. Requests for information have come from CBS News, Time Magazine, The Atlanta Constitution, United Press International, many other newspapers, and scores of concerned parents and parent groups. DEA provided individual state per capita consumption data, aggregate production quotas for the drug, and other general information to each of these inquiries. The questions most asked concern the drug's safety and efficacy.

Many of the comments about the safety and effectiveness of methylphenidate came after a Federal Register publication of July 29, 1987. In this publication DEA proposed the 1988 aggregate production quotas for all Schedule II drugs including methylphenidate. This notice resulted in more than 35 letters of comment on the figure proposed for methylphenidate. These letters were from individuals and organizations and for the most part expressed opposition to the use of methylphenidate in the treatment of ADD in children. Since this condition relates to one of the uses of the substance approved by the FDA and is considered to be a matter within the purview of that agency, the letters were forwarded to FDA for their consideration.

In Georgia and elsewhere, the controversy about the use of methylphenidate in children has resulted in ten law suits. Information available at this time indicates that the Georgia suits claim that parents are given ultimatums to put children on the drug when they are identified as hyperactive. The suits also claim that the studies to identify ADD in children are not scientific and that the drug is harmful to the children. DEA has investigated the use of methylphenidate in Georgia and found no evidence of illegal sales or diversion of the drug involved in this case. We have therefore concluded that the issue in that state is whether or not the drug is being improperly or excessively prescribed.

In summary, the use of methylphenidate has undergone a substantial increase in the last several years. While both manufacturers have increased their sales, the market share held by the generic manufacturer increased several fold. Data available at this time suggests that there has not been an increase in the population which uses the drug. Distribution figures indicate that consumption varies greatly from state to state with the top state consuming five times as much drug as the lowest. At this time, methylphenidate is not a major drug of abuse in most areas of the country. The use of methylphenidate in children is controversial as indicated by the contacts by advocates of use of the drug as well as those against its use.

In view of the nature of this drug as a Schedule II controlled substance, DEA is of the view that it should be prescribed with requisite caution and prudence. It would be valuable to establish more firmly the appropriate medical consensus regarding use of the drug so as to insure that medical need, and not other market or competitive factors, can more firmly dictate availability. It is hoped that appropriate inquiry of concerned authorities will accomplish this end.

If there is a need for more information on this matter, please contact me.

Sincerely,

JOHN C. LAWN,
Administrator.

U.S. DEPARTMENT OF EDUCATION,
THE SECRETARY,
Washington, DC, May 27, 1988.

Hon. CASS BALLENGER,
House of Representatives, Washington, DC.

DEAR MR. BALLENGER: Thank you for your letter of February 18, 1988 regarding any research conducted by the Department of Education on the use of Ritalin in treating children with Attention Deficit Disorder (ADD). I am sending a similar response to the other signers of your letter.

I requested that the Office of Special Education and Rehabilitation (OSERS) review any research studies which OSERS, or other offices within the Department, have funded on the use of Ritalin in treating children with Attention Deficit Disorder. The Office of Special Education and Rehabilitative Services (OSERS) administers the Education of the Handicapped Act which mandates that all children with disabilities receive a free and appropriate public education. In addition, the Act authorizes a number of discretionary grant programs which support various research and demonstration projects, the training of special education personnel, and programs for severely handicapped students.

As drug treatment research does not generally fall within the purview of the Department of Education's primary mission, we have funded only a limited number of studies related to the topic of drug management of hyperactive children, and none in the past five years:

"Behavioral Alternatives To Stimulant Medication in Treating Childhood Hyperactivity." Grantee: Stanford University, California Center for Educational Research; 1980 [Final Report].

"Parent, Teacher and Physician in the Life of The Hyperactive Child: The Coherence of The Social Environment." Grantee: Western Michigan University; 1980 [Final Report].

"A Meta-Analysis of Previous Research on the Treatment of Hyperactivity." Grantee: Utah State University; 1982 [Final Report].

"Children on Medication: A Primer for School Personnel." Grantee: The Council for Exceptional Children; 1979.

None of these studies has focused specifically on the issue of Ritalin. Only one (Stanford), involves primary research comparing the relative effectiveness of behavioral modification approach to drug therapy; methodological issues call into question any generalizations which can be made.

Due to the limited number of studies the Department has funded on drug treatment issues, the nature of these studies, (two are compendiums of research funded under other auspices) and the fact that none reflect recent research, I do not feel we can provide valid and reliable answers to the effectiveness questions you have posed. After conferring with OSERS officials I have also determined that the Department has not received any complaints concerning the use of Ritalin in treating children with Attention Deficit Disorder.

I am hopeful that the Food and Drug Administration and the National Institutes of Health, which you have already contacted, will be able to provide you with the research data you seek. If I can be of further assistance, please feel free to contact me.

Sincerely,

WILLIAM J. BENNETT.

ENERGY AND ANWR

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. YOUNG of Alaska. Mr. Speaker, many of our colleagues are aware of our energy dependence upon other nations, and the fact that the picture is not looking any brighter for the foreseeable future. Nevertheless, legislation before the Congress to open to environmentally sound oil and gas leasing the Coastal Plain of the Arctic National Wildlife Refuge in my district—the State of Alaska—is the bright spot in terms of responding to this growing international threat. Today I submit for the RECORD an article from the Richmond News Leader, which underscores the need for prompt action by the Congress on this subject. Because of the vast support nationwide for this legislation, I will do this daily.

[From the Richmond News Leader, (VA) Mar. 27, 1988]

OUT OF GAS?

America's political memory has run out of gas. Long lines at the service station and unleaded at $1.35 a gallon seem as ancient as the surrey with the fringe on top. Drivers no longer must refinance their houses to fill'er up, but slowly and surely America is heading toward another energy crisis.

The Department of Energy warns that dependence on foreign oil could threaten U.S. security. After declining for eight years, U.S. oil imports began climbing last year. By 1990, the U.S. could import more than 50 per cent of its oil; by 1995 imports could hit 60 per cent of consumption, thereby returning OPEC to the glory days when oil ministers brandished rifles, cut off oil supplies, and shouted. "This is our revenge for Poitiers!" The only way to prevent replays of the mid- and late-Seventies is to start planning—now.

Although low oil prices have boosted the economy, once OPEC eliminates its excess production it will regain the ability to manipulate prices and use oil as a political weapon. Because it costs far more to extract oil from, say, Oklahoma than from Saudi Arabia, artifically low prices discourage domestic exploration and production. At current prices, companies cannot make profits looking for U.S. oil. As domestic production drops, dependence on foreign supplies increases. When the U.S. import oil, precious dollars flow overseas.

What can be done? Alaska offers one solution. Oil from the Alaskan pipeline played a crucial role during the 8 years the United States lessened OPEC's grip. Despite the quantities already coming from the North Slope, Alaska boasts reservoirs that have not been tapped. The "1002 Area" of the Arctic National Wildlife Refuge (ANWR) boasts an awesome potential: Estimates of recoverable oil reserves range from 600 million to 9.2 billion barrels; so-called in-place reserves range from 4.8 billion to 29.4 billion barrels. That's a lot of black gold.

The 1002 Area accounts for only about 8 percent of the refuge's territory. Energy exploration and development would not threaten the environment. Alaska's producing fields prove the oil industry and Alaska's wildlife can live in peaceful coexistence. The caribou roam as they did before oil began coursing through the pipeline. In fact, the herd grew from 3,000 head in 1970 to 13,000 in 1985. They like the pipe's warmth.

Eventually the United States will drill for Alaska's oil. It may take years, but someday the lower 48 will want—and need—to get at the oil in 1002 and other regions. From an environmental standpoint, well-planned exploitation makes far more sense than ripping into Alaska as a result of an international emergency.

What would happen if OPEC recornered the oil market, ratcheted the price beyond confiscatory levels thereby doubling inflation? And what would happen if OPEC said, "sorry, guys, we're pulling the plug"—thereby idling factories and stalling cars? At that point, domestic political pressure would force the government to open up all of Alaska—and the heck with environmental concerns. So which would be better: exploitation and production that is orderly and planned or disorganized and sudden?

Energy remains a strategic resource. America cannot forever depend on unreliable foreign supplies. Economic necessity and national security suggest Congress must open up the 1002 Area to exploration. Environmental moderation seconds the motion.

UNIVERSITY OF ILLINOIS AT CHICAGO AND THE 1991 CONFERENCE ON THE AGING

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. MICHEL. Mr. Speaker, the University of Illinois at Chicago has successfully bid on a contract by the Federal Council on the Aging and I believe that this success deserves some recognition. The contract concerns development of a concept paper that will provide a scenario for the 1991 White House Conference on the Aging. I want to take this opportunity to congratulate the university, its president, Stanley O. Ikenberry, and the staff on this contribution to the conference.

The State university will have to raise between $400,000 and $500,000 from foundations and businesses in order to complete the project. But I know this drive will be successful because of the importance of the work involved. So often we go into conferences and discussions with no idea—or very little—of what the guidelines will be. The study carried out by the University of Illinois will give participants in the conference a very good idea of what the conference can accomplish and how it can be of importance to older Americans and to the Nation. While the Secretary of Health and Human Services is not compelled to follow the plan, there will be at least a guideline incorporating the views of experts.

I thought it would be beneficial if I inserted into the RECORD at this point, information from a fact sheet of the Federal Council on the Aging:

FACT SHEET

The Federal Council on the Aging (FCoA) was created in 1973 and is authorized under the Older Americans Act (OAA), as amended. The Council is composed of 15 members selected by the President and the Congress. Council members, who are appointed serve three-year terms, or continue to serve until they are reappointed or a successor is appointed. Members represent a broad cross-section of rural and urban older Americans, national organizations with an interst in aging, business, labor, and the general public. At least nine of the members must themselves be older individuals.

The President selects the Chairperson of the Council from among the appointed members. The Council meets, at the call of the Chairperson, at least quarterly.

Functions of the Council include:

Reviewing and evaluating, on a continuing basis, those Federal policies, programs and activities, affecting the aging, which are conducted or supported by Federal departments and agencies in order to assess their value and impact on the lives of older Americans;

Serving as a spokesperson for all older Americans by making recommendations to the President, the Secretary of Helath and Human Services, the Commissioner on Aging, and the Congress regarding Federal policies which affect the aging and those federally conducted or supported programs and activities that impact on them;

Informing the public about the problems and needs of the aging by collecting and disseminating information; conducting or commissioning studies and publishing their results; and issuing reports; and

Providing public forums for discussing and publicizing the problems and needs of the aging, and obtaining information relating to those needs by holding public hearings and by conducting or sponsoring conferences, workshops, and other meetings;

Preparing and providing for the President an Annual Report on the Council's activities and recommendations for the ensuring year.

OHIO SAVINGS AND LOAN LEAGUE, "A CENTURY OF SERVICE"

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Ms. OAKAR. Mr. Speaker, one of the country's oldest and most respected State thrift leagues, the Ohio Savings & Loan League, celebrated its centennial anniversary this year. On March 29, the Ohio Savings & Loan League held its 100th annual meeting in Columbus. Mr. Speaker, the Ohio League can take pride in how its founders and officers helped build the Nation's $1.2 trillion savings and loan business, now a major force in the economy. In Ohio alone, savings associations held nearly $54 billion in assets at year-end 1987. Their savings deposits totaled an amazing $44 billion, while mortgage loan originations reached $39 billion.

Although building and loan associations, as they were first called, has been active in the United States for 36 years before Ohio chartered its first one, my great State of Ohio became a major building and loan State with influence far beyond its borders. Within a short period of time, the Ohio League's leaders were instrumental in founding and developing what is now the industry's major national trade association, the U.S. League of Savings Institutions. The Ohio League continues to set standards of leadership necessary to the ever-changing financial marketplace.

Mr. Speaker, since the very beginning of its existence, the Ohio League has stressed to its membership the importance of education and seminars. Delegates were encouraged to prepare papers on building association operations for the league's annual meetings, and papers were constantly updated and published for convention meetings. Since its inception, the Ohio League maintains a commitment to keep its members abreast of all changes within the financial marketplace and to probe new avenues for future profitable endeavors. Strategies are commonplace within the Ohio League to enhance the members' potential as a financial institution and provide a service to the community in the most efficient means attainable.

Within the context of regulation, the Ohio League has an invaluable reputation for its tradition of leadership in legislative proceedings. For example, Mr. Speaker, in 1974 the league worked with the general assembly to amend Ohio's Uniform Depository Act by opening up competition and permitting savings and loans to accept deposits of the State and its political subdivisions. Prior to this amendment, only commercial banks were allowed to accept these deposits.

Throughout its history, the Ohio League has acted as the spokesman for its members at both the State and Federal regulatory levels. I am proud of the fact that in 1986, it became one of the first savings and loan trade associations to institute an examiner evaluation program involving confidential questionnaires from managing officers concerning their examiners. On the national level, the Ohio League has successfully educated members of the Ohio congressional delegation respectfully pointing out the interests of its membership. On many occasions, I have had the distinct pleasure of conferring with Kenneth Elshoff, the president of the Ohio League. Whether the subject matter was pending legislation or ideas on how to broaden the scope of community service, Ken Elshoff and the Ohio League have continually articulated their position clearly and with a sense of fairness.

Mr. Speaker, during the trying times of the Ohio savings and loan crisis, the Ohio League performed admirably, working with the Governor, legislators, and Federal and State regulators. During this difficult period, the Ohio League responded to inquiries from the press and handled the many calls from concerned depositors. If it were not for the hard work, dedication, and loyalty of the Ohio League in helping restore the lost confidence of the State-chartered system, the result may have been far worse.

In conclusion, Mr. Speaker, I commend the savings and loans in my State of Ohio for their dedication and willingness to commit their vast financial resources to those who seek the home of their dreams. With the desire for homeownership so strong, Ohioans can look forward to a bright future. I congratulate the Ohio League on the first 100 years and anticipate many more years of devotion and community service.

DR. ROBERT MACBRIDE DOWNEAST DOCTOR

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. SNOWE. Mr. Speaker, We read so much today about the medical profession that is disheartening. It is with a great deal of pleasure, therefore, that I take this opportunity to tell my colleagues about Dr. Robert MacBride.

For 40 years Dr. MacBride has taken care of the people of Lubec, ME. He sees each patient as an individual and takes the time to listen. For more than 10 years, he was the only doctor in the area, and has served as an example to a number of young doctors assigned to the area. In 1986, he won the Practitioner of the Year Award from the National Rural Health Association. But a greater tribute was paid to him in 1984 when Robert MacBride Day was declared.

At the age of 71 and after a heart attack he still works mornings at the Regional Medical Center. I am proud to be able to call Dr. MacBride a friend and would like to share a recent article on the doctor which appeared in the Maine Sunday Telegram.

[From the Maine Sunday Telegram, June 12, 1988]

IN LUBEC, AN OLD-FASHIONED DOCTOR WITH A STILL-CARING HEART

(By Abby Zimet)

LUBEC.—In the examining room, 71-year-old Dr. Robert MacBride tends to 75-year-old Bessie Fitzgerald. Not much wrong with her, he has said—just a touch of "old-timers' disease."

With the ease of the years, MacBride checks her over and gives her a vitamin shot "to give you a little pep, vim, and vigor." He hands her an empty plastic pill bottle "to keep your pins in." she retorts she'll use it for beano chips, thanks you very much. Gently, he concurs.

Then, newly timid, she asks about her heart. He smiles.

"Bessie, I'll tell you what another old doctor said to another old patient—'Madam, it'll last as long as you live.'" he says. "Let's see, when was your heart attack . . .? Six year ago. And mine was . . . 12 years ago. So there."

He marks her down for another appointment four weeks away—"and you know enough to call if you need me." Asked how long she's been seeing him, Fitzgerald pauses, muses, reckons it's been "all my life."

"I've been to other doctors," she says, "but I think he does good for me."

He admires her earrings, kisses her forehead, sends her on her stalwart way.

"You be good now, Bessie," he says. "Yessir, yessir."

Yessir, yessir. MacBride has been doing good for 40 years now, soothing patients when they're young, and delivering their babies (5,500 through the years), and easing them through grief, and watching them get old.

An old-fashioned doctor with a still-caring heart, he won the Practitioner of the Year Award in 1986 from the National Rural Health Association. Close to home, he has won greater tribute yet—the devotion of his own.

"We set aside this day, dedicated to you, a man who has dedicated countless days to all of us," reads the plaque from 600 people declaring Robert MacBride Day in 1984. "You have truly shown us that 'love is what it's all about.' "

MacBride was born in this serene and distant downeast community, where the most common sight seems to be clusters of men leaning on, lying under or bent beneath the hoods of old cars. Beyond them, the green woods stretch on and on.

Raised by his mother—his father died when he was two—MacBride went on to Bates and then Boston University's medical school. The dream, he says, always beckoned: "I don't ever remember not wanting to be a doctor."

After serving with the Army in Panama, he returned here in 1948. The town's only doctor, who'd delivered him, was near 80, with no replacement in sight.

"I said, 'OK, that's where I'm going to go," "he recalls." "This is where I belong. It's my home, and these are my people.' "

That sense of connection, physical and emotional, remains strong in him. He digs out a poem he wrote, his therapy: "Am I my brother's keeper?/ Yes, indeed, I feel I am/ For I know I'm not an island/ Clear and free from other men."

For more than 10 years, MacBride was the only doctor in Lubec. Then, in the 1970s, a stream of young, federally funded doctors began to come and—weary of the isolation and long winters and low wages—mostly go.

MacBride stayed, tending to his neighbors. He now lives in the house where he was born, working mornings alongside two young doctors at a Regional Medical Center full of squalling babies and coughing adults.

The keep him busy? Cheerful, he nods: "You ain't woofin'. "

Young people, he says, often prefer to see young doctors. "They look at me at the guy who delivered them, and I'm too well-acquainted with their parents."

But older patients still flock to him, seeking the old plain way of doing things. Though reluctant to criticize, he gently chides a new breed of impersonal doctors who suffer from "the Washington, D.C. syndrome—they order a battery of tests and send their bill and never listen to (the patient.)"

He himself, he declares, is of the old school, "when a doctor wore a bow tie and white coat, and when it was time to make rounds you better be there, and everyone was seen as an individual, to be treated as such."

He sees his role here as equal parts doctor, counselor, minister/father figure. He has, he grins, "been accused" of them all.

No matter. In his own defense, he offers another poem, this one about giving and learning: "Of all the people that I meet/ Work with, interview, and treat/ The ones I've helped the most. I'm sure/ Are those I've listened to—no more."

By now, the need for listening is mutual and profound. MacBride likes to tell of the 92-year-old patient who sat up on the examination table and proclaimed, "Don't you dare die before I do."

He, in turn, needs to work as he needs to eat. As for retirement, 'I'll probably die with my shoes on."

Over the years, he has seen much drama, from woods accidents and fishing boat mishaps to the 5,500 babies—"It's always thrilling"—many of whose parents he'd delivered years before. A favorite delivery was the night a frantic father-to-be rowed over from Campobello Island in a snowstorm to get him.

Just returned to the area and not yet unpacked, MacBride threw all his medical equipment into the dory. En route, he pointed to the piles of boxes and reassured the man it was "probably enough for six babies."

Hours later, he delivered a baby into the father's arms; moments later, he handed him another. Then the man nervously approached him.

"Listen doc," he said. "Just because you brought all that stuff, you don't have to use it all."

MacBride laughs, gleeful, at the memory, at all the memories. Yessir, yessir, what a time.

LONG-TERM HOME CARE: FILLING A CRITICAL GAP IN HEALTH CARE COVERAGE

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. WALGREN. Mr. Speaker, how many of us fear having to go to a nursing home in our old age? How many times have we heard stories of people who feel terrible guilt for putting their elderly parents in a institution? How many times have we heard of elderly parents who worry about "being a burden" to their children? How many of us worry that our children will have severely disabling accidents? The answer: most of us.

Long-term care is not only a financial issue. It is a deeply personal, moral issue, bound up in the responsibility each of us has for our immediate family. People want to keep their loved ones at home and most disabled or ill people want to be in their own homes.

The fact is that the reason most people go to a nursing home is not because they become sicker or need more care, it is because the family member who are taking care of them in the home cannot do it any longer. The caregiver breaks down. Congressman PEPPER's long-term home care bill, which the House rejected on June 8 and which I supported, would provide essential home care benefits under Medicare to chronically ill elderly, disabled and children so they could stay in their home instead of being institutionalized. This bill—providing home health coverage—would fill a critical gap in the health care system, by recognizing the devastation that a chronic illness or disability can cause and by providing a good alternative to institutionalization. Under the bill, an eligible person could receive care in the home from a nurse, a homemaker, a home health aid, a medical social worker, a rehab therapist, as well as be eligible for certain essential medical supplies and equipment.

FAMILY SUPPORTS WANING

There was a time when if our widowed grandmother became frail, she could expect to move in with her son or daughter and their children. A family member—usually a female—cared for grandma. The family has traditionally been the caregiver. Those days, while not gone completely, are fading. Today, families are more dispersed. More women are working. There are more divorces and single parents. A son or daughter is likely to be miles away or burdened with career and child-rearing responsibilities. They just cannot always provide the care, no matter how loving and well-intentioned they may be. Home care is needed to fill the gap in caregiving traditionally performed by family when there is no family.

THE CURRENT NONSYSTEM

Long-term care is expensive. Nursing home costs are from $22,000 to $60,000 per year. Home health care averages $15,000 per year. Of course, in certain cases, like a respirator dependent child in a hospital, costs can run as high as $250,000 per year. The median family income in this country is now $27,300. Long-term care is simply beyond the means of almost everyone.

At present, we essentially pay for long-term care by using up the savings of a couple—leaving one spouse with years to live in poverty—and then turn to welfare—State Medicaid programs. As a practical matter, Medicaid does not provide meaningful support of long-term home care—under 3 percent of home health care is paid for by Medicaid.

Similarly, Medicare home health coverage—for the elderly—is limited. Medicare will cover only care that is "intermittent"—and only 3 weeks of that. The Medicare catastrophic bill which we passed with my support, will increase home care coverage to 38 days, 7 days a week. However, chronic conditions would not be eligible.

Private insurance is no answer. Few policies exist. In November 1987, only 400,000 private long-term care insurance policies had been sold. They are expensive and they typically cover nursing home care, not home care. Many exclude coverage for mental illness and pre-existing conditions. According to some studies, 25 to 40 percent of the costs of private insurance policies are used to cover advertising, commissions, administration, and profit—quite a loss compared to Medicare's 2 percent in administrative costs. Private approaches largely help the wealthy, have limited coverage and may not be cost-effective.

Someone in our family may certainly suffer a catastrophic disease or disability—stroke, Alzheimer's disease, spinal cord injury, cystic fibrosis, multiple sclerosis; 6.3 million people over age 65 are disabled. Between ages 65 and 74, 14 percent are disabled, but among people over age 85, the proportion of disabled rises to 58 percent. The fastest growing age group today is the very elderly, the group most likely to need long-term care.

We all are only temporarily able bodied. The Pepper home care bill is a long overdue response to a critical gap in health care coverage today. It is needed and it is humane.

MARYLAND LAWYER JOINS THE FIGHT AGAINST HUNGER

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. LELAND. Mr. Speaker, I would like to share with my colleagues a project initiated by Lawyers' Campaign Against Hunger, in Baltimore, MD.

At its 1986 convention the American Bar Association passed a resolution recognizing the "fundamental right of everyone to be free from hunger." In response to this resolution the Maryland Food Committee is providing a forum for the legal community of the State to fight hunger through its First Annual Lawyers' Campaign Against Hunger. This campaign will give the legal community an opportunity to enforce the ABA resolution and have a real impact on the problems of hunger in Maryland.

The Maryland Food Committee is the largest statewide nonprofit hunger advocacy group in the country and is recognized nationally as a model organization for addressing the needs of the poor. The efforts of the food committee have helped supply hundreds of thousands of meals to the needy of Maryland.

The Lawyers' Campaign Against Hunger has set a goal of raising $100,000. These donations will assist the food committee in achieving their ultimate goal—a society free from hunger.

Mr. Speaker, I would like to pay tribute to this group of lawyers by commending them for their generous efforts. With estimates that 20 million people in our country go hungry each month, the contributions of groups such as the Lawyers' Campaign Against Hunger are vital.

NAOMI MOORE—CHEF OF THE EASTERN SHORE

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. DYSON. Mr. Speaker, I rise today to share with my fellow Members a memory of a special lady.

A very meaningful publication came across my desk with the caption, "Naomi H. Moore's Favorite Recipes From the Eastern Shore of Maryland."

Upon first glance, I thought this was another book of recipes, but upon perusal discovered that it is a concise and pertinent social history of the Queen Anne, Caroline, and Talbot Counties of the Eastern Shore of Maryland during the mid-1900's.

Mrs. Moore was born and grew up in the county of Queen Anne. In 1915, she married George C. Moore, also of Queen Anne, and together they raised a family of five children, all of whom were heavily involved in the arduous work associated with operating a family farm during that period of time.

In fulfilling the duties of food preparation for a large family and many hired hands on a daily basis, Mrs. Moore became well-known throughout that part of the Eastern Shore for her tasty and home cooked meals. Many of the recipes in this cookbook originated during this early part of the 1900's when the farm wife did not have the luxury of freezer food and supermarket shopping resources.

The book was compiled as a remembrance for the large number of family members and friends, containing many recipes that Naomi Moore enjoyed preparing and serving to her family and friends throughout the years, as well as the numerous hired hands who played such an important role in the operation of a farm during the early and mid-1900's.

There are a dozen categories any housewife or young cook might like to attempt and includes a generous menu served on special holdiays.

The following recipe for crab cakes is an example of just one of the seafood recipes set out in this book, having obtained the fresh crab meat from nearby Kent Narrows:

CRAB CAKES

1 lb. can crab meat—claw or backfin;
2 eggs, beaten;
Chopped parsley;
Salt;
Dash of red pepper—or black—or none;

Mustard—dry or prepared;
Bread crumbs;
White sauce—enough to hold everything together.
Fry until golden brown.
Pick over crab meat removing bits of shell; set aside.
Combine remaining ingredients and gently fold in crab meat.
Chill—shape into cakes.
Fry approximately 5 minutes on each side. Drain.

As important and exciting as these recipes are, this cookbook is unique and most interesting to me because of its many photographs and literary morsels which give a picture of the life of a small farming community during the first half of the 20th century. This includes the ice plant, tomato cannery, railroad, milk station, grocery stores and other important landmarks which are no longer part of the community life.

However, memories of more active days become vivid in retrospect including Gibson's Store, which was also the meeting place for the men of the community, swapping stories, tasting snacks, and playing practical jokes on each other; also, of the life-time friendships formed with the train crew on the Pennsylvania Railroad Line which came through and served the local towns.

Another unique feature of this cookbook is its recipe for "Maryland Beaten Biscuits," a delicacy original to this area of the Nation. The recipe is as follows:

MARYLAND BEATEN BISCUITS

10 cups flour (Hearns and Rawlins, Seaford, Delaware);
2 scant cups lard;
2 Tablespoons salt (1½ scant may be enough);
2 Tablespoons sugar;
2 cups cold water (approx.)—make stiff dough.
Beat 20-25 minutes.
Bake 450° for 5 minutes, then broil until lightly brown on top.
Then bake 450° for 18 minutes.
Use aluminum cookie sheet.
Note.—May want to try 450° for 20-25 min.

In conclusion, I would say that this book of 177 pages is not only a great tribute to a fine lady and outstanding cook, but it is also a tribute to a way of life long since gone, but which laid a foundation which has had a positive effect upon some of our noteworthy citizens from the Eastern Shore.

THE TECHNOLOGY GAP BETWEEN THE UNITED STATES AND JAPAN: AN ANALYSIS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. RITTER. Mr. Speaker, I take this opportunity to submit for the record the following article by Richard McCormack, entitled "Leapfrogging America: A Tsunami of Japanese Technology to Deluge U.S.," which appeared in the May 9, 1988, issue of New Technology Week.

Mr. McCormack, in an interview with Sheridan Tatsuno, discusses the technology gap that is developing between the United States and Japan. Sheridan Tatsuno, a senior industry analyst, offers his advise on how we can close this gap. I feel this is an article worthy of the attention of my colleagues.

LEAPFROGGING AMERICA: A TSUNAMI OF JAPANESE TECHNOLOGY TO DELUGE U.S.

(By Richard McCormack)

The executives who run major U.S. corporations fail to appreciate the magnitude of Japan's technological strength, says Sheridan Tatsuno, a senior industry analyst with Dataquest, a high-technology market research firm based in San Jose. Japan is moving rapidly into high-end, creative and innovative research across all industrial segments, and the effort "is not going to let up," warns Tatsuno. "In the 1990's we're going to get leapfrogged in a dozen industries and Americans won't know what hit them. . . . It doesn't take a fool to see what's going on there."

The trend will become obvious in the early 1990s and will accelerate in the middle of the decade, predicts Tatsuno, a sansei or third generation Japanese American. Following closely the situation that has developed in memory chips, where the U.S. had a commanding lead and lost all but a very small portion of the market to Japanese producers, says Tatsuno, "the Japanese are going to have the cards for everything. They'll say: 'You can have the technology, come and get it, but it's all in Japanese,' That's when we'll be in trouble."

The U.S. will then be in the position that it is in now in the dynamic random access memory market: the Japanese have the DRAMs and U.S. consumers have to pay whatever price the Ministry of International Trade and Industry dictates.

This situation also poses problems for the Japanese, says Tatsuno. If a recession sets in, there will be more competition for a smaller market: "People will be very uptight, and will start blaming the Japanese for all of their problems."

Tatsuno doesn't quite understand the U.S. mentality. Executives "pooh-pooh ideas before they investigate them," he says. They are too "mentally lazy" to commit themselves to risky but promising technologies. The Japanese are busily creating markets with new technologies while American companies have a "wait-and-see" attitude, Tatsuno remarks. "And this becomes a self-fulfilling prophecy. The Japanese say, we're not going to wait. We're going to create and invent the future."

America's skepticism has become an excuse for not doing anything and it is leading to an overall immobilization, Tatsuno charges. "I've really noticed this skepticism quite a bit lately," he explains. "Managers are not being rewarded for what they can do but for what they should be doing right now. If [U.S.] managers divert their attention away from the pressing matters [of the moment], then they really run the risk of exposing themselves to failure." The mentality runs something like this: "'We're in the vacuum tube business, we really need to squeeze all of the revenues and energies out of that.'"

Tatsuno, whose job is to forecast markets, says many Americans "laugh him off the roof" when he makes predictions concerning the growth of certain technologies, three-dimensional integrated circuits, for instance. Yet when he goes to Japan, they say that it's old news. Today's naysayers "will become the protectionists later who scream 'dumping.' It's really backwards thinking."

In superconductivity, the Japanese are looking at all sorts of practical applications, "and they're not even thinking 20 years; they're thinking next year" for such things and infrared and magnetic sensors. The country also has the mass production and marketing skills "to pull it off," he says. In the meantime, American companies "will sniff at it because there are no margins or the market won't be big enough or they won't be sure what type of market will develop." High-temperature superconductivity will also play well into the Japanese system because of the country's strength in applications engineering and manufacturing, both of which U.S. companies generally lack.

And while the United States government spends $62 billion a year on research and development much of what is produced is not picked up by industry. Tatsuno uses this comparison: "We're pouring tons of money into fertilizer and seeds and we don't have anybody to harvest the stuff." As a result, the research ends up "rotting in the fields." One way to cure this problem is to have American venture capital companies invade the publicly funded laboratories and pick up whatever they can.

Given that the largest high technology market for U.S.-made products is the U.S. military, Tatsuno believes that this is not a healthy economic condition. The military market is much easier because winning a multi-million dollar contract comes with the stroke of a pen. Whereas in the consumer market "you have to fight for every penny out of the marketplace." To get a similar amount of revenues out of consumers takes a great deal of money and staying power. In defense contracting, it's a one shot deal "either you hit or you don't," he comments. "In the marketplace, it's a constant fight."

The Japanese have a huge amount of high tech products that never make it to the United States. Video telephones are being sold throughout the country, as well as phones that have liquid crystal displays. "Ninety-nine percent of the products are way ahead of the United States, but never make it here," says Tatsuno. The reason for this is that most Americans are not as scientifically or numerically sophisticated as the average Japanese. In order for those products to be successful in the U.S., they would have to be "dumb-downed." In the U.S., consumers get extremely frustrated when a product gets the least bit technical, Tatsuno explains. "Whereas in Japan, the level of education is so high that the average Joe is a pretty sophisticated guy."

The Japanese also have an extremely good command of the English language, and there are only a few Americans who possess knowledge of the Japanese language. Right now, the "biggest problem" facing companies in the Silicon Valley is the lack of college graduates in electrical engineering who possess the ability to speak or read Japanese. Tatsuno continually receives calls from companies asking if he could suggest people with these qualifications. He doesn't know of any. In terms of firepower, the Japanese are graduating hundreds of thousands of electrical engineers a year, all of whom read English and therefore "know exactly what we're doing." But contrast, the United States is graduating less than 100 American born BSEEs a year capable of conversing in Japanese.

If Tatsuno was in charge of hiring for a U.S. technology company, he would raid Japanese companies for their best and brightest talent. This is easier said than done, however. "I'd change the immigration policies to allow any company to pull in a Japanese researcher or engineer," he explains. The danger in this is that a Japanese would leave his position in Japan to take one up at a Japanese company's office in the U.S. "So you say, 'if you don't stay with an American company, you lose your visa.'" There are plenty of Japanese who would love to live in America, he points out.

Does Tatsuno believe that the entrepreneurial high-tech start-up companies are the United States' ace in the hole in this internationally competitive environment? Yes, and no, he responds. "These guys are coming into a pretty crowded marketplace." When Intel was founded in 1968, for instance, it had five years to take control of its market and there was no Japanese competition. "Now, these small companies are protected for only a very, very short time," Tatsuno says.

A CONGRESSIONAL SALUTE TO FRANK DROZAK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. ANDERSON. Mr. Speaker, I rise to pay honor to a man known to many, if not all, of the Congress, the late Frank Drozak, president of the Seafarers International Union of North America, AFL-CIO. Frank's untimely passing has brought sorrow to us all, for he was a man in his prime, dedicated, sincere, and devoted to the causes of his organization and its membership. We will miss his wise counsel, and I will miss him as a friend.

Frank Drozak served in the maritime industry for almost his entire life beginning at the age of 16 as a shipyard worker in Mobile, AL. From that point on he rose through the ranks of his union to eventually become president of the Seafarers International Union and the chief spokesman from his own organization as well as the Maritime Trades Department of the AFL-CIO. In these dual capacities, Frank spoke out often and strongly on the issues that confronted labor during his tenure. It is not an exaggeration to state that Frank was a "giant" in his time.

It will be as a friend, however, that I will best remember him. No phone call went unanswered, no request was denied, no suggestion ignored. Over the years, we became close, and it was always a pleasure to hear his voice or see him approaching. It is sad to think that I will not have those pleasures in the future.

What a man most hopes to do is to leave behind him the legacy of a good name. Frank Drozak has done so. His name will always call up the image of a good and decent man striving to accomplish good things for his union, his industry, his community, and his country.

Mrs. Anderson joins me in extending heartfelt condolences to Frank's widow, Marianne Rogers Drozak, and to his daughter, Sara Frankie Bell.

ANTI-SEMITIC INCIDENTS ON THE RISE IN SOUTH FLORIDA

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. SMITH of Florida. Mr. Speaker, I would like to express my concern about the recent increase in the number of anti-Semitic acts in south Florida and the United States. Late last month, for instance, four juveniles were charged with stenciling swastikas and scrawling an anti-Semitic slogan on Temple Bet-Shira in Miami. According to figures compiled by the Anti-Defamation League, 64 acts such as this occurred in Florida in 1987 and 50 incidents already have been counted in Florida this year. In south Florida alone, 12 synagogues have been desecrated.

An alarming pattern has emerged from these anti-Semitic acts. Hostility toward the State of Israel is presently occurring as a new component of violent anti-Semitic incidents in the United States. For example, Florida—along with California and Illinois—has among the highest number of acts linked to Palestinian unrest. Nationwide, these incidents have consisted of bomb threats, vandalism, phone or mail threats, and other forms of harassment; and the number of outbreaks continues to rise.

I commend and support the southern area director of the Anti-Defamation League of B'nai B'rith, Mr. Arthur Teitelbaum, for his efforts in exposing and combating this irrational and prejudicial behavior. I request that an article on this topic, written by Mr. Teitelbaum, be included at the conclusion of my remarks.

Mr. Speaker, as representatives of the American people, we must be aware of these anti-Semitic, anti-Israeli occurrences, and we must act to ensure their cessation. Now is the time to heed the warnings of the ADL, open our eyes, and speak out against these hostile actions.

The article follows:

[From the Miami Herald, May 29, 1988]

COMBATING THE "VIRUS OF ANTI-SEMITISM"

(By Arthur N. Teitelbaum)

What's going on? And what does it mean? Those are the two most frequently asked questions about the rash of synagogue desecrations that have occurred in South Florida in recent months.

Statistics provide a partial anaylsis. As this is being written, the Anti-Defamation League has recorded statewide 45 incidents of anti-Semitic vandalism, including the desecration of 12 synagogues.

The nature of the incidents range from the spray-painted epithets of anti-Jewish hatred, to broken windows, to a pipe bomb.

For statistical perspective, there were 64 anti-Semitic vandalisms in 1987 in Florida, 694 nationwide. But numbers tell only a small part of the story. With regard to the vandalisms, we are seeing three streams of anti-Semitic expression.

The most common (vandalism) involves spray-painted swastikas and words straight from the Nazi era. Some of the graffiti is as blunt as a gunshot: "Jews die." Those arrested in these cases most often are teenagers, acting alone or in small groups.

Evidence points to a second category, Skinhead youth gangs. These gangs, which draw their name from the practice of the male members shaving their heads, preach an ideology of hatred against Jews, blacks and immigrants. They also have a record of violence.

A third component of the vandalisms are those that use synagogue walls as billboards for anti-Israel propaganda. Stated or implied vengeance against Jews is a frequent part of the graffiti. We have seen a number of such incidents in South Florida in recent weeks.

The above categories are not precise nor all-inclusive. They are a starting point for understanding the nature of these attacks on the Jewish community. Worth noting, consistent in all of these episodes, is coarse anti-Semitism and the threat of violence.

There are some who would dismiss these crimes as merely teen-age "pranks," without substantial meaning. They are wrong. Adopting that position requires accepting the notion that anti-Semitism can properly be thought of as harmless in some circumstances. It cannot. History proves the point many times over. Indeed, public expression of the hatred of Jews is often a precursor—at times a companion—to the public expression of hatred of other groups, racial and ethnic. Anti-Semitism—never a prank.

The phrase "the virus of anti-Semitism" is still useful. For anti-Semitism often behaves as a virus. At times a dormant malignancy, lurking just beneath the surface of consciousness. And then, with shocking swiftness, it can boil with contagious virulence.

There is no reason, however, for panic. Vigilance and decisive action are required, within the context of law and common sense.

We know that a substantial percentage of those involved in these crimes are juveniles. That should serve as a warning and great challenge to the rest of us, to society as a whole. For their behavior instructs, confirming that bigotry is not passed on genetically, but is often learned from elders, through lessons both coarse and subtle.

We must not fail to pay attention to the way young people develop their attitudes and to the content of those attitudes.

Still focusing on the young, what can be done to combat anti-Semitic crimes? There is no singular answer. No panacea. But there are useful responses, each with its own role and the possibility of effectiveness.

Schools and teachers are vitally important. The classroom is a forum where stereotyping, scapegoating and prejudice can be challenged. Curriculum-based programs, such as the ADL's "A World of Difference" project, can be effective in combating prejudice and improving intergroup relations.

Thoughtful legislation can also be helpful. Examples in Florida are provided by two bills based on model statutes drafted by the ADL. The first is law; the second is before the current Legislature.

Six years ago the Legislature passed the House of Worship Protection Act of 1982, making it a third-degree felony to damage or desecrate a house of worship in Florida. The four teen-agers convicted in the Bet Shira Congregation case were charged under this law.

Currently before the Legislature is a bill entitled the Bias Crimes Reporting Act. It would mandate that local law enforcement agencies report to the Florida Department of Law Enforcement (FDLE) hate crimes investigated in their jurisdictions. FDLE would then analyze the data, much as it does with other categories of crimes, seeking trends and other statistical profiles. That information would then be made available to law enforcement administrators around the state, providing them with information useful for the most effective allocation of police resources.

The police and the courts have important roles to play. Police agencies must treat hate crimes seriously, conducting vigorous and timely investigations. In sentencing, judges should give considerable weight to the objective of deterrence.

In the sentencing of the four young men convicted for the desecration of Bet Shira Congregation, Judge Bruce Levy acted wisely and spoke eloquently. We support his decision. But with that case as background and in the face of continuing incidents, a period of imprisonment should face the next person convicted of such crimes.

The shocking nature of repeated hate crimes, particularly synagogue vandalisms, is discouraging to many people in our community, ordinary folks who have good instincts on intergroup relations. Their confidence is undermined in the possibilities of "community" and democratic values.

Are the democratic ideas of pluralism and free expression viable in the face of today's hard realities? In various forms, we have heard the question many times in recent weeks. The answer is yes. But whether in the context of a nation or a community, democracy is never completed, never definitive. It is always realized in the form of a process. It is always being challenged, always under pressure.

Judge democracy's existence and health by the position, number and vigor of its advocates.

The words of the contemporary Russian poet Yevgeny Yevtushenko resonate in this context. "Public silence," he said, "is a hidden form of anarchy." And so too, private silence.

The silence I speak of is that which occurs in families, perhaps democracy's first line of defense. The dinner table too is a forum where the attitudes of young people can be shaped. Silence is dereliction.

Today's hate crimes compel us to focus on the young.

Stand before a young person and one should feel a sense of awe. To look at a young person is to look at the future. An exaggeration? Perhaps. But who can say with certainty in what manner and in what proportion this youngster today may affect tomorrow?

Through all of history the anonymous and the famous, the constructive and destructive, the moral and immoral, the praised and the damned—all were youngsters who came to life with blank tablets upon which they and others wrote.

If we care at all about the future we dare not be indifferent to our children. It is they who will shape the future, who indeed will be the future.

A TRIBUTE TO WILSON REDMEN ATHLETICS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to the Woodrow Wilson High School Athletic Program of Youngstown, OH, a very special activity in my 17th Congressional District. This program was recently honored at the 33d Annual All-Sports Banquet on May 1, 1988, at the Georgetown in Youngstown. Since I played football as a high school freshman at Wilson, it gives me great pride to salute this athletic program as a Member of Congress.

I want to especially pay tribute to Wilson's outstanding head football coach John Koop, whom I went to school with and who has been a very close friend of mine for countless years. Mr. Koop is an astounding motivator of young people, and he inspires them to be great students as well as great athletes. Mr. Koop's excellent assistant football coaches are Dick Banks, Mike Lodyn, William James, Mike Kish, Ed Repko, and Joe Waynewright.

Wilson is producing many athletes destined for success in big-time athletics. The amazing Sam Gianfrancesco ia an all-city football defensive back who started 37 straight games, Harold Robinson achieved all-city status as a football receiver, and Kevin Harris was selected all-city football quarterback as a junior. Other all-city Wilson Redmen stars are: Chuck Fitzgerald, Tom Endress, and John Polkanowicz in football; Jeff Markovitch, Robert Mitchel, and Dwayne Sanford in basketball; and Natasha Durkot and Sherry Platt in women's basketball.

The captain of Wilson's program is Athletic Director George Senedak, and his helmsmen are: Basketball Coach Don Koma, Assistant Basketball Coach Mike Grazer, Track Coach James Bolkovac, and Baseball Coach Tony DeAscentia. Wilson's fine Booster Club—which was responsible for this glorious sports banquet—is led by President Sam Gianfrancesco, Vice President Joe Markovitch, Secretary Flo Gianfrancesco, and Treasurer Fred Suhre. Wilson's beautiful varsity cheerleaders are Sandy Smith, Ami Paine, LeeAnn Rogers, Debbie DiBacco, Mary Potkanowicz, Yuette Piettie, and Bridgette Piettie.

It was a wonderful experience for me to be the guest speaker at Wilson's All-Sports Banquet, and to become aware of the astounding accomplishments of Redmen athletes. It is my sincere hope that Wilson's Sports Program is even more successful in the future. Thus, it is with thanks and special pleasure that I join with the residents of the 17th Congressional District in paying tribute to the outstanding achievements and admirable characters of the individuals who comprise the Woodrow Wilson High School Athletic Program.

PERSONAL EXPLANATION

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. BALLENGER. Mr. Speaker, I was not present during House consideration of H.R. 4783, to authorize appropriations for the Departments of Labor, Health and Human Services, Education and related agencies for fiscal year 1989. Had I been present, I would have voted "yea" on final passage of the bill, rollcall vote 186.

In addition, Mr. Speaker, I was not present during consideration of the Swindall amendment to H.R. 4782, making appropriations for the Departments of Commerce, Justice and State. Had I been present, I would have voted "aye" on the amendment, rollcall 187.

Also, had I been present I would have voted "nay" on final passage of H.R. 4782, making appropriations for the Departments of Commerce, Justice and State, rollcall 188.

SOWETO DAY AND THE SHARPEVILLE SIX

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. DOWNEY of New York. Mr. Speaker, today, June 16, marks the 12th anniversary of the Soweto uprising. Today, people around the world are rededicating themselves to the struggle against apartheid. Just this past weekend, 75,000 people in London joined in a 10-hour concert called Freedomfest to commemorate Neslon Mandela's birthday and to raise money for the antiapartheid movement.

I would like to take this opportunity to look at developments in South Africa over the past year. In August 1987 the apartheid regime announced stringent new restrictions on the news media. These restrictions were justified under the state of emergency which has been in effect since July 1985. This step was clearly intended to draw the blinds on the continuing political crisis in the country.

The local media in South Africa are more closely scrutinized than ever. Small newspapers in the African townships have been the victims of attacks in an attempt to silence this important voice of dissent.

Members of antiapartheid and labor organizations have been attacked by vigilante groups, particularly in the homelands. In Kwazulu, members of the United Democratic Front and the Congress of South African Trade Unions have been detained by local authorities.

In February of this year, apartheid's rulers moved against 17 antiapartheid organizations, including the United Democratic Front, the Congress of South African Trade Unions, the Detainees Parents Support Committee, the Soweto Civic Association, and the Release Mandela Campaign. New restrictions were placed on them, making their activities illegal.

South African journalist Joe Thloloe argues that the new restrictions have three purposes: to stem the defections of white conservative voters from the ruling National Party to the even farther right Conservative Party; to intimidate antiapartheid organizations so that they themselves restrict their activities; and to project an image of reasonableness to the world—after all, apartheid's defenders argue, those organizations could have been permanently banned.

Mr. Thloloe further argues that the strategy has failed. The National Party lost critical by-elections to the conservatives, the antiapartheid movement has not folded its tents and moved away and, with the exception of a few folks in Foggy Bottom and the far reaches of the right here in the United States, no one really believes that apartheid is any more reasonable today than it was a year ago.

Indeed, the antiapartheid movement in South Africa continues its struggle. On March 21, Sharpeville Day, thousands of African workers stayed away from their jobs. COSATU, the UDF, the DPSC and the Release Mandela Campaign have all challenged the restrictions in court. Perhaps most significantly COSATU successfully carried out 3 days of national protest last week in which hundreds of thousands of workers stayed off the job to protest the restrictions. Sadly, Mr. Speaker, today we must also note the fact that there are approximately 50 Africans sentenced to death for offenses related to the struggle against apartheid.

Clearly, the best known are the Sharpeville Six: Mojalefa Reginald Sefatsa, Malebo Reid Mokoena, Oupa Moses Diniso, Duma Joshua Khumalo, Francis Dan Mokhesi, and Theresa Ramashamola. These six people were sentenced to death for allegedly killing a local official in Sharpeville. No evidence has ever been presented to link these six individuals to the death of the official and recently the chief witness has said that he was beaten by police. On Tuesday of this week, the South African Supreme Court rejected the Sharpeville Six's appeal for a new trial. Now, their fate seems to lie in the hands of State President P.W. Botha, who once before rejected their plea for clemency.

Mr. Speaker, I take this opportunity to urge President Botha to take the one step which can improve South Africa's image and to grant clemency to the Sharpeville Six. I can think of no more worthy commemoration of Soweto Day.

BEST WISHES TO THE UKRAINIAN COMMUNITY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. BROOMFIELD. Mr. Speaker, at the end of June, many of us with a deep and enduring interest in the Ukraine will be observing an important period in history when the Ukrainian people reestablished their independence during World War II.

In many ways, the history of the Ukraine has been one of the Ukrainian people struggling to assert their own cultural identity and independence as a nation against powerful and aggressive neighbors.

During centuries of Russian domination, Ukrainians, such as the poet, Taras Schevchenko and historian Michael Hrushevsky, led fierce resistance against a relentless Russian effort to destroy their culture and identity. Near the end of World War I, the changing political situation in central and eastern Europe enabled Ukrainians, in 1918, to manifest their strong sense of nationhood by establishing the independent Ukrainian People's Republic.

Sadly, by 1921 this newly independent nation was once more invaded and subjugated by the Soviet leviathan.

As a member, for the past 2 years, of the Commission on the Ukraine Famine of 1932-33, I have had the opportunity to examine the extent to which the Soviets again attempted to break the spirit of the Ukrainian people, their culture, and their sense of identity. From eye witnesses, we heard of the millions of Ukrainians who died of starvation as a result of the Great Famine in the Ukraine of 1932-33. We learned that rather than being the result of natural causes, the famine was caused by the Soviet Government's organized confiscation of grains and other foods from the people of the Ukraine. Two of the important conclusions of the Commission was that this Soviet-engineered famine was an act of genocide and that it was meant to crush a flowering "ukrainianization" or pride of nationhood in the Ukraine.

However, as history has shown, even this act of genocide by the Soviet Government did not succeed in destroying the spirit of the people of the Ukraine.

On June 30, 1941, after several days of bitter street fighting between Ukrainian underground forces in the city of Lviv and Soviet troops retreating from the Hitler's invasion of eastern Europe, the Ukrainian underground gained control of Lviv and announced the Declaration of Restoration of Independence and the establishment of the Ukrainian Free State. A national assembly was called and a Provisional Ukrainian Government with Mr. Yaroslav Stetsko as Prime Minister was established.

The reaction of Hitler's gestapo to the creation of the independent Ukrainian state was quick and brutal. The members of the Ukrainian Government, including Prime Minister Stetsko and the underground leader, Stepan Bandera, were arrested for refusing to rescind the Declaration of Restoration of Independence, and were deported to the German concentration camp at Sachsenhausen. Many other prominent Ukrainians were either rounded up and shot or imprisoned en masse.

However, as Stalin's genocidal efforts failed to crush the enduring nationalism of the Ukrainians, so did the gestapo's heavy handed occupation. By the summer of 1943, the Ukrainian resistance had forced the German military to retire to large, heavily defended garrisons in the largest cities and towns, while the Ukrainians controlled the countryside.

With the collapse of the German war machine in the East, Ukrainians found that their fight had not ended. Now they had to turn and fight the Soviet military who were attempting to reincorporate the Ukraine into the Soviet Union. While the militaty phase of the Ukrainian fight against Soviet imperialism lasted into the 1950's, again, an independent Ukraine was prevented from continuing as a sovereign, independent state among the community of nations.

Mr. Speaker, the Ukraine again bears the burden of Soveit domination. But the hopes and desires of the Ukrainian people for an independent nation continues to burn brightly in the hearts of her people as it has in decades and centuries past.

On June 26, the Ukrainian-American community of southeastern Michigan will join Ukrainians around the world in celebrating this indomitable Ukrainian spirit, and mark that period when Ukrainians successfully established their independence by challenging the forces of both Nazi Germany and the Soviet Union some 47 years ago. I know my colleagues in the House of Representatives join me in extending our best wishes to the Ukrainian community on this important occasion, and expressing our shared hope that one day the Ukrainian dream of freedom and independence will finally be fulfilled.

HONORING SGT. AMOS TAYLOR

HON. WAYNE DOWDY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. DOWDY of Mississippi. Mr. Speaker, I would like to ask my colleagues here in Congress to join me in honoring a special young man, Sgt. Amos Taylor. I am pround to announce that Sergeant Taylor, a recent graduate of the NCO Leadership School at Tynall Air Fore base, is the winner of the "Americanism" Essay Award contest. Sergeant Taylor is the son of Mr. and Mrs. Warren E. Taylor of Brookhaven, MS. Mr. Speaker, let us extend our warmest congratulations to this fine young man. I would like to share with all of you his thoughts on this great country of ours:

WHAT DOES AMERICA MEAN TO ME?

When I think of this question, the first thing that comes to mind is freedom! But when I consider the subject more, I conclude that America is about dreams and the fulfillment of those dreams.

We often hear about the great migration to America where many fulfilled their dreams of success and fortune. And of others that started in America with nothing and attained great riches and status. But when I look at all of these achievements, I see one thing: we seek not these things for ourselves but for the generations to come. As I look upon the import of slaves from Africa and think of the tragedies that befell them, I realized that these people always wanted to make a better environment for their sons and daughters—just as men of great wealth strove to keep what they had in order to provide for their offspring. In the preamble to our constitution, our forefathers included ". . . for ourselves and our posterity . . ." They didn't leave out the fact that they wouldn't always be here to carry on, but they realized someone had to carry on as they passed on.

And not I look upon my dreams to secure a future for those that will follow me. I know that if every generation lived for that generation alone, these United States would have peished a long time ago. We advance from generation to generation and with that advancement comes change—a chance for a better life for those that will come after me. There is now more opportunity for advancement than ever before. I can do whatever my mind can think to do; the possibilities are unlimited. "What Does America Mean To Me?" It means if my mind can conceive it and my heart can believe it, in my lifetime I can achieve it. And this is all because someone before dreamed.

NATIONAL RECYCLING MONTH, JUNE 1988

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. SMITH of Florida. Mr. Speaker, June 1988 has been designated as "National Recycling Month." This resolution is aimed toward educating the American public about the importance of recycling, and I am pleased to be a cosponsor of this legislation.

Recycling serves countless purposes. For instance, recycling saves energy and conserves our country's natural resources by reducing the use of raw materials. For every 10 percent of used crushed glass added to a glass plant's furnace, energy costs drop as much as 5 percent. For every ton of used crushed glass in the manufacturing process, up to 1.2 tons of raw material are saved.

The benefits of paper and glass recycling are evident, and we have unlimited potential for further much-needed conservation. Many other products such as metal, plastic, and aluminum also can be recycled. For example, turning used aluminum cans into new ones takes 95 percent less energy than refining new metal from raw bauxite.

We should recognize and must encourage the growth of public, political, and economic support for recycling. More importantly, we must overcome the obstacles which remain, such as lack of markets for recycled products, high collection and separation costs, resistance to change, and the importance of convenience in waste disposal.

I urge my colleagues to reflect on the benefits of recycling and encourage your constituents to use this excellent method of conservation. It is our responsibility to encourage participation in educational endeavors that promote waste separation methods, community-based recycling programs, and expanded utilization of recovered materials. All progress we make in recycling today will help to slow down the voracious consumption of our rapidly diminishing supply of energy and natural resources.

HOUSE JOINT RESOLUTION 317, SOWETO REMEMBRANCE DAY RESOLUTION

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. HAYES of Illinois. Mr. Speaker, to paraphrase an article by Arlene Getz entitled, "Apartheid's Troubled Children," which appeared in the December 1987 World Press Review:

> South African parents are agonizing over the problems of raising their children in a deeply divided and increasingly violent racist society. During the past decade, children have been catapulted into the front line of the South African struggle. Black children have been particularly hard hit by the chronic violence racking their townships. Thousands have been detained without trial; others have been tear-gassed and shot. According to the Rev. Frank Chikane, general secretary of the South African Council of Churches, "They find themselves either confronting the system or running away from tear-gas and bullets. For these children, violence has become a lifestyle, leaving still undetermined emotional scars."

For these children, many of whom are fortunately too young to have been part of one of the worst displays of state-sponsored terrorism of modern times, today is not just another day of existence under a racist state supported system of repression. Today, they are marching with their parents, if they are lucky enough to still have them around, in rememberance of their fallen brothers and sisters. On this day in 1976, more than 1,000 children were brutally murdered by the South African police in the township of Soweto. What horrible crime did they commit in order to suffer such devastation? They simply wanted to be educated in their native language in their native land—the land where their families have lived for generation upon generation.

Today marks the 12th commemoration of the Soweto massacre and it is in that regard that I wish to make note of what took place in that township 12 years ago, and what continues to take place even as I speak. On that occasion, in addition to the more than 1,000 children who were brutally murdered, an additional 5,000 were wounded by South African police. These children were committing no crime, at least not by our standards. They were simply protesting the fact that they were not allowed to be educated in their native language in their native land.

As we have watched the South African Government's response to its growing crisis, we have also seen increased trageting of children. American citizens have been appalled; first, by the overwhelming violence, and more recently, by the extension of the state of emergency which has hidden most of the brutality, but has still allowed us to view the numbers—30,000 more detainees since 1985, of which over 8,000 of them have been children.

In an effort to show solidarity with the children of South Africa and to show solidarity with courageous people of all races in South Africa and throughout the world and are fighting to end the evil of apartheid, I introduced House Joint Resolution 317, a resolution declaring June 16 as "Soweto Remembrance Day." This resolution, which is nonpartisan in nature, call on American citizens to participate in local activities designed to commemorate the martyrs of Soweto and to work toward ending support for the system of apartheid.

To date, 95 of our colleagues have added their names as cosponsor of House Joint Resolution 317. Unfortunately, House rules dictate that 218 Members cosponsor such resolutions before they can be considered on the House floor. While we are short on cosponsors, it in no way detracts from the importance of commemorating the tragic event that took place in Soweto.

I am pleased to report that while House Joint Resolution 317 will not be considered, at this time, thousands of American citizens are spending this day in demonstration, vigils, educational events, and lobbying. The focus of these activities is twofold; first, as I have mentioned, is to show solidarity with people of all races in South Africa and throughout the world who are fighting to end the evil of apartheid, and second, to garner support for Representative RON DELLUMS bill, H.R. 1580, the Anti-Apartheid Act Amendments.

The apartheid system and its continued denial of basic human rights and freedoms to the 26 million black majority population of South Africa offends the sensibilities of freedom loving people everywhere. It is repugnant to the ideals which our Nation's founders embraced in our Declaration of Independence, Constitution, and Bill of Rights. A nation that embraces such treatment of its citizens should be condemned by the world community.

While we have seen fit to impose limited sanctions on South Africa, the sad reality of those restrictions is that they have failed to stir any significant progress toward ending apartheid. I believe it is imperative that stronger actions are undertaken by our Government to continue demonstrating to the world that the intransigence of the South African Government will not be tolerated by what is considered the world's No. 1 democratic government. Enactment of H.R. 1580 will not end apartheid next year or the year after, but it will show the South African Government that we have the will and the resolve to do all within our power to isolate it from the world community until their apartheid system is dismantled.

RABBI STEPHEN ROBBINS' SERMON ON AIDS

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. BEILENSON. Mr. Speaker, at the High Holy Day Services at Temple Emanuel in Beverly Hills, CA, Rabbi Stephen Robbins delivered a most unusual sermon. His topic was the AIDS epidemic. The sermon is a frank and moving discussion of the need to educate ourselves and our children about what he calls a "simple and hard reality.* * * We cannot," he correctly states, "avoid dealing with AIDS."

Rabbi Robbins described the need not only to educate ourselves but also to provide a support system to people with AIDS, instead of becoming "enemies who would isolate them." We must "avoid increased conflict and prejudice," he told his congregation. He talked about the workshops and programs his temple would offer because "We must be active—not just personally but also politically. You and I must not permit this disease to become a political football." He ended by challenging his congregation to "dedicate ourselves to the Jewish value of Pikuach Nefesh, the saving of lives."

I would very much like to share this moving discussion with my colleagues, and I am asking permission that it be reprinted here in full.

AIDS: A RABBI'S FRANK, CARING VIEW TOWARD SURVIVAL

Shana Tova. A happy and especially healthy New Year to all of you. Thinking back ten years ago, when as a somewhat younger Rabbi, I stood here for the first time before a congregation of people who were almost total strangers. In the years that have passed, we have shared so much together, that I don't see a group of strangers, but I see a family. Of course I don't know all of you; with 1,600 + families that is a little difficult. Over the years, with so many of you whose faces I recognize today, we have shared moments of great meaning; birth, bris, baby namings, b'nai mitzvah, and weddings, and participated in the education of your children and your grandchildren. I have watched them grow in strength and vigor. At the same time we have also shared sadness and pain, frustration and the powerlessness of illness. We've mourned together at graveside. You have sat in my Study and we've cried together over pain and loss in your life, the loss of a marriage, difficulty at work, problems with children or with parents, doubts about one's own life. In all those years as we've grown closer together, I promised you one thing and that is that I would always tell you the truth. I promised you that this place, this Bemah had to be a place where we spoke of things that were really happening to us; never in a holy place like this could we lie and avoid reality.

This reminds me of a story. In the Middle Ages, during the Black Death, there was a Jewish community particularly hard hit by the plague. The Three Rabbis of the community met and decided to issue an edict that all of the Jews should eat on Yom Kippur. No one should be permitted to fast because of the risk of human life. This decision was based upon the precepts in Judaism that for the sake of "Pikuach Nefesh", the sake of saving a life, our mitzvot are to be suspended. As the period of Rosh Hashanah passed, the Rabbis discovered that the congregations had no intention of eating on Yom Kippur. They were so accustomed to the ritual and the obligation of the fast, that they were all going to follow the tradition, even those who were sick and dying. So, on Kol Nidre, Erev Yom Kippur, the Rabbis gathered each of the congregations into one synagogue. Before the assembled Jews and in front of the open ark the three Rabbis ate dinner and made the rest of the congregation eat with them.

As a Rabbi, I've had to do and share with you many things. Some things I wish I never had to know about and many of them I wish I never had to do. Like you, there are things I would rather avoid. I would rather not think of them or deal with them and assume that they will never happen to me. The problem with the ostrich with his head in the sand is that his tush makes a wonderful target! So, it is time for us to speak of something painful, to speak of something honestly and truthfully.

Last spring I sat with your children and your grandchildren and I taught them about their sexuality and I taught them about AIDS. I even went so far, of all things that Rabbis do, to open condoms and to pass them around so that each of the children could see and handle them.

It makes me very angry to teach your children about sex and death at the same time; but I don't want to bury your children. It is time for us to confront the simple and the hard reality. This disease is no longer a disease isolated to "high risk" groups. The limited information that we have of more than 1½ million people exposed to this disease is probably only the tip of an iceberg. The reality that it can take five to seven years for the virus to gestate before it becomes manifest, the reality that even one exposure may create fatal infection and there is no cure, means that we cannot avoid dealing with AIDS. You say, "Who me, I have no problem; it's not going to happen to me, happily married, my kids are well controlled, everything's fine." That was said to me by more than a dozen families from whom I buried AIDS victims over the last two years, not gays and not drug users, but people like you and your families. This disease will touch us all! It will change the fabric of our society. Unless we are willing to deal with AIDS, to sit and "eat of it" on the High Holidays, we will surely be its victims. If we do not avoid it, grab hold of this issue and really understand it, we can live and cope with it because AIDS is a preventable disease! My friends, I do nothing more tragic than preside at a funeral of a death that could be prevented. So we will "eat of this issue" together this morning and work to prevent death and save life.

The research on the AIDS virus is frightening. I have been asked to participate in a think tank on the social consequences of AIDS. I began some of those discussions more than a week ago, in a program sponsored by the Chancellor's Office at UCLA. In it I learned some startling facts. The normal flu virus with which we are familiar mutates once every five to six years. When I say "mutates" for those of you who have not had basic bacteriology, I mean that if you wanted to change, look like somebody else, change your haircolor, your size, your shape, your weight, anything you wanted to change, you could do it if you were a flu virus in six years. AIDS can mutate in six months! Even more frightening, once the virus is in the body, it changes to merge with the DNA in your cells. AIDS is an RNA Retrovirus so in addition to mutating to match your DNA genetic code it mutates to fit the organ in which it rests, so no matter what part of the body the AIDS virus may enter, it changes; it is a somewhat different disease in each part of the body it inhabits. Our capacity to find a vaccine, let alone a cure for this kind of disease is for now staggeringly limited. We who are accustomed to relying on medical science, upon our technology for solutions must accept the fact that we are probably going to have to wait ten, fifteen, maybe twenty years, before a reliable treatment is developed. As the mutation rates increase, we may never find a cure or a vaccine!

The only hope we have is to understand that AIDS is preventable by simply controlling our behavior. That's why we have to talk about it; that's why we have to teach about it. Look around you. Do you have single children, teenagers or adults? Are there people in your family or your friends who are now divorced and single? Are there people who you know among your family and friends who live in unhappy marriages and are not always sexually faithful and monogamous? Do you have small children like I do who in ten years will reach their sexual development? There isn't one of us in this room who will not be touched tragically by this disease. That's why we have to talk about it. You have a task to share with me. You have an obligation to teach your children, to speak to your grandchildren because this is the kind of disease that will not come and go, pass away like a flu epidemic. It will remain with us for years and years, transforming our personal lives and our social structure in such a way that ten to fifteen years from now we may define ourselves as living in an AIDS society. How so?

Most diseases are not political. Cancer is not political; it's not Republican or Democratic; it's not Jewish or Christian. But because AIDS is sexually transmitted, it strikes at the most tender, yearning, embarrassing and frustrating parts of our lives, and so we would rather hide from it than deal with it. The people that are responsible for making it possible for us to educate our children see this disease as a political football. Elected officials will argue over bills for AIDS education, because they are afraid to risk their office. They argue over whether a condom is birth control or a health measure, and while they debate and debate, the time passes and our children and our grandchildren and even each of us become more and more at risk. There will be, in the next election, initiatives that will seek to punish AIDS patients and their families and so drive the disease into the realm of the untouchable.

The cost of this disease will radically affect our society. The more people who are ill, the greater the impact on the insurance and medical health care carriers, the greater the impact on governmental responsibility, not only for research but for the care of those who are sick and dying. Imagine the impact of several million terminal AIDS patients on the private and public health system of this country.

What of those who die from AIDS? I've seen them and their families, hidden and isolated in shame and embarrassment, in the fear that if anybody knew, not only would the sick and dying be ostracized, but their surviving families and their children and their grandchildren as well. They fear that they might lost their insurance, jobs and friends. They live with such powerlessness and panic that they have no place to turn. They do not see us as a support system. We suddenly become, all of us in the community, enemies who would isolate them.

Let me give you an example of what I mean. Polio! How many of you remember polio? How many times I remember my parents out of fear of the disease saying, "You're not supposed to go in the swimming pool. Watch who you eat with; don't kiss anybody; don't do this; don't do that." Thank G-d for Jonas Salk and his silver bullet. But before the discovery of the vaccine, I saw the process of people being pulled apart by fear.

How like leprosy is AIDS that leaves us with a sense that one day we may create camps for AIDS victims out of the warped perception that somehow isolating them would isolate us from the disease. We see in the persecution of the Ray family in the South, the beginning of what will become an exaggerated fear response. When people are afraid of something they can't see, they can't touch, they can't control, they have to personalize it in order to cope with their fear. They have to make someone the enemy because you can't hate a virus and so they blame people who have AIDS. It won't matter whether our AIDS patients are gay or straight, whether they use drugs or whether they are hemophiliacs, or whether as is now increasingly the case, AIDS is spread by heterosexuals. Those who have it will be "guilty". The spread of AIDS will create increased conflict and prejudice to ethnic and racial groups. We have already seen that among those who are less educated, AIDS is beginning to spread at a faster rate through our more educated segments of society. As this disease infects the black, Hispanic, or Asian communities you can imagine the rise of hate both racial and ethnic.

Religious communities cannot agree on how to support and endorse protection and education. We open clinics in schools to educate our children, while others demonstrate against teaching them about their own hygiene. We must teach our children about sex, not to give them permission, but so they will know exactly how risky sex is. When you keep sex a secret, you make it tantalizing. When you don't talk about sex, you make it mysterious and desirable. The risk of AIDS has now changed the way we will teach about sex, *because we must teach about sex and AIDS together!* The only way you confront the reality of this disease is to take it out from under a rock and let the sun shine on it by talking about it.

When I sat with your children and grandchildren in three separate sessions last year, not one of them laughed. Not one of them was embarrassed, even when I distributed condoms for them to examine. I had not one problem with behavior. Why? Because they know what they face. They're scared. It's difficult enough to speak about sexuality with teens, but to do so in relationship to death and disease is frightening. I can't tell you the number of children who came to me and said, "Thank you, Rabbi, because nobody else was willing to talk to me about it."

On the one hand it's easy for me to talk about it to your children; that's my job. I don't have to deal with *my fear and anxiety* about what your kids know. On the other hand, I *have my own children, my daughter* who is now a teenager and I watch my smaller son and daughter grow and I know I *had* to talk to them. I can't tell you what it was like to see my daughter go through the same learning process as your children did as I taught them about AIDS.

I am angry, but not at the people who are sick. I am angry at a disease that I cannot see and I cannot cure. But I have learned that I can prevent my children and you can prevent your children and your grandchildren from contracting this disease. You are not powerless. You are not helpless. You must become educated. You must be willing to talk to your single adult children or your divorced adult friends or children, in addition to your teenage and smaller children. You must deal with sex as a reality and so must you deal with AIDS as a reality too. We have to teach that the only protection against AIDS is abstinence. *Abstinence!* We must be honest enough to know that there will never be total abstinence so we must teach about how to use condoms!

But even condoms are not a guarantee against infection unless they are used correctly along with a spermicide called Nonoxydol 9. The difference in size between the AIDS virus and a sperm is like the difference in size between my fingernail and this building! A condom is not a total guarantee, so the only real protection will be the withholding of one's sexual involvement. What an irony this is when we live in a society in which sex was so open, where the pill and penicillin made it all possible. Now we face the reality of a warped repressed sexual development.

The new issues we face are truly challenging. I have people who come to me, young adults who want to be married and they say, *"we don't even know all of our sexual history. How do we know if we are safe?"* Imagine the incredible irony of asking someone before you sleep with them, "Who have you slept with before? Will you or won't you use a condom, will you take a blood test?" Talk about a lack of spontaneity! Unless we are willing to be open and forthright about our sexual desires and our sexual histories, we put ourselves in harm's way. How do you talk to your kids about sex and death, about healthy sexual maturation and a fatal disease, when they are entitled to go through all the sexual searching and frustration that we went through? How do we talk to them about protecting themselves from sexual relations that may kill them, when we want them to know that their bodies are sacred, that sex is not evil, that intercourse is an example of the way G-d and man love each other. To teach them about that beauty and that love within the context of a fatal disease is frustrating and frightening.

You and I must form a partnership to do just that. *You must no longer see the sexuality of your close friends, your spouse, your older and younger children as an issue of privacy.* If you are unwilling to speak of this risk they face, then where do they turn? Maybe they don't want to talk to you but at least if you try, they may hear that you care enough and they will find some place else to learn. We began last year with the Social Action Committee of the Temple educating the Temple about AIDS. I am offering this sermon because we are going to do more workshops. I cannot educate you about the details of AIDS from this Bemah; there is not the time. I can only urge you to get the education you need. We will offer programs; you have to come and learn and then you have to take what you know to the people you love. We must be active—not just personally but also politically. You and I must not permit this disease to become a political football. You must speak out to those in the health professions, those who are elected officials, those who direct our schools and tell them all that this disease has no religion, has no philosophy, no political ideology. We must see AIDS as a social phenomenon, as a public health issue, as a reality of our existence, or else it will spread like wildfire and make cancer look like the common cold. We will all be left with deaths that didn't have to happen.

Rosh Hashana calls us to make a dedication to the maintenance and repair of the world, to Tikkun Olam. The blast of the shofar in a moment will call you to conscience. Like the Rabbis who sat on the Bemah and ate on Yom Kippur, in order to sustain life, we must on these holidays eat of the reality that we would rather ignore. From now on we have to talk of these things when we would rather be silent. We will all have to confront our most cherished assumptions about relationships and sexuality. We will have to share our searching with those we love. We will have to confront in ourselves a truth and an honesty about who we are and what we do. This crisis is a challenge of spirituality and self-control. We are challenged by the AIDS crisis to dedicate ourselves to the Jewish value of Pikuach Nefesh, the saving of lives. There is nothing more fundamental than this. Please G-d, you and I, your children and my children, will have the courage to do what is necessary and form that partnership that will keep us all safe and healthy. *Amen.*

AGRICULTURE AND AQUACULTURE

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. TALLON. Mr. Speaker, I rise in strong support of this measure to provide appropriations for rural development, agriculture, and related agencies. In particular, I want to express my support and appreciation for the agricultural research funding in this bill which provides $285,000 for research on alternative cropping in the Southeast, $183,000 to South Carolina for research on peach tree short life, as well as continued funding for the Gulf Coast Research Laboratory Consortium of which South Carolina is a participant.

The success of agriculture in this country depends on our ability to anticipate and manage change, rather than letting it manage us. And in today's global economy, managing change means maintaining a technology advantage. Yet farmers, unlike large corporations, cannot easily form groups to conduct the basic research that leads to technological development. The agriculture experiment station system fills this research void.

One focus of the agriculture experiment station system has been on reducing economic risks by diminishing dependence on traditional crops and changing to cropping systems that include new crops that have viable markets. For the Southeast, this means expanding the production of selected vegetable crops.

The land grant universities in Georgia, North Carolina, and South Carolina are cooperating on an alternative cropping systems project to provide the agricultural sector with information on the economic and biological potential of producing and marketing certain vegetable crops.

In general, the purpose of this research is to investigate the economic and biological feasibility of expanded production of vegetable crops either as a complement to, or a substitute for, crops currently produced in the Southeast.

Appropriations in years past have enabled the alternative cropping systems project to undertake invaluable horticulture and economic research. The research has provided production possibilities for at least 11 vegetable crops along with appropriate economic analysis. The economic analysis involves market windows, marketing channels, location of packing sheds, cropping combinations, price variables, economics of size, and international trade possibilities.

The alternative cropping systems project is now at its most important phase—the implementation and distribution of results. Interest on the part of farmers and agribusiness firms in alternative cropping continues to grow. With the $250,000 recommended by this appropriations bill, additional data can be obtained, analyzed the results reported to producers, processors, and marketeers.

This funding will mean that special emphasis can be placed on continued implementation of the results at the producer and market levels. Several plans have been developed to provide programs to transfer knowledge on production and marketing to potential clientele.

In addition to alternative cropping this bill provides $183,000 in funding for preventative research of vital importance to my State of South Carolina. Peach tree short life continues to be the single most threatening disease problem for the peach industry in South Carolina. The major factor associated with the disease that cannot be controlled is the ring nematode. This nematode occurs widely in the major peach production areas in the United States in the Southeast and causes severe problems in sandy soils. Young trees planted in the region often die before producing enough fruit to offset establishment costs.

In recent years a long-range program has begun to identify peach trees and closely related plants with resistance to ring nematodes and have characteristics deemed desirable for rootstocks. The moneys in this bill are badly needed to further develop promising leads for peach tree short life control. Tree rootstock resistance to the ring nemotode shows promise and needs development. Microorganisms that are pathogens to plant parasitic nematodes have been identified but the keys to using them for controls are not fully understood. Plants that are poor hosts to ring nematodes and might be used in orchard floor management have been identified but must be field tested to learn their true value as nematode controls. Finally, there is still a pressing need for nematode control in relation to peach tree short life. Progress has been made and as these new findings are fully tested better management systems can be devised.

A third benefit to South Carolina is this bill's continued funding for the Gulf Coast Research Laboratory [GCRL] Consortium's U.S. Marine Shrimp Farming Program.

South Carolina has a long history of research and development leadership in the field of aquaculture. Just a few years ago our State significantly increased its investment in aquaculture with the construction and staffing of the Waddell Mariculture Center. The mission of this center is to serve as an "aquaculture experiment station" for the State and to develop aquaculture as a viable commercial industry here.

Through research and extension activities of the Waddell Center and other institutions, several types of aquaculture appear to have good, near-term potential in South Carolina. One of these is marine shrimp. The Waddell Center began research on intensive pond culture of shrimp just 3 years ago, and already their results are being successfully implemented in the private sector.

Several small shrimp farms are in operation, three or four more will begin operations this year, and others are seeking financing and land. Production has more than doubled, with about 360,000 pounds of shrimp produced from private farms in South Carolina last year.

Of major importance to the Waddell Center's shrimp aquaculture program has been the financial support and scientific exchange provided by the GCRL. This program combines major scientific and facility resources of Mississippi, Hawaii, Massachusetts, South Carolina, and Texas in carefully directed and coordinated attack on the major impediments to the development of commercial shrimp farming in the United States. This program, through its support of research and demonstration activities at the Waddell Mariculture Center, has been a major reason for the investments in shrimp framing that are occurring in South Carolina.

I believe that the GCRL Consortium Program will result in the establishment of a viable shrimp farming industry in South Carolina and other States, provide an important diversification option for coastal farmers, and help the Nation reduce its tremendous foreign trade deficit in seafood.

Mr. Speaker, I am both proud and grateful for the agricultural research moneys included in this bill. Grateful, because I know how much South Carolina needs and deserves this assistance and proud because I am certain this investment in agricultural research today will be repaid many times over with a stronger, healthier agriculture economy tomorrow. Investment in research will mean the difference between a farm economy poised for the future or a farm economy scrambling to catch up with it.

TAKING THE POSTAL SERVICE OFF BUDGET

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. BATES. Mr. Speaker, this is my statement to be entered into the RECORD for hearings held on March 22 and 24, 1988 by the House Post Office and Civil Service Subcommittee on Postal Personnel and Modernization:

STATEMENT BY HON. JIM BATES

The United States Postal Service (USPS) is an important and necessary public service. The deep cuts to the Postal Service budget required by the Budget Reconciliation Act of 1987 has led to some major damage to both operations and capital expenditures. In the next 20 months, the USPS must absorb $430 million in cutbacks. This is a huge sum to absorb in limited amount of time, forcing the postage service to cut some of the most needy areas. Furthermore, the cuts are based on repayment for benefits paid by the federal government to postal retirees before the postal reorganization in 1970; this is ludicrous. The USPS is essentially self-sufficient and should be treated as such.

Those areas likely to lose the most in terms of budget cuts are productive, growing areas. In San Diego alone, 19 post office building projects have been put on hold for the next 20 months. Due to tremendous growth in San Diego and outlying areas, these budgetary constraints are already having serious effects on the postal service's ability to move mail efficiently. Because the post offices are overcrowded with customers, the cutback in office hours one day a week is also likely to cause additional delays in mail service. Service to the community will definitely be affected.

One of my primary objectives is to see that San Diego and other growing communities are considered a top priority to receive funds for building expansion. San Diego's growth is one of the highest in the nation, resulting in a greater need for capital expansion and services.

I would also like to insure against future cutbacks to the postal service. As a result, I have joined forces with Chairman Ford of the House Post Office and Civil Service Committee in support of H.R. 4150, the "Postal Reorganization Act of 1988". This will take the United States Postal Service off budget, enabling them to function independently of the federal budget. The United States Postal Service was off budget from 1974 to 1985 and was successfully self-sufficient. There is no reason why the postal service cannot continue to provide for itself.

Other options have been offered as solutions to the postal service's problems. One such idea is privatization. I strongly disagree with this approach.

Privatization of the USPS would lead to an unreliable postal industry. Private companies are most concerned with profit. For this reason, they would only compete for the profitable areas and not the small towns and distant cities, while the USPS would be required to continue service to the "losing" or unprofitable areas. The USPS is currently able to balance the profitable routes with those that are unprofitable, allowing for a self-sufficient postal service. If the industry is deregulated, and competition is allowed, many of the small towns and distant cities would pay a very high price.

The present problems in the postal service can be avoided in the future by supporting H.R. 4150 and taking the USPS off budget. The future development and service provided by the USPS will then be secured, and rapidly growing communities will not lose the important and necessary public service the USPS provides.

A 25-YEAR REMEMBRANCE

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. OWENS of New York. Mr. Speaker, I rise to remember the 25th anniversary of the death of Medgar W. Evers, the slain black civil rights activist who was gunned down in front of his home on June 13, 1963.

Medgar Evers was born and raised in the State of Mississippi. He attended Decataur Consolidated School and Newton High School, and in 1943 entered the Army, seeing action in the Normandy invasion. Following the war, Evers attended Alcorn Agricultural and Mechanical College in Lorman, MS, and received a bachelor's degree in business administration. During his college years, he met and married Myrlie Beasley. They had three children.

Evers' life commitment to the struggle for racial equality was born out of the bigotry and injustice that Mississippi society then routinely directed at blacks. As a teenager he witnessed the lynching of a family friend, who had been accused of insulting a white woman. The horror of this incident never left him, and throughout his life he tried to overcome the system of racial injustice in his native State.

From the inception of the civil rights movement, Evers was an active player. At the age of 21, he and his brother Charles tried to register to vote and were turned away by a mob of angry whites.

In 1952, he became a member of the National Association for the Advancement of Colored People [NAACP]. Two years later, his steadfast and diligent commitment to the black struggle led to his appointment as the national field secretary of the NAACP for the State of Mississippi.

Over the years, Evers worked tirelessly to register blacks to vote, receive better education, and to obtain full constitutional rights as first-class citizens. He earned a reputation as a gentle, reasonable, and effective organizer who firmly believed that blacks should shed their feelings of inferiority and achieve equality through voting and economic boycotts. Despite his beliefs of nonviolent confrontation, Evers was marked for death by many white racist groups and placed on a death list. His family became accustomed to threatening phone calls and death threats.

During the early morning hours of June 13, 1963, the death threats against Medgar Evers were fulfilled. As he returned home from a meeting to further expand desegregation in the South, he was shot on his doorstep. Sweaters inscribed with the words, "Jim Crow Must Go!" fell from his hands. He died before he reached the hospital.

It is believed that the shock of the murder of Medgar Evers gave critical new momentum to efforts by President John F. Kennedy to win support for the Civil Rights Act of 1964. The assassination of Evers also ignited a Southern black voter education drive and helped set in motion the passage of the Voting Rights Act in 1965.

As we reflect on the 25 years since his death, there remains an international struggle for equality and justice for blacks. In America, black Americans are sinking under the heavy weight of lingering economic and social oppression. The escalating reports of racial violence such as, Howard Beach, suggest that many Americans cling to beliefs of racial inequality. At this moment, the black South African majority remains captive in a system of institutionalized racial, economic, educational, and physical segregation, while the white minority South African Government stalwartly refuses to make any move to resolve these inequities.

The time since the death of Medgar Evers has seen many civil rights leaders and workers die in a struggle for racial equality. The memory of these martyrs can best be honored with an unfaltering determination to continue to struggle for human equality. As we pay homage to and remember Medgar Evers, the words of the late Senator Robert F. Kennedy ring loudly, "He died . . . for all of us who are here and all who are not here."

SALUTE TO A COURAGEOUS LADY

HON. BEN BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. BLAZ. Mr. Speaker, I rise to tell you and my colleagues about an extraordinary experience. Last evening I had one of those "once-in-a-lifetime" opportunities to meet and talk to a great woman of boundless courage, integrity, bravery, and beauty of inner spirit, so self-evident and over powering as to be seldom seen in any individual, at any time.

Nien Cheng was held in solitary confinement in a Shanghai jail for 6½ years. During this time she was tortured, starved, beaten, and deprived of news of her family, all the while living in a bare cell under the most exhausting conditions imaginable. Throughout her long ordeal, she was repeatedly and harshly interrogated and pushed to denounce her friends and confess "anti-revolutionary crimes," neither of which could she or did she do, as in truth, no crimes had been committed.

How can such a person survive? Some say it was because of her education, intellect, and strong understanding of Chinese life and culture. "Not true," replies Nien Cheng, "it was only because I prayed constantly for God to give me the strength to face the next day without betraying myself, my friends, and the truth. I did not pray that God would unlock the door . . . only that I could withstand the torture and adversity in the name of the truth." She maintained that intellect and knowledge were simple not enough to guarantee survival, only a belief in God gave her the inner strength to face one more day . . . times 2,000!

When her tormentors finally relented and sought to release her, this indomitable spirit sat down in her cell and refused to leave until she had received a written apology for the wrongs committed upon her. This woman, who was forcefully put into jail had to be forcefully removed by her same embarrassed keepers. Never did she waiver, never did she betray the truth, and never did she give in to her plight. From whence does such strength come?

She paid an enormous price for her convictions and through her example has shown us all that life is our most precious gift and it must not only be lived to its fullest, but must be lived with dignity, truth, and compassion. I commend to you and all the Members a recent article from the April 1988 issue of RICE magazine, entitled "Bittersweet"—Life After Shanghai, by Mei-Mei Chan, which I am entering into the RECORD. This article will only whet your appetite to learn more about this astounding woman . . . truly one of the most unforgetable people I have ever met.

Mr. Speaker, as you know, I spent over 30 years in the U.S. Marine Corps, saw action in World War II, Korea, and Vietnam . . . I have searched my soul and wish that I could be comforted by the fact that had I been in her place, I would have had half the courage of Nien Cheng.

BITTERSWEET—LIFE AFTER SHANGHAI

(By Mei-Mei Chan)

Graced with Asian artwork, the compact apartment is bright, neat, stylish, just like its occupant. There is no roughness here, not a speck of dust. No reminders of the odious cement cell, with its musty cobwebs and beds of rough planks, where Nien Cheng was captive for 6½ years.

Only bitter memories of her unjust imprisonment during China's Cultural Revolution and the death of her daughter at the hands of Red Guards.

Cheng was living out her days quietly, just another old lady squirreled away in a honeycomb of apartments in a chic Washington, DC., neighborhood. Then she decided to write a book, to share her experiences with her friends and to tell of the atrocities that were committed in the name of progress for China.

Tapping out one tearful sentence, one painful paragraph at a time on her manual typewriter, Cheng often stopped and laid on the sofa to better recall the moment, or to recover from the recalling. "It was very, very hard," she says.

Life and Death in Shanghai marched onto the best-seller lists—more than three months on the New York Times—and was featured on the cover of Time magazine and on 60 MInutes. Since last June, 100,000 copies have been sold. The book has been translated into nine languages—although Chinese isn't one of them.

"I didn't even know if anyone would publish it," says Cheng, who's "more than thrilled"—and still rather surprised—by her book's ability to touch and fascinate.

And perhaps even more remarkable than the success of her book is that, in this age of glitzy movie stars and fallen politicians, the 73-year-old has been embraced as a nationwide celebrity and heroine.

In response to only a portion of the daily deluge of requests, Cheng has crisscrossed the country dozens of times, accepting a shower of honors and awards, doing interviews and making speeches. She now commands up to $3,000 an appearance, although half her speeches are given for free.

And she's just packing up her weathered garment bag to head off on a 12-city tour to promote the paperback release of her book. From April 28 to May 23, she'll blitz through Washington, Baltimore, Philadelphia, Atlanta, Cleveland, Detroit, Minneapolis, Seattle, Portland, San Franciso, and San Diego.

The frequent travel is exhausting, but the appointments—and what they represent—are important to Cheng.

"I love meeting new people," she says in the very proper English honed while a student at the London School of Economics. "If I never published the book, all I would know are old ladies. Now I've seen a cross section of America. I've developed a feeling of belongingness."

Her health deteriorating, Cheng found refuge where she could: a spider's patient weaving, recalling Tang dynasty poetry, memorizing Mao's little red book (the only reading material she was allowed), and intentional clashes with the guards to "stimulate my fighting spirit," using the very same Mao essays to argue her cause.

Every word or action was twisted to suit the zealous guards. When one prisoner tried to kill herself, she was scolded: "How dare you threaten the Dictatorship of the Proletariat with suicide! Did you think you could get out of confessing by bashing your head on the toilet? Your act proved you are guilty."

Despite repeated interrogations (one guard's frustrating logic: "If you have not committed a crime, why are you locked up in prison?"), Cheng never "confessed," as did so many of her peers who broke under the pressure.

"I'm a little surprised because people give me so much credit for being courageous, because I didn't feel I was being courageous," she says. "Most Chinese women are brought up to be submissive. I'm a fighter. They just couldn't make me out. They call me a hysterical old woman. "We never had anyone like you, so argumentative."

"I think there must be a moment you reach when you just can't endure it. I had those moments. Hunger, deprivation and cold not only confuse your mind, make you forgetful and lethargic, but reduce your will power. They reduce you to the level of an animal. But once you pull through, you're all right."

The worst moment came when Cheng was given clothes to keep her warm—and they were Meiping's clothes.

"Oh God. I knew. I instinctively knew she was dead."

It's two decades and a half a world from Shanghai, yet Cheng shakes her head as the horror rushes back, threatening to overwhelm her.

For the deepest scars scorched by the Cultural Revolution aren't those on her wrists, etched when she was manacled for 11 days, almost losing the use of her hands. It isn't the damage from the brutal battering on her mind, body and spirit. Or the loss of a gentle way of life, an innocent belief in her country.

It's the pain, the anger, the injustice over the death of lovely, kind-hearted, spirited Meiping, tortured because she refused to testify falsely against her mother.

"You know, she died because of me," says Cheng. "She was loyal to me. If they didn't accuse me, she wouldn't have died. What's more, she was a Communist youth leader. She never doubted that the Communist Party was trying hard to do something positive for China. This makes her death the more deplorable."

The man who killed Meiping—and five others—is alive and free in China, says Cheng with flashing eyes. If she confronted him, she says, "I wouldn't mind pulling the trigger."

There's guilt in that voice. Cheng had the chance of moving out, to Hong Kong, or elsewhere in the world, when the Communists took over in 1949. But she and her husband chose to remain in their native land. They, too, were ready to believe in the glowing promises of the Communist Party.

Today, many of Cheng's speeches include her astute, if a bit simplistic, analysis of the aftermath of the Cultural Revolution and China's present situation. She is encouraged by the government's plans for allowing more autonomy in the factories and more individual leasing of businesses, as well as the apparent emerging power of a younger leadership.

The 13th Party Congress "removed older people without bloodshed, which is a great accomplishment, though people here don't realize it," she says. "It's a qualified victory."

"The question used to be to reform or not reform. Now, with the young leaders, it's whether to reform faster or more cautiously."

China needs to focus on economic reform to raise the standard of living, says Cheng. "Look at Taiwan. They're rich enough to have a middle class who puts enough pressure on the Kuomintang that they have to have an opposition party.

"But China has too many poor people. They're worried about getting out of their mud huts and into brick homes, or getting more meat to eat, milk for their children."

Although Cheng feels very deeply for China and still considers it her homeland, she has no desire to return. "What for? It's too sad. You know, I see a black-haired girl from the back, in the distance, my heart goes, just like that."

With a portion of her earnings from Life and Death, Cheng has established the Meiping Cheng memorial scholarship at Slippery Rock University in Slippery Rock, Penn. Cheng was taken by the statistics of the school: 70 percent of the students are the first in their families to receive higher education; half of the graduates go into teaching.

After her promotional tour for the paperback version of her book, Cheng plans to get off the hectic celebrity circuit and return to "my old quiet life," dining with friends, perhaps taking a few classes and satisfying her voracious appetite for reading. She is distressed by the fact that she has had time to read only three books in the last 10 months.

"I need to think. I feel empty here," she says, pointing at her head.

Her publishers don't think so—they want her to write another book, one on the Communist takeover. "I would enjoy writing something that isn't painful," she says. "But, you know, I'm old. I don't know what I can do."

Cheng seems a bit preoccupied with her age, noting matter-of-factly that her parents died around the same age she's at now. She has only one thing left to do, she says: "I've got my daughter's ashes. I want to put them to rest."

They are now kept in her bedside nightstand, protected by a silken purse. Cheng dreams of scattering them in the Pacific Ocean. She says simply, "The water touches China's shores."

HAPPY NEW CENTURY, CANOSIA TOWNSHIP

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. OBERSTAR. Mr. Speaker, we tend to measure our lives with milestones of time: Our first birthday is special. So is our 16th, and our 21st. Those in between and most of the later ones, though objectively just as important as the others, do not evoke the same celebration as the milestone date.

So it is with communities, and, in a country as young by world standards as ours, when a community reaches its 100th birthday, that is indeed a milestone deserving recognition.

Canosia Township, in St. Louis County, MN, will celebrate the passage of its first centry on August 12, 13, and 14 of this year. The people of the township will be celebrating and remembering their history.

Located on flat land between Pike Lake and Wild Rice Lake, Canosia Township was first settled by Scotch, English, and Irish pioneers in the early 1800's. They were quickly joined by settlers from Sweden, Poland, and Germany.

Three years after its incorporation as one of the earliest townships in St. Louis County in 1888, Canosia Township built its town hall, which still stands as the center of township activity.

In 1918 a fire ravaged the town, destroying most of the buildings and scorching the land. In fact, to this day long-time Canosia Township residents refer to past events as happening either before or after the fire. For many years to come, the fire will remain a milestone by which the township defines its history.

Today, Canosia Township is a residential community, offering a peaceful life along its three lakes and its 2,000-acre wildlife management center. The township boasts one of the Nation's last remaining American Automobile Association country clubs, providing the community with a golf course and beach. The township government provides two constables for police protection and is very proud of its volunteer fire department.

Canosia Township has no library, and not even a main street. Its residents do most of their shopping in adjacent Duluth, where many of them work. Yet, the township's history allows its residents, whether newcomers or old-timers, to enjoy a common bond, to retain a sense of community pride.

One hundred years is indeed, a significant watershed, and I ask my colleagues to join me in wishing the people of Canosia Township well as the township begins its second century.

REMEMBERING SOWETO

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. MFUME. Mr. Speaker, today I rise to pay tribute to the hundreds of young student martyrs who lost their lives 12 years ago during the student demonstrations in Johannesburg's southwest township, better known as Soweto. On this fateful day in South Africa's troubled history, these courageous students simply banded together to demand that the apartheid regime educate them in their own language, and finally do away with the racially inferior Bantu education system.

Following the protest march, the Soweto students encountered the South African security police. The security forces told the crowd of several thousand protestors that they would have 3 minutes to disperse and to end their demonstration. At the end of the third minute, the South African police opened fire into the crowd killing young Hector Petersen. The picture of Hector Petersen being carried away from the scene in the arms of an unidentified colleague, came to symbolize the horror and treachery of this event and epitomized the brutal apartheid state of South Africa, and its total disregard for internal opposition irrespective of age or sex.

Mr. Speaker, June 16, 1988, has been designated as "Soweto Remembrance Day." The purpose of Soweto Remembrance Day is to ensure that our Nation and the entire world never forget that the ugly enigma of apartheid still hinders the proliferation of democracy to corners of the globe where human, economic, and voting rights are denied to a vast number of people because of their race, religion, sex, creed or color.

In recognition of Soweto Remembrance Day, I encourage Members of the House, their staffs, and constituents to take part in this national observance by taking a "Lunch Break for Freedom." At 12 noon today, on the east steps of the Capitol, our colleagues, ecumenical leaders, community activists, and other persons of conscience will gather to commemorate the Soweto demonstrations and the ensuing massacre. Additionally, within my home district of Baltimore City, the ecumenical community has organized a lunch-time vigil to commemorate the Soweto Demonstrations. The vigil will be held at Baltimore's city hall at 12 noon, and promises to be well attended by elected officials, human rights activists and other concerned citizens.

Soweto Remembrance Day will also help to keep our attention focused on the continued atrocities carried out by the Pretoria government against the nonwhite majority in South Africa. Soweto Remembrance Day also helps keep our attention focused upon the fact that since the 1986 state of emergency, and well before that time, the South African Government has been detaining, killing, and torturing the children of South Africa. The children of South Africa have been placed within detention camps without trial and alongside hardened and repeated criminals.

Mr. Speaker, one would be very hard pressed to find a nation that has been so blatantly cruel toward the children of a legitimate liberation struggle than the South African Government. Yet, to the dismay of many Americans of all walks of life, our present administration has failed to send a coherent message to the South African regime that America will not tolerate their subhumanizing treatment of nonwhites any longer. Instead, the Reagan administration's bankrupt policy of constructive engagement has brought our Nation closer to President Botha's hard line than at any other time in recent history.

How much longer will black South Africans have to suffer under this brutal totalitarian system? How much more pain and suffering will the mothers of the young detainees have to endure while they wait months and years on end for the return of their sons and daughters? In the early 1960's former British Prime Minister Harold McMillan delivered his now famous "Winds of Change" speech, before the world community forecasting the end to the settler colonialist systems in Rhodesia and South Africa. Almost 30 years later, we now see the violent, arrogant, and desperate means that South Africa deems necessary to hold on to the tip of the continent.

In closing, Mr. Speaker, I wish to share a less well known speech that Dr. Martin Luther King, Jr. gave on December 10, 1965, at Hunter College, New York City, on Human Rights Day. Within the text of this speech, Dr. King illuminated why we should all stand up to apartheid:

> The whole human race will benefit when it ends the abomination that has diminished the stature of man for too long. This is the task to which we are called by the suffering in South Africa, and our response should be swift and unstinting. Out of this struggle will come the glorious reality of the family of man.

CAR RENTAL COLLISION DAMAGE WAIVERS TAKING VACATIONERS FOR A RIDE

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. SCHUMER. Mr. Speaker, Sun block is not all you need to avoid getting burned on your next vacation or business trip. If you plan to rent a car, pack a magnifying glass, calculator, and extra money. That's because hidden add-on costs—namely, collision damage waivers—increase the cost of renting a car by about $10 a day.

The waivers absolve renters of financial responsibility if the car is damaged in an accident. But, for an estimated 60 percent of auto insurance policy holders, the collision damage waiver is unnecessary. Most car renters are automatically covered for occasional, nonbusiness use of another car under their own automobile insurance policies.

Rental agents frequently pressure unknowing vacationers into accepting the unnecessary expense. To make matters worse, the cost of the collision damage waiver is often obscured by advertised superlow daily rental rates.

To deal with these problems, today I am introducing H.R. —— the Rental Car Consumer Protection Act of 1988. The bill would require that rental car companies disclose the cost of the collision damage waiver in advertisements and provide verbal and written notification at the point of rental that the waiver may be unnecessary.

The text of H.R. ——, which has the original cosponsorship of Mr. Hayes of Lousiana, Mr. Bates, Mrs. Lloyd, Mr. Torres, Mrs. Boxer, Mr. Lehman of Florida, Mr. Downey, Mr. Fazio, Mr. Owens of New York, Mr. Clement, Mr. Foglietta, and Mr. Ackerman, is printed below.

H.R. 4855

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISCLOSURE OF INFORMATION CONCERNING COLLISION DAMAGE WAIVERS.

(a) In General.—Any commercial lessor of automobiles shall, verbally and in prominent writing on the face of the rental agreement, inform any lessee or prospective lessee of any such automobile concerning—

(1) the optional nature of any collision damage waiver offered under the terms and provisions of the agreement; and

(2) the fact that coverage under such provision may duplicate coverage otherwise provided under the terms of the lessee's or prospective lessee's automobile insurance policy.

(b) Advertisements.—If such lessor advertises any such rental, the advertisement shall include—

(1) the information described in subsection (a); and

(2) if the advertisement specifies the cost of the automobile rental, specific reference to the cost of any collision damage waiver.

SEC. 2. ENFORCEMENT PROVISIONS

(a) Private Civil Actions.—(1) Any person who violates section 1 shall be liable to any aggrieved lessee under the rental agreement in an amount equal to the total amount paid by the lessee under such agreement.

(2) Any aggrieved person may enforce the liability established under such section in a civil action.

(3) In any such action the court shall award to the prevailing party the reasonable costs of such action, including attorneys' fees.

(b) Civil Penalties.—(1) Subject to paragraph (2), whoever violates this Act shall be liable to the United States for a civil penalty in an amount not to exceed $10,000.

(2) A civil penalty for a violation of this Act shall be assessed by the Secretary of Commerce by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Secretary shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(3) In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(5) Any person who requested, in accordance with subsection (b)(2), a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(6) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (5), or

(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the Secretary,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rages from the date of the expiration of the 30-day period referred to in paragraph (5) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(c) Injuctive Actions by the Secretary.—The Secretary may bring an action to restrain violations of this Act. The district courts of the United States shall have jurisdiction, for good cause shown, to issue such temporary relief or restraining orders as it deems just and proper.

(d) INVESTIGATIVE AUTHORITY.—To ensure compliance with this Act, or any order or regulation issued pursuant to this Act, the Secretary shall make investigations and inspections and require the keeping of records necessary or appropriate for the administration of this Act.

(e) SUBPOENA AUTHORITY.—For the purpose of any hearing or investigation under this Act, the Secretary shall have the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49 and 50).

(f) REGULATIONS.—The Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out this Act.

SEC. 2. EFFECTIVE DATE

This Act shall take effect 60 days after the date of its enactment.

WHY I AM PROUD TO BE AN AMERICAN

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. FORD of Michigan. Mr. Speaker, I rise today to share with my colleagues the following four award winning essays by Billy Ellison, Billy Roberts, Jeff Wilkinson, and Christal Moore, sixth grade students at Hale Creek Elementary School in Romulus, MI. Last week, when they visited my office, it was my honor to award each of them a flag which had been flown over the Capitol.

WHY I AM PROUD TO BE AN AMERICAN

(By Billy Ellison)

I am proud to be an American because I am free. I am free to choose the way I want to live and where I want to live.

In America I have many rights. I have the right to choose my religion. I have the right to speak freely. In our Government, we have the Constitution to protect us and our rights. We have many laws to protect us, and we are able to make our laws by electing the people who represent us.

I respect my country's flag because it is a symbol of freedom and liberty. I am able to fight for what I believe in. I cannot be put into slavery or imprisonment. I can fight for truth and justice.

In America, I can be anything I want to be, if I work hard enough. In the United States, you can have almost anything, if you can afford it. In a communist country, you are not allowed to own anything.

I am proud of myself and my family for accomplishments we have made. We are free to love and help each other.

I am proud to be an American because I can be me!

WHY I AM PROUD TO BE AN AMERICAN

(By Billy Roberts)

I am proud to be an American because American citizens are the ones that care about everyone else in the world.

Anytime a country gets bombed or into trouble, we help them clean up. There are no other countries that have helped out as much as we have like Japan, Russia and Nigeria.

We send food to the hungry and we send medicine to the sick. When other countries have floods and earthquakes, we are always there ready to help out.

Even after we have been in wars with countries, we help them build up their own countries. We send machines, tools and even money and manpower.

In America we have the right to vote for our president and representatives who will run our country. It's up to the citizens who will be running everything. Many countries don't do that. The government picks everyone who will rule and even if they are not good people. The citizens can do nothing about it.

We have the choice to work where we want. Russia and Niger tell you where to work and where to live. Here you buy a house anywhere you want, if you can afford it.

We have good doctors in America and in other places and countries. We have scientists who treat sick people. We have scientists who look very hard for cures. They work very hard.

In America there are good schools to attend free of charge! We have a choice to go to college if we want to. If you don't have the money to go, many schools will help you find a way to finance that cost.

In America, we can be any religion we want to be. You can go to any church and no one will try to stop you. There are countries where people must sneak to attend church.

My grandfather and grandmother brought my mom to America when she was six years old. My grandfather was in a prisoner-of-war camp during World War II in Russia, and he was also in a concentration camp. He was lucky he got away by escaping. He went to Germany and met my grandma. They had to live, so they went to France. That's where my mom was born. It took a long six years to come to America, but when they got here, they were happy because in America they could start a new life.

My grandpa knew he could live like a family without being afraid of going to jail, because he believed in something different.

I know he was proud to be an American, because just before he died last November, my grandpa became an American citizen. He really wanted to do that.

America is the land of the free and it's the home of people from all over the world. We welcome many people from many places. Everyone has a good chance to start a new life.

When a person becomes an American citizen that person has all the freedom and protection that the Constitution provides for the natural-born citizen. As President Reagan once said in America a new citizen assumes the nationality of the country. A Chinese, Japanese or African becomes American when naturalized.

These are some of the reasons why I'm proud to be what I am!

WHY I AM PROUD TO BE AN AMERICAN

(By Jeff Wilkinson)

I am proud to be an American because in America no matter if you are white, black or any other race you have the right to vote for a president or political official and to practice or follow any religion you choose. Also in America you have the right to move anywhere and to choose the career that you desire.

It makes me feel sorry for the people of some countries like Israel and Iran because I heard today April 28 that a Palestinian girl was shot by a Jewish guard and it made me feel good and bad. It made me feel safe because in our country that rarely happens. It made me feel bad because an innocent girl was killed for no reason at all.

I feel lucky to be an American citizen because if it was not for my great-grandparents who immigrated from Poland and England, I would not be here. I am also proud to have a grandfather that served in World War II.

America has had to work hard for its freedom over the years, because first we had to gain independence from England in the Revolutionary War, then again in World War II, also in the Korean War, then finally in the Vietnam War.

America truly is the land of opportunity. In some countries like the Soviet Union have medical, dental, and eyecare insurance is all free of charge. The Soviet people are covered by insurances, but they don't get the chance to, let's say, move up the corporate ladder. They get almost like assigned to do a job, but in America you get the chance to make it to the top.

When I grow up I want to be a Naval aviator like my two relatives; Jim who is a pilot, and Patrick who is also a pilot. Jim who flys F-14 Tomcats and Patrick who also flys F-14 Tomcats are both about Lieutenants by now. If we were in another country I wouldn't be what I planned.

I am very proud to be an American.

WHY I AM PROUD TO BE AN AMERICAN

(By Christal Moore)

If one day I were to wake up in another country, would I be dreaming or even praying about coming to America? Why was I the lucky one to be born in America? No one has a choice of where they will be born.

I am proud to be an American. It is an honor. In America there is freedom. The system is not perfect, but a person could be black, white or Arab and still be free. There is freedom to worship God or, if some decide, no god. Americans may travel anywhere they want to travel. What if you could only have one child? Americans can have a family of as many members as you wish. In China the wife can only have one pregnancy. That is stopping the right to love or to bring another person in the world.

I have heard of people putting down their country and its leaders. But many people would probably risk their lives to come to America. Would people like Martin Luther King, Jr. be able to lead marchers in the fight of black people if he was in China or Iran?

Would Jackie Robinson have been able to complete his dream of playing professional baseball? We have the privilege to vote for our president. Some countries have a king as their ruler or leader and they have no say. I think it is great to ride by buildings and see the American flag hanging on a flag pole and floating on the breeze.

When you go to school and say the Pledge of Allegiance that is showing respect. At the football game or a baseball game when you sing the National Anthem, you are showing respect too. Even hearing the Preamble.

I think you should hold your head up and stand tall and straight and acknowledge your country. I don't think that people should have to come to America for freedom. There should be freedom everywhere, and if peace may follow then that is even better.

THREE ASIAN COUNTRIES IN CRISIS

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. HERGER. Mr. Speaker, today, I participated in a hearing of the House Select Committee on Hunger which examined, among other issues, whether our Government should extend emergency food aid to Vietnam. Testimony was presented concerning the potential for a serious food shortage in that country, in part because of the failure of the Marxist economic system which has been imposed on that nation since the Government of North Vietnam won that very tragic war in 1975.

Perhaps the most important issue raised at this hearing was the question of whether it is proper for the United States Government to even consider extending food aid to Vietnam until the Government of that country has provided a full and complete accounting of the American soldiers listed as missing in action during the Vietnam war, and returned any remains of MIA's that they still hold.

To me, the argument that providing food aid to Vietnam will generate incentives within that Government to be more forthcoming of the fate of our MIA's is the moral equivalent of trading arms for hostages, If such a policy is wrong in the situation of our relations with Iran, as I believe it clearly was, it can be no less wrong when applied to our MIA's in Vietnam.

Mr. Speaker, the people of Vietnam can have little doubt about this Nation's concern for their welfare. Our Nation spent billions of dollars to develop the Vietnamese economy, and sacrificed 55,000 American lives to preserve the kind of social and economic system in Vietman that would have dealt with the Vietnamese people fairly and provided for their daily needs.

Unfortunately, the Soviet-backed Government of North Vietnam repudiated our efforts to assist the Vietnamese people, and imposed on that nation a police state which cares little about the welfare of its people. What more can we do? I suggest precious little until Vietnam's form of Government is changed, until it renounces the doctrines of Marxism/Lenininsm, and grants freedom to the Vietnamese people.

Testimony presented at today's hearing by my colleague, Mr. SENSENBRENNER, eloquently explained why our Government should insist that a full accounting of the fate of our MIA's should be provided before any consideration is made to upgrading our relations with Vietnam. I would like to reprint here in the RECORD a copy of Mr. SENSENBRENNER's testimony, which I urge my colleagues to examine as they consider this most important issue.

TESTIMONY TO THE HOUSE SELECT COMMITTEE ON HUNGER HEARING ON "THREE ASIAN COUNTRIES IN CRISIS," JUNE 16, 1988

(By F. James Sensenbrenner, Jr.)

Mr. Chairman, many of my colleagues in both Houses of Congress have begun to intensify the call for normalization of relations with our old nemesis: Vietnam. Known as the Socialist Republic of Vietnam since the fall of Southeast Asia to the Communists, they have actively pursued economic relations with the United States for 13 years. In one way or another, Communist Vietnam has sought to establish an economic relationship with us—first, to rebuild their war-torn cities and now to fill the gaps created by their failed socialist economy.

There is no doubt Vietnam is experiencing a decline in food production, continually growing population, drought conditions and maintaining an 180,000 man occupation army in Cambodia and another 40,000 in Laos. However, there should also be no doubt they oppress workers, destroy personal incentive, prohibit private ownership of land, grossly mismanage the economy, support an invading army and are faced with an economic crisis of their own making. With thousands of acres of rice paddies, Vietnam was once known as the "bread basket" of the Far East. Today, Communist Vietnam cannot feed its own people. It needs the economies of the West, and especially the United States, to bail them out. That is their only goal in establishing relations with us.

However, our goal is and should be different. Since the end of our participation in the Vietnam war, the issue of Americans missing and unaccounted in Southeast Asia has remained with us. Despite the best efforts and impassioned petitions of Americans, ranging from Special Presidential Emissary General John Vessey to MIA/POW and Veterans' Organizations Across the Country, the Communist government in Hanoi has arrogantly resisted resolving this issue once and for all. While some of us may want to renew ties with Vietnam and extend economic assistance, we must not lose sight of our goal to obtain a full accounting of American MIA's in Southeast Asia.

Mr. Chairman, that is precisely why on May 25th I introduced a sense of Congress resolution (H.Res. 462) which would prohibit any economic assistance to Communist Vietnam. To extend any type of economic assistance to Vietnam at this time, including emergency agricultural or drought assistance, would be a complete mistake. Mr. Chairman, the MIA issue must be dealt with first and settled before agreements are drawn from broader political discussions.

Some of my colleagues talk about "compassion", "cooperation" and "prompt response" to the situation in Vietnam. I ask you: Have they shown us any? Have they cooperated with, shown compassion for or to the grief of the wives, children and friends of those servicemen still listed as missing?

My colleagues also speak about the overtures and assurances made by the Communists during congressional visits to Hanoi. They have consistently implied they would assist our efforts to gain the fullest accounting of American MIA's if food assistance was to be forwarded to Vietnam.

Mr. Chairman, I do not believe they have given the United States any reason for trust. Did they keep their word during the Paris Peace Talks to Henry Kissinger and the world not to invade South Vietnam? President Nixon had suggested in a letter to the Congress in 1971, a 5-year $7.5 billion assistance program to Indochina, with $2.5 billion specifically earmarked for post-war reconstruction in North Vietnam. North Vietnam broke its word not to invade the south and we responded by stopping the $2.5 billion. So far, there is no reason to believe they would keep their word on human rights, Cambodia, Amerasian children, boat people, MIA's, POW's or anything else.

Mr. Chairman, in many cases it is clearly evident the remains eventually returned to the United States had been located and held for years. The Communist government in Vietnam would have us believe they occasionally stumble upon downed aircraft or otherwise find remains. However, it is widely believed that hundreds of remains have been stockpiled in warehouses around Hanoi. Some of those remains could possibly be from American prisoners-of-war who had died in captivity. I simply want to recover those remains the Communist Vietnamese have located and deny them the opportunity to indefinitely draw out this issue.

I do not want to see a situation develop where the Communists begin to barter with the remains of Americans who served freedom and made the ultimate sacrifice. It is not difficult to imagine a scenario when ten years down the road several dozen remains just happen to be "found" as we enter into delicate trade negotiations with the Vietnamese.

Mr. Chairman, understanding the dynamics of warfare, I know it may be impossible to locate some MIA's. And it is quite possible some remains will be located in the future. The families of those MIA's know this as well.

All of them continue to hope and most of them are ready to accept the inevitable. However, they consider this a humanitarian and not a political issue. Ann Mills Griffiths, who is the Executive Director of the National League of Families of American Prisoners and Missing in Southeast Asia, recently wrote to me to extend her "Appreciation for recognizing the potential damage of such linkage." Linkage sends the wrong message. We must insist this is a moral issue—one about burying our own dead—and deal with it above and outside other negotiations which may be taking place.

Mrs. Griffiths went on to say there are "unfortunately * * * numerous conflicting signals emanating from the Congress at a time when serious efforts are being made. It is our hope that Vietnam will increasingly recognize their own interests are best served by moving quickly and fully to resolve this issue thereby pre-positioning themselves for the future and consideration of improved relations once the political obstacles are removed."

Mr. Chairman, in conclusion I would like to remind the committee that we have helped the Vietnamese for years. We have assisted them economically and politically—fighting alongside them in the effort to maintain democracy and an economic system which would have precluded the crisis they now experience. We have made many such efforts around the world and there should be no doubt we are a generous and compassionate people.

Today, we continue to assist the Vietnamese by giving refuge to thousands who are fleeing communism. My resolution only asks that we resolve the MIA issue which has grieved us for years before we consider any further aid to another oppressive and unsuccessful Marxist government.

NATIONAL LEAGUE OF FAMILIES OF
AMERICAN PRISONERS AND MISSING IN SOUTHEAST ASIA,
Washington, DC, June 3, 1988.

Hon. F. JAMES SENSENBRENNER,
Rayburn House Office Building,
Washington, DC.

DEAR MR. SENSENBRENNER: The League recently received a copy of your "Dear Colleague" on the apparent linkage by Vietnam of emergency food assistance to their ability to cooperate in resolving the POW/MIA issue. Please accept our appreciation for recognizing the potential damage of such linkage.

Your support in ensuring that such linkage does not occur is appreciated. Unfortunately, there are numerous conflicting signals emanating from the Congress at a time when serious efforts are being made to gain greater cooperation from Vietnam. It is our hope that Vietnam will increasingly recognize that their own interests are best served by moving quickly and fully to resolve this issue of national concern, thereby pre-positioning themselves for the future and consideration of improved relations once the political obstacles are removed.

Respectfully,

Ann Mills Griffiths,
Executive Director.

TRIBUTE TO FATHER JOHN WEBER

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to a very special man, Father John Weber, upon his retirement as parish priest of St. Gerard's Church in Lansing, MI.

As a life-long resident of Michigan, Father John has dedicated his career to serving his church and his community. Working with other Lansing residents, Father John founded the St. Gerard's Church and Elementary School in 1957. And in the intervening years the Lansing Parish has grown and prospered under Father John's leadership. Today, with a membership of more than 2,000, St. Gerard's is the largest contributor to the area's Catholic high school.

Father John is known for his efforts not only to St. Gerard's school but to the entire Catholic education system in Michigan and beyond. He has fostered a relationship with the area public schools that is mutually beneficial and a model of cooperative interaction.

Based upon knowledge of his many contributions to community service over the years, when good things happen to the Greater Lansing area, my guess would be that Father John was there playing an active role.

Mr. Speaker, I ask my colleagues to join me in honoring Father John Weber and in wishing him many happy and fulfilling years in retirement. I am honored to represent a man so dedicated and committed to the education and enrichment of our community.

ARTHUR J. SMITH: SERVING SATISFIED CUSTOMERS FOR 51 YEARS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. RODINO. Mr. Speaker, I would like to pay tribute to one of the city of Newark's most enduring and outstanding small businessmen. For more than half a century, Arthur J. Smith—known as "Smitty" to his countless number of friends and satisfied customers—has operated Smitty's Exxon at 13th Avenue and Wickliffe Street in Newark. Throughout the many changes the city has undergone since 1937, Smitty's has continued to serve its patrons, including many officials at the nearby Essex County Courthouse, to become the oldest continuing gas station in Newark and one of the only black-owned full-service gas stations in the region.

This is a tribute to Arthur Smith's hard work, his reputation for service, and his warm personality which has earned him the enduring affection of his customers. Still working hard at the young age of 78, Smitty has been joined by his grandsons who are carrying on what has become a family tradition.

Mr. Speaker, I want to congratulate Arthur Smith for 51 years of servicing satisfied customers. His commitment to the city of Newark and his enduring business have enriched the entire community. With your permission, I would like to include the following article in my remarks.

[From the Sunday Star-Ledger, May 22, 1988]

A Fixture in Newark—Oldest Black-owned Gas Station Enjoys 51 Years at Site

(By Stanley E. Terrell)

The City of Newark has undergone a number of physical changes in the last 50 years, but there has been one mainstay in the Central Ward—a gas station at the rear of the Essex County government complex.

And for many former and present county employees and county officials, judges, prosecutors, lawyers, bankers, business and industrial executives and ministers, the name "Smitty" is a household word.

"Smitty" is 78-year-old Arthur J. Smith, a black East Orange resident who has operated Smitty's Exxon station at 13th Avenue and Wickliffe Street for more than a half-century.

The station, which opened in 1937 in what was then a "strictly residential, well-integrated neighborhood," is one of the only black-owned full-service gas stations in the region.

Born in Harrison, Smitty was in his twenties when he began his long association with the station. At the time, he had one helper and sold about 4,000 gallons of gas each month.

Smitty now has four full-time employees—including his two grandsons—and sells some 25,000 gallons of gas each month, with a 250 oil ratio.

"The station maintains a good oil ratio. That's the percentage of oil as opposed to gas per gallon. Most stations try hard to achieve that, and we've had one of the high numbers of the oil ratio family ever since we've been operating here. That's an achievement in itself, and one that is envied by many others in the business," Smitty said.

The proprietor of the oldest continuing gas station in Newark began as an operator, becoming a franchise operator in 1946 and complete owner in 1965.

During that time, Smitty's has been patronized by workers in nearly all phases of government, particularly Essex County workers employed at the county complex across from the station.

Among those who have frequented the station are former Newark Mayor Kenneth A. Gibson, Central Ward Councilman George Branch and Judge Harry Hazelwood.

"Practically all the county judges utilize the station, and also employees from the sheriff's office. George Branch is a regular customer. Gibson used to patronize the place all the time, and (Newark Mayor) Sharpe James comes in on occasion," Smith said.

Branch, who said he has been patronizing the station for more than 20 years, called Smitty "a very fine businessman" who has "a lot to offer" the Central Ward community.

The councilman, who said Smitty's is the only gas station in the area, praised the proprietor for remaining in the community all these years and providing a valuable service in the neighborhood.

"Smitty has been serving the community for a lot of years, and everybody knows him. I've known him a lot of years, and found him to be a fair businessman. Not only that, he's a good mechanic all the way around. It's been a credit to have this business in the community over the years, because he could have done like so many others—packed up his bags and gone out. I most certainly support him and encourage him to stay," Branch said.

"There are not too many people in Newark that would not know him," said Arthur Smith 3d of Franklin Township, one of the grandsons who has worked at the station for 15 years. "Business has been basically good since he's been opened."

Ron Chelel of the Essex County Sheriff's Office, who said he has known Smith and used the station since he began working for the county 15 years ago, characterized the proprietor as "really a quality individual and a hardworking man. He's there at 6:30 in the morning, and he's still there when I leave at 5."

"He's convenient. You drop off your car in the morning, he works on it and after work you pick it up. And that's generally what people do who work in the county complex. He does good work, the prices are reasonable, and even more than that he's one nice guy. Very personable," Chelel said.

Anthony Smith of Roseland, the other grandson who has been with the business about 14 years, noted that while there are several black gas stations in the area, Smitty's is one of the few which is wholly black-owned.

"My grandfather owns the business and the property," he said, adding the elder Smith started during the Depression and over the years has surivived several other economic down-turns, including the gasoline wars.

"He was one of top dealers in the area at one time, and maybe still is. I'm proud of him and what he's achieved. He set a positive example not only for my brother and me, but for other blacks in the industry. Many have said that he paved the way for them. He started out actually with little or nothing, and just took charge of the corner. It was a pioneering thing for everyone," Anthony said.

Smitty's has survived at the same location despite a number of changes in the neighborhood, which at one stage consisted largely of abandoned buildings and vacant lots. Townhouses now are under construction, signaling a revitalization of the community.

Smith who lives in East Orange with his wife Creola, also takes time to work with area youngsters, who he trains as apprentices in the service station industry.

"They are learning every phase of my operation," he said.

The success and longevity of the business is proudly reflected in two plaques which hang on the wall of his modest office for 30 and 40 years of service, presented to him by Exxon Co. USA "in recognition of years of continuous business association."

According to Smith, what contributes to the success of the operation is "the general service and know-how of the business, and the ability to handle people in a proper manner to the extent where we maintain a repeat business."

Unlike some operations, Smitty's has never tried to shoot for a heavy volume of business.

"We wanted to produce a situation where we can count on the same amount of business with the same faces, if possible, every day. We have maintained that as a community business, as opposed to a commercial business. About 80 percent of the people who come into the station we know by their first names," he said.

Anthony Smith, who noted that the father of state Community Affairs Commissioner Leonard Coleman once worked with his grandfather, said the station's reputation reaches far beyond Newark.

"People from as far away as Atlantic City have come to know Smitty's. During the summer, when people are on vacation, some who travel up here from the south who used to live here stop in at the station. It's kind of like coming home to them," he said.

He said the station's reputation and his grandfather's personality continue to attract and maintain an ongoing clientele.

Asked if the owner has any plans to leave the business, Anthony said, "He hasn't said anything about retirement. It's his life. And really, I don't want him to leave. He's like the drawing card. Wherever I go, I run into someone who knows hims."

TRIBUTE TO MAJOR MICHAEL J. REAGAN

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. HANSEN. Mr. Speaker, I would like to take this opportunity to say a special thank you to Maj. Michael J. Reagan, U.S. Air Force, for the complete professionalism he always has displayed while acting as chief of the Logistics Branch, Weapons System Liaison Division, Air Force Office of Legislative Liaison.

Mike Reagan's excellent grasp of complex issues as well as the competent manner in which he expresses himself have elevated my level of knowledge of Air Force programs and given me a new understanding of the dedication the Air Force brings to its ultimate mission, that of defending this great Nation. In every request I have made of him, Mike would constantly strive to assist and provide me with the best possible answers to my questions. In this year of concern over O&M funding, furloughs, and the level of logistic support for our forces, his insight and assistance have been invaluable. He exemplifies the highest qualities and is, in every respect, a true professional.

Mike Reagan will be leaving the Pentagon to serve with the U.S. Air Forces Europe, as the commander of the 435th Services Squadron, Rhein Main Air Base, Germany. it is a command assignment and will deserved.

I am pleased and privileged to have worked with this outstanding officer. I consider him a friend, and I wish him every success as he leaves the Pentagon for his next great challenge.

RULE FOR H.R. 3436

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. McMILLEN of Maryland. Mr. Speaker, I rise to elaborate on my reasons for opposing the rule for H.R. 3436, considered by this House on June 8, 1988. Like so many of my colleagues, I am predisposed to extending Medicare benefits to cover home health care costs. I am sure that there is not one of us here in the House Chamber that would contest Representative PEPPER's good intentions and forward, conscientious thinking. Nor do we dispute the very grave need for Congress to address the issue of home health care, focusing especially on the financial impoverishment that can occur with the sizable health care bills associated with chronic diseases. I am sure most of my colleagues would concur that the No. 1 priority before Congress is to assure that elderly Americans are protected and provided for adequately.

But from a procedure standpoint, I had problems with the course that H.R. 3436 took to the floor. By not soliciting input from the Ways and Means and Energy and Commerce Committees, we have denied ourselves the chance to make this a better bill. For example, involved in this bill is a change of the tax laws—by lifting the payroll tax income cap, we are venturing into areas of tax reform that require careful consideration.

For this reason, the Ways and Means Committee must have the chance to delve into the details of the bill. Concurrent referral to the Energy and Commerce Committee would allow us to be sure that this landmark health care legislation "dovetails" with existing legislation on this topic and that it fits into our long-range national health care planning.

During floor action, I had other reservations about this bill in the context of Congress' efforts to improve Medicare. Already this session we have passed a momentous health care insurance bill that will add approximately $30 billion to the funds Medicare will administer. Passage of Representative PEPPER's measure would have resulted in an additional $30 billion being pumped into the system. That would be a total increase of $60 billion. I am not entirely convinced that the Department of Health and Human Services would have been properly prepared for these additional administrative responsibilities. We need time for HCFA, the Health Care Financing Administration [HHS], to digest the myriad of changes that Congress has already mandated before proceeding with other Medicare initiatives.

In the final analysis, we may determine that there are other health care priorities, such as nursing care, on which we should spend the incremental $9 billion of taxes per year raised by lifting the payroll tax income cap. To approach this whole issue prudently, we should await the determinations of the Commission set up by Congress pursuant to the recently passed Medicare catastrophic health insurance conference report. In this way, we can be assured that we are proceeding on course, and with the best interests of our elderly citizens in mind.

TRIBUTE TO DR. JAMES A. SCHOLLES

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, I would like to take this opportunity to commend a good friend and fellow native of Cincinnati, Dr. James A. Scholles.

On June 30, Dr. Scholles will become the 67th president of the American Optometric Association. Assuming the presidency of the AOA represents the pinnacle of achievement in Dr. Scholles' professional career of nearly 30 years.

Dr. Scholles' record of achievement is testimony to his selfless service to his community and profession: He has been named "Ohio's Optometrist of the Year," has been trustee of the Ohio Vision Services, is a past president of the Cincinnati and Ohio Optometric Associations and has served his national association for more than a decade before succeeding to the presidency of the AOA.

Dr. Scholles has distinguished himself as an outstanding leader and I am certain he will bring to the position of president of the AOA that special combination of energy and ability which has characterized his professional career.

THE CASE OF JOSEPH PATRICK THOMAS DOHERTY

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. KENNEDY. Mr. Speaker, the Attorney General of the United States intervened this week to overturn a ruling by the Federal Board of Immigration Appeals in the case of Joseph Patrick Thomas Doherty.

Mr. Doherty has been in prison in the United States since 1983 on charges involving a battle in Northern Ireland between members of the Irish Republican Army and the British Army.

A Federal judge ruled in 1985 that Mr. Doherty had been involved in a political offense and therefore could not be extradited to Northern Ireland. Having failed to send Mr. Doherty back to the British through the extradition process, the Justice Department initiated action to deport Mr. Doherty under the United States immigration laws.

The Federal Board of Immigration Appeals ruled that Mr. Doherty should be deported to Ireland under the law of the United States.

The close ties between Margaret Thatcher and the Reagan administration are well known. That close relationship has, in effect, given the impression of a United States sanction of British policy in Northern Ireland. The United States Government has done nothing over the past 7 years to pressure the British Government to end its policies of military occupation and discrimination in Northern Ireland.

The action was taken this week by Mr. Meese for political purposes at the expense of Joseph Doherty. In his own words, the Attorney General intervened because allowing Mr. Doherty to go to Ireland "might well prejudice broader aspects of our bilateral relationship" with Mrs. Thatcher's government.

The Attorney General is suggesting that the principles and values of the United States judicial system should be set aside in order to avoid ruffling the feathers of Margaret Thatcher.

The United States has stood for over 200 years as a land of justice for all. Notwithstanding the views of Mr. Meese, there is no reason to bring that proud tradition to a grinding halt in order to maintain the conservative axis of the Thatcher-Reagan era.

Let us hope that the day never comes when we ignore moral issues of right and wrong simply to please our allies. Whether it is in Northern Ireland, or in South Africa, or in Central America, the day must never come when the United States set aside its values of due process under the law and justice for all simply for political convenience. A person may choose the country he wishes to be deported to. Mr. Meese has taken the law into his own hands, and overruled the Federal Board of Immigration Appeals to order Joseph Doherty deported to Great Britain. I strongly oppose the action of Attorney General Meese. He has single-handedly overturned years of judicial proceedings. It is a dangerous precedent, one that undermines the meaning of the United States of America, and one that we should all work to overturn.

The United States Government should pressure Mrs. Thatcher, not pacify her. The British policies in Northern Ireland are wrong, and they should be changed. Mr. Meese is also wrong, and the integrity of the judicial process must be defended. Joseph Patrick Thomas Doherty should not be sent back to the British.

HEALTH FOR ALL BY THE YEAR 2000

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. YATRON. Mr. Speaker, during the recent Moscow summit meeting, President Reagan and General Secretary Gorbachev issued a joint statement calling for expedited efforts to decrease the vast number of easily-preventable childhood deaths.

Mr. Speaker, each day 38,000 children die from preventable diseases and dehydration and, in many cases, those lives can be saved by a simple and inexpensive procedure known as oral rehydration therapy.

The World Health Organization and UNICEF have been working on a child survival plan to make basic health care available to all by the turn of the century. Specific steps toward that goal are universal child immunization by 1990 and increased use of oral rehydration therapy.

Thanks to the efforts of UNICEF Executive Director James Grant and WHO Director-General Halfdan Mahler, the two world leaders rededicated themselves to the Child Survival Program.

The directors of the two agencies noted, "We particularly recall the leadership partnership of the U.S.S.R. and the U.S.A. in advancing the historic worldwide eradication of smallpox in the 1970's, as well as the leading contribution of American and Soviet scientistis in giving the world the vaccines which now put the worldwide eradication of poliomyelitis within our reach."

Mr. Speaker, I would like to commend the World Health Organization and UNICEF for focusing attention on this important issue. With strong bipartisan and international support, we come closer to realizing the goals of "Health for All" by the year 2000.

TRIBUTE TO THE GLEN FOERD ESTATE, AND THE COMMUNITY OF TORRESDALE

HON. ROBERT A. BORSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. BORSKI. Mr. Speaker, I rise today to pay tribute to the Glen Foerd Estate, a nationally registered historic landmark in my congressional district, and to the families and community who have preserved it for over a century. This year the estate will celebrate the first anniversary of its dedication to the community of Torresdale.

Glen Foerd, overlooking the Delaware River, provides visitors with a glimpse of Philadelphia's past, when the Delaware River's beauty was crowned by river estates. Even more inspiring, Mr. Speaker, is the knowledge that two families nurtured, and now an entire community has preserved this beautiful estate, as a labor of love.

Charles Macalester, a famous Philadelphian and an adviser to eight Presidents, first came to the northeast tip of Philadelphia where Glen Foerd now stands in the 1840's, as a weekend guest of William Biddle. Macalester fell in love with the area so much that he not only purchased a large holding on the Delaware, but he also renamed the area Torris Dale, after an estate his family held. He named the estate Glengarry.

The position of the Macalester's, and the high regard in which the estate was held can be judged by the fact that Macalester's daughter was married in the "back parlour" of Glen Foerd, by one of Philadelphia's most famous sons, Archbishop Ryan.

In 1899, after the death of Macalester's daughter, the estate was purchased by Robert H. Foerderer, a successful Frankford businessman, and, Mr. Speaker, a member of the Philadelphia delegation to Congress from 1900 until his death in 1903. Robert H. Foerderer was the first man to represent the Torresdale area in Congress, when Congressmen were first elected to district seats in 1902.

When the Foerderers purchased Glengarry, they combined their name with the history of the estate, to rename it Glen Foerd. The Foerderers gave their new home much more than a name, however. It was under Robert Foerderer and his wife, Caroline, that the distinctive beauties of Glen Foerd took shape. They expanded the mansion, acquiring rare antiques, and many valuable paintings and works in glass and iron. They installed a 15-foot Tiffany style skylight above the base of the grand stairway, and a vintage Steinway piano.

Equally inspiring are the natural highlights of the estate, including the oldest weeping hemlock in the country, as well as 300-year-old white and black oaks lining the riverbank. As you walk along the pathways at Glen Foerd, a formal boxwood and rose garden, a gazebo, a carriage house, boat house, gate house, and antique stone water tower; all greet your gaze.

But most inspiring of all, Mr. Speaker, is that through the generosity of Florence Tonner, the daughter of Robert and Caroline Foerderer, Glen Foerd now belongs to its community, the people of Torresdale. She bequeathed the last of Philadelphia's great river estates to the community it had crowned for over 100 years.

The dedication ceremony in her honor and memory will be held on June 25, when the Glen Foerd Estate celebrates its new incarnation as the responsibility and the jewel of the Torresdale community. I join with the historical community, the city of Philadelphia, and the people of Torresdale to pay tribute to Glen Foerd Estate, and to the Macalesters, the Foerderers, and today's friends of Glen Foerd, who have given us all this great gift.

COMMENDING ANTHONY "TOMMY" THOMAS FOR HIS OUTSTANDING SERVICE TO THE PEOPLE OF GOSHEN, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. CONTE. Mr. Speaker, I rise today to commend and honor one of the most distinguished citizens in western Massachusetts. Twenty-five years ago Anthony Thomas began his career in public service. Shortly thereafter Mr. Thomas ran for selectman in the town of Goshen, and has continued to serve as a selectman for 15 of the last 17 years.

Goshen is not a large town. But this is not to say that Anthony "Tommy" Thomas had an easy job as the town's selectman. As a retiring selectman, Mr. Thomas considers his greatest accomplishment to be that he has made his town's meetings more accessible to his constituents. For this I feel that we owe him a great debt for his hard work as a selectman, and as an outstanding citizen.

Mr. Speaker, when we pause to look back in time and remember what the common ingredient was that made our Nation the great Nation it is, you find that ingredient to be the hard work and determination of men and women like Mr. Thomas. It was in small town meetings like those in Goshen that the democratic spirit was born in this land, and it is in people like Mr. Thomas that it can be found.

Recently he expressed these erudite words that we should all remember. He said, "government starts at the bottom, and if we can't keep the bottom good we certainly can't keep the top good." I'm sure that the town of Goshen will miss his devotion to his job, and the care with which he executed it.

Mr. Speaker, Tommy Thomas should take great pride in his career as a dedicated public servant. His leadership and friendly nature will be sorely missed in the town of Goshen. I wish him the best of luck in his life away from that of public service.

THE ANNIVERSARY OF THE SOWETO UPRISING

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. RANGEL. Mr. Speaker, I would like to bring to my colleagues attention that June 16, 1988, marked the 12th anniversary of the massacre of schoolchildren in Soweto. This senseless incident took place during a demonstration where South African police opened fire on 700 protestors, most of whom were children as young as 9 years old. In a tribute to those brutally slain, I respectfully call on my colleagues to join me in remembering this day by supporting H.R. 1580, authorizing sanctions against South Africa. As you well know, this bill mandates disinvestment of all United States corporations from South Africa and Nambia within 6 months. This legislation is long overdue as it has become obvious that the previous policy of constructive engagement is and has been a bankrupt policy.

Ruthless acts of violence that occur everyday against blacks in South Africa have made it urgently apparent that sanctions are imperative to the liberation of their oppressed human rights. If this is not accomplished in the near future, a bloody civil war between the races is inevitable.

If after these revelations we as Members of Congress do indeed choose to ignore the outrage of Soweto children wrongfully slaughtered, then we are just as guilty as are the oppressors in South Africa who persist in denying their own people their full rights based on the color of their skin.

What little this administration has done to mandate sanctions against South Africa was done with prodding and arm twisting by the United States Congress.

It is our personal responsibility to continue our persistence for further, more constructive sanctions. This is the only possible measure we can take to ensure that this sort of mass violence ceases to exist.

CHRONIC HAZARD LABELING OF ART AND CRAFT MATERIALS

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. DWYER of New Jersey. Mr. Speaker, today I am introducing compromise legislation for H.R. 2866, a bill I introduced last year to require manufacturers of art and craft materials to place comprehensive labels on their products to warn consumers of chronic hazards. This compromise bill further refines my original legislation and is fully supported by the arts materials industry, artists and consumer organizations.

The Federal Hazardous Substances Act requires the labeling of consumer products which pose acute hazards. Acute hazards cause immediate adverse effects such as burns, eye damage or poisoning. Under OSHA, chronic hazards in the workplace are regulated. But because consumers use art products primarily in their homes or in classrooms, they are not protected by Federal chronic hazard regulations.

My compromise legislation would require the Consumer Product Safety Commission to promulgate a regulation consisting of a voluntary labeling program currently observed by a majority of the art supply manufacturing industry. Under this voluntary standard, labels must contain the signal word "Warning;" a list of chronically hazardous components; a statement of potential hazards; a statement regarding safe use of the product; and a statement identifying a source for additional health information. In addition, the Consumer Products Safety Commission will be required to develop informational and educational materials about art materials and their labeling for distribution to schools and other interested groups.

This legislation will ensure that millions of American consumers can enjoy arts and crafts activities while having the necessary information to protect themselves from harm. I urge my colleagues to support this long overdue legislation.

SHORING UP THE COAST

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. FLORIO. Mr. Speaker, with the arrival of this summer, the attention of New Jersey's coastal residents turns to the problem of seashore pollution. Last year at this time, those beaches were closed down because the sand on the strand was covered with garbage, including an unhealthful amount of hospital wastes.

Polluting the shoreline, the garbage damaged more than just an economy. It threatened the health of countless of visitors and residents and killed thousands of marine animals.

Unfortunately, until our Nation's waste disposal problems can be dealt with more effectively, the Atlantic and Pacific shores will continue to be revisited by coastal pollution.

Until the Environmental Protection Agency lives up to its mandate and begins protecting the environment with its array of enforceable laws already on the books, then the memory of the pristine shore will remain in the books. More importantly, seaside residents will continue to be threatened by coastal waste.

Coastal pollution has been caused by a conspiracy of factors, including improper disposal, the disappearance of landfill space, and the mere volume of wastes that are thrown overboard into the ocean.

To counteract coastal pollution, a coalition of New Jersey businesses has taken on the task of helping shoreline communities in their cleanup efforts.

Joining hands to help rid the shoreline of pollution are two companies, Shering-Plough and Caesar's of Atlantic City. To meet the goal of cleaning up the beaches, the New Jersey Shore Foundation, as this coalition is called, has enlisted the help of community leaders and businesses. Through fundraising and through stepped-up emphasis on the need for environmental protection, the coalition seeks to restore the ecological balance and to clean up the shoreline.

Fortunately, there is hope for the New Jersey Shore Foundation. Simply by coming together, these companies and community leaders have dedicated their strengths to the battle against coastal pollution. They have demonstrated a commitment to restoring the beaches and preserving them for tourism and for the residents.

Ocean pollution is more than just a community issue. However, the resolution of the problem can begin only with the involvement of the community.

I commend the Shore Foundation and its executive director, John M. Schmidt, on this meeting of minds and on the pooling of efforts to tackle this problem head on. This is more than a question of economic survival; it is a matter of ecological survival.

Until now, the trend has been toward proving the maxim, "Garbage in, garbage out." Hopefully, the formation of the Shore Foundation is a good, first step in effectively dealing with the problem.

HERSHEYPARK INTRODUCES NEW FITNESS PROGRAM

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. GEKAS. Mr. Speaker, I am pleased to announce a new health program introduced today by Hersheypark and the Harrisburg Hospital titled "Your Healthy Heart." This new program serves to encourage park guests to eat right and choose exercise options while having fun.

Your Healthy Heart works by having Hersheypark visitors pick up a brochure created specifically for this innovative program. Contained in the brochure is a map of the 1.8-mile walkway in the park and an additional half mile through the Zooamerica North American

Wildlife Park. After a full day of fun, visitors to Hersheypark will have walked in excess of 2 miles and burned an average of 240 calories per hour. Also listed on the map are areas where healthy food could be bought, as opposed to the usual hot dogs and french fries found in most amusement parks.

It is considered to be the first exercise program of any theme park in the Nation. I am proud of Hersheypark and the Harrisburg Hospital for sponsoring Your Healthy Heart. Their concern for the health of the community and its visitors served as the impetus for this worthwhile program. Not only does this program encourage exercise during the immediate visit to Hersheypark, but also through the health and fitness tips in the brochure, it encourages the Hersheypark visitors to continue a walking program and make their hearts healthier.

FATHER'S DAY 1988

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. HOYER. Mr. Speaker, Sunday, June 19, is Father's Day. Like our commemoration of motherhood a month ago, it is a celebration of the family unit, and the special role of a parent. Dad, daddy, and pop are at different turns, the soft touch, the disciplinarian, the coach and the cook.

There is no greater gift than the love of a child freely given. But in 1988, fatherhood carries more responsibility than ever before.

Regardless of where the discussion takes place, in the living room or in a congressional committee hearing, there is a serious debate on family values and family policy that concerns us all. More often than not, that debate centers on the children, the most vulnerable and dependent people in our society.

It is appropriate that on this Father's Day, children and fathers be the special focus of our attention in the Congress. Ossie and Harriet Nelson are a fading sterotype of the American family, and the meaning of fatherhood is evolving.

For example, a recent survey on American voter attitudes on child care services revealed:

More than 70 percent of men believed that affordable good quality child care is difficult to find; nearly 60 percent of men believed that there are not enough child care services available; 67 percent of men believed that most parents work in order to make ends meet, and that Government should help make it possible to afford quality care for children.

Families are striving to provide a decent environment for their children. The Act for Better Child Care [ABC], H.R. 3660, sponsored by Representative DALE KILDEE of Michigan, would help families confront one of the obstacles that make that goal difficult to achieve. I am a cosponsor of the ABC bill, and I give it my strongest endorsement.

ABC is a comprehensive measure that will help make quality accessible child care available to those in need. ABC helps disadvantaged families pay for good quality services that are in critically short supply, as well.

The 1980's marked the advent of stagnant family incomes, soaring housing costs, and an even more mobile society that dilutes the family support system. Families, especially children, are under tremendous pressure.

Fathers are not immune to these pressures, and too many have abdicated our most important responsibility. As the Congress continues to examine the issue of day care and other children's issues, we may not forget the fathers who have forgotten their children.

Too often, some fathers have chosen to ignore the most basic family obligations. Too many leave the job of child rearing to a spouse, to a grandparent, to the schools, or far worse, to the juvenile justice system.

In recent years, we have opened our eyes to acknowledge both the failure of some fathers to support their children and our failure to hold them accountable. More than ever, economic and social realities make raising a family more than women's work.

In raising our sons and in formulating public policy, we have an obligation to teach and foster personal responsibility.

But for the great majority of parents, including fathers, who search vainly for affordable quality child care, the Act for Better Child Care is a good beginning.

Providing for our children, for our future, is the most important task we face as a society. Passage of progressive and timely legislation like the ABC bill will take us another step along that path.

In closing, I want to urge my colleagues to be responsive to America's families, to be responsive to America's fathers, and to support the Act for Better Child Care.

A TRIBUTE TO THE EASTERN HIGH SCHOOL BASKETBALL TEAM

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. McEWEN. Mr. Speaker, this spring, the Eastern High School basketball team completed the finest season in the history of the school. Their accomplishments, including a 23 to 1 record and league and sectional championships, were a triumph for all of us in Beaver and southern Ohio.

Head Coach Greg Slone, his assistant Neil Leist, and manager Jamie Bond, deserve our congratulations for a job well done. And the players—Darren King, Darrell Howard, Eddie Nance, Bryan Hale, Dustten Alley, Rex Leist, Blaise Reader, Eric Meredith, Ben Howard, Jeremy Linkous, Peter Keller and Justin McBee—demonstrated that a true team effort combines hard work and commitment as well as skill. They are an example to the Nation of what can be achieved when individuals bind together in dedication to a singular purpose. They epitomize what athletic competition is all about—striving with the support of family and community to be the best they possibly can be. They have made us all very proud.

The players' parents, the teachers and administrators, and all of us had our emotions rise and fall with the efforts of these fine young men on the basketball court. Their victory became our victory.

This was a team effort not only in terms of the players on the court, but the school and community as well. I want to particularly commend the Eastern High School cheerleaders who kept our spirits up. Let me take this opportunity also to congratulate the great job of the Boosters Club and the enthusiasm of a community for its team.

"SPIRIT OF AMERICA" PROGRAM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. CRANE. Mr. Speaker, last night, June 15, was the "Spirit of America" Program as presented by our U.S. Army.

In the past, I have had the pleasure of attending this presentation. Unfortunately, I was unable to witness last night's patriotic display. However, after listening to my office praise last night's performance, I was certain that this year's program was as fascinating as ever.

I would like to take this opportunity to share with everyone the importance of such an event. During an occasion such as this, we must reflect upon America's history and our constant battle for peace through strength. The U.S. Army, as have all of America's Armed Forces, has played a critical role in America's protection of peace and freedom.

Last night's program, through the use of music and drama, chronologically presented the important contributions of the U.S. Army to the growth of our Nation. The show encompassed everything from a reproduction of our revolutionary battle fields to landing on the Moon, in a way that rekindled the nationalism of all in attendance.

The discipline the soldiers displayed throughout the performance, as highlighted by the silent drill team, can and should serve as an inspiration to all Americans. The event reminded me of the importance of patriotism, which has made this country great and will continue to make this country great throughout the future.

GLOBAL SURVEY BY INSTITUTE OF INTERNATIONAL BANKERS

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. WORTLEY. Mr. Speaker, I rise today to share a very fine document that was forwarded to me by Larry Uhlick, the executive director and counsel of the Institute of International Bankers. The study is entitled "Global Survey of Permissible Activities for Banking Organizations in Major Financial Centers Outside the U.S." This study, prepared by the institute with the assistance of bankers associations of the nine countries that were surveyed and the European Economic Community, shows the extent to which banks in nine other major financial centers may engage in securities, insurance, and real estate activities, as well as make industrial investments.

The study clearly demonstrates the flexibility of the banking laws of other important countries that have very sound banking systems, including our most significant Western trading partners. The study provides comparative data on how other leading financial centers are responding to the realities of increased globalization and securitization. It is significant that, in most of the countries, banks are permitted to engage in full securities activities without the requirement of separate subsidiaries. By 1992, the European Community will have a standard banking license that will permit a bank to conduct full securities activities in the 12 member countries. Thus, there is a clear trend to allow banks to engage in a full range of financial activities.

I am happy to say that the study also shows that American banks operating in these countries are permitted to, and do in fact, engage in full securities activities to the same extent as locally chartered banks. Moreover, Japan, the only country surveyed where banks do not have full securities powers, permits American banks and other foreign banks to own 50 percent interests in full service securities affiliates even though Japanese banks cannot make such investments.

The "Global Survey" clearly demonstrates the fundamental need for, as well as the efficacy of, modernizing United States laws to permit banks to engage in a broader range of activities, including full securities powers. This action is necessary in order to maintain our status as the premier financial center in the world. The Senate has acted to bring our laws up to date. It is now time for the House of Representatives to address these vital issues and to join the Senate in taking decisive action.

Mr. Speaker, I commend the Institute of International Bankers, an association of banks operating in the United States with headquarters in 55 countries, for making this valuable contribution that clearly spells out the developments in the world around us.

TRIBUTE TO LOUIS L'AMOUR

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, Louis L'Amour died this week at the age of 80, from lung cancer.

Mr. L'Amour, a prolific novelist and a North Dakotan, was also a quintessential American. He wrote more than 100 books, almost all of them Westerns, and some with titles that have become familiar names in our culture: "How the West Was Won," "Hondo," and "The Quick and the Dead," to name just a few. Almost 200 million of his books are in print, and among his devoted readers were Presidents Dwight Eisenhower, Jimmy Carter, and Ronald Reagan. More than 45 of his books were made into classic motion pictures, starring such American icons as John Wayne and Alan Ladd.

Mr. L'Amour, who meticulously researched his books, was also considered a first-rate historian. But most of the material for his stories was drawn from his own adventurous life. He left his hometown of Jamestown, ND, when he was 15, to embark on a string of colorful jobs that included prizefighter, longshoreman, lumberjack, gold prospector, coal miner, and circus roustabout. He was the living embodiment of the rugged frontier.

Mr. L'Amour received the National Gold Medal in 1983, and the Presidential Medal of Freedom in 1984. In 1972, the State of North Dakota conferred on him its highest honor—the Theodore Roosevelt Rough Rider Award, and his portrait hangs in the State capitol in Bismarck.

We prize his work today because it transcends mere adventure writing, and explores the founding ethos of our great country. He described America as it was, but he also described America as we want it to be—a land of individualism, moral courage, and fortitude in the face of adversity. I offer my condolences to his wife, Kathy, and his two children, Beau and Angelique. North Dakota is proud to claim him as a native son.

A TRIBUTE TO ROBERT KEON

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. LENT. Mr. Speaker, I'd like to take this opportunity to pay deserved tribute to Mr. Robert Keon, winner of the 1988 Golden LINK award. The American public cites alcohol and drug abuse as one of the most serious problems facing today's society. As the recipient of this prestigious award, Bob Keon is recognized for his tireless work and singular contributions to combating substance abuse.

LINK is an alcohol and drug treatment agency on Long Island which has succeeded in helping hundreds of addicts fight their personal battle against substance abuse. As a member of the agency's executive board of directors, Bob has selflessly donated hundreds of hours of his time to this worthy cause, and, in fact, helped establish a substance abuse program especially for the elderly.

Through his work as administrator of the East Rockaway Nursing Home, Bob Keon recognized first hand the growing problem of drug dependency among the elderly. Certainly, much medication on the market today is beneficial to patients. However, when taken over a long period of time or when mixed with certain prescribed medication, pain killers, tranquilizers, sleeping pills and other over-the-counter drugs can become addictive and pose a threat to the patient's health.

Committed to helping seniors overcome their drug habits, Bob piloted a new treatment and prevention program through LINK especially for this purpose. Drug abuse among the elderly is a problem that is often overlooked in the war on drugs. But through Bob's dedicated and concerned efforts, the local community has been educated to the dangers of substance addiction among the elderly. Perhaps most important, seniors know there is somewhere to turn for help.

Bob Keon and I attended elementary school together and have been friends for many years. I can say without exaggeration that he is one of the most distinguished and respected members of our community, and I am proud to know him. On behalf of my constituents in the Fourth Congressional District, I congratulate Bob for this noteworthy achievement and offer my sincere appreciation for his loyal and effective service to the Long Island community.

H.R. 4775, THE TREASURY, POSTAL SERVICE APPROPRIATIONS BILL

HON. PATRICIA F. SAIKI

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mrs. SAIKI. Mr. Speaker, I would like to express my support for the passage of H.R. 4775, the Treasury, Postal Service appropriations bill for fiscal year 1989.

I believe this is a fiscally responsible piece of legislation which is consistent with the guidelines established during the budget summit agreement of last December. Several vital programs will be funded through this legislation, including the U.S. Customs Service. Included in this legislation is $1.1 billion for Customs activities, including drug interdiction and enforcement of smuggling laws. I support the committee's action in approving funds for hiring part-time and temporary Customs inspectors for the Honolulu International Airport, in order to address the large volume of passengers arriving at that facility.

I am also pleased that the legislation, as passed, includes $15 million for construction of the University of Hawaii's Earth and Ocean Science Technology Center, which will conduct research in strategic and critical materials.

With the passage of the Crane amendment, this legislation now will provide a 4-percent pay increase for Federal workers, while exempting Members of Congress from that pay raise. I strongly supported the Crane amendment and, with the pay raise for Congress now removed from the bill, I can support final passage of H.R. 4775.

TECHNICAL CORRECTIONS TO THE TAX REFORM ACT OF 1986

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. ROSTENKOWSKI. Mr. Speaker, today, I am introducing H.R. 4845, a bill to make technical corrections to certain pension and employee benefit provisions included in the Tax Reform Act of 1986, as well as certain other enacted legislation.

These other statutes include the continuing health care provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, the Omnibus Budget Reconciliation Act of 1986, and the Pension Protection Act included in the Omnibus Budget Reconciliation Act of 1987. Each of the provisions included in this bill makes a corresponding technical correction to title I or title IV of the Employee Retirement Income Security Act of 1974, which involve jurisdiction of the Committee on Education and Labor.

I am introducing these provisions as a separate bill from H.R. 4333, the Technical Corrections Act of 1988, which is now pending before the Ways and Means Committee, in order that they may be considered jointly by the Committee on Ways and Means and the Committee on Education and Labor. Many of the provisions included in this new legislation will be removed from H.R. 4333 when the Ways and Means Committee marks up that legislation in the very near future, so that a sequential referral of H.R. 4333 can be avoided.

Mr. Speaker, I look forward to working with my distinguished colleagues on the Committee on Education and Labor in a cooperative effort so that the provisions of this technical corrections bill can be enacted this year as a freestanding bill, separate from H.R. 4333.

TIBOR RUBIN SHOULD BE AWARDED THE CONGRESSIONAL MEDAL OF HONOR

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 16, 1988

Mr. LEHMAN of Florida. Mr. Speaker, an extraordinary story of heroism came to my attention in an article that appeared in the Jewish Veteran, the publication of the Jewish War Veterans of the U.S.A. The story is about Cpl. Tibor Rubin, a Holocaust survivor who arrived in this country in 1949. Just months after his release from Nazi concentration camps and his arrival in the United States, Tibor Rubin enlisted in the U.S. Army in February 1950, during the Korean conflict. In November of that year, Tibor and his company were taken prisoner by the Chinese in Unsan, North Korea.

For the 2½ years that Rubin was a prisoner-of-war, his selfless, courageous actions saved many lives. He saved 35 to 40 of his fellow POW's by tending their wounds, stealing food, and giving them hope to continue. Despite his lack of English fluency, and suffering from his own wounds from which he is now totally disabled, Tibor Rubin's love for his new country motivated him to commit extraordinary acts of bravery in order to help his fellow prisoners.

Thirty years later, several of his comrades whose lives he had saved learned that he was still alive. Since 1983, these fomrer POW's have come forth to recommend Tibor Rubin for the Congressional Medal of Honor. They have organized a campaign to waive the time limitation for receiving the award. I am proud to be introducing a private bill today to waive the statute of limitations so that this deserving American will be able to receive the Congressional Medal of Honor.

Tibor Rubin now resides in Garden Grove, CA, and is totally disabled from injuries inflicted upon him while serving in the Korean war. I am pleased to reprint in the letter a few of the letters from his fellow POW's citing his acts of bravery and recommending him for this honor.

TO THE CONGRESS OF THE UNITED STATES OF AMERICA

My name is James E. Bourgeois, one of many X-POW's, with a story to tell. A story that has been overlooked for much too long.

I was a member of "M" Company, 8th Calvary, Regiment of the 1st Calvary Division during the Korean War, from August 1950 until September 1953.

On October 30 I was wounded in both shoulders by an enemy shell. I had no use of either arm. I was captured on either the second or third of November, I don't remember which day it was due to the fact that I was unconscious with pain most of that time. We were loaded on trucks and taken to a camp, Camp #5.

The first man that I remember seeing was Tibor Rubin, a young man who could hardly speak English, trying to clean my wounds. We did not even know each other. But this was the Rubin that I was to learn to know and to respect for the rest of my life. His cleaning of my wounds was to be just the beginning of many things that he did to help save my life.

Each day that he could get out of the hut to get a steel helmet of snow he would bring it in and melt and boil it to clean my wounds and bandages for reuse. At one time when my wounds got so infected he put maggots in them to prevent gangrene from setting in. This I am sure not only saved my left arm, which I have full use of today but also my life.

Each day that we got something to eat, there was Rubin feeding me, making sure that I got my share and that I ate whatever it was. But when there was nothing given to us to eat he would leave and come back with something he called "cake" for us who couldn't get out. We found out later that it was horse food that was compressed with sorghum. Every time he would go out to get us food he would put his life on the line to be caught stealing and risked being shot on the spot. But Rubin still didn't stop at that.

In the huts, which were only about 12' X 12', they kept about 18 to 22 of us. This meant that if we were to sleep we had to sleep on our sides. But here I was, unable to be put on either side, with Rubin insuring that I had a place to lay down.

Sir, these are just a very few things that Rubin did for me. Here was a young man in the U.S. Army who was taking care of his fellow soldiers without knowing what the outcome would be. A young man who had just come to the United States, but not yet a citizen, but yet he risked his life again and again for men he might never see again.

After the war was over I made the Army my career and lost all contact with Rubin, but I never forgot this outstanding man and friend to whom I owe my life.

It was just by accident that last year I met a former POW who know where Rubin was, he had his address, and that was all I needed. I called him, it was the phone call of all calls to say the least.

I later received a letter from Mr. Leo Cormier telling me that friends and fellow POW's are recommending Rubin for our country's highest award, The Congressional Medal of Honor. I asked him to please let me write this letter because I feel there is no one who would think Rubin more deserving of this award than me. So with this letter let me say that I am honored to recommend him for this award.

Would you and the Congress please consider Rubin for this award that we, now as X-POW's, trusted with our survival and highly recommend.

Thanking you, I am

Sincerely,

JAMES E. BOURGEOIS.

DEAR CONGRESSMAN during the late part of 1985, I received a letter from M/Sgt Randall J. J. Briere from San Antonio, Texas, who was with me in the North Korean Prisoner of War Camp for 36 months. He found out that I live in California, and he was very happy to inform me that Tibor Rubin is alive. When I heard that, I could not believe it. We all believed that Tibor Rubin was killed by the Chinese, but thank God we were wrong. When I heard the good news, my heart started beating fast. I felt like I will faint. I started to cry from happiness, and made a thank you prayer to our Lord to let the man stay alive. The man who saved my life and the lives of so many other GI's. M/Sgt Briere told me that Tibor Rubin is recommended for the "Medal of Honor" by some of the Ex-Pow's who found out that he is alive, and who's lives he also saved. I figured that I have to do something myself too, but how?

I have to tell you that ever since I came home, I can't talk about my life as far as the War concerned, but especially my Prisoner of War days. I can't talk to my family or friends. I still have nightmares about the Prisoner of War Camp. I have severe panic spells. Periods of nervousness and the feeling that I must get out of a room or place. Shortness of breath, and I can't be with people. I get so nervous many times that I fear that I will go crazy. I have severe headaches, chest pains and I became like a hermit. I had a stroke in 1978, then in January 1987 I had a 5 by pass operation and because I got sick, I checked in the Long Beach Veterans Hospital the end of March 1987. I am now under group therapy as an outpatient and because I am sick physically and mentally, and my time is running out I asked the Lord to help me open up somehow to talk about the man who saved my life and the lives of many other GI's.

It took me 2½ weeks to write this letter. It was one of the hardest and most painful things I had to do in the last 35 years, but I had to do it. I had to open up even though it hurts so much. I do relive the horrors in the 36 months I spent in the Prisoner of War Camp in North Korea.

My name is Carl McClendon, and I was born in Flora, Louisiana on January 7, 1931. I joined the US Army on May 28, 1948. My serial number is RA 18276659 and I stayed in the Army until February 12, 1956. Almost 8 years. I got out as a Sgt First Class. I went to Japan and was stationed in Camp Otsu and I was in the 25th Infantry Division. Then I went to Korea July 12, 1950 and I was in the B Company 1st Batallion 35th Regiment, 25th Division. The war was very bad, but I did not know that the worse was yet to come.

I was taken a Prisoner of War on Nov. 27, 1950 around Ipsop, North Korea. My life and many other GI's lives all of a sudden became a nightmare. We were not trained or prepared for such a life. We were captured in our summer uniforms and the weather was real cold. Later it became so cold that we started getting sick in no time. Our wounded did not have medical care. We hardly had any food, only a little corn twice a day. We started getting disentery, pneumonia, later Beri-Beri and our nerves started getting bad and the real starvation started. We started to die. When we got to Camp # 5, we were weak and disoriented. We never faced death like that before. Our lives became hopeless. In no time, everybody was for himself. Nobody cared, and many of our fellows started praying to ask our good Lord to let us die. Our GI's started dying at a rate of 30 fellows per day.

I am 6"1 and I weighted before capture 195 to 200 lbs. My weight started getting down. I went down to 95 to 100 lbs in a few months. Every where was death. Smell filth, lice and all kinds of sicknesses. I had disentery, worms, Beri-Beri, night blindness, chills, fever. My nerves started to crumble. Our most important thing was FOOD. We thought, dreamed and that's all we talked about FOOD AND FOOD.

One night, a few weeks later in Camp # 5, someone was crawling toward me and told me in very bad English to keep quiet. Then he came closer and reached in his fatigue pants and his pockets, and started giving me some food and a few others as well. It was Rubin like we called him later, that young man, who I did not really understand his English. He first started coming every evening a few hours when it got dark. He used to bring corn, millet, barley, turnips and vegetables. He used to take care of the wounded people. He was like Santa Clause to us. When he came over, it was like Christmas to us. I asked him quite a few times, how will I ever repay you Rubin? He told us: "You can repay me, please don't tell my name to anyone." Later on we found out that his name was Tibor Rubin (PFC) Ser#RA17-363581 from I Company 8th Cavalry Regiment, 1st Cavalry Division. Even though we liked to have the food and the medical care, we knew he could not carry out those actions every day.

Unfortunately in our camp also in his squad, there were a lot of turncoats and informers and squeelers. They would sell their country or fellow GI's for extra food. Rubin had to be very careful, keep low profile, because if he ever got turned in to the Chinese or the North Koreans and got caught, this would be his end. He would get shot on the spot.

Every day we had to go to Communist lectures. They tried to brainwash us. They talked about war mongers and Capitalism. Rubin used to tell the GI's. Please, don't believe all that Horse Shit. They don't have anything to offer you. In the USA we were eating bacon, eggs and pancakes. These communists do not have anything to offer. In no time the Chinese found out that Rubin was talking against their teachings, so every day he was put on cleaning the toilets detail, carrying the buckets of waste, or he was put on 5 to 6 times a day burial detail, but nothing broke his moral. The more the enemy pushed him, the braver he became. He told us that his war was not over. We have to hit the enemy under the belly where it hurts. But we asked: "How can we do that?" or How will you do it Rubin?. Well, he told us: The Chinese and the North Koreans do not have too much food for themselves. So stealing their ration more and more, will hurt them more than to kill them. So every day, when it got dark, and we went to sleep, Rubin was on his way, crawling on his stomach, jumping over fences, breaking in supply houses, while the guns were looking down on him. He tied the bottom of his fatique pants and filled up anything he could get a hold of. He crawled back and distributed the food what he had stolen and risked his life. Between the wounded, the very sick and the dying, he washed us. Took care of our wounds, force fed us. Talked to us about not giving up. We will go home he used to tell us. Our troops will liberate us. Your family is waiting for you. Please, don't give up. In day time, he carried the very sick to the toilet. Cleaned their rear from the disentery. Washed up the dying ones.

The Chinese asked him a few times to go back to Hungary. They promised him good jobs. They told him: You are a Hungarian citizen. Why do you fight the rich man's war? Rubin asked us what would some of us do. We told him: Rubin go back, get out of here, we all will end up in Siberia and die like animals. They wanted to let him go back to Hungary, when 30 to 35 guys died every day and no one knew who will be next. Rubin told us: No way will he ever go back, and leave his comrades. They needed him here. And no way would he bring shame to his family back in the good old USA.

Rubin had guts. The Chinese planted a nice victory garden in springtime 1951. Cucumbers, radishes, onions, soy beans and tomatoes. Nobody was allowed to go close to the garden. Our mouths were watering as we saw it grow. One tomato was worth a million bucks if we could have it. Well, one day Rubin told us: Carl if the good Lord helps us, tomorrow there will be harvest day. I really did not know what he was talking about. But the next day around midnight we found out. Rubin had tomatoes, onion, radishes, cucumbers and turnips. We asked Rubin: Where did you get it? He told us, the Chinese donated it to us. Well the next morning, when the Chinese woke up, they saw the damage. They probably first blamed each other, but later on the Commander Lam, a skinny fellow ran around screaming, that they knew who had done it and the people better come forward voluntarely. Rubin told us "If the fools know who did it, they would get him already."

Well, in no time we lost 1600 young American GI's. In no war did we lose so many young people as in the Korean War.

Many of us died the very dirty way that first winter. No man should die the way they did. Rubin was very proud of his accomplishment to save and try to save our lives, and when he helped some one and tried everything and lost some one, he was heart broken for weeks. When he lost Charles H. Lord, 304 W. 70th St, Jacksonville, Florida, who was from I Company, 1st Cav, one of the first ones from his Company, it was hard on him. Then he lost Frank Smolinsky, 1007 Hess Ave, Errie, PA, I Company, 1st Cavalry, he really took it hard. Then around April 1951, he lost Sgt La Rose. I don't know his address, I Company, 1st Cavalry, he really was down for awhile. To get rid of his hurt and angryness, he stole more food. That is the only way he knew to get even. One time he stole a whole bag of potatoes. Boy o Boy, did we have a Thanksgiving. I never forget how sad he was for weeks, when William K. Bonner died in June 1951, with Beri Beri. He was from I believe FFD #1, Sault St. Marie, Michigan. Rubin saved his life twice. He was doing O.K. and all of a sudden he got Beri Beri. He was so swollen up Rubin told us that he had to carry his testicles in his hands so he could walk. Rubin took it real hard, because he was working so hard to try to save Bonner's life, but this went on like that all the time. Later on we were separated from Rubin and I was transfered to Camp 4 in Aug 1951.

Rubin's Sgt, Sgt Randall J. J. Briere from I. Company 1st Cavalry a real anti-Communist was transfered to the reactionary Camp, where we met later on. I believe M/Sgt Briere and Rubin are the only ones who are alive today from the I Company, who spent 30 months or more as a Prisoner of War.

Now I told my story. While I was writing it I was in tears and nearly a breakdown. There is no way I can tell you what it meant to be a Prisoner of War in North Korea for 36 months. We lost 51% of our Comrades. It was a plain nightmare, which none of us will ever forget.

As far as Mr. Tibor Rubin, well M/Sgt Randall J. J. Briere wrote in his letter to Congressman Les Aspin on Jan. 7, 1986, that in the front lines Rubin was cited for an award. M/Sgt Briere later updated a letter on Feb 2, 1987 that Rubin was written up for a decoration for Valor above and beyond the call of duty. So Rubin was already then an outstanding soldier.

I know most of Rubin's family was killed by the Germans in WW 2 and he also was a prisoner of the Nazis. Maybe that is where he learned to be so cunning and brave. He had more courage, guts and fellowship that I ever know any one had. I went thru the war and Prisoner of War Camp and I have to say, that I never met any one to be a better soldier than Tibor Rubin. He is the most outstanding man I every met with a heart of gold. Tibor Rubin committed every day Bravery that bugled my mind. How he ever came home alive is a mystery to me. I wish I knew sooner that he is alive and I wish I could open up before to tell about this brave man. I thank God that the good Lord was good to me, so I can tell a little about this fine human being Mr. Tibor Rubin.

Tibor Rubin in my opinion really deserves 10 or 15 Congressional Medal of Honors for what he did for his fellow GI's under the most difficult conditions. But I know he only can receive one. I am very proud and happy to recommend Mr. Tibor Rubin: *1* "The Congressional Medal of Honor" for saving my life and at least 40 other Prisoner of War for his conspicious gallantry and intrepidity above and beyond the call of duty. *2* I recommend Tibor Rubin for the "Distinguished Service Cross" for his acts of Bravery during many months of captivity. He placed his life on the line. Not 1 occasion, but many times, to come to the aid and assistance of his fellow prisoner of Wars. He clearly distinguished himself by gallantry and uncommon Valor above and beyond the call of duty, risking his own life. *3* I recommend Mr. Tibor Rubin for the Silver Star because of the code of conduct he performed while he was a member of the United States of America in an exemplarary manner Article III "If I am captured I will continue to resist by all means as possible." Well, while the enemy guns were looking down on him, he took the most precious things from the enemy, their food supply, every day, and hit them in their stomachs every day, where it really hurt them. While he did all those things, he was not born in the USA and he was not an United States Citizen.

We as a nation have to honor an Ex-Soldier like Tibor Rubin, and I pray to God that I can stay alive, so I can stand next to Mr. Tibor Rubin proudly when he receives the "Congressional Medal of Honor" and the DSC and the Silver Star from our President.

Thank you for helping us EX-Prisoner of Wars and EX-Korean Veterans.

Respectfully Yours,

CARL MCCLENDON,
Paramount, CA.

AMERICAN EX-PRISONERS OF WAR

TO THE CONGRESS OF THE UNITED STATES OF AMERICA

I am just one of the fortunate X POW's who have returned alive from prison camp. I am writing our Congress for a request. Many years want by, but time really does not have anything to do with this request. The request is to ask that TIBOR RUBIN be put up for our highest medal "The Congressional Medal of Honor" and our President would do the Honor to bestow this medal to Mr. Tibor Rubin.

My name is Leo A. Cormier Jr. I was in "M" Co. 8th Cav. Regiment 1st Cav. Div. Rank Cpl Serial # R.A. 11178961. I was captured in Unsan, North Korea by the Chinese Army November 1950. The Chinese marched us to the mining camp and turned us over to the North Korean Army.

In the mining camp we all started to get sick with fever, disentary, berry berry. Many G.I.'s including myself were very lucky to have a fellow soldier like Tibor Rubin around, who I had met on the front lines in North Korea. We had no warm clothing, no medical equipment or medicine. Nobody cared, everyone was for himself.

Thank God, Tibor Rubin cared. He helped many G.I.'s including myself without question. He saved my life as well as many others who would take his advice. Without his help I would not be writing this letter today.

He helped the sick and wounded, he was always around helping those who were seriously sick and wounded. No one had to ask him, he was always there when you needed help, even though he was wounded himself. He cleaned our wounds to stop infection, and sometimes forced food down into us to keep us alive, when we already gave up all hope. He stole corn, millet, barley and vegetables from the Koreans knowing if he got caught he would have been shot on the spot. Yet he came back and shared with his fellow G.I.'s the food he had risked his life for. He disregarded his personal safety. He did all those things above and beyond duty that was asked of any soldier.

As bad as it was, those of us who listened to Tibor Rubin made it home. We buried as many as forty G.I.'s a day while in prison camp. Yes I can go on and on what Tibor Rubin did. He was not born in the U.S.A. He was not even a citizen. He was a refugee from Hungary. We could hardly understand his English. The Chinese spoke better English. Some of the Chinese had their education in the U.S.A. Tibor Rubin did not know anything about medals so he did not do these things for any kind of recognition.

It has been a long time. We all have a strong urge to try and forget unpleasant things in our past and not want to get involved with any other things beside our own welfare. I am not ashamed to admit that this was my selfishness not to come forward before. My fears of recalling those P.O.W. days of horror have put me in the care of the Veterans Administration. Now I can talk about my past. I became County Chapter Commander of X POW's Organization and proceeded on to State Commander trying to help myself more than anything else. I no longer feel that I need that kind of shelter and can tell my story as it really was.

Yes, Tibor Rubin is a real hero to me and many of us and it will be a real boost to our moral and for our country, to see him get the Highest Military Honor "The Congressional Medal of Honor".

I am honored just to recommend him. The Congress should have the honor to give it to him.

Thank you so much.

Sincerely,

LEO A. CORMIER, JR.,
Sunnyslopes, CA.

TO THE CONGRESS OF THE UNITED STATES OF AMERICA

I was captured at Unsan, North Korea, in November of 1950. I was at that time in G Company, 8th Cav. Regiment, 1st Cavalry Division, my Serial No. is RA 12 247 322. My name is Richard A. Whalen. I was a Corporal and I was in the first groups of prisoners captured by the Chinese. I met Tibor Rubin when these smaller groups of prisoners were brought together and marched and trucked to a small valley where we stayed for a month or two and then to Pyoktong on the Yalu River (Camp Five) where we were together most of the time till his release in Little Switch in April of 1953.

The first year and a half in these camps was a real adventure in survival. the food was in very scarce supply and not of the type any of us were used to, medical supplies were practically nonexistent. We were confined in very cramped quarters and it was extremely cold the first winter, especially since we were still wearing summer clothing. Under these conditons, it didn't take long for sickness and death to become commonplace.

I consider myself very lucky to have had Tibor Rubin as a roommate most of the time or his presence only a house or two away during our stay as POW's in North Korea, till his release in April of 1953. He stood out in the crowd as he helped those of us who became sick or who needed encouragement not to give up as this was a prelude to dying. The prevailing attitude among us at this point in time was hurrah for me and to hell with you and this attitude did not contribute to the general good of the group. I got very sick on two occasions plus a general gradual deterioration from TB to the point of me being called bones by the other POW's. Without his help and encouragement, I just would never have made it. The amazing thing is that he did this for so many others as well and at great risk to himself. At the valley and later at Camp Five, he somehow always managed to scrounge up a little extra food for us. If he were to have been caught, especially by the Koreans in the valley, it would have meant a severe beating or worse. In Camp Five under the Chinese, it could mean an extra work detail or a couple of days in the hole. Considering that he was still suffering his own agonies from previous combat wounds, any additional such treatment would no doubt have landed him on boot hill. Others were dying all around us without performing any of these extra endeavors. This disregard for his own well being in behalf of others took its toll to the point that his own health deteriorated to the point that he was one of those picked for the return of sick and wounded in Little Switch in April of 1953.

For someone to continually disregard his own safety and health over such a long period under very trying conditions with such beneficial results to many, should I believe be rewarded by awarding to Tibor Rubin The Congressional Medal of Honor.

Sincerely,

RICHARD A WHALEN,
Rotterdam Jct., NY.

JANUARY 25, 1988.

President RONALD W. REAGAN,
The White House, Washington, DC.

DEAR MR. PRESIDENT, one of the most memorable moments during the years of my service in the armed forces of the United States of America occurred on the day that Tibor Rubin was returned to us on the fields of Korea at Freedom Village.

As the U.S. Navy Chaplain serving with the First Marine Division in Korea, I was assigned to Freedom Village to help receive the returned prisoners of war who had been captured by the Chinese and North Koreans. Since I was the Jewish Chaplain at Freedom Village, when Tibor Rubin was carried from the ambulance on a stretcher, he was moved into my tent and we were provided an opportunity for prayer, medication and conversation.

It was during that conversation that I learned that PFC Tibor Rubin had escaped from the Nazis, reached the United States, proudly enlisted in our army, was sent to Korea and captured there by our enemies.

When I pressed him for more details about his period of imprisonment, he shared with me the fact that his love for the United States and his gratitude for all that America meant to this survivor of the holocaust, motivated him to seek in every way to help his fellow servicemen even when it meant placing his own life in jeopardy.

I should add that he was, and I presume still is, a modest man who shared his exploits with me only because I insisted that it would be helpful to me to have some knowledge about what went on in the prison camps.

It soon became very clear that many of his fellow American prisoners of war remained alive only because he was heroically able to scrounge up food, water and basic, albeit primitive, medicine for them without which they would have surely perished.

It is important to note that if he had been caught doing any of these things, he would have been shot to death.

I know that others have testified to his heroism, including fellow prisoners who are alive today because of Tibor Rubin's self-sacrificing actions, and that you have received many letters from Congressmen and Veterans' organizations urging that Tibor Rubin be awarded the Medal of Honor which he surely merits. I want to add my own voice and testimony to the chorus of requests that this action be taken. Whatever the bureaucratic problems may be, I know you well enough Mr. President to be confident that you can overcome them and see justice done for this authentic American hero.

You have my best wishes for continued good health and success.

RABBI MURRAY I. ROTHMAN.

SENATE—*Friday, June 17, 1988*

The Senate met at 9:30 a.m., and was called to order by the Honorable BOB GRAHAM, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

God setteth the solitary in families. * * *—Psalm 68:6.

Creator God, infinite in truth, justice, and love, in Your wisdom You created the family. You gave the first woman to the first man in marriage, intending that in their union of love they would become one flesh. Out of this union were to come children born of love and humanity was to be perpetuated. It seems clear, Lord, that You ordained the family as the foundation and the central core of society. When the family is strong, society is strong; when the family disintegrates, society disintegrates.

Thou knowest, Heavenly Father, that families can so easily become a casualty due to Senate schedules and tensions. Families are so easily hostage to Senate life. Meanwhile, the people look to their national leaders as models not knowing nor understanding the unprecedented pressures on those who labor here. We pray for our families, for sensitivity to the needs of spouses and children, for commitment to the priority family deserves, and which God ordained. Help us, O Lord, in this dilemma. Restore us to the Godly perspective and plan, in His name who is incarnate love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 17, 1988.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB GRAHAM, a Senator from the State of Florida, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FATHER'S DAY

Mr. BYRD. Mr. President, the Chaplain today spoke of the family in his prayer. I thank him for his prayer.

The emphasis in this country needs to return to the family, which is the core of the American way of life. Many of the sad things that we see about us every day are occurring because of the deterioration of the family and our way of life.

I want to speak a little today about the father in that family. Sunday will be Father's Day. Being a father of two wonderful daughters, having two equally wonderful sons-in-law, and also being a grandfather and having had six beautiful grandchildren as gifts from our Lord, I believe it appropriate that we think just for a moment about the father in the family circle.

Traditionally, Americans have expended more energy and emotion on celebrating their special relations to their mothers than on their fathers. Given the deep and intimate nature of most people's ties to their mothers, that is probably understandable.

But the romance and aura of Mother's Day should not diminish the importance of the role of fathers in making family life whole and healthy. Ideally, even in this era of varied family styles, children benefit by having present both a father and a mother.

Unfortunately, in an age that seems to prize strong female images, the father's role is too often neglected and, in many instances, it is the father's fault. In all too many instances, the father has neglected that family. As a result, many young men grow up believing that their responsibility in fathering ends with being merely the biological cause of a child, with no further duty entailed.

But the good father is a nurturer, as is the good mother. Boys and girls alike need the warm and understanding presence of their father in their growing years. A society without a strong sense of fatherhood is courting an increase in personal and social problems among its young people, and a rocky future.

A good number of our colleagues here in the Senate are fathers, and they know the joys that that function has made possible in their own lives. I am sure that they join me in saluting the significant day approaching on Sunday when they and all Americans pay tribute to their fathers for the contributions that their fathers have made to them.

In the Chaplain's prayer, his first words were "Our Heavenly Father." He spoke of Adam and Eve in the garden. I am old-fashioned, and that is the way I will always be. I was taught that the Bible says "Honor thy father and thy mother." I was also taught that the Heavenly Father did provide that idyllic Eden in which Adam and Eve walked together and alone but for their Heavenly Father, God.

Now, for those who may wish to discourse on whether or not the Bible's story of creation is true or just a myth, I think that misses the point. Regardless of how man came to be created or through what process, the fact remains that in the beginning—you cannot go any further back than that—in the beginning, God, our Heavenly Father, created the Heavens and the Earth. He created man out of the dust of the ground and breathed into his nostrils the breath of life. We do not need to argue about whether or not the Biblical story of creation was intended to be so minutely instructive as to details, or whether or not it was 6,000 years ago or whether or not it was 6 million years ago or 6 billion years ago.

That misses the point. The point is that there had to be a beginning, and man's relationship to God was defined in that book of Genesis and his personal relationship to God continues today. We may get all of the degrees that the world can give, from colleges, universities, honorary degrees, or whatever, but the fact remains that there was a Creator and is a Creator. I continue to marvel at the credulity of atheists who believe that chance could build a world when it cannot even build a house.

Mr. President, on this Father's Day let me recall the words of a poet:

THAT DAD OF MINE

He's slowing down, as some folks say
With the burden of years from day to day;
His brow bears many a furrowed line;
He's growing old—that dad of mine.
His shoulders droop, and his step is slow;

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

And his hair is white, as white as snow;
But his kind eyes sparkle with a friendly
light;
His smile is warm, and his heart is right.

He's old? Oh, yes. But only in years,
For his spirit soars as the sunset nears.
And blest I've been, and wealth I've had,
In knowing a man like my old dad.

And proud I am to stand by him,
As he stood by me when the way was dim;
I've found him worthy and just as fine,
A prince of men—that dad of mine!

A WEEK OF ACCOMPLISHMENT

Mr. BYRD. Mr. President, this week has been one of the most productive weeks on the Senate floor in this session. If this pace keeps up, it may well be possible for the Senate to adjourn earlier than the presently scheduled sine die date of October 8. I want to thank all of the managers who guided these bills through the Senate and all other Senators for the cooperation they have demonstrated in permitting the Senate to attend to its legislative business.

Let me take a moment to review this week's accomplishments. On Monday, we began consideration of the first bill in years to reform our welfare system. The managers of that bill, Senators BENTSEN and PACKWOOD, along with the bill's author, Senator MOYNIHAN, and other Senators, including the distinguished Republican leader, Senator DOLE and Senator ARMSTRONG, began serious discussions with the administration and others concerned about specific provisions of the bill. Those meetings continued through yesterday when they reached a successful conclusion. The overwhelming 93 to 3 vote by which the Senate passed the bill is testament to the bipartisan support these Senators were able to achieve.

This week also saw the Senate pass the first of three appropriations bills for fiscal year 1989. I want to commend Senators BUMPERS and GRASSLEY for the efficient way in which they handled the legislative branch appropriations bill. Likewise, Senators JOHNSTON and HATFIELD managed the energy and water appropriations bill with their usual alacrity and skill. They are both well versed in the important details of that legislation and their expertise shows. The Senate also passed the military construction appropriations bill this week. Subcommittee Chairman JIM SASSER and ranking member ARLEN SPECTER performed their duties with their usual high standards, which contributed to the smooth consideration of the measure. I also want to thank the staff of the Appropriations Committee, whose professionalism and attention to detail have contributed greatly to the orderly consideration of these bills.

Mr. President, this week we also passed the bill authorizing the Vietnam Women's Veteran Memorial. My thanks to Senators BUMPERS and DURENBERGER for the expeditious way in which they handled this legislation. Similarly, I want to commend Senators PROXMIRE and GARN for their management of the Bicentennial Coin Act. That bill included an amendment extending the current moratorium against thrift institutions leaving the Federal Savings and Loan Insurance Fund [FSLIC], thus preserving the stability of that important financial institution.

Earlier today, the Senate passed the biotechnology bill, S. 1966, under the leadership of Senator CHILES, the bill's author, and Senator HATCH, and also the Organ Transplant Act amendments, H.R. 3097, and the National Science Foundation authorization, H.R. 4418. This week, the Senate also confirmed numerous diplomatic and military nominations, including Charles F. Dunbar to be Ambassador to the Yemen Arab Republic.

We began consideration of the corporate takeover bill. Finally, a bill providing for advance notification of plant closings has been advanced to the calendar.

Mr. President, this has been a busy week. I again thank the many Senators involved in making this such a productive week. And I thank the staffs, including the floor staff on both sides of the aisle, for helping to facilitate our actions this week.

We have accomplished much this week. There remains much to do. The Appropriations Committee will begin marking up the eight remaining bills during the next week. I repeat my intention to do all that I can to see that we send 13 separate appropriations bills to the President so that we can avoid the need for a continuing resolution. There are other items as well that must be done. If the Senate can proceed as expeditiously on the remaining items as we have on those considered this week, we may be able to complete our work ahead of schedule. I thank my colleagues for their cooperation.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. BYRD. I ask unanimous consent that the able Republican leader's time be reserved for him.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each. The Senator from Wisconsin.

TRIBUTE TO THE FAMILY

Mr. PROXMIRE. Mr. President, first I congratulate the distinguished chaplain and the majority leader this morning on their beautiful tributes to family. It is time we recognize that the family certainly is the very heart and soul, the base of our society. Both of our leaders have contributed greatly to our appreciation. It is a shame we did not have 100 Senators here to hear their beautiful statements.

WHAT'S WRONG WITH DEFENSE CONTRACTORS' PLANS FOR SDI?

Mr. PROXMIRE. Mr. President, in late May the Defense Department received recommendations on future strategic defense initiative expenditures from a group called the Defense Science Board. This group recommended what has generally been construed as a change in the way SDI would proceed. The recommendations were obviously designed to conform SDI progress to the slower rate of spending provided by the Congress than had been asked for by the Reagan administration. Of the 11 members of the board, 9 are associated with defense contractors, 2 are now private consultants. Each of these two are retired Air Force generals. Two of the defense contractors did not take part in the SDI recommendations.

The board recommended that the first phase of SDI deployment should proceed in six separate steps. Each step should be taken in sequence. Presumably it should be firmly in place before SDIO takes the next step. In an article in the May 21 New York Times, reporter John Cushman quotes "a senior expert familiar with the science panel's deliberations" as estimating the cost of the first phase at $100 billion. This senior expert concludes, according to the Times article: "if they proceed with phase 1, the costs will go off the graph in the next 5 years. The phase 1 program is academic at this point."

That is quite a sendoff, Mr. President, for a change in SDI policy that is supposed to bring SDI spending down to a realistic level. Considering what the Science Board recommended in each of its six steps, the anonymous expert in the Times article may be right. Here are the steps:

First step, in compliance with the ABM Treaty SDI would deploy 100 fixed ground-based long range interceptors. They would be cued from existing sensors. The board says we have the technology to do this now. They admit the deployment would be limited and that it would have limited capabilities. They contend it would provide some defense against accidental or third country attacks or blackmail attempts. But would this first step provide any such defense? First, assume the accidental launch comes from the U.S.S.R.—perhaps from a dissident submarine commander or a single land based ICBM launcher. Within a few years, the U.S.S.R. will have each of its missiles equipped with a flood of decoys. The chances of the 100 ground based interceptors finding and striking the genuine warheads would be very small. So the protection against the kind of "accident" that might come from the U.S.S.R. would be feeble. Second, a very small handful of third countries have nuclear missiles. These nuclear or possibly nuclear weapon countries are almost entirely anti-Soviet and at least loosely allied with the United States. China, India, and Pakistan are exceptions or possible exceptions. There is no conceivable circumstances in which a government in any of these countries would find profit in attacking a United States that is sitting on an arsenal of 10,000 strategic nuclear weapons. If at some time in the distant future a Syria or Libya could secure nuclear capability, they would know that a nuclear attack on the United States would virtually guarantee their extermination. Finally, what purpose would this SDI deployment serve against a "blackmail" attack? Such an attack would almost certainly involve a suitcase or briefcase deposit at or near the target site. Interceptors would be useless.

Step 2 would deploy "the next generation of space surveillance systems to improve early warning detection and assessment of a ballistic missile attack and to lay the foundation that can deal with larger and more sophisticated attacks." This deployment—like step one—would be in compliance with the ABM Treaty. It would, however, not be effective against the kind of decoy-accompanied nuclear weapon accident that could originate in the Soviet Union. A third country attack as previously indicated is deterred by the massive U.S. nuclear arsenal, against a terrorist suitcase action. Space surveillance would serve no purpose. Since as we have documented above, step 1 would be useless in any realistic scenario. Step 2 would simply compound the futility.

Step 3 would deploy to protect the National Command Authority, that is, the seat of Government at Washington, DC, against decapitation from a nuclear attack, including those from submarines. This would be in compliance with the treaty if it were the only site so protected. Again, it would have exactly the shortcomings discussed in step 1. Only the Soviet Union has anything approaching the capability of making such an attack without absolute assurance that retaliation would instantly obliterate it. The 100 interceptors at Washington, DC, would provide no significant protection against the kind of nuclear power the U.S.S.R. could deliver on Washington. The present American deterrent, without spending a nickel on SDI, provides the deterrent retaliatory power that prevents such a Soviet attack.

Step 4 provides "further expansion, including additional bases and ground based interceptors and improved sensors to cope with countermeasures." This would be an unambiguous violation of the ABM Treaty, no matter how broadly interpreted. The protection with the ground based interceptors would provide virtually no protection against the kind of attack the U.S.S.R. could mount. The case made with respect to step 1's protection against third country or blackmail attack would apply to step 4 also. The cost of this step would be many tens of billions of dollars.

Step 5 would add space based interceptors for boost and post boost attack. Here is a step the Science Board says might begin before the previous step four is finished. The space based interceptors would suffer three serious drawbacks. First, the cost would represent a huge escalation in expenditures. Second, the technology to make space based interceptors effective is at best problematical and years away. Third, the interceptors would be extraordinarily vulnerable to Soviet counterattack.

Step 6 provides for the addition of space based or ground based directed energy weapons. Here is a technology the American physical society investigated carefully. These expert physicists concluded that this technology will require an improvement that varies from 100 fold to 1 million fold to be effective. These experts also contended that the theory for developing some of these energy weapons did not comply with sound physical principles. At best this step is many years and hundreds of billions, more likely trillions, of dollars away from realization.

Mr. President, in summary, this Board of Defense contractors the Defense Science Board has made an analysis and set forth a schedule for SDI that permits a more orderly appraisal of the realistic prospects for SDI. After consideration, it is this Senator's conclusion that SDI remains the most costly military project ever proposed and in all likelihood an impossible dream, even in the far distant future, and even if our most gifted scientists achieve miracles of progress.

WILLIAM DERMOTT MORAN, SR.

Mr. PROXMIRE. Mr. President, last month William Dermott Moran, Sr., died. Bill Moran was the regional director of the New York office of the SEC from 1972 until he retired in 1979. For over three decades he was a leading force in the enforcement of the securities laws.

In 1973 he received the Commission's Distinguished Service Award, which is the highest award that the Commission bestows on those whose service with the SEC has been truly outstanding.

Former SEC Enforcement Director, Judge Stanley Sporkin called Bill Moran:

> One of the giants in the regulation of the securities industry, who recognized that the duty and responsibility of a government lawyer is to be fair, reasonable and to seek out the truth and the facts.

Judge Kevin Duffy spoke of the human side of Bill Moran in his eulogy of May 28, 1988. According to Judge Duffy:

> Bill liked the little folks of the world. He had a soft spot for those whom he believed were downtrodden—particularly the minorities of this country. He went out of his way to express his love for this part of mankind.* * * Bill laughed and made little of the fact that in the 1940's when he went south with the SEC and found that even the churches were segregated, he insisted on worshipping God with the blacks. To hear him tell it, it was only because there was a better chance to be heard from there. Bill's real soft spot was for young people. People who thought like him, people whose outlook was still fresh and full of love. Bill returned that love in a special way. He taught almost two generations of young lawyers to become securities law experts.

Those who knew Bill well admired him for his dedication to government service, his fairness, decency, and his devotion to his friends and staff.

As the former leading enforcement officer in the New York region of the SEC, Bill Moran in his last years became increasingly critical of the staff freezes at the Commission. He was also highly critical of the leadership of the Commission under the direction of the Reagan administration and its first Chairman John Shad.

Bill Moran was not only a great civil servant and one of the very best regional administrators ever to grace the Securities and Exchange Commission, but also an Irish Catholic who loved his heritage, his religion, and the fun, seriousness and appreciation for life that went along with it.

He was also a plain-spoken forthright individual in the truest and most honorable Harry Truman tradition. He loved a good joke.

Ever since Bill Moran retired from the Commission, those devoted to a strong SEC have missed him. Now we shall all miss him.

Mr. President, I suggest the absence of a quorum and yield the floor.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

ANTI-PUBLIC CORRUPTION ACT OF 1988

Mr. McCONNELL. Mr. President, I rise together with my friend and colleague, the Senator from South Carolina, to introduce today the Anti-Public Corruption Act of 1988. This legislation was prepared and approved by the Justice Department, after extensive discussions regarding our efforts to fight election fraud, and consultations with U.S. attorneys in the field who are trying to weed out entrenched public corruption.

This is a two-prong offensive against the political machine mentality that still pervades certain regions of the country: A mentality that sanctions vote-buying, contributions-for-contracts, absentee ballot fraud, and kickback schemes. Local attempts to clean up these Government abuses usually fail. Investigations are rare, convictions almost never happen, and no one goes to jail.

In my home State of Kentucky, there was one large election fraud scandal, several indictments, a major trial—and in the end, one person spent 1 day in jail.

In 1965, Congress took the lead in protecting the rights of minorities to fair, honest, and full representation in Government, by passing the Voting Rights Act. Mr. President, the bill I introduce today guarantees the rights of all voters to fair and honest government. It expands Federal jurisdiction and increases penalties in election fraud cases. And it restores the authority of the Federal Government to investigate and prosecute corrupt local officials.

It ought to be a constitutional guarantee that elections are kept clean in every part of this country, and that there is some effective way to fight Tammany Hall. These basic requisites for democracy do not exist in every region. In some areas, where one party dominates and people are poor, you see a lot of election day shenanigans, and public officials making deals for themselves on the side.

Last fall, the Louisville Courier-Journal did an extensive study of election fraud in Kentucky, finding rampant abuses, including: vote-buying, coercion, and contributions-for-contracts deals. Many of these offenses were committed with the assistance of officials who were supposed to supervise and assure the integrity of the election process.

Just last week, two separate vote-fraud cases exploded in the papers: A lawsuit in Clay County that claimed vote-buying and other election violations changed the outcome of a State assembly race. The other case may be one of Kentucky's largest election fraud investigations, with four suspects indicted on a series of charges, including tampered absentee ballots.

Mr. President, I ask unanimous consent that two articles on those issues be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SUIT SAYS VOTE-BUYING IN CLAY DECIDED RACE

(By Gil Lawson)

LONDON, KY.—A lawsuit claiming vote-buying and other election violations in six Clay County precincts was filed yesterday by the loser in the Republican primary for the state Senate.

State Rep. Albert Robinson of Laurel County made the charges in a suit against incumbent Sen. Gene Huff. The four members of the Clay County Board of Elections were also named, but only to keep them from certifying the election results.

The suit asks that the votes in the six precincts be declared void and that Robinson be declared the winner.

According to unofficial election results, Huff won the May 24 primary for the 21st Senate District 6,059 to 5,472. In Clay County, Huff won 2,434 to 1,451. In the six precincts named in the suit, Huff won 1,457 to 176.

"People won't count that as sour grapes if they look into" the difference in vote totals, Robinson said. "It's obvious this is questionable."

Huff said the suit was frivolous and noted the six precincts named in the suit were the ones where Robinson suffered his worst losses.

"Throughout this entire campaign, Albert's position has been one of attack and false innuendoes," Huff said. "He's just a poor loser and is looking for a way out."

Huff said he had retained Sen. David Williams, a Burkesville attorney, to defend him in the suit.

The two veteran legislators—former political allies—engaged in a bitter primary campaign for the seat in the district, which also includes Laurel and Leslie counties and parts of Knox and Jackson counties.

The suit, filed in Laurel Circuit Court, charges that provisions of the Kentucky Corrupt Practices Act were "repeatedly and flagrantly violated" by Huff "and/or persons acting on his behalf."

The suit said it was impossible to name the illegal voters because records have been confiscated by the commonwealth's attorney as part of an investigation into possible voting irregularities.

Clay County Commonwealth's Attorney B. Robert Stivers declined to comment on the investigation or say whether it was related to Robinson's claims.

The state attorney general's office has been asked to assist in the grand-jury investigation, spokesman Phil Miller said. He declined to discuss what allegations have been made.

Besides alleging vote-buying, the suit claims:

Individuals were allowed to vote several times, using different names. In some instances, it said, a person voted up to 10 times in one precinct.

Some votes were cast when no one was present in the voting booth.

Voters were given alcoholic beverages near the polls.

Many voters were not alone when they cast their ballots in the voting booth.

"Unauthorized and illegal" persons were allowed in the polling place.

Electioneering took place at the polls.

Voters were assisted without making the required oath as to disability.

Robinson said he hired detectives to monitor precincts in Clay County.

[From the Lexington Herald Leader, June 11, 1988]

GOP CHAIRMAN IN KNOX ACCUSED OF ELECTION FRAUD

(By Bill Estep)

BARBOURVILLE.—In one of Kentucky's biggest election-fraud investigations ever, a Knox County grand jury yesterday issued felony indictments of the county Republican chairman, the son-in-law of an unsuccessful Democratic legislative candidate and two other people.

Kentucky State Police and the grand jury interviewed more than 70 witnesses about the May 24 primary election, said Commonwealth's Attorney Tom Handy.

He said 100 more witnesses would be subpoenaed and more indictments were likely. A federal grand jury also may return indictments, he said.

Yesterday's indictments included charges of illegally obtaining absentee ballots and tampering with them.

In addition, the indictments charge that witnesses were bribed with offers of free vacations and were threatened and intimidated.

The investigation focuses on the 285 absentee ballots cast in Knox County in the Democratic primary for the 86th House District.

Incumbent Caroline White defeated former Knox County Judge-Executive Don I. Bingham 1,721 to 1,335 for the nomination. A third candidate, Paul Lewis, had 47 votes.

Bingham received 236 absentee votes to 14 each for White and Lewis.

Among those indicted were:

Paul Baker, assistant county attorney and chairman of the county Republican Party.

Baker was charged with one count of bribing a witness.

The indictment said he offered several people a paid vacation to influence their testimony before the grand jury or to ensure they were not in Knox County to testify.

He also was charged with complicity to intimidate witnesses.

Ricky Hammons, Bingham's son-in-law.

Hammons was charged with one count of second-degree forgery for allegedly falsely completing absentee ballots and their supporting documentation for numerous voters.

He also was charged with one count of tampering with absentee ballots.

Claude Bo Abner. He was charged with two counts of intimidating witnesses.

He allegedly threatened a man named Phillip Hatfield, his family and others.

Mr. McCONNELL. After the Courier-Journal revelations, I introduced S. 1837, the "Election Fraud Prevention Act of 1987." This act would: punish all election fraud offenses as Federal felonies; expand the Federal Government's power to investigate fraud and corruption; and authorize Federal law enforcement officials to supervise State and local elections, to enforce these tough new antifraud provisions.

My bill came to the Justice Department's attention because of the fallout from a recent Supreme Court case originating in Kentucky, McNally versus United States. This case held that the Federal Government could not use the mail fraud statutes to prosecute public corruption perpetrated through the mails, despite a long history of mail fraud being utilized as a vital tool in prosecuting corrupt Government officials.

The Supreme Court held that Government fraud was not really "fraud," because it did not take tangible property away from anyone. The Court rejected arguments that citizens had a property right to honest Government. In effect, if you take someone's money through a fraudulent mail scheme, that's illegal—but if you put the whole Government up for sale, that's not punishable under any Federal law.

Mr. President, there are 185 public corruption convictions on the books based on mail fraud—this Supreme Court decision puts all of those on shaky ground. Last November, a Federal court threw out the 10-year-old mail fraud conviction of former Maryland Governor Marvin Mandel. The Court accepted the conviction record of Mandel's racetrack scam, but reversed the conviction itself because it no longer had a Federal law on which to convict him.

When the Mandel reversal came down I voiced my concerns about this decision on the Senate floor, and followed up with a guest editorial in the Washington Post which I ask unanimous consent to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMENTS ON MANDEL CONVICTION REVERSAL

Mr. MCCONNELL. Mr. President, I would like to call my colleagues' attention to a set of articles which appeared on the front page of the Washington Post today. The news here ought to concern every Member of this body, and I bring it up because I believe we can remedy the situation quickly, through legislation which I introduced only last Tuesday: S. 1837, the Election Fraud Prevention Act of 1987.

First there is the news, which must come as a shock to most of us familiar with the case, that the 10-year-old mail fraud and racketeering conviction of former Maryland Gov. Marvin Mandel was reversed yesterday. As many of us know, Mandel was convicted in what seemed to be an airtight case: Vast amounts of evidence and testimony indicated that Mandel had helped a racetrack get special treatment, in exchange for cash, jewelry, vacations, and other benefits from the track's secret owners.

More shocking than the news of this reversal, however, is the court's reason for granting reversal: It wasn't that Mandel was found innocent of the charges raised against him; in fact, the court basically accepted the evidence of Mandel's racetrack scheme. Instead, the court was compelled to reverse because it could find no Federal law on which to convict Mandel.

Even though there was clear evidence of government corruption, perpetrated through the mails, the court couldn't find any violation of Federal mail fraud statutes—despite the fact that the statute has been used for years to prosecute this kind of corruption, especially against entrenched politicians who can insulate themselves from local investigation.

This denial of justice has its roots in a recent Supreme Court case originating in my home State. In McNally versus United States, the High Court reversed the mail fraud conviction of a high-ranking Kentucky official who had set up a scheme to funnel kickbacks on State contracts to a Shell Co. controlled by the official.

In that decision, the Supreme Court held that Government fraud wasn't really "fraud," because it didn't take tangible property away from anyone. The Court rejected arguments that citizens had a proprietary right to honest Government, saying that Congress' intent in enacting fraud statutes was limited only to ownership rights, not democratic rights. Therefore, if you take someone's money through a fraudulent mail scheme, that's illegal; but if you put the whole Government up for sale, that's not punishable under any Federal law.

Mr. President, not only is this decision outrageous, but it also bodes great harm for the future. It could overturn more than 185 earlier convictions of corrupt public officials that were based on mail fraud. Many predict that the Mandel case is only the beginning of an avalanche of reversals. Further, the McNally and Mandel decisions have tied the hands of the Justice Department in at least 100 Government corruption cases now under investigation.

Last, these cases send a clear message to every Government official and citizen in the land: That if an official can get entrenched, and insulate himself from local investigation, then he can put his position on the auction block without fear of the Federal Government putting him behind bars.

Mr. President, this situation is closely related to another set of circumstances I described last week: The practices of vote buying and voter intimidation that go unchecked and unpunished in State and local elections. Last week, I introduced the Election Fraud Prevention Act of 1987, to clamp down on these ignored crimes against the democratic system.

But this bill also would go a long way toward correcting the McNally problem, by expanding the definition of "fraud" to include violations of Federal and State election laws. I hope that we can schedule hearings on my bill as soon as possible, and hope to work with the Rules Committee to strengthen the McNally provision of S. 1837.

I believe the Federal Government has a compelling interest in weeding out corruption at all levels of government, wherever Federal funds flow. We owe it to our taxpayers, if not to all American citizens, to ensure that government officials do not abuse the democratic process which put them in power.

Therefore, I urge my colleagues to take a careful second look at the Election Fraud Prevention Act of 1987, and work with me to let the courts and the people know that we are serious about stopping corruption in government.

Mr. President, I ask unanimous consent to insert into the RECORD at this time an editorial which appeared in the Paducah Sun yesterday, arguing the need for my bill, S. 1837, and urging quick action to address the very real election problems I have spoken on. So far, the response from my home State has been very positive, and I expect interest in the bill to increase once the repercussions of McNally begin to cause real damage, as they have already with the Mandel conviction.

Mr. President, I also ask unanimous consent to submit for the RECORD the series of articles which appeared in the Washington Post today, on the reversal of Mandel's mail fraud conviction, and on the dim prospects for other convictions of this type.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Paducah Sun, Nov. 12, 1987]

MCCONNELL'S BILL IS WORTH A TRY

Not long ago, a candidate for statewide office met with our editorial board. A couple of weeks earlier, the Louisville Courier-Journal published an eye-opening expose on election fraud in Kentucky. We asked the candidate, who had survived a hotly contested primary race, if such tales were so.

He told me a story about a county in eastern Kentucky. It seems a top county official invited the candidate to come by for a talk one day during the primary. After conversing with the candidate for awhile, the official said he thought they could get along, and boasted that he could deliver 80 percent of that county's vote to the candidate. The candidate left, obviously pleased.

Then, shortly before the election, the candidate was approached by a person he believed to be an emissary of his new-found supporter. He told the candidate it was time to come up with the money. The candidate asked what he meant. The response was that it was tradition, in return for the support of the county political machine, that money be provided to pay some 100 or so people to "assist" the election effort. The candidate refused to pay. He said he finished last in that county, although he fared pretty well in some surrounding counties and won the statewide race.

To us, that was a rather sobering account. Although the Courier-Journal investigation indicated that the bulk of election fraud and vote buying takes places in eastern Kentucky counties, it is nevertheless a practice that can disenfranchise voters in other parts of the state by swinging close statewide races in favor of the highest bidder. It offends the very concept of democracy.

We know we have at least one person who agrees with us on this, U.S. Sen. Mitch McConnell, R-Ky. Sen. McConnell has told us up front that part of his concern stems from his belief that Republican candidates in particular have been frequent victims of election fraud in Kentucky, and cites examples from his personal experiences as evidence. But that personal motivation aside, we agree with Sen. McConnell's view that the time has come to take some serious steps to do something about the problem, which is by no means limited to rural areas of Kentucky.

That is why we support new legislation Sen. McConnell has introduced that would toughen the penalties for fraud and voter intimidation, and provide an opportunity for federal supervision of polling places.

We emphasize the word opportunity, because voting fraud seems to be limited to a few select regions of the country, and any proposal for nationwide federal supervision of the polls would be unspeakably expensive and offensive to the concept of free elections.

Sen. McConnell's bill would provide that any candidate who is concerned about potential fraud at specific polling places could request that a federal observer be sent to oversee voting activities there. Only in the precincts where such requests are made would there be federal supervision. Sen. McConnell believes such a system would deter voter intimidation and tampering with ballots and vote counts.

Of course, it would not necessarily stop vote buying. To address that problem, Sen. McConnell's bill would amend existing federal anti-fraud laws to make any type of vote buying, selling, or trading of votes for jobs, felonies. It would raise existing penalties ($1,000 fines and up to 5 years in jail for such activity) to $25,000 and up to 10 years in jail.

Because the bill would apply to elections to any government body receiving at least $1,000 in federal money, its provisions would not just apply to statewide races. Elections to city governments and school boards would also be covered.

Sen. McConnell says the mechanics of his bill are inspired by provisions of civil rights laws created to protect the rights of minority voters in the South. As he put it: "We always have worried about civil rights for the minorities. This is a bill that provides civil rights for the majority. . . . this bill will give people the right to cast an unintimidated ballot and let the winner truly be the winner."

We don't see Sen. McConnell's bill as a total cure for the problem, and neither does he, but we agree that it is a step in the right direction.

As we told Sen. McConnell, we will favor almost any reform measure that will serve to make elections more honest and fair, so long as the reforms are not unduly expensive and do not give the incumbent an unfair advantage. From what we know so far about Sen. McConnell's bill, it would seem to pass those tests.—JIM PAXTON.

CONVICTIONS OVERTURNED IN MANDEL RACEWAY CASE

(By Paul W. Valentine)

BALTIMORE, Nov. 12.—A federal judge today overturned the 10-year-old mail fraud and racketeering convictions of former Maryland governor Marvin Mandel and five associates in a reversal that stunned prosecutors and brought at least temporary vindication to the once-powerful Mandel.

U.S. District Judge Frederic N. Smalkin, basing his ruling on a June Supreme Court decision, said that Mandel and the others were convicted in an overly broad use of the federal mail fraud statute and all counts against them therefore must fall. That Supreme Court decision prompted Mandel to seek a new review of his case.

The ruling, if upheld on appeal, could lead eventually to Mandel's criminal record being expunged, restoration of his right to practice law and the return of thousands of dollars in fines levied against four of his associates.

Maryland U.S. Attorney Breckinridge L. Willcox said he would appeal.

"Vindication is all that I've ever been seeking, and the judge has provided that," a smiling Mandel, 67, said at a news conference just hours after the ruling. He said he will not seek financial compensation for his time in prison.

"I never did anything to hurt the people of the State of Maryland or deprive them of anything," he said. "And the judge has just said the same thing."

Barnet D. Skolnik, the zealous federal prosecutor who spearheaded the Mandel prosecution, said yesterday that Smalkin's decision doesn't change anything.

"Nothing will ever change what Mr. Mandel did," Skolnik said. "He sold his office . . . He sold out the people of Maryland and that's never going to change."

Speaking in the office of his Baltimore attorney, Arnold Weiner, Mandel said he has no plans to reenter politics, but left the possibility open by adding "at this time." He said his wife Jeanne, who sat by him at the news conference, does not want him to run for office again.

What kind of political position might be open to Mandel is unclear. Since his release from prison nearly six years ago, he has acquired growing influence behind the scenes in state politics and Maryland Gov. William Donald Schaefer has said he is one of Mandel's fans. Mandel has said that he has turned down offers to lobby for various groups.

Schaefer, who as mayor of Baltimore offered Mandel a work-release job at City Hall when Mandel had completed his prison time in 1981, said yesterday, "I am not surprised by the ruling. I have known Marvin Mandel and Irv Kovens [one of the codefendants] for years and never knew them to do anything illegal."

Today's decision was the latest in one of the longest-running and most dramatic political sagas in Maryland's history. As governor—a post he first won by legislative appointment when Gov. Spiro T. Agnew became vice president—Mandel was considered a master of politics and legislative strategy. In the early 1970s, he shocked Marylanders by leaving his wife Barbara for another woman.

By the mid-1970s, he was caught up in the scandals that swept Maryland, such as taking a $50,000 loan from a Catholic fund-raising order called the Pallottine Fathers to help finance his divorce from Barabara Mandel.

The case involving the Marlboro Race Track unfolded with indictments of Mandel and his codefendants in 1975 and a mistrial in 1976 because of publicity concerning jury-tampering allegations. After his conviction in a second trial the following year, Mandel appealed the case through the federal appellate courts and was ultimately turned down by the Supreme Court.

Prosecutor Willcox expressed disappointment at today's ruling but added, "I can't say I'm totally surprised" in light of the Supreme Court decision on which Smalkin based his ruling.

In that decision, made in June, the high court held that mail fraud prosecutions against state officials can be made only when the fraud involves economic loss rather than intangible losses, such as the loss of good governance by public officials, as charged in the Mandel case.

Mandel and five other defendants were convicted in 1977 of 15 counts each of mail fraud and one count of racketeering in an alleged scheme to increase the value of Prince George's County's Marlboro Race Track in 1972 and 1973. The horse racing track, now defunct, was secretly owned at the time by the five codefendants, W. Dale Hess, Harry W. Rodgers III, William A. Rodgers, Irvin Kovens and Ernest N. Cory.

As governor, Mandel helped the track obtain extra racing days, which are controlled by the state and worth millions of dollars in profits for track owners.

In exchange, according to prosecutors, the tracks' secret owners heaped money, jewelry and vacations on Mandel, as well as financial assistance in his divorce and remarriage.

Mandel served 19 months in prison and was disbarred. Hess, Kovens and the two Rodgers were fined $40,000 each and imprisoned for terms of one to three years. Cory received a suspended sentence.

Mandel, who was released from prison in late 1981 and has worked as a building contracting consultant and sometime radio talk show host, had sought repeatedly to get his conviction overturned, ironically on much the same grounds as Judge Smalkin provided for him today.

In various appeals, Mandel had contended that both the indictment against him and the trial judge's charge to the jury in 1977 referred primarily to defrauding the citizens of Maryland of their right to "conscientious, loyal [and] faithful . . . services" of the governor, all intangible values, rather than concrete economic worth, as required by the federal mail fraud statute.

Smalkin agreed. Under the *McNally* ruling of the Supreme Court in June, he said, the mail fraud statute "has been limited from its inception to the protection of money and property (rather than nonmonetary, i.e., "honest and faithful government") rights."

The legislative history and intent of the statute show that its reach "has logically been as narrow as *McNally's* interpretation since the day of its enactment," Smalkin said.

The jury, he said, was incorrectly instructed to allow a "conviction if the jurors simply became convinced that the defendants had subverted the process of honest government in Maryland. The evidence of concealment of ownership of Marlboro shares and of Mandel's secret financial arrangements certainly showed that something fishy, and perhaps dishonest, involving Maryland's governor and some of those personally and politically closest to him was going on."

"Mandel might well have been bribed," the judge said. "His codefendants might well have bribed him. But however strong the evidence of dishonesty or bribery, the jury was told it could convict for something that did not amount to a federal crime."

Smalkin, a former U.S. magistrate and a federal judge here for little over a year with a reputation for painstaking scholarly research, added in an unusual passage that his ruling today "has nothing to do with [Mandel and his codefendants'] guilt or innocence, in any moral sense."

He said: "The people of Maryland, as a matter of natural law, have and have always had an inalienable right to good government. A jury of 12 citizens found beyond a reasonable doubt that the [defendants] had deprived all the citizens of Maryland of that right. This conduct, however, for reasons amply set forth . . . cannot sustain a judgment that the defendants were guilty of federal crimes. A final answer to the question of [the defendants'] guilt or innocence, in any broader sense than that, must await the judgment of history."

Willcox argued in court papers this fall that bribery—the taking of tangible goods for illegal purposes—underlay the mail fraud and racketeering charges.

The case involved a "sordid tale of corruption, bribery and deceit at the innermost sanctum of state government," Willcox said.

But Smalkin ruled that while the word bribery appears in the Mandel indictment, its main thrust nevertheless was the loss of intangible "good government" rights, and both the racketeering charges and the underlying fraud counts thus must be set aside.

"We had hoped to persuade [Smalkin] that this was a bribery case, an economic deprivation case, unlike McNally," said Willcox today. "But we failed."

HIGH COURT OPINION COULD JEOPARDIZE OTHER FRAUD CASES

(By Ruth Marcus)

The Supreme Court decision that led to the reversal of the decade-old conviction of former Maryland governor Marvin Mandel has also jeopardized scores of other prosecutions and convictions of corrupt public officials and private citizens.

The high court's ruling in June could affect at least 185 convictions and 100 more cases under investigation, and that estimate is conservative, said Gerald E. McDowell, chief of the Justice Department's Public Integrity Section.

The decision severely restricted the reach of the federal mail fraud law, enacted by Congress in 1872 "to prevent the frauds which are mostly gotten up in the large cities . . . by thieves, forgers, and rapscallions generally, for the purpose of deceiving and fleecing the innocent people in the country."

In recent years, the law, which prevents the use of the mails in any "scheme or artifice to defraud," has been a favorite tool of federal prosecutors. They have used mail fraud and its modern-day companion, wire fraud, as a means of punishing conduct that looks wrong yet may not be explicitly prohibited under other federal statutes.

The theory—accepted by all the lower courts to consider it, including the appeals court in the Mandel case—had been that, in the case of public officials who abused their trust, citizens have been defrauded of their "intangible rights" to honest and impartial government. Likewise, private individuals have been convicted of mail or wire fraud for violating their fiduciary duty to their employers or unions.

The rule among prosecutors has been, "When in doubt, charge mail fraud," said Columbia University law professor John C. Coffee Jr. "If it didn't fit in to the clear pigeonholes of other statutes, you charged mail fraud and charged generally a scheme to defraud the public of the faithful and honest services of public officials."

The Supreme Court's 7-to-2 ruling in *McNally* v. *U.S.* ended all that.

In an opinion by Justice Byron R. White, the court held that federal prosecutors must show that the fraud caused actual economic injury, not just intangible harm.

The ruling came in the case of James E. Gray, cabinet secretary to then-Gov. Julian M. Carroll of Kentucky, and Charles J. McNally, a Kentucky businessman, who participated in a scheme to funnel commissions on state insurance business to an agency nominally owned by McNally but in fact controlled by Gray and another Kentucky politician.

"Rather than construe the statute in a manner that leaves its outer boundaries ambiguous and involves the federal government in setting standards of disclosure and good government for local and state officials, we read [the mail fraud law] as limited in scope to property rights," White wrote.

The opinion prompted an outraged dissent by Justice John Paul Stevens. "Can it be that Congress sought to purge the mails of schemes to defraud citizens of money but was willing to tolerate schemes to defraud citizens of their right to an honest government, or to unbiased public officials?" Stevens asked in an opinion joined by Justice Sandra Day O'Connor.

McNally's lawyer, Carter Phillips, termed the ruling "about as good news as defense lawyers have had in 10, 15 years."

Assistant Attorney General William F. Weld, head of the Justice Department's criminal division, called *McNally* "a real kick in the teeth" and said he had heard "yelps from all over" the country as U.S. attorneys assessed the damage to convictions and pending prosecutions.

In the aftermath of the decision, the effect of which is considered retroactive:

The Supreme Court last month vacated the conviction of former Cook County, Ill., circuit judge Reginald Holzer, sentenced to 18 years for mail fraud, extortion and racketeering in the Operation Greylord scandal. The high court returned the case to a federal appeals court in Chicago for reconsideration in light of the *McNally* decision, which could also imperil nine other Greylord convictions.

Prosecutors in New York dropped several fraud counts against Rep. Mario Biaggi (D-N.Y.) and three others in a case involving charges that the Wedtech Corp. bribed public officials to help obtain military contracts.

Lawyers for former Wall Street Journal reporter R. Foster Winans and two others convicted in an insider trading scheme to profit through advance tips about contents of the Journal's Heard on the Street column argued in the Supreme Court last month that—under the reasoning in *McNally*—their fraud involved only intangible harm and that therefore their convictions should be overturned.

Solicitor General Charles Fried contended that *McNally* did not apply because "property was misappropriated here" in the form of information belonging to the Wall Street Journal.

A federal judge in New York dismissed 46 of 54 mail and wire fraud counts in a major Iran arms-smuggling case against 10 international businessmen accused to conspiring to ship more than $2 billion in arms to Iran.

"The kinds of cases that are going to go down the tubes I would call abuse of power cases, where people like Gov. Mandel sold his power," said G. Robert Blakey, a law professor at Notre Dame. Mandel "didn't cheat on a particular contract. Nobody lost anything. The state gained the revenue. Who lost in the old-fashioned tangible sense? The answer is nobody. But the government was for sale."

Not all convictions challenged on the basis of *McNally* have been overturned. In Philadelphia, a federal judge last month rebuffed an attempt by former city commissioner Maurice Osser, found guilty in 1972 of a scheme to take kickbacks from a printing contractor, to win a new trial. The judge said Osser failed to raise the issue earlier and that giving him a new trial "at such a late date . . . would create a manifest injustice to the city of Philadelphia and its citizens."

Rep. John Conyers Jr. (D-Mich.), chairman of a House Judiciary subcommittee on criminal justice, has introduced legislation to undo the McNally decision. The Justice Department, meanwhile, is embroiled in an internal dispute over what, if any, legislation to propose. While a number of federal prosecutors and others are arguing for legislation that would directly overrule the case, some top department officials cite principles of federalism and question the advisability of that approach, department sources said.

In the meantime, said Associate Attorney General Stephen S. Trott, "it's a severe blow." The law "has been used successfully and effectively by federal prosecutors against corrupt politicians," he said. Without any hint of trouble from the Supreme Court, "we thundered ahead in lots and lots of cases."

Now, he said, "We really have a lot of repair work that has to be done."

CLOSING THE MANDEL LOOPHOLE

(By Mitch McConnell)

The Post was most appropriately ambivalent in its Nov. 15 editorial surveying the aftermath of the recent Mandel decision. The overturning of the 10-year-old mail fraud conviction of former Maryland governor Marvin Mandel was the legally correct thing to do, but it hardly was a vindication of justice—even for Mandel himself, who had long since completed his sentence for use of the mails in connection with a kickback scheme. Further, the judge who threw out the conviction hardly disputed the prior allegations against Mandel's dealings, which the judge himself characterized as "fishy and perhaps dishonest."

Instead, Mandel's conviction was overturned because there no longer was any law to prosecute him under. Four months earlier, in *McNally v. United States,* the Supreme Court had declared that federal fraud statutes were inapplicable to government corruption and that the laws didn't protect citizens' intangible property right of good government. This ruling was a tremendous blow to federal prosecutors, who for years have successfully used federal fraud statutes to battle corruption in state and local government.

When people are denied fair and honest representation because of discriminatory voting practices, election fraud, corruption or other abuses of power, redress rarely is available at the local level. That is why Congress stepped into the states in 1965 with the Voting Rights Act, to eradicate a tradition of discrimination against minority voters. For the same reason, federal fraud prosecutions have been one of the few truly effective remedies against entrenched, corrupt local politicians.

The Supreme Court eliminated that remedy, however, undermining nearly 200 past corruption convictions based on fraud—starting with Mandel's—and bringing to an abrupt halt at least a hundred current investigations. It's anyone's guess whether these investigations will be completed in good faith by state officials.

Nevertheless, The Post correctly noted that the Supreme Court's reasoning was "right," even if the result seems disastrous. Criminal statutes ought to be applied narrowly and not used as blunt weapons against every kind of offensive practice, however egregious. The problem really is in the law itself, which unduly restricts the federal government's role in setting high standards of democracy, through fair elections and honest government.

I have introduced legislation, the "Election Fraud Prevention Act of 1987" (S. 1837), to broaden that role where federal involvement is warranted. It would elevate most election offenses—such as vote buying and voter harassment—from misdemeanors to federal felonies, deterring a form of corruption that state officials often ignore or tolerate. The bill would strengthen federal laws against trading government benefits for campaign contributions, improving prosecutors' resources in fighting corruption. And it would allow candidates to obtain federal supervision of election activity at polling places where wrongdoing is anticipated.

S. 1837 is not designed to completely overturn *McNally* or *Mandel*, since both rulings clearly are on solid legal ground. Instead, the bill repairs some of the damage these decisions have caused and attempts to focus Congress' attention on the need for a better defined and perhaps more active federal role in the law-enforcement war against government corruption and election fraud.

Yet some believe that it's not the federal government's business at all to stop election and government abuses at the state level. That was the argument used against the Voting Rights Act of 1965: simply put, it is the states' right to be as corrupt as they can get away with. Fortunately, however, Congress at that time recognized that it had an obligation to protect the right of Americans to vote, without restrictions or harassment. It could have left the problem for states to solve, but instead it acted with conviction and wiped out voting discrimination within just a few years. It's anyone's guess whether those entrenched practices still would be around had Congress not taken the lead.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. McCONNELL. Mr. President, I ask unanimous consent that I be allowed to proceed for a few more minutes.

Mr. BYRD. Mr. President, how much is "a few more minutes," if the Senator will be specific?

Mr. McCONNELL. May I say to the majority leader that I have been trying to get over here all week, and I have had trouble getting any time at all. I would appreciate 5 minutes.

Mr. BYRD. The Senator would not have trouble getting time if he came over here.

Mr. McCONNELL. Can I ask unanimous consent for 5 more minutes?

Mr. BYRD. I have no objection.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business continue for 15 minutes so that the able Senator from Kentucky will have 5 minutes, the Senator from South Carolina may have 5 minutes, and the Senator from New Mexico may have 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. That will be a 15-minute extension of morning business.

Mr. McCONNELL. I thank the distinguished majority leader.

I said then, and continue to believe, that the Mandel case is just the beginning of an avalanche of reversals. Further, the McNally and Mandel cases have frozen the work of the Justice Department on over 100 pending investigations of public corruption.

The legislation I introduce today, the "Anti-Public Corruption Act," creates a new Federal statute that will broadly, but fairly, prohibit corruption schemes at all levels of government. It will make it a felony to deprive citizens of the honest services of any public official or employee. It will make it a felony to deprive citizens of a fair and impartial election process through vote-buying, intimidation, or executing fraudulent ballots or registration forms.

Finally, this bill imposes severe penalties in recognition of the extreme harm to society caused by election fraud and public corruption.

I want to stress to my colleagues the national scope of this problem—it is not limited to the States any more than discriminatory voting practices were just a State problem back in the 1960's. That was a crime against our democratic system, and was not going to be fixed until the Federal Government assumed responsibility and intervened.

Ironically, the Government did not have to prosecute many violations of the Voting Rights Act. The simple declaration of the Federal Government—that it would no longer tolerate this kind of abuse—brought discrimination at the polls to a dramatic, conclusive end.

I predict the same results with public corruption and election fraud—two major crimes against our democratic system. But first, we in Congress must declare, loud and clear, we are not going to tolerate this kind of abuse. We must declare that we are going to arm the Federal Government with laws capable of uncovering and punishing these offenses.

Mr. President, I urge my colleagues to join me and the Senator from South Carolina in this very winnable war against public corruption and election fraud, everywhere in this country.

Mr. President, I ask unanimous consent to have printed in the RECORD a section-by-section analysis of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANTI-PUBLIC CORRUPTION ACT OF 1988

SECTION-BY-SECTION ANALYSIS

This proposal was developed as an explicit federal proscription of corruption and dishonest conduct in government at the state and local, as well as federal levels, including election fraud. The statute would punish persons who endeavor by means of any scheme or artifice corruptly to deprive or to defraud inhabitants of the honest services of officials of federal, state or local government. Schemes to corrupt the election process would also be covered. The statute is drafted to cover the most important types of cases previously brought under the mail fraud "intangible rights" theory, and over which there is a significant federal interest.[1] The statute would be codified in a new section 225 of title 18, United States Code.

The legislation is designed to overcome impediments to the federal prosecution of crimes in the priority area of public corruption caused by the Supreme Court's decision in *McNally* v. *United States*, 107 S.Ct. 2875 (1987), which rejected the well established principle that the mail fraud statute prohibits deprivations of "intangible rights." In that opinion, the Court rules that the mail fraud statute, 18 U.S.C. 1341, does not reach schemes to defraud citizens of the right to have the government's affairs conducted honestly, but is limited only to schemes to obtain property or money. Subsequently, the Supreme Court clarified the extent of the "property" rights protected by the mail fraud statute in a decision which makes it clear that McNally does not prevent prosecution of fraud cases involving intangible property rights, as long as the loss to the victim can be valued in monetary terms. See *Carpenter* v. *United States*, 108 S. Ct. 316 (1987).[2] Thus, while the government can still prosecute a wide variety of pecuniary crimes under the mail fraud statute, including some cases of public corruption, any scheme involving intangible property that cannot be valued in monetary terms no longer violates the mail fraud statute. See *United States* v. *Richerson*, 833 F.2d 1147 (5th Cir. 1987), *United States* v. *Fagan*, 821 F.2d 1002 (5th Cir. 1987), *United States* v. *Runnels*, 833 F.2d 1183 (6th Cir. 1987) (convictions upheld on constructive trust theory, defendants' failure to turn over corrupt payments to employer constituted property loss), but see *United States* v. *Huls*, 841 F.2d 109 (5th Cir. 1988) (convictions reversed); *United States* v. *Ochs*, No. 87-1465 (1st Cir. March 15, 1987) and *United States* v. *Holzer*, 840 F.2d 1343 (7th Cir. 1988) (constructive trust theory rejected).

However, even with the gloss of Carpenter, the government's ability to prosecute public corruption schemes under the mail and wire fraud statutes remains circumscribed and unwarrantedly limited. See Holzer, 840 F.2d 1343 (mail fraud conviction based on receipt of bribes by state judge reversed because no showing of pecuniary loss to any victim); *United States* v. *Herron*, 825 F.2d 50 (5th Cir. 1987) (indictment charging money laundering scheme to prevent the filing of currency transaction reports dismissed because government not deprived of money or property); *United States* v. *Murphy*, 836 F.2d 248 (6th Cir. 1988) (indictment charging state official with scheme to cause State to issue a bingo license based on untrue information dismissed under McNally); *United States* v. *Townsley*, No. 86-1045 (8th Cir. March 25, 1988) (convictions for election fraud vacated).

McNally was predicated upon the concern that the expansive use of the mail fraud statute resulted in the exercise of federal jurisdiction over conduct not clearly authorized by Congress. In the proposed legislation, the prohibited conduct is more clearly defined than under the mail fraud statute, which would continue to exist for prosecution of property-oriented schemes. At the same time, the substantial body of case law developed prior to McNally would also apply to the new statute because of its use of the core phrase "a scheme or artifice to defraud," thereby avoiding years of new litigation on the meaning of the statute.

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[1] Because of our desire to focus on public corruption cases, this statute, unlike the mail fraud statute, is not intended to cover private schemes involving deprivations of intangible rights. See e.g., *United States* v. *Bryza*, 522 F.2d 414 (7th Cir. 1975).

[2] In Carpenter, the Court held unanimously that an employee of the Wall Street Journal who misappropriated confidential business information had deprived this employer of "property" within the meaning of the mail fraud statute.

There are many reasons why legislation to restore (and even expand) the Federal Government's ability to prosecute public corruption is appropriate. McNally limits the United States in pursuing not only State and local corruption but also federal corruption. We can deter acts of public corruption only if federal, State and local prosecutors make a commitment to seek out and punish officials who abuse their offices. We believe that there is broad public support for federal efforts to ensure that federal officials adhere to the highest ethical standards.

Moreover, insofar as McNally inhibits the federal government's ability to prosecute State and local corruption schemes, numerous considerations support the conclusion, reflected in this proposal, that the public interest would be well served by legislation to create concurrent federal cognizance over such corruption schemes. The Constitution itself requires that the United States "guarantee to every State . . . a Republican Form of Government." In addition, various practical reasons make clear that federalism would be furthered, not fettered, by the opportunity for federal investigation and prosecution of State and local corruption. To begin with, State prosecutive jurisdiction is sometimes unequal to the task. Many State Attorneys General have very limited investigative and prosecutive authority. District Attorneys who do possess the requisite legal authority are geographically confined; they have the power to handle only offenses within their districts, whereas the most serious public corruption schemes may span multiple districts or encompass an entire State. In rare cases, State or local law enforcement officials themselves may be under investigation or be so corrupted as to undermine their effectiveness.

In addition, States and localities do not possess the effective instrumentalities and resources available to the Federal Government to investigate complex, concealed white collar offenses such as public corruption. Most States have no investigative grand jury with comparable powers to those of the federal grand jury; indeed, many State laws require the conferring of automatic immunity on any witness who is subpoenaed to testify before a grand jury. Likewise, only a few States have a wiretap statute as effective as the federal law and some States even bar the use of consensual monitoring (such as the wearing of a recording device by an undercover agent). These tools are essential in uncovering evidence of governmental corruption in view of the typically vigorous efforts of the perpetrators to conceal the crime. Finally, most States and local authorities have no investigative establishment comparable to the Federal Bureau of Investigation, Internal Revenue Service and other agencies at the federal level, with vast experience and expertise in investigating public corruption cases.

Upon careful consideration of all these factors and while mindful of the legitimate interests of federalism, we have proposed a new federal statute that will broadly, but clearly and fairly, proscribe corruption schemes at all levels of government in this country. Because the offense as defined is so harmful to the fabric of our society, severe penalities are made available, and the jurisdictional bases for permitting federal prosecution are extended beyond merely the use of the mails or wire facilities to other areas, such as schemes having an effect on interstate commerce.

Subsection (a) of new section 225 makes it a crime for any person to endeavor, by any scheme or artifice, corruptly to deprive or to defraud the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State or political subdivision. Conduct to be proscribed by this subsection would include bribery and graft, and would allow for the prosecution of corrupt politicians who did not deprive the inhabitants of anything of readily identifiable economic value, as well as nondisclosure and concealment of material information.

The prohibited conduct is defined by the phrase "endeavor to deprive or to defraud" so as to capture established case law under the obstruction of justice statutes, which also use this term. See 18 U.S.C. 1503, 1510. "Endeavor" is broader than the term "attempt", and covers "any effort or essay to accomplish the evil purpose" that the statute is designed to prevent. *United States* v. *Russell*, 255 U.S. 138, 143 (1921); see also *United States* v. *Lazzerini*, 611 F.2d 940 (1st Cir. 1979). "Inhabitants" of States, subdivisions thereof, or the United States (in the case of federal officials), rather than "citizens", as the mail fraud statute provides, would be protected under the new statute.

In any prosecution of a State or local official under this section, State and local law would continue to provide guidance as to what constitutes "honest services" to which inhabitants of these jurisdictions are entitled. However, because of the federal interest in consistent coverage of the prohibited conduct, proof of the elements of a State offense would not be required.[3] This provision should restore federal jurisdiction over most schemes involving public officials that had been covered by the mail fraud statute prior to the McNally decision.

Subsection (b) of the proposed legislation prohibits schemes to deprive the inhabitants of a State or political subdivision of the State of a fair and impartially conducted election process through the "procurement, casting, or tabulation of ballots or voter registration forms which are false, fictitious, fraudulent, or illegal under the laws of the State in which the election [in question] is held. . . ." This section should restore federal jurisdiction over all election fraud activity which had been reachable under the mail fraud statute prior to the McNally decision. This approach should also respond to the concerns of those who believe any legislation to resolve problems created by McNally should be specific in focus.

The proposed language reaches only schemes to procure, cast or tabulate ballots or voter registration forms which are materially deficient in some significant respect, or which are illegal—and thereby void—under State law. The provision would not create federal jurisdiction over such things as false campaign rhetoric and campaign dirty tricks, which are not appropriate subjects for federal prosecution.

Subsection (c) of proposed section 225 specifies the jurisdictional bases for the offenses relating to State and local governments described in subsections (a) and (b). These would include those available prior to McNally which have traditionally been the basis for federal involvement: the mails, wire communication, and transportation and travel in interstate or foreign commerce to further or conceal fraudulent activities of all kinds. See 18 U.S.C. 1341, 1343, and 2314. Broader jurisdictional bases used in other federal statutes such as that the scheme "affects" interstate or foreign commerce (see 18 U.S.C. 1951), or that a facility of interstate or foreign commerce is used for the purpose of executing or concealing the scheme (cf. 18 U.S.C. 1952), have also been included. The phrase "facility *of* interstate or foreign commerce" is meant to include the intrastate use of a common carrier to deliver something, or to make a communication. See *Myzel* v. *Fields*, 386 F.2d 718, 727-8 (8th Cir. 1967), cert. denied, 390 U.S. 951 (1968).

Subsection (d) of new section 225 parallels subsection (a) and prohibits schemes to deprive or to defraud the inhabitants of the United States of the honest services of public officials or persons who have been selected to be public officials.

The adjective "corruptly" has been included in the offenses set forth in subsections (a) and (d) in an effort to provide some greater specificity and identification of the conduct sought to be criminalized in this area. While "corruptly" is obviously not a term of precise dimensions, it nevertheless has antecedents in both the bribery/graft (18 U.S.C. 201) and obstruction of justice (18 U.S.C. 1503) contexts and thus should serve properly to exclude minor infractions such as permitting a government employee, without justification, to take the day off. At the same time, "corruptly," which merely connotes an element of bad or evil purpose, is not deemed to add a factor that is unduly difficult to establish or that was not present in the typical cases prosecuted under the mail and wire fraud statutes prior to McNally.

It should be noted that the penalty for a violation of subsection (a), (b), or (d) is up to ten years' imprisonment. This is an increase from the five-year maximum found in the mail and wire fraud statutes and is founded upon the belief that public corruption offenses should carry a potentially greater penalty than pecuniary frauds. In addition, subsections (a) and (d) would permit the imposition of an even harsher punishment if the government proves at trial that the scheme or artifice facilitated or was intended to facilitate a Federal or State crime that carries a maximum prison penalty of more than ten years. In that event, the court would be authorized to impose any term authorized by the law punishing that crime, and would be required to impose any mandatory minimum prison sentence provided by such laws. This penalty scheme has particular relevance in the controlled substances area and is designed to deter public officials from engaging in corrupt schemes that they know are aiding illegal drug activities, for which federal statutes prescribe lengthy mandatory minimum penalties. The same principle, however, would also apply to any other scheme that was designed to further a more serious offense, such as espionage and murder. (Cf. Mass. Ann. Laws, ch. 268, §1 (perjury in capital case punishable by life imprisonment)).

Sections 2(c) and 2(d) of the bill would amend the Racketeer Influenced and Corrupt Organizations (RICO) (18 U.S.C. 1961(1)) and electronic surveillance statutes (18 U.S.C. 2516(1)(c)), respectively, to add a reference to the new public corruption offense created in the bill. Inasmuch as mail and wire fraud, as well as virtually all other bibery and public corruption statutes, are listed as predicates for purposes of RICO and electronic surveillance authorization, it makes sense to include also the proposed offense in 18 U.S.C. 225.

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[3] The McNally majority stated that Congress could criminalize use of the mails to further a State officer's efforts to profit from governmental decisions he is empowered to make or over which he has some supervisory authority, even if there is no State law proscribing his profiteering or even if State law expressly authorized it. McNally, 107 S.Ct. 2875, 2882, n.9.

Mr. THURMOND. I rise today in strong support of the Anti-Public Corruption Act of 1988 which I am pleased to introduce along with Senator McCONNELL.

The problem of corrupt public officials is an issue which deeply concerns me. Unfortunately, we have witnessed instances in which public officials have used their positions of public trust to their own advantage and to the detriment of the public.

In the past, public corruption has often been prosecuted under the Federal mail fraud statute. However, the Supreme Court, in a case of statutory interpretation, handed down a decision last year in McNally versus United States which restricts the use of this law in regard to criminal prosecutions. In this case, the Supreme Court ruled that the mail fraud statute could not be used to prosecute public corruption schemes in which no economic loss could be demonstrated. Consequently, a public official who uses the mails to engage in a corrupt scheme to defraud the county treasury of $10,000 could be prosecuted under the current statute. However, a public official who uses the mails to engage in a corrupt scheme to have a contract awarded as a favor to a personal friend could not be prosecuted unless it could be shown that the awarding of the contract resulted in a property or financial loss. It is virtually impossible to show a property or financial loss in such a situation. There is no reason why both of these cases should not be equally subject to vigorous prosecution.

Generally, this legislation will allow the prosecution of those offenses that were prosecuted under the mail fraud statute prior to the McNally decision and will expand Federal jurisdiction in this area. Specifically, this bill provides for the prosecution of those public officials who participate in corrupt schemes although there is no economic loss. Further, this legislation would apply to instances in which there are corrupt schemes to influence the election process. This statute will expand Federal authority in these type cases beyond the traditional jurisdiction which currently requires use of the mails, wire communications, or transporting or traveling in interstate commerce. The expansion would provide for prosecution to include corrupt schemes which involve the use of a facility of interstate or foreign commerce, such as a Federal highway, or affect interstate or foreign commerce.

Mr. President, this legislation will help to ensure that cases of public corruption will be prosecuted. Breach of the public trust, whether or not it results in econmic loss, is a serious offense that should not go unprosecuted. I am confident that the citizens of this country demand that public corruption be zealously investigated and prosecuted. This body should enact this legislation so that the public demand will be met.

In closing, I urge swift consideration of this important matter.

TRIBUTE TO THE HONORABLE ROBERT C. BYRD

Mr. STAFFORD. Mr. President, it has been my privilege to serve in the U.S. Senate since 1971 during much of which Senator ROBERT C. BYRD has been either the assistant majority leader, the majority leader, the minority leader, and again the majority leader.

I have always been filled with admiration for his profound understanding of the rules, customs, and traditions of the U.S. Senate. Throughout the years, he has been scrupulously fair to the membership of the Senate without regard to party.

I particularly admire the fact that Senator BYRD has achieved his most distinguished position wholly by his own effects.

It has been a real pleasure to serve in the Senate with Senator ROBERT BYRD.

THE DEATH OF "ROBBIE" ROBERTSON

Mr. DOMENICI. Mr. President, last Sunday, a devoted friend died.

His name was Garland Bailey Robertson, but we all called him "Robbie."

I first met Robbie 22 years ago. At that time, he was already a political legand in New Mexico. He was a man of modest formal education who had started out as a 30-cents-an-hour laborer for the city of Albuquerque. He worked his way up through the ranks until he became our city manager.

Throughout that career, he was a friend to everyone: Refuse collectors and realtors, Governors and mayors, rich and poor.

For decades before my first meeting with Robbie in Carl Macaluso's Smoke Shop on Central Avenue in downtown Albuquerque, it had been a requirement for an aspiring politician to receive Robbie's blessing if he or she was to be elected to office.

I came to that first meeting to pass muster, I guess, with this legend.

I knew his reputation. But I had no idea that I was going to meet a rather short man who had a mild manner, a contageous smile, and eyes that twinkled like those of Santa Claus. Yet there was a roughness in his presence that clearly indicated this man had not had an easy life.

This was the man who had extended his hand of experience to generations of men and women like me, people who were young and full of hope.

While I was young and inexperienced, good fortune was with me.

As we parted that morning, we shook hands and gave one another a hug. I knew we both had a feeling that we had signed a compact, first to become friends, and secondly to share the joys and frustrations of politics and governing.

And we did just that.

I was elected to the city commission back in 1966, and for years I worked closely with Robbie. The newspapers referred to Robbie as my "mentor." He was that, and much more. He was my teacher, my coach, my confidant, my friend.

It seems to me that the real test of friendship is loyalty. Robbie Robertson shared loyalty with us, no matter what.

Anyone who ever met Robbie carried away memories of this wonderful man. He was a man of great pride and accute common sense, what we in the West call a real straight shooter.

This was truly an uncommon man, the likes of whom we are unlikely to see again.

When I reflect on Robbie's long and productive life, I really do not come away with any sense of sadness in our loss last Sunday. Rather, everyone who worked with him or laughed with him or came to him with a problem came away as we do now with a sense of joy and happiness in that experience, remembering what Robbie was and is.

I know it is sometime said, but in this case it is so very true: We are his legacy; Robbie Robertson lives on through those of us he touched.

We will miss him.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of Robbie's obituary that was published in the Albuquerque Tribune.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

FORMER ALBUQUERQUE CITY MANAGER AND POLITICAL MENTOR DIES

(By Carlos Salazar)

Garlan Bailey "Robbie" Robertson, who was involved in Albuquerque politics and city government and who served as city manager in 1966-68, is dead.

He was honored for his years of community service in 1980 when he received the New Mexico Public Service Award from then Gov. Bruce King.

A Democrat, Robertson is given credit for luring U.S. Sen. Pete Domenici, R-N.M., into politics, when Domenici successfully campaigned for the Albuquerque City Commission in 1966.

Robertson, 81, who ended 31 years of city employment on Feb. 13, 1969, died Sunday at the Cibola General Hospital in Grants after a long illness. He suffered a series of strokes in the early 1980s.

Funeral services, which are pending, will be at Strong-Thorne Mortuary, said Robertson's grandson, Terry McMains of Grants.

"I treasure Robertson as one of my closest friends. I attended the ceremony two years ago when the Grants Chamber of Commerce honored him as citizen of the year," Domenici said by telephone today from his office in Washington, D.C.

"If it's at all possible, I hope to be in Albuquerque for his funeral.

"He is the closest person to being my mentor in politics. Robbie was manager of the refuse department in 1966 when the Citizen's Committee for Better Government broke up and we formed a new Peoples Committee that elected myself, Harry Kinney and John Gurule to the City Commission."

Following his retirement as city manager in 1968, Robertson was elected to one term as Bernalillo County Commissioner in 1970 and briefly served as city manager in Grants in the early 1970s.

Robertson was actively involved in programs for the treatment of alcoholism and was the former chairman of the New Mexico Commission on Alcoholism in the 1960s.

As special assistant to City Manager Richard H. Wilson in 1969, Robertson supervised the moving of the old city yards from South Broadway to 5501 Pino Road N.E. after his retirement as city manager.

Robertson rose from the ranks of a 30-cent an hour laborer with the city in the 1940s to city manager 26 years later. He served as street superintendent and was director of Department of Services when he was promoted to city manager.

Survivors include his wife Mary, daughter Betty McMains, grandson Terry McMains, granddaughter Linda Jones and great-grandchildren Robin and Terry McMains and Dean and Richard Jones, all of Grants.

He also is survived by a sister Inabelle Brannin of Birmingham, Ala.

CANADIAN AND AMERICAN OIL AND GAS INCENTIVES LEAVE SMALL UNITED STATES PRODUCERS OUT IN THE COLD

Mr. DOMENICI. Mr. President, earlier this year I introduced S. 2096, the United States-Canada Free Trade Oil and Gas Incentive Equalization Act of 1988. This bill seeks to conform the objectives of the United States-Canada Free Trade Agreement with the realities of the oil and gas marketplace in North America.

My reasoning is that the United States needs to remove disincentives to oil and gas exploration, disincentives such as the windfall profits tax.

America needs to encourage exploration and development. This encouragement, in part, is needed to ensure the existence of what we like to call a level playing field, one where United States and Canadian companies can compete fairly in the open and free North American market created by the Free Trade Agreement.

This encouragement is also needed to build up American reserves. As I understand it, our gas reserves stand at about 11 times annual use, while the Canadian reserves are more than 30 times annual consumption.

In an effort to evaluate the discrepencies between the United States and Canadian markets, the American Gas Association last month issued a report that compared taxes, incentive programs, and royalty rates between United States and Canadian gas producers.

The study, which assumed that well costs, wellhead prices, and production levels were identical for individual United States and Canadian wells, found these facts:

The incentives that Canada offers to small, independent drillers that drill a few exploratory wells annually are quite substantial, far greater than anything available to American drillers.

The study also found that United States tax policy provides a significant advantage, compared with Canadian policy, to larger producing companies once wells are in production.

What this study shows me is this: The one segment that loses out on both counts is the small American independent gas company. They lack the exploratory incentives available in Canada, and they lack the size to obtain the tax benefits available to the major United States companies.

Mr. President, that situation must be rectified. We must adopt legislation similar to S. 2096 to assist the independents, and to encourage exploration so that we can move our reserve ratio about 11.

Mr. President, to assist my colleagues in understanding this problem, I ask unanimous consent that portions of the American Gas Association study be printed in the Record.

There being no objection the material was ordered to be printed in the Record, as follows:

United States-Canadian Drilling Comparisons

DIGEST

This analysis reviews government programs for U.S. and Canadian producers to evaluate if producers from one nation are advantaged over producers across the borders. Allegations frequently made are that a "level playing field" does not exist and that competition between U.S. and Canadian producers is not equitable.

Comparing taxes, incentive programs and royalties between U.S. and Canadian producers is a complex task. There are many inherent differences in the environments in which the producers work. Furthermore, the details of these tax codes and incentive programs are structurally different. To avoid a study so complex that the results are obscure, it was decided to assume well costs, wellhead prices, production levels and contract durations were identical for individual U.S. and Canadian wells. This assumption created some minor artificialities in the study but it also limited the comparison to relative judgments on the government programs.

Final comparisons were made in the form of ratios of the total earnings after taxes for hypothetical producers on each side of the border assuming identical wells. Comparisons drawn in a no incentive environment tended to favor U.S. producers. When potential incentives were maximized for Canadian producers in both tax and royalty areas, Canadian producers generally received greater net earnings over the life of their wells than American producers.

This study identifies the assumptions and variables which are responsible for these tendencies. Given that many Canadian producers quickly reach incentives on all wells drilled, it is likely that most activity on both sides of the border fall between the two polar scenarios described in this study. Therefore, the economics of producing gas in Canada or the U.S. is likely more equal than that represented by the polar cases herein.

A. INTRODUCTION

The self-interest of Canada and the United States are heavily, and more or less equally, involved in the development of natural gas arrangements between the two countries. Employment, economic growth, and energy security in both countries will be enhanced if natural gas production in both Canada and the United States is stimulated and if markets in the United States grow. Canada's frontier natural gas potential cannot be tapped without very large capital investments drawn from non-Canadian as well as Canadian sources. The United States can best develop its own Alaskan frontier resources in coordination with Canadian developments. U.S. consumers, including major industries, will benefit from the future assured availability of significant additional natural gas supplies.

The U.S. and Canada are intensely interested in the potential of the Free Trade Agreement to create a strong market for Canadian gas and motivation to develop the frontier gas resources. Producers in each country are concerned that the tax laws and incentive programs might create unfair advantages for one nation's producers if the marketplace becomes more competitive as a result of the Free Trade Agreement. This study addresses the issue of governmental programs which might create an advantage for producers in one nation or the other.

The study concludes that for a broad set of gas wells some advantages exist for U.S. producers and some advantages exist for Canadian producers. Each group is favored for a particular class of drilling activity.

In general for most of the high volume, competitive gas production U.S. producers are favored. On the other hand small Canadian producers are clearly favored especially for exploratory wells. Certain Canadian programs create a bias in favor of the small Canadian producer (as with the Canadian Exploration Incentive Program, CEIP).

B. EXECUTIVE SUMMARY

This analysis discusses the governmental factors, e.g., taxes, royalty payments, subsidies, etc. which influence the earnings from gas well production in the U.S. and Canada. The study compares the earnings for U.S. and Canadian producers derived from identical wells under the prevailing tax and incentive codes in effect in each country.

This study specifically addresses two opposite scenarios in order to define the limits of the exploratory and development "playing field" in the United States and Canada. Earnings from wells in the U.S. are compared to similar Alberta wells in which no incentives and then full incentives are applied. The composite result of the comparisons is a range of earnings that imply advantages to Canadian producers, specifically when full exploratory incentives are available to a company. On the other hand, U.S. producers receive greater net revenues over their Canadian counterparts when the assumptions of no incentives and maximum marginal tax rates are utilized.

It is important to realize that these two polar scenarios illustrate the extremes of Canadian and U.S. advantage. Most of the gas produced in Canada originates from large companies whose incentives are limited. Also, assumptions of maximum marginal tax rates are equitable for both countries, but not necessarily applicable on a company-wide basis. It is therefore likely that many producers fall between the polar scenarios discussed in this study. Therefore, the relative economics of producing gas on either side of the border is likely to be more equal than represented by the cases in this study.

In general, small Canadian producers with limited exploration and development budgets benefit the greatest from Canadian incentive programs such as the Canadian Exploration Incentive Progam (CEIP) and the Alberta Royalty Tax Credit (ARTC). Benefit "ceilings" when viewed in context with small net earnings have a significant impact. These same limited incentive dollars spread over a large budget have less impact.

U.S. producers have certain advantages over non-incentive (or limited incentive) Canadian producers when maximum marginal tax rates in each country are considered. The variety of deductions to income including production, state and local taxes, royalty payments and depletion allowances effectively reduces U.S. federal and state tax obligations below those of Canadian producers who do not have the variety or quantity of these income reducing tools for tax purposes.

Canadian incentive programs, e.g., Canadian Exploration and Development Incentive Program (CEDIP) and the more recently announced Canadian Exploration Incentive Program (CEIP) are extremely important for small producers. Larger producers tend to have exploration and producers budgets, which because of "ceiling" limits on payments, limit the benefits per well. Small producers who receive the full CEIP/CEDIP awards for each well they drill do gain a significant benefit.

Of the 192 comparisons included in this study 95 cases (49 percent) clearly showed an advantage to Canadian producers; 97 cases (51 percent) clearly showed an advantage to U.S. producers.

Two sets of comparisons were made in the study. The 48 U.S. comparison wells were compared to Canadian wells with (1) no incentives, (2) ARTC, CEIP and the Royalty Holiday.

As expected the "no incentives" case was the strongest for U.S. producers. The 48 development wells the U.S. earnings were higher in all 48 cases. For the 48 exploratory wells the U.S. earnings were higher in 46 of the cases.

The "full incentives" case was clearly the favorable case for the Canadian producers. Admittedly, only small Canadian producers could receive all of these benefits and they contribute only marginally to the gas exports to the U.S. Nevertheless, Canadian earnings were higher for 48 of the 48 exploratory wells and 45 of the 48 development wells.

C. TAX AND ROYALTY STRUCTURE

Direct comparisons between U.S. and Canadian tax systems are not easily drawn. Each country has established its own distinct system of tax liabilities, as well as deductions and allowances. State, local and provincial jurisdictions also present tax obligations to producers. To provide a meaningful comparison of net back to the producer, royalties must also be considered. Royalties whether paid to government (as is normal in Alberta) or to individual private owners (often the case in the U.S.) reduce net returns to producers.

U.S. taxes/royalties

In the United States, royalties are paid to government entities and individual private owners. For the purpose of this analysis, overriding royalties paid to other parties are included in the general royalty category. There is often not a set formula for determining royalty obligations in the U.S. especially for private mineral ownership, but rates established on state and federal lands, as well as private leasing activities most often range from 12.5% to 25%. For the purposes of this examination, royalties were established at 13% to 24% depending upon geographic location.

States and localities also tax natural gas production revenues. Table 1 below identifies the royalty, state, local, production and federal rates assumed in this study.

TABLE 1.—U.S. ROYALTY AND TAX RATES

[In percent]

Location	Royalty	Local	Production	State corporate rate	Federal (corporate rate)
Texas RRC 7C	13.0–17.0	4.0	7.5	0	34
New Mexico (Permian)	14.0–18.0	1.5	10.9/9.05	4.8/5.6	34
New Mexico (San Juan)	14.5–18.5	1.5	10.9/0.05	4.8/5.6	34
Wyoming	14.0–20.0	6.77	6	0	34
Oklahoma	18.0–24.0	(1)	7.085	5	34

[1] Local Oklahoma taxes included in Production tax category.

Rates and categories of taxable income vary within the U.S. For instance, in Wyoming corporations pay no state income tax; however, production taxes and local jurisdictional taxes are significant. In New Mexico, a production tax rate of 16.3 cents per Mcf results in effective rates of 10.9% at $1.50 per Mcf and 9.05% at $1.80 per Mcf. New Mexico state corporate rates are graduated, but average rates of 4.8 or 5.6 percent are used depending on revenue generated in this study. In Oklahoma, the production tax category includes any local additions to tax liabilities.

U.S. tax laws permit certain deductions from gross revenues before federal taxes are assessed. Primarily, state and local taxes may be deducted as well as royalties paid, depletion allowances (15 percent of revenues) and production/severance taxes. Intangible drilling costs (IDCs) are also deductible, in general. For this study, 70 percent of well costs were considered IDCs (except Oklahoma shallow depth well case which was 49 percent). Each of these deductions were identified and applied at appropriate rates within the proper time frame (for example, IDCs are deducted in the first year only, while royalties, state, local and production taxes are deductible annually). Federal taxes were assessed against the resulting taxable income at the maximum corporate marginal rate of 34 percent.

Canadian taxes/royalties/incentives

Significant differences exist between U.S. and Canadian tax structures at federal and other jurisdictional levels. For example, royalties paid to Alberta are formulated based on factors including gas price and rate of production, unlike the more "what the market will bear" or historical basis utilized in the United States. The following describes those tax liabilities and incentives examined and incorporated into this study.

The three different gas producing provinces have different approaches to taxation of natural gas production revenues. This study focuses on Alberta taxes and producer liabilities simply because 89 percent of the natural gas produced in Canada originates in Alberta. Principal elements of each provincial tax and royalty regime are described below.

British Columbia

British Columbia has complex royalty rate structures. Rates are established based upon well location, age, depth, production rate and wellhead price. At current wellhead prices this results in a royalty range from 7 percent to 23 percent. The low side of this range is often indicative of a deep, low volume well while the high side of the range often is applied to shallow depth, higher volume productive wells. Royalty holidays are granted from 1-3 years for exploratory wells drilled between June 1987 and June 1990 depending on depth drilled. There is no monetary limit imposed on the royalty holiday. Additionally, a gas cost allowance can be deducted from royalty obligations at a rate set by law. Currently, the rate is approximately C$0.20 per thousand cubic feet.

Saskatchewan

In Saskatchewan, gas royalties vary with price, age and volume of gas. Rates range from 0 to 35 percent of the wellhead price. No royalty holidays exist in Saskatchewan, but a resource allowance of approximately C$0.28 per thousand cubic feet is permitted.

Alberta

Royalties in Alberta vary according to production volumes and wellhead prices. For the purposes of this study, production rates were assumed to be greater than 600 thousand cubic feet per day and two price scenarios (identical to the U.S. price assumptions) were examined, C$1.88 and C$2.25. At these prices, royalty rates are formulated to be 25.67 percent and 26.2 percent of gross revenues, respectively. Two significant provincial incentive programs are incorporated into this study. A one-year royalty holiday is granted where appropriate and is applied to the first year of production. This tends to maximize the royalty holiday incentive assuming that the greatest proportion of annual production occurs in the first year. The Alberta Royalty Tax Credit (ARTC) is also utilized as a provincial incentive. A producer is credited 50 percent of royalties paid annually up to C$2 million per company against provincial taxes paid. Since this study is on an individual well basis benefits are applied to wells individually until benefit ceilings are reached. Alberta also permits a gas cost allowance to be deducted from revenue before royalty obligations are calculated.

Canadian Federal

The current maximum corporate rate in Canada is 35 percent with an additional 1.05 percent surcharge (3 percent of 35 percent). When tax reform is completed in Canada, the top corporate rate will drop an 28 percent with a .84 percent surcharge (3 percent of 28 percent). This study assumes a 28.84 federal tax rate in keeping with a post-reform time frame.

Canadian producers are permitted to expense 100 percent of eligible exploratory drilling costs and 30 percent of development drilling costs in the first year of production as a federal tax deduction. Geological and geophysical costs are also expensed in the first year. However, Canadian provincial taxes and royalty payments are not tax deductible as they would be in the U.S. A resource allowance is tax deductible, though, and is 25 percent of gross income less gas cost allowance annually.

The Canadian Exploration and Development Incentive Program (CEDIP) has also provided cash incentives for Canadian producers. Those incentives will have paid back to producers C$175-350 million annually for the three years from June 1987 through March 1990. The Canadian exploration and development drilling industry spends on average C$7.5 billion per year. CEDIP repayments represent a relatively small part (less than five percent) of those total expenditures. Such cash back incentives can be an important factor for small producers who drill only a small number of wells each year. But this program, as demonstrated in the percentages above, has not been a decisive factor for the majority of Canadian producers. Furthermore, this federal program is scheduled to terminate with the completion of tax reform in 1989-1990. Therefore, this program is not incorporated in the calculations of earnings.

The new Canadian Exploration Incentive Program (CEIP) will begin on October 1, 1988 for oil and gas exploration when the CEDIP is reduced from 33⅓ percent to 16⅔ percent. This program will provide up to C$3 million in incentives per corporation or associated group of corporations for each calendar year, based on 30 percent of eligible expenditures to a ceiling of C$10 million a year. The CEIP incentive rate has been set at 30 percent until December 31, 1990. After 1990, the incentive rate may be adjusted up or down according to market conditions. The annual expense limit covers the exploration programs of most junior mining and oil and gas companies. Therefore, this program was included in the calculations for this analysis.

D. METHODOLOGY OF WELL COMPARISONS AND RATIOS

Concept

This analysis compares the net present value of earnings discounted at 10%, over a twenty year productive life, from two identical wells—one in the U.S. and one in Canada. Ratios of the net earnings are calculated by dividing the net earnings of the U.S. well by the net earnings of the corresponding Canadian well. This same procedure is followed for twelve pairs (one U.S. and one Canadian) of wells. Each U.S. well is typical of wells drilled in some part of the U.S. Texas, New Mexico (Southeast), New Mexico (Northwest), Oklahoma and Wyoming were the areas used for characterizing these wells and computing local taxes in the U.S. For Canadian cash flow calculations all wells were assumed to be drilled in Alberta.

Taxes for these twelve wells were calculated for several different sets of parameters. Wellhead prices, royalty rates, reserves, well depth and production rates were varied to define 48 separate cases. For each case the U.S. and the Canadian well has identical features—only the government taxes and incentive programs differed. Taxes (federal, provincial, state and local), government incentives, tax allowances and subsidies were included in the calculations.

The comparison of the cumulative earnings from the identical U.S. and Canadian wells was based on net present value calculations using a 10 percent discount rate. For Canadian wells significantly different tax credits accrue for exploratory wells as opposed to development wells. This factor created a need for separate comparisons of exploratory and development wells. In addition, some of the Canadian programs have ceilings on how large the corporate program benefit can be. Such ceilings limit the applicability of the program for large companies in that a large producer would exceed the program limits with only a fraction of his wells. As a consequence most of the large producers' wells would not qualify for these benefits. These factors gave rise to another set of comparisons—Canadian wells without incentives.

Overall twelve pairs of wells in each of four scenarios were considered. Four Canadian variations were calculated so that 192 pairs were compared. This large data sample was used to establish (1) which individual variables (price, well cost, reserves, etc.) were most important in creating an advantage in one country over the other (2) which cases or combination of variables favored one nation (3) a statistical measure of the degree of relative advantage between the two nations.

CONCLUSIONS

This study examined the earnings over a twenty year production life for 240 wells—192 Canadian wells and 48 U.S. wells. Each Canadian well and its corresponding U.S. well was assumed to have the same costs, production (cumulative and annual) and wellhead price. The cumulative twenty year (after taxes and royalty payments) earnings were calculated and the U.S. earnings compared to Canadian earnings. Ratios in excess of one indicated a greater net back to the U.S. producer. A ratio of less than one indicated a greater net back to the Canadian producer.

Of the 192 comparison cases 95 cases indicated that the Canadian producers enjoyed a greater net back; 97 cases indicated that the U.S. producers had a greater net back.

For the 95 cases which favored Canadian producers, 50 involved exploratory wells and 45 cases involved development wells.

As expected, assumptions of the ARTC, CEIP and the royalty holiday led to most of the cases favorable to the Canadian producer. Almost all (93) of the 95 cases favorable to a Canadian producer occurred in scenarios with these incentives.

Without incentives most cases (94 out of 96) favored U.S. producers. This would characterize the situation of large Canadian producers who had a predominance of development wells in their drilling programs and such large numbers of wells that the ceiling limitations on the incentive programs would be in effect.

TABLE 3.—FAVORED PRODUCER FINDINGS FOR THE 192 COMPARISONS

	Canadian incentive assumptions			
	No incentives		ARTC, CEIP, and holiday	
	Canada	United States	Canada	United States
Exploratory	2	46	48	0
Development	0	48	45	3

TABLE 3A

[Excluding ratios of 0.90 to 1.10]

	No incentives		ARTC, CEIP, and holiday	
	Canada	United States	Canada	United States
Exploratory	1	43	44	0
Development	0	48	28	1

TRIBUTE TO WILLIAM C. VELASQUEZ

Mr. **BENTSEN**. Mr. President, I rise today to commemorate the life, the accomplishments, the invaluable contributions of William C. Velasquez. Willie died of cancer early Wednesday morning. Just 1 month ago, he learned that his kidney was carrying a large cancerous tumor, and that the disease had spread through many parts of his body. And quickly he was taken from our midst.

This is a tragic loss indeed. Throughout his adult life, Willie has dedicated himself to improving the quality of life for all Hispanic Americans. Like many others, Willie was inspired to political activism in the 1960's but, unlike so many others who faded from the scene, Willie remained committed, remained active. His fellow Hispanics, indeed all of us, have reaped the benefits of his commitment.

Willie's political acumen can be traced to his days at St. Mary's University, which he left during his graduate studies to organize for the United Farm Workers in the Rio Grande Valley. He moved on to found and become a charter member of the Mexican American Youth Organization and the La Raza Unida Party, all the while honing political consciousness among his fellow Hispanics. And then, in 1972, he organized the Southwest Voter Registration and Education Project in San Antonio.

Under his direction and leadership, the project helped increase Hispanic voter registration from California to Texas from about 2.5 million in 1976 to an expected 5 million in the general election this November. As Willie knew and preached, engaging in the political process translates into political power. There are now approximately 3,200 Hispanic officeholders in the Nation today—I am proud to add that about 1,500 of them are in Texas alone—and Willie's efforts played a direct role in that important development.

The growing numbers of Hispanics in this country make it perfectly clear to all of us that this group will continue to grow in political influence. Willie knew that, and worked to harness that ever-expanding energy. But he also pushed for more than just getting Hispanics elected to office and gaining political power. He stressed the need to wield that power fairly, ethically, compassionately.

Willie Velasquez gave much of himself during his brief stay on this Earth. I know that many Texans are grieved by his death, but all of us have benefited from his life.

S. 2428, THE CONGRESSIONAL AND JUDICIAL EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1988

Mr. HEINZ. Mr. President, I don't believe many of us want to be in the position of telling the world, "Do as I say, not as I do." Unfortunately, when it comes to such basic principles as the Civil Rights Act of 1964, that's exactly the position Congress has taken.

For that reason, today I rise in support of Senator BOSCHWITZ' "Congressional and Judicial Equal Employment Opportunity Act of 1988," S. 2428, which amends title VII of the Civil Rights Act of 1964 to include the legislative and judicial branches. I am very pleased to be a consponsor of this worthy bill and commend Senator BOSCHWITZ for his diligence, and for his deep concern when it comes to fair employment practices. Recent allegations of improper Congressional office practices have led to rising public demand that we Members ensure that our employees are also protected from discrimination. If we are not going to set precedents, we should at least play by our own rules.

Title VII bars discrimination based on race, color, creed, national origin, sex, age or handicap. However, in extending those protections to congressional and judicial employees, S. 2428 exempts discrimination based on political affiliation or home state—inherently political conditions which must remain as factors in our hiring practices.

Nearly 50,000 legislative and judicial branch employees would be covered by S. 2428. Of these, 20,000 work in the House and Senate, 10,000 in Congressional support agencies such as CRS and OTA, and 17,000 in the judiciary.

The bill would establish an employment review board to hear and determine legitimate claims of discrimination leveled by employees. In order to avoid any potential for separation of powers conflict—which has stymied previous legislative efforts—the congressional leadership would select board members from among retired Federal circuit court judges. The Chief Justice would appoint those to hear judicial branch cases. Further, when a case came before the board, the Clerk of the House, Secretary of the Senate, appropriate congressional committee, or agency head would be named as defendant, not the accused member or staffer.

Complaints of civil rights abuse would be handled simply and swiftly:

Complaints of alleged discrimination would be filed with the employment review board.

A board-appointed investigating counsel would determine within 90 days whether the complaint is warranted. This would deter potential abuse of the complaint process by malcontents. The investigating counsel would then attempt to arrange a voluntary resolution between the respective parties within 30 days.

If no such resolution were reached, the complaint would then be referred to the board, where the specific hearing officer would attempt to make a determination within 90 days.

Finally, if a determination of discrimination is reached, the board could award compensation, which would come from the contingent House or Senate expense account.

Of course, involved parties may appeal board rulings.

Hearing Congress called "the last plantation" is certainly no honor, Mr. President. Recently, serious allegations of discrimination, unsafe working conditions, and unfair hiring practices were raised against the House folding room. Until these allegations were made public by the press, little action was taken on behalf of the affected employees. This is what our legislation seeks to stop.

The complaint and adjudication process of S. 2428 is the least we owe our employees, and I am proud to be a cosponsor.

I ask unanimous consent that the following Washington Post and Philadelphia Inquirer editorials on Representative LYNN MARTIN's bill—on which S. 2428 was based—be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, May 23, 1988]

CONGRESS' GAP ON RIGHTS: CAPITOL HILL IS EXEMPTED

In standing for human rights around the world, from Pretoria to Grove City, Pa., Congress has always ignored its own back yard on Capitol Hill. Lawmakers have exempted their own offices from a series of laws against job discrimination and unsafe, unfair working conditions. Now, thanks to politically embarrassing publicity, Congress may finally have to live up to its stated ideals.

One jolt toward reform came three weeks ago, when the top aide to Rep. Roy Dyson (D., Md.) committed suicide after the Washington Post reported that he had made unusual social demands of young men who worked in his office, including a request that one of them do a strip-tease at a party. In February, Roll Call, a weekly that covers Congress, exposed sweatshop conditions in which overworked House employees were churning out the usual election-year deluge of congressional newsletters.

While it has taken such revelations to create any chance for institutional change, Congress' justifications for operating above the law have been flimsy all along. One is that, as elected officials eager to be re-elected, lawmakers need total loyalty and confidentiality from their staff members. But in the executive branch, which cannot legally discriminate in employment based on such irrelevancies as race, age, handicap or sex, political loyalty is also crucial and is not precluded by workers' legal protection against discriminatory treatment.

The second line of defense is that Congress, as a coequal branch of government, would be forfeiting its constitutional status if it allowed the courts or the Equal Employment Opportunity Commission to pass judgment on its employment practices. That may sound highly principled, but in practice it has left congressional employees with no internal route for relieving outrageous treatment. Discrimination in employment, for example, is contrary to Congress' own rules, but complaints about violations get buried.

So change should come in the form of legislation. A bill introduced by Rep. Lynn M. Martin (R., Ill.) would bar discrimination in congressional employment, although it would not rule out two criteria that make sense—party affiliation and familiarity with the home district. To relieve concerns about one branch of government meddling with another, claims would be decided by retired federal judges. This is a sensible approach, and the Democratic leadership of the House will deserve scorn if it doesn't let members vote on it this year in time for the Senate to follow suit.

In another overdue step, Rep. Steve Bartlett (R., Texas) has managed to amend the minimum wage bill to bring most congressional employees under the protection of the federal legislation regulating hours and wages. That's promising, but if that bill fails to pass, House Speaker Jim Wright should find another way to accomplish Rep. Bartlett's goal. If Mr. Wright needs any inspiration, he can remember James Madison's insistence that the House "makes no law which will not have its full operation on themselves and their friends, as well as on the great mass of the society."

[From the Washington Post, May 20, 1988]

DO AS WE SAY, NOT AS WE DO

When a private employer fires a secretary because she's over 40, insists that the receptionists all be white or refuses to give a desk job to a man with one leg, he's in trouble with the law. Not so a member of Congress or a federal judge, because the civil rights laws that prohibit discrimination in employment exclude from coverage the very institutions that write the laws and judge offenders. Congressional staffers and judicial employees cannot file complaints with the Equal Employment Opportunity Commission or appeal their cases to the courts. This is a scandal.

A few determined legislators, bucking the tide of peer indifference and even hostility, have protested and sought to change the law. Sen. Patrick Leahy has been a leader on the Senate side, and Rep. Patricia Schroeder has offered legislation for the past 10 years in the House. In the last session, Rep. Lynn Martin introduced a bill that grew out of a study by the House Wednesday Group, an organization of moderate and liberal Republican legislators. A bipartisan group of 69 House members cosponsored it, but it was not enacted. Last week, Rep. Martin reintroduced her bill and served notice that if it is buried in committee, she will offer it as an amendment to some other piece of civil rights or labor-related legislation.

The bill seeks to overcome two obstacles to legislating in this area. First, elected officials want their close personal staffs to be politically compatible and to have some knowledge of their home districts. The bill allows these two preferences, but makes no exceptions for workers in nonpolitical jobs—cafeteria workers, support staff, Library of Congress employees, for example—or for court employees. The second problem is enforcement, since separation-of-powers problems might arise if either branch oversaw the hiring practices of the other. Rep. Martin would have each branch assume responsibility for investigation and fact finding in its own cases, while handing to an independent board composed of senior retired judges the responsibility for final adjudication. In cases involving Congress, the party leadership would choose a judge from a panel of those available for this service. The chief justice would make the choice in cases involving the courts.

Rep. Martin's bill is the product of thoughtful study by a group of House members. Alternatives can be offered and should be discussed. The important thing is to get this lingering civil rights injustice on the agenda of the House and the Senate and settle it. The leadership in both houses should get behind the effort.

BICENTENNIAL MINUTE

JUNE 17, 1812: SENATE VOTED FOR WAR WITH GREAT BRITAIN

Mr. DOLE. Mr. President, on June 17, 1812, 176 years ago today, the United States Senate voted to go to war with Great Britain.

United States' relations with Britain, not all that friendly since the American Revolution, had deteriorated further during the British war with France. Britain issued orders in council that forbade any neutral ship from trading in Europe unless it stopped first at a British port. Thereafter Britain interfered with American shipping and impressed American seamen—that is, forced Americans to serve in the British Navy. The Americans retaliated by passing embargo and nonintercourse acts to cut off trade with the warring countries.

President Madison and many Americans, particularly in the maritime States of the Northeast, hoped to mend relations between the two countries, but a vocal bank of "war hawks" in Congress were eager for a clash. These hawks included such young and ambitious Western and Southern political leaders as Henry Clay and John C. Calhoun. Finally, on June 1, 1812, Madison sent a war message to Congress charging the British with impressing sailors, inciting Indians on the frontier, establishing blockades of American trade, and rejecting American peace overtures. Congress was by no means unified on the issue, but on June 4 the House voted 79 to 49 for war, and on June 17 the Senate agreed by a vote of 19 to 13.

Six days after the Senate voted, the British Government canceled its orders in council, due both to a bad harvest and to petitions from British manufacturers, who pleaded to reopen their American markets. Madison's policy of economic pressure had finally worked. Sadly, however, in those days of slow communications, the war message and the cancellation of the orders passed each other on the Atlantic. The course for war was irrevocably set.

TRIBUTE TO STAFF MEMBERS

Mr. DOLE. Mr. President, during our consideration of the welfare bill yesterday I failed to mention a number of staff members who deserve our thanks for all the hard work and effort they have put in over the last year. The bill which finally passed with the overwhelming bipartisan vote of 93 to 3, is a credit to their dedicated efforts.

Senator BENTSEN's staff included Marina Weiss, Margaret Malone, and Joe Humphries. Lindy Paull from Senator PACKWOOD's staff along with Jan Peskin of the Congressional Budget Office were also of considerable assistance. Finally the administration was well served by the efforts of Joe Wright, Deputy Administrator of OMB, Barbara Selfridge of OMB, Howard Rolston of HHS, Fran White of HHS, and Nancy Kennedy, a member of the White House staff.

TIPPECANOE ANCIENT FIFE AND DRUM CORPS

Mr. LUGAR. Mr. President, I am pleased to take this opportunity to recognize the Tippecanoe Ancient Fife and Drum Corps of Lafayette, IN. Founded in 1969, the corps recreates the sights and sounds of the companies of the French Marines who were stationed in North America from 1680 to the mid-1700's. I am especially proud to call your attention to this unique group today, on the eve of their trip to Europe.

Since the Tippecanoe Ancient Fife and Drum Corps is the only organization of its kind in the country, they are in constant demand for various French functions. For example, they have performed for the French Ambassador, the French Embassy, the reenactment of the French landing in Rhode Island, along the east coast, and throughout Canada.

Each time the Ancient Fife and Drum Corps carry out the reenactment, French officials have expressed not only their enjoyment of the performance, but also their desire for the group to bring the reenactments to the French people themselves. Until approximately 2 years ago, this was simply a well-deserved compliment, not a feasible possibility. However, I am pleased to announce that this month, from June 19 until July 3, the Ancient Fife and Drum Corps will be traveling to France and Switzerland to perform. During the past 2 years, the group has undergone extensive fundraising campaigns and has followed a complete and hectic schedule to cover the costs of traveling abroad. Once the plans were finalized, the French Government extended an invitation to play at Napoleon's Tomb—l'Hotel des Invalides in Paris—an honor never before allowed an American group. Many similar requests have also been submitted, so that the group will be making quite an extensive tour of the country.

I am honored that such a distinctive and historical group originates and still thrives in my home State of Indiana. Their high standards of quality in preserving the tradition of fifing and drumming, and our multinational heritage are noteworthy. Please join me in celebrating their success in keeping the French heritage alive, and as well in their ability to join two countries through a simple expression of a common past.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. SANFORD). Is there further morning business? If not, morning business is closed.

BIOTECHNOLOGY COMPETITIVENESS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 1966, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1966) to amend the Public Health Service Act to improve information and research on biotechnology and the human genome, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Biotechnology Competitiveness Act of 1987".

TITLE I—NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION

SEC. 101. FINDINGS.

Congress finds that—

(1) biotechnologies help to advance our understanding of the composition of human chromosomes and cells, and our knowledge of fundamental human development and disease processes;

(2) information on the map and sequence of the human genome, as well as the many other important fields of biotechnology research, is accumulating faster than can be reasonably assimilated by present methods;

(3) it is essential that advances in information science and technology be made so that this vast new knowledge can be organized, stored, and utilized;

(4) there are numerous independent computer data bases that hold portions of the burgeoning biotechnological discoveries and such data bases lack common technology, central coordination, and adequate support;

(5) it is important that information on research in biotechnology be available to researchers to allow coordination of the research efforts ongoing in public and private sector laboratories;

(6) the National Library of Medicine of the National Institutes of Health is highly suited, by virtue of its preeminence in the field of biomedical communications, service, and information research, to facilitate the rapid advance of biotechnology through information transfer; and

(7) a biotechnology information initiative could take advantage of the unique facilities of the National Library of Medicine to develop new communications tools and serve both as a repository and as a center for the distribution of molecular biology information to researchers and health practitioners.

SEC. 102. NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION.

Part D of title IV of the Public Health Service Act (42 U.S.C. 286 et seq.) is amended by adding at the end the following new subpart:

"Subpart 3—National Center for Biotechnology Information

"SEC. 478. NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION.

"(a) ESTABLISHMENT.—To focus and expand the collection, storage, retrieval, and dissemination of the results of biotechnology research by information systems, and to support and enhance the development of new information technologies to aid in the understanding of the molecular processes that control health and disease, there is established the National Center for Biotechnology Information (hereinafter in this section referred to as the 'Center') in the National Library of Medicine.

"(b) FUNCTIONS.—Through the Center and subject to section 465(d), the Secretary shall—

"(1) coordinate the design, development, implementation, and management of automated systems for the collection, storage, retrieval, analysis, and dissemination of knowledge concerning human, animal, and plant molecular biology, biochemistry, and genetics;

"(2) [perform research] *conduct a research program* into advanced methods of computer-based information processing capable of representing and analyzing the vast number of biologically important molecules and compounds *using Center capabilities, as well as those in Federal, university, and private research laboratories*;

"(3) enable persons engaged in biotechnology research and medical care to use systems developed under paragraph (1) and methods described in paragraph (2);

"(4) coordinate the efficient input of information regarding biotechnology from all government agencies [and agency grantees,] *as well as agency grantees and contractors,* and where applicable, inform granting agencies of duplications of research efforts;

"(5) encourage the input of information regarding biotechnology from the private sector, including professional scientific societies, foundations, and companies;

"(6) coordinate biotechnology research information provided by the center and other sources, including the biotechnology industry, other government agencies, and the private sector (including professional scientific societies, foundations, and companies); and

"(7) coordinate, to the maximum extent practicable, efforts to gather biotechnology information on an international basis.

"(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1989 through 1993. Funds appropriated under this subsection shall remain available as specified in appropriations acts.".

TITLE II—NATIONAL BIOTECHNOLOGY POLICY BOARD AND ADVISORY PANEL

Subtitle A—National Biotechnology Policy Board

SEC. 201. ESTABLISHMENT, MEMBERSHIP, CHAIRMANSHIP, MEETING.

(a) ESTABLISHMENT.—There is established in the Executive branch of the Federal government a National Biotechnology Policy Board (hereinafter in this title referred to as the "Board").

(b) MEMBERSHIP.—The membership of the Board shall consist of the following individuals or their designees:

(1) The Director of the National Institutes of Health.

(2) The Director of the National Science Foundation.

(3) The Secretary of Agriculture.

(4) The Secretary of Commerce.

(5) The Secretary of Defense.

(6) The Secretary of Energy.

(7) The Commissioner of the Food and Drug Administration.

(8) The Administrator of the Environmental Protection Agency.

(9) The Director of the Office of Science and Technology *Policy,* who shall serve as an ex-officio, nonvoting member of the Board.

(10) The Director of the Office of Management and Budget, who shall serve as an ex-officio, nonvoting member of the Board.

(11) Four individuals representing the university research community, to be recommended by the National Academy of Sciences and appointed by the President, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act.

(12) Four individuals representing diverse United States biotechnology-related industries to be appointed by the President, after consultation with relevant groups, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act.

(13) One individual with expertise in biomedical ethics, to be recommended by the National Academy of Sciences and appointed by the President, after consultation with relevant groups, with the advice and consent of the Senate, with such member being appointed within 90 days after the date of enactment of this Act.

(14) One individual representing national foundations, medical institutes, and other philanthropic organizations involved in biomedical research, to be recommended by the National Academy of Sciences and appointed by the President, after consultation with relevant groups, with the advice and consent of the Senate, with such member being appointed within 90 days after the date of enactment of this Act.

(c) TERM OF SERVICE.—

(1) IN GENERAL.—Except as provided in paragraph (3), Board members appointed under paragraphs (11) through (14) of subsection (a) shall serve 4-year terms and shall serve until a successor for such member is appointed and confirmed.

(2) VACANCIES.—Any individual appointed to fill a vacancy on the Board that occurs prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

(3) STAGGERED TERMS.—Terms of the initial Board members appointed under paragraphs (11) and (12) of subsection (a) shall be determined by the President at the time of the appointment in accordance with the following:

(A) One industry and one university representative shall be appointed for a term of 4 years.

(B) One industry and one university representative shall be appointed for a term of 3 years.

(C) One industry and one university representative shall be appointed for a term of 2 years.

(D) One industry and one university representative shall be appointed for a term of 1 year.

(4) REAPPOINTMENT.—Nongovernment Board members may be reappointed by the President with the advice and consent of the Senate.

(d) CHAIRMAN.—

(1) SELECTION.—The members of the Board shall select a Chairman from among its members to serve for a term of 2 years.

(2) VACANCY.—In the event of a vacancy in the Chairmanship, the Board shall elect a Chairman to serve the remainder of the unexpired term.

(3) RE-ELECTION.—Chairman may be re-elected by the members of the Board.

(e) MEETING.—

(1) INITIAL MEETING.—Within 90 days after the approval by the Senate of the last member of the initial Board, the Board shall meet to elect a Chairman.

(2) SUBSEQUENT MEETINGS.—The Board shall meet at least twice a year.

SEC. 202. DUTIES AND FUNCTIONS.

The Board shall—

(1) review and appraise the various programs and activities of the Federal Government relating to biotechnology, including the amount and type of biotechnology-related research conducted or funded by Federal agencies;

(2) review and appraise the extent and nature of privately-funded biotechnology activities, including *non-confidential* research, both basic and applied, and the development of commercial biotechnology-related industries and products;

(3) submit recommendations to the President and Congress, where appropriate, concerning—

(A) policies that will enhance the efficient and timely advance of basic and applied biotechnology-related research;

(B) methods to enhance the competitiveness of the United States in the development of commercial biotechnology-related industries and products;

(C) policies that will ensure the training of sufficient numbers of scientists, engineers, and laboratory personnel for the continued leadership of the United States in biotechnology-related basic and applied research and the development of the biotechnology industries of the United States;

(D) Federal participation in proposed cooperative research initiatives involving governmental and private entities;

(E) regulatory policies that affect biotechnology industries and the products thereof; and

(F) policies that will enhance the transfer of technology from university and Federal research laboratories to commercial laboratories so as to allow the efficient and timely commercialization of Federally funded discoveries.

SEC. 203. REPORTS.

Not later than January 31, 1990, and not later than January 31 of each even-numbered year thereafter, the Board shall submit to the President and to the Congress a report that contains recommendations described in section 2(3). The Board shall submit additional reports and recommendations as the Board considers necessary, or on the demand of the President or Congress. Reports shall be published and made available to the public.

SEC. 204. STAFF AND PERSONNEL.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Board shall appoint an Executive Director, who shall serve at the pleasure of the Board.

(2) DUTIES.—The Executive Director shall report directly to the Board and perform such duties and functions as the Board may prescribe.

[(3) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed that provided for a position at level 4 of the Executive Schedule under section 5315 of title 5, United States Code].

(b) OTHER PERSONNEL.—The Board may employ such other officers and employees as may be necessary to carry out the duties and responsibilities of the Board and its advisory panels[, at rates not to exceed the rates prescribed for grade GS-14 of the General Schedule in section 5332 of title 5, United States Code].

(c) VOLUNTARY SERVICES.—Notwithstanding section 665(b) of title 31, United States Code, the Board may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Board.

SEC. 205. COORDINATION WITH OTHER AGENCIES.

(a) IN GENERAL.—The Board shall work in consultation with other Federal agencies (including such agencies represented on the Board) and in consultation with other Boards and Commissions as may be appropriate, including the Biomedical Ethics Board and the New Products Research Board.

(b) BIOMEDICAL ETHICS BOARD.—The Biomedical Ethics Board shall review prior to publication, and as appropriate comment, on reports issued by the Board and the advisory panels established pursuant to subsection (d)(2).

[(b)] *(c)* INFORMATION.—Each department, agency, and instrumentality of the Executive branch of the Federal Government and each independent agency and other governmental organization, including the Office of Technology Assessment, shall furnish the Board with such information as the Board shall consider necessary and appropriate to assist the Board in carrying out its functions and duties.

[(c)] *(d)* CONSULTATIONS.—The Board may—

(1) utilize the services of consultants;

(2) establish advisory panels; and

(3) to the extent practicable, consult with—

(A) State and local governments;

(B) appropriate professional and industry groups;

(C) representatives of university, industry, labor, consumer and other public interest groups; and

(D) individuals as is appropriate.

[(d)] *(e)* HEARINGS.—The Board may hold hearings and meetings in various parts of the United States as may be appropriate in carrying out the functions and duties of the Board.

[(e)] *(f)* DUPLICATION AND REIMBURSEMENT.—

(1) DUPLICATION.—The Board shall utilize, to the fullest extent possible, the services, personnel, equipment, facilities, and information of public and private agencies and organizations, and individuals, in order to avoid duplication of effort and expense.

(2) REIMBURSEMENT.—The Board may transfer funds made available pursuant to this title to other Federal agencies as may be appropriate to reimburse such agencies for the utilization of agency personnel, services, facilities, equipment and information.

SEC. 206. COMPENSATION OF MEMBERS.

(a) NONGOVERNMENT MEMBERS.—Each member of the Board that is not otherwise in the service of the Federal government shall receive a sum equivalent to the compensation provided at level IV of the Executive Salary Schedule under section 5315 of title 5, United States Code, prorated on a daily basis for each day spent in service to the Board, and shall be paid actual travel expenses, and per diem in lieu of subsistence expenses in accordance with section 5703 of title 5, United States Code, when such member is away from the members usual place of residence.

(b) GOVERNMENT MEMBERS.—Each member of the Board that is otherwise in the service of the Federal government shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Board, such member shall be paid actual travel expenses, and per diem in lieu of subsistence expenses in accordance with subchapter I of chapter 57 of title 5, United States Code, when away from the members usual place of residence.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $2,000,000 in fiscal year 1989, $2,500,000 in each of the fiscal years 1990 and 1991, and $3,000,000 in each of the fiscal years 1992 and 1993.

Subtitle B—Human Genome Research and Development

SEC. 211. FINDINGS.

Congress finds that—

(1) knowledge relating to the location and sequences of genes on human chromosomes and those of other organisms will enable more rapid elucidation of the basis for developmental processes and for human disease;

(2) comprehensive understanding of human genetic make-up, and the genetics of other organisms, will enhance our ability to develop methods for the prevention and treatment of disease states;

(3) advances in biomedical research and technologies have enabled rapid progress in the localization of genes to specific human chromosomes;

(4) a number of Federal agencies (including the National Institutes of Health, the Department of Energy, and the National Science Foundation) are presently funding research related to the mapping and sequencing of genes within the human genome or basic biomedical research, or the development of new technologies and instruments for this research; and

(5) in order to most efficiently expend research funds, and to most expeditiously advance our understanding of human genetics, it is essential that the agencies involved coordinate their research efforts.

SEC. 212. NATIONAL ADVISORY PANEL ON THE HUMAN GENOME.

(a) PURPOSE.—The purpose of this section is to establish a National Advisory Panel on the Human Genome that shall coordinate—

(1) national activities to ensure the construction of maps of human chromosomes and DNA of other organisms to be used as powerful research tools for biomedical research; and

(2) the development of new tools to analyze DNA, in cooperation with philanthropic, companies, and other private sector interests.

(b) ESTABLISHMENT.—There is established, as an advisory panel to the Board established in subtitle A, a National Advisory Panel on the Human Genome (hereinafter referred to in this subtitle as the "Panel") to advise the Board on matters concerning the mapping and sequencing of human genome.

(c) MEMBERSHIP.—The Panel shall consist of the following individuals or the designees of such individuals—

(1) the Secretary of Energy;

(2) the Director of the National Institutes of Health;

(3) the Director of the National Science Foundation;

(4) the Director of the National Library of Medicine;

(5) four individuals representing private industry, to be appointed by the President, after consultation with relevant groups, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act, but who shall not be members of the Board;

(6) four individuals representing the university research community, to be recommended by the National Academy of Science and appointed by the President, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act, but who shall not be members of the Board;

(7) one individual with expertise in biomedical ethics, to be recommended by the National Academy of Sciences and appointed by the President, with the advice and consent of the Senate, with such member being appointed within 90 days after the date of enactment of this Act; and

(8) one individual representing national foundations, medical institutes, and other philanthropic organizations involved in biomedical research, to be recommended by the National Academy of Sciences and appointed by the President, with the advice and consent of the Senate, with such member being appointed within 90 days after the date of enactment of this Act.

(d) CHAIRMEN.—The Panel shall be cochaired by the Secretary of Energy and the Director of the National Institutes of Health or the designees of such.

(e) FUNCTIONS.—The Panel shall—

(1) identify the optimal strategy for mapping and sequencing the human genome utilizing for guidance information and recommendations from previous reports, including those of the Office of Technology Assess-

ment and the National Academy of Sciences;

(2) determine research and development goals that will ensure United States leadership in human genome research;

(3) ensure the quality of scientific and technical work, and establish standards for the collection and storage of data and materials;

(4) assess the need for common research resources such as materials repositories and new data-bases;

(5) monitor relevant research programs supported by Federal agencies and private funding sources;

(6) identify commercial opportunities arising from national research programs;

(7) oversee interagency cooperation through data-sharing, joint sponsorship of meetings, joint funding of research resources, and communication of annual budget plans;

(8) assess the need and benefit of international cooperation in mapping and sequencing the human genome; *and*

[(9) evaluate the ethical considerations of research and development of products from mapping and sequencing the human genome; and]

[(10)] *(9)* evaluate patent rights and ownership of data on the human genome, and provide advice to interested Federal agencies, the scientific community, and private industry.

(f) REPORTS.—Not later than 18 months after the date of enactment of this section, the Panel shall submit to the Board a report that contains recommendations based on the functions of the Panel under section 212(e). Additional reports shall be submitted to the Board as the Panel considers necessary, or on demand of the Board.

(g) BIOMEDICAL ETHICS BOARD.—The Biomedical Ethics Board shall review, and as appropriate, comment on the ethical and social implications of human genome research.

TITLE III—BIOMEDICAL ETHICS BOARD REAUTHORIZATION

SEC. 301. BIOMEDICAL ETHICS BOARD REAUTHORIZATION.

Subsection (e) of section 381 of the Public Health Service Act (42 U.S.C. 275(e)) is amended to read as follows:

"(e) To enable the Board and the Committee to carry out their functions, there are authorized to be appropriated $2,000,000 for fiscal year 1989, $2,500,000 for fiscal year 1990, and $3,000,000 for fiscal year 1991.".

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. I thank the Chair.

Mr. President, I want to thank the Senate Committee on Labor and Human Resources for their favorable consideration of the Biotechnology Competitiveness Act. This is important legislation and I think it is critical that this bill is enacted into law this year.

Mr. President, we hear a lot of talk about the need for the United States to compete. We hear a lot about the need for industry, universities, and Government to work together. We hear a lot about the need to move basic research out of laboratories and into the global marketplace.

This legislation does just that. First, it provides a forum for Government, industry, and researchers to come together and recommend specific policies in an emerging and important field, biotechnology.

It is time we recognized the strategic interest this country has in biotechnology. The potential benefits of biotechnology dwarf earlier advances in health and agriculture. It is also clear that it will greatly enhance food processing, chemical manufacture, energy production, and waste management. There may be eventual applications in electronics and materials as well.

The Department of Commerce predicts that the market for biotechnology-related products will reach $40 billion by the year 2000. Others think this is a conservative estimate. The Japanese Bioindustry Development Center estimates a market of $100 billion by that time in Japan alone.

It is clear that biotechnology will be important to U.S. competitiveness in many industrial sectors. Whether or not current U.S. leadership can continue, without a better coordinated national policy, is questionable. The National Biotechnology Policy Board, established in this legislation, will provide that coordinated national policy.

Second, the legislation puts into place a panel to coordinate further research into the human genome. Recent reports from the Office of Technology Assessment and the National Research Council strongly support the development of genetic and physical maps of the full human genome, leading to the complete sequencing of the genome. The advisory panel, cochaired by representatives from the National Institutes of Health and the Department of Energy, is to recommend the optimal strategy for mapping and sequencing the human genome. It is also to coordinate current efforts, to assure that there is no duplication of effort and waste of resources.

Progress has already been made in locating the thousands of genes which determine an individual's makeup. With more sophisticated maps showing where those genes are, and an understanding of the makeup of each individual gene, researchers expect to determine more of the genetic differences that cause or lead to disease. They expect to eventually develop therapies for inherited diseases previously thought to be incurable.

The legislation also establishes a national center to coordinate the growing quantities of genetic information being generated by researchers in many fields. Right now, research is hampered because there is no coordination of various data bases. Those delays represent time, dollars, and lives lost. The information center would develop software to link existing data bases. It would also develop new standards for the collection, storage, and distribution of genetic information.

Last, the bill as amended by the committee strengthens and reauthorizes the Biomedical Ethics Board. As important as these exciting new technologies are, it is important to consider the important ethical and social implications of our increased knowledge of genetics. The Board should independently look at issues involving human genetic research, and will review all recommendations made by the National Biotechnology Board and the Human Genome Advisory Panel.

Mr. President, I also want to thank the Committee on Labor and Human Resources for its favorable consideration of S. 1966, the Biotechnology Competitiveness Act, and to urge its speedy passage by this body. This legislation will do much to address issues of great concern in our country today. In its concept, urging as it does greater cooperation and understanding between government, universities, and industry, it is a framework for setting strategic goals which would be applicable to many industries and technologies. In its substance it addresses a new set of technologies which will revolutionize many industrial sectors and have enormous impact in the next decade and beyond.

I'm frequently asked, "What is biotechnology?" In one sense, biotechnology is as old as the first attempts by our ancestors to domesticate animals and cultivate crops. It is the encouragement of desirable traits in animals and plants developed through selective breeding over the centuries. It is the use of micro-organisms, such as yeast in bread or brewing. It is the extraction of antibiotics, such as penicillin, from molds and bacteria.

But while selective breeding imprecisely transfers many genes—which determine singly or in combination the characteristics of all organisms—a new biotechnology has emerged allowing precise development of desirable traits. Unlike selective breeding, or more recent technologies which change the genetic structure of an organism, the new biotechnology allows the specific tailoring of traits, or even the transfer of a trait from one kind of organism into another, through the manipulation of individual genes.

Thus the human gene for insulin production can be introduced into the genetic structure of bacteria. The bacteria, cultivated under ideal conditions, will produce human insulin or other substances which were previously unavailable or so costly as to be unaffordable for most people. The following health products have already been developed for the marketplace: insulin for diabetics, tissue plasminogen activator [TPA] to dissolve blood clots, alpha interferon to combat leukemia, human growth hormone to treat dwarfism, a vaccine to prevent deadly hepatitis-B infection, and diagnostic tools such as monoclonal antibodies and DNA-probes for detection of genetic diseases and bacterial and viral infections including AIDS.

Agricultural applications for plants, animals, and micro-organisms are equally significant. Crops will require less chemical applications because of enhanced disease resistance and nitrogen-fixing capabilities. Nutritional qualities of plants and animals will be improved much more rapidly than through traditional techniques. And the development of nontraditional products may move agriculture beyond food and fiber production into other economic sectors, greatly expanding the market potential of farmers here and abroad.

It is now generally accepted that these new biotechnologies will greatly enhance food processing, chemical manufacture, energy production, and waste management. There may be eventual applications in electronics and materials as well. While the U.S. Department of Commerce conservatively predicts that the market for biotechnology products will reach $40 billion—itself an impressive figure—by the year 2000, other estimates are much higher. The Japanese Bioindustry Development Center, for example, estimates that the market will reach $100 billion by the year 2000 in Japan alone.

The potential benefits of these technologies dwarf earlier advances in health and agriculture. But the new capabilities also bring new responsibilities. At this point, as the Senate is poised to consider legislation encouraging the responsible development of biotechnology, it may be useful to briefly review the history of this revolution in the biological sciences.

In the early 1960's scientists first defined the structure of DNA [deoxyribonucleic acid], which makes up the genetic code of all organisms. In 1973 scientists successfully transferred DNA from one organism into another. This new technique, recombinant DNA technology, is the most important tool of genetic engineering. And its development raised many questions, not least in the scientific community.

Work in this area was halted until safety and ethical questions surrounding this new development could be addressed. In 1975, at the Asilomar Conference Center in Pacific Grove, CA, scientists—along with a number of lawyers and journalists—met to discuss the implications of recombinant DNA technology. They agreed to strictly control their research until the safety of the new technology could be assessed. In 1976 the National Institutes of Health issued the first formal guidelines for recombinant DNA research. Those guidelines have been revised as research resumed and more was learned. They have been adopted by researchers worldwide and apply to all Federal-funded research.

As research led to product development in diverse areas, Federal agencies have developed regulatory policies dealing with those products. The White House Office of Science and Technology Policy published the Coordinated Framework for the Regulation of Biotechnology in June 1986. It identifies agencies responsible for approving products and regulating field tests or larger-scale introduction of modified organisms into the environment. Despite the wide range of biotechnology-related products, the framework was designed to enable Federal agencies to "operate in an integrated and coordinated fashion (to) cover the rull range of plants, animals, and micro-organisms derived by the new genetic engineering techniques."

Now, 13 years after the pivotal Asilomar Conference and 15 years after the first transfer of DNA, the public and scientific debate has been redefined. A recent report from the National Academy of Sciences concluded that:

> There is no evidence that unique hazards exist either in the use of recombinant DNA techniques or in the movement of genes between unrelated organisms . . . the risks associated with the introduction of recombinant DNA-engineered organisms are the same in kind as those associated with the introduction of unmodified organisms and organisms modified by other methods * * * recombinant DNA techniques constitute a powerful and safe new means for the modification of organisms.

And further:

> Genetically modified organisms will contribute substantially to improved health care, agricultural efficiency, and the amelioration of many pressing environmental problems that have resulted from the extensive reliance on chemicals in both agriculture and industry.

In evaluating the genetic and ecological issues surrounding field-testing of engineered organisms, the Office of Technology Assessment recently came to the following conclusions:

An adequate review of planned introductions is now possible.

There are reasons to continue to be cautious, but there is no cause for alarm.

Some questions can be answered only with practical experience.

None of the small-scale field tests proposed or probable within the next several years are likely to result in an environmental problem that would be widespread or difficult to control.

Realistic small-scale field tests are likely to be the only way potential risks from commercial scale uses of genetically engineered organisms can be evaluated.

In evaluating risks the questions should be what are the relative risks of the new technologies compared with the risks of the technologies with which they will compete, and furthermore, what are the risks posed by over regulating, or failing to develop fully the new technologies?

Concerns about safety must continue to be addressed. It is now clear that these technologies present no special risks distinct from other technologies, and indeed will benefit the public health and environment through the replacement of more dangerous earlier technologies. But if a future mishap were perceived to be the result of lax regulatory and safety procedures, it would be devastating.

There should be a continuation of public discussion regarding the ethical and social implications of human genetic research. Those broader biomedical issues have been addressed in a number of contexts, in the Congress and through such reports as those prepared by the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

More recently the Congressional Biomedical Ethics Board has been established to review and comment on ethical and social biomedical issues. The authority of the Biomedical Ethics Board is strengthened and its authorization extended in committee amendments to the Biotechnology Competitiveness Act.

At the same time there is now a new recognition of the need for sound national planning for the role these technologies will play in the future. Public debate is now focusing clearly on biotechnology's importance in a competitive global economy. And we now understand quite clearly the need for better communciation, cooperation, and planning on the part of universities, industry, and Federal agencies.

Cooperation in the achievement of national goals is the focus of this legislation. Through the establishment of an independent National Biotechnology Policy Board, Congress acknowledges the strategic importance of biotechnology to our future competitiveness. With representatives of the diverse Federal agencies involved in biotechnology research and regulation; representatives of the university research community and State programs; representatives of the diverse biotechnology industry; and a biomedical ethicist and representative of private institutions, the board will review and appraise Federal and private—nonconfidential—research. It will reach consensus on long-range goals and recommend strategies to ensure continued U.S. leadership in this important new field.

The board will make recommendations to the President and to Congress on policies:

To enhance basic and applied research.

To enhance the competitiveness of the United States in developing commercial biotechnology-related industries and products.

To assure the training of sufficient scientists, engineers, and laboratory personnel for both research and commercial development.

To enhance the transfer of technology from university and Federal research laboratories to commercial laboratories.

The Board shall also make recommendations regarding:

Federal participation in cooperative research initiatives involving governmental and private entities.

Regulatory policies which affect biotechnology industries and products, ensuring that the regulatory system protects the public health, safety and environment without unduly impeding academic and commercial activities.

The board may establish advisory panels as it deems appropriate and would coordinate its activities with other relevant boards and commissions. The board is to issue its first report to the President and to Congress no later than January 31, 1990, and every 2 years thereafter, with additional reports provided as the board deems necessary or requested by the President or Congress.

While the board is expected to appoint other advisory panels as need dictates, and Advisory Panel on the Human Genome is specifically established in this legislation. Recent reports from the Office of Technology Assessment and the National Research Council strongly support the development of genetic and physical maps of the full human genome, leading to the complete sequencing of the genome. Those reports point out the extensive activities in this area on the part of the National Institutes of Health, the Department of Energy, the National Science Foundation, and other agencies. The advisory panel, cochaired by representatives from the National Institutes of Health and the Department of Energy, is to recommend the optimal strategy for mapping and sequencing the human genome. It is also to coordinate current efforts, to assure that there is no duplication of effort and waste of resources.

Also established in this legislation is the National Center for Biotechnology Information. Genetic information is accumulating rapidly. At present, numerous computer databases hold portions of that information. But those databases are incompatible, leading to delays in research. Information management will become even more critical as new technologies accelerate the amount of genetic information available. Information management must be improved in order to efficiently utilize ongoing research. It will be even more critical as human genome research is intensified.

The National Center for Biotechnology Information is established at the National Library of Medicine. Through the center, information handling systems allowing access to the numerous existing data bases will be developed. Information processing research will be conducted. International and private sector coordination would be encouraged. The center will help coordinate and develop new methods for the collection, storage, retrieval, analysis, and dissemination of knowledge concerning human, animal and plant molecular biology, biochemistry and genetics.

I want to thank Senator KENNEDY for his strong personal interest in these issues, and Senator DOMENICI for his particular interest in the human genome effort. Improvements to the legislation are being made based on suggestions from Senator MIKULSKI, whose strong interest in the public health led to more specific language directing the board to address health, safety, and environmental issues; and on the recommendation of Senator SANFORD, who suggested the inclusion on the board of members representing State biotechnology development programs. Senator HATCH and Senator HUMPHREY contributed to this legislation through their suggestions strengthening the role and direction of the Biomedical Ethics Board. I also appreciate the support of other cosponsors, especially that of Senator LEAHY, who as chairman of the Senate Committee on Agriculture has a particular interest in agricultural biotechnology.

Mr. President, I feel strongly that Congress should do all it can to encourage the responsible development of these new techniques so important to human health and our future environmental and economic well-being. This legislation should be seen as a declaration of strategic interest in biotechnology and I again urge its speedy passage.

Mr. KENNEDY. Mr. President, I rise to speak on behalf of the Biotechnology Competitiveness Act of 1987, cosponsored by myself and by my colleagues Senator CHILES, Senator LEAHY, Senator DOMENICI, Senator GRAHAM, and myself. This legislation will provide essential policy direction in the critical areas of biotechnology research and product development, and the mapping and sequencing of the human genome and products developed from this research.

In 1960, the structure of DNA, the source of genetic information for most organisms, was elucidated. In 1973, scientists for the first time successfully transferred DNA from one life form into another. A whole new industry has sprung up in response to these scientific advances. Since that time, research in the areas of recombinant DNA and monoclonal antibodies has greatly expanded our knowledge of how animals and plants grow, reproduce, and protect themselves against disease. The impact of the diagnostic and therapeutic applications of this research have only begun to be appreciated in recent years. This impact may be more important than any previous advance in biology and science, including the development of antibiotics. These new techniques may lead to vastly improved treatment of disease and greatly improved efficiency and productivity in agriculture, to cite just a few examples.

The biotechnology industry has grown tremendously during the past decade, with exciting innovations from large and small companies. In the Commonwealth of Massachusetts, more than 60 small biotechnology companies are working to bring many exciting diagnostic and therapeutic products to market which will greatly improve our ability to diagnose and treat disease. The close interaction of many of the world's leading universities and these innovative companies has led to the development of several human hormones and agents used to treat cancer. I am confident that in the near future, some of these fledgling companies will grow to become major pharmaceutical and scientific firms, providing employment to many and revolutionary products for us all.

To maintain the world leadership of the United States in biotechnology, many in the private sector, Government and research community have called for improved policy, direction, and coordination. The Biotechnology Competitiveness Act of 1987 would provide for just such direction. This legislation will initiate a National Biotechnology Policy Board to provide direction in terms of research and product development. The Board will assess current biotechnology research and product development, and recommend to the President and Congress policies that will enhance the advance of research and methods to improve the competitiveness of the United States in the development of commercial industries and products. Representatives will be drawn from relevant Government agencies, the biotechnology industry, the research and biomedical ethics communities. The amendment to the bill adds two individuals representing State biotechnology development programs. This addition was suggested by Senator SANFORD, and I agree with him that these State representatives will add to the expertise of the Biotechnology Policy Board. In addition, a National Advisory Panel on the Human Genome will be established to guide resource allocation in the effort to determine the location and molecular composition of human genes. Safety and regulatory issues concerning products developed from this revolutionary research will also be addressed. To thoroughly address ethical issues, reports from both the Biotechnology Policy Board and the Advisory Panel on the Human Genome will be referred to the Congressional Biomedical Ethics Board for comment and review. Finally, the National Center for Biotechnology Information will be established at the NIH National Library of Medicine. This Center will serve as the focal point for coordination of all computer data and other information relating to the genetic composition of humans and other organisms.

To provide optimal direction in biotechnology, especially relating to human genetics, we should rely on experts within Government, the private sector and the research community. This legislation will provide for the formulation of critically important policy recommendations which will benefit the United States and people around the world. I would like to thank my colleagues for their hard work, and I urge the Members of the Senate to support this legislation.

Mr. CHILES. Mr. President, at this time I urge the adoption of the committee amendments.

The PRESIDING OFFICER. Is there any further debate? If not, the question is on agreeing to the committee amendments.

The committee amendments were agreed to.

AMENDMENT NO. 2403

(Purpose: To improve the title relating to the Biomedical Ethics Board)

Mr. CHILES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. CHILES] for himself, Mr. KENNEDY, Mr. SANFORD, and Ms. MIKULSKI, proposes an amendment numbered 2403.

Mr. CHILES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, between 8 and 9, insert the following new paragraph:

(15) Two individuals representing State biotechnology development programs.

On page 10, between 12 and 13, insert the following new paragraph:

(3) review regulatory policies that affect biotechnology industries and the products thereof, including considering whether the existing regulatory system protects the public health and safety and the environment without unduly impeding academic and commercial research and development activities;".

On page 10, line 13, strike out "(3)" and insert in lieu thereof "(4)".

On page 21, after line 2, add the following new section:

SEC. . MISCELLANEOUS AMENDMENTS.

Section 381 of the Public Health Service Act (42 U.S.C. 275) is amended—

(1) in subsection (b)—

(A) by redesignating paragraph (5) as paragraph (6); and

(B) by inserting after paragraph (4), the following new paragraph:

"(5) The Board shall function through a majority vote of its members, and shall adopt rules governing its procedure. Such rules shall be published in the Federal Register not later than March 1 of each year. A quorum for voting purposes shall be a majority of the members of the Board with at least one member of both the majority and minority parties of the House of Representatives and the Senate being present."; and

(2) in subsection (d)(2)(B)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E) respectively; and

(B) by inserting after subparagraph (A), the following new subparagraph:

"(B) The Committee shall function by majority vote and shall adopt rules governing its procedures.".

Mr. CHILES. Mr. President, this amendment is an improvement to the bill and I urge its adoption.

The PRESIDING OFFICER. Is there further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2403) was agreed to.

AMENDMENT NO. 2404

(Purpose: To provide for a national advisory panel on agricultural biotechnology)

Mr. CHILES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. CHILES], for Mr. LEAHY (for himself and Mr. LUGAR), proposes an amendment numbered 2404.

Mr. CHILES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, between lines 17 and 18, insert the following new subtitle:

SUBTITLE C—NATIONAL AGRICULTURAL BIOTECHNOLOGY ADVISORY PANEL

SEC. 213. FINDINGS.

Congress finds that—

(1) applications of biotechnology research will provide for the development of new industrial crops, more nutritious crops, and crops which are disease and insect resistant;

(2) while progress is being made in the area of agricultural biotechnology research, the Federal Government should take an active leadership role in providing direction and funding for basic and applied agricultural research including basic plant biology;

(3) exchange of agricultural biotechnology information is critical for advances in research;

(4) since the field of biotechnology holds much promise for the future of agriculture in the United States, carefully directed research is an important component in maintaining an internationally competitive edge;

(5) while no evidence exists that a plant in the United States has transferred genes bred into it for a given trait to an indigenous plant nearby or has caused any ecological damage, the potential for such effects should continue to be examined, including the potential for gene transfer, monitoring and mitigation techniques, and a comparative analysis of the potential risks and benefits that may be posed by transgenic plants and traditional farm practices;

SEC. 214. NATIONAL AGRICULTURAL BIOTECHNOLOGY ADVISORY PANEL

(a) ESTABLISHMENT.—There is established, as an advisory panel to the Board established in subtitle A of Title II, a National Agricultural Biotechnology Advisory Panel (hereinafter referred to in this subtitle as the "Agriculture Panel").

(b) MEMBERSHIP.—The Agriculture Panel shall consist of the following individuals or the designees of such individuals—

(1) the Secretary of Agriculture;

(2) the Director of the National Science Foundation;

(3) the Director of the National Agricultural Library;

(4) the Director of the National Research Council of the National Academy of Sciences;

(5) one individual who is a member of the National Agricultural Research and Extension Users Advisory Board;

(6) one individual who is a member of the Joint Council on Food and Agricultural Sciences;

(7) three scientists representing private industry, to be appointed by the President, after consultation with relevant groups, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act;

(8) four scientists representing the university research community, to be recommended by the Department of Agriculture and appointed by the President, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act, and with at least one such member being an ecologist;

(9) two scientists, who represent national foundations, citizen groups, or farm organizations involved in agricultural biotechnology research, to be recommended by the Department of Agriculture and appointed by the President, with the advice and consent of the Senate, with such members being appointed within 90 days after the date of enactment of this Act.

(c) CHAIRMAN.—The Agricultural Panel shall be chaired by the Secretary of Agriculture or his designee.

(d) DUTIES OF THE AGRICULTURE PANEL.—

(1) advise the Board on matters concerning agricultural biotechnology and coordinate national activities, including the Plant Science Centers, the New Products Research Board, and other related efforts in agricultural biotechnology;

(2) coordinate the development of new tools to analyze DNA, in cooperation with the National Advisory Panel of the Human Genome established in Subtitle B of Title II and philanthropic, corporate, and other private sector interests;

(3) coordinate processes for information exchange of important agricultural biotechnology data and research findings;

(4) coordinate the development of risk assessment methods to better understand the implications of field releases of genetically engineered plants;

(5) promote scientific training in the area of agricultural biotechnology;

(6) provide direction to the United States Department of Agriculture and other agencies of the Federal Government concerning basic and applied agricultural research priorities and funding needs, including the need to lower farming input costs, improve crop quality, and develop new agricultural products;

(7) ensure the quality of scientific and technical work, and establish standards for the collection and storage of data and materials;

(8) identify national and international commercial opportunities arising from national research programs;

(9) oversee interagency cooperation through data-sharing, joint sponsorship of meetings, joint funding of research resources, and communication of annual budget plans; and

(10) evaluate patent rights and ownership of data, and provide advice to interested Federal agencies, the scientific community, and private industry.

(e) COMPENSATION AND TRAVEL EXPENSES.—

(1) Members shall serve on the Agriculture Panel without compensation.

(2) While away from their homes or regular places of business in the performance of services for the Agriculture Panel, members of the Agriculture Panel shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(3) The Secretary of Agriculture shall make available to the Agriculture Panel such personnel, facilities, and administrative support services as may be appropriate to enable the Agriculture Panel to carry out its duties under subsection (214)d.

(f) ANNUAL REPORT.—Not later than 18 months after the date of enactment of this section, the Agricultural Panel shall submit to the Board a report that contains recommendations based on the functions of the Agricultural Panel under section (214)d. Additional reports shall be submitted to the Board as the Panel considers necessary, or on demand of the Board.

Mr. LEAHY. Mr. President, a recent survey by the Office of Technology Assessment found that the majority of American citizens believe that biotechnology will improve their lives. I think they are right. I know in the agricultural sector alone we can expect productive new plants, industrial materials, and livestock in the very near future.

I commend my friend from Florida, Senator CHILES, for his hard work on this legislation. It is essential that we establish a long-term national biotechnology policy to ensure that America reaps the benefits of her scientific know-how. Senators KENNEDY and DOMENICI have been champions of human genome research and of biotechnology. I am pleased to join them in cosponsoring the Biotechnology Competitiveness Act.

Mr. President, I have spoken on the subject of biotechnology competitiveness many times and will not go to great lengths today. However, it is important to recognize that other countries are investing great resources in this technology, and I fear they will apply our basic science discoveries to develop products we should make ourselves. I heard the other day, for example, that Japan is developing a microbe to control the deadly and pervasive aflatoxins that contaminate grain—the potential for such a product is enormous.

Agriculture will be the first industry revolutionized by biotechnology. Already more than a dozen small-scale field tests of genetically engineered plants have taken place. Our farmers are receptive to plant biotechnology. In fact, traditional plant breeding has been practices for centuries but it has been a hit-or-miss endeavor, expensive, and time consuming. Gene mapping of plants will enable breeders and scientists to precisely define plant characteristics and genetic engineering promises to accomplish in days what took Mendell and others years of work.

Despite its importance, however, the Federal Government has not sufficiently invested time and financial resources in agricultural biotechnology. The May 6, 1988, editorial in Science accurately described the need for greater efforts in this sector:

> Virtually every developed country and many developing countries have targeted leadership in biotechnology as a national goal. In efforts to compete with the United States in applications of molecular biology to produce pharmaceuticals, would-be competitors are latecomers, with limited prospects. But in agriculture, the picture is quite different, and the United States could become second-rate.
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> . . . In contrast to federal support of biomedical research, funds for basic research in plant biology have been meager and the sums provided individual investigators have been tiny. Consequently, the knowledge base of the molecular biology of plants is limited. The level of conventional agricultural science in other countries is comparable to that here, and in some instances possibly superior.
>
> . . . The crop surpluses in the United States have been used as an argument for curtailing research. However, if we move slowly in exploiting new biotechnology, we will lose competitiveness fairly rapidly.

The race is on. That is why it is more important than ever that we wisely invest our resources in projects which will allow us to build consensus on appropriate and safe uses of biotechnology.

Bismark quipped, "Politics is not an exact science." While we have made great strides in biotechnology, there is a great deal we do not understand about how this science works and what it means for our society. These questions cloud the future of agricultural biotechnology. At the recent AgBiotech 1988 conference here in Washington, one Wall Street expert explaining investors reluctance to finance agricultural biotechnology, said: "The market does not believe yet that the force is with you." And, at a joint hearing I chaired of the Agriculture Committee and the Judiciary Subcommittee on Technology and the Law, the president of Monsanto Co., Earle Harbison told committee members that "There is no discernible official attitude toward this or any other emerging industry * * *. The industry, and those who regulate it, operate largely in a political vacuum. There is no clear signal from our political leaders to 'go for it.'"

Today I am offering, along with my good friend from Indiana, Senator LUGAR, an amendment to S. 1966, the Biotechnology Competitiveness Act, which would ensure that this legislation addresses agricultural as well as biomedical needs. America must aid agricultural policymakers in their efforts to promote biotechnology wisely and to the benefit of industry and citizens alike. The policy coordination that will result from this amendment will give us the force we need to remain the world's agricultural leader.

Mr. President, this amendment would establish a National Advisory Panel on Agricultural Biotechnology. The agriculture panel would closely parallel the National Advisory Panel on the Human Genome and report to the National Biotechnology Policy Board, also established in S. 1966. The agriculture panel would recommend policies and research priorities for biotechnology in the agricultural sector.

Many scientists, for example, believe that research to map plant genomes should be undertaken. The genetic structure of plants is incredibly complex, but relative to the human genome, easier to understand. The map needed for practical plant manipulation need not be as precise as that anticipated in human biomedical research. In fact, many scientists suggest that mapping plant genomes is an obvious first step to mapping human genomes since it will allow scientists to develop models and technologies for uncoding more complex organisms.

Molecular genetic maps for corn, tomatoes, soybeans, rice, and other plants are being developed. The Federal Government's contribution to this vital research has been minimal, however. In fact, the U.S. Department of Agriculture spends less than 5 percent of its annual research budget on biotechnology. Agricultural research spending must reflect agriculture's future, rather than its past. The National Agriculture Panel would assess the need for agricultural biotechnology research and coordinate Federal resources in this area.

Additionally, this agriculture panel will coordinate the development of risk assessment methods to better understand the implications of field releases of genetically engineered plants.

There is concern about the potential for genetically engineered crop plants to transfer their newly acquired genes to closely related species located in neighboring fields and natural ecosystems. While there is no evidence that any transgenic crop plant currently grown in the United States has transferred genes to an indigenous plant nearby, some crops, such as sorghum, do cross-pollinate with weeds, and the potential for horizontal gene transfer, reproduction, and dissemination problems should be carefully scrutinized.

In 1987, an important workshop organized by Boyce Thompson Institute for Plant Research, Cornell University's Center for Environmental Research and the College of Agriculture and Life Sciences, reviewed issues surrounding genetically engineered crop plants. The report from that workshop, "Regulatory Considerations: Genetically-Engineered Plants," published this May, includes two important recommendations. First, that biogeographic distributions and ecological profiles be completed of the relatives of crop plants, with an initial focus on crops such as sorghum, sunflower, and clover, with wild relatives in the United States where transfer of genes from engineered crops to wild relatives could be a problem. Second, the report recommends research on the overall ecology of crops—how their pollen moves around, how they transfer genes back and forth, who eats them, and other factors. Such data, the report argues, will help us quantify the possibility that gene transfers might occur in natural settings.

The agriculture panel, established by this amendment will consider the findings of the Boyce Thompson workshop, as well as the findings in the May 1988 Office of Technology Report, "New Developments in Biotechnology, Field-Testing Engineered Organisms" and aid the U.S. Department of Agriculture and other agencies in making decisions regarding risk assessment research priorities.

Mr. President, last year I joined several members of the Agriculture Committee in cosponsoring Senator HARKIN's bill, S. 970, the Alternative Agricultural Products Research Act. As you know, that bill passed this body twice, and we are hopeful that the House will soon act on that legislation. I envision the agriculture panel, established in this amendment working very closely with the New Products Research Board established in S. 970.

Senator HARKIN's legislation would provide $75 million per year for a period of 20 years for research to modify plants and plant materials to develop new marketable industrial and commercial products. This funding is critically needed. The development of new products for our farmers must be made a national priority; passage of S. 970 as well as this amendment here today, will further that goal.

Mr. President, the biotech race is a race America cannot afford to lose. We must develop a national biotechnology policy to ensure our competitive position. Our success in commercializing new biotechnology products and gaining knowledge from biotechnology will depend upon how effectively government addresses the revolutionary challenges biotechnology poses for our Nation.

But, Mr. President, there is no such thing as a national biotechnology policy if that policy does not address the needs to our agricultural sector. I urge my colleagues to accept this amendment to S. 1966 to ensure that American farmers, and the people who depend on them, benefit from the promise of biotechnology.

Mr. CHILES. Mr. President, this is an amendment that is supported by the chairman on the Committee on Agriculture and Senator LUGAR. It adds an Ag feature to the bill. I think it is an improvement and ask for its adoption.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2404) was agreed to.

AMENDMENT NO. 2405

(Purpose: To authorize a research program for the modification of plants and plant materials, focusing on the development and production of new marketable industrial and commercial products, and for other purposes)

Mr. CHILES. Mr. President, I send an amendment to the desk on behalf of the Senator from Iowa, Senator HARKIN, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. CHILES] for Mr. HARKIN, proposes an amendment numbered 2405.

Mr. CHILES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE IV—ALTERNATIVE AGRICULTURAL PRODUCTS RESEARCH

SEC. 401. SHORT TITLE.

This title may be cited as the "Alternative Agricultural Products Research Act of 1987".

SEC. 402. PURPOSE.

It is the purpose of this title—

(1) to authorize research in modification of plants and plant materials, and associated research, in order to develop and produce marketable products other than food or traditional fiber products; and

(2) to establish an independent New Products Research Board to advise the Assistant Secretary of Agriculture for Science and Education, with respect to selection criteria for, and scientific feasibility of, prospective research projects under this title.

SEC. 403. DEFINITIONS.

As used in this title:

(1) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of Agriculture for Science and Education.

(2) BIOTECHNOLOGICAL RESEARCH PROJECT.—The term "biotechnological research project" means a project authorized and funded by the Secretary that is directed toward the development of a new marketable industrial or commercial product, other than a food or traditional fiber product, through biotechnology or other modification of a plant.

(3) BOARD.—The term "Board" means the New Products Research Board established under section 404.

(4) DEVELOPMENT.—The term "development" means targeted research, including fundamental research and applied research necessary to make a product available for the marketplace and necessary research on the plant, modification of plant materials, new methods, if any, needed to cultivate the plant, the commercial separation and purification of the new product, and any research on the uses of the new product.

(5) NEW PRODUCT.—The term "new product" means an item developed through a biotechnological research or a plant product research project that is primarily not food or traditional fiber, including an item that exists but is not commercially available from a plant.

(6) NONTRADITIONAL FOOD.—The term "nontraditional food" means a food product that does have substantial new properties and that is not now derived from agricultural materials.

(7) PLANT PRODUCT RESEARCH PROJECT.—The term "plant product research project" means a project authorized and funded by the Secretary that is directed towards the development of a new marketable industrial or commercial product, other than a food or traditional fiber product, through the modification of the product of a plant.

(8) PROJECT.—The term "project" means a biotechnological research project or a plant product research project.

(9) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(10) TRADITIONAL FIBER.—The term "traditional fiber" means a fiber product that does not have substantial new properties and that is derived from agricultural materials.

SEC. 404. NEW PRODUCTS RESEARCH BOARD.

(a) ESTABLISHMENT.—There is established in the Department of Agriculture the New Products Research Board to be administered by the Assistant Secretary.

(b) FUNCTIONS.—The Board shall advise the Secretary—

(1) on specific targets of opportunity for research that most closely meet the selection criteria required for a project to be eligible for funding under this title;

(2) on the composition of review committees to examine the merits of specific proposals for research projects that have been solicited by the Secretary;

(3) on recommendations for the funding of specific proposals for research projects and

(4) concerning progress made in carrying out projects that are currently being undertaken.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Board shall consist of 6 members, of which—

(A) two members shall be appointed by the Assistant Secretary;

(B) one member shall be appointed by the Director of the National Science Foundation;

(C) one member shall be appointed by the Secretary of Energy;

(D) one member shall be appointed by the Secretary of Commerce; and

(E) one member shall be appointed by the Director of the Office of Technology Assessment.

(2) Term of Service.—The term of a member of the Board shall be at the discretion of the appointing authority, except that a member may not serve more than 5 years.

(3) Vacancies.—A vacancy on the Board shall be filled in the manner in which the original appointment was made.

(4) Chairman.—The Assistant Secretary shall designate one of the members of the Board as Chairman of the Board.

(5) Government members.—All members of the Board who shall be officers or employees of the United States Government who shall serve without additional compensation.

(6) Expenses.—All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(7) Meetings.—The Board shall meet at the call of the Chairman or a majority of its members.

(d) Personnel and Services.—The Board may appoint personnel and procure permanent, temporary, and intermittent services, as it considers necessary, under section 3109 of title 5, United States Code, at rates for individuals that do not exceed the rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

(e) Experts.—The Board may establish committees of technical experts, and farm and industry representatives, to advise the Board on matters that are determined to be appropriate by the Board.

(f) Rules and Regulations.—The Board is authorized to propose rules and regulations to the Secretary, and may promulgate procedures, that may be necessary to carry out the functions of the Board.

(g) Department of Agriculture Resources.—The Board is authorized to utilize, with the consent of the Secretary, the services, equipment, personnel, information, and facilities of the Department of Agriculture, with or without reimbursement.

(h) Hearings.—The Board may, for the purpose of carrying out this title, hold such hearings, and sit and act at such times and places, as the Board considers appropriate.

SEC. 405. RESEARCH PROJECTS.

(a) Authorization.—The Secretary, on a recommendation from the Board, shall select projects that are to receive funding under this title, for purposes of research to develop and produce new products.

(b) Appropriate Projects.—

(1) Development.—Each project shall target development of a new crop, or modification of an existing crop or crop material, that meets the criteria listed in paragraph (2).

(2) Criteria.—Projects should be selected on the basis of—

(A) the prospect of developing viable technologies that could make it possible to use or modify existing plants or plant products to provide an economically separable viable quantity of new products;

(B) the need for a new product of the type contemplated;

(C) the potential market size of the new product;

(D) the likely time period needed to bring the new product into the stream of commerce for general use;

(E) the likely impact on reducing Federal crop subsidies and other Federal agricultural assistance program costs;

(F) the likely ability to grow the plant used to produce the new product at a profit;

(G) the availability of the expertise and facilities required to conduct the proposed research; and

(H) the likely unavailability of appropriate funding from other sources.

(c) Funding.—

(1) Purpose.—Funding shall only be provided under this title to those projects that have as the principal purpose the development of new products, with priority given to biotechnological research projects. No less than one half of the appropriated funds being allocated to biotechnological research projects.

(2) Consortia.—Unless the Secretary finds it appropriate for a single research entity to conduct a project, each project shall be conducted by a project group that may include a consortium of—

(A) public and private colleges and universities;

(B) private research facilities and personnel;

(C) State agricultural experiment stations;

(D) Federal research laboratories; or

(E) any combination thereof.

(3) Secondary uses.—Funding shall not be denied if paragraph (1) is satisfied even if the developed plant has a food or fiber use in addition to the use described in paragraph (1).

(4) Period of funding.—Funding—

(A) shall cover the proposed research necessary for not less than 3 years, or until a marketable product is developed or determined to be unattainable or unnecessary; and

(B) may be extended, subject to satisfactory review, for additional 3-year periods or until a marketable new product is developed or determined to be unattainable or unnecessary.

(5) Nontraditional food use.—If the development of nontraditional food uses becomes the principal likely result of a project, funding may be continued if the project continues to meet the criteria set forth in subsection (b)(2) other than the criterion set forth in subsection (b)(2)(A).

(6) Number of projects.—

(A) Initial projection.—The Secretary shall fund not less than 20 projects within the 36-month period beginning on the date of enactment of this title, with funding committed for at least 5 projects within the 12-month period beginning on the date of enactment of this title.

(B) Adjustment.—If the amount appropriated under section 406 is reduced, or if the availability of such amount for obligation is delayed, the number of new projects to be funded may be reduced proportionately, or delayed as appropriate.

(d) Contracts.—The Secretary may sign contracts that assign research responsibilities to an appropriate consortia or other entity capable of conducting the appropriate research over the applicable research period.

(e) Review and Reporting.—

(1) Project groups.—A project group shall report on the progress of the group to the Board annually or as otherwise required by the Board.

(2) The board.—The Board shall review the progress of the projects approved by the Secretary and report to the Secretary on the projects with recommendations concerning continued research.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

To carry out this title, there are authorized to be appropriated $75,000,000 for the fiscal year 1988, and each of the 19 fiscal years thereafter.

Mr. HARKIN. Mr. President, I want to commend Senator Chiles for his leadership in the development of the Biotechnology Competitiveness Act. I believe that this measure will considerably improve the coordination of our efforts in the important area of biotechnology. The bill maximizes the quality of our data bases and allows for careful review and determination of our policies in this area.

The amendment that I am offering provides for a new direction for agricultural research by creating ways to find alternative nonfood and nontraditional fiber uses for crops.

Finding new alternative uses for crops is a goal of government-funded research in many other nations. Thus, countries which have successfully established substantial applied research projects in this area could undercut this country's ability to produce new crops.

My amendment seeks to avoid that by accelerating such diversification in our own agricultural economy and maintain our edge in the global agricultural market.

The amendment is the text of S. 970, the Alternative Agricultural Products Research Act of 1987, which after hearings, was ordered reported unanimously by the full Agriculture Committee. It passed the Senate as a part of the trade bill and as a free-standing measure.

I would like to thank my colleagues, Senators Leahy, Lugar, and Glenn for their leadership in this area and their considerable help in developing this measure. I would also like to thank Senators Burdick, Conrad, Inouye, Gore, Grassley, Hatfield, Sanford, Daschle, Karnes, Matsunaga, McClure, Pryor, Durenberger, and Cochran for their support, advice, and cosponsorship of this measure.

For some time my colleagues and I have been increasingly interested in stimulating diversification in the agricultural economy. It is the intent of this amendment to help this process through a substantial accelerated R&D program.

We are all aware of the fact that our agricultural factory, with its level of technology, superior natural resource base, and the amazingly productive American farmer, can outproduce most of the rest of the world combined. Such a reality is both a blessing and a curse. The blessing, of course, is that we can meet all of our Nation's food and fiber needs with ease and at a low cost. The curse results from the fact that we can, and do, over produce. The result of this overproduction has been the lowering of the value of both our commodities and our land.

In the long term, the agricultural problem is more than a question of production levels or of export markets. It is also a problem of insufficient diversification. We lack diversification in many agricultural areas of the country where only a few commodities are produced. We also lack diversification in the range of end uses for which our agricultural feedstocks might be used.

The result is that as the capacity to produce traditional commodities such as corn or soybeans increases our farmers face three choices. First, they can continue producing to levels in excess of demand creating lower prices that will not cover the costs of production. Second, they can leave part of their capacity idle. Third, they can find new things to do with that capacity. I believe the latter is the best solution. But it is one that will take many years to implement. This amendment moves us in that direction—starting now.

Present research being conducted at USDA is too often directed at improving yields of existing crops. While it is important to remain competitive, we must recognize and deal with the problem of over production. Depending on the definitions used, from less than 1 to 3 percent of the USDA research budget is now directed toward finding new products from plants. This amendment changes that.

We must develop new plants capable of producing new industrial and commercial products that can compete for land, labor and capital. We need our existing commodities bioengineered so that the range of new products capable of being produced can be expanded several fold.

I can see a day when new plants will be designed for specific end uses, or process conditions. I believe it is possible that, with the mapping of genetic structure of corn, wheat, soybeans and others feedstocks, we will be able to bioengineer new industrial oils, new proteins and new chemicals. All of this diversification is necessary as a precursor to a competitive agricultural system.

The days of simple basic industries with proven technology being successful over the long-term are over. The steel industry and the auto industry make this point all too clear. We need new technology and new knowledge to continue the evolution of our Nation's largest industry—agriculture—so that its full potential can be realized.

The development of this new technology for agriculture will require new knowledge. Systematic development of new plants and the modification of existing plants to produce new products is beyond the current state of the art. What is needed therefore, is a large-scale multiyear research program directed toward the development of a more diverse agricultural system.

I realize that many of the fundamental questions about the biology of plants remain unanswered. I also realize that this fact adds to the risk associated with this undertaking. Nonetheless, we must proceed with the effort and deal with our knowledge gaps along the way.

History has shown that research with a purpose, even with significant unanswered questions, can be successful. In 1941 the Nation launched an effort to develop radar. There were many fundamental unanswered questions. These were addressed as a part of the quest to develop radar. Likewise, new plants can only be developed after we increase our fundamental knowledge. That knowledge however must be linked to a purpose. In this case, that purpose is new plants and new products: a new agriculture.

To get the process of R&D underway, my amendment provides for a major research initiative of $75 million per year for the next 20 years. The amount of funding suggests the scope of the problems to be tackled. The 20 years implies the need for a sustained effort over a period of time sufficient to study and process engineer a number of new agricultural feedstocks.

Expanding the marketplace for crop materials and through that expansion, a healthier rural economy and a stronger, more competitive American industry are the goals of this amendment. Creating new materials is important. But, it does no economic good if those new materials sit on the shelf. The research projects authorized by this bill will cover all of the research necessary from fundamental research to initially create the product to research necessary to bring the new products to a point of economic viability. That includes research on the methods of producing the material in commercial quantities, on any problems that farmers may have in cultivating a new crop, on the characterization of the materials and on other needed research so that it can and will be used by industry.

I urge the adoption of my amendment.

Mr. CHILES. Mr. President, I want to urge the adoption of the Harkin amendment. It is an amendment that we are willing to take on the bill.

The PRESIDING OFFICER. Is there further debate. If not, the question is on agreeing to the amendment.

The amendment (No. 2405) was agreed to.

Mr. CHILES. Mr. President, I see the distinguished Senator from Utah, the ranking member is on the floor. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am pleased to join with the chairman of the Labor and Human Resources Committee in support of this legislation as reported from committee. As my colleagues know, this legislation establishes a process for looking at existing Federal and private sector efforts to develop biotechnology. The intent is to establish a process to identify those areas which can be performed best by the Federal Government, identify those areas which can be performed best by the private sector, and identify obstacles which are preventing the development of this important technology.

Biotechnology may provide answers to many of the questions which have long plagued mankind. It may give us the key to unlock the secrets of many, so far, untreatable congenital and genetic diseases. Understanding our gene structure may, for example, furnish us with new and promising options for the early treatment of such dreaded diseases as spina bifita, cleft palate, and other errors in genetic makeup that contribute to the disability of many citizens. This technology can be an important weapon in the war against birth defects, improving not only the quality of life for the afflicted, but also easing the emotional burdens for the families who care for those with genetically based health problems. And, it may give us new drugs which are more effective, have fewer side effects, and cost less than ever before. In short, biotechnology provides hope for millions of Americans affected with chronic and life-threatening diseases.

At the same time, though biotechnology provides us with new answers, it also raises serious policy questions—questions we cannot ignore. We have to recognize that such technology can be turned to purposes which are at best, nonproductive, and at worst, reprehensible, according to the ethical and moral standards of our society. We should not, for example, permit genetic material to be altered in order to select people based on desirable and undesirable traits and characteristics.

The physical description of my colleagues in this body would be changed dramatically if the extreme of genetic manipulation had taken place before we were born. We would all be of some arbitrarily established perfect height and build, we might all have blue eyes or blond hair. We would all have deep radio voices suitable for great oratory.

Mr. President, even if we could find the gene that makes a person a Republican, I am not sure that it would be a good idea to exploit this technology in such a way. While I have posed to my colleagues a rather Orwellian scenario, it does describe a possible outcome of manipulating or eliminating genetic material without checks.

This legislation establishes a process for examining these ethical issues through the existing Congressional Bioethics Board. Congress must remain vigilant in our oversight to ensure that we have not created the proverbial monster. This technology, though it has much potential to work miracles, cannot be allowed to run amuck. We do not want a homogeneous society. Even if our population remains diverse, we do not want children stereotyped at birth because a particular gene composition suggests pursuing an identified talent or a particular educational or occupational path. A child should not be coerced into being a ballet dancer when he or she dreams of being an astronaut.

We do not know just how far science can go in this new world of biotechnology. We need to ensure that the genie we are letting out of the bottle serves us rather than destroys us. The Congressional Bioethics Board must be active and aware. It is an integral part of this legislation. Furthermore, we, as responsible citizens and Members of this body, must be ever watchful so that this new knowledge is applied to the benefit of all.

I would like to commend Senator CHILES, Senator HUMPHREY, and Senator KENNEDY for the work they have put into this legislation and the willingness of all concerned to accommodate the views and concerns of others.

I also would like to thank the many members of the staffs of the respective persons, including my own, who have worked so hard on this, because I think this is good legislation. It is tightly drafted and it contains adequate checks and balances. I hope that all of our colleagues will join us in expeditiously approving this legislation.

Mr. DOMENICI. Mr. President, I would like to express my enthusiastic support for S. 1966, the Biotechnology Competitiveness Act, which is now before the Senate. This legislation will do much to help America take advantage of the truly stunning breakthroughs we are experiencing in biological science. I am pleased that the Senate is acting on this bill so quickly.

Last December, I joined Senator CHILES, Senator KENNEDY, and several other of my colleagues in introducing S. 1966. The bill we introduced then, and the bill the Senate is considering today, includes modified provisions of a proposal to advance human genome research efforts that I originally offered last summer in S. 1480, the Department of Energy National Laboratories Cooperative Research Initiatives Act.

The bill we have before us today will enhance American research and competitiveness in three key ways.

First, the bill establishes a National Center for Biotechnology Information at the National Library of Medicine, which is a division of the National Institutes of Health [NIH].

This center will boost the capability of NIH to coordinate and support the centers of information that are needed to handle the vastly expanding body of data and materials generated by biotechnology related research.

Currently we have several biotechnology data bases in the United States. The most notably are located at the National Library of Medicine, as well as at Los Alamos National Laboratory in New Mexico, which operates the NIH-supported genetic data base, known as GenBank.

While these data bases are an invaluable resource for much of the world, the knowledge and data being generated threatens to outstrip the resources we now have in place. The legislation we are considering today will help America expand these resources. They will help us strengthen the integration with, and access to, our scientists.

Second, a National Biotechnology Policy Board would be created to help guide Congress and the President on policy issues related to commercial biotechnology and its associated research.

Revolutionary research and technology developments in the life sciences are making the biotechnology industry one of our Nation's most promising economic engines. Yet, this is an industry that faces great challenges in its quest for world leadership.

Economically, private biotech firms must take greater advantage of the many research resources we have in this country. This is an area where America faces very strong and determined competition, and our industry-university-government laboratory relationship must be strong.

Just a few weeks ago I, and New Mexico Gov. Garrey Carruthers, made a trip to Japan and visited with officials overseeing Japan's human genome research efforts. Let me mention to my colleagues that Japan's Ministry of International Trade and Industry [MITI]—their lead industrial policy agency—has identified biotechnology as being one of three critical technologies for future generations.

American biotechnology is currently the world leader, but if we don't want countries like Japan overtaking us in this field the way they have in areas like electronics, it seems very important to me that we start focusing our own national efforts. This can be done best, I believe, through creation of this national biotechnology board.

In addition to this economic challenge, the nature of this industry raises many public policy questions on its own, many of which are quite difficult.

These issues include questions such as how do we assure environmental safety, and what are appropriate commercial protections for discoveries that are closely related to human life processes?

The industry's success and the degree to which it can help America depends upon how well we, as a society, can address these questions. This Biotech Board would give us a great ability to help address these issues.

Finally, this legislation would create an advisory body to the Biotech Board, a National Advisory Panel on the Human Genome. Research on human genetics is moving ahead rapidly. Important research projects are under way to create maps of the entire human genetic structure, known as the human genome.

Such research tools could, in themselves, transform the orientation of life sciences, as well as revolutionize the biotechnology industry itself.

Again, the economic prospects of human genome research have not been lost on the Japanese. On June 27 of this year Japan's Industrial Technology Council will make strategic policy recommendations to MITI on how Japan should proceed with their human genome efforts.

If American research on the human genome is to be done as quickly as possible, the many and varied national genome projects need to be coordinated. Additionally, if we are to take advantage of this great resource that is being created, we need to get private sector researchers involved in this, along side Government-supported researchers.

Both panels that would be created in this bill have representation from universities, private industry, and the Federal agencies doing related research. Together with other important representatives, these panels should provide excellent recommendations about where we are heading and what we need to do.

Let me state once again that we, as a nation, must come to grips with the ethical and moral questions being raised by advancements in biomedical research. This bill reauthorizes the Congressional Biomedical Ethics Board [CBEB], which was created 3 years ago to address just the kinds of difficult ethical issues raised by biotechnology. While the CBEB is only now being assembled, I am hopeful that it can move on quickly with its work.

Both panels created in S. 1966 include a member with expertise in biomedical ethics. Provisions were included during committee consideration to make clear that the CBEB will review the reports of these panels. I am confident that these panels will be of enormous help to us in understanding the policy issues that we must confront.

Again, I am pleased that S. 1966 has moved so quickly to Senate passage and I hope it will move quickly on to become law. Passage of this measure is greatly needed if we are to take advantage of the great opportunities this Nation now has.

Mr. President, I urge all of my colleagues to support this bill.

Mr. LUGAR. Mr. President, in the past 10 years, the science of biotechnology has emerged from pure laboratory research and has developed into a discipline that is now providing significant breakthroughs in several areas of medicine and agriculture.

At this time, the United States is the worldwide leader in biotechnology research, product development, and commercial applications. The Biotechnology Competitiveness Act of 1988 is an important piece of legislation as it will provide for coordinated leadership in basic and applied research at the national level. Such an undertaking is necessary if this country is to maintain its technological superiority.

I believe, Mr. President, an important addition to this act is the creation of the National Agricultural Biotechnology Research Panel through an amendment offered by Senator Leahy and myself. The purpose of this panel is to take an active leadership role in providing appropriate research direction to the U.S. Department of Agriculture and other Federal agencies in the area of biotechnology. The primary objectives are to develop new industrial crops, develop crops which are more nutritious and which are disease and insect resistant, lower farming input costs, promote scientific training and identify national and international commercial opportunities for U.S. developed agricultural products.

I commend Senator Chiles for his efforts on S. 1966 and hope that this legislation will be a first significant step toward ensuring that the United States maintains its prominent international role in biotechnology.

Mr. CHILES. Mr. President, I want to say that I thank the Senator from Utah for his remarks and his assistance and his staff. I think it does strike a balance. I think the point he makes its true. As much as we want to get into the field and make sure we assume and keep a leadership role in developing the new products that we can, there are very important ethical considerations. I think we do craft and strike that balance in the legislation.

Mr. President, I see the Senator from Maryland is on the floor. I yield to her.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise today in support of the Biotechnology Competitiveness Act of 1987. I would like to commend Senator Chiles and Senator Kennedy for their good work in this legislation. I would also like to thank them for working with me to assure that health, safety, and ethical issues are addressed in this bill.

I want to be absolutely sure that we pursue the exciting prospects of biotechnology in this country. We have several excellent biotechnology firms in my own State of Maryland, who are making tremendous strides in this area. And who knows—it may be that biotechnology may someday help us find a cure for Alzheimer's, Parkinson's, or other devastating diseases.

But, Mr. President, I also want to be certain that we are doing our best to anticipate the possible unintended negative consequences of our actions. That is, I want to be sure we do not get so far into "go-go biology" that we are mesmerized by glitz, daring, or profits. We must not forsake the prudent consideration of bioethics and the impact of this research on public health and safety. After all, Mr. President, the bottom line is that safe science is good business.

When we undertake the study of biotechnology, we are not trying to figure out how to make a better spark plug. We are undertaking the study of life itself. Thus, we should approach it will the greatest respect and a sense of the sacred.

So I think we better be careful, and I think we better be prudent. As I said is no place for go-go biology, but there is lots of room for scientific pursuit of biotechnology. I think this is a good bill. It is going to move us into the future, but we need to make sure we safeguard our future.

I would like to again thank my distinguished colleagues for working with me on this legislation to continue the pursuit of science in safeguarding public health and safety and being sure that we have an ethical awareness in this pursuit.

Mr. President, I yield the floor.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I thank the Senator from Maryland for her statement and for her assistance in this legislation. She has played a key leadership role with her interest in helping us develop this bill in biotechnology. I thank her for her statement.

Mr. President, I ask unanimous consent that the Leahy amendment, No. 2404, previously adopted, be modified to reflect the changes that I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 20, between lines 17 and 18, insert the following new subtitle:

Subtitle C—National Agricultural Biotechnology Advisory Panel

SEC. 213. FINDINGS.

Congress finds that—

(1) applications of biotechnology research will provide for the development of new industrial crops, more nutritious crops, and crops which are disease and insect resistant;

(2) while progress is being made in the area of agricultural biotechnology research, the Federal Government should take an active leadership role in providing direction and funding for basic and applied agricultural research including basic plant biology;

(3) exchange of agricultural biotechnology information is critical for advances in research;

(4) since the field of biotechnology holds much promise for the future of agriculture in the United States, carefully directed research is an important component in maintaining an internationally competitive edge;

(5) while no evidence exists that a plant in the United States has transferred genes bred into it for a given trait to an indigenous plant nearby or has caused any ecological damage, the potential for such effects should continue to be examined, including the potential for gene transfer, monitoring and mitigation techniques, and a comparative analysis of the potential risks and benefits that may be posed by transgenic plants and traditional farm practices;

SEC. 214. NATIONAL AGRICULTURAL BIOTECHNOLOGY ADVISORY PANEL.

(a) Establishment.—There is established, as an advisory panel to the Board established in subtitle A of Title II, a National Agricultural Biotechnology Advisory Panel (hereinafter referred to in this subtitle as the "Agriculture Panel").

(b) Membership.—The Agriculture Panel shall consist of the following individuals or the designees of such individuals—

(1) the Secretary of Agriculture;

(2) the Director of the National Science Foundation;

(3) the Director of the National Agricultural Library;

(4) the Director of the National Research Council of the National Academy of Sciences;

(5) one individual who is a member of the National Agricultural Research and Extension Users Advisory Board;

(6) one individual who is a member of the Joint Council on Food and Agricultural Sciences;

(7) three scientists representing private industry, to be appointed by the President, after consultation with relevant groups, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act.

(8) four scientists representing the university research community, to be recommended by the Department of Agriculture and appointed by the President, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act, and with at least one such member being an ecologist;

(9) two scientists, who represent national foundations, citizen groups, or farm organizations involved in agricultural biotechnology research, to be recommended by the Department of Agriculture and appointed by the President, with the advice and consent of the Senate, with such members being appointed within 90 days after the date of enactment of this Act.

(c) Chairman.—The Agricultural Panel shall be chaired by the Secretary of Agriculture or his designee.

(d) Duties of the Agriculture Panel.—

(1) advise the Board on matters concerning agricultural biotechnology and coordi-

nate national activities, including the Plant Science Centers, the New Products Research Board, and other related efforts in agricultural biotechnology;

(2) new tools to analyze DNA, in cooperation with the National Advisory Panel of the Human Genome established in Subtitle B of Title II and philanthropic, corporate, and other private sector interests;

(3) processes information exchange of important agricultural biotechnology data and research findings;

(4) risk assessment methods to better understand the implications of field releases of genetically engineered plants;

(5) promote scientific training in the area of agricultural biotechnology;

(6) provide direction to the United States Department of Agriculture and other agencies of the Federal Government concerning basic and applied agricultural research priorities and funding needs, including the need to lower farming input costs, improve crop quality, and develop new agricultural products.

(7) the quality of scientific and technical work, and standards for the collection and storage of data and materials;

(8) identify national and international commercial opportunities arising from the national research programs;

(9) interagency cooperation through datasharing, joint sponsorship of meetings, joint funding of research resources, and communication of annual budget plans;

(10) evaluate patent rights and ownership of data, and provide advice to interested Federal agencies, the scientific community, and private industry.

(e) COMPENSATION AND TRAVEL EXPENSES.—

(1) Members shall serve on the Agriculture Panel without compensation.

(2) While away from their homes or regular places of business in the performance of services for the Agriculture Panel, members of the Agriculture Panel shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(3) The Secretary of Agriculture shall make available to the Agriculture Panel such personnel, facilities, and administrative support services as may be appropriate to enable the Agriculture Panel to carry out its duties under subsection (214)d.

(f) ANNUAL REPORT.—Not later than 18 months after the date of enactment of this section, the Agricultural Panel shall submit to the Board a report that contains recommendations based on the functions of the Agricultural Panel under section (214)d. Additional reports shall be submitted to the Board as the Panel considers necessary, or on demand of the Board.

Mr. SANFORD. Mr. President, I rise today in support of S. 1966, the Biotechnology Competitiveness Act of 1987. This legislation addresses the increasingly important role of biotechnology in science and business and, moreover, the role of biotechnology in our society as a whole. For too long, biotechnology in our Nation has developed without a coordinated and well-considered national policy. As a result, since the boom in American biotechnology in the 1970's, we have seen foreign competitors, most notably Japan, challenge American dominance in this field. The Japanese have succeeded because they realized early on that the complexity of biotechnology requires cooperative planning, research, and industry targeting. Furthermore, advances in biotechnology bring to the fore a whole host of scientific and ethical issues which need to be explored on a national basis. I believe this legislation fills the void in our present biotechnology policy and will enable American biotechnology to thrive in the next century.

In my State of North Carolina, the great potential of biotechnology is apparent. Over 100 companies are currently involved in biotechnology and this number has been growing steadily. These companies are involved in a wide range of innovative work, from the development of a vaccine for poultry disease, to the invention of "probiotics" to promote bacterial growth for use in drugs for animals and humans; from the exploration of the medical and agricultural uses of fungus, to the development of new human diagnostic procedures regarding cardiovascular disease. I believe the impressive accomplishments of these companies will be further enhanced with a national biotechnology board to coordinate and integrate their work with the work of other companies throughout the Nation.

A major feature of this bill is the establishment of a National Biotechnology Policy Board. This Board would be composed of a wide variety of individuals representing various biotechnology interests. The panel would include representatives from the various Federal agencies funding biotechnology-related research, regulation, or promotion. In addition, the President would appoint four industry representatives and four representatives from the university research community who have been recommended by the National Academy of Sciences. Furthermore, a representative of a private biomedical research foundation and a biomedical ethicist would also be represented on the Board.

I fully support the participation of these individuals on the Policy Board and believe they all have important contributions to make. However, I believe the Board would be further enhanced by the involvement of representatives of State biotechnology centers. As a result, I have offered language in an amendment—which also contains Senator MIKULSKI's language regarding the protection of public health and the environment without unduly impeding commercial and academic activities—which calls for the participation of two representatives from State biotechnology centers.

State biotechnology centers have been a key resource in the development of biotechnology in our Nation. In North Carolina, the State Biotechnology Center has provided a broad spectrum of service and programs. For example, the center helps promote biotechnology through its public affairs and education programs. Through this program, the center will by next year have trained over 450 high school teachers in biotechnology instruction. The State Biotechnology Center also provides grants to universities to fund research projects, attract biotechnicians, and obtain state of the art equipment. In addition, economic development grants are used to encourage the involvement of small business in biotechnology. The center also serves as a unique worldwide information clearinghouse for companies through its sophisticated industry data base. From their work, State Biotechnology Center members have gained experience and insight in biotechnology that I believe will be invaluable to the National Biotechnology Policy Board.

In the 15 years or so of biotechnology's existence, we have already accomplished a great deal. With a nationwide biotechnology policy as outlined in this legislation, we will be able to achieve even more and see the full potential benefits of biotechnology become a reality.

Mr. CHILES. Mr. President, I know of no further amendments, so I ask that the bill proceed to third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendent to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. Is there further debate?

Mr. CHILES. Mr. President, I ask that before final passage, the distinguished Senator from New Mexico be granted 3 minutes to make a statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION

Mr. BYRD. Mr. President, I ask unanimous consent that the pending matter be temporarily laid aside and that the Senate proceed to the immediate consideration of Calendar Order No. 625, S. 1632, National Science Foundation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill [S. 1632] to authorize appropriations for the National Science Foundation for fiscal years 1988 through 1992.

The Senate proceeded to consider the bill (S. 1632) which had been reported from the Committee on Labor and Human Resources without amendment, and from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 1632

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Science Foundation Authorization Act of **[**1987**]** *1988*".

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) FINDING.—The Congress finds that to strengthen national economic productivity and competitiveness the programs of the National Science Foundation *(hereinafter referred to as the "Foundation")* should be adequately funded.

[(b) AUTHORIZATIONS.—There is authorized to be appropriated to the National Science Foundation:

[(1) For the fiscal year 1988, $1,893,000,000. Such funds shall be available for the following categories:

[(A) Biological, Behavioral, and Social Sciences, $297,000,000.

[(B) Computer and Information Science and Engineering, $143,000,000.

[(C) Engineering, $205,000,000.

[(D) Geosciences, $330,000,000.

[(E) Mathematical and Physical Sciences, $514,000,000.

[(F) Scientific, Technological, and International Affairs, $51,000,000.

[(G) Program Development and Management, $95,000,000.

[(H) Science and Engineering Education, $115,000,000, of which $73,000,000 shall be available for precollege programs and $14,500,000 shall be available for College Science Instrumentation.

[(I) United States Antarctic Program, $143,000,000.

[(2) For the fiscal year 1989, $2,158,000,000.

[(3) For the fiscal year 1990, $2,474,000,000.

[(4) For the fiscal year 1991 such sums as may be necessary.

[(5) For the fiscal year 1992 such sums as may be necessary.

[(c) SPECIAL RULES.—(1) Notwithstanding any other provision of this Act, from the amounts set forth in categories (A) through (F) of subsection (b)(1), $10,000,000 shall be transferred to category (H) of subsection (b)(1), relating to Science and Engineering Education.**]**

(b) AUTHORIZATIONS FOR FISCAL YEAR 1989.—There is authorized to be appropriated to the Foundation $2,050,000,000 for fiscal year 1989. Such funds shall be available for the following categories:

(1) Mathematical and Physical Sciences, $502,761,000.

(2) Engineering, $194,964,000.

(3) Biological, Behavioral, and Social Sciences, $288,737,000.

(4) Geosciences, $320,876,000.

(5) Computer and Information Science and Engineering, $149,126,000.

(6) Scientific, Technological, and International Affairs, $50,986,000.

(7) Science and Technology Research Centers, $30,000,000.

(8) High-Priority Programs, $70,000,000 (in addition to amounts authorized in paragraphs (1) through (7) of this subsection), of which $6,000,000 shall be available for support of Materials Research, with an emphasis on research in high-temperature superconductivity; $3,000,000 shall be available for research in Ocean Engineering Systems; $3,000,000 shall be available for research in Design, Manufacturing, and Computer-Integrated Engineering; $8,000,000 shall be available for support of Cross-Disciplinary Engineering Research; $5,000,000 shall be available for research in Geosciences; $6,000,000 shall be available for support of Research Initiation; $4,000,000 shall be available for support of the Experimental Program to Stimulate Competitive Research; $5,000,000 shall be available for a College and University Innovation Research Program; and $30,000,000 shall be available for support of Undergraduate Science and Engineering Improvement.

(9) Academic Research Facilities Modernization, $50,000,000.

(10) Program Development and Management, $95,550,000.

(11) United States Antarctic Program, $141,000,000.

(c) FURTHER AUTHORIZATIONS.—There is authorized to be appropriated to the Foundation—

(1) For the fiscal year 1990, $2,158,000,000, with the amounts of such funds to be available for specific categories and subcategories to be specified in future Acts.

(2) For the fiscal year 1991, $2,474,000,000, with the amounts of such funds to be available for specific categories and subcategories to be specified in future Acts.

(3) For the fiscal year 1992, $2,831,000,000, with the amounts of such funds to be available for specific categories and subcategories to be specified in future Acts.

(4) For the fiscal year 1993, $3,245,000,000, with the amounts of such funds to be available for specific categories and subcategories to be specified in future Acts.

(d) SPECIAL RULES.—(1) To the extent that the total amount appropriated to carry out program categories specified in this title is less than the total amount authorized to be appropriated for such categories under this title, all such authorized amounts, including floors and ceilings, for such categories or their subcategories shall be reduced proportionally.

(2) Notwithstanding any other provision in this Act, of the amounts authorized in subsections (b)(2) through (b)(5), the amounts available for Science and Engineering Education for each such year shall be increased by a percentage that is at least equal to the percentage by which the aggregate amount available for the categories set forth in subparagraphs (A) through (G) of subsection (b)(1) for such year exceeds such amount for the previous fiscal year.

AVAILABILITY OF APPROPRIATIONS

SEC. 102. Appropriations made under authority provided in section 101 shall remain available for obligation for periods specified in the Acts making the appropriations.

CONSULTATION AND REPRESENTATION EXPENSES

SEC. 103. From appropriations made under authorizations provided in this Act, not more than $7,500 may be used in each fiscal year for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the Foundation. The determination of the Director will be final and conclusive upon the accounting officers of the Government.

TRANSFER OF FUNDS

SEC. 104. (a) GENERAL RULE.—Funds may be transferred among the categories listed in section 101, so long as the net funds transferred to or from any category do not exceed 10 per centum of the amount authorized for that category in section 101.

(b) SPECIAL RULE.—In addition, the Director of the Foundation may propose transfers to or from any category exceeding 10 per centum of the amount authorized for that category in section 101. An explanation of any such proposed transfer must be transmitted in writing to the Committee on Science, Space, and Technology of the House of Representatives, and the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate. The proposed transfer may be made only when 30 calendar days have passed after transmission of such written explanation.

ADMINISTRATIVE AMENDMENTS

SEC. 105. (a) BOARD MEETINGS.—Section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) is amended by adding at the end thereof the following:

"(k) Portions of Board meetings in which the Board considers proposed Foundation budgets for a particular fiscal year may be closed to the public until the President's budget for that fiscal year has been submitted to the Congress.".

(b) EXECUTIVE COMMITTEE.—Section 7 of the National Science Foundation Act of 1950 is amended to read as follows:

"EXECUTIVE COMMITTEE

"SEC. 7. The Executive Committee of the Board shall be composed of the Director ex officio, who shall chair the Committee, and at least four other Board members elected by the Board. The Executive Committee shall exercise such powers and functions as may be delegated to it by the Board.".

(c) REPEAL.—Subsection 15(c) of the National Science Foundation Act of 1950 is repealed.

(d) COMMITTEE ON EQUAL OPPORTUNITIES IN SCIENCE AND ENGINEERING.—(1) Section 36(b) of the National Science Foundation Authorization and Science and Engineering Equal Opportunities Act (42 U.S.C. 1885 to 1885d) is amended to read as follows:

"(b) Each member of the Committee shall be appointed by the Director of the National Science Foundation. Members shall be appointed to serve for a three-year term, and may be reappointed for an additional term of three years.".

"(2) Section 36(f) of such Act is amended to read as follows:

"(f) Every two years, the Committee shall prepare and transmit to the Director a report on its activities during the previous two years and proposed activities for the next two years. The Director shall transmit to Congress the report, unaltered, together with such comments as the Director deems appropriate.".

TEMPORARY PERSONNEL

SEC. 106. Section 14(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1873(a)) is amended by inserting "(1)" immediately after "(a)", and by adding at the end the following new paragraphs:

"(2) The Director may, under the authority provided by paragraph (1) of this subsection and in accordance with such policies as the Board chooses to prescribe, appoint for a limited term, or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from academic, industrial, or research institutions to work for the Foundation.

"(3) The Foundation may, to the extent authorized for certain other Federal employees by section 5723 of title 5, United States Code.

"(A) travel expenses of any individual appointed under this subsection for a limited term or on a temporary basis; and

"(B) transportation expenses of his or her immediate family and his or her household goods and personal effects;

from that individual's place of residence at the time of selection or assignment to his or her duty station. The Foundation may pay such travel expenses and transportation expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Foundation may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5, United States Code, to such an individual, in lieu of and when less than transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Foundation. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Foundation.".

STIMULATING COMPETITIVE RESEARCH

SEC. 107. Section 3(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)) is further amended—

(1) by redesignating paragraphs (5) through (7) as paragraphs (6) through (8), respectively; and

(2) by inserting immediately after paragraph (4) the following new paragraph:

"(5) to foster and support efforts by those academic institutions and States that historically have received relatively little Federal research and development funding to improve the quality and competitiveness of their academic research programs and research infrastructures;".

STUDY OF EARTHQUAKE ENGINEERING RESEARCH

SEC. 108. (a) REQUIREMENT FOR STUDY.—The National Academy of Sciences shall conduct a study of the current earthquake engineering research efforts of the United States. Such study shall include a comprehensive assessment of the current earthquake research efforts of the Foundation, including an analysis of the appropriate balance between individual investigator awards, groups, and centers.

(b) REPORT TO CONGRESS.—The results of the study required by subsection (a) of this section shall be reported to the Congress on or before the expiration of the 12-month period following the date of enactment of this Act. Such report shall include recommendations, if any, of the National Academy of Sciences for improvements in the current efforts of the Foundation in the area of earthquake research.

(c) COOPERATION WITH OTHER ENTITIES.—In carrying out such study, the National Academy of Sciences is authorized to call upon any agency, department, or other instrumentality or entity of the United States for cooperation, and such agency, department, instrumentality, or entity shall provide such cooperation.

CENTER FOR EARTHQUAKE ENGINEERING RESEARCH

SEC. 109. (a) INDEPENDENT REVIEW PANEL.—In carrying out its review of the three-year period of operation of the National Center for Earthquake Engineering Research, the Foundation shall take such action as may be necessary to ensure that—

(1) such review is conducted by an independent review panel;

(2) the review panel does not include any individual who receives significant amounts of research funding from the National Center for Earthquake Engineering Research or any individual who serves on any administrative committee, board, or panel of the Center; and

(3) each member of the panel selected to conduct such review is a nationally recognized expert in a research field in which the Center is engaged.

(b) DETERMINATION REGARDING CENTER.—Among other things, the panel shall include, as a part of such review, a determination as to the extent to which the Center is meeting all contractual goals and obligations, including matching fund requirements.

[TITLE II—UNIVERSITY RESEARCH FACILITIES REVITALIZATION

[SHORT TITLE

[SEC. 201. This title may be cited as the "University Research Facilities Revitalization Act of 1987".

[FINDINGS

[SEC. 202. The Congress finds that—

[(1) the fundamental research and related education programs supported by the Federal Government and conducted by the Nation's universities and colleges are essential to our national security, and to our health, economic welfare, and general well-being;

[(2) many national research and related education programs conducted by universities and colleges are now hindered by obsolete research buildings and equipment, and many institutions lack sufficient resources to repair, renovate, or replace their laboratories;

[(3) the Nation's capacity to conduct high-quality research and education programs and to maintain its competitive position at the forefront of modern science, engineering, and technology is threatened by this research capital deficit, which poses serious and adverse consequences to our future national security, health, welfare, and ability to compete in the international marketplace;

[(4) a national effort to spur reinvestment in research facilities is needed, and national, State, and local policies and cooperative programs are required that will yield maximum return on the investment of scarce national resources and sustain a commitment to excellence in research and education; and

[(5) the National Science Foundation, as part of its responsibility for maintaining the vitality of the Nation's academic research, and in partnership with the States, industry, and universities and colleges, must assist in enhancing the historic linkages between Federal investment in academic research and training and investment in the research capital base by reinvesting in the capital facilities which modern research and education programs require.

[PURPOSE; ESTABLISHMENT OF UNIVERSITY RESEARCH LABORATORY MODERNIZATION PROGRAM

[SEC. 203. (a) PURPOSE.—It is the purpose of this title to assist in revitalizing the Nation's academic research programs through capital investments in laboratories and other research facilities at universities and colleges and independent nonprofit research institutes.

[(b) ESTABLISHMENT OF PROGRAM.—To carry out this purpose, the National Science Foundation shall establish and carry out a new university research laboratory modernization program, under which awards are made to institutions of higher education and independent nonprofit research institutes for the repair, renovation, or replacement (as appropriate) of such institutions' obsolete laboratories and other research facilities.

[(c) PROJECTS AND FUNDING.—The university research laboratory modernization program established by the National Science Foundation pursuant to subsection (b) shall be carried out, through projects which involve the repair, renovation, or replacement (as appropriate) of specific research facilities at the universities and colleges and independent nonprofit research institutes involved and for which funds are awarded in response to specific proposals submitted by such universities and colleges and institutes, in accordance with regulations prescribed by the Director of the Foundation with the objective of carrying out the purpose of this title. The regulations so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of that objective, but shall in any event provide that funds to carry out the program will be awarded to any university or college or independent nonprofit research institute only on the basis of merit after a comprehensive review using established Foundation procedures, and that the funds so awarded to any university or college or institute will be in an amount not exceeding 50 percent of the cost of the repair, renovation, or replacement involved (with the funds required to meet the remainder of such cost being provided by the institution involved or from other non-Federal public or private sources).

[(d) CRITERIA FOR AWARDS.—Criteria for the award of funds to any institution for a project under the university research laboratory modernization program established pursuant to subsection (b) shall include—

[(1) the quality of the research and training to be carried out in the facility or facilities involved;

[(2) the congruence of the institution's research activities with the future research needs of the Nation and the research mission of the National Science Foundation;

[(3) the contribution which the project will make toward meeting national, regional, State, and institutional research and related training needs; and

[(4) an analysis of the age and condition of existing research facilities and equipment.

[CONSULTATIONS REQUIRED

[SEC. 204. In prescribing regulations and conducting the program authorized by this title, the Director of the National Science Foundation shall consult with other agencies of the Federal Government concerned with research, including the Department of Education, the Department of Health and Human Services, the National Aeronautics and Space Administration, the Department of Energy, the Department of Agriculture, and the Department of Defense.

[PLANNING ACTIVITIES

[SEC. 205. (a) GENERAL AUTHORITY.—The Director of the National Science Foundation shall conduct comprehensive planning activities necessary to implement the university research laboratory modernization program authorized by this title.

[(b) STUDY ON RESPONSIBILITIES FOR SUPPORT OF RESEARCH FACILITIES.—(1) The Director of the Foundation, after consultation with other appropriate Federal agencies, institutions of higher education, State and local governments and appropriate nonprofit organizations shall conduct a comprehensive study to define the appropriate roles and responsibilities of the Federal Government, institutions of higher education, State and local governments and appropriate nonprofit organizations.

[(2) The Director of the Foundation shall prepare and submit a report of the study required by paragraph (1) of this subsection to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation of the Senate not later than March 1, 1988.

[(c) AVAILABILITY OF FUNDS.—The Director from amounts available to the Foundation in any category described in section 101(b)(1) for fiscal year 1988, may make available an amount, but not to exceed $1,000,000, to carry out the provisions of this section.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 206. (a) IN GENERAL.—There are authorized to be appropriated to the National Science Foundation $47,000,000 for fiscal year 1989, $95,000,000 for fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991 and 1992, for carrying out the new university research laboratory modernization program established by the Foundation pursuant to section 203(b) of this title.

[(b) EQUALIZATION SET-ASIDE FOR CERTAIN TYPES OF INSTITUTIONS.—(1) At least 15 percent of the amount which is appropriated pursuant to subsection (a) to carry out the Foundation's university research laboratory modernization program in any fiscal year shall be available only for awards to institutions of higher education that received less than $10,000,000 in total Federal obligations for research and development (including obligations for the university research laboratory modernization program) in each of the two preceding fiscal years.

[(2) Of the amounts appropriated under subsection (b)(1) of this section in each fiscal year, at least 10 percent of the funds shall be reserved for institutions of higher education serving a substantial number of minority and disadvantaged undergraduate and graduate students.]

TITLE II—ACADEMIC RESEARCH FACILITIES MODERNIZATION

SHORT TITLE

SEC. 201. This title may be cited as the "Academic Research Facilities Modernization Act of 1988".

FINDINGS AND PURPOSE

SEC. 202. (a) FINDINGS.—The Congress finds that—

(1) the fundamental research and related education programs supported by the Federal Government and conducted by the Nation's universities and colleges are essential to our national security, and to our health, economic welfare, and general well-being;

(2) many national research and related education programs conducted by universities and colleges are now hindered by obsolete research buildings and equipment, and many institutions lack sufficient resources to repair, renovate, or replace their laboratories;

(3) the Nation's capacity to conduct high quality research and education programs and to maintain its competitive position at the forefront of modern science, engineering, and technology is threatened by this research capital deficit, which poses serious and adverse consequences to our future national security, health, welfare, and ability to compete in the international marketplace;

(4) a national effort to spur reinvestment in research facilities is needed, and national, State, and local policies and cooperative programs are required that will yield maximum return on the investment of scarce national resources and sustain a commitment to excellence in research and education; and

(5) the Foundation, as part of its responsibility for maintaining the vitality of the Nation's academic research, and in partnership with the States, industry, and universities and colleges, must assist in enhancing the historic linkages between Federal investment in academic research and training and investment in the research capital base by reinvesting in the capital facilities which modern research and education programs require.

(b) PURPOSE.—It is the purpose of this title to assist in revitalizing the Nation's academic research programs through capital investments in university and college science and engineering facilities primarily devoted to research.

ACADEMIC RESEARCH FACILITIES MODERNIZATION PROGRAM

SEC. 203. (a) ESTABLISHMENT OF PROGRAM.—(1) To carry out this title, the Director of the Foundation (hereinafter referred to as the "Director") shall establish and carry out a new Academic Research Facilities Modernization Program (hereafter in this title referred to as the "Program"), under which awards are made to institutions of higher education for the repair, renovation, or, in exceptional cases, replacement of those institutions' obsolete science and engineering facilities primarily devoted to research.

(2) Such awards shall, consistent with the functions of the Foundation set forth in section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) and through established Foundation selection procedures, serve to—

(A) promote the modernization of graduate academic science and engineering research laboratories and related facilities so as to facilitate and support research in the scientific and engineering disciplines;

(B) assist those academic institutions that historically have received relatively little Federal research and development funds to improve their academic science and engineering infrastructures and broaden and strengthen the Nation's science and engineering base; and

(C) aid predominantly undergraduate institutions in the modernization of facilities devoted primarily to research.

(b) PROJECTS AND FUNDING.—The Program shall be carried out through projects which involve the repair, renovation, or, in exceptional cases, replacement of specific science and engineering facilities devoted primarily to research at eligible universities and colleges, or consortia thereof, and for which funds are awarded in response to specific proposals submitted by such eligible universities and colleges or consortia in accordance with procedures prescribed by the Director pursuant to section 204 of this Act.

(c) CRITERIA FOR AWARDS.—Criteria for the award of funds to any institution for a project under the Program shall include—

(1) the quality of the research and training to be carried out in the facility or facilities involved;

(2) an analysis of the age and condition of existing research facilities and equipment;

(3) the congruence of the institution's research activities with the future research needs of the Nation and the research mission of the Foundation;

(4) the contribution that the project will make toward meeting national, regional, State, and institutional research and related training needs; and

(5) in the case of an institution that historically has received relatively little Federal research and development funding, the contribution the proposed project will make to improving the institution's academic scientific and engineering infrastructure and broadening the Nation's science and engineering base.

PROCEDURES, SURVEYS, AND PLANNING ACTIVITIES

SEC. 204. (a) PROGRAM PROCEDURES.—(1) The Director shall, consistent with the objectives of the Program and the criteria set forth in section 203(c) of this Act, shall set forth procedures for the Program.

(2) The procedures so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of Program objectives, but shall in any event provide that—

(A) funds to carry out the Program will be awarded to any university or college only on the basis of merit after a comprehensive review using established Foundation procedures;

(B) the membership of merit review panels that assess proposals will be broadly representative of eligible institutions, including research universities and predominantly undergraduate and minority institutions;

(C) to the extent practicable, eligible academic institutions of a given type will compete against similar institutions for program awards; and

(D) the funds so awarded to any eligible institution or consortium thereof shall not pay for the entire cost of any such repair, renovation, or replacement project, with the balance of project funds to be provided by the institution or consortium involved or from other non-Federal public or private sources.

(b) PLANNING AUTHORITY.—The Director shall conduct comprehensive planning activities, including surveys of research facility needs and other information-gathering activities, necessary to implement the Program and to develop the procedures called for under subsection (a) of this section.

(c) COMPREHENSIVE PROGRAM PLAN.—The Director, after gathering appropriate information and after consultation with the National Science Board, other appropriate Federal agencies, institutions of higher education, State governments, private foundations, and other appropriate organizations, shall develop a comprehensive plan for the Program that—

(1) defines the appropriate roles and responsibilities of the Federal Government, institutions of higher education, State governments, private foundations, and other appropriate organizations;

(2) states appropriate ranges for facilities assistance by the Foundation for each category of eligible institutions including predominantly undergraduate institutions as well as research universities; and

(3) evaluates and addresses, to the maximum extent possible, a variety of factors which include—

(A) the conditions under which various amounts of cost sharing should be required (including conditions under which cost sharing might not be required) as well as limitations on award size and frequency;

(B) the unique circumstances and research facilities needs of research universities, undergraduate institutions, and other institutions whose enrollment includes substantial percentages of minorities underrepresented in science and engineering research;

(C) innovative approaches in the management of the Program that address both short-term and long-term aspects of the renovation, repair, and replacement of academic research facilities;

(D) programmatic approaches that recognize and support excellence, strengthen scientific and engineering research potential and, to the maximum extent possible and consistent with the purposes of this Act, assure an equitable distribution of resources with respect to institutions and geographical areas; and

(E) any recommendations necessary to improve the Program and further meet the purposes of this title.

(d) REPORT.—The Director shall prepare and submit, not later than March 31, 1989, a report containing the comprehensive plan required by subsection (c) of this section to the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(e) AVAILABILITY OF FUNDS.—The Director may, from amounts available to the Foundation in any category described in section 101(b) of this Act for fiscal year 1989, make available an amount, not to exceed $1,000,000, to carry out the provisions of this section.

SET-ASIDE FOR CERTAIN INSTITUTIONS

SEC. 205. Of the amounts appropriated to the Foundation for the Program, as authorized under section 101 of this Act, in each fiscal year, at least 10 percent shall be reserved for institutions of higher education whose enrollment includes substantial percentages of minorities underrepresented in science and engineering.

TITLE III—UNDERGRADUATE SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM

SHORT TITLE

SEC. 301. This title may be cited as the "Undergraduate Science and Engineering Improvement Act of 1988".

PURPOSE

SEC. 302. It is the purpose of this title to assist in revitalizing the Nation's academic programs in the sciences and engineering at the undergraduate level at institutions of higher education through investments in such activities as instrumentation and laboratory improvement; undergraduate faculty enhancement; undergraduate curriculum development; and special efforts designed to increase the presence of minorities, women, and the disabled in science and engineering.

UNDERGRADUATE SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM

SEC. 303. (a) IMPLEMENTATION OF PROGRAM.—To carry out this title, the Foundation shall implement a comprehensive Undergraduate Science and Engineering Improvement Program (hereafter in this title referred to as the "Program") under which awards shall be made to institutions of higher education for projects designed to improve the state of undergraduate science and engineering education.

(b) AWARD PROCEDURES.—Funds will be awarded in accordance with procedures prescribed by the Director with the objective of carrying out the purpose of this title. The procedures so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of that objective, but shall in any event provide that funds to carry out the Program will be awarded only on the basis of merit after a comprehensive review using established Foundation procedures.

TITLE IV—COLLEGE AND UNIVERSITY INNOVATION RESEARCH PROGRAM

SHORT TITLE

SEC. 401. This title may be cited as the "College and University Innovation Research Program Act of 1988".

FINDINGS AND PURPOSE

SEC. 402. (a) FINDINGS.—The Congress finds and declares that—

(1) research by scientists and engineers at United States colleges and universities can contribute significantly to local economic development and to the long-term economic competitiveness of the Nation;

(2) Federal research funds remain limited, especially for academic research which develops prototype inventions and processes with economic potential;

(3) researchers in colleges and universities which traditionally receive relatively little Federal research and development funding, including researchers in predominantly undergraduate institutions, have considerable difficulty in obtaining funding which allows them to pursue innovative research of economic potential;

(4) a research funding program which recovers some of the monies it awards could, over time, approach self-sufficiency, generating further funds for research support;

(5) the Small Business Innovation Research Program, created by the Small Business Innovation Development Act of 1982, provides a proven mechanism for the support of high-quality innovative research; and

(6) a new pilot research program, based on the Small Business Innovation Research Program model but focused on faculty researchers and providing both a mechanism for the recoupment of monies awarded and attention to the needs of qualified researchers at a wide range of colleges and universities, would make a valuable contribution to the Nation.

(b) PURPOSE.—It is the purpose of this title to provide for the establishment of a five-year pilot program at the Foundation, to assist academic researchers at a wide range of colleges and universities to pursue high-quality research of economic potential.

DEFINITIONS

SEC. 403. As used in this title—

(1) the term "eligible faculty member" refers to any person employed more than 25 percent of his or her working time by an institution conducting both research and educational activities and qualifying for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1986 or its successors;

(2) the term "forgivable loan" refers to a loan which need not be repaid, in part or in full, if the research supported in part or in total by the loan does not lead to a commercial product or service which generates profits or other revenues;

(3) the terms "research" and "research and development" have the definitions provided in Office of Management and Budget Circular A-11 or its successors; and

(4) the term "qualifying small business" refers to any company eligible to compete in the Foundation's Small Business Innovation Research Program.

COLLEGE AND UNIVERSITY INNOVATION RESEARCH PROGRAM

SEC. 404. (a) ESTABLISHMENT.—The Director shall establish and operate a pilot activity known as the College and University Innovation Research Program (hereafter in this title referred to as the "Program").

(b) AWARDS.—Under the Program, the Director is authorized to make grants and provide forgivable loans to eligible faculty members for research in science, engineering, and mathematics. Awards shall be available in the three following phases:

(1) Phase I, under which and in response to annual Program solicitations, eligible faculty members may apply for Program funding to conduct studies exploring problems in basic research and examining the feasibility of developing new technology, products, or services on the basis of the knowledge gained through such studies;

(2) Phase II, in which Phase I awardees who have successfully reached their Phase I research objectives, or who have shown the feasibility of developing new technology, products, or services on the basis of research conducted under another research project funded by the Foundation, may apply for additional funding to conduct further research designed to advance the new technology, product, or service to the prototype stage; and

(3) Phase III, which shall be funded by sources other than the Foundation and which shall support research and development to create new domestically-manufactured products, processes, and services.

(c) PROCEDURES.—The Director shall establish such procedures for the Program as the Director deems appropriate, except that the Director shall—

(1) utilize established Foundation procedures which involve the review of proposals on the basis of scientific and technical merit;

(2) in the case of Phase I applications of approximately equal scientific and technical merit, generally give preference to proposals from faculty members serving at colleges and universities that historically have received relatively little Federal research or research and development funding;

(3) in the case of Phase II applications of approximately equal scientific and technical merit, generally give preference to proposals—

(A) which include commitments for follow-on Phase III funding from sources other than the Foundation;

(B) which contain a plan for transferring any information, technology, or products resulting from the project to a qualified small business; and

(C) which come from faculty members serving at colleges and universities that historically have received relatively little Federal research or research and development funding; and

(4) to the extent appropriate, utilize the procedures and application forms used in the Foundation's Small Business Innovation Research Program.

(d) Terms and Conditions.—The Director shall set forth such terms and conditions regarding awards under the Program, including the mix of grants and forgivable loans to be made to awardees and the terms of any forgivable loans, as the Director deems appropriate, except that—

(1) no Phase I award (including the loan component thereof) shall exceed $150,000 nor extend beyond three years; and

(2) no Phase II award (including the loan component thereof) shall exceed $500,000 nor extend beyond two years.

(e) Consultations.—Before specifying procedures and terms and conditions under the Program, the Director shall, as appropriate, consult with the National Science Board, the Secretary of Commerce, other Federal agencies, institutions of higher education, business leaders, private foundations, and other organizations.

(f) Sunset Provision.—Authority to operate the program shall expire five years after the date of enactment of this Act, unless such authority is extended by future Acts.

REVOLVING FUND

Sec. 405. (a) Establishment.—The Director is authorized to establish and operate, within the Foundation, a College and University Innovation Research Program Revolving Fund. Any monies paid back to the Foundation under the terms of Program forgivable loans, and under such other arrangements for funding recoupment for the Program as may be specified by the Director, shall be deposited into the Revolving Fund, and shall be used to help support additional awards under the Program.

(b) Disposition of Funds.—Five years after the date of enactment of this Act, unless the Program is extended by future statute, any remaining monies in the Revolving Fund shall be transferred to the Treasury.

REPORTS

Sec. 406. (a) Initial Report.—Within one year after the date of enactment of this Act, the Director shall submit to the Congress a detailed report describing the procedures and terms and conditions specified for the Program. Such report shall include an analysis of how forgivable loans and alternative mechanisms might be used to recoup funds for both the Program and other Federal research activities.

(b) Second Report.—Three years after the date of enactment of this Act, the Director shall submit a second report which—

(1) evaluates Program success and assesses the utility of extending the Program to other Federal agencies;

(2) assesses the quality of research supported by the Program, the scientific and technical merit of such research, the effects of such research on the broadening of the Nation's research capabilities and base, and its effects on local economic development and national economic competitiveness; and

(3) recommends improvements, modifications, and other changes which should be made in the Program.

TITLE V—EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH

EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH

Sec. 501. (a) Establishment.—The Director is authorized and directed to continue to operate the Experimental Program to Stimulate Competitive Research (hereafter in this title referred to as the "Program"), the purpose of which is to assist those States that—

(1) historically have received relatively little Federal research and development funding; and

(2) have demonstrated a commitment to improve science and engineering research programs at their universities and colleges.

(b) Terms and Conditions.—In carrying out this title, the Director shall require such terms and conditions for making awards under the Program as the Director deems appropriate, except that a State shall commit matching funds and formulate a plan for building the research capabilities of the State before the Director may make an award under the Program.

(c) Second Awards.—Each State which has received an initial award under the Program, whether or not the award was received before or after the date of enactment of this Act, shall be eligible for an additional five years of support, on the condition that such State provides assurances of new matching funds and submits an acceptable new plan for using Program funds and matching funds to build the research capabilities of the State.

ADDITIONAL ACTIVITIES

Sec. 502. The Director may, as appropriate, take other actions to assist States participating in the Program to improve their research base and become more competitive, including—

(1) the sponsorship of workshops and other activities to assist faculty in the writing of research proposals; and

(2) the arrangement of training, at the Foundation, for individuals who can return to their States and advise faculty on opportunities and procedures relating to Foundation programs.

The **PRESIDING OFFICER**. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

AMENDMENT NO. 2406

(Purpose: To make an amendment in the nature of a substitute)

Mr. **BYRD**. Mr. President, on behalf of Mr. Kennedy, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd] for Mr. Kennedy (for himself, Mr. Hollings, Mr. Hatch, and Mr. Danforth) proposes an amendment numbered 2406.

Mr. **BYRD**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

Strike everything after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

Section 1. This Act may be cited as the "National Science Foundation Authorization Act of 1988".

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

AUTHORIZATION OF APPROPRIATIONS

Sec. 101. (a) Finding.—Congress finds that to strengthen national economic productivity and competitiveness the programs of the National Science Foundation (hereinafter referred to as the "Foundation") should be adequately funded.

(b) Authorizations for Fiscal Year 1989.—There is authorized to be appropriated to the Foundation $2,050,000,000 for fiscal year 1989. Such funds shall be available for the following program categories:

(1) Research and Related Activities, $1,658,000,000, which shall be available for the following subcategories:

(A) Mathematical and Physical Sciences, $507,761,000, of which $123,870,000 shall be available for Materials Research, with special attention to research on high-temperature superconductivity.

(B) Engineering, $197,964,000, of which $4,400,000 shall be available for Ocean Engineering Systems.

(C) Biological, Behavorial, and Social Sciences, $288,737,000.

(D) Geosciences, $320,876,000.

(E) Computer and Information Science and Engineering, $149,126,000.

(F) Scientific, Technological, and International Affairs, $58,986,000, of which $23,043,000 shall be available for Research Initiation.

(G) Distributed Programs, $9,000,000 (in addition to amounts authorized in paragraphs (A) through (F) of this subsection), of which $4,000,000 shall be available for support of the Experimental Program to Stimulate Competitive Research and $5,000,000 shall be available for a College and University Innovation Research Program.

(H) Science and Technology Research Centers, $30,000,000.

(I) Program Development and Management, $95,550,000.

(2) Academic Research Facilities Modernization, $80,000,000.

(3) United States Antarctic Program, $141,000,000.

(4) Science and Engineering Education, $171,000,000, of which $108,500,000 shall be available for precollege programs and $26,500,000 for College Science Instrumentation.

(c) Further Authorizations.—There is authorized to be appropriated to the Foundation—

(1) For the fiscal year 1990, $2,158,000,000.

(2) For the fiscal year 1991, $2,474,000,000.

(3) For the fiscal year 1992, $2,831,000,000.

(4) For the fiscal year 1993, $3,245,000,000.

(d) Special Rules.—(1) If the total amount appropriated for a program category specified in subsection (b) of this section is less than the total amount authorized to be appropriated for such category under this section, the portion of such appropriated amount that shall be available for spending for each subcategory of such category, and for each program of such category or subcategory for which a funding floor is specified, shall be determined as follows:

(A) For each subcategory, the amount available for spending shall be equal to the amount specified in subsection (b) for that subcategory, as multiplied by the funding availability percentage.

(B) For each program of any category or subcategory for which a funding floor is specified, the amount available for spending shall be equal to the amount specified in subsection (b) as the floor for that program, as multiplied by the funding availability percentage.

(2) Notwithstanding any other provision in this Act, of the amounts authorized for fiscal years 1990 through 1993 under subsec-

tion (c) of this section, the amounts available for Science and Engineering Education for each such year shall be increased by a percentage that is at least equal to the percentage by which the aggregate amount available for the program categories set forth in subsection (b)(1) through (3) of this section for such year exceeds such amount for the previous fiscal year.

(3) For the purposes of this subsection, the term "funding availability percentage" means the percentage determined by dividing—

(A) the total amount appropriated for a program category specified in subsection (b) of this section by

(B) the total amount authorized under subsection (b) for that category.

AVAILABILITY OF APPROPRIATIONS

SEC. 102. Appropriations made under authority provided in section 101 of this Act shall remain available for obligation for periods specified in the Acts making the appropriations.

CONSULTATION AND REPRESENTATION EXPENSES

SEC. 103. From appropriations made under authorizations provided in this Act, not more than $7,500 may be used in each fiscal year for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the Foundation (hereinafter referred to as the "Director"). The determination of the Director will be final and conclusive upon the accounting officers of the Government.

TRANSFER OF FUNDS

SEC. 104. (a) GENERAL RULE.—Funds may be transferred among the program categories listed in section 101(b) of this Act, and among subcategories listed in section 101(b)(1), so long as the net funds transferred to or from any category, or to or from any subcategory, do not exceed 10 percent of the amount authorized for that category or subcategory in section 101.

(b) SPECIAL RULE.—In addition, the Director may propose transfers to or from any category in which the net funds transferred exceed 10 percent of the amount authorized for that category in section 101(b) of this Act, and to or from any subcategory in which the net funds transferred exceed 10 percent of the amount authorized for that subcategory in section 101(b)(1). An explanation of any such proposed transfer must be transmitted in writing to the Committee on Science, Space, and Technology of the House of Representatives, and the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate. The proposed transfer may be made only when 30 calendar days have passed after transmission of such written explanation.

ADMINISTRATIVE AMENDMENTS

SEC. 105. (a) BOARD MEETINGS.—Section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) is amended by adding at the end thereof the following:

"(k) Portions of Board meetings in which the Board considers proposed Fondation budgets for a particular fiscal year may be closed to the public until the President's budget for that fiscal year has been submitted to the Congress.".

(b) EXECUTIVE COMMITTEE.—Section 7 of the National Science Foundation Act of 1950 (42 U.S.C. 1865) is amended to read as follows:

"EXECUTIVE COMMITTEE

"SEC. 7. The Executive Committee of the Board shall be composed of the Director ex officio, who shall chair the Committee, and at least four other Board members elected by the Board. The Executive Committee shall exercise such powers and functions as may be delegated to it by the Board.".

(c) REPEAL.—Subsection (c) of section 15 of the National Science Foundation Act of 1950 (42 U.S.C. 1874) is repealed.

(d) COMMITTEE ON EQUAL OPPORTUNITIES IN SCIENCE AND ENGINEERING.—(1) Section 36(b) of the Science and Technology Equal Opportunities Act (42 U.S.C. 1885c(b)) is amended to read as follows:

"(b) Each member of the Committee shall be appointed by the Director of the National Science Foundation. Members shall be appointed to serve for a three-year term, and may be reappointed for an additional term of three years.".

(e) REPORT.—Section 36(f) of the Science and Technology Equal Opportunities Act (42 U.S.C. 1885c(f)) is amended to read as follows:

"(f) Every two years, the Committee shall prepare and transmit to the Director a report on its activities during the previous two years and proposed activities for the next two years. The Director shall transmit to Congress the report, unaltered, together with such comments as the Director deems appropriate.".

TEMPORARY PERSONNEL

SEC. 106. Section 14(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1873(a)) is amended by inserting "(1)" immediately after "(a)", and by adding at the end the following new paragraphs:

"(2) The Director may, under the authority provided by paragraph (1) of this subsection and in accordance with such policies as the Board chooses to prescribe, appoint for a limited term, or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from academic, industrial, or research institutions to work for the Foundation.

"(3) The Foundation may, to the extent authorized for certain other Federal employees by section 5723 of title 5, United States Code, pay—

"(A) travel expenses of any individual appointed under this subsection for a limited term or on a temporary basis; and

"(B) transportation expenses of his or her immediate family and his or her household goods and personal effects;

from that individual's place of residence at the time of selection or assignment to his or her duty station. The Foundation may pay such travel expenses and transportation expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Foundation may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5, United States Code, to such an individual, in lieu of and when less than transportation expenses of the immediate family and household goods and personal effects, for the period of is or her employment with the Foundation. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Foundation.".

STIMULATING COMPETITIVE RESEARCH

SEC. 107. Section 3(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)) is further amended—

(1) by redesignating paragraphs (5) through (7) as paragraphs (6) through (8), respectively; and

(2) by inserting immediately after paragraph (4) the following new paragraph:

"(5) to foster and support efforts by those academic institutions and States that historically have received relatively little Federal research and development funding to improve the quality and competitiveness of their academic research programs and research infrastructures;".

STUDY OF EARTHQUAKE ENGINEERING RESEARCH

SEC. 1080. (a) REQUIREMENT FOR STUDY.—The National Academy of Sciences shall conduct a study of the current earthquake engineering research efforts of the United States. Such study shall include a comprehensive assessment of the current earthquake research efforts of the Foundation, including an analysis of the appropriate balance between individual investigator awards, groups, and centers.

(b) REPORT TO CONGRESS.—The results of the study required by subsection (a) of this section shall be reported to the Congress on or before the expiration of the 12-month period following the date of enactment of this Act. Such report shall include recommendations, if any, of the National Academy of Sciences for improvements in the current efforts of the Foundation in the area of earthquake research.

(c) COOPERATION WITH OTHER ENTITIES.—In carrying out such study, the National Academy of Sciences is authorized to call upon any agency, department, or other instrumentality or entity of the United States for cooperation, and such agency, department, instrumentality, or entity shall provide such cooperation.

CENTER FOR EARTHQUAKE ENGINEERING RESEARCH

SEC. 109. (a) INDEPENDENT REVIEW PANEL.—In carrying out its review of the three-year period of operation of the National Center for Earthquake Engineering Research, the Foundation shall take such action as may be necessary to ensure that—

(1) such review is conducted by an independent review panel;

(2) the review panel does not include any individual who receives significant amounts of research funding from the National Center for Earthquake Engineering Research or any individual who serves on any administrative committee, board, or panel of the Center; and

(3) the review panel includes nationally recognized experts in research fields in which the Center is engaged.

(b) DETERMINATION REGARDING CENTER.—Among other things, the panel shall include, as a part of such review, a determination as to the extent to which the Center is meeting all contractual goals and obligations, including matching fund requirements.

TITLE II—ACADEMIC RESEARCH FACILITIES MODERNIZATION

SHORT TITLE

SEC. 201. This title may be cited as the "Academic Reserach Facilities Modernization Act of 1988".

FINDINGS AND PURPOSE

SEC. 202. (a) FINDINGS.—The Congress finds that—

(1) the fundamental research and related education programs supported by the Federal Government and conducted by the Nation's universities and colleges are essential to our national security, and to our health, economic welfare, and general well-being;

(2) many national research and related education programs conducted by universities and colleges are now hindered by obsolete research buildings and equipment, and many institutions lack sufficient resources to repair, renovate, or replace their laboratories;

(3) the Nation's capacity to conduct high quality research and education programs and to maintain its competitive position at the forefront of modern science, engineering, and technology is threatened by this research capital deficit, which poses serious and adverse consequences to our future national security, health, welfare, and ability to compete in the international marketplace;

(4) a national effort to spur reinvestment in research facilities is needed, and national, State, and local policies and cooperative programs are required that will yield maximum return on the investment of scarce national resources and sustain a commitment to excellence in research and education; and

(5) the Foundation, as part of its responsbility for maintaining the vitality of the Nation's academic research, and in partnership with the States, industry, and universities and colleges, must assist in enhancing the historic linkages between Federal investment in academic research and training and investment in the research capital base by reinvesting in the capital facilities which modern research and education programs requires.

(b) PURPOSE.—It is the purpose of this title to assist in revitalizing the Nation's academic research programs through capital investments in university and college science and engineering facilities primarily devoted to research.

ACADEMIC RESEARCH FACILITIES MODERNIZATION PROGRAM

SEC. 203. (a) ESTABLISHMENT OF PROGRAM.—(1) To carry out this title, the Director shall establish and carry out a new Academic Research Facilities Modernization Program (hereafter in this title referred to as the "Program"), under which awards are made to institutions of higher education for the repair, renovation, or, in exceptional cases, replacement of those institutions' obsolete science and engineering facilities primarily devoted to research.

(2) Such awards shall, consistent with the functions of the Foundation set forth in section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) and through established Foundation selection procedures, serve to—

(A) promote the modernization of graduate academic science and engineering research laboratories and related facilities so as to facilitate and support research in the scientific and engineering disciplines;

(B) assist those academic institutions that historically have received relatively little Federal research and development funds to improve their academic science and engineering infrastructures and broaden and strengthen the Nation's science and engineering base; and

(C) promote the modernization of undergraduate academic science and engineering research laboratories and related facilities so as to facilitate and support research in the scientific and engineering disciplines.

(b) PROJECTS AND FUNDING.—The Program shall be carried out through projects which involve the repair, renovation, or, in exceptional cases, replacement of specific science and engineering facilities devoted primarily to research to eligible universities and colleges, or consortia thereof, and for which funds are awarded in response to specific proposals submitted by such eligible universities and colleges or consortia in accordance with procedures prescribed by the Director pursuant to section 204 of this Act.

(c) CRITERIA FOR AWARDS.—Criteria for the award of funds to any institution for a project under the Program shall include—

(1) the quality of the research and training to be carried out in the facility of facilities involved;

(2) an analysis of the age and condition of existing research facilities and equipment;

(3) the congruence of the institution's research activities with the future research needs of the Nation and the research mission of the Foundation;

(4) the contribution that the project will make toward meeting national, regional, State, and institutional research and related training needs; and

(5) in the case of an institution that historically has received relatively little Federal research and development funding, the contribution the proposed project will make to improving the institution's academic scientific and engineering infrastructure and broadening the Nation's science and engineering base.

PROCEDURES, SURVEYS, AND PLANNING ACTIVITIES

SEC. 204. (4) PROGRAM PROCEDURES.—(1) The Director shall, consistent with the objectives of the Program and the criteria set forth in section 203(c) of this Act, shall set forth procedures for the Program.

(2) The procedures so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of Program objectives, but shall in any event provide that—

(A) funds to carry out the Program will be awarded to any university or college only on the basis of merit after a comprehensive review using established Foundation procedures;

(B) the membership of merit review panels that assess proprosals will be broadly representative of eligible institutions, including research universities and predominantly undergraduate and minority institutions;

(C) to the extent practicable, eligible academic institutions of a given type will compete against similar institutions for program awards; and

(D) the funds so awarded to any eligible institution or consortium thereof shall not pay for the entire cost of any such repair, renovation, or replacement project, with the balance of project funds to be provided by the institution or consortium involved or from other non-Federal public or private sources.

(b) PLANNING AUTHORITY.—The Director shall conduct comprehensive planning activities, including surveys of research facility needs and other information-gathering activities, necessary to implement the Program and to develop the procedures called for under subsection (a) of this section.

(c) COMPREHENSIVE PROGRAM PLAN.—The Director, after gathering appropriate information and after consultation with the National Science Board, other appropriate Federal agencies, institutions of higher education, State governments, private foundations, and other appropriate organizations, shall develop a comprehensive plan for the Program that—

(1) defines the appropriate roles and responsibilities of the Federal Government, institutions of higher education, State governments, private foundations, and other appropriate organizations;

(2) states appropriate ranges for facilities assistance by the Foundation for each category of eligible institutions including predominantly undergraduate institutions as well as research universities; and

(3) evaluates and addresses, to the maximum extent possible, a variety of factors which include—

(A) the conditions under which various amounts of cost sharing should be required (including conditions under which cost sharing might not be required) as well as limitations on award size and frequency;

(B) the unique circumstances and research facilities needs of research universities, undergraduate institutions, and other institutions whose enrollment includes substantial percentages of minorities underrepresented in science and engineering research;

(C) innovative approaches in the management of the Program that address both short-term and long-term aspects of the renovation, repair, and replacement of academic research facilities;

(D) programmatic approaches that recognize and support excellence, strengthen scientific and engineering research potential and, to the maximum extent possible and consistent with the purposes of this Act, assure an equitable distribution of resources with respect to institutions and geographic areas; and

(E) any recommendations necessary to improve the Program and further meet the purposes of this title.

(d) REPORT.—The Director shall prepare and submit, not later than March 31, 1989, a report containing the comprehensive plan required by subsection (c) of this section to the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(e) AVAILABILITY OF FUNDS.—The Director may, from amounts available to the Foundation under section 101(b) of this Act for fiscal year 1989, make available an amount, not to exceed $1,000,000, to carry out the provisions of this section.

SET-ASIDE FOR CERTAIN INSTITUTIONS

SEC. 205. Of the amounts appropriated to the Foundation for the Program, as authorized under section 101 of this Act, in each fiscal year, at least 10 percent shall be reserved for—

(1) any historically Black college or university defined as a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)); and

(2) other institutions of higher education whose enrollments in science and engineering consist predominantly of students who are Hispanic or Native American.

TITLE III—UNDERGRADUATE SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM

SHORT TITLE

SEC. 301. This title may be cited as the "Undergraduate Science and Engineering Improvement Act of 1988".

PURPOSE

SEC. 302. It is the purpose of this title to assist in revitalizing the Nation's academic programs in the sciences and engineering at the undergraduate level at institutions of higher education through investments in such activities as instrumentation and laboratory improvement; undergraduate faculty enhancement; undergraduate curriculum development; and special efforts designed to increase the presence of minorities, women, and the disabled in science and engineering.

UNDERGRADUATE SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM

SEC. 303. (a) IMPLEMENTATION OF PROGRAM.—(1) To carry out this title, the Foundation shall implement a comprehensive Undergraduate Science and Engineering Improvement Program (hereafter in this title referred to as the "Program") under which awards shall be made to institutions of higher education for projects designed to improve the state of undergraduate science and engineering education.

(2) The Program shall include, among other activities, a College Science Instrumentation activity to assist two-year and community colleges and four-year, non-Ph.D. degree-granting institutions, or consortia thereof, with the purchase and replacement (as appropriate) of instructional instrumentation.

(b) AWARD PROCEDURES.—Funds will be awarded in accordance with procedures prescribed by the Director with the objective of carrying out the purpose of ths title. The procedures so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of that objective, but shall in any event provide that funds to carry out the Program will be awarded only on the basis of merit after a comprehensive review using established Foundation procedures.

TITLE IV—COLLEGE AND UNIVERSITY INNOVATION RESEARCH PROGRAM

SHORT TITLE

SEC. 401. This title may be cited as the "College and University Innovation Research Program Act of 1988".

FINDINGS AND PURPOSE

SEC. 402. (a) FINDINGS.—The Congress finds and declares that—

(1) research by scientists and engineers at United States colleges and universities can contribute significantly to local economic development and to the long-term economic competitiveness of the Nation;

(2) Federal research funds remain limited, especially for academic research which develops prototype inventions and processes with economic potential;

(3) researchers in colleges and universities which traditionally receive relatively little Federal research and development funding, including researchers in predominantly undergraduate institutions, have considerable difficulty in obtaining funding which allows them to pursue innovative research of economic potential;

(4) a research funding program which recovers some of the monies it awards could, over time, approach self-sufficiency, generating further funds for research support;

(5) the Small Business Innovation Research Program, created by the Small Business Innovation Development Act of 1982, provides a proven mechanism for the support of high-quality innovative research; and

(6) a new pilot research program, based on the Small Business Innovation Research Program model but focused on faculty researchers and providing both a mechanism for the recoupment of monies awarded and attention to the needs of qualified researchers at a wide range of colleges and universities, would make a valuable contribution to the Nation.

(b) PURPOSE.—It is the purpose of this title to provide for the establishment of a five-year pilot program at the Foundation, to assist academic researchers at a wide range of colleges and universities to pursue high-quality research of economic potential.

DEFINITIONS

SEC. 403. As used in this title—

(1) the term "eligible faculty member" refers to any person employed more than 25 percent of his or her working time by an institution conducting both research and educational activities and qualifying for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1986 or its successors;

(2) the term "forgivable loan" refers to a loan which need not be repaid, in part or in full, if the research supported in part or in total by the loan does not lead to a commercial product or service which generates profits or other revenues;

(3) the terms "research" and "research and development" have the definitions provided in Office of Management and Budget Circular A-11 or its successors; and

(4) the term "qualifying small business" refers to any company eligible to compete in the Foundation's Small Business Innovation Research Program.

COLLEGE AND UNIVERSITY INNOVATION RESEARCH PROGRAM

SEC. 404. (a) ESTABLISHMENT.—The Director shall establish and operate a pilot activity known as the College and University Innovation Research Program (hereafter in this title referred to as the "Program").

(b) AWARDS.—Under the Program, the Director is authorized to make grants and provide forgivable loans to eligible faculty members for research in science, engineering, and mathematics. Awards shall be available in the three following phases:

(1) Phase I, under which and in response to annual Program solicitations, eligible faculty members may apply for Program funding to conduct studies exploring problems in basic research and examining the feasibility of developing new technology, products, or services on the basis of the knowledge gained through such studies;

(2) Phase II, in which Phase I awardees who have successfully reached their Phase I research objectives, or who have shown the feasibility of developing new technology, products, or services on the basis of research conducted under another research project funded by the Foundation, may apply for additional funding to conduct further research designed to advance the new technology, product, or service to the prototype stage; and

(3) Phase III, which shall be funded by sources other than the Foundation and which shall support research and development to create new domestically-manufactured products, processes, and services.

(c) PROCEDURES.—The Director shall establish such procedures for the Program as the Director deems appropriate, except that the Director shall—

(1) utilize established Foundation procedures which involve the review of proposals on the basis of scientific and technical merit;

(2) in the case of Phase I applications of approximately equal scientific and technical merit, generally give preference to proposals from faculty members serving at colleges and universities that historically have received relatively little Federal research or research and development funding;

(3) in the case of Phase II applications of approximately equal scientific and technical merit, generally give preference to proposals—

(A) which include commitments for follow-on Phase III funding from sources other than the Foundation;

(B) which contain a plan for transferring any information, technology, or products resulting from the project to a qualified small business; and

(C) which come from faculty members serving at colleges and universities that historically have received relatively little Federal research or research and development funding; and

(4) to the extent appropriate, utilize the procedures and application forms used in the Foundation's Small Business Innovation Research Program.

(d) TERMS AND CONDITIONS.—The Director shall set forth such terms and conditions regarding awards under the Program, including the mix of grants and forgivable loans to be made to awardees and the terms of any forgivable loans, as the Director deems appropriate, except that—

(1) no Phase I award (including the loan component thereof) shall exceed $150,000 nor extend beyond three years; and

(2) no Phase II award (including the loan component thereof shall exceed $500,000 nor extend beyond two years.

(e) CONSULTATIONS.—Before specifying procedures and terms and conditions under the Program, the Director shall, as appropriate, consult with the National Science Board, the Secretary of Commerce, other Federal agencies, institutions of higher education, business leaders, private foundations, and other organizations.

(f) SUNSET PROVISION.—Authority to operate the program shall expire five years after the date of enactment of this Act, unless such authority is extended by future Acts.

REVOLVING FUND

SEC. 405. (a) ESTABLISHMENT.—The Director is authorized to establish and operate, within the Foundation, a College and University Innovation Research Program Revolving Fund. Any monies paid back to the Foundation under the terms of Program forgivable loans, and under such other arrangements for funding recoupment for the Program as may be specified by the Director, shall be deposited into the Revolving Fund, and shall be used to help support additional awards under the Program. The authority provided in this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) DISPOSITION OF FUNDS.—Five years after the date of enactment of this Act, unless the Program is extended by future statute, any remaining monies in the Revolving Fund shall be transferred to the Treasury.

REPORTS

SEC. 406. (a) INITIAL REPORT.—Within one year after the date of enactment of this Act, the Director shall submit to the Congress a detailed report describing the procedures and terms and conditions specified for the Program. Such report shall include an analysis of how forgivable loans and alternative mechanisms might be used to recoup funds for both the Program and other Federal research activities.

(b) SECOND REPORT.—Three years after the date of enactment of this Act, the Director shall submit a second report which—

(1) evaluates Program success and assesses the utility of extending the Program to other Federal agencies;

(2) assesses the quality of research supported by the Program, the scientific and technical merit of such research, the effects of such research on the broadening of the Nation's research capabilities and base, and its effects on local economic development and national economic competitiveness; and

(3) recommends improvements, modifications, and other changes which should be made in the Program.

TITLE V—EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH

EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH

SEC. 501. (a) ESTABLISHMENT.—The Director is authorized and directed to continue to operate the Experimental Program to Stimulate Competitive Research (hereafter in this title referred to as the "Program"), the purpose of which is to assist those States that—

(1) historically have received relatively little Federal research and development funding; and

(2) have demonstrated a commitment to improve science and engineering research programs at their universities and colleges.

(b) TERMS AND CONDITIONS.—In carrying out this title, the Director shall require such terms and conditions for making awards under the Program as the Director deems appropriate, except that a State shall commit matching funds and formulate a plan for building the research capabilities of the State before the Director may make an award under the Program.

(c) SECOND AWARDS.—Each State which has received an initial award under the Program, whether or not the award was received before or after the date of enactment of this Act, shall be eligible for an additional five years of support, on the condition that such State provides assurances of new matching funds and submits an acceptable new plan for using Program funds and matching funds to build the research capabilities of the State.

ADDITIONAL ACTIVITIES

SEC. 502. The Director may, as appropriate, take other actions to assist States participating in the Program to improve their research base and become more competitive, including—

(1) the sponsorship of workshops and other activities to assist faculty in the writing of research proposals; and

(2) the arrangement of training, at the Foundation, for individuals who can return to their States and advise faculty on opportunities and procedures relating to Foundation programs.

AMENDMENT NO. 2407 TO AMENDMENT NO. 2406

(Purpose: To commission a report on desalination)

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. SIMON and ask for its immediate consideration. This is an amendment to the pending amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. SIMON, proposes an amendment numbered 2407 to amendment 2406.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following:

DESALINATION REPORT

SEC. 110. The Office of Science and Technology Policy shall prepare and submit a report to the Congress not later than November 1, 1988, on desalination research and technology. The report shall—

(1) describe the state of desalination research and technology being conducted by agencies of the Federal Government;

(2) recommend an agency of the Federal Government to be the lead agency on desalination research and technology;

(3) recommend ways to spur research and technology to decrease the cost of desalination; and

(4) recommend how desalination research and technology can be used as a component of the foreign assistance program of the United States.

Mr. SIMON. Mr. President, I have a question for the distinguished Senator from South Carolina. Mr. President, the Senator from South Carolina is aware of my interest in desalination technology and research. In the decade ahead, desalination will be an important component of overall water resources management. Frankly, the ability to avoid confrontation and war in some areas of the world may depend on our ability to find an inexpensive way to convert salt water to fresh water. With limited supplies of fresh water, both in our own country and in others, desalination could play a central role in domestic agricultural policy as well as foreign assistance.

Our own Government has been involved in bits and pieces of research and experimentation on desalination. But, it is spread out among a number of Government agencies, and there appears to be no overall goal of this research. I would like to see the Director of the Office of Science and Technology Policy undertake a study to be returned to the Congress no later than November 1, 1988. The study should examine the current state of desalination technology and propose research areas to reduce the cost of desalination technology.

We obviously should work with other countries on this research, including Israel, Saudi Arabia, and others. The report should suggest methods for disseminating desalination assistance overseas. Finally, it should recommend one agency as the lead or coordinating agency for U.S. desalination research. The end result of our research should be less costly desalination technology, more readily available to domestic and foreign users.

Mr. HOLLINGS. Mr. President, I share the concerns of my esteemed colleague from Illinois about the availability of fresh water. A study, such as the one he proposes, would be a valuable analysis of Government assistance to desalination. Therefore, I join the Senator from Illinois in requesting a report to be completed by November 1, 1988 and examining the issues he mentioned. It is important to me that the Office of Science and Technology Policy understand the importance of this study. I look forward to timely completion of this helpful report.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2407) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended.

The amendment (No. 2406) as amended, was agreed to.

Mr. KENNEDY. Mr. President, I rise to speak on behalf of S. 1632, the National Science Foundation Reauthorization Act of 1987. This bill was reported as an original bill from the Senate Committee on Labor and Human Resources and subsequently referred to the Senate Committee on Commerce, Science, and Transportation. The bill before us today represents a consensus between the two committees. Through the hard work and commitment of Senators HATCH, HOLLINGS, and DANFORTH, and the other members of these two committees, I believe we have crafted a bill which provides a firm foundation for the research and educational activities supported by the National Science Foundation.

The amounts authorized by S. 1632 are within the President's request for fiscal year 1989, and paralleled with the President's goal of doubling the budget of the National Science Foundation over the next 5 years. For fiscal year 1989, a total of $2.050 billion is authorized to be appropriated. I wholeheartedly urge all the Members of the Senate to support S. 1632.

S. 1632 was reported as an original bill from the Senate Committee on Labor and Human Resources on June 3, 1987. Over the next several months, an agreement was worked out to provide for the sequential referral of this and future National Science Foundation [NSF] reauthorizations first to the Senate Committee on Labor and Human Resources and then to the Senate Committee on Commerce, Science, and Transportation. The details of the time period allowed the Senate Committee on Commerce, Science, and Transportation for consideration of the NSF reauthorization, the sequence of consideration of floor amendments, and the appointment of conferees are included in this agreement. The agreement was approved by the Senate on March 3, 1988. The Senate Committee on Commerce, Science, and Transportation reported S. 1632 on April 26, 1988.

The bill before us today would: First, authorize appropriations for NSF for fiscal years 1989 through 1993; second, amend the National Science Foundation Act of 1950 by expanding the function of NSF to foster and support efforts by those academic institutions and States which historically have received little Federal research funding to improve their research and research infrastructure; third, establish a new NSF Academic Research Facilities Modernization Program to help universities and colleges renovate obsolete laboratories and other research facilities; fourth, establish an NSF Undergraduate Science and Engineering Improvement Program to improve equipment and research support at predominantly undergraduate institutions; fifth, establish a new NSF College and University Innovation Research Program to assist researchers to pursue high quality research of economic potential; sixth, extend the existing NSF experimental program to stimulate competitive research to assist those States which have historically received little Federal funding to build their research capabilities; and seventh, direct the National Academy of Sciences to conduct a study of earthquake engineering research efforts. This legislation hopefully provides an appropriate balance between support for large, research-oriented universities, and smaller universities and undergraduate colleges concerning funding for research and educational activities, and the renovation of research facilities.

Both the Labor and Commerce Committees recognize the critical importance of science and technology in strengthening U.S. productivity and economic competitiveness. Increasing funding for basic research should help preserve our lead in science, engineering, and technology, so that our industries can remain competitive internationally, while maintaining our standard of living at home. The science and engineering research and educational programs supported by the National Science Foundation are vital to maintaining our Nation's leadership position in the future. Both committees also recognize that these programs require long-range planning and assurance of direction and support. Therefore, to provide the NSF with clear direction and to enable the Foundation to plan and initiate long-term programs, S. 1632 provides for a 5-year reauthorization.

A total of $2.050 billion is authorized for fiscal year 1989, which is equal to the President's fiscal year 1989 budget request and nearly 20 percent above the fiscal year 1988 appropriation. Significant increases are provided for each of the program areas within NSF, including mathematical and physical sciences; engineering; biological, behavioral and social sciences; geosciences, computer and information science and engineering; scientific, technological, and international affairs; program development and management; the U.S. Antarctic Program; and science and engineering education.

Of the amount available for science and engineering education, $108.5 million shall be available for precollege programs. Unfortunately, we have seen a decline in the interest and academic performance of high school students in science over this decade which threatens our future research effort and development of technology from research. These funds for precollege science and engineering programs should provide greater opportunities for our young people. They should also encourage broader participation by women and minorities in science and engineering. This significant level of support represents an investment in science and engineering research and technology development in the 21st century.

In addition, $26.5 million will be provided for the College Science Instrumentation Program within the amount under science and engineering education. To prepare the scientists of the future, undergraduate students need to have state-of-the-art research supplies and instrumentation.

NSF had anticipated receiving funds to initiate the science and technology research centers program during fiscal year 1988, but due to budget reductions this was not possible. S. 1632 contains authorization for $30 million for science and technology research centers, which should greatly enhance the research productivity at several of our Nation's educational institutions. These centers will provide opportunities for interdisciplinary teams to attack important research issues which relate to international competitiveness. The centers are expected to accelerate scientific progress in many disciplines and, in some cases, may be the only way to bring multidisciplinary talents to bear upon emerging, complex research problems. Utilization of the merit review system should ensure optimal designation of the science and technology research center awards.

S. 1632 also contains three new programs to be supported under the current categorical funding. The Undergraduate Science and Engineering Improvement Program is aimed at improving academic programs through undergraduate faculty enhancement, curriculum development and special efforts to increase the presence of women and minorities in science and engineering. The College and University Innovation Research Program provides for a 5-year pilot program to assist researchers who are engaged in projects with significant economic potential. The Experimental Program to Stimulate Competitive Research is proposed to assist those States that historically have received little Federal research and development funding, and have demonstrated a commitment to improve science and engineering research programs at their universities and colleges.

One of the most important new programs contained within S. 1632 relates to the modernization of research facilities. These laboratory and other related research facilities comprise the infrastructure for our Nation's research and development efforts, and have long been neglected. Many of our finest universities and colleges increasingly face the dilemma of the desire and responsibility for carrying out cutting-edge research in obsolete facilities. A national effort to reinvest in research facilities is obviously needed, with contributions from Federal and State governments, foundations, and the private sector. The Academic Research Facilities Modernization Program will provide $80 million in fiscal year 1989 to revitalize the Nation's research programs through capital investments in university and college science and engineering facilities primarily devoted to research. Awards will be based upon the quality of the research to be conducted in the facility, analysis of the age of existing facilities, congruence of the institution's research activities with the future research needs of the Nation, the contribution that the project will make toward meeting research and training needs, and the contribution the proposed project will make to improving the institution's academic scientific and engineering infrastructure.

Recognizing the great needs of historically black colleges and universities, and predominantly minority educational institutions, in training the large proportion of black and other minority researchers and engineers, the facilities program has a specific 10-percent set-aside for these national resource institutions. Historically black colleges and universities have trained more than half the black U.S. citizens with doctorates in science and engineering. We can significantly improve upon the extremely small number of black Ph.D.'s in science and engineering, less than 2 percent of the total in the United States, through an investment in the institutions that have historically trained the largest proportion. These institutions have in many instances, the greatest needs for research and laboratory facilities, and receive very small amounts in Federal research dollars; in 1986, all the historically black colleges and universities received less than 1 percent of the total amount awarded by NSF. These institutions are national resources truly deserving of Federal investment.

The future of U.S. science, engineering, and technology is dependent upon highly trained scientists and engineers. This future also requires generous support of basic science research. We cannot afford to compromise our long-term competitiveness and growth through shortsighted attention to cost-cutting. S. 1632 represents a good investment in research and development, it represents good policy for our Nation. I urge the support of all my colleagues in the Senate.

Mr. PELL. Mr. President, I would like to add my words of support for the National Science Reauthorization Act. Passage of this bill is critical if we are to continue our world leadership in science.

The importance of science to our Nation grows clearer each day. Each decade the rate at which knowledge increases multiplies dramatically. If our commitment to research does not keep pace with this information explosion, we could lose important ground that would take years to recover.

I am especially pleased with the emphasis this bill places upon science education at both the elementary/secondary and college level. As chairman of the Subcommittee on Education, Arts and Humanities, I am well aware that it is people who are the source of all technological innovation. Unfortunately, there are too few minorities and women represented among our scientific leaders. This bill will go a long way toward rectifying this situation by assuring that all colleges and universities can compete fairly for funds. By guaranteeing that community colleges, traditional undergraduate institutions, and historically black colleges and universities receive an equitable share of NSF funding, we also guarantee that a cross-section of American science students have access to the equipment and facilities necessary to assure a quality education.

I urge my colleagues to give their full support to this measure.

Mr. ROCKEFELLER. Mr. President, I rise today to express my support for the National Science Foundation authorization bill. I have long been a steadfast proponent of the National Science Foundation and its mission. If our Nation's colleges and universities are to remain world leaders in basic research, then we must wholeheartedly support the work of the National Science Foundation, NSF.

I am especially pleased to note that the Senate Commerce Committee voted to adopt my amendment as part of the NSF authorization bill. My amendment continues a special program aimed at assisting States that have historically been at the bottom of the barrel when it comes to competing for Federal research dollars. The program, known as the Experimental Program to Stimulate Competitive Research, EPSCOR, was launched at NSF in 1980. It was based on a legislative proposal by Senator HATCH that was referred to as the "fair shake for all states" bill. The EPSCOR Program provided a one-time infusion of Federal funds to 17 States to implement a research plan to boost themselves in those science areas where they were good, but not yet excellent.

While initially the program was intended to be a one-time shot in the arm for selected States, it has become increasingly evident that the EPSCOR Program should be continued. It is unrealistic to believe that once-only funding of this kind will allow States to fully develop their research potential. We must provide support and incentives to those research programs that are striving for excellence. Continuation of the EPSCOR Program will provide those universities and colleges, located in States that have not traditionally been the major recipients of Federal research funds, a better opportunity to compete.

Additionally, it makes sense to continue the EPSCOR Program because States have recently become far more aware of the importance of science and technology to their economic development. State legislatures now understand that the tremendous economic growth in North Carolina and Massachusetts are the results of outstanding research and development infrastructures—and legislatures are increasingly willing to commit more funding research and development.

The EPSCOR Program has been a big success, using several definitions of what constitutes a successful program. For example, one of the EPSCOR States—South Carolina—has moved from 46th in the Nation to 29th in NSF funding—and at least some of the success can be attributed to participation in the EPSCOR Program. A physicist at the University of Alabama, who was instrumental in the major superconductivity breakthrough last year, was funded through EPSCOR. Oklahoma had demonstrated how EPSCOR seed money can be used to stimulate a statewide commitment to research and development. Oklahoma has leveraged its NSF EPSCOR funding so that the State's original EPSCOR contribution spiralled from an original $4.9 million to a commitment of more than $19 million.

My amendment gives States the opportunity to compete again for a 5-year award. The award will be subject to the rigors of peer review, and requires new State matching funds. For a small amount of Federal funds—about $4 million the first year—we hopefully can bolster more of these States and universities. In addition, my amendment encourages NSF to provide technical help to these States in the form of workshops to help faculty write grant proposals and training at the Foundation about NSF programs.

Mr. President, the programs of the National Science Foundation are critical to our Nation's future growth. I urge all my colleagues to vote in favor of the National Science Foundation authorization bill. I am particularly pleased that this bill provides an extension of the EPSCOR Program to broaden our Nation's research base.

Mr. HOLLINGS. Mr. President, I would like to join the distinguished chairman of the Committee on Labor and Human Resources in urging our colleagues to support the National Science Foundation, NSF, reauthorization bill now before the Senate. The amendment in the nature of a substitute which Senator KENNEDY has introduced today is the product of a year's work by both his committee and the Committee on Commerce, Science, and Transportation. The resulting proposal is sound and will help ensure that the Foundation continues to support the university research and scientific training that our country needs. In a world of stiff economic competition, science, and technology remain our Nation's great competitive strengths, making NSF's programs one of the very best investments we can make in our Nation's future.

I would like to call our colleagues' attention to several noteworthy provisions of this legislation. First, the bill provides a 5-year reauthorization of the Foundation's programs and proposes to double NSF's budget over those 5 years. The 5-year authorization reflects our belief in the importance of NSF's work as well as confidence in the leadership and programs of the Foundation.

Next, the bill contains targeted increases in two areas of great importance to me—the Research Initiation Program for minorities and women and additional scientific equipment for undergraduate programs. The first program helps minority scientists and women participate more fully in research. I consider this issue of the highest national importance. For reasons of both equal opportunity and national economic survival, we must have more scientists and engineers from underrepresented groups. Likewise, we must do everything we can to ensure that our schools provide the finest undergraduate training possible.

In addition, the bill would establish a new program to help modernize academic research facilities, especially research laboratories. The facilities issue is highly complicated. It involves difficult questions regarding competing Federal science priorities, the appropriate balance among difference types of schools, and what kind of process is needed to plan the details of the new facilities program. But our universities and colleges have genuine facilities needs, and therefore the committees propose the creation of a facilities modernization program. It would authorize grants, on a matching basis, to help both universities and colleges renovate their scientific laboratories and related facilities. In the process, we have established a principle that is very important to me—any facilities program must assist a wide range of universities and colleges, including emerging institutions, undergraduate schools, and minority institutions. A program that builds academic strengths should not be limited to just a few institutions. I am particularly pleased that our legislation gives special emphasis to minority institutions and undergraduate schools.

Our NSF legislation also addresses other needs. It contains an amendment sponsored by Senator ROCKEFELLER which would codify and extend NSF's Experimental Program to Stimulate Competitive Research, EPSCOR—a very important NSF effort which helps upgrade research programs in those States which historically have received the least Federal science money. The bill also contains an innovative new pilot program proposed by Senator EXON. His college and University Innovative Research Program would allow professors, especially in smaller schools, to apply for special awards to conduct academic research with potential economic benefits. The Senator's program is modelled on the highly successful Small Business Innovative Research Program.

Mr. President, in closing I want to say how pleased I am about the way in which the Labor and Commerce Committees worked together to fashion this legislation. I particularly want to thank Senators KENNEDY and HATCH, as well as their staffs, for the cooperation and great courtesy that they extended to our committee. Senator DODD and his staff provided leadership on the facilities issue, and I want to compliment them, as well. I think I can speak for Senator DANFORTH as well as myself when I say we look forward to continuing to work with the Labor Committee on NSF authorization matters.

Mr. President, I urge my colleagues to support the amendment in the nature of a substitute which Senator KENNEDY has offered on behalf of both committees.

Mr. DODD. Mr. President, I rise in strong support of S. 1632, the National Science Foundation Reauthorization Act of 1987. The Senate Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation have worked out a comprehensive package of programs that will bolster the foundation of our Nation's science and technology infrastructure. The programs are reauthorized through 1993.

At a time when the United States is confronted with a trade deficit, the AIDS epidemic, a reduction in the number of students entering the science or engineering professions, and an increasingly competitive world marketplace, our commitment to scientific and technological research is even more critical. We cannot afford not to invest in the research efforts of our colleges and universities. We must offer incentives and assistance to States and universities that wish to expand competitive and vital research efforts. For the sake of our Nation's economic strength and national security, we must emphasize the necessity for students to pursue careers in research.

The last time the Federal Government financed the renovation or construction of research facilities was 25 years ago. NSF Director Bloch testified last year that there is a need for $30 to $50 billion for the construction and renovation of academic facilities. If we ignore the deteriorating conditions of the many laboratories and research facilities on university campuses, we will only postpone a problem that will escalate to crisis proportions.

Thus, S. 1632 includes an NSF Academic Research Facilities Modernization Program, which I sponsored, to restore Federal assistance to colleges and universities for the repair and renovation of deteriorating graduate facilities and the construction of new facilities. The provision would provide matching funds to graduate facilities that qualify through a peer review process.

S. 1632 also includes an NSF Undergraduate Science and Engineering Improvement Program which would provide undergraduate institutions assistance to improve equipment and research facilities. I strongly believe that the quality of critical national research programs at our colleges and universities is only as good as the facilities and equipment which are used to conduct that research.

Colleges and universities serve as breeding grounds for future scientists and as the base for some of the most innovative scientific research and development in our Nation. However, just when university-based research programs are most critical to the future competitiveness of our Nation, we are engaging in unilateral scientific and technological disarmament. The beneficiaries of our short-sighted policy are Japan, West Germany, and other nations which have long recognized the tie between state-of-the-art research facilities and scientific and technological innovation. Those who oppose S. 1632 may save money in the short term, but this is money we will have to pay many times over in terms of the tremendous gaps in our research capital base.

To prepare ourselves for an increasingly competitive international marketplace, the Federal Government must stimulate new, innovative research. The NSF Reauthorization Act supports and encourages research initiatives and the efforts of our colleges and universities, large or small, to expand and enhance their science and technology infrastructures. For this reason, I ask my colleagues to support S. 1632.

Mr. BINGAMAN. Mr. President, today science and technology plays an ever larger role in our international economic relations. Advanced technology and the changing terms of international trade are remolding the basic structure of international economic competition. To remain competitive in this new world economy and continue to improve our standard of living, we must rely on our superiority in science and technology. The link between our economic competitiveness and standard of living and our educational and scientific system is clear. America's future economic development must be based on excellence in our educational system and the quality of the science which that educational system has produced.

This excellence does not come easily. The bill before us today, the National Science Foundation Authorization Act of 1988, maintains and strengthens the quality of our scientific and technological research and education institutions. Besides authorizing appropriations for NSF for fiscal year 1989 through 1993, this bill also establishes a number of needed new programs, such as an Undergraduate Science and Engineering Improvement Program, and a College and University Innovation Research Program. The bill also clearly establishes that one of NSF's functions is to support efforts to improve research programs in those academic institutions and States which have in the past received relatively little Federal research funding. I believe this new statement of NSF's purpose is important in reaffirming the role NSF plays in supporting academic quality throughout the entire United States.

I am especially pleased that title II of this bill establishes an Academic Research Facilities Modernization Program within NSF, authorized at $50 million for fiscal year 1989, to help maintain our scientific infrastructure. The program authorizes funds for repair, renovation, and replacement of obsolete science and engineering facilities. To ensure excellence, all proposals would be selected through merit review following the establishment of a comprehensive program plan. Especially important to New Mexico, the legislation provides for a 10-percent set-aside for institutions with substantial percentages of minorities underrepresented in science and engineering. Historically, blacks and Hispanics have been underrepresented in the scientific and engineering work force. It is my hope that this set-aside program will help us rectify this situation by providing the necessary academic research facilities.

In 1986, the Senate Democratic Working Group on Economic Competitiveness, which I chaired, spent almost a year studying this Nation's economic competitiveness problems. One of the conclusions of the Working Group concerned the need for technological excellence to maintain our economic competitiveness, and one of its recommendations was the creation of a facilities fund within NSF to halt the deterioration of our academic research infrastructure. The creation of the facilities modernization program carries through that recommendation. I thank the members of the working group, the Labor and Human Resources Committee and the Commerce, Science, and Transportation Committee for their support and diligent work on this issue.

Mr. President, maintaining a first-rate scientific system is crucial to our economic future. But, we cannot maintain a first-rate scientific system without adequate levels of funding and without first-rate scientists and first-rate university facilities. This bill is an important step in maintaining excellence in our scientific and educational system. I strongly support its passage.

Mr. SIMON. Mr. President, I would like to take a few minutes to discuss a matter regarding the National Science Foundation Authorization Act with my distinguished colleague, the senior Senator from Massachusetts, who chairs the Committee on Labor and Human Resources.

The House on Science, Space, and Technology has just recently filed its report on the NSF Authorization Act for fiscal years 1989 and 1990. Included in this report is a committee view section regarding the five NSF national supercomputer centers. The committee's view regarding these supercomputer centers is a concern over the "adequacy" of the level of resources available for these centers. Because of this concern the House committee in this section of their report has provided for a NSF floor authorization level of $74 million in fiscal year 1989 and $78 million in fiscal year 1990 for major hardware upgrades to the five national supercomputer centers in our country. I share the House committee's concern over the current level of resources available for these centers and I am pleased to read of this concern in their report. I support the House's view on these supercomputer centers and believe this would be a wise investment on the part of the Congress and the NSF. Since, this section will be a conference item between the House and Senate, I would like to request that you give it your full consideration in the conference committee.

Mr. KENNEDY. Mr. President, I am well aware of the House committee's view on the upgrade of the five national supercomputer centers, and I too believe this issue is a good one to explore in the conference committee. I intend to give this issue on the upgrade for these centers my full consideration and I appreciate your bringing it to my attention here today.

Mr. SIMON. Mr. President, I commend the Senator for his outstanding work on this piece of legislation and I thank him for taking this issue under consideration. Mr. President, I also want to take a moment to commend Senator HOLLINGS, my distinguished colleague from South Carolina, the chairman of the Committee on Commerce, Science, and Transportation for his outstanding work on this bill.

Mr. HATCH. Mr. President, I am pleased that the Senate is today acting on the National Science Foundation authorization. Progress in science and engineering research is essential to our Nation's growth, defense, and quality of life, and to that purpose, this measure is one of the more hopeful, forward-looking pieces of legislation we will deal with during this Congress.

It is also consensus legislation which represents the clear commitment of both committees to America's scientific enterprise. Over many years, Senator KENNEDY and I have worked hard at keeping the NSF authorization bipartisan and I am pleased that this bill is not just bipartisan, it is also proposed jointly by two committees of the Senate. I would also like to compliment Senators HOLLINGS and DANFORTH and their staffs for their collegial handling of this legislation.

This bill accomplishes several significant objectives. First, it authorizes a specific growth path for NSF's research and education activities over a 5-year period. This longer period of authorization, recommended by the administration, will provide the Foundation with an enhanced ability to allocate resources among conventional, independent research projects and other new research initiatives. I am very proud of the work going on in Utah universities such as the University of Utah's study of cosmic rays, Brigham Young University's research in advanced combustion engineering, and Utah State University's program for high school science teacher enhancement.

Second, the bill deals with the festering national problem of research facilities. It is generally recognized that the scientific infrastructure of our American colleges and universities is aging and obsolete. It stands to reason that the United States cannot perform state-of-the-art research in facilities constructed before Sputnik. Moreover, we cannot expect science and engineering students to excel without modern, up-to-date facilities.

Third, the bill reflects our continued commitment to improving science and engineering education. America cannot hope to compete in the world sphere if our young people are discouraged from pursuing science and mathematics because of inadequate teaching, decrepit facilities, or equipment Galileo might have used.

It is not hard for us laymen to see how dependent we are on science and technology. Every day we utilize the discoveries of American inventors whose products were made possible by years of basic research in physics, chemistry, mathematics, biology, or other scientific disciplines. We simply cannot afford to let up on our support of basic research or we will be left in the economic dust by nations who do not.

I welcome the Senate's consideration of this important bill and look forward to working with our House colleagues during a conference committee proceeding.

Mr. STAFFORD. Mr. President, I rise in support of S. 1632, the National Science Foundation Reauthorization Act. The National Science Foundation is a unique Federal agency which makes vital research and education funding available to more than 2,000 colleges and universities throughout the United States. Science and engineering research are the building blocks for American competitiveness in the years ahead. America stands at an important crossroads in terms of international competitiveness. We must either increase our support for basic reseach and remain competitive or forefeit our position of preeminence around the globe.

In this reauthorization several new priorities for the National Science Foundation have emerged. Amendments included in S. 1632 would increase NSF's efforts on behalf of colleges and universities whose research and education efforts are hamperd by obsolete facilities. Particular attention is given to undergraduate institutions and to historically black colleges and universities. It is the HBCU's which award the majority of baccalaureate and advanced degrees to minority students in this Nation. Their participation in this new NSF initiative will result in improved science and engineering training opportunities for many minority students.

Title III, authorizing an undergraduate Science and Engineering Improvement Program, underscores the important rule undergraduate institutions play in maintaining our competitive edge in these fields.

Undergraduate students must have the opportunity to use the same advanced technology in their early studies that our graduate students rely upon. This initiative will allow meritorious undergraduate institutions to receive the necessary Federal funds to update vital science and engineering equipment.

A second program of particular interest to this Senator is the experimental program to stimulate competitive research, EPSCOR. Through this initiative NSF has enabled small States which traditionally received few Federal research dollars, to initiate programs to enhance science and engineering projects.

The National Science Foundation is a Federal agency that deserves the unanimous support of this body. I encourage my colleagues to vote for passage of this important legislation.

Mr. DANFORTH. Mr. President, I am pleased to join my colleagues Senators HOLLINGS, KENNEDY, and HATCH, in recommending that the Senate pass the National Science Foundation authorization bill. Enactment of this measure will enable NSF to sponsor university and college research in such exciting fields as advanced materials, biotechnology, computers, physics, and superconductivity; support science and engineering education programs at secondary and elementary schools; and fund science and engineering fellowships.

In addition, the bill would establish a NSF facilities fund to assist graduate and undergraduate universities and colleges in the renovation of research laboratories. Obsolete facilities discourage students from making science a career, deter talented young scientists from pursuing academic careers, and limit university research. Obsolete university facilities, if left uncorrected, will undermine the scientific and economic growth of our country.

Mr. President, it is our hope that the facilities program created by this bill will help to keep the United States at the forefront of science and technology.

Mr. WILSON. I am pleased to support the National Science Foundation [NSF] reauthorization legislation as amended by the Commerce Committee. The Foundation serves an important role in our Nation's effort to remain competitive and prosperous. By nearly doubling the Foundation's spending authority, we will ensure that research of great importance to the State of California and our Nation as a whole will continue. Of keen interest to Californians is funding for NSF's research arm, and more specifically, earthquake engineering research.

Since 1978, NSF's research and related activities budget has steadily increased while earthquake research funding has remained constant, and in some years, has been reduced. At a time when millions of Americans are living under the threat of a natural disaster of staggering proportions, I believe we must ensure that limited Federal resources are spent in the most effective way. Therefore, I was encouraged by the committee's strong support for an amendment I offered during markup of the reauthorization legislation to accomplish this end.

Specifically, my amendment would require the National Academy of Sciences to conduct a review of our Nation's earthquake engineering research programs. it would also ensure that present research efforts undertaken by the National Center for Earthquake Engineering Research are conducted in a manner consistent with established guidelines and procedures. There has been considerable controversy surrounding the current center operator's fulfillment of anticipated research initiatives and their ability to meet matching fund requirements.

A review of the center's activities has already been scheduled by NSF after the third year of operation. My amendment would simply ensure that this review be independent and thorough. The Foundation would be required to include individuals on the review panel who are nationally recognized experts in the research fields in which the center is engaged and who do not receive substantial support from the center. In addition, the review panel would be required to determine whether the center operator has met contractual goals and obligations, including the matching fund requirement.

Given the serious concerns which surfaced during the original Foundation review process for the center grant award, I believe it is important for Congress to ensure that subsequent NSF performance reviews are both fair and objective. The lives of millions of Americans depend upon it.

The PRESIDING OFFICER. The bill is open to further amendment. If there is no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 733, H.R. 4418; that all after the enacting clause be stricken; that the language in S. 1632, as amended, be substituted therefor, and that the bill go to third reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

An act (H.R. 4418), to authorize appropriations for the National Science Foundation for fiscal years 1989 and 1990, and for other purposes.

Mr. BYRD. Mr. President, I ask unanimous consent that the yeas and nays on both these bills, the bill that is now before the Senate and the immediately preceding one, be ordered with one show of seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the immediately preceding bill, S. 1966, occur at 10:55 a.m. today, that paragraph 4 of rule XII, be waived, that that be a 15-minute vote, and that the call for the regular order be automatic. And upon the disposition of that matter, the Senate then vote on the now pending business, that paragraph 4 of rule XII be waived and that that be a 10-minute rollcall vote with no intervening debate or action of any kind.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, if the majority leader will yield, I think, since we will have a little time, it would be satisfactory to permit the distinguished Senator from New Mexico to debate for 6 minutes rather than 3.

Mr. BYRD. Oh, yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I would like to express my enthusiastic support for S. 1966, the Biotechnology Competitiveness Act, which is now before the Senate. This legislation will do much to help America take advantage of the truly stunning breakthroughs we are experiencing in biological science. I am pleased that the Senate is acting on this bill so quickly.

Last December, I joined Senator CHILES, Senator KENNEDY, and several other of my colleagues in introducing S. 1966. The bill we introduced then, and the bill the Senate is considering today, includes modified provisions of a proposal to advance human genome research efforts that I originally offered last summer in S. 1480, the Department of Energy National Laboratories Cooperative Research Initiatives Act.

The bill we have before us today will enhance American research and competitiveness in three key ways.

First, the bill establishes a National Center for Biotechnology Information at the National Library of Medicine, which is a division of the National Institutes of Health [NIH].

This center will boost the capability of NIH to coordinate and support the centers of information that are needed to handle the vastly expanding body of data and materials generated by biotechnology related research.

Currently we have several biotechnology databases in the United States. The most notably are located at the National Library of Medicine, as well as at Los Alamos National Laboratory in New Mexico, which operates the NIH-supported genetic database, known as GenBank.

While these databases are an invaluable resource for much of the world, the knowledge and data being generated threatens to outstrip the resources we now have in place. The legislation we are considering today will help America expand these resources. They will help us strengthen the integration with, and access to, our scientists.

Second, a National Biotechnology Policy Board would be created to help guide Congress and the President on policy issues related to commercial biotechnology and its associated research.

Revolutionary research and technology developments in the life sciences are making the biotechnology industry one of our Nation's most promising economic engines. Yet, this is an industry that faces great challenges in its quest for world leadership.

Economically, private biotech firms must take greater advantage of the many research resources we have in this country. This is an area where America faces very strong and determined competition, and our industry university government laboratory relationship must be strong.

Just a few weeks ago I, and New Mexico Governor Garrey Carruthers, made a trip to Japan and visited with officials overseeing Japan's human genome research efforts. Let me mention to my colleagues that Japan's Ministry of International Trade and Industry [MITI]—their lead industrial policy agency—has identified biotechnology as being one of three critical technologies for future generations.

American biotechnology is currently the world leader, but if we do not want countries like Japan overtaking us in this field the way they have in areas like electronics, it seems very important to me that we start focusing our own national efforts. This can be done best, I believe, by creating this National Biotechnology Board to lend direction, and change attitudes and proposed policies.

In addition to this economic challenge, the nature of this industry raises many public policy questions on its own, many of which are quite difficult.

These issues include questions such as how do we assure environmental safety, and what are appropriate commercial protections for discoveries that are closely related to human life processes?

The industry's success and the degree to which it can help American depends upon how well we, as a society, can address these questions. This Biotech Board would give us a great ability to help address these issues.

Finally, this legislation would create an advisory body to the Biotech Board, a National Advisory Panel on the Human Genome. Research on human genetics is moving ahead rapidly. Important research projects are under way to create maps of the entire human genetic structure, known as the human genome.

Such research tools could, in themselves, transform the orientation of life sciences, as well as revolutionize the biotechnology industry itself.

I am pleased at the way we have structured it this way, with the two agencies of our Federal Government that are best at it, the National Institutes of Health and the Department of Energy—which happens to have a great deal of the technology that will enable us to map this human genome—will cochair this national advisory panel on the genome. They will give us recommendations on how fast we should move, what our goals and objectives ought to be. If we move ahead as we are now with mapping of the human genome, this is, the genetic makeup of the human body, at the current pace it is estimated that we will have done the job in 100 years because we are now focusing our attention at genetics as we think it might apply to a given disease. We have been only mildly successful, finding only an infinitesimal relationship between the hundreds of genetic illnesses and genetics and thus finding cures to genetic-related ailments that affect Americans and all of mankind. We are very hopeful that this kind of policy board can convince Presidents and Congress to move ahead on a much more accelerated path, changing from what I might call a cottage industry approach to genetic understanding and genome mapping to one that would give us a footing on a major American effort at science evolution and, perhaps, say something as bold as "we will do it all within 10 years and be able to hand over to the bioscientists of America the most significant research tool in the history of medical science, bioscience, and pharmaceutical research that mankind has ever had."

Again, the economic prospects of human genome research have not been lost on the Japanese. On June 27 of this year Japan's Industrial Technology Council will make strategic policy recommendations to MITI on how Japan should proceed with their human genome efforts.

If American research on the human genome is to be done as quickly as possible, the many and varied national genome projects need to be coordinated. Additionally, if we are to take advantage of this great resource that is being created, we need to get private sector researchers involved in this alongside Government-supported researchers.

Both panels that would be created in this bill have representation from universities, private industry, and the Federal agencies doing related research. Together with other important representatives, these panels should provide excellent recommendations about where we are heading and what we need to do.

Let me state once again that we, as a nation, must come to grips with the ethical and moral questions being raised by advancements in biomedical research. This bill reauthorizes the Congressional Biomedical Ethics Board [CBEV], which was created 3 years ago to address just the kinds of difficult ethical issues raised by biotechnology. While the CBEB is only now being assembled, I am hopeful that it can move on quickly with its work.

Both panels created in S. 1966 include a member with expertise in biomedical ethics. Provisions were included during committee consideration to make clear that the CBEB will review the reports of these panels. I am confident that these panels will be of enormous help to us in understanding the policy issues that we must confront.

Mr. President, there is no reason we should not do this. With the advent of laser technology and computers, it is indeed within our grasp to map and set in place the relationship of all of the genetic relationships in the human body. And again that is not going to cure anything, but what a fantastic research tool it will be when handed to the marvelous scientists in America and throughout the world who are working on the linkages between genetics and illness, genetics and disease, genetics and aging. All of those kinds of processes will take a giant leap forward in terms of potential cures because there will be a new and major, mammoth tool of understanding, the map of the human genetic system.

So I am very pleased to have been part of this. I am delighted we are doing it quickly. I hope the House will do likewise. I think it is imperative we pull together our resources. This is one where private, university, and national laboratories must coordinate and move ahead in a concerted manner or we will lose out.

Now, it is bad enough that we will lose out to our competitors in the world, but what is really significant about it is that humankind might be losing decades of opportunities to cure some of the true genetic illnesses, some of the real savage ailments that are out there that destroy populations and that destroy thousands and thousands of people's lives. We might unlock the cures 20, 30, 40, or even 100 years sooner if we do it this way than if we wait around and study one gene at a time as we relate it to a current understanding and a current illness.

I thank my friend from Florida for reserving time for me and I hope the Senate passes this bill with a rather large margin so that we can move ahead.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise in support of this measure. I congratulate my distinguished friend from New Mexico on his sound and thoughtful comments about the potential for biotechnology. We have seen major technological revolutions in the world in recent years. The most recent, microprocessors and computer technology, have brought tremendous benefits particularly to some areas of our Nation.

We are now on the threshold of another major technological revolution. We might say that we have moved past the green revolution into the gene revolution. This gene revolution offers the potential for tremendous strides in human health. We have already heard about TPA, which promises to provide some immediate relief for heart attack victims by dissolving blood clots. We know that major chemical companies are working on monoclonal antibodies which may make it possible for the body to kill cancer cells using cancer cells which are sterilized and then put back into the body.

In the field of food and fiber production, we are on the threshold of developing biopesticides and other means of promoting and encouraging the production of crops that will provide for agriculture in areas of normally insufficient rainfall. We will be able to reduce or eliminate the use of many of the petroleum-based pesticides which have caused problems with our groundwater—which may pose some harm to human health and the environment. This is all being made possible by strides already under way in the field of biotechnology.

I believe that the boards and other types of assistance provided by this bill will take us another step or two down a very significant path. I join with my colleague from New Mexico in encouraging this body to give its wholehearted endorsement to this new technology.

There are those who expressed great fear that biotechnology may bring forth mutations in all manner of forms. So far, biotechnology research had been done in a very responsible manner. The scientists who will be brought together on this board will, I think, help us map out a secure future for biotechnology—a future that will benefit our entire Nation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that the two votes that were ordered to begin at 10:55 be delayed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ASSISTANCE TO ORGAN PROCUREMENT ORGANIZATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 603, H.R. 3097.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that there be a time allotment of 2 minutes with no amendments in order other than the ones that the distinguished ranking manager and I know about.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3097) to amend the Public Health Service Act to revise and extend the program of assistance to organ procurement organizations, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment on page 7, after line 23, insert the following:

SEC. 7. ESTABLISHMENT OF BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end thereof the following new part:

"Part D—Immunosuppressive Drug Therapy Block Grant

"SEC. 1931. DEFINITIONS.

"For purposes of this part:

"(1) ELIGIBLE PATIENT.—The term 'eligible patient' means an organ transplant patient who is not eligible to receive reimbursement for the total cost of immunosuppressive drug therapy under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), under the State's medicaid plan under title XIX of such Act (42 U.S.C. 1396 et seq.), or under private insurance.

"(2) IMMUNOSUPPRESSIVE DRUG THERAPY.—The term 'immunosuppressive drug therapy' means drugs and biologicals that are to be used for the purpose of preventing the rejection of transplanted organs and tissues and that can be administered by the transplant patient.

"(3) TRANSPLANT CENTER.—The term 'transplant center' means a transplant center certified by a State under the laws and regulations of such State.

"SEC. 1932. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of making allotments to States to carry out this part, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.

"SEC. 1933. ALLOTMENTS.

"(a) AMOUNT.—

"(1) IN GENERAL.—From amounts appropriated under section 1932 for each of the fiscal years 1988 through 1990, the Secretary shall allot to each State an amount that bears the same ratio to the total amount appropriated under such section for such fiscal year as the total number of eligible patients in the State bears to the total number of eligible patients in the United States.

"(2) MINIMUM ALLOTMENT.—Notwithstanding paragraph (1), the allotment of any State in any fiscal year under this subsection shall not be less than $50,000. If, under paragraph (1), the allotment of any State in any fiscal year will be less than $50,000, the Secretary shall increase the allotment of such State to $50,000 and shall proportionately reduce the allotments of all other States whose allotment exceeds $50,000 in a manner that will insure that the allotment of each State in such fiscal year is at least $50,000.

"(b) UNALLOTTED FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), to the extent that all the funds appropriated under section 1932 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(A) one or more States have not submitted an application or description of activities in accordance with section 1936 for such fiscal year;

"(B) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(C) some State allotments are offset or repaid under section 1906(b)(3) (as such section applies to this part pursuant to section 1936(d));

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year without regard to this subsection.

"(2) ORGAN TRANSPLANT CENTERS.—

"(A) APPLICATION.—If a State does not submit an application for an allotment or description of activities in accordance with section 1936 for a fiscal year or notifies the Secretary that the State does not intend to use the full amount of the allotment of the State, an organ transplant center in the State may submit an application in accordance with section 1936 for the amount of the allotment not allocated to the State.

"(B) ALLOTMENT.—Subject to subparagraph (C), if an applicant center is approved by the Health Care Financing Administration and the center complies with the requirements imposed on the State by this part, the Secretary shall provide to the center the amount of the allotment not allocated to the State.

"(C) MULTIPLE APPLICANTS.—If two or more applicant centers in a State meet the requirements of subparagraph (B), the Secretary shall divide among the eligible applicant centers in an equitable manner the

amount of the allotment not allocated to the State.

"(D) Distribution to Other States.—If one or more centers in a State receive an allotment under this paragraph for a fiscal year, the allotment shall not be made available to remaining States under paragraph (1).

"SEC. 1934. PAYMENTS UNDER ALLOTMENTS TO STATES.

"(a) In General.—For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotments under section 1933 from amounts appropriated for that fiscal year.

"(b) Carryover Funds.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

"SEC. 1935. USE OF ALLOTMENTS.

"(a) In General.—

"(1) Use.—Except as provided in subsections (b) and (c), amounts paid to a State under section 1934 from its allotment under section 1933 for any fiscal year shall be used by the State to provide immunosuppressive drug therapy for eligible patients.

"(2) Methods.—A State may use amounts paid to the State under section 1934 from its allotment under section 1933 to provide immunosuppressive drug therapy for eligible patients—

"(A) by purchasing the drugs and biologicals for such therapy and distributing such drugs and biologicals to transplant centers or eligible patients;

"(B) by certifying that an individual is an eligible patient for purposes of this part and by reimbursing a transplant center for the costs of immunosuppressive drug therapy provided by such center to such individual;

"(C) by any other method prescribed by the Secretary by regulation (other than the method described in subsection (b)(1)).

"(3) Copayments.—A State may require an eligible patient to whom immunosuppressive drug therapy is provided with amounts paid to the State under this part to make copayments for part of the costs of such therapy, without regard to section 1916 of the Social Security Act (42 U.S.C. 1396o).

"(b) Limitations.—A State may not use amounts paid to it under section 1934 to—

"(1) make direct payments to organ transplant patients; or

"(2) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(c) Administrative Costs.—Not more than 10 percent of the total amount paid to any State under section 1934 from its allotment under section 1933 for any fiscal year may be used for administering the funds made available under section 1934. The State will pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1936. APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS.

"(a) Application Required.—In order to receive an allotment for a fiscal year under section 1933, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require. Each such application shall contain assurances that the State will meet the requirements of subsection (b).

"(b) Requirements.—As part of the annual application required by subsection (a), the chief executive officer of each State shall—

"(1) certify that the State agrees to use the funds allotted to the State under section 1933 in accordance with the requirements of this part;

"(2) agrees to cooperate with Federal investigations undertaken in accordance with section 1907 (as such section applies to this part pursuant to subsection (d) of this section); and

"(3) certify that the State agrees that Federal funds made available under section 1934 for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the activities for which funds are provided under such section and will in no event supplant such State, local, and other non-Federal funds.

"(c) Description of Activities.—

"(1) In general.—The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 1934 for the fiscal year for which the application is submitted, including information on the programs and activities to be supported.

"(2) Public comment.—The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal.

"(3) Revisions.—The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this part. Any revision shall be subject to paragraph (2).

"(d) Administration.—Unless inconsistent with this part, section 1903(b), section 1906(a), paragraphs (1) through (5) of section 1906(b), and sections 1907, 1908, and 1909 shall apply to this part in the same manner as such provisions apply to part A of this title.

"(e) Additional Information.—Each annual report submitted by a State to the Secretary under section 1906(a) (as such section applies to this part pursuant to subsection (d) of this section) with respect to its activities under this part shall contain—

"(1) a specification of the number of eligible patients in the State receiving immunosuppressive drug therapy with amounts paid to the State under this part;

"(2) a description of the amount of any copayment required by the State under section 1935(a)(3); and

"(3) a certification that amounts paid to the State under this part are being used in accordance with this part.".

(b) Report.—

(1) In general.—Not later than 24 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and transmit to the Congress a report concerning the impact of part D of title XIX of the Public Health Service Act (as added by section 7 of this Act).

(2) Contents.—The report shall contain—

(A) a description of the effect of the program established under such part on organ transplants in the United States;

(B) an analysis of the effects of such program on the costs of organ transplants and renal dialysis;

(C) an analysis of the extent to which amounts paid to States under such part are used for purposes other than the purposes specified by such part, including an analysis of the extent to which drugs and biologicals purchased with such amounts are provided to individuals who are not eligible patients under such part; and

(D) such recommendations as the Secretary considers appropriate, including recommendations as to whether financial assistance under such program should be continued during fiscal years after fiscal year 1990.

(c) Conforming Amendments.—

(1) In general.—The matter following subparagraph (D) of section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)(D)) is amended—

(A) by striking out "and" at the end of subclause (VIII); and

(B) by inserting before the semicolon at the end thereof the following: ", and (X) the making available of immunosuppressive drug therapy (or immunosuppressive drugs) to individuals who have received organ transplants shall not, by reason of this paragraph, require the making available of any other type of drug or the making available of any drugs for other individuals".

(2) Application of amendments.—The amendments made by subsection (a) shall apply to drugs furnished after the date of the enactment of this Act.

So as to make the bill read:

H.R. 3097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organ Transplant Amendments Act of 1987".

SEC. 2. ASSISTANCE FOR ORGAN PROCUREMENT ORGANIZATIONS.

(a) Additional Grant Authority.—Section 371(a) of the Public Health Service Act (42 U.S.C. 273(a)) is amended—

(1) in paragraph (2), by inserting "consolidation," after "operation,";

(2) by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) The Secretary may make grants for special projects designed to increase the number of organ donors."; and

(3) in paragraph (4) (as redesignated in paragraph (2) of this subsection)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(C) with respect to carrying out paragraph (3), give special consideration to proposals from existing organ procurement organizations.".

(b) Limitations on Additional Grant Authority.—Section 374(b)(3) of the Public Health Service Act (42 U.S.C. 274b(b)(3)) is amended in the first sentence by striking "section 371" and all that follows through "organizations" and inserting "paragraphs (2) and (3) of section 371(a)".

(c) Description of Organ Procurement Organization.—Section 371(b) of the Public Health Service Act (42 U.S.C. 273(b)) is amended—

(1) in paragraph (1)(E)—

(A) by striking "size which" and inserting "size such that"; and

(B) by striking "will include" and all that follows through "year" and inserting the following: "the organization can reasonably expect to procure organs from not less than fifty donors each year";

(2) in paragraph (2)(C), by striking "372(b)(2)(D)," and inserting the following: "372(b)(2)(E), including arranging for testing with respect to preventing the acquisition of organs that are infected with the etiologic agent for acquired immune deficiency syndrome,";

(3) in paragraph (2)(E)—

(A) by inserting "equitably" after "organs"; and

(B) by striking "centers and"; and

(4) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (I);

(B) by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(K) assist hospitals in establishing and implementing protocols for making routine inquiries about organ donations by potential donors.".

(d) AUTHORIZATIONS OF APPROPRIATIONS.—Section 371(c) of the Public Health Service Act (42 U.S.C. 273(c)) is amended to read as follows:

"(c) For grants under subsection (a), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.".

SEC. 3. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

(a) DUTIES.—Section 372(b)(2) of the Public Health Service Act (42 U.S.C. 274(b)(2)) is amended—

(1)(A) by redesignating subparagraphs (B) through (H) as subparagraphs (C) through (I), respectively; and

(B) by adding after subparagraph (A) the following new subparagraph:

"(B) establish membership criteria and medical criteria for allocating organs and provide to members of the public an opportunity to comment with respect to such criteria,";

(2) in subparagraph (D) (as redesignated in paragraph (1)(A) of this subsection), by striking "organs which" and all that follows and inserting "organs,";

(3) in subparagraph (E) (as redesignated in paragraph (1)(A) of this subsection), strike "organs," and insert the following: "organs, including standards for preventing the acquisition of organs that are infected with the etiologic agent for acquired immune deficiency syndrome,";

(4) in subparagraph (F) (as redesignated in paragraph (1)(A) of this subsection), by striking "basis," and inserting the following: "basis (and, to the extent practicable, among regions or on a national basis),"; and

(5)(A) by striking "and" at the end of subparagraph (H) (as redesignated in paragraph (1)(A) of this subsection);

(B) by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(J) carry out studies and demonstration projects for the purpose of improving procedures for organ procurement and allocation.".

(b) CONSIDERATION OF CRITICAL COMMENTS.—Section 372 of the Public Health Service Act (42 U.S.C. 274) is amended by adding at the end the following new subsection:

"(c) The Secretary shall establish procedures for—

"(1) receiving from interested persons critical comments relating to the manner in which the Organ Procurement and Transplantation Network is carrying out the duties of the Network under subsection (b); and

"(2) the consideration by the Secretary of such critical comments.".

SEC. 4. REQUIREMENT OF ESTABLISHMENT OF BONE MARROW REGISTRY.

(a) IN GENERAL.—Section 373 of the Public Health Service Act (42 U.S.C. 274a) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b)(1) Not later than October 1, 1988, the Secretary shall, by grant or contract, establish a registry of voluntary bone marrow donors.

"(2) For the purpose of carrying out paragraph (1), there are authorized to be appropriated $1,500,000 for fiscal year 1989 and $1,600,000 for fiscal year 1990.".

(b) CONFORMING AMENDMENT.—Section 373 of the Public Health Service Act (42 U.S.C. 274a) is amended in the title by inserting "AND BONE MARROW REGISTRY" after "REGISTRY".

SEC. 5. ADMINISTRATION.

Section 375 of the Public Health Service Act (42 U.S.C. 274c) is amended—

(1) in the matter preceding paragraph (1), by striking "1985, 1986, 1987, and 1988," and inserting "1985 through 1990,"; and

(2) in paragraph (4), by striking "one year" and all that follows through "annual report" and inserting the following: "not later than April 1 of each of the years 1988 and 1990, submit to the Congress a report".

SEC. 6. REPORT.

Section 376 of the Public Health Service Act (42 U.S.C. 274d) is amended by striking "shall annually" and inserting the following: "shall, not later than October 1 of each year,".

SEC. 7. ESTABLISHMENT OF BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end thereof the following new part:

"Part D—Immunosuppressive Drug Therapy Block Grant

"SEC. 1931. DEFINITIONS.

"For purposes of this part:

"(1) ELIGIBLE PATIENT.—The term 'eligible patient' means an organ transplant patient who is not eligible to receive reimbursement for the total cost of immunosuppressive drug therapy under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), under the State's medicaid plan under title XIX of such Act (42 U.S.C. 1396 et seq.), or under private insurance.

"(2) IMMUNOSUPPRESSIVE DRUG THERAPY.—The term 'immunosuppressive drug therapy' means drugs and biologicals that are to be used for the purpose of preventing the rejection of transplanted organs and tissues and that can be administered by the transplant patient.

"(3) TRANSPLANT CENTER.—The term 'transplant center' means a transplant center certified by a State under the laws and regulations of such State.

"SEC. 1932. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of making allotments to States to carry out this part, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.

"SEC. 1933. ALLOTMENTS.

"(a) AMOUNT.—

"(1) IN GENERAL.—From amounts appropriated under section 1932 for each of the fiscal years 1988 through 1990, the Secretary shall allot to each State an amount that bears the same ratio to the total amount appropriated under such section for such fiscal year as the total number of eligible patients in the State bears to the total number of eligible patients in the United States.

"(2) MINIMUM ALLOTMENT.—Notwithstanding paragraph (1), the allotment of any State in any fiscal year under this subsection shall not be less than $50,000. If, under paragraph (1), the allotment of any State in any fiscal year will be less than $50,000, the Secretary shall increase the allotment of such State to $50,000 and shall proportionately reduce the allotments of all other States whose allotment exceeds $50,000 in a manner that will insure that the allotment of each State in such fiscal year is at least $50,000.

"(b) UNALLOTTED FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), to the extent that all the funds appropriated under section 1932 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(A) one or more States have not submitted an application or description of activities in accordance with section 1936 for such fiscal year;

"(B) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(C) some State allotments are offset or repaid under section 1906(b)(3) (as such section applies to this part pursuant to section 1936(d));

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year without regard to this subsection.

"(2) ORGAN TRANSPLANT CENTERS.—

"(A) APPLICATION.—If a State does not submit an application for an allotment or description of activities in accordance with section 1936 for a fiscal year or notifies the Secretary that the State does not intend to use the full amount of the allotment of the State, an organ transplant center in the State may submit an application in accordance with section 1936 for the amount of the allotment not allocated to the State.

"(B) ALLOTMENT.—Subject to subparagraph (C), if an applicant center is approved by the Health Care Financing Administration and the center complies with the requirements imposed on the State by this part, the Secretary shall provide to the center the amount of the allotment not allocated to the State.

"(C) MULTIPLE APPLICANTS.—If two or more applicant centers in a State meet the requirements of subparagraph (B), the Secretary shall divide among the eligible applicant centers in an equitable manner the amount of the allotment not allocated to the State.

"(D) DISTRIBUTION TO OTHER STATES.—If one or more centers in a State receive an allotment under this paragraph for a fiscal year, the allotment shall not be made available to remaining States under paragraph (1).

"SEC. 1934. PAYMENTS UNDER ALLOTMENTS TO STATES.

"(a) IN GENERAL.—For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotments under section 1933 from amounts appropriated for that fiscal year.

"(b) Carryover Funds.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

"SEC. 1935. USE OF ALLOTMENTS.

"(a) In General.—

"(1) Use.—Except as provided in subsections (b) and (c), amounts paid to a State under section 1934 from its allotment under section 1933 for any fiscal year shall be used by the State to provide immunosuppressive drug therapy for eligible patients.

"(2) Methods.—A State may use amounts paid to the State under section 1934 from its allotment under section 1933 to provide immunosuppressive drug therapy for eligible patients—

"(A) by purchasing the drugs and biologicals for such therapy and distributing such drugs and biologicals to transplant centers or eligible patients;

"(B) by certifying that an individual is an eligible patient for purposes of this part and by reimbursing a transplant center for the costs of immunosuppressive drug therapy provided by such center to such individual;

"(C) by any other method prescribed by the Secretary by regulation (other than the method described in subsection (b)(1)).

"(3) Copayments.—A State may require an eligible patient to whom immunosuppressive drug therapy is provided with amounts paid to the State under this part to make copayments for part of the costs of such therapy, without regard to section 1916 of the Social Security Act (42 U.S.C. 1396o).

"(b) Limitations.—A State may not use amounts paid to it under section 1934 to—

"(1) make direct payments to organ transplant patients; or

"(2) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(c) Administrative Costs.—Not more than 10 percent of the total amount paid to any State under section 1934 from its allotment under section 1933 for any fiscal year may be used for administering the funds made available under section 1934. The State will pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1936. APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS.

"(a) Application Required.—In order to receive an allotment for a fiscal year under section 1933, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require. Each such application shall contain assurances that the State will meet the requirements of subsection (b).

"(b) Requirements.—As part of the annual application required by subsection (a), the chief executive officer of each State shall—

"(1) certify that the State agrees to use the funds allotted to the State under section 1933 in accordance with the requirements of this part;

"(2) agrees to cooperate with Federal investigations undertaken in accordance with section 1907 (as such section applies to this part pursuant to subsection (d) of this section); and

"(3) certify that the State agrees that Federal funds made available under section 1934 for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the activities for which funds are provided under such section and will in no event supplant such State, local, and other non-Federal funds.

"(c) Description of Activities.—

"(1) In general.—The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 1934 for the fiscal year for which the application is submitted, including information on the programs and activities to be supported.

"(2) Public comment.—The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal.

"(3) Revisions.—The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this part. Any revision shall be subject to paragraph (2).

"(d) Administration.—Unless inconsistent with this part, section 1903(b), section 1906(a), paragraphs (1) through (5) of section 1906(b), and sections 1907, 1908, and 1909 shall apply to this part in the same manner as such provisions apply to part A of this title.

"(e) Additional Information.—Each annual report submitted by a State to the Secretary under section 1906(a) (as such section applies to this part pursuant to subsection (d) of this section) with respect to its activities under this part shall contain—

"(1) a specification of the number of eligible patients in the State receiving immunosuppressive drug therapy with amounts paid to the State under this part;

"(2) a description of the amount of any copayment required by the State under section 1935(a)(3); and

"(3) a certification that amounts paid to the State under this part are being used in accordance with this part.".

(b) Report.—

(1) In general.—Not later than 24 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and transmit to the Congress a report concerning the impact of part D of title XIX of the Public Health Service Act (as added by section 7 of this Act).

(2) Contents.—The report shall contain—

(A) a description of the effect of the program established under such part on organ transplants in the United States;

(B) an analysis of the effects of such program on the costs of organ transplants and renal dialysis;

(C) an analysis of the extent to which amounts paid to States under such part are used for purposes other than the purposes specified by such part, including an analysis of the extent to which drugs and biologicals purchased with such amounts are provided to individuals who are not eligible patients under such part; and

(D) such recommendations as the Secretary considers appropriate, including recommendations as to whether financial assistance under such program should be continued during fiscal years after fiscal year 1990.

(c) Conforming Amendments.—

(1) In general.—The matter following subparagraph (D) of section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)(D)) is amended—

(A) by striking out "and" at the end of subclause (VIII); and

(B) by inserting before the semicolon at the end thereof the following: ", and (X) the making available of immunosuppressive drug therapy (or immunosuppressive drugs) to individuals who have received organ transplants shall not, by reason of this paragraph, require the making available of any other type of drug or the making available of any drugs for other individuals".

(2) Application of amendments.—The amendments made by subsection (a) shall apply to drugs furnished after the date of the enactment of this Act.

The amendment was agreed to.

The amendment was ordered to be engrossed, the bill was read the third time, and passed.

The **PRESIDING OFFICER.** The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. **KENNEDY.** Mr. President, I rise to speak on behalf of H.R. 3097, the Organ Transplant Amendments Act. This legislation will allow continued growth and improvement in the availability of organs for transplantation and provide life-saving immunosuppressive drugs to transplant patients who cannot afford them.

The National Organ Transplant Act of 1984 was designed to increase the number of organs available for transplantation, to enhance the quality of organ transplantation in the United States, and to allocate organs in a fair and equitable manner. Through this act, the Task Force on Organ Transplantation issued a comprehensive report and set of recommendations in October 1985, and April 1986. These recommendations have been very helpful in guiding policy development at the Federal, State, and local levels. Grants to establish organ procurement organizations [OPO's] on the local and regional levels were initiated. A contract to conduct the organ procurement and transplantation network [OPTN] was awarded, with the aim of improving the coordination and allocation of organs for transplantation. The Office of Organ Transplantation was initiated within the Health Resources and Services Administration to manage the OPTN contract and provide Federal direction in organ transplantation.

Through all these efforts, the availability of organs and access to transplantation has improved, as have the standards and quality of medical care related to transplantation. Approximately 80 OPO's have been started around the country, and 40 to 50 organs are procured for transplantation each day. In 1981, 4,885 kidneys, 62 hearts and 26 livers were transplanted. In 1986, there were 8,972 kidney, 1,368 heart, and 924 liver transplants in this country. While part of the increase in the number of transplants can be attributed to improvements in surgical and medical techniques and more effective immunosuppressive drugs, the greater availability of organs has certainly fueled this growth. And the number of patients who are alive today because of the increased availability of organs for transplantation is proof of the positive impact of the original legislation.

This legislation authorizes $5 million for each of fiscal years 1988 through 1990, for assistance to organ procurement organizations. The focus of this assistance would be on consolidation, as opposed to the initial emphasis on start-up assistance. It would also fund special projects designed to increase the number of organ donors, especially from among minority populations. And the responsibility of OPO's for testing of organs to prevent the transmission of the AIDS virus would be expanded. Most OPO's are nearing self-sufficiency, so I do not anticipate the need to reauthorize this grant program beyond 1990.

This legislation further directs the OPTN to establish explicit membership criteria and medical criteria for allocating organs, and provides for public comment on these criteria. The Secretary of Health and Human Services is also directed to establish means for public comment on the operation of the OPTN. Through the availability of public comment, the American people can maintain confidence in the equitable function of the OPTN; organs for transplantation must be allocated in a fair and equitable manner, and not according to ability to pay or political influence.

This legislation also establishes a bone marrow registry. The original National Organ Transplant Act directed the Department of Health and Human Services to determine the need and feasibility of a national bone marrow registry. Bone marrow transplantation has become accepted treatment for illnesses including aplastic anemia and has resulted in a significant improvement in survival. The registry would increase the availability of matched donors for bone marrow transplantation; currently, if a patient does not have a relative with a matched tissue type, a transplant is not advisable. A national registry will provide access to many more potential donors. A national registry of potential bone marrow donors was initiated by the Navy 2 years ago, and this legislation directs the Secretary of Health and Human Services to assume responsibility for the registry.

With this bill, a new program would be initiated to provide funds for transplant patients who are unable to afford the cost of immunosuppressive drugs. These drugs act to suppress certain parts of the body's immune system, thereby preventing the rejection of a foreign transplanted organ. The development of newer immunosuppressives has lead to greatly reduced organ rejection and improved survival of transplant patients. Those who receive kidney transplants have shown improved function of the transplanted organ, and the transplantation of hearts and livers has been accepted as nonexperimental in large part because of the success of immunosuppressive therapy. Patients who receive kidney transplants require decreasing doses of immunosuppressive drugs and, therefore, costs diminish over time. Heart and liver transplant patients must receive the drugs at higher doses and for the remainder of their lives; the costs for providing immunosuppressive drugs to these patients can exceed $10,000 per year. For kidney transplant patients, the cost of immunosuppressives is covered by the Federal Government. For those heart and liver transplant patients not covered by private insurance and who are Medicare-eligible, Medicare covers only the cost of therapy for the first year following the transplant. We have seen families of heart and liver transplant patients who are not Medicare eligible decimate their assets and financial resources to pay for these essential drugs.

This new program would authorize $5 million a year for fiscal 1988 through 1990 for grants to States for immunosuppressive drugs for transplant patients. Should a State choose not to apply for these funds, a medical center approved for organ transplantation may apply for funds to provide immunosuppressives to their patients. Organ transplantation has been proven to reduce morbidity and mortality, and the use of more powerful immunosuppressive drugs has enhanced this record of success. This program should improve access to organ transplantation for those who may be able to afford expensive immunosuppressive drug therapy, extending the availability of these lifesaving procedures.

I would like to express my appreciation to my colleague, Senator HATCH, for his commitment to expanding access to life-saving organ transplantation and the hard work of his staff on this legislation. Mr. President, I urge the favorable consideration of this important legislation.

Mr. GORE. Mr. President, I rise in strong support of the pending legislation, H.R. 3097, a bill to reauthorize key provisions of the National Organ Transplant Act.

In 1984, Congress passed the act to help those whose lives depend on whether or not a donor can be found in time.

We have made progress. Since 1983, when we began taking steps to improve the donor system, the number of transplants performed has risen dramatically. From 1983 through 1987, the number of heart transplants jumped from 172 to 1,411 and kidney transplants increased from 6,000 to nearly 9,000.

But there is still much to do. Waiting lists are still long, and many die each year waiting for a donor, while studies show a potential for approximately 20,000 organ donors per year.

This bill renews our commitment to help. It will continue Federal efforts to strengthen local organ retrieval, and coordinate the various Federal endeavors in organ procurement and transplantation, for another 3 years.

By now, the need for a strong national transplant policy should be clear. Years of public appeals, illustrated by such well-known cases as Baby Jesse, Alex Girard, and Ronnie DeSillers, have convinced most Americans that the old system was not fair.

The foundation for a new, more equitable system based on medical need was put in place with the 1984 law, by establishing the national organ procurement and transplantation network—a single nationwide system that, through its broadly representative board, sets national policy on organ transplantation questions. The network also maintains a single national waiting list of all those in need of a donor organ.

In October 1986, Congress built on that foundation by passing transplant amendments as part of the reconciliation bill. Those amendments require every hospital in the Nation that receives Medicare or Medicaid funds to make certain that families of every potential organ donor—deaths due to cessation of brain function—are made aware of the option of organ donation. It also provided the transplant network with additional authority to oversee the operation of transplant hospitals and organ procurement agencies.

This bill will assure a continued smooth transition between the old and new systems.

Mr. President, four years ago we decided to stop forcing families to leave the bedside of a dying loved one in order to go out and drum up media exposure. I believe we are finally getting in sight of that goal. This bill will bring us another important step closer.

I urge support for this legislation.

Mr. HATCH. Mr. President, I am pleased to join the Senator from Massachusetts in support of the Organ Transplant Amendments Act, H.R. 3097. This bill reauthorizes legislation which has contributed significantly to our Nation's effort to increase the availability of organs for transplantation.

In 1987, there were an estimated 8,972 kidney, 1,441 heart, 1,159 liver, and 162 pancreas transplants performed in this country. In 1986, my own State of Utah performed 139 kidney and 53 heart transplant procedures.

Last year one or our colleagues made a courageous personal sacrifice when he donated one of his kidneys to his daughter. My good friend, the senior Senator from Utah, Senator GARN, and his family, have personally experienced the modern miracle of organ transplantation. That miracle is possible in part because of new immunosuppressive drugs.

It has been estimated that one-quarter of those medically eligible for organ transplants have no insurance to cover the cost of the miracle immunosuppressive drugs that have made organ transplants possible. These drugs, which keep the body from rejecting the new organ, are extremely costly. In fact, cyclosporine, the most effective, costs $5,000 the first year for a typical transplant patient.

Unfortunately, these new drugs are beyond the financial means of many Americans. During the last Congress, while I was chairman of the Labor and Human Resources Committee, we heard from the family of another Utahn, Keilie Burrell. Her parents told the committee about the difficulty they were having paying for her immunosuppressive drugs after her liver transplant. We have also heard about other individuals who were not even considered for transplant operations because they could not pay for the immunosuppressive drugs.

In most cases, if the patient cannot afford the immunosuppressive drugs, the patient is not considered a candidate for a transplant. In other cases, transplants are performed, but the patient must depend on cheaper, less effective drugs that can increase the chance of rejection by up to 50 percent.

The real irony of this situation is that in cases of kidney disease, passing up a transplant is not only unnecessary—it ultimately costs the taxpayers more money. The Federal Government currently pays for dialysis under the End Stage Renal Disease [ESRD] Program, which until recently was the only option for chronic renal disease. And, as expensive as immunosuppressive drugs are, they don't even begin to approach the cost of dialysis, which ranges from $18,000 to $25,000 a year.

Because of the high cost of dialysis, the annual cost of the ESRD Program has skyrocketed from $200 million to $2 billion in just over 10 years. The emergence of kidney transplants as a viable alternative can help turn back the rising tide of ESRD expenditures, but only if such transplants take place.

Last November 11, I introduced, with the support of Senator GARN, legislation to address these issues. the Immunosuppressive Drug Therapy Act of 1987 provides $5 million over 3 years in the form of grants to States to help purchase these self-administered immunosuppressive drugs.

All organ transplant patients whose immunosuppressive drugs are not covered by existing private or public programs are eligible for assistance, but the extent of assistance may be based on the patient's ability to pay. States may require patients to pay part of the cost of their immunosuppressive drugs, but we anticipate that States in establishing copayments will take into account the financial resources of recipients.

States may purchase the drugs and make them available to certified transplant centers for distribution, reimburse the centers for drugs provided eligible patients, or select an alternative course of action approved by the Secretary of Health and Human Services.

One thing State governments may not do is use this funding to supplant other spending. This legislation is intended to fill gaps in current coverage in order to help patients not being helped, not to become a substitute source of funding for patients already covered.

Mr. President, I am aware that health care proposals of this kind may induce a different kind of medical problem—they may set a few hearts fluttering among my cost-conscious colleagues in this Gramm-Rudman-Hollings era. I want to provide a little bedside reassurance on this score.

First of all, unlike many programs which start as little acorns and grow into mighty trees with deep roots, this program is not open-ended. It sets specific funding levels for a specific number of years. We've anticipated that, because of changes in what private insurance pays for and the interest in a Federal catastrophic care program, this program may not be needed in its original form, or in any form, after a few years. Therefore, we have directed the Secretary to report back to us in 2 years on the effectiveness of, and need for, this program.

But more importantly, as I pointed out earlier, this program will help to bring down the cost of a rapidly growing Federal program, the End Stage Renal Disease Program.

Similar legislation, S. 2536, passed the Senate by voice vote toward the end of the 99th Congress. But, unfortunately, there was not time for its consideration in the House. The 99th Congress did take some action to expand Federal coverage for immunosuppressive drugs; but, ironically, that legislation which was even more limited than S. 2536 was more than twice as costly. And, it still does not help the Kielie Burrells of the world.

When the Labor and Human Resources Committee considered the legislation to reauthorize the Organ Transplant Act earlier this year, my colleagues graciously agreed to accept my amendment to include this legislation as part of the rauthorization.

As I have said, I strongly support the underlying reauthorization of the Organ Transplantation Act, legislation which I helped author in 1984. But, I would like to take a minute to discuss my concerns surrounding the direction our organ transplantations policy has taken since that time.

Public Law 99-509 gave the United Network of Organ Sharing [UNOS] and Organ Procurement and the Transplant Network [OPTN] extraordinary powers regarding Medicare and Medicaid reimbursement. It conditioned the reimbursements to the center's membership on organ transplant centers in UNOS. In other words, to receive Federal funds, transplant centers and organ procurement agencies are rquired to become a member of a private organization.

If the law had ended there it certainly would have been bad policy, but it went further. It required organ transplant centers and organ procurement agencies to abide by the rules and bylaws of a private organization as a condition of receiving Federal funds. For all practical purposes, the law delegated regulatory authority to a private organization, which is unconstitutional, and does not provide adequate due process protections. It also raises some serious antitrust questions.

The fifth and fourteenth amendments to the Constitution require that Federal and State governments provide both notice and a hearing prior to depriving an individual of liberty or property. Marshall versus Jerrico. While this constitutional requirement does not apply to rulemaking, Congress has nonetheless provided comparable protection through the Administrative Procedures Act.

As the law relating to organ transplantation currently stands, there is no requirement that notice or a hearing be provided prior to depriving individuals of their right to procure an organ, receive an organ, or transplant an organ. Clearly, individuals who have their rights curtailed by such organ transplantation guidelines have been deprived of significant property and liberty interest and deserve at least the level of protection we give others in our Federal system.

The legislation before us partially addresses this concern by requiring that members of the public be provided an opportunity to comment on proposed guidelines and bylaw changes. Depending on how this provision is implemented, it may resolve part of this problem, but the legislation is still silent on the notice requirement and one has to wonder how interested individuals will know about the proposals in order to comment.

In addition, this scheme raises questions about rights to judicial review. Do injured parties have the right to judicial review? When would that right attach? What standard would the court use in reviewing guidelines? What record would the courts use? Questions such as these show why we should not be delegating regulatory authority to a private entity.

Congress has broad authority to delegate power to the executive branch, but this authority does not extend to other entitles. It is settled law that Congress may not delegate executive authority to itself. Both the legislative veto in INS versus Chadha and congressional exercise of regulatory power in Bowsher versus Synar have been declared unconstitutional by the Supreme Court.

It is also likely that the Supreme Court will apply the same strict interpretation to cases involving the delegation of executive authority to the judiciary. As I said in this body on November 3 of last year, I believe that the independent counsel statute, which gives to the judiciary the authority to appoint independent prosecutors is unconstitutional. Since I made that statement, the U.S. Court of Appeals for the District of Columbia held precisely that in In Re Sealed Case. This case is now before the Supreme Court and I fully expect them to affirm it.

If Congress may not delegate executive authority to itself or the judiciary, then it certainly may not delegate executive authority to an entity outside of the Government, and so the Supreme Court has held. In Schechter versus U.S., the Supreme Court stated that it was unconstitutional for Congress to give regulatory authority to a private entity. In that case, trade unions submitted codes to the President for him to approve or disapprove. If approved, they became binding on the industry. The Court struck down that statute saying:

> But would it be seriously contended that Congress could delegate its legislative authority to trade or industrial associations or groups so as to empower them to enact the laws they deem to be wise and beneficent for the rehabilitation and expansion of their trade or industries?
>
> The answer is obvious. Such a delegation of legislative power is unknown to our law and is utterly inconsistent with the constitutional prerogatives and duties of Congress.

Schechter is still good law and indistinguishable from Public Law 99-509. It has not been overruled and continues to be cited. For example, Justice Stevens cited it in Industrial Union versus American Petroleum Institute. Justice Marshall is quoted in K. Davis' Administrative Law Treatise in FPC versus New England Power Co.:

> The Schecter case involved excessive delegation of the kind that Congress is not likely again to make . . .

Unfortunately, he was wrong. Congress has done it again. If anything the organ transplantation legislation is a clearer violation of the Constitution than Schechter because here, unlike Schechter, guidelines take effect without any affirmative action by the executive. And, while the Department of Health and Human Services may have acquired veto power over the guidelines through its contractual agreement, the mere fact that Congress or the executive could overturn a guideline after it is issued would certainly not salvage this unconstitutional law.

In addition to my concerns about the constitutionality of the status quo, I am also worried about the antitrust liability of the board members of UNOS. Since There was not an expressed exemption from Federal antitrust satatutes, their only protection would be through an implied immunity. But the Supreme Court has been very reluctant to imply such a waiver, and it is very unlikely that UNOS would qualify.

The Supreme Court has said that implied antitrust immunity can be justified only by a convincing demonstration of a conflict between the antitrust laws and the regulatory system at issue. National Gerimedical Hospital and Gerontology Center against Blue Cross of Kansas City. In other words, the offending body would have to show that it could not have accomplished its statutorily mandated task without violating the antitrust statutes. This is clearly not the case with Public Law 99-509.

Since the members are not appointed by the executive, it would also be difficult to argue that these board members are really government officials and, therefore, immune for antitrust liability. Article II, section 2 of the Constitution gives the power of appointment to the President for officers of the United States and inferior officers. Since the board members of UNOS are self selected rather than appointed by the President, they are clearly not officers of the United States.

The legislation before us does take a few small steps toward addressing these concerns. Because the bill provides for immunosuppressive drugs and continues our efforts to expand organ procurement, I do not intend today to delay its enactment over these issues.

But I think it is important that Congress repair this unconstitutional statute as soon as possible by placing the regulatory authority in the administration where it belongs. Otherwise, a court may be forced to strike it down or even worse, members of the UNOS board may find themselves exposed to considerable liability. I want to also make it clear that it is Congress which is at fault, not UNOS, which has simply tried to implement the authority given it by Congress in the most equitable way it could.

Having discussed these problems I want to again express my support for the legislation before us. It continues our commitment to increase the availability of organs for transplantation so that our citizens no longer are forced to wait agonizing months for an organ to become available. I urge my colleagues to join with Senator KENNEDY and myself in supporting this legislation and I hope the House will also quickly consider it so that we can send it to the President.

AMENDMENT NO. 2408

Mr. HATCH. In behalf of Mr. HUMPHREY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Utah [Mr. HATCH] for Mr. HUMPHREY, proposes an amendment numbered 2408.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 7, after line 20, add the following new section:
>
> SEC. 7. FETAL ORGAN TRANSPLANTS.
>
> Section 301(c)(1) of the National Organ Transplant Act (42 U.S.C. 274e(c)(1)) is amended by adding at the end thereof the following new section: "Such term shall include any organ, organ subpart, or nonregenerative tissue from a fetus during any point in a pregnancy.".

Mr. HUMPHREY. Mr. President, the amendment I have proposed is very simple: It would ensure that protection provided under the National Organ Transplant Act against commercialization and commercial use of human organs is clarified as including unborn human beings. And it would expand protections to include any organs, organ subparts, or tissue of an unborn child.

Section 301(c)(1) of the National Organ Transplant Act (42 USCA 274e(c)(1)) prohibits the knowing acquisition, receipt, or transfer of any human organ for valuable consideration for use in human transplantation. This provision states the elementary principle that human organs shall not be sold for profit or other commercial benefit. The section does not ban the transplanting of organs, nor does it prohibit reasonable payments associated with defraying expenses associated with the transplant.

Science is daily expanding the technical ability to transplant tissue from an unborn child into an adult human. Today, such transplants are strictly experimental, from a scientific point of view, and tremendously controversial, from an ethics point of view. But we can expect in the near future that this technology will be in great demand as a commercial tool.

There are a wide variety of views on the issue of fetal research or fetal transplants—I for one am strictly opposed to any research or transplants using intentionally aborted infants. But consensus can quickly be reached on at least one point—commercial use or exploitation of human tissue, whether born or preborn, can in no case be ethical.

By most accounts the original intent of the National Organ Transplant Act was to extend protection from such exploitation to human fetal organs and tissue. To ensure that this intent is carried out. I propose the following sentence be inserted in the Organ Transplant Act definition of "human organ":

> Such term shall include any organ, organ subpart, or nonregenerative tissue from a fetus during any point in a pregnancy.

This amendment will extend coverage of the act to unborn children from the moment of conception. Any unborn child at any stage of the pregnancy—conception, embryonic, or otherwise—falls within the scope of this amendment. I want to stress that the amendment is not limited to fetus in the limited sense of an unborn child in a stage following the embryonic stage.

The amendment will extend coverage of the act to the organs of these infants. That is, an unborn child's organs and tissue such as the kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin, and any other human organ specified by the Secretary, fall under the provisions of this act.

In addition, this amendment extends coverage under the act to any additional organ, organ subpart, or tissue, of an unborn child from the moment of conception, including among others those organs and tissues most frequently used today: The islet of langerhans, adrenal glands, and nerve cells or brain tissue.

I thank my colleagues, the chairman, Mr. KENNEDY, and ranking Republican, Mr. HATCH, for their cooperation in securing approval of this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Hampshire [Mr. HUMPHREY].

The amendment (No. 2408) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 2409

(Purpoose: To amend the immunosuppressive drug block grant)

Mr. QUAYLE. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Indiana [Mr. QUAYLE] proposes an amendment numbered 2409.

Mr. QUAYLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 8, line 10: strike the word "total".
>
> At the end of the bill, add the following new section:
>
> "SEC. 1937. TERMINATION DATE.
>
> Th amendments made under part D of this Act shall terminate effective January 1, 1991.

Mr. QUAYLE. Mr. President, I am here today to offer compromise amendments to part D of this bill, which would set up a new block grant program for immunosuppressive drugs. I will elaborate on my philosophical reservations with respect to this new program, but first I would like to thank the distinguished chairman of the Labor and Human Resources Committee for his willingness to recognize my problems with this legislation and his willingness to accommodate my views through compromise.

Mr. President, I do not dispute that immunosuppressive drugs are expensive, and that the cost of this medication—which is crucial in trying to keep the body of a transplant recipient from "rejecting" the new organ—is far out of reach of even more well-off citizens. I do not dispute that fact that few insurance plans cover this drug, let alone the transplant itself. I am well aware of the fact that some transplants can cost tens of thousands of dollars.

But our society's health care system has many holes in it. We are all painfully aware of that fact. We have the most advanced health care system technologically speaking in the world, yet the cost of many types of care are far out of the reach of many of our citizens. Rapid advances in medical technology have led to serious questions of economics and equity, not only with respect to organ transplantation, but for many health care treatments. As legislators, we cannot consider this issue before the Senate today in isolation from other significant health problems that compete for our limited resources.

While I sympathize with those individuals who require immunosuppressive drugs, particularly those who are uninsured, I am unable to support the institution of a block grant for this specific treatment because I believe it represents unsound Federal health policy, initiating a precedent that Congress will find almost impossible to deal with in a rational fashion.

The Federal Government does not pay the health care bills of individuals who cannot afford to pay them unless they are covered by Medicare or Medicaid. Members of Congress know too well that many in this country have no health insurance at all—some 37 million. For several years now, Congress and the Reagan administration have been grappling with how to get insurance to those who cannot afford to pay for their health care, whether it is coverage for catastrophic acute care expenses of Medicare beneficiaries, long-term nursing home care, catastrophic care for chronically ill children, or just basic coverage to those without any insurance at all. A few hundred dollars of health care charges can be a catastrophic event to a poor individual or family not covered by Medicaid. About one-third of all uninsured individuals have incomes below the Federal poverty level. Certainly, the needs of these individuals are equally as critical as those of transplant patients.

Looking more narrowly at catastrophic drug costs, this legislation selects one specific illness and one set of therapeutic agents which are politically attractive for special treatment. In my view, this raises a serious question of equity. I cannot justify singling out immunosuppressive drugs when there are other expensive drugs needed by many individuals with life-threatening illness. I think we need to ask why establishing a grant program to pay for the drugs needed by transplant patients is more worthwhile than paying for costly hypertensive or cancer drugs which a Medicare patient may need to sustain his or her life? The proponents of this bill offer no rational explanation of why the Government should pay the bills for immunosuppressive drugs rather than those of other equally worthy claimants.

H.R. 3097 establishes a policy that the Federal Government will pay for something simply because it is expensive. If one is to carry out this line of reasoning, why not just pass legislation which will require the Federal Government to bear the cost for all of the most expensive diseases and treatments?

The Federal Government's history of assuming the burden of paying for particular diseases suggests the need for reflection. I believe that it is in the best interest of Congress to examine some past history before deciding to enact this bill into law. Although the majority views express otherwise, I feel that a look at both the history of the Black Lung Program and the End Stage Renal Disease Programs is instructive.

The Black Lung Program was originally enacted as title IV of the Federal Coal Mine Health and Safety Act of 1969—Public Law 91-173—to compensate coal miners disabled as a result of an ailment known as black lung or pneumoconiosis caused by the inhalation of coal dust. This program has been amended a variety of times. A review of the legislative history of this program reveals that sponsors promised that it was a one-shot deal; the sponsors of the immunosuppressive block grant are suggesting similarly that this proposal may be a temporary measure. Let me quote one of the original sponsors of the Black Lung Program:

> This is a one-shot effort. This is not a continuing compensation arrangement to establish Federally based compensation for this or any other industry. We are only taking on those who are now afflicted with pneumoconiosis in its fourth stage—complicated pneumoconiosis.

I would point out that the scope of this one time only program now goes beyond the mere "chronic dust disease of the lung arising out of employment in a coal mine" to include just about any "impairment" due to work in a coal mine.

A look at the original cost estimates of this program is also useful. When confronted with a cost estimate by the Social Security Administration that the original program would cost $355 million annually, one of the major sponsors of the program, Mr. Dent stated: "Why, if we gave full compensation to every ex-coal miner and a fur coat to every widow, it would not cost more than $40 or $50 million." Do I need to remind my colleagues that at the end of fiscal year 1987, the cost to the Federal Government for this program is expected to be $1.6 billion and that the black lung trust fund is expected to have a deficit of $2.9 billion? This is the fruit of the Federal Government's first attempt to fund the costs of a specific disease.

Our second venture was the End Stage Renal Disease Program, a program which has become similarly inflated. Originally estimated to cost $250 million a year, the program cost about $2.2 billion in 1987 for all services provided.

Mr. President, although those who support this new block grant for immunosuppressive drugs may attempt to distinguish this proposal from previous "single disease" programs, only brief reflection is needed to show that this distinction is one without a difference.

DISCUSSION OF AMENDMENTS TO IMMUNOSUPPRESSIVE DRUG BLOCK GRANT

My amendments to the immunosuppressive block grant would zero in on the proponents' insistance that this is a one-shot deal. Also, during negotiations with my colleague, Senator KENNEDY, it is indicated that this 3-year block grant was specifically intended to provide reimbursement as a stopgap measure prior to implementation of the new drug coverage under the Medicare catastrophic bill, H.R. 2470.

To keep this new program from turning into another Black Lung Program, I propose to sunset the immunosuppressive block grant upon implementation of the catastrophic drug benefit.

Also, the catastrophic drug benefit does not provide for 100 percent reimbursement for immunosuppressive drugs, because of the burden this expense would place on the Medicare trust fund. The situation under this bill is no different. The immunosuppressive drug block grant would provide only for $15 million over 3 years. Because States would have so little money to distribute, I propose to limit eligibility to only those individuals who have little or no coverage for immunosuppressive drugs.

My amendment also limits eligibility for the program. As reported, the bill would provide reimbursement for anyone who is not eligible to receive reimbursement for the total cost of immunosuppressive drugs under public or private insurance plans. My amendment strikes the word "total" so that eligibility is limited to those who do not receive "reimbursement". This is not intended to exclude those who are eligible for only insignificant amounts, but it is intended to make the program more consistent with the catastrophic drug program—that program would require a deductible and coinsurance for immunosuppressive drugs. With limited money available under this block grant, priority should be given to the most needy.

Once again, Mr. President, I would like to reiterate my opposition to the creation of special disease or health treatment programs such as this one. But in the interest of moving this bill forward I would urge my friend from Massachusetts to accept the amendments that I have discussed.

Mr. President, this amendment has been cleared.

I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Indiana [Mr. QUAYLE].

The amendment (No. 2409) was agreed to.

Mr. HATCH. I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 3097), as amended, was passed.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank all Senators.

Mr. HATCH. I thank the majority leader.

BIOTECHNOLOGY COMPETITIVENESS ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The question now occurs on passage of S. 1966, the Biotechnology Competitiveness Act. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. DOLE. I announce that the Senator from Minnesota [Mr. DURENBERGER], the Senator from Nevada [Mr. HECHT], the Senator from Idaho [Mr. MCCLURE], the Senator from Wyoming [Mr. SIMPSON], the Senator from Idaho [Mr. SYMMS], the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER (Mr. FOWLER). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 88, nays 1, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—88

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham

Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—1

Proxmire

NOT VOTING—11

Biden
Breaux
Durenberger
Gore
Hecht
Kennedy
Matsunaga
McClure
Simpson
Symms
Wallop

So the bill (S. 1966) was passed, as follows:

S. 1966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Biotechnology Competitiveness Act of 1987".

TITLE I—NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION

SEC. 101. FINDINGS.

Congress finds that—

(1) biotechnologies help to advance our understanding of the composition of human chromosomes and cells, and our knowledge of fundamental human development and disease processes;

(2) information on the map and sequence of the human genome, as well as the many other important fields of biotechnology research, is accumulating faster than can be reasonably assimilated by present methods;

(3) it is essential that advances in information science and technology be made so that this vast new knowledge can be organized, stored, and utilized;

(4) there are numerous independent computer data bases that hold portions of the burgeoning biotechnological discoveries and such data bases lack common technology, central coordination, and adequate support;

(5) it is important that information on research in biotechnology be available to researchers to allow coordination of the research efforts ongoing in public and private sector laboratories;

(6) the National Library of Medicine of the National Institutes of Health is highly suited, by virtue of its preeminence in the field of biomedical communications, service, and information research, to facilitate the rapid advance of biotechnology through information transfer; and

(7) a biotechnology information initiative could take advantage of the unique facilities of the National Library of Medicine to develop new communications tools and serve both as a repository and as a center for the distribution of molecular biology information to researchers and health practitioners.

SEC. 102. NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION.

Part D of title IV of the Public Health Service Act (42 U.S.C. 286 et seq.) is amended by adding at the end the following new subpart:

"Subpart 3—National Center for Biotechnology Information

"SEC. 478. NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION.

"(a) ESTABLISHMENT.—To focus and expand the collection, storage, retrieval, and dissemination of the results of biotechnology research by information systems, and to support and enhance the development of new information technologies to aid in the understanding of the molecular processes that control health and disease, there is established the National Center for Biotechnology Information (hereinafter in this section referred to as the 'Center') in the National Library of Medicine.

"(b) FUNCTIONS.—Through the Center and subject to section 465(d), the Secretary shall—

"(1) coordinate the design, development, implementation, and management of automated systems for the collection, storage, retrieval, analysis, and dissemination of knowledge concerning human, animal, and plant molecular biology, biochemistry, and genetics;

"(2) conduct a research program into advanced methods of computer-based information processing capable of representing and analyzing the vast number of biologically important molecules and compounds using Center capabilities, as well as those in Federal, university, and private research laboratories;

"(3) enable persons engaged in biotechnology research and medical care to use systems developed under paragraph (1) and methods described in paragraph (2);

"(4) coordinate the efficient input of information regarding biotechnology from all government agencies as well as agency grantees and contractors, and where applicable, inform granting agencies of duplications of research efforts;

"(5) encourage the input of information regarding biotechnology from the private sector, including professional scientific societies, foundations, and companies;

"(6) coordinate biotechnology research information provided by the center and other sources, including the biotechnology industry, other government agencies, and the private sector (including professional scientific societies, foundations, and companies); and

"(7) coordinate, to the maximum extent practicable, efforts to gather biotechnology information on an international basis.

"(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1989 through 1993. Funds appropriated under this subsection shall remain available as specified in appropriations acts.".

TITLE II—NATIONAL BIOTECHNOLOGY POLICY BOARD AND ADVISORY PANEL

Subtitle A—National Biotechnology Policy Board

SEC. 201. ESTABLISHMENT, MEMBERSHIP, CHAIRMANSHIP, MEETING.

(a) ESTABLISHMENT.—There is established in the Executive branch of the Federal government a National Biotechnology Policy Board (hereinafter in this title referred to as the "Board").

(b) MEMBERSHIP.—The membership of the Board shall consist of the following individuals or their designees:

(1) The Director of the National Institutes of Health.

(2) The Director of the National Science Foundation.

(3) The Secretary of Agriculture.

(4) The Secretary of Commerce.

(5) The Secretary of Defense.

(6) The Secretary of Energy.

(7) The Commissioner of the Food and Drug Administration.

(8) The Administrator of the Environmental Protection Agency.

(9) The Director of the Office of Science and Technology Policy, who shall serve as an ex-officio, nonvoting member of the Board.

(10) The Director of the Office of Management and Budget, who shall serve as an ex-officio, nonvoting member of the Board.

(11) Four individuals representing the university research community, to be recommended by the National Academy of Sciences and appointed by the President, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act.

(12) Four individuals representing diverse United States biotechnology-related industries to be appointed by the President, after consultation with relevant groups, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act.

(13) One individual with expertise in biomedical ethics, to be recommended by the National Academy of Sciences and appointed by the President, after consultation with relevant groups, with the advice and consent of the Senate, with such member being appointed within 90 days after the date of enactment of this Act.

(14) One individual representing national foundations, medical institutes, and other philanthropic organizations involved in biomedical research, to be recommended by the National Academy of Sciences and appointed by the President, after consultation with relevant groups, with the advice and consent of the Senate, with such member being appointed within 90 days after the date of enactment of this Act.

(15) Two individuals representing State biotechnology development programs.

(c) TERM OF SERVICE.—

(1) IN GENERAL.—Except as provided in paragraph (3), Board members appointed under paragraphs (11) through (14) of subsection (a) shall serve 4-year terms and shall serve until a successor for such member is appointed and confirmed.

(2) VACANCIES.—Any individual appointed to fill a vacancy on the Board that occurs prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

(3) STAGGERED TERMS.—Terms of the initial Board members appointed under paragraphs (11) and (12) of subsection (a) shall be determined by the President at the time of the appointment in accordance with the following:

(A) One industry and one university representative shall be appointed for a term of 4 years.

(B) One industry and one university representative shall be appointed for a term of 3 years.

(C) One industry and one university representative shall be appointed for a term of 2 years.

(D) One industry and one university representative shall be appointed for a term of 1 year.

(4) REAPPOINTMENT.—Nongovernment Board members may be reappointed by the President with the advice and consent of the Senate.

(d) CHAIRMAN.—

(1) Selection.—The members of the Board shall select a Chairman from among its members to serve for a term of 2 years.

(2) Vacancy.—In the event of a vacancy in the Chairmanship, the Board shall elect a Chairman to serve the remainder of the unexpired term.

(3) Re-election.—Chairman may be reelected by the members of the Board.

(e) Meeting.—

(1) Initial meeting.—Within 90 days after the approval by the Senate of the last member of the initial Board, the Board shall meet to elect a Chairman.

(2) Subsequent meetings.—The Board shall meet at least twice a year.

SEC. 202. DUTIES AND FUNCTIONS.

The Board shall—

(1) review and appraise the various programs and activities of the Federal Government relating to biotechnology, including the amount and type of biotechnology-related research conducted or funded by Federal agencies;

(2) review and appraise the extent and nature of privately-funded biotechnology activities, including non-confidential research, both basic and applied, and the development of commercial biotechnology-related industries and products;

(3) review regulatory policies that affect biotechnology industries and the products thereof, including considering whether the existing regulatory system protects the public health and safety and the environment without unduly impeding academic and commercial research and development activities;

(4) submit recommendations to the President and Congress, where appropriate, concerning—

(A) policies that will enhance the efficient and timely advance of basic and applied biotechnology-related research;

(B) methods to enhance the competitiveness of the United States in the development of commercial biotechnology-related industries and products;

(C) policies that will ensure the training of sufficient numbers of scientists, engineers, and laboratory personnel for the continued leadership of the United States in biotechnology-related basic and applied research and the development of the biotechnology industries of the United States;

(D) Federal participation in proposed cooperative research initiatives involving governmental and private entities;

(E) regulatory policies that affect biotechnology industries and the products thereof; and

(F) policies that will enhance the transfer of technology from university and Federal research laboratories to commercial laboratories so as to allow the efficient and timely commercialization of Federally funded discoveries.

SEC. 203. REPORTS.

Not later than January 31, 1990, and not later than January 31, of each even-numbered year thereafter, the Board shall submit, to the President and to the Congress a report that contains recommendations described in section 2(3). The Board shall submit additional reports and recommendations as the Board considers necessary, or on the demand of the President or Congress. Reports shall be published and made available to the public.

SEC. 204. STAFF AND PERSONNEL.

(a) Executive Director.—

(1) Appointment.—The Board shall appoint an Executive Director, who shall serve at the pleasure of the Board.

(2) Duties.—The Executive Director shall report directly to the Board and perform such duties and functions as the Board may prescribe.

(b) Other Personnel.—The Board may employ such other officers and employees as may be necessary to carry out the duties and responsibilities of the Board and its advisory panels.

(c) Voluntary Services.—Notwithstanding section 665(b) of title 31, United States Code, the Board may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Board.

SEC. 205. COORDINATION WITH OTHER AGENCIES.

(a) In General.—The Board shall work in consultation with other Federal agencies (including such agencies represented on the Board) and in consultation with other Boards and Commissions as may be appropriate, including the Biomedical Ethics Board and the New Products Research Board.

(b) Biomedical Ethics Board.—The Biomedical Ethics Board shall review prior to publication, and as appropriate comment, on reports issued by the Board and the advisory panels established pursuant to subsection (d)(2).

(c) Information.—Each department, agency, and instrumentality of the Executive branch of the Federal government and each independent agency and other governmental organization, including the Office of Technology Assessment, shall furnish the Board with such information as the Board shall consider necessary and appropriate to assist the Board in carrying out its functions and duties.

(d) Consultations.—The Board may—

(1) utilize the services of consultants;

(2) establish advisory panels; and

(3) to the extent practicable, consult with—

(A) State and local governments;

(B) appropriate professional and industry groups;

(C) representatives of university, industry, labor, consumer and other public interest groups; and

(D) individuals as is appropriate.

(e) Hearings.—The Board may hold hearings and meetings in various parts of the United States as may be appropriate in carrying out the functions and duties of the Board.

(f) Duplication and Reimbursement.—

(1) Duplication.—The Board shall utilize, to the fullest extent possible, the services, personnel, equipment, facilities, and information of public and private agencies and organizations, and individuals, in order to avoid duplication of effort and expense.

(2) Reimbursement.—The Board may transfer funds made available pursuant to this title to other Federal agencies as may be appropriate to reimburse such agencies for the utilization of agency personnel, services, facilities, equipment and information.

SEC. 206. COMPENSATION OF MEMBERS.

(a) Nongovernment Members.—Each member of the Board that is not otherwise in the service of the Federal government shall receive a sum equivalent to the compensation provided at level IV of the Executive Salary Schedule under section 5315 of title 5, United States Code, prorated on a daily basis for each day spent in service to the Board, and shall be paid actual travel expenses, and per diem in lieu of subsistence expenses in accordance with section 5703 of title 5, United States Code, when such member is away from the member's usual place of residence.

(b) Government Members.—Each member of the Board that is otherwise in the service of the Federal government shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Board, such member shall be paid actual travel expenses, and per diem in lieu of subsistence expenses in accordance with subchapter I of chapter 57 of title 5, United States Code, when away from the member's usual place of residence.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $2,000,000 in fiscal year 1989, $2,500,000 in each of the fiscal years 1990 and 1991, and $3,000,000 in each of the fiscal years 1992 and 1993.

Subtitle B—Human Genome Research and Development

SEC. 211. FINDINGS.

Congress finds that—

(1) knowledge relating to the location and sequences of genes on human chromosomes and those of other organisms will enable more rapid elucidation of the basis for developmental processes and for human disease;

(2) comprehensive understanding of human genetic make-up, and the genetics of other organisms, will enhance our ability to develop methods for the prevention and treatment of disease states;

(3) advances in biomedical research and technologies have enabled rapid progress in the localization of genes to specific human chromosomes;

(4) a number of Federal agencies (including the National Institutes of Health, the Department of Energy, and the National Science Foundation) are presently funding research related to the mapping and sequencing of genes within the human genome or basic biomedical research, or the development of new technologies and instruments for this research; and

(5) in order to most efficiently expend research funds, and to most expeditiously advance our understanding of human genetics, it is essential that the agencies involved coordinate their research efforts.

SEC. 212. NATIONAL ADVISORY PANEL ON THE HUMAN GENOME.

(a) Purpose.—The purpose of this section is to establish a National Advisory Panel on the Human Genome that shall coordinate—

(1) national activities to ensure the construction of maps of human chromosomes and DNA of other organisms to be used as powerful research tools for biomedical research; and

(2) the development of new tools to analyze DNA, in cooperation with philanthropic, companies, and other private sector interests.

(b) Establishment.—There is established, as an advisory panel to the Board established in subtitle A, a National Advisory Panel on the Human Genome (hereinafter referred to in this subtitle as the "Panel") to advise the Board on matters concerning the mapping and sequencing of human genome.

(c) Membership.—The Panel shall consist of the following individuals or the designees of such individuals—

(1) the Secretary of Energy;

(2) the Director of the National Institutes of Health;

(3) the Director of the National Science Foundation;

(4) the Director of the National Library of Medicine;

(5) four individuals representing private industry, to be appointed by the President, after consultation with relevant groups, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act, but who shall not be members of the Board;

(6) four individuals representing the university research community, to be recommended by the National Academy of Science and appointed by the President, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act, but who shall not be members of the Board;

(7) one individual with expertise in biomedical ethics, to be recommended by the National Academy of Sciences and appointed by the President, with the advice and consent of the Senate, with such member being appointed within 90 days after the date of enactment of this Act; and

(8) one individual representing national foundations, medical institutes, and other philanthropic organizations involved in biomedical research, to be recommended by the National Academy of Sciences and appointed by the President, with the advice and consent of the Senate, with such member being appointed within 90 days after the date of enactment of this Act.

(d) Chairmen.—The Panel shall be cochaired by the Secretary of Energy and the Director of the National Institutes of Health or the designees of such.

(e) Functions.—The Panel shall—

(1) identify the optimal strategy for mapping and sequencing the human genome utilizing for guidance information and recommendations from previous reports, including those of the Office of Technology Assessment and the National Academy of Sciences;

(2) determine research and development goals that will ensure United States leadership in human genome research;

(3) ensure the quality of scientific and technical work, and establish standards for the collection and storage of data and materials;

(4) assess the need for common research resources such as materials repositories and new data-bases;

(5) monitor relevant research programs supported by Federal agencies and private funding sources;

(6) identify commercial opportunities arising from national research programs;

(7) oversee interagency cooperation through data-sharing, joint sponsorship of meetings, joint funding of research resources, and communication of annual budget plans;

(8) assess the need and benefit of international cooperation in mapping and sequencing the human genome; and

(9) evaluate patent rights and ownership of data on the human genome, and provide advice to interested Federal agencies, the scientific community, and private industry.

(f) Reports.—Not later than 18 months after the date of enactment of this section, the Panel shall submit to the Board a report that contains recommendations based on the functions of the Panel under section 212(e). Additional reports shall be submitted to the Board as the Panel considers necessary, or on demand of the Board.

(g) Biomedical Ethics Board.—The Biomedical Ethics Board shall review, and as appropriate, comment on the ethical and social implications of human genome research.

Subtitle C—National Agricultural Biotechnology Advisory Panel

SEC. 213. FINDINGS.

Congress finds that—

(1) applications of biotechnology research will provide for the development of new industrial crops, more nutritious crops, and crops which are disease and insect resistant;

(2) while progress is being made in the area of agricultural biotechnology research, the Federal Government should take an active leadership role in providing direction and funding for basic and applied agricultural research including basic plant biology;

(3) exchange of agricultural biotechnology information is critical for advances in research;

(4) since the field of biotechnology holds much promise for the future of agriculture in the United States, carefully directed research is an important component in maintaining an internationally competitive edge;

(5) while no evidence exists that a plant in the United States has transferred genes bred into it for a given trait to an indigenous plant nearby or has caused any ecological damage, the potential for such effects should continue to be examined, including the potential for gene transfer, monitoring and mitigation techniques, and a comparative analysis of the potential risks and benefits that may be posed by transgenic plants and traditional farm practices;

SEC. 214. NATIONAL AGRICULTURAL BIOTECHNOLOGY ADVISORY PANEL.

(a) Establishment.—There is established, as an advisory panel to the Board established in subtitle A of title II, a National Agricultural Biotechnology Advisory Panel (hereinafter referred to in this subtitle as the "Agriculture Panel").

(b) Membership.—The Agriculture Panel shall consist of the following individuals or the designees of such individuals—

(1) the Secretary of Agriculture;

(2) the Director of the National Science Foundation;

(3) the Director of the National Agricultural Library;

(4) the Director of the National Research Council of the National Academy of Sciences;

(5) one individual who is a member of the National Agricultural Research and Extension Users Advisory Board;

(6) one individual who is a member of the Joint Council on Food and Agricultural Sciences;

(7) three scientists representing private industry, to be appointed by the President, after consultation with relevant groups, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act;

(8) four scientists representing the university research community, to be recommended by the Department of Agriculture and appointed by the President, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act, and with at least one such member being an ecologist; and

(9) two scientists, who represent national foundations, citizen groups, or farm organizations involved in agricultural biotechnology research, to be recommended by the Department of Agriculture and appointed by the President, with the advice and consent of the Senate, with such members being appointed within 90 days after the date of enactment of this Act.

(c) Chairman.—The Agricultural Panel shall be chaired by the Secretary of Agriculture or his designee.

(d) Duties of the Agriculture Panel.—

(1) advise the Board on matters concerning agricultural biotechnology and coordinate national activities, including the Plant Science Centers, the New Products Research Board, and other related efforts in agricultural biotechnology;

(2) new tools to analyze DNA, in cooperation with the National Advisory Panel of the Human Genome established in subtitle B of title II and philanthropic, corporate, and other private sector interests;

(3) processes information exchange of important agricultural biotechnology data and research findings;

(4) risk assessment methods of better understand the implications of field releases of genetically engineered plants;

(5) promote scientific training in the area of agricultural biotechnology;

(6) provide direction to the United States Department of Agriculture and other agencies of the Federal Government concerning basic and applied agricultural research priorities and funding needs, including the need to lower farming input costs, improve crop quality, and develop new agricultural products.

(7) the quality of scientific and technical work, and standards for the collection and storage of data and materials;

(8) identify national and international commercial opportunities arising from national research programs;

(9) interagency cooperation through datasharing, joint sponsorship of meetings, joint funding of research resources, and communication of annual budget plans;

(10) evaluate patent rights and ownership of data, and provide advice to interested Federal agencies, the scientific community, and private industry

(e) Compensation and Travel Expenses.—

(1) Members shall serve on the Agriculture Panel without compensation.

(2) While away from their homes or regular places of business in the performance of services for the Agriculture Panel, members of the Agriculture Panel shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(3) The Secretary of Agriculture shall make available to the Agriculture Panel such personnel, facilities, and administrative support services as may be appropriate to enable the Agriculture Panel to carry out its duties under subsection (d).

(f) Annual Report.—Not later than 18 months after the date of enactment of this section, the Agricultural Panel shall submit to the Board a report that contains recommendations based on the functions of the Agriculture Panel under section (d). Additional reports shall be submitted to the Board as the Panel considers necessary, or on demand of the Board.

TITLE III—BIOMEDICAL ETHICS BOARD REAUTHORIZATION

SEC. 301. BIOMEDICAL ETHICS BOARD REAUTHORIZATION.

Subsection (e) of section 381 of the Public Health Service Act (42 U.S.C. 275(e)) is amended to read as follows:

"(e) To enable the Board and the Committee to carry out their functions, there are authorized to be appropriated $2,000,000 for fiscal year 1989, $2,500,000 for fiscal year 1990, and $3,000,000 for fiscal year 1991.".

SEC. 302. MISCELLANEOUS AMENDMENTS.

Section 381 of the Public Health Service Act (42 U.S.C. 275) is amended—

(1) in subsection (b)—

(A) by redesignating paragraph (5) as paragraph (6); and

(B) by inserting after paragraph (4), the following new paragraph:

"(5) The Board shall function through a majority vote of its members, and shall adopt rules governing its procedure. Such rules shall be published in the Federal Register not later than March 1 of each year. A quorum for voting purposes shall be a majority of the members of the Board with at least one member of both the majority and the minority parties of the House of Representatives and the Senate being present."; and

(2) in subsection (d)(2)(B)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E) respectively; and

(B) by inserting after subparagraph (A), the following new subparagraph:

"(B) The Committee shall function by majority vote and shall adopt rules governing its procedures.".

TITLE IV—ALTERNATIVE AGRICULTURAL PRODUCTS RESEARCH

SEC. 401. SHORT TITLE.

This title may be cited as the "Alternative Agricultural Products Research Act of 1987".

SEC. 402. PURPOSE.

It is the purpose of this title—

(1) to authorize research in modification of plants and plant materials, and associated research, in order to develop and produce marketable products other than food or traditional fiber products; and

(2) to establish an independent New Products Research Board to advise the Assistant Secretary of Agriculture for Science and Education, with respect to selection criteria for, and scientific feasibility of, prospective research projects under this title.

SEC. 403. DEFINITIONS.

As used in this title:

(1) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of Agriculture for Science and Education.

(2) BIOTECHNOLOGICAL RESEARCH PROJECT.—The term "biotechnological research project" means a project authorized and funded by the Secretary that is directed toward the development of a new marketable industrial or commercial product, other than a food or traditional fiber product, through biotechnology or other modification of a plant.

(3) BOARD.—The term "Board" means the New Products Research Board established under section 404.

(4) DEVELOPMENT.—The term "development" means targeted research, including fundamental research and applied research necessary to make a product available for the marketplace and necessary research on the plant, modification of plant materials, new methods, if any, needed to cultivate the plant, the commercial separation and purification of the new product, and any research on the uses of the new product.

(5) NEW PRODUCT.—The term "new product" means an item developed through a biotechnological research or a plant product research project that is primarily not food or traditional fiber, including an item that exists but is not commercially available from a plant.

(6) NONTRADITIONAL FOOD.—The term "nontraditional food" means a food product that does have substantial new properties and that is not now derived from agricultural materials.

(7) PLANT PRODUCT RESEARCH PROJECT.—The term "plant product research project" means a project authorized and funded by the Secretary that is directed towards the development of a new marketable industrial or commercial product, other than a food or traditional fiber product, through the modification of the product of a plant.

(8) PROJECT.—The term "project" means a biotechnological research project or a plant product research project.

(9) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(10) TRADITIONAL FIBER.—The term "traditional fiber" means a fiber product that does not have substantial new properties and that is derived from agricultural materials.

SEC. 404. NEW PRODUCTS RESEARCH BOARD.

(a) ESTABLISHMENT.—There is established in the Department of Agriculture the New Products Research Board to be administered by the Assistant Secretary.

(b) FUNCTIONS.—The Board shall advise the Secretary—

(1) on specific targets of opportunity for research that most closely meet the selection criteria required for a project to be eligible for funding under this title;

(2) on the composition of review committees to examine the merits of specific proposals for research projects that have been solicited by the Secretary;

(3) on recommendations for the funding of specific proposals for research projects and

(4) concerning progress made in carrying out projects that are currently being undertaken.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Board shall consist of 6 members, of which—

(A) two members shall be appointed by the Assistant Secretary;

(B) one member shall be appointed by the Director of the National Science Foundation;

(C) one member shall be appointed by the Secretary of Energy;

(D) one member shall be appointed by the Secretary of Commerce; and

(E) one member shall be appointed by the Director of the Office of Technology Assessment.

(2) TERM OF SERVICE.—The term of a member of the Board shall be at the discretion of the appointing authority, except that a member may not serve more than 5 years.

(3) VACANCIES.—A vacancy on the Board shall be filled in the manner in which the original appointment was made.

(4) CHAIRMAN.—The Assistant Secretary shall designate one of the members of the Board as Chairman of the Board.

(5) GOVERNMENT MEMBERS.—All members of the Board who shall be officers or employees of the United States Government who shall serve without additional compensation.

(6) EXPENSES.—All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(7) MEETINGS.—The Board shall meet at the call of the Chairman or a majority of its members.

(d) PERSONNEL AND SERVICES.—The Board may appoint personnel and procure permanent, temporary, and intermittent services, as it considers necessary, under section 3109 of title 5, United States Code, at rates for individuals that do not exceed the rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

(e) EXPERTS.—The Board may establish committees of technical experts, and farm and industry representatives, to advise the Board on matters that are determined to be appropriate by the Board.

(f) RULES AND REGULATIONS.—The Board is authorized to propose rules and regulations to the Secretary, and may promulgate procedures, that may be necessary to carry out the functions of the Board.

(g) DEPARTMENT OF AGRICULTURE RESOURCES.—The Board is authorized to utilize, with the consent of the Secretary, the services, equipment, personnel, information, and facilities of the Department of Agriculture, with or without reimbursement.

(h) HEARINGS.—The Board may, for the purpose of carrying out this title, hold such hearings, and sit and act at such times and places, as the Board considers appropriate.

SEC. 405. RESEARCH PROJECTS.

(a) AUTHORIZATION.—The Secretary, on a recommendation from the Board, shall select projects that are to receive funding under this title, for purposes of research to develop and produce new products.

(b) APPROPRIATE PROJECTS.—

(1) DEVELOPMENT.—Each project shall target development of a new crop, or modification of an existing crop or crop material, that meets the criteria listed in paragraph (2).

(2) CRITERIA.—Projects should be selected on the basis of—

(A) the prospect of developing viable technologies that could make it possible to use or modify existing plants or plant products to provide an economically separable viable quantity of new products;

(B) the need for a new product of the type contemplated;

(C) the potential market size of the new product;

(D) the likely time period needed to bring the new product into the stream of commerce for general use;

(E) the likely impact on reducing Federal crop subsidies and other Federal agricultural assistance program costs;

(F) the likely ability to grow the plant used to produce the new product at a profit;

(G) the availability of the expertise and facilities required to conduct the proposed research; and

(H) the likely unavailability of appropriate funding from other sources.

(c) FUNDING.—

(1) PURPOSE.—Funding shall only be provided under this title to those projects that have as the principal purpose the development of new products, with priority given to biotechnological research projects. No less than one half of the appropriated funds being allocated to biotechnological research projects.

(2) CONSORTIA.—Unless the Secretary finds it appropriate for a single research entity to conduct a project, each project shall be conducted by a project group that may include a consortium of—

(A) public and private colleges and universities;

(B) private research facilities and personnel;

(C) State agricultural experiment stations;

(D) Federal research laboratories; or

(E) any combination thereof.

(3) SECONDARY USES.—Funding shall not be denied if paragraph (1) is satisfied even if

the developed plant has a food or fiber use in addition to the use described in paragraph (1).

(4) PERIOD OF FUNDING.—Funding—

(A) shall cover the proposed research necessary for not less than 3 years, or until a marketable product is developed or determined to be unattainable or unnecessary; and

(B) may be extended, subject to satisfactory review, for additional 3-year periods or until a marketable new product is developed or determined to be unattainable or unnecessary.

(5) NONTRADITIONAL FOOD USE.—If the development of nontraditional food uses becomes the principal likely result of a project, funding may be continued if the project continues to meet the criteria set forth in subsection (b)(2) other than the criterion set forth in subsection (b)(2)(A).

(6) NUMBER OF PROJECTS.—

(A) INITIAL PROJECTION.—The Secretary shall fund not less than 20 projects within the 36-month period beginning on the date of enactment of this title, with funding committed for at least 5 projects within the 12-month period beginning on the date of enactment of this title.

(B) ADJUSTMENT.—If the amount appropriated under section 406 is reduced, or if the availability of such amount for obligation is delayed, the number of new projects to be funded may be reduced proportionately, or delayed as appropriate.

(d) CONTRACTS.—The Secretary may sign contracts that assign research responsibilities to an appropriate consortia or other entity capable of conducting the appropriate research over the applicable research period.

(e) REVIEW AND REPORTING.—

(1) PROJECT GROUPS.—A project group shall report on the progress of the group to the Board annually or as otherwise required by the Board.

(2) THE BOARD.—The Board shall review the progress of the projects approved by the Secretary and report to the Secretary on the projects with recommendations concerning continued research.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

To carry out this title, there are authorized to be appropriated $75,000,000 for the fiscal year 1988, and each of the 19 fiscal years thereafter.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DECONCINI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SCIENCE FOUNDATION ACT

The Senate resumed consideration of H.R. 4418, the National Science Foundation Act.

The PRESIDING OFFICER. Under the previous order the question is, Shall the bill (H.R. 4418) pass? The yeas and nays have been ordered. This will be a 10-minute vote. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. DOLE. I announce that the Senator from Minnesota [Mr. DURENBERGER], the Senator from Nevada [Mr. HECHT], the Senator from Idaho [Mr. MCCLURE], the Senator from Wyoming [Mr. SIMPSON], the Senator from Idaho [Mr. SYMMS], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 1, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—88

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—1

Proxmire

NOT VOTING—11

Biden
Breaux
Durenberger
Gore
Hecht
Kennedy
Matsunaga
McClure
Simpson
Symms
Wallop

So the bill (H.R. 4418) was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, is there an amendment to the title?

The PRESIDING OFFICER. There is an amendment to the title at the desk.

The clerk will report.

The legislative clerk read as follows:

Amend the title so as to read: "A bill to authorize appropriations for the National Science Foundation, and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was adopted.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that S. 1632 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

TENDER OFFER DISCLOSURE AND FAIRNESS ACT

The Senate resumed consideration of the bill (S. 1323).

Mr. BYRD. What is the business now pending before the Senate?

The PRESIDING OFFICER. The unfinished business before the Senate is S. 1323, the Tender Offer Disclosure and Fairness Act of 1987.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1323) to amend the Securities Exchange Act of 1934 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers, and with other changes in corporate control.

Mr. BYRD. Mr. President, the business now before the Senate is the corporate takeover bill.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, there may be votes during the afternoon on amendments thereto. So I cannot say at this time there will not be any more rollcall votes today. But Senators are aware of the bill. If they have amendments, they should take advantage of the opportunity to call up amendments. For the moment, I yield the floor.

The PRESIDING OFFICER. The Chair in his capacity as a Senator from the State of Georgia will suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, today the Senate begins debate on the law that governs takeovers. Before us is S. 1323, the Tender Offer Disclosure and Fairness Act. In many ways, this debate and congressional action is long overdue.

TAKEOVER GAME

Americans are rightfully fed up with the takeover game, especially the way it has come on in recent years. A Harris poll in January 1987 showed that 58 percent feel hostile takeovers do more harm than good, while ony 8 percent say they do more good than harm. A full 67 percent favor legislation to sharply restrict takeovers. A more recent poll by the Coalition to Stop the Raid on America updates and confirms these findings.

Even former Wall Streeters are laughing at the hollow justifications uttered by their brethren for this absurd and expensive game. Former Merrill Lynch chief and Treasury Secretary Donald Regan said Wall Street may "have gotten hooked on the money they're making in quick killings, takeovers, program trading or insider dealings."

Salomon Brother David Stockman recently said "the M&A community is now mainly a group of deal brokers. They might as well be selling oil cargo or shipments of burlap bags." Neoconservatives such as Irving Kristol are also growing impatient.

Raiders and their investment bankers are not dispassionate agents of an improved economy. They are agents of greed. The Hafts have run amok among the retailing sector, extracting hundreds of millions in effective green mail.

The profile of many hostile raids borders on extortion. The modern-day takeover is a colossal equivalent of churning: Rather than turning over a single investor's portfolio, these financial samarai are turning over entire companies.

Raiders themselves testify to this plot. Raider Carl Icahn bluntly revealed his plot long ago. In a memo, he wrote that:

> Sizable profits can be earned by taking large positions in undervalued stock and then attempting to control the destinies of the companies in question by: trying to convince management to liquidate or sell the company to a "white knight"; waging a proxy contest; making a tender and/or selling back our position to the company.

What is more, this takeover mania does not just violate common sense and basic economic policy. Often, the law is violated. Takeover related insider trading is a chilling scandal of iceberg proportions of which enforcement authorities warn us we have only seen the tip. Boesky and Levine are now in the slammer spewing evidence of widespread crime. The latest allegation involves none other than shopping mall magnate Edward DeBartolo and raider Paul Bilzerian.

DEBT AND TENDER OFFERS

The key to this takeover game is debt. The bidder secures loans from a bank in order to purchase the shares of the target company. Then, to repay these loans, the bidder must often issue new debt under the aegis of the newly acquired company, or even sell some of the assets to generate needed cash. Similarly, in defending against a bidder, a corporation may itself issue new debt in order to purchase its own stock so as to keep it from the hostile bidder.

Mr. President, in the judgment of this Senator, the most serious economic problem that confronts this country is the colossal increase in business debt. Few people realize how big business debt is. The national debt is $2.4 trillion. The household debt is $3 trillion. Business debt is over $4 trillion.

Furthermore, it is far bigger in relationship to earnings. Back in 1955, which was an average year, debt was $2.85 for every dollar of earnings. Today it is not $2.85; it is not $3; it is not $5; it is not $6. It is $9 of every dollar of earnings.

When a company gets into debt to that extent, it means that much of its cash-flow, much of its revenue goes to pay interest, and they have to pay that interest in full and on time.

It means they cannot invest money into research and development, into manpower training, and into buying new equipment and other investments.

Highly publicized examples illustrate the connection between corporate debt and unfriendly tender offers. Phillips Petroleum, in defense against bids by T. Boone Pickens and Carl Icahn, tripled its debt to $7.3 billion. Similarly, Unocal increased its debt from $1.2 billion to $5.2 billion after its contest with T. Boone Pickens. Goodyear now services $4 billion in debt, following a bid by British financier James Goldsmith. Owens Corning added some $2.6 billion to its debt portfolio.

One of the saddest cases was Borg-Warner. This was a superb, business-school case in how an old-line manufacturing company should be managed. Borg-Warner was a company in the rust belt, of course, yet but it diversified. It did a remarkable job. It is a superb corporate citizen in Chicago, and contributes to charities and education.

It provides a great deal of employment and it has been on the cutting edge of competition. It has greatly improved its product with research. It came under the sights of a takeover group, and then the situation dramatically deteriorated.

Borg-Warner, in order to fight off the takover, changed. In 1986, they had an equity-debt ratio of 3 to 1. In 1988, they had an equity-debt ratio of 1 to 20. Now they are a basket case. Now in the event of a recession, they are likely to be blown away. It is a cyclical industry they are in. They have had to sell off their acquisitions which gave them the diversification they needed and they are in real trouble.

In the aggregate, takover-spawned debt has changed the financial profile of the Nation. American corporations sold 263 billion dollars' worth of debt in 1986, double the 1985 figure, and five-times the figure of 1982. In 1986, American industry spent some $177 billion in hostile bids, such of that in the form of new debt. This was, for the first time in U.S. history, greater than the amount spent on acquisitions of new plant and equipment. Never before.

Debt, as I say, is a stern mistress. Miss a dividend payment and you deservedly antagonize your shareholders. Miss bond payment and you're bankrupt. To service debt, especially the expensive, pervasive debt that accompanies hostile takeovers, companies must retrench research and development as well as terminate otherwise productive workers.

In our numerous hearings, we heard countless tales and reviewed extensive studies that show that debt-ridden hostile takeover targets cost jobs and weigh heavily on corporate competitiveness.

Robert Luciano, chairman of Schering-Plough Corp., made a forceful case about the threat to research and development:

> The pharmaceutical industry is on the verge of the most dramatic step in its history—the giant leap from treatment to prevention. Because we have cracked the genetic code, we can now develop products that may provide actual cures for a wide range of diseases rather than merely their symptoms. * * * But the corporate bust-up artist isn't content to benefit in the medium- or long-term from his investment. He wants to benefit now, today, in his pocketbook.

Takeovers have led directly to the elimination of jobs. AFL–CIO officials estimated that they have lost 80,000 jobs because of raids. In the aggregate, some 800,000 jobs have been lost. More than 80 percent of job creation in American recently has come from small business. The Fortune 500 has failed to contribute to job creation, in no small part, because of raids and the threat of raids.

It is interesting, Mr. President, in the last 10 years we have had an increase of almost 10 million jobs. All of them have come from firms that have less then 500 employees. The firms that employ more than 500 have contributed to this increase in debt. Take the big firms, firms that employ more than 500: They employ fewer people today than they did 10 years ago.

American workers are plundered even when they are not terminated. For example, some $16 billion has been siphoned from private pension plans. In numerous cases, this plundering went to firms attempting to fend off a bidder, even to successful bidders.

While statistics are frightening enough, each job loss is a tale of profound sorrow. Goodyear employee Clayton C. Oster told the Senate Banking Committee of a colleague he had worked next to all his life: "The man was 61 years old and had lost the opportunity to retire with no problem. * * * And he committed suicide."

TAKEOVER AND THE CRASH

The world witnessed one of the most dramatic repercussions of takeover mania on October 19, Black Monday. Listen to the pathology outlined by the President's own Brady Commission. They called it "the levitating stock market" that was "defying natural forces."

> Takeover activity was a mainstay of the market. It was strong and was expected to continue. Large pools of leveraged buyout, bridge or other takeover activity funds were raised or added to in 1987. These funds had the ability to buy $150 billion worth of corporate stock.

The corporate raid may well become the emblem of our age, the shorthand explanations historians use when they gaze back on the 1980's and attempt to explain the false prosperity America enjoyed while fundamental aspects of our economy were nevertheless faltering.

ADVANTAGES OF TAKEOVERS

Yes, unfriendly takeovers can be a "good deal." They can lead to lucrative short-term gains for shareholders of target companies. Shareholders are an important constituent. But there are others, such as employees and communities that are home to public corporations.

Professor Drucker summarized the challenge to Congress: "Can a modern democratic society tolerate the subordination of all other goals and priorities in major institutions, such as the publicly owned corporation, to short-term gain?"

Mr. President, aside from transient profits, takeovers not only destroy companies and jobs, they can also destroy shareholder value. Consider the fact that Columbia professor, Louis Lowenstein, made a scholarly study of takeovers. He showed that takeover sparked stock rises are short-lived. In the short term, the stockholder benefits. But Professors Magenheim and Mueller looked at the share price of the surviving firm within 3 years following the merger, and they found that the share price had in almost all cases slumped significantly, so the shareholder gains in the short run, not in the long run.

One myth that raiders perpetrate is that they are disciplining American management; they are raiding corporate laggards, they say. This is far from the truth. Ravenscraft and Scherer proved that target companies are not industry laggards. The average target in a study by Scherer and Ravenscraft, in fact, were "extraordinarily profitable companies." In addition, "7 or 8 years on average following merger, profitability had declined sharply relative to pre-merger levels." Scherer and Ravenscraft conclude that "the evidence mandates considerable skepticism toward the claim that mergers are on average efficiency-enhancing." Wrote Scherer, who is a professor at Swarthmore University in Philadelphia, "Takeovers frequently lead to short-run profit-maximizing strategies, eventually leaving wasted corporate hulks in their wake." Columbia's Lowenstein found that in a 6-year period, target firms enjoyed a 16-percent return on equity, greater than the average firm."

Now that Lowenstein study was not just based on a selected group of firms. He took every single merger of a firm that was on the New York Stock Exchange. He studied something like 6,000 mergers over a period of 7 years before he came to that conclusion.

William E. Wall, chairman of the Kansas Power & Light Co. summarized this argument before the Banking Committee: "It isn't the poorly-managed, stumbling companies (bidders) are after. Quite the opposite. It's companies of the stripe of Phillips Petroleum, Owens Corning, Goodyear, Gulf Oil, ITT. When Chrysler was at the brink, in its darkest hour, its management was safe from the bidder's insults." Nobody was interested in taking it over.

THE RESPECTIVE STATE AND FEDERAL ROLES IN REGULATING TENDER OFFERS

In reforming the takeover game, the Federal Government can play an important role. Yet the States currently constitute the front line of defense against manipulation, and abuse of corporations.

Mr. President, in reforming the takeover game, the Federal Government can play an important role, yet the States currently constitute the frontline of defense against manipulation and abuse of corporations. Throughout the years, the States have chartered our corporations and throughout the years the States have done a generally excellent job of corporate government and we should keep it that way.

That affirmation has become the center of debate in the Senate and as well in the House. This stems from a Supreme Court decision in April 1987 in the CTS case. Following the CTS decision, some have asked Congress to preempt State statutes having an impact on any tender offer.

Generally, they argued that failure to preempt the States would lead to a patchwork of State laws constructed to protect management and harm shareholders. Despite claims that State takeover laws would stifle contests for corporate control, there have, in fact, been an above normal level of takeover bids. In Wisconsin, where Alan Bond bid for Heileman Brewing Co., Inc., the State responded with passage of a tender offer reform measure. The result: Bond increased his bid, from $38 a share to $41, agreed to let Heileman run autonomously with headquarters remaining in La Crosse, WI, and with labor contracts honored.

As to the concern of a balkanization of State takeover laws, the committee agreed that a bidder would only have to be concerned with one State's law, as the Supreme Court upheld the Indiana law in part because it restricted its scope to those companies clearly operating within its borders. The commerce clause prevents any State law from interfering with interstate commerce.

Some critics suggested that corporations would shop for States with the most protective tender offer laws. If such shopping takes place, it must be with shareholder consent. Reincorporation requires an affirmative shareholder vote whether the antitakeover law is the basis for the move, permitting shareholders to decide if it would depress their stock.

States are well equipped to police securities law. Each State maintains its own administrative office, offering considerably more surveillance than the 10 regional offices of the SEC.

One of the commonly attacked areas controlled by the States is voting rights. Critics of some corporation voting policies call for one-share, one-vote clauses, wrapping the argument in democratic principles and the flag. But business law can be complicated. As Joseph Coors explained to our committee, his grandfather sought disparate voting rights as a means of providing dividends for family members who were not working at his brewery, while keeping control for those family members who did work there.

There are many reasons for an exceptions from a one-share, one-vote clause. Senator PHIL GRAMM, of Texas, for example, who is a member of the Banking Committee and, of course, an esteemed Member of this body, a brilliant Senator, sought protection for a banking merger in his State where an out-of-State institution was attempting to rescue one of Texas' troubled banks.

Based on these arguments, I believe it is important that we sustain the prerogative of States to exercise control over matters of corporate governance.

CONCLUSION

As outlined, contests for corporate control bear on the economy at large. Should hostile takeovers be terminated? What would be the result? Harvard economist, Lawrence Summers, poses the following circumstance: Imagine a country void of hostile takeovers altogether, where managers fearlessly invest in research projects, and rarely slash the work force. In fact, imagine a country where investment bankers come from the bottom of their business school classes instead of the top. Summers concludes by noting there is such a country: Japan.

Akio Morita, chairman of Sony Corp., recently wrote:

> Unfortunately, American industry is now being distracted by a game called mergers and acquisitions. America's brightest managerial talent is engaged in takeover moves and empire-building. The best students do not study engineering but become MBA's or lawyers and, eventually, professional moneymakers. This is not a productive enterprise.

This is a bill that some people will say would stop all takeovers. It does not do anything of the kind. It is a very moderate bill, and it is a modest bill. This is a bill that was supported by a bipartisan, and decisive bipartisan, majority of the Banking Committee with 14 members of the committee voting for it and only 6 members of voting against it.

PROVISIONS OF THE BILL

To reform tender offer law, the committee agreed to a number of specific changes to the Williams Act which may be generally summarized under the following categories:

PURCHASE DISCLOSURE SCHEDULE

Under current law, any person who acquires more than 5 percent of a company's stock need not file a disclosure statement until 10 days after the acquisition that exceeds the 5-percent threshold. This had permitted stock acquisitions much greater than 5 percent during the 10-day window period before any disclosure is required.

That means, of course, that the average stockholder does not know what is going on. He is willing to sell his stock because he does not have full disclosure. He does not have that kind of information. He could obviously be far better off if he knew that a takeover was in process because that means that at least in the short run the price of the stock would rise.

As a result, by the time the first disclosure is made a person may have secretly accumulated a control interest in the company. The bill does not disturb the existing 5-percent threshold requirement. We leave it. We do not change that. However, to alert shareholders to important purchases of the company stock on a more timely basis, buyers are required by the bill to disclose the acquisition of a greater than 5 percent stake in a company within 5 days rather than the current 10 days of reaching this level of ownership. Most importantly, until the disclosure is filed, further purchases beyond 5 percent are prohibited. That means that once a takeover is determined, the average investor will know what is going on. There is a protection for the stockholder. This means the stockholder himself will not be in the position where in ignorance and because he is at a disadvantage compared to insiders he loses by selling out.

In addition, the standards under current law as to when an acquirer must file amendments to the original disclosure after there has been a material change in his holdings or situation are insufficiently rigorous. Under the bill, additional material stock purchases by these buyers beyond the original 5-percent level must be disclosed within 1 day of each purchase. Again, that is a matter of disclosure. There is nothing here that is a radical change except to give more information to stockholders and investors. What is wrong with that?

The bill also makes explicit that disclosure of coordinated buying programs involving separate acquirers is required even in the absence of an agreement to act together between the individual participants. We say let everybody know, let the sunlight shine. To ensure that the members of informal groups, who operate by means of a wink and a nod, do not individually acquire stock in a common effort in order to evade these disclosure requirements, this legislation will emphasize that buyers who act together in purchasing a cumulative stake greater than 5 percent must disclose the acquisition, whenever they act together pursuant to an express or implied agreement or understanding.

Finally the bill requires that company officials and other insiders report any change in their ownership of stock in their company within 5 days of each transaction, rather than within 10 days of month-end as required under current law.

Mr. President, this certainly is in the interest of stockholders to know when the insiders who run a company are acquiring stock. Why should they not know this in a timely way? They know it now, but it is not timely. They know it after it is too late to act. In this case, the stockholders would be told.

DISCLOSURE DETAILS AND ENFORCEMENT MECHANISMS

The bill clarifies existing disclosure requirements and, in some carefully drawn aspects, broadens the current law's disclosure scope. For example, under current law prefiling communications regarding an acquisition need not be disclosed, nor is important information on the buyer's financing, fees, and repayment plans required. Under the bill, the disclosure required with respect to acquisitions must include the identity of other large shareholders with whom the acquisition was discussed during the 30 days preceding the disclosure, along with information on the buyer's financing and fees.

An additional clarification to existing disclosure requirements is a provision in the bill that eliminates the current ambiguity permitted in disclosing investment intent. Buyers will be required to disclose clearly whether their acquisition is either, first, for passive investment purposes; or second, for control of the company. Again, why should the investor and stockholder not know that? Why should that not be public information? The bill remedies a shortfall in the current law by adding a prophylactic provision designed to ensure accurate disclosure of investment intent at the outset: So you know right away whether there is a corporate acquirer, a raider, who is involved.

Buyers who claim that the purpose of their purchase is to make a passive investment may not change that intent and make a tender offer unless the buyer notifies the SEC of this new intent and then waits for a period of 60 days.

Finally, the bill provides for an effective deterrent to violations of the disclosure requirements. The principal remedies for violations of disclosure requirements relied on by the courts to date have been orders against continuing violations or orders requiring that the original false disclosure be corrected. The bill raises the penalties for false disclosure in order to make them more commensurate with the high rewards involved in modern takeover attempts. The Securities and Exchange Commission is empowered to sue for tender offer disclosure violations and to seek penalties of up to 50 percent of the value of securities in question. The bill also recognizes the courts' authority to impose, and specifically endorses the broader use of, equitable remedies such as divestiture or sterilization of voting rights as a necessary component of effective deterrence of tender offer disclosure violations.

TENDER OFFERS

With respect to tender offers, in order to help shareholders better assess a bid—this legislation goes a long way toward meaning the shareholders will have a much better understanding of what their vote means when they vote, what the management position is and what the acquirer's position is. The tender offer period is lengthened from the current required minimum of 20 business days to 35 business days. What is wrong with that? After all, this gives the stockholder an opportunity to make a judgment. These things are swept through too fast. It is not fair, especially the smaller stockholder.

The bill adds a new requirement that where an employee stock ownership plan controls more than 10 percent of a firm that is the object of a tender, and these employees formally notify the issuer and bidder of their intent to make a competing offer on terms substantially equivalent to the existing offer, the tender period is lengthened by 60 additional business days. Again, what is wrong with giving the employees an opportunity to buy their company and giving them time in which to acquire the financing necessary?

The bill also extends the shareholder protections of the existing tender offer process to eliminate techniques sometimes used to acquire control of a company outside of the tender offer framework. To assure all shareholders a fair opportunity to participate in the offer and to avoid circumvention of the protections of the Williams Act, any purchase above 25 percent of a company must be made through a tender offer, subject to a number of exceptions.

The legislation also clarifies the duty of a trustee, such as a pension plan manager, in reacting to a tender offer for shares under his control. Under current law, trustees have been concerned that they may incur liability to the plan beneficiaries in any case where he or she refuses to tender at a premium above current market value. The bill includes a provision that specifically allows a trustee to consider long-term investment prospects in determining whether to tender shares in response to an offer—without fear of automatically violating the duty owed to beneficiaries.

What is wrong with that? It seems to me that is certainly an improvement in present law.

PROXY SOLICITATION

The bill improves existing shareholder rights under SEC rules by adding a new requirement that owners of more than 10 percent of a company may, at the company's expense, include their own proxy materials and board candidates in the proxy statement distributed by the firm. Also, the SEC is directed to study the proxy solicitation process.

That seems to me to be another means of better informing the investor and the stockholder. I cannot for the life of me understand what is wrong with that. And the SEC is directed to study the proxy solicitation process overall.

With greenmail—we know of situations of course where people either intend to or do not intend to, but want to make a bundle. They pretend that they are going to take over the corporation, buy some stock in it and then they offer not to take it over if they can settle at a higher price.

The bill includes a provision designed to limit the practice known as "greenmail." The bill gives a corporation the right to recover any profit made by a person who sells the corporation its own stock, if that person holds more than 3 percent of the stock and has held it for less than 1 year. Three percent of the stock of a corporation, in most cases, is tens of millions of dollars. If the corporation does not act to recover the profit, a shareholder may do so on behalf of the corporation. This section does not apply if the stock purchase was approved by the majority of shareholders or was made pursuant to an offer available to all shareholders. In addition, the SEC is given rulemaking authority to establish exemptions from this provision.

Pension plan protection is a very important part of the legislation, because millions of Americans rely on their pensions, and it is vital that we provide protection. This is where much of the income in addition to Social Security is provided for people who retire in this country.

Current law does not protect excess pension fund assets from use in takeovers by either the bidder or management. In order to preserve excess funding as a cushion for employee benefits, the bill prohibits bidders and target companies from tapping the surplus in pension funds to finance takeover attempts. However, the bill does permit pension surpluses to be transferred to an employee stock ownership plan (if a majority of all pension plan participants agree to do so by vote) which, in turn, can be used by employee stockholders to mount a bid.

Arbitrage. Under present law, many firms that regularly trade or arbitrage stocks that are the object of takeovers must register with the SEC as broker-dealers. However, a number of arbitrageurs, who are a major force in takeover contests, remain unregistered and unregulated. The bill requires arbitrageurs who are not already registered with the Commission to do so. In addition, the legislation expressly affirms the SEC's authority to require multiservice financial firms to establish appropriate restrictions on the internal flow of information, or "Chinese Walls," between the firm's various departments, such as the tender offer arbitrage department and merger and acquisition department.

Then we have a provision on insider trading penalties. The bill raises the criminal penalties for insider trading from $100,000 and/or 5 years in jail to $1 million and/or 10 years in jail. There is a very important new requirement that was added because of the entreaty of prosecuting attorneys who said this would greatly strengthen our insider trading legislation.

A new requirement also provides that perjury or obstruction of justice in the course of an insider trading violation investigation carries a mandatory 1-year sentence in addition to any other applicable penalty.

That will help greatly in insider trading cases. There is no question that the Boesky and Levine cases and other cases, where insiders took enormous advantage of the country's investors, to the tune of hundreds of millions of dollars—and that is the tip of the iceberg—the is no question that they would not have been able to do that if we had the real muscle and ammunition this bill provides in assuring that when insider trading is investigated, perjury during the course of that investigation can lead to a mandatory jail sentence. People who make millions of dollars, tens of millions of dollars, hundreds of millions of dollars are not frightened by financial penalties, but they are likely to be deterred by a jail penalty.

The role of States: The States of Delaware, Wisconsin, Minnesota, Indiana, and others have done an excellent job of providing legislation to have a more even situation with people who want to take over a corporation—greater disclosure, and so forth. They have done an outstanding job. The bill is intended to have no effect on the role of States in governing the internal affairs of corporations. A study of the role of the States is required as is a study on the subject of shareholder rights. Studies are also authorized on leveraged buyouts and the proxy solicitation process.

(Mr. SHELBY assumed the chair.)

Mr. President, yesterday, I noticed that the distinguished Senator from Idaho [Mr. SYMMS]—he is a fine Senator—made a speech in which he criticized this bill as being a bill that would interfere with the free market. That is not true at all. How can you interfere with the free market with a bill that provides more disclosure, informs traders and investors and people who operate in the free market so that they will know what they are doing, a bill that provides a discipline that limits insider trading by requiring the knowledge that is known by the insider to be known to others?

Mr. President, I am honored and delighted to see the present occupant of the chair [Mr. SHELBY]. He follows a great Senator, but he is not on the Banking Committee. A person I would like to convert is the only Democrat on the committee, out of the 11, who voted against the bill. I know that my good friend has an open mind and will listen to the debate and probably will take part in it. I hope he will recognize it as a fine bill, in the economic interests of the country, and will give us his support.

Mr. GARN. Mr. President, hostile corporate takeovers have been the subject of much debate recently. Initiators of hostile takeover attempts have been branded "raiders," and they have been accused of a wide range of abuses including shortsightedness, the elimination of jobs, and the saddling of target companies with excessive debt burdens.

Those in management at the target companies also have been accused of a wide range of abuses including excessive concern with their own job security, failure to seek to maximize the value of shareholders' investments, and denial of shareholder voting rights.

Almost lost in the debate is the fact that the hostile acquisition of a company is a traditional technique used by shareholders to change the course of corporate policy, or to displace incompetent management. A hostile takeover may also be part of a legitimate business plan of a corporation to enter a new field or to acquire a going concern and thereby increase the corporation's ability to efficiently provide products and services.

The bill before the Senate today purports to address the abuses associated with hostile takeovers. Several of its provisions are good ones, such as the shortening of the "window" under section 13d of the Securities Exchange Act, tighter disclosure provisions, and stronger enforcement provisions. But unfortunately, overall the bill's approach to the problems associated with hostile takeovers fails the test of balance. In particular, the bill focuses almost entirely on restricting the actions of initiators of hostile takeover attempts without a balanced concern with the defensive tactics employed by the management of targeted companies. For example, the bill imposes an unworkable scheme for requiring investors to declare their "intent" to buy certain amounts of stock, but it is silent about "golden parachutes," which protect entrenched management officials from displacement.

In short, I oppose this legislation because it does not deal fairly with the issues raised by recent hostile takeover activity. Rather than try to correct the alleged abuses in an evenhanded manner, it strives to protect current management at the expense of their own shareholders; and it unnecessarily interferes with legitimate business acquisitions, without addressing the abuses associated with takeover defenses.

Mr. President, normally, I would be managing this bill for the Republicans on the Senate Banking Committee. However, the distinguished Senator from Colorado, who is the ranking Republican on the Securities Subcommittee, has agreed to manage this bill. I asked him to do that because he is a valued member of the committee, who is always very thoughtful, and his positions are well reasoned, and he has a great deal of expertise in this area.

So I am pleased that the distinguished Senator from Colorado (Mr. ARMSTRONG) is willing to take over the management of this bill for the Republicans on the Senate Banking Committee.

Mrs. KASSEBAUM. Mr. President, I rise in support of S. 1323 which I believe puts balanced controls on corporate takeovers. It incorporates a number of proposals which I have advocated for some time. I would share an observation in the comments that have just been made by Senator GARN that I would wish it would include some provisions regarding golden parachutes.

However, I think there is a problem with our current system which allows profitable and well-capitalized companies to become suddenly subjected to the threat of a hostile takeover. Companies focusing on long-term modernization and research are penalized by speculators who are only interested in quarterly earnings. Such a focus is not productive and weakens the ability of our domestic corporations to compete against foreign competition.

It is important to note that it is not the poorly run companies that are being attacked. Raiders have little use for highly leveraged companies. Rather, it is the well-capitalized operations that attract their interest. By gaining control of a well-capitalized company the raider is entitled to use the corporation's own capital to finance the takeover. To avoid attracting the takeover artists' attention, American managers are under tremendous pressure to convert their capital to debt before a raider does it for them.

The consequences of this pressure to convert capital to debt are most disturbing. In the 2-year period between 1984–1986 $200 billion of corporate capital was reduced to debt. The conversion of capital to debt reduces a company's wherewithal to cope with foreign competition and sudden downturns in the economy. It is not in our long-term interest for our domestic corporations to saddle themselves with debt for the sole purpose of discouraging takeover forays. Corporate managers should devote their time to operating an efficient company and planning for the long haul rather than having to peer around corners to avoid takeover artists. Given the enormity of the consequences, I feel this legislation is long overdue. Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I rise as the chairman of the Securities Subcommittee of the Senate Banking Committee. I have been very much involved with the chairman and others on the committing in drafting this legislation.

I strongly support the legislation and hope that it will be enacted by the Senate and, in turn, acted on by the House and that we can put this legislation on the President's desk this year and have it signed into law.

I concede it is overdue and I would like now to summarize some of the key aspects of this legislation.

Mr. President, the Tender Offer Disclosure and Fairness Act was voted out of the Senate Banking Committee on September 30, 1987 by a vote of 14 to 6.

Two basic principles form the foundation for much of this legislation:

First, that insofar as possible all shareholders should be treated fairly during the tender offer process; and

Second, that full and timely disclosure of basic information about a tender offer is in the best interest of an efficient capital market and responsible shareholder decision-making. A former Supreme Court Justice once said that "sunlight is the best disinfectant." Given the rash of securities law violations recently uncovered by the Securities and Exchange Commission and the Justice Department, more sunshine on certain aspects of the tender-offer process is clearly warranted. Not too long ago a Wall Street Journal editorial noted that our markets are driven by information: "the more information the more efficiency." Making more information available to investors in a more timely fashion is a great deal of what the Tender Offer Disclosure and Fairness Act of 1987 is all about.

Since the Williams Act was enacted in 1968, vast changes have taken place in the way contests for corporate control are conducted. Prior to the adoption of the Williams Act the Federal securities laws did not regulate tender offers. The Williams Act was intended to protect shareholders and investors by closing that loophole and, therefore, established disclosure and certain procedural requirements in connection with tender offers. Today, however, powerful new market forces and an array of newly developed takover techniques have undermined the effectiveness of the Williams Act.

As described in the committee's findings set forth in the bill, these developments have frustrated the principal purpose of the Williams Act—the protection of investors faced with a tender offer. Legislation is now needed to close gaps in the Williams Act that have permitted this situation to arise.

SUMMARY OF MAJOR PROVISIONS

As stated in the bill, its fundamental goal is "(1) to reduce the opportunities for abuse under the Federal Securities Laws as currently in effect, and (2) to expand the protective mechanisms of such laws." Like the original Williams Act, the bill achieves these purposes chiefly through improvements in the disclosures made to investors faced with a tender offer. As John J. Phelan, Jr., chairman and chief executive officer of the New York Stock Exchange has put it:

> We need to ensure that when takeover attempts occur, they do so in an environment that minimizes the potential for abuse. That means getting more sunlight into the arena faster. And letting as many people as possible know at the same time what's happening in the marketplace.

The bill passed by the committee makes a number of changes to that end. These changes can be generally summarized as follows:

DISCLOSURE OF STOCK ACCUMULATIONS

Current law does not require a bidder to disclose his holdings until ten days after he acquires more than 5 percent of the target's stock, permitting bidders to make beachhead acquisitions substantially exceeding 5 percent before reporting their stock accumulations. Shareholders who sell target stock during this period of secrecy are denied the disclosure protections provided by the Williams Act and, as a practical matter, the increased price that typically follows announcement of the beachhead purchases.

The bill does not disturb the existing 5 percent thereshold. However, to alert shareholders of significant purchases of an issuer's stock, acquirers are required to disclose the acquisition of 5 percent or more of the outstanding shares within 5 days of reaching that threshold. Within that time acquirers not only are required to file a disclosure report with the SEC, but also to make a public announcement of their acquisitions which incorporates certain of the information included in the report. Moreover, the acquirers are prohibited from making further stock purchases between the time the 5 percent threshold is crossed and a disclosure statement has been filed with the SEC and a public announcement has been made.

Once a stock acquisition is initially reported, current law requires the filing of an amendment "promptly" after a material change in prior disclosures. In order to resolve the ambiguity and opportunity for abusive delay inherent in the term "promptly," the bill required that any material change in previously disclosed information, including the acquisition or disposition of 1 percent of the outstanding shares, be reported in an amended disclosure report, which must be filed by the close of business on the next trading day.

The information required as part of the disclosure statement has also been expanded in two important respects. First, a reasonably itemized statement of all expenses incurred or to be incurred in connection with the acquisition, including all investment banking fees is required. Second, the bill increases the amount of disclosure relating to financing arrangements, mandating disclosure of all fees to be paid in connection with arranging the financing.

DISCLOSURE OF STOCK OWNERSHIP BY INSIDERS

Section 16(a) of the Securities Exchange Act presently requires an issuer's officers, directors and 10 percent shareholders to report to the SEC any changes in their ownership of the issuer's stock within 10 days after the end of any month in which such a change occurs. The bill shortens that 10-day period to 5 days.

DISCLOSURE OF INTENTIONS

As in situations where bidders accumulate substantial blocks before reporting their purchases, shareholders selling target stock are injured when a bidder continues buying stock after reporting, but falsely states that he is merely purchasing for "investment." While such false statements are unlawful, they rarely result in significant penalties. The bill addresses this problem in two respects.

First, it requires a more definite statement as to the intent of the bidder, i.e., the bidder will be required to clearly state whether he is purchasing for passive investment purposes or with an intent to acquire or influence control of the target company.

Second, persons who file a disclosure statement claiming a passive investment intent are prohibited from making a tender offer until 60 days after they file an amended disclosure statement setting forth their control intentions.

COLLUSIVE ACTIVITY

The SEC's ongoing insider trading investigation has revealed several instances in which takeover players have used secret collusion to conceal their target stock purchases. Although the Williams Act requires groups of investors to report when their aggregate holdings exceed 5 percent of the target's stock, under current interpretations it is often extremely difficult to detect and prove the existence of a group.

In order to reduce the opportunities for collusive activity, the bill requires disclosure of the fact of any communications within 30 days relating to the purchase of securities covered by the report if such communications occurred between the acquirer and any other person who has filed a disclosure statement under sections 13(d) or 13(g) or any person—other than a broker or dealer acting in the ordinary course of business—who, in connection with such communications, to the knowledge of the filing person acquired or agreed to acquire any of the covered securities. In addition, the definition of a "group" required to report their combined holdings for purposes of section 13(d) and related sections of the Securities Exchange Act has been expanded slightly. This change emphasizes the breadth of the group concept and Congress' intent that the SEC and the courts be vigilant against unreported collusive activity, but does not significantly modify the case law definition currently applied by the courts.

REMEDIES FOR DISCLOSURE VIOLATIONS

Although most courts allow shareholders and target companies to sue persons who injure them by violating the Williams Act, some courts have denied them standing. Moreover, the courts typically limit the relief available in such suit to corrective disclosures by the violator, reducing the deterrent effect of such suits. Likewise, although shareholders have a right to obtain damages for injuries caused by false Williams Act filings, they must prove that they read and relied upon the filing—rendering this right also an ineffective deterrent.

To increase the deterrents against violations of the reporting requirements of sections 13(d), the proxy solicitation or tender offer requirements of section 14 or the insider reporting requirements of section 16(a) of the Securities Exchange Act, the bill authorizes the SEC to seek civil penalties for such violations. The penalties could not exceed 3 percent of the value of the securities involved per day the violation continues or a maximum of 50 percent of their value. In a civil action for a violation of section 13(d) and certain related provisions, the bill also expressly permits the SEC to seek divestiture of the shares acquired, an injunction against voting the acquired securities and/or against the making or continuing of a tender offer or other effort to acquire control, or other appropriate equitable remedies.

REQUIRED TENDER OFFER

Because the tender offer provisions of the Williams Act are not applicable to open market purchases of control—so-called creeping tender offers and sweeping-the-street transactions—in such transactions target shareholders do not receive the disclosures or the procedural protections required in a tender offer. Although the courts have held that open-market transactions are not subject to the tender offer rules, this view has been opposed by the SEC and many commentators who believe it permits evasion of the Williams Act. To limit the abusive aspects of open market transactions, the bill requires, subject to certain exceptions, that any acquisition of an issuer's stock be made by means of a tender offer if the acquisition would result in the purchaser having beneficial ownership of more than 25 percent of the target's outstanding shares.

MINIMUM TENDER OFFER PERIOD

The 20 business day minimum offering period required by current SEC tender offer regulations often has proven inadequate to give most shareholders a full opportunity to receive, digest and act on tender offer disclosures. The bill increases the minimum tender offer period to 35 business days. In addition, the bill provides that if a "qualified employee stock ownership plan" holding stock of an issuer that is subject to a tender offer announces an intention to make a substantially equivalent competing bid, the minimum tender offer period is extended to 95 business days. For the longer minimum offering period to be applicable, the plan must have owned at least 10 percent of the voting securities of the issuer for at least 6 months when the competing tender offer commenced.

INCREASED SHAREHOLDER ACCESS TO THE ISSUER'S PROXY STATEMENTS

In order to improve shareholder access to the proxy process, the bill provides that any 10 percent shareholder shall have the right to include a statement relating to any matter to be presented by the company for a shareholder vote, including candidates for election as director, in the issuer's proxy statement. The shareholder's statement must receive the same space, coverage and treatment as management's statements.

SEC AUTHORITY OVER "CHINESE WALLS"

The bill authorizes the SEC to regulate the means by which securities broker/dealers control the dissemination and prevent the misuse of nonpublic information. This provision is intended to make explicit the SEC's regulatory authority over the adoption and maintenance of "Chinese Walls" separating multiservice broker/dealers' investment banking functions from their trading activities.

REQUIRED REGISTRATION OF ARBITRAGEURS

The SEC's ongoing insider trading investigation has focused in large part on the activities of risk arbitrageurs specializing in the stocks of takeover candidates and targets. To require tender offer arbitrageurs to maintain records of their transactions and subjecting them to oversight by the SEC and the self-regulatory organizations, the bill requires registration with the SEC of "tender offer arbitrageurs," who are defined to include any entity that regularly buys and sells securities for its own account or for the account of others in response to or in anticipation of any merger, tender offer, recapitalization, restructuring or similar transaction. To minimize duplicative or burdensome reporting, the term does not include a registered broker/dealer or certain other persons or entities.

ERISA AMENDMENTS

Many witnesses have testified during the committee's hearings that current ERISEA standards, combined with the competitive pressures to outperform other professional investors, has forced institutional investors to take an excessively short-term perspective in making investment and trading decisions. The bill amends ERISA to permit pension plan fiduciaries to consider long-term, as well as the short-term, interests of the participants and beneficiaries of a plan in voting on control transactions or in deciding whether or not to sell securities in a tender offer. This provision is intended to clarify that it is proper for a fiduciary to consider the long-term effects of an investment decision, even if the short-term profit could be made by accepting an offer above market price.

ACCESS TO EXCESS PENSION FUNDS

Acquirors frequently have been criticized for using the excess assets of overfunded target company pension plans as a source of takeover financing. The bill prohibits the use of excess assets of an issuer's pension plans to finance or refinance an acquisition of its securities, including an issuer self-tender, subject to an exemption for transfers of residual pension plan assets to an employee stock ownership plan.

PENALTIES FOR INSIDER TRADING, PERJURY AND OBSTRUCTION OF JUSTICE

For trading on inside information in willful violation of the Exchange Act the bill provides an increased penalty of imprisonment for not more than 10 years, a fine of not more than $1,000,000, or both. In addition, any person convicted of perjury or obstruction of justice in connection with an SEC investigation of insider trading will be subject to an additional one year prison term to be served in addition to and consecutively with any other term of imprisonment for the same violation.

DISGORGEMENT OF GREENMAIL PROFITS

To limit the practice of "greenmail," that is, actions taken to force an issuer to repurchase a block of shares at a premium, the bill permits issuers to sue for disgorgement of the greenmail profits. As with the analogous short-swing profits provision of section 16(b) of the Exchange Act, shareholders may sue derivatively to recover greenmail profits on behalf of an issuer if the issuer either fails to bring such an action within 60 days after a shareholder request or fails diligently to prosecute any such action. In order to be recoverable, profits must be obtained in a disposition to the company of securities by a person owning more than 3 percent of such securities for less than 1 year prior to the disposition, unless the shareholders have approved the disposition or the same offer is made available to all shareholders.

THE STATES ROLE IN CONTROL CONTESTS

The Williams Act was not intended to oust the States from their legitimate role in regulating control contests. While Federal legislation is needed to reform the Williams Act to address current takeover abuses, the committee did not believe Federal legislation should prevent the States from continuing to play an active part in regulating that process. In order to improve Congress' understanding of this important and sensitive issue, the bill orders a study of State corporation laws affecting hostile takeovers by the General Accounting Office, in consultation with the SEC and the North American Securities Administrators Association, with a report due by October 1989.

OTHER STUDIES TO BE CONDUCTED

The bill also mandates two other studies of issues relating to takeovers:

A review by the SEC of self-regulatory organization rules relating to shareholder voting rights and the effect of such rules on investor protection and maintenance of fair corporate suffrage to be completed by October 1988.

A study by the SEC of the proxy voting process and leveraged buyouts and other going private transactions to be completed within 6 months after the enactment of the bill.

Mr. President, in conclusion, I would emphasize that the legislation, we are considering today. The Tender Offer Disclosure and Fairness Act, is designed to do essentially what its title implies—provide greater fairness to all shareholders and fuller disclosure. Those who argue that this legislation will somehow or other prohibit hostile takeovers quite simply have not read the bill.

They will continue to take place, but they will take place in a more open fashion, in which I think the rights of all are better served and protected.

The legislation will make the tender offer process more open and less prone to abuse. I believe it is very clearly responsible legislation, balanced legislation, needed legislation, that should be adopted by my colleagues and signed into law.

Mr. President, I yield the floor.

The **PRESIDING OFFICER.** The Senator from Missouri.

AMENDMENT NO. 2410

(Purpose: To provide for testing for the use, without lawful authorization, of alcohol or controlled substances by the operators of aircraft, railroads, and commercial motor vehicles, and for other purposes)

Mr. **DANFORTH.** Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 2410.

Mr. **DANFORTH.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . (a) The Congress finds that—

(1) alcohol and drug abuse poses significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of

aircraft, railroads, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, railroads, trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the armed forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this Act, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(B) specify the drugs for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this Act;

"(3) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance * * *

"(4) * * * testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(5) provide for the confidentiality of test results * * * ing to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and whose duties include responsibility for safety-sensitive functions. Such program shall provide for pre-employment, periodic recurring, random and post-accident testing, and testing of such individuals upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

"(3) In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, without lawful authorization, alcohol or a controlled substance.

"PROHIBITION ON SERVICE

"(b)(1) No person may use, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) No individual who is determined to have used, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) Any such individual determined by the Administrator to have used, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section who (A) refuses to undertake, (B) fails to complete a rehabilitation program described in subsection (c) of this section, (C) has previously undertaken or completed such a rehabilitation program, or (D) has been determined by the Administrator to have served as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions while impaired by or under the influence of alcohol or a controlled substance, shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"PROGRAM FOR REHABILITATION

"(c)(1) Each air carrier and foreign air carrier shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of employees referred to in subsection (b) of this section in need of assistance in resolving problems with the use, without lawful authorization, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such program available to all of its employees other than employees referred to in subsection (b) of this section. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"PROCEDURES

"(d) In establishing the program required under subsection (a) of this section, the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this Act, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(B) specify the drugs for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug * *;

"(3) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(4) * * * testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(5) provide for the confidentiality of test results * * * relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(6) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"EFFECT ON OTHER LAWS AND REGULATIONS

"(e)(1) No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) Nothing in this section shall preclude the Administrator from adopting or continuing in effect other regulations intended to protect persons or property on the ground or in the air from the hazards to safety associated with the potential use of alcohol or controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration) with responsibility for safety-sensitive functions.

"DEFINITION

"(f) For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Administrator has determined poses a risk to transportation safety.".

(2) That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end thereof the following:

"Sec. 613. Alcohol and controlled substances testing.
"(a) Testing program.
"(b) Prohibition on service.
"(c) Program for rehabilitation.
"(d) Procedures.
"(e) Effect on other regulations.
"(f) Definition."

(c) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following:

"(l)(1) The Secretary shall, within one year after the date of enactment of this subsection, review existing rules, regulations, standards, and orders governing alcohol and drug use in railroad operations for the purpose of determining whether they are adequate to ensure safety. In conducting such review, the Secretary shall specifically—

"(A) require that all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) be subject to testing on a random basis for the use, without lawful authorization, of alcohol or a controlled substance;

"(B) consider application of existing rules, regulations, orders, and standards to other categories of employees, including employees responsible for the safety of passengers, railroad rolling stock, or track and related structures;

"(C) require, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(D) require, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards or orders issued under this Act.

Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards and orders governing alcohol and drug use in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this Act, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(ii) specify the drugs for which individuals may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this Act;

"(C) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(D) require that all laboratories involved in the testing of any employee under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(E) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(F) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined poses a risk to transportation safety.".

(d)(1) The Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end the following:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) REGULATIONS.—The Secretary shall, in the interest of commercial motor vehicle safety, prescribe regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct pre-employment, periodic recurring, random and post-accident testing of the operators of commercial motor vehicles, and testing upon a reasonable * * * gram under this subsection in cooperation with any other motor carrier.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this Act, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(B) specify the drugs for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this Act;

"(3) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(4) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests; * * *

(3) The Secretary shall ensure that the selection made pursuant to this section is representative of varying geographical and population characteristics of the Nation, and takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) The pilot program authorized by this section shall continue for a period of one year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) Not later than thirty months after the date of enactment of this section, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this section. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) For purposes of carrying out this subsection, there shall be available to the Secretary $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 for fiscal year 1988.

(7) For purposes of this subsection, the term—

(1) "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5241); and

(2) "Secretary" means the Secretary of Transportation.

Mr. DANFORTH. Mr. President, this amendment is identical to a bill that was passed by the Senate on October 29 last year. It is a bill providing for drug and alcohol testing for safety-sensitive transportation employees, employees in the airline industry, the railroad industry, and truck transportation. The Senate debated this issue last October. The Senate voted on this issue last October. By vote of 83 to 7 the Senate agreed that people in safety-related transportation jobs should be subjected to testing for drugs and for alcohol.

It seemed to the Senate at that time—this was the issue that was debated—that if passengers who go on an airplane go through metal detectors and their baggage is subjected to x ray and to personal inspection, the least we can expect is that the airline pilot be drug free. The Senate passed this bill 83 to 7 on October 29. That was 7 months ago. Since that time, nothing has happened. The House refuses to go to conference with the Senate on the bill to which we attached our amendment.

This week, as a matter of fact, the House voted on a nonbinding instruction to the House conferees, and the vote was that the House conferees on this legislation should agree with the

Senate's position on drug and alcohol testing for safety-related transportation employees.

The margin of the vote was 377 to 27.

Here is an issue that the Senate agrees to 83 to 7. The House agrees to 377 to 27. And still, after 7 months' time, there has been no action at all on the part of the House of Representatives.

The impetus for this legislation was the tragic disaster that occurred at Chase, MD, in January of last year when 16 people were killed in an accident involving a Conrail locomotive and an Amtrak train. Sixteen people were killed and more than 170 injured. Many of those who were killed were kids. They were college kids who were on their way back to college from the Christmas break.

It turned out that the Conrail locomotive that went out on the tracks and was hit by the Amtrak train had run several signals and that the Conrail engineer and the brakeman had been smoking marijuana on the job while operating the train.

We had hearings in the Senate Commerce Committee on this subject, and the Administrator of the Federal Railroad Administration, John Riley, testified that random drug testing is the only effective way to control drug use in the transportation industry.

We also had a hearing in which the brakeman and the engineer of that Conrail locomotive testified. They talked about the prevalence of drug and alcohol use in their industry. They testified that 14 years ago, when each of them went to work for the railroad, something like 80 percent of rail employees used alcohol or drugs on the job. They said that the usage is down a little bit now. One said it is about 40 to 50 percent, and the other said 10 to 20 percent. Take the lowest range of figures, 10 to 20 percent drug and alcohol use on the job by people who work for the railroads.

Mr. President, we have this legislation now before the Congress. We have this legislation that has passed the U.S. Senate. We have a strong majority of Members of the House of Representatives who indicate that they agree with the bill. And still nothing is done.

During this period of inaction, a series of disasters have happened in transportation and still we refuse to act.

Yesterday I made a statement on the floor of the Senate outlining some of the disasters that have occurred just this year in rail transportation, where subsequent to the accident the employees who had been involved in the accident have been tested positive for drug or alcohol use. That can be found in yesterday's CONGRESSIONAL RECORD.

Today, I have learned of a couple of other instances. The first involved a Conrail train which unexpectedly struck maintenance-of-way equipment on a track near Laurel, MD, on May 18 of this year. A brakeman was seriously injured in that accident, and the conductor tested positive for cocaine.

The other accident involved an incident on the Elgin, Joliet, and Eastern Railway near Joliet, IL. The front brakeman tested positive for marijuana use.

During this past year, Mr. President, an average of one rail accident every 10 days has occurred in this country where alcohol or drug use has been involved.

Now, this is a ridiculous situation, for us to sit here and do nothing. Everybody talks about the drug problem in America—what are we going to do about the drug problem in America? Well, one thing we can do is to make sure that people who have other people's lives in their hands do not use the stuff. According to the Federal Railroad Administrator, the No. 1 way to assure they do not use it is mandatory random testing. Over the past 16 months, the Federal Railroad Administration says there has been a major rail accident involving drugs or alcohol every 10 days. Including the Chase, MD, Amtrak/Conrail crash in January 1987, the 100th Congress now has seen 50 major rail accidents involving drug or alcohol use. Thirty-one people have died in these accidents, three hundred fifty-three people have been injured in these accidents, and property damages exceed $35 million.

The problem of drug and alcohol use, of course, is not limited to the railroad industry. It permeates American life. It also is present in other aspects of transportation. During this past year, the FAA has removed from duty 37 of its air safety employees who tested positive for illegal drug use. In January of this year, a plane crashed in Durango, CO, killing nine people. The pilot of that plane tested positive for cocaine. A 6-month California undercover operation last year resulted in 130 arrests at truck stops, including 26 truckdrivers. Last April, a bus struck a George Washington Parkway bridge in Alexandria, VA, killing one and injuring 32 passengers. The driver tested positive for cocaine, Valium, and marijuana. On May 19, 1988, a truckdriver rammed 25 vehicles on a Los Angeles freeway. The police found drug paraphernalia, partly smoked marijuana cigarette and other narcotics in the cab. So this is not just rail transportation. This is air transportation, this is truck and bus transportation.

The position that the Senate has taken and the position that 377 Members of the House of Representatives have taken is that the time has come to do something about it and that testing is an essential part of doing something about it.

Mr. President, I have reached the conclusion that the House is going to drag its feet on this issue unless we in the Senate turn the heat up. That is why I think it is important for us to keep this issue before the Senate. I think it is important for us to maintain the pressure.

Yesterday, I made a short speech on the floor of the Senate on the subject. The day before yesterday I made a short speech on the floor of the Senate about this subject. Senator HOLLINGS, the chairman of the Commerce Committee, has been very active in this area, and he and I have been working together in bringing this issue to the attention of the Congress. It is our hope that we are going to find somehow an appropriate vehicle for bringing this before the Senate so that we can get it enacted into law in this Congress. It really is an amazing situation where every politician and his brother is cranking out press releases and talking about the drug problem and posturing and pretending to do something about it, and yet when something that is effective is done in the Senate we cannot get it enacted into law because of the inaction of the House. So we will continue to keep this issue going. We will continue to offer this to bills in the Senate, and it is my hope that eventually we can get it enacted.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. DANFORTH. Yes.

Mr. PROXMIRE. I know the Senator from California is waiting to speak. I will take a minute. I congratulate the Senator on his statement. The Senator knows how I voted for his bill when it was up before. He is 100 percent right. It is time we did act on this legislation. It is good to know that the Senator from Missouri is persisting so strongly in this cause. It is a vital cause. As the Senator says, it is causing death. I cannot understand for the life of me how anybody could be opposed to action that would reduce the use of drugs by people engaged in transportation, whether they are pilots or truckdrivers or train engineers. This is such an assault on human life. I am delighted that a Senator as eloquent and influential as the distinguished Senator from Missouri is making this such an important cause.

Mr. DANFORTH. I thank the Senator from Wisconsin.

Mr. WILSON address the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Thank you, Mr. President.

Mr. President, I echo the comments of my friend from Wisconsin in rising to support and commend the senior Senator from Missouri in his repeated effort to remind and to go a good deal further, to call it what it is, to pressure that tiny handful of Members of the House of Representatives who have with incredible arrogance refused to do their duty.

As the Senator from Wisconsin pointed out, this is difficult to explain. Clearly, it is not a partisan division. The vote in the Senate last October on the Danforth amendment was 83 to 7. Indeed, even in the House of Representatives, a vote of the kind that we have recently seen on Congressman Shaw's instruction to the conferees passed 327 to 77 and, indeed, included 12 of the 19 conferees themselves, and yet we are unable to bring those conferees to the table because they are unwilling to act upon the Danforth amendment which simply says that it is irresponsible, indeed criminally irresponsible, for those who carry the lives of the American traveling public in their hands not to submit to the kind of self-discipline, the kind of testing that will require that they be drug free, and that Danforth amendment provides.

This amendment, which he is not going to add to this provision, which is already in legislation acted on by the Senate awaiting conference with the House, is the bare minimum that we can demand, and we must demand, for the safety of the American traveling public.

Now, I am not going to take the time of the Senate to repeat what the Senator from Missouri has so eloquently detailed, and that is the carnage that has ensued since the Chase, MD, accident and not just in terms of the drug abuse of railway employees but that on the part of airline pilots, truck drivers, bus drivers. It is incredible, absolutely incredible, and frankly disgraceful, that this tiny handful of arrogant Members of the House of Representatives is refusing to do the job for which their constituents elected them.

Mr. President, we will continue to pressure them, and I hope their constituents will pressure them to do what is essential. Whatever division of opinon there may be with respect to the proper approach to fighting the war on drugs, one thing is obviously clear. That is that someone who sits in the cab of a locomotive, who throws a switch as a brakeman, someone who is responsible for making sense of instructions from the tower as he sits in an airline cockpit, or someone who has several tons of cargo behind him as a semitruck driver, has an enormous responsibility not just to himself and to those who care about him but to the public whose lives he jeopardizes if in fact he impairs his own ability to make those judgments, his own ability and coordination to respond with split-second timing to the demands placed upon him.

I conclude by saying, Mr. President, it is not entirely inexplicable; the reason for this incredible and disgraceful failure to act arises from the fact that counterpressure has been placed by a few of the labor unions that are involved, that would argue that their members have a right to privacy, that this constitutes some kind of onerous burden upon them. They are not even at risk criminally for what they do if in fact they submit to testing and absent themselves from that scene in which they pose such a clear risk to the American traveling public.

Mr. President, this is not partisan. It would appear that it is not even a matter of dividing the two Houses. The House leadership has an obligation, Mr. President. Even though the Shaw instruction was nonbinding, it is incumbent upon those who profess to offer leadership to the House of Representatives and to the American public to so conduct the business of that House that they reach as quickly as possible one of the most urgent needs of the American people and guarantee their right to travel in safety at least so far as the capability of those charged with conducting travel is concerned.

Mr. President, we do have to keep up the pressure. If we are not going to do it by an amendment to this bill today, then I will tell you that at some future point, if these conferees are unwilling to meet, then we will have to put this on different legislation so that a different set of House conferees who are willing to meet will have that opportunity. It had better happen very quickly. Lives are being lost and threatened certainly for every day that we delay.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. I think it might be worthwhile to reiterate some of the other examples of unnecessary disasters that have occurred this year on America's railroads because of drug and alcohol use.

On January 14 of this year two engineers and two brakemen working for Conrail were killed near Thompsontown, PA. A conductor tested positive for marijuana.

On January 22 of this year a trainmaster on the Atchison-Topeka-Santa Fe Railroad was killed and two others were injured near Pico Rivera, CA. The conductor tested positive for alcohol use.

On January 29, 19 were injured when an Amtrak switchman misdirected an Amtrak passenger train down a closed track into some maintenance-of-way equipment. The switchman tested positive for cocaine, marijuana, methamphetamine, and amphetamines.

On February 2, a Union Pacific engineer tested positive for marijuana use after an accident near Durand, KS.

On February 18, two were injured in a Norfolk Southern accident near Davy, WV. The engineer tested positive for marijuana. The brakeman had been drinking alcohol.

On March 18 of this year, after an accident near the Moody, OR, of Burlington Northern, the engineer tested positive for cocaine.

On March 21, an accident took place near Dixon, IL, when a dispatcher directed two Chicago and Northwestern freight trains down the same track. The dispatcher was legally drunk at the time; the brakemen on both trains tested positive for marijuana.

On April 6, five employees involved in the fatal crash of a Metro North Commuter train near White Plains, NY, tested positive for drugs; seven others were injured. The engineer who died in the crash had marijuana in his system. Two tower operators tested positive for amphetamines. The third tower operator tested positive for marijuana and the dispatcher tested positive for morphine and cocaine.

On April 18 a Norfolk Southern accident near Roanoke, VA, caused two injuries; two of the crew members tested positive for marijuana use.

Those are instances and additions to those that I mentioned in my earlier remarks. Enough is enough, Mr. President. This is just in rail transportation.

I was visiting a small city in my State not too many months ago and I was told of a physician in that city who is treating a commercial airline pilot for cocaine use. We have already had rail disasters aplenty; we have had the plane crash in Durango, CO, earlier this year. None of this had to happen. None of this had to happen. And the House refuses to act.

The story at America's truck stops where frequently the availability of drugs is advertised on CB radios is well known. We are not talking about some broadside here. Maybe the idea of broad-gauged drug testing is a good idea. maybe it is not. That is debatable by others at another time.

What we are saying here is that when a person takes someone else's life in his hands, that person should be free of drugs. And when the means are available to increase the likelihood that transportation will be drug free, then Congress has an obligation to act. We have an obligation, and that is recognized by a very, very strong majority of Members of the Senate and Members of the House of Representatives.

Mr. President, this issue is not just going to die. This issue of drug testing in the transportation industry is not going to be one that it just gets pushed under the rug somewhere. I learned, as a matter of fact, early in the Senate from the senior Senator from Wisconsin that if you feel strongly about an issue, you speak about it over and over again. I remember so often presiding in the Senate during morning business, and the Senator from Wisconsin day after day would come to the floor of the Senate and speak about the Genocide Convention because that was his strong feeling. He is absolutely right. One of the things we can do in the U.S. Senate is keep an issue alive. We intend to keep this issue alive.

Senator DOLE has encouraged me to offer this amendment to a variety of bills that come along. It is my intention to do that. But it is also my intention to work with my friend and colleague, Senator HOLLINGS, the chairman of the Senate Commerce Committee, who has taken such a leadership role.

He is very solicitous about his role in the Senate, and his desire to work closely with other committee chairmen. We do not want to take people by surprise. We do not want to rain on the parade of the other Senators who have other legislation that they want to put forward.

So I am serving notice now. I do not want anybody to be surprised in the future if this bill is offered to other pieces of legislation. But, as for today, it is my desire not to take the Senator from Wisconsin by surprise. He has supported drug testing for transportation employees. He is an ally in this effort. For those reasons, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right.

The amendment is withdrawn.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Certainly, the Senator has the right to withdraw the amendment. I want to compliment the Senator from Missouri for his very able and keen leadership on this particular issue. I was coming in to tell him that I support the basic fact that he has been supporting all along, and that is we have to move and move aggressively at the earliest possible moment. It is true that we have been dragging our feet and patting each other on the back at the same time without getting anything done.

I was going to suggest, since we had worked together on this very closely over the months and years, that this was probably not the correct measure to bring this up on. There is a piece of Amtrak legislation coming along, and I think it might fit somewhat better.

I thank him for bringing it up, and bringing attention to the matter. He developed some support that I think is necessary in this area. I am very pleased that he has withdrawn the amendment. I want to assure him that myself and others will be looking for an acceptable vehicle where we can speed this along and possibly, hopefully, get the administration support.

I thank him for bringing this to the attention of the Senate once again.

Mr. DANFORTH. Mr. President, I thank the Senator from Nebraska for his comments. The Senator from Nebraska is a member of the Commerce Committee. He is the chairman of the subcommittee that has jurisdiction over this matter. he has been very active in this area and has been very supportive.

The administration supports this legislation. The Federal Railroad Administrator has testified in behalf of this. Secretary Burnley has stated his very strong support for drug testing in safety-related areas of transportation.

So I think we have a strong consensus going. I think that we will have opportunities in the near future to work together. Who knows? Maybe we can get this legislation passed before the Cardinals win the next ball game.

Mr. EXON. That is a controversial subject.

I thank my friend from Missouri.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, has it ever occurred to Senators what a likable group we are? I was just sitting here thinking about that. I suppose partly because it is Friday afternoon, and partly because I believe that the Senate will shortly adjourn for the weekend. In sort of the flow of that prospect, sort of the thought of having an opportunity to go home, if not early in the afternoon at least at a reasonable hour in the afternoon, it is making me feel good. But I was just sitting here thinking what a likable group Senators individually and as a body are.

It dawned on me that I believe I know practically every Member of the Senate pretty well, and I like them all. There is in addition to those that I like—and I do not know them all intimately, but I know most of our colleagues pretty well—a handful that I really admire. The Senator from Wisconsin is one of those who I admire enormously. It is not just a sort of an unfocused admiration, just sort of, oh, well, I admire him. I admire the Senator from Wisconsin for some specific reasons. I admire him because in a time when so many people in public life have sort of made a career out of espousing ill-defined, vague, fuzzy ideas, I admire BILL PROXMIRE for the clarity of his thought. In a place where a lot of people are confused about what is ethical and what is not, I admire him for being a man of integrity. I admire BILL PROXMIRE because in a political climate and even in a Congress where many people sway back and forth with every breeze of public opinion, the Senator from Wisconsin, BILL PROXMIRE, has shown he can stand up even in a gale force of popular sentiment for something he cares about and believes about.

I say that for a couple of reasons: First, because it is true; and second, because I am about to disagree with him on this piece of legislation. I do disagree with him. It is a fairly unusual occasion when I would rise to oppose a piece of legislation that he sponsors or when I would have a serious disagreement on a matter coming before the Senate. In fact, it has been my pleasure over the years to work with many Members on the Democratic side of the aisles.

The Presiding Officer knows well, if you are really serious about passing legislation here the first thing you do is seek out a strong cosponsor on the other side.

I have done that. I have worked with a Presiding Officer and with many Members on the other side of the aisle. But I do not know of any Democratic Senator I have had the pleasure of working with more often than I have with BILL PROXMIRE.

So I know that he will understand if I am not eager to jump on his bill.

Mr. President, I am constrained to do this because I thoroughly disapprove of what I believe will be the consequences—not its intention, not the concerns which motivated him and others to bring this legislation to the floor. What I object to is, I think, the probable results which I feel will be adverse to our Nation's economy, which I think will be unfair in their application, which I think will compromise the rights of shareholders, which I am fully convinced—and I think Senators will agree when they hear the evidence—will entrench in office a group of corporate executives who already enjoy very secure positions and who do not need further assurances of security in their jobs.

Mr. President, in medieval times, monarchs claimed to rule by divine right. It rings with a sort of strange, almost a bizarre sound to think of a national ruler claiming that God had ordained him to stand in His place and to rule over the people. But that is exactly what kings always claimed. There was no truth to it, but that was the basis for their alleged legitimacy—divine right.

Believe it or not, some of the modern-day corporate executives seem to have the same idea. They do not express it in exactly those terms. But if you listen to them and if you watch them, if you monitor their public statements and then talk to them in less guarded moments, when they have not polished their thoughts, and kind of tune in not only to what they are saying but also watch their body language and watch how they deal with people, the absolute fact of the matter is that some of the modern-day corporate executives think they are in office as chief executive officer and as directors and in other positions of great responsibility in these huge public corporations by divine right—exactly as a distinguished economist recently wrote.

Just as monarchs built walls and moats to protect themselves, so the modern monarchs of the marketplace have erected a whole series of legal barriers to prevent the serfs, or the shareholders, or anybody else from getting into the board room to throw them out, or even to hold them accountable for their stewardship, for their public trust.

Mr. President, that is the essence of corporate democracy, in my opinion. I think it is a fair appraisal to say that I am among the most probusiness members of this body. I have been a businessman all my life. I have been in business every day for the last 35 years. I was a businessman before I was a high school graduate. I expect to be actively engaged in the pursuit business to the day I die, and certainly long after I leave this place.

I think business is great. I like businessmen and women. But I am embarrassed for the people who have pursued my chosen line of work—that is, managing corporations—for what they have said to the Congress of the United States in their testimony before the Banking Committee, by their public declarations. I am not talking about all of them. I am talking about the handful who have come before Congress and said: "Protect us from our shareholders. Protect us from the people we work for."

So far as I am concerned, there is an element of public trust here. If you are the director or chief executive officer of a large public corporation, with thousands or even millions of stockholders, that is a public trust. I have heard them, on many occasions, come up here to emphasize that aspect of their work and say: "You know, this is not our company. It belongs to our stockholders." Then they will tell you about the widows, the orphans, the pensioners, and the people at home on Main Street.

I believe every word of it, and I think that most people who are entrusted with the stewardship of public corporations believe it, too. But is is obvious to me that there are many who really do not, who really think the shareholders are sort of an unnecessary evil, sort of have to be there in order to provide the framework in which they can have their jobs.

I do not think that. I think the guys who run these corporations are working for, are employed by, their shareholders, and that the shareholders have the right to hire them and fire them; that the shareholders, not the managers, are the true owners of the corporation; that the shareholders, not the managers, have the right to decide whether the corporation will be sold, whether shares of the corporation will be sold, whether the plant will be open or closed—in short, to exercise fully and completely the legal and ethical prerogatives that go with being the owners of a business property.

The 35 million Americans who are investors, shareholders, pension fund beneficiaries, and IRA holders ought to tune in on the debate which begins in this Chamber today, because it is a part of a broad trend which seeks to deny them the full benefits and rights of ownership, which seeks to take away from them something which, for the most part, they have always had, and that is the right to hold accountable those people to whom they have entrusted the operation and the day-to-day management of the corporations which they, the shareholders, own.

Every piece of America is being threatened by this effort, of which this legislation is one part, by which a handful—and I do not intend to criticize the vast majority of conscientious and honorable corporate executives—but the handful of corporate managers who seek an unfair advantage to protect themselves from their own shareholders.

Mr. President, also at issue in this legislation are fundamental questions of economic growth, job creation, the preservation of free enterprise, and the international competitiveness of American firms. The bottom line is this: If this group of self-seeking business executives wins, the shareholders lose, the pension funds lose, American competitiveness loses, interstate commerce loses, our country loses.

Mr. President, I want to start at the beginning with a definition of terms. I have had it right up to here with all this talk about hostile takeovers. That is a pejorative term; it is an unfair term. As the Chairman of the Federal Trade Commission, Dan Oliver, said, it is base stealing to describe takeovers as hostile.

Let me elaborate on what he meant by "base stealing." It is a deliberate attempt to characterize something that somebody disagrees with, with an unfair buzzword, to hang a label on something, in the hope that people will look at the label and not what is going on.

When you talk about a hostile takeover, it conjures up all kinds of things. It makes me think of those serfs trying to wade across the moat and climb up the walls of the castle, at great sacrifice, amid smoke and cannon fire, to storm the bastille.

I believe it was the Senator from Texas [Mr. GRAMM] who asked:

> After all these hostile takeovers, where are the casualties? Where are the dead bodies? Where is the destruction?

Come on—hostile takeovers? What we are talking about, what is being criticized, what is the predicate for this bill, what is the excuse for bringing this antishareholder legislation to the floor is a series of business transactions, and they are not very numerous—I will come back to that in a moment—but a series of business transactions in which uncoerced sellers offer for sale their ownership of certificates in American corporations to people who offer to buy them.

Is there anything illegal about that? There should not be. There is nothing coercive about it. There is nothing hostile about it. it is as simple as buying or selling a house or a boat or a car or anything else.

If I want to buy something you own, I say: "Hey, here's what I will pay you. I would like to buy your boat, your car, your share of stock."

If I want to acquire a lot of shares of stock, there are several ways I can do it. I can go to the stock market and, through my broker or directly, if I happen to be a broker or have a seat on an exchange, just start buying stock.

Another way is that I can take out an ad in the Wall Street Journal, Rolling Stone magazine, or some other publication and make a general offer and say, "To all the stockholders of the Borax Corp."—or whatever it is that is the object of my affection—"if you want to sell this stock, I will buy it." Or, "I will buy up to so many shares." Or, "I will buy so many shares on such-and-such a condition." Or, "I will pay you cash or give you some stock and some cash." Or, "I will give you debentures or I will give you real property plus cash." You spell out the terms and conditions.

Mr. President, that is not a coercive transaction. It is just a public offer to buy from people who want something, that you want to acquire on terms which you spell out. There is nothing secret about it. They do not sell you this property—in this case, shares of stock—until you have told them what you are willing to give, and they do it voluntarily or not at all.

What is hostile about that? The only thing that is hostile is this: that, very often, the management of the corporations involved do not own much stock. Sometimes they own hardly any. Many times they own just a tiny fraction of 1 percent of the shares. In fact, it is the norm that the people who are the directors and managers of corporations do not own a majority of the stock. Most of the time, they do not own 40 percent of the stock. Usually, they do not own 30 percent of the stock or 20 percent, or 10 percent, or 5 percent or even 3 percent, or 4 percent, or 2 percent. In many instances, the corporations into our country are managed by people who own, cumulatively, less than 1 percent of the shares of the company they operate.

In other words, they are hired managers and their fear is that if a new owner comes along, that they are going to be dismissed, that they are going to be replaced.

Now, why is it that people will sell their stock in these takeovers, which have been characterized as hostile but which I want to emphasize are voluntary in nature? The reason is because somebody offers them more than what they believe the shares are worth. You know, if you own a share of stock and it has been trading more or less for an indefinite period of time, 10 years, 20 years, 30 years, and has never been traded above 40 and some darned fool comes along and says I am going to pay you 55, that sounds pretty good. So the stock sometimes is sold and when that happens, sometimes the new owners of the stock hire new managers to run the company. They are the people who think it is hostile and they are the ones that hung the term "hostile takeovers" on these voluntary business transactions. Because sometimes the new owners do replace them, as it is their right to do.

It does not always happen, but sometimes it does.

Mr. President, I do not want to go into too much detail on this at the present time, but I want to make the point that the number of such hostile takeovers that we are actually talking about is very, very small. We heard earlier about a study of some 7,000 takeovers, 7,000 mergers that occurred over a period of several years. I want to make the point that these were not all hostile takeovers. In fact, less than half of them were hostile takeovers; less than 10 percent of them were hostile takeovers; less than 2 percent of them are hostile takeovers.

To hear the discussion around here and to read about it in scare headlines in some publications, you would think that, by gosh, hostile takeovers were being committed on every street corner every day. In fact they are quite rare. Even the number of attempted hostile takeovers is quite small. Those that are actually completed represent a tiny fraction of all the transactions of this generic type.

In any given year it is an infinitesimal percentage of the total. Yet it is on the excuse that these hostile takeovers are counterproductive or in some way are prejudicial to the rights of the people who manage these companies that we are being asked to seriously curtail and jeopardize the rights of the people who own these corporations, the shareholders. A small number of voluntary transactions which have been smeared with the label of hostile takeovers are the cause and predicate this legislation.

Mr. President, at the right time I am going to talk a little bit more about whether or not even in fact this small number of takeovers is actually as bad as people think. I am inclined to think, first, that the threat of a tender offer is a good thing. I think it does keep managers on their toes and I say that knowing lots of managers. Many of them are my dear friends.

I think most of the corporate managers of America are honorable men. I have said that earlier. They are persons of integrity who do see themselves as exercising a public trust for the shareholders who own their companies. So my remarks, while critical of some, should not be taken as a general indictment of the managers of American business.

But I just think this. Even the best managers, even the strongest, brightest, most dedicated, most talented people in American business today ought to be held accountable.

You know, it is funny, and I say this very cautiously, and I suppose these words will come back to haunt me, but I guess I think even the best Senators ought to be held accountable. I guess I think that even those in our Chamber who are the wisest, who work the hardest, who introduce the best legislation, who are the best liked by their colleagues, even those who are absolutely the example for other Senators ought to have to stand for election every 6 years. In fact, I really think it ought to be more than that, but that is a story for another day.

Even good corporate managers need to be held accountable. As a practical matter, they rarely are today. Rarely do the stockholders have a way to hold up the management of their companies to the benchmarks of performance.

One way that does exist is that when somebody comes along, whether it is Jimmy Goldsmith or Boone Pickens or Carl Icahn or somebody else, and offers to buy the company.

I mention the name Carl Icahn because he was mentioned earlier this afternoon and his name was linked with that of another person, Ivan Boesky, who has been accused of and I believe convicted of a criminal act. I am not aware that Mr. Icahn has been accused of such criminal acts.

I just want to point out that because there are a few crooks who have engaged in criminal activity does not mean that others in the same business activity deserve to be tarred with that same brush. You know, there have been a few Senators who have been accused of and, indeed, even convicted of improper activity. That does not mean that all Senators deserve that label.

I would just say in all fairness as we debate this issue—and I judge that if it is the intention of the leader to pass this bill that we will have a lengthy and interesting and a productive debate—I hope as we do so that we will be careful of the reputations of the people involved. You do not have to agree with these business men and women who have offered to buy, in voluntary transactions, the shares of people who own other companies. You do not have to agree with them to at least accord to them a presumption of sincerity on their part and of lawful conduct unless there is some evidence to the contrary.

Mr. President, I would now like to be fairly specific about my concerns with this legislation and then yield the floor because I see the Senator from North Carolina and others who wish to speak. I am not trying to do more than establish the context for this debate. I am not trying to settle all these questions today.

During the course of its consideration by the Banking Committee this bill was improved. It started out to be a profoundly antishareholder piece of legislation. It has been improved considerably and I am grateful to my colleagues on the committee for the amendments which they have adopted. But nonetheless, the committee-reported version of this legislation falls far short of the kind of legislation we ought to enact to protect the basic rights of shareholders in this country, the 35 million shareholders who are the constituents of these corporations and who are, in turn, also our constituents.

During the course of the debate on this issue I will offer at least six amendments. First to remove a provision allowing Americans' retirement pension plans to reject offers to sell shares at a premium in order to protect corporate managers. The Nation's pension funds are awakening to their responsibilities at a very rapid rate. It used to be that the management, in effect, controlled the vote of shares owned by pension funds.

Pension funds just did not see themselves as corporate managers. They did not want to get into the business of trying to decide whether or not a particular business judgment was a proper one, whether it was a good course of action.

But the reality is if your are going to manage somebody's investment—and that is what these pension funds managers do, they manage the savings, in many cases the life savings of the people who have entrusted the money to them. And they cannot avoid the responsibility, both the legal responsibility and the moral duty, to make those judgments. So they cannot and should not automatically vote to support management. They should make a thoughtful, discerning judgment.

I am joined in that belief, by the way, by a growing number of progressive pension fund managers, pension associations, union organizations, State pension organizations, social commentators, business writers and editorialists, whose opinions I will share with my colleagues here in the Senate at the right time.

The second amendment which I will offer will restrict the use of poison pills and golden parachutes. The Banking Committee did not agree to an amendment which I offered. I have forgotten the vote. I think it was very close. It may have been a tie vote or at least it was a very close vote in committee, by which the committee declined to recommend my amendment to restrict the use of poison pills and golden parachutes. I will be very surprised, honestly, if the Senate does not agree with my amendment because, while you can sort of get a small group of Senators and overwhelm them, and I think that is what happened, I will be quite surprised if by and large Senators will wish to be recorded as voting in favor of poison pills and golden parachutes. We will take that up when we get to it.

The third amendment which I would like to offer will effectively address greenmail, which is the corporate equivalent of blackmail, in which corporate investors are paid not to buy large blocks of stocks. Previously, recipients of greenmail were subject to liability, but the committee defeated an amendment to make those who pay the greenmail, the business managers, subject to that same liability.

If anybody ought to be subject to a penalty, it is the managers of a corporation who are disbursing the assets which they do not own to greenmailers, in order to protect their own jobs.

Again, I shall personally be quite surprised if the Senate is unwilling to adopt such an amendment.

The fourth amendment which I want to call to the attention of my colleagues and which I will join the Senator from Alabama in offering if it is the Senator's desire to offer it is a one-share one-vote amendment that simply says what is good in the election of Senators and Representatives and Governors and city councilmen, that is one man one vote, is good in the election of corporations' boards of directors. One share, one vote.

It will be portrayed as a radical proposal. It will be said that the idea of one share one vote is appealing but misleading. It will be said that this novel theory would wreak havoc in the board rooms of our country. Well, Mr. President, one share one vote is exactly what we have had for the most part in this country in corporations for a long, long time. It has been the rule of the New York Stock Exchange, required for their companies for decades, I think for nearly 60 years. Practically all of the companies of our country adhere to that. But now there is a growing trend, involving so far only a small number of companies, but a growing trend to do away with one share one vote and to erect an elaborate stock structure and voting structure which, in effect, disenfranchises the vast majority of the owners of these corporations.

So at the right time when this amendment comes up, I will seek to submit and ask the intention of the Senate to an extensive body of testimony and evidence in support of this idea.

No. 5, I shall offer an amendment for another provision narrowly rejected by the committee, and that is for confidential proxy voting.

Current Federal securities statutes do not require secret voting in proxy contests, and we should. Let me tell you why. It is just as simple as the reason why long ago we had adopted a secret ballot requirement in electing Senators, city councilmen, and every public official, the so-called Australian ballot. Years ago, we did not have it. Years ago, we had an open ballot, and people who were very interested in the elections could stand right there and see how you voted.

When it came to vote for sheriff, the sheriff stood there and watched how you voted. Somebody got the idea that was a little coercive having the sheriff standing there, a star on his chest, gun on his hip, watching eagerly to see how you voted. Somebody got the idea it was really impossible to have a fair election, a free election under such circumstances.

Of course, that is right. That is what we do in corporations. In fact, we have evidence, Mr. President, we have testimony that not only do they watch how their shareholders vote, as the votes come in, because, see this is all done by mail—it is not a vote on one day; it is a proxy contest; they mail in their votes—they open the votes and look at them. If they do not agree with the way their shareholder has voted, they call them up and argue with them. In an extreme case, they may do much more than call them up. They may really hotbox them, they may threaten them, they may haze them, they may indicate they are subject to incriminations.

If there is one amendment I hope the Senate will adopt, it is for confidential proxy voting.

The sixth amendment, which I will offer at the right time, Mr. President, is to include in this legislation a provision to grant the SEC the power to prempt State laws when they threaten to infringe on shareholders' rights to trade on national markets.

We have seen developing across this country a really reprehensible trend, which is exemplified by a law passed in the State of Delaware recently which just freezes out the right of corporate owners to manage their business. It says that when there has been a takeover that the new owners may not exercise the prerogatives of ownership. There is a law like that in New York, and a number of other States have it.

My State, Colorado, considered such a law and nearly passed it, and to the everlasting credit of the men and women of the Colorado General Assembly, they looked at it and rejected it.

What has happened is this: Half or more of the shareholders in my State have been effectively disenfranchised, have been disenfranchised because they own corporations which are chartered in the State of Delaware. Delaware is really the headquarters of corporate America because over the years adopted statutes that are uniquely favorable to corporations.

I do not quarrel with that, but I do quarrel with it, Mr. President, when they adopt a bunch of regulations and a bunch of statutes that disenfranchise the corporate shareholder owners of the other 49 States. That is exactly what they do, and I think it stinks to high heaven.

I am going to talk about that at some length when we get to the amendment. I want to flag it for your attention today.

It is the kind of a proposal which led the California General Assembly to consider, as did the Colorado General Assembly, a bill to do this. They looked at it, sent it out for an expert study, and the expert study came up with a remarkable conclusion, a correct conclusion, in my opinion. That is, the only answer to this problem is to have Congress enact a national statute prohibiting that kind of monkey business.

Mr. President, I welcome beginning debate on this issue. I have been looking forward to this for a long time. In fact, I have been all revved up for it. I thought last fall we were going to get to this because in September the Senate Banking Committee voted to report the bill. I was sure that before the snow had covered the ground that we would join this issue, and I was eager then. Somehow when we voted on this thing in September there was not any committee report filed in September or October or November.

It did not get filed until December. I have heard of the expression "slow walking," but that was a masterpiece of slow walking. The committee report was filed in December. I came back right after the first of the year just eager to get on with this because, as you can tell, I am interested in this matter. I think it goes to the heart of our free enterprise system.

Since we did not have much business stacked up early in the year, I thought probably this would be the subject of probably 2 or 3 weeks of debate during the month of February, but somehow we did not get to it.

March went by. Here we are practically summer. The Democratic National Convention is coming up. The Republicans are getting ready to go down to New Orleans. At long last, on Friday afternoon, we get around to it.

I understand it is the intention of the leader to return to this matter on Monday. All I can tell you is I am eager. I am excited. I am really looking forward with great satisfaction and pleasure to the opportunity to present this series of amendments and to discuss them in detail and to read into the record what thoughtful people are saying about them, and then to have a series of recorded votes on these issues.

Mr. METZENBAUM. Will the Senator from Colorado yield for a question?

Mr. ARMSTRONG. Mr. President, I am going to do better than that. I am going to yield the floor because I see my colleague and friend from Ohio who is a cosponsor of the amendments that I have mentioned has come to the floor. I do not know whether he is going to give his oration today or when, but I am looking forward to hearing it because I heard part of it in private, and it is pretty darn good stuff.

I thank all Senators, and I thank the leader for calling this bill up. I look forward to the debate that follows:

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. METZENBAUM. Mr. President, I wonder if the Senator from North Carolina will yield to me just 1 minute.

Mr. SANFORD. Mr. President, I will go so far as to yield him 2 minutes.

Mr. METZENBAUM. I thank the Senator.

I have been looking forward to this day for many years since I have been in the Senate where I could join with the Senator from Colorado in supporting an amendment and fighting for its adoption. The Senator from Colorado is right on target with respect to this proposal. I am cosponsor of it. I am prepared to address myself to its merits, and I feel that with a liberal, such as he, supporting this amendment, and a conservative, such as I, working on it, I feel confident that we will prevail upon our colleagues to accept our wisdom and join with us in seeing to it that it is passed.

Mr. ARMSTRONG. Mr. President, will the Senator yield to me for a brief news flash?

Mr. METZENBAUM. News flash?

Mr. ARMSTRONG. Here is a news flash. It is no secret to the Senator from Ohio that the one share-one vote issue that he is interested in and the Presiding Officer, the distinguished Senator from Alabama, is interested in has long been endorsed in principle by the New York Stock Exchange. I am glad to report we have received word in the last 24 hours that this principle is now endorsed by the American Stock Exchange.

I anticipate when we get around to this issue that we will have more endorsements to report as well. I think the tide is running in our direction.

I was initially disappointed the debate was put off a few months. I think we have gathered steam.

Mr. METZENBAUM. We are moving in the right direction. I look forward to working with the Senator and particularly look forward to working with the distinguished chairman of the Banking Committee who is almost 100 percent on the right side of every issue. We are going to miss him when he leaves this body. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. Mr. President, I want to express my support for this bill that is now before the Senate, the Tender Offer Disclosure and Fairness Act. I strongly urge my colleagues to support this. I believe the legislation is of vital interest to the health and long-term competitiveness of our economy.

I believe it is extremely important that we have this kind of discussion. I am glad to see there is an eagerness to talk about it because I feel that we have delayed too long in curtailing certain hostile activity.

I am somewhat amused by the fact that the same arguments that have been used against the hostile takeover are now being used against the newest twist of the quick buck on Wall Street, and that is the leveraged buyout. Thus, we see the people that have been crying over the plight of poor corporations badly managed, expressing the need to get sleepy managers out, fighting regulation to keep people from grabbing a company in a hostile way and running down to the pawn shop to get the money to pay for it out of the assets of that corporation.

Now we see those same people saying: "Oh, the management is not sleepy after all. Let them take over the corporation personally and privately through a leveraged buyout".

The same arguments are being used: "You don't need any regulation."

If the stockholders want to sell for the highest dollar, let them sell for the highest dollar. It does not make any difference if it is a hostile raider or the manager. The same rules apply, the same kind of financing applies, and the same kind of motivation applies. I suppose that I cannot argue against one person—one vote rule in the political world, but I can certainly point out that since the mania for takeovers has grown to such an extent, there has been a great change in who owns stock in American corporations.

This is not just a series of individuals who have acquired stock in a company as an investor. It is an entirely different kind of stockholder. We do not need to feel sorry for the stockholder not being properly protected. They are properly protected.

The trouble is that because of the huge size of pension funds, because of all of the institutional investments, we now have major concentrations of stock held in a few hands. They, indeed, are such tremendous stockholders that they have lost all personal touch with the stock that they own and with the corporations, so much so that they trade stock by computer; so much so that they trade it by basketfuls, not even bothering to know what stock they are selling or why they are selling it. Then when a hostile takeover comes along, these people, operating in a fiduciary capacity, are really not given any discretion. They are virtually compelled to sell their shares.

If you want to give the manager of a fund discretion, that manager should have some judgment as to whether or not a particular stock is a good long-range investment, whether or not the quick buck is the best answer, whether or not that stock should be put up for sale at all.

But the fiduciary relationship requires those trustees or those managers to take the high dollar; to take the high dollar in spite of the fact that it might not be best for their own fund, certainly not best for the community, certainly not best for the corporate world. But we do not any longer have just a lot of little stockholders. We have these tremendous managers of stocks. That has changed the complexion of corporate takeover and stock purchases so very much, and we need to react.

One of the major places we are seeing a reaction is in the States. My own personal view is and has been for many years—and I have looked at it from both sides—that when you can leave something to the States instead of trying to make it massive and nationwide by Federal legislation, we are better off. I am a strong States' rights advocate. I believe regulation of corporations handled so well over the years by the various States is the best way to continue handling them. If there are those who believe there ought not to be any exceptions to the one vote one share rule, that is a matter for the States to decide. It seems to me that we do not want to move corporate regulation to the Federal Government and the governance of corporations to the Federal Government and we certainly do not want to let the SEC take over States, but that is a matter to be debated later.

I am sure much of the debate is going to focus on whether takeovers are bad or good for the economy, and while I am firmly in line with those who believe that the rash of highly leveraged, finance-driven takeovers has been extremely detrimental to the long-term viability of our industries, I do not believe that is what this bill addresses. Indeed, while the rhetoric about the pros and cons of takeovers is at a very high level, the bill itself only makes adjustments to procedural rules and disclosure requirements surrounding takeovers. That is all it does. It does not require Senators to take a stand on whether they are for or against takeovers. It simply asks that we all recognize that current takeover rules are not adequate and are leading to a gross manipulation of our market.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. SANFORD. Certainly.

Mr. PROXMIRE. I congratulate the Senator. He is 100 percent right. It is something that has been missed. The Senator from Colorado, as we all know, is extraordinarily articulate and eloquent. When you come to the specifics of actually what we do provide, it is more information. How can that hurt the shareholder?

Mr. SANFORD. Of course, the Senator is right. It actually protects the shareholder who does not have the inside information.

Mr. PROXMIRE. That is right. Ninety percent of this bill is an increase in disclosure, more disclosure. For the life of me, I cannot understand why people get up and attack the bill on the grounds that it is an assault on the shareholder, which it is not. I do not know of any provision in this bill—maybe there are some things in the law—that would in any way adversely affect, certainly in the long run, shareholders.

Mr. SANFORD. If the Senator will allow a comment, they fail to distinguish between the first-wave and the second-wave shareholders. The first wave are the shareholders, the small investors who have been holding on to their stock and then without their knowledge here come the raiders in the dark of night to reach out and pick up the shares before anybody knows that there is a play on for the corporation. So we are protecting shareholders but we are not protecting the shareholders that most need our protection, the shareholders who are there all the time—the small investor. I might point out that there is a great deal of testimony indicating that it is the small investor who is losing confidence in our system.

Mr. PROXMIRE. The studies done by people like Scherer and Lowenstein, for example, show that this is exactly right. They show that when the acquirers move in, the price of the stock almost always goes up temporarily but then the studies over a period of years show that then the stock deteriorates in value time after time, after time. And this is not on the basis of a selection. This is on the basis of scholars having taken virtually every acquisition and studied what actually happens to the value of the stock over a period of several years. The profitability of the enterprise diminishes and the value of the stock goes down.

Mr. ARMSTRONG. Mr. President, will the Senator yield for a question?

Mr. SANFORD. Certainly.

Mr. ARMSTRONG. What does the Senator mean by "dark of the night?"

Mr. SANFORD. By not having the requirement of full disclosure, the raiders are in place acquiring the stock ready to pounce before your ordinary shareholder knows about a takeover. In fact, your ordinary shareholder may very well innocently sell out in a period when the play is already set but has not been made public. What this bill would do, as the Senator knows, is to require those people who have come out of the darkness to sneak up on the shareholders to expose themselves to a spotlight. That is what I meant.

Mr. ARMSTRONG. Mr. President, is the Senator aware that present law requires that when an investor reaches a certain threshold of percentage ownership in a public corporation, that that person is required to file a public notice?

Mr. SANFORD. I am well aware of that, and I think that is one thing we are trying to tighten up. The period of time now for that disclosure simply does not work in the modern rapidity of stock transactions.

Mr. PROXMIRE. Is it not true that under present law the acquirer comes on when he gets 5 percent of the stock and 10 days go by? Ten days go by; meanwhile, the acquirer moves in before the public knows about it. Under this bill, the public has to be notified immediately and the acquirer cannot acquire another share of stock until the public knows. So far as the noninsider investor and shareholder, this is clearly in his interest.

Mr. ARMSTRONG. Mr. President, I do not want to impose on my friend, and I am really going to just ask a question if he would yield to me. I am not going to attempt to make an argument. But would I be correct, therefore, in assuming that once the public knows that it is not a darkness transaction, it is his view that the critical threshold is that the public knows of the intention of some investor to acquire a large block of stock?

Mr. SANFORD. I think that that was the purpose of disclosure in the first place. I think the whole philosophy of the SEC has been one of disclosure, of the public's knowing what is out there. It is the basis of our securities laws. We simply are dealing with disclosure not in the rapid computer age but disclosure of years past when messengers casually carried stock transactions from place to place around Wall Street. I do not think there is any question that the SEC needs better and more timely disclosure requirement in the law now. That is what this bill is doing. My only quarrel with this bill is it does nothing much but that.

Mr. ARMSTRONG. Mr. President, if I may impose just once more, let me say I agree with what the Senator has said on this point and also the observations of the Senator from Wisconsin. I am personally a great believer in public disclosure, and I think 10 days in the modern era of computerized transaction is much too long a time. And I am not aware that there was any controversy in committee or elsewhere about reducing that time so that there is a prompt notice so that the public has a chance to know that.

Mr. SANFORD. There is no question that more timely disclosure is what the bill calls for.

Mr. ARMSTRONG. I thank the Senator for yielding.

Mr. SANFORD. I think it is worthwhile to reflect on just what prompted the committee to take action to reform the tender offer rules. As the committee report states, the committee's actions "were held against a backdrop of the most serious insider trading scandals the Securities and Exchange Commission has ever uncovered and ongoing allegations of collusion and conspiracy amongst corporate raiders, arbitrageurs, investment bankers, and other participants in the corporate takeover 'game'."

The report goes on to quote a number of witnesses who appeared before the committee, both Democrat and Republican, some from Wall Street and others not. Former Senator Nick Brady, Chairman of the President's Commission to examine the October stock market crash, commented there is something "tilted about a game in which the same group of raiders, arbitrageurs, and bankers attack one company after another, reaping profits without ever seeming to take risks or losses." He concluded "Something was just not right."

John J. Phelan, Jr., the chairman of the New York Stock Exchange, noted that "What we see is a relatively new phenomenon in which investment bankers, institutions, arbitrageurs, accounting firms, public relations firms, and law firms join together"—he did not say "in a conspiracy," but he might very well have said it—"in takeover activities. And in which enormous sums of money are in the balance." He continued that "Since takeovers have provided the major opportunity for insider trading to occur, that indicated to me that there's a structural problem in our system that needs to be addressed." That is what we are doing in this bill, addressing the structural defect that a great many people have seen.

Just last month, the Banking Committee heard testimony from former Treasury Secretary and White House Chief of Staff Don Regan, who was asked to testify about reforms to the market in light of the crash in October. However, his comments are equally relevant to this discussion today. In discussing the market, he stated that "[t]he public has every reason to believe that the present game is rigged. It is." In commenting on why the financial community does not take action to restore confidence to the market, Secretary Regan added "Without being too cynical, it might be that some major Wall Street firms and institutions have gotten hooked on the money they're making in quick killings, takeovers, program trading or insider dealings—and so they ignore the plight of the individual investor." That is the small shareholder that we are trying to protect.

Mr. President, I think it is high time that we take steps to restore confidence in the integrity of our capital markets. Recent statistics indicate that the small shareholder holdings are down by over 40 percent, largely because of a fear that the markets are not fair and they are not safe. And this legislation attempts to make them a little bit more fair, and a little bit safer.

While this bill does not address some of the fundamental questions surrounding program trading, and index arbitrage, it does go a long way toward bringing greater fairness and better disclosure to the tender offer process. By cleaning up the tender offer rules, we will cut out the opportunity for much of the market manipulation that we have witnessed time and time again in recent years. It is essential that we take this step to restore some confidence to the market and do all that we can to ensure that takeovers are not a vehicle for market manipulation or an excuse to run up the Dow Jones average.

I have said all along that I do not want to stop all takeovers, even hostile takeovers, and I do not believe that this bill makes any attempt to stop takeovers. But I strongly believe that any bill that becomes law must address the small number of abusive, finance-driven takeovers that are commenced not to oust allegedly sleepy management, not because the raider really has ideas about how to better run the corporation or any intention of doing so, but are started solely to make a fast buck from the transaction.

And I believe that we can address these abuses without in any way harming the free flow of capital in our markets—indeed curbing such abuses will only bolster the integrity of our capital markets.

We have allowed stock manipulation through takeovers to go on based solely on the premise that these raids are getting rid of bad management, are making our corporations leaner and meaner, and are having a positive effect on our economy. I read with interest a report prepared by Ellen Magenheim from Swarthmore College which analyzes a wide variety of scholarly studies performed regarding takeovers.

The Magenheim report concludes that there is substantial evidence that does not support, and often directly contradicts, the hypothesis that firms are taken over because they are poorly managed and require new management to reach their value; that once acquired, the level of performance of such firms often diminishes; that while takeovers yield wealth increases for target firm shareholders in the short run, a large number of studies present evidence that bidding firm shareholders suffer wealth losses as a result of takeovers.

I find it difficult to justify the current rules of the takeover game when they allow raiders to make the millions and millions of dollars that some have made, to the clear detriment of employees, pension funds, bondholders, and communities, when such rules are based on premise that so many find to be simply wrong.

In my home State, I watched a solid, profitable corporation—Burlington Industries, go through a typical finance-driven, hostile raid, and have seen it emerge with $2.5 billion in debt that it cannot possibly sustain, with over 1,000 employees laid off, with its research and development division closed and with more layoffs to follow, while the raider involved walks away with a profit—after expenses—of over $65 million.

He has done nothing to wake up management, nothing to improve the economy, nothing to help the employment situation in this country, nothing to help our competitiveness, nothing to help our research and development, nothing but greedily grab for himself under these distorted rules millions and millions of dollars that he did not earn.

Mr. PROXMIRE. Will the Senator yield?

Mr. SANFORD. Yes.

Mr. PROXMIRE. On that very point, this is I think the most critical point of all. What these hostile takeovers have done is to load down corporations with enormous debt, even if the takeover fails. In the case of Burlington it failed. In the case of Borg-Warner and Unocal it failed. In all of those cases, the people who have been the acquirer moved away with millions of dollars, in some cases tens of millions of dollars. The corporation was left deeply in debt, and in a position where they could not possibly provide the funds that they did in the past for research and development, and for training of their employees and so forth.

As a result, their corporations suffered greatly, and come a recession in many cases those corporations are going to fail. As the Senator from North Carolina said so well nothing economically is accomplished. Nothing.

Mr. SANFORD. Absolutely.

Mr. PROXMIRE. And the takeover activity very much enriched the people moving in and the stockholders temporarily but in the long run the stockholders lost.

Mr. SANFORD. It so happened that Burlington had to do what it did to prevent the takeover. The takeover was not only by an individual who profited, but on behalf of the major Canadian competitor of Burlington. So the major competitor of Burlington from another country virtually destroyed its competition without any cost to itself. It is that kind of broad damage to our economy that we see as a result of leveraged takeover. We can look at Burlington, we can look at one or two other instances in Wisconsin, and then in Ohio, and Indiana, and other States as individual transactions. But when you put it all together, this kind of takeover mania has had an extremely detrimental effect on the total economy at a time when Congress is struggling to find ways to boost the competitiveness of American industry.

Look how we have missed the opportunity to increase our competitiveness We virtually put our American competitor out of business. I find it quite telling that American industry as a whole spent $177 billion last year on hostile takeovers, more than the entire amount spent for improvement in plants and equipment all across America, in all corporations, of all kinds.

I hope we can produce a bill that will stop such waste and abuse. I believe it is essential to the long-term competitiveness of our industry that we do so. But perhaps most important of all, I believe that it is essential that we restore integrity to our capital markets. Our economy simply cannot afford to have the capital market which investors view as rigged in favor of insiders, and those who use the system to their own advantage.

Unfortunately, the current rules governing the takeover process do just that. They give an advantage to the insider by not providing adequate and timely disclosure. It is this lack of adequate disclosure as well as the need to enforce better the current disclosure and insider trading rules that is the heart and soul of this bill. It deserves our solid support.

Mr. President, thank you. I yield the floor.

GREAT SMOKY MOUNTAINS WILDERNESS ACT

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I will make a motion to proceed. I have informed Senator DOLE and Senator HELMS. I will make this motion.

I make a motion to proceed to the consideration of Calendar Order No. 580, H.R. 1495, an act to designate certain lands in the Great Smoky Mountains National Park as wilderness. I will put the cloture motion in. Then I will either withdraw the motion or by adjournment today, the motion will die. So I will just take 1 minute at this point, and Senators may continue with the debate of the corporate takeover bill.

CLOTURE MOTION

Mr. BYRD. Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 580, H.R. 1495, and I offer a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of H.R. 1495, an act to designate certain lands in Great Smoky Mountains National Park as wilderness, to provide for settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943, and for other purposes.

Senators Terry Sanford, Jeff Bingaman, Bob Graham, Barbara Mikulski, Wyche Fowler, John Melcher, Carl Levin, Don Riegle, Jim Sasser, Paul Sarbanes, Tom Harkin, Max Baucus, Bill Bradley, Jay Rockefeller, Daniel Inouye, Dennis DeConcini, and Tom Daschle.

Mr. BYRD. Mr. President, I ask unanimous consent that the motion be temporarily laid aside until the end of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JUNE 20, 1988

ADJOURN UNTIL MONDAY, JUNE 20, 1988, AT 11:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 11:30 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the cloture vote on Monday next will occur under the rule 1 hour after the Senate convenes plus the time taken to establish a quorum. So that means that the vote will begin at circa 12:45.

On the cloture motion I have just entered, that vote will occur on Tuesday next. The distinguished Republican leader and I, and Senators who are principals in connection with the matter, will try to decide a time for a vote on Tuesday next. This will not necessarily be in accordance with the rule but by unanimous consent may be set to another time for that day.

Mr. President, as of now, that is all there will be today on this motion.

I think I should announce that there will not be any more rollcall votes today, but Senators may continue to debate the corporate takeover legislation as long as they desire.

ALLOCATION OF TIME ON MONDAY

Mr. BYRD. Mr. President, I ask unanimous consent that the time under the rule on Monday, prior to the cloture vote, be equally divided between the two leaders or their designees; that there be 5 minutes for each leader that day, immediately following the prayer; and that the time on my side of the aisle be under the control of Mr. PROXMIRE.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

MANAGEMENT OF THE FEDERAL PAY SYSTEM

Mr. BYRD. Mr. President, Mr. BINGAMAN introduced a bill earlier today, S. 2530, dealing with the management of the Federal pay system. I ask for the first reading of that bill.

The PRESIDING OFFICER. The bill will be read for the first time.

The assistant legislative clerk read as follows:

A bill (S. 2530) to improve the management of the Federal pay system and increase the efficiency and productivity of Federal employees, and for other purposes.

Mr. BYRD. Mr. President, I now ask for a second reading.

Mr. ARMSTRONG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

TENDER DISCLOSURE AND FAIRNESS ACT

The Senate continued with the consideration of S. 1323.

Mr. GRAMM. Mr. President, it is Friday afternoon, and we are not going to have any more votes this afternoon, but I did want to say a few words about the so-called Tender Offer Disclosure and Fairness Act.

I do not intend, in this short speech, to get into the details of the bill, but I would like to talk a little about the principles involved, because I think it is a quite extraordinary bill. I think it really ties in with the quest we have under way in America by those forces that are not willing to compete, whether we are talking about competition in the international marketplace or whether we are talking about competition for the control of capital to manage economic growth in America through the private sector. I want to talk about how they are coming to Washington every day, trying to get Congress to intervene on their behalf and to benefit them, at the expense of the people who do the work and pay the taxes and pull the wagon in America.

Mr. President, I cannot help but be struck, first, by the fact that there is a real parallel between the movement toward protectionism in America and this whole antitakeover movement. In fact, I never cease to be struck by the fact that the same big businesses and the same big labor unions who come to Congress and say, "Build a wall around America, lower American living standards, dim the future for our children, all to benefit us as special groups"—that they are the same groups who are here today that we have to protect people who make $600,000 or $700,000 a year from the rigors of the marketplace by setting up provisions in law that will prevent hostile takeovers.

If there ever has been a term which is a misnomer that is used by Government—and I would like our colleagues to be reminded of the fact that Government, historically, has tended to change the meaning of words, to try to distort the debate, and I am sure that this has been going on for at least 5,000 years—but this term "hostile takeover" may be a new high or low, depending on your perspective, in that process.

In fact, as I listened to hearings on this bill before the Banking Committee and I heard one corporate executive after another talk about hostile takeovers, they conjured up the image of raiders with painted faces bearing down on wagon trains to assault harmless women and children. In reality, these people called corporate raiders are people who are entering the marketplace without any use of coercion and who are paying the shareholder more than the market is currently paying for the share.

So it seems to me that the question we ought to ask as we begin this debate is, who are these takeovers hostile to? Are they hostile to the American people, where people are coming in and paying a premium for companies and for their tools, in the belief that they can make money through the free enterprise system in putting those companies and tools to work? Are they hostile to the shareholder, who is the biggest beneficiary, initially, of the reorganization of American industry? Or are they hostile to entrenched management? Let me try to address those in turn.

First of all, while everybody wants to jump up and down and talk about hostile takeovers, I think it is important to note that during the last 4 years, as we have had a rash of hostile takeovers, those who get up and talk about the harm of hostile takeovers never refer to what the impact is in the marketplace. I thought it would be interesting, so I found some numbers that look at productivity in manufacturing.

I think our colleagues would benefit by knowing that since 1984, when we have had a virtually unprecedented level of so-called hostile takeovers, productivity in manufacturing has grown by 4.4 percent, which is almost twice the rate of growth in any comparable period since 1968.

Mr. PROXMIRE. Mr. President, will the Senator yield on that point?

Mr. GRAMM. I am happy to yield.

Mr. PROXMIRE. The fact is that between 1980 and 1988—and the figures did not change much during that period—Wharton has just concluded a study of productivity comparing the United States with Canada, Japan, Italy, the United Kingdom, and other countries, a seven-nation study, and they found that our productivity increased substantially less than any other country's. That is a very meager increase, 4.4 percent a year.

The Japanese increased more rapidly, and the other six nations as a group increased literally three times more in productivity than the United States did during this period.

Mr. GRAMM. Mr. President, I always told my children not to argue about facts, so I am not going to come on the Senate floor and violate the rule I am always trying to get them to abide by.

Let me just make two points in response.

In terms of looking at the performance of the American economy from 1968 to 1971, productivity grew by 2.5 percent a year. From 1972 to 1975, it grew by 2.2 percent; from 1976 to 1979, 2.2 percent; from 1980 to 1983, by 2.5 percent; from 1984 to 1987, by 4.4 percent.

Mr. President, maybe 4.4 percent is not too great, but I think somebody has a hard time arguing that during a period when hostile takeovers have risen, the American economy has suffered relative to our historic experience in the 1960's and 1970's.

Second, I point out that while I do not today have these figures on international comparisons, since 1982 we have created more jobs than Europe and Japan combined, and about 75 percent of those jobs have been in the upper half of the wage distribution.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. GRAMM. I will be happy to yield, but let me just finish this sentence.

So I am not saying that we have reached the promised land. In fact I am confident that with more economic freedom and a smaller tax burden and a more responsible Government we can greatly improve on these numbers. The point I am making is that if someone is going to say that things are going to hell in a handbasket since 1982, or that there is some relationship between hostile takeovers and declining industrial performance, I think somebody seeks in vain to find evidence to substantiate that. I would be happy to yield to our chairman.

Mr. PROXMIRE. Mr. President, may I point out that the new jobs that we have had in the past 10 years, the past 5 years, and the past 3 years, have been overwhelmingly in small firms. As a matter of fact, if you take the increase in jobs, the 10 million new jobs we have had since 1980, how many of those jobs were in firms that were smaller—had fewer than 500 employees? The answer is all of them. All of them without exception.

The big Fortune 500 have actually lost jobs during this period.

When we are talking about takeovers we are not talking about taking over small business. We are not talking about taking over little hardware stores and restaurants and individually owned businesses. We are talking about taking over the big corporations. And in the big corporations that have been taken over that are the subject of this, there has been no increase in jobs at all. None.

Mr. GRAMM. I thank the chairman. I think people are going to think we are in cahoots, because I think that strengthens my position, and let me tell you why. In fact, we have created 17 million jobs since 1982. We have only created 16 million net because companies that employ more than 500 people have actually lost about 1 million jobs since 1982.

What we are seeing in America is a movement toward smaller, more efficient units of production. It strikes me, Mr. President, as funny that at the very time that we see the competitive forces of America reawakening in small and medium-size business, that we want to further move toward Europeanization of American industry. In fact, this antitakeover, plant-closing movement toward central planning and central control is exactly the kind of industrial policy that has produced a situation where Europe has not created a job in a decade. We see everywhere in America that smaller businesses, less encumbered by government control and regulation and burdensome and inefficient contracts with unions, are being competitive. I think it would be the worst time to step in and say that when big business is noncompetitive, when there is a movement going on to strip down, strip away inefficiency—and I believe that the merger movement is part of that process—for the life of me I cannot see why we want to come in when the arteries are already hardened and feed the beast more lard. I cannot understand why, when they cannot compete under the current rules of the game, we want to protect the old, tired management that comes before our committee and gives these great orations about how much they care about their city and how much they care about their employees and do not talk about how they care about their fat salaries. They never ever mention the stockholder.

Mr. PROXMIRE. Will the Senator yield?

Mr. GRAMM. I will be happy to yield, but let me finish this sentence.

I cannot see why we want to protect them from the rigors of the marketplace. If somebody can come in and pay shareholders more than anyone else is willing to offer, then I am willing to let that group manage the corporation. I, for one, am not willing to mortgage the future of America to protect some inefficient manager who wants basically to be protected from competition. And I just cannot see how America can benefit from that.

I would be happy to yield.

Mr. PROXMIRE. Mr. President, the Senator has a marvelous mind. He is a brilliant man. But he is also brilliant at shifting the scenery. We were talking about jobs, more jobs. The Senator said that mergers and acquisitions had increased the number of jobs. Or I thought he had. He said we have gotten more jobs during this period.

I pointed out that the firms that are merged, the firms that employ more than 500 people, do not have more jobs. They have less jobs.

Immediately the Senator shifted and said, well it is good they have less jobs, that means they are more efficient, they are getting more productivity.

The distinguished Senator from Texas, as I say, is a brilliant man but I do not know how he can possibly have it both ways. Either there are fewer jobs or more jobs. He started off saying there are more jobs because of mergers and I point out that the firms that are being merged now have actually fewer jobs at a time when the economy as a whole is getting more jobs because the small firms have gotten them all and then some.

Mr. GRAMM. Well, Mr. President, first of all I said that in trying to go down the list of asking who these takeovers are hostile to, I just was simply pointing out that productivity has risen during this period faster than any comparable period since the 1960's. Then the distinguished chairman of the Banking Committee raises the question about jobs. And my response to that is——

Mr. PROXMIRE. The Senator raised the question about jobs.

Mr. GRAMM. We do not have to speculate about what plant-closing provisions or management protection provisions might do to American industry. We already have a laboratory, and it is called Western Europe.

In Western Europe what has happened is that a political bond has been brought together that involves the government, management, and labor. And we have in Europe a situation where existing management is protected by government, where labor is protected by government, and the only groups that are not protected by government are the consumer and the people who would be workers, the people who would like to advance up the economic ladder. The result is high unemployment in Europe and economic rigidity.

My only point, and I think it is an irrefutable point, is that Europe, which has all the provisions that we are debating today, has not created a new job in 10 years. For the life of me I cannot understand, when we are creating jobs at an unprecedented rate, why we want to do what the Europeans have done with such terrible performance.

My point is, I search in vain to find anybody who benefits from this bill other than existing corporate executives, many of the same people who were up here last week saying we ought to override the President's veto and build a wall around America so we will not have to compete with all these foreign companies.

Now they are up here this week saying: Well, look, build a wall around America but do not stop there. We not only do not want to compete with these foreign companies, we do not want to compete in the American free enterprise system. We want a wall built around our corporate tower, so that if somebody looks at the tools we are working with and says: With those tools I could build a better mousetrap or generate more economic growth and make more money, that they cannot come in and buy those tools and put them to work.

I believe, Mr. President, that America cannot benefit from this process.

Mr. President, the issue we are dealing with here is a simple issue, and in my opinion we ought to reject this bill. I am committed to this bill being rejected. This bill, in my humble opinion, is nothing more than a special interest grab by some of the most privileged people in America. They want to stop the competitive process because they are on top; because they are among the highest paid people in America; because they are among the most influential people in America; and they like it that way, and they want it kept that way.

Mr. President, I am glad that there are powerful and influential people, that there are a lot of people making these big salaries that are contributing greatly to America. That is how our system works. But what these people want us to forget is that these positions of power and responsibility are like a hotel. They are always full, but there are different people moving in and out. And the corporate manager who comes in, who cannot do the job, starts to see the value of the stock affected by his or her poor performance. Others in the marketplace, as part of the genius of the American system, see that these tools are not being used efficiently, and so the natural market mechanism is that they come in and start to acquire the shares, and then ultimately they bring in a new manager who, in turn, has his opportunity to lead corporate America.

What we are talking about here is nothing more or less than the very heart of our economic system. The opportunity to govern corporate America is one of the most important opportunities in our system. We here in Congress often think what we are doing is so terribly important to the future of America. Often it is. Often it is not. And it depends on which direction you think we are going, whether you think those are good or bad conditions.

But the plain truth is, that the important people in our system are the people that are making investment decisions in corporate America. Their decisions affect economic growth. Their decisions affect job creation. Their decisions affect the level of tax revenue to build the school, to conquer space, to keep Ivan back from the gate, to find a cure for AIDS. All that is possible because we have a productive and dynamic society.

Mr. President, this bill addresses the whole decision we make as to how we are going to structure our economic system. This bill is a movement toward greater degree of Government control. This is a status quo protection bill. Mr. President, the status quo in America is good but it is not as good as it could be or should be. But the one thing we know for certain is that it will not be good enough to meet the challenges of the future.

I have been deeply concerned, over the last year and a half, when every time there has been a proposed corporate takeover in some State or another we have had Members of the Senate from that State rush forward and urge the Congress to interfere in the functioning of the marketplace. We have, on the lawbooks of this land, law after law to protect the public interest. Members of Congress have not been satisfied with that, because what they want to do is to single out individual occurrences.

All of that has now been embodied in this bill.

This bill is an anticompetitive bill. This bill is aimed at protecting people in the highest-paid jobs in America. Of all people who do not deserve to be protected and who should not be protected and, more important, people who we cannot afford to protect, it is these people.

Someone who is making investment decisions with real money in the private sector of the economy has to know every day that if he does not do the job, he can and will be replaced. That is why our system works so well, because those who cannot perform are swept aside; those who can perform move up.

The Soviets have exactly the opposite system. They have no process to elevate the performer and to move the nonperformer out of the decisionmaking process. By and large, except for the rare election that focuses on real performance, neither do we in Government.

Mr. President, we are going to debate this issue for a long time. We are going to have a lot of amendments, but the issue really boils down to a simple issue and that is: Do we want America run by competition? Can we afford the luxury of protecting corporate management from the rigors of the marketplace? I believe that we will pay a terrible price for it if we do. I think we will pay a price in terms of economic growth; I think we will pay a price in terms of job creation. I think America will be poor.

I think we will be less competitive on the world market. This bill, though it is supported by many well-meaning people is, I believe, wrongheaded and fundamentally bad for America. Clearly, there are some abuses that are occurring in the corporate takeover processes. Most of the abuses, though, are for people inside corporate America who are trying to prevent the system from working. Most of the abuses are from the very people who we are trying to protect in this bill. Most of the abuses are from people who are willing to destroy the corporation that they claim to love so dearly in order to protect themselves.

Mr. President, if we lived in a perfect world where we could afford to protect these people from the rigors of competition, since deep down in all of our hearts we want competition for everybody else, but not for ourselves, perhaps we could and should do it. But we live in a competitive world. There is only one marketplace, and that is the world. Every American worker in every little town in this country is competing with every other worker in the world. This great deliberative body of ours spends tremendous energy trying to change that reality, trying to mask it, but it is there and it cannot be changed.

We must assure that American workers have the best management, and there is only one system that produces the best management; that system is rigorous competition. Competition means winners and losers. The result of the overall competition is tough on the competitors, but the result is that we still have the most efficient society in the world.

Our economic performance may not in some cases be comparable to the level of economic growth of poorer nations that have imitated our system and who represent the greatest form of flattery to us, and that is they want to be like us. The truth is, year in and year out, that the American system is the most dynamic and productive system in the world.

I want that system to work better. I want more competition, and I want those who cannot compete swept aside so that those who can compete can move forward.

The reason I want that is that very few Americans have the opportunity to govern a great corporation. Most of us simply have an opportunity, if we are lucky, to get to work for one. I think we have a right to demand the best management our system can generate.

I think what we are talking about here in this bill is unfairness to the people who work in America, to the people who want to have an opportunity to work and to the people who would like to have a piece of this pie that we have.

While some would like to have a big debate over how to divide the pie up, I think our energies ought to be focused on making it bigger. This bill will not make the pie bigger. This bill will make the pie smaller, and that is why I am opposed to it. I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, today I rise in strong support of S. 1323. In addition, I would like to personally thank and pay tribute to the distinguished Senator from Wisconsin, the chairman of the Senate Committee on Banking, not only for his leadership, but also because of what I truly believe to be a very splendid piece of legislation that he has crafted from his committee. I do thank him as a friend and as a leader in this effort to bring about more disclosure and more fairness in corporate takeovers.

Mr. President, I also commend the members of the Banking Committee who have worked so long, so many hours and so many weeks and months in making it possible that this legislation could come to the floor of the U.S. Senate.

There is one area, and I say in due respect to the distinguished chairman, my friend from Wisconsin and others who are strong supporters of this legislation, that I feel could strengthen S. 1323. That is in the area of tender offer disclosure in the period of time by which the stockholders and the general public have at their disposal to study the proposed offer by the takeover company, to look at those figures, and to examine all of the necessary data and information. As I understand at the present time, Mr. President, it is that there is a 20-day period. That is 20 working or 20 business days.

The committee, in its wisdom, has come up now with some degree of flexibility in this very tight, harsh, and rigid 20-day period. They have expanded that 20 days to a 35-day period when the tender offer must be out there laying on the table.

I salute the committee for expanding this period of time. However, I generally think that the public would be better served and all consumers better protected and especially the stockholder is better served if that 35-day period could be extended to a 60-day period, or 60 working days.

We have, for example, in my own State, a company that has been in business for almost a half a century. It is Arkansas Best Freight Lines. It is one of the most reputable, one of the best operated, and one of the finest corporate citizens that the State of Arkansas has ever had.

In the last several weeks, the Arkansas Best Corp., or ABF, as we call it in Arkansas, has been the subject of a corporate takeover by a group formed in New York. Ironically, we all know that the name of the Arkansas football team is the Arkansas Razorbacks.

Up in New York City, a young man named Emanuel Pearlman decided to form a company so that he could sort of glue into or associate with the people of Arkansas. So filed with the SEC one morning in New York City was a company called the Razorback Acquisition Co.

Razorback Acquisition Co. in New York City is now attempting to take over the Arkansas Best Corp. in Fort Smith, AR. A tender offer has been made. There have been great discussions and deliberations, and a lot of people are very concerned.

One reason for the concern of Mr. Emanuel Pearlman, age 28, the president of Razorback acquisitions, New York City in New York is, one, to the best of my knowledge, I do not know of one time that Mr. Emanuel Pearlman has ever set foot in the State of Arkansas. And here he is trying to become a Razorback.

Two, I do not know of any one time that anyone can show me, or the distinguished chairman of the Banking Committee who is on the floor at this time, that Mr. Emanuel Pearlman has any trucking industry experience whatsoever. In fact, Mr. President, I doubt he had ever seen a truck, especially one of those trucks that have ABF on the side of them. He not only wants to see them, he wants to buy them and he wants to buy the company. The theory is he is going to buy that company and sell off his assets, and we are going to see literally 11,000 employees nationwide of Arkansas Best Corp. suffer, conceivably lose their retirement, and what have you.

Whatever the case may be, Mr. President, it is not to the advantage of the stockholders, certainly not to the Arkansas Best Corp., nor to anything but the disadvantage of the people of Arkansas and all of those who are today gainfully employed by the Arkansas Best Corp.

Mr. President, I am not going to talk a long time. It is Friday afternoon and people want to go home, but I conclude by saying that I am giving strong consideration to offering this amendment come Tuesday on extending this period of time from the Banking Committee's 35-day period to a 60-day period. I think it is fair. I think it would put everyone on a much more level playing field.

The reason I cannot promise to offer this amendment on Monday, Mr. President, and I am about to make a unanimous-consent request, is that because of the severe drought not only acrosss the entire of the United States, on Sunday afternoon and all day Monday I will be in my home State touring the drought-stricken areas of the State of Arkansas. So, Mr. President, I an not sure that this is the rule—if it is not, I will correct this momentarily for the record—pursuant to rule VI, I ask unanimous consent that I may be excused from all legislative business on the floor of the Senate on this coming Monday.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PRYOR. If that is the wrong rule, Mr. President, I have cited, I will correct that for the record in a few moments.

Mr. President, I am not going to occupy further time of the Senate except to say this morning I did send a "Dear Colleague" letter out to all 99 of my colleagues seeking their support for such an amendment, and I am very hopeful that such an amendment not only could be offered early next week but also may be included in this bill.

The PRESIDING OFFICER. The Chair would note that the Senator from Arkansas, with his usual precision, did cite the correct rule and the unanimous-consent request stands and would not have to be corrected by the distinguished Senator from Arkansas.

Mr. PRYOR. I thank the Chair very much. It is one of the few times I have ever been correct citing a rule of the Senate.

Mr. PROXMIRE. As the Senator knows, the present law provides for a 20-day period for tender offers. I wanted to make it more than 35 days, but the committee compromised on 35 days after considerable discussion and after some opposition to even extending it to 35 days; 35 days is really 7 weeks. The feeling was that this was a moderate, reasonable compromise.

But I think the point the distinguished Senator is making that there should be more time is a good point, and it may be that the full Senate should consider extending it further. We want to make this bill a moderate bill. I expect to point out during the course of this debate that that is exactly what it is. In no way is it extreme.

Some people might feel if we extend it too long a period that might be an interference with the opportunity for acquirers to make their point and might drain them of financial resources, and so forth. But I think there is merit in what the Senator offers, and I just wanted to point out to him that we have already made a substantial improvement in present law.

Mr. PRYOR. Mr. President, if I may respond to the distinguished chairman, I once again salute him and his leadership in bringing the committee to the 35-day extension. I think this is very good. I was just hoping we could extend it a little further. But if the distinguished Senator from Wisconsin will answer this question for me because of his expert knowledge, the 35-day period in the committee language, is that working days or business days? I am not certain.

Mr. PROXMIRE. The 35-day period is actual working days.

Mr. PRYOR. Working days.

Mr. PROXMIRE. The weekends would not count. If there is a holiday period, that does not count. So it would be at least 7 weeks and probably in most cases a little more than 7 weeks.

Mr. PRYOR. Mr. President, I thank the distinguished chairman for educating me on that point.

Once again, Mr. President, I will hopefully be able to offer this amendment sometime during the course of legislative business on Tuesday or before we reach final passage on this very monumental piece of legislation. I salute once again the distinguished Senator from Wisconsin.

CURRENT INVESTIGATIONS INTO DEFENSE CONTRACTORS' PRACTICES

Mr. GRASSLEY. Mr. President, like many of my colleagues, and like most taxpayers, I have been shocked at the revelations of rampant corruption and bribery among defense contractors, consultants, and managers at the Pentagon.

I have been briefed by the Justice Department's investigators about the things that all of us have read about in the newspapers during the past several days. The scope of the investigation and apparent improper conduct ratifies what I have long suspected about the all-too-cozy relationship between contractors and some at the Defense Department.

I applaud the Justice Department for the vigorous actions taken to date, and I say this as one who has been very critical in the past of what seemed to me to be a lack of resolve in taking on major defense contractors.

Mr. President, one of the lessons of the past few days is that whistleblowers are absolutely essential to the honest functioning of Government. The best way to find out about fraud in Government has always been from the inside.

But a hostile bureaucracy still resists and too often punishes those employees who find fraud and corruption in their midst. These honest and patriotic employees are still sanctioned with demotions, transfers, and discharges, or they receive other signals that this sort of activity is not welcome.

That is why reform of whistleblower rights is essential. Employees who report waste and fraud need to be protected from retaliation and reprisal. S. 508, the Whistleblower Protection Act of 1988, which I have cosponsored with Senator LEVIN, makes some important changes in this area. The bill has been reported out of the Government Affairs Committee, and I am hopeful that we will have speedy floor action on it.

These last few days have been gratifying to the thousands of honest Federal employees who make Government work. While they have watched a few bad apples get rich, they now have reason to hold their heads high because those who have abused the system will finally get their punishment. Or, Mr. President, will they get their punishment?

If past practice is any guide, these contractors will not be brought to justice any time soon. These giants have the resources to drag out any prosecution for years.

Worse, as I have discovered in other major prosecutions, the contractors will even end up having the Government pay their legal bills. The same Government that prosecutes the case will pay twice—for its own lawyers, and for the legal fees of the defendants.

This is unprecedented in American law. We need to right this wrong and do it now. And we can do it, because it is right now, Mr. President, that the House-Senate conferees on the Department of Defense authorization bill have before them a proposal to place some reasonable limits on what the taxpayers will pay for defense contractor lawyers. This proposal is fully consistent with what now can be awarded to any other private party in Government litigation.

I hope that the members of this conference committee will consider the Grassley-Boxer "Defense contractor legal fees limitations" with renewed interest in light of what has been exposed in the last 4 days. The harsh reality has been laid out very clearly for us.

Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, before the Senator yields the floor—and I know the Senator from Arkansas also wants to speak on this—the Senator from Iowa and the Senator from Wisconsin have been working for a long time on this matter. We have been pressing the Department of Justice to be much more vigorous than they have been in the past. It is my understanding that the work which has recently resulted in just a flurry of subpoenas and in probably the biggest procurement scandal we have had in this Government in memory was a result of a group out in Alexandria which has been working aside and apart from the Justice Department. But it is good to see the FBI in it. It is especially good to know that my good friend, the Senator from Iowa, is following up on this with the legislation he has just discussed with respect to legal fees.

It seems to me it is so important that we get a vigorous prosecution action by the Justice Department, or they adopt the Grassley-Proxmire legislation which set up in various States task forces that would do this kind of work.

At any rate, it is time long overdue. The Senator has spoken very well. He has been a tower of strength in opposing the kind of corruption that we have suffered for so long in defense procurement and the failure to follow up as they should. I thank my good friend.

Mr. GRASSLEY. Before the Senator sits down, Mr. President, I want to acknowledge that the Senator from Wisconsin was involved in this issue years before I ever came to the Senate. I thank the Senator for his leadership over a long period of time in this area. I was negligent that I did not recognize the Senator for that earlier, particularly since the Senator was here on the floor listening to me.

In addition, Mr. President, I want to comment on the legislation that the Senator from Wisconsin and I have introduced for a Regional Fraud Units to work in this area. Just today, the Senator and I wrote to Senator HEFLIN, the chairman of the subcommittee that will consider this legislation, asking him to hold hearings on that bill. Hopefully, with this renewed interest, and the events that have been brought to our attention this week, the climate is ripe for this kind of legislation.

In addition, I had an opportunity yesterday to be briefed by the U.S. attorney, Mr. Hudson, who is leading this work in Alexandria. I am very pleased with his attitude. If his enthusiasm is carried out, let me tell you there will not be reoccurrence of what we saw happen in the Newport News case, which began in the seventies and continued into this administraiton. That case was dropped because of what I believe—it may be difficult to prove—to be undue influence from central justice in whether or not those cases ought to be prosecuted.

I do not think we are going to see that in this instance with Mr. Hudson in charge. I compliment him on what he has done at this point, about which we know only a little bit. I think we are going to be pleasantly surprised as this thing unfolds.

In addition, as I see him prosecuting such widespread misconduct—conduct inconceivable by the wildest of imaginations—my judgment is that he is going to make Tom Dewey, of the 1930's, look like a minor leaguer when it comes to ferreting out this sort of activity.

Mr. PRYOR. Mr. President, will the distinguished Senator from Iowa yield for 2 or 3 moments?

Mr. GRASSLEY. I yield the floor.

Mr. PRYOR. Mr. President, I was leaving the floor, and I heard my very good friend from Iowa speaking relative to the Department of Defense, the FBI, and then I see my good friend, the Senator from Wisconsin, Senator PROXMIRE, who has long led the fight against corruption and against, I must say, the corruptive force that is in our procurement policy procedure apparatus. I want to salute both of these Senators, not only the Senator from Iowa, but also the Senator from Wisconsin for their longstanding fight to do something about procurement.

Let me also, Mr. President, for my colleagues' benefit, say that last evening I spent an enjoyable evening reading the CONGRESSIONAL RECORD, dated May 20, 1985—3 years ago, in the spring. The Senator from Iowa, the Senator from Wisconsin, and the Senator from Arkansas introduced an amendment. That amendment consumed some 18 pages of the CONGRESSIONAL RECORD of debate. It was the most massive piece of single procurement reform I think the Senate has undertaken in the last decade. It was a long debate. Secretary Weinberger testified, oh, let us give the system a chance. It is working now. Let us not upset it. Give it a little more time. We have all the bugs worked out. That was the thrust.

When the final role was called on this particular amendment to the military authorization bill, the piece of procurement reform that related to revolving door, sole-source contracting, Defense Department add-ons, consulting contracts that are nowhere being monitored today, not only in DOD but most of the whole Federal system, I must say that the amendment offered by the Senators from Arkansas, Wisconsin, and Iowa, we got the sum total of 22 votes. But if we will go back and read that debate, read what that amendment said and study it in light of what is going on today, and revealed every day in the press I think we may someday go back and say let us resurrect this amendment and see if we cannot pass it.

Finally, Mr. President, I have been asked a couple of times about all of these revelations about the Pentagon, the procurement contracts, and all of these Government consultants. I have heard my colleagues on the floor of the Senate. We have heard our friends on television. I woke up to them this morning, saying, oh, I am so aghast, I am so astonished, I am so surprised at what is going on.

Mr. President, the only surprise that I have is that anyone is surprised because I do not think anyone today truthfully should be surprised with that open money sack that has been open so long with the well-being absent to monitor those expenditures.

I hope this will lead us to some real reform. I want you to know, Mr. President, that I pledge my support for Senators GRASSLEY, PROXMIRE, and others if we want to reengage ourselves in that great adventure.

I yield the floor.

AID TO DEMOCRATIC RESISTANCE IN CENTRAL AMERICA

Mr. ARMSTRONG. Mr. President, a few months ago Congress decided to cut off the aid to democratic resistance in Central America. At the time this happened, Senators will recall that this body had approved an aid request but by a narrow margin. The House voted not to do so. Standing at the very point in the Senate where I am now standing, our colleague from Arizona characterized that action as shameful. He predicted, as did many of the rest of us, that the result would be tragic. Indeed, as the story unfolds in Nicaragua, Honduras, El Salvador, the worst predictions which were made at that time have been borne out. Human tragedy of very great proportions is unfolding.

At the time some of us warned that the inevitable consequence of withdrawing the military and nonmilitary support of the democratic resistance would be to stiffen the arrogance of the Communist regime, Communist government in Nicaragua, that far from encouraging them to come to the bargaining table it would have the opposite effect, that it would turn the projected negotiations into a sham and the result would not only be a loss for the democratic resistance but the probability that the Communist regime would grow even more repressive, that in due course the will of the resistance would be broken, that democracy in El Salvador would be undermined, the stability of the entire region would be seriously threatened, that even in the nearby country of Panama repercussions would be felt, and that the Panama Canal would at some point, if the trend were not reversed, come under the close scrutiny, if not the actual domination of Communist agents.

Mr. President, it is not a pleasure in this case to say I told you so, but in fact at that time many of us in this Chamber, I was by no means the only one, pointed out that the Communist government in Nicaragua could not be trusted, not because we said so but because on the record over a very long period of time they had repeatedly made promises which they had failed to keep, promises of the most basic kind. They promised free elections. They did not keep that promise. They promised a free trade union movement. They did not keep that promise. They promised that they would permit the church to operate without harassment. They did not keep that promise. They promised a free press. They did not keep that promise. They broke their promise about the free economy. In fact, in many cases they made so many promises repeatedly and broke them repeatedly, and yet a gullible world, including a gullible Congress of the United States, chose to take these promises at face value and partly at the urging of some very naive governments in the region to cut off the aid of the democratic resistance.

The results have been little more than tragic. Yet even at this late hour, after all the suffering that has ensued, after the loss of the resistance by the democratic resistance, the people fighting for freedom in Nicaragua, it is not yet too late for us to set the situation right or at least to make a gesture that will restore the credibility and honor of U.S. policy in that region.

Both Washington newspapers have editorialized on this matter this week. I would like to read briefly from an editorial in the Washington Post:

Perhaps it was not the Sandinistas' purpose to use their talks with the contras to destroy them, but the results have been going that way. The talks opened with the contras at an immense disadvantage after Congress cut off their arms supply and, with it, their option to resume battle and their capacity to demonstrate strong patronage. The Sandinistas withheld agreement on terms of delivery of nonlethal American aid to contras remaining inside Nicaragua, so most contras have had to withdraw to Honduras. Further, the Sandinistas withheld agreement on the terms of their promised democratization. The Managua talks broke down on this issue last Thursday, and at once a regime spokesman publicized and blew a black channel to the contras, greatly burdening the faction regarded as most ready to risk politicial competition in Sandinista Nicaragua. Repression of the legal unarmed political opposition continues apace. An ill-defined ceasefire still holds, but the Sandinistas would have a commanding position if a shooting war resumed.

For the collapse of the negotiation that is at the core of the whole Central American reach for peace and democracy, the contras and the Reagan administration blame Managua. On this basis, some American legislators are trying to stir up support for a new vote on contra aid. A newly subdued House Speaker Jim Wright says he doesn't lay blame because he doesn't know what happened. His leadership colleague, David Bonior, indicates that some Republicans, if not the contras, appeared eager to have the talks fail precisely in order to seek new military aid. If you can believe this, you are qualified to be chief deputy Democratic whip.

To say that contra aid is dead is not to utter a self-fulfilling prophecy but to draw the only proper conclusion form the involuntary unilateral disarmament, dispersal, isolation and demoralization that the Sandinistas, other Central Americans, congressional Democrats and the Reagan administration by its miscues have forced upon the contras. In these circumstances, the useful and honorable thing to do is to lean on the Sandinistas politically for what it is worth. A Sandinista "peace" is all but ensured in Nicaragua. Democracy, the other part of what was supposed to be a bargain, is not. Is it conceivable that David Bonior's Democrats could stop chasing ghosts and playing political games and bring themselves to be marginally helpful in a cause they insist they embrace, or at leat to stop hurting?

Mr. President, that was from the Washington Post.

From the Washington Post this week, there is an article which comes to a somewhat different conclusion, but recites many of the same facts, that the withdrawal of U.S. support from the democratic resistance has demoralized, disadvantaged, and all but destroyed the field forces of the democratic resistance.

"Nicaragua: One last chance" is the headline in the Washington Times.

With Sandinista Defense Minister Humbero Ortega accusing representatives of the Nicaraguan freedom fighters of adopting "an obstructionist, warlike position of sabotage," the Nicaraguan "peace process" whimpered to an end last week. The resistance's "warmongering" apparently consisted in its demands for rudimentary democratic reforms in the increasingly repressive Marxist state. The Sandinistas' refusal to concede such changes was due to their belief that the United States has abandoned the freedom fighters and will not resume military aid for their hard-pressed cause.

Mr. President, that is the core of the issue. I am not going to read the rest of this editorial, but I will ask unanimous consent to have it printed in the RECORD.

The central issue, as both newspapers pointed out, is that at a critical moment, this country withdrew the support from the people who were fighting for freedom in that region of the world. It appears to me that we have a heavy burden on our conscience.

It seems to me, as the Washington Times headlined, that we have one last chance.

The Times editorial goes on to report—and I will paraphrase it—that a number of people in the House, under the leadership of Representative JACK KEMP, are considering a last-minute aid package to the democratic resistance and that the national administration, President Reagan and his colleagues at the White House, are considering this idea.

I, for one, hope that the Reagan administration will submit an aid package; but whether Mr. Reagan is motivated to do so or not, I believe some of the rest of us should do so. I do not know whether we will be able to pass it.

I think the Senate and the House should have at least one last chance to stand up and be counted in the cause of freedom in Central America. Those who do not wish to do so will have it on their conscience, to explain to their constituents and children and grandchildren, in the years ahead, where they were when the last clear chance came to stand with those who die for freedom in Central America.

Mr. President, I ask unanimous consent that the editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Times, June 13, 1988]

NICARAGUA: ONE LAST CHANCE

With Sandinista Defense Minister Humberto Ortega accusing representatives of the Nicaraguan freedom fighters of adopting "an obstructionist, warlike position of sabotage," the Nicaraguan "peace process" whimpered to an end last week. The resistance's "warmongering" apparently consisted in its demands for rudimentary democratic reforms in the increasingly repressive Marxist state. The Sandinistas' refusal to concede such changes was due to their belief that the United States has abandoned the freedom fighters and will not resume military aid for their hard-pressed cause.

The Managua junta has plausible reasons for its belief. Congress voted last winter to end so-called "lethal" aid and has pettifogged even non-lethal aid to the resistance forces. The Moscow summit placed Central America and other regional conflicts on the diplomatic back burner, and Secretary of State George Shultz has devoted more time to getting the Soviets into the Middle East than to getting them out of Central America. The apparent absence of concern in Congress and White House, coupled with the Democratic Party's current leap to the left, give the Sandinistas reasonable grounds for thinking the United States can be discounted as a significant player on the land bridge between North and South America.

Yet appearances can be deceiving. Last month Mr. Reagan promised to seek renewed congressional military aid to the resistance if the stalemate at Sapoa were not resolved and if the junta did not adopt serious democratic changes. House Democrats have warned the junta that a resumption of military aid to the resistance is likely if the despots launch a major offensive, and they expressed "grave concern" over continuing Sandinista repression.

Speaker Jim Wright, in a letter to House Minority Leader Bob Michel, promised to seek a vote on aid to the resistance if the peace process fizzled and if Mr. Reagan requested a vote. A bipartisan group of legislators now has urged Mr. Reagan to request such a vote. This group, led by Rep. Jack Kemp, may proceed with an aid package regardless of what the White House does, but there is small chance of its success without Mr. Reagan's endorsement.

Congress has good reason to resume military aid to the resistance. Contrary to Sandinista promises, the regime has not released its estimated 2,000 political prisoners, has not guaranteed (or even moved toward) political pluralism, has not refrained from religious and political persecution or censorship of the press and as late as last week threw 15 political opponents in jail for several hours for the "provocation" of holding a peaceful protest march.

Shortly before Humberto Ortega whined about the "warmongering" of the resistance delegation at Sapoa, he threatened "actions on a scale never before seen" to wipe them off the planet. He and his brother can make such threats because, while the resistance forces are literally wondering where their next meal is coming from, Nicaragua has received at least $105 million in military aid from the Soviet Union since January.

The "peace process" at Sapoa has stripped away all illusions about Sandinista intentions. Arriving at the moment of truth, Congress and the White House have one last chance to provide adequate arms to the only force able and willing to challenge the Sandinistas. Mr. Reagan should at once take the speaker up on his promise of a vote on aid, and the Congress should act quickly to support the president's request.

[From the Washington Post, June 12, 1988]

DAVID BONIOR'S DEMOCRATS

Perhaps it was not the Sandinistas' purpose to use their talks with the contras to destroy them, but the results have been going that way. The talks opened with the contras at an immense disadvantage after Congress cut off their arms supply and, with it, their option to resume battle and their capacity to demonstrate strong patronage. The Sandinistas withheld agreement on terms of delivery of nonlethal American aid to contras remaining inside Nicaragua, so most contras have had to withdraw to Honduras. Further, the Sandinistas withheld agreement on the terms of their promised democratization. The Managua talks broke down on this issue last Thursday, and at once a regime spokesman publicized and blew a back channel to the contras, greatly burdening the faction regarded as most ready to risk political competition in Sandinista Nicaragua. Repression of the legal unarmed political opposition continues apace. An ill-defined cease-fire still holds, but the Sandinistas would have a commanding position if a shooting war resumed.

For the collapse of the negotiation that is at the core of the whole Central American reach for peace and democracy, the contras and the Reagan administration blame Managua. On this basis, some American legislators are trying to stir up support for a new vote on contra aid. A newly subdued House Speaker Jim Wright says he doesn't lay blame because he doesn't know what happened. His leadership colleague, David Bonior, indicates that some Republicans, if not the contras, appeared eager to have the talks fail precisely in order to seek new military aid. If you can believe this, you are qualified to be chief deputy Democratic whip.

To say that contra aid is dead is not to utter a self-fulfilling prophecy but to draw the only proper conclusion from the involuntary unilateral disarmament, dispersal, isolation and demoralization that the Sandinistas, other Central Americans, congressional Democrats and the Reagan administration by its miscues have forced upon the contras. In these circumstances, the useful and honorable thing to do is to lean on the Sandinistas politically for what it is worth. A Sandinista "peace" is all but ensured in Nicaragua. Democracy, the other part of what was supposed to be a bargain, is not. Is it conceivable that David Bonior's Democrats could stop chasing ghosts and playing political games and bring themselves to be marginally helpful in a cause they insist they embrace, or at least to stop hurting?

TENDER OFFER DISCLOSURE AND FAIRNESS ACT

The Senate continued with the consideration of S. 1323.

Mr. PROXMIRE. Mr. President, there has been a great deal of discussion—very helpful discussion and deeply felt discussion—about our tender offer bill. I should like to point out that those who oppose the bill seem to argue that it is going to interfere with free markets and have a devastating effect on investors to do more and will cause us to turn our back on shareholders. This is absolute nonsense.

There are five principal provisions in this bill.

No. 1, to close the 10-day window that we now have between the time a group acquires 5 percent of the stock of a corporation and the time they file with the SEC. By closing the window, what we do is say that after a group has acquired 5 percent of the stock, they cannot acquire another share until the filing has been made and the public has been notified that the group has acquired the shares.

What does that do? That means that the present situation, in which the acquirers have acquired 5 percent of the stock and want to acquire control of the corporation, can be done in secret in 10 days. In 10 days, they can gain control of the corporation. They can do so without the investors knowing it. That means that if you sit there with a hundred or a thousand shares of stock, the arbitrageurs and others will move in and buy your stock; and if you knew the facts, you could get a much higher price.

So this provision in the bill actually helps the stockholders, and nobody has disputed that. Under present law, the stockholders who are not insiders are hurt. Under our provision, the stockholders are clearly benefited.

The second provision provides for a tender offer period. That means the period during which the acquirer pays for the stock of a corporation and the votes take place is now 20 working days, or 3 weeks. The bill changes that to 35 working days, or 7 weeks. I beg your pardon—the first one is 4 weeks, and now it goes to 7 weeks. That gives the stockholders an opportunity to know the facts. These things happen fast. How this can be interpreted as hurting the shareholders is beyond me.

The third provision is that it restricts the greenmail that is paid to recipients. That is, the people who move in to take over a corporation are restricted in how much they can be paid and how much they can gain if they give up their takeover views and simply sell out at a higher price than the general shareholders would receive. With greenmail, you pay the acquirers to go away. That means, of course, the average investor loses. So this is clearly in the interest of the shareholders.

Fourth, it prohibits the bidders and the target companies from capping the surplus of the pension fund to finance takeover attempts. The main people who would be penalized would usually be the management. They would have more access to pension funds and know the pension funds more likely than the raiders who move in. So this is nothing radical that hurts the shareholders.

Finally, the insider trading penalties are increased from $100,000 to $1 million and from 5 years in jail to 10 years in jail; and, for perjury that is performed in the course of an insider trading investigation, there is a mandatory 1 year in jail. For most of these people, paying $1 million or $2 million or $5 million, if they are a big acquirer, does not mean too much.

Mr. President, my good friend from Texas argued how the chief executive officers of our corporations are so well paid and they are being disciplined by investors, acquirers who come in and rescue stockholders by acting as they do. I want to read from the Wall Street Journal an article that appeared a couple of weeks ago on who makes how much money in this business.

The Wall Street Journal article says:

> Heading the Financial World survey of Wall Street's highest paid people was Paul Tudor Jones II, a 33-year-old investor. The magazine estimated his 1987 earnings at $80 million to $100 million. * * * He is best known for trading stock index futures for himself and clients.

The second on the list of Wall Street's top earners was private investor George Soros, whose 1987 income was at least $75 million. Third were Henry Kravis and George Roberts.

These are acquirers supreme. There is no group that has moved in more aggressively and effectively. Fortune magazine has a cover story on these people and how aggressive they have been lately. They made $70 million last year.

In fifth place was Michael Milken. Michael Milken is the junk-bond specialist at Drexel Burnham Lambert, with an estimated income of at least $60 million. Milken has financed the takeovers. That is where they come from—these junk bond operations that Milken runs.

Mr. President, the article goes on to say:

> Wall Street's top earners ran far ahead of those in the corporate world.

We found that out when one member of the Banking Committee inserted in the RECORD the salaries of 12 of the leading executives, and he was a person who wanted to show how much these people were making. Only two of them make more than $1 million, and the acquirers are making $60 million or $70 million. The executives make barely over $1 million.

I cannot cry for somebody who makes a little over a million dollars, but that is what they make, in comparison to the acquirers. All the rest make less than a million dollars a year. Again, I am not crying. They make up to $700,000, and one makes $280,000. Most of them do extraordinarily well. But the argument that the acquirers are the little guys and do not do well, that they scrape by on $60 million, $70 million, or $80 million a year, is nonsense.

I hope we can terminate the debate on this bill by next Monday or Tuesday. We have worked hard on the bill in committee. It may be delayed if we have to go to cloture, but we are prepared to do that.

Mr. President, I ask unanimous consent to have the Wall Street Journal article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 6, 1988]

WHAT STOCK CRASH? INVESTORS DOMINATE LIST OF TOP EARNERS

(By George Anders)

Last year's stock market crash hardly scratched Wall Street's elite, according to a magazine survey that says 10 securities professionals each earned at least $30 million in 1987.

Heading the Financial World survey of Wall Street's highest-paid people was Paul Tudor Jones II, a 33-year-old investor. The magazine estimates his 1987 earnings at $80 million to $100 million—somewhat above other estimates of Mr. Jones's personal gains. He is best-known for trading stock-index futures for himself and clients; he keeps an unusually high 23% of the profit on client accounts.

Mr. Jones was out of the country and unavailable for comment. An aide at his Tudor Investment Corp. said Mr. Jones's income "isn't a reasonable topic" for public attention.

Second on the list of Wall Street's top 100 earners was private investor George Soros, whose 1987 income was at least $75 million, according to the magazine. Tied for third place were Henry Kravis and George Roberts, co-founders of the leveraged buy-out specialist Kohlberg Kravis Roberts & Co., with estimated income of at least $70 million each. In fifth place was Michael Milken, the junk-bond specialist at Drexel Burnham Lambert Inc., with estimated income of at least $60 million.

A spokesman for KKR called the Financial World's numbers "a guesstimate" but didn't offer any alternative. A Drexel spokesman said, "We don't disclose our employees' compensation." Mr. Soros's firm didn't return phone calls seeking comment.

Financial World's senior editor, Stephen Taub, said the magazine's survey was based on partnership records, proxy statements and other public data as well as on not-for-attrition interviews with some people on the list. "If there's any error, it's that our published numbers may be on the low side," he said.

Wall Street's top earners ran far ahead of those in the corporate world. A Business Week survey of corporate officers found that the 10 highest-paid ones in 1987 scraped by on $8.8 million to $26.3 million.

The biggest Wall Street incomes weren't made at large, full-service securities concerns but at firms with few employees and large fee incomes from investing other people's money or lining up takeovers.

Missing from the Wall Street list were takeover-stock arbitragers; the October market crash wiped out most of their earnings. But partners at Goldman, Sachs & Co. had a bumper year. Financial World estimated that 48 Goldman partners earned $4 million or more last year, qualifying them for a spot in the top 100.

To keep the top 100 list from "becoming a Goldman Sachs yearbook," Mr. Taub said, the magazine decided to list Goldman partners separately. Leading that group was John Weinberg, Goldman's chairman, whose 1987 earnings were estimated at $32 million or more. Asked about the rankings, a Goldman spokesman said: "They're so excessively off-base that it isn't worth commenting.

Mr. ARMSTRONG. Mr. President, before we adjourn for the day, I should like to respond to what the Senator from Wisconsin has said.

He has, quite properly, refocused the debate on the specific provisions of the bill. During the last 3 or 4 hours, we have had a broad, philosophic discussion of some of the trends of our time. While I think that was proper, it is a fact that much of this discussion did not bear directly upon the contents of the bill.

I remind the Senator that in my statement, I was pretty critical of a number of people in big business, and I allowed as how I thought this bill was part of an effort on their part, part of a trend, by which they hope to restrict the rights of shareholders. But I hope I was careful to avoid criticizing provisions he mentioned because, in the main, I agree with the provisions.

There is much in this bill I find very desirable, but I do not think it goes far enough in some cases.

For example, in the greenmail provision, he mentioned that as one of the items. I agree with that. I will offer an amendment to make it a stronger provision, but I do not agree with what is in there.

My hope is not to defeat the bill. I am not trying to filibuster the bill. I will offer many amendments, several of which I think will be adopted; and if they are, I very likely will vote for the bill. I am not trying to impede its progress in the slightest, nor do I think this bill, itself, is the main way in which these people are trying to improperly protect themselves from being held accountable by shareholders. I think it has that effect because of certain provisions which I hope to address with amendments next week.

Mr. PROXMIRE. I thank the Senator.

As I have said many times, the Senator is tremendously eloquent and very bright and is a very distinguished Senator, and it is always a pleasure to work with him.

Mr. ARMSTRONG. I thank the Senator.

Mr. PROXMIRE. I hope we will work out a constructive bill. I am delighted to hear my friend point out that from his standpoint and my standpoint, there are some very positive provisions.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT OFFICER. Without objection, it is so ordered.

BRIBERY ALLEGATIONS BETWEEN THE PENTAGON AND DEFENSE CONTRACTORS AND THE INTEGRITY IN POST EMPLOYMENT ACT OF 1987

Mr. THURMOND. Mr. President, recent disturbing allegations regarding influence peddling, bribery and corruption between Pentagon officials and various defense contractors have swept the Nation and shocked Members of Congress.

The extent of the allegations may not be known for some time, but every available resource should be utilized to complete this investigation. Any individuals or companies that have committed illegal acts must swiftly be prosecuted to the fullest extent of the law.

What we now know is 250 grand jury subpoenas have been issued and the Justice Department estimates that more than 100 indictments may be handed up within 30 days. It is absolutely unconscionable that current and former top Pentagon officials would allegedly sell sensitive or even classified national security information—all for personal financial gain.

At the bottom of this scandal is fraud and bribery involving the sale of secret Pentagon plans to some of the most prominent defense contractors in the Nation. Our Nation's security may well have been undermined. This further brings into question our free enterprise system as it relates to defense procurement. For the free enterprise system to work, it must be based on integrity. Preliminary indications in the alleged scandal show that the heart of the problem is simply that integrity has been cast aside in favor of personal gain.

Influence peddling is nothing new to Washington. It has existed in various forms for decades. However, in recent days, it appears it has reached new, alarming depths.

On April 19 of this year, the Senate unanimously passed my Integrity in Post Employment Act. This legislation is aimed at ending the serious problem of influence peddling and the vending of sensitive information. The bill will assure that Government decisions are based on the merits of an issue—not on positions taken by those who have the most access, influence or financial clout.

Two years ago when I first introduced this vitally important measure we were unaware of the burgeoning problems in the Pentagon. My initial goal remains the same. Influence peddling, which has become commonplace, must immediately be brought under control.

In recent days we have amassed concrete evidence of the clear threats arising out of the abusive use of access and influence and the vending of sensitive information. When this occurs, the integrity of Government comes into serious question, public confidence in the operation of Government is eroded, and our national interests become jeopardized. The time to take action has come.

Enactment of my legislation would be an important step toward halting these abuses. The measure, which passed the Senate unanimously, prohibits lobbying by former top Government officials, including Members of Congress, for certain periods of time after leaving Government service. The intention is to limit influence peddling and make Government service just that—not a stepping stone to future private personal gain.

Representative BARNEY FRANK, chairman of the House Judiciary Subcommittee on Administrative Law and Governmental Relations, is circulating a proposal that deals with the problem of influence peddling by former Government officials. The measure, however, is not as tough as my Senate-passed bill. Based on the allegations involving the Department of Defense, I would hope the House would introduce a bill that is stronger than the one now envisioned. The need is clear.

Enactment of S. 237 would be a major step toward preventing the illegal and unethical actions now embroiling the Pentagon and the defense contracting industry.

In closing, I urge an expeditious investigation and vigorous prosecution into the problems of defense procurement. At the same time, the Congress should and must move toward passage of the Senate-approved Integrity in Post Employment Act.

Mr. President, I yield the floor.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The ACTING PRESIDENT pro tempore (Mr. GRAHAM) announced that he had signed the following enrolled bills and joint resolutions, which had previously been signed by the Speaker of the House of Representatives:

S. 794. An act to amend chapter 123 of title 18, United States Code, to impose criminal penalties for damage to religious property and for obstruction of persons in the free exercise of religious beliefs;

S. 952. An act to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review, and for other purposes;

S. 2156. An act to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget;

S. 2167. An act to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts;

S.J. Res. 147. Joint resolution designating the week beginning on the third Sunday of September in 1988 as "National Adult Day Care Center Week";

H.R. 1044. An act to establish the San Francisco Maritime National Historical Park in the State of California, and for other purposes;

H.R. 2203. An act to increase the amount authorized to be appropriated with respect to the Sewall-Belmont House National Historic Site;

H.R. 2652. An act to revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes;

H.R. 3927. An act to amend the United States Housing Act of 1937 to establish a separate program to provide housing assistance for Indians and Alaska Natives;

H.R. 4621. An act to provide congressional approval of the Governing International Fishery Agreement Between the United States and the Government of the German Democratic Republic;

H.R. 4638. An act to amend the effective date provision of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988; and

H.J. Res. 423. Joint resolution to designate the third week in June 1988 as "National Dairy Goat Awareness Week."

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, June 17, 1988, he had presented to the President of the United States the following enrolled bills and joint resolution:

S. 794. An act to amend chapter 13 of title 18, United States Code, to impose criminal penalties for damage to religious property and for obstruction of persons in the free exercise of religious beliefs;

S. 952. An act to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review, and for other purposes;

S. 2156. An act to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget;

S. 2167. An act to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts; and

S.J. Res. 147. Joint resolution designating the week beginning on the third Sunday of September in 1988 as "National Adult Day Care Center Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3410. A communication from the Chairman of the Securities and Exchange Commission, transmitting a draft of proposed legislation to amend the Securities Exchange Act of 1934, the Investment Company Act of 1940 and the Investment Advisors Act of 1940; to the Committee on Banking, Housing, and Urban Affairs.

EC-3411. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Highway Safety Education and Information Project;" to the Committee on Commerce, Science, and Transportation.

EC-3412. A communication from the Acting General Counsel of the Department of Energy, transmitting, pursuant to law, a notification of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-3413. A communication from the Director of the Office of Alcohol Fuels of the Department of Energy, transmitting, pursuant to law, a report on the use of alcohol fuels; to the Committee on Energy and Natural Resources.

EC-3414. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, a report on the Superfund Innovative Technology Evaluation Program; to the Committee on Environment and Public Works.

EC-3415. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, an annual report on the administration of title I of the Maine Protection, Research, and Sanctuaries Act during calendar years 1984, 1985, 1986; to the Committee on Environment and Public Works.

EC-3416. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Emergency Systems Review;" to the Committee on Environment and Public Works.

EC-3417. A communication from the President of the United States, transmitting, pursuant to law, a report concerning the extension of certain waiver authority under the Trade Act of 1974; to the Committee on Finance.

EC-3418. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act and the Internal Revenue Code of 1986 to remove the special dependency test applicable to certain children adopted by Social Security beneficiaries and to make improvements in the administration of the social security program; to the Committee on Finance.

EC-3419. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, the semiannual report of the inspector general, General Services Administration, for the period October 1, 1987 to March 31, 1988; to the Committee on Governmental Affairs.

EC-3420. A communication from the Secretary of the Board of Governors, transmitting, pursuant to law, a semiannual report on the United Misrepresentation Investigative Activities of the U.S. Postal Service, October 1, 1987 to March 31, 1988; to the Committee on Governmental Affairs.

EC-3421. A communication from the U.S. Postal Service' Records Officer, transmitting, pursuant to law, a copy of a notice of a computer matching program between the Postal Service and the State of Florida Office of the Auditor General; to the Committee on Governmental Affairs.

EC-3422. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-186 adopted by the Council on May 17, 1988; to the Committee on Governmental Affairs.

EC-3423. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-187 adopted by the council on May 17, 1988; to the Committee on Governmental Affairs.

EC-3424. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a new record system submitted by the Defense Logistics Agency under the Privacy Act; to the Committee on Governmental Affairs.

EC-3425. A communication from the Secretary of Health and Human Resources, transmitting a draft of proposed legislation to extend and amend various health authorities; to the Committee on Labor and Human Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD (for Mr. Biden), from the Committee on the Judiciary, with amendments:

S. 612. A bill to repeal a provision of Federal tort liability law relating to the civil liability of government contractors for certain injuries, losses of property, and deaths and for other purposes (Rept. No. 100-386).

By Mr. DeCONCINI, from the Committee on Appropriations, with amendments:

H.R. 4775. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1989, and for other purposes (Rept. No. 100-387).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself, Mr. Pryor, Mr. Stevens, Mr. Nunn, Mr. Warner, Mr. Hollings, Mr. Danforth, Mr. Riegle, Mr. Pressler, Mr. Trible, Mr. Inouye, Mr. Dixon, and Mr. Wirth):

S. 2530. A bill to improve the management of the Federal pay system and increase efficiency and productivity of Federal employees, and for other purposes.

By Mr. McCONNELL:

S. 2531. A bill to amend title 18 of the United States Code to create a criminal offense for public corruption; to the Committee on the Judiciary.

By Mr. PACKWOOD:

S. 2532. A bill for the relief of Tube Forgings of America; to the Committee on Finance.

By Mr. SANFORD (for himself, Mr. Biden, Mr. Boren, Mr. Bumpers, Mr. Burdick, Mr. Chafee, Mr. D'Amato, Mr. Dole, Mr. Ford, Mr. Gore, Mr. Grassley, Mr. Heflin, Mr. Helms, Mr. Inouye, Mr. Kerry, Mr. Leahy, Mr. Levin, Mr. Murkowski, Mr. Pell, Mr. Shelby, Mr. Stennis, Mr. Stevens, Mr. Wilson, and Mr. Wirth):

S. 2533. A bill to erect a marker in Potomac Park in Washington, DC in honor of Matt W. Ransom; to the Committee on Energy and Natural Resources.

By Mr. DOLE (for himself, Mr. Quayle, Mr. Boschwitz, Mr. Cochran, Mr. Cohen, Mr. Durenberger, Mr. Evans, Mr. Garn, Mr. Grassley, Mr. Hecht, Mr. Heinz, Mr. Humphrey, Mr. Kasten, Mr. Lugar, Mr. McCain, Mr. Murkowski, Mr. Pressler, Mr. Simpson, Mr. Stafford, Mr. Stevens, Mr. Thurmond, Mr. Warner, Mr. Weicker, and Mr. Wilson):

S. 2534. A bill to establish a College Savings Bond Program and to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from certain savings bonds the proceeds of which are used to pay certain postsecondary educational expenses, and for other purposes; to the Committee on Finance.

By Mr. EVANS (for himself and Mr. Adams):

S. 2535. A bill to amend the Endangered Species Act of 1973 with respect to the extension of licenses for scrimshaw production; to the Committee on Evironment and Public Works.

By Mr. HEINZ (for himself, Mr. Rockefeller, Mr. Mitchell, and Mr. Specter):

S. 2536. A bill to provide that certain regulations not be used in administering the Trade Assistance Program; to the Committee on Finance.

By Mr. McCAIN:

S. 2537. A bill to provide for the transfer to the governing body of the San Carlos Apache Tribe to purchase property within the San Carlos Mineral Strip; to the Committee on Appropriations.

By Mr. CRANSTON:

S. 2538. A bill to authorize additional personnel positions in the Los Angeles, CA, area for Government entities involved in the war on drugs; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. Pryor, Mr. Stevens, Mr. Nunn, Mr. Warner, Mr. Hollings, Mr. Danforth, Mr. Riegle, Mr. Pressler, Mr. Trible, Mr. Inouye, Mr. Dixon, and Mr. Wirth):

S. 2530. A bill to improve the management of the Federal pay system and increase efficiency and productivity of Federal employees and for other purposes.

FEDERAL PERSONNEL IMPROVEMENTS ACT

Mr. BINGAMAN. Mr. President, I am introducing today the Federal Personnel Improvements Act of 1988. I am pleased to be joined by 12 of my colleagues as original cosponsors of this legislation, including Senators Pryor, Stevens, Nunn, Warner, Hollings, Danforth, Riegle, Pressler, Trible, Inouye, Dixon, and Wirth.

I particularly want to thank Senators Pryor and Stevens, the chairman and ranking member on the Governmental Affairs Committee's Subcommittee on Federal Services, Post Office, and Civil Service, for the tremendous effort they and their staff have put into drafting this legislation. Kim Weaver, Ed Gleiman, and Jeff Landry of the subcommittee staff have helped steer this compromise legislation around many potential hurdles, and I am very grateful to them.

The Federal Personnel Improvements Act would be, if enacted, a major step forward in reform of our civil service system, perhaps the most significant reform since the 1978 Civil Service Reform Act. The bill has two parts. Title I mandates up to 10 personnel demonstration programs with up to 25,000 individuals in each program. The goal is to take a significant step beyond the Civil Service Reform Act in the exploration of alternatives to the current system in a variety of settings. Title II broadens the special pay rate program, creates a recruitment and retention bonus program, and makes various other changes designed to increase the flexibility agencies have in managing their work forces and in dealing with recruitment and retention problems.

As I said earlier, this legislation is a compromise. For several years I have been trying to win support for the application of the China Lake alternative personnel system model to a broader set of Federal employees for whom I thought it was applicable. Throughout this process, I have relied on the counsel of Mr. David Packard, who led two major studies on this matter, both of which pointed to an urgent need to improve the Federal agencies' ability to recruit and retain the top-quality people they need to perform essential missions. The first, carried out in 1983 under the auspices of the White House Science Council, recommended that the China Lake model be applied to all scientists and engineers in the Federal work force. The second, carried out in 1986 under the auspices of the President's Blue Ribbon Commission on Defense Management, recommended the China Lake model be applied to the Department of Defense's acquisition work force, not just its scientists and engineers.

In response to the first of these reports, in 1985 I introduced S. 1727, the Federal Science and Technology Revitalization Act, which would have applied the China Lake model to all Federal scientists and engineers. Job classification would have been simplified. Merit, rather than longevity, would have been the primary factor in pay determinations. Greater flexibility would have resulted from the use of broad pay bands rather than the current GS schedule. The major difference from China Lake would have been that up to 5 percent of people in the alternate system would have been allowed to be paid above the current civil service pay cap, the Executive Level V pay rate. This was to be modeled after the practice at Government-owned, contractor-operated laboratories such as DOD's Lincoln Laboratory, NASA's Jet Propulsion Laboratory, or DOE's National Laboratories in New Mexico.

After the Packard Commission made its report in 1986, working together with Senator QUAYLE I modified this legislation to include the Federal acquisition work force. The Senate Armed Services Committee included this provision as it applied to the Department of Defense in the fiscal year 1987 Defense Authorization Act reported by the committee. However, the provision was deleted as a result of an amendment offered by the senior Senator from Alaska, Senator STEVENS, who was concerned about the potential scope of the proposed changes and the fact that the new system would apply only to the Defense Department, thus giving it a potential edge in recruitment and retention. These were, indeed, very legitimate concerns, and the legislation being introduced today has taken them into account.

In this Congress, this is the third bill I have introduced on this subject. Last year, I introduced S. 1477, the Federal Science, Technology, and Acquisition Revitalization Act, which was essentially the same as the modified version of S. 1727 used in the Defense Authorization Act the previous year, except once again it applied to all Federal agencies, not just the Defense Department. Earlier this year, following new recommendations from a Defense Science Board summer study, chaired by MIT Provost John Deutch, and from an ad hoc Defense Industry Advisory Group, in which Norm Augustine of Martin Marietta played the lead role on this issue, I introduced S. 2254, the Defense Industry and Technology Act. Among the provisions of that bill was a significant revision of S. 1477. The revised version would have applied once again only to the Defense Department. The number of employees affected would have been capped at 300,000. Only 200 especially qualified scientists and engineers would have been allowed to be paid above the Federal pay cap, a significant downward adjustment from the 5 percent in my earlier bills.

In putting forward these various pieces of legislation, my interest has always been in trying to forge a reasonable civil service reform compromise on which we can build in the future. I have the honor of serving on both the Governmental Affairs and the Armed Services Committees, and in each instance on the subcommittee with greatest interest in this area, the Federal Services Subcommittee and the Defense Industry and Technology Subcommittee, respectively. In putting together this compromise legislation I have drawn from the thoughts of my colleagues on both committees, as well as those on the Commerce Committee who had a great interest in allowing NASA the opportunity to design a demonstration project that would meet its needs. Obviously, we were significantly influenced by the work of the House Committee on Post Office and Civil Service, and in particular by H.R. 3132, introduced by Representative ACKERMAN, who chairs the Compensation and Employee Benefits Subcommittee.

The General Accounting Office provided many constructive suggestions, and my colleagues and I appreciate that assistance. I am also grateful for the support which Senators PRYOR, STEVENS, and I have received from the Department of Defense, NASA, and OPM as we have sought middle ground in recent months. Deputy Secretary of Defense Will Taft, Assistant Secretary Grant Green, NASA Administrator James Fletcher, and OPM Director Connie Horner have all strived to seek a compromise that would give them the best chance to address the problems they face in the civilian work forces. Finally, we have received very useful comments throughout this process from many others with interest in this legislation. I thank all those who participated in the drafting process.

Mr. President, I believe that my colleages and I have forged a good compromise in the Federal Personnel Improvements Act of 1988. No one is fully satisfied, but that is the nature of compromise. I believe that the 10 demonstration projects will give us the data we need in a few years to decide how to proceed on a more comprehensive reform of the current civil service system. The agencies and OPM are given great leeway in designing these projects. Indeed, aside from maintaining retirement, health, and life insurance benefits, and the civil service pay cap, anything goes.

I am sure that the Defense Department and NASA intend to further experiment with the China Lake model and variants thereof. We have suggested several other possible models, including locality pay and collective bargaining. Whatever the models adopted, the agencies will have to carry the experiments out on a cost neutral basis compared to maintaining the current systems in place. Otherwise, the comparison with the current system would not be fair, and frankly this legislation would not have the wide support it currently enjoys.

Title II of this bill will have a greater short-term impact. It would put in permanent law a provision included in the fiscal year 1988 continuing resolution that significantly enhances the special pay rate authority in current law. It would institute a recruitment and retention program under which agency heads may grant bonuses of from $1,000 to $10,000 to employees in occupations or locations with recruitment and retention problems. It would ensure special rate employees get at least the same annual percentage pay increase as other General Schedule employees. And it would make various other changes in such areas as remote worksite allowances and uniform allowances.

Much of title II derives from S. 987, introduced last year by my colleagues from Virginia, Senators TRIBLE and WARNER. I commend them for their leadership on reform of the special pay rate authority, and I am glad to have them as original cosponsors of this legislation.

Mr. President, this legislation has been very carefully worked out by the staff of the Senate Governmental Affairs Committee, working with the staffs of the Senate Armed Services Committee and the Senate Commerce Committee. We plan to hold this legislation at the desk and hope that it can be soon moved to the calendar and taken up by the Senate. We appreciate the support we have received from the chairman and ranking member of the Governmental Affairs Committee for following this procedure and we appreciate their strong input throughout the process of formulating this legislation. We expect a CBO estimate shortly and hope to have official administration comments in the near future as well. OPM, DOD, and NASA have indicated their support for the legislation.

I urge my colleagues to join in cosponsoring this important legislation. I ask unanimous consent that the text of the legislation and a summary of its contents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Personnel Improvements Act of 1988".

SEC. 2. STATEMENT OF PURPOSE.

The purposes of this Act are to—

(1) improve the management of the pay systems for Federal employees;

(2) increase the efficiency of agency operations;

(3) enhance the productivity of the Federal workforce; and

(4) promote the efforts of the Government in the recruitment and retention of qualified career employees.

TITLE I—ALTERNATIVE COMPENSATION PROGRAMS

SEC. 101. DEFINITIONS.

For purposes of this title—

(1) the term "agency" means an Executive agency (as defined in section 105 of title 5, United States Code), except that such term does not include—

(A) the National Security Agency;

(B) the Central Intelligence Agency;

(C) the Defense Intelligence Agency;

(D) the Federal Bureau of Investigation; or

(E) the General Accounting Office;

(2) the term "employee" means an employee (as defined in section 2105 of title 5, United States Code) whose rate of basic pay would, but for this title, be determined under—

(A) subchapter III or section 5371 of chapter 53 of title 5, United States Code, relating to the General Schedule; or

(B) chapter 54 of title 5, United States Code, relating to the performance management and recognition system; and

(3) the terms "collective bargaining", "collective bargaining agreement", "exclusive representative", "management official", and "supervisor" each has the meaning given such term under section 7103(a) of title 5, United States Code.

SEC. 102. DEMONSTRATION PROGRAMS OF ALTERNATIVE COMPENSATION SYSTEMS.

(a) Demonstration Programs.—Within 2 years after the date of the enactment of this Act, the demonstration programs using alternative compensation systems as provided under this Act, shall be implemented by the Office of Personnel Management and—

(1) the head of the relevant agency for any program described under subsection (b)(1)(A);

(2) the Secretary of Defense for the programs described under subsection (b)(1)(B); and

(3) the Administrator of the National Aeronautics and Space Administration for the program described under subsection (b)(1)(C).

(b) Programs, Participants, and Limitations.—(1) There shall be implemented under the provisions of this section, no less than 6 and no more than 10 demonstration programs using alternative compensation systems, of which—

(A) between 1 and 5 such programs shall be designed and implemented by the head of an agency, after consultation and approval by the Office of Personnel Management;

(B) 4 such programs shall be developed and implemented within the Department of Defense by the Secretary of Defense, after consultation and approval by the Office of Personnel Management; and

(C) 1 such program shall be developed and implemented within the National Aeronautics and Space Administration by the Administrator of such Administration, after consultation and approval by the Office of Personnel Management.

(2) Each such program under this section shall—

(A) cover a sufficient number of positions within an agency to provide an adequate basis on which to evaluate the desirability of implementing such program on a broader scale within the Government, except that not less than the equivalent of 5,000 full-time positions and no more than the equivalent of 25,000 full-time positions shall be covered in any such program at any time;

(B) include in the development of such program, prior to implementation, a detailed information gathering plan—

(i) to provide for the evaluation of such program to be developed by the Office of Personnel Management and the head of the relevant agency;

(ii) which shall include the total number of employees to participate in such program;

(iii) which shall be—

(I) submitted to the General Accounting Office, at least 60 days prior to program implementation; and

(II) reviewed by the General Accounting Office which shall report the results of the review to the Senate Committee on Governmental Affairs, the House Committee on Post Office and Civil Service, and the head of the relevant agency; and

(iv) which shall be periodically reviewed with regard to the adherence of such agency to such plan by the General Accounting Office which shall submit reports of such reviews to the relevant congressional committees; and

(C) within 2 years after the date of implementation under subsection (a), have the full number of employees participating in such program as provided for in subparagraph (B)(ii).

(3)(A) Notwithstanding the provisions of paragraph (2), no more than 2 programs described under paragraph (1)(B) may cover no more than the equivalent of 35,000 full-time positions each.

(B) Notwithstanding the provisions of subparagraph (A), the total number of equivalent full-time positions combined for the 4 programs described under paragraph (1)(B) may cover no more than 100,000 such positions.

(c) Minimum and Maximum Rates of Basic Pay; Program Cost Limitations.—Each program under this section shall provide that—

(1) the rate of basic pay for an employee participating in any program under this title—

(A) shall be at least equal to the rate of basic pay payable to such employee for the pay period immediately preceding the date of the implementation of such program; and

(B) may not exceed the rate of basic pay payable for level V of the Executive Schedule; and

(2) the total cost to the Government in carrying out such programs shall not exceed what the total cost to the Government would have been, during the same period, if this Act had not been enacted.

(d) Employees in Collective Bargaining Units.—(1) Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be included within any program under this section if the program—

(A) would violate a collective bargaining agreement between the agency and the labor organization, unless there is another written agreement with respect to the program between the agency and the organization permitting the inclusion; or

(B) is not covered by such a collective bargaining agreement, until there has been consultation or negotiation, as appropriate, by the agency with the labor organization.

(2) Employees within any unit with respect to which a labor organization has not been accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be included within any program under this section, unless there has been agency consultation regarding the program with the employees in the unit.

(e) Notification of Programs and Reports.—The Office of Personnel Management, the Secretary of Defense, and the Administrator of the National Aeronautics and Space Administration shall, with respect to each applicable program implemented under subsection (a)—

(1) publish the plan developed under subsection (b)(2)(B) for such program in the Federal Register prior to implementation of such program;

(2) provide notification of the implementation of such program to affected employees and the Congress within 90 days before the date of such implementation; and

(3) provide an annual report to the Congress on such program.

(f) Termination of Programs.—(1) Subject to paragraph (2), any demonstration program implementing an alternative compensation system under this section shall terminate at the earlier date of—

(A) 5 years after the date on which the full number of employees are participating in such program as provided for under subsection (b)(2)(C); or

(B) 7 years after the date of the implementation of such program under subsection (a).

(2)(A) A program under this section may be terminated in accordance with the provisions of subparagraph (B), if the Office of Personnel Management, in consultation with the head of the relevant agency, determines that such program creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, or employees.

(B) If a determination is made under the provisions of subparagraph (A), a program may be terminated by the Office of Personnel Management, after consultation with—

(i) the head of the relevant agency, with regard to a program described under subsection (b)(1)(A);

(ii) the Secretary of Defense, with regard to a program described under subsection (b)(1)(B); or

(iii) the Administrator of the National Aeronautics and Space Administration, with regard to the program described under subsection (b)(1)(C).

(3) If a program is terminated under the provisions of paragraph (2), the head of the relevant agency shall notify all affected employees of such termination no later than 90 days before the date of such termination.

SEC. 103. ALTERNATIVE COMPENSATION SYSTEMS.

(a) Types of Systems.—Before developing and implementing a demonstration program under section 102, the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, and each head of a relevant agency shall consider an alternative compensation system—

(1) under which annual pay adjustments under section 5305 of title 5, United States Code, provide that the total pay and benefits for Government service shall be comparable to the total pay and benefits for individuals at the same levels of work outside the Government;

(2) under which annual pay adjustments under section 5305 of title 5, United States Code, provide that rates of basic pay payable to employees are consistent with rates of basic pay generally payable for the same levels of work outside the Government within the same geographic region;

(3) under which conditions of employment for employees shall be subject to collective bargaining; or

(4) established by the head of the agency involved, which—

(A) may identify separate career categories for employees in positions which are subject to the system;

(B) shall provide for the rate of basic pay of an employee to be set and adjusted within salary structures based on such factors as the experience and achievements of the employee, position in a pay range, job responsibilities, rates of pay for similar positions outside the Government, and (consistent with section 5334 of title 5, United States Code) changes in positions or types of appointments;

(C) shall provide pay differentials for service as a supervisor or management official (which shall be considered a part of basic pay for purposes of subchapter III of chapter 83, and chapter 84, of title 5, United States Code);

(D) may authorize special awards (which shall not be considered a part of basic pay for any purpose); and

(E) shall authorize performance recognition in the form of—

(i) a lump-sum payment (which shall not be considered a part of basic pay for any purpose);

(ii) an increase in the rate of basic pay of an employee within a pay range or to a higher pay range; or

(iii) nonmonetary recognition.

(b)(1) Collective Bargaining Alternative System.—If the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, or any head of an agency implements a program using a system described in subsection (a)(3), such program shall provide that—

(A) any pay schedules or rates shall be established to provide that an appropriate differential (which shall be considered part of basic pay) is provided for service as a supervisor or management official; and

(B) only a unit or subdivision of a unit for which an exclusive representative is certified may participate.

(2) Definition.—For purposes of a program using a system described in subsection (a)(3), the term "conditions of employment" means—

(A) personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, included under section 7103(a)(14) of title 5, United States Code; and

(B) personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, relating to classification of positions, leave, pay, or other compensation or benefits;

except that such term does not include policies, practices, and matters relating to life insurance, health insurance, and retirement.

SEC. 104. RULE OF STATUTORY CONSTRUCTION.

(a) Except as provided in subsection (b), in the administration of an alternative compensation system under this title, the provisions of this title shall apply notwithstanding any inconsistent provision of title 5, United States Code.

(b) In the administration of an alternative compensation system under this title, no provision of this title may be construed to waive any inconsistent provision of—

(1) chapters 83 and 84 of title 5, United States Code, relating to retirement;

(2) chapter 87 of title 5, United States Code, relating to life insurance; or

(3) chapter 89 of title 5, United States Code, relating to health insurance.

TITLE II—HIGHER MINIMUM RATES OF PAY, MISCELLANEOUS ALLOWANCES, AND OTHER MATTERS

SEC. 201. HIGHER MINIMUM RATES OF PAY.

(a) Section 5303 of title 5, United States Code, is amended to read as follows:

"§5303. Higher minimum rates of pay

"(a) When the Office of Personnel Management finds that the Government is experiencing significant difficulty in recruiting or retaining well-qualified employees under a statutory pay system for one or more occupations in one or more areas or locations—

"(1) because the pay rates for the positions involved are generally less than the rates payable for similar positions held—

"(A) by individuals outside the Government; or

"(B) by other individuals within the executive branch of the Government;

"(2) because of the remoteness of the area or location involved;

"(3) because of the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

"(4) because of any other circumstance which the Office may identify;

the Office may establish for the areas or locations higher minimum rates of basic pay for one or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all rates of the pay range for each such grade or level. However, a minimum rate so established may not exceed the maximum pay rate for the grade or level by more than the amount by which such maximum rate exceeds such minimum rate.

"(b) In addition to positions under the statutory pay systems, the authority conferred on the Office by section (a) may be exercised with respect to positions paid under any other system established by or under Federal statute for positions within the executive branch of the Government.

"(c) A rate of pay established through the exercise of any authority under this section—

"(1) shall be subject to revision or adjustment; and

"(2) shall be subject to reduction or termination (in which case, pay retention shall be provided under section 5363).

"(d) Any authority under this section may be exercised only to the extent that funds are available for payment of rates of basic pay authorized under this section.

"(e) If the rates of pay under the General Schedule are increased pursuant to section 5305 of this title in any fiscal year, then, not later than the effective date of the increase in such rates, each rate of pay in effect for a position under this section on September 30 of the preceding fiscal year shall be increased by any percentage that is not less than the increase in the rates of pay for the corresponding grade of the General Schedule. Nothing in this paragraph prohibits more than one increase in such rate of pay during any fiscal year.

"(f) An increase in a rate of basic pay under this section—

"(1) is not an equivalent increase in pay within the meaning of section 5335(a); and

"(2) has the force and effect of statute.

"(g) Under regulations prescribed by the Office of Personnel Management, the benefit of advancement through the range of basic pay for a grade or level shall be preserved for any individual who is covered by this section and whose continuous service is interrupted in the public interest by service in the Armed Forces or by service in essential non-Government civilian employment during a period of war or national emergency.".

(b) Conforming Amendment.—The table of sections for chapter 53 of title 5, United States Code, is amended by striking out the item relating to section 5303 and inserting in lieu thereof the following:

"5303. Higher minimum rates of pay.".

SEC. 202. BONUS PAYMENTS.

(a) Bonus Payments.—Chapter 53 of title 5, United States Code, is amended by inserting after section 5303 the following new section:

"§ 5303a. Bonus payments

"(a)(1) Under regulations prescribed by the Director of the Office of Personnel Management, the head of an agency may provide for recruitment and retention bonus payments under this section—

"(A) to employees serving in positions for which the minimum rate of basic pay has been established under section 5303 of this title;

"(B) to employees whose responsibilities include the regular supervision of any employee paid at a rate established under section 5303 of this title; or

"(C) subject to the approval of the head of an agency, under criteria prescribed by the Office of Personnel Management, to any other employees of such agency.

"(2) A bonus payment under this section shall be equal to an amount, not less than $1,000 and not more than $10,000, determined by the head of the agency making such payment.

"(b)(1) A payment may not be made to an individual under this section unless such individual has entered into an agreement with the head of the agency employing such individual which provides that—

"(A) such individual will continue in the service of the agency for a period of time determined under paragraph (2) of this subsection; and

"(B) if separated (except by reason of a reduction in force) from the agency before the end of the period agreed to, such individual will repay to the Government any amounts paid to such individual under this section.

"(2) The period of service applicable under paragraph (1) of this subsection may not—

"(A) be less than 6 months; and

"(B) exceed 2 years.

"(3) If an individual fails to repay any amount required under paragraph (1)(B) of this subsection, such amount is recoverable by the Government from the individual or the estate of such individual by—

"(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the individual from the Government; and

"(B) any other method provided by law for the recovery of amounts owed to the Government.

Notwithstanding the preceding sentence, the head of the agency concerned may, under the regulations issued under subsection (a) of this section, waive in whole or in part a right of recovery under this subsection if it is shown that the recovery would be against equity and good conscience or against the public interest.

"(c) The full amount of a bonus under this section shall be paid, whether in a lump sum or in the form of periodic payments, before the end of the period of service agreed to under subsection (b) of this section.

"(d) A payment under this section is not part of the basic pay of an individual.".

(b) Conforming Amendment.—The table of sections for chapter 53 of title 5, United States Code, is amended by inserting after the item relating to section 5303 the following:

"5303a. Bonus payments.".

SEC. 203. ADVANCE PAYMENT OF BASIC PAY.

(a) General Rule.—Chapter 55 of title 5, United States Code, is amended by inserting after section 5522 the following:

"§ 5522a. Advance payment of basic pay

"(a) The head of an agency may provide for the advance payment of basic pay, covering a period of not more than 30 days, to or for the account of any employee of the agency who is appointed to a position if the rate of pay for such position is established under section 5303.

"(b) Subsection (c) of section 5522, relating to the recovery of funds advanced under subsection (a) of such section, applies with respect to any amounts advanced under subsection (a) of this section.

"(c) Notwithstanding section 5521(1), for the purpose of this section, the term 'agency' means any agency to which section 5303 applies.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5522 the following:

"5522a. Advance payment of basic pay.".

SEC. 204. ELIMINATION OF GS-11 THRESHOLD FOR NEW APPOINTEES TO BE PAID ABOVE MINIMUM RATES.

Section 5333(a) of title 5, United States Code, is amended by striking "in GS-11 or above".

SEC. 205. MISCELLANEOUS ALLOWANCES.

(a) REMOTE WORKSITE ALLOWANCE.—Section 5942 of title 5, United States Code, is amended by striking "of not to exceed $10 a day." and inserting in lieu thereof "under this section.".

(b) UNIFORM ALLOWANCE.—(1) Section 5901(a) of title 5, United States Code, is amended to read as follows:

"(a)(1) There is authorized to be appropriated annually to each agency of the Government of the United States, including a Government-owned corporation, such amounts as may be necessary—

"(A) to furnish a uniform to each employee of such agency who is required by regulation or statute to wear a prescribed uniform in the performance of official duties; or

"(B) to pay to each such employee an allowance adequate to cover the full cost of such uniform.

"(2) A uniform allowance under this section may be paid only at the times authorized by the regulations prescribed under section 5902 of this title.".

(2)(A) Chapter 59 of title 5, United States Code, is amended—

(i) by striking out section 5902; and

(ii) by redesignating section 5903 as section 5902.

(B) The table of sections for chapter 59 of title 5, United States Code, is amended by striking the items relating to sections 5902 and 5903, respectively, and inserting in lieu thereof the following:

"5902. Regulations.".

SEC. 206. INCENTIVE SPECIAL PAY FOR UNITED STATES PUBLIC HEALTH SERVICE NURSES.

Section 208(a) of the Public Health Service Act (42 U.S.C. 210(a)) is amended by inserting at the end thereof the following new paragraph:

"(3) Commissioned nurse officers in the Regular and Reserve Corps shall while on active duty be paid incentive special pay in the same amounts as, and under the same terms and conditions which apply to, the incentive special pay now or hereafter paid to commissioned nurse officers of the Armed Forces under chapter 5 of title 37, United States Code.".

SEC. 207. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act.

FEDERAL PERSONNEL IMPROVEMENTS ACT OF 1988—SUMMARY

TITLE I

Requires that a minimum of 6, with a maximum of 10, personnel demonstration programs be designed and implemented within 2 years of enactment of the bill.

Four programs shall be implemented at the Department of Defense. One program shall be implemented at the National Aeronautics and Space Administration.

Each program may include no less than 5,000 and no more than 25,000 full-time positions.

Each agency, in cooperation with the Office of Personnel Management, shall develop a detailed information gathering plan. The plan shall be evaluated by the General Accounting Office, which will also periodically monitor agency adherence to the information gathering plan.

The total cost of carrying out each demonstration program may not exceed what the total cost to the Government would have been, during the same period, if the bill had not been enacted.

Employees in collective bargaining units shall not be included in any program unless there is a written agreement between the agency and the organization permitting such inclusion.

Employees not in collective bargaining units shall not be included in any program unless there is agency consultation regarding the program with the employees.

Plans for each demonstration program shall be published in the Federal Register prior to the implementation of the program. Each agency shall provide notification of the implementation to affected employees and the Congress within 90 days before the date of implementation. Each agency shall provide an annual report to Congress regarding the program.

The termination date of the demonstration program shall be the earlier of 5 years after the date on which the full number of employees are participating in the program or 7 years after the date of initial implementation.

OPM, in consultation with an agency head, may terminate a program if OPM determines that the program creates a substantial hardship on, or is not in the best interest of, the public, the Federal Government or employees.

Before developing a demonstration program, OPM and each agency head shall consider the following systems:

in which annual pay adjustments provide that the total federal pay and benefits are comparable to the total pay and benefits for individuals outside the government;

in which annual pay adjustments provide that rates of federal basic pay are consistent with the rates of basic pay for the same levels of work outside the government within the same geographic region;

in which conditions of employment for employees is subject to collective bargaining;

in which the head of the agency establishes: separate career categories; rates of basic pay based on the experience, performance and achievements of each employee; pay differentials for supervisors or management officials, special awards and methods to recognize outstanding performance.

TITLE II

Amends section 5303 of title 5, United States Code to include language in FY88 Continuing Resolution.

Agencies experiencing recruitment and retention problems will be able to justify special pay rates for the following reasons:

because federal pay is less than the rates payable for similar position held outside the Government or by other individuals within the executive branch of the Government;

because of the remoteness of the area or location involved;

because of the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards;

or because of any other circumstance OPM may identify.

Ensures that the special pay rates shall be increased by a percentage that is not less than the pay increase granted to General Schedule employees.

Creates a recruitment and retention bonus of not less than $1,000 and not more than $10,000, to be used by agency heads for employees in occupations or locations where there is a recruitment or retention problem.

Individuals receiving such a bonus shall enter into an agreement with the agency ensuring that he will remain with the agency for not less than 6 months and not more than 2 years.

Allows for an advance of payment of basic pay, covering a period of not more than 30 days, to an employee who is covered by a special pay rate.

Eliminates the GS-11 threshold for new appointees to be paid above minimum rates. This allows agencies to bring in a new employee with unusually high or unique qualifications above the first step in the applicable grade level.

Removes the $10 per day cap on remote worksite allowances. This updates a section last amended in 1966 to allow agency heads to grant a remote worksite allowance more in line with current costs if the employee is required to shoulder an appreciable degree of expense, hardship and inconvenience in commuting to and from his/her worksite and residence.

Removes the $125 annual cap on uniform allowances. This updates a section last amended in 1966 to allow agencies to authorize uniform allowances for their employees which conform with current costs.

Sets the effective date of title II as 90 days after the date of enactment of the bill.

Mr. PRYOR. Mr. President, I am pleased to be joining Senator BINGAMAN and others in introducing the Federal Personnel Improvements Act of 1988. There are those who believe that the civil service classification and compensation system is facing a quiet crisis. This bill provides short-term relief for many problems confronting Federal employees and at the same time provides an opportunity to develop a long-term solution as to how we can improve the personnel system.

The bill is the product of lengthy negotiations between a number of authorizing committees, including Governmental Affairs, Armed Services and Commerce. It reflects our collective understanding gleaned from hearings and ongoing discussions with agencies, of the problems many agencies are experiencing in recruiting and retaining the quality people we believe are necessary for the effective and efficient operation of government. The bill has the support of the Office of Personnel Management, the Department of Defense and the National Aeronautics and Space Administration.

Title I of this bill requires that a minimum of 6, and a maximum of 10, personnel demonstration programs be designed and implemented within 2 years of enactment of the bill. These programs will be designed and implemented by the agency head, after consultation with and approval by the Office of Personnel Management. Four of these projects will be implemented at the Department of Defense, covering a total of 100,000 full-time employees. Another of these projects will be implemented at NASA, which will cover all of its employees. This legislation will not affect any demonstration project which is currently operating under chapter 47 of title 5, United States Code.

Each agency implementing a demonstration project will be required to work with OPM in developing a detailed information gathering plan. The information gathered under these plans will then be used by OPM, GAO, and the Congress in evaluating the success of the demonstration programs. We have learned from our experience with the Naval Weapons Center in China Lake, CA, which has been operating a demonstration project since 1980, that a well-designed evaluation plan is essential to assessing the ultimate success and transferability of any demo project. A recent General Accounting Office report stated that, while China Lake is not a failure, there is a lack of evidence to support expanding the China Lake project governmentwide.

The intent of this legislation is to provide agencies and OPM with an opportunity to test a variety of personnel projects, rather than simply expanding on variations of China Lake. I believe that there are number of good ideas in the development phase which may prove to be very successful once implemented.

Title II of this legislation addresses several aspects of the personnel system designed to greatly improve the Government's competitiveness in hiring and retaining quality employees.

The bill makes permanent an amendment included in the fiscal year 1988 continuing resolution. These changes expanded the Government's special pay rate program to allow special rate comparisons to be based on more than private sector wages. For example, in the case of Federal law enforcement officials in the Washington, DC area, there are no private sector comparisons to be made. However, there are a number of State and local police forces which do compete successfully with the Federal Government, resulting in the loss of well-trained Federal law enforcement officials to these other jurisdictions. The improved special pay rate program will allow the pay of Federal employees to be compared to the pay for similar positions outside the Federal Government, without limiting the comparison to only the private sector. In addition, the remote location or the hazardous nature of a job can now be taken into consideration when OPM considers the need for a special pay rate request.

Under this legislation, employees in a special pay rate category would be ensured of receiving at least the annual percentage raise that other Federal employees receive. Currently, OPM does not allow employees placed in special pay rate categories to receive the annual increases which Congress approves for all other employees. This created a situation in which employees in supposedly difficult to fill positions actually slid backward relative to their coworkers in nonspecial pay rate status. Clearly, this contradicts the purpose of placing employees in a special pay rate category. I believe the modification contained in this bill will be a major improvement in the administration of the special pay rate program.

This legislation creates a recruitment and retention bonus of not less than $1,000 and not more than $10,000. I believe that this bonus authority, if used prudently, will be a useful tool for agency heads to recruit and retain particularly talented employees. In order to ensure that the objectives of this program are met, employees who receive these bonuses will be required to negotiate a service agreement of not less than 6 months and not more than 2 years.

The legislation allows for an advance of basic pay for employees in a special pay rate category for a period not to exceed 30 days. This advance could be used, for example, in situations in which an employee is transferred to a high cost of living area and needs money to cover the costs of moving. The employee will be required to repay this advance in accordance with current law.

This bill eliminates the GS-11 threshold for new employees to be paid above the first step of a grade, thus allowing agencies to hire a new employee with unusually high or unique qualifications at higher than the normal starting salary.

The bill also contains some housecleaning provisions, eliminating outdated standards.

It removes a $10 daily cap on remote worksite allowances. This law, last updated in 1966, allows an agency head to authorize a special allowance for employees who are forced to shoulder an extreme degree of expense, hardship, or inconvenience in commuting to and from their worksite. The removal of the $10 cap will allow an agency head to grant an allowance which is in line with current costs.

It removes a $125 annual cap on uniform allowance. This section, last updated in 1966, allows agencies to authorize uniform allowances for their employees. Removal of the cap recognizes increased uniform costs and variations in those costs. Agency heads will have the flexibility to grant the appropriate allowances for the varying costs of the uniforms.

Finally, the bill includes Public Health Service nurses in the same special pay rate category as armed services nurses. The PHS nurses are the only Federal medical personnel not currently covered by a legislated special pay rate category. This has caused major recruitment and retention problems for the PHS.

I believe that this legislation goes far in enhancing the Government's short-term recruitment and retention abilities. It also requires the development of alternative systems which, after testing and evaluation, will assist us in deciding how to best improve the Government's personnel system.

I urge my colleagues to cosponsor this legislation and assist in its speedy passage.

By Mr. McCONNELL:

S. 2531. A bill to amend title 18 of the United States Code to create a criminal offense for public corruption; to the Committee on the Judiciary.

(The remarks of Mr. McCONNELL and the text of the legislation appear earlier in today's RECORD.)

By Mr. SANFORD (for himself, Mr. BIDEN, Mr. BOREN, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. D'AMATO, Mr. DOLE, Mr. FORD, Mr. GORE, Mr. GRASSLEY, Mr. HEFLIN, Mr. HELMS, Mr. INOUYE, Mr. KERRY, Mr. LEAHY, Mr. LEVIN, Mr. MURKOWSKI, Mr. PELL, Mr. SHELBY, Mr. STENNIS, Mr. STEVENS, Mr. WILSON, and Mr. WIRTH):

S. 2533. A bill to erect a marker in Potomac Park in Washington, DC, in honor of Matt W. Ransom; to the Committee on Energy and Natural Resources.

MARKER IN POTOMAC PARK, WASHINGTON, DC, IN HONOR OF MATT W. RANSOM

Mr. SANFORD. Mr. President, I rise to pay tribute to one of my distinguished predecessors, Matt Whitaker Ransom, who served North Carolina and the Nation long and honorably in this body.

A born leader, Ransom excelled as a soldier, a lawyer, a Senator, and a diplomat. But in my opinion, Ransom has not been given proper credit for what is probably his most lasting accomplishment—turning the malaria-ridden marshlands along the Potomac River into what is now Potomac Park, home to two of our Nation's most treasured monuments, the Lincoln and the Jefferson.

Strolling through Potomac Park today, one may find it hard to believe 19th-century descriptions of the area. In warm seasons, it was covered with weeds and grass only partly above water; and in winter, with decaying logs and vegetations, slime, and dead animals. Sewage from Rock Creek and the B Street Canal emptied into the area, and at low tide floating waste settled on high grounds and baked in the Sun. The mildest southerly wind would fill the city with foul orders, to say nothing of the risk to human health it posed.

In 1881, 9 years after his election to the Senate, Ransom became chairman of a special committee on the Potomac waterfront. After years of hard work by Senator Ransom in committee and on the floor of the Senate, reclamation efforts began.

By 1895, when Ransom left the Senate to become Minister to Mexico, hundreds of acres had been reclaimed and a seawall of more than 25,000 linear feet was near completion. "This will be my only monument," Ransom told North Carolina newspaperman Josephus Daniels.

A fine monument it is, Mr. President, but I think Matt Ransom deserves more. I am introducing legislation that will dedicate Potomac Park to Senator Matt Ransom and erect signs and markers informing visitors of Ransom's contributions.

It is a small gesture, Mr. President, but one I hope my colleagues will join with me in supporting.

Mr. President, I also want to take this opportunity to express my sincere thanks to two Fairfax County, VA, public school students, Jo-El McIntyre and Anne Marie Rennick, who last semester as part of a political science internship did the research on this bill. It is testimony to their fine work that joining me today in introducing this legislation are 23 original cosponsors.

Once again, I thank Anne Marie, Jo-El, and my 23 Senate colleagues who have joined me in cosponsoring this bill.

By Mr. DOLE (for himself, Mr. QUAYLE, Mr. BOSCHWITZ, Mr. COCHRAN, Mr. COHEN, Mr. DURENBERGER, Mr. EVANS, Mr. GARN, Mr. GRASSLEY, Mr. HECHT, Mr. HEINZ, Mr. HUMPHREY, Mr. KASTEN, Mr. LUGAR, Mr. MCCAIN, Mr. MURKOWSKI, Mr. PRESSLER, Mr. SIMPSON, Mr. STAFFORD, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, Mr. WEICKER, and Mr. WILSON):

S. 2534. A bill to establish a college Savings Bond Program and to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from certain savings bonds and proceeds of which are used to pay certain postsecondary educational expenses, and for other purposes; to the Committee on Finance.

COLLEGE SAVINGS BOND ACT

Mr. DOLE. Mr. President, today, Senators QUAYLE, BOSCHWITZ, COCHRAN, COHEN, DURENBERGER, EVANS, GARN, GRASSLEY, HECHT, HEINZ, HUMPHREY, KASTEN, LUGAR, MCCAIN, MURKOWSKI, PRESSLER, SIMPSON, STAFFORD, STEVENS, THURMOND, WARNER, WEICKER, WILSON, and KARNES are joining me in introducing the administration's college savings bond proposal, the College Savings Bond Act of 1988. Much has been said and written about the need to improve education and education opportunities for our children. This legislation is a way actually to do something helpful.

President Reagan, in his State of the Union Address earlier this year, let us know that he intended to include a college savings bond proposal in his budget for fiscal year 1989. The proposal was outlined in the budget, and this legislation implements that proposal.

AN EFFECTIVE INCENTIVE

College savings bonds are a convenient, easy, and safe way for millions of Americans seeking to provide postsecondary education for families to accumulate the extraordinary sums that will be required. Under this legislation, college savings bonds would be offered to the public beginning next year. Interest would accrue and be paid at maturity or upon redemption.

Subject to certain limitations, interest earned on college savings bonds would be tax exempt if the taxpayer uses the proceeds of the bonds to pay for tuition and other costs, including reasonable living expenses, associated with the postsecondary education of the taxpayer, or the taxpayer's spouse, child, or dependent.

The tax benefit would begin to phase out for taxpayers with adjusted gross income over $60,000 and would not be available to taxpayers with adjusted gross income greater than $80,000. These amounts would be determined at the time a college savings bond was redeemed and would be indexed for inflation.

The Department of Treasury estimates the cost of this legislation to be $11 million in fiscal year 1989, rising to $284 million by fiscal year 1994. The administration reminds us that this legislation was reflected in its fiscal year 1989 budget.

A LONGSTANDING PROPOSAL

I am particularly pleased to be able to sponsor this legislation. As many of my colleagues know, I introduced my first education savings bond bill in 1978 and introduced legislation based on this concept in this Congress in August of last year.

Savings bonds, as well as tax advantaged savings accounts, another concept I have long advocated, deserve very serious consideration if we really intend to encourage Americans to save for their children's education.

RISING COLLEGE COSTS

A college education is one of the biggest expenditures a family encounters. Back in 1980, I noted that the cost of a college education at a private institution had increased 105 percent over the previous 10 years, and the cost of a college education had increased 80 percent at public schools over the same period. This sad state of affairs has, unfortunately, not changed much in the intervening years.

Last summer, the college board released the rules of study on the costs of college education. The survey showed that, for the seventh straight year, college costs outstripped inflation.

For example, while the Consumer Price Index rose 3.7 percent in 1986, college costs rose an average of 6 percent at 4-year public colleges and 5 percent at 2-year community colleges.

But the costs at private schools, as in the past, have increased at an even greater rate—8 percent from 1986 to 1987. The survey noted that the cost for a 4-year education at some of the most prestigious colleges and universities reached $75,000 for the school year ending this spring.

Let me give a few examples. The cost at the University of Kansas was $4,880 for the 1987-88 school year. At the University of Virginia it was $6,100. Penn State cost $7,800. Duke University cost $14,940, Stanford cost $17,458, and Princeton cost $17,805.

Not many students or their families will be able to afford these expenses without outside help. But, with the trends we have seen over the last couple of decades, it is frightening to think how families will afford these costs for babies born this year. It is obvious that most families will not be able to fund college expenses out of the parents' current salary and the student's part-time jobs. On the other hand, it is difficult for most of us to think ahead 18 or more years. Today's problems often seem to get in the way.

One of the most effective ways to help Americans set their priorities toward a long-term commitment to saving for college is to adopt a sense of partnership between the Government and taxpayers and their families. That is what a tax incentive is, after all.

Mr. President, I hope that the Senate will act expeditiously to speed this incentive into law.

I ask unanimous consent that statements of the distinguished Senators from Indiana [Mr. QUAYLE], Vermont [Mr. STAFFORD], and Nebraska [Mr. KARNES] be included in the RECORD as if read following my statement.

I also ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD following the statements.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2534

Be it enacted by the Senate and House of Representatives of the United Sates of America in Congress assembled, That

SECTION 1. SHORT TITLE; STATEMENT OF PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "College Savings Bond Act of 1988".

(b) PURPOSE.—The purpose of this Act is to encourage long-term savings for postsecondary education through the establishment of a College Savings Bond Program.

SEC. 2. COLLEGE SAVINGS BONDS.

The Secretary of the Treasury is authorized to issue College Savings Bonds and to prescribe by regulations or otherwise such terms, conditions, and procedures with respect thereto as the Secretary deems necessary to implement the College Savings Bond Program.

SEC. 3. EXCLUSION FROM GROSS INCOME OF INCOME FROM COLLEGE SAVINGS BONDS USED TO PAY QUALIFIED EDUCATIONAL EXPENSES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 135 as section 136 and by inserting after section 134 the following new section:

"SEC. 135. Income From College Savings Bonds Used to Pay Qualified Educational Expenses.

"(a) GENERAL RULE.—Except as otherwise provided in this section, gross income shall not include any amount received by the taxpayer during the taxable year as interest on a College Savings Bond to the extent the proceeds of such bond are used in such taxable year to pay for the qualified educational expenses of the taxpayer or the taxpayer's spouse, child, or dependent.

"(b) PHASE-OUT OF EXCLUSION.—

"(1) IN GENERAL.—In the case of a taxpayer whose adjusted gross income for the taxable year during which interest on a College Savings Bond is received exceeds $60,000 for the taxable year, the amount excludable under subsection (a) shall be reduced by one-tenth of a percentage point for each $20 by which adjusted gross income exceeds $60,000. In the case of a taxpayer whose adjusted gross income for the taxable year during which interest on a College Savings Bond is received exceeds $80,000, the amount excludable under subsection (a) shall be zero.

"(2) INDEXATION OF AMOUNTS.—In the case of taxable years beginning after December 31, 1989, each dollar amount under paragraph (1) shall be adjusted to take into account the cost-of-living adjustment under section 1(f)(3) for the calendar year in which such taxable year begins.

"(3) UNMARRIED INDIVIDUALS AND MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of an unmarried individual or a married individual filing separately (other than an individual to whom paragraph (4) of this subsection applies), paragraph (1) shall be applied by taking into account only one-half of each dollar amount contained therein.

"(4) TAXPAYERS CLAIMED AS DEPENDENTS.—In the case of an individual with respect to whom a deduction under section 151 was allowable to another taxpayer for any of the two taxable years preceding the individual's taxable year, this subsection shall be applied to such individual by taking into account the adjusted gross income of such other taxpayer.

"(c) COLLEGE SAVINGS BOND.—For purposes of this section, the term 'College Savings Bond' means a United States savings bond—

"(1) which is issued under section 3105 of title 31, United States Code, after December 31, 1988; and

"(2) which is designated by the Secretary as eligible for the College Savings Bond Program.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) ADJUSTED GROSS INCOME.—The term adjusted gross income of any taxpayer shall be determined—

"(A) after application of sections 86, 469 and 219, and

"(B) without regard to section 911 or the exclusion allowable under this section.

"(2) QUALIFIED EDUCATIONAL EXPENSES.—The term 'qualified educational expenses' means—

"(A) tuition and fees required for the enrollment or attendance at an eligible educational institution.

"(B) fees, books, supplies, and equipment required for courses of instruction at such an educational institution, and

"(C) reasonable living expenses to the extent provided in regulations.

"(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution described in section 481(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1088(a)).

"(e) REGULATIONS.—The Secretary may prescribe such regulations as the Secretary deems necessary to carry out the purposes of this section, including regulations—

"(1) which, in appropriate circumstances, treat married persons filing separate returns as having filed a joint return for purposes of applying the phase-out provisions of this section,

"(2) imposing such reporting and recordkeeping requirements as may be required upon individuals participating in the College Savings Bond Program and eligible educational institutions, and

"(3) prescribing information required to be included in the taxpayer's income tax return for the taxable year in which (but for this section) income with respect to a College Savings Bond would be includible in gross income.".

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking out the item relating to section 135 and by inserting after the item relating to section 134 the following new items:

"Sec. 135. Income from College Savings Bonds Used to Pay Qualified Educational Expenses.

"Sec. 136. Cross References to Other Acts."

COLLEGE SAVINGS BOND ACT OF 1988—SECTION-BY-SECTION ANALYSIS

The College Savings Bond Act of 1988 would establish a College Savings Bond Program and amend the Internal Revenue Code of 1986 (Code) to provide an exclusion from income for interest earned on College Savings Bonds to the extent the proceeds from the bonds are used to pay certain postsecondary educational expenses.

SECTION 1. SHORT TITLE; STATEMENT OF PURPOSE

Section 1 provides a short title for the bill—the "College Savings Bond Act of 1988". The stated purpose is to encourage long-term savings for postsecondary education through the establishment of a College Savings Bond Program.

SECTION 2. COLLEGE SAVINGS BONDS

The Department of the Treasury has sufficient statutory authority to issue College Savings Bonds under section 3105 of title 31, United States Code, section 2, however, would make it explicit in the legislation that the Secretary of the Treasury is authorized to issue College Savings Bonds and to prescribe such terms, conditions and procedures with respect thereto as the Secretary deems necessary to implement the College Savings Bond Program.

SECTION 3. EXCLUSION FROM GROSS INCOME OF INCOME FROM COLLEGE SAVINGS BONDS USED TO PAY QUALIFIED EDUCATIONAL EXPENSES

Section 3(a) of the bill adds a new section 135 to the Internal Revenue Code of 1986 and redesignates current section 135 as section 136.

Section 135(a) provides the general rule that gross income does not include interest earned from a College Savings Bond to the extent that the proceeds of the bond are used to pay qualified educational expenses of the taxpayer or the taxpayer's spouse, child or dependent. It is anticipated that Treasury rules concerning College Savings Bonds will permit partial redemptions. Under such rules, a taxpayer could choose to redeem bond amounts that do not exceed qualified educational expenses for the taxable year. The exclusion would not be disallowed in its entirety, however, merely because a taxpayer uses a portion of the proceeds of a College Savings Bond for purposes other than qualified educational expenses. In such cases, the exclusion from income would be available in proportion to the amount of proceeds used for qualified educational expenses; the remaining income would be subject to tax.

Section 135(b) establishes a formula that "phase out" the exclusion of College Savings Bond income from tax. The formula begins to phase out the exclusion for taxpayers whose adjusted gross income, at the time of redemption of a College Savings Bond, exceeds $60,000 for the taxable year. No exclusion is available to taxpayers whose adjusted gross income, at the time of redemption, exceeds $80,000. The phase-out range will be indexed for inflation. The phase-out formula reduces the exclusion by one-tenth of a percentage point (.001) for each $20 by which adjusted gross income exceeds $60,000.

In the case of a child who could have been claimed as a dependent in any of the two taxable years prior to redemption, the formula is applied to the parents' income.

The $60,000 and $80,000 amounts used in the formula are for married persons who file joint returns or for heads-of-households. These dollar amounts are reduced by 50 percent in the case of unmarried persons and married persons who file separate returns (other than those to whom the dependent rule described above applies). There is explicit regulatory authority in section 135(e) to prevent married persons from circumventing the intent of the phaseout by filing separate returns.

Section 135(c) generally defines College Savings Bond as a United States savings bond that is issued after December 31, 1988, and that is designated by the Secretary as eligible for the College Savings Bond Program.

Section 135(d) defines the terms "adjusted gross income," "qualified educational expenses," and "eligible educational institution."

Adjusted gross income, which is used in applying the phase-out formula, is determined after application of certain other Code provisions, but without regard to Code section 911 (which generally excludes certain income earned abroad) or the exclusion allowable under this section. Thus, a taxpayer could not avoid the intent of the phaseout by arranging to have $40,000 in College Savings Bond interest income and $59,000 in other income.

The exclusion allowed under section 911 is also properly disregarded since the intent of the phaseout is to target the provision to low and moderate income persons.

Qualified educational expenses means (1) tuition and fees required for the enrollment or attendance of a student at "an eligible educational institution"; (2) fees, books, supplies, and equipment required for courses of instruction at such an educational institution; and (3) to the extent provided in regulations, reasonable living expenses. The language used in the definition, except for the inclusion of reasonable living expenses, corresponds to the definition of qualified educational expenses for purposes of Code section 117, relating to the exclusion from income for certain scholarships.

"Eligible educational institution" includes most postsecondary institutions, as described in section 481 of the Higher Education Act of 1965. The term is defined by reference to a definition included in the Higher Education Act of 1965.

Section 135(e) supplements the general regulatory authority of the Secretary of the Treasury with explicit authority to treat separate filers as joint filers to the extent necessary to prevent avoidance of the phaseout, and to impose the reporting and recordkeeping requirements necessary for compliance upon individuals and eligible educational institutions.

Section 3(b) of the bill is a conforming amendment that adds the new section 135 (and prior section 135, as redesignated) to the table of sections for part III of subchapter B of chapter 1 of the Code.

Mr. QUAYLE. Mr. President, I join with my friend and colleague, the minority leader, in introducing legislation to help families pay for the cost of college. This proposal is the College Savings Bond Act of 1988.

The cost of higher education has increased dramatically over the last decade. Today, the average cost for a 4-year private college is $11,982 for 1 year. Many of the prestigious 4-year colleges have attendance costs that top $17,000. And, if you are worrying about sending your child to school 15 to 18 years from now, you will be looking at costs up to $150,000 for 4 years at a private school.

Clearly, families need help to ensure that a higher education does not become a luxury for the rich only. This is especially important because we are learning that our work force requirements of the future will demand even more college-educated workers than now.

If we do not take steps to help keep a higher education in reach of our families, we will be laying the groundwork for a disenfranchised, uneducated class of Americans. Education has always been the equalizer in our society. I hope this bill will help keep postsecondary education available to all who seek it.

The legislation would make the interest accrued on U.S. savings bonds tax free if the bonds were used to pay for the cost of college. Since the administrative structure for the purchase of U.S. savings bonds is already in place, bonds under this new program could be bought as soon as January 1, 1989.

The interest benefits would be available to those families with adjusted gross incomes of $60,000 or below, and they would be phased out for families with adjusted gross incomes from $60,000 to $80,000. Qualified educational expenses would include tuition, fees, board, books, and supplies.

Mr. President, the Government has a long-standing commitment to provide access to higher education through the award of grants and loans to needy students. Grants and loans will still be available, but with the increasing cost of college, Federal aid is often not enough. This new proposal will encourage families to save money to help pay for the cost of college. Also, this bill strengthens the underlying principle that families have the primary responsibility to pay for college.

The College Savings Bond Act will result in reduced revenues of an estimated $1.092 billion over a 5-year period. These benefits will go to lower income families, but also to middle income families, who generally are unable to avail themselves of the Federal student aid programs.

Mr. President, I believe we must take action to help keep higher education within the reach of all of our citizens, not just the wealthy. I hope my colleagues will review this proposal and lend their support to it.

Mr. STAFFORD. Mr. President, I rise in support of legislation introduced today by the distinguished Republican leader which proposes to create a college savings bond plan. I believe it is important that we encourage savings for college—a value that seems to have been lost in recent years.

As the ranking minority member on the Subcommittee on Education, I have cosponsored several bills which encourage families to save for their childrens' education. It is my firm belief that the enactment of such legislation would provide a vital expansion of existing Federal student financial aid programs.

I grew up in an era in which saving for the future was emphasized, whether for a house or a college education. In the mind of this Senator, that is a value which our Federal financial aid programs should promote, not discourage. To burden the next generation with inordinate debt is shortsighted and potentially devastating to our economic future.

The cost of a postsecondary education is skyrocketing. Anyone with children in college right now can verify that statement. Consequently, the opportunity to pursue education beyond high school is moving out of reach for many of our Nation's youth. At a time when the importance of improved technological training to keep America competitive is in the forefront of the public consciousness, it is imperative that opportunities for postsecondary education expand, not diminish.

For the seventh straight year, tuition has risen faster than inflation. In 1979, the average cost of attending 4 years at Middlebury College, my own alma mater, was $34,900. The current estimate for 4 years—that's only tuition, room and board—is $67,807. That's an increase of almost 50 percent in less than 10 years. Only the most affluent American families can afford such an investment without assistance. While increased Federal commitment via increased funding for Pell grants and other need-based aid is part of the solution, new initiatives which encourage savings must be enacted.

Only a decade ago, grants made up 75 percent of a student aid package, loans comprised the other 25 percent. Now, 10 years later, loans make up two-third's of the financial aid package for a student. We are coming perilously close to a time when only the wealthy will be able to attend college at the institution of their choice.

In 1965, Congress established the Guaranteed Student Loan Program, recently renamed Stafford loans. Over $65 billion has been loaned to students through the Stafford Loan Program. The projected annual borrowing rate is $9 billion. In the past 7 years alone, student indebtedness has increased by 60 percent. That means that close to 50 percent of all graduates begin job hunting already $7,000 in debt. That estimate jumps to $9,000 for graduates of private institutions. Certainly college graduates enter the work force at a distinct advantage in terms of future earning power. We must be careful, however, not to limit career choices by forcing students to consider only those positions which offer the highest salaries.

A recent study found that three out of four parents who wanted their children to attend a private institution said they expected them to attend a public university because they "didn't believe they would be able to afford it." Historically, our Federal student aid programs have guaranteed both access and choice in higher education. They are principals which we must strive to preserve if we want our institutions to retain their international preeminence.

Mr. KARNES. Mr. President, I rise today to announce my cosponsorship of the College Savings Bond Act of 1988. As our Nation approaches the beginning of the 21st century, the formation of new education initiatives and policies will be a necessity. We must recognize that America's competitive position in this ever changing world is based on the skills and knowledge of our people which comes not by chance but through education. The investment our Nation makes in education now will directly affect our future position in the world economy.

One of the greatest problems our Nation faces with regard to education is the financing of higher education. Unfortunately, the cost of higher education in this country continues to soar, giving rise to a situation whereby all students who wish to attend college are not able to do so. Tuition costs at both private and public universities have skyrocketed.

For example, at Creighton University, in Omaha, NE, the cost of tuition has risen from $820 in 1960, to $5,574 in 1987. This represents an astounding increase of 829 percent.

For decades we have taken pride in the good things we have accomplished for our youth, but it appears we have rested on the laurels of past accomplishments for too long. I have always felt a college education should be available to all students, regardless of financial means and I will continue to support this notion. We, however, must recognize that the Government cannot provide financial assistance for all students who wish to attend college.

Several extremely valid concepts have been proposed which could potentially help overcome the present situation, but most are costly and difficult to administer. My research has convinced me that the College Savings Bond Act of 1988 offers the most reasonable and effective solution. This legislation approaches the problem from an age-old prespective—one of planning and saving.

Through the College Savings Bond Act, parents will be provided with an incentive to create long-term savings plans for their childrens' education. The establishment of college savings bonds creates a unique vehicle to pay for educational expenses.

By not including interest earned on college savings bonds in the purchaser's gross income, to the extent the proceeds are used to pay for educational expenses, we work toward the achievement of several very important goals. Providing a tax incentive, such as the one in this bill, will encourage parents to save for their childrens' college education. This is not only an investment in our childrens' future, but also as I stated earlier, an investment in our Nation's future, because a better educated nation is a more prosperous nation.

The "phase out" provisions of this bill will target those families that need this tuition assistance the most, lower- and middle-income Americans. Originally, the Guaranteed Student Loan Program was established to aid lower- and middle-income families who find it difficult to meet the added financial burdens associated with the cost of a college education. However, due to a tremendous amount of competition, many of our students are being denied students loans and financial aid.

For instance, only two-thirds of the students who applied for financial assistance at University of Nebraska, in Lincoln, NE, received some form of financial aid. Statistics from Creighton University which show that the number of student loans has increased by 2,300 percent, since 1960, further exemplifies the need for college savings bonds.

At a time when society is becoming more and more dependent on technology, we must encourage our children to attend college, not discourage, our children to attend institutions of higher education. We must promote higher education in order to ensure that our students are prepared to begin their careers with a competitive edge.

In short, the time to plan for the future is now. The enactment of this legislation will set this plan in motion and develop a foundation on which parents can begin to plan for the education of their children. I cannot stress enough the importance of education. Together, as a nation, we must ensure that our efforts to improve the education system yield results. We must recognize that there is a finite amount of resources we can allocate to any sector of our society and that includes education. Thus, strategic and creative changes, such as the College Saving Bond Act, must be enacted to ensure the future of our children, and our Nation.

By Mr. EVANS (for himself and Mr. ADAMS):

S. 2535. A bill to amend the Endangered Species Act of 1973 with respect to the extension of licenses for scrimshaw production; to the Committee on Environment and Public Works.

SCRIMSHAW LICENSING EXTENSION ACT

● Mr. EVANS. Mr. President, I rise today with my colleague from Washington State, Senator ADAMS, to introduce legislation that would extend certificates of exemption for existing licenses, which have recently expired, for scrimshaw production.

Currently, there is a provision in the House-passed endangered species reauthorization legislation, H.R. 1467, that would extend existing certificates of exemption, thus permitting the continued sale of scrimshaw products and unworked whale ivory by certificate holders for an additional 5 years. In 1976, the act was amended to allow persons who held scrimshaw or whale ivory before December 28, 1973, to obtain a certificate of exemption to sell their stocks. No other persons may sell in interstate or foreign commerce finished scrimshaw products as defined in the act. The program has since been extended, and the number of certificate holders is currently 16, 4 of which are located in Washington State. These 16 certificates recently expired on March 31, 1988, and large inventories still remain. There is no means for disposal of old stock if these certificates are not renewed.

The expiration of these certificates has forced those businesses in my State involved in scrimshaw production to lay off employees. These businesses have cooperatively and willingly abided by the current law regarding the commerce of scrimshaw products. The problem of the expired certificates could be readily solved by amending S. 675, the Endangered Species Act reauthorization legislation. An extension amendment was included as a part of the House-passed endangered species reauthorization legislation. However, due to issues yet unresolved relating to Senate consideration of S. 675, my constituents are forced to experience hands on frustration with the process of the U.S. Senate. Senate consideration of the Endangered Species Act has not been completed in a timely manner.

It is critical that it be understood that we are supporting an extension of what, before the March 31, 1988, expiration, was the status quo for those persons, who, prior to the act, had legally obtained an inventory of scrimshaw products. The exemption sought here does not pertain to the right to import additional whale products but rather to an inability to dispose of legally acquired inventory. A 5-year extension simply reflects Congress intention that these businesses, which were originally given extra time in which to dispose of their inventory, would be given an additional period for that same purpose.

This particular program has been extended twice before. However, while the number of certificate holders has dropped from approximately 60 to 15, large stocks from existing certificate holders still remain. When the last extension was granted, the National Marine Fisheries Service [NMFS] established a computerized inventory system for items covered by certificates of exemption. This system enables NMFS to identify accurately each of the several thousand items in the certificates of exemption system and to track the sale of the items in interstate and foreign commerce. This system has not only eliminated many enforcement concerns, but also assures constant and accurate depletion of inventories. It is my understanding that this program is effective and I am aware of no problems with regard to enforcement or illegally obtained inventories.

I urge my colleagues to join me in allowing prompt passage of this legislation, so that the many artisans who specialize in scrimshaw production may return to their craft.●

● Mr. ADAMS. Mr. President, I rise today, along with my colleague Senator EVANS, to introduce legislation which would allow current scrimshaw dealers to continue production for 5 additional years. While this may seem a minor issue to some, to the 40 workers in my State affected by the recent expiration of their production licenses, it is a major concern.

Scrimshaw is carved or engraved whale ivory. For centuries, whalers have created works of art from whale bone and teeth as a hobby in their spare time. Because of our growing concern for the preservation of whales, however, this ancient activity is rapidly disappearing along with the whaling industry. In 1973, when the original Endangered Species Act was passed, there were 60 businesses in the United States engaged in the manufacture and sale of scrimshaw products. In recognition that these businesses possessed substantial stocks of bone and teeth materials obtained prior to the act's passage, scrimshaw was allowed a temporary exemption from its provisions for a period thought sufficient to allow these products to be sold. The act also provided for the renewal of exemptions by application to the Secretary of the Interior.

Since 1973, the number of scrimshaw dealers has dropped to 16 in the U.S., 4 of which are in Washington State and which employ about 40 people. While the reserves of preexisting whale bone and teeth supplies are diminishing, a significant supply continues to exist, requiring an additional extension of the most recent certificate of exemption.

This bill provides an automatic 6-month renewal effective upon passage for holders of certificates on March 31, 1988. It would allow these holders to apply for one additional renewal of their exemption for a 5-year period. This extension should allow them sufficient time to fully deplete their remaining inventory while adjusting business practices to reflect the future lack of scrimshaw.

The last certificates of exemption expired on March 31, 1988. Since that date, scrimshaw dealers have been unable to sell their products in interstate commerce, which constitutes the majority of their business. I had hoped that this situation would be resolved by passage of endangered species legislation. However, the failure of that legislation to reach the Senate floor has made introduction of this bill necessary. I urge my colleagues to grant it a swift passage.●

By Mr. HEINZ (for himself, Mr. ROCKEFELLER, Mr. MITCHELL, and Mr. SPECTER):

S. 2536. A bill to provide that certain regulations not be used in administering the Trade Adjustment Assistance Program; referred to the Committee on Finance.

TRADE ADJUSTMENT ASSISTANCE REGULATIONS

● Mr. HEINZ. Mr. President, today I am introducing legislation on behalf of myself, Senator ROCKEFELLER, Senator MITCHELL, and Senator SPECTER, to prevent trade-impacted workers from being penalized. Both Houses of Congress have agreed that the Department of Labor is wrong to deny these workers assistance simply because they were laid off on more than one occasion. Yet the Department is pressing ahead with its policy, and threatening sanctions against any State which dares try and help workers who, through no fault of their own, were repeatedly laid off prior to final separation from employment.

The legislation makes no changes in law, but simply prevents enforcement of regulations which have no basis in statute and violate the intent of Congress.

The Trade Adjustment Assistance Act was established in 1974 to provide trade-impacted workers with job training and income support to help them find new employment. The measure recognized that we have a special responsibility to workers who lose their jobs because of this Nation's trade policies. These workers were not displaced by the ordinary course of business; they were displaced because the United States does not choose to assist import-sensitive industries against foreign competition, fair or unfair.

Last year, however, the Department of Labor finalized regulations which serve no purpose but to deny eligible workers the benefits they need to adjust, to find a new career.

Once a worker is separated from employment, he has a limited period of time in which to collect his trade readjustment allowance, which serves as a supplement to unemployment compensation. From 1981 to 1986, this period was limited to 52 weeks, and is presently capped at 104 weeks. In earlier years, the Department of Labor did not start this benefit eligibility period until a worker was completely separated from employment. Under last year's regulations, however, the Department of Labor will begin a benefit eligibility period after a worker's very first separation from employment.

Anyone who understands the nature of manufacturing knows that a plant does not simply close overnight. The great majority of our businesses fight for dear life, going from overtime down to three shifts, to two shifts, to one, before finally closing. In the interim, workers are repeatedly laid off and recalled.

Let us look at what happens to a worker who is laid off in 1982 for 6 months, recalled to work, and then permanently separated in 1987. When he goes to the local employment office to apply for trade adjustment assistance, the Department of Labor's regulations require that office to begin a worker's eligibility for TRA from his very first separation from employment. In the case I have cited, the employment office would draw his eligibility from his 1982 separation, carry it out 52 weeks, and tell the poor worker that his eligibility expired in 1983 or 1984, while he was still on the job!

The worker is thus denied cash assistance, and cannot afford to enroll in training. In this way the Department of Labor's regulations work well if the goal is to take benefits away from eligible workers. There is nothing in statute, anywhere, which authorizes the Department of Labor to use a first separation criterion. The Department appears to be cutting costs on the backs of unemployed workers.

This example is a sad truth for thousands of workers. Let me cite an example. "Duquesne Frank," as he is known, went to work at the Duquesne Works outside of Pittsburgh in 1939. He was laid off twice over a 45-year career—2 weeks in 1954 and 1 week in 1982. When the Duquesne Works closed for good in 1984, Duquesne Frank found that his benefit eligibility period had begun during his 1-week layoff, 2 years earlier, and he was not eligible for assistance any longer.

The House and the Senate have already passed legislation, now part of the trade bill, to undo the damage being done to displaced workers. In the absence of that legislation, however, Congress should not permit these ill-conceived regulations to remain on the books. They fully deserve to be expunged, and rendered unenforceable.

Every day that this policy is allowed to continue, more displaced workers will be denied benefits which we intended them to use. These benefits would provide them with the means to enter long-term, skills-intensive retraining programs. Study after study, most recently one conducted by the Senate Republican Conference, has found that the need to retrain our displaced workers is overwhelming; there are few alternatives if we are going to have the kind of work force necessary to compete in the world.

I urge my colleagues to join us in sponsoring this urgently needed measure, which will finally end the cruel hoax of first separation.●

By Mr. McCAIN:

S. 2537. A bill to provide for the transfer to the governing body of the San Carlos Apache Tribe the unobligated portion of amounts appropriated to purchase property within the San Carlos mineral strip; referred to the Committee on Appropriations.

PURCHASE OF PROPERTY WITHIN THE SAN CARLOS MINERAL STRIP

● Mr. McCAIN. Mr. President, I rise to introduce legislation on behalf of the San Carlos Apache Tribe in order to permit the reallocation of mineral strip money for tribal economic development purposes.

In 1974 under Public Law 93-530, the Congress authorized money to be appropriated to the Secretary of the Interior to purchase mining claims within the San Carlos mineral strip for the benefit of the San Carlos Apache Tribe. The approximate acreage of mining claims intended to be purchased are 2,347 acres. The mineral strip lands were originally within the San Carlos Indian Reservation but were opened for occupation in 1896 under the Federal mineral land laws; however, no significant mineral production ever occurred. In 1978, the tribe went to court and subsequently won by arguing that the mineral lands rightfully belong to the tribe. Although acquisition of the mineral strip lands remains important, it has given way in priority to the greater need to develop a stronger tribal economy and an increased cash-flow.

As is the case with many Indian tribes across the country, the San Carlos Apache Tribe has experienced difficult times over the past 10 years. Unemployment remains unchecked, the lack of job opportunities has caused disruptions in family life, increased rates of alcohol and drug abuse, and increased incidences of suicide. The tribe's ability to confront these problems has become impaired owing to the lack of a reliable cash-flow necessary to finance essential governmental functions, including economic development projects.

In order to address these problems, the San Carlos Apache Tribal Council has recently developed and adopted an economic development plan consisting of projects that are ranked priority one or two. Priority one includes: a sawmill, additional development of recreational facilities on San Carlos Lake, and a cattle ranch. The second priority includes: redevelopment of tribal utility authority, an information and sales center, and development of a tree farm.

One of the keys to the success of this tribal economic development plan is the reallocation of the unobligated portion—$700,000—of amounts previously appropriated to the Secretary of the Interior to acquire the mineral strip lands. In developing their economic development plan the tribe has been mindful of the congressional intent behind the original appropriation to the Secretary of the Interior. Consequently, as part of the tribal economic development plan, 20 percent of the profits, after the fourth year, will be dedicated toward the purchase of property within the San Carlos mineral strip. This set-aside will continue until all claims have been purchased. The remaining profits will be applied toward the development of tribal government capabilities, reinvestment into current projects and development of priority two projects.

Mr. President, this legislation will not require new money but merely a reallocation of existing funds. The tribe has been careful to diversify their investments. Moreover, their commitment to carrying out the original intent of the law is commendable. I believe this money will greatly assist the tribe in strengthening their government and breaking the cycle of despair and disillusionment with viable economic development opportunities. I ask unanimous consent that a copy of the bill follow my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF UNOBLIGATED AMOUNTS TO GOVERNING BODY OF THE TRIBE.

Notwithstanding any provision of Public Law 93-530, or any other provision of law, any portion of the funds appropriated under the authority of Public Law 93-530 shall be transferred by the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") to the governing body of the San Carlos Apache Tribe (hereafter in this Act referred to as the "Tribe") by no later than the date that is sixty days after the date of enactment of this Act.

SEC. 2. USE OF TRANSFERRED FUNDS AUTHORIZED FOR ECONOMIC DEVELOPMENT PURPOSES.

(a) Amounts transferred to the Tribe under section 1 shall be used for economic development purposes in accordance with the plan which was adopted by the governing body of the Tribe on April 12, 1988, and any amendment thereto which has been approved by the Secretary. Not more than ten percent of the funds may be used for tribal administrative costs (including architectural, engineering, attorneys and other professional fees) which are incurred pursuant to such plan or amendments thereto.

(b) The Tribe may expend the amounts transferred to the Tribe under section 1 for the purposes authorized under subsection (a) without the prior approval of the Secretary.

(c) None of the funds transferred to the Tribe under section 1 may be used to make per capita payments to the members of the Tribe.

SEC. 3. MATCHING FUNDS.

Notwithstanding any other provision of law, the funds transferred to the Tribe under section 1 may be treated as non-Federal, private funds of the Tribe for purposes of any provision of Federal law which requires that non-Federal or private funds be used in a project or for a specific purpose.●

By Mr. CRANSTON:

S. 2538. A bill to authorize additional personnel positions in the Los Angeles, CA, area for Government entities involved in the war on drugs; referred to the Committee on the Judiciary.

CALIFORNIA DRUG INTERDICTION TASK FORCE ACT

Mr. CRANSTON. Mr. President, today I am introducing a bill which I believe will make a significant difference in the war on drugs in California. The bill will require the establishment of a special Federal task force that will be based in Los Angeles and will be charged with taking all necessary steps to suppress drug trafficking operations in California. Given the fact that Los Angeles-based drug traffickers are increasingly extending their operations into other States, I believe there is substantial justification for focusing Federal drug enforcement efforts in California.

It is clear, Mr. President, that California is in danger of losing the war on drugs. In 1983, 358 pounds of cocaine were seized by the Los Angeles Police Department. In 1987, that department seized over 13,000 pounds of cocaine. While drugs of every type remain a problem in California, the rise of cocaine use and sale is dramatic.

The U.S. Customs Service indicates that the west coast is a transshipment point for cocaine destined for the East and Northern United States. Los Angeles is the primary financing point. In the first half of 1986, $30 million was seized nationwide, $15 million of which was seized at Los Angeles International Airport destined for Colombia.

Moreover, Mr. President, I understand that Customs officials estimate that California is now the entry point for half the heroin coming into the United States and that Los Angeles has become a major heroin transshipment center for New York.

The cost to California as a result of this drug trafficking activity is monumental. Not only are the law enforcement agencies spending a majority of their resources to try and control the problem, but the communities where the drug trafficking commonly occurs are losing their youth to drugs or to the gang culture which is profiting from the drug trafficking operations. The most troubling aspect of this problem is that—even with beefed up local law enforcement efforts—the situation only continues to get worse, not better.

A recent report released by the Los Angeles Police Department revealed that gang slayings have risen 20 percent this year. The report cited 96 gang-related killings in Los Angeles this year through the end of May. In the same period a year ago there were 80.

Another aspect of the problem, Mr. President, is that the crack trade, built on the enormous influx of cocaine from Latin America, is transforming Los Angeles street gangs into ghetto-based drug trafficking operations which are extending their activities to neighboring States. A recent Newsweek article, entitled "The Drug Gangs," March 28, 1988, noted:

> [p]olice from Denver to Vancouver report that Los Angeles gangs are moving in to establish branch operations selling rock cocaine.

Because of my serious concern regarding the situation in California, I wrote to President Reagan on March 31, 1988, and asked that he convene an interdepartmental task force to address the drug problem in California. I was subsequently informed that my request was referred to the Department of Justice, and that the Drug Enforcement Administration was developing a plan for establishing a task force in Los Angeles. I was heartened by reports from the Drug Enforcement Administration in early May that a task force would be operating in Los Angeles by June of this year.

However, Mr. President, the month of June is now nearly over and yet there is no indication that the Drug Enforcement Administration is taking the necessary steps to establish a task force in Los Angeles. In fact, I have more recently received reports that the Department of Justice will not be establishing a task force in Los Angeles in the near future.

Because the drug crisis in California is of catastrophic proportions, and because that crisis is spreading to other parts of the country, I believe that we must take the necessary steps to authorize a special Federal effort to intervene in California.

The bill I am introducing today will mandate that the Drug Enforcement Agency of the Department of Justice form a drug interdiction task force comprised of its personnel and personnel from the Coast Guard, Customs Service, Immigration and Naturalization Service, Office of the U.S. Attorney, Bureau of Alcohol, Tobacco, and Firearms, Federal Bureau of Investigation, and Marshals Service. The task force will be located in Los Angeles and will work to suppress drug trafficking operations within California, as well as those drug trafficking operations which cross the State's borders.

I am particularly concerned about the reports of Los Angeles drug-trafficking gangs extending their operations outside the State, and I believe that the task force should make a special effort to suppress these activities.

Also, Mr. President, I am aware that concerns have been raised regarding any proposal to reduce the Customs Service's commercial personnel in order to assign more personnel to drug interdiction activities. I believe that the Customs Service's responsibility to monitor imports and exports is indeed important, and I would hope that the Service will implement a personnel plan which will not deter from the important work that is done with regard to its commercial operations.

Mr. President, it is clear that a special Federal effort to suppress drug trafficking is necessary in California, not only because it will have a positive impact on California's war on drugs, but also because it potentially will lessen the flow of drugs to other parts of the country as well. A similar Federal task force was formed in 1982 to address the drug crisis in southern Florida and I believe that an even stronger effort is warranted now in California.

Companion legislation was introduced in the House of Representatives by Congressmen LEVINE and BERMAN, H.R. 4826, on June 15, 1988. I urge my colleagues to support this legislation.

ADDITIONAL COSPONSORS

S. 1323

At the request of Mr. PROXMIRE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1323, a bill to amend the Securities Exchange Act of 1934 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers.

S. 1966

At the request of Mr. RIEGLE, his name was added as a cosponsor of S. 1966, a bill to amend the Public Health Service Act to improve information and research on biotechnology and the human genome, and for other purposes.

S. 2199

At the request of Mr. CHAFEE, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2221

At the request of Mr. MCCAIN, the names of the Senator from Illinois [Mr. DIXON] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 2221, a bill to expand our national telecommunications system for the benefit of the hearing-impaired, and for other purposes.

S. 2255

At the request of Mr. DURENBERGER, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 2255, a bill to establish a program of demonstration projects, funded from the Federal Hospital Insurance Trust Fund under part A of title XVIII of the Social Security Act, to provide long-term care to elderly medicare beneficiaries residing in rural areas.

S. 2527

At the request of Mr. METZENBAUM, the names of the Senator from Connecticut [Mr. DODD], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 2527, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

S. 2528

At the request of Mr. METZENBAUM, the names of the Senator from Connecticut [Mr. DODD], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 2528, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

SENATE JOINT RESOLUTION 271

At the request of Mr. QUAYLE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Joint Resolution 271, a joint resolution to designate August 20, 1988, as "Drum and Bugle Corps Recognition Day."

SENATE JOINT RESOLUTION 272

At the request of Mr. DURENBERGER, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Joint Resolution 272, a joint resolution to designate November 1988, as "National Diabetes Month."

SENATE JOINT RESOLUTION 289

At the request of Mr. BENTSEN, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Illinois [Mr. DIXON], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 289, a joint resolution to designate the month of November 1988, as "National Hospice Month."

SENATE JOINT RESOLUTION 294

At the request of Mr. TRIBLE, the names of the Senator from Oklahoma [Mr. BOREN] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 294, a joint resolution designating August 9, 1988, as "National Neighborhood Crime Watch Day."

SENATE JOINT RESOLUTION 325

At the request of Mr. Rockefeller, the names of the Senator from South Carolina [Mr. Thurmond], the Senator from Minnesota [Mr. Durenberger], the Senator from Colorado [Mr. Wirth], the Senator from Louisiana [Mr. Johnston], and the Senator from Michigan [Mr. Levin] were added as cosponsors of Senate Joint Resolution 325, a joint resolution designating the third week in May 1989 as "National Tourism Week."

SENATE RESOLUTION 442

At the request of Mr. Trible, the names of the Senator from North Carolina [Mr. Sanford] and the Senator from Kentucky [Mr. McConnell] were added as cosponsors of Senate Resolution 442, a resolution expressing the sense of the Senate that the President should convene an International Conference on Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere.

AMENDMENTS SUBMITTED

BIOTECHNOLOGY COMPETITIVENESS ACT

CHILES (AND OTHERS) AMENDMENT NO. 2403

Mr. CHILES (for himself, Mr. Kennedy, Mr. Sanford, and Ms. Mikulski) proposed an amendment to the bill (S. 1966) to amend the Public Health Service Act to improve information and research on biotechnology and the human genome, and for other purposes; as follows:

On page 8, between lines 8 and 9, insert the following new paragraph:

(15) Two individuals representing State biotechnology development programs.

On page 10, between lines 12 and 13, insert the following new paragraph:

"(3) review regulatory policies that affect biotechnology industries and the products thereof, including considering whether the existing regulatory system protects the public health and safety and the environment without unduly impeding academic and commercial research and development activities;".

On page 10, line 13, strike out "(3)" and insert in lieu thereof "(4)".

On page 21, after line 2, add the following new section:

SEC. —. MISCELLANEOUS AMENDMENTS.

Section 381 of the Public Health Service Act (42 U.S.C. 275) is amended—

(1) in subsection (b)—

(A) by redesignating paragraph (5) as paragraph (6); and

(B) by inserting after paragraph (4), the following new paragraph:

"(5) The Board shall function through a majority vote of its members, and shall adopt rules governing its procedure. Such rules shall be published in the Federal Register not later than March 1 of each year. A quorum for voting purposes shall be a majority of the members of the Board with at least one member of both the majority and minority parties of the House of Representatives and the Senate being present."; and

(2) in subsection (d)(2)(B)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E) respectively; and

(B) by inserting after subparagraph (A), the following new subparagraph:

"(B) The Committee shall function by majority vote and shall adopt rules governing its procedures.".

LEAHY (AND LUGAR) AMENDMENT NO. 2404

Mr. CHILES (for Mr. Leahy for himself and Mr. Lugar) proposed an amendment, which was subsequently modified, to the bill S. 1966, supra; as follows:

On page 20, between lines 17 and 18, insert the following new subtitle:

SUBTITLE C—NATIONAL AGRICULTURAL BIOTECHNOLOGY ADVISORY PANEL

SEC. 213. FINDINGS.

Congress finds that—

(1) applications of biotechnology research will provide for the development of new industrial crops, more nutritious crops, and crops which are disease and insect resistant;

(2) while progress is being made in the area of agricultural biotechnology research, the Federal Government should take an active leadership role in providing direction and funding for basic and applied agricultural research including basic plant biology;

(3) exchange of agricultural biotechnology information is critical for advances in research;

(4) since the field of biotechnology holds much promise for the future of agriculture in the United States, carefully directed research is an important component in maintaining an internationally competitive edge;

(5) while no evidence exists that a plant in the United States has transferred genes bred into it for a given trait to an indigenous plant nearby or has caused any ecological damage, the potential for such effects should continue to be examined, including the potential for gene transfer, monitoring and mitigation techniques, and a comparative analysis of the potential risks and benefits that may be posed by transgenic plants and traditional farm practices;

SEC. 214. NATIONAL AGRICULTURAL BIOTECHNOLOGY ADVISORY PANEL.

(a) Establishment.—There is established, as an advisory panel to the Board established in subtitle A of Title II, a National Agricultural Biotechnology Advisory Panel (hereinafter referred to in this subtitle as the "Agriculture Panel").

(b) Membership.—The Agriculture Panel shall consist of the following individuals or the designees of such individuals—

(1) the Secretary of Agriculture;

(2) the Director of the National Science Foundation;

(3) the Director of the National Agricultural Library;

(4) the Director of the National Research Council of the National Academy of Sciences;

(5) one individual who is a member of the National Agricultural Research and Extension Users Advisory Board;

(6) one individual who is a member of the Joint Council on Food and Agricultural Sciences;

(7) three scientists representing private industry, to be appointed by the President, after consultation with relevant groups, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act.

(8) four scientists representing the university research community, to be recommended by the Department of Agriculture and appointed by the President, with the advice and consent of the Senate, with members appointed within 90 days after the date of enactment of this Act, and with at least one such member being an ecologist;

(9) two scientists, who represent national foundations, citizen groups, or farm organizations involved in agricultural biotechnology research, to be recommeneded by the Department of Agriculture and appointed by the President, with the advice and consent of the Senate, with such members being appointed within 90 days after the date of enactment of this Act.

(c) Chairman.—The Agricultural Panel shall be chaired by the Secretary of Agriculture or his designee.

(d) Duties of the Agriculture Panel.—

(1) advise the Board on matters concerning agricultural biotechnology and coordinate national activities, including the Plant Science Centers, the New Products Research Board, and other related efforts in agricultural biotechnology;

(2) recommend new tools to analyze DNA, in cooperation with the National Advisory Panel of the Human Genome established in Subtitle B of Title II and philanthropic, corporate, and other private sector interests;

(3) recommend processes to inprove information exchange of important agricultural biotechnology data and research findings;

(4) recommend risk assessment methods to better understand the implications of field releases of genetically engineered plants;

(5) recommend ways to promote scientific training in the area of agricultural biotechnology;

(6) provide direction to the United States Department of Agriculture and other agencies of the Federal Government concerning basic and applied agricultural research priorities and funding needs, including the need to lower farming input costs, improve crop quality, and develop new agricultural products.

(7) review the quality of scientific and technical work, and recommend standards for the collection and storage of data and materials;

(8) identify national and international commercial opportunities arising from the national research programs;

(9) review interagency cooperation through data-sharing, joint sponsorship of meetings, joint funding of research resources, and communication of annual budget plans;

(10) evaluate patent rights and ownership of data, and provide advice to interested Federal agencies, the scientific community, and private industry.

(e) Compensation and Travel Expenses.—

(1) Members shall serve on the Agriculture Panel without compensation.

(2) While away from their homes or regular places of business in the performance of services for the Agriculture Panel, members of the Agriculture Panel shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(3) The Secretary of Agriculture shall make available to the Agriculture Panel

such personnel, facilities, and administrative support services as may be appropriate to enable the Agriculture Panel to carry out its duties under subsection (214)d.

(f) Annual Report.—Not later than 18 months after the date of enactment of this section, the Agricultural Panel shall submit to the Board a report that contains recommendations based on the functions of the Agricultural Panel under section (214)d. Additional reports shall be submitted to the Board as the Panel considers necessary, or on demand of the Board.

HARKIN AMENDMENT NO. 2405

Mr. CHILES (for Mr. Harkin) proposed an amendment to the bill S. 1966, supra; as follows:

At the end of the bill, add the following new title:

TITLE IV—ALTERNATIVE AGRICULTURAL PRODUCTS RESEARCH

SEC. 401. SHORT TITLE.

This title may be cited as the "Alternative Agricultural Products Research Act of 1987".

SEC. 402. PURPOSE.

It is the purpose of this title—

(1) to authorize research in modification of plants and plant materials, and associated research, in order to develop and produce marketable products other than food or traditional fiber products; and

(2) to establish an independent New Products Research Board to advise the Assistant Secretary of Agriculture for Science and Education, with respect to selection criteria for, and scientific feasibility of, prospective research projects under this title.

SEC. 403. DEFINITIONS.

As used in this title:

(1) Assistant Secretary.—The term "Assistant Secretary" means the Assistant Secretary of Agriculture for Science and Education.

(2) Biotechnological Research Project.—The term "biotechnological research project" means a project authorized and funded by the Secretary that is directed toward the development of a new marketable industrial or commercial product, other than a food or traditional fiber product, through biotechnology or other modification of a plant.

(3) Board.—The term "Board" means the New Products Research Board established under section 404.

(4) Development.—The term "development" means targeted research, including fundamental research and applied research necessary to make a product available for the marketplace and necessary research on the plant, modification of plant materials, new methods, if any, needed to cultivate the plant, the commercial separation and purification of the new product, and any research on the uses of the new product.

(5) New Product.—The term "new product" means an item developed through a biotechnological research or a plant product research project that is primarily not food or traditional fiber, including an item that exists but is not commercially available from a plant.

(6) Nontraditional Food.—The term "nontraditional food" means a food product that does have substantial new properties and that is not now derived from agricultural materials.

(7) Plant Product Research Project.—The term "plant product research project" means a project authorized and funded by the Secretary that is directed towards the development of a new marketable industrial or commercial product, other than a food or traditional fiber product, through the modification of the product of a plant.

(8) Project.—The term "project" means a biotechnological research project or a plant product research project.

(9) Secretary.—The term "Secretary" means the Secretary of Agriculture.

(10) Traditional Fiber.—The term "traditional fiber" means a fiber product that does not have substantial new properties and that is derived from agricultural materials.

SEC. 404. NEW PRODUCTS RESEARCH BOARD.

(a) Establishment.—There is established in the Department of Agriculture the New Products Research Board to be administered by the Assistant Secretary.

(b) Functions.—The Board shall advise the Secretary—

(1) on specific targets of opportunity for research that most closely meet the selection criteria required for a project to be eligible for funding under this title;

(2) on the composition of review committees to examine the merits of specific proposals for research projects that have been solicited by the Secretary;

(3) on recommendations for the funding of specific proposals for research projects and

(4) concerning progress made in carrying out projects that are currently being undertaken.

(c) Membership.—

(1) Appointment.—The Board shall consist of 6 members, of which—

(A) two members shall be appointed by the Assistant Secretary;

(B) one member shall be appointed by the Director of the National Science Foundation;

(C) one member shall be appointed by the Secretary of Energy;

(D) one member shall be appointed by the Secretary of Commerce; and

(E) one member shall be appointed by the Director of the Office of Technology Assessment.

(2) Term of service.—The term of a member of the Board shall be at the discretion of the appointing authority, except that a member may not serve more than 5 years.

(3) Vacancies.—A vacancy on the Board shall be filled in the manner in which the original appointment was made.

(4) Chairman.—The Assistant Secretary shall designate one of the members of the Board as Chairman of the Board.

(5) Government members.—All members of the Board who shall be officers or employees of the United States Government who shall serve without additional compensation.

(6) Expenses.—All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(7) Meetings.—The Board shall meet at the call of the Chairman or a majority of its members.

(d) Personnel and Services.—The Board may appoint personnel and procure permanent, temporary, and intermittent services, as it considers necessary, under section 3109 of title 5, United States Code, at rates for individuals that do not exceed the rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

(e) Experts.—The Board may establish committees of technical experts, and farm and industry representatives, to advise the Board on matters that are determined to be appropriate by the Board.

(f) Rules and Regulations.—The Board is authorized to propose rules and regulations to the Secretary, and may promulgate procedures, that may be necessary to carry out the functions of the Board.

(g) Department of Agriculture Resources.—The Board is authorized to utilize, with the consent of the Secretary, the services, equipment, personnel, information, and facilities of the Department of Agriculture, with or without reimbursement.

(h) Hearings.—The Board may, for the purpose of carrying out this title, hold such hearings, and sit and act at such times and places, as the Board considers appropriate.

SEC. 405. RESEARCH PROJECTS.

(a) Authorization.—The Secretary, on a recommendation from the Board, shall select projects that are to receive funding under this title, for purposes of research to develop and produce new products.

(b) Appropriate Projects.—

(1) Development.—Each project shall target development of a new crop, or modification of an existing crop or crop material, that meets the criteria listed in paragraph (2).

(2) Criteria.—Projects should be selected on the basis of—

(A) the prospect of developing viable technologies that could make it possible to use or modify existing plants or plant products to provide an economically separable viable quantity of new products;

(B) the need for a new product of the type contemplated;

(C) the potential market size of the new product;

(D) the likely time period needed to bring the new product into the stream of commerce for general use;

(E) the likely impact on reducing Federal crop subsidies and other Federal agricultural assistance program costs;

(F) the likely ability to grow the plant used to produce the new product at a profit;

(G) the availability of the expertise and facilities required to conduct the proposed research; and

(H) the likely unavailability of appropriate funding from other sources.

(c) Funding.—

(1) Purpose.—Funding shall only be provided under this title to those projects that have as the principal purpose the development of new products, with priority given to biotechnological research projects. No less than one half of the appropriated funds being allocated to biotechnological research projects.

(2) Consortia.—Unless the Secretary finds it appropriate for a single research entity to conduct a project, each project shall be conducted by a project group that may include a consortium of—

(A) public and private colleges and universities;

(B) private research facilities and personnel;

(C) State agricultural experiment stations;

(D) Federal research laboratories; or

(E) any combination thereof.

(3) Secondary uses.—Funding shall not be denied if paragraph (1) is satisfied even if the developed plant has a food or fiber use in addition to the use described in paragraph (1).

(4) Period of funding.—Funding—

(A) shall cover the proposed research necessary for not less than 3 years, or until a marketable product is developed or determined to be unattainable or unnecessary; and

(B) may be extended, subject to satisfactory review, for additional 3-year periods or until a marketable new product is developed or determined to be unattainable or unnecessary.

(5) NONTRADITIONAL FOOD USE.—If the development of nontraditional food uses becomes the principal likely result of a project, funding may be continued if the project continues to meet the criteria set forth in subsection (b)(2) other than the criterion set forth in subsection (b)(2)(A).

(6) NUMBER OF PROJECTS.—

(A) INITIAL PROJECTION.—The Secretary shall fund not less than 20 projects within the 36-month period beginning on the date of enactment of this title, with funding committed for at least 5 projects within the 12-month period beginning on the date of enactment of this title.

(B) ADJUSTMENT.—If the amount appropriated under section 406 is reduced, or if the availability of such amount for obligation is delayed, the number of new projects to be funded may be reduced proportionately, or delayed as appropriate.

(d) CONTRACTS.—The Secretary may sign contracts that assign research responsibilities to an appropriate consortia or other entity capable of conducting the appropriate research over the applicable research period.

(e) REVIEW AND REPORTING.—

(1) PROJECT GROUPS.—A project group shall report on the progress of the group to the Board annually or as otherwise required by the Board.

(2) THE BOARD.—The Board shall review the progress of the projects approved by the Secretary and report to the Secretary on the projects with recommendations concerning continued research.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

To carry out this title, there are authorized to be appropriated $75,000,000 for the fiscal year 1988, and each of the 19 fiscal years thereafter.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT

KENNEDY (AND OTHERS) AMENDMENT NO. 2406

Mr. BYRD (for Mr. KENNEDY, for himself, Mr. HOLLINGS, Mr. HATCH, and Mr. DANFORTH) proposed an amendment to the bill (S. 1632) to authorize appropriations for the National Science Foundation for fiscal years 1988 through 1992; as follows:

Strike everything after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Science Foundation Authorization Act of 1988".

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) FINDING.—Congress finds that to strengthen national economic productivity and competitiveness the programs of the National Science Foundation (hereinafter referred to as the "Foundation") should be adequately funded.

(b) AUTHORIZATIONS FOR FISCAL YEAR 1989.—There is authorized to be appropriated to the Foundation $2,050,000,000 for fiscal year 1989. Such funds shall be available for the following program categories:

(1) Research and Related Activities, $1,658,000,000, which shall be available for the following subcategories:

(A) Mathematical and Physical Sciences, $507,761,000, of which $123,870,000 shall be available for Materials Research, with special attention to research on high-temperature superconductivity.

(B) Engineering, $197,964,000, of which $4,400,000 shall be available for Ocean Engineering Systems.

(C) Biological, Behavorial, and Social Sciences, $288,737,000.

(D) Geosciences, $320,876,000.

(E) Computer and Information Science and Engineering, $149,126,000.

(F) Scientific, Technological, and International Affairs, $58,986,000, of which $23,043,000 shall be available for Research Initiation.

(G) Distributed Programs, $9,000,000 (in addition to amounts authorized in paragraphs (A) through (F) of this subsection), of which $4,000,000 shall be available for support of the Experimental Program to Stimulate Competitive Research and $5,000,000 shall be available for a College and University Innovation Research Program.

(H) Science and Technology Research Centers, $30,000,000.

(I) Program Development and Management, $95,550,000.

(2) Academic Research Facilities Modernization, $80,000,000.

(3) United States Antarctic Program, $141,000,000.

(4) Science and Engineering Education, $171,000,000, of which $108,500,000 shall be available for precollege programs and $26,500,000 for College Science Instrumentation.

(c) FURTHER AUTHORIZATIONS.—There is authorized to be appropriated to the Foundation—

(1) For the fiscal year 1990, $2,158,000,000.

(2) For the fiscal year 1991, $2,474,000,000.

(3) For the fiscal year 1992, $2,831,000,000.

(4) For the fiscal year 1993, $3,245,000,000.

(d) SPECIAL RULES.—(1) If the total amount appropriated for a program category specified in subsection (b) of this section is less than the total amount authorized to be appropriated for such category under this section, the portion of such appropriated amount that shall be available for spending for each subcategory of such category, and for each program of such category or subcategory for which a funding floor is specified, shall be determined as follows:

(A) For each subcategory, the amount available for spending shall be equal to the amount specified in subsection (b) for that subcategory, as multiplied by the funding availability percentage.

(B) For each program of any category or subcategory for which a funding floor is specified, the amount available for spending shall be equal to the amount specified in subsection (b) as the floor for that program, as multiplied by the funding availability percentage.

(2) Notwithstanding any other provision in this Act, of the amounts authorized for fiscal years 1990 through 1993 under subsection (c) of this section, the amounts available for Science and Engineering Education for each such year shall be increased by a percentage that is at least equal to the percentage by which the aggregate amount available for the program categories set forth in subsection (b) (1) through (3) of this section for such year exceeds such amount for the previous fiscal year.

(3) For the purposes of this subsection, the term "funding availability percentage" means the percentage determined by dividing—

(A) the total amount appropriated for a program category specified in subsection (b) of this section by

(B) the total amount authorized under subsection (b) for that category.

AVAILABILITY OF APPROPRIATIONS

SEC. 102. Appropriations made under authority provided in section 101 of this Act shall remain available for obligation for periods specified in the Acts making the appropriations.

CONSULTATION AND REPRESENTATION EXPENSES

SEC. 103. From appropriations made under authorizations provided in this Act, not more than $7,500 may be used in each fiscal year for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the Foundation (hereinafter referred to as the "Director"). The determination of the Director will be final and conclusive upon the accounting officers of the Government.

TRANSFER OF FUNDS

SEC. 104. (a) GENERAL RULE.—Funds may be transferred among the program categories listed in section 101(b) of this Act, and among subcategories listed in section 101(b)(1), so long as the net funds transferred to or from any category, or to or from any subcategory, do not exceed 10 percent of the amount authorized for that category or subcategory in section 101.

(b) SPECIAL RULE.—In addition, the Director may propose transfers to or from any category in which the net funds transferred exceed 10 percent of the amount authorized for that category in section 101(b) of this Act, and to or from any subcategory in which the net funds transferred exceed 10 percent of the amount authorized for that subcategory in section 101(b)(1). An explanation of any such proposed transfer must be transmitted in writing to the Committee on Science, Space, and Technology of the House of Representatives, and the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate. The proposed transfer may be made only when 30 calendar days have passed after transmission of such written explanation.

ADMINISTRATIVE AMENDMENTS

SEC. 105. (a) BOARD MEETINGS.—Section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) is amended by adding at the end thereof the following:

"(k) Portions of Board meetings in which the Board considers proposed Foundation budgets for a particular fiscal year may be closed to the public until the President's budget for that fiscal year has been submitted to the Congress.".

(b) EXECUTIVE COMMITTEE.—Section 7 of the National Science Foundation Act of 1950 (42 U.S.C. 1865) is amended to read as follows:

"EXECUTIVE COMMITTEE

"SEC. 7. The Executive Committee of the Board shall be composed of the Director ex officio, who shall chair the Committee, and at least four other Board members elected by the Board. The Executive Committee shall exercise such powers and functions as may be delegated to it by the Board.".

(c) REPEAL.—Subsection (c) of section 15 of the National Science Foundation Act of 1950 (42 U.S.C. 1874) is repealed.

(d) COMMITTEE ON EQUAL OPPORTUNITIES IN SCIENCE AND ENGINEERING.—(1) Section 36(b) of the Science and Technology Equal Opportunities Act (42 U.S.C. 1885c(b)) is amended to read as follows:

"(b) Each member of the Committee shall be appointed by the Director of the National Science Foundation. Members shall be appointed to serve for a three-year term, and may be reappointed for an additional term of three years.".

(e) REPORT.—Section 36(f) of the Science and Technology Equal Opportunities Act (42 U.S.C. 1885c(f)) is amended to read as follows:

"(f) Every two years, the Committee shall prepare and transmit to the Director a report on its activities during the previous two years and proposed activities for the next two years. The Director shall transmit to Congress the report, unaltered, together with such comments as the Director deems appropriate.".

TEMPORARY PERSONNEL

SEC. 106. Section 14(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1873(a)) is amended by inserting "(1)" immediately after "(a)", and by adding at the end the following new paragraphs:

"(2) The Director may, under the authority provided by paragraph (1) of this subsection and in accordance with such policies as the Board chooses to prescribe, appoint for a limited term, or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from academic, industrial, or research institutions to work for the Foundation.

"(3) The Foundation may, to the extent authorized for certain other Federal employees by section 5723 of title 5, United States Code, pay—

"(A) travel expenses of any individual appointed under this subsection for a limited term or on a temporary basis; and

"(B) transportation expenses of his or her immediate family and his or her household goods and personal effects;

from that individual's place of residence at the time of selection or assignment to his or her duty station. The Foundation may pay such travel expenses and transportation expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Foundation may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5, United States Code, to such an individual, in lieu of and when less than transportation expenses of the immediate family and household goods and personal effects, for the period of is or her employment with the Foundation. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Foundation.".

STIMULATING COMPETITIVE RESEARCH

SEC. 107. Section 3(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)) is further amended—

(1) by redesignating paragraphs (5) through (7) as paragraphs (6) through (8), respectively; and

(2) by inserting immediately after paragraph (4) the following new paragraph:

"(5) to foster and support efforts by those academic institutions and States that historically have received relatively little Federal research and development funding to improve the quality and competitiveness of their academic research programs and research infrastructures;".

STUDY OF EARTHQUAKE ENGINEERING RESEARCH

SEC. 1080. (a) REQUIREMENT FOR STUDY.—The National Academy of Sciences shall conduct a study of the current earthquake engineering research efforts of the United States. Such study shall include a comprehensive assessment of the current earthquake research efforts of the Foundation, including an analysis of the appropriate balance between individual investigator awards, groups, and centers.

(b) REPORT TO CONGRESS.—The results of the study required by subsection (a) of this section shall be reported to the Congress on or before the expiration of the 12-month period following the date of enactment of this Act. Such report shall include recommendations, if any, of the National Academy of Sciences for improvements in the current efforts of the Foundation in the area of earthquake research.

(c) COOPERATION WITH OTHER ENTITIES.—In carrying out such study, the National Academy of Sciences is authorized to call upon any agency, department, or other instrumentality or entity of the United States for cooperation, and such agency, department, instrumentality, or entity shall provide such cooperation.

CENTER FOR EARTHQUAKE ENGINEERING RESEARCH

SEC. 109. (a) INDEPENDENT REVIEW PANEL.—In carrying out its review of the three-year period of operation of the National Center for Earthquake Engineering Research, the Foundation shall take such action as may be necessary to ensure that—

(1) such review is conducted by an independent review panel;

(2) the review panel does not include any individual who receives significant amounts of research funding from the National Center for Earthquake Engineering Research or any individual who serves on any administrative committee, board, or panel of the Center; and

(3) the review panel includes nationally recognized experts in research fields in which the Center is engaged.

(b) DETERMINATION REGARDING CENTER.—Among other things, the panel shall include, as a part of such review, a determination as to the extent to which the Center is meeting all contractual goals and obligations, including matching fund requirements.

TITLE II—ACADEMIC RESEARCH FACILITIES MODERNIZATION

SHORT TITLE

SEC. 201. This title may be cited as the "Academic Research Facilities Modernization Act of 1988".

FINDINGS AND PURPOSE

SEC. 202. (a) FINDINGS.—The Congress finds that—

(1) the fundamental research and related education programs supported by the Federal Government and conducted by the Nation's universities and colleges are essential to our national security, and to our health, economic welfare, and general well-being;

(2) many national research and related education programs conducted by universities and colleges are now hindered by obsolete research buildings and equipment, and many institutions lack sufficient resources to repair, renovate, or replace their laboratories;

(3) the Nation's capacity to conduct high quality research and education programs and to maintain its competitive position at the forefront of modern science, engineering, and technology is threatened by this research capital deficit, which poses serious and adverse consequences to our future national security, health, welfare, and ability to compete in the international marketplace;

(4) a national effort to spur reinvestment in research facilities is needed, and national, State, and local policies and cooperative programs are required that will yield maximum return on the investment of scarce national resources and sustain a commitment to excellence in research and education; and

(5) the Foundation, as part of its responsibility for maintaining the vitality of the Nation's academic research, and in partnership with the States, industry, and universities and colleges, must assist in enhancing the historic linkages between Federal investment in academic research and training and investment in the research capital base by reinvesting in the capital facilities which modern research and education programs require.

(b) PURPOSE.—It is the purpose of this title to assist in revitalizing the Nation's academic research programs through capital investments in university and college science and engineering facilities primarily devoted to research.

ACADEMIC RESEARCH FACILITIES MODERNIZATION PROGRAM

SEC. 203. (a) ESTABLISHMENT OF PROGRAM.—(1) To carry out this title, the Director shall establish and carry out a new Academic Research Facilities Modernization Program (hereafter in this title referred to as the "Program"), under which awards are made to institutions of higher education for the repair, renovation, or, in exceptional cases, replacement of those institutions' obsolete science and engineering facilities primarily devoted to research.

(2) Such awards shall, consistent with the functions of the Foundation set forth in section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) and through established Foundation selection procedures, serve to—

(A) promote the modernization of graduate academic science and engineering research laboratories and related facilities so as to facilitate and support research in the scientific and engineering disciplines;

(B) assist those academic institutions that historically have received relatively little Federal research and development funds to improve their academic science and engineering infrastructures and broaden and strengthen the Nation's science and engineering base; and

(C) promote the modernization of undergraduate academic science and engineering research laboratories and related facilities so as to facilitate and support research in the scientific and engineering disciplines.

(b) PROJECTS AND FUNDING.—The Program shall be carried out through projects which involve the repair, renovation, or, in exceptional cases, replacement of specific science and engineering facilities devoted primarily to research to eligible universities and colleges, or consortia thereof, and for which funds are awarded in response to specific proposals submitted by such eligible universities and colleges or consortia in accordance with procedures prescribed by the Director pursuant to section 204 of this Act.

(c) CRITERIA FOR AWARDS.—Criteria for the award of funds to any institution for a project under the Program shall include—

(1) the quality of the research and training to be carried out in the facility or facilities involved;

(2) an analysis of the age and condition of existing research facilities and equipment;

(3) the congruence of the institution's research activities with the future research needs of the Nation and the research mission of the Foundation;

(4) the contribution that the project will make toward meeting national, regional, State, and institutional research and related training needs; and

(5) in the case of an institution that historically has received relatively little Federal research and development funding, the contribution the proposed project will make to improving the institution's academic scientific and engineering infrastructure and broadening the Nation's science and engineering base.

PROCEDURES, SURVEYS, AND PLANNING ACTIVITIES

SEC. 204. (4) PROGRAM PROCEDURES.—(1) The Director shall, consistent with the objectives of the Program and the criteria set forth in section 203(c) of this Act, shall set forth procedures for the Program.

(2) The procedures so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of Program objectives, but shall in any event provide that—

(A) funds to carry out the Program will be awarded to any university or college only on the basis of merit after a comprehensive review using established Foundation procedures;

(B) the membership of merit review panels that assess proposals will be broadly representative of eligible institutions, including research universities and predominantly undergraduate and minority institutions;

(C) to the extent practicable, eligible academic institutions of a given type will compete against similar institutions for program awards; and

(D) the funds so awarded to any eligible institution or consortium thereof shall not pay for the entire cost of any such repair, renovation, or replacement project, with the balance of project funds to be provided by the institution or consortium involved or from other non-Federal public or private sources.

(b) PLANNING AUTHORITY.—The Director shall conduct comprehensive planning activities, including surveys of research facility needs and other information-gathering activities, necessary to implement the Program and to develop the procedures called for under subsection (a) of this section.

(c) COMPREHENSIVE PROGRAM PLAN.—The Director, after gathering appropriate information and after consultation with the National Science Board, other appropriate Federal agencies, institutions of higher education, State governments, private foundations, and other appropriate organizations, shall develop a comprehensive plan for the Program that—

(1) defines the appropriate roles and responsibilities of the Federal Government, institutions of higher education, State governments, private foundations, and other appropriate organizations;

(2) states appropriate ranges for facilities assistance by the Foundation for each category of eligible institutions including predominantly undergraduate institutions as well as research universities; and

(3) evaluates and addresses, to the maximum extent possible, a variety of factors which include—

(A) the conditions under which various amounts of cost sharing should be required (including conditions under which cost sharing might not be required) as well as limitations on award size and frequency;

(B) the unique circumstances and research facilities needs of research universities, undergraduate institutions, and other institutions whose enrollment includes substantial percentages of minorities underrepresented in science and engineering research;

(C) innovative approaches in the management of the Program that address both short-term and long-term aspects of the renovation, repair, and replacement of academic research facilities;

(D) programmatic approaches that recognize and support excellence, strengthen scientific and engineering research potential and, to the maximum extent possible and consistent with the purposes of this Act, assure an equitable distribution of resources with respect to institutions and geographic areas; and

(E) any recommendations necessary to improve the Program and further meet the purposes of this title.

(d) REPORT.—The Director shall prepare and submit, not later than March 31, 1989, a report containing the comprehensive plan required by subsection (c) of this section to the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(e) AVAILABILITY OF FUNDS.—The Director may, from amounts available to the Foundation under section 101(b) of this Act for fiscal year 1989, make available an amount, not to exceed $1,000,000, to carry out the provisions of this section.

SET-ASIDE FOR CERTAIN INSTITUTIONS

SEC. 205. Of the amounts appropriated to the Foundation for the Program, as authorized under section 101 of this Act, in each fiscal year, at least 10 percent shall be reserved for—

(1) any historically Black college or university defined as a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)); and

(2) other institutions of higher education whose enrollments in science and engineering consist predominantly of students who are Hispanic or Native American.

TITLE III—UNDERGRADUATE SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM

SHORT TITLE

SEC. 301. This title may be cited as the "Undergraduate Science and Engineering Improvement Act of 1988".

PURPOSE

SEC. 302. It is the purpose of this title to assist in revitalizing the Nation's academic programs in the sciences and engineering at the undergraduate level at institutions of higher education through investments in such activities as instrumentation and laboratory improvement; undergraduate faculty enhancement; undergraduate curriculum development; and special efforts designed to increase the presence of minorities, women, and the disabled in science and engineering.

UNDERGRADUATE SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM

SEC. 303. (a) IMPLEMENTATION OF PROGRAM.—(1) To carry out this title, the Foundation shall implement a comprehensive Undergraduate Science and Engineering Improvement Program (hereafter in this title referred to as the "Program") under which awards shall be made to institutions of higher education for projects designed to improve the state of undergraduate science and engineering education.

(2) The Program shall include, among other activities, a College Science Instrumentation activity to assist two-year and community colleges and four-year, non-Ph.D. degree-granting institutions, or consortia thereof, with the purchase and replacement (as appropriate) of instructional instrumentation.

(b) AWARD PROCEDURES.—Funds will be awarded in accordance with procedures prescribed by the Director with the objective of carrying out the purpose of this title. The procedures so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of that objective, but shall in any event provide that funds to carry out the Program will be awarded only on the basis of merit after a comprehensive review using established Foundation procedures.

TITLE IV—COLLEGE AND UNIVERSITY INNOVATION RESEARCH PROGRAM

SHORT TITLE

SEC. 401. This title may be cited as the "College and University Innovation Research Program Act of 1988".

FINDINGS AND PURPOSE

SEC. 402. (a) FINDINGS.—The Congress finds and declares that—

(1) research by scientists and engineers at United States colleges and universities can contribute significantly to local economic development and to the long-term economic competitiveness of the Nation;

(2) Federal research funds remain limited, especially for academic research which develops prototype inventions and processes with economic potential;

(3) researchers in colleges and universities which traditionally receive relatively little Federal research and development funding, including researchers in predominantly undergraduate institutions, have considerable difficulty in obtaining funding which allows them to pursue innovative research of economic potential;

(4) a research funding program which recovers some of the monies it awards could, over time, approach self-sufficiency, generating further funds for research support;

(5) the Small Business Innovation Research Program, created by the Small Business Innovation Development Act of 1982, provides a proven mechanism for the support of high-quality innovative research; and

(6) a new pilot research program, based on the Small Business Innovation Research Program model but focused on faculty researchers and providing both a mechanism for the recoupment of monies awarded and attention to the needs of qualified researchers at a wide range of colleges and universi-

ties, would make a valuable contribution to the Nation.

(b) Purpose.—It is the purpose of this title to provide for the establishment of a five-year pilot program at the Foundation, to assist academic researchers at a wide range of colleges and universities to pursue high-quality research of economic potential.

DEFINITIONS

Sec. 403. As used in this title—

(1) the term "eligible faculty member" refers to any person employed more than 25 percent of his or her working time by an institution conducting both research and educational activities and qualifying for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1986 or its successors;

(2) the term "forgivable loan" refers to a loan which need not be repaid, in part or in full, if the research supported in part or in total by the loan does not lead to a commercial product or service which generates profits or other revenues;

(3) the terms "research" and "research and development" have the definitions provided in Office of Management and Budget Circular A-11 or its successors; and

(4) the term "qualifying small business" refers to any company eligible to compete in the Foundation's Small Business Innovation Research Program.

COLLEGE AND UNIVERSITY INNOVATION RESEARCH PROGRAM

Sec. 404. (a) Establishment.—The Director shall establish and operate a pilot activity known as the College and University Innovation Research Program (hereafter in this title referred to as the "Program").

(b) Awards.—Under the Program, the Director is authorized to make grants and provide forgivable loans to eligible faculty members for research in science, engineering, and mathematics. Awards shall be available in the three following phases:

(1) Phase I, under which and in response to annual Program solicitations, eligible faculty members may apply for Program funding to conduct studies exploring problems in basic research and examining the feasibility of developing new technology, products, or services on the basis of the knowledge gained through such studies;

(2) Phase II, in which Phase I awardees who have successfully reached their Phase I research objectives, or who have shown the feasibility of developing new technology, products, or services on the basis of research conducted under another research project funded by the Foundation, may apply for additional funding to conduct further research designed to advance the new technology, product, or service to the prototype stage; and

(3) Phase III, which shall be funded by sources other than the Foundation and which shall support research and development to create new domestically-manufactured products, processes, and services.

(c) Procedures.—The Director shall establish such procedures for the Program as the Director deems appropriate, except that the Director shall—

(1) utilize established Foundation procedures which involve the review of proposals on the basis of scientific and technical merit;

(2) in the case of Phase I applications of approximately equal scientific and technical merit, generally give preference to proposals from faculty members serving at colleges and universities that historically have received relatively little Federal research or research and development funding;

(3) in the case of Phase II applications of approximately equal scientific and technical merit, generally give preference to proposals—

(A) which include commitments for follow-on Phase III funding from sources other than the Foundation;

(B) which contain a plan for transferring any information, technology, or products resulting from the project to a qualified small business; and

(C) which come from faculty members serving at colleges and universities that historically have received relatively little Federal research or research and development funding; and

(4) to the extent appropriate, utilize the procedures and application forms used in the Foundation's Small Business Innovation Research Program.

(d) Terms and Conditions.—The Director shall set forth such terms and conditions regarding awards under the Program, including the mix of grants and forgivable loans to be made to awardees and the terms of any forgivable loans, as the Director deems appropriate, except that—

(1) no Phase I award (including the loan component thereof) shall exceed $150,000 nor extend beyond three years; and

(2) no Phase II award (including the loan component thereof) shall exceed $500,000 nor extend beyond two years.

(e) Consultations.—Before specifying procedures and terms and conditions under the Program, the Director shall, as appropriate, consult with the National Science Board, the Secretary of Commerce, other Federal agencies, institutions of higher education, business leaders, private foundations, and other organizations.

(f) Sunset Provision.—Authority to operate the program shall expire five years after the date of enactment of this Act, unless such authority is extended by future Acts.

REVOLVING FUND

Sec. 405. (a) Establishment.—The Director is authorized to establish and operate, within the Foundation, a College and University Innovation Research Program Revolving Fund. Any monies paid back to the Foundation under the terms of Program forgivable loans, and under such other arrangements for funding recoupment for the Program as may be specified by the Director, shall be deposited into the Revolving Fund, and shall be used to help support additional awards under the Program. The authority provided in this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Disposition of Funds.—Five years after the date of enactment of this Act, unless the Program is extended by future statute, any remaining monies in the Revolving Fund shall be transferred to the Treasury.

REPORTS

Sec. 406. (a) Initial Report.—Within one year after the date of enactment of this Act, the Director shall submit to the Congress a detailed report describing the procedures and terms and conditions specified for the Program. Such report shall include an analysis of how forgivable loans and alternative mechanisms might be used to recoup funds for both the Program and other Federal research activities.

(b) Second Report.—Three years after the date of enactment of this Act, the Director shall submit a second report which—

(1) evaluates Program success and assesses the utility of extending the Program to other Federal agencies;

(2) assesses the quality of research supported by the Program, the scientific and technical merit of such research, the effects of such research on the broadening of the Nation's research capabilities and base, and its effects on local economic development and national economic competitiveness; and

(3) recommends improvements, modifications, and other changes which should be made in the Program.

TITLE V—EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH

EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH

Sec. 501. (a) Establishment.—The Director is authorized and directed to continue to operate the Experimental Program to Stimulate Competitive Research (hereafter in this title referred to as the "Program"), the purpose of which is to assist those States that—

(1) historically have received relatively little Federal research and development funding; and

(2) have demonstrated a commitment to improve science and engineering research programs at their universities and colleges.

(b) Terms and Conditions.—In carrying out this title, the Director shall require such terms and conditions for making awards under the Program as the Director deems appropriate, except that a State shall commit matching funds and formulate a plan for building the research capabilities of the State before the Director may make an award under the Program.

(c) Second Awards.—Each State which has received an initial award under the Program, whether or not the award was received before or after the date of enactment of this Act, shall be eligible for an additional five years of support, on the condition that such State provides assurances of new matching funds and submits an acceptable new plan for using Program funds and matching funds to build the research capabilities of the State.

ADDITIONAL ACTIVITIES

Sec. 502. The Director may, as appropriate, take other actions to assist States participating in the Program to improve their research base and become more competitive, including—

(1) the sponsorship of workshops and other activities to assist faculty in the writing of research proposals; and

(2) the arrangement of training, at the Foundation, for individuals who can return to their States and advise faculty on opportunities and procedures relating to Foundation programs.

SIMON AMENDMENT NO. 2407

Mr. BYRD (for Mr. Simon) proposed an amendment to amendment No. 2406 proposed by Mr. Byrd (for Mr. Kennedy) to the bill S. 1632, supra; as follows:

At the end of the amendment add the following:

DESALINATION REPORT

Sec. 110. The Office of Science and Technology Policy shall prepare and submit a report to the Congress not later than November 1, 1988, on desalination research and technology. The report shall—

(1) describe the state of desalination research and technology being conducted by agencies of the Federal Government;

(2) recommended an agency of the Federal Government to be the lead agency on desalination research and technology;

(3) recommended ways to spur research and technology to decrease the cost of desalination; and

(4) recommend how desalination research and technology can be used as a component of the foreign assistance program of the United States.

ASSISTANCE TO ORGAN PROCUREMENT ORGANIZATIONS

HUMPHREY AMENDMENT NO. 2408

Mr. HATCH (for Mr. HUMPHREY) proposed an amendment to the bill (H.R. 3097) to amend the Public Health Service Act to revise and extend the program of assistance to organ procurement organizations, and for other purposes; as follows:

On page 7, after line 23, add the following new section:

SEC. 7. FETAL ORGAN TRANSPLANTS.

Section 301(c)(1) of the National Organ Transplant Act (42 U.S.C. 274e(c)(1)) is amended by adding at the end thereof the following new section: "Such term shall include any organ, organ subpart, or nonregenerative tissue from a fetus during any point in a pregnancy.".

QUAYLE AMENDMENT NO. 2409

Mr. QUAYLE proposed an amendment to the bill H.R. 3097, supra; as follows:

On page 8, line 10: strike the word "total".

At the end of the bill, add the following new section:

"SEC. 1937. TERMINATION DATE.

The amendments made under part D of this Act shall terminate effective January 1, 1991.

TENDER OFFER FAIRNESS AND DISCLOSURE ACT

DANFORTH AMENDMENT NO. 2410

Mr. DANFORTH proposed an amendment to the bill (S. 1323) to amend the Securities Exchange Act of 1934 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers; as follows:

At the appropriate place, insert the following:

SEC. . (a) The Congress finds that—

(1) alcohol and drug abuse poses significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, railroads, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, railroads, trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the armed forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this Act, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(B) specify the drugs for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this Act;

"(3) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance * * *

"(4) * * * testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(5) provide for the confidentiality of test results * * * ing to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and whose duties include responsibility for safety-sensitive functions. Such program shall provide for pre-employment, periodic recurring, random and post-accident testing, and testing of such individuals upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

"(3) In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, without lawful authorization, alcohol or a controlled substance.

"PROHIBITION ON SERVICE

"(b)(1) No person may use, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) No individual who is determined to have used, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) Any such individual determined by the Administrator to have used, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section who (A) refuses to undertake, (B) fails to complete a rehabilitation program described in subsection (c) of this section, (C) has previously undertaken or completed such a rehabilitation program, or (D) has been determined by the Administrator to have served as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions while impaired by or under the influence of alcohol or a controlled substance, shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"PROGRAM FOR REHABILITATION

"(c)(1) Each air carrier and foreign air carrier shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of employees referred to in subsection (b) of this section in need of assistance in resolving problems with the use, without lawful authorization, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such program available to all of its employees other than employees referred to in subsection (b) of this section. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"PROCEDURES

"(d) In establishing the program required under subsection (a) of this section, the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this Act, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(B) specify the drugs for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug * * *;

"(3) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(4) * * * testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(5) provide for the confidentiality of test results * * * relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(6) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"EFFECT ON OTHER LAWS AND REGULATIONS

"(e)(1) No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) Nothing in this section shall preclude the Administrator from adopting or continuing in effect other regulations intended to protect persons or property on the ground or in the air from the hazards to safety associated with the potential use of alcohol or controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration) with responsibility for safety-sensitive functions.

"DEFINITION

"(f) For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Administrator has determined poses a risk to transportation safety.".

(2) That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end thereof the following:

"Sec. 613. Alcohol and controlled substances testing.
"(a) Testing program.
"(b) Prohibition on service.
"(c) Program for rehabilitation.
"(d) Procedures.
"(e) Effect on other regulations.
"(f) Definition."

(c) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following:

"(l)(1) The Secretary shall, within one year after the date of enactment of this subsection, review existing rules, regulations, standards, and orders governing alcohol and drug use in railroad operations for the purpose of determining whether they are adequate to ensure safety. In conducting such review, the Secretary shall specifically—

"(A) require that all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) be subject to testing on a random basis for the use, without lawful authorization, of alcohol or a controlled substance;

"(B) consider application of existing rules, regulations, orders, and standards to other categories of employees, including employees responsible for the safety of passengers, railroad rolling stock, or track and related structures;

"(C) require, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(D) require, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards or orders issued under this Act.

Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards and orders governing alcohol and drug use in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this Act, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(ii) specify the drugs for which individuals may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this Act;

"(C) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(D) require that all laboratories involved in the testing of any employee under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(E) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(F) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined poses a risk to transportation safety.".

(d)(1) The Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end the following:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) REGULATIONS.—The Secretary shall, in the interest of commercial motor vehicle safety, prescribe regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct pre-employment, periodic recurring, random and post-accident testing of the operators of commercial motor vehicles, and testing upon a reasonable * * * gram under this subsection in cooperation with any other motor carrier.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this Act, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(B) specify the drugs for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this Act;

"(3) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(4) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests; * * *

(3) The Secretary shall ensure that the selection made pursuant to this section is representative of varying geographical and population characteristics of the Nation, and takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) The pilot program authorized by this section shall continue for a period of one year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) Not later than thirty months after the date of enactment of this section, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this section. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) For purposes of carrying out this subsection, there shall be available to the Secretary $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 for fiscal year 1988.

(7) For purposes of this subsection, the term—

(1) "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5241); and

(2) "Secretary" means the Secretary of Transportation.

TECHNICAL AND SUBSTANTIVE AMENDMENTS TO TITLE 18, UNITED STATES CODE

BIDEN AMENDMENT NO. 2411

Mr. BYRD (for Mr. BIDEN) proposed an amendment to the bill (S. 2485) to make minor substantive and technical amendments to title 18, United States Code, and for other purposes; as follows:

On page 64 strike out beginning with line 17 through line 2 on page 66.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The field hearing will take place July 1, 1988, beginning at 9 a.m. and conclude at approximately 12 noon. The hearing will be held at the Constatine Theater, Pawhuska, OK.

The purpose of the hearing is to receive testimony on S. 1967, a bill to provide for the establishment of the Tallgrass Prairie National Preserve in the State of Oklahoma, and for other purposes.

Because of the large number of witnesses anticipated at the hearing, it will be necessary to place witnesses in panels and limit the oral testimony to 3 minutes. Witnesses testifying at the hearings are requested to bring 10 copies of their testimony with them on the day of the hearing. Please do not submit testimony in advance. Written statements may be submitted for the hearing record. It is necessary only to provide one copy of any material to be submitted for the RECORD.

Those wishing to testify at the hearing must sign up in advance no later than June 29, and should contact Beth Norcross of the subcommittee staff in Washington, DC, at (202) 224-7933. If you need further information about the hearing, please contact either Beth Norcross or Tripp Hall at (918) 581-7785 in the Office of Senator BOREN in Tulsa, OK.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs, be authorized to meet on Friday, June 24, at 10 a.m. on the following nominations: Susan E. Alvarado, to be Governor of the U.S. Postal Service; Tirso Del Junco, to be Governor of the U.S. Postal Service; Hugh Hewitt, to be Deputy Director of the Office of Personnel Management; Roger W. Mehle, to be member of the Federal Retirement Thrift Investment Board; and Richard H. Headlee, to be member of the Federal Retirement Thrift Investment Board.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Subcommittee on Federal Service, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, June 17, 1988, to review the planning for the 1990 census.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on June 17, 1988, to hold a hearing on H.R. 1054, medical malpractice claims for armed services.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Friday, June 17, 1988, to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HEALTH

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Subcommittee on Health of the Committee on Finance be authorized to meet during the session of the Senate on June 17, 1988, to hold a hearing on S. 2305, the Long-Term Care Assistance Act of 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE NAMES PROJECT

● Mr. KERRY. Mr. President, this weekend in Boston something remarkable is happening—the Names Project quilt is being displayed. Made up of panels created by volunteers in remembrance of individuals who have died from AIDS, this quilt is both a creative artifact and a symbol of love and loss and finally, hope.

The quilt was first displayed in San Francisco in June 1987, when it consisted of 40 panels. When it was displayed on The Mall in October of last year, it had grown to the size of 1½ football fields. Now it consists of 3,480 panels, with 200 more being added in Boston, and by the time it completes its journey and returns to The Mall this October, thousands more panels will have been added, until it will be the size of 6 to 8 football fields. This is a dramatic testimony both to the response people have had to the project and to the devastation we are experiencing from AIDS.

None of the 40,000 people who will see the quilt this weekend in Boston will come away untouched. When we read the statistics on the numbers of people who have died or will die from the AIDS plague, it is easy to forget that each number represents a person who has a family, friends, colleagues, and acquaintances, all of whom will be more or less touched by that death. In Boston, as in all of the cities where the quilt is being displayed, the roll of those memoralized is called and people remember those who are gone, and in remembering, convey a kind of immortality.

The Vietnam Veterans Memorial touches us deeply because it is an intensely personal monument. As someone who fought in that war and lost many good friends, I know the pain of seeing too many people cut down before their time. The Names Project quilt is also an intensely personal memorial to another war which is equally devastating and one to which we must commit our resources to end before it destroys us.

Each person who has contributed to the quilt, those who have been attending quilting bees at the Arlington Street Church or who worked at home on their panel, the 900 volunteers who have helped in fundraising, publicity, and all of the many other tasks an effort such as this requires, has contributed to one of the most remarkable grassroots memorials in the history of this country.

The AIDS epidemic has affected this country and each of us very deeply, and in many ways we do not yet realize. The Names Project quilt is a moving demonstration of our ability to find healing and unity in a national tragedy.●

NATIONAL CAUCUS & CENTER ON BLACK AGED, INC.

● Mr. RIEGLE. Mr. President, on June 23 through 25, the National Caucus & Center on Black Aged, Inc., will hold their 18th annual conference in my hometown of Flint. This year's conference, titled "Today's Challenges, Tomorrow's Opportunities," will focus on the issues facing black elderly today.

Founded in 1970, the National Caucus & Center on Black Aged, Inc., is the only national organization dedicated solely to improving the quality of life for nearly 3 million black elderly Americans. With over 30,000 members in 54 State and local chapters, NCBA is one of the major organizations in this country providing housing, transportation, and employment and training programs for black elderly.

NCBA also serves as an advocacy group at the Federal, State, and local levels. Over the past several years, NCBA, its subsidiary organizations and affiliated nonprofit agencies, have successfully administered over $40 million in grants from both the public and private sectors. Their services include research, housing, training, employment, and technical assistance for aging services professionals.

Mr. President, I commend the work of the staff, board members, and volunteers that have made the National Caucus & Center on Black Aged, Inc., a premier agency providing essential services to black elderly. I also wish them a successful conference and enjoyable stay in Flint.●

CONGRESSIONAL CALL TO CONSCIENCE FOR SOVIET JEWRY

● Mr. GARN. Mr. President, I am pleased to be involved with the 1988 Congressional Call to Conscience for Soviet Jewry. This effort knows no partisanship in Congress. My colleagues and I are involved in the struggle to gain awareness of and recognition for those currently suffering in the Soviet Union. As in the past, the Congressional Call to Conscience will focus attention on the plight of the Soviet Jews. The refusenik community consists not only of Jews, but of individuals from many other religious communities that wish to be free.

Patrick Henry wrote that—

> All men are equally entitled to the free exercise of religion, according to the dictates of conscience.

The denial of one of the most basic human rights, freedom of religion, is an appalling tenet of Soviet dogma. Countless letters, speeches, and prayers have been offered in behalf of those persecuted in the Soviet Union. These people yearn for the freedom to practice religion as they please, the right to privacy, and the right to emigrate. Rights guaranteed to the people of the Soviet Union with the signing of the Helsinki accords of 1975.

I deplore the Soviet Union's abuse of human rights. Their treatment of minorities is only one example of their contempt for freedom and human decency. I believe the United States should take a strong stand against abuses of human rights. However, before we can do this, we need to establish open lines of communication with the Soviet Union.

The efforts of President Reagan and President Gorbachev are a first step toward ensuring that human rights violations get the necessary attention. However, I do not believe that our major problems can be resolved in this manner. Our two countries are different in terms of political infrastructure, economic systems, interests, and values. When two major powers have such varied and conflicting interests, summit meetings may prove helpful in further opening lines of communication, but will not be able to eliminate all of the differences between our two countries. The leaders of the Soviet Union must dedicate themselves to carrying out the principles contained in the Helsinki accords, in order for the problem to be solved. In the meantime, however, efforts such as the Congressional Call to Conscience highlight the tragic situation and bring it to the forefront of international diplomatic efforts.

The refuseniks must know that the United States will continue to fight for their cause. Ours may be the only voice of freedom that they hear. It is vital for us, as citizens of a free nation, to offer support and assistance to the people of the Eastern bloc countries. The fight for the dignity of all people must not be forgotten. I hope that the Congressional Call to Conscience is but one facet of our Nation's effort to keep the torch of freedom burning brightly in the hearts of those persecuted in the Soviet Union.●

SUB-SAHARAN AFRICA

● Mr. SIMON. Mr. President, an excellent editorial appeared in the Washington Post commenting on President Francois Mitterrand's suggestion for assistance to sub-Saharan Africa.

In the editorial is the suggestion that the United States extend the repayment schedule to provide some relief for these countries in such desperate need.

The editorial also points out that we usually think of the Latin American debt in terms of Third World debt, and in sheer numbers it is greater, and its impact on private institutions in this country is greater.

In terms of the needs of the people, African debt is as pressing as any place on the globe.

I urge my colleagues to read the Washington Post editorial.

I ask to insert this editorial in the RECORD at this point.

The editorial follows:

[From the Washington Post, June 13, 1988]

A RESCUE PLAN FOR AFRICA

With the Mitterrand plan, a measure of relief is now in prospect for the poorest of the indebted African countries. Africa's foreign debts are more readily manageable than Latin America's; they are far smaller, and the major creditors are rich countries' governments rather than commercial banks. But the debts have suppressed economic growth much more harshly in sub-Saharan Africa than among the Latins. President Francois Mitterrand of France has now made a decent and useful proposal, timed for the annual economic strategy meeting of the seven big industrial democracies to begin next weekend in Toronto.

Europeans have been pressing the United States for some time to consider assistance for the African debtors. Americans tend to think about Third World debt in terms of the Latin cases. Europe is closer to Africa, not only geographically but through all the relationships that remain from the former colonial empires, and Europeans have been more attentive to the long economic decline in Africa. The British began talking a year ago about the need to intercede there, and more recently the Germans took up the same point.

The United States, until this month, has held that all of the lending countries must march in step on these debts. For legal and political reasons, lenders found it difficult to agree on a uniform approach. But Treasury Secretary James A. Baker, on his trip to Africa, made an interesting change. All the lending countries, he said, need only follow similar policies.

President Mitterrand promptly responded. France, he announced, will proceed to cancel one-third of the debts owed it by African countries with incomes of less than $500 per capita annually. That excludes Nigeria with its oil and several others, but it will include most of the sub-Saharans. Other countries, he suggested, can reduce interest rates as their contribution, or extend repayment schedules. The last is important to the United States, since it's the only kind of relief that the administration can offer without getting congressional legislation.

In France, Mr. Mitterrand's initiative is taken as an example of the new Socialist foreign policy. Not by accident, he announced it a few days before yesterday's parliamentary election. It's election-year politics of the more enlightened sort.

But in Africa, it's a demonstration that the rich countries can work together to bring a measure of help to that part of the world where it is most desperately needed.●

AMERICAN HERITAGE TRUST ACT

● Mr. ADAMS. Mr. President, last March our colleague, Senator Chafee, introduced the American Heritage Trust Act of 1988 (S. 2199). After looking carefully at the bill and discussing it with various groups in Washington State, I have decided to cosponsor this legislation. I would like to take a moment to urge my colleagues to give serious consideration to joining us in support of this bill and its companion measure introduced by Congressman Udall in the House.

As my colleagues are aware, the American Heritage Trust Act would combine the land and water conservation fund [LWCF] with the historic preservation fund [HPF] to create a trust which would eventually generate $1 billion a year in revenue for recreational land acquisition and development as well as for historic preservation. Currently, the LWCF receives 80 percent of its funding from offshore oil leases with the remainder from sales of Federal surplus property and motorboat fuel taxes. Although $900 million a year from these revenues are authorized for LWCF use, Congress has only appropriated an average of $200 million for the last 8 years, leaving an unobligated balance of approximately $6 billion.

S. 2199 would invest the $6 billion in Government securities to act as a corpus to start the trust. Revenues from offshore oil leases would flow into the trust, with a portion of those revenues being diverted for annual LWCF use. Such funding would continue until the trust generates $1 billion a year in revenue. At that time, all outside sources of funding would cease and the $1 billion in annual interest would be authorized for land acquisition projects which have been approved during the appropriations process.

In order to generate $1 billion a year in interest, it is estimated that the American Heritage Trust will need a corpus of approximately $24 billion. Obviously, I am concerned about the probability that we can generate a trust of that size. I also have some questions about the impact that such a fund would have on the budget. I realize that it may be necessary to modify the measure should it prove that the funding mechanism is imcompatible with current budgetary constraints.

Nevetheless, I feel the American Heritage Trust Act is a step in the right direction toward increased funding for recreational land acquisition projects. As I have indicated previously, funding the LWCF has averaged only $200 million for the last 8 years. This amount is insufficient to meet the growing demand for parks and other recreational facilities.

Funding for the State grant portion has been particularly inadequate, thereby impeding the ability of States and localities to acquire lands for recreational development. Of the moneys appropriated last year, only $16.5 million was allocated for such grants. These funds are utilized by State and local agencies as matching grants which are then used to allow States to purchase properties which they would not be able to afford if they were required to use their own funds exclusively.

Many States have benefited from these grants and Washington State is no exception. For example, through these funds, the city of Omak was able to acquire lands for East Omak Park. Similarly, Skagit County was able to purchase a playfield, and the city of Vancouver acquired land for David Douglas Park. These recreational facilities are a few of the many projects in Washington State which were made possible by LWCF State grants. The parks have added to our quality of life by simply providing a public space for recreational activities.

Because of the benefits the LWCF provides, I support higher levels of funding for the development and acquisition of recreational lands. While it raises serious budgetary questions, the American Heritage Trust Act would provide such funding and, at the very least, will give the opportunity to discuss the need for increased appropriations as it moves through the legislative process. For these reasons, I cosponsor this measure and commend Congressman Udall and Senator Chafee for their leadership on this issue.●

INFORMED CONSENT: MAINE

● Mr. HUMPHREY. Mr. President, each year, my office receives hundreds of letters from women who have undergone abortions without the opportunity to make an informed decision. Many of these women were denied facts which, in retrospect, would have weighed very heavily on their decision to have an abortion. Some were fortunate and did not experience physical effects. But too often, the women who write to me tell of physical and emotional scars which have yet to heal, even after many years. These women have deep regrets and feel they were victimized by a system which cares more about a doctor's right to engage in the practice of medicine than it does the rights of his patients. I urge my colleagues to support S. 272 and S. 273 to protect women's right to know. I ask unanimous consent that a letter from Maine be inserted in the Record.

The letter follows:

Prospect Harbor, ME,
December 3, 1987.

Dear Senator Humphrey: I would first like to praise you for your courageous stand during the Bork confirmation hearings. I wish Maine had such a brave representative in the Senate. We read of you in National Review, etc., and you are in our prayers.

In 1971 and 1973 I purposely became pregnant. I stopped taking the pill and carefully followed all I'd learned in health class, it was easy.

At the time of my first pregnancy I was 15. Home was a place from which I wanted to escape. I did not seek the counsel of my parents.

Planned Parenthood provided me with a free pregnancy test and during counseling neglected to tell me of any choices other than abortion, they also provided me with an address and cost information. In my homestate of New Jersey, abortion was illegal. Nearby New York had legalized abortion and with this thought in mind (as a net), I had conceived.

Not knowing where to turn I stopped in a church near my high school. I didn't attend any church at this time.

I told the minister my situation. I remember that he paced the floor and spoke more to himself than to me saying things like, "How am I supposed to deal with things like this?"

He eventually sat down at his desk and pulled $150.00 out of a small metal box. He sternly told me to not disclose the source of the money. I was terribly disappointed and I felt as if my alternatives were nonexistent.

I sat on a bridge later that afternoon swinging my legs, and I remember thinking that, "The grown-ups must know what's best for me." God forgive them.

I had a suction abortion shortly thereafter without the knowledge of my parents. My drug use picked up considerably after that.

The next year I was raped and I chose not to mention it to the police mainly because my attitude had become, "what difference does anything make; who cares; what's the point?"

In 1973, at 17, I "felt ready" to become pregnant again. "This time I'll bear this baby," I promised myself.

When I announced to my mother my positive test results and my intention to have this baby, I was shocked by her reaction. She quietly informed me of her intention to hire an attorney and "sue" me to abort her grandchild.

That was something I was unprepared for and as an unwise child, I believed she was within her rights to force me to kill the child within my womb.

At the abortion clinic (this time the abortion costs were "Mom's treat"), I told the "counselor" of my turmoil.

"Oh, we can't perform an abortion against your will," she said.

"My mom won't take me home if I don't have it. I guess I better do it," I told her.

That was all she needed to hear.

This time instead of a suction abortion as with my previous abortion, I received an unsedated "D & C" for which I was unprepared.

I bled more heavily after this procedure (by the way, none of the medical personnel wore hats or gloves) and I laid for hours doubled over and crying on the enclosed porch of the "clinic".

I have since married, borne children, and most importantly, I have made my peace with God. I hope my testimony will enable others to never endure the hurts I have had.

Sincerely,

MRS. MARION SYVERSEN.●

CHARLES FRANKLIN DUNBAR AMBASSADOR TO YEMEN

● Mr. PELL. Mr. President, I am pleased that, at long last, the Senate has confirmed Charles Franklin Dunbar as the U.S. Ambassador to the Yemen Arab Republic. This nomination was originally received last year, was reported out of the committee favorably early this year, and has been pending on the Senate Calendar since February. The ambassadorial post in Yemen has been vacant for 11 months now. In that troubled part of the world, where U.S. interests are many, we need all of our ambassadorial posts filled by able and talented professionals. Mr. Dunbar fits the bill perfectly, and I am delighted that, finally, the Senate has informed this distinguished foreign service officer to serve as the United States Ambassador to the Yemen Arab Republic.●

THE FAMILY SECURITY ACT OF 1988

● Mr. COHEN. Mr. President, DANIEL PATRICK MOYNIHAN has labored for many years in pursuit of compassionate and responsible welfare policy in this country. Decades ago, he saw the need for change in the way our society addresses the problem of family poverty. His efforts to change Federal welfare policy for the better have been legion and his expertise on the subject is formidable. He has been a man ahead of his time and I am happy to see that the U.S. Senate, having yesterday approved his very significant welfare reform bill, seems to have been pulled forward in his wake.

The Family Security Act of 1988, introduced by Senator MOYNIHAN, would bring about fundamental improvements in the nature and operation of the Nation's welfare system and thereby make that system much more equal to the social, demographic, and economic realities we hope for it to ameliorate. I commend Senator MOYNIHAN for his persistence and his tireless pursuit of the goal of improving our welfare system and I congratulate him for his fine work. I must also commend the chairman of the Finance Committee and the members of that committee who have done so much to advance this measure.

The Census Bureau has estimated that, in the United States today, one child in five suffers in poverty. One child out of every four born is born into poverty. The implications of these numbers are indeed grave, especially when one considers that the perils of beginning life in poverty can affect the development of a child in ways that can never be overcome.

Despite the best of intentions and vast expenditures, our current welfare system too often hinders rather than helps the least fortunate in our society. The system hinders its beneficiaries by trapping them into dependence on government assistance rather than encouraging them and empowering them to work toward self-sufficiency. The thrust of the Family Security Act is to make efforts to help welfare recipients to help themselves a central feature of the Nation's welfare system.

The Nation's basic welfare program for families with children, Aid to Families with Dependent Children [AFDC], was established in 1935 to meet circumstances much different than we face today. AFDC was designed as a program to help widows, who were expected to stay home rather than work, to raise their children. It was expected that, with the passing of time, Social Security and unemployment insurance coverage would render AFDC no longer necessary.

After the passage of more than 50 years, AFDC is still with us, but social, demographic, and economic forces that bear upon family poverty are much changed. It is much more common today for children to grow up in a female-headed household. The number of such households rose from 4.5 million in 1960 to 10.1 million in 1985. Poverty is much more prevalent among female-headed households and tends to persist longer. In female-headed households more than 50 percent of all children are poor.

Of course, society no longer assumes that women will stay home with their children. Currently, about half of American women with children under the age of 1 work. Accordingly, the recent public debate on the reform of the Nation's welfare system has been characterized by a consensus that welfare mothers should be encouraged to support themselves and their children through work.

SUMMARY OF THE FAMILY SECURITY ACT OF 1988

CHILD SUPPORT ENFORCEMENT

According to the Census Bureau, of the nearly 9 million mothers with children whose fathers were not living at home in early 1986, nearly 40 percent had never been awarded child support. Of those who were entitled to child support in 1986, only half received the full amount due.

The Family Security Act would reassert the appropriate expectation and requirement that both parents share in the responsibility for the support of their children. The bill would strengthen the child support enforcement system by encouraging and helping States to establish paternity for purposes of awarding appropriate child support and by taking further steps to ensure that children enjoy the financial support of an absent parent.

EDUCATION, EMPLOYMENT, AND TRAINING

The Family Security Act would begin to transform our welfare system from a system that helps its beneficiaries to do little more than subsist to a system that strives, first and foremost, to provide opportunities for education, training, and gainful employment. The bill before the Senate would establish a new program, the Job Opportunities and Basic Skills [JOBS] Program, under which the States would provide work, training, and education activities to help welfare recipients move from welfare to gainful employment.

For most families who receive welfare benefits, welfare participated does not last for very long. Most mothers who receive AFDC benefits will do so for no more than 4 years over the course of their adult lives. However, about one-fourth of women who enroll in AFDC are expected to use it for 10 years or more. These long-term recipients collect more than 60 percent of AFDC benefits. The Family Security Act would require States to make a special effort to help these long-term recipients escape dependency.

TRANSITIONAL ASSISTANCE

In order to help welfare recipients make the transition from welfare to work, the Family Security Act provides for child care assistance for 9 months and continued Medicaid coverage for up to 12 months as a mother enters the work force.

ASSISTANCE TO TWO-PARENT FAMILIES

This welfare reform measure would require all the States to provide welfare assistance to needy families in which both parents are present, but in which the principal earner is unemployed. Currently, about half the States—including my State of Maine—provide such support. This requirement is intended to prevent the exclusion of two-parent families from welfare assistance from driving a parent away.

PAYING FOR WELFARE REFORM

The entire cost of this legislation—an estimated $2.8 billion over the next 5 years—will be offset by other provisions of the bill. This legislation would extend the current authority of the Internal Revenue Service to deduct from tax refunds debts owed the Federal Government. The remainder of the revenue necessary to cover the new costs of the welfare reform bill would come from limiting the business deduction for meals and entertainment for very high income individuals.

Mr. President, I am pleased to have been a cosponsor and supporter of the Family Security Act. This legislation offers hope through greater efforts to break the grip of poverty that holds so many American families. I am hopeful that the Senate will be able to negotiate successfully with the House of Representatives in order to present back to us and to the President a welfare reform measure he will sign into law. Again, I commend and applaud the efforts of Senator MOYNIHAN and his colleagues on the Finance Committee for their fine work on this legislation.●

NORIEGA

● Mr. SIMON. Mr. President, in traveling through Tennessee on the way to speak at the commencement at Knoxville College, a very fine institution in Tennessee that is now on its way back, I stopped at the Nashville airport and picked up the Tennessean.

On the front page was a story headed "Noriega's Ouster a Fiasco—Ford."

It is a story about a speech that former President Gerald R. Ford made in Nashville about the situation in Panama where we face the military dictatorship of Manuel Noriega.

The Ford statement says that we should have consulted and worked with our friends in Central America in devising a policy for Panama that is absolutely sound. His remarks coincide with the reactions I have received in telephone conversations from Archbishop Marcos McGrath of Panama, the leading Roman Catholic prelate there, and former President Jimmy Carter.

President Ford was involved in our policy with Panama, and his advice ought to be weighed.

I ask that the Tennessean article be inserted in the RECORD at this point.

The article follows:

[From the Tennessean, June 11, 1988]

NORIEGA'S OUSTER A FIASCO—FORD

(By Jim O'Hara)

The Reagan administration bungled its attempt to oust Panama's military strongman Manuel Noriega by not acting in concert with other Central American countries, former President Gerald Ford said yesterday.

Ford spoke to a telecommunications convention at Opryland Hotel and received a round of applause for his criticisms—done without naming the Reagan administration—of the Noriega affair.

"I don't think we have handled that very well to be honest with you," he said. Noriega has been indicted in the United States for drug trafficking and has successfully resisted Reagan administration efforts either to oust him or negotiate with him to leave Panama.

"There is no question in my mind he is unscrupulous, evil, sinister, whatever you want to call him," Ford said. "He is certainly no friend of the United States."

The former president suggested that he would have followed a course of trying to get other countries to band together with this country in an effort to force Noriega out of office.

"Our efforts were either not well planned or well executed," he said. "There is no doubt in my mind we would have gotten better results if we had sought the help and assistance of some of our friends in Central America whom I'm sure have no love for Noriega.

"Unfortunately, as I see it, we decided we could act unilaterally."

Ford was political, but not partisan, in his prepared remarks to the International SL-1 Users Association's annual conference and said he would even try to be "objective" in answering a question about the "Republican Party's prospects" in 1988."I believe it will be a very close election," said Ford, a Republican. "I believe [Vice President] George Bush can win even though the polls show him 10 points behind."

Ford reminded his audience that polls showed him 33 points behind Jimmy Carter in 1976 and he ended up losing the election by less than two percentage points.

"The bottom line will be the economy," he said. "People basically vote their pocketbooks."

He was also asked about the Iran-contra scandal and whether he would pardon Oliver North, the former Marine colonel who faces trial for his role in the affair.

Calling Iran-contra a "disaster," Ford said the National Security Council was supposed to be a think tank for the president, to give him independent advice, and was never intended to be used for "field operations."

But Ford, who pardoned former President Richard Nixon after Watergate, declined to say whether he would recommend pardoning North.

"This is a very personal decision by the President," he said.

Ford sounded notes of optimism about the U.S. economy, although he was quick to point out there were also serious problems facing the country, citing the trade imbalance and the federal deficit.

He offered a number of observations such as complaining that the presidential nominating process is too long and costly, that Congress has become "ineffective" and "unmanageable," and that the federal budget deficits represent an "economic time bomb."●

RETURN OF AMERICANS MISSING IN ACTION

● Mr. DANFORTH. Mr. President, last week the Pentagon publicly identified the remains of 4 airmen among the 17 servicemen returned to the United States from Vietnam on March 2. One of the men identified was Lt. Col. Robert Gregory, a native of Cape Girardeau, MO. Lieutenant Colonel Gregory was a decorated hero of the Vietnam war. He received three Purple Hearts, a Distinguished Flying Cross, an Air Medal, and a Silver Star.

On December 2, 1966, then Capt. Robert Gregory crashed in the outskirts of Hanoi. Later that day a fellow crewmember saw Robert Gregory lying on a stretcher. The two were taken to the Hoa Lo prison. Nothing more was known of Captain Gregory's fate until recently. Though he had been declared dead in 1973, his wife, Marjorie, had held out hope until last month.

Last year, Robert Gregory was featured in a Life magazine article entitled "Are Any Still Alive? Twenty-Five Compelling Cases From Vietnam." In the article, Marjorie Gregory said: "I keep thinking my doorbell will ring one of these days. He wouldn't mark me off if I were missing." Now Marjorie, at least, will be able to bury her husband. As she stated last week in an article in the Southeast Missourian, "It's been painful already, and we've still got a lot of pain to go through until we get through with this. And then, maybe we can get on with our lives."

Robert Gregory will be buried in a military ceremony later this year. His return, over 21 years after he was shot down, can only serve to remind us of the 2,400 servicemen, 50 of those Missourians, who remain unaccounted for in Southeast Asia.

Mr. President, since Gen. John Vessey's trip to Vietnam last August, the Vietnamese have returned the remains of our servicemen on four occasions. I am fully supportive of General Vessey and his efforts to secure the return of the recoverable remains of those missing in action. One cannot know whether the Vietnamese are having difficulty finding MIA remains. But it certainly appears to me that they are purposefully dragging out the return of our war casualties.

The President has stated repeatedly that the fullest possible accounting of those Americans missing in action in Southeast Asia is a matter of highest national priority. Fifteen years since the last American combat troops left Southeast Asia, and 13 years since the end of the war in Vietnam, the families of those men still missing continue to live in uncertainty.

I present the case of Lieutenant Colonel Gregory to recognize the bravery of a service member from my own State of Missouri and to say that this Senator will be satisfied with nothing less than a full accounting.

As the years pass, memories can fade. The attention of the media moves elsewhere. But let me tell you that Marjorie Gregory's memory never faded; for 21 years, pain and anxiety have been her constant companions.

I believe the most important message we can send to the Vietnamese is that the United States Government stands shoulder to shoulder with Marjorie Gregory and with every other family member and friend of an MIA. The message is that the United States will never forget and will accept nothing less than a full accounting, no matter how long it takes.●

SUBSTANTIVE AND TECHNICAL AMENDMENTS TO TITLE 18, UNITED STATES CODE

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 719, S. 2485.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2485) to make minor substantive and technical amendments to title 18, United States Code, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2411

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. Biden and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd], for Mr. Biden, proposes an amendment numbered 2411.

On page 64 strike out beginning with line 17 through line 2 on page 66.

Mr. ROTH. Mr. President, would it bother you if young, ambitious adults in pursuit of the American dream were being cheated out of their hard-earned dollars while they traveled across the country, far from their homes, selling goods at the doors of unsuspecting customers?

After hearing a number of reports that young, door-to-door sales agents were being abused in this manner, the Permanent Subcommittee on Investigations conducted a lengthy investigation into the door-to-door sales industry and held a hearing on the subject on April 6, 1987. The evidence presented at this hearing was most alarming—inadequate compensation for even the most basic necessities of life.

I am not talking about legitimate door-to-door sales organizations, such as Avon, Amway, and others. I am talking about groups of young sales agents headed by crew leaders who travel from State to State selling magazine subscriptions and cleaning products. In numerous cases, former sales agents reported that they had been victimized at the hands of these itinerant crew leaders. Young adults—generally 18 to 25 years of age—are lured by enticing ads, leading them to interview for jobs with the traveling sales crews. After receiving deceptive and misleading information at the interviews, the young adults are hired and told to be ready to leave their homes within hours, often only to whisked away to distant cities.

Once hired, sales agents typically work extremely long hours, 6 days a week, yet they rarely get compensated. Instead, their money is kept "on the books"—records kept by the crew leaders which are rarely seen or understood by the sales agents. Though only small amounts of money are doled out as daily allowances for food and other personal items—usually $8-$15, sometimes less—many sales agents are told that they are in debt to their sales organizations.

Unfortunately, the States are often unable to protect these young Americans sufficiently since the sales groups move rapidly from jurisdiction to jurisdiction. Because I believe that the Federal law should be changed to help these young people, I introduced legislation (S. 988) that would make such a change. I am pleased to report that my proposal is included as section 181 of S. 2485, the Minor and Technical Criminal Law Amendments Act of 1988.

The section extends criminal sanctions to those who lure the sales agent into interstate travel only to cheat them out of the earnings due them. Under current Federal law, 18 United States Code 2314, the Government may only prosecute in cases where a victim is defrauded of $5,000. Since most agents who have been swindled realize the situation before they have been conned out of $5,000, this statute has not been used to prosecute those who defraud traveling sales agents. While that threshold amount is designed to assure that the Federal Government only gets involved in significant cases, it is important to realize that where large numbers of young people are systematically cheated out of their hard earned money, the cases are significant. Accordingly, this provision allows the Government to prosecute where more than one person was swindled, and the total fraud involves at least $5,000.

Legitimate sales organizations have nothing to fear from this provision; indeed, they should welcome standards that will ensure that their unscrupulous counterparts are prohibited from stealing the labor and earnings of hundreds of young people. I commend my colleague from Delaware, Senator Joseph Biden, for including my proposal in S. 2485, a significant bipartisan effort. I appreciate his interest in this important subject.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment offered by the Senator from Delaware.

The amendment (No. 2411) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2485) was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 2485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—MINOR AND TECHNICAL CRIMINAL LAW AMENDMENTS ACT OF 1988

SEC. 101. SHORT TITLE.

This title may be cited as the "Minor and Technical Criminal Law Amendments Act of 1988".

SEC. 102. CORRECTION OF CROSS REFERENCE.

Section 38 of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "section 23" and inserting "section 34".

SEC. 103. CORRECTION OF ERRONEOUS REFERENCE.

Section 50(a) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "1961(a)" and inserting "1961(l)".

SEC. 104. CORRECTION OF MISPRINT.

Section 58(g) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "Section 3147 Amendments.—Section 3147 of title" and inserting "Repeal.—(1) Title".

SEC. 105. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 31.

Section 31 of title 18, United States Code, is amended by striking "door in opened" and inserting "door is opened".

SEC. 106. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 32.

Section 32(a)(3) of title 18, United States Code, is amended by striking "intefering" and inserting "interfering".

SEC. 107. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 152.

The third paragraph of section 152 of title 18, United States Code, is amended by striking "penalty or perjury" and inserting "penalty of perjury".

SEC. 108. CONSPIRACY AGAINST CIVIL RIGHTS.

(a) In General.—Section 241 of title 18, United States Code, is amended by striking "citizen" and inserting "inhabitant of any State, Territory, or District".

(b) Conforming Amendments.—(1) The heading for section 241 of title 18, United States Code, is amended by striking "**of citizens**".

(2) The item relating to section 241 in the table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by striking "of citizens".

SEC. 109. DEPRIVATION OF CIVIL RIGHTS.

Section 242 of title 18, United States Code, is amended by inserting "and if bodily injury results shall be fined under this title or imprisoned not more than ten years, or both;" after "both;".

SEC. 110. DESIGNATION OF ADDITIONAL HIGH LEVEL OFFICIALS OF THE DEPARTMENT OF JUSTICE TO PERFORM CERTAIN FUNCTIONS RELATING TO CRIMINAL AND ANCILLARY PROCEEDINGS.

(a) Approval of Certain Civil Rights Prosecutions.—Section 245(a)(1) of title 18, United States Code, is amended—

(1) by striking "or the Deputy" and inserting ", the Deputy";

(2) by inserting ", the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General" after "Deputy Attorney General".

(b) Approval of Prosecutions for Flight To Avoid Service of Process and Related Proceedings.—Section 1073 of title 18, United States Code, is amended by inserting ", the Deputy Attorney General, the Associate Attorney General," after "the Attorney General".

(c) Definition of "Attorney General" for Purposes of Certain Racketeering Proceedings.—Section 1961(10) of title 18, United States Code, is amended by inserting "the Associate Attorney General of the United States," after "Deputy Attorney General of the United States,".

(d) Summoning of Special Grand Juries.—Section 3331(a) of title 18, United States Code, is amended by inserting ", the Associate Attorney General" after "Deputy Attorney General".

(e) Requesting Judicial Grant of Immunity in General.—Section 6003(b) of title 18, United States Code, is amended—

(1) by inserting ", the Associate Attorney General" after "Deputy Attorney General"; and

(2) by inserting "or Deputy Assistant Attorney General" after "Assistant Attorney General".

(f) Requesting Judicial Grant of Immunity in Certain Drug Cases.—Section 514(c) of the Controlled Substances Act (21 U.S.C. 884(c)) is amended by inserting ", the Associate Attorney General" after "Deputy Attorney General".

(g) Objecting To Disclosure of Classified Information Under the Classified Information Procedures Act.—Section 14 of the Classified Information Procedures Act (18 U.S.C. App. 14) is amended by inserting ", the Associate Attorney General," after "Deputy Attorney General".

SEC. 111. OFF-HIGHWAY VEHICLE IDENTIFICATION OFFENSE.

Section 553(b)(2) of title 18, United States Code, is amended to read as follows:

"(2)(A) in the case of a motor vehicle, is not a violation of section 511 of this title (relating to altering or removing motor vehicle identification numbers); or

"(B) in the case of off-highway mobile equipment, would not be a violation of section 511 of this title if such equipment were a motor vehicle.".

SEC. 112. REDESIGNATION OF PARAGRAPHS IN SECTION 831.

Paragraphs (3) through (6) of section 831(e) of title 18, United States Code, are redesignated as paragraphs (2) through (5), respectively.

SEC. 113. IDENTIFICATION FRAUD.

Section 1028(a)(6) of title 18, United States Code, is amended—

(1) by inserting "knowingly" before "possesses";

(2) by inserting "lawful" before "authority" the first place it appears; and

(3) by inserting "such" before "authority" the second place it appears.

SEC. 114. TRANSMISSION OF WAGERING INFORMATION.

(a) Transmission of Information to Foreign Countries.—Section 1084(b) of title 18, United States Code, is amended by inserting "or foreign country" after "State" the second place it appears.

(b) Definition of "State".—(1) Section 1084 of title 18, United States Code, is amended by adding at the end the following:

"(e) As used in this section, the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.".

(2) Section 1084(c) of title 18, United States Code, is amended by striking ", Commonwealth of Puerto Rico, territory, possession, or the District of Columbia".

SEC. 115. PUNCTUATION CORRECTION IN SECTION 1111.

Section 1111(a) of title 18, United States Code, is amended by inserting a comma after "arson".

SEC. 116. PUNCTUATION CORRECTION IN SECTION 1114.

Section 1114 of title 18, United States Code, is amended by striking the second comma after "terms of this section".

SEC. 117. CLARIFICATION OF RELATION BETWEEN TWO AMENDMENTS MADE BY PUBLIC LAWS ENACTED IN THE 99TH CONGRESS.

Section 1153 of title 18, United States Code, is amended by striking "maiming" and all that follows through "incest" and inserting "maiming, a felony under chapter 109A, incest".

SEC. 118. CORRECTION OF SUBSECTION DESIGNATION.

Section 1203 of title 18, United States Code, is amended by striking "(C)" the last place it appears and inserting "(c)".

SEC. 119. OBSTRUCTION OF JUSTICE AMENDMENTS.

(a) Expansion of Venue for Sections 1512 and 1503 Cases.—Section 1512 of title 18, United States Code, is amended by adding at the end the following:

"(h) A prosecution under this section or section 1503 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or in the district in which the conduct constituting the alleged offense occurred.".

(b) Definition Changes.—Section 1515(a)(1)(A) of title 18, United States Code, is amended by inserting "a judge of the United States Tax Court, a special trial judge of the Tax Court, a judge of the United States Claims Court," after "bankruptcy judge,".

(c) Corrupt Persuasion.—Section 1512(b) of title 18, United States Code, is amended by striking "or threatens" and inserting "threatens, or corruptly persuades".

(d) Definition.—Section 1515(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) the term 'corruptly persuades' does not include conduct which would be misleading conduct but for a lack of a state of mind.".

SEC. 120. CONFORMING AMENDMENT TO TABLE OF SECTIONS.

The item relating to section 1515 in the table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting "; general provision" after "provisions".

SEC. 121. CROSS REFERENCE CORRECTIONS AND ADDITIONS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) striking "section 511" and inserting "section 513";

(2) striking "section 543" and inserting "section 545"; and

(3) inserting "section 657 (relating to lending, credit, and insurance institutions), section 658 (relating to property mortgaged or pledged to farm credit agencies)," after "section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee),".

SEC. 122. CROSS REFERENCE CORRECTION AND ADDITIONS.

Section 1961(1) of title 18, United States Code, is amended by striking "section 2320" and inserting "section 2321".

SEC. 123. SYNTAX CORRECTION IN SECTION 1962.

Section 1962(d) of title 18, United States Code, is amended by striking "subsections" and inserting "subsection".

SEC. 124. SECTION 1963 AMENDMENTS.

(a) Correction of Typographical Error in Subsection (n).—Section 1963(n) of title 18, United States Code, is amended by striking "act of omission" and inserting "act or omission".

(b) Redesignation.—Subsection (n) of section 1963 of title 18, United States Code, is redesignated as subsection (m).

SEC. 125. CLERICAL CORRECTION TO TABLE OF CONTENTS FOR CHAPTER 119.

The table of sections at the beginning of chapter 119 of title 18, United States Code, is amended by striking "wire or oral" in the items relating to sections 2511, 2512, 2513, 2516, 2517, 2518, and 2519 and inserting "wire, oral, or electronic".

SEC. 126. SECTION 2516 AMENDMENTS.

(a) Syntax Correction.—Section 2516(1) of title 18, United States Code, is amended—

(1) by inserting "or" after "Associate Attorney General,", and

(2) by striking the comma that follows a comma.

(b) Correction of Cross-References.—Section 2516(1)(c) of title 18, United States Code, is amended—

(1) by striking "the second section 2320" and inserting "section 2321"; and

(2) by striking "section 2252 or 2253 (sexual exploitation of children),".

(c) Punctuation Corrections.—

(1) section 2516(1)(a) is amended by striking "(relating to riots);" and inserting "(relating to riots),";

(2) section 2516(1)(j) is amended by striking "or;"; and

(3) section 2516(1)(k) is amended by inserting "or" at the end thereof.

SEC. 127. CORRECTION OF CROSS REFERENCE.

Section 2702(b)(2) of title 18, United States Code, is amended by striking "2516" and inserting "2517".

SEC. 128. GOVERNMENTAL ACCESS TO CONTENTS OF ELECTRONIC COMMUNICATIONS IN AND RECORDS OF A REMOTE COMPUTING SERVICE.

Sections 2703(b)(1)(B)(i) and 2703(c)(1)(B)(i) of title 18, United States Code, are amended by inserting "or trial" after "grand jury".

SEC. 129. DEFINITION OF COURT FOR CERTAIN APPLICATIONS.

Section 2703(d) of title 18, United States Code, is amended by inserting "may be issued by any court that is a court of competent jurisdiction set forth in section 3126(2)(A) of this title and" before "shall issue".

SEC. 130. SECTION 3124 AMENDMENT.

Section 3124(b) of title 18, United States Code, is amended by inserting "order" after "court" the last place it appears.

SEC. 131. SENTENCING CLASSIFICATION OF OFFENSES.

(a) Redesignation.—Section 3559(a) of title 18, United States Code, is amended—

(1) by striking "classified—" and all that follows through "is—" and inserting "classified if the maximum term of imprisonment authorized is—"; and

(2) by redesignating subparagraphs (A) through (I) as paragraphs (1) through (9).

(b) Class B Classification.—Section 3559(a) of title 18, United States Code, is amended in each of paragraphs (2) and (3) (as so redesignated by subsection (a)), by striking "twenty" and inserting "twenty-five".

SEC. 132. CORRECTION OF CROSS REFERENCES.

Subsection (h) of section 3663 of title 18, United States Code, is amended to read as follows:

"(h) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.".

SEC. 133. FURLOUGH OF CERTAIN INDIVIDUALS ORDERED TO BE COMMITTED FOR INSANITY.

Section 4243 of title 18, United States Code, is amended by adding at the end thereof the following:

"(h) Limitations on Furloughs.—An individual who is hospitalized under subsection (e) of this section after being found not guilty only by reason of insanity of an offense for which subsection (d) of this section creates a burden of proof of clear and convincing evidence, may leave temporarily the premises of the facility in which that individual is hospitalized only—

"(1) with the approval of the committing court, upon notice to the attorney for the Government and such individual, and after opportunity for a hearing;

"(2) in an emergency; or

"(3) when accompanied by a Federal law enforcement officer (as defined in section 115 of this title).".

SEC. 134. PERIODIC REPORTS RELATING TO CERTAIN HOSPITALIZED PERSONS.

Section 4247(e)(1)(B) of title 18, United States Code, is amended by adding at the end thereof the following: "A copy of each such report concerning a person hospitalized after the beginning of a prosecution of that person for violation of section 871, 879, or 1751 of this title shall be submitted to the Director of the United States Secret Service. Except with the prior approval of the court, the Secret Service shall not use or disclose the information in these copies for any purpose other than carrying out protective duties under section 3056(a) of this title.".

SEC. 135. INSERTION OF MISSING CLOSE PARENTHESIS.

The last paragraph of section 5034 of title 18, United States Code, is amended by striking "facility upon" and inserting "facility) upon".

SEC. 136. AMENDMENT TO RULES OF EVIDENCE CONFORMING TERMINOLOGY RELATING TO SEX OFFENSES.

(a) In General.—Rule 412 of the Federal Rules of Evidence is amended—

(1) in the heading of such rule, by striking "**Rape**" and inserting "**Sex Offense**";

(2) in subdivisions (a) and (b), by striking "rape or of assault with intent to commit rape" each place it appears and inserting "an offense under chapter 109A of title 18, United States Code";

(3) in subdivision (a), by striking "rape or assault" and inserting "offense";

(4) by striking "rape or assault with intent to commit rape" each place it appears and inserting "an offense under chapter 109A of title 18, United States Code"; and

(5) in subdivision (b)(2)(B), by striking "rape or assault" and inserting "such offense".

(b) Clerical Amendment.—The item relating to rule 412 in the table of contents at the beginning of the Federal Rules of Evidence is amended by striking "Rape" and inserting "Sex Offense".

SEC. 137. EXTENSION OF POWER TO MAKE CERTAIN EXAMINATIONS TO PSYCHOLOGISTS.

(a) Section 4247(b).—Section 4247(b) of title 18, United States Code, is amended by striking "clinical psychologist" and inserting "psychologist".

(b) Conforming Amendment to Rule 35.—Rule 35 of the Federal Rules of Civil Procedure is amended—

(1) in subdivision (a), by striking "physical or mental examination by a physician" and inserting "physical examination by a physician, or mental examination by a physician or psychologist";

(2) in subdivision (b), by inserting "or psychologist" after "physician" each time it appears, and by adding "or psychologist" to the heading of the subdivision; and

(3) by adding at the end the following new subdivision:

"(c) For the purpose of this rule, a psychologist is a psychologist licensed or certified by a State or the District of Columbia.".

SEC. 138. SYNTACTICAL CORRECTION RELATING TO CERTAIN COUNTERFEIT OR FORGED ITEMS.

The second paragraph of section 2315 of title 18, United States Code, is amended by striking "which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken" and inserting "moving as, or which are a part of, or which constitute interstate or foreign commerce".

SEC. 139. FORM CORRECTION IN FEDERAL RULES OF CIVIL PROCEDURE.

Rule 17(a) of the Federal Rules of Civil Procedure is amended by striking "with him".

SEC. 140. PUNCTUATION CORRECTION IN FEDERAL RULES OF CIVIL PROCEDURE.

Rule 71A(e) is amended by striking "taking of the defendants property" and inserting "taking of the defendant's property".

SEC. 141. DEFINITION OF 'UNITED STATES' IN REFERENCE TO TERRORIST ACTS.

Section 3077(4) of title 18, United States Code, is amended to read as follows:

"(4) 'United States,' when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States;".

SEC. 142. CROSS REFERENCES PERTAINING TO ARREST AUTHORITY FOR VIOLATION OF RELEASE CONDITIONS.

Section 3062 of title 18, United States Code, is amended by striking "a condition imposed on the person pursuant to section 3142 (c)(2)(D), (c)(2)(E), (c)(2)(H), (c)(2)(I), or (c)(2)(M), or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(2)(J)" and inserting "a condition imposed on the person pursuant to section 3142(c)(1)(B) (iv), (v), (viii), (ix), or (xiii), or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(1)(B)(x)".

SEC. 143. RENUMBERING OF SECTIONS IN CHAPTER 95.

(a) Section 1958.—Section 1952A of title 18, United States Code, is redesignated as section 1958.

(b) Section 1959.—Section 1952B of title 18, United States Code, is redesignated as section 1959.

(c) Table of Sections.—The table of sections at the beginning of chapter 95 of title 18, United States Code, is amended—

(1) by striking "1952A" and inserting "1958";

(2) by striking "1952B" and inserting "1959"; and

(3) by inserting the items for redesignated sections 1958 and 1959 at the end of the table.

(d) Section 2516(c).—Section 2516(c) of title 18, United States Code, is amended—

(1) by striking "1952A" and inserting "1958"; and

(2) by striking "1952B" and inserting "1959".

SEC. 144. ADDITION OF RICO PREDICATE.

Section 1961(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)" the following: ", section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), sections 2251-2252 (relating to sexual exploitation of children)"; and

(2) by inserting after "sections 891-894 (relating to extortionate credit transactions)" the following: ", section 1029 (relative to fraud and related activity in connection with access devices)".

SEC. 145. ASSET FORFEITURE AMENDMENTS.

(a) Forfeiture of Personal Property in Narcotics Cases.—Section 511(a)(7) of the Controlled Substances Act (21 U.S.C. 881(a)(7)) is amended by striking "All" and inserting "All tangible or intangible personal property, and all".

(b) Restoration of Equitable Sharing Provisions.—Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by redesignating paragraph (2) as paragraph (3) and inserting a new paragraph (2) as follows:

"(2) The Attorney General shall ensure the equitable transfer pursuant to paragraph (1)(A) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1)(A) shall not be subject to review.".

SEC. 146. AUTHORIZATION OF POSTAL SERVICE TO INVESTIGATE MONEY LAUNDERING.

(a) Jurisdiction.—(1) Section 1956 of title 18, United States Code, is amended by striking all that follows "appropriate" in subsection (e) and inserting the following: "and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General."

(2) Section 1957 of title 18, United States Code, is amended by striking all that follows "appropriate" in subsection (e) and inserting the following: "and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General."

(b) Conforming Amendments.—Section 981 of title 18, United States Code, is amended by—

(1) inserting "or the Postal Service" in subsection (b) following "Secretary of the Treasury" the first two times it appears;

(2) striking "the Attorney General or the Secretary of the Treasury" in subsections (b)(2) and (c) through (e) and inserting "the Attorney General, the Secretary of the Treasury, or the Postal Service";

(3) adding at the end of subsection (d) the following: "The Attorney General shall have sole responsibility for disposing of petitions for remission or mitigation with respect to property involved in a judicial forfeiture proceeding"; and

(4) adding at the end of subsection (e) the following: "The authority granted to the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited."

(c) POWERS OF THE SECRETARY.—Section 5318(a)(1) of title 31, United States Code, is amended by inserting "or the Postal Inspection Service" after "supervising agency".

SEC. 147. FEDERAL PRISON INDUSTRIES REFORM.

(a) AUTHORITY OF FEDERAL PRISON INDUSTRIES TO BORROW AND INVEST FUNDS.—

(1) GRANT OF AUTHORITY.—Chapter 307 of title 18, United States code, is amended by inserting after section 4128 the following new section:

"§ 4129. Authority to borrow and invest

"(a)(1) As approved by the board of directors, Federal Prison Industries, to such extent and in such amounts as are provided in appropriations acts, is authorized to issue its obligations to the Secretary of the Treasury and the Secretary of the Treasury, in the Secretary's discretion, may purchase or agree to purchase any such obligations. For such purchases, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31 after the date of the enactment of this section, and the purposes for which securities may be issued under that chapter are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity.

"(2) The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as the Secretary shall determine, any of the obligations acquired by the Secretary under this subsection. All purchases and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(b) Federal Prison Industries may request the Secretary of the Treasury to invest excess moneys from the Prison Industries Fund. Such investments shall be in public debt securities with maturities suitable to the needs of the corporation as determined by the board of directors, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 307 of title 18, United States Code, is amended by adding at the end the following new item:

"4129. Authority to borrow and invest.".

(b) USE OF FUNDS.—Section 4126 of title 18, United States Code, is amended—

(1) by designating the first through fifth paragraphs as subsections (a) through (e), respectively;

(2) by amending subsection (c), as designated by paragraph (1) of this section, to read as follows:

"(c) The corporation, in accordance with the laws generally applicable to the expenditures of the several departments, agencies, and establishments of the Government, is authorized to employ the fund, and any earnings that may accrue to the corporation—

"(1) as operating capital in performing the duties imposed by this chapter;

"(2) in the lease, purchase, other acquisition, repair, alteration, erection, and maintenance of industrial buildings and equipment;

"(3) in the vocational training of inmates without regard to their industrial or other assignments;

"(4) in paying, under rules and regulations promulgated by the Attorney General, compensation to inmates employed in any industry, or performing outstanding services in institutional operations, and compensation to inmates or their dependents for injuries suffered in any industry or in any work activity in connection with the maintenance or operation of the institution in which the inmates are confined.

In no event may compensation for such injuries be paid in an amount greater than that provided in chapter 81 of title 5."; and

(3) by adding at the end the following:

"(f) Funds available to the corporation may be used for the lease, purchase, other acquisition, repair, alteration, erection, or maintenance of facilities only to the extent such facilities are necessary for the industrial operations of the corporation under this chapter. Such funds may not be used for the construction or acquisition of penal or correctional institutions, including camps described in section 4125.".

(c) REPORTS TO CONGRESS.—Section 4127 of title 18, United States Code, is amended to read as follows:

"The board of directors of Federal Prison Industries shall submit an annual report to the Congress on the conduct of the business of the corporation during each fiscal year, and on the condition of its funds during such fiscal year. Such report shall include a statement of the amount of obligations issued under section 4129(a)(1) during such fiscal year, and an estimate of the amount of obligations that will be so issued in the following fiscal year.".

(d) GUIDELINES AND PUBLIC COMMENT ON NEW OR EXPANDED PRODUCTION BY FEDERAL PRISON INDUSTRIES.—Section 4122(b) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking out "all physically fit inmates in the United States penal and correctional institutions" and inserting in lieu thereof "the greatest number of those inmates in the United States penal and correctional institutions who are eligible to work as is reasonably possible"; and

(3) by adding at the end thereof the following:

"(2) Federal Prison Industries shall conduct its operations so as to produce products on an economic basis, but shall avoid capturing more than a reasonable share of the market among Federal departments, agencies, and institutions for any specific product. Federal Prison Industries shall concentrate on providing to the Federal Government only those products which permit employment of the greatest number of those inmates who are eligible to work as is reasonably possible.

"(3) Federal Prison Industries shall diversify its products so that its sales are distributed among its industries as broadly as possible.

"(4) Any decision by Federal Prison Industries to produce a new product or to significantly expand the production of an existing product shall be made by the board of directors of the corporation. Before the board of directors makes a final decision, the corporation shall do the following:

"(A) The corporation shall prepare a detailed written analysis of the probable impact on industry and free labor of the plans for new production or expanded production. In such written analysis the corporation shall, at a minimum, identify and consider—

"(i) the number of vendors currently filling the requirements of the Federal Government for the product;

"(ii) the proportion of the Federal Government market for the product currently served by small businesses, small disadvantaged businesses, or businesses operating in labor surplus areas;

"(iii) the size of the Federal Government and non-Federal Government markets for the product;

"(iv) the projected growth in the Federal Government demand for the product; and

"(v) the projected ability of the Federal Government market to sustain both Federal Prison Industries and private vendors.

"(B) The Corporation shall announce in a publication designed to most effectively provide notice to potentially affected private vendors the plans to produce any new product or to significantly expand production of an existing product. The announcement shall also indicate that the analysis prepared under subparagraph (A) is available through the corporation and shall invite comments from private industry regarding the new production or the expansion.

"(C) The corporation shall directly advise those affected trade associations that the corporation can reasonably identify of the plans for new production or expanded production, and the corporation shall invite such trade associations to submit comments on those plans.

"(D) The corporation shall provide to the board of directors—

"(i) the analysis prepared under subparagraph (A) on the proposal to produce a new product or to significantly expand the production of an existing product,

"(ii) comments submitted to the corporation on the proposal, and

"(iii) the corporation's recommendations for action on the proposal in light of such comments.

In addition, the board of directors, before making a final decision under this paragraph on a proposal, shall, upon the request of an established trade association or other interested representatives of private industry, provide a reasonable opportunity to such trade association or other representatives to present comments directly to the board of directors on the proposal.

"(5) Federal Prison Industries shall publish in the manner specified in paragraph (4)(B) the final decision of the board with respect to the production of a new product or the significant expansion of the production of an existing product.

"(6) Federal Prison Industries shall publish, after the end of each 6-month period, a list of sales by the corporation for that 6-

month period. Such list shall be made available to all interested parties.".

SEC. 148. CONTROLLED SUBSTANCES AND RELATED AMENDMENTS.

(a) ATTEMPT AND CONSPIRACY AMENDMENTS.—Section 406 of the Controlled Substance Act (21 U.S.C. 846) and section 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 963) are amended by striking "is punishable" and all that follows through "punishment" and inserting "shall be subject to the same penalties as those".

(b) CLARIFYING AMENDMENTS RELATING TO FORFEITURE OF PROCEEDS OF A FOREIGN DRUG OFFENSE.—Subparagraph (B) of section 981(a)(1) of title 18, United States Code, is amended by—

(1) inserting ", real or personal," after "property";

(2) striking "which represents the proceeds of" and inserting "constituting, derived from, or traceable to, any proceeds obtained directly or indirectly from";

(3) striking "or activity" the first place it appears;

(4) inserting "under the laws of the United States" after "punishable" the second place it appears; and

(5) inserting "constituting the offense against the foreign nation" after "such act or activity".

(c) CLARIFICATION OF CONTROLLED SUBSTANCE ANALOGUE PROVISION.—Section 203 of the Controlled Substances Act (21 U.S.C. 813) is amended by striking "this title and title III" and inserting "any Federal law".

(d) CORRECTION OF REFERENCE RELATING TO MANDATORY PRISON TERMS FOR JUVENILE DRUG TRAFFICKING.—Section 405B(e) of the Controlled Substances Act (21 U.S.C. 845b(e)) is amended by striking "required by section 401(b)".

(e) CORRECTION OF TYPOGRAPHICAL ERROR.—Section 981(a)(2) of title 18, United States Code, is amended by striking "emission" and inserting "omission".

(f) CORRECTION OF REFERENCE TO SUBSECTION.—Section 981(i)(1) of title 18, United States Code, is amended by striking "subchapter" and inserting "subsection".

(g) MANDATORY MINIMUM PENALTY FOR TRAFFICKING IN SUBSTANTIAL QUANTITY OF METHAMPHETAMINE.—Subparagraph (A) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by striking "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii); and

(3) by adding a new clause (viii), as follows:

"(viii) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;".

(h) CONFORMING AMENDMENT.—Subparagraph (B) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by striking "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii); and

(3) by adding a new clause (viii), as follows:

"(viii) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;".

SEC. 149. MONEY LAUNDERING AMENDMENTS.

(a) INSERTION OF INCOME TAX PREDICATE FOR MONEY LAUNDERING OFFENSE.—Section 1956(a)(1)(A) of title 18, United States Code, is amended to read as follows:

"(A)(i) with the intent to promote the carrying on of specified unlawful activity; or

"(ii) with intent to violate or promote a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or".

(b) TRANSMISSION OR TRANSFER.—Section 1956(a)(2) of title 18, United States Code, is amended by striking "transports or attempts to transport" and inserting "transports, transmits, or transfers, or attempts to transport, transmit, or transfer".

(c) CLARIFICATION OF SCOPE OF STAY OF CIVIL FORFEITURE.—Section 981(g) of title 18, United States Code, is amended by inserting ", Federal, State or local," after "law".

SEC. 150. PROVISION OF MISDEMEANOR PENALTY FOR CERTAIN ESCAPES.

Sections 751(a) and 752(a) of title 18, United States Code, are amended by inserting ", or for exclusion or expulsion proceedings under the immigration laws," after "extradition".

SEC. 151. CLARIFICATION OF PREDICATE OFFENSE REQUIREMENTS FOR ARMED CAREER CRIMINAL ACT.

Section 924(e)(1) of title 18, United States Code, is amended by inserting "committed on occasions different from one another," after "for a violent felony or a serious drug offense, or both,".

SEC. 152. AUTHORITY FOR THE FEDERAL BUREAU OF INVESTIGATION TO INVESTIGATE, UPON REQUEST, FELONIOUS KILLINGS OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS.

(a) AUTHORITY.—Chapter 33 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 540. Investigation of Felonious Killings of State or Local Law Enforcement Officers

"The Attorney General and the Federal Bureau of Investigation may investigate felonious killings of officials and employees of a State or political subdivision thereof while engaged in or on account of the performance of official duties relating to the prevention, detection, investigation, or prosecution of an offense against the criminal laws of a State or political subdivision, when such investigation is requested by the head of the agency employing the official or employee killed, and under such guidelines as the Attorney General or his designee may establish.".

(b) CONFORMING AMENDMENTS.—The table of sections of such chapter is amended by adding at the end thereof the following item:

"540. Investigation of felonious killings of State or local law enforcement officers."

SEC. 153. TRANSPORTATION AND RECEIPT OF STOLEN SECURITIES.

(a) TRANSMISSION OR TRANSFER.—The first paragraph of section 2314 of title 18, United States Code, is amended by striking "transports" and inserting "transports, transmits, or transfers".

(b) INAPPLICABILITY OF SECTION.—The final paragraphs of sections 2314 and 2315 of title 18, United States Code, are amended—

(1) by striking "or by a bank or corporation of any foreign country"; and

(2) by adding at the end thereof: "This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money.".

SEC. 154. MAXIMUM PENALTY ADJUSTMENTS.

(a) ABUSIVE SEXUAL CONTACT.—Section 2244(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "five years" and inserting "ten years"; and

(2) in paragraph (3) by striking "one year" and inserting "two years".

(b) MURDER FOR HIRE.—Section 1958 of title 18, United States Code, is amended by striking "five years" and inserting "ten years".

(c) INVOLUNTARY MANSLAUGHTER.—Section 1112(b) of title 18, United States Code, is amended by striking "shall be fined not more than $1,000 or imprisoned not more than three years, or both" and inserting "shall be imprisoned not more than five years, or fined under this title, or both".

(d) ATTEMPTED MURDER.—Section 1113 of title 18, United States Code, is amended by striking "shall be fined not more than $1,000 or imprisoned not more than three years, or both" and inserting "shall, for an attempt to commit murder be imprisoned not more than twenty years, or fined under this title, or both, and for an attempt to commit manslaughter be imprisoned not more than three years, or fined under this title, or both."

(e) ACCESSORY AFTER THE FACT.—Section 3 of title 18, United States Code, is amended by striking "ten" and inserting "twenty-five".

(f) RACKETEERING INFLUENCED AND CORRUPT ORGANIZATIONS.—Section 1963(a) of title 18, United States Code, is amended by striking "shall be fined not more than $25,000 or imprisoned not more than twenty years, or both" and inserting "shall be fined under this title and imprisoned for not more than twenty years (or for life, if the violation is predicated on an offense for which the maximum penalty includes life in prison), or both".

SEC. 155. BALLISTIC KNIFE ACT JURISDICTIONAL CLARIFICATIONS.

The Ballistic Knife Prohibition Act of 1986 (15 U.S.C. 1245) is amended—

(1) by striking "knowingly possesses, manufactures, sells, or imports" and inserting "in or affecting interstate commerce, within any Territory or possession of the United States, within Indian country (as defined in section 1151 of title 18), or within the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18), knowingly possesses, manufactures, sells, or imports"; and

(2) by striking "or State" before "crime of violence".

SEC. 156. COMMON CARRIER OPERATION AMENDMENTS.

(a) DEFINITIONAL REFINEMENT.—Section 342 of title 18, United States Code, is amended by striking "drugs" and inserting "any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

(b) CONFORMANCE OF FINE LEVEL.—Section 342 of title 18, United States Code, is amended by striking "fined not more than $10,000," and inserting "fined under this title,".

(c) LIMITATION AND CLARIFICATION OF PRESUMPTIONS.—Section 343 of title 18, United States Code, is amended—

(1) in paragraph (1) by striking ".10" and inserting ".10 percent" and by striking "conclusively"; and

(2) in paragraph (2) by striking "conclusively".

SEC. 157. EXPLOSIVES OFFENSES AMENDMENTS.

(a) EXPANSION OF OFFENSE TO CERTAIN AIRPORTS AND STRENGTHENING OF PENALTY.—Section 844(g) of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(1) Except as provided in paragraph (2), whoever";

(2) by inserting "in an airport that is subject to the regulatory authority of the Federal Aviation Administration, or" after "possesses an explosive";

(3) by inserting "or airport" after "such building";

(4) by striking "not more than one year, or fined not more than $1,000, or both" and inserting "not more than five years, or fined under this title, or both"; and

(5) by adding at the end thereof the following:

"(2) The provisions of this subsection shall not be applicable to—

"(A) the possession of ammunition (as that term is defined in regulations issued pursuant to this chapter) in an airport that is subject to the regulatory authority of the Federal Aviation Administration if such ammunition is either in checked baggage or in a closed container; or

"(B) the possession of an explosive in an airport if the packaging and transportation of such explosive is exempt from, or subject to and in accordance with, regulations of the Research and Special Projects Administration for the handling of hazardous materials pursuant to the Hazardous Materials Transportation Act (49 App. U.S.C. 1801, et seq.).".

(b) STRENGTHENING OFFENSE OF USING OR CARRYING AN EXPLOSIVE IN COMMISSION OF A FEDERAL FELONY.—Section 844(h) of title 18, United States Code, is amended—

(1) by striking "unlawfully" in paragraph (2); and

(2) by striking "shall be sentenced" through the remainder of the subsection and inserting the following: "including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for five years. In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for ten years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the explosive was used or carried.".

(c) CONFORMING DEFINITIONAL CHANGE.—Section 842(d)(5) of title 18, United States Code, is amended to read as follows:

"(5) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

(d) CONFORMING DEFINITIONAL CHANGE.—Section 842(i)(3) of title 18, United States Code, is amended to read as follows:

"(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

SEC. 158. INTERSTATE AGREEMENT ON DETAINERS ACT AMENDMENTS.

The Interstate Agreement on Detainers Act (84 Stat. 1397) is amended by adding at the end thereof the following new section:

"§ 9. Special Provisions when United States is a Receiving State

Notwithstanding any provision of the agreement on detainers to the contrary, in a case in which the United States is a receiving State—

"(1) any order of a court dismissing any indictment, information, or complaint may be with or without prejudice. In determining whether to dismiss the case with or without prejudice, the court shall consider, among others, each of the following factors: The seriousness of the offense; the facts and circumstances of the case which led to the dismissal; and the impact of a reprosecution on the administration of the agreement on detainers and on the administration of justice; and

"(2) it shall not be a violation of the agreement on detainers if prior to trial the prisoner is returned to the custody of the sending State pursuant to an order of the appropriate court issued after reasonable notice to the prisoner and the United States and an opportunity for a hearing.".

SEC. 159. CLARIFICATION OF PROHIBITION OF POSSESSION WITH INTENT TO DISTRIBUTE CONTROLLED SUBSTANCES ON AIRCRAFT.

Section 1010(a)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(a)(3)) is amended by striking "manufactures or distributes a controlled substance" and inserting "manufactures, possesses with intent to distribute, or distributes a controlled substance".

SEC. 160. CLARIFICATION OF DEFINITION OF DRUG TRAFFICKING CRIMES IN WHICH USE OF FIREARMS AND ARMOR PIERCING AMMUNITION IS PROHIBITED.

Paragraph (2) of subsection 924(c) of title 18, United States Code, and paragraph (2) of subsection 929(a) of title 18, United States Code, are each amended to read as follows:

"(2) for purposes of this subsection, the term 'drug trafficking crime' means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1901 et seq.)."

SEC. 161. CLERICAL CORRECTIONS RELATING TO CHAPTER 44.

(a) SECTION 924(c) AMENDMENTS.—Paragraph (1) of section 924(c) of title 18, United States Code, is amended—

(1) by striking "crime,," the first place it appears and inserting "crime";

(2) by striking "crime,," each other place it appears and inserting "crime,";

(3) by striking "including a crime" and inserting "(including a crime";

(4) by striking "crime, which" and inserting "crime which";

(5) by striking "device, for" and inserting "device) for"; and

(6) by striking ", or drug trafficking crime".

(b) SECTION 929 AMENDMENT.—Paragraph (1) of section 929(a) of title 18, United States Code, is amended by striking "crime," each place it appears and inserting "crime".

(c) SECTION 922(g) AMENDMENT.—Section 922(g)(3) of title 18, United States Code, is amended by inserting "who" before "is an unlawful user".

(d) SECTION 923 AMENDMENTS.—Section 923 of title 18, United States Code, is amended—

(1) in subsection (a), by striking the period that follows "licensing"; and

(2) in subsection (f)(3), by striking the period that follows a period.

SEC. 162. INSERTION OF MISSING SUBSECTION HEADING.

Section 2706(c) of title 18, United States Code, is amended by inserting "EXCEPTION.—" after "(c)".

SEC. 163. INSERTION OF MISSING TABLE.

Chapter 113A of title 18, United States Code, is amended by inserting after the heading of such chapter the following table:

"Sec. 2331. Terrorist acts abroad against United States nationals.".

SEC. 164. CORRECTION OF ITEMS IN TABLES OF CHAPTERS.

(a) CHAPTER 113A.—The item relating to chapter 113A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking the final period and inserting ".................2331".

(b) CHAPTER 121.—The item relating to chapter 121 in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Wire and Electronic Communications and Transactional Records Access" and inserting "wire and electronic communications and transactional records access".

(c) CHAPTER 17A.—The item relating to chapter 17A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Carrier Operation Under the Influence of Alcohol or Drugs" and inserting "carrier operation under the influence of alcohol or drugs........341".

(d) CHAPTER 109A.—The item relating to chapter 109A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Abuse" and inserting "abuse".

(e) CHAPTER 11.—The item relating to chapter 11 in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Bribery and graft" and inserting "Bribery, graft, and conflicts of interest".

SEC. 165. INSERTION OF MISSING LETTER.

Section 794(d)(4) of title 18, United States Code, is amended by striking "amount" and inserting "amounts".

SEC. 166. PUNCTUATION CORRECTION.

SECTION 1030.—Section 1030(a)(2) of title 18, United States Code, is amended—

(1) by striking the comma that follows a comma; and

(2) by inserting a comma after "financial institution".

SEC. 167. REFERENCE CORRECTION.

Section 2232(c) of title 18, United States Code, is amended by inserting "of 1978" after "Surveillance Act".

SEC. 168. CONFORMING AMENDMENT TO TABLE OF SECTIONS.

The item relating to section 2710 in the table of sections at the beginning of chapter 121 of title 18, United States Code, is amended by inserting "for chapter" after "Definitions".

SEC. 169. CORRECTION OF ITEM IN TABLE OF SECTIONS FOR CHAPTER 206.

The item relating to section 3123 in the table of sections at the beginning of chapter 206 of title 18, United States Code, is amended by striking "trap or trace" and inserting "trap and trace".

SEC. 170. CORRECTION OF ITEMS IN TABLE OF SECTIONS FOR CHAPTER 46.

The items in the table of sections at the beginning of chapter 46 of title 18, United States Code, are each amended by striking "Forfeiture" and inserting "forfeiture".

SEC. 171. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 2422 of title 18, United States Code, is amended by striking "of foreign commerce" and inserting "or foreign commerce".

SEC. 172. CONFORMING AMENDMENT TO TABLE OF SECTIONS FOR CHAPTER 117.

The item relating to section 2424 in the table of sections at the beginning of chapter 117 of title 18, United States Code, is amended by striking "female" and inserting "individual".

SEC. 173. ELIMINATION OF CROSS REFERENCES TO REPEALED SECTION.

(a) SECTION 3401.—Section 3401(g) of title 18, United States Code, is amended by striking "and section 4216".

(b) SECTION 3522.—Section 3522(c) of title 18, United States Code, is amended by striking "4216" and inserting "4215".

(c) SECTION 4106.—Section 4106(b) of title 18, United States Code, is amended by striking "4216" and inserting "4215".

SEC. 174. INSERTION OF MISSING WORD.

Section 3142(c)(3) of title 18, United States Code, is amended by inserting "the" before "order".

SEC. 175. INSERTION OF MISSING COMMA.

Section 351(a) of title 18, United States Code, is amended by inserting a comma after "(as defined in section 3056 of this title)".

SEC. 176. CORRECTIONS OF ERRORS IN FEDERAL RULES OF EVIDENCE.

(a) INSERTION OF MISSING WORD.—Rule 615 of the Federal Rules of Evidence is amended by inserting "a" before "party which is not a natural person.".

(b) SYNTAX CORRECTION.—Rule 804(a)(5) of the Federal Rules of Evidence is amended by striking "subdivisions" and inserting "subdivision".

(c) CORRECTION OF CAPITALIZATION.—Rule 1101(a) of the Federal Rules of Evidence is amended—

(1) by striking "Rules" and inserting "rules"; and

(2) by striking "Courts of Appeals" and inserting "courts of appeals".

SEC. 177. SUPERVISED RELEASE.

Rule 11(c)(1) of the Federal Rules of Criminal Procedure is amended by adding "or term of supervised release" after "special parole term".

SEC. 178. INJUNCTIONS AGAINST FRAUD.

Section 1345 of title 18, United States Code, is amended by adding "or of section 287, 371 (insofar as it involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title" after "violation of this chapter,".

SEC. 179. OBSTRUCTION OF FEDERAL AUDIT.

(a) OFFENSE.—Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1516. Obstruction of Federal audit

"(a) Whoever, with intent to deceive or defraud, endeavors to influence, obstruct, or impede a Federal auditor in the performance of official duties relating to a person receiving in excess of $100,000, directly or indirectly, from the United States in any 1 year period pursuant to a contract or subcontract, shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) For purposes of this section the term 'Federal auditor' means any person employed on a full or part time or contractual basis to perform an audit or a quality assurance inspection for or on behalf of the United States.".

(b) SECTION ANALYSIS.—The section analysis for chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1516. Obstruction of Federal audit.".

SEC. 180. UNAUTHORIZED USE OF THE TERM "SECRET SERVICE".

(a) UNAUTHORIZED USE.—Section 709 of title 18, United States Code, is amended by inserting after the undesignated paragraph relating to the Federal Bureau of Investigations the following new paragraph:

"Whoever, except with written permission of the Director of the United States Secret Service, knowingly uses the words 'Secret Service', 'Secret Service Uniformed Division', the initials 'U.S.S.S.', 'U.D.', or any colorable imitation of such words or initials, in connection with, or as a part of any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, other production, product, or item, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet or other publication, product, or item, is approved, endorsed, or authorized by or associated in any manner with, the United States Secret Service, or the United States Secret Service Uniformed Division; or".

(b) EFFECTIVE DATE.—This section shall take effect 90 days after the date of enactment of this Act.

SEC. 181. AGGREGATION TO PERMIT PROSECUTION OF CERTAIN SCHEMES TO DEFRAUD MULTIPLE VICTIMS.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or persons" after "person" the first place it appears, and by inserting "or those persons" after "person" the second place it appears.

SEC. 182. TIME FOR REFILING INDICTMENT OR INFORMATION FOLLOWING DISMISSAL.

(a) INDICTMENT WHERE DEFECT FOUND AFTER PERIOD OF LIMITATIONS.—Section 3288 of title 18, United States Code, is amended—

(1) by inserting after "within six calendar months of the date of the expiration of the applicable statute of limitations" the following: ", or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final";

(2) by striking all beginning with "Whenever" through "for any cause," and inserting "Whenever an indictment or information charging a felony is dismissed for any reason";

(3) by adding at the end thereof the following: "This section is not intended to permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution."; and

(4) by amending the section heading to read as follows:

"§ 3288. Indictments and informations dismissed after period of limitations.".

(b) INDICTMENT WHERE DEFECT FOUND BEFORE PERIOD OF LIMITATIONS.—Section 3289 of title 18, United States Code, is amended—

(1) by inserting after "within six calendar months of the date of the dismissal of the indictment or information" the following: "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final";

(2) by striking all beginning with "Whenever" through "for any cause," and inserting "Whenever an indictment or information charging a felony is dismissed for any reason";

(3) by adding at the end thereof the following: "This section is not intended to permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution."; and

(4) by amending the section heading to read as follows:

"§ 3289. Indictments and informations dismissed before period of limitations.".

(c) CHAPTER ANALYSIS.—The analysis for chapter 213 of title 18, United States Code, is amended by striking the items for sections 3288 and 3289 and inserting the following:

"3288. Indictments and information dismissed after period of limitations.

"3289. Indictments and information dismissed before period of limitations.".

SEC. 183. RESTARTING OF SPEEDY TRIAL ACT TIME PERIOD FOR DEFENDANTS WHO ABSCOND ON EVE OF TRIAL.

Section 3161 of title 18, United States Code, is amended by adding at the end the following:

"(k)(1) If the defendant is absent (as defined by subsection (h)(3)) on the day set for trial, and the defendant's subsequent appearance before the court on a bench warrant or other process or surrender to the court occurs more than 21 days after the day set for trial, the defendant shall be deemed to have first appeared before a judicial officer of the court in which the information or indictment is pending within the meaning of subsection (c) on the date of the defendant's subsequent appearance before the court.

"(2) If the defendant is absent (as defined by subsection (h)(3)) on the day set for trial, and the defendant's subsequent appearance before the court on a bench warrant or other process or surrender to the court occurs not more than 21 days after the day set for trial, the time limit required by subsection (c), as extended by subsection (h), shall be further extended by 21 days.".

SEC. 184. CRIMINAL FINES AMENDMENTS.

(a) APPLICATION OF GOVERNMENT PETITION FOR MODIFICATION OR REMISSION OF FINES TO OLD FINES.—Section 3573 of title 18, United States Code, is amended by adding at the end thereof the following: "This section shall apply to all fines and assessments irrespective of the date of imposition.".

(b) APPLICATION OF STATUTE OF LIMITATIONS FOR SPECIAL ASSESSMENTS TO OLD ASSESSMENTS.—Section 3013(c) of title 18, United States Code, is amended by adding at the end thereof the following: "This subsection shall apply to all assessments irrespective of the date of imposition.".

(c) APPLICATION OF WAIVER BY ATTORNEY GENERAL OF INTEREST OR PENALTY RELATING TO FINES TO OLD FINES.—Section 3612(h) of title 18, United States Code, is amended by inserting "or any interest or penalty relating to a fine imposed under any prior law" after "under this section".

(d) NOTICE REQUIREMENTS.—Sections 3612 (d) and (e) of title 18, United States Code, are amended by striking ", by certified mail,".

SEC. 185. SYNTAX CORRECTION TO MINIMUM SENTENCE PROVISION.

Section 994(n) of title 28, United States Code, is amended by striking "as minimum sentence" and inserting "as a minimum sentence".

SEC. 186. REFUND OF FORFEITED BAIL.

(a) OFFENSE.—Chapter 207 of title 18, United States Code, is amended by adding the following new section after section 3150:

"§3151. Refund of forfeited bail

"Appropriations available to refund money erroneously received and deposited in the Treasury are available to refund any part of forfeited bail deposited into the Treasury and ordered remitted under the Federal Rules of Criminal Procedure.".

(b) SECTION ANALYSIS.—The section analysis for chapter 207 of title 18, United States Code, is amended by inserting at the appropriate place the following new item:

"§ 3151. Refund of forfeited bail.".

SEC. 187. SPECIAL ASSESSMENTS ON PERSONS CONVICTED OF OFFENSES FOR WHICH COLLATERAL MAY BE FORFEITED.

Section 3013 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "The court" and inserting "Except as provided in subsection (d) of this section, the court"; and

(2) by inserting at the end the following new subsection:

"(e) No assessment shall be imposed on any person convicted of an offense for which the local rules of the district court in which the case is pending, or other Federal law, establishes that collateral may be posted in lieu of appearance in court.".

SEC. 188. CONDITIONS OF PROBATION.

Section 3563(a)(2) of title 18, United States Code, is amended by inserting before the period ", unless the court finds on the record that extraordinary circumstances exist that would make such a condition plainly unreasonable, in which event the court shall impose one or more of the other conditions set forth under subsection (b)".

SEC. 189. AUTHORITY TO OBTAIN ARREST WARRANT FOR FOREIGN FUGITIVE WHOSE SPECIFIC WHEREABOUTS ARE NOT KNOWN.

Section 3184 of title 18, United States Code, is amended by inserting after the first sentence the following: "Such complaint may be filed before and such warrant may be issued by a judge or magistrate of the United States District Court for the District of Columbia if the whereabouts within the United States of the person charged are not known.".

SEC. 190. MISUSE OF SOCIAL SECURITY NUMBER.

Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) in the first undesignated paragraph, by striking "not more than $5,000" after "shall be fined";

(2) in the second undesignated paragraph, by striking "not more than $25,000" after "shall be fined"; and

(3) adding at the end the following: "For the purpose of subsection (g), the terms 'social security number' and 'social security account number' mean such numbers as are assigned by the Secretary under section 405(c)(2) of this title whether or not, in actual use, such numbers are called social security numbers.".

SEC. 191. PETTY OFFENSE AMENDMENTS.

(a) TITLE 18.—Section 19 of title 18, United States Code, is amended by inserting ", for which the maximum fine is no greater than the amount set forth for such an offense in section 3571(b) (6) or (7) in the case of an individual or section 3571(c) (6) or (7) in the case of an organization" after "infraction".

(b) RULES OF PROCEDURE.—Rule 9 of the Rules of Procedure for the Trial of Misdemeanors before United States Magistrates is amended to read as follows:

"Rule 9. Definition

"As used in these rules, 'petty offense' has the meaning set forth in 18 U.S.C. § 19.".

(c) FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 54 of the Federal Rules of Criminal Procedure is amended in the definition of "petty offense" to read as follows:

"'Petty offense' has the meaning set forth in 18 U.S.C. § 19.".

SEC. 192. NONMAILABILITY OF LOCKSMITHING DEVICES.

(a) IN GENERAL.—Title 39, United States Code, is amended by inserting after section 3002 the following:

"§ 3002a. Nonmailability of locksmithing devices.

"(a) Any locksmithing device is nonmailable mail, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such device is mailed to—

"(1) a lock manufacturer or distributor;

"(2) a bona fide locksmith;

"(3) a bona fide repossessor; or

"(4) a motor vehicle manufacturer or dealer.

"(b) For the purpose of this section, 'locksmithing device' means—

"(1) a device or tool (other than a key) designed to manipulate the tumblers in a lock into the unlocked position through the keyway of such lock;

"(2) a device or tool (other than a key or a device or tool under paragraph (1)) designed for the unauthorized opening or bypassing of a lock or similar security device; and

"(3) a device or tool designed for making an impression of a key or similar security device to duplicate such key or device.".

(b) CHAPTER ANALYSIS.—The analysis for Chapter 30 of title 39, United States Code, is amended by inserting after the item relating to section 3002 the following:

"3002a. Nonmailability of locksmithing devices.".

(c) PENALTIES.—Title 18, United States Code, is amended by inserting after section 1716A the following:

"§ 1716B. Nonmailable locksmithing devices

"Whoever knowingly deposits for mailing or delivery, causes to be delivered by mail, or causes to be delivered by any interstate mailing or delivery other than by the United States Postal Service, any matter declared to be nonmailable by section 3002a of title 39, shall be guilty of a class A misdemeanor.".

(d) CHAPTER ANALYSIS.—The analysis for chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716A the following:

"1716B. Nonmailable locksmithing devices.".

(e) CONFORMING AMENDMENT.—Section 1716A of title 18, United States Code, is amended by striking "shall be fined not more than $1,000, or imprisoned not more than one year, or both" and inserting "shall be guilty of a class A misdemeanor".

SEC. 193. ASSIMILATIVE CRIMES ACT AMENDMENTS.

(a) PENALTIES FOR OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL.—Section 13 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following:

"(b) For purposes of subsection (a) of this section, that which may or shall be imposed through judicial or administrative action under the law of a State, territory, possession, or district, for a conviction for operating a motor vehicle under the influence of a drug or alcohol, shall be considered to be a punishment provided by that law. Any limitation on the right or privilege to operate a motor vehicle imposed under this subsection shall apply only to the special maritime and territorial jurisdiction of the United States.".

(b) IMPLIED CONSENT FOR CERTAIN TESTS.—(1) Chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"§ 3117. Implied consent for certain tests

"(a) CONSENT.—Whoever operates a motor vehicle in the special maritime and territorial jurisdiction of the United States consents thereby to a chemical test or tests of such person's blood, breath, or urine, if arrested for any offense arising from such person's driving while under the influence of a drug or alcohol in such jurisdiction. The test or tests shall be administered upon the request of a police officer having reasonable grounds to believe the person arrested to have been driving a motor vehicle upon the special maritime and territorial jurisdiction of the United States while under the influence of drugs or alcohol in violation of the laws of a State, territory, possession, or district.

"(b) EFFECT OF REFUSAL.—Whoever, having consented to a test or tests by reason of subsection (a), refuses to submit to such a test or tests, after having first been advised of the consequences of such a refusal, shall be denied the privilege of operating a motor vehicle upon the special maritime and territorial jurisdiction of the United States during the period of a year commencing on the date of arrest upon which such test or tests was refused, and such refusal may be admitted into evidence in any case arising from such person's driving while under the influence of a drug or alcohol in such jurisdiction. Any person who operates a motor vehicle in the special maritime and territorial jurisdiction of the United States after having been denied such privilege under this subsection shall be treated for the purposes of any civil or criminal proceedings arising out of such operation as operating such vehicle without a license to do so.".

(2) The table of sections at the beginning of chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"3117. Implied consent for certain tests."

SEC. 194. PROTECTION OF FOREIGN OFFICIALS.

Section 112(b)(3) of title 18, United States Code, is amended by striking "but outside the District of Columbia".

SEC. 195. BAIL PENDING APPEAL.

Section 3143(b) of title 18, United States Code, is amended by—

(1) striking subparagraph (2) and inserting the following:

"(2) that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in—

"(A) reversal,

"(B) an order for a new trial,

"(C) a sentence that does not include a term of imprisonment, or

"(D) a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process."; and

(2) inserting before the final period the following: ", except that in the circumstance described in paragraph (b)(2)(D), the judicial officer shall order the detention terminated at the expiration of the likely reduced sentence".

SEC. 196. EMERGENCY PEN REGISTER AND TRAP AND TRACE DEVICE INSTALLATION.

(a) Chapter 206 of title 18, United States Code is amended—

(1) by renumbering sections 3125 and 3126 as sections 3126 and 3127 respectively; and

(2) by adding after section 3124 the following new section:

"§3125 Emergency pen register and trap and trace device installation.

"(a) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General, or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that—

"(1) an emergency situation exists that involves—

"(A) immediate danger of death or serious bodily injury to any person; or

"(B) conspiratorial activities characteristic of organized crime,

that requires the installation and use of a pen register or a trap and trace device before an order authorizing such installation and use can, with due diligence, be obtained, and

"(2) there are grounds upon which an order could be entered under this chapter to authorize such installation and use 'may have installed and use a pen register or trap and trace device if, within forty-eight hours after the installation has occurred, or begins to occur, an order approving the installation or use is issued in accordance with section 3123 of this title.'

"(b) In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied or when forty-eight hours have lapsed since the installation of the pen register or trap and trace device, whichever is earlier.

"(c) The knowing installation or use by any investigative or law enforcement officer of a pen register or trap and trace device pursuant to subsection (a) without application for the authorizing order within forty-eight hours of the installation shall constitute a violation of this chapter.

"(d) A provider for a wire or electronic service, landlord, custodian, or other person who furnished facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.".

(b)(1) Section 3124(d) of title 18, United States Code, is amended by adding after the words "court order under this chapter" the words "or request pursuant to section 3125 of this title".

(2) Section 3124(e) of title 18, United States Code, is amended by adding after the words "court order" the words "under this chapter, a request pursuant to section 3125 of this title".

(c) The table of sections for chapter 206 of title 18, United States Code, is amended—

(1) by renumbering the items for sections 3125 and 3126 as sections 3126 and 3127, respectively; and

(2) by inserting the following new item: "3125. Emergency pen register and trap and trace device installation".

(d) Section 3124(b) of title 18, United States Code, is amended by adding after the words "shall be furnished" the words ", pursuant to subsection 3123(b) or section 3125 of this title,".

TITLE II—ANCILLARY DEBT COLLECTION AMENDMENTS ACT OF 1988

SEC. 201. SHORT TITLE.

This title may be cited as the "Ancillary Debt Collection Amendments Act of 1988".

SEC. 202. PERCENTAGE INCREASE.

Section 5514(a)(1) of title 5, United States Code, is amended by striking "15 percent" and inserting "25 percent".

SEC. 203. INTERNAL REVENUE CODE OF 1986.

(a) NOTICE OF LIEN ON PERSONAL PROPERTY.—Section 6323 of the Internal Revenue Code of 1986 is amended—

(1) by amending subsection (f)(1)(A)(ii) to read as follows:

"(ii) PERSONAL PROPERTY.—In the case of personal property, whether tangible or intangible, in one office within the State (or the county, or other governmental subdivision) as designated by the laws of such State, in which the property subject to the lien is situated, except that State legislation merely conforming to and/or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State; or"; and

(2) by amending subsection (f) by adding at the end thereof:

"(5) NATIONAL FILING SYSTEMS.—The filing of a notice of lien shall be governed solely by this title and shall not be subject to any other Federal law establishing a place or places for the filing of liens or encumbrances under a national filing system.".

(b) EFFECT OF HONORING LEVY.—Section 6332(d) of the Internal Revenue Code of 1986 is amended by striking "shall be discharged from any liability to the delinquent taxpayer." and inserting "shall be discharged from any liability to the delinquent taxpayer and any other person.".

(c) COLLECTION AFTER COMMENCEMENT OF JUDICIAL PROCEEDINGS.—Section 6502(a) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following: "If a timely proceeding in court for the collection of a tax is commenced, the period during which such tax may be collected by levy shall be extended and shall not expire until the liability for the tax (or a judgment against the taxpayer arising of such liability) is satisfied or becomes unenforceable.".

SEC. 204. AMENDMENTS TO TITLE 31.

(a) FINE INCREASE.—Section 3711(a)(2) of title 31, United States Code, is amended by striking "$20,000" after "than" and inserting "$100,000, or such higher amount as the Attorney General shall, from time to time prescribe".

(b) PRIORITY OF CLAIMS.—

(1) Section 3713 of title 31, United States Code, is amended to read as follows:

"§ 3713. Priority of Claims of United States

"(a) Notwithstanding any contrary State law regarding priority of claims, a claim of the United States shall be paid first—

"(1) When a person is insolvent, that is, being unable to pay his debts as they become due or has insufficient assets to pay his liabilities; or

"(2) With respect to a decedent, when the estate of the deceased debtor is not sufficient to pay all debts of the debtor, except that funeral expenses and expenses of last illness may be paid before a claim of the United States.

"(b) Any person paying any part of a debt of the debtor or estate of the debtor before paying a claim of the United States shall be liable to the extent of the payment for unpaid claims of the United States.

"(c) This provision does not apply to a case under title 11 of the United States Code.".

(2) The tables of sections for subchapter II of chapter 37 and chapter 37 of title 31, United States Code, is amended by striking the item for section 3713 and inserting the following:

"3713. Priority of Claims of United States.".

(c) JUDICIAL SALES.—Section 3715 of title 31, United States Code, is amended to read as follows:

"§ 3715. Buying real property of debtor

"At any execution or judicial sale, the head of an agency or his designee, for whom a civil action is brought against a debtor of the United States, may buy real, personal, or mixed property of the debtor at such sale resulting from the action. The head of such agency may bid a credit on the judgment obtained by the United States, but not more than the judgment for which the property is being sold, and costs. The United States marshal of the district in which the sale is held shall transfer the property to the United States, should the agency head be the successful bidder.".

SEC. 205. SUBROGATION.

Public Law 87-693 is amended—

(1) in subsection (a) of the first section—

(A) by striking "a tort" from the first sentence; and

(B) by adding at the end thereof the following: "In addition, the United States shall be subrogated to the rights of such injured or diseased person to recover under any insurance policy the reasonable value of the care and treatment of an injury or disease, regardless of whether a third party is liable; this shall include, but is not limited to, medical payment and uninsured or underinsured coverages of an automobile policy purchased by the injured or diseased person.";

(2) in subsection (b) of the first section by adding at the end thereof the following:

"(3) Any such action or proceeding in a State court to which the United States is a party may be removed to the United States District Courts pursuant to 28 U.S.C. 1441 et seq."; and

(3) by adding at the end of section 2 the following new subsections:

"(d) The United States may authorize the injured or diseased person to include the United States' claim hereunder in an action or proceeding brought by the injured or diseased person; the United States may authorize payment of attorney's fees to an attorney for the injured or diseased person of up to 25 percent of the amount recovered for the United States in such an action or proceeding.

"(e) The United States may bring a direct action for recovery of its claim against any insurance company which enters into a settlement agreement with the injured or diseased person which includes hospital, medical, surgical, or dental care and treatment and fails to provide for the payment of the United States' claim hereunder. The United States may recover treble damages if the insurance companies fail to effect settlement of such a claim in a reasonable manner.

"(f) The head of the department or agency of the United States concerned may establish regulation regarding the amount of attorney's fees which may be paid for recovery of the claim of the United States in a private action, subject to the limitations set out in subsection (d) of the first section.".

SEC. 206. TREATMENT OF ARMED FORCES.

Section 124 of Public Law 97-276 is amended—

(1) in the first sentence by inserting "including employees of the Armed Forces or Reserves of the Armed Forces" after "Federal Government"; and

(2) by striking the period at the end of the last sentence and inserting "these deductions shall not be restricted by the one-fourth limitation."

TITLE III—SENTENCING AMENDMENTS

Subtitle A—Prisoners Transferred to the United States

SEC. 301. PRISONERS TRANSFERRED TO THE UNITED STATES.

(a) PRISONERS TRANSFERRED TO THE UNITED STATES.—Chapter 306 of title 18, United States Code, is amended by adding after section 4106 the following new section:

"§ 4106A. Transfer of offenders on parole; parole offenders transferred

"(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

"(b)(1) An offender transferred to the United States to serve a sentence of imprisonment that is longer than the maximum period of time specified in the applicable sentencing guidelines promulgated pursuant to section 994(a)(1) of title 28, United States Code, as determined by the United States Parole Commission upon the recommendation of the United States Probation Service, shall serve in an official detention facility the maximum period of time specified in the applicable sentencing guidelines and shall serve the remainder of the term imposed as a term of supervised release.

"(2) The Parole Commission shall set conditions of supervised release in accordance with section 3583 of this title. Upon the release of the prisoner from confinement and the beginning of the period of supervised release, supervision of the prisoner shall be transferred to the district court of the district where the prisoner resides.

"(3) To the extent permitted by the applicable treaty, a final determination by the Parole Commission as to whether the transferred offender shall serve a term of supervised release and the length of such term may be appealed to the United States court of appeals for the district in which the offender is imprisoned after transfer to the United States, and the court of appeals shall decide and dispose of the appeal in accordance with section 3742 as though the determination appealed had been imposed by the United States district court.

"(4) A determination by the Parole Commission shall be made only after affording the transferred offender an opportunity to submit evidence or information as to the applicable sentencing guideline.

"(c) This section shall apply only to offenses completed on or after November 1, 1987, and the Parole Commission's performance of its responsibilities under this section shall be subject to section 235 of the Comprehensive Crime Control Act of 1984.".

(b) CONFORMING AMENDMENT.—The section analysis at the beginning of chapter 306 of title 18, United States Code, is amended by inserting the following after the item for section 4106:

"4106A. Transfer of offenders on parole; parole of offenders transferred.".

Subtitle B—Sentencing Amendments

SEC. 311. RECORDS OTHER THAN TRANSCRIPTS.

Section 3553(c) of title 18, United States Code, is amended by—

(1) inserting after "transcription" the following: "or other appropriate public record"; and

(2) striking "clerk of the" in the last sentence.

SEC. 312. STANDARD OF REVIEW.

Section 3742 of title 18, United States Code, is amended—

(1) in subsections (a)(2) and (b)(2), by striking "was imposed as a result of an incorrect application of the sentencing guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)" and inserting "resulted from the use of an inapplicable sentencing guideline range";

(2) in subsection (d)(2), by striking "was imposed as a result of an incorrect application of the sentencing guidelines" and inserting "resulted from the use of an inapplicable sentencing guideline range";

(3) in subsection (e)(1), by striking "imposed as a result of an incorrect application of the sentencing guidelines" and inserting "resulted from the use of an inapplicable sentencing guideline range";

(4) by striking paragraph (3) of subsection (a) and inserting the following:

"(3) is greater than the sentence specified in the applicable guideline range to the extent that the sentence includes a greater fine or term of imprisonment or term of supervised release than the maximum established in the guideline range, or includes a more limiting condition of probation or supervised release under section 3563(b)(6) or (b)(11) than the maximum established in the guideline range; or";

(5) by striking paragraph (3) of subsection (b) and inserting the following:

"(3) is less than the sentence specified in the applicable guideline range to the extent that the sentence includes a lesser fine or term of imprisonment or term of supervised release than the minimum established in the guideline range, or includes a less limiting condition of probation or supervised release under section 3563(b)(6) or (b)(11) than the minimum established in the guideline range; or";

(6) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) was imposed for an offense for which there is no sentencing guideline and is plainly unreasonable.";

(7) in subsection (b)—

(A) by striking paragraph (4) through the end and inserting the following:

"(4) was imposed for an offense for which there is no sentencing guideline and is plainly unreasonable."; and

(B) by inserting after "The Government" the following: ", with the personal approval of the Attorney General,";

(8) in subsections (d)(3) and (e)(2), by striking "range of the applicable sentencing guideline" and inserting "applicable sentencing guideline range";

(9) in the second sentence of subsection (d), by inserting "and shall give due deference to the district court's application of the guidelines to the facts" after "clearly erroneous"; and

(10) by inserting a new subsection (c), as follows, and by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively:

"(c) PLEA AGREEMENTS.—In the case of a plea agreement which includes a specific sentence under rule 11(e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure, a notice of appeal may not be filed—

"(1) by the defendant under paragraphs (3) or (4) of subsection (a) unless the sentence imposed is greater than the sentence specified in such agreement; and

"(2) by the Government under paragraph (3) or (4) of subsection (b) unless the sentence imposed is less than the sentence specified in such agreement."; and

(11) by adding at the end of the section the following new subsection:

"(h) GUIDELINE NOT EXPRESSED AS A RANGE.—For the purpose of this section, the term 'sentencing guideline range' includes a sentencing guideline range having the same upper and lower limits.".

SEC. 313. HIRING OUTSIDE COUNSEL.

Section 995(a) of title 28, United States Code, is amended by—

(1) striking "and" at the end of paragraph (21);

(2) striking the period at the end of paragraph (22) and inserting "; and"; and

(3) adding at the end thereof the following:

"(23) retain private attorneys to provide legal advice to the Commission in the conduct of its work, or to appear for or represent the Commission in any case in which the Commission is authorized by law to represent itself, or in which the Commission is representing itself with the consent of the Department of Justice; and the Commission may in its discretion pay reasonable attorney's fees to private attorneys employed by it out of its appropriated funds. When serving as officers or employees of the United States, such private attorneys may be considered special government employees as defined in section 202(a) of title 18; and".

SEC. 314. POWERS OF THE COMMISSION.

Section 995(a)(2) of title 28, United States Code, is amended by striking "grade 18 of the General Schedule pay rates (5 U.S.C. § 5332)" and inserting "Level 6 of the Senior Executive Service Schedule (5 U.S.C. § 5382)".

SEC. 315. GRANTING INCENTIVE AWARDS.

(a) DEFINED AS AGENCY.—Section 4501(1) of title 5, United States Code, is amended by—

(1) striking "and" at the end of subparagraph (F);

(2) adding "and" at the end of subparagraph (G); and

(3) adding at the end thereof the following:

"(H) the United States Sentencing Commission;".

(b) POWERS OF COMMISSION.—Section 995(a) of title 28, United States Code, is amended by adding at the end thereof the following:

"(24) grant incentive awards to its employees pursuant to chapter 45 of title 5, United States Code.".

(c) INCENTIVE AWARDS.—Section 996(b) of title 28, United States Code, is amended by inserting before "81", the following: "45 (Incentive Awards),".

SEC. 316. TECHNICAL CORRECTION.

Section 3582(c) of title 18, United States Code, is amended by striking "28 U.S.C. 994(n)" and inserting "28 U.S.C. 994(o)".

SEC. 317. PROTECTION OF PUBLIC.

(a) CONDITIONS.—Section 3583(d) of title 18, United States Code, is amended—

(1) in paragraph (1) by inserting "(a)(2)(C)," after "(a)(2)(B),"; and

(2) in paragraph (2) by inserting "(a)(2)(C)," after "(a)(2)(B),".

(b) MODIFICATIONS OR REVOCATION.—Section 3583(e) of title 18, United States Code, is amended by inserting "(a)(2)(C)," after "(a)(2)(B),".

SEC. 318. AUTHORITY TO AMEND ANNUAL REPORT.

Section 994(p) of title 28, United States Code, is amended by adding at the end the following: "During the reporting period prescribed in this subsection, the Commission may submit more than one report, and may amend a report, in whole or in part. In the case of an amended report, the one hundred and eighty day period shall run from the date the amended report is submitted to Congress, except that the Commission may specify that the one hundred and eighty day period with respect to the unamended portion of a partially amended report shall run from the date of the initial submission.".

SEC. 319. CLARIFICATION OF RESTITUTION PROVISION.

Sec. 3563(b)(3) of title 18, United States Code, is amended by striking "3556" and inserting "3663 and 3664 (but not subject to the limitations of 3663(a))".

SEC. 320. AMENDMENT TO RULE 4, RULES OF APPELLATE PROCEDURE.

Rule 4(b) of the Rules of Appellate Procedure is amended—

(1) in the first sentence, by inserting "(i)" after "entry of", and inserting "or (ii) a notice of appeal by the Government" at the end; and

(2) in the sentence beginning "When an appeal by the government is authorized", by inserting "(i) after "entry of", and inserting "or (ii) a notice of appeal by any defendant" at the end.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL S. 1323 TO RETAIN ITS STATUS AS UNFINISHED BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that S. 1323, the unfinished business, not lose its status as the unfinished business on any day next week because of any motion to proceed to another matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—REPORT NO. 100-378 TO ACCOMPANY S. 473

Mr. BYRD. Mr. President, on behalf of Mr. HOLLINGS I ask unanimous consent that Report 100-378 to accompany S. 473, the General Aviation Accident Liability Standards Act, be star printed to reflect the changes which I sent to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, does the distinguished acting Republican leader, Mr. THURMOND, have any further statement he would wish to make or any further business he would like to transact?

Mr. THURMOND. Mr. President, I wish to thank the able and distinguished majority leader, but we have no further statements except to wish him a nice weekend after a hard week of great accomplishment.

Mr. BYRD. Mr. President, I thank the distinguished senior Senator from South Carolina. I wish him a happy Father's Day and a good, restful period over the next weekend.

ORDERS FOR MONDAY

Mr. BYRD. Mr. President, I ask unanimous that on Monday no motions or resolutions over under the rule come over; that the call of the calendar under rule VIII be waived; and that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 11:30 A.M., MONDAY, JUNE 20, 1988

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 11:30 a.m. on Monday next.

The motion was agreed to; and, at 3:21 p.m. the Senate adjourned until Monday, June 20, 1988, at 11:30 a.m.

SENATE—*Monday, June 20, 1988*

The Senate met at 11:30 a.m., and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Sing unto the Lord with thanksgiving; sing praise upon the harp unto our God: Who covereth the heaven with clouds, who prepareth rain for the earth, who maketh grass to grow upon the mountains.—Psalms 147:7 and 8.

God of Abraham, Isaac, and Israel—God of Moses who sent manna from Heaven and brought water out of a rock for Thy people in the wilderness—hear our prayer. Thou knowest the seriousness of the drought in the upper Great Plains—the plight of the farmers—the concern of Congress. Mighty God, do what Congress with all its concern and power cannot do. Send rain upon this Nation wherever there is a need. We pray in the name of Him who rebuked the wind and the waves and they obeyed. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, June 20, 1988.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.
>
> JOHN C. STENNIS,
> *President pro tempore.*

Mr. DASCHLE thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin controls the majority leader's time and is recognized for a period not to exceed 5 minutes.

THIS IS NO TIME TO PASS A TRADE BILL THAT BRINGS BACK BRIBERY

Mr. PROXMIRE. Mr. President, what is the biggest Government corruption scandal in years all about? It is about bribery. And what was the purpose of the bribery? The purpose of the bribery was to secure the sale of military weapons. Should the Congress take steps to provide more effective laws against bribery? Should the Congress beef up the enforcement arm of the Federal Government to effectively prevent bribery? If this bribery scandal is as big as press reports indicate, you can be sure the Congress will be called on to do exactly this. Can the Congress make a change in Federal law that can sharply reduce or even eliminate bribery in the multibillion-dollar Government arms procurement business? What does the record show?

One experience in this regard is very promising. It took place 11 years ago. In the early 1970's, our country was rocked by a bribery scandal involving the sale of billions of dollars of American-produced arms. The scandal was sensational. The Lockheed Corp. paid a $1.4 million bribe to the Prime Minister of Japan to persuade him to order his Government to buy Lockheed planes. The Prime Minister was convicted by a Japanese court. He went to jail. He was disgraced for life.

What happened to Lockheed? Lockheed got away without even a gentle wrist tap. Indeed, Lockheed made tens of millions of dollars in profits out of the deal. The bribe was good business. That was not the only scandal. It was worse.

In the Netherlands, American arms producers again paid bribes to foreign officials. This time the royal family was implicated. The monarchy nearly fell. There was also widespread evidence of bribes by American corporations in countries like Italy, all to the detriment of our country's international reputation.

After that series of bribery scandals the Congress acted. We unanimously passed the Foreign Corrupt Practices Act in 1977. That act required every American corporation selling abroad to keep written records of all payments made by the corporation to foreign agents. It made the chief executive officer of the corporation responsible for that record and for knowledge of the record. The law required the date of payment, the person to whom the payment was made, and the purpose of the payment. The law also specified that the chief executive officer of an American corporation who had reason to know that his corporation had paid a bribe to a foreign official would be subject to prosecution.

Did that law do its job? It did, indeed. Mr. President, in the 11 years that have elapsed since that law was passed, there have been no major foreign bribery scandals. None. The shameful nightmare of corruption that haunted both America and our friends and trading partners abroad ended. A study by the General Accounting Office of the effect of the Foreign Corrupt Practices Act on exports showed that it had not been adverse. Indeed, in the 2 years after enactment of the act—the period when the act would have had its prime effect—American exports increased by more than 10 percent each year. Were there any unjust or allegedly unjust prosecutions under the Foreign Corrupt Practices Act? There were none. It worked.

Now, Mr. President—how about the situation today? Think of it: In the immediate shadow of the worst arms procurement scandal in recent memory that again involved bribery the Congress had included in the trade bill a provision that would gut the very anti-foreign bribery law I have been describing. Far from tightening up the law—the Congress—if it simply drops the plant closing provision of the trade bill and passes the trade bill in its present form will actually kill the one antibribery law that works. We would bring back bribery of foreign officials.

Mr. President, the very least we should do in the midst of the present grim reminder of the prevalence of bribery, when multibillion-dollar arms sales are involved, is not to gut the one antibribery law we have on the books that has worked.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized for not to exceed 5 minutes.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. DOLE. Mr. President, I reserve my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, will the distinguished Republican leader yield me his time?

Mr. DOLE. I will be happy to.

Mr. BYRD. I thank the leader.

WEST VIRGINIA DAY 1988

Mr. BYRD. Mr. President, today is West Virginia's 125th birthday.

On this day in 1863, after a long and heated Senate debate, and after a longer struggle and conflict within those Virginia counties that finally became the new State, West Virginia was admitted to the Union as the 35th State.

Not since the Revolutionary War itself, which transformed the Thirteen Original Colonies into the first 15 States represented on our flag, had a new State been born in such turmoil and bloodshed. Even as Abraham Lincoln was signing the proclamation making West Virginia a State, guerrilla bands and regular Union and Confederate units were still warring over the proprietorship of transmontane Virginia.

The Union victory sealed West Virginia's destiny, however, and West Virginia went on to assume a place among her sister States in the Republic.

Since then, West Virginians have proved their loyalty and devotion in every one of our country's subsequent wars, giving more than their expected or requested share in fighting personnel, and paying a price in deaths and casualties beyond the call of duty alone.

West Virginia ranked fifth among the States in the percentage of its male population participating in World War II, first among the States in the percentage of male population participating in the Korean war, and second among the States in the percentage of its male population participating in the Vietnam war.

West Virginia ranked first among the States in the percentage of deaths of its male population suffered during both the Korean and Vietnam wars.

But West Virginia ranks highly in more than its quality of patriotism. Endowed with vast stores of coal, West Virginia is synonymous in most people's minds with coal and coal mining. Much of that coal is rated as among the world's best metallurgical coal, a fact that made West Virginia a natural leader in steel production. Likewise, with some of the finest hardwood stands in our country, West Virginia has long been an important lumber producer, and the Kanawha Valley chemical industry is of world-class proportions.

Another feature of which West Virginians have long been proud, and with which tourists and visitors to West Virginia are becoming increasingly familiar, is West Virginia's scenic and natural beauty. White-water rafting on a number of West Virginia rivers is drawing thousands annually to the State. Others come to camp, to hike, to ski, to hunt, or simply to drive through thick, lush mountain forest lands.

Mr. President, my State is a rich wonderland, of which its people are proud. Moreover, I am proud to represent the people of West Virginia in the Senate, and I am frequently moved to a sense of humility that people of such strong character and moral fiber have entrusted to me this role in our national life. Today, I again salute the citizens of West Virginia, and I know that our colleagues join me in wishing West Virginia progress and prosperity in the decades ahead.

Mr. President, I yield the floor.

TRIBUTE TO WEST VIRGINIA'S BIRTHDAY

Mr. ROCKEFELLER. Mr. President, I rise to speak to you today on behalf of the people of West Virginia to wish our State a happy birthday. This is a day of celebration and reflection for our entire State.

One hundred and twenty-five years ago, June 20, 1863, in the midst of the Civil War, West Virginia joined the Union as the 35th State.

While the decision to join the Union was a difficult one for the people of western Virginia, it was an honorable and admirable one.

The mountains, valleys, hills, and hollows of western Virginia were settled by a fiercely independent people. They were people who believed in the rights of the individual. They were men and women who cared about family, community, and their Nation.

As their motto, they chose the three Latin words—Montani Semper Liberi—Mountaineers Are Always Free.

For 125 years, West Virginians have shown their dedication to freedom. They have given their very lives to protect and defend the ideals for which our Nation stands. Indeed, in the Vietnam war, West Virginians suffered the highest casualty rate of any State. We mourn our losses but stand proud of our history of patriotism and service to America.

The right decision often requires courage and sacrifice. West Virginians continue to make sacrifices today. Our State has faced many hardships, but our people have not faltered. We West Virginians are proud of our State and its heritage, and we're striving to build a bright and secure future for the generations to come.

The "independence of our people" which fostered our birth as a State has made us strong in spirit and determined to overcome any obstacle. Join with me today in wishing West Virginia a well-deserved happy birthday.

CLOTURE MOTION

MOTION TO PROCEED TO H.R. 1495

The ACTING PRESIDENT pro tempore. Under the previous order, the hour prior to the cloture vote shall be equally divided and controlled by the leaders or their designees.

Mr. BYRD. Mr. President, I designate on my side of the aisle Mr. SASSER to control the time.

Mr. DOLE. I designate Senator HELMS on this side.

Mr. BYRD. Mr. President, how much time remains now on each side?

The ACTING PRESIDENT pro tempore. Senator HELMS has 16 minutes and 40 seconds, and Senator SASSER has 24 minutes.

Mr. BYRD. I thank the Chair.

Mr. SASSER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. SASSER. Mr. President, if I understand, I have 24 minutes. Is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. SASSER. Mr. President, I would like to consume 10 minutes of that for myself, reserve 10 minutes of it for my distinguished colleague from North Carolina, Senator SANFORD, and then reserve the remaining 4 minutes to be dispensed with as we choose at that time.

Mr. President, I rise in strong support of this bill which will designate 467,000 acres in the Great Smoky Mountains National Park as wilderness. Wilderness designation for the Smoky Mountains has been a goal I have worked toward since my first days in the Senate.

In 1977, I introduced legislation seeking wilderness designation for the Great Smoky Mountains National Park. Again, in the 98th Congress, I promoted such wilderness legislation. My colleagues will recall that our former majority leader, Howard Baker, played a key role in that effort. That attempt is indicative of the bipartisan spirit we have seen throughout efforts promoting wilderness designation within the Smokies.

Indeed, the bipartisan support for this measure makes a mockery of claims that this effort is simply a partisan effort.

The two lead sponsors of this bill in the House are Democrat JAMIE CLARKE—whose district includes Swain County, NC—and Republican JOHN DUNCAN. My good friend, the ranking minority member of the Rules Committee on the House side, and the dean of our Tennessee congressional delegation, Congressman JIMMY QUIL-

LEN, also is cosponsoring this measure in the House of Representatives.

Congressman DUNCAN and Congressman QUILLEN, both Republicans, represent eastern Tennessee in the House of Representatives. Let me tell you, you cannot find any more staunch Republicans than JOHN DUNCAN or JIMMY QUILLEN. These two would not participate in a purely partisan effort nor would our former majority leader, Howard Baker. And let me reiterate so there can be no mistaking this. Senator Baker cosponsored Smokies wilderness legislation with me in the 98th Congress. That bill is nearly identical to the measure we are taking up today.

So let us put that partisan argument to rest. It simply does not hold water. It is a smokescreen, an effort to divert some of our colleagues' attention from true merit in this legislation. This is most certainly a completely bipartisan effort.

We have also heard that everyone in North Carolina is opposed to this bill. Well, Mr. President, I suspect that my distinguished friend from North Carolina, Senator SANFORD, will address this matter later but nothing could be further from the truth. As I have already mentioned, North Carolina's Congressman JAMIE CLARKE is a prime House sponsor of this bill. And, of course, as I indicated, our distinguished colleague, Senator SANFORD, of North Carolina is a cosponsor of the companion bill.

The elected officials of the county most directly affected by this bill—Swain County, North Carolina—support the legislation.

The superintendent of schools from Byrson City, NC also supports the legislation.

Support in North Carolina for this measure extends beyond elected officials. Newspapers across the State have endorsed our proposal over that of the senior Senator from North Carolina. Moreover, conservationists from across North Carolina support the bill. A listing of the groups supporting this bill includes the Sierra Club, the Audobon Society, the Wilderness Society, the League of Conservation Voters, Defenders of Wildlife, the National Parks and Conservation Association.

So let us be clear. This is broad-based support for a measure that is popular and needed or felt to be needed by officials both in Tennessee and in our neighboring State of North Carolina.

I do not need to mislead my colleagues. This is not to say that this legislation is not without controversy. The senior Senator from North Carolina, who I see on the floor today, has opposed this measure from the outset. He argues that this bill makes a mockery of certain commitments made to residents of Swain County, NC.

The commitment in question centers on a road the Federal Government promised to build. This road was to replace a road flooded by the creation of Fontana Lake. The road would lead into the national park for some 26 miles and would terminate at certain family cemeteries within the park.

We are going to hear a good deal about the agreement made in 1943 which promised this road. I am going to hold off with extensive remarks on this issue for a moment.

But I do want to say at the outset that the citizens of Swain County have a legitimate grievance. Nobody disputes this fact. Rather, the only point in dispute is how best to settle that grievance.

The senior Senator from North Carolina believes this grievance can only be settled with a literal reading of the 1943 agreement and completion of the North Shore Road. However, as we will establish through this debate, there are sound economic and environmental reasons for not building this road. Indeed, the National Park Service has come out in opposition to building this road. Their policy is crystal clear—the North Shore Road should not be built.

I believe we can settle the grievance of Swain County without building the road. By substituting a cash settlement for the road, we can satisfy the claim of Swain County against the Federal Government. The junior Senator from North Carolina agrees with that view. The elected officials of Swain County, NC, agree with this approach.

We have crafted such a substitute settlement for Swain County in this bill. And let me add that this settlement is a true compromise in every sense of the word. While some would contend that we have been unwilling to negotiate this dispute, a review of the history of this effort suggests otherwise.

Parties from North Carolina, Tennessee, and the Federal Government have negotiated this matter for over 20 years. The concept of a cash settlement as substitute performance came out of these negotiations. The junior Senator from North Carolina and I have worked long and hard in this Congress putting that remedy into legislative form that was acceptable to all parties.

Frankly, I believe we have gone very, very far in meeting the concerns expressed by many residents of Swain County. As I noted at the outset, so do officials in North Carolina and Tennessee and interest groups on both sides of this dispute.

Some of my colleagues may ask just why wilderness designation for this national park is so essential. First and foremost is the fact that the Great Smoky Mountains National Park is this Nation's most visited national park. In 1986, some 9.8 million persons visited the Smokies. In 1987, the number of visitors topped 10 million.

To put these numbers in perspective, I'd like to compare these visitation levels with the number of visitors at other national parks. America's second most visited national park is Acadia National Park in Maine. In 1986, Acadia received 3.9 million visitors, nearly 6 million less than the Smokies. For that same year, Yellowstone National Park drew 2.3 million visitors, Rocky Mountain National Park drew 2.4 million visitors, the Grand Canyon National Park—3 million visitors, Yosemite National Park—2.8 million visitors. Visits to the Smokies eclipsed visits to Yellowstone, Yosemite, and the Grand Canyon combined.

Mr. President, the high number of visitors to the Smokies is not surprising given the park's geographic proximity to so much of the Nation's population. However, this high level of visitation places a tremendous strain on the natural wonders in the park.

And let us be clear: The Great Smoky Mountains National Park is a land of incredible geographic and biological diversity. Sixteen mountain peaks within the park reach more than 6,000 feet. The highest peak in the park, Clingman's Dome, at 6,643 feet, is the second highest point in the Eastern United States.

Reaching these peaks is an eye-opening experience in itself. One publication has described the hike from the low levels of the Smokies to the mountain peaks as walking from Georgia to Maine in 1 day. And that is an accurate portrayal.

Areas which are best described as rain forests in the lower elevations of the park give way to hardwood forests typically found from Virginia to New York. As you continue to climb, the hardwoods give way to spruce fir forests characteristic of Maine and Canada.

All in all, Mr. President, the Great Smoky Mountain National Park is home to 150 species of trees and over 1,400 species of plants—more than any other national park in this country and more than in all of Europe.

This diversity extends to animal life within the park as well. Nearly 400,000 animal species make the Smokies their home. While we are best known for our black bears, the Smokies provide shelter for everything from wild boars to the pygmy shrew. Some 70 species of fish live within the park. A variety of reptiles, amphibians and over 200 species of resident and migrant birds are found in the park.

This diversity speaks of a fragile ecosystem, Mr. President. As with all such systems, a proper balance must be struck between preserving the wonders of nature and allowing visitors to come and enjoy nature's bounty. It is only through such a balance that we can be sure that areas like the Smokies will be maintained for our children and our children's children. It is that spirit which has prompted us to seek wilderness designation for the Smokies.

Wilderness designation of the Great Smoky Mountain National Park is our best hope of preserving this most significant land resource in the Eastern United States. Presently, the Park Service manages the Smokies in a manner designed to preserve the park's wilderness characteristics. However, that administrative policy is purely discretionary. It can be changed at any point.

Now some will argue that such a change in policy is unlikely. Perhaps. But, why should we run even the slightest risk of gambling away future generation's enjoyment of the natural splendor of the Great Smoky Mountains?

Quite simply wilderness designation is the only guaranteed means we have of preserving the wilderness aspects of this park for generations to come. For as William Mott, Director of the National Park Service has noted, "wilderness designation by an act of Congress would assure that administrative discretion would not be used to permit developments and uses on Federal lands that are inconsistent with wilderness management."

That is what this bill is all about, making sure that we safeguard the incredible ecological diversity of the Smokies. Making sure that we strike the necessary balance between recreational use and conservation.

Let me reiterate the central point of this bill—it not only protects the best interests of the Great Smoky Mountains National Park—it also promotes the best interests of the residents of Swain County.

We can settle the claims of Swain County, NC, and at the same time accord the Great Smoky Mountains National Park the level of protection it deserves.

This opportunity has been many years in the making. If we don't act now, I doubt that we shall see action on these matters for many more years. The residents of Swain County will be left without a settlement. The Smokies will be left without wilderness protection.

Mr. President, the House of Representatives has already seized this opportunity and passed a Smokies wilderness bill. I would state again that the chief advocate of this measure in the House is Congressman JAMIE CLARKE, whose district includes Swain County. Again, his lead cosponsor is my good friend, JOHN DUNCAN, whose district includes the Tennessee side of the park. Congressman DUNCAN recently announced that he will be retiring at the end of this session of Congress. I know that he would like nothing better than to see this Smokies wilderness bill enacted on his watch.

Mr. President, the House's action on this bill and the array of public and private interests supporting this bill underscores the broad bipartisan support for this effort. This is as it should be. The bill reflects decades of hard work. The bill strikes an equitable balance between the interests of the residents of Swain County, NC, and the interests of the millions of Americans who visit the Great Smoky Mountains National Park.

Mr. President, we must not let this opportunity slip away. I urge my colleagues to support this legislation.

Mr. President, my 10 minutes have expired, and I now yield 10 minutes to my distinguished friend and colleague from North Carolina [Mr. SANFORD].

The PRESIDING OFFICER (Mr. SHELBY). The Senator from North Carolina.

Mr. SANFORD. Mr. President, we have here a controversy that has been going on now for almost 45 years. We have a settlement that has been on the table for a decade, and we have not been able to get this matter discussed on the floor of the Senate in the last 10 years.

I think it would serve everyone if we could bring this bill up for discussion, if we could talk about the concessions, the compromises, and the changes that we have made to accommodate a great many of the complaints. If we could have that kind of discussion, I do not doubt that we might very well be able to settle this matter, which has been in controversy for a lifetime.

The point is made that it will not do to commit any area of wilderness without the total consent of all the Senators involved. That is an appealing argument. It is an argument that had its beginning a year after the Wilderness Act was put on the books. The purpose was that, as a great many parts of the country attempted to have special areas included in wilderness, there was, understandably, a lot of dispute. So that rule, if it was a rule, was adopted under those circumstances. Those circumstances simply do not exist now.

In the first place, the Senate, on a number of occasions, has gone forward with designated areas as wilderness, without any agreement by either Senator involved. So there is no real precedent that we need to treat this as a local matter.

This is not just a matter of appointing a Federal judge or some Federal appointee, where Senators have to get together. This is a far more important matter.

I contend that this is a national issue, an issue of national concern, an issue that needs to be looked at by each Member of this body as a national opportunity, one that only the Senate can now decide.

I remember, as a second grader in North Carolina, being asked to contribute pennies to preserve this great natural resource in western North Carolina—all the way across the State from where I live. I remember that we did contribute pennies.

Where did the money for the national park come from? Did it come from North Carolina? Is this is a North Carolina project? Did it come from Tennessee and North Carolina? Is this a Tennessee and North Carolina proposition? This is a national proposition because the Nation bought it.

Now, my pennies helped the State of North Carolina appropriate $2 million. The State of Tennessee appropriated approximately $2 million. And, with private contributions between the two States, that amounted to about $5 million.

The Rockefeller Foundation, or one of the Rockefeller trusts, contributed an equal amount of $5.1 million. And then the Federal Government put in $3.5 million for the purchase. So you can very well see that this is a national park purchased with national money.

It had the enthusiastic support of North Carolina because the legislature appropriated the initial money. Citizens all over the State added to the contributions, especially the school children. And today we see one of the great natural resources of this Nation properly preserved.

No longer are the lumber people in denuding the mountainside. No longer are the people in digging for minerals. Here we have preserved now for 50 years one of the most remarkable pieces of land anywhere in the world and certainly anywhere in this Nation.

As an indication of the natural values of this park, we are one of the two or three places in the United States, the Great Smokies Park is, designated as an international biosphere reserve and a world heritage site. So this is anything but a little local issue that has to be decided by local agreement.

I think we have to look at it as a great national asset. We have to, therefore, look at it as a national responsibility and a national problem.

I have attempted to keep politics out of this. I have been involved, in a way, since I was Governor in the early 1960's when people from Swain County asked me to get involved with whether or not a road would be built or whether or not some other settlement would be made. And I said to them then that I will get involved when the local officials concerned, the local officials who have a responsibility, have settled the matter.

Now, they did not agree while I was in office. They did not agree until about 7 or 8 years ago. But now the county commissioners, the elected officials, the people of the only county that entered into this contract initially, the only one that has anything to gain in terms of solving a claim that they have had is Swain County. And Swain County has testified and has certified that the county commissioners are unanimously in favor of going forward with this bill with this des-ignation of wilderness and, perhaps, from their point of view, of even greater importance, with the settlement of the longstanding claims that Swain County has been unable to settle.

My distinguished colleague from North Carolina disagrees with this designation and, with some justification, contends that they said they are going to build a road, they ought to build a road. And that is hard to disagree with.

But it has been pretty well demonstrated that a road is not feasible. It has been pretty well demonstrated that Congress is not going to appropriate enough money for a road. It has been pretty well agreed by all the scientists who have looked at it that building a road would be environmentally detrimental.

So, I do not think that is a feasible solution. As appealing as it is to me and as appealing as it is to a great many people, that simply it is not feasible. We have tried it. Six miles, approximately, was built at a tremendous cost overrun. But, worse than that, it caused not only slides that were damaging but it caused a leaching out of the anakeesta rock that they cut through and is prevalent in that part of the mountains, the runoff damaging very much the creeks and rivers. To this day fish have not come back to live in that area where the first leaching took place. So, there is plenty of scientific evidence as well as lack of funds indicating that however we work this out it is not possible right now to build a road.

I have worked to try to satisfy the local people that we can do some other things. We have put into this bill now, things that were not in it. One was the guarantee to the people that care about—is my time up?

The PRESIDING OFFICER. The Senator has about 9 seconds.

Mr. SANFORD. Well, I will take about 1 more minute.

But we have worked our best to work out compromises that guaranteed the people they could visit the cemeteries; that guaranteed the roads there would be kept open; that guaranteed that some of the park areas that have not been attended to as promised would not be made into adequate places for people to visit it.

We will have an opportunity to talk about all of those if we can get this bill up for discussion.

Mainly, I want to say that the schoolchildren of Swain County, because we have not in Washington been able to settle this matter, the schoolchildren there now, almost a generation of schoolchildren, have been denied the benefits that this long-overdue cash settlement with Swain County would make possible for them. So not only do we further preserve a great area of America, but we do what is right by the schoolchildren of Swain County.

I thank the Chair.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair for recognizing me.

May I inquire as to how much time is allocated to me?

The PRESIDING OFFICER. The Senator from North Carolina has 14 minutes.

Mr. HELMS. Is that all the time remaining?

The PRESIDING OFFICER. The Senator from Tennessee has 1 minute remaining.

Mr. HELMS. Very well. I thank the Chair.

Mr. President, we can conclude this argument in 5 minutes and pass a wilderness bill by a voice vote by 1 o'clock this afternoon. All I am asking, on behalf of the people of North Carolina, is that they be treated just as fairly as the people of Tennessee.

Now, I have listened to the self-congratulations this morning from the sponsors of the bill. I am somewhat less than impressed because I would advise the Chair that among those opposed to the pending legislation, which sorely needs to be modified, are the State of North Carolina, the Eastern Band of Cherokee Indians, the Graham County Commissioners, the Graham County Chamber of Commerce, the Cherokee County Commissioners, the Bryson City Board of Aldermen, 6,812 people in western North Carolina. They have sent me petitions and letters—not a one of which I requested; and the North Carolina Park and Recreation Council. In addition, the national Veterans of Foreign Wars support my bill over H.R. 1495.

Mr. President, I do not know who is supporting the Sasser-Gore-Sanford bill, but I will tell you this much: The people of North Carolina do not support it.

Mr. President, I ask the Chair just to look at some of these petitions and letters. I wish the Chair could read what they are saying about this bill and what it is doing or will do to the State of North Carolina. As this debate proceeds, we will talk about details.

The central issue in this debate is not about environmental protection. The land in question is already part of the National Park System. The issue here is whether the U.S. Government will keep its word and live up to a very clear commitment made in writing 45 years ago in exchange for land that the Federal Government took to build the Fontana Dam to generate power that was much needed during that wartime period.

So, what we have here is the question of the integrity of the Federal Government.

I say again, it was wartime and those western North Carolina mountaineers who love this country were willing to sacrifice. They gave up their land and their livelihood in exchange for a promise. But ever since that time politicians have reneged on that promise.

The Government started to build the road and then it stopped because the professional self-proclaimed environmentalists got into the political act. And that is what we have here, Mr. President, a political act.

Mr. President, I say again to all Senators who may be listening on their squawk boxes or watching the proceedings on television: We could settle this thing in 5 minutes and end the dispute that the Senator from North Carolina, Mr. SANFORD, referred to, simply by, one, saying to the Federal Government, "You will keep your word." And, second, setting aside 44,000 acres. That is all we ask.

The wilderness bill involving more than 400,000 acres will be enacted almost instantaneously if these two small concessions can be made.

I say, Mr. President, that if the Federal Government cannot keep its word in this, what will the Federal Government keep its word about?

Senators need to be aware of what happened 45 years ago to understand why I so strongly oppose the pending bill as it now stands. Literally thousands of Swain County residents back in those World War II years packed their bags and left their homes because the Federal Government said, "We need your land." The Government did not relocate them nor did they give these families additional land in compensation. The Government simply gave them a few dollars per acre for the land.

Mr. President, a lot of folks down there have told me over the years that they did not ever receive one dime of money from the Federal Government. But that is all right. All they are asking now is fair play.

Much has been said about the ancestral cemeteries and the elderly North Carolinians, who find it almost impossible to get there unless they are going to get on boats and go across the lake. In Tennessee, not one ancestral cemetery is inaccessible by automobiles.

Incidentally, World War II veterans are buried in the cemeteries, both in Tennessee and in North Carolina. I do not have to remind the Senators, Mr. President, about that war that was raging in 1943. Many of the men from those beautiful hills and mountains were across the sea fighting for freedom while their land was being taken by the Federal Government to build that hydroelectric facility. When the Government took 44,400 acres of land north of Fontana Lake, the Government promised two things. Let me make these points for the purpose of emphasis.

One, to reimburse Swain County for a highway that would be flooded to create Fontana Lake and, two, to build an all-around-the-park road to, among other things, those ancestral cemeteries.

What did the agreement during World War II between the Federal Government and the people of western North Carolina say? The agreement said the department agrees that, as soon as funds are made available for that purpose by Congress after the cessation of the hostilities in which the United States is now engaged, the department will construct or cause to be constructed, the following described sections of road, all of said sections being hereinafter collectively referred to as the "park road."

"A section of road"—and I am continuing to read the agreement—"A section of road beginning at a point on the Fontana Dam access road near the crossing of Fax Branch and extending to a point of the western boundary of the land identified on exhibit A as the property of North Carolina Exploration Co.

"B. A section of road beginning at the eastern boundary of said North Carolina Exploration Co., land and extending to the eastern boundary of the park as extended hereunder."

Sections C, D, and E continue to describe the land involved.

Mr. President, building the road was contingent, of course, on appropriation by Congress. However, it is clear the Government assumed the road would be built shortly after World War II. In July 1943, shortly after the agreement was signed, a Tennessee Valley Authority supervisor wrote the families about the gravesite removal and the letter stated:

> The construction of Fontana dam necessitated the flooding of the road leading to the Proctor Cemetery located in Swain County, North Carolina. And to reach this cemetery in the future it will be necessary to walk a considerable distance until a road is constructed in the vicinity of the cemetery which is proposed to be completed after the war has ended. We are informed that you are the nearest surviving relative of a deceased who is buried in this cemetery.

Mr. President, there are numerous documents assuring the people that the road would be built.

The Senator from Tennessee is disturbed about the cost of the road. We are not talking about a super highway. We are talking about 27 miles of primitive logging style road, at a cost, according to the last estimate available to me by the Forest Service, of $18,000 a mile, or a total of $486,000. So the cost is a red herring that has been thrown into this debate by those who want to snooker the people of North Carolina.

I make another point on this issue of cost, Mr. President. I think it is pretty common knowledge around this place that I am about as budget conscious as you can get. During the first session of the 100th Congress I was one of only six Senators who voted on every occasion against waiving section 311 of the budget act, but I think it is worth $486,000 for the Federal Government to live up to a commitment it made in writing during World War II to the people who are being snookered by this proposed bill as it now stands.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. Two minutes and 24 seconds.

Mr. HELMS. I thank the Chair.

In the four counties involving this park at Tennessee, the Government today owns less than one-fourth. If you want the precise figure, it is 244,106 acres out of a total of 1,235,040 acres. Those are the four counties in Tennessee, 25 percent owned by the Federal Government. In the four counties surrounding the park in the North Carolina side, the Government owns more than half of the land, 655,000 acres out of 190,941.5 acres.

Government ownership of land has already devastated tourism. And $700 million in tourism poured into Tennessee's four counties while North Carolina netted $53 million in tourism in the three counties surrounding the park. Placing parkland north of Fontana Lake will cripple the tourism industry in North Carolina.

So I do not wonder that Senator SASSER and other sponsors of the bill like the bill as it is. But the people represented here do not like it nor do the others that I identified earlier: The Cherokee, Indian Tribe, County Board of Commissioners, the Graham County Commissioners, the Graham County Chamber of Commerce, Bryson City Board of Aldermen, more than 85 percent of the business people in Bryson City, the State of North Carolina; the North Carolina Parks and Recreation Council; at least 6,800 residents of western North Carolina; and the Veterans of Foreign Wars who support my bill over the Sasser bill.

I say in conclusion that we can solve this problem if the two items that I mentioned are incorporated into the bill and I stand ready to work with the proponents of the bill. I ask them and I ask other Senators to consider fair play for the mountain people of western North Carolina who have nowhere to turn except to the Senate of the United States.

If I have extra time, I reserve it.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Tennessee.

Mr. SASSER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute.

Mr. SASSER. Mr. President, I yield the remaining 1 minute to the Senator from North Carolina [Mr. SANFORD].

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. Mr. President, the promises made to North Carolina and to the people of Swain County was that a road would be built if and when the Congress appropriated the money. The Congress appropriated $6 million. It built 6 miles. The Park Service now says it will take $4 to $5 million to build the road, not $400,000.

Now, what about this business of North Carolina being against this bill? I do not know how that comes about. The North Carolina Governor is, but the North Carolina Governor is an ally of our senior Senator, and that is quite appropriate.

The Swain County commissioners; Swain County School System; Jackson County commissioners; Western North Carolina Tomorrow, the development area; North Carolina Parks, Parkways, and Forest Development Council, which is a North Carolina State agency; the Cherokee Historical Association; the Western North Carolina Association of Communities; the Western North Carolina Development Association; the Land of the Sky Regional Council; conservation groups, 10 of them.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SANFORD. So I suggest that North Carolina, at best, is somewhat divided on this difficult issue. We need to settle it by longer debate right here. Thank you.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, inasmuch as I only had 14 minutes because of circumstances beyond my control, I ask unanimous consent for 1 minute. I want to answer the distinguished Senator from North Carolina by reading into the RECORD a letter from the Governor of North Carolina.

The PRESIDING OFFICER. Is there objection?

Mr. SANFORD. Reserving the right to object, if I may have 20 seconds to rebut.

The PRESIDING OFFICER. Without objection, it is so ordered. The senior Senator from North Carolina is recognized.

Mr. HELMS. The State of North Carolina, Office of the Governor, June 10, 1988:

> DEAR JESSE: I understand that S. 693, the Great Smoky Mountains Wilderness Legislation sponsored by Senator Sasser and cosponsored by Senator Sanford, may come before the full Senate in June. I am writing to you to express my opposition to this leg-

islation. S. 693 does not honor the federal government's commitment, made over 40 years ago, to replace an access road along the north shore of Fontana Lake. This bill is little more than a payoff to disinterested citizens as a substitute for the road.

As you know, I steadfastly support your legislation, S. 695. Your approach recognizes that to retain credibility and trust in government, the agreement to build a primitive access road must be honored. On May 26, after an informational hearing in Bryson City, the North Carolina Parks and Recreation Council also agreed with that assessment and voted to support the construction of a primitive road.

Thank you for your leadership on this issue that is so important to the people of Swain County.

Sincerely,

JAMES G. MARTIN.

Now, 20 seconds.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. I have a letter from the State of North Carolina Department of Justice.

Mr. HELMS. What is the date?

Mr. SANFORD. June 17, 1988:

I am writing to confirm my support for this bill and to commend you and Congressman James McClure Clarke on your efforts to resolve this forty-five year old controversy between Swain County and the United States.

Through your efforts, a fair and just compensation would be paid to Swain County for damage to the old county roads system from filling Fontana Lake. While the bill would provide reasonable access to the North Shore area for family and friends to visit the graves of their ancestors, it would not require ecological damage to one of the last truly wilderness areas in the Eastern United States.

The striking of this delicate balance protects the interests of all the citizens of North Carolina and the United States.

With warmest personal regards and best wishes, I am.

Sincerely,

LACY H. THORNBURG,
Attorney General.

Mr. President, I ask unanimous consent that various letters, articles, editorials, and materials be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR SENATOR: At the Senate Energy and National Resources Committee markup on Wednesday, February 3, Public Lands Subcommittee Chairman Dale Bumpers indicated his intent to bring up Great Smoky Mountains Wilderness legislation in the Committee at the earliest possible opportunity. Chairman Johnston agreed with Senator Bumpers that the Committee would consider Smokies wilderness as soon as possible.

Our organizations strongly support S. 693, the Great Smokies wilderness bill introduced by Senators Jim Sasser, Terry Sanford and Al Gore. We are strongly opposed to Senator Jesse Helms' bill on the same subject. We expect the Committee will consider and vote on a substitute to S. 693 that is very similar to the Great Smokies legislation passed by the House on September 29.

Attached is a fact sheet that explains our position on this issue and why it is a very important priority for our organizations.

DAVID GARDINER,
Sierra Club.

SYDNEY BUTLER,
The Wilderness Society.

T. DESTRY JARVIS,
National Parks and Conservation Association.

BROCK EVANS,
National Audubon Society.

LYNN GREENWALT,
National Wildlife Federation.

GREAT SMOKY MOUNTAINS WILDERNESS LEGISLATION

(The Wilderness Society, Sierra Club, National Parks and Conservation Association, National Audubon Society, National Wildlife Federation)

Wilderness protection and management for the great Smoky Mountains National Park has been a primary objective for conservationists since the park was established more than 50 years ago. The Great Smokies represent the greatest single source of wilderness and ecological diversity in eastern North America, and include the largest virgin forest east of the Mississippi. Last year the park recorded more than 10 million visits, an all-time record for what was already the most heavily visited national park in the country.

For the past decade Congress has considered legislation to designate most of the Great Smokies as wilderness. Last September 29, the House unanimously passed H.R. 1495, a bill introduced by Representative James Clarke (D-NC) and Representative John Duncan (R-TN) which establishes the Great Smoky Mountain Park Wilderness. The House bill contains the following key provisons:

419,000 acres of the park are designated wilderness, and another 46,000 areas are to become wilderness as soon as certain rights retained by private landowners are acquired by the National Park Service.

Swain Country, North Carolina is authorized to be paid $9.5 million to settle claims relating to the failure of the Department of the Interior to complete construction of a road within the park along the north shore of Fontana Lake. This provision is supported by all parties involved in the Great Smokies Wilderness issue, including the Reagan Administration.

The official designation of the wilderness does not take effect until the appropriation of the $9.5 million occurs.

Current visitor access now provided by the Park Service to cemeteries within the park is to continue on a permanent basis.

Senators Jim Sasser, Terry Sanford and Al Gore introduced a Smokies Wilderness bill (S. 693) last February. They have prepared an amendment to that bill for consideration by the Senate Energy and Natural Resources Committee which would make it very similar to the House-passed legislation. The amendment would establish the same wilderness boundaries as the House-passed bill except that the cemeteries themselves would be excluded from wilderness, and the access corridors to the cemeteries are also deleted, but no use of these roads would be allowed except by Park Service owned or operated vehicles.

Senator Jesse Helms has introduced his own bill (S. 695) which differs from the Sasser-Sanford-Gore legislation on two key points:

The Helms bill would only designate 400,000 acres of wilderness in unspecified locations in the park; and

It would authorize the construction of dead-end road through the heart of the proposed wilderness to provide motorized access to the cemeteries within the Hazel Creek area of the park now serviced by Park Service boats and vehicles. Though Senator Helms has not indicated the exact route for this proposed road, it appears likely it would exceed 30 miles in length, would cause considerable damage to a pristine environment, and by Park Service estimates would cost millions of dollars to construct.

Our organizations are opposed to the Helms bill. We strongly support either the House-passed bill or the Sasser-Sanford-Gore legislation as the authors propose to amend it. The Reagan Administration officially supports all 465,000 acres as wilderness or potential wilderness. In fact, the wilderness boundaries in the House-passed bill and the Sasser-Sanford-Gore legislation are the same as those recommended by the Park Service for wilderness or potential wilderness. Furthermore, the Administration strongly opposes the construction of the road that has been proposed by Senator Helms.

We urge you to support Senators Sasser, Sanford, and Gore in their efforts to promptly enact a Great Smokies wilderness bill. It has literally taken decades to get to the point where this legislation has the local, regional and national support necessary for Congress to act. Passage of a strong Smokies bill will be an important milestone in the development of our National Wilderness Preservation System, and would be heralded as one of the major conservation achievements of the 100th Congress.

JUNE 17, 1988.

DEAR SENATOR: We want to express our strong support for H.R. 1495—The Great Smoky Mountains Wilderness Act—which is now being considered by the full Senate.

H.R. 1495 would designate 465,000 acres of the park as wilderness or potential wilderness and would settle long-standing claims against the federal government by Swain County, North Carolina. A similar bill passed by the House last September by unanimous voice vote. The Reagan Administration officially supports all 465,000 acres of wilderness or potential wilderness and strongly opposes the construction of the road proposed by Senator Jesse Helms. This issue is a top priority for the environmental community.

Senator Helms is opposed to the bill, and has begun a filibuster in order to prevent a vote from being taken. We do not believe that the opposition of the Senator should prevent this important legislation from being considered. We urge you to vote to invoke cloture on H.R. 1495.

The Great Smoky Mountains Park is the most visited national park in the country. H.R. 1495 would create the finest wilderness area in the eastern United States. It has been 11 years since the first Great Smokies Wilderness Bill was introduced in the Senate. The time to resolve this issue is long past due.

GEORGE T. FRAMPTON, JR.,
President, The Wilderness Society.

PETER A.A. BERLE,
President, National Audubon Society.

Michael Fischer,
Executive Director, Sierra Club.

Paul C. Pritchard,
President, National Parks and Conservation Assn.

Fredric P. Sutherland,
Esq.,
Executive Director, Sierra Club Legal Defense Fund, Inc.

Dr. Jay D. Hair,
President, National Wildlife, Federation.

John H. Adams,
Executive Director, Natural Resources Defense Council, Inc.

Dr. Rupert Cutler,
President, Defenders of Wildlife.

Defenders of Wildlife,
Washington, DC, June 15, 1988.

Hon. Terry Sanford,
Hart Senate Office Building, U.S. Senate, Washington, DC.

Dear Senator Sanford: On behalf of the 80,000 members of Defenders of Wildlife, I want to express our strong support for the enactment of H.R. 1495, which will designate approximately 90 percent of the Great Smoky Mountains National Park as part of the National Wilderness Preservation System. We hope that H.R. 1495 can be debated in the Senate in the near future.

As you know, this important park, straddling the boundary between North Carolina and Tennessee, is the greatest single tract of wilderness protecting ecological diversity in the eastern part of North America and includes the largest virgin forest east of the Mississippi.

Currently the park is the most heavily visited park in the nation. Wilderness protection will prevent new development, such as the construction of roads or visitor facilities, in the approximately 90 percent of the park that the National Park Service has recommended for wilderness. This would put an end to the proposals for major new highways through the park and for dead-end roads into the heart of the roadless area.

In addition, the wilderness designation would provide added protection for the black bear and the endangered eastern cougar that inhabit the park and require large areas free from development for survival. The park would remain a wildlife sanctuary and primitive recreation area.

Great Smoky Mountains National Park has been designated an International Biosphere Reserve by the United Nation's Economic, Social, and Cultural Organization (UNESCO) in recognition of its unique and important ecological value. It well deserves the additional protection of being designated part of the National Wilderness Preservation System.

Please do not hesitate to call on Defenders if we can be of more assistance in advancing wilderness designation for the Great Smoky Mountains National Park.

Sincerely,

M. Rupert Cutler,
President.

Swain County, NC,
Bryson City, NC, March 21, 1988.

Senator Terry Sanford,
Washington, DC.

Dear Senator Sanford: Recently the Great Smoky Mountains Wilderness Bill (HR 1495) received a favorable recommendation from the Senate Energy and Natural Resources Committee.

Approximately one-half of the Great Smoky Mountains National Park lies in North Carolina and is Swain County's most outstanding natural resource.

Swain County Commissioners unanimously support HR 1495 and we strongly urge your active support in getting it to the Senate Floor and your vote for its passage.

We feel HR 1495 is a feasible way to terminate a forty-five year old controversy between the Federal Government and Swain County. The 1943 Agreement between Swain County and the Federal Government promised a road in return for the right to flood the only road leading into the 46,400 acre area. This flooding was necessary when Fontana Dam was built to generate hydroelectric power for Alcoa at Oak Ridge, Tennessee, during World War II.

The funding structure of HR 1495 appropriates to Swain County $11,100,000 in lieu of a road, which the Federal Government has not opted to rebuild since 1943. It provides a reasonable compromise compensation to Swain County that can be used to maximize the return on the investment of the $11,100,000.

This settlement will stimulate economic development, provide cash for desperately needed infrastructure improvements to a small, poor county and the interest from the $11,100,000 could help pay for rebuilding deteriorated education facilities. It also settles a long standing dispute that has divided and traumatized Swain County for forty-five years.

The Bill addresses various concerns relating to appropriate cemetery access, Fontana Lake usage, and buffer zone restriction. It insures that the cemeteries will continue to be managed as they currently are with no additional restrictions being imposed.

The Great Smoky Mountains National Park attracts millions of visitors every year. From these visitors our economy is sustained. The people of Swain County led the movement to create a beautiful park for the rest of the world to enjoy and it provides a magnificent backdrop to Bryson City and the Cherokee Indian Reservation. Wilderness designation puts into law current management practices to which we have been accustomed for many years. We believe the Park, with adequate funding from the Federal Government, will continue to concentrate on quality development that will enhance and encourage the continued enjoyment of the Park as it is currently used. This development will provide a positive economic impact on Swain County that is badly needed now and in the future.

Eighty-four percent of Swain County is owned by the Federal Government imposing a low tax base and chronic high unemployment. A settlement of Federal obligation dating back to 1943 is sorely needed. Our economic survival is at stake and we ask you to help us. We thank you and respectfully request your support and vote for Senators Sanford and Sasser's HR 1495.

Sincerely yours,

James L. Coggins,
Chairman.

Mercedith Bacon,
Commissioner.

Dr. R. Max Abbott,
Commissioner.

Swain County, NC—Resolution

The Swain County Commissioners, during regular session, did conduct the following business.

Whereas, on October 8, 1943 Swain County, the State of North Carolina, the Tennessee Valley Authority and the U.S. Department of Interior entered into that certain agreement which commonly came to be known as the "1943 Agreement", and the same is attached as Appendix "A"; and

Whereas, the U.S. Department of Interior in 1949 did commence construction of the North Shore Road and completed approximately a mile in length leading from Fontana Dam; and

Whereas, construction work on the North Shore Road ceased until the State of North Carolina agreed in 1959 to construct a road from Bryson City to the Great Smoky Mountain National Park boundary and thereby causing the U.S. Department of Interior a year later to resume construction; and

Whereas, the parties to the 1943 Agreement (or assignees) did attempt to enter into an agreement in 1965 that proposed a 34.7 mile transmountain road in exchange for construction of the North Shore Road, and construction of the North Shore Road has been terminated at the end of the tunnel completed in 1969; and

Whereas, the Department of Interior to date has not been able to discharge its obligations under the above-mentioned contract; and

Whereas, the parties of the above-mentioned contract did in October, 1979 establish a Study Committee to make recommendation for a resolution of the 1943 Agreement; and

Whereas, the Study Committee did make recommendation, and based on said recommendation the Swain County Commissioners, taking into consideration the recreational-economic potential of Swain County immediately adjacent to the Great Smoky Mountains National Park and national interest of the park's preservation, endorsed introduction of House Bill 8419 as introduced by the Honorable Lamar Gudger attached hereto as Appendix "B" and approved by then the Secretary of the Interior Cecil Andrus as the resolution to the 1943 Agreement; and

Whereas, said above legislation was introduced in the U.S. House of Representatives and like legislation in the U.S. Senate during a lame duck session was not passed prior to congress recessing; and

Whereas, Senator Baker and Senator Sasser of Tennessee co-sponsored legislation in the United States Senate and a portion of Senate Bill 1947 provided for an equitable resolution of the 1943 Agreement and was not passed during the 1984 Session; and

Whereas, Congressman Duncan of Tennessee and Congressman Clarke of North Carolina co-sponsored legislation in the United States House of Representatives and a portion of House Bill 4262 provided for an equitable resolution of the 1943 Agreement and was not passed in the 1984 Session; and

Whereas, Senator Sanford of North Carolina and Senator Sasser of Tennessee have introduced Legislation in the United States and a portion of Senate Bill 693 does provide for an equitable resolution of the 1943 Agreement; and

Whereas, Congressman Clarke of North Carolina introduced legislation in the United States House of Representatives and a portion of House Bill H.R. 1495 does provide for an equitable resolution of the 1943 Agreement; and

Therefore, based upon the foregoing, The Swain County Commissioners do hereby endorse and support the passage of the bipartisan legislation currently pending before Congress, to-wit Senate Bill 693 and House Bill H.R. 1495; and

Furthermore, the Swain County Commissioners strongly encourage not only the North Carolina Delegation, but all members of the U.S. Congress, to end this much over due Settlement of the "1943 Agreement" by passage of Senate Bill 693 and House Bill H.R. 1495.

This is the 19th day of June 1987.

Passed by unanimous vote.

Swain County Board of Commissioners,
JAMES L. COGGINS,
Chairman.
MERCEDITH BACON,
Member.
DR. R. MAX ABBOTT,
Member.

STATEMENT OF DR. JAMES F. CAUSBY, SUPERINTENDENT OF SCHOOLS, BRYSON, CITY, NC

Dr. CAUSBY. Thank you, Chairman Bumpers.

It is with a great deal of appreciation and anticipation that I appear before you today. I deeply appreciate the opportunity you have provided me to share my personal feelings with you concerning these very important pieces of legislation before you. As a representative of the Swain County Board of Education, I appreciate the opportunity to share with you the needs of our young people in Swain County.

I appear before you with anticipation that finally, after 44 years of empty promises and lack of action by the Federal Government, a just and fair settlement of the north shore road issue may be about to occur. If any settlement is to occur, it must begin here today with the members of this subcommittee. My anticipation is that you will carefully study this issue and make wise decisions concerning a settlement. Literally, the future of Swain County and its young people is in your hands.

Forty-four years ago during the effort to win World War II, the Federal Government flooded a road that had been built by Swain County. That road now lies covered by the waters of Fontana Lake. The effort during those war years to build the necessary dams that would allow production of the electricity needed to make aluminum was noble and worthwhile. That effort, however, has resulted in a longstanding controversy that has caused our county financial burdens, has led to a deep mistrust of the Federal Government by the people of Swain County, and has even led to divisiveness among our own people.

The controversy stems from the promise made by the Federal Government to the Swain County Board of Commissioners that a new road would be built along the north shore of Lake Fontana to replace the road that had been flooded. It was to be built if and when the money is appropriated by the Congress of the United States. That money has never been appropriated and the problem has been compounded by environmental issues related to possible road construction, by the desire for needed and deserved access to cemeteries located in the area, and by misunderstandings and often intentional misrepresentations of what wilderness designation for the Great Smoky Mountains National Park actually means.

The controversy is even further complicated by the introduction of two conflicting Senate bills designed to resolve the issue. Whatever the history of this issue, one thing is clear. It is best for everyone concerned that it be settled as quickly as possible.

I am here to speak in favor of companion bills S. 693 introduced by Senators Terry Sanford and James Sasser, and H.R. 1495 introduced by James McClure Clarke. These companion bills in my opinion make provisions to settle this longstanding controversy. They are comprehensive bills that consider the needs of Swain County and the many different groups that have an interest in the north shore road issue.

They are also the bills preferred by the Swain County Board of Commissioners who are the legal, elected representatives of the people of Swain County.

I believe there is little doubt by anyone that a settlement of this issue is right and just. The monetary provisions of these companion bills seem to be accepted by almost everyone. Swain County spent its own money to build a road flooded by the U.S. Government. It is reasonable and fair that the county be paid $9.5 million and a debt of approximately $1.6 million be paid off. This indebtedness resulted from construction of Swain County High School, and is held by the Farmers Home Administration.

Swain County is an economically depressed area. One reason perhaps the main reason for this, is the fact that 84 percent of all property in Swain County is nontaxable due to action of the Federal Government. This area includes the Great Smokey Mountains National Park, Cherokee Indian Reservation Natahala National Forest and Fontana Lake. The revenue that could be derived annually from the interest earned on $9.5 million and the $130,000 annual payment from the high school debt would allow for many needed services.

Our Board of County Commissioners have made education the top priority for the county. They have pledged that additional revenues from this settlement will be used in great part to upgrade the educational program in Swain County.

We have bright and interested students in Swain County. Our people have made many sacrifices to provide the best possible education for our children. However, the funding has never been available to offer the same educational opportunities that are enjoyed by students in many other school systems. We need to expand our course offerings in art, in music, in career awareness, in science, in mathematics, in foreign languages, and in programs for exceptional children. We need to provide the specialized counseling that is needed for our students, especially in the elementary schools. Our elementary students are housed in facilities that are outdated and no longer suitable for use. One of these buildings was built in 1922 and now has the third floor condemned. We badly need the funds that this settlement will provide. Our students deserve it.

I see the red light is on. I would just ask that you favorably report out S. 693.

A RESOLUTION SUPPORTING CONGRESSMAN JAMES M. CLARKE'S BILL TO SETTLE WITH SWAIN COUNTY

Whereas, Congressman James M. Clarke has introduced a Bill to settle a forty-four year old dispute between Swain County, North Carolina and the United States; and

Whereas, the Swain County Government believes the Legislation to be a fair and just settlement for the Citizens of their County; and

Whereas, the Citizens of Swain County would receive approximately twelve million dollars in money and pardon of a Federal Debt; and

Whereas, portions of the Smoky Mountain National Park would be designated wilderness area, leaving certain roads in the Park to be used by the General Public; and

Whereas, provisions are written into the Bill for families and friends to visit the graves of their ancestors; and

Whereas, this proposed settlement appears to be in the best interest of the majority of the Citizens of this area and the United States: Now, therefore, be it *Resolved, That the Commissioner of Jackson County endorse Congressman Clarke's Bill and encourage a speedy solution of this forty-four year old dispute; and*

Be it further resolved, That copies of this Resolution be presented to Congressman Clarke, Senator Terry Sanford, and the Board of Commissioners of Swain County, North Carolina. Adopted, this the 6th day of April, 1987.

WAYNE HOOPER, *Chairman,*
Jackson County Board of Commissioners.

WESTERN NORTH CAROLINA,
Cullowhee, NC, April 21, 1987.

Hon. JAMES MCCLURE CLARKE,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN CLARKE: The Board of Directors of Western North Carolina Tomorrow, at its annual meeting on April 13, 1987, unanimously adopted the recommendation of the Recreation Subcommittee and the Natural Resources and Pride in the Region Committees to support HR 1495, the Smoky Mountains Wilderness Bill.

Please do not hesitate to call on the WNCT Board and staff for any assistance we may provide to support this measure which is of vital importance to the future of the Great Smoky Mountains National Park, Swain County, and the State of North Carolina.

Sincerely,

EDGAR P. ISRAEL,
Executive Director.

NORTH CAROLINA
DEPARTMENT OF COMMERCE,
Raleigh, NC, June 10, 1987.

Hon. JAMES MCCLURE CLARKE,
U.S. Congressman, Biltmore Building—Suite 434, Asheville, NC.

DEAR CONGRESSMAN CLARKE: I am delighted to inform you that the N.C. Parks, Parkway and Forest Development Council voted to support HR 1495 or SB 693, the Great Smoky Mountains Wilderness Bill.

The Council appreciates your efforts to protect and preserve the Great Smoky Mountains National Park for future generations and effect the long overdue settlement of the 1943 agreement between Swain County and the National Park Service.

Respectfully yours,

ED ISRAEL,
Chairman, N.C. Parks, Parkway and Forest Development Council.

SMOKIES ROAD: FAVOR FOR A FEW

U.S. Sen. James Sasser of Tennessee could have been a bit more diplomatic when confronted last week by a group of angry Swain County residents in Great Smoky Mountains National Park. By snubbing the protesters, Sasser fueled hostility toward legislation he is co-sponsoring that would help protect the park from development. Yet, as bitterly as some may oppose the bill, it also enjoys considerable local support—as it should.

Just ask the Swain County commissioners, for example. They favor the legislation because it would guarantee their economically strapped county a $9.5 million cash payment as well as $1.6 million to pay off school construction debts. The money would represent compensation by the federal government for shelving a commitment to rebuild a road that was flooded when Fontana Lake was built.

It's the road that is at the heart of the dispute. Some residents favor it because it would ease access to family cemeteries in the park north of the lake. But the road also would be a magnet for visitors, and thus a spur to development on the park's fringe. No doubt there would be money to be made by those exploiting greater access to the park, but environmentally, the road would be a terrible mistake because of the water pollution and habitat disruption it would bring.

The bill sponsored by Sasser, North Carolina's Senator Sanford and U.S. Rep. James McC. Clarke of the 11th District would protect the park by barring any further interior development. Not just Swain Countians, but all North Carolinians should support this effort to keep the park from suffocating on its own popularity.

Senator Helms backs rival legislation that would authorize the road while exempting a chunk of adjacent land from the recreational development ban. Helms' bill also would match the Democrats' proposed payment to Swain County. Still, as county officials recognize, environmental opposition is strong enough to keep that bill in limbo—and with it, any cash windfall. They sensibly would rather take the money, which the county badly needs, and forgo the road.

Rebuilding the Fontana Lake route seemed like a good idea when it was promised back in 1943. But since then, the Great Smokies have come under tremendous environmental pressures. The road would compound those pressures rather than allay them. Even if it would serve some people's interests to build it, the greater public interest lies in keeping this road off the map.

[From the Asheville Citizen-Times, May 3, 1987]

NORTH SHORE FOLKS HAVE IT BETTER THAN MOST OF US

Members of the North Shore Cemetery Association see themselves as a small and persecuted group. Forty-four years ago the federal government pushed their families off their land to make way for Fontana Lake. Now the government refuses to build a road through the Great Smoky Mountains National Parks so they can travel with ease to visit their old homesteads and family cemeteries.

If this were reason to feel sorry for one's self, Western North Carolina would be a sad place indeed. If this were reason to demand "justice" the mountains would ring with anguished cries.

The few dozens families and their descendants who make up the cemetery association are fortunate. At least they can get to their cemeteries. Many other mountain people cannot.

Who speaks for these silent thousands? Who acknowledges the sacrifices their families made? Who even remembers what they did?

Certainly not members of the North Shore Cemetery Association. They are too wrapped up in their own tiny cause, too busy demanding a privilege no one else has or could reasonably ask.

The north shore families lived on 44,000 acres that were part of a vast tract acquired for Fontana Lake. Unlike the rest of the land, those 44,000 acres were not flooded when the lake filled, so the parcel was added to the Great Smoky Mountains National Park.

The federal government built Fontana to generate the electricty to produce the aluminum to build the aircraft that helped us win World War II. That was a good reason to ask people to give up their land.

Hundreds of families did. Today, their towns, their homesteads and their cemeteries lie under the waters of Fontana. Their descendants never can go back. Only the small number of families who lived on those 44,000 acres are lucky enough to be able to visit their home places.

Thousands of other mountain families surrendered their land, and they did so for a less compelling reason—to protect the environment. The Great Smoky Mountains National Park covers more than a half-million acres. It was dotted with settlements, homes and isolated cabins. All of those people had to move out.

With the exception of Cataloochee Valley, Cades Cove and a few other areas, most of those homesteads cannot easily be reached. Cemeteries by the score lie scattered throughout the park. Many are in the backcountry in areas of the park managed as wilderness. You can get to them only by walking.

The Smokies were not the first. Pisgah and Nantahala national forest cover more than 1 million acres. Much of this land was settled also.

In 1911, when a Smoky Mountains National Park still was only a gleam in the eye of Horace Kephart, Congress adopted the Week Act. This law empowered the U.S. Forest Service to buy and restore land "necessary for the protection of navigable streams."

It was the Weeks Act by which our government acquired most of the national forests in the East. Much of it was land that had been devastated by timber barons and was in sore need of restoration.

The first parcel of land acquired under the Weeks Act was Curtis Creek near Old Fort. As would happen to thousands of other mountain people, the families who lived there were forced to sell their land to the government and move out.

Two of them were the Silvers and the Carver families, who had come to Curtis Creek in the 1800s from the Mitchell County area. I happen to know about them, because they were the families of my maternal grandparents.

Cemeteries? They are there too. One of them is the cemetery of the Curtis family, which settled the valley in the 1790s and for whom the creek is named.

The cemetery was lost for many years. Even my father did not know where it was. I found it some years ago, through the kind help of a woman who lives on the creek and whose sons had stumbled upon the plot while roaming the woods.

It's a small cemetery, on a ridge that rises above the creek and its bottomlands. Most of the graves are marked by rocks buried in the ground. Only one grave has a carved headstone. The inscription bears a simple message. "Rev. Moses Curtis, born 1777, died 1853."

The cemetery is on national forest land, and no road goes to it. You can reach it only by walking, but I'm grateful to be able to get to it at all. In the months before he died, my father wanted to visit it, but he couldn't. He wasn't strong enough.

Members of the North Shore Cemetery Association complain because they have to travel by boat across Fontana to get to their cemeteries, and take four-wheel drive vehicles to visit some of the others. Transportation is provided by the National Park Service.

The Park Service is willing to guarantee this access in perpetuity. Some members of the association say no. They insist that the federal government build them a 20-mile-long road through the national park so they can drive to the cemeteries at their convenience.

Other members are willing to give up the road, but they insist that the 44,000-acre section of the park never be designated as wilderness, as most of the rest of the park will be. (It already is being managed as wilderness. The designation by law only will make official what the Park Service is doing anyway.)

By what right do they make these demands? They say the federal government promised them a road in 1943. It did not. The promise of a road was made to Swain County, as economic compensation for land and roads taken by the lake.

Once those 44,000 acres became part of the national park, a road became untenable. Yes, a road of some sort still could be built—at a cost of millions of tax dollars and untold environmental damage to the park—but it would not help Swain economically. Its only purpose today would be to provide road access to the cemeteries.

The federal government proposes to keep its commitment—its promise of economic compensation to Swain—by giving the county a $9.5 million monetary settlement and forgiveness of a federal loan worth nearly $2 million. Swain's annual property tax revenue totals barely $600,000. Interest on the $9.5 million alone would exceed $700,000 a year. Swain intends to use the money to build schools and to build the kind of service base it needs to generate economic development.

Members of the association has succeeded so far in blocking any such settlement. The offer was first made in 1980. Since then, Swain, a financially pressed and struggling county, has lost $7.5 million in interest and loan payments because the association has stood in the way.

Members of the group say it is only "environmental groups" and outsiders who oppose the building of a road and who favor wilderness designation. I'm not an outsider. I want to see wilderness status for the Smokies. So do most other mountain people. The last time anyone took a poll on the question, WNC residents by a huge margin favored wilderness designation for the park. Swain County residents support the proposed settlement overwhelmingly. Swain commissioners support it unanimously.

It is association members who stand in the minority, and a tiny one it is. They stand virtually alone, because their position is so plainly unreasonable.

The Park Service has offered to give them access and transportation forever. That's all they can reasonably ask. Certainly it's more than most of us have.

If having cemeteries on public land gave someone the right to demand a road, many of us could demand that roads be cut all through the Smokies and Pisgah and Nantahala. If having cemeteries there gave us the right to override public wishes on how that land is managed, our parks and forests would not be managed by the public at all.

It is only the north shore folks who insist that the taxpayers build them a road or let them decide how "their" piece of the park will be managed.

They demand a privilege that none of us has and that no one deserves—and they are holding up economic development of Swain County in their futile attempt to get it.

[From the Greensboro News & Record,
Mar. 27, 1987]

The Road to Nowhere

Tucked away in the Great Smoky Mountains of far western North Carolina is a six-mile stretch of road that some residents of Swain County call "The road to nowhere." The road runs north out of Bryson City, winds along the north shore of Fontana Lake and then, after passing through a tunnel cut in solid rock, ends abruptly.

Over the years, the road has generated more controversy than it is worth. The time has come for abandoning any hope that it will ever lead anywhere. A bill sponsored by Rep. Jamie Clarke of Asheville and Sen. Terry Sanford would compensate Swain County for the loss and declare much of the Smoky Mountain National Park as wilderness area. We hope the bill receives swift and favorable treatment in Congress.

In 1943 Swain County deeded 44,000 acres of land to TVA for construction of Fontana Dam and Lake. In return, the county thought it had a firm agreement for a government-built access road to almost two dozen cemeteries isolated by the new lake. Along the way, however, the government reneged on its promise of a road. A court later ruled that the government's commitment was contingent upon congressional appropriation of funds.

With the passing of time, Swain County commissioners have become convinced the road never will be built. Environmentalists strongly oppose the costly road because they say it will despoil a prime wilderness area and open it to campgrounds and other development. With development threatening the perimeters of many of the nation's national parks these days, it's hard to justify building another road in one of the most majestic and popular of those national treasures.

Commissioners are willing to settle for a lump sum payment and other concessions in return for giving up the road. They are opposed, though, by a group of citizens known as the North Shore Cemetery Association, who insist that the road should be completed.

Two bills introduced in Congress this session have revived the debate. They are almost a repeat of a 1984 scenario, when two proposals killed off each other. The Clarke-Sanford bill, which is also endorsed by Sen. James Sasser of Tennessee, would never complete the road. Instead, it would make much of the park a wilderness area, would authorize payment of $9.5 million to Swain County and would cancel a $1.6 million federal school construction loan to the county. The bill would also guarantee that the park service will continue furnishing access to the graveyards through free boat trips.

A second bill sponsored by Sen. Jesse Helms offers the same sweeteners, with one big difference: It would allow a "logging-type" access road to the cemeteries. Predictably, environmentalists see this as a foot in the door to further development on the park's fringes.

Swain County commissioners, who back the Clarke-Sanford version, point to the county's almost desperate need for additional income that would be gained from investment of the lump sum payment. The county suffers from a low tax base and high unemployment and cannot afford the luxury of another fruitless battle over the road.

We sympathize with those who have an attachment to their ancestral burying grounds. But since they are not denied free access, and since there is little chance that the road will ever be built, it's time to give Swain County the cash and leave the park alone.

[From the News and Observer, Raleigh,
(NC) Mar. 12, 1987]

A Shield for the Smokies

Congress now has before it a no-lose proposition to protect the Great Smoky Mountains National Park. The fate of the nation's most-visited park naturally is of concern far beyond North Carolina. But Tar Heels, along with the Tennesseans who share the Great Smokies, should feel a special sense of urgency about safeguarding this treasure that contributes so much to their states' appeal.

Proposed legislation would cushion the park from the harmful consequences of its immense popularity. It would do so by limiting further recreational development. The federal government now manages most of the park as a wilderness. Under the legislation—sponsored by Senator Sanford, Rep. James McC. Clarke of the 11th District and Sen. James Sasser of Tennessee—about 90 percent of the 520,000-acre park would receive a wilderness designation, with no vehicles allowed.

Significantly, the National Park Service says, the law would have no effect on visitor activities that now are permitted. Wherever the public has access by road, it would continue to have access, and hikers still could roam the park's back country. The law simply would hold the line at the current level of visitor-oriented improvements such as roads and campgrounds. This would be a reasonable compromise between the competing goals of public use and environmental preservation.

The legislation also attempts to resolve the decades-old dispute over access to portions of the park near Fontana Lake. True, the government would shed its longstanding commitment to build a road replacing one flooded when the lake was built. But to compensate, it would give $9.5 million to Swain County—a tax-poor county that badly needs the revenue—and would pay off $1.6 million in Swain school construction debts.

Some people have counted on a new road to provide better access to their family cemeteries. Despite their understandable objections to scuttling the road, Swain County on the whole would benefit from the cash settlement and debt retirement. And the park would be protected from a road that inevitably would attract not just cemetery visitors, but ordinary tourists, fishermen, campers, even poachers to an area that should stay remote.

Senator Helms has taken sides with the road advocates. He sponsors a bill similar to the Sanford-Clarke-Sasser measure except that it would pay to construct the road instead of helping Swain County. To accommodate the road—and the activity it would attract—the bill also would withhold wilderness designation from about 44,000 acres surrounding the cemeteries.

Helms' proposal is unacceptable for two reasons: It favors the interests of a relative few over the interests of an entire county, and it would pose an unnecessary environmental threat. The park service would continue to provide boat transportation across the lake for people who want to visit the cemeteries. That ought to be sufficient to honor legitimate visiting rights.

No national park can fulfill its purpose if access is so restricted that only a few fortunate backpackers can enjoy it. But the legislation sponsored by Sanford, Clarke and Sasser would protect some of nature's most graceful handiwork while ensuring that average people could sample the wonders. This is the balance that must be struck to shield the Great Smokies from the public's loving but potentially fatal embrace.

[From the Asheville Citizen, Mar. 12, 1987]

Settlement Delay Unfair To Swain

Resolution of the north shore road controversy has waited years longer than necessary, and the delay has cost Swain County millions of dollars that it desperately needs. Those who have opposed a financial settlement should defer to the larger interests of Swain County residents and allow this matter finally to be put to rest.

Opponents include members of the North Shore Cemetery Association and Sen. Jesse Helms. Association members, working through Helms, have blocked a settlement because they want a road built to cemeteries that were cut off from convenient access when Fontana Lake was built during World War II.

The federal government agreed to build a road along the north shore of Fontana when it acquired the land. The purpose of the road was to provide economic benefits to Swain County. It would open more of the Fontana shore to development and compensate the county for roads that were flooded by the lake.

But when the area later became part of Great Smoky Mountains National Park, the lakeshore lost its potential for development—so the road was never built.

Although the road was not intended primarily to provide access to cemeteries left in the park, decendants of those buried there had counted on using it for that purpose. They felt cheated when plans for it were dropped.

Swain County felt cheated for a much larger reason: It never received the economic compensation the road represented.

The National Park Service offered to settle the issue in 1980 by giving Swain $9.5 million in lieu of the long-abandoned road. Members of the cemetery association, with Helms' help, have managed to delay any such agreement. They want a road of some sort, one whose only purpose would be to provide land access to the cemeteries. Access now is by boat across the lake and a slow trip by four-wheel drive vehicle.

A road is never going to be built. The slight benefits of a road to a few dozen families do not justify the environmental damage it would do to the park. In addition, the Park Service intends to manage that part of the Smokies as wilderness, which precludes road-building.

Last year the Park Service offered to guarantee access to cemetery association members if they would go along with a settlement. Then-Rep. Bill Hendon told them it was the best deal they were going to get.

Rep. Jamie Clarke and Sen. Terry Sanford have introduced legislation to complete the settlement. Their bills designate most of the park as wilderness, award Swain County $9.5 million in cash compensation and direct the Farmer's Home Administration to forgive a loan the county used in 1976 to build a high school. Annual payments of $130,500 on the loan extend to 2008. The Park Service remains willing to guarantee access to the cemeteries.

Supporters of the association say it is tragic that people have to go through so much trouble to visit their family cemeteries. The real tragedy is that Swain residents have been denied the settlement that was offered seven years ago.

Swain is an economically depressed county struggling to maintain minimal services, let alone develop its economic base. Unemployment ranges to 20 percent and above. The county desperately needs to build new school buildings and to make improvements to basic services.

Swain's annual property tax revenues total barely $800,000. Interest alone on the $9.5 million would exceed $700,000.

The county already has lost more than $7.5 million in interest and loan payments since 1980. Therein lies the tragedy: that a compensation package beneficial to so many has been blocked for so long, all because of the stubbornness of a small group of people and one senator.

Swain residents overwhelmingly favor the settlement. County commissioners support it unanimously. Congress should let nothing, certainly not a single senator, stand in the way any longer.

[From the Asheville Citizen-Times, Oct. 18, 1987]

SMOKY PARK SETTLEMENT MOVES TO WITHIN REACH

The long dispute over wilderness designation for the Great Smoky Mountains National Park can be settled if those negotiating the issue will compromise just a bit more. An agreement stands within reach. For the good of Swain County, both sides should do whatever it takes to resolve their remaining differences.

Legislation sponsored by Rep. James McClure Clarke, Sen. Terry Sanford and their counterparts in Tennessee has been approved by the House, and its prospects in the Senate are good. Never has a settlement been closer. Now is the time for everyone to make that final effort needed to gain passage of the bill.

The obstacle always has been the 44,000-acre north shore area of Fontana Lake. This is but a small portion of the park lands that will be designated as wilderness, but it is specially important to the small number of people whose family cemeteries and old home places lie in the area.

They opposed inclusion of the north shore in the wilderness bill originally because they wanted a road built to provide land access. They now realize that a road never will be built, but many of them still have concerns about wilderness designation. They fear it somehow will interfere with their access to the area or preclude the preservation of the cemeteries and structures they care about.

Most of these concerns have been answered. The legislation guarantees permanent access by law—a guarantee that the north shore group does not have now.

More recently, Sanford, Clarke and other sponsors have indicated they are willing to amend the legislation to answer specific concerns about buildings and roads in the area. Certain parts of the 44,000 acres would be excluded from wilderness designation: access corridors from the shore of Fontana to the cemeteries, for example. The Hall Cabin and the Calhoun House may also be excluded. In addition, these buildings, two bridges in the area and other structures could be designated as national historic sites.

Clarke and Sanford are willing to spell out these things in the legislation, and to do whatever else is reasonable, to secure agreement. They have been negotiating with Sen. Jesse Helms, who represents the north shore group. If Helms drops his opposition to the bill, its chances of passage go from good to certain.

Swain County residents also are constituents of Helms. Most of them support the Smokies bill, as do Swain County commissioners and other local officials. The long-sought settlement benefits Swain directly, because the legislation gives the county $9.5 million (and other compensation) for the road through the north shore area that was never built. Swain commissioners intend to use the money for new schools and other improvements the county needs.

This may be the last chance for many years to get a settlement enacted. After all the work that has gone into the bill, neither the House nor Senate would be willing to take it up again any time soon. It may also represent the last chance for members of the north shore group to get written into law the concessions they have won. If Congress returns to the issue years hence, the leverage the group now holds could be gone.

Considering how much good the legislation will do for Swain County, it ought to be possible for those involved to work out whatever differences remain. They owe it to themselves, and their fellow residents, to make the effort.

[From the Daily Courier, Feb. 22, 1988]

JAMIE'S RIGHT, JESSE'S WRONG ON THIS ISSUE

U.S. Senator Jesse Helms is on the verge of losing a fight over protection of the Great Smoky Mountains National Park and the prospects don't make him happy.

In fact, Helms is so outraged over Democratic-backed legislation that would prohibit development in a section of the national park that he's expected to pull some of his infamous parliamentary tricks to block a vote on the matter scheduled later this week.

Helms wants the U.S. government to build a 34-mile, hard-surfaced road around the Fontana Dam to provide access to 20 or so graves that were cut off in the 1940s when the lake was created.

The government began work on the road four decades ago, but later stopped because of environmental and engineering concerns. Since then, U.S. Park Service employees have transported families to the graves when they wanted to visit.

That arrangement would stay the same if Congress approves a bill introduced by 11th District Congressman James McClure Clarke, which would designate a major portion of the park as wilderness and prohibit development.

In 1980 the federal government and Swain County Commissioners agreed to drop the road project in exchange for a federal payment of $9.5 million to compensate the county for an old road that had been flooded. The government has also agreed to excuse a Farmers Home Administration loan that the county took out to help pay for construction of a new high school.

Helms, it appears, is the only one not happy with the current agreement. He says that people in Swain County are so upset by the proposed legislation that Clarke can "kiss his congressional seat goodbye" if he persists with the legislation.

Clarke's bill may well make some people in Swain County mad, but it's reasonable legislation that resolves a 40-year-old controversy and ensures the protection of one of the U.S.'s most-often visited national parks.

Even if Clarke's stand costs him this year's election—and it wouldn't even if every voter in Swain County abandoned him—it's a stand that should be made for the long-term benefit of the Great Smoky Mountains National Park.

Mr. HELMS. Let him tell that to the people who are affected by this.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. One hour having passed since the Senate convened, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of H.R. 1495, an act to designate certain lands in Great Smoky Mountains National Park as wilderness, to provide for settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943, and for other purposes.

Senators Jim Sasser, Don Riegle, Ernest F. Hollings, John Glenn, Paul Simon, Spark Matsunaga, Wendell Ford, Alan J. Dixon, J. Bennett Johnston, David Pryor, Dale Bumpers, Christopher Dodd, Terry Sanford, Richard Shelby, Richard G. Lugar, John Melcher and Patrick Leahy.

CALL OF THE ROLL

The PRESIDING OFFICER. The Chair directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 19]

Breaux
Byrd
Domenici
Ford
Gramm, Texas
Helms
Johnston
Metzenbaum
Sanford
Sasser
Shelby

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names.

Adams
Armstrong
Bentsen
Bond
Burdick
Chafee
Cochran
Conrad
D'Amato
Danforth
Dixon
Dodd
Dole
Durenberger
Evans
Garn
Graham, Florida
Grassley
Hecht
Heflin
Hollings
Kassebaum
Kasten
Kennedy
Leahy
McConnell
Melcher
Mitchell
Pell
Pressler
Reid
Rockefeller
Sarbanes
Simon
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Wirth

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate—the Senate will be in order. Members will take their seats. The Senate is not in order. The Senate will come to order.

The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of H.R. 1495, an act to designate certain lands in Great Smoky Mountains National Park as wilderness, to provide for settlement of all claims in Swain County, NC, against the United States under the agreement dated July 30, 1943, and for other purposes, shall be brought to a close?

The yeas and nays are automatic under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from Montana [Mr. Baucus], the Senator from Oklahoma [Mr. Boren], the Senator from New Jersey [Mr. Bradley], the Senator from California [Mr. Cranston], the Senator from Nebraska [Mr. Exon], the Senator from Tennessee [Mr. Gore], the Senator from Iowa [Mr. Harkin], and the Senator from Arkansas [Mr. Pryor] are necessarily absent.

I further announce that the Senator from Michigan [Mr. Riegle] is absent attending a funeral.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. Gore] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. Heinz], the Senator from Nebraska [Mr. Karnes], the Senator from Oklahoma [Mr. Nickles], the Senator from Indiana [Mr. Quayle], the Senator from Connecticut [Mr. Weicker], and the Senator from California [Mr. Wilson] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. Heinz] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 35, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—49

Adams
Bentsen
Bingaman
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Daschle
DeConcini
Dixon
Dodd
Durenberger
Ford
Fowler
Glenn
Graham
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Reid
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Stennis
Wirth

NAYS—35

Armstrong
Bond
Boschwitz
Cochran
D'Amato
Danforth
Dole
Domenici
Evans
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Helms
Humphrey
Kassebaum
Kasten
McCain
McClure
McConnell
Murkowski
Packwood
Pressler
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—16

Baucus
Biden
Boren
Bradley
Cranston
Exon
Gore
Harkin
Heinz
Karnes
Nickles
Pryor
Quayle
Riegle
Weicker
Wilson

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 35, three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

TENDER OFFER DISCLOSURE AND FAIRNESS ACT

The PRESIDING OFFICER. The clerk will report the unfinished business, S. 1323.

The legislative clerk read as follows:

A bill (S. 1323) to amend the Securities Exchange Act of 1935 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers.

The Senate resumed consideration of the bill.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am going to take this opportunity—and so I would ask the floor leader if there is anything that I am stepping in on; I want to make sure that I do not do that—because I have the floor and I would like to have the floor for 20 minutes. But I do not want to interrupt anything that the leaders have planned.

What I am saying to the floor leader, since he is so respectful of people's rights, I am willing to give him the floor for anything he wants to do.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

The Senate is now on the corporate takeover legislation, am I correct, I ask the Chair?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. The Senator would need unanimous consent to speak on a matter out of order, which he could get right now because our managers are not on the floor to proceed with corporate takeover legislation.

While we are getting those managers, I ask unanimous consent that the distinguished Senator may be permitted to speak out of order for not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized for 20 minutes.

DEFENSE FRAUD INVESTIGATION

Mr. GRASSLEY. Mr. President, the current revelations of the defense fraud investigation have had a profound impact on our Nation in so short a period of time.

However, I suspect the general public is not at all surprised at the magnitude of the scandal.

I imagine what must be going through the collective mind of our constituents. A memorable scene in the movie Casablanca might sum it up best.

It is the scene in which Claude Raines, the French chief of police, shuts down Rick's saloon on the pretext of his "suddenly discovering" that gambling is going on in the back rooms.

He says: "I'm shocked. Shocked to find out there is gambling going on in here." Just then, a porter runs up to Raines and hands him a wad of money and says: "Your winnings, sir."

Now, I do not mean to suggest any association between the scene in Casablanca and anyone in our Government. The point I am making is simply this: There is a perception out there across this country that many of our Government officials are like the French chief of police in that scene in Casablanca.

This is because we have failed to earn the trust and respect of the public when it comes to dealing with perpetrators of fraud against the taxpayers of this country.

This investigation by the FBI and the Naval Investigative Service has not turned up a mere aberration. It has turned over a rather large rock and uncovered the veiled activities of critters undermining the national security out of the light of public view.

You can turn over just about any rock and find the same activity. This is ingrained in the culture of the military-industrial complex. It is institutional and structural. And it is business-as-usual.

Most important, it is something we could have ferreted out 4 years ago. But Defense and Justice Department officials turned their backs on repeated requests by DOD investigators to provide resources for uncovering this obviously rampant problem in the defense community.

In light of this investigation, let's be very clear about a couple of matters, Mr. President. First, this notion of self-policing by defense contractors, which the Defense Department has acquiesced to, is a farce. What's more, it is an insult to the taxpayers of this country. It is like putting the fox in the chicken coup to guard the chickens.

Second, the prevalent argument against strict revolving door legislation that was proposed 2 years ago and defeated now seems weak indeed.

The argument was that strict revolving door legislation would inhibit experienced and well-qualified individuals in industry from serving in the Government.

But what this investigation shows is that in rejecting this strict language, we threw the baby out with the bath water.

Now, Mr. President, I would like to establish for the public record a series of circumstances that make crystal clear that this same activity—of bribery and document trafficking for competitive advantage—could have and should have been uncovered 4 years ago. In 1984, Defense Department investigators at DCIS received numerous allegations as well as hard evidence that documents were being trafficked illegally from Government officials to defense contractors, by way of consultants, and that gratuities were involved.

These investigators repeatedly requested resources to help develop the case, in the same manner that U.S. Attorney Henry Hudson has done with this investigation. But Defense and Justice Department officials turned their backs. The evidence gathered by those investigators showed possible widespread corruption throughout the defense community, just as this case has shown and has been demonstrated in the news within the last week.

When nothing was done by Justice Department officials to follow up on the evidence, one DCIS agent, who directed the investigation, came before a subcommittee of mine, quite frankly, out of frustration. That was on October 1, 1985. He began to testify that a case then being prosecuted by the Justice Department, the GTE case, or the Zettl case, was the tip of the proverbial iceberg, and that at least 25 companies were involved, not just GTE, and that these 25 companies would be household words to most of us.

The focus of the DCIS investigation was the widespread and indiscriminate distribution of classified documents from Government officials to consultants for the purpose of providing a competitive advantage on contract bidding. This was going on throughout the defense community, according to investigators, and informants were pouring out of the woodwork with information and evidence. Of course, just within the last 48 hours, I have learned that bribery was also involved in that investigation from investigators who were working way back then in 1984.

According to this former agent, whose name is Robert L. Segal, the focus of Department of Justice prosecution was not widespread and indiscriminate practices, but rather the very narrow view that GTE was an aberration, the only company doing this. And even then, according to Segal, "we had to drag the PFU—the Defense Procurement Fraud Unit—and the Department of Justice kicking and screaming toward indictments and prosecution." It was Mr. Segal's DCIS organization which had developed the investigation that led to the GTE case.

His point was that the Justice Department refused to recognize the magnitude of the case and its national significance. It is my understanding that a more vigorous and thorough investigation at that time would have produced 4 years ago what we are just now beginning to see unfold.

Incidentally, Mr. Segal himself worked at the Department of Justice as an investigator for 11 years, and received seven Department of Justice awards.

According to Segal, "the recent GTE case clearly demonstrates the magnitude of the problems at the PFU and within the Justice Department itself. For whatever reasons, the PFU and officials at Department of Justice continually chose to take the easy route, to avoid stepping on industry toes, to avoid performing their lawful responsibilities to protect this country's national security."

Mr. President, I also want to quote for some of my colleagues, and some of this might be somewhat repetitive but so they do not lose the context of it—remember, this is what Mr. Segal would have said to the Department of Justice on October 1, 1985:

MR. CHAIRMAN: I would like to begin by thanking you for the opportunity to appear before this committee.

There is a very simple reason why I am here today. A friend once told me that either you are part of the solution or you are part of the problem. I am here today hopefully to be part of the solution to a very real and serious problem: inability of the DOD/DOJ Procurement Fraud Unit (PFU) to have a significant impact upon fraudulent conduct within the defense procurement industry.

The views I express today represent my professional evaluation of the PFU performance. Those views were formed as a result of my first hand experience working on a day-to-day basis with that unit from October 1983 through January 1985, during which time I had the responsibility for coordinating all DCIS cases referred to the PFU for prosecution.

When I joined the Defense Criminal Investigative Service, I brought with me a wealth of investigative expertise, particularly in the area of complex criminal investigations. That expertise was formed through my eleven plus years experience as an investigator with the Department of Justice. My skills in the area of complex criminal investigations have received frequent recognition, including seven DOJ awards and, most recently, a memorandum of commendation from Mr. Joseph Sherick, the DOD Inspector General.

I accepted my assignment to coordinate the DCIS cases being handled by the PFU with great enthusiasm. I immediately recognized the tremendous potential the PFU had for significantly impacting the fraudulent activities within the Defense procurement community. However, my excitement and enthusiasm were both shortlived. I soon discovered that there were major problems within the very makeup of the PFU which greatly reduced its potential for having any serious impact upon Defense procurement fraud. Examples of PFU inadequacies abound. However, the recent GTE case clearly demonstrates the magnitude of the problems at the PFU and with DOJ itself.

The guilty pleas by GTE resulted from an extensive investigation originated by DCIS more than two years preceding the GTE plea. This was a case which was transfered by DCIS ot the DFU for prosecution because DCIS determined that the case's nationwide implications warranted prosecution by a central prosecutive unit with jurisdiction throughout the country. The failure of the PFU to take the appropriate action at the appropriate time repeated itself throughout the investigation. Its refusal to ever recognize the tremendous magnitude of the case still bewilders me.

GTE is but the tip of the proverbial iceberg. This was not your regular run-of-the-mill procurement fraud case. First of all, the investigation involves at least 25 companies, not just GTE. Many of those companies are household words. Second, the primary focus of the case was not the fact that the government was being regularly defrauded in its daily procurement processes, but rather the indiscriminate distribution of both proprietary and highly classified government documents by individuals within and without the government, in total disregard for laws and regulations designed to protect the very security for this nation. Classified documents which are prohibited from ever leaving the DOD are regularly trafficed among private "consultants," companies in the procurement industry, and military and civilian employees of the government.

Many of these companies appear to have espionage units whose main function is to obtain copies of highly classified documents in order to give their companies a competitive edge. This is not just my personal opinion. The evidence gathered during this investigation speaks for itself. Yet, we had to drag the PFU and the DOJ kicking and screaming toward indictments and prosecution. It was a major achievement when the PFU and DOJ agreed to use a conspiracy charge in this case. It took my personal research and forceful stance to have the DOJ even consider espionage charges in this case. The evidence in this case was such that indictments could have been handed down before I even took charge of the investigation in June 1984. Yet, it took more than another year before any formal charges were levied against any potential defendants.

The national security implications of this case are overwhelming to even a casual observer, yet the PFU regularly rejected DCIS advice and suggestions for taking effective action against the pervasive illegal distribution and mishandling of highly classified government information. For whatever reasons, the PFU and officials at DOJ continually chose to take the easy route, to avoid stepping on industry toes, to avoid performing their lawful responsibilities to protect this country's national security. I will leave their motives to you. I can only say that with the single exception of PFU prosecutor David Hopkins, I have seen nothing but reprehensible conduct by officials at the PFU and DOJ regarding this case.

The concept of the PFU is an excellent one. However, to date the PFU has been an abject failure. It has lost the respect and earned the disdain of not only most every DCIS Special agent, but also many federal prosecutors throughout the country. The reasons why are clear. The unit has lacked leadership and direction. What it needs for success is a skilled, aggressive prosecutor with a long record of investigative, prosecutive and courtroom experience in complex criminal investigations. To date such leadership has been missing.

(From September 1979 until June 1983, I was one of the principal instructors on the nationally recognized DEA Conspiracy Training Team. In that capacity, I lectured to hundreds of law enforcement and prosecutive personnel at all levels of government [state, local and federal] throughout the United States. I was also a regular lecturer on complex criminal investigations to New FBI Agent Classes at the FBI Academy, and to state, local and federal attendees at the highly regarded FBI National Academy. Currently, I continue my training activities in complex criminal investigations as a regular lecturer in law enforcement training seminars sponsored by the International Association of Chiefs of Police.)

Mr. President, this body deserves an explanation of why Mr. Segal never testified there on October 1, 1985, and some of that needs to be understood so that you know what went on during the period of time that my staff and other people were working on this hearing coming up to that time.

The reason is because Mr. Segal's testimony was never allowed to be finished because he was interrupted at that hearing in 1985 by Deputy Assistant Attorney General Victoria Toensing. His testimony was never made part of the public domain because we complied with the wishes at that time of the Justice Department, which was concerned that Segal's testimony might jeopardize the Department of Justice's prosecution of the GTE case.

Let me paint for you that picture: I was chairing that Subcommittee of Judiciary at that time. Mr. Segal's appearance was not announced ahead of time because I know that there are efforts within the bureaucracy to put peer pressure on people not to testify. He started his statement, and at that point, Victoria Toensing was in the front row of the spectator section of the hearing room. She jumped up and grabbed his microphone and pleaded that his testimony might harm the case of the Government at that time.

Let me suggest to you, not being a lawyer myself, not wanting to jeopardize our Government's position in the prosecution, any prosecution for that matter, but particularly something that is a main interest of mine, the prosecution of defense industry procurement fraud, I stopped that at that point.

I wish now I had not because there was not anything in his testimony, as I have just read it to you, that in any way could have jeopardized the GTE case. I just gave that big black hole out there that is the industrial-military complex and its friends within the bureaucracy an opportunity probably for more time to keep from getting the facts out.

I feel confident at this time, however, that the public must be made aware of the fact that our Justice Department has been asleep at the switch, when it comes to the aggressive prosecution of defense contract fraud. I might add that Justice Department officials dropped espionage and theft charges against Zettl and all charges against his two codefendants, according to a recent story in the Washington Post. In retrospect, the Segal testimony plays a key role in the lessons learned from the current FBI probe.

What it says is that success in the prosecution of fraud will be achieved only when skilled, aggressive prosecutors with experience and leadership capture the reins of control from the Justice Department bureaucracy. I am overwhelmingly encouraged by the aggressiveness of U.S. Attorney Henry Hudson on this case, and I applaud his actions to date.

For those of my colleagues who have not become acquainted with Henry Hudson, I propose that they do and give him maximum encouragement because he will succeed if there is not interference from central Justice.

I would like to make a final comment, Mr. President. I have been a vocal critic of the Justice Department over the years because of its failure to prosecute defense fraud aggressively. This current investigation shows aggressiveness. We can only be pleased that the administration has responded in this manner, in spite of the Department of Justice bureaucracy. In my view, these types of investigations should be conducted by U.S. attorneys around the country in areas where fraud is most likely to occur.

Senator PROXMIRE and I introduced legislation that would establish regional fraud units around the country, and provide the obviously much-needed resources to successfully prosecute these cases. We will shortly be sending around a "Dear Colleague" letter to our colleagues, Mr. President, and we would urge Senators to cosponsor this bill. Thank you, Mr. President.

I yield the floor.

TENDER OFFER DISCLOSURE AND FAIRNESS ACT

The Senate continued with the consideration of the bill.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1323.

Mr. SASSER. Mr. President, as a member of the Securities Subcommittee of the Banking Committee, I rise in strong support of the Tender Offer Disclosure and Fairness Act of 1988. Make no mistake about it. In fact, critically important legislation. Indeed, this is the most important securities legislation to be considered by Congress since the enactment of the Williams Act 20 years ago.

I would be remiss if I did not acknowledge the work done by my distinguished colleagues, Senators PROXMIRE and RIEGLE—the chairmen of the Banking Committee and the Securities Subcommittee, respectively—for their leadership in bringing this bill to the full Senate for consideration.

At the outset I would like to dispel right from the start some common misconceptions about this legislation.

First, this is not legislation designed to curb mergers and acquisitions, even hostile acquisitions. This is not an antishareholder bill. Nor will passage of the Tender Offer Disclosure and Fairness Act create a scheme that favors incumbent management.

Rather, this bill hits squarely at loopholes in the Federal securities law that governs tender offers—the Williams Act. It closes loopholes that have permitted the stock of companies to be manipulated for short-term profit. It prohibits abuses that have fostered speculative excesses that we are all familiar with and have dominated the headlines and network telecasts in recent years.

The bill seeks to stop those that would put a company in play, to garner exhorbitant and quick profits, without any intention of acquiring or running the company.

Importantly, Mr. President, the bill is directed at the activities that have given rise to the pervasive perception that the stock market is a rigged operation. The perception that it is no place for the individual investor. The perception that has contributed to ongoing volatility and has caused grave concern about the future of our capital-raising process. Make no mistake about it, a free enterprise system cannot long survive if the capital-raising process itself is put in jeopardy.

This bill is meant to alleviate a situation where well-managed companies operate everyday under the threat of a hostile, manipulative raid, a situation where takeover and other rumors abound and stock prices gyrate radically.

In short, the bill amends the Williams Act to correct something that has become a no lose proposition for a very few to the significant detriment of many.

Just how detrimental has this whole takeover manipulative process become? We all have heard about job losses from takeovers; indeed, Business Week estimates them to be 500,000, just in the last 2 years. We know about the devastated communities. I have seen many of them in my home State of Tennessee.

Mr. President, I think the detrimental impact though, has been much broader. I think it has been much more subtle.

The impact is the psyche that has taken seed in American management, because of the omnipresent threat of the hostile raid.

First and foremost, the inordinate emphasis by our business leaders on the short term, on quarterly earnings, and on the stock price, is a result, I submit, of the hostile takeover craze. With a takeover ever looming, no manager of a corporation will pursue a strategy that might pay off only in the long term. It inhibits long-range planning. This means a dramatically reduced commitment to research and development that is so critical if our economy is to remain competitive not just internationally but domestically.

The second manifestation of the takeover psyche is rising corporate debt. In the last 2 years, corporations have added $400 billion in additional debt. Any economist will tell you that these extraordinary debt levels will easily exacerbate the next recession.

Many great corporations will be unable to service this debt during the next economic downturn and that will come just as surely as day follows night.

Mr. President, increasing debt loads and buying back stock are the tyical defenses to the hostile corporate takeovers, and debt with short-term focus, the casino perception, if you will, of the equity markets, and the dislocation of employees and communities are just a few of the detrimental effects of this hostile takeover craze.

Well, what about the argument that this legislation will protect so-called entrenched management and how this legislation will further exacerbate the problem, as some of the opponents say of entrenched, inefficient management that just serves its own interests and not those of the shareholders.

Frankly, this notion does not hold water in my judgment. A cursory look at takeover targets indicates that most are well-run companies that have been returning value to their shareholders—companies like Borg-Warner, Holiday, Goodyear, Burlington, Owens-Corning, Dayton Hudson, and ITT. These companies were not considered poorly run, yet they were the targets of hostile takeover.

Lee Iaccoca, the dynamic chairman of Chrysler Corp., and a major critic of what had been characterized as manipulative hostile takeovers, is the first to tell you that no raider ever looked at Chrysler Corp. when that company was suffering from inept management. Rather, takeover artists tend to focus on whole industries where all stock prices are depressed for cyclical or other discernible reasons, not focusing on particularly poorly-managed companies.

For instance, raiders went through the oil industry a few years ago; next it was forest products, and then retailers. Now, one can seriously argue that every company of such an industry is mismanaged.

Questions of management entrenchment are best left to the courts to decide under established State corporate law—the so-called "business judgment rule." If management has indeed entrenched itself and if it is indeed unresponsive to shareholders, it is the legal responsibility of the board of directors. If it does not take action against management entrenchment, then the board has violated its fiduciary duty and is liable to the shareholders in a court of law.

Mr. President, I have a list of over 20 major cases in the last 2 years where management's actions were held to entrench management and were overturned quickly by injunction. This is the proper solution to the management entrenchment issue—a case-by-case review by courts—not the bludgeon approach of the hostile raid.

Mr. President, this brings me to the critical question of the role of State law in this process. The bill before us has been carefully crafted so as not to pre-empt State law. And this, I submit, is important. State corporate law has traditionally governed the internal affairs of corporations. This role for the States was explicitly reaffirmed by the Supreme Court in the context of a State takeover law just last year.

The Federal securities laws, including the Williams Act, are primarily disclosure, procedural and antifraud statutes. In contrast to State law, Federal statutes, for example, do not purport to govern internal corporate issues, particularly voting rights of shareholders—nor should they.

In this respect, State takeovers laws are a constructive development. According to the Supreme Court, in CTS versus Dynamics, these laws protect shareholders from coercive tender offers, they do not conflict with the Williams Act and they further "the Federal policy of investor protection."

Nor will they result in so-called "balkanization." In fact, in any given takeover transaction there would be only one State's law implicated—the law of the State of incorporation. Nor will they preclude hostile takeovers. Indeed, several takeovers have taken place in recent months in States that have adopted such laws.

Moreover, Mr. President, I warn my colleagues not to be taken in by concepts that sound good but would in fact preempt State laws.

By that I am referring to the so-called notion of one-share/one-vote. It sounds good but I would submit one-share/one-vote is not democratic, it rewards persons who can acquire enormous blocks of stock quickly and for a short period of time.

One-share/one-vote is a rule that was instituted on the New York Stock Exchange in 1926, at a time when there were no Federal securities laws governing disclosure and proxies. It was adopted in a different situation when business leaders were building strong companies that invested for the long term and were not continually the target of hostile raids.

One-share/one-vote is not a democratic principle. In our society, we do not accord voting rights by the amount of wealth a person has, or by the amount of taxes he pays—every person gets one vote.

Mr. President, if a company discloses clearly when it sells stock what the voting rights are, it is a bargained for exchange—a contract. The question comes, why should we interfere and violate the sanity of that freely bargained for contract?

If a company wants to raise capital, and at the same time retain its managerial style, it ought to be able to do just that.

If investors want to buy stock in such a company knowing that the voting rights are limited, then they should be able to do just that. What business is it of the Federal Government to say they cannot?

Mr. President, corporations are supposed to return a fair value to their shareholders. But they are also chartered by States to serve a public purpose. They are supposed to conduct a business, employ people and be good citizens. State corporate law is designed to ensure that corporations meet all these objectives.

In contrast, the primary focus of the Federal securities laws has been largely limited to the disclosure required upon the sale of stock.

If we allow the equity markets to be driven completely by the desire for instant gratification of shareholders, we could damage the longstanding principle of corporate governance by the States.

One of our former colleagues, the distinguished former Senator from New Jersey Nicholas Brady, who headed the Presidential Task Force on the Stock Market Crash, said rather graphically:

> Let's not have drunk driving and speeding on our financial highways. We are, by saying there is no limit to what the shareholder can do to maximize wealth, ignoring every other part of the system.

Mr. President, every other part of the system is State law—it is long-term investment strategies—it is employees, communities, and small- and long-term shareholders.

Mr. President, I urge my colleagues to support the Tender Offer Disclosure and Fairness Act. The Banking Committee reached a good compromise on this legislation. I firmly believe that the enactment of this legislation is critical to the stability of our equity markets and our corporations, to our communities and our working men and women, and to ensure a productive American economy in the future. I yield the floor.

Mr. President, I yield the floor at this time.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise in support of S. 1323, the "Tender Offer Disclosure and Fairness Act of 1987." I am pleased that the Banking Committee's months of hearings on the effects of hostile takeovers on the economy of our Nation have resulted in a piece of legislation that makes significant progress toward making the tender offer process more fair and evenly balanced. I do not agree with every provision of this bill. On balance, however, it is a modest and balanced piece of legislation that deserves the support of the Senate.

I believe that any tender offer reform should build on the fundamental principles of the Williams Act: Government neutrality in contests for corporate control, rules to ensure full and timely disclosure, adequate time for management and shareholders to make informed decisions, and effective SEC enforcement of these principles. These laws are designed to preserve investors' faith in the fairness of the marketplace and ensure that there is a level playing field in contests for corporate control.

After carefully listening to hours of testimony before the committee, I believe that the evidence is ambiguous about the long-term effect that hostile takeovers have on the health of the American economy and the performance of corporate management. We can find a study that confirms any point of view on these issues.

Whatever your own personal prejudice is, you can find that somebody has done that study which conclusively proves your point of view.

Hostile takeovers may be necessary as a check on the behavior of corporate managers who do not own the assets that they are managing for the shareholders. On the other hand, we have seen manipulative takeover attempts by raiders who clearly have no intention of running the companies that they've put into play. The only beneficiaries of these deals are investment bankers and lawyers.

This suggests to me that we have to maintain the careful balance set up by the Williams Act. We should make those changes that we can all agree on, such as closing the 13(d) window. I hope that we will limit our efforts to a simple package of Williams Act amendments and leave areas such as corporate governance to the States. As a former Governor, I am very reluctant to impose the Federal Government's wisdom on areas which have traditionally been the province of the States. The Supreme Court has spoken on this issue in upholding the Indiana statute, and I believe that we should let these laws be subject to time and judicial scrutiny before we hastily preempt them. I hope that the States will think about the national implications of their decisions and the economic results forthcoming, and that they will take these into considerations as they enact or amend antitakeover laws, and I believe that we on the Banking Committee should continue to monitor their effects.

I also hope that we do not load this bill down with controversial amendments which interfere in our market economy such as restrictions on the amount of debt corporations can incur.

I am one who believes that an ill-considered taxation measure that was introduced last fall in the House Ways and Means Committee had a great deal to do with triggering the downturn of the October 16, 19, and 20 on the stock exchange.

We will start down a very dangerous path if we begin to impose legislative limits on how much money consenting adults can borrow.

Tender offer reform strikes me as an area where the "Law of Unintended Consequences" reigns supreme. If we enact amendments that tilt the balance of the legislation one way or the other, we could be very disturbed by the results further down the road. Let us fix the Williams Act and leave it at that. We can always return to these issues if events demonstrate that we need to tinker with the process further. I encourage my colleagues to vote against amendments which favor corporate raiders or incumbent management and to support the bill as reported out by the Banking Committee.

I thank the Chair and yield the floor.

Mr. President, I suggest the absence of a quorum.

Mr. ARMSTRONG. Mr. President, if the Senator will withhold that, I want to do a couple of things at this moment: First, to congratulate him on his observations, for which we are grateful. The Senator from Missouri knows a lot about this subject, having been a Governor, having been a businessman, and having been a participating member of the Banking Committee. I am really grateful for his interest in this topic.

Some people may think this is kind of a difficult, technical area of the law, but in fact it is an extraordinarily important aspect of the law as it affects the rights and economic outlook of people in Missouri, people in Colorado, and all over the country. So I am grateful to him for pitching in on this matter, getting involved, and for his leadership in helping us to work this thing out. I thank him for doing so.

Mr. BOND. I thank my distinguished colleague from Colorado, who shows leadership on this as on many other issues.

Mr. ARMSTRONG. I thank the Senator.

I was relieved a few minutes ago when debate resumed to learn this was not an antishareholders bill; this was not a bill that in some way was going to make it possible for entrenched management to continue to situate themselves and to hold a tight grip on their sinecures. I was afraid we had gone back to the bill we were on Friday which did have those characteristics. Now I gather that we have shifted gears and moved on to another piece of legislation altogether. I am looking forward to hearing what that is all about.

Mr. President, during the last few minutes, I have heard several things with which I thoroughly disagree, and I just want to mention them. It is not because I want to be cantankerous because I think it is important to keep the record straight around here. In the first place, the notion that the reason corporating managers are focused on the short term is because of the "hostile takeover craze," it is the most far-fetched suggestion I have ever heard.

I happen to believe that it is a fair concern, a fair criticism, to say that a lot of companies are run with a very short time horizon. I think that is poor business practice. I, myself, in my private practice as an investor would not dream of being mixed up with a company like that. The kind of companies that do well are those that have a long-time horizon, those that look beyond what the stock price is going to be today or tomorrow, and look to the long-term prospects of the company.

That has nothing to do with takeovers. In fact, I did not come to the floor prepared to do so, but I will bet with a very brief amount of effort I could bring a wad of scholarly articles and editorials from the business press that go back over at least two decades of thoughtful people complaining that American companies are managed with too short of a time line. Indeed, I think in many cases that is quite true. But to suggest that somehow that is a function of or a result of what has been improperly and I think prejudicially and pejoratively termed "the hostile takeover craze," which is a more or less recent phenomenon, simply ignores the historical record.

If companies are managed with too short a fuse, which I think they are, whatever is causing that, and I have some ideas of it, it certainly does not arise from the recent relatively small number of what are inaccurately termed "hostile takovers."

Second, Mr. President, I agree with the concern that has been expressed about the spiraling load of debt on American corporations; but the suggestion that that has been caused by takeovers, whether hostile or of some other character, is also not borne out by the historical record. The amount of debt owed by America's corporations has been rising very rapidly, both in absolute terms and in relation to the net worth and earning power of the corporation.

Whoever raised this concern, I think, is correct in pointing out that this threatens the long-term prospects of these companies. A reasonable amount of debt is not a bad thing for a company, or perhaps for a nation; but when it goes too far, it becomes a menace. However, it is obvious, not because I say so but because it is a historical fact, that almost all of that debt—I mean the overwhelming preponderance of the debt, the vast majority of this debt—has been run up by companies that have not been in any way the subject of a takeover attempt, hostile or otherwise.

Most thoughtful people who have looked at this and are concerned about it would agree with people like Beryl Sprinkel, Chairman of the President's Council on Economic Advisers, who, in response to my question on this matter before the Senate Banking Committee, said he figures that probably it was more related to the tax structure than to any takeover legislation. In fact, I think that is undoubtedly true.

If you are a businessman and go out into the capital markets and have the choice of raising money for a new plant or product or to start a new business and can raise it through equity, which has to be fully taxed at the corporate level before you get any dividends which you can then pay out to the shareholders, who are taxed again, or you have the option of raising that money by selling corporate debt, which is not taxed, the interest on which is a tax-deductible expense to the corporation, what is the likely outcome? It is that if you want to run your company efficiently, you are going to be tempted into a very large amount of debt, because equity debt is taxed twice. Equity ownership, equity capital, is taxed twice. Debt capital is taxed only once.

So it is not a mystery why companies have taken on large loads of debt, and in many cases, loads of debt well beyond what is reasonable or sound.

Mr. President, I also share the concern about States rights which has been expressed here. I am a States righter. That does not mean I think we have to defer on every issue to the States. But I think, in a general way of speaking, Congress has been remiss in preempting the States. We preempt the States on almost everything that comes along—what the speed limit should be, how they should run their welfare system. We supervise, in fairly minute detail, how they run various health programs, what they do about education, and a lot of other things. I think it has gone much too far.

I served for 10 years in the legislature of my State, and I think that, generally speaking, the members of the Colorado General Assembly have a better idea of what is good for Colorado than do the Members of the Congress of the United States—not because they are any smarter or because they are more dedicated or because they work harder, but because they are closer to home, and what happens in Colorado is different, to some extent, from what happens in Alabama or North Carolina or any other State.

I am far more respectful of the principle of States' rights than has been the U.S. Supreme Court during recent decades. But, having said that, I do not think States' rights are the end-all and be-all of good policy.

For a long time, we have recognized, as a society, as a nation, that we are a national society; that our economy is a national economy. Indeed, it is becoming an international economy. It is very clear, even by amendment to the U.S. Constitution, that those matters which affect the whole Nation may be and should be properly regulated by the National Government. The interstate commerce clause is for that purpose. It says that notwithstanding the general presumption, both as a matter of law and policy, toward States' rights on those issues where there is an interstate aspect, it is proper for Congress to legislate, for Federal courts to take jurisdiction, and so forth.

The notion that, somehow, by legislating in this area, we are "governing the internal affairs of companies," I think really misunderstands what is going on here.

We are talking, by definition, about companies which are in interstate commerce. We are not talking about little companies that operate only in one locale, in one State. We are talking about—in the amendments which will be proposed here today—companies listed on national exchanges: the NASDAC, the American Stock Exchange, the New York Stock Exchange. We are talking, in many cases, about companies that do business all over the world. In no case, not one, are we talking about a company which only does business within the confines of a single State. The fact is that most of the companies engaged in interstate commerce—there might be an isolated exception—which clearly fall within the interstate commerce concept of legislation, have shareholders in dozens of States.

This brings me to the point I wanted to respond to, from what has already been said, and it is this: To throw up a smokescreen of States' rights as a justification to say that shareholders who live in Colorado, who are citizens of Colorado, may be disenfranchised of their rights of ownership by the State of Delaware and other States simply because the corporation in which they own shares has been chartered by that State, I think, is way off the mark.

It seems to me that in a nation such as ours, the shareholders of North Carolina, and Alabama, and Texas, and every other State which does not happen to be the State of Delaware are entitled to equal protection of the law. They are entitled not to have their rights taken away from them arbitrarily by the State legislature of a single State.

I mentioned Delaware. That is not because I have a particular desire to criticize Delaware, although the legislation adopted recently by their legislature deserves to be criticized—the legislation, not the State nor the legislature. The legislation deserves to be criticized because in this State, which is the preeminent domicile of American corporations, where most big corporations are chartered, they have adopted legislation which, as a practical matter, does disenfranchise the corporate owners who happen to live in the other 49 States. I say that is reprehensible. We should not let them get away with it, whether it is Delaware or any of the other States that have experimented with this notion.

(Mr. FOWLER assumed the chair.)

Mr. SANFORD. Mr. President, will the Senator yield.

Mr. ARMSTRONG. I am honored to yield.

Mr. SANFORD. Would the Senator carry that argument further—that because interstate commerce is concerned, because stockholders live in States different from the incorporating State, perhaps the time has come to turn corporate governance over to the Federal Government?

Mr. ARMSTRONG. I would not care to make that argument, though I would listen to it if someone else wishes to.

I point out to the Senator that regulating the business affairs of corporations which are listed on the national exchanges has been, in fact, the standard of law for many years. In other words, this is now a new question. Congress has taken upon itself the regulation of companies which are listed on national exchanges for a long time. This is not something new.

Mr. SANFORD. Is the Senator suggesting that the Federal Government has taken over the regulation of corporate governance, as distinguished from the issuance of securities?

Mr. ARMSTRONG. Mr. President, in my view, Congress has impinged only to limited degrees on the governance of corporations, sometimes with desirable results and sometimes not; but in the main, most issues of corporate governance remain the province of the State and should remain the province of the State.

Mr. SANFORD. I assume, Mr. President, that the Senator from Colorado is talking about an issue that is not yet before this body—amendments mandating one share, one vote.

We will have an opportunity to discuss that at a later date.

Mr. ARMSTRONG. Well, Mr. President, let me say to the Senator that I am not discussing any particular amendment. I am discussing observations made by one of our distinguished colleagues who raised three points: One, that it is what he termed a hostile takeover craze that has caused companies to be managed with too short a term in mind. Second, that a spiraling debt load has been caused by the takeover craze, as he termed it. And, third, that we should not do anything that would interfere with States' rights.

I am just responding on the general philosophy here in pointing out that I do not think the historical record quite squares with the concerns he expressed.

Mr. SANFORD. Mr. President, will the Senator yield for two comments on the historical record while we are setting the record straight?

Mr. ARMSTRONG. Mr. President, I am happy to yield to the distinguished historian from North Carolina for his observations on this matter.

Mr. SANFORD. Mr. President, I will quote what comes out of the additional views to the committee report on page 79, which is entitled "A Resulting Short-Term Focus."

> A looming threat of becoming the target of a takeover has forced managers to reorient their investment and planning strategies. Professor Peter Drucker observed that "the fear of the raider is undoubtedly the largest single cause for the increasing tendency of American companies to manage for the short term and let the future go hang." Results received from over 240 of the 1,200 largest member companies of the National Association of Manufacturers ("NAM") reveal findings similar to those of other business polls: that over 50 percent of the responding companies believe it is possible for them to be put in play for a short-term stock price runup under current Williams Act rules;

Now, the section goes on to quote Felix Rohatyn and his comment on T. Boone Pickens for two pages.

Mr. President, I ask unanimous consent that that be printed in the RECORD at this time.

Mr. ARMSTRONG. Mr. President, before we move on from this point, I observe that I have no objection to putting this in the RECORD, but I want to establish what it is we are putting in the RECORD here.

Do I understand that material which the distinguished Senator is putting in the RECORD is drawn from the report of the Committee on Banking, Housing, and Urban Affairs?

Mr. SANFORD. Along with my own comments about it.

Mr. ARMSTRONG. Yes; did the Senator from North Carolina write this report?

Mr. SANFORD. No; not the main body of the committee report.

Mr. ARMSTRONG. Does the Senator know who wrote that report?

Mr. SANFORD. The Senator certainly is aware of the fact that a great many people accepted this report and, in any event, it is the committee report.

Mr. ARMSTRONG. What persons accepted it? All I know is that when we got down to debating this bill, S. 1323, on my desk, along with every other Senator, was the committee report. It is just like we always do.

But I want to point out to you that I will bet the Senator does not know, without consulting, who even wrote this report. You cannot tell it. It was written by some member of the staff of the Banking Committee.

Mr. SANFORD. No; I wrote the additional views that I was quoting from along with my colleagues JIM SASSER and JOHN CHAFEE.

Mr. ARMSTRONG. Did you write it? Did the Senator write this report?

Mr. SANFORD. I wrote the portion of the views on the effect that takeovers are having on our corporations and the economy.

Mr. ARMSTRONG. Mr. President, I do not want to make more of this than there is. I am not critical of the report.

Mr. SANFORD. I just wanted to establish, as we are talking about the record, that there is a good deal of evidence that the short-term focus of so many corporations comes out of a concern that the corporation has to make the stock look good; it has to keep the price up.

Mr. ARMSTRONG. Well, Mr. President, then that makes the point better than I was going to make it in some other way. I have no objection to this being printed in the RECORD, but it can scarcely be printed as the report of—not the quotes from Mr. Drucker, which I want to comment on, also—but you can scarcely print something you wrote yourself and say it proves what you are saying, because, obviously, that is not an independent verification. That is not to say the Senator may not be right, but it is to say that it is not exactly like citing the Encyclopaedia Britannica.

Mr. SANFORD. Nor is just the unsupported statement of the Senator that history proves that corporations do not really bother with short-term when, of course, there is a great deal of evidence that they do. The point of quoting from the report is to emphasize that people such as Peter Drucker and Felix Rohatyn, who have studied this issue, are stating that corporations are being forced by takeovers to take a short-term approach.

Mr. ARMSTRONG. Mr. President, wait just a moment. I am pleased to yield to the Senator for any length of time and discuss this matter with him at any length. But I do not believe I made such a statement. In fact, I think I said very clearly that I agree with the concern that corporations are managed with far too short a time horizon; some corporations, not all.

The part I disagree with is not that there is such a concern, but the cause of it. And I believe I pointed out, Mr. Drucker to the contrary notwithstanding, that experience has been expressed in scholarly publications, business magazines, general periodicals, as well as in books long before anybody was concerned or even thought about what have come to be known as hostile takeovers.

In other words, it is a phenomenon which many people are concerned about but which cannot be properly traced on the historical record to the takeover phenomenon.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> Investment banker Felix Rohatyn used the restructuring of the oil industry, for which T. Boone Pickens claims credit, to emphasize the detrimental effect of takeovers on long-term needs:
>
> The mergers of Chevron-Gulf, Occidental-Cities Service, Mobil-Superior all occurred as a result of raids or the threat of raids. The deterioration in their combined balance sheets has been dramatic. Far from being a

healthy restructuring, the oil companies involved are cutting exploration sharply, a practice our country will pay for dearly when the next energy crisis occurs. With their high levels of debt, they could be in serious difficulty if the price of oil declines again. If one were to write a scenario about how to get the U.S. into trouble as far as energy is concerned, it would be hard to improve on what has happened.

Corporate management's short-term focus will indisputably have a far-reaching negative impact on the future of corporate America, particularly as corporate managers are forced into unplanned restructurings. For example, Goodyear was forced to put $1.5 billion worth of assets on the auction block after being put into play; Owens-Corning Fiberglass was forced to sell its recently acquired Aerospace & Strategic Materials Group and close a major facility in Jackson, Tennessee after defending a takeover attempt by Wickes Companies, Inc.

USX Corporation Chairman David Roderick warns that "many hostile takeovers can result in such highly leveraged situations they require an immediate bustup of the enterprise to reduce debt without concern for the most efficient operation of the enterprise. This can result in a myopic compulsion to generate a quick conversion to cash at the expense of the long-term viability of the company." Lawrence Chimerine, Chairman and CEO of Wharton Economics, Inc. accurately observes that "[c]orporations have overextended themselves . . . In the short-run, high debt loads hurt capital spending. Over the long-run, this will result in lower growth and productivity."

As Felix Rohatyn observed, "[i]t is obvious that these restructurings are driven more by the fear of takeovers than by straightforward economic forces." This dismantling of major American corporations and emphasis on the short term is a serious and real threat to the competitiveness and leadership of U.S. industry at home and abroad. As Professor Peter Drucker concluded, fear of takeovers is "contribut[ing] to the obsession with the short term and the slighting of tomorrow in research, product development, market development and marketing, and in quality of service—all to squeeze out a few more dollars in the next quarter's bottom line."

Mr. SANFORD. The Senator from Colorado and I are expressing different points of view and I will have to be content to leave it that way.

I also would like to ask if the Senator would admit that there was a great deal of evidence before the committee that corporate debt was significantly increased by hostile takeovers and the threat of hostile takeovers.

Mr. ARMSTRONG. Mr. President, I would stop short of denying it, but I cannot recall a single piece of such evidence. I recall many people expressing that opinion, but I do not regard the expression of an opinion as evidence.

I have cited one particular witness who testified that, in his opinion—and this is not evidence, either; this is just his opinion—that in the opinion of the chairman of the President's Council of Economic Advisors, that the reason for the large runup in corporate debt is more closely traced to the tax laws than it is to any incentives for corporate takeovers.

However, let me just make the Senator this offer: Rather than dealing with his opinion, my opinion, Beryl Sprinkel's opinion, Peter Drucker's opinion, HOWARD METZENBAUM's opinion, or anybody else's opinion, why do I not just say that on tomorrow, if not before, I shall insert in the RECORD a summary showing the trend of corporate debt in this country over, say, the last 20 years. I am confident—I have not looked at this and if I am wrong I shall own up to it—but I am confident what it will show is there was a large increase in the amount of corporate debt long before there was any talk about hostile takeovers. I believe Chairman Sprinkel is pretty close to the mark in saying that that problem—and I think it is a problem; I think we have way too much corporate debt—is a response to the tax law, not the takeover law.

Mr. SANFORD. I do not think there is any question that the tax law has a part to play there and I have always objected to the different tax treatment of debt versus equity for that reason.

I think also, though, that a corporate manager is going to look very carefully at adding debt instead of equity if equity is available, not because of the tax laws, but because of the uncertainty of the interest rates. We saw a period of time when a number of very good, sound corporations got into very serious trouble as the interest rates ran up. So all of them were scrambling in every way they knew how to get out of debt. So there are other factors influencing corporate debt levels than just the tax laws.

But let me quote again the statement that was made by Mr. Greenspan, who is an equal authority, when he indicated that this is very significant, this pileup of debt. This statement was made by Lloyd Cutler, quoting Alan Greenspan when Mr. Cutler testified before the Banking Committee regarding hostile takeovers:

> That is very significant, year by year. Mr. Greenspan said the effect over a 3-year span since 1984 has been something like $240 billion. At the same time, corporate debt has gone up by a corresponding even larger amount. Much of that is attributable to the takeover phenomenon, and in particular, the fashion of junk bonds and the defensive measures which corporations like Phillips, some of the other oil companies, Unical, CBS, USX and others have had to take. Probably there has been more decapitalization as a result of these defensive measures, if anything, than by the actual takeovers themselves.

I am quite aware of the fact that the Senator from Colorado does not totally agree with that, but I thought it only fair that we put that in the record at this point.

Mr. ARMSTRONG. I think that is a very good point.

Mr. President, I do agree, in part, to the extent that Chairman Greenspan is saying the defensive measures adopted by management have had more effect than debt incurred in takeovers. I would agree with that because, frankly, there have not been very many hostile takeovers. There are not, by and large, despite all the talk about takeovers and mergers in the course of an ordinary year, there are not many takeovers of any character. Not a very big percentage of the total number of business concerns in this country undergo a merger or a takeover. And of those who do, admittedly, a small percentage and an even smaller percentage are a result of what has come to be known, incorrectly in my view, as hostile takeovers.

So I would agree with that; that, to the extent companies try to saddle themselves with a lot of debt so that they will not be attractive takeover candidates or for some other business reason, that that is the largest cause in the runup of debt.

To sum it up, Mr. President, I think the Senator and I are in agreement that many corporations have taken on more debt than they can afford; more debt than is really good for them. I think, if there is an area that we disagree on, on this matter, it is in whether this has been caused chiefly, or only to a minor degree, by the prospect of hostile corporate takeovers.

I will, tomorrow, or maybe later today, put in the RECORD a summary of that information so that all Senators may draw their own conclusions as to whether or not this is a takeover phenomenon, or something that has other roots and other antecedents.

Mr. President, I would be happy to yield further to the Senator if he wishes but, if not, I am prepared to yield the floor because I see that our colleague, the Senator from Alabama, has arrived and personally I am looking forward with great anticipation to his opening statement on this legislation.

Senator SHELBY has been a very valuable and very aggressive member of the Banking Committee. He knows a lot about this topic and, in fact, aside from the fact that he knows a lot about this bill has emerged as one of the foremost champions in this country of the rights of individual shareholders. So I hope that other Senators who are not on the floor, but who may be in their offices looking out windows, reading magazines, eating bonbons, or whatever it is that Senators do, would come over to the floor or at least turn on their television sets because I judge we are about to hear a very important statement.

Mr. SANFORD. You tempt me considerably to have an opportunity to hear our distinguished colleague from Alabama, and I certainly will yield to him. But if he would permit just one statement prior to that, because the best example I have of a corporation burdening itself with debt is Burlington Industries example. Burlington is now $2.7 billion in debt as a result of an effort of a Canadian company and an entrepreneur in this country to take over Burlington.

Had Burlington not defended itself, it would have taken on at least $2.5 billion in debt from the raider. Burlington, as a defensive measure, went into debt to keep the management and to keep the company intact, and to keep that American company away from its No. 1 Canadian competitor. So the Canadian competitor, by its run at Burlington, put Burlington in debt, and destroyed the competitiveness of one of its major competitors.

In the last 2 years—just for one other sentence—more has been spent on takeovers than on research and development and capital development. That is just an indication that this fear of a takeover, if not the actual move for takeover, has, indeed, had a detrimental effect on debt.

I yield the floor.

Mr. ARMSTRONG. Mr. President, I have already yielded the floor, but with the indulgence of my friend from North Carolina and my friend from Alabama, maybe we can just lay to rest a couple of issues. I think I now have the facts that will settle the question of how this corporate debt came into existence and when. I believe that there is no dispute that the phenomenon of what has come to be known as hostile corporate takeovers, at least any large-scale exhibition of this tendency, is a relatively recent phenomenon, something of the last 3 or 4 or 5 years.

Mr. SANFORD. Ten.

Mr. ARMSTRONG. Well, 10, if the Senator wishes. It appears to me it is more like 5.

I mentioned I would put into the RECORD some information on that but let me just share it with Senators now so they do not have to dig through the RECORD and do not have to be wondering about it.

According to the Board of Governors of the Federal Reserve System, capital market section, division of research and statistics, measured at market value the average debt-equity ratio of nonfinancial corporations for the period 1973 to 1987 was 73.36 percent with a peak of 91.1 percent in 1974 and a trough of 60.4 percent in 1980.

As of January 1987 the aggregate debt-equity ratio stood at 66.6, which is something like 10 percent below the average for this 15-year period.

My point is not to say that that is the right amount of debt. For many companies it is far too much. My point is that to blame that on takeovers, hostile or friendly, misses the point.

Mr. SANFORD. If the Senator would yield, having had the floor, I assume, let me just add that the examples are not the average. The examples of what debt has done to the creative force of the economy of numerous corporations has been to virtually take them out of competition by debt which results from a takeover, or, worse than that, an attempted takeover.

I do not question those statistics, but I do think that countless examples indicate that this debt has come about because of a threatened takeover or a takeover, and I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama [Mr. SHELBY].

Mr. SHELBY. Mr. President, the tender offer reform legislation passed by the Senate Banking Committee last year makes several construction and needed changes to our Nation's securities laws: Closure of the section 13(d) 10-day window; extension of the minimum number of days provided to shareholders for review of tender offers; elimination of the "creeping" tender offer; access to the proxy machinery from minority shareholders; increased penalties for insider trading; and increased disclosure requirements applicable to purchasers of 5 percent of a company's stock. These specific reforms further the original objective of the Williams Act by providing a fair balance between the competing interests in contests for corporate control. The committee wisely avoided pursuing broad, unnecessary measures such as limitation on acquisition financing.

I do not agree, however, with the committee's decisions regarding a fundamental issue of corporate governance: shareholders' rights. Provisions are necessary to preserve the integrity of the shareholder franchise. The committee should have considered and adopted measures designed to fill this void. I suggest that specific provisions addressing "greenmail," "poison pills," "golden parachutes;" mandating equal shareholder voting; and requiring confidential proxy voting, if incorporated in the legislation, would help provide the shareholder some of the safeguards now lacking.

As a general rule, I believe that owners of common stock should be entitled to a vote that gives them an effective voice in governing the enterprise in which they hold an economic interest. The common tactic of anti-shareholder management interests is to argue that Federal standards on voting rights would be an intrusion on the ability of the States to regulate corporate governance. This is a purposeful misrepresentation of the Federal role in protecting shareholder voting rights.

Rather than include an equal shareholder voting requirement, the committee opted instead to request another study by the Securities and Exchange Commission [SEC]. During the past several years, numerous studies were completed on the issue of shareholder voting which revealed that the creation of disparate voting rights plans has had a negative effect on management accountability, shareholders' rights, and corporate performance. I am uncertain that another study which would show that disparate voting rights plans enable a relatively small group of individuals to obtain and control a corporation, while further distancing management from the shareholders, would prove to be anything other than dilatory. If insulated from mechanisms which foster accountability such as tender offers and proxy controls, management is free to act as it pleases, even if not in the interests of the shareholders.

Equal voting rights for shareholders has for more than 60 years been the standard of the securities industry. The SEC has already conducted lengthy public hearings and developed an extensive record on a proposed rule to mandate a shareholder voting standard. Congress has held hearings on the subject of shareholder voting rights numerous times with the most recent hearing on the subject being held by the Senate Banking Committee on March 17 of this year. That Senator ARMSTRONG and I initiated. The concept has been so thoroughly researched and reported that further study would seem redundant.

The Banking Committee should have included a provision generally requiring one vote for each share of common stock. An exception to the general rule to grandfather companies which have already adopted disparate voting rights plans could be provided for in the statute. Further, grandfathered companies could be permitted to issue additional shares of existing classes of stock. Other appropriate exceptions to the general rule such as for initial public offerings for small issuers could also be inlcuded in the statute. The SEC could be given delegated authority to implement and interpret the statute by rulemaking.

As reported out of committee, the legislation also lacks a provision guaranteeing the confidentiality of the voting protects. Confidential voting protects the privacy of shareholders so that they can exercise their decision making power free of management coercion. Currently management knows the outcome of shareholder voting before a vote is tallied. Incumbent managers can use their agenda setting powers to coerce stockholders to surrender valuable property rights without adequate compensation. I believe this is unfair and should be changed.

Although the Banking Committee did adopt an amendment to provide access to the proxy mechanisms for shareholders owning 10 percent or more of a company's stock, the bill does not go far enough to protect the voting confidentiality of all shareholders. Failure to enact provisions to ensure the confidentiality of the proxy system for all shareholders results in protecting entrenched management. The voting system is dominated by corporate management, which has a strong vested interest in the outcome of controversial or contested items that are put to a shareholder vote. Shareholders are frozen out of the system by which corporate control is obtained and exercised.

The Banking Committee bill goes a long way toward correcting many of the shortcomings in the area of corporate governance and control. However, more protection is required for the shareholder. The Senate, I believe, should amend the legislation to include both an equal shareholder voting provision and a confidential proxy voting provision.

The Banking Committee bill is also unbalanced in that it fails to address the well-publicized problems of "greenmail," "golden parachutes," and "poison pills." I believe an amendment is necessary to make it unlawful for any company to pay "greenmail" to any person who is the beneficial owner of more than 3 percent of a class of securities unless approved by a majority of the outstanding voting securities of the issuer.

While the committee's bill empowers an issuer, and under certain circumstances, a shareholders, to sue to recover "greenmail" profits obtained by any person who had beneficially owned 3 percent or more of the outstanding amount of such securities for less than a year, unless such sale previously was approved by the affirmative vote of a majority of the shareholders or was made pursuant to an offer open to all of the issuer's shareholders, that is not enough.

Shareholders can already initiate a derivative suit in the event of "greenmail" in most States as a violation of the business judgment rule. While expanding private litigation rights for "greenmail" is admirable, more is needed. "Greenmail" discriminates among shareholders since it involves the transfer of corporate assets to pay off predators at the expense of other shareholders, with the only apparent purpose to protect entrenched management. "Greenmail" allows corporate management to appropriate assets belonging to all shareholders for the benefit of a minority. There should be no room in corporate America for "greenmail," and S. 1323 should address this inequitable practice in a substantive manner.

Further, I believe S. 1323, as reported by the Banking Committee, should address the problem posed by "golden parachutes," which are employment contract provisions that guarantee substantial severance payments to top management if they lose their job as a result of a takeover. While Federal tax law does subject certain of these payments to a 20-percent excised tax on the employee and is made nondeductible for the employer, there currently exist no Federal securities law restrictions on "golden parachutes."

Here, again, the only recourse available to shareholders is to initiate a civil action alleging a violation of the amorphous business judgment rule. An amendment should be incorporated into S. 1323 that establishes a prohibition on "golden parachutes" adopted during and in contemplation of tender offers unless such agreements have been approved by the affirmative vote of a majority of the aggregate outstanding voting securities of the issuer.

Finally, I believe that S. 1323 should address the problem posed by "poison pills." "Poison pills" are usually an issue of securities, normally preferred stock, designed to discourage a hostile merger. Upon completion of a hostile takeover, the typical "poison pill" stock becomes convertible to cash or into common stock of the acquiring company. The effect is to raise the cost.

Although plans may be challenged in court as violative of the business judgment rule, there presently exist no Federal securities law restrictions on "poison pills." An amendment should be incorporated into S. 1323 that would make it unlawful for a company to establish "poison pills" and to require that "poison pills" adopted prior to the date of enactment of S. 1323 be submitted to a vote of shareholders for a limited period of time.

Mr. President, with the inclusion of specific provisions substantively addressing "greenmail," "poison pills," and "golden parachutes;" of a specific provision requiring confidential proxy voting; and of a specific provision mandating equal shareholder voting, the tender offer reform legislation, or the bill before us, being considered by the Senate would effectively close the holes now existing in the Williams Act, yet would continue to preserve the balance between the competing interests for corporate control. I would then, Mr. President, strongly support the legislation.

Mr. President, at this time, I ask unanimous consent to print in the RECORD several articles concerning corporate takeover reform legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE SHOWDOWN EXPECTED OVER SHAREHOLDER RIGHTS

(By John R. Cranford)

The Senate is gearing up for what may be a fierce battle over the conflicting rights of shareholders and powers of corporate managers. But if blood is spilled, it probably will be for naught, because the House is not likely to consider the issue this year.

Within the next two or three weeks, a bill (S. 1323) that would erect new roadblocks to hostile corporate takeovers is expected to come to the Senate floor. The measure has few outspoken congressional partisans—according to some critics, only one: Wisconsin Democrat William Proxmire, chairman of the Senate Banking Committee.

Yet many senators will find it tough to oppose the bill, because it is portrayed as a way to protect corporations—and the jobs they provide—from greedy raiders bent on pushing profitable firms into debt for quick gains.

At the heart of the debate is widespread concern that takeover activity—not productivity—is currently the driving force in American business, to the detriment of the nation's ability to compete overseas.

Takeover opponents such as Proxmire have seized upon corporate raiders as the enemies of strong, profitable companies.

But stockholder advocates insist that entrenched, lethargic managers are the real culprits. "They're not interested in a competitive America, they're interested in perpetuating themselves," said Sen. Richard C. Shelby of Alabama, the only Banking Committee Democrat to oppose the bill.

Both sides in the debate talk about evening the score between raiders and managers. But if either side prevails, the face of corporate America could be changed. Either takeover activity would be greatly curtailed, or raiders would have more tools at their disposal.

Those tools would come in the form of "shareholder-rights" amendments that would limit the defenses available to corporate managers seeking to ward off potential raiders.

Shelby and Republican William L. Armstrong of Colorado offered several such amendments unsuccessfully in committee and plan to offer them again when the bill reaches the Senate floor. They say they are merely trying to preserve the presumption that owning a share of common stock entitles the stockholder to a say in the way the corporation is run.

The issue threatens to divide Democrats in the Senate. Many want to support Proxmire and the idea of putting the brakes on hostile takeovers—but they don't want to be seen as opposing shareholders.

It has also come down to a jurisdictional—and philosophical—debate over who should have control; states, which historically have regulated corporate activities, or the federal government, which regulates securities issues.

"It'll be an uncomfortable vote for some Democrats," said James E. Heard, executive director of the United Shareholders Association. He adds that his group is trying to build a "bonfire of opposition" to the bill, while at the same time generating support for shareholders-right amendments.

The 16,000-member organization which lobbies on behalf of stockholder rights, is backed by corporate raider T. Boone Pickens Jr., chairman of Mesa Limited Partnership in Amarillo, Texas.

ICAHN'S BID FOR TEXACO

If the Senate takes up the bill before the end of the month, it will do so against the backdrop of a classic, high-profile takeover battle, pitting raider Carl C. Icahn, chairman of Trans World Airlines Inc., against the Texaco Corp.

Icahn charges that Texaco management failed to undertake an appropriate corporate restructuring in the last year—in particular the selling off of some assets—and complains about a $3 billion settlement Texaco paid the Pennzoil Corp. following a four year battle between the two oil giants over Getty Oil Co., all at a high cost to shareholders. Texaco management counters that Icahn is just trying to raid the firm for quick profits.

Icahn, who made an offer to buy Texaco, is also engaged in a proxy fight aimed at persuading Texaco stockholders to give him their ballots for the corporation's board of directors' elections, scheduled for June 17.

It is in such proxy fights, whether over directors' elections or corporate policy, that voting rights take on particular significance.

ONE SHARE, ONE VOTE

Corporate managers have discovered that by issuing so-called dual-class stock—some of it with strong voting rights, some with diminished or no voting rights at all—they can keep control of the firm in a few hands, and thus thwart takeover attempts.

A growing number of larger firms have separate classes of common stock with different voting rights—306 firms at latest count by the Washington, D.C.-based Investor Responsibility Research Center (IRRC), up from 119 in 1985.

Not all of them have issued dualclass stock as a takeover defense. But most often the tactic is used to stop raids.

Defenders of dual-class stock say that it is just another means of raising capital, and that individuals do not have to buy non-voting stock if they don't wish to. Besides, except when a firm first going public issues two kinds of stock, existing stockholders must vote to authorize the non-voting stock issue.

Corporate managers and their partisans—including Proxmire and the Banking Committee's ranking Republican, Jake Garn of Utah—counter the one-share, one-vote argument with a plea for states' rights. At least 32 states have adopted some form of anti-take-over law since 1982. Establishing a one-share, one-vote requirement could upset some of those laws, which rely on denying voting rights to stockholders attempting a takeover.

But virtually all sides agree that the bill will go no further than the Senate floor. House Energy and Commerce Committee Chairman John D. Dingell, D-Mich., and Edward J. Markey, D-Mass., who chairs the panel's Finance Subcommittee, favor a one-share, one-vote provision, as do the committee's leading Republicans. But other issues, such as stock-market regulation, are higher on their agenda, and the dispute over the anti-takeover bill would not be easily resolved.

Therefore, many ask why the Senate—and particularly the Democrats—are pressing ahead.

The answer, according to a Proxmire aide, is that the Banking chairman in recent years has changed his views and now strongly opposes takeovers and the excessive debt that corporations have incurred fighting off raiders. "He wants to force a catharsis," the aide said.

A.A. Sommer, Jr., a Washington, D.C., attorney who represents The Business Roundtable and the Coalition to Stop the Raid on America, said business groups are still pushing for the bill "to get a leg up on the next session of Congress."

Sommer, who used to be a member of the Securities and Exchange Commission (SEC), said it would also be advantageous to defeat the anticipated one-share, one-vote amendment this year—which he thinks is likely.

But Armstrong discounted the appeal of the corporations. "It's a lot easier for special interests to 'hot box' the committee than it is the entire Senate," he said.

TAKEOVER MANIA

When the Banking Committee approved S. 1323 last Sept. 30, the opponents of hostile takeovers were cheered that finally there was movement at the national level to put a damper on the raiders.

Since then, the issue has receded—until now. The stock market crashed soon after the committee acted, taking down with it the sky-high prices of many stocks involved in takeover fights.

Some raiders were badly hurt in the crash. The Haft family of Washington, D.C., for example, was in the midst of a $6 billion bid for Dayton Hudson Corp., a large, Minneapolis-based retailer. The Hafts, notorious over the past three years for their failed, but very profitable, raids on Beatrice Foods, Safeway Stores and Supermarkets General, lost a reported $70 million in their failed bid for Dayton Hudson.

Many market observers thought at the time that the crash would stifle takeovers and take the heat off Congress, which was being pressed to act by The Business Roundtable and other groups representing large corporations.

Then in February, Delaware adopted a stiff anti-takeover law, and it was thought that the pressure on Congress would finally disappear altogether. The state is home to 54 percent of the firms whose stock is traded on the New York Stock Exchange, and the new law was expected to make it easier for those large, high-powered firms to mount takeover defenses.

But in the last few months, with stock prices down and takeovers more affordable, the fever has returned.

According to the M&A Data Base, a division of Mergers and Acquisitions magazine in Philadelphia, there have been 1,223 takeover or related bids of larger than $1 million in the first five months of this year. The total value of these bids is $98 billion and growing.

In a change from the past, however, some of the big firms that had been asking Congress and the states for protection from raiders are now doing the raiding themselves. Of the top four deals this year—successful, failed or pending—the raiders have inlcuded: R.H. Macy & Co. Inc. of New York and the Campeau Corp. of Toronto, which fought each other for control of Federated Department Stores Inc. of Cincinnati; and Eastman Kodak Co. of Rochester, N.Y., and F. Hoffman-La Roche & Co. of Switzerland, which battled over Sterling Drug Inc. of New York.

There wasn't a Boone Pickens or Carl Icahn among them.

A ONE-SIDED BILL?

It is the stated aim of the Senate anti-takeover bill to balance the takeover equation, giving preference neither to raiders nor to corporations. But critics say that it is weighted heavily toward corporate managers who are trying to protect their positions.

The bill would require a person who buys 5 percent of a company's stock to notify the SEC within five days, and would prohibit additional stock purchases until the notice is filed. Current law allows a 10-day window and doesn't require purchases to stop, which allows raiders the opportunity to gain controlling interest in a firm before anyone knows of their activities.

The bill also would require a buyer who acquires 25 percent of a corporation's stock to make all future purchases through a public "tender offer" for all or part of the outstanding shares at a specific price. Such bids would have to remain open for 35 business days, not 20 as under current law.

The intent of these provisions is to give all shareholders an equal opportunity to participate in the buyout, and virtually no one opposes them.

What is upsetting the shareholder advocates is that, while the bill seeks to curb raider abuses, it does little about management abuses—such as the paying of "greenmail"—premium prices for a raider's stock. The bill prohibits greenmail, but heard complaints that the provision is too weak and that stockholders would have to go to court to force repayment.

Moreover, although early drafts also contained prohibitions against "poison pills" and "golden parachutes"—defensive tactics that make takeovers prohibitively expensive or pay off ousted managers—Proxmire pulled those provisions out of the bill when he also dropped a provision that would have given states even more authority to regulate in this area.

THE SEC WEIGHS IN

Meanwhile, the SEC has also gotten involved in the one-share, one-vote issue. And it is likely that senators on both sides will use the floor action to pressure the agency.

Since 1934, the New York Stock Exchange has refused to list those corporations that issue dual-class stock—with a few notable exceptions, among them Ford Motor Co.

But in January 1985, the exchange asked the SEC for permission to revise its rules. The fact that other exchanges and the over-the-counter markets had no such requirements was costing the New York exchange valuable clients, it argued. (In 1971, when the Washington Post Co. went public, it was listed on the American exchange because it was issuing two classes of stock, so that voting control would remain closely held. But according to IRRC, at least 65 firms listed on the New York exchange, many of them large newspapers, now have dual-class stock despite the exchange's rule.)

The SEC has since had two rounds of hearings on the issue, and last June proposed a new regulation that stocks could not be listed on exchanges or over-the-counter computer systems if the company took any action to reduce the voting rights of exiting stockholders—such as issuing dual-class stock.

But some on the Senate Banking Committee don't want the SEC to adopt the rule.

S. 1323 would require the SEC to study the broad question of shareholder rights and to report back to Congress on the matter. That position was adopted in committee as an alternative to Armstrong's mandatory one-share, one-vote amendment.

Proxmire and Garn have each written the SEC, noting the provisio in S. 1323 and urging the agency not to act on its own. "The commission would be ill-advised and should not proceed." Proxmire wrote April 20, arguing that the SEC has no authority to act. Using less strident language, Garn agreed May 10, and said the real authority in this case belongs to the states.

In response, Dingell fired off his own analysis May 19 that the SEC does have authority to issue a one-share, one-vote rule. But Dingell stopped short of endorsing such action.

The SEC may try to make the proposed rule final before July 1, when Commissioner Aulana L. Peters, who supports the rule, plans to step down. Her departure is expected to leave the SEC divided 2-2 on the issue, which means it cannot act.

SQUEEZING THE DEMOCRATS

Most observers believe that it is the Democrats, not the Republicans, who have the most to lose if and when S. 1323 comes to the floor.

GOP senators are mostly expected to support the shareholder-rights advocates. And those few—such as John Heinz of Pennsylvania—who have aided with corporations against the raiders can point to contentious takeover battles at home that have galvanized public opinion behind the corporate managers.

The problem for many Democrats is how to extricate themselves without abandoning individual stockholders or alienating their home-state businesses.

During the committee markup on S. 1323, Armstrong and his allies "very artfully painted the Democrats as the ones attempting to protect entrenched management, and hurt shareholders," lamented one Senate aide.

One possibility is a Democratic-sponsored amendment to protect shareholder rights, for example, requiring that proxy ballots be counted in secret. Currently, most corporations count ballots themselves, and some large, institutional investors report that managers have pressured them to change their votes when it looked as if the management position in a proxy fight was going to lose.

Alternatively, several observers said, some Democrats may ask Senate Majority Leader Robert C. Byrd of West Virginia not to take up the bill. And one business lobbyist said even the corporate sponsors of the bill would be happy if it "just went away" this year, eliminating any chance that pro-stockholder amendments might be adopted.

But aides to Byrd said the bill is still on the calendar and he has not deviated from his support for it.

[From the Washington Post, Sept. 23, 1987]

SHIELDING MANAGEMENT

(By Robert J. Samuelson)

Say it isn't so, Prox. For years, Sen. William Proxmire (D/Wis.), has been a pillar of common sense and political courage. Aside from fighting to hold down federal spending, he's consistently opposed government bailouts of big business. He has argued—quite correctly—that the possibility of failure keeps managers and workers competitive. How strange it is, then, that Proxmire is now proposing legislation that might aptly be termed "The Management Protection Act of 1987."

Proxmire has swallowed the corporate propaganda that hostile takeovers are bad for America. Actually, hostile takeovers are simply a new form of competition. They provide a way of replacing top corporate executives. We don't prohibit competition involving new products and technologies.

Generally speaking, we don't prevent companies from failing. Competition sometimes creates hardship, but (as Proxmire has said) it's a necessary discipline that encourages efficiency and innovation. Why should we prohibit competition for top corporate jobs?

But that's what Proxmire, chairman of the Senate Banking Committee, would inadvertently do. He would create a divine right of management. His proposal would—if it worked as intended—frustrate hostile takeovers. Bankruptcy would become virtually the only way top executives could lose their jobs. The fact that Proxmire is acting through the federal securities laws, which are supposed to protect investors, is a further travesty. His proposal would hurt investors, including pension funds, by limiting their ability to sell their stock at the best price.

In effect, it would become more difficult for someone to offer $40 a share for stock selling at $30. The proposal would do that indirectly. Rather than barring hostile takeover, it would sanction state laws designed to do that. The state laws are the latest tactic embraced by corporate managers to protect themselves. Last spring, the Supreme Court ruled that an Indiana takeover law is constitutional. In 1987, at least 11 states have enacted new takeover laws, according to Sharon Pamepinto, an analyst for the Investor Responsibility Research Center in Washington.

These laws abound in absurdities. Suppose you wanted to buy an Indiana-chartered corporation. The managers and directors object. Nevertheless, you purchase 70 percent of the company stock by paying shareholders, say, a 35 percent premium over the prevailing market price for the company's stock. You own 70 percent of the company. However, the Indiana law prevents you from voting your shares—that is, you can't change the directors or managers—unless the other 30 percent of the shareholders agree.

No one doubts that legislatures pass these laws to protect locally headquartered companies. Nor is there any doubt that Congress could override the state laws. Companies that are takeover candidates are usually in interstate commerce. So are the stock exchanges where takeover contests are waged. In 1968, Congress did set disclosure requirements for takeover offers. For examples, buyers of 5 percent of a company's stock must make a public announcement. What the Supreme Court has said is that, without more detailed federal regulations, the states can set rules that don't directly conflict with federal law.

The prospect now looms of a patchwork of restrictive state takeover laws. Proxmire accepts them because he embraces two popular arguments against hostile takeovers. Both sound plausible—and both are wrong.

First, corporate managers contend that the threat of being taken over distracts them from running their businesses and, thereby, subverts U.S. competitiveness. There's no evidence that it's true. Hostile takeovers have flourished in the 1980s. Meanwhile, manufacturing productivity has increased more than any time since the 1960s. Business investment (as a proportion of gross national product) is at its highest level since World War II. And corporate research and development spending is rising far faster than in the 1970s.

Second, it's said that paper profits made in takeover battles don't involve productive gains for the economy. True, the potential for speculative profits is vast. Illegal insider trading is an obvious abuse. The typical premium paid to buy takeover stock exceeds 30 percent; advanced knowledge guarantees quick riches. But once the takeover occurs, the buyer must make the company worth more than the purchase price. That's the ultimate source of profits and the pressure to break up unwieldy conglomerates, cut costs and operate more efficiently.

Contrary to popular myth, hostile takeovers are not common. In 1986, 40 were attempted and only 15 succeeded, according to W.T. Grimm & Co., a consulting company. The greatest value of hostile takeovers does not come from companies that actually get taken over. Rather, the mere threat of being taken over pressures managers to operate more efficiently. Hostile takeovers represent a modest, but desirable, check on the immense independence of top executives. There's now a way they can lose their jobs, short of running their companies into the ground.

Ironically, one area in which managers have abused their independence is takeovers. Most takeovers are "friendly"—that is, negotiated by the managements of the two companies. Many of these have failed. But until now, companies have had little reason to undo wasteful mergers. The possibility of being taken over is an inducement to act. If managers don't dismantle cumbersome conglomerates, corporate "raiders" will.

Competition is messy. Not all hostile takeovers are good, just as not all new products are good. But the competitive process of trial and error is good. Proxmire ought to heed the advice of David Ruder, the new chairman of the Securities and Exchange Commission, who wants Congress to override state takeover laws. The chances of this seem slight. Proxmire won't run for reelection in 1988. His has been a distinguished career, but it's ending in an uncharacteristic way. He's been hoodwinked by corporate lobbyists and apologists.

[From the Wall Street Journal, Sept. 16, 1987]

PROXMIRE'S DOUBLETALK ON TAKEOVERS

(By Joseph A. Grundfest)

Sen. William Proxmire has a reputation as a straight shooter who means what he says. But when it comes to the anti-takeover legislation sponsored by him and currently pending before the Banking Committee, he is saying one thing while doing another. The gap between his professed goals and the substance of his bill is stunning.

The Wisconsin Democrat's statement accompanying the proposed legislation claims that "tender offers should be neither encouraged nor discouraged by law" and asserts that "management of publicly traded companies should not be entrenched." The statement further condemns poison pills, golden parachutes and two-tier bids. Sen. Proxmire thus suggests that his bill offers a balanced approach to problems that are perceived to be caused by takeovers.

ALL BARK, NO BITE

The reality, however, is quite different. The bill's resonant theme is that hostile takeovers must be throttled, and the tough talk on poison pills, golden parachutes and two-tier bids turns out to be all bark and no bite.

More important, the bill, if enacted, would effectively kill the Williams Act, which is now the dominant standard for conducting takeovers. It would do so by protecting state anti-takeover laws in a fashion that virtually ensures that state law will become the binding constraint on intersate commerce in the securities of nationally traded corporations subject to takeover bids. The Williams Act would be superseded by anti-takeover standards of the 50 states, many of which will try to outdo each other in their efforts to stifle takeover activity.

In noting contradictions between what Sen. Proxmire says and does, I do not suggest specific resolutions to the issues addressed in his bill. My goal is more modest: It is simply to clear away some of the smoke and mirrors used to create the illusion that the bill offers a balanced, judicious approach to takeover legislation.

In his introductory statement, Sen. Proxmire explains that "the defensive tactic known as the 'poison pill,' where target firms create new stock to thwart a purchase, is wrong." One would therefore expect that the bill imposes strict prohibitions on this practice. Right? Wrong.

When it comes to poison pills, the bill is a placebo, not an antidote. It would prohibit only those poison pills adopted while a tender offer is pending. Any poison pill in place before a takeover battle begins is safe. More than 400 publicly traded corporations already have poison bills, and any pill adopted in the future is also safe provided that it is in place before a takeover battle starts.

Such a "prohibition" is an obvious inducement for corporations to stock up on poison pills now. Indeed, Martin Lipton, the attorney whose apothecary formulated the first poison pill, has urged his clients to adopt poison pills promptly, precisely because Sen. Proxmire's bill might become law.

Sen. Proxmire takes a similarly limpwristed approach to golden parachutes, which he slams as "self-serving bonuses that executives pay themselves if they are ousted." The bill would prohibit only those golden parachutes adopted during a takeover contest, leaving untouched parachutes in place before a battle begins.

The consequences of this approach are obvious. About 200 of the Fortune 500 already have golden parachutes in place and the legislation would provide a powerful incentive for companies without golden parachutes not to wait until a takeover begins but to strap one on right away.

Sen. Proxmire also comes down hard on two-tier tender offers, calling them "inherently coercive in that they place enormous pressure on the stockholder to sell his shares to the raider in order to avoid a lower price on the second tier." The bill, however, is silent regarding these "inherently coercive" tactics.

Why would Sen. Proxmire attack two-tier bids but not legislate against them? One possible explanation has to do with recent trends in the use of two-tier bids. Contrary to Sen. Proxmire's assertion, these bids are no longer used predominantly by raiders.

Two-tier bids are now used predominantly in friendly transactions, by managements proposing their own leveraged buyouts, by "white knights" competing with all-cash offers, and, perhaps most significantly, by managements proposing self-tenders as a defense against a hostile bid. The pressure on stockholders to tender into these defensive offers is identical to the pressure to tender into a hostile bidder's two-tier offer.

The two-tier bid has thus become primarily a defensive tool. If Sen Proxmire believes that it's OK for managements to coerce their stockholders as part of a takeover defense but objectionable for bidders to use tactics with the same effect, then it makes sense for him to lambaste two-tier deals but do nothing to control them. So much for his claim that "egregious defense as well as coercive takeover tactics should be limited."

The bill contains numerous other provisions so illogical, unworkable and expansive that their only possible rationale is to throttle takeover activity at virtually any cost. To cite but one example, the bill would, for purposes of the Williams Act's 5 percent reporting threshold, define as members of a group any persons acting in a "coordinated or consciously parallel manner (whether or not pursuant to an express agreement)."

Conscious parallelism is a concept developed primarily in the antitrust law, where it has left a tortured and dangerous legacy. If transplanted to the securities laws, it could quickly wreak havoc as traders are forced to ponder metaphysical questions such as: "If I buy shares of Company X today because I expect that Bidder Y will make a tender offer, and if I intend to sell my shares to Bidder Y if he makes an offer, is my action 'coordinated' or 'consciously parallel' even though I've never met Bidder Y?"

Such questions would clog the courts for years and set a trap for anyone even thinking of buying shares while a takeover may be brewing in the wings. The chilling effect of liability arising from unwitting violations of the 5 percent reporting requirement would deter honest traders from seeking out undervalued companies. Despite all the rhetoric about evenhandedness, that may be precisely the goal Sen. Proxmire wants to achieve. In this example, and in numerous other provisions of the bill, the senator is apparently willing, if not eager, to terrorize honest traders and potential bidders with the specter of litigation and liability so as to protect undervalued or poorly managed companies from becoming takeover targets.

Perhaps the greatest irony is Sen. Proxmire's approach to federal pre-emption of state anti-takeover legislation. The bill would grant the state extremely broad authority to regulate interstate transactions in securities that are the subject of contests for corporate control. It would ensure state control of takeover activity far broader than suggested in the Supreme Court's recent decision upholding Indiana's anti-takeover law.

The evidence is overwhelming that many states would use this authority to make takeovers as difficult as possible. In the four months since the Indiana decision, at least eight states have passed laws designed to protect local firms from the forces of the nation's capital markets. By protecting state anti-takeover authority, and limiting the pre-emptive effect of the Williams Act. Sen. Proxmire rings the death knell for the Williams Act. Many more states are likely to adopt anti-takeover provisions far more onerous than the Williams Act, and state law would then become the binding constraint on takeover activity. The states' stranglehold on hostile takeovers would be ensured.

RHETORIC VS. REMEDIES

In contrast to Sen. Proxmire's bill, Rep. John Dingell's proposed takeover legislation at least has the merit of not abandoning the field to the states, and therefore would not kill the Williams Act. Whether the Michigan Democrat's bill is good or bad legislation is a different question entirely, but it certainly can't be attacked as unconditional federal surrender.

In sum, then, Sen. Proxmire's rhetoric doesn't jibe with his proposed remedies. If he wants to protect poison pills, golden parachutes and management's ability to use coercive two-tier tactics against their own shareholders, he should say so. If he wants to chill the markets with vague threats of legal liability, he should be candid about that too. Most important, he should explain that he wants to take the federal government out of the takeover-regulation business and give the states carte blanche to adopt anti-takeover measures more restrictive than those Congress would ever enact. Despite protestations to the contrary, Sen. Proxmire may agree with his supporters at the Business Roundtable that the only good takeover is a dead takeover.

The choice is clear: The Senate can either agree with what Sen. Proxmire says or it can vote for his legislation. It can't have it both ways.

[From the Wall Street Journal, Sept. 27, 1985]

TAKEOVERS ROOTED IN FEAR

(By Alan Greenspan)

While there have been flurries of mergers, takeovers, leveraged buyouts and corporate restructuring in the past, nothing in recent memory approaches the current intensity of interest exhibited by the corporate community. Indeed, many of the heroes (or villains, depending on one's point of view) of such activity have also engendered media attention unparalleled since the heyday of the larger-than-life titans of the 1920s.

Beyond the theatrics of the takeovers, however, some very deep-seated questions about their impact and future remain. Largely as a consequence of mergers, leveraged buyouts and corporate stock-purchase programs, the book value of nonfinancial corporate equities rose by only 3.5% last year, far less than the 7.4% of the previous year. Common stock buy-backs and conversions apparently liquidated something on the order of a staggering $77 billion of equity last year, and that rate continued through the first half of 1985.

For most recent years corporations have been issuers of net new equity and even during the previous short periods of liquidation, nothing even remotely resembling the current dimensions was involved. As a consequence, debt has replaced equity as corporations allocated available cash or the proceeds of new short-term debt to buy back a substantial chunk of outstanding stock over the past year-and-a-half. Debt/equity ratios have accordingly risen, and working capital as a ratio to invested capital has declined. Trends of this nature must, of course, prove worrisome. Clearly, something different is happening to our market structure that does not draw immediate analogies to any previous experience.

MISALIGNED AGGREGATION

A clue to the nature of the problem is gained by identifying the industries in which the more celebrated corporate takeover attempts have occurred. It was quite clear as recently as last year that CBS and ABC shares then selling in the 70s and 60s, respectively, were not reflecting the estimated liquidating value of the companies. Indeed, the presumed purchase price of owned and operated television stations alone, excluding the network, radio stations, publishing, etc., came close to approximating the market value of the whole companies as reflected in share prices.

Similarly, the market value of oil in the ground has accounted for a substantial part of the overall market value of integrated oil companies. Put another way, it appears that the market value of the sum of the parts exceeds the market value of the companies as a whole as reflected in their stock prices.

The stock market is, in effect, saying that a significant number of U.S. oil companies would be valued higher were they dismembered. Little value seems to be accorded to the large refining and marketing complexes after the separate market value of crude oil and natural gas reserves is accounted for. Obviously the disparity between values of oil and gas in general and refining and marketing complexes was even greater when light Arabian crude oil was selling for $34 a barrel. But even at $27 a barrel the gap remains large.

The valuation disparities, while clearly visible in only certain industries are, nonetheless, widespread. The markets are, in effect, indicating that somehow the particular aggregation of assets, currently reflecting the industrial structure of the U.S. is misaligned.

It is this perception that has created the current large premiums in the stock market for controlling interests of companies. Historically, controlling interest usually required premiums one-fourth to one-third above the prevailing market prices for stocks, in less than controlling interest lots. Control was not significantly more valuable than an investment because no major changes in corporate structure appeared potentially profitable. In today's market, control is perceived as being nearly twice as valuable as the investment value of a company, that is, the value of a claim to the prospective dividend flows under the current industrial and financial structures. Hence, if a corporate raider or investor can accumulate controlling interest at, say, only 50% over investment value, a major windfall from the liquidation of all or parts of the company is potentially available. Hence, so long as this extraordinary disparity between investment and controlling interest values continues, we can expect more of the same from the T. Boone Pickenses, Carl Ichans or Sir Jameses of this world, or their successors. The difficulty, however, lies not with them or the companies that they endeavor to corral, but with the overall valuation of common stocks that, by any historical criterion, remains exceptionally low.

The basic problem is that the real discount factors applied to expected future dividends are decidedly high by historical standards, reflecting the high risk premiums built into long-term equity capital investments. The latter, in turn, reflect the fears of a potential re-ignition of inflation and the resultant economy-wide instabilities. Underlying the growing concern is the presumption that the financial structure is fragile and might require large inflation-generating bailouts. Perhaps even more deep-seated is the concern that yawning federal budget deficits will persist for the indefinite future, ultimately forcing a massive expansion of the money supply and inflation.

Excessively high discount factors place a disproportionate share of the value of a company's stock on near-term earnings and dividend flows. When discount factors were closer to the lower historic norms, the generation of earnings expected for five to 10 years in the future had a large positive impact on the market price of a stock. In today's high-discount environment, earnings expected over the longer term currently have little impact on the market value of the firm.

SOME FIRMS ARE PENALIZED

Hence, "cash cows," that is, those entities that create a lot of cash flow up front, such as television stations and oil in the ground, are disproportionately favorably valued in periods of high discount rates—periods such as today. Other business units with longer cash-payout periods tend to be disproportionately undervalued. Hence, in today's environment a few units within an organization can, on a stand-alone basis, have as much perceived value as the corporation overall.

As a consequence, organizations put together in the expectation of normal long-term average discount rates nearer 10% than 15% underperform in the stock market at 15%. In fact, were such high discount factors to exist permanently, a misuse and misorganization of capital would be indicated.

The high discount factors in effect penalize those firms that continue to take the long-term time perspective that their historic corporate cultures require of them. So long as stock prices remain low, they will induce short-term profit preferences. In sum, capital costs are too high, stock prices too low.

Can we expect merger pressure to decline without a fall in the cost of capital? Only temporarily. We probably have run through the available large dollar oil company, and much in the way of media mergers. Hence, we may see a temporary falloff in mergers, acquisitions and leveraged buyouts. But so long as the current market value of exisitng assets remains low relative to their replacement cost, incentives to buy exisitng facilities, merge, or buy back one's stock will continue.

Only a significant rise in stock-market values seems likely to bring the recent flurry of corporate restructuring to an end. And that probably requires a fall in budget deficits and other uncertainty-creating forces. The most recent congressional experience with budget cutting is certainly not very encouraging. Hence, the fear of the corporate raider, so prevalent in today's executive suites, is likely to become a semi-permanent fixation of the corporate scene.

[From the Legal Times, Apr. 4, 1988]

MERGER MANIA: DON'T BLAME RAIDERS FOR SYSTEMWIDE ABUSES

(By Richard Greenfield)

Not long ago, reacting to the Ivan Boesky scandal and reflecting the fears of corporate America, A.A. Sommer, former commissioner of the Securities and Exchange Commission, denounced the takeover mania of recent years. In testimony before the House monopolies subcommittee, he said: "American enterprise, at a time when all its energies are needed for the worldwide economic struggle, is being driven by a handful of opportunists into a massive restructuring with consequences that may be disastrous."

Rep. Mary Rose Oakar (D-Ohio) reiterated this defensive theme: "Corporate America is being held hostage by the corporate raider. Profitable companies are being driven into debt, American jobs lost, and American businesses are being taken overseas, all so that a few enormously wealthy individuals can add to their personal fortunes." Presidential candidate Sen. Paul Simon (D-Ill.) introduced a bill in the Senate to curb what he described as abuses in connection with hostile takeover attempts. Simon and other members of Congress are proposing limits on these high-visibility transactions as well as other related activites. Most recently, opponents of unfriendly takeovers have caused the enactment in Delaware of a new and unjustifibly restrictive package of legislation to further inhibit the growing corporate phenomenon.

Regrettably, these well-intentioned reactions to hostile takeover attempts are bound to be counterproductive and lead to more government-sanctioned corporate protectionism—a form of legal chastity belt that should be abhorrent to the more vocal free enterprisers in this country. Indeed, some of the proposed legislation under discussion will damage a marketplace that by and large works well, reasonably fraud-free, and efficiently.

Unfriendly takeovers, when carried out legitimately and without market manipulation and misuse of inside information, can serve worthwhile economic and social purposes. In today's competitive business environment, incompetent, inefficient, and uncreative incumbent managements can only be truly accountable to their shareholders if they are vulnerable to replacement. If a raider offers a proposal to do more with a company's assets than the incumbents, either by means of better management performance or wholesale asset disposal, shareholders must have the freedom to analyze and, if desired, accept that choice.

What has fostered so much heat and so little light in the well-publicized takeover wars is the high-visibility offensive and defensive strategies of the combatants, all of which detract from the shareholders' freedom of choice. The rights of the shareholders of target companies are largely ignored. No champion of those rights has yet appeared in Congress, although it might be argued that Simon comes close to the mark.

The Williams Act made great strides toward regulating the conduct of tender offers, but it focuses on only two important aspects of such transactions: full disclosure and the avoidance of marketplace manipulation. Unfortunately, the Williams Act does not address what is the equally important third leg of the tripod, the fiduciary duties and activities of the target company's board of directors. These issues usually involve state law—but even a few examples amply demonstrate that state law has not proven itself up to the task of ensuring, or even encouraging, good corporate governance.

Ideally, if all the players in a takeover contest were to comply with the Williams Act, the fight would be a fair one. Almost always, this is not the case, as incumbent directors and their managements fall back on a creative array of defensive maneuvers employing the target company's resources to defeat the raider. State laws and case precedents do not even address many of these tactics; numerous additional practices have been upheld on so-called "business judgment" grounds.

Other tactics, usually employed in advance of a takeover attempt, have been wielded by corporate boards in the hopes of entrenching themselves and making the company more invulnerable to attack. These include poison pills of varying types, two-class common stock with different voting rights, delaying tactics permitted under pernicious state anti-takeover laws, and the payment of greenmail, one of the most notorious misuses of assets on the corporate landscape.

The conventional wisdom has been that the regulation of what is traditionally referred to as corporate law is a matter for the states and state courts, rather than for federal oversight. This view, however, is badly flawed, out-of-date, and largely ineffective in giving shareholders of public companies and the investing public generally the protection truly needed in the context of unfriendly offers. A more direct, national approach is needed—namely, a federal business corporations code to govern all publicly owned companies the shares of which trade in interstate commerce.

This resort to federal standards is sorely needed in the current legal and economic climate. A number of states, in utter derogation of shareholder rights, have made a blatant attempt to attract incorporations there. Both state legislatures, by means of pro-management corporate law, and state court systems, which are frequently insensitive to fundamental concepts of corporate behavior and morality, have encouraged corporate boards to breach their fundamental obligations to shareholders and their companies.

Many states, of course, look up their corporations rather provincially. Citing the preservation of jobs and taxes, these states adopt a xenophobic resistance to predators from elsewhere. Some jurisdictions have enacted legislation to frustrate unfriendly takeovers; once the Supreme Court upheld Indiana's law in 1987, additional barriers to commerce were certain to be erected, like those recently enacted in Delaware. For these reasons, the playing field remains uneven and boards of directors, in the face of unfriendly takeover attempts, feel free to go to any lengths to fight back and protect their turfs. All too often, these defensive steps are detrimental to the shareholders and to the target company itself, yet they are carried out with impunity and with the confidence that the state courts will protect management, no matter how egregious the abuse.

Two states, Delaware and Pennsylvania, have even institutionalized corporate wrongdoing by providing mechanisms that free directors from inconvenient concern about liability for negligent or reckless behavior in the performance of their duties. Other jurisdictions, in competition with Delaware to retain their full share of Fortune 500 and other incorporations, are striving through legislative means to woo directors with even more far-reaching protectionist laws designed to insulate them from liability for their wrongdoing.

TAKEOVER CRITICS ON WRONG TRACK

Against this backdrop, many of the vocal critics of takeover mania are misguided. Without the benefit of an analysis of the root cause of the takeovers in the first place, these well-intentioned observers of the corporate scene appear likely to advocate still more layers of protection for corporate boards from ultimate accountability to their shareholders. Discussions abound with proposals that would prohibit the use of junk bonds in financing takeovers or would set obstacle courses before the raider to overcome. Undoubtedly, these new proposals would reduce the likelihood of success for unfriendly takeovers. But the critics would do better to develop ideas to make the process more fair and to create what all constituencies should prefer, an environment in which no party has an undue advantage over another.

In fact, many of Simon's proposals are directed toward this end. According to the senator, his legislation would shorten the time allowed before investors must disclose major purchases of a company's stock. Simon would require such disclosure within two days after an investor's holding reached two percent of a company's share and would lengthen the time given to targeted companies to consider tender offers to 45 days from the 20 days afforded by current rules.

While the Simon proposal was conceived out of concern for the Borg-Warner Corp., a hometown target of at least one raider waiting in the wings (the GAF Corp.), its protectionist bent nevertheless is designed to make any battle for control a fairer and more open one. But even this is insufficient: although Simon's proposed legislation goes far in the right direction and even would prohibit greenmail, its primary focus is still on the conduct of the tender offer or, rather than on management as well.

It is absolutely clear that the states, particularly Pennsylvania and Delaware, will not undo what they have already wrought in terms of management protectionism. For this reason, the time appears right to redirect all of the energies focused on the takeover crisis from the symptoms to the cause: the non-accountability of boards of directors to their shareholders. A nostrum frequently trumpeted by espousers of the status quo is that shareholders are free to elect new directors when incumbents do not act in their best interest. Of course, even the most incompetent and self-serving managements, such as in the Victor Posner-dominated empire, manage to get re-elected year after year by widely dispersed and ineffectual electroates—demonstrating that the conventional wisdom is a myth.

FEDERAL CODE NEEDED

An evenhanded federal corporate law, with the preservation of fundamental shareholder rights as its paramount objective, would improve the overall environment in which takeover fights play out. If one acknowledges that there is nothing fundamentally wrong with an unfriendly tender offer or quest for control, it should be clear that any proposed legislation should not be narrowly aimed at regulating further the free market forces that bring companies into play. Rather, the aim of new laws should be the misuse of the corporate-governance process to frustrate a free and open market. A federal business corporations code prohibiting specified protectionist and defensive (as well as offensive) conduct and providing for appropriate relief to injured companies and their shareholders would go a long way toward opening up and legitimizing contests for corporate control, as well as providing standards for corporate behavior generally.

Publicly owned corporations are rarely intrastate entities owned solely by shareholders within one state. The provincial or tax-based interests of the various states, who by relaxed state laws attempt to lure managements, must give way, ultimately, to a broader national interest: the protection of all investors, their companies, and the very integrity of our free enterprise system. While there are surely those who advocate no new regulation on philosophical, free-enterprise grounds and those who advocate a "go slow" response to the Boesky and related scandals, the need for a uniformly applied federal regulatory system has never been more apparent.

Classical laissez-faire capitalists, while perhaps preferring no regulation, should want the certainty of a nationwide body of law that in effect would lead to the virtual dismantling of 50 separate state apparatuses that have become anachronisms. More important, the level playing field would be achievable. The cost of any additional federal regulatory and judicial involvement could be borne by the companies that now pay incorporation and franchise fees to the various states. Further, assuming that appropriate injunctive and damage remedies are built into new federal legislation, "private attorneys general" acting for shareholders of affected companies will typically provide the enforcement that might otherwise come from the SEC and the Department of Justice. Such a rule, of course, would only be a modest extension of the rights and remedies under existing federal law.

A rush by Congress to enact legislation that is solely addressed to the conduct of the unfriendly raider, without examining the entire corporate-governance question, would be foolhardy and shortsighted. Congress must not view its legitimate short-term concern for the well-being of target companies without considering the long-term environment in which these businesses must exist—particulary in the area of international trade, where non-competitive American business is in such bad shape. Ultimately, a federal legal framework that balances the interests of shareholders as well as managements and that deals with the economic realities of the marketplace will, in the long run, enable corporate America to function most competitively at home and abroad.

[From the Boston Globe, Feb. 23, 1988]

THE FALLACY OF LAWS THAT STOP TAKEOVERS

(David G. Tuerck)

Last year the US Supreme Court upheld an Indiana law that threatens to Balkanize—"Hoosierize"—US capital markets. An investor buying up more than 20 percent of an Indiana corporation cannot vote his stock without the approval of a majority of "disinterested" shareholders. Management can delay approval up to 50 days as carrying costs mount with no guarantee of approval.

The purpose of this and similar laws adopted by other states, including Massachusetts, is to protect management from hostile takeovers. It is, in the words of one victim, an "entrenched-management relief program." Its effect is to proliferate a hodgepodge of regulations that hinder the flow of capital across state lines.

The case for antitakeover legislation rests on four arguments. Hostile takeovers supposedly:

Divert money from "real" investments that create jobs and increase productivity and toward mere paper investments.

Subject management to the whims of large institutions and other investors that don't have the future of the company at heart.

Pressure management to put short-run ahead of long-run profits, cheating society of investment projects with distant but valuable paybacks.

Put corporations in the hands of outsiders who don't care about the community or its employees.

The first argument confuses "real" investment and trading assets such as money. Real investment is business purchases of new, real assets such as equipment and structures. Money is a financial asset that can be traded for other assets, real or financial.

When people use money to buy a controlling interest in a corporation, they are merely exchanging one financial asset, money, for another, stock. What happens to real investment thereafter depends on what the bought-out shareholders do with their newly acquired money and what the new owners of the corporation do with their newly acquired stock.

Perhaps the bought-out shareholders will buy stock in other corporations, making their money available for the purchase of real assets by those corporations. Perhaps the new owners will purchase additional new, real assets. But even if they do not—even if they sell off some or all of the corporation's real assets—there is no diversion of money from investment. In fact, there is likely to be an increase in investment as rising stock prices reduce the cost of raising equity capital through new stock issues.

The second argument, that some shareholders have no right to control a corporation, confuses the responsibilities of management with the rights of stock ownership. One manager revealed his confusion over this distinction when he complained that no one owning stock for an hour should have the right to decide the fate of a company. In fact, he had things backward. It is management's job to make a company's fate sufficiently bright that people are willing to buy the corporation's stock and to hold it for whatever time they choose.

Critics complain about the separation of ownership from control—the tendency of shareholders to abandon control of the corporation to its managers. The hostile takeover reverses this tendency. It makes managers more accountable to the people who pay their salaries. That government should single out one group—well-paid corporate managers—for protection against accountability testifies only to the lingering grip of 17th century mercantilism on 20th century politics.

The argument that takeovers put short-run profits ahead of long-run confuses the postponement and the uncertainty of profits. The market value of a corporation's stock tends to equal the discounted value of its future earnings. Profits postponed, properly discounted, contribute as much, dollar for dollar, to maintaining stock prices as do profits realized now.

The final argument, that the corporation has responsibilities to the community and to its employees that transcend shareholders' rights, confuses the interests of managers with that of the community. Managers want high salaries and safe jobs. The community wants good products. The best way to assure the community's interest is to protect investors' as well as consumers' sovereignty.

As for employees, corporate takeovers can revitalize a dying company. Shielding inept managers from the control of shareholders can only delay plant closings that might be averted if control is excised soon enough. Worst of all, the Hoosierization of capital markets, by shielding managers from the consequences of their investment mistakes, redirects investment from more-successful to less-successful projects. In the end, this reduces employment opportunities for all.

There are several bills before Congress to de-Hoosierize US capital markets and create uniform laws for securities regulation and restore investors sovereignty. These laws deserve the support of anyone who objects to the idea of regulating capital markets for the comfort of corporate managers.

[From the Wall Street Journal, June 24, 1987]

WHITE HOUSE OPPOSES TAKEOVER BILLS, SPRINKEL TELLS SENATE BANKING PANEL

(By Edward Sussman)

WASHINGTON.—The Reagan administration adamantly opposes new legislation regulating hostile takeovers, Beryl Sprinkel, the chairman of the president's Council of Economic Advisers, told the Senate Banking Committee.

At the same hearing, Charles Cox, acting chairman of the Securities and Exchange Commission, said the agency is generally against the takeover bills pending in the Senate. But he added that the commission does favor requiring quicker public disclosure of stock purchases by buyers who acquire 5% or more of a company's shares. Current law mandates buyers with such a stake to report their transactions to the SEC within 10 days.

Despite such opposition, support for anti-takeover legislation is strong in Congress, with both the House and Senate considering bills. Efforts to curb takeovers have been sponsored largely by congressional Democrats, who expected resistance from the free-market minded Reagan administration. Senate Banking Committee Chairman William Proxmire (D., Wis.) intends to move the bill he sponsors out of committee before the August congressional recess.

Mr. Sprinkel, whose testimony represented the conclusions of a high-level administration working group, said legislation to curb hostile takeovers could hurt shareholders, lead to a loss of jobs, preempt state regulations, and deter benefits takeovers. His comments were specifically in reaction to Sen. Proxmire's far-reaching bill.

The bill's effect "would be to impede the market for corporate control and to intrude into areas of corporate governance that should be left primarily to the shareholders and secondarily, to the states," Mr. Sprinkel testified.

He cautioned against letting sentiment against insider trading lead to prohibitions on hostile takeovers. He termed insider trading and corporate takeovers as "two separable issues."

The administration believes hostile takeovers promote market, efficiency by weeding out bad management, Mr. Sprinkel said. The administration has said it could support legislation to define insider trading more strictly.

Several senators strongly challenged the administration position, arguing that efficiently managed companies with well-developed assets are the likely targets of hostile takeovers and that measures to defend against takeovers often throw companies heavily into debt. Mr. Sprinkel countered that most corporate debt results from tax laws encouraging debt financing, not from takeovers.

While Mr. Sprinkel opposed the pending legislation on philosophical grounds, Mr. Cox limited most of his objections to technical points. However, he broadly opposed provisions in the bills to block so-called two-tiered tender offers, in which raiders make different price offers to different shareholders. "If enacted, these provisions would mark a dramatic departure from the historic role of federal securities regulation" by interfering with the free market, he argued.

The only major legislative change the SEC official did advocate involved disclosure requirements. Mr. Cox supported the idea of requiring shareholders with 5% or more of a company's shares to report their transactions in the stock within five days, instead of the current 10. And he recommended that such shareholders be prevented from acquiring more of a company's stock until after they make their initial filing that they own more than a 5% share.

The Proxmire bill would require stock purchasers who acquire 3% or more of a company to file within one day. Mr. Cox said a 3% threshold "would generate costs in excess of benefits." He went on to offer a point-by-point rebuttal of nearly all the provisions called for in the Senate proposal, saying the bills could "impair the depth and liquidity of the markets."

The Senate package includes provisions that would require large purchasers to identify the source of their financing, extend the time a company has to respond to a takeover offer to 35 days from 20, and require a formal tender offer after 15% or more of a company is purchased.

The measures also would seek to prohibit so-called greenmail payments, or the buy-back of stock at a premium above the market price to buy off hostile bidders. In addition, they would ban so-called poison pill and golden parachute provisions from being instituted during takeover attempts. These are designed, respectively, to make a company prohibitively expensive to acquire or to provide substantial bonuses to executives removed as a result of a takeover.

Mr. Cox said that many of the provisions in the Senate package could be better addressed by the SEC, which he said can be more flexible in responding to the evolving takeover environment. He said that extending the tender offer period to 35 days would make it unnecessarily long, and that prohibiting defensive tactics by companies would be an inappropriate intrusion into corporate affairs. He said the poison-pill and golden-parachute provisions would be ineffective because they wouldn't prevent companies from adopting such measures before a takeover attempt.

The Senate proposal also would reaffirm the right of states to enact their own takeover legislation. Representatives of state securities regulators testified in favor of the package. But Mr. Sprinkel said the administration believes that the Senate proposal would actually "preempt any state law regarding corporate governance that favored the interest of shareholders."

IN DEFENSE OF TAKEOVERS

(By William Armstrong)

Ancient kings claimed to rule by divine right, impervious to the wishes of their subjects. Some modern-day corporate executives also want what noted economist Robert Samuleson has called the "divine right of management," under which "bankruptcy would become virtually the only way top executives could lose their jobs."

Just as kings built walls and moats to keep out their serfs, a number of executives from top companies have asked Congress and the states to build them a legal fortress that would stop takeovers. And just as kings dealt forcibly with insurrection, big business and its allies are wielding heavy swords, leaning hard on lawmakers to enact protectionist measures.

Sure enough, Congress and the states are caving in. Last September the Senate Banking Committee approved a bill aimed at inhibiting corporate takeovers and providing special protection for corporate managers. This year the Senate is likely to debate and revise the bill in an atmosphere that has been further emotionally charged by a wave of attempted takeovers of U.S companies by foreign corporations. Meanwhile, 27 states have adopted antitakeover statutes that trample on shareholder rights and common business sense. And earlier this year, the state of Delaware—home to many of America's corporations—passed a law that would prevent a new owner from taking full control of an acquired corporation for three years. (That law is now being challenged in the Delaware courts.)

The 35 million Americans who are investors, shareholders, pension fund beneficiaries and individual retirement account holders should be aware that their stake in American business is being threatened by this fight, which the privileged executives of the nations' largest and most powerful enterprises appear to be winning. Also at issue are fundamental questions of economic growth, job creation, preservation of free enterprise and the international competitiveness of U.S. firms. If big business wins, shareholders, national markets and interstate commerce will all lose.

LEGITIMATE RIGHT

Corporate executives are as threatened by takeovers as kings once were by insurrection; even the term "hostile takeover" conjures up images of serfs storming the castle. But it is preposterous to portray as outlaws shareholders who are willing to sell their stock for a higher price. They are simply exercising their legitimate right to buy and sell corporate stock that is publicly held and traded. Enacting the proposed antitakeover legislation would be like telling someone who is selling a house that it is against the law to accept the highest offer. These laws would restrict the sale of publicly held stock and balkanize America's heralded national markets and interstate commerce.

It all adds up to a bizarre spectacle. Usually, business leaders come to Congress to fight restrictive legislation that would impede free markets, free enterprise and competition. They testify in grave tones before our committees, warning of danger when government intervenes in the private sector. But now that their own interests are at stake, some of them seek protection.

To win public and legislative favor for their view, business leaders have launched an all-out offensive on Capitol Hill. In hearing after hearing, Congress has been warned of the parade of horribles that accompany corporate takeovers. We have heard emotional arguments about job loss and community devastation. One corporate critic went so far as to characterize takeovers as the "economic equivalent of AIDS."

But, in fact, takeovers benefit shareholders, employees, communities and the whole economy. A study released in September by the Securities and Exchange Commission reported that between 1981 and 1986, stockholder wealth increased by $167 billion as a result of takeover activity. And takeovers do not sacrifice long-term growth for short-term gain. Stanford University Professor Browyn Hall studied the R&D activities of thousands of firms between 1976 and 1985 and concluded that "innovators are less likely to be acquired" and that, in the aggregate, firms involved in mergers showed "no difference in their pre- and postmerger R&D performance over those not so involved." An SEC study notes that, as a percentage of corporate revenues, R&D expenses have increased, not decreased, during the past few years.

Nor is there systematic evidence that takeovers reduce overall employment. They often function instead as an alternative to plant closings—thereby saving jobs. The National Bureau of Economic Research, which adjusts employment data for larger trends in the economy, has concluded that "contrary to the tenor of popular press coverage of acquisitions, we find that wages generally grow faster following acquisitions [and] . . . employment [grows] faster."

Despite the wealth of evidence that takeovers are a healthy phenomenon. Congress is heeding the cries of big business to stop them. The bill approved by the Senate Banking Committee is innocently called the "Tender Offer Disclosure and Fairness Act of 1987." A better name would be the "Business Management Protection Act of 1987." This legislation, if enacted in its present form, would change the federally established principle of equal treatment of all shareholders by permitting discriminatory treatment of shareholders who do not meet management's approval. But the recent spate of antitakeover legislation is only the beginning of this battle. The fight about takeover tactics is expanding into a full-blown debate about how corporate America ought to be governed and about what responsibilities exceutives have to the owners of their corporations.

Such a debate is long overdue.

COMMUNITY CHIC

For years the leaders of America's largest corporations have denied responsibility for their workers and communities. They closed plants without warning, laid off employees when markets sagged, forced states to compete against one another in offering tax breaks and subsidies, and steadily moved their headquarters to ever more bucolic surroundings—from downtowns to country club suburbs to wooded expanses beyond. Corporate executives justified these slights by arguing, repeatedly and solemnly, that their responsibility was to their shareholders. The purpose of corporations was to make profits, not to be good samaritans. It fell to the public sector to deal with the problems of dislocated workers and disgruntled communities.

But a new vision has taken hold. America's business leaders have become born-again communitarians. Listen to a spokesman of the Business Rountable, an association of America's top executives, speaking before a congressional committee considering limits on takeovers: "Supposedly [takeovers] are being done in the interest of the shareholders. But what is this doing to the country? The corporation has intangible worth as a complex web of relationships in the community within which it functions." Or this, from USX Corporation chairman David Roderich, complaining of "massive abuses by a small group of raiders, arbitrageurs, promoters, and investment bankers, who reap enormous profits serving only their own self-interest at the expense of . . . employees, creditors, communities, and the nation at large.

Corporations seeking federal and state legislation to bar hostile takeovers have taken out full-page ads in local newspapers, depicting the strong and historic ties binding them to their workers and communities, and warning of the dangers to both of succumbing to "outside" control. Gillette, under siege by several potential raiders and desperately seeking protective legislation from Massachusetts, has pulled out all the stops. On the radio, on local television, in regional magazines and newspapers, Gillette has reiterated its links to the community. "Gillette has a responsibility to Boston," a Gillette spokesman told me. "We have employees here, suppliers here, our attachments run deep. What happens when Gillette is owned by someone without these attachments?"

So far 29 state legislatures have been moved by such noble sentiments. In order to preserve the "web or relationships" between the corporations, workers, and communities, states are erecting various barriers to hostile takeovers. Massachusetts enacted an anti-takeover law, and is now considering an even stronger one. Delaware—home to over half of the Fortune 500—became the most recent convert. Its anti-takeover statute forbids a newly controlling shareholder from consolidating a merger with the target, selling its assets, or otherwise restructuring the target firm for three years after the acquisition—effectively rendering such takeovers impossible. It is a fair guess that the other 21 states will soon follow.

The deep concern now being expressed by America's business leaders for their workers and communities—after years of indifference, or worse—is heartwarming. Some cynics say that is only a ruse to protect their own cushy jobs from corporate raiders. But I have more faith in them. I have so much faith that I am sure they will support my proposal to amend the anti-takeover statutes already enacted, and add to legislation now under consideration, the following provision: "No corporation shall be required to accept this anti-takeover protection offered by the state; the protection is entirely voluntary. But when a corporate does choose to shield itself it will be bound to live up to its avowed responsibilities to workers and communities by (1) giving six months' advance notice of any plant closing; (2) providing retraining and job-placement services to any workers it lays off; (3) donating ten percent of its net earnings to local charities; and (4) investing two-thirds of all its future investments within the state."

This will be known hereafter as the Put-Your-Money-Where-Your-Mouth-Is Amendment. I invite America's business leaders to join me in this worthy crusade. We'll show the cynics that American business really cares.

ROBERT B. REICH.

[From the Philadelphia Business Journal, Mar. 20, 1988]

DON'T SUCCUMB TO TAKEOVER FEARS

(By Richard D. Greenfield)

In part as a reaction to the Ivan Boesky scandal and in part reflective of the fears of the business community, a member of Congress recently said: "Corporate America is being held hostage by the corporate raider."

Sen. Paul Simon introduced a bill in the U.S. Senate to curb what he described as abuses in connection with hostile takeover attempts. Simon and other members of Congress are proposing limits on these high visibility transactions as well as other related activities. Most recently, opponents of "unfriendly" takeovers have caused the enactment in Delaware of a new and unjustifiable restrictive package of legislation to further inhibit this growing corporate phenomenon.

Regrettably, this well-intentioned reaction to hostile takeover attempts is bound to be counterproductive and lead to more governmentally sanctioned corporate protectionism, a form of legal chastity belt that should be abhorrent to the more vocal free enterprisers in America. Indeed, some of the proposed legislation being talked about will damage a marketplace which, by and large, works well and reasonably fraud-free.

Unfriendly takeovers, when carried out legitimately and without market manipulation and misuse of inside information can, indeed, serve a worthwhile economic and social purpose. In the competitive business environment of today, incompetent, inefficient and uncreative incumbent managements can only be truly accountable to their shareholders if they are vulnerable to replacement. If a "raider" can do more with a company's assets than the incumbents, by means of either better management performance or wholesale asset disposal, that choice must be freely given to and analyzed by the company's owners, its shareholders.

It should be recognized that existing corporate law is out of date and largely ineffective in providing to shareholders of public companies and the investing public, generally, the protection truly needed in the context of unfriendly offers. In many takeover contests, incumbent directors and their managements fall back on a creative array of defensive maneuvers to employ the target company's resources in order to defeat the raider. Many of these tactics have not been previously addressed by state law, or, if they have, they have been frequently upheld on so-called "business judgment" grounds. Additionally, other tactics, usually employed in advance of a takeover attempt, have been employed by corporate boards in the hope of entrenching themselves and making the company more invulnerable to attack. These include "poison pills" of varying types, two-class common stock with different voting rights, utilizing the delaying tactics permitted under pernicious state anti-takeover laws and the payment of "greenmail," one of the most notorious misuses of assets on the corporate landscape.

Many states, of course, look upon their corporations rather provincially, and seek to protect jobs and taxes in their xenophobic resistance to predators from someplace else. Some states, such as Indiana, have enacted legislation to frustrate unfriendly takeovers and with the new Supreme Court decision, new barriers to commerce are certain to be erected such as those enacted in Delaware. For these reasons, the "playing field" remains uneven and boards of directors, in the face of unfriendly takover attempts, feel free to go to any lengths to fight back and protect "their" turns. All too often, these defensive steps are quite detrimental to the shareholders and to the target company itself yet are carried out with impunity with the confidence that the state courts will protect them, no matter how egregious the abuse.

Against this backdrop, many of the vocal critics of takeover mania are misguided. Absent an analysis of the root cause of the takeovers in the first place, these well-intentioned critics of the corporate scene appear likely to advocate, as they now have in Delaware, still more layers of protection for corporate boards from ultimate accountability to their shareholders. Undoubtedly, these new proposals will make it more difficult for unfriendly takeovers to succeed rather than being directed at making the process more fair and creating what all constituencies should ideally prefer, a level playing field.

It is absolutely clear that the states participating, Pennsylvania and Delaware, are going to do nothing to undo what they have already wrought in terms of management protectionism. For this reason, the time appears right to re-direct all of the energies directed to the takeover crisis from the symptom to the cause; that is, the non-accountability of boards of directors to their shareholders. Regrettably, this cannot be accomplished by voting the non-accountable directors out of office. Another conventional wisdom frequently trumpeted by those who espouse the status quo, is that the shareholders are free to elect new directors when the incumbents do not act in the best interests of the shareholders who initially elected them. This now-recognized myth can be debunked by merely observing that even the most incompetent and self-serving managements, such as the Victor Posner-dominated empire, managed to get re-elected year after year by widely dispersed and ineffectual electorates.

In order to even out the playing field, a bulldozer rather than a garden rake is necessary. The time has arrived where the Congress must recognize that this bulldozer should be in the form of a Federal Business Corporations Code, designed to prescribe standards of conduct for all publicly owned companies, the shares of which trade in interstate commerce.

A federal corporate law, if even-handed and not leaning to any particular constituency but having as a paramount objective the preservation of fundamental shareholder rights, will serve to even the corporate playing field both in takeover fights and generally. If one acknowledges that there is nothing fundamentally wrong with an unfriendly tender offer or quest for control, it should be clear that any proposed legislation should not be aimed narrowly at regulating further the free-market forces that bring companies "into play" but, rather, the misuse of the corporate governance process to frustrate a free and open market. A Federal Business Corporations Code which prohibits specified protectionist and defensive (as well as offensive) conduct and provides for appropriate relief to injured companies and their shareholders will go a long way to opening up and legitimizing contests for corporate control, as well as providing standards for corporate behavior generally. Ultimately, a legal framework at the federal level which balances the interests of shareholders, managements and deals with the economic realities of the marketplace will, in the long run, enable corporate America to function most competitively at home and abroad.

[From Business Week, May 18, 1987]

Some Commonsense Tinkering Might Be All That's Needed

The corporation, perhaps more than most institutions, is based on a series of myths. Managers serve owners. One share of stock gets one vote. Shareholders elect representatives to the board of directors. The free market disciplines winners and losers. All the myths have a purpose; to make us believe the corporation is accountable and efficient.

The truth of the matter is that the public corporation has generally been a benevolent autocracy for decades. Managers have run the show. Shareholder meetings have been elaborate ceremonies. Proxy votes have been foreordained rituals. People who have served as directors of boards have usually been friends of the boss.

For a long time, it didn't matter. As long as management delivered on economic growth, we shared in the myths and convinced ourselves of the international superiority of the American corporation. But in the early 1970s the U.S. economy started to run out of steam. At first we blamed the Vietnam War and the Great Society for our economic problems. Then we blamed OPEC. The real hammer on the economy, though, came from another source: foreign competition.

It forced us to face the truth. Once Europe and Japan emerged from the shadow of World War II and began competing on world markets, we realized that American corporations had been playing, for 25 years, not on a level field but on an empty one. When other players showed up and challenged them to a game, they often crumbled.

The raiders, for all their greed, were the first to understand that many American corporations weren't measuring up. Their raids exploded the myths and revealed that the governing corporate elite was generally not managing economic assets very well. Worse, managers could do almost anything to keep their jobs—and usually get away with it.

It is no surprise that the issues of ownership, control, and accountability were first raised during an earlier time of tremendous economic strain. In 1932, Adolf A. Berle and Gardiner C. Means published The Modern Corporation & Private Property. In the corporation, they noted, shareholders surrender their wealth to outside management. The interest of those parties diverge. The problem gets worse as the number of shareholders increases and their influence grows even more diffuse. Management is often left to go its own way, accountable more in theory than in practice.

But today, owners are starting to act as if they really owned the companies once again. Only this time, the owners are not the Cornelius Vanderbilts and Andrew Carnegies but giant institutions. Their assertion of the rights of ownership is bringing howls of protest from entrenched management. Corporate managers, led by the Business Roundtable, are beseeching Congress to help them keep control.

They are proposing many silly, selfserving remedies. One oil company executive has suggested that raiders be required to write impact statements before being allowed to complete a deal. Management, meanwhile, would still be free to close plants, sell assets, or do whatever it wants without such constraints. Other managers want to make shareholders hold stock for six months before they're allowed to vote on proxy resolutions or bids, yet still feel free to lay off 20-year employees.

But these ideas don't address the nub of the problem. In the new battle for control, managers and institutional shareholders accuse each other of precisely the same things—not being accountable and not focusing properly on long-term performance. There is an element of truth in what both groups are saying. That doesn't mean we need a raft of changes in corporate law. On the contrary, some commonsense tinkering is enough to allow markets to work the way they're supposed to. What can be done?

First, we need to recognize that takeover threats are generally good medicine for weak management. Neither Congress nor the U.S. Supreme Court, which recently upheld an Indiana law making mergers more difficult, should stand in the way of legitimate mergers and acquisitions. At the same time, no chop-shop raider should be able to grab a company overnight, with little investment of his own, for speculative purposes.

Between these two extremes lies reasonable compromise. A splash of cold water on some incendiary raider tactics would cool things down a bit. Coercing shareholders by paying those who tender quickly more than others could be ruled out-of-bounds. Requiring earlier disclosure of 5 percent stakes and preventing two-tier tender offers appear to be in order. To balance those moves, Washington could mandate one-share, one-vote common stock (table). And the government could tackle the problem of reforming antiquated proxy voting systems.

NO PARACHUTES

A number of securities regulations also need to be rewritten. Management rarely loses proxy battles, because the odds are stacked in its favor. Executives can use company funds to reach voters with all the arguments they want to offer. In contrast, shareholders are obliged to finance their own campaigns, can't solicit proxies from all shareholders, and have to confine their arguments to a limited number of words if they use the proxy published by the company.

Shareholders, outside directors, and managers have the most powerful levers to improve long-term performance and management accountability. Harried CEO's, striving to meet quarterly goals, could relax a bit if they told their own pension-fund managers, who do much of the stock-churning anyway, to forget quarterly earnings and look to long-term corporate performance.

Boards of directors could go a long way toward keeping management focused on the basic business of the company if they reminded themselves who elected them, if only in theory. Outside directors play a special role: They can make sure that compensation systems are fair and are geared to long-term performances. That probably means dumping golden parachutes for executives. After all, there aren't any for the 20-year employee forced to bail out. There aren't any parachutes for share-holders, either.

Managerial autocracy has not produced the kind of productivity and growth needed for America to succeed in the world. It's time for a change. The way corporations are governed is very much a competitiveness issue. Managing corporations for the short term is anticompetitive. And bad management is anticompetitive.

SOME SUGGESTIONS FOR REFORM

MANAGEMENT SHOULD

Link operationg managers' compensation to long-term performance.

Give all employees a share in the improved performance of a company through incentive plans that reward increases in productivity, quality, or profits.

Measure the perfomance of pension fund managers against long-term goals, not quarterly targets.

INDEPENDENT DIRECTORS SHOULD

Limit golden parachutes.

Base executive compensation largely on long-term performance.

Assert their independence on critical issues.

SHAREHOLDERS SHOULD

Always vote—and not automatically with management.

Insist on quality outside directors.

Buy stock in companies where management is investing for the long term.

GOVERNMENT SHOULD

Mandate one share, one vote for common stock, unless shareholders approve more than one class of stock.

Require buyers of 5% of a company's stock to disclose within 24 hours, not 10 days.

Ban two-tier tender offers. Require tender offers to remain open for 30 trading days, instead of 20 days.

Require shareholder approval of poison pills and greenmail—including the payment of a raider's investment banking and legal fees.

End "supermajorities," which require more than a simple majority to win proxy votes.

Require independent firms to conduct proxy voting, thus allowing secret balloting and auditing of shareholder votes.

Change securities regulations to give shareholders the same chance as management to get resolutions adopted.

[From the Washington Post, Dec. 17, 1986]

LONG-TERM HINDSIGHT

(By Robert J. Samuelson)

One misleading explanation for the problems of American business is the tyranny of the short term. American managers (it's said) focus too intensely on short-term profits and sacrifice their companies'—and the nation's—long-term competitiveness. The argument is now being dusted off for the debate about hostile takeovers. Critics say the takeovers are bad because they further distract management from the long term. The argument has a plausible and righteous ring, but it's backwards.

Companies, like people, get complacent when no one challenges them. From the end of World War II until the early 1970s, American managers lived in a dream world. Recessions were infrequent and mild, foreign competition was weak or nonexistent, and company shareholders were passive. Corporate executives grew self-satisfied and began to believe they were infallible. Many companies got sloppy; others embarked on misguided diversification programs. This freedom, not short-term thinking abetted poor managmenent.

In hindsight, it's easy to condemn many managers for not paying attention to the long term. But, in fact, managers often worried about the future. For example, many executives diversified precisely because they wanted to lessen corporate reliance on a single or mature business. Unfortunately, much of the diversification turned out to be disastrous. Companies got into businesses they didn't understand, or became unwieldy bureauracies. Planning for the future is no panacea if the result is bad planning.

The distinction between the short and long term, which so intrigues management analysts, isn't especially meaningful in the real world. Executives can have long-term goals but, like all of us, they can't know the future. They have to act tomorrow and next week, and their decisions inevitably reflect present pressures and perceptions. Not surprisingly, the things that most disrupt business—changes in the economy, technology or consumer tastes—are least predictable.

By now, almost everyone acknowledges economists' modest ability to forecast major changes in the business cycle. The same myopia afflicts most business decisions. In the early 1950s, the future computer market was thought to be tiny. A study by Steven Schnaars and Conrad Berenson of the City University of New York reviewed 90 predictions for successful new products between 1960 and 1980: 53 percent of the forecasts were judged failures. The losers included hang-on-the-wall televisions and home helicopters. Some forecasters were simply overoptimistic. Others were dazzled by new technologies and forgot to ask whether products were economical or useful to consumers.

The new attention to the alleged short-term bias of managers is an effort to build a case against takeovers. The argument, now made by managers themselves, blames Wall Street. Companies are increasingly owned (it's said) by large institutions, such as pension funds. These investors want quick profits. Therefore, managers must boost short-term profits by cutting long-term research or investment. Otherwise, their companies' stock will be dumped or they'll become takeover targets. In this view, institutional investors lack company loyalty and will eagerly sell to a "raider" offering a high price for the stock.

This argument won't wash. True, the proportion of total stock owned by institutions (pensions, insurance companies, trust departments) has risen from 16 percent to 27 percent since 1970. But individuals are still the main owners, and institutions apparently don't disproportionately own companies that become takeover targets. Of 177 target companies studied by the Securities and Exchange Commission, institutional ownership was typically two-fifths lower than their industry average. Most shareholders, institutional or otherwise, will sell if offered a 25 percent to 50 percent premium over the market price—typical in takeovers—for their stock.

Nor has the threat of hostile takeovers reduced investment or research and development. Management expert Peter Drucker, who deplores hostile takeovers, dates their onset to 1980. Logically, then, investment and research should have slumped after that as companies tried to boost short-term profits. In fact, business-financed R&D rose 34 percent after inflation between 1980 and 1985. Between 1970 and 1975, when there were no hostile takeovers. It grew a meager 7 percent. Business investment, as a proportion of gross national product, has been about 10 percent higher in the 1980s than a decade earlier.

What has happened is that managers have losts much of the discretion they enjoyed in the 1950s and 1960s to run their companies. The economy has become harsher, foreign competition has intensified, and shareholders, through the vehicle of the hostile takeover, are more threatening. Naturally, executives yearn for their former freedom. They can't easily control the business cycle or foreign competition, but they can try to outlaw hostile takeovers. By making Wall Street a scapegoat, they find an appealing public interest argument for limiting takeovers.

But managers' interests are not synonymous with the national interest. The new outside pressures are having therapeutic effects. More spending on R&D and investment are tangible signs of change. It's not that managers are being forced to focus on the long term. They always thought they were. They're being forced to defend their companies against concrete threats, and that's compelling them to lower costs, improve quality and develop new products. They can no longer take success for granted, as they did for so many years.

The campaign to blame Wall Street for short-term thinking is simply a new version of an old story. Since at least the era of Adam Smith, businessmen have sought to insulate themselves against outside threats. They prefer calm certainty to insecure uncertainty. It's an understandable longing. But a bit of insecurity isn't so bad. It makes managing tougher—and better.

ESOP BILL MAY BACKFIRE

The Senate Banking Committee has gone too far in its sponsorship of employee stock ownership plans.

As reported on page 1, the committee has reported out a bill that would make ESOPs a powerful defensive weapon in the corporate anti-takeover arsenal.

ESOPs, when established for the right motives, are fine supplemental employee benefits.

Unfortunately the bill, if passed, will probably lead to the termination of more defined benefit pension plans, and ultimately, the demise of ESOPs.

ESOPs were first created as a genuine employee benefit that gave the employees a share in the companies they worked for—some say in the management of those companies—and a feeling of control over their destiny.

In return, the companies got improved morale, lower turnover, better productivity and presumably higher profitability, in which the employees shared.

Sometimes ESOPs were established alongside the primary pension fund. In other situations, the employees had to give up the protection of a pension plan backed by a diversified investment portfolio and rely on the ESOP for their retirement welfare.

In recent years, Congress has stimulated the creation of ESOPs with tax benefits. Now the Senate Banking Committee has added the incentive of anti-takeover weapons.

Companies that established ESOPs under the impetus of the committee's bill—assuming it passes—would be doing so for the wrong motives.

They would have little interest in the welfare of the employees. They would be interested solely in the welfare of top management.

Companies truly interested in the welfare of the employees would not need such incentives to start ESOPs, given all the tax incentives that already exist.

Therefore, such companies will establish ESOPs that give little to the employees while taking away much from them.

More defined benefit plans will be terminated so the assets can be used to finance the ESOP. More defined contribution plans will be frozen and replaced with ESOPs.

As Robert A.G. Monks, president of Institutional Shareholder Services Inc., Washington, commented: "The lawyers will find a way to use the ESOP abusively."

The result will be less retirement income protection for employees, more job security for top management, and ultimately, less competitiveness in American industry.

The end result could be a reaction against ESOPs that would lead to their abolition—the elimination of an employee benefit that is of great value when genuine.

[From the National Law Journal, Feb. 8, 1988]

ANTI-TAKEOVER BILL WOULD SHIFT BALANCE OF POWER

(By Bruce S. Mendelsohn and Andrew G. Berg)

Consideration of a strong anti-takeover statute by the state of Delaware[1] in January presents a timely opportunity to assess the role that the states play in regulating tender offers and the public policy underpinnings of state anti-takeover laws.

Since April 21, 1987, when the U.S. Supreme Court revived[2] the states role in tender offer regulation by affirming Indiana's control share acquisition statute[3] in CTS Corp. v. Dynamics Corp. of America,[4] 13 states have adopted some form of anti-takeover statute, bringing to 28 the number of states that have such statutes as part of their corporate codes.[5]

Because of the Supreme Court's decision in CTS and the opportunity it creates, takeover opponents have shifted their efforts away from the U.S. Congress, where anti-takeover bills have been introduced in every session since 1984, to the state legislatures instead.[6]

The results to date demonstrate that anti-takeover advocates—couching their arguments in terms of job loss, plant closings, reduced tax base and stifled economic growth—have been far more successful at the state level, with the individual state legislatures, than at the national level,[7] with the U.S. Congress.

Although these state anti-takeover laws by and large have had significant success in accomplishing their immediate goal—creating obstacles for a specific threatened or pending take-over of an in-state company[8]—adoption of them to date has had a limited impact on the U.S. capital markets.

This is because very few "major" corporations are either chartered by or residents of these states, or because some of these statutes have been drafted to apply only to a single in-state corporation—specifically, the corporation that lobbied for the statute.[9]

OPPOSITION ARGUMENT

Opponents have argued against anti-takeover statutes in individual states not so much because of the impact of individual statutes on the capital markets but because seriatim adoption of such statutes would encourage a "race to the bottom" by the other states—especially Delaware—in a competition for corporate chartering fees.

This "race to the bottom" has prompted opponents of state anti-takeover statutes to call for a uniform law in this area through either explicit federal pre-emption of such state laws or through a minimum federal code of corporate governance.[10]

Delaware is quite different, however, from these other states. Delaware is home to more than 179,000 corporations, including more than 50 percent of the Fortune 500 companies and more than 45 percent of all companies listed on the New York Stock Exchange.

Delaware-chartered corporations constitute the bulk of the major market indices (e.g., the Dow Jones 30 Industrials), and represent more than 50 percent of the Fortune 500's $645 billion in shareholder equity and more than 55 percent of the $1.7 trillion in corporate revenues generated by the Fortune 500 in 1986.

BROAD IMPACT?

Not surprisingly, no other single state comes close to having Delaware's significance in this area. Because of the breadth of its influence in matters involving corporate governance, Delaware's anti-takeover statute will have a broad nationwide impact, nearly the equivalent of congressional action in this area.

Delaware's action fundamentally alters the debate in this area. The Delaware anti-takeover statute shifts the debate away from broader and less precise economic issues to more fundamental political issues—the balance of power to regulate tender offers between the federal government and state government, and the balance of power between competing states to regulate the same tender offer.[11]

Should states adopt these anti-takeover statutes? State legislatures have a clear economic interest in making their jurisdictions hospitable for corporations, and legislatures would be remiss at least not to consider adopting an anti-takeover statute.[12]

Maintaining employment, preserving tax base and fostering economic growth are all legitimate concerns that state legislatures have relied on in voting to protect in-state companies from hostile takeovers by adopting strong anti-takeover statutes.

In the process, these state legislatures have rejected other important concerns—such as U.S. industrial competitiveness, cost-efficient capital formation and the basic tenets of shareholder democracy—that opponents of state anti-takeover laws have stressed.

Experience to date demonstrates, however, that these constituencies are best served by foregoing short-term fixes at the expense of long-term solutions.

ROLE IN ECONOMY

An important point against state anti-takeover statutes is the very crucial role that takeover activity serves in a competitive economy. Overall, merger and acquisition activity, especially takeovers, has had a very positive impact on the U.S. economy.

Tender offers and corporate acquisitions in general promote market and industrial efficiency, increase shareholder wealth and result in greater corporate accountability. It is important to preserve these effects as industry strives to maintain its competitiveness in global markets, particularly its competitiveness with West Germany and Japan.

One benefit of takeovers that cannot be overemphasized is the disciplinary effect that takeovers have on inefficient management.

Where takeovers have succeeded, in many cases incumbent management has been replaced by new managers dedicated to maximizing corporate profitability and enhancing shareholder value. Even in situations in which takeovers have been defeated or incumbent management faced only the threat of a takeover, managers have often been prompted to restructure in order to improve the competitive position of the company.[13]

Good corporate management is vital to a strong state and local economy. Jobs are created by dynamic and competitive companies that can adapt to constantly changing market conditions, not by companies that hide from competition and the free market through regulatory protection.[14]

SHAREHOLDER CONCERNS

Shareholder concerns are often offered in support of state anti-takeover legislation, such as protecting shareholders from economic coercion in the context of partial or two-tier tender offers. Proponents of the Delaware anti-takeover statute publicly characterized protection of minority shareholders in a freeze-out situation as the principal justification for the statute.

The Delaware statute, for instance, focuses on this concern by excepting from its coverage, under certain circumstances, unfriendly acquisitions of stock in excess of 85 percent. Another concern is the need to bolster management's defenses against takeovers in order to protect shareholders by maximizing share price in tender offers. While these shareholder concerns may be legitimate, state anti-takeover legislation is not needed to address either of these concerns.

The economic coercion that once accompanied partial and two-tier offers has been largely eliminated. Before 1982, two-tier or partial tender offers often had the potential for coercing shareholders to tender their shares earlier than they would in "any-or-

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Footnotes at end of article.

all" offers. This is because shareholders were given 20 business days in which to decide whether to tender their shares, but the proration requirement (which provides that where a greater number of shares are tendered than the offeror is required to take, the shares tendered must be purchased pro rata according to the number of shares tendered by each person) specified only 10 calendar days.

Thus, partial or two-tier offers may have coerced target shareholders to tender their shares within 10 calendar days in order to avoid forfeiting their proration rights, denying them the full 20 business days intended to permit shareholders to carefully make their decision. Significantly, the Securities and Exchange Commission has since eliminated this coercive effect by extending proration rights throughout the offering period, ensuring that their shareholders have the full waiting period to consider the merits of the tender offer.[15]

The SEC has also acted to preserve the integrity of the waiting period by extending withdrawal rights (permitting a shareholder to withdraw shares previously tendered) to run throughout the offering period.[16]

SEC STUDY

Empirical studies of this issue strongly suggest that, contrary to this perception, partial and two-tier tender offers do not coerce shareholders to tender.

A 1985 study by the SEC's Office of the Chief Economist[17] found that fewer shareholders tendered into two-tier and partial offers—supposedly more coercive types of offers—than into any-or-all offers.

The study also found that the price premium for any-or-all offers and the blended premium[18] for two-tier offers were nearly identical. More importantly, the empirical evidence also establishes that two-tier and partial tender offers are rapidly declining in use, in part because of the SEC's extension of proration rights in 1982 and because bidders have been better able to finance much stronger any-or-all cash offers. For the period 1981 through 1984, for instance, only 69 of 228 tender offers were partial or two-tier offers, and in 1984 alone, there were only seven two-tier offers.[19]

Testifying before the Senate Banking Committee on June 23, 1987, SEC Commissioner Charles C. Cox stated that "if the proposed limitation on partial tender offers is intended to regulate the alleged coercive effect of two-tier offers, the market appears to have corrected any problem that may have existed."[20] Mr. Cox found that the number of two-tier offers declined from 18 percent of all offers in 1982 to only 3 percent in 1986.[21] This has led the SEC's chief economist, among others, to question whether target shareholders would benefit from restrictions on two-tier or partial offers in favor of any-or-all offers.[22]

DEFENSIVE MEASURES

It appears that state takeover statutes also are not needed to bolster management defenses against takeovers.

A recent study conducted by the Washington, D.C.-based investor Responsibility Research Center reported that more than 400 of the Fortune 500 companies—more than 250 of which are chartered in Delaware—had adopted some form of anti-takeover measure, such as poison pill plans, by January 1987.[23]

Although the courts have closely scrutinized the use of these defensive tactics,[24] the tactics have been invalidated only where they were adopted by incumbent management to entrench itself, rather than for the purpose of protecting shareholder interests.

Moreover, these anti-takeover statutes do not afford corporations any protections that could not be more properly secured through charter or bylaw amendments.

From a public policy perspective, it is more appropriate that shareholder protection be provided in this way—allowing a corporation's shareholders to adopt whatever specific protections are needed—than for states to impose overbroad and overinclusive protections not needed by individual corporations and not desired by their shareholders.

In fact, the experience in states with anti-takeover statutes shows that shareholders generally have not asked for protection from takeovers; in the few cases that they have, corporations have been able to adopt fair-price or similar provisions in response to this need.

PRE-EMPTION BATTLE

Of even more critical interest to the states than these concerns should be the fact that overly obtrusive state anti-takeover laws will likely reignite the pre-emption debate. This significantly increases the possibility that the states will be barred by Congress from assuming any role in tender offer regulation.

The battle for federal pre-emption as a part of federal tender offer and securities law reform has been intense since the Supreme Court's decision in *CTS* in April 1986. Although one of the major legislative proposals introduced before *CTS* arguably would have indirect pre-emptive effect,[25] a similar proposal introduced by Reps. Matthew J. Rinaldo, R-N.J., and Norman F. Lent, R-N.Y., following the CTS decision, would explicitly authorize the SEC, through rule-making, to pre-empt the operation of some of these state statutes.[26]

These pre-emption proposals predictably gained the support of numerous free-market advocates.

The pre-emption debate intensified considerably with the introduction of a "reverse" state pre-emption proposal by Sen. William Proxmire, D-Wis., which specified that the federal tender offer laws should not be construed to supersede state law regulating the internal affairs, governance or contests for control of corporations organized within a state. As reported out of the Senate Banking Committee, however, the Proxmire tender offer reform bill[27] (which to date has been the only such bill to be reported out of committee) contained no federal pre-emption provision, reverse or otherwise.

POLITICAL VICTORY

This is largely the result of a political stalemate on the presumption issue, although it should more realistically be regarded as an important political victory achieved by the states and the advocates of state anti-takeover statutes, such as the Business Roundtable and the Coalition to Stop the Raid on America.

The pre-emption issue has largely lain dormant since the action of the Senate Banking Committee on the Proxmire proposal on Sept. 30, 1987.

Adoption of the Delaware statute should likely change all this, as proponents of the legislation have feared.

The reasons for this are several. It is one thing for one or several states with only limited impact on the national economy to adopt a strong anti-take-over statute. Although in such instances these state laws may contravene federal regulatory policy, the case for legislative action at the national level, because of this very limited impact, is somewhat difficult to establish.

NATIONAL IMPACT

However, where the influence of a state statute is as broad as Delaware's, the impact of such a statute on national interests is, one would hope, difficult for Congress to ignore.

Delaware's likely adoption of its anti-takeover statute will magnify the effect of all of the state statutes adopted after *CTS* with the intention of stopping takeovers and tender offer activity.

Of equal importance is the fact that the effect of such statutes to impose nearly insurmountable obstacles to takeovers—is inconsistent with the continuing evolution of the tender offer regulatory scheme since 1968. This evolution has demonstrated, above all, an effort to preserve the balance of power between targets and bidders in contests for corporate control in order to deny either one an upper hand in tender offer battles.

For instance, a primary goal underlying adoption of the Williams Act in 1968 was prohibition of so-called Saturday night specials, whereby a bidder could acquire control of a corporation through a tender offer without any investor safeguards.

ALL-HOLDERS RULE

More recently, the SEC in its all-holders rule effectively undid the explicit advantage that target management possessed by mounting discriminatory defensive self-tender offers—the so-called Unocal defense.[28]

And more recently still, both Congress and the SEC have sought to negate the significant advantage that some bidders have gained by engaging in "market sweeps" to acquire control of a target company, as demonstrated by Campeau Corp's acquisition of Allied Stores Corp.[29] in November 1986.

Many of these state anti-takeover statutes, most notably Delaware's, dramatically shift this balance of power against bidders in favor of target management. The practical effect is that the proscriptions of many of these statutes cannot be avoided.

For instance, in the case of the Delaware statute, which allows a bidder to avoid operation of the statute if the bidder acquires in excess of 85 percent of the target's stock, SEC Commissioner Joseph A. Grundfest found that in no hostile tender offer to date was a bidder able to acquire in excess of 85 percent of the target's stock.

Now that Delaware appears ready to act, the overly obtrusive effect of these state anti-takeover statutes cannot escape the notice of Congress.

Whereas before Delaware's anticipated action, the Williams Act dominated the tender offer regulatory scheme, the Delaware statute will become the de facto law of the land, severely favoring target management in tender offer battles to the detriment of shareholders and the national economy. The tender offer regulatory scheme—in this case, through legislation adopted by Congress—must maintain the balance that has been the scheme's hallmark over the years.

FOOTNOTES

[1] The Delaware statute, codified at Sec. 203 of the Delaware General Corporation Law, is a three-year freeze-out statute prohibiting certain business combinations with the bidder without approval of the target's management.

[2] Before the Supreme Court's decision in CTS Corp. v. Dynamics Corp. of America, 107 S. Ct. 1637 (1987), the state's role in tender offer regulation was severely limited by the court's decision in Edgar v. MITE Corp., 457 U.S. 624 (1962). In MITE, the Supreme Court ruled that the Illinois Business Takeover Act was unconstitutional because it indirectly burdened interstate commerce. The effect of the Supreme Court's opinion in MITE was to effectively invalidate the takeover laws of the 36 other states that had anti-takeover statutes on their books. For a further description of the MITE decision and its impact on tender offer regulation, see Mendelsohn & Berg, "Tender-Offer Battles in Legislative Arena Shift to Pre-Emption," Legal Times of Washington 26 (Sept. 14, 1987).

[3] Under the Indiana control share acquisition statute, acquisitions giving an acquiring party enough stock to cross one of three ownership thresholds—20 percent, 33 percent and 50 percent—are subject to shareholder approval, and the power to vote such shares is suspended until approved by the target's other shareholders. For a more detailed analysis of the Indiana statute, see Pampepinto & Heard, "New State Regulation of Corporate Takeovers," Nat'l L.J., Sept. 21, 1987, at 26.

[4] 107 S. Ct. 1637 (1987). The majority in CTS held that the Indiana law did not conflict with the Williams Act, the federal statutory scheme regulating tender offers. In doing so, the court found that the Indiana statute avoided the problems that proved to be fatal for the Illinois statute in the MITE decision. Specifically, the court concluded that the Indiana law did not favor either target management or bidder in contests for corporate control, it did not impose an indefinite delay on tender offers, and it did not allow the state to interject its views of the fairness of the offer. In fact, the majority held that the Indiana law furthered the federal policy of investor protection by allowing shareholders to decide collectively whether to accept the tender offer. The court reasoned that this would protect shareholders from the economic coercion created by tender offers, because shareholders often accepted a tender offer rather than risk having to sell at a depressed share price after the offer is closed.

[5] The states that have adopted some form of anti-takeover legislation since the CTS case are Arizona, Florida, Louisiana, Massachusetts, Minnesota, Missouri, Nevada, North Carolina, Oklahoma, Oregon, Utah, Washington and Wisconsin. States with existing anti-takeover statutes are: Connecticut, Georgia, Hawaii, Illinois, Indiana, Kentucky, Maine, Maryland, Michigan, Mississippi, New Jersey, New York, Ohio, Pennsylvania and Virginia.

[6] The CTS decision effectively has turned the tender offer reform debate upside down. Corporate interests, which not long ago were urging congressional action in the tender offer area, are now arguing for congressional restraint. Bidders and takeover entrepreneurs, who earlier were opposed to congressional action, are now urging Congress to pre-empt the operation of these state anti-takeover statutes. Accord, P. Starobin, "Takeover Debate Centers on State's Powers," Cong. Q., July 25, 1987, at 1662; K. Victor, "Taking on Takeovers," National Journal (Jan. 9, 1988) at 79.

[7] For a discussion of the concerns favoring state regulation of takeovers, see, e.g., Wallman & Ranard, "State Takeover Laws Work Well," Legal Times of Washington, Sept. 21, 1987, at 22.

[8] Of the 13 states that adopted anti-takeover statutes after CTS, six acted in response to specific actual or threatened takeovers of in-state companies: Arizona (The Greyhound Corp.); Florida (Harcourt Brace Jovanovich Inc.); Massachusetts (Gillette Co.); North Carolina (Burlington Industries Inc.); Minnesota (Dayton-Hudson Corp.); Washington (The Boeing Co.); and Wisconsin (G. Heileman Brewing Co. Inc.).

[9] For instance, Washington's anti-takeover statute was drafted in such a way as to apply only to one in-state company, Boeing, whose management pressured the Washington state Legislature to adopt the statue in response to the acquisition of Boeing stock by T. Boone Pickens Jr.

[10] See. e.g., "Washington Crosses Delaware," Wall St. J., Dec. 21, 1987, at 6; Samuelson, "Corporate Socialism." Newsweek 42 (Dec. 28, 1987).

[11] For instance, the Delaware anti-takeover statute, which applies to Delaware-chartered corporations, will likely pre-empt the operation of other state statutes that jurisdictionally are not based on incorporation but on some other ground, such as in-state residence, business operations or shareholder residence. In fact, the California Commission on Corporate Governance (created by the California Legislature) has recently decided to support federal pre-emption in this area because the Delaware statute would pre-empt an anti-takeover law adopted by California with regard to Delaware-chartered corporations resident in California.

[12] Admittedly, it is unreasonable to expect a state legislature to consider the full implications of state laws on national interests. State legislators favor states and local concerns in deciding whether to adopt a state anti-takeover, statute. One of the fundamental issues in the pre-emption debate is whether tender offers are of such intrinsic national interest, as opposed to state interest, that overly obtrusive state regulation of tender offers should be pre-empted.

[13] The management of numerous corporations that were the subject of takeovers—including Unocal Corp., Phillips Petroleum Co., CBS Inc., USX Corp., The Walt Disney Co. and Gillettee Co.—have stated publicly that these takeover threats benefited their companies. See, e.g., K. Hammonds, "How Ron Parelman Scared Gillettee Into Shape," Business Week 40 (Oct. 12, 1987).

[14] The recent restructuring undertaken at The Walt Disney Co. in response to several hostile bids for control illustrates how threatened takeovers can discipline inefficient management and, ultimately, can increase productivity. After Walt Disney's death in 1966 and until 1984, Disney suffered a period of relative stagnation, including a significant decrease in profits for three years in a row beginning in 1980. In 1984, separate bids for control of Disney by Reliance Group Holdings Inc.; Minstar Inc. and an investor group led by the Bass family resulted in the replacement of management with a new team under Michael D. Eisner and Frank Wells, industry experts. Changes made by Messrs. Eisner and Wells since 1984 have improved Disney's performance dramatically, benefiting all of Disney's corporate constituencies. Income for fiscal year 1986 increased more than 150 percent: Disney's stock price has risen fourfold since before the hostile bids in 1984; and Disney has created more than 4,000 new jobs. Raymond L. Watson, head of Disney's executive committee and chairman before the takeover attempts, even admitted the positive impact of those takeover attempts: "It woke us up, though I hate to give credit to something like that. I think the company is stronger." See, e.g., "Disney's Magic: A Turnaround Proves Wishes Can Come True," Business Week 62 (March 9, 1987).

[15] See 12 C.F.R. 240.14d-8.

[16] See 17 C.F.R. 240.14d-7.

[17] Office of the Chief Economist, Securities and Exchange Commission. "The Economics of Any-or-All, Partial, and Two-Tier Tender Offers," April 19, 1985.

[18] Id. at 3 and 20.

[19] Id. at 23-24 and Table la.

[20] Statement of Charles C. Cox, then-acting chairman of the SEC, before the Senate Committee on Banking, Housing and Urban Affairs, June 23, 1987, at 14.

[21] Id. SEC data shows that there were only six third-party, two-tier tender offers during fiscal year 1987.

[22] See, e.g., Office of the Chief Economist, supra note 17, at 26. In fact, most recently two-tier tender offers have been used more by issuers as a defensive tactic than by bidders to gain control of an issuer. See J. Grundfest, "Two-Tier Bids Are Now a Defensive Tactic," Nat'l L.J., Nov. 9, 1987, at 26.

[23] Virginia K. Rosenbaum, Investor Responsibility Research Center, "Takeover Defenses: Profiles of the Fortune 500," January 1987, at 208.

[24] See, e.g., Moran v. Household International Inc., 500 A.2d 346 (Del. 1985); Dynamics Corp. v. CTS Corp., 794 F.2d 250 (7th Cir. 1986).

[25] H.R. 2172, introduced by Reps. John D. Dingell, D-Mich., and Edward J. Markey, D-Mass., would pre-empt any state anti-takeover law that has the effect of disenfranchising shareholders.

[26] The pre-emption provision in the proposal by Reps. Norman F. Lent, R-N.Y., and Matthew J. Rinaldo, R-N.M., H.R. 2648, is more direct. In addition to prohibiting shareholder disenfranchisement, it permits the SEC to limit changes in voting rights, even if such changes are pursuant to state law. Many of these state anti-takeover laws, including those of both Indiana and Delaware, disenfranchise a bidder who qualifies as an "interested stockholder," which in Delaware is a shareholder owning in excess of 15 percent of a corporation's stock.

[27] S. 1323, reported out of the Senate Banking Committee on Sept. 30, 1987.

[28] The all-holders rule requires that all shareholders be treated equally in a tender offer, i.e., that a tender offer be made on equal terms to all shareholders. See 17 C.F.R. 240.14d-10. In the Unocal case, management for Unocal made a discriminatory self-tender offer for Unocal shares, specifically excluding from the offer the stock holdings of the bidder, T. Boone Pickens, Jr. For a further examination of the "Unocal defense" and the adoption of the "all-holders rule," see SEC Release Nos. 33-6595 & 33-6596, 50 Fed. Reg. 27976 & 282210 (July 1, 1985). See generally Unocal Corp. v. Mesa Petroleum Co., 493 A.2d 946 (Del. Supp. 1985).

[29] In a market sweep, the bidder acquires a controlling interest in the target company through market or privately negotiated purchases of the target's stock, rather than through the formal tender mechanism.

[From the Washington Post, June 28, 1987]

MORE STATES ARE RESORTING TO LEGISLATION TO SHOOT DOWN CORPORATE RAIDERS

(By Bill Menezes)

When Minnesota lawmakers rushed to rescue the state's biggest corporation from Washington's Haft family last week, they followed in the footsteps of other states that have tried to block corporate takeovers they fear will cost them jobs and revenue.

Since the Supreme Court's landmark ruling in April upholding Indiana's law to limit hostile raids, Minnesota, North Carolina and Florida have enacted similar legislation in response to brewing takeover wars in their states.

Minnesota had no plans to rewrite its law until Dart Drug founder Herbert Haft and his son Robert made a bid to buy Dayton Hudson Corp., the giant department store chain based in Minneapolis. In one week, the company engineered a special session of the legislature which quickly threw up a defense against the Hafts.

Some 22 states already have laws dealing with shareholder rights during hostile takeovers—many modeled on the Indiana law—and several more are considering similar measures.

In California, for example, the legislature is considering nine such bills this year, and five or six more are planned for next year, according to Dick Damm, of the Senate Office of Research in Sacramento.

Lawmakers in Missouri and Nevada this year approved measures that either mirrored or included major provisions of the Indiana law, while existing laws were modified in Iowa.

Central to the campaigns to pass such laws has been the threat that a hostile suitor might try to pay off debt incurred in a buyout by selling or closing various divisions of the target company or by cost-cutting that might include massive layoffs.

The North Carolina General Assembly in April and May enacted legislation to help Burlington Industries Inc. prevent an unwanted takeover by an investor group led by New York financier Asher B. Edelman and Montreal-based Dominion Texile Inc.

The Florida Legislature approved a bill in response to a hostile takeover threat to Harcourt Brace Jovanovich Inc. by British publisher Robert Maxwell.

The Indiana law gives shareholders the right to decide whether an investor who buys a big block of stock in a company, or even a majority interest, can vote those shares in corporate elections.

The stockholders' vote must take place either at the target company's next annual stockholders meeting, or at a special meeting scheduled within 50 days.

Thus, in most cases, the hostile bidder faces the inability to vote any stock it acquires for at least 50 days—and management has the same period to mobilize its defenses.

Antitakeover laws in a number of states also prohibit hostile suitors from selling assets of a target company for a certain period of time—say, five years. That is intended to make lenders reluctant to finance a hostile takeover of a company by limiting possible moves to pay off debt incurred in the buyout.

Indiana and several other states also require corporate raiders to pay all shareholders the same price, rather then offering a premium price for a controlling stake in the company and paying a lower price for the rest of the stock. Such two-tier offers are intended to get shareholders to tender their stock quickly to hostile bidders before management can find a means of staving off the bid.

Several states in the past have enacted measures in specific instances in which local companies faced hostile bidders.

But some states have had their attempts to limit raiders short-circuited by the courts or other authorities on the grounds that some of their provisions interfered with interstate commerce or existing federal takeover statutes.

A notable exception to the trend toward drafting new laws has been Delaware, where about 40 percent of the New York State Exchange-listed companies are incorporated. Delaware lawmakers earlier this month decided against considering a law modeled on the Indiana statute during their current session because of uncertainty about the practical effects of the proposal.

[From the Washington Post, Dec. 23, 1987]

A GHASTLY ANTITAKEOVER IDEA

(By Robert J. Samuelson)

You might not ever have to think about Delaware except for this: Although its citizens represent only 0.3 percent of the nation's shareholders, more companies are incorporated there than in any other state. There are 179,000 of them, including 56 percent of the Fortune 500. Delaware may soon enact an antitakeover law, which—given the state's preeminent position—would amount to a national antitakeover law.

This is a ghastly idea. Its only purpose is to shield well-paid executives against hostile takeovers. Corporate leaders like to project themselves as defenders of the productive economy against sinister financiers and "raiders." In fact, hostile takeovers promote greater efficiency and productivity. The whole antitakeover exercise smacks of corporate socialism: the marshaling of government powers to protect established businesses against change and challenge.

Executives want to sleep easier at night, and Delaware is eager to please. The corporate franchise tax and other fees provide 16 percent of state revenues. A Supreme Court decision last spring seemed to permit tougher state antitakeover laws. Since then, 13 states have passed new laws, bringing to 27 the number with antitakeover statutes. Delaware officials fear that companies will reincorporate elsewhere if the state doesn't offer greater protection. The local bar association is drafting a proposal, which the legislature may approve in early 1988.

The speed with which these antitakeover laws have passed represents a political triumph for big corporations. They've largely succeeded in portraying hostile takeovers as an economic pestilence. By now, the indictment is familiar. The takeover threat (it's said) forces companies to focus on short-term profits and sacrifice long-term investment or research. Corporate raiders cheat small shareholders by coercing them to sell their stock at low prices.

There's just enough truth to the indictment to make it seem compelling. Ivan Boesky was just sentenced last week. Some takeover bids are phantom, intended mainly to create speculative opportunities in the stock market. Outlandish trading profits are made. Not surprisingly, corporate raiders and investment bankers are the new villains of popular culture—reviled in novels (Tom Wolf's "The Bonfire of the Vanities") and movies (Oliver Stone's "Wall Street"). But beyond the imagery, the indictment against hostile takeovers is essentially false. Consider:

They aren't rampant. In 1986 only 40—a record—were attempted, according to W.T. Grimm & Co.; a mere 15 succeeded. What is rampant is executive anxiety about takeovers. In one survey of 200 large companies, 57 percent said they'd been subject to takeover rumors.

Hostile takeovers haven't cut total investment or research. Between 1979 and 1986, corporate-financed research and development rose 51 percent, after adjusting for inflation. The increase between 1969 and 1976—when hostile takeovers barely existed—was only 12 percent. Investment, as a share of gross national product, is higher than in the 1970s.

There's no evidence that shareholders fare worse in hostile takeovers than in friendly ones—those negotiated by the managers of merging companies. Typically, investors get 25 to 40 percent more than the previous market price.

Still, the corporate rhetoric continues. Listen to H.B. Atwater Jr., chairman of General Mills. He deplores financial "manipulations" bad "bust-ups." He says hostile takeovers create "no new wealth." He's probably right. But they can improve use of the existing wealth by redirecting wasteful corporate investments. Ironically, General Mills proves the point.

General Mills has an "extremely profitable base business that subsidized poor diversification," as Michael Porter of the Harvard Business School writes. The company is the second-largest cereal maker (Wheaties, Cheerios) and the leader in cake mixes (Betty Crocker). Food profits financed diversification in everything from toys to fashion to furniture. In 1985 Atwater overhauled the company. He sold poorly performing businesses and turned the toy and fashion operations into separate companies, whose stock was distributed to General Mills shareholders.

The results have been dazzling. The toy and fashion businesses have done better as independent companies. Focusing on fewer businesses, General Mills improved its return on shareholders' equity from 19 to 31 percent. Since 1984 its stock price (including the value of the spun-off companies) has risen about 150 percent. That's more than three times greater than the overall market rise. But suppose Atwater hadn't acted and a raider had? In 1985 someone could have bought General Mills for 50 percent more than its market price and, by doing what the company itself did, profited enormously. Would that be a financial "manipulation" or undesirable "bust-up"?

The economic value of hostile takeovers doesn't lie in the few that occur. It lies in the mere threat, which motivates managers to stay efficient. Just because the pressure operates through the stock market doesn't make it illegitimate. The Delaware antitakeover proposal aims to reduce the threat. Management-approved mergers are exempted. For others, the proposal would make it difficult for investor groups to borrow the money to finance hostile takeovers. Notably, many public pension funds—large stockholders representing millions of retirees—oppose the plan.

What Delaware and shortsighted executives are jeopardizing is a division of labor that's worked well for decades. Congress has left the details of corporate law to the states, as long as states don't use it to settle major issues of national policy. Once that happens—as it is happening here—the question arises: Why should Delaware have such power? The logical response is to abolish state corporate charters and replace them with a federal charter.

This step has long been advocated by social activists, but it's fraught with dangers. It would represent a huge politicization of the economy. Through federal charters, corporations could become the target of every passing political and social fad. It would be an economic nightmare. But if business leaders want corporate socialism, that's what they're risking. Those who beg for government protection are also inviting government control.

[From Forbes magazine, Oct. 19, 1987]

FACT AND COMMENT II

(By M.S. Forbes Jr., Deputy Editor-in-Chief)

TAKEOVER—A POSITIVE FORCE

MSF Jr was asked a couple of weeks ago by The Nightly Business Report to comment briefly on the rash of antitakeover laws. The following are excerpted remarks from the program.

Wisconsin and a number of other states are passing laws to obstruct hostile takeovers of home state companies.

This movement is ill-conceived. It is bad news for stockholders and for the American economy.

Such laws have obvious political appeal. But they will interfere with shareholders' rights to sell to someone at an agreed-upon price. And they will help entrench incumbent managements. How do you make these executives accountable if you isolate them from the pressures and voices of the markets! Such protectionism can breed complacency, insularity and mediocrity.

One of the great strengths of the American economy has been its ability to adapt and to adjust to changing circumstanstances. Managements need to be responsive to, and not shielded from, these pressures. Change, not stability, has been the characteristic of the American economy for generations. It has been the wellspring of our prosperity.

As we pointed out in our 70th Anniversary issue, a number of studies have shown that the chief beneficiaries of takeovers and mergers are the stockholders of the acquired companies, who are often saved from bad management.

Do takeover pressures force managements to concentrate on the short term, thereby harming the future? The evidence indicates that most takeover victims had little reputation for farsightedness.

We're not talking about insider trading, which is illegal. Nor are we talking about such notorious takeover abuses as greenmail and golden parachutes. There are several proposals before Congress and state legislatures that would bar these unscionable, immoral practices. To use outrages as an excuse to obstruct unwelcome acquisition offers, however, is similar to calling for the abolition of automobiles because of the frequency of accidents.

Antitakeover laws protect the interests of a handful of entrenched executives. And this is not in the interests of an American economy in an increasingly competitive, fast-changing world.

Mr. SHELBY. I yield the floor.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, a moment ago I said the Senator from Alabama had emerged as one of the leading champions of the rights of shareholders of American public corporations. The statement which he has just made is an indication of why so many people around this country have thought of him in those terms because what he has said is exactly what needs to be said. That it is the shareholders who own these corporations; it is the shareholders who need to be protected.

We should not be here carrying the mail for a bunch of corporate raiders, and we should not be here to defend the rights of a bunch of corporate managers. These companies are owned by their shareholders, and they are the ones who deserve our consideration.

It seems to me the only higher considerations than those of the rights and outlook of the shareholders are for our national economy. Obviously, the economy itself and our country more broadly deserve the first priority, but I think the Senator from Alabama is absolutely right in speaking up on behalf of the rights of the shareholders of this country, and I congratulate him for doing it.

Mr. President, in his remarks, the Senator from Alabama referred to some specific problems in this legislation, some specific amendments that he feels are needed. I certainly share his observations.

AMENDMENT NO. 2374

(Purpose: To provide restictions on the use of golden parachutes and poison pill tactics, to amend the provision relating to greenmail, to require confidential proxy voting, and for other purposes)

Mr. ARMSTRONG. I will, in just a moment, send to the desk an amendment to provide restrictions on the use of golden parachutes, which the Senator from Alabama mentioned in his statement, poison pill tactics, to amend the provision relating to greenmail and to acquire confidential proxy voting; in other words, to address four of the specific areas of this bill where we think it is important to strengthen the protections for shareholders.

Mr. President, I send an amendment, No. 2374, to the desk and ask for its immediate consideration.

The PRESIDING OFFICE.R The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG] for himself, Mr. METZENBAUM, Mr. SHELBY, and Mr. GRAMM, proposes an amendment numbered 2374.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. —. GOLDEN PARACHUTES; POISON PILLS.

(a) Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) is amended by adding at the end thereof the following new subsections:

"(m)(1) In the case of any class of equity security which is registered pursuant to this section, or any equity security of an insurance company which would be required to be so registered except for the exemption contained in subsection (g)(2)(G), or any equity security issued by a closed-end investment company registered under the Investment Act of 1940, it shall be unlawful for the issuer of such securities to enter into or amend, directly or indirectly, agreements to increase the current or future compensation of any officer or director in an amount which would constitute an 'excess parachute payment', as defined in section 280G(b)(1) of the Internal Revenue Code of 1986, contingent upon a change of control of the issuer by stock or asset acquisition, unless such agreements have been approved by the affirmative vote of a majority of the aggregate outstanding voting securities of the issuer. If any such agreement was entered into prior to enactment of this subsection, such agreement shall remain in effect after the close of the 2-year period beginning on the date of enactment of this subsection only if such agreement is approved by the shareholders pursuant to this subsection prior to the close of such period.

"(2) The Commission may, by rule, regulation, or by order, upon application, conditionally or unconditionally,—

"(A) exempt any person, security, or transaction from any or all of the provisions of this subsection as it determines to be necessary or appropriate and consistent with the public interest or the protection of investors, and

"(B) provide exemptions, subject to such terms and conditions as may be prescribed therein, from any or all of the provisions of paragraph (1).

"(n)(1) It shall be unlawful for an issuer of any class of any equity security described in subsection (m)(1) to issue, grant, declare, or establish any rights, including voting rights, of securities holders of the issuer with respect to any security or asset of the issuer or any other person, where the exercisability of such right is conditioned on the acquisition of securities of the issuer by a person other than the issuer, unless the establishment of such rights has been approved by a majority of the aggregate outstanding voting securities of the issuer. If such rights were established prior to enactment of this subsection, such rights shall remain in effect after the close of the 2-year period beginning on the date of enactment of this subsection only if such rights are approved by the shareholders pursuant to this subsection prior to the close of such period.

"(2) The Commission may, by rule, regulation, or by order, upon application, conditionally or unconditionally, exempt any person, security, or transaction, or class thereof from any or all of the provisions of this paragraph to the extent it determines such exemption is necessary or appropriate in the public interest and for the protection of investors and consistent with the purposes and policy fairly intended by this paragraph.".

On page 29, between lines 13 and 14, insert the following:

SEC. —. CONFIDENTIAL PROXY VOTING.

Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2)(A) Unless the Commission prescribes rules and regulations providing for an alternative to confidential proxy voting as described in paragraph (3), the rules and regulations prescribed by the Commission under paragraph (1) shall require confidentiality in the granting and voting of proxies, consents, and authorizations, and shall provide for the announcement of results of a vote following tabulation by an independent third party certified in accordance with such rules and regulations. Nothing in this paragraph authorizes any person to withhold information from the Commission or from any other duly authorized agency of Federal or State government.

"(B) The Commission shall prescribe any rules and regulations required by subparagraph (A) within 1 year after the date of enactment of this paragraph.

"(3)(A) In lieu of the rules and regulations described in paragraph (2), the Commission may prescribe rules and regulations which provide for an alternative to confidential proxy voting, if such alternative will assure—

"(i) the integrity of the proxy voting process,

"(ii) fairness to shareholders,

"(iii) unimpeded exercise of shareholder voting franchise,

"(iv) insulation from improper influence to a degree that meets or exceeds the protection afforded by confidential proxy voting, and

"(v) announcement of results of a vote following tabulation by an independent third party certified in accordance with such rules and regulations.

"(B) In promulgating rules and regulations under this paragraph the Commission shall—

"(i) consult with the Secretary of the Department of Labor, and

"(ii) hold public hearings, inviting the participation of all interested parties, including individual shareholders, securities issuers, institutional investors, and securities firms.

"(C) The Commission shall prescribe any rules and regulations required by subparagraph (A) not later than 11 months after the date of enactment of this paragraph.".

Beginning on page 35, line 17, strike all through page 36, line 24, and insert the following:

Section 13(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)) is amended by adding at the end thereof the following:

"(4) It shall be unlawful for an issuer of any class of equity security described in section 14(d)(1) of this title to acquire, directly or indirectly, any of its securities from any person who is the beneficial owner of more than 3 percent of the class of the securities to be acquired, unless such acquisition has been approved by the vote of a majority of the outstanding voting securities of the issuer (excluding the shares to be acquired), or acquisition is pursuant to a tender offer, or request or invitation for tenders, to all holders of securities of such class. The Commission shall, by rule, regulation, or by order, on application, conditionally or unconditionally, exempt any person, security, or transaction from any or all of the provisions of this paragraph as it determines to be necessary or appropriate and consistent with the public interest, the protection of investors, and the purposes of this paragraph.".

On page 45, line 9, strike "studies" and insert "study".

Beginning on page 45, line 10, strike all through page 46, line 3.

On page 46, line 4, strike "(b)" and insert "(a)".

On page 46, line 21, strike "(c) Report on Studies." and insert "(b) Report on Study.".

On page 47, line 1, strike "studies" and insert "study".

Mr. ARMSTRONG. In addition, I ask the amendment be divided at the logical points for its division, which will be the first portion of the amendment be divided at page 4 following line 5. That will produce an amendment on golden parachutes and poison pills.

The second division of the amendment beginning at that same point, that is, following line 5 on page 4 and continuing through the third line of page 6. That is an amendment on confidential proxy voting.

The third division of the amendment will continue from that point, that is to say, after line 3 on page 6 through line 2 of page 7. And the remainder of the amendment, as it is printed, comprising the fourth division of this amendment. That is my request that it be so divided.

The PRESIDING OFFICER. The Senator from Colorado has a right to the division as described in his request and it is so ordered.

Mr. ARMSTRONG. I thank the Chair.

Mr. President, I have sent this amendment to the desk for myself and on behalf of the Senator from Ohio, Mr. Metzenbaum, my colleague from Texas, Mr. Gramm, and my colleague from Alabama, Mr. Shelby. So we now have before us in effect four Armstrong - Metzenbaum - Gramm - Shelby amendments, the first of which is related to golden parachutes and poison pills. At the present time, there are no Federal securities law restrictions applying to golden parachutes. For the benefit of those who may not have been following the question closely, a golden parachute is an employment contract which guarantees a substantial severance pay to top management if they lose their jobs as a result of takeovers. Golden parachute is not a regular employment contract which provides such severance pay. It is the kind of contract that only kicks in, that only becomes effective on the occasion of a takeover. We are not talking about a normal severance pay where if somebody has been with the company a while, they get 2 weeks or a month or that they get—I have heard of a corporation, for example, that gives a week of severance pay for every year you have been employed. I have known of corporations that even give as much as a month of severance pay for every year a person has been employed by a corporation. In the case of a corporate executive, somebody who is a high-ranking official of a corporation, who has been with the company 10 years or 15 years, it would not seem to me to be unreasonable that in the event that person's employment is terminated, they should get a substantial amount of severance, as much as, say, 10 months if they had been there 10 years or 15 months if they had been there 15 years. This amendment does not have anything to do with that kind of regular severance pay.

What it does is addresses the question of severance pay provisions which only become effective upon a takeover. That is why they are called golden parachutes.

Mr. President, as the amendment is drafted, we establish a prohibition on golden parachutes unless such agreements have been approved by an affirmative vote of a majority of the aggregate outstanding voting securities of the issuer. So even though I find such golden parachutes inappropriate, we are not seeking to preempt them by law. We are just saying that the shareholders ought to have a right to vote. And by the shareholders we mean the outside shareholders. We are not talking about the group of insiders. We are talking about in effect the disinterested shareholders.

Golden parachute is described in our amendment in a manner consistent with tax law, which is to say three times annual compensation.

Mr. President, this amendment also relates to poison pills. It makes it unlawful for a company to establish poison pills unless approved by shareholders and requires those pills to be adopted prior to the date of enactment to be submitted to the shareholders for a vote within 2 years. And we give some regulatory authority for exemptions to the SEC.

Mr. President, there are several reasons why this amendment should be adopted. First, because the legislation that is before us, which at one point, at some earlier iteration, did contain some antigolden parachute, antipoison pill language, in its present form ignores the implications of management defenses on the shareholder and the value of the company.

Now, the plain fact is that these parachutes and poison pills can wreck a company, and indeed in many cases that is exactly what they are intended to do. They are intended to hang like the sword of Damocles over a corporation with the understanding that any attempt to take over the corporation will cause the sword to drop, in many cases shattering the corporation and denying the shareholders of its value, in many cases leading to the breakup of the corporation, which is exactly the thing that so many Senators have been concerned about when corporations are broken up, and yet that often happens or could happen as a result of these poison pills.

Second, Mr. President, this amendment is a convenient place to begin the debate on amendments because it brings into perspective the rights of shareholders. Even though I find personally a golden parachute or poison pill odious, I have not come to the floor, nor have my colleagues who join me in sponsoring this amendment come to the floor, to outlaw them. We have said that the shareholders ought to vote. That is only a reasonable thing. When you are talking, making a drastic change in a corporation, at least the shareholders ought to vote.

Mr. President, a third reason why this amendment should be adopted is that golden parachutes by their very nature are based on money rather than shares of the company. Basically, contrary goals are set up for management and the shareholders. In this case at least, maybe in other cases but at least where you have a golden parachute, you are talking about a conflict of interest between the people who own the corporation and those who run it. So again we think the owners ought to have a right to vote.

Finally, Mr. President, poison pills should be reviewed and approved by shareholders just as a matter of fundamental equity. This is just a fair play provision.

So it is a relatively simple and straightforward provision and one which I hope my colleagues will be disposed to accept.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin, Mr. Proxmire.

Mr. PROXMIRE. The distinguished Senator from Colorado appropriately proposed that we separate the en bloc amendment that he proposed, but he did not separate it entirely. He provided that the vote on golden parachutes and the vote on poison pills would be together. I think that the logic of the Senator from Colorado in proposing that we would separate all of the issues that he had before us in the en bloc amendment he offered first which contained I think four separate matters is right. We should do that. Senators are certainly entitled to vote on separate issues that they may favor, for example, the golden parachute amendment of the Senator from Colorado. They may oppose poison pills, or vice versa. They are quite different. They are anything but the same. And it seems to me that it would be wise to separate them.

Now, I understand that the Parliamentarian has indicated we can not automatically ask for a division on that. But what I have done instead in order to prepare for a division is to prepare an amendment that would separate them. The amendment would strike everything from line 7 on page 3 through line 5 on page 4 of the amendment and would in effect permit us to vote first on poison pills and second on golden parachutes. In other words, it would take golden parachutes outside of the vote and permit us to vote on poison pills to begin with.

Mr. ARMSTRONG. Mr. President, could the Senator state the amendment again?

Mr. PROXMIRE. The amendment is to strike everything from line 7 on page 3 through line 5 on page 4.

Mr. ARMSTRONG. Through line 7 or through line 5, Mr. President?

Mr. PROXMIRE. Through line 5 on page 4. Line 7 on page 3 through line 5 on page 4.

Mr. ARMSTRONG. Mr. President, if the Senator will yield to me, I have not examined whether or not the proposed amendment would have the effect that he suggests of separating golden parachutes from poison pills, but assuming that is the case, I see no reason to have an amendment on it. I would be happy to ask that it be divided in that way.

Mr. PROXMIRE. That is fine.

Mr. ARMSTRONG. My intent is not to deny the Senate its flexibility but in fact to facilitate that, and so I do ask unanimous consent that the amendment which is now known as the first division be further divided in exactly the manner the Senator has suggested.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. I reserve the right to object. I do not intend to object.

The PRESIDING OFFICER. The Senator from Alabama reserves the right to object.

Mr. SHELBY. I inquire of the Senator from Colorado on this. Is this just dividing the issue? Is it a division of the question that would come before the Senate?

Mr. ARMSTRONG. Yes. Mr. President, I think the Senator from Wisconsin has the floor. But if he will yield to me——

Mr. PROXMIRE. I am happy to yield for that purpose.

Mr. ARMSTRONG. I am happy to respond to my friend from Alabama.

While the Senator was briefly absent from the floor, I called up our amendment 2374, and I asked that it be divided into four subdivisions. The first dealt with golden parachutes and poison pills; the second with another matter; greenmail and confidential proxy moving; and the fourth subdivision was some technical matters at the end.

The Senator from Wisconsin, Mr. PROXMIRE, has suggested it would be appropriate to further divide it so golden parachutes and poison pills are themselves divided. He has suggested this subdivision which I have asked for. So we will end up actually with five amendments, the first of which is on golden parachutes.

The PRESIDING OFFICER. Does the Senator from Alabama object?

Mr. SHELBY. I understand that would not weaken the amendment. It would just divide it. Is that correct?

Mr. ARMSTRONG. The Senator is exactly correct.

Mr. SHELBY. I have no objection.

Mr. ARMSTRONG. I cannot imagine myself why anybody would want to come to the floor and be recorded in favor of golden parachutes or poison pills. But if anybody wants to, this is their chance.

Mr. SHELBY. I agree with the Senator.

The PRESIDING OFFICER. Hearing no objection, the alteration of the amendment as suggested by the Senator from Wisconsin is so ordered.

Mr. PROXMIRE. Mr. President, may I inquire of the Chair, which part of this is before us? Will we be voting first on poison pills and then golden parachutes or vice versa?

Mr. ARMSTRONG. Mr. President, it appears to me——

Mr. PROXMIRE. My staff tells me we will be voting first on poison pills. I think it would be golden parachutes. I could be wrong.

Mr. ARMSTRONG. I think the Senator is correct and the staff in this case may not be.

The PRESIDING OFFICER. If the Senators will suspend, the Chair will state to the Senator from Wisconsin, the chairman of the committee, in response to his question, that as he knows the Chair is unable to interpret the characterizations of the amendments before the body. But under the unanimous consent request of the Senator from Wisconsin, agreed to by the body, we will first vote on the amendment No. 2374, the first three pages down to line 3. The Chair will state that without characterizing what that language may or may not accomplish.

Mr. ARMSTRONG. Mr. President, for the benefit of Senators, may I simply characterize that as being the golden parachute portion of the amendment?

The PRESIDING OFFICER. Is there further discussion?

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I rise to indicate my support for this important legislation. I know how hard the Senator from Wisconsin, the Senator from Michigan, and other Senators have labored over this legislation. I had the privilege of working with them in connection with the hearings on this bill, and they were kind enough to invite me to sit with them as well as to consider the legislation which I had introduced.

It is important legislation that we have before us today, much more important than the attention that has been given to it so far because we are living through a period of takeover mania, the Boesky scandal, the market crash, and so many other things that have caused market jitters. Investor confidence has been reduced. It is important to deal with this crisis in confidence from here on in.

The elimination of takeover and insider trading abuses is necessary and long overdue. I want to say that I am not one of those who thinks that every takeover is horrible. There is no secret about it. In many instances the management of corporations has been more interested in preserving their own position and looking out for their own welfare than they have been in being concerned about the shareholder.

To the credit of the managers of this bill, and to the credit of the Senator from Colorado who has offered various amendments of which I am the principal cosponsor. I think we are making some major steps in the right direction. But let us not kid ourselves. We are not going to solve the whole problem. Frankly, legislation never does solve the whole problem. But passage of this legislation would be a good start, and a better start if we also adopt the Armstrong-Metzenbaum amendments. It would be an indication that we in Congress can do something about the problem.

As I testified when I appeared before the Banking Committee, the bill is not perfect. It is far from perfect. To be an effective and balanced bill and fair to bidders, managers and shareholders alike, it needs to be amended in certain important respects. I will outline those necessary changes in a moment.

But first let me state general philosophy on corporate takeovers and where I see the problem to be. The debate about takeovers has become far too polarized. If you accept the Boone Pickens-Wall Street view you believe that takeovers are an absolute good, the salvation of the American economy. And if you listen to the States or the Business Roundtable, you conclude they are an absolute evil, a destroyer of jobs and communities and stable economic growth.

Neither of those extreme viewpoints, in my opinion, is valid. And, worse, they obstruct progress toward a solution of the problem. The fact is that some hostile takovers like some friendly mergers are good, and work out in the interests of the community, the shareholders, and the workers. And, some are bad. These hurt the community and the shareholders and the workers. Gains in management productivity sometimes result from takeovers. In these instances, capital flows freely to better uses. In these instances, takeovers are beneficial.

In our zeal to deal with abuses in the takover process, we should do nothing that dampens incentives and deprives us of their benefit. Abuses there are, and that is the reason we have this bill before us today—abuses that affect the lives and pocketbooks of real people, ordinary working men and women, average Americans, with hard-earned savings at risk in the markets or in retirement funds that are heavily invested in stocks. For these Americans, it is our responsibility to ensure that capital flows not only freely but also fairly.

It is not fair when ordinary workers receive pink slips without notice, while their bosses safely bail out with golden parachutes that set them up for life. If the President and corporate America are not going to accord ordinary workers the basic courtesy of warning them of a plant closing, Congress certainly should not allow ousted executives the luxury of unearned, grossly-inflated golden parachutes.

It is not fair when millions in greenmail are paid as ransom to make the raider go away. The shareholders, the community, the company, and the workers all lose. Only the raider wins. Some instances of greenmail have been unbelievable in their impact: They take away the money that belongs to the shareholders; they take away the corporate funds and pay them to a raider, to say: "Go away and don't bother us. Let us continue in our high-priced jobs." No concern at all for the shareholder. No concern at all for the workers. No concern for the community. Only a concern for protecting the jobs of the chief executives.

It is not fair when management swallows poison pills and deprives shareholders of a full return. The average poison pill is there not to help the shareholders and not to help the community and not to help the workers, but is to protect the executives in their high-paid positions.

It is not fair when hostile takeover attempts, even if successful, leave the target in ruin. In my own State, Goodyear's defense against the raid by Sir James Goldsmith, while ultimately successful, was staggeringly costly: The closing of three plants, the loss of 3,300 jobs, reduced research and development, and a $1 million-a-day tab in interest on debt incurred to stop the takeover.

So, too, with the aftermath of a losing takeover attempt of a Toledo-based company: massive restructuring, loss of hundreds of jobs in Ohio and 13,000 worldwide—50 percent of its total work force—and drastic cuts in research and development which had made it an innovative industry leader.

Last, but not least, it is certainly not fair when insiders profit on information not available to ordinary shareholders.

These abuses line the pockets of bidders and arbitrageurs and save the jobs of managers, but they do nothing for the shareholders, the employees, and the communities.

The Boesky scandal and others made the takeovers an issue on Main Street as well as Wall Street, made takeovers a problem up and down every avenue of America. The time to act was actually last year, but it is still not too late. With the falling dollar and the postcrash stock bargains, takeover activity is still substantial, and it is likely to be for some time to come. It is important, very important, for Congress to respond to the problem this year. The American people expect it. We can do no less.

The answer is not to bar all takeovers but to stop abuses and insure a level playing field.

S. 1323 comes close, but still has a way to go. The investment banking community has been forthcoming on the bidder side. Unfortunately, those who claim to speak for business have been less forthcoming on the management side.

I strongly support the bill's improvements in tender offer procedures and disclosures, such as earlier notice of open-market purchasers to the public; a longer time for shareholders to respond to offers; and requiring bidders who acquire a significant share of a company to proceed by tender offer open to all sharesholders.

These provisions are similar to ones I had proposed, and I congratulate the committee on bringing them forth as they have.

The differences between what I proposed and what is in the bill are small, and I can certainly support the changes as adopted by the committee. But we do have some important differences. One is the need for tougher restrictions on abusive antitakeover tactics by management.

As reported, the committee bill does nothing about poison pills and golden parachutes. As introduced by Senator PROXMIRE, S. 1323 prohibited golden parachutes and poison pills, but only if adopted during a takeover. If adopted before, in anticipation of a takeover, they were not restricted.

As I testified to the committee at the time, this would have created a huge loophole. It would have meant continuation of antitakeover practices, of adopting poison pills and golden parachutes, which benefit no one but entrenched management at the expense of the shareholders of the corporation. Unfortunately, rather than closing this loophole, the committee went in the opposite direction. it widened the loophole by eliminating any restrictions on these damaging, self-serving devices. These measures serve only the selfish desires of incumbent management to stay in power.

So long as corporate executives, in concert with this administration, insist on the right to cruelly toss workers out of their jobs with no notice, they have no right to hold onto their jobs or to bail out with lucrative golden parachutes, through the use of antitakeover tactics.

Let us not kid ourselves about what a golden parachute is. A golden parachute is a handout to the corporate executives, to say, "Goodbye," with a smile on their face as they go home and count their dividends. We are talking about hundreds of thousands and, in some cases, millions of dollars in golden parachutes. But the same people who get those golden parachutes will come to the U.S. Senate and oppose 60 days' notice for an unemployed worker, for a worker who is about to be laid off. We give the corporate executives a golden parachute, and for the workers, we are fighting about whether we ought to give them 60 days' notice—no extra money, just notice. Management knows what is coming; they negotiate what is coming; they are party to the whole process. The worker does not know, and then is hit suddenly.

The committee bill does not outlaw greenmail. It just says that if it is paid, the shareholders or the corporation can sue to try to get it back. That is not enough.

This puts the burden on the wrong party, the ripped-off shareholder. The burden should be on the raider who should not get greenmail at all. We need a bill that says greenmail is wrong, wrong, wrong, and that it should not be paid.

I am a principal cosponsor of Senator ARMSTRONG's amendments to outlaw greenmail, to outlaw poison pills, and to outlaw golden parachutes unless they are approved by a majority of the shareholders. And I hope that my colleagues understand what the issue is all about.

We are talking about whether you are prepared to stand up for the shareholders of this country, or to stand up for the executive officers and to forget the shareholders; whether you are prepared to stand up and be concerned about the shareholders in seeing to it that they get a fair share of the corporate assets and that those assets are not dissipated by the payment of greenmail.

S. 1323 also fails to address our concerns about management abuses of shareholder voting rights, specifically the adoption of unequal voting rights plans and misuse of proxy voting machinery.

The principle of "one share, one vote" is the bedrock of corporate as well as political democracy. And I heard it said here earlier that we are trying to protect those who have more shares as against those who have fewer shares; that we are trying to take care of the wealthy as against the poor. No way. What we are saying is, if you have 10 shares of stock, you are entitled to 10 votes. And if you have 100,000 shares of stock, you are entitled to 100,000 votes.

That is the way it should be. It should not be in our system that some have greater voting rights than others. And yet the fact is that there are many corporations in this country where that is the case, where some presume they have a special privilege to run the company by themselves and that the shareholders should cede to them all of their rights with respect to voting.

It is an interesting fact of life that some who are so prone to comment publicly, day in and day out—about democracy, about the rights of all people, about the kind of legislation we pass—they are the ones who are a party to the violation of equal voting rights in their own corporate communities. I do not understand it. I do not understand their lack of embarrassment in seeking shareholder approval for unequal voting rights from shareholders who do not understand the implications of their giving up those rights. It is time for us here in the Congress to really protect the shareholders of this country.

This fundamental principle should not be compromised in the name of stopping hostile takeovers or for any other reason. We have an obligation here today to enact the Armstrong-Metzenbaum amendments and to go on and pass the Proxmire bill.

My feeling is that since the New York Stock Exchange announced in 1986 that it was dropping its one-share, one-vote rule for competitive reasons, we have been waiting and waiting for the SEC to promulgate regulations to preserve the one-share, one-vote principle, but it has not occurred.

The patience of many Members and people in this country is wearing thin. I understand my colleague from Alabama tried unsuccessfully to add the one-share, one-vote provision to the bill in committee and that he may offer it again as an amendment on the floor. I appreciate the purposes of that amendment and I can support it.

I believe that there is maybe some propriety in perhaps grandfathering existing unequal voting rights plans. But if we grandfather them in, I think what we ought to do is send a signal that, over a period of years, we would expect all of these unequal voting rights provisions to be eliminated. I do not think we should do it precipitously, but I think, with adequate notice, there ought to be some cutoff date of which every shareholder in this country will then have an equal voting right with every other shareholder based upon the number of shares that they have.

I will enthusiastically support the Shelby amendment if it is drafted as I understand it to be. I certainly support Senator ARMSTRONG's amendments and I am pleased that we are going to deal with them individually so that no Member of this body can say, "Well, I don't want to vote for that package because one particular portion of it is objectionable." We can vote for each one on its merits, and on its merits I believe each one should be passed.

I support the provisions of S. 1323 that are intended to insulate pension fund assets from being used to help finance takeovers and defensive tactics. They are an important step in shielding workers' retirement reserves from the takeover wars.

I urge the Senate to pass these strengthening amendments and to help stop abuses on both sides of the takeover process—raiders and managers. They will ensure a fair and level playing field for takeovers and for the free market to work its will. The beneficiaries will be the owners and employees of our public corporations, and most importantly, the economy as a whole.

Mr. President, I yield the floor.

(Mr. REID assumed the chair.)

Mr. SHELBY. Mr. President, I, too, rise in support of the amendment offered by my friend, the distinguished Senator from Colorado. I am pleased to cosponsor this amendment with the distinguished Senator from Colorado. We share an interest in seeing that this legislation addresses the most abusive tactics that ensure during corporate takeovers.

Mr. President, a lot of this type legislation is complicated but, as was said here earlier today, it is very important to the American people. It is very important to the shareholders of corporate America.

This amendment would limit one such flagrant abuse of shareholder revenue, the so-called golden parachute. And when you said, "golden," it means "golden." This prosaic term is a name that describes the exorbitant payment which would be made to management in the event of a firm's acquisition by a "hostile" takeover or bidder.

By this amendment, Mr. President, we do not seek to limit how much a corporation pays its management. We merely would ensure that corporate assets, belonging to the shareholders, are not abused. The Internal Revenue Service defines a golden parachute as a payment in excess of 3 times annual compensation. We believe that payments of that size should be considered by the shareholders and only the shareholders.

This amendment offered by my friend from Colorado, Senator ARMSTRONG, would require that golden parachutes adopted "during" or "in contemplation of tender offers" be prohibited unless such agreements have been approved by the majority of the aggregate outstanding voting shares.

Mr. President, we lament the decline of productivity in this country. We talk about it on the floor of the Senate from time to time. We meet in committees and talk about it. We are embarrassed at how little is spent on research and development in this country. And yet we ignore the millions in corporate expenditures that go for greenmail payments and golden parachutes.

This amendment would correct this abuse. I urge my colleagues to vote for it and to adopt it.

I yield the floor.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent to proceed as in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DRUNK DRIVING

Mr. REID. Mr. President, last Thursday I introduced a bill on behalf of myself and Senator LAUTENBERG, designed to induce States to enact more responsible legislation to combat the problem of drunk driving. That was last Thursday.

This is Monday. Since that time, Mr. President, over 300 human beings have been killed as a result of alcohol-related traffic accidents. I repeat, last

Thursday I introduced the legislation. Today, over 300 people are dead as a result of traffic accidents, alcohol related.

Today, another 65 people will die. Tomorrow will bring 65 more deaths. These deaths, Mr. President, hit the young, the old. We learned last week where a mere child was killed literally in her mother's arms, waiting for a school bus—by a drunk driver.

In Kentucky, very recently, 27, mostly teenagers, returning from a church outing, were killed as a result of a drunk driver.

Mr. President, the only way we can stop this destruction is to enact tough laws and sensitize the people of this country to the magnitude of the problem. Drunk drivers kill about 24,000 every year. This works out to 1 alcohol-related fatality every 22 minutes.

Mr. President, the majority leader has set up a procedure whereby he asks Members of the Senate to preside for a period of 1 hour at a time. During the 1 hour that a Member of the Senate presides over this body, three people are killed as a result of alcohol-related traffic accidents. Traffic accidents are the greatest single cause of death from people from the ages of 5 to 34, and more than half of the fatalities are alcohol related. The statistics, Mr. President, are really appalling.

I am not here to tell people that they cannot drink alcohol. That is a personal decision that each person should make for himself. However, we as a society must tell those who drink and want to drive that they cannot do it. We can only do that by enacting tough laws and by attaching a social stigma to drunk driving.

It is generally recognized that European countries have worse drinking problems than we have in this country. However, the drunk driving rate in Europe is less than half of what it is here. That is because the Europeans have tough laws, tough penalties, and they enforce them. Drunk driving is simply not socially acceptable in Europe. We must follow their example.

I urge each of my colleagues to join Senator LAUTENBERG and myself and become a cosponsor of S. 2523. Every day we delay, another 65 lives are lost.

I yield the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TENDER OFFER DISCLOSURE AND FAIRNESS ACT

The Senate continued with the consideration of the bill.

Mr. ARMSTRONG. We have another speaker or two who wish to come before us to discuss the pending amendment, the antigolden parachute amendment. But while we await their arrival, I want to make another announcement which I think will be of general interests.

I have, and in a moment will send to the desk, a statement from the administration dated June 16 regarding this bill. Let me read the operative paragraph and then submit the entire memo for the RECORD so it will be available to all Senators.

> The Administration opposes enactment of S. 1323 and, if it were presented to the President, the Chairman of the Council of Economic Advisers, the Attorney General, and the Director of the Office of Management and Budget recommend that the bill be vetoed.

Mr. President, for the purpose of keeping the record straight and just having Senators informed, I send this to the desk and ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

S. 1323—TENDER OFFER DISCLOSURE AND FAIRNESS ACT OF 1987

> The Administration opposes enactment of S. 1323 and, if it were presented to the President, the Chairman of the Council of Economic Advisers, the Attorney General, and the Director of the Office of Management and Budget would recommend that the bill be vetoed.
>
> S. 1323 is objectionable, because it would significantly increase the cost of takeovers, reduce the benefits resulting from takeovers, and intrude into areas of corporate governance that should be left primarily to shareholders and to the States. Unsolicited corporate mergers and acquisitions improve efficiency, promote the productive use of scarce resources, and stimulate effective corporate management, benefits which would be diminished if S. 1323 were enacted. Particularly troublesome provisions of S. 1323 include:
>
> Provisions in sections 3 and 5 that would amend section 13(d) of the Securities Exchange Act of 1934. These amendments, which concern requirements to provide information on certain securities transactions, would make it significantly more difficult to undertake a successful tender offer (e.g., by increasing the cost of obtaining additional shares and by giving rise to new causes of action for defensive litigation). These additional reporting requirements, which are not confined to a simple reduction in the section 13(d) reporting "window," would, in effect, protect incumbent management, regardless of its performance, against unsolicited changes in corporate control.
>
> The provision in section 7 that would nearly double (i.e., increase from 20 business days to 35 business days) the minimum period for which a tender offer must be held open. The current minimum offering period provides ample time for incumbent management to evaluate offers and, if necessary, solicit other bids. Lengthening the minimum offering period would deter all types of takeovers, encourage defensive restructuring, and diminish the benefits of the market for corporate control.
>
> The provision in section 7 that would prohibit, except through a tender offer, the purchase of any securities that results in the acquiror owning more than 25 percent of the total shares of such securities. This restriction would significantly increase the costs to shareholders of certain activities (e.g., obtaining additional shares and forming joint ventures) unrelated to takeover efforts.
>
> Section 10, which would make various changes to the Employee Retirement Income Security Act of 1974 affecting fiduciary standards that are unnecessary and confusing and that may jeopardize the interests of employee benefit plan participants.

Mr. ARMSTRONG. Mr. President, as I pointed out last week, my desire is not to kill this bill. My desire is to amend it in a way that will make it worthy of support by all Senators and, I trust, in a way that would avoid the threatened prospect of a Presidential veto.

Mr. President, I think we still have some speakers who are on their way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the distinguished Senator from Colorado has been very constructive and positive on this measure. He and the Senator from Alabama have indicated that they could very well favor this bill if it were amended, modified, improved. That is very encouraging.

I think that a substantial majority of the Senate will approve this bill. It passed the committee by a 14-to-6 vote.

That indicates a decisive majority of the committee with bipartisan majority, Democrats and Republicans both voting for it.

I would like to say a word on the bill in general before we come back to discussing the amendment which I also intend to discuss later.

Mr. President, on Friday the Senate debated this bill for most of the day. Those of us who supported the bill argued that it would slow down the enormous increase in debt that is being accrued by American corporations in the takeover process. I do not know how anybody can question that.

Time after time corporations which had substantial equity-to-debt ratio ended up with an enormous burden of debt. Borg-Warner is one example.

Unocal is another example of that. It happens persistently and consistently. It is a rare case when a takeover is initiated and either successfully resisted or succeeds, and the corporation is not loaded with an enormous burden of debt.

After all, Mr. President, that is the way that the munipulative corporate takeover game is played. The people who take over the corporation are rarely able to write a check for billions of dollars to take over a big corporation. They have to borrow it. Of course, they repay themselves once they get control of the corproation by having the corporation buy back their stock. Or, the management resists a takeover by borrowing a huge amount of money, as many of these corporations did, and then using the fruits to buy the stock, bid up the price out of the reach of the takeover people, and lard the corporation up with junk debt so when the takeover succeeds, if it does, credit of the corporation is not sufficient to permit the corporation to sustain out the acquirer.

So there is no question about the fact. Again and again that debt grows with these corporate takeovers. That is one of the reasons why American business is so heavily in hock.

We contend our bill would give both the acquirer and the corporation management, a greater opportunity to make their respective cases for or against a takeover. The bill would inform shareholders more promptly when a takeover was underway so that the acquirer, arbitragers, and financiers would sharply reduce the insider advantage they presently possess over the public investor. Because the shareholders would be fully informed as the takeover practitioners, and arbitragers who are the insiders. I remind my colleagues of the Boesky case, the Levine case, the Tone case, and others.

By providing this information publicly, which is what our disclosure bill does, we create a more level playing field for the general investor. Whether he is already a shareholder in the corporation or whether he is a general investor that may be interested in buying the corporation, this bill gives him the same information that, under present law, so often only the takeover people enjoy.

We pointed out that the bill provides more effective or more penalties against insider trading. This, by definition, will help the great majority of general stockholders and investors. The bill adds a new requirement that owners of more than 10 percent of a company's stock may at the company's expense include their own proxy and board candidate so the stockholder can have fuller information in voting for the present or proposed new management. That is a provision, Mr. President, that helps the acquirer.

The bill prohibits either management or acquirer from tapping the surplus and pension funds to finance takeover attempts. That is very important to protect the employees who are usually the beneficiaries of the pension funds.

The bill limits greenmail by giving a corporation the right to recover any profit made by a person who sells the corporation its own stock, if that person holds more than 3 percent of the stock and has held it for less than 1 year.

The bill provides that only a majority of shareholders can, under the bill, vote to permit the greenmail payment.

Mr. President, if ever there were a shareholders' rights bill, this is it. I challenge any Senator to show how any specific provision of this bill is not in the general stockholder's interest. Ninety percent of the changes in present law contained in this bill will provide more disclosure.

Who benefits from the additional disclosure? Shareholders!

Who suffers from the fuller disclosure? The inside traders, the manipulators, the Boeskys, the Levines. This bill limits this inside information.

After all, how does the classic hostile takeover operate today? The acquirer moves in quickly. He moves in without the knowledge of many of the company's shareholders or the general investing public. The acquirer puts in little, maybe none, of his own money to purchase the stock. He secures what is called a highly confident letter from a major investment banking house, such as Drexel Burnham.

He does not have to put his own money at that point. He just pays $1 million for a highly confident letter saying his backers are highly confident that the acquirer can have access to the funds when he needs them. Until he borrows enough to actually hold 5 percent of the corporation's stock, he is free to conceal his takeover intentions.

Under present law, he does not file a notice of his stock ownership with the SEC until 10 days after he has acquired his 5-percent stake.

During the ensuing 10 days, the company's shareholders are kept in the dark. The general investor knows nothing about this acquisition.

Meanwhile, in that 10-day period, the acquirer knows, the arbitragers know, the people who are working with him know about the deal. They are the insiders. They can move swiftly; they can move invisibly. They may acquire working control of the corporation without the knowledge of the overwhelming majority of shareholders or the management. Icahn grabbed 20 percent of TWA before the 10-day window closed.

Under the present law, the acquirer is not required to disclose the persons with whom he has been working to secure control of the corporation.

Our bill meets all of those problems, and it meets them on behalf of the shareholder, on behalf of the person who owns the corporation, on behalf of the stockholder.

What does our bill do? It requires the acquirer to give public quit purchasing stock once the 5-percent threshold is reached. Then he has 5 days to disclose that beachhead. Until the acquirer provides that public notice, he cannot buy an additional share of stock.

In addition, Mr. President, under present law, an acquirer can make a tender offer for all the shares of a corporation and secure a vote of shareholders within only 20 business days, or about 4 weeks.

Management claims that under many circumstances, it cannot make its case adequately to shareholders in a 4-week period from the time they know that a tender offer is coming on. I think that is a reasonable argument. I have not heard it contested. In fact, some have proposed that the tender offer period be extended to 60 working days, or 12 weeks. Some resisted that in the committee.

The bill compromises at 35 working days, or about 7 weeks.

The point I want to make, Mr. President, is that the bill now before the Senate is in the clear interest of the American stockholder. It is in the interest of those who hold stock in the corporations that may be subject to take overs.

Mr. President, Senators can attack or defend the unprecedented wave of corporate acquisitions in recent years, and this bill, frankly, is not designed and would not stop these mergers. It would not impede stockholder sovereignty in any way. It is not designed to accelerate mergers; it is designed to permit mergers to go forward with much fuller disclosure to stockholders. Stockholders will be just as free to decide whether to approve or disapprove mergers if this legislation becomes law.

That is why I am very grateful to the Senator from Colorado and the Senator from Alabama who have indicated that they agree the bill has considerable merit. They feel it can be improved and should be improved. They have indicated that if we accept some of their amendments or if we vote for their amendments, I should say, if the Senate as a whole decides to vote for their amendments, that they may support the bill. I appreciate that very much.

I think the bill is worth supporting, even if all the amendments are defeated, of course. I hope they will, in the course of the debate, recognize that this does provide for a better break for the average investor.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, as tempting as it is, I am not going to launch into a debate with our distinguished chairman about the bill this afternoon, because we are not really here to debate the bill today; we are here to debate amendments by the distinguished Senator from Colorado that are currently pending. Those amendments have been broken now into five parts, one of which is technical. The amendments that are substantive have to do with golden parachutes, poison pills, greenmail, and confidential proxy voting.

Mr. President, I could understand if somebody said, "Well, I'm for this bill and I'm against these amendments, and I'm for the bill because I want to protect entrenched management. After all, they are the people I'm here to protect, and therefore I want them to have these retirement slush funds so that if they don't do their job and they get fired, they get a big bonus." I could understand somebody who said, "Well, I don't like this idea of proxy voting. The corporate managers ought to get an opportunity to open the votes and look at them and call up people and try to pressure them to change their votes. What does this democracy business have to do with corporate America?" I could understand the consistency in that.

What I do not understand is how people can be against these amendments and be for the bill because they think the bill is supposed to help the stockholders. In fact, I see very little in the bill before us that is going to help the stockholder, but I see a lot in these amendments that is going to help the stockholder.

Now, I ask my colleagues, what is wrong with giving the people who own a corporation the opportunity to vote on whether or not a manager ought to get a golden parachute in the event that the manager does such a poor job that the assets of that company are worth more under somebody else's management than they are under his and therefore he ends up losing his job? Should not the stockholders get an opportunity to vote on whether that manager gets a golden parachute? I do not see how anybody who is the champion of the stockholder can oppose giving the people who, after all, made the investment, who own the business, an opportunity to vote on these so-called golden parachute agreements.

What this amendment would do is change existing law. What is existing law? Well, existing law has produced a situation where manager after manager in losing control of companies and losing jobs, are getting big cash payments—$35 million, $17 million, and in fact 200 out of the Fortune 500 companies in America have these golden parachute agreements. So if the manager does not generate adequate returns to the stockholder, then the management in essence gets paid off in terms of a golden parachute agreement.

If we adopt the amendment of the distinguished Senator from Colorado, what we are saying is that for the existing agreements the stockholders have 2 years in which to agree to them. If they do not agree to them, then they become void. And any arrangement in the future has to be voted on by the stockholders.

Mr. President, the way corporate America is supposed to work is the fellow running the company is supposed to work for the stockholder. I can assure you that too often that has ceased to be the case. I have been astounded, Mr. President, as corporate executive after corporate executive has come before our committee and talked about their great social responsibility and their concern about the company and their concern about the worker, that they never mentioned the stockholder.

For the American free enterprise system to work, corporate democracy has to work. So if we are in fact concerned about the stockholder, we can start to show that concern today by voting for the amendment of the distinguished Senator from Colorado to give the stockholder a vote on whether or not these golden parachute payments should be made. My view is that if a corporate manager is good enough that the people who own the company say, "You come to work for us, and if you are a failure we will give you $35 million, and if you are a success we will give you some other figure." If that is what they decide, that is great. It is their money. My objection is when these golden parachute provisions are being put into place and the victim turns out to be the stockholder. So if you are concerned about the stockholder, you have an opportunity on four votes in a row to show it. The first vote is to let the people who put up the money, let the people who own corporate America, let the people who bought the tools, who indirectly through the genius of the American corporation have hired the management, have a say as to whether a golden parachute should be put into place. I cannot see any reasonable objection to that, and I urge my colleagues to adopt this first amendment. Then we will have an opportunity to address poison pills, greenmail, and the confidential proxy voting issue. I think each one of these issues has to do with corporate democracy. With corporate democracy it is a pretty clear-cut issue; you either believe in it or you do not, and I do. That is why I am for these amendments, and I commend them to my colleagues.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in support of S. 1323, the Tender Offer Disclosure and Fairness Act of 1986. This bill was reported to the Senate by the Senate Committee on Banking, Housing, and Urban Affairs by a vote of 14 to 6. There was a very clear majority within the committee in favor of this legislation. It was brought out after extensive hearings on corporate takeovers held by the Senate Banking Committee on January 28, March 4, April 8, April 22, June 23, 24, 25, and 26. We heard from a very long list of able witnesses, leaders in the financial field, leaders from business, leaders from labor, State representatives, Government officials, institutional investors, shareholders groups, and so forth and so on.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. SARBANES. Yes.

Mr. PROXMIRE. I want to thank my good friend from Maryland for raising this point. I do not think anybody has pointed out the hard and detailed work the committee did. As the Senator said, there were 10 days of hearings. It is very unusual we have that length of time for hearings. The Senator pointed out we had all the leaders from all sides of this issue itself. We have a very, very substantial record on this. So the vote of the committee which he alluded to, the 14-to-6 vote, was based on a very comprehensive study of the problem and getting the opinions of people who were on all sides of each of these complicated questions.

I do not think that has been brought out by anybody. It certainly has not been by this Senator. I think it is the kind of information the Senate ought to understand when we vote on this.

Mr. SARBANES. I appreciate the chairman's comment. I think it is important.

Mr. President, I ask unanimous consent that a section from the committee report on this legislation entitled "History of the Legislation" be included in the RECORD. That details not only the dates of the hearings but who was heard at each of those hearings. I think anyone reading through this hearing record would have to conclude that the committee did a very careful, and extensive examination of this issue. All sides were heard from. We appreciated the importance of this matter. We wanted to probe it in depth, and that is exactly what happened. Furthermore, it took place over an extended period of time, which, of course, gave people time to reshape their views if they chose to do so, in the light of developing testimony—both members of the committee and witnesses who were called before us. We had the leading people who concerned themselves with this issue, in a whole range of diverse activities, testify before the committee, in considering this important legislation.

Mr. President, I ask unanimous consent to have that provision printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

HISTORY OF THE LEGISLATION

The Senate Committee on Banking, Housing, and Urban Affairs held hearings on corporate takeovers on January 28, March 4, April 8, April 22, June 23, June 24, June 25, and June 26, 1987. Witnesses at these hearings included, among others, representatives from the investment banking community, corporate America, labor, law enforcement officials, the Securities and Exchange Commission, the Administration, institutional investors and the States.

On January 28, 1987, the Committee heard from leaders of the financial and legal community as well as former commissioners who served on the Securities and Exchange Commission. Witnesses included Alan Greenspan, at the time Chairman of Townsend-Greenspan, and now Chairman of the Board of Governors of the Federal Reserve System; Nicholas F. Brady, Chairman, Dillon, Read & Co.; Felix G. Rohatyn, Senior Partner, Lazard Freres & Co.; Lloyd N. Cutler, Partner, Wilmer, Cutler & Pickering; and former SEC Commissioners Roderick H. Hills, now Managing Director and Chairman, The Manchester Group, Ltd.; A.A. Sommer, Partner, Morgan Lewis & Bockius; and Francis M. Wheat, Partner, Gibson, Dunn & Crutcher.

Chairmen and Chief Executive Officers of some of America's best known corporations were invited to testify before the Committee on March 4, 1987. Witnesses at this hearing included: David M. Roderick, Chairman and Chief Executive Officer (CEO), USX Corporation; Raymond Plank, Chairman and CEO, Apache Corporation; John L. Murray, Chairman and CEO, Universal Food Corporation; George S. Slocum, President and CEO, Transco Energy Company; Andrew C. Sigler, Chairman and CEO, Champion International Corporation; James K. Baker, Chairman and CEO, Arvin Industries; Donald C. Clark, Chairman and CEO, Household International; Thomas F. Frist, Jr., Chairman of the Board, Hospital Corporation of America; William R. Howell, Chairman of the Board, J.C. Penney, Inc.; William McKinley, Chairman and CEO, Gerber Products; Robert P. Luciano, Chairman and CEO, Schering-Plough Corporation; Robert E. Mercer, Chairman and CEO, Goodyear Tire and Rubber Company; William D. Smithburg, Chairman and CEO, The Quaker Oats Company; Alvah H. Chapman, Jr., Chairman and CEO, Knight-Ridder, Inc.; William E. Wall, Chairman of the Board, The Kansas Power and Light Company; and Clarence E. Johnson, President and CEO, Borg-Warner Corporation.

The following labor representatives testified at the April 8, 1987, hearing: Thomas R. Donahue, Secretary-Treasurer, AFL-CIO; William H. Wynn, President, United Food and Commercial Workers International Union; James E. Hatfield, President, Glass, Pottery, Plastic and Allied Workers International Union; Jacob Sheinkman, Secretary-Treasurer, Amalgamated Clothing and Textile Union; Milan Stone, President, Rubber, Cork, Linoleum and Plastic Workers of America; Jack Bavis, President, Master Executive Council, Eastern Airlines; Charles Bryan, President, District Lodge 100, International Association of Machinists and Aerospace Workers; Mary Jane Barry, President, Local 553, Transport Workers Union; Delbert Walsh, President, Local 252, Glass, Pottery, Plastic and Allied Workers International Union; and Clayton C. Oster, President Local 26, United Rubber, Cork, Linoleum and Plastics Workers of America.

On April 22, 1987, the Committee received an update of the law enforcement activities of the government with respect to improper activities in the securities industry from Rudolph Giuliani, U.S. District Attorney for the Southern District of New York; and Gary Lynch, Director of the Division of Enforcement, Securities and Exchange Commission. This update included government enforcement actions related to insider trading and corporate takeovers.

The "Tender Offer Disclosure and Fairness Act of 1987" was introduced by nine members of the Senate Banking Committee on June 4, 1987. Legislative hearings were subsequently held on June 23, 24, 25, and 26, 1987.

On June 23, representatives from the Administration and the Securities and Exchange Commission testified. Beryl Sprinkle, Chairman, Council of Economic Advisers, testified on behalf of the Administration and the Securities and Exchange Commission was represented by Commissioner Charles Cox. A second panel included witnesses representing various state associations including: Daniel Bell III, President, North American Securities Administrators' Association; Anthony J. Celebrezze, Jr., Attorney General of the State of Ohio; Jim Edgar, representating the National Association of Secretaries of State; and Richard B. Geltman, Staff Director, Committee on Economic Development and Technological Innovation, National Governors' Association.

Representatives from the securities industry and the investment banking community testified on S. 1323 on June 24, 1987, as did labor. Witnesses at this hearing included John W. Bachmann, Chairman, Securites Industry Association; and Robert F. Greenhill, Managing Director, Morgan Stanley & Co., Inc. (representing the Capital Markets Group: The First Boston Corporation, Goldman Sachs & Co., and Morgan Stanley & Co., Inc.); followed by Laurence Gold, General Counsel, AFL-CIO.

On June 25, 1987, the Committee heard from the business community, institutional investors and a shareholder group. On the first panel were: H. Brewster Atwater, Jr., representing the Business Roundtable; Alexander B. Trowbridge, President, National Association of Manufacturers; and Donald C. Clark, representing Stakeholders in America. The second panel included Raymond J. Sweeny, Co-Chairman, Council of Institutional Investors; James Martin, Executive Vice President and Chairman, CREF Finance Committee, College Retirement Equities Fund; and Margaret Cox Sullivan, Stockholders of America, Inc.

To complete the hearing record, the Committe considered the relationship of employee ownership and corporate takeovers on June 26, 1987. Witnesses included: Former, U.S. Senator Rusell Long, Parnter, Finley, Kumble, Wagner, Heine, Underberg, Manley & Casey; F. Lee Bailey, Lead Trail Counsel, Eastern Airlines Coalition; Robert Strickland, Chairman, Lowes, Inc.; Randy Barber, Director, Center for Economic Organizing; Capt. William H. Palmer, United Airlines, President, Coalition Acting for the Rights of Employees; and Jared Kaplan, Partner, Keck Mahin & Cate.

(Mr. ROCKEFELLER assumed the chair.)

Mr. SARBANES. Mr. President, I want to make a few general remarks about the broader question of corporate takeovers and their consequences for our economy, before I address the specific provisions of this legislation.

I submit that the economic strength of our free-enterprise system is premised on the proposition that there is a coincidence between individual gain, as determined by the operation of the marketplace, and social gain. In other words, the premise of the system is that as one seeks, in a free-enterprise, competitive system, to maximize his own individual position, at the same time he serves to maximize the economic and social gain for the society at large. The system is premised on the proposition that the efficient producer will be rewarded, that decisions will be made in the marketplace, and that in the consequence of an individual advancing his own interest through being able to respond to market forces, society, more broadly speaking, will also benefit.

I think it is fair to say, on the basis of the numerous hearings held by the committee, that there is considerable question as to whether the takeover process as it is now being manipulated by some does not really amount to an abuse of the market system; that the result is that the market process is being manipulated in such a way as to separate the coincidence between individual gain and social gain. In effect, the takeovers have had the effect of separating the interests of the speculators from the interests of the producers, encompassing within the term "producers" both management and workers.

Corporate raiders have acted in such a way as to move in place, put a company into play, as they say, reap off very significant financial gain, and then move out of the situation, often leaving behind a company heavily burdened by debt and a community in disarray.

I have seen the rash of corporate takeover attempts with growing concern, because I think it is clear that they have serious consequences for the long-term competitiveness of our economy. In effect, if not addressed, they really raise the danger that the economy will be manipulated in such a way that certain individuals, those doing the manipulation, will gain significant financial benefits, but the overall economy, itself, will not benefit as a consequence. This point was made very well in the Banking Committee report which accompanied this legislation:

> Traditionally, takeover activity was motivated by the notion that companies could achieve long-term growth by diversifying and expanding through corporate acquisitions. Today, however, many takeovers are based solely on a desire for immediate, short-term returns with no thought to actually managing the target company. Bidders put a company "into play" by acquiring large blocks of a target company's stock with virtually no risk and with an almost

certain guarantee of substantial profits through greenmail, bust-up liquidation of the target or a white knight rescue.

The phenomenon of the threatened takeover places well run corporations on the auction block or forces them to restructure financially. These takeovers have significant implications for the national economy, international competitiveness of American firms, corporate debt, community stability, unemployment and investor protection.

Although target company shareholders may benefit from a temporary run-up in the price of the target's stock, concerns over the fairness and integrity of the overall process persist.

Notwithstanding gains realized by some target shareholders, others have been deprived of information necessary to make an informed investment decision and have been denied a fair share of the control premium paid to acquire the company. Also, other parties to the transaction such as bidding company shareholders and target company bondholders have suffered economic loss and have not received adequate consideration in the tender offer process.

No one denies that mergers and acquisitions may produce social benefits through better managed companies and opportunities for growth. However, the proliferation of abusive takeover techniques, which have as the primary goal the precipitation of excessive speculation in the securities of the target company, has force corporate managers to focus their energies on short-term performance. This has major implications for research and development as well as for long-term growth and competitiveness at home and abroad.

All of this is well summarized by Akio Morita, Chairman of Sony Corporation, who recently wrote: "Unfortunately, American industry is now being distracted by a game called mergers and acquisitions. America's brightest managerial talent is engaged in take over moves and empire building. The best students do not study engineering but become MBA's or lawyers and, eventually professional moneymakers. This is not a productive enterprise."

In addition, an enormous amount of debt is being incurred in connection with takeovers. In part, this is because of the use of junk bonds to finance hostile tender offers or defensive leverage buy-outs. This has contributed to a sharp increase in debt-to-equity ratios and a concomitant decline in the credit rating of many companies. it is now widely recognized that many former takeover targets and junk bond investors, particularly financial institutions, will be vulnerable to defaults in the event of adverse economic or financial developments.

Based on the hearing record, the Committee agreed to amend the Williams Act. Many of the changes made are designed to improve the disclosure available so as to make the tender offer process fair for all investors. The bill states as its purposes: "(1) to reduce the opportunities for abuse under the Federal Securities laws as currently in effect, and (2) to expand the protective mechanisms of such laws". Other changes are designed to improve the integrity of the tender offer process and the capital markets by addressing abuses in the current system.

As John J. Phelan, Jr., Chairman and Chief Executive Officer of the New York Stock Exchange has put it: "[W]e need to ensure that when takeover attempts occur, they do so in an environment that minimizes the potential for abuse. That means getting more sunlight into the arena faster. And letting as many people as possible know at the same time what's happening in the marketplace."

Corporate takeover is a difficult issue to address because there are many who make the argument that certain corporate takeovers are consistent with market principles and, in fact, are advantageous to strengthening the economy. In part, I think, that comes back to the question of the purpose for which the acquisition is undertaken and, in particular, whether those seeking to acquire it are really out to actually take over the company and assume the responsibility for running and operating the company. In other words, a situation in which someone says, "I can do a better job than the existing management, and I ought to be given a chance to prove that, and any tactic that I may engage in, in order to gain acquisition, I will have to live with the consequences of it."

So that, if in effect, there is an effort, as it were, to raid the corporate treasury, it is one thing if you subsequently have to assume that burden and responsibility; it is another if you succeed in doing that and then walk away from the situation, leaving the problem behind for others to try to address.

Recognizing this problem and its seriousness, I think it is important to underscore that this legislation does not try to come fully to grips with the question of corporate takeovers. Actually, the provisions of this bill are very carefully crafted, and they will be a modest and reasonable change in our securities law, in an effort to assure shareholders in a U.S. Corporation a fair opportunity to make a judgment about whether a tender offer is in their own economic interest. In other words, one can have differing opinions about the danger of the concerns associated with corporate takeovers and still support this legislation as representing a very measured and reasonable effort to come to terms with some of the problems which have arisen.

Let me now recite a few of the provisions that are embraced in with legislation.

Under current law, any person who acquires more than 5 percent of a company's stock need not file a disclosure statement of having done that until 10 days after the acquisition that exceeds the 5-percent threshold. This has permitted stock acquisitions much greater than 5 percent during the 10-day window period before any disclosure is required. They do not have to file a disclosure statement for 10 days once they have passed the 5-percent mark. During that 10-day period, before they have to file the disclosure statement, they can make acquisitions much greater than the 5 percent which triggers the disclosure. As a result, by the time the first disclosure is made, a person may have accumulated a very significant interest in excess of 5 percent in the company.

In fact, in some instances, they may even have secured a controlling interest in the company, particularly if you define "controlling" as being a much smaller figure than a majority interest, since a person holding a very large interest, with everyone else holding a very small interest, is perceived as controlling, even though they are short of majority control.

The bill as written does not change the existing 5 percent threshold requirement. There was some consideration of doing that, of actually lowering the threshold requirement below 5 percent. However, to alert share holders to important purchases of the company's stock on a more timely basis, buyers are required by this legislation to disclose the acquisition of a greater then 5 percent stake in the company within 5 days, rather than the current 10 days, of reaching this level of ownership.

So we reduce it from 10 to 5 days for purposes of this disclosure of the 5 percent stake. And of equal importance, in fact, I think of greater importance, until the dislosure is filed, further purchases beyond 5 percent are prohibited. So that it is not possible to use the time period for making your disclosure to significantly increase your holdings in the company. So until the dislosure is filed further purchases beyond 5 percent are prohibited.

This provision will assure shareholders of the right to make a judgment about a tender offer before the offeror has acquired a controlling interest in the company.

Second, the bill clarifies existing disclosure requirements to ensure that buyers of stock disclose clearly whether their acquisition is either for passive investment purposes or for control of the company. This is an effort to clarify, with respect to the buyers of stock, whether their purchase, their acquisition, is for passive investment purposes or for control of the company.

Buyers who claim that the purpose of their purchase is to make a passive investment—in other words, the buyers says, "No, my purpose is not for control of the company. My purpose is to make a passive investment."—Buyers who claim that would not be able to change that intent and to make a tender offer unless the buyers notifies the Securites and Exchange Commission of his new intent and then waits for a period of 60 days.

So a buyer would not be able to move in, assert that the acquisitions were for passive investment purposes, and then switch to an effort to control the company without notifying the

SEC of this new intent and waiting for a period of 60 days.

Third, in order to give shareholders a better opportunity to assess a tender offer, the bill would lengthen the tender offer period from the current required minimum of 20 business days to 35 business days—from a minimum of 20 business days to 35 business days.

The bill would also prevent the so-called creeping tender offers by requiring any purchase above 25 percent of a company be made through a tender offer to assure all shareholders a fair opportunity to participate in the offer. So, in other words, any purchase above 25 percent would have to be through a tender offer giving all shareholders a fair opportunity to participate.

The bill includes a provision designed to limit the practice known as greenmail which allows a purchaser to buy up stock in a company for purely speculative purposes and then turn around and sell it back to the company at an exorbitant price. The bill gives the company the right to recover any profit made by a person who sells a corporation its own stock if that person holds more than 3 percent of the stock and has held it for less than 1 year. So if you get someone who moves in and starts acquiring the stock of a company and then seeks to unload it, having held it for less than 1 year, the bill gives the company the right to recover any profit made by such a person who sells a corporation his own stock.

The bill goes further than that. If the corporation does not act to recover the profit, a shareholder of the corporation may do so on behalf of the company.

Further, the bill addresses the question of excess pension fund assets. Under current law, there is no protection for excess pension fund assets from use in takeovers by either the bidder or the management. In other words, they can use those excess pension fund assets in the corporate takeover fight. In order to preserve excess funding as a cushion for employee benefits, the bill prohibits bidder and target companies from tapping the surplus in pension funds to finance takeover attempts.

Now this is a very important provision because we have encountered some difficulties with pension funds. Assumptions about the strength of their funding do not always withstand the test of time and the development of circumstances. In some instances, a corporate takeover effort by the bidder is mounted on the basis of seeking to reach or to use the excess pension fund assets which may exist. In other instances, the management may use those excess pension fund assets in order to resist or fight the takeover.

This legislation would seek to preserve that excess funding as a cushion for employee benefits. What it really seeks to do is to require the judgments about the funding of the pension fund to be made for pension fund reasons—which is, of course, the whole purpose of that provision—and not have the judgments with respect to those pension fund assets being made for reasons totally unrelated to protecting the employee benefits which are to be protected by the pension funds; in other words, if the calculation is made on the basis of what serves the takeover fight rather than on the basis of what is necessary in order to protect the employee benefits.

The bill also raises the criminal penalties for insider trading, both in terms of a fine and in terms of jail sentence. A new requirement provides that perjury or obstruction of justice in the course of an insider trading violation carries a mandatory sentence in addition to any other applicable penalty.

Obviously, the rash of insider trading violations is placing in question, indeed in jeopardy, the integrity of the markets and people's confidence in them. It is a matter that must be dealt with, and it is recognized that it must be dealt with by the responsible people in the market and in the business world. One of the strengths of our economy, historically, has been the strength of our capital markets. But people's confidence in those markets will be eroded and that strength will be lost if this insider trading issue is not dealt with very sternly, and the bill seeks to do that.

Finally, the bill has been very carefully written not to affect the role of the States in governing the internal affairs of corporations. It is carefully drafted to leave in place the current role of the States in the regulation of corporate governance.

Now, that is a very important philosophical question. Traditionally, we have left corporate governance to be dealt with by State law. We have dealt at the Federal level primarily on the basis of disclosure, which is of course reflected in the provisions of this legislation which have enhanced disclosure, developed it, sought to make it more relevant to the circumstances we face today. But we have not moved heavily into the field of corporate governance at the Federal level, leaving that matter to be done by the States. That is a system which traditionally has served us well and this legislation does not seek to alter that in any major or significant way.

Mr. President, I think this is a carefully crafted, well thought out bill that represents a significant improvement in Federal securities law. It would give greater assurance so that the shareholders would have fair notice of when a tender offer is being made and fair opportunity to consider the offer once it is made. It addresses clearly areas of Federal law in which changes, I think, would be beneficial.

I am hard-put, actually, to find counterarguments against the provisions in this bill. It does not try to make sweeping changes which are, by themselves, of great controversy. And I gather some provisions of that sort may be offered as amendments in the course of considering this legislation. It does not seek to alter the basic allocation of responsibilities between the Federal and the State Government. But I think the bill brought forth by the committee after very careful consideration, after elaborate hearings which I discussed earlier at the outset of my remarks, represents a prudent response to the situation with which we are confronted.

The takeover efforts have had a devastating impact on some communities in our country, including in our own State. The takeover attempt by Sir James Goldsmith, of Goodyear, resulted in the closure of its Kelly-Springfield tire plant in Cumberland, MD, causing a loss of 1,000 manufacturing jobs.

We heard in our committee hearings of numerous instances of such consequences because of the effort, as I said earlier, by some in effect to manipulate the opportunities that are present in terms of purchasing of corporate stock in order to make significant short-term financial gains without regard to the impact on the community and the disruption to individuals, communities and State and local governments and the disruption to the functioning of our economic system.

Mr. President, I strongly support this legislation. I hope it will meet the approval of my colleagues in the Senate and that we will pass this measure in short order.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I commend my good friend from Maryland, Senator SARBANES, for his statement. It is typical of the distinguished Senator from Maryland that he made this kind of a speech because it is specific, it is on the issue. It is not a general "support for the bill" without specifics. It is not a condemnation of amendments in general.

He brought up all of the important provisions in the bill, specifically enumerated them, and indicated exactly why this bill makes sense.

Closing a 10-day window, for instance. He brought that up and pointed out this is a matter of disclosure for the stockholder so that he knows as well as the insider during that 10 days, knows that an attempt to take over the corporation is coming on and that there is going to be a big increase, probably, in the price of the stock. So, in innocence of not knowing that that is going on, he sells the stock. The bill would close that window and make that impossible.

He points out how important it is to protect pension funds.

Mr. SARBANES. Would the Senator yield on that point? I think it is reasonable to assume that at the time that this provision was put in, about the disclosure of crossing the 5 percent threshold, giving people 10 days in order to do it, the 10-day provision was really an accommodation. I do not think at the time anyone thought that that provision would then be used with increasing frequency by people moving very quickly to use the 10-day period when they were to give the notice, the disclosure, to significantly increase the acquisition well above the 5-percent figure.

If you concede that that should happen, then the 5-percent figure almost becomes irrelevant. People can work very fast in the 10-day period, elevate from 5 percent to 15, 20, 25 percent, and present an entirely different picture at the point of disclosure than I think anything that was assumed at the time that that provision was put into the law.

So, what we are doing here, it seems to me, is really bringing the law back, the situation that it was intended to expose, and to lay out to all of the shareholders at the time it was first put into law.

Mr. PROXMIRE. That is exactly right. Under the present law, because of the 10-day window, it is possible for an acquiring group to secure working control of a corporation without the stockholders knowing it.

What this does is say from the time you get 5 percent you cannot buy another share until the public is notified; until the average investor, whether it is a big investor with a pension fund or whether it is a small investor, knows a takeover is underway.

As I say, the Senator also pointed out how important it is to protect pension funds and not permit them to then be abused. We are all concerned, about the Boesky and Levine scandals and the other black stains on Wall Street.

Then there is, as the Senator from Maryland properly pointed out, a very important State governance provision. Throughout our history, States have chartered corporations. It has worked well. It means we not only have an effective decentralization of corporate governance, but States, after all, understand their corporate problems far better than the Federal Government possibly can. I am very proud of the kind of governance we have had under Republican as well as Democratic administrations in Wisconsin. In general there has been very little criticism of the honesty and the concern for shareholders, for employees, for communities, that the States have brought to this matter.

Mr. ARMSTRONG. Mr. President, I was just going to express my surprise at the invocation of Ivan Boesky as a case in point supporting this bill.

Mr. PROXMIRE. I do not mean that he supports the bill by any means. No.

Mr. ARMSTRONG. Mr. President, I did not draw that conclusion.

Mr. PROXMIRE. I am sure you did not.

Mr. ARMSTRONG. But I did draw the conclusion that the Senator from Wisconsin was suggesting that the Boesky case shows why this bill is needed. It so happens that, with some amendments, I would support this bill. But I want to point out that the Boesky case is a case of a person who is accused and has been convicted, I believe, of violating the present law and that there is not any new provision of this bill that I am aware of that would make any act which Mr. Boesky was alleged to have committed illegal, which was not illegal in the first place. The only thing that might be different than that is section 14, which is the increased penalty for insider trading.

Mr. PROXMIRE. That is an important provision and it would affect Boesky.

There is also the 10-day window operation. Boesky and the other insiders were able to get information that an acquisition was underway when the general public did not know. They were able to buy under those circumstances and take advantage of it.

Mr. ARMSTRONG. Mr. President, I do not want to be quarrelsome but I cannot see exactly how the 10-day issue would affect the facts of the Boesky case. I am not disposed to try to argue that because I actually favor the tightening of the 10-day window. I am not opposed to that, and I do not want to quibble about it.

Mr. PROXMIRE. Would the Senator argue that the provision for a 1-year mandatory jail sentence for those who commit perjury in the course of an insider investigation could not have made it much easier for us to proceed in the Boesky case and in other insider trading cases?

Mr. ARMSTRONG. I am not so sure it would have made it any easier, but it is certainly a stiffer penalty, and an appropriate one.

Mr. PROXMIRE. That is right. It is a change in the current law.

Mr. SARBANES. Would the Senator yield on the point of relevance of the insider problem to the 10-day window?

Mr. ARMSTRONG. Let me make this point and I will be happy to yield. My concern—I do not object, as I have already said, to the narrowing of the 10-day window and the other provisions. I do not object to increasing the insider trading penalty, although I have some lingering concerns about whether we have defined insider trading properly. What does trouble me is the casual way in which we join in debate, persons who have violated the law with those who have not violated the law, who are not accused of violating the law and who in the opinion of many of us really do not deserve to be put in that same basket.

I think there are provisions in this bill which I support, and we just talked about two of them, but I do not think the Boesky case really has anything to do with takeovers or stockholder rights or greenmail or golden parachutes. That is the only point I would make is that there are several subjects in this bill and they should not be mixed in anybody's mind.

I apologize for taking a moment before yielding to the Senator from Maryland.

Mr. SARBANES. I think the Senator makes an important point. There are provisions in this bill designed to change practices which involve people not engaged in insider abuses. I think that is quite correct.

On the other hand, insider abuse, if caught, leads to criminal prosecution.

Tightening up these other provisions does open up the opportunity that in instances where it may not be caught, that the person still is not able to reap the benefits of his activity because there are now provisions that are going to expose his attack and his conduct in public light a lot sooner than might have otherwise been the case.

So it is quite true that those provisions do not directly—the other provisions, the earlier disclosure, the limitations on acquisitions and so forth—do not go to the criminal insider activity, but if someone is engaged in that activity and is not caught, tightening up these other provisions may, in fact, impede them or prevent them from reaping benefits from their improper activities. So to that extent, it is helpful.

Mr. ARMSTRONG. Mr. President, it seems a little strange to be able to say the provisions which the Senator feels would be helpful are not provisions I object to. I do not want to quibble about it. There may be more cases than I know where that would be true. The only concern I wanted to express is, let us not lump together legitimate business activity with law-breaking. Even business activity of a character we may not approve does not rise to a level of criminal conduct. There are a lot of things that are matters of corporate governance, matters of business practice. Evidently, Mr. Boesky was guilty of serious criminal wrongdoing under existing statutes, whether this bill ever becomes law or not.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the pending amendment is the amendment that would provide for a regulation of golden parachutes. I wonder if the sponsors are aware—section 280(g) of the Internal Revenue Code already taxes payments made under golden parachute agreements at a higher rate than other kinds of income. As a matter of fact, 20 percent higher. The maximum rate now, as we know, in the new law that has been changed is 28 percent on income. Golden parachutes would be taxed as the excess payments defined under the law, which would be taxed at 20 percent more or a 48-percent tax.

Mr. SHELBY. I wonder if the Senator will yield on that?

Mr. PROXMIRE. Certainly.

Mr. SHELBY. In my opening statement in support of the amendment offered by the distinguished Senator from Colorado, I mentioned in my statement that the Internal Revenue Service, the code already treats that differently, and we can see that. I did not recall whether or not the Senator from Colorado has mentioned that in his statement or not, but in my opening statement, I did bring that up specifically.

Mr. PROXMIRE. I think the Senator is right. It nearly doubles the tax. That is an enormous increase. That is a strong disincentive.

Mr. SHELBY. If the distinguished Senator from Wisconsin, the chairman of the committee, will further yield for a colloquy?

Mr. PROXMIRE. Certainly.

Mr. SHELBY. We conceived that, and the point is well made there, but I submit to the Senator from Wisconsin, that is not enough. To have golden parachutes, as we have in this country, to enrich management, even if they have to pay a lot of taxes on it, we should cut that out, we should stop it. This amendment offered by the Senator from Colorado, and I have cosponsored it along with several other Senators, would do that. We would not have to have the problem any more, and we would not have to say: "Well, Internal Revenue Service is going to take care of that because they are going to tax it and they are going to tax it to where it is not worth it but why not go ahead and outlaw it?"

That is what the amendment would do. I appreciate the distinguished chairman for yielding.

Mr. PROXMIRE. Does the distinguished Senator from Alabama have any evidence that golden parachutes are at the same level since the tax law was changed to provide this clear, serious penalty against golden parachutes? It seems to me it makes it much more difficult for a board of directors to vote a golden parachute in excess if it is going to be subject to that kind of tax.

Mr. SHELBY. If the Senator will yield.

Mr. PROXMIRE. Yes.

Mr. SHELBY. I do not have the evidence before me, but I just do not believe that is the panacea we should look forward to. We should make the law of the land here in the Senate, and with the concurrence of the House and the President's signature, that we are going to go on record as outlawing golden parachutes, period, and not leave it to the Internal Revenue Service. I will try to dig up the information that the Senator just alluded to.

Mr. PROXMIRE. It just seem to me here we have an old dog and we not only drown it, but we have to shoot it and hang it and find all kinds of ways to go after something that has already been treated with considerable effectiveness by our tax law.

Mr. SHELBY. If the Senator will yield further, when it is a mad dog in this situation, I believe a golden parachute is a mad dog syndrome, we ought to go ahead and kill it and kill it forever and get it out of corporate society. I appreciate the Senator yielding to me.

Mr. PROXMIRE. Mr. President, I would like to call attention to the views of both the AFL-CIO and the National Association of Manufacturers. These are two outstanding organizations. I might add to that the Association of Attorneys General, Secretaries of State, and the National Governors Association, all of whom have indicated their interest and support of the bill.

First let me read from the letter of the American Federation of Labor. This is dated June 20:

> DEAR SENATOR: The purpose of this letter is to state the AFL-CIO's views regarding S. 1323, the Tender Offer Disclosure and Fairness Act and to urge your support for certain amendments to be offered by Senator Sanford and Senator Sasser which we believe would strengthen the bill.
>
> We support S. 1323 as far as it goes. In our view, the bill's reform of the Williams Act procedures, the tighter regulation of group activity, the ban on greenmail, the flexibility accorded fiduciaries, and the protection of pension funds address some of the infirmities in the present system in a helpful and sensible fashion.
>
> The AFL-CIO, however, regards S. 1323 as a far too modest step forward. While the reforms it would work go toward a system that is fairer for stockholders and investors, the bill does not adequately protect the interests of either the target corporation's employees or of the communites in which that corporation operates. In particular, S. 1323 does not provide any protection against the dislocations that follow once a company is put in play and, one way or another, emerges in a more highly leveraged position.
>
> S. 1323 also falls short by failing to provide enough in the way of disincentives to the making of "completely finance-driven" deals. We agree with the basic premise stated by Senator Proxmire in introducing S. 1323 that the principal aim of federal regulation in this area should be to "curb manipulators whose purpose is to put companies into play in order to make a fast buck." Yet, under S. 1323, there is still considerable room to make huge profits by speculating on a company in play. So long as that remains true, it is more likely than not that such speculation will continue unabated.
>
> In this regard we commend to the Senate's attention an amendment that Senator Sanford will offer requiring the disgorgement of short-swing profits. Section 16 of the Securities Act of 1934 already requires all "insiders" to make certain periodic disclosure and to return any short-swing stock profits they obtain on securities that they have held for less then six months. The Sanford amendment would add to the group of "insiders" those who both own more than 3 percent of the stock and who file a tender offer or announce an intent to take over the corporation.
>
> The Sanford Amendment provides a realistic means to limit the ability of raiders and other professional investors to manipulate the market and to profiteer from the circumstance that their raid has inflated the value of the target stock. By eliminating the profit for those who initiate takeovers for speculative reasons to reap huge shortswing returns and by thereby helping to curb rampant insider trading, the Sanford Amendment addresses fundamental deficiencies in the present system. We therefore urge your support for this amendment.

That amendment will be coming later and I am sure it will receive substantial support in the Senate.

> Also deserving of your support, in our judgment, are three amendments that will be offered by Senator Sasser. First and foremost, we recommend the Sasser amendment that will particularize the disclosure already required by "acquirors" under Section 13(d) of the Securities and Exchange Act. While Section 13(d) currently requires certain acquirors to disclose any plans to make major changes in the "business or corporate structure" of a target, a 13(d) filing rarely discloses information regarding plans to close major facilities, change the location of principal business activities, terminate major operations or make considerable employment reductions. By rectifying this deficiency in current law, this amendment would benefit not only shareholders but also the target's employees and the communities in which the target operates.
>
> We also support a Sasser Amendment that will require the Securities and Exchange Commission to study the role of proxy contests, particularly involving institutional investors, in corporate takeovers. Given the increasing evidence that many of the abusive, manipulative and speculative tactics that have plagued tender offers may be moving to the proxy forum, this is a matter that warrants serious study.
>
> Finally, the AFL-CIO supports an amendment that Senator Sasser will offer that would lower the filing threshold under Section 13(d) from 5 percent to 3 percent of a company's stock.

Incidentally, that was the figure the bill had in it originally. The committee amended it to make it 5 percent.

> S. 1323, as supplemented by these amendments to be offered by Senators Sanford and Sasser, would represent an improvement over current law. We therefore again

recommend your support for S. 1323, with these strengthening amendments.

Sincerely,

ROBERT M. MCGLOTTEN,
Director, Department of Legislation.

Then I have a letter from the National Association of Manufacturers. This is a letter to Senator RIEGLE. It reads:

NATIONAL ASSOCIATION
OF MANUFACTURERS,
May 13, 1988.

Hon. DONALD W. RIEGLE, JR.,
U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: On behalf of the National Association of Manufacturers, I urge you to support Senator Proxmire's tender offer bill, S. 1323, and to oppose any amendments which would preempt the state's corporate governance role, such as a one-share, one-vote rule.

Senator Proxmire's tender offer reforms will have far-reaching benefits for our capital markets, companies and economy. The Proxmire tender offer bill will provide shareholders with more effective, fuller disclosure and greater fairness during tender offers. These changes will eliminate many hostile takeover abuses and allow companies to set long-term goals and compete for international markets. These reforms will help restore the integrity of Wall Street's role in the takeover market and the confidence of shareholders in the tender offer process.

Most important, the Proxmire tender offer bill does not preempt the role of the states in corporate governance matters. The states have provided a stable environment for corporate growth based on sound public policy concerns. The states have enacted laws that guard against attempts to manipulate and destabilize corporate governance procedures.

Preserving the state role in corporate law is an issue of the highest concern to the NAM and the manufacturing community. Any federal preemption amendments such as a one-share, one-vote proposal, would increase rather than eliminate tender offer abuses. The NAM strongly opposes such amendments and urges your opposition to any such proposals.

Sincerely,

JERRY J. JASINOWSKI.

Finally, Mr. President, I would like to read from a letter from the National Governors' Association, which is also from the National Association of Attorneys General, National Association of Secretaries of State, National Conference of State Legislatures, and the North American Securities Administrators Association.

MAY 20, 1988.

Hon. WILLIAM PROXMIRE,
U.S. Senate, Washington, DC.

DEAR SENATOR PROXMIRE: We, the undersigned, understand that S. 1323, The Tender Offer Disclosure and Fairness Act, may soon be scheduled for Senate floor action. We further understand that when S. 1323 is considered, amendments that would preempt the states' traditional role in regulating internal corporate governance will be offered. On behalf of the undersigned state associations, we urge you to maintain the important balance between state and federal responsibilities in tender offers and acquisitions as embodied in S. 1323, and oppose any amendments which would explicitly or implicitly preempt or intrude upon state authority to regulate internal corporate governance.

The authority of the states to regulate corporations is a fundamental principle first enunciated by the Supreme Court over 100 years ago. This authority was reaffirmed in 1987 when the Supreme Court again declared constitutional a strong state role within the dual state-federal regulatory system in CTS v. Dynamics Corporation of America. In light of this decision, many state legislatures have responded affirmatively to protect the public interest and shareholder rights by addressing takeover excesses.

We are vitally concerned about potential adverse economic impacts of abuses in corporate takeovers and acquisitions. Tender offers and acquisitions directly affect the economic well-being of the states, their communities, citizens, employees and shareholders as corporations and states seek to compete in international markets. We believe that state authority to regulate in this area is as critical for the future as it has been in the past.

We applaud Congressional efforts, as exemplified by S. 1323, to curb abuses in the corporate takeover process. Improvements upon federal disclosure requirements as spelled out in S. 1323, balanced with reaffirmation of the states' historic role in corporate governance, would provide an effective means to remedy takeover abuses.

We urge you to oppose any amendments to S. 1323 that would preempt the states' authority to regulate internal corporate governance.

Thank you for your consideration.

Sincerely yours,

CHRISTINE T. MILLIKEN,
Executive Director and General Counsel, National Association of Attorneys General.

WILLIAM T. POUND,
Executive Director National Conference of State Legislatures.

ANDREW MAGUIRE,
Vice President, North American Securities Administrators Association.

JIM EDGAR,
Secretary of State, Illinois, President-Elect, National Association of Secretaries of State.

RAYMOND C. SCHEPPACH,
Executive Director National Governors' Association.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BREAUX). The absence of a quorum is noted. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a brief period for morning business, not to extend beyond 10 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

1988 DROUGHT DISASTER

Mr. DOLE. Mr. President, every day seems to bring more bad new for many of the National's farmers who are suffering under some of the worst drought conditions in recent memory. Many States have hardly registered any noticeable rainfall for the year, and their crop prospects look extremely bleak.

The soil is like concrete in many areas, and predictions of another dust bowl are starting to be heard. The litany of farm States experiencing dry weather is indeed ominous—Indiana, Minnesota, North and South Dakota, Iowa, Illinois, Michigan, Louisiana, Arkansas, Alabama, Georgia, Mississippi, Tennessee, Ohio, Wisconsin, Nebraska, and part of Kansas. I am certain others will be added in a brief time unless there is some relief.

With the wheat harvest underway, and the corn crop now maturing, the implications of a continued drought are alarming for thousands of farmers across the Grain Belt.

This past weekend I traveled to Minnesota, Illinois and Idaho. Although we haven't declared the current situation a national disaster, it is clear that a lot of farmers won't harvest a crop this year, or only a minimal one at best.

As my colleagues are aware, the Government has traditionally provided a safety net in times of natural disasters.

Mr. President, Secretary Lyng and the administration have been responsive and on top of the situation. Several emergency measures have been implemented: These include opening the conservation reserve program in 17 States for haying for a 30-day period.

In addition, USDA has approved haying and grazing on acreage conservation reserve, and conserving use land in over 1,000 counties in 24 States. Emergency feed programs have been approved in nine States and "zero-92" provisions have been approved for counties in seven States.

The Interagency Task Force appointed by the President was a positive step and should help in assessing further needs of both farmers and nonfarmers.

It is also, I might add, consumers who should be very concerned about this problem.

Our bipartisan drought task force—and I hope it remains partisan, or nonpartisan—composed of Democrats and Republicans on the Agriculture Committee in the Senate and the House will meet again this Wednesday to discuss further options. We had a meeting last Friday. I would hope that legislation would only be considered after all administrative actions have been pursued and we know precisely where we are going after we have had a full opportunity to assess the impact of the drought. I am fearful when we start this ad hoc approach where everyone is running around with some idea, in the final analysis the farmer is not going to benefit as much as he could if we just be patient and work together on a nonpartisan, bipartisan basis with the administration, with the American farm community. Then I believe we can find a responsible approach that reflects our care and concern about the livelihood of farmers and ranchers across the grain belt.

0-92

The "Zero-92" option, which allows farmers to receive 92 percent of their deficiency payments, has been used where farmers have been prevented from planting, and should be a helpful tool.

But there are also many producers who took the risk, and underwent the financial cost of planting a crop, but will not be able to harvest one due to the effect of the dry weather.

We will need to explore ensuring that these farmers, who are seeing their deficiency payment rate plummet due to higher market prices, receive similar deficiency payment protection as those who were prevented from planting, and there are ways you can get that done very simply by legislation.

Either through forgiving advance deficiency payments and protecting the balance of their deficiency payment, or by allowing producers to retroactively sign up for "Zero-92."

Mr. President, most farmers want higher prices, but high prices do little good if you do not have a crop to sell. And falling deficiency payments for those without a crop spell double disaster.

Some farmers, some of the fortunate ones, have large stocks in granaries. Of course they will benefit. We are very happy for those farmers who will benefit from the higher prices for wheat or corn or soybeans. But I am certain that group of farmers is a minority. There are not too many of them out there.

There are many livestock producers who are running out of both water and feed. A widespread slaughter of herds could devestate the livestock market. I would urge the Government to consider making additional beef and pork purchases to prevent a severe market price impact. In addition, there are many farmers who do not have programs crops who are faced with the same basic problem—no crop and no income—and we will have to determine how to help them as well.

SUMMARY

Mr. President, again I would state that we will need to assess the impact of the drought before pushing a legislated remedy. Any legislative action we undertake should be done on a bipartisan basis and should work within the framework of the 1985 farm bill to the extent possible.

In the meantime, we should take every possible adminstrative action to help those producers who have already been impacted. We have seen improvements in the agricultural economy during the last 2 years, but a natural disaster could spell trouble once again for the Nation's farmers and I might add again the Nation's consumers because we are going to drive up prices in the supermarket when these commodities become scarce and prices become higher and higher.

It is my hope that American farmers will understand that if our worst fears are realized regarding the spector of drought, that Members of Congress will help where we can, and that we intend to act responsibly, quickly and in a spirit of bipartisanship.

I say to the credit of Democrats and Republicans in the Senate and the House, we are trying to act responsibly. I just hope we are able to contain that and come to this floor hopefully before the July Fourth recess with a package that we can bring up here and support and pass by almost unanimous consent. If we do that, will again indicate to the American farmer and the American consumer that we are responsive and that we can take responsible bipartisan action, and that we should do that in times like this.

BICENTENNIAL MINUTE

JUNE 19, 1959: SENATE REJECTS CABINET NOMINEE

Mr. DOLE. Mr. President, from time to time I have been doing what I call a little bicentennial minute, pointing out things that have happened in the past in the U.S. Senate.

Mr. President, 29 years ago yesterday, on June 19, 1959, the U.S. Senate rejected President Dwight Eisenhower's appointment of Lewis L. Strauss as Secretary of Commerce. In its entire history, the Senate has formally denied only eight Cabinet nominations—with Strauss being the sole nominee rejected since 1925. President Eisenhower later deemed this extraordinary incident "one of the most depressing official disappointments I experienced during my 8 years in the White House."

Lewis Strauss had made a number of well-placed enemies in Congress during his earlier tenure as Chairman of the Atomic Energy Commission. His campaign to declare Dr. J. Robert Oppenheimer a security risk and his active support of the Dixon-Yates contract for private financing of nuclear powerplants engendered the disenchantment of many Senators.

His confirmation hearings quickly took on decidedly partisan overtones. They occurred in the wake of the 1958 elections, in which the Democrats had picked up 13 Senate seats—the largest single party transfers of seats in Senate history. A routine nomination evolved into a test of wills between an increasingly beleaguered Republican administration and a revived Senate Democratic majority. During the hearings, Strauss, a hard-line cold warrior, needlessly alienated nominally supportive Senators, who might otherwise have been expected to let the President have his own man in his Cabinet, with what many perceived as an arrogant attitude toward senatorial prerogatives.

Shortly after midnight on June 19, in an Chamber jammed to capacity, the votes were cast. Forty-nine Senators opposed Strauss, while 46 approved. To the chagrin of the White House and party leaders, the margin of defeat was provided by two Republicans voting in opposition. This defeat marked the onset of a virtual legislative stalemate between Congress and the White House for the final year and a half of the Eisenhower administration.

I yield the floor.

FEDERAL JUDGE ALBERT B. MARIS

Mr. SPECTER. Mr. President, on Friday of this week, June 24, 1988, U.S. Judge Albert B. Maris, of the Third Circuit Court of Appeals, will celebrate a magnificent milestone—the golden anniversary of his appointment to the Federal appellate bench.

Over the past five decades, Judge Maris has compiled a truly outstanding record as a jurist and continues to serve on the court. His tenture has been longer than any other Federal judge.

Again and again he has answered the call for special service in a wide variety of judicial assignments. During World War II, he served as chief judge of the Temporary Emergency Court. At the behest of the U.S. Supreme Court, he has served as a special master in a number of complex cases.

Judge Maris authored the judicial codes of the U.S. Virgin Islands, Guam, the Trust Territory of the Pacific Islands and American Samoa. He led the able and renowned jurists and legal scholars who compromised the committee in the recodification of the U.S. Criminal and Judicial Codes.

In the parlance of baseball, a player receives the highest encomium of his colleagues when he is called "a ballplayer's ballplayer." It can be truly said of Judge Maris that he is "a judge's judge." He has done it all as a jurist.

On June 27, 1988, Judge Maris, who at age 94 still serves by special assignment as a senior judge on the court, will be honored by his colleagues and U.S. Supreme Court Justice William J. Brennan, Jr., at a special ceremonial session of the Court in Philadelphia.

It is altogether fitting, then, that the U.S. Senate take note of the exceptional service of Judge Albert B. Maris to the court and to his country and extend its sincere gratitude and congratulations on this most auspicious occasion.

THE LATE WILBUR J. COHEN: A REMEMBRANCE BY SENATOR ABRAHAM A. RIBICOFF

Mr. MOYNIHAN. Mr. President, recently, I was privileged to be on hand for the dedication of the Wilbur J. Cohen Federal Building on Independence Avenue. It was a good and fitting tribute to the great former Secretary of Health, Education, and Welfare to have named for him a place wherein the work he cared about so deeply is carried on.

At the dedication ceremony, a number of distinguished Members of Congress, administration officials, and others praised Wilbur Cohen for his many accomplishments and commitment as a public servant. The former Senator from Connecticut, my friend Abe Ribicoff, was unable to be at the ceremony. Knowing of the event, however, Senator Ribicoff took pen in hand and put down recollections of his work and friendship with Wilbur Cohen.

Mr. President, as we all are well aware, there is hardly a more distinguished current or former Member of the U.S. Senate than Abraham Ribicoff. He has served the Nation and his State of Connecticut as a judge, Member of the House of Representatives from the First District, Governor, and U.S. Senator. President Kennedy named Abe Ribicoff his Secretary of the Department of Health, Education, and Welfare in 1961, and so Senator Ribicoff's tribute to Wilbur Cohen, his successor in that Cabinet position, has a special meaning.

Mr. President, I ask unanimous consent that Senator Ribicoff's tribute for Wilbur Cohen be printed in the RECORD.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

WILBUR J. COHEN

I first met Wilbur when I invited him to come to the Governor's Office in Hartford, Connecticut in late 1960 to talk with him about joining me in the Department of Health, Education and Welfare. From our first conversation, he became a close, personal friend, a confidant and one of the most able persons I had ever known.

Through the Kennedy Administration and all my years in the United States Senate, we worked closely together on all the social issues confronting the country. Of all the advances made in the social field beginning with the Administration of President Franklin Delano Roosevelt, the thumbprints of Wilbur Cohen were definitely embedded.

We went through the fight to name him Assistant Secretary in 1961 and it was with joy and admiration that I watched his continuous progress to become Secretary of the Department in the Johnson Administration. Whenever he came to Washington, we shared time together. I saw him as Dean at the University of Michigan and as professor of Public Affairs at the University of Texas. Even out of office, his contributions were many and continuous. When the bell rang from any administration or any member of the House or Senate, he gave his assistance, sound advice and drafting skills in legislation in the many fields—he was the quintessential expert needed by everybody.

The last I saw him was the summer of 1986 when we both received honorary degrees together at Rutgers University. He was still the same ebullient Wilbur Cohen.

Wilbur Cohen's achievements, accomplishments, service to our nation and mankind and his record and reputation will live on in the history of our Nation forever.—Abraham Ribicoff.

WELFARE REFORM—A PIPE DREAM

Mr. HELMS. Mr. President, this past Friday, June 17, the Senate passed S. 1511, the so-called Family Security Act of 1988. I felt obliged to vote against this bill because I was, and am, convinced that it will do precious little to end the welfare cycle and may, in fact, perpetuate it.

Mr. President, I emphasize at the outset that I am not against helping those who are less fortunate. Americans, as individuals and communities, have a responsibility to help those who cannot help themselves with our time and our money. That responsibility cannot and should not be abdicated by us as individuals. Trying to place it entirely on the shoulders of Government is a copout. It has never worked and never will.

In fact, Mr. President, history clearly shows that past efforts to shift this responsibility from individuals and communities to the Federal Government have failed. Since we embarked down the road called the Great Society in the middle 1960's, the result has been massive Federal spending, increased poverty and unfortunately, millions of Americans trapped in the welfare cycle.

Mr. President, statistics show that child poverty is the core of the welfare problem. Declining steadily from 1959 to 1969, it then began rising hitting 19.5 percent in 1981 and has remained over 20 percent ever since.

This was not a national phenomenon, Mr. President. It was concentrated in the States which pay the highest Aid for Families with Dependent Children [AFDC] benefits. A study for the Joint Economic Committee last year by Ohio University professors Richard Vedder and Lowell Gallaway showed that from 1969-79 child poverty increased close to 40 percent in the 10 States with the highest AFDC benefits while child poverty decreased 20 percent in the 10 States with the lowest benefits. Between 1979 and 1984 black poverty rates in the South fell while the West suffered a 38-percent increase—even though AFDC benefits in the West were twice those in the South.

The "Family Security Act of 1988" ostensibly "reforms" welfare to reverse the errors of the past. Unfortunately, it will do nothing of the sort. It will not require all able-bodied welfare recipients to work. It will not foster individual responsibility. It simply robs from the State and Federal treasury billions of dollars—a bill which our children and grandchildren will be forced to pay.

Let's look at the specifics of the bill, Mr. President:

First off, S. 1511 would create an entirely new entitlement to education and job training for AFDC recipients called the JOBS Program which will eventually cost taxpayers $1 billion a year. This money will be in addition to education and job training funds already targeted for the poor through the Adult Education Program, Job Training Partnership Act block grants and several other programs.

In the debate on S. 1511, Mr. President, we heard a lot about the supposed requirement under the JOBS Program that AFDC recipients either work, train, or be looking for a job in order to receive benefits. However, numerous exemptions together with the conditions imposed on the individual States effectively emasculate any mandatory aspects the JOBS Program might otherwise have.

Mr. President, approximately 50 percent of the AFDC caseload would be exempt from mandatory participation in the JOBS Program for one reason or another. For example, only able-bodied AFDC recipients with children over 3 years of age would be required to participate. This provision alone will exempt over 20 percent of all AFDC recipients. It will also effectively foreclose efforts to intervene early in the welfare dependency cycle despite the fact two-thirds of mothers who use AFDC for 10 years or more first enter the program with a child under three.

Mr. President, mandatory participation in the JOBS Program would also be contingent on the States guaranteeing child care, transportation, and other work-related expenses for all participants. Even when recipients could be required to participate, States would not have to provide any significant work-related activities and could even pay for them to attend post-secondary education as part of the JOBS Program. As Senator ARMSTRONG noted in the Finance Committee's report, this may entice some to go on the rolls to reap significant education benefits.

Most ludicrous of all, Mr. President, S. 1511 would prohibit participants in the JOBS Program from taking most jobs. Participants could not be given jobs that cause current employees to be displaced, lose hours, or lose promotional opportunities. They also could not be given jobs filling vacancies in established positions or which result from lay-offs. In other words, Mr. President, the JOBS Program would only permit participants to fill newly created jobs.

Mr. President, States also could not force AFDC recipients to take jobs paying less than the AFDC benefit amount unless a State will pay the difference between a recipient's wages and the former AFDC benefit. Each year, Mr. President, millions of Americans enter the workforce making less than what they could receive under welfare. However, they are almost certain to earn much more in a few years than they would receive from welfare. I fail to understand why welfare recipients should receive a wage guarantee unavailable to other Americans.

Mr. President, if welfare recipients find and are willing to accept jobs, States must then provide them with 9 months of child care at a 5-year cost of $400 million to the Federal taxpayer. It will cost State taxpayers $300 million on top of that. Nine months of "transitional" Medicaid benefits costing another $700 million would also have to be provided. These new benefits more than double the current transitional benefits to families leaving the AFDC Program.

Mr. President, in addition to expanding benefits the bill would also expand eligibility by making the AFDC-UP Program mandatory to the States rather than optional. Under AFDC-UP, welfare assistance is extended to two-parent families in which the principal wage earner is unemployed. Another 130,000 families will thus be sucked into the welfare trap costing Federal taxpayers $1.1 billion and the State taxpayer $600 million over the next 5 years.

Mr. President, its apparent that this bill—when looked at in its entirety—will not force welfare recipients to work as its advocates proclaim. S. 1511 sells out to the tried and failed philosophy of begging welfare recipients to work via work incentives and expanded benefits.

The mandate that recipients either work or prepare for work is negated by the bill's other provisions. Half of welfare's caseload would be exempt for one reason or another and the remaining recipients may only be forced to take newly created jobs—which are few in number—as part of the JOBS Program. Even when participation could be compelled, States would have to pay related transportation and childcare expenses. Finally, States could not require recipients to take jobs unless the States will pay shortfalls between recipient wages and the AFDC benefit.

Mr. President, the hodgepodge of programs constituting our welfare system obviously needs to be coordinated and streamlined. However, the "Family Security Act of 1988" merely takes us back to failed policies of the past rather than enacting meaningful improvement. The American taxpayer—and welfare recipients—deserve better. I sincerely wish I believed S. 1511 would reform welfare, but I do not, and for that reason I voted against S. 1511.

RECENT CAMPAIGN FINANCE DEVELOPMENTS

Mr. McCONNELL. Mr. President, while S. 2 lies dead in its grave—and most of us do not expect it to come back for the remainder of the year—the cause of campaign finance reform marches on. I would like to discuss a couple of recent developments. The so-called "millionaire's loophole" restriction was successfully added by this Senator to the Ethics in Post-Employment Act, which the Senate acted on earlier this year. That provision—which a lot of my colleagues may not be aware of, since we approved it on voice vote—prohibits candidates from paying themselves back from contributions after the election. In other words, if they ante up money in advance of the election, they cannot go around after the election and pay themselves back. I think that would be a significant deterrent for one of the main problems we have in campaign finance today, and that is a growing number of people simply trying to buy public office from personal wealth.

In addition, a tougher version of the earlier McConnell-Packwood bill has been introduced that would prohibit all PAC contributions to candidates and political parties. It would tighten the antibundling provision contained in S. 2. Unfortunately, we still do not have a cosponsor from the other side of the aisle for this strict reform measure.

In addition, Mr. President, I intend to introduce shortly a Presidential election reform bill. The bill has been prepared and I have been discussing it with a number of my colleagues. This bill would end the three-quarters-of-a-billion-dollar failed entitlement program for those who seek the Presidency, and strip away disastrous spending limits that have done nothing to limit spending, wasted millions of dollars on lawyers and accountants, and promoted cheating and soft money spending.

Further, Mr. President, it is interesting to note the recent California referend, and I would like to congratulate the citizens of that State, who spoke on the campaign finance issue just a couple weeks ago. The Nation's largest and most progressive voting bloc voted in favor of campaign finance reform based on the congressional system of contribution limits and full disclosure, the kind of system we have right here in electing Members of Congress.

The voters in fact rejected taxpayer financing of elections. Fifty-eight percent voted for contribution limits and against taxpayer financing. In effect, they said no to the ridiculous Presidential system, no to Common Cause, and no to the absurd proposals like S. 2 which would extend this disaster area any further.

For an incisive analysis of that particular referendum, Mr. President, I ask unanimous consent that an article appearing in the Wall Street Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 9, 1988]

CALIFORNIA VOTERS SPLIT ON MEASURES FOR ELECTION FUNDS

(By Jill Bettner)

California voters approved campaign-spending reforms, but sent mixed signals about their views on public financing of legislative races.

Results of Tuesday's closely watched California primary election—in which voters also approved a record issuance of bonds and turned aside a proposal to close the Rancho Seco nuclear plant outside Sacramento—showed that each of the two rival campaign-spending initiatives were approved. The state attorney general's office said a decision on which measure is adopted will be made by the California Fair Political Practices Commission.

Proposition 68, sharply limiting political donations and spending in legislative contests, would create some public financing for campaigns. The other campaign-reform measure on the ballot, Proposition 73, limits contributions but bars public financing. The latter also applies to all state public officials, whereas Proposition 68 applies only to state legislators. Because Proposition 73 received more votes—a 58% yes vote compared with 53% for Proposition 68—some observers expect the ban on public financing will prevail.

While concerned that Proposition 68's public financing might not become law, the coalition of citizens groups that lobbied for that approach to cracking down on big-money politics was hoping the impact of the favorable vote will be felt nationally.

"There's a strong message there for the country that these rotten campaign-finance systems must be reformed," said Fred Wertheimer, president of Washington-based Common Cause.

The opposition to Proposition 68, which included Gov. George Deukmejian, ended its heated drive for rejection of public financing with a controversial television commercial that depicted the Ku Klux Klan scheming to get public tax dollars.

While three-quarters of states in the U.S. curb campaign financing in some way, only three states have some sort of minimal public financing for state lawmakers. It's unclear whether California's embrace of conflicting public finance measures will help or hurt efforts to win public financing of congressional campaigns.

The Rancho Seco ballot measure—sponsored by managers of the problem-plagued, recently refurbished Sacramento plant—was narrowly approved with a 51.6% vote. It gives the plant another 18 months to prove itself. A rival measure that would have closed the plant permanently was defeated by an even slimmer margin, with a No vote of 50.4%.

California votes also approved a record $2.2 billion in proposed bond issues to finance programs for schools, parks and veterans, as well as water and earthquake rehabilitation projects. A vote on a proposed $1 billion highway bond issue was too close to call late yesterday.

Voters rejected a measure that would have subjected AIDS patients to quarantine and late yesterday a controversial "slow-growth" initiative in populous Orange County near Los Angeles also seemed headed for defeat.

Mr. McCONNELL. In addition, Mr. President, an article also appeared recently in the Washington Post on soft money; it was followed up with an editorial shortly thereafter in the same paper. The key points of both articles were right on the money, if you will. Soft money is a "major legal loophole allowing unions and corporations to spend around restrictions, limits, and disclosure requirements by which everybody else abides", the Post said.

The Post editorial further asserted, and I agree,

> Soft money is a loophole that needs to be plugged, (because it) vastly understates the amount of financial aid given. This is information the public only should have.
>
> Federal reporting requirements that do not include soft money means that the public is getting only partial disclosure. The Federal Election Commission should require that all contributions that benefit Federal candidates be federally reported.

Mr. President, I ask unanimous consent that both Washington Post articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 14, 1988]

FOR 1986 RACES IN FIVE STATES, $3.3 MILLION "SOFT MONEY"—CORPORATE GIFTS AUGMENTED BY $500,000 IN NATIONAL FUNDS; CRITICS SEE MAJOR LOOPHOLE

(By Charles R. Babcock)

Corporations, which are barred from donating to campaigns for federal office, gave $3.3 million directly to state party committees in five states where key Senate races were held in 1986, according to a new survey in the selected states.

The research by the Center for Responsive Politics, a self-described public-interest group, showed that these "soft money" donations, outside the controls of federal law, were augmented by $500,000 in such contributions transferred to the same state committees by their national parties.

Critics of "soft money" call its use a major legal loophole in federal election laws because the state parties can and do accept the funds from corporations and unions, which are barred from giving directly to federal campaigns; because they give in amounts far above the $1,000 individual limit in federal races, and because the donor and amount need not be disclosed by federal law. The state parties can then use the money for activities such as registration drives and get-out-the-vote efforts that help federal candidates, such as Senate candidates, even though the donation does not go directly to an individual federal campaign.

For instances, the center's survey found that Charles H. Keating Jr., head of a controversial California savings and loan, gave $100,000 personally to the Florida state Republican Party just before the 1986 election, and his holding company, American Continental Corp. of Phoenix, gave another $85,000 about the same time to the California Democratic Party.

The only larger corporate donor in the states surveyed was Atlantic Richfield Co., which gave $79,000 to the state GOP and $10,000 to the Democrats in California.

At the time of the large donations, Keating was sparring with federal regulators over their long-running examination of his Lincoln S&L of Irvine, Calif. He and his family contributed at least $8,000 directly to the campaign of Sen. Paula Hawkins (R-Fla.) in July 1986, according to Federal Election Commission records.

The race, which Hawkins lost, was a key one in the Republicans' unsuccessful bid to retain control of the Senate. The $100,000 personal contribution to the Florida GOP is permitted under state law, as are the corporate donations his American Continental made to the Democrats in California.

Keating and his family gave $6,000 directly to Sen. Alan Cranston (D-Calif.) a member of the Senate Banking Committee, who won a close race for reelection that year. A spokesman for Keating and his company declined to comment yesterday on how they picked the Florida and California parties and whether they have made "soft money" donations to other states.

The survey found that corporate donors gave $1.1 million to state parties in California, nearly $925,000 in Florida, about $717,0000 in Colorado, $392,000 in Missouri and $161,000 in Washington state. Nearly three-quarters of the total $3.3 million went to Republican state parties. Few union "soft money" donations were found.

Ellen S. Miller, executive director of the center, said the group's research compiled 1,700 donations to reach the $3.3 million in the five states. "This amount if multiplied nationwide would blossom into an enormous sum, despite the fact that there was no presidential race to boost contributions even higher," Miller said.

She said her group didn't attempt to follow how the corporate money was spent and added that the center wasn't trying to imply the process was in any way illegal. The state say such funds go to voter registration and get-out-the-vote compaigns. The center's concern, she said, is that the nonfederal money "may be seeping into the federal races."

Paul G. Kirk Jr., Democratic National Committee chairman, said last week that his committee will disclose voluntarily the source of its "soft money" donations for the fall presidential campaign. The Republican National Committee has not made such a pledge.

[From the Washington Post, June 15, 1988]

MR. KEATING'S SOFT MONEY

The problem of soft money continues to fester. "Soft money" means political contributions illegal under federal law—because they're over the limits or are made by corporations or unions—but legal under state law; soft money isn't supposed to be used to affect the outcomes of federal elections, but obviously when a state party uses soft money to register and turn out voters, it's helping its Senate and House as well as state candidates. Yet soft money is not required to be reported at the federal level.

To get an idea of the scope of soft money, the Center for Responsive Politics went to five states with disclosure requirements and counted the soft money contributions for 1985 and 1986. They found some $3.3 million in soft money given to state parties in California, Colorado, Florida, Missouri and Washington. And they found at least one interesting contributor. Charles Keating Jr., who runs an Irvine, Calif., savings and loan, gave $100,000 to the Florida Republican Party just before the 1986 election, after he and his family had already contributed $8,000 to the campaign of Sen. Paula Hawkins (R-Fla); and a Keating-controlled holding company gave $85,000 to the California Democratic Party, after Mr. Keating and his family gave $6,000 to Sen. Alan Cranston (D-Calif.). Perhaps coincidentally Mr. Cranston was one of five senators who met with federal regulators in 1987 to argue in Mr. Keating's behalf. Mr. Keating didn't want regulators in the San Francisco office to force low appraisals of real estate that might have forced a $167 million write-down of the assets of the savings and loan. After the meeting with the senators, the regulators transferred the case out of the San Francisco office and a different settlement was reached.

We see no evidence that the Keating contributions were illegal. We do see a prime example of why the soft money loophole needs to be plugged. The disclosures of the Keating contributions in federal records vastly understate the amount of financial aid he gave Mr. Cranston and others. This is information the public should have. But to get it you have to comb through the records, as the center usefully did, in Tallahassee and Sacramento.

Federal reporting requirements that do not include some money contributions mean that the public is getting only partial disclosure. The Federal Election Commission, in its current review of soft money rules, should require that all contributions that benefit federal candidates be federally reported and that funds centrally collected by the national parties and centrally disbrused by them to state parties be centrally disclosed. In the meantime, the Republicans who have made partial disclosure and the Democrats who have promised future disclosure should disclose all their soft money contributors now.

Mr. McCONNELL. These soft money articles also reflected the futility of an overall spending cap, unless you make the FEC as big as the Veterans' Administration and give it the powers of Big Brother. Both pieces were based on a report by the Center for Responsive Politics—which by the way, refused to provide a copy to my staff. More importantly, the articles only chipped at the tip of the iceberg of soft money.

Totally neglected was political spending by labor unions, which dominate the black market of soft money support. In 1980, for example, organized labor provided an estimated $11 million in soft money, all unreported and unlimited. In 1984, big labor conducted "an electoral Jihad." Labor and other special interests spent $30.4 million in soft money to support their particular candidates. This included a million dollar ad campaign by the AFL-CIO, which sharply criticized one candidate's policies but did not mention either candidate by name. In Ohio, AFL-CIO set up 80 phone banks and paid unemployed members $4 an hour to make 10,000 calls per day, without advocating a special candidate, of course. The Teamsters spent $2 million directly and provided services worth $6 million to benefit its particular choice in that election.

Labor organizations reported spending $4.5 million on communications to members for certain candidates. No one really knows how much they do not report.

After the 1976 election, Michael Malbin wrote: "The biggest winner of the Presidential system was organized labor. Public financing shut off private contributions. Party contributions also were limited.

"In contrast, labor could spend as much as it wanted, in communicating with union members, registering them to vote, and getting them to the polls.

"When labor unites behind one candidate, as it did in 1976, a system in which private contributions are prohibited, leaves it in a position no other groups can match. Little wonder that labor calls the campaign finance experiment a success."

While we are talking about soft money and ways of getting around spending and contribution limits, we should also look at the entire underground economy of tax-exempt corporations—laundering money for unions and Democratic candidates, violating contribution limits, the corporate contribution prohibition, and the Tax Code. In 1984, about $6.7 million was spent by 85 tax-exempt organizations to conduct "nonpatisan" voter drives. All of these operations were undisclosed and outside the legal limits.

Yet the funds used by these organizations were directed by operatives from the political parties and campaigns. According to Herb Alexander, author of "Financing the 1984 Election."

TOTAL SPENDING OUTSIDE OF LEGAL LIMITS

Before spending limits and taxpayer financing, outside spending constituted less than 10 percent of overall spending.

In 1980, special interest spending to influence elections represented at least one-quarter of all money spent.

Nearly half the total spending in the 1984 general election—$72 million—was spent outside candidates' direct control.

And at least one-fourth of all money now spent in Presidential races is unreported, unlimited, and unaccountable.

So if we are going to look at soft money, let us look at the whole, sordid picture.

Let us be realistic about the true effect of spending limits—they only encourage black market politics, forcing campaign spending underground, out of public scrutiny and control.

PHILIP STERN EDITORIAL

Finally, there was another article which appeared in the Washington Post on June 12.

It was written by Philip Stern, the son of a Sears heiress, who has put together the worst book money can buy, called The Best Congress Money Can Buy. The only thing I have found of value in this book is the 1-dollar bill provided inside as a bookmark.

In the book excerpt printed by the Post, Stern suggests the following rule: "If you can't vote for a candidate, you can't give money to him or her." Stern admits that such a rule not only violates the Constitution, but also would "doom to perpetual defeat nonincumbents from small, poor States and challengers like MIKE ESPY, the new black Representative from Mississippi."

The resurgence of the two-party system throughout this country, and the growth of election competition for Senate seats, are the direct results of increased public participation through small, disclosed, voluntary contributions.

Our Constitution gives each citizen the right to support any candidate who stands for what they believe in, whether it is lower taxes, civil rights, strong defense, more social services, whatever issues that candidate is running on.

A rule like the one Stern proposes would lock incumbents into power, undercut poor but promising challengers, and eliminate the two-party system in many States.

In response to this alarming result, Stern lamely asserts that, "while those fears may be well-founded under today's ground rules * * * with public campaign financing, the challenger would be guaranteed a level playing field, at least in general election contests."

I have news for Mr. Stern: There is not going to be any public financing of congressional elections; it is an irresponsible waste of taxpayer money, at a time of mounting Federal deficits; and the public will not tolerate it, as evidenced by the clear 58-percent mandate in California rejecting it.

To people who have earned their money, it would be utterly offensive to have to pay more taxes so that someone who looks in the mirror one morning and sees a Senator can run for office—and have the public pick up the tab.

Who is Lenora Fulani? You may not know her, but she is costing you close to a half a million dollars.

Who is Lyndon Larouche? You may know that his lieutenants put together a California referendum requiring names of AIDS victims to be printed in the paper. In 1984, he spent a half-million of your money, and he just qualified for more Federal funds this year.

If you do not like out-of-State PAC fundraisers, abolish PACs. I have introduced legislation to do just that, and there is not one Democratic cosponsor.

However, if you put a limit on out-of-State contributions from the little people who want to have a say, you will have less party competition, fewer successful challengers, more millionaire Congressmen, and less free political participation in our country.

NO INVITATION TO TOSHIBA JUSTIFIED

Mr. HELMS. Mr. President, today the Department of Defense begins a series of briefings for business representatives regarding the development of new weapons and military equipment. DOD will discuss its plans for improving conventional weapons and the development of the next generation fighter aircraft.

Company representatives will visit research and development agencies operated by the U.S. Army, Navy, and Air Force.

The Department of Defense has invited 13 Japanese firms to participate in the briefings, including the Toshiba Corp. According to news media accounts, DOD is seeking Japanese assistance in upgrading the quality of missiles and other types of guided weapons, armored vehicles, and antisubmarine warfare equipment. Further, a high DOD official is scheduled to visit Tokyo next week to explore possibilities of joint weapons development.

Mr. President, DOD's actions represent a serious lack of judgment on important national security issues. First, the United States, as the defender of the free world, must not become dependent upon foreign military suppliers for critical equipment.

Foreign suppliers obviously take direction from their national governments. In a time of crisis there is no guarantee that a foreign government will make the kind of judgments we would need or prefer. This is true, no matter how closely allied to the United States the foreign government may be. If the United States should require a certain critical technology available only in the hands of a foreign firm, then as a matter of policy the foreign firm should not become a supplier of products to the United States. Instead, the foreign firm should license production to a U.S.-controlled firm. The reason is clear.

Second, with specific regard to Japanese firms, it is worth noting that the Japanese Constitution specifically prohibits the production of weapons of war. To date this has been interpreted officially as not precluding items strictly for defense. However, the debate on that point in Japan is not closed—and it is not at all clear what interpretation a succeeding government might have. This makes military tieups with Japanese firms particularly problematical.

Finally, there is the question of participation by the Toshiba Corp. For good reason, the name Toshiba has become synonymous with betrayal. In August of last year, after the high-level resignations, after the full page ads in American newspapers and after the assurances by the highly paid lobbyists and consultants, we discovered that Toshiba was even then trying to sell out the alliance.

Without question, Mr. President, any firm with a record of illegal sales of controlled equipment as long as Toshiba's has no business becoming a contractor to the American Defense Department. It is worth noting that Toshiba Corp. stands accused of having sold to the East bloc two complete factories for the production of highly critical defense electronics, precisely the sort they want to sell to us. Such sales are currently prohibited in fiscal year 1988 and the House Appropriations Committee has just extended it to fiscal year 1989.

Mr. President, I ask unanimous consent that a letter sent this past Friday, June 17, by Senator GARN, Senator PROXMIRE, Senator HEINZ and myself, along with others, to Secretary Carlucci be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, June 17, 1988.

Hon. FRANK C. CARLUCCI III,
Secretary of Defense, The Pentagon, Washington, DC.

DEAR MR. SECRETARY: We are writing to voice our objection to the recent Defense Department decision to include Toshiba Corporation in briefings on U.S. defense procurement. This decision undercuts our commitments to technology security and is contrary to the clear intent of Congress. It should be reversed.

There should be no argument from the Defense Department that leakage of critical technology to the Soviet Union forces the United States to pay tens of billions of dollars to defend against our own technology. Toshiba Corporation of Japan and Kongsberg Vaapenfabrikk of Norway, one a world technology leader and the other a government-owned weapons company, have been shown to be willing collaborators in this process. Yet the Department with primary responsibility for protecting our national security has decided to include Toshiba in procurement briefings as if nothing had happened.

This action sends a terrible signal about the U.S. commitment to technology security. By minimizing the importance of the Toshiba-Kongsberg diversion during the trade debate, Defense officials created the strong impression that the Department is unconcerned either with the technology loss that took place or the lax corporate security that permitted it to happen. That error of judgment is dwarfed by the decision to invite Toshiba to participate as full partner in U.S. defense briefings on future procurement. No one can take the United States seriously on these matters if we reward violators by opening the door to the defense contracting process.

The Department's actions are also directly contrary to the intent of Congress. In defense appropriations language, Defense was forbidden to undertake any procurement from the Toshiba Corporation and Kongsberg Vaapenfabrikk during FY 1988, a ban which the House Appropriations Committee has extended through FY 1989. In the trade bill, a broader sanctions provision was adopted that would ban all government procurement with these companies for three years and would impose sanctions in similar cases that arise in the future. Sanctions are in effect because Congress wants to send a strong signal that betrayal of our security is not going to be tolerated. That intent is thwarted by the actions of the Department.

Finally, participation by Toshiba in this program gives an unreliable partner access to the defense planning process. Even if these initial briefings place no classified information at risk, they provide too much access for a firm that has shown so little concern for Western technology security. Toshiba has enhanced internal corporate controls with the goal of improving its performance in this area. However, they have much to prove before they can be entrusted with access to the development process for U.S. defense systems.

For all of these reasons, we believe the actions of the Department have been ill advised. We urge you to exclude the Toshiba Corporation from next week's briefings.

Sincerely,

Senator JOHN HEINZ,
Senator JESSE HELMS,
Senator JAKE GARN,
Senator WILLIAM PROXMIRE.

SPECIAL ISOTOPE SEPARATION PROJECT

Mr. SYMMS. Mr. President, in light of the ongoing debate on the special isotope separation [SIS] project, I would like to bring to your attention a recent editorial which appeared in the Washington Post entitled "Do We Have More Nukes Than We Had 20 Years Ago?" It addresses the fact that the majority of Americans are not aware of the status of this country's defense capacity. Most people feel we do not need any new source of plutonium; they believe there is an abundance of nuclear material for our Defense Program. This is definitely not the case. On the contrary, the weapons stockpile has steadily decreased, as much as 75 percent in the last two decades, and very few people in America pay enough attention to be aware of this fact.

This false sense of security has become very apparent to me with regard to the SIS project. There are a number of people in my own State of Idaho who have voiced their opposition to this project because they are unaware of the need. The fact is, the SIS is vital to our national security. It is not a question of increasing our stockpile but of recycling the material we have lost either through aging or technological advances which make our current defense systems obsolete. When the SIS does come on line, it may well be our only source of plutonium.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DO WE HAVE MORE NUKES THAN WE HAD 20 YEARS AGO?

(By Norman Podhoretz)

Question: By how much has the American nuclear arsenal increased over the past 20 years?

If you recognized this as a trick question—if, that is, you know that the American nuclear arsenal has become not larger but smaller, much smaller, over the past 20 years—then you are one of a very tiny minority of your fellow countrymen who know what they are talking about when they discuss the arms "race" and arms control.

Thus, in a recent poll taken for the Committee on the Present Danger, Penn and Schoen Associates asked a random national sample of Americans (not in the tricky form I have just used but in straight-forward terms) whether the total number of nuclear weapons in the U.S. arsenal has increased, decreased or stayed the same over the past 20 years.

Now, the plain fact is that we have 8,000 fewer nuclear weapons of one kind of another today than we had in 1967. Yet an astonishing 75 percent of the American people believe that the number has increased, and another 11 percent labor under the delusion that it has stayed the same.

As against this 86 percent who are ignorant or misinformed, only 7 percent of the

American people are aware of the true situation, at least in general terms. And things get even worse as we examine the poll a little further.

For example, in addition to being asked about numbers, the respondents were questioned about the explosive power of our nuclear stockpile. On this point, 84 percent gave the wrong answers (that it has either increased or stayed the same), while only 4 percent said correctly that our nuclear arsenal is less powerful than it was 20 years ago.

Not even this 4 percent, however, had more than a vague idea of how large the decrease in explosive power has been. In fact, when asked about that, not one of the 802 persons polled, not a single one, picked the correct category of "50 percent or more."

In other words, practically nobody in America realizes that the total yield of our nuclear stockpile, as measured in megatonnage, has declined by about 75 percent—yes, 75 percent—in the past two decades.

Nor have arms control agreements had anything to do with these reductions. They are mainly the result of technological developments that have made nuclear weapons more accurate. Furthermore, such developments would ironically have been prevented if some arms-control enthusiasts had had their way.

Given the abysmal level of knowledge revealed by the Penn-Schoen poll about the trends over time, it is less surprising than it might otherwise have been to discover that very few people in America have an accurate notion of what has happened to our nuclear stockpile during the Reagan administration.

Here again only 7 percent know that under Reagan (and of course without counting the weapons that will be eliminated by the newly ratified INF Treaty) there has been a decrease in the size of our nuclear arsenal.

True, the decline under Reagan (about 3 percent) has been much smaller than was registered in the period between 1967 and 1980. But a decline it still is, and not the increase the nearly two-thirds of the American people imagine Reagan has brought us.

The Penn-Schoen poll did not go into the issue of defense spending. But it is a safe bet that no more than a comparably minuscule number of Americans realize that only 15 percent of the defense budget is devoted to nuclear forces. And how many Americans understand that even the 50-percent cuts in long-range missiles contemplated by the proposed START agreement would amount to only about 2 percent of the defense budget?

Stop for a minute and consider how it has come to pass that so many of us in this country are either ignorant or misinformed on issues that are literally matters of life and death to us all, and that we hear and read about almost every day.

Does the explanation perhaps lie in a lack of education? On the contrary. The respondents in this poll who went to college proved to be more (and on some questions a lot more) ignorant or misinformed than those who had not enjoyed the benefits of a higher education.

The reason for this discrepancy, I suspect, is that the college educated have paid more attention to the clamor about nuclear weapons that has for so long been filling the American air with distortions and outright lies. By contrast, people who have averted their eyes and ears—either because they thought they would be unable to understand the discussion, or because they found it too unpleasant, or because they had more interesting things to do—have undergone a less thorough course of brainwashing than their intellectual "betters."

Yet even without excessive exposure to the relentless campaigns waged in and through the media against the arms "race," the relatively unschooled have also for the most part been left with three flagrantly false impressions: that the United States has been engaged over the years in a massive buildup of its nuclear forces; that this process has escalated to unprecedented heights since Ronald Reagan became president; and that it is one of the main causes of the growth in the federal deficit.

In the face of this egregious illustration of how hard it is for a simple set of facts to penetrate the mind of the public against the will of the media, what becomes of the theories of liberal democracy on which our political system is built? What, in particular, becomes of the belief that the truth is bound to prevail in a free competition of ideas? And what becomes of the Jeffersonian faith in the protections that are supposed to be afforded by a well educated citizenry against the deceptions of demagogues?

IN HONOR OF CHIEF JUDGE ALEXANDER L. PASKAY

Mr. CHILES. Mr. President, July 1, 1988 marks Chief Judge Alexander L. Paskay's 25th year on the U.S. Bankruptcy Court for the middle district of Florida. I would like to take this opportunity to thank him for his years of service on the bench and his contribution to the legal profession in general.

As if 25 years of service on the bench were not enough, Judge Paskay has distinguished himself as a legal scholar and author. Judge Paskay is chairman for the Annual Bankruptcy Seminar, sponsored by Stetson University College of Law, a post which he has held since 1974. As adjunct professor at Stetson University College of Law, Judge Paskay has taught courses on creditors' rights since 1973. Additionally impressive, in 1979, Judge Paskay was appointed by Chief Justice Burger to serve on the Advisory Committee on Bankruptcy Rules. The judge currently serves on the Administrative Office of the U.S. Courts Task Force on Bankruptcy Forms.

A noted authority on bankruptcy law, Judge Paskay authored the "Handbook for Trustees and Receivers" and its 1978 supplement, and coauthored the "14th Edition of Collier on Bankruptcy," which is considered to be the leading text in its field. Judge Paskay serves as a member of the board of advisors of the Annual Survey of Bankruptcy Laws and is coauthor of volume 6 of "Norton Bankruptcy Law and Practice," published by Callaghan Co.

Judge Paskay has also served the legal community through his extensive involvement in legal organizations. A member of the American Bar Association, the Florida Bar Association, and the Hillsborough County Bar Association, his reputation is widespread. He has served in the past as chairman of the Bankruptcy Committee of the Florida Bar, and presently serves on the advisory council of the Consumer Credit Counseling Service of Tampa and as bankruptcy liaison to the judicial council of the fifth circuit on the Bankruptcy Act.

As further tribute to the life and career of Judge Paskay, I think it worth mentioning that he has overcome much adversity in his early life. A native of Hungary, Judge Paskay was deported by German occupational forces to Germany in 1944, where he spent the remaining months of World War II in a labor camp. After being liberated by the British forces in 1945, Judge Paskay joined the British Army as staff interpreter. He quickly became chief interpreter for the British War Crimes Commission, interrogating Germans accused of having committed war crimes, and later worked for the French occupational government in charge of all displaced persons in the French zone of occupation.

In 1949, Judge Paskay immigrated to the United States where he resumed his education, receiving his LLB degree and the degree of juris doctor from the University of Miami School of Law. Prior to accepting his judgeship, he was employed as a research assistant for the late Hon. Joseph P. Lieb, a Federal district judge in the southern district of Florida.

On this occasion, commemorating Judge Paskay's 25 years on the bench of the U.S. Bankruptcy Court, I wish to commend Judge Paskay for his hard work and dedication to the profession of law and wish him the happiness and pride that he so well deserves.

AFGHANISTAN

Mr. ARMSTRONG. Mr. President, the recent events in Afghanistan are certainly encouraging, but the departure of Soviet troops will not restore the damage caused by 8 long years of Soviet occupation. The United States should, and I am confident will, assist the Afghans in rebuilding their country with democratic reform. I recently received a letter from a long-time friend in Colorado on this particular subject. His thoughtful comments are timely, and I urge my colleagues to take a few moments to read them. The following is his letter, in part:

> Reeling under the genocidal atrocities of the greatest military power in the world, the ancient and once proud nation of Afghanistan is nearly destroyed. One third of the country's peoples are refugees, living in squalor on the edge of what was their native land . . . over one million have been killed outright. Small bombs disguised as toys were dropped from helicopters in villages and thousands of children have lost arms, legs and eyes. No civilized people the world

over can visualize such barbarous, inhuman actions.

But the people struggle on . . . imbued with strong Moslem faith, rooted in their culture of thousands of years, trampled repeatedly throughout history by foreign hordes; they have always come back . . . and will again. Now this communistic and militaristic power, that has decimated the Afghans, finds that to continue this attempt at complete genocide and occupation costs enormously in lives and diversion of military might and funds, and is trying to withdraw and save face.

Our country is being drawn into this scheme with the hopes that we will quit providing weapons and non-military supplies to the struggling Mujahadeen (fighting to regain their country) and will agree to pressure the Pakistanis and the leaders of the freedom fighters into agreeing to a pull-out of the USSR forces that will leave the present form of government (a communist puppet) in power. This scheme will fail . . . [and the Afghans] will continue to fight until they (the Communists) are out.

Tentative plans call for the first withdrawal of the USSR troops by May 15, with one-half gone by mid-August, with the refugees returning and all troops out by November. These plans will work only if the communist government folds its tent and slops into oblivion . . . otherwise the USSR will maintain troops in Kabul and the fighting will go on . . . or the USSR may withdraw all support and let the Mujahadeen finish off the puppet government and, hopefully, set up one of loyal Afghans.

Regardless of just how this scenerio is played out, the Soviets will leave and the Afghan refugees and freedom fighters will return home. This is our point of entry, let's help them get back home and re-established in their homeland.

These are some of my own experiences with rehabilitation of war-torn areas and with the Afghan people.

June, 1946, I joined the UNRRA (United Nations Relief and Rehabilitation Administration) and worked for nine months in war-torn areas of Germany, Greece, Sicily and Italy. My assignment was to help farmers get livestock, seeds, machinery and other help needed to get back into food production. I literally waded through the aftermath of WWII . . . cities destroyed, power and water sources bombed, farm buildings in rubbles, people in rags, local governments in utter disorganization and making only feeble gestures at rebuilding. The UNRRA was the first, except Red Cross, on the ground, but its efforts and those of the later Marshall Plan have given these countries an astounding comeback coupled with the people and their eagerness to rebuild . . . Now Germany is a leading nation among those of the western world.

August 1953, I joined the MKE (Morrison-Knudsen-Afghanistan) group to develop the southwestern part of Afghanistan. I travelled hundreds of miles in a WWII jeep, flew in the bubble of a reconnaissance photo-plane from Ghazni to the Chakansur (Iranian Border) and later, as head of agricultural development, used American soil scientists and agronomists to examine in general about one million acres of these lands, eliminate all but 600,000 that had some promise, and make detail plans and put irrigation farming practices on about 250,000 acres. Five and one half years of hard work, . . . sunstroke in the Registan sand dunes, stoned by nomads in the Siestan . . . near Iran many ventures . . . but the Afghans grew prosperous and the country thrived under King Nadir Shah. MKA built roads, huge reservoirs on the Helmand and Arghandab Rivers, small modern towns on irrigated lands and helped move the country toward more modern living. Now I can see these beautiful structures laying rubble, villages destroyed, beautiful orchards and vineyards smashed into the earth, canals and dams blown apart . . . death and destruction across a once beautiful and intriguing countryside. But it can live again.

This is the first one of the many countries where the USSR has promoted communism by using their own troops. Apparently Soviets are getting tired of the effort and depressed by the results. If the withdrawal of troops and abandonment of the communist puppet government takes place, the entire world, particularly the United States, should offer help to restore this once proud country of Afghanistan. This would be an achievement of enormous political and psychological impact . . . it could lead to the loosening of the Soviet clutches on other Third World countries. It could restore some sense to and restrict this ideological invasion that maims, deteriorates and downgrades the homelands of many peoples. Let us try it! Start planning now!—Claude L. Fly.

Mr. Fly has expressed many good points in his letter. We have the opportunity to assist not only a strategic country get back on the road to democracy, but people who want freedom and have fought desperately hard for it for nearly 10 years. Let us help, but let us do it responsibly. We should help Afghanistan to its feet, but then let the country and its people walk on their own.

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on June 17, 1988, during the adjournment of the Senate, received a message from the President of the United States transmitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on June 17, 1988 are printed in today's RECORD at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the presiding officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4782. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes; and

H.R. 4783. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes.

At 3:14 p.m., a message from the House of Representatives delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4784. An act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes.

At 3:24 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1901. A bill to designate the Federal Building located at 600 Las Vegas Boulevard in Las Vegas, Nevada, as the "Alan Bible Federal Building"; and

S. 1960. An act to designate the Federal Building located at 215 North 17th Street in Omaha, Nebraska, as the "Edward Zorinsky Federal Building".

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4782. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes; to the Committee on Appropriations.

H.R. 4783. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes; to the Committee on Appropriations.

H.R. 4784. An act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 2530: A bill to improve the management of the Federal pay system and increase efficiency and productivity of Federal employees, and for other purposes; and

H.R. 4731. An Act to extend the authority for the Work Incentive Demonstration Program.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Appropriations, with amendments:

H.R. 4782: A bill making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes (Rept. No. 100-388).

By Mr. BURDICK, from the Committee on Appropriations, with amendments:

H.R. 4784. A bill making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes (Rept. No. 100-389).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURDICK:

S. 2539. A bill to amend the Agricultural Act of 1969 to provide drought relief to producers of 1988 crops of wheat, feed grains, upland cotton, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HEFLIN:

S. 2540. A bill for the relief of Bassam S. Belmany; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 2541. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the gain on certain sales of lands subject to ground leases; to the Committee on Finance.

By Mr. MOYNIHAN [for himself, Mr. Lugar, Mr. Durenberger, Mr. Dixon, Mr. Dole, Mr. Pell, Mr. Stafford, Ms. Mikulski, Mr. Trible, Mr. Inouye, Mr. Lautenberg, Mr. Cranston, Mr. Pryor, Mr. Hollings, Mr. Wilson, and Mr. Hatch]:

S.J. Res. 342. Joint resolution to designate the week of November 28 through December 5, 1988, as "National Book Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURDICK:

S. 2539. A bill to amend the Agricultural Act of 1949 to provide drought relief to producers of 1988 crops of wheat, feed grains, upland cotton, and rice; to the Committee on Agriculture, Nutrition, and Forestry.

DROUGHT RELIEF

● Mr. BURDICK. Mr. President, this past weekend, I visited North and South Dakota with my distinguished colleague from Vermont, Senator Leahy. Several other of my colleagues were also on this trip. I appreciate their visiting North Dakota to witness first-hand one of my State's drought stricken areas.

During our tour, we heard from many farmers and ranchers about how this drought is affecting them and the severe consequences they face personally. We heard how they are trying everything they know to do to make it through this drought, including shipping cattle hundreds of miles to greener pastures.

I would like to describe to you what I saw in my State. We drove along the countryside for 15 miles to Larry Schmitz' farm in Menoken, ND. I have never witnessed such devastation, even during the Dust Bowl year of 1934. As we looked at the countryside from our bus and listened to farmers, an economist and a crop insurance adjuster, we saw only devastation.

There was a field of sunflowers that never came up. We passed CRP land that had grass on it that was only 2 to 3 inches tall, at the most. Weeds crowded out grass on the pastures, as well as the CRP land.

We walked through a wheat field on our way to the farm. This was a field of winter wheat that should have been between over 2 feet high with heads full of kernels. Instead, this wheat was 6 to 8 inches tall and was like straw. More importantly, the heads were empty.

No amount of rain would revive this wheat. In fact, none of the crops we saw in this 15 mile drive could be revived with any amount of rain.

We also flew in helicopters to get an aerial view of this drought-ravaged area. No one can imagine the devastation we witnessed from this vantage point.

As we flew along, we saw many of our famous prairie potholes that were completely dry. There was no wildlife to been seen. We also saw a pasture that had 20 head of cattle on it, when there was not enough grass to sustain one cow.

Throughout our trip, farmers and ranchers wanted to know what Congress and the administration intend to do to help them survive a drought that rivals any we have seen this century. At each stop we made in both North and South Dakota, there was one thing in particular that farmers, economists and business people agreed was imperative for the survival of our farmers. We heard again and again, "we must have our deficiency payments. Without them our farmers cannot survive."

In response, I pledged that I would introduce a bill that would guarantee deficiency payments at the level of the estimated deficiency payment. I introduce that bill today.

My bill essentially creates a 0/92 program for producers who experience a crop failure. It provides that, for the 1988 crop year, producers eligible for deficiency payments shall be eligible for payment of 92 percent on the acreage that is or was planted to the 1988 crop of wheat, feed grains, upland cotton and rice and is included in a failed acreage report filed by the producer with the appropriate county ASCS office. The rate of payment will be the projected deficiency payment.

Mr. President, by guaranteeing deficiency payments, we send a message to our farmers that we will stand by them to help them make it through this drought. More importantly, we keep many of these farmers on the farm.

Just as our rural economy was recovering from a major depression, we are being dealt the cruel blow of a severe drought. Farmers are suffering as I have never before seen them suffer. I believe that we must let our farmers know now that their deficiency payments will be made. This would go a long way to ease their minds and relieve much of the suffering we saw in the faces of the people we met this past weekend. I hope that my colleagues will join me in providing these payments to our farmers.●

By Mr. INOUYE:

S. 2541. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the gain on certain sales of lands subject to ground leases; referred to the Committee on Finance.

LEGISLATION TO EXCLUDE THE GAIN ON CERTAIN SALES OF LANDS FROM GROSS INCOME

Mr. INOUYE. Mr. President, I rise to introduce a bill to amend the Internal Revenue Code of 1986 to exclude from gross income, profits on lease-free conversions of residential properties. This exemption, available until 1995, would provide an incentive for landowners to sell their fee-simple interests to those persons currently leasing the land. Specifically addressed would be the situation of condominium and co-op owners who are currently leasing the land on which their buildings are situated.

This bill would increase the chances of residential and condominium owners, who currently lease their land, to become homeowners in the true sense of the word by acquiring an interest in the land they live on.

The impact of this bill would be tremendous. In Hawaii, an estimated 70,000 people would be affected by this legislation. Much of the land in Hawaii is owned by a few large estates. Allowing these estates to sell some of their fee-simple interests would benefit the State and its residents by increasing the size of the landownerships.

The large landholding estates in Hawaii would welcome this legislation as an opportunity to voluntarily dispose of some of their land. The current system addresses the goal of broadening the size of landownership by mandatory conversions. This is a costly procedure requiring Government condemnation of the land as part of the transfer. This bill would allow for an increase in the size of landownership by creating an incentive for voluntary lease-free conversions. This would effectively remove the need for the Government's involvement in this costly process.

I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the bill be placed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S.2541

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 135 as section 136 and by inserting after section 134 the following new section:

"SEC. 135. GAIN ON CERTAIN SALES OF LAND SUBJECT TO GROUND LEASE.

"(a) General Rule.—Gross income shall not include any gain on a qualified sale of land.

"(b) Qualified Sale.—For purposes of this section, the term 'qualified sale' means any sale or exchange of land if—

"(1) such land was subject to a ground lease on the date of the enactment of this section and at all times thereafter before the date of such sale or exchange,

"(2) such sale or exchange is to the lessee under such ground lease,

"(3) the only buildings on such land are residential buildings (or appurtenant structures), and

"(4) such sale or exchange is on or before December 31, 1995.

"(c) Residential Building.—For purposes of this section, the term 'residential building' means—

"(1) any single-family house, and

"(2) any building containing 2 or more dwelling units (as defined in section 167(k)(3)(C)) if 80 percent or more of such building (other than common areas) consists of dwelling units (as so defined)."

(b) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 135 and inserting the following:

"Sec. 135. Gain on certain sales of land subject to ground lease.

"Sec. 136. Cross references to other Acts."

(b) The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act in taxable years ending after such date.

ADDITIONAL COSPONSORS

S. 314

At the request of Mr. Pressler, the name of the Senator from Virginia [Mr. Warner] was added as a cosponsor of S. 314, a bill to require certain telephones to be hearing aid compatible.

S. 1109

At the request of Mr. Harkin, the name of the Senator from South Carolina [Mr. Thurmond] was added as a cosponsor of S. 1109, a bill to amend the Federal Food, Drug, and Cosmetic Act to require certain labeling of foods which contain tropical fats.

S. 2174

At the request of Mr. Burdick, the name of the Senator from South Dakota [Mr. Daschle] was added as a cosponsor of S. 2174, a bill to amend the Department of Transportation Act so as to reauthorize local rail service assistance.

S. 2193

At the request of Mr. Inouye, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of S. 2193, a bill to amend title XVIII of the Social Security Act to increase the independence of psychologists with respect to services furnished at a comprehensive outpatient rehabilitation facility.

S. 2222

At the request of Mr. Kennedy, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of S. 2222, a bill to amend the Public Health Service Act to reauthorize programs relating to the national research institutes established under title IV of such act, and for other purposes.

S. 2454

At the request of Mr. Boschwitz, the names of the Senator from Minnesota [Mr. Durenberger] and the Senator from Indiana [Mr. Lugar] were added as cosponsors of S. 2454, a bill to seek the eradication of the worst aspects of poverty in developing countries by the year 2000.

At the request of Mr. Harkin, the name of the Senator from Washington [Mr. Evans] was added as a cosponsor of S. 2454, supra.

S. 2484

At the request of Mr. Danforth, the name of the Senator from Washington [Mr. Evans] was added as a cosponsor of S. 2484, a bill to amend the Internal Revenue Code of 1986 to enhance the incentive for increasing research activities.

S. 2510

At the request of Mr. Inouye, the names of the Senator from North Dakota [Mr. Burdick] and the Senator from Kentucky [Mr. Ford] were added as cosponsors of S. 2510, a bill to make certain U.S.-flag vessels eligible for operating-differential subsidies under the Merchant Marine Act, 1936.

S. 2521

At the request of Mr. Matsunaga, the name of the Senator from Hawaii [Mr. Inouye] was added as cosponsor of S. 2521, a bill to require the Administrator of Veterans' Affairs to conduct a study of the prevalence and incidence of certain psychological problems among Asian-American and Polynesian-American Vietnam veterans.

S. 2527

At the request of Mr. Metzenbaum, the names of the Senator from Nebraska [Mr. Exon], the Senator from Massachusetts [Mr. Kerry], and the Senator from Wisconsin [Mr. Proxmire] were added as cosponsors of S. 2527, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

S. 2528

At the request of Mr. Metzenbaum, the names of the Senator from Nebraska [Mr. Exon], the Senator from Massachusetts [Mr. Kerry], and the Senator from Wisconsin [Mr. Proxmire] were added as cosponsors of S. 2528, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

S. 2534

At the request of Mr. Dole, the name of the Senator from Wyoming [Mr. Wallop] was added as a cosponsor of S. 2534, a bill to establish a College Savings Bond Program and to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from certain savings bonds the proceeds of which are used to pay certain post-secondary educational expenses, and for other purposes.

SENATE JOINT RESOLUTION 291

At the request of Mr. Cochran, the names of the Senator from Georgia [Mr. Nunn] and the Senator from Missouri [Mr. Danforth] were added as cosponsors of Senate Joint Resolution 291, a joint resolution to designate the Month of September 1988 as "National Sewing Month."

SENATE JOINT RESOLUTION 294

At the request of Mr. Trible, the name of the Senator from Ohio [Mr. Metzenbaum] was added as a cosponsor of Senate Joint Resolution 294, a joint resolution designating August 9, 1988, as "National Neighborhood Crime Watch Day."

SENATE JOINT RESOLUTION 296

At the request of Mr. Shelby, the names of the Senator from Minnesota [Mr. Durenberger] and the Senator from California [Mr. Wilson] were added as cosponsors of Senate Joint Resolution 296, a joint resolution designating April 1989 as "National Outdoor Power Equipment Safety Month."

SENATE JOINT RESOLUTION 298

At the request of Mr. D'Amato, the names of the Senator from South Carolina [Mr. Thurmond], the Senator from Connecticut [Mr. Weicker], the Senator from West Virginia [Mr. Rockefeller], and the Senator from Hawaii [Mr. Matsunaga] were added as cosponsors of Senate Joint Resolution 298, a joint resolution designating

September 1988 as "National Library Card Sign-Up Month."

SENATE JOINT RESOLUTION 312

At the request of Mr. D'AMATO, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Joint Resolution 312, a joint resolution designating the week beginning September 18, 1988, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 320

At the request of Mr. HATCH, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Indiana [Mr. QUAYLE], the Senator from Alabama [Mr. SHELBY], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 320, a joint resolution to commemorate the fiftieth anniversary of the passage of the Food, Drug and Cosmetic Act.

SENATE JOINT RESOLUTION 326

At the request of Mr. MOYNIHAN, the name of the Senator from Florida [Mr. GRAHAM], was added as a cosponsor of Senate Joint Resolution 326, a joint resolution designating June 12 through 18, 1988, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 337

At the request of Mr. COCHRAN, the name of the Senator from Alabama [Mr. HEFLIN], was added as a cosponsor of Senate Joint Resolution 337, a joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 21, 1988, as "National Military Families Recognition Day."

SENATE RESOLUTION 408

At the request of Mr. MITCHELL, the names of the Senator from Nevada [Mr. REID] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Resolution 408, a resolution to condemn the use of chemical weapons by Iraq and urge the President to continue applying diplomatic pressure to prevent their further use, and urge the administration to step up efforts to achieve an international ban on chemical weapons.

SENATE RESOLUTION 432

At the request of Mr. MOYNIHAN, the names of the Senator from California [Mr. CRANSTON], the Senator from Arizona [Mr. DECONCINI], the Senator from New Mexico [Mr. DOMENICI], the Senator from Massachusetts [Mr. KERRY], the Senator from Michigan [Mr. LEVIN], the Senator from Georgia [Mr. NUNN] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Resolution 432, a resolution to honor Eugene O'Neill for his priceless contribution to the canon of American literature in this the 100th anniversary year of his birth.

SENATE RESOLUTION 442

At the request of MR. TRIBLE, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Massachusetts [Mr. KERRY], the Senator from Oregon [Mr. PACKWOOD], the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Resolution 442, a resolution expressing the sense of the Senate that the President should convene an International Conference on Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere.

AMENDMENTS SUBMITTED

TENDER OFFICER DISCLOSURE AND FAIRNESS ACT

ARMSTRONG (AND OTHERS) AMENDMENT NO. 2374

Mr. ARMSTRONG (for himself, Mr. METZENBAUM, Mr. SHELBY, and Mr. GRAMM) proposed an amendment to the bill (S. 1323) to amend the Securities Exchange Act of 1934 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender officers; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. —. GOLDEN PARACHUTES; POISON PILLS.

(a) Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) is amended by adding at the end thereof the following new subsections:

"(m)(1) In the case of any class of equity security which is registered pursuant to this section, or any equity security of an insurance company which would be required to be so registered except for the exemption contained in subsection (g)(2)(G), or any equity security issued by a closed-end investment company registered under the Investment Act of 1940, it shall be unlawful for the issuer of such securities to enter into or amend, directly or indirectly, agreements to increase the current or future compensation of any officer or director in an amount which would constitute an 'excess parachute payment', as defined in section 280G(b)(1) of the Internal Revenue Code of 1986, contingent upon a change of control of the issuer by stock or asset acquisition, unless such agreements have been approved by the affirmative vote of a majority of the aggregate outstanding voting securities of the issuer. If any such agreement was entered into prior to enactment of this subsection, such agreement shall remain in effect after the close of the 2-year period beginning on the date of enactment of this subsection only if such agreement is approved by the shareholders pursuant to this subsection prior to the close of such period.

"(2) The Commission may, by rule, regulation, or by order, upon application, conditionally or unconditionally,—

"(A) exempt any person, security, or transaction from any or all of the provisions of this subsection as it determines to be necessary or appropriate and consistent with the public interest or the protection of investors, and

"(B) provide exemptions, subject to such terms and conditions as may be prescribed therein, from any or all of the provisions of paragraph (1).

"(n)(1) It shall be unlawful for an issuer of any class of any equity security described in subsection (m)(1) to issue, grant, declare, or establish any rights, including voting rights, of securities holders of the issuer with respect to any security or asset of the issuer or any other person, where the exercisability of such right is conditioned on the acquisition of securities of the issuer by a person other than the issuer, unless the establishment of such rights has been approved by a majority of the aggregate outstanding voting securities of the issuer. If such rights were established prior to enactment of this subsection, such rights shall remain in effect after the close of the 2-year period beginning on the date of enactment of this subsection only if such rights are approved by the shareholders pursuant to this subsection prior to the close of such period.

"(2) The Commission may, by rule, regulation, or by order, upon application, conditionally or unconditionally, exempt any person, security, or transaction, or class thereof from any or all of the provisions of this paragraph to the extent it determines such exemption is necessary or appropriate in the public interest and for the protection of investors and consistent with the purposes and policy fairly intended by this paragraph.".

On page 29, between lines 13 and 14, insert the following:

SEC. —. CONFIDENTIAL PROXY VOTING.

Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2)(A) Unless the Commission prescribes rules and regulations providing for an alternative to confidential proxy voting as described in paragraph (3), the rules and regulations prescribed by the Commission under paragraph (1) shall require confidentiality in the granting and voting of proxies, consents, and authorizations, and shall provide for the announcement of results of a vote following tabulation by an independent third party certified in accordance with such rules and regulations. Nothing in this paragraph authorizes any person to withhold information from the Commission or from any other duly authorized agency of Federal or State government.

"(B) The Commission shall prescribe any rules and regulations required by subparagraph (A) within 1 year after the date of enactment of this paragraph.

"(3)(A) In lieu of the rules and regulations described in paragraph (2), the Commission may prescribe rules and regulations which provide for an alternative to confidential proxy voting, if such alternative will assure—

"(i) the integrity of the proxy voting process,

"(ii) fairness to shareholders,

"(iii) unimpeded exercise of shareholder voting franchise,

"(iv) insulation from improper influence to a degree that meets or exceeds the protection afforded by confidential proxy voting, and

"(v) announcement of results of a vote following tabulation by an independent third party certified in accordance with such rules and regulations.

"(B) In promulgating rules and regulations under this paragraph the Commission shall—

"(i) consult with the Secretary of the Department of Labor, and

"(ii) hold public hearings, inviting the participation of all interested parties, including individual shareholders, securities issuers, institutional investors, and securities firms.

"(C) The Commission shall prescribe any rules and regulations required by subparagraph (A) not later than 11 months after the date of enactment of this paragraph.".

Beginning on page 35, line 17, strike all through page 36, line 24, and insert the following:

Section 13(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)) is amended by adding at the end thereof the following:

"(4) It shall be unlawful for an issuer of any class of equity security described in section 14(d)(1) of this title to acquire, directly or indirectly, any of its securities from any person who is the beneficial owner of more than 3 percent of the class of the securities to be acquired, unless such acquisition has been approved by the vote of a majority of the outstanding voting securities of the issuer (excluding the shares to be acquired), or acquisition is pursuant to a tender offer, or request or invitation for tenders, to all holders of securities of such class. The Commission shall, by rule, regulation, or by order, on application, conditionally or unconditionally, exempt any person, security, or transaction from any or all of the provisions of this paragraph as it determines to be necessary or appropriate and consistent with the public interest, the protection of investors, and the purposes of this paragraph.".

On page 45, line 9, strike "studies" and insert "study".

Beginning on page 45, line 10, strike all through page 46, line 3.

On page 46, line 4, strike "(b)" and insert "(a)".

On page 46, line 21, strike "(c) Report on Studies." and insert "(b) Report on Study.".

On page 47, line 1, strike "studies" and insert "study".

RETAIL COMPETITIVENESS

THURMOND AMENDMENT NO. 2412

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill (S. 430) to amend the Sherman Act regarding retail competition; as follows:

At the appropriate place, insert the following:

Sec. . (a) Title V of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART D—PUBLIC AWARENESS CONCERNING THE HEALTH EFFECTS OF ALCOHOLIC BEVERAGE CONSUMPTION

"SEC. 550. PUBLIC AWARENESS.

"(a) Definitions.—For purposes of this section—

"(1) Alcoholic beverage.—The term 'alcoholic beverage' includes distilled spirits, wine, any drink in liquid form containing wine to which is added concentrated juice or flavoring material and intended for human consumption, and malt beverages.

"(2) Commerce.—The term 'commerce' has the same meaning as in section 3(2) of the Federal Cigarette Labeling and Advertising Act.

"(3) Container.—The term 'container' means any container, irrespective of the material from which made, used in the sale of any alcoholic beverage.

"(4) Distilled spirits.—The term 'distilled spirits' means any ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

"(5) Malt beverage.—The term 'malt beverage' means a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

"(6) Person. —The term 'person' has the same meaning as in section 3(5) of the Federal Cigarette Labeling and Advertising Act.

"(7) United States.—The term 'United States' has the same meaning as in section 3(3) of the Federal Cigarette Labeling and Advertising Act.

"(8) Wine.—The term 'wine' has the same meaning as in section 17(a)(6) of the Federal Alcohol Administration Act (27 U.S.C. 211(a)(6)).

"(b) General Rule.—It shall be unlawful for any person to manufacture, import, or package for sale or distribution, any alcoholic beverage unless the container of such beverage has a label bearing one of the following statements:

"(1) 'WARNING: THE SURGEON GENERAL HAS DETERMINED THAT THE CONSUMPTION OF THIS PRODUCT, WHICH CONTAINS ALCOHOL, DURING PREGNANCY CAN CAUSE MENTAL RETARDATION AND OTHER BIRTH DEFECTS.

"(2) 'WARNING: DRINKING THIS PRODUCT, WHICH CONTAINS ALCOHOL, IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY.

"(3) 'WARNING: THIS PRODUCT CONTAINS ALCOHOL AND IS PARTICULARLY HAZARDOUS IN COMBINATION WITH SOME DRUGS.

"(4) 'WARNING: THE CONSUMPTION OF THIS PRODUCT, WHICH CONTAINS ALCOHOL, CAN INCREASE THE RISK OF DEVELOPING HYPERTENSION, LIVER DISEASE, AND CANCER.

"(5) 'WARNING: ALCOHOL IS A DRUG AND MAY BE ADDICTIVE.'.

"(c) Location of Label.—The label required by subsection (b) shall be located in a conspicuous and prominent place on the container of a beverage to which such subsection applies. The statement required by such subsection shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such container.

"(d) Requirements.—Each statement required by subsection (b) shall—

"(1) be randomly displayed by a manufacturer, packager, or importer of an alcoholic beverage in each calendar year in as equal a number of times as is possible on each brand of the beverage; and

"(2) be randomly distributed in all parts of the United States in which such brand is marketed.

"(e) Bureau of Alcohol Tobacco and Firearms.—The Bureau of Alcohol Tobacco and Firearms shall—

"(1) have the power to—

"(A) ensure the enforcement of the privisions of this section; and

"(B) issue regulations to carry out this section; and

"(2) consult and coordinate the health awareness efforts of the labeling requirements of this section with the Secretary of Health and Human Services.

"(f) Violations.—Any person who violates the provisions of this section shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than $10,000

"(g) Jurisdiction.—The several district courts of the United States are invested with jurisdiction, for cause shown, to prevent and restrain violations of this section upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

"(h) Exemptions.—Alcoholic beverages manufactured, imported, or packaged for export from the United States, or for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt from the requirements of this section, but such exemptions shall not apply to alcoholic beverages manufactured, imported, or packaged for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States.

"(i) Liability.—Nothing in this section shall be construed to relieve any person from any liability under Federal or State law to any other person.

"(j) Preemption.—No statement relating to alcoholic beverages and health, other than a statement required by subsection (b), shall be required on any alcoholic beverage container covered by this section.".

(b) The amendment made by this section shall become effective 6 months after the date of its enactment.

NOTICES OF HEARING

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding the following:

A hearing on Tuesday, June 21, 1988, in Senate Russell 485, beginning at 9 a.m., on S. 2382, a bill to delay implementation of a certain rule affecting the provision of health services by the Indian Health Service.

A field hearing on the Hoopa-Yurok Indian Reservation on June 30, 1988, in Sacramento, CA, at the Sacramento Board of Supervisors Council Chambers, Room 1450, 700 H Street, Sacramento, CA, from 9 a.m. to 12 noon; and also an oversight hearing on the Eligibility for Services from the Indian Health Services from 1 p.m. to 5 p.m.

Those wishing additional information should contact the Indian Affairs Committee at 224-2251.

ADDITIONAL STATEMENTS

COMMENDING HAWAII COMPUTER TRAINING CENTER

Mr. INOUYE. Mr. President, I wish to express my commendation to the sponsors of an innovative training project in Hawaii designed to assist Native Hawaiians, the largest economically disadvantaged ethnic group in the State of Hawaii.

The Hawaii Computer Training Center is a joint project of International Business Machines [IBM] and Alu Like, Inc., a nonprofit organization assisting Native Hawaiians. It provides a high quality and affordable means of training in the computer field, thereby enabling broad employment and business opportunities for the Native Hawaiian community. The 16-week training program recently graduated its fourth class.

I believe that special commendation is owed to the Pacific Area Manager for IBM, Anton Chalmers Krucky, for initiating the establishment of the Hawaii Computer Training Center. I might note that Mr. Krucky is himself one-quarter Native Hawaiian. His dedication to assisting his fellow Native Hawaiian people and IBM's continuing support of this important program is a sterling example of corporate citizenship.

Mr. President, I ask that several articles from the June 1988 issue of the newsletter of the Office of Hawaiian Affairs, Ka Wai Ola O OHA, be reprinted in the RECORD.

The articles follow:

[From Ka Wai Ola O OHA, June 1988]

KUPUNA BEGINS LIFE AT 60 IN THE COMPUTER LANE

(By Kenny Haina, Editor, Ka Wai Ola O OHA)

A 60-year-old grandmother of nine (soon to be 10), who has held a number of executive and administrative secretarial positions, suddenly realized not too long ago she was lacking in one important area—computer training.

Apolei Kahai Bargamento, a 100 percent native Hawaiian who admits to understanding more than speaking the language, found out about the Hawaii Computer Training Center by Alu Like Inc. through a friend. She subsequently enrolled in Class IV which held its graduation exercises Saturday, Apr. 23.

So life in the computer lane begins at 60 for this livewire and talented kupuna who thought she had all the necessary tools in her field until the realization she had no computer background. That is to say, nothing like the total picture she found at HCTC. She had been exposed to computers in her previous employment but nothing like she just went through.

"Today's business is heavy into automation. This is why you need computers and you need to be prepared because computers, too, are always changing. My knowledge of computers was limited before I came to this school (HCTC)," said Bargamento who is the mother of four daughters, including a set of twins, and a son living on Maui.

"Our Hawaiians should look into this program. It's fantastic. IBM (International Business Machines) provides us with the latest up-to-date equipment. And the fee for Hawaiians unable to pay is the best thing. I learned that this kind of training runs around $4,500 elsewhere. The staff and the sponsoring businesses here are all supportive," she continued.

Bargamento, who is the oldest student to graduate from HCTC, possesses strong credentials in the secretarial field. She types 85 to 100 words per minute and has worked as administrative secretary for Orange County, the State of California and for the University of Califorinia at Irvine.

She was executive secretary for eight years to the area director of the church eductional system of the Church of Jesus Christ of Latter Day Saints (Mormons) until the office was moved to Australia, a transfer she did not want to make.

Bargamento was also secretary to the admissions director at Brigham Young University of Hawaii and served five years as office manager at Newtown Recreation Center.

As for her HCTC experience, she said she had a few hangups in the beginning of the 16-week training but soon overcame them to graduate with honors, one of seven in this largest class of 19 to be cited. The previous high was 18.

Bargamento, who is originally from Kalihi but now resides in Perarl City, graduated from Roosevelt High Schol when it was an English standard school.

Coincidentally, Bargamento began work May 2 at the Office of Hawaiian Affairs as secretary to Government Affairs Officer Jalna Keala, replacing Brian Doty who currently serves as secretary to Land Officer Linda Kawai'ono Delaney.

KRUCKY'S DEEP CONCERN FOR FELLOW HAWAIIANS NOTED

(By Kenny Haina, Editor, Ka Wai Ola O OHA)

Anton Chalmers Krucky may not look it but he proudly notes he is one-quarter Hawaiian and is deeply concerned about education for Hawaiians, especially in the computer field.

As Pacific Area manager for International Business Machines (IBM), Krucky holds the top job in an area which also includes Japan, Hong Kong and Taiwan. He came to Honolulu a little over two years ago in February, 1986.

Krucky immediately set into motion a plan to establish a computer training school for minorities and the disadvantaged. He got together with Alu Like Inc. and the result was the Hawaii Computer Training Center which graduated its fourth class Apr. 23.

He explained that IBM already had such schools going on the mainland so why not have one here? Krucky told Ka Wai Ola O OHA he has another project in mind that would also benefit minority groups, especially Hawaiians, but was not ready to reveal the plan.

Krucky is Hawaiian through his mother, the former Evelyn Chalmers, who is one-half Hawaiian. He has three older sisters who were born in Honolulu and are now residents of the Washington, D.C., area where they are active members of the Hawaii State Historic Society. Krucky was born in Japan during the Korean War. His father was stationed there with the Navy.

While he never lived or grew up in Hawaii, it was always his goal to "come home" and do something for the people here. IBM is the major corporate sponsor of HCTC and Krucky is elated over the success of the program headed by Director Estelle Liu and a dedicated staff.

Krucky went to high school in Maryland and graduated in 1974 from the University of Maryland with a Bachelor of Arts degree in criminology. He was hired by IBM in 1977 as an engineer in San Francisco. Then followed marketing, manufacturing and management until his relocation here in 1986.

Krucky says he likes being "back home" and will be doing everything he can in the computer field to help his fellow Hawaiians. He is married to the former Dana Anderson of San Francisco. She works for Hawaiian Telephone Company in its marketing department.

He feels honored the school has named an award in his honor for the most outstanding student. Krucky says he looks forward to every graduation and presentation of the award "because I really feel good about this award. It is something to see the students endure 16 weeks of intensive training and have one among them doing exceptional work. In my book, all the graduates are winners."

COMPUTER TRAINING CENTER GRADUATES LARGEST CLASS

(By Kenny Haina)

A housewife and mother for 18 years with two grown high school sons and a single parent with five children ages one and one-half to 13 were recipients of two prestigious awards at the Apr. 23 Class IV graduation of the Hawaii Computer Training Center, 33 S. King St.

A project of Alu Like Inc. in conjunction with International Business Machines (IBM) and other business firms, the program was held in the third floor meeting room of the computer school.

Nineteen students were presented their certificates by Director Estelle Liu. Seven of them graduated with honors. This was by far the largest number of graduates for one class and also the highest total with honors since the school's inception in March, 1986.

The dropout ratio was also the lowest with just five who did not stay on to finish for a variety of reasons. The class started with 24. Class V began May 2 with 30 students who will be handled in two groups of 15.

The Anton Krucky Award for the most outstanding student went to Evelyn Girndt, the housewife and mother who said she learned about the school by reading Ka Wai Ola O OHA. She said it was about time she got into the employment market to help her husband, Walter, with the college education of their two sons—Werner, who just finished his junior year at Kamehameha and Erik, who will join his brother in August at Kapalama Heights as a ninth grader. Krucky personally presented the award.

Erleen Haunani Eaton, who didn't finish high school but got her GED which is the equivalent of a high school diploma, was named as the student with the most improved performance to receive the Winona Elis Rubin Award. Mrs. Rubin, director of the Department of Human Services, missed her first graduation because of the pressure of business at the state legislature. Mrs. Liu did the honors.

Mrs. Girndt is a 1953 graduate of St. Joseph's High School in Hilo. Her husband is a pastry chef with United Air Lines.

Eaton, who worked a few years as an educational assistant at Palolo Elementary

School, said she didn't have college intentions so "I had to pick up something. I learned about this school but I didn't think I was smart enough."

She went through the interview, was accepted and worked hard despite the pressures of five growing youngsters. Eaton quickly learned the program which was new to her, persevered and came through with flying colors.

The keynote speaker was Dr. Richard Kekuni Blaisdell who told students "We are descendants of those Polynesians who traveled the open sea guided only by the stars, wind and birds to a new nation. You have it in your genes. We are the indigenous people of these islands. The most precious think we have is being Hawaiian."

He also encouraged the students to be aggessive in protecting native Hawaiian rights, culture and religion. He closed his brief address with a chant.

A slide show presentation and the singing of the class song, "What You Did for Us," completed the program. The class motto was "Ho'oulu i ka po'okela" (to grow to excellence).

The graduating class, with honors designated by (H), follows:

Karen K. Abersold (H) Paulette Kuuipo Aiona, Apolei Kahai Bargamento (H), Juliet Lynn Cordova, David Dane, Erleen Haunani Eaton, Lean Ann Fritzler (H), Evelyn Girndt (H), Rhonda Greco.

Also, Brendalyn Ponilani Apele-Iokia, Anderson P. Kahuyanui, George K, Kaopuiki (H), Rosemary Lokelani Lum, Allyn U. Morita (H), Dee Palakiko, Babette Malia Mahealani Porter, Gay Kinoaloha Porter, Ramona Rodriguez, and Emmaline U. Yen (H). Kaopuiki class president.

Food and beverage paid for by the students through a fund raising project were served following the program.

In addition to IBM, other corporate sponsors are First Hawaiian Bank, Hawaiian Electric Inc., United Air Lines, Alexander and Baldwin Inc., James Campbell Estate, Hawaiian Telephone Company and Bank of Hawaii.●

50TH ANNIVERSARY OF THE NATIONAL SKI PATROL

● Mr. HATFIELD. Mr. President, 50 years ago, New York insurance broker Charles "Minnie" Dole founded the National Ski Patrol to serve the needs of disabled winter sports enthusiasts and to provide skier safety information. The organization has grown to a force of more than 24,000 volunteer and professional members.

Since the formation of the National Ski Patrol, the nonprofit organization has saved many lives and provided prompt first aid to thousands of injured skiers. Because its members must meet rigorous requirements, including 60 hours of advanced Red Cross instruction in everything from car extrication to childbirth, many more people than just those who ski have benefited from the National Ski Patrol. In recognition of the National Ski Patrol's dedication to service, it was granted a Federal charter by Congress in 1980.

The National Ski Patrol now operates in almost every State in the Union, as well as overseas. Its membership ranges in age from 15 to 70 and includes lawyers, educators, artists, business owners, high school students and many others. They can be found at work on the slopes providing the one thing they all have in common to those who need it, the willingness to help others. The familiar cross on brightly colored parkas is sign of welcome to disabled skiers as well as a symbol of skier safety to everyone on the slopes.

Most of those involved in the National Ski Patrol are volunteers, who, in their spare time, learn the skills required to become and remain a patroller. In addition to the patrol of winter recreation areas, patrollers are called upon to help in emergencies such as avalanche and blizzard searches. They are continually taking refresher courses to assure that they will remain current on the latest first aid and disaster techniques.

Throughout its 50-year history the National Ski Patrol has continually worked to improve its services. From the establishment of a communications department to help distribute information to members, to the creation of a full-time professional division, the National Ski Patrol has been constantly changing, growing and improving. The National Ski Patrol's continued involvement in the National Avalanche Foundation earned them the responsibility of assuming administration of the foundation, which includes running the National Avalanche School to teach the fundamentals of avalanche science, protection, and travel techniques. The National Ski Patrol recently developed a Winter Emergency Care Program engineered to meet the special first aid needs of the patrollers with a program textbook soon to be published.

National Ski Patrol members use special emergency care and transport equipment and often transport skiers miles before they can access hospital facilities. The National Ski Patrol has been an integral part of skier safety and injury treatment for over 50 years and will continue to diligently serve the public for years to come.

Mr. President, the National Ski Patrol has proven to all of us how one group of dedicated individuals can make a difference in the lives of others. I urge my colleagues to join me in congratulating the National Ski Patrol for their 50 years of service and to wish them continued success for the next 50 years.●

GROUND WATER PROTECTION

● Mr. HARKIN. Mr. President, ground water quality is an issue of great importance that affects the entire Nation. Because of this importance, there has been an increasing amount of attention paid to this issue within the last few years. Throughout 1987, the issue received a great amount of public attention in my State of Iowa, culminating in the passage of the landmark Ground Water Protection Act of 1987 by the Iowa Legislature.

This Iowa act is notable for its lack of standards and nonregulatory approach. Instead of dictating to individuals rules and regulations, the bill uses demonstration projects to show Iowans how to prevent ground water contamination. But without widespread public support, this nonregulatory approach cannot be effective. How the public responds to this bill depends upon how effective Iowans perceive it to be.

Luckily, however, the Iowa public does support the Ground Water Protection Act. Iowa's farmers, in particular, who must be central to any ground water program, support this ground water act.

I recently received an interesting study by Steve Padgitt, a rural sociologist at Iowa State University. He has done extensive research on management practices and the attitudes of Iowa farmers relating to ground water issues. His surveys indicate ground water quality is a high-level concern for farmers, falling below only the farm commodity prices and Federal deficit. The study also outlines the sources of information that farmers rely upon when researching the ground water issue.

As Congress grapples with the difficult issue of ground water quality, we would do well to carefully examine Iowa's experience with its Ground Water Protection Act. To that end, I commend Dr. Padgitt's study to the attention of my colleagues and ask that a summary of Dr. Padgitt's study be printed in the RECORD.

The summary follows:

FARMER'S PERSPECTIVES ON AGRICULTURE & GROUNDWATER QUALITY ISSUES

(Steve Padgitt, Extension Sociologist, Iowa State University, June 9, 1988)

SUMMARY

Since 1984 the Sociology Extension Unit has worked closely with crop production extension specialists (weed scientists, agronomists, entomologists, ag engineers, etc.) in conducting detailed studies of management practices and farmer attitudes related to water quality. The studies are part of the Integrated Farm Management Demonstration Project of the Iowa State University Agricultural Experiment Station and Cooperative Extension Service. Farmer surveys have been carried out at several locations throughout the state and a statewide survey is now in process. The knowledge generated from these studies have supplemented program planning of extension programs and will serve as baseline assessments in subsequent program evaluation. The findings include:

The assignment of a high priority to agricultural chemicals and groundwater quality as a social issue.

The perception that pesticides pose a greater risk than fertilizer.

The nearly universal use of pesticides in farming operation. (Although a majority believe chemicals are the best alternative to control weeds, insects and disease, there is substantial interest in seeking alternatives to chemicals.)

Initial reactions to educational programs that are positive and result in small adjustments downward in the use of nitrogen.

The endorsement of non-degradation and standards rather than industry self-regulation as policy options.

The use of the land grant experiment station/extension service system as a major source of information about this topic.

The belief that information obtained from the land grant experiment station/extension service system is reliable.

[Charts and graphs not reproducible for the RECORD.]

How concerned are you about the following issues? Please indicate your level of concern for each of the issues by circling the number that best represents your feelings.

OPINIONS ON AGRICULTURAL AND RURAL DEVELOPMENT POLICY ISSUES[1]

	Not concerned to very concerned							Average score
	1	2	3	4	5	6	7	
	Percent							
Prices for farm products	2	0	1	4	9	21	63	6.3
Federal budget deficit	2	1	1	4	9	16	67	6.3
Presence of pesticides, herbicides, and other chemicals in drinking water	2	2	2	7	11	20	56	6.1
Foreign ownership of farmland in IA	4	2	4	8	8	14	60	6.0
Adverse health effects from exposure to agriculture chemicals	1	1	3	9	15	23	48	5.9
Closings of local mainstreet businesses	2	1	2	9	15	24	47	5.9
Residues such as pesticides and herbicides in food products	2	2	4	9	15	22	46	5.8
Corporate ownership of farmland in IA	3	3	4	9	11	18	52	5.8
Contamination of underground water supplies	2	3	5	11	17	17	45	5.7
Soil erosion	2	1	4	10	19	25	39	5.7
Loss of farm population	3	3	6	13	15	20	40	5.6
Interest rates to borrowers	4	3	7	16	15	17	38	5.4
Inflation	3	3	6	19	20	18	31	5.3
Outmigration of IA residents to other States	5	3	5	16	19	24	28	5.3
Condition of county and State roads	2	3	6	18	23	24	24	5.2
Use of food additives and preservatives	3	5	8	18	20	19	27	5.1
Consolidation of local schools	6	3	6	19	18	19	29	5.1
Unemployment in your area	4	4	8	19	21	19	25	5.1
Quality of local services and facilities	4	5	6	23	26	21	15	4.9

[1] Source: Iowa Farm and Rural Life Poll, Spring 1988. Random sample of approximately 2,000 active Iowa farm operators. (Paul Lasley, ISU Extension Sociologist, is Principal Investigator.)

POTENTIAL FOR CHANGE IN FARMING PRACTICES

BIG SPRING BASIN: 1984–1986

Reduction in nitrogen application: 15-20#/acre.

Percent reporting decrease in nitrogen rates: 40%.

Percent reporting decrease in pesticide applications: 15%.

ATTITUDINAL PREDISPOSITIONS TO CHANGE

	Response (percent)				
	Strongly disagree	Somewhat disagree	Undecided	Somewhat agree	Strongly agree
Although some farmers could reduce fertilizer and pesticide expenses by more precise applications, for me these savings would not justify the added time, cost and effort:					
Big Spring Basin farmers	26	32	20	18	4
Winneshiek County, IA, farmers	35	32	15	13	5
Audubon County, IA, farmers	20	28	17	17	8
Although manure has significant nutrient value, the cost of utilizing this may outweigh the return:					
Big Spring Basin farmers	29	38	14	14	6
Winneshiek County, IA, farmers	51	28	8	13	0
Audubon County, IA, farmers	30	31	12	19	8
If economically viable alternatives existed, I would like to reduce my use of farm chemicals:					
Audubon County, IA, study	4	4	10	40	43
4-county, IA, study (Plymouth, Fayette, Johnson, Lee), 1988	3	6	7	38	49

LAND GRANT SYSTEM AS SOURCE OF INFORMATION

SOURCES OF INFORMATION ABOUT EFFECTS OF FARMING ON GROUNDWATER QUALITY AND ASSESSMENT OF SOURCE RELIABILITY[1]

Source	Audubon County, 1987		Big Spring Basin, 1986	
	Percent[2] used	Percent[3] reliable[2]	Percent[2] used	Percent[1] reliable[2]
Farm magazines and ag newspapers	82	55	58	51
Newspapers	76	47	49	32
Radio	70	45	48	45
Television	66	46	48	45
County Extension Service	52	75	61	77
Soil Conservation Service	45	73	38	74
Chemical company publications/representatives	35	34		
Local chemical dealers and sales representatives	33	38	26	19
Soil Conservation District	28	66	25	67
ISU extension specialists	27	73	54	72
Environmental Protection Agency	18	56	5	42
Iowa Fertilizer & Chemical Dealer Association	18	29		
State Department of Natural Resources	14	60	11	46
University Hygienic Laboratory	13	65	19	68
Iowa Department of Agriculture and Land Stewardship	9	57		
Iowa Natural Heritage Foundation	8	40		
Iowa Geological Survey	7	61	33	61
Practical Farmers of Iowa	6	37		
University of Iowa Institute of Ag Medicine	3	60		

[1] Question asked: During the past year, information about the effects of farming on groundwater quality has been available from several sources. We are interested in learning from whom you may have obtained such information. Also, please indicate how reliable you feel each source is.

[2] 5-pt. scale. 1=very reliable, 5=very unreliable. Reported percent is sum of "1's" and "2's."

[3] Percent is "valid percent." Missing cases excluded

SOURCES OF INFORMATION ABOUT CONSERVATION COMPLIANCE CONCERNS ABOUT GROUND WATER QUALITY

[4-county[1] Iowa study, 1988]

Source	Percent used	Percent very useful[1]
Farm magazines	86	33
Neighbors and friends, seed/chemical/fertilizer	70	19
Local dealers	67	46
Soil Conservation Service	62	49
Newspapers	61	10
County Extension Service	58	49
Farm radio	54	17
Advertisements in commercial media	28	6
ISU specialists	26	33
Machinery dealers	13	8

[1] Random sample of farm operators in Plymouth, Fayette, Johnson, and Lee Counties (N-244).●

THE BLUES MAN FROM BOISE, ID

● Mr. SYMMS. Mr. President, I rise today to recognize Gene Harris, a jazz musician who loves to be in Idaho, and although he is world renowned, he is best loved by Idahoans. I have watched and listened to Gene entertain audiences on warm Sunday afternoons in the small amphitheatre at the Ste. Chapelle Winery. He is truly an outstanding musician, and one of the finest blues pianists in the world.

I recently ran across an article in the Wall Street Journal, which titled Gene as "The Blues Man from Boise." With Gene's continued success, Boiseans do not see much of him but are delighted to see him return to Idaho between trips around the globe.

Mr. President, I ask that the article in the Wall Street Journal be printed in the RECORD to reflect Idaho's appreciation and congratulations to Gene Harris.

The article follows:

[From the Wall Street Journal, June 6, 1988]

THE BLUES MAN FROM BOISE

(By Joe Morgenstern)

BOISE, ID.—American jazz musicians, according to the conventional wisdom, are so neglected in their own land, where jazz was born, that they must go abroad to be appreciated. Maybe so, but here's an exception from the heartland: a portrait of the artist as a happy man.

His name is Gene Harris. He is 54 years old, a native of Benton Harbor, Mich., and an Idahoan since 1977. Never adept at self-promotion, he is a household word only in Boise. Still, Harris is known to jazz aficionados, and to his peers, as one of the greatest blues pianists in the world. And his fame is finally catching up with his virtuosity; a brilliant new album with an unwieldy title—"The Harris All Star Big Band Tribute to Count Basie"—is No. 7 on Billboard's national jazz chart.

From time to time Harris leaves Boise to play, usually as part of the Ray Brown Trio. Within the past year he has appeared in New York, Los Angeles, London, Paris, West Germany, Spain and Japan. Audiences love the interplay between Brown "a renowned bassist, and Harris, whose technique and volcanic energy moved one colleague to say, "If God meant us to play like that, He would have given us 88 fingers."

Still, Idaho is where Gene Harris is best loved, and loves to be. He understands why some people are surprised by the notion of an urban black living in a part of the country known principally for white potatoes. But he has found the good life, and is eager to share it. "If you haven't seen Boise," he said, "you don't know what heaven is."

Part of that life has been a steady gig—steady for almost a decade—in the lounge at the Idanha Hotel, a Romanesque Gothic landmark in downtown Boise. When the Idanha opened in 1901, it was the finest hotel west of the Mississippi. It's still a charming place, with an elegant restaurant that features nouvelle American cuisine. These days the stix nix more than his mix.

The lounge is small, with barely enough room for 35 seats and Harris's 9-foot Baldwin grand. On a recent Saturday night, though, more than a hundred people squeezed in to listen, clap and cheer as Harris and some local sidemen played. First came a few piano solos. There were ballads, such as "Sweet and Lovely," which Harris invested with startling strength and passion. There were rhythm tunes—such as Duke Ellington's "In a Melotone," or "The Hills of Idaho," written by a black man named Jesse Stone—that Harris developed with bold harmonic inventions, crystalline runs and the joyous trills that have become his trademark.

Unlike Count Basie, who was a minimalist, Gene Harris is a maximalist, with so much force at his command that his work can be overpowering. But he's also an exceptionally generous musician, so his solos soon gave way to ensemble work, and solos by his Boise friends.

Some were accomplished jazzmen in their own right: John Jones, a guitarist who works in a Boise pawn shop; Rod Wray, a bass player who's a prep chef in a local restaurant; Charlie Warren, a tenor sax man and construction worker; and Gib Hochstrasser, a drummer and jack-of-all-musical-trades who has a big band of his own.

Others were less accomplished, but thrilled to be there. "It's such a privilege to play with this guy," said Phil Batt, a recreational clarinetist who ran for governor in 1982, served as lieutenant governor and is now on the Idaho Highway Commission. "Gene makes everybody play better. Hell, he makes everybody feel better. He's got such a magnetic personality that the place dies when he's not here."

Joe Clayton, a real estate agent who drove 280 miles from Idaho Falls to hear Harris play, put it more simply: "He's the greatest thing that ever happened to this town."

That is the consensus. In a city where night life leans toward kids cruising on weekends, Gene Harris and his cohorts have filled a void and then some. "It's phenomenal what a following Gene has here," said Dave Malone, the Idanha's assistant manager. Peter Schott, the man who runs the hotel's restaurant and lounge, wondered whether Boiseans "know what a jewel they really have, because Gene is a great star but he never lets that come across." They certainly seem to know, for the pianist is an icon of Idaho culture. "Gene Harris?" said the woman behind a tourist bureau counter in the basement of the state capital. "Oh, he's the best entertainer we've got."

In a sense, Idaho had been waiting for Harris without knowing it. The state has a long jazz tradition. In the 1920s, so many students at the University of Idaho, in Moscow, played jazz on the train between Moscow and Boise that it came to be called the Jazz Train. During World War II, when Boise's Gowen Field was the second largest air base in the country, the city had scores of jazz clubs. Today the state university calls its music school the Lionel Hampton School of Music.

And Harris had been seeking Idaho without knowing it. When he first came to Boise, he was a man who had lost his way in the thickets of electronic music and wanted to get back to playing what he knew best. Soon he met, and subsequently married, an ebullient teacher named Jane Hewitt. The daughter of a local banker, she had grown up listening to jazz, and was a classical pianist herself. Then came the gig at the Idanha lounge, and the beginning of semiretired bliss.

The bliss remains intact. As an interracial couple in a small city, Gene and Janie Harris feel entirely at home. "There's no black or white communities here," he said. "It's just all of us together, and I love it." Harris has brought other stars to Boise to play with him, among them Ray Brown, Ramsey Lewis, Lionel Hampton and the late Buddy Rich and Woody Herman. When he plays on summer Sunday afternoons in a little amphitheater at the nearby Ste. Chapelle Winery, he draws a thousand or more listeners. When he isn't making music he's playing golf, fishing or piloting his cabin cruiser on the sparkling waters of Lucky Peak Lake.

As for the semiretirement, it's gravely threatened by success. The more Harris's album sells, the more extra-Idaho appearances he's compelled to make. (He and his band are scheduled to play tomorrow night through Sunday in Manhattan at the Blue Note and June 16-18 at the Loa in Santa Monica.)

Leaving heaven can be hell, but Harris is philosophical. "At least I'll be back to play the Winery on July 10th," he said with an expansive smile. His Boise fans are philosophical too. "These days we can't get as much of him as we'd like," said Dave Malone, the Idanha's assistant manager, "but we're grateful for what we've got."●

SUBSEABED DISPOSAL OF NUCLEAR WASTE

● Mr. HECHT. Mr. President, last fall I spoke on the floor of the Senate about the need to resume United States participation in the international research on the possibility of subseabed disposal of nuclear waste.

As a result of my efforts, and with the cooperation of several key Members of this body and the House of Representatives, there is now a special Office of Subseabed Disposal Research within the Department of Energy. Within a matter of a few weeks, at most, I expect to see the Woods Hole Oceanographic Institution delegated the responsibility to assemble a university-based subseabed consortium to plan and conduct this research.

I have made no secret of my opposition to a deep geologic repository for high level nuclear waste at Yucca Mountain, NV, or anywhere else. Deep geologic disposal of unreprocessed spent nuclear fuel will be dreadfully expensive, in excess of $25 billion, and has never been proven safe anywhere in the world. I favor reprocessing and recycling nuclear waste so it can be burned for energy.

At present, America's nuclear waste management strategy entirely depends on siting a repository at Yucca Mountain, NV. However, I am continually hearing report after report about how many problems there are with both the Yucca Mountain site, and the way the program is being run. If the technical problems turn out to be as serious as certain people think they are, or if the program suffers from procedureal inadequacies and quality control problems, then it is very much an open question in my mind as to whether the Nuclear Regulatory Commission will ever grant a license for a repository at Yucca Mountain.

If Yucca Mountain is unlicensable, then dozens of nuclear powerplants all around the country may have to be shutdown, because they operate under State laws that allow them to operate only so long as the Nuclear Regulatory Commission has confidence that there is a solution to the nuclear waste management problem. If Yucca Mountain turns out to be no good, then there is no monitored retrievable storage facility, and there is no waste confidence.

Mr. President, there are tens of millions of people in the eastern States who depend on nuclear power to run their factories and light their homes. I have no desire to see these people suddenly jobless in the dark because the Congress put all its nuclear waste eggs in a poorly conceived Yucca Mountain basket.

I would think that even those here in the Senate, or the other body, who really think that Yucca Mountain is the answer to their own parochial nuclear waste problem, would see the value in taking out a little inexpensive public policy insurance. Without this insurance, known as continuing research on subseabed disposal, a number of people on Capitol Hill might just wake up one morning in about 10 years and discover that their State is being considered once again for a repository.

If we continue research on subseabed disposal, then the factories can stay open, the lights can stay on, even if the Nuclear Regulatory Commission turns down a Yucca Mountain repository.

As I stated during the nuclear waste debates last year, other countries have in fact borne the brunt of the cost of international subseabed research efforts. Other countries are very actively and aggressively pursuing any of several variations on the theme of disposing of nuclear waste under the seabed. Sweden has a facility mined under the sea near its coast where it stores low and medium level nuclear waste. There is active discussion in Great Britain about a similar concept which may soon be applied in that country.

Earlier this year, the Washington Post reported how the chemistry of seawater might be used to dramatically improve our ability to isolate high level nuclear waste from the human environment, particularly if that waste is reprocessed first.

In a waste management system involving reprocessing, the only sensible thing to do with any residual liquid waste is to vitrify it. Vitrification is a very effective way of keeping the waste from dissolving away into the ground water when the waste canister eventually corrodes. It turns out that the magnesium found naturally occurring in seawater dramatically slows down the rate at which the vitrified waste dissolves. In other words, if you want to keep the waste out of the human environment, the best place for it is somewhere it will be in contact with seawater-saturated rock or sediment before it gets a chance to leak out into the environment more generally.

If we proceed with a land-based repository, then we would need to put magnesium salts into the dry holes where the waste canisters would be located, to try to imitate conditions that are found underneath the seabed. Rather than trying to mimic the ocean, I would hope it would be obvious to everyone that it makes more sense to take a closer look at the ocean itself.

Mr. President, I hope that Senators from States whose citizens rely on nuclear energy for their jobs and domestic energy needs, and Senators from States which may once again be considered for a land-based repository when the Yucca Mountain, NV, site turns out to be unacceptable, will support my efforts to get America once again to meaningfully participate in the cooperative international research effort on the subseabed disposal of nuclear waste.

Mr. President, I ask that an article on subseabed disposal by Dr. Tulenko of the University of Florida, an article on subseabed work in Great Britain from New Scientist magazine, and the Washington Post article on the beneficial effects of magnesium found in seawater in enhancing our ability to isolate nuclear waste from the human environment, be printed in the RECORD.

The material follows:

[From the Washington Post, Jan. 18, 1988]

DISCOVERY COULD REDUCE RISKS OF RADIOACTIVE WASTE STORAGE

One of the risks of long-term storage of highly radioactive nuclear wastes could be reduced by a factor of 100 or more if the storage facility imitated the ocean chemically, a team of government and private researchers said last week.

Their discovery, which has been tested only in the laboratory, would be a modification of a storage method now used in France and Belgium, but only under consideration for the United States and other nuclear-powered countries. The current method involves mixing the sludgelike wastes, partly dissolved in acid, with melted glass and then pouring the mixture into stainless steel canisters. After the glass cools and hardens, the sealed canisters would be buried.

The steel is expected to resist corrosion for about 300 years. After that, however, it would be possible for ground water to reach the glass and slowly corrode it, releasing radioactive matter into the water table.

The modification "will prevent the glass from corroding for at least 25,000 years," according to Sidney Alterescu of NASA's Goddard Space Flight Center in Greenbelt.

The idea emerged from the work of John A. O'Keefe, a Goddard geophysicist who studies tektites, hardened droplets of natural glass formed when meteorites land with enough force to melt and splash rock.

O'Keefe and his colleagues have found that tektites recovered from the ocean where some fell millions of years ago, are far less corroded than those of comparable age found on land. Experiments by Aaron Barkatt of the Catholic Univeristy of America have established that sea water's dissolved magnesium makes the difference. The magnesium-rich water forms a protective coating on the glass.

One way to use the discovery, the scientists suggest, would be to mix nontoxic magnesium compounds, such as Epson salts, into the earth around the canisters. When the groundwater breaches the canisters, it will resemble the ocean chemically and coat the glass.

DISPOSAL OF WASTE: A STATUS REPORT

(Session Organizer: J.S. Tulenko (Univ. of Florida)

1. Radiological Assessment of the Consequences of the Disposal of High-Level Radioactive Waste in Subseabed Sediments, G. de Marsily (Paris Sch of Mines-France), V. Behrendt, D.A. Ensminger, C. Flebus, B.L. Hutchinson, P. Kane, A. Karpf, R.D. Klett, S. Mobbs, M. Poulin, D.A. Stanners, D. Wuschke, invited.

INTRODUCTION

The radiological assessment of the seabed option consists in estimating the detriment to man and to the environment that could result from the disposal of high-level waste (HLW) within the seabed sediments in deep oceans.

The assessment is made for the high-level waste (vitrified glass) produced by the reprocessing of 10^5 tons of heavy metal from spent fuel, which represents the amount of waste generated by 3333 reactor-yr of 900-MW(electric) reactors, i.e., 3000 GW (electric) yr.

The disposal option considered is to use 14667 steel penetrators, each of them containing five canisters of HLW glass (0.15 m^3 each). These penetrators would reach a depth of 50 m in the sediments and would be placed at an average distance of 180 m from each other, requiring a disposal area on the order of 22 x 22 km. Two such potential disposal areas in the Atlantic Ocean were studied, Great Meteor East (GME) and South Nares Abyssal Plains (SNAP). A special ship design is proposed to minimize transportation accidents. Approximately 100 shipments would be necessary to dispose of the proposed amount of waste.

METHODOLOGY

The assessment was done within the framework of the International Seabed Working Group of the Nuclear Energy Agency of the Organization for Economic Cooperation and Development, using the best models and data available at the end of 1986 (Ref. 1). Three types of calculations are made:

1. The base case, or "normal" scenario: the waste is assumed buried at its prescribed depth and all the barriers behave as anticipated.
2. Several "abnormal" scenarios, where one or more components of the system behave abnormally.
3. Scenarios of transportation accidents, occurring in coastal areas or in the deep seas: not only the consequences of such accidents are analyzed, but also their probability of occurrence is assessed given a special ship design. Probability of recovery actions is also studied.

The assessments are made with both a deterministic and a stochastic methodology. This makes it possible to estimate not only the most likely doses resulting from each scenario, but also the range of uncertainty of this estimation, given the uncertainty in the available data.

RESULTS

No significant differences were found between the two sites (GME and SNAP), although the quality of their sediments is slightly different. We will therefore not specify the site origin of the results.

BASE CASE

For the base case, the peak dose to the maximally exposed group of individuals is on the order of 2.8×10^{-9} Sv.yr^{-1} for the complete repository of 10^5 tonne heavy metal (HM), occurring 150000 yr after disposal. This is $\sim3.6\times10^5$ times smaller than the International Commission on Radiological Protection recommended limit (10^{-3} Sv.yr^{-1}), and also 3.6×10^5 times smaller than background doses: such very small doses are therefore totally negligible and insignificant. The uncertainty on this value calculated by the stochastic analysis ranges between 3×10^{-15} and 3×10^{-8} Sv.yr^{-1}, and the highest dose ever calculated in the stochastic analysis is 2.5×10^{-8} Sv.yr^{-1} in a sample of 500 runs.

The radionuclides contributing most to these doses are the long-lived poorly sorbed fission products (^{99}Tc, ^{79}Se, ^{126}Sn, ^{129}I, ^{135}Cs), and the major pathway is the consumption of mollusks, crustaceans, seaweed, and fish.

The collective doses integrated to 10^5 yr is on the order of 2.2×10^3 person-Sv and to 10^7 yr of 2.8×10^4 person-Sv. These figures can only be used for comparative purposes with other disposal options.

ABNORMAL SCENARIOS

For the various abnormal scenarios, it was found that the seabed option was extremely insensitive to a large number of assumptions or behaviors of the components of the system. In particular, for a properly emplaced penetrator, the corrosion and leaching properties of the waste are not significant. Only three scenarios were found to increase the doses significantly (factor of individual dose increase compared to the base case):

1. Emplacement of penetrators at a depth <10 m in the sediment (factor of 100 and higher).
2. Existence of an upward pore water velocity in the sediments: the base case sce-

nario assumes, as presently observed, that no pore water velocity exists in the sediments above the detection limit, which is 10^{-3} m.yr^{-1}; causes of such movements of water could be compaction, natural convective cells developing between the crustal bedrock and the ocean bottom, or other unknown mechansims (factors up to 10^{6}).

3. Change in the retention properties of the sediments for the radionuclides (factor of 170).

TRANSPORTATION ACCIDENTS

It was found that the doses arising from transportion accidents could be very severe, especially for accidents in coastal waters (in the order of 6.5×10^{-5} Sv.yr^{-1} per metric tonne of heavy metal of waste lost in the sea, with an uncertainty range of 3.7×10^{-6} to 1.1×10^{-3} Sv.yr^{-1} tonne^{-1}). However, it is possible to design a transportation vessel and organize recovery actions, so that the probability of occurrence of such doses is extremely small and in practice, negligible.

In none of the above scenarios does the dose to fauna appear to be significant.

DISCUSSION

The results of this radiological assessment seem to show that the disposal of HLW in subseabed sediments is radiologically a very acceptable option. This statement holds true as far as the assumptions, models, and data used in the calculations can be validated. A further research program on subseabed disposal should therefore aim at achieving such a validation. This task must be completed before the feasibility study of the subseabed option can be considered complete, along with other tasks that remain to be done (e.g., further site selection, engineering design and testing, etc.).

Since, in many cases, conservative assumptions or data were used in this assessment, it is most likely that future research will show that the consequences of this disposal option may be even smaller than those described here.

NUCLEAR WASTE GOES TO SEA

Finding acceptable land-based sites for dumping radioactive waste is a headache for both the nuclear industry and the British government. Underground burial, the strategy largely favoured by the agency responsible, the Nuclear Industry Radioactive Waste Executive (NIREX) is a very unwelcome prospect for those who may end up living close to the sites.

Over the next 40 years, a final resting place must be found for nearly 1.2 million cubic metres of rubbish from nuclear power plants, nuclear reprocessing and a variety of research, medical, industrial and military sources. That is the estimated total of low- and intermediate-level waste (ILW and LLW) which will be generated.

Now, two British companies have produced competing solutions which sidestep the problem of winning approval for burial on land. Both proposals involve disposal under the seabed. And both methods rely heavily on conventional mining and offshore oil and gas technology.

The rival companies are Wheeler Offshore and Consolidated Environment Technologies (CET). Wheeler's system is known as POWER, for Pipeline Operated Nuclear Waste Repository. Under this scheme cannisters of radioactive waste would be "pumped" hydraulically down pipelines and placed, by remote control, in subsea wells. The waste would be loaded into the system at a shore station, possibly sited at a nuclear power plant. The cannisters, up to 1.4 metres in diameter, would end up in wells 1,700 metres below the sea. Wheeler estimates that one of its repositories could hold as much as 50,000 cubic metres of packaged waste.

CET's concept is on a much larger scale. It would involve sinking a shaft 15 metres in diameter under the seabed. Large modules of waste, up to 2,000 tonnes in weight could be lowered into the shaft. This could be sunk up to 3,000 metres deep.

The scheme would be suitable for bulky waste from decommissioned power plants and mothballed nuclear submarines. It would also cut down the radiation dose experienced by workers who would have to handle large volumes of waste.

To date Wheeler has spent more than £200,000 on developing their scheme. CET has spent just over £120,000. Both systems require at least three or four years' development work before their commercial viability can be assessed.

Wheeler has joined forces with a French company called ACB Alsthom. Together they are bidding to install a POWER system in Taiwan. The Soviet Union is also interested. CET says that the Japanese are interested in its system, but so far neither proposal has won the backing of NIREX.

Full-scale technical presentations of both schemes are due to be made to NIREX over the next 10 days. Both face formidable legal obstacles, as well as considerable political, public and diplomatic opposition to the use of the sea, and the seabed, for radioactive waste disposal.●

THE FAMILY SECURITY ACT OF 1988

● Mr. COHEN. Mr. President, DANIEL PATRICK MOYNIHAN has labored for many years in pursuit of compassionate and responsible welfare policy in this country. Decades ago, he saw the need for change in the way our society addresses the problem of family poverty. His efforts to change Federal welfare policy for the better have been legion and his expertise on the subject is formidable. He has been a man ahead of his time and I am happy to see that the U.S. Sentate, having yesterday approved his very significant welfare reform bill, seems to have been pulled forward in his wake.

The Family Security Act of 1988, introduced by Senator MOYNIHAN, would bring about fundamental improvements in the nature and operation of the Nation's welfare system and thereby make that system much more equal to the social, demographic, and economic realities we hope for it to ameliorate. I commend Senator MOYNIHAN for his persistence and his tireless pursuit of the goal of improving our welfare system and I congratulate him for his fine work. I must also commend the chairman of the Finance Committee and the members of that committee who have done so much to advance this measure.

The Census Bureau has estimated that, in the United States today, one child in five suffers in poverty. One child out of every four born is born into poverty. The implications of these numbers are indeed grave, especially when one considers that the perils of beginning life in poverty can affect the development of a child in ways that can never be overcome.

Despite the best of intentions and vast expenditures, our current welfare system too often hinders rather than helps the least fortunate in our society. The system hinders its beneficiaries by trapping them into dependence on government assistance rather than encouraging them and empowering them to work toward self-sufficiency. The thrust of the Family Security Act is to make efforts to help welfare recipients to help themselves a central feature of the Nation's welfare system.

The Nation's basic welfare program for families with children, Aid to Families with Dependent Children [AFDC], was established in 1935 to meet circumstances much different than we face today. AFDC was designed as a program to help widows, who were expected to stay home rather than work, to raise their children. It was expected that, with the passing of time, Social Security and unemployment insurance coverage would render AFDC no longer necessary.

After the passage of more than 50 years, AFDC is still with us, but social, demographic, and economic forces that bear upon family poverty are much changed. It is much more common today for children to grow up in a female-headed household. The number of such households rose from 4.5 million in 1960 to 10.1 million in 1985. Poverty is much more prevalent among female-headed households and tends to persist longer. In female-headed households more than 50 percent of all children are poor.

Of course, society no longer assumes that women will stay home with their children. Currently, about half of American women with children under the age of 1 work. Accordingly, the recent public debate on the reform of the Nation's welfare system has been characterized by a consensus that welfare mothers should be encouraged to support themselves and their children through work.

SUMMARY OF THE FAMILY SECURITY ACT OF 1988

CHILD SUPPORT ENFORCEMENT

According to the Census Bureau, of the nearly 9 million mothers with children whose fathers were not living at home in early 1986, nearly 40 percent had never been awarded child support. Of those who were entitled to child support in 1986, only half received the full amount due.

The Family Security Act would reassert the appropriate expectation and requirement that both parents share in the responsibility for the support of their children. The bill would strengthen the child support enforcement system by encouraging and helping States to establish paternity for purposes of awarding appropriate child support and by taking further steps to ensure that children enjoy the financial support of an absent parent.

EDUCATION, EMPLOYMENT, AND TRAINING

The Family Security Act would begin to transform our welfare system from a system that helps its beneficiaries to do little more than subsist to a system that strives, first and foremost, to provide opportunities for education, training, and gainful employment. The bill before the Senate would establish a new program, the Job Opportunities and Basic Skills [JOBS] Program, under which the States would provide work, training, and education activities to help welfare recipients move from welfare to gainful employment.

For most families who receive welfare benefits, welfare participation does not last for very long. Most mothers who receive AFDC benefits will do so for no more than 4 years over the course of their adult lives. However, about one-fourth of women who enroll in AFDC are expected to use it for 10 years or more. These long-term recipients collect more than 60 percent of AFDC benefits. The Family Security Act would require States to make a special effort to help these long-term recipients escape dependency.

TRANSITIONAL ASSISTANCE

In order to help welfare recipients make the transition from welfare to work, the Family Security Act provides for child care assistance for 9 months and continued Medicaid coverage for up to 12 months as a mother enters the work force.

ASSISTANCE TO TWO-PARENT FAMILIES

This welfare reform measure would require all the States to provide welfare assistance to needy families in which both parents are present, but in which the principal earner is unemployed. Currently, about half the States—including my State of Maine—provide such support. This requirement is intended to prevent the exclusion of two-parent families from welfare assistance from driving a parent away.

PAYING FOR WELFARE REFORM

The entire cost of this legislation—an estimated $2.8 billion over the next 5 years—will be offset by other provisions of the bill. This legislation would extend the current authority of the Internal Revenue Service to deduct from tax refunds debts owed the Federal Government. The remainder of the revenue necessary to cover the new costs of the welfare reform bill would come from limiting the business deduction for meals and entertainment for very high income individuals.

Mr. President, I am pleased to have been a cosponsor and supporter of the Family Security Act. This legislation offers hope through greater efforts to break the grip of poverty that holds so many American families. I am hopeful that the Senate will be able to negotiate successfully with the House of Representatives in order to present back to us and to the President a welfare reform measure he will sign into law. Again, I commend and applaud the efforts of Senator MOYNIHAN and his colleagues on the Finance Committee for their fine work on this legislation.●

ETHIOPIAN FAMINE

● Mr. BOSCHWITZ. Mr. President, famine again is striking Ethiopia and once again the human dimension of this crisis threatens to be truly staggering. In 1984-85, during another Ethiopian famine, more than 1 million people died of starvation. The American people and our Government responded very generously—the U.S. Government provided almost half of the emergency food needs sent by the world to Ethiopia and private U.S. citizens donated more than $100 million to help.

Tragically, as a renewed drought spells famine for the Ethiopian people, the Ethiopian Government is making matters worse by closing transportation routes and halting relief distribution measures. In April, Ethiopia's ruler, Lieutenant Colonel Mengistu, expelled the International Committee of the Red Cross and other international famine relief agencies from the entire northern provinces of Eritrea and Tigray—where the civil war is most heavily fought and where the drought is the most severe. Until that time, we had hoped that it would be possible to avoid the terrible suffering and death that occurred in Ethiopia in 1984-85.

I have written to the Ethiopian leader condemning his actions and urging him to reconsider his potentially disastrous decision—which could literally sentence to death an innocent population. I would like to share that letter with my colleagues and I strongly urge them to write to Colonel Mengistu as well.

I ask that my letter be included in the RECORD.

The letter follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, June 9, 1988.

L. Col. MENGISTU HAILE MARIAM,
President of Ethiopia, c/o the Embassy of Ethiopia, Washington, DC

DEAR PRESIDENT MENGISTU: I am writing to strongly urge you to reconsider your potentially disastrous decision to expel the International Committee of the Red Cross and other international famine relief agencies from the northern provinces of Eritrea and Tigray. This is an action which could literally sentence to death an innocent population.

As you know, we had hoped to meet your request for assistance during this period of renewed drought so that it might be possible to avoid the terrible suffering and death that occurred in Ethiopia in 1984-85. At that time, a calamitous drought in which over one million people died was severely aggravated as a direct result of the policies you followed in forced resettlement and "villagization." Now your decision to expel relief agencies threatens to make a very bad situation even worse.

I'm told that drought conditions now exist in 10 of your 14 provinces. In February, nearly two million people received food aid. Today, however, because of your actions, only about 850,000 people are being fed and 2.3 million people are in danger of needlessly dying of starvation.

The population of Ethiopia is now 47 million and is growing at a rate of 3 percent a year. Land degradation is among the worst in the world. To feed your people, you need to import about 500,000 tons of grain even under the best of circumstances. I strongly appeal to you, in the name of our common humanity, that you reverse your decision and let desperately needed deliveries of food aid be made immediately.

Sincerely,

RUDY BOSCHWITZ.●

INFORMED CONSENT: MARYLAND

● Mr. HUMPHREY. Mr. President, today I have two letters from the State of Maryland urging passage of informed consent legislation. The women who write tell of the pain and sorrow they feel because of an abortion they regret ever having. Their stories are not uncommon. Many women decide to have an abortion without full knowledge of the risks and alternatives that exist. They are not provided with the necessary information to enable them to give an informed consent. I ask my distinguished colleagues to join me in support of S. 272 and S. 273. I ask unanimous consent that the letters from Maryland be inserted in the RECORD.

The letters follow:

DEAR SENATOR HUMPHREY: I am writing this letter as a start to help others who are pregnant and considering an abortion. My husband and I have three wonderful children, but during my second pregnancy I ran into complications. My morning sickness is always severe which ends me up at the hospital receiving I.V. feedings. This particular pregnancy my veins collapsed and I could not be given the I.V. The doctor who I trust and has delivered my babies said this one should be aborted for there wasn't anyway I could receive nutrition. My vomiting was constant. I asked the doctor what the baby looked like at this point—7-8 weeks. His response was, "Oh, only about this big (about an inch)," holding up his fingers.

This was the very moment I should have been informed on exactly the development of my child. It's been such a loss to myself and to my husband. We still cry about it when it's brought up.

We can only hope by the help of you, Senator Humphrey, and others like you that this changes. Expectant mothers must be told about the complete process and physical pain to her expectant child. I know if I would have been told, I would have said "no," and stayed in bed, sick, just a little longer. Please help.

Sincerely,

Mrs. Eileen Phelps,
Ellicott City, MD.

—

It has been four years since I lost my job over the abortion issue.

In 1977, I began working in an institution that performs abortions. At the time, I was "pro-choice."

One of my duties was to interview patients—some of whom were very ambivalent about the abortion; some of whom were prodded into it by husbands, boyfriends or parents; some who had no second thoughts. Those patients who seemed hesitant, I suggested waiting—if time allowed. Better a solid decision than one later regretted.

I tried to avoid interviewing second trimester abortion patients once I learned what the procedure entailed. It became difficult to walk down the hallway where plastic containers stood at the nursing stations holding dead fetuses on their way to the Pathology Department. These 16 to 24 week fetuses had arms, legs, brains, hearts—all components of a human being. Those hearts were beating when I interviewed the patients but at discharge time, those hearts were in those plastic containers, dead at the hand of physicians.

As time passed, I learned that most abortions are done for the sake of convenience—not as a result of rape, incest, threat to the mother's health, or the presence of a severely handicapped fetus. The patient's chief complaint was usually "unwanted pregnancy."

One patient had her seventh abortion—all of them paid for by Medicaid. My point of view began to slowly change.

A patient that I interviewed went into premature labor and delivered a live 20 week gestation fetus that lived only 12 minutes. I had to interview the parents again for information for death certification. The doctor had baptized the infant and the parents had named him. A funeral home was called and arrangements were made. Immediately after this incident, a patient came in who was scheduled to abort her 19 week pregnancy via saline abortion. It seemed to me that there was something very wrong when comparing these two situations. I suddenly saw the abortion patient's fetus as a baby and that it was her choice to kill that baby. And it was legal.

Another time I had to inform a patient who was 20 weeks pregnant that she was an obstetrical patient from the institution's point of view. She replied, "You mean it's a baby already?" The amount of ignorance among women about pregnancy is overwhelming.

I agree that it was terrible to be 13 or 14 and to be pregnant. Isn't it worse to kill your first child?

I finally had to leave my job—the conflict over what I was doing became too much for me to handle. I no longer earn money helping to kill babies.

The frustration lingers—someone else has my job—abortions continue.

Luckily for my sanity, I still believe in ultimate justice.

Anonymous.

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the Congressional Record notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Mr. H.D. Palmer, a member of the staff of Senator McClure, to participate in a program in West Germany, sponsored by the German Academic Exchange Foundation, from June 26 to July 13, 1988.

The committee has determined that participation by Mr. Palmer in the program in West Germany, at the expense of the German Academic Exchange Foundation, it is in the interest of the Senate and the United States.●

BILL PLACED ON CALENDAR—H.R. 4731

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 4731, a bill to extend the authority for the work-incentive demonstration program, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING THE SECRETARY OF THE SENATE TO MAKE CERTAIN CORRECTIONS IN H.R. 3097

Mr. DOLE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make corrections in the engrossment of H.R. 3097, the Organ Transplant Amendments Act, which I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The corrections are as follows:

On page 8, line 10: Strike the word "total".

On page 16, line 18 add after part.:

"SEC. 1937. TERMINATION DATE.

The provisions of Part D of this Act shall terminate effective January 1, 1991.".

FEDERAL PERSONNEL IMPROVEMENTS ACT

The PRESIDING OFFICER. The clerk will read the bill, S. 2530 for the second time.

The legislative clerk read as follows:

A bill (S. 2530) to improve the management of the Federal pay system and increase the deficiency and productivity of Federal employees, and for other purposes.

Mr. DOLE. Mr. President, I object to further consideration of the bill.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, has morning business been closed?

The PRESIDING OFFICER. Morning business is now closed.

ORDERS FOR TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:20 a.m. tomorrow; that following the two leaders or their designees, there will be morning business to extend until the hour of 10 o'clock a.m., and Senators may speak during that period for morning business for not to exceed 5 minutes each; that at 10 o'clock a.m., the Senate resume its consideration of the unfinished business, the corporate takeover legislation; that there be, beginning at 10 o'clock a.m., 30 minutes equally divided on division I(a) on the pending amendment by Mr. Armstrong; that 30 minutes be equally divided and controlled in accordance with the usual form; that the vote on or in relation to the Armstrong amendment occur at 10:30 a.m.; that the 1 hour under rule XXII on the motion to invoke cloture begin running at 12 o'clock noon tomorrow; that that 1 hour be reduced to 45 minutes; that the 45 minutes be equally divided between the Senator from Tennessee [Mr. Sasser], as was the case today, and the Senator from North Carolina [Mr. Helms]; that the Senate stand in recess from 12:45 p.m. tomorrow until 2 o'clock to accommodate the two party conferences; that at 2 o'clock p.m., the vote occur on the motion to invoke cloture, thus waiving the mandatory quorum.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. DOLE. There is no objection.

The PRESIDING OFFICER. Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I also should ask there be no amendments in order to division I(a) of the amendment by Mr. Armstrong. That is in accord with the wishes of both Mr. Armstrong and Mr. Proxmire.

The PRESIDING OFFICER (Mr. Sanford). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the pending question before the Senate then, is division I(a) of the amendment by Mr. ARMSTRONG.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, I ask for the yeas and nays on division I(a).

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will be in tomorrow at 20 minutes after 9 a.m.

After the two leaders or their designees have been recognized under the standing order, there will be a period for morning business until 10 o'clock a.m. Senators will be permitted to speak during that period for morning business for not to exceed 5 minutes each.

At 10 o'clock a.m., the Senate will resume consideration of the Armstrong amendment, and there will be 30 minutes of debate, equally divided, on division I(a) of the amendment by Mr. ARMSTRONG, amendment No. 2374. There will be 30 minutes of debate, and there will be a rollcall vote. There will be a 15-minute rollcall vote. The call for the regular order will be automatic at the conclusion of the 15 minutes.

Upon the disposition of the division of the Armstrong amendment, the Senate will proceed to further consideration of the Armstrong amendment and the various divisions thereof, and other amendments, until the hour of 12 o'clock noon, at which time the Senate will proceed to debate the motion to invoke cloture on H.R. 1495.

If cloture is invoked, the Senate will continue with that business, to the exclusion of all other business, until that business is completed. If cloture is not invoked, the Senate will resume consideration of the corporate takeover legislation.

So there will be various rollcall votes tomorrow, I am sure. Senators would do well to be here early and be prepared to stay until a reasonably late hour.

Mr. President, does the distinguished Republican leader have any statement which he would like to make or any business he would like to transact?

Mr. DOLE. I say to the distinguished majority leader that we have no further business.

I also indicate, as I did early last week, that we hope to be in a position to move legislation along this week. Under an appropriate incentive program, I think it might make it easier. So I will be happy to discuss incentives with the majority leader, prior to the policy luncheons tomorrow.

Mr. BYRD. The incentive is to get out by October 8.

Mr. DOLE. That is the big incentive.

Mr. BYRD. Mr. President, I thank my friend, the distinguished Republican leader.

RECESS UNTIL 9:20 A.M. TOMORROW

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until the hour of 9:20 a.m. tomorrow.

The motion was agreed to, and at 5:08 p.m., the Senate recessed until tomorrow, Tuesday, June 21, 1988, at 9:20 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate after the recess of the Senate on June 17, 1988, under authority of the order of the Senate of February 3, 1987:

DEPARTMENT OF STATE

CARL COPELAND CUNDIFF, OF NEVADA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NIGER.

FEDERAL RESERVE SYSTEM

JOHN P. LAWARE, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 14 YEARS FROM FEBRUARY 1, 1988, VICE HENRY C. WALLICH, RESIGNED.

Executive nominations received by the Senate June 20, 1988:

THE JUDICIARY

ADRIANE J. DUDLEY, OF THE VIRGIN ISLANDS, TO BE A JUDGE OF THE DISTRICT COURT OF THE VIRGIN ISLANDS FOR A TERM OF 10 YEARS, VICE ALMERIC L. CHRISTIAN, RETIRED.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADES INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

To be captain

WILLIAM L. STUBBLEFIELD
ROBERT V. SMART
CLARENCE W. TIGNOR
WARRENT K. TAGUCHI
ABRAM Y. BRYSON, JR.
DONNIE M. SPILLMAN
ROBERT C. ROUSH
DAVID J. GOEHLER
WILLIAM J. LOUNSBERY

To be commander

DANE E. TRACY
RONALD W. JONES
RICHARD W. PERMENTER
THEODORE C. KAISER
JOHN M. BARNHILL
DONALD D. WINTER
RICHARD P. FLOYD
CHRISTOPHER B. LAWRENCE
DIRK R. TAYLOR
KURT X. GORES
ANDREW A. AMRSTRONG, III

To be lieutenant commander

LAWRENCE F. SIMONEAUX
CHARLES D. MASON
GARY M. BARONE
LEWIS D. CONSIGLIERI
CHARLES B. GREENAWALT
JOHN T. MOAKLEY
JOHN F. NOVARO
MICHAEL E. HENDERSON
MARK P. KOEHN
NICHOLAS E. PERUGINI
JOHN C. BORTNIAK

To be lieutenant

CRAIG L. BAILEY
PAUL J. RUIZ
PAUL T. STEELE
RUSSELL E. BRAINARD
CRAIG N. MCLEAN
NEAL G. MILLETT
PHILIP M. KENUL
ILENE BYRON
SVETLANA I. ANDREEVA
ERIC G. HAWK
ROBERT W. ANDERSON
JOHN A. MILLER
SEAN R. WHITE
WILLIAM P. HINES
GEOFFREY T. LEBON
JAMES E. WADDELL, JR.
TIMOTHY D. TISCH
THOMAS G. CALLAHAN
STEVEN A. THOMPSON
WILLIAM E. SITES
DANIEL E. CLEMENTS
GEORGE A. GALASSO
NANCY L. CREWS
DEBRA M. DAVIS
KENNETH W. BARTON
JOHN T. LAMKIN
JEFFREY P. SALMORE
MARK P. ABLONDI

To be lieutenant (junior grade)

SCOTT E. KUESTER
MICHAEL B. BROWN
EMILY BEARD
ELIZABETH A. CROZER
MICHAEL K. JEFFERS
MICHAEL S. ABBOTT
DAVID A. COLE
TODD C. STILES
GLENN A. GIOSEFFI
CATHERINE A. NITCHMAN
CATHERINE J. BRADLEY
CAROLYN COHO
JOANNE R. SALERNO
KRISTIE L. MILLER
MICHAEL S. GALLAGHER
MARGARET H. SANO
MARY T. FORAN
PAUL L. SCHATTGEN
ELIZABETH A. LAKE
MATTHEW J. WELLSLAGER
MICHAEL P. LYNCH
ROBERT W. POSTON
WADE J. BLAKE
TIMOTHY C. O'MARA
BRIAN K. TAGGART
E. ALLEN RICE
DAVID S. SAVAGE
JOHN M. STEGER
PATRICIA D. LYNCH
ALISON J. VEISHLOW
MICHELE G. BULLOCK
JAMES VICEDOMINE

To be ensign

ANDREW L. BEAVER
THOMAS R. WADDINGTON
BRANDON B. FRIEDMAN
ANGELA M. LUIS
JEFFREY A. FERGUSON
MICHAEL R. LEMON
PHILIP S. HILL
WILLIAM B. KEARSE
JOSEPH S. MCDOWELL
PHILIP J. MEIS
MARK S. LARSEN
JAMES S. VERLAQUE
SCOTT K. SULLIVAN
STACY L. BIRK-RISHEIM
CYNTHIA N. CUDABACK
GARY R. MAY
LAURIE A. RAFFETTO
JOHN E. HERRING
MATTHEW H. PICKETT
KEITH W. SMITH
MARK P. SKARBEK
LEAH U. IAEA
CHRISTOPHER A. BEAVERSON
BRIAN J. LAKE
CARL R. GROENEVELD
GUY T. NOLL
ALISON R. BETZ
DAVID O. NEADER
WESLEY G. KITT
CARLA R. CUNNIGHAM
JOE A. INTERMILL, III
DOUGLAS R. SCHLEIGHER
JEFFREY D. BEAR
TODD L. BERGGREN
TRACY A. DUNN
TORSTEN DUFFY
JACK G. CLAYTON
CHERYL L. THACKER
CHRISTOPHER T. MOBLEY
SHANNON WHALEY
WILTIE A. CRESWELL
THOMAS A. NIICHEL
JULIA A. NICHOLS
JAMES R. MEIGS
TIMOTHY S. HALSEY
CATHERINE D. DEAL
PETER C. STAUFFER
JEFFREY K. BROWN
BARBARA E. WHEELER
JAMES A. BUNN, II
LAURA L. CLAYWELL
MATTHEW P. EAGLETON
DONALD W. HAINES
DAWN A. HARTLEY
CHRISTIE M. JOHNSON
PEGGY L. KLINEDINST
STEVEN P. LABOSSIERE
BJORN K. LARSEN
CHRISTIAN MEINIG
ROBERT S. PAPE
CRAIG W. REEVES
J. ALLISON ROUTT
JILL F. RUSSELL
TIMOTHY C. TREMBLEY
DALE H. TYSOR
PATRICK I. WADDINGTON
DAVID K. ZIMMERMAN

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

JOE E. BURTON, [redacted]

To be lieutenant colonel

ROBERT A. GASSER, JR., [redacted]
WILLIAM A. POLLAN, [redacted]
GEORGE P. TAYLOR, JR., [redacted]

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

MEDICAL CORPS.

To be colonel

ALI N. BASER, [redacted]
DWIGHT R. BASS, [redacted]
ROBERT A. CONNER, [redacted]
DEXTER D. DEWITT, [redacted]
RONNIE R. MERWIN, [redacted]

To be lieutenant colonel

LUISA F. BARILE, [redacted]
RONALD E. WICKS, [redacted]

To be major

KATHERINE H. DEATON, [redacted]
PAUL S. DOCKTOR, [redacted]
JULIO E. IZQUIERDORIVERA, [redacted]
JOYCE Y. JORDAN, [redacted]
GUNTIS KALNINS, [redacted]
RICHARD E. KARULF, [redacted]
GEORGE MAROSAN, [redacted]
STANISLAV MERKA, [redacted]
ROBERT M. ROYSTER, [redacted]
PHILIP M. SHUE, [redacted]

DENTAL CORPS

To be colonel

STEVEN G. CABLE, [redacted]
WAYNE E. HOTT, [redacted]

To be lieutenant colonel

JAMES H. FOSTER, [redacted]

To be major

JAMES H. FOSTER, [redacted]
DAVID E. PAQUETTE, [redacted]

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. DANA O. ADAMS. [redacted] 4/9/88
MAJ LAWRENCE R. ALLRED, [redacted] 3/14/88
MAJ. THOMAS E. BAINES, [redacted] 3/16/88
MAJ. RONALD D. BOLL, [redacted] 4/1/88
MAJ. WILLIAM A. CHRISTIAN, [redacted] 3/13/88
MAJ. DONALD H. CLOBES, [redacted] 2/20/88
MAJ. JOHN F. DISOSWAY, [redacted] 4/7/88
MAJ. CHARLES W. DUNN, [redacted] 4/17/88
MAJ. CHARLES J. ENDERS III, [redacted] 3/24/88
MAJ. STEVEN A. HULIN, [redacted] 4/9/88
MAJ. DEAN A. JACKSON, [redacted] 3/19/88
MAJ. RONALD T. JAMES, [redacted] 4/9/88
MAJ. EDWARD J. KRAUS, JR., [redacted] 4/9/88
MAJ. RONALD J. LAMBERT, [redacted] 2/18/88
MAJ. WAYNE C. LECOURS, [redacted] 4/4/88
MAJ. KATHLEEN D. LESJAK, [redacted] 4/29/88
MAJ. RONALD M. MOORE, [redacted] 4/29/88
MAJ. WILLIAM E. NESBITT [redacted], 2/25/88
MAJ. JAMES R. REICHENBACH, [redacted] 3/4/88
MAJ. MARK G. SCHUSTER, [redacted] 3/15/88
MAJ. RICHARD R. WALKER, [redacted] 4/9/88

LEGAL CORPS

MAJ. JOHN H. CHASE, [redacted] 4/9/88

CHAPLAIN CORPS

MAJ. ALBERT G. BALTZ, [redacted] 4/9/88
MAJ. FREDERICK E.A. JOHNSON, [redacted] 3/1/88

BIOMEDICAL SCIENCES CORPS

MAJ. BRUCE G. SIMPSON, [redacted] 3/23/88

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OR RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

DENTAL CORPS

To be lieutenant colonel

WALTER A. AICHEL, [redacted]
RICHARD P. APPS, JR, [redacted]
CARL A. BIFANO, [redacted]
LUIS J. BLANCO, [redacted]
ROBERT BOUSQUET, [redacted]
HENRY S. BOYARS, [redacted]
HARVEY A. COLLINS, JR., [redacted]
WILLIAM C. COPLEY, JR., [redacted]
DONALD E. CUMMINGS, [redacted]
DAVID E. DAVIS, [redacted]
DUANE A. DEGENHARDT, [redacted]
ROBERT P. DZIEJMA, [redacted]
RONALD W. ENG, [redacted]
WILEY J. FAIRCLOTH, JR, [redacted]
JAMES P. FANCHER, [redacted]
VICTOR M. FAULKNER, [redacted]
TIMOTHY M. FRANK, [redacted]
GEORGE W. GAINES, [redacted]
WILLIAM T. GILLESPIE, JR, [redacted]
JOSEPH M. HANSON, [redacted]
DELVIN D. HORNBECK, [redacted]
MELVIN G. MITCHELL, [redacted]
BRENT E. NELSEN, [redacted]
THOMAS W. PIKE, [redacted]
ELLIOT R. SHULMAN, [redacted]
MELVIN J. SOKOLOWSKY, [redacted]
WILLIAM G. SPANGLE, [redacted]
WAYLAND M. WATTS, III, [redacted]
JAMES M. WILSON, [redacted]
MICHAEL D. ZOLLARS, [redacted]

MEDICAL CORPS

To be lieutenant colonel

FRANK B. ADAMS, [redacted]
NERIZZA PALOS ANDRADA, [redacted]
GREGORY C. BAGGERLY, [redacted]
MANIBHA BANERJEE, [redacted]
JACK L. BERG, [redacted]
JOHN G. BIZON, [redacted]
KATHLEEN S. BOHANON, [redacted]
EMMETT H. BROXSON, JR, [redacted]
BALAKRISHNAN CHANDRAMOHAN, [redacted]
RONALD L. COPELAND, [redacted]
JERRY M. DAVENPORT, [redacted]
ALAN D. DENNISON, [redacted]
LIBERATUS A. DEROSA, [redacted]
AVINASH T. DESHMUKH, [redacted]
DAVID S. DOUGHERTY, [redacted]
JAMES J. DOUGHERTY, III, [redacted]
NANCY DSILVA, [redacted]
MARK E. ELLIS, [redacted]
FREDDIE L. EVERSON, [redacted]
JOHN P. FLOYD, III, [redacted]
ROBERT A. GASSER, JR, [redacted]
DALE R. GERSTMANN, [redacted]
DEBORAH V. GOODWIN, [redacted]
URIL C. GREENE, [redacted]
JAMES E. HANSEN, [redacted]
VIRGIL E. HEMPHILL, JR, [redacted]
MICHAEL A. HENRY, [redacted]
PHILIP D. HOUCK, [redacted]
DOYLE W. ISAAK, [redacted]
VIRGIL S. JEFFERSON, [redacted]
JOHN F. KESSLER, [redacted]
AARON K. KIRKEMO, [redacted]
ROBERT S. KLEPATZ, [redacted]
WAYNE M. LARSEN, [redacted]
BRADFORD H. LEE, [redacted]
SHINE S. LIN, [redacted]
HENRY A. LITZ, [redacted]
PEDRO H. LOPEZVALENTIN, [redacted]
HARRY E. MARDEN, JR, [redacted]
STEPHEN R. MITCHELL, [redacted]
SCOTT W. MONROE, [redacted]
MICHAEL R. MORK, [redacted]
HENRY B. NELSON, III, [redacted]
RICHARD C. NIEMTZOW, [redacted]
THOMAS J. ODONNELL, [redacted]
RICHARD A. PETERS, [redacted]
WILLIAM A. POLLAN, [redacted]
IRENEO M. RACOMA, JR, [redacted]
VADAKKENCHERRY R. RAMANATHAN, [redacted]
JOHN M. RAMLER, [redacted]
JOSEPH E. RONAGHAN, [redacted]
JAMES H. SAMMONS, JR, [redacted]
MARK E. SAND, [redacted]
ROBERT S. SCHWARTZ, [redacted]
JAMES K. SIMPSON, III, [redacted]
PETER J. SPOHN, [redacted]
RICHARD F. STRIBLEY, [redacted]
GEORGE P. TAYLOR, JR, [redacted]
GREGORY C. TOMLINSON, [redacted]
STANLEY F. UCHMAN, [redacted]
FRANKLIN B. WADDELL, [redacted]
MICHAEL J. WHITE, [redacted]
FORREST C. YANCEY, JR, [redacted]
WILLIAM W. C. YOUNG, [redacted]

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OR RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

DENTAL CORPS

To be major

JOEL B. ALEXANDER, III, [redacted]
DOUGLAS J. AMMON, [redacted]
JEFFERY W. ARMSTRONG, [redacted]
LYNN F. ASCHER, [redacted]
CHRISTOPHER F. BATES, [redacted]
GEOFFREY R. BAUMAN, [redacted]
THOMAS J. BEESON, [redacted]
WILLIAM F. BERGERON, JR, [redacted]
LAWRENCE B. BLACKMON, JR, [redacted]
HARVEY H. BRECKNER, [redacted]
MERLYN L. CARVER, [redacted]
YEJU CHOI, [redacted]
JOHN F. COKE, [redacted]
EARL F. CUBBAGE, [redacted]
STEVE R. CURTIS, [redacted]
BRENDA JEAN DANIELS, [redacted]
WILLIAM H. DAVIS, [redacted]
SARA M. DEVINE, [redacted]
RICARDO DIAZ, [redacted]
ALLEN M. EDWARDS, [redacted]
CARLOS ESQUIVEL, [redacted]
VANCE B. FONNESBECK, [redacted]
WILLIAM F. FOWLER, [redacted]
ANTHONY G. GIARDINO, [redacted]
WILLIAM J. GOEHRING, [redacted]
STEVEN D. GULBRANSON, [redacted]
ROBERT H. HALLER, [redacted]
THOMAS D. HAWLEY, [redacted]
JULIA M. HENDRIX, [redacted]
GLORIA J. HOBAN, [redacted]
CHARLES R. HOLMEN, [redacted]
TERENCE A. IMBERY, [redacted]
WALTER J. JAMES, [redacted]
MICHAEL S. JONES, [redacted]
CAROL L. KADOW, [redacted]
DENNIS W. KELLY, JR, [redacted]
DAVID B. KEMP, [redacted]
GEORGE L. LAWSON, [redacted]
ALLAN D. LINEHAN, [redacted]
ROBIN L. LIVINGSTON, [redacted]
JEFF R. MACPHERSON, [redacted]
JEFFREY A. MARK, [redacted]
ANTHONY C. MARTIN, [redacted]
LAURENCE S. MASUOKA, [redacted]
DANIEL G. MAZZA, [redacted]
JOHN K. MCCOWN, [redacted]
MARK J. MCLEAN, [redacted]
BRIAN L. MEALEY, [redacted]
KAY L. NESS, [redacted]
SCOTT K. NICHOLSON, [redacted]
PAUL A. ONNINK, [redacted]
DOUGLAS A. OTTAWAY, [redacted]
CARROLL A. PALMORE, [redacted]
CANDACE L. PETERSON, [redacted]
RODNEY D. PHOENIX, [redacted]
DIANA C. POWERS, [redacted]
THOMAS J. VI POWERS, [redacted]
DANIEL J. RAWLEY, [redacted]
DANIEL S. READ, [redacted]
STEVEN F. RECK, [redacted]
BRAD E. SALMON, [redacted]
STEPHEN P. SCHOEN, [redacted]
JOHN L. SCHULER, [redacted]
JAMES W. SCHUMACHER, [redacted]
DONALD C. SEDBERRY, [redacted]
PHILIP C. SHIERE, [redacted]
JOE D. SPARKS, [redacted]
WILLIAM C. STENTZ, JR, [redacted]
STEVEN M. STOECKLEIN, [redacted]
DONALD L. THERIAULT, [redacted]
WILLIAM F. TROLENBERG, IV, [redacted]
MARK S. VALLE, [redacted]
DOUGLAS B. VANHOFWEGEN, [redacted]
RICHARD H. VILLA, [redacted]
LON J. WARREN, [redacted]
DOUGLAS J. WASSON, [redacted]
ROBERT P. WHITE, [redacted]
EDWARD R. WILSON, [redacted]
ROBERT P. WOLFENDEN, [redacted]

MEDICAL CORPS

To be major

WILLIAM P. ABRAHAM, [redacted]
FRANK AIELLO, III, [redacted]
LESLIE F. ALGASE, [redacted]
ROBERT C. ALLEN, [redacted]
KATHRYN M. AMACHER, [redacted]
KENTON R. AMSTUTZ, [redacted]
CHARLES T. ANDERSON, [redacted]
COLLEEN A. ANNES, [redacted]
STEPHEN C. ARCHER, [redacted]
GEORGE J. ARCOS, [redacted]
LUIS R. ARGUESOMUNOZ, [redacted]
DAVID P. ARMSTRONG, [redacted]
ANTHONY H. ARNOLD, [redacted]
STEVEN D. ARROWSMITH, [redacted]
GRANT M. BARNUM, [redacted]
WENDALL C. BAUMAN, JR, [redacted]
ROBERT WILLIAM BEARDALL, [redacted]
CHARLES G. BELENY, [redacted]
ANN F. BELL, [redacted]
VALERIE J. BELL, [redacted]
MICHAEL J. BELLER, [redacted]
DONALD BENETT, [redacted]
ERIC R. BERG, [redacted]
GREGORY K. BERRYMAN, [redacted]
ILSA J. BICK, [redacted]
LIANIS Z. BIDOT, [redacted]
JEFFREY M. BISHOP, [redacted]
KEITH L. BLAUER, [redacted]
NEAL H. BLAUZVERN, [redacted]
MICHAEL D. BLICK, [redacted]
DENNIS W. BLOCK, [redacted]
ROBERT L. BLOOD, [redacted]
STEVEN D. BOGGS, [redacted]
STEPHEN C. BOOS, [redacted]
HENRY K. BOREN, [redacted]
COLLEEN R. BOUCHER, [redacted]
WARREN R. E. BOURGEOIS, III, [redacted]
CLAY N. BOYD, [redacted]
LISA M. BOYLE, [redacted]
THOMAS ALFRED BOYLE, [redacted]
CHRISTOPHER J. BOYNTON, [redacted]
THOMAS P. BRADLEY, [redacted]
CORDELL L. BRAGG, [redacted]
STEPHEN R. BRANDT, [redacted]
CHRISTOPHER A. BRANN, [redacted]
STEVEN D. BRANTLEY, [redacted]
EVAN A. BRATHWAITE, [redacted]
ROBERT R. BRINSON, [redacted]
DANIEL J. BROWN, [redacted]
GEORGE R. BROWN, [redacted]
THOMAS R. BROWN, [redacted]
JOHN B. BUDINGER, [redacted]
PHILLIP L. BURGETTE, [redacted]
STEPHEN M. BURNS, [redacted]
DEBORAH A. BURROWS, [redacted]
MICHAEL J. BUSCEMI, JR, [redacted]
ELIZABETH A. BUSS, [redacted]

RODNEY L. CAMP, [redacted]
JAMES A. CAMPBELL, JR, [redacted]
MICHAEL E. CANFIELD, JR, [redacted]
DONALD R. CAPPADONA, [redacted]
WILLIAM E. CARLILE, [redacted]
DIRK T. CARLSON, [redacted]
JAMES W. CARPENTER, [redacted]
ROBERT E. CARROLL, [redacted]
EUGENE B. CASAGRANDE, II, [redacted]
STEPHEN F. W. CAVANAH, [redacted]
PETER J. CHENAILLE, [redacted]
HENRY W. CHEU, [redacted]
JACK R. CHILDRESS, [redacted]
ALAN L. CHRISTENSEN, [redacted]
VAL D. CHRISTENSEN, [redacted]
RONALD F. CHRISTIANSON, [redacted]
STEPHEN T. CHRISTO, [redacted]
MATTHEW A. COATSWORTH, [redacted]
MICHAEL W. COHEN, [redacted]
RICHARD C. COLE, [redacted]
ROBIN D. COLE, [redacted]
WILLIAM COLLAZONUNEZ, [redacted]
ROGER C. COLLICOTT, [redacted]
MARK COLLINS, [redacted]
GRANT D. COMNICK, [redacted]
DONALD E. CONRAD, [redacted]
JOHN T. COOPER, JR, [redacted]
DAVID F. CORRAL, [redacted]
DENNIS J. COSTA, [redacted]
JANE K. COTTINGHAM, [redacted]
JAMES E. COX, JR, [redacted]
PAUL W. CRAIG, II, [redacted]
RODERIC C. CRIST, [redacted]
JOSEPH P. CUNNIFF, [redacted]
MARK D. CUNNINGHAM, [redacted]
GWENDOLYN W. CURRY, [redacted]
WILLIAM J. CURRY, [redacted]
LOUIS A. DAGOSTINO, [redacted]
BEJAN J. DANESHFAR, [redacted]
ERNEST G. DANIELS, [redacted]
MARK D. DANKLE, [redacted]
THOMAS L. DAVIS, [redacted]
WILHELMINA DAWSON, [redacted]
DONALD H. DEATON, [redacted]
JOSEPH A. DEDONATO, JR, [redacted]
JACK L. DEETJEN, [redacted]
MALCOLM M. DEJNOZKA, [redacted]
MARCUS S. DERANIAN, [redacted]
ALBERT F. DEVLIN, [redacted]
JOHN A. DEW, JR, [redacted]
KIMBERLY J. DICKEY, [redacted]
RICHARD D. DILLMAN, JR, [redacted]
JAMES M. DIMARCHI, [redacted]
LAURA L. DIPUMA, [redacted]
ORLAND E. DONALD, [redacted]
DANIEL J. DONOVAN, [redacted]
BARBARA J. DOSS, [redacted]
MICHAEL W. DOTTI, [redacted]
GARY L. DOUBLESTEIN, [redacted]
MARION A. DOUGLASS, III, [redacted]
GARY L. DOVE, [redacted]
JAMES R. DOWNEY, [redacted]
JOHN M. DOWNS, [redacted]
JEFFREY J. DUBOIS, [redacted]
JOE A. DUNN, JR, [redacted]
MARK D. DYKOWSKI, [redacted]
HARRY S. EARL, JR, [redacted]
M. PATRICE EIFF, [redacted]
JOHN T. ELLENA, [redacted]
FRANCISCO A. ESPADA, [redacted]
CURTIS R. EVANS, [redacted]
ROBERT J. EVANS, [redacted]
EVA M. EWERS, [redacted]
KATHLEEN M. FANNING, [redacted]
JOHN P. FEENBURG, [redacted]
KURT A. FICHTNER, [redacted]
MONICA R. FIGG, [redacted]
MICHAEL G. FITZGERALD, [redacted]
RONALD D. FOSTER, [redacted]
STEPHEN A. FRANGOS, [redacted]
THOMAS B. FRIMAN, [redacted]
DOUGLAS M. FRYE, [redacted]
MARK S. GEISSLER, [redacted]
GARY L. GEORGE, JR, [redacted]
GLENN D. GIANINI, [redacted]
WILLIAM M. GILBIRDS, II, [redacted]
RICHARD F. GOLDEN, [redacted]
MARCIA K. GRAHAM, [redacted]
DANA F. GRAICHEN, [redacted]
WILLIAM J. GRAY, III, [redacted]
CATHERINE A. GRUCHACZ, [redacted]
ROY J. GUSE, JR, [redacted]
TIMOTHY K. GUTHRIE, [redacted]
VIRGINIA M. HACKENBERG, [redacted]
ROBERT A. HAGGARD, [redacted]
STEPHEN V. HAMN, [redacted]
HAROLD O. HANSON, [redacted]
KEITH D. HARBOUR, [redacted]
KURT R. HARDING, [redacted]
DAVID R. HARNISCH, [redacted]
DENNIS C. HARPER, [redacted]
DAVID K. HARRIS, [redacted]
KAREN L. HARTER, [redacted]
BETH A. HASELHORST, [redacted]
ARNE HASSELQUIST, [redacted]
RANDY M. HAUCK, [redacted]
KENNETH R. HEILBRUNN, [redacted]
KURT F. HEITMAN, [redacted]
LYLE F. HELM, [redacted]
CONLEY DAVID HENSLEY, [redacted]
RICHARD A. HERSACK, [redacted]
DONALD E. HICKS, [redacted]
ALAN E. HILLARD, [redacted]
PETER P. T. HINDEL, [redacted]
BRENDA J. HNATOW, [redacted]
HENRY E. HOLLOWAY, [redacted]
KEITH A. HOLMES, [redacted]
PAUL R. HOLZMAN, [redacted]
DANIEL J. HOMMEL, [redacted]
ROBERT L. HOOD, [redacted]
MICHAEL P. HORAN, [redacted]
JAMES E. HOUGAS, JR, [redacted]
STEPHAN P. HYAMS, [redacted]
JAMES S. ICE, [redacted]
BRIAN N. IVANOVIC, [redacted]
LORETTA IVICH, [redacted]
KAREN A. JAHNKE, [redacted]
ROBERT R. JAMES, [redacted]
WILLIAM M. JAREMKO, [redacted]
MARK C. JENKINS, [redacted]
BRYAN E. JEWETT, [redacted]
JAIME JIMENEZAGOSTO, [redacted]
DAVID R. JOHNSON, [redacted]
ERNEST V. JOHNSON, [redacted]
VINCENT G. JOHNSON, [redacted]
ANDREW F. JONES, [redacted]
RONALD C. JONES, [redacted]
RICKY L. JUDGE, [redacted]
JAMES G. JULIN, [redacted]
ROBERT P. KADLEC, [redacted]
ANNE H. KALTER, [redacted]
GREGG A. KASTING, [redacted]
STEVEN J. KEEFE, [redacted]
SPURGEON C. KEITH, III, [redacted]
ROBERT M. KERRY, [redacted]
JOHN C. KING, [redacted]
THOMAS R. KINSELLA, [redacted]
SRINARONG KITTISOPIKUL, [redacted]
BRIAN K. KLINK, [redacted]
DAVID A. KLOPFENSTEIN, [redacted]
MARTIN KLOS, [redacted]
RICHARD P. KLUCZNIK, [redacted]
DENNIS W. KNUDSEN, [redacted]
COREY S. KOENIG, [redacted]
ROY A. KOTTAL, [redacted]
JULIE A. KOVACH, [redacted]
KAREN J. KOVACIC, [redacted]
ALBERT M. KWAN, [redacted]
JANE E. LACEY, [redacted]
EVERETTE D. LAFON, [redacted]
TIMOTHY H. LAFONT, [redacted]
THUAN D. LAI, [redacted]
NANCY A. LANGHANS, [redacted]
CHARLES P. LATTUADA, JR, [redacted]
HOBSON E. LEBLANC, [redacted]
BRISSETTE M. LEBRON, [redacted]
CHARLES E. LEE, [redacted]
PHILLIP M. LENOACH, [redacted]
MARK R. LEONE, [redacted]
IRA J. LEVINE, [redacted]
RICHARD W. LIEBERMAN, [redacted]
RICARDO C. LINARES, [redacted]
RONALD L. LINDSAY, [redacted]
WILLIAM G. LITTLEFIELD, [redacted]
GEZA V. LORANTH, [redacted]
GREGORY J. LOUIS, [redacted]
PATRICK J. LOWRY, [redacted]
TIMOTHY A. MACLEAN, [redacted]
ANDREW G. MAHAFFEY, [redacted]
PATRICK A. MAHON, [redacted]
JERRY R. MAJERS, [redacted]
JOHN C. MANLEY, [redacted]
MARK G. MANNING, [redacted]
JOHNNA G. MANTINEO, [redacted]
PETER B. MAPES, [redacted]
KEITH M. MARKLEY, [redacted]
JUSTIN J. MARONE, [redacted]
JANET T. MARTINO, [redacted]
JAMES C. MASON, [redacted]
MICHAEL D. MASSEY, [redacted]
JOHN C. MCCAFFERTY, [redacted]
TIMOTHY J. MCCORMICK, [redacted]
MIMI I. MCGILL, [redacted]
THOMAS L. MCKNIGHT, [redacted]
NEIL G. MCMAHON, [redacted]
PHILIP B. MEADOW, [redacted]
ROY D. MELLOR, [redacted]
EVELYN MENDEZ, [redacted]
KEITH S. MERLIN, [redacted]
DAVID MEYER, [redacted]
JEFFREY L. MIKUTIS, [redacted]
ROBERT D. MILLAR, [redacted]
JERI L. MILLER, [redacted]
PAULA A. MILLER, [redacted]
STEVE A. MILUM, [redacted]
MERIJEANNE A. MOORE, [redacted]
VERBA A. MOORE, [redacted]
VENITA W. MORELL, [redacted]
RANDALL T. MORTON, [redacted]
PAUL C. MOTTA, [redacted]
MICHAEL A. MUELLER, [redacted]
THOMAS J. MUELLER, [redacted]
EMMET P. MURPHY, [redacted]
THOMAS M. MURPHY, [redacted]
EMMANUEL D. NAVAL, [redacted]
RAFAEL E. NEGRON, JR, [redacted]
ELIZABETH J. NOCK, [redacted]
PETER S. NOVACK, [redacted]
JOHN A. NUNES, [redacted]
GERARD J. OAKLEY, JR, [redacted]
ANNE E. ODONNELL, [redacted]
FRANCESCO R. OLIVITO, [redacted]
CHARLES J. ONEILL, JR, [redacted]
PETER E. ONEILL, [redacted]
KENNETH OROURKE, [redacted]
ROBERT R. ORR, [redacted]
JEFFREY S. OSWALD, [redacted]
DANA C. OYLER, [redacted]
ROBERT C. PARRIS, [redacted]
LAUREN D. PARSONS, [redacted]
WILLIAM C. PARTIN, JR, [redacted]
LEE E. PAYNE, [redacted]
BRADLEY K. PECK, [redacted]
STEPHEN PENASKOVIC, [redacted]
SAMUEL J. PERETSMAN, [redacted]
ROBERT G. PERSON, [redacted]
KEMUEL L. PHILBRICK, [redacted]
EDWARD J. PICARDI, [redacted]
JOHN P. PIPER, [redacted]
CHARLES N. PLOTKIN, [redacted]
MARK G. POAG, [redacted]
DONALD J. PORTELL, JR, [redacted]
BRIAN D. PROCTOR, [redacted]
MEENAKSI RAMANATHAN, [redacted]
HECTOR A. RAMIREZ, [redacted]
RAUL E. RAMIREZACEVEDO, [redacted]
PAUL H. RASMUSSEN, [redacted]
MARK K. REED, [redacted]
KENNETH G. REINERT, [redacted]
ROLLAND C. REYNOLDS, JR, [redacted]
SUSAN RHOADS, [redacted]
ORLANDO A. RICALDE, [redacted]
HAL E. RICHARDSON, [redacted]
ANDREA P. RIZZONE, [redacted]
DAVID L. ROBINSON, [redacted]
JAMES J. RODGERS, [redacted]
PORFIRIO J. RODRIGUEZ, [redacted]
RAUL P. RODRIGUEZ, [redacted]
GILBERT L. ROGERS, JR, [redacted]
MARK E. ROMANOFF, [redacted]
MICHAEL J. ROOPAS, [redacted]
RICHARD B. ROTHMAN, [redacted]
MURRAY E. ROUSE, [redacted]
JEFFREY N. RUBIN, [redacted]
MICHAEL F. RUGGIERO, [redacted]
VICTOR P. SALAMANCA, [redacted]
STEVEN S. SALISBURY, [redacted]
LILLIAM SANABRIA, [redacted]
MICHAEL G. SCHAFFRINNA, [redacted]
DAVID M. SCHALK, [redacted]
EMELIA B. SCHANER, [redacted]
TIMOTHY J. SCHLAIRET, [redacted]
KURT W. SCHLEGELMILCH, [redacted]
JOSEPH A. SCHNEIDER, JR, [redacted]
FRANK K. SCHRAMM, [redacted]
CORINNA SCHRANKEL, [redacted]
CURTIS D. SCHULTZ, [redacted]
MICHAEL F. SCHULTZ, [redacted]
DANIEL L. SCHWARTZ, [redacted]
RICHARD T. SCOTT, JR, [redacted]
TIMOTHY A. SCULLY, [redacted]
MARTIN A. SENICKI, [redacted]
STANLEY L. SEUFERER, [redacted]
MICHAEL J. SFORZINI, [redacted]
NANCY S. SILVERBLATT, [redacted]
CARL G. SIMPSON, [redacted]
RONALD M. SINCLAIR, [redacted]
PHILIP L. SISSONS, [redacted]
TODD D. SLATER, [redacted]
ALLEN T. SMITH, [redacted]
BASIL E. SMITH, [redacted]
BRIAN G. SMITH, [redacted]
DAVID B. SMITH, [redacted]
GREGORY B. SMITH, [redacted]
HERMON W. SMITH, III, [redacted]
THERESA P. SMITH, [redacted]
GIOI N. SMITHNGUYEN, [redacted]
MICHAEL W. SPATZ, [redacted]
ROBERT L. SPEAKMAN, [redacted]
ERIK C. STABELL, [redacted]
KRISTEN M. STABELL, [redacted]
CATHERINE L. STAHL, [redacted]
RONALD W. STAHL, [redacted]
WILLIAM G. STANTON, [redacted]
MARK E. STARK, [redacted]
STEPHEN E. STARR, [redacted]
LARY P. STIEGLITZ, [redacted]
VICTORIA STOUT, [redacted]
ROBERT O. STRAYHAN, [redacted]
MARK T. SYLVESTER, [redacted]
KAREN D. TABB, [redacted]
JOHN J. TEAHAN, [redacted]
MARC A. THEROUX, [redacted]
JOAN G. THOMAS, [redacted]
JEFFREY M. THOMPSON, [redacted]
ANTHONY J. THORNTON, [redacted]
WILLIAM M. THOT, [redacted]
ROBERT T. THURMAN, [redacted]
KENNETH A. TJEERDSMA, [redacted]
CYNTHIA A. TOTH, [redacted]
TIMOTHY A. TREECE, [redacted]
DENNIS A. ULDRICH, [redacted]
THOMAS S. UPSHAW, [redacted]
PENNY R. VANDESTREEK, [redacted]
MARVIN A. VAUGHAN, [redacted]
WILFREDO U. VELEZ, [redacted]
ANN M. VRTIS, [redacted]
JOSEPH P. WALLS, [redacted]
JAMES J. WALSH, [redacted]
MARK J. WALSH, [redacted]
TRAVIS K. WALSH, [redacted]
DAVID L. WALTON, [redacted]
THOMAS G. WARD, [redacted]
HAROLD J. WEBB, [redacted]
HILTON S. WEINER, [redacted]
JOSEPH S. WEISMAN, [redacted]

JOHN S. WELDON, [redacted]
KURT A. WEVER, [redacted]
LEAH G. WILKINSON, [redacted]
JEFRI A. WILLIAMS, [redacted]
JOHN J. WILLIS, [redacted]
DANA J. WINDHORST, [redacted]
JAY A. WINZENRIED, [redacted]
MARK W. WOLFE, [redacted]
GEORGE R. WOODWARD, [redacted]
CHRISTOPHER ARTHUR YOUNG, [redacted]
STEVEN L. YOUNT, [redacted]
HOWARD S. ZEMAN, [redacted]
CHRISTINA M. K. ZIENO, [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

CHAPLAIN

To be major

JAMES E. *. AGNEW, [redacted]
RICHARD T. *. BALDWIN, [redacted]
HANSON R. *. BONEY, [redacted]
DAVID H. *. BRADFORD, [redacted]
WILFRED *. BREWSTER, JR, [redacted]
MANSUETO T. *. CALASARA, [redacted]
WILLIAM F. *. CAREY, [redacted]
FREDRICK S. *. CARR, [redacted]
DAVID L. *. DARE, [redacted]
SCOTT *. DAVIES, [redacted]
RICHARD D. *. DAVIS, [redacted]
RICHARD L. *. EVANS, [redacted]
LOYD R. *. GANEY, JR, [redacted]
JOSEPH A. *. GIBILISCO, [redacted]
CECIL R. *. GILLIAM, [redacted]
JOHN D. *. HALL, [redacted]
JERRY O. *. HENDERSON, [redacted]
JOHN C. *. HOLZ, JR, [redacted]
MICHAEL A. *. HOYT, [redacted]
DWIGHT C. *. JENNINGS, [redacted]
JERE R. *. KIMMELL, [redacted]
JOHN E. *. KULP, [redacted]
CLARKE L. *. MCGRIFF, [redacted]
DANIEL K. *. NAGLE, [redacted]
JAMES H. *. NEELY, SR, [redacted]
STEVEN D. *. PASCHALL, [redacted]
DAVID A. *. PILLSBURY, [redacted]
RUSSELL D. *. PIPKIN [redacted]
GARY R. *. PROBST [redacted]
JAMES E. *. RAYBURN, [redacted]
DAVID G. *. REYNOLDS, [redacted]
LARRY D. *. ROBINSON [redacted]
RICHARD P. *. ROGGIA, [redacted]
LOUIS F. *. ROOS, [redacted]
ROBERT S. *. SCURRAH, [redacted]
TIMOTHY K. *. SKRAMSTAD [redacted]
REES R. *. STEVENS, [redacted]
DONALD E. *. TROYER, [redacted]
GERALD L. *. TRUMAN, [redacted]
REINALDO *. VELEZ, [redacted]
HUBERT *. WADE, JR [redacted]
JAMES E. *. WALKER, [redacted]
MICHAEL H. *. WALLMAN, [redacted]
GORDON D. *. WALTERS, JR, [redacted]
RICHARD R. *. YOUNG [redacted]

JUDGE ADVOCATE GENERAL'S CORPS

To be major

CHARLES M. ALLEN, JR, [redacted]
JOHN H. *. BELSER, JR, [redacted]
DEMETRIUS K. BIVINS, [redacted]
FREDERIC L. BORCH, III, [redacted]
DEBRA L. BOUDREAU, [redacted]
WILLIAM L. BREEDEN, [redacted]
ILA C. BRIDGES, [redacted]
THOMAS K. CALDBECK, [redacted]
ALEXANDER W. CHARTERS, [redacted]
MICHAEL S. CHILD, [redacted]
DENISE P. CONTENTO, [redacted]
DONALD G. CURRY, JR, [redacted]
CONSTANCE A. DRUMMOND, [redacted]
THOMAS A. DUNCAN, [redacted]
DAVID E. FITZKEE, [redacted]
DAVID S. FRANKE, [redacted]
PAUL T. GRIMSTAD, [redacted]
URS R. GSTEIGER, [redacted]
RANDALL J. HALL, [redacted]
MARK W. HARVEY, [redacted]
GARY L. *. HAUSKEN, [redacted]
DAVID L. HAYDEN, [redacted]
RONALD K. HEUER, [redacted]
MICHAEL W. HOADLEY, [redacted]
PAUL J. HUTTER, [redacted]
JAMES M. IVES, [redacted]
RICHARD B. JACKSON, [redacted]
PAUL F. KOCH, [redacted]
GLEN W. LAFORCE, [redacted]
RICHARD P. LAVERDURE, [redacted]
RALPH L. LITTLEFIELD, [redacted]
ROBERT B. LLOYD, JR, [redacted]
JOHN L. LONG, [redacted]
SCOTT W. MACKAY, [redacted]
JOANNE R. MARVIN, [redacted]
WELLINGTON T. MATTHEWS, [redacted]
DANIEL F. MCCALLUM, [redacted]
GREGORY A. MCCLELLAND, [redacted]
JOHN B. MCDANIEL, [redacted]
WILLIAM R. MEDSGER, [redacted]
BOBBY D. MELVIN, JR, [redacted]
EUGENE R. MILHIZER, [redacted]
MARJORIE R. MITCHELL, [redacted]
JAMES L. POHL, [redacted]
SCOTT E. RANSICK, [redacted]
HENRY R. RICHMOND, [redacted]
JOSEPH A. *. RIDENOUR [redacted]
MARK J. ROMANESKI, [redacted]
JOHN J. SAYE, [redacted]
GARRETH E. SHAW, [redacted]
MICHAEL R. SNIPES, [redacted]
GEORGE B. THOMSON, JR, [redacted]
GARY L. WALSH, [redacted]
DOUGLAS R. WRIGHT, [redacted]

DENTAL

To be major

RICHARD C. *. ADAMS, [redacted]
JOSEPH G. *. BECKER, [redacted]
WILLIAM A. *. BEYERS, III, [redacted]
MARK D. *. BICKSTON, [redacted]
RICHARD E. *. BORDERS, [redacted]
THOMAS G. *. BRAUN, [redacted]
WILLIAM F. BRUCE, JR, [redacted]
DAVID M. *. BURNETTE, [redacted]
SHIRLEY L. *. BURT, [redacted]
JOHN J. BUYER, JR, [redacted]
EDWARD R. *. CHESLA, [redacted]
DARRELL A. *. CLARK, [redacted]
BOBBY M. *. COLLINS, II, [redacted]
THOMAS M. *. CORCORAN, [redacted]
LEMUEL L. *. COVINGTON, [redacted]
SUSAN Y. *. CRAWFORD, [redacted]
CHARLENE A. *. CZUSZAK, [redacted]
JIMMY R. *. DANIELS, [redacted]
ROBIN K. *. DARLING, [redacted]
CARLOS O. *. DELEON, [redacted]
STEVEN L. *. DILLEY, [redacted]
JACOB W. *. DOBBINS, [redacted]
MICHAEL G. *. DORAN, [redacted]
WILLIAM E. DRAGOLICH, [redacted]
DAVID J. *. DRUMMOND, [redacted]
JAMES M. *. DUNN, [redacted]
MARK F. *. DUVERNOIS, [redacted]
STEVEN L. *. EIKENBERG, [redacted]
SUSAN B. *. FEELEY, [redacted]
CHRISTOPHER T. *. FINLAYSON, [redacted]
LARRY B. *. FISHER, [redacted]
JOSEPH P. *. FRENO, JR, [redacted]
DANIEL W. *. FULLER, [redacted]
CATHLEEN M. *. GASIOR, [redacted]
DAVID B. GILBERT, [redacted]
JOHN M. *. GRIFFIES, [redacted]
PAUL D. *. HERRERA, [redacted]
DAVID R. *. HILL, [redacted]
STEVEN D. *. HOKETT [redacted]
JOHN H. *. HUANG, [redacted]
RAYMOND G. *. HYNSON, [redacted]
DAVID C. *. JONES, JR, [redacted]
ABEN A. *. KASLOW, [redacted]
LLOYD E. *. KEMPKA, [redacted]
STEVEN L. *. KENNEY, [redacted]
WILLIAM B. *. KING, [redacted]
ANDREW W. *. LOWTHER, [redacted]
JAMES G. *. MADISON, III, [redacted]
MARK E. *. MCCLARY, [redacted]
SCOTT T. *. MCPHERSON, [redacted]
LAWRENCE W. *. MEADORS, [redacted]
ISABEL *. MILESYARBROUGH, [redacted]
JAMES W. *. MINEKIME, [redacted]
EDWARD J. *. MISTAK, [redacted]
PHILLIP H. *. PATRIDGE [redacted]
MARK E. *. PEACOCK, [redacted]
RUSSELL C. *. PECK, [redacted]
DANIEL E. *. PURIVS, [redacted]
ALLEN B. *. QUEEN, [redacted]
BRADLEY S. *. RABAL, [redacted]
RUSTY A. *. REESE, [redacted]
NORMAN M. *. ROGERS, [redacted]
ROBERT L. *. ROSENHEIMER, [redacted]
MARK M. *. SCHEIDER, [redacted]
ARTHUR C. SCOTT, [redacted]
DIANNE *. SITES [redacted]
ALAN D. *. SMITH, [redacted]
DEWAYNE R. *. SMITH, [redacted]
DAVID J. *. STORIE, [redacted]
GEOFFREY A. *. THOMPSON, [redacted]
JAMES L. *. THOMPSON, [redacted]
ROBERT A. TONEY, [redacted]
LEONARD W. *. TOWNSEND [redacted]
THOMAS W. *. TYLKA, [redacted]
DEAN S. *. UYENO, [redacted]
JOHN J. *. WASILEWSKI [redacted]
MARK K. *. WETMORE [redacted]
MARK L. *. WIESNER, [redacted]
ALDRED V. *. WILLIAMS, [redacted]
ALVIN B. WILLIAMS, [redacted]
STEPHEN B. *. WILLIAMS [redacted]
PETER *. ZAGURSKY, JR, [redacted]

MEDICAL CORPS

To be major

BURTON R. *. ADRIAN, [redacted]
CHRISTOPHER M. *. ALAND [redacted]
KATHRYN P. *. ALBERTI [redacted]
KEITH S. *. ALBERTSON, [redacted]
BRIAN D. *. ALLEN [redacted]
MARK U. *. ALVARADO, [redacted]
NIVEA I. *. ALVARADO, [redacted]
SEAN P. *. ALWIN, [redacted]
JUAN R. AMADOR, [redacted]
JACOB *. AMRANI, [redacted]
YVONNE M. ANDEJESKI, [redacted]
DANA *. ANDERSEN, [redacted]
GREGORY S. *. ANDERSON, [redacted]
MARTIN R. *. ANDERSON, [redacted]
RICHARD I. *. ANDORSKY, [redacted]
DANIEL M. *. ANDRESS, [redacted]
DAVID R. *. ARDAY, [redacted]
ALAN K. *. BANKS, [redacted]
CARL J. *. BASAMANIA, [redacted]
ROBERT S. *. BASKA, [redacted]
GARY S. *. BAXTER, [redacted]
DAVID C. *. BEARD, [redacted]
REBECCA C. *. BENT, [redacted]
VINCENT C. *. BENTLEY, [redacted]
BENJAMIN *. BERG, [redacted]
KENNETH A. BERTRAM, [redacted]
MICHAEL A. *. BIGGERSTAFF, [redacted]
PETER J. *. BIGHAM, [redacted]
CHARLES E. *. BLAIR, [redacted]
LOUIS M. *. BLAKE, [redacted]
ENRIQUE O. *. BLANCOTORRES, [redacted]
JAMES H. *. BLAND, [redacted]
MARK G. *. BLASKIS, [redacted]
RICHARD R. *. BLOOM, [redacted]
JOSEPH O. *. BOGGI, [redacted]
TIMOTHY J. *. BOLEY, [redacted]
DENNIS *. BONNER [redacted]
TIMOTHY A. *. BONSACK, [redacted]
ANTHONY G. *. BOTTINI, [redacted]
DAVID J. BOWER, [redacted]
MARY D. *. BOYER [redacted]
MAYOLA W. *. BOYKIN, [redacted]
WILLIAM H. *. BOYKIN, [redacted]
JAMES C. *. BRADSHAW, [redacted]
LAWRENCE D. *. BRENNER, [redacted]
MARK D. *. BRISSETTE, [redacted]
THEODORE G. *. BRNA, JR, [redacted]
JEFFREY N. *. BRODER, [redacted]
DREW A. *. BRODSKY [redacted]
JOHN D. *. BROPHY, [redacted]
CHARLES F. *. BROWN, [redacted]
JAMES E. BRUCKART, [redacted]
RALF P. *. BRUECKNER, [redacted]
RICHARD E. *. BRUNADER, [redacted]
TERESA M. *. BUESCHER, [redacted]
MICHAEL J. *. BUNDA, [redacted]
MARK D. *. BURD, [redacted]
FREDERICK W. *. BURGESS, [redacted]
JERRY A. BURNS, [redacted]
PILAR M. *. CABALLERO, [redacted]
JOSEPH CARAVALHO, JR, [redacted]
KEVIN J. *. CARLIN, [redacted]
ANDREW C. *. CARLSON, [redacted]
ANDREW J. *. CARTER, [redacted]
BRIAN S. *. CARTER, [redacted]
THOMAS D. *. CARVER, [redacted]
DONALD W. *. CASEY, [redacted]
JOHN D. *. CASLER, [redacted]
DIANNA *. CHOOLJIAN, [redacted]
DANIEL G. *. CHRISTO, [redacted]
DONOVAN D. *. CLARK, [redacted]
CLIFFORD C. CLOONAN, [redacted]
JAMES L. *. COCKRELL, JR, [redacted]
MAURO A. COLAVITA, [redacted]
EDWARD J. *. COLL, [redacted]
PATRICIA H. *. COLLINS, [redacted]
HECTOR F. *. COLON, [redacted]
DAVID A. *. COMPTON, [redacted]
RICKY D. *. COMPTON, [redacted]
LEO A. *. CONGER, JR, [redacted]
RALPH D. *. COOK, [redacted]
ELIZABETH E. *. CORRENTI [redacted]
CLAYTON L. *. COX, [redacted]
TIMOTHY W. *. CRAIN, [redacted]
DOUGLAS W. *. CRAWFORD, [redacted]
DAVID F. *. CRYNS, [redacted]
PETER A. *. CURKA, [redacted]
JEFF L. *. DAKAS, [redacted]
PRISCILLA K. *. DALE, [redacted]
LOUIS J. *. DALESSANDRO, [redacted]
THOMAS D. *. DALRYMPLE, [redacted]
MARTIN A. DAVIDSON, [redacted]
GREGORY L. *. DAVIS [redacted]
RANDALL K. *. DAVIS, [redacted]
TIMOTHY F. *. DEACONSON, [redacted]
ROBERT A. *. DECKER, [redacted]
TERENCE A. *. DEGAN, [redacted]
ANTONIO M. *. DELALUZ, [redacted]
THOMAS S. *. DENAPOLI, [redacted]
MICHAEL W. *. DENARDIS, [redacted]
CLARK R. *. DENNISTON, [redacted]
PAUL M. *. DESMOND, [redacted]
RANDALL M. *. DICK, [redacted]
JERRY W. *. DIXON, [redacted]
THOMAS R. *. DORSEY, [redacted]
JOHN M. *. DOWNEY, [redacted]
JOSEPH J. *. DRABICK, [redacted]
JOHN L. *. DREW, [redacted]
PEDRO R. *. DUMADAG, [redacted]
MARK S. *. DWYER, [redacted]
ROBERT J. *. EGIDIO, [redacted]
DOUGLAS D. *. ELIASON, [redacted]
RICHARD G. *. ELLENBOGEN, [redacted]
DAVID C. *. ELLIOTT, [redacted]
DAVID H. *. ELLIS, [redacted]
RITA R. *. ELLITHORPE, [redacted]

OMEGA F. *. ELMORE, [redacted]
JEFFREY A. ELTING, [redacted]
RUSSELL W. *. ENGEVIK, [redacted]
LINDA Y. EVANS, [redacted]
PAUL J. *. EVANS, [redacted]
WILLIAM S. EVANS, JR, [redacted]
MICHAEL J. *. FAHEY [redacted]
FRANCISCO *. FANTAUZZI, [redacted]
DAVID C. *. FARAGHER, [redacted]
BRIAN H. *. FEIGHNER, [redacted]
AVA R. *. FELDMAN, [redacted]
DENNIS W. *. FERA [redacted]
JUAN H. *. FERNANDEZ [redacted]
CESAR Y. *. FIGUEROA, [redacted]
AMBROUS O. *. FINDLEY, [redacted]
CURTIS W. *. FISHER, II, [redacted]
HENRY *. FOOKS, JR [redacted]
SUSAN A. *. FORMAN, [redacted]
JAMES D. *. FOSTER, [redacted]
DONALD J. *. FOX, [redacted]
MARK L. *. FRANCIS, [redacted]
LISA M. *. FRISON, [redacted]
MICHAEL F. *. FRY, [redacted]
PAUL J. *. FRY [redacted]
RICHARD J. *. GALLOWAY [redacted]
WILLIAM B. *. GAMBLE, [redacted]
MICHAEL K. *. GANNON, [redacted]
SAMUEL N. *. GARRETT, [redacted]
ARTHUR *. GASKELL, III, [redacted]
RONALD C. *. GAY, [redacted]
DAN L. *. GEHLBACH, [redacted]
RONALD L. GELZER, [redacted]
MATTHEW J. *. GERVAIS [redacted]
THOMAS P. *. GIBERSON, [redacted]
JOHN H. *. GILLESPIE [redacted]
PHILIPPE H. *. GIRERD, [redacted]
PATRICK L. *. GOMEZ, [redacted]
DAVID T. *. GOUGH [redacted]
JEFFREY T. *. GRAY, [redacted]
STEVEN R. GRIMES, [redacted]
DAVID L. *. GRISELL, [redacted]
RANDALL R. *. HAASE, [redacted]
SUSAN B. *. HAINLEY, [redacted]
KEVIN L. HALL, [redacted]
ROBERT L. *. HALL, [redacted]
CHARLES T. HANKINS, [redacted]
ROGER G. *. HANSEN [redacted]
DANNY L. *. HARRISON, [redacted]
MARY B. *. HART [redacted]
PATRICIA R. *. HASTINGS, [redacted]
DAVID K. *. HAYES [redacted]
RALPH F. HEAVEN, JR, [redacted]
ROBERT J. *. HEDDERMAN, [redacted]
RICHARD D. HEEKIN, [redacted]
JEFFREY J. *. HELLER [redacted]
JAMES D. *. HELMAN, [redacted]
DOUGLAS E. HEMLER, [redacted]
MURDOC M. *. HENDERSON, [redacted]
JEFFREY T. *. HENNEBERGER [redacted]
BRADLEY T. *. HEPPNER, [redacted]
JESUS A. *. HERNANDEZ, [redacted]
RONALD C. *. HILL, [redacted]
CARL B. HINTON, [redacted]
KENNETH A. *. HIRSCH, [redacted]
KERI L. *. HODGES, [redacted]
JONATHAN P. *. HOSEY [redacted]
JEFFREY A. *. INDRELIE [redacted]
BRUCE A. *. ISAACSON, [redacted]
NEAL D. *. JACOBSON, [redacted]
DAVID F. *. JADWIN, [redacted]
JAMES S. *. JELINEK, [redacted]
WILBERT C. *. JENKINS, JR [redacted]
RAY E. JENSEN, [redacted]
RICHARD K. *. JOHANSEN, [redacted]
JOHN A. JOHNSON, [redacted]
RICK *. JOHNSON, [redacted]
KATHLEEN S. *. JOHNSTON [redacted]
DAVID L. *. JONES, [redacted]
JEFFREY J. *. JONES [redacted]
STEPHEN D. *. JONES [redacted]
KIMBERLEY E. *. JONGEBLOED, [redacted]
PATRICK M. *. JORDAN, [redacted]
DANIEL S. *. JORGENSON, [redacted]
MARC L. *. KAHN, [redacted]
CHARLES F. *. KAVA, [redacted]
MARK R. KEATON, [redacted]
DANIEL L. *. KELLY, [redacted]
JOSEPH D. *. KERN, [redacted]
JOHN P. *. KINSELLA, [redacted]
CRAIG R. *. KIRBY, [redacted]
KAREN N. *. KLEIN, [redacted]
KARL G. *. KOENIG, [redacted]
WILLIAM J. *. KOK, [redacted]
MARIN H. *. KOLLEF, [redacted]
MICHAEL G. KOWALSKI, [redacted]
TIMOTHY J. *. KOWALSKI, [redacted]
RICHARD W. KRAMP, [redacted]
MARGOT R. KRAUSS, [redacted]
ALBERT KRISCH, [redacted]
DAVID A. *. KRULEE [redacted]
THOMAS C. *. KRYZER, JR, [redacted]
PAUL A. *. KUCK, [redacted]
SHASHI A. *. KUMAR, [redacted]
JONATHAN D. *. KUNIS, [redacted]
LLOYD C. *. LAGRANGE, JR, [redacted]
ANDREW S. *. LAMB, [redacted]
TIMOTHY C. *. LANDES [redacted]
DANIEL H. *. LANGE [redacted]
LAWRENCE V. *. LARSEN, [redacted]
STEVEN B. LARSON, [redacted]
CARL G. *. LAUER, [redacted]
STEPHEN C. *. LAWHORN, [redacted]
LAURIE M. *. LAWRENCE, [redacted]
CINDY B. LEE, [redacted]
JEFFREY L. *. LENNOX [redacted]
JOHN J. *. LESICA, [redacted]
NICHOLAS *. LEZAMA, [redacted]
VICKI W. *. LIGHT, [redacted]
WADE A. LILLEGARD, [redacted]
CHARLES A. *. LIM, [redacted]
JOSEPH H. *. LLEWELLYN, [redacted]
LARRY T. *. LOVELACE, [redacted]
MARK A. *. LUDVIGSON, [redacted]
LILIAN I. *. LUSTMAN, [redacted]
THOMAS P. *. LYNGHOLM, [redacted]
JACK V. *. LYONS, JR, [redacted]
MICHAEL C. *. MAHONEY, [redacted]
WILLIAM A. *. MALABRE, [redacted]
JAMES R. MALCOLM, [redacted]
PAUL A. *. MANN, JR, [redacted]
KIM R. *. MARLEY, [redacted]
MICHAEL P. *. MARTIN [redacted]
ROBERT R. *. MARTIN, [redacted]
TIMOTHY W. *. MARTIN, [redacted]
MIGUEL J. *. MARTINEZ, JR [redacted]
THOMAS M. MARTINKO, [redacted]
LOIS *. MASTROFRANCESCO, [redacted]
JEFFREY P. *. MAWHINNEY, [redacted]
JOSEPH E. *. MCANDREW, [redacted]
JAMES A. *. MCCAIN, [redacted]
DAVID A. *. MCCANN, [redacted]
GEORGE B. MCCLURE, [redacted]
JOHN T. *. MCDONNOLD, II, [redacted]
JOHN A. *. MERENICH, [redacted]
SUSAN O. *. MESSERLY, [redacted]
THEODORE A. *. MICKLE, JR, [redacted]
CARLTON E. *. MILLER, [redacted]
CHARLES W. *. MILLER, [redacted]
FREDERICK V. *. MILLER, [redacted]
GORDON B. MILLER, JR, [redacted]
MICHAEL B. *. MILLER, [redacted]
JON E. *. MINTER, [redacted]
WILLIAM T. *. MIYAZAKI, [redacted]
GEORGE D. *. MOMII, [redacted]
HARVEY N. *. MONTIJO, [redacted]
THOMAS L. *. MOORE, [redacted]
RUSSELL R. *. MOORES, JR, [redacted]
JOSEPH T. *. MORELLI, [redacted]
ERIC S. *. MUDAFORT, [redacted]
CRIS P. MYERS, [redacted]
PETER J. *. NAPOLI [redacted]
STEVEN R. *. NEISH, [redacted]
WILLIAM J. *. NICHOLAS, [redacted]
ROBERT K. *. NOBACK, [redacted]
JUAN J. *. NOGUERAS, [redacted]
ROBERT L. *. NORRIS, JR, [redacted]
DOROTHY A. *. OKEEFE, [redacted]
JOHN S. *. OKEEFFE, [redacted]
STEVEN A. *. OLDER, [redacted]
MICHAEL L. *. OLINGER, [redacted]
ARMANDO *. OLIVA, [redacted]
GRANT C. *. OLSON, [redacted]
YVETTE *. OQUENDOBERRUZ [redacted]
RICHARD K. *. OSENBACH [redacted]
CATHY L. *. OW, [redacted]
ROBERT L. *. PATTERSON, [redacted]
MARTIN G. *. PAUL, [redacted]
JACK T. *. PEARSON, [redacted]
PAUL K. *. PEARTREE, [redacted]
PATRICK J. *. PELLER, [redacted]
GERARD M. *. PENNINGTON, [redacted]
DENNIS S. PEPPAS, [redacted]
CAMERON S. *. PERKINS, [redacted]
DAVID R. *. PERNELLI, [redacted]
RICHARD E. *. PETERSON, [redacted]
KENNETH G. PHILLIPS, [redacted]
ROY S. PIERSON, [redacted]
CAROL E. *. PILAT [redacted]
LAURA *. PIMENTEL, [redacted]
CHARLES R. *. PITLUCK, [redacted]
HOWARD M. *. PLACE, [redacted]
LAWRENCE B. *. PLACE, [redacted]
MARC J. *. PLISKIN, [redacted]
WILLIAM J. *. POLZIN, [redacted]
RONALD K. *. POROPATICH, [redacted]
MARK R. *. PRETE, [redacted]
WILLIAM E. *. PROMINSKI, [redacted]
STEVEN L. *. PUDERBAUGH, [redacted]
JAIME I. *. QUINONES, [redacted]
AWILDA I. *. RAMOS, [redacted]
GLENYS S. *. REES [redacted]
PAUL C. REYNOLDS, [redacted]
DONN R. RICHARDS, [redacted]
HICKS M. *. RICHARDSON, [redacted]
RONALD D. *. RIDGLEY, [redacted]
JEFFREY R. RIFKIN, [redacted]
NATHAN L. *. RILES, JR, [redacted]
KATHRYN K. RIORDAN, [redacted]
EDWARD F. *. ROBERTS, [redacted]
MARK D. *. ROBINSON, [redacted]
ROBERTO *. RODRIGUEZ, [redacted]
ROBERT J. ROLFES, JR, [redacted]
PAUL *. ROSE [redacted]
JANE E. *. ROWE, [redacted]
THOMAS A. *. ROZANSKI, [redacted]
COUNCILL C. *. RUDOLPH, [redacted]
JOSEPH B. *. RUSINKO, [redacted]
KIRIN M. *. RUSSELL, [redacted]
RICHARD P. *. RYSKAMP [redacted]
COSWIN K. SAITO, [redacted]
ROBERT A. *. SALK, [redacted]
RONALD *. SALMOND, [redacted]
DOREEN *. SALTIEL, [redacted]
DINO P. *. SARACINO, [redacted]
LISA D. *. SAUNDERS, [redacted]
PAUL W. *. SCHADLER, [redacted]
DOUGLAS W. *. SCHARRE, [redacted]
THOMAS R. *. SCHERER, [redacted]
GREGORY E. *. SCHLEPP, [redacted]
DAVID M. *. SCHMIDT, [redacted]
JAMES K. *. SCHROEDER [redacted]
GEORGE D. *. SCHUCHMANN, [redacted]
STEVEN R. SHANNON, [redacted]
HOWARD W. *. SHARF, [redacted]
DAVID V. *. SHATZ, [redacted]
ROBERT L. *. SHEFFLER, [redacted]
MARK M. *. SHEPHERD, [redacted]
WILLIAM E. *. SHIELS, [redacted]
BRADEN A. *. SHOUPE, [redacted]
SETH M. *. SILVER, [redacted]
DANIEL G. *. SIMMONS, [redacted]
DAVID A. *. SIMPSON, [redacted]
JAMES D. *. SINGLETON, [redacted]
STUART E. *. SINOFF, [redacted]
WILLIAM C. SIPPO, [redacted]
MICHAEL R. *. SIROIS [redacted]
MARK E. *. SKEES, [redacted]
MICHAEL C. SLACK, [redacted]
DAVID M. *. SLIFE, [redacted]
DALE B. *. SMITH, [redacted]
DAVID P. *. SMITH, [redacted]
DAVID W. *. SMITH, [redacted]
DONALD V. *. SMITH, [redacted]
EDWARD B. *. SMITH, JR [redacted]
JEFFREY R. *. SMITH [redacted]
MAURA *. SMITH, [redacted]
PAUL D. *. SMITH, [redacted]
BONNIE L. *. SMOAK, [redacted]
HARRY G. *. SMOLEN, [redacted]
BERNARD A. *. SMYLE, [redacted]
CHRISTOPHER J. *. SMYTHIES, [redacted]
ANNETTE L. *. SOBEL, [redacted]
GILBERTO A. *. SOLIVAN, [redacted]
ROBERT C. *. SOLOMON [redacted]
GEORGE D. *. SONCRANT, [redacted]
SCOTT I. *. SONG, [redacted]
SYLVIA *. SONNENSCHEINOVELAND, [redacted]
STEPHEN C. *. SORSBY, [redacted]
KARL C. *. STAJDUHAR, [redacted]
EDWARD L. *. STEVENS, [redacted]
LAWRENCE W. *. STINSON, JR, [redacted]
DANIEL P. *. STOLTZFUS, [redacted]
JEFFREY A. *. STONE, [redacted]
THOMAS L. *. STOUGHTON, [redacted]
RICHARD T. *. STRAWSER, [redacted]
KEVIN A. *. SUGALSKI, [redacted]
WELLINGTON SUN, [redacted]
EDWARD F. *. TAPPEL, JR, [redacted]
JAMES A. *. TAYLOR, [redacted]
SUMMERS W. *. TAYLOR, III, [redacted]
TERRY W. *. TAYLOR, [redacted]
JEFFREY D. *. THOMSON, [redacted]
LAUREN E. THORNTON, [redacted]
MICHEAL B. *. TIERNEY, [redacted]
JAMES H. *. TIMMONS, [redacted]
HUGH E. *. TOBIN, [redacted]
DAVID W. *. TOWLE, [redacted]
DEAN M. *. TURNER, [redacted]
KEITH J. *. ULISSE [redacted]
FRANCOIS M. *. VACHON, [redacted]
JOHN M. *. VANDEREN, III, [redacted]
ROBERT C. *. VANDERGRAAF, [redacted]
DAVID W. *. VAUGHN, [redacted]
DEBORAH A. *. VENRICK, [redacted]
MICHAEL G. *. VENRICK, [redacted]
PHILIP *. VOLPE, [redacted]
FREDERICK U. *. VORWALD, [redacted]
DEWARD H. *. VOSS, [redacted]
SVETISLAVA J. VUKELJA, [redacted]
JAMES R. *. WALKER, [redacted]
CHARLES M. *. WARE, JR, [redacted]
EDWARD J. *. WATSON, JR, [redacted]
GREGORY B. *. WEBSTER, [redacted]
MARK R. *. WEISER, [redacted]
PAUL G. WELCH, [redacted]
ROBERT *. WHITMORE, III [redacted]
NELSON E. *. WIEGMAN, [redacted]
KIM *. WILDER, [redacted]
GARY B. *. WILHELM, [redacted]
CHARLES A. *. WILLS, [redacted]
WILEY *. WILSON, [redacted]
GREGORY M. *. WINN, [redacted]
KEVIN K. *. WOISARD, [redacted]
GORDON S. *. WOOD, JR, [redacted]
GEORGE W. *. WRIGHT, [redacted]
KIM J. *. ZAGORSKI [redacted]
STEPHAN M. *. ZENTNER [redacted]
PATRICIA A. ZIMMERMAN, [redacted]

MEDICAL SERVICE CORPS

To be major

INTISAR A. *. ABBASI, [redacted]
ERIC R. *. ABRAHAM, [redacted]
JOHN C. *. ANDERS, [redacted]
PHILLIP W. *. ARCHER, [redacted]
ALLAN J. *. ARNETTE, [redacted]
CARLOS M. ARROYO, [redacted]
NANCY A. BAKER, [redacted]
JAMES F. BARNARD, [redacted]
BRUCE O. BARRITT [redacted]
GRETA L. *. BAUMANN, [redacted]
SARAH M. *. BAXTER, [redacted]
DARRELL N. *. BERRY, [redacted]
MARK V. *. BIGGERS, [redacted]
JAMES R. *. BLAND [redacted]

LARRY S. *. BOLTON, [redacted]
RONNIE L. *. BRANNON, [redacted]
RONALD R. *. BRESELL, [redacted]
STEPHEN P. *. BRUTTIG, [redacted]
EDWARD F. *. BZDULA, [redacted]
BRADFORD M. *. CALDWELL, [redacted]
RICHARD E. *. CALDWELL, [redacted]
DAVID W. *. CANNON, [redacted]
MARK G. CHAPIN, [redacted]
JOHN C. *. CHIN, [redacted]
CARY S. *. CLAY, [redacted]
MAUREEN *. COLEMAN, [redacted]
BRIAN J. *. COMMONS, [redacted]
MICHAEL *. COOGEN, [redacted]
DAVID O. *. COTE, [redacted]
BRUCE E. *. CROW, [redacted]
MICHAEL A. *. CUBELLIS, [redacted]
CARL A. CURLING, [redacted]
AMOS *. CURRY, JR, [redacted]
WILLIAM G. DAVIES, [redacted]
MICHAEL N. *. DECESARE, [redacted]
THOMAS F. *. DEFAYETTE, [redacted]
MARK A. *. DELEKTO, [redacted]
KATHRYN M. DEPPENSMITH, [redacted]
MARY R. *. DEUTSCH, [redacted]
CHARLES J. DEVRIES, [redacted]
STEVEN E. *. DICKSON, [redacted]
KEITH B. *. DIXSON, [redacted]
THOMAS M. DREIER, [redacted]
ROBIN J. *. DRESCHER, [redacted]
ROBERT C. *. DUBAY [redacted]
PATRICIA F. *. DUNN, [redacted]
ANALOU R. *. EISNER, [redacted]
JOSEPH O. *. EVENSTAD, [redacted]
RICHARD T. *. FIELDS, JR [redacted]
RICKY A. *. FISHER, [redacted]
JOYCE A. *. FLETCHER, [redacted]
LAWRENCE M. FOLTZ, [redacted]
BRADLEY D. FREEMAN, [redacted]
WILLIAM D. *. GEESLIN, [redacted]
EDWARD A. *. GILMORE, [redacted]
TERRY D. *. GOATLEY, [redacted]
JONATHAN D. *. GOLDSMITH, [redacted]
CHARLES E. *. GOODMAN, JR, [redacted]
GREG A. *. GRIFFIN, [redacted]
VERNON L. GROEBER, [redacted]
AARON *. HEARD, JR, [redacted]
DAVID S. *. HEINTZ, [redacted]
DONALD E. *. HENDERSON, JR, [redacted]
GERARD R. *. HEPLER, [redacted]
EUGENE V. HOLAHAN, JR, [redacted]
RICHARD L. *. HOLMES, [redacted]
MARK R. *. HOPTON, [redacted]
PAUL A. HORN, [redacted]
FRANK A. HORNA, [redacted]
MARGARET A. HORRELL, [redacted]
GREGORY *. HOWARD, [redacted]
WILLIAM J. HULEATT, JR, [redacted]
DORENE *. HURT, [redacted]
ALFRED J. *. JOHNSON, [redacted]
KAREN J. *. JOHNSON, [redacted]
TONY W. *. JOHNSON, [redacted]
DAVID L. *. JONES, [redacted]
ROBERT J. JONES, [redacted]
ROBERT G. *. JORDAN, [redacted]
KONSTANTY M. *. KAMINSKI, [redacted]
KENT W. *. KARSTETTER, [redacted]
LARIS D. KEEFER, [redacted]
JOHNETTE *. KEISER, [redacted]
FRANK L. *. KELLY, [redacted]
EDWARD H. *. KENNEDY, JR, [redacted]
WILLIAM J. *. KLENKE, [redacted]
FRANCIS K. *. KOMAR, [redacted]
ROSEMARY T. KYTE, [redacted]
ROGER W. LEBLANC, [redacted]
DOUGLAS W. *. LEFEBVRE, [redacted]
PAUL J. *. LEGRANDE, [redacted]
JOHN R. *. LEU, [redacted]
IRENE F. *. LOGAN, [redacted]
GERARD F. *. LOSARDO, [redacted]
LARRY C. *. LYNCH, [redacted]
MARYANN P. *. MABE, [redacted]
FRED D. MACK, [redacted]
WILLIAM D. *. MARSH [redacted]
JULIE M. *. MARTIN, [redacted]
GEORGE R. MASTROIANNI, [redacted]
ROBERT J. *. MATTHEWS, [redacted]
DANIEL F. *. MCFERRAN, [redacted]
RODNEY A. *. MCPHERSON, [redacted]
FRANCIS L. *. MCVEIGH, [redacted]
DONALD A. MENARD, [redacted]
CHERYL A. *. MERRITT, [redacted]
JOSEPH F. *. MILLER, [redacted]
GARY T. *. MIRAKIAN, [redacted]
NANCY H. *. MOONEY, [redacted]
HAROLD D. *. MOORE, [redacted]
JOHN A. MORGAN, [redacted]
TERRY A. MORGAN, [redacted]
WILLIAM S. *. MORNINGSTAR, [redacted]
MARK L. *. MORRIS, [redacted]
DIANA L. *. MORRISYOUNG, [redacted]
WILLIAM A. *. MOTLEY, JR, [redacted]
DALE L. *. MURRAY, [redacted]
RONALD L. *. NICHOLAS, [redacted]
STEVAN L. *. NIELSEN, [redacted]
BRADLEY J. NYSTROM, [redacted]
RICHARD N. *. ODONNEL, JR, [redacted]
WILLIAM E. *. OLIVER, [redacted]
ROGER W. *. OLSEN, [redacted]
WALTER H. *. ORTHNER, [redacted]
CHRISTOPHER R. PAPARONE, [redacted]
DAVID A. PATTILLO, [redacted]
DENNIS R. *. PAYNE, [redacted]
RONALD D. *. PHILLIPS, [redacted]
ARTHUR D. PICKERING, JR, [redacted]
CATHERINE L. *. PICKETT, [redacted]
LINDA L. PIERSON, [redacted]
NELSON R. *. POWERS, [redacted]
JAMES D. *. RILEY, JR, [redacted]
MARGARET *. RIVERA [redacted]
LUIS *. ROLON, [redacted]
PAMELA J. *. ROYALTY, [redacted]
REGINALD B. *. SANDIFER, [redacted]
LINDA P. *. SAUER, [redacted]
ANN E. *. SAUNDERS, [redacted]
ERIC T. *. SHIMOMURA, [redacted]
RONALD L. *. SHIPPEE, [redacted]
JEFFREY J. *. SIKORSKI, [redacted]
MARK J. *. SILVER [redacted]
STEPHEN SKOWRONSKI, [redacted]
DONALD A. SMATHERS, [redacted]
ROBERT K. *. SMITH [redacted]
EVANS *. SMOOT, [redacted]
JEFFERY C. *. SPRINGER, [redacted]
CHRISTOPHER W. *. STEPHENSON, [redacted]
JAMES E. *. THOMAS, [redacted]
ROBERT J. THOMPSON, [redacted]
DAVID E. TOELKES, [redacted]
DAVID J. *. TOMPKINS, [redacted]
TIMOTHY D. TOOMEY, [redacted]
YVONNE L. *. TUCKER, [redacted]
RICKY D. *. UPTON [redacted]
JEAN P. VREULS, JR, [redacted]
ANNA L. *. WALSH, [redacted]
CHARLES D. *. WARD, JR, [redacted]
VINCENT O. WARDLAW, [redacted]
RALPH R. WATSON, [redacted]
LISA D. *. WEATHERINGTON, [redacted]
NOEL R. WEBSTER, [redacted]
RANDY W. WEISHAAR, [redacted]
SUSAN R. WEST, [redacted]
MARK G. WHIPPLE, [redacted]
J. D. WHITE, JR, [redacted]
DUNCAN T. *. WHYTE, [redacted]
BETTY J. *. WILEY, [redacted]
KEVIN D. WILLIAMS, [redacted]
TIMOTHY D. *. WILLIAMSON, [redacted]
THOMAS M. *. WILLOUGHBY, [redacted]
BARBARA A. WILSON, [redacted]
PAUL W. WINGO, [redacted]
PATRICIA M. *. YOUNG, [redacted]
MARK W. YOW, [redacted]
HENRY A. *. ZOMPA, [redacted]

ARMY MEDICAL SPECIALIST CORPS

To be major

GAIL K. *. BAPTISTE, [redacted]
JOAN E. *. BEEBE, [redacted]
JEANNINE B. *. DAVIES, [redacted]
NEVA C. *. GASKINS, [redacted]
GARY J. *. HAGUE, [redacted]
JAMES P. HEETER, [redacted]
DALE E. *. HILL, [redacted]
MAX A. *. ITO, [redacted]
BARRY L. *. KARALFA, [redacted]
MARY R. *. KOCH, [redacted]
MARY S. *. LOPEZ, [redacted]
BRENDA F. *. MOSLEYCOULTER, [redacted]
CATHERINE E. *. SUCHER, [redacted]
JOHN P. WARBER, [redacted]
MLYNDA S. *. WATKINS, [redacted]

VETERINARY

To be major

RONALD E. *. BANKS, [redacted]
LARRY G. *. CARPENTER, [redacted]
DON L. *. COUCH, [redacted]
STEPHEN L. DENNY, [redacted]
DENZIL F. *. FROST, [redacted]
WALTER D. *. GOOLSBY, [redacted]
JAMES R. *. HAILEY, [redacted]
MARK C. *. HAINES, [redacted]
BILLY W. *. HOWARD, [redacted]
CARNEY B. *. JACKSON, [redacted]
ROSS D. *. LECLAIRE, [redacted]
WARREN S. *. MATHEY, [redacted]
RONNIE L. *. NYE, [redacted]
WILLIAM D. *. PRATT, [redacted]
DAVID R. *. SCHUCKENBROCK, [redacted]
SCOTT R. *. SEVERIN, [redacted]
DOUGLAS D. *. SHARPNACK, [redacted]
KERRY L. *. TAYLOR, [redacted]
MARK E. *. WOLKEN, [redacted]

ARMY NURSE CORPS

To be major

ANGELA E. *. ADAMS, [redacted]
DOROTHY A. *. ANDERSON, [redacted]
LINDA H. *. ANDERSON, [redacted]
CAROLYN O. *. BAKER, [redacted]
SUE A. *. BARDSLEY, [redacted]
MARGARET A. *. BATES, [redacted]
KAREN P. *. BATTAFARANO, [redacted]
EDITH R. *. BAUTISTA, [redacted]
ROGER D. BAXTER, [redacted]
TERRY V. *. BAXTER, [redacted]
CHRISTALLIA I. *. BLACK, [redacted]
JAMES R. *. BLOCKER, [redacted]
PATRICIA M. *. BOONE, [redacted]
CHRISTINE K. BOOTH, [redacted]
KENNETH P. *. BOWDEN, [redacted]
JULIETTE C. *. BRIDGEMAN, [redacted]
STEPHEN A. *. BRILES, [redacted]
DEBRA L. *. BROWN, [redacted]
LAUREN A. *. BURNEY, [redacted]
JOAN M. *. CAMPANARO, [redacted]
DEBORAH J. *. CANNON, [redacted]
ALFRED N. *. CARVILL, [redacted]
YOUNG B. *. CHUNG, [redacted]
DANIEL F. *. COOVERT, [redacted]
PATRICIA L. *. CORDIER, [redacted]
RICHARD W. *. CRUMP, [redacted]
LARRY D. *. CURTIS, [redacted]
EDWARD O. *. CYR, [redacted]
RICHARD P. *. DABBS, [redacted]
MARVIN G. *. DAVEY, [redacted]
RHODA L. *. DEARMAN, [redacted]
HOLLY C. *. DORLAND, [redacted]
CAROLYN E. *. DRIVER, [redacted]
PAUL R. *. EHRLICH, [redacted]
PER I. *. EIANE, [redacted]
JAMES A. *. EIRING, [redacted]
SUSAN J. *. FELICE, [redacted]
BRENDA G. *. FINNICUM, [redacted]
GERALD W. *. FLANAGAN, [redacted]
MARY L. *. GABBARD, [redacted]
CAROLE E. *. GALLIMORE, [redacted]
CAROL S. *. GILMORE, [redacted]
BOYD D. *. GOLDSBY, [redacted]
COLINDA M. *. GRAVELLE, [redacted]
WILLIAM L. *. HAGIN, JR, [redacted]
FRANCES M. *. HARGIS, [redacted]
RICHARD W. *. HARPER, [redacted]
MARGARET S. *. HARRISON, [redacted]
PATRICIA A. *. HAYES, [redacted]
ALEX J. *. HOUSE, [redacted]
ROSALIE E. *. HYPOLITE, [redacted]
YVONNE K. *. JACKSON, [redacted]
JUANA M. *. JIMENEZ, [redacted]
DORIS T. *. JOHNSON, [redacted]
JAMES R. *. KEENAN, [redacted]
KATHLEEN L. *. KELM, [redacted]
MARIA A. *. KIRKLAND, [redacted]
JOSEPH C. *. KISER, JR, [redacted]
CHRISTOPHER A. *. KRUPP, [redacted]
CLAUDE A. KUCINSKIS, [redacted]
REYMUNDO *. LARIOSA, JR, [redacted]
DEBRA K. *. LAYER, [redacted]
RUTH E. *. LEE, [redacted]
PAMELA J. *. LEWIS, [redacted]
SAMUEL L. *. LEWIS, [redacted]
JOHN R. *. LONGENCKER, [redacted]
JUDITH L. *. LOVETT, [redacted]
HERIBERTO *. LUGOCOLON, [redacted]
DENISE M. *. LURK [redacted]
JUANICE F. *. MAPLES, [redacted]
JOSE D. *. MARINRODRIGUEZ, [redacted]
JUAN J. *. MARTINEZ, [redacted]
STEPHEN D. *. MASSEY, [redacted]
EDWARD G. *. MATTERN, [redacted]
MICHAEL T. *. MAY, [redacted]
ALEXINE E. *. MCCOLLUM, [redacted]
YOLINDIA E. *. MCCORQUODALE, [redacted]
ANTONIO *. MEDINAMUNIZ, [redacted]
RAYMOND J. *. MEYERS, [redacted]
THOMAS H. MILLER, [redacted]
LEEANN *. MOLINI, [redacted]
MIGUEL A. *. MORALESMARTINEZ, [redacted]
KEITH L. MORGAN, [redacted]
SARA E. *. MORRIS, [redacted]
JO A. MOYERS, [redacted]
LAURIE A. MUTH, [redacted]
SUE B. *. NEWCOMBE, [redacted]
JACKIE L. *. NUSSBAUM, [redacted]
TAMARA D. *. ODONNELL, [redacted]
THOMAS L. *. OGLESBY, [redacted]
DUANE A. *. ORNES, [redacted]
HARRIET M. *. PAUL, [redacted]
STEPHEN E. *. PELLEGRIN, [redacted]
JUDY B. *. PENISTON, [redacted]
LAURA W. *. PIERRE, [redacted]
WILLIAM T. PIXTON, [redacted]
ROBERT M. *. PONTIUS, [redacted]
PAULA F. *. PRICE, [redacted]
DEBORAH F. *. REICHERT, [redacted]
ANN B. *. RICHARDSON, [redacted]
CYNTHIA O. RICHARDSON, [redacted]
LAURA A. *. RUSE, [redacted]
CATHERINE B. *. RYAN, [redacted]
JUAN A. *. SAENZ, [redacted]
ARTURO *. SALA, [redacted]
GEMRYL L. *. SAMUELS, [redacted]
BEATRIZ *. SANTIAGORIVERA, [redacted]
CARYL J. *. SCHAFFTER, [redacted]
JOHN N. *. SCHANK, [redacted]
DORIS J. *. SCHELL, [redacted]
SUSAN J. *. SCHMITZ, [redacted]
PATRICK M. *. SCHRETENTHALER, [redacted]
RITA A. *. SCHULTE, [redacted]
JOHN L. *. SCHULZ, [redacted]
KATHLEEN A. *. SEEHAFER, [redacted]
ANN F. *. SEES, [redacted]
BRENDA E. *. SEWAK, [redacted]
JOHN T. *. SLAGLE, [redacted]
GARY L. *. SMITH, [redacted]
SANDRA L. *. SMITH, [redacted]
RHONDA L. *. SNIPES, [redacted]
VICKIE C. *. STAMP, [redacted]
CAROLYN E. *. STEED, [redacted]
JERRY L. *. STRAND, [redacted]
LAURA M. *. TERRIQUEZ, [redacted]
MARCY D. *. THOMAS, [redacted]
MARIE A. *. TODDTURNER, [redacted]

BYRON D. *. UNDERWOOD, [redacted]
JOAN K. *. VANDERLAAN, [redacted]
MARY C. *. VAUSE, [redacted]
GERMAN *. VELAZQUEZ, [redacted]
RANDALL L. *. VOYLES, [redacted]
BETH J. *. WALL, [redacted]
JULIE K. *. WEBER, [redacted]
MARGARET E. *. WEISER, [redacted]
SUSAN A. *. WEST, [redacted]
JANNIFER E. *. WIGGINS, [redacted]
JOAN S. *. WORTMAN, [redacted]
MARIA D. *. ZAMARRIPA, [redacted]

IN THE NAVY

THE FOLLOWING NAMED COMMANDERS OF THE RESERVE OF THE U. S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF CAPTAIN IN THE STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

MEDICAL CORPS OFFICERS

To be captain

OFELIA MARAL BORLONGAN
ROBERT ARTHUR BRAUN
RICHARD G. BUSH
DONALD PAUL BYINGTON
MICHAEL L. COATES
NICHOLAS JOSEPH COLOSI
STEPHEN STANDISH COOK
LEON JOSEPH DAVIS
CHARLES EIL
LARRY A. ENINGER
BONIFACIO CO ESPERANZA
JEAN LONG FOURCROY
PAUL GUY GALENTINE, III
MARSHALL JAMES GERRIE
JOHN CHRISTIAN GILLIN
EUGENE HUGH GINCHEREAU
LAWRENCE E. GREEN
JOHN CHARLES HEDGES
PATRICK MICHAEL HUTTON
CARLOS JASSIR
FRANCIS CLYDE JOHNSON
JESSE M. JONES
ANTHONY BRUCE JUNKIN
SAMUEL VICTOR JUST
SABIH KAYAN
ROGER D. KELLEY
THOMAS PATRIC KENEFICK
NOELINE KHAW
ROBERT CURTIS KNOWLES
JOHN PHILLIP KOREN
LELAND KENNETH KRANTZ
SITA G. KRISHNA
OWEN WILLIAM LLOYD
GARY SCOTT LYTLE
RYOJI MAKINO
WILLIAM PATRICK MANN
MYRLE F. MARSH
ROBERT L. MARSHALL
DAVID MICHAEL MCCANCE
EUGENE B. MCLAURIN
MIGUEL P. MEDINA
MARVIN MILLER
LAWRENCE KEITH MONAHAN
EUGENE W. OVERTON
STEVEN JAY OXLER
USHA THAKORBHAI PATEL
ALLYN MICHAEL PIERCE
RICHARD KEPLEY PRUETT
JOHN JOSEPH RACCIATO
RONALD F. RUSSO
TERSITO SABADUQ SERATE
TOMMY CLAY THOMPSON
ROGER CHARLES TOFFLE
JAMES ETHRIDGE TURNER
CHARLES JACKS VANMETER
DANIEL VERNARD VOISS
JOHN C. WEED, JR
CLEMMIE LEE S. WILLIAMS
PAUL CARROLL WILLIAMS

DENTAL CORPS OFFICERS

To be captain

JAMES BENSON ANDERSON
GILL BERNARD BASTIEN
RODNEY JOEL BECKETT
JOEL DAVID BERICK
JOHN WESLEY BIDDULPH
TIMOTHY JOHN BOKMEYER
BYRON AUSTIN BONEBREAK
CHARLES DEVO BROADBENT
L. W. CARLYLE, III
KENNETH OLIVE CARNEIRO
HIRAM THOMAS CARR
JOSEPH ANTHO CATANZANO
ROBERT JOSEPH CHLOSTA
JAMES ANTHONY COTTONE
STEPHEN M. CREAL
CLARK BYRON DEPEW
JOHN WEBSTER DESHAZO
CRAIG BREEN DEVER
LAWRENCE BRUNO DIBONA
CHARLES EDWARD EHLE, II
KENNETH LOU FONTECCHIO
THOMAS PHILLIPS GLANCY
JAMES WINFIELD GLORE
JAMES ALLEN BAL HADMAN
ROBERT TERRY HALL
ARTHUR LEE HALSTEAD, II
TERENCE CHESTER HILGER
JOWELL DEAN HORTON
THOMAS MATTHEW JACOBY
CLAYTON HENRY JOHNSON
THOMAS LENVILLE JONES
MICHAEL JAMES KELLEY
DONALD GEORGE KREHL
LOUIS STEVEN I. LATIMER
ROBERT CRILE LEBOLD
THOMAS JOSEP MAUROVICH
DAVID THOMAS MCCANN
JAMES ALAN MCNULTY
STEVEN DENNIS MILLER
JOHN ALDEN MUNN, JR
THOMAS FIELDER MYERS
JAMES CAMERON NEWBY
LYNN I. NILSON
RONALD CHARLES OBOYLE
RONALD THEODORE PAGANI
JEROME PHILI ROTHSTEIN
LYLE THOMAS ROUDABUSH
RALPH JOSEPH RUNGO
DENNIS HENRY SCHIPKE
ANDREW JOSEPH SEVERSON
ALBERT PETER J. SINDALL
WILLIAM JOSEP STARSIAK
JOSEPH STEINER
HARRY ALLISO STROHMYER

MEDICAL SERVICE CORPS OFFICERS

To be captain

LYNN YVONNE BRECHTEL
CHARLES VANCE J. GORDON
CALVIN PETER MYERS
ROBERT PETER NALEWAIK
JANIECE SIMMONS NOLAN
GEORGE RICHARD WILSON

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be captain

RICHARD EUGENE HAHN
KERMIT WILLIAM NEUMAN
CHARLES ROEDERSHEIMER
JOHN GORDON SOULE

NURSE CORPS OFFICERS

To be captain

LYNN M. AYLWARD
BEVERLY YOUNG BROOKS
PATRICIA JANE KELLER
CHARLES EVERET LEARNED
KAREN ANN MEEHAN

SUPPLY CORPS OFFICERS

To be captain

WILLIAM CHARLES ACKERMANN
DANIEL WILLIAM ALJOE
JAMES SCOTT ALLAN
GEORGE CHRISTIAN APPEL
KENNETH E. ARENDT
DOUGLAS ALAN BROOK
DAVID ARTHUR BUTLER
PRICE FREEMAN CAMPBELL
DANNY GLENN CASEY
PETER BRECKENRIDGE DOVE
WILLIAM VICTOR ERICKSON
JAMES ANTHONY FARKAS
JOSEPH AUGUSTINE GIACOMINI
KENNETH MARK GLADSTONE
WILLIAM DENNIS GRIFFITHS
EDWARD FRANCIS HAND
JOHN PAUL HANLIN
DAVID THEODORE HARDEN
VICTOR H. HEMMY, JR
RICHARD ALLAN HILL
BRUCE DEAN IVEY
RUSSELL CURTIS JOHNSON
DON MARK KAMMERER
GARRY LEE KARSNER
THOMAS ANDREW KELLY
PHILIP LAWRENCE KIRSTEIN
RICHARD ALLAN KLAUBER
CHRISTOPHER ANTHONY KULE
WILLIAM RICHARD LINK
ARTHUR WILLIAM MIRES, JR
DANIEL EARL MOSER, JR
WILLIAM CHARLES NIERMAN
EDWARD JOHN ODACHOWSKI, JR
ROBERT ERWIN ODONNELL
ROBERT ALLEN PETERS, JR
JOHN ARTHUR POTTS
JAMES BRUCE POWERS
WALLACE SMART REED
FRANCIS GEORGE ROBERTSON
DAVID LARRY ROST
WILLIAM WOLF ROUZER
WILLIAM APPLEBY ROYAL
JAMES RUSSELL SHORTER, JR
THEODORE DANIEL SOLIE, III
FREDERICK CARLTON SPATHELF
JAMES LAWRENCE STANFORD
WILLIAM HARRISON TEWELOW
RICHARD TILLOTSON TRACY
ROBERT LLOYD TRAUPE
WILLIAM WELLS WEISSNER
KENNETH H. ZEZULKA

SUPPLY CORPS OFFICERS (TAR)

To be captain

PAUL D. GRIFFITH
ROBERT B. MILLER
RONALD THEODORE PRETULAK

CHAPLAIN CORPS OFFICERS

To be captain

HORACE ALFORD HAMM

CIVIL ENGINEER CORPS OFFICERS

To be captain

WILEY JAMES ARCHER
ERIC RANSOM BENNETT
TIMOTHY DONN BREDAHL
MONROE FRANK BREWER, JR
JOHN GRIFFITH DAY
DAVID EDMUND DELWICHE
JERAULD LEE DICKERSON
CHRISTOPHER JOHN EDWARDS
LESTER GLEN EVANS, JR
EDWARD MALER GABRIELSON
CLIFFORD NICHOLS HARBY
JOHN POWERS HEINSTADT
JAMES ISHIHARA
RICHARD HOWARD MILLER
GREGORY ALDEN PARKER
JOHN JAMES PICCO
DAVID ANDREW PRICE
CLIFFORD HARPER ROYAL
DANIEL THOMAS SCHULTES
CHARLES TOMMIE SING
ROBERT FRANK SMITH
RALPH SWINTON SPILLINGER
RICHARD ROSS STAPP
JOHN RICHARD STEGMILLER
HARRY MARIAM STITLE, III
JACK ALLEN WERNER
WINSTON DOUGLAS WILLS
ROBERT DAVIS WINESETT, JR

IN THE NAVY

THE FOLLOWING NAMED LIEUTENANT COMMANDERS OF THE RESERVE OF THE U. S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF COMMANDER IN THE STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

MEDICAL CORPS OFFICERS

To be commander

WILLIAM EDWARD ADKINS
HENRY R. ALEXANDER
ROBERT JAMES ALLEN
WILLIAM MICHAEL ASHER
SCOTT D. AUGUSTINE
WILLIAM B. BARBER, II
DAGMARA ELGA BASTIKS
ROBERT HARLOD BIGGS
KENNETH DEAN BIRD
CARL VALDEMAR BISGARD
KEITH N. BLACK
RALPH BUDD BLASIER
RANNIE PAUL BORDLEE
JERRELL LAWRENCE BORUP
JOHN T. BRITTON
HAROLD V. BRYANT, JR
JOSEPH ANTHON CALLAHAN
CHARLES HARVE CAMPBELL
GERALD EDWARD CARLSON
HOMER S. CARSON, III
ROBERT CHIN, JR
JAMES MICHAEL COBB
PETER C. COTE
RICHARD TURNER CRANE
ROBERT LEE DENNISON, JR
DAVID JEROME DONAHUE
PHYLLIS ANN EDWARDS
BERNARD HERBER EICHOLD
JODEA ELLIOTTBLAKESLEE
JOSEPH GARTLAN ENGLISH
LORNETTA RUTH TAY EPPS
JOHN M. FAUST, JR
JOHN V. FERGUSON
ADOLF FERNANDEZOBREGON
TIMOTHY CARLYLE FLYNN
J. FRANCESSCHI-ZAMBRANA
FRANK JOHN FRASSICA
HARRY FRIEDMAN
CLAUDIA E. GALBO
BEN F. GAUMER
ANTHONY GODBOLDT
JOSEPH FRANK GOLUBSKI
JIMMY GRAHAM
HERBERT G. GRANTHAM
MICHAEL DAVID GROSS
JOHN L. HALLER
ERNEST C. HANES
DONALD CARTER HANSEN
ROBERT CHARLES HARRIS
ROBERT K. HETZ
THEODORE J. HEYNEKER
JOHN WESTLY HODGE
CHARLES BUR HUDDLESTON
ANTHONY NAI KIT HUI
JACE WARD HYDER
CHRISTINE INDECH
RICHARD T. IRENE
LANE WOLCOTT JOHNSON
ROBERT ALBERT JOHNSON
JOHN L. KEATING
OWEN BERNARD KEENAN
DAVID A. KEILMAN
SHAHNAZ SADRI KEYKHAH
ERNEST BOBBY KLEIER, JR
JEFFREY J. KREBS
RICHARD MAX KUHARICH
PERRI LYNNE LAVERSON
KEITH J. LEE
JOHN D. LENTZ, III
WALTER DAVID LEVENTHAL
MIRCEA B. LIPOVAN
CLARENCE EDWARD LOWERY
DAVID T. MACMILLAN
RUTH HELD MARTIN
MICHAEL JOSEPH MASELLY
CHERRAL WESTERMA MASON
JOHN ROBERT MAWK
STEPHEN A. MCADAMS
THOMAS E. MCGUE
JOHN ALOYSIUS MCGURTY
GEORGE G. MILLER
VICKI ANN MORRISON
DONNA LUCILLE MOYER
JOHN HUGH JOSEP NADEAU
BERNARD M. NAGEL
ALAN P. NEUREN
ROBERT J. NEWMAN
JON KIRBY NEWSUM
HENRY FRANCIS OLIVIER
JOHN NEFF PARKER
DAVID ONEIL PARRISH
CHARLES RICH PATTERSON
ROBERT B. PATTERSON
GREG STEPH PUDHORODSKY
DAVID H. RATCLIFF
JAMES W. RICHARDSON
HOMER E. RICHER
MARC SAMUEL SAGEMAN
JEFFERY G. SCHERER
RANDOLPH BREN SCHIFFER
DENNIS WAYNE SCHMIDT
ROBERT LESTER SCOTT
BARBARA PITTNE SEIZERT
MARGARET M. SHANNON
VINCENT SHIN WEN SHEN
GARY LEE SHUGAR
BRIAN D. SIMS
BRUCE WAYNE STAEHELI
JOSEPH C. STEGMAN
JOHN ROBERT STEWART
MICHAEL S. SZKOTNICKI
DERRICK DONALD TAYLOR
EULON R. TAYLOR
DAVID W. TERHUNE
MARK ANDREW TERRY
WILLIAM EDWA UNDERDOWN
MAREK STANESLAW VOIT
ANTHONY JON VOLPE
D. WALKERROBERT, III
DAVID JOSEPH WALSH
JEFFREY D. WAY
RICHARD CHARLES WELTON
CHRISTINE E. WHITTEN
FREELAND L. WILLIAMS, II
FRED JOHN WILMS
MARIO SANTOS YCO
BLANE WESLEY YELTON, JR
MARTHA A. ZEIGER

DENTAL CORPS OFFICERS

To be commander

ROBERT ANTHONY
GORDON TRENT AUSTIN
MARK CLAUDE BAKER
WAYNE M. BAKER
ANTHONY M. BATKO
JAMES ALBERT BLACK
DAVID SCOTT CAMERON
LAMONT CANADA
JAMES ROBERT CARNEY
JOHN L. DEFFENBAUGH
ERNEST STEP FERJENTSIK
GILBERT R. FULLER
CHARLES H. HUDGINS
CHARLES A. JONES
ROBERT STAFFORD JUSTUS
BRIAN LEE KOZLIK
JOSEPH LEMBO
HAROLD A. MCADOO
JAMES R. MCCUTCHEON
THOMAS J. OLINGER
FRANCISCO J. ROMERO
BRIAN EDWARD SCOTT
BARBARA J. SLABE
DAVID RAY STEVENS
MICHAEL C. TAYLOR
JOHN WAYNE WHEELER

MEDICAL SERVICE CORPS OFFICERS

To be commander

ANN EVELYN BARY ADCOOK
TEDDY CHARLES JOHNSON

CURTIS WILLIAM KESWICK
GEORGE BERNAR KORN
SCOTT KENT LIDDELL
WILLIAM GREGORY LOTZ
GILBERT HERRE MARTINEZ
CRAIG ALAN MORIN
DAVID FREDERI OETINGER
JAY ROBERT ROBERTS
GEORGE RODMAN, III
HAROLD KENNETH STRUNK
ROBERT EDWARD TITCOMB
JAMES STIMSON TRIPP
RONALD ANDRE WARCHOLAK
DENNIS PATRICK WOOD

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be commander

ROBERT LANCE ANDREWS
PAUL P. CASWELL
GEORGE EVERET ERICKSON
JAMES FREDERICK MORGAN
JAMES RILEY MULROY
ROBERT CHARLES SEIGER
JOHN NEVIN SHAFFER, JR

NURSE CORPS OFFICERS

To be commander

BARBARA ANNE C. CASSIDY
PATRICIA KAT CHRISTMAN
LADONNA LOU NEWT DARKS
CYNTHIA MARAVICH DROZ
ROSALINDA HASSELBACHER
SARA LOUISE KARSTETTER
KATHLEEN KELLEY
MARTHA LOUISE LARSON
JOSEPH FLOYD LATHAM
MARY WELLS SAMSON

SUPPLY CORPS OFFICERS

To be commander

JAMES CHI CHANG
MICHAEL THOMAS DERRICO
JAMES LYNN ERICKSON
PAUL VICTOR KONKA
JONATHAN DISMUKES LEA
THOMAS WARREN MCDONALD
SUMNER KITTELLE MOORE, JR
DAVID FRED STANKEIVICZ

SUPPLY CORPS OFFICERS (TAR)

To be commander

ROBERT RUDOLPH LANGMAACK
DAVID AARON LUECHAUER

CHAPLAIN CORPS OFFICERS

To be commander

JOHN SIDNEY CREWS
DANIEL EUGENE LOCHNER
BYRON DEFLYNN LONG
ERNEST BURCHIE NEWSOM
THOMAS MICHAEL PARENTI
RAY EVERETT ROBERTS, JR

CIVIL ENGINEER CORPS OFFICERS

To be commander

STEVAN MILLER ARMSTRONG
RONALD PAUL DETROYE
CARL ENGLAND DEVILBISS
MICHAEL RHEU FOSDICK
ROBERT KENYON FRINK, II
HERBERT RONALD HRIBAR
CALVIN PALMER JONES, JR
CASIMIR ANDREW LITWINSKI
JAMES ROLAND LORD
JAMES MITCHELL MCGARRAH
WILLIAM CHARLES MCINTYRE
TIMOTHY RALPH MORTON
CHARLES MICHAEL REEVES
JAMES THOMAS RODRIGUEZ
TERRENCE DAVID SHOFNER
KENDRICK AQUINAS SIMMS, III
RICHARD LEE SMITH
KENNETH MITCH WILLIAMS

HOUSE OF REPRESENTATIVES—*Monday, June 20, 1988*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. Foley].

DESIGNATION OF SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore laid before the House the following communications from the Speaker:

Washington, DC,
June 16, 1988.

I hereby designate the Honorable Thomas S. Foley to act as Speaker pro tempore on Monday, June 20, 1988.

Jim Wright,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, our prayers reach out to every person who seeks to serve others in all the different vocations of life. On this special day we express appreciation for the contributions of those who have served in this institution of Government and particularly in this body. May their commitment to the ideals of this land and the promise of a better world encourage all public servants to understand their positions as a unique trust from the people of the Nation. May Your grace be upon the women and men of this assembly and may Your blessing be ever with them. Amen.

THE JOURNAL

The **SPEAKER** pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

The **SPEAKER** pro tempore. Pursuant to the order of the House of Thursday, June 16, 1988, the Chair declares the House in recess subject to the call of the Chair, to receive the former Members of Congress.

Accordingly (at 11 o'clock and 2 minutes a.m.) the House stood in recess subject to the call of the Chair.

RECEPTION OF FORMER MEMBERS OF CONGRESS

The **SPEAKER** pro tempore (Mr. Foley) presided.

The **SPEAKER** pro tempore. On behalf of the Chair and the Members, I consider it a high honor and a distinct personal privilege to have the opportunity of welcoming former Members of the House, our former colleagues, here for this occasion. We all pause to welcome them, and since this is a bipartisan affair, in that spirit the Chair would like to recognize the distinguished Republican leader of the House, the gentleman from Illinois [Mr. Michel].

Mr. MICHEL. I thank the Speaker.

My fellow colleagues, current and past, welcome again to the House of Representatives. I guess when I look at a number of the more senior Members here, who were already senior I guess when I was junior, and I think of all of the history that is steeped in this Chamber, and then to see it kind of replayed as you walk across the stage, Dr. Judd, I am thinking that we have not yet made a determination of who is going to give the keynote for our convention. But I remember that stirring address that you gave at one time before our convention. And of course on this side to see those of you, John, and all of the rest, Joe, so many of you whom we have been fortunate to keep up the contacts with over the course of the years.

I am really struck this morning. I read the bulletin of the former Members here, and of course, as has been our normal practice here in welcoming some new Members aboard, then there is the sad farewell, and I notice that there were 25 Members who have passed on in this past year. And Johnny Rhodes, if I served with 20 of those 25, you had to, too. And to think that we are still here, but 20 of our Members with whom we have served have gone on to their reward, a very striking figure.

But how nice to see so many of you, and particularly at a time when you are going to pay tribute to our friend, and my predecessor as Republican leader, John Rhodes, who is getting your Distinguished Service Award here today. I know I speak for all of the Members past and present, Democrat and Republican, when I say, John, this award is merely a public confirmation of what we all knew, that you were one of the greatest leaders of this House, the embodiment of what a House Member should be. And over the years you have shown that reasoned argument and a friendly disposition, and a love of the institution can combine to make things run smoothly around here. And the great virtues of civility and comity without which the House would fall into chaos I find personified in our dear friend, John Rhodes.

I apologize if some of our Members are not here this morning, some of our leaders, too, for that matter. You know when we set aside Monday and say, well folks, we are just going to have suspensions, or something like that, no rollcalls, and if we do something similar to that on Friday, you know what that means, it comes back to those old days when we had the T and T Club, in Tuesday and out Thursday. And it is a campaign year again, and that means all those Members are out there doing their normal thing.

But for me, it is an extraordinarily nice pleasure to join with Tom Foley, particularly in welcoming each and every one of you back to the House of Representatives. I hope you have a great stay, and I really applaud all of the efforts I see enumerated in the publication now of what our former Members are doing by spreading the word in a number of areas, particularly the visits to college campuses, foreign travel and the kind of discourse that takes place between foreign legislators and ourselves. I must say that in this past year we are getting an ever-increasing number of delegations from abroad, from countries who want to come and visit with us personally, and some of that gets stimulated by some of the trips you former Members make abroad.

So again, Mr. Speaker, thank you for the opportunity of joining in extending to our former Members a very cordial welcome.

[Applause.]

The **SPEAKER** pro tempore. The Chair would now like to recognize the distinguished chief deputy majority whip, the gentleman from Michigan [Mr. Bonior].

Mr. BONIOR. Thank you, Mr. Speaker. It is indeed a real privilege and honor for me to be here today with so many of my former colleagues, and with many who have in one way or another been my mentors.

This institution, the Congress, is unique not only in our time, but I think all of you will agree it is unique in the sense of our history as a race. It embodies more fully than any other the sometimes difficult, the sometimes disappointing, but the ever ennobling struggle of humankind to govern ourselves in a very truly democratic fashion.

We today who serve in this distinguished body are heirs to this very

☐ **This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.**

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

proud tradition, and we owe to all of you who came before us a great debt. But our debt is not only to the work you did here, but to the work that I think that you continue to do. The institutions of democracy are complex, and unfortunately sometimes little understood in our society. I think that it is particularly true of Congress.

Congress, as you know, this body in particular, is the closest to the people. But at times we are unfortunately least understood. That in some sense has begun to change recently. I say recently and I am referring to the last 20 years. One of the things that has changed that obviously has been the advent of television. The fact that this body began televising in the late 1970's in the Senate, the other body, and we can refer to it as the Senate today, we could not out of respect when most of you served, but the Senate recently began televising. I think that has helped tremendously in the understanding of the work that we do. Maybe the nuances are not understood, but certainly people understand exactly how the procedures on the floor take place and the concept of the policy and the legislation that is being considered.

The nuances though I think you have helped with tremendously with your organization and the development of it in 1970, letting people understand at the university level and at the college level, and in seminars in other countries, just exactly what these subleties of democracy are that operate in this great institution.

On a little lighter note, it is a pleasure for me because I get to greet Lucian Nedzi again and Jim O'Hara, who was my predecessor. Lucian and I go back, our families go back a long way. My parents went to school with Lucian's parents, and we grew up in a little town called Hamtramck, a little Polish community that some of you may have heard about. And my first political campaign was in Hamtramck. I worked for a fellow by the name of Dr. Tenerowicz. Some of you may recall Doc Ten. I was 7 years of age and the doctor lived down the street from me, and he had his doctor's office, and next to it his political office, and all I know is that there were free sodas and free potato chips down there if I would pass out leaflets, and that was my first political campaign, was passing out literature and getting free pop and chips.

We moved out to the growing area north of Detroit in suburban Detroit, and that is when Jim O'Hara began his first political campaign in 1958, and that really whetted my appetite for public life. And I have been fortunate enough to have served in this body now since 1976, although I must admit, when I see Lucian and Peggy leisurely enjoying a meal or a reception, or I see Jim O'Hara with his deep windswept tan coming off the Chesapeake Bay, I sort of wonder if it is not something to look forward to and is not a position to look forward to in the future to be in the position they are in here today.

Let me finally pay tribute to John Rhodes. John and I served a very short time together, but I remember him as Republican leader and, as the gentleman from Illinois [Mr. MICHEL] has indicated, as one of the fairest and most pleasant people that served in this institution. We served on the Rules Committee before John left, and I congratulate you and him on honoring him today because indeed he has set forth I think the finest values and traditions of this great institution.

Let me conclude. I was thinking of things to say this morning and I came across a piece in the New York Times this weekend, a quote by Kennedy that he made just 25 years ago this month at Dublin Castle. He said,

> Democracy is a difficult kind of government. It requires the highest qualities of self-discipline, restraint, a willingness to make commitments and sacrifices for the general interest, and also it requires knowledge.

I think all of you here embody the best in democracy. I welcome you and I wish you a wonderful day and I look forward to meeting and discussing your concerns.

[Applause.]

The SPEAKER pro tempore. In furtherance of the bipartisan spirit, the Chair would now like to call on the gentleman from Illinois, Mr. Derwinski, immediate past chairman of the Former Members Organization, to take the chair.

Mr. DERWINSKI (presiding). The Clerk will now call the roll of former Members of Congress.

The Clerk called the roll of former Members of the Congress, and the following former Members answered to their name:

ROLLCALL OF FORMER MEMBERS OF CONGRESS ATTENDING ANNUAL SPRING MEETING, JUNE 20, 1988

Hugh Q. Alexander of North Carolina;
William H. Ayres of Ohio;
Lamar Baker of Tennessee;
Joseph W. Barr of Indiana;
J. Glenn Beall, Jr., of Maryland;
John A. Blatnik of Minnesota;
Donald G. Brotzman of Colorado;
William T. Cahill of New Jersey;
Elford A. Cederberg of Michigan;
Jeffrey Cohelan of California;
Albert W. Cole of Kansas;
James K. Coyne of Pennsylvania;
William Cramer of Florida;
Paul W. Cronin of Massachusetts;
Edward J. Derwinski of Illinois;
William Jennings Bryan Dorn of South Carolina;
Michael A. Feighan of Ohio;
Louis Frey, Jr., of Florida;
Don Fuqua of Florida;
Robert A. Grant of Indiana;
Martha W. Griffiths of Michigan;
Gilbert Gude of Maryland;
Harry G. Haskell of Delaware;
Jeffrey P. Hillelson of Missouri;
Roman L. Hruska of Nebraska;
Allan Oakley Hunter of California;
Jed Johnson, Jr., of Oklahoma;
Walter H. Judd of Minnesota;
Frank M. Karsten of Missouri;
Martha Keys of Kansas;
Horace R. Kornegay of North Carolina;
Peter N. Kyros of Maine;
John V. Lindsay of New York;
Robert McClory of Illinois;
Clark Mac Gregor of Minnesota;
William S. Mailliard of California;
James R. Mann of South Carolina;
George Meader of Michigan;
Lloyd Meeds of Washington;
D. Bailey Merrill of Indiana;
Abner J. Mikva of Illinois;
John S. Monagan of Connecticut;
W. Henson Moore of Louisiana;
Frank E. Moss of Utah;
Shirley Pettis of California;
Howard Pollack of Alaska;
James M. Quigley of Pennsylvania;
John J. Rhodes of Arizona;
J. Kenneth Robsion of Virginia;
John M. Robinson Jr., of Kentucky;
John H. Rousselot of California;
Philip E. Ruppe of Michigan;
Harold S. Sawyer of Michigan;
Fred Schwengel of Iowa;
William L. Scott of Virginia;
Garner E. Shriver of Kansas;
Carlton R. Sickles of Maryland;
Henry P. Smith III, of New York;
Andrew Jackson Transue of Michigan;
Victor V. Veysey of California; and
Charles W. Whalen, Jr., of Ohio.

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Mr. DERWINSKI (presiding) The Chair announces that 61 former Members of Congress have responded to their name, a quorum is present.

The Chair would also like to recognize the presence of a former Member of the House, now the distinguished minority leader of the Senate, the Honorable ROBERT DOLE of Kansas.

[Applause.]

Mr. DERWINSKI. The Chair now recognizes the current president of the association, the gentleman from New York, the Honorable John Lindsay.

Mr. LINDSAY. Mr. Speaker, I cannot tell you what an honor it is for me to be back here and to report on the affairs this past year of the Association of Former Members of Congress.

I am doubly appreciative that the majority leader, Representative TOM FOLEY, is here to extend greetings, and that my old friend, the Honorable ROBERT MICHEL, minority leader of the House of Representatives, saluted us with a greeting, and that the Honorable DAVID BONIOR, Representative from Michigan generously greeted us from the majority side.

My friend, Senator BOB DOLE is here and I thank him also for being among us.

It is a great pleasure for me also that the Honorable Ed Derwinski, who was elected to Congress the same year that I was, in 1958, is presiding over the session as Speaker pro tempore. He continues to distinguish himself as the Undersecretary of State of the United States.

We meet, Mr. Speaker, on the eve of the bicentennial anniversary of the ratification of the U.S. Constitution. It was exactly 200 years ago, tomorrow, on June 21, 1788, when New Hampshire became the ninth State to ratify the Constitution, which was the requisite number of States under article VII in order for the Constitution to be approved.

Next March 4, 1989, will mark the bicentennial, 1789, of the convening of the first Federal Congress in my home area, New York City, with 8 Senators and 13 Representatives in attendance and the remainder en route. Less than 2 months later, on April 30, 1789, George Washington was inaugurated as the first President of the United States.

Next spring the Congress will begin its third century. Those of us who have served in the Congress are very proud of its past and are confident of its future. It is a future bright with opportunity and innovative possibilities.

Mr. Speaker, those who happen to see the live telecast last week on "ABC Nightline" from our Capitol and from Moscow could not help but be impressed with the technical possibilities for joint conversations between the legislators of our Congress and parliamentary bodies throughout the world. This is possible because of the scientific technology that exists today which would have been science fiction just a few years ago. We believe that the Congress is the essential ingredient for the success of the American political system, a fact which is often overlooked. One of our goals is to provide broad public education about the Congress and our system of representative government. We do this in a variety of ways but principally through our Congressional Fellows Program where we send out our members, selected by the college, to spend 3 to 5 days on the campus interacting with students about the Congress and discussing public policy issues. For example, the most recent to return is our colleague, John Anderson of Illinois who completed a fellowship at California Polytechnic State University, which happened to have been our 219th visit to colleges and universities in 49 States of this Union. This program, which, of course, is completely bipartisan, as is our own organization, has now reached more than 100,000 college students. At this point I would ask unanimous consent to insert the list of 219 college visits and the fellows who came from our Congress in the RECORD along with sample comments which we have received largely from colleges who have participated in the program.

COLLEGES AND UNIVERSITIES VISITED UNDER THE CONGRESSIONAL ALUMNI CAMPUS FELLOWS PROGRAM

COLLEGE/UNIVERSITY, STATE, AND FELLOW

Alaska Pacific University, Alaska, William S. Mailliard (California).

Albion College, Michigan, David S. King (Utah).

Albion College, Michigan, Ted Kupferman (New York).

Albion College, Michigan, Martha Keys (Kansas).

Alfred University, New York, Frank E. Moss (Utah).

American College in Paris, France, David S. King (Utah).

American College in Paris, France, Byron L. Johnson (Colorado).

Arizona State University, Arizona, Gale W. McGee (Wyoming).

Arizona State University,[1] Arizona, Jacques Soustelle (France).

Assumption College, Massachusetts, Gale W. McGee (Wyoming).

Auburn University, Alabama, William L. Hungate (Missouri).

Auburn University,[1] Alabama, Alan Lee Williams (United Kingdom).

Avila College,[1] Kansas, Karin Hafstad (Norway).

Bainbridge Jr. College, Georgia, Gilbert Gude (Maryland).

Baylor University, Texas, James Roosevelt (California).

Baylor University,[1] Texas, Peter von der Heydt (Germany).

Bowling Green State U., Ohio, Robert P. Hanrahan (Illinois).

Bradley University, Illinois, Charles W. Whalen, Jr. (Ohio).

Brandeis University, Massachusetts, Abner J. Mikva (Illinois).

Brandeis University, Massachusetts, L. Richardson Preyer (North Carolina).

Brenau College, Georgia, Ralph W. Yarborough (Texas).

Brigham Young University,[1] Utah, Jacques Soustelle (France).

California Poly. State, San Luis Obispo, California, John B. Anderson (Illinois).

California Poly. State, San Luis Obispo, California, Frank E. Evans (Colorado).

California Poly. State, San Luis Obispo, California, Ralph W. Yarborough (Texas).

California Poly. State, Pomona, California, Robert R. Barry (New York).

Cameron University, Oklahoma, William D. Hathaway (Maine).

Cameron University, Oklahoma, William L. Hungate (Missouri).

Cameron University, Oklahoma, Dick Clark (Iowa).

Carleton College, Minnesota, William S. Mailliard (California).

Carroll College, Montana, Ralph W. Yarborough (Texas).

Chaminade College, Hawaii, Catherine May Bedell (Washington).

Chatham College, Pennsylvania, Catherine May Bedell (Washington).

Chatham College, Pennsylvania, Martha Keys (Kansas).

Charleston College,[1] South Carolina, John M. Reid (Canada).

Clarke College, Georgia, William L. Hungate (Missouri).

Clarke College, Georgia, William S. Mailliard (California).

Colgate University, New York, William S. Mailliard (California).

College of the Sequoias, California, Gale W. McGee (Wyoming).

Colorado State University,[1] Colorado, Alastair Gillespie (Canada).

Columbia College, South Carolina, Catherine May Bedell (Washington).

Columbia College, South Carolina, Martha Keys (Kansas).

Columbia College, South Carolina, James M. Quickley (Pennsylvania).

Columbia College, South Carolina, John M. Reid (Canada).

Concordia College, Michigan, Walter H. Moeller (Ohio).

Connecticut College, Connecticut, Ralph W. Yarborough (Texas).

Converse College, South Carolina, Jed Johnson, Jr. (Oklahoma).

Dartmouth College, New Hampshire, John O. Marsh, Jr. (Virginia).

Dartmouth College, New Hampshire, William S. Mailliard (California).

Davis & Elkins College, West Virginia, Frank E. Moss (Utah).

Davis & Elkins College, West Virginia, J. Glenn Beall, Jr. (Maryland).

Denison University, Ohio, Frank E. Moss (Utah).

DePauw University, Indiana, Hugh Scott (Pennsylvania).

Dillard University,[1] Louisiana, George Kahn-Ackermann (Germany).

Doshisha University, Japan, Catherine May Bedell (Washington).

Duke University,[1] North Carolina, Georg Kahn-Ackermann (Germany).

Eckerd College, Florida, William L. Hungate (Missouri).

Elmira College, New York, Charles W. Whalen, Jr. (Ohio).

Friends University, Kansas, Henry P. Smith III (New York).

Furman University, South Carolina, Jed Johnson, Jr. (Oklahoma).

Furman University, South Carolina, Charles W. Whalen, Jr. (Ohio).

Georgetown University,[1] Washington, D.C., Celio Borja (Brazil).

Grinnell College, Iowa, Neil Staebler (Michigan).

Guilford College, North Carolina, Gale W. McGee (Wyoming).

Gustavus Adolphus College, Minnesota, Charles W. Whalen, Jr. (Ohio).

Hamilton College, New York, William S. Mailliard (California).

Hartwick College, New York, Ralph W. Yarborough (Texas).

Hiram College, Ohio, Howard H. Callaway (Georgia).

Hiram College, Ohio, Roman L. Hruska (Nebraska).

Hope College, Michigan, Walter H. Judd (Minnesota).

Hope College, Michigan, Gale W. McGee (Wyoming).

Hope College, Michigan, Catherine May Bedell (Washington).

Idaho State University, Idaho, John R. Schmidhauser (Iowa).

Indiana State University, Indiana, Gordon L. Allot (Colorado).

Indiana Univ. Northwest, Indiana, Neil Staebler (Michigan).

Indiana Univ. Northwest, Indiana, William L. Hungate (Missouri).

Indiana Univ. Northwest, Indiana, Tom Railsback (Illinois).

Jackson State University, Mississippi, Allard K. Lowenstein (New York).

Johns Hopkins University, Maryland, Hugh Scott (Pennsylvania).

Johns Hopkins University,[1] Washington, DC, Celio Borja (Brazil).

Kansai University, Japan, Frank E. Moss (Utah).

Kansas-Newman College, Kansas, Henry P. Smith, III (New York).

Kansas State University, Kansas, Paul N. McCloskey, Jr. (California).

Keio University, Japan, Frank E. Moss (Utah).

King College, Tennessee, Charles W. Whalen, Jr. (Ohio).

King's College, Pennsylvania, Philip Hayes (Indiana).

Kirkland College, New York, William S. Mailliard (California).

Kwansei Gakuin University, Japan, Frank E. Moss (Utah).

LaGrange College, Georgia, Ralph W. Yarborough (Texas).

Lake Forest College, Illinois, Ralph W. Yarborough (Texas).

Lindenwood College, Missouri, Gaylord Nelson (Wisconsin).

Longwood College, Virginia, Paul W. Cronin (Massachusetts).

Luther College, Iowa, Gilbert Gude (Maryland).

McNeese University, Louisiana, William S. Mailliard (California).

Marshall University, West Virginia, John J. Gilligan (Ohio).

Mary Hardin Baylor College, Texas, Brooks Hays (Arkansas).

Matanuska-Susitna Community College, Alaska, William L. Hungate (Missouri).

Mesa Community College, Arizona, Gale W. McGee (Wyoming).

Miami University-Middletown, Ohio James Roosevelt (California).

Miami University-Middletown, Ohio James W. Symington (Missouri).

Mid-America Nazarene Coll., Kansas, John B. Anderson (Illinois).

Mid-America Nazarene Coll., Kansas, John Dellenback (Oregon).

Millsaps College, Mississippi, Allard K. Lowenstein (New York).

Montclair State College, New Jersey, Walter H. Judd (Minnesota).

Montclair State College, New Jersey, Ralph W. Yarborough (Texas).

Morehead State University, Kentucky, Dan Kuykendall, (Tennessee).

Morehouse College, Georgia, William S. Mailliard (California).

Morehouse College, Georgia, William L. Hungate (Missouri).

Morris Brown College, Georgia, William S. Mailliard (California).

Morris Brown College, Georgia, William L. Hungate (Missouri).

Mount Vernon College, Washington, DC, Martha Keys (Kansas).

Murray State University, Kentucky, Brooks Hays (Arkansas).

Nanzan University, Japan, Catherine May Bedell (Washington).

New York University, New York, George McGovern (South Dakota).

Northern Illinois University, Illinois, William L. Hungate (Missouri).

Northern Kentucky University, Kentucky, Martha Keys (Kansas).

North Park College,[1] Illinois, Karin Hafstad (Norway).

Northwestern University,[1] Illinois, Karin Hafstad (Norway).

Oklahoma State University, Oklahoma, Ralph W. Yarborough (Texas).

Oregon State University, Oregon, Martha Keys (Kansas).

Otterbein College, Ohio, James Roosevelt (California).

Purdue University-Calumet, Indiana, William L. Hungate (Missouri).

Purdue University-Calumet, Indiana, Tom Railsback (Illinois).

Randolph-Macon College, Virginia, Gale W. McGee (Wyoming).

Randolph-Macon College,[1] Virginia, Hugh Scott (Pennsylvania).

Rockhurst College,[1] Kansas, Karin Hafstad (Norway).

Rose Hulman Institute of Technology, Indiana, Gordon L. Allott (Colorado).

St. Cloud State University, Minnesota, Charles W. Whalen, Jr. (Ohio).

St. Lawrence University, New York, Roman L. Pucinski (Illinois).

St. Mary-of-the-Woods, Indiana, Gordon L. Allott (Colorado).

St. Mary's College, Indiana, Gale W. McGee (Wyoming).

St. Michael's College, Vermont, Walter H. Judd (Minnesota).

St. Norbert's College, Wisconsin, Martha Keys (Kansas).

St. Olaf College, Minnesota, William S. Mailliard (California).

Salem College, North Carolina, Martha Keys (Kansas).

Sangamon State University, Illinois, Andrew J. Biemiller (Wisconsin).

Sangamon State University, Illinois, Martha Keys (Kansas).

Sangamon State University,[1] Illinois, Alan Lee Williams (United Kingdom)

Sangamon State University,[1] Illinois, Alastair Gillespie (Canada)

Siena College, New York, Frank E. Moss (Utah).

Siena College, New York, Charles W. Whalen, Jr. (Ohio).

Southeast Comm. College, Kentucky, Donald E. Lukens (Ohio).

Southern Illinois University, Illinois, John R. Schmidhauser (Iowa).

Southwestern College, Kansas, Henry P. Smith, III (New York).

Spelman College, Georgia, William S. Mailliard (California).

Spelman College, Georgia, William L. Hungate (Missouri).

SUNY-Binghamton, New York, John B. Anderson (Illinois).

SUNY-Plattsburg, New York, L. Richardson Preyer (North Carolina).

State University of Oswego, New York, Martha Keys (Kansas)

Syracuse University, New York, Charles W. Whalen, Jr. (Ohio).

Talladega College, Alabama, Ted Kupferman (New York).

Tougaloo Southern Christian College, Mississippi, Allard K. Lowenstein (New York).

Transylvania University, Kentucky, James M. Quigley (Pennsylvania).

U.S. Air Force Academy,[1] Colorado, Alan Lee Williams (Great Britain).

U.S. Coast Guard Academy, Connecticut, Ralph W. Yarborough (Texas).

U.S. Naval Academy, Maryland, John S. Monagan, (Connecticut).

U.S. Naval Academy, Maryland, William S. Mailliard (California).

U.S. Naval Academy,[1] Maryland, Alan Lee Williams (Great Britain).

University of Alaska, Alaska, William L. Hungate (Missouri).

University of Alaska, Alaska, William S. Maillaird (California).

University of Arizona,[1] Arizona, Celio Borja (Brazil).

University of Arkansas, Arkansas, Gale W. McGee (Wyoming).

University of Arkansas, Arkansas, Charles W. Whalen, Jr. (Ohio).

University of California, Berkeley, California, Robert N. Giaimo (Connecticut).

University of California, Berkeley, California, Henry S. Reuss (Wisconsin).

University of California, Berkeley, California, Newton I. Steers, Jr. (Maryland).

University of Dayton, Ohio, Catherine May Bedell (Washington).

University of Delaware, Delaware, John J. Gilligan (Ohio).

University of Delaware, Delaware, Henry S. Reuss (Wisconsin).

University of Georgia,[1] Georgia, Georg Kahn-Ackermann (Germany).

University of Georgia, Georgia, Otis Pike (New York).

University of Georgia,[1] Georgia, John M. Reid (Canada).

University of Georgia,[1] Georgia, Alan Lee Williams (United Kingdom).

University of Maine-Orono, Maine, John Rhodes (Arizona).

University of Michigan-Flint, Michigan, Gale W. McGee (Wyoming).

University of Mississippi, Mississippi, Tom Railsback (Illinois).

University of Nevada, Nevada, Gale W. McGee (Wyoming).

University of New Mexico,[1] New Mexico, Alastair Gillespie (Canada).

University of New Mexico,[1] New Mexico, Celio Borja (Brazil).

University of New Orleans,[1] Louisiana, Georg Kahn-Ackermann (Germany).

University of New Orleans,[1] Louisiana, Jacques Soustelle (France).

University of North Carolina, North Carolina, Robert P. Hanrahan (Illinois).

University of North Dakota, North Dakota, Neil Staebler (Michigan).

University of Oklahoma, Oklahoma, Catherine May Bedell (Washington).

University of Oklahoma, Oklahoma, Dick Clark (Iowa).

University of Oklahoma, Oklahoma, Martha Keys (Kansas).

University of Oklahoma, Oklahoma, William S. Mailliard (California).

University of Oklahoma, Oklahoma, Charles W. Whalen, Jr. (Ohio).

University of Oklahoma, Oklahoma, Frank E. Moss (Utah).

University of Oregon, Oregon, Martha Keys (Kansas).

University of Redlands, California, Catherine May Bedell (Washington).

University of South Carolina,[1] South Carolina, Alan Lee Williams (United Kingdom).

University of South Carolina, South Carolina, Gale W. McGee (Wyoming).

University of South Dakota, South Dakota, William L. Hungate (Missouri).

University of Texas,[1] Texas, Alastair Gillespie (Canada).

University of Texas,[1] Texas, Celio Borja (Brazil).

University of Utah, Utah, Robert N. Giaimo (Connecticut).

University of Utah,[1] Utah, Jacques Soustelle (France).

University of Utah,[1] Utah, Alan Lee Williams (United Kingdom).

University of Washington,[1] Washington, Alan Lee Williams (United Kingdom).

University of West Virginia,[1] West Virginia, Georg Kahn-Ackermann (Germany).

University of West Virginia,[1] West Virginia, Jacques Soustelle (France).

University of Wisconsin,[1] Wisconsin, Georg Kahn-Ackermann (Germany).

University of Wyoming, Wyoming, Frank E. Moss (Utah).

Urbana University, Ohio, David S. King (Utah).

Valparaiso University, Indiana, Neil Staebler (Michigan).

Vanderbilt University, Tennessee, Ralph W. Yarborough (Texas).

Vanderbilt University,[1] Tennessee, Celio Borjo (Brazil).

Virginia Military Institute, Virginia, Gale W. McGee (Wyoming).

Wake Forest University, North Carolina, William L. Hungate (Missouri).

Wake Forest University, North Carolina, Georg Kahn-Ackermann (Germany).

Washington College, Maryland, Gale W. McGee (Wyoming).

Washington & Lee University, Virginia, Gale W. McGee (Wyoming).

Wayne State College, Nebraska, Gale W. McGee (Wyoming).

Westmont College, California, Ronald A. Sarasin (Connecticut).

Wheaton College, Massachusetts, Charles A. Vanik (Ohio).

Whitman College, Washington, Frank E. Moss (Utah).

William & Mary College, Virginia, Hugh Scott (Pennsylvania).

Wofford College, South Carolina, Jed Johnson, Jr. (Oklahoma).

219 visits—68 Fellows.

CAMPUS FELLOWS PROGRAM COMMENTS

Senator Frank Moss was a big hit with all of us. He provided the students with some very fundamental information about what the Constitution says and how it works, as well as how it might change. The opportunity for the students to talk with someone with the Senator's knowledge and experience was truly invaluable.—Helen T. DeBolt, Associate Director, Scholarship Leadership Enrichment Program, University of Oklahoma, Norman, Oklahoma.

Our conversation with students suggest that they enjoyed the presentations and learned more about political life, legislative behavior, Congress and Watergate. The faculty members also enjoyed Tom Railsback's candid and informed comments about national politics.—John Winkel, and Paul Gough, Political Science Department, University of Mississippi, University, Mississippi.

We wanted students to have the opportunity for closer interaction with a Congressman who had a broad view of foreign affairs and real expertise in civil rights. Congressman Charles Whalen was the perfect choice. Students learned specifics about Africa, Middle-East, Vietnam, etc. But far more important . . . he was really well organized; he had done his homework, and his presentations were uniformly interesting and carefully researched.—Dr. Judith G. Bainbridge, Director of Educational Services, Furman University, Greenville, South Carolina.

Mr. Speaker, a very large part of our mission, as well as college campus visits, are our international programs. We take much pride in these various missions. Mr. Speaker, with your permission I would like to mention just a couple of them. For example, we have with us today a delegation from the Egyptian Parliament who are visiting the United States under the auspices of the association's newly created Institute for Representative Government. And I would like to ask the delegation from Egypt to rise at this time so that their presence may be acknowledged. [Applause.]

Later this month the Institute will be hosting a similar delegation from Morocco. That is thanks in large part due to our distinguished Member, the gentleman from Arizona, the Honorable John J. Rhodes, who I will talk about just a moment later and who undertook a very important visit to Morocco and two other nations earlier this year.

The Institute for Representative Government which is working primarily with developing democracies, is also hosting a delegation from the Argentine and Uruguayan Parliaments later this year and from the Turkish Parliament early next year.

I would like to express my thanks to Mr. George Agree, of our Association staff, who has been instrumental in the passage by Congress of the authorization and appropriations necessary for this institute to be created and its work to go forward.

Mr. Speaker, we also have with us a delegation from our sister organization in Germany and I would like to ask them to stand and be recognized. [Applause.]

We have had a very successful year developing our German partnership and are very grateful to the German Marshall Fund of the United States for providing us the funds to make these programs possible. Toward that end we have hosted three delegations from the German Bundestag, one to view the Iowa caucus, one to observe the Illinois primary and a third from the Bundestag's agriculture committee to engage in meetings with members of our own Agricultural Committee.

I would like to express appreciation to the chairman of the House Committee on Agriculture, the gentleman from Texas [Mr. de la Garza] for the hospitality that he and his staff provided for our German visitors.

Additionally, in an effort to formalize our Congressional/Bundestag partnership, we have made available a secretariat to create a bipartisan congressional study on Germany, and we can learn from that experience. And we are grateful to the leadership of the chairman of the House Subcommittee on Europe and the Middle East, the gentleman from Indiana [Mr. Hamilton] for serving as the initial chairman of this group, and to the gentleman from Missouri, Mr. Tom Coleman, for serving as the initial vice chairman. The other founding Members are Representative Doug Bereuter, of Nebraska, Representative Bob Livingston, of Louisiana, Representative Tom Petri, of Wisconsin, Representative David Price, of North Carolina, Representative Bill Richardson, of New Mexico and Representative Doug Walgren, of Pennsylvania.

This year we will complete the publication of a study of the German Bundestag and the United States Congress which has been a multiyear project. We are grateful to the Friedrich Naumann Foundation, the Johnson Foundation of Wisconsin, the National Endowment for the Humanities and the USIA for providing the financial support to make that project a reality.

Then we expect to begin a comparable study with our northern neighbor, the Canadian Parliament, which would be our third such study, the first being our comparative study of the Japanese Diet and the United States Congress which is widely used in United States-Japanese legislative exchange programs.

And this year we also completed our second seminar in Scandinavia with the Scandinavian seminar college, bringing together Members of Congress with their counterparts from Scandinavia to discuss economic and trade issues.

Finally, in January of this year a delegation from the association along with three current Members of Congress participated in a seminar held at the De Burght Conference Center in the Netherlands on international human rights, in cooperation with delegations from the Soviet Union and Europe. And we are very pleased to have with us today a person who was instrumental in putting this whole thing together, a distinguished businessman, Mr. Ernst van Eeghan from the Netherlands, who was Chairman of the International Human Rights Conference held earlier this year in Holland.

□ 1130

Finally, 3 years ago we began a program of receiving and hosting parliamentary delegations, so far from 65 countries, under a grant from the Ford Foundation.

Mr. Speaker, the purpose of all these programs is to promote a greater knowledge of the Congress as an institution and to allow legislators from other countries to become acquainted with our legislators in the hope and expectation that the exchanges of ideas and information will be mutually beneficial.

All these programs cost money, and it is through the generous donations of our sponsors, individuals, corporate, foundation, academic and others, that make our educational and international projects possible.

The list of our sponsors last spring numbered 227, and this year I am pleased to report that we have 265 sponsors.

At this point in the Record, I would like to enter that long list, along with an expression of our most sincere thanks.

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[1] International project funded by the Ford and Rockefeller Foundations for visit of Parliamentarians from the United Kingdom, Germany, France, Canada, Brazil, and Norway.

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[1] Patrons have contributed at least $250,000.

[2] Benefactors have contributed between $100,000 and $250,000.

[3] Donors have contributed between $50,000 and $100,000.

[4] Friends have contributed between $10,000 and $50,000.

[5] Supporters have contributed between $5,000 and $10,000.

[6] Sponsors have contributed between $1,000 and $5,000.

In addition to foundation grants, our own membership over the years have contributed more than one-half million dollars. In addition this past year 5 current Members of Congress, now sitting, have become financial sponsors of our association, representing both political parties and both Houses of Congress. They are Senator Bob Dole of Kansas, Congressmen John Bryant, and Solomon Ortiz of Texas, Congressman Norman Lent of New York, and Congressman Guy Vander Jagt of Michigan. I thank them for all of us.

Last, our organization has run a series of international study tours for former Members and their spouses. This is a very valuable part of our agenda, and I hasten to add, it is at their own expense. The countries visited include Argentina, Brazil, China, Western Europe, the Middle East, the South Pacific, and the Soviet Union.

Next year we will be hosting for the first time a delegation from the Foreign Affairs Committee of the People's Republic of China.

Mr. Speaker, it is now my sad duty to read the roll of our deceased Members of the past year, after which I would ask that you join me in observing a moment of silence in their memory. The list of deceased members is as follows:

LIST OF DECEASED MEMBERS

O.K. Armstrong of Missouri; Robert Barry of New York; John N. Happy Camp of Oklahoma; Frank Carlson of Kansas; Thomas J. D'Alesandro, Jr., of Maryland; Dominick V. Daniels of New Jersey; James J. Delaney of New York; John H. Dent, of Pennsylvania; Francis E. Dorn of New York; Edith Green of Oregon; H.R. Gross of Iowa; Harold T. Johnson of California; Thomas F. Johnson of Maryland; Clare Boothe Luce of Connecticut; Ray J. Madden of Indiana; William Moorhead, of Pennsylvania; Robert Nix of Pennsylvania; Alvin E. O'Konski of Wisconsin; Lafayette Patterson of Alabama; Albert L. Reeves of Missouri; Howard W. Robison of New York; Bennett M. Stewart of Illinois; Vernon W. Thomson of Wisconsin; John J. Williams of Delaware; and John Wydler of New York.

Mr. Speaker, the thing that binds all of us together, Members of Congress or former Members, is friendship and respect. It is a friendship that transcends both party and geography. Friendship and respect and love of the institution is what it is all about, and that speaks louder than any words.

None of these many accomplishments during this past year and prior years would have been possible without the initiative many years ago of our two founders, Representative Walter Judd, of Minnesota—and will he stand please?—who this year celebrates his 90th birthday. [Applause.] And the late Representative from Arkansas, Mr. Brooks Hays.

And none of this would have been possible at all without the indefatigable and energetic leadership of our full-time executive director, the Honorable Jed Johnson, of Oklahoma. He is more than full time. He is all the time, and we thank and salute him.

And I would like to thank also our hard-working and very capable staff.

Finally, I would like to thank the former Member who is sitting in the Speaker's chair as Speaker pro tempore, the Honorable Ed Derwinski, of Illinois, presently Under Secretary of State, for all of his help this past year and before, particularly in view of the fact that I had a bout of surgery a little early and he stepped in as much as he could, along with Jed Johnson. It is thanks to Ed Derwinski that our dinner tomorrow night will be held once again in that wonderful terrance and dining hall of the U.S. Department of State.

On July 1, my term as the president of this distinguished organization ends, and I will be succeeded by the very distinguished gentleman from Michigan, Mr. Al Cederberg, and I pledge to him my total support as he takes office.

Now it is my honor and pleasure—and it really is a great honor and pleasure for me personally, and as the president of this organization, and on behalf of all of us—to present our association's Distinguished Service Award to our friend and everybody's friend, the very distinguished gentleman from Arizona, Mr. John J. Rhodes. [Applause.]

As the gentleman from Arizona is moving forward, I would like to say that he was a Member of this institution for 30 years, beginning in 1952, and for 6 years the minority leader of the House of Representatives. I deeply regret that when he went to Morocco and two other countries, I was not able to go because of a bout with surgery, but he handled it very well by himself, I can assure you.

I am pleased to say that his son, Representative John J. Rhodes III, of Arizona, is a Member of the U.S. Congress today. Will he kindly stand? [Applause.]

Now to John Rhodes, Sr., the first gentleman from Arizona, I have some gifts in the name of the association. First is the gavel to be presented to the holder of the Distinguished Service Award, and here are letters from the gentleman's colleagues, past and present, saying thank you and well done.

Now I yield to the distinguished gentleman from Arizona, Mr. John J. Rhodes.

Mr. DERWINSKI (presiding). The Chair now recognizes the distinguished gentleman from Arizona.

Mr. JOHN J. RHODES. The gentleman from Arizona thanks the Chair.

People who receive this honor invariably begin by thanking our association and its officers for bestowing it, and I do not want to be different, so I do from the bottom of my heart express the appreciation of my family and me for one of the most memorable and prestigious honors I have ever received.

Before I go any further, I would like to acknowledge the presence of—and if the rules of the House were different, I could do it legally, but since they are not, I will do it illegally—my wife, Betty, whom I think most of us know. Betty, would you please stand? [Applause.]

And our only daughter, Elizabeth Reich. [Applause.] And our daughter-in-law, Jay's wife, Annie Rhodes. [Applause.]

And somewhere there are two of my grandchildren. I see one of them back there by his father—Arthur. And Taylor Rhodes is up in the Gallery. [Applause.]

So the family is well represented.

Nothing pleases a person as much as the approbation of his peers and his friends. To me, the members of this association are both. I enjoy the association, its members, and the chance it gives to all of us to renew friendships and recall many memories from our past service.

And when I speak of friendships, I would like also to recognize the presence of my very good friend, the junior Senator from Arizona, JOHN McCAIN. JOHN. [Applause.]

Our association is beyond the stage when people ask themselves why it exists. The record of achievement of the past in the Congressional Fellowship Program and our activities in contacts with legislators of other countries have dispelled any doubts that might have existed concerning the worth of this group.

To me, one of the most important phases of our endeavors is to be a conduit for the exchange of some of our ideas with legislators of other countries, both present and past. Betty and I have had the privilege of making such contacts both in Africa and in the Middle East.

□ 1140

In our trip to Africa, we were accompanied by two of the nicest people we have ever met; one of our former Members, Gil Gude, and his good wife and, Gil, thanks for being with us. It was a wonderful trip and without you it would not have been anywhere near that nice.

Some of the legislative members, legislative bodies, in the Third World mainly, have real legislative bodies and they work hard and they do a very good job. Some have real power, but many of them act as mere advisers to all powerful executives. However, we found that most legislators were aware of their duties to their nations and their constituents even though some were also aware that their freedom of operation in discharging those duties left a bit to be desired. It is my hope that these contacts with members of legislative bodies such as this will encourage them in two ways. First, I would hope that they would look for leadership and, perhaps, ideas toward the Congress of the United States and, second, I would also hope that their contacts with us would encourage them in their support of the enhancement of democratic institutions in their own countries.

I am very pleased that the members from Egypt are here. One of the countries that the Gudes and Betty and I visited was Egypt, and we had many contacts with members of the Egyptian Parliament. We found it to be a very worthwhile body, one that is developing rapidly as far as its responsibility and its sense of responsibility is concerned. I am sure that the development of that legislative body portends great days ahead for that great nation, which is Egypt.

I would like to just compliment a member of our staff who is mainly responsible, he has the primary responsibility for contacts with other nations, George Avery. George went with us on this trip to the Middle East, and also more recently when Betty and I went to Turkey. George knows a lot about this great world that we live in and we are very fortunate to have his services in furthering what I think is a very important effort which the association has made for reaching out to legislative bodies in other parts of the world.

Let me make it clear that I am not advocating any course of action that could be called interference in the domestic affairs of any other nation. However, I believe strongly that the propagation of democratic principles is an endeavor which we can all properly pursue and which can help to make this world of ours more peaceful, more pleasant, and safer.

I have always felt that one of the unused and almost unknown assets of our country is in the expertise and desire to serve of those of us who have retired from the career which we had followed for most of our adult lives. In our association we have many outlets for the employment of the talents of our members. The limiting factor in maintaining and expanding our scope of operations is very frankly, money. Our dedicated and efficient executive directors and many of the members of the board of directors spend a great portion of their time in trying to put together just enough money for the subsistence of the organization and the financing of the projects in which we are presently engaged. Let me reiterate that this association is now beyond the stage of wondering about its continuing existence. No longer need any member have doubts as to the worthwhile nature of investments in our association, nor should we be the least bit backward in asking others both within our group and outside of it for financial participation.

We as an association have never tried to impose our great wisdom upon the sitting Members of the Congress of the United States, nor should we. Nevertheless, I know that each of us from time to time, feels the need for communicating ideas to the leadership of the two bodies of the Congress. It would be my hope that in the years to come, we can establish a closer relationship with the Congress and its Members, not to force our ideas upon them but to make them aware of the fact that we, individually and collectively, still have great regard and affection for the Congress as an institution and have not lost desires to be helpful, if asked, in preserving and enhancing this great institution in which we have served.

In closing, let me once again thank the association and its officers and directors for bestowing this award upon me. I will always cherish it.

Mr. LINDSAY. In closing, my congratulations to our distinguished recipient of the Distinguished Service Award, Mr. John J. Rhodes from Arizona. We thank him for his contribution and wish him well in every endeavor that he does in the future.

Mr. Speaker, I yield back the balance of my time.

Mr. DERWINSKI (presiding). The gentleman has now consumed all of his time, but we appreciate his yielding back whatever time might remain.

If there are any Members who did not respond to the rollcall, would they please give their names to the reading clerks so we have a full record for inclusion in the rollcall.

The Chair wishes to announce that the further program will continue as planned. Those Members who have joined us for the luncheon and other programs will please stay on schedule.

We also thank all of you for your support, and then we announce at this point that luncheon will convene in the Gold Room of the House at 12:15. We would like to ask you to stay on schedule. We have an especially interesting program for you with a speaker who promises to stay somewhat within the 5- and 10-minute rule.

Is there any further business to transact?

If not, the Chair declares this meeting of the Association of Former Members of Congress adjourned.

The House will reconvene at 12:15 p.m.

Accordingly (at 11 o'clock and 48 minutes a.m.), the House continued in recess until 12 o'clock and 15 minutes p.m.

□ 1217

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. FOLEY] at 12 o'clock and 17 minutes p.m.

RICHARD P. CONLON

(Mr. OBEY asked and was given permission to address the House for 1 minute.)

Mr. OBEY. Mr. Speaker, I want to take this time to inform the House of the death of a person who for 20 years has been at the center of virtually every effort to make the House of

Representatives a more effective and a more honorable institution. Just last Wednesday, Dick Conlon was honored for 20 years of service that he has given the House as executive director of the Democratic Study Group.

Yesterday he was killed in a tragic sailing accident on the Chesapeake Bay. I have absolutely no idea what the plans will be for any funeral arrangements. His body has not yet been found.

Mr. Speaker, I simply wanted to take this time to make certain that Members and staffs and other people who work around this building understood what had happened.

Dick for 20 years has been absolutely the guts of the progressive movement in this House. We have all suffered an incredible personal and professional loss and I know that there will be others who will want to join at a later date in having special orders and appropriate comments about Dick, but for the moment I simply wanted Members to know what had happened so that they can contact the family and contact other friends of whom Dick had many in his 20 years of service to this House.

CONSENT CALENDAR

The SPEAKER pro tempore (Mr. FOLEY). This is the day for the call of the Consent Calendar.

The Clerk will call the first eligible bill on the Consent Calendar.

ESTABLISHING A RESERVATION FOR THE CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY OF OREGON

The Clerk called the bill (H.R. 4143) to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 4143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF RESERVATION.

(a) Lands Held in Trust; Reservation.—Subject to valid existing rights, including (but not limited to) all valid liens, rights-of-way, reciprocal road rights-of-way agreements, licenses, leases, permits, and easements existing on the date of enactment of this Act, all right, title, and interest of the United States in and to the land described in subsection (c) is hereby held in trust for the use and benefit of the Confederated Tribes of the Grand Ronde Community of Oregon. Such land shall constitute the reservation of the Confederated Tribes of the Grand Ronde Community of Oregon and shall be subject to the Act entitled "An Act to conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes", approved June 18, 1934 (25 U.S.C. 461 et seq.).

(b) Treatment of Receipts From Reservation Lands.—Beginning on the date of enactment of this Act, all receipts from the lands described in subsection (c) shall accrue to the Confederated Tribes of the Grand Ronde Community of Oregon. This subsection shall not apply to receipts from timber on such lands which was removed before the date of enactment of this Act.

(c) Lands Described.—The lands referred to in subsection (a) are approximately 9,811.32 acres of land located in Oregon and more particularly described as:

Willamette Meridian, Oregon

Township Range

South	West	Section	Subdivision	Acres
4	8	36	SE¼SE¼	40.00
4	7	31	Lots 1, 2, NE¼,E½NW¼	320.89
5	7	6	All	634.02
5	7	7	All	638.99
5	7	18	Lots 1&2, NE¼,E½NW¼	320.07
5	8	1	SE¼	160.00
5	8	3	All	635.60
5	8	7	All	661.75
5	8	8	All	640.00
5	8	9	All	640.00
5	8	10	All	640.00
5	8	11	All	640.00
5	8	12	All	640.00
5	8	13	All	640.00
5	8	14	All	640.00
5	8	15	All	640.00
5	8	16	All	640.00
5	8	17	All	640.00
			TOTAL...	9,811.32

SEC. 2. HUNTING, FISHING, AND TRAPPING.

The establishment of the Grand Ronde Reservation, and the addition of lands to the reservation after the date of the enactment of this Act, shall not grant or restore to the Confederated Tribes of the Grand Ronde Community of Oregon, or to any member of the Confederated Tribes of the Grand Ronde Community of Oregon, any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, beyond the rights which are declared and set forth in the final judgment and decree of the United States District Court for the District of Oregon, in the action entitled "Confederated Tribes of the Grand Ronde Community of Oregon against the State of Oregon", entered on January 12, 1987. Those rights as declared and set forth in the January 12, 1987, final judgment and decree shall constitute the exclusive and final determination of all tribal rights to hunt, fish, and trap that the Confederated Tribes of the Grand Ronde Community of Oregon or its members possess.

SEC. 3. CIVIL AND CRIMINAL JURISDICTION.

The State of Oregon shall exercise criminal and civil jurisdiction over the reservation, and over individuals on the reservation, in accordance with section 1162 of title 18, United States Code, and section 1360 of title 28, United States Code.

SEC. 4. TREATMENT OF CERTAIN LANDS AS REVESTED OREGON AND CALIFORNIA RAILROAD GRANT LANDS.

(a) In General.—The lands described in subsection (b) shall hereafter be managed under the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands situated in the State of Oregon", approved August 28, 1937 (43 U.S.C. 1181a et seq.). Beginning on the date of enactment of this Act, all moneys received from or on account of those lands shall be deposited in the Treasury of the United States in the special fund designated "Oregon and California land-grant fund" and shall be distributed as provided in such Act. This subsection shall not apply to receipts from timber on such lands which was removed before the date of enactment of this Act.

(b) Lands Described.—The lands referred to in subsection (a) are those lands located in Oregon, comprised of approximately 12,035.32 acres and more particularly described as:

Willamette Meridian, Oregon

Township Range

South	West	Section	Subdivision	Acres
1	6	30	Lots 1-4, S½NE¼, E½W½, N½SE¼, SW¼SE¼	537.01
2	6	20	E½SE¼, SW¼SE¼	120.00
2	6	28	Lots 4, 5, 9, 16	169.46
2	6	34	NW¼NW¼	40.00
3	6	8	SW¼SE¼	40.00
3	6	18	Lots 1-4, N½NE¼, E½NW¼, NE¼SW¼	507.88
3	6	20	E½	320.00
3	6	24	NW¼NW¼	40.00
3	6	30	Lots 1-4, E½W½	344.96
4	6	6	Lots 1, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼	493.21
3	7	8	W½NW¼, SE¼SE¼	120.00
3	7	10	NE¼NW¼, S½N½, S½	520.00
3	7	12	S½NW¼, SW¼, W½SE¼	320.00
3	7	14	All	640.00
3	7	18	Lots 1, 2, N½NE¼	162.32
3	7	20	NW¼NE¼, S½NE¼	280.00
3	7	22	N½N½, SE¼NE¼, SW¼NW¼, SE¼SW¼, NE¼SE¼, S½SE¼	400.00
3	7	24	All	640.00
3	7	26	E½	320.00
3	7	28	Lot 1, W½NE¼	123.35
3	7	30	E½	320.00
3	7	32	NW¼, NW¼SE¼	200.00
3	7	34	N½N½	160.00

South	West	Section	Subdivision	Acres
3	8	10	NE¼NE¼, S½NE¼, S½NW¼	200.00
3	8	19	Lots 5, 9-11, W½SE¼	205.38
4	7	2	Lots 1, 2, SW¼	241.73
4	7	4	Lots 1, 2, 3, SE¼NE¼, SE¼SW¼, E½SE¼, SW¼SE¼	321.77
4	7	6	Lot 4	41.22
4	7	8	SW¼, NE¼SE¼	200.00
4	7	10	N½	320.00
4	7	12	E½E½, NW¼NE¼, N½NW¼	280.00
4	7	17	S½NE¼	80.00
4	7	18	SE¼	160.00
4	7	19	Lots 1, 2, E½NW¼	159.26
4	7	24	NE¼SE¼, S½S½	200.00
4	7	26	W½NE¼	80.00
4	7	30	SW¼NE¼	40.00
4	8	28	SE¼SW¼, SE¼SE¼	80.00
2	8	29	S½SW¼	80.00
2	8	31	Lots 5-16	411.78
2	8	32	Lots 1-11	323.42
2	8	34	W½NW¼, NW¼SW¼	120.00
3	8	2	SW¼SE¼	40.00
3	8	4	Lots 3, 4, S½NW¼, W½SW¼, S½SE¼	327.95
3	8	5	Lots 1, 2, SE¼NE¼, S½	449.45
3	8	6	Lots 2-4, E½SE¼	189.37
3	8	7	Lots 1-4, SE¼NE¼	185.80
3	8	8	N½, N½S½	480.00
			TOTAL...	12,035.32

SEC. 5. MEMORANDUM OF AGREEMENT.

The memorandum of agreement entered into between the Confederated Tribes of the Grand Ronde Community of Oregon and the Department of the Interior, dated March 10, 1988, relating to the disposition of timber resources on the reservation and the use of funds for economic development purposes, shall apply for the period of 20 years beginning on the date of enactment of this Act.

SEC. 6. ECONOMIC DEVELOPMENT.

During the 20-year period beginning on the date of enactment of this Act, the Confederated Tribes of the Grand Ronde Community of Oregon shall establish and maintain a separate account dedicated to economic development purposes. The Tribes shall place into that separate account an amount equal to 30 percent of the income from tribal timber resources received into the Tribes' Federal trust funds account. The Tribes may expend funds from that separate account for economic development purposes.

With the following committee amendment:

Committee amendment: Page 6, line 8, after the period insert: This agreement is hereby incorporated in this Act by reference.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1220

ALAN BIBLE FEDERAL BUILDING

The Clerk called the bill (H.R. 3691) to designate the Federal building located at 600 Las Vegas Boulevard in Las Vegas, NV, as the "Alan Bible Federal Building".

There being no objection, the Clerk read the bill as follows:

H.R. 3691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal building located at 600 Las Vegas Boulevard in Las Vegas, Nevada, is hereby designated, and hereafter shall be known, as the "Alan Bible Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Alan Bible Federal Building."

Mr. SUNIA. Mr. Speaker, H.R. 3691 would designate the Federal building located at 600 Las Vegas Boulevard in Las Vegas, NV, as the "Alan Bible Federal Building."

Mr. Speaker, the Honorable Alan Bible has served the State of Nevada with distinction in the U.S. Senate for 20 years, from 1954 to 1974, when he decided not to seek reelection.

His 20 years in the Senate were distinguished by many contributions to the Nation. He served as chairman of the District of Columbia committee where he fought for home rule for the District. He was a champion of civil rights legislation, and took an active role in establishing national policies on land management, parks and recreation. In addition, he sponsored the great southern Nevada water project which is vital to Nevada for water.

In view of his outstanding career and dedication, I respectfully urge the enactment of H.R. 3691.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 1901) to designate the Federal building located at 600 Las Vegas Boulevard in Las Vegas, NV, as the "Alan Bible Federal Building," and ask for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1901

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 600 Las Vegas Boulevard in Las Vegas, Nevada, is hereby designated, and hereafter shall be known, as the "Alan Bible Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Alan Bible Federal Building".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3691) was laid on the table.

MARTIN LUTHER KING, JR. FEDERAL BUILDING

The Clerk called the bill (H.R. 3811) to designate the Federal building located at 50 Spring Street, Southwest, Atlanta, GA, as the "Martin Luther King, Jr. Federal Building."

There being no objection, the Clerk read the bill as follows:

H.R. 3811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building known as the "Richard B. Russell Federal Annex" and located at 50 Spring Street, Southwest, Atlanta, Georgia, shall be known and designated as the "Martin Luther King, Jr. Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Martin Luther King, Jr. Federal Building".

With the following committee amendment:

Strike all after the enacting clause and insert:

SECTION 1. DESIGNATION.

The Federal building located at 50 Spring Street, Southwest, Atlanta, Georgia, shall be known and designated as the "Martin Luther King, Jr. Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Martin Luther King, Jr. Federal Building".

The committee amendment was agreed to.

Mr. LEWIS of Georgia. Mr. Speaker, H.R. 3811 would designate the Federal building located at the corner of Spring Street and Martin Luther King, Jr., Drive, in southwest Atlanta, as the Martin Luther King, Jr., Federal Building.

Just over 20 years ago, the moral leader of this Nation was taken from us by an assassin's bullet. It is difficult for me to express my feelings about Dr. King. He was a man I knew personally, and regarded as a brother, friend, colleague, spiritual leader, prophet, hero, and just a simple human being filled with love, peace, and compassion for all humankind.

It is impossible to measure Dr. King's contribution to this country. He changed not just the way we, as individuals, look at each other, but the way we, as a nation, look at ourselves. He empowered the powerless, and instilled in alienated individuals everywhere a sense of pride that just could not be denied. In a time that was so divisive, he had the power to unify. Because of Dr. King, our world will never be the same.

His accomplishments and contributions certainly have not gone unrecognized. From the numerous streets, schools, awards, and charities named in his honor, to the Federal holiday that marks his birth, we remember Dr. King in many ways. But today, there are no Federal buildings dedicated to this great American hero. The legislation we are considering today would change that.

I believe there is no site more appropriate than the one I propose. The Federal Annex Building sits on Martin Luther King, Jr., Drive in the city of Atlanta, the city Dr. King called home and where he is now buried.

I ask for the passage of this bill.

Mr. SUNIA. Mr. Speaker, H.R. 3811 would designate the Federal Building located at 50 Spring Street, Southwest, Atlanta, GA, as the "Martin Luther King, Jr., Federal Building."

Dr. Martin Luther King, Jr., is a name that hardly needs any introduction nor background information especially during our times. The dream and legacy of Dr. King is common knowledge to many Americans. A national holiday is commemorated to his honor. Our children learn of him in school through American history classes. He is undoubtedly the most well known black civil rights leader of this country.

Yes, there are many streets, schools, awards, and charities named in his honor. However, there are no Federal buildings dedicated to this great American. Dr. King was born in Atlanta, GA, a place he called home and where he is now buried. Naming this Federal building in his hometown after the man who spent his life fighting for freedom and justice is a small, yet very special tribute to his memory.

Many of us have been inspired by Dr. King's life and work. I have constantly kept in mind the importance of maintaining this country's commitment to economic, social, and legal justice. He has eloquently urged and warned the American society in many of his remarks to beware of apathy and complacency. He challenged us to take a good hard look at ourselves.

Mr. Speaker, this bill has been long overdue and I respectfully urge enactment of H.R. 3811.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROBERT A. YOUNG FEDERAL BUILDING

The Clerk called the bill (H.R. 3817) to designate the Federal building located at 405 South Tucker Boulevard, St. Louis, MO, as the "Robert A. Young Federal Building."

There being no objection, the Clerk read the bill as follows:

H.R. 3817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building located at 405 South Tucker Boulevard, St. Louis, Missouri, shall be known and designated as the "Robert A. Young Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Robert A. Young Federal Building".

Mr. SUNIA. Mr. Speaker, H.R. 3817 would designate the Federal building located at 405 South Tucker Boulevard, St. Louis, MO, as "Robert A. Young Federal Building." Congressman Young was first elected to the House of Representatives in 1976. He served with distinction in the Committee of Public Works and Transportation and the Committee on Science and Technology.

From 1983 to 1986, Congressman Young served as chairman of the Public Buildings and Grounds Subcommittee. He worked with great dedication and was always available to travel to a Member's district to review a particular Federal building and see what is happening in those particular areas.

In his 10 years of service in the U.S. Congress, Bob Young was known for his great allegiance to and love of his city, and had a lot of pride in his blue-collar background as a pipefitter. He was a quiet and modest man who took his work seriously.

Mr. Speaker, I urge enactment of H.R. 3817.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EDWARD ZORINSKY FEDERAL BUILDING

The Clerk called the bill (H.R. 3838) to designate the Federal building located at 215 North 17th Street in Omaha, NE, as the "Edward Zorinsky Federal Building."

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. BEREUTER. Mr. Speaker, reserving the right to object, I would like to express my appreciation to the chairman of the Subcommittee on Public Buildings and Grounds, the gentleman from American Samoa, Mr. SUNIA, and to the ranking minority member of the subcommittee, the gentleman from New York [Mr. MOLINARI], for their initiative and timely action in bringing H.R. 3838 to the House floor. It is a bill this Member introduced, cosponsored by both of my colleagues from Nebraska, Representative VIRGINIA SMITH and Representative HAL DAUB. Praise is also due to the supportive and helpful attitude displayed by the committee chairman, the gentleman from California [Mr. ANDERSON], and the ranking minority member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], for recognizing the important place that the late Senator Edward Zorinsky held in the hearts of all Nebraskans.

H.R. 3838 will designate the Federal building located at 215 North 17th Street in Omaha, NE, as the "Edward Zorinsky Building." The Senate passed the companion bill, S. 1960, on March 31, 1988. This designation is a fitting tribute to our late, good friend and colleague for his service to Nebraska and the Nation.

At the time of his death in March 1987, Edward Zorinsky, was Nebraska's senior U.S. Senator and the chairman of subcommittees of the Agriculture and Foreign Relations Committees. He was first elected to the Senate in 1976 and reelected in 1982.

Thirty-second in overall Senate seniority, Senator Zorinsky was second-ranking member of his party on the Committee on Agriculture, Nutrition, and Forestry and fourth ranking on the Foreign Relations Committee.

With the start of the 100th Congress, Senator Zorinsky became chairman of the Agriculture Subcommittee on Production and Stabilization of Prices and the newly established Foreign Relations Subcommittee on Terrorism, Narcotics and International Communications.

In addition to the subcommittees he chaired, Senator Zorinsky served on the Agricultural Credit Subcommittee and the Domestic and Foreign Marketing and Product Promotion Subcommittee of the Agriculture Committee and on the Foreign Relations subcommittees responsible for European Affairs and East Asian and Pacific Affairs.

Born in Omaha, NE, on November 11, 1928, Senator Zorinsky was a product of Nebraska public schools and universities. He graduated from Omaha's Central High in 1945 and earned a bachelor of science degree in chemistry and zoology from the University of Nebraska in 1949. He also attended the University of Minnesota and Omaha's Creighton University and did graduate work at Harvard in 1966.

He was engaged in his family's wholesale tobacco and candy business until becoming a full-time officeholder in the early 1970's. The Senator also served as an Army Reserve officer and was a captain in the Military Police Corps when he was honorably discharged in 1966.

In 1968, he was elected to a 6-year term on the board of directors of the Omaha Public Power District. Also in 1968, he was appointed to the Nebraska Judicial Qualifications Commission by Republican Gov. Norbert T. Tiemann. Three years later, he was reappointed to the commission by Democratic Gov. J. James Exon.

In 1973, he was elected mayor of Omaha, a post he held until his election to the Senate 3 years later. He served on the U.S. Conference of Mayors Urban Economic Policy Committee during these years.

Senator Zorinsky was rightly known as a fiscal conservative. His commitment to open government was equally personal—his Senate office literally had no door on it and he encouraged members of the press and public to walk in any time.

Senator Zorinsky's legislative achievements included key sections of the previous Federal farm bills and coauthoring the 1985 bill authorizing last-resort Federal loans for the ailing Farm Credit System. He was a leader in the fight against President Carter's embargo on grain sales to the Soviet Union, and worked to boost agricultural exports and improve conditions for farmers and agribusiness families.

In the foreign relations area, Senator Zorinsky worked throughout his Senate career to limit wasteful spending on foreign aid and other State Department programs. In 1981, he steered legislation through Congress closing a multimillion-dollar loophole that allowed U.S. military equipment to be leased to foreign aid programs and, in 1982-83, he spearheaded legislative efforts to see that proposed United States radio broadcasts to Cuba conformed to Voice of America guidelines.

It is most appropriate that the Federal building in Omaha in which Senator Zorinsky worked and met with his Nebraska constituents be known as the Edward Zorinsky Building. Such a tribute will not only honor the memory of Senator Zorinsky, but it will also serve as a reminder to future generations that the State of Nebraska was represented by a very able legislator and gentleman—Edward Zorinsky.

Therefore, I urge my colleagues to support the passage of this legislation.

Mr. Speaker, under my reservation of objection I yield to my colleague, the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. I rise today in strong and enthusiastic support of H.R. 3838, which will designate the Federal building in Omaha, NE, as the "Edward Zorinsky Federal Building."

It is entirely fitting that a building in the heart of Nebraska's largest city—and a city that Ed Zorinsky truly loved as his hometown—be named in honor of the man who gave so much of his life to public service.

The late Senator Zorinsky was not only a fellow Nebraska colleague, he was a good friend. His moral character and strong convictions made him an outstanding asset to the State of Nebraska and the U.S. Senate.

Although at the time of Senator Zorinsky's sudden and untimely death on March 6, 1987, he was an active participant on the "other side of the aisle," he had spent several years of his career in the Republican ranks. No matter the party affiliation, I considered him to be a cooperative, knowledgeable member of the Nebraska congressional delegation and a fine, fine legislator.

As my good friend and colleague, Mr. BEREUTER, has so eloquently and correctly stated, Ed's achievements were numerous and invaluable. I could certainly add to this list, but I believe that Ed's record stands on its own as the best indication of his exceptional accomplishments.

Edward Zorinsky was one of a kind—he was a maverick as mayor of Omaha, and he was a maverick in the Senate. He boasted his independent, open style of government, and we Nebraskans loved him for it.

Edward Zorinsky was a dedicated and good-humored statesman who will be remembered fondly for his efforts on behalf of the people of Nebraska.

And above all else, he will be remembered as a dedicated and loving husband and father.

The Edward Zorinsky Federal Building will not just be a mere salute to the late Senator, it will be a lasting symbol of his outstanding contributions to Omaha, to Nebraska and to the Nation.

Mr. DAUB. Mr. Speaker, last year the Senate lost one of its most able and most personable Members. The death of Senator Edward Zorinsky was a great loss for Nebraska and for the Nation.

It is a great privilege for me to support H.R. 3838 which will appropriately honor Ed by designating the Federal building in Omaha as the Edward Zorinsky Federal Building.

Before his election to the Senate, Ed was a popular and respected mayor of Omaha. When he was elected to that post in 1973, Ed had the door to the mayor's office literally taken off its hinges and removed to indicate his accessibility and closeness to the people. In 1975 a tornado devastated much of Omaha, and we all remember with gratitude that it was Ed Zorinsky who rallied the city back from this tragedy.

When Ed was elected to the Senate in 1976, he continued to display these strong leadership qualities as well as maintaining his extraordinary closeness to the people of Nebraska.

Although he was from the most urban part of our State, Ed represented all of Nebraska, and as a member of the Agriculture Committee, he was an effective voice of Nebraska's rural communities.

Along with his remarkable wife Cece, Ed was equally admired and respected here in Washington. Together, they were one of the Capital's most beloved couples.

Ed Zorinsky frequently said, "It's nice to be important but it's more important to be nice." As a U.S. Senator, Ed Zorinsky was important. As a person, he was more than nice; he was thoughtful and caring and generous in every way.

Ed Zorinsky Federal Building will serve as a lasting tribute to the great works of this great Nebraskan.

Mr. SUNIA. Mr. Speaker, H.R. 3838 would designate the Federal building located at 215 North 17th Street in Omaha, NE, as the "Edward Zorinsky Federal Building."

Mr. Zorinsky, a native of Omaha, NE, was elected to the U.S. Senate in 1976 as a Democrat. He was reelected in 1982 and remained in the Senate until his sudden death by a heart attack on March 6 of last year. Senator Zorinsky served with great effectiveness in both the Senate Agriculture Committee, where he was chairman of the Subcommittee on Production and Stabilization Prices, and the Foreign Relations Committee. He was a great advocate in promoting exportation of agricultural products. In that capacity, he was loyal in assisting farmers not only of Nebraska but the Nation as a whole. He served on many boards and commissions whereby he received countless awards and honors in tribute to his unselfish efforts to help the farmers.

Senator Zorinsky was known for his dedication as a watchdog of wasteful spending on foreign aid and other State Department programs. He was a true statesman and a great asset to the State of Nebraska.

Mr. Speaker, I urge enactment of H.R. 3838.

Mr. BEREUTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 215 North 17th Street in Omaha, Nebraska, shall hereafter be known and designated as the "Edward Zorinsky Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Edward Zorinsky Federal Building".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 1960) to designate the Federal building located at 215 North 17th Street in Omaha, NE, as the "Edward Zorinsky Federal Building."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 215 North 17th Street in Omaha, Nebraska, shall hereafter be known and designated as the "Edward Zorinsky Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Edward Zorinsky Federal Building".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3838) was laid on the table.

GENERAL LEAVE

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4143, H.R. 3691, H.R. 3811, H.R. 3817, and H.R. 3838, the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, 1989

Mr. YATES. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the Department of the Interior and related agencies appropriations bill for fiscal year 1989.

Mr. REGULA reserved all points of order on the bill.

The SPEAKER pro tempore (Mr. Foley). Is there objection to the request of the gentleman from Illinois?

There was no objection.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. COELHO. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the Congressional Record and that all Members and former Members who spoke during the recess have the privilege of revising and extending their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

IN MEMORY OF DICK CONLON

(Mr. McHUGH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McHUGH. Mr. Speaker, the sudden death of Dick Conlon in a boating accident yesterday has been a profound shock to me, and I am sure to his many other friends and family as well.

Dick was a man of uncommon energy and talent who, for 20 years, put those qualities to work as executive director of the Democratic Study Group. The quality of DSG's legislative research and its commitment to institutional reform were a direct reflection of Dick Conlon's values and drive.

□ 1230

Many of us knew Dick as more than the force behind DSG. We knew him as a friend, as a neighbor, and as a devoted father and husband.

We will miss him sorely, and our hearts and prayers go out to his wife, Marti, and their family.

ENSURING AMERICAN WORKERS HAVE ADEQUATE ACCESS TO HEALTH CARE

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEYERS of Kansas. Mr. Speaker, I have introduced legislation to help ensure that American workers have access to adequate health care.

It is estimated that 35 million Americans have no health insurance of any kind, and that 24 million of this group are working, the working poor and the dependents. The legislation I have introduced would make permanent a tax deduction currently on the books which allows unincorporated businesses a 25 percent tax deduction for providing health insurance coverage to employees.

Currently, self-employed individuals can utilize a deduction of 25 percent to lower their own insurance costs if equivalent health insurance coverage is extended to their employees. However, the provision is set to expire in 1990. My bill would make the deduction a permanent part of the Internal Revenue Code.

It is obvious that measures must be taken to reduce the rising number of America's working uninsured. I would urge my colleagues to support this idea and to seek permanent implementation of this important tax incentive.

DRUG-FREE MOTHERS MEAN DRUG-FREE BABIES ACT

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, drug-free mothers mean drug-free babies that is why today I will introduce legislation along with Congressman Waxman to address a severe problem facing our Nation—the increasing incidence of pregnant women putting their babies at risk because of drug abuse. Using especially cocaine and crack as well as other drugs.

Disappointingly over 20 million Americans have tried cocaine at one point in their lives. Tragically five million people are daily abusers. This figure includes many women of childbearing age who are either unaware of the dangers of drug abuse and pregnancy or oblivious to them. In one hospital in my district alone, nearly sixty babies have been born in the past year to women who abuse cocaine or crack and our area is not unusual, this is indeed a national problem.

Babies born to mothers who abuse drugs suffer not only from lower birthweight, irritability and serious developmental problems, they are also often delivered prematurely, increasing the risk of complications and their possible death. They are surely the most innocent victims in the vicious cycle of drug and alcohol abuse in our society.

The legislation would authorize funds for demonstration projects to provide prevention, education and treatment services to pregnant substance abusing women. These funds would be targeted to hospitals and clinics serving low-income women. My legislation would also direct the National Institute on Drug Abuse to study the extent of drug abuse among pregnant women and the physical effects of such use on mothers and their infants.

The war on drugs cannot be won by "just saying no." It must be fought on every front. Increased resources for education and treatment of drug abusers are essential if we are to reduce the demand side of the drug equation. Our legislation encourages the development of innovative approaches some answers to reducing demand among a particularly cricital subset of the drug abusing population—pregnant women and their innocent babies.

TED TURNER'S COMMUNIST PROPAGANDA

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, recently many of us in Congress, in fact I believe the entire Congress, was given a seven-part documentary from the founder of the Cable News Network, Mr. Ted Turner, an entrepreneur turned Soviet propagandist. In this seven-part documentary on the Soviet Union whitewashing the history of that nation, it ignored the economic and human rights travesties that have been the hallmark of Soviet history during this century, it ignored the reign of terror under Stalin, Khrushchev, and Andropov and others, it failed to mention anything of the 10 to 12 million people who were deliberately starved in the Ukraine. In fact, when this program was then played on Soviet television, Soviet television felt obligated to begin the presentation with a disclaimer that said that this film gives an excessively glamorous portrait of the Soviet Union and fails to reflect the self-criticism currently underway.

Mr. Speaker, it seems that state owned Soviet television recognizes "Bullnost" when they see it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GRAY of Illinois). Pursuant to the provision of rule I, clause 5, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, June 21, 1988.

OUTER CONTINENTAL SHELF OPERATIONS INDEMNIFICATION CLARIFICATION ACT OF 1988

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4517) to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to provide for indemnification and hold harmless agreements, as amended.

The Clerk read as follows:

H.R. 4517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Outer Continental Shelf Operations Indemnification Clarification Act of 1988".

SEC. 2 INDEMNITY AGREEMENTS.

Section 304 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1801 et seq.) is amended by adding at the end the following new subsection:

"(j) Any owner or operator of an offshore facility shall be entitled to enter into an indemnity, hold harmless, or similar agreement with any person holding a lease on the Outer Continental Shelf with respect to any liability arising under this title. Notwithstanding the provisions of this subsection (j), any such indemnity, hold harmless, or similar agreement shall not relieve such owner, operator, or person from primary statutory liability imposed under this title.".

SEC. 3. GUARANTOR'S LIABILITY.

Section 305 of the Outer Continental Shelf Lands Act Amendments of 1978 is amended by redesignating subsection (c) as (c)(1) and adding a new subsection (c)(2) to read as follows:

"(2) Except as provided in section 308(e) of this title, nothing in this Act shall impose liabilty with respect to an incident on any guarantor for damages or removal costs which exceeds, in the aggregate, the amount of financial responsibility required under this title which that guarantor has provided for the owner or operator of any vessel or facility that was a source of oil pollution in that incident."

The SPEAKER pro tempore. Is a second demanded?

Mr. SHUMWAY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from California [Mr. SHUMWAY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the operative portion of this bill is two paragraphs long. It addresses a problem which has been dealt with repeatedly by the Committee on Merchant Marine and Fisheries over the past seven Congresses as we have attempted to move comprehensive oil spill legislation.

The committee last addressed the topic of comprehensive oil spill legislation on May 5, of last year. That legislation was jointly referred to the Public Works Committee and it has not progressed out of that committee. Similarly, it is also stalled in the Senate. Due to the uncertain future of the comprehensive legislation, the Committee on Merchant Marine and Fisheries has chosen to move this portion of the larger bill separately.

This legislation has two parts. The first is a narrow fix to cure a problem which arose as a result of the OCS Amendments of 1978. Prior to that time, offshore lease holders and the drilling contractors which they hired were able to enter into agreements specifying who was liable during the performance of various duties. The amendments of 1978 altered the statutory basis for these agreements. Since that time, drilling contractors and leaseholders have been cautious as to the effectiveness of such agreements.

Perhaps fueled by this uncertainty, there has developed a reluctance on the part of commercial insurance firms to issue insurance to cover these operations. This reluctance is compounded by the fact that insurers fear being held liable for an amount in excess of the dollar amount of the policy which they have issued. The second portion of this legislation specifies that an insurer can only be required to provide restitution in an amount up to the amount to which they have contracted to provide. While these changes may not be important to the "Exxons" of the world who are able to self-insure their activities, smaller firms such as offshore drilling firms must rely upon commercial insurers and have either experienced great difficulty in obtaining insurance or have had to go unprotected.

The enactment of this legislation will serve to restore an industrywide practice of allowing for indemnification agreements while simultaneously assuring commercial insurance providers that their exposure is limited to that which they have contracted to provide.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUMWAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4517, the OCS Operators Indemnification Clarification Act of 1988 with the additional provisions added by the committee to clarify a guarantor's liability.

Mr. Speaker, the Merchant Marine and Fisheries Committee has worked long and hard to pass a comprehensive oilspill bill. While I am disappointed to say that we have not yet managed to enact such legislation, I am pleased to note that at least this small portion of a comprehensive plan has a chance.

This legislation, while it moves us in the right direction, is merely a first step toward solving the problems that have plagued the offshore oil and gas industry in their quest for obtaining adequate liability insurance for their offshore operations. That insurance will prevent exposure of an insurance company or other guarantor to liability beyond that face amount for which they have contracted. The offshore industry has patiently worked with Congress to clarify their ability to obtain indemnity agreements. Unfortunately, Congress has not been able to answer these questions, and this bill may help to clarify Congress' intent so that they may be able to obtain sufficient insurance coverage.

Mr. Speaker, while I do not believe that this legislation goes nearly far enough in satisfying our seemingly endless quest for a comprehensive oilspill policy, this is an important step toward that goal.

Mr. Speaker, I strongly support this effort and urge my colleagues to join me in support of H.R. 4517 and I will continue to push for more comprehensive oilspill legislation in the future.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. Jones] that the House suspend the rules and pass the bill, H.R. 4517, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4517, the bill just passed.

The SPEAKER pro tempore. Is there objection to the support of the gentleman from North Carolina?

There was no objection.

POSTAL REORGANIZATION ACT AMENDMENTS OF 1988

Mr. LELAND. Mr Speaker, I move to suspend the rules and pass the bill (H.R. 4150) to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service Fund, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Postal Reorganization Act Amendments of 1988".

SEC. 2. BUDGETARY TREATMENT OF THE POSTAL SERVICE FUND.

(a) Treatment of the Postal Service Fund.—

(1) In General—Chapter 20 of title 39, United States Code, is amended by inserting after section 2009 the following:

"§2009a. Budget treatment of the Postal Service Fund

"Notwithstanding any other provision of law, the receipts and disbursements of the Postal Service Fund—

"(1) shall not be included in the totals of—

"(A) the budget of the United States Government as submitted by the President, or

"(B) the congressional budget (including allocations of budget authority and outlays provided therein);

"(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government; and

"(3) shall not be counted for purposes of calculating the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 nor counted in calculating the excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, for any fiscal year.".

(2) Chapter analysis.—The analysis for chapter 20 of title 39, United States Code, is amended by inserting after the item relating to section 2009 the following:

"2009a. Budgetary treatment of the Postal Service Fund.".

(b) Construction.—Nothing in any amendment made by subsection (a) shall be considered to diminish the oversight responsibilities of the Congress under law, rule, or regulation with respect to the budget of the United States Postal Service.

(c) Applicability.—The amendments made by this section shall apply with respect to budgets for final years beginning after September 30, 1988.

SEC. 3. AMENDMENTS RELATING TO LIMITATIONS ON POSTAL BORROWING AUTHORITY.

(a) Amendments.—Section 2005(a) of title 39, United States Code, is amended—

(1) by striking "$10,000,000,000" and inserting "$30,000,000,000";

(2) by striking "$1,500,000,000" and inserting "$30,000,000,000"; and

(3) by striking "$500,000,000" and inserting "$1,000,000,000".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on October 1, 1988.

Mr. SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

Mr. SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. SPEAKER pro tempore. The gentleman from Texas [Mr. Leland] will be recognized for 20 minutes and the gentleman from New York [Mr. Horton] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. Leland].

Mr. LELAND. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. Brooks] be yielded control of 10 minutes of debate time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. Brooks] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. Leland].

Mr. LELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4150 would remove the U.S. Postal Service from the unified Federal budget. H.R. 4150 has 358 cosponsors and has been favorably reported to the House by the Committee on Post Office and Civil Service whose chairman, Bill Ford, is the bill's chief sponsor. It was also favorably reported by the Committee on Government Operations.

Mr. Speaker, this would not be the first time the Postal Service is removed from the budget. In fact, the Postal Service has been off budget for all but 5 of its 17 years of existence. The Office of Management and Budget took it off budget in 1973 when it was a brand new agency created by the Postal Reorganization Act of 1970. In so doing, OMB explained,

> Budget treatment of the Postal Service * * * reflects its independence from Federal control * * * and only the Federal payment to the Postal Service is now included in the budget totals.

Mr. Speaker, that is exactly what H.R. 4150 would do.

The Postal Service remained off budget until fiscal year 1986 when OMB placed it back on budget at a time when the Postal Service projected a $692 million surplus for that fiscal year. OMB thought that by placing the Postal Service on budget, a deficit reduction of that amount could be realized.

However, the Postal Service uses the accrual accounting method preferred by businesses and corporations and not the cash basis method used by the Federal Government. The result was an actual increase in the deficit.

Even if a deficit reduction could have been claimed, that kind of deficit reduction brings no relief to the taxpayer because it does not represent a reduction in spending of tax dollars. All it actually reduces is spending of dollars generated by the mail delivery services provided by the Postal Service.

For fiscal year 1986, having the Postal Service on budget was an attempt to claim a deficit reduction. By fiscal year 1988, on budget status meant derailing critically needed capital improvement projects in order to avoid further increases in the deficit. This has resulted in the deferral or cancellation of 74 percent of new construction projects.

Mr. Speaker, mail volume continues to grow dramatically. Every year, the Postal Service must handle substantially more mail than the year before. In order to do so effectively, it must constantly be expanding facilities and building new ones to serve growing communities and to replace outmoded and hopelessly dilapidated facilities.

We have therefore made it very difficult for the Postal Service to cope with the demands placed on it. The most expeditious way we can remedy this situation is to remove it from the unified Federal budget.

H.R. 4150 would also raise the limit on the Postal Service's overall aggregate debt to $30 billion. The present limit is $10 billion but I want to remind my colleagues that the $10 billion limit was established by the Postal Reorganization Act of 1970 when Postal Service receipts and expenditures were less than $10 billion. The Postal Service expenditures for fiscal year 1988 are expected to total $36 billion. An increase in the debt limit to $30 billion is in effect, only an adjustment for inflation.

I am very proud that the Committee on Post Office and Civil Service was able to achieve complete oneness of mind on the most critical postal issue we have had before us in several years. Every member of the committee has cosponsored H.R. 4150 and voted for it in committee markup.

Mr. Speaker, we have done our homework on this matter and today we present to you a sound legislative package that will allow the Postal Service to provide the kind of mail service that our constituents expect and deserve. We have an outstanding new Postmaster General with a long and successful record in the business world. We believe he can make the Postal Service what we want it to be. However, in order for him to have a reasonable chance to accomplish that, we need to untie his hands and give him the latitude he needs to do the job. We can do that by voting to approve H.R. 4150.

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Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 4150, legislation to remove the Postal Service from the Federal budget.

Mr. Speaker, H.R. 4150 was referred jointly to the Committee on Post Office and Civil Service and the Committee on Government Operations. It passed unanimously in both committees.

Mr. Speaker, I serve as the ranking Republican on the Subcommittee on Postal Operations and Services chaired by the gentleman from Texas [Mr. LELAND] and I also serve as the ranking Republican on the Committee on Government Operations.

Mr. Speaker, it is no accident that H.R. 4150 enjoys the broad bipartisan support of more than 355 cosponsors. The legislation makes sense. Overwhelming passage of H.R. 4150 today will put this House on record as recognizing: First, the importance to the American public of a universal mail delivery system; and second, the unique position of the Postal Service within the Federal organizational structure.

The Postal Service is unlike any other Federal agency or department. It was made that way by the Congress in its passage of the 1970 Postal Reorganization Act. That act sought to remove the Postal Service from political manipulation by making it quasi-independent. Its operating subsidies were to be stopped; it was to become fully dependent for its operation on the sale of postal services to the ratepaying public.

The act has been a tremendous success. Today the Postal Service gets no operating funds from the Federal Government. It is self-sufficient. It pays its own way, including the salary, retirement and health care costs of its employees. Again, it does this not by the collection of special fees or taxes, or from general revenues; it does this by the sale of postal services.

Let's look at the quality of mail delivery since enactment of the 1970 legislation. Today, the Post Service delivers more than 140 billion pieces of mail annually, most of that within 24 hours from the time the mail is put in its hands. Not a bad record. In fact, despite the recent rate increase, no other nation comes close to the U.S. Postal Service in either cost or efficiency, in fact the U.S. postal stamp rate is the lowest of any industrialized nation; no other nation comes close.

Political involvement in postal operations has been kept to a minimum. The Postal Service has indeed become self-sufficient. Everything was operating as envisioned by the 1970 legislation. Things changed in 1984. It was then that the Postal Service was returned to on budget status. Politics was reinjected. The Postal Service became and is today part of the Congress' and executive branch's budget shell game.

Here is how the politics work. The Postal Service collects revenues from the sale of stamps to fund its operation and does not receive any revenue from the General Treasury for operations. Especially important is its capital construction plans, which provide for the construction of postal facilities across the country. This construction is essential to meet mail delivery plans in the Southern and Western United States especially, where population growth is in the double digits.

Yet in our conference last year we prohibited the Postal Service from spending its revenues. Even though these revenues were collected from the ratepaying public for postal services, even though no Federal funds whatsoever were involved, any unspent funds could be used and were used to make the Federal budget look better than it is. Politics has again tied the hands of the Postal Service—is preventing it from providing the kind of mail delivery the public has come to expect. A shell game—pure and simple.

The cost of this charade? Efficient mail delivery. The ratepaying public suffers. And now, as a result of actions by the Congress and executive branch, we hear a heightened cry from those seeking to privatize the Postal Service. To be sure, these critics will and do point to every instance where mail delivery and service has been cut, reduced or construction delayed. Mr. Speaker, we are to blame for this—not the Postal Service. And I am not saying the Postal Service is perfect, for it is not. As ranking minority member on the Postal Operations Subcommittee of the House Post Office and Civil Service Committee, I am often critical of its activities. However, I believe strongly that a universal mail delivery system, which provides efficient mail service to all Americans, regardless of where they live, and at reasonable cost, is essential. Failure to enact H.R. 4150 jeopardizes such a system.

In addition, Mr. Speaker, as ranking minority member of the House Government Operations Committee, which has jurisdiction over Government reorganization and certain budget policies, I also am uniquely qualified to understand the special position of the Postal Service and its importance to the public. It is unique, and I have tried to detail its uniqueness here today.

H.R. 4150 deserves our strongest support. It is a bill developed by Republicans and Democrats alike. My hat goes off to Post Office and Civil Service Committee Chairman FORD and to Postal Operations Subcommittee Chairman LELAND for their leadership. And to the committee's ranking minority member GENE TAYLOR for his enthusiastic support. And to my chairman of the Government Operations Committee JACK BROOKS, who moved the bill through our committee. And finally, to the more than 355 Republicans and Democrats who cosponsored this legislation.

Mr. Speaker, I urge my colleagues to support H.R. 4150.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4150, the Postal Reorganization Act Amendments of 1988, is designed to insulate the operations of the Postal Service from unwarranted pressures by removing the receipts and disbursements of the Postal Service fund from the President's budget submission and the congressional budget. It also provides that such receipts and disbursements shall not be counted in the Gramm-

Rudman deficit reduction process. These provisions effectively take the operations of the Postal Service "off-budget."

This legislation, introduced on March 15, 1988, by Chairman William Ford of the Post Office and Civil Service Committee, is a direct result of service cutbacks that the Postal Service put into effect pursuant to last year's Budget Reconciliation Act. Under a mandate to reduce its operating budget by $160 million in fiscal year 1988 and $270 million in fiscal year 1989, the Postal Service announced cutbacks in retail services including a 10-percent reduction in window hours, elimination of mail processing on Sundays and other curtailments in operations. The Postal Service also restricted its capital expansion program.

These actions affected people in every region—and, I might add, in every congressional district of our Nation. These users of the mails, along with those who are responsible for running and operating our Nation's mail system, feel that they have become innocent pawns in the Washington budget game—and they want out. The postal system was set up under the Postal Reorganization Act of 1970 to operate in a business-like fashion and to pay its own way. It is the belief of the proponents of H.R. 4150 that enactment of this legislation will enable them to do just that.

Mr. Speaker, as chairman of the committee which oversees the statutes that form the framework of the Federal budget, I was concerned that H.R. 4150 might be taken as a precedent for other Federal funds to be taken off-budget, leading to a further deterioration in the unified budget process. The hearings that the Committee on Government Operations held on H.R. 4150 served two purposes in this regard. First, they showed how the Postal Service's difficulties actually are a part of underlying flaws in our budget structure. The General Accounting Office referred to this in its testimony on H.R. 4150, and the issue of restructuring the budget will receive greater attention by the committee later in this session.

Second, witnesses at the hearings made the case that the scope and nature of the Postal Service sets it apart from other Federal funds. I believe the argument has been made effectively that the Postal Service fund is distinctive and unique, and I want to say at this point that our action today should not be interpreted as a precedent for the treatment of other Federal funds in the budget.

Mr. Speaker, the Committee on Government Operations examined only the on-budget, off-budget aspects of H.R. 4150. Section 3 of the bill, dealing with limitations on postal borrowing authority, is not within the legislative jurisdiction of our committee, and we defer to the Committee on Post Office and Civil Service on this issue.

In conclusion, Mr. Speaker, the U.S. Postal Service was established in 1970 to continue to provide universal mail service to the Nation, and to operate in a business-like fashion. Enactment of H.R. 4150 will help the Postal Service meet these twin goals.

Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. Gilman], a member of the Committee on Post Office and Civil Service and a cosponsor of this legislation.

Mr. GILMAN. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 4150, the Postal Service Reorganization Amendment Act of 1988.

In fiscal year 1987, the Postal Service budget exceeded $32 billion and not $1 of taxpayer money had to be appropriated for postal operations.

The 1970 Reorganization Act believed it was in the best interests of the Postal Service and our Nation to have an independent postal service. From 1973 to 1985 the operations of the Postal Service was off the Federal budget. In 1985, the then Director of OMB, David Stockman, put the Postal Service back on budget. He did this because the Postal Service was running a surplus and it helped reduce the Federal deficit. It was only early this year—when the Budget Reconciliation Act become law—were monetary demands placed on the Postal Service.

The Postal Service was operating in the black. It was and is wrong to squeeze it dry to pay for the inefficiency and waste by other agencies which cannot control loose spending such as expensive hammers and deluxe toilet seats.

Accordingly, I support H.R. 4150 to remove the transactions of the Postal Service from the President's budget and urge my colleagues to support this Postal budgetary measure.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

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Mr. LELAND. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. Vento].

Mr. VENTO. Mr. Speaker, I rise in strong support of this measure—H.R. 4150. I think it is indeed needed, demonstrated by the types of budget problems that occurred in the 1988 budget cycle.

The post office and postal corporation, because of the 1970 Reorganization Act, are not part and should not be made part of the serious budget crisis that visits us every year. The concern, Mr. Speaker, is that very often the types of so-called Postal Service savings that were implemented last year, the closing of various postal stations and cutting back on postal construction schedule really provide a diminished service to the people that we represent. The fact is that the delayed postal construction will, of course, compound the problems in future years for the Postal Service. Those buildings are needed, and they are going to cost more in the future than in 1988.

Mr. Speaker, for over 200 years the Postal Service has really been a very efficient and effective means of providing communication within our society, and today, while new communication forms exist, the Postal Service still remains as one of the basic institutions that ties the fabric of our society together. It is important in this context that we recognize that since the Postal Service raises revenues from the services they provide, there is very little of the Federal budget as such that really is directly related to the Postal Service.

I note that this legislation deals with revenue foregone—which is, of course, the dollars we provide for the nonprofit and other groups that actually utilize the service—remains in the unified budget. That, therefore, remains in the budget. So this is in essence treating the post office as the postal corporation, with the public service that it provides, as standing on its own two feet.

Mr. Speaker, I commend the gentleman from Texas [Mr. Leland] and the gentleman from Texas [Mr. Brooks] who have spoken on this matter and especially Chairman William Ford of Michigan for his good efforts, and I recommend this bill to my colleagues.

Mr. HORTON. Mr. Speaker, I yield back the balance of my time.

Mr. LELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just take a minute to commend the gentleman from Michigan [Mr. Ford], who has fought so hard to bring all of the proponents and the opponents together to try to get a consensus on this matter in the House, as well as in the other body. I commend him, too, certainly for pulling together a consensus from this side of the aisle as well as from the other side of the aisle. I might add that a proportionately equal number of Members from each side has supported this legislation, and it is most important legislation.

Finally, Mr. Speaker, let me also commend the gentleman from Missouri [Mr. Taylor] the ranking minority member of the Committee on Post Office and Civil Service, for the yeoman task he has performed and the cooperative way he has worked to assure the passage of this legislation. I commend also my good friend, the dean of the Texas delegation, the gentleman from Texas [Mr. BROOKS], for his leadership. Let me make a special note also that the gentleman from New York [Mr. HORTON] has done an outstanding job in working with me, as well as the full committee chairman, in ushering this piece of legislation to the floor from the Committee on Post Office and Civil Service, as well as from the Committee on Government Operations, where he serves as the ranking minority member. He is a yeoman personified and works very hard, particularly in the committee during the budget conference. I would like to make a special note that we recognize him for his contribution.

Mr. BRENNAN. Mr. Speaker, I rise today as a cosponsor and supporter of H.R. 4150, a bill that would remove the Postal Service from the Federal budget.

I join with 357 of my colleagues in support of this measure. This bill addresses a critical postal issue which is vitally important to the survival of the U.S. Postal Service. Last year, the Postal Service was forced to cut back to help compensate for the budget deficit. The enactment of the Budget Reconciliation Act mandated the Postal Service to cut $1.2 billion from its budget. Because of these cuts, the cost of a first-class stamp has been raised, there has been a significant reduction in postal construction and modernization projects throughout the country, and there has been a reduction in the hours of postal service to the public. I believe that postal service to our constituents and to the American people in general must not be compromised.

The Postal Service provides services to every community in our Nation. It delivers over 150 billion pieces of mail annually usually within 24 hours from the time the Postal Service receives the mail and it does all of this for less than 25 cents. With the increasing amount of mail volume, the Postal Service must expand its facilities. However, due to current budget restraints, it has been unable to construct improved facilities.

This bill recognizes the unique quality of the Postal Service—it is self-sufficient and pays its own bills by selling postal services. The only appropriations it receives is from revenue forgone as mandated by Congress. The Postal Service deserves to be independent from Federal control.

This measure is extremely important to our entire Nation. The U.S. Postal Service is distinct and needs to be treated as such. This measure will enable the Postal Service to continue to offer services to every community in our Nation and it deserves our full support. I urge my colleagues to vote yes in favor of H.R. 4150.

Mr. FORD of Michigan. Mr. Speaker, I rise to support H.R. 4150, a bill to restore the U.S. Postal Service to off-budget status.

This legislation will guarantee that the kind of reductions in postal operations and sudden cancellation of postal construction that we witnessed recently and are still witnessing cannot happen again as a result of the Federal budget process.

As a result of last year's deficit reduction effort, the Postal Service was forced to reduce capital expenses by $815 million and operating expenses by $430 million.

The Postal Service does not contribute over time to the Federal deficit because no Federal funds are appropriated for postal operating costs. The Postal Service pays its own way. It is, therefore, unfair to call on it to help solve the deficit problem created by this administration at the expense of customers who have suffered delays and inconvenience.

Three hundred and fifty-eight Members of the House, including all the members of the Post Office and Civil Service Committee, have cosponsored this bill, attesting strongly to its bipartisan support.

What this bill does is restore the U.S. Postal Service to the off-budget status it enjoyed prior to 1986. The legislation would provide that Postal Service's receipts and disbursements would no longer be counted for the purpose of determining the Federal deficit. Thus, neither the administration nor Congress could reduce the deficit by increasing stamp prices or decreasing postal services.

And deficit reduction could not be used as a subterfuge to meddle in the operations of the Postal Service and to attempt to micromanage it.

As a result of last year's deficit reduction effort, 74 percent of new construction projects were deferred or canceled. Post Office window hours were reduced by about 10 percent. Sunday mail collection and processing were eliminated. Administrative expenses have been cut and procurements delayed. Hundreds of construction projects—new starts, expansions, and modernizations—have been affected. Were these cuts ordered because congressional oversight showed they would improve postal service in the Nation? No, in fact they will probably result in poorer service. They were ordered because, as an accounting matter, they result, on paper, in a lower Federal deficit. This would not have occurred if the Postal Service were "off budget."

The bill, as amended, increases existing statutory limitations on the Postal Service's borrowing authority. Under the Postal Reorganization Act of 1970 new borrowing is limited to $1.5 billion per year for capital needs and $500 million per year for operations. Further, the aggregate amount of outstanding Postal Service debt cannot exceed $10 billion.

These borrowing limits were established in the Postal Reorganization Act of 1970 when postal revenues were less than $10 billion per year. The Postal Service points out that postal revenues today approaching $35 billion, but these borrowing "caps" have never been adjusted.

It further says that the cap on aggregate outstanding debt, if not adjusted soon, could disrupt the 5-year capital improvement program approved by the Board of Governors last year.

I know that moving any entity off budget is a controversial issue. But the Postal Service is unique. The 1970 act which established it as an independent entity mandates that it break even. After a shaky start, it has met that mandate. It pays its own way. It has broken even over the last 10 years. Since 1982 the Postal Service has received no appropriations for operating purposes—moneys are appropriated to subsidize certain "preferred" classes of mail.

It pays its expenses from its own revenues. And unlike most Federal agencies, its costs are driven by a factor beyond its control—mail volume.

Keeping the Service on budget significantly distorts Federal deficit figures because of the way the large postal capital improvement program is presented, and because the Postal Service uses accrual accounting while the Government is on a cash basis. In the Federal budget, postal capital improvements are included as budget authority when commitments are made and as outlays when cash payments are disbursed. This treatment inflates the deficit because it suggests that postage should have been collected to cover all the cash payments as post offices, for example, are built. This accounting treatment ignores the fact that as capital assets are acquired the Postal Reorganization Act makes provision for the expense to be recognized through depreciation charges and for the assets to be paid for by postage collected over their useful lives. In effect, the Federal budget treats the standard business-like financing of postal capital projects as if it were deficit spending.

There are those who have argued that moving the Postal Service off budget will remove it from congressional oversight. But this is not the case.

The question of whether or not the Postal Service should be off budget, that is, whether its income and expenditures should be counted in determining the Federal deficit, is not the same as the question of whether or not it should be an accountable Government agency subject to aggressive congressional oversight. For 12 years, fiscal years 1974 through 1985, it was off budget. During those years the Congress amended the Postal Reorganization Act 33 times; there were more than 400 congressional hearings on postal related issues; 903 bills dealing with postal issues were introduced in the House alone; and Congress' investigating arm, the General Accounting Office, issued 225 reports on postal matters.

All this occurred while the Postal Service was off budget. The argument that budget treatment and accountability are related is an empty one.

The real issue is whether decisions on postal policy, postal financing, and postal operations should be driven by political agreements aimed at reducing the Federal deficit. As long as the Postal Service is on budget there are two ways it can be used as an instrument for deficit reduction. First, it can be required to increase revenues; that is, raise postal rates. Second, it con be required to decrease expenditures; that is, reduce costs by cutting services or canceling or deferring capital investment.

The authors of the 1970 Reorganization Act believed it was in the best interest of the post office, its employees and customers, and the Nation as a whole to have an independent Postal Service. Today, that independence is seriously threatened.

We must insulate the Postal Service from political pressures, including those resulting from the ongoing battles over the Federal deficit. Returning the Service to an off-budget status is a step in the right direction.

Mrs. MORELLA. Mr. Speaker, I am pleased to be one of the original cosponsors of H.R. 4150. It is gratifying to know that 357 Members of the House are cosponsors of this important bill to return the United States Postal Service to the off-budget status it held before 1986.

The Budget Reconciliation Act passed last year restricted the Postal Service in their capital improvements projects—construction projects throughout the Nation were canceled or deferred. Proposals for two facilities, which are crucial to efficient running of the Postal Service in my district and county—Germantown and Takoma Park—were postponed. This legislation will make it easier for the Postal Service to go forward with proposed projects such as Germantown and Takoma Park. I will continue to monitor the construction timetable and look forward to working with the Postal Service in this regard.

These restrictions were also reflected in postal operations which affected service to the users. I urge that window services will be restored to full capacity and Sunday mail collection also be resumed. These inconveniences have affected all phases of business and commerce in this country. Passage of H.R. 4150 would ensure that restrictive borrowing ceilings would not arise and thus impair the postal agenda and building schedule.

The U.S. Postal Service has been able to pay its own way—it does not receive Federal funding for its operations except for the revenue forgone subsidy. It is deceptive to use the Postal Service budget to camouflage the Federal deficit.

The 1986 reversion to on-budget status imposed a dollar spending restriction on the Postal Service for the first time. This is not the avenue to take in an attempt to cure the Federal deficit.

Postal Service touches the lives of everyone in the country; as the volume of mail in our Nation grows, it is our responsibility to ensure that the Postal Service is able to operate efficiently and without political interference.

Mr. KLECZKA. Mr. Speaker, today I rise in support of H.R. 4150, the Postal Reorganization Act Amendments of 1988. This significant and timely piece of legislation would return the Postal Service to its previous off budget status.

The original Postal Reorganization Act of 1970 had designed the Postal Service as a quasi-independent Federal entity which raised its own revenues and operated from them. By mandating that it function in the black, the Postal Service was able to pay for its capital improvements and operations through its independent budget.

In accordance with the Gramm-Rudman changes, this system was stagnated by the inclusion of the Postal Service budget in calculating the total Federal budget. This return to on budget status was an attempt to alter the murky Federal deficit figures—the smoke and mirrors method of deficit reduction.

As a part of the unified budget, the Postal Service was required to take a $1.245 billion cut in its operating budget over fiscal 1988-89. Then, provisions of the 1987 Budget Reconciliation Act forced the Postal Service to dip into its own revenues to pay retiree COLA's and health benefits which had previously been appropriated by Congress. A cap on borrowing and capital outlays further decreased its options. As a result, new construction sites and overdue capital improvements slated for fiscal 1988 were frozen. If that was not enough, the purchase of new automation and delivery vehicles was put on hold, and mail window hours, Sunday mail sorting and other services had to be cut back.

Last year, the U.S. Postal Service sorted over 150 billion pieces of mail. Its 811,000 employees operate the most efficient postal service in the world. And let us not forget that the off budget status did not exempt the Postal Service from public scrutiny and legislative oversight.

The much needed moderization of the Postal Service has gone by the wayside, and the American consumer is the victim. It seems pointless to me to cripple its operations and future capabilities simply to paint a brighter picture of the deficit. It is not appropriate nor necessary to exploit the Postal Service to fit the needs of budget measures.

We must ensure that the U.S. Postal Service will have the resources available to continue efficient operations and future expansion to accommodate increasing demand for postal services.

Therefore, Mr. Speaker, I applaud and commend all of my colleagues in the House who joined me in cosponsorship and passage of this legislation in the House.

Mr. TOWNS. Mr. Speaker, when Congress reorganized the Postal Service in 1970, it was with the expectation that an independent postal system would improve operations, service and the working conditions for its employees. Regrettably, this independence has been undermined by administration efforts to reduce the Federal deficit.

Late last year, many of our districts were treated to the announcement of shortened window hours, the elimination of Saturday service and the deferral or cancellation of new post office facilities. According to the House Post Office and Civil Service Committee's findings, "these actions resulted solely from a political agreement between the administration and the Congress that $1.245 billion in deficit reduction should be achieved by forcing the Postal Service to spend $1.245 billion less than its management had planned."

If we are to shield the Postal Service from future political agreements, then we must return it to the off-budget status that it enjoyed from 1973 to 1985. Moreover, placing the Service off-budget will remove the temptation for the OMB Director to substitute his views as to how the Postal Service should operate for those of the Board of Governors and postal management. I, for one, believe that this change will go a long way toward silencing the calls for privatization.

Our colleagues in the Senate have already passed a measure, by a vote of 85 to 8, to move Postal Service off-budget. As a cosponsor of this legislation, I want to join the other 340 House cosponsors in calling for the immediate enactment of this legislation. If the President is not prepared to sign this bill, then the Congress must be prepared for an immediate veto override.

Mr. LENT. Mr. Speaker, as a cosponsor of H.R. 4150, I am pleased by the House consideration of this important measure to restore the U.S. Postal Service's former off budget status.

Under the Postal Reorganization Act of 1970, the U.S. Postal Service became a quasi-independent and largely self-financed operation. In fact, by fiscal 1988, only $517 million, or 1.5 percent of the agency's $35 billion budget was appropriated by Congress. In addition, the Postal Service was considered off-budget which, put simply, meant that Congress couldn't look to that agency for reductions in the deficit.

However, in fiscal 1986, using sleight of hand and a well-worn accounting trick, Congress moved the Postal Service back on budget to make the tremendous Federal debt appear a little smaller. Such maneuverings, while theoretically reducing the deficit, also had the unwanted effect of allowing Congress to dictate where future savings in the Postal Service budget would be gotten. In light of the fact that the U.S. Postal Service is almost completely self-financed, this is a little like Congress dictating to Lee Iacocca how savings will be achieved at the Chrysler Corp.

Indeed, in its fiscal year 1988 budget Congress mandated that the Postal Service find $1.2 billion in savings by specifying cutbacks in postal operations and facilities. The Postal Service had no choice but to severely curtail postal hours causing great hardship for postal customers.

Doubtless many of my colleagues have received numerous complaints from their constituents who have been seriously inconvenienced by the drastic cutbacks in postal hours. In a twist of irony, the Postal Service's old familiar slogan "neither rain, nor snow, the mail must go through . . ." is now ended with, "but sorry, the Post Office is closed today."

H.R. 4150 would remedy this situation by allowing the Postal Service, not Congress, to decide where budget savings would be made. The Postal Service would be able to restore normal working hours at post offices and guarantee the prompt delivery of mail as before. This an important step toward ensuring adequate customer service by an independent Postal Service, protected from the meddling and micromanagement efforts of Congress.

Mr. GARCIA. Mr. Speaker, I rise today in support of H.R. 4150, the Postal Reorganization Act Amendments of 1988. The need to immediately return the Post Office to its "off budget" status is clear. I have rarely seen such unity among Congressmen, postal officials, union members, and concerned citizens as I have when Chairman FORD introduced this much needed bill.

Since the Postal Reorganization Act of 1970 was passed, the Postal Service has operated as an independent agency of the Federal Government, free of political influence. By law, it cannot make a profit and must balance its own budget over 3 year cycles. For the past 11 years, it has maintained a balanced budget, increased productivity, and expanded services.

Unfortunately, the Postal Service lost its independent status in fiscal year 1986 when it was moved into the Federal budget. Last December, the Postal Service was required to contribute $430 million toward reducing the Federal deficit. The loss of full control of financial matters and the shifting of funds to other areas of the Federal budget to make up for their deficits can only impede quality service and defeats the purpose and intent of the Reorganization Act.

The need to adjust the borrowing authority, unchanged since 1970, is also clear. Congressionally mandated cuts of over $1.2 billion over the next 2 years will seriously curtail the ability of the Post Office to provide speedy and efficient service. Proponents of the move toward "privatization" of the Postal Service argue that the present system is inefficient and should be concentrating on productivity. The problem with this argument is that it is productivity which will be most affected by the cuts. The $1.2 billion in budget cuts will result in eliminated Saturday deliveries, curtailed window hours, delayed third class mail service, and closed Post Offices.

In order to become more productive, efficient, and competitive, the Postal Service must be able to finance state of the art buildings, equipment and transportation. Under the present plan, funding for construction and equipment will be cut by 50 percent over the next 2 years, causing cancellation of contracts and making needed improvements impossible.

Mr. Speaker, esteemed colleagues, if we are to continue to enjoy the convenience and service that has been provided in the past, we must return the Post Office to its "off budget" status as soon as possible. I urge support of this bill.

Mr. PANETTA. Mr. Speaker, I rise to express my opposition to the Postal Reorganization Act of 1988.

I would first like to commend the efforts of Postmaster General Anthony Frank, who is providing strong leadership for the Postal Service. Also, my opposition to this bill should not be interpreted as any criticism of postal workers themselves. I admire and appreciate their hard work and dedication to the job.

I can understand the motivations of those supporting this legislation. With Federal deficits in the $150 billion range and enormous pressure to reduce those deficits I doubt you will find one agency or department of Government that if offered the choice would choose to be on budget. There is, not surprisingly, a tremendous desire to escape the close scrutiny of Federal programs which accompanies attempts to reduce the deficit.

But accounting gimmicks, such as the one we are considering here today, will not make the deficit go away and will not make the job of reducing the budget deficit any easier. We can say that the Postal Service is off budget, or we can pretend it doesn't exist at all, but when the bills are added up at the end of the year there will be spending by the Postal Service and Postal Service revenues. Calling them off budget or something else won't change reality and does not make much sense.

Perhaps the worst result of this bill becoming law is that it will likely trigger an avalanche of other Federal operations requesting off-budget status. If all Federal operations which are supported by their own revenue base were taken off budget then on budget Federal spending would shrink by about one-third. But because many of these programs carry surpluses each year their change to off-budget status would increase the Federal deficit by almost $100 billion. This higher number would create even more pressure to reduce the deficit, and attempts to do so would necessarily focus on education, job training, housing, and nutrition for low-income Americans, defense and other programs remaining on budget. Placing the entire burden of deficit reduction on these programs would be both unfair and unwise.

If the Postal Service were truly an independent, pay as you go type of operation, then the argument for some sort of off-budget status would be more convincing. However, the Postal Service is tied to the Federal budget and benefits from general tax revenues in many important ways. According to the Office of Management and Budget, in 1987 Federal subsidies to the Postal Service totaled $2.9 billion. These included an estimated $1.8 billion for retiree cost-of-living adjustments, $450 million for health benefits for annuitants, and $650 million for subsidized mail. In addition, the Postal Service benefited from over $100 million in reduced financing costs by borrowing from the Treasury rather than private markets.

If H.R. 4150 proposed that the Postal Service compensate the Federal Government fully for benefits received then off-budget status could be defended more easily. But as long as the Service is using taxpayer money and taking resources away from other Federal programs it should remain on budget. Funding for the Service should be weighed along with other national priorities.

There is also a possibility that as long as the Gramm-Rudman law is in place other Federal programs will be hurt directly by taking the Postal Service off budget. H.R. 4150 exempts the Postal Service from the Gramm-Rudman law. If the Postal Service is running a surplus—which CBO projects will occur as early as fiscal year 1981—and is not on budget, then the amount of a Gramm-Rudman sequestration, if it occurs, would actually be increased, subjecting other programs to deeper cuts than would be necessary if the Service were left on budget. Also, because H.R. 4150 takes the Postal Service out of the Gramm-Rudman base that base is made smaller. A smaller base means deeper cuts in other programs should sequestration be needed. In terms of Gramm-Rudman, H.R. 4150 allows the Postal Service to gain at the expense of other Federal programs such as education, health research and environmental protection, to name a few.

Finally, it should be pointed out that this move to off-budget status could expose the Postal Service to worse budget cuts than would occur with on-budget status. For example, the foregone revenue subsidy is, under current accounting, an intragovernment payment. Changing that payment today does not have a direct impact on the deficit. But if the same payment were made to an off-budget entity then any reduction in the subsidy would appear as a real spending cut and would have a direct impact on the deficit. The same situation occurs with regard to civil service retirement contributions. Off-budget status creates an incentive to require the Postal Service to pay a greater share of the retirement costs of its employees, which are now heavily subsidized by general revenues. In other words the Postal Service can try to run from the deficit crisis, but it may not be able to hide.

The Postal Service has been a legitimate Federal responsibility for years. The Service is subject to the oversight of Congress, is employees benefit from Federal retirement and health programs, it is allowed to borrow from the Federal Financing Bank, and it benefits from being associated with the Federal Government is many other ways. It is truly a Federal operation and belongs on the books of the Federal Government.

Playing a shell game with Federal programs by moving them off budget does not change anything about the true size of the Federal budget, or how much needs to be borrowed to keep the Government operating, or what revenues must be raised, or how all these impact on the U.S. economy—issues that Congress and the President must grapple with every year.

Gimmicks like off-budget status will only open the door for similar requests from other constituencies. If these are granted, the Federal budget, the on-budget portion, will be made up primarily of defense and programs for low-income Americans. These remaining programs will be expected to carry the burden of deficit reduction, while a large part of the budget, perhaps the bulk of Federal spending, will enjoy off-budget status.

This is not where the budget of the Federal Government should be heading. Instead of accounting gimmicks we need tough leadership committed to deficit reduction. This can be achieved in a balanced, fair and equitable way without damaging the Postal Service or hurting its employees. H.R. 4150 asks other Federal programs to make the sacrifice. This is not a responsible approach to the deficit problem or the needs of the Postal Service.

Mr. LELAND. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Texas [Mr. LELAND] that the House suspend the rules and pass the bill, H.R. 4150, as amended.

The question was taken.

Mr. HORTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

LIMITING THE RATE OF PAY FOR POSTAL SERVICE CONSULTANTS

Mr. LELAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3592) to amend title 39, United States Code, to limit the rate of pay at which the Postal Service may compensate experts and consultants, as amended.

The Clerk read as follows:

H.R. 3592

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 10 of title 39, United States Code, is amended by adding at the end the following:

"**§1012. Limitation on rates payable to experts and consultants**

"The rate payable by the Postal Service under any contract for services of experts or consultants may not, with respect to any individual, exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5.".

(b) The table of sections for chapter 10 of title 39, United States Code, is amended by adding at the end the following:

"1012. Limitation on rates payable to experts and consultants.".

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. LELAND] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. LELAND].

Mr. LELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the ranking minority member of the Subcommittee on Postal Operations and Services, FRANK HORTON, and I introduced H.R. 3592 to control the Postal Service's costs for personal services contracts with temporary contract employees.

At a time when Postal Service costs are constantly increasing, this bill presents us with an opportunity to help control those costs in one important area. H.R. 3592 would keep consultant costs under control by placing the same reasonable and flexible limitations on consultant compensation that are required of other Federal agencies. That amount is equal to the daily rate paid to a civil service employee earning the maximum allowable salary. Currently, that rate is approximately $278 a day.

Under the present circumstances, consultant costs at the Postal Service can and have reached exorbitant levels. In at least one instance, fees of almost $1,000 a day were paid to an individual who functioned, in effect, as a postal employee.

H.R. 3592 would apply only to consultants who function in this manner. These are persons who enter into contracts for personal services under which the work is performed as a temporary contract employee under the supervision of the agency. The bill would not apply to any other consultant contracts and would not affect the Postal Service's ability to obtain consultant services that cannot be performed by a temporary contract employee.

I urge my colleagues to join Mr. HORTON and me in supporting H.R. 3592.

Mr. HORTON. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, as the cosponsor of H.R. 3592, I am delighted to support this legislation which sets up clear and concise controls over the way the U.S. Postal Service manages some of its resources.

I joined with the distinguished gentleman from Texas and the chairman of the Post Office Subcommittee on Postal Operations and Services in introducing this bill in response to reports the Postal Service paid an outside consultant $900 a day. He collected $156,000 for 7½ months of work and about 10 months later he was rehired and paid another $117,000.

H.R. 3592 will amend title 39, United States Code, to limit the amount the Postal Service pays any individual for expert or consulting services under a personal services contract. It provides that the consultants cannot be paid at rates higher than the daily equivalent of the annual rate for the basic pay for a GS-18 on the general schedule.

This legislation in no way hampers the ability of the Postal Service to attract qualified and competent experts and consultants. As a matter of fact, the limitations set out in this bill would not apply where the Postal Service hired a firm or company to perform services and the individuals who performed the services were employed by the firm.

H.R. 3592 is one more instance of our exercise of continuing oversight responsibilities over the U.S. Postal Service. It is a strong signal to the Postal Service we expect it to manage all of its resources effectively and economically.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LELAND. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. LELAND] that the House suspend the rules and pass the bill, H.R. 3592, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

JAMES DOMENGEAUX POST OFFICE BUILDING

Mr. LELAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4276) to designate the United States Post Office Building located at 1105 Moss Street in Lafayette, LA, as the "James Domengeaux Post Office Building."

The Clerk read as follows:

H.R. 4276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office Building locating at 1105 Moss Street in Lafayette, Louisiana, is hereby designated as the "James Domengeaux Post Office Building". Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "James Domengeaux Post Office Building".

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Texas [Mr. LELAND] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. LELAND].

Mr. LELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4276 was introduced by our colleague, JIMMY HAYES, to name the postal facility in Lafayette, LA, in honor of former Congressman, James Domengeaux.

James Domengeaux was born in 1907. As a Member of Congress, he resigned after 4 years in 1944 to volunteer for the Armed Forces to fight in World War II. James Domengeaux returned to Congress after the war where he served until 1948.

Since leaving Congress, Mr. Domengeaux has promoted the revival of the French heritage and culture which is indeigenous to that area of Louisiana. His work in originating and chairing the council for the Development of French in Louisiana has done much for this revival.

Our colleague, Mr. HAYES describes Mr. Domengeaux thusly: "He realized, long before others did, that one of this Nation's greatest assets is its rich cultural base * * * that without participation of the younger generations, the language and culture of French Louisiana would truly be dead."

I urge my colleague to join me in support of H.R. 4276.

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Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this legislation. This gentleman distinguished himself. I think that it is a good piece of legislation, and we are very happy to designate this post office in Lafayette, LA, for this outstanding former Member.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LELAND. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES of Louisiana. Mr. Speaker, for those who are visiting the Chamber, which is so beautifully and articulately described as the People's House of Representatives, I call their attention to the fact that there are only two portraits within the Chamber. One, of course, is instantly recognized as George Washington. The other is the Marquis de Lafayette.

Mr. Speaker, these two symbols to this day reflect the close alliance between the country of France and the United States of America.

The gentleman after whom we are naming the postal facility stood in many, many previous occasions longer than most of my colleagues were on this Earth in this chamber of the People's House of Representatives, and he himself reflected both his cultural heritage in southwest Louisiana and the bond between the United States and the French people. It was he who left his position in order to offer his services into the military of the Untied States and who, upon conclusion of the Second World War, returned here again.

Since the time that I introduced the legislation and the great loss to our region, to our State and to this country, former Congressman Domengeaux passed away, and with him passed an era. For no longer is he able to sit and recount the stories of his battles with the late Gov. Huey Long. No longer can he recount the times when former Governor of Louisiana Jimmy Davis was coerced by him in forming the Council for the Development of the French Language. No longer can his efforts continue to go on directly.

But the organization of which he is truly the father continues to reflect the same strong beliefs in the cultural heritage of Louisiana and for that will be eternally perpetuated, and his memory will indeed, on each and every international festival and occasion when the French and English language are joined together, continue to revive and renew itself.

Mr. Speaker, he was a fine trial lawyer. I imagine that there are those who gathered at his funeral service and delighted in telling the stories of his trial acumen including one afternoon when I was just a young attorney watching him sit right across from the gentleman whom he detested, a gentleman who had been named as a defendant in a libel action, and in between the judge and the attorney watching Jimmy Domengeaux mouth the words to this individual, "You're going up the river. You're going to jail."

Finally the witness could not stand it anymore. He looked at Judge Lucien Bertran. He said, "Judge, Mr. Domengeaux is saying I'm going to jail."

The judge looks down, and Jimmy Domengeaux stood, and he said, "Your Honor, such a thing would probably be in contempt of court, and there is no person who holds this court in higher regard than I do, being the senior member of the bar association in this parish, and I would never do such a thing as to in any way show my disregard for the court. It is, however, possible that the defendant is clairvoyant."

Those who walk into the hallways of the post office after which he is named, those in our community who still remember that his father was a postmaster on the north side of Lafayette, and those who can never regale in the small town halls and meeting places in the backwoods of Louisiana, names which are unpronounceable to most of my colleagues and names which are on occasion unpronounceable to him, will forever be able to recall his stories, his legend and watch forever his child codifil continue to allow the preservation of his name.

Au revoir, mon ami.

Mr. LELAND. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois) The question is on the motion offered by the gentleman from Texas [Mr. LELAND] that the House suspend the rules and pass the bill, H.R. 4276.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

TECHNICAL AMENDMENTS TO THE FEDERAL EMPLOYEE RETIREMENT SYSTEM ACT

Mr. LELAND. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2188) to amend section 307 of the Federal Employees' Retirement System Act of 1986, as amended.

The Clerk read as follows:

S. 2188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF "NORMAL-COST PERCENTAGE".

Section 307 of the Federal Employees' Retirement System Act of 1966 (Public Law 99-335; 100 Stat. 607) is amended to read as follows:

"**SEC. 307. USE OF 'NORMAL-COST PERCENTAGE'.**

"Notwithstanding any other provision of law, the normal-cost percentage (as defined by section 8401(23) of title 5, United States Code, as added by this Act) of the Federal Employees' Retirement System shall be used to value the cost of such System to the Civil Service Retirement and Disability Fund for all purposes in which the cost of the System is required to be determined by the Federal Government. For any comparisons between the cost of performing commercial activities under the contract with commercial sources and the cost of performing such activities using Government facilities and personnel, the cost of the System shall include the cost of such System to the Civil Service Retirement and Disability Fund as specified in the preceding sentence, the cost of the thrift savings plan under subchapter III of chapter 84 of title 5, United States Code, and the cost of social security.".

SEC. 2. TECHNICAL AMENDMENT TO SECTION 8438 OF TITLE 5, UNITED STATES CODE.

(a) AMENDMENT.—Section 8438(e)(3)(A) of title 5, United States Code, is amended by striking "and the earnings attributable to the investment of such sums".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to earnings attributable to contributions made to the Thrift Savings Fund on or after April 1, 1987.

SEC. 3. TECHNICAL AMENDMENT TO SECTION 8477 OF TITLE 5, UNITED STATES CODE.

(a) AMENDMENT.—Section 8477(e) of title 5, United States Code, is amended—

(1) in paragraph (3)(C)(ii)—

(A) by striking "28, if" and inserting "28, provided that"; and

(B) by striking "is exclusive of" and inserting "shall be exclusive of"; and

(2) in paragraph (5), by striking "paragraphs (3) and (4)" and inserting "paragraph (3)".

(b) APPLICABILITY.—Section 8477(e) of title 5, United States Code, as amended by subsection (a), shall apply to any civil action or proceeding arising from any act or omission occurring on or after October 1, 1986.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. LELAND] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. LELAND].

Mr. LELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2188 proposes a noncontroversial amendment to section 307 of the Federal Employees Retirement System Act of 1986 which was requested by the Office of Management and Budget.

Currently, section 307 prohibits the use of Social Security and thrift savings plan costs in the calculation of the cost of the requirement system for the purpose of cost comparisons conducted under ONB Circular A-76. The exclusion of these costs gives contractors an advantage, since they are also allowed to exclude Social Security and deferred compensation plan costs from their bids, thus making cost comparisons misleading and incorrect.

S. 2188 would allow all retirement costs, for both the Federal Government and the contractors, to be included when conducting cost comparisons under Circular A-76.

Mr. Speaker, the amendments to S. 2188 are also noncontroversial and are strictly technical in nature. Both amendments have been requested by the Federal Retirement Thrift Investment Board.

The first amendment would allow employees covered by the Federal Employees Retirement System to move all earnings on their contributions to the thrift savings plan among the three investment funds.

Current law requires that a percentage of employee contributions to the thrift savings plan be invested only in the Government Securites Fund—the G Fund. The law also requires that all earnings on those contributions to the G Fund must be invested there as well.

The purpose of the amendment is to eliminate the requirement that earnings attributable to employee contributions be invested in the G Fund. The Federal Thrift Investment Board believes that computing that portion of earnings which is attributable to employee contributions would require a costly and impracticable recordkeeping system.

Mr. Speaker, the second amendment makes corrections in legislation enacted earlier this year. Public Law 100-238 extended certain protections of the Federal Tort Claims Act to the fiduciaries of the Federal Thrift Savings Fund. The wording of the law, however, left some uncertainty about the situations in which the intended protections would apply.

This amendment is intended to remove any doubt that the Federal Tort Claims Act remedy shall be the exclusive remedy available to beneficiaries of the Thrift Savings Fund and that the protections afforded by the Tort Claims Act shall apply to the fiduciaries.

This amendment also deletes a parenthetical reference which was mistakenly included in section 8477(e) of title V, United States Code.

Mr. Speaker, S. 2188 and the amendments are noncontroversial and technical in nature and I urge my colleagues to support the bill.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, This is noncontroversial legislation requested and supported by the Office of Management and Budget.

Under Circular A-76, there are certain procedures which agencies must follow when comparing the cost of performing work under contract with commercial sources with the cost of performing the same work with Government personnel and facilities.

Revisions in the circular, in 1986, required that thrift savings plans and the old age, survivors, and disability insurance [OASDI] portion of Social Security be excluded from estimates of Government and contractor retirement system costs in the cost comparision studies.

A General Accounting Office report said the 1986 revision operates in such a way that A-76 cost comparison unduly favors contractors over agencies' in-house operations. This occurs because all contractor employees are covered by OASDI, but only Federal employees who are covered by the new Federal Employee Retirement System are under OASDI. Since OASDI costs are excluded from the cost comparison figures but civil service retirement system costs are not excluded, contractors have a greater portion of their retirement costs excluded than do agencies.

The legislation will eliminate misleading and inaccurate cost comparisions under Circular A-76. By providing consistency in comparison will make the entire process more equitable and result in efficiencies and economies in government.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LELAND. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. LELAND] that the House suspend the rules and pass the Senate bill, S. 2188, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1320

GENERAL LEAVE

Mr. LELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 4150, H.R. 3592, H.R. 4276, and S. 2188, the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMENDING THE PRESIDENT FOR HIS EFFORTS ON BEHALF OF HUMAN RIGHTS WHILE AT MOSCOW SUMMIT

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 464) commending the President of the United States for his efforts on behalf of human rights while at the Moscow summit, as amended.

The Clerk read as follows:

H. RES. 464

Whereas the President of the United States, Ronald Reagan, recently had a series of meetings in Moscow with the leadership of the Union of Soviet Socialist Republics and with other Soviet citizens;

Whereas the President has put the issue of human rights at the top of his agenda with the Soviet leadership;

Whereas the President has met with Soviet human rights activists, "refuseniks", members of divided families, and religious believers, in order to demonstrate the concern and support of the American people and the Congress for their efforts to exercise their human rights;

Whereas in other public fora in Moscow, the President has spoken out forcefully and eloquently in support of the observance of internationally recognized human rights in the Soviet Union and throughout the world; and

Whereas the Soviet Union is obligated, under the terms of the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenants on Human Rights, to respect human rights; Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends the President for his words and actions on behalf of human rights while in Moscow;

(2) urges the Soviet Government to comply with its commitments to respect internationally recognized human rights; and

(3) reaffirms the commitment of the American people and the Congress to continue to press the Soviet Government for full compliance with the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenants on Human Rights.

SEC. 2. The Clerk of the House of Representatives is directed to transmit a copy of this resolution to the President.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the resolution (H. Res. 464) commending the President for his efforts on behalf of human rights while at the Moscow summit.

Last week, this resolution, which was introduced by our distinguished colleague from New York, Mr. GILMAN, was considered by the Committee on Foreign Affairs and received broad bipartisan support. The resolution commends President Reagan for his efforts in Moscow on behalf of human rights and urges the Soviet Government to comply with its commitments to respect internationally recognized human rights. House Resolution 464 reaffirms the commitment of the American people and the Congress to continue to press the Soviets for full compliance with the Helsinki Final Act, the Universal Declaration of Human rights and the International Covenants on Human Rights. I commend its chief sponsor, Mr. GILMAN, for bringing this timely measure to the attention of our colleagues.

Mr. Speaker, many—including myself—were disturbed with President Reagan's statement at the end of the Moscow summit attributing Soviet human rights violations to the Soviet Bureaucracy. We all know that Soviet human rights violations are a matter of Soviet policy, not just a result of an entrenched bureaucracy.

But perhaps the President was trying to encourage reforms in this area by publicly laying the blame elsewhere. I assume that the President was only trying to be diplomatic and give credit to General Secretary Gorbachev for the improvements in human rights that have taken place in the Soviet Union under his leadership—for instance, the release of many political prisoners, the increase in emigration rates, and the freer flow of information.

After all, the President had just spent the last 4 days in Moscow reiterating at the highest level, both by his words and his actions, the importance we in the United States place on this issue and urging the Soviet leadership to meet their international commitments to respect human rights.

He met with divided families, former political prisoners, human rights activists, refuseniks, religious believers and demonstrated our continued support for their efforts to exercise their basic human rights. He invited Nobel Peace Prize winner and human rights champion Andrei Sakharov to his dinner for General Secretary Gorbachev. He made an eloquent speech about democracy and freedom and what they mean. And he repeatedly raised this issue with General Secretary Gorbachev in their private sessions.

I think the President made it very clear that continued human rights violations are a serious impediment to improved bilateral relations and that until all political prisoners are freed, all divided family cases are resolved, emigration applications are routinely approved, and political, religious and cultural rights are respected, we will continue to press the Soviets on these matters.

This resolution makes exactly that point. I urge immediate adoption of the resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support this resolution commending the President for placing the human rights issue on the front burner in his recent talks in Moscow. The President deserves our praise and admiration for giving priority treatment to the issue of basic freedoms in his discussions with the Soviet leader.

Our Chief Executive clearly put human rights on a par with arms control during his talks with Soviet officials. President Reagan was both forceful and convincing. While our President was a courteous guest, he continuously voiced his strong belief in the importance of resolving human rights problems in the U.S.S.R.

Over the years, Congress has played a positive role in placing human rights at the top of America's foreign policy agenda. This year alone, Congress has considered legislation concerning Soviet Jews, refuseniks in the Soviet Union, human rights problems in that country and the Ukrainian famine.

Congress will continue to be vigilant in its monitoring of human rights activities in the Soviet Union. All of us are hopeful that the promises of glasnost will someday become a reality for the many innocent people in that closed society who still have their human rights violated on a daily basis.

While some progress has been made in the U.S.S.R., Soviet human rights policies still do not conform to the Helsinki agreements or to basic standards of decency.

The President has done a great job for the cause of freedom. He deserves our praise.

I urge my colleagues to join me in supporting this resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the principal sponsor of this resolution.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding, and I rise in support of the resolution.

As sponsor of the resolution, Mr. Speaker, it is a real honor to be able to speak on it today. House Resolution 464 commends the President for his strong support for human rights while at the Moscow summit, calls upon the Soviet Government to uphold its obligations to respect the rights of its citizens, and reaffirms the commitment of the American people to continue to press for the observance of those rights.

There was really something truly inspiring about the President's efforts in support of human rights in Moscow. Many of us have been in Moscow, and engaged in some of the activities the President did—talks with Government officials on human rights and discussions with dissidents, refuseniks, religious activities, and the like. But the President did this while the world was watching, with the full weight of his office, and in a way that made it crystal clear that he was speaking for the entire American people.

While some of his most trenchant remarks were not broadcast to the Soviet population, enough did get through to demonstrate both to them and to the rest of the world our determination to work for the continuing observance of human rights in the Soviet Union.

As the President and others have said, there are certainly many changes going on in the Soviet Union. It was amazing that as much debate as has occurred has been permitted. On the other hand, the fact that some of the President's remarks did not appear, supposedly "because the Soviet journalists were too busy," and the crude attacks on some of those who met with the President, demonstrate that there is a very long way to go on the issue of freedom of expression. And of course in the area of freedom of emigration, freedom of religious and political expression, and the like, there is a very long way to go.

Mr. Speaker, I would like to thank the chairman of the committee, the gentleman from Florida [Mr. FASCELL] for the expeditious consideration of this measure. I had hoped that it would be possible to get a resolution like this to the floor while the President was in the Soviet Union, as a way of showing our support. But while that was not possible, we should still get our views, our admiration, on the record. I would also like to thank our colleagues the ranking Republican, the gentleman from Michigan [Mr. BROOMFIELD], the chairman of the Subcommittee on Human Rights and International Organizations, the gentleman from Pennsylvania [Mr. YATRON] and his ranking Republican, the gentleman from New York [Mr. SOLOMON], and the chairman of the Subcommittee on Europe and the Middle East, the gentleman from Indiana [Mr. HAMILTON] and all of the others who have cosponsored the resolution and expedited its consideration.

Mr. HOYER. Mr. Speaker, as Chairman of the Helsinki Commission, I would like to take this opportunity to join my colleagues in support of House Resolution 464, which commends President Reagan for his human rights efforts while in Moscow during the recent summit and reaffirms congressional support in pressing the Soviet Government for compliance with the Helsinki accords and other international documents to which they are a signatory.

In addition, I would like to commend the distinguished chairman of the Foreign Affairs Committee, DANTE FASCELL, for his outstanding leadership in seeking Soviet compliance with all aspects of the Helsinki final act, as well as to Congressman BEN GILMAN, a member of the Foreign Affairs Committee, who has been an outspoken leader in the House of Representatives on behalf of human rights throughout the world.

Mr. Speaker, while recently in the Soviet Union, President Reagan took the issue of human rights directly to the Soviet people. From the beginning of his trip in Helsinki where he stated that "there is no true international security without respect for human rights," to his meeting with dissidents and refuseniks at Spaso House and finally with his visit to the Danilov Monastary, President Reagan stood firm in representing America's commitment to the inherent link between respect for human rights and achievement of lasting peace which is an integral part in improving relations between our two countries. As we all know, his efforts were not always well received by his Soviet hosts. His human rights comments were categorized as "sermonizing," and we again heard cries of meedling in the internal affairs of the Soviet Government. Yet for those he met with, as well as for those he talked of, his words became the words of hope.

As you know, Mr. Speaker, the United States is currently represented at the Vienna review meeting of the Conference on Security and Cooperation in Europe, where we are looking for ways to decrease tensions in Europe, to improve the human rights climate for those individuals still seeking to emigrate, to practice their religion and culture freely, and to have access to the free flow of information. While in Moscow, President Reagan was outspoken on all these issues. As we go into the critical phase of negotiating a final document with the other 34 nations represented at Vienna, let President Reagan's efforts in Moscow reinforce the Helsinki principles of balance between human rights and security as a means of achieving a lasting peace in the world.

I urge my colleagues to join in commending the President on his efforts.

Mr. PORTER. Mr. Speaker, I rise to express my support for House Resolution 464 which commends the President for his efforts on behalf of human rights at the Moscow summit. I want to commend the resolution's sponsor, Mr. GILMAN of New York, for his strong commitment to upholding basic freedoms for individuals around the world. Mr. GILMAN is one of the most active members of the Congressional Human Rights Caucus Executive Committee, the umbrella human rights organization in Congress which I cochair along with Mr. LANTOS of California, and a founder and cochair of the congressional caucus for Soviet Jews.

During the recent Moscow summit, President Reagan again emphasized the importance of human rights. Despite emphatic objection from General Secretary Gorbachev, President Reagan invited a broad array of Soviet dissidents and refuseniks to meet with him and his delegation at Ambassador Matlock's residence. The President's visit to the Daniloff Monastery exemplified his strong support for religious freedom. On numerous occasions, President Reagan reaffirmed the commitment of Congress, the American people, and the West to support full compliance with the Helsinki final act and other international human rights accords.

Remarkably, Secretary Gorbachev criticized the President's meeting with Soviet citizens, threatened to prevent the Zeiman family of Moscow from emigrating if President Reagan visited their home, and responded to President Reagan's human rights concerns by drawing attention to American activists who condemn President Reagan's arms control and American Indian policies. Mr. Speaker, Secretary Gorbachev must learn that you cannot solve one problem by raising another.

Not many people know that Alexander Pyatetsky of Kiev was called into the Office of Visas and Registration [OVIR] office a few days before he left for Moscow and threatened by KGB officials. They warned him that drawing public attention to his case would only harm his emigration application. Many people do not know that ex-prisoners Evgeny Lein, Alec Zelichonok and other guests invited to the President's reception were warned not to attend. Also, Elena Keiss-Kuna and other Leningrad refuseniks were pulled off the train by KGB officials and prohibited from traveling to Moscow. Following the President's departure many refuseniks who attended his reception received another refusal to their application for permission to emigrate.

The Moscow summit demonstrates yet again that Secretary Gorbachev's glasnost policy has yet to recognize the fundamental nature of the human rights issue. While I am pleased with the increased level of Soviet Jewish emigration, the fact that tens of thousands of refuseniks remain in the Soviet Union against their will indicates that Soviet leaders continue to treat the freedom to emigrate as a political tool rather than a human right. We must not overlook the repressive policies of the Soviet Government still being applied to hundreds of thousands of Soviet Jews who have expressed a desire to emigrate. I urge Secretary Gorbachev to continue increasing emigration levels, to remove the obsolete state secrecy restriction, to stop enforcing the "poor relative law" unnecessarily, and to immediately grant emigration permission to the ex-prisoners and long-term cases. These are modest requests that would clearly demonstrate a commitment to improving Soviet human rights.

Mr. Speaker, I urge my colleagues to join me in supporting House Resolution 464 and sending a clear message that the United States Congress supports President Reagan's commitment to human rights, and that we will not be blinded by Soviet rhetoric.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the resolution (H. Res. 464) as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 464, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CLARIFYING TREATIES WITH RESPECT TO INDIAN FISHING RIGHTS

Mr. ANDREWS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2792) to clarify Indian treaties, Executive orders, and acts of Congress with respect to Indian fishing rights, as amended.

The Clerk read as follows:

H.R. 2792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL TAX TREATMENT OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS SECURED BY TREATY, ETC.

(a) General Rules.—Subchapter C of chapter 80 of the Internal Revenue Code of 1986 (relating to provisions affecting more than one subtitle) is amended by adding at the end thereof the following new section:

"SEC. 7873. INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS.

"(a) In General.—

"(1) Income and self-employment taxes.—No tax shall be imposed by subtitle A on income derived—

"(A) by a member of an Indian tribe directly or through a qualified Indian entity, or

"(B) by a qualified Indian entity, from a fishing rights-related activity of such tribe.

"(2) Employment taxes.—No tax shall be imposed by subtitle C on remuneration paid for services performed in a fishing rights-related activity of an Indian tribe by a member of such tribe for another member of such tribe or for a qualified Indian entity.

"(b) Definitions.—For purposes of this section—

"(1) Fishing rights-related activity.—The term 'fishing rights-related activity' means, with respect to an Indian tribe, any activity directly related to harvesting, processing, or transporting fish harvested in the exercise of a recognized fishing right of such tribe or to selling fish but only if substantially all of such harvesting was performed by members of such tribe.

"(2) Recognized fishing rights.—The term 'recognized fishing rights' means, with respect to an Indian tribe, fishing rights secured as of March 17, 1988, by a treaty between such tribe and the United States or by an Executive order or an Act of Congress.

"(3) QUALIFIED INDIAN ENTITY.—

"(A) IN GENERAL.—The term 'qualified Indian entity' means, with respect to an Indian tribe, any entity if—

"(i) such entity is engaged in a fishing rights-related activity of such tribe,

"(ii) all of the equity interests in the entity are owned by qualified Indian tribes, members of such tribes, or their spouses,

"(iii) in the case of an entity which engages to any extent in any substantial processing or transporting of fish, 90 percent or more of the annual gross receipts of the entity is derived from fishing rights-related activities of one or more qualified Indian tribes each of which owns at least 10 percent of the equity interests in the entity, and

"(iv) substantially all of the management functions of the entity are performed by members of qualified Indian tribes.

For purposes of clause (iii), equity interests owned by a member (or the spouse of a member) of a qualified Indian tribe shall be treated as owned by the tribe.

"(B) QUALIFIED INDIAN TRIBE.—For purposes of subparagraph (A), an Indian tribe is a qualified Indian tribe with respect to an entity if such entity is engaged in a fishing rights-related activity of such tribe.

"(c) SPECIAL RULES.

"(1) DISTRIBUTIONS FROM QUALIFIED INDIAN ENTITY.—For purposes of this section, any distribution with respect to an equity interest in a qualified Indian entity of an Indian tribe to a member of such tribe shall be treated as derived by such member from a fishing rights-related activity of such tribe to the extent such distribution is attributable to income derived by such entity from a fishing rights-related activity of such tribe.

"(2) DE MINIMIS UNRELATED AMOUNTS MAY BE EXCLUDED.—If, but for this paragraph, all but a de minimis amount—

"(A) derived by a qualified Indian tribal entity, or by an individual through such an entity, is entitled to be benefits of paragraph (1) of subsection (a), or

"(B) paid to an individual for services is entitled to the benefits of paragraph (2) of subsection (a),

then the entire amount shall be entitled to the benefits of such paragraph.

"(3) RELATIONSHIP OF SECTION TO TREATIES, ETC.—Provisions securing any fishing right for any Indian tribe in any treaty, law, or Executive order shall not be construed to provide an exemption from any tax imposed by this title."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter C is amended by adding at the end thereof the following new item:

"Sec. 7873. Income derived by Indians from exercise of fishing rights."

SEC. 2. STATE TAX TREATMENT OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS SECURED BY THREATY, ETC.

Section 2079 of the Revised Statutes (24 U.S.C. 71) is amended by adding at the end thereof the following new sentence: "Such treaties, and any Executive orders and Acts of Congress under which the rights of any Indian tribe to fish are secured, shall be construed to prohibit (in addition to any other prohibition) the imposition under any law of a State or political subdivision thereof of any tax on any income derived from the exercise of rights to fish secured by such treaty, Executive order, or Act of Congress if section 7873 of the Internal Revenue Code of 1986 does not permit a like Federal tax to be imposed on such income."

SEC. 3. CONFORMING AMENDMENTS RELATING TO COVERAGE UNDER OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.

"(a) EXCLUSION FROM WAGES OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS.—Section 209 of the Social Security Act (42 U.S.C. 409) is amended—

(1) in subsection (r), by striking "or" at the end;

(2) in subsection (s), by striking the period and inserting "; or"; and

(3) by inserting after subsection (s) the following new subsection:

"(t) Remuneration consisting of income excluded from taxation under section 7873 of the Internal Revenue Code of 1986 (relating to income derived by Indians from exercise of fishing rights)."

(b) EXCLUSION FROM NET EARNINGS FROM SELF-EMPLOYMENT OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS.—Section 211(a) of such Act (42 U.S.C. 4112(a)) is amended—

(1) in paragraph (12), by striking "and" at the end;

(2) in paragraph (13), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (13) the following new paragraph:

"(14) There shall be excluded income excluded from taxation under section 7883 of the Internal Revenue Code of 1986 (relating to income derived by Indians from exercise of fishing rights)."

(c) CROSS-REFERENCES IN SECA AND FICA TO APPLICABLE INDIAN FISHING RIGHTS PROVISIONS.—

(1) SECA.—Subsection (a) of section 1402 of the Internal Revenue Code of 1986 (relating to net earnings from self-employment) is amended by striking "and" at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting "; and", and by inserting after paragraph (14) the following new paragraph:

"(15) in the case of a member of an Indian tribe, the special rules of section 7873 (relating to income derived by Indians from exercise of fishing rights) shall apply."

(2) FICA.—Subsection (a) of section 3121 of such Code (relating to wages) is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) in the case of a member of an Indian tribe, any remuneration on which no tax is imposed by this chapter by reason of section 7873 (relating to income derived by Indians from exercise of fishing rights)."

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to all periods begining before, on, or after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ANDREWS] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. ANDREWS].

GENERAL LEAVE

Mr. ANDREWS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2792, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2792 clarifies the tax treatment of income derived by individual Indians and Indian-owned entities from the exercise of fishing rights reserved to certain Indian tribes by treaties, Executive orders, and acts of Congress.

The bill was jointly referred to the Committee on Interior and Insular Affairs and the Committee on Ways and Means. The Committee on Interior and Insular Affairs favorably reported the bill on September 21, 1987, and the Committee on Ways and Means reported the bill favorably, with an amendment in the nature of a substitute, on June 15, 1988. It is my understanding that the Committee on Interior and Insular Affairs supports the version of this legislation before the House today.

The legislation is important because disputes have arisen in recent years between individual Indians and Indian tribes and the Internal Revenue Service regarding the tax treatment of income derived from the exercise of fishing rights secured by treaty or otherwise reserved to certain Indian tribes. In the absence of any specific reference to tax exemption in the treaties or any provisions granting tax exemption in the Internal Revenue Code, the IRS has taken the position that such income is subject to tax. The Tax Court has upheld the Service's position in three cases.

The Committee on Ways and Means concluded that in view of the unique relationship between the Federal Government and Indian tribes, a specific exemption from income and Social Security taxes should be provided for income derived from the exercise of these fishing rights.

As amended, H.R. 2792 would clarify application of the income tax laws to income derived by certain Indians and Indian-owned entities from the exercise of fishing rights protected by treaties, acts of Congress, or Executive orders. This income would not be subject to Federal, State, or local taxes, including Social Security taxes. Income of individual Indians would be tax exempt to the extent it was derived from the exercise of rights granted the tribe of which the individual was a member; or income of entities would be tax exempt if the owners of the entity were members. Both individual tribal members and qualified Indian entities would be required to allocate income and expenses among fishing rights-related activities and other activities.

The provisions of the bill will apply to all periods beginning before, on, or after, the date of enactment. This means that the bill will apply to cases currently before the courts or subject to administrative review within the IRS. Taxpayers would not, however, be able to claim refunds for any taxes paid with respect to closed years. I urge Members to support this legislation as a permanent and fair way to settle the disputes which have arisen regarding the tax treatment of Indian fishing rights.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. RHODES. Mr. Speaker, I rise in support of H.R. 2792, a bill which would clarify the tax status of the exercise of rights to fish granted or reserved by treaty, Executive order, or act of Congress. This bill was jointly referred to the Committee on Ways and Means and Interior and Insular Affairs.

Until recently, it was generally understood by fishing Indian tribes that they had reserved their right to fish at accustomed places and in accustomed manners without impediment so that they could maintain their way of life. These tribes had ceded vast acreages of lands in return for that guarantee to fish. It should be noted that many of these tribes were "commercial" fishermen when the tribes sought to maintain that status in these treaties. Beginning in 1982 the IRS began general enforcement efforts against several tribes fisherman despite the efforts of the Interior Department.

H.R. 2792 preserves the tax exemption of these tribes and their fisherman, allowing them economic opportunity as envisioned at the time of treaty negotiations. I urge my colleagues to support H.R. 2792 as ably reported by the Committee on Ways and Means, and as concurred in by the Committee on Interior and Insular Affairs.

□ 1335

Mr. ANDREWS. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support on behalf of the Committee on Interior and Insular Affairs on this matter. This is an issue that was acted upon in September 1987. We are pleased that the Committee on Ways and Means has responded and recognized the traditional Native American rights in terms of treaties and other agreements to benefit from the on-reservation and off-reservation income sources, and the income they gain from fish and game activities. This is very important to them and given the problems with Native Americans in terms of economic issues, this particular right should be maintained.

Mr. Speaker, I might add that recent decisions which have been negative have in fact raised these questions. We do not think that these questions should have been raised but we are grateful that the Committee on Ways and Means and our committee, the Committee on Interior and Insular Affairs, has come forth with public policy which we think clarifies this matter.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDREWS. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Texas [Mr. ANDREWS] that the House suspend the rules and pass the bill, H.R. 2792, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXTENDING THE UPPER DELAWARE CITIZENS ADVISORY COUNCIL

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3880) to extend the authorization of the Upper Delaware Citizens Advisory Council for an additional 10 years.

The Clerk read as follows:

H.R. 3880

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORIZATION.

The last sentence of paragraph (1) of section 704(f) of the National Parks and Recreation Act of 1978 (16 U.S.C. 1274 note; relating to the Upper Delaware River) is amended by striking out "ten" and inserting in lieu thereof "20".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Montana [Mr. MARLENEE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3880, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3880, introduced by our colleagues, Congressmen MCDADE, GILMAN, and MCHUGH, would extend for an additional 10 years the authorization for the Upper Delaware Citizens Advisory Council.

The advisory council was originally established in 1978 legislation designating 73.4 miles of the Upper Delaware River as a component of the National Wild and Scenic Rivers System. The act directed the establishment of a 17-member advisory council to encourage public involvement and to advise the Secretary of the Interior, the affected States, and local communities along the river on the development and implementation of a management plan for this river segment.

The development of a management plan and land and water use guidelines for the Upper Delaware River has not been without controversy. The passions and pressure run high on this river resource that is so readily accessible to major population centers. With the mixed land ownership patterns along the river and the multiplicity of governmental agencies with jurisdiction over land and water activities within the area, coordination and communication among affected parties and agencies is vital if we are to provide for the careful preservation and use of the river and its related resources.

In testimony before the committee, the bill's sponsors, the National Park Service, and members of the advisory council themselves spoke of the work done by the council in bringing together the different interests within the region and providing a forum for public input into the management process. The administration and the other witnesses all expressed support for extension of the advisory council for an additional 10-year period. Such extension would permit the council, on a formal basis, to continue to advise the National Park Service and State and local communities on plans and programs relating to the Upper Delaware Wild and Scenic River.

Mr. Speaker, I know of no controversy with this legislation and I support its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. MARLENEE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 3880, to extend the Upper Delaware Advisory Council. This legislation would revise the Upper Delaware Act (P.L. 95-625) to extend the life of the Upper Delaware Citizens Council for 10 years. I commend my colleagues, the gentleman from Pennsylvania [Mr. McDADE] and the gentleman from New York [Mr. McHUGH], whom I joined in introducing this legislation.

Since its creation in 1979 as prescribed by the Upper Delaware Act, the Upper Delaware Citizens Advisory Council has ably and effectively fulfilled its duties as outlined in the Upper Delaware Act. These duties include:

To encourage maximum public involvement in the development and implementation of the plans and programs enacted under the legislation.

To participate in the development of the land and water use guidelines.

To participate in the development and approval of the management plan.

To report to the Governors of New York and Pennsylvania recommendations for improvements authorized under the act as they affect the Upper Delaware River corridor.

To conduct public forums and seminars on relevant river corridor issues.

To act as a forum to hear individual concerns about the management plan or its implementation.

The fulfillment of these duties by the Upper Delaware Citizens Advisory Council over the past 10 years has helped to make the Upper Delaware Act a great success. The continued progress in the implementation of this legislation must be of concern to the Congress and to the Nation as the Delaware River is one of the most pristine and beautiful in Northeastern United States. The Upper Delaware River, surrounded by wild, wooded slopes, flows with water so pure in its northernmost reaches that one can drink directly from the stream.

One can only hope that the Delaware River will always remain such a bastion of unspoiled beauty. The area surrounding the Delaware is growing at a rampant pace. As a result of this growth the residents of the Upper Delaware Valley have chosen 17 residents to serve as their representatives on the Citizens Advisory Council. During the last 10 years they have made significant progress in protecting this beautiful natural resource. However, protecting and preserving a river is not something that can be accomplished in 10 years. It is a continuous labor of love, one that requires continual attention.

Accordingly, Mr. Speaker, I urge that the House pass H.R. 3880 so that the Upper Delaware Citizens Advisory Council can be extended another 10 years. This must be done in order to continue to preserve the beautiful Upper Delaware River for future generations. To fail to do so would endanger a precious and irreplacable natural resource, source of enjoyment and beauty for millions of outdoor recreationists.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3880, to extend the authorization for the Upper Delaware Citizens Advisory Council for an additional 10 years.

The council was established in 1978 through legislation which designated a segment of the Upper Delaware River as wild and scenic. The enabling legislation provided that the 17 member advisory council would terminate 10 years after its establishment which is February 1989.

Since the council's establishment, it has played a major role in the development of the final river management plan for the Upper Delaware River which was completed last November. According to the plan, the council is to provide a continuing role in the management of the river through public education and guidance. H.R. 3880 would extend the council for another 10 years to allow it to fulfill its responsibilities under the river plan.

Mr. Speaker, I would like to commend the bill's sponsor, Mr. McDADE, for his work on this legislation and the subcommittee chairman, Mr. VENTO, for his expeditious action on this measure.

H.R. 3880 is a good bill which enjoys bipartisan and administration support. In addition, its estimated cost is only $6,000 per year. Therefore, I urge my colleagues to approve the legislation.

Mr. McDADE. Mr. Speaker, I rise today in support of H.R. 3880, a bill which I introduced along with Congressmen BEN GILMAN and MATT McHUGH, to extend the authorization of the Upper Delaware Citizens Advisory Council for an additional 10 years.

I would like to express my deep appreciation to the chairman and ranking Republican of the Subcommittee on National Parks and Public Lands, BRUCE VENTO, and RON MARLENEE, for their leadership and cooperation in holding a hearing on the bill and insuring its consideration by the Interior and Insular Affairs Committee and the full House of Representatives. I am also grateful for the assistance and support of Chairman MO UDALL and the committee's ranking Republican, DON YOUNG, in the expeditious handling of this legislation.

There are excellent reasons for extending the council's authorization, and I am pleased to report that the National Park Service supports this legislation. During the past 9 years, the 17-member council has been active in representing the citizens in the river valley in the planning process and the development of a management plan for the Upper Delaware. Council members, who serve on a voluntary basis, have participated in literally hundreds of meetings with valley residents, Federal, State, county and township officials. The annual cost of running the council has been less than $6,000 to cover travel, office expenses and meeting space.

The citizen's advisory council has performed well in the past, and I see it continuing to play a needed role in the future. The final river management plan, which was approved by the Secretary of the Interior, calls on the council to continue its functions and powers as authorized by the 1978 legislation which designated 73.4 miles of the Upper Delaware River as part of the National Wild and Scenic Rivers System. The plan gives the council responsibility to provide public education and input, as well as advice on the implementation of the plan.

I urge my colleagues to support passage of this legislation.

Mr. MARLENEE. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3880.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CHARLES PINCKNEY NATIONAL HISTORIC SITE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3960) to authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF CHARLES PINCKNEY NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—In order to provide for the benefit, inspiration, and education of the American people, there is hereby established the Charles Pinckney National Historic Site (hereinafter in this Act referred to as the "historic site") in the State of South Carolina.

(b) MAP.—The historic site shall consist of the lands and interest in lands, and improvements thereon, including the Snee Farm, as generally depicted on the map entitled "Charles Pinckney National Site", numbered NA-CPNHS 80,000 and dated June, 1988.

SEC. 2. ACQUISITION OF PROPERTY.

The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to acquire lands, interests in lands, and improvements within the boundaries of the historic site by donation, purchase with donated or appropriated funds, or exchange. The Secretary may also acquire by the same methods, personal property associated with, and appropriate for interpretation of, the site.

SEC. 3. ADMINISTRATION OF HISTORIC SITE.

The Secretary shall administer the historic site in accordance with the provisions of law generally applicable to units of the National Park system, including the Act of August 21, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461). In administering the historic site, the Secretary shall—

(1) provide the interpretation of the life of Charles Pinckney;

(2) preserve and interpret Snee Farm, home of Charles Pinckney; and

(3) present the history of the United States as a young nation.

SEC. 4. GENERAL MANAGEMENT PLAN.

Within 3 complete fiscal years after the enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the historic site. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C la-1—la-7). Such plan shall identify appropriate facilities for proper interpretation of the site for visitors.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Montana [Mr. MARLENEE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3960, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3960, introduced by our colleague ART RAVENEL which would establish the Snee farm, home of Charles Pinckney, as a national historic site. Charles Pinckney was part of that amazing generation of people who founded this Nation and who contributed to its creation and growth in numerous ways. He served in a variety of capacities, including Governor of South Carolina, United States Senator, Minister to Spain, and United States Representative in the Congress.

At the hearing, witnesses emphasized that Charles Pinckney should be interpreted in the larger social and political context of his times. They discussed his diverse career and his contributions to the creation and adoption of the U.S. Constitution. Witnesses also discussed the role that the institution of slavery played in our Nation's early history and the slaves' role at the Snee farm plantation. I believe that national park sites such as Charles Pinckney National Historic Site should include the history of all Americans associated with them, black and white, slave and free. The inclusion of this important aspect of our social and economic history will help achieve a more complete and accurate American history.

The committee adopted an amendment in the nature of a substitute which makes several technical changes in the bill as introduced, including having the Congress establish the historic site rather than the Secretary of the Interior, referencing a map, specifying acquisition methods, and authorizing appropriations. The amendment directs the National Park Service to interpret the life of Charles Pinckney in the larger context of the early history of this Nation.

Finally, I want to commend the efforts of the friends of historic Snee farm. They are in the process of raising the funds to purchase the farm in order to donate it to the United States. Their generosity will make the preservation of this national historic landmark and the interpretation of this part of our history possible. Mr. Speaker, I endorse this legislation and request that it be enacted.

Mr. Speaker, I reserve the balance of my time.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the support for this bill was unanimous in subcommittee and at the full committee level. Moreover, the administration supports this legislation.

As the subcommittee chairman has pointed out, this bill, as well as the Hamilton bill which we will take up later today, commemorate people who were instrumental in the struggle to build this great country. It is most appropriate as we continue to celebrate the bicentennial that we enact legislation which will help the citizens of this country to understand better men like Charles Pinckney and Alexander Hamilton who fought for their country as revolutionaries and later served their country as public servants after the war.

I commend the subcommittee chairman for his work on this historic piece of legislation and recommend my colleagues join me in supporting this legislation.

Mr. SPRATT. Mr. Speaker, I rise to express my strong support for H.R. 3960, the Charles Pinckney National Historic Site Act, and urge my colleagues to support its adoption today. This measure would authorize the establishment of the Charles Pinckney National Historic Site at Charles Pinckney's home near Charleston, SC.

The bill's purpose is to create a memorial to a genuinely great patriot. Fifty-five delegates were called to the Convention in Philadelphia. Not all showed up. Forty-two were present on September 17, 1787, and 39 of them voted for approval of the Constitution. Charles Pinckney was one of the small band who were there from start to finish. He not only signed the Constitution as a delegate from South Carolina, but he also helped to draft and shape it. Before the convention began, he drew a plan for a new governmental system called the Pinckney Draft, thirty provisions of which were included in the Constitution.

During the Revolutionary War, Pinckney served as a lieutenant in the Charleston Regiment of Militia and was present at the siege of Charleston. When captured after the fall of Charleston, he, unlike many of his compatriots, refused to accept British "protection" and remained a prisoner until 1781.

In addition to these contributions to the birth of our nation, Mr. Pinckney served as Governor of South Carolina four times, served in the U.S. Senate from 1798 to 1801 and was a member of the House of Representatives from 1819 to 1821. Mr. Pinckney was also one of America's first diplomatic representatives to Spain.

H.R. 3960 is cosponsored and supported by the entire South Carolina delegation because of the outstanding contributions of Charles Pinckney to our nation and the fitting recognition this bill would bestow on him.

I commend Congressman RAVENAL for introducing the bill and I look forward to the measure's passage in the House.

Mr. MARLENEE. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3960, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CANAVERAL NATIONAL SEASHORE ACQUISITION

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3559) to authorize the acquisition of 25 acres to be used for an administrative headquarters for Canaveral National Seashore, as amended.

The Clerk read as follows:

H.R. 3559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONS TO CANAVERAL NATIONAL SEASHORE.

(a) SEMINOLE REST AND STUCKEY'S—

(1) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized and directed to acquire approximately 25 acres of land in the State

of Florida known as Seminole Rest and approximately 10 acres of land known as Stuckey's. Both areas are depicted on a map entitled "Additions to Canaveral National Seashore" numbered NS-CAN-4000-C and dated May 1988.

(2) The Secretary shall manage the lands known as Seminole Rest for the primary purpose of protecting and interpreting their archaeological and historic resources and the lands known as Stuckey's for the primary purpose of establishing an administrative headquarters and visitor center within Volusia County, Florida.

(b) ACQUISITION AUTHORITY.—Land acquired under this section may only be acquired in accordance with section 2 of the Act entitled "An Act to establish the Canaveral National Seashore in the State of Florida, and for other purposes" (16 U.S.C. 459j-1).

SEC. 2. AUTHORIZATION OF APPROPRIATIONS RELATING TO DEVELOPMENT OF ESSENTIAL PUBLIC FACILITIES.

Section 9(b) of the Act entitled "An Act to establish the Canaveral National Seashore in the State of Florida, and for other purposes" (16 U.S.C. 459j-8) is amended by striking out "not more than $500,000." and inserting in lieu thereof "$2.6 million in addition to the sums previously appropriated.".

SEC. 3. MISCELLANEOUS PROVISIONS.

(a) MAP.—The Secretary shall file the map referred to in this Act with the Committee on Interior and Insular Affairs, House of Representatives, and the Committee on Energy and Natural Resources, Senate, and the map shall have the same force and affect as if included in this Act, except that correction of clerical and typographical errors in such map may be made. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the acquisitions authorized by this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Montana [Mr. MARLENEE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3559, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3559, introduced by my colleague from Florida, Mr. CHAPPELL, would enhance the management and resources of Canaveral National Seashore in three important ways.

First, it authorizes and directs the Secretary of the Interior to acquire approximately 25 acres known as Seminole Rest. We heard testimony that this property includes a large Indian mound or midden that is still intact. The National Park Service has completed a survey that indicates that this midden probably contains a wealth of information and artifacts pertaining to the early Indian inhabitants of the Florida coast. The Nature Conservancy already has purchased the property and is willing to sell it to the National Park Service. Intact middens are a rarity in Florida making this parcel a valuable historic resource addition to the seashore.

Second, it authorizes and directs the Secretary to acquire approximately 10 acres known as Stuckey's to be used as the site for the seashore's administrative headquarters and visitor center. Recommended by the seashore's general management plan, Stuckey's is centrally located, convenient for the public at the junction of two highways and is adjacent to the seashore boundary. At present, the Park Service is housed in leased offices in Titusville far from the boundary and in a location difficult for the public to find.

Third, the substitute amends the 1975 act that designated the seashore to increase the appropriations ceiling for development by $2.6 million. This amount is needed to develop the headquarters, visitor center, and other public facilities.

I urge my colleagues to support this bill which would result in significant improvements in the management of the seashore, and service to the public as well as protecting a valuable archeological site.

□ 1350

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3559, to authorize a 35-acre expansion of Canaveral National Seashore. The addition would include approximately 25 acres, known as the Seminole Rest, which contains significant Indian archaeological resources. This land parcel is currently owned by the Nature Conservancy which is willing to sell it to the National Park Service [NPS] at a very reasonable price below appraisal. Acquisition of the parcel would insure protection of a large Indian midden which is largely intact and contains substantial artifacts and remains from the early Indian inhabitants of the Florida coast.

The other parcel comprising the addition is approximately 10 acres and would be used by NPS for the development of an administrative headquarters and visitor center. The seashore currently lacks adequate administrative and visitor facilities. The original headquarters had to be abandoned due to hazardous contamination of the soil and ground water. NPS is currently leasing temporary headquarters outside of the boundaries of the seashore which is inconvenient for the public as well as NPS. H.R. 3559 will provide for the necessary administrative facilities at an appropriate location.

The bill also authorizes an increase of $2.6 million in the development ceiling for the seashore. The additional funding is needed to accommodate expected costs for construction of the visitor center and for installation of public restroom facilities along the beach.

Mr. Speaker, I want to commend the bill's sponsor, Mr. CHAPPELL, for his leadership on this issue. I also want to thank the subcommittee chairman, Mr. VENTO, for working with Members on this side of the aisle to address their concerns through appropriate amendments.

In closing, I believe this is a good bill which has been fine tuned through the legislative process. Therefore, I urge my colleagues to approve H.R. 3559.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, the gentleman from Florida [Mr. CHAPPELL] phoned. I talked with him, and he strongly, of course, supported the amendment and the changes that have been made in this legislation.

He will submit his statement for the RECORD, but he has done a good job in terms of putting together this proposal. It has been a difficult task because of the needs of this area. He is very concerned that the resources be protected.

Mr. Speaker, I would commend him for his activity and interest in this matter. It is very important to the park system.

Mr. CHAPPELL. Mr. Speaker, I rise today in strong support of H.R. 3559, a bill I have introduced which would authorize the acquisition of two tracts of land to be included in the Canaveral National Seashore in Florida. Before I proceed, however, I would like to commend the chairman of the National Parks and Public Lands Committee for the outstanding job he has done as the leader of this fine panel and I would particularly like to extend to him my appreciation for the work he has done on behalf of this very worthwhile measure.

In 1975, when Congress passed the bill I sponsored which established the seashore, we took a significant step in protecting some of the most precious land along Florida's east coast. In that same spirit, I have introduced this measure which would improve and enrich the seashore by adding to its inventory two tracts of land.

The first plot, Seminole Rest, is a beautiful 25-acre plot of land located on the western periphery of the seashore. In addition to its outstanding esthetic value, Seminole Rest is the site of a rare Indian mound, known as

Snyder Mound, which claims great historical significance. The mound contains materials discarded by prehistoric Indians who inhabited the property as early as 800 A.D. Fewer and fewer of these mounds exist in Florida due to development and erosion, and Snyder Mound could perhaps be one of the best resources of its kind found in the State. Considering the great archaeological and historical knowledge which can be gathered from the mound, I believe it is of the utmost importance to protect this resource through Federal acquisition.

Second, the bill would authorize the acquisition of another plot of land, a 10-acre area known as the Stuckey property. Pursuant to the 1982 general management plan for the seashore, this plot will satisfy the pressing need for a permanent administrative headquarters and visitors center for the seashore. The site is easily accessible to visitors and, because development has previously occurred on the land, I believe further construction would not harm any natural or cultural resources in the area.

Lastly, the bill would increase the development ceiling for the seashore, which was valued at $500,000 in the original 1975 law, to $2.5 million, in order to accommodate the aforementioned development.

H.R. 3559 would greatly improve the Nation's inventory of protected land, and I would urge its approval by the full House.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Gray of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 3559, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize and direct the acquisition of lands for Canaveral National Seashore and for other purposes.".

A motion to reconsider was laid on the table.

ALEXANDER HAMILTON NATIONAL MEMORIAL

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4212) to amend the joint resolution of April 27, 1962, to permit the Secretary of the Interior to establish the former home of Alexander Hamilton as a national memorial at its present location in New York, NY, as amended.

The Clerk read as follows:

H.R. 4212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Joint Resolution of April 27, 1962 (76 Stat. 57) is amended by striking all after the enacting clause and inserting the following:

"SECTION 1. HAMILTON GRANGE NATIONAL MEMORIAL.

"(a) Establishment.—In order to provide for the benefit, inspiration, and education of the American people, there is hereby established the Hamilton Grange National Memorial (hereinafter in this Act referred to as the "memorial") in the State of New York.

"(b) Map.—The memorial shall consist of the lands and interests in lands and improvements as generally depicted on the map entitled "Hamilton Grange National Memorial Boundary Map numbered 416/80,002 and dated June, 1988.

"SEC. 2. ACQUISITION OF PROPERTY.

"The Secretary of the Interior (hereinafter in this Act referred as the "Secretary") as authorized to acquire lands, interests in lands, and improvements thereon within the boundaries of the memorial by donation. The Secretary is authorized to reimburse the owner not more than $15,000 for administrative costs directly related to the transfer of ownership of this property. The Secretary may also acquire by the donation, purchase with donated or appropriated funds or by exchange, personal property associated with and appropriate for interpretation of the memorial.

"SEC. 3. ADMINISTRATION OF MEMORIAL.

"The Secretary shall administer the memorial in accordance with the provisions of law generally applicable to units of the national parks system, including the Act of August 21, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461). In administering the memorial, the Secretary shall—

"(1) provide for the interpretation of the life of Alexander Hamilton;

"(2) preserve and interpret the history of The Grange, home of Alexander Hamilton; and

"(3) present the history of the United States as a young nation.

"SEC. 4. GENERAL MANAGEMENT PLAN.

"Within 3 complete fiscal years after the enactment of this section, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a general management plan for the memorial. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1—1a-7). Such plan shall identify appropriate facilities for proper interpretation of the site for visitors.

"SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this Act.".

The SPEAKER pro tempore. Under the rule, a second is not required.

The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes and the gentleman from Montana [Mr. Marlenee] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4212, introduced by our colleague Charles Rangel, would formally establish the Hamilton Grange National Memorial in New York City so that the site could be fully restored and interpreted to the public. Although the National Park Service has managed this historic site for many years, the original 1962 legislation stipulated that the Hamilton Grange National Memorial could not be established until the house was moved to a new, less urban, setting. While a rural location was precisely the setting Alexander Hamilton chose when he initially built his house in 1798, such locations are difficult to find in New York City today. Furthermore, current practices of historic preservation clearly oppose any such relocation. H.R. 4212 removes the requirement for moving the house and formally establishes the Hamilton Grange National Memorial.

The committee adopted an amendment in the nature of a substitute which makes several technical changes in the bill as introduced. Congress establishes the historic site rather than the Secretary of the Interior. The substitute also references a map, allows for the donation of the land to the National Park Service, directs the Secretary of the Interior to manage the site in accordance with legislation for the National Park Service and authorizes appropriations. Finally, it clearly directs that the interpretation of the life of Alexander Hamilton be placed in the larger context of the United States as a young nation. Too often we look only at the great man, and not at the larger society that shaped his life and that he shaped by his actions. By placing Alexander Hamilton in a broad context we are likely to present history both more accurately and more completely. Mr. Speaker, I endorse this legislation and seek its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I indicated early, the administration and the Members on this side of the aisle support this legislation to commemorate our Founding Fathers. Alexander Hamilton was an influential and central figure in the early development of our country and it is appropriate that we direct the National Park Service to explain the history of our country through Hamilton's country home in New York.

I recommend my colleagues join me in supporting this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I want to commend my good friend, the gentleman from New York [Mr. RANGEL], for introducing this and working within the system. It is an important change, and it is bringing about something that they have looked forward to in terms of the historic designation of the site and bringing it into the Park System.

Mr. RANGEL. Mr. Speaker, as we approach the 200th anniversary on September 11, 1989 of Alexander Hamilton's appointment as the first Secretary of the Treasury of the United States, the only national memorial in Hamilton's honor sits in a deplorable state. Presently located in my 16th Congressional District of New York, as it was when Hamilton resided within its walls, the general structure of the Grange is in need of extensive repair.

The Grange, built in 1802, was the country home of Mr. Hamilton, and is an invaluable asset to our country, and an important facet of our Nation's history. Hamilton's accomplishments as one the Founding Fathers of our country were many, and we owe it to the education of our children, and to the memory of Alexander Hamilton to resurrect and restore the Grange to the condition that a national monument merits.

The present deplorable condition of the Grange can be attributed to a provision in the enabling legislation of 1962 (P.L. 87-438), which prohibits the restoration of the Grange before its relocation to another site. Consequently, complete preservation, restoration, and maintenance of Hamilton's home has been deferred pending the relocation of the structure.

For over 20 years, potential sites on which to relocate the Grange have been rejected by the National Park Service, as either unacceptable or inappropriate. After having failed to find a suitable alternative location, and in light of their concern for the structural integrity of the building and the logistical problems posed by relocation of the Grange, the National Park Service has concurred that the Hamilton Grange National Memorial should be restored at its present location.

In addition to the support of the National Park Service, the retention of the Grange at its present location enjoys the strong support of New York City and the surrounding community. It is a focal point of many activities in the community, which has become known as Hamilton Heights. Several prominent New York organizations and individuals have pledged to raise funds to assist in properly restoring the Grange as a fitting memorial to Alexander Hamilton and his achievements.

My bill would amend Public Law 87-438, by deleting the relocation provision and authorizing such sums as may be necessary to redevelop the Grange. This would allow restoration of the Grange to be well under way, as we progress toward the Bicentenary of Hamilton's appointment as Secretary of Treasury.

Currently the Grange is open to the public. Public visitation of the Hamilton Grange National Memorial numbered 42,232 people in 1987, and has increased dramatically since its opening in 1983 when there were only 4,754 visitors. Surely the number of visitors would increase even more dramatically if the Grange were restored to a condition that one expects to find when visiting a national memorial.

Mr. Speaker, the time has come for fruits of this important national treasure to be fully utilized, and appreciated. H.R. 4212 sets the stage for a new and restored Hamilton Grange National Memorial; one that will encourage more public appreciation, and one that will enhance the legacy of one of America's most important Founding Fathers.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4212, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FOR THE RELIEF OF CERTAIN PERSONS IN RIVERSIDE COUNTY, CA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4050) for the relief of certain persons in Riverside County, CA who purchased land in good faith reliance on an existing private land survey.

The Clerk read as follows:

H.R. 4050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the survey—

(1) conducted in 1955 by Hugh M. Galaher and Leo C. Carroll of Albert A. Webb Associates;

(2) recorded in book 22, pages 52 and 53, of the Records of Surveys of Riverside County, California; and

(3) depicting a portion of township 6 south, range 4 west, San Bernardino Meridian, California; is hereby deemed the legal boundary survey of that portion of the township and therefore represents the true location of the legal description as monumented and platted.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Montana [Mr. MARLENEE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is intended to resolve title problems now affecting some 170 private landowners in Riverside County, CA, that evidently trace back to serious errors made by a surveyor acting under contract with the United States.

The area affected by the bill was originally surveyed in 1880 108 years ago by a contract surveyor working for the General Land Office. Then, in 1893 95 years ago the area was resurveyed by another land office contract surveyor, working on National Forest boundaries. Unfortunately, this 1893 survey was not properly done. Apparently, the surveyor in 1893 did not find two of the monuments of the original survey, and instead set stone monuments of his own, which were some 225 and 250 feet away from the corners of the original survey.

The present problem arose after 1955, because the private lands in the area were subdivided in reliance on a private survey done in that year which in turn was tied to the inaccurate stone monuments which the 1893 surveyor claimed marked the township corners.

Then, in 1982, the Bureau of Land Management resurveyed the area. Possibly because recent fires had removed brush and other obstructions, the BLM surveyor was able to locate the original 1880 monuments for the corners. Once this occurred, and BLM had determined that the 1893 monuments were not correctly located, a new map of the area was recorded, with the result that a cloud was created on the title of the landowners whose titles were based on the private surveys that had been tied to the 1893 survey.

H.R. 4050 would resolve this situation by providing that the relevant boundaries set by the 1955 private survey are to be considered as the legal boundaries of the area affect.

At our hearing, BLM testified that they have no way of resolving this administratively, and that while strictly speaking the National Government is not responsible for the fact that the private surveys were tied to the wrong monuments, there is substantial equity on the side of the landowners who are seeking this relief because the original error was that of a surveyor working under contract to the Government. They also testified that since in effect all that would happen under the bill would be to shift the National Forest boundary—so one strip would be added and a corresponding strip of land deleted—there would be no significant net loss to the national estate.

Mr. Speaker, this is a good bill that provides equitable relief to private landowners who have no other avenue for relief under the law. The administration testified that they have not developed a formal position, since the Justice Department is still reviewing the bill—apparently with concern about its possible significance as a precedent. Nonetheless, I believe that it would be appropriate for Congress to take the initiative and act to provide this relief. I urge passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank Subcommittee Chairman VENTO and echo our side of the aisles support for Mr. McCANDLESS' Riverside County, CA, bill H.R. 4050 would establish a legal survey markers tablish a legal survey for certain county land owners. The problem began in 1893 with survey markers being set in the wrong place. The markers were set approximately 200 feet from the correct location. Since that time the owners of the parcels have had problems obtaining title insurance, obtaining financing, and providing clear title when they wanted to sell. Since the parties that caused the problems having passed on, about the only reasonable solution is legislative.

I want to thank the gentleman from California [Mr. McCANDLESS] and his staff for developing a very detailed and complete factual base for this legislation. When one has nearly 170 different individuals involved and all but two support this legislation, I think that says it all. During committee hearings the administration testified in support and I too recommend its passage.

Mr. McCANDLESS. Mr. Speaker, the purpose of this legislation is to standardize the boundary surveys of property adjoining the Cleveland National Forest in Riverside County, CA.

Briefly, back in 1893 a contract surveyor for the U.S. General Land Office provided an inaccurate survey of certain lands abutting the Cleveland National Forest. This faulty survey has confused the property lines of about 170 landowners, leaving them unable to obtain title insurance or financing for improvements, and unable to sell their land. Some individuals have even lost property due to clouded boundary lines—all because of their reliance on a faulty Federal survey.

The history behind this is that in 1880 George Sandow, a contract surveyor for the General Land Office, provided the first survey of township 6 south, range 4 west, of the San Bernardino Meridian, and set markers to establish the township's boundaries.

Then in 1893, Cave J. Couts, another General Land Office Surveyor, prepared the original survey of the land just to the south of township 6. Unfortunately, he was unable to find the original Sandow Monuments and inaccurately set his own along township 6's southern border. That's where the trouble began.

Albert Webb, a private registered professional engineer, was hired to resurvey a property located within township 6 in 1955. He began his survey from Couts' incorrectly ceded stone monuments, and all subsequent property lines were thereby skewed.

Finally, in 1982, Pat Carroll of the Bureau of Land Management resurveyed township 6 at the request of the Forest Service. Due to a recent fire in the area, Carroll was able to recover 10 of Couts' 17 monuments. He also discovered all of Sandow's original markers, but at two locations found similarly marked stones approximately 225 feet and 250 feet southwest of the original positions marked by Sandow. The Bureau of Land Management has hypothesized that, being unable to recover Sandow's original markers, Couts improperly set his own which he then passed off as correct.

Because of Couts' action 95 years ago, all subsequent property lines in township 6 south, range 4 west have been erroneously drawn and the property of approximately 170 private landowners has been affected.

H.R. 4050 would accept the boundaries set in the Couts' survey as legal, thereby clearing title to those private properties bought in good faith reliance on a federal survey.

Because the property in question is bound on three sides by the Cleveland National Forest, the 100-foot strip of forest land taken from one side of the parcel would be added to the other. The net result is negligible loss of Federal land, and resolution of the existing boundary confusion. I strongly support this legislation and urge your favorable consideration of it.

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Mr. MARLENEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4050.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RELEASING REVERSIONARY INTEREST IN CERTAIN LANDS LOCATED IN BAY COUNTY, FL

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3431) to release a reversionary interest of the United States in a certain parcel of land located in Bay County, FL, as amended.

The Clerk read as follows:

H.R. 3431

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF REVERSIONARY INTEREST.

(a) AUTHORIZATION.—If within one year after the date of enactment of this Act, the Secretary of the Interior (hereafter, "the Secretary") receives from the Board of Commissioners of Bay County, Florida (hereafter, "the county") the documents required by this Act, the Secretary is authorized and directed to take all actions necessary to release from the property described in subsection (b) the restriction that such property be forever used for recreational purposes, and to release and quit claim all right, title and interest of the United States in the surface estate in such property to the county or its successors. The minerals in such property, and rights associated therewith, which were reserved to the United States shall continue to be so reserved.

(b) DESCRIPTION.—The property referred to in subsection (a) is a parcel of land comprised of approximately 40 acres surface estate to which was conveyed to Bay County, Florida, pursuant to the Act entitled "An Act to authorize acquisition of use of public lands by States, counties, or municipalities for recreational purposes" (43 U.S.C. 869 et seq.), and is more particularly described as follows:

TALLAHASSEE MERIDIAN, FLORIDA

Township 1 South, Range 14 West

Section 15: Southwest quarter, southwest quarter.

SEC. 2. REQUIREMENTS.

(a) DOCUMENTS.—The Secretary shall not exercise the authority described in section 1 unless and until the county makes a timely submission to the Secretary of documents which to the satisfaction of the Secretary demonstrate that—

(1) The county has entered into a binding agreement to exchange the county's interest in the land described in section 1(b) for the land, comprising at least 36 acres, which the Secretary has determined is suitable for use for public open space and recreation; and

(2) The county agrees that upon the completion of the exchange described in paragraph (1), the land obtained by the county through such exchange shall be forever used for public open space and recreation, and that if any part of such land is used for any other purpose, all right, title, and interest of the county in all such land obtained by the county in such exchange shall be transferred to and vested in the United States.

(b) OTHER CONDITIONS.—In the event that by operation of this Act, any land is tranferred to and vested in the United States, the Secretary shall retain such land and shall manage it for public open space and recreation unless the Secretary determines, in accordance with the Federal Land Policy and Management Act of 1976, that such land is suitable for disposal, in which case the Secretary may dispose of such land through exchange or otherwise.

The SPEAKER pro tempore. Is a second demanded?

Mr. MARLENEE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Montana

[Mr. MARLENEE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, this bill deals with 40 acres of land whose surface estate was transferred from the United States to Bay County, FL, in 1972 under the Recreation and Public Purposes Act. The minerals were retained by the United States, and the county's ownership was restricted by the condition that if the lands should be used for any purpose other than recreation, title would revert to the United States.

Since 1972, the county has not put these lands to active use for several reasons. For one thing, according to testimony we received, most of the area is swampy and not suitable for general public recreational use. Further, the lands are completely surrounded by property owned by a single corporation, and no access has been developed.

The corporation holding the surrounding lands wants to obtain the "county's interests" in the 40 acres. In exchange, they are offering to transfer to the county about 36 acres that include a fishable and swimmable lake and a parking area next to an existing county-owned ball field. According to testimony we received, the value of the lands being offered to the county equals or exceeds the value of the county's interests in the original 40 acres.

The county wishes to complete this exchange, but cannot do so unless the United States releases its reversionary interests in the original 40-acre tract. This bill is intended to permit such a release, provided that the county, within 1 year after enactment, provides satisfactory documentation to demonstrate that they have a binding commitment for the exchange and that the land the county will get in such an exchange will be subject to the restrictions and the reverter that now applies to the 40 acre tract.

Mr. Speaker, this is a worthwhile measure. I am unaware of any controversy about it, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to ask the chairman of the subcommittee a question. I understand that within the transfer we have unequivocal access to the property being transferred to the county.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, the gentleman is correct. We would maintain the same legal rights to the 36 acres that is traded as we had for the 40 acres of land.

Mr. MARLENEE. And we did not have legal access to the property that is being traded?

Mr. VENTO. Such legal access was not developed to that other 40-acre tract by the county.

Mr. MARLENEE. So this is a solution to what otherwise might be a sticky legal process?

Mr. VENTO. The gentleman is correct.

Mr. MARLENEE. Mr. Speaker, the administration has testified in support of H.R. 3431, and it has no impact on the Treasury. I recommend all Members support this measure.

Mr. Speaker, I rise in support of H.R. 3431. Mr. HUTTO's legislation would release a reversionary interest in approximately 40 acres in Bay County, FL. The land was originally transferred from Federal ownership to the county to be used for recreational purposes. The parcel is surrounded by private holdings with no legal access. It is my understanding that it was unpractical from an economic or from a recreational development aspect for the county to proceed as originally planned. The private land owner who has the surrounding land, offered to exchange the parcel for another one of its holdings. The parcel being offered has legal access and has recreational opportunities such as fishing and swimming.

The county has agreed to have a reverter on the new parcel, that would transfer the land back to the Federal Government if it is not used for recreational purposes. With that provision and the parcels being of nearly equal value, Federal interests are fully protected.

The administration testified in support of H.R. 3431 and it has no impact on the Treasury. I recommend all Members support this measure.

Mr. HUTTO. Mr. Speaker, I am pleased to express my support for H.R. 3431, a bill to release the reversionary interest of the United States in a certain parcel of land located in Bay County, FL. The removal of the restriction of that parcel of land, which requires the land be forever used for recreational purposes, will allow Bay County to trade this property for a parcel of land which is more desirable for recreational use.

Bay County, FL, received from the Federal Government in November 1972, a 40-acre tract of land for recreational purposes. This 40-acre tract of land in Northwest Bay County is completely surrounded by property owned by one large landowner, Prosper Energy Corp., and Bay County would have to condemn a right of way for access. Also, only 10 acres of this land is suitable for recreational purposes; the remaining acreage is low-lying wetlands.

The Bay County Board of County Commissioners has agreed to exchange its 40-acre parcel from the Federal Government for a 30-acre parcel from Prosper Energy Corp. that has a fresh water lake on it usable for swimming and fishing and for an additional 6-acre tract adjoining an existing ball field, currently being leased from Prosper Energy by the Bay County. Also, Prosper Energy has agreed to give the county title to the existing ball field. The 30-acre parcel is conveniently located on a paved road and can be effectively utilized by the public.

The one condition Prosper Energy Corp. has placed on this land exchange is that the 40-acre parcel must be conveyed to Prosper by the county free and clear of any reverter provisions to the Federal Government. An amendment was agreed to at the subcommittee level which would transfer the reversionary interest to the Federal Government, to the new parcel of land which Bay County will receive from the land exchange.

Releasing the reverter clause on the 40-acre Federal parcel will allow the Board of County Commissioners of Bay County to finalize a land exchange for recreational purposes, which would greatly benefit the general population of northwest Florida and all those who visit our area each year.

Mr. MARLENEE. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3431, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CODIFICATION OF MILITARY LAWS

Mr. SKELTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4229) to amend title 10, United States Code, to codify in that title certain defense-related permanent free-standing provisions of law, as amended.

The Clerk read as follows:

H.R. 4229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CODIFICATION OF CERTAIN PERMANENT PROVISIONS OF LAW IN TITLE 10, UNITED STATES CODE.

(a) ENLISTMENT QUALIFICATIONS.—(1) Section 520(b) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof the following: "; however, a person may not be denied enlistment in the armed forces solely because of his not having a high school diploma if his enlistment is needed to meet established strength requirements.".

(2) Section 3262 of title 10, United States Code, is amended by striking out "Of" and inserting in lieu thereof "Notwithstanding section 520(b) of this title, of".

(3) Section 401 of the Department of Defense Supplemental Appropriation Authorization Act, 1974 (Public Law 93-307; 88 Stat. 234), is repealed.

(b) Cap on Number of General and Flag Officers on Active Duty.—(1) Chapter 32 of title 10, United States Code, is amended—

(A) by redesignating section 526 as section 527; and

(B) by inserting after section 525 the following new section 526:

"§526. Authorized strength: general and flag officers on active duty

"The total number of general officers on active duty in the Army, Air Force, and Marine Corps and flag officers on active duty in the Navy may not exceed 1,073.".

(2)(A) Section 527 (as redesignated by paragraph (1)(A)) is amended by striking out "or 525" and inserting in lieu thereof "525, or 526".

(B) The heading of such section is amended to read as follows:

"§527. Authority to suspend sections 523, 524, 525, and 526"

(3) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 526 and inserting in lieu thereof the following:

"526. Authorized strength: general and flag officers on active duty.
"527. Authority to suspend sections 523, 524, 525, and 526.

(4) Section 811(a) of the Department of Defense Appropriation Authorization Act, 1978 (10 U.S.C. 523 note), is repealed.

(c) Commissary and Exchange Eligibility.—(1) Part II of subtitle A of title 10, United States Code, is amended by inserting after chapter 53 the following new chapter:

"CHAPTER 54—COMMISSARY AND EXCHANGE BENEFITS

"Sec.
"1061. Survivors of certain Reserve and Guard members.
"1062. Certain former spouses.
"1063. Period for use of commissary stores: eligibility attributable to active duty for training.

"§1061. Survivors of certain Reserve and Guard members

"(a) Benefits.—The Secretary of Defense shall prescribe regulations to allow dependents of members of the uniformed services described in subsection (b) to use commissary and exchange stores on the same basis as dependents of members of the uniformed services who die while on active duty for a period of more than 30 days.

"(b) Covered Dependents.—A dependent referred to in subsection (a) is a dependent of a member of a uniformed service who died—

"(1) while on active duty, active duty for training, or inactive-duty training (regardless of the period of such duty); or

"(2) while traveling to or from the place at which the member is to perform, or has performed, active duty, active duty for training, or inactive-duty training (regardless of the period of such duty).

"§1062. Certain former spouses

"The Secretary of Defense shall prescribe such regulations as may be necessary to provide that an unremarried former spouse described in subparagraph (F)(i) of section 1072(2) of this title is entitled to commissary and exchange privileges to the same extent and on the same basis as the surviving spouse of a retired member of the uniformed services.".

(2)(A) Section 1052 of such title is transferred to the end of chapter 54 of such title (as added by paragraph (1)) and redesignated as section 1063.

(B) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to such section 1052.

(3) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of such title are each amended by inserting after the item relating to chapter 53 the following new item:

"54. Commissary and Exchange Benefits.. 1061".

(4) Section 308 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 618), is repealed.

(5) Section 1005 of the Uniformed Services Former Spouses' Protection Act (10 U.S.C. 1408 note) is repealed.

(d) Financial Management.—(1)(A) Chapter 131 of title 10, United States Code, is amended by inserting before section 2202 the following new section:

"§2201. Apportionment of funds: authority for exemption; excepted expenses

"(a) Exemption From Apportionment Requirement.—If the President determines such action to be necessary in the interest of national defense, the President may exempt from the provisions of section 1512 of title 31 appropriations, funds, and contract authorizations available for military functions of the Department of Defense.

"(b) Airborne Alerts.—Upon a determination by the President that such action is necessary, the Secretary of Defense may provide for the cost of an airborne alert as an excepted expense under section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)).

"(c) Members on Active Duty.—Upon a determination by the President that it is necessary to increase (subject to limits imposed by law) the number of members of the armed forces on active duty beyond the number for which funds are provided in appropriation Acts for the Department of Defense, the Secretary of Defense may provide for the cost of such additional members as an excepted expense under section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)).

"(d) Notification to Congress.—The Secretary of Defense—

"(1) shall immediately notify Congress of the use of any authority under this section; and

"(2) shall submit monthly reports to Congress on the estimated obligations incurred pursuant to subsections (b) and (c).".

(B) Section 8009 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1204)), is repealed.

(2)(A) Chapter 131 of title 10, United States Code, is further amended by inserting after section 2211 the following new section:

"§2212. Contracted advisory and assistance services: accounting procedures

"(a) Accounting Procedure.—The Secretary of Defense shall require that there be maintained within each military department an accounting procedure to aid in the identification and control of expenditures for services identified as contracted advisory and assistance services.

"(b) Regulations to Identify Contracted Advisory and Assistance Services.—(1) The Secretary shall prescribe regulations which specifically describe—

"(A) those services which the Department of Defense considers to be contracted advisory and assistance services; and

"(B) of those services, which services are carried out in direct support of a weapons system and are essential to the development, production, or maintenance of the system.

"(2) In prescribing regulations under paragraph (1), the Secretary shall consider the following areas:

"(A) Management and professional services.

"(B) Special studies and analyses.

"(C) Management and support services for research and development activities.

"(D) Training.

"(E) Management review of program funded organizations.

"(F) Public relations.

"(G) Other consulting services.

"(H) Engineering development and operational systems development related to research and development activities and production activities.

"(I) Technical assistance.

"(J) Technical representation.

"(K) Quality control, testing, and inspection services.

"(L) Specialized medical services.

"(M) Architectural and engineering services, other than in connection with construction.

"(N) Technical and management assistance for weapons systems management and review.

"(c) Congressional Budget Documents.—Budget documents presented to Congress in support of the budget for the Department of Defense for any fiscal year—

"(1) shall identify the total amount requested for contracted advisory and assistance services (as defined under regulations prescribed under subsection (b));

"(2) shall identify the amount requested for each category of such services established by regulations prescribed under subsection (b); and

"(3) within each such category, shall separately set forth amounts for such services described in subsection (b)(1)(B).".

(B) Section 918 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145) is repealed.

(3)(A) Chapter 131 of title 10, United States Code, is further amended by adding at the end the following new section:

"§2217. Comparable budgeting for common procurement weapon systems

"(a) Matters To Be Included in Annual Defense Budgets.—In preparing the defense budget for any fiscal year, the Secretary of Defense shall—

"(1) specifically identify each common procurement weapon system included in the budget;

"(2) take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system; and

"(3) identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems.

"(b) Comptroller.—The Secretary shall carry out this section through the Comptroller of the Department of Defense.

"(c) Definitions.—In this section:

"(1) The term 'defense budget' means the budget of the Department of Defense included in the President's budget submitted to Congress under section 1105 of title 31 for a fiscal year.

"(2) The term 'common procurement weapon system' means a weapon system for which two or more of the Army, Navy, Air Force, and Marine Corps request procurement funds in a defense budget.".

(B) Section 955 of the Defense Acquisition Improvement Act of 1986 is repealed.

(4) The table of sections at the beginning of chapter 131 of title 10, United States Code, is amended—

(A) by inserting before the item relating to section 2202 the following new item:

"2201. Apportionment of funds: authority for exemption; excepted expenses.";

(B) by inserting after the item relating to section 2211 the following new item:

"2212. Contracted advisory and assistance services: accounting procedures."; and

(C) by adding at the end the following new item:

"2217. Comparable budgeting for common procurement weapon systems.".

(e) Miscellaneous Administrative Provisions.—(1) Subtitle A of title 10, United States Code, is amended by inserting after chapter 133 the following new chapter:

"CHAPTER 134—MISCELLANEOUS ADMINISTRATIVE PROVISIONS

"Subchapter	Sec.
"I. Miscellaneous Authorities, Prohibitions, and Limitations on the Use of Appropriated Funds	2241
"II. Miscellaneous Administrative Authority	2251

"SUBCHAPTER I—MISCELLANEOUS AUTHORITIES, PROHIBITIONS, AND LIMITATIONS ON THE USE OF APPROPRIATED FUNDS

"Sec.

"2241. Availability of appropriations for certain purposes.

"2242. Authority to use appropriated funds for certain investigations and security services.

"§2241. Availability of appropriations for certain purposes

"(a) Operation and Maintenance Appropriations.—Amounts appropriated to the Department of Defense for operation and maintenance of the active forces may be used for the following purposes:

"(1) Morale, welfare, and recreation.

"(2) Modification of personal property.

"(3) Design of vessels.

"(4) Industrial mobilization.

"(5) Military communications facilities on merchant vessels.

"(6) Acquisition of services, special clothing, supplies, and equipment.

"(7) Expenses for the Reserve Officers' Training Corps and other units at educational institutions.

"(b) Necessary Expenses.—Amounts appropriated to the Department of Defense may be used for all necessary expenses, at the seat of the Government or elsewhere, in connection with communication and other services and supplies that may be necessary for the national defense.

"§2242. Authority to use appropriated funds for certain investigations and security services

"The Secretary of Defense and the Secretary of each military department may—

"(1) pay in advance for the expenses of conducting investigations in foreign countries incident to matters relating to the Department of Defense, to the extent such expenses are determined by the investigating officer to be necessary and in accord with local custom;

"(2) pay expenses incurred in connection with the administration of occupied areas;

"(3) pay expenses of military courts, boards, and commissions; and

"(4) reimburse the Administrator of General Services for security guard services furnished by the Administrator to the Department of Defense for the protection of confidential files.

"SUBCHAPTER II—MISCELLANEOUS ADMINISTRATIVE AUTHORITY

"Sec.

"2251. Household furnishings and other property: personnel outside the United States or in Alaska or Hawaii.

"2252. Rewards: missing property.

"2253. Motor vehicles.

"§2251. Household furnishings and other property: personnel outside the United States or in Alaska or Hawaii

"(a) In General.—Subject to subsection (b), the Secretary of the military department concerned may—

"(1) purchase household furnishings and automobiles from members of the armed forces and civilian employees of the Department of Defense on duty outside the United States or in Hawaii for resale at cost to incoming personnel; and

"(2) provide household furnishings, without charge, in other than public quarters occupied by members of the armed forces or civilian employees of the Department of Defense who are on duty outside the United States or in Alaska or Hawaii.

"(b) Required Determination.—The authority provided in subsection (a) may be used only when it is determined, under regulations approved by the Secretary of Defense, that the use of that authority would be advantageous to the United States.

"§2252. Rewards: missing property

"The Secretary of Defense and the Secretary of each military department may pay a reward of not more than $500 in any case for information leading to the discovery of missing property under the jurisdiction of that Secretary or leading to the recovery of such property.

"§2253. Motor vehicles

"(a) General Authorities.—The Secretary of Defense and the Secretary of each military department may—

"(1) provide for insurance of official motor vehicles in a foreign country when the laws of such country require such insurance; and

"(2) purchase right-hand drive vehicles at a cost of not more than $12,000 each.

"(b) Hire of Passenger Vehicles.—Amounts appropriated to the Department of Defense for operation and maintenance of the active forces may be used for the hire of passenger motor vehicles.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are each amended by inserting after the item relating to chapter 133 the following new item:

"134. Miscellaneous Administrative Provisions .... 2241".

(3)(A) Section 7209 of such title is repealed.

(B) The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7209.

(f) Procurement Generally.—(1)(A) Section 2307 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) The Secretary of Defense shall ensure that any payment for work in progress (including materials, labor, and other items) under a defense contract that provides for such payments is commensurate with the work, which meets standards of quality established under the contract, that has been accomplished.

"(2) The Secretary shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under a defense contract so long as the Secretary has not made the contractual terms, specifications, and price definite.

"(3) This subsection does not apply to contracts for amounts less than the maximum amount for small purchases specified in section 2304(g)(2) of this title.".

(B) Section 916 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 688) is repealed.

(2)(A) Section 2324(e)(1) of such title (as amended by section 805 of Public Law 100-180) is amended by adding at the end the following new subparagraph:

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.".

(B) Section 2399 of such title is repealed.

(3)(A) Section 2324 of such title is further amended—

(i) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(ii) by inserting after subsection (i) the following new subsection (j):

"(j) In a proceeding before the Armed Services Board of Contract Appeals, the United States Claims Court, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the Department of Defense is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.".

(B) Section 933 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 700) is repealed.

(g) Research and Development.—(1) Section 2361 of title 10, United States Code, is transferred within chapter 139 to appear immediately before section 2352, redesignated as section 2351, and amended—

(A) by inserting "(a)" before "Funds"; and

(B) by adding at the end the following new subsection:

"(b) Funds appropriated to the Department of Defense for research and development may be used—

"(1) for the purposes of section 2353 of this title; and

"(2) for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the Department of Defense.".

(2) Section 8015 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1205)), is repealed.

(3) Section 2358 of title 10, United States Code, is amended—

(A) by inserting "(a) In General.—" before "Subject to approval" in the first sentence;

(B) by striking out "or his designee" both places it appears; and

(C) by adding at the end the following new subsection:

"(b) Requirement of Potential Military Relationship.—Funds appropriated to the Department of Defense may not be used to finance any research project or study unless the project or study has, in the opinion of the Secretary of Defense, a potential relationship to a military function or operation.".

(4) The table of sections at the beginning of chapter 139 of title 10, United States Code, is amended—

(A) by inserting before the item relating to section 2352 the following new item:

"2351. Availability of appropriations."; and

(B) by striking out the item relating to section 2361.

(5) Section 204 of the Public Law 91-441 (10 U.S.C. 2358 note) is repealed.

(h) Miscellaneous Procurement Provisions.—(1)(A) Section 2389 of title 10, United States Code, is amended—

(i) by inserting "(a)" before "Under regulations"; and

(ii) by adding at the end the following new subsection:

"(b)(1) Funds appropriated to the Department of Defense may be used to purchase for enlisted members milk made available to the Department of Defense under section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a).

"(2) The cost of milk so purchased (as determined by the Secretary of Defense) shall be included in the value of the commuted ration of enlisted members.".

(B) The heading of such section is amended to read as follows:

"§2389. Contracts for the procurement of milk: price adjustments; purchases from the Commodity Credit Corporation".

(2) Chapter 141 of such title is amended by adding at the end the following new sections:

"§2410. Contract claims: certification

"A contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85-804 (50 U.S.C. 1431 et seq.), or other similar request by a contractor that exceeds $100,000 may not be paid unless a senior official of the contractor in charge at the plant or location involved certifies at the time the claim or request is submitted that—

"(1) the claim or request is made in good faith; and

"(2) all supporting data submitted in connection with the claim or request are accurate and complete to the best of such official's knowledge and belief.

"§2410a. Appropriated funds: availability for certain contracts for 12 months

"Funds appropriated to the Department of Defense for a fiscal year shall be available for payments under contracts for any of the following purposes for 12 months beginning at any time during the fiscal year:

"(1) The maintenance of tools and facilities.

"(2) The lease of real or personal property, including the maintenance of such property when contracted for as part of the lease agreement.

"(3) Depot maintenance.".

(3) The table of sections at the beginning of such chapter is amended—

(A) by striking out the item relating to section 2389 and inserting in lieu thereof the following:

"2389. Contracts for the procurement of milk: price adjustments; purchases from the Commodity Credit Corporation.";

(B) by striking out the item relating to section 2399; and

(C) by adding at the end the following new items:

"2410. Contract claims: certification.
"2410a. Appropriated funds: availability for certain contracts for 12 months.".

(i) Oversight of Major Programs.—(1) Section 2435 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Stability of Program Managers.—(1) The tour of duty of an officer of the armed forces as a program manager of a major defense acquisition program shall be (A) not less than four years, or (B) until completion of a major program milestone (as defined in regulations prescribed by the Secretary of Defense).

"(2) The Secretary of the military department concerned may waive the length of the tour of duty prescribed in paragraph (1). The authority under the preceding sentence may not be delegated.".

(2) Section 1243 of the Defense Procurement Reform Act of 1984 (title XII of Public Law 98-525; 98 Stat. 2609) is repealed.

(j) Utilities and Services.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§2490. Utility services: furnishing for certain buildings

"Appropriations for the Department of Defense may be used for utility services for—

"(1) buildings constructed at private cost, as authorized by law; and

"(2) buildings on military reservations authorized by regulation to be used for morale, welfare, and recreational purposes.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2490. Utility services: furnishing for certain buildings.".

(k) Interdepartmental Transfer of Vessels.—(1) Chapter 153 of title 10, United States Code, is amended by adding at the end the following new section:

"§2578. Vessels: transfer between departments

"A vessel under the jurisdiction of a military department may be transferred or otherwise made available without reimbursement to another military department or to the Department of Transportation, and a vessel under the jurisdiction of the Department of Transportation may be transferred or otherwise made available without reimbursement to a military department. Any such transfer may be made only upon the request of the Secretary of the military department concerned or the Secretary of Transportation, as the case may be, and with the approval of the Secretary of the department having jurisdiction of the vessel.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2578. Vessels: transfer between departments.".

(3) Section 8012 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (40 U.S.C 483a)), is repealed.

(l) Real Property.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2672a the following new section:

"§2673. Acquisition of certain interests in land: availability of funds

"Appropriations available to the Department of Defense for maintenance or construction may be used for the acquisition of land or interests in land under section 2672 of this title and for the acquisition of interests in land under section 2675 of this title.".

(2) Section 2828 of such title is amended by adding at the end the following new subsection:

"(h) Appropriations available to the Department of Defense for maintenance or construction may be used for the acquisition of interests in land under this section.".

(3) Chapter 159 of such title is further amended by inserting after the table of sections the following new section:

"§2661. Miscellaneous administrative provisions relating to real property

"(a) Appropriations for operation and maintenance of the active forces shall be available for the following:

"(1) The repair of facilities.

"(2) The installation of equipment in public and private plants.

"(b) The Secretary of Defense and the Secretary of each military department may provide for the following:

"(1) The leasing of buildings and facilities (including the payment of rentals for special purpose space at the seat of Government). Rental for such leases may be paid in advance in connection with—

"(A) the conduct of field exercises and maneuvers; and

"(B) the administration of the Act of July 9, 1942 (43 U.S.C. 315q).

"(2) The maintenance of defense access roads which are certified to the Secretary of Transportation as important to the national defense under the provisions of section 210 of title 23.".

(4) The table of sections at the beginning of such chapter is amended—

(A) by inserting before the item relating to section 2662 the following new item:

"2661. Miscellaneous administrative provisions relating to real property.";

and

(B) by inserting after the item relating to section 2672a the following new item:

"2673. Acquisition of certain interests in land: availability of funds.".

(m) Accountability and Responsibility.—(1) Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

"§2781. Availability of appropriations: exchange fees; losses in accounts

"Amounts appropriated to the Department of Defense may be used for—

"(1) exchange fees; and

"(2) losses in the accounts of disbursing officials and agents in accordance with law.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2781. Availability of appropriations: exchange fees; losses in accounts.".

(n) SHIP OVERHAUL WORK.—(1) Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

"§7313. Ship overhaul work: availability of appropriations for unusual cost overruns and for changes in scope of work

"(a) UNUSUAL COST OVERRUNS.—(1) Appropriations available to the Department of Defense for a fiscal year may be used for payment of unusual cost overruns incident to ship overhaul, maintenance, and repair for a vessel inducted into an industrial-fund activity or contracted for during a prior fiscal year.

"(2) The Secretary of Defense shall notify Congress promptly before an obligation is incurred for any payment under paragraph (1).

"(b) CHANGES IN SCOPE OF WORK.—An appropriation available to the Department of Defense for a fiscal year may be used after the otherwise-applicable expiration of the availability for obligation of that appropriation—

"(1) for payments to an industrial-fund activity for amounts required because of changes in the scope of work for ship overhaul, maintenance, and repair, in the case of work inducted into the industrial-fund activity during the fiscal year; and

"(2) for payments under a contract for amounts required because of changes in the scope of work, in the case of a contract entered into during the fiscal year for ship overhaul, maintenance, and repair.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7313. Ship overhaul work: availability of appropriations for unusual cost overruns and for changes in scope of work.".

(o) ANNUAL REPORT ON STATIONING FORCES OVERSEAS.—(1) Section 113 of title 10, United States Code (as amended by section 1214 of Public Law 100-180), is amended by adding at the end the following new subsection:

"(k)(1) Not later than April 8 of each year, the Secretary of Defense shall submit to the Committees on Armed Services and Committees on Appropriations of the Senate and House of Representatives a report on the cost of stationing United States forces outside of the United States. Each such report shall include a detailed statement of the following:

"(A) Costs incurred in the United States and costs incurred outside the United States in connection with the stationing of United States forces outside the United States.

"(B) The costs incurred outside the United States in connection with operating, maintaining, and supporting United States forces outside the United States, including all direct and indirect expenditures of United States funds in connection with such stationing.

"(C) The effect of such expenditures outside the United States on the balance of payments of the United States.

"(2) Each report under this subsection shall be prepared in consultation with the Secretary of Commerce.

"(3) In this subsection, the term 'United States', when used in a geographic sense, includes the territories and possessions of the United States.".

(2) Section 8042 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202 (101 Stat. 1329-69)), is repealed.

(p) GENERAL REPEALS.—The following provisions of law are repealed:

(1) Sections 705, 707, 723, 728, and 735 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212; 97 Stat. 1437 et seq.).

(2) Section 8078 of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473 (98 Stat. 1938)).

(3) Sections 8005 and 8006 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1185)).

(4) Section 813 of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485; 92 Stat. 1624).

SEC. 2. CODIFICATION OF LAWS RELATING TO CONTRACTING FOR PERFORMANCE OF CIVILIAN FUNCTIONS.

(a) CONSOLIDATION AND CODIFICATION.—(1) Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 145 the following new chapter:

"CHAPTER 146—CONTRACTING FOR PERFORMANCE OF CIVILIAN COMMERCIAL OR INDUSTRIAL TYPE FUNCTIONS

"Sec.
"2461. Commercial or industrial type functions: required studies and reports before conversion to contractor performance.
"2462. Contracting for certain supplies and services required when cost is lower.
"2463. Reports on savings or costs from increased use of DOD civilian personnel.
"2464. Core logistics functions.
"2465. Prohibition on contracts for performance of firefighting or security-guard functions.

"§2461. Commercial or industrial type functions: required studies and reports before conversion to contractor performance

"(a) REQUIRED NOTICE TO CONGRESS.—A commercial or industrial type function of the Department of Defense that on October 1, 1980, was being performed by Department of Defense civilian employees may not be converted to performance by a private contractor unless the Secretary of Defense provides to Congress in a timely manner—

"(1) notification of any decision to study such function for possible performance by a private contractor;

"(2) a detailed summary of a comparison of the cost of performance of such function by Department of Defense civilian employees and by private contractor which demonstrates that the performance of such function by a private contractor will result in a cost savings to the Government over the life of the contract and a certification that the entire cost comparison is available;

"(3) a certification that the Government calculation for the cost of performance of such function by Department of Defense civilian employees is based on an estimate of the most efficient and cost effective organization for performance of such function by Department of Defense civilian employees; and

"(4) a report, to be submitted with the certification required by paragraph (3), showing—

"(A) the potential economic effect on employees affected, and the potential economic effect on the local community and Federal Government if more than 75 employees are involved, of contracting for performance of such function;

"(B) the effect of contracting for performance of such function on the military mission of such function; and

"(C) the amount of the bid accepted for the performance of such function by the private contractor whose bid is accepted and the cost of performance of such function by Department of Defense civilian employees, together with costs and expenditures which the Government will incur because of the contract.

"(b) CONGRESSIONAL NOTIFICATION OF DECISION TO CONVERT.—If, after completion of the studies required for completion of the certification and report required by paragraphs (3) and (4) of subsection (a), a decision is made to convert the function to contractor performance, the Secretary of Defense shall notify Congress of such decision.

"(c) ANNUAL REPORTS.—Not later than February 1 of each fiscal year, the Secretary of Defense shall submit to Congress a written report describing the extent to which commercial and industrial type functions were performed by Department of Defense contractors during the preceding fiscal year. The Secretary shall include in each such report an estimate of the percentage of commercial and industrial type functions of the Department of Defense that will be performed by Department of Defense civilian employees, and the percentage of such functions that will be performed by private contractors, during the fiscal year during which the report is submitted.

"(d) WAIVER FOR SMALL FUNCTIONS.—Subsections (a) through (c) shall not apply to a commercial or industrial type function of the Department of Defense that is being performed by 45 or fewer Department of Defense civilian employees.

"(e) ADDITIONAL LIMITATIONS.—(1) A commercial or industrial type function of the Department of Defense that on October 1, 1980, was being performed by Department of Defense civilian employees may not be converted to performance by a private contractor to circumvent a civilian personnel ceiling.

"(2) In no case may a commercial or industrial type function being performed by Department of Defense personnel be modified, reorganized, divided, or in any way changed for the purpose of exempting from the requirements of subsection (a) the conversion of all or any part of such function to performance by a private contractor.

"(f) INAPPLICABILITY DURING WAR OR EMERGENCY.—The provisions of this section shall not apply during war or during a period of national emergency declared by the President or Congress.

"§2462. Contracting for certain supplies and services required when cost is lower

"(a) IN GENERAL.—Except as otherwise provided by law, the Secretary of Defense shall procure each supply or service necessary for or beneficial to the accomplishment of the authorized functions of the Department of Defense (other than functions which the Secretary of Defense determines must be performed by military or Government personnel) from a source in the private sector if such a source can provide such supply or service to the Department at a cost that is lower (after including any cost differential required by law, Executive order, or regulation) than the cost at which the Department can provide the same supply or service.

"(b) Realistic and Fair Cost Comparisons.—For the purpose of determining whether to contract with a source in the private sector for the performance of a Department of Defense function on the basis of a comparison of the costs of procuring supplies or services from such a source with the costs of providing the same supplies or services by the Department of Defense, the Secretary of Defense shall ensure that all costs considered (including the costs of quality assurance, technical monitoring of the performance of such function, liability insurance, employee retirement and disability benefits, and all other overhead costs) are realistic and fair.

"§2463. Reports on savings or costs from increased use of DOD civilian personnel

"(a) In General.—Whenever during a fiscal year to which this section applies the performance of a commercial or industrial type activity of the Department of Defense that is being performed by 50 or more employees of a private contractor is changed to performance by civilian employees of the Department of Defense, the Secretary of Defense shall maintain data in which a comparison is made of the estimated costs of (1) continued performance of such activity by private contractor employees, and (2) performance of such activity by civilian employees of the Department of Defense.

"(b) Semiannual Report on Costs and Savings.—As soon as practicable after the end of the first six months, and after the end of the second six months, of a fiscal year to which this section applies, the Secretary of Defense shall submit to the Committees on Armed Services and the Committee on Appropriations of the Senate and House of Representatives a report showing the estimated savings or loss to the United States, during the preceding six-month period, that is reflected in the data maintained under subsection (a).

"(c) Applicability of Section.—This section applies only with respect to a fiscal year during which there is no statutory limit (commonly known as an 'end strength') on the number of civilian employees that may be employed by the Department of Defense as of the last day of that fiscal year.

"§2464. Core logistics functions

"(a) Necessity for Core Logistics Capability.—(1) It is essential for the national defense that Department of Defense activities maintain a logistics capability (including personnel, equipment, and facilities) to ensure a ready and controlled source of technical competence and resources necessary to ensure effective and timely response to a mobilization, national defense contingency situations, and other emergency requirements.

"(2) The Secretary of Defense shall identify those logistics activities that are necessary to maintain the logistics capability described in paragraph (1).

"(b) Limitation on Contracting.—(1) Except as provided in paragraph (2), performance of a logistics activity identified by the Secretary under subsection (a)(2), and performance of a function of the Department of Defense described in section 1231(b) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 731), may not be contracted for performance by non-Government personnel under the procedures and requirements of Office of Management and Budget Circular A-76 or any successor administrative regulation or policy (hereinafter in this section referred to as OMB Circular A-76).

"(2) The Secretary of Defense may waive paragraph (1) in the case of any such logistics activity or function and provide that performance of such activity or function shall be considered for conversion to contractor performance in accordance with OMB Circular A-76. Any such waiver shall be made under regulations prescribed by the Secretary and shall be based on a determination by the Secretary that Government performance of the activity or function is no longer required for national defense reasons. Such regulations shall include criteria for determining whether Government performance of such an activity or function is no longer required for national defense reasons.

"(3) A waiver under paragraph (2) may not take effect until—

"(A) the Secretary submits a report on the waiver to the Committees on Armed Services and the Committee on Appropriations of the Senate and House of Representatives; and

"(B) a period of 20 days of continuous session of Congress or 40 calendar days has passed after the receipt of the report by those committees.

"(4) For purposes of paragraph (3)(B), the continuity of a session of Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 20-day period.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are amended by inserting after the item relating to chapter 145 the following new item:

"146. Contracting for Performance of Civilian Commercial or Industrial Type Functions .... 2461".

(b) Transfer of Section.—(1) Section 2693 of title 10, United States Code, is transferred to the end of chapter 146 of such title (as added by subsection (a)) and is redesignated as section 2465.

(2) The table of sections at the beginning of chapter 159 of such title is amended by striking out the item relating to section 2693.

(c) Conforming Repeals.—The following provisions of laws are repealed:

(1) Section 502 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2304 note).

(2) Section 307 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2304 note).

(3) Sections 1223 and 1224 of the Department of Defense Authorization Act, 1987 (10 U.S.C. 2304 note).

SEC. 3. CODIFICATION OF DEFENSE-RELATED BUY AMERICAN LAWS.

(a) Consolidation and Codification.—(1) Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 147 the following new chapter:

"CHAPTER 148—BUY AMERICAN REQUIREMENTS

"Sec.
"2501. Limitation on use of funds: procurement of goods which are other than American goods.
"2502. Miscellaneous procurement limitations.

"§2501. Limitation on use of funds: procurement of goods which are other than American goods

"(a) Funds appropriated to the Department of Defense may not be obligated under a contract for procurement of goods which are other than American goods (as defined in subsection (c)) unless adequate consideration is given to the following:

"(1) The bids or proposals of firms located in labor surplus areas in the United States (as designated by the Department of Labor) which have offered to furnish American goods.

"(2) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

"(3) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

"(4) The United States balance of payments.

"(5) The cost of shipping goods which are other than American goods.

"(6) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

"(b) Consideration of the matters referred to in paragraphs (1) through (6) of subsection (a) shall be given under regulations of the Secretary of Defense and subject to the determinations and exceptions contained in title III of the Act of March 3, 1933 (41 U.S.C. 10a, 10b), popularly known as the 'Buy American Act'.

"(c) In this section, the term 'goods which are other than American goods' means—

"(1) an end product that is not mined, produced, or manufactured in the United States; or

"(2) an end product that is manufactured in the United States but which includes components mined, produced, or manufactured outside the United States the aggregate cost of which exceeds the aggregate cost of the components of such end product that are mined, produced, or manufactured in the United States.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are amended by inserting after the item relating to chapter 147 the following new item:

"148. Buy American Requirements .... 2501".

(b) Transfer of Section.—(1) Section 2400 of such title is transferred to the end of chapter 148 of such title (as added by subsection (a)), redesignated as section 2502, and amended in the second sentence of subsection (a) by striking out "this section" and inserting in lieu thereof "this subsection".

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2400.

(c) Conforming Repeal.—Section 707 of the Department of Defense Appropriation Authorization Act, 1975 (Public Law 93-365); 10 U.S.C. 2301 note), is repealed.

SEC. 4. LEGISLATIVE CONSTRUCTION

(a) References to Replaced Laws.—A reference to a law replaced by the provisions of title 10, United States Code, enacted by this Act (including a reference in a regulation, order, or other law) shall be treated as referring to the corresponding provision enacted by this Act.

(b) Savings Provision for Regulations.—A regulation, rule, or order in effect under a law replaced by the provisions of title 10, United States Code, enacted by this Act shall continue in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(c) General Savings Provision.—An action taken or an offense committed under a law replaced by the provisions of title 10, United States Code, enacted by this Act shall be treated as having been taken or committed under the corresponding provision enacted by this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Missouri [Mr. SKELTON] will be recognized for 20 minutes and the gentleman from Guam [Mr. BLAZ] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not intend to take all the time. Sufficient to say, this bill is to codify certain free standing provisions of military law that more appropriately belong in the basic outline of title 10, United States Code. In so doing and with the initiative and able direction of House legislative counsel, we also hope to standardize certain common usages of terms in the law.

This legislation will make military law more consistent and, therefore, more easily understood and enforced.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BLAZ. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, H.R. 4229 would amend title 10, United States Code, to codify in that title certain defense-related permanent free-standing provisions of law that have been enacted since 1970. These provisions are all permanent in nature but were not codified at the time of their adoption because of an oversight or because they had been adopted as part of defense authorization or appropriation bills.

The United States Code and the United States Code Annotated are the preferred sources when attempting to determine current law; therefore, it is critical that the provisions be included. The Legislative Counsel's office, with the advice of the Law Revision Counsel, has made codification of all permanent law a priority. I urge support of this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. SKELTON] that the House suspend the rules and pass the bill, H.R. 4229, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

JOB TRAINING PARTNERSHIP ACT TECHNICAL AMENDMENT

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4857) to amend the Job Training Partnership Act to make a technical change, as amended.

The Clerk read as follows:

H.R. 4857

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 161(b) of the Job Training Partnership Act is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1), funds obligated for any program year for programs authorized by sections 452 through 455 of part D of title IV of this Act shall remain available until expended.".

The SPEAKER pro tempore. Is a second demanded?

Mr. GUNDERSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes and the gentleman from Wisconsin [Mr. GUNDERSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

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Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4857 is a technical amendment to the Job Training Partnership Act that would alleviate a problem that Congress, through an oversight, failed to provide for. Title IV, part D of the JTPA covers a range of national activities programs.

Section 161(b) of the JTPA rightfully put a 3-year cap on program expenditures to achieve specific programs goals. However, national activities such as research and demonstration, evaluation, pilot projects, and training and technical assistance projets may require longer time frames from initial design to a final report than the 2 to 3 years that section 161 spells out.

Congress did not intend that these administrative program and evaluation functions be hindered by the same restrictions that are placed upon training programs. This technical amendment will ensure that longer term, multiyear projects can continue to be designed and financed without concern that the availability of funds will expire before all of the planned activities can be completed. The Department of Labor is fully in agreement with the changes we are making to the JTPA today.

Mr. Speaker, I ask that my colleagues support this technical adjustment to the Job Training Partnership Act.

Mr. Speaker, I reserve the balance of my time.

Mr. GUNDERSON. Mr. Speaker, I rise in support of H.R. 4857, a bill which simply makes a technical correction to the Job Training Partnership Act to address an unforeseen problem that has arisen in the funding of research projects under the act.

Mr. Speaker, I support this bill's consideration under suspension of the rules and would point out to my colleagues that his bill is here upon request of the administration.

When Congress enacted the Job Training Partnership Act in 1982, we specifically required that funding which is appropriated for the provision of services under JTPA be expended by program recipients during the program year in which the funds are appropriated or during the 2 succeeding years following that program year.

We set time limits on the expenditure of these funds in order to assure effective and timely delivery of programs to participants.

However, in crafting the language of the act, we did not specify that this time limit applied to only moneys appropriated for the delivery of services and not to funds allotted for research and other activities which result in a product that often requires more lengthy periods of time.

In a recent interpretation of the law, the Solicitor of Labor determined that as currently written, this time limit set forth in section 161(b) of the act does apply to moneys appropriated for research which threatens all ongoing activities being conducted under contract with the Department of Labor on our national employment training programs.

What this legislation does is amend JTPA to clarify the intent of Congress that moneys allotted under the act for research and other activities as described under sections 452 through 455 of JTPA are not subject to this time limitation as prescribed under section 161(b) of the act.

This legislation will solve the problem currently being encountered due to the solicitor's recent interpretation of the act and clarify what I feel was the original intent of Congress.

I encourage my colleagues to support it and yield back the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Texas [Mr. LELAND] that the House suspend the rules and pass the bill, H.R. 4857, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4857, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

HOME EQUITY LOAN CONSUMER PROTECTION ACT OF 1988

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3011) to amend the Truth in Lending Act to establish additional disclosure and advertising requirements for home equity loans, as amended.

The Clerk read as follows:

H.R. 3011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Home Equity Loan Consumer Protection Act of 1988".

SEC. 2. DISCLOSURE AND ADVERTISING REQUIREMENTS FOR HOME EQUITY LOANS.

(a) DISCLOSURE REQUIREMENTS.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 127 the following new section:

"SEC. 127A. DISCLOSURE REQUIREMENTS FOR OPEN END CONSUMER CREDIT PLANS SECURED BY THE CONSUMER'S PRINCIPAL DWELLING.

"(a) APPLICATION DISCLOSURES.—In the case of any open end consumer credit plan which provides for any extension of credit which is secured by the consumer's principal dwelling, the creditor shall make the following disclosures in accordance with subsection (b):

"(1) FIXED ANNUAL PERCENTAGE RATE.—Each annual percentage rate imposed in connection with extensions of credit under the plan and a statement that such rate does not include costs other than interest.

"(2) VARIABLE PERCENTAGE RATE.—In the case of a plan which provides for variable rates of interest on credit extended under the plan—

"(A) a description of the manner in which such rate will be computed and a statement that such rate does not include costs other than interest;

"(B) a description of the manner in which any changes in the annual percentage rate will be made, including—

"(i) any negative amortization and interest rate carryover;

"(ii) the timing of any such changes;

"(iii) any index or margin to which such changes in the rate are related; and

"(iv) a source of information about any such index;

"(C) if an initial annual percentage rate is offered which is not based on an index—

"(i) a statement of such rate and the period of time such initial rate will be in effect; and

"(ii) a statement that such rate does not include costs other than interest;

"(D) a statement that the consumer should ask about the current index value and interest rate;

"(E) a statement of the maximum amount by which the annual percentage rate may change in any 1-year period or a statement that no such limit exists;

"(F) a statement of the maximum annual percentage rate that may be imposed at any time under the plan;

"(G) subject to subsection (b)(3), a table, based on a $10,000 extension of credit, showing how the annual percentage rate and the minimum periodic payment amount under each repayment option of the plan would have been affected during the preceding 15-year period by changes in any index used to compute such rate;

"(H) a statement of—

"(i) the maximum annual percentage rate which may be imposed under each repayment option of the plan;

"(ii) the minimum amount of any periodic payment which may be required, based on a $10,000 outstanding balance, under each such option when such maximum annual percentage rate is in effect; and

"(iii) the earliest date by which such maximum annual interest rate may be imposed; and

"(I) a statement that interest rate information will be provided on or with each periodic statement.

"(3) OTHER FEES IMPOSED BY THE CREDITOR.—An itemization of any fees imposed by the creditor in connection with the availability or use of credit under such plan, including annual fees, application fees, transaction fees, and closing costs (including costs commonly described as 'points'), and the time when such fees are payable.

"(4) ESTIMATES OF FEES WHICH MAY BE IMPOSED BY THIRD PARTIES.—

"(A) AGGREGATE AMOUNT.—An estimate, based on the creditor's experience with such plans and stated as a single amount or as a reasonable range, of the aggregate amount of additional fees that may be imposed by third parties (such as governmental authorities, appraisers, and attorneys) in connection with opening an account under the plan.

"(B) STATEMENT OF AVAILABILITY.—A statement that the consumer may ask the creditor for a good faith estimate by the creditor of the fees that may be imposed by third parties.

"(5) STATEMENT OF RISK OF LOSS OF DWELLING.—A statement that—

"(A) any extension of credit under the plan is secured by the consumer's dwelling; and

"(B) in the event of any default, the consumer risks the loss of the dwelling.

"(6) CONDITIONS TO WHICH DISCLOSED TERMS ARE SUBJECT.—

"(A) PERIOD DURING WHICH SUCH TERMS ARE AVAILABLE.—A clear and conspicuous statement—

"(i) of the time by which an application must be submitted to obtain the terms disclosed; or

"(ii) if applicable, that the terms are subject to change.

"(B) RIGHT OF REFUSAL IF CERTAIN TERMS CHANGE.—A statement that—

"(i) the consumer may elect not to enter into an agreement to open an account under the plan if any term changes (other than a change contemplated by a variable feature of the plan) before any such agreement is final; and

"(ii) if the consumer makes an election described in clause (i), the consumer is entitled to a refund of all fees paid in connection with the application.

"(C) RETENTION OF INFORMATION.—A statement that the consumer should make or otherwise retain a copy of information disclosed under this subparagraph.

"(7) RIGHTS OF CREDITOR WITH RESPECT TO EXTENSIONS OF CREDIT.—A statement that—

"(A) under certain conditions, the creditor may terminate any account under the plan and require immediate repayment of any outstanding balance, prohibit any additional extension of credit to the account, or reduce the credit limit applicable to the account; and

"(B) the consumer may receive, upon request, more specific information about the conditions under which the creditor may take any action described in subparagraph (A).

"(8) REPAYMENT OPTIONS AND MINIMUM PERIODIC PAYMENTS.—The repayment options under the plan, including—

"(A) if applicable, any differences in repayment options with regard to—

"(i) any period during which additional extensions of credit may be obtained; and

"(ii) any period during which repayment is required to be made and no additional extensions of credit may be obtained;

"(B) the length of any repayment period, including any differences in the length of any repayment period with regard to the periods described in clauses (i) and (ii) of subparagraph (A); and

"(C) an explanation of how the amount of any minimum monthly or periodic payment will be determined under each such option, including any differences in the determination of any such amount with regard to the periods described in clauses (i) and (ii) of subparagraph (A).

"(9) EXAMPLE OF MINIMUM PAYMENTS AND MAXIMUM REPAYMENT PERIOD.—An example, based on a $10,000 outstanding balance and the interest rate (other than a rate not based on the index under the plan) which is, or was recently, in effect under such plan, showing the minimum monthly or periodic payment, and the time it would take to repay the entire $10,000 if the consumer paid only the minimum periodic payments and obtained no additional extensions of credit.

"(10) STATEMENT CONCERNING BALLOON PAYMENTS.—If, under any repayment option of the plan, the payment of not more than the minimum periodic payments required under such option over the length of the repayment period—

"(A) would not repay any of the principal balance; or

"(B) would repay less than the outstanding balance by the end of such period,

as the case may be, a statement of such fact, including an explicit statement that at the end of such repayment period a balloon payment (as defined in section 147(f)) would result which would be required to be paid in full at that time.

"(11) NEGATIVE AMORTIZATION.—If applicable, a statement that—

"(A) any limitation in the plan on the amount of any increase in the minimum payments may result in negative amortization;

"(B) negative amortization increases the outstanding principal balance of the account; and

"(C) negative amortization reduces the consumer's equity in the consumer's dwelling.

"(12) LIMITATIONS AND MINIMUM AMOUNT REQUIREMENTS ON EXTENSIONS OF CREDIT.—

"(A) NUMBER AND DOLLAR AMOUNT LIMITATIONS.—Any limitation contained in the plan on the number of extensions of credit and the amount of credit which may be obtained during any month or other defined time period.

"(B) Minimum balance and other transaction amount requirements.—Any requirement which establishes a minimum amount for—

"(i) the initial extension of credit to an account under the plan;

"(ii) any subsequent extension of credit to an account under the plan; or

"(iii) any outstanding balance of an account under the plan.

"(13) Statement regarding consultation of tax advisor.—A statement that the consumer should consult a tax adviser regarding the deductibility of interest and charges under the plan.

"(14) Disclosure requirements established by board.—Any other term which the Board requires, in regulations, to be disclosed.

"(b) Time and Form of Disclosures.—

"(1) Time of disclosure.—

"(A) In general.—The disclosures required under subsection (a) with respect to any open end consumer credit plan which provides for any extension of credit which is secured by the consumer's principal dwelling and the pamphlet required under subsection (e) shall be provided to any consumer at the time the creditor distributes an application to establish an account under such plan to such consumer.

"(B) Telephone, publications, and 3d party applications.—In the case of telephone applications, applications contained in magazines or other publications, or applications provided by a third party, the disclosures required under subsection (a) and the pamphlet required under subsection (e) shall be provided by the creditor before the end of the 3-day period beginning on the date the creditor receives a completed application from a consumer.

"(2) Form.—

"(A) In general.—Except as provided in paragraph (1)(B), the disclosures required under subsection (a) shall be provided on or with any application to establish an account under an open end consumer credit plan which provides for any extension of credit which is secured by the consumer's principal dwelling.

"(B) Segregation of required disclosures from other information.—The disclosures required under subsection (a) shall be conspicuously segregated from all other terms, data, or additional information provided in connection with the application, either by grouping the disclosures separately on the application form or by providing the disclosures on a separate form, in accordance with regulations of the Board.

"(C) Precedence of certain information.—The disclosures required by paragraphs (5), (6), and (7) of subsection (a) shall precede all of the other required disclosures.

"(D) Special provision relating to variable interest rate information.—Whether or not the disclosures required under subsection (a) are provided on the application form, the variable rate information described in subsection (a)(2) may be provided separately from the other information required to be disclosed.

"(3) Requirement for historical table.—In preparing the table required under subsection (a)(2)(G), the creditor shall consistently select one rate of interest for each year and the manner of selecting the rate from year to year shall be consistent with the plan.

"(c) 3d Party Applications.—In the case of an application to open an account under any open end consumer credit plan described in subsection (a) which is provided to a consumer by any person other than the creditor—

"(1) such person shall provide such consumer with—

"(A) the disclosures required under subsection (a) with respect to such plan, in accordance with subsection (b); and

"(B) the pamphlet required under subsection (e); or

"(2) if such person cannot provide specific terms about the plan because specific information about the plan terms is not available, no nonrefundable fee may be imposed in connection with such application before the end of the 3-day period beginning on the date the consumer receives the disclosures required under subsection (a) with respect to the application.

"(d) Principal Dwelling Defined.—For purposes of this section and sections 137 and 147, the term 'principal dwelling' includes any second or vacation home of the consumer.

"(e) Pamphlet.—In addition to the disclosures required under subsection (a) with respect to an application to open an account under any open end consumer credit plan described in such subsection, the creditor or other person providing such disclosures to the consumer shall provide—

"(1) a pamphlet published by the Board pursuant to section 4 of the Home Equity Consumer Protection Act of 1988; or

"(2) any pamphlet which provides substantially similar information to the information described in such section, as determined by the Board.".

"(b) Additional Disclosures When Account is Opened.—Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637(a)) is amended by adding at the end thereof the following new paragraph:

"(8) In the case of any account under an open end consumer credit plan which provides for any extension of credit which is secured by the consumer's principal dwelling, any information which—

"(A) is required to be disclosed under section 127A(a); and

"(B) the Board determines is not described in any other paragraph of this subsection.".

"(c) Advertising Requirements.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 147. ADVERTISING OF OPEN END CONSUMER CREDIT PLANS SECURED BY THE CONSUMER'S PRINCIPAL DWELLING.

"(a) In General.—If any advertisement to aid, promote, or assist, directly or indirectly, the extension of consumer credit through an open end consumer credit plan under which extensions of credit are secured by the consumer's principal dwelling states, affirmatively or negatively, any of the specific terms of the plan, including any periodic payment amount required under such plan, such advertisement shall also clearly and conspicuously set forth the following information, in such form and manner as the Board may require:

"(1) Loan fees and opening cost estimates.—Any loan fee the amount of which is determined as a percentage of the credit limit applicable to an account under the plan and an estimate of the aggregate amount of other fees for opening the account, based on the creditor's experience with the plan and stated as a single amount or as a reasonable range.

"(2) Periodic rates.—In any case in which periodic rates may be used to compute the finance charge, the periodic rates expressed as an annual percentage rate.

"(3) Highest annual percentage rate.—The highest annual percentage rate which may be imposed under the plan.

"(4) Other information.—Any other information the Board may by regulation require.

"(b) Tax Deductibility.—If any advertisement described in subsection (a) contains a statement that any interest expense incurred with respect to the plan is or may be tax deductible, the advertisement shall not be misleading with respect to such deductibility.

"(c) Certain Terms Prohibited.—No advertisement described in subsection (a) with respect to any home equity account may refer to such loan as 'free money' or use other terms determined by the Board by regulation to be misleading.

"(d) Discounted Initial Rate.—

"(1) In general.—If any advertisement described in subsection (a) includes an initial annual percentage rate that is not determined by the index or formula used to make later interest rate adjustments, the advertisement shall also state with equal prominence the current annual percentage rate that would have been applied using the index or formula if such initial rate had not been offered.

"(2) Quoted rate must be reasonably current.—The annual percentage rate required to be disclosed under paragraph (1) rate must be current as of a reasonable time given the media involved.

"(3) Period during which initial rate is in effect.—Any advertisement to which paragraph (1) applies shall also state the period of time during which the initial annual percentage rate referred to in such paragraph will be in effect.

"(e) Balloon Payment.—If any advertisement described in subsection (a) contains a statement regarding the minimum monthly payment under the plan, the advertisement shall also disclose, if applicable, the fact that the plan includes a balloon payment.

"(f) Balloon Payment Defined.—For purposes of this section and section 127A, the term 'balloon payment' means, with respect to any open end consumer credit plan under which extensions of credit are secured by the consumer's principal dwelling, any repayment option under which—

"(1) the account holder is required to repay the entire amount of any outstanding balance as of a specified date or at the end of a specified period of time, as determined in accordance with the terms of the agreement pursuant to which such credit is extended; and

"(2) the aggregate amount of the minimum periodic payments required would not fully amortize such outstanding balance by such date or at the end of such period.".

(d) Technical and Conforming Amendments.—Section 122(b) of the Truth in Lending Act (15 U.S.C. 1632(b)) is amended by striking out "section 128(b)(1)" and inserting in lieu thereof "section 127A(b)(3) and 128(b)(1)".

SEC. 3. HOME EQUITY PROTECTIONS.

Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 137. HOME EQUITY PLANS.

"(a) Index Requirement.—In the case of extensions of credit under an open end consumer credit plan which are subject to a variable rate and are secured by a consumer's principal dwelling, the index or other rate of interest to which changes in the annual percentage rate are related shall be based on an index or rate of interest which is publicly available and is not under the control of the creditor.

"(b) Grounds for Acceleration of Outstanding Balance.—A creditor may not unilaterally terminate any account under an open end consumer credit plan under which extensions of credit are secured by a consumer's principal dwelling and require the immediate repayment of any outstanding balance at such time, except in the case of—

"(1) fraud or material misrepresentation on the part of the consumer in connection with the account;

"(2) failure by the consumer to meet the repayment terms of the agreement for any outstanding balance; or

"(3) any other action or failure to act by the consumer which adversely affects the creditor's security for the account or any right of the creditor in such security.

"(c) Change in Terms.—

"(1) In general.—No open end consumer credit plan under which extensions of credit are secured by a consumer's principal dwelling may contain a provision which permits a creditor to change unilaterally any term required to be disclosed under section 127A(a) or any other term, except a change in insignificant terms such as the address of the creditor for billing purposes.

"(2) Certain changes not precluded.—Notwithstanding the provisions of subsection (1), a creditor may make any of the following changes:

"(A) Change the index and margin applicable to extensions of credit under such plan if the index used by the creditor is no longer available and the substitute index and margin would result in a substantially similar interest rate.

"(B) Prohibit additional extensions of credit or reduce the credit limit applicable to an account under the plan during any period in which the value of the consumer's principal dwelling which secures any outstanding balance is significantly less than the original appraisal value of the dwelling.

"(C) Prohibit additional extensions of credit or reduce the credit limit applicable to the account during any period in which the creditor has reason to believe that the consumer will be unable to comply with the repayment requirements of the account due to a material change in the consumer's financial circumstances.

"(D) Prohibit additional extensions of credit or reduce the credit limit applicable to the account during any period in which the consumer is in default with respect to any material obligation of the consumer under the agreement.

"(E) Prohibit additional extensions of credit or reduce the credit limit applicable to the account during any period in which—

"(i) the creditor is precluded by government action from imposing the annual percentage rate provided for in the account agreement; or

"(ii) any government action is in effect which adversely affects the priority of the creditor's security interest in the account to the extent that the value of the creditor's secured interest in the property is less than 120 percent of the amount of the credit limit applicable to the account.

"(F) Any change that will benefit the consumer.

"(3) Material obligations.—Upon the request of the consumer and at the time an agreement is entered into by a consumer to open an account under an open end consumer credit plan under which extensions of credit are secured by the consumer's principal dwelling, the consumer shall be given a list of the categories of contract obligations which are deemed by the creditor to be material obligations of the consumer under the agreement for purposes of paragraph (2)(D).

"(4) Consumer benefit.—

"(A) In general.—For purposes of paragraph (2)(F), a change shall be deemed to benefit the consumer if the change is unequivocally beneficial to the borrower and the change is beneficial through the entire term of the agreement.

"(B) Board categorization.—The Board may, by regulation, determine categories of changes that benefit the consumer.

"(d) Terms Changed After Application.—If any term or condition described in section 127A(a) which is disclosed to a consumer in connection with an application to open an account under an open end consumer credit plan described in such section (other than a variable feature of the plan) changes before the account is opened, and if, as a result of such change, the consumer elects not to enter into the plan agreement, the creditor shall refund all fees paid by the consumer in connection with such application.

"(e) Additional Requirements Relating to Refunds and Imposition of Nonrefundable Fees.—

"(1) In general.—No nonrefundable fee may be imposed by a creditor or any other person in connection with any application by a consumer to establish an account under any open end consumer credit plan which provides for extensions of credit which are secured by a consumer's principal dwelling before the end of the 3-day period beginning on the date such consumer receives the disclosure required under section 127A(a) and the pamphlet required under section 127A(e) with respect to such application.

"(2) Constructive receipt.—For purposes of determining when a nonrefundable fee may be imposed in accordance with this subsection if the disclosures and pamphlet referred to in paragraph (1) are mailed to the consumer, the date of the receipt of the disclosures by such consumer shall be deemed to be 3 business days after the date of mailing by the creditor.".

SEC. 4. CONSUMER EDUCATION.

The Board of Governors of the Federal Reserve System shall develop and prepare a pamphlet for distribution to consumers which contains—

(1) a general description of open end consumer credit plans secured by the consumer's principal dwelling and the terms and conditions under which such loans are generally extended; and

(2) a discussion of the potential advantages and disadvantages of such plans, including how to compare among home equity plans and between home equity and closed end credit plans.

SEC. 5. CLERICAL AMENDMENTS.

(a) Chapter 2.—The table of sections for chapter 2 of the Truth in Lending Act is amended—

(1) by inserting after the item relating to section 127 the following new item:

"127A. Disclosure requirements for open end consumer credit plans secured by the consumer's principal dwelling."; and

(2) by inserting after the item relating to section 136 the following new item:

"137. Home equity plans.".

(b) Chapter 3.—The table of sections for chapter 3 of the Truth in Lending Act is amended by inserting after the item relating to section 146 the following new item:

"147. Advertising of open end consumer credit plans secured by the consumer's principal dwelling.".

SEC. 6. ABILITY TO COMPARE PLANS.

(a) Study Required.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System shall conduct a study to determine whether the use of the same term, such as annual percentage rate, to describe the cost to the consumer for extensions of credit under all forms of consumer credit plans may unduly mislead consumers with respect to the comparability of the various forms of such extensions of credit.

(b) Report Required.—At the conclusion of the study required under subsection (a), the Board of Governors of the Federal Reserve System shall submit a report to the Congress containing the Board's findings and conclusions in connection with such study and, if applicable, such recommendations for legislation or administrative action as the Board may determine to be appropriate, including, if appropriate, a new term to replace "annual percentage rate" or "corresponding nominal percentage rate".

SEC. 7. REGULATIONS AND EFFECTIVE DATE.

(a) Regulations.—Before the end of the 60-day period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System shall prescribe such regulations as may be necessary to carry out the purposes of the amendments made by this Act.

(b) Effective Date.—The amendments made by this Act, and the regulations prescribed pursuant to subsection (a) with respect to such amendments, shall apply to—

(1) any agreement to open an account under an open end consumer credit plan under which extensions of credit are secured by a consumer's principal dwelling which is entered into after the end of the 5-month period beginning on the date on which the regulations prescribed under subsection (a) become final; and

(2) any application to open such an account which is distributed by, or received by a creditor, after the end of such 5-month period.

(c) Voluntary Compliance.—Notwithstanding subsection (b), any creditor may comply with the amendments made by this Act, in accordance with the regulations prescribed by the Board, before the effective date established under such subsection.

Amend the title so as to read: "A bill to amend the Truth in Lending Act to establish additional disclosure, advertising, and other requirements for home equity loans.".

The SPEAKER pro tempore. Is a second demanded?

Mr. BARTLETT. Mr Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. Annunzio] will be recognized for 20 minutes and the gentleman from Texas [Mr.

BARTLETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we take up H.R. 3011, the Home Equity Loan Consumer Protection Act of 1988. This act will provide consumers with important protections regarding open-end home equity loans.

I want to commend the chairman of the Banking Committee, the gentleman from Rhode Island, Mr. ST GERMAIN, for his cooperation and assistance in moving this bill along so quickly. He has been a long-time consumer champion and his cosponsorship of this legislation adds to his great consumer work. I also want to commend the ranking minority member, of the committee, Mr. WYLIE, and the ranking minority member, of the subcommittee, Mr. HILER, as well as the gentleman from New York, Mr. SCHUMER, for their support and cooperation in producing this legislation. I also want to commend the gentleman from Texas, Mr. BARTLETT, for handling this bill for the minority side.

Most of all I want to commend the gentleman from North Carolina [Mr. PRICE] with whom I have cosponsored this legislation. Mr. PRICE has been a tireless worker in his efforts to get this legislation enacted and he deserves not only the accolades of the Members of this House, but the gratitude of every American who owns a home.

Mr. PRICE is to be especially commended for being the first Member in this body to introduce home equity loan legislation. He worked hard with Members, consumer groups, and industry representatives to balance many competing interests. That is quite a feat even for long-time Members of the House, let alone for a first-term Member. His accomplishment bodes well for his future in this body.

Mr. Speaker, there was a time when only termites could do more damage to a homeowner than a home equity loan. Today, we are changing all of that. We can't eliminate termites, we'll leave that to Otto, the Orkin man, but we are making certain that home equity loans will be a benefit rather than a burden to homeowners.

Home equity loans may well be the fastest growing craze since the hoola hoop. But unlike the hoola hoop, which cost about $1.98 and normally end up in yard sales after a few months use, home equity loans are not a nickel and dime proposition. In 1981, only slightly more than $20 billion was loaned on home equity loans. By 1986, that figure had increased 500 percent with more than $100 billion being loaned on the equity built up in a person's home. The figures for 1987 are still not available but home equity loans could well reach the $200 billion origination mark for this year. These loans are growing so rapidly that it is very difficult to obtain accurate figures as to the volume of outstanding loans.

But by all estimates, even the large amount of money outstanding in home equity loans is only a microscopic dot compared to the amount of equity that American homeowners have built up in their homes.

It is difficult for me to envision any dollar amount greater than the national debt of the United States, which is currently over $2 trillion. But it is estimated that homeowners in this country have equity values in their homes of $4.83 trillion, more than twice the amount of the national debt. It is further estimated that nearly 97 percent of the home equities built up by homeowners are still available for borrowing. So while the interest in home equity loans has risen faster than a new Bruce Springsteen record, there is still so much untapped home equity potential available, 4.83 trillion dollars' worth, that if all of those dollars were placed in a stack, it would reach 32,000 miles in the air and would weigh 490 million tons.

Home equity loans offer advantages to consumers. To a large part, the interest on these loans is tax deductible while the deduction for other forms of consumer interest is being phased out. In addition, home equity loans enables consumers to tap the equity in their homes without selling them.

These loans are more flexible than traditional second mortgages. They can give consumers a large line of credit which can be easily accessed through checks or credit cards.

At the same time, home equity loans can present many potential problems. Many of these loans have variable rates and are often offered with an initial attractive low rate. These rates can then go up, taking payments up with them. Consumers may be unaware of the potential for escalating rates and their impact on their monthly payments. Unexpected payment crunches can occur.

The legislation will assure that consumers get necessary and important disclosures before they open home equity loan accounts. It will enable consumers to understand fully the conditions of this new form of consumer borrowing. It will make clear to them that they risk the loss of their home in the event of default.

In addition to the disclosures required with applications, the legislation also contains important home equity protections for variable rate home equity loans. The index rate must be one that is both publicly available and not under the control of the lender. This protects consumers from artificial manipulation of their interest rates.

Lenders are prohibited from calling in the loan for any reason other than in three specified instances. Those instances are: fraud or misrepresentation on the part of the consumer, a failure of the consumer to meet the repayment terms of the account, or action by the consumer which adversely affects the creditors' security interest.

Another important consumer protection contained in the bill is a ban on unilateral changes in the terms of the account. The legislation generally prohibits creditors from unilaterally changing the terms of the account. Changes are permitted in only certain specified circumstances. A creditor may change the index used for a variable rate loan, if the old index is no longer available. The next index must yield results similar to the old index.

In cases in which there is a material change in the borrowers financial circumstances, a creditor may freeze the account or reduce the credit line. Similarly, if the creditor has doubts about the consumer's ability to repay, or if the consumer is in default, the creditor may prohibit new borrowing or reduce the credit line.

Consumers are also given the right to have fees they paid refunded until three days after their receipt of the disclosures required by the act.

Mr. Speaker, this is a good bill which will help consumers interested in applying for and using home equity loans. These loans can be beneficial to consumers, so long as they understand the risks involved. This legislation will assure that consumers are fully aware of the terms and conditions of these loans. The legislative process has worked to produce a good piece of legislation, and I urge its passage.

Mr. ST GERMAIN. Mr. Speaker, the legislation before us, the Home Equity Loan Consumer Protection Act of 1988 is one of the most important consumer measures to come before the Congress in years.

Today, millions of homes across the Nation are being placed on the line as security for loans. When families enter into these loan contracts blindly, when they are handed misleading information, and when the rules of the game are changed at half-time, homes—usually a family's biggest asset—are placed at risk.

H.R. 3011, as amended, would provide consumers with disclosures of all aspects of the loan commitment—up front before the contract is locked in forevermore—no hidden fees, no hidden terms that the lender can impose on unsuspecting homeowners.

The legislation would also establish standards for the advertising of home equity loans—putting an end to carnival-type advertising that lures homeowners into deals they can't afford. The bill would also require that the interest rates on these loans be tied to an index outside the control of the lender. Thus, the consumer would be assured that there could be no manipulation by the lender after the fact. Most important, Mr. Speaker, the lender could not unilaterally change the terms of a loan during the life of the contract except under very limited conditions.

Mr. Speaker, loans tied to equity in homes are a valuable and useful source of credit for many consumers. They are providing funds for a variety of purposes including education. They are increasingly popular with consumers and clearly these secured loans are profitable for lenders.

H.R. 3011 does nothing to discourage this growing activity. The legislation simply assures that families may enter these home equity contracts armed with the maximum information and assured they are not pledging their homes on the basis of some advertising sleight of hand. It is legislation which benefits both legitimate lenders and serious borrowers.

Mr. Speaker, this legislation is designed to give consumers, when they start shopping for a loan, solid information on which to make decisions—accurate and complete information about charges that can be imposed at any point from application to the termination of a home equity loan. Only with full and accurate information about all charges can a borrower shop for the best credit deal and, more important, determine whether the loan is affordable before anything is signed.

Home equity loans are available from a variety of sources. All classes of depository institutions—commercial banks, savings banks, credit unions, and savings and loan associations—offer home equity loans. So that the consumer may shop for credit and compare terms, H.R. 3011 is designed to provide uniform requirements for all institutions—similar restrictions and disclosures. We have attempted to avoid exceptions from one type of institution to another—exceptions that would serve to confuse and make it more difficult for the consumer to compare terms and conditions.

Most important, Mr. Speaker, it is intended that the consumer receive full information up front—while the shopping is still underway. We want families who are putting their homes on the line to be able to go home with the lenders' brochures, sit down at the kitchen table, compare terms, and calculate whether the loan is affordable under their economic circumstances. Legitimate lenders, operating in a free and open marketplace, have no difficulty putting all the facts on the table and letting good old American competition settle the issue.

Mr. Speaker, I want to pay special tribute to our colleague from North Carolina, DAVID PRICE, who has long championed this legislation and who has pushed diligently to give the consumer maximum protection. He deserves great credit for keeping this high on the legislative agenda.

All of us are well aware of the hard work and wise counsel that the chairman of the Consumer Affairs Subcommittee, FRANK ANNUNZIO, has provided in moving H.R. 3011 forward. Our colleague from New York, CHUCK SCHUMER, early on recognized the problems surrounding home equity loans and introduced disclosure legislation, a substantial part of which is incorporated in the bill before us today.

Mr. Speaker, I hope H.R. 3011 will have the overwhelming support of the House.

Mr. ANNUNZIO. Mr. Speaker, I reserve the balance of my time.

Mr. BARTLETT. Mr. Speaker, in deference to listening to the sponsor of the bill, the gentleman from North Carolina [Mr. PRICE], I will reserve the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I yield 6 minutes to the distinguished sponsor of the bill, the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE of North Carolina. Mr. Speaker I rise to urge favorable action on H.R. 3011, the Home Equity Loan Consumer Protection Act of 1988. I introduced this bill on July 23, 1987. It has received broad bipartisan support and has been expeditiously considered and reported by the Subcommittee on Consumer Affairs and Coinage and by the full Banking Committee.

Home equity loans are the latest financial craze. Their popularity is due in large part to the Tax Reform Act of 1986 which phased out the deductibility of interest payments on all consumer borrowings except home mortgages. Consumers, therefore, have a strong incentive to finance new purchases or consolidate existing debt by borrowing against the equity in their home.

Despite these benefits, I have become concerned that consumers may not be getting the full picture about these loans. I have seen too many misleading advertisements, and I have heard disturbing reports from both consumer and banking representatives about confusion on the part of some consumers in using this product.

I introduced H.R. 3011, the Home Equity Loan Consumer Protection Act of 1988, to meet these concerns. Under current law, a consumer may never be advised about the essential features of his or her home equity loan until it's time to sign the full agreement. The timing of the disclosures now required by law and regulation fail to give consumers key information at a time when they need it to compare products at different institutions and to decide whether home equity loans are the best financial option for them. Furthermore, under current law, a consumer may have already paid a nonrefundable fee and never seen or considered important provisions of the loan prior to the extension of credit.

H.R. 3011 will help consumers place their loan option in perspective. Regardless of what first interested a consumer in home equity loans, H.R. 3011 will require that when a consumer first picks up an application, a series of key disclosures will be available so that a sound and informed judgment about this financial product can be made.

The bill also requires a financial institution to disclose whether its loan product has annual and lifetime caps on interest rates and, if there are caps, to reveal what the limits are, and to present an historical example which will let consumers see the potential impact of a rise in interest rates on their monthly payments. These early disclosures will also include a series of statements to alert consumers to certain features of the loans, like interest-only payments, which may have drawbacks for certain consumers. Finally, the Federal Reserve will be required to develop a pamphlet which will be furnished to prospective borrowers. This pamphlet will give detailed information about home equity loans and discuss their relative advantages and disadvantages compared to other types of loans.

The purpose of the early disclosures is to give a consumer key information at a time when it will be most useful; it is not designed to reproduce the detailed features of a legal contract. In fact, we have kept the disclosures simple and direct and have required that they be clearly and conspicuously displayed—knowing that it is not the quantity of disclosures that counts, but the help they give the consumer in grasping essential information and making relevant comparisons.

H.R. 3011 also corrects some abuses which have appeared in the advertising of home equity loans. For example, an ad, like this one, which promotes a teaser rate, would have to also reveal with equal prominence the interest rate which would otherwise be in effect under the plan if this short-term promotional rate was not being offered. And an ad which promotes low monthly payments that do not fully amortize the principal over the life of the loan, would, under H.R. 3011, have to disclose that making only these payments would cause a consumer to face a large balloon payment at the end of the loan period. The bill does not impose extensive affirmative actions on advertising; it is not our purpose to require advertising disclosures that would, for example, make billboard or television promotion almost impossible. Under this "trigger" concept, however, we guarantee that if and when certain features of these loans are highlighted, this must be done in a way that is not one-sided or misleading.

H.R. 3011 basically embodies a disclosure approach. However, there are a few areas where restrictions on certain contractual practices used by lenders are warranted. For example, we have addressed the concern that a financial institution using a home equity index within their control might abuse that privilege. The bill requires that a lender use only an index which is not under the lender's direct control.

The bill also ensures that a lender cannot arbitrarily demand full repayment of the loan. Instead, a lender can only accelerate repayment when a borrower has failed to meet repayment obligations, engaged in fraud or misrepresentation, or acted or failed to act to protect the security interest for the loan. Similarly, a creditor is now prohibited from unilaterally changing the terms of the loan, with only a few, carefully drawn exceptions. Lenders can freeze or reduce the credit line if there is a decline in the value of the security interest, a material change in the borrower's financial circumstances such that the creditor doubts the consumer will be able to repay, a default by the consumer of a material obligation under the plan, or an action by a government authority which effects the current terms of the loan. The lender is also permitted to make changes which benefit the consumer.

I believe all these provisions protect the consumer without hindering the ability of lenders to operate successfully equity credit plans. This is critical because we do not need or want legislation which will cause consumers to pay higher prices or reduce the ability of lenders to offer certain types of financial products.

I believe it is this balance which has allowed this bill to receive such widespread, bipartisan support. The bill received unanimous support in both the Consumer Affairs and Coinage Subcommittee and the full Banking Committee. And I believe we will have a similar result today.

There are a number of people who have had a positive influence on this legislation. I want to thank the representatives from the various consumer organizations for their support and help during this process. And I want to compliment the American Association of Retired Persons [AARP] for working with my office too ensure that the special needs of our Nation's senior citizens are properly addressed in this legislation. In addition, I am grateful to representatives of the banking industry for their productive insights and comments. They have helped us to achieve a reasonable and balanced approach of this problem.

Furthermore, I want to thank Banking Committee Chairman ST GERMAIN for all his help during the process of bringing this bill to the floor of this body. He has been crucial to the success of this legislation. And my Banking Committee colleague, CHUCK SCHUMER, has been a positive force in the evolution of this home equity protection legislation.

I am especially grateful to the chairman of the Consumer Affairs and Coinage Subcommittee, FRANK ANNUNZIO. He has gone out of his way to ensure that this bill continues to move forward and that the interests of the American consumer are adequately protected in it. I have enjoyed working with him on this legislation, and I especially appreciate his leadership.

I also want to thank CHALMERS WYLIE and JACK HILER, the committee's and subcommittee's ranking Republican members. They were early supporters of this legislation and have helped to foster the cooperative spirit which has characterized this effort from beginning to end.

In closing, Mr. Speaker, I urge my colleagues to support this needed consumer protection measure. And I would like to include for the record, a list of clarifications of various provisions of this legislation.

Mr. Speaker, I include in the RECORD a list of clarifications of various provisions of this legislation:

H.R. 3011—SECTION-BY-SECTION CLARIFICATIONS

Section 127A(a) and Section 137 Application Disclosures and Home Equity Plans

A change contemplated by a variable feature of the plan is not a change in terms under this Act. A creditor may use a single table to disclose the various repayment options under the plan, together with other information required to be disclosed with the historical example.

Section 127A(a)(2)(G) Historical Example

New subsection 127A(a)(2)(G) requires the lender to provide an historical example, based on a $10,000 advance, showing how interest rate changes implemented according to the terms of the loan program would have affected minimum payment amounts during the 15 year period preceding the disclosure. In preparing this historical table, the lender may select the historical interest rate for any period during each of the past 15 years, but the manner of selection must be consistent from year to year. For example, if the program allows rates to adjust monthly according to the average of the previous month's index values, the lender may display the historical index values for any month during each of the past 15 years. However, if a lender choses to use March index values in one year, for example, it must use March index values for all 15 years. In other words, lenders may not choose the lowest monthly index values each year. Further, the index value displayed must reflect the lender's actual program.

Section 127A(a)(2)(H) Maximum APR and Worst Case

Section 127A(a)(2)(F) requires the lender to disclose the maximum possible interest rate that may be imposed under the lender's plan. This rate cap, which must be stated as a maximum percentage rate, will also be used to show the worst case minimum payment under paragraph (H) of the same subsection. This so called "worst case" disclosure will aid consumers to know upon entering a loan program the maximum payments they will have to make if rates spiral. In figuring the earliest date by which the maximum rate could be imposed, the lender should assume that the interest rate increases as rapidly as possible under the loan program.

Section 127A(a) (3) and (4) Other Fees Imposed by the Creditor-Third Party Fees

The lender must itemize fees it imposes directly for availability or use of the account. Additional fees imposed by third parties in connection with opening the account shall be disclosed by the lender in the form of a reasonable estimate within an aggregate range based on the lender's experience with similar home equity accounts.

Section 127A(a)(6)(A) Period During Which Terms Are Available

Section 127A(a)(6)(A) requires lenders to disclose, if applicable, that the terms are subject to change prior to opening the account. The lender may wish to make some terms subject to change but not others. This is appropriate as long as the terms that are subject to change are clearly identified. If the lender wishes to condition the continuing availability of certain terms on the requirement that the applicant submit the loan application within a specific time period, the creditor must disclose the date by which, or the period within which, the application must be received to qualify for those terms.

Section 127A(a)(6)(C) Retention of Information

A creditor may, but is not required, to supply an extra copy of the information contemplated under this paragraph that can be retained by the consumer.

Section 127A(1)(7) Rights of Creditor with Respect to Extensions of Credits

This statement should include an indication of any additional fees that may be imposed by the creditor for termination of the account.

Section 127A(a)(9) Example of Minimum Payment and Maximum Repayment Period

An interest rate is "recently in effect" if it was used under the plan within the 12 months preceding the date the application is provided to the consumer.

Section 127A(a)(12)(B) Minimum Balance and Other Transaction Amount Requirements

Under this subsection, the lender must disclose whether it requires the consumer to borrow a minimum advance amount or maintain a minimum loan balance. The minimum loan balance and minimum cash advance requirements must be stated in dollar amounts or as percentages, provided that it reflects the terms of the particular account.

Section 127A(b)(1)(A) Time of Disclosure

Section 127A(b)(1) sets forth the basic rule that the disclosures are to be given at the time the creditor distributes an application form. However, exceptions to this basic rule are set forth in subparagraph (B) to address operational difficulties in complying with the general rule.

For example, where an application is taken over the phone, and there is no written application, the disclosures cannot be given with an application. In that case, the lender may not impose any fee before the end of the 3-day period beginning on the date the consumer receives the disclosures. If the consumer decides, in light of the disclosures, not to go forward with the application, this bill allows him to do so without obligation.

Section 127A(b)(2)(A) Form of Disclosure

"On or with any application" means that the disclosures can be provided with the application, but there is no requirement that the disclosures actually be fastened to the application form. In any event the disclosures must be presented together even if they are not provided on a single form or are not attached.

Section 127A(b)(2)(B) Segregation of Required Disclosures from Other Information

The disclosures must be conspicuously segregated from other information provided in conneciton with the application. The purpose of this requirement is to ensure that the disclosures required under this Act are separated from other promotional or substantive information about the acoount. While under this section the variable rate disclosures may be provided on a form separate from the rest of the dislosures, they must be given in a way that clearly associates them.

Section 127A(d) Principal Dwelling

Unlike the rescission coverage of the current Act, the provisions of this legislation apply to home equity lines of credit secured by the borrower's principal dwelling or secured by a second or vacation home. There is no borrower occupancy requirement with respect to the second or vacation home.

Section 137(a) Index Requirement.

Under section 3 of the bill, a new section 137(a) is added to the Act to require variable rate lenders to tie their interest rate changes to an index or rate of interest which is publicly available and not under the control of the lender.

Nothing in this section precludes a creditor from using the Wall Street Journal prime rate as its index, even if the creditor is one of the institutions whose prime rate is used to establish the Wall Street Journal prime rate.

Section 137(b) and (c) Grounds for Acceleration/Change in Terms

The three conditions or events that permit a creditor to accelerate and outstanding balance under subsection (b) also permit a creditor to prohibit additional extensions of credit or to reduce the credit limit under subsection (c).

Section 137(b)(2) and (3) Grounds for Acceleration

(1) Failure to Meet Repayment Terms—This section deals with the failure of the borrower to actually make payments. It does not encompass minor transgressions such as inadvertently sending the payment to the wrong branch

(2) Consumer Action Adversely Affecting Security—Consumer action or inaction which has an adverse effect on the creditor's security interest in the home is justification for a call-in of the loan. Transfer of title is one example; failure to maintain required insurance on the home is another.

Section 137(c) Change in Terms

The language of this section that permits changes in "insignificant terms" is intended to address operational problems that would otherwise result if literal compliance with the blanket prohibition were required.

This section restricts unilateral change in terms, but does not preclude specific changes that are contemplated on the occurrence of a specified event. For example, the agreement can provide for a change of index or margin in an employee loan program if the borrower's employment terminates. Also, the legislation does not preclude special contractual provisions regarding additional extensions of credit if the account reaches the lifetime cap under the plan.

Under section 137(c)(2)(A), the lender may change terms where the original index used by the creditor is no longer available. In that case, the lender may need to adjust its margin so that the substitute rate formula will produce a loan rate that is substantially similar to what the original index and margin would have produced.

Under subsections 137(c)(2)(B) through (E), the lender may prohibit additional extensions of credit or reduce the credit limit when certain circumstances that existed when the line of credit was originally established have changed to the disadvantage of the lender. However, this prohibition or reduction may only continue for so long as the changed circumstances exist

Section 137(c)(2)(E) Certain Changes Not Precluded

Government action means any government action, including state and local government action, and not just action by a federal government agency.

Section 137(c)(3) Material Obligations

The list of categories of contract obligations which are deemed to be material for purposes of Section 137(c)(2)(D) may alternatively be incorporated into the disclosures under Section 127(a).

Section 147(d)(2) Rate Quoted in Advertisement Must Be Reasonably Current

The interest rate quoted must be reasonably current given the media involved. For example, if the deadline for placing an advertisement is one week before publication, the rate must be current as of the deadline, or within a reasonably short period before the deadline.

Section 6 Ability to Compare Plans

Under current law, the disclosed annual percentage rate (APR) for home equity loans, which does not include costs other than interest, is not comparable to the APR disclosed for closed-end credit, which does include certain costs other than interest. I am concerned that this may create an inherently misleading situation for consumers, in that they may assume they can directly compare the APR associated with a closed-end second mortgage, for example, with the APR associated with a home equity account.

Thus, under section 6 of the bill, the Board may also issue a regulation to eliminate the misleading impression that may be created by use of the term APR in the context of home equity loans. That section requires the Board to conduct a study on whether use of the term in both contexts is misleading. If it determines that the term is misleading, the Board may issue a regulation that would substitute a new term, of the Board's choice, in its place. Whether the Board decides to go forward with a regulation or not, it is to submit a report to Congress after completing its study, which must be concluded within 6 months after this bill is enacted into law.

Mr. PRICE of North Carolina. Mr. Speaker, I would like to take this opportunity to clarify a few additional provisions of H.R. 3011, the Home Equity Loan Consumer Protection Act of 1988.

The bill establishes certain obligations for third parties who distribute home equity applications. Its intent is not, however, to establish liability under section 130 of the Truth-in-Lending Act for third parties. Nor does the bill define third parties to be only parties unaffiliated with the actual creditor. The obligations established by this legislation for third parties apply whether or not they are affiliated with the creditor.

I anticipate, of course, that any ambiguities remaining in the interpretation of these or other sections can be addressed in conference.

I appreciate the support of my colleagues on this needed consumer measure, and I believe we have achieved a major victory for the American consumer.

□ 1430

Mr. BARTLETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in recent years, home equity lines of credit have become increasingly popular. According to testimony presented to the Banking Committee last October, outstanding home equity loans totaled approximately $225 billion. Given the popularity of this type of credit, the Banking Committee has approved legislation to ensure that home owners are given the information necessary to fully understand their responsibility for repaying the loan and the consequences if they fail to meet the payment schedule. H.R. 3011 passed the Banking Committee by voice vote and with no opposition. It is supported by ranking Republicans on both the full committee and subcommittee.

The legislation before us today represents a compromise between the banking industry and consumer groups and I encourage the other members of the House to pass this legislation. On behalf of Mr. WYLIE, the ranking minority member of the Banking Committee, and Mr. HILER, the ranking minority member on the Banking Subcommittee on Consumer Affairs, I commend Mr. Price and the respective majority and minority Committee staffs for their effort. I also commend Mr. ANNUNZIO, chairman of the Consumer Affairs Subcommittee, for his support and effort to move H.R. 3011 through the legislative process. On Mr. WYLIE and Mr. HILER's behalf, I also concur with Mr. PRICE's clarifying remarks which he has submitted for the record.

They have worked with the interested parties to develop a statutory formula that sets specific disclosure such as: identification of annual percentage rates, fees to obtain a home equity loan and statements of a consumer's liability. The legislation also sets advertising guidelines for home equity loans.

While the Administration would prefer to leave the issue of disclosure requirements up to the bank regulatory agencies, it does not oppose H.R. 3011.

I also note that with passage of the bill before us today, the House has clearly indicated its resolve to ensure that the banking industry should respect the concerns of individual consumers. The Congress has taken a responsible, full disclosure approach to this and related consumer legislation. This approach is in contrast to suggested requirements that are more onerous in nature. In addition to the home equity loan disclosure bill, the House has adopted a Truth-In-Savings disclosure bill as well as legislation requiring full disclosure of rates and terms associated with credit cards.

Now that the House has adopted 3 consumer-related banking bills in this Congress, it is time to turn to other substantive issues facing the financial industry in the remaining legislative days in this session—and the number of days is quickly dwindling. As of today, there are less than 40 days remaining.

It's my hope that in the time remaining, the Banking Committee will also consider and favorably adopt legislation to address the numerous changes that have occurred in the financial marketplace and have consequently rendered existing statutes almost obsolete.

Given the ever changing market conditions, existing banking laws bear little relation to the "real world" of delivery of financial services in 1988.

Last year, when we passed the Competitive Equality Banking Act, we agreed that the next step would be to consider comprehensive legislation to address the kinds of new activities that the regulators and the Supreme Court are now approving in a piecemeal fashion.

The Senate has already acted on comprehensive banking legislation to set a new regulatory structure for the financial industry. In March, the Senate voted 94-2 to deregulate the financial industry.

To help initiate discussion, Mr. Hiler and I have drafted legislation in consultation with other members of the Banking Committee from both sides of the aisle. The legislation, which we may introduce, is an example of a bipartisan effort to redefine what is and is not permissible in the areas of banking, securities, real estate and insurance.

The measure also sets new standards for the industry to allow consumers to also benefit from the restructuring. It also establishes functional regulation, avoids conflicts of interest and mandates the separation of federally insured deposits from commercial activities. Overall, we have established good communication with the office of the chairman of the Banking Committee and have been assured that there will be committee action in the next several weeks on some type of bank powers legislation.

Today, let's pass the Home Equity Loan Consumer Protection Act; it fits nicely with the other two consumer bills that have already passed the House. Then let's begin debate on legislation to reform and modernize the regulatory structure for the financial industry.

Mr. Speaker, I reserve the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. Vento], a member of the full committee.

Mr. VENTO. Mr. Speaker, I rise in support of the Home Equity Loan Consumer Protection Act. Today, the loss of homeownership may well result from the purchase of consumer products that are folded into the home equity loan package. It is imperative that more clarity of such terms be attained in practice and by U.S. law. More and more consumers are using home equity loans. Home equity lending incredibly doubled between 1986 and 1987, increasing from approximately $40 to $80 billion. Home equity lending is expected to continue to increase due to changes in tax reform which phased out the deductibility of interest payments on all consumer borrowing except home mortgage.

Due to tax reform changes, Mr. Speaker, the U.S. Tax Code is in effect encouraging consumers to use home equity loans. These consumers are in fact taking a significant risk by borrowing against their homes. Many of the borrowers are older Americans that have invested a lifetime into their homes. According to Consumers Union, Consumer Federation of America and U.S. Public Interest Research Group, many consumers are not receiving all the necessary facts prior to taking out the loans. Consumers are exposed and confronted with unfair contract terms, misleading advertisements and inadequate disclosures about the loan programs. Due to the unique nature and high risk factor of these loans, it is extremely important to make sure the borrowers know exactly what their obligations are before deciding to sign a home equity loan contract.

The legislation we are considering today, H.R. 3011, will help ensure that consumers are fully informed about the terms of such home equity loans. It will help prevent borrowers from putting their homes at risk uninformed and imprudently. The measure will prohibit lenders from unfairly changing the terms of the contract after it has been signed by both parties. Advertisements will be required to include more complete and accurate information about loan fees and rates.

Mr. Speaker, I commend Chairman Annunzio and the major sponsor Congressman Price, I'm pleased to be a sponsor and I urge my colleagues to join me in supporting this modest measure to provide meaningful consumer protection for home equity borrowers. Home ownership is indeed at stake when misunderstandings occur regarding home equity loans.

Mr. SCHUMER. Mr. Speaker, almost a year ago, concerns began rising about the increasing popularity of home equity loans. People were lining up to apply for these loans and banks where pushing them in advertisements of all types. But home equity loans have pitfalls that can easily ensnare even the most careful consumer.

To guide consumers around these pitfalls Congressman Price and I introduced consumer protection bills. And today the House of Representatives will vote on a bill that is the product of months of work and the leadership of the chairman of the subcommittee, Mr. Annunzio, and the chairman of the full committee, Mr. St Germain.

Home equity loans can be like a loaded pistol. Consumers need to beware or they can blow up in their face. Home equity loans have several potential pitfalls if a consumer is not completely aware what they are buying. Some of the pitfalls are present even when the consumer is completely aware.

H.R. 3011 would solve many of the mysteries and help consumers make the most of home equity loans without getting burned.

There are several important consumer protections in the H.R. 3011. For example, the bill would outlaw banks from selling a home equity loan where the bank is in control of the index that is used to determine the interest rate. The index is required to be a public measure that is outside the control of the lender. H.R. 3011 also protests consumers from unilateral changes by lenders in home equity loan contracts.

The main thrust of the bill is what it should be—disclosure. H.R. 3011 would provide extensive up-front disclosure of the true costs of home equity loans. All fees and costs associated with the loan would have to be disclosed when a person picks up an application. And although the bill does not contain an annual cap on interest rates like my original bill, it does contain a 15-year historical disclosure of the fluctuation in rates and payments that the consumer can use as a guide for future rates.

The consumer is protected from misleading statements or half truths in advertisements. Any time a super-low short-term "teaser rate" is used in an ad the ad will also have to display what the normal rate would be in equal prominence. In addition, all ads will have to disclose the hidden costs of home equity loans—fees and points. And if a balloon payment is required under the loan, that also needs to be disclosed in the ad.

There are some areas of H.R. 3011 that should be clarified as we move to conference on the bill. It should be very clear that under the provisions of the bill all costs are to be disclosed to the consumer. Included in these disclosures should be all opening costs, such as title insurance and appraisals, as well as fees that can be imposed later such as prepayment fees and charges for removing the security interest when the account is closed.

We were also careful to craft a bill that ensured that the consumer got all the required information at a time when it would be most useful to them. All consumers get the disclosures when they receive an application for a home equity loan. There are three narrowly crafted exceptions to this rule, one of which is an exception if the consumer receives the application through a third party. It is my understanding that the third party exception applies to companies distributing home equity loan applications that are unaffiliated with the actual creditor. Further, it is my understanding of the bill that unaffiliated brokers have their own disclosure responsibilities and will be held liable if they fail to meet these responsibilities.

In all, this is a tough bill but a fair bill. With the passage of H.R. 3011, the House of Representatives is taking the mystery out of home equity loans and hopefully providing consumers with a guide to the potential pitfalls of home equity loans.

Mr. BARTLETT. Mr. Speaker, I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the bill, H.R. 3011, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Truth in Lending Act to establish additional disclosure, advertising, and other requirements for home equity loans."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3011, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1440

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. VENTO) to revise and extend their remarks and include extraneous material:)

Mr. OWENS of New York, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of New York, for 5 minutes each day, on June 21, 22, and 23.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was agreed to:

(The following Members (at the request of Mr. BARTLETT) and to include extraneous matter:)

Mr. COURTER.

Mr. BUECHNER.

Mr. LEWIS of California.

Mr. MCCOLLUM.

Mr. WHITTAKER.

Mr. PORTER in two instances.

Mr. DAUB.

(The following Members (at the request of Mr. VENTO) and to include extraneous matter:)

Mr. ANDERSON in two instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. DINGELL.

Mr. MORRISON of Connecticut.

Mr. LAFALCE.

Mr. SCHUMER.

Mr. ACKERMAN in two instances.

Mr. MAZZOLI.

Mr. WHEAT.

Mr. DYSON.

Mr. MILLER of California.

Mr. RICHARDSON.

Mr. LANTOS in two instances.

Mr. RANGEL.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On June 15, 1988:

H.R. 1212. An act to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce; and

H.R. 4448. An act to designate the Cleveland Ohio General Mail Facility and Main Office in Cleveland, OH, as the "John O. Holly Building of the United States Postal Service".

On June 17, 1988:

H.R. 2203. An act to increase the amount authorized to be appropriated with respect to the Sewall-Belmont House National Historic Site;

H.R. 4621. An act to provide congressional approval of the Governing International Fishery Agreement between the United States and the government of the German Democratic Republic;

H.R. 4638. An act to amend the effective date provision of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988;

H.R. 4799. An act to extend the withdrawal of certain public lands in Lincoln County, NE;

H.R. 2652. An act to revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes;

H.R. 1044. An act to establish the San Francisco Maritime National Historical Park in the State of California, and for other purposes;

H.R. 3927. An act to amend the United States Housing Act of 1937 to establish a separate program to provide housing assistance for Indians and Alaska Natives; and

H.J. Res. 423. Joint resolution to designate the third week in June 1988 as "National Dairy Goat Awareness Week".

ADJOURNMENT

Mr. VENTO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 42 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 21, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3819. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer to Bahrain for defense articles estimated to cost $50 million or more (Transmittal No. 88-34), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3820. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-188, "Wastewater System Regulation Amendment Act of 1988," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3821. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-189, "District of Columbia Government Organizational Structure Act of 1988," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3822. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-190, "Dangerous Dog Amendment Act of 1988," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3823. A letter from the Auditor, District of Columbia, transmitting a copy of the report entitled, "Annual Audit of the D.C. Lottery and Charitable Games Control Board for Fiscal Years 1986 and 1987," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

3824. A letter from the Secretary of Health and Human Services, transmitting the 14th annual report on the Status of Handicapped Children in Head Start Programs, pursuant to 42 U.S.C. 9835(d); to the Committee on Education and Labor.

3825. A letter from the Secretary of Treasury, transmitting the annual report on the financial position and results of the operations of the Student Loan Marketing Association (Sallie Mae) for the year ended December 31, 1987, pursuant to 20 U.S.C. 1071 et seq.; to the Committee on Education and Labor.

3826. A letter from the Acting General Counsel, Department of Energy, transmitting notification of meetings related to the International Energy Program to be held on

June 21, 1988, in Paris, France; to the Committee on Energy and Commerce.

3827. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Pakistan for defense articles and services estimated to cost $31 million (Transmittal No. 88-33), and annex thereto, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3828. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Bahrain for defense articles and services estimated to cost $90 million (Transmittal No. 88-34) and annex thereto, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3829. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting copies of the original reports of political contributions by Richard Clark Barkley, of Michigan, Ambassador Extraordinary and Plenipotentiary-designate to the German Democratic Republic; by C. Paul Robinson, of New Jersey, for the rank of Ambassador during his tenure as U.S. Negotiator for the Nuclear Testing Talks, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3830. A letter from the Administrator, Agency for International Development, transmitting the semiannual report of the agency's inspector general for the period October 1, 1987 through March 31, 1988, pursuant to 5 U.S.C. app.; to the Committee on Government Operations.

3831. A letter from the Assistant Attorney General for Legal Policy, Department of Justice, transmitting the annual report of activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3832. A letter from the Administrator, Small Business Administration, transmitting the semiannual report of the agency's inspector general for the period October 1, 1987 to March 31, 1988, pursuant to 5 U.S.C. app.; to the Committee on Government Operations.

3833. A letter from the Records Officer, U.S. Postal Service, transmitting notification of a computer matching program, pursuant to 5 U.S.C., 552a(o); to the Committee on Government Operations.

3834. A letter from the Administrator, Veterans' Administration, transmitting notification of a change in an existing records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3835. A letter from the Acting Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting the annual report for justice programs, fiscal year 1987, pursuant to 42 U.S.C. 3712(b); to the Committee on the Judiciary.

3836. A letter from the Chairman, Merit Systems Protection Board, transmitting the ninth annual report of the Board's activities for fiscal year 1987, pursuant to 5 U.S.C. 1209(b); to the Committee on Post Office and Civil Service.

3837. A letter from the Director, Office of Personnel Management, transmitting the fiscal years 1986 and 1987 insurance report covering the Federal Employees Health Benefits Program and the Federal Employees' Group Life Insurance Program, pursuant to 5 U.S.C. 1308 (b) and (c); to the Committee on Post Office and Civil Service.

3838. A letter from the Administrator, Federal Aviation Administration, transmitting the agency's report of progress on rulemaking proceedings, pursuant to 49 U.S.C. app. 1421 note; to the Committee on Public Works and Transportation.

3839. A letter from the Acting Administrator, General Services Administration, transmitting informational copies of various prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on June 16, 1988, the following reports were filed on June 17, 1988]

Mr. BROOKS: Committee on Government Operations. H.R. 4150. A bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service Fund, and for other purposes (Rept. 100-656, Pt 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. EDWARDS of California: Committee on the Judiciary. H.R. 1158. A bill to amend title VIII of the Act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes; with an amendment (Rept. 100-711). Referred to the Committee of the Whole House on the State of the Union.

[Submitted June 20, 1988]

Mr. LELAND: Committee on Post Office and Civil Service. H.R. 3592. A bill to amend title 39, United States Code, to limit the rate of pay at which the Post Service may compensate experts and consultants; with an amendment (Rept. 100-712 P 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. H.R. 4867. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes (Rept. 100-713). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROYBAL:

H.R. 4860. A bill to amend the Public Health Service Act, the Older Americans Act of 1965, and the Social Security Act with respect to the mental health of elderly individuals, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, and Education and Labor.

By Ms. KAPTUR:

H.R. 4861. A bill to amend title 38, United States Code, to authorize appropriations for grants for State veterans' cemeteries; to the Committee on Veterans' Affairs.

By Mr. DAUB:

H.R. 4862. A bill to amend the Internal Revenue Code of 1986 to permit variable contracts to be invested in Government securities; to the Committee on Ways and Means.

By Mr. LaFALCE (for himself, Mr. Skelton, Mr. McDade, and Mr. Conte):

H.R. 4863. A bill to amend section 9 of the Small Business Act; to the Committee on Small Business.

By Miss SCHNEIDER:

H.R. 4864. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to immediately cease the dumping of sewage sludge and industrial wastes in the ocean waters of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. SCHUMER (for himself, Mr. Morrison of Connecticut, Mr. DeFazio, Mr. Frost, Mr. Jacobs, Mr. Owens of New York, Mr. Ackerman, Mr. Fauntroy, Mr. Gejdenson, Mr. Atkins, Mr. Evans, Mr. Jontz, Mr. Garcia, Mr. Foglietta, Mr. Dwyer of New Jersey, and Mrs. Boxer):

H.R. 4865. A bill to require cable television operators to regularly disclose their rates and services to the Federal Communications Commission, and for other purposes; to the Committee on Energy and Commerce.

By Mr. VENTO (for himself and Mr. Waxman):

H.R. 4866. A bill to authorize the Secretary of Health and Human Services to establish a program for research, prevention, education, and treatment regarding drug and alcohol abuse in pregnant and postpartum women and their infants; to the Committee on Energy and Commerce.

By Mr. YATES:

H.R. 4867. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

By Mr. ANNUNZIO:

H. Res. 476. Resolution authorizing the printing of a collection of statements made in tribute to the late Representative John H. Dent; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

419. By the SPEAKER. Memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to H.R. 2172; to the Committee on Energy and Commerce.

420. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to the case of Sergey Grigoryants; to the Committee on Foreign Affairs.

421. Also, memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to exempting farmers from provisions of the Commercial Motor Vehicle Safety Act of 1986; to the Committee on Public Works and Transportation.

422. Also, memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to H.R. 3436; jointly, to the Committee Education and Labor, Ways and Means, and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolution as follows:

H.R. 186: Mr. Tauzin.

H.R. 719: Mr. Packard.

H.R. 1270: Mr. Wise, Mr. Wylie, Mr. Richardson, Mr. Nichols, Mr. Rowland of Georgia, Mr. Moakley, and Mr. Stark.

H.R. 1990: Mr. Holloway, Mr. Solomon, Mr. Hutto, and Mr. McCollum.

H.R. 2854: Mr. MacKay and Mr. Bonker.

H.R. 3119: Mr. Hayes of Illinois.

H.R. 3133: Mr. Ackerman and Mr. Horton.

H.R. 3241: Mrs. Collins.

H.R. 3382: Mr. DeWine, Mr. Schuette, and Mr. Barnard.

H.R. 3900: Mr. Burton of Indiana and Mr. Ritter.

H.R. 4132: Mr. Fuster, Mr. Atkins, Mr. Crockett, Mr. Ford of Michigan, and Mr. Downey of New York.

H.R. 4208: Mr. Pickett.

H.R. 4221: Mr. Harris.

H.R. 4250: Mr. McMillen of Maryland and Mr. Ackerman.

H.R. 4410: Mr. Applegate.

H.R. 4420: Mr. Edwards of Oklahoma and Mr. Clinger.

H.R. 4740: Mr. Stark.

H.J. Res. 103: Mr. McCrery.

H.J. Res. 364: Mr. Garcia and Mr. Foglietta.

H.J. Res. 458: Mr. Frank, Mr. Foglietta, Mr. Garcia, Mr. Weldon, Mr. Martinez, Mr. Johnson of South Dakota, Mr. Madigan, Mr. Lujan, Mr. Wilson, Mr. Espy, Mr. Chappell, Mr. Berman, Mrs. Boxer, Mr. Levine of California, and Mr. Wolpe.

H.J. Res. 485: Mrs. Roukema.

H.J. Res. 529: Mr. McCrery.

H.J. Res. 572: Mrs. Johnson of Connecticut, Mr. Fish, Mr. Shaw, Mr. Savage, Mr. Atkins, Mr. Kleczka, Mr. Horton, Mr. Carr, Mr. Darden, Mr. Dixon, Mr. Henry, Mr. Gray of Pennsylvania, Mr. Akaka, Mr. Staggers, Mr. Hughes, Mr. de la Garza, Mr. Dymally, Mr. Anderson, Mr. Espy, Mr. Boucher, Mr. Dowdy of Mississippi, Mr. Ravenel, Mrs. Saiki, Mr. Derrick, Mr. Tallon, Mr. Rhodes, Mr. Bates, Mr. Hochbruecker, Mr. Foglietta, Mr. Harris, Mr. Guarini, Mr. DeWine, Mr. Kastenmeier, Mr. Hatcher, Mr. Whitten, and Mr. Moody.

H.J. Res. 576: Mr. Anthony, Mrs. Bentley, Mr. Bilirakis, Mrs. Boxer, Mr. Bunning, Mr. Coats, Mrs. Collins, Mr. de la Garza, Mr. Emerson, Mr. Frank, Mr. Frost, Mr. Grant, Mr. Hatcher, Mr. Hayes of Illinois, Mr. Henry, Mr. Jones of Tennessee, Mr. Kanjorski, Ms. Kaptur, Mr. Kolter, Mr. Kostmayer, Mr. Lagomarsino, Mr. Lehman of California, Mr. Levin of Michigan, Mr. Lewis of California, Mr. Lipinski, Mrs. Lloyd, Mr. McCloskey, Mr. Mack, Mrs. Martin of Illinois, Mr. Matsui, Mr. Miller of Washington, Mr. Moakley, Mr. Murtha, Mr. Nielson of Utah, Mr. Owens of New York, Mr. Owens of Utah, Mr. Pursell, Mr. Quillen, Mr. Roe, Mr. St Germain, Mr. Schuette, Mr. Skaggs, Mr. Towns, Mr. Wolf, and Mr. Wolpe.

H.J. Res. 583: Mr. McGrath, Mr. Atkins, Mr. Rangel, and Mr. Foglietta.

H.J. Res. 590: Mr. Torricelli, Mrs. Bentley, Mr. Lantos, Mr. Mrazek, Mr. Dannemeyer, Mr. Hunter, Mr. Owens of New York, Mr. Shaw, Ms. Snowe, Mr. Robinson, and Mr. Vento.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

185. By the SPEAKER: Petition of the Disabled American Veterans, Honolulu, HI, relative to establishing a veterans hospital in Hawaii; to the Committee on Veterans' Affairs.

186. Petition of the vice president, American Foreign Service Association, Washington, DC, relative to the comments of the association on the Secretary of State's report to Congress required by section 2402 of the Foreign Service Act of 1980; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4800

By Mr. OBERSTAR:

—Page 19, line 5, strike "$727,500,000, to remain available until September 30, 1990:" and insert the following: "$752,500,000, to remain available until September 30, 1990, of which not less than $25,000,000 shall be available only to carry out section 319 of the Federal Water Pollution Control Act:".

—Page 21, line 19, strike "1,950,000,000," and insert "$1,925,000,000,".

EXTENSIONS OF REMARKS

WINDBAGS OF CHANGE

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. McCOLLUM. Mr. Speaker, while many Americans are singing praise for the new glasnost, or openness, policy of the Soviet Union, most are unaware that this new system is not as open as it may seem. The reforms of Mikhail Gorbachev, though appearing quite democratic to the outside world, are not so evident to the Soviet people internally. Many are still denied the basic human rights and religious freedoms that all people are entitled to enjoy. The Soviet Government is still a highly closed, controlling influence over the actions of its people. Also, even as the Soviets begin their pullout from their 8-year war in Afghanistan, they still maintain a strongly undemocratic hold over many other foreign governments, and support many Communist rebellions throughout the world.

With the new rounds of arms limitations talks underway, and as possible settlements of various regional conflicts near, we, the American people, should be cautious that our interests, as well as the liberties and freedoms of people everywhere, remain protected. If Mikhail Gorbachev is indeed sincere in his want for openness and change, many more reforms need to be undertaken. In the June 16, 1988, edition of the New York Times, William Safire clearly outlines at least 15 actions that should be carried out by the Soviet Government in the very near future. I have included a copy of this article with this statement. I endorse these suggestions, and ask that Americans take note of them before allowing concessions to take place at the bargaining table in the upcoming months.

WINDBAGS OF CHANGE

(By William Safire)

LONDON.—The British press is knocked out by the "New Russian Revolution," end of the cold war, winds of change—oh, what a lovely peace.

Few observers consider the roots of glasnost. Economic realists in the Soviet Union, led by the K.G.B.'s Yuri Andropov in the early 80's, recognized Communism's failure. They put a new clique in place to overhaul the Soviet machine without losing control of the levers of political power.

Central to the Andropov plan was the mobilization of both the intelligentsia and "masses" against the 18 million party members who had been living off the fat of the land. Enter glasnost—the "freedom" to criticize only those past and present targeted by the new elite—which has seduced so many Western leaders into wanting to press financing and technology on the overhaulers.

I don't want to be the skunk at the garden party. Here are 15 suggestions to Mr. Gorbachev for changes that would begin to silence the surly squares who used to be the ruling circles.

1. Shut down the East Bloc support network for terrorism. Bulgaria, East Germany, Hungary and Yugoslavia operate training camps and offer safe haven to Red Guard and P.L.O. terrorist; a word from you could end that.

2. Reconfigure your military forces from offensive to defensive. Soviet generals conduct only offensive war games; NATO has only defensive games. (The feint-toward-Iran maneuver, drawing NATO troops southward, was especially distressing to our war-gamers.) Soviet forces are equipped with long flexible pipe to refuel vehicles rolling forward; take that kind of equipment out of your force structure.

3. Publish a telephone directory. Stop treating the phone book as a military secret, and drop the barriers that make it impossible for your people to dial the outside world. In that connection,

4. *Permit internal computer networking.* Stop waiting for Western computer help; allow your institutes and academies to hook into each other. Use the analogy of Lenin and electrification, if your less daring comrades object to the loss of central control of information.

5. *Stop jamming Radio Free Europe.* On the eve of the summit talks, you revoked the visas of two crack R.F.E. Sovietologists, displaying your fear of uneuphoric coverage. Let the broadcasters and their signals into the Soviet Union; if you must jam, jam the innocuous Voice of America.

6. *Tear down the Berlin Wall,* and order border guards to stop killing people who try to cross the Iron Curtain. As long as you treat your inhabitants as prisoners, no fundamental change in the perception of the Soviet Union as the home of the gulag is possible. And in that connection,

7. *Stop encouraging anti-Semitism in the guise of free speech or religious liberty.* Organizations like Pamyat and pet church leaders have found it easy to spread anti-Jewish hatred under glasnost. Your record on emigration is not nearly as good as Brezhnev's; drop your new requirement of a family connection abroad and let the refuseniks—all of them—go.

8. *Cancel your agreement to rent Fidel Castro's army to prop up a regime in Angola;* instead, you have increased those 40,000 mercenaries by 15 percent in recent months. And while you're in Africa.

9. *Order your 2,000 advisers in Ethiopia to persuade General Mengistu to stop practicing genocide-by-starvation on his own people.*

10. *Permit Natan Sharansky's book, "Fear No Evil," to be published in the Soviet Union,* which would be more relevant than the publication of Pasternak; then publish your own accurate figures on your defense budget, troop strength and the reality of your current deficit.

11. *Stop using the U.N. as a staging area for K.G.B. spying in the U.S.,* and quit using your Mount Alto location in Washington as a huge, intrusive listening station.

12. *Permit an opposition party;* without it, all talk of secret ballots and competing candidates is meaningless.

13. *While you're rewriting history, tell the truth about Felix Dzerzhinsky,* the first secret police chief, whose reputation your K.G.B. supporters insist you protect.

14. *Pledge to refrain from rolling in your tanks* if coming uprisings get out of hand in Rumania and Poland.

15. *Follow up your syndication of Gary Hart's new column in Moscow News* with fearless publication of pundits like William F. Buckley, Jeane Kirkpatrick and Pat Buchanan. For openers, run today's Essay.

TRIBUTE TO SANDRA FELDMAN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. ACKERMAN. Mr. Speaker, I rise today to honor an extraordinary woman, Sandra Feldman, president of the United Federation of Teachers. Sandra has dedicated her adult life to education, and I have met few people with the stamina and vigor she possesses. She is an exemplary educator and a vocal advocate for American workers.

The story of Sandra Feldman is a special one, and I would like to share it with my colleagues.

She was born in New York City in 1939 and educated in the public school system. This outstanding woman earned a master's degree in English literature from New York University, and has been a committed civil rights activist. In 1966, she joined the United Federation of Teachers staff as a field representative.

With the UFT she had held numerous important positions, culminating with her ascension to the presidency of the union in 1986. Sandra is the third president of the 93,000-member UFT since it was founded in 1960, and the first woman to hold to office. Yet, despite the many pressures and responsibilities of that important office, Sandy somehow finds the time and energy to serve as vice president of the New York State AFL-CIO, and vice president of the New York City Central Labor Council.

Mr. Speaker, Sandra Feldman's reputation as an education authority is unsurpassed. Over the years she has been appointed by President Carter, former New York Governor Hugh Carey, New York Governor Mario Cuomo, and New York City Mayor Edward Koch to an array of educational commissions and panels. She is also a member of numerous community and civic organizations, and has been a delegate to the Democratic Party conventions.

For her unrivalved leadership and vision, Sandy will be honored at a testimonial dinner on June 22, 1988, in New York City. At that special event she will receive the Eugene V. Debs Award for her outstanding contributions to her fellow trade unionists and community.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, I ask my colleagues to join me in congratulating Sandra Feldman for receiving this special honor and wishing her many more years of good health and continued success.

TRIBUTE TO THE MEMBERS OF THE SECOND AIR DIVISION WHO SERVED DURING WORLD WAR II

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. LANTOS. Mr. Speaker, this week, the Second Air Division Association (World War II) will hold its 41st annual convention in Colorado Springs, CO. The nearly 7,000 members of the association are men and women who served in the 14 bomber groups and the five fighter groups of the 2d Air Division and were stationed in England during World War II.

Mr. Speaker, it is appropriate on this occasion to pay tribute to these men and women who made great sacrifices for the defense of our country and the defense of the free world during those difficult times between 1943 to 1945. Some 6,528 of their comrades were killed in action during World War II.

Many of the officers, men and women of this division were honored for their bravery in serving our country. Among those who received the Medal of Honor for action while with the 2d Air Division were Brig. Gen. Edward J. Timberlake, Jr., and Brig. Gen. William E. Kepner. American actor Jimmy Stewart served in the 445th Bomber Group of the 2d Air Division and was awarded the Distinguished Flying Cross and other flying awards in recognition of his service. Many, many others served in this Division with great distinction and valor.

As a living memorial to those who served and those who gave their lives from the 2d Air Division, the association maintains a room in the City Library of Norwich, England. The room contains American books, periodicals, and audiovisual equipment for use by local schools. This memorial is not only a tribute to those who served and sacrificed, it also contributes to the good relations between the American and British people. The association deserved our praise for its support of this worthy cause.

Mr. Speaker, as the men and women who served in the 2d Air Division meet this week in Colorado Springs, it is most appropriate that we here in the Congress pay tribute to them for their service to our Nation and to free men everywhere and commend them for their continuing contribution to friendly relations with our democratic ally Great Britain.

MALOTT SPEAKS OUT FOR FREE TRADE AGREEMENT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. PORTER. Mr. Speaker, I submit for the RECORD an article by Robert H. Malott which recently appeared in the Chicago Tribune regarding the United States-Canada Free Trade Agreement. Bob Malott is a good friend and chairman and chief executive officer of the Chicago-based FMC Corp. His article correctly and persuasively explains why the FTA is so important to the United States, Canada, and the future of free and fair international trade. I applaud Bob Malott for so eloquently supporting the FTA, and I commend his article to my colleagues' attention:

[From the Chicago Tribune, June 10, 1988]

A TRADE PACT WE'D BE FOOLS TO REJECT

(By Robert H. Malott)

The fate of what may well be this decade's most important piece of trade legislation probably will be decided in the next few weeks. I am not referring to the omnibus trade bill. In my opinion, the most serious threat to U.S. competitiveness and prosperity posed by that bill's demise is the threat that Congress, piqued by President Reagan's veto, will scuttle the U.S.-Canadian free trade agreement.

As a rule, politicians must scramble to catch up with economic reality. What makes the U.S.-Canadian trade agreement so remarkable is the willingness of U.S. and Canadian leaders not only to accept economic reality—the growing interdependence of the U.S. and Canadian markets—but to spur economic change by actively removing obstacles to a unified market.

Canada is by far the United States' largest trading partner. More than a fifth of U.S. exports go to Canada—as much as the value of our exports to all 12 members of the European Economic Community and more than twice the value of our exports to Japan. Canada is also the United States' fastest-growing major market. From 1982 to 1986, when U.S. overseas sales grew by less than 2 percent sales to Canada grew 4 percent; in 1987, they grew another 7 percent. Today an estimated 2 million American jobs depend on exports to Canada.

Trade with the United States looms even larger in Canada's economy. In 1987, more than three-quarters of Canada's exports went to the U.S. and one in five Canadian jobs now depends on this trade.

Contrary to the conventional wisdom about trade negotiations, the U.S.-Canadian trade agreement did not produce a winner and a loser. By eliminating most tariffs, trade restraints and investment controls on business conducted between the United States and Canada, the trade agreement confers enormous economic benefits on both countries.

Canada's incentive for embracing free trade is greater access to a market 10 times the size of its own. The Canadian International Trade Administration estimates that Canada's gross national product would rise 2 percent to 5 percent as a result of the agreement.

While the proportional impact on the U.S. economy would be smaller—estimated at about 0.3 percent of the United States (much larger) GNP—it would still be significant. The Department of Commerce estimates that the agreement will lead to the creation of about 14,000 American manufacturing jobs. Other economists have put the figure much higher.

Moreover, because Canada's tariffs are on average twice as high as ours, the competitive position of U.S. products will be strengthened.

The new agreement also resolves some longstanding U.S. trade grievances. It eases Canadian government restrictions on U.S. investment in Canada, and assures U.S. access to Canadian energy, at the prices paid by Canadians—prohibiting a return to the discriminatory two-tiered pricing system Canada established in the 1970s. The agreement also liberalizes trade in services, including financial services, and closes loopholes in the U.S.-Canadian "auto pact." These so-called concessions—in fact, they will benefit both countries—signal Canada's retreat from economic nationalism.

Of course, the agreement is neither perfect nor complete. A few politically powerful industries remain protected (Canadian beer producers and U.S. merchant shippers, for example), and some important issues remain unresolved, among them agricultural subsidies and Canada's astonishingly inadequate protection of intellectual property rights. Yet the U.S.-Canadian trade agreement is a giant step forward when our political leaders are under great pressure to retreat into protectionism.

By restoring the momentum of trade liberalization, the U.S.-Canadian trade agreement would breathe new life into the multilateral GATT negotiations—and set a precedent for dealing with such vexing issues as trade in services. The new competitive advantages enjoyed by U.S. and Canadian businesses would give our other trading partners, especially the Pacific Rim countries, an incentive to remove their own trade barriers. And a U.S.-Canadian free trade agreement would strengthen the hands of North American trade negotiators as they seek better access to the unified market that should emerge in Europe by 1992.

If the benefits of enacting the agreement are great, the risks of failing to enact it are greater. If Congress balks at an agreement this advantageous to the United States, trading partners will question our willingness and ability to negotiate seriously. Canada's current political consensus in favor of stronger economic relations with the United States could shatter, encouraging a resurgence of the anti-American rhetoric and policies that embittered relations in the '70s. And within the United States, special interest groups now lobbying to duck the competitive challenge and erect new trade barriers would emerge victorious—possibly for years to come.

A TRIBUTE TO TAMMY HITCHCOCK

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. COURTER. Mr. Speaker, I rise today to honor my constituent, Ms. Tammy Hitchcock, of Pittstown, NJ.

Tammy Hitchcock is a skydiver, which certainly takes a great deal of courage and determination. But what makes her accomplishments even more significant is that Tammy has multiple sclerosis, a disease that short circuits the central nervous system and reduces stamina and coordination. Despite her disability, Tammy spends almost every weekend skydiving, using equipment modified to compensate for balance problems, visual distortion, and faulty depth perception.

Ever since Tammy learned she has multiple sclerosis, she has been resolved to continue leading an active and productive life. Her spirit has earned her a place in the National Multiple Sclerosis Society's new "Profiles in Courage" public service advertising campaign. This campaign is designed to educate the public about the personal achievements that can be accomplished by persons with disabilities. The Society deserves commendation for its dedication to aiding the more than 250,000 Americans who suffer from multiple sclerosis. The society's funding enables hospitals and universities to continue important research in virology, genetics, and immunology in order to find a cure for this crippling disease.

All too often, people allow obstacles to stand in their way of achieving their goals. Through the National Multiple Sclerosis Society's "Profiles in Courage" campaign, Tammy is serving as an inspiration to us all.

ROGER MORRIS, ELECTED TO NCIV NATIONAL BOARD

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. RICHARDSON. Mr. Speaker, I bring to the attention of my colleagues Mr. Roger Morris who was recently elected as a representative to the national board of the National Council for International Visitors [NCIV]. NCIV is a network of 103 community organizations across the country that have served international visitors for over 25 years. I would like to take this opportunity to congratulate Roger for receiving the honor of serving on the NCIV national board.

ROGER MORRIS ELECTED TO NCIV NATIONAL BOARD

Sante Fe author, writer and foreign affairs analyst Roger Morris has been elected to the board of the National Council for International Visitors (NCIV) in Washington, D.C. He will take office Friday, May 13, following NCIV's quarterly board meeting at Meridian House International in Washington.

One of the nation's major international educational and cultural exchange organizations, NCIV provides a network of volunteer community support through approximately 140 community and academic affiliates throughout the country to assist international visitors to the United States. The council's affiliates serve more than 20,000 foreign visitors annually. NCIV seeks to promote mutual understanding and respect between the U.S. and other nations through international educational and cultural exchange.

Morris also has worked in the State Department and White House and on the National Security Council. He was legislative assistant to Senator Walter Mondale and director of policy studies at the Carnegie Endowment.

As an NCIV board member, Morris will help set the council's policies and goals, approve its budget and obtain funding.

More than 5,000 of the yearly visitors aided by NCIV and its affiliates are high-level foreign guests of the International Visitor program of the U.S. Information Agency (USIA). Among former USIA visitors are almost 100 current and former heads of state, more than 600 cabinet ministers, and nine current ambassadors to the U.S. This includes President Daniel T. Arap Moi of Kenya, President Raul Alfonsin of Argentina, Prime Minister Mahatir Bin Mohamed of Malaysia, Prime Minister Margaret Thatcher of the United Kingdom and former President Anwar Sadat of Egypt.

NCIV also serves more than 16,000 trainees a year from about 70 developing countries in Africa, Asia and the Pacific, Latin America and the Caribbean and the Near East who come to the U.S. as part of programs of the Agency for International Development (AID), the U.S. foreign economic and humanitarian assistance agency.

In addition, NCIV affiliates assist thousands of other visitors who come to the U.S. each year as guests of state and local governments, corporations, schools and medical and research centers, as well as foreign exchange students.

All of this amounts to more than 800,000 volunteers in over 100 cities and towns across the U.S. who share their time, families, homes, professions and thoughts with visitors from all over the world, giving them a firsthand, unadulterated experience with life in America normally unavailable to those in the country for only a short time.

REPEAL OF THE SECTION 817 PROPOSED REGULATIONS

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. DAUB. Mr. Speaker, today I am pleased to introduce a bill which will repeal the proposed and temporary regulations under section 817(h) of the Internal Revenue Code. Under those regulations, the Treasury Department would prohibit, for the first time, the use of a Government securities account to fund variable annuity and variable life insurance contracts.

On March 29, 1988, 17 members of my committee, Ways and Means, joined me in sending a letter to the Treasury Secretary asking that the proposed regulations be amended so that Government issued and guaranteed securities offered by independent agencies would be treated as separate issuers for purposes of the diversification test.

Many life insurance companies issue variable insurance contracts. These contracts use as their funding vehicle a series of mutual funds which are registered and regulated under the Investment Company Act of 1940, as well as several sections of the Internal Revenue Code.

Congress has consistently sought to encourage the purchase and use of variable annuity and life insurance contracts to provide individual retirement security and estate protection. The optimal funding vehicle is a pool of securities issued or guaranteed by the U.S. Government, which combines maximum yields with minimum risk.

Last year the Treasury issued proposed and temporary regulations under IRC section 817(h) which would effectively prohibit, for the first time, the use of such a funding mechanism. The Treasury is attempting to require diversification, but they did not consider the fact that each agency is a distinct issuer, that Government securities are demonstrably different from one another, and that these regulations actually hinder the Government's ability to obtain financing.

I hope my colleagues will join me by cosponsoring this revenue-neutral legislation.

ISSUE OF GAMBLING ON RESERVATIONS NEEDS RESOLUTION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. MILLER of California. Mr. Speaker, I have long been concerned about the increase in high stakes gaming operations on Indian reservations. Many of these operations are operated by non-Indian management and for the most part, the games themselves are patronized by non-Indians.

These games, in my view, are clearly a mixed blessing for the tribes. On the one hand, properly managed and controlled games offer the potential for much-needed revenues for the tribes. On the other hand, many of these operations tend to be a magnet for trouble—for criminal involvement, for unscrupulous persons to skim money from the Indians, and for other illegal activities.

One year ago, the attorney general for the State of California sent his annual report on organized crime to the California Legislature. He covered a number of topics, including high-stakes bingo on Indian reservations. That report stated:

> Managing high-stakes bingo operations on Indian reservations generates huge profits and easy opportunities for money laundering, skimming, and illicit gambling. Moreover, the games are not subject to local or state regulation and cannot be effectively monitored. Consequently, such operations are attracting organized crime.

Nothing has happened since the attorney general prepared the report to change the situation. And, what is true for the high-stakes bingo is equally true for other forms of gambling—perhaps even more so for horse and dog racing. Clearly, we have a serious situation on our hands—and one that will become more serious unless we take steps to ensure proper protection and regulation.

Both the House and the Senate are presently attempting to develop legislation dealing with gambling activities on Indian reservations. We must enact legislation this Congress to regulate gaming on reservations. I am very concerned that gaming operations are outside the reach of State regulation. Without strict controls, such operations could, as the California attorney general noted, attract organized crime.

THIRTIETH ANNIVERSARY OF HUNGARIAN EXECUTIONS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 15, 1988

Mr. ACKERMAN. Mr. Speaker, June 16, 1988, marks the 30th anniversary of the tragic execution of Hungarian Prime Minister Imre Nagy, Gen. Pal Malater, Miklos Gimes, and many others who played pivotal roles in the 1956 Hungarian revolution. By commemorating this event, Americans reaffirm their commitment to freedom and justice and recognize their long-held feelings of sympathy with the Hungarian people.

Within this context, reference to history is useful in order to appreciate our linkage. Americans reacted bitterly when the 1848 Hungarian revolution had been crushed by Austria with the assistance of the Russian Czar. President Zachary Taylor had issued special instructions to American diplomat A. Dudley Mann to deliver a message of American recognition of the revolutionary government. The revolution was crushed, however, before the statement could be communicated.

The Hungarian revolution of 1956 stirred the American people much the same as they had been affected in 1848. President Dwight Eisenhower appealed to the Soviets to withdraw from Hungary "in the name of humanity and in the cause of peace." Deterred by the specter of thermonuclear war which could have resulted from direct military intervention, the United States felt compelled to acquiesce to the Soviet military conquest.

However, the American people have been inspired by the Hungarian quest for freedom, and by the knowledge that the human spirit will ultimately triumph over totalitarianism.

Over 2,000 Hungarians were executed for their roles in the 1956 revolution. Unfortunately, many of the bodies were buried in mass graves and have never been returned to the families.

In view of this, I appeal to the government of Prime Minister Karoly Grosz to adhere to the principles of human rights as embodied in the Helsinki Final Act by fulfilling the repeated requests of family members for the identification of gravesites and the recovery of the bodies for proper interment of their executed relatives.

President Ronald Reagan and congressional leaders have previously appealed to the Hungarian Government to effect a proper burial for these victims. Unfortunately, there has been no positive response. Ironically, Hungary has traditionally been viewed as one of the more reasonable Soviet bloc countries. Moreover, recent changes in the Hungarian Government appear to be harbingers of progressive economic and political changes.

In view of the new spirit of glasnost which is permeating the Soviet Union and Eastern Europe, I sincerely hope that the Hungarian Government will repond to our appeal which is grounded in humanitarian concerns.

HOUSE CONCURRENT RESOLUTION 310 TO PROTECT THE HUMAN RIGHTS OF THE BAHA'I MINORITY IN IRAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. LANTOS. Mr. Speaker, I have joined a number of my distinguished colleagues in cosponsoring House Concurrent Resolution 310 which expresses our continued concern and support for the persecuted Iranian Baha'i community. This resolution is an important step in calling attention to the human rights violations against the Baha'is to ensure the survival of this religious minority.

In the last 7 years, thousands of Baha'is have lost their homes, tens of thousands have been forced to flee their country, thousands of others have been arrested, imprisoned, tortured and suffer pervasive economic and social pressures and deprivation of the most fundamental human rights. The Baha'is religious organizations have been declared illegal by the Iranian Government and participation in them is a criminal act.

Although there has been a modest improvement in treatment of the Baha'is by the Iranian authorities, there is still a long way to go until the human and religious rights of these people are fully respected and recognized. Our resolution 310 calls on the United Nations and its agencies, foreign governments, and the President of the United States to continue to observe and report on developments affecting the Baha'i minority in Iran and to ensure that freedom of thought, conscience and religion, education, and equal protection of the law are upheld.

Mr. Speaker, we must continue to condemn such injustices as those occurring against the Baha'is in Iran. I urge my colleagues to join us in cosponsoring and supporting this resolution urging the Iranian Government to end the serious and extensive violations of the human rights of the Baha'i civilians of Iran.

BASE CLOSING: THE HOUSE DESERVES A VOTE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. PORTER. Mr. Speaker, in April, as the House prepared to consider this year's DOD authorization, the Rules Committee blocked DICK ARMEY from offering his base closing amendment. It was agreed that three House committees would get a chance to mark up their own versions of the bill. At the same time, a free standing vote on the bill close to June 1 was promised in order for the House to weigh in before the DOD conference was completed.

Well, Mr. Speaker, it is now June 20, and the bill is nowhere to be found on the schedule. Our DOD conferees, armed only with a motion to instruct, negotiate with Senate counterparts who had almost 2 full days of debate on this subject in the Senate. The completion of the DOD conference threatens to make any future House vote moot.

The Senate's base closing provision contains some important improvements on both the original bill and the version marked up by the Armed Services Committee, including staff requirements, composition of commission members and consideration of overseas bases.

This issue is too important for the Members of the House to be denied a free standing vote. The leadership must live up to its promise and put the Armey base closing bill on the floor.

IN SUPPORT OF SOVIET JEWRY

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. WHEAT. Mr. Speaker, I rise today to bring to the attention of my colleagues action taken this year by Missouri State Senator Harry Wiggins and the Missouri State Legislature in support of Soviet Jewry.

On April 30 this year, the Missouri House of Representatives gave final approval to Senate Concurrent Resolution No. 15, a bill introduced by Senator Wiggins of Kansas City expressing strong and unequivocal support to the cause of Soviet Jewry.

Last December, over 1,000 people from Missouri made the long trip to Washington, DC, to rally on the ellipse and march for freedom for Soviet Jews. Passage of this bill allowed the Missouri State Legislature to join with those Missourians in calling upon the Soviet Union to uphold their commitments to various human rights treaties and allow freedom of emigration for Soviet Jews who wish to leave the Soviet Union.

Senator Wiggins is to be commended for his efforts to bring passage of this bill to fruition, and I ask permission that the text of Senate Concurrent Resolution No. 15 be inserted into the CONGRESSIONAL RECORD.

CONCURRENT RESOLUTIONS

Senators Wiggins and Goode offered the following concurrent resolution, which was referred to the Committee on Rules, Joint Rules and Resolutions:

SENATE CONCURRENT RESOLUTION NO. 15

Whereas, the members of the Missouri Senate and the Missouri House have learned that throughout the United States and Missouri the American Jewish Community has organized committees through the Jewish Federations and their affiliated community relations agencies in defense and support of freedom for Jewish citizens living within the Soviet Union who wish to leave by emigrating to the United States or to Israel; and

Whereas, officials of the Soviet Union arbitrarily and unreasonably refuse the applications of said Jewish citizens for passports to emigrate or even to visit relatives in the United States and elsewhere; and

Whereas, the prevention of Soviet Jewish people from practicing the traditions of their faith and religious belief is abhorrent to the cause of freedom and religious liberty which are deeply held values by the citizens of the State of Missouri and the United States; and

Whereas, efforts to assist these Soviet Jewish people by their friends and relatives in Missouri and the United States are met with hostility and resistance; and

Whereas, on Sunday, December 6, 1987, over two hundred thousand people gathered on the ellipse in Washington, DC, in front of the Capitol of the United States after a peaceful march for a rally in support of freedom for Soviet Jewry which included a speech by the Vice President of the United States and other dignitaries, and which was attended by almost one thousand citizens of the State of Missouri; and

Whereas, the selective interpretation of international human rights agreements to which the Soviet Union is a signatory casts doubt on the full adherence by the Soviet Union to other international covenants or accords in the future: Now, therefore, be it

Resolved, That the Legislature of the State of Missouri calls upon the government of the Soviet Union to uphold the human rights provisions of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Accords, to which the Soviet Union is a signatory; and be it further

Resolved, That this Legislature calls upon the government of the Soviet Union to restore freedom of religion to the members of all faiths, and to observe the clause of the Soviet Constitution which makes anti-semitism a crime; and be it further

Resolved, That this Legislature calls upon the United States Senators and Members of Congress from the State of Missouri to jointly urge the government of the United States to make a matter of highest priority the immediate freeing of the Jewish citizens of the Soviet Union and the ending of the oppression of other religious groups.

TRIBUTE TO ROBERT M. CREMEN

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. CARDIN. Mr. Speaker, today I would like to recognize the achievements of Mr. Robert M. Cremen.

Mr. Cremen retired on June 1, 1988. Bob has been a Teamster for 48 years, and for the past 27 has been an officer.

Bob's career as an officer began in 1961 when he became an organizer-agent for his local, union No. 311. He worked his way up the ranks, and when he retired held the positions of president of the Maryland Teamsters Joint Council No. 62 and secretary treasurer/principal officer of local union No. 311.

During those years Bob held many other positions, including trustee, president of the council, and as a member of the Rules and Credentials Committee at International Brotherhood of Teamsters Conventions in 1981 and 1986.

In addition to his professional achievements, Bob is a family man who, with his wife Jennie, raised two lovely children and now has four grandchildren.

Bob's friends will be honoring him with a testimonial dinner on Saturday, June 25, 1988. I know that this will be a very happy occasion for Bob, and am proud to honor him now. I urge my colleagues to join me in saluting Bob, and outstanding member of labor, a devoted family man, and an exceptional American.

CHILD PROTECTION AND OBSCENITY ENFORCEMENT ACT

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. BUECHNER. Mr. Speaker, today I am submitting to Congress for its expeditious consideration and enactment of H.R. 3889, the Child Protection and Obscenity Enforcement Act. The third hearing in the House Judiciary Subcommittee on Crime is underway today, and hopefully my colleagues will conclude in full agreement that this legislation is the most effective way to isolate child pornography as a criminal offense.

The Child Protection and Obscenity Enforcement Act proposes changes in three basic areas. First, protection of children from sexual exploitation. This bill will amend the Racketeer-Influenced and Corrupt Organizations [RICO] statute to include child pornography offenses, thereby giving law enforcement officials better means to go after the child pornography industry. It will amend Federal law to prevent parents and guardians from contracting the use of their children in pornography, virtually a form of child slavery. It will target the high-technology aspects of pornography, making illegal the computerized, nationwide network that child molesters, and collectors of child pornography have developed.

The second basic area is obscenity. Organized crime controls the vast majority of the multibillion dollar obscenity market. According to law enforcement estimates, revenues from the obscenity industry, most of which will go into the coffers of organized crime, are estimated to be between $7 and $10 billion a year. A set of three "syndicated buster" amendments will block these illicit enterprises from taking advantage of inconsistencies in existing Federal law.

The third major area involves child protection amendments. In the interest of protecting those most vulnerable and impressionable members of our society, our children, this act will prohibit transmission of obscenity over cable or subscription television. It will provide prosecutors with a powerful weapon to attack the so-called dial-a-porn business that profits from obscenity.

Congress must educate the public of the severity and tragedy that child pornography has brought to this Nation. From child abuse to cable porn, the vulgarity and licentiousness of this ever-growing industry is a poison to our society, spreading, infecting, and even killing.

In the United States, pornography is the third highest profit industry in organized crime after narcotics and gambling. Pornography is invading the minds of our innocent. It devalues sex and defaces our communities. And it destroys our Nation.

It is true that we judge a nation by the character of its citizens, and even more obscene than pornography are the loose doctrines that express that our laws should be indifferent to the evolution of the Nation's character. For this Nation to allow moral degradation through pornography is the most wanton of all. I challenge this country to make a strong commitment to eradicate child pornography. We must stand opposed to this poison that weakens our national self-esteem and threatens our children, our neighbors, and our society.

With the support of the American people, I urge Congress to enact the Child Protection and Obscenity Enforcement Act with all due speed.

PERSONAL EXPLANATION

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. DAVIS of Michigan. Mr. Speaker, last Wednesday, I cast a vote in error; a vote that is diametrically opposed to my position and my record on funding for seniors, education, and the unemployed. Today it came to my attention that I inadvertently voted in favor of the Dannemeyer amendment to cut $400 million from the Labor-HHS appropriations bill. It was my intention to cast an emphatic "no" vote.

In my almost 10 years in Congress, I have consistently opposed cuts in funding for the vital domestic programs included in the Labor-HHS appropriations bill. It was my intention to do so again. Included in the Dannemeyer amendment was a $250 million cut to low-income energy assistance, a program vital to my Michigan district. In fact, in April I joined 202 of my colleagues in writing to Mr. Natcher, chairman of the Subcommittee on Labor-Health and Human Services-Education, urging that this critical program receive an increase in funding.

I regret the error and am pleased the amendment failed overwhelmingly.

NATIONAL FLAG DAY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. MAZZOLI. Mr. Speaker, this past Tuesday our country celebrated Flag Day, a day set aside to show our pride and respect for the symbol of our Nation.

While our flag adorns our Nation's schools, homes, and workplaces on a daily basis, it is fitting we set aside a day to stop and reflect on the true meaning of the Stars and Stripes.

Our flag is an outward tangible sign of the inward commitment of generations of American people to uphold the freedom of the individual. National Flag Day gives each of us an opportunity to renew our individual commitment to the spirit of democracy.

The flag represents the work of our Founding Fathers and the Union of these 50 sovereign States. But the true meaning of our Nation's flag lies in the hearts and mind of all American people.

At this point, Mr. Speaker, I would like to insert in the RECORD, an article from Louisville magazine on one fine gentleman from my hometown, Virgil Carrithers, who devotes his energy and time to remind others of the proper respect and meaning of the Stars and Stripes.

[From Louisville magazine, June 1988]

FINICKY ABOUT FLAG-WAVING

Did you know that it's illegal to use the U.S. flag in advertisements, or that the flag should never be flown at night without appropriate lighting, or that during a parade you should salute the flag with your right hand over your heart until it's six feet away from you in either direction, or that when a president or former president dies, flags should be flown at half-staff for 30 days?

Chances are, if you've been around Virgil Carrithers, this is old news.

Carrithers, 91, is a self-proclaimed "longtime working advocate for the proper display of, and respect for, our flag." Basically, that means he's a public watchdog, a patriot who keeps tabs on how flags fly all over the city.

Carrithers recalls that 12 years ago, he "happened to notice some violations of flag laws around town." He wrote to the various offenders, pointing out the problem and enclosing a copy of national flag regulations. Since then, correcting violations of flag protocol has become a habit for Carrithers. Today he writes two or three letters a week to businesses and individuals who suffer "not from a lack of respect, but from a lack of knowledge of how to display the flag."

Carrithers' office is full of files of letters to offenders nationwide. In 1978 he wrote to then-First Lady Rosalyn Carter after he noticed in three different photographs that she was not saluting the flag during the playing of the national anthem. Last year he complained to Lee Iacocca after seeing a Chrysler Plymouth television advertisement that included the flag.

The always-on-guard patron has also spotted a number of flag no-no's closer to home. He repeatedly wrote then-Mayor Havery Sloane in 1978 when he noticed that the flag on his house in Old Louisville was flying on the left side of the doorway instead of the appropriate right. Just a few weeks ago he noticed that the U.S. flag at the north end of Fourth Avenue, near the Galt House, was on the same level as the state and city flags. Uh-oh. He is writing Mayor Abramson to correct the problem.

Carrithers, whose license plate reads US FLAG, is a native Louisvillian who has plenty of time to devote to Old Glory since he retired from the post office in 1959 and from State Farm Insurance in 1975. He lives with his wife Edith Mae (they married when he was 85) in St. Matthews.

And what advice does he give to budding yankee doodles who want to show their patriotism on Flag Day, coming up on June 14? "Display the flag somehow," says Carrithers. "Put it on your front porch or on the front of your house. But display the flag properly."—Caroline Aiken

ISRAEL HAPPY BIRTHDAY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. DYSON. Mr. Speaker, I rise to congratulate the State of Israel on the occasion of her 40th birthday. Since its establishment 40 years ago, Israel has developed a political, economic, and intellectual system that has become a model for the world. I salute them for their efforts and their consistency.

Beginning a nation "from scratch" is not an easy task. This is especially true when the nation in question is surrounded by hostile states. However, the people of Israel have worked together to create the only democracy in the Middle East. Israel has incorporated hundreds of thousands of Jews from around the world, including countless individuals fleeing less tolerant cultures, into an open society.

The United States and Israel share common goals of peace in the Middle East. Israel's strong pro-Western orientation gives the United States one of its few true friends in the world. There is cooperation between the two countries in a host of defense and intelligence areas, as well as joint air and naval exercises.

As a Member of the U.S. Congress, I take special pride in Israel's celebration. The United States and Israel have shared a friendship dating back to the first day of Israel's existence. The United States aided the fledgling State of Israel in its formation, and immediately extended diplomatic relations to the new state upon its proclamation of independence on May 14, 1948. Our two nations have always been fast friends and firm allies, working together to secure our common values. Our relationship has been based on a shared democratic perspective, one which we can send to the rest of the world.

Mr. Speaker, I hope that all Americans will join me in saluting the 40th birthday of a friend of America. Let us all wish Israel happy birthday.

RACE IS NOW A CLASS ISSUE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. RANGEL. Mr. Speaker, throughout the previous decades our Nation has experienced the pain and suffering associated with the fight for racial equality, and civil rights. Over the last 20 years, some initial racial problems have been resolved, and some blacks have achieved more political, social, and economical autonomy. But, as John V. Lindsay has written in a recent editorial in the Christian Science Monitor, the problem of race still exists; its structure has just changed.

Mr. Speaker, and fellow Members, I believe it is time that we step back and reevaluate the crisis facing the poor and disadvantaged of our country. For too long this group of people have been neglected in our legislative efforts, and many recent studies are conveying grim pictures of the progress that has been made by the Federal Government in combating the problems of the poor in the last 8 years. This deteriorating situation is a direct result of a widening socioeconomic gap, which not so incidentally leaves behind blacks and other nonwhite minorities.

I would like to share with you Mr. Lindsay's article, and as I read it, I hope that you will keep in mind the continuing needs of our country's disadvantaged.

[From the Christian Science Monitor, May 10, 1988]

RACE IS NOW A CLASS ISSUE

(By John V. Lindsay)

Most reports by presidential commissions lie forgotten gathering dust in the Library of Congress. Yet, Americans who hope their country will practice what its constitution preaches still invoke the report presented to President Lyndon Johnson 20 years ago by the Advisory Commission on Civil Disorders, the so-called Kerner Commission.

This 800-page document accused the United States of having become "two societies, one black, one white, separate and unequal." Following the "long hot summer" of racial discord and urban riots in 1967, this accusation rang true. Our report was unanimous. Whether liberal, conservative, or moderate, every commission member acknowledged incontrovertible evidence of a racially polarized body politic.

Two decades later that polarization has taken a new form. The US now confronts a new crisis in race relations which the Kerner Commission could hardly have anticipated and which better leadership in recent years might have prevented.

America's nonwhite middle class has expanded significantly; that is partly because of the Kerner report and to citizens and political leaders who took the findings seriously. Also, a growing number of blacks and Hispanics occupy leadership positions in city halls and statehouses across the country, as well as in Congress.

While such changes are hallmarks of greater decency and maturity in our national life, many of the poorest of minority citizens have been left far behind in a losing struggle for survival. Backsliding at the federal level on commitments to equal opportunity in employment, job training, low-income housing, and medical care have had devastating results.

Rising crime rates, more homelessness, ascending teen-age birthrates, lower school dropout ages, and heavier traffic in illegal drugs describe the effect on behavior and the tragic circumstances of a growing portion of the population that is disconnected from society as we have known it. What were once regarded as issues of race have become, increasingly, issues of "class," a word never heard in our country before.

In the 20 years since the Kerner report, legislative protections against racial discrimination have diminished, but not erased, the problems of poverty suffered by this "underclass." A new commission examining the difficulties that the Kerner panel investigated would find two societies: divided these days more along lines of economic conditions and personal conduct than of race. Worse, racial polarization has become further exacerbated by the widening gulf between social classes.

This problem, caused by a climate set at the highest levels of government, can only be solved by leadership that reflects the U.S. Constitution's highest principles.

During the last eight years, federal social programs have been indiscriminately slashed. Meanwhile, defense spending has soared extravagantly, and vast tax cuts have taken effect. Pointing to the record budget deficits that its own senior officials created, Washington now cries poor when the poor cry for help. Then, exploiting backlash fears generated by those cries, some political leaders discredit expenditures designed to ease the problem as "throwing tax dollars down the drain."

The result has been a national disaster. Demagogic appeals by self-anointed "law and order" advocates unleash the very lawlessness and amoral behavior that further polarize society between race and class. And political leaders must cease using code words that thinly disguise appeals to racism.

It is essential that America's leadership sets a healing tone in domestic politics. As the Kerner Commission noted, the plight of the disenfranchised casts a long shadow of uncertainty over every American's future. Anarchy in the streets caused by the rootless young who have no stake in society imperils our neighborhoods. We must deal with their pain and anger and protect ourselves from its consequences.

A new presidential commission could identify such malicious political activity for what it is, recommend more enlightened budget priorities, and help the press locate flash points in neighborhoods and in halls of government where racial tensions are at work. The lives of all Americans are blighted by these social conflicts; each of us must contribute to their resolution. How well we face up to this challenge defines our character as a nation.

The task is not an easy one. The longtime neglect of the inner city will not be quickly repaired. Several of this year's presidential candidates have displayed authentic compassion for the underprivileged; yet they come up short on specific solutions to their troubles. More money is necessary, but money will not do the job alone. We need skilled, knowledgeable, and committed men and women to build education, employment, housing, language, job training, antipoverty, and drug programs—and to deal effectively with crime, the most menacing effect of neglect in these areas. The present climate has driven many such able people out of the fold.

Our nation is trying increasingly hard to become more productive industrially, to correct trade imbalances, and to establish better commercial relations with nonwhite nations around the world. At the same time, this country's minorities make up an increasing percentage of the US's total population. We will not be able to move ahead economically on the global stage unless we address the concerns of those minorities here at home.

It is time for another presidential commission to look anew at our divided society and point the way toward the style and substance of leadership that once again can summon the generous, enlightened, and honorable impulses that exist in the American people.

(John V. Lindsay, former mayor of New York and member of Congress, was vice-chairman of the Advisory Commission on Civil Disorders, known as the Kerner Commission. He is now a lawyer with Webster & Sheffield in New York.)

JENIFER CLARK RECEIVES AWARD

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. LEWIS of California. Mr. Speaker, it gives me great pleasure to have this opportunity to recognize Jenifer Clark of Alta Loma, CA. Jenifer was one of four winners in the national essay contest, "Support Literacy * * * Write Now" which was sponsored by the Sylvan Learning Center Corp. Essays were based on the topic, "How My Life Would Be Different If I Couldn't Read." The purpose of the contest was to help students understand the need for strong reading and writing skills and encourage them to improve upon their own abilities. Jenifer was in Washington, DC, this week to receive her award. I was very impressed with Jenifer and her well-written and sensitive essay, and I am pleased to share it with you today:

THE UNBREAKABLE CODE

Oh no! My history teacher just called on me to read the next paragraph! How can he expect me to decipher the little marks on that page? The girl before me was talking about Harriet Tubman and the Civil War. Maybe if I just stammer out a few phrases about rescuing slaves from evil masters I can pull it off.

I forgot about the science test today. It doesn't matter, though. I'm already failing, and there is no way I can bring my grade up. Does the teacher think that I can pass her dumb test if I can't even read it? I do know the alphabet, and since this one is multiple choice I can just write letters. Maybe one of my guesses will be right.

Of course I didn't do my homework! Language is always the toughest class. All we do is read and write. I can't do either. Now this teacher is lecturing me about the dismal future I'll have if I don't go to college. He is writing a note to my parents. How can he do that, shape those lines and loops into a message! Something that my parents will understand, something that will make them furious? No, I can't cry, I mustn't cry.

Wouldn't it be awful to live that way? Filled with despair, hopelessness, and the bleak realization that you have failed. I don't know if I could hold on to my sanity! The sobs of anguish building up in my throat, a burning lump of shame. The tears of frustration trapped behind my eyes, carefully kept out of sight, away from discovery. Can you imagine what torture a child like that would go through? Unable to read in such an academically oriented society. What worse punishment could there be?

The problem of school would not be the worst of it. It is also a matter of pride. I doubt that a junior high or high school student who could not read would admit it. Even while suffering under a burden of overwhelming humiliation, such students will deny being inferior to their classmates. They guard their secret carefully, unwilling to bear further onslaught to pride already wounded and bleeding from what they inflict upon themselves.

I have been trying to look at a printed page and see nothing but meaningless marks; a code with no solution. It doesn't work. My mind is too well trained, it absorbs the message in the words automatically. While I cannot comprehend an inability to read, I can feel the emotions of a person in that situation. The daunting shame, the frustration, the crushing despair, I know them all. The world must be an unfriendly place for one who cannot read, yet they have only reach out and ask for help. Then those who were once trapped can feel the sweet, wild joy of a caged bird given the freedom to soar on strong wings. They will rejoice, for they will be free at last.

Clearly, Jenifer Clark has great potential as a writer. Her sensitivity, skill, and creativity are outstanding for her age. I would like to offer my best wishes to her for continued achievement in all her endeavors.

WHAT WERE THE EFFECTS OF CABLE DEREGULATION? ISN'T IT TIME WE KNEW?

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. SCHUMER. Mr. Speaker, as of January 1, 1987, cable television companies were free to charge any rate that they chose for their service. As with other aspects of the Cable Act of 1984, the effect of rate deregulation is not clear. Some cities have seen rates jump over 100 percent, yet the cable industry reports that, on average, rates have only risen about 6 percent. Comprehensive and reliable rate information is not available. To help us get the whole story of cable rate deregulation, I am introducing H.R. 4865 the Cable Rate Disclosure Act of 1988.

As Congress assesses the success of the Cable Degregulation Act of 1984, some things are clear and others aren't. It is clear that cable television is no longer the struggling new technology that it was in 1984. Cable television now serves almost half of all Americans. Cable stocks are up and the industry profits are booming.

However, it is not clear how our constituents have been impacted by rate deregulation. The National Cable Television Association, a cable trade association, has studied rates and found that on average they have only increased by 6 percent. But there are some who disagree. According to industry experts, rates have jumped much more. Below is a list of cities that have seen their rates jump 50 percent or more since deregulation.

WHAT CABLE DEREGULATION MEANS AROUND THE UNITED STATES

Fifty-one cities where the cable rates went up 50 percent or more in 1987:

City, State:	*Percent increase*
1. Weston, CT	179
2. Denver, CO	175
3. Corvallis, OR	148
4. Russell, OH	124
5. Colleyville, TN	116
6. Norwalk, CT	116
7. Pacific View, CA	108
8. Boston, MA	100
9. New Castle, ME	91
10. Richardson, TX	90
11. Romulus, MI	87
12. Elmwood Park, IL	86
13. Waterford, CA	79
14. W. Windsor, NJ	75
15. River Grove, IL	75

16. Follansbee, OH	73
17. Steubenville, OH	73
18. Lafayette, CO	70
19. Santa Fe, MN	70
20. Yorktown, NY	69
21. Torrington, CT	69
22. Mundelein, IL	68
23. Acton, MA	67
24. Hudson, MA	67
25. Yonkers, NY	64
26. Indian Lake, OH	63
27. Shelbyville, CA	62
28. Quarryville, PA	62
29. Libertyville, IL	62
30. Lower, NJ	61
31. Manassas, VA	59
32. Passaic, NJ	59
33. Bennington, NY	58
34. W. Bridgewater, MA	56
35. Hoosick, NY	53
36. Oak Ridge, TN	53
37. Midland, MI	52
38. Venus, PA	52
39. Walnut Creek, CA	52
40. Kalamazoo, MI	51
41. Brownsville, KY	51
42. Eugene, OR	50
43. Beaver, OR	50
44. Ocala, FL	50
45. Broadview, IL	50
46. Burnham, IL	50
47. Maywood, IL	50
48. Oak Park, IL	50
49. River Forest, IL	50
50. Bridgeville, PA	50
51. Ferndale, WA	50

Source: Paul Kagan & Associates and Congressman Schumer's Office.

The Cable Rate Disclosure Act of 1988 will help Congress get the whole story. It would require each cable company to report its rates to the FCC on a monthly basis. The first report under the act would have to provide information dating back to January 1, 1987, the beginning of rate deregulation. Each month the FCC would be required to issue a statistical breakdown of the collected information.

However you feel about cable deregulation, you'll agree that the debate shouldn't be based on sketchy and biased information. Let's get the facts as best we can.

Below is a text of the bill that has the original cosponsorship of my colleagues, Mr. MORRISON of Connecticut, Mr. DEFAZIO, Mr. FROST, Mr. JACOBS, Mr. OWENS of New York, Mr. ACKERMAN, Mr. FAUNTROY, Mr. GEJDENSON, Mr. ATKINS, Mr. EVANS, Mr. EMERSON, Mr. JONTZ, Mr. GARCIA, Mr. FOGLIETTA, Mr. DWYER of New Jersey, and Ms. BOXER.

H.R. 4865

A bill to require cable television operators to regularly disclose their rates and services to the Federal Communications Commission, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cable Rate Information Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) since January 1, 1987, the cable television industry has effectively become completely deregulated;

(2) the result of this deregulation is that local cable companies were freed to charge any price they desired;

(3) it is impossible to measure the effect this deregulation has had on prices for cable television services because there is no central and complete repository for information on such prices and services; and

(4) in order to oversee the effectiveness and fairness of the cable communications provisions of the Communications Act of 1934, it is necessary to require cable operators to provide regular information on their prices and services to the Federal Communications Commission.

SEC. 3. AMENDMENT.

Section 623 of the Communications Act of 1934 is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h)(1) Each cable operator shall submit to the Commission, not later than 120 days after the date of enactment of this subsection and by the 10th day of any month following a month in which the operator implements any change in the services it provides or the rates charged for such services, a report on such services and rates. Such report shall be in such form as the Commission may require by regulation and shall contain—

"(A) a description of any tiers of service provided and the rate charged for each tier, and a statement of any other installation, disconnect, or other charges;

"(B) the total number of subscribers for each of such tiers;

"(C) any changes in rates charged for, or in services provided to, any such tier from the previous monthly report; and

"(D) such other information as the Commission may by regulation require.

"(2) The Commission shall compile the reports submitted under paragraph (1) and shall publish a statistical summary of such reports on a monthly basis. Such summary shall contain national, regional, and state average rates for representative tiers of service. The reports submitted under paragraph (1) shall be made available by the Commission for public inspection.

"(3) The first report submitted under paragraph (1) by each cable operator shall contain the information required by paragraph (1) with respect to each month between January 1, 1987, and the month preceding the month in which such report is submitted.".

MARLA J. ROBERSON'S WINNING ESSAY ENCOURAGES VOTER PARTICIPATION

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. DINGELL. Mr. Speaker, I rise today to congratulate Marla J. Roberson, who is a 17-year-old senior at Whiteford High School in Monroe County, MI, for winning an essay contest established in observation of Law Day U.S.A. Marla's outstanding essay praised the American democratic process which has enabled American citizens to enjoy the benefits of liberty in our great country. Marla astutely points out that the great degree of freedom should not be taken for granted. She rightfully contends that voter participation in elections is a civic duty that is essential for maintaining our way of life.

I commend Marla for her patriotism and insight. The entire 16th District should be proud of the accomplishment of such a talented student. For the benefit of my colleagues, I would like to insert the text of Marla's eloquent essay in the CONGRESSIONAL RECORD.

LAW DAY ESSAY CONTEST

(By Marla Roberson)

Do the words "liberty", "freedom", and "justice" have meaning for you? Do you feel a chill down your spine each time you hear the sound of the national anthem ringing through the air and see our majestic United States flag waving proudly in the breeze? These are so much more than words, songs, and red, white, and blue cloth. They are symbols of soldiers loyally fighting until death to save what we all know today as the United States of America, a country we should all be proud to be a part of. Throughout the years, brave men and women have risked their lives to give life to our country. Shouldn't we be willing to at least give a little of our time to do a job as safe as voting?

Our country is a democracy. This means "Of the people, by the people, and for the people". Where would our government be without the people? A century ago not everyone could vote. Today almost every citizen can and should. It is not only a right, it is a duty which begins now. We are now in the process of choosing a candidate from each party to run for President. We have many men to choose from. You must begin studying the candidates and the issues to decide who you will choose to support. In most states you may vote in these primaries. Although it isn't a direct vote, it does have great bearing upon the number of delegates a candidate receives.

After the candidates are chosen the final race begins. It is now time to decide who our next President will be. Each person must make the choice in their own minds, believe in it, and then fight for it. We must not be a weak people, walking down a middle line. If we are weak as individuals, then our country as a whole is no stronger. If we lose sight of the impact that we, as individuals, have on our entire nation, then we gradually lose power and are done away with. Just as a man who doesn't believe in himself never attains his goal, so it is with our country. The power to vote must not be taken for granted. We have had to work to earn that freedom, and without working, we shall lose it, along with many other freedoms we enjoy today such as the freedom of speech, the freedom to be who we want, the freedom of religion, and many others which we find quite dear to us.

I am proud to say that I am a citizen of the United States of America and I do have the freedom to choose here. I, along with each other citizen, have a part in deciding the future of my community, my state, my country, and my world. In no other place could I enjoy these privileges quite the way I do here. The United States truly is "The land of the free and the home of the brave".

OPERATION WHALESAVE

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. MORRISON of Connecticut. Mr. Speaker, I wish today to bring to the attention of my colleagues a noble effort that has recently begun in the State of Connecticut—Operation Whalesave, a cooperative effort of Mystic Marinelife Aquarium and First Constitution Bank, which is headquartered in New Haven.

The beneficiary of the program will be the new Whale Study Center at the aquarium. When completed, it will give all visitors the opportunity to observe the treatment procedures and ongoing research carried out by the aquarium's rescue team. This group has more than 12 years of experience in emergency medical trauma treatment of marine animals, and the new facility will allow them and all of us to better our knowledge and understanding of and appreciation for the whale.

First Constitution has committed itself to this effort by agreeing to make a donation to the aquarium for each new account opened. In all, the bank has committed over $200,000 to make the program work.

I salute these efforts. The whale is the State animal of Connecticut, and I believe that there is great value in understanding it and preserving it for future generations. Operation Whalesave will help in this effort.

ESCALATE THE FIGHT AGAINST AIDS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. BONKER. Mr. Speaker, as we consider the fiscal year 1989 appropriation for the Department of Health and Human Services, I would like to call our colleagues attention to the proposed spending levels for AIDS education and research.

Over the last several days there has been a series of shocking and extremely troubling revelations about the seriousness of the epidemic that we face. Federal health officials now estimate that at least 450,000 persons in this country will have been diagnosed with AIDS by 1993. That amounts to one new case of AIDS every 14 minutes. And we now know that unless an effective treatment for this terrible disease is found, all of those people will die.

The bill we are considering here today includes more than $1.2 billion for research, education, and other activities aimed at treatment and prevention of this deadly disease—that is an increase of $308 million over current levels. In addition to the funds appropriated in this legislation, the Federal Government will spend close to $900 million in fiscal year 1989 on AIDS treatment, testing, and research through Medicaid, Medicare, Social Security, the Departments of Labor, Defense, and other Federal agencies.

Clearly, identifying a cure for AIDS is our ultimate goal. Currently, however, there is only one way to combat the spread of AIDS, and that is through prevention—that means educating people, at the earliest practical age, about how the disease is transmitted.

Part of the tragedy of this epidemic is that most of the victims are young, and that we are robbed of their potential just as it is being realized. We must ensure that efforts to develop drugs which help the body fight AIDS are not slowed by even a day for lack of resources. Furthermore, I believe that Congress is long overdue in setting forth, in any comprehensive manner, a comprehensive national policy dealing with AIDS testing and counseling.

Public health officials, including the Surgeon General, agree that in all but a few circumstances, mandatory testing for the AIDS virus is bad public health policy, and would, in fact, be counterproductive. First, mandatory testing programs would tend to drive the disease underground because people who fear they might have the disease will be wary of coming forward to be tested. Also, there is widespread agreement that across-the-board testing of certain subgroups is not the most cost-effective use of the limited resources we have to fight AIDS.

Mr. WAXMAN has introduced the Federal AIDS Policy Act, which would establish the necessary legal framework in which voluntary testing and counseling programs would be most effective. And the legislation approaches these issues in a thoughtful and compassionate manner. The bill would establish Federal guidelines for voluntary testing and counseling, provide assurance for confidentiality in testing and counseling so those at greatest risk will be encouraged to seek assistance, and authorize $400 million in each of the next 3 years for AIDS research.

Mr. Speaker, if we are going to effectively fight this disease, it is imperative that Congress acts to ensure the confidentiality of AIDS test results, and that we prohibit discrimination against persons who carry the virus. Without such protections, the effectiveness of testing programs will be undermined greatly, because few people will be willing to come forward to be tested if doing so could cost them their home or job. To effectively combat AIDS, it will require enlightened social policy as well as intensive research. The bill that we are considering today will make possible the latter. Now, let us move quickly and install a thoughtful public policy to enhance these efforts.

MRS. WILLIAMS WINS WELL-DESERVED TOP NATIONAL HONORS IN VOLUNTEER EXCELLENCE

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. BENNETT. Mr. Speaker, I enclose herein an article published in the Florida Times-Union from the Associated Press relative to the tremendous achievement of 92-year-old Arnolta "Mamma" Williams of Jacksonville, which I represent in Congress. Mrs. Williams is the first to receive the new national award as the outstanding volunteer of the country. Those who know Mrs. Williams as I do are delighted that she received this very much deserved honor. This is an inspiration to all good Americans.

PRESIDENT HONORS CITY'S 'MAMMA'

WASHINGTON.—President Reagan presented the first Ronald Reagan Award for Volunteer Excellence yesterday to feisty 92-year-old Arnolta "Mamma" Williams of Jacksonville, who responded by chiding the president about his jokes.

Mrs. Williams, a well known leader in Jacksonville's black community, has engaged in many volunteer activities and been credited with helping smooth the way to peaceful racial integration in the city.

After saying how honored he was to give the award to Mrs. Williams, the president said he would like to stay all afternoon, but, "Nancy tells me I've got to help her with the dishes."

"Don't you make another joke like that," Mrs. Williams cracked.

"Mamma Williams," the president said, "that may not be as much a joke as you think. One of the best jobs I ever had was when I was in college washing dishes in the girls' dormitory."

"That was before you were married," Mrs. William said.

"Yes," Reagan said.

The award was unveiled at a luncheon held to honor this year's 18 recipients of annual volunteer awards that are given by the White House. The Reagan award—presented to the person selected top volunteer—was created this year.

In the future, presidents will select the winner, said Bobby Trimble, who announced establishment of the Reagan award, and who won an award at the first luncheon in 1982. This year, the winner was chosen by leaders of volunteer organizations so the new award could be kept secret, said Trimble, of Midland, Texas.

After presenting the award to Mrs. Williams yesterday, the president complimented her.

"At 91 (92), most of us would be content to retire," he said. "But Arnolta Williams, or 'Mamma' Williams as she's known in Jacksonville, just keeps going.

"Following a routine she established almost 70 years ago, she's up every day volunteering. During her life she's raised the funds and gathered the support to build a nursery for low-income mothers. She's acted as a community leader to bring harmony during the racial turmoil of the 1960s. And she's served on the board of countless nonprofit organizations.

"In fact, 'Mamma' Williams has done so much during her lifetime to help others, it would be impossible to mention every project now. But I think it's sufficient to say that if you think about it, you know that she isn't called 'Mamma' without reason.

"And I like another thing about her, too. She did a little personal job on me—she talked me into feeling young."

Mrs. Williams has long been known for her wit and sense of humor as well as her volunteer efforts.

"I've been a lot of things in my life," she said recently in Jacksonville. "First I was colored. Then I was a Negro. Then I was black, and now I'm a minority.

"And I'm an integrated mother, too. I've got 'adopted' black and white children and grandchildren all over—(former mayors) Jake Godbold and Hans Tanzler, [former governor] Reubin Askew, (U.S.) Senator Bob Graham, and (former President)

Jimmy Carter, and Rosalynn (Carter), too. One of my favorites was Andrew A. Robinson, the interim president of the University of North Florida, who recently died," she said.

Some of Mrs. Williams' friends in Jacksonville were ecstatic yesterday when they heard she had been given the award.

"Mamma Williams is an outstanding volunteer," Mayor Tommy Hazouri said.

"I cannot think of a more dedicated invididual, and I am extremely pleased that she is being recognized nationally for her many contributions to this community."

Former City Council member Frank Hampton said, "This is wonderful."

"Mamma Williams has contributed a great deal to Jacksonville for many years," Hampton said.

"She is a very wonderful and active lady, and I can only hope and pray that I will be as alert and active as she is when I am her age."

The Rev. C.B. Daily, the pastor of the First Baptist Church of Oakland, said, "It is wonderful."

"She has given many, many, years of service to her community," Daily said. "She is a tremendous credit to this community and I know of no person who is more worthy of receiving this award."

Mrs. Williams has also received:

The United Way's Alex de Tocqueville National Award for Volunteerism.

Volunteer Jacksonville's J.C. Penney Golden Rule Award for Outstanding Senior Citizen.

The first EVE Lifetime Achievement Award presented by The Florida Times-Union.

Among the 18 recipients of the awards was Operation Comeback of Orlando, which assists troubled adolescents referred to Juvenile Court.

EXPANSION OF THE SMALL BUSINESS INNOVATION DEVELOPMENT ACT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. LAFALCE. Mr. Speaker, today I am introducing a bill to strengthen and expand a small business program that is aimed at enhancing our status in the high technology arena—the Small Business Innovation Research [SBIR] Program.

In 1982, we turned a dream into a reality with the establishment of the SBIR Program on a Governmentwide basis. At that time, I was privileged to be the original sponsor of the bill, H.R. 4326, which allowed us to accomplish that dream. And I was a leading advocate for the extension we obtained in the last Congress.

Now, I am asking my colleagues to join me in taking another important step forward. We are facing a crisis in the international technology arena that is even more severe than when the SBIR Program was conceived in 1982.

That is why we must expand the SBIR Program.

My bill, Mr. Speaker, would accomplish three objectives. It would lower the current $100,000,000 threshold for participation to $20,000,000 and increase the present SBIR share of 1.25 to 3 percent at 0.25 percent annual increments. The bill would start this climb in fiscal year 1994. Also, my bill would make the SBIR Program permanent law.

It is worth noting that the 1986 White House Conference on Small Business, composed primarily of nonhigh technology businesses, strongly supported the expansion of the SBIR Program. Recommendation No. 14 called for increasing the size of the program and making it permanent. My bill does just that.

Furthermore, among the recommendations of the National Commission on Jobs and Small Business was the expansion of the "highly successfully Small Business Innovation and Research Program to 3 percent of existing government research and development expenditures."

I must point out that the initial opposition we encountered in 1982 has largely melted away. Most of that initial skepticism has dissipated, and there is every indication that the expectations of the program's supporters are being realized. The program is highly regarded, both in this country and abroad, as a means of increasing innovation and productivity, generating new products and creating new jobs.

In fact, SBIR proposals now are considered by the agencies to be equal to, or often superior to, those received from the traditional performers, such as universities, nonprofits, Federal laboratories and large business concerns.

Let me echo the words of Dr. Richard Morse, a former Assistant Secretary of the Army for R&D and a senior lecturer at MIT:

> We ought to give the government a pat on the back for initiating the Small Innovation Research Program. This program is an effective mechanism for the support of innovative technology in small companies. This is one of the best ideas that the government has implemented to enhance the commercial development of new business entrepreneurs.

One reason for this is the extreme competitiveness of the SBIR Program. Let me just cite some astounding statistics for you. Since its inception in fiscal year 1983, approximately 5,027 phase I and 1,309 phase II awards have been made. This is in response to 56 solicitations that had resulted in the agencies receiving over 38,000 phase I proposals and over 2,000 phase II proposals.

Overall, it is estimated that $400 million will be awarded in fiscal year 1987. This means an estimated $1.1 billion will be awarded through SBIR to small businesses in the first 5 years of the program. The average amount of the phase I awards was approximately $50,600. Certainly not a lot of money when you think of the billions we spend annually on R&D.

I am proud of the showing of companies in my home State. In the first 4 years of the SBIR Program New York's small, technology-based companies submitted 1,860 proposals, resulting in 206 phase I awards and 56 phase II awards. The money that flows into the State, roughly $30 million, from this program strengthens the small firms in the State and enhances our economic position.

New York also pioneered the matching of Federal SBIR phase I funds. The State's expenditure of $6.4 million on such matches is well justified by the $30 million in Federal SBIR funds which it helped to bring into the State. Such State assistance may even promote the ability of New York firms to challenge the top two States—California and Massachusetts—in the number of awards won.

The number of competing companies and proposals has risen steadily. The record on the SBIR Program shows that the majority of small business SBIR award winners are new entrants to the Federal marketplace. In fact, most of the businesses that have received SBIR grants are less than 5 years old, have fewer than 10 employees and have had no previous involvement with the Federal Government.

Broken down even further, the record indicates that 60 percent of the 1,222 companies that won phase I awards in 1986 were first-time SBIR awardees. These 1,222 companies won 1,945 awards, or an average of 1.6 awards per company.

The program is now so competitive as to quality that agency SBIR Program managers privately have conceded that they are rejecting SBIR proposals they wish they could fund. Unfortunately, the odds against winning a phase I or phase II are becoming so unreasonable in some of the agencies that many otherwise qualified competitors do not even try to compete in the program. Without increasing the SBIR percentage, this fact will only become worse.

It can be said that imitation is the sincerest form of flattery. The SBIR Program certainly has earned its share of international attention. The Japanese Government has sent observers to the United States in order to learn from our SBIR Program; they intend to start up a similar program in Japan.

In late 1985, the Basic Research in Industrial Technologies [BRITE] program was begun by the Directorate General for Science, Research and Development, Commission of the European Communities, in Brussels.

In June 1986, Great Britain began its own program, called SMART—Small Firms Merit Award for Research and Technology—which is modeled on our SBIR Program. In addition, Canada, France, Germany, and Holland have all approached the Small Business Administration to learn more about the program.

Faced with this international competition, it is ever more imperative that we enhance our climate for innovation in order to maintain our position in the global marketplace.

From this perspective, the Small Business Innovation Development Act is absolutely vital to our national interests.

I strongly believe that increased participation by small businesses in federally funded R&D projects should be our top public policy priority. The SBIR Program gives us an effective means of achieving this goal and of stimulating innovation and commercialization of new technologies. I urge my colleagues to join me in expanding the SBIR Program.

By doing so, we in Congress are telling the world that we really do mean business in terms of expanding our productivity, our innovative technologies and our international competitiveness.

MENTAL HEALTH AND AGING ACT (H.R. 4860)

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 20, 1988

Mr. ROYBAL. Mr. Speaker, based on 1½ years of study and hearings by my Committee on Aging and developed partnership with the key national aging and mental health organizations, the Mental Health and Aging Act being introduced today takes a critical first step toward addressing the unmet mental health needs of America's elderly, disabled and children.

This "Mental Health Initiative" attempts to rectify major deficiencies in Medicare, Medicaid, the mental health block grant and Federal research and training programs. It shifts Medicare and Medicaid funds toward outpatient care, and expands the range of Medicare and Medicaid mental health providers. The bill substantially increases community mental health money and targets up to $100 million toward children and elderly, and greatly expands consumer protection—including an enforceable consumer bill of rights. In addition, it puts a higher priority on elderly mental health research and training, launches an Institute of Medicine study on quality assurance and program effectiveness, and creates a National Mental Health Education Program.

Mental health care has been a neglected priority in our health care system. This neglect was clearly documented by a recent Committee on Aging report and hearing which included testimony by former First Lady, Rosalynn Carter; National Governors' Association Mental Health Task Force Chairman, Gov. Richard Celeste; former HEW Secretary, Dr. Arthur Flemming; and the administration's spokesperson, Dr. Lewis Judd. One prime example of this neglect is the failure to ensure appropriate mental health care to Medicare and Medicaid beneficiaries needing nursing home care.

However, talking about upgrading mental health care in America is not enough. Concrete Federal action, such as my Mental Health and Aging Act and mental health legislation pushed by Representative WAXMAN and Senator KENNEDY, must be taken quickly to better protect elderly and nonelderly Americans from the devastating effects of mental disorders.

Now is the time to acknowledge that mental health care is essential to the health of the Nation and must be an integral part of a U.S. health care system caring for all Americans.

I view my mental health initiative not just as helping the elderly, but as a first step in reforming the mental health delivery system for all Americans, regardless of age. Even if all the proposals in my mental health initiative were to be enacted today, much would still remain to be done for Americans of all ages. We must not rest until all Americans are provided with a comprehensive system of basic and catastrophic health protection which effectively and completely meets both physical and mental health care needs.

Mr. Speaker, I respectfully request that the bill description and text be included in the RECORD.

MENTAL HEALTH AND AGING ACT OF 1988—SUMMARY OF H.R. 4860

PURPOSE

To provide improved Medicare and Medicaid mental health benefits and to encourage the development of community based services for mentally impaired elderly persons, children and their families.

SUMMARY

America's elderly are in need of improved mental health services. Current estimates indicate that between 15 and 25 percent of Americans over the age of 65 suffer from significant mental health problems. This means that as many as 7 million elderly Americans currently need professional mental health services, but very few are receiving treatment of any kind.

Elderly persons display a wide range of mental health complaints. Depression, alcohol abuse, and the misuse of prescription drugs are serious problems, and men over the age of 75 have the highest suicide rate of any age group. Many chronically mentally disabled persons are now living into old age, and while dementia and severe cognitive impairment are increasingly prevalent, estimates indicate that as many as 30 percent of older Americans who are labeled "senile" actually have reversible, treatable conditions.

In spite of such great need, estimates indicate that as many as 80 percent of those elderly in need of mental health services fail to receive them, and elderly persons are seriously under-represented among persons receiving treatment for mental disorders. Responding to the great need of mentally impaired elderly persons for improved care and assistance, the Mental Health and Aging Act 1988 proposes the following initiatives:

Expands funding for, and encourages development of, community based services for mentally impaired elderly, children and their families.

Increases biomedical, behavioral and social research and research on prevention, treatment and services for mentally impaired elderly and their families.

Increases training of health care professionals and paraprofessionals relative to elderly mental health.

Established a National Mental Health Education Program.

Abolishes the Medicare lifetime limit on inpatient psychiatric hospital treatment in favor of an annual limit and expands Medicare benefits for outpatient and community based mental health services.

Requires Medicaid programs to include community based mental health services for eligible recipients.

Requires nursing homes under Medicare and Medicaid to include mental health in plans of care and to ensure access to mental health services.

Establishes Medicare mental health cost containment measures.

Creates Consumer Bill of Rights, establishes quality assurance protection and requires quality assurance and program effectiveness study.

PROVISIONS

TITLE I: DEVELOPMENT OF MENTAL HEALTH SERVICES FOR CHILDREN AND ELDERLY (Title I is effective on October 1, 1988)

SEC. 101. STATE MENTAL HEALTH BLOCK GRANT.—Establishes an expanded state mental health block grant, administered by the Secretary of Health and Human Services, for improving mental health services for children and elderly.

Funds are to be used to develop more effective services and service delivery systems for children and the elderly and to improve access and quality assurance programs for mentally impaird children, elderly and their families. Within these three populations, special attention is to be given to racial and ethnic minorities and other underserved populations. Requires States to document increased outreach and services for mentally impaired children, elderly and their families/caregivers, including those elderly living in the community or nursing homes.

Requires States receiving State Mental Health Grant funds to establish, according to regulations determined by the Secretary of Health and Human Services, an appropriate mechanism for ensuring quality of and access to services.

Requires providers and agencies providing mental health services funded under the State Mental Health Grants to comply with the provisions of the Consumer Bill of Rights (See below).

With their allocation, States are to use a) at least 10 percent of the grant for programs for children and b) at least a percentage, equal to the percentage of elderly people (over age 65) in a State, of the grant for the elderly. Implementation of the elderly set-aside is contingent upon the total mental health grant receiving an appropriation of at least $260 million.

Authorizes an expansion of the Mental Health Block Grant program by $100 million in FY 1989, $104 million in FY 1990, and $108 million in FY 1991.

SEC. 102. COMMUNITY BASED SERVICES DEVELOPMENT AND COORDINATION.—Expand the current Community Support Program to encourage development and coordination of community based services and social support systems for mentally impaired elderly, rural residents and their families/caregivers. Initial grants to States are available for three years with funding up to $400,000 per year, subject to annual evaluation by the Department of Health and Human Services. Total authorized funding is $10 million split evenly between programs for the elderly and rural residents. Funds may be used to:

Develop community based services for mentally impaired elderly, rural residents and their families/caregivers, including those elderly living in the community or nursing homes.

Develop systems of coordination and cooperation among elderly health, mental health, and social service providers, including Area and State Agencies on Aging and Area and State Mental Health Administrations.

Develop programs for outreach and public education regarding the utility, availability, and barriers to elderly use of mental health services, including programs targeted to specific age cohorts and minorities.

SEC. 103. TRAINING OF HEALTH CARE PROFESSIONALS, ALLIED HEALTH PROFESSIONALS, AND PARAPROFESSIONALS.—Increases training of health care professionals, allied health professionals, and paraprofessionals, with special attention to members of racial and ethnic minority groups, in order to improve the prevention, diagnosis, treatment, and management of mental disorders among the elderly.

Adds $4 million in FY 1989, $8 million in FY 1990, and $12 million in FY 1991 to NIMH's clinical training programs related to elderly mental health.

Adds $2 million in FY 1989, $4 million in FY 1990, and $6 million in FY 1991 to NIMH's programs for research training and research career development related to elderly mental health.

Adds $2 million in FY 1989, $4 million in FY 1990, and $6 million in FY 1991 to NIA's programs for research and clinical training and career development related to elderly mental health and psychosocial well-being.

Adds $2 million in FY 1989, $4 million in FY 1990, and $6 million in FY 1991 to AoA's grants to medical, nursing, psychology, social work, gerontology, and health administration schools and to training programs for nursing home aides and home health, homemaker, and other home care providers for training and continuing education related to elderly mental health.

Sec. 104. Biomedical, Behavioral and Social Research on Prevention, Treatment, and Services.—Increases biomedical, behavioral and social research on prevention, treatment, and service delivery for mentally impaired elderly. The Department of Health and Human Services is required to develop a plan of prevention, treatment, and service delivery research related to elderly mental health and psychosocial well-being and to implement it through the National Institute on Aging, the National Institute of Mental Health, and the Administration on Aging.

Adds $8 million in FY 1989, $16 million in FY 1990, and $24 million in FY 1991 to NIMH research programs on elderly mental health. At least 10% of these funds are to be used for service delivery research.

Adds $4 million in FY 1989, $8 million in FY 1990, and $12 million in FY 1991 to NIA's research programs on elderly mental health and psychosocial well-being. At least 10% of these funds are to be used for service delivery research.

Adds $2 million in FY 1989, $4 million in FY 1990, and $6 million in FY 1991 to AoA's research and demonstration programs on elderly mental health.

Sec. 105. National Mental Health Education Program.—Establishes a national program (similar to the successful National High Blood Pressure Education Program) through the National Institute on Mental Health that creates a national focus on mental health problems and mental health care.

Brings together public and private organizations to develop better ways to provide care to people with mental health problems and to assist their families.

Provides technical assistance to public and private organizations delivering mental health care and provides information (including the rights of and sources of assistance for people with mental health problems and their families) to the public and to providers.

Establishes a clearinghouse on mental health which collects information from research and treatment programs and makes this information available to people with mental health problems and their families, to health care professionals and to the general public.

Fosters and coordinates research, training, and education programs relating to the causes, diagnosis and treatment of mental health problems.

Funding is set at $1 million in FY 1989, $2 million in FY 1990, and $3 million in FY 1991.

Sec. 106. Institute of Medicine Study of Quality Assurance and Program Effectiveness.—Requires Secretary of the Department of Health and Human Services to contract with the Institute of Medicine for a study of quality assurance and program effectiveness with respect to mental health services.

Study is to determine methods for measuring and assuring the quality and program effectiveness of mental health services and alcohol and drug abuse treatment services as provided in various settings, including psychiatric hospitals, inpatient pyschiatric units in general hospitals, nursing homes, community mental health centers and other ambulatory care settings. The study is to develop recommendations to providers, program administrators, and payers (including Medicare and Medicaid).

Funding is set at $500,000 for fiscal year 1989. The study is to be completed and a report submitted to Congress within 18 months of the signing of the contract.

Sec. 107. Additional Studies on Mental Health Services.—(Due on January 1, 1990.)

Prepaid Health Plans.—Directs the Institute of Medicine to conduct a study comparing mental health services, benefits, access, and quality under Medicare and non-Medicare prepaid health plans and in settings other than prepaid plans.

Mental Health Facilities.—Directs the Secretary of Health and Human Services to conduct a study examining mechanisms for ensuring quality of and access to mental health services delivered by state and local mental health facilities and by independent providers of mental health services.

Minority Access to Community Mental Health Centers.—Directs the Secretary of Health and Human Services to conduct a study examining the representation of racial and ethnic minorities among persons receiving Community Mental Health Center Services, including current level of utilization and the level of unmet present and future need. In addition, the Secretary is to conduct demonstration projects as to how to increase minority utilization to appropriate levels.

Mental Health Manpower.—Directs the Secretary of Health and Human Services to conduct a study examing (a) the adequacy of manpower for meeting present and future mental health needs of the elderly, and (b) the optimal utilization of the various types of mental health professionals for meeting those present and future elderly mental health needs.

Minority Manpower and Training.—Directs the Secretary of Health and Human Services to conduct a study examining the adequacy of (a) manpower for meeting present and future mental health needs of ethnic and minority group elderly, and (b) opportunities for training ethnic and minority group mental health professionals.

TITLE 2: MEDICARE AND MEDICAID SERVICES AND COST CONTAINMENT

Sec. 201. Medicare Inpatient Psychiatric Hospital Services.—Reforms Medicare inpatient psychiatric hospital service benefits as follows:

Abolishes the Medicare Part A 190-day lifetime limit on inpatient treatment in psychiatric hospitals in favor of a 60-day annual limit. (The Medicare catastrophic health insurance legislation already would extend coverage of inpatient treatment in general hospitals.) Coverage may be extended based upon necessity reviews to be conducted through a mechanism determined by the Secretary of Health and Human Services in consultation with provider and consumer representatives. (Effective January 1, 1989.)

Sec. 202. Outpatient and Community Based Mental Health Services.—Reforms Medicare and Medicaid outpatient and community based mental health service benefits as follows:

Changes current law so that medical management (including an initial assessment and evaluation) of psychiatric disorders is not a mental health service under Medicare Part B, is not counted toward the annual outpatient reimbursement limit and should be reimbursed as a physician service. Medical management visits are "visits of shorter duration than therapy or treatment sessions and their main purpose is to permit the attending provider to assess the patient's status, assess the Rx plan and the patient's progress and perform necessary lab tests." (As per Subcommittee on Health and the Environment, House Committee on Energy and Commerce.) (Effective January 1, 1989.)

Abolishes the 50 percent copayment requirement and the annual $250 reimbursement limit for mental health services under Medicare Part B in favor of a 20 percent copayment requirement with an annual limit of 20 covered visits. Coverage may be extended based upon necessity reviews to be conducted through a mechanism determined by the Secretary of Health and Human Services in consultation with provider and consumer representatives. (Effective January 1, 1989.)

Expands outpatient benefits under Medicare Part B to include community based mental health services as follows (Effective January 1, 1989.): Outpatient mental health services, including psychotherapy and psychoanalysis; services in community mental health centers; directly reimburses mental health services provided by clinical psychologists, clinical social workers, and psychiatric nurse specialists (as defined in Roybal bill, H.R. 2218) subject to state laws governing clinical practice; and such other services as the Secretary may prescribe.

Provides for a Medicare in-home respite care benefit of up to 120 hours per year for beneficiaries with chronic physical or mental impairments. (Effective January 1, 1990.)

Requires Medicaid programs to include, on the same basis as physician services, community based mental health services (as defined above) for eligible recipients, including those in their homes or in a nursing home. (Effective January 1, 1989.)

Sec. 203. Definition of Institution for Mental Diseases.—Clarifies the definition of an Institution for Mental Disease under Medicaid. (Effective January 1, 1989.)

Specifies that a facility may be classified as an Institution for Mental Disease (IMD) under Medicaid only under the following conditions: (1) The facility is under the jurisdiction of the State's mental health authority, or (2) the facility advertises itself as primarily specializing in the treatment of individuals with mental disease, or (3) based upon current diagnosis, less than 50 percent of all patients in the facility have a physical condition independently sufficient to require nursing home care.

Specifies that the delivery of mental health services or psychopharmacological drugs to patients with physical conditions independently sufficient to require nursing home care shall not be considered an indication that a facility is an Institution for Mental Disease (IMD) under Medicaid.

Specifies that staff persons with specialized psychiatric or psychological training shall not be considered an indication that a facility is an Institution for Mental Disease (IMD) under Medicaid.

Sec. 204. Requirement of Access to Mental Health Services for Nursing Home Residents.—Requires access to mental health services for all nursing home patients as a condition of participation under Medicare and Medicaid (details contained in section on Conditions of Participation). (Effective with OBRA 1987.)

Sec. 205. Review of Nursing Home Payments Under Medicare and Medicaid.—Requires the Secretary of Health and Human Services to review the levels of reimbursement for nursing home care under the Medicare and Medicaid programs to ensure that reasonable amounts are provided for the provision of mental health services as required by this Act.

Sec. 206. Medicare Cost Containment.—Ensures cost containment under Medicare through mandatory assignment, utilization review, cost indexing, and prospective pricing. (Effective January 1, 1989.)

Requires that all providers of mental health services under Medicare Part B accept assignment for mental health services; i.e., accept Medicare reimbursement as payment in full (except for deductibles and coinsurance) for mental health services.

Clarifies that Fiscal Intermediary and Carrier Utilization review, as well as beneficiary appeal of such review, shall incorporate review of all new services provided under Medicare as a result of this Act.

Requires indexing of mental health outpatient payments based upon the average of the urban consumer price index (CPI) and the Medicare medical economic index (MEI).

Requires the Secretary of Health and Human Services, in consultation with mental health providers and consumers, to develop a prospective pricing (fee-based system) of outpatient mental health services. (Effective January 1, 1990.)

Sec. 207. Conditions of Participation for Medicare and Medicaid for Quality Assurance and Access Protection.—Requires the Department of Health and Human Services to establish conditions of participation as follows (Effective January 1, 1990.):

All mental health providers under Medicare and Medicaid shall (a) comply with the Consumer Bill of Rights (see Bill of Rights below); (b) provide the client with written grievance procedures appropriate for all services; and (c) give in writing the services to be provided. Note: In this Act, "mental health providers" means a psychiatrist, psychologist, clinical social worker, psychiatric nurse specialist, psychiatric hospital, hospital programs (under section 1905(i)) and an institution for mental diseases.

All mental health providers under Medicare and Medicaid shall have (a) the capability to identify clients who may be in need of mental health services; (b) the capability to provide such services or to make appropriate referrals for such services; and (c) the means to coordinate with other agencies, programs, and services providing mental health services or other services to the client.

All mental health providers under Medicare and Medicaid shall (a) include in their client assessments an assessment of mental health needs at a level sufficient to identify clients for whom a comprehensive mental health assessment, conducted by a mental health professional, is indicated; (b) provide or arrange for such comprehensive mental health assessment when indicated; and (c) when appropriate, include mental health services in their plans of care and discharge planning.

All mental health providers under Medicare and Medicaid shall have (a) client care processes which include a plan of care which states reasonable goals and objectives, services to be provided to meet those objectives, and outcome measures for each client served; (b) a method for periodic review of clients needs and the plan of care; and (c) a statement of criteria for discharge and/or transfer to another agency, program, or service.

All Health maintenance organizations or competitive medical plans providing services under Medicare and Medicaid shall provide, according to regulations determined by the Secretary of Health and Human Services, an appropriate package of mental health benefits and an appropriate mechanism for ensuring quality of an access to services provided under those benefits.

All hospitals and nursing homes providing services to chronically mentally ill individuals under Medicare and Medicaid shall have a discharge plan for all such individuals which assures that they will have a plan for mental health care and for coordination of services established prior to discharge.

Sec. 208. Peer Review of mental Health Services.—Clarifies that for both Medicare and Medicaid, future contracts for PRO review shall incorporate review of all new and current services provided under those programs as a result of this Act.

Mental Health Care Consumer Bill of Rights.—Establishes a Mental Health Care Consumer Bill of Rights applicable to all mental health consumers and providers under Medicare, Medicaid, and the Alcohol, Drug Abuse, and Mental Health Block Grant and provides mechanisms to ensure enforcement of the following provisions:

1. The right to appropriate treatment and related services in a safe setting. The right to appropriate treatment and related services under conditions that are humane and supportive of a person's personal liberty (especially in the areas of confidentiality of a person's records), that give respect and privacy in treatment, care, communications and all daily activities, and that permit the exercise of one's civil rights and provide assistance in doing so when assistance is needed.

2. The right to be free from physical or mental abuse, inappropriate experimentation, exploitation, corporal punishment, inappropriate seclusion and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the person's medical or psychological symptoms. Restraints may only be imposed, except in emergencies, to ensure physical safety and only on the written order of an appropriate mental health professional.

3. The right to an individualized, written treatment plan (to be developed promptly after admission of client patient), the right to treatment based on this plan, the right to periodic review and reassessment of treatment related needs, and the right to appropriate revision of the treatment plan. This includes the right to any revision necessary to provide a description of mental health services that may be needed after the individual patient is discharged from a treatment program or service-related facility. This also includes the right to referral as appropriate to other providers of mental health services upon discharge.

4. The right to be informed as to whether services and treatment are covered by health insurance, medical assistance or other sources. The right to receive an itemized copy of these charges and advance notice detailing changes in services or charges. This includes the right to be promptly notified of the acceptance or denial of treatment and services and the reasons for denial, and to receive reasonable notice if treatment, care or services are to be reduced or terminated. The right to assistance to assure a smooth transition in services consistent with client welfare.

5. The right to grievance procedures if rights are violated or services are not satisfactory, including the right to an impartial grievance procedure provided for or by the the program or facility.

6. The right to receive treatment, care and services from individuals who are properly trained and competent to perform their duties and in compliance with all state and local laws and regulations.

7. The right to ongoing participation, in a manner appropriate to an individual's capabilities, in the planning of one's mental health services (including the right to participate in the development and periodic revision of the plan of care described in item (3)). In addition to the right to be provided with a reasonable explanation, in terms and language appropriate to the person's cultural background and ability, the right to understand one's mental condition and general physical condition, the objectives of treatment, the nature and significant possible adverse effects of recommended treatments, and, the reasons why a particular treatment is considered appropriate in addition to any appropriate alternative treatments, services, and types of providers of mental health services.

8. The right to refuse a mode or course of treatment, established in accordance with the treatment plan, in the absence of the individual's informed, voluntary, written consent to this particular mode or course of treatment. An exception may be made during an emergency situation if this treatment is documented by a written order of an appropriate mental health professional as necessary for the immediate safety and welfare of the individual or as permitted under applicable state law in the case of a person committed by a court to a treatment program or facility.

9. The right to be informed fully of the provider's assessment of the patient/client's condition upon request. An exception may be made if contraindicated by documentation by the mental health professional in the client record that such access would be detrimental to the individual's health. In this instance, material may then be made available to a similarly licensed health professional selected by the client and this health professional may, in the exercise of professional judgment, provide the client with access to any or all parts of this material or otherwise disclose the information contained in this material to the individual client.

10. The right, in the case of an individual admitted on a residential or inpatient care

basis, to converse with others privately, to have convenient and reasonable access to the telephone, mails, and to see visitors during regularly scheduled hours.

Note: While this legislation addresses the mental health problem directly, Congressman Roybal has introduced several other bills which also address mental health needs. The "Comprehensive Alzheimer's Assistance, Research, and Education Act—CARE" (H.R. 3130) provides improved care and assistance for Alzheimer's Disease and related disorders victims and their families. The "US Health Program Act" (H.R. 200) is a broad health care reform package which would provide catastrophic and basic health protection, including physical and mental health care, for all Americans. The "Medicare and Medicaid Catastrophic and Acute Transitional Care Act" (H.R. 1930) would better protect the income and assets of spouses of Alzheimer's victims in the Medicaid program and would provide limited respite care. The "Home Care Quality Assurance Act" (H.R. 1700) would better protect the quality of home care services provided to beneficiaries under certain federal programs. "The Medicare Long-Term Care Catastrophic Protection Act of 1987" (H.R. 3436/2762; introduced with Representative Pepper) would provide long-term home care protection for Medicare beneficiaries and chronically ill children.

SUMMARY OF FUNDING: PROVISIONS FOR DEVELOPMENT AND REFORM OF MENTAL HEALTH SERVICES

[In millions of dollars above current authorizations]

	Fiscal year—		
	1989	1990	1991
Expansion of State Mental Health Grant	100	104	108
Community Support Program	10	10	10
Biomedical, behavioral and social research:			
NIMH	8	16	24
NIA	4	8	12
AoA	2	4	6
Total research	14	28	42
Training for professional and paraprofessionals:			
NIMH clinical	4	8	12
NIMH research	2	4	6
NIA	2	4	6
AoA	2	4	6
Total training	10	20	30
National Mental Health Educational Program	1	2	3
IOM study—Program quality/effectiveness	.5		
Medicare	NA	NA	NA
Medicaid	NA	NA	NA
Total	NA	NA	NA

H.R. 4860

A bill to amend the Public Health Service Act, the Older Americans Act of 1965, and the Social Security Act with respect to the mental health of elderly individuals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mental Health and Aging Act of 1988".

TITLE I—PUBLIC HEALTH SERVICE ACT AMENDMENTS

SEC. 101. ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1911 of the Public Health Service Act (42 U.S.C. 300x) is amended—

(1) by striking "and" after "1986,";

(2) by striking the period at the end and inserting a comma; and

(3) by adding at the end the following: "$870,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.".

(b) SERVICES FOR CHILDREN AND ELDERLY INDIVIDUALS.—Section 1916(c) of such Act (42 U.S.C. 300x-4(c)) is amended by inserting after paragraph (15) the following new paragraph:

"(16)(A) With respect to community mental health services and related support services, the State agrees—

"(i) to expend not less than 10 percent of such payments for services and programs for severely disturbed children and adolescents;

"(ii) subject to subparagraph (B), to expend not less than a specified percentage of such payments for services and programs for individuals not less than 65 years of age who are not inpatients or residents of mental institutions, which specified percentage is the percentage of the population of the State that the number of individuals not less than 65 years of age constitutes;

"(iii) to increase outreach services for informing children, adolescents, elderly individuals, and their families of the availibility of community mental health services, with special attention to racial and ethnic minorities and other underserved populations; and

"(iv) to provide for the establishment and implementation of a program for assuring the quality and effectiveness of such services provided or supported by the State with Federal or State funds.

"(B) The agreement required to be made pursuant to subparagraph (A)(ii) shall not apply to payments made from amounts appropriated under section 1911 for community health services for any fiscal year for which the total of such amounts is less than $260,000,000.

(c) MENTAL HEALTH CONSUMER BILL OF RIGHTS.—Section 1916(c) of such Act (42 U.S.C. 300x-4(c)), as amended by subsection (b) of this section, is further amended by inserting after paragraph (16) the following new paragraph:

"(17) For purposes of section 1916(c)(3)(C), the State agrees, with respect to the provision of community mental health services and related support services provided or supported by the State, to ensure that individuals admitted to programs of such services—

"(A) will receive appropriate treatment and related services in a safe setting and under conditions that are humane and supportive of the individual's personal liberty (especially in the areas of confidentiality of a person's records) and that permit and assist the exercise of the civil rights of the individual;

"(B) are afforded conditions of privacy in treatment, care, communications and all daily activities;

"(C) are free from physical or mental abuse, exploitation, corporal punishment, inappropriate seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the individual's medical or psychological symptoms;

"(D) will, except in the case of emergencies, be restrained only on the written order of an appropriate mental health professional and only as required to ensure physical safety;

"(E) will receive the services according to an individualized, written, treatment plan (developed promptly after admission of the individual to a treatment program), which plan is periodically revised as appropriate after periodic reassessment of the treatment-related needs of the individual, including any revisions necessary to provide a description of mental health services that may be needed after the individual is discharged from a treatment program or service-related facility;

"(F) will upon discharge from such a program be referred as appropriate to other providers of mental health services;

"(G) will be informed as to whether services and treatment are covered by health insurance, medical assistance or other sources and will receive an itemized copy of charges and an advance notice detailing changes in services or charges;

"(H) will be promptly notified of the acceptance or denial of treatment and services and the reasons for denial, will receive reasonable notice if treatment, care, or services are to be reduced or terminated, and will receive such assistance as may be necessary to assure a smooth transition in services consistent with the welfare of the individual;

"(I) will be afforded grievance procedures if the individual is dissatisfied with the provision of services, including, as appropriate, an impartial grievance procedure provided for or by the program or facility;

"(J) will receive treatment, care, and services from individuals who are properly trained and competent to perform their duties in accordance with law;

"(K) will according to the capabilities of the individual, be permitted ongoing participation in the planning of the mental health services to be provided the individual (including participation in the development and periodic revision of the plan of care described in subparagraph (E);

"(L) will in terms and language appropriate to the individual's cultural background and ability, be provided with a reasonable explanation of the mental and physical condition of the individual, the objectives of treatment, the nature and significant possible adverse effects of recommended treatments, the reasons for the choice of a particular treatment, and appropriate alternative treatments, services, and types of providers of mental health services;

"(M) will receive a particular treatment only upon the individual's informed and voluntary written consent, except in the case of an emergency situation in which the treatment is documented by a written order of an appropriate mental health professional as necessary for the immediate safety and welfare of the individual or as permitted under applicable State law if the individual is committed by a court to the treatment program or facility;

"(N) will be informed fully of the provider's assessment of the patient/client's condition upon request, unless contraindicated by documentation by the mental health professional in the client record that such access would be detrimental to the individual's health, in which case the material may then be made available to a similarly licensed health professional selected by the client and this health professional may, in the exercise of professional judgment, provide the client with access to any or all parts of this material; and

"(O) will, if the individual is admitted on a residential or inpatient care basis, be permitted to converse with others privately, to have convenience and reasonable access to the telephone, mails, and to see visitors during regularly scheduled hours.".

SEC. 102. COMMUNITY SUPPORT PROGRAM FOR ELDERLY INDIVIDUALS AND RURAL RESIDENTS.

Section 504 of the Public Health Service Act (42 U.S.C. 290aa-3) is amended by adding at the end the following new subsection:

"(j)(1)(A) The Secretary, acting through the Director, may make grants to States, political subdivisions of States, and nonprofit private agencies for mental health services demonstration projects for the planning, coordination, and improvement of community services (including outreach and self-help services) for elderly individuals and for rural residents, and for the conduct of research concerning such services.

"(B) With respect to demonstration projects under subparagraph (A)—

"(i) activities to coordinate community services shall include coordination among State and local agencies on aging, State and local mental health agencies, other entities providing mental health services, and other entities providing social services; and

"(ii) community services shall include services appropriate to the needs of specific age cohorts and minorities.

"(2)(A) For the purpose of carrying out paragraph (1) with respect to elderly individuals, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1989 and 1990.

"(B) For the purpose of carrying out paragraph (1) with respect to rural residents, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1989 and 1990.".

SEC. 103. TRAINING OF HEALTH CARE PROFESSIONALS, ALLIED HEALTH PROFESSIONALS, AND HEALTH PARAPROFESSIONALS.

(a) National Institute of Mental Health.—Section 504 of the Public Health Service Act (42 U.S.C. 290aa-3), as amended by section 3 of this Act, is further amended by adding at the end the following new subsection:

"(k)(1) Of the amounts appropriated to carry out this section in excess of the amount appropriated for such purpose for fiscal year 1988, the Secretary, acting through the Director, shall reserve for programs of clinical training with respect to the mental health of elderly individuals not less than $4,000,000 for fiscal year 1989, $8,000,000 for fiscal year 1990, and $12,000,000 for fiscal year 1991.

"(2) Of the amounts appropriated to carry out this section in excess of the amount appropriated for such purpose for fiscal year 1988, the Secretary, acting through the Director, shall reserve for research training and career development with respect to the mental health of elderly individuals not less than $2,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, and $6,000,000 for fiscal year 1991.

(b) National Institute on Aging.—Section 444 of such Act (42 U.S.C. 285e-1) is amended by adding at the end the following new subsection:

"(e) Of the amounts appropriated to carry out this subpart in excess of the amount appropriated for such purpose for fiscal year 1988, the Director of the Institute, shall reserve for clinical training, research training, and career development with respect to the mental health of elderly individuals not less than $2,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, and $6,000,000 for fiscal year 1991.

(c) Administration on Aging.—Section 431 of the Older Americans Act of 1965 (42 U.S.C. 3037) is amended by adding at the end the following new subsection:

"(d) For the purpose of grants under sections 411 and 412 for training with respect to the mental health of elderly individuals provided by schools of medicine, nursing, psychology, social work, gerontology, or health administration, or provided by programs for nursing home aides, home health services, homemaker services, or other home care services, there are authorized to be appropriated $2,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, and $6,000,000 for fiscal year 1991, in addition to the amounts authorized in subsection (a) for each of such fiscal years.".

SEC. 104. RESEARCH AND DEMONSTRATION PROJECTS WITH RESPECT TO MENTAL HEALTH OF ELDERLY INDIVIDUALS.

(a) National Institute of Mental Health.—Section 504(i) of the Public Health Service Act (42 U.S.C. 290aa-3(i)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2)(A) Of the amounts appropriated to carry out this section in excess of the amount appropriated for such purpose for fiscal year 1988, the Secretary, acting through the Director, shall reserve for research on mental illness among elderly individuals not less than $8,000,000 for fiscal year 1989, $16,000,000 for fiscal year 1990, and $24,000,000 for fiscal year 1991.

"(B) Of the amounts reserved pursuant to subparagraph (A), the Secretary shall reserve not less than 10 percent for research on the delivery of mental health services to elderly individuals.".

(b) National Institute on Aging.—Section 444 of such Act (42 U.S.C. 285e-1), as amended by section 103(b) of this Act, is further amended by adding at the end the following new subsection:

"(f)(1) Of the amounts appropriated to carry out this subpart in excess of the amount appropriated for such purpose for fiscal year 1988, the Director of the Institute, shall reserve for research on mental health and psycho-social well-being of elderly individuals $4,000,000 for fiscal year 1989, $8,000,000 for fiscal year 1990, and $12,000,000 for fiscal year 1991.

"(2) Of the amounts reserved pursuant to subparagraph (1), the Director of the Institute shall reserve not less than 10 percent for research on the delivery of mental health and psycho-social well-being of such individuals.".

(c) Administration on Aging.—Section 431 of the Older Americans Act of 1965 (42 U.S.C. 3037), as amended by section 103(c) of this Act, is further amended by adding at the end the following new subsection:

"(e) For the purpose of grants under sections 421 and 422 for research, development, and demonstration projects with respect to the mental health of elderly individuals, there are authorized to be appropriated $2,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, and $6,000,000 for fiscal year 1991, in addition to the amounts authorized in subsection (a) for each of such fiscal years.".

SEC. 105. NATIONAL MENTAL HEALTH EDUCATION PROGRAM.

Section 504 of the Public Health Service Act (42 U.S.C. 290aa-3), as amended by sections 102 and 103(a) of this Act, is further amended by adding at the end of the following new subsection:

"(l)(1) The Secretary, acting through the Director, shall establish a National Mental Health Education Program for the purpose of—

"(A) encouraging public and private entities to develop improved methods of treating individuals with mental health problems and to develop improved methods of assisting the families of such individuals;

"(B) ecouraging programs of research, training, and education with respect to the causes, diagnosis, and treatment of mental health problems;

"(C) encouraging public and private entities to coordinate their efforts with respect to mental health problems;

"(D) providing technical assistance to public and private entities that are providers of mental health services;

"(E) disseminating to such providers and to the public information with respect to mental health, including information on programs that provide financial assistance in obtaining mental health services; and

"(F) establishing an information clearinghouse in order to collect information developed in research and treatment programs of mental health and to make such information available to providers of mental health services, to individuals with mental health problems, and to the public.

(2) Not later than 18 months after the date of enactment of this subsection, the Secretary, acting through the Director, shall submit to the Congress a report describing the activities carried out pursuant to paragraph (1).

(3) For the purpose of carrying out this subsection, there are authorized to be appropriated $1,000,000 for fiscal year 1989, $2,000,000 for fiscal year 1990, and $3,000,000 for fiscal year 1991.".

SE. 106. QUALITY ASSURANCE AND PROGRAM EFFECTIVENESS STUDY BY INSTITUTE OF MEDICINE.

(a) In General.—The Secretary of Health and Human Services, acting through the Aministrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall request the Institute of Medicine of the National Academy of Sciences—

(1) to conduct a study for the purpose of determining methods for measuring and assuring the quality and effectiveness of mental health services and alcohol and drug abuse treatment services, as provided in various settings, including psychiatric hospitals, inpatient psychiatric units in general hospitals, nursing homes, community mental health centers, and other ambulatory care settings;

(2) in carrying out the study, to develop, with respect to such methods, recommendations for providers of such services and recommendations for Federal and State agencies that administer programs that provide such services or provide financial assistance with respect to such services (including agencies involved in administering the programs established pursuant to titles XVIII and XIX of the Social Security Act, commonly known as Medicare and Medicaid, respectively); and

(3) not later than 18 months after the date any contract is entered into pursuant to subsection (b), to complete the study and submit to the Congress the findings made as a result of the study.

(b) Contract Authority.—

(1) The Secretary of Health and Human Services, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, may enter into a contract with the Institute of Medicine of the National Academy of Sciences with respect to carrying out the study requested pursuant to subsection (a).

(2) The authority to enter into a contract under paragraph (1) shall be effective only to the extent of amounts made available in appropriations Acts.

(c) Authorization of Appropriations.—For the purpose of the contract authorized in subsection (b), there is authorized to be appropriated $500,000 for fiscal year 1989.

SEC. 107. ADDITIONAL STUDIES ON MENTAL HEALTH SERVICES.

(a) In General.—The Secretary of Health and Human Services, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall provide for the following studies, and for a report to Congress on each such study by not later than January 1, 1990:

(1) Prepaid health plans.—A study comparing the amount of, access to, and quality of, mental health services under prepaid-health plans under the medicare program, under prepaid health plans not under the medicare program, and in settings other than prepaid health plans.

(2) Mental health facilities.—A study examining mechanisms for ensuring quality of, and access to, mental health services delivered by State and local mental health facilities and by independent providers of mental health services.

(3) Minority access to community mental health centers.—A study examining the representation of racial and ethnic minorities among persons receiving community mental health center services, including the current level of utilization and the level of unmet present and future needs.

(4) Mental health manpower.—A study examining—

(A) the adequacy of manpower for meeting present and future mental health needs of the elderly, and

(B) the optimal utilization of the various types of mental health professionals for meeting those present and future elderly mental health needs.

(5) Minority manpower and training.—A study examining the adequacy of—

(A) manpower for meeting present and future mental health needs of elderly who are members of racial or ethnic minorities, and

(B) opportunities for training mental health professionals who are members of racial or ethnic minorities.

In addition, in conjunction with the study under paragraph (3), the Secretary is authorized to conduct demonstration projects to determine how to increase utilization of community mental health center services by individuals in racial and ethnic minorities.

(b) Use of Institute of Medicine.—The Secretary—

(1) shall request the Institute of Medicine of the National Academy of Sciences the study described in subsection (a)(1), and

(2) if the Institute accepts such request, may enter into a contract with the Institute to carry out such study.

The authority to enter into a contract under this subsection shall be effective only to the extent of amounts made available in appropriations Acts.

(c) Authorization of Appropriations.—For purposes of carrying out the studies under this section, there is authorized to be appropriated such sums as may be necessary.

SEC. 108. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

TITLE II—MEDICARE AND MEDICAID PROGRAM CHANGES

SEC. 201. COVERAGE OF INPATIENT PSYCHIATRIC HOSPITAL SERVICES UNDER MEDICARE.

(a) In General.—Section 1812(b)(2) of the Social Security Act (42 U.S.C. 1395d), as amended by section 101 of the Medicare Catastrophic Coverage Act of 1988, is amended by striking "190 days during his lifetime" and inserting "60 days in any calendar year, except that such day limit may be extended based upon a review of the necessity for such services through a mechanism established by the Secretary in consultation with the representatives of psychiatric hospitals, mental health professionals, and consumers".

(b) Effective Date.—The amendments made by this section shall apply to services furnished on or after January 1, 1989.

SEC. 202. COVERAGE OF OUTPATIENT AND COMMUNITY-BASED MENTAL HEALTH SERVICES.

(a) Treating Medical Management as Physicians' Services Under Medicare.—The last sentence of section 1833(c) of the Social Security Act (42 U.S.C. 13951(c)) is amended by inserting before the period at the end the following "or physician visits of shorter duration than therapy or treatment sessions and for which the main purpose is to permit the physician to assess the individual's status, assess the individual's prescription drug plan and progress and to perform necessary laboratory tests".

(b) Change in Limit on Outpatient Services and Change in Coinsurance Rate to 20 Percent Under Medicare.—The first sentence of section 1833(d)(1) of such Act, as redesignated by section 201(a)(1) of the Medicare Catastrophic Coverage Act of 1988, is amended by striking "whichever" and all that follows through the end and inserting the following: "20 visits in the calendar year, except that such visit limit may be extended based upon a review of the necessity for such services through a mechanism established by the Secretary in consultation with the provider and consumer representatives.".

(c) Expansion of Scope of Mental Health Services.—

(1) Under medicare.—Section 1861(s)(2) of such Act (42 U.S.C. 1395x(s)(2)) is amended by striking "and" at the end of subparagraph (L), by inserting "and" at the end of subparagraph (M), and by adding at the end the following new subparagraph:

(N) outpatient mental health services (including psychotherapy and psychoanalysis) furnished in a community mental health center or by a physician, psychologist, clinical social worker, or psychiatric nurse specialist (or other qualified provider specified by the Secretary in regulation) which the provider is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) and as would otherwise be covered if furnished by a physician or as an incident to a physician's service;".

(2) Requiring provision of outpatient mental health services under the medicaid program.—Section 1905(a)(5) of such Act (42 U.S.C. 1396d(a)(5)) is amended by striking "and" before "(B)" and by adding before the semicolon at the end the following: ", and (C) outpatient mental health services (described in section 1861(s)(2)(N)) whether furnished in a clinic, the patient's home, a nursing facility, or elsewhere, to the extent such services would be described in clause (A) if furnished by a physician (as defined in section 1961(r)(1))".

(d) Expansion of In-Home Care for Certain Chronically Dependent Individuals Under Medicare.—

(1) Expansion to 120 hours in a year.—Section 1832(a)(2)(A)(ii) of such Act (42 U.S.C. 1395k(a)(2)(A)(ii)), as amended by section 205(a)(1)(B) of the Medicare Catastrophic Coverage Act of 1988, is amended by striking "80 hours" each place it appears and inserting "120 hours".

(2) Not requiring catastrophic expenses.—Section 1861(11) of such Act (42 U.S.C. 1395x(11)), as added by section 205(b) of the Medicare Catastrophic Coverage Act of 1988, is amended—

(A) in paragraph (1), by striking "during the period described in paragraph (4)", and

(B) by striking paragraph (4).

(e) Effective Dates.—

(1) Except as otherwise provided in this subsection, the amendments made by this section apply to services furnished on or after January 1, 1989.

(2) The amendments made by subsection (d) shall apply to items and services furnished on or after January 1, 1990.

(3)(A) The amendment made by subsection (c)(2) applies (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1989, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (c)(2), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 203. CLASSIFICATION OF INSTITUTION FOR MENTAL DISEASES UNDER MEDICAID.

(a) In General.—Subsection (i) of section 1905 of the Social Security Act (42 U.S.C. 1396d), as inserted by section 411(k)(14) of the Medicare Catastrophic Coverage Act of 1988, is amended to read as follows:

"(i)(1) The term 'institution for mental diseases' means only an institution that has more than 16 beds and that—

"(A) is under the jurisdiction of the State's mental health authority,

"(B) advertises itself as primarily specializing in the treatment of individuals with mental disease, or

"(C) based upon current diagnoses, less than 50 percent of all patients in the institution have a physical condition which in itself requires the level of services furnished in a nursing facility.

"(2) The fact that an institution provides mental health services or psychopharmacological drugs to patients with physical conditions independently sufficient to require the level of services furnished in a nursing facility shall not be considered an indication that an institution is an institution for mental diseases.

"(3) The fact that there are staff persons with specialized psychiatric or psychological training in an institution shall not be considered an indication that an institution is an institution for mental diseases.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1989.

SEC. 204. CONDITIONS OF PARTICIPATION FOR NURSING FACILITIES UNDER MEDICARE AND MEDICAID PROGRAMS.

(a) IN GENERAL.—Sections 1819(b)(4)(A) and 1919(b)(4)(A) of the Social Security Act (42 U.S.C. 1395i-3(b)(4)(A), 1396r(b)(4)(A)) are each amended—

(1) by striking "and" at the end of clause (v),

(2) by striking the period at the end of clause (vi) and inserting "; and", and

(3) by inserting after clause (vi) the following new clause:

"(vii) access to medically necessary mental health services.".

(b) EFFECTIVE DATE.—The amendments made by this section to sections 1819 and 1919 of the Social Security Act shall take effect as if included in the enactment of sections 4201 and 4211, respectively, of the Omnibus Budget Reconciliation Act of 1987.

SEC. 205. REVIEW OF LEVELS OF PAYMENT.

The Secretary of Health and Human Services shall review the levels of reimbursement for nursing facility services under the medicare and medicaid programs to ensure that reasonable amounts are available for the provision of mental health services through nursing facilities under such programs.

SEC. 206. MEDICARE COST CONTAINMENT.

(a) REQUIRING ASSIGNMENT FOR PART B MENTAL HEALTH SERVICES.—Section 1833(c) of the Social Security Act (42 U.S.C. 13951(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(2) by inserting "(1)" after "(c)", and

(3) by adding at the end the following new paragraph:

"(2) Notwithstanding any other provision of this part, payment for outpatient mental health services may only be made under this part to an individual or other provider which has agreed (A) to accept payment on an assignment-related basis for all such services furnished under this part and (B) meets the conditions of participation established under section 1848.".

(b) FISCAL INTERMEDIARY AND CARRIER UTILIZATION OF NEW SERVICES.—In conducting activities under sections 1816 and 1842 of the Social Security Act, fiscal intermediaries and carriers shall provide for reviews (including appropriate opportunity for appeals of such decisions by medicare beneficiaries) to assure appropriate utilization of services for which coverage is first provided under the amendments made by this Act.

(c) INDEXING OF MENTAL HEALTH OUTPATIENT PAYMENTS BASED ON AVERAGE OF CONSUMER PRICE INDEX AND MEDICARE ECONOMIC INDEX.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(15) In determining the reasonable charge for services described in section 1861(s)(2)(N), the Secretary shall not recognize as reasonable charges for such services in a year to the extent the increase in such charges exceeds (or has exceeded) the charges in effect in 1988 by more than an average (for each succeeding year) of percentage increase in the consumer price index for all urban consumers (U.S. city average) for the year involved and of the percentage increase in the MEI for the year involved.".

(d) DEVELOPMENT OF PROSPECTIVE PAYMENT PRICING SYSTEM.—The Secretary of Health and Human Services shall develop, in consultation with mental health providers and consumers, a prospective payment pricing system for payment for outpatient mental health services under the medicare program. The Secretary shall report to Congress on the development of such system by not later than January 1, 1990.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (c), and the provisions of subsection (b), shall be effective beginning on January 1, 1989.

SEC. 207. ADDITIONAL CONDITIONS OF PARTICIPATION FOR MENTAL HEALTH PROVIDERS.

(a) UNDER THE MEDICARE AND MEDICAID PROGRAMS.—Part A of title XI of the Social Security Act, as amended by section 428 of the Medicare Catastrophic Coverage Act of 1988, is amended by adding at the end the following new section:

"CONDITIONS OF PARTICIPATION OF CERTAIN MENTAL HEALTH PROVIDERS UNDER THE MEDICARE AND MEDICAID PROGRAMS

"SEC. 1141. (a) In addition to any other conditions established for the participation of mental health providers (as defined in subsection (b)) under title XVIII or under a State plan approved under title XIX, the Secretary of Health and Human Services shall provide for imposition of the following conditions:

"(1) each mental health provider shall comply with the consumer bill of rights established under subsection (b).

"(2) Each mental health provider shall provide each individual receiving mental health services with written grievance procedures appropriate for the services and with written notice of the services to be provided.

"(3) Each mental health provider shall have—

"(A) the capability to identify clients who may be in need of mental health services,

"(B) the capability to provide such services or to make appropriate referrals for such services, and

"(C) the means to coordinate with other agencies, programs, and services providing mental health services or other services to individuals.

"(4) Each such provider shall—

"(A) include in the provider's assessment, an assessment of mental health needs at a level sufficient to identify individuals for whom a comprehensive mental health assessment, conducted by a mental health professional is indicated,

"(B) provide or arrange for such comprehensive mental health assessment, when indicated, and

"(C) when indicated, include mental health services in individuals's plan of care and discharge planning.

"(5) Each mental health provider shall have—

"(A) client care processes which include a plan of care which states reasonable goals and objectives, the services to be provided to meet those objectives, and outcome measures for each individual served,

"(B) a method for periodic review of client needs and the plan of care, and

"(C) a statement of criteria for discharge or transfer to another agency, program, or services.

"(6) Each mental health provider which is an institution for mental diseases (as defined in section 1905(i)) shall establish, for each individual provided mental health services by the provider and before discharge, a discharge plan which assures that the individual will have a plan for appropriate mental health care and for coordination of services established before discharge.

"(b) For purposes of this section, the Secretary shall establish a consumer bill of rights for individuals receiving mental health services and related support services under this Act which ensures that, with respect to such services, each such individual—

"(A) will receive appropriate treatment and related services in a safe setting and under conditions that are humane and supportive of the individual's personal liberty (especially in the areas of confidentiality of a person's records) and that permit and assist the exercise of the civil rights of the individual;

"(B) is afforded conditions of privacy in treatment, care, communications and all daily activities;

"(C) is free from physical or mental abuse, exploitation, corporal punishment, inappropriate seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the individual's medical or psychological symptoms;

"(D) will, except in the case of emergencies, be restrained only on the written order of an appropriate mental health professional and only as required to ensure physical safety;

"(E) will receive the services according to an individualized, written, treatment plan (developed promptly after admission of the individual to a treatment program), which plan is periodically revised as appropriate after periodic reassessment of the treatment-related needs of the individual, including any revisions necessary to provide a description of mental health services that may be needed after the individual is discharged from, or otherwise terminates care with, the provider;

"(F) will upon discharge or termination of care from such a provider be referred as appropriate to other providers of mental health services;

"(G) will be informed as to whether services and treatment are covered by health insurance, medical assistance or other sources and will receive an itemized copy of charges and an advance notice detailing changes in services or charges;

"(H) will be promptly notified of the acceptance or denial of treatment and services and the reasons for denial, will receive reasonable notice if treatment, care, or services are to be reduced or terminated, and will receive such assistance as may be necessary to assure a smooth transition in services consistent with the welfare of the individual;

"(I) will be afforded grievance procedures if the individual is dissatisfied with the provision of services, including, as appropriate, an impartial grievance procedure provided for or by the provider;

"(J) will receive treatment, care, and services from individuals who are properly trained and competent to perform their duties in accordance with law;

"(K) will, according to the capabilities of the individual, be permitted ongoing participation in the planning of the mental health services to be provided the individual (including participation in the development and periodic revision of the plan of care described in subparagraph (E));

"(L) will, in terms and language appropriate to the individual's cultural background and ability, be provided with a reasonable explanation of the mental and physical condition of the individual, the objectives of treatment, the nature and significant possible adverse effects of recommended treatments, the reasons for the choice of a particular treatment, and appropriate alternative treatments, services, and types of providers of mental health services;

"(M) will receive a particular treatment only upon the individual's informed and voluntary written consent, except in the case of an emergency situation in which the treatment is documented by a written order of an appropriate mental health professional as necessary for the immediate safety and welfare of the individual or as permitted under applicable State law if the individual is committed by a court to the provider;

"(N) will be informed fully of the provider's assessment of the individual's condition upon request, unless contraindicated by documentation by the mental health professional in the individual's record that such access would be detrimental to the individual's health, in which case the material may then be made available to a similarly licensed health professional selected by the individual and this health professional may, in the exercise of professional judgment, provide the individual with access to any or all parts of this material; and

"(O) will, if the individual is admitted on a residential or inpatient care basis, be permitted to converse with others privately, to have convenience and reasonable access to the telephone, mails, and to see visitors during regularly scheduled hours.

"(c) In this section, the term 'mental health provider' means—

"(1) a psychiatrist, psychologist, clinical social worker, or psychiatric nurse specialist,

"(2) a psychiatric hospital,

"(3) a hospital program described in section 1861(ff)(3), and

"(4) an institution for mental disease (as defined in section 1905(i)).".

(b) Assuring Pre-paid Organizations Provide Quality, Accessible Mental Health Services—

(1) Under Medicare.—Section 1876(c) of such Act (42 U.S.C. 1395mm(c)) is amended by inserting "(including outpatient mental health services)" after "services" the first place it appears in paragraphs (4)(A) and (6).

(2) Under Medicaid.—Section 1903(m)(2)(A) of such Act (42 U.S.C. 1396b(m)(2)(A)) is amended—

(A) by striking "and" at the end of clause (vii),

(B) by striking the period at the end of clause (viii) and inserting "; and", and

(C) by adding at the end the following new clause:

"(ix) if the services provided under the contract include outpatient mental health services, such contract provides for an appropriate mechanism for ensuring the quality of, and access to, such services.".

(c) Effective Date.—The amendments made by this section shall be effective for services provided on or after January 1, 1990.

SEC. 708. PEER REVIEW ON MENTAL HEALTH SERVICES.

The Secretary of Health and Human Services shall provide, in contracts entered into with utilization and quality control peer review organizations under part B of title XI of the Social Security Act, for appropriate review by such organizations of mental health services for which payment is made under title XVIII or XIX of such Act.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional Record on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, June 21, 1988, may be found in the Daily Digest of today's Record.

Meetings Scheduled

JUNE 22

8:00 a.m.
Judiciary
To hold hearings on pending nominations.
SD-226

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 2381 and H.R. 4419, bills authorizing funds for programs of the Federal Fire Prevention and Control Act of 1974.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
Business meeting, to mark up the provisions of H.R. 4794, making appropriations for fiscal year ending September 30, 1989 for the Department of Transportation and related agencies.
SD-124

Foreign Relations
To hold hearings on U.S. policy options toward South Africa.
SD-419

10:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

2:00 p.m.
Appropriations
Business meeting, to mark up H.R. 4637, appropriating funds for fiscal year 1989 for foreign operations, export financing, and related programs, provisions of H.R. 4800, appropriating funds for fiscal year 1989 for the Department of Housing and Urban Development and certain independent agencies, and proposed legislation appropriating funds for fiscal year 1989 for the Department of the Interior and related agencies.
SD-192

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the Federal Employers' Liability Act in relation to the National Railroad Passenger Corporation (Amtrak).
SR-253

2:30 p.m.
Finance
International Trade Subcommittee
To hold hearings on proposed legislation authorizing funds for the Office of the U.S. Trade Representative and the U.S. International Trade Commission.
SD-215

JUNE 23

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2221, to expand national telecommunications system for the benefit of the hearing impaired.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1643, to establish the Mississippi River National Heritage Corridor, S. 2018, to expand the boundaries of the Congaree Swamp National Monument, and to designate wilderness therein, and S. 2058, to authorize the establishment of the Charles Pinckney National Historic Site in South Carolina.
SD-366

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Governmental Affairs
Federal Spending, Budget, and Accounting Subcommittee
To hold hearings on the accountability and disposition of cash and property seized as a result of certain criminal acts.
SD-342

Special on Aging
To hold hearings on the Equal Employment Opportunity Commission's enforcement of the Age Discrimination in Employment Act of 1967.
SD-628

Joint Economic
Education and Health Subcommittee
To resume hearings to review the future of health care in America.
2359 Rayburn Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Production and Stabilization of Prices Subcommittee

To resume hearings to review the barley and oats supply situation, focusing on the current stocks and production estimates for the upcoming harvest season.

SR-332

Banking, Housing, and Urban Affairs

To hold hearings on S. 2467, to remove the ownership restrictions placed on nonvoting preferred stock of the corporation.

SD-538

Finance

Business meeting, to mark up proposed legislation authorizing funds for the Office of United States Trade Representative, International Trade Commission, and the U.S. Customs Service.

SD-215

Foreign Relations

To continue hearings on U.S. policy options toward South Africa.

SD-419

2:00 p.m.

Appropriations

Business meeting, to mark up provisions of H.R. 4776, appropriating funds for fiscal year 1989 for the government of the District of Columbia, and provisions of H.R. 4783, appropriating funds for fiscal year 1989 for the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

Energy and Natural Resources

To hold hearings on the greenhouse effect and the development of policies for responding to global climate change.

SD-366

Foreign Relations

To hold hearings on humanitarian aid to Afghanistan.

SD-419

JUNE 24

9:30 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings on Japanese patent policy.

SR-253

Special on Aging

To continue hearings on the Equal Employment Opportunity Commission's enforcement of the Age Discrimination in Employment Act of 1967.

SD-628

10:00 a.m.

Appropriations

Business meeting, to mark up provisions of H.R. 4781, appropriating funds for fiscal year 1989 for the Department of Defense, and provisions of H.R. 4794, appropriating funds for fiscal year 1989 for the Department of Transportation and related agencies.

SD-192

Foreign Relations

To continue hearings on U.S. policy options toward South Africa.

SD-419

Governmental Affairs

To hold hearings on the nominations of Susan E. Alvarado, of Virginia, and Tirso Del Junco, of California, each to be a Governor of the U.S. Postal Service, Hugh Hewitt, of Michigan, to be Deputy Director of the Office of Personnel Management, and Roger W. Mehle, of New York, and Richard H. Headlee, of Michigan, each to be a Member of the Federal Retirement Thrift Investment Board.

SD-342

JUNE 27

10:00 a.m.

Energy and Natural Resources

Mineral Resources Development and Production Subcommittee

To hold hearings on S. 2240, to authorize funds for the State Mining and Mineral Resources Research Institute program.

SD-366

12:00 p.m.

Governmental Affairs

Business meeting, to consider pending calendar business.

SD-342

2:00 p.m.

Governmental Affairs

To resume hearings on issues relative to alcoholism.

SD-342

JUNE 28

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 2165, to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Complex in the State of Washington.

SD-366

Environment and Public Works

To hold joint hearings with the Committee on Small Business on S. 2246, to establish the Lower Mississippi Delta Development Commission to study and make recommendations concerning the economic needs and economic development of the Lower Mississippi Delta Region.

SD-406

Governmental Affairs

To hold hearings on certain applications of superconductors.

SD-342

Small Business

To hold joint hearings with the Committee on Environment and Public Works on S. 2246, to establish the Lower Mississippi Delta Development Commission to study and make recommendations concerning the economic needs and economic development of the Lower Mississippi Delta region.

SD-406

10:00 a.m.

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR-253

2:00 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 2322, to authorize certain elements of the Yakima River Basin Water Enhancement Project, and S. 1613, to authorize the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin Project, Oregon.

SD-366

JUNE 29

9:30 a.m.

Small Business

Rural Economy and Family Farming Subcommittee

To hold hearings to identify prospects for economic development in rural America.

SR-428A

10:00 a.m.

Environment and Public Works

To hold hearings on S. 2367, to promote highway traffic safety by encouraging States to establish measures for more effective enforcement of laws to prevent drunk driving, and S. 2523, to require States to promptly suspend or revoke the license of a driver found to be driving under the influence of alcohol.

SD-406

Governmental Affairs

To resume hearings on issues relative to alcoholism.

SD-342

Veterans' Affairs

Business meeting, to consider pending calendar business.

SR-418

2:00 p.m.

Joint Committee on Printing

Business meeting, to consider pending committee business.

H-328, Capitol

JULY 11

9:30 a.m.

Special on Aging

To resume hearings to examine certain problems and challenges surrounding the provision of health care to rural communities, and to review recommendations and innovative strategies to deal with these problems.

SD-628

JULY 12

10:00 a.m.

Energy and Natural Resources

Mineral Resources Development and Production Subcommittee

To hold oversight hearings on the Department of Interior royalty management program.

SD-366

JULY 14

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit Subcommittee

To resume oversight hearings on the implementation of the Agricultural Credit Act (P.L. 100-233).

SR-332

Veterans Affairs

To hold oversight hearings to examine the extent of post traumatic stress disorder on veterans.

SR-418

JULY 27

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings to review the Department of Defense safety program for chemical and biological warfare research.

SD-342

JULY 28

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To continue oversight hearings to review the Department of Defense safety program for chemical and biological warfare research.

SD-342

JULY 28

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To continue oversight hearings to review the Department of Defense safety program for chemical and biological warfare research.

SD-342

AUGUST 11

9:00 a.m.

Veterans Affairs

To hold oversight hearings to review certain veterans health care programs.

SH-216

CANCELLATIONS

JUNE 22

9:30 a.m.

Governmental Affairs

Federal Services, Post Office, and Civil Service Subcommittee

To hold hearings on S. 1393, Deceptive Mailings Prevention Act.

SD-342

JUNE 23

9:30 a.m.

Governmental Affairs

To resume hearings on S. 1504, to facilitate regulatory negotiation and other procedures to enhance the quality of regulations and foster communications between agencies and those affected by regulations.

SD-342

POSTPONEMENTS

JUNE 21

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the extent of the drought problem in certain regions of the United States, and to review policy options available to assist farmers in this situation.

SR-332

SENATE—*Tuesday, June 21, 1988*

(Legislative day of Monday, June 20, 1988)

The Senate met at 9:20 a.m., on the expiration of the recess, and was called to order by the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *with God all things are possible.*—Matthew 19:26.

God of the impossible, for whom nothing is too hard, in this quiet moment at the opening of the day, give us a sense of Your presence, Your power and Your relevance. Help us not to treat faith as impractical, irrelevant or out of place in the pragmatism of politics. What has been defined as the "art of the possible" is the daily agenda of the Senate, but they are confronted with imponderable issues which do not yield to legislative power. Drugs, crime, social decay, war, transcend the simple passing of laws. Even the perfect and absolute moral law of God cannot prevent evil. Law discourages evil—restrains it—but it cannot prevent it. In these critical days when the best and the most the Senate can do is inadequate for impossible demands which are inescapable, help the Senators to acknowledge the limitation of their power and to take seriously the God who is real, near, available, who hears and answers prayer. In His name in whom dwells all power in Heaven and on Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 21, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. **PROXMIRE** thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order, the majority leader is recognized.

RESERVATION OF LEADER TIME

Mr. **BYRD**. Mr. President, I ask unanimous consent that the time of both leaders be reserved.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. **BYRD**. I hope the distinguished Senator from Wisconsin will be prepared to speak on his 5 minutes.

I thank the distinguished Republican leader.

I yield the floor.

MORNING BUSINESS

The **PRESIDING OFFICER** (Mr. DOLE). Under the previous order, there will be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

Mr. **PROXMIRE**. Mr. President, first I thank the distinguished majority leader and minority leader for their graciousness in permitting me to speak under these circumstances.

WHY UNITED STATES SHOULD NOT PROMISE NO FIRST USE OF NUCLEAR WEAPONS

Mr. **PROXMIRE**. Mr. President, one of the most beguiling appeals for peace is for a no first use of nuclear weapons declaration by our Government. This Senator believes that such a declaration would under present circumstances be a serious mistake. How can this be? Why shouldn't our Government renounce the use of nuclear weapons until and unless our country is subject to a nuclear attack? Don't we surrender the moral ground on nuclear peace to the Soviet Union by our refusal to join the Soviet Union in pledging that under no circumstances would we be the first to use our nuclear weapons?

No. We do not. Our moral objective is not simply to avoid nuclear war. It is to avoid a major conventional war, which regardless of non-first-use of nuclear weapons pledges would very likely be converted into nuclear war before it reached its final resolution. Is it realistic to presume that any nation would accept defeat in a conventional war when it still had a nuclear arsenal great enough to annihilate the military forces that were pushing it to defeat? Would the French have desisted from using nuclear weapons when the Nazis were at the outskirts of Paris in 1939, if they had this power in their hands? Can there be any doubt that if Hitler and his defeated Nazis had had a nuclear weapon arsenal in the closing days of World War II in Europe, they would have chosen to take the world down to total destruction with them in their dying throes? Wouldn't the beleaguered Soviet Union under Stalin have been almost certain to have resorted to nuclear weapons—at some level—to stop the invading Nazis when the Axis powers were ravaging, looting, and killing 20 million Russians in their deep penetrations into Russia in World War II?

A pledge not to be the first to use nuclear weapons would have been a frail and fragile reliance in a war that involved even the conventional weapons of 45 years ago. But today's conventional weapons have advanced enormously in the power, precision, reliability, and certainty that those conventional weapons can now cause destruction very close in intensity and brutality to the destruction caused by nuclear weapons. Even if somehow a nation armed to the teeth with nuclear weapons should resist the use of that nuclear arsenal right up to surrender, strictly and exclusively conventional weapons could bring widespread ruin every bit as devastating as a nuclear war. The principal difference is that the conventional destruction would take longer. But not much longer. The advances in the past 40 years in conventional weapons such as smart weapons, incendiary weapons, blockbusting conventional bombs, chemical weapons, and biological weapons the advances in all these weapons have been so great that a so-called conventional war would simply be a longer nightmare than the sharp, swift destruction of nuclear weapons.

So what do we accomplish by making a no-first-use of nuclear weapons pledge? Not much. And what do we lose by making such a no-first-use pledge? Everything. How can this be? Because a no first-use pledge makes a major conventional war far more likely, especially under present circumstances in Europe. Consider: The Soviet Union's most highly mecha-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

nized, crack divisions are poised at this very moment on the north German plain, cheek to jowl with the West German border. There are no NATO forces confronting these Warsaw Pact forces at the West German-East German border. The NATO forces are fewer. They are largely pulled back in reserve. Of course, NATO could move stronger forces into position much closer to the East German border. But such a move would create a tenser, more explosive situation. War might become more rather than less likely. So what keeps the pact forces from taking advantage of their clear conventional military edge? A big factor is the capacity of NATO to respond with tactical and short-range nuclear, I repeat nuclear, weapons if the pact breakthrough threatens to sweep through Western Europe.

This Senator happens to believe that NATO could probably meet and defeat an attack from Soviet and pact forces with conventional weapons. I believe the quality of NATO troops and equipment outweighs the clear advantage the pact enjoys in numbers of troops, tanks, planes, and artillery. But it's a guess. No one knows. The Soviets may very well believe they can use their more numerous forces to secure a swift and decisive European victory. What keeps them from attacking? Many things. But primarily the likelihood that any success they enjoy would end when they encountered nuclear weapons that would stop them cold. Of course, the Soviets and the pact could respond with their own nuclear weapons. Such a response would have one consequence: utter and total mutual, I repeat mutual destruction. There would be two total losers. This is precisely why the past 40 years has constituted the longest period of peace in Europe in 400 years.

So what do we accomplish by refusing to make a no-first-use-of-nuclear weapons pledge? We stop a major conventional war that would, in all likelihood, with or without the no-first-use pledge, end in nuclear war. This is a painful irony for those who yearn for world peace. But it is clear that the way to achieve that peace is keep our nuclear deterrent fully credible. And that means no promise of no first use of nuclear weapons.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. BYRD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. COCHRAN. I have not sought recognition. I was waiting.

Mr. BYRD. The Chair recognized the Senator. Will the Senator yield to me?

Mr. COCHRAN. I am happy to yield.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that S. 1323 not lose its status, that the status of S. 1323 as now pending not be prejudiced by any motion to go to any other matter which may be agreed to by the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that no call for the regular order bring down S. 1323 while any other matter which has been brought up by motion is before the Senate.

The PRESIDING OFFICER (Mr. Levin). Is there objection. Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator for yielding.

HOWARD BAKER

Mr. COCHRAN. Mr. President, this past Thursday, in the Clarion Ledger newspaper in Jackson, MS, there was an editorial commending our friend Howard Baker on his service to the Nation and to President Reagan in his capacity as Chief of Staff. I want to join those who have spoken already on the floor in connection with Senator Baker's announcement that he will be resigning his position in the administration at the end of this month.

Howard Baker has really done a magnificent job for all of us. He has provided very sound advice and counsel to the President and to many others in the administration and here in Congress during the time he has served as Chief of Staff. I was not surprised that he was a great success in this new job, this new undertaking, having observed him at close range, as we all had an opportunity to do here in the Senate, both as minority leader and then as majority leader of the U.S. Senate.

He brought to the position of Chief of Staff some very special talents and personal qualities, as well as experience, which have equipped him in a unique way to serve with such distinction in our Government.

He is likable. He is bright. He is energetic. He is a person of unquestioned integrity. And so it is with some degree of sadness, really, that I note that he will not be working full time in an official capacity in this administration after the end of this month.

We will all miss him, but we appreciate so much the manner in which he has handled his duties and the special competence he brought to the position he has held.

Mr. President, I ask unanimous consent that a copy of the editorial I described from the Clarion Ledger be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Clarion-Ledger, Jackson, MS, June 16, 1988]

Howard Baker—Reagan, Nation Owe Gratitude

The resignation of former U.S. Sen. Howard Baker as White House chief of staff certainly is a blow to the remaining days of the Reagan administration, but he has left the White House on stronger footing than when he began.

President Reagan owes Baker special gratitude for the job he has done.

The former Tennessee Republican senator gave up his own presidential ambitions to come to the aid of his president when he was needed the most.

The credibility and effectiveness of the Reagan administration was sliding badly as a result of the Iran-Contra scandal. Baker picked up the pieces of a White House left in disarray after Donald Regan had alienated everyone, including the president's wife. He defended the president successfully and put programs back on track in Congress.

Baker was respected by leaders of both parties and was known for his ability to forge compromises on tough issues. Throughout his Senate career, he rose above partisanship, especially during the Watergate hearings and in his support of President Carter's Panama Canal Treaty. Joining the White House staff was said to have brought it "instant credibility."

Reagan since has put himself above the Iran-Contra affair, has been successful in restoring a relationship with the Soviet Union and has patched up relations with Congress to a great extent.

Baker is going back to Tennessee to practice law and take care of his wife, who is ill. He says he would not turn down a vice presidential offer from George Bush, but doesn't expect one.

Baker will be replaced for the remainder of the Reagan administration by his own deputy at the White House, Kenneth Duberstein.

Baker served the nation well in the U.S. Senate and demonstrated the best in American government by taking the chief of staff job when Reagan needed him.

Reagan and the country owe him a full measure of gratitude.

AGREEMENT TO REDUCE BEEF AND CITRUS QUOTAS IN JAPAN

Mr. DASCHLE. Mr. President, I rise this morning to congratulate negotiators on both sides in the successful resolution in the agreement to reduce both beef and citrus quotas in Japan over the next 4 years. This has been an extraordinarily contentious issue on both sides. It is an issue that many of us thought may not be resolved in the coming months.

As a result of very arduous work and commitments made by Japanese negotiators in particular, we were able to reach an agreement yesterday. The agreement, at long last, will abolish Japanese quotas entirely by 1991. It will increase by 60,000 metric tons per year the amount of imported beef allowed within Japan, reaching 394,000 metric tons in the fiscal year 1990. This should nearly double the opportunities for beef exports from the United States to Japan in the next 4 years.

It is estimated that the opportunities for new markets in Japan for the United States could reach more than $1 billion by the time these quotas are completely open. In addition, market access for orange juice concentrate will be increased from 8,500 metric tons in 1987 to 15,000 metric tons in 1988. It will allow the importation of 40,000 metric tons in fiscal year 1991.

Beef exports have been a very important part of the commercial opportunities that exist for not only my State of South Dakota, but for the country as a whole. With the abolition of these quotas, we are opening doors farther than ever before. We are providing new opportunities for a commercial relationship between our two countries that bodes very well for our relationship in many other areas, as well.

So I hope that, as we commit ourselves to this new agreement, we look to other countries to begin to develop the same cognizance of the importance of reducing all trade barriers. Let us hope that others will look to this agreement as a real model in the relationship that we hope to hold with them as well.

I must say, though, that, as optimistic as I am about the prospects for a continued strong economic relationship with Japan, I would remind my colleagues that the 1984 beef and citrus agreement called for the complete abolition of beef quotas by March 31 of this year. Unfortunately, that agreement was not reached. Let us resolve that neither side will fail to keep both the letter and the spirit of the agreement signed yesterday.

I hope, Mr. President, that the commitment that we now have within the Japanese Government will bring forth the complete abolition of beef and citrus quotas. Let us hope that, as a result of this agreement; we can develop even closer ties, a better commercial relationship, and the prospects for greater trade between the two countries in the future.

Mr. President, I ask unanimous consent that materials which explain the agreement in greater detail be printed in the Record.

There being no objection, the materials were ordered to be printed in the Record, as follows:

PRESS RELEASE BY U.S. TRADE REPRESENTATIVE CLAYTON YEUTTER

Representatives of the governments of the United States and Japan announced today an ad referendum agreement which calls for the elimination of Japanese import quotas on beef and citrus products. The agreement was reached by United States Trade Representative Clayton Yeutter and Japanese Minister of Agriculture Sato as the culmination of several months of intense negotiations. The negotiations broke down and had to be re-started twice before agreement was finally reached.

"The United States is pleased with the outcome," Yeutter said from Tokyo, "though we would like these markets to open sooner than is contemplated. It is regrettable that the process of market liberalization was not begun several years ago. Nevertheless, we are grateful that the government of Japan is now prepared to phase out all import quotas on these products."

"What Japan is now prepared to do on beef and citrus is a recognition of its responsibility as a major economic power running a very large trade surplus," asserted Yeutter. "And it is also what Japan must do in order to comply with the rules of the General Agreement on Tariffs & Trade (GATT)."

"This new agreement," said Yeutter, "will open up excellent export opportunities for American beef and citrus producers. U.S. export sales in these products should increase soon, and they could easily exceed $1 billion annually when the accord is fully implemented."

The agreement calls for a phase out of import quotas on beef products and fresh oranges over a three year period, and quotas on orange juices over four years. Japan will have the privilege of temporarily raising duties on beef products to certain specified levels during a second three year adjustment period, at the end of which the Japanese beef market will be fully liberalized.

Yeutter noted that since the quotas will be phased out, rather than eliminated immediately as the U.S. had requested, the government of Japan had agreed not only to significant increases in market access in the interim but also to certain other actions, including duty reductions on such products as fresh grapefruit, fresh lemons, frozen peaches and pears, walnuts, pistachios, macadamias, pecans, pet food, beef jerky, sausage, and pork and beans.

The agreement also calls for a three year phase out of the import management operations of Japan's Livestock Industry Promotion Corporation (LIPC), and for greater flexibility in the administration of the import programs for both beef and citrus products during their respective phase out periods.

"Both negotiating teams worked extremely hard on this difficult and complex issue, over a period of many weeks," added Yeutter, "This was one of the most challenging bilateral negotiations we've ever undertaken. I wish particularly to commend the efforts of Deputy USTR Michael B. Smith, who led the U.S. team during most of the negotiations. I commend as well the Japanese team for its positive and courageous attitude throughout, and the Japanese government for its willingness to take the right course in this politically sensitive area.

UNITED STATES-JAPAN AD REF SETTLEMENT ON BEEF AND CITRUS—SUMMARY OF PROVISIONS

BEEF

During Japan's Fiscal Years 1988-90 (4/1/88-3/31/91), Japan's market for imported beef will increase 60,000 metric tons per year, reaching 394,000 mt in JFY90. By 1901, Japan's beef imports should nearly double from current levels. Once Japan's market is completely liberalized, we expect the value of U.S. beef exports to double at least to more than $1 billion per year.

Japan's Livestock Industry Promotion Corporation (LIPC) currently controls most beef imports. LIPC will phase out its involvement in beef imports by 3/31/91.

LIPC surcharges, on top of the current 25 percent ad valorem tariff, now are equivalent to an ad valorem tariff rate of 96 percent. During the JFY88-90 period, LIPC surcharges are expected to decrease and the tariff will remain at the current level. Once LIPC involvement with imported beef ends, Japan will set a temporary tariff of 70 percent in JFY91, declining to 60 percent in JFY92, and 50 percent in JFY93 and thereafter. Japan will negotiate for this level in Uruguay Round tariff negotiations.

During the JFY91-93 period, if imports appear likely to exceed a level calculated at 120 percent of the previous year's imports or import allocation (whichever is higher), Japan may consult with beef-exporting countries about actions to discourage disruptive import levels. If imports exceed the 120 percent level, Japan may unilaterally impose an additional 25 percent ad valorem tariff for the remainder of that fiscal year. As of 4/1/94, safeguard measures will be limited to only those permitted under the GATT.

During the JFY88-90 transition period, the proportion of imported beef that will be transacted under the Simultaneous Buy-Sell (SBS) program will increase from 10 percent of the total general quantity handled by LIPC in JFY87, to 30 percent in JFY88, 45 percent in JFY89, and 60 percent in JFY90.

Reforms of the SBS to increase the transparency of its operations, eliminate any discrimination between the treatment of grain and grass-fed beef, and facilitate the participation of new market entrants will be undertaken immediately. The SBS system allows buyers and sellers to negotiate contracts directly.

Market access for hotels will be expanded to 10,000 mt in JFY88, 13,000 mt in JFY89, and 16,000 in JFY90 (4,000 mt in JFY87).

Japan's import restrictions on prepared and preserved beef products will be eliminated within two years. This settles one of the "GATT-12" product categories.

FRESH ORANGES

During the JFY88-JFY90 period, market access will be expanded by 22,000 mt annually, reaching 192,000 mt in JFY90 (JFY87 level: 126,000 mt; the increase the previous four years was 11,000 mt/yr.)

As of 4/1/91, imports of fresh oranges will be permitted in unlimited quantities and the only restriction will be the current tariff (now bound at 40 percent in season and 20 percent off season). U.S. annual exports of fresh oranges are expected to increase by more than 50 percent in volume and $25 million in value.

ORANGE JUICE

Market access for orange juice concentrate will be increased from 8,500 mt in JFY87 to 15,000 mt in JFY88, 19,000 mt in JFY89, 23,000 mt in JFY90, and 40,000 mt in JFY91.

As of 4/1/92, imports of orange juice will be permitted in unlimited quantities and the only restriction will be the current tariff (now set between approximately 25 percent and 35 percent depending on sugar content). U.S. exporters will compete in an estimated $50 million import market.

Special access, not subject to the blending requirement, will be provided for imports of single-strength orange juice and orange juice mixtures as follows: 15,000 kl in JFY88, 21,000 kl in JFY89, and 27,000 kl in JFY90. (Imports of these products are now essentially banned.) As of 4/1/91, imports will be permitted in unlimited quantities.

Imports of single-strength orange juice in small containers for use in hotels will be permitted in unlimited quantities this year.

The requirement that imported orange juice be blended with mikan juice produced in Japan will be lifted for 40 percent of the concentrated orange juice imported in JFY88, 60 percent in JFY89, and completely eliminated as of 4/1/90.

OTHER PRODUCTS

The Government of Japan has agreed to the following tariff reductions to be effective 4/1/89:

Grapefruit—From 25% in season and 12% off season to 15% in season and 10% off season.

Lemons—From 5% to 0%.

Frozen peaches/pears—From 20% to 10%.

Pistachios—From 9% to 0%.

Macadamias—From 9% to 5%.

Pecans—From 9% to 5%.

Walnuts—From 16% to 10%.

Bulk pet food—From 15% to 0%.

Pet food in retail packs—From 12% to 0%.

Beef jerky—From 25% to 10%.

Sausage—From 25% to 10%.

Pork and beans—From 28% to 14%.

Effective 4/1/90, the Government of Japan will reduce the tariff on grapefruit in season to 10 percent.

ORDER OF PROCEDURE

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. BYRD. Mr. President, will the distinguished Senator from Vermont yield to me?

Mr. LEAHY. Of course.

Mr. BYRD. Mr. President, in addition to the 5 minutes the Senator from Vermont is entitled to under the order, I yield the 10 minutes under the standing order which I have reserved to the distinguished Senator.

Mr. LEAHY. Mr. President, I thank the distinguished majority leader. I appreciate his courtesy in doing that. The leader knows that I wish to give a report on the trip that a number of us—Senators DASCHLE, CONRAD, BURDICK, MELCHER, and BAUCUS; and Congressman JOHNSON and Congressman DORGAN—took over the weekend to examine the drought in the upper Midwest. I appreciate the distinguished Senator from West Virginia yielding me time.

Mr. COCHRAN. Will the Senator yield to me for a question?

Mr. LEAHY. Yes.

Mr. COCHRAN. I just wonder if there are any Republicans on the drought task force? Those who were named so far have all been Democrats.

Mr. LEAHY. They were all invited, I say to the distinguished Senator from Mississippi. In fact, one who was not on the drought task force, Senator PRESSLER, was invited but could not come.

Senator LUGAR, of course, is the ranking member. Before I even put the trip together, I discussed it with him and I offered also to come to Indiana. But, because of other conflicts in his schedule, he said he appreciated the offer but this would not be a good time.

Mr. COCHRAN. I thank the distinguished Senator. I just wanted to be sure that the RECORD reflected that there are three Republicans on the drought task force and we had a meeting last Friday, which you and I both attended, and we all are working hard in a bipartisan manner to try to identify ways in which those damaged by the drought could be helped.

Mr. LEAHY. I wish that the Senator would wait until I get done with my speech. I compliment him on his efforts, as well as those of others. There have been no meetings except with the attendance of the Republican Members. The Senator from Mississippi, I am sure, was just about to mention the exceptional way that the task force was set up. At my request—not at the request of the Republicans, but at my request—an equal number of Republicans as Democrats were appointed to the Senate task force. I am sure the Senator from Mississippi was about to mention that.

And the first meeting of the task force, as I recall, there not only an equal number of Republicans and Democrats, but also I had invited a number of Republican Senators who were not on the task force, but were from States involved. As I said, at this particular meeting, Republican staff members were there as well as Democratic staff members; Republican Senators from the areas visited were invited to come and because they had other matters to attend to, were unable to be there.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator very much and compliment him on the fact that this has been a bipartisan effort and he has included in the task force an equal number of Republican Members and Democrats. And also as he pointed out, Senators GRASSLEY and KARNES, and others who are from an area of the country that is being devastated by the drought, were invited and participated. Senator BOND, of Missouri, was also a participant in that meeting last Friday and he helped in a very constructive way, offering some good suggestions for consideration. I thank the distinguished Senator for yielding, and I apologize for interrupting his remarks. I just wanted to make sure that Republicans were recognized for participating in this drought relief effort.

Mr. LEAHY. I do not know how much more I could recognize them, Mr. President, unless I just turned the whole thing over and then it would lose its bipartisan nature. Right now, their recognition has been equal.

DROUGHT CONDITIONS IN THE NORTHERN GREAT PLAINS

Mr. LEAHY. Mr. President, I would like to report to my colleagues about a trip I took to the Northern Great Plains this past Saturday to assess the impact of the drought that grips much of this country. It was an important trip. We traveled probably 4,000 miles by plane and helicopters in what was close to a 20-hour day.

We have all seen the news reports. I have seen many charts and graphs describing this drought in hearings we have held in the Agriculture Committee and in meetings with the Secretary of Agriculture and Members of the House of Representatives.

But I went to the Northern Great Plains to see first-hand the extent of this prolonged drought. I went to try and understand the degree to which this bad weather has affected lives. I went to listen to those affected, to hear their suggestions as to what the Government might do to help.

A delegation of six Senators: Senators BURDICK, MELCHER, BAUCUS, DASCHLE, CONRAD, and myself and one Congressman, Representative TIM JOHNSON, traveled to South Dakota, North Dakota, and Montana.

What did we see, Mr. President?

We saw a brown and brittle land. These three States, along with Minnesota, are suffering through the worst drought, this early in the season, that has occurred in my lifetime. Estimated crop losses run in excess of $1.8 billion in these three States alone. And that's a conservative estimate. In North Dakota they estimate that the overall effect of it could be as much as $2.7 billion.

This drought comes at a time when some of these farmers were just getting their feet back on the ground. They were standing to get over the 5 years of depression that settled over rural America beginning in 1982. But now, with their crops burned and their livestock hungry, these farmers are once again threatened with bankruptcy.

We visited a livestock barn in Aberdeen, SD. We talked to farmers and ranchers. Herman Shumacher, a manager of a local livestock barn, told us that nearly three times as many breeding cattle were being sold than normal. There is no grass for the cattle to eat. The farmer has two choices, move his cattle to another part of the country where there is some grass available or sell. Many can't afford the additional rent. So their cattle go to the auction. Prices have fallen nearly $100 per head in the past week as entire herds are being sold off.

This can and will have some severe long-term effects on our meat supply. Dwindling foundation herds now means decreasing meat supplies in the future.

In North Dakota, we saw a totally devastated spring wheat crop. We dug in the dry earth and found seeds that had been in the ground nearly 4 weeks. These seeds will never sprout. The wheat that has emerged is dying. It will not bear fruit this year.

In fact, the only protein in wheat fields or hay fields or pastures around Bismarck, ND, was the grasshoppers—their concentration is increasing. They are hungry too.

We flew for more than 20 miles over some of the best agricultural land in Montana. In that whole area around Great Falls, we saw no grass for grazing. The grasslands looked like they were covered with volcanic ash. Watering ponds were dry. Stream beds were just ugly marks across the plain. In the few parts where water was left, it was turning brackish; soon to be unfit to drink.

This is a part of the country where they know how to survive without much moisture. They practice strip farming here. They leave half of their land out of production every year to conserve moisture. They plant trees as wind screens.

But the heavy snows they count on to replenish their soil's moisture did not come. The spring rains did not come.

The best farming techniques in the world could save only a small portion of their crops. And nothing could be done for their pastures.

Mr. President, I had not been to these parts of Montana before. I had visited these same parts of North and South Dakota. But I know what it is supposed to look like. It is supposed to be something that would really bring joy to the heart of a farmer or rancher this time of year. There should be miles and miles and miles of fields, abundant with the harvest that the most productive nation in the world has been able to provide.

Instead, you would think you were going across a moonscape. You wonder what came through here? It is as though some giant hand came and just scooped out this productive earth, this productive part of our Nation, and left nothing but a deep and empty scar across the land.

Mr. President, livestock means more to the agricultural economy of Montana than wheat. I saw about 10 cows on the plains of Montana. I saw more antelopes than beef cattle. There is nothing to eat there.

So, I am here today to report to my colleagues that lives are being devastated, the earth is parched, and crops have been destroyed.

There are other concerns. This drought is not localized in the northern Great Plains. The Midwest, certainly the State represented by the distinguished Presiding Officer, and much of the southeastern United States is increasingly dry. Corn in Ohio and Indiana is wilting and is in danger of dying.

A drought of this magnitude is a national crisis. Every citizen can be affected. Every part of the country has reason to be concerned. We know that we will eventually see increased food prices because of this drought.

Increased livestock sales means lower beef prices today, but a dwindling supply and much higher prices in 1989 and 1990.

The Chairman of the Federal Reserve Board had better start making plans for next year. He will have to respond to the inflationary impact of rising farm prices.

When we begin to sell our foundation livestock herds, when our fields cannot produce, and when our farmers lose the financial means to try again next year, our national security is threatened; not only national security but part of the soul of a nation, whose foundation is agrarian, is also damaged. We must have a bipartisan response to this emergency.

Drought is not a partisan issue. It is a human crisis. Our failure to act will be measured in human terms.

We have established a bipartisan task force comprised of Republicans and Democrats—Senators; Congressmen; and the Secretary of Agriculture. We have an equal number of Democrats and Republicans representing the Senate on this task force, and that was at my suggestion to demonstrate the bipartisan nature. I am on there. Senator LUGAR is on there. Senator PRYOR is, Senator COCHRAN, Senator DOLE, and Senator MELCHER. And we have invited other Senators from the areas most affected to come and supply us with their expertise. And they have done this.

Senator DASCHLE came to us from South Dakota. Senators CONRAD and BURDICK came to us from North Dakota. Senators MELCHER and BAUCUS came to us, from Montana. But other Senators, Senator BOND, Senator GRASSLEY, Senator HARKIN, Senator METZENBUAM, Senator GLENN, the distinguished Presiding Officer, Senator LEVIN, and Senator RIEGLE—Senators from States also affected have given us of their expertise.

And all the way through this, Mr. President, everyone saying that you cannot believe the impact of the drought they are seeing in our States.

Mr. President, the members of this task force must work together and develop a response to this crisis. A response we can all support and that will help relieve some of the suffering.

Our farmers do not need more studies to tell them that crops are dying. Our farmers do not need studies to tell them that livestock are running out of food. Our farmers do not need a jumble of legislative initiatives that either do not do enough or come too late to do anyone any good.

Our farmers need rain most of all. For that, we can only hope and pray.

But our farmers also need help. On that point, we can work together to craft legislation that will be effective, reasonable, and targeted to those who need it the most and to help them now.

The laws we have enacted in the past provide the Secretary of Agriculture discretionary authority to use several programs to help alleviate the distress. He has used many of those programs. But more must be done.

I personally pledged my efforts to the farmers and ranchers I met in North Dakota, South Dakota, and Montana over the weekend. I make that pledge to all farmers who are suffering from this drought. I will do what I can, and I will do it quickly.

Mr. President, few things have affected me more in my 14 years in the Senate than what I saw this weekend. I know some of the farmers out there. I met them on other trips of the Senate Agriculture Committee. These are good farmers and ranchers. These are men and women who love the land, who could outproduce anybody anywhere in the world. They now sit there and they say not in their lifetime have they seen anything like this.

After going through some of the most difficult times in their farming career, they finally saw a chance; they were going to make it after all. They say: "You know, it is all we can do to keep from losing hope."

This is a very, very serious matter. Nothing we see on television, nothing we read in the papers can begin to describe what it is really like.

So, Mr. President, I am sorry to bring such sad news to the Senate this morning, but it is news that affects every single one of us, whether we come from an agriculture area or not. We all eat; we are all in this country together. We are all going to be affected by what is happening. Our trade policy will be affected and inflation will be affected but and most importantly, the lives of hundreds of thousands of the finest men and women in America are being affected in a way that they have no control.

I hope, Mr. President, that our drought task force can continue to work in a bipartisan, effective manner and give some hope to these people.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

COMMENDATION OF PATRICK J. LEAHY

Mr. DASCHLE. Mr. President, I rise to commend the distinguished Senator from Vermont, the chairman of the Senate Agriculture Committee, for his responsiveness and his bipartisanship in the whole effort. I have not known a chairman more responsive to the needs of his members than has been the distinguished Senator from Vermont.

He has listened. He has been sensitive to our needs. He has demonstrated as bipartisan an approach to this problem as any Chair that I have ever had the pleasure to work with. I want to express my sincere gratitude to him for that responsiveness and his willingness to commit his personal time and that of the committee to see that we deal with this issue in as effective a way as possible.

This trip was not an easy one. We left at 7 o'clock in the morning. We arrived back in Washington at something close to midnight. He could have been anywhere, but he was with us. He could have invited anyone on this trip, but he invited Republicans and Democrats. He made it clear that the purpose of this trip was threefold: First, to gain a better assessment of the situation as it exists; second, to get firsthand the advice and information about what we ought to do about it; and third, to call national attention to the significance of the problem as it exists today. I think with all three goals, we surpassed our expectations.

So I do commend him. As he has so eloquently stated this morning, the situation cannot be exaggerated. We are losing $30 million a day in the State of South Dakota in agriculture alone. Thus far, the cost, all things considered, has been more than a billion dollars in my small State. The repercussions and the ramifications of what he is addressing this morning are very real.

I hope that we could address this problem quickly and very resolutely. I hope that as part of the solution that we guarantee advanced deficiency payments, that we ensure the emergency feed assistance program is used wherever possible, that we open up as broadly as we can the water bank and the conservation reserve programs. I know the chairman has accepted all of these bits of advice, and we will begin drafting a piece of legislation at the very earliest possible date.

Once again, Mr. President, let me commend the chairman. I was one of those fortunate people who traveled with him. I know the impact that it had on him personally, and I know the commitment he holds to resolving this issue as best we can legislatively.

I yield the floor.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from South Dakota. He has been at every one of our meetings. He has been there fighting for his State and his region. It means a great deal to all of us.

The drought task force will meet on the House side tomorrow and Senators or any staffs of Senators who wish to come over to that meeting will be welcome. The Secretary of Agriculture will also be there.

We are in this together, as I said before. We understand this. It is not just the farm States that are affected. All 50 States are affected. America's national security is ultimately affected. Certainly our economic prosperity is affected. We are in it together.

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

DROUGHT CONDITIONS

Mr. EXON. Mr. President, I want to add my words of thanks and praise to the distinguished chairman of the Agriculture Committee. I want to thank him, Mr. President, and the distinguished Senator from South Dakota and the other members of the Agriculture Committee who made that difficult trip into the Midwest this past weekend.

It so happened that I traveled the breadth of Nebraska this last weekend and can give you a very short, firsthand report that the situation is extremely serious.

When those of us in the Midwest think about agriculture, we traditionally do not think of a Senator from Vermont being primarily concerned about the heartland of America, but the Senator from Vermont, the chairman of the Agriculture Committee, has shown the bipartisan leadership that is simply outstanding in this area.

The ringing of the bells and the alert signals he is sending today are entirely appropriate. I thank him on behalf of the farmers and ranchers of my State and the other States in the Midwest that I have been associated with in their cause for a long, long time for his understanding, forceful leadership in this area.

I simply say to the chairman of the committee, Godspeed in your efforts to bring about the planned legislation that we hope will not be necessary if the rains come. But with the pattern that has been set up and as one who is old enough to remember as a very young lad the last great, all-encompassing drought that hit in the 1930's, I will simply say that we have to be prepared to move into this area.

I simply would say that Nebraska, as hard hit as it has been, has substantial irrigation, which has been of some help. But the dry land sectors of Nebraska are particularly hard hit, as are those in our neighboring States. This drought goes clear over into Illinois, Indiana, Ohio, Wisconsin, and, to some extent, Michigan. I would point out the drought in the 1930's did not devastate those latter States.

I would simply say we must plan and prepare legislation now, but we have a great number of statutes already on the books that give the administration a chance to move in an expeditious fashion.

I simply point out that one thing I wish we could get the Department of Agriculture to be a little more forthcoming on right now—and I salute the Secretary of Agriculture. I think he basically understands a difficult situation.

I will simply say the first thing we should do is begin to plan right now under the present law to do something about the conservation reserve. The conservation reserve is on fragile land, but the conservation reserve also, I want to point out, was clearly set up to accommodate the food needs of America and the needs of farmers during situations that confront us right now.

Certainly there is a concern that we do not want to do haying or cattle feeding to the extent that it would devastate these acres. If a plan were set up now by the Secretary of Agriculture for increased haying, for increased grazing, then there could be a proper balance between the nonconservation lands that are not in the reserve and the conservation reserve to give a balance to protect both the lands not in the conservation reserve and those that are. I think that is help which could be given right now without additional legislation but probably more is needed. I salute and have every confidence in the Senator from Vermont that he will see on a bipartisan basis that these needs are met.

Mr. LEAHY. Mr. President, I appreciate the Senator's concern for the conservation reserve. It is a very delicate problem. I should also note that I have relied very much throughout on the wise counsel of the senior Senator from Nebraska. He has been one who has given advice to us. It has been solid advice. It is advice based on experience and knowledge of what is practical and what is available. It has been very helpful to me. I salute him for that.

THE DROUGHT

Mr. PRESSLER. Mr. President, much of my State is suffering from severe drought conditions. With rising commodity prices many grain farmers are concerned that their deficiency payments will be lower or no deficiency payments will be made. Grain production will be substantially reduced, so many farmers will not receive their income from the market. The decline in deficiency payments must be addressed in the drought assistance legislation that is being developed.

Farming is a cyclical business; there are droughts and there are good crop years, but from what I have seen and heard we are in crisis situation. This coming weekend I will be touring parts of the drought area in South Dakota with at least one of my colleagues. I am also working with other Senators on legislation to provide drought assistance and address the deficiency payment issue. The present budgetary situation will make it very difficult to get additional funding for disaster assistance. We should modify the existing farm program, particularly the deficiency payment provisions, to assure farmers hard hit by the drought, that they will receive a certain level of deficiency payments. Such action would help farmers in this difficult situation. We should remember that some of the farmers who planted and got their crops started are not eligible for 0-92 Program. They are in a situation where their production will be substantially reduced and they will not qualify for deficiency payments. Money for these payments was included in the budget. Perhaps the savings from reduced deficiency payments could be used to finance disaster assistance programs. We need to keep all of these concerns in mind as we continue working toward a solution to this extremely important problem.

Mr. President, I want to clarify the earlier discussion on the recent Agriculture Committee drought tour of Montana, North and South Dakota. Last week on Wednesday evening my office received a call inviting me to participate in the drought tour the following Saturday. This was very short notice and prior commitments prevented me from joining the group on Saturday. In addition, I had already scheduled a drought meeting in South Dakota the weekend of June 25 and 26. As many Members have indicated, we must address the drought issue on a bipartisan basis. During times of natural disaster it is critical that we work together to expedite the delivery of necessary assistance. I look forward to working with the members of the drought task force and others to develop and enact whatever legislation is necessary to address this severe problem.

PENTAGON SCANDAL

Mr. PRESSLER. Mr. President, I commend Senator GRASSLEY and others who have spoken out strongly about what is happening in the Pentagon. It is a sad day for all of us in Government when such a scandal occurs. We must move quickly to prosecute those who are involved. This is not a Democratic or a Republican problem. An ethos has grown up in the military-industrial system to take as much of the taxpayers' money as possible, and that is very bad. Somehow the ethics in military contracting must be changed. Somehow we must establish a new set of ethics within the Defense Department and among contractors.

BICENTENNIAL MINUTE

JUNE 21, 1841: FIRST EXTENDED FILIBUSTER

Mr. DOLE. Mr. President, 147 years ago today, on June 21, 1841, the Senate began its first extended filibuster. To be sure, this was not the first occasion for the use of dilatory tactics in the Senate. In 1789, the first year of the Senate's existence, such tactics were employed by those opposed to locating the Nation's permanent Capital along the Susquehanna River. Again, in 1825, after listening to Senator John Randolph speak for more than 30 minutes, an editor reported that he "had been told that the bankrupt bill was before the Senate—but, during the time stated, he, Randolph never mentioned, or even remotely alluded to it, or any of its parts, in any manner whatsoever." In fact, dilatory debate was frequent enough that by 1840 Henry Clay of Kentucky urged adoption of a rule that would allow a simple majority to bring debate to a close. However, filibustering as a legislative tactic was not openly acknowledged until 1841, when Democrats and Whigs "squared off" over the establishment of a national bank.

Since the mid-1830's Whigs in the Senate had strongly pressed for bank legislation, but Democratic Presidents Andrew Jackson and Martin Van Buren had blocked any hope of success. So, when the Whig-supported John Tyler rose to the Presidency in 1841, Clay and his supporters sought passage of a measure that would centralize the Nation's banking operations. A Select Committee on Currency, which Clay chaired, reported such a bill to the Senate on June 21.

Although the Whigs had a seven-vote majority over the Democrats, a coalition of States rights Whigs and antibank Democrats decided to discuss the bill at length. When John C. Calhoun objected to Clay's attempts to exercise iron control over Senate proceedings, Clay indignantly vowed to ram through a provision for majority cloture. The opposition countered with the Senate's first acknowledged filibuster, which lasted 14 days and resulted in the defeat of Clay's bill.

U.S. INTEREST IN VIETNAM INCREASES

Mr. PRESSLER. Mr. President, I have noted an increasing amount of interest in this country on the subject of Vietnam. As our distinguished colleagues know, two Senate resolutions addressing United States relations with Vietnam have been introduced this year and the Foreign Relations Committee is scheduling the first of what I hope will be several hearings on these resolutions. Just last week, I testified before the House Select Committee on Hunger on the topic of the food crisis in Vietnam.

The major newspapers and magazines also have begun to publish more articles and commentaries on Vietnam and United States-Vietnamese relations. One example appeared in the June 4, 1988, edition of the Nation. Although I may not agree with all of the interpretations of this article, it provides some interesting perspectives on the increasing amount of public interest in Vietnam. Mr. President, I ask unanimous consent that this article appear at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REPUBLICAN OVERTURES TO HANOI

(By George Black)

The disintegration of the Reagan Administration can be measured by its more rococo public symptoms—the Noriega affair, Nancy's astrologer, Edwin Meese. But there are smaller barometers, too, seen for the most part only by specialists. In that second category, nothing epitomizes the fatuousness of late Reaganism better than the State Department's inexplicable delay in granting a visa to the Vietnamese economist Ngyuyen Xuan Oanh. This is not just another routine McCarran-Walter Act instance of hostility on ideological grounds. For Oanh is the architect and apostle of the program of economic liberalization that is now under way in Vietnam. The State Department's blunder was all the more troubling because it came on the eve of the Moscow summit, which could open the way to resolving the continuing conflict in Cambodia.

Oanh is hardly an unfamiliar figure in the United States: Educated at Harvard, he was a governor of the former Bank of South Vietnam; since his long stay in this country, from 1950 to 1963, many of his American colleagues and friends know him affectionately as "Jack Owen." Oanh was the brains behind the establishment last year of the Industrial and Trade Bank in Ho Chi Minh City—the first private bank permitted in Vietnam since the fall of Saigon in 1975—and one of the principal drafters of the country's new law on foreign investment, passed in January. Shortly before his planned visit to the United States, he had been on a five-country trip to solicit investors from Thailand, Singapore, Japan, Taiwan and South Korea.

The strangest part of this whole episode was the origin of the most vocal complaints to the State Department. They came not only, as one might expect, from liberal groups like the U.S.-Indochina Reconciliation Project, the sponsor of Oanh's visit. One critic was Senator Larry Pressler, the South Dakota Republican, who had met with Oanh during a trip to Vietnam in April. In a letter to Secretary of State George Shultz, he complained: "Our policy may be designed to isolate Vietnam, but it also has the effect of isolating ourselves from firsthand information about that country."

Pressler followed up with a New York Times Op-Ed essay on May 23 calling for the restoration of normal diplomatic relations with Vietnam. It's almost ten years now since the last serious move in that direction. That effort by the Carter Administration came to grief when Vietnamese troops occupied Cambodia and drove out Pol Pot's Khmer Rouge in January 1979.

The Reagan Administration has obstinately refused to consider renewed ties until Hanoi withdraws its forces from Cambodia and gives a full accounting of Americans missing in action. Some of the Republicans who have joined Pressler's call for a diplomatic opening have the extra credibility of being bona fide war heroes—Arizona Senator John McCain, for example, a former Navy pilot who was shot down over North Vietnam in 1967 and spent five and a half years as a prisoner of war; and Pennsylvania Representative Thomas Ridge, whose hearing impairment was aggravated by the war. Their demands have been echoed by other influential Republicans like Senators Alan Simpson and Nancy Kassebaum.

McCain and Pressler had originally set March 17 as a date for introducing joint legislation to open an American "interests section" in Hanoi. However, in an interesting vignette of how Washington's thinking on Vietnam is determined, they opted to postpone the step because, as the Congressional Quarterly reported, "news of Nicaragua's incursion into Honduras the day before diminished the luster of any plan to improve relations with Vietnam." Hearings are expected to be scheduled this month.

The splashiest and most impassioned of the arguments for normalization, however, was an article by John Le Boutillier in the May 1 New York Times Magazine. Le Boutillier is president of a group called Account for P.O.W./M.I.A.s Inc., but he is probably better remembered for his flamboyant spell as a Republican Representative from Long Island between 1981 and 1983. In those days, he was known for displaying what the National Journal called "a contempt not just for Democrats, but for politics and government generally, a contempt typical of derisive preppies and of the careless rich of the North Shore of whom Scott Fitzgerald wrote."

So, is he a wiser man these days? Not really. On the face of it, much of what he writes seems sensible. The most striking memory that Le Boutillier took away from a March trip to Vietnam was the continuing wretched poverty of the place. "Indeed," he wrote, "Vietnam is so backwards that an American must wonder, 'How in the world did Vietnam ever win the war?'" To his credit, he drew the right conclusions: "The answer is simple: the North Vietnamese, despite their technical backwardness, would then, and would still, fight to the death to be independent of any outside domination—and the leaders in Washington were stupid, shortsighted and ignorant of the history and character of Southeast Asia."

From a conservative such as Le Boutillier, this has the character of a revelation around a core of heresy. He has, after all, built his reputation on keeping alive the M.I.A. fantasy. Back in 1977, the House Select Committee on Missing Persons in Southeast Asia, chaired by Republican Representative Sonny Montgomery, concluded that "no Americans are still being held alive as prisoners of war in Indochina" and that "a total accounting by the Indochinese governments is not possible and should not be expected." Activists like Le Boutillier, aided by a stream of Sylvester Stallone and Chuck Norris movies, have come to believe otherwise, and 82 percent of respondents, according to a recent Wirthlin poll, think American prisoners are still being held in Southeast Asia.

Pressler, McCain and their supporters are motivated by more hardheaded geopolitical concerns. But they would agree with Le Boutillier that stupidity, shortsightedness and ignorance are still at the core of U.S. policy, and they have decided to cut loose from the wreck of Reaganism before it drags them all down. The Administration's attitude toward Vietnam has never broken free of the neuroses of the past—that "sterile mixture of spite, bitterness and guilt," Le Boutillier calls it—whose only result is a policy that "has not been worthy of a superpower" and "is bad for the United States, bad for its allies and good only for the Soviet Union."

The Administration has reacted to this barrage with a kind of aggrieved consternation. One obdurate State Department officials insists, "Our policy has been to support and maintain the political isolation into which Vietnam's occupation of Cambodia has put it." Other Administration officials add that the current initiative from fellow Republicans "seriously complicates" U.S. policy in Vietnam. Pressler retorts that he is "very disappointed in the State Department for taking a very rigid line on this." And even McCain, a much more conservative figure (the successor to Barry Goldwater's Senate seat, in fact), is reluctant to blame Hanoi for the continued hostilities. "Perhaps that's Vietnam's fault, but it's hard to guage," he says. The idelogues of the far right, meanwhile, smell the blood in the water. Kenneth Conboy, Southweast Asia analyst at the Heritage Foundation, accuses Pressler of having "swallowed the bait they gave him" on his recent visit to Vietnam.

At the heart of the matter, as Le Boutillier, McCain and Pressler all recognize, in their own ways, is the extraordinary series of changes that have taken place inside Vietnam over the past year and a half. By 1985, a decade after the end of the war, Vietnam's economy was still in a ruinous state. Heaped on top of the devastation of the conflict and the failure to secure reconstruction aid from the United States was the daunting task of integrating the spartan, agrarian regime of the North with the more prosperous, decadent South—a dilemma Hanoi had tried to resolve by "breaking the machine" of Saigon.

The Sixth Communist Party Congress of December 1986 set in motion an economic rescue mission and a restoration of waning public trust in the party. Old warhorses like Premier Pham Van Dong and Politburo member Le Duc Tho, who negotiated the Paris peace accord with Henry Kissinger, were removed. The mantle of leadership passed to Nguyen Van Linh, the first leader in half a century not to be drawn from Uncle Ho's inner circle. It was a remarkable return to grace for Linh, who had been expelled from the Politburo in disgrace in 1982 for his advocacy of market reforms. Under the rubric of "renovation," Linh has championed the introduction of private enterprise; an end to corruption and bureaucracy; greater cultural and artistic debate, as exemplified by his own regular muckraking newspaper column, "Things That Must Be Done Immediately"; and a foreign investment code that is one of the most liberal in Asia. Vietnam (which in 1977 because the first socialist nation to join the International Monetary Fund) has asked me I.M.F. to stabilize its currency, the dong, and help it out of its "mess of exchange rates" (that's Nguyen Xuan Oanh again).

But the opening to the West is more than matter of economics: Ill-prepared U.S. officials have been sent scurrying to confront the possibility that this week's summit in Moscow could bring progress toward resolving the apparently endless conflict in Cambodia. Although Vietnam repeatedly insists that it is prepared to withdraw all its forces from Cambodia by 1990, Washington has shown no interest in talking. It has preferred to watch the Chinese-backed Khmer Rouge bleed Hanoi's army, waiting futilely for the Vietnamese—like the Nicaraguans, the Angolans and the Mozambicans—to cry uncle. They won't. Vietnam seems willing instead to turn over a new leaf in its relations with Washington and transcend the bitterness of the war. "Vietnam wants to forget the past," Linh says, "to forget that half a million American soliders wanted to return us to the stone age."

The Soviet Union, too, has indicated beyond reasonable doubt that it is ready to reconsider its role in Indochina. A settlement of the Cambodia conflict would remove the biggest obstacle to a rapprochement between Moscow and Beijing. At a press conference in Bangkok during his April tour of several Asian countries, Soviet Deputy Foreign Minister Igor Rogachev made it clear that the Soviet withdrawal from Afghanistan should be regarded as a model for resolving other regional conflicts. Cambodia was obviously uppermost in his mind.

The Russians also eagerly backed the two rounds of talks last winter between Prince Norodom Sihanouk and Hun Sen, Prime Minister of the Vietnamese-backed government in Phnom Penh, while senior Cambodian officials have alluded to an unprecedented political opening—even to the point of allowing Sihanouk to run in competitive elections. "If we lose in an election, it is our own fault," one member of the Cambodian central committee told The Christian Science Monitor. "We have made many mistakes, and it could be possible that we would end up in the opposition."

Most intriguing of all to U.S. conservatives is Soviet General Secretary Mikhail Gorbachev's remark in a 1986 speech in Vladivostok that "if the United States gave up its military presence, say, in the Philippines, we would not leave this step unanswered." In the Pacific region, the only possible reciprocity for the Clark Air Force and Subic Bay Navy bases would be the Soviet installations at Danang and Camranh Bay in Vietnam, which were established in the wake of the Vietnamese occupation of Cambodia. That geopolitical conundrum has now been made even more complicated by the Philippine government's unexpectedly tough new line on renegotiating the U.S. bases agreement, which expires in 1991.

It's this tantalizing hint of a Soviet disengagement from Southeast Asia that really has conservatives like Le Boutillier smacking their lips. While Washington picks over old resentments and refuses to see the Linh government as a portent of real change in Southeast Asia (which is basically the equivalent of reacting to Soviet policy in Afghanistan as if Leonid Brezhnev were still in the Kremlin), all the Republican proponents of normalization see Linh's program of renovation as a historic shift. "The new government in Hanoi," Le Boutillier writes, "leaves the strong impression that it is eager to pull away from Soviet dominance and even to help neutralize the ever-growing Soviet military presence in Southeast Asia." Vietnam thus becomes a target of opportunity, "a chance both to coax an important nation out of the Soviet orbit and to open up a large and rapidly growing market to Western free enterprise." Le Boutillier is one of a number of conservatives who see a new era of U.S.-Soviet competition, "not on the battlefield but on the economic playing field; and American free enterprise will defeat Soviet military muscle any time." The goal here is the restoration of fading U.S. power, only by smarter means than the now-bankrupt illusionism and military adventures of the Reagan years. And the first step is to restore diplomatic relations with Hanoi.

There are, of course, myriad subtexts and ironies here. The simplest of them is the desire to register a U.S. economic recovery in Asia, to strike back before the Japanese, Taiwanese and South Korean businessmen in Oanh's Rolodex gobble up all the opportunities offered by Vietnam's new foreign investment law. Then there is a variant on the China illusion, the belief that political changes in the Asian Communist world are primarily of interest as symbolic rejections of Marxism (rather than reversions to Lenin's New Economic Policy, which Linh frequently invokes), and because they open up new markets for Western goods (a particulary delicious irony, this, when one recalls that the whole idea of the Vietnam War was to rescue the Vietnamese from the fiendish influence of Chinese Communism).

These illusions are easily disposed of. In a brisk, sensible Op-Ed piece in The Christian Science Monitor last December, Donald K. Emmerson of the University of Wisconsin's Center for Southeast Asian Studies ticked off the reasons: The raw materials and cheap labor offered by Vietnam are more readily available elsewhere; the quality of Vietnamese manufactured goods is too poor to compete among U.S. buyers; and Vietnamese incomes are too low to purchase U.S. goods. And in any event, whatever Vietnamese market may exist is peanuts in comparison with the markets that already exist in the capitalist countries of East and Southeast Asia, let alone the potential market of China.

The deepest and richest irony of all is that beneath the bold talk of entering new eras and shaking off the postwar hangover lies the same old fallacy, one that reaches all the way back to Ngo Dinh Diem and the mirage of the "third way." This is that an enlightened change in U.S. policy can give us leverage over Vietnam and reshape the country in our image. That's still why Vietnam is important to conservatives—because, as Le Boutillier wants to believe, it "could be the first American victory in this new superpower competition." Sweet, undying dreams.

The real argument for reopening diplomatic relations with Vietnam has nothing to do with markets or nostalgia or the reassertion of American power in the Pacific. It is much more simple: The Vietnam War is over; an independent nation named Vietnam exists, free of U.S. control, and is an important actor on the Southeast Asian scene. That is all, and it is sufficient.

It is an argument that should be easy enough for Democrats to make. But while voices on the right clamor for leadership on the issue of Vietnam, the silence on the Democratic side is deafening. It's not even as if there is a shortage of prominent candidates among the Democrats. There's New York Representative Stephen Solarz, for one, who made an unsuccessful trip to Vietnam in December 1984. "He felt they snubbed him," says one Washington analyst who follows the issue closely. "Since then he's been bitterly anti-Vietnamese, and he's had a powerful negative impact in the House." Then there are the Democrats' own Vietnam vets, like Senator John Kerry of Massachusetts and, oh yes, Senator Albert Gore, Jr. Both men were on the list of cosponsors of last year's resolution by Republican Senator Mark Hatfield of Oregon to open U.S. "technical offices" in Hanoi, but neither could be described as out front on the issue. Gore in particular could find worse ways of bouncing back from his debacle in the primaries and recovering some of his tarnished credibility within the party on an issue of substance and integrity. For the moment, however, the Democrats offer only a vacuum. And that means that a new brand of right-wing nostalgia, able to masquerade as conciliation and common sense, has the field to itself.

ADDITIONAL COSPONSORS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to amendment No. 2379, the Statehood Centennial Commemorative Coin Act of 1989: Mr. MELCHER, Mr. ADAMS, Mr. BURDICK, Mr. CONRAD, Mr. DASCHLE, Mr. EVANS, Mr. MCCLURE, Mr. PRESSLER, Mr. SIMPSON, Mr. SYMMS, and Mr. WALLOP.

Mr. President, amendment 2379 was adopted to H.R. 3251, the bicentennial of the U.S. Congress commemorative coin bill, which passed the Senate on Tuesday, June 15.

This amendment directs the U.S. Mint to strike $5 Palladium coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming. The provisions of the amendment are almost identical to the provisions of a bill I introduced earlier, S. 2283, which was cosponsored by the 11 other Senators from the centennial States. However, I had made a modification which made it inappropriate for me to include my colleagues as cosponsors of the amendment without consulting with them. I now have had an opportunity to do so, and I ask that they be added at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. DIXON). I regret to advise that morning business time has concluded.

TENDER OFFER DISCLOSURE AND FAIRNESS ACT

The PRESIDING OFFICER. The Senate will now resume consideration of the unfinished business, S. 1323, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1323) to amend the Securities and Exchange Act of 1934 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offer.

The Senate resumed consideration of the bill.

Pending:

Armstrong Amendment No. 2374, to provide restrictions on the use of golden parachutes and poison pill tactics, to amend the provision relating to greenmail, to require confidential proxy voting, which has been divided.

AMENDMENT NO. 2374 DIVISION I(A)

The PRESIDING OFFICER. There will now be 30 minutes' debate on the Armstrong amendment, division I(a), with the time to be equally divided and controlled.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum and ask unanimous consent, that the time be taken from both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I think the yeas and nays have not been ordered. So I request them at this time.

The PRESIDING OFFICER. The yeas and nays, the Chair advises, have been ordered on division 1(a).

Mr. ARMSTRONG. Mr. President, I am wrong again. I may be wrong in what I am about to say next. I will say it anyway. I cannot imagine why any Senator would want to come to the floor and be recorded in favor of golden parachutes. That is exactly the issue we are going to vote on here in about 19 minutes. If you think, as I do, that there is some point at which these abuses ought to be stopped or at least made subject to a vote of the stockholders of these public corporations, then you will vote for the amendment sponsored by Senator METZENBAUM, Senator SHELBY, Senator GRAMM, and myself. If, on the other hand, you think we ought to go on ad infinitum with these golden parachutes, then I guess you vote against it.

I want to put it in this context. I am not against severance pay. Severance pay is a reasonable proposition. If it is the desire of any company to pay a week's pay to officers for every year they have worked there, or even a month's pay for every year they have worked for a corporation, that does not seem unreasonable to me. But when the severance pay arrangements are conditioned on a takeover, and when the amounts grow to be truly abusive, then I think at some stage somebody has to step in, for heaven's sake, and protect the stockholders. Our amendment does not really protect the stockholders. It gives the stockholders a chance to protect themselves.

Mr. President, I want to make it perfectly clear that we are not discussing some kind of theoretical proposition. We are not talking about an abstraction, somebody's suspicion or concern of what might happen in the future. We are talking about a very real and prominent abuse that has already occurred.

I would like to read to you a list from Business Week magazine's 10 largest golden parachutes of 1987. I would invite Senators to consider whether or not this is the kind of business practice that we wish to condone. For example, the CEO of BA Investment Co., Thomas Kelley, according to Business Week, had a golden parachute worth $5.8 million; Paul Stern, who is president of Unisys, a golden parachute worth $6.8 million according to Business Week; Ernst Dourlet, president of Day International—I do not know that company. I do not know anything about its business affairs, the size of it, capitalization, sales, or its net profits. But I do know according to Business Week the president of that company has a golden parachute worth $9.1 million; Kenneth Gorman of Viacom, $9.5 million; and Howard Goldfeder, chairman, Federated, $9.9 million. An interesting side note in the case of Mr. Goldfeder, and I am not here to criticize these companies or these men as individuals. I am just telling you the facts as reported by Business Week. Mr. Goldfeder, I am advised, worked for this company for 37 years and was the chief executive officer of that company for 5 years. At that point he owned 3,000 shares of stock. His golden parachute was worth $9.9 million; Leonard Lieberman, Supermarkets General, $10.7; J. Tylee Wilson, RJR, $15 million; Richard Jacob, chairman, Day International, $16 million; Robert Fomon, chairman of E.F. Hutton, $16.6 million; and Terrence A. Elkes, chief executive officer, Viacom, took the prize in the Business Week golden parachute sweepstakes with a golden parachute valued at 25 million bucks.

Mr. President, I think that is abusive. But our amendment does not stop it. Our amendment says if you are going to have a golden parachute, as defined in the Internal Revenue Code previously defined in law in section 280 GB1 of the Internal Revenue Code of 1986, then you have to have an affirmative vote of the shareholders before such a golden parachute is put into place. My belief is that it would be a rare thing for shareholders to vote to approve such an arrangement, but if they wish to do so that is their business. It is the business of Congress to see to it that this kind of an abuse is not perpetuated at least without the permission of the shareholders.

So I hope everyone will vote for the amendment.

With that, Mr. President, I reserve the balance of my time.

Mr. ROTH addressed the Chair.

Mr. PROXMIRE. Mr. President, I yield to the distinguished Senator from Delaware 5 minutes.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 5 minutes.

Mr. ROTH. Mr. President, the pending amendment would outlaw "poison pill" and "golden parachute" defenses of corporate management against hostile takeovers. I oppose the amendment as unnecessary and unwise. I do not oppose the amendment because I seek to protect corporate management at all costs. Not at all. I stand in favor of free capital markets as much as the proponents of the amendment.

The truth of the matter is that it is already illegal for corporate management to adopt such defenses as these against the interest of the shareholders. The current law on this subject, State law, is also more finely tuned to the problem than is the one-size-fits-all approach of the pending amendment.

Mr. President, there is no need for the Federal Government to instruct the States on the law of fiduciary duties. Under State law, corporate management owes a fiduciary duty to the shareholders of the corporation. As the committee report documents, State law already precludes corporate managers from adopting defensive tactics solely or primarily to perpetuate themselves in office. Moreover, it appears that such defenses must be fair and reasonable both when adopted and when utilized.

On the other hand, State law also recognizes that defensive tactics may be part of a strategy to cause tender offerors to raise their prices and benefit shareholders. Therefore, State law, fully cognizant of the fiduciary responsibilities under scrutiny, judges the use of defensive tactics on a case-by-case basis. The pending amendment lacks such precision. Since it is an inferior solution when compared with current State law, it must be rejected.

Mr. President, I think it is worth reporting about what was said in the additional views of Senators DODD, CRANSTON, WIRTH, BOND, and KARNES. In their statement on management defensive tactics, they pointed out:

> We believe, as the majority report reflects, that state courts, and federal courts applying state law, are attempting to address abusive defensive practices adopted by management in efforts to thwart takeovers. Following the Unocal decision in 1985, many courts have held managements and boards of directors to a higher standard under the business judgment rule in change of control cases. We believe this is appropriate, given the potentially conflicting interests weighing upon even the most scrupulous managements and boards when confronted with change of control issues.
>
> Moreover, we believe, given the changing nature of takeovers and takeover defenses, it is appropriate to permit courts to address the propriety of defensive actions on a case-by-case basis. A poison pill or lock-up option may be appropriate and beneficial to shareholders in one case, buy damaging in another. Thus, we believed it was appropriate to strike prohibitions on specific defensive tactics from the bill and leave these matters to courts to resolve on a case-by-case basis. However, as in the area of state takeover laws, we believe this area merits continued monitoring by the Congress and the SEC.

Mr. President, I think that well states the case.

Even if the amendment were redrafted to reflect the wisdom of Judge Posner's comment that sometimes defensive tactics are good for shareholders, and sometimes they are bad, the amendment would then become redundant of State law and unnecessary.

In addition, the amendment is unwise. It violates fundamental concepts of federalism which have guided this country for 200 years. Under our system of divided powers between the States and the Federal Government, the subject of corporate governance has been allocated to the States. Now corporate governance was not allocated to the States only for so long as they acted in unison with the Senate. If federalism means anything, it means that we must defer to the States even when we disagree. It is easy to defer to the States when there is no difference of opinion. I am very distressed to see federalism's sunshine patriots proclaming a belief in States' rights, except when the States go too far in offending their notion of what is right.

If federalism means anything, and I particularly address those in this Chamber who normally espouse federalism, it means that we must defer to the States acting in their own sphere even when we might disagree. If federalism means that the States may act only so long as they please us, then the States are not sovereign. And federalism means nothing. With that attitude, each perceived mistake by the States will bring on Federal preemption so that ultimately the only function of the States will be to administer Federal programs.

Mr. President, this amendment should be rejected. It is inferior to current law. If perfected, it would be unnecessary. If necessary, it would be an unwise breach of federalist principles.

The PRESIDING OFFICER. Who yields time?

The Senator from Colorado is advised he has 3½ minutes.

Mr. ARMSTRONG. Mr. President, I would like to ask the forebearance of my colleagues. I believe the reason my time has been depleted is earlier some of it was yielded to a speaker on another subject. So with the indulgence of my friend from Wisconsin, notwithstanding that I have only 3½ minutes, I would like to yield 5 minutes to my colleague from Alabama [Mr. SHELBY].

Mr. PROXMIRE. Mr. President, so we can have a vote at 10:30 as promised, I yield a minute and a half to the Senator.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 5 minutes, one-half to be charged to the Senator from Wisconsin.

Mr. SHELBY. Mr. President, this morning we consider whether or not to permit one of the worst abuses of corporate assets.

A golden parachute is an appropriation of shareholder funds that goes to pay off former management. Pay off for what? For running the company so poorly it became the target of a hostile tender offer?

Consider CBS' treatment of its former chairman, Thomas Wyman. When the board of directors dropped Wyman in favor of Laurence Tisch, they did it softly. Wyman received a settlement of $400,000 a year, for life, as well as a lump sum of $4.3 million. Mr. President, is this fair?

I am not complaining because I seem to have chosen the wrong career. Nor do I seek to point out the discrepancy of laying off hundreds in order to cut costs while paying the former chairman this very generous settlement.

No. Mr. President, I do not question the decisions made by those in private enterprise. My only criticism stems from the fact that this settlement was approved by the board of directors, not the corporations' owners, the shareholders.

Mr. President, the golden parachute provided to the former head of CBS is not unique. In fact, it is a pittance compared to the parachutes some CEO's receive. In 1985, when Revlon was taken over by Pantry Pride, Revlon's CEO walked away with a severance package worth $35 million. Mr. President, whatever happened to the gold watch?

And $35 million for the CEO, after profits dived from $192 million to $125 million over a 5-year period. Once again, this golden parachute was approved by the board of directors, not the shareholders.

Golden parachutes have become an accepted executive benefit and they are getting bigger every year. Mr. President, I would like to compare some figures on the biggest golden parachutes, which were published in Business Week in 1986 and in 1988.

The 10 biggest parachutes in 1985, were: 35 million; 6.4 million; 4.27 million; 3.82 million; 3.82 million; 3.8 million; 3.7 million; 2.57 million; 2.32 million; 2.32 million.

In 1987, 25 million; 16.6 million; 16 million; 15 million; 10.7 million; 9.9 million; 9.5 million; 9.1 million; 6.8 million; 5.8 million.

Mr. President, I also ask unanimous consent that these tables be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE 10 BIGGEST GOLDEN PARACHUTES

[In thousands of dollars]

	Company	What led to payment	Total package [1]
1. Michel C. Bergerac, Chmn	Revlon	Pantry Pride takeover	35,000
2. William W. Granger Jr., CEO	Beatrice	leveraged buyout	6,400
3. David E. Lipson, CFO	do	do	4,270
4. Leonard H. Goldenson, Chmn	ABC	Capital Cities takeover	[2] 3,820
5. Frederick S. Pierce, Pres	ABC	do	[2] 3,820
6. James L. Dutt, CEO	Beatrice	termination	3,800
7. John E. McConnaughy Jr., Chmn	Peabody International	Pullman takeover	[2] 3,700
8. Frank E. Grzelecki, Exec. V-P	Beatrice	leveraged buyout	[3] 2,570
9. Michael Sayres, Sr. V-P	Revlon	Pantry Pride takeover	[3] 2,320
10. Samuel I. Simmons, Sr. V-P	do	do	[3] 2,320

[1] Includes final salary, bonus, and long-term compensation collected—along with parachute payment.

[2] Granted in 1985 but exercised this year.

[3] Partially paid in 1985.

Data: Sibson & Co. and Business Week.

THE 10 LARGEST GOLDEN PARACHUTES

[In thousands of dollars]

	Company	Reason for payment	Total package [1]
1. Terrence A. Elkes, CEO	Viacom	Sumner Redstone takeover	25,000
2. Robert Fomon, Chmn	E.F. Hutton	Shearson merger	16,600
3. Richard J. Jacob, Chmn	Day Intl	M.A. Hanna merger	16,000
4. J. Tylee Wilson, CEO	RJR	Nabisco merger	15,000
5. Leonard Lieberman, CEO	Supermarkets Genl	leveraged buyout	10,700
6. Howard Goldfeder, Chmn	Federated	Robert Campeau takeover	9,900
7. Kenneth F. Gorman, Exec. V-P	Viacom	Sumner Redstone takeover	9,500
8. Ernest F. Dourlet, Pres	Day Intl	M.A. Hanna merger	9,100
9. Paul G. Stern, Pres	Unisys	Resignation	6,800
10. Thomas B. Kelley, CEO	BA Investment	Monarch Capital merger	5,800

[1] Includes final salary, bonus, long-term compensation, certain retirement benefits, and estimated future annuity payments as well as parachute.

Mr. SHELBY. Mr. President, although the single largest parachute was to the Revlon CEO in 1985, I believe these numbers indicate that parachutes are only getting larger. And I am willing to bet that all of these parachutes were approved by the board of directors and none by the shareholders.

Mr. President, yesterday the chairman of the Banking Committee, the distinguished Senator from Wisconsin, accused me of trying to kill a dead dog. He pointed out that the 1984 Tax Code imposed a significantly higher tax on golden parachutes. The distinguished Senator from Wisconsin suggested that this tax increase should be significant enough to reduce golden parachutes. However, these figures suggest that a tax increase is not enough. I said yesterday, golden parachutes are a maddog and the IRS is not big enough to kill it.

I do not want to see the Federal Government tell business how much to pay its executives. However, I would like to ensure that the shareholders are given an opportunity to approve or disapprove of a plan to give its ousted executives these multimillion goodbye packages.

This amendment would give shareholders that opportunity. It would prohibit golden parachutes unless approved by a majority shareholder vote. This is reasonable. It would permit shareholders to exercise their authority as owners of the corporations and would put a check on one of the biggest abuses of corporate assets.

Mr. PROXMIRE. Mr. President, the Banking Committee during the markup on S. 1323, the Tender Offer Disclosure and Fairness Act, considered adopting a provision regulating the use of golden parachutes by corporations and decided not to do so.

While the committee understood that golden parachutes can be abused, it also recognized that boards of directors sometimes adopt them so that senior executives will stay with a company and completely devote themselves to a company's business during a change of control contest. With such agreements in place, manager's feel free to bargain hard for shareholders and against a bidder, even if it will later cost their jobs.

Since there were both good and bad points associated with the use of golden parachutes the committee chose to allow their use to be regulated by the States which charter corporations. State courts have struck down abusive golden parachute schemes when they have reviewed them under the so-called business judgment rule.

While I think the use of golden parachutes can be regulated by the States, I also recognize that it would not be a gross infringement on States rights and the State chartering of corporations to adopt some legislation regulating the use of golden parachutes.

The regulation of golden parachutes, unlike the regulation of shareholder rights plans, miscalled "poison pills" by the press, or the voting rules of corporations, does not strike at the heart of our system of allowing the States which charter corporations to regulate their activities. In fact, Congress has already established a precedent for a special Federal interest in regulation of golden parachutes when it decided to tax them at a special higher rate in the Internal Revenue Code. Senator ARMSTRONG even refers to that Tax Code provision in his amendment.

While I believe that the State court review of golden parachute provisions coupled with the Federal tax laws have already cured the worst abuses of this practice, I am prepared, under the circumstances, to vote for the Armstrong amendment because I do not think it will do any harm. I think golden parachutes have begun to disappear very rapidly because of the tax involved. The amendment will not ban the use of such compensation schemes outright, and as noted above does not set a precedent for the Federal regulation of internal corporate matters. For all of these reasons I will vote for this amendment.

Before I conclude, Mr. President, I wish to point out, in rebuttal to the Senator from Alabama and the Senator from Colorado, some of the golden ripoffs that have been made by people taking over corporations, compared to the corporation executives. These are just Wall Streeters, not people like Boone Pickens. The "Wall Street 100 Index" indicates how much they made last year: Jerome Kohlberg, at least $35 million; Leon Black, of Drexel Burnham Lambert, at least $12 million; Michael Milken, at least $60 million; Henry Kravis, at least $70 million.

These are people who made this money not for anything constructive and positive they did. In effect, they loaded corporations up with debt, put them in a very serious position, and cleaned up.

The article asks: "What do you do with an annual income approaching nine figures?" You could buy a fighter plane for $64 million, a Sea Hawk helicopter for $19 million, a $9 million diamond for the woman of your dreams, and you could pay $7 million to buy your own Bahamian island.

While I will support the Senator from Colorado on this amendment, I think that on other amendments which we should draw the line, because they go right to the heart of State governments and corporations.

Mr. President, I ask unanimous consent to have the article to which I referred printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Financial World, June 28, 1988]

STILL THE BEST GAME IN TOWN

(By Stephen Taub with David Carey, Tani Maher, Richard Meher, and Ruthanne Sutor)

Dapper, flamboyant and just 33, the founder and president of Tudor Investment, Paul Tudor Jones II, ranked as the most highly compensated Wall Streeter last year. In one lunch hour, Jones made more money—about $50,000—than roughly 94% of Americans make in a full year. He earned between $80 million and $100 million in 1987 by deftly trading $75 billion worth of financial and commodity futures. Jones edged out George Soros, whose hedge fund at one point last year was down $800 million from its high, but still posted a 13% gain for the year. For Soros, a $75 million income.

What do you do with an annual income approaching nine figures? More than the gross national product of two nations, the Maldives and Sao Tome and Principe? Well, Jones could purchase an F-14 fighter plane for $64 million, a Seahawk helicopter for $19 million, and still have enough money left over to buy the 85.51 carat diamond that recently went for over $9 million, for the woman of his dreams. And, if he gets bored with his 3,000-acre wildlife preserve on Chesapeake Bay, he could plunk down $7 million and buy his own Bahamian island.

For his next party, he could lease the QE2 and invite the entire Wall Street 100 clan to cruise around the world two times. Or, if he prefers something less ostentatious, he could hail a New York City cab and tool about the continent for over 11 years straight. But he can't buy all the tea in China. That would take well over $300 million.

Following closely behind Jones and Soros are Henry Kravis and George Roberts of the famed buyout firm Kohlberg Kravis Roberts & Co., who made a big killing when they brought E-11 public last year. In fact, four KKR principals made the top 20, earning a combined $200 million—more than either Reuters or USX made. Robert MacDonnell, Roberts' brother-in-law, took home at least $20 million. Jerome Kohlberg made at least $35 million, and that's not counting any income that came by launching his own firm with his son James. LBO rival Forstmann Little didn't do too badly itself. Theodore Forstmann, William Brian Little, Nicholas Forstmann and John Sprague together made between $70 million and $80 million.

Altogether, the 100 top compensated people grossed around $1.2 billion, or an average of about $12 million per person. But this doesn't include the 48 Goldman, Sachs partners who would have made the list. To prevent this exercise from becoming a Goldman, Sachs yearbook, we separated its partners from the pack, except for Chairman John Weinberg, and created another list just for them. Had Goldman's partners been included, the average compensation for the top 100 would have divided out to about $13 million a head.

And you thought the October massacre would finally restore Wall Street's compensation to more earthbound levels! Sure, after the crash, bonuses were mercilessly slashed at the big brokerage firms, thousands lost their jobs and speculators and FW 100 alumni George Kellner, Alan Slifka and Arnold Amster lost their shirts. Even Leon Levy and Jack Nash, the legendary Odyssey Partners who each made $20 million in 1986, suffered modest losses last year. Lazard Freres Chairman Michel David-Weill, FW's top earner in 1986, saw his compensation drop from about $125 million to about $54 million, still more than twice than Business Week just estimated it to be. But, from the looks of this year's list, no one is exactly heading for the poorhouse.

How does one make so much money in just one year? Some, like the partners at the LBO firms KKR, Forstman Little and Wesray, made their money by being at the vortex of the megadeals. Jones and Bruce Kovner guessed right in the futures pits, which proxy solicitor Donald Carter rode the coattails of merger mania. But all of these financiers have one thing in common. They share the profits with just a few people.

Jones, Soros and Tom Baldwin own their own firms, and the gang at KKR still keeps much of the profits for themselves, even though they have taken on quite a number of new partners in the past few years. Forstmann Little is basically a four-person operation. And although Wesray's 18 partners are more equal than they would be at another buyout firm, each deal has a new set of general and limited partners, depending upon who brought the deal in and who worked most heavily on it. Even Drexel Burnham Lambert's Michael Milken seems to own his own brokerage firm within Drexel, which is private itself and thus not subject to shareholder scrutiny.

Think big if you hire these men.

KKR and Fortsmann Little, for example, get about 1.5% of the money committed to their buyout pools. When they buy a company, they take an investment banking fee equal to about 1.5% of the price tag. Then, they keep 20% of all profits. Not too shabby.

Commodity fund managers generally get 6% fees and keep 15% of the profits. But, this fee structure is becoming more flexible. For example, Paul Tudor Jones gets a 4% management fee and keeps 23% of all profits. Dinesh Desai doesn't charge a fee anymore, but he keeps one-third of all profits. And last year there were a lot of profits to keep. Most of the big winners sold out positions or went short in financial futures entering the crash and quickly went long shortly afterward.

The equity hedge-fund managers are not as smart. Although they keep 20% of the profits, they only charge 1% to 2% fees, if any at all. Soros was able to make a killing because over $600 million of his own money is tied up with his fund. Conventional money managers must work even harder. They only take management fees of 0.5% to 1% and don't keep any of the profits. Perhaps this explains why most of them have trouble beating the S&P.

This story is totally different at the brokerage firms. Generally, the best paid earn salaries of $150,000. The big bucks are in bonuses, which can exceed 10 times the base salary. The rule of thumb, though, is that an individual should be producing income for the firm equal to at least 15 times what he's paid. Only a couple of years ago, firms were satisfied if the multiple was only six.

Firms are also getting away from paying bonuses on a percentage basis across the board. Now, they slice up a bonus pool on a discretionary basis, based on who brought the deal, who were the keep assistants, who gave moral support along the way, etc. In other words, no contribution, no bonus. "Firms were living in a dream world before," says Gary Goldstein, managing director at the Whitney Group, an executive search firm. "They paid their people based on relative seniority and titles, not on what an individual was bringing in."

One reason why Lazard and Goldman pay so well is that they are partnerships which don't have thousands of anonymous shareholders to answer to. Meanwhile, Lazard's partners each year take out 90% of the partnership share. Since Goldman's business is more capital intensive—it commits piles of cash to trading, underwriting and has an army of expensive securities analysts—its partners only divvy up perhaps 8% to 10% of the partnership share. The rest of the compensation comes from appreciation of their stake in the partnership, which ranges as high as 5% to 10% for Chairman John Weinberg. Last year, the firm's capital swelled by 50%.

Morgan Stanley, whose earnings rose about 8% last year, publicly bragged about its success in its proxy by paying its five top officers about $3 million each. It's not a coincidence that Goldman and Morgan are regarded as two of the best-managed Wall Steet firms.

The best jobs? Still mergers and acquisitions. Although M&A activity wasn't nearly as intense as it has been so far this year, M&A was still a lucrative place to be, since the overhead is not high. "It's just people, no securities inventory," explains David Hart of the executive search firm Hadley Lockwood. "And fees appear to be going up."

Some people, however, did feel last October's crash. Neuberger & Berman would have had four or five of its people on our list, but big arbitrage losses during the crash cost the company about one-third of its capital, leaving the partners with a small pool to share.

For most other brokerage firms, in fact, 1987 will go down as the year the compensation party began to wane. "The jump from 1984 to 1985 was tremendous," confirms Goldstein. He says compensation for sales and trading peaked in 1985 and for mergers and acquisitions in 1986. "Without the crash, it would have been a much different year," confirms a top executive at a major brokerage firm. "It was a 10-month year." Even so, the biggest producers were paid comparably to 1986, he says. "There was more scrutiny at the marginal levels," he adds. "Everyone tried to protect the top performers."

In general, 1987 bonuses were slashed by 25% to 50% on average, according to the Whitney Group. Only the creme de la creme made big bucks, in other words, the kind of people found on our list. Top people at some firms, however, experienced major pay cuts. About 80% of Smith Barney's managing directors, for example, had skimpier paychecks, while Shearson Lehman Hutton levied cutbacks of between 25% and 50% in some areas. Drexel cut staff bonuses to 7.5% of pay from 35%, although it did go higher for big producers, presumably people like Milken. On the other hand, Merrill Lynch cut compensation across the board by about 10%, except for its senior investment bankers, many of whom saw 10% to 20% jumps in their bonuses last year. As a result, two of its rising stars, Jeffrey Berenson and Ray Minella, each earned about $3 million.

The worst paying jobs last year were in trading, where one-day stomach wrenching losses were common, whether in fixed income in the spring or equities during October. Arbitrage wasn't much fun after the crash either, as prices for pending takeover deals collapsed, along with the fortunes of the individual players, more than wiping out 10-month gains. As a result, no arbs made our list except for Donaldson Lufkin & Jenrette's Richard Isaacs, and the Hickey brothers, who are fixed-income arbs.

CEOs at the major firms didn't do as well either. Bear, Stearns's chairman, "Ace" Greenberg, took more than a 50% pay cut and will report in August's proxy that he made only $2.448 million, while Salomon's John Gutfreund made a point publicly of taking just $300,000 base salary and $800,000 in compensation deferred from 1984, a pittance compared to his $3.2 million compensation in 1986. At Merrill, Chairman and CEO William Schreyer and Chief Operating Officer Daniel Tully took 33% pay cuts.

The near future doesn't look any greener. Business uncertainty and widespread staff reductions have made most people in the industry insecure and unhappy, says headhunter Gail Sobel, vice president of Prescott & James. Take Shearson, which is still trying to absorb Hutton employees. "Except for [Chairman Peter] Cohen, anyone can be had at the firm," she says.

Compensation at the large firms will probably decline again this year, as a larger supply of out-of-work personnel chase fewer positions. Sure, firms such as Morgan Stanley, First Boston and Goldman are more willing to shell out the big sums to individuals employed in critical positions. But most others are cutting back in areas that are not cost effective, such as commercial paper, money markets, public finance and mortgage trading. "Firms are realizing that just because they produce commercial paper services for a client, it doesn't mean he'll use you for M&A," says Goldstein. As a result, whereas in the past headhunters would interview five people for a particular position, it's not uncommon to see upwards of 50 people traipse through their office now. "You always feel you can get someone for less money," says Sobel.

But, remember that this is a fickle, schizophrenic industry. If the markets heat up for four to six months, you can be sure brokerages will dangle big bucks again. Adds Sobel: "This is the way Wall Street has always been and will continue to be. It is still the best game in town."

THE WALL STREET 100 INDEX

[In millions of dollars]

	Amount
1. Paul Tudor Jones II, Tudor Investment	80 to 100.
2. George Soros, Soros Fund Mgmt	at least 75.
3. Henry Kravis, KKR	at least 70.
George Roberts, KKR	at least 70.
5. Michael Milken, Drexel Burnham Lambert	at least 60.
6. Michel David-Weill, Lazard Freres	54.
7. Jerome Kohlberg, KKR	at least 35.
8. John Weinberg, Goldman, Sachs	at least 32.
9. Donald Carter, Carter Organization	30 to 32.
10. Theodore Forstmann, Forstmann little	at least 30.
11. Raymond Chambers, Wesray	at least 28.
12. Reginald Lewis, TLC Group	at least 25.
13. Bruce Kovner, Union Financial	at least 24.
14. Richard Dennis, C&D Commodities	20 to 40.
15. William Brian Little, Forstmann Little	at least 20 to 25.
16. Robert MacDonnell, KKR	at least 20.
William Simon, Wesray	at least 20.
Malcolm Weiner, Millburn Partners	at least 20.
19. Nicholas Forstmann, Forstmann Little	at least 15 to 20.
20. Asher Edelman, Plaza Securities	15 to 20.
21. Lucian Baldwin III, Baldwin Commodities	over 15.
22. Morty Davis, D.H. Blair	15.
23. B. Gerald Cantor, Cantor Fitzgerald	12 to 15.
24. Leon Black, Drexel Burnham Lambert	at least 12.
25. Keith Gollust, Coniston Partners	11.
Paul Tierney, Coniston Partners	11.
27. David Dreman, Dreman Value Mgmt	10 to 14.
28. David Gottesman, First Manhattan	at least 10.
Howard Leach, Leach McMicking & Co.	at least 10.
Harvey Sandler, Harvey Sandler Associates	at least 10.
31. Seth Glickenhaus, Glickenhaus & Co.	at least 10.
32. Dean Le Baron, Batterymarch	10.
Michael Steinhardt, Steinhardt Partners	10.
34. Alfred Harrison, Alliance Capital Mgmt	8.9.
Dave Williams, Alliance Capital Mgmt	8.9.
36. Dinesh Desai, Desai & Co.	8.
James Regan, Oakley Sutton Mgmt	8.
Edward Thorp, Oakley Sutton Mgmt	8.
39. James Gipson, Pacific Financial Research	7 to 11.
40. Robert Johnston, Beacon Hill Financial	over 7.
41. Augustus Oliver, Coniston Partners	7.
42. Charles Schwab, Charles Schwab	6.1
43. Steve Antebi, Bear, Stearns	at least 6.
Felix Rohatyn, Lazard Freres	at least 6.
Claude Rosenberg Jr., RCM Capital Mgmt	at least 6.
46. Edward C. Johnson III, FMR	5.6.
47. John Carifa, Alliance Capital Mgmt	5.4.
48. Leonard Heine, Management Asset	5 to 6.
49. Fred Adler, Adler & Shaykin	at least 5.
Richard Isaacs, Donaldson, Lufkin & Jenrette	at least 5.
Frank Richardson, Wesray	at least 5.
David Schafer, Schafer Capital	at least 5.
John Sprague, Forstmann Little	at least 5.
Frank Walsh, Wesray	at least 5.
Albert Zesiger, BEA Associates	at least 5.
56. Fayez Sarofim, Fayez Sarofim	5.
Leonard Shaykin, Adler & Shaykin	5.
Bruce Wasserstein, First Boston	5.
59. Scott Black, Delphi Mgmt	4.5.
Martin Zweig, Zweig Securities	4.5.
61. Frank Burr, Alliance Capital Mgmt	4.4
62. Joseph Feshbach, Feshbach Brothers	4 to 8.
Kurt Feshbach, Feshbach Brothers	4 to 8.
Matthew Feshbach, Feshbach Brothers	4 to 8.
65. John Geewax, Geewax, Turker & Co.	4 to 7.
Bruce Turker, Geewax, Turker & Co.	4 to 7.
67. Herbert Bachelor, Drexel Burnham Lambert	4 to 5.
Fred Joseph, Drexel Burnham Lambert	4 to 5.
69. Zalman C. Bernstein, Sanford C. Bernstein	at least 4.
70. Daniel Good, Shearson Lehman Hutton	4.
Joseph Perella, First Boston	4.
Martin Shafiroff, Shearson Lehman Hutton	4.
73. M. Joseph Hickey Jr., Hickey Capital Mgmt	3 to 7.
Robert Hickey, Hickey Capital Mgmt	3 to 7.
75. John Kissick, Drexel Burnham Lambert	3 to 5.
76. Peter Lynch, Fidelity Magellan	at least 3 to 4.
77. Arthur Pancoe, Bear, Stearns	3 to 4.
78. Martin Schwartz, private investor	3.1.
79. Edward Cerullo, Kidder, Peabody	at least 3.
Grenville Craig, Tiverton Trading	at least 3.
William Dunn, Dunn Commodities	at least 3.
Eric Gleacher, Morgan Stanley	at least 3.
John Henry, John W. Henry & Co.	at least 3.
John Meriwether, Salomon Brothers	at least 3.
Damon Mezzacappa, Lazard Freres	at least 3.

THE WALL STREET 100 INDEX—Continued

[In millions of dollars]

		Amount
	Louis Perlmutter, Lazard Freres	at least 3.
	Ward Woods Jr., Lazard Freres	at least 3.
88.	Jeffrey Berenson, Merrill Lynch	3.
	Richard Fisher, Morgan Stanley	3.
	S. Parker Gilbert, Morgan Stanley	3.
	Robert Greenhill, Morgan Stanley	3.
	Andrew Krieger, Bankers Trust	3.
	Ray Minella, Merrill Lynch	3.
94.	Lewis Bernard, Morgan Stanley	2.9.
	John Mack, Morgan Stanley	2.9.
96.	Lawrence Fink, First Boston	at least 2.5.
	John Leland Jr., RCM Capital Mgmt	at least 2.5.
	John Oppenheimer, JRO Associates	at least 2.5.
99.	Howard Stein, Dreyfus	2.5.
100.	Alan "Ace" Greenberg, Bear, Stearns	2.4

THE GOLDMAN 48

[In millions of dollars]

	Amount
Estimated compensation:	
John Weinberg	at least 32.
Donald Grant	14.4 to 16.
James Gorter	14.4 to 16.
Richard Menschel	14.4 to 16.
Eugene Mercy, Jr	14.4 to 16.
Robert Mnuchin	14.4 to 16.
George Ross	14.4 to 16.
Robert Rubin	14.4 to 16.
Eric Sheinberg	14.4 to 16.
Sidney Weinberg, Jr	14.4 to 16.
Geoffrey Boisi	9.6 to 12.7.
Kenneth Brody	9.6 to 12.7.
David Clapp	9.6 to 12.7.
Peter Coneway	9.6 to 12.7.
Robert Conway	9.6 to 12.7.
Daniel Cook III	9.6 to 12.7.
Leon Cooperman	9.6 to 12.7.
Robert Downey	9.6 to 12.7.
Lewis Eisenberg	9.6 to 12.7.
Robert Freeman	9.6 to 12.7.
Stephen Friedman	9.6 to 12.7.
Peter Sacerdote	9.6 to 12.7.
David Silfen	9.6 to 12.7.
William Stutt	9.6 to 12.7.
Barrie Wigmore	9.6 to 12.7.
Roy Zuckerberg	9.6 to 12.7.
J. Nelson Abanto	4 to 8.
Michael Armellino	4 to 8.
Claude Ballard	4 to 8.
Peter Barker	4 to 8.
Jon Corzine	4 to 8.
Eric Dobkin	4 to 8.
Peter Fahey	4 to 8.
Eugene Fiff	4 to 8.
Robert Friedman	4 to 8.
David George	4 to 8.
Richard Hayden	4 to 8.
Robert Hurst	4 to 8.
Howard Katz	4 to 8.
William Kealy	4 to 8.
Terence Mulvihill	4 to 8.
Willard Overlock, Jr	4 to 8.
Henry Paulson, Jr	4 to 8.
Peter Sachs	4 to 8.
Howard Silverstein	4 to 8.
Dennis Suskind	4 to 8.
Joseph Wender	4 to 8.
Mark Winkelman	4 to 8.

Mr. PROXMIRE. Mr. President, I am ready to yield back my time and vote.

Mr. ARMSTRONG. We are ready to vote.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum, because we did promise that the vote would not start until 10:30.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I rise in strong support of my colleague from Colorado who has rightly brought the issue of golden parachutes to the fore. His amendment is one which is straightforward and cleary protects shareholders by requiring that they be presented with information relevant to their investments, and which subsequently they may vote on.

I understand that an earlier draft of the bill we are now debating contained a provision which also addressed the issue of goldern parachutes, and I am disappointed that it was dropped in this version especially given the widespread deprecation of these tactics by Members of this body ever since 1983 when William Agee floated away from Bendix with generous severnace pay. Since then, probably the most incredible package was the $36 million parachute granted Michael Bergerac when Revlon succumbed to Pantry Pride. That was $36 million of shareholder money.

This bill should tackle the abuses of management in takeover situations, and as the ranking member of the committee pointed out in the report attendent on this bill, it fails to do so. I urge my collegues to support this amendment and, in so doing, help balance this bill with respect to the responsibilities incumbant upon management.

In my mind there is no doubt that golden parachutes are especially onerous because they are not subject to approval by shareholders. After all, the so-called "severance package" management receives as a result of a so-called hostile takeover comes out of the shareholder's pockets and, as many of my colleagues have pointed out already, these payments are in the millions of dollars. Under current law, all shareholders can do is initiate a civil action alleging a violation of the business judgment rule, a lengthy up-hill process which may not bring them their due.

In adopting this amendment, we will require that management submit to shareholders its plans to handsomely reward its top brass if they run their company so poorly that they become subject to a hostile takeover. Frankly, I cannot imagine why the shareholders would approve such a provision, but they should have the right to make that decision. In order to make clear which shareholders would be given the right to reject golden parachutes if this amendment becomes law, I ask unanimous consent to insert an article in the RECORD which cites a Mercer-Meidinger-Hansen study of the issue. It contains some eye-opening facts.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the L.A. Times, Sept. 28, 1987]

GOLDEN PARACHUTES—DESPITE CRITICISM, THE LUCRATIVE SEVERANCE PAYMENTS HAVE TAKEN HOLD IN CALIFORNIA'S CORPORATE HIERARCHY

(By Bill Sing)

Raymond F. O'Brien probably can't complain too much about his pay. The chairman and chief executive of Consolidated Freightways, a Palo Alto-based transportation company, earned just under $1 million for his labors in 1986.

And if the company is taken over and O'Brien loses his high-paying job, he shouldn't feel too bad either. The company has agreed to give O'Brien a lump-sum severance payment—otherwise known as a "golden parachute"—worth $3.72 million in the event of a change in control.

O'Brien's golden parachute is among the largest enjoyed by California executives, but it is far from unique. Although they have been harshly criticized by many shareholders and employee groups as elitist and needlessly lucrative, golden parachutes for top executives can be found at about four of every 10 major California companies, according to a survey conducted for The Times by the compensation and employee-benefits consulting firm of William M. Mercer-Meidinger-Hansen.

Mercer-Meidinger-Hansen's review of the proxy statements of 239 public companies statewide found that in some industries, such as entertainment and financial services, more than half of the companies surveyed provided golden parachutes.

"The proliferation of golden parachutes is the direct result of the merger mania of recent years," said Michael O. McCullough, a Mercer-Meidinger-Hansen associate and director of the survey. Golden parachutes, he said, were virtually non-existent four years ago. Despite continuing criticism of the severance payments, they continue to grow and have become so commonplace that many executives expect them as a condition of employment, McCullough said.

Executives with parachutes constitute a who's who of California's corporate elite. Turnaround artist Sanford C. Sigoloff of Wickes Cos. has one, as does movie mogul Alan Ladd Jr. of MGM/UA Communications Co. Other parachute-clad local executives include National Medical Enterprises Chairman Richard K. Eamer, Fluor Corp. Chairman David S. Tappan Jr., Lockheed Chairman Lawrence O. Kitchen, Caesars World Chairman Henry Gluck, Glenfed Chairman Raymond D. Edwards and H. F. Ahmanson & Co. Chairman Richard H. Deihl.

The Gap Inc. President Millard S. Drexler, California's highest-paid executive last year with total compensation of $7.7 million, also has a parachute. Half of the state's 10 highest-paid executives, as ranked in The Times' 1986 survey of California executive pay, are covered by the controversial plans.

Golden parachutes—legally defined as severance packages for executives that take effect under a change in control—vary widely between companies, the Mercer-Meidenger-Hansen survey shows. Many plans offer a lump-sum payment equal to a multiple of the executive's current salary. But some offer only one year of base pay while others offer as much as five times base, even though some of the higher amounts may be considered excessive by the Internal Revenue Service and may subject the recipient to a penalty tax, Mercer-Meidinger-Hansen's McCullough said.

Many parachutes also offer other benefits, such as accelerated vesting in pension plans and stock options.

Some executives get parachutes even if they don't lose their jobs under a change in control. Some get them even if a suitor acquires as little as 10% of the company's voting stock. Parachutes at Walt Disney Co. and Pacific Scientific Co. even provide for reimbursement of legal fees—in case the executive sues an acquiring company if it won't honor the golden parachute.

In a growing number of cases, parachutes are extended to entire management teams, not just the chairman or chief executive. Companies with these "group" parachutes include Litton Industries, Henley Group, Advanced Micro Devices, Great American First Savings Bank, Times Mirror, Genetech, First Interstate Bancorp, Farmers Group and Whittaker Corp.

A number of companies around the country—among them Mobil, American West, Diamond Shamrock and Herman Miller Inc.—offer so-called tin parachutes that provide benefits for all employees, non-management as well as management. Because companies are not required to disclose these tin parachute arrangements, Mercer-Meidinger-Hansen could not determine which California companeis have them.

Some companies, such as Occidental Petroleum, Walt Disney Co. and Gibraltar Financial Corp., exclude their chief executives but include other senior executives. At least one California company, Amfac Inc., extends parachutes to its directors.

Of course, many firms eschew parachutes. Some executives clearly don't need them. Columbia Savings & Loan Assn. Chief Executive Thomas Spiegel, fifth on The Times' list of highest-earning California executives in 1986 with total compensation of $3.86 million, does not have a parachute. Why should he? He, his family and other company insiders control more than half of Columbia's stock, making a hostile takeover highly unlikely.

Other firms, such as Avery International, provide parachutes but require that some of the executives receiving them actively seek new employment to receive payments.

The overwhelming majority of firms with parachutes, however, don't require that executives seek new jobs. Some, in fact, may continue to make parachute payments even after the executive finds a new job.

These and other parachute benefits continue to arouse critics, among them shareholders, employees and some corporate executives.

"In the last couple of years, it appears everybody has installed golden parachutes for the benefit of [managements] but not for the benefit of shareholders," said Thomas E. Flanigan, chief investment officer for the California State Teachers Retirement System, one of the nation's largest pension funds and a shareholder of many firms with parachutes.

When allowed a shareholder vote on the plans, the fund has turned thumbs down in every case in the past two years, said Janice M. Hester, the fund's corporate affairs adviser.

Parachutes are unfair, critics say, because ordinary workers on the shop floor often lose their jobs in takeovers with little or no severance pay. Top executives already are overpaid, these critics contend.

Furthermore, parachutes protect incumbent managements and reward mediocrity, critics say. Companies likely to be takeover targets often are poorly managed, they contend. Able managers who do get displaced in takeovers can find new jobs quickly since there is demand for executives with proven track records, critics argue.

"If you believe in free enterprise and competition, then managements should be competing . . . to make their stock price so high that nobody can take them over," said Joseph F. Alibrandi, chairman and chief executive of Los Angeles-based Whittaker and a leading corporate critic of parachutes. "Stockholders shouldn't be required to make sure that managements that haven't performed can [earn high severance payments] before finding another job."

Whittaker does have a parachute plan, but it is a group plan that only provides for employees to be credited an additional five years in the company's pension plan. Alibrandi says he and other senior executives refuse to participate in any plan that would grant lump-sum payments.

PROPONENTS STATE CASE

Parachute proponents counter that the payments have become a necessity for corporations to recruit top managment, particularly in industries with high merger and takeover activity.

It typically takes between six months and two years for top executives to find new jobs, said Gilbert E. Dwyer, president of a New York executive recruiting and counseling firm bearing his name. Executives' demands for parachutes as a condition of taking a new job are met by companies in about two-thirds of cases, said Dwyer, a proponent of parachutes.

More important, Dwyer added, parachutes protect shareholder interests because executives with parachutes will worry less about losing their jobs in takeovers and instead will concentrate on getting the best deal for shareholders, instead of for themselves.

The Mercer-Meidinger-Hansen survey indeed shows that companies in industries with a high-level or merger activity (such as banking) or frequent management changes (such as entertainment) offer parachutes more frequently.

Four of the seven (57.1%) entertainment companies surveyed had parachute arrangements. Of financial institutions, including banks, savings and loans and insurance firms, 64% had parachutes.

The parachute propensity of banks and S&Ls can also be attributed to anticipation of the liberalization of California's interstate banking laws in 1991, when many out-of-state banks may acquire California banks, suggested Randall W. Hill, who specializes in placement of financial-services executives for the executive search firm of Spencer Stuart.

"Golden parachutes are a defensive mechanism," Hill said. "In such an uncertain time for financial institutions today, they've got to offer them."

But some parachutes can be unfurled at even the slightest hint of a change of control. Financial Corp. of Santa Barbara, Valley Federal Savings & Loan Assn. and Great American First Savings Bank will activate parachutes for certain key executives even if an outside suitor acquires only 10% of voting shares. By contrast, Wrather Corp. requires a suitor to have 80% before its parachutes are opened.

Executives at Wickes and Consolidated Freightways will get parachutes if the company ceases to be publicly held. Executives at several companies, including San Diego Gas & Electric, Zenith National Insurance Corp., Westamerica Bancorp., Henley Group and Varian Associates, will open parachutes if the company sells certain assets, possibly even if no change of control occurs.

CooperVision and Far West Financial Corp., grant parachutes to executives even if they don't lose their jobs in a takeover. "You don't even have to jump off the plane" to get golden parachutes at these firms, said William F. Spear, technical professional at Mercer-Meidinger-Hansen.

Some firms, such as Brae Corp. and Zenith National Insurance, include consulting arrangements in parachutes. One of the most lucrative is that enjoyed by Merv Adelson, chairman and chief executive of Lorimar Telepictures. His parachute calls for him to serve as a consultant for five years after termination at half his full-time pay. His cash compensation in 1986 was $553,383.

Van Nuys-based Superior Industries International provides some added protection for its parachutes for three senior executives. Their lump-sum payment is assured because it is backed by a letter of credit, Mercer-Meidinger-Hansen's McCullough said.

Who's got the biggest parachute of them all? No one knows for sure, McCullough said, because only about 40 firms surveyed quantified the value of their parachute agreements or provided enough information about base pay, stock options, pension plans and other items to allow an independent determination.

Some companies obscure the agreements, McCullough said, noting that parachutes are mentioned in any of a number of spots in proxy statements.

But while exact dollar values are hard to determine, some plans appear quite lucrative.

Cooper Vision is among the more generous on base pay, awarding three senior executives five times their base salary. Great Western Financial Chairman James F. Montgomery and President John F. Maher would receive compensation and other benefits as if they had remained fully employed for five years.

Another generous firm is Walt Disney Co., which offers a variety of pay and benefits to Richard A. Nunis, president of three company theme park subsidiaries. Nunis' package includes a portion of base salary and payments based on bonuses, stock options and pensions. Nunis' parachute also includes reimbursement of legal fees and expenses.

Among those that do quantify parachutes, the award for the biggest goes to O'Brien of Consolidated Freightways. His $3.72-million plan is followed by Lockheed President Robert A. Fuhrman at $3.22 million, National Education Chief Executive David H. Bright at $2.72 million and Lockheed Executive Vice President Vincent N. Marafino at $2.63 million.

But singling out these executives as having the biggest parachutes would be unfair because others with more lucrative arrangements may not have disclosed their values, McCullough notes. The ones who disclose "are really the good guys," he said.

This amendment builds upon the provisions we adopted in the Tax Reform Act of 1986 which, as the distinguished chairman of the Banking Committee has noted, dramatically taxes golden parachutes at a higher rate than other kinds of income. In my mind, this provision was a step in the right direction toward curtailing the use of golden parachutes, and the amendment before us is another important such step.

I cannot see why anyone would oppose this provision, especially at a time when the issues of plant closings are so hotly disputed. Surely no one would agree that we should allow managers to write their own reward packages when they do not want to adopt plant closings provisions that will protect employees who are not nearly so well compensated and probably face great personal difficulties as a result of job loss.

I thank my colleague for offering this amendment.

Mr. **SPECTER**. Mr. President, I am voting in favor of the Armstrong amendment which would prohibit the payment of so-called golden parachutes to corporate management who are ousted as a result of corporate takeovers. These corporate managers often take with them from the corporate coffers excessive severance payments.

The problem of excessive golden parachutes is not new. In 1984, Congress changed the tax laws to discourage excessive golden parachute severance agreements. Although well intentioned, these provisions worked poorly, with many corporate managers pegging their parachute payments to skirt the tax penalty.

To address this golden loophole, section 3 of my bill S. 634 would lower the 300-percent threshold on golden parachutes to 200 percent of an executive's average annual compensation and would increase the excise tax penalty from 20 to 50 percent.

While the Armstrong amendment does not lower the 1984 threshold or increase the tax penalty, it does increase the accountability of corporate management to shareholders. Under this amendment, any golden parachute arrangement would be prohibited unless approved by shareholders within 2 years. By bringing the glare of public scrutiny to bear on these golden parachute arrangements, the Armstrong amendment would help to restore public confidence in corporate management. By invalidating golden parachute agreements unless approved by the shareholders within 2 years, the Armstrong amendment would put an end to this inappropriate practice.

The **PRESIDING OFFICER**. The question occurs on division I(a) of the amendment offered by the Senator from Colorado.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **CRANSTON**. I announce that the Senator from Delaware [Mr. BIDEN], is absent because of illness.

The **PRESIDING OFFICER**. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—98

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—1

Roth

NOT VOTING—1

Biden

So division I(a) of the amendment (No. 2374) was agreed to.

Mr. **ARMSTRONG**. Mr. President, I move to reconsider the vote by which division I(a) of the amendment was agreed to.

Mr. **METZENBAUM**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **ARMSTRONG**. Mr. President, is the Senate in order?

The **PRESIDING OFFICER**. The Senate is not in order. Will the Senate please be in order?

The Senator from Colorado.

DIVISION I(b)

Mr. **ARMSTRONG**. Mr. President, I am grateful to all Senators for their approval of the antigolden parachutes amendment. If I understand the parliamentary situation, the next division of the amendment to be presented is the antipoison pill provision. It is the same concept, same issue, same arguments pro and con, it seems to me. I presume and hope that the vote will be the same or very nearly the same.

Let me just take a moment, however, to explain, for those who have not been following carefully, exactly what a poison pill is. A poison pill, Mr. President, is one of about four different types of antitakeover devices that companies have employed against so-called hostile takeovers.

Mr. **METZENBAUM**. Mr. President, may we have order in the Senate?

The **PRESIDING OFFICER**. The Senator from Ohio is correct. There is not order in the Senate. Senators are visiting on various other issues on the floor. May we have order here, please, and attention for the Senator from Colorado?

The Senator from Colorado.

Mr. **ARMSTRONG**. Mr. President, I was going to take just a moment to explain four common types of anti-takeover devices, some of which are abusive.

The first is the so-called supermajority amendment, to lock in the operations or the assets of a corporation. The second is what is termed a fair price amendment. A third is what they call classified boards, that is where you have staggered terms for the board of directors so the new owners of corporations could not elect a majority of the board of directors, even though they controlled a majority of the stock. The fourth and in many ways the most insidious, most destructive, truly the most abusive of all, is the poison pill. That is a special form of stock issue in which, upon a takeover, that is where 50 percent or more of the shares of the company change hands, there is triggered an issue of preferred stock, the effect of which is dilute the ownership by all other stock.

In other words, if the directors of a company are sitting around the board room someday and see on the horizon the possibility that somebody might come along and want to buy from the owners of the shares a majority of the shares of the company, they simply conspire among themselves to say: If that happens, then we will trigger a diluting stock issue, an issue of stock that might be out at prices much less than the actual pro rata basis on which corporate shares could be valued. Maybe at only 75 percent of the value. Maybe at only half the value. Maybe in a way which would be so destructive that it would literally collapse the market for the stock.

Mr. President, golden parachutes are reprehensible but poison pills are absolutely the death knell for any corporation that suffers the execution of a poison pill strategy. It is unfair. It is abusive. It violates the rights of all shareholders, not just acquiring shareholders but truly of all shareholders.

So, Mr. President, for all of the same reasons that we have approved an antigolden parachute amendment I hope and believe that the Senate will approve an antipoison pill amendment.

Let me make one thing clear and then I will be happy to yield because I know others wish to speak on this. Even though I personally disapprove a poison pill under any circumstances, at least I cannot think of any circumstances under which I would personally think a poison pill was equitable or fair or just or well advised or meritorious, our amendment, the amendment offered by the Senator from Ohio [Mr. METZENBAUM], the Senator from Texas [Mr. GRAMM], and the Senator from Alabama [Mr. SHELBY], and I, does not flatly preclude the use of poison pills. It says if the management of a corporation is foolish enough to want to adopt such a measure of this type, it must submit the issue to a vote of the stockholders. And it must be approved by the stockholders before it becomes effective.

So even in this amendment, though I myself can see no justification for poison pills, we do not take the ultimate step of outlawing them. We just say that the shareholders, the ones that are subject to be disadvantaged, ought to have a chance to vote on the issue.

The **PRESIDING OFFICER**. The Senator from Ohio.

Mr. **METZENBAUM**. Mr. President, I am a principal cosponsor of this amendment which, in my opinion, would take away one of management's favorite antitakeover devices: the adoption of a poison pill.

Let's face it, there are situations in which takeovers are hurtful, there are situations in which they are helpful. But that is not the issue before us.

The issue before us has to do with whether or not corporate management has the authority to put in place a poison pill, that is, the issuance of a security at a bargain price or with special voting rights contingent on transfer of corporate control, and redeemable at a premium. In other words, if somebody is going to take the corporation over, they are going to get this poison pill that greatly increases the cost of the takeover and effectively negates or impinges upon the equal voting rights that all shareholders should have. By swallowing this expensive poison pill, management, of course, hopes it will defer bidders from even trying to take over the company.

Now, the committee bill contains no restrictions on poison pills, despite the fact that over 400 companies have adopted them as a takeover defense, without shareholder approval. And, as I said yesterday, I commend the committee for the bill that it has brought to the floor. But I think we just have to go somewhat further to deal with some of these issues, the first one of which was voted on a few minutes ago; the second one of which is before us in this antipoison bill provision.

Management says they swallow poison pills simply to protect shareholder investment. I do not buy that. I do not buy that at all. They swallow poison pills for the purpose of protecting themselves with little regard to the impact upon the shareholders, the employees, or the community, time and time again, you see management rushing to a poison pill not to protect the shareholders—they could care less about the shareholders; not to protect the community, they are not concerned about it—but to protect themselves.

Their argument is hard to believe, given the increasing number of court decisions throwing out poison pills as primarily a device for protecting entrenched management at shareholders' expense. This ought to be known as the shareholders' rights amendment because it has to do with the right of all shareholders to participate in the decision as to whether or not you are going to issue a security at a special price, or with special voting rights, if somebody comes in to take over the company.

But even if the assertion of management were true, our position is that the shareholders have a right to decide whether a poison pill defense is best for them and best for their investment. We must not leave the decision just to management, which has an inherent conflict of interest in preserving its own position.

Some say that increasing court decisions invalidating poison pills make a Federal poison pill restriction unnecessary. I could not disagree more. Litigation is expensive, unnecessary, and usually arises only after an actual tender offer is made. Litigation to determine the validity of the poison pill is very expensive, indeed.

With this legislation you avoid that court expense and you give the shareholders a right to decide whether they agree or disagree with the management. Going the litigation route does not protect the shareholders against abusive poison pills which are swallowed in anticipation of tender offers which are never made because of the company's poison pill defense.

When a tender offer is made, quite often the shareholders really become the beneficiaries. The stock is selling at $40 and somebody is willing to pay $60 or $70. That is hardly a heinous crime, hardly an egregious act. But the management steps in when they see that developing, or think it may develop, and put in place this poison pill which makes it almost impossible for somebody to come in and make such an offer. And if they do, in order to knock out the poison pill, they must get involved in lengthy and expensive litigation. That is not the way it should be.

We should look to the shareholders of this country as those who have put their money up in defense of the free enterprise system. They want a share of that free enterprise system. And if somebody comes along and says that they want to pay $60 or $70 for their share of that system, even though the stock is only selling at $40, there should not be any artificial impediment standing in the way of permitting them to pay $60 or $70 and permitting the shareholders to get the benefit. But poison pills do just that. They stand in the way of shareholders getting a full return on their investment.

The courts alone cannot stop abuse of the poison pill defense. Nor can shareholders, who are at a natural disadvantage in any attempt to vote down a poison pill plan. Only Congress can effectively restrict harmful poison pills.

This amendment does that by prohibiting poison pills unless they are approved by a majority of shareholders or authorized by an SEC exemption. This amendment protects shareholders, and I urge the Senate to approve it.

Mr. **PROXMIRE** addressed the Chair.

The **PRESIDING OFFICER** (Mr. FOWLER). The Senator from Wisconsin, the chairman of the committee.

Mr. **PROXMIRE**. Mr. President, I strongly and flatly oppose the amendment offered by the distinguished Senator from Colorado. The issue is not poison pills; it is not corporate takeovers. It is who is to regulate corporations.

If this amendment is adopted, we can forget about 200 years of productive history in which States—the State of Georgia, the State of Wisconsin, the State of Ohio, the State of Colorado—have regulated corporations.

Senator ARMSTRONG proposes to adopt a Federal law that will make it more difficult for corporate boards of directors to look out for the interest of their shareholders during a takeover contest. Boards of directors either prior to or during abusive two-tier tender offers will adopt shareholders rights plans to defend the interests of shareholders from corporate raiders.

An example of a shareholders rights plan was that adopted by the board of the Revlon Co. which provided Revlon shareholders with a right to exchange Revlon stock for a Revlon note valued at a price considerably higher than the market value of the stock. Senator ARMSTRONG would call such a shareholders rights plan a poison pill and make it more difficult for boards to adopt such plans. The State court which reviewed the Revlon plan, however, found that the Revlon board had protected the shareholders from a hostile takeover at a price considerably below the company's intrinsic value. That is what they are. Such plans often ensure that shareholders get more for the stock during a hostile takeover.

This example illustrates why it makes no sense to adopt a Federal law restricting companies in adopting shareholders rights plans. Senator ARMSTRONG urges us to do so by calling such plans poison pills. That is a marvelous name. Who can be in favor of a poison pill? Management and stockholders have considered this to be a shareholder's rights plan. To regulate shareholders rights would in essence be a gross infringement, as I said, on the traditional role of States in chartering corporations and reviewing their fiduciary obligations to shareholders. States have done this for many years. They are proud of it. They have done it well. The amendment is designed to favor raiders over corporate management.

The Banking Committee at first considered banning "shareholders rights plans" itself but on studying the issue it realized that it is State corporate law that governs the relationship among corporate officers, directors and shareholders, and thus establishes the fiduciary duties, obligations, and liabilities of the board of directors in managing the internal affairs of a corporation.

The board of directors of a corporation is not entitled to behave irresponsibly for they have a fiduciary duty to their shareholders. In that regard, their decisions are subject to review by the courts under the so-called business judgment rule. Under this rule the courts will reverse decisions by a corporate board if the board acts in bad faith or abuses its discretion.

In recent years courts have been increasingly vigilant in scrutinizing decisions by boards of directors that have antitakeover implications and have overturned "shareholder rights plans; defenses that were adopted to entrench management. At the same time the courts have upheld "shareholder rights plans" defenses adopted by management to defend companies and its shareholders against two-tier tender offers and other abusive takeover tactics.

Mr. President, the SEC itself opposes Federal regulation of shareholder rights plans defenses. They oppose this. Chairman Ruder recently stated that "State courts will entertain legal challenges to the adoption of such plans * * * and have invalidated plans found to be adopted without authority under state law or in violation of State fiduciary obligations." Chairman Ruder emphasized that investor concerns raised by shareholders rights plans are being addressed under State corporate law.

Management adoption of shareholders rights plans defenses cannot only protect shareholders from unwanted takeovers, but studies have shown such defenses enable companies to win substantially higher takeover premiums than companies without pills. Let me give an example.

A recent study by Georgeson & Co., Inc., of takeovers that occurred between January 1, 1986, and October 19, 1987, determined that companies protected by shareholder rights plans received takeover premiums that were 69 percent higher than the premiums received by companies without such plans.

So the stockholders have benefited from this. The stockholders have benefited, and the courts stand there to judge these to make sure they are not discriminatory and unfair for the people who would take over a corporation.

At any rate, the Georgeson study found this resulted in the transfer of an additional $3.9 billion to the shareholders of the projected companies.

Mr. President, the Congress should permit States to continue to regulate the internal working of the corporations they charter. We should not start down the road of federalizing our corporate law. Throughout our history we have found that the States are closer to and can respond quickly to deal with the changing needs of the corporations they charter and the needs of the shareholders of these corporations.

It makes no sense to have the Federal Government step into this area and forbid corporate boards from "acting quickly to defend shareholders where quick action is needed."

Once again, I want to reiterate what I said at the beginning. This amendment, if adopted, is the first step toward a complete Federal regulation of corporations. It will end a 200-year history. We have letters from the Governors, letters from the attorneys general of various States, letters from all the organizations representing the States opposed to this kind of action that has been proposed by the distinguished Senator from Colorado.

Mr. President, I yield the floor.

Mr. **SARBANES** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Maryland.

Mr. **SARBANES**. Mr. President, I rise to join my colleague and distinguished chairman of the Banking Committee in opposition to this amendment.

I think it is very important at the outset to understand that the amendment represents a radical departure from the traditional balance between the Federal and State role in corporate governance. It is important to separate out the position one might take on the substance of the issue, and on the State role in corporate governance. You can make a case for shareholder protection, shareholders' rights plans and there are arguments that can be made against them. It is a very complicated issue and, in many instances, as the distinguished chairman has said, a shareholders' rights plan has very clearly been used to the advantage of the shareholders of a particular corporation. They have been important in fighting off an abusive takeover. They have been important in eliminating the inequities that are associated with a partial or two-tier tender offer where someone seeks to acquire a company and does acquire initial stock moving toward a controlling position at a higher price and then comes in with a lower price to the disadvantage of the remaining shareholders. Their shareholders' rights plans serve as a protection in those instances.

But in addition to how you reach a judgment on the substance, the fact of the matter is that these issues have been left traditionally, under our system, to be decided by State law.

State law currently prescribes when shareholders must approve corporate action. For most corporate actions, including the adoption of shareholders' rights plans, State law authorizes directors to act on behalf of the shareholders and, at the same time it does that, it imposes on directors a fiduciary duty to protect and promote the shareholders' interest.

The directors do not have carte blanche to act as they may choose. They have to act consistent with the fiduciary duty which is placed upon them to protect and promote the shareholders' interests. This responsibility of the directors is reviewed by the courts on a case-by-case basis and, in fact, they will invalidate those instances in which the fiduciary duty may have been breached.

The fact remains that we have left this important matter of corporate governance to be determined under State law. This provision would eliminate that, and it would move the Federal Government into an area which heretofore we have left to State control.

Second, I simply want to point out on the substance that the requirement of shareholder approval, which is contained in this bill, although the sponsor says he cannot envision any instance in which he thinks it would be warranted to even have such a shareholder rights plan—and I disagree with that—I think there have been instances on the record in which shareholders' rights plans have been effectively used to the advantage of the shareholders and constitute an important protective device.

In any event, the requirement of prior shareholder approval, in effect, would mean that you could not have such plans. The effort to put in place a plan ahead of time designed to address a specific situation would probably not be possible because you could not anticipate every situation.

The effort to address a specific situation when it arose probably could not be done in a timely fashion because it would take time to determine what type, if any, of a shareholders' rights plan is an appropriate response to a particular takeover threat. It would take time to prepare the necessary disclosure documents, to call a shareholders' meeting, and obtain the approval—meanwhile the 35 days provided in this bill in which a takeover can proceed, would run out.

Now, these defenses, the shareholder rights plans, have been used in a number of instances in order to protect against abusive takeovers. The courts have upheld those when they have been questioned, the question being did the directors abide by their fiduciary duty. There have been court cases in which the courts have in effect found that the directors were actually protecting the shareholders, in one instance from a hostile takeover below the price of the company's intrinsic value while retaining sufficient flexibility to address any proposal deemed to be in the shareholders' best interests. The adoption of the rights plan was within the protection of the business judgment rule and in the circumstances the plan was adopted in good faith after reasonable investigation.

We looked into this matter in the Banking Committee in the course of these extended hearings to which I referred yesterday, and we realized after a careful examination of the shareholders' rights plans which had been used that it is a very complicated and complex issue, that it is State corporate law that governs the relationship among corporate officers, directors, and shareholders. It is the State law to which we have looked in the past to determine this relationship between the officers, the directors, and the shareholders, and it is to this law that we have looked for the fiduciary duties, obligations, and liabilities of the board of directors in managing the internal affairs of a corporation. So there is an existing body of law which applies to these issues. The courts have been interpreting that over the years. The board of directors are not entitled, I emphasize not entitled, to behave irresponsibly. They have to act according to their fiduciary duty to the shareholders, and that behavior is reviewable by the courts. The courts will in fact reverse behavior which they find an abuse of the so-called business judgment rule. So there is a balance that is now in place in the operation of the corporate governance system, which it seems to me enables a proper weighing of the arguments in the particular case.

This amendment eliminates all of that. It takes an issue which has traditionally been handled at the State level, in effect raises it to the Federal level, seeks to impose a Federal rule on corporate governance, and eliminates the ability for a case-by-case determination which exists under State law. The courts in the States have looked again and again at the decisions of boards of directors when they take action with respect to takeover efforts. They in fact have reversed them in instances in which it was found that they were designed simply to protect an entrenched management. On the other hand, they have upheld these plans in those instances in which it was found that management adopted them in order to defend the companies and their shareholders against two-tier tender offers and other abusive takeover tactics.

Now, the chairman of the committee made reference to the position of the chairman of the Securities and Exchange Commission, who has indicated his opposition to Federal regulation of shareholder rights plans. He stated that:

> State courts will entertain legal challenges to the adoption of such plans and have invalidated plans found to be adopted without authority under State law or in violation of State fiduciary obligations.

He goes on to note:

> Investor concerns raised by poison pills are being addressed under State corporate law.

Mr. President, I submit that the Congress should continue to permit the States to regulate the internal workings of the corporations they charter, that there are arguments for and against shareholder rights plans. A good deal of one's judgment about them depends on the specific circumstances of the case, the nature of the takeover effort, and the nature of the shareholders' rights plan adopted to counter the takeover effort. There are documented instances in which these shareholders' rights plans have clearly worked to the advantage of the company and to the advantage of the shareholders. I submit that this matter should remain in the area of State decisionmaking.

There is a fundamental threshold which this amendment is seeking to cross, and that is into matters of corporate governance which have been traditionally left to the States. Particularly in those instances in which there is an argument for them against the substance of what is proposed to be done, the difficult judgments about shareholder protections and the fiduciary responsibilities of corporate directors are best left to State legislatures and State courts to make, which is the arena in which they have been made traditionally. It is clear that in some instances shareholders' rights plans in fact serve a useful purpose in assuring fair treatment for shareholders, for instance, in the case of two-tier tender offers where an acquirer buys up a controlling share of a company at a high price and then pays the rest of the shareholders a low price.

Clearly, in those instances the courts have in fact examined shareholders' rights plans designed to address that very situation and have upheld them as being reasonable, as meeting the fiduciary duties of the directors to the shareholders and as representing a proper exercise of the business judgment rule.

Mr. President, I urge the Senate to reject this amendment and to permit the States to continue to regulate the internal workings of the corporations which they charter, which has been the traditional approach in this country.

Mr. President, I yield the floor.

Mr. ARMSTRONG address the Chair.

The PRESIDING OFFICER. The Senator from Colorado, [Mr. ARMSTONG].

Mr. ARMSTRONG. Mr. President, the reddest red herring we have seen in this Chamber in a long time is the notion that there is a states-rights issue contained in the Armstrong-Metzenbaum-Shelby-Gramm amendment. There is not any such thing. It is exactly the same issue as we voted on a few moments ago in golden parachutes. We are not telling corporations how to run their business. We are saying with respect to those corporations in interstate commerce—we are not talking about any corporations that are not in interstate commerce, but with respect to those that are in interstate commerce, and as a practical matter, we are talking with those that have hundreds, even thousands, of shareholders scattered all over the country. But with respect to those corporations, we are saying that they should not have golden parachutes.

The logical extension of that, if it is not an undue burden on the States, if it is not an unreasonable interference in States' rights for us to outlaw the golden parachute practice, is surely it is not an unreasonable extension of that principle to say that the even more egregious, the more dangerous, the most costly, the more divisive, the more destructive poison pills can equally be addressed by the Congress.

Honestly, to argue that is a States' rights issue, it seems to me, is pretty far-fetched, but I am a respecter of States' rights. I am a person who believes—and I mentioned this yesterday—that for the most part, we ought to leave to the States those matters which are properly within their jurisdiction, those things which are closest to home, and where they are the most responsive to local citizens.

That is not the case when you are talking about great national corporations. These corporations may be headquartered in New York, they might be headquartered in Delaware, they may have a home office in Wisconsin, Colorado, or Alabama. But the fact of the matter is their shareholders are everywhere.

Under the circumstances, it seems to me when you get down to basic issues of protecting the rights of shareholders—in this case, all we are talking about is their right to vote before a poison pill plan, a plan that would dilute the ownership and in many cases actually destroy the corporation—before such a plan is adopted, they ought to have a chance to vote. Somebody may think that is a big burden on States' rights. I do not believe it.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. ARMSTRONG. Yes; I am happy to yield to my friend from Wisconsin.

Mr. PROXMIRE. I am surprised my good friend from Colorado is arguing that because the corporations are in interstate commerce there should be no limit on the governance by the Congress. The fact is that virtually every corporation in this country, every corporation that is listed on the New York Stock Exchange, every corporation that is held broadly by the public, is in interstate commerce. All of them are chartered in States. The States treasure that chartering, and they have done an excellent job through the years.

So, the fact that a corporation has stockholders in all 48 States or all 50 States, the fact is that a corporation may have its headquarters in one place, many of its operations elsewhere, is really irrelevant. It is where the State is chartered that determines the kind of governance that we have.

If the Senator is going to take the position that whatever corporation in interstate commerce should be regulated by the Congress of the United States, we are a Federal body after all, regulated by Federal regulatory institutions like the SEC which, incidentally, says they think the States should govern in this case, there is no question in my mind that the Senator is taking a radical position which is certainly opposed to the interpretation that States have. That is why they have written us and told us that they are very much opposed to having the Federal Government move in on their territory in instances such as this and they specifically cite the shareholders rights plans.

Mr. ARMSTRONG. Mr. President, if I were to advance the proposition that the Senator from Wisconisn has mentioned he would have every reason to be surprised, but I do not suggest for a minute that the mere fact that a corporation operates in interstate commerce or has multistate shareholders means there should be no limit on the actions of Congress in regulating the corporations.

For the most part corporate governance is wisely left to the States. But the practical situation we face is this: that a corporation which is headquartered in one State and is governed in the main by the laws of that State begin to have a different set of responsibilities when it sells the share of the corporations to people in other States and particularly when a circumstance arises where the rights of the shareholders in another State are seriously compromised, where they are seriously abused. I think that is the case with these poison pills and golden parachutes.

Mr. PROXMIRE. If they are abused, you have State courts to step in and act under those circumstances. They do. We have a fine record, as the Senator from Maryland documented so well, of moving in and acting and protecting the interests of all concerned, including those who would acquire the corporation.

Mr. ARMSTRONG. Mr. President, this is a matter about which reasonable men can disagree. But the point I was addressing, and I want to move to the substance of the issue in a moment, at the outset is the threshold issue of States rights. We have been regulating this kind of question for a long time. It does not seem to me, others may disagree, that this is any new departure. Certainly it is no new departure from the amendment which we have just adopted by a nearly unanimous vote. It is the same essential principle.

Mr. SARBANES. Will the Senator yield on that point?

Mr. ARMSTRONG. Yes.

Mr. SARBANES. I submit to the Senator that there is a very sharp difference.

Mr. ARMSTRONG. Mr. President, I am unable to hear the Senator. I beg the Senator's pardon.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SARBANES. I will submit there is a very sharp distinction between the golden parachute amendment and this one. The golden parachute amendment does not go to the heart of the corporate governance question. This amendment does. This question goes to the very heart of the State law developed by State legislatures in State courts with respect to the relationship of officers, directors, and shareholders. And the fiduciary duty is an obligation and a liability. We have State laws, which are examined in the courts on a case-by-case basis, and in some instances courts, have upheld shareholder rights plans as a proper action by the board of directors which defended the interests of the shareholders and in other instances has turned them down for abuse of the directors discretion exercising the fiduciary judgment.

I appreciate that the Senator comes from a point of view that none of these shareholder rights plans—I think the language he uses is that he could not envision a situation in which he thought a shareholder rights plan would be desirable or appropriate or proper. But he is going to allow for that to happen in any event by the prior shareholders' approval. But he could not himself envision such a situation. The fact of the matter is that many people do envision such a situation on the substance, that that particular judgment has been called into question in the courts, and in a great number of instances, the courts have upheld those shareholder rights plans as in fact protecting the company and the shareholders.

The Senator comes from a point of view that rejects that possibility. That is not where many others come from. That is certainly not what the courts have found. Given the fact, on the basis of that record, my judgment at least is that this is a matter in which it is arguable, clearly arguable in each instance whether the shareholders rights plan serves a broader purpose and function that it ought to be left to the State law which is the existing system that we have. We ought not to cross that threshold of moving the Federal Government in to deny the States' role and in a very important matter of corporate governance.

Mr. ARMSTRONG. Mr. President, I do not want to bog down on the States' rights question because I think practically all Senators will have already formed a judgment of as to whether this is a States' rights issue.

I am convinced it is a red herring; I am convinced that the situation is exactly analogous to the vote we just had. I am convinced myself that it is really farfetched to say when we regulate often in minute detail the activities of corporations for matters which seem to me at least to be far less consequential, for matters which seem to me at least to be far less involved with basic human rights, because that is what we are talking about here—it seems to me then in that circumstance pretty farfetched to argue the States' rights question. Senators are entitled to do it and entitled to weigh that argument accordingly, and I suppose that they will do so.

I did say I could not personally imagine any circumstances under which a particular kind of business arrangement would be justified. I did not characterize those as shareholders rights provisions. I characterized them as poison pills.

I can imagine a lot of different kinds of arrangements relating to the capital structure, the issuance of common and preferred stock, debentures, options, warrants, preferences, buy-backs, repo's, reverse repo's, and every other kind of imaginable financial arrangement that might be appropriate under some circumstances.

The specific kind of arrangement which I personally cannot imagine approving, if I were a shareholder, a manager of a corporation, is the kind of abusive arrangements which I described in some detail earlier, and which are commonly known as poison pills. If one begins to understand what those really are, that is to say those capital arrangements where stock is issued automatically diluting the ownership often by a large fraction, by an order of magnitude or two, unfairly, and when that happens, only when there is a transfer of stock to some third party, other than the original issuer, then you have a ripoff. It is a poison pill, and I cannot imagine why a bunch of shareholders would want to get together and agree to such a notion. If they want to, that is their business; but it seems to me that it is the business of Congress to protect innocent shareholders who would not agree to such a thing, very possibly, that it be shoved down their throats.

The Office of the Chief Economist of the Securities and Exchange Commission released a study in July 1985 of the economics of various so-called antitakeover devices in 649 firms between 1979 and 1985. The report states, in part:

> Briefly, the stock returns data show an average loss of 1.31 percent for the entire sample. Separating the amendments by type, however, reveals that fair price amendments have very little effect on stock value, while the supermajority, authorized preferred, and classified board amendments have substantial negative effects on stock value.
>
> We find that the most harmful amendments are proposed by firms that have relatively high insider and low institutional stockholdings.
>
> Investor Responsibility Research Institute Study concludes that the actual behavior of takeover targets protected by these amendments is generally contrary to the shareholder'sinterest.

Mr. President, I will put that in the context of some specifics, because I do not believe we should approach this primarily from the standpoint of abstraction or some broad-gauged philosophy. I want to talk about what happened.

The Investor Responsibility Research Institute has done an extensive study of this matter, the adoption of poison pills, and so has the United Shareholders Organization. The SEC studied 30 companies with poison pills, and they looked specifically at 15 such companies which defeated takeover bids.

In the following 6 months—that is, in the 6 months following the defeat of takeover offers by companies which had previously adopted a poison pill arrangement—the average decline in the value of stock was 17 percent.

Gearhart Industries declined by 70 percent after a pill defeated a takeover; Tesoro Petroleum declined 48 percent in a similar circumstance; CTS declined by 31.73 percent; Mayflower Group, 30 percent; HBO, 54.44 percent; Gillette, 30 percent.

The point is that this is not a theoretical problem. This is what is happening in the real world.

Mr. President, I want to yield the floor, because I see the Senator from Alabama is here, and I would like to hear his thoughts on this matter, because he is a champion of the rights of shareholders.

I hope that no Senator, however they wish to vote on this amendment, will be misled or confused by the argument about States' rights. It is analogous to what we have just done. It is analogous to existing State law.

The question is, if management wishes to adopt a poison pill, which has the potential of destroying a company, should shareholders have a chance to vote? If you think they should at least have a chance to vote, Senators should vote for the Armstrong-Metzenbaum-Shelby-Gramm amendment.

Mr. **SHELBY**. Mr. President, this poison pill we talk about is another manipulative tactic of management. I do not know how you could characterize it otherwise.

The adoption of this amendment would make it unlawful for a company to establish a poison pill and would require that poison pills previously adopted be submitted to the shareholders for a vote within 4 years. The SEC has determined that poison pills reduce stock prices and are not in the best interest of shareholders.

The Delaware Supreme Court rules that corporations may install poison pills without seeking shareholder approval. Thus corporate management can adopt a plan that would make a hostile takeover prohibitively expensive, thus providing for their own job security, at the expense of the shareholder.

An article in the New York Times, describes poison pills as:

> Devices adopted by corporations—without shareholder consent—that erect insurmountable barriers to offers from outside bidders for a company's shares—except those favored by management. They affect the economic well-being of everyone with a pension plan, mutual fund, or stock investment.

Certainly, Mr. President, this is most of America that is affected by these poison pills. Management will argue that poison pills are necessary to protect against takeover attempts and thus provide for the long-term growth of the company. However, a study provided by the investor responsibility research center found that companies do not increase their risk of takeover by committing to long-term projects.

At this time, more than one quarter of the Fortune 500 have adopted a poison pill without shareholder consent. These poison pills purport to give shareholders the right to buy more stock at a lower price during a hostile takeover attempt. In reality, costs become prohibitively expensive for bidders unless the purchase is sanctioned by the company's board. This gives the board exclusive right to decide when and if a takeover can proceed.

Mr. President, corporate America is owned by shareholders, not corporate management. We should adopt this amendment to make sure that the shareholders are permitted to exercise the control that is commensurate with their risk. Shareholders should not be made pawns to be moved by the will of the management.

This amendment would prohibit one of the worst abuses of shareholder rights. I urge my colleagues to support it.

Mr. President, I ask unanimous consent to have printed in the Record an article which was published in the New York Times.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Dec. 14, 1986]

Recipe for a Management Autocracy

(By Peter C. Clafman and Richard M. Schlefer)

Poison pills are bad medicine for American shareholders. Nevertheless, they are well on their way to becoming a fixture in business. To prevent that disastrous step, many institutional money managers are now fighting poison pills, in Washington and in corporate boardrooms.

Poison pills are devices adopted by corporations—without shareholder consent—that erect insurmountable barriers to offers from outside bidders for a company's shares—except those favored by management. They affect the economic well-being of everyone with a pension plan, mutual fund or stock investment.

Poison pills give shareholders the apparent right to purchase discounted shares in the face of a hostile acquisition. In fact, however, shareholders are virtually never permitted to exercise these "rights." In reality, poison pills impose prohibitive costs on bidders unless redeemed by the company's board, thus giving the board exclusive authority to decide if an acquisition can proceed.

Poison pills are undesirable for two reasons: They deprive shareholders of the right to decide whether to sell their stock and, thus, to decide who controls the company; and they deter offers that might benefit shareholders, reducing the value of the stock. It is not surprising, then, that management prefers not to seek shareholder consent for a pill.

Why are some corporate managements unwilling to put their arguments to a vote by shareholders? There is no reason except the fear that shareholders will reject the dubious "protections" and "rights" that their managements champion.

Poison pills require a bidder to satisfy the company's management rather than its shareholders. They replace shareholder democracy with management autocracy. As recently stated by a Court of Appeals in invalidating a poison pill, such a measure "effectively precludes a hostile takeover, and thus allows management to take the shareholders hostage. To buy (the company), you must buy out its management." Defensive tactics such as poison pills, said the court, often leave shareholders "defenseless against their own management."

How harmful are poison pills? The Securities and Exchange Commission's Office of the Chief Economist examined all 245 poison pills adopted from 1983 through July 4, 1986, and found that share prices, on average, declined relative to the market at the time of the announcement of a poison pill's adoption. The study further concludes that shareholders in companies that have fended off takeover attempts with the help of a poison pill have fared poorly, in contrast to those in companies that were taken over despite their poison pills.

Of course, no study can document how many bids at higher prices were never made because of a poison pill. Prospective bidders are far less willing to undertake the effort and expense of mounting a bid in the face of what the S.E.C. has described as the "lethal" effects of the pill.

In arguing for poison pills, managers often claim to be upholding the long-term interests of the corporation against institutional shareholders with supposed short-term investment horizons. This is a smokescreen. Rather than meeting the positive argument for corporate democracy, the proponents of poison pills seek to discredit the institutional investors.

Most pension funds and other institutional investors necessarily have long-term objectives in keeping with their long-term investment responsibilities. There is no evidence that pension funds are forcing companies to abandon long-term projects for short-term profitability. On the contrary, a study published in January by the impartial investor Responsibility Research Center concluded that companies do not increase their risk of takeover by committing to long-term projects. Another study by the center shows lower institutional ownership in takeover targets than in corporations generally.

Clearly, institutional ownership does not promote takeover attempts; the more confidence institutions have in an incumbent management, the higher the institutional ownership. Therefore, if a corporation faces a hostile takeover, that is not the fault of institutional investors.

Rather than resort to poison pills, managers should take positive steps before outside pressures arise. First, they should take a strong stand against the practice of paying greenmail—buying back the shares of a corporate raider at a price above the market. Companies in mature industries—the most common takeover targets—should consider selling unproductive assets and raising dividends to increase the price of the company's stock rather than making expensive acquisitions in areas in which they have no expertise. In evaluating their exposure to takeovers, managements should heed not only their lawyers and investment bankers but their shareholders, whose evaluation—reflected in the price of the company's stock—is too often ignored.

The stakes for shareholders are high. The poison pill has been detrimental to the economic interests of shareholders and it fundamentally distorts corporate democracy. An issue so critical to shareholders should be finally decided by shareholders, since they are the ones who bear the ultimate risk of a company's success or failure.

Mr. SHELBY. Mr. President, I want to read an excerpt from this article, which talks about poison pills. It was published in the New York Times on December 14, 1986, with the caption "Recipe For a Management Autocracy."

> Poison pills are undesirable for two reasons: They deprive shareholders of the right to decide whether to sell their stock and, thus, to decide who controls the company; and they deter offers that might benefit shareholders, reducing the value of the stock. It is not surprising, then, that management prefers not to seek shareholder consent for a pill.
>
> Why are some corporate managments unwilling to put their arguments to a vote by shareholders? There is no reason except the fear that shareholders will reject the dubious "protections" and "rights" that their managements champion.
>
> Poison pills require a bidder to satisfy the company's management rather than its shareholders.

Mr. RIEGLE. Mr. President, I know that others wish to speak, so I will abbreviate my remarks.

It is very important that we defeat this amendment. It is a fundamental question of States rights versus Federal rights.

We know, for example, that on defensive tactics corporations may undertake in their own behalf those matters that are principally handled at the State level. What we are trying to do with our legislation here is to deal with a tender offer process in a very carefully directed and targeted way. We are not trying to disrupt the overall pattern of the law in this area in a more sweeping way.

I think that proposal before us at this time is very disruptive, because it does, in a sense, set aside major, long-standing divisions of responsibility between the Federal Government on the one hand and States on the other.

Now, in terms of the inherent inequities of hostile takeover attempts, that is not a black and white issue. There are times when takeovers are fully warranted and you have a management that clearly is deficient. There are a lot of other instances where it cuts exactly the other way—where you have companies that are well managed but undervalued at a particular point in time—and corporate raiders can come in and strip out assets by one tactic or another, sometimes by use of a tactic to try to extract greenmail, and in other instances, by trying to sell back a block of shares at a higher price.

What we are trying to do with this legislation is to empower shareholders so that they have more information and they have it sooner. We want to ensure that there is time for alternative bidders and buying options to be developed so that in the end shareholders have the opportunity to achieve the greatest amount of value for their holdings.

Anything that cuts against that, anything that has the effect of taking and hurrying the process too much, of retarding the ability for alternative bids to be brought forward, in effect ends up denying shareholders the ability to achieve full value.

There are a lot of examples to that effect. In one case, the board of Chemlawn adopted a carefully tailored shareholder rights plan that allowed it to negotiate a deal for a much higher figure, $36.50 a share versus $27 a share.

In another case, a shareholders' rights plan was upheld by a Federal court judge which allowed Federated Department Stores to block an initial offer by Campeau and which put Federated shareholders in a position where the bidder was forced to raise its bid by 50 percent.

There are any number of instances where the way the law generally sets today enables shareholders, through the efforts of existing management, to receive full value and higher value than otherwise might be the case.

When a person invests in a company, he or she expects the directors to act in the best interests of the shareholders and the company, and that is what fiduciary responsibility is all about. That is why we have boards of directors in the first place.

The problem raiders have with the current system is not that it fails to serve the interests of shareholders. The problem they have is that it does in fact serve the interests and rights of shareholders.

When the Securities and Exchange Commission was asked if Federal regulation was needed in this area, the chairman said it was not. This decision was based on the fact that judicial review of these matters has been very intense.

So, Federal regulation of takeover defenses, I think, is unwise and unnecessary and would be an unwarranted intrusion into corporate governance matters, which are properly and sufficiently regulated by the States under our pattern of law.

Finally, let me just quote a little bit of the chairman of the SEC in his testimony before the House on this very subject, where he said that to act in this manner * * *

> Would limit issuers' ability to adopt poison pill plans by curtailing their ability to grant rights that would either entitle the holder to purchase securities of the issuer or any other corporation at less than their market value, or require the issuer to repurchase its securities at greater than market value, without shareholder approval.
>
> Historically, the activities of bidders (third party or issuers) have been regulated primarily by federal law under the Williams Act,

which is really what we are here to deal with today, I may say parenthetically. Continuing to quote Chairman Ruder:

> The response of the target company generally has been governed by state statutory

> and common law, unless the target engages in its own tender offer.
>
> While the Commission shares Congressional concerns regarding the potential for abuse in target company responses, it believes that the regulation of matters * * * to prevent a change in corporate control, are appropriately matters of corporate governance under state law.

And I stress that and say it again, "are appropriately matters of corporate governance under State law."

Finally, the Chairman says,

> If a board of directors fails to fulfill its obligations to shareholders, appropriate remedies are available under state doctrines of corporate waste and breach of fiduciary duty, including the duties of care and loyalty.

So the Commission has come forth very forcefully in opposition to this amendment.

I would just conclude by saying this amendment, if it were to be adopted, damages this underlying legislation in very important ways, and if we are going to improve the tender offer process, it is very important that this amendment be defeated at this time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, we have had a good strong debate on this amendment. I think it is pretty clear where people stand.

So, I move to table the amendment and I ask for the yeas and nays.

Mr. ARMSTRONG. Mr. President, will the Senator withhold that briefly?

Mr. PROXMIRE. I withhold briefly, yes.

Mr. ARMSTRONG. I thank the Senator.

If I may address the Senate briefly, there is a group of people whose opinion has not yet been expressed. I would like to just express it on their behalf.

I do not know how many Senators are acquainted with Paul F. Quirk, but he is the executive director of the Massachusetts Pension Reserve Investment Board. It is $2.2 billion fund vested in public pension assets. He states, and I quote:

> As Executive Director of the Massachusetts Pension Reserves Investment Management (PRIM) Board which manages $2.2 billion in public pension assets, I have some serious reservations about the strength of that proposed legislation, referring to S. 1323.

He mentions several concerns that he feels about it.

He says:

> I urge you to consider amending S. 1323 before a vote is taken on this critically important legislation.

One of the specific things he mentioned and now I quote again:

> There are other weaknesses in the proposed legislation including the allowance of "poison pills" and "greenmail".

He goes on to suggest that an amendment would be in order.

In my own State there is an organization called the Public Employees Retirement Association of Colorado, an outfit that I have been generally familiar with for over 20 years. It is a model of responsible pension fund management by public employees. They have written to me on June 2 a letter expressing a number of concerns, and one of them again I quote is poison pills and parachutes. "S. 1323," writes PERA, "approved by the Banking Committee contains no steps to prohibit or restrict these practices which entrench and enrich corporate management. Poison pills and golden parachutes should be prohibited unless adopted by a majority of shareholders."

Mr. President, this view is held not only in Massachusetts and Colorado, but it is also a view that is highly prominent in the State of California on the letterhead of the State Association of Retirement Board Members. I have here a letter from Ed Fleming. Mr. Fleming is secretary-treasurer of the Conta Costa County Employees Retirement Fund. He is only speaking for himself but he points out that he is a fiduciary and an officer of this board. And he advocates a number of quite specific reforms to S. 1323 and one of them and I quote is "address those corporate schemes which discriminate against shareholder rights. Golden parachutes and poison pills should be banned outright."

The police and firemen, a pension association of Colorado, has written a similar letter expressing the same concerns, and then I have an interesting letter from a gentleman in Florida. I found it particularly a worthy letter because in an age in an era when so many people have sort of lost the gift of forceful self expression, Mr. R.E. Whiteside comes through with refreshing candor and vigor and succinctness and power. I am not going to read his whole letter, but I would like to read a few sentences of it. He says:

> I am one of your Florida constituents and find that you will be instrumental in deciding if we small shareholders will continue to get one vote for each share of common stock we hold in big business or whether the big corporations and their officers will further destroy our rights to vote direction they take in deciding our investment's fate.

Here is the relevant portion of Mr. Whiteside's letter. He said:

> The stink of Wall Street with the poison pills, the insider trading, the broker's greed and deceit, officers of companies' feathering their own "nest", golden parachutes, manipulation of markets * * * and I could go on * * * all point to the moral breakdown of American capitalism.

In that I would disagree slightly with Mr. Whiteside. I do not think there is a moral breakdown of American capitalism.

I do think some corporate managers have unwisely sought to protect themselves from their own shareholders by the adoption of these poison pill arrangements, the effect of which in many cases if they were ever fully triggered would be to destroy the companies.

That is the reason for the amendment. The amendment does not outlaw them flatly but provides that if a company wishes to adopt such arrangement the shareholders are entitled to vote.

I understand it is the intention of the Senator to table the Armstrong-Metzenbaum-Gramm-Shelby amendment. If he does so it would be my hope that Senators would vote against such a motion.

Mr. President, I ask unanimous consent to have printed in the RECORD letters pertaining to this matter.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

Re Tender Offer Reform Act of 1987.

PERS LEGAL OFFICE,
Sacramento, CA, September 30, 1987.

Ms. NANCY M. SMITH,
Washington, DC.

DEAR Ms. SMITH: Thank you for taking the time to meet with representatives of the California Public Employees' Retirement System (CalPERS).

As you know, CalPERS is the largest publically funded retirement system in the nation, with current assets having a market value of approximately $48 billion. CalPERS' membership consists of over 560,000 active employees, with an additional 212,000 retirees and beneficiaries.

As we discussed, CalPERS would be pleased to support H.R. 2172, provided the following issues are addressed:

Greenmail: On the issue of the payment of greenmail, CalPERS and corporate management are united—prohibiting the payment of greenmail will protect both businesses and shareholders from unscrupulous raiders. We strongly support this provision.

One Share-One Vote: This is an essential element of corporate democracy. As with the election of our governmental leaders, the loss of the right to vote is tantamount to the loss of all right to effect one's future.

In our discussion, you inquired as to how a federal "one share-one vote" requirement could be structured without impairing state anti-takeover legislation (such as the Indiana state legislation involved in the CTS v. Dynamics Corp. of America case). Without discussing the wisdom of such state statutes (which we do not support, see below), we believe that a federal provision, such as within H.R. 2172, need not conflict with the states' laws. Section 3 of H.R. 2172 merely assures that no *corporation* may deny equal voting rights to its shareholders; the right of the states to alter voting rights, in specific takeover situations, is not affected.

Access to the Proxy: We applaud this provision which gives shareholders greater and more equal access to proxy statements regarding the election of directors. However, for consistency and to provide shareholders with access to the proxy that is even more comparable to that of corporate management, we recommend that this provision be expanded to all issues (see, e.g., section 112 of H.R. 2668—Lent/Rinaldo).

Voting Process: In addition, we urge the House to include within this bill provisions which protect the integrity of the proxy voting system. As we discussed, CalPERS has experienced first-hand the ability of corporate management to unfairly influence the outcome of the proxy vote.

For example, corporate management generally has the power to distribute, collect, and count all proxies, and to do so well before the shareholder meeting in which the voting results are formally tallied. Opposing parties have no ability to accurately monitor management in this process, nor is management subject to any other reliable means of assuring accountability. This process is analogous to allowing a Congressional candidate to distribute and collect his own ballots, count those ballots before they are submitted as official votes, and then contact the voters who voted against him/her to persuade them to change their votes. We are sure that you agree that such a system is subject to extreme abuse and would not be tolerated if applicable to our governmental leaders. However, this is the exact system that is allowed to exist and to govern the businesses upon which our economic stability and future depend.

Enclosed with this correspondence is a copy of a typical letter that is sent by corporate management when it fears, based upon its preliminary tally of proxies, that it will lose an issue that has been presented for shareholder vote. As you can see, this letter asks the shareholder to reconsider the vote previously cast, and to submit a second proxy that will revoke the previous proxy and which is consistent with management's position. Conversely, the opposing party has no access to the preliminary proxy tally, and thus has no opportunity to rebut these last minute contentions of corporate management. Note that this tactic is not merely used during full proxy contests involving board directorships; as in the case of the enclosed letter, this "second stage solicitation" involved a shareholder-sponsored proposal which sought to challenge the adoption by the company of a poison pill.

It has also been our experience that fund managers are often subjected to pressure by corporate management to vote their proxies for commercial or political reasons, unrelated to the interests of the beneficiaries. Also enclosed is a copy of a typical letter that may be sent by corporate management with the goal of influencing the vote of fund managers. As you know, these managers as fiduciaries, are required to vote their proxies in the sole interest of the beneficiaries for whom they manage the stock. Such tactics by corporate management seek to have the fiduciary violate its primary legal duty.

To remedy this unfair advantage afforded management, we urge the Congress to mandate a confidential system of proxy voting, similar to section 111 of H.R. 2668 (Lent/Rinaldo). With such a system, in which proxies are kept secret, tallying and auditing would be conducted by independent firms. In recognition of the need for confidentiality to adequately protect the integrity of the voting process, this system has been voluntarily adopted by many companies in which large percentages of stock are held by the corporation's employees (e.g., A.T. & T.). We strongly recommend that such a system be mandated through legislation.

National Uniformity: We urge federal preemption of state anti-takeover statutes. Current state anti-takeover laws, particularly those of the Indiana prototype, disenfranchise shareholders and reduce the value of their investments. In the absence of a willingness to expressly provide national uniformity in takeover legislation, we recommend that H.R. 2172 either remain silent on the issue or direct the Securities and Exchange Commission to further study the question.

Thank you again for taking the time to meet with us, and for considering our concerns. If we can provide additional information to you, please feel free to contact me.

Very truly yours,

RICHARD H. KOPPES,
Chief Counsel.

PAUL R. RAY & COMPANY, INC.,
Fort Worth, TX, June 1, 1988.

Hon. JIM WRIGHT,
Speaker of the House, Washington, DC.

DEAR JIM: I am in favor of the one share, one vote standard and I ask that the SEC require public companies to adopt that procedure.

Will you please intercede on our behalf.

Cordially,

PAUL R. RAY.

STATE ASSOCIATION OF
RETIREMENT BOARD MEMBERS,
June 1, 1988.

Hon. ALAN CRANSTON,
U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: As a board member and fiduciary on the Contra Costa County Employees Retirement Fund, and speaking for myself only, I suggest that Senator Proxmire's S. 1323 is not good enough. In this case, half a loaf is not better. If passed, S. 1323 would be perceived as a solution but many serious problems remain. S. 1323 does not:

One, stop green mail, which should be prohibited to protect shareholders interests.

Two, require a one share, one vote standard to assure all shareholders have their proportionate say about corporate affairs.

Three, address those corporate schemes which discriminate against shareholders rights, golden parachutes and poison pills should be bounced outright.

Yours truly,

ED FLEMING.

PUBLIC EMPLOYEES'
RETIREMENT ASSOCIATION OF COLORADO,
June 2, 1988.

Hon. TIMOTHY WIRTH,
U.S. Senator, Washington, DC.

DEAR SENATOR WIRTH: The full Senate may consider important legislation regulating tender offers in June. I would like to share with you my views on this legislation (S. 1323), the Tender Offer Disclosure and Fairness Act of 1987.

As fiduciaries for the pension plan covering over 100,000 Colorado public employees and paying benefits to over 30,000 retirees and survivors, the PERA Board of Trustees and staff believe that shareholder rights should be protected and enhanced. By law, PERA must carry out its functions solely in the interest of members and benefit recipients. This includes maximizing investment return within acceptable risk guidelines. Unfortunately, federal laws currently allow certain practices in tender offer contests that are not in the best interest of institutional or smaller individual shareholders.

S. 1323 regulates both bidders and target company managements. As approved by the Senate Banking Committee, the bill contains a few positive steps, but in several important areas, the bill avoids meaningful reform and only calls for study by the SEC. PERA urges you to support the following changes during debate by the full Senate:

Greenmail: Payment of greenmail should be prohibited unless approved by a majority of shareholders. This practice whereby a company repurchases its shares from certain major investors at a market premium terminates the bid for control by those investors, but only at the expense of institutional and smaller individual investors.

Poison Pills and Parachutes: S. 1323 approved by the Banking Committee contains no steps to prohibit or restrict these practices which entrench and enrich corporate management. Poison pills and golden parachutes should be prohibited unless adopted by a majority of shareholders.

Confidential Voting: The confidentiality of the proxy voting process must be strengthened. Specifically, companies should be required to hire an independent third party to receive and tabulate proxies. This would help shield money managers for pension funds from company pressure to vote proxies in the best interest of the company, even if different from the best interests of the plan participants. Third party tabulation also ensures the integrity of the results. Many companies already hire third parties to tabulate proxies. Unfortunately, the bill currently provides only for a study by the SEC.

One Share, One Vote: In the past few years, some corporations have adopted unequal voting plans that give strong control to management, even though the corporation's stock is publicly-traded and management owns a minority of the stock. This practice prevents takeovers which may enhance the value of the corporation and increase returns to the majority of shareholders. The one share, one vote standard should be required by Congress for all public companies, but the SEC should be given limited authority to grant exemptions for dual class voting plans in existence before Senate floor action.

Tender Offer Summary Statements: Shareholders should receive an "executive summary of the material terms and conditions" of the tender offer, as provided in another bill regulating tender offers sponsored by Representatives Dingell and Markey. Unfortunately, the current law and S. 1323 have no such requirement.

Finally the bill addresses state anti-takeover laws. The Supreme Court recently upheld state authority to regulate tender offers. As passed by the Banking Committee, S. 1323 requires a study of state takeover laws. PERA agrees that it would be premature for Congress to preempt state regulation, but preemption should be studied seriously. An anti-takeover bill was introduced in the Colorado Legislature this year but was quickly defeated. However, other states have adopted such laws and if a hodgepodge develops, federal preemption may be necessary.

In summary, PERA believes that S. 1323 contains too many deficiencies to be approved in its present form. Tender offers should be regulated to protect the legitimate rights of the parties involved—bidders, managers, and shareholders. But, current law puts the shareholders at a disadvantage. Your support of changes suggested above would help remove the disadvantages created by greenmail, poison pills, and dual class voting systems, among other abuses. The true owners of corporations, the shareholders, should be assured democratic rights by Congress.

PERA appreciates your interest in this and related pension issues when you chaired the House Telecommunications and Finance

Subcommittee, and hopes you will continue your interest in this area in the Senate.

Sincerely,

Robert J. Scott,
Executive Director.

Waterbug,
Lake Hopatcong, NJ,
June 2, 1988.

Senator Frank Lautenberg,
Washington, DC.

Dear Senator Lautenberg: You may soon consider Senator Proxmire's S. 1323, the Tender Offer Disclosure and Fairness Act of 1987. It should not be adopted in its present form unless it prohibits;

1. Green mail payments
2. Adoption of "poison pills" and "golden parachutes" without stockholder consent

and it requires;

1. Confidential voting in all corporate elections
2. Independent 3rd party vote tabulations
3. Equal access to corporate proxy materials so stockholders can nominate their own director candidates, and
4. One share-one vote

Your consideration of my opinion is appreciated.

Sincerely,

Robert H. Dunphy.

June 3, 1988.

Hon. John F. Kerry,
Russell Senate Office Building,
Washington, DC.

Dear Senator Kerry: As you are aware, the Senate may be taking up Senator Proxmire's Tender Offer Reform Act (S. 1323) before the end of the session. As Executive Director of the Massachusetts Pension Reserves Investment Management (PRIM) Board which manages $2.2 billion in public pension assets, I have some serious reservations about the strength of that proposed legislation.

Of particular concern is the issue of "one share/one vote". There is no provision in the Proxmire bill requiring that standard and that omission effectively disenfranchises whole classes of stockholders. One share/one vote is not, as some would argue, a question of state's right in their control of corporate governance. It should be a listing standard for any publicly held corporation traded on any national stock exchange. The SEC is considering imposing that requirement but has not, as yet, done so. S. 1323 should be amended to include that requirement before the Senate votes on the bill.

There are other weaknesses in the proposed legislation including the allowance of "poison pills" and "greenmail". I would suggest that the language in the proposed House bill (Markey-Dingell) more adequately expresses the views of institutional investors.

As a member of the Banking Committee, you are in a unique position to ensure that the strongest possible legislation emerges from your deliberations. I urge you to consider amending S. 1323 before a vote is taken on this critically important legislation.

Very truly yours,

Paul F. Quirk,
Executive Director.

Fire and Police
Pension Association,
June 6, 1988.

Hon. Timothy E. Wirth,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

Dear Senator Wirth: As you know, representatives of the Colorado Fire and Police Pension Association (CFPPA) have taken the opportunity on many past occasions to express their views to you concerning legislation affecting pension plans in general and public pension plans in particular. It is my understanding that yet another legislative initiative of great interest to pension plan fiduciaries will soon be before the Senate for action. The bill is entitled The Tender Office Disclosure and Fairness Act of 1987, S. 1323.

As a public plan fiduciary and a significant investor in corporate securities, the CFPPA is greatly concerned with protecting the long-term interests of shareholders. While we believe S. 1323 is a step in the right direction, we would urge you to support the bill only if it contains certain additional provisions.

1. Greenmail. The current greenmail provision in S. 1323 is insufficient. We believe an amendment which would absolutely prohibit the payment of greenmail is essential.

2. Golden Parachutes and Poison Pills. S. 1323 as currently written has no provisions concerning these anti-takeover defenses. We believe that absent approval in advance by shareholders, these devices should be prohibited.

3. One Share-One Vote. It is essential that a requirement be added to the bill which adopts a one share, one vote standard. Unequal voting plans adopted by many companies to date result in disenfranchisement of stockholders.

4. Confidentiality of Voting Process. We believe the current proxy process should be changed so as to require confidential voting and independent third party tabulation of voting results. This will negate the ability of corporate management to unfairly influence the outcome of proxy votes and will reduce the system's vulnerability to fraud. S. 1323, in its present form, has no provision in this regard.

The CFPPA has appreciated your past support on the many important issues affecting pension plans which have come before you. Once again, we thank you for considering our concerns and urge you to support S. 1323 only if it contains amendments addressing those concerns.

If I can provide any additional information to you, please feel free to call me.

Sincerely,

Johnnie C. Rogers,
Executive Director.

Maitland, FL, *June 3, 1988.*

Senator Bob Graham,
U.S. Senate, Dirksen Building, Washington, DC.

Dear Senator Graham: I am one of your Florida constituents and find that you will be instrumental in deciding if we small shareholders will continue to get one vote for each share of common stock we hold in big business or whether big corporations and their officers will further destroy our rights to vote direction they take in deciding our investment's fate.

The stink of Wall Street with the poison pills, the insider trading, the broker's greed and deceit, officers of companies' feathering their own "nest", golden parachutes, manipulation of markets * * * and I could go on * * * all point to the moral breakdown of American capitalism.

As a consequence the small investor is Damned if he does * * * and Damned if he doesn't * * * try and play the investment "game" and you are seeing a lot of us sitting on the sidelines and "holding", afraid to buy because of what has happened in the last few years, and afraid to sell because you must sell through a greedy broker in a crazy market place.

If, as I have been advised, you truly have some impact in the "one share, one vote" concept that is still our right, for heaven sake, allow us to continue this American prerogative.

Thank you for any consideration you give this request.

Cordially,

R.E. Whiteside.

Naples, FL, June 6, 1988.

Senator Bob Graham,
Dirksen Senator Office Building,
Washington, DC.

Dear Senator Graham: As one of your constituents, I would like to comment on Senator Proxmire's Tender Offer Disclosure and Fairness Act of 1987, S. 1323.

Although this proposed legislation is a step in the right direction, I feel that it has it's shortcomings when it comes down to the average individual corporate stockholder.

The bill does not address the problem of greenmail and/or use of golden parachutes by corporate management. These items are most certainly abusive measures used to prevent take overs at a tremendous cost to the corporate shareholder. In many cases it rewards executive corporate mismanagement. S. 1323 should prohibit such measures without approval of the shareholders.

The public is more aware of the fact that shareholder voting rights are practically non existent, being primarily under the control of management, viz: counting of votes, spending sums of money to fight dissident stockholders and no opportunity to include their own nominees, etc. S. 1323 should address and correct such flaws in corporate management and should require independent tabulation of voting results and confidential voting in all corporate elections. There should be fair and equal access to corporate proxy materials for shareholders to nominate their own candidates for directors.

In my opinion, the foundation of corporate democracy is the one share, one vote principal. It seems that there is a great push by corporations to erode this principal for their own purposes, mainly to control without shareholder approval. S. 1323 should address this trend and require a one share, one vote standard for all public companies, possibly excepting those who have previously adopted a dual class voting plan.

In closing may I say that we shareholders are only requesting that which is fair for all parties concerned. Good management should be rewarded with proper approved compensation and shareholders should have a choice in the management of those corporations in which they have invested their hard earned dollars. I hope that, as my Senator, that you will use your efforts to help revise S. 1323 to include the revisions necessary to protect me and other shareholders.

Sincerely yours,

Boris Kramich.

The **PRESIDING OFFICER.** The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, before I yield to the Senator from Maryland and then I will move to table, I would like to point out in response to my good friend from Colorado those who are opposed to the amendment on the basis of the letters that they have written to us, it is opposed by the Governors, opposed by the AFL-CIO, opposed by the National Association of Manufacturers, opposed by the State legislators, opposed by the State attorneys general, opposed by the Business Roundtable, it is opposed by the Securities and Exchange Commission, and that was cited at great length by the Senator from Maryland and the Senator from Michigan.

Mr. President, I yield to my friends.

Mr. ARMSTRONG. Mr. President, before the Senator yields, it appears to me, and I do not want to put words in anybody's mouth, it appeared to me that the big guys are against the amendment, the shareholders and the pension funds are for it.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor, and he yields the floor.

Mr. SARBANES. Mr. President, I will be very brief because I know there will be a motion to table. The best sources to quote on this issue are the courts, which have had to pass on it. I am just going to quote out of two cases.

Moran v. *Household International, Inc.*, 500 A.2d 1346 (Del. 1985). The court upheld a shareholders rights plan with "flip-over" type provisions adopted as a preplanned defensive tactic. The court held that the rights plan was a reasonable defensive mechanism to protect the company from a coercive two-tier tender offer. In sum, the Household directors showed that they were well informed, had acted in good faith out of concern for the company and its shareholders, and had adopted a reasonable defensive mechanism to ward off a reasonably perceived threat to the company. The directors, therefore, were protected by the business judgment rule.

While upholding the adoption of the rights plan, the court did not relinquish the opportunity to review any future action or inaction by the board with respect to the plan. The court noted that the ultimate response to any actual takeover bid must be judged at the time it is made and that the valid adoption of the plan does not relieve the directors of their obligations and fundamental duties to the corporation and its shareholders.

Right on target. Here we are. We are allowing the courts to exercise judgment in those cases.

Mr. ARMSTRONG. Would the Senator yield for a question?

Mr. SARBANES. Surely.

Mr. ARMSTRONG. Is the Senator familiar with the Revlon case?

Mr. SARBANES. Yes, I am familiar with them.

Mr. ARMSTRONG. In those two cases, the courts found to the opposite.

Mr. SARBANES. That is right. I said in my statement earlier in some instances the courts have found these plans justified. In other instances, they have not. And that is the way the judgment ought to be made, I said to the Senator, instead of introducing the Federal Government into State governance and laying down exactly an absolute rule. The Senator is making my point: that the courts have been able to deal with this by exercising judgment in the individual instance. In some instances they have found the shareholder rights plans to serve the interests of shareholders. In other instances they have found that the directors have gone beyond the business judgment rule.

Listen to this case:

GAF Corp. v. *Union Carbide Corp.*, 624 F. Supp. 1016 (S.D.N.Y. 1985) (New York law). GAF commenced a cash tender offer for control of Union Carbide, with the intention of selling off assets of Union Carbide in order to repay the substantial debt it would incur to finance the acquisition. Union Carbide responded by (i) commencing its own exchange offer for cash and notes containing restrictions on selling assets of Union Carbide and (ii) amending its retirement plan to empower the board of directors to vest excess funding in the plan for the benefit of plan participants. The court concluded that the actions of the Union Carbide board were a reasonable exercise of business judgment to ward off a takeover that would have busted-up the corporation.

Mr. President, I submit that we ought to leave this issue of corporate governance at the State level where it has been and where the courts can make judgments in the particular case corresponding to the circumstances. There are other cases, as the Senator has pointed out, which I made reference to in my initial statement, in which the courts have overruled the directors. But there are cases in which the courts have upheld the directors. And that, in my judgment, is where the issue should be left.

Mr. METZENBAUM. Would the Senator from Maryland yield for a question?

Mr. SARBANES. Surely.

The PRESIDING OFFICER. The Chair must point out that the floor is retained by the Senator from Wisconsin, the chairman of the committee.

Mr. PROXMIRE. Mr. President, I hope we can bring this to a conclusion. We go on and on; everybody wants to get the last word. I am just as guilty as everybody else. But we have to vote now or we will have to put it off to about 3 o'clock.

Mr. METZENBAUM. Is it not a fact that in each of those cases or almost in every one of those cases where the courts have been able to intervene and indicate yes or no as to the fairness of the plan, those are cases which were not brought by individual shareholders because the individual shareholder cannot afford the cost of the litigation? But, rather, litigation brought by somebody who was attempting to take over the company? And does not your point prove our point, that if you are going to protect the shareholders you need this amendment which says that you cannot have a poison pill unless the shareholders have approved it? Just saying to them that they have the right to go into court is really a remedy without a reality because the reality is that the individual shareholder cannot afford to go into court.

Mr. SARBANES. I do not agree with that. The point I am trying to make and the reason I cited the case was to show that on the substance of the issue of the shareholder rights plans there have been a number of instances in which those plans have clearly served the interests of the shareholders.

This whole problem is created by the coercive two-tier tender offer.

Mr. METZENBAUM. Let us eliminate that.

Mr. SARBANES. We tried to limit that. We tried to limit that in this bill.

Mr. METZENBAUM. I am for that.

Mr. PROXMIRE. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion of the Senator from Wisconsin to table division I(b) of the amendment (No. 2374) offered by the Senator from Colorado.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Oklahoma [Mr. BOREN] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The PRESIDING OFFICER (Mr. KERRY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 57, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—40

Baucus
Bingaman
Bond
Burdick
Byrd
Chafee
Chiles
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Glenn
Gore
Graham
Heflin
Heinz
Kassebaum
Levin
Matsunaga
McClure
Melcher
Mikulski
Mitchell
Moynihan
Nickles
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Simon
Stennis
Wirth

NAYS—57

Adams
Armstrong
Bentsen
Boschwitz
Bradley
Breaux
Bumpers
Cochran
Cohen

Conrad
D'Amato
Danforth
Dole
Domenici
Evans
Fowler
Garn
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Lugar
McCain
McConnell
Metzenbaum
Murkowski
Nunn
Packwood
Pell
Pressler
Quayle
Rudman
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

NOT VOTING—3

Biden
Boren
Durenberger

So the motion to table division I(b) of the amendment (No. 2374) was rejected.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the division I(b) of the Armstrong amendment.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The chair hears none, and it is so ordered.

The majority leader is recognized.

Mr. BYRD. Mr. President, may we proceed now with the regular order.

MOTION TO PROCEED TO H.R. 1495

The PRESIDING OFFICER. Under the previous order, there will now be a period of debate to extend until 12:45 to be equally divided and controlled by the Senator from Tennessee, Mr. SASSER, and the Senator from North Carolina, Mr. HELMS.

Who yields time?

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, how much time do the proponents of the measure have?

The PRESIDING OFFICER. The Senator from Tennessee has 15 minutes and the Senator from North Carolina has 15 minutes.

Mr. SASSER. Mr. President, I yield myself 5 minutes.

Mr. President, many of our colleagues are under the impression that this is the first wilderness or parkland bill ever considered by the Senate with a difference of opinion or a conflict among the Senators from the affected States. This is not the case. At least twice in recent memory we have enacted such legislation over the objection of Senators from affected States. I am sure that our colleagues from Alaska vividly recall the 1980 Alaska wilderness legislation which became law over their objections. I see one of the Senators from Alaska on the floor today.

In 1977, Congress enacted wilderness legislation affecting both California and Arizona over the objections of former Senator Hayakawa.

I am also informed that Members of the California delegation opposed legislation creating Redwood National Park several years ago, but that legislation became law. So there is no ironclad rule. We are not setting a new precedent. We are not plowing new ground. We are pursuing the only remedy left open to us, a course that has been used in the past when negotiations have failed to satisfy all affected parties. And let us be clear about it. This package is the product of negotiations between all interested parties who would come to the bargaining table. This is no rush job. We have had numerous bargaining sessions over the past year and a half on this bill.

We also need to clarify a few points about the road that our distinguished friend, the senior Senator from North Carolina, wants to build on the north shore of Fontana Lake. The Senator from North Carolina suggested the road could be built for less than $500,000. What does the National Park Service say? The National Park Service estimates the road authorized by the Helms bill would cost at least $4 million for construction. That is construction alone. Add annual maintenance to this mountainous terrain and you could see the cost literally skyrocket.

Second, it is suggested that the only reason the road was not built is because self-proclaimed environmentalists are holding the road up. Let us check the record. Several studies have been conducted by individuals associated with the National Park Service, the power company, Tennessee Tech University, Clemson University, U.S. Fish and Wildlife Service, and Oak Ridge National Laboratories all pointing out the damage that such road construction would occasion. This hardly fits the description of rabid environmental activists holding up construction of this road.

We have William Penn Mott, Director of the National Park Service, stating flatly that he opposes the building of this primitive access road. I ask my colleagues: Is William Penn Mott the environmental radical that the senior Senator from North Carolina suggests as stopping this road? Would an individual appointed by the Reagan administration be a party to a political act to stop this road? I do not think he would, Mr. President. I think my colleagues share that view.

The Park Service knows there are sound economic and environmental reasons for not going ahead with this road. The Senator from North Carolina further suggested that this bill has a distinctly Tennessee bias. He even argued that on Tennessee's side of the park all of the ancestral cemeteries are accessible by automobile.

Well, our distinguished friend, the junior Senator from North Carolina, set the record straight on the depth of support for this measure in North Carolina. The bill enjoys broad support from both States. Moreover, there most certainly are cemeteries on the Tennessee side of the park that can only be reached by foot.

I would wager that these types of family cemeteries exist throughout many of our national parks. Certainly in the Shenandoah National Park there are a number of such family cemeteries.

The PRESIDING OFFICER. The Senator has used the 5 minutes he has yielded himself.

Mr. SASSER. Mr. President, at some juncture, I would like to yield some time to my colleague from Tennessee if he so wishes. Could he give us some idea of how much time he might wish?

Mr. GORE. Ten minutes.

The PRESIDING OFFICER. The Senator has 8 minutes and 30 seconds remaining.

Mr. SASSER. I yield my junior colleague from Tennessee 6 minutes. I would like to reserve some time for our distinguished friend from North Carolina.

The PRESIDING OFFICER. The Senator from Tennessee, [Mr. GORE] is recognized for 6 minutes.

Mr. GORE. Mr. President, first of all let me thank my distinguished senior colleague for yielding this time. I want to thank him for his leadership and his years of work on this issue. I also wish to thank my friend from North Carolina, Senator SANFORD, for his leadership and cosponsorship of this important bill.

Mr. President, I am hopeful that the Senate will take up the Great Smoky Mountains Wilderness Act. This legislation has been delayed for many years in its adoption, but is necessary for the protection not only of the 465,000 acres directly affected, but also for the entire Great Smoky Mountains National Park. I commend my colleague and friend, the senior Senator from Tennessee [Mr. SASSER], for his leadership and years of work on this issue, and I also thank my friend from North Carolina [Mr. SANFORD] for his leadership and co-sponsorship of this important bill.

The need for this legislation can be understood more fully when the history of this magnificent park is considered.

I will elaborate in the RECORD on the history of the park.

Let me just say at this point briefly that the Great Smokies represented a new direction in national park policy in the 1920's. The 18 national parks then in existence in the West had been created from lands already owned by the Federal Government. In the Great Smoky Mountains, the lands authorized for park purchase beginning in 1926 were all in private ownership in more than 6,600 tracts.

So, this was a new departure. The States of Tennessee and North Carolina eventually had to get in and do the purchasing themselves and donate the land to the Federal Government.

The lion's share was owned by 18 timber and pulpwood companies, but 1,200 other tracts were farms. There were also more than 5,000 lots and summer homes. Many of these had been won in promotion schemes, and their owners had never bothered to pay taxes on them. This created an awesome land acquisition headache.

The Federal Government would not purchase land for national parks in those days, so in 1927 the Tennessee and North Carolina legislatures each provided for appropriations of $2 million to purchase the land. The John D. Rockefeller family supplemented the fund drive with a $5 million donation. This was considered one of the biggest and most important accomplishments of the entire national park movement. Eventually, the two States purchased the needed lands and donated them to the Federal Government.

It took years to finish the job of acquisition. Despite the tremendous impact of human land use in the Smokies, however, the most extensive virgin forest in the eastern United States is found in this park. Forest recovery is well underway throughout the park despite the former blight left by destructive logging practices, subsequent forest fires, overhunting, overfishing, overgrazing, and landslides and other forms of erosion. Now, about 60 years after the establishment of the park, wilderness is again in the ascendancy.

So, the legislation being considered today is a natural step in the progress of the Great Smoky Mountains National Park. Under the provisions of this act, most of the park will be set aside as wilderness area. This long has been advocated by environmentalists, foresters, community leaders, park officials, and citizens who know and love this park. And it is very important to note that this bill will not result in major changes in the administration of the park. It will designate as wilderness those lands classified as such in the January 1982, general management plan for the Great Smoky Mountains National Park. So this bill would serve to protect the way the park is already being run.

Every conservation and environmental group supports this bill. It passed the other body without a single dissenting vote. It has a very broad base of bipartisan support. My predecessor, the distinguished and highly-respected former Senate Republican Leader, Howard Baker, sponsored a similar wilderness bill; and as White House Chief of Staff, he helped put the administration on record in support of the wilderness proposals. The only opposition that I have heard has come from a very tiny, but vocal, minority that insists on the construction of an environmentally damaging, unnecessary road on land above Fontana Lake. This legislation repays Swain County, NC, for the failure of the Government to build such a road. Indeed, the Swain County Commissioners, the elected representatives of the area affected by the road issue, have endorsed this bill unanimously. I will speak more directly about objections to the bill in a moment.

Mr. President, the Great Smoky Mountains National Park is not only an immensely popular tourist attraction, it is a unique national asset which merits preservation. Acres of wilderness in the eastern half of the United States are few in number and dwindling. I view this bill as an opportunity to protect this park and its resources, including plant and animal life found nowhere else. No substitute which would reduce the amount of acreage to be protected would be acceptable.

Now, let me address the objections to this bill in more detail. It would be a shame if years of effort and hard work and compromise go to waste because of a very small group demands the construction of a "road to nowhere"—a road that is not needed, is not wanted by the local government, has no economic value, and will cause severe environmental damage.

In fact, Mr. President, an attempt was made to construct this road, and 6 or 7 miles of it was built. But work was abandoned in 1961, and for good reason. Landslides hampered the work, and the project was tremendously damaging environmentally. Formations of highly acidic rock are in the area; and when uncovered by road builders, this acidic material washes into nearby streams and kills them.

Those who are familiar with this part of our country can take you and show you streams that used to have fish in them that are dead today because of acidic flows like the ones that would be caused by the construction of this road.

The road that was intended for Swain County in the 1943 agreement would cost millions of dollars to build. Yet, the senior Senator from North Carolina claims that he would be satisfied with an access-type road—a road similar to those used by loggers—that would cost less than half-a-million dollars. Certainly, such a road is not what was conceived by anyone in 1943. Indeed, such a road would be absolutely useless to the needs of Swain County, NC.

The senior Senator from North Carolina has made much of the disparity between the tourism revenue of Tennessee and that of North Carolina. Surely he does not suggest that hacking a primitive logging road through the woods north of Fontana Lake would enhance tourism for Swain County. Mr. President, I suggest that such a road would have the opposite effect.

As for cemetery access, let me reemphasize to my colleagues that those families who have cemeteries in this area are guaranteed access forever by boat and four-wheel drive vehicle. This right of access is guaranteed by the very legislation we are considering today. The cemeteries themselves are excluded from wilderness designation.

Mr. President, there are family cemeteries all over the Great Smoky Mountains National Park. Most are accessible only by walking. The North Shore Cemetery Association families will be guaranteed by law what many families will never have.

On one other important point, Mr. President, my distinguished colleague from North Carolina has hammered home his belief that no matter what the consequences, this Government must "keep its word" as written in 1943. The agreement of 1943 was intended to compensate Swain County—and let me emphasize that Swain County and not the cemetery association was to be the beneficiary of the compensation. In 1943, a road was considered fair compensation. Today, as this small and very poor county struggles to provide basic services to its people, its local officials know that a "road to nowhere" would do them no good. They deserve a cash settlement—no one disputes that—a settlement that will pay for the unbuilt road and retire the county's outstanding Farmers Home Administration debt. This bill provides that compensation, and—more so than building a road—fulfills the intent of that 1943 agreement.

I urge my colleagues not to be deceived—the 1943 agreement was with Swain County, and Swain County wants the settlement we have worked so hard to provide. I ask unanimous consent that a letter to me from the Swain County Commissioners in support of H.R. 1495, and a unanimous resolution from the Swain County Commissioners in support of this bill and the cash settlement be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

March 21, 1988.

Senator Albert Gore, Jr.,
Washington, D.C.

Dear Senator Gore: Recently the Great Smoky Mountains Wilderness Bill (HR1495) received a favorable recommendation from the Senate Energy and Natural Resources Committee.

Approximately one-half of the Great Smoky Mountains National Park lies in North Carolina and is Swain County's most outstanding natural resource.

Swain County Commissioners unanimously support HR1495 and we strongly urge your active support in getting it to the Senate Floor and your vote for its passage.

We feel HR1495 is a feasible way to terminate a forty-five year old controversy between the Federal Government and Swain County. The 1943 Agreement between Swain County and the Federal Government promised a road in return for the right to flood the only road leading into the 46,400 acre areas. This flooding was necessary when Fontana Dam was built to generate hydro-electric power for Aloca at Oak Ridge, Tennessee, during World War II.

The funding structure of HR1495 appropriates to Swain County $11,100,000 in lieu of a road, which the Federal Government has not opted to rebuild since 1943. It provides a reasonable compromise compensation to Swain County that can be used to maximize the return on the investment of the $11,100,000.

This settlement will stimulate economic development, provide cash to pay for desperately needed infrastructure improvements to a small, poor county and the interest from the $11,100,000 could help pay for rebuilding deteriorated education facilities. It also settles a long standing dispute that has divided and traumatized Swain County for forty-five years.

The Bill addresses various concerns relating to appropriate cemetery access, Fontana Lake usage, and buffer zone restriction. It insures that the cemeteries will continue to be managed as they currently are with no additional restrictions being imposed.

The Great Smoky Mountains National Park attracts millions of visitors every year. From these visitors our economy is sustained. The people of Swain County led the movement to create a beautiful park for the rest of the world to enjoy and it provides a magnificent backdrop to Bryson City and the Cherokee Indian Reservation. Wilderness designation puts into law current management practices to which we have been accustomed for many years. We believe the Park, with adequate funding from the Federal Government, will continue to concentrate on quality development that will enhance and encourage the continued enjoyment of the park as it is currently used. This development will provide a positive economic impact on Swain County that is badly needed now and in the future.

Eighty-four percent of Swain County is owned by the Federal Government imposing a low tax base and chronic high unemployment. A settlement of Federal obligation dating back to 1943 is sorely needed. Our economic survival is at stake and we ask you to help us. We thank you and respectfully request your support.

Sincerely yours,

James L. Coggins,
Chairman.
Mercedith Bacon,
Commissioner.
Dr. R. Max. Abbott,
Commissioner.

Resolution

The Swain County Commissioners, during regular session, did conduct the following business:

Whereas, on October 8, 1943 Swain County, the State of North Carolina the Tennessee Valley Authority and the U.S. Department of Interior entered into that certain agreement which commonly came to be known as the "1943 Agreement", and the same is attached as Appendix "A"; and

Whereas, the U.S. Department of Interior in 1949 did commence construction of the North Shore Road and completed approximately a mile in length leading from Fontana Dam; and

Whereas, construction work on the North Shore Road ceased until the State of North Carolina agreed in 1959 to construct a road from Bryson City to the Great Smoky Mountain National Park boundary and thereby causing the U.S. Department of Interior a year later to resume construction; and

Whereas, the parties to the 1943 Agreement (or assignees) did attempt to enter into an agreement in 1965 that proposed a 34.7 mile transmountain road in exchange for construction of the North Shore Road, and construction of the North Shore Road has been terminated at the end of the tunnel completed in 1969; and

Whereas, the Department of Interior to date has not been able to discharge its obligations under the above-mentioned contract; and

Whereas, the parties of the above-mentioned contract did in October, 1979 establish a Study Committee to make recommendations for a resolution of the 1943 Agreement; and

Whereas, the Study Committee did make recommendation, and based upon said recommendation the Swain County Commissioners, taking into consideration the recreational-economic potential of Swain County immediately adjacent to the Great Smoky Mountains National Park and national interest of the park's preservation, endorsed introduction of House Bill 8419 as introduced by the Honorable Lamar Gudger attached hereto as Appendix "B" and approved by the then Secretary of the Interior Cecil Andrus as the resolution to the 1943 Agreement; and

Whereas, said above legislation was introduced in the U.S. House of Representatives and like legislation in the U.S. Senate during a lame duck session was not passed prior to Congress recessing; and

Whereas, Senator Baker and Senator Sasser of Tennessee co-sponsored legislation in the United States Senate and a portion of Senate Bill 1947 provided for an equitable resolution of the 1943 Agreement and was not passed during the 1984 Session; and

Whereas, Congressman Duncan of Tennessee and Congressman Clark of North Carolina co-sponsored legislation in the United States House of Representatives and a portion of House Bill 4262 provided for an equitable resolution of the 1943 Agreement and was not passed in the 1984 Session; and

Whereas, Senator Sanford of North Carolina and Sasser and Gore of Tennessee have introduced legislation in the United States and a portion of Senate Bill 693 does provide for an equitable resolution of the 1943 Agreement; and

Whereas, Congressman Clarke of North Carolina introduced legislation in the United States House of Representatives and a portion of House Bill HR1495 does provide for an equitable resolution of the 1943 Agreement; and

Therefore, based on the foregoing, the Swain County Commissioners do hereby endorse and support the passage of the bipartisan legislation currently pending before Congress, to-wit Senate Bill 693 and House Bill HR1495; and

Furthermore, the Swain County Commissioners strongly encourage not only the North Carolina Delegation, but all members of the U.S. Congress, to end this much over due Settlement of the "1943 Agreement" by passage of Senate Bill 693 and House Bill HR1495.

Mr. GORE. Mr. President, I also ask unanimous consent that a statement by Senator Howard Baker, the former Republican leader, endorsing identical legislation be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of Senator Howard Baker

Mr. Chairman: I want to express my appreciation to the Committee on Energy and Natural Resources and its Subcommittee on Public Lands and Reserved Water for both agreeing to conduct this hearing today on an issue of great importance to my region of our Nation and also for allowing me to submit my remarks to the committee in writing. Were it at all possible for me to have altered my schedule to present these remarks personally, I would have surely done so. And in that regard, I particularly want to thank the distinguished chairman of the subcommittee, my good friend and colleague from Wyoming, for his customary courtesy and accommodation.

And as much as I wish I could be with you today in person to press my case for the passage of Senate Bill 1947, I am comforted by the knowledge that Tennessee Governor Lamar Alexander is testifying today in support of this legislation. Governor Alexander, who I might add is quite simply the finest chief executive Tennessee has ever had and who, not unrelatedly I trust, once served on my staff, is as passionate and forceful an advocate of issues relating to the protection of the Smoky Mountains as has ever been.

Among the many things Lamar Alexander and I have in common is a shared reverence for the Smoky Mountains. We were both born in the shadows of the Smoky's scenic splendor. We both spent substantial portions of our youth amidst the pristine magnificence of these mountains, valleys, rivers, and streams. We both maintain our permanent residences in the area of the Smoky Mountains. And finally, we both draw our energy, our inspiration and our strength from these rugged, unspoiled mountains and the rugged, unspoiled and wonderful people who inhabit this portion of our state.

So you can see, Mr. Chairman, that Governor Alexander and I have a zeal and fervor about us when the topic is the Smoky Mountains. I know the Governor will address the issues before this committee with his customary eloquence and in detail, but I also want to take this opportunity to make a number of observations myself.

As I have indicated, I was most delighted to join my distinguished colleague, the junior senator from Tennessee, in sponsoring Senate Bill 1947 for a number of reasons.

None of those reasons, Mr. Chairman, is more compelling than the issue of the federal government's obligation, clearly intended and clearly stated, to the citizens and government of Swain County, North Carolina. Both Senate Bill 1947 and Senate Bill 2183, offered by my able friend and colleague, Senator Helms from North Carolina, concur on this issue. Simply put, the government committed, in 1943, to construct or pay for the construction of a road in this county to replace one which was flooded by the creation of Fontana Lake. The value of that road to the county has been agreed upon as $9.5 million. The county has not been compensated by the federal government for this obligation, and it is time we square that debt, as we say in Tennessee. Both the bills before the Subcommittee would do just that by authorizing an appropriation in the amount of $9.5 million in settlement of such claims as may exist.

There exists, Mr. Chairman, another issue of the construction of a road, that above the north shore of Fontana Lake, to the Hazel Creek area of the park, which is called for in Senator Helms' bill, but not in the legislation offered by Senator Sasser and myself, I would only say that I applaud the diligence with which Senator Helms' represents his constituents. However, it is my understanding, based on information provided by the Park Service, that such a road may create significant environmental problems in a very sensitive ecosystem, and the costs of construction are indefinite and might run beyond the amount authorized. Consequently, I would hope that the Committee would carefully examine this proposal so that the best interests of both the park and the American taxpayer are served.

Finally, Mr. Chairman, with regard to the issue of how much of the Great Smoky Mountains National Park be declared a wilderness area and subjected to the protection therein, S. 1947 provides such a designation for 467,000 acres. I do not believe this to be an unduly large tract for such designation in the context of this park and this region of the country. I am well aware of the Chairman's views on such designations, but would respectfully suggest that, inasmuch as this is a national parkland, development or resource extraction is unlikely in any event. However, I recognize that reasonable men may differ and in the Senate often do. Senators Helms and East have offered a proposal which would exempt from wilderness designation roughly 67,000 acres which Senator Sasser and I have included in our approach. Rather than insist on one acreage figure over the other, it would be my sincere hope that agreement can be reached on some middle ground by all concerned parties. Perhaps the guidance of our esteemed Subcommittee Chairman could provide the means to that end. It is, after all, the protection of the unsullied grandeur of the Smokies which concerns all of us, and I believe there is substantial agreement among us that a wilderness designation would greatly enhance the prospects for such protection.

Thank you again for your indulgence and your consideration.

Mr. GORE. Mr. President, as for North Carolina support for this measure, I want to call my colleagues' attention to three editorials that appeared in North Carolina newspapers. The Greensboro (NC) News & Record in its editorial of March 27, 1987, entitled "The Road to Nowhere," says:

> We sympathize with those who have an attachment to their ancestral burying grounds. But since they are not denied free access, and since there is little chance that the road will ever be built, it's time to give Swain County the cash and leave the park alone.

The Charlotte Observer, in its editorial of January 7, 1988, entitled "Protect the Great Smokies"; and the Asheville Citizen, in its editorial of March 12, 1987, entitled "Settlement Delay Unfair to Swain County," that express North Carolina support for this bill.

I ask unanimous consent that all three editorials be printed in the RECORD in full.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Greensboro (NC) News & Record, Mar. 27, 1987]

THE ROAD TO NOWHERE

Tucked away in the Great Smoky Mountains of far western North Carolina is a six-mile stretch of road that some residents of Swain County call "The road to nowhere." The road runs north out of Bryson City, winds along the north shore of Fontana Lake and then, after passing through a tunnel cut in solid rock, ends abruptly.

Over the years, the road has generated more controversy than it is worth. The time has come for abandoning any hope that it will ever lead anywhere. A bill sponsored by Rep. Jamie Clarke of Asheville and Sen. Terry Sanford would compensate Swain County for the loss and declare much of the Smoky Mountain National Park as wilderness area. We hope the bill receives swift and favorable treatment in Congress.

In 1943 Swain County deeded 44,000 acres of land to TVA for construction of Fontana Dam and Lake. In return, the county thought it had a firm agreement for a government-built access road to almost two dozen cemeteries isolated by the new lake. Along the way, however, the government reneged on its promise of a road. A court later ruled that the government's commitment was contingent upon congressional appropriation of funds.

With the passing of time, Swain County commissioners have become convinced the road never will be built. Environmentalists strongly oppose the costly road because they say it will despoil a prime wilderness area and open it to campgrounds and other development. With development threatening the perimeters of many of the nation's national parks these days, it's hard to justify building another road in one of the most majestic and popular of those national treasures.

Commissioners are willing to settle for a lump sum payment and other concessions in return for giving up the road. They are opposed, though, by a group of citizens known as the North Shore Cemetery Association, who insist that the road should be completed.

Two bills introduced in Congress this session have revived the debate. They are almost a repeat of a 1984 scenario, when two proposals killed off each other. The Clarke-Sanford bill, which is also endorsed by Sen. James Sasser of Tennessee, would never complete the road. Instead, it would make much of the park a wilderness area, would authorize payment of $9.5 million to Swain County and would cancel a $1.6 million federal school construction loan to the county. The bill would also guarantee that the park service will continue furnishing access to the graveyards through free boat trips.

A second bill sponsored by Sen. Jesse Helms offers the same sweeteners, with one big difference: It would allow a "logging-type" access road to the cemeteries. Predictably, environmentalists see this as a foot in the door to further development on the park's fringes.

Swain County commissioners, who back the Clarke-Sanford version, point to the county's almost desperate need for additional income that would be gained from investment of the lump sum payment. The county suffers from a low tax base and high unemployment and cannot afford the luxury of another fruitless battle over the road.

We sympathize with those who have an attachment to their ancestral burying grounds. But since they are not denied free access, and since there is little chance that the road will ever be built, it's time to give Swain County the cash and leave the park alone.

[From the Charlotte Observer, Jan. 7, 1988]

PROTECT THE GREAT SMOKIES

The U.S. Senate is considering three bills that would designate most of the Great Smoky Mountains National Park in North Carolina and Tennessee as wilderness. One is a House-passed bill, sponsored by N.C. Democrat James Clark and Tennessee Republican John Duncan, making 467,000 of the park's 519,000 acres wilderness. Almost identical is a Senate bill sponsored by Sen. Terry Sanford, D-N.C., and Sen. Jim Sasser, D-Tenn. Blocking efforts to make one of those bills law is Sen. Jesse Helms, R-N.C., who has his own Great Smokies wilderness bill. Sen. Helms's bill would designate only 400,000 acres as wilderness and would authorize construction of a road to some family cemeteries in the western part of the park near Fontana Lake.

While we respect Sen. Helms for honoring a commitment he apparently made to some Swain County residents who want a road to the cemeteries, the House bill or the Sanford-Sasser bill would be preferable to his. The road Sen. Helms proposes is opposed by conservationists, by the National Park Service and by the Reagan administration because it would run more than 30 miles across steep ridges north of the lake, through the heart of the proposed wilderness. Preventing that sort of construction is precisely the reason a Great Smokies wilderness bill is needed.

The park service provides access to the cemeteries for family members and other interested persons 10 or more times a year at no cost. The trip, which takes about an hour, crosses Fontana Lake by boat and then uses a van to reach the cemeteries over long-established primitive roadways. Under the House bill or the Sanford-Sasser bill, that service would continue.

Those two bills also would resolve a long-standing dispute between the federal government and Swain County. In 1943 the park service agreed to construction of a road providing a new access into the park from Swain County. But the road was abandoned around 1961, after some seven miles were completed, because of landslides and because builders encountered formations of highly acidic rock that kills streams when it washes into them. Under either of the bills, the government would pay the county $9.5 million—the amount the county contributed to the road, plus interest compounded through 1980.

It is important that Congress pass a bill designating currently undeveloped areas of the park as wilderness. Sen. Sasser first introduced such a proposal in 1977, and a decade later the Great Smokies became the first national park ever to attract 10 million visits in one year. The very popularity of the park will bring growing pressures for development that would eventually begin to destroy its natural beauty and character. As Ron Tipton of The Wilderness Society says, "The only way to ensure a proper balance of preservation and use in the Smokies is to designate wilderness." Apparently even Sen. Helms doesn't dispute that.

[From the Asheville Citizen, Mar. 12, 1987]

SETTLEMENT DELAY UNFAIR TO SWAIN

Resolution of the north shore road controversy has waited years longer than necessary, and the delay has cost Swain County millions of dollars that it desperately needs. Those who have opposed a financial settlement should defer to the larger interests of Swain County residents and allow this matter finally to be put to rest.

Opponents include members of the North Shore Cemetery Association and Sen. Jesse Helms. Association members, working through Helms, have blocked a settlement because they want a road built to cemeteries that were cut off from convenient access when Fontana Lake was built during World War II.

The federal government agreed to build a road along the north shore of Fontana when it acquired the land. The purpose of the road was to provide economic benefits to Swain County. It would open more of the Fontana shore to development and compensate the county for roads that were flooded by the lake.

But when the area later became part of Great Smoky Mountains National Park, the lakeshore lost its potential for development—so the road was never built.

Although the road was not intended primarily to provide access to cemeteries left in the park, decendants of those buried there had counted on using it for that purpose. They felt cheated when plans for it were dropped.

Swain County felt cheated for a much larger reason: It never received the economic compensation the road represented.

The National Park Service offered to settle the issue in 1980 by giving Swain $9.5 million in lieu of the long-abandoned road. Members of the cemetery association, with Helms' help, have managed to delay any such agreement. They want a road of some sort, one whose only purpose would be to provide land access to the cemeteries. Access now is by boat across the lake and a slow trip by four-wheel drive vehicle.

A road is never going to be built. The slight benefits of a road to a few dozen families do not justify the environmental damage it would do to the park. In addition, the Park Service intends to manage that part of the Smokies as wilderness, which precludes road-building.

Last year the Park Service offered to guarantee access to cemetery association members if they would go along with a settlement. Then-Rep. Bill Hendon told them it was the best deal they were going to get.

Rep. Jamie Clarke and Sen. Terry Sanford have introduced legislation to complete the settlement. Their bills designate most of the park as wilderness, award Swain County $9.5 million in cash compensation and direct the Farmer's Home Administration to forgive a loan the county used in 1976 to build a high school. Annual payments of $130,500 on the loan extend to 2008. The Park Service remains willing to guarantee access to the cemeteries.

Supporters of the association say it is tragic that people have to go through so much trouble to visit their family cemeteries. The real tragedy is that Swain residents have been denied the settlement that was offered seven years ago.

Swain is an economically depressed county struggling to maintain minimal services, let alone develop its economic base. Unemployment ranges to 20 percent and above. The county desperately needs to build new school buildings and to make improvements to basic services.

Swain's annual property tax revenues total barely $600,000. Interest alone on the $9.5 million would exceed $700,000.

The county already has lost more than $7.5 million in interest and loan payments since 1980. Therein lies the tragedy: that a compensation package beneficial to so many has been blocked for so long, all because of the stubborness of a small group of people and one senator.

Swain residents overwhelmingly favor the settlement. County commissioners support it unanimously. Congress should let nothing, certainly not a single senator, stand in the way any longer.

Mr. GORE. The case is clear, the justice of the settlement is equally clear, there is no need to further delay this matter, and I urge my colleagues to permit a final resolution of this decades-old issue.

I commend to my colleagues' attention the editorials that I have included in the RECORD from North Carolina in support of the legislation. I hope we will vote cloture and take this bill up.

Thank you, Mr. President.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina controls the time.

Mr. HELMS. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Tennessee has 1 minute and 49 seconds.

Mr. HELMS. I yield 3 minutes to the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 3 minutes.

Mr. MURKOWSKI. Mr. President, reference has been made by the Senator from Tennessee to precedents set with regard to legislation of this type affecting my State of Alaska, and I believe reference was made to Hawaii as well.

I think we have a situation here where a precedent is being established within this body that is of great concern, and should be, to all of us, particularly those of us in the Western part of the United States, where much of our land mass is under the control of the Federal Government. It is obvious that we have a situation here where we have a substantive disagreement, but that is nothing unusual, when we have issues motivated by wilderness on one hand and a commitment on another.

Basically, a deal is a deal. A commitment has been made in good faith, initially, and the Federal Government has yet to deliver on that commitment.

As we look at situations with our own State of Alaska and applicable situations in other States out West, it is clear that in issues such as those addressed with regard to the environmental community, you do not have a quantifying formula of any consequence to resolve a situation. Those people who are motivated by the cause of more wilderness—and it is certainly an honorable and justifiable motivation—clearly want more. The balance is resolved, in most cases, through some type of consensus by the people mostly affected.

It is unfortunate that that has not been able to be resolved by the individual Senators from the State affected. But to suggest that these matters should be resolved in this body sets a precedent about which the junior Senator from Alaska is very concerned, because it simply becomes easier for the next time that a dictate is made by this body with regard to the utilization of land and the situation with regard to previous commitments that have been made which are suddenly overturned as a consequence of efforts of parties that cannot resolve the issue.

It seems to me that it would be much better to take the matter back and agree that further discussion must take place in order to try to get some type of resolution, because to bring it before this body simply sets a precedent that I do not think is in the best order of the Senate, nor of the State affected, nor of the Senators from that State.

Mr. STEVENS. Mr. President, will the Senator yield me 2 minutes?

Mr. HELMS. I yield.

Mr. STEVENS. Mr. President, Senator MURKOWSKI has stated what has happened in terms of the Alaska provision. Because of our great interest in matters such as this, I believe I have been involved in every instance that the distinguished Senator from Tennessee has mentioned—the redwoods and the other wilderness concepts.

I remember well the debate on the Alaska lands bill. When we reached the point of great impasse on the floor of the Senate, my good friend, the then-Senator from Washington, Scoop Jackson, with his great wisdom, pulled down the bill, took the bill to what, in effect, was a conference in his hideaway. That went on for 2 weeks—10, 12, 14, 16 hours a day. There were people in this hideaway working on this Alaska lands bill.

The final provisions of that bill were not totally to my satisfaction, but it was about 80 percent of what the Alaskan people sought to protect their rights and their interests and the commitments that had been made to them in the past.

As I understand what the Senator from North Carolina wants now, it is for the Federal Government to live up to the agreement that was made. I recommend that procedure to my friends from Tennessee. There is no question that had Senator Jackson not found a way to eliminate the dispute between the then-Senator from Colorado, Mr. Hart, and me—as a matter of fact, some of the dispute was between me and my colleague from Alaska at that time—the Senate floor would have been a very disagreeable place for months.

I do not believe that the Senate ought to take action which would make a commitment that has been made to individuals concerning developments of this type. Those agreements can be modified, and we modified a lot of them with regard to the Alaska land spill, but they were done with negotiations and a concern and a consideration for the people involved. It was not done roughshod.

I think the fact that the Alaska lands bill became law demonstrates that, because we could have stopped that bill. This bill may pass in terms of cloture now, but it will be stopped unless you work out an agreement.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HELMS. Mr. President, I will start today as I started yesterday, by saying that we can end any dispute or disagreement on this bill if there will be a compromise.

The distinguished Senator from Tennessee remarked this morning that the bill that is proposed to be pending before us is a result of years of study and compromise. Compromise with whom? There has been no compromise. That is the problem.

Then they enumerated various people in Tennessee who like this bill, Mr. President. Let me tell you who does not like this bill—the people of North Carolina do not like this bill.

Mr. President, I can go on down the list. Who does not like it? The State of North Carolina. I put a letter in the RECORD yesterday from the Governor.

The Cherokee Tribe. The chief of the Cherokee Tribe is in Washington, DC, right now, lobbying against this bill.

Others who do not like this bill are the North Carolina Parks and Recreation Council, the North Shore Historical Association, the Bryson City Board of Aldermen, the Graham County Commissioners, the Graham County Chamber of Commerce, the Cherokee County Commissioners, the Eastern Band of Cherokee Indians, 90 percent of the businesses in Bryson City, and more than 6,800 people in western North Carolina, including 3,700 who live in Swain County.

In addition, the National Veterans of Foreign Wars supports my bill over the Sasser bill. There are veterans buried on those ancestral cemeteries which are not accessible in any real way.

So let us not talk about compromise. There has not been any effort to compromise. That is why I plead with Senators once more to reject cloture this afternoon, so that Senator SASSER will be encouraged to try to work this thing out.

Because of the limited time of this debate, I could not yesterday, and I cannot today, go into much detail, but let me hit as many highlights as I can and elaborate on some of the points I tried to make yesterday.

To say that the people of western North Carolina are not concerned about this pending legislation which is the work of the Senator from Tennessee is just absurd. The people of North Carolina do not want this bill unless accommodations can be made.

These accommodations are twofold: First, leaving out of wilderness approximately 44,000 acres located north of Fontana Lake; second, authorizing moneys for a logging-style road north of Fontana Lake so that these people can continue to visit their ancestral cemetery.

The red herrings that have been dragged into this thing are bewildering to me.

If the Senator from Tennessee and the junior Senator from North Carolina are willing to make these concessions, they can have over 400,000 acres—including over 200,000 acres in North Carolina—placed into wilderness. But until these two minor concessions can be made, I will do everything I can to defend the interests of the people of western North Carolina.

Some Senators may think that consideration of H.R. 1495 is merely a struggle between North Carolina and Tennessee or between Democrats and Republicans. And some Senators are saying, particularly on the other side, "Well, I really don't have a dog in this fight." And so they will vote for cloture. I remind Senators, however, that allowing this bill to be considered by the Senate erodes the power every Senator has to protect the interests of his or her citizens. Never before, with the exception of an Alaskan bill—and the two Alaska Senators have just discussed that—has the Senate considered a bill placing land in wilderness unless and until all affected Senators agreed to the bill. It just has not been done.

Consideration and ultimate passage of this bill tells the powerful environmental groups that whatever they want, they will get. Let the people be damned. The Senator in the affected State has no rights or power to assure that his citizens' interests are protected.

If we let the powerful lobby get by with this thing, those Senators will have no right or power to assure that his or her citizens' interests are protected.

Ranchers, hunters, and farmers, and so on, will be at the mercy of these highly organized environmentalists who for the past 24 hours have used the phone banks calling every Senator's office and every other pressure that they can mount.

I heard on the Senate floor the statement that H.R. 1495 is a national issue and it represents what is best for all Americans. I might agree with that point which is why I disagree with the Sasser bill.

We heard all the figures from the Senator from Tennessee yesterday. Look at this: In 1986, 9.8 million people visited the Great Smoky Mountain Park. That is right. But of this number, 9.8 million, only 68,400 nights were spent at camp sites approachable by foot. That means that less than 0.7 of 1 percent of those who visited the park were backpackers, and those figures were about the same as 1987.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. HELMS. Certainly. I am glad to yield to my friend.

Mr. SYMMS. I thank the Senator for yielding.

I say I totally concur with what he is saying. In my State the figures are even much greater that the wilderness is not being used by people and recreation areas are. What people want are campsites and access so they can take their family out and enjoy the great outdoors, and we should be managing these lands.

And I would say to the Senator that notwithstanding the fat-cat environmentalist lobby that has so much money to try to lock up so much land in this country and deny people access to it, the day will come when enlightenment will prevail and the truth will prevail and people will realize the folly of denying land from use.

I might just say I had a speech I wanted to give this morning. I do not have time now. But I would like to quote the Senator what the Wilderness Act says about people and what it says is that it is a man apart from nature an ethic that had profound impact on the authors of the wilderness bill and the old Wilderness Act has proven they are denying homosapiens access to our land.

I think the day will come when we will realize the folly of this and some Congress somewhere in the future will reform at least the Wilderness Act to a more modified version where people can actually have access to this land and use it.

What good does it do to let the bark beetles, tusky moss, and forest fires take over and destroy our land when we have the technology to manage these forests and manage these lands in the fashion that we in fact can enjoy them and people can have a better life?

I totally concur with the Senator, and I am totally in opposition to this bill.

I thank the Senator for yielding and I support him and I hope all Senators will support the Senator from North Carolina on this cloture vote.

Mr. HELMS. Wilderness will shutdown development in the park. No more roads can be built; no more developed campsites can be built; no more visitor centers can be built.

In essence, the Sasser bill says to 99.3 percent of the park visitors that they will never be able to visit other areas of the park. The elderly cannot backpack; the handicapped cannot backpack; families with small children cannot backpack. These peoples' interests are put on the back burner for the sake of less than 1 percent of the visitors to the park.

So I agree with the Senator from Tennessee, Mr. President. Placing the Great Smoky Mountain National Park into wilderness is a national issue. And, quite frankly, Mr. President, if the 10 million visitors to the park knew exactly what wilderness designation was, they would be just as adamantly opposed to the Sasser bill as the 6,800 people of western North Carolina.

Just as this bill is unfair to the American public, it is unfair to the people of my State, Mr. President. The Park Service has told me that every cemetery in Tennessee is accessible by private vehicle. Visitors to the Tennessee cemeteries just call up the Park Service and they lower the chains and allow the visitors to use access roads to the cemeteries. In North Carolina, 30 of the 70 cemeteries are inaccessible by private vehicles and the people down there have to climb onto pontoons and cross Fontana Lake and then ride in whatever cart or vehicle the Park Service provides to the cemeteries.

This bill will kill tourism in western North Carolina. Tennessee's got its booming industry. Less than one-quarter of its land is owned by the Government. Tennessee's got Gatlinburg and Cades Cove which attracts thousands of visitors to its end of the park. Tennessee has two entrances to the park and two main highways running into the park.

North Carolina, on the other hand, has one entrance and one road. Furthermore, it cannot develop much of the land surrounding the park because over half of it has been taken by the Government.

Developing the park on the North Carolina side of the park is the only hope for a tourism industry in western North Carolina. The Sasser bill will end all development and will devastate the tourism in western North Carolina.

In closing, Mr. President, I make this one point. The environmentalists have made H.R. 1495 into the environmental issue of 1988. This bill is not going to protect the environment. The land affected by H.R. 1495 is already owned by the Park Service. It is not about cost. The Forest Service says it builds logging style roads for as little as $18,000 per mile.

The issue is about fairness and Senators' rights. It is about the government keeping its word and living up to its commitments. It is about the right of each and every Senator in this Chamber to protect the rights and interests of his or her constituency. That is what is at issue and that is what this Senator will fight for as long as there is a breath in him.

I urge Senators to vote against invoking cloture on the motion to proceed.

Mr. SANFORD. Mr. President, I rise to urge my colleagues to vote in favor of cloture on the motion to proceed to consideration of H.R. 1495, the Great Smoky Mountains Wilderness Act. We are deciding the fate of perhaps the greatest remaining natural area in the Eastern United States. We are deciding in a very real sense the future of Swain County, NC. The Senate ought to at least have the opportunity to consider this very important legislation.

Mr. President, we have precious little wilderness left in this country. It is sometimes argued that we have too much wilderness; too much land that is "locked up" in a State designed by nature and not by the hand of man. Nothing could be further from the truth. Only 1 percent of our land in the lower 48 States is now wilderness. In North Carolina, just three-tenths of 1 percent of our land enjoys such permanent protection. Even if the Great Smoky Mountains were not worthy of preservation—which they certainly are—it makes little sense to argue that our bill will somehow result in North Carolina being "locked up" by wilderness. If we pass H.R. 1495, North Carolina will still have less wilderness than the average State.

What is this bill all about? Mr. President, let us not become too distracted from the main issue. The Great Smoky Mountains National Park is a tremendous resource for all Americans. It is a national park, and its heritage belongs to all of us.

John Muir once said,

> The tendency to wander in the wilderness is delightful to see. Thousands of tired, nerve-shaken, overcivilized people beginning to find out that going to the mountains is going home; that wilderness is a necessity; and that mountain parks and reservations are useful not only as fountians of timber and irrigating rivers, but as fountains of life.

Mr. President, the Smoky Mountains are such a "fountain of life" which must be set aside for future generations to enjoy.

The Great Smoky Mountains have the highest peaks and deepest valleys in the East. They represent the largest virgin hardwood forest in the country. They possess an incredible biological diversity—some 400 species of animals and an amazing 1,500 species of plants. Black bear, bald eagles, and probably even the rare Eastern cougar can all be found within this mountain paradise. The Great Smoky Mountains National Park is one of the world's few places that has been honored as both a World Heritage Site and an International Biosphere Reserve.

Mr. President, Congress in 1964 established a wise policy of protecting and preserving our most outstanding natural areas by designating them as wilderness. Since 1964, we have done exactly that in a number of instances. The Smoky Mountains are clearly such an outstanding area, and we should protect them. This is what we are talking about here today.

I would remind my colleagues that H.R. 1495 is supported by this administration. We did not arbitrarily select the areas deserving wilderness designation in the Smokies; they did. I would remind my colleagues that this bill enjoys broad bipartisan support. Not a single member of the North Carolina delegation opposed this bill in the House; not one. In fact, not one Member of the House, Republican or Democrat, from anywhere in the country opposed this bill in the other Chamber.

Mr. President, I think I have adequately demonstrated in the past that H.R. 1495 does enjoy broad support in North Carolina. Nearly every major newspaper in the State has editorialized in favor of our bill, and none have opposed it. The important regional organizations in western North Carolina back our bill. If I may quote from an outstanding summary of these issues written by Will Curtis, the editor of the Asheville Citizen-Times,

> (Some) say it is only "Environmental groups" and outsiders who oppose the building of a road and who favor wilderness designation. I'm not an outsider. I want to see wilderness status for the Smokies. So do most other mountain people. The last time anyone took a poll on the question, Western North Carolina residents by a huge margin favored wilderness designation for the Park. Swain County residents support the proposed settlement overwhelmingly. Swain commissioners support it unanimously.

The settlement referred to by Will Curtis is included in our bill. The settlement provides a means for the Federal Government to make good its old debt to the county, dating back to 1943 when one of Swain County's roads was flooded by construction of Fontana Lake. The Government's legal obligation is to Swain County, and Swain County supports our bill. This is an important point, so let me repeat it: the Federal Government agreed in writing to compensate Swain County for the flooded road in 1943, and Swain County wants to settle the matter as provided for in our bill, not any other bill.

Mr. President, Swain County agreed to this settlement 8 years ago. The only reason it has not been fulfilled is because it has been blocked here in the Senate for the past 8 years. If that settlement had occurred in 1980, as the county desired, the county would have received $7.6 million in interest payments to benefit their school system and to invest in their future economy.

Swain County is not wealthy. It has the second highest unemployment rate in North Carolina. It has a low per capita income. It has a small tax base. Mr. President, Swain County desperately needs new revenues to invest in its future. Its school system has many needs. It needs to create incentives and infrastructure for new businesses. It cannot now do so.

H.R. 1495 would increase the county's revenues by 30 percent, and provide a permanent pool of funds to be used for its future. That future is very cloudy at present. H.R. 1495 will brighten that future considerably. If this bill is blocked again in the Senate, as in the past, the American people will have lost an opportunity to preserve a precious natural resource, and the schoolchildren of Swain County will have lost opportunities for a better future.

Mr. President, I have worked hard to address every possible concern about this bill. Our bill guarantees that a unique service provided by the Park Service to assure access to North Shore cemeteries will continue. Contrary to what some have suggested, there is no such special access or vehicle access to many of the 78 cemeteries on the Tennessee side of the park. Nor, to my knowledge, is such special transportation as the Park Service provides to North Shore cemeteries available anywhere else in the country.

There is no reference to cemetery access in the 1943 agreement. We should keep that in mind. The road the Interior Department tried to build was intended as compensation to Swain County, and was not tied to the cemetery issue in any legal sense. The courts have addressed this issue. However, there is a moral obligation to provide such access, and our bill does that. In fact, we have prepared a floor amendment that will not only guarantee such transportation, but will substantially improve it.

Mr. President, I have worked to address numerous other issues of local concern. We have worked to ensure that outstanding private rights in the North Shore area will be fully addressed, and our amendment will speak to that. We have worked to commemorate the history of the North Shore area, to exclude from wilderness any areas with historic value or development potential, to guarantee that current uses of Fontana Lake and all other areas will continue, and in fact to make sure this bill takes away no right or activity currently enjoyed by any citizen. We have made numerous changes in our proposal. Yet we have heard that unless we build an expensive and damaging road, and fail to protect some 44,000 acres considered vital by our own administration, we cannot have a bill.

Mr. President, if the Senate desires to give Swain County an extra $4.3 million, I will certainly support that. That is what the primitive road we have heard about would cost, not $400,000. But I suggest that if the Senate wishes to grant that extra $4 million, that it be put to use where it will benefit Swain County the most. It should go into the schools and economic development for the whole county, not for an environmentally damaging road that will bring no tourism and benefit but a few.

I ask unanimous consent that a letter from the administration detailing the cost of the primitive road be placed in the RECORD at this point along with some other information relevant to the building of a road through the area.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Atlanta, GA, June 10, 1988.
Hon. JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: This letter is written in response to your request for clarification of the National Park Service's estimate for construction of a primitive road along the north shore of Pontano Lake. You will recall that Director Mott testified at the wilderness hearings in June 1987 that such a road would cost an estimated $4.3 million to construct.

Director Mott's estimate was based upon figures compiled at your request in 1984. Our construction estimates for approximately 20-miles of primitive gravel road were as follows:

Planning, design, preconstruction surveys	$400,000
Environmental impact statement	100,000
Grading (and hauling)	2,000,000
Gravel base	1,000,000
Drainage (bridges and culverts)	400,000
Project inspection, supervision, surveys	400,000
Total	4,300,000

We have re-examined these figures and find that they still represent good ballpark figures for low-grade road construction standards.

We do not have appropriate information to comment on the U.S. Forest Service road construction estimates. However, they build primitive roads primarily for timber harvesting access using construction standards and methods that are generally less stringent environmentally and aesthetically than those used by the National Park Service.

I hope that this information answers the substance of your questions. Thank you for your continuing interest in the National Park System.

Sincerely,
ROBERT W. BAKER,
Regional Director.

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Gatlinburg, TN, April 23, 1987.
In reply to: A3815.
Hon. TERRY SANFORD,
Hart Building, Washington, DC.

DEAR SENATOR SANFORD: We have been asked to respond to your office on questions that have arisen concerning the wilderness proposal for Great Smoky Mountains National Park.

All wilderness proposals are limited to areas inside the Congressionally mandated Park boundaries and therefore no land is involved either on or south of Fontana Lake. As referenced on the map in the General Management Plan, the potential wilderness boundary approximates the high water level of the Lake. We have made no proposals to alter present boating use on Fontana Lake which is not managed by us but by the Tennessee Valley Authority.

There are major concerns surrounding any road construction in the Smoky Moutains because of the potential of exposing the Anakeesta rock formation which contains iron pyrite and heavy metals. Once Anakeesta rocks are exposed they oxidize, and acids and heavy metals are leached by rainfall. Documented evidence shows that the most severe impacts occur within stream courses, where polluted rainwater can kill all life in a stream.

When the Park transmountain road (441 from Gatlinburg to Cherokee) was realigned on the North Carolina side of the Park near Newfound Gap in 1963, a quantity of Anakeesta rock was uncovered. The leachates from the construction and resultant roadfill flowed into Beech Flats Creek and some 24 years later, there is still no aquatic life for the first mile of stream.

Documented studies of Fontana Lake sediments bear witness to concentrations of heavy metals which are leached from natural geologic origins, exposed rock and mine shafts. Sugarfork Branch on the Hazel Creek drainage is sterile of aquatic life forms as a result of abandoned copper mine runoffs.

There is good evidence to support the likelihood of encountering pockets of Anakeesta rock in the Lake area. Heavy metals have concentrated in the sediments downstream from disturbed areas on either end of the Lake, leaching from rock exposed by the construction of Lake Shore Drive on the east end, as well as from the mine shafts in the Hazel Creek drainage to the west. Equally as important, records also indicate the presence of other naturally exposed rock containing heavy metals in the area north of the Lake. Such indirect evidence points to a high probability of exposing more Anakeesta formation during construction of a north shore road.

Any road construction in the Smoky Mountains must depend on extensive cuts and fills. Because of the crumbling nature of the rock, the extreme tipping and faulting of layers and the interspersing of more solid layers with slick components like red clay, the rock is not stable, and constant problems of fill-sinking and cut-sluffing can be expected. These situations can be hazardous to visitors, as well as a constant and continual costly maintenance burden. The best example of these types of situations are evidenced by the I-40 Pigeon River gorge maintenance problems of the States of North Carolina and Tennessee.

The very necessity of extensive road cuts and fills to maintain grade specifications to standard would compromise, aesthetically, many of the very scenic reasons visitors come to the area. Unfortunately, there is also an inverse relationship between wildlife abundance, especially bears, and the number of roads in an area. With the quickly diminishing wildlife habitat outside the Park, maintaining the integrity of the Park interior becomes an even more critical need.

Again, we appreciate very much your interest and support for the Park. Should you or your staff have any further questions, we stand ready to assist.

Sincerely,

RANDALL R. POPE,
Superintendent.

U.S. DEPARTMENT OF INTERIOR,
NATIONAL PARK SERVICE,
Washington, DC, February 14, 1974.

Hon. ROY A. TAYLOR,
House of Representatives, Washington, DC.

DEAR MR. TAYLOR: Thank you for your inquiry in behalf of Mr. Odell Shuler of Bryson City, North Carolina, requesting a breakdown of National Park Service funding for the Bryson City-Fontana Road in Great Smoky Mountains National Park.

A recapitulation by project segment of the $5,744,300 appropriated to date for the Bryson City-Fontana Road is provided below:

Segment description	Amount	Fiscal year
From the park boundary near Bryson City to Canebrake Creek (2.5 miles). Completed in August 1963	$580,000	1960
From Canebrake Creek to Noland Creek (2.1 miles). Completed in August 1965	1,257,000	1961–62
From Noland Creek to a point 500 feet beyond the tunnel at Tunnel Ridge (Terminus 9A3) (1.7 miles). Construction includced a bridge across Noland Creek and a 1,200-foot tunnel. Completed in September 1970	1,162,000	1966
	795,000	1967
	1,200,000	1968
Project planning for the next 2.3 miles, from Terminus 9A3 to Forney Creek, including the tunnel portals for the 1968 project	35,000	1970
From Terminus 9A3 (vicinity of tunnel) to Forney Creek (1.2 miles), including tunnel portals. $255,000 for the tunnel portals portion obligated in June 1973; to date the project is 70 percent completed. $460,000 for road construction portion unobligated as of this date; plans are completed for this portion, but construction is delayed pending approval of environmental impact statement	715,000	1972

I appreciate your continued interest in Great Smoky Mountains National Park and hope this information satisfactorily responds to Mr. Shuler's inquiry.

Sincerely yours,

RONALD H. WALKER,
Director.

Mr. SANFORD. Mr. President, one of the finest public servants in Washington is William Penn Mott, the Director of the National Park Service. His comment on this whole thing several weeks ago to me was that it is just a shame that we have not settled with these people of Swain County in all of these years. We have done them an injustice and no wonder they are mad about it.

I think that goes to the heart of this bill. This county, deprived of its land, deprived of a great deal of its tax base, has been waiting now for years and years for a cash settlement that is properly provided in this bill. I think we can wait no longer.

For those who worry about the park somehow being changed and people somehow not being able to get in, I simply would remind them that all of the area to be designated wilderness has been treated as a wilderness for many years. So nothing will change in the way that the people can use it, the access to it, the availability of campsites; the right to go in and come out will be the same after the bill is passed as it was before.

So it is a great piece of conservation legislation, but beyond that the point I want to make is we have too long been unfair to the school children of Swain County, whose school system will benefit if we pass this bill.

Mr. President, it is time to protect this great wilderness area. It is time to settle this 45-year-old dispute. Let us allow this issue to be heard in the Senate.

I thank you and I yield any remaining time back.

The PRESIDING OFFICER. There is no remaining time.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2 p.m.

Thereupon, the Senate, at 12:45 p.m., recessed until 2:01 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. MELCHER].

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of H.R. 1495, an act to designate certain lands in Great Smoky Mountains National Park as wilderness, to provide for settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943, and for other purposes.

Senators Terry Sanford, Jeff Bingaman, Bob Graham, Barbara Mikulski, Wyche Fowler, John Melcher, Carl Levin, Don Riegle, Jim Sasser, Paul Sarbanes, Tom Harkin, Max Baucus, Bill Bradley, Jay Rockefeller, Daniel Inouye, Dennis DeConcini, and Tom Daschle.

VOTE

The PRESIDING OFFICER. By unanimous consent the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of H.R. 1495, an act to designate certain lands in the Great Smoky Mountains National Park as wilderness, to provide for settlement of all claims of Swain County, NC, against the United States under the agreement dated July 30, 1943, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. JOHNSTON] is necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Oklahoma [Mr. BOREN] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The PRESIDING OFFICER (Mr. SANFORD). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 42, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—54

Adams
Baucus
Bentsen
Bingaman
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Heflin
Hollings
Inouye
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Stennis
Wirth

NAYS—42

Armstrong
Bond
Boschwitz
Cochran
D'Amato
Danforth
Dole
Domenici
Evans
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Heinz
Helms
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Quayle
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

NOT VOTING—4

Biden
Boren
Durenberger
Johnston

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are

42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business and that Senators may speak therein, and that the period not extend beyond 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I thank the distinguished majority leader for allowing me to speak at this time, and I will not exceed my 8 minutes.

CONSULTANTS IN THE PENTAGON

Mr. PRYOR. Mr. President, last week, as a result of a hearing in my Subcommittee on Federal Services on the wild growth and lack of control over the consulting community, I announced that I would offer amendments to all of the pending appropriations bills to control the dark side of Government—the unseen consultant side of Government.

I will begin the process of identifying and cutting back consultant costs with an amendment to the Treasury, Post Office appropriations bill when it comes to the Senate floor later today, tomorrow, or sometime this week.

Mr. President, before we get to the Treasury bill and my cost control amendment, I want to take a moment to release new data, given to me this afternoon, 2 hours ago, by the GAO on the amount spent on defense consultants by the Pentagon—or, I should say, the American taxpayer.

This is timely, in light of the consultant scandal that is ravaging the Pentagon and the administration today.

As part of my subcommittee's investigation into consulting activities governmentwide, I asked the General Accounting Office to provide me with data on what the Pentagon is spending on consultants.

Just 2 hours ago, the results of GAO's audit were presented to me.

Mr. President, in fiscal year 1987, the Pentagon reported spending $155 million on consultant contracts. The GAO today reports that during last year, the expenses that were definitely attributable to Defense consultants actually totaled $2.8 billion—18 times the amount reported by DOD—and that the expenses that could be attributed to consultants within the DOD totaled $18 billion—120 times the amount reported by DOD.

Mr. President, some people seem to be interested in keeping this shadow government under wraps.

I ask unanimous consent that the text of this GAO summary be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRYOR. Mr. President, the Defense Department's own Inspector General has made similar findings. For example, in 1983, the Army reported spending $23,000 on consultants. However, according to the IG, the Army actually spent $2,764,000 on consultants. The Army estimate was 12,000 percent off.

The DOD obviously has been using a very narrow definition of the term "consultant" in reporting these figures. The $18 billion figure includes management reviews, technical assistance, special studies, management and support services for research and development and professional services.

But even that astronomical figure still does not show us the "dark side of the Moon" as far as consultant expenses are concerned. We still do not know or have any idea of how much the Pentagon today has built embedded costs into contracts for consultants and consulting activities within contracts. These embedded costs are consultant costs hidden in a larger contract, such as for the procurement of an aircraft, a tank, a submarine, or a missile system. We also know that, ultimately, these embedded costs, hidden or not, are paid by the taxpayers of this country.

Many press reports last week explained how former DOD officials go to work as consultants to large defense contractors. I am saying that it is possible that under Defense procurement procedures, the costs of many of the hefty payments made to these individuals and companies are embedded, or hidden—they are not seen on the surface, they are not reported, they are not monitored—in contracts that defense companies have with the Pentagon.

The DOD Inspector General says that embedded consultant costs should be identified and counted separately. Procurement people continue to disagree. I strongly agree with the Inspector General of the Department of Defense that these costs should be identified, out in the open, and counted separately.

Mr. President, who are these shadowy figures clinging to the Pentagon's coffers? Where do they come from? How many are there and how much are they paid? What controls do we have over their activities and whether they can retain high level security clearances? And what can we do to prevent further fraud and waste by consultants who may want to take advantage of their highly privileged situation?

These are some of the questions that my subcommittee on the Governmental Affairs Committee is going to investigate and hold hearings on in the weeks and months to come.

Most of all, we will try to focus the light of public scrutiny on the hidden corners of government—on the "dark side of the Moon." We will attempt to discern the problems and craft solutions.

Mr. President, the Pentagon is going to be undergoing a tremendous amount of embarrassing scrutiny in the days and months to come, in court, in the media, and in Congress. To be fair, however, we should not lose sight that DOD is not the only department that relies heavily on consultants. Nor is it the only department where there is a potential for fraud and abuse by those consultants and those firms.

Finally, we should keep in mind that some of the consultants out there are honest and have a legitimate job to do. The taxpayers of America should have no quarrel with these people. But we do have a quarrel with those consulting firms who trade on their cozy relationships in the most profitable "buddy system" in the world today, with Government officials, to win high-priced contracts that waste money or might otherwise go to better qualified companies or stay within the Government.

Mr. President, this is what we will be looking into and seeking to prevent in the future. I look forward to working with my colleagues on these very difficult and important problems.

Once again, as I did last week, I am serving notice that on each of the pending appropriation bills that will be coming before the U.S. Senate, I will attempt, not only to cap the number of consulting dollars that are being spent, but also to actually reduce the amount spent on consultants.

EXHIBIT 1

GOVERNMENT WIDE SUMMARY OF ESTIMATED FISCAL YEAR 1987 CONSULTING SERVICES OBLIGATIONS BY APPROPRIATION BILL

[In thousands of dollars]

Appropriations bill	4 categories[1]	7 categories[2]	Total
Defense/Military Construction	2,804,331	15,945,932	18,750,263
HUD	255,767	355,569	611,336
Labor	127,451	226,877	354,328
Foreign Operations	295,781	49,376	345,157
Energy	193,832	73,741	267,573
Transportation	227,807	21,864	249,671
Commerce	127,401	48,116	175,517
Interior	46,730	17,413	64,143
Agriculture	29,362	14,322	43,684

GOVERNMENT WIDE SUMMARY OF ESTIMATED FISCAL YEAR 1987 CONSULTING SERVICES OBLIGATIONS BY APPROPRIATION BILL—Continued

[In thousands of dollars]

Appropriations bill	4 categories[1]	7 categories[2]	Total
Treasury	28,770	8,974	37,744
Total	4,137,232	16,762,184	20,899,416

[1] Categories that involve consulting services.
[2] Categories that could involve consulting services.

Mr. PRYOR. Mr. President, once again, I sincerely thank the majority leader for allowing me this opportunity to speak.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business for not to exceed 10 minutes, Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

THE DROUGHT

Mr. CONRAD. Mr. President, first I want to thank the majority leader for making this time available.

Mr. President, I have just returned from my home State of North Dakota, where a number of other Senators and I, along with the chairman of the Senate Agriculture Committee, Senator LEAHY, took a tour of drought-affected areas of South Dakota, North Dakota, and Montana.

Mr. President, I want to thank the chairman of the Senate Agriculture Committee for taking the time to come to my State as well as the neighboring States of South Dakota and Montana, to see firsthand how serious the situation really is. I can not emphasize strongly enough the economic disaster that we face in the heartland. This trip provided dramatic testimony as to how desperately serious the situation really is.

I had been in my home State just 2 weeks ago. It was bad then. It is far worse now. The pastures in my State are like a moonscape. They never emerged from their winter dormancy. There is nothing in the pastures. The wheat fields will yield little if anything in this crop year.

We went into a wheat field south of the capital city of Bismarck, ND. The wheat is standing 4 inches tall when at this time of year it should be 2 feet tall. Four inches tall; and heading out, Mr. President, you could run a combine back and forth over those fields and you would not get a single bushel to harvest.

We are faced with an economic calamity, unmatched since the Great Depression. In my State, wheat, barley, and oat crops are already over half gone. If the skies opened up today, we will still lose over half of our crop. And with each passing day the situation becomes more grave.

The pasture conditions are the worst since they started keeping records in 1922. That is 66 years, and nothing equal to this in all of that time.

The economic effects on my State, Mr. President, have been estimated by North Dakota State University, the school that headquarters our agricultural economic experts, to be $2.7 billion. That is on a total gross State product, Mr. President, of just under $10 billion. Twenty-seven percent of our gross State product at risk. That is the magnitude of the disaster that we confront.

Immediate steps must be taken. We must, first of all, guarantee a level of deficiency payments to our farmers. It is a perverse result of the 1985 farm bill that as farm prices rise as a result of this drought, deficiency payments go down. So at the very time farmers do not have bushels to sell, they are also faced with an evaporating deficiency payment. Mr. President, that spells absolute economic disaster unless the Federal Government moves to help. That is what we face in my State.

In addition, Mr. President, we must have some form of disaster payment because, even if we got the deficiency payments equal to $1.50 or maybe $1.60 a bushel, we would be left with the shortfall between that and $4 or $4.50 a bushel that we would get under normal conditions.

Mr. President, a guaranteed level of deficiency, disaster payments, these are critical for just basic survival. In addition to that, we need immediate help for the livestock producers of our State. What has been done so far is not enough. It is just not enough, Mr. President. We asked for the opening of CRP acres and the opening of waterbank acres for haying and grazing. So far all we have obtained is the CRP acres opened for haying.

Mr. President, it is not enough. It is simply not enough. Our cattle are being sold in numbers that are 5 and 10 times what is normal. If we do not have immediate assistance that provides for haying and grazing of CRP and waterbank acres many ranchers and dairymen will be forced to sell their foundation stock. In addition to that, we need the Secretary of Agriculture to immediately implement the emergency feed assistance program which will allow farmers to buy from CCC inventories at 75 percent of the loan rate so they can feed livestock—if we do not find a feed source, they are going to send their cattle to slaughter. Mr. President, the result of that would be to sharply reduce cattle prices in the short term and to dramatically increase prices in the long term.

It is not just the rural areas that are on the line in this drought. No, it will not be just the rural areas that pay a price. It will be this entire country that pays the price.

In addition to the measures I have already outlined we should also, under the authority of the Secretary, immediately proceed to allow producers to extend all CCC loans instead of a continued callup of the farmer-held grain, which puts pressure on the farmers to give up the grain they have in inventory, letting that grain go to the Federal Government, ultimately the large grain traders Mr. President, if we do not act, then that grain will move out of the farmer's hands into the large trader's hands, and they will reap the bonanza of the increasing prices as a result of this drought.

(Ms. MIKULSKI assumed the chair.)

Mr. CONRAD. Let me conclude, and I acknowledge we have now had a change in the Presiding Officer.

Madam President, it is good to have you here. I am just concluding my review of what we saw in my State this weekend. The drought is the most severe that we have seen in anyone's lifetime in my State; an absolute disaster. We are faced with an economic collapse unparalleled since the Great Depression. We are calling on the Federal Government for help because there is no other way.

If my State is to survive economically, the Federal Government must move and move decisively to assist us. That is the difference between an economic collapse and survival. It is just that simple.

So, Madam President, tomorrow, along with my colleagues from other drought-affected States, we will be meeting with the drought task force to outline what is needed and what is needed now.

I urge my colleagues to be sympathetic, to have an open ear and to pay some attention because I can assure my colleagues this drought is so severe and so dramatic that all of us will be affected.

Tomorrow we will outline those things that must be done swiftly by the Federal Government if we are to avert an economic collapse in my State and the neighboring States of South Dakota, Montana, and, as I now understand, all the way to the southeastern part of the United States. We will outline the steps that must be taken by the Federal Government to avert that kind of collapse.

I want to, once again, publicly thank the chairman of the Senate Agriculture Committee. He could have been at his own farm in Vermont this weekend. I have been there. It is a beautiful spot. He could have been there with his family over the Father's Day weekend. Instead, he chose to come to our States to see first hand how serious the situation is.

As the chairman was getting back on the airplane to leave North Dakota, he said to me: "Senator, you have been telling me how serious this drought is. You have been telling me over and over." He said, "I knew it was serious. I had no idea it was this desperate."

Madam President, I ask unanimous consent at this point in the Record that an article that appeared in the State newspaper last week entitled "Dust Bowl on Horizon?" be printed in the Record.

In addition, Madam President, I ask unanimous consent that an additional newspaper article entitled "N.D. Drought Toll, $2.7 Billion To Date" be printed in the Record at this point.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Dust Bowl on Horizon?

(By Patrick Springer)

Rain—substantial rain—within the next five days to two weeks is crucial to salvage parched crops in the Red River Valley and many areas of North Dakota.

But the extended forecast issued Thursday calls for a resumption of sizzling temperatures with only a slight chance of rain this weekend.

Meanwhile, as grain markets reacted to the continuing drought and crop reports came in, the dimensions of what some are calling the worst drought since the Dust Bowl were becoming evident:

Futures prices on the Minneapolis Grain Exchange, which shot up the maximum 20 cents Monday, have continued to rise slowly. The high prices reflect widespread anxiety that grain supplies will be reduced by the drought.

A federal crop report issued Thursday rated average pasture and range conditions in North Dakota as only 38 percent of normal on June 1—the lowest ranking in the country and the state's worst since 1980.

A North Dakota Wheat Commission spokesman predicted Thursday that total hard red spring and durum wheat will be no more than 150 million to 170 million bushels—100 million bushels less than normal. "And that is probably optimistic," Mel Maier told The Associated Press.

For sugarbeets in the Red River Valley, the next five to 10 days will determine whether many farmers will get a good crop or only a fair crop, said Ron Hays, president of American Crystal Sugar.

Chances of a repeat of the bumper, 6.4-million ton sugarbeet crop of 1987 have long since evaporated; 140,000 acres have been replanted—some for the third or fourth time.

For the last two weeks, many surviving sugarbeets have been dormant due to a lack of moisture, which stifles yields.

The situation is serious from Grand Forks, N.D., south, Hays said. In dry, replanted fields where the tips are just emerging from the soil, the situation is dire. "Hell, those fields are nothing," he said.

Still, Hays tries to be optimistic. "If we lose 25 percent of what we have it's not the end of the world, but it's not good," he said. "I'm not preaching gloom and doom."

Nonetheless, the outlook for many small grains throughout most of North Dakota and much of northwestern Minnesota is gloomy unless significant moisture falls within the next five to 10 days, crop experts agreed.

The moisture window for row crops is longer—up to two weeks, according to many estimates.

"We're to the point now if it doesn't rain soon even the row crops that are already planted may not make it," said John Enz, an agricultural climatologist at North Dakota State University.

Even if good rains come along, small grain yields will be greatly reduced because of stunted plants crippled by the coinciding low rainfall, high winds and abnormal, 90-plus temperatures. The hot temperatures are as damaging as the lack of rain, increasing the need for moisture.

"We've already lost a lot of our yield potential," said Dallas Peterson, an NDSU agronomist. "The next five to 10 days are going to be very critical" for small grains; the next 10 to 14 days for row crops.

Roger Johnson, an agricultural economist at NDSU, said high grain prices could help offset losses farmers face from the drought—but he quickly conceded that is little concession for farmers unable to harvest a crop.

"Some people say that doesn't do any good unless you've got any yield," Johnson said of the high prices on grain markets. Still, "that's got to be somewhat of an offsetting factor."

Comparisons of the present drought to the dry years of the 1930s are premature, said Enz.

Moisture levels are below normal for most of North Dakota, with the worst areas in the northwest and southeast corners.

Fargo, one of the wettest areas, is experiencing the eighth driest September-May period on record, with 7.74 inches; the average is 11.47 inches. How does that compare with the 1930s? It was drier in 1934, when 7.31 inches were recorded, but wetter in 1936, with 8.20 inches. By contrast, the September-May period for 1979-80 was much drier—6.61 inches.

The difference, according to Enz, between the 1979-80 drought and the dry years of the 1930s: good rains fell during the growing season, salvaging crops.

The National Weather Service forecast for the Fargo area calls for highs in the mid 80s today and in the 90s Saturday, with breezy conditions and a 20 percent chance of thunderstorms.

"Your chances are rather slim for getting rain in any one spot" forecaster Bob Andersen said "The key word is still hot."

As a climatologist, Enz shied away from making a forecast. But he did say that weather patterns tend to hang around.

"It looks awfully dry," he said. "Dry weather tends to persist, more so than other weather."

[From the Grand Forks (ND) Herald, June 16, 1988]

N.D. Drought Toll $2.7 Billion to Date

(By Stephen J. Lee)

The drought already has cost North Dakota $2.7 billion, according to estimates of extension specialists at North Dakota State Univeristy.

That was the economic impact on the state as of 10 a.m. Tuesday—even if the rest of the summer is good for crops, according to livestock specialist Harlan Hughes, one of a dozen extension economists and agronomists who participated in the study.

"There will be a significant employment loss," Arlen Leholm, who headed the study, said. But he could not provide a number. He said that if such losses were sustained for several years, it could mean a loss of 28,000 jobs in the state, Leholm said.

Farmers get their income from two main sources—crop sales and government subsidies. The drought is drying up both sources, Hughes said.

NDSU agronomists figure that about 55 percent of the wheat and barley crops, and about 65 percent of the oats crop is gone. Row crops are in better shape.

Even with sharply higher recent grain prices, that figures to be a loss of direct cash from crop sales to the state's farmers of about $500 million, Hughes said.

The loss of that much spending in the economy by farmers will have an indirect impact of another $1 billion, the study concluded.

Meanwhile, government payments will be drastically reduced because they are pegged to make up for low market prices. Market prices have risen to the highest levels in years as the drought shrinks this year's supply of grain.

That means the "deficiency payments"—which are set to make up the difference between average market prices and a congressionally set target price—to farmers from Uncle Sam will be much lower than last year. The payments have become a major part of farm income in recent years, making up 30 to 50 percent of most farmers' incomes.

But Leholm said that current prices indicate that farmers will not receive any more of their 1988 deficiency payments. If prices go higher, they may have to pay back some of the advance payments made this spring when farmers signed up for the farm program.

That means North Dakota farmers will be out $400 million in deficiency payments this year, the NDSU study concluded. The indirect impact of that loss on the economy is another $800 million, Leholm, an NDSU agricultural economist, said.

"Even if rains do come now, there just won't be any wheat, barley or oats crop." Leholm said on ABC-TV's "Good Morning America" program, according to The Associated Press. Leholm spoke from a wheat field near Napoleon, N.D.

"It'll devastate the state," he said. "I'd anticipate a second wave of farmers will go under. We lost a lot of farmers to the very poor prices. Now, the drought will cause another wave of farmers to not make it . . . and many of those farmers are young, and it hits Main Street just as hard. On Main Street, it's going to really hurt all through the Plains states:"

The study did not include any losses to livestock producers, who may be forced to sell off their herds, or pay extra money for more expensive feed, Hughes said.

The analysis was prepared at the request of North Dakota Sen. Kent Conrad, who used the numbers in a Senate Agriculture Committee meeting with Secretary of Agriculture Richard Lyng on Tuesday, Hughes said.

Lyng made no promises of federal drought aid.

Conrad has invited Patrick Leahy of Vermont, chairman of the Senate Agriculture Committee, to tour North Dakota. Montana and South Dakota Saturday. North Dakota Sen. Quentin Burdick and Rep. Byran Dorgan are scheduled to join the tour.

Mr. CONRAD. Madam President, again, I want to thank the majority leader for this time, and I want to especially thank the chairman of the Senate Agriculture Committee for taking the time to come and see first hand for himself how desperate the situation is. I yield the floor.

THE PROCUREMENT SCANDAL

Mr. DIXON. Madam President, as a member of the Senate Armed Services Committee, I am deeply concerned with the revelations of yet another procurement scandal at the Department of Defense and the Department of the Navy. You all know the history better than I. Disclosures of $800 toilet seats and $400 hammers, were followed by reports of shoddy workmanship resulting in critical weapon systems that couldn't perform their missions. Further scandals involving massive cost overruns, and defective equipment throughout the military inventory jeopardize our readiness and ability to sustain ourselves in wartime. The common thread throughout is poor managment and leadership at the highest levels of the DOD.

I am the author of several important pieces of legislation that were designed to correct the deficiencies in the acquisition practices of the Defense Department. I introduced the legislation that created the Office of the Under Secretary of Defense for Acquisition. I wanted this office to be responsible for supervising the entire defense acquisition system, but the services resisted this essential reform. The Congress nonetheless authorized very direct and explicit responsibilities and duties for this position, but the Defense Department continued to resist necessary change.

When Richard Godwin resigned as the first Under Secretary of Defense for Acquisition in September 1987 he cited his associates and superiors lack of recognition of his authority over the acquisition and procurement process with the DOD. I have trusted in the assurances of the current leadership of the Defense Department that Mr. Godwin's successor will be allowed to exercise the full authority of that office as Congress directed. We will have to wait for the full story to unfold to know if the problems all occurred in the past before the Office of USDA was in full operation, or if they continue to this day.

In addition to the legislation creating the USDA, I sponsored amendments to last year's defense authorization bill that addressed other major issues that required review and correction. Both these amendments relate to reform of the defense procurement process, and I am sad to say they were opposed by elements within the Department who are now subjects of the investigation into procurement abuses. The first of these amendments clarified the appropriate relationship between the U.S. Government and its contractors and subcontractors involving technical data rights. The second amendment involved the appropriate policy for procuring production special tooling and production special test equipment. The key to this provision was that the Secretary of Defense was directed to issue regulations that are to be applied uniformly throughout the Department of Defense. I believe that the fair and evenhanded application of all defense policies and regulations, especially involving the complex world of acquisition, is essential to the elimination of abuses in the procurement process. This approach has been the essential driver behind the reforms I have proposed.

The key points of new legislation on the DOD procurement process are: It centralizes the authority and responsibility for the procurement process in the Office of the Under Secretary of Defense for Acquisition.

This would remove the procurement management decisions from individuals with vested interest in its outcome. The services will continue to determine what to buy, while the USDA will determine how to buy it. The USDA establishes procurement policy and directs its uniform implementation and promulgation to each of the services. This will enhance the oversight function by setting up a system of checks and balances between the services and the Under Secretary

The senior acquisition executives in each service will be appointed by the Secretary of Defense, in consultation with the Under Secretary of Defense for Acquisition, and subject to confirmation by the Senate. They will report to the USDA. They will be given responsibilities within the services paralleling the authority of the USDA.

Legislation will be proposed establishing parameters for contractors, consultants and Government personnel involved in the procurement process. This is intended to eliminate ambiguity and gray areas in dealings between contractors and Government procurement officials.

I will continue to push for procurement reforms as I have in the past. We cannot allow the corrective measures that I and my colleagues have labored long and hard on to be shunted aside in favor of "business as usual" practices. I will therefore sponsor new legislation to strengthen the role of the Under Secretary of Defense for Acquisition. The main intent of this legislation is to establish the Under Secretary of Defense for Acquisition as a true procurement czar within the DOD. We must centralize authority and responsibility for acquisition policy in a single office. The Armed Services Committee must hold hearings on the procurement practices of the DOD as soon as practicable. We cannot legislate against greed and corruption. There will always be some individuals who will put personal gain above all else. However, we must do everything possible to correct the inherent inefficiencies of the current system and to reduce the potential for abuse. We must eliminate the outlaw mentality that appears to prevail in some services, where rules and laws appear to have been made to be broken. The intent and letter of the law must be allowed to prevail over expediency and personal gain.

Mr. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

RECESS

Mr. BYRD. Madam President, I ask unanimous consent that the Senate stand in recess for 10 minutes.

There being no objection, the Senate, at 3:14 p.m., recessed until 3:24 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Ms. MIKULSKI].

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

MOTION TO PROCEED TO THE CONSIDERATION OF S. 430, RETAIL COMPETITION ENFORCEMENT ACT

Mr. BYRD. Madam President, I have several different possibilities for the Senate this afternoon.

I move that the Senate proceed to the consideration of Calendar Order No. 525. That is the vertical pricing bill.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The distinguished minority leader.

Mr. DOLE. Madam President, I understand, and I have discussed this with the distinguished majority leader, there will be, starting with the distinguished Senator from South Carolina, a number of speakers on the motion to proceed, and then perhaps a rollcall vote after we have had some debate on the motion to proceed. I think that is satisfactory with the majority leader.

Mr. BYRD. Yes. I want to thank the Republican leader also because he has been very cooperative in the effort to try to find something to go to this afternoon. There are several possibilities. This seems to be the one for the moment which is the most promising.

I was apprised that there would be an objection to going to it. Therefore, the motion to proceed is necessary. That motion has been made. I hope we can have a vote on it during the afternoon.

TREASURY-POSTAL SERVICE APPROPRIATIONS ACT, 1989

ORDER OF PROCEDURE

Mr. BYRD. Madam President, while the distinguished Republican leader is here, I ask unanimous consent that in the event the Senate should be in a position to proceed to the consideration of the Treasury-Postal Service bill today that the 2-day rule be waived.

The **PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

Mr. BYRD. I thank the able leader on the other side of the aisle.

I yield the floor.

RETAIL COMPETITION ENFORCEMENT ACT

Mr. THURMOND addressed the Chair.

The **PRESIDING OFFICER.** The Senator from South Carolina is recognized.

Mr. THURMOND. Madam President, I rise in opposition to the motion to proceed to S. 430, the Retail Competition Enforcement Act of 1987. This bill reverses the Supreme Court's 1984 holding in Monsanto versus Spray-Rite Service Corporation, and codifies the per se illegality standard for vertical price fixing. I am opposed to S. 430 because the Monsanto decision should not be reversed and it does not need clarification. S. 430 will not help consumers nor is it necessary to protect discount operations in this country. Finally, although I believe that vertical price fixing should be per se illegal, I am opposed to codifying the per se standard and forever barring judicial review of this issue.

In Monsanto, the Supreme Court held that a conspiracy to set vertical prices is not established by proof that manufacturer terminated a distributor following, or even in response to, price complaints by other dealers. The Court held that, "[S]omething more than evidence of complaints is needed. There must be evidence which tends to exclude the possibility that the manufacturer and nonterminated distributors were acting independently." I agree with the Supreme Court's holding in Monsanto. What the Court did was to develop an evidentiary standard that balances the Colgate principle of unilateral conduct against the use of circumstantial evidence to prove a conspiracy to fix resale prices. The Colgate case, as my distinguished colleagues will recall, holds that a manufacturer has the right to deal with whomever it wishes as long as it does so unilaterally. In my view, if we allow the existence of price complaints to be the only basis for a finding of a conspiracy, even if the dealer termination is in response to the complaints, we tip the scale against Colgate and erode a principle that has been one of the main foundations of antitrust law for many years.

The issue of resale price maintenance and vertical price fixing is an intersting one for me because I was strongly in favor of enacting the Consumer Goods Pricing Act in 1976, which repealed the "fair trade laws". While discounting retailers provide a benefit to consumers, I am not convinced that consumers will benefit from S. 430. I believe that this bill will cause an unnecessary increase in expensive and time-consuming litigation, the cost of which will ultimately be passed on to the consumer. Should this legislation be enacted, distribution networks will become inefficient and more costly because of manufacturer's fears of terminating an inefficient distributor, and manufacturers will be much less willing to deal with discounters in the first place.

Those who support this legislation argue that unless S. 430 is enacted, discount stores will be driven out of business. The facts indicate otherwise, however, and demonstrate that discount stores are flourishing. According to recent statistics, there are some 57 publicly traded discount companies, including K-Mart, Wal-Mart, Federated Department Stores, and Burlington Coat. From 1985 to 1986, discount store openings increased by 2.3 percent and sales increased by 6.3 percent. According to Discount Merchandiser, a trade publication, "[i]n terms of dollar volume, discount stores are the largest retailers of housewares and gifts, infants' wear, domestics, toys, small electrics, stationery and greeting cards. They are the second leading retailers of cameras and photo supplies, sporting goods and luggage, lawn and garden supplies, automotive accessories, and consumer electronics."

S. 430 would also codify the per se rule against resale price maintenance. Although I believe that resale price maintenance should be per se illegal, codifying this rule is neither useful nor effective. In recent years, there has been increasing criticism of the per se nature of the Dr. Miles rule against resale price maintenance. It has been argued that resale price maintenance, in some circumstances, may promote interbrand competition. It may enable a manufacturer to create attractive and inviting stores and showrooms. It may enable dealers to train sales personnel to provide technical advice and assistance to customers regarding complex or new products. Resale price maintenance may also deter some dealers from taking a "free ride" on other dealers' sales efforts. Economists have identified other reasons, which may be procompetitive, why a manufacturer might want to impose resale price maintenance. In view of this debate, this hardly seems the time to be locking in the rule against resale price maintenance. The courts should not be hamstrung this way.

The Monsanto decision was not reached simply by a majority of conservatives on the Supreme Court. Rather, with the exception of Justice White, who did not participate in the decision, Monsanto was decided by a unanimous court. There were no ideological differences between the Justices as to antitrust law, the law of conspiracy, or the evidentiary requirements necessary to prove a conspiracy. I would strongly urge all my colleagues to vote against the motion to proceed to S. 430, to allow the Monsanto decision to remain undisturbed, and to allow the courts, as they have always done, to fashion a per se standard where appropriate.

Madam President, I suggest the absence of a quorum.

Mr. METZENBAUM. Madam President, will the Senator from South Carolina withhold that?

Mr. THURMOND. Yes.

Mr. METZENBAUM. I ask my colleague whether he is putting in a quorum call in order that he may continue further with his opening statement.

Mr. THURMOND. There are some other speakers who are interested in this matter, and I want to give them a chance to speak.

Mr. METZENBAUM. Will the Senator indicate, so that we may advise others, whether he thinks we will be able to move forward this afternoon with the motion to proceed?

Mr. THURMOND. I cannot say how the vote will turn out. We are opposed to proceeding on the bill.

Mr. METZENBAUM. I respect the Senator's right to oppose the bill and his right to oppose the motion to proceed. My question is this: Would the Senator be willing for us to move forward on the motion to proceed and then debate the merits of the legislation after we get on the bill?

Mr. THURMOND. A number of Senators are so strongly interested in this bill that they even oppose the motion to proceed. I think there are 14 or 15 Senators who want to speak against the motion to proceed.

Mr. METZENBAUM. We have a large number of cosponsors on the bill. We have Senators RUDMAN, SIMON, and BRADLEY, who were the original cosponsors; and we have Senators DECONCINI, GRASSLEY, SPECTER, HUMPHREY, KENNEDY, PROXMIRE, DODD, FOWLER, WEICKER, MOYNIHAN, DURENBERGER, EXON, MIKULSKI, GLENN, KERRY, GORE, SASSER, LAUTENBERG, FORD, BINGAMAN, LEVIN, BOSCHWITZ, PELL, ROCKEFELLER, and ADAMS.

There are a large number of cosponsors, and I am prepared to speak to the subject, but if others want to speak, although I am also prepared to move forward with the motion to proceed, whatever is accommodating to the Senator.

Mr. THURMOND. Madam President, the distinguished Senator is welcome to go ahead and speak. There are some others who are coming over to speak. I have a list here of at least five who are coming over to speak as soon as they are able to get here. So he can go ahead with his speech.

Mr. METZENBAUM. This bill, more properly known as the consumers' rights bill, is probably as important a piece of consumer legislation as any that we will deal with in the session.

It has to do with a very basic and fundamental right, and that is the right to buy at less than the manufacturer's suggested retail price. It has to do with the right to buy in discount stores at as much as 30 percent off on clothing, 18 percent off on toys, and 20 percent off on electronics.

We have studied the issue. We sent people out in the field to make purchases. We know that as a fact that the ability to go out and shop at a discount operation does save the consumers money, and this bill protecting the rights of the consumers which we are particularly concerned about, can save the consumer on the average over $500 a year.

It concerns the prices that consumers pay and the choices that they have to make when they shop in a discount store. This is a compromise bill. It has worked out with bipartisan support.

I thank our colleagues on the Judiciary Committee for their cooperation and some who are not on the Judiciary Committee. Senators RUDMAN, BRADLEY, and SIMON who was on the committee. Chairman BIDEN provided us with expeditious committee consideration. Senators DECONCINI, GRASSLEY, LEAHY, SPECTER, HUMPHREY, and KENNEDY were a great help in the committee. The bill has two parts. First, it would establish a fair standard of evidence that if met would guarantee the plaintiff can reach the jury. It does not mean much to have a case if you cannot get the case to the jury. And under the recent Supreme Court decision and some previous decisions there is a question about the right to bring the case before the jury.

This bill would codify a 75-year-old rule that vertical price fixing is per se, that means automatically, illegal.

Vertical price fixing has to do with the manufacturer and the retailer agreeing to set resale prices. There is no reason for that. If you believe in the free enterprise system, if you believe that free competition should work, if you believe that people ought to be able to sell and buy in the free enterprise system with free competition, then you have to be for this bill. But if you think some manufacturers and retailers sitting in some high luxurious office should have the right to agree on what price the consumers in South Carolina, Ohio, Maryland, North Carolina, New York, or Texas have to pay for the products they buy, then you have to be opposed to this bill.

But if you think there ought to be free competition, free enterprise, then you have to be for this bill.

There is a whole host of groups that support this: The American Association of Retired Persons, the Consumers Union, the State Attorneys General, the AFL-CIO, the Consumer Federation of America, Public Citizen, the Small Business Legislative Council, and I want to point out that group particularly, the Small Business Legislative Council, a group of people who are in business, and they think that there ought to be a right to discount; the National Council of Senior Citizens, and the International Mass Retailing Association.

The House of Representatives has passed a companion measure not by a small margin but unanimously, every Member of the House in favor of it.

Let us talk about this bill for a minute. What is vertical price fixing? It is an agreement between the manufacturer and the supplier to fix prices. Vertical price fixing eliminates the retailer's freedom to set its own prices.

Think of what we are saying. We are saying that eliminates the retailer's freedom to set its own prices. I think everyone would agree on its face that a retailer ought to be able to sell his or her product at whatever price he or she wants to sell it. But no, no. Those who oppose this bill would give the manufacturer the right to agree to set the price, to set the price of the refrigerator, the clothes, the sweater, the electronic equipment, the radio, the TV, the VCR, or the toys for the children.

Why? Why would anyone argue that a retailer should not have the right to take a lesser profit and sell at a discount? But vertical price fixing eliminates the discounter's ability to charge lower prices. Vertical price fixing prohibits consumers from shopping around to get the best price for their products.

This bill prohibits vertical price fixing. It also establishes a fair evidentiary standard for vertical price fixing cases. That is sort of technical language—evidentiary standard for vertical price fixing cases. In sum and substance that means how much evidence you have to have in order to get the case to the jury.

If you cannot get your case to the jury you cannot make out a case. Currently, there is considerable confusion in the lower courts. Let me give you an example of the evidence a court would not let a jury see in some cases heretofore decided. A high-price store competing with a discounter tells the manufacturer its goods are going in the bargain basement and it is not invited to the store's trade show. The manufacturer then writes a letter to the high-price store saying that the discounter's lower prices are a situation that should not exist and which exists due to a mistake on its part. The letter promises to make every effort to see that the situation is rectified. The official from the high-price store tries to destroy all copies of the letter, hide the evidence, and the discounter is cut off by the manufacturer.

Sad to report the court refused to let the jury consider this damaging evidence of anticompetitive conduct.

The bill contains specific guidelines on when a jury gets to consider the case.

The bill does not guarantee that the plaintiff wins nor would I ever come forth with a piece of legislation to guarantee that the plaintiff wins. But give the plaintiff, give the consumer, give the retailer who is cut off a right to get his or her case to the jury.

The bill maintains the current rules of civil procedure in conspiracy law. The bill preserves unilateral right of business to deal with whomever it wants.

And then there is a second part of the bill. The second part of the bill codifies a 75-year-old rule that vertical price fixing is per se illegal.

Vertical price fixing equals an agreement between the manufacturers and the retailers to set, change, or maintain resale prices.

Since 1911 the Supreme Court construes our antitrust laws to absolutely prohibit vertical price fixing. Now some want to change this rule. Why would they want to do that? What could be more consistent with free competition and free enterprise than permitting the prices to flow freely in the marketplace?

This is not a Republican issue; this is not a Democratic issue. This is not a liberal issue or conservative issue. It is an issue having to do with what is right and fair in the free enterprise system.

My staff did a survey in Ohio and they found that there is an average of about $550 per family per year from discount shopping—on average a saving of 30 percent on clothes, 22 percent on electronics, 18 percent on toys.

The Supreme Court has reaffirmed the rule that I mentioned just recently, but they severely cut back on the scope of the rule in a case decided in May of this year, the so-called Sharp decision.

In the Sharp decision, the Supreme court found that the agreement between the high-priced store and the manufacturer to cut off a distributor because it is charging low prices is not automatically anticompetitive. I have difficulty in understanding that, I might say. It is hard to imagine a more anticompetitive agreement. The case has already hurt discounters.

Just the other day I was visited by furniture discounters from North Carolina and those furniture discounters from North Carolina told me that competing high-priced retailers are pressuring the manufacturers to squeeze them out of business. They say as a result they are prohibited from selling to customers not physically present in the showroom and they cannot take orders over the phone or by mail.

What great freedoms are we talking about? Telling these discounters that they cannot sell, cannot take orders over the phone, cannot sell by mail, that they have got to sell only in their showroom? I know coercion when I see it and that is it.

These North Carolina furniture dealers say their area of doing business is so restricted that they cannot make a living from their sales. It is outrageous. Why would we hear on the floor of the Senate, why would some people be rushing over to this floor in order to oppose this legislation, to be opposed to the North Carolina small business furniture dealers, to be opposed to the discounters throughout the country, to be opposed to the consumers throughout the country who want to buy at the lowest price?

Madam President, I want to tell you, frankly, there are millions of Americans who do not have $550 a year to throw away so that the manufacturer can maintain its high prices. That $550 average out to a little bit over $10 a week. That buys food. It might even buy a half a pair of shoes for a little child. It buys some clothes; $550 for a family earning $12,000 a year is about 4 percent of their total income. Yet there are people who come to this floor today and oppose this bill, for what reason I know not.

A USA Today article reveals other attempts to raise prices. Here is an article from that newspaper dated May 31.

Slashing Price-Slashers

To stop falling prices of TVs, VCRs and other electronic gear, manufacturers say they'll cut off shipments and advertising support to retailers who drop prices too low.

"We can decide who we will do business with," says Ralph Wolfe of Panasonic, which is threatening to stop shipments to price-slashers.

Thomson Consumer Electronic—marketer of the RCA and GE lines of TVs, VCRs and camcorders—and Zenith say they'll cut ad funds to offending retailers.

Manufacturers have found that competition has forced down retail prices despite rising import costs.

Example: A low-end GE VCR that sells in some stores for $250 today went for $450 in 1986.

The manufacturers are using powers won in a recent Supreme Court ruling that says a company isn't necessarily restraining trade or fixing prices if it doesn't supply discounters.

"They want to raise prices, but I'm not so sure they will be successful," says Louis Bernucca of Highland Superstores, a 73-store Midwest chain.

Hardworking business persons are being hurt. They need this legislation to stay in business. Consumers are being hurt because they cannot shop around for the best price. Competition is restricted. What could be more anticompetitive?

Congress has repeatedly reaffirmed that vertical price fixing hurts consumers and should be automatically illegal. In 1975 Congress repealed the fair trade laws. Those laws legalized vertical price fixing. Congress found that fair trade laws hurt consumer and voted to eliminate them.

My distinguished colleague from South Carolina, Senator THURMOND, voted in favor of repealing those laws. The President of the United States gave a radio address in California at that time and supported repeal of fair trade because the law hurts consumers.

Congress has passed riders to four appropriations bill, prohibiting the administration seeking to overrule automatic illegality of vertical price fixing. We need to codify the per se rule, so consumrs can receive the full benefit of retail competition.

I urge my colleagues to support this important pro-consumer measure. If you believe in the free enterprise system, then vote for the consumers' rights bill, S. 430. And the sooner we get on with the vote, up or down, the better it will be for the consumers of this country.

I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **RUDMAN.** Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **RUDMAN.** Madam President, I rise very briefly to support the pending motion to proceed. I think it is important that our colleagues recognize precisely what has happened and why the Senator from Ohio and a number of others have decided to proceed with this legislation.

For some time now those of us who have been interested in protecting the rights of consumers in this country have been under the general impression that what is termed resale price maintenance was not legal, not only under the Sherman Act but under a number of cases flowing from that act.

As a matter of fact, Madam President, back at the time that I served as attorney general of my State and then as president of the National Association of Attorneys General, the National Attorneys General Association was extraordinarily active in enforcing the view that a manufacturer could not dictate to a retailer at what minimum price those goods could be sold.

Now, that is a very important issue to American consumers because under the status of the law as we believed it was, there could be full, free, and fair competition on any product sold anywhere in the country.

The net result of that was that many stores, some known as discount stores, others as wholesale discount stores, would offer top-quality brand-name goods to consumers at a substantial reduction from what they might ordinarily pay for them through in the traditional retail establishments.

In fact, I daresay that the view that resale price maintenance was not proper under the Sherman Act led to a revolution in retail marketing and retail merchandising in America. One need only go to any shopping mall in America to find that out.

What does it mean to the consumer? It means lower prices if a consumer wants to buy a particular watch or a particular brand of shirt or a television set or a personal computer or almost anything that people buy, and those are fairly costly goods—generally we are not talking about things in grocery stores and things of that sort. We are talking about appliances, clothing, jewelry, and a whole list of things.

Lo and behold, several weeks ago, the U.S. Supreme Court in a 6 to 3 decision grounded strictly on statutory interpretation—and I think it is important that everybody understand there are no constitutional issues involved here; this is a matter of statutory construction—and I will have a lot more to say about this assuming this motion to proceed is successful, the U.S. Supreme Court, decided that under a number of circumstances you could have sale price maintenance. All that means is now manufacturer of computer X, or of wristwatch Y, or of shirt Z, can tell retailer A, B, and C, that you either sell it at so many dollars or you cannot sell it.

The net result of this is going to be, and I defy anyone to disprove this point, higher costs for American consumers. That is why we are here. I do not really understand the opposition to the motion to proceed. It is simply a matter of setting a statute right. I cannot think of too many Members of this body who are going to vote to make it necessary for consumers to pay higher prices rather than lower prices.

If I understand politics at all, I believe that most people in this body would not want to go home and tell their constituents that I voted to make you pay a higher price on every item that you buy. I just cannot believe that.

Obviously, that is why people do not want this bill to come up because they know they are going to lose. I expect in the House of Representatives the situation was the same.

This motion to proceed, as far as I am concerned, is just one step in a lengthy process because, Madam President, this bill will eventually pass the U.S. Congress. It will pass because it is the right thing to do in the interest of American consumers.

I hope that when we have this vote on this motion to proceed my colleagues will support it. We then can get into the specifics of the U.S. Supreme Court decision, the history of the law that led up to it, where we are today, some statistical analysis that I think will largely prove the case beyond any doubt, and move on to something else.

I hope on this rather warm afternoon in June in Washington that something that is as straightforward as giving the Senate a choice as to whether consumers should pay higher or lower prices should not be argued.

I am looking forward to joining in debate with a number of my colleagues who tend to believe that there ought to be no antitrust laws at all because it seems to me that this will be a pretty good microcosm, Madam President, of what people's political philosophy really is on the issue of free and open competition.

We hear so many arguments in here about free markets. We heard a lot of opposition to the trade bill because we do not want to be protectionist. We are talking about free markets for American consumers in America, largely from American manufacturers.

I certainly hope if we can get to a vote today, we can move to proceed. I thank the Chair, and I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I know this is a motion to proceed, but I rise in opposition to S. 430. It is not because I do not believe in the antitrust laws. I believe in the antitrust laws. I have been critical of this administration's efforts to enforce some of the antitrust laws because there is more of a laissez-faire atmosphere in the administration than in prior administrations, and I would normally agree with laissez-faire. Nevertheless, I think we can do a better job on antitrust.

S. 430 is not what it appears to be. It would not be a benefit to consumers. Nor would this bill concern the survival of discount stores. To the contrary, S. 430—under the guise of altering the outcome of a few court cases that went against discounters—radically alters and threatens the stability and fairness of our antitrust laws. The actual impact of this bill will be harm to consumers and uncertainty in most manufacturer-retailer relationships.

MONSANTO CASE

Although sold as a bill which merely "clarifies" a unanimous Supreme Court decision, in fact, S. 430 effectively overrules the 1984 Monsanto decision. Monsanto held that a plaintiff must present "direct or circumstantial evidence that reasonably tends to prove that a manufacturer and others had a conscious commitment to a common scheme" of price fixing. This is not a controversial holding, but a fundamental understanding that a conspiracy will not be presumed in the absence of clear evidence of wrongdoing. S. 430 undercuts that basic law in two ways: First, it invites a jury to infer an illegal conspiracy from ambiguous conduct. Second, it bases the finding of illegality upon a single event—namely a complaint from another dealer—over which a manufacturer has no control. In the absence of actual evidence of collusion on prices, a supplier should be free to engage in fair business dealings. Monsanto by the way, and I hasten to point this out, was a 9-0 Supreme Court case in 1984. I submit this is not in serious need of reversal.

As I have said, proponents of S. 430 would like to suggest that suppliers are terminating discount retailers "in response to" complaints from other retailers who fear competition with discounters. To the contrary, in the absence of clear evidence of conspiracy, the issue is whether a supplier is free to select its own customers. In this sense, S. 430 seriously erodes the validity of other Supreme Court decisions, like Colgate and Sylvania. These decisions establish first, that a manufacturer has the right to deal, or refuse to deal, with retailers as long as it does so unilaterally and not pursuant to an illegal conspiracy; and second, that all vertical restrictions, except resale price fixing, are to be judged under the "rule of reason" where illegality requires proof of actual anticompetitive effect.

Thus, even if a manufacturer unilaterally changes a relationship with a retailer because the retailer does not advertise properly or does not service the product properly or otherwise does not meet the standards of the manufacturer, S. 430 is likely to invite lawsuits and litigation that allege some kind of conspiracy.

Thus, many firms will be subjected to the considerable risk and expense of refuting allegations of nonexistent conspiracies during costly trials. Under current law, these specious claims of conspiracy have been routinely disposed of in relatively inexpensive motions to dismiss or for summary judgment. Of course, where actual evidence of conspiracy exists, the case can and does go to trial. Monsanto, contrary to some assertions, did not exclude circumstantial evidence of a conspiracy to maintain a price level amongst retailers. In fact, the plaintiffs prevailed in Monsanto where evidence of such a conspiracy was quite thin.

In the event, however, that suppliers are forced to undergo the costly and time-consuming struggle to refute otherwise groundless allegations of conspiracy, consumers will ultimately shoulder the burden in the form of higher prices. Even discounters will find that they cannot obtain products as inexpensively as before. Once again, the only real beneficiaries of this legislation will be antitrust trial attorneys and they will make exorbitant fees at the expense of consumers.

As drafted, S. 430 also harms the consumer in other ways. S. 430 condemns a variety of reasonable and lawful business practices which are often designed to encourage discounts.

JUST GET TO JURY

As I have stated earlier, this bill is not what it seems. Its proponents argue that it merely ensures that more vertical price-fixing cases will get to the jury. Access to a jury is not the issue. What is at stake are countless negotiations and countless court filings. To the extent that cases are more likely to get assigned to a jury, it will allow plaintiffs to more easily "whip saw" a defendant into premature settlement. Moreover, to the extent that more cases are likely to be assigned to a local jury in a trial against a distant manufacturer, plaintiffs are going to have incentives to file more suits on less evidence.

This is called legal extortion because what happens is that it does not take any business long to realize it is cheaper to settle it than to pay the defense costs of defending it. That is what is being done all over America today in other areas, and I do not want to have it done here because it is unfair, it is unwise, it is unwarranted, and it is wrong, just plain wrong. This type of legislation, it seems to me, is a haven for attorneys, and antitrust attorneys at that. This legislation, it seems to me, does nothing really to benefit consumers and in fact may very well be detrimental to them.

Now, I might add that this business of forcing premature settlements or even unlikely settlements will have the effect not of promoting protection and consumer welfare but of giving dealers tremendous leverage to block replacement or termination.

DANGERS OF S. 430

In sum, this bill puts a supplier under jeopardy of a treble damage penalty on the basis of conduct of third parties entirely beyond the supplier's control. Whenever a retailer complains about another competitor—a common practice—the supplier will be foreclosed from altering its relationships with retailers without serious risk of treble damages.

Moreover S. 430 would permit a supplier to be sued for treble damages even for unilateral acts independent of any influence from other retailers. Thus a supplier could terminate a dealer because of a dirty showcase, refusal to advertise, failure to pay bills, or just failure to "get along" on a personal level, yet still be liable for treble damages solely because there are complaints from other dealers in the supplier's files.

FAIR REMEDIES

As I have repeatedly stated, this Congress ought not to tolerate actual conspiracy to fix prices. This conspiracy, however, must be established fairly by some sort of evidence, circumstantial or otherwise, that the supplier actually participated in an agreement to attain an illegal objective.

In fairness, there must be evidence that the supplier undertook termination because of an illegal agreement—not simply in response to some allegations in any kind of communication from a third party.

In fairness, this bill should preserve the principle that businesses are entitled to make unilateral decisions based on price considerations or any other grounds—this is the Colgate doctrine. I think it is correct.

In truth, each of the three points I have just mentioned are covered by current law; namely, the unanimous Monsanto decision. There is no need for this legislation that will encourage needless litigation, harm consumers, reduce the opportunities for discounts, jeopardize beneficial business practices, and generally undercut the fairness and equity of American antitrust law. That is what this bill does. This bill does it under the guise of trying to benefit consumers when in fact those of us who really understand these areas understand that consumers are not going to be benefited; they are going to be hurt.

Mr. President, at this point I ask unanimous consent to have printed in the Record a letter which is written to the Honorable Brock Adams by a whole number of listed supporters.

There being no objection, the letter was ordered to be printed in the Record, as follows:

May 25, 1988.

Hon. Brock Adams,
U.S. Senate, Washington, DC.

Dear Senator Adams: We strongly oppose S. 430, the "Retail Competition Enforcement Act of 1987." Several of the companies and trade associations listed below have written to you in the past to let you know of their strong opposition to this legislation. Other companies and associations are now writing for the first time. Opposition to this bill continues to grow, including the American Bar Association's Section on Antitrust Law, the Antitrust Committee of the Bar Association of the City of New York, and leading antitrust scholars. We firmly believe that this is bad legislation.

S. 430 constitutes a major change in our antitrust laws which, in the final analysis, will impair the ability of thousands of manufacturers to be responsive to consumer demands for the best possible quality goods and services at the lowest possible price.

The considerable discussion and debate over S. 430 during the past few months have served to strengthen concerns about the legislation and have confirmed the severe, negative effect S. 430 would have if enacted.

The proponents of S. 430 continue to ignore its negative effects. Contrary to the unsupported assertions made by proponents, S. 430 will essentially overrule—not just clarify—the *Monsanto* decision, will blur both the distinction between unilateral conduct and conspiracy, as well as between price and non-price agreements, and could expand—not simply codify—the *per se* rule against vertical price-fixing.

The recent Supreme Court decision in *Business Electronics Corp. v. Sharp Electronics Corp.*, reiterated that vertical price fixing is *per se* unlawful. In reaching this decision the Court noted that "legitimate and competitively useful conduct" could be frustrated if manufacturers were held liable for price-fixing without proof of an express or implied agreement to set prices.

Monsanto and *Sharp* were well-reasoned decisions that confirmed fundamental legal principles. On the other hand, S. 430 would make radical changes in our antitrust laws, all for the worse.

We, therefore, urge your opposition to S. 430.

Sincerely yours,

Chamber of Commerce of the United States, National Association of Manufacturers, Alabama Business Council, American Apparel Manufacturers Association, American Furniture Manufacturers Association, American Paper Institute, American Textile Manufacturers Institute, Inc., The Beer Institute, Citizens for a Sound Economy, Competitive Enterprise Institute,

The Construction Industry Manufacturers Association, Distilled Spirits Council, Federation of Apparel Manufacturers, Maryland Chamber of Commerce, Mississippi Manufacturers Association, National Automobile Dealers Association, National Beer Wholesalers Association, National Electrical Manufacturers Association, Northern Textile Association, Portable Power Equipment Manufacturers Association,

U.S. Business & Industrial Council, The Wine Institute, A-dec, Inc., ADEMCO, Adolph Coors Company, American Standard, Inc., Andover Togs, Anheuser-Busch Companies, ARCO, Armco Inc., ASARCO, Inc., Blount, Inc., Boise Cascade, BP America, Burlington Inc.,

Caterpillar Inc., Chalk Line, Inc., Chesebrough-Pond's Inc./Lever Brothers Co./Thomas J. Lipton, Inc., Chevron USA, Combustion Engineering, Inc., Compaq Computer Corporation, Corning Glass Works, DOW Chemical Company, Dresser Industries, Inc., Estee Lauder Companies,

FMC Corporation, Ford Motor Company, Fort Howard Corporation, General Dynamics Corporation, Georgia Pacific Corporation, Harris Corporation, Henson-Kickernick, Inc., Hewlett-Packard Company, Hoechst-Celanese, Household International Corporation, Interco Incorporated,

(Londontown/Converse/Florsheim/Broyhill/Ethan Allan/The Lane Company), ITT Corporation, Joseph E. Seagram & Sons, Inc., ICI Americas Inc., Kimberly-Clark Corporation, Kohler Company, Kraft Inc., The Lamson & Sessions Co., Lennox Industries, Inc., Lenox Inc., Lexington Fabrics, Inc., Milliken & Company,

Mobil Corporation, NEC Home Electronics (U.S.A.) Inc., Nike, Inc., Nissan Motor Corporation in U.S.A., North American Philips Corporation, Novell, Inc., Outboard Marine Corporation, Parker, Hannifin Corporation, Peavey Electronics Corporation, Pendleton Woolen Mills, Pepsico, Inc., The Pillsbury Company, Pitney Bowes Inc., PPG Industries, Inc.,

Raytheon Company, Robert Bosch Corporation, Rockwell International Corporation, Rohm & Haas Company, Russell Corporation, Scott Paper Company, Siemens Capital Corporation, Sony Corporation of America, Southwestern Bell, Springs Industries, Inc., Tee Jays Manufacturing,

Textron Inc., Thomson Consumer Electronics, Inc., The Timken Company, Tom's Foods Inc., The Toro Company, Union Camp Corporation, Vanity Fair Mills, Wang Laboratories, Inc., West-Point Pepperell/Cluett, Peabody & Company, Inc., Whirlpool Corporation, Xerox Corporation.

Mr. HATCH. In addition, I ask unanimous consent that a letter written to the Honorable Strom Thurmond dated February 3, 1988, by Daniel Oliver, Chairman of the Federal Trade Commission, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Federal Trade Commission,
Washington, DC, February 3, 1988.

Hon. Strom Thurmond,
Committee on the Judiciary, U.S. Senate, Washington, DC.

Dear Senator Thurmond: Thank you for your letter of January 5, 1988, concerning S. 430. We appreciate the opportunity to comment on this proposed legislation, as amended and reported by the Judiciary Committee. On April 23, 1987, I testified before the

Antitrust, Monopolies and Business Rights Subcommittee to express the Federal Trade Commission's opposition to the earlier version of S. 430. Although the amended version is somewhat more limited in scope than the earlier version, a majority of the Commission continue to oppose S. 430, because its enactment is likely to have adverse consequences for competition and consumers.

The antitrust laws have traditionally permitted a seller unilaterally to refuse to deal with distributors that do not comply with the seller's pricing policies. In *United States v. Colgate & Co.*, 250 U.S. 300, 307 (1919), the Supreme Court said that a seller acting alone is free to "exercise his own independent discretion as to parties with whom he will deal." Under *Colgate*, sellers have been able to terminate dealers who do not adhere to announced price schedules, so long as there is no agreement to fix resale prices. In *Monsanto Co. v. Spray-Rite Service Corp.*, 465 U.S. 752, 764 (1984), the Supreme Court determined that no such agreement exists, as a matter of law, unless there is evidence that "tends to exclude the possibility" that a seller acted independently.

S. 430 could be applied to overrule—or at least to undermine substantially—the *Colgate* doctrine. Under the proposed legislation, a seller's unilateral decision to terminate dealers who do not adhere to an announced price list nevertheless could be deemed an unlawful conspiracy merely because competing dealers had complained about the terminated dealers. This potential exposure to treble damage liability would make it much more difficult for suppliers to exercise their long-standing right to choose the parties with whom they will deal.

The amended version of S. 430 would make it slightly more difficult to prove a conspiracy than the original bill, because it would predicate a law violation on a finding that communications from complaining dealers were a "major contributing cause" for the dealer termination at issue. The term "major contribution cause" is not defined. However, we understand that the majority report accompanying the bill states that a communication may be deemed a "major contributing cause" even if it was not "the sole, primary, or even at least 50 percent of the cause of the termination or refusal to supply." Consequently, S. 430 apparently would permit juries to find that communications concerning distribution strategy were a "major contributing cause" of a termination, even when the supplier would have undertaken the termination unilaterally. S. 430 fails to recognize that the self-interest of suppliers and dealers may coalesce, so that suppliers act in ways that benefit dealers without any agreement or conscious commitment to a joint course of action. Consequently, suppliers may be at risk of antitrust liability whenever they terminate dealers following the receipt of complaints from other dealers.[1]

The proposed conspiracy standard in S. 430 is thus likely to inhibit the exchange of valuable marketing information between suppliers and distributors. Suppliers may curtail discussions of marketing issues with distributors to forestall the risk of treble damages liability. If valuable marketing information is not provided, suppliers may be unable to formulate and pursue unilateral distribution strategies that benefit consumers.

S. 430 also proposes to codify the existing per se rule of illegality for resale price maintenance. The commission does not believe that codification is desirable. A large and growing body of antitrust and economic scholarship indicates that vertical restraints, including resale price maintenance, often serve procompetitive purposes. For example, manufacturers may impose vertical restraints to facilitate the delivery of presale services to consumers, to deter "free riding," and thereby to preserve dealer incentives to furnish services that consumers value.[2]

The preservation of pre-sale and post-sale services is important to the economy, particularly in the high technology area. Many of the important new products introduced by American manufacturers in recent years are technologically complex and require both pre-sale services and after-the-sale support. During the introductory marketing of these products, when few potential buyers are familiar with them, pre-sale demonstrations by dealers are indispensable to the products' acceptance by consumers. But few dealers would be willing to provide such demonstrations if consumers to whom they demonstrate the product may then buy it from a "free riding" discounter.[3] Restrictions on intra-brand competition therefore may be necessary to bring an innovative new product to the market, even when the producer is not facing competition from comparable products of different brands.

Vertical restraints can also facilitate interbrand competition by preventing free riding on promotional services. Suppliers who need point-of-sale and other marketing efforts by dealers to compete with other suppliers may impose vertical restraints to prevent free riding by dealers who fail to furnish promotional services. Such promotional services may include in-store displays or more intangible services. For example, the types of outlets that carry apparel or cosmetics brands often signal to consumers useful fashion or quality information. Department stores may convey such a message, and thereby provide a service to the manufacturer, simply by carrying a product. In such cases, vertical restraints maintain dealers' incentives to continue providing promotional efforts that foster inter-brand competition.[4]

It is important that the courts have the flexibility to interpret the antitrust laws in light of current economic understanding of the practices involved. A statutory codification of the per se rule for resale price maintenance would deprive the courts of that flexibility.

We urge you to consider the full implications of S. 430 for the competitive process. Enactment of this legislation is likely to stifle procompetitive conduct and to harm not only American manufacturers, but also the very consumers the bill purports to protect.

By direction of the Commission,[5]

DANIEL OLIVER,
Chairman.

Mr. HATCH. Mr. President, I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, when I heard a motion had been made to proceed to the consideration of S. 430, I felt constrained to come to the floor to share with the Senate some information that had come to my attention from constituents in my State of Mississippi about what they considered to be serious deficiencies in this legislation. They expressed to me in their correspondence the fear that this is going to make it more difficult for small businesses, particularly in the high technology area, to compete with foreign firms and others in our U.S. market.

Mr. President, I am not a member of the Judiciary Committee, and I do not pretend to know any more than those who have been speaking, who have been reviewing the hearing record, listening to witnesses testify about this bill, and have a better working knowledge of antitrust law than I do. But from my perspective of trying to keep up to date with the changes in this area of the law, this is a bill that is much more complex than has been suggested by its proponents.

I remember being in law school—and the present occupant of the chair may have a recollection similar to mine—when professors would talk about how, if the court made a decision one way, it would open the floodgates of litigation. We have all heard that phrase. I remember hearing it a great deal when I was in law school. I am told that enactment of this bill will open the floodgates of litigation. I am told that the Supreme Court in its decision in the Monsanto case actually settled the law and probably will make further decisions delineating the limits of the case so that manufacturers, distributors, and consumers—all affected in one way or another by that decision—will know what the law is and what the rules are. The law will be settled. On the other hand, if we enact this legislation, which overturns the Monsanto case and purports to establish by law a new evidentiary standard in the vertical price fixing area of antitrust law, it will confuse everyone, including manufacturers, distributors, and consumers, and will promote additional litigation.

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[1] For example, even if a dealer's late payments to a supplier were the supplier's primary reason for terminating the dealer, S. 430 would apparently permit a jury to find the supplier liable, if the dealer's discounting had influenced the decision and the supplier had learned of the discounting from other dealers.

[2] In the absence of such restraints, dealers who do not provide pre-sale services—and hence enjoy lower costs—are able to underprice full service competitors. Consumers may then take advantage of the pre-sale services provided by the higher price dealers but buy the product from the discounting free riders. This effect discourages all dealers from providing the desired services, as the Supreme Court recognized in *Continental T.V., Inc. v. GTE Sylvania, Inc.*, 433 U.S. 36, 55 (1977).

[3] This is why dealers who provide pre-sale services predictably complain to manufacturers about free riders who do not. Under the proposed legislation, such complaints could give rise to an inference of conspiracy.

[4] Without such restraints, full service merchants will often find it more profitable to discontinue carrying a brand that is also sold by discounters and instead rely more heavily on house brands. The result may be to reduce consumer choice among brands.

[5] Commissioner Bailey does not join in this letter. She submitted her views to the Subcommittee last April, and continues to believe that the Commission should direct some of its law enforcement resources at resale price maintenance. She would point out, however, that whatever the Commission believes the appropriate theory of enforcement should be, it has not opened one single investigation into resale price maintenance in all of fiscal year 1987 and the first third of fiscal 1988.

Commissioner Strenio also does not join in this letter. He recognizes that the Monsanto evidentiary standard for vertical price-fixing conspiracies may be applied in a very severe fashion. *See, e.g., Garment Dist., Inc. v. Belk Stores Services, Inc.*, 799 F.2d (4th Cir. 1986). However, he nonetheless is concerned about statutory language that would create a conspiracy standard without a clear "meeting of the minds" condition. The vague "implied suggestion" language in the revised version of S. 430 is particularly troubling in this regard. Finally, he thinks that altering the statutory language so that the request, demand or threat at least must be the most important contributing cause of the termination or refusal to deal merits consideration.

The administration of justice does not seek to be disruptive or to be confusing. Therefore, I urge the Senate before we proceed to consider the passage of this legislation, to ask the committee to take another look and to review the complexity of the issues involved so that we will know where we are headed if we enact this bill.

My information is that manufacturers, in particular, suffer a great deal of distress when they contemplate the enactment of this bill.

To summarize what I understand the facts to be, Mr. President, in Monsanto the Supreme Court actually held that to avoid summary judgment in a contract termination suit, a terminated dealer had to prove a desire for conscious price fixing by the manufacturer. This bill would allow such suits to go to the jury and be decided as factual matters by showing simply that a manufacturer received price complaints about a dealer and because of such complaints terminated the dealer.

In describing the reason for the legislation, the committee report from the Judiciary Committee criticizes the Department of Justice and its enforcement policies in this area of antitrust law. But in the report filed by the minority, Senators THURMOND, HATCH, and SIMPSON disagreed with the majority and urged that this Supreme Court decision not be reversed by the Congress in effect because it does not need further clarification.

The judicial process is more appropriate, and they argued for addressing any ambiguities on a case-by-case basis in this complex antitrust area. If we tried to codify an evidentiary rule, it would deprive the courts and enforcement agencies of any flexibility to interpret and apply antitrust law in light of current economics.

Vertical restaints, I am told by these Senators, usually serve pro-competitive purposes such as facilitating services to consumers.

There is another summary of this legislation which was brought to my attention when it became apparent that the legislation might come to the floor. This statement seemed to me to be important for the Senate to consider:

> The proposed legislation allows finders of facts, the jury, to infer that a supplier and a buyer who communicate with each other have unlawfully conspired whenever the supplier takes actions in its own interests that also serve the interests of the buyer. Under the proposed legislation suppliers whose business plans call for the termination of dealers who do not adhere to their price list could be deemed conspirators simply because they receive communications concerning dealers who sell at a discount.

That seems to me to be a very dramatic and dangerous change in the law if that is what we are being called upon to do in this legislation.

I am also reading again from another summary of this proposed legislation which says:

> Vertical restraints stimulate the introduction of new products by enabling new entrants to recover market development costs and vertical restraints prevent dealers from using services provided by one manufacturer to sell the products of a competing manufacturer.

But I will tell you, Mr. President, what got my attention more than any of these other documents, any of these other summaries or the committee report, were letters that I received from back home from my friends who told me this was dangerous and inappropriate legislation.

I am going to read from a letter I received from one of our small electronics companies in Mississippi. We do not have many big companies in my State. Most of our manufacturing firms are small compared with the larger firms around the country. So we are not talking about big business people. We are not talking about the huge conglomerates, the Fortune 500's. These are family businesses, Mr. President, people who have started a business, have watched it grow, and have developed dealerships.

This first letter is from an electronics company. I want to tell you what it says.

> . . . we have attempted to insure the satisfaction of our customers through selecting particular dealers and training those dealers both here in our Mississippi facilities and also through the use of two full-time factory "clinicians" that travel throughout the United States training the dealers and dealer personnel how to sell, service and install our equipment. Customer satisfaction must continue to be the "prime directive" of our company . . . If we are to survive!
>
> If the Wall Street Journal article is an apt "description" of the above referenced measure (S.430), then I am deeply and extremely concerned that Congress in their fervor to stop "price fixing" will shoot the consumer in the foot and probably the "ricochet" will kill off manufacturers like ourselves who are trying to deal through local dealers that service the customer instead of dealing with mail order houses that ship goods to the consumer "in the box" with no instructions and no backup service whatsoever.

Now I read the concluding paragraph:

> Please resist any attempt to pass this crazy legislation loosely billed "Freedom From Vertical Price Fixing Act of 1987" aka S.430 . . . I'm afraid if this passes, this will be one more nail in the coffin of American high tech industry . . . I'm probably more concerned with regard to this issue than any issue I've ever written you about previously.
>
> Please consider the implications of destroying our dealer network that we've worked nearly a quarter of a century to put together . . . .

That gets your attention. The Senate ought to pay attention to letters like that from small electronics firms around the country. That is what they think of this bill. It is a turkey. And we ought not to take it up until we get some more information about the practical consequences of it.

Here is another letter from a small company in another town in my State, Mr. President. It simply says:

> This bill will surely reduce convenient and reliable service for almost all consumer products. Customers who walk out of a store with a new product in a box and have it not work when it is unpacked, with no local service available, we think, are treated unfairly.

This bill is simply anti-small business.

One of them enclosed a copy of an editorial; I think it is from the Wall Street Journal. I want to read the first paragraph, if I may, with the permission of the Senate, into the RECORD.

The editorial begins:

> Say you want to buy a sophisticated stereo system for Christmas. You have a choice. You can go to a full-service stereo store, where a "sound technician" will answer all your questions, arrange for free delivery and provide full service on repairs. Or you can visit "Discount City," where there are harried salespeople and minimal servicing, but prices are one-third less. Where you shop depends on what you value more—service or price. A bill introduced by Senator Howard Metzenbaum would narrow a consumer's opportunity to make such choices. It would penalize the store providing the expensive services by making a manufacturer who tries to pull his products out of Discount City liable to a treble-damages antitrust suit.

The article continues:

> While some consumers might instinctively support Mr. Metzenbaum's effort, it's unlikely that reality would match the theory. Some manufacturers, for instance, would avoid dealing at all with discounters, rather than risk a treble-damages antitrust lawsuit. In any event, no such law exists now, and the consumer market is flush with both kinds of retailers and a large universe of manufacturers designing products for all tastes. Bear in mind also that the Metzenbaum bill comes from one of Congress's leading protectionists; the anti-import trade bill is the one thing that could hurt the people the senator is trying to protect.

Mr. President, I ask unanimous consent that the entire article from which

I just read be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DISCOUNTING THE MARKET

Say you want to buy a sophisticated stereo system for Christmas. You have a choice. You can go to a full-service stereo store, where a "sound technician" will answer all your questions, arrange for free delivery and provide full service on repairs. Or you can visit "Discount City," where there are harried salespeople and minimal servicing, but prices are one-third less. Where you shop depends on what you value more—service or price. A bill introduced by Senator Howard Metzenbaum would narrow a consumer's opportunity to make such choices. It would penalize the store providing the expensive services by making a manufacturer who tries to pull his products out of Discount City liable to a treble-damages antitrust suit.

The legislation is designed to curb a practice called resale-price maintenance, in which a manufacturer sets a minimum retail price below which its products should not be sold. A typical dispute involves two retailers that carry a manufacturer's product. One begins to sell at a deep discount. The non-discounter suffers a drop in sales and asks the manufactuer to stop supplies to the discounter. Under the bill, the fact that a manufacturer cut off shipments to a discounter would be sufficient evidence to warrant a jury trial on charges that antitrust laws against price fixing have been violated. A Senate floor vote on the Metzenbaum bill is expected soon; similar legislation already has passed the House.

Under current case law manufacturers have been able to withdraw products from discounters, the purpose of which usually is to encourage dealer services and a more sophisticated sales effort. In effect, the Metzenbaum legislation would overturn a 1984 Supreme Court decision, *Monsanto Co. v. Spray-Rite Service Corp.*, which ruled that an antitrust plaintiff must produce evidence that there was a price-fixing agreement between the manufacturer and one or more dealers. Senator Metzenbaum believes that *any* practice that limits discounting should be illegal and that this bill will force lower prices.

Discounters usually lose their contracts because consumers have complained to manufacturers of shoddy service and hostile return policies or because other stores complain that the discounter is "free-riding" on their service (typically, the consumer elicits lengthy product information from a store that provides it, then leaves to buy the product at the no-frills discounter).

While some consumers might instinctively support Mr. Metzenbaum's effort, it's unlikely that reality would match the theory. Some manufacturers, for instance, would avoid dealing at all with discounters, rather than risk a treble-damages antitrust lawsuit. In any event, no such law exists now, and the consumer market is flush with both kinds of retailers and a large universe of manufacturers designing products for all tastes. Bear in mind also that the Metzenbaum bill comes from one of Congress's leading protectionists; the anti-import trade bill is the one thing that could hurt the people the senator is trying to protect.

A mini-revolution has taken place in the past decade as the Supreme Court has recognized that many anti-trust laws harm rather than help consumers. By removing the important distinction made in the Monsanto case between price fixing and legitimate price setting, the Metzenbaum bill ultimately would deliver consumers less choice than they have now.

Mr. COCHRAN. Mr. President, there are two more letters I am going to read brief excerpts from. Then I intend to yield the floor. But I think they sum up what other letters I have received from small companies in my State are saying about this legislation. Here is one from a firm in my State in Tupelo, MS.

> We beleive this bill represents a very serious threat to the right of a manufacturer, acting independently, to deal, or refuse to deal, with whomever it chooses. Its great danger lies in the fact that it would permit concerted action to be inferred on the basis of complaints alone and thereby expose a manufacturer to treble damage liability.
>
> The bill is aimed at changing the decisions of the United States Supreme Court which have dealth with the subject, and we strongly oppose enactment of the same.
>
> We respectfully request your opposition to this ill-advised measure.

Another small company in Olive Branch, MS wrote:

> In our experience, it is a commercial fact of life that competing distributors are prone to complain to manufacturers about each others' activities. For example, a distributor may blame its poor sales performance upon what it perceives to be unfairly low prices offered by a competing distributor . . . Manufacturers have no practical means to prevent distributors from lodging complaints of this type . . . We firmly believe that the Supreme Court drew the line correctly with respect to this issue in the *Monsanto* decision . . . We urge you to vote against this bill.

Mr. President, with information from all around the country available to the committee, I urge that we refrain from proceeding now to consider this bill. Let the committee take another look. Let us evaluate the practical consequences of the adoption of this legislation. In short, let us look before we leap into this new area of legislation, where we have never ventured before, with such careless abandon.

I yield the floor.

Mr. BOND. Mr. President, I join my colleague the distinguished senior Senator from South Carolina and my good friend the Senator from Mississippi in opposing the motion to proceed to the consideration of S. 430, the Retail Competition Enforcement Act.

I believe this bill would cause a great deal of problems for businesses of all sizes, because it would result in an unnecessary increase—one might even say an explosion—in litigation. What is more important, it likely would result in increased costs to consumers, because when businesses are forced to bear additional expenses, the most likely and logical place for them to recover those expenses is from their customers.

The bill has been branded as a proconsumer bill by its supporters, and it is said that this measure is necessary to protect our right to shop at discount stores. But I believe the distinguished Senator from South Carolina has already pointed out that not only do we have a large number of very good discount stores available all across the country, but also, their numbers are increasing and their sales are increasing.

What this bill does is to change, to overturn, a decision of the U.S. Supreme Court in the 1984 Monsanto case. In Monsanto, the Court set forth the standard regarding evidence which must be presented by a plaintiff in a resale price maintenance suit in order to overcome a defendant's motion for summary judgment. The result of that decision is that a plaintiff must show evidence of some price-fixing agreement in order to avoid a summary judgment. If this bill were to be enacted, defendants would effectively be stripped of their ability to move for summary judgment. The result would be much longer and much more expensive lawsuits and higher prices that would have to be passed on to consumers.

Mr. President, the existing standard which was set forth in the Monsanto case makes sense. That standard is that a plaintiff must show some evidence of an actual agreement between a manufacturer and a rival dealer as opposed to merely action taken in conjunction with a complaint. If we were to enact this bill, we would be forcing businesses to shy away from taking action against dealers who are not meeting their commitments—not paying their bills or not providing service, for example—because of the fear of a suit under a section of the Sherman Antitrust Act, which could result in treble damages and significant legal fees.

Mr. President, I hope that my colleagues will join me in voting against the motion to proceed to this piece of legislation. It would be a grave mistake to enact this bill. Frankly, with all the important measures facing us, I do not believe that it is in the Senate's interest to invest a large amount of time in debating it. If we are forced to consider the bill, I will have significant additional comments to share with my colleagues regarding my reasons for opposing this bill. At this time, however, I just note my opposition and urge my colleagues to oppose the bill.

Mr. BYRD. Mr. President, may I make a unanimous-consent request? I am authorized to proceed to make this request.

Mr. President, I ask unanimous consent that the vote occur on the motion to proceed at 5:15 p.m. today.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, I have heard some interesting arguments this afternoon, some arguments about the choices between getting service or getting a discount, some arguments that we should not proceed to take up this bill.

Come on, now—do you not believe that people in Missouri, in Utah, in South Carolina should have the right to go to a discount store and buy what they can buy at a lower price? What is so sacred about the manufacturers' right to set the price and a discounter cannot lower the price? The American consumer has some rights, and those are the rights we are talking about in this bill.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. METZENBAUM. I will just be a moment.

What is so terrible about giving a purchaser—an individual who wants to go out and buy a VCR or clothes, a refrigerator, or whatever—the right to buy it at a discount?

I hear people standing on the floor saying that we should not even proceed to this bill because it is going to take away the rights of the individual. The rights of the individual are protected by this legislation.

Let us go to the legislation. Let us debate it. Let us vote it up or down. Let us see whether or not the Senate is prepared to stand next to the House, with the consumers of this country, or whether we are going to stand with the retailers who do not want to discount prices and the manufacturers who prohibit their storekeepers from selling at a discount price. It is an elementary proposition. This is not a complicated bill; it is a simple bill.

This bill does not make litigation. It eliminates litigation. This bill provides the consumer with the right to buy at a discount. If you do not want them to do that, if you think a manufacturer should be able to set a price and not allow a discount, vote against it. But please understand what you are doing. You are voting in an inflationary manner.

If you believe the higher prices are good for this country, vote against S. 430, my bill—my bill with 29 other cosponsors. If you think it is good to have higher prices in this country, then vote against it. Do not let the bill come to the floor. Filibuster.

All the organizations supporting this bill, which are indicated on the chart at the rear of the Chamber, are right. There is merit to it. They are concerned about consumers. On the chart with the colors, the red figures indicate the discounted prices as compared to the higher prices fixed by the manufacturer.

I believe we ought to move forward with this legislation. I am prepared to vote. The question before the body is whether or not we ought to proceed to take up this legislation. I believe we should. I hope that we will not find ourselves engaged in a lengthy debate as to whether we ought to proceed to the legislation.

Regular order.

The PRESIDING OFFICER. Does the Senator from South Carolina desire the floor?

Mr. THURMOND. Mr. President, the American Bar Association, section of antitrust, considered this matter. The report is as follows:

AMERICAN BAR ASSOCIATION SECTION OF ANTITRUST LAW

REPORT TO THE ABA HOUSE OF DELEGATES OPPOSING S. 430, THE RETAIL COMPETITION ENFORCEMENT ACT, AND H.R. 585, OR SIMILAR LEGISLATION

RECOMMENDATION

Be It Resolved, that the American Bar Association opposes S. 430, the Retail Competition Enforcement Act, and H.R. 585, or similar legislation, that would make evidence of a customer's termination by a manufacturer in response to a competing customer's price complaint sufficient in and of itself to raise an inference of a vertical price-fixing conspiracy.

[REPORT]

I. INTRODUCTION

This report presents the views of the American Bar Association Section of Antitrust Law concerning two nearly identical bills, S. 430 and H.R. 585. The proposed legislation would amend the Sherman Act by establishing evidentiary standards applicable in civil cases involving resale price maintenance conspiracy claims. Specifically, under both bills the termination of a customer[1] in response to a competing customer's price complaints would be sufficient in and of itself to raise an inference of a vertical price-fixing conspiracy. This legislation would have the effect of overturning the Supreme Court's decision in *Monsanto Co.* v. *Spray-Rite Service Corp.*, 465 U.S. 752 (1984), which held that such evidence is not sufficient to establish a Sherman Act conspiracy.

Mr. President, this is the report of the American Bar Association I am giving here. I have some other comments subsequently.

II. RECOMMENDATION

The Section of Antitrust Law recommends that the American Bar Association oppose enactment of the proposed amendments to the Sherman Act embodies in S. 430 and H.R. 585. The Section believes that the evidentiary standard established by the Supreme Court in *Monsanto* is fully consistent with long-standing Sherman Act law, and is sound as a matter of antitrust procedure and policy. The legislation would create an unsound evidentiary presumption which would allow an antitrust conspiracy to be inferred from ambiguous evidence. In addition, the proposed legislation would harm consumers by chilling legitimate cooperation between manufacturers and their individual customers and by discouraging manufacturers from pursuing improvements in their marketing strategies.

Mr. President, that is the report of one section of antitrust law of the American Bar Association. That is all of the lawyers in the United States who belong to that section of the American Bar. It is their position that the legislation would create an unsound evidentiary presumption which would allow an antitrust conspiracy to be inferred from ambiguous evidence. In addition, the proposed legislation would harm consumers—this is the American Bar Association speaking—by chilling legitimate cooperation between manufacturers and the individual customers and by discouraging manufacturers from pursuing improvements in their marketing strategies.

Voting against this bill does not mean a vote for price-fixing at all. The bill addresses the kind of evidence necessary to prove a vertical price-fixing agreement.

I am not in favor of price-fixing. It should be prosecuted.

I want to say that a few years ago—I believe it was in the 1970's—there were fair trade laws. Under these laws, consumers pick more for household products in Virginia than they did in the District of Columbia.

I am glad we do not have price fixing. I am glad we do not have fair trade laws. They are called fair trade laws. It really is simply a matter of making people pay more. I am not in favor of that. But opposition to this bill does not mean higher prices.

III. S. 430 AND H.R. 585

The Senate and House bills are virtually identical. Each bill has two operative provisions. The first provision establishes an evidentiary standard applicable to resale price maintenance claims, while the second confirms that vertical price-fixing agreements remain per se illegal.

S. 430 provides that "[i]n any civil action based on section 1 or 3 of [the Sherman Act], including an action brought under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain a price level, evidence that a person who sells a good or service to the claimant for resale—

"(1) received from a competitor of the claimant, a communication regarding price competition by the claimant in the resale of such good or service, and

"(2) in response to such communication terminated the claimant as a buyer of such good or service for resale, or refused to supply to the claimant some or all of such goods or services requested by the claimant,

"shall be sufficient to raise the inference that such person and such competitor engaged in concerted action to set, change, or maintain a price level, for such good or service in violation of such section.[2]

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[1] As used herein, the term "customer" refers to dealers, distributors, and all other buyers for resale.

[2] The House bill differs from the Senate bill only in its inclusion, after each reference to "price

Both bills further provided that in any civil action brought under Section 1 of Section 3 of the Sherman Act alleging an agreement to fix prices, the fact that a seller and a purchaser entered into an agreement as to the resale price of a good or service "shall be sufficient to establish" a violation of that section.[3]

IV. MONSANTO CO. V. SPRAY-RITE SERVICE CORP.

In *Monsanto* the issue addressed by the Court was the quantum of evidence required to raise a jury issue when a customer alleges that it was terminated by a manufacturer pursuant to a vertical agreement to maintain resale prices. The Court held that a jury should not be permitted to infer an agreement merely from the existence of complaints by competing customers about the plaintiff's price-cutting, or even from the fact that the termination was "in response to" such complaints, because such evidence, without more, does not indicate concerted action. 465 U.S. at 763-64. The Court stated that although evidence of complaints has some probative value, "the burden remains on the antitrust plaintiff to introduce additional evidence sufficient to support a finding of an unlawful contract, combination, or conspiracy." *Id.* at 764 n.8.

According to the Court, in order for an issue for the fact-finder in a customer termination case to be created, "something more than evidence of complaints is needed. There must be evidence that tends to exclude the possibility that the manufacturer and nonterminated distributors were acting independently. . . . [T]he antitrust plaintiff should present direct or circumstantial evidence that the manufacturer and others 'had a conscious commitment to a common scheme designed to achieve an unlawful objective.'"—*Id.* at 764 (quoting *Edward J. Sweeney & Sons, Inc.* v. *Texaco, Inc.*, 637 F.2d 105, 111 (3d Cir. 1980), *cert. denied*, 451 U.S. 911 (1981)).

The Court noted that permitting a finding of concerted action premised solely upon evidence of competitor complaints would seriously undermine the manufacturer's right to establish unilaterally the terms and conditions under which it will sell its merchandise and to terminate those customers who act inconsistently with its marketing goals and strategies. That right has been a basic and virtually unchallenged tenet of vertical restraints law, at least since *United States* v. *Colgate & Co.*, 250 U.S. 300 (1919). Implicit in the *Colgate* doctrine is the recognition that a manufacturer's freedom to decide independently how its products will reach the ultimate consumer is an important element of interbrand competition at the manufacturer level. Although there may be competitive risks when a manufacturer agrees with others about how its products will be distributed, no such risks attend the manufacturer's unilateral distributional choices. Thus, *Colgate* reflects an appropriate reconciliation between manufacturer freedom and the requirements of the Sherman Act.

In *Monsanto*, the Court expressly sought to preserve the *Colgate* doctrine by recognizing that competitor complaints may operate as an important mechanism through which a manufacturer learns of problems in its distribution network. The Court pointed out that "complaints about price cutters 'are natural—and from the manufacturer's perspective, unavoidable—reactions by distributors to the activities of their rivals.' Such complaints, particularly where the manufacturer has imposed a costly set of nonprice restrictions, 'arise in the normal course of business and do not indicate illegal concerted action.' . . . Moreover, distributors are an important source of information for maufacturers. In order to assure an efficient distribution system, manufacturers and distributors constantly must coordinate their activities to assure that their product will reach the consumer persuasively and efficiently. To bar a manufacturer from acting solely because the information upon which it acts originated as a price complaint would create an irrational dislocation in the market."—*Id.* at 763-64 (citations omitted).

V. REASONS WHY THE AMERICAN BAR ASSOCIATION SHOULD OPPOSE THE PROPOSED LEGISLATION

A. The proposed amendments would create a counterfactual evidentiary presumption

The most objectionable feature of the proposed legislation is that it would establish a new conspiracy standard applicable to a small subset of antitrust cases. In his statement introducing S. 430, Senator Metzenbaum stated that there has been "considerable confusion" with respect to the evidentiary standard to be applied in customer termination cases since *Monsanto* and that "[s]ome lower courts' interpretations of what evidence a plaintiff must present under *Monsanto* run counter to traditional conspiracy law and result in the dismissal of cases that should be presented to a jury." To the extent that these statements purport to reflect the true purposes of the proposed legislation, these bills rest on two erroneous premises.

First, there has been no widespread confusion since *Monsanto*. The case stands for the simple proposition that competitor complaints, without more, do not provide a sufficient basis for inferring unlawful concerted activity. The proposed legislation does not attack lower courts' interpretations of *Monsanto*; it attacks the fundamental holding of the *Monsanto* decision itself. Second, *Monsanto* did not alter the law of conspiracy as it relates to resale price maintenance cases. The Court merely applied the traditional principle of conspiracy law that, because the termination of a customer after receiving price complaints is as consistent with permissible independent action as with an illegal conspiracy, a conspiracy should not be inferred from competitor complaint evidence standing alone. Thus, it is the proposed legislation, and not the *Monsanto* decision, that creates a special conspiracy standard applicable to customer termination cases.

The term conspiracy has been traditionally understood to mean "a unity of purpose of a common design and understanding, or a meeting of the minds in an unlawful arrangement." *American Tobacco Co. v. United States*, 328 U.S. 781, 810 (1946). The courts have recognized that trade conspiracies seldom can be proven with direct evidence, and they have permitted antitrust plaintiffs broad latitude to establish concerted action through circumstantial evidence. Where a conspiracy is to be inferred from circumstantial evidence, however, the courts have required plaintiffs to come forward with evidence sufficient to establish that the alleged conspirators have not acted independently.

Thus, in *Matsushita Electric Industrial Co. v. Zenith Radio Corp.*, 106 S. Ct. 1348 (1986), the Supreme Court declined to find a conspiracy where defendants had no rational economic motive to conspire, and their conduct was consistent with equally plausible, non-conspiratorial explanations. *See also Transource International, Inc. v. Trinity Industries, Inc.*, 725 F.2d 274 (5th Cir. 1984); *Reborn Enterprises, Inc. v. Fine Child, Inc.*, 590 F. Supp. (S.D.N.Y. 1984), *aff'd per curiam*, 754 F.2d 1072 (2d Cir. 1985). Similarly, in *Tose v. First Penn. Bank*, 648 F.2d 879 (3d Cir.), *cert. denied*, 454 U.S. 893 (1981), a boycott case, the court found no conspiracy because, although the defendant had an interest in preventing plaintiff from obtaining refinancing, the alleged co-conspirators had independent reasons for denying plaintiff a loan. Where plaintiffs have attempted to establish the existence of a conspiracy by proof of parallel conduct, the courts have uniformly held that such evidence, standing alone, is insufficient. *Fine v. Barry Enright Productions*, 731 F.2d 1394 (9th Cir.), *cert. denied*, 105 S. Ct. 248 (1984). The courts have also rejected the view that a conspiracy can be inferred from the existence of competitor meetings, *Hanson v. Shell Oil Co.*, 541 F.2d 1352 (9th Cir. 1976), *cert. denied*, 429 U.S. 1974 (1977), or from the fact that competitors have shared certain information, *United States v. Citizens & Southern National Bank*, 422 U.S. 86 (1975).

The Supreme Court's decision in *Monsanto* merely placed these well-established rules concerning Sherman Act conspiracies into a resale price maintenance context, where competitor complaints are an ordinary and necessary element of the manufacturer/customer relationship. A manufacturer, for example, may have a strong interest in ensuring that dealers provide expensive pre-sale and post-sale services. Dealers who provide these services may be unwilling to continue providing them if a discount operator is "free-riding" on the efforts. The mere fact that the manufacturer's interests coincide with the interest of the full service dealer in this situation does not mean that the manufacturer has conspired with the full service dealer in terminating the discounter. The termination, although undertaken following complaints from the full service dealer, would be fully consistent with the manufacturer's individual interest in ensuring that the appropriate level of service is being provided. By permitting an inference of concerted action from ambiguous evidence equally consistent with lawful conduct, the proposed legislation claims would take resale price maintenance claims outside of mainstream conspiracy law and place them alone in a special category.

There is also a risk that this legislation will not be confined to resale price maintenance. To the extent that these bills purport to "clarify" what constitutes a Sherman Act conspiracy, by permitting an inference of concerted behavior from mere contacts between alleged co-conspirators without proof of a meeting of the minds, there is a danger that the conspiracy requirement in all Sherman Act Section 1 cases will be diluted.

B. The Proposed Amendments Would Discourage Procompetitive Behavior

The evidentiary standard established in *Monsanto* forces courts to face squarely the

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level," of the phrase "including a minimum or maximum price."

[3] Since vertical price fixing is currently illegal per se, this portion of the proposed legislation would merely codify existing case law. This Report does not address this portion of the legislation, nor is anything in this Report intended to express any views on this issue. This Report assumes that resale price maintenance is per se illegal and deals only with the evidentiary standards required to establish the existing of a resale price maintenance agreement.

delicate task in customer termination cases of distinguishing between independent and concerted conduct. The Court's holding was based, in part, on its recognition that it is both unfair and a departure from traditional conspiracy law to allow treble damage liability to be based on evidence that is as consistent with permissible conduct as with illegal conspiracy. But the *Monsanto* rule also has a firm antitrust policy basis: the rule acknowleges that contracts between a manufacturer and its customers are usually beneficial and therefore should not be discouraged. Steps taken by a manufacturer to improve the effectiveness and efficiency of its distribution system, such as the establishment of exclusive territories or adoption of a policy of selling only to full service distributors or dealers, often require extensive contacts between the manufacturer and its customers. A manufacturer typically receives a stream of comments, advice, and criticism from its customers about its marketing approach. For example, a manufacturer may learn from its distributors that free-riding problems are discouraging them from providing repair service and marketing support within their local areas of operation. *See Computer Place, Inc. v. Hewlett-Packard Company,* 607 F. Supp. 822, 830 (N.D. Cal. 1984), *aff'd mem.*, 779 F.2d 56 (9th Cir. 1985) (manufacturer stopped selling to plaintiff, a mail-order retailer, after local dealers complained about free-riding by mail-order dealers).

Often the flow of information from a customer to a manufacturer contains comments—and even complaints—about price competition from other customers. There is no justification, however, for assuming that all such exchanges, and any actions taken by a manufacturer in response, stem from a resale price maintenance motive. Judge Posner illustrates the fallacy of that assumption with the following example:

"The violation of a lawful restriction on distribution, such as a reasonable customer allocation agreement, will manifest itself to the dealer who complies with the restriction of price cutting, for it is only by price cutting or some equivalent concession that a new dealer can take away the established dealer's customers. As long as the supplier's motive is not to keep his established dealers' prices up but only to maintain his system of lawful nonprice restrictions, he can terminate noncomplying dealers without fear of antitrust liability even if he learns about the violation from dealers whose principal or perhaps only concern is with protecting their prices."

Morrison v. Murray Biscuit Co., 797 F.2d 1430, 1440 (7th Cir. 1986).

The proposed legislation potentially would harm consumers by deterring manufacturers from investing in marketing strategies that might enhance interbrand competition and increase output. The risk that a comment by a customer, at most ambiguous, could lead to antitrust liability could cause a manufacturer to forgo marketing efforts requiring close support and participation from customers. Moreover, the proposed amendments would artificially support customers who are failing to perform repairs, failing to advertise, failing to maintain adequate display facilities and otherwise hampering effective distribution of products. The receipt of a single, unsolicited complaint about pricing would prevent a manufacturer from acting in its independent self-interest to terminate such customers. Indeed, a single complaint—even if contrived by the dealer—would tend, as a practical matter, to insulate the dealer complained about against termination, whatever policies the dealer adopts in contravention of the manufacturer's stated distributional policies.

The selection of an evidentiary standard for customer termination cases is, thus, more than a procedural matter; the choice has important substantive consequences.

In adopting the evidentiary standard announced in *Monsanto,* the Supreme Court recognized that impermissible manufacturer conduct with respect to resale prices is often difficult to distinguish from legitimate, procompetitive behavior. Citing *Continental T.V., Inc. v. GTE Sylvania Inc.,* 433 U.S. 36 (1977), the Court noted that even restraints that have impact upon resale prices may foster interbrand competition. The *Monsanto* evidentiary standard thus reflects an effort to confine resale price maintenance liability to the situation that poses the greatest risk to consumers: actual agreements between manufacturers or customers to maintain prices at predetermined levels. A rule that would permit liability where the evidence of an agreement is ambiguous would prevent manufacturers from terminating customers even where their intent in doing so is to enhance competition. Given the uncertainty concerning the situations under which resale price maintenance harms competition, it would be unwise to lower the standard of proof in this area, while preserving a higher standard with respect to horizontal price-fixing and boycotts where the anticompetitive nature of the conduct is undisputed.

C. The Proposed Amendments Would Unnecessarily Abrogate The Judge's Function

According to the statements of its sponsor, one purpose of the proposed legislation is to correct a perceived failure to give due weight to customer complaints in the context of motions for summary judgment and directed verdict. There is no indication, however, that the lower courts have, since *Monsanto,* usurped the jury's role. Indeed, in *Monsanto,* itself, the Court found an unlawful agreement based upon customer complaints in combination with other evidence. Rather, courts have examined evidence of customer complaints in the context in which they occurred in order to determine whether the complaints could support an inference of conspiracy. *See, e.g., Business Electronics Corp. v. Sharp Electronics Corp.,* 780 F.2d 1212, 1219 (5th Cir. 1986) (agreement could be inferred from circumstantial evidence, which included vehemence of complaints, manufacturers' efforts to convince plaintiff to adhere to suggested prices, evidence that complaining customer usually followed manufacturer's suggested prices and encouraged plaintiff to do likewise, and evidence that plaintiff was not free-riding); *Marco Holding Co. v. Lear Siegler, Inc.,* 606 F. Supp. 204, 209—10 (N.D. Ill. 1985) (material issue of fact on conspiracy issue raised by complaints about plaintiff's deviation from manufacturer's price schedule, timing of complaints and termination, vehemence of complaints, and competing customers' threats to stop buying from manufacturer).

The proposed amendments are legislative summary judgment rules. This is an unwarranted abrogation of the federal judge's role. In post-*Monsanto* cases, complaints have not been ignored; they have been treated as relevant evidence on the conspiracy issue. A rule that requires a judge automatically to send such evidence to the jury would be an unwise departure from the normal practice whereby the judge considers the evidence as a whole, not in rigid compartments, before determining whether it is sufficient to go to the jury.

D. The Legislation Is Imprecise and Would Spawn Wasteful Litigation

Both bills suffer from ambiguities, resolution of which would waste the resources of litigants and the courts. The new evidentiary standard would apply whenever a complaint has been "received from" a competing customer. To whom must the customer complain in order for the complaint to be deemed "received" by the manufacturer? If a customer makes an unsolicited comment about a competing customer's prices to a local sales representative, or to the employee who drives the delivery truck, is management precluded thereafter from terminating the competitor without risking antitrust liability?

The phrase "communication regarding price competition" is hopelessly vague. It is broad enough to include nearly every business conversation between a manufacturer and its customer. It is natural and unavoidable for customers to discuss their performance with reference to what their competitors are doing. The topic of "price competition" can come up in countless legitimate contexts, but the proposed legislation's elastic phrasing invests all mentions of price competition with conspiratorial significance.

E. Conclusion

For the reasons expressed above, The Section of Antitrust Law recommends that the American Bar Association oppose S. 430 and H.R. 585 or similar legislation.

June 1987.

Respectfully submitted,

MARK CRANE,
Chairman.

Mr. President, these expert antitrust lawyers have studied S. 430 and think it is not best for the public and that it would be a mistake to pass it.

Mr. President, this bill codifies the per se standard for resale price maintenance. I think resale price maintenance should be per se illegal, but I think the court should be free to consider whether there are times when such activity may or may not be anticompetitive. I do not think we should hamstring the courts this way.

In conclusion, the opposition to this bill does not mean a vote in favor of price fixing. That is absolutely untrue. I am amazed the distinguished Senator from Ohio made that statement. It is incorrect. Price fixing is wrong. I am against price fixing. But it should be proven and not assumed that this bill would allow. This bill assumed price fixing. They ought to have to prove price fixing. For these reasons, I say this bill should not pass and I hope that we would not go into it and take the time of the Senate while we have so many other important matters. If we do go into it, it is going to take a lot of time and there are more important matters. The American Bar Association report is sound. It should be followed. The Monsanto decision handed down by the Supreme Court should not be reversed. It is a very sound decision. Mr. President, I believe it is about time for a vote to be held.

The PRESIDING OFFICER (Mr. WIRTH). The time of 5:15 has arrived. Under the previous order, the question now occurs on agreeing to the motion to proceed to S. 430. The yeas and nays have been ordered.

Mr. SIMON. Mr. President, I ask unanimous consent that I may proceed for 3 minutes, notwithstanding the unanimous-consent agreement.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from Illinois is recognized for 3 minutes.

Mr. SIMON. Mr. President, I join the Senator from Ohio and others in urging our colleagues to pass this legislation. I was just reading a press release from the National Council of Senior Citizens, a statement by their president, Jacob Clayman, who says:

> The opportunity to buy at discount prices, thereby stretching one's income, is especially important to the elderly and disabled who are on fixed incomes.

Mr. President, it is not simply the elderly. It is farmers in Illinois, Nebraska, North Dakota, Iowa, and other States who are facing problems. It is working men and women who want to continue to be able to buy things at the best possible price. That is what this bill is all about. If you are opposed to price fixing, if you want real competition, if you want the free enterprise system to really work, then let it work. Let us have real competition.

If I may use a personal illustration, our family just bought a new washer at our home in southern Illinois. Our small town of Makanda, IL, did not have a place to buy a washer so we had to go about 12 miles away to Carbondale. We could have purchased one, I assume, at a discount store. We often make purchases at such stores. We decided however, to pay a higher price to take advantage of a long-term service agreement available to us elsewhere.

Those are the things that we ought to continue to be able to weigh. This bill will allow consumers to make those choices and it does not for a moment prevent a manufacturer from insisting that a distributor provide service or deal in an ethical way.

The New York Times has an editorial saying, "The Senate Judiciary Committee's bill and a companion that has already passed the House would codify the 1911 precedent and spell out what constitutes evidence of price fixing. It should be easy for manufacturers to live with. Indeed, the puzzle is why the Metzenbaum measure is controversial. If common sense prevails, it will pass."

I ask unanimous consent, Mr. President, that the New York Times editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 6, 1988]

LET THE RETAIL PRICE BE RIGHT

Should a manufacturer have the power to tell retailers what to charge consumers for a product? The Supreme Court's recent ruling on this doesn't plow new ground but warns Congress that a majority of the Court remains uneasy with forbidding manufacturers to fix retail prices.

Quick passage of a bill sponsored by Senator Howard Metzenbaum would clarify these muddy legal waters. It would protect consumers against price-fixing without impairing manufacturers' discretion in enforcing high retailing standards.

According to a 1911 Court ruling, any attempt by a supplier to influence the price charged by a retailer is automatically illegal. In sending the case of a Houston electronics dealer back for retrial last week, the present Court didn't overturn the 77-year-old precedent. But it is clear from Justice Scalia's opinion that the majority believes consumers may sometimes benefit from minimum price agreements between suppliers and retailers.

The Court communicated its ambivalence by ruling that only agreements *explicitly* setting prices were illegal on their face. A subtle hint from a manufacturer to a retailer about the evils of discounting might, however, pass muster.

This pleased conservative "Chicago School" economists. They acknowledge that price maintenance is sometimes used by giant stores to prevent smaller ones from competing with discounts. But they worry more that the law against setting minimum markups can create inefficiencies.

Take the case of the Blue Ribbon Computer Emporium, which devotes hours to explaining PC's to customers and lumps the cost of demonstrations into the retail price. Unless manufacturers enforce minimum markups, conservatives argue, customers will exploit the service at Blue Ribbon but purchase computers from the No-Frill Computer Parlor down the block. In the end, consumers will lose access to information and manufacturers will lose showcases for complicated products.

This "free rider" problem is real, but to combat it by allowing manufacturers to fix prices is overkill. Manufacturers can still set high standards for service and refuse to supply retailers who don't meet them. All the Court has said is that manufacturers must not fix prices in the process.

The Senate Judiciary Committee's bill, and a companion that has already passed the House, would codify the 1911 precedent and spell out what constitutes evidence of price fixing. It should be easy for manufacturers to live with. Indeed, the puzzle is why the Metzenbaum measure is controversial. If common sense prevails, it will pass.

Mr. SIMON. I urge my colleagues to support this legislation.

Mr. THURMOND. Mr. President, I ask unanimous consent for 1 minute.

The PRESIDING OFFICER. Without objection, the Senator from South Carolina is recognized for 1 minute.

Mr. THURMOND. Mr. President, this bill undercuts the antitrust laws. We need to keep these antitrust laws as they are. This bill reverses the Monsanto decision of the Supreme Court of the United States. This bill is not price fixing. The American Bar Association report that I just read condemns this bill. It is against the bill. They say it is not in the public interest. I hope the Senate will not take time to go into this bill with so many other important things to do.

Mr. HELMS. Mr. President, this bill S. 430, addresses a very complex issue of antitrust law. Frankly, I am concerned by the provision of this bill which would significantly change the evidentiary standards required for proving a conspiracy to set resale prices.

I am not a lawyer, but it appears that this bill would allow a manufacturer to be successfully sued for a price fixing conspiracy based solely on a complaint about pricing that he may have received from another retailer.

It is important to keep in mind that we are talking about a lawsuit that will automatically subject the defendant to treble damages.

Mr. President, I've heard strong arguments on both sides of this bill. Some have been quite emotional; some have been heated. North Carolina is very fortunate to have some of the best furniture retail stores in the country. They are known not only for the quality of their products and service, but also for their competitive prices—probably some of the most competitive prices in the country.

It is natural, I'm sure, that some furniture retailers around the country would like to see their North Carolina competitors out of the picture. That is exactly the concern of North Carolina retailers. It is important to them that our antitrust laws are adequate to protect them from those who might conspire to try to put them out of business.

Mr. President, I have met with furniture retailers from North Carolina, and I understand the concerns they have expressed. I intend to review their concerns thoroughly, and no doubt will be meeting with them again.

As I have said, this bill makes a complex change to the evidentiary standards of antitrust law. Even experienced antitrust attorneys disagree sharply on the effect this bill would have on the market. Proponents of S. 430 claim that the bill will benefit consumers. On the other hand, I've seen analyses of the bill which conclude that it would hurt consumers. We are obliged to assess these conflicting opinions carefully.

For example, the antitrust section of the American Bar Association contends that the change proposed in the bill would actually work to the detriment of consumers in the long run. These experts make the point that manufacturers would be discouraged from cooperating with their retailers in legitimate ways, or from pursuing improvements in their marketing strategies.

Mr. President, I'm a strong supporter of free enterprise and open competition. I know the same is true of our distinguished colleagues who have expressed concerns about this bill. As a result, I believe we need more time to study this bill. I hope that the Senate will not take up the bill until we are certain about the effects and impact of this legislation.

The PRESIDING OFFICER. Under the previous order, the question now occurs on the motion to proceed to S. 430.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KERRY], the Senator from Maine [Mr. MITCHELL], the Senator from New York [Mr. MOYNIHAN], the Senator from Georgia [Mr. NUNN], and the Senator from North Carolina [Mr. SANFORD] are absent on official business.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Oklahoma [Mr. BOREN] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 28, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—62

Adams
Baucus
Bentsen
Bingaman
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Domenici
Exon
Ford
Fowler
Glenn
Gore
Graham
Grassley
Harkin
Hatfield
Hecht
Heinz
Humphrey
Johnston
Karnes
Kennedy
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Stennis
Stevens
Weicker
Wilson
Wirth

NAYS—28

Armstrong
Bond
Cochran
D'Amato
Danforth
Dole
Evans
Garn
Gramm
Hatch
Heflin
Helms
Hollings
Kassebaum
Kasten
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Quayle
Simpson
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—10

Biden
Boren
Bradley
Durenberger
Inouye
Kerry
Mitchell
Moynihan
Nunn
Sanford

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 2:20 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1901. An act to designate the Federal Building located at 660 Las Vegas Boulevard in Las Vegas, Nevada, as the "Alan Bible Federal Building"; and

S. 1960. An act to designate the Federal Building located at 215 North 17th Street in Omaha, Nebraska, as the "Edward Zorinsky Federal Building".

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. PROXMIRE).

At 4:22 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2188. An act to amend section 307 of the Federal Employees' Retirement System Act of 1986.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2792. An act to clarify Indian treaties, Executive orders, and Acts of Congress with respect to Indian fishing rights;

H.R. 3431. An act to release a reversionary interest of the United States in a certain parcel of land located in Bay County, Florida;

H.R. 3559. An act to authorize and direct the acquisition of lands for Canaveral National Seashore, and for other purposes;

H.R. 3592. An act to amend title 39, United States Code, to limit the rate of pay at which the Postal Service may compensate experts and consultants;

H.R. 3811. An act to designate the Federal building located at 50 Spring Street, Southwest, Atlanta, Georgia, as the "Martin Luther King, Jr. Federal Building";

H.R. 3817. An act to designate the Federal building located at 405 South Tucker Boulevard, St. Louis, Missouri, as the "Robert A. Young Federal Building";

H.R. 3880. An act to extend the authorization of the Upper Delaware Citizens Advisory Council for an additional ten years;

H.R. 3960. An act to authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina, and for other purposes;

H.R. 4050. An act for the relief of certain persons in Riverside County, California, who purchased land in good faith reliance on an existing private land survey;

H.R. 4143. An act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes;

H.R. 4212. An act to amend the Joint Resolution of April 27, 1962, to permit the Secretary of the Interior to establish the former home of Alexander Hamilton as a national memorial at its present location in New York, New York;

H.R. 4276. An act to designate the United States Post Office building located at 1105 Moss Street in Lafayette, Louisiana, as the "James Domengeaux Post Office Building"; and

H.R. 4517. An act to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to provide for indemnification and hold harmless agreements.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3431. An act to release a reversionary interest of the United States in a certain parcel of land located in Bay County, Florida; to the Committee on Energy and Natural Resources.

H.R. 3559. An act to authorize and direct the acquisition of lands for Canaveral National Seashore, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3592. An act to amend title 39, United States Code, to limit the rate of pay at which the Postal Service may compensate experts and consultants; to the Committee on Governmental Affairs.

H.R. 3811. An act to designate the Federal building located at 50 Spring Street, Southwest, Atlanta, Georgia, as the "Martin Luther King, Jr. Federal Building"; to the Committee on Environment and Public Works.

H.R. 3817. An act to designate the Federal building located at 405 South Tucker Boulevard, St. Louis, Missouri, as the "Robert A. Young Federal Building"; to the Committee on Environment and Public Works.

H.R. 3880. An act to extend the authorization of the Upper Delaware Citizens Advisory Council for an additional ten years; to the Committee on Energy and Natural Resources.

H.R. 3960. An act to authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4050. An act for the relief of certain persons in Riverside County, California, who purchased land in good faith reliance on an existing private land survey; to the Committee on Energy and Natural Resources.

H.R. 4143. An act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes; to the Select Committee on Indian Affairs.

H.R. 4212. An act to amend the Joint Resolution of April 27, 1962, to permit the Secretary of the Interior to establish the former home of Alexander Hamilton as a national memorial at its present location in New York, New York; to the Committee on Energy and Natural Resources.

H.R. 4276. An act to designate the United States Post Office Building located at 1105 Moss Street in Lafayette, Louisiana, as the "James Domengeaux Post Office Building"; to the Committee on Governmental Affairs.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 21, 1988, he had presented to the President of the United States the following enrolled bills:

S. 1901. An act to designate the Federal Building located at 660 Las Vegas Boulevard in Las Vegas, Nevada, as the "Alan Bible Federal Building"; and

S. 1960. An act to designate the Federal Building located at 215 North 17th Street in Omaha, Nebraska, as the "Edward Zorinsky Federal Building".

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-536. A joint resolution adopted by the legislature of the State of Virginia; to the Committee on Appropriations.

"HOUSE JOINT RESOLUTON No. 183

"Whereas, the shellfish industry exerts a substantial economic impact on the economy of Virginia; and

"Whereas, approximately 90,500 acres of shellfish harvest areas in Virginia are closed to the direct marketing of shellfish; and

"Whereas, a substantial proportion of these closings are necessary because the water quality in the harvest areas does not meet bacteriological standards established by the National Shellfish Sanitation Program, which utilizes coliform and fecal coliform microorganisms as an indicator of sanitary water quality; and

"Whereas, the coliform or fecal coliform standard may be overly conservative and in recent years a question has been raised as to the suitability of the use of coliform or fecal coliforms as a valid indicator of health risk of shellfish harvest areas, especially in those areas where sources of fecal pollution can not be identified; now therefore, be it

"*Resolved by the House of Delegates, the Senate concurring,* That the General Assembly of Virginia, by this resolution, memorializes the Congress of the United States to appropriate funds to support a cooperative national research proposal to evaluate the use of coliforms and fecal coliforms and other microorganisms as indicators of health risk associated with the consumption of shellfish; and, be it

"*Resolved further,* That the appropriate state agencies, such as the Department of Health, the Marine Resources Commission and the Virginia Institute of Marine Science, are requested to assist the U.S. Food and Drug Administration, the Environmental Protection Agency, the National Marine Fisheries Services, the Gulf and South Atlantic Fisheries Development Foundation and the Interstate Shellfish Sanitation Conference in this effort; and, be it

"*Resolved finally,* That the Clerk of the House of Delegates transmit copies of this resolution to the members of the Virginia Congressional delegation, the Speaker of the United States House of Representatives and the President of the United States Senate in order that they may be apprised of the sense of the Virginia General Assembly."

POM-537. A joint resolution adopted by the legislature of the Commonwealth of Virginia; to the Committee on Commerce, Science, and Transportation:

"HOUSE JOINT RESOLUTON No. 115

"Whereas, from 1935 to 1966, the Interstate Commerce Commission regulated both the economic and safety behavior of the interstate trucking industry and exempted drivers and trucks used wholly within defined geographical areas around cities and towns known as commercial zones from compliance with safety regulations; and

"Whereas, in 1966, the Federal Motor Carrier Safety Regulations were transferred to the U.S. Department of Transportation, and, unfortunately, the safety exemption for commercial zone operations was transferred also; and

"Whereas, when federal regulation of trucking was implemented in 1935, the commercial zone exemption had a minimal impact on safety due to the local nature of truck operations; the small size of cities, towns, and villages; lower speed limits; and smaller, less complex trucks with lower speed capabilities; and

"Whereas, urban road conditions have changed drastically over the years and now feature high-speed arterial streets, expressways, and highways; and

"Whereas, trucks comprise a high percentage of vehicles using urban arterial streets, highways and expressways and are a high percentage of the vehicles involved in accidents on these roads; and

"Whereas, truck fleets operating under the commercial zone exemption are under no pressure to improve their safety performance and there is no incentive or authority for enforcement of higher overall standards for safe operation of these vehicles and drivers; and

"Whereas, there is no safety justification for continuing to sanction the virtually uncontrolled operation of these vehicles and drivers because they are kept within the limited confines of a commercial zone and it is unacceptable to allow substandard drivers and/or vehicles to share streets and highways with the public; and

'Whereas, continuation of this exemption results in the nation's as well as Virginia's towns and cities serving as a potential dumping ground for unqualified and unfit truck drivers and unsafe trucks; now, therefore, be it

"*Resolved, by the House of Delegates, the Senate concurring,* That the Congress of the United States is hereby memorialized and the Department of State Police is requested to exercise their respective authorities to eliminate the exemption of commercial zone motor carrier operations from the applicability of the Federal Motor Carrier Safety Regulations and from enforcement activity designed to assure compliance with the regulations; and, be it

"*Resolved further,* That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the Senate of the United States, and the members of the Virginia delegation to the United States Congress that they may be apprised of the sense of the General Assembly of Virginia in this manner."

POM-538. A concurrent resolution adopted by the legislature of the State of Hawaii; to the Committee on Commerce, Science, and Transportation:

"HOUSE CONCURRENT RESOLUTION 61

"Whereas, Hawaii is world renowned for its residential areas of solitude and serenity which contribute to the State's desirability as a place to live; and

"Whereas, a relatively new industry that has experienced rapid growth in the State of Hawaii and elsewhere is sightseeing by helicopter; and

"Whereas, the noise generated by these sightseeing flights destroys opportunities for solitude and serenity in residential areas; and

"Whereas, numerous and longstanding complaints testify to the invasion of privacy due to high noise levels; and

"Whereas, these low altitude flights also pose a risk to the safety of both sightseers and persons on the ground as evidenced by ten crashes and two deaths reported in 1985; and

"Whereas, helicopters are exempt from the requirements of the Federal Aviation Act of 1958 which requires fixed-wing aircraft to maintain certain minimum altitudes; and

"Whereas, the Noise Control Act of 1972 gives primary responsibility for control of aircraft noise to the Federal Aviation Administration; and

"Whereas, the Federal Aviation Administration does not have any specific regulations for helicopter operations, with the exception of rules and regulations governing approach and landing at major air facilities; and

"Whereas, the Federal Aviation Administration's "Fly Neighborly" program, implemented by the Helicopter Association International in 1981, has proven ineffective in dealing with the aforementioned problems and required an inordinate amount of citizen policing; and

"Whereas, the Federal Aviation Administration has shown continued reluctance to set up and enforce rules and regulations concerning minimum altitudes, flight paths, and time schedules, for helicopter use; now, therefore

"*Be it resolved by the House of Representatives of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, the Senate concurring,* That the U.S. Congress is requested to enact Federal Legislation that will require the FAA to:

"(a) Develop specific noise and safety related flight regulations for helicopters over residential areas; and

"(b) Develop a land use compatible altitude and flight path system for helicopter operations which specifically recognizes the rights of citizens to enjoy privacy both in the home and in wilderness areas without undue intrusion from the air; and

"*Be it further resolved,* That certified copies of this Concurrent Resolution be transmitted to the President of the United States of America, the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, the Chairman of the U.S. House of Representatives Subcommittee on Aviation, the Chairman of the U.S. Senate Subcommittee on Aviation, Hawaii's U.S. Congressional Delegation, the United States Department of Transportation, the Federal Aviation Administration, the Director of the State Department of Transportation, the Chairman of the State Board of Land and Natural Resources, and Janice Lipsen, the Hawaii State Lobbyist in Washington, D.C."

POM-539. A joint resolution adopted by the legislature of the State of Alaska; to the Committee on Commerce, Science, and Transportation.

"LEGISLATIVE RESOLVE No. 80

"Be it resolved by the legislature of the State of Alaska:

"Whereas the state and its citizens depend on the fish, marine mammals, and other living resources of the ocean for their economy and welfare; and

"Whereas the dumping of garbage in the ocean, even beyond state territorial waters, affects the condition of the ocean's living resources and, it in turn, affects the economy, health, and welfare of the state; and

"Whereas garbage has been found in fishing nets, which results in a loss to fishermen, and garbage has been responsible for the death of a significant number of important fisheries species, sea birds, marine mammals, and other marine life; and

"Whereas the United States is a party to the MARPOL convention, which is an international agreement to prevent the pollution of the ocean by the dumping of garbage from ships; and

"Whereas the United States Congress has recently enacted legislation to amend the Act to Prevent Pollution from Ships (33 U.S.C. 1901-1911) to combat garbage pollution of the ocean, including the growing problem of the disposal of plastics in the ocean, and this legislation implements certain provisions of the MARPOL convention; and

"Whereas the MARPOL convention requires the United States to insure that its ports and terminals provide facilities for the reception of garbage from ships and other vessels; and

"Whereas 33 U.S.C. 1901-1911, as amended, requires that ports and terminals in the United States provide reception facilities for certain pollutants and garbage from ships; and

"Whereas every year there is a large influx of ships to the coast of Alaska to participate in the fisheries within state water and within the 200-mile exclusive economic zone; and

"Whereas many of the ports required by federal law to accept garbage and pollutants are run by small communities that are already experiencing difficulties in disposing of their own wastes; and

"Whereas many coastal communities in Alaska are economically distressed, unusually small, and remote, and have few resources to deal with problems of wastes collection and disposal; and

"Whereas although the prevention of garbage dumping in the ocean is vitally important to these communities, many of them have no funds to increase their capacity for accepting additional wastes, no authority to pay for these facilities, and no expertise to handle some of these wastes; and

"Whereas the present shortfall in state revenues precludes the state from providing funds to help coastal communities to upgrade their ports to meet the standards established by federal law;

"*Be it resolved,* That the Alaska State Legislature urges the United States Congress and the federal government to help the ports in the coastal communities of the state prevent the pollution of the ocean by providing them with the financial and technical assistance necessary to handle the ship garbage and pollutants reception requirements established by the Congress.

"Copies of this resolution shall be sent to the Honorable Ronald Reagan, President of the United States; to the Honorable George Bush, Vice-President of the United States and President of the U.S. Senate; the Honorable Jim Wright, Speaker of the U.S. House of Representatives; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

POM-540. A joint resolution adopted by the legislature of the State of Washington; to the Committee on Commerce, Science, and Transportation:

SUBSTITUTE SENATE JOINT MEMORIAL NO. 8027

"To the Honorable Ronald Reagan, President of the United States, and to the United States National Oceanic and Atmospheric Administration, and to the United States Environmental Protection Agency, and to the President of the Senate and the Speaker of the House of Representatives, and to the Senate and House of Representatives of the United States, in Congress assembled:

"We, your Memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled, respectfully represent and petition as follows:

"Whereas, Plastic production has risen from six billion pounds annually in 1960 to more than fifty billion pounds per year currently; and

"Whereas, Synthetic rope, plastic strapping bands, lost and discarded fishing nets, plastic bags and other manufactured plastic items, and small plastic beads and particles may last for years or decades in the ocean; and

"Whereas, It is estimated that nine million tons of plastics are dumped at sea each year from vessels; and

"Whereas, Because of the entry of plastics materials going into oceans from rivers, estuaries, and other avenues, there may be as much as ninety million tons of plastics accumulating in the ocean annually; and

"Whereas, It has been documented that plastic is responsible for killing millions of birds, fish, seals, turtles, and sea lions each year through entrapment in discarded plastics and ingestion of plastic material; and

"Whereas, Information shows that synthetic debris is a significant contributing cause to the decline of the northern fur seal population and other marine mammals; and

"Whereas, In the Northwest, more than one thousand dollars per year, per commercial vessel, is spent due to damage caused by plastic and debris problems; and

"Whereas, The movement of eastern Pacific tidal waters is such that it brings debris into Washington's offshore waters, making it the Pacific Ocean area most densely contaminated with plastics, besides the Sea of Japan; and

"Whereas, A recent study concluded that Washington's offshore waters contain the highest density of plastics than anywhere else on the West Coast;

"Now, therefore, Your Memorialists respectfully pray that:

"(1) The United States vigorously pursue implementation of Annex V of the international convention for the prevention of pollution from ships, which is designed to reduce the dumping of garbage from ships as well as ensure adequate garbage reception facilities and ports of call;

"(2) More of the current funds appropriated to the United States Coast Guard be used for implementing the provisions of the international convention for the prevention of pollution from ships, and a comprehensive education program concerning marine debris be provided for ocean-going commerce and fishing vessels;

"(3) The United States take action to ensure that countries that have not yet signed the international convention to prevent pollution from ships do so; and

"(4) The United States formally designate significant areas in United States coastal waters, such as the Gulf of Mexico and the ocean coast of the State of Washington, as off-limits to marine dumping.

"*Be it resolved,* That copies of this Memorial be immediately transmitted to the Honorable Ronald Reagan, President of the United States, the United States National Oceanic and Atmospheric Administration, the United States Environmental Protection Agency, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-541. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Commerce, Science, and Transportation:

"HOUSE RESOLUTION 61

"Whereas, the federal Coastal Zone Management Act (CZMA) of 1972 is regarded as the model legislation which establishes the opportunity for a partnership among federal and state governments; and

"Whereas, since 1977, the United States Department of Commerce, which administers the federal CZMA has approved twenty-nine state coastal management programs under the provisions of the CZMA, including programs administered by all the coastal states and territories represented in the Western Legislative Conference; and

"Whereas, the western states and territories have continued to participate and contribute to national objectives relating to the nation's coastal zones for nearly a decade; and

"Whereas, the federal consistency provisions of the federal CZMA exemplify the potential benefits of a truly cooperative federal and state partnership; and

"Whereas, the Hawaii State House of Representatives is strongly supportive of federal programs which allows states to exercise a leadership role in the management of natural resources; and

"Whereas, under the provisions of the federal CZMA, states with federally approved coastal management programs are empowered to approve or reject Outer Continental Shelf (OCS) oil and gas exploration and development plans; and

"Whereas, under their federally approved state coastal management programs, Alaska, California, Oregon, Washington, and other coastal states properly condition OCS oil and gas exploration and development plans to ensure that the OCS activities do not adversely impact nationally important coastal resources; and

"Whereas, the United States Department of the Interior (DOI) opposes the state efforts which condition OCS exploration and development; and

"Whereas, coastal states which are properly imposing restrictions on OCS oil gas exploration and development plans under their federally-approved state coastal management programs may be subject to having federal approval of their state coastal management programs withdrawn; now, therefore,

"*Be it resolved by the House of Representatives of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988,* That the Congress of the United States is urged to amend the federal CZMA to further specify the federal consistency provision through the passage of H.R. 1876; and

"*Be it further resolved*, That the United States Secretary of Commerce is urged not to initiate any action against any State for any reason not specifically provided for in the National Coastal Zone Management Act; and

"*Be it further resolved*, That the Congress of the United States is urged to investigate the United States Commerce Department's procedures for evaluating state coastal management programs to ensure that the evaluations are not misused to deprive states of their proper authority under the federal CZMA; and

"*Be if further resolved*, That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and Hawaii's congressional delegation."

POM-542. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Commerce, Science, and Transportation:

"HOUSE RESOLUTION 78

"Whereas, Hawaii is world renowned for its residential areas of solitude and serenity which contribute to the State's desirability as a place to live; and

"Whereas, a relatively new industry that has experienced rapid growth in the State of Hawaii and elsewhere is sightseeing by helicopter; and

"Whereas, the noise generated by these sightseeing flights destroys opportunities for solitude and serenity in residential areas; and

"Whereas, numerous and longstanding complaints testify to the invasion of privacy due to high noise levels;

"Whereas, these low altitudes flights also pose a risk to the safety of both sightseers and persons on the ground as evidenced by ten crashes and two deaths reported in 1985; and

"Whereas, helicopters are exempt from the requirements of the Federal Aviation Act of 1958 which requires fixed-wing aircraft to maintain certain minimum altitudes; and

"Whereas, the Noise Control Act of 1972 gives primary responsibility for control of aircraft noise to the Federal Aviation Administration; and

"Whereas, the Federal Aviation Administration does not have any specific regulations for helicopter operations, with the exception of rules and regulations governing approach and landing at major air facilities; and

"Whereas, the Federal Aviation Administration's "Fly Neighborly" program, implemented by the Helicopter Association International in 1981, has proven ineffective in dealing with the aforementioned problems and required an inordinate amount of citizen policing; and

"Whereas, the Federal Aviation Administration has shown continued reluctance to set up an enforce rules and regulations concerning minimum altitudes, flight paths, and time schedules for helicopter use; now, therefore

Be it resolved by the House of Representatives of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, That the U.S. Congress is requested to enact Federal Legislation that will require the FAA to:

"(a) Develop specific noise and safety related flight regulations for helicopters over residential areas; and

"(b) Develop a land use compatible altitude and flight path system for helicopter operations which specifically recognizes the rights of citizens to enjoy residential and wilderness experience privacy without undue intrusion from the air; and

Be it further resolved, That certified copies of this Resolution be transmitted to the President of the United States of America, the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, the Chairman of the U.S. House of Representatives Subcommittee on Aviation, the Chairman of the U.S. Senate Subcommittee on Aviation, Hawaii's U.S. Congressional Delegation, the United States Department of Transportation, the Federal Aviation Administration, the Director of the State Department of Transportation, the Chairman of the State Board of Land and Natural Resources, and Janice Lipsen, the Hawaii State Lobbyist in Washington, D.C."

POM-543. A joint resolution adopted by the legislature of the Commonwealth of Virginia; to the Committee on Environment and Public Works:

"Whereas, the Safe Drinking Water Act Amendments of 1986 as passed by the Congress of the United States mandate a significant increase in resource commitments by the owners and operators of public water supply systems and by state regulatory agencies, such as the Virginia Department of Health; and

"Whereas, the effect of these mandates will be most severely felt by the small water system owners and operators and ultimately by their customers as a result of increased rates; and

"Whereas, ninety-five percent of the public water systems in Virginia are small systems which serve less than 3,300 persons; and

"Whereas, the Virginia Department of Health must promulgate regulations at least as stringent as those promulgated by the United States Environmental Protection Agency (EPA) to retain regulatory primacy; and

"Whereas, proposed and final rules already issued by the EPA in compliance with the 1986 Amendments appear to be burdensome and of marginal public health benefit, especially to small water systems; and

"Whereas, a study performed by the Virginia Department of Health, estimates a 200 percent increase in the amount of state resources to fully implement the regulations which will be instituted under these Amendments; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the United States Congress is memorialized to ensure that regulations proposed and promulgated by the EPA be cost effective and necessary for the protection of public health and that due consideration be given to the economic impacts any federal regulations may have on small water systems which make up the majority of the regulated entities nationwide; and be it

Resolved further, That the Clerk of the House transmit copies of this resolution to the members of the Virginia delegation to Congress, to the Speaker of the United States House of Representatives and the President of the United States Senate in order that they may be apprised of the sense of the General Assembly."

POM-544. A joint resolution adopted by the legislature of the Commonwealth of Virginia; to the Committee on Environment and Public Works:

"Whereas, in 1946, the Governor of Virginia conveyed certain submerged lands containing 2,500 acres, more or less, known as Craney Island, lying and being in Hampton Roads, to the United States of America to be used as a disposal site for material dredge from Hampton Roads Harbor; and

"Whereas, the United States Army Corps of Engineers has announced proposals for the expansion of the Craney Island landfill area and continued use thereof beyond the originally projected termination date; and

"Whereas, Craney Island is within the boundaries of the City of Portsmouth and its ultimate development is vital to the economic vitality of the City of Portsmouth and the Commonwealth of Virginia; and

"Whereas, Craney Island represents a site of substantial size which the City of Portsmouth can offer for expansion of its tax base to the relief of its private homeowners and residents; and

"Whereas, in excess of sixty percent of the land of the City of Portsmouth is nontaxable either as real estate or personal property primarily by reason of ownership thereof by federal or state governmental agencies; and

Whereas, the Virginia Port Authority has expressed an interest in acquiring a certain portion of the Craney Island property for port development and expansion; and

Whereas, an assessment of the environmental impact on the seed oyster beds, other shellfish and crabs, which might be affected by alternatives to the Craney Island landfill should be considered prior to any expansion; and

"Whereas, the Council of the City of Portsmouth has steadfastly expressed this intention to assure that Craney Island is developed in a manner which will guarantee maximum benefits for the city and the Commonwealth; and

"Whereas, the Council of the City of Portsmouth is further committed to assure that Craney Island is developed in a manner compatible with the continued residential expansion occurring on the property in close proximity thereto; now, therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the United States Army Corps of Engineers, the Virginia Marine Resources Commission, the Virginia Institute of Marine Science and other appropriate federal and state agencies consider and make recommendations with respect to (i) all alternatives to the expansion of Craney Island landfill for disposal of material dredged from Hampton Roads and (ii) plans which would make Craney Island available for development at the earliest possible date; and, be it

Resolved further, That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker, of the United States House of Representatives, the President of the United States Senate, the United States Army Corps of Engineers, and to all members of the Virginia Delegation to the United States Congress in order that they may be apprised of the sense of the Virginia General Assembly."

POM-545. A resolution adopted by the Ocean County Board of Chosen Freeholders, Ocean County, NJ, requesting effective legislation that would prohibit dumping sludge and contaminants in the Atlantic Ocean; to the Committee on Environment and Public Works.

POM-546. A resolution adopted by the Council of the Country of Hawaii with respect to the nine regional research centers across the nation; to the Committee on Environment and Public Works.

POM-547. A joint resolution adopted by the legislature of the State of Colorado; to the Committee on Environment and Public Works.

"House Joint Resolution No. 1022

"Whereas, This year the United States Senate and the House of Representatives will either consider revisions to the Federal "Clean Air Act", or extend the delay in sanctions against states and communities which are unable to comply with deadlines to meet ambient air quality standards; and

"Whereas, Certain provisions under consideration are of vital importance to the effort to reduce air pollution in Colorado and help address our particular air quality problems; and

"Whereas, Amendments to the federal "Clean Air Act" will be considering" (1) Ozone/carbon monoxide attainment; (2) acid rain; (3) mobile sources/fuels/municipal waste controls; (4) national ambient air quality standards; and (5) hazardous air pollutants; now, therefore,

"Be It Resolved by the House of Representatives of the Fifty-sixth General Assembly of the State of Colorado, the Senate concurring herein:

"(1) That the General Assembly is committed to Colorado meeting the air quality standards set by the federal "Clean Air Act" because of the importance of cleaner air for the health of our citizens as well as the future of our economy and that the General Assembly hereby urges the Congress to additionally study revisions to the federal "Clean Air Act" which would consider: (1) All motor vehicle fuels, such as oxygenated fuels, including but not limited to vapor pressure; (2) incentives to remove from the roads and highways the older, high polluting vehicles which contribute disproportionately to air pollution; (3) greater jurisdictional authority to state and local government to regulate controllable features such as daylight saving time; and (4) potential disruption in motor fuel distribution by the mandating of specific fuels; and (5) continued motor vehicle improvements which further reduce carbon monoxide emissions and which are technologically and economically feasible.

"(2) That the General Assembly hereby urges the Congress to adopt revisions to the federal "Clean Air Act" which are necessary to protect the health of the residents of the State of Colorado and the United States population in general and which take into account and which would provide benefits commensurate with the following considerations: (1) Effective control technology; (2) technological feasibility; (3) societal impact, including but not limited to societal cost and cost/benefit ratios; (4) the effect of tighter standards upon motor vehicle product availability and product performance; and (5) the effect upon fuel economy standards and the dependence of the United States on foreign oil sources.

"Be It Further Resolved, That copies of this Resolution be transmitted to: The Speaker of the United States House of Representatives; the President of the United States Senate; the Honorable Robert Byrd, Majority Leader of the United States Senate; the Honorable Robert Dole, Minority Leader of the United States Senate; the Honorable John Dingell, Chairman of the House Committee on Energy and Commerce; the Honorable Norman Lent, Ranking Minority Member of the House Committee on Energy and Commerce; the Honorable Quentin Burdick, Chairman of the Senate Committee on Environment and Public Works; the Honorable Henry Waxman, Chairman of the House Subcommittee on Health and Environment; the Honorable Edward Madigan, Ranking Minority Member, House Subcommittee on Health and Environment; the Honorable George Mitchell, Chairman of the Senate Subcommittee on Environmental Protection; and to each member of Colorado's delegation in the United States Congress."

POM-548. A concurrent resolution adopted by the legislature of the State of Florida; to the Committee on Finance:

"House Concurrent Resolution No. 280

"Whereas, the economic uncertainty of the 1980's has resulted in a loss of American jobs, a strain on the American family and a restructuring of many of America's industrial corporations, and

"Whereas, one of the leading factors in the creation of economic problems in the United States has been the encroachment of foreign goods and products into the American marketplace, coupled with trade barriers abroad which discourage American exports, and

"Whereas, at the present time foreign manufacturers produce 60 percent of the televisions and radios, 45 percent of the bicycles, 26 percent of the steel, 71 percent of the shoes, 48 percent of the microwave ovens, 79 percent of the stuffed toys, 21 percent of the telephone equipment and 44 percent of the luggage sold in the United States, and

"Whereas, each manufactured product sold in the United States and produced abroad contributes both to our trade deficit and to the domestic loss of American jobs, and

"Whereas, the citizens of Florida and of the United States could have a positive effect upon this corrosive problem by refusing the purchase imported products, and

"Whereas, it is fitting and appropriate that the Legislature of the State of Florida support American manufacturers in their efforts to overcome foreign imported products and preserve American jobs; Now, therefore, be it

"Resolved by the House of Representatives of the State of Florida, the Senate Concurring, That the Legislature of the State of Florida hereby declares the week of July 4th, 1988, as "Buy American Week" and urges all citizens of the State of Florida to participate by refraining from purchasing any imported goods during that week and instead urges them to purchase goods manufactured in the United States.

"Be it further resolved, That copies of this resolution be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress."

POM-549. A joint resolution adopted by the legislature of the Senate of Florida; to the Committee on the Judiciary:

"Senate Memorial No. 302

"Whereas, the people of the State of Florida have adopted, as a provision of their state constitution, the requirement that the state government operate on the basis of a balanced budget, and that requirement has proved of great benefit to the state, and

"Whereas, in 1976, responding to national concern over a public debt which was then in excess of $300 billion and the existence of a $43 billion federal deficit, the Florida Legislature made application to the Congress of the United States to call a constitutional convention to propose an amendment to the Constitution of the United States requiring a balanced federal budget, and

"Whereas, the national debt in 1986 exceeded $1 trillion, and the estimated 1987 deficit is now approximately $173.2 billion, and

"Whereas, what was national concern in 1976 has, in 1988, become a national crisis, and

"Whereas, this condition of our national fiscal policy threatens the security of our nation, and

"Whereas, the threat to the security of our nation has become so imminent that we can no longer afford the time and expense of a constitutional convention to propose and debate a solution to the crisis that is self-evident, and

"Whereas, Article V of the Constitution of the United States provides for the proposal of amendments to the Constitution of the United States by two-thirds concurrence of the members of both Houses of Congress, and

"Whereas, We should each and every one demand of our U.S. Senators and Congressmen that such an amendment be introduced in both houses of the Congress and that the elected Florida delegation lead the fight to bring about the proposal of this critically important constitutional amendment; Now, therefore, be it

"Resolved by the Legislature of the State of Florida, That the Congress of the United States is urged to adopt, without delay, a joint resolution providing for an amendment to the Constitution of the United States that requires the federal budget to be in balance except under specified emergency conditions.

"Be it further resolved, That the Congress of the United States is urged to take appropriate and immediate action to continue to bring the federal budget into balance and to cause the reduction of the outstanding national debt in the foreseeable future.

"Be it further resolved, That this memorial supersedes all previous memorials applying to the Congress of the United States to call a convention to propose an amendment to the Constitution of the United States to require a balanced federal budget, including Senate Memorial No. 234 and House Memorial No. 2801, both passed in 1976, and that such previous memorials are hereby revoked and withdrawn.

"Be it further resolved, That a copy of this memorial be dispatched to the presiding officers of the Senate and the House of Representatives of Congress and the members of the Congressional delegation from the State of Florida."

POM-550. A petition from a citizen of Santa Monica, California favoring the return of the FBI to its domestic intelligence responsibilities; to the Committee on the Judiciary.

POM-551. A concurrent resolution adopted by the legislature of the State of Oklahoma; to the Committee on the Judiciary.

"Enrolled House Concurrent Resolution No. 1103

"Whereas, the Sixteenth Amendment to the Constitution of the United States, as evidenced by the history of its adoption, was not intended by its framers, proponents, or the ratifying states to permit taxation by the federal government of interest income on the obligations of the states or their political subdivisions; and

"Whereas, the Congress of the United States has of late enacted and proposed legislation which operates to tax or restrict such obligations and the income thereon and proceeds thereof, has enacted and proposed retroactive tax legislation, and has enacted or proposed legislation which limits the deductibility for federal income tax purposes of taxes paid under state laws and interest on amounts borrowed by financial institutions to purchase or carry such obligations, all to the manifest detriment of the states and their economies; Now, therefore, be it

Resolved by the House of Representatives of the 2d session of the 41st Oklahoma Legislature, the Senate concurring therein:

"Section 1.—The Oklahoma Legislature respectfully memorializes the Congress of the United States to propose a Constitutional Amendment to clarify the Sixteenth amendment to the Constitution of the United States, providing that:

"Interest income derived from debt instruments of the several states and their political subdivisions shall not be subject to tax by the United States when issued for water, sewer, electric, streets, highways, public improvements, health care, waste disposal, schools, or other educational purposes, or for such other purposes as the legislatures of a majority of the states may find from time to time to be public purposes.

"Section 2.—Copies of this resolution shall be dispatched to the Clerk of the United States House of Representatives and the Secretary of the United States Senate."

POM-552. A joint resolution adopted by the legislature of the Commonwealth of Virginia; to the Committee on Labor and Human Resources:

House Joint Resolution No. 182

"Whereas, the General Assembly of Virginia believes that our youth represent the future of our society, and ensuring that they are reasonably protected from that which is detrimental to their health, welfare and safety reflects the common values, hopes and aspirations inherent in our national heritage; and

"Whereas, increasing numbers of movies, films and videotapes are being produced which depict extreme and graphic acts of violence, torture and death; and

"Whereas, new "horror" films and videotapes, commonly known as "slasher films," depict graphic acts of actual mutilation of the human body for the sole purpose of inciting debased and perverted emotions in the viewer; and

"Whereas, films and videotapes, commonly known as "snuff films," couple various sexual acts with violence and actual murder; and

"Whereas, these "slasher" and "snuff" films are legal and readily available to children of all ages; and

"Whereas, exposure of young, impressionable minds to such depravity breeds a callousness toward acts of violence and insensitivity toward humanity; and

"Whereas, precedent has been established through current federal regulations and case law concerning pornography and child welfare issues which extend special protections to our children; and

"Whereas, the enactment of appropriate laws and regulations or the enforcement of existing laws and regulations will provide further protection to our children from such extreme violence; Now, therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the Congress of the United States is hereby memorialized to enact appropriate laws and regulations or to ensure the enforcement of such existing laws and regulations to better protect our youth from films depicting extreme violence; and, be it

"Resolved further, That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the Senate of the United States and the members of the Virginia delegation to the United States Congress, that they may be apprised of the sense of the General Assembly of Virginia in this matter."

POM-553. A joint resolution adopted by the legislature of the Commonwealth of Virginia; to the Committee on Labor and Human Resources:

"House Joint Resolution No. 102

"Whereas, an estimated one million teenage girls become pregnant in the United States each year, and in the Commonwealth of Virginia in 1987, nearly 20,000 teenage girls became pregnant; and

"Whereas, the tragic outcomes of teenage pregnancy result in wasted lives, unfulfilled hopes and costly remedial social and public assistance programs, and cost approximately $16.5 billion in 1985 in federal and state funds to support these young, fragile families; and

"Whereas, the Virginia General Assembly studied the problem of teenage pregnancy over the past two years and addressed the myriad of factors associated with the high rate of teenage pregnancy and multiple ways of preventing this problem; and

"Whereas, the U.S. Bureau of the Census has determined that "the average teenager watches nearly thirty hours of televison each week, listens to the radio for over twenty hours each week, and by the time they graduate from high school, teenagers have spent more time watching television than being in school"; and

"Whereas, the Census Bureau has also found that "the media rank either just ahead or just behind peers and parents as the greatest forces influencing the values and behavior of teenagers and television programming is replete with sexual comment, innuendo, and behavior"; and

"Whereas, studies have revealed that (i) during one year of average viewing, Americans are exposed to approximately 9,230 scenes of suggested sexual intercourse, sexual comment or innuendo, (ii) television portrays six times more extramarital sex than sex between spouses, (iii) ninety-four percent of the sexual encounters on soap operas are between people not married to each other, and (iv) on any given day television viewers are exposed to between seventy and ninety commercials which use sex, innuendo and direct suggestion, to sell cars, travel, soft drinks, wine, toothpaste, clothes, etc.; and

"Whereas, the more than twenty hours of listening to the radio are filled to a large degree with sexually explicit lyrics of current pop-chart songs; and

"Whereas, during the course of the study, the General Assembly determined that the constant exposure of youth to sexually explicit and suggestive broadcasting may negatively influence their decisions regarding their sexual conduct; and

"Whereas, there is much that the media can do to change their image and to expose young viewers to the need to be responsible for their sexual conduct, the advantages of abstaining from nonmarital sexual intercourse, and the repercussions of adolescent sexual activity on the individual and on society; and

"Whereas, representatives of the broadcast media have indicated their willingness to cooperate in addressing the problem of teenage pregnancy by responding to community concerns for alternative viewing and for policing the airing of sexually explicit content to youth; and

"Whereas, media representatives have noted that although some affiliates now provide public service announcements concerning AIDS, advertisements for condoms, and air specials on the problems of teenage pregnancy and adolescent parenthood, the media maintain that they are enjoined from controlling the airing of sexually explicit content; and

"Whereas, representatives of the broadcast media have advised the General Assembly that, pursuant to a U.S. Department of Justice ruling, the industry's Code of Conduct violated anti-trust laws, and broadcasters are prohibited from collaboration on matters of concern to them; and

"Whereas, the General Assembly was further advised that this ruling unwittingly provided opportunities for increased sexually explicit and suggestive broadcasting; and

"Whereas, the General Assembly believes that the ability of broadcasters to establish a code of conduct for the broadcasting of sexually explicit and suggestive programs and advertising for the broadcasting of sexually explicit and suggestive programs and advertising would help to diminish the accessibility and negative effects of such broadcasting on youth; Now, therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the Congress of the United States is hereby memorialized to allow the broadcast media to establish a code of conduct for sexually explicit content; and, be it

"Resolved further, That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the Senate of the United States, and the members of the Virginia delegation to the United States Congress, that they may be apprised of the sense of the General Assembly of Virginia in this matter."

POM-554. A joint resolution adopted by the legislature of the Commonwealth of Virginia; to the Committee on Veterans' Affairs:

"House Joint Resolution No. 173

"Whereas, the Vietnam War was unpopular and controversial and many of those who served were among the very young and poor; and

"Whereas, these individuals frequently feel that they were "raised in the United States, but grew up in Vietnam"; and

"Whereas, the trauma of their experience in Vietnam still elicits emotional responses from most Vietnam veterans; and

"Whereas, between 9 and 17.7 million gallons of herbicide including Agent Orange, Herbicide White and Herbicide Blue were sprayed from airplanes in Vietnam to defoliate the trees and expose the enemy as well as destroy its food crops; and

"Whereas, Agent Orange contains a mixture of two herbicides, one of which contain the dioxin, TCDD; and

"Whereas, TCDD has been called "one of the most toxic man-made compounds known"; and

"Whereas, laboratory experiments have demonstrated a wide variety of reactions to dioxin in different animals and there is no consistency in the results of these studies; however, relatively small doses of dioxin cause death, cancer and birth defects in some species of animals; and

"Whereas, studies of individuals exposed to dioxin in industrial accidents and through environmental contamination do not provide conclusive scientific evidence to substantiate that dioxin creates chronic health problems; and

"Whereas, it must be understood, however, that such longitudinal studies may not be highly accurate because the latency period was not long enough to show chronic health effects and the data was incomplete; and

"Whereas, the federal government has funded approximately eighty completed studies and at this time, approximately seventy studies are still in progress; and

"Whereas, one of the problems encountered by the federal government in these studies is that there is no comprehensive list of those that served because many of the records were stored in Saigon and were destroyed in the precipitous departure; and

"Whereas, several researchers and the National Cancer Institute have reported that exposure to herbicides increases the possibility of contracting a rare form of non-Hodgkin's lymphoma; and

"Whereas, soft tissue sarcoma, porphyria cutanea tarda, digestive disorders and lung cancer have been reported to occur at increased rates among those exposed to herbicides; and

Whereas, common sense would lead to the conclusion that exposure to an extremely toxic substance must have some profound effects on some of the exposed animals and humans; and

"Whereas, although they served their country when needed, Vietnam veterans were made to feel unwanted on returning home and have never been accorded the respect and gratitude that they deserve; and

"Whereas, many Vietnam veterans are suffering from terminal illnesses or long-term chronic illnesses which, in all probability, resulted from their exposure to Agent Orange; and

"Whereas, many Vietnam veterans are pleading for help; they are eloquent, angry and frustrated by a situation they view as unconscionable; and

"Whereas, the Joint Subcommittee Studying the Effects of Agent Orange on Citizens of the Commonwealth agrees that the evidence for Agent Orange causing an increase in chronic health problems among those who were exposed in Vietnam has gained enough significance to justify federal actions to compensate those who suffer from certain conditions and that a mechanism should be established to provide an objective, medically valid review of each case for the purpose of eligibility for compensation; Now, therefore, be it

"*Resolved by the House of Delegates, the Senate concurring,* That the Congress of the United States is hereby memorialized to grant presumptive compensation to Vietnam veterans with conditions which have been proven more prevalent among this group such as chloracne, porphyria cutanea tarda, non-Hodgkin's lymphoma and lung cancer and to allow such compensation for additional conditions as the evidence accumulates. In addition, the Congress of the United States is requested to amend the Social Security Act to provide an exemption for funds awarded pursuant to the class action suit for the purposes of determining eligibility for federally established public assistance programs; and, be it

"*Resolved further,* That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the Senate of the United States, and the members of the Virginia Delegation to the United States Congress that they may be apprised of the sense of the General Assembly of Virginia in this matter."

POM-555. A resolution adopted by the Senate of the State of Michigan; to the Committee on Veterans' Affairs:

"SENATE RESOLUTION NO. 465

"A resolution to memorialize the President and the United States Congress to make an administrative change of policy to authorize and require the Veterans Administration to provide care to veterans, with service-related problems, incarcerated in state prison systems.

"Whereas, There are currently thousands of veterans with service-related problems incarcerated in state prison systems throughout our nation. The Veterans Administration, however, by regulation, does not provide medical care to penal institutions; and

"Whereas, Many state correctional institutions do not have personnel with the adequate training required to deal with such specialized service-related problems as Agent Orange exposure or Post-Traumatic Stress Disorder. The Veterans Administration's policy prohibiting outpatient services to those who have fought and suffered to protect our nation's freedom ignores its mandated responsibilities and discriminates against a specific group of individuals who, although incarcerated, retain the rights to veterans' benefits; and

"Whereas, Michigan's Senate Criminal Justice, Urban Affairs, and Economic Development Committee has initiated a dialogue with the Veterans Administration concerning the problems of incarcerated veterans in Michigan and throughout our nation. The Veterans Administration, however, has responded that it is against providing care at penal institutions, thereby shirking its responsibilities to a great number of our country's veterans; Now, therefore, be it

"*Resolved by the Senate,* That the members of this legislative body hereby memorialize the President and the United States Congress to require the Veterans Administration to provide on site care to state-incarcerated veterans with service-related problems; and be it further

"*Resolved,* That a copy of this document be presented to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and the Michigan congressional delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2247: A bill to modify restrictions on the use of certain property conveyed to the Peninsula Airport Commission (Rept. No. 100-390).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 314: A bill to require certain telephones to be hearing aid compatible (Rept. No. 100-391).

By Mr. GLENN, from the Committee on Governmental Affairs, with amendments:

S. 2344: A bill to provide for the reauthorization of appropriations for the Office of Government Ethics, and for other purposes (Rept. No. 100-392).

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

H.R. 4162: A bill to make the International Organizations Immunities Act applicable to the Organization of Eastern Caribbean States.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 270: A resolution paying special tribute to Portuguese diplomat Dr. de Sousa Mendes for his extraordinary acts of mercy and justice during World War II.

By Mr. PELL, from the Committee on Foreign Relations, with amendments and an amended preamble:

S. Res. 408: A resolution to condemn the use of chemical weapons by Iraq and urge the President to continue applying diplomatic pressure to prevent their further use, and urge the Administration to step up efforts to achieve an international ban on chemical weapons.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 442: A resolution expressing the sense of the Senate that the President should convene an International Conference on Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere.

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 2365: A bill authorizing the release of 86 USIA films with respect to the Marshall Plan.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S.J. Res. 317: A joint resolution commemorating the bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen.

S. Con. Res. 120: A concurrent resolution urging the Government of Iran to respect the human rights of members of the Baha'i faith, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Sheldon J. Krys, of Maryland, to be an Assistant Secretary of State.

Paul D. Taylor, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Paul D. Taylor.

Post: Ambassador to the Dominican Republic.

Contributions, amount, date, donee.

1. Self, none.
2. Spouse, none.
3. Children and spouses names: Jonathan B. Taylor, none; Katherine R., Taylor, none.
4. Parents names: Matthew M. Taylor, $5.00, o/a 1983, Gary Hart Campaign; Charles E. Taylor (deceased).
5. Grandparents names: deceased.
6. Brothers and spouses names: Gary C. Taylor (deceased), none; Rita R. (Mrs. Gary C.) Taylor, none.
7. Sisters and spouses names: Sandra T. Sharpe, none.

Richard Newton Holwill, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ecuador.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar years of the nomination and ending on the date of the nomination.

Nominee: Richard N. Holwill.

Post: Ambassador to the Republic of Ecuador.

Contributions, amount, date, donee.

1. Self: Richard, none.
2. Spouse: Margaret, none.
3. Children and spouses names: Kathryn, none; Claudia, none.
4. Parents names: Deceased, none.
5 Grandparents names: Deceased, none.
6. Brothers and spouses names: none.
7. Sisters and spouses names: Fahy Holwill Bailey, none; Clifford Bailey, none.

Walter Leon Cutler, of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Walter L. Cutler.

Post: Ambassador to Saudi Arabia.

Contributions, amount, date, donee.

1. Self: none.
2. Spouse: none.
3. Children names: Allen Cutler, Thomas Cutler, Frederika Brookfield, none.
4. Parents names: Esther D. Bradley, Charles and Mariama Haydock, none.
5 Grandparents names: none.
6. Brothers and spouses names: none.
7. Sisters and spouses names: Sally D. Cutler, Marianna Ohe, none.

Robert South Barrett IV, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert S. Barrett.

Post: Djibouti.

Contributions, amount, date, donee.

1. Self: None.
2. Spouse: $250, Nov. 22, 1987, Cong. Arthur Raven (R-S.C.).
3. Children and spouses names: Stepdaughter Jane Perry (wife of David Burden), none; Stepdaughter Elizabeth Bean (wife of Gordon Gourlay), none.
4. Parents names: Tupper and Marie Barrett (deceased), none.
5. Grandparents names: Robert and Viola Barrett (deceased), none.
6. Brothers and spouses names: Tupper Barrett, Jr., none.
7. Sisters and spouses names: Joan Barrett Beauvais (deceased), none.

Daniel Anthony O'Donohue, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Thailand.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Daniel Anthony O'Donohue.

Post: Thailand.

Contributions, amount, date, donee.

1. Self: none.
2. Spouse: none.
3. Children and spouses names: 1st Lt. and Mrs. Daniel J. O'Donohue, none. Miss Joan O'Donohue, none. L/Cpl John O'Donohue, none. Mr. Thomas P. O'Donohue, none. Mr. Michael J. O'Donohue, none.
4. Parents names: Deceased.
5. Grandparents names: Deceased.
6. Brothers and spouses names: Mr. and Mrs. Gerald O'Donohue, none.
7. Sisters and spouses names: Mr. and Mrs. Kenneth Whitehead:

	Amount
1984:	
5/12—National Republican Senatorial Committee	$25
5/12—New York Conservative Party	25
9/27—National Republican Senatorial Committee	25
1985:	
8/21—National Republican Senatorial Committee	25
10/6—Reagan/Bush	60
1986:	
1/18—New York Conservative Party	50
7/26—Friends of Congressman Frank Wolf	20
10/10—Friends of Congressman Frank Wolf	20
1987:	
2/11—Reagan/Deputy Assistant Secretaries	20
3/1—Falls Church/Citizens for a Better City	10
6/19—Senator Paul Trible	25
10/6—Reagan/Deputy Assistant Secretaries	20

Mr. and Mrs. Thomas Buchanan: none

Mary A. Ryan of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Mary A. Ryan.

Post: Swaziland.

Contributions, amount, date, donee.

1. Self: none.
2. Spouse: N/A.
3. Children and spouses names: N/A.
4. Parents Names: William M. Ryan, deceased 1967; Cathryn V. Ryan, none.
5. Grandparents names: Joseph and Anna Ryan, deceased 1946 and 1928; Peter and Honora McCarthy, deceased 1927 and 1902.
6. Brothers and spouses names: N/A.
7. Sisters and spouses names: Margaret M. Ryan, deceased 1986, none. Kathleen M. Ryan Montgomery, none; George Montgomery, none.

Jeffrey Davidow, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zambia.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Jeffrey Davidow.

Post: Zambia.

Contributions, amount, date, donee.

1. Self: none.
2. Spouse: none.
3. Children and spouses names: Gwen Davidow (16), none; Audrey Davidow (14), none.
4. Parents names: Alfred Davidow (deceased 1978); Henrietta Davidow, none.
5. Grandparents names: Sigmund and Mary Wurf (deceased 1944, 1965); Abraham and Fanny Davidow (deceased 1926, 1954).
6. Brothers and spouses names: None.
7. Sisters and spouses names: Ann (Davidow) and Harvey Bornstein, none.

Richard Llewellyn Williams, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Mongolian People's Republic.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard L. Williams.

Post: Ambassador to People's Republic of Mongolia.

Contributions, amount, date, donee.

1. Self: none.
2. Spouse: none.
3. Children and spouses names: Marcus, none; Maria, none.
4. Parents names: Clara Williams, none; David Williams, deceased.
5. Grandparents names: Llewellyn and Louisa Williams, deceased; Sonke and Anna Peterson, deceased.
6. Brothers and spouses names: Glenn Williams (no spouse), none.
7. Sisters and spouses names: none.

Philip D. Winn, of Colorado, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Switzerland.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Philip D. Winn.

Post: U.S. Ambassador/Switzerland.

Contributions, amount, date, donee.

1. Self:

	Amount
1983:	
Dan Schaeffer	$1,000
Schaeffer for Congress	461
Reagan-Bush '84	1,000
Dan Schaeffer for Congress	1,000
Armstrong for Senate	[1,2,3]4,000
1984:	
Hank Brown	1,000
Kramer for Congress	1,000
Victory "84"	1,000
Cohen for Senate	1,000
Boschwitz for Senate	1,000
Mike Norton for Congress	1,000
Downs for Denver	500
Kemp Association (not for Federal candidates)*	5,000
David S. Monson for Congress	250
Viashe U.S. Senate*	[3]2,000
Lousma Senate*	[3]2,000
Humphrey Team*	[3]2,000
Bethune Refund	1,000
Bethune for Senate	[3]2,000
Jepson for Senate	[3]2,000
1985:	
Ken Kramer Committee (for primary)*	[3]2,000
Grassley '86 Committee	250
National Republican Senatorial Committee	10,000
President's Club	1,000
Kramer for Senate (for general election)*	[3]2,000
Symms	1,000
Hank Brown for Congress	100
Joel Hefley for Congress	1,000
Symms	1,000
1986:	
Hank Brown	200
D'Amato for Senate	1,000
McCain for Senate	1,000
Specter for Senate	1,000
Garn for Senate	1,000
Hank Brown	350
Mike Strang	250
Kasten for Senate	1,000
Joy Wood	250
Joel Hefley	1,000
Linda Chavez	1,000
Mike Norton	1,000
Henson Moore	1,000
Dan Schaeffer	1,000
1987:	
Danforth for Senate	1,000
Republican National Senatorial Trust	10,000
Jack Kemp for President	[3]2,000
Ally Milder for Congress	500
Joel Hefley for Congress	1,000

*Pursuant to conversation of 3/8/88 with Mr. Winn (WE Gressman, L/M, State Dept.).

[1] Contribution to primary election (½).

[2] Contribution to general election (½).

[3] Contribution made by husband and wife (½ each).

2. Spouse: Eleanor G. Winn, 0.

3. Children and spouses names: Jordan Winn, 0; Donna Aguirre and Joe Aguirre, $1,000, 1986, Ken Kramer for Senate.

4. Parents names: Etta A. Winn, deceased; Aaron B. Winn, deceased.

5. Grandparents names: Isaac and Esther Goldstein, deceased; Benjamin and Rachel Winn, deceased.

6. Brothers and spouses names: N/A.

7. Sisters and spouses names: Shirley Winn, deceased; Miriam Gere and Irwin Gere, deceased, 0.

Warren Zimmermann, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Federal Republic of Yugoslavia.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Warren Zimmermann.

Post: Ambassador to Yugoslavia.

Contributions, amount, date, donee.

1. Self: Warren Zimmermann, none.

2. Spouse: Corinne C. Zimmermann, none.

3. Children and spouses names: Corinne A. Zimmermann, Warren Zimmermann, Jr., Elizabeth B. Zimmermann (none has made any contribution).

4. Parents names: Albert W. Zimmermann, deceased; Barbara Shoemaker Zimmermann, deceased.

5. Grandparents names: John Zimmermann, deceased; (don't know paternal grandmother's name—died c. 1917); Dr. William Toy Shoemaker; Mabel Warren Shoemaker, both deceased.

6. Brothers and spouses names: Dr. Albert W. Zimmermann, $100, 1984 local Republicans; Mrs. Lenore Zimmermann, $100, 1984 local Republicans.

7. Sisters and spouses names: Dr. Helene Z. Hill, $50, 1984 Hart campaign; Dr. George Hill, $100, 1984 Reagan campaign; Mrs. Melvin T. Johnson, $50, 1984 local Republicans; Mr. Melvin T. Johnson, $50, 1984 local Republicans.

E. Allan Wendt, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Senior Representative for Strategic Technology Policy in the Office of the Under Secretary of State for Coordinating Security Assistance Programs.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: E. Allan Wendt.

Post: Rank of Ambassador.

Contributions, amount, date, donee.

1. Self: $60, 10/86, Friends of Linda Chavez; $60, 9/86, Ed Zschau for U.S. Senate; $50, 6/86, Friends of Les Aspin; $25, 4/86, Friends of Jim Moody, $50, 10/84, Jim Moody for Congress; $50, 6/84, Friends of Les Aspin; $199, 2/84, Jim Moody for Congress; $100, 12/83, Reagan/Bush 84.

2. Spouse: N/A.

3. Children and spouses names: N/A.

4. Parents names: Dorothy S. Wendt, none; John A.F. Wendt, none, (father deceased).

5. Grandparents names: Deceased: John A.F. Wendt, Augusta E. Wendt, Thomas Stephenson, Bessie J. Stephenson.

6. Brothers and spouses names: John A.F. Wendt Jr., $100, 1986, Michael L. Strang; $100, 1984, Michael L. Strang; Dorothy N. Wendt, none; Stephen A. Wendt, none.

7. Sisters and spouses names; N/A.

Henry F. Cooper, of Virginia, for the rank of Ambassador during his tenure of service as United States Negotiator for Defense and Space Arms.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Henry F. Cooper.

Post: Ambassador and Chief Negotiator for Defense and Space Arms.

Contributions, amount, date, donee.

1. Self: Henry F. Cooper, none.

2. Spouse: Barbara Kays Cooper, none.

3. Children and spouses names: Laura Cooper (Mrs. Jonathan) Fuld, none; Cynthia Cooper (Mrs. Kevin) Worley, none; Scott Cooper, none.

4. Parents names: Mrs. Ruby Harris Cooper, Henry Franklyn Cooper, Sr. (deceased).

5. Grandparents names: Henry F. Cooper, Dora Mays Cooper, Joseph Frank Harris, Daisy Walton Harris, none (all deceased).

6. Brothers and spouses names: Walton M. Cooper (brother), none; Jane Lombard Cooper (wife), none.

7. Sisters and spouses names: None.

Stephen R. Hanmer, Jr., of Virginia, for the rank of Ambassador during his tenure of service as United States Negotiator for Strategic Nuclear Arms.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Stephen Read Hanmer, Jr.

Post: Rank of Ambassador as United States Negotiator for Strategic Nuclear Arms.

Contributions, amount, date, donee.

1. Self: $50.00, May 1987, Fairfax City Republican Party, Va.

2. Spouse: Lois B. Hanmer, $500.00, Dec. 20, 1987, James Dozier, Candidate for Congress, FL.

3. Children and spouses names: Susan E. and Daniel Alexander, Stephen R. Hanmer, III, Sara L. Hanmer, none.

4. Parents names: Deceased.

5. Grandparents names: Deceased.

6. Brothers and spouses names: None.

7. Sisters and spouses names: None.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably nomination lists in the Foreign Service which appeared in their entirety in the CONGRESSIONAL RECORD of June 14, 1988, and I ask that these nomination lists lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCONNELL:

S. 2542. a bill to provide for the use of unobligated abandoned mine land funds by the State of Kentucky, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 2543. a bill to provide that certain nonprofit hospital insurers shall not be required to discount unpaid losses in computing taxable income for taxable years beginning before January 1, 1989; to the Committee on Finance.

By Mr. RIEGLE (for himself, Mr. Proxmire, Mr. Garn, and Mr. Dodd):

S. 2544. A bill to amend the federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN (for himself and Mr. Domenici):

S. 2545. A bill to redesignate Salinas National Monument in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. QUAYLE (for himself and Mr. Hatch):

S. 2546. A bill to provide child care assistance to low-income working parents; to amend the State Dependent Care Development Grants Act to provide block grants to States; to amend the Internal Revenue Code of 1986 to provide a refundable credit to parents for dependents under age 6; and for other purposes; to the Committee on Finance.

By Mr. GORE (for himself and Mr. Sasser):

S. 2547. A bill to designate the Federal Building in Knoxville, Tennessee as the John J. Duncan Federal Building".

By Mr. DIXON:

S. 2548. A bill to suspend temporarily the duty on certain glass bulbs until January 1, 1993; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. Danforth, Mr. Gore, Mr. Pell, Mr. Bentsen, Mr. Weicker, Mr. Chafee, Mr. Lugar, Ms. Mikulski, Mr. Murkowski, Mr. Heinz, and Mr. Graham):

S. 2549. A bill to promote highway traffic safety encouraging the States to establish measures for more effective enforcement of laws to prevent drunk driving, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SYMMS:

S. 2550. A bill to amend title 23, United States Code, to eliminate a reduction of the apportionment of Federal-aid highway funds to certain States and for other purposes; to the Committee on Environment and Public Works.

By Mr. HARKIN (for himself, Mr. Lugar, Mr. Melcher, Mr. Bond, Mr. Pryor, Mr. Bumpers and Mr. DeConcini):

S. 2551. A bill to provide additional enforcement authority for the Forest Service to deal with the production of controlled substances on the National Forest System, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. QUAYLE (for himself, Mr. Pell, Mr. Kennedy, Mr. Stafford, and Mr. Dodd):

S. Res. 444. A resolution to express the sense of the Senate on the Internal Revenue Service tax offset program; to the Committee on Finance.

By Mr. HEINZ (for himself and Mr. Specter):

S. Res. 445. A bill expressing the sense of the Senate in honoring the Cable Television Industry on the occasion of its 40th anniversary; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCONNELL:

S. 2542. A bill to provide for the use of unobligated abandoned mine land funds by the State of Kentucky, and for other purposes; to the Committee on Energy and Natural Resources.

USE OF CERTAIN FUNDS BY THE STATE OF KENTUCKY

Mr. McCONNELL. Mr. President, the fight for clean water in Butler County continues. Butler County, KY, has run into a number of obstacles in trying to achieve clean water for its residents. Mr. President, the water was fouled in Butler County because of surface mining. Initially, 3 years ago we were told by the Office of Surface Mining that certain areas of Butler County would qualify for funding from that Office. Subsequently, the decision was made that the area of Butler County did not qualify. Last year, Mr. President, we included in the appropriate appropriations bill report language that was supposed to take care of the problem but then the House of Representatives objected. Mr. President, the residents of Butler County are tired of waiting.

Mr. President, today I rise to introduce legislation that would provide those residents in Butler County, KY, who continue to live without water, the water they so desperately need. Since 1985, I have been working to see that Butler County is provided a sufficient water supply. The water quality and quantity in much of the county was adversely affected by pre-1977 mining which threatens public health, safety, and general welfare of the residents. Primarily, my efforts to obtain water have focused through the Office of Surface Mining [OSM] which can approve the allocation of abandoned mine land [AML] funds for water projects.

In 1985, I was successful in facilitating OSM's approval of 80 percent of the application submitted by the State on behalf of Butler County, a $1.4 million project. Unfortunately, the Gary Ridge Horsemill and Leonard Oak areas were dropped from the project as not having met the criteria for funding. The primary basis for rejecting Butler County's application was the contention that an absence of water caused by pre-1977 mining does not represent a health and safety problem. Inasmuch as water is essential to life itself, I found this argument absurd and continued my efforts to secure funding.

Last year I was able to insert report language in the Senate Appropriations Subcommittee on Interior and Related Agencies that would have allowed unobligated AML funds for the extension of the Butler County water project. However, this language was superseded by the conference report's directive that the U.S. Geological Survey Office [USGS] conduct a study of the probable causes of this county's water problem. Pursuant to this directive the subcommittee was provided an inconclusive opinion by USGS which said, based on the data, the agency was unable to determine whether or not pre-1977 surface mining had harmed Butler County's water supply. In fact, USGS stated that even given 2 or 3 years study and the expenditure of $500,000 to $1 million, they could not be confident that they would be able to determine the cause of the water problem. This is certainly ironic when one considers that the total cost of this project will be far less than the minimum amount projected for the USGS study.

Based on repeated statements by my constituents in Butler County, I firmly believe that surface mining prior to 1977 did harm the quality and quantity of water. Under these circumstances, this area should be given the benefit of the doubt. Through no fault of their own, these residents do not have the common convenience of running water—a convenience we often take for granted. For this reason, I am offering legislation that would allow the remaining OSM project funds to be used for an extension of the water project in Butler County, KY. This does not represent a new outlay of funding in fiscal year 1989 but is simply a reprogramming of current available funds.

Mr. President, I urge my colleagues to support my efforts to move this important legislation toward final passage.

Mr. President, I ask that the text of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2542

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Office of Surface Mining Reclamation and Enforcement shall make available to the State of Kentucky, for continuing activities associated with the Butler County water project, any Abandoned Mine Land Funds granted to the State of Kentucky's Abandoned Mine Land Program for use in reclamation project G-5167212, Subaccount No. 21200 which are not committed by the State by contract or obligation as of the date of enactment of this Act.

By Mr. BAUCUS:

S. 2543. A bill to provide that certain nonprofit hospital insurers shall not be required to discount unpaid losses in computing taxable income for taxable years beginning before January 1, 1989; to the Committee on Finance.

TAX TREATMENT OF CERTAIN NONPROFIT HOSPITAL INSURERS

● Mr. BAUCUS. Mr. President, I am today introducing a bill that is designed to help prevent a forthcoming crisis for our Nation's nonprofit hospitals. This looming crisis is especially threatening to nonprofit hospitals in rural and depressed urban centers. We are all familiar with the liability insurance crisis that in recent years has faced both hospitals and other institutions. Nonprofit hospitals, which are the backbone of the American health care system, have been forced to act in many ways to survive including the establishment by them of hospital-formed or sponsored insuring groups.

The operation of nonprofit hospitals is now jeopardized by the confiscatory tax burden that was inadvertently placed on their insurers by the Tax Reform Act of 1986. The harsh tax treatment of those insurers, most of which are owned or sponsored by the nonprofit hospitals, will substantially reduce, and may eliminate, their earnings. Several companies, for example, the Health Providers Insurance Co. of Chicago, IL will have effective tax rates of approximately 100 percent, according to a prominent accounting firm. Accordingly, the insurers may be forced to dramatically increase premiums to the hospitals. If that were to happen, the nonprofit hospitals would likely choose to cease high risk but necessary services because they are unable to pass on the substantially higher insurance premiums to their patients. For most rural and urban centers this action would be devastating. Few costs can be passed along to Medicare patients in that, due to Federal budgetary constraints, diagnostic-related-group [DRG] payments are not expected to be greatly increased. Costs are now also difficult to pass on to non-Medicare patients because many private health care insurers base reimbursable expenses on DRG payments or some other form of discount.

This hardship was created by a provision in the Tax Reform Act that prevents the nonprofit hospital-formed insurers from fully deducting additions made to reserve accounts established to provide for future claims. As a result of the Tax Reform Act, these insurers can only deduct the discounted value of those reserves.

The unintended consequences of this action have been staggering. We intended to ensure that commercial insurance carriers assumed their fair share of taxes through the adoption of this provision. Discounting was adopted to reflect the fact that some claims are paid in the future and that premiums can be invested until needed to pay those claims. Commercial insurers may offset the increased tax liability brought about by reserve discounting with net operating losses or can spread increased costs among many lines of business. With hospital-formed insurers, companies that were formed as a result of the insurance crisis and provide medical malpractice insurance only, this is unfortunately not the case. Unprecedented tax rates are being imposed overnight.

This tightly written legislation and its counterpart, H.R. 4555, is designed merely to delay the start of discounting of the loss reserve deduction for qualified nonprofit hospital insurers for 2 years. The relief is elective, because certain insurers, whose reserves are declining, would be harmed by such a delay. It is the companion to H.R. 4555 with a minor technical change to ensure that the 2-year delay is effectuated. The delay is designed to coordinate with a Department of the Treasury study of the effect of discounting on the different segments of the insurance industry, that is to be completed in 1989 so that permanent solutions may be adopted in the future. The Committee on Ways and Means last year did acknowledge that worker's compensation funds were uniquely situated and provided, among other things, a similar 2-year deferral to those insurers in the 1986 act. The relief afforded in this bill should be given effect, not only out of fairness, but to also avert the discontinuation of the high risk yet vital operations of our country's nonprofit hospitals.●

By Mr. RIEGLE (for himself, Mr. PROXMIRE, Mr. GARN, and Mr. DODD):

S. 2544. A bill to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement; to the Committee on Banking, Housing, and Urban Affairs.

INTERNATIONAL SECURITIES ENFORCEMENT COOPERATION ACT

● Mr. RIEGLE. Mr. President, I am pleased to introduce the International Securities Enforcement Cooperation Act of 1988, together with the chairman of the full committee, Senator PROXMIRE, the ranking minority member and former chairman of the full committee, Senator GARN, and my distinguished colleague from Connecticut, Senator DODD. This bill would provide the Securities and Exchange Commission with important tools to deal with enforcement problems arising from the internationalization of the securities markets.

The world's securities markets have experienced a rapid internationalization during recent years, including a several-fold growth of cross-border trading. During the same period, Federal officials have prosecuted an extraordinary number of celebrated insider trading cases, such as those against Ivan Boesky and Dennis Levine.

Unfortunately, there is a relationship between internationalization and securities fraud, such as insider trading. While internationalization of the securities markets has expanded opportunities for legitimate investment activities, it has also provided new means for persons to engage in fraud.

The Levine case is a prime example. Mr. Levine purchased and sold securities based on confidential information that he had stolen from his investment banking clients. He sought to conceal this illegal insider trading by executing transactions through a secret bank account in the Bahamas. Mr. Levine ultimately was apprehended because SEC officials persuaded the Bahamian Attorney General that this country's secrecy laws should not obstruct the Commission's investigation. But not all foreign authorities have been as willing to cooperate with the SEC as was the Bahamian Attorney General.

The legislation that I am proposing today addresses that problem by facilitating international cooperation between securities law regulators. It recognizes that such cooperation is the most efficient and effective way to deter and apprehend insider traders and other law violators.

The bill would amend the Securities Exchange Act of 1934 to provide that the SEC, at the request of its counterpart in a foreign country, may require persons or entities located in this country to produce evidence relating to a potential violation of the foreign country's securities laws. The foreign counterpart must agree to provide the Commission with similar investigative assistance. At the present time, the SEC lacks such authority, and can compel the production of documents and evidence only when it appears that a violation of the U.S. securities laws may have occurred.

The reason for this legislation should be apparent: As the world markets become increasingly intertwined, foreign regulators will need to be able to assist one another on an ever increasing basis. This legislation provides the first step for facilitating that cooperation; once passed it will be up to the foreign authorities to complete the circle by obtaining parallel authority. The SEC has already taken the initiative in this regard with regulators in Canada. Indeed, in January of this year, the SEC entered into a bilateral agreement, known as a memorandum of understanding [MOU], with the securities commissions of Ontario, Quebec and British Columbia, which provides for such reciprocity. The MOU states that the signatories will investigate a law violation at the request of the foreign authorities to the extent that such an investigation is authorized by statute. This legislative proposal would amend the Securities Exchange Act of 1934 to authorize such an investigation by the SEC.

In addition to its MOU with the Canadian provinces, the SEC has entered into MOU's with Switzerland, the United Kingdom, and Japan. I believe that, if this legislation is enacted, the Commission will be better positioned to expand these MOU's to provide for mutual investigative authority similar to that included in the Canadian MOU. Moreover, other foreign countries will have a strong inducement to enter into bilateral assistance agreements with the SEC if that foreign authority's agreement to cooperate is a precondition which must be satisfied before the SEC can provide investigative assistance.

Such an expansion of both the quality and quantity of MOU's would be a significant achievement. These agreements establish procedures governing the sharing of information between securities regulators. The MOU's thereby avoid the confrontation that occurs when the SEC is forced to seek a court order compelling a foreign bank to disclose information that is protected by secrecy laws. Instead, the MOU's permit a cooperative approach between securities authorities.

This legislation also sends an important message to securities regulators throughout the world. It says to them that, in the view of the U.S. Congress, securities fraud is no longer confined within any single nation's borders, but is an international problem. And it demonstrates that the Congress wants the SEC, this country's securities law enforcement agency, to take the lead in a cooperative approach to dealing with the problem.

The legislation also contains three other provisions relating to international securities enforcement. First, the bill would amend the 1934 act to enable the SEC to maintain the confidentiality of certain foreign evidence. In some cases, foreign authorities have been willing to share confidential information with the SEC, but are unwilling to permit the SEC to make such information public. Indeed, under some foreign laws, it is illegal to make certain confidential information public. Under U.S. law, however, the SEC is governed by the Freedom of Information Act, which, unless certain specific exemptions are satisfied, requires disclosure of documents regardless of their confidential status under foreign law. In order that the SEC might be able to obtain otherwise unobtainable confidential documents from foreign countries for law enforcement purposes, I believe it would be appropriate to carve out a narrow area in which the Freedom of Information Act would not apply.

Second, the bill would make explicit the SEC's rulemaking authority to provide documents and other information to foreign authorities, as well as to domestic authorities. There are certain provisions of the Federal securities laws which arguably preclude the disclosure of certain nonpublic documents. In view of the significance of this issue to the Commission's efforts to cooperate both with foreign and domestic securities officials, it is important that we enact legislation that would provide appropriate relief from these nondisclosure provisions.

Finally, the bill would provide the SEC with the authority to censure, revoke the registration of, or impose employment restrictions upon a securities professional who is found by a foreign court or foreign securities authority to have engaged in illegal or improper conduct. The SEC has such authority as to findings of illegal or improper activity in this country, but its authority as to improper activity abroad is limited. I believe that the United States should not become a haven for securities professionals who violate foreign laws. The legislation would make certain that would not happen.

Mr. President, our securities markets are the best in the world. We need to make sure that the SEC has the tools to keep them among the cleanest and fairest in the world. I therefore urge my colleagues to join me in sponsoring this legislation and moving this measure toward passage. I ask unanimous consent that the text of the bill, a summary, a section-by-section analysis and a memorandum in support of this bill appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "International Securities Enforcement Cooperation Act of 1988".

SEC. 2. TABLE CONTENTS.

The contents of this Act are as follows:

Sec. 1. Short title
Sec. 2. Table of contents

TITLE I—ASSISTANCE TO FOREIGN SECURITIES AUTHORITIES

Sec. 101. Investigatory Assistance to Foreign Securities Authorities
Sec. 102. Release of Records by the Commission

TITLE II—MISCONDUCT BY SECURITIES PROFESSIONAL IN FOREIGN COUNTRY AS BASIS FOR RESTRICTING PROFESSIONAL'S ACTIVITIES IN THE U.S. SECURITIES INDUSTRY

Sec. 201. Sanctions Against Broker or Dealer, Associated Person, or Persons Seeking Association
Sec. 202. Definition of Foreign Financial Regulatory Authority
Sec. 203. Conforming Amendments to the Securities Exchange Act of 1934
Sec. 204. Sanctions Against Investment Advisers or Persons Associated or Seeking Association with a Registered Investment Adviser or Investment Company
Sec. 205. Definitions of Foreign Securities Authority and Foreign Financial Regulatory Authority

TITLE I—ASSISTANCE TO FOREIGN SECURITIES AUTHORITIES

SEC. 101. INVESTIGATORY ASSISTANCE TO FOREIGN SECURITIES AUTHORITIES.

Title I of the Securities Exchange Act of 1934 (15 U.S.C. §78a *et seq.*) is amended—

(a) by adding after and below section 3(a) the following:

"(50) The term "foreign securities authority" means any foreign government, or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters";

(b) by redesignating subsection 21(a) as subsection 21(a)(1); and

(c) by adding after and below subsection 21(a)(1) the following:

"(2) On request from a foreign securities authority, the Commission may, in its discretion, provide assistance in accordance with this paragraph if the requesting authority states: (a) that it is conducting an investigation which it deems necessary to determine whether any person has violated, is violating, or is about to violate any laws or rules relating to securities matters that it administers or enforces and (b) agrees to provide similar assistance to the Commission in securities matters. The Commission may conduct such investigation as it deems necessary to collect information and evidence pertinent to the request for assistance. Such assistance may be provided without regard to whether the facts stated in the request would also constitute a violation of the laws of the United States. In deciding whether to provide such assistance, the Commission shall consider whether compliance with the request would prejudice the public interest of the United States."

SEC. 102. RELEASE OF RECORDS BY THE COMMISSION.

Section 24 of the Securities Exchange Act of 1934 (15 U.S.C. §78x) is amended—

(a) by striking from subsection 24(b) "Nothing in this subsection shall authorize the Commission to withhold information from the Congress.";

(b) by adding after and below subsection 24(b) the following:

"(c) Notwithstanding any other provision of law, the Commission may, in its discretion and upon a showing that such information is needed, provide all "records" (as defined in subsection (a) above) and other information in its possession to such persons, both domestic and foreign, as the Commission by rule deems appropriate;

"Provided, That the person receiving such records or information provides such assurances of confidentiality as the commission deems appropriate; and

"Provided further, That nothing in this section shall alter the Commission's responsibilities under the Right to Financial Privacy Act, 12 U.S.C. 3401 *et seq.*, as limited by Section 21(h) of the Securities Exchange Act, 15 U.S.C. 78u(h), with respect to transfers of records covered by such statutes.

"(d) Notwithstanding the provisions of the Freedom of Information Act, 5 U.S.C. 551 *et seq.*, or of any other law, the Commission shall not be compelled to disclose records obtained from a foreign securities authority if the foreign securities authority has in good faith represented to the Commission that public disclosure of such records would be contrary to the laws of the foreign country from which they were obtained:

"(e) Nothing in this section shall prevent the Commission from complying with a request for information from the Congress or from complying with an order of a court of the United States in an action commenced by the United States or the Commission."

TITLE II—FOREIGN MISCONDUCT BY SECURITIES PROFESSIONAL IN FOREIGN COUNTRY AS BASIS FOR RESTRICTING PROFESSIONAL'S ACTIVITIES IN THE U.S. SECURITIES INDUSTRY

SEC. 201. SANCTIONS AGAINST BROKER OR DEALER, ASSOCIATED PERSONS, OR PERSONS SEEKING ASSOCIATION.

The Securities Exchange Act of 1934 (15 U.S.C. § 78a *et seq.*) is amended as follows:

(a) Subsection 15(b) (15 U.S.C. 78o) is amended—

(1) by inserting in subparagraph 15(b)(4)(B) after "misdemeanor" the folloiwng: "or has been convicted within ten years of a substantially equivalent crime by a foreign court of competent jurisdiction";

(2) by inserting in subparagraph 15(b)(4)(B)(i) after "burglary," the following: "any substantially equivalent activity however denominated by the laws of the relevant foreign government";

(3) by inserting in subparagraph 15(b)(4)(B)(ii)

(A) after "transfer agent," the following: "foreign person performing a function substantially equivalent to any of the above,";

(B) after "(7 U.S.C. 1 *et seq.*)" the following: "or any equivalent foreign statute or regulation";

(4) by inserting in subparagraph 15(b)(4)(B)(iii) after "securities," the following: "or substantially equivalent activity however denominated by the laws of the relevant foreign government,";

(5) by inserting in subparagraph 15(b)(4)(B)(iv) after "United States Code" the following: ", or a violation of a substantially equivalent foreign statute.";

(6) by inserting in subparagraph 15(b)(4)(C)—

(A) after "transfer agent," "foreign person performing a function substantially equivalent to any of the above,";

(B) after "Commodity Exchange Act" each time it appears, "or any substantially equivalent foreign statute or regulation"; and

(C) after "insurance company," "foreign entity substantially equivalent to any of the above,"; and

(7) by adding after and below subparagraph 15(b)(4)(F) the following:

"(G) has been found by a foreign financial regulatory authority to have—

(i) made or caused to be made in any application for registration or report required to be filed with a foreign financial regulatory authority, or in any proceeding before a foreign financial regulatory authority with respect to registration, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign financial regulatory authority any material fact that is required to be stated therein; (ii) violated any foreign statute or regulation regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade; (iii) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign financial regulatory authority regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign financial regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision."

(b) Subsection 15(b)(6) is amended by striking out "(A), (D), or (E)" and inserting in lieu thereof, "(A), (D), (E), or (G)".

(c) Subparagraph 3(a)(39)(A) is amended by inserting—

(1) after "self-regulatory organization," the following "foreign equivalent, foreign or international securities exchange,"; and

(2) after both "(7 U.S.C. 7)" and "(7 U.S.C. 21)", the following: "or any substantially equivalent foreign statute or regulation,";

(3) after "contract market", the following: "or foreign equivalent";

(d) Subparagraph 3(a)(39)(B) is amended by striking out "or" after "Commission" and after "government securities broker," each time it appears, by inserting a comma after "Commission", and by inserting—

(1) after "appropriate regulatory agency," the following: ", or foreign financial regulatory authority";

(2) after "government securities dealer" the first time it appears, the following: "or limiting his activities as a foreign person performing a function substantially equivalent to any of the above";

(3) after "government securities dealer" the second time it appears, the following: ", or foreign person performing a function substantially equivalent to any of the above;

(4) after "(7 U.S.C. 1 et seq.)" a comma in lieu of the semicolon, and thereafter the following: "or is subject to an order by a foreign regulatory authority denying, suspending, or revoking the person's authority to engage in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof;".

(e) New subparagraph 3(a)(39)(D) is added by inserting after and below subparagraph 3(a)(39)(C) the following:

"(D) by his conduct while associated with any broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or any other entity engaged in transactions in securities, or while associated with an entity engaged in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof, has been found to be a cause of any effective suspension, expulsion, or order by a foreign international securities exchange or foreign financial regulatory authority empowered by a foreign government to administer or enforce its laws relating to financial transactions as described in subparagraph (A) or (B) of this paragraph;".

(f) Subparagraphs 3(a)(39)(D) and 3(a)(39)(E) are redesignated as 3(a)(39)(E) and 3(a)(39)(F), respectively.

(g) The subparagraph redesignated as 3(a)(39)(E) by this section is amended by striking out "(A), (B), or (C)" and inserting in lieu thereof "(A), (B), (C), or (D)".

(h) The subparagraph redesignated as 3(a)(39)(F) by this section is amended by striking out "(D) or (E)" and inserting in lieu thereof "(D), (E), or (G)".

SEC. 202. DEFINITION OF FOREIGN FINANCIAL REGULATORY AUTHORITY.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. §78c(a) is amended by adding after and below subsection 3(a)(50) the following:

"(51) The term "foreign financial regulatory authority" means any (1) foreign securities authority, (2) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent, or other financial activities, or (3) membership organization a function of which is to regulate participation of its members in activities listed above."

SEC. 203. CONFORMING AMENDMENTS.

The Securities Exchange Act of 1934 (15 U.S.C. §78a *et seq.*) is amended by striking out "(A), (D), or (E)" in subsections 15B(c)(2) and 15B(c)(4) and in subparagraphs 15C(c)(1)(A), 15(C)(c)(1)(C), 17A(c)(3)(A), and 17A(c)(3)(C) and inserting in lieu thereof "(A), (D), (E), or (G)" and in subsection 15C(f)(2) by striking out "or the rules or regulations under any such other provision" and inserting in lieu thereof "the rules or regulations under any such other provision, or investigations pursuant to section 21(a)(2) of this title to assist a foreign securities authority".

SEC. 204. SANCTIONS AGAINST INVESTMENT ADVISERS OR PERSONS ASSOCIATED OR SEEKING ASSOCIATION WITH A REGISTERED INVESTMENT ADVISER OR INVESTMENT COMPANY.

(a) Section 9(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(b)) is amended by adding after and below subsection 9(b)(3) the following new subsections:

"(4) has been found by a foreign financial regulatory authority to have—

"(A) made or caused to be made in any application for registration or report required to be filed with a foreign securities authority, or in any proceeding before a foreign securities authority with respect to registration, any statement that was at the time and in light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to a foreign securities authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade,

"(5) within ten years has been convicted by a foreign court of competent jurisdiction of a crime, however demoninated by the laws of the relevant foreign government, that is substantially equivalent to an offense set forth in paragraph (1) of subsection (a); or

"(6) by reason of any misconduct, is temporarily or permanently enjoined by any foreign court of competent jurisdication from acting in any of the capacities, set forth in paragraph (2) of subsection (a), or a substantially equivalent foreign capacity, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security."

"(b) Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(e)) is amended by inserting—

(1) in subsection 203(e)(2) after "misdemeanor" the following: "or has been convicted within ten years of a substantially equivalent crime by a foreign court of competent jurisdiction";

(2) in subparagraph 203(e)(2)(A) after "burglary," the following: "any substantially equivalent activity however denominated by the laws of the relevant foreign government,";

(3) in both subparagraph 203(e)(2)(B) and subsection 203(e)(3) after "transfer agent" the following: "foreign person performing a function substantially equivalent to any of the above,"; and after "Commodity Exchange Act" each time it appears, the following: "or any substantially equivalent statute or regulation";

(4) in subparagraph 203(e)(2)(C) after "securities" the following: "or substantially equivalent activity however denominated by the laws of the relevant foreign government";

(5) in subparagraph 203(e)(2)(D) after "United States Code" the following:", or a violation of a substantially equivalent foreign statute";

(6) in subsection 203(e)(3) after "court of competent jurisdiction" the following: ", including any foreign court of competent jurisdiction" and after "insurance company" the following: "foreign entity substantially equivalent to any of the above";

(7) in subsection 203(e)(5) after "this title" the following: "the Commodity Exchange Act,";

(8) after and below subsection 203(e)(6) the following new subsection:

"(7) has been found by a foreign financial regulatory authority to have—

"(A) made or caused to be made in any application for registration or report required to be filed with a foreign securities authority, or in any proceeding before a foreign securities authority with respect to registration, any statement that was at the time and in light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to a foreign securities authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade, or has been found, by the foreign financial regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of statutory provisions, and rules and regulations promulgated thereunder, another person who commits such a violation, if such other person is subject to his supervision."

(c) Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(f) is amended by striking out "paragraph (1), (4), or (5)" and inserting in lieu thereof "paragraph (1), (4), (5), or (7)""

SEC. 205. DEFINITIONS OF FOREIGN SECURITIES AUTHORITY AND FOREIGN FINANCIAL REGULATORY AUTHORITY.

(A) Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)) is amended by adding after and below subsection 2(a) (48) the following new subsections:

"(49) "foreign securities authority" means any foreign government or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.

"(50) "foreign financial regulatory authority" means any (1) foreign securities authority, (2) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade or foreign equivalent, or other financial activities, or (3) membership organization a function of which is to regulate the participation of its members in activities listed above."

(b) Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)) is amended by adding after and below subsection 202(a) (22) the following new subsections:

"(23) "foreign securities authority" means any foreign government, or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.

"(24) "foreign financial regulatory authority" means any (1) foreign securities authority, (2) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade or foreign equivalent, or other financial activities, or (3) membership organization a function of which is to regulate participation of its members in activities listed above."

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED LEGISLATION

Section 101. Section 101 of the Act amends the Securities Exchange Act of 1934 ("Exchange Act") to authorize the Commission to conduct investigations on behalf of foreign securities authorities. Thus, this Section expands the Commission's investigative powers so that it may investigate certain matters in the United States related to foreign securities law violations as to which the Commission lacks jurisdiction. Such authority will enhance international cooperation in enforcement of securities laws.

Section 101(a). Subsection 101(a) amends Section 3(a) of the Exchange Act by adding new Subsection 3(a)(50) defining "foreign securities authority." Such an authority is defined as any foreign government, or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters. It is intended that this definition will encompass: (a) foreign independent regulatory agencies similar to the Commission, such as the Commission des Operations de Bourse in France, as well as foreign Executive agencies, such as the British Secretary of State for the Department of Trade and Industry, which hold express statutory authority to enforce securities laws; (b) general policing entities, such as the Swiss Federal Department of Justice and Police, which enforce commercial, corporation and financial laws or other generalized fraud statutes; and (c) self-regulatory organizations ("SRO's"), such as the U.K. Securities and Investment Board (as of April 1988), to the extent the SRO is not merely a membership organization but also "administers" or "enforces" securities laws.

Section 101(b). Subsection 101(b) is a technical amendment that redesignates Subsection 21(a) of the Exchange Act as Subsection 21(a)(1). This change is necessitated by the addition of Subsection 21(a)(2) to the Exchange Act, made by Subsection 101(c).

Section 101(c). Subsection 101(c) adds new Subsection 21(a)(2) to the Exchange Act, authorizing the Commission to provide assistance to foreign securities authorities upon the foreign authority's request. The requesting authority must state that it is conducting an investigation which it deems necessary to determine whether any person has violated, is violating, or is about to violate any laws or rules relating to securities matters that it administers or enforces. The requesting authority must also agree that it will provide similar investigative assistance to the Commission. The Commission has discretion in deciding whether to conduct an investigation on behalf of the foreign securities authority. In deciding whether to grant assistance, the Commission is required to consider whether compliance with the request would prejudice the public interest of the United States. This subsection will provide the basis for achieving agreements with foreign securities authorities in which they agree to provide assistance to the Commission by conducting investigations at the request of the Commission.

Section 102. Section 102 of the Act amends Section 24 of the Exchange Act by adding new subsections authorizing the Commission to withhold from disclosure documents furnished to the Commission by foreign securities officials upon certain conditions.

Section 102(a). Subsection 102(a) is an amendment necessitated by the scheme of amended Section 24 of the Exchange Act, to which the Act adds several subsections. It strikes from Subsection 24(b) the sentence, "Nothing in this subsection shall authorize the Commission to withhold information from the Congress." That sentence becomes part of new Subsection 24(e) of the Exchange Act under Subsection 102(b) of the Act.

Section 102(b). Subsection 102(b) adds new Subsection 24(c) to the Exchange Act. This subsection clarifies the Commission's authority to provide records, as defined in Exchange Act Subsection 24(a), in its discretion and upon a showing that the information is needed, to any persons deemed appropriate by the Commission by rule. The subsection conditions this discretionary authority on the person receiving the information assuring its confidentiality as the Commission deems appropriate. It further clarifies that this section does not alter the Commission's responsibilities under the Right to Financial Privacy Act, 12 U.S.C. 3401 et seq., as limited by Section 21(h) of the Exchange Act, with respect to transfers of records covered by these statutes. Subsection 102(b) of the Act also adds new Subsection 24(d) to the Exchange Act. Subsection 24(d) states that notwithstanding the provisions of the Freedom of Information Act or of any other law, the Commission shall not be compelled to disclose records obtained from a foreign securities authority, if the foreign authority has in good faith represented to the Commission that public disclosing of such records would be contrary to the laws of the foreign country from which they were obtained. This amendment will allow the Commission to obtain otherwise unobtainable confidential documents from foreign countries for law enforcement purposes. As mentioned above, Subsection 102(b) of the Act also adds new Subsection 24(e). This subsection clarifies that nothing in Section 24 authorizes the Commission to withhold information from Congress or not to comply with an order of a United States court in an action initiated by the United States or the Commission.

Section 201. Section 201 of the Act amends the Exchange Act to authorize the Commission to impose sanctions on brokers or dealers, their associated persons, and individuals seeking to become associated persons of brokers or dealers on the basis of misconduct in a foreign country.

Section 201(a). Subsection 201(a) of the Act amends Exchange Act Section 15(b), the Exchange Act's registration provision. Subsection (a)(1) provides for Commission censure of, limitations on the activities of or revocation or suspension of the registration of brokers or dealers, based upon a conviction within ten years rendered by a foreign court of competent jurisdiction of a crime which is substantially equivalent to a felony or misdemeanor as provided by Subparagraph 15(b)(4)(B). The Act thus clarifies the Commission's authority to consider offenses from foreign jurisdictions that might not classify crimes formally as felonies or misdemeanors, *e.g.*, non-common law jurisdictions.

Subparagraph 15(b)(4)(B)(i) lists offenses involving the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, or conspiracy to commit any such offense as within the class of felonies and misdemeanors that permit the Commission to sanction brokers or dealers. Subsection (a)(2) of the Act amends Subparagraph 15(b)(4)(B)(i) by including within this list any substantially equivalent activity, however denominated by the laws of a foreign government. The Act therefore clarifies the Commission's authority to consider such activities even if the foreign government does not denominate them as precisely the same offenses that they constitute within the United States.

Subparagraph 15(b)(4)(B)(ii) also allows the Commission to consider offenses arising out of the conduct of various securities-related businesses, including the business of a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, investment adviser, bank insurance company, fiduciary, or transfer agent. Subsection (a)(3)(A) amends Subparagraph 15(b)(4)(B)(ii) by including any substantially equivalent activity, however denominated by the laws of a foreign government. The Act accordingly clarifies the Commission's authority to consider such offenses regardless of the employment terms involved, which may differ in foreign countries. Subparagraph 15(b)(4)(B)(ii) also permits the Commission to consider offenses arising out of the conduct of the business of an entity or person required to be registered under the Commodity Exchange Act (7 U.S.C. 1 et seq.). Subparagraph (a)(3)(B), therefore, also amends Subparagraph 15(b)(4)(B) (ii) by including any equivalent foreign statute or regulation. The Act thus clarifies the Commission's authority to consider foreign offenses arising out of the commodities trading business.

Subparagraph 15(b)(4)(B)(iii) includes larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, and misappropriation of funds or securities within the list of offenses that trigger Commission sanctions. Subsection (a)(4) of the Act adds any substantially equivalent activity, however denominated by the laws of a foreign government. Subsection (a)(4) of the Act clarifies Commission authority on this point in the same way and for the same reasons as Subsection (a)(2).

Subparagraph 15(b)(4)(B)(iv) includes violations of sections 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18 of the U.S. Code within the list of offenses that the Commission may consider. These provisions concern concealment of assets, false oaths and claims, and bribery in connection with bankruptcy; mail fraud; wire fraud; counterfeiting and forgery; and fraud and false statements, respectively. Subsection (a)(5) amends Subparagraph 15(b)(4)(B)(iv) by including a violation of a substantially equivalent foreign statute. Subsection (a)(5) of the Act clarifies Commission authority on this point in the same way and for the same reasons as Subsection (a)(2).

Subparagraph 15(b)(4)(C) also empowers the Commission to impose sanctions on the basis of permanent or temporary injunctions against acting in the securities-related or commodities-related capacities enumerated in subparagraph 15(b)(4)(B)(ii) and against engaging in or continuing any conduct or practice in connection with such activity or in connection with the purchase or sale or any security. Subparagraph (a)(6)(A) amends Subparagraph 15(b)(4)(C) by including foreign persons performing substantially equivalent functions, and Subparagraph (a)(6)(C) includes substantially equivalent foreign entities. The Act thereby clarifies the Commission's authority on this point in the same way and for the same reasons as Subsection (a)(3)(A). Subparagraph (a)(6)(B) amends Subparagraph 15(b)(4)(C) by including any foreign statute or regulation substantially equivalent to the Commodity Exchange Act, thus clarifying the Commission's authority with the same basis and purpose as Subparagraph (a)(3)(B).

Subsection (a)(7) adds new Subparagraph 15(b)(4)(G) to the Exchange Act. Subparagraph (G) empowers the Commission to base sanctions on findings by a foreign securities authority of (1) false or misleading statements in registration or reporting materials filed with the foreign securities authority, (2) violations of statutory provisions concerning securities or commodities transactions, or (3) aiding, abetting, or otherwise causing another person's violation of such foreign securities or commodities provisions, or failing to supervise a person who has committed such a violation. Subparagraph (G) substantially parallels the provisions of existing Subparagraphs 15(b)(4) (A), (D), and (E) concerning such findings by the Commission or other securities and commodities regulatory authorities.

Section 201(b). Subsection 201(b) of the Act amends Subsection 15(b)(6) of the Exchange Act, which authorizes the Commission to censure, limit the activities of, or bar or suspend from association with a broker or dealer any person who has committed or omitted any act or omission enumerated in Subparagraph (A), (D), or (E), has been convicted of any offense enumerated in Subparagraph (B), or has been enjoined as specified in Subparagraph (C). By adding to Subparagraph 15(b)(6) findings by a foreign securities authority under new Subparagraph (G), Section 201(b) authorizes the Commission to consider such findings when imposing sanctions upon persons who are, or who seek to become, associated persons of a broker or dealer.

Section 201(c). Subsection 201(c) of the Act amends Section 3(a)(39) of the Exchange Act, which concerns statutory disqualification from self-regulatory organization ("SRO") membership. Under the present statutory and regulatory scheme, a person subject to statutory disqualification is not excluded automatically from the securities business. However, when such a person seeks to become associated with a member of an SRO, that SRO and the Commission have the opportunity, under Exchange Act Subsection 15A(g)(2) and Rule 19h-1 thereunder, to give special review to the person's employment application or to restrict or prevent reentry into the business where appropriate for the protection of investors. This structural use of statutory disqualification does not change with the Act's amendments. Rather, the amendments expand, by incorporation, the list of findings that result in statutory disqualification.

Subsection (c) amends Subparagraph 3(a)(39)(A), which now lists expulsion or suspension from membership or participation in, or association with a member of, an SRO, commodity contract market, or futures association as resulting in statutory disqualification, to include exclusion in the described manner from the foreign equivalent of an SRO, foreign or international securities exchange, or a foreign contract market, board of trade, or futures association.

Section 201(d). As amended by Subsection 201(d), Subparagraph 3(a)(39)(B) undergoes similar expansion. It currently refers to orders of the Commission or another appropriate regulatory agency suspending or revoking registration as a broker, dealer, municipal securities dealer, or government securities dealer or broker. The amendments to Subsection 3(a)(39) apply to brokers, dealers, municipal securities dealers, government securities brokers, and government securities dealers of any nationality, because these terms are defined in Exchange Act Subsections 3(a)(4, 3(a)(5), 3(a)(30), 3(a)(43), and 3(a)(44) without reference to nationality. Under Subsection 201(d), orders by an appropriate foreign financial regulatory authority, which is defined in Section 202 of the Act, denying, suspending, or revoking authority to engage in transactions in contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market, board of trade, or foreign equivalent also will result in statutory disqualification.

Section 201(e). Under the Act, Subparagraph 3(a)(39)(C) does not change. However, Subparagraph (D) becomes Subparagraph (E), and subsection 201(e) adds new Subparagraph (D), which includes among the conditions that result in statutory disqualification findings by a foreign or international securities exchange, foreign securities authority, or other foreign authority empowered by a foreign government to administer or enforce its laws relating to financial transactions, to the effect that any individual, by his conduct, was a cause of a suspension, expulsion, or order by the foreign securities authority or other foreign financial regulator or administrator.

Section 201(f). Subsection 201(f) of the Act is a technical amendment that redesignates Subparagraphs 3(a)(39)(D) and (E) of the Exchange Act as 3(a)(39)(E) and (F), respectively. Subsection 201(e) of the Act necessitates these changes.

Section 201(g). Subsection 201(g) of the Act amends redesignated Subparagraph 3(a)(39)(E) of the Exchange Act to include a reference to new Subparagraph (D).

Section 201(h). Subsection 201(h) of the Act amends redesignated Subparagraph 3(a)(39)(F) of the Exchange Act to include a reference to new subparagraph 15(b)(4)(G) added by Subsection 201(a)(7) of the Act.

Section 202. In order to ensure that orders of any regulatory body, foreign or domestic, with authority to suspend or revoke registration or its equivalent are available to the Commission, Section 202 of the Act adds a new term, "foreign financial regulatory authority," as Subsection 3(a)(51) of the Exchange Act. A "foreign financial regulatory authority" is defined to include any foreign securities authority, which is defined in Subsection 101(a) of the Act; governmental or regulatory bodies empowered to administer or enforce laws relating to enumerated financial matters; and membership organizations that regulate members' participation in financial matters. Pursuant to the Act's amendments to Exchange Act Subsection 3(a)(39), orders of foreign financial regulatory authorities are deemed sufficient to result in "statutory disqualification," as will such an order limiting registration of the foreign equivalent of any of the enumerated entities.

Section 203. Section 203 of the Act makes conforming amendments to various provisions of the Exchange Act. Subsections 15B(c)(2) and (4), which concern the Commission's disciplinary authority over municipal securities dealers and their associated persons, and which parallel Subsections 15(b)(4) and (6) concerning brokers, dealers, and their associated persons, are amended to include a reference to new Subparagraph 15(b)(4)(G). Findings of misconduct by a foreign securities authority thus can support Commission sanctions against municipal securities dealers and their associated persons.

Subparagraphs 15C(c)(1)(A) and (C), which concern the Commission's sanctioning authority over government securities brokers and dealers and their associated persons, and which also parallel Subsections 15(b)(4) and (6), are amended to include a reference to new Subparagraph 15(b)(4)(G), for the same reason as above.

Subparagraphs 17A(c)(3)(A) and (C), which concern the Commission's sanctioning authority over transfer agents and their associated persons, and which further parallel Subsections 15(b)(4) and (6), are amended to include a reference to new Subparagraph 15(b)(4)(G) for the same reason.

Subsection 15C(f)(2) of the Exchange Act currently forbids the Commission from investigating or taking any other action under the Exchange Act against a government securities broker or dealer or its associated persons for violations of Section 15C or the rules or regulations thereunder. The exception is where the Commission, rather than one of the banking regulators (Comptroller of the Currency for national banks, Board of Governors of the Federal Reserve System for state member banks, Federal Deposit Insurance Corporation for insured nonmember state banks, and Federal Home Loan Bank Board for federally insured savings and loan associations), is the appropriate regulatory agency for the government securities broker or dealer. Subsection 15C(f)(2), by its own terms, also does not limit the Commission's authority with respect to violations of any other provisions of the Exchange Act or of corresponding rules or regulations. Section 203 of the Act extends this prohibition by forbidding limitations on investigations pursuant to new Exchange Act Section 21(a)(2) to assist a foreign securities authority, which are authorized by Section 101 of the Act.

Section 204. Section 204 of the Act amends the Investment Company Act of 1940 ("1940 Act") and the Investment Advisers Act of 1940 ("Advisers Act") to clarify and strengthen the Commission's authority to impose sanctions, on the basis of violations of foreign law, on investment advisers or on persons associated or seeking to become associated with an investment adviser or a registered investment company.

Section 204(a). Section 204(a) of the Act amends Section 9(b) of the 1940 Act. Section 9(a) of the 1940 Act generally prohibits a person convicted of a felony or misdemeanor involving securities or the securities business or subject to a temporary or permanent injunction restricting his ability to engage in the securities business from serving as an employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, unit investment trust, or face-amount certificate company. The automatic statutory disqualification in Section 9(a) is supplemented by the Commission's authority under Section 9(b). Under Section 9(b), the Commission may, after notice and opportunity for hearing, prohibit a person from serving in any of the capacities cited in Section 9(a) or as an affiliated person of a registered investment company's investment adviser, depositor, or principal underwriter if the person has willfully caused a false or misleading statement to be made in any registration statement, application, or report filed with the Commission or if the person has willfully violated or willfully aided and abetted a violation of any provision (including rules and regulations) of the federal securities laws or the Commodity Exchange Act.

In an amendment parallel to Subsections 201(a)(7) and 204(b)(8) of the Act, adding Subparagraph 15(b)(4)(G) of the Exchange Act and Subsection 203(e)(7) of the Advisers Act, Section 9(b) is amended to add a new paragraph (4) that will authorize the Commission to restrict the activities of any person that has been found by a foreign authority to have (1) made any false or misleading statement in an application or report filed with a foreign securities authority or in a proceeding before the foreign securities authority, or (2) violated or aided and abetted the violation of foreign securities or commodities statutes. Paragraph (4) will, therefore, parallel the provisions of paragraph (1), (2) and (3) of Section 9(b), and extend the statute to equivalent foreign violations.

Section 9(b) also is amended to add two new subsections, 9(b)(5) and 9(b)(6), that will allow the Commission by order to prohibit a person from serving in any of the designated capacities if the person has been convicted by a foreign court of any of the offenses designated in Subsection 9(a)(1) or has been enjoined by a foreign court in a manner set forth in Section 9(a)(2). Subsections 9(a)(1) and (a)(2) automatically disqualify anyone who within the past 10 years has been convicted of any felony or misdemeanor involving, or is subject to a permanent or temporary injunction relating to, acting as an underwriter, broker, dealer, investment adviser, municipal securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or in connection with the purchase or sale of any security. Although a conviction or injunction under Subsections 9(a)(1) or 9(a)(2) results in an automatic statutory disqualification, a substantially equivalent foreign conviction or injunction would not. However, a substantially equivalent foreign finding will provide a basis for a Commission order prohibiting the individual's association with a registered investment company in any of the capacities designated in the statute. The automatic disqualification provisions of Section 9(a), coupled with the Commission's exemptive authority under Section 9(c) to avoid any inequitable results, are indispensable means of safeguarding the integrity of registered investment companies. The amended Section 9(b) does not automatically bar a person solely on the basis of a foreign finding of a violation of foreign law without any prior notice or opportunity for hearing by a U.S. court or administrative agency. Instead, amended Section 9(b) provides that the Commission may impose a bar on a case-by-case basis of it determines that the foreign finding justifies such a sanction. The amendment does not create competitive disparities because, just as Section 9(a) applies equally to U.S. and foreign persons that have been convicted or enjoined in a manner specified in the statute, Section 9(b), as amended, grants the Commission authority to institute an administrative proceeding against either a U.S. or foreign person that has committed an equivalent foreign violation and has been sanctioned by a foreign authority.

Section 204(b). Section 204(b) of the Act amends Section 203(e) of the Advisers Act. Section 203(e) authorizes the Commission to censure, place limitations on the activities of, suspend for up to twelve months, or revoke the registration of an investment adviser where the adviser or an associated person of the adviser has committed, or has been sanctioned for, certain specified violations. Section 204(b) of the Act amends Sections 203(e) to include, among the factors that the Commission may consider, violations of foreign law that are substantially equivalent to a violation currently set forth in the statute.

Subsection 203(e)(2) of the Advisers Act authorizes the Commission to consider convictions within the past ten years of certain felonies and misdemeanors. Subsection 204(b)(1) of the Act amends this section to include convictions by a foreign court of competent jurisdiction of crimes substantially equivalent to a felony or misdemeanor. The Act thus clarifies the Commission's authority to consider foreign criminal findings that the foreign jurisdiction may not classify as a "felony" or "misdemeanor".

Subparagraph 203(e)(2)(A) of the Act lists offenses involving the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, or conspiracy to commit any such offense as within the class of the felonies and misdemeanors that authorize the Commission to discipline investment advisers. Subsection 204(b)(2) of the Act amends Subparagraph 203(e)(2)(A) by including within this list any substantially equivalent activity, however denominated by the laws of a foreign government. The Act therefore clarifies the Commission's authority to consider such offenses even if the relevant foreign government does not use precisely the same terminology in describing the crime as U.S. state or federal law.

Subparagraph 203(e)(2)(B) of the Advisers Act authorizes the Commission to consider offenses arising out of the conduct of various securities-related businesses. Included is any broker, dealer, municipal securities dealer, government securities broker, government securities dealer, investment adviser, bank, insurance company, fiduciary, transfer agent, or entity or person required to be registered under the Commodity Exchange Act. Subsection 204(b)(3) of the Act amends Subparagraph 203(e)(2)(B) to include offenses arising out of the conduct of any foreign person performing a function substantially equivalent to any of the above. The Act therefore clarifies the Commission's authority to consider these types of offenses regardless of the terminology used to describe the activity, which may vary among different countries.

Subparagraph 203(e)(2)(C) includes larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, and misappropriation of funds or securities within the list of offenses that may trigger Commission sanctions. Subsection 204(b)(4) of the Act adds any substantially equivalent offense, however denominated by the laws of a foreign government. Subsection (b)(4) of the Act clarifies Commission authority on this point in the same way and for the same reasons as Subsection (b)(2).

Subparagraph 203(e)(2)(D) includes violations of Sections 152, 1341, 1342, or 1343 or Chapter 25 or 47 of Title 18 of the U.S. Code within the list of offenses that the Commission may consider. These provisions concern concealment of assets, false oaths and claims, and bribery in connection with bankruptcy, mail fraud; wire fraud; counterfeiting and forgery; and fraud and false statements, respectively. Subsection 204(b)(5) of the Act amends Subparagraph 203(e)(2)(D) to include a violation of a substantially equivalent foreign statute. Subsection (b)(5) of the Act clarifies Commission authority on this point in the same manner and for the same reasons as Subsection (b)(2).

Section 203(e)(3) of the Advisers Act authorizes the Commission to impose sanctions where an investment adviser or associated person has been enjoined from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person or employee of any investment company, bank or insurance company or entity or person required to be registered under the Commodity Exchange Act, or from engaging in any practice in connection with any of these activities or in connection with the purchase or sale of any security. Subsections 204(b)(3) and 204(b)(6) of the Act amend Subsection 203(e)(3) to include injunctions issued by any foreign court of competent jurisdiction that concern substantially equivalent activities.

Subsection 204(b)(7) of the Act is a technical amendment to Subsection 203(e)(5) of the Advisers Act. Section 203(e)(5) is amended to include violations of the Commodity Exchange Act. This technical amendment conforms Subsection 203(e)(5) with Subsection 203(e)(4) of the Advisers Act and Subparagraphs 15(b)(4)(D) and 15(b)(4)(E) of the Exchange Act.

Subsection 204(b)(8) of the Act adds new Subsection 203(e)(7) to the Advisers Act. This new subsection empowers the Commission to base sanctions on findings by a foreign financial regulatory authority of (1) false or misleading statements in registration or reporting materials filed with a foreign securities authority, (2) violations of statutory provisions concerning securities or commodities transactions, or (3) aiding, abetting, or otherwise causing another persons' violation of such foreign securities or commodities provision, or failing to supervise a person who has committed such a violation. Subsection (e)(7) substantially parallels the provisions of existing Subsection 203(e)(1), (4) and (5) concerning such findings by the Commission or other securities and commodities regulatory authorities. This section of the Act parallels Sections 201(a)(7) and 204(a) of the Act, which add Subsection 15(b)(4)(7) of the Exchange Act and Section 9(b)(4) of the 1940 Act.

Section 204(c). Section 204(c) of the Act amends Section 203(f) of the Advisers Act, which authorizes the Commission to impose sanctions upon persons associated or seeking to become associated with an investment adviser if the person has committed or omitted any act or omission set forth in Subsections 203(e)(1), (4) or (5) or has been convicted or enjoined as set forth in Subsections 203(e)(2) or 203(e)(3). Section 203(f) is amended to include a reference to new Subsection 203(e)(7), thus authorizing the Commission to consider such findings when imposing sanctions upon persons who are, or seek to become, associated with an investment adviser.

Section 205. Section 205 amends Section 2(a) of the 1940 Act and Section 202(a) of the Advisers Act to include definitions of "foreign securities authority" and "foreign financial regulatory authority". A "foreign securities authority" is defined as "any foreign govenment, or any government body or regulatory organization empowered by a foreign government to administer or enforce its laws relating to securities." A "foreign financial regulatory authority" includes a "foreign securities authority" or organization that is essentially equivalent to a self-regulatory organization. These definitions are identical to the definitions added to the Exchange Act by Subsection 101(a) and Section 202 of the Act.

MAJOR POINTS OF THE INTERNATIONAL ENFORCEMENT COOPERATION ACT OF 1988

Expansion of SEC investigative powers:

Would provide the SEC with the authority to conduct, in the United States, an investigation of securities fraud at the request of a foreign country where that foreign country agrees to provide similar investigative assistance to the SEC. Under existing law, the SEC cannot compel the production of documents and testimony unless it appears that a violation of the U.S. securities laws may have occurred.

If the SEC has the authority to assist foreign authorities in enforcing their securities laws, then foreign authorities will have a strong inducement to assist the SEC on a reciprocal basis and to enter into mutual assistance arrangements. The legislation requires that before the SEC grants assistance to a foreign country, the foreign authority must agree to provide reciprocal assistance to the SEC.

In January of this year, the SEC entered into a memorandum of understanding (MOU) with securities officials in Ontario, Quebec and British Columbia that provides for such investigative assistance. This bill will enable the SEC to carry out that commitment with the Canadian provinces. The bill will also likely enable the SEC to enter into similar arrangements with other foreign countries.

Ability to SEC to Protect Documents received from Foreign Authorities

The bill would provide foreign authorities with confidence that unless a law enforcement proceeding were initiated, or information were provided to Congress, that the information would be kept confidential consistent with its domestic standards.

SEC rulemaking authority for sharing evidence with other securities officials, both foreign and domestic:

The bill would make explicit the SEC's authority to share evidence with other securities authorities.

SEC authority to impose employment restrictions on basis of foreign law violations:

The bill would provide the SEC with the authority to restrict the employment or revoke the registration of a securities professional who is found by a foreign court or foreign securities authority to have engaged in illegal or improper conduct.

MEMORANDUM IN SUPPORT OF THE INTERNATIONAL SECURITIES ENFORCEMENT COOPERATION ACT OF 1988

I. INTRODUCTION

In recent years, financial markets have experienced rapid internationalization. Cross-border trading, resulting in large part from technological advances and the removal of restrictions on foreign participation in many securities markets, has increased severalfold. This development, while expanding opportunities for legitimate investment activities, has, at the same time, also expanded opportunities for persons to engage in fraud. A growing number of Commission investigations involve suspicious conduct taking place in foreign countries with an impact on the U.S. securities markets, the world's largest markets.

As a result, there is a substantial and growing need for cooperation between U.S. and foreign securities authorities. In many cases, documents and witnesses, needed in a Commission investigation of violations of the U.S. securities laws, are located abroad. Until recently, the Commission generally has conducted its investigations without the benefits of mechanisms to obtain the investigative assistance or cooperation of foreign authorities. The Commission has engaged in unilateral evidence-gathering efforts utilizing subpoenas and, where necessary, court orders requiring production of evidence. Such efforts, while successful, have been time-consuming and expensive. In addition, in some cases the Commission's investigative efforts have been viewed by foreign countries as infringing upon their sovereignty. Moreover, these unilateral efforts have provided no long-term solutions to international enforcement problems.

During the past few years, the Commission has attempted to address these problems through bilateral assistance agreements, known as memoranda of understanding (MOUs). MOUs have been signed with Switzerland, the United Kingdom, Japan and, more recently, three Canadian provinces. These agreements, which enable the Commission to obtain documents or other evidence located abroad through the cooperation of foreign authorities, are attractive for several reasons. The MOUs provide detailed procedures for obtaining evidence; establish guidelines for handling the Commission's requests so that information can be gathered in a reasonably efficient fashion; and avoid creating friction between the U.S. and foreign securities authorities. In other words, the MOUs substitute cooperation for confrontation and, in so doing, significantly facilitate investigations of international securities fraud.

Until recently, however, the MOUs did not provide the Commission with the ability to obtain, on a reciprocal basis, the same information abroad that it can obtain in the U.S. when a U.S. securities law has been violated. The reason for this limitation is that most foreign authorities lack the statutory authority to investigate allegedly illegal conduct at the Commission's request unless the conduct under investigation also violates the laws of the foreign country. The commission operates under the same limitation. It cannot assist a foreign authority by compelling the production of documents and testimony unless it appears that a violation of the U.S. securities laws may have occurred.

This limitation on international cooperation was brought to the forefront by the MOU entered into between the Commission and the Ontario, Quebec and British Columbia securities commissions on January 7, 1988. The parties to that agreement have undertaken to assist one another by investigating—i.e., compelling testimony and the production of evidence—a law violation at the request of authorities in the other country even without an indication that a violation occurred of the laws of the investigating country. However, as discussed above, the Commission and the Canadian authorities, except for the Quebec securities commission, lack the statutory authority to conduct such an investigation. As a means of addressing this problem, the MOU commits the parties to take "all reasonable steps to obtain the necessary authorization" to conduct such an investigation.

Pursuant to its commitment under the Canadian MOU, and in order to enhance its enforcement capabilities, the Commission seeks the enactment of the attached bill, titled the "International Securities Enforcement Cooperation Act of 1988." Title I, Section 101, of the proposed legislation would amend Section 21(a) of the Securities Exchange Act of 1934 ("Exchange Act") to provide that the Commission "may conduct such investigation as it deems necessary to collect information and evidence pertinent to a request for assistance" by a foreign authority. The Commission believes that foreign countries will be more likely to enter into bilateral assistance agreements with the Commission, and that other MOUs in effect and under negotiation may be expanded, if the Commission has the authority to provide investigative assistance. As to the authority of foreign countries to conduct investigations at the Commission's request, the proposed legislation requires that the foreign authority agree to provide the Commission with investigative assistance before the Commission can grant reciprocal assistance.

The legislation also addresses three other international enforcement concerns. First, Section 102 of the legislation would amend Section 24 of the Exchange Act to enable the Commission to maintain the confidentiality of certain foreign evidence. This amendment would, like Section 101 of the bill, promote agreements on bilateral assistance between the Commission and foreign authorities. There have been instances in which MOU negotiations Commission to maintain the confidentiality of certain foreign evidence. This amendment would, like Section 101 of the bill, promote agreements on bilateral assistance between the Commission and foreign authorities. There have been instances in which MOU negotiations have been frustrated by the Commission's inability to provide assurances that documents and testimony transmitted to the Commission by the foreign authorities will be kept confidential. The Commission cannot provide assurances of confidentiality because of its disclosure obligations under the Freedom of Information Act ("FOIA"). In order to facilitate the cooperation of foreign authorities in providing the Commission with investigative assistance, the Commission believes that it would be appropriate to exempt documents furnished to the Commission from disclosure if the foreign authorities represent that the disclosure of such documents would violate confidentiality requirements of their country's laws. Section 102(b) of the legislation would so provide.

Second, Section 102(b) of the bill would make explicit the Commission's rulemaking authority to provide documents and other information to foreign authorities under the Canadian and other bilateral assistance agreements, as well as to domestic authorities. Pursuant to Rule 30-4(a)(7), 17 C.F.R. 200.30-4(a)(7), the Commission currently grants access to Commission investigative files to certain securities enforcement entities, including domestic and foreign securities authorities and self-regulatory organizations. However, Section 24(b) of the Exchange Act, as well as provisions of the Investment Advisers Act of 1940 ("Investment Advisers Act") and the Investment Company Act of 1940 ("Investment Company Act"), arguably preclude the disclosure of certain nonpublic documents. In view of the significance of this issue to the Commission's efforts to cooperate both with foreign and domestic securities officials, the Commission believes that it would be appropriate to enact legislation making clear that the Commission, by rule, may provide for the disclosure of nonpublic documents. Section 102(b) of the accompanying legislation would accomplish this goal.

Finally, Title II of the bill would amend the Exchange Act, the Investment Advisers Act, and the Investment Company Act to authorize the Commission to censure, revoke the registration of or impose employment restrictions upon securities professionals based upon the findings of a foreign court or foreign securities authority. The Commission already has such authority as to illegal or improper activity in this country pursuant to Section 15(b)(4) of the Exchange Act, Section 203(e) of the Investment Advisers Act, and Section 9(a) and (b) of the Investment Company Act. Certain subsections of these provisions also have been used to support the imposition of limitations on activities of securities professionals based upon the findings of a foreign court as to illegal activity abroad. In conjunction with the amendments contained in Title I, the Commission believes that it would be appropriate to make explicit and add to the Commission's existing authority. The Commission believes that it should have the authority to suspend or bar securities professionals who have made false filings with foreign authorities; who have been convicted of certain crimes (both securities and non-securities related) by foreign courts; who have been enjoined by a foreign court from committing securities law violations; who have violated foreign securities laws; or who have aided and abetted such violations. The Commission believes that this authority is a necessary supplement to its authority to place limitations on securities professionals based on violations of U.S. laws. Moreover, these legislative changes reflect the Commission's expectation that, at least in part as a result of the enforcement assistance that the Commission will provide to foreign authorities pursuant to Section 101 of this bill, securities professionals will be subject to more aggressive enforcement efforts by such foreign authorities. It would be ironic if securities professionals who are found, with the Commission's assistance under Section 101, to have violated foreign securities laws, were allowed unfettered operations in the U.S. securities markets, even though limitations would have been placed on them for the same violations in the U.S. The provisions of Title II would protect against such a result.

II. COMMISSION'S PROPOSED LEGISLATION

A. Legislation authorizing Commission investigations at behest of foreign securities authorities.

1. The need for legislation.

a. Overview of difficulties in international enforcement

Increasing internationalization of the capital markets has made more difficult the task of investigating alleged securities law violations.[1] In more and more cases, Commission investigators and litigators must deal with witnesses who reside in a foreign country and with books, trading records and other evidence that is located abroad.[2]

The U.S. securities laws provide generally that the Commission's investigative subpoena power extends only to the production of documentary and testimonial evidence "from any place in the United States or any State."[3] If an individual or entity located in a foreign country refuses to cooperate voluntarily in the investigation, the Commission must seek the assistance of a foreign sovereign, or wait until the individual enters the United States, to develop the necessary evidence. Even where the Commission effectively serves a subpoena in the United States to compel a person located here, or a subsidiary of a foreign corporation located here, to provide documents located abroad,[4] subpoena enforcement actions and contempt proceedings in such cases are expensive and protracted. In addition, particularly when secrecy laws are at issue,[5] court enforcement of a subpoena engenders the hostility of the foreign country, which views such a proceeding as an infringement of its sovereignty.[6]

Once a lawsuit has commenced, the Commission has additional means of obtaining discovery. As to parties, a court may compel discovery, including testimony and the pro-

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Footnotes at end of article.

duction of documents, pursuant to Federal Rules of Civil Procedure ("Fed. R. Civ. P.") 37. However, as with investigative subpoenas, the issuance of litigation subpoenas may create friction with foreign authorities. As to foreign nonparties, a court may issue letters rogatory to a foreign court pursuant to Fed. R. Civ. P. 28(b)(3). Where the country in which evidence is sought is a signatory to the Hague Evidence Convention,[7] the Commission may use letters of request, which are similar to letters rogatory.[8] Those procedures, however, can be extremely slow and expensive. In addition, restrictions on discovery techniques in certain countries—such as limitations on the right of counsel to directly examine witnesses—can render such procedures inadequate.[9]

b. Benefits of bilateral agreements

As a result of these difficulties, the Commission's enforcement efforts are greatly enhanced by bilateral agreements between the Commission and foreign countries and securities authorities. Such agreements, which bring the Commission and its equivalent foreign regulator into a cooperative relationship, provide powerful means for international securities enforcement.[10]

Bilateral agreements were reached with Switzerland[11] in 1982 and with both Japan and the United Kingdom in 1986. In addition, on January 7, 1988, the Commission signed an MOU with the Ontario, Quebec and British Columbia securities commissions. The Commission is currently seeking similar agreements with several other foreign authorities.

The Commission's existing statutory authority, however, does not permit full cooperation between the Commission and foreign authorities in international investigations. The British MOU exemplifies the limitations. Under that agreement, each country undertakes to provide the other with "any information" that it has "in its hands" or that it can by "best efforts" obtain. In some cases, the Commission has important information in its hands. In other cases, where there is evidence of a law violation in both this country and the foreign country, the Commission may investigate and then exchange information with the foreign country. But where there is no independent basis for investigating a violation of U.S. law, the Commission lacks authority to compel testimony or production of documents on behalf of a foreign securities authority.[12] For example, if a U.S. bank holds documents evidencing the proceeds of a securities law violation which took place entirely abroad, and as to which the Commission therefore lacks jurisdiction, the Commission has no authority to compel production of the documents. The Commission's "best efforts," in orther words, may in some cases be ineffective.

Foreign authorities confront many of the same obstacles to evidence gathering in this country that the Commission encounters in foreign countries. Absent voluntary cooperation of witnesses, U.S. law does not make it feasible for foreign securities authorities to obtain evidence in this country on their own. Absent assistance by the Commission or other government agencies, the only procedure now available to a foreign government seeking to investigate securities fraud in this country is letters rogatory under 28 U.S.C. 1782. That statute allows a federal district court, at the request of a "foreign or international tribunal," to issue letters rogatory to persons within its district to give testimony or produce evidence. The term "tribunal," however, has been interpreted as meaning a judicial or quasi-judicial body.[13] As a result, the letters rogatory procedure may not be available to foreign regulatory authorities in the investigative stage. In any event, the letters rogatory application must be reviewed by the U.S. court in an open proceeding. The public nature of the process and the frequent delays in U.S. courts make this procedure an impractical means for foreign authorities to investigate many securities law violations.

c. The Canadian MOU

The Commission negotiated the Canadian MOU to address the problems described above. The Canadian MOU provides broader coverage and assistance then the previously negotiated MOUs. In particular, the signatories to the Canadian MOU agreed to take "all reasonable steps" to obtain statutory authority that would permit investigations of securities law violations at the request of a foreign authority. The Quebec securities commission is the only signatory with such investigative authority at the present time.[14]

In letters exchanged in conjunction with the signing of the Canadian MOU, the remaining three parties to the MOU agreed to seek such statutory authority by January 7, 1989.

The proposed legislation is intended to fulfill the Commission's commitment under the Canadian MOU. In addition, the Commission is negotiating MOUs with other countries which are similar to the Canadian MOU. These cooperative approaches to evidence-gathering will be less expensive and time consuming than the alternatives described above, such as letters rogatory.[15] In addition, at least in the short-term, such arrangements are likely to benefit the Commission more than foreign countries, which in many cases do not have the statutory authority to pursue as broad a range of securities law violations as does the Commission.[16]

2. The proposed legislation.

The legislation would amend Section 21(a) of the Exchange Act to provide: "On request from a foreign securities authority, the Commission may, in its discretion, provide assistance in accordance with this paragraph if the requesting authority: (a) states that it is conducting an investigation which it deems necessary to determine whether any person has violated, is violating, or is about to violate any laws or rules relating to securities matters that it administers or enforces; and (b) agrees to provide similar assistance to the Commission in securities matters. The Commission may conduct such investigation as it deems necessary to collect information and evidence pertinent to the request for assistance. Such assistance may be provided without regard to whether the facts stated in the request would also constitute a violation of the laws of the United States. In deciding whether to provide such assistance, the Commission shall consider whether compliance with the request would prejudice the public interest of the United States."

This legislation would expand the Commission's authority under Section 21 of the Exchange Act to allow a Commission investigation for the purpose of assisting a foreign authority determine whether a violation of the laws it administers has occurred, is occurring, or is about to occur. The Commission's discretion to open the investigation to assist a foreign authority would be governed by the same standards as a domestic violation. As a result, the proposal brings into play the full range of investigative procedures and remedies at the Commission's disposal, including the issuance and enforcement of subpoenas. By utilizing the investigative framework which already is in place, the proposal provides a vehicle with which the Commission and the legal community is familiar for assisting foreign authorities.

The legislation would give the Commission the discretion to issue a formal order of private investigation to assist in gathering information regarding alleged violations of foreign laws relating to securities matters. It is contemplated that a foreign authority seeking the Commission's assistance would submit a request detailing the facts which constitute a potential violation of its laws.[17] The Commission would review this request and make a determination whether to issue a formal order. If a formal order were issued, the staff members appointed as officers of the Commission for purposes of the investigation would conduct an investigation in the U.S., gathering the requested information as they would pursuant to any formal order. Thus, the Commission staff would reserve control of the investigation in the U.S.

Because the proposed legislation relies upon established formal order procedures, it provides witnesses with all of the protection and remedies afforded to witnesses in Commission proceedings. Accordingly, witnesses could obtain access to a formal order identifying the basis and subject matter of an investigation. Further, they would be able to resist enforcement of a burdensome subpoena. In this regard, any challenge to a Commission subpoena would have to be reviewed by the Commission as part of the authorization process for a subpoena enforcement action. The Commission anticipates that any person resisting the subpoena would make his reasons known at the time he initially resists the subpoena. This information would be available to the Commission for its consideration before a decision was made to institute a subpoena enforcement action. Accordingly, the Commission would have an opportunity to review the matter, and the facts as argued by the subject of the subpoena, before seeking a court determination. The Commission believes, that by providing a witness with the same rights and protections provided to witnesses in Commission investigations, the proposed legislation resolves any constitutional due process and Fourth Amendment concerns which could be raised.[18]

The legislation restricts assistance requests to "foreign securities authorities." That term is defined in the amendments as "any foreign government, or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters." This definition recognizes that countries have different approaches to securities law enforcement. In some countries—the United Kingdom, for example—jurisdiction over securities law enforcement has been assigned by statute to a government authority. In still other countries, a private agency is authorized to act as the primary administrator or enforcer for securities matters. The Commission intends that the definition of "foreign securities authority" encompass:

(a) foreign independent regulatory agencies similar to the Commission, such as the Commission des Operations de Bourse in France and the Canadian provincial securities commissions, as well as foreign Executive agencies, such as the British Secretary of State for the Department of Trade and

Industry, which hold express statutory authority to enforce securities laws;

(b) general policing entities, such as the Swiss Federal Department of Justice and Police, which enforce commercial, corporation and financial laws or other generalized fraud statutes; and

(c) self-regulatory organizations ("SRO"), such as the U.K. Securities and Investment Board (as of April 1988), to the extent the SRO is not merely a membership organization but also "administers" or "enforces" securities laws.[19]

The proposed amendment provides the Commission with discretion to grant or deny assistance. As a result, the Commission would not be in the position of providing assistance to an agency or regulatory organization of uncertain legal authority, or in response to an unreasonable or ill-founded request.

The amendment requires that before the Commission may provide assistance, the requesting authority must agree to provide the Commission with similar investigative assistance. This amendment would thus provide a substantial incentive for foreign securities authorities to enter into mutual assistance arrangements with the Commission.

B. Legislation authorizing the Commission to withhold from disclosure documents furnished to the Commission by foreign securities officials.

1. The need for legislation.

In entering into MOUs with the Commission, authorities in foreign countries have committed themselves to obtaining and providing the Commission with certain documents, some of which otherwise would be kept confidential. While these authorities have determined that it is appropriate to permit public use of documents, which otherwise must be kept confidential, when the Commission prosecutes securities law violators, they have expressed concern about the disclosure of such documents when the Commission decides not to prosecute a particular matter.

Under the FOIA, the Commission cannot assure foreign authorities that the confidentiality of any documents furnished to the Commission will be maintained. The Commission's disclosure obligations under the FOIA are the same for records obtained from foreign securities authorities as they are for records obtained from other sources, i.e., the documents must be disclosed under the FOIA unless they fall within a specified FOIA exemption. Because of these FOIA obligations, foreign securities authorities have expressed concerns about providing the Commission with information relevant to ongoing investigations. They have also stated that their own domestic laws preclude them from entering into agreements with the Commission unless the Commission is able to fulfill the confidentiality requirements of the foreign country's laws.

In seeking enactment of Section 102(d) of the attached bill which would establish an exemption from disclosure under the FOIA, the Commission does not intend to undermine the policies underlying the FOIA. However, the Commission believes that principles of comity make it appropriate to exempt from disclosure confidential documents obtained from a foreign government if those documents could not be disclosed under the laws of that foreign government. Moreover, adoption of such an amendment will almost certainly allow the Commission to obtain otherwise unobtainable confidential documents from foreign countries for law enforcement purposes. These considerations warrant enactment of the FOIA exemption.

2. The proposed legislation.

The legislative proposal would amend Section 24 of the Exchange Act by adding the following new provisions:

(d) Notwithstanding the provisions of the Freedom of Information Act, 5 U.S.C. 551 et seq., or of any other law, the Commission shall not be compelled to disclose records obtained from a foreign securities authority if the foreign securities authority has in good faith represented to the Commission that public disclosure of such records by such authority would be contrary to the laws of the foreign country from which they were obtained.

(e) Nothing in this Section shall prevent the Commission from complying with a request for information from the Congress or from complying with an order of a court of the United States in an action commenced by the United States or the commission.

The proposed Section 24(d) would supersede FOIA by authorizing the Commission to withhold from disclosure documents obtained from a foreign securities authority if the foreign authority has in "good faith" represented to the Commission that public disclosure of such records would be contrary to the laws of the foreign country. The term "foreign securities authority" would include, as discussed above (supra, p. 13), government agencies and self-regulatory organizations which "administer" or "enforce" the securities laws. The amendment would not restrict the Commission's use of the information and documents obtained from a foreign authority in its investigations or for enforcement purposes. Nor would it limit the ability of the Congress to obtain information in the Commission's possession or preclude defendants in actions commenced by the United States or the Commission from seeking, through discovery or otherwise, such documents.[20]

The amendment would add a new Section 24(e) to make clear that the amendment would not prevent the Commission from complying with a request for information from the Congress or from complying with an order of a court of the United States in an action commenced by the United States or the Commission. This amendment would render unnecessary the existing last sentence of Section 24(b) of the Exchange Act, which provides that "nothing in this subsection shall authorize the Commission to withhold information from the Congress." That sentence, therefore, would be deleted.

By providing authority for the Commission to withhold from disclosure certain records obtained from foreign securities authorities "in response to a request pursuant to the Freedom of Information Act," the amendment clearly would supersede the disclosure obligations imposed by the FOIA, and hence would not require that the Commission rely on a FOIA exemption in order to withhold from disclosure confidential documents.[21] In addition, the determination whether foreign law prohibits the disclosure would be made by the foreign authorities, not by the Commission. That decision must, however, be made in good faith.[22]

C. Legislation granting the Commission rulemaking authority to permit access to its files by persons, both domestic and foreign, engaged in securities law enforcement and oversight.

1. The need for legislation.

The Commission's Rules of Practice[23] authorize the Director of the Division of Enforcement to provide access to nonpublic materials in the Commission's investigative files to domestic and foreign governmental authorities, self-regulatory organizations, and other specified persons. In addition, Rule 2 of the Commission's Rules Relating to Investigations authorizes designated members of the Commission staff to "engage in discussions" concerning the nonpublic materials with the persons specified in Rule 30-4(a)(7).[24] These access rules have frequently provided the essential basis for prosecutions of securities law violations by other enforcement agencies and SROs.

The Commission's access rules are longstanding. However, Section 24(b) of the Exchange Act, 15 U.S.C. 78x(b), enacted in 1975, makes it unlawful "for any member, officer, or employee of the Commission to disclose to any person other than a member, officer, or employee of the Commission, or to use for personal benefit, any information contained in any application, statement, report, contract, correspondence, notice or other document filed with or otherwise obtained by the Commission (1) in contravention of the rules and regulations of the Commission under [the FOIA], or (2) in circumstances where the Commission has determined pursuant to such rules to accord confidential treatment of information." Section 24(b) was intended to make all requests for confidential treatment of information subject to the FOIA rules.[25] There is nothing in the legislative history suggesting that Congress intended to undermine the Commission's access program. Nevertheless, the literal language of Section 24(b) seems to do precisely that: documents that are determined under the FOIA to be confidential cannot be disclosed.

In most situations, the Commission receives an access request before the staff makes a confidential treatment determination, and Section 24(b) would not, therefore, be at issue. On occasion, however, Section 24(b) can pose an obstacle to compliance with an access request.

Additional problems with the Commission's access program may arise from other statutory provisions. Section 210(b) of the Investment Advisers Act bars the staff from making public information relating to a Commission investigation if it was obtained pursuant to that Act, unless the Commission expressly authorizes such disclosures (with an exception for public hearings and disclosure to Congress). Section 45(a) of the Investment Company Act imposes a bar on the disclosure of non-public documents obtained by the Commission pursuant to that Act, except insofar as disclosure is made to federal or state government officials.

To remove these apparent obstacles to the Commission's authority to grant access to its files to domestic and foreign authorities, the Commission proposes that the Exchange Act be amended to provide the Commission with explicit authority in this area.

2. The proposed legislation.

The proposed legislation would amend Section 24 of the Exchange Act by adding subsection (c) as follows:

(c) Notwithstanding any other provision of law, the Commission may in its discretion and upon a showing that such information is needed, provide all "records" (as defined in subsection (a) above) and other information in its possession to such persons, both domestic and foreign, as the Commission by rule deems appropriate;

Provided, That the person receiving such records or information provides such assurances of confidentiality as the Commission deems appropriate; and

Provided further, That nothing in this section shall alter the Commission's responsibilities under the Right to Financial Privacy Act, 12 U.S.C. 3401 et seq., as limited by Section 21(h) of the Securities Exchange Act, 15 U.S.C. 78u(h), with respect to transfers of records covered by such statutes.

The Commission is proposing the foregoing amendment, which grants the Commission rulemaking authority, rather than an amendment which would list the specific persons to whom access may be given. As a result, the Commission will have flexibility in adjusting its access rules in the future. In addition, by specifying that the Commission may permit access by foreign persons, the Commission's authority as to this matter will be made explicit.[26] The provision as to confidentiality of records is intended to ensure that the Commission will not provide records to persons who will make the records public for purposes other than those stated in an access request.[27]

The legislation would not alter the certification and notice requirements imposed by the Right to Financial Privacy Act ("RFPA"), 12 U.S.C. 3401 et seq. Under Section 1112(a) of the RFPA, the Commission may not transfer to other federal agencies financial records that were obtained by the Commission subject to the RFPA procedures unless it certifies in writing that there is reason to believe that the records are relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency or department. In addition, the Commission must send the customer a copy of such certification and a notice which both describes the nature of the law enforcement inquiry and informs the customer of potential legal rights under relevant privacy statutes. These requirements do not apply to transfers of information to nonfederal agencies, foreign authorities, or self-regulatory organizations.[28]

D. Legislation authorizing the Commission to impose sanctions on securities professionals for violations of foreign laws.

1. The need for legislation.

a. Overview

One likely result of efforts by foreign securities authorities to strengthen their securities law enforcement will be an increase in the number of enforcement or disciplinary proceedings brought against securities professionals, such as brokers, dealers, and investment advisers. Indeed, if Section 101 of the proposed legislation is enacted, such actions may result at least in part from the assistance provided to foreign authorities by the Commission pursuant to that section. The Commission, however, currently does not have explicit authority to impose administrative sanctions against such professionals based upon foreign findings of their illegal or improper foreign activities (although, as discussed below, the Commission has some authority in this area). The proposed legislation provides that the Commission may impose sanctions on securities professionals who have been found to have engaged in misconduct abroad when, had the same misconduct taken place in the United States, the professional would have been subject to a Commission disciplinary proceeding. It is important to note that the Commission would have discretion to bring an administrative proceeding based on foreign misconduct, just as it has discretion to bring such actions based on domestic misconduct. Title II of the bill therefore would amend Sections 15(b)(4) and 3(a)(39) of the Exchange Act; Section 9(b) of the Investment Company Act; and Section 203(e) of the Investment Advisers Act to provide the Commission with this express authority and to add to the Commission's existing authority.

b. Specific concerns

U.S broker-dealer, investment advisers, and investment companies have increased significantly their activities in foreign markets.[29] The activities of foreign professionals in the U.S. markets also are likely to increase.[30] As a result, the Commission is likely to confront a growing number of securities professionals who have been disciplined abroad for illegal or improper activities working or seeking to work in this country.

The Commission currently has substantial authority to curtail the securities activities of certain convicted criminals and other wrongdoers for illegal or improper conduct in *this* country. Under Section 15(b)(4) and (b)(6) of the Exchange Act, the Commission may censure, limit the activities, functions, or operations of, suspend for up to twelve months, or revoke the registration of any broker or dealer, or bar from association with any broker or dealer, any person: found to have violated the federal securities laws, rules, or regulations thereunder; convicted of a "felony or misdemeanor" within the preceding ten years involving specified crimes; who willfully has filed a false or misleading statement in any registration statement or report filed with the Commission; or who has willfully aided and abetted a violation of any portion of the federal securities or commodities laws. Such a person also is subject to a statutory disqualification under Section 3(a)(39) of the Exchange Act.[31] Section 203 (e) and (f) of the Investment Advisers Act provides the Commission with disciplinary authority as to investment advisers and persons associated with registered investment advisers, similar to that in Section 15(b)(4) and (6) of the Exchange Act.[32]

In addition, Section 9(a) of the Investment Company Act generally prohibits a person convicted of a securities-related crime or subject to a securities-related injunction from serving as an employee, officer, director, member of an advisory board, investment adviser, or depositor of a registered investment company, or principal underwriter for any registered open-end company, unit investment trust, or face-amount certificate company. The automatic statutory disqualification in Section 9(a) is supplemented by the Commission's authority under Section 9(b). Under Section 9(b), the Commission may prohibit a person from serving in any of the capacities cited in Section 9(a) or as an affiliated person of a registered investment company's investment adviser, depositor, or principal underwriter if the person willfully has caused a false or misleading statement to be made in any registration statement or report filed with the Commission or if the person has willfully violated or aided and abetted a violation of any provision of the federal securities or commodities laws.

Although the foregoing provisions do not mention the Commission's authority to impose sanctions based on foreign misconduct, certain of the provisions can be so applied. In particular, Sections 15(b)(3)(B) of the Exchange Act, 203(e)(2) of the Investment Advisers Act, and 9(a)(1) of the Investment Company Act refer to a "felony or misdemeanor" conviction for specified crimes; neither the statutes nor thir legislative histories specify that the crime or conviction must take place in the United States.[33] Thus, pursuant to Section 15(b)(4)(B), the Commission revoked the U.S. registration of a Canadian broker-dealer who was convicted of crimes in Canada involving the purchase or sale of securities.[34] Likewise, under Sections 15(b)(4)(C) of the Exchange Act and 203(e)(3) of the Investment Advisers Act, the Commisison may impose sanctions based upon a securities-related injunction entered by a "court of competent jurisdiction," and under Section 9(a)(2) of the Investment Company Act, such an enjoined person's association with a registered investment company is limited. These statutes are not explicitly limited to injunctions entered by U.S. courts. See L. Loss, supra at 1305 (stating that a "court of competent jurisdiction" as set forth in Section 15(b)(4)(C) may include a foreign court).

As to other provisions, however, such authority needs to be addressed. First, the Commission's authority to impose sanctions on a professional[35] and to restrict association with a registered investment company[35] for a misstatement in an application for registration or report filed with the Commission does not extend to misstatements made to foreign regulatory authorities. Second, the Commission's authority to impose sanctions on the professional[36] to restrict association with a registered investment company[37] for willful violation of the U.S. securities and commodities laws does not extend to violations of foreign securities laws. Finally, the Commission's authority to impose sanctions on professionals for aiding and abetting a violation or failing reasonably to supervise a person subject to the professional's control in violation of the U.S. securities laws[38] and to restrict association with a registered investment company of personnel who are found to have aided and abetted such violations[39] does not extend to activities that violate foreign securities and commodities laws. The legislation would provide the Commission with authority to act in each of these circumstances.

In addition, as to the provisions under which, as discussed above, the Commission has authority to impose sanctions, the legislation would make such authority explicit and would preclude certain challenges which might be possible under the existing statutes. In particular, Section 15(b)(4)(B) of the Exchange Act, Section 203(e)(2) of the Investment Advisers Act, and Section 9(a)(1) of the Investment Company Act refer to convictions for a "felony or misdemeanor" as the basis for a Commission sanction. A securities professional who was convicted in a country that does not define crimes as "felonies" or "misdemeanors" might successfully challenge the Commission's authority under these sections. A Commission administrative sanction also could be challenged when the foreign offense for which the securities professional was convinced is not one of the exact offenses specifically covered by the statutory provisions. As discussed below, the proposed legislation would undercut such defenses by providing for Commission sanctions based upon foreign convictions for crimes "substantially equivalent" to those listed in the statute. The legislation also would foreclose the potential argument that the statutory provisions[40] that allow the Commission to impose sanctions on professionals who have been enjoined from acting in specific capacities, such as underwriters or investment advisers, do not apply to persons whose profession is not so defined in a foreign country.

The proposed amendments would resolve the potential difficulties posed by differences in employment terms by permitting sanctions based upon an injunction entered against a professional who performs a "substantially equivalent" function to the activities currently listed in the statute.

The proposed legislation would also create a "statutory disqualification," as defined in section 3(a)(39) of the Exchange Act, when a foreign securities authority or foreign court makes findings of illegal or improper conduct.

The Commission's action against a securities professional would not be automatic. The statutory procedure for imposing sanctions for foreign misconduct would be the same as that currently in place for imposing sanctions for domestic misconduct. The Commission would provide the securities professional with notice and an opportunity for a hearing prior to taking such action. The securities professional would thus have an opportunity to present evidence on his own behalf, in order to demonstrate that the imposition of sanctions would not be in the public interest. In addition, if the professional makes a persuasive due process or jurisdictional attack on the foreign adjudicative proceedings, the commission may be required to permit relitigation of the underlying offense. In such a case, the foreign finding of misconduct would provide the basis for a Commission administrative proceeding even though principles of collateral estoppel might not be available to the Commission.[41]

2. The proposed legislation.

Title II of the proposed legislation would add new subsections 15(b)(4)(G) to the Exchange Act, 203(e)(7) to the Investment Advisers Act, and 9(b)(4) to the Investment Company Act. These provisions would apply the proscriptions of Section 15(b)(4 (A), (D), and (E) of the Exchange Act, Section 203(e)(1), (4), and (5) of the Investment Advisers Act, and Section 9(b)(1)-(3) of the Investment Company Act to an international context. Thus, the Commission would be able to impose sanctions on the professional if he has been found by a "foreign financial regulatory authority"—a defined term in the Acts—to have made false or misleading statements in registration statements or reports filed with the authority; violated foreign statutory or regulatory provisions regarding securities or commodities transactions; or aided, abetted, or otherwise caused another person's violation of such foreign securities or commodities provisions or failed to supervise a person who has committed a violation of such provisions. The term "foreign financial regulatory authority" would be defined in new Sections 3(a)(51) of the Exchange Act, 202(a)(24) of the Investment Advisers Act, and 2(a)(50) of the Investment Company Act to include a "foreign securities authority" or organization that is essentially equivalent to a self-regulatory organization. The term "foreign securities authority," in turn, is defined in new Sections 3(a)(50) of the Exchange Act, 202(a)(23) of the Investment Advisers Act, and 2(a)(49) of the Investment Company Act as "any foreign government or any government body or regulatory organization empowered by a foreign government to administer or enforce its laws relating to securities."[42]

Subsections 15(b)(4)(G), 203(e)(7), and 9(b)(4) are substantially similar to the aforementioned subsections of 15(b)(4), 203(e), and 9(b). The most significant difference between the existing and the new provisions is that the legislation would not require that the foreign authorities find "willful" misconduct, *i.e.*, a "willful" false filing, a "willful' statutory violation, or "willful" secondary liability. The Commission recommends this approach because of a potential disparity in standards of willfulness in different countries and because some countries may not require a "willful" violation. The proposed language would provide the Commission with flexibility in deciding whether the facts of a particular case warrant imposition of sanctions.

In addition, Section 15(b)(4)(B) of the Exchange Act and Section 203(e)(2) of the Investment Advisers Act would be amended to grant the Commission explicit authority to consider convictions by a foreign court of competent jurisdiction of any crime enumerated in current Section 15(b)(4)(B) and Section 203(e)(2) or a "substantially equivalent" foreign crime; Section 15(b)(4)(C) of the Exchange Act and Section 203(e)(3) of the Investment Advisers Act would be amended to state explicitly that the Commission may consider injunctions imposed by a foreign court of competent jurisdiction in connection with any of the activities designated in the statute, or a "substantially equivalent" foreign activity. The Commission would have authority to restrict association with a registered investment company based on the same factors in new subsections 9(b)(5) and (6).

It should be noted that the Commission determined not to recommend an amendment to Section 9(a) of the Investment Company Act, which prohibits association in certain capacities with a registered investment company by persons who have been convicted of certain offenses or who have been subject to specified injunctions. Section 9(a) is a self-policing mechanism, the purpose of which "is to prevent persons with unsavory records from occupying these positions where they have so much power and where faithfulness to the fiduciary obligations is so important."[43] The automatic disqualification provisions of Section 9(a), coupled with the Commission's exemptive authority under Section 9(c) to avoid any inequitable results, are indispensable means of safeguarding the integrity of registered investment companies. However, due process concerns may be presented by legislation that would automatically bar a person solely on the basis of a foreign finding of a violation of foreign law, without any prior notice or opportunity for hearing by a U.S. court or administrative agency. These concerns are avoided if the Commission determines, on a case-by-case basis, whether the foreign finding justifies a bar, rather than relying exclusively on a foreign finding of a violation of foreign law. The amendment would not create any competitive disparities because, just as Section 9(a) applies equally to U.S. and foreign persons that have been convicted or enjoined in a manner specified in the statute, amended Section 9(b) would grant the Commission authority to institute an administrative proceeding against either a U.S. or foreign person that has committed an equivalent foreign violation and has been sanctioned by a foreign authority.

Finally, the Commission is proposing amendments to Section 3(a)(39). That section establishes the bases for imposing a "statutory disqualification" on a broker or dealer, thereby subjecting it to the possibility of disciplinary sanctions by the Commission or a self-regulatory organization as set forth in Section 15A(g)(2) of the Exchange Act and Rule 19h-1 thereunder. The proposed amendment would amend Section 3(a)(39) by creating a statutory disqualification for misconduct in foreign countries.

III. CONCLUSION

The proposed legislation would promote the negotiation of mutual assistance agreements which enhance the Commission's ability to obtain evidence for the investigation and prosecution of securities law violators operating in or through foreign countries. In addition, the legislation would provide the Commission with expanded authority to bring administrative proceedings against securities professionals based upon their illegal or improper activities in foreign countries. Finally, the legislation would clarify the statutory authority for the Commission's access rules. In view of the rapid internationalization of the securities markets, these are important and needed amendments.

FOOTNOTES

[1] See generally, Internationalization of the Securities Markets, Report of the U.S. Securities and Exchange Commission to the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Energy and Commerce, dated July 27, 1987, Chapter VII.

[2] See, e.g., *SEC* v. *Certain Unknown Purchasers, et al.*, 81 Civ. 6553 (S.D.N.Y.) (WCC); *SEC* v. *Tome*, 833 F.2d 1086 (2d Cir. 1987), cert. denied Nos. 87-1321, 87-1368 (May 16, 1988); *SEC* v. *Levine*, 86 Civ. 3726 (S.D.N.Y.) (RO). In each case, the defendants used bank accounts in countries with secrecy laws in an effort to conceal their identities, and thereby shield their insider training schemes from the Commissioner.

[3] Section 21(b) of the Exchange Act, 15 U.S.C. 78a(c). See, *CFTC* v. *Nahas*, 783 F.2d 487, 493 (D.C. Cir. 1984) (construing a provision in the Commodity Exchange Act which at the time was nearly identical to Section 21 (b) and (c) of the Exchange Act); cf. *SEC* v. *A.H. Zanganeh*, 470 F. Supp. 1307 (D.D.C. 1978) (holding that the SEC could not subpoena the testimony of a foreign witness merely by serving the subpoena at the offices of a U.S. corporation organized to hold funds for his children).

[4] See, e.g., *SEC* v. *Minas de Artemisia, S.A.*, 150 F.2d 215 (9th Cir. 1945); see also, "In re Marc Rich & Co.," 707 F.2d 663 (2d Cir.), cert. denied, 463 U.S. 1215 (1983) (criminal tax investigation).

[5] Secrecy laws forbid the disclosure of business records or the identity of bank customers. The right to secrecy is held by the person whose secrecy is to be protected and can be waived solely by that person. See generally, Pitt, Hardison, and Shapiro, "Problems of Enforcement in the Multinational Securities Market," 9 U. Pa. J. of Int'l Bus. Law 395, 402-09 (1987).

[6] Another means of gathering evidence located abroad is the use of criminal assistance treaties. The United States is a party to mutual assistance treaties with Switzerland (27 U.S.T. 2019), the Netherlands (T.I.A.S. 10734), Turkey (T.I.A.S. 9891) and Italy (Sen. Ex. 98-25, 98th Cong. 2d Sess.), and may obtain assistance under these treaties for governmental investigations, whether criminal or civil, of potential securities law violations. These treaties provide for the exchange of information in criminal matters, provided the requirements of the treaties have been met. The Commission has utilized one of these treaties, the Swiss treaty. The Commission has confronted problems with that treaty's "dual criminality" requirement, which requires that the conduct being investigated violate both U.S. and Swiss law. One such difficulty was resolved by the passage of insider trading legislation in Switzerland. As a result of that legislation, the U.S. and Switzerland, on November 10, 1987, exchanged diplomatic notes which clarify that the Commission can obtain treaty assistance in insider trading cases.

[7] Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (the "Convention"), "opened for signature" March 18, 1970, 23 U.S.T. 2555, T.I.A.S. No. 7444.

[8] See generally, E. Greene, A. Cohen, and L. Matlack, "Problems of Enforcement in the Multinational Securities Market," 9 U. Pa. J. of Int'l Bus. Law 325, 344-45 (1987).

[9] See, *Societe Nationale Industrielle Aerospatiale* v. *U.S. District Court for the Southern Dist. of Iowa,*

107 S. Ct. 2542 (1987) ("In many situations the Letters of Request procedure authorized by the Convention would be unduly time consuming and expensive as well as less certain to produce needed evidence than direct use of the Federal Rules").

[10] One commentary has described the benefits of MOUs as follows:

"The advantages of MOUs from the SEC's viewpoint are significant. First, a MOU can establish detailed procedures governing areas of concern. Second, a MOU can establish a timetable governing the handling of the SEC's request, and place reasonable limitations on customers'; rights to appeal decisions to grant the SEC access. In addition, a MOU need not be formally ratified by the United States Senate and the corresponding body in the foreign jurisdiction, which permits the SEC to invoke the MOU's provisions at an earlier date. From the perspective of foreign jurisdiction, MOUs offer hope that the SEC will refrain from invoking the compulsory processes of the United States court which are viewed as a challenge to the sovereignty of the foreign jurisdiction."

Pitt, Hardison and Shapiro, "Problems of Enforcement in the Multinational Securities Market," 9 U. Pa. J. of Int'l Law 375, 435 (1987).

[11] Memorandum of Understanding between the Government of the United States of America and the Government of Switzerland, 22 I.L.M. 1 (1983).

[12] For example, under Section 21(a) of the Exchange Act, the Commission's investigatory authority is generally limited to inquiries involving the laws it administers.

[13] See e.q., *Fonseca* v. *Blumenthal*, 620 F. 2d 322 (2d Cir. 1980). But see "Letter of Request from the Crown Prosecution Service of the United Kingdom," No. 88-0028 (D.D.C., March 21, 1988); "In re Request for Assistance from Ministry of Legal Affairs of Trinidad and Tobago," 648 F. Supp. 464 (S.D. Fla. 1986).

[14] Securities Act, Qub. Rev. Stat. ch. V-1 (1977). To our knowledge, the only other country with such authority is Switzerland, which provides such investigative assistance in cases where the offense under investigation would also violate Swiss criminal law and where reciprocal assistance is available from the requesting country.

[15] The Commission works closely with the Departments of State and Justice in its international enforcement efforts and, as a result, does not anticipate that the proposed legislation will create any conflicts with the Executive Branch. Moreover, any such conflict would more likely occur when the Commission pursues an investigation abroad, as it currently does, than when the Commission agrees to investigate a matter in the United States at the request of a foreign authority, as the proposed legislation would permit.

[16] *Cf.* Greene, supra note 8, at 355 ("although agreements for assistance may be a more tangible benefit to the SEC in the short run, both the United States and foreign nations are likely to desire such assistance in the long run").

[17] For example, under the MOU with the U.K. Department of Trade and Industry, a request is required to clearly set forth: (a) the information requested; (b) the general purpose for which the information is sought, indicating in particular the legal rule or requirement pertaining to the matter which is the subject of the request; (c) the grounds on which breach of the legal rule or requirement is suspected or the reason the information is otherwise sought; (d) the identity of the person whose conduct causes concern.

[18] Because testimony would be taken pursuant to existing investigative procedures, a witness would be entitled to assert all relevant rights and privileges of the United States. In addition, a witness would be entitled to assert privileges available in the country seeking the evidence even in cases where the United States does not recognize the privileges. Issues of privilege would be preserved on the record for later consideration by a court of the requesting authority. The Commission anticipates that foreign countries providing reciprocal assistance to the Commission will follow a similar procedure.

[19] As discussed below (*infra*, p. 27), SRO's which do not "enforce" or "administer" securities laws are included under this legislation in the broader definition of "foreign financial regulatory authority." By requiring that the "foreign securities authority" be the originator of requests, the Commission anticipates that it will receive requests for assistance from a single authority or only a few authorites in one country instead of from a wide range of SROs with varying responsibilities. This approach will enable the Commission to develop a working relationship with the authorities who have the broadest legal mandate to oversee securities matters in their country.

[20] The amendment, by providing "notwithstanding the provision of * * * any other law," would also provide authority for the Commission to withhold documents subject to a third-party subpoena.

[21] Certain statutes have been found to preempt or supersede FOIA. See, e.g., *Ricchio* v. *Kline*, 773 F.2d 1389, 1392 (D.C. Cir. 1985) (Holding that FOIA was preempted by the Presidential Recordings and Materials Preservation Act, the sole purpose of which is "to preserve" and "to provide access to" a certain specific body of records).

[22] Absent a "good faith" standard, the statute might bind the Commission to follow the dictates of a foreign government. The "good faith" requirement is intended to permit the Commission to inquire into the legitimacy of the foreign government's non-disclosure request and also to provide some basis for judicial review of the Commission's decision.

[23] Rule 30-4(a)(7), 17 C.F.R. 200.30-4(a)(7).

[24] 17 C.F.R. 203.2. Other relevant rules include: Rule 2.5(b) of the Commission's Rules On Informal and Other Procedures, 17 C.F.R. 202.5(b), which states that the Commission may "grant requests for access to its files made by domestic and foreign governmental authorities, self-regulatory organizations such as stock exchanges or the [NASD], and other persons or entities"; Administrative Regulation 19-1(1)(b), SECR 19-1(1)(b), which provides that "the prohibition[s] aganist the use of non-public information or documents" imposed by various Commission rules do "not apply to the use of such materials as necessary or appropriate by members of the staff in pursuing Commission investigations, examinations or in the discharge of other official responsibilities"; Administrative Regulation 19-1(1)(c), SECR 19-1(1)(c), which sets forth a policy approving the use of nonpublic materials and the furnishing of "such assistance as may be required for the effective presentation or prosecution of a case" in circumstances where the Commission refers matters to the Justice Department or grants access to its files to any federal, state or foreign government authority; and the Commission's uncodified policies and procedures concerning the "routine uses" of systems of records in the Commission's possession that are covered by the Privacy Act. See 41 Fed. Reg. 41550 (September 22, 1976) and "SEC Systems of Records—Privacy Act of 1974" (July, 1983) (unofficial document).

[25] Prior to the 1975 Amendment, the Commission provided confidential treatment under both the FOIA rules and under Section 24(a), which at that time prescribed standards for granting confidential treatment to information filed with the Commission. The Amendments were intended to end the latter procedure. See S. Rep. No. 94-75, 95th Cong., 1st Sess. 137, reprinted in 1974 U.S. Cong. & Admin. News 179, 314.

[26] By including the phrase "notwithstanding any other provision of law," the amendment will supersede the disclosure provisions of Section 45(a) of the Investment Company Act and Section 210(b) of the Investment Advisers Act.

[27] Commission policy now requires that the person making the access request state the purposes for which the requested information will be used and certify that no public use will be made of the information except for the purposes specified. It is expected that these or similar procedures would continue to be used after the legislation is enacted. In addition, in the international context, MOUS delineate the public uses that can be made of information which the Commission provides pursuant to the access program.

[28] *See* H.R. Rep. No. 95-1383, 95th Cong., 2d. Sess., (1978) at 247.

[29] See Report, supra note 1, at Chapter II. As to investment companies, the report states that there has been a dramatic increase in the number of U.S. investment companies that emphasize foreign securities in their portfolios and that it has become more common for investment companies registered in the U.S. to issue their securities in foreign markets. As of January 1988, there were 154 registered investment companies of all types that concentrate their portfolio securities in foreign securities. These funds, which are widely held by U.S. investors, use foreign broker-dealers to execute portfolio transactions, foreign custodians to hold portfolio securities and foreign advisers to help manage their portfolios. As to broker-dealers, major foreign markets usually facilitate entry by granting national treatment to U.S. securities firms. France has substantially increased access to its markets by foreign firms, id. at V-3, and the Tokyo Stock Exchange recently increased the number of seats allocated to foreign firms. Affiliates of U.S. broker-dealers now engage in significant market-making activities in London. Id. at V-21.

[30] See id. at I-14-16; II-78-90. The report indicates that over 120 investment advisers from 20 countries have registered with the Commission. As to investment companies, in 1984, the Commission transmitted a legislative proposal to Congress that would amend Section 7(d) of the Investment Company Act to give the Commission greater flexibility in permitting foreign investment companies access to the U.S. securities markets. Although this proposal never was introduced in either House of Congress, the Commission anticipates renewed interest in a legislative proposal to amend Section 7(d). In addition, the Commission is considering the possibility of reciprocal arrangements between the U.S. and foreign nations with respect to multinational offerings of mutual fund securities. Finally, recently-adopted Rule 6c-9 will facilitate the offering of foreign bank securities in the U.S. Investment Company Act Rel. No. 16093 (Oct. 29, 1987).

As to broker-dealers, about 150 foreign firms had established branches in the United States as of 1987; for their part, U.S. firms had over 250 branches in foreign countries, excluding Canada and Mexico. Id. at Chapter V, Appendix B-66 (remarks of James M. Davin, Vice-Chairman, NASD).

[31] As a result, when such a person seeks to become associated with a member of an SRO, that SRO and the Commission have the opportunity to give special review to the person's employment application or to restrict or prevent reentry into the business where appropriate for the protection of investors. See Section 15A(g)(2) of the Exchange Act and Rule 19h-1 thereunder.

[32] Section 15(b)(6) of the Exchange Act and Section 203(f) of the Investment Advisers Act authorize the Commission to limit the activities of a person associated or seeking to become associated with a broker-dealer or investment adviser if the Commission finds that the person has committed any of the acts or has been convicted or enjoined as designated in Section 15(b)(4) or Section 203(e). As a result, any addition to the Commission's authority under Section 15(b)(4) and Section 203(e) will, by implication, expand the Commission's authority under Section 15(b)(6) and Section 203(f).

[33] "Investment Trusts and Investment Companies: Hearings Before a Subcommittee on the Senate Committee on Banking and Currency," 76th Cong. 3d Sess. 7, 31, 559 (Statement of Honorable Charles F. Adams) (1940); "Investment Trusts and Investment Companies: Hearings Before a Subcommittee on the House of Representatives Committee on Interstate and Foreign Commerce," 76th Cong., 3d Sess. 13, 46, 97 (1940). As to Section 15(b)(4)(B) of the Exchange Act (originally Section 15(b)(5)(B), see "Report to Accompany H.R. 6793," H. Rep. No. 1418, 88th Cong., 2d Sess. 21 (1964).

[34] "In the Matter of R.P. Clarke & Co.," 10 S.E.C. 1072 (1942). See also, L. Loss, "Securities Regulation" 1303, n. 51 (2d ed. 1961) (citing *R.P. Clarke* decision and stating that the Commission may impose sanctions under Section 15(b)(4)(B) based upon a conviction in a foreign court).

[35] See Section 15(b)(4)(A) of the Exchange Act and Section 203(e)(1) of the Investment Advisers Act.

[35] See Section 9(b)(1) of the Investment Company Act.

[36] See Section 15(b)(4)(D) of the Exchange Act and Section 203(e)(4) of the Investment Advisers Act.

[37] See Section 9(b)(2) of the Investment Company Act.

[38] See Section 15(b)(4)(E) of the Exchange Act and Section 203(e)(5) of the Investment Advisers Act.

[39] See Section 9(b)(3) of the Investment Company Act.

[40] Section 15(b)(4)(C) of the Exchange Act; Section 203(e)(3) of the Investment Advisers Act; and Section 9(a)(2) of the Investment Company Act.

[41] Similarly, in a Commission review, pursuant to 15 U.S.C. 19(d)-(f), of an SRO disciplinary or membership proceeding against a person subject to a statutory disqualification, the Commission might find it necessary to remand the proceeding to the SRO for relitigation of the underlying offense in

cases where persuasive due process or jurisdictional challenges to the foreign proceeding are made.

[42] As noted (supra note 32), Section 15(b)(6) of the Exchange Act and Section 203(f) of the Investment Advisers Act authorize the Commission to limit activities of a person associated or seeking to become associated with a broker-dealer or investment adviser if the Commission finds that the person has committed any of the acts or has been convicted or enjoined as designated in Section 15(b)(4) or Section 203(e). Because Title II requires the addition of new paragraphs in Section 15(b)(4) and Section 203(e), the legislation will provide for conforming amendments to Section 15(b)(6) and Section 203(f). Title II would also make conforming amendments to Sections 15B(c), 15C(c), 15C(f) and 17A(c) of the Exchange Act.

[43] Hearings on S. 3580 Before a Subcomm. of the Sen. Comm. on Banking and Currency, 76th Cong., 3d Sess. 46 (1940).●

INTERNATIONAL SECURITIES ENFORCEMENT COOPERATION ACT OF 1988

● Mr. GARN. I am pleased to be able to cosponsor the International Securities Enforcement Cooperation Act of 1988. This is an important piece of legislation that will better enable the Securities and Exchange Commission to deal with the unique enforcement problems arising from the internationalization of the securities markets. The increased stabilization of securities trading has presented new opportunities for trading abuses, therefore, it is incumbent upon us to ensure that the SEC has the appropriate tools to combat securities fraud which affects U.S. investors but which may originate abroad. By the same token, the legislation would allow the SEC to assist foreign authorities in their inquiries. We would be loath to allow the U.S to be used as a safe haven for foreign securities law violators. The legislation does, however, raise concerns about the appropriate scope of enforcement cooperation and I look forward to hearings on these issues which will better flush out these important matters.●

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2545. A bill to redesignate Salinas National Monument in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

SALINAS PUEBLO MISSIONS NATIONAL MONUMENT ACT

● Mr. BINGAMAN. Mr. President, I rise today on behalf of myself and Senator DOMENICI to introduce legislation to rename Salinas National Monument in New Mexico the Salinas Pueblo Missions National Monument. The new name is needed because it better communicates the nature of the area and helps emphasize its role in the history of our Nation.

Salinas National Monument consists of three noncontiguous resource areas located in east central New Mexico known as Gran Quivira, Abo, and Quarai. Located on prehistoric north-south and east-west trade routes, Salinas was a place of cultural interchange. Indian groups known to have lived or traded in the area during prehistoric and historic times include the Anasazi, Mogollon, and Plains indians.

During Spanish Colonial times Salinas became a frontier province known as the Salinas Jurisdiction where salt, hides, pinon nuts, and other goods were collected and traded. The area acquired this name from large salt lakes that formed the basis for trade and settlement. This area also served for a time as an important center of mission activity.

Salinas was abandoned in the 1670's, left to the elements by both the Spanish and Indians of the time. Reoccupation did not occur for almost 200 years. Salinas thus became a unique time capsule, surviving relatively undisturbed to present times, an example of Spanish/Indian life in the seventeenth century offering unique opportunities for research and interpretation to those visiting the area.

Headquarters and visitor center for the national monument are located in Mountainair, on New Mexico Highway 60. Since its establishment in December 1980, tourism attracted by the monument has become an increasingly important element to the local economy. Industry in the area is limited and unemployment a continuing problem.

Renaming the monument will encourage visitation by tourists interested in our Pueblo and Mission heritage that might otherwise not realize the unique place this site plays in the history of our Nation. In doing so it will also contribute to the economy of Mountainair and surrounding communities.

For these reasons, I encourage my colleagues to support this legislation to rename Salinas National Monument the Salinas Pueblo Missions National Monument.●

By Mr. QUAYLE (for himself and Mr. HATCH):

S. 2546. A bill to provide child care assistance to low-income working parents; to amend the State Dependent Care Development Grants Act to provide block grants to States; to amend the Internal Revenue Code of 1986 to provide a refundable tax credit to parents for dependents under age 6; and for other purposes; to the Committee on Finance.

CHOICES IN CHILD CARE ACT

● Mr. QUAYLE. Mr. President, I am introducing a proposal entitled, "The Choices in Child Care Act of 1988", to provide Federal assistance to low-income families for child care. I am pleased that the Senator from Utah [Mr. HATCH] is a cosponsor of this bill. We have seen many proposals in this area over the last several months. I am adding this proposal to the many already being discussed because, I believe, this bill embodies the principles upon which a Federal program should be based.

Let me briefly discuss these guiding principles.

First, the Federal Government should help all families with children, not just families in which both parents work. The family in which one parent, usually the mother, stays at home does so often at financial loss. The Federal Government should help these families that give up a second income to raise their children themselves, as well as families in which both parents work. My bill would do this.

Second, the Federal Government should not encourage one type of child care arrangement over others. We cannot be in the business of telling families how they should care for their children. The bill I am introducing will permit complete choice by parents in the care of their children. It provides benefits in a neutral fashion, not favoring any type of care.

Third, the Federal Government needs to lower the tax burden of families with children. Between 1960 and 1984, the average tax rate for a couple with two children increased 43 percent; for a couple with four children, the increase was 223 percent. If the personal exemption for children kept pace with inflation, it would now be $5,000. My bill lowers the tax burden of all families with children in the middle- and lower-income brackets by providing a tax credit.

Fourth, with limited Federal resources, it is important to target resources to low- and moderate-income families. This bill would provide general tax assistance to families with incomes below $40,000, increasing to $45,000 over several years and additional child care assistance for families with incomes below 185 percent of poverty.

Fifth, the Federal Government must not discriminate against child care affiliated with religious organizations. One of the major child care proposals that has already been introduced, the Act for Better Child Care, does not allow Federal funds to be used for child care affiliated with religious organizations. This type of discrimination against families that choose to have their children raised in a religious atmosphere is intolerable. We must allow parents to choose the situation they wish for their children, and if that means child care affiliated with religious organizations, it should be allowed. Should we exclude such care, we would also be ignoring a large number of effective and caring child care providers, which often assist many low-income families.

Sixth, any Federal subsidies should go to parents and not to service providers. Child care is one area where we do not need a large Federal or State bureaucracy. We have enough bureaucracries to deal with welfare, and food stamps, and health care, and Social Security. Let's not create another one to lose our children in. My bill would give the vast majority of benefits directly to families and children.

Seventh, use the natural affection of parents for their children as the fundamental quality control mechanism. Federal regulation of child care will stifle the growth of some of the best child care available—that provided under informal arrangements with relatives, neighbors, or friends. Parents will naturally seek the best care for their children that they can find. Let's let the market flourish based upon demand.

These are the principles I feel would make a good child care bill. They are all contained in my proposal.

Briefly, my bill would:

Authorize supplemental assistance of $400 million to low-income working parents. States would be awarded funds to provide child care certificates for families with incomes below 185 percent of poverty to use for child care by any registered provider. States would be required to match these funds by 30 percent.

Expand the existing dependent care block grant to $200 million to permit States to address the availability and quality of child care. States would be required to match these funds by 30 percent.

Authorize tax credits to low- and middle-income families with young children. A tax credit of $400 maximum per child under the age of 6 for families with incomes under $20,000 would be authorized. This credit would be phased out for families with incomes between $20,000 and $40,000, with the cutoff increasing to $45,000 over several years.

Authorize incentives for employers to provide child care by providing a 10-percent tax credit for capital expenses incurred in establishing child care facilities for employees.

Streamline the self-employment taxes for home-based providers.

The total cost of this proposal would be $7 billion over a 5-year period, which is a large amount of money. But these funds will go directly to families, for the most part, and they will be targeted on low- and moderate-income families.

This bill was introduced by Representative TOM TAUKE in the House of Representatives after much study on his part. I am pleased to offer the same bill in the Senate.

I hope my colleagues will take time to review this legislation and the principles I outlined above. I believe they must be the groundwork for any Federal program in child care.●

By Mr. GORE (for himself and Mr. SASSER):

S. 2547. A bill to designate the Federal building in Knoxville, TN, as the "John J. Duncan Federal Building"; to the Committee on Environment and Public Works.

JOHN J. DUNCAN FEDERAL BUILDING

Mr. GORE. Mr. President, I would like to join my fellow Tennesseans in expressing the deepest gratitude to Congressman JOHN J. DUNCAN for his relentless devotion and valuable service to the State of Tennessee. Today, I am introducing legislation, along with my colleague, the senior Senator from Tennessee [Mr. SASSER], to designate the new Federal building in Knoxville, TN, as the "John J. Duncan Federal Building."

It seems highly appropriate to commemorate JOHN DUNCAN's 24 years of leadership in the U.S. House of Representatives, for the Second Congressional District and for all Tennesseans, by lending his name to the Federal building built to serve the area to which he has devoted much of his life.

JOHN DUNCAN's announcement of his retirement at the end of the 100th Congress was received by me, and I know all of my colleagues, with a great sense of sadness. His service and leadership in Congress will be greatly missed. I am deeply saddened by the news of his illness, and my thoughts and prayers for his recovery are with him and his family.

At the same time, Mr. President, the news of his retirement calls to mind his distinguished career and stirs our appreciation for it. JOHN DUNCAN can reflect on his life-long service as a husband and father and as a strong voice in Tennessee politics with pride and acknowledgement of the strength which lies in firm dedication and integrity of character. He is devoted to his wife, Lois, and his four children—Beverly, James, Joe, and Rebecca Jane—and his nine grandchildren.

JOHN DUNCAN was born in Scott County, TN, and after completion of his service in the U.S. Army he attended the Cumberland University Law School. His career achievements span all realms of public service: he was assistant attorney general for the State of Tennessee and city of Knoxville law director. He was elected mayor of Knoxville in 1959 and served outstandingly. He has served this district in Congress since his election in 1969, during which time he has maintained close contact with the residents in his district by coming home nearly every weekend for local events, celebrations and meetings.

In Congress, he rose to a position of power and influence as the ranking minority member of the House Ways and Means Committee, but has remained attentive to the needs of his district. He has served on the Joint Committee on Taxation. He has received much well-deserved recognition for serving Tennessee on these committees and in other legislative areas. Such a career of public service is refreshing and serves as inspiration to those who pursue a life in this profession.

Congressman JOHN DUNCAN will be missed by the entire Tennessee delegation and all the Members of Congress; however, the work he has done and the progress he has made on behalf of Tennessee will endure. I urge my distinguished colleagues to join me in supporting this legislation to name the Knoxville Federal building for JOHN J. DUNCAN.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building located at 710 Locust Street, Knoxville, Tennessee is designated, and shall be known as, the "John J. Duncan Federal Building". Any law, regulation, map, document, record, or other paper of the United States in which such building is designated or referred to shall be held to refer to such building under and by the name of the "John J. Duncan Federal Building".

By Mr. DIXON:

S. 2548. A bill to suspend temporarily the duty on certain glass bulbs until January 1, 1993; to the Committee on Finance.

DUTY SUSPENSION ON CERTAIN GLASS BULBS

● Mr. DIXON. Mr. President, a company in my State, the Clinton Electronics Corp. of Rockford, is facing an unnecessary trade problem.

Clinton makes monochrome cathode ray tubes for use in word processors, computer terminals, and other similar products. They are the only domestic producer of monochrome cathode ray tubes. Their competition is solely international and comes mainly from Japan.

One of the most essential components of this product is not produced in the United States. Consequently, Clinton imports this part, a monochrome glass bulb, from Taiwan. Due to Taiwan's former generalized system of preference [GSP] status, Clinton had been able to import this part duty free.

The competition in the monochrome cathode ray tube market is fierce and, as a result, the profit margin is slim. The Japanese, in particular, sell their product at a very low price. Clinton's ability to import monochrome glass bulbs duty free has allowed them to keep their costs low and to remain competitive in the monochrome cathode ray tube market.

Recently, the President has decided that Taiwan no longer merits GSP status. The loss of GSP status for all of Taiwan's products means that monochrome glass bulbs can no longer be imported into the United States duty free. As a result, Clinton petitioned the U.S. Trade Representative to preserve the duty-free status of monochrome glass bulbs. Unfortunately, because similar products—which cannot be used in the manufacture of Clinton's cathode ray tubes—are made in the United States, USTR refused to grant the exemption Clinton needed.

The problem stems from the Government's wide classification of glass bulbs. Customs does not make any distinction between monochrome and other types of glass bulbs. Consequently, although U.S. law mandates the restoration of duty-free status for a product if there is no domestic production of a like or competitive item, according to Custom's classification there is domestic production of a competitive item. In other words, because Customs sees no evil, there is no evil.

The USTR's decision not to grant a duty exemption to monochrome glass bulbs is bad trade policy. It is a mistake because it unnecessarily places the sole remaining U.S. supplier of a product at a competitive disadvantage for no other reason than for adherence to out-of-date rules.

We in the Congress can rectify Clinton's situation by directing Customs to allow Clinton Electronics to continue to import monochrome glass bulbs duty free. Today, I am introducing a bill which would direct the Customs Department to retain the duty-free status of monochrome glass bulbs. Clinton Electronics represents the kind of company we want to help. They are the kind of company we should encourage, and not discourage, to compete in the international market.●

By Mr. LAUTENBERG (for himself, Mr. DANFORTH, Mr. GORE, Mr. PELL, Mr. BENTSEN, Mr. WEICKER, Mr. CHAFEE, Mr. LUGAR, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. HEINZ, and Mr. GRAHAM):

S. 2549. A bill to promote highway traffic safety by encouraging the States to establish measures for more effective enforcement of laws to prevent drunk driving, and for other purposes; to the Committee on Commerce, Science, and Transportation.

DRUNK DRIVING PREVENTION ACT

● Mr. LAUTENBERG. Mr. President, today I am reintroducing important legislation aimed at reducing the tragedy of drunk driving. This bill is identical to S. 2367, introduced on May 11.

With introduction of this new bill, I look forward to prompt action by the committees with an interest in seeing this important legislation move forward.

This bill would enhance our fight against drunk driving by encouraging the adoption of tougher, more effective laws. I am pleased to be joined by Senators DANFORTH, BENTSEN, PELL, GORE, WEICKER, CHAFEE, MIKULSKI, LUGAR, MURKOWSKI, HEINZ, and GRAHAM. Along with groups like Mothers Against Drunk Driving, together we're working toward a simple goal—to save lives.

With the passage of the National Uniform Minimum Drinking Age Act in 1984, the Congress took an important step forward in the battle against drunk driving. As the Senate sponsor of that bill, I'm proud to see the results of that action. Today, all 50 States have adopted a minimum drinking age of 21, eliminating "blood borders." A 1985-86 study by the National Highway Traffic Safety Administration found that over an 18-month period, almost 850 young lives were saved, largely due to the increased minimum drinking age. With "21" now fully in effect, we expect to spare 1,000 families the grief of a lost child each year.

But the battle against drunk driving is far from over. A drunk driving fatality occurs every 22 minutes in this country. Drunk driving has to be reduced among drivers of all ages.

An essential component of our continuing efforts must be enhanced enforcement of Federal, State, and local laws. Our bill would help States meet that goal.

The bill would authorize Federal seed money to States to help establish self-sustaining drunk driving prevention programs. In order to be eligible for this program, States would have to put into place a self-supporting enforcement program, under which fines and surcharges collected from individuals convicted of drunk driving are returned to communities for enforcement.

States would also have to adopt laws that provide for the prompt suspension or revocation of the license of a driver found to be driving under the influence of alcohol. A recent study released by the Insurance Institute for Highway Safety [IIHS] showed that such laws reduce drunk driving fatalities by 9 percent.

In addition to being eligible for grants under these two basic requirements, States could also receive supplemental funds for adoption of either or both of the following procedures: First, a means of making drivers licenses of those under the legal drinking age readily distinguishable from those of drivers of legal drinking age; and second, the mandatory blood alcohol testing of drivers involved in fatal or serious accidents.

Finally, the bill would direct the Secretary of Transportation to commission a study by the National Academy of Sciences on the appropriate blood alcohol concentration at which a driver should be deemed to be under the influence of alcohol.

Mr. President, the importance of this legislation is apparent to anyone who has suffered the loss of a loved one. Recently, I listened to the tragic story of Bob Gore. Mr. Gore was vacationing in Hawaii with his 24-year-old son and daughter, when his children were killed by a drunk driver. This was not the first time that driver had been guilty of driving drunk. But he was still able to drink and drive. That is an outrage that must be corrected. That's what this bill would do.

That drunk driver has now been convicted of manslaughter in the death of the Gores. But in the 15 months between their deaths and the conviction, he was allowed to go on driving. In fact, Mr. Gore told us that the last thing the convicted killer of his children did before leaving the courtroom was to turn over his drivers license. If that had been done after his earlier transgressions, perhaps that tragedy might never have happened.

Nothing can be done to bring lost loved ones back. But we can take steps to keep tragedies like the one that killed the Gores from happening to other families. I want to commend Mr. Gore for his commitment to this effort. He's turning his personal grief into a positive force, trying to spare others. For that, he deserves to be commended.

I'm pleased to be joined in this effort by Mothers Against Drunk Driving, the Insurance Institute for Highway Safety, and the National Safety Council. This coalition has been successful before, providing crucial force behind the minimum drinking age bill. I look forward to continued success with this legislation, and urge my colleagues to join in cosponsoring the bill.

Mr. President, I ask unanimous consent that a copy of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2549

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Drunk Driving Prevention Act of 1988".

SEC. 2. (a) Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§409. Drunk driving enforcement programs

"(a) Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement drunk driving enforcement programs which include measures, described in this section, to improve the effectiveness of the enforcement of laws to prevent drunk driving. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for drunk driving enforcement programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than three fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 per centum of the cost of implementing and enforcing in such fiscal year the drunk driving enforcement program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 per centum of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 per centum of the cost of implementing and enforcing in such fiscal year such program.

"(d)(1) Subject to subsection (c) of this section, the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(1) of this section shall equal 30 per centum of the amount apportioned to such State for fiscal year 1989 under section 402 of this title.

"(2) Subject to subsection (c) of this section, the amount of a supplemental grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(2) of this section shall not exceed 20 per centum of the amount apportioned to such State for fiscal year 1989 under section 402 of this title. Such supplemental grant shall be in addition to any basic grant received by such State.

"(e) For purposes of this section, a State is eligible for a basic grant if such State provides for—

"(1) an expedited driver's license suspension or revocation system which requires that—

"(A) when a law enforcement officer has probable cause under State law to believe an individual has committed an alcohol-related traffic offense, and such individual is determined, on the basis of one or more chemical tests, to have been under the influence of alcohol while operating the motor vehicle concerned or refuses to submit to such a test as proposed by the officer, such officer shall serve such individual with a notice of suspension or revocation, which shall provide information on the administrative procedures by which a State may suspend or revoke a license for drunk driving and specify any rights of the driver in connection with such procedures, and shall take possession of the driver's license of such individual;

"(B) after serving such notice and taking possession of such driver's license, the law enforcement officer shall immediately report to the State entity responsible for administering driver's licenses all information relevant to the enforcement action involved;

"(C) upon receipt of the report of the law enforcement officer, the State entity responsible for administering driver's licenses shall, where an individual is determined on the basis of one or more chemical tests to have been intoxicated while operating a motor vehicle or is determined to have refused to submit to such a test as proposed by the officer, (i) suspend the driver's license of such individual for a period of not less than ninety days if such individual is a first offender and (ii) suspend the driver's license of such individual for a period of not less than one year, or revoke such license, if such individual is a repeat offender;

"(D) such suspension or revocation shall take effect at the end of a period of not more than fifteen days immediately after the day on which the driver first received notice of the suspension or revocation; and

"(E) the determination as required by subparagraph (C) of this paragraph shall be in accordance with a process established by the State, under guidelines established by the Secretary to ensure due process of law, (i) for such administrative determinations and (ii) for reviewing such determinations, upon request by the affected individual within the period specified in subparagraph (D) of this paragraph; and

"(2) a self-sustaining drunk driving enforcement program under which the fines or surcharges collected from individuals convicted of driving a motor vehicle while under the influence of alcohol are returned to those communities which have comprehensive programs for the prevention of drunk driving.

"(f) For purposes of this section, a State is eligible for a supplemental grant if such State is eligible for a basic grant and in addition such State provides for—

"(1) mandatory blood alcohol content testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in a collision resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense; or

"(2) an effective system for preventing drivers under age 21 from obtaining alcoholic beverages, which may include the issuance of driver's licenses to individuals under age 21 that are easily distinguishable in appearance from driver's licenses issued to individuals 21 years of age or older.

"(g) There are authorized to be appropriated to carry out this section, out of the Highway Trust Fund, $25,000,000 for the fiscal year ending September 30, 1989, and $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1990, and September 30, 1991. All provisions of chapter 1 of this title that are applicable to Federal-aid primary highway finds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section. Sums authorized by this subsection shall not be subject to any obligation limitation for State and community highway safety programs.".

(b) The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end the following:

"409. Drunk driving enforcement programs.".

SEC. 3. (a) Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study to determine the blood alcohol concentration level at or above which an individual when operating a motor vehicle is deemed to be driving while under the influence of alcohol.

(b) In entering into any arrangement with the National Academy of Sciences for conducting the study under this section, the Secretary shall request the National Academy of Sciences to submit, not later than one year after the date of enactment of this Act, to the Secretary a report on the results of such study. Upon its receipt, the Secretary shall immediately transmit the report to the Congress.

SEC. 4. The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 409 of title 23, United States Code, not later than December 1, 1988. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress before March 1, 1989.●

● Mr. DANFORTH. Mr. President, I am pleased to join Senators LAUTENBERG, GORE, BENTSEN, WEICKER, HEINZ, and MURKOWSKI in sponsoring the Drunk Driving Prevention Act of 1988. Its goal is an important one—stopping drunk drivers from killing and injuring innocent citizens.

The bill that we are introducing today is word for word identical to the Drunk Driving Prevention Act of 1988, S. 2367, which Senator LAUTENBERG and I and several other Senators introduced on May 11, 1988.

The bill was erroneously referred to the Environment and Public Works Committee. The bill should have been referred to the Commerce Committee. Paragraph 4 of section 1(f)(1) of Senate Rule XXV provides that highway safety is within the jurisdiction of the Commerce Committee. The bill provides for incentive grants to be administered by the Department of Transportation. These grants would be calculated as a percentage of a State's highway safety grant funds provided under title 23 section 402 of the United States Code. These 402 funds are authorized by the Commerce Committee.

In fact, Mr. President, this bill is very similar to a bill I introduced in the 98th Congress, S. 1108, and a bill I introduced in the 97th Congress, S. 2158. Both of these bills contained provisions authorizing the Department of Transportation to provide incentive grants to States that enact and enforce tough drunk driving laws. The jurisdiction is clear, and I fully expect the bill to be referred to the Commerce Committee.

Mr. President, I have explained why the bill is being reintroduced. I would now like to turn to the merits of this proposal.

We have made some progress in the fight against drunk driving. According to the National Highway Traffic Safety Administration, in 1982, 25,170 Americans were killed in alcohol-related crashes. In 1987, there were an estimated 23,500 alcohol-related fatalities, a decrease of 7 percent.

How did we make this progress? One way we made progress was by encouraging States to pass tough laws to combat drunk driving. In 1982, I authored, with Senator PELL, legislation to provide States incentive grants if they passed a law with each of the following provisions: First, a provision requiring prompt license suspension for a minimum period of 90 days on the first offense and for 1-year on the second offense; second, a provision establishing a 0.10-percent blood alcohol content [BAC] per se intoxication standard; and third, a provision requiring a jail sentence of 48 hours or at least 10 days of community service on the second drunk driving offense within 5 years. To date, 16 States have qualified for these grants by passing laws with the required provisions.

In 1984, we took further steps to fight drunk driving. We passed the National Minimum Drinking Age Act. Since that legislation's enactment, all 50 States have adopted a minimum drinking age of 21. The States' adoption of the minimum drinking age has eliminated "blood borders"—areas where young people would drive across State lines to buy alcohol. The 1984 legislation also included provisions I authored expanding the 1982 incentive grant program to include States using grants to prevent drugged driving, and to provide grants to States who update and computerize their traffic record keeping systems.

Even with these stronger laws, alcohol is involved in the deaths of over 50 percent of those killed in highway crashes. We have made some progress, but we are far from satisfied. The recent Kentucky bus crash in which a drunk driver killed 27 innocent people is a grim reminder that we must take further steps to combat drunk driving.

Mr. President, our bill would authorize Federal seed money for States that enact and enforce laws shown to be effective weapons in the fight against drunk driving. There would be two requirements for receiving a basic grant under this legislation.

First, a State would have to establish a self-supporting prevention program under which fines collected from convicted drunk drivers would be returned to communities for enforcement.

Second, a State would have to adopt an administrative per se law under which a police officer could immediately confiscate a drunk driver's license at the point of arrest. Such a law removes a demonstrated hazard from the highways. A recently released Insurance Institute for Highway Safety study found that such laws reduce drunk driving fatalities by 9 percent in those States that adopt them.

The bill would enable States to receive supplemental funds for meeting either or both of the following requirements: First, making the drivers' licenses of those under the legal drinking age readily distinguishable from the licenses of drivers of legal drinking age; and second, requiring blood alcohol content testing of drivers involved in fatal or serious accidents.

In addition, our bill would require the Secretary of Transportation to commission a study by the National Academy of Sciences on the BAC level at which a driver should be deemed to be under the influence of alcohol.

Mr. President, this drunk driving prevention bill has the support of Mothers Against Drunk Driving and the National Safety Council. With their support and with the support of our colleagues, we can help to stop the unnecessary slaughter of innocent people on our highways.●

By Mr. SYMMS:

S. 2550. A bill to amend title 23, United States Code, to eliminate a reduction of the apportionment of Federal-aid highway funds to certain States, and for other purposes; to the Committee on Environment and Public Works.

REPEAL OF SPEED LIMIT COMPLIANCE REQUIREMENTS AND HIGHWAY FUNDING SANCTIONS

Mr. SYMMS. Mr. President, I am pleased to introduce this bill to eliminate the highway funding sanctions and speed compliance requirements associated with the national maximum speed limit law. Approval of this measure will end a Federal compliance process which forces many States to choose between saving money and saving lives. Having considered speed limit issues for some time, I can tell my colleagues confidently that this bill will save lives and reduce the thousands of serious injuries occurring annually on our Nation's highways.

Currently, States must report to the Secretary of Transportation speed monitoring data on highways posted at 55 mph, and they are considered in compliance if at least 50 percent of the vehicles on those highways are traveling at or below the speed limit. A State found to be out of compliance is subject to the loss of up to 10 percent of its primary, secondary, and urban highway funds. The compliance requirements and funding sanctions are supposed to enhance highway safety by ensuring that States are enforcing "55."

Unfortunately, the combination of compliance requirements and sanctions often detracts from highway safety, rather than enhancing it. Here's how: although interstates are by far the safest highways in the country, most high-speed travel occurs on the Interstate System, States with speed data approaching the 50-percent non-compliance mark often choose to beef up traffic patrols on interstate highways in order to stay in compliance and avoid the loss of highway funds; putting more troopers on interstate speed control duty detracts from drunk driving enforcement, speed control, and other safety enforcement programs on the far more dangerous noninterstate highways. The result is more highway fatalities and injuries, not less. The cause is this federally imposed program of compliance requirements and funding sanctions.

The assertion that speed compliance requirements and sanctions detract from highway safety is not made by this Senator alone. It has been stated more poignantly by Maurice Hannigan, deputy commissioner of the California Highway Patrol, in testimony before the Environment and Public Works Committee earlier this year. The Commissioner put it like this:

> They [the men and women of the California Highway Patrol] are the practitioners; they are the ones that take the dead out of the vehicles; they are the ones that wait in the waiting rooms of the hospitals. They know what is killing our people, and I can assure you it is not somebody driving 56 to 60 or 62 miles an hour on an open 55 freeway where the conditions permit it.
>
> We * * * have exemplary enforcement programs. Yet * * * we must artificially divert enforcement resources. Enforcement balance is critical. But the threat of sanctions has forced us to the unbalanced approach.
>
> Again, I would encourage the Federal Government to withdraw from the monitoring and sanction process and, rather, join with the States in a cooperative effort to improve traffic safety across the board.
>
> I talked about the number of speed citations we issue. I would gladly trade off every one of those speed citations for a substantial number more of drunk driving arrests, but the system will not allow me to do that. We need more flexibility, Mr. Chairman. That is what I am saying, and the monitoring and sanction process that exists does not allow it.

Mr. President, those are the words of a 25-year veteran of law enforcement in a State accounting for nearly 12 percent of all the vehicle miles traveled annually in this country. I hope my colleagues will heed that voice of experience, and I ask unanimous consent that a copy of Commissioner Hannigan's entire statements be printed in the RECORD following my remarks.

Support for eliminating the compliance requirement and sanctions is not limited to one U.S. Senator and the Nation's largest State highway patrol agency. Dick Morgan, Executive Director of the Federal Highway Administration, and Jeffrey Miller, Deputy Administrator of the National Highway Traffic Safety Administration, both urged Congress to abandon the compliance and sanctioning process in testimony before the Environment and Public Works Committee earlier this year. I quote an excerpt of their joint statement on this subject:

> * * * the Department [of Transportation] recommends reforming the Federal speed limit law to retain the States' annual certification that no public highway is posted at speeds in excess of the congressional limits and repealing the compliance criteria, repealing the sanctions for noncompliance, and repealing the federally-mandated moni-

toring and reporting requirements. We expect that the States would continue to monitor speeds for their own highway safety programs, and we would strongly encourage them to do so.

Since my bill only repeals the compliance criteria and the sanction for noncompliance but does not repeal the speed monitoring and reporting requirements, it clearly does not go as far as the Department of Transportation recommends in terms of returning enforcement responsibilities to the States. I concur with the Department's position on federally imposed monitoring and reporting requirements; however, I do not believe this Congress will approve a bill to repeal those requirements. We will have to leave that bit of regulatory relief for another day.

In March of this year, the Administrators of the Federal Highway Administration and the National Highway Traffic Safety Administration informed the Governors of California, New York, and North Dakota that their States appeared to be in noncompliance for fiscal year 1987 and that the sanctions process was being initiated against their States. Those States now must either show cause for their noncompliance or come back into compliance in succeeding years in order to avoid the permanent loss of highway funds.

While only California, New York, and North Dakota are subject to the loss of highway funds for noncompliance in fiscal year 1987, there are 14 others within 3 percentage points of noncompliance for last year. Those States are: Alaska, Delaware, Florida, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, and Wyoming. Several of these States have had trouble with compliance in the past, and their Senators are already familiar with the tremendous concern raised back home by the spectre of lost highway funds. I urge all Senators to check with the Federal Highway Administration to see what a loss of up to 10 percent of primary, secondary, and urban system highway funds would mean to their States. Those who check will see why State officials will go to extraordinary lengths, including taking enforcement resources away from far more effective highway safety operations, in order to avoid losing highway funds.

I have tried to outline the means by which our current compliance and sanctions programs may force States to choose saving money—a lot of money—over saving lives. We need to abandon that program and return the responsibility for speed limit enforcement to the States where it belongs. Walter Hjelle, commissioner of the North Dakota State Highway Department, put the case clearly and succinctly—as North Dakotans will do—in a February 1988 letter to the commissioner of the California Highway Patrol. Mr. Hjelle said:

> Each state legislature cares about its people. It isn't just those in Washington who know what's best for us. North Dakotans want safe highways—it's our lives on the line. * * * We favor complete repeal of the sanction mechanism.

Mr. President, if this Congress wants to do something that will save lives and improve highway safety, we will move this bill forward quickly. I will work to see that we do just that.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill and statement earlier mentioned were ordered to be printed in the RECORD, as follows:

S. 2550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 141 of title 23, United States Code, is amended—

(1) by striking out subsection (a),

(2) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively, and

(3) by striking out "subsection (b)" each place it appears in subsection (b), as redesignated by paragraph (2), and inserting in lieu thereof "subsection (a)".

SEC. 2. (a) Subsection (c) of section 154 of title 23, United States Code, is amended to read as follows:

"(c) The Secretary shall not approve any project under section 106 in any State that fails to certify to the Secretary by January 1 of each calendar year (1) that any public highway within the State posted at a maximum speed limit of 55-miles per hour or higher and constructed with Federal-aid highway funds has been designed and constructed to standards applicable at the time of construction which are appropriate for the speed permitted on such highway, and (2) that the State has been enforcing, during the 1-year period ending on September 30 of each calendar year, the speed limits on public roads within the State posted at 55-miles per hour or higher. Such certification shall include a statement certifying that the posted maximum speed limits on public highways in the State do not exceed the speed limits allowed under subsection (a).

(b) Section 154 of title 23, United States Code, is amended by striking out subsections (e), (f), (g), and (h).

SEC. 3. Each State shall report to the Secretary speed monitoring data on any public highway with speed limits posted at 55-miles per hour or higher in the same manner and in the same form as such data on public highways with speed limits posted at 55-miles per hour was submitted to the Secretary for the fiscal year immediately preceding the enactment of this Act.

SEC. 4. Section 109 of title 23, United States Code, is amended by adding subsection (p) as follows:

"(p) The Secretary shall not approve plans and specifications for any proposed highway project on a Federal-aid system which is to be posted at a maximum speed limit of 55-miles per hour or higher if such plans and specifications fail to provide for a facility designed and constructed for a speed limit equal to or greater than that to be posted upon completion; *Provided*, That nothing in this subsection is intended to prohibit or restrict the use of advisory speed signs in accordance with accepted practices.".

STATEMENT OF MAURICE J. HANNIGAN, DEPUTY COMMISSIONER, CALIFORNIA HIGHWAY PATROL

Mr. HANNIGAN. How would you like us to start, Mr. Chairman? With myself? Fine.

Good afternoon, Mr. Chairman. I am Maurice Hannigan, the Deputy Commissioner of the California Highway Patrol, and I am here today representing both the State of California, as well as my own agency.

Today, my testimony will focus on the current system of monitoring compliance with the 55 national maximum speed limit and what we feel is an immediate need for a change in this system. I submitted my formal testimony in writing earlier and, with your permission, for time's sake, I will paraphrase my remarks from that testimony.

Senator BURDICK. It would be very much appreciated.

Mr. HANNIGAN. We, along with several of the speakers that came before me today, as I am sure some that will follow, think the 55 monitoring deficiencies demand remedial attention, and we believe that realistic alternatives to the sanction system are at hand and should be adopted. We believed this even before California was subject to sanctions, and we have, through the years, worked actively in generating different approaches to the monitoring system and, in fact, served on the National Academy of Science panel on their report, "55—A Decade of Experience," which Mr. Deen mentioned earlier.

We, of course, are interested because of the significant impacts the monitoring system has in California, and that interest is heightened by the fact that we are currently facing a sanction in the amount of $58 million of our highway funds for noncompliance of 50.8 percent.

We believe that if Federal oversight must continue to exist, the process should be equitable and based on realistic safety and enforcement principles and, certainly, safety priorities. Most importantly, the Federal oversight program should be keyed to savings lives and accident prevention, not the futile and costly on-going effort of gathering and manipulating numbers for the results of nothing more than the pursuit of 55 compliance for the pursuit of compliance alone.

There are a number of reasons to change the compliance monitoring process, but most of them relate to one of two major failings with the present system: First, that the compliance requirement is totally ineffective in promoting highway safety; second, that the process is inequitable. It fails the fundamental test of establishing an adequate base upon which to make reasonable decisions about imposing sanctions.

For example, and this has been addressed several times today, the current monitoring process makes no distinction of a vehicle traveling 57 miles an hour on an open freeway versus the vehicle traveling 85 or 90 miles an hour on a two-lane winding road.

Anybody that has any sense of priority of traffic safety must realize that the hazard of traveling on a secondary road at high speed versus that of a marginal violation on the full freeway has no comparison. Yet the monitoring process makes no distinction, and even worse, from our perspective, an enforcement perspective, it virtually compels inappropriate deployment of scarce enforcement resources, meaning that established enforcement principles must be ignored and, along with them, the emphasis on safe vehicle operation.

Safety is also adversely affected by the imposition of sanctions themselves, because sanctions inevitably withhold dollars which fund highway improvements. In reality, lives will be lost because safety improvements are delayed or eliminated by the sanction process. From our perspective, this makes no sense whatsoever, as it flies in the face of trying to improve the highway safety environment.

Now let me switch to the subject of inequities. One of the problems, for example, is how the States measure speeds. Some States classify 56 miles per hour as a violation, and therefore, not in compliance, but others set the break-off at 55.01 mile per hour. This is almost a whole one mile-per-hour difference.

This does not seem significant until you start looking at the percentage of States that are near the noncompliance level, because that 1 mile per hour can make a 5 to 6 percent difference in their compliance rate. Based on that, in 1986, if that factor came into play with those States, almost half the nation would be under sanction.

Also, differences in the road systems can discriminate unfairly. Maryland, for example, has a predominance of interstates and high-grade highways. They typically report higher average speeds, because these roads lend themselves to faster driving. On the other hand, States with more two-lane roadways, a higher percentage of two-lane roadways receive the benefit of averaging in their slower roads.

California has studied a wide range of alternatives to address these problems, and the solutions run the gamut, anywhere from straightforward incentives to the less desirable modification of the existing monitoring formula to reduce inequities. I would like to quickly review some of these approaches that can be considered. But before I do that, let me first state that California has been a strong supporter of the 55 mile-an-hour speed limit and intends to make no significant changes in that support, especially in the urban setting, where we know it saves lives.

Ultimately, I say, it would be desirable for the Federal government to get out of setting traffic safety priorities for the States and let them deal with their safety problems as they deem appropriate, including setting their speed limits. However, recognizing this probably is not feasible within the near future, I would like to touch upon some other alternatives that could be considered in the interim.

Because lifesaving should be the real objective of both the Federal and State governments' involvement in traffic safety, incentives obviously will achieve much more than the sanction process. As an example, awarding incentive grants to States whose mileage death rate improves in a given year will generate innovation and progress in the traffic safety arena, in my opinion.

Another option would simply be to let the governor of a given State certify to the 55 mile-an-hour speed limit being in place within their State and that they are enforcing that provision of law; and do away with the monitoring and sanctions process.

If Congress, in their wisdom, cannot accept these approaches, then examine the concept set forth in H.R. 3129, and H.R. 2, which is basically a point system, which assigns a point scale to speeds in excess of the 55 on freeways versus two-lane county roads. It at least considers the aspect of safety.

However, I should point out to you that this system will discriminate against some States, especially those that have a high percentage of two-lane county roads or two-lane State highways. The NHTSA staff has taken another approach with the H.R. 2 concept and has balanced out this problem by looking at all non-freeways and freeways alike and assigning a higher point value to speeds in excess of 65 miles an hour. If we have to stay under Federal oversight, this would at least be a system that should be considered.

Another option would be for those States that are comfortable with the current monitoring system, to let them certify under that system. Hopefully, Congress would then establish a secondary system that those States which have difficulty with the current system could certify under. This would be a bifurcated approach which may help; but again, it still simply supports the premise of crunching numbers for crunching numbers.

Finally, California supports a safety incentive plan which would permit subtraction of points from the monitoring score based on the State's effort to improve safety. For example, if Congress adopted a new monitoring system and sanction process, and a State had, for example, a mandatory seat belt statute, you could take 50 points off the total score. Other options for point subtraction would be if a State has an aggressive drunk driving program, or a low-mileage death rate, or an aggressive 55 enforcement program; all these could be thrown in to offset the issue of sole noncompliance with the 55 mile-an-hour speed limit.

The fact is, safety is the bottom line. California concurs with the Governors Association's opposition to the philosophical basis for sanctions. Incentives are much more progressive than sanctions, but sanctions, if deemed necessary, must be fair and, most of all, must not undermine safety projects. If, in fact, a State is facing sanctions, if nothing else, that State should have the option of being able to divert those funds to safety projects that were targeted in years to come and move those up in their State transportation improvement plans for the sanction year so that they can be accomplished.

In closing, Mr. Chairman, the California Highway Patrol has always been a strong supporter of the 55 mile-an-hour speed limit. The men and women of our department issue approximately one citation every eleven seconds of the day. In doing that, we issue 3.055 55 mph citations a day. We also apprehend over 400 drunk drivers every day; and we also investigate 600 accidents.

They are the partitioners; they are the ones that take the dead out of the vehicles; they are the ones that wait in the waiting rooms of the hospitals. They know what is killing our people, and I can assure you it is not somebody driving 56 to 60 or 62 miles an hour on an open 55 freeway where the conditions permit it.

We, New York and Maryland, as well as North Dakota, all have exemplary enforcement programs. Yet, and I speak for California here, we must artificially divert enforcement resources. Enforcement balance is critical. But the threat of sanctions have forced us to the unbalanced approach.

Again, I would encourage the Federal government to withdraw from the monitoring and sanction process and, rather, join with the States in a cooperative effort to improve traffic safety across the board.

I talked about the number of speed citations we issue. I would gladly trade off every one of those speed citations for a substantial number more of drunk driving arrests, but the system will not allow me to do that. We need more flexibility, Mr. Chairman. That is what I am saying, and the monitoring and sanction process that exists does not allow it.

I thank you for your time, and I would answer any questions you may want me to entertain.

Senator BURDICK. Thank you for your testimony today.

Our next witness is Mr. James J. Baxter, President of the Citizens for Rational Traffic Laws.

STATEMENT OF JAMES J. BAXTER, PRESIDENT, CITIZENS FOR RATIONAL TRAFFIC LAWS, INC.

Mr. BAXTER. Thank you, Mr. Chairman, Citizens for Rational Traffic Laws has consistently advocated the repeal of the national maximum speed limit. One of our primary concerns has been and is the compliance system that was put in place to coerce State enforcement of the national maximum speed limit. Ultimately, it is our members and millions of other motorists who are ticketed, fined and inconvenienced when the States initiate enforcement crackdowns.

It is they who have their insurance premiums arbitrarily increased because they were arrested for doing what 80 percent of their fellow motorists were doing on the same day, perhaps on the same highway.

Speed enforcement for the sake of meeting compliance requirements has absolutely nothing to do with highway safety. We believe a very solid argument can be made that these enforcement crusades are, in fact, counterproductive in terms of highway safety, officer/citizen relationships and optimizing the use of enforcement resources.

Because the 55 mile-per-hour national maximum speed limit is universally ignored in the States, the States have been forced to engage in a variety of charades to pretend that there is compliance with this unpopular law.

The first line of defense used by the States and approved by the U.S. Department of Transporation to prevent financial sanctions is the use of speed-monitoring adjustments. These adjustments are based on the unlikely premise that automobile speedometers, speed-monitoring locations and speed-monitoring devices all are in error.

It is assumed all speedometers read slower than the actual speed the vehicle is moving; all monitoring stations are located in such a manner that faster traffic is over-represented in the final totals; and all speed-monitoring devices over-estimate the actual speeds of vehicles passing over them.

By applying the full battery of adjustments, an individual State can reduce its percentage of non-compliance from 68 percent, exceeding 55 miles per hour, to an acceptable 49.9 percent exceeding 55 miles per hour, thus avoiding financial sanctions.

As has been evidenced in recent years, and at this hearing, the use of adjustments has not proven sufficient to protect several States from the potential application of financial sanctions. Consequently, a host of new strategies have been developed to further distort the validity of the national maximum speed limit compliance reports. These include:

Intensified enforcement in the vicinity of speed-monitoring devices; intensified enforcement during time frames when speeds are specifically being monitored for quarterly compliance reports; rolling road blocks; relocation of monitoring stations to congested highways; relocation of monitoring stations to highways where physical-environmental restraints make it virtually impossible to drive in excess of 55 miles per hour; and the last is raising the speed limit to 55 miles per hour on highways incapable of handling higher speeds and then placing a speed-monitoring device on that highway.

It is another irony that the compliance system has always been biased against States with lower speed limits on their secondary highways. The current controversy concerning the States that have retained the 55 mile-per-hour speed limit is just another manifestation of this bias.

When all secondary roads are posted at 54 miles per hour or less, they are no longer included in the compliance system. This leaves only the limited access divided highways with the 55 mile-per-hour speed limit. It is common knowledge that 70 to 90 percent of the traffic exceeds 55 miles per hour on these highways. Consequently, States with only their Interstate quality roads posted at 55 find it almost impossible to remain in compliance with a national maximum speed limit.

In total, the national maximum speed limit compliance system has resulted in distorted and counterproductive enforcement campaigns, citizen animosity, wasted enforcement resources, misleading statistical information, perverted traffic regulations and deceptive practices on the part of regulatory agencies. Its direct and indirect impact on motorists' driving practices has been negligible to nonexistent.

There are two reasons why the compliance system has so totally failed in concept and in practice. The first is that the law, the 55 mile-per-hour national maximum speed limit it was designed to underpin, is contrary to proven and accepted traffic regulation practices.

Senator Burdick. You may go ahead. I don't want to turn this into a debate, but if you have a question?

Mr. Hannigan. No, I understand this, sir, but I think it is important to get this on the record to clarify a few points. The data that was released in the latter part of last year concerning May, June, and July in the States that raised the speed limit, even the Department of Transportation said that that information should be used with a great degree of descretion.

For example, in California, they told us our fatal accidents on the rural interstates went up 47 percent. They included May, June and July, and they included all the rural interstates in the State. In fact, California only changed a percentage of its rural interstates, but they included all the data from the interstates.

In reality, we changed the speed limit on May 29th and did not get most of the speed limits posted until mid-June. We went back and looked at the data, and our fatals on the rural interstate went up 3 percent, from 61 deaths to 63 deaths.

The issue of speeds going up since we changed on the rural interstate, the 85 percentile speed in California in 1986 was 65.4 miles per hour. In 1987, when the speed limit was changed during maybe a third of the year, it went up to 65.5. However, during the first quarter of this year, our 85 percentile was 64.4.

The claim that raising the speed limits on the rural interstate will bleed over into the urban setting where the speed limit is still 55 has also not been borne out in California.

On our urban freeway system, the average speed in 1986 for the Federal fiscal year 1986 is 55.8; in 1987, it dropped to 55 miles per hour; and for the first quarter of this year, it was 54.5 miles per hour. So the speed is going down; it is not going up. I think the significant issue here is there are a number of people that are not hands on practitioners that purport to be experts in the field, and they are not.

The fact remains that 6 percent of our fatal accidents on the rural interstate system involve the violation of a speed limit, and the majority of those violations are speeds involving unsafe speed for conditions, not a violation of the maximum speed limit.

In a 10-year period in California, we could only show that 2.2 percent of all our fatal accidents in the rural interstate system had anything to do with exceeding the maximum speed limit. The point being here is there is overconcentration of our resources to try and bring about compliance with the 55 miles-an-hour speed limit.

There have been comments here today that more enforcement is needed to do this. We write over one million 55 citations a year, and we make over three million arrests. We cannot defer any more than one-third of our resources to about 14 percent of our problem, because on a statewide basis, only 14 percent of our accidents involve any type of speed violation.

What is killing people, for the most part, is drunk driving in this country. The National Highway Traffic Administration tells us it is 40 percent of the fatalities involve DUI. In California, it is 35 percent. Like I said earlier, I would trade that one million 55 citations for another 100,000 drunk drivers, and I will save a lot more lives, believe me. We are caught up with this continuously crunching numbers and saying, "Write more tickets for 55 and solve the problem."

The 85 percentile is basically what engineers have historically used for establishing a speed limit. Eighty-five percent of the people on the highway will drive at a speed that is reasonable and prudent for the conditions and the vehicle and the roadway.

When you have 85 percent of the people violating that law, you have got a problem, and there is no way enforcement is going to resolve that. If we were to meet the ratio of tickets that are issued in, for example, Maryland, who has an outstanding enforcement program, we would have to write almost five million 55 citations a year. Gentlemen, I purport to you that it is ludicrous. That is a total waste of law enforcement resources.

My job, and I have been in this job for 25 years, is to save lives, not write speeding tickets for 62 miles an hour when it is not killing people.

I just wanted to get that on the record, and Mr. Chairman, I would also hope that you would put my written testimony in the record, too.

Senator Burdick. It has all been taken.

Mr. O'Neill. Mr. Chairman, I know we can't have a debate, but I would like to point out that in New Mexico and South Carolina, 24 percent of the motorists are exceeding the safe design speed of the highway, so that throws out the 85th percentile theory right there, because we have already got more than 15 percent of the motorists exceeding the safe design speeds of those highways.

Senator Burdick. Any other comments before I ask a question?

Mr. Baxter. Mr. Chairman, I would like something put in the record, not in the debate format, though. A report that has been mentioned today during the hearing is "55, A Decade of Experience" that was written by the Transportation Research Board. I would like pages 200 and 201 put in the record for the benefit of the Committee members.

They discuss the correlation between speed, speed limits and highway safety.

Senator Burdick. Without objection, they will be received.

By Mr. HARKIN (for himself, Mr. Lugar, Mr. Melcher, Mr. Bond, Mr. Pryor, Mr. Bumpers, and Mr. DeConcini):

S. 2551. A bill to provide additional enforcement authority for the Forest Service to deal with the production of controlled substances on the National Forest System, and for other purposes; to the Committee on the Judiciary.

NATIONAL FOREST SYSTEM PUBLIC SAFETY ACT

● Mr. HARKIN. Mr. President, for the past year I have been directing an investigation of elements that threaten the public safety in the national forest. This investigation has been carried out by the Senate Agriculture Subcommittee on Investigations, which I chair.

Just last summer, like millions of other Americans, I took my family to visit some of our national forests. When we came to a restricted area, I thought it was due to wild animals or some other natural hazard. A forest ranger later disabused me of this notion. He explained that it was due to wild humans. About a million acres of national forest were restricted to public access last year due to illegal narcotics activity.

About 1 million plants—8,000 gardens—of commercial grade marijuana were grown in the national forest last year. Almost every national forest in the United States had cultivated marijuana growing in it. Evidence of hard drugs were found as scores and scores of PCP and methamphetamine—speed—labs and opium gardens were found and identified. The Forest Service states that all of the gardens had armed guards; many had attack dogs, booby traps and/or sophisticated detection devices. All employed chemicals such as high potency fertilizers, animal poisons, and toxic wastes, that adversely affect the surrounding ecostructure.

I am not here today to discuss the merits or philosophies involving domestic drug control laws. Nor am I here to address the organizational or governmental structures for dealing with narcotics control. I am here today to talk about the need to protect the public's right to visit and enjoy our national forests without fear of lethal booby traps; attack by dogs; or assault, abuse and harassment by armed mercenaries. This growing menace not only threatens family campers, but also scout groups, hunters, individual hikers and bird watchers, timber company employees and even Forest Service employees themselves.

I want to relate just a few examples of the types of problems we're dealing with here. Several hunters in Arkansas were seriously and permanently injured when they unwittingly triggered a land mine designed to protect a marijuana garden against intruders. A Forest Service biologist was repeatedly shot at and nearly killed when checking a stream that ran close to a marijuana garden. Even her clearly marked Forest Service vehicle was shot up. Other Forest Service employees have been shot while in the performance of their duties. Several instances exist of shootings and even murders in the forests over drugs. Forest fires were started last year by competing marijuana growers. Intentional damage to property owned by alleged informants is more common. Incidents of physical abuse, threats and intimidation are too numerous to note here.

These circumstances inhibit the public's right to free and open access to public lands. They drain the Federal Treasury of anticipated royalties when timber contracts are rendered unenforceable by the presence and activities of pot growers and other criminal elements. Worst of all they leave permanent scars and threaten the lives of people who innocently and unwittingly cross paths with these criminal elements.

This bill I am introducing today with the bipartisan support of my colleagues, Senators LUGAR, MELCHER, PRYOR, BOND, DECONCINI, and BUMPERS, will not cost the Federal Government any money. In fact it may increase the receipt of timber royalities and other user fees associated with the National Forest System. It will greatly improve the efficiency of our public land management agencies and protect both the public and our public lands against illegal acts of violence. Our bill will do the following:

Increase the authority of Forest Service law enforcement personnel, for crimes committed within the National Forests, to a level comparable to other Federal land management agencies—such as Bureau of Land Management and U.S. Park Service. I want to point out that this bill does not in any way detract from the Justice Department's responsibilities as the lead agency for narcotics control.

Increase the penalties for injuring or attempting to injure unsuspecting persons through the placement of booby traps and other injurious devices.

Increase the level of cooperation between the Forest Service and other public land management agencies and the Justice Department.

This bill enjoys the bipartisan support of both the Subcommittee on Investigations and Subcommittee on Forestry and has been reviewed by the U.S. Department of Agriculture. I invite my colleagues to join me in cosponsoring this bill.●

● Mr. BOND. Mr. President, as my colleague from Iowa, Senator HARKIN, has so ably described, we once again have a major drug problem in this country that we must address.

So often, we hear about the war on drugs in the city streets of our Nation. But this war isn't limited to our cities—it has spread like a cancer and polluted one of our most precious resources—our national forests.

Our national forests have always been one of the most valued treasures of our Nation. For years, our forests have provided a retreat for millions of Americans—a place where they can enjoy a brief therapeutic reprieve from what has become urban America. However, in many of our national forests, this is no longer the case.

The battlefield for our Nation's ongoing battle with drugs has spread at an alarming rate from our cities to our national forests. More and more visitors are becoming apprehensive about merely driving through forest areas—and justly so. As enforcement in urban areas has increased, including recent changes allowing the seizure of marijuana growers' personal assets, many marijuana growers have moved their crop production to the land of our national forests. The existence of these marijuana tracts has obviously led to threatening surveillance by the growers. Some 400 incidents of assault or intimidation are reported annually involving these growers. Among these incidents, armed growers, watchdogs of the Doberman and Pit Bull species, and booby traps are all included. To give you an idea of the violence of these people:

In 1983, two Forest Service officers were ambushed and shot in Arkansas as they left a marijuana surveillance area.

In 1986, a house was burned by growers after the owner had reported marijuana on the national forest in Suches, GA.

In 1986, a booby trap was triggered and exploded by two hunters in Arkansas, seriously injuring one of them.

Mr. President, the list goes on and on and grows as we speak. This reality is a problem that must be dealt with. The solution lies in increased arrests, thorough investigations, aggressive prosecutions and sentences that clearly establish a deterrent to this crime. The solution must enable Forest Service officers to exercise their investigative authority outside the boundaries of the National Forest System. The solution does not lie within the resources or capability of any single agency—rather, all agencies, Federal, State, and local must cooperate to successfully rally a campaign to eliminate this cancer from our national forests.

The legislation we are proposing today effectively accomplishes these objectives. Our bill will eliminate the marijuana grower's ability to utilize forest boundaries to evade national forest officers and it will most certainly provide a strong deterrent for those marijuana growers who abuse our forests. Assault and intimidation, which takes place almost daily in our national forests, will most definitely decrease when these offenders realize the stiff penalties that will now be imposed.

Mr. President, we have the opportunity to recapture the peaceful serenity of our forests if we act fast. I believe this bill provides the needed resources to take a giant step toward eliminating marijuana production in our national forests. It is for these reasons that I urge my colleagues to support this much needed legislation and I would hope that we could pass it expeditiously.●

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. CRANSTON, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 10, a bill to amend the Public Health Service Act to improve emergency medical service and trauma care, and for other purposes.

S. 39

At the request of Mr. MOYNIHAN, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Nevada [Mr. HECHT], and the Senator from Montana [Mr. MELCHER] were added as cosponsors of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 464

At the request of Mr. CRANSTON, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 464, a bill to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes.

S. 1673

At the request of Mr. CHAFEE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1673, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

S. 1727

At the request of Mr. Harkin, the name of the Senator from Virginia [Mr. Warner] was added as a cosponsor of S. 1727, a bill to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders.

S. 1851

At the request of Mr. Metzenbaum, the names of the Senator from Montana [Mr. Melcher], the Senator from Pennsylvania [Mr. Specter], and the Senator from Connecticut [Mr. Weicker] were added as cosponsors of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 2149

At the request of Mr. Mitchell, the name of the Senator from Montana [Mr. Melcher] was added as a cosponsor of S. 2149, a bill to amend the Internal Revenue Code of 1986 to allow State secondary markets of student loan notes to continue serving the educational needs of postsecondary students and the Nation.

S. 2176

At the request of Mr. Dixon, the names of the Senator from North Carolina [Mr. Helms], and the Senator from Alabama [Mr. Heflin] were added as cosponsors of S. 2176, a bill to amend the Internal Revenue Code of 1986 to permit the tax-free purchase of motor fuels by individuals who are exempt from paying the motor fuels excise tax, and for other purposes.

S. 2213

At the request of Mr. Gore, the names of the Senator from North Carolina [Mr. Sanford], and the Senator from Louisiana [Mr. Breaux] were added as cosponsors of S. 2213, a bill to amend the Federal Trade Commission Act to strengthen the authority of the Federal Trade Commission respecting fraud committed in connection with sales made with a telephone.

S. 2411

At the request of Mr. Mitchell, the name of the Senator from Iowa [Mr. Grassley] was added as a cosponsor of S. 2411, a bill to amend the Internal Revenue Code of 1986 to extend the low-income housing credit through 1990.

S. 2428

At the request of Mr. Boschwitz, the names of the Senator from Alaska [Mr. Stevens] and the Senator from Pennsylvania [Mr. Heinz] were added as cosponsors of S. 2428, a bill to amend title VII of the Civil Rights Act of 1964 to prohibit discrimination based on race, color, religion, sex, handicap, national origin, or age in employment in the legislative or judicial branches of the Federal Government; and to establish the Employment Review Board composed of senior Federal judges, which shall have authority to adjudicate claims regarding such discrimination.

S. 2454

At the request of Mr. Boschwitz, the name of the Senator from Alaska [Mr. Murkoski] was added as a cosponsor of S. 2454, a bill to seek the eradication of the worst aspects of poverty in developing countries by the year 2000.

At the request of Mr. Harkin, the names of the Senator from Massachusetts [Mr. Kerry], the Senator from California [Mr. Cranston], the Senator from South Dakota [Mr. Daschle], the Senator from Vermont [Mr. Leahy], the Senator from Nebraska [Mr. Exon], the Senator from Michigan [Mr. Levin], the Senator from Ohio [Mr. Metzenbaum], the Senator from Colorado [Mr. Wirth], and the Senator from Washington [Mr. Adams] were added as cosponsors of S. 2454, supra.

S. 2462

At the request of Mr. Cranston, the name of the Senator from Florida [Mr. Graham] was added as a cosponsor of S. 2462, a bill to amend title 38, United States Code, to improve various aspects of Veterans' Administration health-care programs, to provide certain new categories of veterans with eligibility for readjustment counseling from the Veterans' Administration, to extend the authorizations of appropriations for certain grant programs and to revise certain provisions regarding such programs, to revise certain provisions relating to the personnel system of the department of Medicine and Surgery, and for other purposes.

S. 2527

At the request of Mr. Metzenbaum, the names of the Senator from New Jersey [Mr. Bradley] and the Senator from Rhode Island [Mr. Pell] were added as cosponsors of S. 2527, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

S. 2528

At the request of Mr. Metzenbaum, the names of the Senator from New Jersey [Mr. Bradley] and the Senator from Rhode Island [Mr. Pell] were added as cosponsors of S. 2528, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

S. 2539

At the request of Mr. Burdick, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of S. 2539, a bill to amend the Agricultural Act of 1969 to provide drought relief to producers of 1988 crops of wheat, feed grains, upland cotton, and for other purposes.

SENATE JOINT RESOLUTION 149

At the request of Mr. Helms, the names of the Senator from North Dakota [Mr. Burdick], the Senator from North Carolina [Mr. Sanford], and the Senator from Texas [Mr. Bentsen] were added as cosponsors of Senate Joint Resolution 149, a joint resolution to designate the period commencing on June 21, 1989, and ending on June 28, 1989, as "Food Science and Technology Week".

SENATE JOINT RESOLUTION 272

At the request of Mr. Durenberger, the name of the Senator from Ohio [Mr. Metzenbaum] was added as a cosponsor of Senate Joint Resolution 272, a joint resolution to designate November 1988 as "National Diabetes Month".

SENATE JOINT RESOLUTION 273

At the request of Mr. Lugar, the names of the Senator from Florida [Mr. Graham] and the Senator from Delaware [Mr. Roth] were added as cosponsors of Senate Joint Resolution 273, a joint resolution designating October 6, 1988, as "German-American Day."

SENATE JOINT RESOLUTION 304

At the request of Mr. Lautenberg, the names of the Senator from Alabama [Mr. Shelby], the Senator from Mississippi [Mr. Stennis], the Senator from Arkansas [Mr. Bumpers], the Senator from Michigan [Mr. Levin], the Senator from Louisiana [Mr. Johnston], the Senator from California [Mr. Cranston], the Senator from Washington [Mr. Adams], the Senator from Alaska [Mr. Stevens], the Senator from New York [Mr. D'Amato], the Senator from Indiana [Mr. Quayle], the Senator from Wyoming [Mr. Simpson], and the Senator from Oregon [Mr. Hatfield] were added as cosponsors of Senate Joint Resolution 304, a joint resolution designating July 2, 1988, as "National Literacy Day."

SENATE JOINT RESOLUTION 314

At the request of Mr. Boschwitz, the names of the Senator from Indiana [Mr. Quayle], the Senator from Alabama [Mr. Heflin], and the Senator from Vermont [Mr. Stafford] were added as cosponsors of Senate Joint Resolution 314, a joint resolution designating October 1988 as "Pregnancy and Infant Loss Awareness Month."

SENATE JOINT RESOLUTION 319

At the request of Mr. Leahy, the name of the Senator from Ohio [Mr. Metzenbaum] was added as a cosponsor of Senate Joint Resolution 319, a joint resolution to designate the period commencing November 6, 1988, and ending November 12, 1988, as "National Disabled Americans Week."

SENATE JOINT RESOLUTION 321

At the request of Mr. Bradley, the names of the Senator from Alabama [Mr. Heflin] and the Senator from

Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Joint Resolution 321, a joint resolution to designate the period commencing February 19, 1989, and ending February 25, 1989, as "National Visiting Nurse Associations Week."

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DECONCINI, the names of the Senator from Colorado [Mr. ARMSTRONG], the Senator from Massachusetts [Mr. KERRY], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

SENATE RESOLUTION 442

At the request of Mr. TRIBLE, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Delaware [Mr. ROTH], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Resolution 442, a resolution expressing the sense of the Senate that the President should convene an International Conference on Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere.

AMENDMENT NO. 2379

At the request of Mr. BAUCUS, the names of the Senator from Montana [Mr. MELCHER], the Senator from Washington [Mr. ADAMS], the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], the Senator from South Dakota [Mr. DASCHLE], the Senator from Washington [Mr. EVANS], the Senator from Idaho [Mr. MCCLURE], the Senator from South Dakota [Mr. PRESSLER], the Senator from Wyoming [Mr. SIMPSON], the Senator from Idaho [Mr. SYMMS], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of amendment No. 2379 proposed to H.R. 3251, a bill to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress.

SENATE RESOLUTION 444—RELATIVE TO THE TAX OFFSET PROGRAM

Mr. QUAYLE (for himself, Mr. PELL, Mr. KENNEDY, Mr. STAFFORD, and Mr. DODD) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 444

Whereas the Senate finds that the Internal Revenue Service program to offset tax refunds against individuals who owe the Federal Government money has been remarkably effective;

Whereas $400,000,000 is anticipated to be raised by the offset program this year;

Whereas the most effective offset program, returning $213,000,000 in 1987, has been for defaulted student loans;

Whereas the publicity from the offset program has resulted in $30,000,000 being paid by student loan defaulters;

Whereas the Department of Education, which incurred default costs of $1,600,000,000 in 1988 and is projected to incur costs of $2,000,000,000 in 1990, expects that the Internal Revenue Service tax offset program will continue to be an effective means of recovering defaulted student loans;

Whereas the authority for the Internal Revenue Service tax offset program expires on July 1, 1988, and Federal departments such as the Department of Education will be unable to prepare files to be sent to the IRS at the end of the year;

Whereas each Federal department which cannot prepare files this summer will lose a year of offset: Therefore, be it

Resolved, That it is the sense of the Senate that the Internal Revenue Service tax offset program should be reauthorized as soon as possible so that the Federal Government can continue to collect the anticipated recovery of $400,000,000 resulting from offsets in 1988, and further, that the tax offset program be permanently authorized.

SENATE RESOLUTION 445—RELATIVE TO THE 40TH ANNIVERSARY OF THE CABLE TELEVISION INDUSTRY

Mr. HEINZ (for himself and Mr. SPECTER) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 445

Whereas, 1988 marks the 40th anniversary of the birth of the Cable Television Industry;

Whereas, the Industry was founded in the valleys of Northeastern Pennsylvania;

Whereas, the Cable Television Industry has served to educate, inform, entertain, and enrich the citizens of the United States;

Whereas, the Cable Television Industry has created thousands of jobs and generated millions of dollars in revenues for local municipalities;

Whereas, through government access and community access programming, and through the Cable Television Industry's support of the programming of the Cable Satellite Public Affairs Network (C-Span), the Cable Television Industry has served to educate the citizens of America as to the workings of government;

Whereas, the Cable Television Industry has helped to shape America's cultural landscape by presenting news, sports, weather, and cultural programming on a round-the-clock basis: Now, therefore, be it

Resolved by the Senate, That it is the sense of the Senate that the Cable Television Industry be honored on the occassion of its 40th anniversary and that the Industry be recognized for its continuing dedication to improving the quality of communication services in the United States of America.

Mr. HEINZ. Mr President, I rise today to submit a resolution honoring the cable television industry on its 40th birthday. I would like to take this opportunity to relate a story of cable television's modest beginnings in the United States.

In 1948, John Walson owned an appliance business in Mahanoy City, Schuylkill County PA, then a 3,000-home community 70 miles northwest of Philadelphia and tucked in between two mountain ranges. The town's valley location rendered television reception nearly impossible, and Walson was having some difficulty selling a line of television sets he had added to his merchandise. In order to demonstrate the sets, Walson was forced to drive potential customers onto a nearby mountain top where three Philadelphia stations were accessible. One evening, Walson set out to transport a curious couple up the mountain for a demonstration. When the husband declared that he was just too tired to make the trip, the angry wife continued on with Walson, determined to make her husband jealous in the process. Whether or not her efforts had any impact on the lazy husband, Walson was sufficiently embarrassed that the next day he set out to run a twin lead, army surplus cable from his store to the nearest hilltop.

Soon neighbors, impressed with the fine reception of the Philadelphia stations displayed on three televisions in Walson's store window, agreed to purchase sets from Walson if the cable was extended to their homes. As the arrangement gained popularity throughout the town, Walson obtained permission from the Pennsylvania Power & Light Co. to run his cable along their poles, and eventually charged customers for the service.

From this unlikely start, sparked by a jealous husband, cable television has expanded from a business for this small town entrepreneur in to a multibillion-dollar enterprise. With 80 percent of American homes now able to access cable television and with more than 50 percent of America's television owning households subscribing to the service, there is no doubt that cable television has helped weave the very fabric of our society.

I urge my colleagues to join me in wishing cable television a very happy 40th birthday by supporting this resolution.

AMENDMENTS SUBMITTED

TENDER OFFER DISCLOSURE AND FAIRNESS ACT

SHELBY (AND ARMSTRONG) AMENDMENT NO. 2413

(Ordered to lie on the table.)

Mr. SHELBY (for himself and Mr. ARMSTRONG) submitted an amendment intended to be proposed by them to the bill (S. 1323) to amend the Securities Exchange Act of 1934 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REQUIREMENT OF EQUAL SHAREHOLDER VOTING.

(a) IN GENERAL.—Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781) is amended by adding at the end thereof the following new subsection:

"(m)(1) Except as provided in paragraph (2), a security (other than an exempted security) of an issuer may not be registered on a national securities exchange, or be authorized for quotation on an interdealer quotation system operated by a registered national securities association, if—

"(A) on or after July 1, 1988, the issuer takes any action to cause such security to have fewer or greater than one vote per share on any issue to come before such issuer's shareholders (disregarding any right of such shareholders with respect to cumulative voting in an election of directors); or

"(B) such security is a common stock that is without voting rights.

"(2) The prohibitions contained in paragraph (1) with respect to registration and authorization for quotation shall not apply to any security if—

"(A) such security is issued in an initial public offering in which the market capitalization of the issuer does not exceed $20,000,000;

"(B)(i) such security is issued as part of a merger, acquisition, consolidation, or stock dividend, approved by the shareholders of the issuer, and

"(ii) the per share voting rights of such securities is not greater than or less than the voting rights of the issuer's outstanding voting securities; or

"(C) such security is a security described in paragraph (3).

"(3) A security is described in this paragraph, if—

"(A) such security was of a class which was authorized for issuance before July 1, 1988, and is either—

"(i) a security with fewer or greater than one vote per share (as described in paragraph (1)(A)), or

"(ii) a common stock without voting rights; or

"(B) such security is an additional issuance of a security described in subparagraph (A).

"(4) The Commission may adopt such rules, regulations, and orders as may be necessary or appropriate in the public interest or for the protection of investors—

"(A) to implement the provisions of this subsection;

"(B) to define any term used in this subsection;

"(C) to exempt any person or transaction or class of persons or transactions, as not comprehended within the purposes of this subsection, in whole or in part, either unconditionally or upon specific terms and conditions; or

"(D) to prescribe means reasonably designed to prevent any person from evading or circumventing the provisions of this subsection.

"(5) For purposes of this subsection:

"(A) The term 'voting securities' includes all equity securities with voting rights on any matter which may come before the issuers' stockholders, but does not include any security which is accorded voting rights only upon the event of a default or other circumstances which jeopardize the issuer's ability to meet its obligations to the holders of that security.

"(B) The term 'common stock' includes all equity securities with a residual interest in the issuer's assets, except equity securities which carry a fixed rate of return and no additional right to participate in the earnings of the issuer.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date which is 60 days after the date of enactment of this Act.

RETAIL COMPETITION

DECONCINI AMENDMENT NO. 2414

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the bill (S. 430) to amend the Sherman Act regarding retail competition; as follows:

At the appropriate place insert:

Section . In applying the rule of reason standard to exclusive territorial agreement between a manufacturer and one of its distributors that grants the distributor the sole and exclusive right to distribute and to sell the manufacturer's products in any defined geographic area, no liability under the antitrust laws shall be found where the product that is the subject of the exclusive territorial agreement is in substantial and effective competition with other products in the relevant product and geographic markets. Nothing in this Section shall be construed to legalize the enforcement of price-fixing agreements, horizontal restraints of trade, or group boycotts, if such agreement, restraints, or boycotts would otherwise be unlawful.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on June 21, 1988, to hold a hearing on judicial nominations.

The PRESIDING OFFICER. Without objection, it is ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Tuesday, June 21, 1988, to hold a hearing on S. 2382, a bill to delay implementation of a certain rule affecting the provision of health services by the Indian Health Service.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on June 21, 1988, to hold a hearing on S. 473, Aviation Accident Liability.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Senate Energy Committee be authorized to meet during the session of the Senate on June 21, 1988, to conduct a hearing on S. 2055, a bill to designate certain National Forest System lands in the State of Idaho for inclusion in the National Wilderness Preservation System, to prescribe certain management formulae for certain National Forest System lands, and to release other forest lands for multiple-use management, and for other purposes.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, June 21, to conduct a markup of legislation concerning ocean dumping of sewage sludge (S. 2030) and legislation providing for development of regional marine research programs (S. 2068).

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary, be authorized to meet during the session of the Senate on June 21, 1988, to hold a hearing on S. 702, a bill to provide for the collection of data about crimes motivated by racial, religious, or ethnic hatred, S. 797, a bill to require the Attorney General to collect data and report annually about hate crimes, and S. 2000 a bill to provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, affectional or sexual orientation, or ethnicity.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

J. LEWEY CARAWAY

● Mr. PRYOR. Mr. President, I am pleased and privileged to recognize today the long and remarkable contribution made to the U.S. Senate by J. Lewey Caraway, who recently retired as Superintendent of Senate Office Buildings.

Lewey Caraway has personally cared for and protected the institution of the Senate. And in the nearly 60 years he spent here Lewey Caraway has become an institution himself.

He has not only been a model public servant and an example for all Federal employees to follow. He is also a native of my State of Arkansas.

Both Lewey's uncle and his aunt, Thaddeus Caraway and his wife Hattie, served in the Senate during the 1920's and 1930's. In fact, Hattie Caraway was the first woman elected to the Senate.

That was in 1932, and Lewey Caraway had begun his years of service to the Senate only the year before. He went on to become Superintendent in October 1949 and his service has been continuous since that time.

Mr. President, anyone who has served in the Senate during the past 40 years knows that Lewey Caraway is the man to know if you want to get something done. He is always efficient and prompt, always willing to assist, always responsive to the needs of any member of this body.

Lewey Caraway is a man of few words, a man who keeps his own counsel. But when he speaks you know his word is good. We will miss him in the Senate.●

TRIBUTE TO GLADYS NOON SPELLMAN

●Ms. MIKULSKI. Mr. President, I rise to mark the passing yesterday of a distinguished legislator, extraordinary public servant, and dear friend.

Few Members of Congress have been as well loved by their constituents, or as effective in serving their districts, as Gladys Noon Spellman.

A three-term Congresswoman from Prince Georges County, she was more than just another popular politician.

She was a smart, tough, and compassionate legislator who knew how to get things done. And she helped smooth the way for other women, including myself, who followed her into politics.

To me she was like a big sister and a friend. When I first came to Congress in 1976, it was Gladys Spellman who gave me a desk and a phone in her suite before I had an office of my own to move into, and from whom I learned about how best to serve our Maryland constituents. She was great to me, and she did the same for other women along the way, too.

Constituent service was always on the top of her list. She knew all about the national issues Congress had to deal with. But first and foremost she was concerned about meeting the day-to-day needs of Marylanders.

And she knew how to convert those needs into policy. She made sure the potholes were paved and the Social Security checks were in the mail.

She will always be remembered for her efforts to make long-needed improvements to the Baltimore-Washington Parkway. Those efforts were recognized in 1982 when the U.S. Congress and Maryland Legislature renamed the parkway in her honor.

That was not all she did however. As chair of an important subcommittee of the House Post Office and Civil Service Committee, she made sure Federal workers got the pay compensation and working conditions they needed to do their jobs right.

She played a key role in safeguarding the Federal retirement system. She also worked to get the funding necessary to get Washington's Metro System underway.

Gladys Spellman got her start in politics like I did—working her way up from the grassroots. I was a social worker. She was an elementary school teacher. She organized in the PTA and as a civic association activist.

In 1962 she was elected as part of the local reform movement to serve on the Board of the Prince Georges County Commissioners. She soon became chairman of the commission, and then served on the first Prince Georges County Council. Mrs. Spellman ran successfully for Congress in 1974.

She was one of the most popular politicians Maryland has seen. The whole State misses her cheerful personality and legislative abilities. I know I do. My condolences go to her husband, Reuben, her three children, and four grandchildren.●

BISHOP ROBERT JOYCE

● Mr. LEAHY. Mr. President, literally throughout my lifetime, I have had the joy and honor of knowing Bishop Robert Joyce of Vermont. My parents, Howard and Alba Leahy, first became acquainted with Bishop Joyce when he was a young priest in Northfield, VT. Even as a child, I remember my parents telling me how much their association with him during that time meant to them. As a child growing up in Montpelier, I remember this tall, dignified figure walking down the streets of Montpelier, greeting dozens of people by name. Later, as a student at St. Michael's College, I would see the bishop doing the same thing on the streets of Burlington, and I was honored to receive my college diploma from him.

Throughout my adult life, both in a private capacity and in a public capacity, I cherished the friendship with this amazing person. I know why my parents, my wife's parents, and so many thousands of other Vermonters consider him a close, dear friend. Marcelle and I have joined with so many others in congratulating him upon the 65th anniversary of his ordination to the priesthood, and I would ask that an article about him, which appeared in the Barre Montpelier Times Argus on May 28, 1988, be printed in the RECORD at this point.

[From the Barre Montpelier Times Argus, May 28, 1988]

BISHOP JOYCE MARKS 65 YEARS IN CHURCH WORK

BURLINGTON.—Bishop Robert Francis Joyce has the distinction of serving the Catholic Church for 65 years.

Although retired, he resides at St. Joseph's Home in Burlington and, at age 91 still concelebrates Mass daily, continuing his ministry through prayer. He corresponds with the elderly, the housebound and invalids throughout the country as well as by telephone within his immediate area. Hospital and nursing home personnel honor his requests to speak with their patients by phone.

For the first 10 years of his retirement, Bishop Joyce worked a half year in Florida as a parish curate and doing confirmation for the archibishop. In the summer, he did parish work on weekends, mainly at the Holy Family Parish in Essex Junction.

According to Bishop Joyce in an interview conducted by a member of the *Catholic Tribune*, he said, "These 65 years have been most blessed and happy ones and I am grateful to God that while at the University of Vermont I found my true vocation. It has been a privilege to serve as a priest of the church over all these years, to have administered the sacraments to uncounted thousands of people and to have preached the gospel to many more because of taking part in celebrations and dinners and conventions." According to Bishop Joyce, among his greatest of privileges was that of having ordained two bishops. Bishop John Marshal, as his last act as Bishop of Burlington, and ordaining a Vermont native. Bishop Louis Gelineau, as bishop of Providence, R.I.

On May 26, 1923, in the Cathedral of the Immaculate Conception in Burlington, Robert Francis Joyce, a native of Proctor, was ordained to priesthood. The son of Patrick and Nellie (Connor) Joyce, he graduated from Proctor High School, one of nine in his class, and continued studying at the University of Vermont, where he pursued his love of chemistry, math and the sciences. After two years of college he decided that being in a laboratory was not where he really wanted to be.

Working during the summer of 1915 as a handy-man in Burlington for Dr. Harry Perkins, he had the opportunity to view Dr. Perkins' neighbor, Bishop Joseph J. Rice, walking on his porch while reading his breviary. The vision of Bishop Rice remained with Joyce. Consideration, or a calling of the priesthood, constantly recurred. While in his third year of college, Father Hugh McKenna, from Providence, R.I., suggested that the young man give serious thought to a religious vocation. With encouragement from Father McKenna and his mother's blessings, Joyce furthered his studies at the Grand Seminary in Montreal, graduated with highest honors and was ordained by Bishop Rice.

Throughout his 65 years of ministry, Joyce served in various capacities; first at St. Michael Parish in Brattleboro, St. Francis de Sales Parish in Bennington, St. Paul's Church in Manchester, and became principal of Cathedral High School in 1927. A later assignment was as pastor of St. John's

Catholic Church in Northfield, where he remained for 11 years.

In 1943, he volunteered as a chaplain serving with the U.S. Army assigned to the 103rd General Hospital in England. Prior to the end of World War II, Bishop Joyce's last year in the military was spent in the southern United States, where he learned to love and respect the people of that region.

He served St. Peter Parish in Rutland from 1946 until June 1954, when he was asked to serve as auxiliary bishop of Vermont to Bishop Edward F. Ryan with the titular See of Citium by Pope Pius XII. Bishop Joyce was installed as the sixth bishop of the Diocese of Burlington three years later, when Bishop Ryan died.

Assuming the role as head of Vermont Catholics, Joyce participated in the rapid changes taking place within the church and attended all of the four sessions of the Second Vatican Council during 1962 and 1965. Joyce has stated that being part of the Ecumenical Council of the Church was among the crowning features of the events in his life.

He visited his parishes in the central Vermont area often during his 15 years as bishop. He liked people and it showed. His easy manner and quick smile earned him many friends throughout the state; those of little or no faith, Protestants and Jews, and many of various faiths.

Mr. President, no person epitomizes the sense of integrity and dedication that Vermont is known for than Bishop Joyce. I join with his friends of all faiths in applauding him and thanking him for all he has done for our State. I, also, as a Catholic, admire him for all he has done to lead our church in Vermont.●

THE 200TH ANNIVERSARY OF NEW HAMPSHIRE RATIFYING THE U.S. CONSTITUTION

● Mr. HUMPHREY. Mr. President, on Wednesday morning June 18, 1788, horses were tied in front of the steepled meeting house in the north end of Concord, NH, and the streets were buzzing with anticipation of the day's events. From every part of the Granite State delegates had come to the State capital to debate the ratification of the proposed Federal Constitution. The atmosphere was charged with excitement and tension, for eight States of the necessary nine had already voted to ratify, and should New Hampshire decide for ratification her action would signal the start of a new age for the American people, under the Government of the Constitution of the United States of America.

Led by Josiah Bartlett, a signer of the Declaration of Independence, Gen. John Sullivan, who shared the long winter at Valley Forge with Washington, John Langdon, the State president, and Samuel Livermore, the Chief Justice, the delegates entered the meeting house. The outcome was by no means assured, but at the close of their deliberations, 200 years ago today, by a narrow majority vote of 57 to 47, New Hampshire became the ninth and deciding State to ratify the U.S. Constitution.

New Hampshire State Senator Ebenezer Webster, whose son, Daniel, would one day serve in the Senate of the United States, spoke eloquently for ratification. He said "Mr. President, I have listened to the argument for and against the Constitution. I am convinced that such a government as that Constitution will establish, a government acting directly on the people of the States, if adopted is necessary for the common defense and the general welfare. It is the only government which we owe for the revolution, and which we are bound in honor fully and fairly to discharge."

New Hampshire's role in cementing the foundations of this great country formally began on January 5, 1776, when the Granite State became the first of the Thirteen Colonies to adopt a State constitution dedicated to popular control of a limited government. Two years later, in June 1778, the Nation's first constitutional convention convened in Concord, when 74 delegates representing 90 towns met to frame a more extensive State constitution and submit it to popular vote.

The New Hampshire Constitution which resulted from that convention was remarkable in that it included a list of protected rights of the people, known as "the rights of conscience," a revolutionary concept in a world that accepted the divine right of kings. The framers put it thusly: "The Bill of Rights contains the essential principles of the Constitution. It is the foundation on which the whole political fabric is reared, and is consequently, a most important part thereof. We have endeavored to define the most important and essential natural rights of men. We have distinguished betwixt the alienable and unalienable rights: for the former of which, men may receive and equivalent; for the latter, or the rights of conscience, they can receive none: the world itself being wholly inadequate to the purchase."

With that background the New Hampshire delegates gathered at the meeting house beneath the steeple to debate the U.S. Constitution. Although they were wary of government from the past abuses of the crown, 200 years ago today the U.S. Constitution was ratified in New Hampshire, but only, as past experience had dictated, on the condition that a bill of rights be added to the Federal document to protect the liberty of citizens, regardless of their political beliefs or economic and social status.

Mr. President, a farmer, Jonathan Smith, spoke for New Hampshire when he said "I am a plain man and get my living by the plough. I am not used to speaking in public, but I beg your leave to say a few words to my fellow plough-joggers. I have known good government by the want of it. When I saw the Constitution, I found that it was the cure for these disorders. I don't think the worse of the Constitution because lawyers, men of learning and moneyed men are fond of it. We must all sink or swim together."

Mr. President, today in New Hampshire we celebrate the event which breathed life into the Constitution. We honor the vision and boldness of those who met in Concord that day. And we give thanks for all of those men and women who in the years since have sacrificed to honor and defend our precious Constitution.●

THE BROTHERS LYNN

● Mr. LEAHY. Mr. President, a few short years ago, the St. Albans Messenger, a newspaper in my home State, was losing circulation and advertising and was generally regarded as a negative impact on this northwestern Vermont community.

Emerson and Cynthia Lynn rescued this paper out from under the ownership of William Loeb newspapers, whose flagship paper is the Manchester Union Leader in New Hampshire.

It took the Lynns 3 years to show a profit and overcome community aversion toward the former owner. The Lynns have built a community newspaper that has been instrumental in promoting a growing and more prosperous St. Albans—already blessed by its location on the shores of beautiful Lake Champlain.

The Lynn story does not end there however. Angelo Lynn, Emerson's brother, purchased the Addison Independent, and has turned that weekly newspaper into an aggressive journal that is keeping government accountable in this part of the State.

The brothers have just added another weekly in Chittenden County to their holdings.

Mr. President, the decision of Emerson and Angelo—two natives of Kansas—to locate in Vermont, has introduced a new and welcome brand of journalism to Vermont.

Senator NANCY KASSEBAUM lost a press secretary, but St. Albans got a newspaper, when Emerson moved his family to Vermont.

The Lynns, by their own admission, are not yet close to being a newspaper dynasty in our State. But they are committed to giving the people of Franklin and Addison Counties the information they need to go about their lives.

Mr. President, I ask that this article about the brothers Lynn which appeared in the Vermont Sunday magazine supplement of the Rutland Herald of June 5, 1988, be reprinted in its entirety so others can read about this Vermont newspaper family.

The article follows:

THE BROTHERS LYNN

They make a good team in the two-man triathions they both enjoy. Emerson Lynn is the runner. Angelo Lynn takes over for the biking leg, and they canoe together.

The parallel to their professional lives is obvious. Emerson and his wife, Cynthia, took over as co-publishers of the St. Albans Messenger in 1981. Angelo and his wife, Sarah, followed them to Vermont in 1984, buying the Addison County Independent—a newspaper, by the way, that had once been offered to Emerson and Cynthia.

This month—on the canoe leg of the trip—the Brothers Lynn will become the new owners of the Essex Reporter, a small-circulation weekly that covers IBM country.

This latest venture has more than a few people asking whether the Lynns, with newspapers to the north, south and east of Burlington, are preparing a frontal assault on the Chittenden County media market, on the Burlington Free Press in particular.

The brothers say no. "It's so small," says Angelo Lynn, "that it (the Essex Reporter) could never be a threat to the Free Press. We're not in a position to be interested in the Burlington market."

Still, these are the sons, grandsons and great-grandsons of a newspaper family. The Iola (Kan.) Register, a six-day-a-week daily newspaper, was bought by their great-grandfather in 1882. The Register was taken over by their grandfather and later their father, Emerson E. Lynn, Jr., the current publisher.

They grew up in an apartment over the presses of a small weekly published by their father. Angelo remembers hearing the presses run every Wednesday night, stuffing inserts into papers when he was barely tall enough to reach the counter tops.

The brothers grew up in Texas, the next stop on their father's journalism career, then graduated with degrees in journalism from the William Allen White School of Journalism at the University of Kansas.

It's enough to conjure visions of William Randolph Hearst at San Simeon.

"Call it the Lynn Dynasty," jokes an Addison County Independent staff member. "Better yet, call it a newspaper chain. That'll really cork him."

"We're not the Lynn newspaper empire," shrugs Angelo. "We're just two brothers, with not a lot of money."

That you need to know from the outset is that St. Albans has changed. A lot. In the old days, St. Albans, the county seat of Franklin County, was a railroad town, populated by conservative Democrats—Democrats because they were union members, conservative because they were Irish and French-Canadian Catholics.

The area—which also includes the towns of Georgia, Sheldon, Fairfield, Highgate, Swanton and Fairfax—is much changed. It's not that the conservative Democrats are gone, but many of them are aging. People are moving from Chittenden County to Franklin County where housing prices still look like a bargain. A recent survey shows that 4,000 St. Albans-area residents now commute to jobs in Burlington.

Economically, dairy was—and is—the major industry in Franklin County. The railroads, which reached their nadir more than a decade ago, are making a comeback, and Central Vermont Railway still pays the highest wages in town. But there is competition for the work force now from companies that have relocated or opened branch offices, some from Chittenden County and some from Montreal.

"St. Albans is pluralistic," notes Emerson Lynn. "It's an equal mix of conservative and liberal. The new people coming in are giving the town some needed energy and new ideas."

For 40 years, this was Loeb-land. The St. Albans Messenger was the first newspaper owned by the late William Loeb, the vitriolic voice of the right wing, who later gained notoriety as the publisher of the Manchester (N.H.) Union Leader. In his newspaper, Loeb pursued a policy of destructive criticism. Even in absentia, Loeb would write his acerbic editorials in his New Hampshire office and mail them to St. Albans.

"Loeb spent 40 years tearing things down," Lynn says. "People around here wouldn't run for public office because they knew they would be excoriated in the newspaper. I heard about a local veterinarian who had a standing rule: the Messenger was not allowed in his home. And he wasn't the only one who felt that way."

Enter Emerson and Cynthia Lynn. He is 37, she is 36. They are an attractive couple: good-looking, smart, athletic. They live with their infant daughter in a modern house that overlooks Lake Champlain. On a clear day, they can see Montreal.

They travel often and extensively, to Africa and, more recently, to India and Nepal. Emerson says it is a family dream to set up journalism seminars in Third World countries.

They met when he was working for the National Park Service in Colorado after his graduation from the University of Kansas. He went to work as night editor on the newspaper in Loveland, Colo.

They married in her hometown in Pennsylvania and went looking for work in Washington, D.C. For Lynn, a boy from small-town Kansas, it was a not-to-be-missed experience. He jumped into politics—Republican politics—working as press secretary first for James Pearson and then Nancy Kassebaum, both U.S. senators from Kansas. In the end, it was that Republican connection that convinced William Loeb that Lynn would be politically suitable to inherit the publisher's mantle.

During that time, the Lynns had been looking for newspapers to buy, focusing their efforts on the Colorado Rockies. Finally, Cynthia Lynn, who had spent childhood summers in Vermont, expanded her search, sending out queries to all parts of the country. After a brief flirtation with the Addison County Independent, they lighted in St. Albans.

What they had bought—Lynn will not discuss the purchase price, but the asking price at the time was rumored to be about $750,000—was a money-losing newspaper, bloated with inefficiency, ineptly managed. The staff was 42 people at the time. They trimmed it to 24 initially. Now it is back up to 36.

Cynthia Lynn, who has a degree in economics, took control of the business side and began an aggressive cost-cutting campaign, which included putting the advertising sales staff on commission. Even so, it took three years to put the Messenger in the black. Since then, the revenues from advertising sales have tripled, and the circulation has jumped from 3,700 to 5,000.

At the outset, there was hostility to contend with, the cumulative anger of a community that felt it had been wronged by its newspaper.

"It was grim coming in," Lynn recalls. "We had no idea of the hostility * * *"

Adds his wife: "We still have people who won't buy the paper for things that happened 25 years ago."

For the most part, that hostility has evaporated under the Lynn's stewardship.

"The Lynns have brought a positive approach," says St. Albans City Manager William Cioffi. "They've been extremely fair. Under them, the paper has had a good influence on the area."

The paper operates out of a large, brick building that sits on the railroad tracks north of town—a building so large, in fact, that the staff does not begin to fill it. Emerson oversees the editorial side, and Cynthia keeps a firm grip on all aspects of the business operation, including advertising, production and finances.

In terms of content, the Messenger is a mixture of issues and features, historical society news and descriptions of the pets avaialble at the Humane Society for placement: "Kittens, enough colors and sizes to please just about eveyone. All very cute."

State news coverage is provided by the Associated Press because anything outside of Frankin County is outside the Messenger's backyard.

"What you have to do best is cover your own backyard,' says Emerson Lynn. "What I don't like to see is a paper filled with evidentiary news—the type of news where you can read the headline and know the story."

"We can be the tie that binds people to their community," says Cynthia Lynn. "We can run the kind of stories that you don't find in large metropolitan newspapers. That's why we like features."

Editorially, Emerson Lynn has made no secret of his moderately liberal politics, endorsing James Guest in his 1982 campaign against Sen. Robert Stafford, R-Vt., and Madeleine Kunin in her 1984 campaign for governor against John Easton. He is pro-gun control and pro-choice, two stands that sometimes put him at odds with his less liberal neighbors.

He is concerned, he says, "about the loss of farmland and about growth" but also in favor of economic development.

One issue that has drawn him some heat locally is his staunch endorsement of a plan by the Delaware North Corp. to open a dog track in St. Albans. James Levy, a local attorney and opponent of the track, insists that Lynn's support of the track is unethical and that the Messenger's coverage of the issue has been biased.

"I have a low opinion of the paper," Levy says vehemently. "It is one of the worst journalistic endeavors I have witnessed. Cynthia Lynn's father had financial dealings with Delaware North, and this was not disclosed. My wife wrote a letter to the editor about it, and he refused to print it. Throughout, the reporting has been slanted and biased."

Lynn does not deny that his father-in-law once had dealings with Delaware North, but those dealings, he says, are history.

"Years ago, Cindy's father owned a steel-casting company and sold it to Delaware North," he explains. "But that was years ago. Jim is tenacious. He was doing what he could to bring up something that wasn't there. Besides, he's missing the point—my wife has been publicly opposed to the track. She's signed petitions against it. I'm the one who's for it."

Levy's are not the only grumblings to be heard. A former part-time reporter for the Messenger, Pat Paquin, challenges Lynn's assertion that he is captain of a happy, well-run ship.

"He had a talent for gathering good people, but it seemed he didn't know how to deal with us once he had us," says Paquin. "There was a common sense that the Messenger was a stepping stone for him. The people who worked for Emerson felt a lack of commitment on his part. We felt we were a means to his end. We never knew what that end was, but we always suspected it was political ambition. Combined with the low pay, it created a lot of resentment in the office."

Not so, says Gary Rutkowski, who has been managing editor since the Loeb era.

"The best way to judge the morale is to look at how long people have been here," says Rutkowski, a 13-year veteran of the Messenger. "Several of us have been here a long time. There's plenty of opportunity for anybody who's unhappy to speak out."

Emerson, for his part, is baffled by the persistent rumors about his political aspirations. He says he enjoys politics and is glad he spent seven years in Washington. Without that experience, he says, "I would have gone from small-town Kansas to small-town Vermont without ever knowing what life in the big city was like."

Would he go back to politics?

"That's the last thing I want to do. I love what I do now. This is the only job I've ever done that I love completely and unconditionally."

Thursday morning staff meeting at the Addison County Independent is a loose affair. Some or all of the staff of 22 gathers around the oilcloth-covered picnic table in the coffee nook at the back of the large, open room where the newspaper is put together twice a week. People wander in, drink coffee, crack jokes. Both the staff meetings and the twice-weekly schedule of the Middlebury newspaper are recent innovations. Angelo Lynn, editor and publisher of the Independent since 1984, is presiding at the meeting on this Thursday morning. Sort of. The purpose of the gathering is to plan a summer outing for the staff, either to see the Vermont Mariners or the Montreal Expos. The boss comes in for a lot of teasing about his tendency to forget details.

But they are laughing with him, not at him. They know him as the kind of boss who is still toiling away in the wee hours of the morning on production days.

"It makes it a lot easier to be here until 2 a.m. when the publisher is working there beside you," observes Tim Peek, the news editor.

Angelo, 34 and his brother, Emerson, are different, but the differences are subtle—not differences of night-and-day but of morning and afternoon. Emerson is smoother than his younger brother, more gregarious—more political. Angelo is quiet, reserved, a touch shy.

Looks can be deceiving. In a little more than three years, Angelo Lynn and his wife, Sarah, 34, have taken what used to be a get-along, go-along community newspaper and turned it into an aggressive news-gathering operation that enjoys nipping at the heels of officialdom.

Although his circulation has held steady at around 7,100 newspapers—more than half of which are sold over-the-counter—he has doubled the advertising revenues and put in a state-of-the-art typesetting system known as pagination. The number of pages in the Thursday edition has jumped from 24 to 32. In February, he inaugurated a tabloid edition that comes out on Monday and circulates 9,000 papers.

From the community's vantage point, however, the most visible changes have been in the way the Addison County Independent reports the news. For years, under the ownership of Col. William Slator, the paper had been a bastion of right-wing opinion, with the colonel's editorials often appearing on page one.

In 1976, the Independent was sold to Gordon Mills, an easy-going man who ran an easy-going newspaper that was long on local gossip and short on controversy. Under Mills's stewardship, the paper ran blow-by-blow descriptions of the weekly selectmen's meetings and a comprehensive list of court news, including divorces. It was, in Mills' words, a newspaper for the "dinner-bucket guys."

In that time, Middlebury was changing. Dinner-bucket guys were being replaced by affluent newcomers, aging baby boomers who were drawn to town, in part, by the presence of Middlebury College. Their politics were liberal. They read the Addison County Independent to find out how the basketball team was doing and when the bake sale would be held; for news they turned to the rival Valley Voice, a tabloid-sized paper with a fondness for lengthy issue and analysis stories.

Cut to Colorado. In 1976, Angelo Lynn, graduated from the University of Kansas, was spending his time climbing mountains and skiing, a pursuit he followed for four years. In 1979, he left Steamboat Springs with a nest egg of $2,000 to buy a tiny Kansas weekly, which he and Sarah ran side-by-side for the next five years. It was a low-budget operation. He wrote the stories and took the photographs, she sold the ads. When times were good, they hired a third person.

Emerson Lynn is the one who told his brother about the Independent. In 1984, Angelo and Sarah came east, bringing with them the same attitudes about community journalism that they had put to work in Kansas.

"The most important aspect of a community newspaper is its news, good hard news," says Angelo Lynn. "It should be a mix of news and community information. It's that inside section that is the tie that binds the community—who's getting married, who died."

The focus of the effort, Lynn says, has to be very, very local: "We have to patrol our own backyard. Nobody else is going to do it for us. With dailies, the focus is diffused. Community papers can make a big difference in their own backyards."

Lynn took on the role of community watchdog aggressively. Some would even say he did it with a vengeance. To some extent, it was happenstance: not long after the Lynns bought the paper, Paul Staats, a longtime Middlebury resident who was the news editor, died. The job went to Peek, a young, energetic newsman whose style is far more confrontational than Staats' had been.

"The changeover ended up being more radical than we intended," admits Lynn.

Even so, Lynn and Peek are of like mind about the newspaper's role in the community.

Here is Angelo Lynn: "We make decisions on the front page about what issues we're going to go after. I make no bones about that. The USA Today idea that a newspaper should be all things to all people is absurd. We do that on our inside pages."

Here is Tim Peek: "There was the case of a high school teacher who was accused of molesting students. We reported it in detail. It's our feeling that it's good—although uncomfortable—for people to hear those things. I only came here after I felt confident that we saw eye-to-eye. It wouldn't be tolerable otherwise."

If Lynn and Peek see eye-to-eye, there are a number of Middlebury residents who believe the Independent has abandoned its role as the community's newspaper of record in order to promote its own causes.

A case in point: the March election for two open selectmen's seats. Angelo Lynn has editorialized often and strongly in favor of controlled growth, so strongly in fact, that some suspect him of being a "no-growther." The two incumbent candidates, Don Keeler Jr. and Doug Cone, were known as advocates of growth, while the two newcomers were more in agreement with Lynn. The paper pushed the issue hard, suggesting the town should "finish the job we started" two years before. In the end, Keeler and Cone were defeated, and the newspaper made no secret of its pleasure.

"There's no other viewpoint than his in Addison County," says Keeler, looking back on it. "He's promoting a no-growth community, not working to encourage good growth. He gets a little confused between his reporting and his editorials. There's no doubt in my mind that someone at the paper decided it was time to run me out of office. They did it to Bill McAllister two years ago, and I feel certain they'll do it to George Foster next time."

Adds McAllister: "To them, I was one of the good ol' boys. They wanted a change on the board and they got it. I went and talked to them for an hour and a half, but you can't defend yourself against them in print."

Certainly, not all Middlebury residents agree with Keeler and McAllister.

"I like what he's doing," says Peg Martin, a former selectman who is now a Democratic member of the Vermont House. "I think there is a very strong philosophical approach. I don't know whether I share his depiction of who the good guys and the bad guys are. But the kinds of things the Independent has consistently asked its readers to consider are the things I think are of great importance to this community."

The Lynns didn't go looking for the Essex Reporter. It came looking for them. Angelo Lynn recalls that Kit Wright, the owner of the 6,800-circulation weekly, walked into his office one day to ask whether he wanted to buy her newspaper.

"I knew them by reputation as smalltown newspaper people with a strong news background," says Wright, who will become town manager of Essex Junction. "This seemed like a natural extension of their abilities."

The first time Wright asked, Lynn, who was just about to go to a twice-weekly schedule, said no. Then he called up his older brother to discuss it. Emerson pointed out that it had the raw elements they both valued—"school sports, the school lunch menus"—that it offered them the possibility of a joint venture. Not long after, they said yes. The deal will be closed this month.

"The whole attraction of the Essex offer is that it's a good community paper," says Angelo Lynn. "She's got a good product. Of course, we'll change it, do some things to it. The most fun in the business is putting something new together."

Which makes people wonder if this isn't the start of something big, particularly those people who have heard rumors that Emerson Lynn, Jr. is a Kansas newspaper magnate (he isn't) who owns half a dozen newspapers (he doesn't). On the telephone, he sounds more like a proud father than an empire builder.

"It tickles you as a parent to have your kids follow you in your career," says Emerson Lynn, Jr. of his two sons. "I think they're doing a great job."

"The primary difference between us is that I'm 64 and they're full of energy. They're more aggressive on some things than I would be. It's a family tradition that we're community-minded. I don't hesitate to lecture once in a while. You can't be nothing but a blank slate to write on."

So is this or is this not the beginning of the "Lynn Dynasty?" Papa Lynn says not.

"Vermont," he points out, "is not large enough to contain an empire."●

BUDGET SCOREKEEPING REPORT

● **Mr. CHILES.** Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $0.2 billion in budget authority, and by $2.9 billion in outlays. Current level is under the revenue floor by $10.6 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $153.9 billion. $1.4 billion below the maximum deficit amount for 1988 of $155.3 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 20, 1988.

Hon. LAWTON CHILES,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1988 and is current through June 17, 1988. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution (H. Con. Res. 93). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32.

No changes have occurred since my last report.

Sincerely,

JAMES L. BLUM,
Acting Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 100TH CONGRESS, 2D SESSION AS OF JUNE 17, 1988

[Fiscal year 1988, in billions of dollars]

	Current level[1]	Budget resolution H. Con. Res. 93[2]	Current level +/− resolution
Budget authority	1,145.8	1,146.0	−.2
Outlays	1,031.8	1,034.7	−2.9
Revenues	922.2	932.8	−10.6
Debt subject to limit	2,511.6	[3]2,565.1	−53.5
Direct loan obligations	34.4	34.6	−.2
Guaranteed loan commitments	155.1	156.7	−1.6

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] In accordance with Sec. 5(a)(1)(b) the budget authority and outlays include an adjustment that reflects the amount reserved for subsequent allocation under section 302(a) of the Congressional Budget Act.

[3] The permanent statutory debt limit is $2,800.0 billion.

PARLIAMENTARIAN STATUS REPORT, 100TH CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL, FISCAL YEAR 1988 AS OF CLOSE OF BUSINESS JUNE 17, 1988

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			911,050
Permanent appropriations and trust funds	792,035	674,291	
Other appropriations	569,646	574,400	
Offsetting receipts	−202,566	−202,566	
Total enacted in previous sessions	1,159,115	1,046,125	911,050
II. Enacted this session:			
Rescission of Jewish Education Centers Abroad (P.L.100-251)	−8	−5	
Veterans Home Loan Program Emergency Amendments (P.L.100-253)		1	
Assistance and Support for Central America (P.L.100-276)		43	
Veterans Emergency Supplemental (P.L.100-304)	709		
Veterans' Benefits and Services Act of 1988 (P.L.100-322)	1	1	
Atomic Veterans Compensation Act (P.L.100-321)[1]			
Total enacted this session	702	40	
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses:			
College-aid Annual Appropriation for Territories (S-1652)	(2)	(2)	
Catastrophic Health Care (H.R. 2470)		5	
Total conference agreements	(2)	5	
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Disaster relief	142	85	
Special milk	5	1	
Special benefits	83	83	
Special benefits for disabled coal miners	7		
Medicaid	51	51	
Social services block grants	50	48	
Veterans compensation:			
Previous law	282		
H.R. 1811	15	12	
Payment to air carriers	8	2	
Coast Guard retired pay	6	6	
National wildlife refuge fund	1	1	
Total entitlement authority	649	288	
VI. Adjustment for economic and technical reestimates	−14,650	−14,650	11,200
Total current level as of June 17, 1988	1,145,816	1,031,808	922,250
1988 budget resolution (H.Con.Res. 93)	1,146,000	1,034,700	932,800
Amount remaining:			
Over budget resolution			
Under budget resolution	184	2,892	10,550

[1] This act increases the current law estimate for veterans compensation, which requires an appropriation. The amount is shown in section V.

[2] Less than $500,000.

Note: Numbers may not add due to rounding.

Estimate of fiscal year 1988 deficit G-R-H basis

	Millions
Revenues:	
Sequestration base	$897,007
Hard taxes	9,261
IRS compliance (gross)[1]	1,850
User fees	−525
Total revenues	907,593
Spending:	
Sequestration base	1,076,942
Defense	−5,051
Non-Defense discretionary	−2,514
Omnibus Budget Reconciliation of 1987	−6,438
Debt service	−1,328
Legislation this session (net)	52
Other	−57
Total spending	1,061,457
Deficit	153,864

[1] Estimate based on IRS funding level in Public Law 100-202.●

ITALIAN STEEL INDUSTRY PROPOSES TO CONTINUE SUBSIDIZING

● **Mr. HEINZ.** Mr. President, one of my more amusing yet aggravating experiences over the past 10 years has been the biennial meeting I always seem to have with someone from the European Community explaining with a straight face how the EC member nations plan shortly to eliminate their steel subsidies. I have been having these meetings since 1978, so Senators will forgive me if I begin to react to these promises with some skepticism.

In the trade business we frequently talk about elasticity—elasticity of supply and demand. With respect to EC steel subsidies, we probably ought to be talking about elasticity of promises, because they have turned out to be rubber indeed.

The most recent shameless manipulation of economic realities comes, not entirely surprisingly, from the Italians, who have just finished putting together their third industry bailout plan in 7 years for EC approval.

This plan calls for additional subsidies of over 7 trillion lira—roughly $5.4 billion. Of course, this additional subsidy is hardly being provided to an industry with a clean slate. Finsider, the state steel company, has been losing money at the rate of 5 billion lira or $3.8 million per day and currently has debts of over 10 trillion lira. If it goes any higher they are going to run out of space on their calculators for all those zeroes.

And what, one might ask, will be the restructuring consequences of this new program? The answer is, apparently, a reduction in capacity of 1.2 million tons and a gross job reduction of 20,100. I say gross job reduction because there is also a plan to create 17,000 new jobs in the affected areas, apparently also with state subsidies. Squeezing these figures into my calculator shows that those subsidies work out to $4,500 per ton of capacity reduced and nearly $270,000 per job lost. The American industry should have such a break.

And that, Mr. President, is precisely the point. From its peak, the U.S. industry has surrendered over 56 percent of its work force—more than 250,000 jobs—and over 50 million tons of capacity without Government subsidies. One of the main causes of that shrinkage, frankly, has been EC subsidies that have allowed imports from noncompetitive European producers to undercut American sales. The EC for 15 years has avoided serious adjustment in its steel sector by exporting its unemployment to the United States, and now it appears that the Italians want that process to continue. It is very hard to explain to steelworkers in Pittsburgh, Youngstown, Gary, or wherever that they have lost their jobs so Italian steelworkers can keep theirs.

Fortunately for sanity and economic rationality, this subsidy plan has not yet been approved by the EC. I hope it will be rejected. Perhaps the Community will take its responsibility seriously and insist on the adjustment that is so obviously needed. Perhaps the EC member governments will stand up to their workers. Perhaps the Sun will rise in the west tomorrow morning. They are all equally likely.

Mr. President, what this all means is that the world steel industry has far too much capacity and is still in a state of crisis. The existence of the President's voluntary steel restraint program, which expires next year, has provided our industry with badly needed breathing room. But, unless the VRA's are extended next year, we can expect what is left of the domestic steel industry to be smothered in an avalanche of subsidized and dumped steel from Italy, Brazil, and other countries. With the practice of other nations' subsidizing their steel industries alive, well and growing, we will need to have the next President continue the VRA program or risk losing our steel industry entirely.●

PROF. JAMES EATON—A MAN OF UNCOMMON ACCOMPLISHMENTS

● Mr. CHILES. Mr. President, I rise today to inform my colleagues of the uncommon accomplishments of one of Florida's finest citizens, Prof. James N. Eaton, Sr.

Professor Eaton has been a college teacher for more than 30 years. His career has spanned those years and a countless number of students. He is currently an archivist/curator at Florida A&M University in Tallahassee.

Next month, friends, colleagues, and ex-students of Professor Eaton will get together at Bethel AME Church in Tallahassee and pay tribute to the man who is a distinguished teacher, historian, researcher, archivist, and community activist. James Eaton didn't just teach history—he lived it. During the height of the civil rights demonstrations in the South, Professor Eaton gave life to Thomas Jefferson's words "Life, liberty and the pursuit of happiness." He cajoled, he persuaded, he motivated and he participated. He lived his creed and that helped to make his creed more credible to generations of Floridians and other young people from around the country.

Ms. Geneva H. Westley who is serving as chairperson for the James N. Eaton Appreciation Committee wrote these words describing Professor Eaton:

> Professor Eaton has been a college professor for more than 30 years. He has been recognized as "Teacher of the Year", more than once, by Florida A&M University in Tallahassee, Florida; Miles College in Birmingham, Alabama; and Hanover School for Boys in Richmond, Virginia. Professor Eaton is admired by his many students as a great teacher, humanitarian and friend.
>
> "Professor", as he is fondly called, is equally famous for his work in preserving the history and culture of Afro-Americans by maintaining the philosophy that "Afro-American History is the History of America." During the last 30 years, his voice has resounded through the halls of FAMU, proclaiming the importance of the role of black people in our country. Professor Eaton's steps through history are heavy, leaving deep historical imprints for all who dare to follow. His voice made it possible to see the slave ships and to feel the pain of the ankle shackles. Professor Eaton is truly a master of history.
>
> As archivist/curator for the Black Archives Research Center and Museum, he transformed the Carnegie Center, the oldest building on the FAMU campus, into an outstanding museum.

Finally, Mr. President, I remember being Professor Eaton's guest at FAMU, his "Teacher for a Day" and it was a worthwhile event for me. The warmth and affection demonstrated by Professor Eaton's students was genuine and admirable.

Although a prior commitment will not permit me to join the rest of Professor Eaton's friends in paying tribute to him in July, I want to take this opportunity to express my best wishes.

Mr. President, I would like these important facts about the Black Archives Research Center to be considered by my colleagues.

The Black Archives Research Center and Museum in located in the oldest building on the Florida A&M University campus. Completed in 1907 with the assistance of a $10,000 grant from Andrew Carnegie, this building has been placed on the National Register of Historic Places.

The purpose of the Black Archives was set forth in an act of the Florida Legislature in 1971 which mandated the establishment of a repository to "serve the State by collecting and preserving source material on or about black Americans from the earliest beginnings to the present."

With grants from the Florida Bicentennial Commission, the Winn-Dixie Foundation, and the State legislature, the archives was formally dedicated and officially opened in 1977. While the archives has an excellent Florida collection, it is not limited by State or national boundaries. Part of its scholarly and cultural responsibility is the collection of any materials reflecting the black presence and participation in Southern, national, and, as far as possible, international history. The holdings and services are extremely varied: artifacts, manuscripts, art works, oral history tapes, meeting and research rooms, and a mobile touring museum.

Because a group's history is as valid as the evidence supporting it, the Black Archives Research Center and Museum diligently continues to enlarge its holdings, and all interested persons are invited to support this effort. Donation of materials are guaranteed not only appreciation but safety, permanence, and use in an officially authorized archives.

Special holdings:

The Harriet Tubman Collection (selected items on loan).

The Benjamin French Collection.

The S. Randolph Edmonds Collection.

The Neil C. Mooney, Art Consultant, State of Florida Department of Education, African Art Consultant, and Artifact Collection.

The Cannonball Adderley Collection (selected items).

The Don Hill Collection of African memorabilia and artifacts.

The Sarah Eaton and Alice Brickler Collection of antiques and rare books.

The Johnnie V. Lee Collection of rare and old recordings of famous black musicians.

The Edward Jones Newsclipping File.

The Jake Gaither films and tapes on football in America.

The Jesse McCrary papers.

The Coon Memorabilia.

Ante-bellum and post-bellum artifacts and materials.

Memorabilia of the 54th Colored Regiment, United States Army.

Original copies of the National Anti-Slavery Standard (1864) and the Liberator (1854).

Black Americans in Congress Exhibit.

Public and private papers of the presidents of the University from 1888 to the present.

The Floy Britt Collection of photographs and materials on the 4-H in Florida.

Official Records of the National Negro Home Demonstration Agent Association.

Old photographs, out-of-print sheet music, pamphlets, and numerous brochures.

Frank E. Pinder Collection of Ethiopean and African artifacts.

Lamar E. Fort Collection of African artifacts Fannye A. Ponder Collection featuring Black Women in America.

John F. Matheus Collection of Historical Papers from the Harlem Renaissance of the 1980's.●

HEALTH CARE IN RURAL AMERICA: THE CRISIS UNFOLDS

● Mr. ROCKEFELLER. Mr. President, I would like to draw my colleagues' attention to a recently released report, commissioned by the National Rural Health Association and the National Association of Community Health Centers, entitled "Health Care in Rural America: The Crisis Unfolds."

This report's title is very telling. Health care in rural America has always had troubled times, but now the crisis is truly unfolding. Shortages of health care workers are worsening, hospitals are closing, and, as a result, the health status of many rural Americans is deteriorating. In many isolated, rural areas of our country, it is the sheer determination and strong will of a few dedicated individuals that are keeping the doors of many health care facilities open. We can no longer ignore this situation—this crisis.

Rural America has slipped into poverty and Federal assistance has eroded away. Rural Americans are hurting, and there are fewer and fewer resources available to help them heal, prevent their illnesses, and provide them comfort. They have always managed to struggle along—quietly, desperately, and proudly—but the crisis will continue to unfold, continue to worsen, unless we vigorously tackle the inequities and the chronic shortages that typify the health care situation in many rural communities.

The Reagan administration has cut assistance for rural programs by 58 percent since 1980. At the same time, unemployment rates in rural areas have outstripped urban unemployment rates and up to 35 percent of all rural workers are underemployed. Unemployment and underemployment effectively limits access to health care because most Americans obtain health care insurance through the workplace.

Sadly, my State of West Virginia is reeling from the effects of the President's budget policies since his inauguration in 1981. A report by the West Virginia Legislative Task Force on Uncompensated Health Care and Medicaid Expenditures reported that 13 percent of all West Virginians rely on Medicaid for health insurance, in comparison to 8 percent nationwide, and 1 of every 6 persons in West Virginia—16 percent of the State's population—is without health insurance. In West Virginia, uncompensated hospital care is higher than the national average and, in 1986, primary care centers provided over $5 million of free care to persons unable to pay their health care bills.

And, as this report bleakly reminds us, the list goes on. Rural hospitals nationwide are closing or are in dire financial straits; physicians and nurses are in short supply; the medical liability crisis for obstetrical services is forcing women living in rural areas to travel long distances to receive prenatal care and to deliver their babies; and rural areas must also deal with the homeless and victims of AIDS, problems usually characterized as urban dilemmas.

Many rural hospitals are fiscally limping along day by day. The most recent data showed rural hospitals, on average, had negative profit margins 3 years after implementation of Medicare's prospective payment system. It's difficult for these rural hospitals to diversify and strategically plan their future when their bottom line is chronically red. The report emphasizes that the very existence of rural hospitals is threatened.

The rural health care situation is more desperate today than yesterday. The report states if you are poor, black, Hispanic, or elderly, you should avoid illness at all cost and that rural residence alone increases a poor person's chance of being sick and even dying. It even goes so far to say that high-risk mothers and infants, AIDS patients, elderly Americans with chronic health problems, and accident victims should not live in rural areas. This assessment of the rural health care system is shocking.

The American way of providing health care through private employer-based insurance and public insurance programs for the very, very poor, the disabled, and the elderly is clearly inadequate. Over 30 million people are without any type of health insurance coverage. In rural areas, where the unemployment rate is high, the population sparse, and poverty rampant, the problems are even more apparent.

This report lays out the grim facts and tells us that a coordinated, comprehensive approach to the rural health care crisis is essential. Unfortunately, our Federal deficit exceeding $140 billion prevents a solution through any broad sweeping legislative proposal. Targeting resources however at the neediest people can at least serve as part of the solution.

Rural America, with 25 percent of the Nation's population, has 38 percent of the Nation's poor and receives less Federal assistance for health and social services per capita than the U.S. average. It's essential that we, at least, provide the same Federal assistance to rural areas that we are providing to urban areas. I would even argue that rural areas need additional Federal assistance for health and social services because of the current dearth of health care services and severe shortage of health care workers in rural regions.

I know that my colleagues will find this report as disturbing as I did, and I look forward to working with them to improve access to and the quality of health care for rural Americans. I ask that the report, "Health Care in Rural America: The Crisis Unfolds" be printed in the RECORD.

The report follows:

HEALTH CARE IN RURAL AMERICA: THE CRISIS UNFOLDS

(Report to the Joint Task Force of the National Association of Community Health Centers and the National Rural Health Association)

INTRODUCTION

Many of the problems in rural health care are well known. Most policymakers know there is a physician and nursing shortage or that rural hospitals are in financial distress. Unfortunately, much of the research in this area is issue specific and is descriptive of the depth of the problem rather than analytically looking at the interplay of the diverse issues. The issue specific nature of the research then produces a "shotgun" approach to public policy development, when a coordinated approach would be more effective. For example, increasing medicare reimbursement to rural hospitals to more accurately reflect costs, without addressing the problem of the shortage of physicians in rural areas is to provide the hospital with resources to support the cost of inpatient care without the physicians to provide the care. This report is designed to provide an analytic view of the diversity of issues and is intended to stimulate a coordinated approach to public policy solutions.

The report begins with a description of the nature and extent of the deteriorating situation in rural America. The impact of various issues and trends on several sectors of the rural health care system and different sectors of the rural population are then examined. The report concludes with a set of recommendations that are intended to provide direction for federal and state public policy makers.

This report has been developed over the last year as a cooperative effort of the National Association of Community Health Centers and the National Rural Health Association and in collaboration with other national organizations who share common concerns and goals.

THE DETERIORATING SITUATION

The economic situation in rural America continues to deteriorate, increasingly burdening a health care system that has been chronically inadequate to meet the needs of rural Americans. In order to understand the diversity and complexity of the problem, one may look at the following as examples:

In Montana, a young family doctor is giving up his practice in his hometown due to the rising cost of medical liability insurance. His premiums are now $53,000 per year—more than his net income last year. He could lower his premiums by stopping his small obstetrics practice, but delivering babies is the "joy" in his otherwise sorrowful work. If he can't deliver babies he said he would leave his hometown and go into aerospace medicine. His departure will leave a vast area without ready access to obstetrical services.

In West Virginia, a family of four lives in poverty. The father has been out of work for over four years, no longer qualifying for unemployment assistance or being counted in the unemployment statistics. He was a coal miner, put out of work by new technology. The family is essentially homeless, living in a small, run-down house with no running water or flush toilet. They live on a small public assistance check and food stamps—nearly 70 percent of the county's population is on food stamps. The state's Medicaid program is nearly bankrupt, so the local community health center is the only place they can go for health services. In other places in West Virginia, accounts receivable from Medicaid and bad debts from people with no insurance are threatening to close some community health centers.

In Missouri, a small town has been trying for over two years to recruit a family doctor to replace their aging local doctor. The town's small hospital is in serious financial condition, partly because medicare pays it nearly 40 percent less for its services than hospitals in the city 70 miles away. About 60 percent of the hospital's business is from the elderly. The hospital is having trouble recruiting nurses too, because they don't have the resources to increase wages or expand benefits because of negative profit margins.

In South Dakota, a farm family has hit hard times. They are using every penny to hold off the family's creditors, and they have dropped their health insurance policy as an expendable item. They pray they will not get sick or injured. They are at high risk since farming is one of the most hazardous occupations in America. Their new poverty is causing great stress, and the husband is drinking too much. Help is hard to find because the community mental health center has dropped its outreach into their rural area.

In Colorado, two family doctors have been in practice for two and three years under the auspices of the National Health Service Corps. One doctor is leaving to find a more lucrative, less demanding practice in the city. The remaining doctor will stop obstetrical practice when the other doctor leaves because the load is too heavy for one doctor and the National Health Service Corps has other doctors available for placement. Over 100 pregnant women per year will have to drive to the next distant town for services. Private recruiting efforts have been unsuccessful for this remote town.

Although one-quarter of all Americans live in rural areas, public funding for health care in rural America has consistently lagged behind the U.S. average. At the federal level, per capita expenditures for health and related services are far lower for rural residents: 42 percent fewer health service dollar per capita than the U.S. average; and 50 percent fewer social service dollar per capita than the U.S. average.

Programs which combine federal and state responsibility mirror federal expenditure trends:

70 percent of the rural poor live in states where the maximum AFDC benefits are below the national median.

The rate of qualification for public assistance is 37 percent lower in rural ares, and more than 75 percent of the rural poor do not qualify for public assistance.

Current statistics on the 1980s indicate that an ever-increasing demand is being placed on inadequate rural resources. Farm closures, unemployment, loss of insurance, and inability to pay for health care have provided additional pressures on the rural family:

Since 1979, reversing a historic trend, the rural unemployment rate has been consistently higher than the urban unemployment rate. In 1979, 5 percent of the 2040 nonmetropolitan counties had high (9 percent or above) unemployment rates; by 1985, that figure had grown to over 50 percent of rural counties having high unemployment.

Between 1981 and 1986, 650,000 farms were foreclosed nationwide and in 1987 alone, American families gave up farming at the rate of 2,000 per week.

Between 1981 and 1983, rural America lost 500,000 jobs.

Current estimates are that 35 percent of rural workers are under-employed, either working part-time or in jobs beneath their skill levels.

Recent predictions based on expanding and contracting areas of the economy are that only one job will be created in nonmetro areas for every seven created in the city.

These trends have placed more rural residents in jeopardy, as loss of insurance and income erode the ability of the rural family to purchase health care. For all races, the median family income for non-metro and farm families is consistently lower than it is for metro and non-farm families. In 1985, 17 percent of all farm families, and 15 percent of all non-metro families, had income below the federal poverty level. For some segments of the rural population, the situation is much worse. As many as 36 percent of rural Hispanic families live in poverty. One of every five elderly non-metro residents lives in poverty, a rate 15 percent higher than for elderly residents of the United States as a whole. The combined result of these statistics shows that rural America, with 25 percent of the country's population, has 38 percent of the nation's poor. At its extreme, the problem is heavily concentrated. Of the 86 countries nationwide in which ⅓ or more of the population is in poverty, all but one are non-metropolitan in nature.

Both employed an unemployed rural residents feel the economic pressure of current trends. Real per capita income in farm counties fell from 91 percent of the metropolitan level in 1973 to only 76 percent in 1984. All rural residents, as a group, have a 15 percent higher rate of uninsuredness than the U.S. average, and a 24 percent higher rate than their metropolitan counterparts. The low levels of insuredness contribute to a cash drain on the rural family. Rural residents pay, on average, 10 percent more of their income out-of-pocket for health care than do their urban counterparts. Among the poor, those supposedly protected by the "safety net," rural residents experience a 10 percent higher rate of uninsuredness than the U.S. average, and a 44 percent higher rate than their metropolitan counterparts.

The results of this long-standing problem, exacerbated by the economic downturn of the 1980s, may be seen in the health profiles of rural Americans. Rural residents are more likely to suffer from chronic disease conditions, including: arthritis, visual and hearing impairments, ulcers, thyroid and kidney problems, heart disease, hypertension and emphysema. They are also more likely to suffer limitations in activity as a result of these chronic conditions than are urban dwellers.

More hospitals, physicians and nurses, and other health personnel and services will be required to meet these increasing needs. Yet current trends in availability of health care facilities and personnel show marked decreases and consistent inadequacy which paint a bleak picture for rural Americans.

HOSPITALS

More U.S. hospitals closed in 1987 than in any other year during the decade, with record closures of rural hospitals. According to a recent study funded by the Center for Health Services Research and carried out by the University of Illinois at Chicago, a total of 80 hospital closures were noted during the year—and 40, or half, of the closures were in nonmetropolitan areas. In contrast, during the period 1980-85, rural hospital closures average 20 per year and were only 35 percent of all community hospital closures average 20 per year and were only 35 percent of all community hospital closures. Almost one-third of the nation's hospital closures were in Arkansas, Louisiana, Texas and Oklahoma alone.

The increase in hospital closures relates closely to Medicare's implementation of the Prospective Payment System (PPS) in 1984, with over twice as many hospital closings in 1987 as in 1984. Under PPS, Medicare pays rural hospitals 36 percent less than urban hospitals for the same services. As a result, according to the Department of Health and Human Services, in 1986 urban hospitals made a 10.82 percent profit margin on PPS patients, while rural hospitals lost an average 0.69 percent.

The pressure on hospitals will have results which place even more pressure on the rural family's income. Predictions by Lewin/ICF, in a recent issue of Medical Benefits include: Increased numbers of closures of hospitals, especially in inner cities and rural areas which need them most; increased shifting of higher medical costs to the patient, as insurance coverage falls further behind rising medical costs; decreasing ability of hospitals to meet increasing needs for charity care; and decreasing ability of hospitals to adopt newer technology due to dollar limits on diagnosis-related group (DRG) health care interventions.

In the current atmosphere, proponents of lower health care costs depend heavily on preventive health interventions as a way to maintain good health outcomes while avoiding the increased cost of secondary or tertiary treatment. This strategy depends on access to entry level care, including local physicians, mid-level practitioners, and an availability of other health services which work in a coordinated fashion to manage total care for the patient efficiently. Unfortunately, supplies of such providers, and the existence of necessary comprehensive care systems, are not in evidence in rural America.

PHYSICIANS

Many rural communities continue to have problems in recruiting and retaining physicians, despite the alleged national "doctor glut." While some diffusion of doctors into rural areas is taking place, it is very slow and is not occurring uniformly across the country, according to a recent study performed by Kindig and Movassaghi of the University of Wisconsin-Madison.

The study showed that in small rural communities between 1975 and 1985, physician-to-population ratios grew at a rate less than half as fast as in the nation as a whole (14.2 percent compared to 32.5 percent). Moreover, small rural communities continued in 1985 to have physician-to-population ratios less than one-third that of national rates (53 physicians/100,000 versus 163 physicians/100,000).

One of the most important programs to address this problem, the National Health Service Corps (NHSC), is being dismantled after over 15 years. At the very time when rural provider needs are high, the field strength of the NHSC is declining. Nearly 65 percent of Corps placements have been in rural areas. By the end of FY 1989, the NHSC field strength will be only slightly more than half its field strength at the beginning of FY 1988 (from 2,595 in 1988, to

1,401 in 1989). Projections for the following year are that about 800 NHSC scholars will be available for placement in 1990. This pattern, should it continue, will mean that thousands of rural communities will be at risk for medical care, and they will be forced to try to compete with wealthier, more attractice practice settings to fill physician vacancies.

NURSES

The current nursing shortage is the result of numerous trends, including projected reductions in workplace opportunities as health care facilities close, and lowered federal support for nursing education. Nursing salaries have not kept pace with growing professional opportunities in other sectors, and are under increasing pressure due to implementation of general cost-saving measures in the workplace as reimbursement decreases for patient care. Projections by Lewin/ICF in *Medical Benefits* indicate that 10,000 fewer nurses will graduate in 1992 than did in 1984. The rural nursing shortage may grow even faster than the national shortage, as rural health care facilities with inadequate resources find it increasingly difficult to compete for nurses in the face of increased demand for their services in all settings. This is of particular import to rural areas, given the health status of rural residents and the shifting emphasis to lower cost, primary care in managed care service delivery settings. Nurses, both RNs and mid-level practitioners, form a significant proportion of the front line professional provider staff upon which such a system depends. With increased demand on an already fragile system of rural health care, the nursing shortage will mean lack of any access to entry level care for many rural residents.

INCREASED DEMAND

A consistent theme in discussions of rural health care has been the differentially low access to providers and facilities, as well as a lack of some or all of the components of a coordinated care system. Decreased federal funding for emergency medical services has left many rural residents without access to life-saving care in emergency situations. Long distances and provider shortages work to disrupt the smooth passage of a patient up and down the technology gradient when necessary, thus resulting in inadequate communication of patient needs and problems among primary providers, specialty care professionals, and extended care/recuperation resources. Further, resources necessary for successful outcomes following secondary or tertiary treatment are often unavailable. Surgical patients, high-risk mothers and infants, and other high-risk patient groups require consistent medical and health care during the entire course of resolution of their presenting problem. For example, the rural resident who is a victim of a serious automobile accident faces increased risk due to inadequate emergency medical transportation. Even assuming that transportation is available and the hospital treatment is successful, that increased risk is still not ameliorated: necessary intermittent follow-up, nursing care during recuperation, home meals and a safe, clean environment may not be available, especially to low-income persons. Shortages of ambulance services, home health providers, social service agencies and on-site medical/health providers decrease the patient's chance of obtaining the longer term, managed care necessary for positive outcomes. While this is true for all patient categories, it is especially illustrated by four problem groups facing rural providers today.

MEDICAL LIABILITY CRISIS

According to a recent issue of *Medical Economics*, 63 percent of all family physicians and 45 percent of all general practitioners have dropped obstetrical care during the past five years in order to minimize malpractice risks. Medical liability premiums charged by physician-owned insurers increased by 99 percent in Utah, 73 percent in Colorado, 60 percent in North Carolina, 55 percent in New Mexico, 50 percent in Wyoming and 46 percent in Kentucky.

A recent survey by the Kansas Academy of Family Physicians showed that 23 percent of their members have dropped obstetrical services in the past five years citing rising medical liability insurance costs as a major deterrent. The group's executive director predicted that obstetrical services, especially in rural areas, is headed for a crisis.

A recent unpublished study in Colorado showed that if malpractice insurance continues to increase, the number of physicians providing obstetrical care will decrease, the distance pregnant women must travel and the number seeking care outside their county will increase, and low-income women are again the most vulnerable. Already 21 percent of the state's family and general practice physicians had dropped obstetrics in the past five years, citing concerns over malpractice insurance costs and fear of litigation as the major reasons. Over 60 percent of physicians providing obstetrics care for Medicaid and indigent women said they would drop obstetrics with increasing malpractice premiums. If rates were to rise only modestly to anticipated rates, 66 percent of rural FPs and 47 percent of rural OB/GYNs would drop obstetrics, resulting in thirteen additional counties (32 in all) having no medical obstetrical care. An additional 15 counties would have only one obstetrical provider.

INFANT MORTALITY

Reduction of infant mortality is linked to relief from poverty and access to care. Perinatal care, good prenatal experience, and adequate follow-up are dependent on adequate housing and nutrition, health education, availability of specialty knowledge and competence, access to long-term follow-up by trained professionals, and adequate resources to assure the availability of clothing, heating, and necessary medication. Gaps in the service network and lack of resources would be expected to increase the risk of infant mortality. That is, we would expect higher infant mortality rates in rural populations due to lack of access to comprehensive care, especially in populations with high rates of poverty. In a U.S. population with an overall infant mortality rate of 11.2 deaths per 1,000 live births, we find the following:

INFANT MORTALITY

	Metro	Non-Metro
Black	19.1	19.7
White	9.6	10.0

The above statistics indicate a higher infant mortality rate for rural areas across race. Using fetal mortality for Blacks only, the figures are:

BLACK FETAL MORTALITY

All United States	Metro	Non-Metro
13.7/1,000	13.1/1,000	16.3/1,000

Non-metro Black/U.S. residents experience a 25 percent higher rate of fetal mortality than their metro counterparts.

The infant mortality rates for rural minorities is horrendous. This factor is now being further exacerbated by the malpractice insurance crisis that is forcing family practice physicians out of obstetrical services. This will only lead to an even higher infant mortality rate in rural areas.

THE HOMELESS

Rural statistics on homeless individuals have been hard to develop, partly due to a lack of statistical data which in itself is a result of the inadequacy of rural resources. Although rural areas have 67 percent of all U.S. substandard housing, increasing unemployment rates already higher than comparable metro rates, and snowballing employer and business failure, homelessness is still commonly viewed as a predominantly urban problem. Disparity in the approach to the homeless problem enabled by recent grants under the newly created Section 340 of the Public Health Law are shown in the table below:

	Percent of population	Estimated percent of age of homeless—CA&MD studies	Number of grantees under sec. 340
United States	100	100	109
Metro	75	82	99
Non-Metro	25	18	10

In recognition of the need for a comprehensive service approach to the needs of the homeless, Section 340 of the Public Health Service Law, created by the Stewart B. McKinney Act of 1987, includes primary health care, substance abuse programs, and mental health resources. With few resources overall to assure access to health and social services, rural communities have been provided with additional federal dollars, but nonetheless these are obviously insufficient to meet projected needs.

AIDS

The increasing seriousness of the AIDS epidemic has been projected to have devastating impact on Americans and on the health care community which serves their needs. AIDS patients represent an excellent group to illustrate comprehensive care needs, as available and sensitive care is necessary at all levels of the technology continuum. Screening and education, as well as counseling, are indispensable at entry levels to meet the medical, social, and emotional needs of the patient. The course of the disease process alternates between demand for high-technology intervention and longer term-supportive care. The entire system depends on the availability and coordination of resources to provide testing, counseling, education, primary medical care, specialty and hospital interventions, home care, respite, and hospice care.

Very little has been said concerning rural responses to AIDS patients, and few rural areas possess the coordinated patient care system necessary to meet this challenge. Fewer still have the resources to actually create such a local system. While AIDS continues to predominantly impact the urban delivery system, Centers for Disease Control (CDC) statistics indicate that rural areas are facing a growing problem which will further tax their limited resources or force victims of AIDS to move to urban areas, abandoning their existing social support systems and placing additional demands on metro health care services. Fairly consistent CDC data indicates that 20 percent of AIDS cases are rural, an indication that, proportionate to population, the illness is more evenly distributed in metro/non-metro areas than is generally thought. The AIDS syndrome is an extreme test of the national health care system. In rural areas, it will place further and heightened stress on a system already inadequate to meet the needs of a less fortunate population.

MIGRANT FARMWORKERS

Each year, more than half a million migrant agricultural workers and dependents leave their homes, enter the migrant "stream," and travel throughout rural America. In many ways, their relative degree of access to health services defines the lower end of the continuum. The general problems of resource and provider shortage, inadequate housing and social services, follow-up/management issues, and poverty are exacerbated for this population of people by the nature of their activities. Within this country, they are an "outsider" group in each community they visit, with family and social support groups far away. In general, their outsider status places them at the bottom of the priority pyramid when services are available, and keeps them from finding system access points which are often not well understood even by long-term residents. Given the nation's ongoing dependence on migrant and seasonal labor illuminated through discussions of the effect of the new immigration law, rural America will continue to face this problem for some time to come, and will need to deal more effectively with access to existing services as well as the problem of care in areas which do not now have migrant health programs available.

FURTHER ISSUES

To recapitulate, rural areas have longstanding problems in terms of poverty, access to and availability of health care providers, and lack of common resources to assure continuity of care. While the current rural economic crisis has added to the problem, it is by no means a new or cyclic phenomenon. A recent study by Ross and Morrissey (1987) indicates that, while a larger proportion of the nonmetropolitan population is poor, the percentage of nonmetropolitan poor who are persistently poor is about the same as for the metropolitan population. They found that "Over 8 percent of non-metro residents were persistently poor in 1982 compared with 5 percent of metro residents. An additional 14 percent of nonmetro and 9 percent of metro residents experience transitory periods of poverty. And, despite the concern about poverty spawning a permanent underclass in urban ghettos, the share of poor who were persistently poor was about the same (35 percent) in both non-metro and metro areas" (Ross & Morrissey, 1987). Thus, while overall metro-non-metro statistical comparisons tend to mask the presence of affluent population segments in urban society, comparisons of the poor and underserved in rural and urban areas clearly show mutually-shared economic and health care access disadvantages.

Moreover, general problems of access to health care in rural areas are exacerbated for minorities and special population groups. Blacks, Hispanics, and the elderly face crushing poverty in areas where care often is more available with increased ability to pay. Moreover, residents of extremely rural (less than 6 persons per square mile) areas, migrant farmworkers, AIDS patients, and high risk mothers and infants experience most sharply the lower end of a continuum of provider resources already attenuated by geographic distances and population limitations. Consideration of rural health problems must involve discussions of both patient issues and provider/resource availability.

PATIENT ISSUES

Patient issues include both availability and affordability of care. If no care is available, or if continuity of care is interrupted or poorly coordinated, all potential patients suffer. Interruptions in availability of care and current lack of services are serious problems facing all rural residents, and reasons for availability problems are increasingly economic in nature.

Regardless of improvements which might be made in availability of care, affordability will remain a separate but related issue. Especially in rural areas of the United States today, if you are Black, Hispanic or elderly, you should avoid illness at all cost. The ability of poverty populations to obtain health care in rural America, as demonstrated by differential morbidity and mortality data, is so restricted as to make rural residence alone a clear health danger to the poor. And for those already ill or at risk, rural residence is an even greater threat. High risk mothers, high risk infants, AIDS patients, elderly Americans with chronic health problems, accident/trauma victims, and others for whom communication along the health care system and access to secondary or tertiary care providers is important should not live in rural areas.

PROVIDERS/RESOURCES

If you can afford to live in a rural area and pay for ongoing health care, the provider of that care may not be able to afford to treat you. Our national system of reimbursement is constructed on volume and averages. The DRGs which drive hospital reimbursement today are based on average care. For some illnesses, a given patient may require three days of hospitalization or seven days, and the reimbursement is capped at five days. In a large hospital which sees many patients with that illness, over time the number of patients requiring three or seven days will even out, and patient flow may begin to approximate the distribution on which the payment cap is calculated. In a small community hospital which may see only half a dozen such cases per year, the patient flow has no chance to approach that distribution. If all six patients, by chance, happen to require seven days of care, the hospital loses money. If similar conditions hold across all diagnostic groups, the hospital is in serious trouble.

Life-saving technology, a high cost option, is also spread across volume of patients. A piece of equipment which costs $500,000 and is used to treat 50,000 patients during its effective life is less costly per episode then if it is used to treat only 10,000 patients.

Similarly, an obstetrician who assists in the delivery of 250 babies each year, paying the same liability insurance premium as an obstetrician who makes 100 deliveries, is more likely to be able to spread the cost of that insurance across patients without placing the cost of delivery outside the reach of some patients. In rural areas, a family practitioner who is trained in uncomplicated obstetrics may have been the only resource available last year. In 1988, such a provider, looking forward to only 20-30 deliveries, cannot afford to provide obstetrics due to insurance cost alone; at 25 deliveries per year, a $25,000 insurance policy becomes an unacceptable overhead expense.

Equivalent arguments can be made for the availability of health services along the entire spectrum. Rural communities are forced by scarce resources to choose between necessary services. In very small communities or sparsely-populated areas, the people may be forced to do without health services altogether.

DIRECTIONS FOR CONSIDERATION

Discussions of response should be designed to increase affordability and access to care for rural residents. Two approaches should be used in concert: assuring care for poverty populations while working to strengthen the health care system in ways which ensure that comprehensive health care can be accessed through entry points in rural areas. Several approaches have been and are being used by the federal government and state/local officials to encourage access to affordable care for rural residents. They include Community/Migrant Health Centers, the National Health Service Corps, Certified Rural Health Clinics, and hospital transition legislation, as well as discussions of equitable reimbursement for rural providers based on a re-examination of the original reasons for a rural/urban reimbursement differential. While some of these approaches are quite recent, many have a history of service which deserves re-evaluation with an eye toward improved services.

COMMUNITY HEALTH CENTERS

Community Health Centers grew out of the old OEO programs. Initial forays into rural areas occurred 20 years ago, under Health to Underserved Rural Areas (HURA) grants and Rural Health Initiative (RHI) grants. All remaining such grantees are now incorporated under Community Health Center (CHC) policies, with the same administrative guidelines and reporting requirements as all other CHCs.

Originally, funding for HURAs and RHIs provided more flexibility in areas of governance, clinical care and administration than permitted by CHCs. This same flexibility extended to the number of services provided. It was thought that rural programs could be operated with fewer services, and lower grant dollar levels, than larger health centers. At baseline, rural centers were typically smaller sites, with fewer providers, lower grant dollar funding, and fewer services. Typically less funding and effort was directed toward dental services, pharmacy, social services, preventive health education, transportation and outreach. An assumption made by such centers was that those services could be developed during the center's growth. But that has not proved possible. In fact, funding for all health centers has not even approached the increased costs of service caused by inflation alone. The current three year funding freeze, in fact, has threatened the existence of allied health services even at larger centers. In terms of rural needs, and the lack of other resources discussed above, both the theory of rural center establishment and the continued low level of funding have been in opposition to documented trends. Higher levels of authorized funding are necessary, even for those centers which exist, to meet rising costs and the increasing demand for services to the medically indigent caused by the rural economic crisis. Even more money will be necessary to permit expansion of this much needed program into other rural areas which currently lack services.

CERTIFIED RURAL HEALTH CLINICS

The law permitting certification of rural health clinics is 10 years old. Low reimbursement caps have driven many such clinics to request decertification, and discouraged others from applying for certification. A program which was meant to increase flexibility of rural services, including payment for home visits and visiting nurse programs, while maintaining cost effective local provider access through use of midlevels, has withered on the vine. Congress predicted that approximately 2,000 clinics would be Certified by 1990, but there are only about 400 Certified Rural Clinics today.

And while the cap on reimbursed costs has finally been raised, administrative regulations and lack of knowledge about the legislation remain barriers to maintenance of existing clinics or establishment of new clinics. More work needs to be done to facilitate the ability of rural providers to obtain and maintain Certified Status.

NATIONAL HEALTH SERVICE CORPS

The NHSC has been discussed under the physician shortage heading. It should be noted that great need still exists in rural areas. Dismantling of the NHSC is a real blow to such communities. Several approaches to this problem have been discussed, and one or more federal/state incentives to rural practice will remain necessary for the foreseeable future if rural Americans are to be able to access the care they need.

HOSPITAL TRANSITION

Rural hospital face double jeopardy. Current inequitable reimbursement by Medicare, combined with low utilization, threaten the existence of hospitals in many rural areas. Transition of the hospital to a different facility that would continue to provide care to rural residents is not currently facilitated by either legislation or administrative policy. Efforts to provide that facilitation are occurring at the federal legislative level, but model state legislation and changes in federal/state administrative regulations are immediately necessary, as are changes in the DRG reimbursement formulae to recognize rural disadvantage in current regulations.

While no easy answer to rural health care crisis exists, specific initiatives as listed below would provide an initial attack on the problem from several directions. They include:

Given the ever-increasing shortage of health manpower in rural areas:

Congress should fully fund the National Health Care Service Corps Scholarship and filed placement programs as well as the Loan Repayment program in order to place urgently needed health care professionals in rural areas.

States need to take a serious look at reforming their existing health manpower programs to more effectively place health professionals in the neediest areas and ensure their retention over time.

Federal initiatives to states should be developed which would encourage states to adopt/reform health care practice statutes to allow for appropriate use of mid-level practitioners in primary care settings.

Federal and state reimbursement policies should foster incentives to attract and retain physicians and other providers in rural areas.

Federal efforts to market and provide technical assistance to enhance the number of Certified Rural Health Clinics should be developed.

Given the increasing number of uninsured rural residents and the lack of access to basic health care:

Congress should reauthorize Community and Migrant Health Center programs at levels of funding sufficient to enable current centers to meet necessary costs and provide for new centers in rural areas unserved at present.

Federal and state public officials should pursue private/public initiatives designed to ensure that Americans without health insurance are provided basic health coverage regardless of ability to pay.

Given the increasing crisis in malpractice insurance and its impact on access to obstetrical service and, ultimately, infant mortality in rural areas:

Model federal legislation as a guide to states now struggling to address the threat to service posed by rapidly increasing malpractice insurance costs should be developed along with incentives for states to address this problem.

Given the financial crisis facing many rural hospitals and the increasing number of rural hospital closures:

The Medicare program should replace the separate urban and rural DRG rates with a single rate for all hospitals adjusted for legitimate and current local cost variations.

The current wage adjustment in the Medicare DRG reimbursement formula should be refined to more accurately relfect the cost of professional labor for rural hospitals.

Federal and state public policy, reimbursement strategies and health care regulations should be designed to encourage hospitals to diversity and engage in a smooth transition health service facilities tailored to address the unmet health care needs for the local area.

Given the increasing prevalence of public health issues such as AIDS, infant mortality and homelessness in rural areas:

Flexible federal/state assistance for these public health problems should be designed to ensure programs are both responsive to the unique characteristics of rural areas and funded sufficiently to allow for flexible approaches.

While acknowledging the importance of research, assure that federal AIDS initiatives emphasize the necessity of community education outreach, prevention and early diagnosis and treatment for victims of AIDS.

States should embrace the options provided under federal legislation in recent years which would enhance the number of women and children eligible for Medicaid coverage in order to assure early access to health care and reduce infant mortality.

Congress should provide sufficient appropriations for the federal Health Care for the Homeless program to include provision of services to homeless people in rural communities which received minimal health care support during the first year of the Program.

Congress should ensure that homeless women, infant and children are eligible for the WIC program in all states.

Given that the priority public policy direction is focused on the needs of the rural health service delivery system in crisis, it is also recognized that practical research is necessary to assure a solid understanding of the nature and extent of the rural health care problems. Therefore:

There should be continued funding for rural health research centers through HRSA's Office of Rural Health Policy.

Additional funds should be provided to the National Center for Health Services Research to support studies on rural health services based on the research agenda developed last year under a Congressional mandate.

Some of these recommendations would improve health care for both urban and rural populations given the fact that rural populations and urban poverty populations share common problems. While it is not likely that rural populations will move *en masse* to urban areas, it is probable that increasing numbers of high-risk segments of the rural population will seek necessary but locally-unavailable care by traveling to the city. Such a migration of problem patients, including poor minority group members, AIDS patients, or high-risk mothers has already been seen in some areas. This places additional burdens on that portion of the urban health care system which deals with uncompensated care, at a time when it can least afford such an increase. Rural residents and urban uncompensated care or medically-indigent populations have similar problems. They can and should work together to effectively advocate for policy changes of mutual benefit. Medically-indigent urban residents also face provider shortages, facility closures, and inability to maintain access to care in the face of rising costs. Common interest indicates that workable policy decisions be sought by working together toward a goal of improved health for all Americans.●

50TH ANNIVERSARY OF THE NATIONAL SKI PATROL

● Mr. HATFIELD. Mr. President, 50 years ago, New York insurance broker Charles "Minnie" Dole founded the National Ski Patrol to serve the needs of disabled winter sports enthusiasts and to provide skier safety information. The organization has grown to a force of more than 24,000 volunteer and professional members.

Since the formation of the National Ski Patrol, the nonprofit organization has saved many lives and provided prompt first aid to thousands of injured skiers. Because its members must meet rigorous requirements, including 60 hours of advanced Red Cross instruction in everything from car extrication to childbirth, many more people than just those who ski have benefited from the National Ski Patrol. In recognition of the National Ski Patrol's dedication to service, it was granted a Federal charter by Congress in 1980.

The National Ski Patrol now operates in almost every State in the Union, as well as overseas. Its membership ranges in age from 15 to 70 and includes lawyers, educators, artists, business owners, high school students and many others. They can be found at work on the slopes providing the one thing they all have in common to those who need it, the willingness to help others. The familiar cross on brightly colored parkas is sign of welcome to disabled skiers as well as a symbol of skier safety to everyone on the slopes.

Most of those involved in the National Ski Patrol are volunteers, who, in their spare time, learn the skills required to become and remain a patroller. In addition to the patrol of winter recreation areas, patrollers are called upon to help in emergencies such as avalanche and blizzard searches. They are continually taking refresher courses to assure that they will remain current on the latest first aid and disaster techniques.

Throughout its 50-year history the National Ski Patrol has continually worked to improve its services. From the establishment of a communications department to help distribute information to members, to the creation of a full-time professional division, the National Ski Patrol has been constantly changing, growing and improving. The National Ski Patrol's continued involvement in the National Avalanche Foundation earned them the responsibility of assuming administration of the foundation, which includes running the National Avalanche School to teach the fundamentals of avalanche science, protection, and travel techniques. The National Ski Patrol recently developed a Winter Emergency Care Program engineered to meet the special first aid needs of the patrollers with a program textbook soon to be published.

National Ski Patrol members use special emergency care and transport equipment and often transport skiers miles before they can access hospital facilities. The National Ski Patrol has been an integral part of skier safety and injury treatment for over 50 years and will continue to diligently serve the public for years to come.

Mr. President, the National Ski Patrol has proven to all of us how one group of dedicated individuals can make a difference in the lives of others. I urge my colleagues to join me in congratulating the National Ski Patrol for their 50 years of service and to wish them continued success for the next 50 years.●

CONVENTIONAL MILITARY BALANCE IN EUROPE

● Mr. WIRTH. Mr. President, the arms control debate brings us to consideration of the conventional military balance in Europe.

In Measuring Military Power, Joshua Epstein presents a thoughtful and helpful framework for analyzing the conventional balance.

Joshua Epstein believes that a static bean count of a potential adversary's forces presents a seriously inadequate assessment of war-fighting capabilites. He strongly emphasizes the need for a more dynamic evaluation, the need to raise the debate on the military balance to a higher level of analysis. To illustrate his approach to the problem, Epstein develops a case-study of the capabilities of the Soviet Air Force. After an initial look at the notable difficulties the U.S. has encountered in maintaining reliability in complex weapon systems, Epstein examines similar difficulties in the Soviet military. He concludes that the Soviets have significantly greater problems than the United States in absorbing new technologies and putting them to use in their fighting forces.

For Epstein, the key to measuring the true dimensions of the Soviet air threat lies in accurately gauging the relative rate of change between technological advances in aircraft and subsequent improvements in Soviet ground support capabilities. If the latter does not adjust with sufficient speed, a "maintenance gap" opens, reliability and sustainability suffer, and actual capabilities fall well short of the seeming potential. Based upon an extensive review of Soviet military journals, Epstein believes that the Soviets face a far greater "maintenance gap" than the West.

He sees the root of the problem in a military bureaucracy which, as aircraft sophistication increased, failed to provide the necessary funds and manpower to allow adequate maintenance of the new equipment. Added to this, poor training programs (for both pilots and support personnel) and the Soviet penchant for centralized, inflexible, and detailed regulations lead Epstein to view the Soviet Air Force as a less formidable adversary than a simple inventory of its aircraft would suggest.

From these observations, Epstein moves on to construct a detailed methodological model to demonstrate how "dynamic" factors which affect the war-fighting capabilities of a military force can be analyzed and evaluated.

I would like to submit for the RECORD, the preface to Mr. Epstein's book, which provides in brief for the essence of his arguments. For those with the time and inclination, I heartily recommend perusal of the full volume.

The preface follows:

MEASURING MILITARY POWER—THE SOVIET AIR THREAT TO EUROPE

(Joshua M. Epstein. Measuring Military Power, Princeton, NJ: Princeton University Press. 1984.)

PREFACE

The single most fundamental assumption concerning the European military balance is that of Soviet conventional superiority. That assumption clearly conditions Western thinking on the need for theater nuclear forces; it represents the basic constraint on America's freedom to shift forces to other regions, such as the Persian Gulf; it dictates the bulk of U.S. and Allied defense spending; and it colors diplomacy at virtually all points of political competition between East and West. That the Soviets enjoy conventional superiority in Central Europe is among the most important assumptions, not merely in defense policy, but in world politics today.

Is that assumption warranted? The prevailing level of defense debate is inadequate to answer this question.

Everyone would agree that superiority entails the capacity to achieve concrete military goals such as the destruction of specific targets or the occupation of certain territory. Claims that the Soviets are superior, therefore, assert that certain tangible, statable military goals would be achievable by them were deterrence to fail. Superiority claims, in short, are claims about wartime effectiveness about performance in the execution of wartime missions, about outputs.

Virtually the entire defense debate, however, concerns itself not with wartime outputs, but with peacetime inputs—static inventories of men and machines. Negligible attention is paid to the operational factors involved in taking those peacetime inputs (e.g. tanks planes) and producing a wartime output—achieving any specific military goal.

In those rare cases in which basic operational factors (e.g., skill flexibility, coordination, sustainability) are noted at all, they are usually left hanging, or are tacked on to an underlying "bean count." Very few attempts are made to integrate inputs (i.e. numbers of tanks, planes, etc.), technological factors, and operational factors in such a way that they can be brought to bear on output. Recognizing that each of these must be a component of analysis, their isolated treatment simply cannot come to grips with the real issue: Given a specific Soviet threat (a postulated attack, or campaign) how does one arrive at a reasoned judgment as to its plausibility; it is plausible that the Soviets could successfully execute the postulated attack?

This book tries to suggest a general approach to that question, a way of thinking systematically about it. It does so not by attempting to assess all conceivable Soviet threats, but by doing a close and careful job on one. The mathematical framework developed to analyze that threat, though it can be generalized is not applicable to every other threat. But the considerations at work in devising and applying it are completely general. Those are the book's methodological contributions.

By their application, it offers an assessment of the Soviet offensive tactical air threat to NATO, now a critical aspect of the European conventional balance. The book thus takes an important step in the direction of a more meaningful, dynamic assessment of the balance of power in Europe, and hence, in the world at large. That is its military contribution.

Contrary to popular assumption, military analysis and political insight are not mutually exclusive. In fact, to assess Soviet capabilities in a rigorous way, one is compelled to examine Soviet politics in the military sphere. In arriving at its military judgments, the book reveals an intriguing and colorful side of Soviet politics that has received virtually no attention in the West—a Soviet "subsystem" whose military importance and political vibrancy make it a promising area for future research. That is the book's political contribution.

The discussion also raises some serious questions about the efficiency—indeed, the definition—of "Soviet defense production" and about the efficacy of Soviet military modernization more generally. At issue, finally, is the capacity of Soviet institutions to change, to adapt, when technological progress demands it. Or, as Marx himself might have framed the question, "Can Soviet relations of production evolve along with the forces of production themselves, or will there be deepening 'contradictions' between the two?"

Since, in this case, the productive output is military capability, one might conclude that such "contradictions of communism" must be an unqualified good for NATO. To be sure, Soviet problems present the Western Alliance with exploitable military vulnerabilities. But there is also a definite sense in which the Soviets' very deficiencies make them more, rather than less, dangerous militarily. Those deficiencies, the offensive (perhaps destabilizing) inclinations they inspire, and the deep Soviet dilemma they produce, are set forth in what I hope is a novel reading of Soviet military doctrine.

Returning to the book's main thrust, the assessment of current Soviet capabilities, it may avoid unnecessary confusion to address at the outset some of the common criticisms of contingency analysis (the assessment of concrete, specific threats) and the application of mathematics to it.

In the Introduction, a specific Soviet offensive air attack is presented for analysis: definite targets in NATO territory (air defense weapons, NATO airbases, communication nodes, etc.) are set forth, and their conventional destruction is posited as the immediate goal of Soviet tactical air operations.

As it happens, this is a contingency of widespread concern. But, presented with any such threat, it is always legitimate to ask: "How do you know that the threat you've posited is the 'right' one, the attack the Soviets would try to execute?" I don't know, and short of war itself, I cannot know, nor could I verify the "rightness" of any other attack that might be postulated. Indeed, one of the deeper ironies of this entire business is that, precisely in the event that our selection of contingencies, and our planning against them, are correct, we'll never "know" it, because they will have deterred war!

But, just for the sake of argument, suppose we did know precisely the attack the Soviets would attempt to execute were deterrence to fail. The current level of debate would still be inadequate to assess that threat. And since the Soviets are not in the habit of providing such intelligence, one is forced to postulate specific threats and assess their plausibility. If the threat before us can be analyzed, then the analysis can be expanded to include others, until the entire spectrum of plausible Soviet threats is identified. Those who would prefer to begin that process with a different threat than the one analyzed here are welcome to do so. If this book succeeds, its methods will be equally applicable to that threat.

Nevertheless, the more "strategically" oriented would claim that contingency analysis—the focus on specific threats—is myopic and misguided per se. It misses the forest for the trees: "I don't care about specific threats," these critics will say, "I care only about the global balance of power."

So do I. I just don't know how to evaluate it without recourse to contingencies. Forests, after all, are made of trees; if one can be felled, maybe others can. This contingency may be the "wrong" one. But if its analysis proves to be possible, perhaps the same approach can be successfully applied to others—theater by theater, contingency by contingency—until the "global" spectrum of plausible threats is identified. As a start, the threat before us will suffice; the procedures developed will allow continuing on to other threats if that is desired. But the refusal to start anywhere (the "global-only" perspective) should certainly not be accepted as the equivalent of having finished.

Another evasion of military analysis has gained currency and deserves note. Its various formulations all reduce to the following claim: "Because the perception of Soviet capabilities is important politically, examination of the capabilities themselves may be dispensed with."

Certainly, perceptions of Soviet capabilities are important politically. But that rather unstartling observation hardly frees one from the problem of military analysis. On the contrary, precisely because perceptions matter, it is of the utmost importance to correct our perceptions if they are wrong. I don't know of any way to check the accuracy of our perceptions without examining their objects—the capabilities themselves—as rigorously as possible.

Obviously, diplomacy is not, and should not be, the slave of military analysis; military decisions cannot be made in a diplomatic vacuum. But that hackneyed admonition is no license to proceed with diplomacy in a haze of unexamined military perceptions, or to unquestioningly pander to erroneous ones.

The domestic political variation on the same theme generally runs as follows: "Defense decisions—with or without analysis—are politically (or economically motivated, and since 'it's all politics' anyway, why go to all the trouble of analysis?" Because the outstanding question remains: Which policy deserves to be advanced and supported in that political arena? Merely to observe that "it's all politics," or even to describe those colorful politics in bureaucratic detail, does not begin to address that more compelling question.

It wouldn't be as compelling were there some "invisible hand" to guarantee that the competing interests of politicians, defense industrialists, and the military services (to name a few) would somehow converge in a force structure that efficiently satisfies the nation's military needs. But there is no such mechanism in America's "marketplace of defense," and in its absence, there is no alternative to planning. In planning for deterrence, the first question is that of the potential adversary's capabilities—not his peacetime inputs, but his wartime outputs.

Lacking such assessments, the adequacy of one's own capabilities cannot be judged, locally or globally: Deficits between wartime requirements and current capabilities, in turn, cannot be measured; and the relative attractiveness (politically as well as financially) of feasible corrective policies therefore cannot be gauged. In short, deterrent planning, defined as the derivation of wartime requirements, is not possible without threat assessment. It is toward that larger undertaking that this book, by both its methods and results, is directed.

While accepting these arguments for contingency analysis, many will still regard its quantification as a foredoomed quest for certainties in a world of chance. To be sure, anyone looking for certainty in this business would be doomed. But that is not the goal of quantification; mathematical statements are not presented as mathematical laws any more than judgments otherwise arrived at are presented as eternal truths.

Recall the question highlighted above: Given a specific Soviet threat, how does one arrive at a reasoned judgment as to its plausibility? The critical words are "judgment" and "plausibility." Obviously, the threat's execution is possible. Technically, any physical event is possible (i.e., there exists some probability). But not all possible events are plausible. If we did not draw this distinction all the time, we would live in constant terror of being struck by lightning, eaten by lions, or carted off to alien worlds: all possible, but none terribly plausible.

While it is possible that the Soviets' capabilities are literally boundless, none of us really finds this plausible either. No one who did could consistently advocate any expenditures on defense since, if the Soviets were perceived as literally and inalterably omnipotent, there would be no reason to spend a dime! Since no one is advocating that the Western Alliance stop spending, there must be a consensus that some upper bound on Soviet capabilities exists. If we agree—as in fact we do—on its existence, then how can we estimate it?

Needless to say, statistical confidence of a sort that might be obtained from a random sample of NATO-Warsaw Pact wars is (thankfully) unattainable. Though data exist on a variety of much narrower subproblems, all macrolevel threat assessments rely on judgments of plausibility.

The goal of quantification therefore is not to eliminate judgment; nor can any method ensure that judgments will be right. The goal is to ensure that judgments are examined against the most explicit criteria of plausibility that can be erected on the limited information base available. It allows one to ask clearer questions: "With what assumptions would this threat's execution be consistent? Are those assumptions plausible to me? What, in fact, am I assuming when I make a judgment on threats?" The approach allows one to identify and to pull out one's often unrecognized assumptions and look at them, ask about them, and debate them. It does not purport to eliminate uncertainty, but to identify it in such a way that its consequences can be gauged and, where possible, its extent reduced.

The main point is that analysis seeks neither to preclude what is always possible nor to attain confidence in the statistical sense. Rather, it is condemned to the realm of plausibilities and, as such, is a tool of (and not a substitute for) judgment. Basically, the entire exercise is in the spirit of Socrates' dictum: "Know thyself." If you know yourself better—if your judgments are more reasoned—for having done it, then it was worth doing. In that sense, military simulation is a type of 'gedanken', or thought, experiment.[1]

Many of the usual qualms with quantification arise because the wrong goals are presumed (often by practitioners as well as critics). Other common criticisms of mathematics, however, rest on an unfair double standard, as Frederick William Lanchester observed:

> There are many who will be inclined to cavil at any mathematical or semi-mathematical treatment of the present subject, on the ground that with so many unknown factors, such as the morale or leadership of the men, the unaccounted merits or demerits of the weapons, and the still more unknown "chances of war," it is ridiculous to pretend to calculate anything. The answer to this is

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[1] A general mathematical structure for all such exercises is presented in Appendix D, with some general observations on the duality of threat assessment and force planning.

simple: the direct numerical comparison of the forces engaging in conflict or available in the event of war is almost universal. It is a factor always carefully reckoned with by the various military authorities; it is discussed ad nauseam in the Press. Yet such direct counting of forces is in itself a tacit acceptance of the applicability of mathematical principles, but confined to a special case. To accept without reserve the mere "counting of the pieces" as of value, and to deny the more extended application of mathematical theory, is as illogical and unintelligent as to accept broadly and indiscriminately the balance and the weighing-machine as instruments of precision, but to decline to permit in the latter case any allowance for the known inequality of leverage.[2]

In other words, the bean-counting detractors of mathematics in fact have a mathematical model, namely, that the relative effectiveness of forces in war, f(r), equals their peace time numercial ratio, r. Yet, without providing any compelling argument in support of that particular model, the bean counter feels no compunction in dismissing all competing models out of hand, merely on the ground that they are mathematical, when they are no more "mathematical" in principle than his own!

But, even granting all of this, there is one obvious question that deserves an answer: What about Soviet data? How does one obtain it? How can one proceed without it?

In some cases, reasonably trustworthy estimates are available. In many important cases, of course, they aren't. But, again, why jump to the conclusion that perfect measurements are necessary to address the problem at hand? What degree of precision is really required to do the job? The job is to establish a plausible bound on Soviet capabilities. To do that, it is sufficient to use values the Soviets are unlikely to exceed. Those may be the "wrong" numbers, but they will err on the side of favorability to the Soviets. If, on those assumptions, the threat is not plausible, then the "right" numbers would only render it less so.

Naturally the question arises. "How can you find numbers the Soviets are unlikely to exceed without knowing the real Soviet numbers to begin with?"

In the first place, it is possible to adduce the inequality of two numbers without knowing either. We do it all the time. We can say with confidence that Sam is taller than Ivan without knowing either's height. And, if we knew Sam's height to be six feet, we could say with equal confidence than Ivan was less than six feet tall without knowing his height. And so it is in this case. We often don't know Ivan's numbers, i.e., the Soviet numbers for certain variables. But we can often find an analogue for Sam, whos numbers we do know to a reasonable degree of accuracy.

For example, we do not have data for Frontal Aviation's[3] air-to-ground munition accuracy. But we do know the main factors upon which the value depends. They include the technology itself and the skill of the pilot, the latter being a function of training time and the quality of training, among other things. What we lack is an analogue for Sam. In this case, Uncle Sam will do.

There is no evidence that the United States is behind the Soviets in the relevant areas of technology, notably avionics and munition guidance. As for the determinants of pilot skill, the U.S. pilot flies roughly twice as much as his Soviet counterpart. Although shackled by various factors, U.S. pilot training is certainly no less realistic than Soviet. The former has incorporated the lessons of far more aerial warfare experience than the Soviets have logged since World War II. And, in retaining skills, the U.S. enjoys the benefits of simulators far in advance of those the Soviets are reported to possess; highly sophisticated computing and display technology, for example, is involved. Finally, Sam can learn from the winners in the Middle East, while the Soviets must glean their combat insight from the losers.

Where, in any of the areas that would determine accuracy, do the Soviet enjoy an advantage over the U.S.? In the technology? In any of the factors (training time, training quality) responsible for pilot skill? By what miracle of efficiency, then, would the Soviets come out with a value higher than the U.S. value? Is it plausible that they would? Not in my judgment.

So, in this case, Ivan is no taller than Sam. But, for bounding purposes, we'll assign Ivan Sam's height. It is not plausible that Soviet accuracy should exceed American. Thus, for bounding purposes, it will suffice to assign the Soviets the American value. Indeed, we will begin by assigning Soviet Frontal Aviation an average hit probability of 0.75, a value that most American planners would regard as implausibly high for the U.S.

Is that the "right" Soviet value? Probably not. But is it unfavorable to the Soviets to use that value? Not in my judgment. And if, on assumptions of that sort, the Soviets still fail to execute the attack, then surely, on more "realistic" assumptions, they would fall even shorter of the mark.

This is why the book opens with a discussion of American tactical air modernization and its problems, so that enough American information is available to make this type of paintaking comparision for each of the Soviet variables where data is scarce. As a critique of the U.S. case, the chapter may be incomplete, but that is not its function in the book. Its function is to facilitate Soviet assessment by the above approach. While the book's interior chapters are of political interest in their own right, that comparative procedure is their ulterior motive, too; they are qualitative, but they perform a quantitative function and should thus be read on two different levels.

The numerical judgments thus made are then plugged into equations to produce curves of target destruction and force attrition over time. The equations relate inputs to outputs and capture one of the obvious features of the problem. One that escapes most discussions: its dynamic aspect. After all, we do envison number of planes (each carrying numbers of munitions, and supported by numbers of personnel), flying numbers of missions (sorties) per day for some number of days, all against some number of targets defended by some number of NATO combatants.

How do I "know" I've got the "right" equations? I don't. But just as in the case of the Soviet numbers, why assume that the "right" equations are required to make a reasoned judgment on bounds? As long as they are not biased—by their algebraic form—against the Soviets, then they will suffice.

So, for example, the simulated Soviets enjoy perfect weather conditions (excluded from the equations), even though the real Soviets would be imprudent to assume them. No constraints on the range of tactical air planes complicate our bounding equations, though they might well complicate the Soviet planner's life. Aerial reconnaissance and damage assessment ("what's already been hit") are, by exclusion, conducted with perfection by the simulated Soviets. As we shall see, however, the real Soviets express serious concern about difficulties in each area.

Besides omitting many variables, others known to be time-dependent are held constant, and at very high initial values, in our equations. For example, the above-noted Soviet air-to-ground accuracy, initially set at 0.75, is impervious to degradation, even though precipitious deferrals of aircraft maintenance are sustained for days at sortie rates (missions per day) of six, higher than would be plausible in the U.S. case, and in a punishing wartime environment.

By their algebraic form, our equations also award the Soviets constant returns to ground support personnel in generating sortie rates, even though it is clear that at some point, diminishing marginal returns would set in.

These and a host of other such simplifying assumptions are made. Unrealistic? Yes. Unfavorable to the Soviets? Again, not in my judgment. Though the book's interior chapters provide evidence for those judgments, one may of course disagree. But let the methodological point be clear; as long as they err on the side of conservatism (i.e. favorability to the Soviets) then even the wrong numbers, applied in grossly approximative equations, will still address the right question: is the threat plausible?

If, on those conservative simplifying assumptions, it isn't plausible, then on more "realistic" assumptions, it should appear even less so. Or, to put it more pointedly, in order to discredit the conclusions it will not suffice to point out that "unrealistic" assumptions have been made; that is admitted. Rather, one has to show where those admittedly unrealistic assumptions have been unfavorable to the Soviets. How much more favorable to the Soviets would the assumptions have to be in order to alter the main conclusions? And are those assumptions, in fact, plausible?

Basically, the idea is to give the Soviets the benefit of the (often considerable) doubt, and see what happens. Certainty is a will-o'-the-wisp, judgment an ever-present hobgoblin, and so one does what hard-nosed common sense would indicate. In the face of imposing uncertainties, one makes assumptions explicit; with the available (often limited and imperfect) information, one tries to draw inferences that are consistent with those assumptions. The assumptions should then be varied (in sensitivity analysis), lest they prove wrong, as well they may, so that the consequences of irreducible uncertainty may be gauged. And, depending jointly on (a) the degree of uncertainty outstanding and (b) the sensitivity of one's conclusions to it, one buys hedges.

The method is not at all new and, in fact, it isn't "mathematical" in principle. It has claimed various epithets throughout history, but they have all been names for the same thing: facing up to the problem and trying to be rational.●

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[2] Frederick William Lanchester. *Aircraft in Warfare* London: Constable and Company 1916. pp. 46-47.

[3] Frontal Aviation, a separate Soviet service, is the offensive arm of the Soviet tactical air forces.

INFORMED CONSENT: MASSACHUSETTS

● Mr. HUMPHREY. Mr. President, the free flow of information is something we hold sacred in a democracy. Yet, every day women seeking abortions are denied basic information concerning the nature of risks associated with this procedure. S. 272 and S. 273 would guarantee women the right to informed consent in facilities performing abortion. I urge my colleagues to support these two bills. I ask that the letters from the State of Massachusetts be inserted in the RECORD.

The letters follow:

DEAR SENATOR HUMPHREY: Why did I have an abortion? Selfishness and lack of understanding covers a lot of ground; but if someone shared the pro's and cons with me and if I knew I could have a premature baby later, miscarry, try suicide 3-4 times, be institutionalized, and hide the hurt in a bottle (all of which I experienced), I would never have had an abortion.

Pro-choice people told me it would be over in five minutes and never told me that they would know if it was a boy or girl and that fetus meant "young one."

Fifteen years have passed, and the last six years knowing Jesus has forgiven me have been my source of strength as I share with others the lies surrounding the abortuaries.

It is rewarding to see the results of mothers giving birth to their "young ones" through the WEBA (Women Exploited By Abortion) ministry, and living happily guiltless ever after.

Love and Prayers,

ANITA TEXEIRA.

TO MEMBERS OF THE U.S. SENATE:

As a woman who had an abortion as a young teenager and suffered greatly, I would like to address the concept of "pro-choice" as it relates to Senator Humphrey's "informed consent" bill.

The term choice, as used to justify legalized abortion, has three assumptions. The first is that a person has enough information to engage in a reasonable decision making process. The second is that undue coercion is not involved, and the third is that a person has sufficient maturity and competence to consider the consequences of a decision.

I have often thought about how my abortion could have been prevented. The primary deterrent would have been to have had basic information about fetal development, the abortion procedure, and possible complications. At sixteen, I had no knowledge about any of this and was under considerable pressure to have an abortion. I sought to get more information from the family planning counselor and physician but was only told that the baby wasn't alive, that emotional problems were nonexistent, that there was no risk to my future childbearing potential, and that women were much more likely to die or be sterile if they carried their babies to term than if they had first trimester abortions. This was the misinformation I was given to consider when making a "choice" for abortion.

Sixteen years later, I still find it extremely distressing that I was so misinformed—that I was denied accurate information about such an important decision. I am outraged that women continue to be denied accurate and complete information when considering abortion when the doctrine of informed consent requires that all potentially relevant information be presented to a patient for any other surgical procedure.

I beg you to consider what it is like to have had an abortion and then see a picture of a developing unborn baby, or worse, pictures of babies who have been killed by an abortionist's tools or chemicals. Some women even suffer the extreme trauma of seeing the remains of their own baby after an abortion. The woman realizes that a fertilized egg or piece of tissue wasn't removed from her, but that a developing baby, her own child, was deliberately killed, and that her womb was the site of that killing. The horror of the moment of this realization is indescribable.

The other two implications of the term "choice"—lack of coercion and adequate maturity and competence are also often severely compromised in a decision for abortion. I am sure you have heard many letters from women who were under extreme pressure from others to abort. These women were certainly not being given the opportunity to freely choose among options. I'm sure you have also heard from women who had abortions when they were very young, or under extreme stress, making well thought out decisions impossible.

I suggest to you that it is crucial for women in these situations to have adequate information about prenatal development and abortion so that they have some protection against those who would coerce them to abort or take advantage of their youth, circumstances, and lack of knowledge. I urge you to support Senator Humphrey's bill requiring informed consent so that women are not denied crucial information in the name of "choice".

Sincerely,

HOLLY TRIMBLE,
Massachusetts Representative,
American Victims of Abortion.●

TWO HUNDRED AND TWENTY-FIFTH ANNIVERSARY OF SHARPSBURG, MD

● Mr. SARBANES. Mr. President, it is my great pleasure to bring to the attention of my colleagues in the U.S. Senate the celebration of the 225th anniversary of the city of Sharpsburg, MD. Surrounded by two national parks, this unique community in the western part of Maryland with a population of 721 has a unique history, adding national importance to this celebration.

Sharpsburg was the sight of the bloodiest battle of the Civil War, resulting in more American deaths and casualties than any other battle before or since. The Battle of Antietam, also known as the Battle of Sharpsburg, is perhaps the town's most noted historical event but its history is much richer than may be suggested by one 15-hour battle.

Soon after the French and Indian War, in the year 1763, a pioneering lawyer from Annapolis named Joseph Chapline founded the town of Sharpsburg, naming it after his friend, Gov. Horatio Sharpe. The town was laid out on a 300-acre piece of land 1 mile east of Chapline's estate, Mount Pleasant. Tobacco had been previously cultivated on the sight. Ceremonies for the inauguration of the town were held on July 9 because of the astrological belief that the 9th was the most fortunate day of the month. One of the lots was used as a trading post. After being the sight of turbulent fighting during the French and Indian War, Sharpsburg residents lived in peace with the Indians, perhaps the earliest example of the town's strong commitment to human rights, later demonstrated by the establishment of John Brown and his followers in the town. It was in Sharpsburg that the famous raid on Harper's Ferry slavery supporters was planned.

In 1765, on a 6,352-acre tract of land that he received as a result of his efforts in the French and Indian War, Joseph Chapline commissioned the construction of the Antietam Iron Furnace. Iron ore was brought up on flat river barges from the quarries that surrounded the sight of the furnace. These furnaces produced the supplies that kept Gen. George Washington and his troops armed during the Revolutionary War. Shot, ball, cannon, and small fire arms were fashioned at Chapline's furnaces.

Religious edifices also played an important role in the landscape and history of Sharpsburg. The Lutheran Church of Sharpsburg was the first church to be built in the town. It was erected on a site deeded by Joseph Chapline in 1768. Later that year, another church was raised on Chapline land. This one was given to the German Reform Presbyterian Group and included enough ground for a small cemetery. The following year saw the first school in Sharpsburg located in this church. Both churches later served as hospitals to tend the wounded during the Battle of Antietam.

At the turn of the 19th century, Sharpsburg showed an increased population and, as a result, a greater availability of goods and services. Inns, taverns, stores, medical facilities, a post office, roads, public schools, a stage line, and horse racing, a very popular pastime in the region. In 1820, the population was 625. It grew to 1,300 by the time of the Battle of Antietam.

Alternately called the Battle of Sharpsburg, it was the bloodiest single-day battle in American history; 26,134 dead and wounded. The battle ended the first attempt of Gen. Robert E. Lee to advance the Civil War into the North. Gen. George B. McClellan was in command of the Federal Army of the Potomac that successfully repelled Lee's Army of Northern Virginia. The battle raged on from 6 a.m. to 5:30 p.m., involving 40,000 Confederate and 87,000 Union soldiers.

At dawn Union Gen. Joseph Hooker began fire on Confederate troops led by Thomas J. "Stonewall" Jackson.

From that moment on the fighting continued at a frantic pace. At about 7 a.m. Jackson received reenforcements and was able to drive the Federals back. Union soldiers were then struck from both sides as Confederates took Dunker Church around 9 a.m. Nearly 2,200 men were killed or wounded in half an hour of battle. At approximately 9:30, Confederate and Union infantry met on an old road separating two farms. This orderly, sunken avenue became known as "Bloody Lane," scene of more than 5,000 casualties.

When the fighting ended at 5:30 p.m., Federal losses were 12,410 and Confederate losses were 10,700. In spite of their loyalties to one side or the other, the people of Sharpsburg answered the call of the injured without hesitation. They converted all public buildings into hospitals to treat the casualties on both sides. With the help of Clara Barton, participating for the first time under fire, they managed to save many lives and prevent the total number of dead from rising any higher than it had. The men of the town spent the day after the battle burying the dead and trying to return the town to normal. The goodwill of the town could have been an act of thanks as not single civilian life was lost.

A quiet and unassuming town, Sharpsburg had only four streets with names by 1881. Today, it has adopted modern amenities, yet it has not lost any of its charm nor any of its history. New families move in from nearby cities to restore the historic homes. The site of the battle was declared a national battlefield and President Johnson gave an address making the burial place of the dead from the battle into a national cemetary. Many tourists each year visit these two memorial sites, learning about the town of Sharpsburg and the battle that took place there 126 years ago.

So Mr. President, I ask my colleagues to join with me in congratulating the people of Sharpsburg on their 225th anniversary and wishing them the best of luck for their next 225 years.

CONGRESSMAN STENY HOYER'S SUPPORT FOR INTERNATIONAL HUMAN RIGHTS

● Mr. SARBANES. Mr. President, later this week Beth Torah Congregation of Hyattsville, MD, will be paying tribute to Congressman STENY HOYER for his outstanding work on behalf of all those denied their fundamental human rights and religious liberties. I am pleased to join with them in expressing my profound respect and deep appreciation for STENY's dedicated and continuing efforts to human rights at the top of our national agenda.

Although STENY HOYER's interest in the subject of human rights did not begin with his Chairmanship of the Commission on Security and Cooperation in Europe, better known as the Helsinki Commission, it is there that he has distinguished himself as a national leader and voice of hope for all those denied their most basic freedoms. Under STENY's leadership, the CSCE, which was created in 1976 to monitor compliance with the Helsinki final act, has been at the forefront of congressional efforts to identify human rights abuses in signatory nations and to work toward their resolution. Whether it has been about Soviet Jewish refuseniks, Ukrainian political prisoners, ethnic Turks in Bulgaria, Czech political dissidents, Soviet-American divided spouses, or national and religious rights activists throughout Eastern Europe, STENY HOYER has communicated our concerns to appropriate officials in a timely and effective manner, and has helped to focus congressional attention on the issue.

Since becoming Chair of the Helsinki Commission in January 1987, STENY HOYER has traveled extensively throughout the Soviet bloc countries, not only meeting with national political leaders to discuss general areas of concern and specific humanitarian cases, but also visiting those who have been oppressed and silenced, bringing them hope and support in times of deep personal anguish. While in the Soviet Union last spring, STENY personally delivered to Iosep Begun a resolution passed by the Maryland General Assembly calling for Begun's release, and conveyed the offer of a teaching position at the University of Maryland. STENY attended a Passover seder for Jews refused permission to emigrate to Israel, and organized several other meetings with groups of refuseniks. Prior to the December 1987 summit meeting, he participated in a live satellite broadcast to the citizens of the United States and the Soviet Union on the subject of human rights, and held a hearing on the Soviet Jewry struggle at which former refuseniks Vladimir and Maria Slepak, Natan Sharansky, Yuli Edelshtein, Lev and Inna Elbert, and Iosif Mendelevich testified. He followed that up by marching in the highly successful presummit rally in support of Soviet Jews, and then traveled to the Soviet Union in the wake of the summit to once again raise issues of concern. Just last week, STENY HOYER introduced legislation to designate August 1, 1988, as "Helsinki Human Rights Day," reasserting our Nation's commitment to the Helsinki process.

Because of the often random nature of persecution in the Soviet Union and Eastern Europe, it is difficult to know which of our actions are the most effective. Yet the consistency and sincerity of STENY HOYER's voice of conscience has doubtless made him one of the most valuable spokesmen for the human rights movement.

Mr. President, the people of Prince George's County, MD, are very fortunate to be represented by such a dedicated advocate of human rights and freedoms. I am honored to join with Beth Torah Congregation as they recognize the tremendous contributions that STENY HOYER has made, and continues to make, in this critical area.●

MORNING BUSINESS

Mr. BYRD. Mr. President, there will be no more rollcall votes today.

I ask unanimous consent that there be a period for morning business, not to extend beyond 6 o'clock p.m., that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DROUGHT

Mr. BOSCHWITZ. Mr. President, the drought currently grips a greater area of the United States than at any time since the 1930's. A majority of us are hearing stories of increasing problems in our States as a result of the continuing dry conditions.

Last week, my agricultural assistant, Mark Seetin, traveled across Minnesota holding meetings to gather information on the severity and impact of the drought. Through daily reports submitted to me, the seriousness of the situation became quickly apparent.

In northwest Minnesota, which is up against the Dakotas, where it is particularly dry, desperate farmers told of pastures of brown and shriveled grass, of having to feed cattle scarce and expensive hay normally used to overwinter livestock. He was told of livestock markets flooded with cattle as a result of high costs and unavailability of feed. As a matter of fact, what the animals were eating often caused them to lose weight, rather than to put on weight, because the feed lacked much nutrition. Our grain producers told of having potential for only half a crop—and that only with favorable moisture from now on. Sugar beet farmers told of greatly reduced yield potentials.

In central Minnesota, farmers told of rainfall levels of less than 1 inch since April. There is news that we may get some rainfall tonight, and it would be a blessing. While the corn and soybean crops were still surviving, they were only days away from significant losses.

Southwest Minnesota farmers, as those in other areas, wondered about the impact on farmers who have recently been through debt restructure. Farmers, lenders, and businesses are concerned about what impact a sharp drop in income will do to a debt-restructured farmer with an already tight cash flow.

As a matter of fact, one has to be concerned about the impact on all of rural America if the cash flow through rural America stops with the failure of these crops.

South-central and southeast farmers told of canning crop pea yields that were 20 percent of normal, with the hot weather threatening to end harvest altogether after a few more hot days.

Cattlemen, dairymen, and hog producers all told of rapidly declining meat prices, while their feed costs were exploding, going up by a factor of one and two, week after week. All in all, the drought has affected every aspect of Minnesota agriculture.

However, we face some risks in addition to the risks of nature that the drought entails. Among these risks is to rush headlong into the glaring television lights announcing legislative solutions to problems we still do not fully understand.

What are the issues which must be addressed immediately, such as emergency feed for livestock, or allowing grain harvest of set-aside acres, and what are somewhat longer term issues that are involved? Those intermediate- and long-term issues include consideration of the potential loss of deficiency payments to producers in drought stricken areas, as well as problems faced by debt restructured farmers which I mentioned earlier.

Language which I inserted in the 1985 farm bill allows the Secretary of Agriculture authority to pay the full deficiency payment to grain producers where average market prices exceed certain levels. Perhaps some fine tuning may be necessary to address specific problems caused by the drought, but the basic mechanism is there.

It is also perhaps there in the 092 provisions that we put into the 1985 farm bill and those 092 provisions are part of the general decoupling approach that I have to agriculture. We need to keep evaluating the need for any additional measures which may be necessary as we go along and not to try to anticipate either the weather or the extent of the drought.

My State of Minnesota has a broad base of high technology and manufacturing industries in addition to agriculture. But I continue to believe that not only its heritage and soul is found on its farms and small towns, but its economic base as well.

The economic base of Minnesota is found out there on the farms, because when agriculture hums, all of Minnesota hums. When crops fail as they are failing today in many parts of the State, Minnesota just does not do very well. Not only its economy, but the optimism and hope of its people suffer.

We need to take a lesson from our rural constituents. When times get hard, they pull together to solve problems. We must pull together to work hard at determining the scope of the problem and work together to address those needs.

I have served on the Agriculture Committee since I was first elected a decade ago. This drought could turn out to be among the most challenging problems we have faced in recent agricultural history. My work on the committee will continue to be my priority in the months to come.

I will have a drought report that probably will come out on a daily basis, Mr. President, a drought watch to assure my colleagues that they are abreast of the conditions as well.

I yield the floor.

MINIMUM WAGE IS MISGUIDED

Mr. SYMMS. Mr. President, I am pleased to be a cosponsor of the bill introduced by Mr. HUMPHREY on June 14, S. 2512, which would correct an injustice in our society—an injustice that creates a barrier to young people and other disadvantaged workers from obtaining jobs and becoming more experienced and more skilled, and therefore higher paid workers.

The barrier I am speaking of has been described as "cutting off the bottom rungs of the ladder, so that people with shorter legs can't climb up." This injustice is section 6 of the Fair Labor Standards Act, which makes it unlawful for someone to offer a low-productivity job to anyone and pay them wages commensurate with productivity.

Of course, there is no law that says anyone has to accept a low-productivity job. Nobody will accept one if there is a higher-productivity job for them. It will certainly be a great day in the progress of our society when all the jobs are high-productivity jobs. With labor-saving equipment and computers, which will be able to put "expert system" programs into the workplace, someday we expect all of the jobs in society will become high-productivity jobs.

Every American should be eager to work and to contribute to our economic system—but we have to give everyone a chance. It is only fair to people just starting off in life, and for those whose skills are lacking, to permit them to find work wherever they can, even if it is a low-productivity job.

It is sad, Mr. President, but there are people in this world who do not want everyone else to be better off. These malevolent people take pleasure at the misfortune of others—and for purposes of their own profit and their own economic advantages, they create barriers to economic progress and economic growth.

Of course, no one who is trying to inflict that harm on others will stand up and say, "Come help me do this mean thing to less skilled people."

Rather, these advocates of injustice cover their tracks with high-sounding moralistic words, such as "nobody should be poor" or "nobody should be disadvantaged."

So they advocate laws and regulations that simply make it impossible for disadvantaged or poor persons to survive by their own efforts. It is a cruel trick to pretend to oppose misfortune of others, but to advocate and impose conditions making it worse.

One particular group of people who have long supported racism and economic privileges aimed at keeping blacks out of the workplace are the labor unions of South Africa. Indeed when we look closely into the history of that unfortunate land, we find it was white union organizers who first demanded the government set up special "job reservations" for whites.

There is a very good analysis of this situation in the book by Prof. Walter Williams of George Mason University, entitled "The State Against Blacks." I strongly recommend Professor Williams' book to my colleagues, as an illuminating analysis of the ways in which the government itself has prevented the full economic and social participation of many black people in the modern world.

Mr. President, I ask unanimous consent that a brief excerpt from Professor Williams' book be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

WALTER WILLIAMS, THE STATE AGAINST BLACKS

(Excerpt)

The notion that it is sometimes necessary for some individuals to lower their price in order that some transactions can occur is offensive to the sensibilities of many people. These people support the minimum wage law as a matter of moral conviction motivated by concern for equity in the distribution of wealth. However, white racists' unions in South Africa have also been supporters of minimum wage laws and equal-pay-for-equal-work laws for blacks. The New York Times reported that in South Africa, where the racial climate is perhaps the most hostile in the world:

> Right wing white uniforms in the building trades have complained to the South African government that laws reserving skilled jobs for whites have [been] broken and should be abandoned in favor of equal-pay-for-equal-work laws. . . . The conservative building trades made it clear that they were not motivated by concern for black workers but had come to feel that legal job reservation had been so eroded by government exemptions that it no longer protected the white worker. [November 28, 1972]

To understand how job reservation laws became eroded requires only two bits of information: (1) During the post-World War II period, there was a significant building boom in South Africa, and (2) black construction workers were willing to accept wages of less than 25 percent of wages paid to white construction workers. Such a differential made racial discrimination in hiring a costly proposition. Firms that chose to hire whites instead of black paid dearly—$1.91 per hour versus $.39 per hour. White racist unions well recognized that equal-pay-for-equal-work laws (a variant of minimum wage laws) would lower the cost of racial discrimination and thus improve their competitive position in the labor market.

Moral philosophers can get into unending debate over whether it is fair for some people to have to pay higher prices for what they buy than others and accept lower prices for what they sell (as in the case of labor services) than others do. But solid economic evidence shows that whatever the handicap, preventing people from lowering (raising) the price of what they sell (buy) tends to reinforce that handicap.

U.S. UNION SUPPORT FOR MINIMUM WAGE LAWS

As is the case in South Africa and elsewhere, unions in the United States are also the major supporters of the minimum wage law. While our unions have different stated intentions behind their support of minimum wage laws, one must always remember that the effect of policy is by no means necessarily determined by the intents of policy. But a good case can be made that the effects of the minimum wage law (high unemployment among low-skilled workers) are its intentions. This can be readily understood if we consider as economists do that for many productive activities low-skilled workers are substitutes for higher-skilled workers. And if high-skilled workers, through organizing, can reduce or eliminate the use of low-skilled workers, they achieve monopoly power and command higher wages. A numerical example can demonstrate the strategy.

Suppose a fence can be produced by using either one high-skilled worker or by using three low-skilled workers. If the wage of high-skilled workers is $38 per day, and that of a low-skilled worker is $13 per day, the firm would employ the high-skilled worker because costs would be less and profits higher ($38 versus $39). The high-skilled worker would soon recognize that one of the ways to increase his wealth would be to advocate a minimum wage of, say, $20 per day in the fencing industry. The arguments that the high-skilled worker would use to gain political support would be those given by any of our union leaders: "to raise the standard of living," "prevention of worker exploitation," "worker equality," and so forth. After the enactment of the minimum wage laws, the high-skilled worker can now demand any wage up to $60 per day (what it would not cost to hire three low-skilled workers) and retain employment. Prior to the enactment of the minimum wage of $20 per day, a demand for $60 per day would have cost the high-skilled worker his job. Thus the effect of the minimum wage is to price the high-skilled worker's competition out of the market.

Whether the example given here accurately describes the motives of labor unions' support of and expenditures made lobbying for minimum wages is not really at issue. The effects of union action do not depend on its motivation. That is, whether the union means to help or to harm the low-skilled worker, the effect is to price him out of the market. However, it is worthwhile to note that the restrictive activities promoted by unions do reduce employment opportunities and the income of those forced out of the market. This fact suggests that union strategies to raise wages of their members must be complemented by their lobbying for government welfare programs. The reason is that if not having a job meant not eating, there would be considerable political disruption. Therefore, unions have incentives to support subsidy programs for those denied job access.

The minimum wage law, as well as many other laws that have placed minimum prices on labor transactions, has imposed incalculable harm on the most disadvantaged members of our society. The absence of work opportunities for many youngsters does not mean only an absence of pocket money. Early work opportunities provide much more than that. Early work opportunities teach youngsters how to find a job. They learn work attitudes. They learn the importance of punctuality and respect for supervision. These things learned in any job make a person a more valuable worker in the future. Furthermore, early work experiences give youngsters the pride and self-respect that comes from being financially independent. All the benefits of early work experiences are even more important for black youngsters who go to the nation's worst schools. If they are to learn something that will make them more valuable in the future, they have to learn it in the job market.

Since the minimum wage law does incalculable harm to the nation's youth, the only moral thing to do is repeal it. Failing that, a national subminimum wage would be a partial solution.

INVISIBLE VICTIMS

Some of the political support for the minimum wage reflects self-interest. It is a way to eliminate, as we have discussed, low wage competition. Others lend political support to minimum wage legislation because of a real concern for the disadvantaged worker. They think that the poor are helped to live a better life. In one sense these people are correct. The less poor are made better off and the poorest poor are made worse off. But the truly concerned supporter of the minimum wage law cannot see this.

The real problem, both in the U.S. and other countries, is that people are not as much underpaid as they are underskilled. The real task is to make skilled those people who are underskilled. This is not done by merely declaring, "As of January 1, 1981, everybody's productive output is now worth $3.35 per hour." This makes about as much sense, and accomplishes about as much, as doctors curing patients by merely declaring that they are cured.

GEN. ROSCOE ROBINSON, JR.

Mr. SYMMS. Mr. President, I rise today to honor a great American, a patriot and a leader, and, by so doing, I also pay tribute to those young men and women who serve so well and so proudly in the service of our country.

Gen. Roscoe Robinson, Jr., began his career in the Army in June 1951. After 35 dedicated years of service, including the award of two Silver Stars for heroism in combat and the award of the Distinguished Service Medal, General Robinson retired in 1985 with the rank of general.

On this past Memorial Day, General Robinson was invited to address the past and present members of the 82d Airborne Division. I commend his remarks to my colleagues and ask unanimous consent that those remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF GEN. ROSCOE ROBINSON, JR., FORT BRAGG, MAY 26, 1988

Secy. and Mrs. Marsh, Gen. and Mrs. Foss, Gen. and Mrs. Stiner, distinguished guests, troopers. I am delighted to have been invited to participate in this ceremony today. It is always a privilege to return to Ft. Bragg and observe the soldiers of the 82d ABN Div. and XVIII ABN Corps. I would like to give a special welcome to the combat veterans of the 82d who are present today—from World War I to Grenada—as well as other former members of the division who served during peacetime. I also want to extend my congratulations to the participants in the review this morning. It was spectacular.

The timing for this event is very appropriate. Last week our Nation observed Armed Forces Day. And next Monday is Memorial Day. During Armed Forces Day observances around the country we attempt to show the American people some of the activities of the military as we pay tribute to the thousands of servicemen and women who proudly serve our Nation. We show people; we show equipment; and through that combination we hope this great Nation—a commitment that runs deep in all of those who wear the uniform.

I am sure that most of you know that our Nation is in the midst of a celebration of the bicentennial of our constituion. Last September was the 200th anniversary of the signing of the Constitution, and next month on June 21 we will celebrate the 200th anniversary of its ratification. It is very appropriate to mention the Constitution when we discuss American servicemen and women. The Constitution provides the framework of our form of Government and guarantees the liberties that we enjoy. The first official act of a member of the Armed Forces upon enlistment or commissioning as an officer is to take an oath to support and defend the Constitution of the United States. Thus the members of the Armed Forces swear allegiance to the Constitution, and through it to the American people. That oath is a commitment to defend our country, and a very binding one at that. It means that one is willing to die in defense of the principles that we love and value.

And that brings us to the Memorial Day observances in which we honor that special group of heroes who have died in service to country. For more than 200 years America has been a strong advocate of peace and freedom in the world. The benefits that our citizens enjoy today exist because of a strong and ready defense manned by members of the military services.

The 82d ABN Div. exemplifies that commitment to the defense of our Nation as well as any unit in our history. From its activation as an infantry division during WWI to the present, its soldiers have epitomized the principles of excellence. This division sets the standard—not just for airborne forces, but for the Army as a whole. The accomplishments of this division are well-known throughout military circles at home and abroad. In September 1984, while sitting in my office in Brussels, Belgium, a dutch MG serving with me at NATO HQS walked into my office and said, "40 years ago today the 82d ABN Div. liberated my house in Nimejgin. And then they liberated my wife's house." In visiting many small towns in Europe, the mere mention of service in the 82d ABN Div, even though it may have been after WWII, brings immediate respect and admiration.

As we approach Memorial Day, when we pay special tribute to those who lost their lives in defense of our country, it is especially fitting that we honor those soldiers of this great division who gave their lives that others may enjoy freedom. And as we honor those soldiers, let us remember the soldiers who serve today. Soldiers like SSgt. Dugan and SP. Smith who were honored as division NCO and trooper of the year are just as committed as those who served before them. They are soldiers who train hard and maintain a readiness posture to deploy anywhere in the world to protect those freedoms that others gave their lives to protect. They have followed the example set for them by those who served in this division in years past.

Those of us who have seen war understand the hardships of war. But we also understand the necessity to maintain a strong military force to deter adventurism or aggression by a potential adversary. We owe no less to those who paid the supreme sacrifice.

Mr. SYMMS. I yield the floor.

CHRONOLOGY OF A CORPORATE LITERACY CLASS

Mr. HATFIELD. Mr. President, George Bernard Shaw once wrote: "The reasonable man adapts himself to the world. The unreasonable one persists in trying to adapt the world to himself. Therefore, all progress depends on the unreasonable man."

That unreasonable man, Mr. President, is Bill Gregory. An accountant from Portland, Bill Gregory did the unthinkable in Oregon in 1981: He bought a sawmill and plywood plant in tiny Glendale. The timber industry was in deep recession, and the rundown mill was on the verge of collapse.

Six years later, the mill had become profitable. The story of how it did is the story of an unreasonable man who believed more in his employees than in the experts, who believed more in common sense than in conventional wisdom. It is the story of a literacy class, a health clinic and a profit-sharing plan. And it is, far removed from the boardrooms and classrooms across this country where the decline of America has become the trendy topic of the day, a story about what it is that makes this country strong.

Mr. President, the story of Gregory Forest Products in Glendale, OR, is a story that should be told over and over again in boardrooms, classrooms, and cloakrooms. I ask unanimous consent that "Chronology of a Corporate Literacy Class" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

CHRONOLOGY OF A CORPORATE LITERACY CLASS

ABOUT THE COMPANY

Bill Gregory, a CPA for Arthur Andersen & Co. in Portland, surprised his associates and the Oregon wood products community when he bought a run down sawmill and plywood plant in 1981. The mill was the only economic base for the small town of Glendale, population 600, and had employed more than 400 workers.

Conventional wisdom said Gregory's purchase was ill-timed. The timber industry was deep into a recession, and timber purchasers labored under the burden of high-priced federal timber contracts they had purchased before the bottom fell out of the market for forest products. It looked as though the timber-based economy in Oregon was going to fall through the floor soon, and Gregory Forest Products seemed the first likely candidate to succumb.

Gregory's business plan was unconventional, but made sense. He told millworkers he needed their help to get the mill's equipment updated so they could reduce losses from their high-priced contracts by getting more lumber and plywood out of each log. Millworkers reluctantly agreed to give up one dollar of their hourly salary that was to be funnelled into equipment. In return, they would get their money back plus a percentage of the profits if the mill turned into a success.

As a result of mill efficiency improvements made in the depths of the recession, GFP returned to profitability in 1987. Millworkers reaped the benefits of the profit sharing plan and have since received thousands of dollars per worker per year.

In addition to modernizing his mills and sharing company profits with his workers, Gregory has gratefully turned back other benefits to the millworkers and community. The small Glendale school system received computers, and later, money to fund the industrial arts program when the local budget levy failed.

In the interest of getting better medical care, Gregory recently bought a local health clinic building where he's working to set up a health advocacy program. With the help of a physician and staff, millworkers will get health screening and advice on preventive health care measures which may avoid later medical crisis in their lives. They'll get help filling out frustrating and complicated insurance forms, and referrals to reputable doctors when they do become ill.

Gregory discovered that business is a partnership that thrives on more than bottom-line production figures and profit reports. GFP's profits, achieved through the cooperation of millworkers and management, are returning benefits beyond the scope of a paycheck.

Perhaps the most rewarding example of the cooperative spirit Gregory has tried to encourage in his company is its literacy program.

JANUARY 1987

Quality Control Supervisor Mike Babb wondered why one of the truck loaders in the veneer plant was slower and less efficient. The man often seemed to be getting the help of another worker to count loads, fill out forms and track production on the job.

A little investigation turned up the fact the truck loader was virtually illiterate. He was apparently equipped to drive a forklift, but unable to count well, to spell, and to communicate on paper. The man has been relying on his co-workers to help him do his job.

Babb started asking other mill supervisors if they had spotted any apparent problems with illiterate workers and found there were some who had varying degrees of difficulty understanding written material or writing anything themselves.

The implications of finding illiterate workers on the job were tremendous. If they couldn't read, they couldn't understand the manuals that came with new equipment as the company upgraded itself in technology; they couldn't understand written materials about safety hazards to protect themselves; they couldn't understand their union contracts that outlined their rights as employees; they couldn't fill out insurance forms to collect their medical benefits. Not only couldn't they help themselves, they couldn't help the company improve.

They would be at jeopardy of losing their jobs without decent reading skills.

After seeing a television commercial about literacy that showed a father unable to read his daughter a bedtime story, Babb wrote to the featured Washington D.C. address asking for more information about what the company could do to help its employees improve their skills.

MARCH 1987

Babb talked over his ideas with Gregory Forest Products owner Bill Gregory, and told him about the problem with some employees. It was apparent that the mill's own policy of hiring any able-bodied person, regardless of education, was only perpetuating the inclinations of some teenagers to drop out of high school for an apparently high-paying union job. Policy was changed to not hire anyone without a high school diploma.

Gregory had earlier made it company policy to pay for any employee's tuition for after-work courses at a local college, and he'd emphasized his support for education by offering $500 scholarships to any graduating seniors at Glendale who continued their education at an accredited school.

Other educational efforts had already been put into place at the mill. Gregory was frequently sending key people to seminars, or bringing in speakers for special subjects. Babb started a special training program for bright millworkers who appeared to have abilities for bigger things. All interested employees were invited to take part in technical training courses that offered seminars on apropos mill subjects such as electricity, hydraulics, and petroleum lubrication. The classes were set up in makeshift room in the purchasing department, strategically set between the sawmill and the plywood plant. Millworkers could attend seminars literally on-site, and not feel out of place in dirty work clothes.

A literacy class for millworkers seemed the next logical step. With the goahead from Gregory, Babb contacted Umpqua Community College, the county's 2-year college in Roseburg, and asked for help to set up a class with a UCC instructor.

APRIL 1987

Babb sent out a questionnaire to all GFP employees in Glendale, about 350 letters, asking if they would be interested in improving their reading skills with such a class. About 25 percent of the people responded, and 38 percent of those said, yes, they would be interested.

UCC set up a proposal to supply an instructor and instructional materials, charging GFP $25 an hour for the service. A learning lab was to be opened in the purchasing department classroom three days a week for two hours each day.

GFP set out to buy some desks and classroom equipment.

Babb wrote to the local union leader, announcing the company's intention to start a class, along with the assurance that employees who came forward asking for help with their reading skills would not be targeted for dismissal. The union leader returned a letter affirming his support for the project.

Babb received a letter from Beth Hulsman of the Oregon Public Broadcasting Commission, saying she had been told of his interest in trying to do something about literacy in the workplace. She knew Bill Gregory and was excited about the prospect of the company starting a program. She invited them to speak at a conference on literacy to be held in May.

MAY 1987

UCC hired Ann Burney as instructor, who opened class May 22. About four millworkers came forward in the first week, but as they discovered they shared similar problems, along with the hope to improve their skills and confidence, the word got out in the mill that the class was "okay."

JUNE 1987

With suspicions about the class assuaged, another six workers came forward to work with the class. Many wanted to work for their GED, and some just wanted to improve skills they had left unused for years. Enthusiasm for improving skills seemed to go hand-in-hand with an increasing sense of self-worth, self confidence and satisfaction with their work at the mill.

JULY/AUGUST 1987

GFP's new class caught the attention of the local news media, and class members were beginning to see themselves featured in segments on the local channel's evening news broadcast or in news stories around the state. A network TV crew from NBC came to the mill for three days to do an end-of-the-broadcast news story shown on national TV.

Other employees, not enrolled in the class, were seeing that their mill was different than other mills; their mill cared about its people and was doing something about it. The class had succeeded in giving the mill and its employees an unexpected boost in morale that contributed to a company and community sense of pride.

TO DATE/JUNE 1988

The class has seen 28 workers come through its doors. Some have stayed over a long period of time and have successfully completed their GEDs. Others have worked less frequently, troubled by after work commitments, or other scheduling problems. Always, participants have the problem of trying to concentrate on class work after a full day on the job, sometimes overtime.

The class has evolved from three days a week, two hours a day, to four days a week, four hours a day. Instruction has been individualized, because of the vast differences in the skills of participants.

Cost of the class after one year, as of April 1988, amounted to $15,172. It should run about the same amount this year.

Computers have played a big role in the class. UCC purchased educational software that supported the kind of individualized work that the class had developed. Participants were finding that computers were interesting and fun, so many of them have purchased computers for themselves to use at home.

In doing that, millworkers have been able to share their new affinity with computers with their children at home, who can use the educational software and develop their own uses. This side benefit of the class may be enhancing the importance of education with the next generation.

What some people say is a dying industry, appears to not be dying but changing for the better. GFP has become a leader and innovator in the timber and wood products industry through Bill Gregory's unusual approach and point of view.

Where the timber industry and environmentalists have fought bitterly about timber supply and old growth, Gregory has taken the stance that some parts of the forest are indeed sensitive. He astounded his counterparts by asking the federal government to take back profitable timber that stood in highly visible or sensitive areas. While Gregory realizes that his company and the environmental organizations may have to agree to disagree on many issues, he has nonetheless invited leaders from environmental groups to tour the mill and meet with him so they could understand each other better and attempt to find certain common ground. As a result of such meetings, GFP recently supported legislation to designate certain Oregon rivers as part of the National Wild and Scenic Rivers System.

Meantime, the next generation of millworkers in the Glendale area are beginning to be affected by this growing new attitude. Educational values, mixed with a partnership approach to work, will go a long way not only toward making th industry more viable and successful, but toward enhancing the economic options and quality of life for the whole area.

SITKA COAST GUARD RESCUE

Mr. MURKOWSKI. Mr. President, there is a service organization in the United States and their slogan is semper paratus, and so they are. It is the U.S. Coast Guard service that is always ready. They are always there to aid and help and rescue whenever asked.

Recently, five coast guardsmen from the air station in Sitka, AK, were rewarded for their bravery. They were presented with our Nation's highest military award for noncombat heroism in an aircraft: the Distinguished Flying Cross.

Theirs is an incredible story, a story of courage which saved the lives of an Alaska fisherman and his young son, who was lashed to the back of the father.

I have some idea of what I speak, Mr. President. I had the pleasure and the honor of serving in the Coast Guard from 1956 to 1958 stationed in Sitka, AK, on the Coast Guard cutter *Sorrel* and later on the Coast Guard cutter *Thistle.* I know about the tremendous storms that can arise in a relatively short period of time and the exposure to the Coast Guard as they initiate rescue efforts when called upon.

But on the night of December 10, 1987, a very special rescue took place. A gentleman by the name of Jim Blades and his 6-year-old son, Clinton, were off Cape Edgecombe, 12 miles from Sitka, in their fishing boat *Bluebird.*

They were fishing for king salmon when a storm blew in. At its worst, the winds gusted up to 70 knots. The seas were 30 feet high.

As their fishing boat began to swamp, they called the Coast Guard for help.

Comdr. John Whiddon left with his crew of four in a helicopter. Accompanying were petty officer 2d class Jeff Tunks, Lt. Greg Breithaupt, petty officer 3d class Mark Milne, and petty officer 1st class Carl Saylor. They took off in a helicopter into the black of a very stormy night.

A little over an hour later, the episode was over but not without tremendous trials and tribulations.

Commander Whiddon said when he received the call about 7 o'clock that night at the Coast Guard Air Attachment in Sitka, the boat was taking on water and he doubted if it could maintain itself.

So the crew rushed down to their helicopter and the commander said as he started it up, immediately upon leaving Sitka, they were hit with 40-knot gusts. This, he said, "turned out to be an indication of things to come."

They next turned south out of Sitka, AK, flying into the blackness through heavy snow and icing to the point where their radar no longer functioned. Whiddon said they had absolutely no forward visibility.

They headed in the general direction of where the fishing vessel was known to be and where Blades indicated by radio that his boat was in the process of sinking and would be down in just a few moments. In the darkness ahead, they saw a flashing light. They homed in on the light from the *Bluebird* with their direction finder and pulled into a hover 60 feet above the water.

However, at that moment, they got hit with gusts estimated at 70 miles an hour. The commander indicated that it had pushed them back nearly a half a mile. Commander Whiddon estimated they were flying backward and out of control. In trying to stabilize his craft, the commander "overtorqued" his transmission and severely damaged the chopper's engine, yet it maintained its function and they were able to stay in the air.

The copter then moved back in and prepared for a rescue hoist. But there was no place to put the rescue basket down. Whiddon and the crew made three or four attempts and were unable to get the basket on the deck of the sinking vessel.

Backing off, Commander Whiddon talked again by radio to Blades on the *Bluebird,* telling him the only hope for rescue was if he and his son were prepared to jump in the water with their survival suits on. At that time, they estimated the winds to be 70 or 80 knots and the seas at that time to excess of 35 feet.

Then Blades strapped his son to his chest and stepped off the back of the boat as it sank.

The Coast Guard helicopter then made four or five more attempts with the basket. But the wind kicked up each time and blew them back 40 or 50 knots two more times and they were unable to make the pickup. By this time, the cresting waves had filled Mr. Blades' survival suit with water and he and his son were completely immobilized.

It was estimated that after five more unsuccessful attempts, a decision was made on whether or not to put Petty Officer Jeff Tunks in the water.

As Tunks tells the story, "Commander Whiddon said, 'OK, Jeff, do you want to go in?'" He responded by saying, "It wasn't my best idea in the world, but I said, 'Sure, I'll go in and give it my best shot.'"

He is quoted as saying:

> I got ready to go and as I looked down at the water, it looked like back where I came from when it would really rain, really hard and the creek beds would fill up and they would just be rushing by, taking everything with them. I thought to myself as soon as I hit that water, I'm gone.

Well Petty Officer Tunks was lowered into the water in a horse collar device to a point where he said, "I thought I was going to land on top of them." But the wind, which had bedeviled the operation from the beginning, once again made its presence felt, and Petty Officer Tunks went bouncing across the waves on his back. "I would estimate we went back maybe 75 to 100 yards," he said.

By the time he finally got out of the horse collar, Tunks said Blades and his son were nowhere in sight.

Tunks said:

> I was really kind of nervous at this time thinking, now what are they gonna do, they got me in the water, we've got them in the water and we were nowhere near each other.

Commander Whiddon could see that Tunks had lost sight of the father and son. Tunks swam out in front of where the helicopter was and noticed that Whiddon had swung the nose light of the aircraft. Tunks said:

> I could see where the light was hitting the water, so I began to swim toward the light—not knowing what I was going to find there, but hoping that they knew I couldn't see 'em and were trying to direct me to the father and son.
>
> So I swam and swam until finally I saw them come up on the top of a wave and then the nose light flashed off the reflective tape on their suit. Then they disappeared into another valley of wave. I thought to myself, if they there now, they going to be here in just another minute or so. So I swam to the position where I thought they were going to be and sure enough, hooked up with them.

Then the helicopter indicated a pickup and, after three more tries, they got the basket to Tunks. He rolled the survivors into the basket and gave the pickup sign.

When the two Blades, father and son, were safely inside the helicopter, the basket was then sent down for Petty Officer Tunks. After the third attempt, he was able to finally grab hold of the basket and put himself in. Right then, the helicopter was hit by another gust. Once again, Tunks was dragged across the waves. He said he flew across the surface of the ocean at 50 or 60 miles per hour. At one point, when he hit the crest of a wave his mask was ripped off, his snorkle was ripped away and Commander Whiddon said he "honestly thought we'd done some serious damage to him. He hit with such force that it jarred the helicopter."

Eventually they were able to get Tunks up out of the water. But the basket started to swing wildly, at one point coming to within about a foot of hitting the underside of the helicopter before Tunks was finally pulled to safety.

All of this took 1 hour and 18 minutes.

Mr. President, these men would tell you, as they told me, that they were just doing their duty. A citizen called them for assistance and they provided it, as they are often called to do. But, Mr. President, without question this is a story of exemplary bravery, well deserving of the commendation they have earned.

We should take time, Mr. President, to honor these men: Comdr. John Whiddon, PO2c. Jeff Tunks, Lt. Greg Breithaupt, PO3c. Mark Milne, and PO1c. Carl Saylor. Without question they are, as their service's motto declares: Always ready, and it is a fitting tribute to our oldest branch of the service, and the one that seems to be always called upon to do more with less, the U.S. Coast Guard and their motto semper paratus.

ORDER OF PROCEDURE

Mr. MURKOWSKI. Mr. President, I ask the Chair whether we are in morning business and have any time limit on the speeches at this time?

The PRESIDING OFFICER (Mr. DASCHLE). There is a 5-minute time limit for morning business.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may have a few more moments to make a statement with regard to Soviet fishing in the Bering Sea.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. MURKOWSKI. I thank the Chair.

JAPAN'S ATTEMPT TO DERAIL UNITED STATES-SOVIET INITIATIVES ON BERING SEA FISHERIES

Mr. MURKOWSKI. Mr. President, we have seen efforts by the Soviets, in cooperation with our own Government, to attempt to resolve a very serious situation in the Bering Sea known as the doughnut hole where we have seen evidence of vessels operating in an area adjacent to the doughnut hole illegally. I would like to call this to the attention of my colleagues.

As a consequence of this concern and other concerns, specifically the item I want to bring to the attention of my fellow Members is, as a result of, apparently, Japan's attempt to attempt to derail some of the negotiations that are going on between our Government and the Soviet Government with regard to specific initiatives on Bering Sea fisheries.

Mr. President, during the recent Moscow summit, Secretary Shultz and Soviet Minister Shevardnadze signed a new comprehensive fisheries agreement between the United States and the Soviet Union.

Along with other issues, that document noted that both our countries are concerned about the potential effects of unregulated fisheries in the international area of the Bering Sea known as the doughnut hole.

As a result of that concern, the United States and the Soviet Government scheduled an international scientific symposium of Bering Sea fisheries for July 19–21 in Sitka, AK. Scientists from all the concerned coastal and fishing nations were invited to attend.

The largest of the unregulated fishing fleets belongs to Japan, and harvests at least 700,000 metric tons annually from the international waters.

There also have been many allegations that vessels of the Japanese fleet commonly cross into the United States 200-mile zone to fish illegally in the richer grounds on the United States side. Indeed, just last week several Japanese companies agreed to pay rather large fines for doing exactly that: illegal fisheries.

At almost the same time, however, the Government of Japan announced that it too, is calling a multilateral meeting on the donut hole problem. This meeting, scheduled for Tokyo just days before the jointly sponsored symposium in Sitka, gives the clear appearance of a bold attempt to slow down the growing momentum toward a resolution of a problem referred to as the donut hole problem.

It is a slap, I think, in the face for those of us seeking a viable solution and can be regarded as an insensitivity, if you will, to the formal diplomatic protocol which is being followed.

It is my understanding the State Department has indicated that the United States does not plan to participate in the Tokyo meeting. That decision is the only appropriate one for the circumstances.

Mr. President, the Government of Japan may be completely sincere in its stated desire to discuss the donut hole problem, but if so, it should recognize the need to begin with science, not politics.

We must make our decisions based on sound scientific evidence and not emotion, and this is the purpose of our proposed meeting as opposed to the purpose of the Japanese meeting, which is simply to retain the opportunity to fish in that area. If Japan really wants to help solve the donut problem it will cancel its call for a Tokyo meeting, and send its scientists to Sitka so that we can address the facts behind the necessity of mutually managing this resource because we all know, Mr. President, that unless we work collectively in managing our fishery resources, why, indeed, someday somebody will catch the last fish.

I thank the Chair and I yield the floor.

Mr. FOWLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

ADJOURNMENT UNTIL 10:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALL OF THE CALENDAR, MOTIONS OR RESOLUTIONS OVER UNDER THE RULE, MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow, the call of the calendar be waived; that no motions or resolutions over under the rule come over; that there be a period for morning business not to extend beyond 20 minutes and Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATUS OF S. 430 AND S. 1323

Mr. BYRD. Mr. President, I ask unanimous consent that S. 430, the bill to amend the Sherman Act regarding retail competition, and S. 1323, the corporate takeover measure, both be considered pending business, neither to be affected by an adjournment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. So S. 1323 will no longer be unfinished business nor will S. 430 be unfinished by virtue of an adjournment.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. BYRD. Mr. President, the distinguished Republican leader has indicated that he has no further statement, no further business to transact, and that there is no necessity for his being present when the Senate goes out. I therefore move that the Senate stand adjourned under the order until 10:30 a.m. tomorrow.

The motion was agreed to, and the Senate, at 6:11 p.m., adjourned until Wednesday, June 22, 1988, at 10:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, June 21, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, give to each person the awareness of seeing daily tasks as vocations of service to Your human family. We know that much of what we do may not seem important and there is frustration for every person. Yet, teach us to see how each deed that enables our common life to go forward, that enhances our relationships with respect, that fosters justice and mercy, is a deed that makes real Your calling to us that we should use the abilities You have given to contribute to our shared welfare. Bless us as we seek to serve You by serving others. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **OLIN**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **OLIN**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will inform absent Members.

The vote was taken by electronic device, and there were—yeas 270, nays 121, not voting 40, as follows:

[Roll No. 191]

YEAS—270

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Clarke
Clement
Coats
Coelho
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fawell
Feighan
Fish
Flake
Flippo
Foglietta
Foley
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Holloway
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Manton
Markey
Martin (NY)
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Michel
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Morella
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price
Rahall
Rangel
Ravenel
Regula
Richardson
Rinaldo
Ritter
Robinson
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Scheuer
Schneider
Schulze
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Whitten
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—121

Armey
Badham
Baker
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Chandler
Cheney
Clay
Clinger
Coble
Coleman (MO)
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Emerson
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Gregg
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Hopkins
Hunter
Hyde
Ireland
Jacobs
Kolbe
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lungren
Mack
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
McCrery
McDade
Meyers
Miller (OH)
Molinari
Moorhead
Morrison (WA)
Murphy
Parris
Pashayan
Penny
Porter
Quillen
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Wheat
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—40

Biaggi
Boland
Boulter
Chappell
Collins
Dixon
Dowdy
Duncan
Edwards (OK)
Fazio
Florio
Ford (MI)
Garcia
Hatcher
Hawkins
Huckaby
Inhofe
Jones (TN)
Kasich
Kemp
Konnyu
Kyl
Lukens, Donald
MacKay
Mavroules
McGrath
Mica
Miller (WA)
Moody
Morrison (CT)
Nichols
Pursell
Ray
Rodino
Roe
Savage
Schumer
Spence
Towns
Williams

☐ 1224

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1720. An act to replace the existing AFDC program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives;

H.R. 3097. An act to amend the Public Health Service Act to revise and extend the program of assistance to organ procurement organizations, and for other purposes;

H.R. 4418. An act to authorize appropriations for the National Science Foundation for fiscal years 1989 and 1990, and for other purposes; and

H.R. 4639. An act to amend the Higher Education Act of 1965 to prevent abuses in the Supplemental Loans for Students program under part B of title IV of the Higher Education Act of 1965, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1720) "An act to replace the existing AFDC Program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BENTSEN, Mr. MOYNIHAN, Mr. PRYOR, Mr. ROCKEFELLER, Mr. DASCHLE, Mr. PACKWOOD, Mr. DOLE, Mr. WALLOP, and Mr. ARMSTRONG to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2485. An act to make minor substantive and technical amendments to title 18, United States Code, and for other purposes; and

S. Con. Res. 121. Concurrent resolution to commemorate the 50th anniversary of the Javits-Wagner-O'Day Act.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
June 21, 1988.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the certificate of election received from Earl W. Davis, Chairman of the State Board of Elections of the Commonwealth of Virginia, certifying that, according to the official returns of the Special Election held on June 14, 1988, the Honorable Lewis F. Payne, Jr. was elected to the office of United States Representative in Congress from the Fifth District of Virginia.

With great respect, I am,
Sincerely yours,
DONALD K. ANDERSON,
Clerk, House of Representatives.

COMMONWEALTH OF VIRGINIA

To all to whom these presents shall come—greeting:

This is to Certify, that at a meeting of the State Board of Elections, held in its office on June 21, 1988, on an examination of the Official Abstracts of Votes on file in that office it was ascertained and determined that at the special election held on June 14, 1988 to fill a vacancy in the office of Member of the House of Representatives of the United States from the Fifth Congressional District, L.P. Payne, Jr., was duly elected a Member of the House of Representatives of the United States for the unexpired term to end on the third day of January, 1989.

SWEARING IN OF THE HONORABLE LEWIS F. PAYNE, JR., OF VIRGINIA AS A MEMBER OF THE HOUSE

The SPEAKER. Will the gentleman from Virginia, Mr. LEWIS F. PAYNE, JR., please step forward.

Mr. PAYNE appeared at the bar of the House and took the oath of office.

The SPEAKER. The gentleman from Virginia is a Member of the U.S. House of Representatives.

WELCOME, MR. LEWIS F. PAYNE, JR.

(Mr. OLIN asked and was given permission to address the House for 1 minute.)

Mr. OLIN. Mr. Speaker, it is an unusual privilege and a pleasure to welcome Mr. L.F. PAYNE as a Member of this House, and I speak in behalf of the Virginia delegation.

I would like to take note that our two Senators, Senator TRIBLE and Senator WARNER, were here for the swearing in. We appreciate that.

Mr. L.F. PAYNE was born in my district in Amherst County and his parents still live there.

He comes from a good, hearty stock. His father was a trooper, a State trooper; his mother a teacher. He is a businessman. He is the owner and developer of the Wintergreen Mountain Estates and various recreational activities at which he was a considerable success.

He got his education in Amherst County, went on to the Virginia Military Institute and finished up with an MBA at the Darden School for Business Administration at UVA.

He is a conservative in the finest tradition of the Commonwealth of Virginia and we are mighty proud to have him here as part of this delegation. I think he is going to have a long and healthy career in this House and a distinguished one like his predecessor.

□ 1230

THE BEGINNING OF A NEW SERVICE

(Mr. PAYNE asked and was given permission to address the House for 1 minute.)

Mr. PAYNE. Mr. Speaker, today is an exhilarating day for me.

I cannot tell you that it has been my lifelong ambition to serve in this body, but, rather, this desire has been building in me over the years and today is the culmination of a lot of circumstances more than a realization of long-term goals.

I especially wish to thank and recognize my family and the many supporters of the Fifth District who are here in Washington for this occasion.

Certainly I wish the circumstances of my election were different. Following the path already charted by my predecessor, the late Honorable Dan Daniel, will not be easy for me. He set a standard in representing the people of the Fifth District which will be difficult to match and impossible to exceed. Nevertheless, I look forward to working with my new colleagues in an entirely new field of endeavor, and I pledge my best efforts to the interests of the Nation and of the people whom I have been chosen to represent.

Mr. Speaker, I look forward to working with all of my colleagues.

DISPENSING WITH CALL OF THE PRIVATE CALENDAR

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with today.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE CONFERENCE REPORT ON H.R. 4567, ENERGY AND WATER DEVELOPMENT APPROPRIATION, 1989

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Wednesday, June 22, 1988, to file a conference report on the bill (H.R. 4567) making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do not intend to object, but I will take this time in order to ask the gentleman from Alabama a question, if I may.

There has been some indication that the conferees would attempt to drop the drug-free workplace language once they get to conference. May I inquire of the gentleman what the status of that language is in his bill and what the intent of the House conferees is insofar as that subject is concerned?

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Speaker, we, of course, will be discussing that matter. The Senate did leave it out, and there are many who feel like the gentleman from Pennsylvania does, since it is my understanding the gentleman has made a statement that the language that is in the bill should be reworded. Certainly no one is objecting to the gentleman's intention, but there is some question about the wordage of it. I am sure this is something that the gentleman will get worked out on these appropriation bills if he wants to get it worked out, but we have not made that decision as yet. However, we will be discussing that in the conference.

Mr. WALKER. Mr. Speaker, further reserving the right to object, the gentleman is absolutely correct, the language that is in his bill is language that has even been modified here on the House floor, and the language I will be offering today, for instance, in the DOD bill includes language that was orginally drafted by the gentleman from Michigan [Mr. KILDEE], which I think improves the amendment.

This gentleman would have no problem with the language which in fact reflects what the House has done most recently. I would have some problem, though, if we would bring the bill back and there is no language at all in it. I think that would go against what the House did by rather overwhelming votes.

Mr. BEVILL. Mr. Speaker, we think the effort the gentleman is making is commendable, but it is a question of getting suitable language to reflect what the gentleman is recommending.

Mr. WALKER. But the gentleman's intention is to bring back some language?

Mr. BEVILL. Well, I am going to discuss it with them. I do not know. We will just have to wait and see.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Alabama, and I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON CRIME OF COMMITTEE ON THE JUDICIARY TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent that the Subcommittee on Crime of the Committee on the Judiciary be permitted to sit this afternoon while the House is reading for amendments under the 5-minute rule.

The purpose of the meeting is to mark up antidrug abuse legislation. The minority has been consulted and has no objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Florida?

There was no objection.

THE LATE HONORABLE GLADYS NOON SPELLMAN

(Mr. **HOYER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, Gladys Spellman, friend and former colleague to many of us in this House, is finally at peace. She passed away in the early morning hours of June 19, 1988.

Gladys was elected to this House, to represent the Fifth Congressional District of Maryland, in 1974. She was reelected three more times, by growing margins. In 1980, her last reelection came 4 days after she had suffered a cardiac arrest and lapsed into a coma from which she never awoke. Nonetheless, she was reelected with 82 percent of the vote. The House waited hopefully for her recovery, but with great regret declared her seat vacant in February 1981.

We should not dwell on the tragic circumstances of Gladys' death, for she was a unique, accomplished, wonderful human being. Gladys' life and career are what we should recall. For 12 years she served as a member of the Prince Georges County Board of Commissioners and County Council.

When she left that post, the government of our county had been brought into the modern age, thanks in no small part to her skill, intelligence, and vision. In this House, she was a member of the leadership and was known as a champion of Federal employees and a tireless advocate for her constituents.

And I say with no small bit of admiration that Gladys was truly one of the most skilled politicians I have ever met. Most of the time, however, you forgot that Gladys was a politican, in her presence you were overcome by her charm. She was one of the most vivacious and warmest of people.

For the past 8 years, we have missed Gladys in community and public life. Her family has missed her most of all, for she was a loving wife and mother. Those of us who knew Gladys thank God that she is now at peace and that the long ordeal of her family has now ended.

EXPRESSION OF SYMPATHY FOR THE SPELLMAN FAMILY—IN SUPPORT OF H.R. 4150, POSTAL SERVICE REORGANIZATION ACT AMENDMENTS

(Mrs. **SMITH** of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, I want to join in expressing sympathy for the family of Gladys Noon Spellman. I knew her also as a very effective Member of the Congress and a fine, gracious woman. We are sorry that she had so many difficult years.

Mr. Speaker, today we will vote on H.R. 4150, to remove the Postal Service from the unified Federal budget. I encourage my colleagues to express their support for the USPS by voting "yes."

H.R. 4150 would return the Postal Service to the off-budget status it enjoyed prior to fiscal 1986 and restore the independence Congress intended for the agency.

While it has been on budget, the USPS has been vulnerable to political maneuvering and deficit pressures.

We know the results of this tinkering—postal construction projects and processing equipment have been canceled and window hours and other services cut.

Passage of H.R. 4150 should be seen as a vote of support for the Postal Service. And I hope it will put an end to this talk of repealing the private express statutes and privatizing postal services.

These statutes guarantee universal postal service. And that means postal service to all U.S. citizens, in all communities of the country, whether rural or urban, rich or poor.

Repeal of the statutes and privatization would turn over our universal system to profit-motivated operations. They in turn would sacrifice universal service for the guaranteed profits of city deliveries.

I say no. I cannot support a change that would threaten the unity of the Nation and in effect relegate rural residents to second-class citizenry.

No other postal system in the world can match the U.S. Postal Service. It beats them all in cost and efficiency.

Yes, it makes mistakes now and then, but in the overall scheme of things—which includes delivering more than 150 billion pieces of mail annually without receiving any tax dollars to do so—the U.S. Postal Service is a bargain, and it does a remarkably good job.

The U.S. Postal Service has my support. And I urge my colleagues to voice the same sentiment with a "yes" vote on H.R. 4150.

COMMEMORATION OF THE 50TH ANNIVERSAY OF THE MOUNT RUSHMORE NATIONAL MEMORIAL

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, in just a few years we will be celebrating the 50th anniversary of the Mount Rushmore Memorial. Today I am introducing legislation which will in many ways help to us adequately celebrate this momentous occasion—an occasion which deserves our recognition, our respect, and our reverent reflection.

The facilities at Mount Rushmore are in desperate need of physical improvements and expansion to accommodate the vast number of tourists that visit the memorial every year. There have been no substantial improvements to the facilities in almost 25 years, and the annual visitation level has nearly doubled since that time. In 1991, we can anticipate an even stronger onrush of visitors who will wish to be a part of the golden anniversary celebrations. To help pay for badly needed renovation to accommodate these tourists, my legislation will call for commemorative coins to be issued which will recognize the golden anniversary of the memorial. Half of the surcharges from the sale of these coins will go toward improving the facilities at Mount Rushmore, and the other half will go toward reducing the national debt.

I would urge my colleagues to join me in supporting this extremely important legislation on behalf of one of America's greatest national shrines—the Mount Rushmore National Memorial.

CELEBRATION OF THE 200TH ANNIVERSARY OF NEW HAMPSHIRE'S RATIFICATION OF THE CONSTITUTION

(Mr. GREGG asked and was given permission to address the House for 1 minute.)

Mr. GREGG. Mr. Speaker, today New Hampshire celebrates and America also celebrates this day, the 200th anniversary of New Hampshire's ratification of the Constitution of the United States, New Hampshire being the ninth State to ratify the Constitution, making that Constitution an effective document under which our country is directed. The wisdom of our forefathers is obviously seen in the fact that for 200 years we have had prosperity and we have had freedom.

Today we rededicate ourselves to that wisdom and hope that we will continue for another 200 years on this course. It is clearly our purpose today to say to our forefathers: "Thank you for giving us such a great document," and it is also our purpose to celebrate that document's existence.

□ 1240

MILITARY FRAUD IS NOTHING NEW

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, military fraud is really nothing new. Most Americans recognized that something was wrong when they read about the $5,000 coffeepots and $2,000 toilet seats. It was sort of like a dead giveaway.

The problem is the Justice Department was either out to lunch or simply tuned out. I believe that they turned their backs the last 7 years.

In 1987 I wrote and asked the Attorney General for an investigation of the Navy relative to a contract with McDonald Welding in my district. They did not even give the courtesy of a call back. All that happened was the contract was literally taken away from McDonald Welding and given to their fat cat friends who have a pipeline to the Pentagon.

The problem is that all of this military fraud really has produced two losers: The American taxpayer and the small companies of America like McDonald Welding, and I am still waiting for a response.

INSENSITIVITY OF JOE SINSHEIMER

(Mr. RAVENEL asked and was given permission to address the House for 1 minute.)

Mr. RAVENEL. Mr. Speaker, two of our most respected and admired colleagues, Congressmen Melvin Price, recently deceased, and Floyd Spence, were demeaned last week by a man named Joe Sinsheimer. I rise to take umbrage at his coarse and insensitive remarks. Floyd, to our applause, is gallantly returning to health as the result of a hazardous double lung transplant operation. In comments published in a statewide South Carolina newspaper, Sinsheimer, southeastern campaign director for one of our political parties, is quoted as saying, "it's not easy running against a dying man. The Spence problem," he went on, "is like the Mel Price syndrome. If Spence is out there campaigning in a wheelchair, maybe the voters will decide to do something else." Enough said, Mr. Speaker. Sinsheimer's words speak the mark of the man. For the good of our elective process, my hope is that those responsible for him will take some appropriate action.

UNSER RESOLUTION

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute.)

Mr. RICHARDSON. Mr. Speaker, today I am introducing a resolution to honor one of the most prominent and respected families in the State of New Mexico—the Unser family of auto racing fame. The Unser family once again played a prominent role in the most recent Memorial Day classic—the Indianapolis 500. The Unser family, or Clan Unser as they are frequently called, has set a standard in the sport of race car driving that would be hard to match.

Bobby and Al Unser have seven Indy 500 victories between them. Their brother Jerry Unser was off to a bright career in racing—he was the national stock car champion in 1957—before his life was tragically ended at the Indy time trials. Their sons Al Unser, Jr., Bobby Unser, Jr., and Robby Unser have been making great strides in the sport of race car driving. Al Jr. almost won the Indy car crown in 1985 but was beaten by one point by his father Al Sr.

Mr. Speaker, this family has greatly enhanced the sport of race car driving. The Unsers have set an example of excellence for young and old throughout the State of New Mexico and the entire Nation. I urge my colleagues to support this concurrent resolution which honors the Unser family and expresses the admiration of Congress for their efforts. I further urge that this resolution be given speedy consideration by the appropriate House committee and passed by the full House.

NEW BEEF AND CITRUS AGREEMENT REACHED WITH JAPAN

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, yesterday Ambassador Clayton Yeutter, the United States Trade Representative announced that the United States has reached a new agreement with Japan over the import of United States beef and citrus products.

This comes as very good news to the beef producers of the United States. By 1991, when Japan's markets are to be completely liberalized, United States trade officials expect that the value of United States beef exports will double to at least $1 billion per year.

Most importantly, the agreement calls for a year-by-year phase out of import quotas on beef products and fresh oranges over a 3-year period, and quotas on orange juice over 4 years. Less than the best news, but part of the hard-fought negotiations is the acceptance of the arrangement that

Japan will be permitted to temporarily and substantially raise duties of beef products to certain specified levels during a second 3-year adjustment period, at the end of which the Japanese beef market will be fully liberalized.

The agreement also calls for a 3-year phase out of the import management operations of Japan's Livestock Industry Promotion Corp. which has monopolized the marketing of United States beef products in Japan.

The Government of Japan has also agreed to tariff reductions on a number of other food products—including grapefruit, lemons, peaches, pears, nuts, sausage, pork and beans, and beef jerky.

This agreement comes despite the fact that certain minor, dissident United States farm groups took the side of Japanese producers against American ranchers and farmers, and undercut the negotiating efforts of the United States Trade Representative.

Again, congratulations are in order for Ambassador Yeutter, the USTR negotiating team, the livestock and meat industry, and to Members of Congress who have been active in seeking the end to the inequitable Japanese quotas on beef and citrus.

HOUSE DROUGHT TASK FORCE SHOULD ASSIST WISCONSIN DAIRY FARMERS

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, as everybody should know, the Midwest is suffering from the worst drought in almost 50 years. A number of steps have been taken to help affected farmers, but it still means tough times once again for many family farmers.

It also means tough times for consumers and recipients of Federal nutrition programs because, as production falls, prices will rise, and surplus commodities will become scarce.

In the dairy industry, farmers have already begun sending their cows to slaughter early because they simply cannot afford the high cost of feed. That will mean lost production, higher prices and nutrition programs, such as TEFAP, which have already been cut back, will be squeezed further.

The Secretary of Agriculture can do something about that. Dairy farmers in Wisconsin are receiving the lowest support prices in 10 years compounding the problems they face with the drought. Raising the dairy support price will allow many marginal farm families to keep their cows and maintain needed milk production.

Mr. Speaker, I have asked Agriculture Secretary Lyng to consider using his authority to increase the Federal support for the price for milk, and I ask the Members to join me in urging the Secretary and the House Drought Task Force to seriously consider a milk support price increase as part of any drought assistance package for farmers.

HOW TO SAVE $2 BILLION A YEAR

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, last April, Mr. ASPIN, on behalf of Mr. DICKINSON, myself, and other Members, was prepared to offer an amendment to the Defense authorization bill which would save $2 billion a year by closing or realigning obsolete military bases.

That amendment was withdrawn after an agreement was reached with the leadership under which the base closing legislation would be considered by the House as a free-standing bill. The agreement specified that it would be brought to the floor before the completion of the conference on the Defense bill. This timing would allow the House conferees to consider base closing as part of that conference.

We are now told that this complement may not be met. The conference is scheduled to be completed this week, but no floor action has been scheduled on the base closing bill.

Members of the House have a right to expect that commitments made by the leadership will be met. I strongly urge that this bill be brought to the floor before the conference is completed, and that base closure language be included in the final conference report.

PENTAGON SCANDAL

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, "Ill Wind" is the code name for the massive probe of corruption in the Pentagon that is shaking us all.

Let us turn this ill wind into winds of change that many of us have been calling for.

First of all, let us change the cozy relationship that exists between defense contractors and defense procurement officials by passing tougher revolving door legislation to require a substantial cooling off period before Pentagon procurement officials change hats and, with inside information galore, go off to a lucrative consulting job with the same defense contractor they oversaw.

Second, let us ensure that whistleblowers are protected. Without a whistleblower there would have been no "ill wind" investigation.

Then let us develop a truly independent procurement corps headed by an independent procurement director appointed by the President.

And, finally, let the winds of change bring us new leadership in the Presidential election. This Reagan-Bush administration has thrown too many billions of dollars at the military without adequate oversight. Somehow the deficits of deficits never included Pentagon deficits.

It is time to turn ill winds into winds of change.

NEW HAMPSHIRE ANNIVERSARY OF RATIFICATION OF THE CONSTITUTION

(Mr. SMITH of New Hampshire asked and was given permission to address the House for 1 minute.)

Mr. SMITH of New Hampshire. Mr. Speaker, today marks the 200th anniversary of New Hampshire's critical ratification of the U.S. Constitution.

When New Hampshire's Winter Constitutional Convention started in Exeter in February 1788, there was bitter debate between Federalists—who argued that a strong government was needed to provide stability and pull the country out of a recession, and anti-Federalists—who believed the Constitution laid the groundwork for a tyrannical government.

John Langdon, New Hampshire's Federalist Governor and one of the signers of the Constitution—whose name appeared right below George Washington's—succeeded in getting the convention adjourned for several weeks to lobby opponents to support the Constitution.

When the convention reassembled on June 19, 1788, in the now capital city of Concord, the Federalists won. On Saturday, June 21, motions for ratification by New Hampshire Chief Justice Samuel Livermore and Governor Langdon passed by a vote of 57 to 47. New Hampshire then became the ninth and last-needed State to ratify the document—making it the law of the land.

Joshua Atherton of Exeter, key spokesman for the anti-Federalist who once commanded a majority, said, "it is adopted * * * let us try it."

The granite State is standing proud today for our role in ensuring a system of government that promoted freedom and democracy. As Langdon said, "we placed the keystone in the great arch."

Our Constitution was not easily achieved. It is our moral obligation to see that it is preserved.

□ 1250

DROUGHT RELIEF FOR KANSAS FARMERS

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, yesterday 21 Kansas counties, applied for emergency drought relief with the proper Washington agencies. I am pleased that the request for emergency drought relief by six counties in northeast Kansas was approved today by the Secretary of Agriculture. These counties include Atchison, Doniphan, Brown, Clay, Jefferson, and Leavenworth Counties.

Because of the drought conditions, hay and pasture on set-aside and conservation reserve program acres are rapidly losing nutritional value and must be harvested immediately.

According to Kansas agricultural statistics, northeast Kansas has only received 65 percent of normal rainfall for the first 5 months of the year. The Midwest is clearly experiencing one of the worst droughts in 50 years.

The quicker the Department of Agriculture can approve these emergency requests, the faster Kansas farmers can begin emergency operations to minimize drought loses.

LEADERSHIP SHOULD HONOR AGREEMENT TO SCHEDULE BASE CLOSING PROPOSAL

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, with anxiety growing over waste and abuse in defense spending, how can we be foolish to let an opportunity to save billions of dollars slip away from us? That is what might happen if the leadership does not honor its agreement to schedule Mr. ARMEY's base closing proposal for a vote before the defense conference finishes its business in a few days.

I have followed the base closing issue closely and I am convinced that the House stands ready to pass this proposal, just as the other body has already done. But if we do not act in the next few days we will lose a unique opportunity.

Certainly, base closing is a sticky political issue. Nobody wants to see bases closed, but the Defense Savings Act addresses these concerns. It has 135 bipartisan cosponsors, and it has the enthusiastic support of the Secretary of Defense. It deserves to be brought before the House for a vote.

Mr. Speaker, the American people are sick and tired of hearing about abuses in defense spending. It would be a travesty to lose an opportunity to save these billions of dollars. I urge you to schedule this vote so that it can be considered in the ongoing defense conference.

THE COUP IN HAITI

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, an army coup has removed Leslie Manigat, the civilian President of Haiti. He had been installed by the army in a rigged election just 4 months ago.

Our State Department appropriately condemned this serious blow to hopes for democracy.

The ones most responsible for this latest blow to Haitian democracy are Haitian officials themselves. On October 29, they allowed the slaughter of innocent people as thousands stood in line to vote.

Our administration must go beyond its appropriate condemnation of the latest coup in Haiti. It must look at its own policy. It placed its hopes on Manigat, that one who came to power in collusion with evil forces would be a factor for good, that a policy of going along instead of standing up might work. It did not.

The State Department has said it will consult Congress and other countries in the Caribbean about what to do next.

Some of us in Congress have proposed trade sanctions. The situation in Haiti is dire. A pressure that is strong enough, focused enough and internationally supportive might help change the situation.

We owe it to the people of Haiti, those who risked their lives to go to the polls last November, at least to try.

BASE CLOSING BILL COMMITMENT SHOULD BE HONORED

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, the House and our Nation have a right to expect that legislative commitments are met, especially, Mr. Speaker, those made by the leadership last April, that leadership, the majority party's leadership, promised the House that even though they would not allow legislation to close obsolete military bases to be offered to the Defense bill, the leadership would bring such legislation to the House floor before the Defense authorization conference was completed.

That conference is scheduled to be finished this week, but the base closing bill has not been brought up for consideration.

It is bad enough that a commitment may be broken. But even worse, by delaying action on this bill, the House is missing an opportunity to eliminate literally billions of dollars of waste from the Defense Department. As a member of the Budget Committee I take special exception to this breach of faith and budgetary sanity.

Mr. Speaker, how can we be serious about reducing the deficit if we do not pass this straightforward measure to cut excess Government spending?

LOUISE MANDRELL'S EIGHTH ANNUAL BENEFIT FOR THE HANDICAPPED

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, Louise Mandrell, the talented musician from Nashville whose recordings and television shows are familiar to millions of Americans, has hosted her own annual celebrity golf benefit in Paducah, KY, for the past 7 years.

This next weekend will be Louise Mandrell's eighth annual benefit for handicapped children and adults in western Kentucky.

Primary benefactors from the efforts of Louise Mandrell include the West Kentucky Easter Seal Center in Paducah, the Marshall County School for Exceptional Children at Benton, KY, and the J.U. Kevil Center in Mayfield, KY.

The 1988 chairman of the Louise Mandrell Benefit, Paducah attorney E. Frederick Straub, Jr., is among those expressing appreciation for Louise Mandrell's continuing interest in and willingness to help handicapped children and adults.

Beautiful Louise Mandrell leaped into the national spotlight in 1980 as one of the talented siblings on the NBC television show, "Barbara Mandrell and the Mandrell Sisters."

Special thanks to Louise Mandrell for again coming to Paducah, KY, this next weekend for her eighth annual benefit effort for needy western Kentuckians.

BASE CLOSING: THE HOUSE DESERVES A VOTE

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, in April, as the House prepared to consider this year's DOD authorization, the Rules Committee blocked DICK ARMEY from offering his base closing amendment. It was agreed that three House committees would get a chance to mark up their own versions of the bill. At the same time, a free standing vote on the bill close to June 1 was promised in order for the House to weigh in before the DOD conference was completed.

Well, Mr. Speaker, it is now June 21, and the bill is nowhere to be found on the schedule. Our DOD conferees, armed only with a motion to instruct, negotiate with Senate counterparts who had almost 2 full days of debate on this subject in the Senate. The completion of the DOD conference threatens to make any future House vote moot.

The Senate's base closing provision contains some important improvements on both the original bill and the version marked up by the Armed Services Committee, including staff requirements, composition of commission members and consideration of overseas bases.

This issue is too important for the Members of the House to be denied a free standing vote. The leadership must live up to its promise and put the Armey base closing bill on the floor soon.

HAITIAN COUP SHOWS FAILURE OF UNITED STATES FOREIGN POLICY

(Mr. de LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. de LUGO Mr. Speaker, once again, the people of Haiti are suffering through political upheaval—a military coup, while the United States sits by without any coherent foreign policy toward this island nation.

United States policy toward Haiti since the departure of "Baby Doc" Duvalier has been a continuing series of disasters.

We promoted democratic reforms and, at our urging, the people of Haiti turened out in large numbers to vote. Then we stood by helplessly as thugs slaughtered them at the polls while the Haitian Army just watched.

We stood on the sidelines for a second election, which was rigged, and only created a sham of a civilian government. When that government recently moved to exert some control over the Army, we were unprepared and unable to help as the Army callously seized power and announced it would rule by decree.

The democratic-minded people of Haiti must be wondering if they can afford to rely on the United States for support.

I want to express the deep concern that the people of my home islands feel for our neighbors in Haiti, who are struggling to establish democracy, as so many of their West Indian neighbors have been able to do. I also want to express our disappointment that the United States has just stood by as the hopes for the creation of a democratic government in Haiti have been cynically crushed.

DEFENSE SAVINGS ACT WOULD ADDRESS BASE CLOSING ISSUE

(Mr. DeLAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DeLAY. Mr. Speaker, the newspapers are filled with stories of the unfolding scandal at the Defense Department—a sordid tale of public officials, private consultants, and large Defense contractors working together to distort crucial Defense decisions.

What we must remember, though, is that the legal, political use of our defense dollars can often distort Defense decisions as much as outright illegal bribery.

In no area is this more evident than in military basing decisions. We all know that military bases are often closed or kept open for political reasons that have little to do with our objective defense needs.

The House, however, has a chance to eliminate politically motivated Defense spending by passing the Defense Savings Act—a bill to take the politics out of military base closing decisions and save over $2 billion a year.

A vote on this bill is long overdue. I urge the leadership to meet its commitment and bring this issue to the House floor before the conference on the Defense authorization is completed.

STOP PLAYING POLITICS WITH THE MILITARY BASE CLOSING ISSUE

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, the House has not considered the military base closing issue yet because the Democrat leadership refuses to schedule it for a floor vote.

Earlier this year, the Democrats kept the base closing amendment off the DOD bill by promising to consider it as a separate bill but there was an understanding that it would still be considered in the DOD conference. The separate bill and floor vote was simply to be an expression of the House's will to guide the conferees.

Now the Democrat leadership is singing a different tune. Their reasoning goes like this: They do not want to handle this issue in conference until the House has a chance to vote on it. But the House will not get a chance to vote on it until after the DOD conference ends.

Mr. Speaker, this looks more and more like a shell game to keep this important issue from being acted on. I call on the Democrat leadership to work quickly to get this measure up for a vote before the conference ends so that we can get on with saving the taxpayers between $2 and $5 billion each year.

Let me add parenthetically, Mr. Speaker, many people said it would be the Lakers in seven and it looks now as if that will be the case tonight.

THE THRIFT INDUSTRY CRISIS

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, the Federal Home Loan Bank Board announced today that the American thrift industry has lost $3.8 billion in the first quarter of this year. This quarterly deficit means that the industry is losing money at a $15 billion annual clip.

As we all know, the economy appears on the surface to be humming along, but below the thin crust of prosperity there is a pernicious disease eating at our economic security, symbolized by the thrift crisis, the overleveraging of capital, is the single greatest threat to our economy. It is also the single greatest financial scandal in which this body is complicitous.

Too loose laws have led to too loose regulations, which have led to too loose banking practices.

It is time for Congress to examine the pressure group syndrome that has put this Congress on the line, and that means the American people, for approximately $50 billion today and potentially $100 billion tomorrow.

Last week I introduced legislation to try to bring this restraint into play. I urge the committee of jurisdiction to look at it very seriously.

□ 1305

LOUIS J. HOLLIS, CAPITOL HILL PHOTOGRAPHER

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McEWEN. Mr. Speaker, this morning as I opened the newspaper I was shocked and saddened to learn of the passing of Louis Hollis, a long-time friend of the Congress and faithful photographer on the House staff.

Mr. Hollis, his cheerfulness and faithfulness made service here even more special. Mr. Speaker, thousands of memories are preserved on mantels and shelves across America, memories of Americans who have visited their Capitol which were preserved by photographs taken by Louis Hollis.

Mr. Speaker, on at least two occasions last week I suggested to Lou that he take it easy in the 90-degree heat with his red face and beaded brow as he would faithly go from job to job, from building to building, and from Congressman to Congressman recording the visits of faithful taxpayers as they came to be here. I for one, am sure I speak for many Members of Congress, feel a deep sense of sadness at Lou's passing. he will be sorely missed. To his wife, his son, his daughter, and to the whole family I wish them God speed at this very special time, for a very tremendous hole has been left in the heart of us all by his passing.

Louis J. Hollis, Capitol Hill Photographer

Louis J. Hollis, 59, a photographer with the U.S. House of Representatives, died June 18 at Fairfax Hospital after a heart attack.

Mr. Hollis, who lived in Falls Church, was born in Washington and graduated from the old Central High School. He served in the Navy from 1950 to 1952.

After serving in the Navy, he worked in the photography laboratory of the Department of Agriculture, then became a photographer with the old Washington Times-Herald in 1954, Mr. Hollis joined the photography staff of the Washington Daily News.

When that newspaper closed in the early 1970s, he became a freelance photographer and then went to work as a photographer for the House of Representatives. There his duties included taking pictures of members with their constituents, committee hearings and the like.

Survivors include his wife, Judy Hollis, one son, L. John Hollis, and one daughter, Patricia Ann Hollis, all of Falls Church; his sister, Peggy Sondheimer of Falls Church, and two brothers, Robert Hollis of Rockville and Frank Hollis of Chevy Chase.

LOUIS J. HOLLIS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I had intended to speak in my 1-minute this afternoon about drugs, but I, too, had a great admiration and respect for Lou Hollis. I did not know that he had passed away. When one of our fine workers here on Capitol Hill dies, unless we mention it here in the well our fellow Americans do not know about the thousands of people in this city who served their country and serve us here in Congress so well with such great devotion and efficiency. Mr. Speaker, Louis Hollis will be sorely missed.

Mr. Speaker, as the gentleman from Ohio [Mr. McEwen], the preceding speaker, said, there are thousands of Americans all over this country who have a beautiful picture of the Capitol in black and white, and now lately in color, on their wall with their Senator or their Member of this great body, and they will never know the dedication of that man Louis Hollis who took all those excellent pictures.

DRUGS AND WORLD OPINION

Mr. Speaker, the day before yesterday I had the opportunity to go to Great Britain and appear on their program which is parallel to "Meet the Press" on the subject of drugs. One of the points that came up on the show was that it seems many people around the world think poverty is the sole cause of drug abuse; which does not make sense when you consider that cocaine is a very expensive addiction. However, I had a big problem informing my hosts and guests on that show that Nancy Reagan is correct, wealthy people and middle-class people who used their hard-gotten salaries to buy cocaine are truly accessories to murder. This is a problem that crosses all economic and socioeconomic lines.

BASE CLOSING MEASURE SHOULD BE HANDLED IN CONFERENCE

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, one of the best opportunities we'll have this year to cut wastefull spending in the military may fall by the wayside due to the Democratic leadership's refusal to honor its promise for a floor vote.

The base closing measure, to set up a nonpartisan commission to recommend military bases for closure, was not offered as an amendment to the DOD authorization bill because the Democratic leadership wanted a chance to consider the bill at greater length. That earlier promise now looks more and more like it was designed to derail this popular idea.

For this measure to be successful this year, it must be handled in the conference on the DOD authorization. The Democratic leadership has said that to handle it in conference the House must first debate it and vote on it on the House floor. I urge the Democratic leadership to stop playing politics with this issue and bring this bill to the House floor before the end of the DOD conference.

Mr. Speaker, this issue is much too important to stall around on. Let the House have a chance to vote on this measure before the DOD conference ends.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1158, FAIR HOUSING AMENDMENTS ACT OF 1988

Mr. MOAKLEY, from the Committee on rules, submitted a privileged report (Rept. No. 100-714) on the resolution (H. Res. 477) providing for the consideration of the bill (H.R. 1158) to amend title VIII of the act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 4800, HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS, 1989

Mr. MOAKLEY, from the Committee on rules, submitted a privileged report (Rept. No. 100-715) on the resolution (H. Res. 478) waiving certain points of order against consideration of the bill (H.R. 4800) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes, which was referred to the House Calendar and ordered to be printed.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 4781, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

Mr MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 475 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 475

Resolved, That all points of order for failure to comply with the provisions of clause 7 of rule XXI are hereby waived against the consideration of the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes. During the consideration of the bill, all points of order against the following provisions of the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: beginning on page 2, line 1 through the colon on page 3, line 1; beginning on page 3, line 9 through the colon on page 4, line 7; beginning on page 4, line 15 through the colon on page 8, line 6; beginning on page 8, line 10 through the colon on page 9, line 67; beginning on Page 9, line 13 through the colon on line 24; beginning on page 10, line 10 through the colon on line 19; beginning on page 11, line 1 through the comma on page 14, line 24; beginning with *"Provided,"* on page 15, line 3 through the colon on page 17, line 20; beginning on page 18, line 3 through "$1,434,664,000," on page 25, line 17; beginning on page 25, line 19 through the colon on page 26, line 3; beginning on page 26, line 6 through "1991," on page 30, line 24; beginning on page 31, line 3 through the colon on line 25; beginning on page 32, line 9 through the colon on line 15; beginning on page 33, line 3 through the colon on line 9; beginning on page 34, line 1 through the colon on line 11; beginning on page 35, line 8 through page 38, line 13; and beginning on page 45, lines 8 through 25. In any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph. It shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Roth of Wisconsin, and all points of order against said amendment for failure to comply with the provisions of clause 7 of rule XVI and with clause 2 of rule XXI are hereby waived. It shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Walker of Pennsylvania, and all points of order against said amendment for failure to comply with the provisions of clause 2(c) of rule XXI are hereby waived, if the motion to rise and report under clause 2(d) of rule XXI is rejected or not offered.

The SPEAKER pro tempore (Mr. Gray of Illinois). The gentleman from Massachusetts [Mr. Moakley] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. Quillen], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 475 is the rule making in order two amendments and waiving certain points or order against consideration of the bill, H.R. 4781, the Department of Defense appropriations for fiscal year 1989.

Mr. Speaker, since general appropriations bills are privileged under the rules of the House, the rule does not provide any special guildelines for the consideration of the bill. Provisions related to time for general debate are not included in the rule.

Customarily, Mr. Speaker, general debate time is limited by a unanimous-consent request by the chairman of the Appropriations Subcommittee prior to the consideration of the bill.

Mr. Speaker, the rule waives clause 7, rule XXI against consideration of the bill. Clause 7, rule XXI requires that the relevant printed hearings and report be available for 3 days prior to consideration of a general appropriations bill.

The rule also waives clause 2, rule XXI against specified provisions of the bill. Clause 2, rule XXI prohibits unauthorized appropriations or legislative provisions in general appropriations bills.

The rule provides that where points of order are waived against only a portion of a paragraph, a point of order against any other provision in the paragraph may be made only against such a provision and not against the entire paragraph.

The specific provisions of the bill for which the waivers are provided are detailed in the rule by page and line.

Mr. Speaker, the rule makes in order an amendment printed in the report accompanying this resolution by Representative Roth of Wisconsin. The rule waives points or order aginst the amendment under clause 7, rule XVI (prohibiting nongermane amendments) and clause 2, rule XXI (prohibiting unauthorized appropriations or legislative provisions in general appropriations bills).

And finally, Mr. Speaker, the rule makes in order an amendment in the report accompanying this resolution of Representative Walker of Pennsylvania. The rule waives points of order against clause 2(c), rule XXI if the motion to rise and report under clause 2(d), rule XXI is rejected or not offered. Clause 2(c), rule XXI prohibits consideration of amendments to a general appropriations bill which change existing law.

Mr. Speaker, H.R. 4781 appropriates $282.7 billion in new budget authority for activities of the Department of Defense and related agencies for fiscal year 1989. This sum is $556.6 million below the President's request and is $3.6 billion above the sums made available for fiscal year 1988. The $282.7 billion total is within the 302(b) budget allocations.

Funding for military personnel accounts is $78.4 billion, $2.3 billion above fiscal year 1988 and $200,000 above the President's request. The bill allows for the recently approved 4-percent pay raise.

Under title II $85.6 billion is obligated for operation and maintenance activities.

H.R. 4781 appropriates $80.8 billion for procurement; $36 billion for research, development, test, and evalution activities; $1.13 billion for revolving and management funds; $375 million for chemical weapons destruction; and $168 million for related activities.

The legislation does not include any language regarding ABM Treaty interpretation, SALT II Treaty compliance, or nuclear warhead testing. Language is included in the bill which prohibits aid to the Nicaraguan Contras without explicit congressional approval. No funding is provided for Asat testing or for chemical weapons.

Finally, Mr. Speaker, the bill provides $475 million for drug interdiction including procurement of aircraft and patrol boats and funds for operation and maintenance in the Army and Navy.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Massachusetts [Mr. Moakley] has ably explained the provisions of the rule and parts of the bill, and I commend him for his explanation. I want to congratulate the gentleman from Florida [Mr. Chappell], the chairman of the Subcommittee on Defense, and the gentleman from Pennsylvania [Mr. McDade], the ranking member of the subcommittee for the fine job they have done in hammering out this defense appropriation bill under the constraints of the budget handicap and also under the Gramm-Rudman legislation.

Mr. Speaker, they have done a Trojan job in bringing to the floor of the House a bill which has very little controversy, if any. Normally when a defense appropriation bill comes to the floor we see a host of Members wanting to participate in the debate but it is my opinion that this bill as hammered out by the committee is one of less controversy than any that has been presented in the 26 years that I have been in the House. Again, my congratulations.

We know how important it is to have a strong defense posture. That is what makes America great and what makes the countries around the world look up to America.

□ 1320

We are in that situation today, having brought ourselves into a position of strength from a position of weakness. This bill appropriates the funds to support that position of strength.

Mr. Speaker, I urge the adoption of the rule and I urge the passage of the bill when it is debated on the floor of the House.

Mr. Speaker, I have no requests for time and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Gray of Illinois). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 364, nays 37, not voting 31, as follows:

[Roll No. 192]

YEAS—364

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney

Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Crockett
Dannemeyer
Darden
Daub
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fish
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Houghton
Hoyer
Hubbard
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Swindall
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—37

Armey
Badham
Bartlett
Barton
Bilirakis
Brown (CO)
Buechner
Bunning
Burton
Craig
Crane
Davis (IL)
Dornan (CA)
Dreier
Fields
Gregg
Gunderson
Hastert
Hefley
Hunter
Inhofe
Lightfoot
Marlenee
McCandless
Nielson
Petri
Schaefer
Sensenbrenner
Shumway
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stump
Sundquist
Tauke
Upton
Vucanovich

NOT VOTING—31

Biaggi
Boulter
Collins
Coyne
Dixon
Duncan
Eckart
Edwards (OK)
Feighan
Florio
Gephardt
Gray (PA)
Hatcher
Hawkins
Horton
Huckaby
Jones (TN)
Kemp
Konnyu
MacKay
Markey
Mica
Miller (WA)
Moody
Nagle
Ray
Savage
Sawyer
Spence
Towns
Weldon

☐ 1339

Messrs. DENNY SMITH, HEFLEY, GUNDERSON, and STUMP changed their vote from "yea" to "nay."

Mr. HUTTO changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RETURNING TO THE SENATE S. 727, CLARIFYING INDIAN TREATIES AND EXECUTIVE ORDERS WITH RESPECT TO FISHING RIGHTS

Mr. ROSTENKOWSKI. Mr. Speaker, I offer a privileged resolution (H. Res. 479) returning to the Senate the bill, S. 727, and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

H. Res. 479

Resolved, That the bill of the Senate (S. 727) to clarify Indian treaties, Executive orders, and Acts of Congress with respect to Indian fishing rights, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER. The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution was introduced at the direction of the Committee on Ways and Means to express the opinion of the House that the bill, S. 727, contravenes the first clause of section 7 of article 1 of the Constitution and is an infringement of the privileges of this House to originate revenue legislation. The resolution directs that S. 727 be respectfully returned to the other body with a message communicating this resolution.

S. 727 is a bill dealing with the tax treatment of income derived from the exercise of Indian treaty fishing rights. The other body passed S. 727 on May 13, 1987. The bill is identical to H.R. 2792, as originally introduced and referred jointly to the Committee on Interior and Insular Affairs and the Committee on Ways and Means. Since the House has just passed an amended version of H.R. 2792, it is appropriate to return S. 727 to the other body with the customary "blue slip" because it is a revenue bill which constitutionally should originate in the House.

I urge my colleagues to support this privileged resolution.

Mr. FRENZEL. Mr. Speaker, if the gentleman will yield to me, the minority concurs in the statement and the recommendation of the chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the resolution.

A resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CHAPPELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes; and that I may be permitted to include tables and other extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objections.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

Mr. CHAPPELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes; and pending that motion, Mr.

Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania [Mr. McDADE] and myself.

The **SPEAKER**. Is there objection to the request of the gentleman from Florida?

There was no objection.

The **SPEAKER**. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

☐ 1347

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4781, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The **CHAIRMAN**. Under the unanimous-consent agreement, the gentleman from Florida [Mr. CHAPPELL] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. McDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CHAPPELL].

Mr. **CHAPPELL**. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I bring before the House the Defense appropriation bill for fiscal year 1989.

I take this opportunity to thank all the members of the Defense Subcommittee for their advice and indulgence in marking up and reporting out the Defense appropriation bill for fiscal year 1989. It was a group effort and is generally supported in its entirety by all the subcommittee members.

This can be attested to by the fact that there were no separate minority or dissenting views filed in this report.

I want to especially thank the ranking minority member of the subcommittee, JOE McDADE, for his cooperation and assistance in formulating this difficult bill.

I want to say he has done an outstanding and magnificent job and I congratulate him and thank him. It was not an easy task to draft the bill before you today.

We provide funds in this bill for all of the necessary programs while keeping the overall funding level within the guidelines expressed by the summit agreement.

We have brought you a minimal level bill acknowledging the need to show restraint in overall Government spending.

This bill meets the budget summit agreement levels and is in compliance with our 302 allocation levels for both budget authority and outlays.

Let me point out that the bill before you has included funding for many programs that are not authorized by the Defense authorization bill which is being considered in the conference committee at the present time.

In order to get to the floor today, we had to mark up several weeks ago. We were, therefore, unable to wait until the Defense authorization bill cleared conference before completing action on the bill before you today.

When we go to conference we will conform to the authorization agreement.

As I have indicated earlier, this bill provides budget authority and outlays at the exact levels of the 302 allocation. If amendments are offered to increase funds, offsetting decreases must be proposed for budget authority in order for us to remain in compliance with our 302 allocations.

Let me summarize the bill for you if I might. The bill before you provides total obligational authority of $282.6 billion which is $3.6 billion above the fiscal year 1988 funding level and $557 million below the President's budget request. We have fully funded the readiness accounts and have attempted to maintain economical production rates in order to keep unit costs down and save taxpayers' dollars.

☐ 1350

Mr. Chairman, let me now briefly cover what is recommended in the Defense appropriation bill before us.

Mr. Chairman, pages 4, 5, and 6 of the committee's report list a number of significant and highly visable programs addressed in the bill, and I advise the Members to read these highlights to easily identify programs of interest to them.

Let me turn to the account on military personnel. The bill recommends $78.4 billion for military personnel or $2.3 billion above last year's level and roughly the budget request level. These funds provide 2,138,300 active duty military personnel and 1,173,589 in selected Reserve levels.

The bill provides the funding levels needed to finance a 4-percent military pay raise and a 2-percent civilian pay raise. I realize several different proposals for pay are being considered, such as 3 percent for both military and civilians, but until these issues are settled in conference I would hope we can let this bill stand as it is and we can finalize our funding levels in conference based upon the agreement that will be worked out in the authorizing bill.

Mr. Chairman, I turn now to the operation and maintenance account. The bill recommends $85.7 billion for the operation and maintenance accounts or $5.4 billion above last year's level and $84 million above the budget request.

The O&M accounts provide funds for the maintenance of equipment and facilities, fuel, supplies, and repair parts for weapons and equipment. These accounts, along with military personnel, provide the readiness needed to properly man and maintain the new weapons systems that are coming on line. If we shortchange these accounts, we will not adequately man the tanks, planes, and ships, and the proper maintenance will not be conducted. If we reduce these accounts too much, we should also stop buying additional equipment because it makes no sense to put new equipment in the field if it cannot be operated in the proper fashion.

Unfortunately, these accounts have the biggest impact on outlays in the first year, and they become a prime target when outlay reductions are needed. We have funded these accounts at the full authorized levels and have even added funds above the budget and authorization to cover dollar shortfalls because of the current exchange rates being experienced overseas.

Mr. Chairman, I turn now to the procurement account. The bill recommends $80.7 billion in total obligational authority for procurement, a reduction of $3.5 billion below last year's level but an increase of $798 million above the budget request. Some of the so-called big ticket items recommended in the bill are as follows:

The bill recommends $795 million to purchase 72 AH-64 Apache attack helicopters.

The bill recommends $1.1 billion to purchase 545 M-1 Abrams tanks.

The bill recommends $2.2 billion to purchase 84 F/A-18 aircraft.

The bill recommends $1.1 billion to purchase one Trident submarine.

The bill recommends $1.2 billion to purchase two SSN-688 nuclear attack submarines.

The bill recommends $2.1 billion to purchase three DDG-51 destroyers.

The bill recommends $1.4 billion to purchase 42 F-15 aircraft.

The bill recommends $2.5 billion to purchase 180 F-16 aircraft.

The bill recommends $900 million to purchase four C-17 aircraft.

The bill recommends $807 million to purchase 12 MX missiles.

Mr. Chairman, let me turn now to the research, development, test, and evaluation account. The bill recommends $36.1 billion in total obligational authority for research, development, test, and evaluation, which is $938 million below the fiscal year 1988 level and $2 billion below the budget request. Some of the specific recommendations in the bill are as follows:

The bill recommends $561 million for continued development of the Trident II strategic missile system.

The bill recommends $702 million for development of the advanced tactical fighter.

The bill recommends $733 million for ICBM missile modernization. That is the MX and the small ICBM.

The bill recommends $941 million for continued development of the C-17 transport aircraft.

The bill recommends $3.2 billion for the strategic defense initiative, which is the House-authorized level.

I turn now, Mr. Chairman, to the account relating to the National Guard and Reserve Forces.

The bill recommends over $19 billion for the National Guard and Reserve Forces, which includes add-ons above the budget request of $1.2 billion, mostly for equipment. I refer the Members to pages 9 through 14 of the committee report which set forth the funds provided for the National Guard and Reserve Forces. The committee has always been a staunch supporter of the Guard and Reserve, and we continue to try to update the equipment available to these forces.

On intelligence matters, the committee reviews the intelligence and intelligence-related activities budgets with the same intensity and completeness as is afforded other portions of the Department of Defense budget. Because of the highly sensitive nature of these activities, the results of the committee's budget review are published in a separate detailed and comprehensive classified annex to this report and cannot be discussed on the floor.

Mr. Chairman, I remind the members of the committee that the majority of the thousands of line items in the budget remain untouched by the bill, and they are funded at the budget request level or the authorized levels.

Mr. Chairman, I realize that this bill is not going to please everyone. I personally think it is a very fine bill. I think it gives us a good balance in our defense efforts, and, Mr. Chairman, I recommend the support of the Members on final passage.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in my view we have brought before the House a good bill, and while I welcome the opportunity for debate and discussion, in my view this bill can and should be adopted with dispatch and without deep division.

Not that it is perfect—it is not. We have not been able to do everything that I think our security demands and our worldwide commitments require. But the important thing is that we have tried to write a responsible, consensus bill, and I think we succeeded.

As evidence of this—I can't think of another subcommittee or committee in the Congress that features the diversity of opinion and views that we have on the Defense Subcommittee. Believe me, there is always wide ranging discussion when we mark up.

However, after many hours and days of effort we bring before you a bill which enjoys the unanimous support of the subcommittee, and which was agreed to without controversy by the full Appropriations Committee.

This is a consensus product, which as the chairman indicated reflects both the position of the House and, more importantly, an effort to get the most defense out of every defense dollar.

This is the result of a great deal of work and cooperation by all members of the Defense Subcommittee, on both sides of the aisle, and I want to commend all the Members. Also, we have been fortunate to have the services of our tremendous committee staff, and I want to acknowledge their efforts and support to me and the Members on this side. I would like to express my gratitude to the chairman of our subcommittee, the distinguished gentleman from Florida, BILL CHAPPELL, for his evenhandness and his leadership throughout our deliberations. He's done an excellent job.

Mr. Chairman, as we all are aware last year's budget summit set this year's funding level for defense. I can assure the membership that this bill complies with the summit agreement. We track the budget resolution and we are about as close to our 302(b) allocation as one could imagine—$1 million under for both budget authority and outlays.

It has been easier in some ways to write this bill, because of the summit—from the first day of hearings, we knew how much money we would have to work with and this helped expedite the process. Despite this relative certainty, however, writing this bill has not been an uncomplicated task by any means.

I am compelled to remind all Members that even though we comply with the summit, this is the fourth straight year that Defense appropriations will decline, in real terms. In this bill we provide roughly 10 percent less, after inflation, than we did in 1985.

And for this fiscal year alone, to comply with the summit the Department of Defense had to cut its planned budget by nearly $33 billion, a 10-percent reduction.

This forced the administration to confront many difficult tradeoffs. I think all Members will concede that under Frank Carlucci, the Department not only considered these tradeoffs, but stepped up and made some hard choices.

As a result the budget we were sent in February had a number of stark recommendations:

An active duty troop reduction of 27,000;

The drawdown of 16 Navy frigates, over 600 Army helicopters, and two Air Force fighter wings from existing force structure; and

The cancellation of over a dozen weapons programs.

Secretary Carlucci has been up front about how he regards these proposals—making it clear that these cuts were proposed only because of fiscal constraints—not because of any change in commitments or security needs.

But cuts had to be made, and they were. What the DOD did do was forward a budget organized around three principles—in the words of Secretary Carlucci, these are "people"; "readiness"; and "efficient acquisition."

I think it is safe to the Congress, in general, has agreed with these priorities, and our subcommittee has worked hard to produce a bill that funds this approach.

For example: If the 1970's taught us anything about defense priorities it is that good people and combat readiness can be lost faster than anything else, and take the most effort and money to restore.

The Pentagon appears to have recognized this. In its request, the only areas that show significant growth over last year are, indeed, the personnel and readiness accounts.

Our subcommittee supports this emphasis, and, in fact, in both the military personnel and operations and maintenance accounts we have not only fully funded but have recommended increases over the administration's request.

Military personnel accounts receive an increase of $2.25 billion over last year, including a 4-percent military pay raise and increases in housing allowances.

In operations and maintenance, we recommend an overall increase of $5.4 billion from last year, nearly 7 percent growth. This includes a civilian pay raise of 2 percent. Within this area, we have protected the repair and maintenance activities carried out in Army depots, Navy ship repair facilities, and Air Force logistics centers.

We have not neglected quality of life issues, either: For example, we have added $229 million over the budget to improve military medical care and staffing levels.

People and readiness—these are part of the real success stories of the 1980's in defense and I believe we have done a lot in this bill to ensure we don't squander the improvements made since the late 1970's.

This bill also follows through on the Department's third priority, trying to make more efficient and productive choices in procurement of equipment. We have made every effort to avoid costly production stretchouts; and where it made sense, and where we could find the funds, we have increased procurement rates and looked to multiyear contracting.

I can point to examples of this in nearly every procurement account. Look at the Army—we have increased funding and approved multiyear procurement of its two premier weapons systems—the M-1 tank and the Apache attack helicopter. These sorts of recommendations are throughout the bill.

In keeping with our emphasis on readiness, we have protected and in some cases added funds over the request for some of the less glamorous procurement programs, such as ammunition for the Army and Marine Corps, air-to-air missiles for the Navy.

I could go on and on. There are a lot of success stories and good things in the bill and report before you. I can't be honest and say I am comfortable or satisfied with everything we have recommended, but, on balance I believe we have put together a credible measure, recognizing that we don't have the money to do everything.

It hasn't been easy. We have had the same frustration and problems, as all Members and committees have faced, in trying to address valid national needs in the face of fiscal constraints.

And while this bill, certainly, has more than its share of hard choices they are only the first steps of what promises to be a very difficult and prolonged process over the next few years.

For those who are upset with some of this year's decisions—be it a weapons cancellation, or manpower cuts affecting an installation some where in the country—let me tell you, it is going to get tougher.

The Pentagon realizes it has to take into account the overall deficit problem and it is, perhaps belatedly, coming to grips with decisions which must be considered in the face of limited resources.

I don't know which direction this will take us—be it more manpower cuts, program terminations shifts in force structure—but I can only hope we all agree that the Congress has to work with the Defense Department, to try and fashion a steady and predictable effort.

Stability is the surest way to save money in defense, and if we want to make informed, sensible decisions to save money then we have to be prepared to eliminate the rollercoaster, up and down defense spending syndrome as we look forward to the next administration.

This bill provides a sound basis for beginning this process. It deserves, and I ask for, an overwhelming vote of support from the House.

□ 1400

Mr. CHAPPELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Chairman, I would like to enter into a colloquy with the chairman of the committee.

Mr. Chairman, I note that the major arms control provisions the House approved as part of the Defense authorization bill, in particular the provisions relating to the ABM Treaty, SALT II, nuclear testing and the depressed trajectory tests, are not contained in the Defense appropriation bill before us today.

It is certainly my intention and hope to resolve satisfactorily those issues in the authorization conference with the Senate, discussions which of necessity will include informal consultations with the administration.

I am concerned, however, that some in the Senate, and perhaps in the administration, will view the absence of these key provisions in the Defense appropriations bill as it passes the House as an incentive to not negotiate very seriously in the authorization conference. This is a matter that we and the House leadership have discussed, and it would be useful to explain at this time how we intend to handle it.

Mr. CHAPPELL. Mr. Chairman, I thank the gentleman for his remarks, and I am pleased to have yielded to him for the opportunity of expressing those thoughts, and now let me express mine on that subject.

The fact that the arms control provisions are not included in this appropriation bill does not indicate a lessening of interest in them or support for their enactment. Administration officials should not attach any significance to their absence at this time, and I hope the Senate will have the same understanding on this point.

Indeed, the administration and Members of the Senate should not assume they can use the appropriations process to bypass the consideration of these issues in the authorization bill where they are appropriately under consideration.

Mr. Chairman, I have pledged my full support for a resolution of these provisions in a manner acceptable to the House. To carry out this pledge in the event that the Defense authorization bill is not signed into law when the Defense Appropriations Conference begins, I will support proper consideration of the arms control provisions at that time by introducing them into the appropriations conference consideration.

Further, I will strongly oppose completion of the Defense appropriations conference unless these provisions are resolved in a manner that is satisfactory to the House.

Mr. ASPIN. Mr. Chairman, I thank the gentleman from Florida [Mr. CHAPPELL] very much for those assurances, and I would like to say that I very much appreciate working with him on these issues.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. Mr. Chairman, I have one other matter, but I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I want to express my appreciation both to the chairman of the Authorization Committee and to the subcommittee chairman for that assurance from many of us who have been working on these arms control provisions which by now clearly reflect a very strong majority in the House that has been tested year after year. It is very reassuring for us to have the sentiments of the two gentlemen, and let me say that I express particularly my appreciation to the chairman of the subcommittee for giving us this really extraordinary commitment that he will be available as a kind of a fallback if there is a problem elsewhere. For him to do that in this context means a lot, and, since he is taking over the chairmanship, he has shown a great deal of consideration and thought toward other Members and those of us who care about arms control.

Mr. Chairman, I appreciate very much the commitment that he is giving to us now, and we are glad to have him.

Mr. ASPIN. Mr. Chairman, I would like to echo the comments of the gentleman from Massachusetts [Mr. FRANK]. I think that what he said here about the gentleman from Florida [Mr. CHAPPELL] is absolutely correct. Just one further item, Mr. Chairman.

Mr. Chairman, the Committee on Armed Services and the Committee on Appropriations have been consulting this year as we have proceeded to act on legislation relating to the fiscal year 1989 budget of the Department of Defense. I am pleased to be able to report that, as a result of those consultations, that I believe that we will have a better defense program than could have been achieved in the absence of such consultation.

Mr. Chairman, last year we had a major problem with the unauthorized appropriations. There were a number of reasons that these occurred, and it is not necessary to repeat those reasons now. But, as a consequence of what happened last year, there were discussions involving the Speaker, the Committee on Armed Services and the Committee on Appropriations. As a result of those discussions there was an agreement for the Committee on Armed Services and the Committee on Appropriations to work together to avoid the problems that we have encountered in the past.

For the Committee on Armed Services' part we moved early this year to report and pass an authorization bill so that the Committee on Appropriations would be able to act with the knowledge of authorizing actions.

☐ 1410

The conference on the authorization bill is nearing completion and I expect to bring a conference report to the House before the end of the month.

The Appropriations Committee has, understandably, proceeded to report a Defense appropriations bill before completion of action on the authorization bill. However the committees have worked together so that there is knowledge and understanding of the actions being taken. I am pleased that in those instances where the reported appropriations bill exceeds the authorization contained in the Housed passed authorization bill that the appropriations have been made subject to authorization.

As a part of the agreement worked out earlier this year the Armed Services Committee will be able to participate, as ex-officio members, in the conference on the appropriations bill, just as the Appropriations Committee has had the opportunity to participate during conference on the authorization bill. This process will provide the opportunity for discussing and resolving differences that may remain between the authorization and appropriations bills.

Mr. CHAPPELL. Mr. Chairman, I take this time to express my appreciation to the chairman of the Armed Service Committee and to the membership of that committee and to our own committee in working out the sticky problems that we have had between our committees.

I pledge as I have in the past and our Appropriations Committee pledges to this House that we will work together for the good of America and do those things for this institution in the way that they ought to be done in a good wholesome manner.

Mr. ASPIN. Mr. Chairman, I thank the gentleman.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Chairman, despite the fact that this represents a considerable reduction in the President's budget request, I think we have provided a lot of defense for the defense dollar. I think the taxpayers will be very happy to hear what they are getting for this year's dollar.

I would like to make several points about the bill itself and to say that of the thousands and thousands of items in this bill, they have all been addressed individually. They have been looked at very closely by the chairman and the ranking member and the members of the committee, and especially the staff.

I would like to compliment all the members of the committee, especially the chairman and the ranking member and the staff, for the personal scrutiny that every line item gets. It takes an awful lot of time to do that.

We were dealing with a summit figure set by the so-called summit late last year. It was interesting, during our hearings I asked the various Secretaries of the services and the Chiefs of Staff, the members of the Joint Chiefs and others, how much input did the Defense Department, the civilian side, have over the military side in agreeing to this summit figure. I was really amazed when I found they had zero input, that the figure determined by the summit was a political figure, rather than a figure based on the needs of the national defense or the threat that might face our national defense.

I think we can get away with that this year, but I hope that does not become a practice, because I do not believe that we can make our defense posture established on a political figure, as opposed to the actual needs.

I want to say, Mr. Chairman, that in this bill we all hear about the big issues. We hear about the SDI and we hear about the Stealth bombers. We hear about the nuclear missiles and things like this, but there are quite a number of issues in this bill addressed by this bill and funded by this bill that go to the area of family life, the quality of life in the service, the quality of family life in the service. I would like to mention just a couple of those.

There is medical care, for example. Several years ago this committee began moving strongly in the area of improving medical facilities, not only for the people in the uniformed services, but their families who are eligible for military treatment.

We also began to provide more immediate medical care for those who might be injured in a battle or some hostility. We have done a good job in that and this bill continues that job going.

We had a little bit of a problem with some new rules being decided by CHAMPUS. Some of these rules would have created problems for civilian hospitals throughout our country, and especially children's hospitals and major hospitals offering large children's departments. Through this bill we have been able to take care of that problem. We have been able to separate that issue so that the CHAMPUS regulations do not create serious problems for children's hospitals all over America.

Then there is one more thing I would like to mention, Mr. Chairman, that I think is really important. I had the privilege of working on this issue for quite a long time with the able assistance and partnership of my friend, the gentleman from Oregon [Mr. AUCOIN]. The medical community has developed a new procedure for dealing with blood diseases, diseases like leukemia, neuroblastoma, and other malignancies in the blood. It is called bone marrow transplant. It has been dramatic in the way that it has helped save lives since the procedure was created, or since the procedure was discovered.

We had a problem with bone marrow transplants in that you have to have a donor whose marrow matches the marrow of the person receiving the transplant. The best way to accomplish this is through a donor who is a sibling, a brother or a sister or an immediate parent.

We have been able to create a bone marrow registry using Department of Defense moneys funded in this bill through the U.S. Navy to set up a bone marrow registry that is in effect this year for the first time. Now people who need this dramatic new procedure, the bone marrow transplant, rather than having to wait a year or 2 years to find someone whose bone marrow matches, can now go to this registry and within just a few weeks find a donor. Already this year 14 people have had these lifesaving procedures, procedures that just a few years ago did not exist and just a few years ago those people would not have survived, and they are living today because of this procedure, a nonlethal part of this bill.

Many things in this bill are for the quality of life, not only for the military, but for our civilian population.

Mr. Chairman, I could go on and on and recite a lot of these types of issues in this bill that the average person never hears about, but they are in this bill and I am very pleased that they are and I urge support for this legislation.

Mr. CHAPPELL. Mr. Chairman, I yield 4 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I am pleased to join my colleagues on the Defense Appropriations Subcommittee in recommending this bill to the House. I want to compliment the work done by our chairman, the gentleman from Florida [Mr. CHAPPELL], and the ranking minority member, the gentleman from Pennsylvania [Mr. McDADE], in working with all the subcommittee members in crafting this legislation, and I also want to thank our very competent and professional staff, who once again have identified areas of potential savings as well as areas that need increased attention in meeting our security goals.

Our task this year was not to debate how much should be allocated to defense; that was resolved in the budget summit agreement last fall, but we have been tasked with an even more important charge; that is, to decide how funds should be allocated among demands that go far beyond the funding made available in this bill.

In this respect, I am confident that the House will affirm our judgment. Our first priority was to adequately fund the readiness accounts in the bill, military personnel and operations and maintenance. This bill reflects that priority by providing an increase over last year in these accounts of some $7.6 billion, while reducing procurement and research and development accounts by some $4.3 billion.

That is not to say that we do not face sacrifices on the readiness side of the equation. The pressures on these accounts will only increase in the years to come. This is the reason that I believe that we must make a commitment to sustained, modest growth in defense investment, along with a commitment to pay for that investment.

Mr. Chairman, I say this because I feel rather strongly that we have made significant improvements in our overall defense posture over the last 6 or 7 years, and I would hate to see us allow these improvements to erode because we simply do not have the resources to keep those divisions ready and to have the equipment and the personnel taking care of that, which is so important.

On the hardware side of the ledger we have tried to make reductions in lower priority programs while maintaining economic procurement quantities for higher priority items including the use of multiyear procurement on items such as the CH-47 and AH-64 helicopters, the F-16, the AV-8B Harrier, and the M-1 tank chassis.

We have made every effort to coordinate this legislation with the will of the House expressed during consideration of the Defense authorization bill last month. This is the case on both ICBM modernization and funding for the strategic defense initiative.

Dealing with Defense spending in a time of fiscal austerity is not an easy task. We have had to forgo a number of programs that had considerable merit, simply as a result of budget constraints. Try as we might it was impossible to avoid cases where programs will inevitably be stretched and costs increased. But in many cases programs have encountered problems that make it better to slow down now and fix them rather than to go forward and hope to take care of problems down the line.

Finally, I am pleased that the entire process is moving this year in a manner that allows us to bring this bill to the House in a timely manner. I am optimistic that we can complete this process expeditiously, and House approval of the bill today will be an important step in that effort.

Mr. McDADE. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Chairman, I had hoped to offer several amendments to the bill before us today to address this Nation's No. 1 mental disorder, phobias, and their effect on our military readiness. However, under the rule I am precluded from doing this.

The thrust of my amendments were to direct the Secretary of Defense to require that all recruits and active duty personnel who undergo medical physical examinations, either at a military entrance processing station or at the time of a required regular physical examination be provided with a description of phobias and panic attacks and be specifically asked by a physician or other qualified medical personnel whether they suffer from a phobia or panic disorder.

My second amendment would have required the Secretary of Defense to develop regulations, implement procedures, and provide necessary facilities to identify, treat, and rehabilitate members of the Armed Forces who suffer from phobias or panic disorders.

Let me say that I shall be dropping a bill into the hopper in the very near future which will address my concerns; however, in the interim let me share a little background with the Members of this body. Needless to say, we are all aware of the death of Navy Airman Recruit Lee William Mirecki, and share in the sorrow over this young man who died so tragically during an air-sea rescue training exercise in Pensacola this past March. However, I am not here today to discuss the particulars of that case which is in litigation; but rather, to discuss the Airman Mirecki case as it pertains to phobias in the military.

Some of you may be aware that for a number of years I have been the advocate for phobics in the Congress. In 1985, at my urging, the House Energy and Commerce Subcommittee on Health and the Environment, on which I served, held a congressional hearing on the subject of phobias which affect one out of eight people. Phobias are not selective. They affect both children and adults and do not differentiate between socioeconomic or educational levels.

During our hearing we heard of tragedy and we heard of success. We heard of the lack of adequate treatment which brought about suicide and we heard of those people who couldn't leave their homes for years, but were lucky enough to obtain effective treatment, and are now functioning well and are contributing members of society because they received state of the art phobia treatment.

I have had phone calls and letters from all over the United States from people who didn't realize they were suffering from phobias until they read a news account of the congressional hearing. Many of these people had been to numerous doctors who never properly diagnosed their phobia, but instead sent then on their way with bottles of tranquilizers and diagnoses ranging from depression to you name it. It wasn't until they read or saw something on television that they were able to put two and two together and realized they were phobics. It was only then that they were able to get the proper treatment for their phobias.

At the time of the hearing we did not discuss phobias as they might relate of the military. With Airman Mirecki's death I am now calling for immediate action to determine how phobias are being dealt with in the military.

It is fairly obvious that with one out of every eight people afflicted with phobias, this problem is as serious in the military as it is in the general nonmilitary population. The implications of debilitating phobias to our military readiness is serious. In this light, I have directed letters to House Armed Services Chairman LES ASPIN and Chairman BEVERLY BYRON, who chairs the Subcommittee on Military Personnel and Compensation, urging them to convene a hearing on phobias in the military.

As I wrote in my letter to them we need to explore the availability of state of the art treatment, the expertise of military health care deliverers in dealing with phobias and panic disorders, and what steps are being taken to educate military personnel on this very serious problem.

Mr. Chairman, I note in the committee report to accompany H.R. 4264, the National Defense Authorization Act for fiscal year 1989, on pages 265 and 266, the Armed Services Committee's concern over the lack of counseling programs for service members with a pathological gambling disorder. The committee is so concerned that it directs the Secretary of Defense to provide a report by December 31 of this year, on the feasibility of establishing gambling treatment programs within military health facilities or family counseling centers on military installations.

Yes, Mr. Chairman, as I read the report through there is not a mention of phobias—this Nation's No. 1 mental disorder. The report keeps mentioning medical readiness yet they forgot phobias and panic disorders.

In the committee report that accompanies the bill before us today, it is stated on page 29 that wartime care is the most essential mission performed by the military medical community. I'll but that; however, active duty personnel suffering from debilitating phobias or panic disorders will not be able to perform their wartime assignments; that I can guarantee—unless they receive treatment and the sensitivity level of their superiors are raised.

Let me move onto the specific case of Airman Mirecki. Press accounts indicate that Airman Mirecki's phobia centered on a fear of being grabbed and pulled underwater from which he suffered since age 5. Capt. Delroy Hire, a forensic pathologist at Pensacola Naval Hospital considers Airman Mirecki's death a homicide. He said Airman Mirecki's fear of being pulled under water triggered a phobia which in turn caused his larynx to close, keeping water out but also cutting off air, that resulted in cardiopulmonary arrest and drowning. I can't imagine a more painful and tragic way to meet death.

In the Airman Mirecki case it is alleged that a military flight surgeon said he was unfit for the rescue exercise because of his phobia, yet this decision was overruled by a military psychologist. One has to ask whether the psychologist knew what phobias were and how to deal with them or whether there was an attitude of "get back to your exercise and be a man." I assure you that from information that I have been given by phobics, as well as specialists in the treatment of phobias this tactic doesn't work when a phobic suffers from severe panic attacks.

I have also directed a letter to Secretary of Defense Frank Carlucci posing a number of questions on how the military treats phobias, the availability of treatment, and so forth. In discussions with members of the military and after looking over the various required military medical forms for recruits I see that there is nothing on the three forms—which I include as part of the Record—that address phobias. Additionally, I am told there is nothing in the military medical procedures requiring a military doctor to ask about specific mental health disorders at all. The questions on the applicant medical prescreening form merely ask whether one has been treated for a mental condition. This is certainly general and not sufficient since many phobics may never have sought treatment and like many other people haven't connected their discomfort with a possible phobia.

I'm told that if a service recruit admitted to having a phobia he would be evaluated and then possibly sent for a psychiatric evaluation to see if the military job he was seeking was compatible with his phobia. However, he is never asked whether he might have a phobia. Obviously someone suffering from claustrophobia probably would have difficulty with service on a submarine, and that individual who was afraid of heights wouldn't be particularly comfortable with parachuting or possibly with flying.

In summation, the health of our Armed Forces is of paramount importance and certainly vital to our military readiness. Each recruit and any other member of the military who may develop a phobia well into their career may be faced with a combat situation. This means that reasonably quick identification and immediately available effective medical treatment must be available.

It should be kept in mind that it isn't only recruits with whom we are concerned since those men and women who have been in the service for sometime can also be afflicted with phobias.

The death of Airman Mirecki as tragic as it is should not be in vain. The sensitivity of members of the military medical corps as well as training personnel must be heightened in order that such a tragedy may never have an opportunity to occur again. We can't turn our backs on this problem of phobias. It doesn't go away if you ignore it. The members of our military deserve better.

There is an irony in Airman Mirecki's death and that is that one of the principle reasons he enlisted in the Navy was so that he could attend college to study psychology. It is ironic that that discipline would have required him to study phobias—the very cause of his death.

Mr. Chairman, I urge the Members of this body to join me in pushing the Department of Defense to address this problem, and to push for an early hearing on this serious medical problem by the Armed Serices Committee. I believe the men and women serving this country deserve the best medical care available.

Mr. Chairman, I include the following sample forms and correspondence:

Applicant Medical Prescreening Form

Authority: Sections 505, 510, and 3012, Title 10, U.S. Code. Principal purpose: To speed your medical examination processing by identifying possible medical problem areas and to aid the medical staff in determining your eligibility and physical capabilities. To prepare military service applicants for medical processing by identifying documents or medical history required. Disclosure: Voluntary; failure to provide the information requested will stop further processing of your enlistment application.

PART I. PROCESSING REQUIREMENTS (RECRUITER COMPLETES—VERIFY PERSONAL DATA ENTERED)

1. a. Armed service processed for: Army, Navy, Marine Corps, Air Force, Coast Guard.

b. Service component: Regular, Reserve, National Guard.

2. Name of applicant (Last, First, Middle).
3. Date of birth (YYMMDD).
4. Social Security Number.
5. Height (actual) (inches).
6. Weight (actual) (lbs).
7. Max Wt allowed (lbs).
8. Date screened (YYMMDD).

PART II. MEDICAL HISTORY (APPLICANT)

Check each item—explain "yes" and "unsure" answers in item 16.

9. Physical impairments—Yes, no, unsure:

Have you ever had or have you now:
a. Back trouble.
b. Had trouble or loss of hearing.
c. Eye trouble, injury or illness.
d. Any deformities of, or missing fingers or toes.
e. Any painful or "trick" joints or loss of movement in any joint.
f. Impaired use of arms, legs, hands and feet.
g. Have loss of vision in either eye.

10. Corrective devices—Yes, no, unsure:

Do you:
a. Wear braces on your teeth.
b. Wear contact lenses or glasses.
c. Wear a hearing aid.

11. Diseases—Yes, no, unsure:

Have you ever had or have you now:
a. Hepatitis.
b. Rheumatic fever.

12. Federal Government Actions—Yes, no, unsure:

Have you ever:
a. Been rejected for military service.
b. Been discharged from military service for mental, physical or other reasons.
c. Do you receive or have you applied for disability from any Federal Agency.

13. Treatment of illness/injury—Yes, no, unsure:

Have you ever:
a. Taken any medication.
b. Been hospitalized.
c. Had bones surgically repaired using pins screws or plates.
d. Had or have you now any illness or injury including broken bones which required treatment by a physician/surgeon, hospitalization of a surgical operation.

14. Medical conditions—Yes, no, unsure:

a. Do you have any difficulty standing for a long time.

Have you ever:
b. Been treated for a mental condition.
c. Been a sleepwalker since age 12.

Have you ever had or have you now:
d. Addiction to drugs or alcohol.
e. Allergies.
f. Asthma or respiratory problems.
g. Bedwetting since age 12.
h. Epilepsy or seizures of any kind.
i. Other medical problems or defects of any kind.

15. (Females only) date of last menstrual period (YYMMDD).

16. Explanation of "yes" and "unsure" answers: Describe problem, give age at time of problem, name of doctor and or hospital where treated, and your current status regarding that problem.

PART III. CERTIFICATION BY APPLICANT AND RECRUITER

Warning: The information you have given constitutes an official statement. Federal law provides severe penalties (up to 5 years confinement or a $10,000 fine or both), to anyone making a false statement. If you are selected for enlistment based on a false statement, you can be tried by military courts-martial or meet an administrative board for discharge and could receive a less than honorable discharge that would affect your future. WARNING.

a. Applicant. I certify the information on this form is true and complete to the best of my knowledge and belief, and no person has advised me to conceal or falsify any information about my physical and mental history.

Applicant's signature.
Date signed (YYMMDD).

b. Recruiting Representative. I certify all information is complete and true to the best of my knowledge. I have conducted the medical prescreening requirements as directed by service regulations.

Name of recruiting rep. (Last, First, M.I.).
Pay grade of recruiting rep.
Signature of recruiting rep.
Date signed (YYMMDD).

PART IV. MEDICAL PROCESSING INSTRUCTIONS TO APPLICANT

(Rctg Rep Check Blocks—Applicant Initials.)

The Armed Forces Examining and Entrance Station (AFEES) or other military medical facility will conduct a thorough medical examination. You should provide any medical records or documents regarding illness, hospitalization, injuries, treatment, or surgery which may be required/requested by the examining physician. The items below apply specifically to you and represent requirements of the medical staff. Please initial each checked item in the blank provided to indicate that you understand.

Preparation for Medical Examination

Instructions

1. Take medical documents as discussed.
2. Take eye glasses.
3. Wear contact lenses. Also take your eye glasses with you or a statement from the optometrist/ophthalmologist of visual acuity and eye glass refractive error. Statement must be less than one year old.
4. Bring a statement from your orthodontist saying that the braces you are wearing will be removed at your expense and active treatment ended before your active duty date.
5. Males wear undershorts; females wear bra and panties for medical examination.

Acknowledgements

1. I understand that I will undergo a pelvic/rectal examination. (females only).
2. My medical examination may take more than 1 day if tests are required.
3. I've been briefed on the processing procedures and I understand them.
4. I must lose — lbs. before further processing can take place.
5. I appear to be ineligible for further processing for the following reasons: ______________________________.

______________________________.

Note: In questionable cases, use DIAL-A-MEDIC procedures to call or forward this form and other documents to the AFEES Chief Medical Officer through the service rep. prior to scheduling a medical examination.

PART V. MEDICAL OFFICER'S COMMENTS

Based on information provided, further processing is: Authorized, not justified, deferred pending review of additional documentation.

(Attach supplemental page for remarks)

Signature AFEES medical officer.

Date signed (YYMMDD).

[Standard Form 88, Revised 10/75 General Services Administration, Interagency Comm. on Medical Records, FPMR 101-11.806-8]

REPORT OF MEDICAL EXAMINATION

1. Last Name-First Name-Middle Name.
2. Grade and Component or Position.
3. Identification No.
4. Home Address (Number, street or RFD, city or town, State and ZIP Code).
5. Purpose of Examination.
6. Date of Examination.
7. Sex.
8. Race.
9. Total Years Government Service: Military Civilian.
10. Agency.
11. Organization Unit.
12. Date of Birth.
13. Place of Birth.
14. Name, Relationship, and Address of Next of Kin.
15. Examining Facility or Examiner, and Address.
16. Other Information.
17. Rating or Specialty.

Time in This Capacity (Total).

Last Six Months.

CLINICAL EVALUATION

Normal (Check each item in appropriate column; enter "NE" it not evaluated.) Abnormal.

18. Head, Face, Neck and Scalp.
19. Nose.
20. Sinuses.
21. Mouth and Throat.
22. Ears—General (Int. & ext. canals) (Auditory acuity under items 70 and 71).
23. Drums (Perforation).
24. Eyes—General (Visual acuity and refraction under items 59, 60 and 67).
25. Ophthalmoscopic.
26. Pupils (Equality and reaction).
27. Ocular Motility (Associated parallel movements, nystagmus).
28. Lungs and Chest (Include breasts).
29. Heart (Thrust, size, rhythm, sounds).
30. Vascular System (Varicosities, etc.).
31. Abdomen and Viscera (Include hernia).
32. Anus and Rectum (Hemorrhoids, fistula) (Prostate, if indicated).
33. Endocrine System.
34. G-U System.
35. Upper Extremities (Strength, range of motion).
36. Feet.
37. Lower Extremities (Except feet) (Strength, range of motion).
38. Spine, Other Musculoskeletal.
39. Identifying Body Marks, Scars, Tattoos.
40. Skin, Lymphatics.
41. Neurologic (Equilibrium tests under item 22).
42. Psychiatric (Specify any personality deviation).
43. Pelvic (Females only) (Check how done) Vaginal Rectal.
44. Dental (Place appropriate symbols, shown in example, above or below number of upper and lower teeth.).

Right. 1/32, 2/31, 3/30, 4/29, 5/28, 6/27, 7/26, 8/25. Left: 9/24, 10/23, 11/22, 12/21, 13/20, 14/19, 15/18, 16/17.

Remarks and Additional Dental Defects and Diseases.

LABORATORY FINDINGS

45. Urinalysis: A. Specific Gravity; B. Albumin; C. Sugar; D. Microscopic.
46. Chest X-Ray (Place, date, film number and result).
47. Serology (Specify test used and result).
48. EKG.
49. Blood Type and RH Factor.
50. Other Tests.

Notes: (Describe every abnormality in detail. Enter pertinent item number before each comment. Continue in item 73 and use additional sheets if necessary.).

MEASUREMENTS AND OTHER FINDINGS

51. Height.
52. Weight.
53. Color Hair.
54. Color Eyes.
55. Build: ☐ SLENDER ☐ MEDIUM ☐ HEAVY ☐ OBESE.
56. Temperature.
57. Blood Pressure (Arm at heart level): A. Sitting: Sys., Dias.; B. Recumbent: Sys., Dias.; C. Standing (3 min.) Sys., Dias.
58. Pulse (Arm at heart level): A. Siting; B. After Exercise; C. 2 min. after; D. Recumbent; E. After standing 3 min.
59. Distant Vision: Right 20/—Corr. to 20/ ; Left 20/—Corr. to 20/.
60. Refraction: By S. CX; By S. CX.
61. Near Vision: Corr. to, by; Corr. to, by.
62. Heterophoria (Specify distance): ES°, EX°, R.H., L.H., Prism Div., Prism Conv. CT, PC, PD.
63. Accommodation: Right, Left.
64. Color Vision (Test used and result).
65. Depth Perception (Test used and score): Uncorrected, Corrected.
66. Field of Vision.
67. Night Vision (Test used and score).
68. Red Lens Test.
69. Intraocular Tension.
70. Hearing: Right WV, /15 SV, /15; Left WV, /15 SV, /15.
71. Audiometer: Right, Left, 250/256, 500/512, 1000/1024, 2000/2048, 3000/3096, 4000/4096, 6000/6144, 8000/8192.
72. Psychological and Psychomotor (Tests used and score).
73. Notes (Continued) and Significant or Interval History.(Use additional sheets if necessary).
74. Summary of Defects and Diagnoses (List diagnoses with item numbers).
75. Recommendations—Further Specialist Examinations Indicated (Specify).
76. A. Physical Profile: P, U, L, H, E, S. B. Physical Category: A, B, C, E.
77. Examine (Check) A. ☐ is qualified for; B. ☐ is not qualified for.
78. If not Qualified, List Disqualifying Defects by Item Number.
79. Typed or Printed Name of Physician. Signature.
80. Typed or Printed Name of Physician. Signature.
81. Typed or Printed Name of Dentist or Physician (Indicate which). Signature.
82. Typed or Printed Name of Reviewing Officer or Approving Authority. Signature.

Number of Attached Sheets.

(Standard Form 93, Rev. October 1974, GSA FPMR 101-11.8, approved, Office of Management and Budget, No. 29-R0191)

REPORT OF MEDICAL HISTORY

(This information is for official and medically-confidential use only and will not be released to unauthorized persons)

1. Last name—first name—middle name.
2. Social Security or identification no.
3. Home address (No. street or RFD, city or town, State and ZIP Code).
4. POSITION (title, grade, component).
5. Purpose of examination.
6. Date of examination.
7. Examining facility or examiner, and address (including ZIP Code).
8. Statement of examinee's present health and medications currently used (follow by description of past history, if complaint exists).
9. Have you ever (please check each item)—Yes, no:

Lived with anyone who had tuberculosis.

Coughed up blood.

Bled excessively after injury or tooth extraction.

Attempted suicide.

Been a sleepwalker.

10. Do you (please check each item)—Yes, no:

Wear glasses or contact lenses.

Have vision in both eyes.

Wear a hearing aid.

Stutter or stammer habitually.

Wear a brace or back support.

11. Have you ever had or have you now (please check at left of each item)—Yes, no, don't know:

Scarlet fever, erysipelas.

Rheumatic fever.

Swollen or painful joints.

Frequent or severe headache.
Dizziness or fainting spells.
Eye trouble.
Ear, nose, or throat trouble.
Hearing loss.
Chronic or frequent colds.
Severe tooth or gum trouble.
Sinusitis.
Hay Fever.
Head injury.
Skin diseases.
Thyroid trouble.
Tuberculosis.
Asthma.
Shortness of breath.
Pain or pressure in chest.
Chronic cough.
Palpitation or pounding heart.
Heart trouble.
High or low blood pressure.
Cramps in your legs.
Frequent indigestion.
Stomach, liver, or intestinal trouble.
Gall bladder trouble or gallstones.
Jaundice or hepatitis.
Adverse reaction to serum, drug, or medicine.
Broken bones.
Tumor, growth, cyst, cancer.
Rupture/hernia.
Piles or rectal disease.
Frequent or painful urination.
Bed wetting since age 12.
Kidney stone or blood in urine.
Sugar or albumin in urine.
VD—Syphillis, gonorrhea, etc.
Recent gain or loss of weight.
Arthritis, Rheumatism, or Bursitis.
Bone, joint or other deformity.
Lameness.
Loss of finger or toe.
Painful or "trick" shoulder or elbow.
Recurrent back pain.
"Trick" or locked knee.
Foot trouble.
Neuritis.
Paralysis (include infantile)
Epilepsy or fits.
Car, train, sea or air sickness.
Frequent trouble sleeping.
Depression or excessive worry.
Loss of memory or amnesia
Nervous trouble of any sort.
Periods of unconsciousness.

12. Females only: Have you ever—
Been treated for a female disorder.
Had a change in menstrual pattern.

13. What is your usual occupation?

Are you (check one):
Right handed.
Left handed.

Check each item yes or no. Every item checked yes must be fully explained.

15. Have you been refused employment or been unable to hold a job or stay in school because of:
A. Sensitivity to chemicals, dust, sunlight, etc.
B. Inability to perform certain motions.
C. inability to assume certain positions.
D. Other medical reasons (if yes, give reasons.)

16. Have you ever been treated for a mental condition? (If yes, specify when, where, and give details).

17. Have you ever been denied life insurance? (If yes, state reason and give details.).

18. Have you had, or have you been advised to have, any operations? (If yes, describe and give age at which occurred.)

19. Have you ever been a patient in any type of hospitals? (If yes, specify when, where, why, and name of doctor and complete address of hospital.)

20. Have you ever had any illness or injury other than those already noted? (If yes, specify when, where, and give details.)

21. Have you consulted or been treated by clinics, physicians, healers, or other practitioners within the past 5 years for other than minor illnesses? (If yes, give complete address of doctor, hospital, clinic, and details.)

22. Have you ever been rejected for military service because of physical, mental, or other reasons? (If yes, give date and reason for rejection.)

23. Have you ever been discharged from military service because of physical, mental, or other reasons? (If yes, give date, reason, and type of discharge: whether honorable, other than honorable, for unfitness or unsuitability.)

24. Have you ever received, is there pending, or have you applied for pension or compensation for existing disability? (If yes, specify what kind, granted by whom, and what amount, when, why.)

I certify that I have reviewed the foregoing Information supplied by me and that it is true and complete to the best of my knowledge. I authorize any of the doctors, hospitals, or clinics mentioned above to furnish the Government a complete transcript of my medical record for purposes of processing my application for this employment or service.

Typed or printed name of examinee.
Signature.

Note: Hand to the doctor or nurse, or if mailed mark envelope "to be opened by medical officer only."

25. Physician's summary and elaboration of all pertinent data (Physician shall comment on all positive answers in items 9 through 24. Physician may develop by interview any additional medical history he deems important, and record any significant findings here.)

Typed or printed name of physician or examiner.
Date.
Signature.
Number of attached sheets.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 9, 1988.

Hon. LES ASPIN,
Chairman, House Armed Services Committee, Washington, DC.

DEAR MR. CHAIRMAN: I know you share with me great sorrow over the death of Airman Recruit Lee William Merecki, who died so tragically during an air-sea rescue exercise in Pensacola.

As you may or may not be aware, I have been deeply invovled in activities geared toward raising the public's sensitivity to the plight of those individuals who suffer from phobias and panic disorders. In 1985, at my request, Chairman Waxman convened a hearing of the Subcommittee on Health and the Environment, on which I served, to examine the serious problem of phobias, which afflict one out of eight people, and is the Nation's number one mental health disorder.

It is quite obvious in view of these statistics that there have to be numbers of phobias in the military. I am seriously concerned that this may be a health area that is not being given the emphasis that these disorders deserve. During our hearing in 1985 it was shocking to learn of the misdiagnoses that were made, the lack of adequate treatment availability and just a basic understanding of the serious nature of the problem.

Without access to state of the art treatment many phobics are not able to function properly. As serious as the problem is for the public at large, it is even more serious when one considers the implications for our military readiness. Our soldiers must be ready for combat conditions and this means not only healthy bodies but healthy functioning minds.

I would most respectfully ask that you convene a hearing on phobias in the military. We need to explore the availability of state of the art treatment, the expertise of military health care deliverers in dealing with phobias and panic disorders, and what is being done to educate the military personnel on this very serious problem.

Since becoming involved in the phobia problem I have heard horror stories, and some of those stories have come to me from Members of this very body who suffer from phobias. On the other hand, I have heard of those who were able to overcome debilitating phobias after meaningful treatment.

The members of our military are the best and I want to make sure that this problem is dealt with the seriousness it deserves. I believe a hearing by your committee would do much to raise the sensitivity of the military and the public to this problem, and would give us an opportunity to see if the military is doing an adequate job in assisting those phobics who may be in the military.

If one looks at the press reports on Airman Merecki, it is clear that he had been suffering from a phobia since age 5. Allegedly one military flight surgeon said he was unfit for the rescue exercise because of his phobia and fear of being pulled under the water, yet this decision was overruled by a military psychologist. One has to ask whether the psychologist knew what phobias were and how to deal with them or whether there was an attitude of "get back to your exercise and be a man." Believe me, the stories told to me by phobics who suffer from panic attacks, indicate that this tactic does not work.

Keep in mind that someone in a combat situation who has a phobia may not be functional if a panic attack is triggered. However, the chances are good that if that individual has received treatment there will not be a problem. Need I say more.

I hope that you will take this request in the manner in which it is offered. I would be pleased to provide you with any information you might need as background on accepted treatments, experts in the field, etc. I believe this is an issue that is much too serious to push aside and I hope you will address this as soon as possible. Please feel free to contact me or Ms. Hanbury in my office.

Sincerely yours,
MICHAEL BILIRAKIS,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 9, 1988.

Hon. FRANK CARLUCCI,
Secretary of Defense, Department of Defense,
The Pentagon, Washington, DC.

DEAR MR. SECRETARY: Since becoming a Member of Congress I have been deeply involved in the plight of phobics in this country. It is for this reason, as well as others, that I am deeply concerned about the death of Airman Recruit Lee William Merecki, who, according to news reports, was forced to take part in a swimming drill in spite of a debilitating phobia which allegedly led to his death.

As you may or may not be aware, phobias are the number one mental disorder in this nation, and one out of every eight people suffer from some sort of phobia. Obviously, there are degrees of discomfort that come with phobias, with mild discomfort on one end and total debilitation on the other.

The health of our armed forces is of paramount importance and vital to our military readiness. With this I'm sure you will have no argument. Each recruit must be in a position to face a combat situation with a healthy body and a healthy mind.

Needless to say, I have a number of questions which I would appreciate your addressing.

1. When an individual is recruited and goes through the health evaluation procedures, are there any questions posed which are geared toward assessing potential mental health problems?

2. Are there any specific questions posed relating to phobias, panic or anxiety attacks?

3. Please walk me through step by step the entire health evaluation procedure from the time someone expresses an interest in joining the armed forces.

4. Is a mental health evaluation done prior to induction or after?

5. If someone who is already inducted indicates they suffer from phobias and panic attacks how is this problem handled?

6. Is state of the art treatment for phobias readily available to military personnel who are suffering from phobias, panic attacks or anxiety.

7. If there are phobia treatment programs available, are there waiting lists for the programs? How many of these programs are available, where are they located and what is the average patient population?

8. If there are not any phobia treatment programs available, what is the policy of the Department of Defense on paying for non-military treatment.

9. Please provide me with any regulations or other information issued by the Department of Defense relative to the treatment of phobias, panic disorders or anxiety.

10. What educational resources are available to military psychologists and psychiatrists to enable them to keep up with the state of the art?

11. What requirements are in place requiring mental health counselors, doctors, etc. to attend educational seminars in order to keep up with latest developments in mental health treatment advances?

12. Do you have any medical personnel that specialize in the treatment of phobias, panic disorders and anxiety? If so are you able to provide me with the number of personnel who work in this area and where they are located?

13. Do you have statistics on the diagnoses of military personnel who seek mental health counseling? If so, please provide this information to me.

14. Has the Department of Defense, in an effort to educate, ever provided general information to military personnel on phobias?

15. Please provide me with any regulations or guidelines you might have on the treatment of those suffering from phobias, panic disorders, or anxiety?

Your assistance in providing this information will be helpful. Please do not hesitate to contact me or Ms. Hanbury in my Washington office. Thank you for your cooperation.

Sincerely yours,

MICHAEL BILIRAKIS,
Member of Congress.

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Mr. CHAPPELL. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. HEFNER], one of our members of the Subcommittee on Defense.

Mr. HEFNER. Mr. Chairman, I rise in strong support of this legislation. Since I have been on this committee I have not seen such cooperation as we have had from all the members and staff. They have done an excellent job. I commend the gentleman from Pennsylvania [Mr. McDADE] who has done a tremendous job, and commend our chairman, the gentleman from Florida [Mr. CHAPPELL], who has done a tremendous job on this bill. This is not a wish list. This is a list that has been put together, a program put together based on priorities and cooperation from all the military services. I recommend this legislation to all the Members of the House.

Mr. Chairman, since I have been on the Committee on Appropriations we have probably had on this particular bill no more extensive hearings and cooperation than we have had on this one. Taking nothing away from previous chairmen, the gentleman from Florida [Mr. CHAPPELL], the chairman of the Subcommittee on Defense has done an excellent job and I highly recommend this legislation to all the Members of the House. It is based on priorities and for the defense of this country, and I highly recommend it. I join in strong support for this legislation.

Mr. McDADE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. CHAPPELL. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Chairman, I rise in strong support of this legislation and I certainly want to thank the gentleman from Florida [Mr. CHAPPELL], the chairman of the Subcommittee on Defense, and also thank the gentleman from Pennsylvania [Mr. McDADE], the ranking minority member, and thank all the members of the subcommittee as well as the full committee for reporting out in my opinion a very good bill.

I would like to touch on two areas in this legislation.

The committee has been very fair to the National Guard and Reserve. Funding for personnel and equipment for the Reserve in my opinion is very adequate in this legislation. My colleagues have heard me say this before but the National Guard and Reserve are a good buy for the taxpayers and they can do the job if they are given the mission and the equipment and the proper incentives for their personnel. I believe that the Congress wants to improve the National Guard and Reserve and certainly under this legislation the Reserves are being treated very fairly.

The second area that I would like to address is funding for sharing our medical research between the Department of Defense and the Veterans' Administration. The Department of Defense and the Veterans' Admininstration are getting together on medical research which will not only result in benefits to the military service personnel but it helps the veteran as well. I point out that they are doing peacemaker work for the military, and it is being done by the Veterans' Administration. They are working together on AIDS, and we have to move forward on that matter. Between the Department of Defense and the Veterans' Administration we hope we can come up with a cure for AIDS. We are now working with the Department of Defense through the Veterans' Administration research on gunshot wounds and different types of wounds that develop in the defense of our country.

Certainly this is a good bill.

Mr. Chairman, I want to thank the gentleman from Florida [Mr. CHAPPELL] for having yielded me this time.

Mr. CHAPPELL. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I take this time to commend the Subcommittee on Defense, which is headed by the able gentleman from Florida [Mr, CHAPPELL], and the gentleman from Pennsylvania [Mr. McDADE], the ranking member, for the outstanding work they have done on this bill. There are two areas I wish to specifically mention.

The first area I wish to mention is that of operation, maintenance, and readiness, where I think they have paid particular attention to this area allowing our soldiers and sailors and airmen and marines to be ready, to have appropriate and sufficient training and the wherewithal to do that, and that is found within this bill.

The second area I wish to point out is the area similar to what the gentleman from Mississippi [Mr. MONTGOMERY] mentioned a moment ago, the National Guard and Reserve. They have been looked after and in this bill they are adequately funded, particularly in the area of equipment as well as personnel.

I commend my colleagues and I wholeheartedly support this bill.

Mr. CHAPPELL. Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the gentleman from Florida [Mr. CHAPPELL] for yielding me this time.

Mr. Chairman, I include for the RECORD a letter from the gentleman from Florida [Mr. CHAPPELL] to the Secretary of the Navy concerning the

Hunters Point Naval Shipyard as relates to the numerous artists and small businesses that are tenants of the Navy:

LETTER TO THE SECRETARY OF THE NAVY FROM HON. BILL CHAPPELL

The Committee has become aware that numerous artists and small businesses are tenants of the Navy at the Hunters Point Naval Shipyard. While we appreciate that these tenants may conflict with the Navy's operation of this facility and that the Navy desires that they relocate off of Federal property, the Committee is concerned that reasonable opportunity be provided for these businesses to preserve their operations.

It is requested that the Navy provide a report on this situation to the Committee and advise the Committee of its plan for dealing with these businesses and artists. Until this report is submitted and approved by the Committee, it is requested that the Navy take no action to remove—except for any actions taken by reason of the failure of the artist or small business to comply with the conditions of the license—these artists or businesses. The Committee has been advised that except for the tenants of one building, which involves a battery recycling business and a truck leasing business, which are planning to relocate by the end of June so that the Navy may proceed with field investigation of a hazardous waste site which encumbers the building, this should not present any immediate problems to the Navy.

The report to be submitted should include:

A listing of what missions are to be expanded or added or eliminated at Hunters Point; a listing of what programs will need to be approved by Congress and the fiscal year such a request will be made; and a listing of which sections of Hunters Point will need to be vacated by these artists and small businesses and when.

A plan of action on how and when these artists and small businesses will be notified. The plan should provide adequate notice of at least six months and provide a procedure for re-evaluating any license to fair value for any artists or small business.

Please advise me if there are any other issues requiring our immediate consideration prior to the submission of your report and recommendations.

Mr. Chairman, let me say that the gentleman from Florida [Mr. CHAPPELL] has been very helpful to the gentlewoman from California [Ms. PELOSI] and to me. We have a serious problem in our area at Hunters Point. There is a debate going on over the use of Hunters Point Naval Shipyard, which of course has been idled for quite some time. While that debate rages on there are a number of small businesses and artists there who have really created a great number of jobs, about 800 jobs. Their situation has been most precarious. They do not know where they stand from one month to the next.

What the gentleman from Florida [Mr. CHAPPELL] has done at the behest of the gentlewoman from California [Ms. PELOSI] and me is to write a letter to the Secretary of the Navy which sets out some very clear guidance, such as no one will be evicted without at least 6 months notice, and essentially has put the Navy on notice that they have to give these small businesses some respect.

Ms. PELOSI. Mr. Chairman, will the gentlewoman from California yield?

Mrs. BOXER. Mr. Chairman, I yield to my colleague the gentlewoman from California [Ms. PELOSI], who represents this area and has been so helpful to these small businesses. I will add that it has been a pleasure to work with her as a team on this issue.

Ms. PELOSI. Mr. Chairman, I thank the gentlewoman from California [Mrs. BOXER] for yielding, and I commend her for her hard work on this issue. It makes a difference in the lives of our workers at Hunters Point who have been there for a few years and are faced with uncertainty.

I, too, want to commend the gentleman from Florida [Mr. CHAPPELL] for his hard work on this issue and on this legislation, as well as our colleague the gentleman from Pennsylvania [Mr. MCDADE]. Particularly I want to commend the chairman for bringing the various elements together on this issue, finding a solution which will bring reason to a chaotic situation, and we in San Francisco are very grateful to him for his hard work on this issue.

I again compliment my colleague the gentlewoman from California [Mrs. BOXER] for her knowledge, for her ability to get this job done, and to make a real difference in the lives of these businesses at Hunters Point, who are not anti-Navy or anti-Missouri or anything. They are people who want to do their job and have an amount of certainty in their lives.

Mr. CHAPPELL. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I thank my colleagues for those kind words. I understand the concern and I sympathize with the artists and small businesses now tenants on Hunters Point. I have written a letter to the Secretary of the Navy asking for the future use of Hunters Point and how they plan to deal with the artists and small businesses tenants on the land. I believe the situation will work out satisfactorily to those who are keenly interested in this important issue.

Mrs. LLOYD. Mr. Chairman, I rise in support of the bill because it represents the best we can do in terms of funding critical programs under difficult circumstances. I believe the Appropriations Committee has made a good faith attempt to work within the budget summit guidelines while recognizing the policy direction provided by the authorizing committee.

In weapons procurement programs, it is clear to me that the bill recognizes the need to provide enhanced conventional capability for NATO as we move away from today's almost exclusive dependence on the nuclear deterrent. I would remind my colleagues, however, that conventional capability will take a decade of growth as we gradually "backoff" strategic deterrence.

Air Force procurement is funded healthily in the critical areas of the B-2 bomber and advanced tactical aircraft, the F-15, F-16, C-17, and MX missiles are all important items which have been well funded considering the budget circumstances.

In the case of Navy procurement, I am pleased to see that the Trident missiles and submarines have been funded at healthy levels as well as the F-18 and F-14 aircraft. I am supportive of the SSN-21 attack submarine with the first ship funded in this bill but I am more enthusiastic about the DARPA-managed program in advanced submarine R&D. I am very pleased to see that the Appropriations Committee has fully funded this advanced submarine program for fiscal year 1989; this sends the proper signal to the Soviets that we recognize that they are rapidly narrowing the undersea technology gap. I am proud to see this fresh new start go forward and, from all reports, DARPA has been inundated with a variety of innovative proposals. While recognizing that Navy laboratories such as that premier center of excellence, the Naval Research Laboratory, should play some appropriate role in the program, I hope that DARPA and the Navy will insure that the very best industrial technology proposals are funded so that this program can go forward in an aggressive manner. I also understand that the defense authorization conference report language and funding will also be very supportive of advanced submarine R&D. This is a congressionally initiated program which I believe the DOD has begun to handle in a very positive fashion. I think this is most important, because as I have noted before, the stakes are no less than whether the U.S. submarines will be "the hunters" or "the hunted" in the undersea theater of operations beyond the year 2000.

Mr. FRENZEL. Mr. Chairman, I shall vote against H.R. 4781 even though it has been constructed to conform with last year's economic summit and is only about 2 percent more than past year's appropriation.

Even though the bill is tame by the standards of our Appropriations Committee, it contains far too many instances of legislating in an appropriation bill. There are at least nine such instances affecting shipbuilding, food, textiles, metals, coal and coke, aircraft parts, ammunition, supercomputers, machine tools, anchors, mooring chain, and all Toshiba products.

Each of these offending provisions restricts defense procurement of non-U.S. products, adds to the cost of procurement, and violates at least the spirit of our alliances. Our allies, to whom we sell huge volumes of defense materials, deserve to sell us a modest volume of competitive products.

Mr. BOULTER. Mr. Chairman, I wish to state my opposition to the fiscal year 1989 defense appropriations. I oppose the bill because I do not believe it adequately supports our national security interests. More specifically, I believe it is fatally flawed in that it compromises our nuclear deterrent by financially undermining two of our most vital strategic programs, the Strategic Defense Initiative and the Peacekeeper missile rail-garrison.

I cannot support a bill that cuts the President's reasonable SDI funding request by $1.3 billion, a 29-percent reduction. By drastically reducing the funding levels for the Strategic Defense Initiative we delay or forgo not only a viable strategic defense, but also the collateral technological developments that have, and will continue to emerge from such research.

At the same time the Peacekeeper missile rail-garrison funding has been cut by $693 million—a figure that is absolutely unacceptable in light of the reality that currently persists between the United States and the Soviet Union. To gut the programmed deployment for these missiles is to jeopardize our national security needlessly.

This strategic concern placed in the broader context of the 1.4-percent overall real defense funding production is my primary justification for opposing the bill. That does not mean I object to the bill's every provision. I support the full 4-percent civilian pay raise, although I believe our 2,138,300 active-duty men and women in uniform deserve the 4.3-percent pay raise the President requested. I applaud the committee's stated goals for military readiness, for no one can deny the asset of well-motivated personnel. However, I believe the committee could have done more toward this goal by funding the military pay increase at the President's level.

There is a final objection to this measure, Mr. Chairman, which I wish to raise. While I agree that the interdiction of drugs is one of the necessary means to rid our society of the scourge of drugs, I believe that siphoning $410 million from the Strategic Defense Initiative to help fund drug interdiction programs is a mistake. While drugs are an obvious threat to our society, so are ballistic missiles. The idea that we must choose between the two is a mistaken one that may end up failing to defend adequately against either threat.

For these reasons I oppose the bill and I urge my colleagues to do the same.

Mr. BONKER. Mr. Chairman, I rise today to express my support for the 1989 Defense appropriation and Defense amendment bills. These bills include important arms control provisions that affirm the Congress' support for the arms control process begun by the INF Treaty.

Perhaps the most important achievement of the 1988 Defense bills lies in the restraints they impose on the President's SDI or star wars program. By cutting $600 million from the administration's request for star wars, the Defense bills not only cut the budget deficit, they also force the star warriors to rethink a program whose costs and benefits are still unknown. After pouring billions of dollars of research money into star wars, we are still in doubt as to whether a space-based defense is possible, affordable, or even desirable. For this reason I voted in favor of a measure that would have required a review of star wars before appropriating more money.

Although the Defense bills do not include such a measure, they do limit the amount of money the administration can spend on the quick-fix version of star wars, phase I. The phase I project is intended to deploy part of star wars before the turn of the century. Since Soviet technology advances will probably make it obsolete the day it is deployed, the phase I program makes no sense. It is meant as a showpiece that will convince the taxpayers to fund the real star wars program. In the age of record budget deficits, we can hardly afford multibillion dollar showpieces.

The strict limits on MX missile funding in this year's Defense bills also serve the arms control process. As one of the most powerful and dangerous weapons systems ever developed, the MX undermines the sincerity of our efforts at the START talks. How can we convince the Soviets that we want to eliminate long range missiles if we are simultaneously building our most lethal, most expensive missile ever? Even without an arms control agreement, restraints on MX should remain a high priority. The missile's speed, accuracy and many warheads make it an ideal weapon for first strikes. By building what looks like a first-strike weapon, we only frighten the Soviets, and a frightened nuclear adversary is the last thing we want.

The Defense appropriation bill includes bans on testing weapons of more than 1 kiloton and on weapons that could destroy satellites. Both of these measures will help contain the arms race by slowing development of new weapons systems.

Unfortunately, the Defense bills do not cut overall defense spending much below the $300 billion level requested by the administration. While we certainly need to fund a Defense Department strong enough to fulfill our obligations abroad and protect our national security, we do not need to continue offering the defense industry a blank check for all the weapons it would like to build. The Pentagon procurement scandals now emerging demonstrate the futility of throwing money at our problems. This year's Defense bills should facilitate arms control. Lets hope next year's encourage budget control.

Mr. RANGEL. Mr. Chairman, as the Chairman of the House Select Committee on Narcotics Abuse and Control, I rise in support of the provisions in H.R. 4781, the Department of Defense appropriations bill, 1989, which relate to drug interdiction.

H.R. 4781 appropriates $410 million for the Navy to support Coast Guard activities for coastal defense and drug interdiction. Of this total, the bill provides $350 million for procurement of equipment including three E2-C aircraft, six helicopters, 10 patrol boats, secure command and control equipment, and air surveillance equipment. The remaining $60 million is to be transferred by the Navy to the Coast Guard for maintenance of this equipment. This money will enable the Coast Guard to carry on its critical drug interdiction and coastal defense activities.

Mr. Chairman, in fiscal year 1988, the Coast Guard was forced to absorb a $103 million cut in its operating budget, and drug patrols were cut back 55 percent. Such patrols are responsible for 90 percent of the Coast Guard's drug seizures. The Coast Guard Commandant, Adm. Paul Yost, testified recently that he has personnel sitting in port, because there was not sufficient money to send them out to sea. This is a clear waste of valuable, trained manpower, and can only have a negative impact on the morale of the individuals involved and serious detrimental consequences for the missions, including drug interdiction, they would otherwise perform.

If winning the war against drugs is the number one domestic concern of American voters, as public opinion polls say it is, then Federal spending patterns should reflect this concern. I support the $410 million provided for the Coast Guard in the 1989 Department of Defense Appropriations Bill. Although this amount is not adequate to significantly curtail the continuous onslaught of drugs which is directed against America, it should at least enable the Coast Guard to restore the drug enforcement activities curtailed by the 1988 cuts. The House is currently working on omnibus drug legislation which will be brought to the floor later this summer. I am hopeful that at that time we will be able to provide significant enhancements to the Coast Guard's drug enforcement capabilities.

I am concerned about the continuing pattern of funding a portion of the Coast Guard's budget out of the DOD appropriations bill. The Transportation Appropriations bill the House is scheduled to take up later this week assumes the appropriation of the funds included in the DOD bill. If for some reason the Coast Guard funding in the DOD bill does not become law, the amounts included for the Coast Guard in the DOT bill are totally insufficient to provide for Coast Guard operations.

In my mind, this jerry-built approach to Coast Guard funding is no way to fight a war on drugs. We need to assign a higher budgetary priority to our antidrug efforts and find a way to ensure that the Coast Guard will receive directly the funds it needs to do the job of drug interdiction Congress has assigned to it.

Mr. BURTON of Indiana. Mr. Chairman, once again, we face the incomprehensible myopia of those who want to cut the future off at the knees.

If Jimmy Carter had proposed SDI, liberals would be four-square behind it. SDI is a revolutionary concept. It is Ronald Reagan's legacy.

SDI: "A shield, not a sword," Edward Teller. Arms control and strategic defense are not competing objectives. They are rather, two sides of the same coin.

It is a humane, sane alternative to insane, profane, inane mad.

Not moving forward with SDI would be like asking the Orioles to take the field without baseball gloves. They'd never win. It would be like asking the Capitals to play hockey without a goalie.

We can do it. The technology is there in developing. Making great progress. The Soviets obviously believe it can work. First, they are developing it themselves; and second, they are trying desperately to prevent us from developing it.

Offshoot technology from SDI is already paying dividends and will continue to do so—specifically in medicine and technology.

A Heritage Foundation study concluded that $5 to $20 trillion is expected to flow into the economy from the private commercial marketing of SDI-related products.

The House Armed Services Committee reduction is significant and deadly. The administration asked for $4.5 billion, which is still less than the $6.3 billion originally planned to request. HASC reduced the request to $3.7 billion.

The reduction will cause major damage to proof of feasibility experiments. The opponents of strategic defense are well aware of that. Further cuts would severely impact the future measured progress of SDI.

The ABM Treaty is a unilateral treaty. The Soviets continue to violate it just as they violate other treaties.

The reports leaked recently on SDI, supposedly showing it won't work—the timing is too much of a suspicious coincidence. Mr. Carlucci said it best: "That's like saying that helicopters won't work 10 years before we had helicopters."

SDI is a challenge for a safer future, a safer America, a safer world. Let's do what Americans have always done in the face of danger. Let's reach back for Yankee ingenuity. Let's meet that challenge.

Mr. CHAPPELL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. GRAY of Illinois). All time has expired.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $24,467,893,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $18,909,103,000: *Provided,* That in addition to the funds appropriated in this paragraph, $34,000,000 is appropriated for Aviation Continuation Pay which shall not be obligated or expended until the Secretary of Defense submits a report to the Committees on Appropriations of the House of Representatives and the Senate setting forth a Department of Defense plan to implement a service integrated pilot retention program.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $5,704,953,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $20,038,052,000: *Provided,* That in addition to the funds appropriated in this paragraph, $54,000,000 is appropriated for Aviation Continuation Pay which shall not be obligated or expended until the Secretary of Defense submits a report to the Committees on Appropriations of the House of Representatives and the Senate setting forth a Department of Defense plan to implement a service integrated pilot retention program.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,255,870,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,617,185,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $315,149,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $656,771,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,319,049,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty, or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,027,497,000.

Mr. CHAPPELL (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $18,487,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $22,094,277,000: *Provided*, That of the funds appropriated in this paragraph, $18,998,000 shall not be obligated or expended until authorized by law: *Provided further*, That of the funds appropriated in this paragraph, $900,000 shall be available only to support the 1989 World Ski Championships.

Operation and Maintenance, Navy

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,014,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $24,992,800,000, of which $60,000,000 shall be transferred to the Coast Guard: *Provided*, That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards and air rework facilities. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards and air rework facilities. Competitions shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the Department of Defense Authorization Act, 1985, or Office of Management and Budget Circular A-76: *Provided further*, That funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels.

Operation and Maintenance, Marine Corps

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,842,000,000.

Operation and Maintenance, Air Force

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,690,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $21,890,400,000: *Provided*, That in fiscal year 1989, not less than $15,000,000 shall be available only for the cleanup of uncontrolled hazardous waste contamination at Hamilton Air Force Base, in Novato, in the State of California, sufficient to permit the unrestricted use of the property, subject to the resolution of procedural and technical issues to meet such standard which shall be established by the relevant State and Federal regulatory agencies in consultation with the Department of Defense, in accordance with the agreement between the Federal Government and the purchaser.

Operation and Maintenance, Defense Agencies

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $7,721,100,000, of which not to exceed $11,691,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided*, That $900,000 is available to the Office of Economic Adjustment for making community planning assistance grants pursuant to section 2391 of title 10, United States Code, and joint community/military planning assistance grants for mitigation of operational impacts from encroachment.

Operation and Maintenance, Army Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $794,900,000.

Operation and Maintenance, Navy Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $977,548,000.

Operation and Maintenance, Marine Corps Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $77,500,000.

Operation and Maintenance, Air Force Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,033,900,000.

Operation and Maintenance, Army National Guard

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,797,000,000.

Operation and Maintenance, Air National Guard

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $1,971,000,000.

National Board for the Promotion of Rifle Practice, Army

For the necessary expenses and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances in excess of the amounts provided under section 4313 of title 10, United States Code; not to exceed $4,300,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board.

Court of Military Appeals, Defense

For salaries and expenses necessary for the United States Court of Military Appeals; $3,500,000, and not to exceed $1,500 can be used for official representation purposes.

Environmental Restoration, Defense

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $500,000,000, to remain available until transferred, of which not to exceed $1,750,000 shall be made available for removal of the asbestos contamination at the abandoned Air Force site on Santa Rosa Island of the Channel Islands National Park in California: *Provided,* That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Goodwill Games

For logistical support and personnel services including initial planning for security needs (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the Goodwill Games) provided by any component of the Department of Defense to the Goodwill Games; $5,000,000.

Humanitarian Assistance

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $13,000,000, to remain available for obligation until September 30, 1990: *Provided,* That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives 21 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress.

Mr. CHAPPELL (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title II?

POINT OF ORDER

Mr. McCURDY. Mr. Chairman, I have a point of order.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. McCURDY. Mr. Chairman, I want to raise a point of order against the language in the bill beginning on page 14, line 24 starting with the word "of" and ending on page 15 line 3 after the word "California" on the grounds that this provision is an unauthorized appropriation and violates clause 2 of rule XXI of the House rules.

The CHAIRMAN pro tempore. Does the gentleman from Florida [Mr. CHAPPELL] desire to be heard on the point of order?

Mr. CHAPPELL. Mr. Chairman, I do not, but I would yield to the gentleman from Ohio [Mr. REGULA].

The CHAIRMAN pro tempore. Does the gentleman from Ohio wish to be heard on the point of order?

Mr. REGULA. Mr. Chairman, I do.

Mr. Chairman, I believe that this is a valid provision in the bill. First of all, it applies to funds in this act.

Second, it does not impose any additional duties.

Third, it does not change existing law.

Fourth, it is a negative restriction on the use of funds in this bill and outlines ways in which they can be used, and it sets a ceiling on the funds in the bill and it is not an appropriation from any specific fund.

Last, the Department of Defense does not have to obligate any funds for this purpose.

Beyond that I want to discuss briefly the merits of the issue. The Channel Islands are now a national park. There are five islands off the coast of California. They were acquired by the U.S. Government for a national park and in the years to come will be used extensively because the Channel Islands will serve the many millions of people that live in the greater Los Angeles area.

About 25 years ago the Air Force walked away from a radar station located on Santa Rosa, the largest of the Channel Islands. The radar station had personnel I would guess numbering about 300 with appropriate barracks and other facilities. In addition, there was a dock there for the purpose of loading and unloading supplies or whatever was going in and coming out of that facility. At the time the Air Force left the Channel Islands and left the radar station they did nothing about disposing of the facilities. Because historically it has been a rather remote area, there has been a lot of vandalism there. As a result the barracks are full of broken windows, almost every window is broken out. The pier is nothing but a group of jagged steel points sticking up out of the water. The dock itself has been deteriorated and there is nothing but I-beams in the water, a tremendous hazard to people. There are other adjacent facilities and unfortunately, and worst of all, there is asbestos in the facility. As a result, we have a great hazard for public use in this area because it is a national park. What we suggested and what the Subcommittee on Defense did in this bill was to allow the Department of Defense to use up to $1.7 million to remove the asbestos because this requires under our own statutory requirements special handling. We are not equipped in the National Park Service nor equipped in other areas to deal with this. Therefore, the Subcommittee on Defense, recognized that this facility was built and abandoned by the Air Force, that the Channel Islands now are collectively a national park and that there will be intense use by the public so that this facility presents a great hazard to public use.

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The subcommittee, therefore, allowed money to be used if the Department of Defense saw fit to do so. I would point out that the Park Service has worked out with some of the military services to do the balance of the demolition as a demonstration project, the Seabees, or possibly one of the other groups, but they cannot deal with the asbestos.

Therefore, the subcommittee, and I think very properly so, given the national concern here for the impact on the potential, not potential, but actual use of this facility as a national park, recognized that there should be funding available to deal with the asbestos problem. Beyond that, the superintendent of the park and the Park Service can arrange to have one of the military services do an exercise there and get rid of the building and the pier and some of the other things that are a great hazard. But, first of all, we have got to deal with the asbestos, and if asbestos is the threat that the Congress has said it is through the policy decision to require its removal in public buildings, certainly as minimum, as this bill provides, we should get rid of the asbestos here, where we are going to have enormous public usage of a national park.

For that reason, I think, on the merits, this should be allowed to stand, but in addition to that, as far as the point of order, I think there are many compelling reasons to not sustain the point of order raised by the gentleman from Oklahoma.

The CHAIRMAN pro tempore. Does any other Member desire to speak on the point of order?

The gentleman from California [Mr. LAGOMARSINO] will be heard on the point of order.

Mr. LAGOMARSINO. Mr. Chairman, I desire to speak on the point of order, although most of my remarks will be on the merits of the provision.

The CHAIRMAN pro tempore. The Chair would state that the Chair cannot rule on the merits but on the procedural matters pending.

The Chair would be glad to hear the gentleman from California based on the point of order.

Mr. LAGOMARSINO. Mr. Chairman, I think the point of order should

not be sustained. It should be overruled.

The facts are exactly as the gentleman from Ohio has pointed out. The U.S. Government just last year spent $29 million to acquire Santa Rosa Island. The location that is sought to be cleaned up here is on one of the areas of the island which can be used by the public rather easily and obviously it cannot be used until it is cleaned up.

The Air Force left the mess. The Air Force should clean it up, or at least the Department of Defense should, and I hope the chairman will overrule the point of order.

The CHAIRMAN pro tempore (Mr. GRAY of Illinois).

In the opinion of the Chair the provisions beginning after the comma on page 14, line 24, up the provisions on page 15, line 3, which are unprotected by any waiver, constitute not only a limitation but also an unauthorized appropriation of funds up to $1,750,000 for removal of asbestos contamination. Therefore, the Chair sustains the point of order.

Are there any amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,828,379,000, to remain available for obligation until September 30, 1991.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,565,500,000, to remain available for obligation until September 30, 1991: *Provided*, That funds may be obligated and expended for procurement and advance procurement of the Forward Area Air Defense System, Line-of-Sight Forward-Heavy system without regard to the restrictions contained in section 111(d) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180).

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,812,521,000, to remain available for obligation until September 30, 1991.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,026,163,000, to remain available for obligation until September 30, 1991.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 185 passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; as follows:

Tactical and support vehicles, $849,606,000;
Communications and electronics equipment, $2,909,083,000;
Other support equipment, $897,148,000;

In all: $4,655,837,000, to remain available for obligation until September 30, 1991: *Provided*, That of the funds appropriated in this paragraph, $413,019,000 shall not be obligated or expended until authorized by law.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $9,308,735,000, to remain available for obligation until September 30, 1991: *Provided*, That of the funds appropriated in this paragraph, $287,269,000 shall not be obligated or expended until authorized by law.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Poseidon, $188,000;
TRIDENT I, $4,103,000;
TRIDENT II, $1,865,609,000;
Support equipment and facilities, $2,638,000;
Tomahawk, $711,125,000;
AIM/RIM-7 F/M Sparrow, $75,000,000;
AIM-120 AMRAAM, $42,768,000;
AIM-54A/C Phoenix, $325,802,000;
AGM-84A Harpoon, $169,709,000;
AGM-88A HARM, $302,749,000;
SM-2 MR, $598,531,000;
RAM, $52,094,000;
Hellfire, $35,000,000;
Maverick missiles, $82,390,000;
Aerial targets, $109,981,000;
Drones and decoys, $40,744,000;
Other missile support, $21,313,000;
Modification of missiles, $91,383,000;
Support equipment and facilities, $206,947,000;
Ordnance support equipment, $240,907,000;
MK-48 ADCAP torpedo program, $541,800,000;
MK-50 advance lightweight torpedo program, $247,047,000;
Vertical Launched ASROC program, $17,552,000;
Modification of torpedoes, $3,289,000;
Torpedo support equipment program, $48,652,000;
MK-15 close-in weapons system program, $19,449,000;
25mm gun mount, $9,366,000;
Small arms and weapons, $9,811,000;
Modification of guns and gun mounts, $68,976,000;
Guns and gun mounts support equipment program, $838,000;
Spares and repair parts, $87,412,000;

In all: $6,033,173,000, to remain available for obligation until September 30, 1991: *Provided*, That of the funds appropriated in this paragraph, $209,371,000 shall not be obligated or expended until authorized by law.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,261,100,000;

SSN-688 attack submarine program, $1,417,800,000;

SSN-21 attack submarine program, $1,488,000,000;

Aircraft carrier service life extension program, $243,400,000;

DDG-51 destroyer program, $2,134,400,000;

LHD-1 amphibious assault ship program, $737,500,000;

MHC coastal mine hunter program, $197,200,000;

T-AO fleet oiler program, $689,900,000;

AO conversion program, $84,900,000;

T-AGOS surveillance ship program, $159,600,000;

AOE combat support ship program, $363,900,000;

LCAC landing craft air cushion program, $306,600,000;

For craft, outfitting, and post delivery, $311,800,000;

In all: $9,396,100,000, to remain available for obligation until September 30, 1993: *Provided*, That additional obligations may be incurred after September 30, 1993, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards: *Provided further*, That of the funds appropriated in this paragraph, $340,000,000 shall not be obligated or expended until authorized by law.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 492 passenger motor vehicles of which 434 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ship support equipment, $645,883,000;

Communications and electronics equipment, $1,434,664,000, including $14,220,000 for the AN/SQR-18 Towed Array Sonar;

Aviation support equipment, $593,311,000;

Ordnance support equipment, $1,179,471,000;

Civil engineering support equipment, $118,475,000;

Supply support equipment, $104,295,000;

Personnel and command support equipment, $399,034,000;

Spares and repair parts, $218,196,000;

In all: $4,693,329,000, to remain available for obligation until September 30, 1991: *Provided*, That funds appropriated for procurement of TSEC/KY-67 (Bancroft) radios shall be available only for procurement of SINCGARS radios.

COASTAL DEFENSE AUGMENTATION

For the augmentation of United States Coast Guard inventories to meet national security requirements; $350,000,000, to remain available until expended: *Provided*, That these funds shall be for the procurement by the Department of Defense of vessels, aircraft, and equipment and for modernization of existing Coast Guard assets, which assets are to be made available to the Coast Guard for operation and maintenance.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed 150 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,311,322,000, to remain available for obligation until September 30, 1991.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $15,915,397,000, to remain available for obligation until September 30, 1991: *Provided*, That none of the funds provided in this Act may be obligated on B-1B bomber contracts which would cause the Air Force's $20,500,000,000 cost estimate for the B-1B bomber baseline program expressed in fiscal year 1981 constant dollars to be exceeded.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,620,587,000, to remain available for obligation until September 30, 1991.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; for the purchase of not to exceed 517 passenger motor vehicles of which 403 shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, as follows:

Munitions and associated equipment, $646,832,000;

Vehicular equipment, $261,568,000;

Electronics and telecommunications equipment, $1,746,542,000;

Other base maintenance and support equipment, $5,442,105,000;

In all: $8,097,047,000, to remain available for obligation until September 30, 1991: *Provided*, That of the funds appropriated in this paragraph, $32,623,000 shall not be obligated or expended until authorized by law.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, as follows:

Army Reserve, $240,000,000;

Navy Reserve, $129,800,000;

Marine Corps Reserve, $66,800,000;

Air Force Reserve, $241,900,000;

Army National Guard, $333,000,000;

Air National Guard, $163,000,000;

In all: $1,174,500,000, to remain available for obligation until September 30, 1991: *Provided*, That of the funds appropriated in this paragraph, $358,438,000 shall not be obligated or expended until authorized by law.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 79 passenger motor vehicles of which 72 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,207,550,000, to remain available for obligation until September 30, 1991: *Provided*, That of the funds appropriated in this paragraph, $57,050,000 shall not be obligated or expended until authorized by law.

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $39,500,000, of which $27,500,000 shall remain available for obligation until September 30, 1991, and of which $12,000,000 for a project to develop a reliable supply of titanium ore from ilemenite shall remain available until September 30, 1993.

Space and Related Activities Augmentation, Defense

For construction, procurement, and modification of missiles, spacecraft, specialized ground facilities, and associated equipment and services; $637,000,000, to remain available for obligation until September 30, 1991: *Provided,* That none of the funds shall be obligated or expended until authorized by law: *Provided further,* That none of the funds shall be available except for projects for which funds have otherwise been made available in this Act and except for conversion of existing contracts from an incremental funding basis to a full funding basis: *Provided further,* That none of the funds shall be available for expenditure prior to October 1, 1989.

Mr. CHAPPELL (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the Record and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. Are there points of order against title III?

Are there amendments to title III?

The Clerk will read.

The Clerk read as follows:

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Research, Development, Test, and Evaluation, Army

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $5,042,965,000, to remain available for obligation until September 30, 1990: *Provided,* That $7,300,000 shall be available only for type classification and operational testing of the 120 millimeter mortar system and development of a family of enhanced 120 millimeter ammunition: *Provided further,* That $2,500,000 shall be available only for the vehicular intercommunications system: *Provided further,* That $5,000,000 shall be available only for development of fluidtronics technology for use in ground combat or support vehicles.

Research, Development, Test, and Evaluation, Navy

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,136,405,000, to remain available for obligation until September 30, 1990: *Provided,* That $1,000,000 shall be made available for personnel and other expenses for the Institute for Technology Development, as a grant, for the National Center for Physical Acoustics: *Provided further,* That funds made available for the SSN-688 Class Vertical Launch System and the AN/BSY-1 Submarine Combat System programs may not be obligated or expended until thirty days after the reports required by section 211(e) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) are submitted to the Committees on Appropriations of the House of Representatives and the Senate.

Research, Development, Test, and Evaluation, Air Force

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $14,313,135,000, to remain available for obligation until September 30, 1990: *Provided,* That funds made available for the Titan IV program may not be obligated or expended until the Secretary of Defense certifies that no funds other than those provided in Research, Development, Test, and Evaluation (RDT&E) appropriation accounts will be obligated or expended for RDT&E costs for the Solid Rocket Motor Upgrade project, and until the report required on page 205 of House Report 100-410, concerning the commercialization of research, development, test, and evaluation costs, is submitted to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further,* That $2,000,000 shall be available only for development of high thermal stability and/or endothermic jet fuels, including studies on coal based fuels.

Research, Development, Test, and Evaluation, Defense Agencies

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $7,468,757,000, to remain available for obligation until September 30, 1990: *Provided,* That $114,000,000 shall be made available only for the Advanced Submarine Technology Program as described in section 231 of the National Defense Authorization Act for Fiscal Year 1989 (H.R. 4264), as passed the House of Representatives on May 11, 1988, except that funds may be obligated for test facilities: *Provided further,* That $25,000,000 shall be made available only for the Tactical Airborne Laser Communications Program: *Provided further,* That the Secretary of Defense shall award the funds made available in this Act for the University Research Initiative Program on the basis of competition; and, that none of the funds may be obligated or expended until the Appropriations and Armed Services Committees of the House and Senate approve a plan submitted by the Secretary of Defense to provide for broader geographic distribution of funds under such program in comparison to the distribution of such funds during fiscal year 1986 and 1987; and, sets aside a portion of the funds available for such program for fiscal year 1989 to implement such a plan: *Provided further,* That section 215(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) is repealed.

Developmental Test and Evaluation, Defense

For expenses, not otherwise provided for, of independent activities of the Deputy Under Secretary of Defense, Developmental Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $155,900,000, to remain available for obligation until September 30, 1990.

Operational Test and Evaluation, Defense

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $12,234,000, to remain available for obligation until September 30, 1990.

Mr. CHAPPELL (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the Record and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. Are there points of order against title IV?

Are there amendments to title IV?

Mr. AuCOIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support the bill that the Defense Appropriations Subcommittee brings to the floor today, and I want to compliment our chairman, the gentleman from Florida [Mr. Chappell], and the ranking Republican on the committee, the gentleman from Pennsylvania [Mr. McDade], and the members of the committee on both sides of the aisle for fashioning a good product.

Mr. Chairman, I'm going to take a few minutes to address the severe defense budget difficulties we face as a result of the unsteady and poorly planned military spending binge which the administration has indulged in over the past 7 years.

In the first year of the Reagan administration, we saw a peacetime record 14.9 percent increase in real budget authority over the previous year.

This binge continued with average annual increases of 12 percent for 5 years, reaching its peak in fiscal year 1985, when we appropriated budget authority of $334 billion.

This is in constant 1989 dollars, as will be all the figures I cite today. The budget authority in that 1985 peak year provided a total increase of 60 percent over the last Carter year, and was well above the peak spending of the Vietnam war.

Just as the unfinanced Vietnam war began the cycle of megadeficits, so the unfinanced Reagan military dollar escalation began a cycle of megadeficits, in which this one administration, advertising itself as fiscally conservative, has written far more hot checks than all previous administrations combined—from George Washington through Jimmy Carter.

In 1985, we finally found we had no choice but to confront reality, so we passed Gramm-Rudman and defense spending began to come down. The bill before us today appropriates $299.5 billion, which is 0.6 percent below the previous year and 10.4 percent below the 1985 peak, but still 39.1 percent above the last Carter year and about equal to the Vietnam peak.

Overall, the increase was not planned well, and the decrease has been planned even less well. Here are three examples, one from each service:

We have committed to two new aircraft carriers. This was a good idea—but if you're going to buy aircraft carriers you also have to budget the planes to put on them, and that the administration has not done.

If you use planned service life in flying hours as the predictor of retirement dates, by 1994 the U.S. Navy will be short 592 combat aircraft. Now the Navy says it will solve this by running some of the aircraft longer than planned. But even on this basis, we will be short 176 combat aircraft by 1994. And since we have to buy roughly 150 aircraft in order to field a carrier wing, the administration has put us in the position of basically looking at one useless $3 billion aircraft carrier with a blank deck because the administration has failed to coordinate its right hand with its left.

The Air Force is already feeling the pinch of misplaced priorities. Earlier this year I visited one of our F-111 bases in England. This is the home of the most capable deep-interdiction force we have in NATO. But the maintenance squadron commander there told me he has sometimes had 30 percent of his planes unable to fly because of unavailable spare parts. This is the (quote, unquote) "ships unable to sail and planes unable to fly" syndrome on which Ronald Reagan campaigned against Jimmy Carter in 1980. And here it is happening under Reagan's own administration.

The Army is possibly heading for the worst mistake of all. Recent indications are that in the critical avanced antitank weapon system—medium, the Army intends to choose a completely inadequate candidate weapon, simply because its unit cost is lower. I will have more to say about this later.

Where do we go from here? There's no painless answer. But a few guidelines clearly need to be followed.

First, our force planners must face reality.

We still hear them basing their plans on the presumption of something on the order of 2 percent real budget growth per year.

Mr. Chairman, that's Disneyland.

Mr. Chairman, there's no way the Department of Defense will get real growth in the midst of massive deficit reduction with the American people adamantly opposed to a tax increase. Reality is causing defense spending to decline—perhaps to halfway between the last Carter year and the Reagan peak.

We still can have an extremely effective defense at this level, but only if we face reality and plan for it.

Second, we need to ruthlessly prune out those programs which do not contribute to national security but have been kept alive through political support. I would put star wars at the head of the list of things we can do without.

Finally, we need to take advantage of international opportunities to reduce our military requirements.

There is powerful evidence that the Soviet Government is feeling the weight of its military spending even more than we, and that a major downward restructuring of the military standoff is within reach of the next administration.

The first step, which the House passed in the authorization bill, should be to come into full compliance with SALT II; this would let us retire six Poseidon submarines next year and save $125 million each in operating costs.

The second step should be a negotiated ban on testing ballistic missiles, nuclear warheads, and space weapons. This would save about 2 percent of the defense budget immediately, and much more down the road.

The third step should be a modified START Treaty, reducing force size while increasing stability. And finally, the fourth step should be a large negotiated reduction in conventional forces, with primary stress on reducing offensive strike forces.

This is I freely admit, an ambitious prescription. But the risks involved are far preferable to the those we will certainly bring on ourselves if we continue business as usual.

"Business as usual" means spending more on DOD and getting less security. It means exposing America to the decline that fell over Spain in the 16th century, and over England in the early 1900's—because the military load they tried to maintain was greater than their economic base could support.

The CHAIRMAN pro tempore. Are there amendments to title IV?

The Clerk will read.

The Clerk read as follows:

TITLE V

REVOLVING AND MANAGEMENT FUNDS

Army Stock Fund

For the Army stock fund; $321,900,000: *Provided*, That of the funds appropriated in this paragraph, $15,000,000 shall not be obligated or expended until authorized by law.

Navy Stock Fund

For the Navy stock fund; $204,700,000.

Air Force Stock Fund

For the Air Force stock fund; $206,900,000.

Defense Stock Fund

For the Defense stock fund; $30,000,000: *Provided*, That of the funds appropriated in this paragraph $5,000,000 shall not be obligated or expended until authorized by law.

Foreign Currency Fluctuation, Defense

(INCLUDING TRANSFER OF FUNDS)

For the Foreign Currency Fluctuation, Defense; $376,000,000: *Provided*, That this appropriation shall be available to transfer funds between this account and appropriations available to the Department of Defense for military personnel and operation and maintenance expenses with regard to obligations incurred after September 30, 1988: *Provided further*, That in transferring funds between this appropriation and appropriations for military personnel expenses, the substantial gains and losses to the appropriations for military personnel expenses related only to Cost of Living Allowances and Housing Allowances caused by fluctuations in foreign currency rates that vary substantially from those used in preparing budget submissions, may be based on budgetary estimates rather than accounting records: *Provided further*, That the funds appropriated in this paragraph shall not be obligated or expended until authorized by law.

Mr. CHAPPELL. (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. Are there points of order against title V?

Are there amendments to title V?

Mr. GONZALEZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in order to address some questions, preferably to the ranking minority members in charge of this.

Earlier in the remarks of the gentleman from Pennsylvania [Mr. McDADE], he referred to the fact that we, indeed, would be looking forward to the defense managers facing some budgetary crisis and the like.

The gentleman is well aware those that have agitated since February, because, as I understand it, not that the defense administrators or any of the departments themselves were exceeding the budget targets, but because of the inflexibility that resulted from capping the discretionary judgment of the managers to transfer inner funding sums; is there anything here that continues that inflexibility?

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I am happy to yield to the gentlemam.

Mr. McDADE. Mr. Chairman, let me say that the decision that was made to restrict funding came within the Department of Defense, and it came because their internal mechanisms, the Comptroller and the people who watch their accounts, indicated to them that they were about to exceed the outlays that had been agreed to and the budget. I think it is principally outlays, not so much budget authority, within the figures that were agreed to in the summit.

As a result of that, they felt that they were, that is to say that the Department was, in a situation where they had to pull a brake on outlays until at least the end of June in order to try to recoup expenditures and get back into a level where they would be within the summit. They have done that. We have not fettered them in terms of that discretion.

In fact, may I say to my distinguished colleague, the gentleman from Texas [Mr. GONZALEZ], that we have tried to give them some more flexibility to manage the problem within their own accounts by boosting what they call their transferability within various accounts. We have increased that by well over $1 billion precisely to try to deal with the problem the gentleman raises.

Mr. GONZALEZ. Mr. Chairman, I thank the distinguished gentleman, and I am very happy to hear that.

Mr. Chairman, there was one additional question having to do with section 8019 on the Civilian Health and Medical Program.

As the gentleman knows, our service personnel ever since the war recedes into the background with respect to medical care and have constantly faced erosion in what we have offered the active-duty serviceman and his dependants particularly.

Is this definition here about none of the funds contained in this act available for the Civilian Health and Medical Program shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079, does that predict a diminution, or does that provide a little bit more realistic use of CHAMPUS?

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I am happy to yield to the gentleman.

Mr. McDADE. Mr. Chairman, it is our effort to make CHAMPUS be used in a more realistic fashion.

May I say to my colleague that this has been the law that was written in the Committee on Armed Services, the authorizing committee, for some time, and in order to try to buttress it, we, of course, follow what the authorizing committee is doing by imposing the limitation of 80 percent.

□ 1450

May I say we are appropriating about $6 billion in the bill for medical care for service people, and we share the gentleman's concern. We want to deal with that problem as effectively as we can.

We have appropriated additional dollars for medical staffing to try to cope with areas where the hirings showed there were shortfalls, even may I say to my friend on bases where they could not get physicians or nurses. It was a difficult problem, so we have appropriated additional dollars. What we are carrying here is an effort to say use CHAMPUS in a realistic way, help us to try to get this problem under control and treat our military and their dependents with first rate medical care.

Mr. GONZALEZ. I thank the gentleman from Pennsylvania and wish to compliment both him and the chairman of the subcommittee and the members thereof for a good job.

Mr. McDADE. I thank my colleague and appreciate that.

The CHAIRMAN pro tempore (Mr. GRAY of Illinois). Are there any amendments to title V?

The Clerk will read.

The Clerk read as follows:

TITLE VI

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986; $375,400,000, of which $117,300,000 shall remain available for obligation until September 30, 1989, $17,900,000 shall remain available for obligation until September 30, 1990, $127,400,000 shall remain available for obligation until September 30, 1991, and $112,800,000 shall remain available for obligation until September 30, 1993: *Provided*, That of the funds appropriated in this paragraph $137,900,000 shall not be obligated or expended until authorized by law.

Mr. CHAPPELL (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title VI?

Are there any amendments to title VI?

Mr. GORDON. Mr. Chairman, I move to strike the last word.

Mr. GORDON. Mr. Chairman, in January of this year the Army's Air Traffic Control Advisory Services, at the request of Congress, conducted a survey that found a clear need to improve safety at the Smyrna, TN, airport.

Accordingly, the Tennessee Army National Guard has begun providing air traffic control advisory services at Smyrna, making flight operations much safer while providing necessary training for National Guard controllers.

I would like to ask the gentleman from Florida if I am correct in my understanding that the funds provided in this bill for Army National Guard operation and maintenance include an amount sufficient for the Tennessee Army National Guard to continue providing air traffic control services to all aviation traffic at the Smyrna Airport.

Mr. CHAPPELL. If the gentleman will yield, the committee agrees with the requirement for funding of the air traffic control tower at Smyrna. It is my understanding that the Army National Guard's operations and maintenance budget will continue to support this activity, consistent with National Guard usage.

Mr. GORDON. I thank the gentleman from Florida, and I yield the balance of my time.

Ms. OAKAR. Mr. Chairman, I move to strike the last word for the purpose of engaging the distinguished chairman of the subcommittee in a short colloquy.

Mr. Chairman, I am very concerned about the Defense Logistics Agency, for which my area has regional responsibility, transferring jobs based on a report that was supposed to come out in October that they never apparently completed, and they, however, have announced that they will transfer jobs from one area to another. It seems to me we are all waiting for their comprehensive report, but it did not materialize. Yet they made an announcement relating to the transfer of jobs.

I guess, basically, rather than introduce an amendment that was provincial, knowing of the Chair's concern about the manner in which the Department operates dealing in a fair manner, et cetera, I would just like to ask the chairman if he feels the committee would work closely with the Defense Department to make sure that they have the proper data related to transferring of jobs relative to the Defense Logistics Agency regional office, which is located in Cleveland, OH?

Mr. CHAPPELL. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, I would say to the gentlewoman from Ohio that this committee will work to make certain insofar as we can that such transfers are based upon proper facts, and that in order for those transfers to be made, there is a need for that transfer shown by proper study, and that it should not be done for political reasons or otherwise but for the efficiency of the Government.

Ms. OAKAR. I really want to thank the chairman of the subcommittee. That is the most we want and we appreciate his leadership on this issue and on other issues.

The CHAIRMAN pro tempore. Are there any amendments to title VI?

The Clerk will read.

The Clerk read as follows:

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $144,500,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $23,645,000.

Mr. CHAPPELL (during the reading). Mr. Chairman, I ask unanimous consent that title VII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title VII?

Are there any amendments to title VII?

The Clerk will read.

The Clerk read as follows:

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided*, That such contracts may be renewed annually.

SEC. 8003. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 8004. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 8005. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8006. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 8007. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of eighteen thousand pounds.

SEC. 8008. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

SEC. 8009. During the current fiscal year, the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided*, That the foregoing authority shall not be available for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe: *Provided further*, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

SEC. 8010. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $25,000, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 8011. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 8012. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $15,000,000 for the current fiscal year: *Provided*, That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense: *Provided further,* That costs for military retired pay accrual shall be included within this limitation.

SEC. 8013. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided,* That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

(TRANSFER OF FUNDS)

SEC. 8014. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $2,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided,* That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 8015. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided,* That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8016. None of the funds available to the Department of Defense in this Act shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe.

SEC. 8017. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 days in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 8018. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 8019. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions for section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code.

SEC. 8020. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $51,600,000: *Provided,* That costs for military retired pay accrual shall be included within this limitation.

SEC. 8021. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: *Provided,* That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. 8022. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided,* That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further,* That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: *Provided further,* That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 8023. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1990.

SEC. 8024. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 8025. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 8026. During the current fiscal year, the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code.

SEC. 8027. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8028. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: *Provided,* That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 8029. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

SEC. 8030. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

SEC. 8031. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided,* That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further,* That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further,* That no multiyear procurement contract can be terminated without 10-day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further,* That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

H-60 series helicopter engines;
CH-47 helicopter modifications;
Multiple Launch Rocket System;
AV-8B aircraft;
UHF follow-on satellite system;
F-16 aircraft;
AH-64 helicopters (for four years);
M-1 tank chassis;
CH/MH-53E helicopter.

SEC. 8032. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence.

SEC. 8033. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. 8034. None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(TRANSFER OF FUNDS)

SEC. 8035. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 8036. None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 8037. None of the funds appropriated by this Act may be used to appoint or compensate more than 39 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

SEC. 8038. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 70,325: *Provided,* That none of the funds appropriated by this Act shall be available to support more than 46,622 positions in support of the Army Reserve, Army National Guard or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further,* That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.

SEC. 8039. (a) The provisions of section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1989 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1989, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year, or any constraint or limitation carried out through the measurement of full time equivalent employees, or for payroll allocation methodologies for industrially funded activities.

(c) The fiscal year 1990 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1990 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1990.

(TRANSFER OF FUNDS)

SEC. 8040. Appropriations during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.

SEC. 8041. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: *Provided,* That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: *Provided further,* That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

SEC. 8042. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8043. No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process: *Provided,* That any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

SEC. 8044. None of the funds made available by this Act shall be available to operate in excess of 247 commissaries in the contiguous United States.

SEC. 8045. None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

SEC. 8046. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8047. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided,* That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 8048. None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

SEC. 8049. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

SEC. 8050. Of the funds made available to the Department of the Air Force in this Act, not less than $11,749,000 shall be available for the Civil Air Patrol.

SEC. 8051. Funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense installations for removal of feral burros and horses.

SEC. 8052. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 403(a) of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 403(b) of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239.

SEC. 8053. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 8054. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

SEC. 8055. None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

SEC. 8056. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: *Provided*, That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

SEC. 8057. Funds available for operation and maintenance under this Act, may be used in connection with demonstration projects and other activities authorized by section 1092 of title 10, United States Code.

SEC. 8058. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

SEC. 8059. Notwithstanding any other provision of law, during fiscal year 1989, the Department of Defense shall conduct an expanded pilot project of providing home health care as part of an individualized case-managed range of benefits that may reasonably deviate from otherwise payable types, amounts and levels of care, in up to four geographic areas containing no more than one-fourth of the Department's beneficiaries, for dependents entitled to health care under sections 1079 and 1086 of title 10, United States Code, with the patients selected from those with exceptionally serious, long-range, costly and incapacitating physical or mental conditions defined by the Secretary of Defense as likely to benefit from the range of demonstration benefits: *Provided*, That although the cost may be greater in a specific case, the net benefit cost to the Department of Defense shall not exceed that which could reasonably have been expected to occur in the absence of the demonstration: *Provided further*, That outside of the areas selected, the home health care pilot project as directed and implemented in fiscal years 1986 and 1987 shall be continued.

SEC. 8060. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 8061. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8062. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate.

(TRANSFER OF FUNDS)

SEC. 8063. Upon a determination by the Secretary of Defense that such action will result in a more economical acquisition of automatic data processing equipment, funds provided in this Act under one appropriation account for the lease or purchase of such equipment may be transferred through the Automatic Data Processing Equipment Management Fund to another appropriation account in this Act for the lease or purchase of automatic data processing equipment to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided*, That within thirty days after the end of each quarter the Secretary of Defense shall report transfers made under this section to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further*, That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act: *Provided further*, That $22,300,000 shall be provided to the Army for procurement of Tactical Army Combat Service Support Computer Systems.

SEC. 8064. Appropriations available to the Department of Defense during the current fiscal year shall be available, under such regulations as the Secretary of Defense may deem appropriate, to exchange or furnish mapping, charting, and geodetic data, supplies or services to a foreign country pursuant to an agreement for the production or exchange of mapping, charting, and geodetic data.

SEC. 8065. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided*, That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 8066. Appropriations made available to the Department of Defense by this Act may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: *Provided*, That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

SEC. 8067. None of the funds appropriated in this Act may be obligated or expended to carry out a program to paint any naval vessel with paint known as organotin or with any other paint containing the chemical compound tributyltin until such time as the Environmental Protection Agency certifies to the Department of Defense that whatever toxicity as generated by organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment: *Provided*, That the Navy may use these funds to paint aluminum-hulled craft as necessary, and, in addition, the Navy may paint no more than fifteen steel-hulled ships to conduct research as described in the "Navy Organotin Program Plan for Two Case Study Harbors".

SEC. 8068. Notwithstanding any other provision of law, funds available in this Act shall be available to the Defense Logistics Agency to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

SEC. 8069. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications-electronics depot maintenance at an amount above the strengths assigned to those depots on September 30, 1985: *Provided*, That the foregoing limitation shall not apply to civilian personnel who perform caretaker-type functions at these installations: *Provided further*, That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.

SEC. 8070. (a) None of the funds made available by this Act to the Department of Defense may be used to procure the Federal Supply Classes of machine tools set forth in subsection (b) of this section, for use in any government-owned facility or property under control of the Department of Defense, which machine tools were not manufactured in the United States or Canada.

(b) The procurement restrictions contained in subsection (a) shall apply to Federal Supply Classes of metalworking machinery in categories numbered 3405, 3408, 3410-3419, 3426, 3433, 3438, 3441-3443, 3445, 3446, 3448, 3449, 3460, and 3461.

(c) When adequate domestic supplies of the classifications of machine tools identified in subsection (b) are not available to meet Department of Defense requirements on a timely basis, the procurement restrictions contained in subsection (a) may be waived on a case by case basis by the Secretary of the Service responsible for the procurement.

(d) Subsection (a) shall not apply to contracts which are binding as of the date of enactment of this Act.

SEC. 8071. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided*, That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,100,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 8072. None of the funds appropriated in this Act may be obligated or expended for the procurement, modification, product-improvement, or production qualification or prove-out of the five inch semi-active laser guided projectile (Deadeye).

SEC. 8073. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during fiscal year 1989, limiting the amount which may be expended for personnel services, and including pay and allowances of military personnel and civilian employees, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

SEC. 8074. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 8075. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 8076. (a) The Secretary of Defense shall conduct through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) a demonstration project on the treatment of alcoholism designed to compare the use of chemical aversion therapy with the use of other treatments. At the conclusion of the demonstration project, the Secretary shall submit to the Committees on Appropriations and Armed Services of the Senate and House of Representatives a report on the results of the project: *Provided*, That the demonstration project shall be conducted at only one location: *Provided further*, That coverage for chemical aversion therapy under this demonstration project is extended to those beneficiaries referred for such treatment by a physician, psychiatrist or psychologist recognized as an authorized provider under CHAMPUS.

(b) Until the report required by subsection (a) is submitted, the Secretary of Defense shall ensure that coverage of beneficiaries under section 1079(a) or 1086(a) of title 10, United States Code, shall continue under the provisions of subsection (a).

SEC. 8077. None of the funds appropriated by this Act shall be available for the operation and maintenance of contractor-owned, contractor-operated primary health care facilities unless the Department of Defense Inspector General agrees to conduct an inspection, audit and evaluation of these clinics.

SEC. 8078. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. 8079. None of the funds in this Act may be used to issue a letter of intent to proceed with the phase-in of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative until December 1, 1989.

SEC. 8080. None of the funds appropriated by this Act may be used by the Defense Logistics Agency to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided*, That savings that result from this provision are represented as such in future budget proposals.

SEC. 8081. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of the enactment of this Act, enlists in the armed services for less than three years; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member: *Provided*, That these limitations shall not apply to members in combat arms skills.

SEC. 8082. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Administrator of Veterans Affairs from the Department of Defense Education Benefits Fund when the time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this provision shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this provision applies to active components of the Army.

SEC. 8083. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability and the planned upgrade of this capability: *Provided*, That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8084. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1989, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action: *Provided, however*, That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

SEC. 8085. (a) Of the funds appropriated to the Army, $109,895,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided*, That none of these funds can be expended:

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) unless the RCAS contract source selection official is the Chief of the National Guard Bureau;

(4) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(5) unless the Program Manager (PM) charter makes the PM accountable to the source selection official and fully defines his authority, responsibility, reporting channels and organizational structure;

(6) to pay the salaries of individuals assigned to the RCAS program management office, source selection evaluation board, and source selection advisory board unless such organizations are comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(7) to award a contract for development or acquisition of RCAS unless such contract is competitively awarded under procedures of OMB Circular A-109 for an integrated system consisting of software, hardware, and communications equipment and unless such contract precludes the use of Govern-

ment furnished equipment, operating systems, and executive and applications software; and

(8) unless RCAS performs its own classified information processing.

(b) None of the funds appropriated or made available in this Act are available for procurement of Tactical Army Combat Service Support Computer Systems (TACCS) unless at least 50 percent of the TACCS computers procured with Army fiscal year 1989 funds are provided to the Reserve Component.

(c) None of the funds appropriated in this Act are available for procurement of mini- and micro-computers for the Army Reserve Component until the RCAS contract is awarded.

SEC. 8086. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: *Provided,* That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: *Provided further,* That at least thirty days before making a determination under this section the Secretary of Defense will notify the Committees on Appropriations of the Senate and House of Representatives in writing of his intention to authorize such a fixed price-type developmental contract and shall include in the notice an explanation of the reasons for the determination.

SEC. 8087. Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

SEC. 8088. Not to exceed $35,000,000 of the funds available to the Department of the Army during the current fiscal year may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

SEC. 8089. From the amounts appropriated in this Act, funds shall be available for Naval Air Rework Facilities to perform manufacturing in order to compete for production contracts of Defense articles: *Provided,* That the Navy shall certify that successful bids between Naval Air Rework Facilities and private companies for such production contracts include comparable estimates of all direct and indirect costs: *Provided further,* That competitions conducted under this authority shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the Department of Defense Authorization Act, 1985, or Office of Management and Budget Circular A-76.

Sec. 8090. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for authorized civilian employees hired for certain health care occupations as authorized for the Administrator of the Veterans Affairs by section 4107(g) of title 38, United States Code: *Provided,* That only those occupations cited in the June 30, 1988 report submitted by the Assistant Secretary of Defense for Health Affairs shall be covered by this provision.

SEC. 8091. None of the funds available to the Department of Defense are available for obligation or expenditure to procure either directly or indirectly any goods or services from Toshiba Corporation or any of its subsidiaries, or from Kongsberg Vapenfabrik or any of its subsidiaries: *Provided,* That the Secretary of Defense may, on a case-by-case basis, waive the preceding prohibition upon a written determination to the Committees on Appropriations of the House of Representatives and the Senate that compliance would be detrimental to United States national security interests.

SEC. 8092. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4¼ inches in diameter and under manufactured outside the United States.

SEC. 8093. Beginning on October 1, 1988, and ending on July 1, 1989, none of the funds in this Act may be used by the Secretary of Defense or the Secretaries of the military departments to enter into any agreement or contract to convert a heating facility at a military installation outside the United States to district heating, direct natural gas, or other sources of fuel.

SEC. 8094. During the current fiscal year, notwithstanding any other provision of law, the Department of Defense shall exclude from diagnosis related groups regulations: (a) inpatient hospital services in a hospital whose patients are predominantly under 18 years of age and (b) such services in any hospital with respect to (1) discharges involving newborns and infants who are less than 29 days old upon admission (other than discharges classified to diagnosis related group 391), (2) discharges involving pediatric bone marrow transplants, (3) discharges involving children who have been determined to be HIV seropositive, and (4) discharges involving pediatric cystic fibrosis: *Provided,* That the Department of Defense shall ensure that beneficiaries not be required to pay more in cost-shares under the foregoing exclusions than those which would have been imposed if the diagnosis related group system had been instituted: *Provided further,* That notwithstanding any other provision of law, appropriations available to the Department of Defense may be used to pay the difference between the cost-shares paid by beneficiaries under the foregoing and the billed charges for services covered by this provision.

SEC. 8095. None of the funds in this Act or any other funds available to commissaries and exchanges may be used to purchase or sell any Toshiba products in those commissaries or exchanges.

SEC. 8096. Notwithstanding any other provision of law, the Secretary of the Air Force shall, from existing or prior year funds, make available $18,000,000 for the next generation trainer engine (F-109) over the next three-year period.

(TRANSFER OF FUNDS)

SEC. 8097. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations of the reserve components for the purpose of providing military technician pay the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) as that granted the other military personnel accounts: *Provided,* That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations of the reserve components do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119): *Provided further,* That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further,* That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty legislative days before any such transfer of funds under this provision and if no objection is expressed within that twenty legislative day period.

SEC. 8098. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8099. No naval vessel or any vessel owned and operated by the Department of Defense homeported in the United States may be overhauled, repaired, or maintained in a foreign owned and operated shipyard located outside of the United States, except for voyage repairs.

SEC. 8100. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States Government may be obligated or expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 104 of the Intelligence Authorization Act (H.R. 4387) for fiscal year 1989.

SEC. 8101. During the current fiscal year and hereafter, appropriations available to the Department of Defense for operation and maintenance shall be available for payment of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof.

SEC. 8102. None of the funds provided in this Act may be obligated or expended for the procurement of LANDSAT or SPOT remote sensing data except by the Defense Mapping Agency, in its role as primary action office for such purchases by Department of Defense agencies and military departments.

SEC. 8103. None of the funds appropriated or made available by this Act may be obligated for any procurement or product improvement of the M30 (4.2 inch) heavy mortar, or for development or product improvement of 4.2 inch mortar ammunition.

SEC. 8104. None of the funds appropriated by this Act may be obligated or expended after January 1, 1989 on contracts with the prime manufacturers of the Advanced Tactical Aircraft which do not require that all variants of the aircraft's design incorporate Joint Integrated Avionics Working Group standard avionics specifications no later than the time scheduled for the first production of the Air Force variant of the aircraft.

SEC. 8105. Of the funds appropriated in fiscal year 1988 to the Navy for Project 7000, $7,000,000 shall be provided to the Air Force for Project Have Gaze.

SEC. 8106. Of the funds appropriated by this Act, $65,000,000 are available only for engineering development of Joint Integrated Avionics Working Group standard avionics modules and supporting advanced avionics architecture elements, and of this amount $40,000,000 is available only for the Integrated Communications Navigation Identification Avionics (ICNIA) Program.

SEC. 8107. (a) None of the funds appropriated or made available by this Act shall be expended to award a contract pursuant to a solicitation issued on or after the date of the enactment of this Act under the Department of Defense overseas fuel procurement programs, including procurements in American Samoa and Guam, to a contractor other than a United States firm: *Provided*, That the foregoing limitation shall not apply unless the United States firm—

(1) has a crude oil refining capacity of not more than 85,000 barrels a day;

(2) participates in the Department of Defense overseas fuel procurement program;

(3) agrees to the contract on the terms proposed by the foreign firm to which the contract would otherwise be awarded; and

(4) does not use processing agreements in order to fulfill the contract, although exchange agreements are specifically permitted.

(b) This provision shall not apply if the total cost of supplies offered by the United States firm, including transportation as specified in the solicitation, would exceed the total evaluated cost to the Government if the contract were awarded to the foreign firm.

(c) This provision shall not supercede any status of forces agreement and shall not apply to acquisitions subject to the Agreement on Government Procurement of 1979 and the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582) and including acquisitions from countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.).

(d) For the purpose of this section, the term "United States firm" means a corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

Mr. CHAPPELL (during the reading). Mr. Chairman, I ask unanimous consent that title VIII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title VIII?

POINT OF ORDER

Mr. FORD of Michigan. Mr. Chairman, I raise a point of order against section 8090 of the bill.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CHAPPELL. Mr. Chairman, I am prepared to concede that the gentleman is correct and that his point of order is well taken.

The CHAIRMAN pro tempore (Mr. GRAY of Illinois). The point of order is conceded.

The point of order is sustained under clause 2, rule XXI, and the section is stricken.

Are there other points of order against title VIII?

If not, are there any amendments to title VIII?

AMENDMENT OFFERED BY MR. ROTH

Mr. ROTH. Mr. Chairman, I offer an amendment:

The Clerk read as follows:

Amendment offered by Mr. ROTH: Page 84, after line 12, insert the following new section:

SEC. 8108. Not later than December 31, 1988, the Secretary of Defense shall submit to Congress a report on the causes and circumstances of all deaths of Navy personnel during Navy training since January 1, 1986, and on the actions taken by the Secretary of Defense and the Secretary of the Navy to prevent further such deaths.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I am happy to yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, we are familiar with the amendment and we have no objection to it on this side.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I am happy to yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, the gentleman from Wisconsin has very thoughtfully given us a copy of his amendment and we are prepared to accept it.

Mr. ROTH. I thank both the gentleman from Florida [Mr. CHAPPELL], the very able chairman of the subcommittee, and the gentleman from Pennsylvania [Mr. McDADE], the very able ranking member, for supporting this amendment. I also want to thank the Rules Committee for making it procedurally possible for me to present the amendment.

Mr. Chairman, this is a very straightforward amendment. When I began to investigate the death of a 19-year-old Navy recruit who died in a swimming pool with four instructors present, while his classmates were told to face the wall and sing the National Anthem, I began to question the Navy's training. I also found out that within the past 30 months there were 17 other deaths in Navy training programs. That is one death in every 8 weeks, and that is in the training, not in operations.

This amendment asks the Secretary of Defense by this year's end to report the causes and the circumstances of these deaths. The Secretary also is to tell us how we are going to work to prevent further deaths like these.

The genesis of this amendment is the death of Lee Mirecki on March 2 who, as I have mentioned, died with four instructors in the pool. The Navy said that initially it was of natural causes, although he was 19 years old and in excellent physical health.

The Navy version was not substantiated by his classmates who began to tell the family to question the official story. That is when the family asked me to find out the truth. In the process of looking at the facts I found out that the Navy was applying foot-dragging and obfuscation, hoping that this case would fade away like so many others.

I am asking my colleagues today not to let this case and the others fade away. Lee Mirecki's death came of a heart attack, yes, but with three instructors watching the fourth one hold him down. We know now that there is a common practice called smurfing, which means taking people underwater, and holding them under to the point of asphyxiation. The name smurfing is after the cartoon character that we all know from our kids watching TV, the "Blue Smurfs," the same color the recruits turn after they hold them under water a certain length of time.

The family was concerned, and I was too, about the insensitivity of the Navy who even sent one of these instructors back with the funeral party to tell the family that he died of natural causes.

On June 2 the Secretary of the Navy, after repeated requests from me, sent an admiral in charge of training to my office, and he told me that there had been 17 deaths in 30 months, yet he provided no information or hint of information that anything was wrong.

In this legislation we are paying for the training these young people are going through.

There have been two reports on the Mirecki death, and none have been released. Why? Lee Mirecki died over 3½ months ago.

A couple of hours before this amendment came up, the Navy came to my office and gave me the barest reasons for the 17 deaths, and the time and place. I want to share something with the Members of this House. In every day terminology we refer to it as heart attack. Here in this letter there are 17 deaths, heart attack, heart attack, heart disease, heart attack, heart attack, possible heart attack. These people are 19, 20 years old, at the heights of their physical fitness, and they are all dying of heart attack. I do not buy it, and I do not think other Members do either.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin [Mr. Roth] has expired.

(By unanimous consent, Mr. Roth was allowed to proceed for 4 additional minutes.)

Mr. ROTH. Mr. Chairman, this Congress, the Members and I have an obligation to the American people which we represent to perform some oversight. Lee Mirecki should not have died, and I think there are others who should not have died either. I have had literally hundreds of telephone calls, letters, and reports from all over the country of people saying, "when my son died I was told it was a heart attack. Maybe I should have checked into it also."

We are funding the training under this legislation, in the bill before us, and I want my colleagues to join me in having the Secretary of Defense and the Secretary of the Navy come before this Congress before year's end and give an explanation of these deaths and why they occurred. That is why I am asking my colleagues today to join me. We are not prejudging the Navy. We are giving them an opportunity to explain their actions. The senior command should give us an explanation. They owe to the Members and the American people an explanation of how they are going to improve safety, how they are going to prevent needless deaths, and we are going to tell the American people the truth. This Congress cannot stand for anything less.

This House has to stand behind the principle that our military must provide the truth to the American people. We must reestablish trust and confidence in our Armed Forces so that the American family, the spouse, the parent, the son, the daughter, when they are told that a loved one has died in the service of his country, whether it be in training or operations, that that family is told the truth, the full truth, and nothing but the truth. The American people deserve the truth, and it is our responsibility to ensure that they obtain the truth.

The people I represent are no different from the people my colleagues represent. They are hard working, they pay their taxes, they are loyal Americans. When the Armed Forces of their Government tells them that their son or daughter died, they should be told the truth. They have a right to know the truth, and that is what I want my colleagues and the Congress to do, to join me today to pass this amendment that says that when word comes, should it ever come to a family, that that family in their heart and in their mind can say "my Government would not lie to me, the Armed Forces of my country would not deceive me."

If we pass this amendment, that is what we are going to do.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I am happy to yield to my friend, the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I thank my distinguished colleague and I rise in support of his amendment, and also to compliment him and advise that right now I have a case right in point where a family came to me. I made inquiries and never got the answers.

Finally I got an autopsy report, but the family had the body exhumed and had the local autopsy official perform an autopsy, which was contradictory to everything the service autopsy had said.

So I really compliment the gentleman and salute him for this. I think the least we, the Members of Congress, ought to have is some truthful answers when we make inquiries of the various Departments of Defense.

Mr. ROTH. I thank the gentleman from Texas for his contribution. I agree. I think that we in this Congress have let this go on all too often and all too long, and it is time we asked for an accounting.

That we have six young men in the height of their physical fitness drop over dead of heart attack is too much for me to swallow and I hope it is too much for the Members to swallow also.

□ 1505

The CHAIRMAN pro tempore (Mr. Gray of Illinois). The question is on the amendment offered by the gentleman from Wisconsin [Mr. Roth].

The amendment was agreed to.

Mr. PORTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to commend Bill Chappell, Joe McDade, and the rest of the Defense Appropriations Subcommittee for bringing to the floor a bill which deserves the support of all Members. I would like to single out one portion of the bill which I believe warrants special attention.

The subcommittee has included a total of $410 million, designed to augment the Transportation Subcommittee's Coast Guard funding; $350 million of this amount is for acquisition, construction, and improvements, while the other $60 million will be transferred from the Navy to the Coast Guard's operating expenses account. These moneys are essential if the Coast Guard is to effectively carry out the expanding missions Congress has given it over the last decade.

Most importantly, the $60 million Navy transfer, when combined with the amount appropriated earlier by the Transportation Subcommittee, will bring the Coast Guard's operating expenses account to just $14 million under the service's request. I believe this level of funding will enable Admiral Yost to maintain the Coast Guard's essential helicopter air rescue stations throughout the United States, including Air Station Chicago, which, over the last 7 years, has saved over 150 lives.

At the same time, Mr. Chairman, I must express my concern over the way Congress continues to fund the Coast Guard. Over the last 8 fiscal years, $1.4 billion has been provided in the bill for support of the Coast Guard. Most of that money has been for procurement. Unfortunately, during 4 of those years, the moneys to operate the new boats, planes, and helicopters were cut. By funding the Coast Guard through two different functions in the budget we risk letting the service get caught in the switch at the end of the year. Specifically, my concern is that, in October, after the Transportation Subcommittee's conference closes, there is no guarantee that defense will include the money it was assumed they would provide. Without the $350 million included in the defense bill for Coast Guard procurement, the Transportation Subcommittee level will only provide $102 million, more than $246 million less than the fiscal year 1988 level.

If that happened, the Coast Guard would be forced to dip into its operating account, thus diminishing the good work the Transporation Subcommittee has done in that area. I believe it would be more prudent to provide all Coast Guard funding in one bill. Only then could we ensure coordinated funding levels and a responsible acquisition policy.

I realize, however, that these kinds of changes are not going to happen this year, and I am pleased that this subcommittee has done its part to ensure that the Coast Guard has the necessary funds to maintain its lifesaving missions. I urge Members to support the subcommittee's work.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment made in order under the rule.

The Clerk read as follows:

Amendment offered by Mr. Walker: On page 84, after line 12 insert the following new section:

Sec. 8108. No funds appropriated under this Act shall be expended in any workplace that is not free of illegal use or possession of controlled substances which is made known to the federal entity or official to which funds are appropriated under this Act. Pursuant to this section an applicant for funds to be appropriated under this Act shall be ineligible to receive such funds if such applicant fails to include in its application an assurance that it has, and will administer in good faith, a policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances by its employees.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this is the drug-free workplace amendment that has been offered on several occasions here on the floor.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I would be very happy to yield to the gentleman from Florida.

Mr. CHAPPELL. I thank the gentleman for yielding.

Mr. Chairman, we have no objection to the amendment.

Mr. WALKER. I thank the gentleman.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I would be happy to yield to the gentleman from Pennsylvania.

Mr. McDADE. I thank the gentleman for yielding.

Mr. Chairman, the gentleman has been very kind in acquainting us with the amendment and we have no objection on this side of the aisle and we are pleased to accept it.

Mr. WALKER. I thank the gentleman. I appreciate the support of both of these gentlemen for this amendment. As both of them know, the Secretary of Defense recently indicated that he was very much in favor of this kind of an approach and it is in the best interests of the Nation to move toward making our defense contractors move toward a drug-free workplace. So I am hopeful as we proceed through that we will be able to retain this language so that the Secretary of Defense is given that kind of authority.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TALLON

Mr. TALLON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TALLON: Page 84, after line 12, insert the following new section:

SEC. 8108. None of the funds appropriated by this Act may be used to enter into a contract for the procurement of rations known as Meal, Ready-to-Eat combat rations on a basis other than the total system acquisition approach under which the prime contractor is responsible for the acquisition, management, and final assembly of all component items which comprise the deliveries ration assembly.

Mr. TALLON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. McDADE. Mr. Chairman, I reserve a point of order against the amendment.

Mr. TALLON. Mr. Chairman, I would like to engage the distinguished chairman, the gentleman from Florida [Mr. CHAPPELL] in a colloquy.

Mr. Chairman, my amendment would save between $10 and $15 million a year by making a simple change in the current Defense Department procurement system for combat rations.

Under the current modified systems approach, DOD contractors are responsible for packaging these means as well as providing only some of the components of the meal package. The remaining components are supplied by the Government.

My amendment would require DOD to use the total systems approach to acquire these rations. Under the total systems approach, prime contractors would be responsible for acquiring all of the components.

Substantial Government savings would be realized by: First, eliminating premature Government payments; second, eliminating inefficiencies in assembly; and third, reducing DOD and contractor overhead costs.

GAO has recently reported that in many instances DOD materials could be acquired by DOD at substantially less expense if prime contractors were allowed to directly procure the material.

The acquisition of combat meals is one such instance where a significant savings could be realized under a total systems approach.

In 1987, one of the three prime contractors for these rations received $1,880,000 in excessive Government furnished materials. My amendment would eliminate this inefficiency.

The Senate has already recognized this problem and has taken steps to correct it. Today, the Senate Appropriations Subcommittee on Defense included language in its appropriations bill requesting that a test be conducted by DOD comparing the present system to a total systems approach.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. TALLON. I yield to the distinguished subcommittee chairman.

Mr. CHAPPELL. I thank the gentleman for yielding.

Mr. CHAIRMAN, I understand the concern of the gentleman and all of us are duty-bound to do everything we can to save taxpayers money. However, I am unsure what impact this amendment will have on the Department of Defense, on other MRE contractors and subcontractors, and on competition. In view of the fact that we did not have an opportunity to hold hearings on this matter and since the Senate has included report language on this subject, it will be an item in conference, I would suggest to the gentleman that we can more appropriately handle it in conference than we might at this particular time.

Mr. TALLON. Mr. Chairman, I certainly want to thank the gentleman and commend him and the gentleman from Pennsylvania [Mr. McDADE] for the outstanding job they have done putting this bill together. I appreciate their concern and attention to this matter. Recognizing that an objective test of this approach will be conducted in the next year and recognizing that this is the first time this issue has been brought before the House, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. MILLER of Ohio. Mr. Chairman, I rise in support of the legislation.

Mr. Chairman, it's been several years since this bill has been before the House. For having achieved this great feat, I think the chairman and the gentleman from Pennsylvania are to be congratulated. Although I have some specific concerns, on balance this is a good bill. I also want to personally thank our subcommittee staff. As usual, they have done an outstanding job with what is typically one of the most difficult bills in the Congress.

The committee has given priority to personnel and readiness accounts in recognition of the lessons learned from the 1970's. Contained in this measure is a 4-percent pay raise for the active duty personnel. Significantly, of the $282.6 billion provided in this bill, we will be spending over $164 billion on operations and maintenance and personnel. While $164 billion is a considerable amount of money, it is barely enough to sustain the current level of readiness, as well as retain and recruit the high quality personnel in service today. We cannot afford to give up the gains we've made in these areas.

Specific concerns of mine pertain to the cuts sustained by SDI and MX rail garrison. I am hopeful, however, that some funding will be restored in conference for these vital programs. Another significant problem is the growing practice of using Defense appropriations to partially fund Coast Guard operations, which are properly funded under the transportation appropriations measure.

For fiscal year 1989, we will be transferring $410 million from the Pentagon to the Coast Guard. Don't get me wrong, I support the Coast Guard, and I'm a fervent supporter of the war on drugs. But, this funding should be provided from within the domestic discretionary portion of the budget.

More disturbing than any single item, though, is the present trend in Defense spending. This bill represents the fourth year in a row in which Defense will experience negative real growth. Obviously, this cannot continue without causing fundamental changes in national security planning, strategy, and commitments.

Despite the concerns I have, I intend to vote for this bill. It is a reflection not only of our defense needs, but also the political and budget realities of this body. I urge my colleagues to support H.R. 4781.

The CHAIRMAN pro tempore. Are there further amendments to title VIII?

The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of Defense Appropriations Act, 1989".

Mr. CHAPPELL. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. BARNARD] having assumed the chair, Mr. GRAY of Illinois, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DICKS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 360, nays 53, not voting 19, as follows:

[Roll No. 193]

YEAS—360

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Conte
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
Latta
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lungren
Mack
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price
Pursell
Quillen
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Sawyer
Saxton
Schneider
Schuette
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—53

Bates
Beilenson
Boxer
Brown (CO)
Clay
Combest
Conyers
Crockett
DeFazio
Dellums
Dymally
Foglietta
Frenzel
Garcia
Gregg
Hayes (IL)
Henry
Herger
Kastenmeier
LaFalce
Leach (IA)
Leland
Lewis (GA)
Lightfoot
Lukens, Donald
Markey
McCrery
Miller (CA)
Nagle
Oberstar
Obey
Owens (NY)
Pelosi
Petri
Rahall
Rangel
Roberts
Roybal
Savage
Schaefer
Scheuer
Schroeder
Sensenbrenner
Shays
Smith, Denny (OR)
Smith, Robert (NH)
Stark
Studds
Tauke
Vucanovich
Weiss
Wheat
Yates

NOT VOTING—19

Ackerman
Badham
Biaggi
Boulter
Collins
Dixon
Duncan
Edwards (OK)
Florio
Hawkins
Huckaby
Jones (TN)
MacKay
Mica
Miller (WA)
Moody
Ray
Spence
Towns

□ 1536

The Clerk announced the following pair:

On this vote:

Mr. Florio for, with Mr. Boulter against.

Ms. PELOSI and Messrs. WHEAT, SCHAEFER, FOGLIETTA, and LEWIS of Georgia changed their vote from "yea" to "nay".

Mr. BARTON of Texas and Mr. SIKORSKI changed their vote from "nay" to "yea".

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4781, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

Mr. CHAPPELL. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes, the Clerk be authorized to correct section numbers, punctuation, cross references, and make other necessary technical adjustments.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Florida?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair will now put the question on the motion to suspend the rules on which further proceedings were postponed on Monday, June 20, 1988.

POSTAL REORGANIZATION ACT AMENDMENTS OF 1988

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4150, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. LELAND] that the House suspend the rules and pass the bill, H.R. 4150, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 390, nays 16, not voting 26, as follows:

[Roll No. 194]

YEAS—390

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Mack
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Parris
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—16

Armey
Badham
Barton
Crane
Frenzel
Gradison
Kyl
Latta
Lewis (CA)
Lowery (CA)
Lungren
Obey
Panetta
Pickle
Stenholm
Stump

NOT VOTING—26

Ackerman
Barnard
Biaggi
Boulter
Boxer
Collins
Dixon
Donnelly
Duncan
Edwards (OK)
Florio
Hawkins
Huckaby
Jones (TN)
Konnyu
Leath (TX)
MacKay
Mica
Miller (WA)
Moody
Pashayan
Pursell
Ray
Spence
Towns
Wise

□ 1556

The Clerk announced the following pair:

On this vote:

Mr. Barnard and Mr. Moody for, with Mr. Boulter against.

Mr. LOWERY of California changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1555

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3314

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3314.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

UPDATE ON RICHARD P. CONLON

(Mr. LOWRY of Washington asked and was given permission to address the House for 1 minute.)

Mr. LOWRY of Washington. Mr. Speaker, as Members of the House are aware, on Sunday we had a terrible loss in that Dick Conlon, the executive director of the Democratic Study Group, died in a boating accident. There have been many inquiries to our offices because of the immense respect for Dick as to what plans for services may be in order.

I rise to tell the membership that at this time we still have not made any plans. We are awaiting the family's decisions on what they want to do.

The Coast Guard is at this moment aiding the Maryland authorities in searching for Dick and we will have new information on that at some time in the near future. I know the entire membership's thoughts and prayers go to his wife, Martie, and his children, Chuck and Mike and Kelly, and to their grandchildren. I know that everyone is going to be very interested in participating in the commemoration to this tremendous person. The Democratic Study Group staff is continuing at this time to do the work of the Democratic Study Group in providing the legislation information to the House.

There will be further information in the near future.

Mr. DYMALLY. Mr. Speaker, will the gentleman from Washington yield?

Mr. LOWRY of Washington. Mr. Speaker, I yield to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, to the family of Dick Conlon I express the sentiment of all the members of the Congressional Black Caucus in conveying our deep sympathy to his wife and his children and family. Indeed a tremendous loss has occurred not just for the Democratic Study Group members but for the entire Congress. He was a charming and enlightened and friendly and accessible person and we sorely will miss him. May God bless his soul.

Mr. LOWRY of Washington. Mr. Speaker, I thank the gentleman from California [Mr. DYMALLY], the chairman of the Congressional Black Caucus for his remarks. I know at a later time there will be extensive comments. I just wanted to bring the membership up to date. We have had a tremendous number of requests to our office because of the massive respect for Dick Conlon.

THE 50TH ANNIVERSARY OF JAVITS-WAGNER-O'DAY ACT

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 121) to commemorate the 50th anniversary of the Javits-Wagner-O'Day Act, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I rise in support of this resolution.

I urge my colleagues to approve Senate Concurrent Resolution 121, a resolution commemorating the 50th anniversary of the Javits-Wagner-O'Day Act.

As a country, we have been able to make significant advances in the education, employment and training of the blind and the severely disabled because of the Javits-Wagner-O'Day Act. The programs under the act provide employment for over 4,500 blind individuals and 11,000 people with other severe disabilities in the manufacture of high-quality goods and services for purchase by the Federal Government. Through JWOD programs, blind and severely handicapped individuals have demonstrated their own abilities and independence, despite severe impairments.

I commend the sponsors of the House and Senate resolutions, Senator HARKIN and the gentleman from California, Mr. LANTOS, for their leadership in commemorating this important occasion.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 121

Whereas June 25, 1988, is the 50th anniversary of the enactment of the Act commonly known as the Javits-Wagner-O'Day Act, formerly known as the Wagner-O'Day Act, (52 Stat. 1196);

Whereas under the Javits-Wagner-O'Day Act, workshops currently provide employment in jobs of direct labor and ancillary support services throughout the United States to more than 4,500 blind and multihandicapped blind employees and vocational rehabilitation clients at 92 workshops and to over 11,000 persons with other severe handicaps at 254 workshops;

Whereas the Javits-Wagner-O'Day Act provides blind and severely handicapped individuals, and the workshops in which they work, with an opportunity to demonstrate their ability to provide quality commodities and services for purchase by the Federal Government;

Whereas Javits-Wagner-O'Day Act provides an opportunity for persons who are blind or who have other severe disabilities to demonstrate their capacity to lead productive and independent lives;

Whereas under the Javits-Wagner-O'Day Act workshops should, whenever feasible, continue to place their blind and other severely handicapped employees and vocational rehabilitation clients in competitive employment or in training for competitive employment and maintain an ongoing program to assist those employees and vocational rehabilitation clients who are capable of normal competitive employment to obtain jobs in the competitive labor market;

Whereas in addition to hiring persons for direct labor jobs, workshops in the Javits-Wagner-O'Day program should continue and expand their efforts to serve as models of affirmative action by hiring qualified blind and severely handicapped persons for all positions in the work force for which they are qualified, including management and supervisory positions;

Whereas the Committee for Purchase from the Blind and Other Severely Handicapped and any central nonprofit agency or agencies designated by the Committee under the Javits-Wagner-O'Day Act should also continue and expand their efforts to serve as models of affirmative action in hiring qualified blind and severely handicapped persons for all positions, including management and supervisory positions; and

Whereas the Congress reaffirms its support for the continuation and expansion of the Javits-Wagner-O'Day Act to provide improved work opportunities for blind and severely handicapped employees and vocational rehabilitation clients in all workshops: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President of the United States is requested to issue a proclamation commemorating the 50th anniversary of the Javits-Wagner-O'Day Act, which occurs on June 25, 1988, and calling upon the people of the United States to observe the anniversary with appropriate ceremonies and activities designed to reaffirm the Act's historical objectives of providing opportunities for productivity and upward mobility to blind and severely handicapped employees.

The Senate concurrent resolution was concurred and a motion to reconsider was laid on the table.

NATIONAL SAFETY BELT USE WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 485) designating June 26 through July 2, 1988, as "National Safety Belt Use Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. DINGELL. Mr. Speaker, I wish to thank the distinguished chairman of the Subcommittee on Census and Population, MERVYN DYMALLY, for his leadership in bringing this resolution to the floor.

I rise today on behalf of House Joint Resolution 485, National Safety Belt Use Week. I wish to thank my colleague from Pennsylvania, the Honorable BUD SHUSTER for his support and efforts as an original cosponsor to this resolution. I am also pleased and proud of the overwhelming national support for this cause demonstrated by numerous endorsements from health-related organizations and by the over 250 cosponsors to this resolution.

I think we all agree that preventing needless death and injury on our Nation's roads is a worthwhile and commendable cause. The resolution requests the President to issue a proclamation. More importantly the resolution urges Americans to wear safety belts and to protect their children through the use of child safety seats. House Joint Resolution 485, together with the Senate resolution, will help to focus national attention on this valuable device and its lifesaving ability.

With over 205,000,000 Americans subject to safety belt use laws mandated by 32 States and the District of Columbia, the national effort to encourage Americans to buckle up is growing. The diverse and numerous consponsorships of this resolution clearly demonstrates the wide public and private support to encourage safety belt use. I will continue to work on behalf of this effort so that increasing numbers of Americans will be aware of the merits of safety belt use. I believe this resolution goes a long way in furthering that effort.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution as follows:

H.J. RES. 485

Whereas safety belts and child safety seats have proven to be effective in reducing highway fatalities and injuries;

Whereas the legislatures of 32 States and the District of Columbia have recognized the benefits of safety belt use and have enacted safety belt use laws;

Whereas these laws apply to nearly 205,000,000 persons;

Whereas child safety seat use laws are in effect in every State;

Whereas as a result of safety belt and child safety seat use laws and other activities, millions of Americans are regularly wearing safety belts and using child safety seats;

Whereas use of these safety systems by all drivers, passengers, and children would prevent thousands of fatalities and injuries each year;

Whereas use of safety belts and child safety seats should be encouraged even as passive restraint systems are phased into the vehicle fleet; and

Whereas numerous public interest and safety organizations are working to encourage more extensive use of safety belts and child safety seats: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 26 through July 2, 1988, is designated as "National Safety Belt Use Week", and the President is authorized and requested to issue a proclamation—

(1) to urge the people of the United States—

(A) to wear safety belts and to have their children wear safety belts, and

(B) to use child safety seats, and

(2) to encourage State and local governments, schools, health agencies, public safety and law enforcement agencies, motor vehicle manufacturers, the insurance industry, the military, media organizations, the business community, the entertainment industry, and other concerned organizations and officials to promote greater use of these essential safety devices.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed and the Senate concurrent resolution that was concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

UPDATE ON HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, the present upheaval in Haiti represents an opportunity. We should not make the mistake of believing that the present upheaval in Haiti is a fight between democratic forces on the one hand, and totalitarian forces on the other hand. This is a fight between thieves who have fallen out amongst themselves, between murderers responsible for the massacre of Haitian citizens going to vote on November 29, and drug lords who are very closely connected with the South American drug mob.

Haiti has become a major transshipment point for drugs and we must not forget that.

Mr. Speaker, the military coup that took place this week in Haiti leaves Lt. Gen. Henri Namphy in control. Haiti's former civilian president, Leslie Manigat, who became the president in phony elections in January, elections which were rigged by the military and fraught with voting irregularities, intimidation, et cetera, Mr. Manigat, who cooperated with the military and became their willing puppet, has now been thrown out of the country. He and his family fled to the Dominican Republic and they may seek asylum in Venezuela.

These events of the last few days highlight what I and numerous other observers of the Haitian political situation have been saying for several months. This is a falling out among thieves. There was no democratic force involved. However, there are democratic forces still present in Haiti. There are people who observe what is happening now and say that this is an opportunity for them. The so-called election of a civilian government had never placed any power in the hands of civilians. The true power in Haiti was always in the hands of the military.

Mr. Speaker, I submit for the RECORD an editorial which appeared in the New York Times entitled "In Haiti: No Democracy to Lose."

[From the New York Times, June 21, 1988]

IN HAITI: NO DEMOCRACY TO LOSE

(Entrenched dictator deposed. Fragile green shoots of democracy sprout up. But violence swamps free elections, leading a few months later to a military coup and a new dictator.)

On its face, the upheaval in Haiti sounds like another sad performance of a familiar Latin script. In fact, that stereotype may seriously misrepresent the power struggle going on in Haiti. The choice quite likely is not between soldiers and democrats, but between soldiers and soldiers who deal drugs.

The coup, by Gen. Henri Namphy, ended the four-and-a-half-month civilian Government of President Leslie Manigat. None of the main actors personify democratic values. But it is just possible that the much-abused cause of Haitian democracy might benefit from the coup. Washington can maximize that chance by keeping its support contingent on respect for clean democratic government.

General Namphy, waving a submachine gun and speaking mystically of unity between army and people, says he acted to protect the Constitution and halt a new personal dictatorship. "The future of democracy and liberty was at stake," he declared. Maybe, but any respect for the Constitution on his part would be new-found. More immediately at stake was his future and that of military and Duvalierist allies. Mr. Manigat last week overruled, then dismissed and finally arrested General Namphy.

Mr. Manigat asserted that he was the champion of civil authority and the Constitution. But Haitians remember how little respect he had for that Constitution when it was being traduced to assure his emergence as President. Nor has he reassured anyone by allying himself with Col. Jean-Claude Paul, whose troops participated in last year's Election Day carnage. More recently, the colonel was indicted in Miami on U.S. drug smuggling charges.

General Namphy has now installed an openly military Government, with himself as President. But the State Department may be premature in concluding that the U.S. goal of free elections has thereby been definitively set back.

One of General Namphy's grievances against Mr. Manigat was his failure to get Washington to resume aid cut off after the electoral violence. The loss of U.S. funds has hurt the economy and pressured public payrolls, including the military. The drug trafficking of which Colonel Paul is accused represents a potential alternative source of funds.

The coup, by regular army forces, has now apparently headed off the threat from this rival power center. But Haiti's new rulers still seek relief from the aid squeeze. Washington would be unwise to keep withholding aid while promising to renew it should they commit to genuine elections and distance themselves from drug dealing.

Mr. Manigat proved to be a hostage to the electoral travesty that installed him, and a stubborn protector of Colonel Paul as well. His military successors, essentially the same group that made a mess from 1986 to 1988, may be more inclined now to listen to positive advice. That's a small hope, but in poor Haiti, which lacks everything but violence, it's surely worth exploring.

Mr. Speaker, the editorial correctly notes that the power struggle over the weekend was a power struggle not between democrats and soldiers but between soldiers both factions of which are involved with drugs. A week ago, General Namphy tried to demote Col. Jean Claude Paul. Col. Jean Claude Paul is the chief of the drug traffickers. He is the chief drug lord. What happened really was the result of a policy that has been pursued by our Government as a result of the pressure that Congress has placed on the State Department and the administration. Congress has insisted that not a dime should flow to Haiti until Haiti has democratic elections and abides by its own constitution. As a result, we had a situation created where a crisis in cash flow resulted. General Namphy had to observe that the only force in Haiti with money was Colonel Paul. Colonel Paul receives his funds of course from the South American drug lords. General Namphy attempted to move on Colonel Paul. He attempted to demote Colonel Paul for two reasons, because Colonel Paul's forces were growing more strongly than the rest of the military, and also because by attempting to demote Colonel Paul he was trying to send a phony signal to the United States that they were really concerned about drug trafficking and were going to move to do something about it and in response to that he hoped the United States would allow the dollars to begin to flow to support the payroll of the military again.

General Namphy's move backfired.

President Manigat at the request of Colonel Paul moved to protect Colonel Paul. In making such a move, I think President Manigat made it quite clear that his primary protector was Colonel Paul.

□ 1610

Colonel Paul, of course, was guilty of a triple-cross, because he double-crossed the President, and when the pressure was applied to him by Namphy's forces, Colonel Paul joined forces with Namphy, so the military, all the military guys, are together again, and Manigat is out of the country. It is just as well that this sham is ended.

As to what kind of rulers Namphy and his military henchmen will now become, we already know they were there before. This is the same kind of thugs responsible for the election day massacre in Haiti last November. They provided no protection for Haitians attempting to vote or for Haitians working with election officials. These are the same thugs who looked the other way as soldiers joined elements of the Tonton Macoute terrorists in murdering voters last November. These are the same thugs who rigged the January election for a phony civilian government.

These are the thugs who have been implicated in drug trafficking in conjunction with the South American drug mob. These are the thugs who have turned their country into a major cocaine transshipment point to distribute cocaine to other Caribbean nations and to Florida and other Southern States in our country.

The Reagan administration must take the lion's share of the blame for what has occurred in Haiti. The administration had a chance last year to assist efforts by human and democratic rights groups in Haiti by sending funds and materials aid to the provisional electoral council. That council was mandated by the Haitian Government and by the Haitian Constitution to conduct free elections last summer. Of course, the administration could have cut U.S. aid before the election, the first election, after Namphy and his thugs attempted to dissolve the electoral council and to run the election process themselves.

At each step of the way, the administration has allowed Namphy's government to take the upper hand, and it is time now for our administration to understand that we are in a position to pressure the existing military rulers of Haiti finally to have the free elections that they should have had long ago.

We deserve to assist the Haitian martyrs, at least to this degree.

COIN FRAUD PREVENTION ACT INTRODUCED

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I have been chairman of the Coinage Subcommittee for the past 9 years. During that time, I have seen many changes come to the hobby of coin collecting. What was once a hobby in which the opportunity for profit was secondary, has become for many people a means of investment.

Those seeking to invest are interested in earning a profit, and do not have either the time or the inclination to learn about coins. They have come to rely upon the honesty and good faith of dealers to treat them fairly and honestly. Most dealers are scrupulous. Unfortunately, the rising interest in coins as an investment has also seen a corresponding rise in the number of schemes designed to take advantage of those interested in investing in coins.

Some of these schemes involve selling duplicates of genuine U.S. coins at prices far in excess of the intrinsic value of the item. The advertising copy is cleverly written to imply a connection with the U.S. Government. Other ads offer genuine United States coins at greatly inflated prices and imply that the seller is somehow connected with the U.S. Government, or that the coins were obtained from the mint, or Treasury, or Government vaults. Still other frauds are more direct and involve misrepresenting the condition of the coins or that the seller guarantees to buy them back.

Over the years, I have referred numerous schemes and advertisements to the Postal Service, the Federal Trade Commission, and even the Secret Service, Nevertheless, the number of victims of coin frauds and deceptions continues to grow and the enforcement agencies seem unable to keep up. In addition, the tools in the agencies' enforcement arsenal are generally weak, cumbersome, and offer little deterrance to the actors and little relief to the victims.

Today I am introducing legislation to correct that inequity. The Coin Fraud Prevention Act is drafted to put an end to fraud and deception in coin sales and to provide a comprehensive arsenal of remedies for victims. It prohibits fraud and deception in the sale of coins, prohibits the manufacture and sale of duplicates of U.S. coins that are not premanently marked "COPY" and prohibits misrepresentations suggesting ties to the U.S. Government.

Too often, the perpetrators of coin-related fraud hide behind complicated corporate schemes to insulate themselves from personal liability. My legislation pierces the so-called corporate veil, and makes anyone who operates or controls a fraudulent coin operation personally liable for its deceptive acts. It creates a rebuttable presumption that an officer or director of a fraudulent coin operation has such control, and is personally liable for its deceptive acts. In addition, it makes such persons and corporations civilly liable to consumers, and provides for not only actual, but punitive damages and attorneys fees. It gives any interested party the right to seek injunctive relief, prohibiting deceptive practices. And it gives State attorneys general the right to seek monetary damages and injunctive relief on behalf of a State's citizens. In addition, the act gives the Federal Trade Commission enforcement authority. It also permits the Attorney General or the Postal Service to seek a forfeiture of all materials used in perpetrating the fraud and all the ill-gotten proceeds of the scheme. Finally, it imposes criminal liability for knowing and willful violations, with imprisonment of up to 1 year and hefty fines.

This legislation is designed to take the profit out of coin fraud. For too long, shady operators have cheated the public out of millions of dollars and gotten to laugh all the way to the bank.

The occasional consent decree they signed, or fine they paid, was simply part of the cost of doing business.Their misrepresentations have impugned the integrity of U.S. coinage, harmed the business of reputable coin dealers, and cheated consumers. As chairman of the Coinage Subcommittee, I will not stand by—I cannot stand by—and let that happen.

PERSONAL EXPLANATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MACKAY] is recognized for 5 minutes.

Mr. MACKAY. Mr. Speaker, due to a previous commitment I missed several votes. Had I been able to vote, I would have voted for approval of the Journal, for the rule on H.R. 4781, for final passage of H.R. 4781 and for final passage of H.R. 4150.

I appreciate having this opportunity to state my position on these measures.

CAN WE AFFORD SOUTH AFRICAN EMBARGO?

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Idaho [Mr. CRAIG] is recognized for 60 minutes.

Mr. CRAIG. Mr. Speaker, tonight I have taken a special order to once again call attention to Congress' debate on sanctions on South Africa that are occurring now in this Congress before the appropriations committees during this election year. It is interesting to note, as we proceed, that this debate over South African sanctions has also spread into the Presidential politics of the year.

I think all of us agree that apartheid should be eliminated, but that is where the consensus in Congress ends, as I think it does across the country. There are many differing views on the questions that remain, and those questions go in somewhat this order: How to eliminate apartheid, what role should the U.S. Government play, what role should Congress play, what risk do we run pursuing these different strategies.

This evening, Mr. Speaker, I would like to discuss at least one aspect of the apartheid debate and the sanctions debate and the kind of impact it potentially could have on the United States and the economy of this country.

As Members of Congress, we must be particularly concerned, in my opinion, about the impact of our actions on the national security of this country. That brings us to the issue on how to protect our country's access to strategic materials that we obtain from South Africa.

The new sanctions bill working its way through Congress is intended to stop all trade and investment in South Africa with the limited exceptions of strategic materials. I have said to eliminate all trade and investment in South Africa. What about the possibility of South Africa retaliating by cutting off access to some very critical strategic materials? Those who support additional sanctions on South Africa say we do not need to worry about retaliation, for two reasons: First, they say South Africa could not afford the embargo; and, second, they say even if South Africa were to embargo strategic materials, that the United States has sufficient reserves to withstand an embargo and will be able to supply the deficiencies through non-Soviet sources.

In response, let me say this is a mighty risky game of chicken that is proposed by those who use the two arguments that I have just put forward. It may be true that South Africa cannot afford an embargo. But can we afford a South African embargo?

According to recent press reports, and I refer to one, and there have been many others, that was mentioned in the Washington Post of May 5 of this year, a consideration by the Botha government that an alternative, or at least a retaliatory effort, if the U.S. Congress and our Government were to follow through with this talk of greater sanctions, would be that a direct embargo on this country of strategic materials and the kind of impact that it would have.

The South Africans know fair well that if they decided no longer to sell to this country strategic metals and materials that only they supply in some instances, that it would have a tremendous impact upon the economy of this country, and that we would in essence be shooting ourselves in our own foot by the kinds of retaliatory action or apartheid-type sanction that we are talking about at this moment.

What I would like to do now, Mr. Speaker, is run down through a study done by the Department of the Interior in 1988, an estimated direct impact of a United States import embargo on strategic and critical minerals produced in South Africa. In other words, Mr. Speaker, if one were to read this report and simply reverse it, because it is the Congress that says we will not impose such an embargo, but it is now South Africa that said, as a retaliation to our actions, that they could do so in strategic metals, I think here are some of the types of things that we would have to consider. What I will do is summarize the effects that the report mentions on embargo as addressed.

The direct economic cost to the United States resulting from the decision to embargo South African strategic and critical minerals imports is estimated in the study as a staggering figure of $1.85 billion a year. About 94 percent of these estimated costs come in two platinum-group metals, basically platinum and rhodium.

It is amazing to me to consider that the potential impact of an action that we could take here in Congress could have as much as a $1.85 billion reaction here in our country. There are sufficient alternative world sources to South Africa for manganese, for chromium, palladium, titanium, and vanadium, but to meet United States industrial demand, in the event of such an embargo, or from either side, but at an increased price and at an increase, of course, to our trade deficit.

Alternative world sources to South Africa for platium and rhodium, as I have mentioned, simply cannot be met to meet U.S. industrial demand here in this country; non-South African world supply sources can meet only 40 percent of the domestic platinum consumption requirements and about 50 percent of the rhodium requirements. As a result of an increase in prices of platinum and rhodium during an embargo, expansion of domestic platinum-group metals mining and secondary production would have to be expected. During a 5-year embargo, domestic primary and secondary production could be expected to expand for these, but only to meet about one-third of the U.S. requirements both in platinum and approximately one-third in the rhodium requirements, and approximately one-half in domestic palladium requirements.

□ 1620

What does all of this mean? Let me break it down a little further into the metals group, because I am probably talking about something that a lot of people do not understand, and until we deal with the products that we look at and see in our economy on a daily basis and begin to understand its overall importance do we begin to understand what the $1.85 billion impact upon our economy really means.

When I talk about chrome, what am I talking about? I am talking about a very critical and necessary ingredient in the production of stainless steel. It is a super alloy necessary for that production. Stainless steel, of course, we recognize. It is very vital in defense, aerospace, chemicals, power generation, the transportation industry, for protection against oxidation and corrosion, corrosion resistant materials.

The United States imports now approximately 79 percent of all of our need and that comes from South Africa. To have a full embargo in this particular necessary metal would cost the United States economy approximately $30 million a year.

Let us talk briefly about magnesium. Magnesium is essential in steel and cast iron production and 24 percent of our needs come from South Africa. An embargo would cost about $30 million a year on the economy.

The platinum group metals, and I mentioned some of those, platinum, vanadium, rhodium, all extremely critical to this country and especially in the production of catalytic converters that are now necessary for our cars and the control of pollution, automobile pollution. We also use these in the refinement of petroleum and fertilizer products, explosives and numerous other types of chemicals.

From 1983 to 1985, 53 percent of the United States' use of the platinum group metals came directly or indirectly from South Africa. Ten percent came from the Soviet Union.

There are alternatives, Mr. Speaker, but these alternatives would leave us sorely lacking the necessary quantities that we need. Platinum supplies from the Soviet Union could be increased from 3 to 30 percent and in rhodium from 33 to 63 percent. But the net impact, the potential net impact if these were embargo and could not flow from South Africa would be approximately $1.75 billion on the economy, and that is in direct costs. We are not talking of the human losses as it relates to jobs in our country.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield just a moment on that one point?

Mr. CRAIG. I am happy to yield to my colleague, the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I had a gentleman who was a representative of a rhodium producing company in South Africa come to visit my office, and we got into an in-depth discussion regarding catalytic converters and rhodium. He told me that if we boycotted, put an embargo on all rhodium that we now get from South Africa, that if we bought all of the rhodium supplies that are currently available in the rest of the world, we would not have enough rhodium to produce the catalytic converters that are necessary to meet environmental protection standards here in the United States.

What that simply means is that the air quality in the United States would go down drastically if we quit buying rhodium from South Africa. I think everybody in America who is concerned about the environment needs to be aware of that fact, that if we just stop this one strategic metal from getting to the United States, the environmental impact on the United States of America alone could be severe.

Mr. CRAIG. I thank my colleague from Indiana for bringing up that point. He is absolutely correct.

In the shift that we have seen in the economy already, and with that shift to the Soviet Union, the argument is that the Soviet Union can supply as an alternative source these metals that my colleague, the gentleman from Indiana [Mr. BURTON] is referring to.

So the Soviet Union has about 9.5 percent of the world's reserves in these particular platinum group metals. South Africa has 90 percent of the world's reserves. A mine in Montana could be expected to increase production, but nowhere could we meet the demand. And of course, as my colleague has mentioned, not only would there be a strong argument that we would lose jobs and production, but the quality of our air would go down as a result of this.

Let me hit a couple of other metals before I yield once again to my colleague who has led the debate as it relates to opposition to the sanctions that are occurring, or at least the discussions and the legislation that may occur as a result of the activities here in the House.

Vanadium is another metal that is very critical, again as an element in steel making for strengthening purposes, for abrasion resistance, for toughness in overall steel, and for use as an aircraft metal it is absolutely critical, in building of bridges, in all of these groups vanadium serves as a catalyst to be used to strengthen the overall metal produced.

Fifty percent of the United States use is imported; 76 percent of the imports come from South Africa. China could be an alternative supplier. Some could come from Finland and the Soviet Union, but the cost of an embargo is estimated at approximately $7 million a year.

I have cited a variety of examples of the kinds of critical and strategic materials and metals that now flow from South Africa that could have tremendous impact upon our economy. It is argued of course here that we ourselves would not boycott, but with the types of sanctions that are being talked about before the respective committees in the House, the South Africans have and continue to consider the possibility of carrying on their embargo or boycotting of exports to this country of these critical metals, and my colleagues can see the reason why. It would have phenomenal impact upon our economy.

Let me talk briefly about the kind of impact that has already occurred in South Africa as a result of the limited sanctions our country has already imposed upon that country, sanctions that were talked about earlier that this Congress acted on, but where there has been little attention given, even though it has had a tremendous impact upon our economy.

Over 170 United States companies have pulled out of South Africa since the sanctions of over a year and a half ago. United States imports from South Africa have dropped by approximately $1 billion. South Africa had to slash coal prices in order to maintain a market share, depressing the world prices of coal to such an extent that United States coal exporters lost over $250 million in 1986 and 1987 alone, according to a study by the Wharton Econometrics Group, and that means in other words that we have lost approximately 3,000 to 4,000, possibly as high as 5,000 jobs in our coal mining industry which can be attributed to that very action. That of course is according to our National Coal Association.

Even though importation of strategic materials is not forbidden, as we have already discussed, United States importers have shifted from South Africa to the U.S.S.R. as a substitute supplier for a number of materials. For example, let me run down a couple of these.

What we can demonstrate is that growing dependence on a country that I would suggest to every observer has little concern about our particular national defense, and certainly has little concern about our economy. United States imports of platinum from the U.S.S.R. have increased 73 percent since the sanctions were imposed, and my colleague who has joined with me tonight, the gentleman from Indiana [Mr. BURTON] and I have already discussed the kind of impact that that has upon our economy. United States imports of platinum bars from the U.S.S.R. have increased 321 percent since sanctions were imposed. Imports of chrome from the Soviet Union have increased 157 percent. United States imports of ferrous silicon from the Soviet Union have increased 333 percent. United States imports of rhodium from the Soviet Union have increased 386 percent. United States imports of antimony from the Soviet Union have increased 4,783 percent. United States imports of industrial diamonds from the Soviet Union have increased 4,900 percent.

South Africa's trade with the U.S.S.R. and Eastern bloc nations, interestingly enough, has also increased. In an effort to boycott, in an effort to restrict, in an effort to force the South African Government and economy to respond, we are in fact driving them into the arms of the Soviet Union. Let me give a couple of brief examples of what has happened.

A recent editorial in a Johannesburg paper reflected a trend in thinking among the South African business community. It said that the Soviet Union's approach to promoting peace in the region reflects greater insight than the politics of the West which are designed to break South Africa with sanctions and destabilize the continent. That article was reflecting on a greater sensivity and a greater trade with the Soviet Union and other Eastern bloc nations.

While all of that of course has been going on, thousands of black South Africans have been put out of work. In the May 1987 elections President Botha was returned to power with an increased majority, and the official parliamentary opposition changed from the Liberal Progressive Federal Party to, of course, the Right Wing Conservative Party.

So I would suggest that the sanctions that we have already imposed on South Africa, the results have been that we have driven them in the opposite direction than was intended to occur.

There are some who would support absolute and full sanctions, and frankly, in my discussions with them, they do not care what happens to the blacks of South Africa. More importantly, they do not care what happens to the working men and women of this country or what happens to the economy of this country.

The actions we take here in the coming months do reflect a very real importance to the strategic defense of this country, to the importance of our economy and to the job base that could strongly be affected, and the statistics I have produced tonight I think can demonstrate just exactly that.

While we can argue that it will do all of that, we have to argue, Is there a positive result in South Africa? Will it rid that nation of apartheid? Does it offer the black community of South Africa a greater opportunity for a direct involvement in that Government and in that economy? My answer to that is "No," it does not offer that result. In fact, it may offer the opposite result.

I yield to my colleague, the gentleman from Indiana [Mr. BURTON], who has been a champion for the whole of South Africa and in direct reaction to the kinds of actions that we have taken here. I would like to thank my colleague for joining me tonight in this special order.

Mr. BURTON of Indiana. I thank my colleague for taking this special order tonight.

In just a few short days we will be debating at some length the all inclusive South Africa sanction bill, and this new South Africa sanction bill is going to be much more onerous than the one that was passed 2 years ago which many of us opposed. We are all against apartheid, as my colleague has said in very clear terms. But we do not want to kill any hope of a democracy in South Africa because we are doing the wrong thing, and we certainly do not want to hurt the United States of America in the process.

The fact of the matter is that strategic minerals is not the only problem, although it is a very important one. If we embargo all products coming out of South Africa, and if we totally disinvest, the South African Government will still be able to sell 60 to 70 percent of their exports, because 60 to 70 percent of their exports are these vital minerals, and they only come from a few places in the world. So they are going to continue to be able to export. As a matter of fact, their balance of payments has improved over the past year, even though we imposed those sanctions.

The Dellums bill, in my view, will not bring down apartheid. It will only make South Africa's blacks weaker while increasing our, the United States' dependence on our chief adversary in the world, the Soviet Union. I find that very ironic, that the House of Representatives would consider a measure that in the name of human rights will increase our dependence on the chief violator of human rights in the world, the Soviet Union. It just does not make sense to me. We are trying to end a violation of human rights in the form of apartheid by creating a dependence on the Soviet Union, the greatest violator of human rights in the world. It just does not make sense.

I would like to bring to the attention of my colleagues who say it may hurt the blacks in South Africa but we are going to take the high moral ground, we are going to do what is right for mankind, we are going to end apartheid once and for all, testimony in one of our subcommittee hearings on South Africa by a man named James Negoya, who is the president of the South African Black Taxi Association. He listened with great interest to all of us who were talking about this issue, and he heard some of my colleagues say we are going to do what is morally correct, we are going to impose sanctions even though it will put 2 million blacks out of work by the year 2000 and put 10 million blacks to bed hungry in South Africa in that same timeframe.

□ 1635

And here is what he said in answer to that, and this is a member of the South African-Black Taxi Owners Association. There are about 100,000 of them in that association. He is very concerned about the plight of blacks in South Africa, being one himself.

He has been one who has pulled himself up by the bootstraps in a very oppressive society and made something out of himself as have his contemporaries in this association.

Here is what he said, and I quote:

> I sat in this room yesterday and heard people say that if sanctions make black people in Africa suffer more, that does not matter because they are suffering already and won't mind suffering some more. I even heard them say that whether more sanctions will help bring down apartheid doesn't matter, because imposing sanctions puts America on the right side of history. * * * Does that mean you really do not care what the black people of South Africa want? * * * I ask you to listen to our voices * * * before you decide what is good for us. Before you decide that black children must go hungry so you can be on the right side of history.

This is not my quote, this is a quote of a black from South Africa, testifying in the House Subcommittee on Africa.

And if you look at the polls you will find in poll after poll every black in South Africa is against apartheid, almost without exception, but about 75 percent are opposed to sanctions that will do away with their jobs. They are against sanctions that would put them out of work and put their children to bed hungry.

You know what really bothers me, my colleague from Idaho, is that while we are worrying about South Africa—and it is something that we should be concerned about because apartheid is something that is repugnant to all of us—we are not paying much attention to what is going on farther north or the continent, in Ethiopia. Right now Colonel Menjistu who has been in power up there for 14 years is systematically killing between 1 and 3 million people by starvation.

The United States of America, our Government, many church organizations and other philanthropic organizations have been sending food to Ethiopia to help the starving masses. And while we send that food over there and the trucks to deliver them—and, incidentally, it is kind of interesting that they at one time were charging us $50 per ton to unload our food that we are giving to their people, the starving masses over there and have charged us thousands of dollars to give them the trucks with which to deliver the food. And after we have done all that, they are effectively blocking that food and the International Committee of the Red Cross from getting that food into Eritrea and Tigre Provinces in northern Ethiopia because they want to starve those people to death and win that civil war. They are starving human beings to win a war. They are deliberately starving innocent women, children, and men to death to do it.

You know, we in the world were very upset when Adolf Hitler killed 6 million Jews in the gas chambers. We look upon that as a blot on history that nobody should ever forget. Yet right now we estimate that between 1 and 3 million people are going to be starved to death in Ethiopia and nobody is saying anything about it—at least very few are. And at the other end of the continent we have seen 150 to 200, 300 people killed in racial violence as a result of apartheid and the whole world is indignant about it. We should be indignant about apartheid, but we should be even more indignant about what is going on in Ethiopia where blacks are murdering blacks by the hundreds of thousands and millions. Yet this body is taking no positive action to deal with Mr. Menjistu and it certainly should.

Now I would just like to say that I think it is important that we listen to some of the leading personalities who have been involved in the apartheid issue, particularly those from South Africa. One of the people who has been a leader of the struggle against apartheid for the past 20 years in South Africa is a lady named Helen Suzman. The Washington Post, in a lead editorial on June 15 quoted Mrs. Suzman:

> Noting the crucial role an expanding economy plays in black empowerment, she declares "It is surely senseless to blunt by sanctions the only weapon with which blacks can improve their position at the workplace." Precisely this notion of giving blacks an economic base from which they can, if they wish, withhold their own labor and purchasing power stirs the strike movement that is becoming an increasingly important arena of black struggle.

The Post editorial continued:

> We do not think any new sanctions are justified while such doubt exists about whether the old ones were wise.

In an op-ed piece in the Post, Helen Suzman wrote:

> Restriction of the economy through sanctions must inevitably result in a decrease in the demand for labor and widespread unemployment. Why then are sanctions and disinvestment advocated by people who are working for black advancement, thereby undermining the major power base that blacks can obtain.

Then here in this country just this past week William Raspberry, one of the most noted columnists in the country regarding the plight of blacks here and around the world, wrote this, and it was about the bill which I am offering as a substitute to the Dellums-Wolpe sanctions bill which will be coming to the floor in the next few weeks.

I quote Mr. Raspberry from an article of June 16, 1988:

> What is clear is that if weakening of the South African economy is the way to fight apartheid, South Africa's blacks could do it more directly—and much more quickly—by staging a general strike. South Africa's economy relies heavily on blacks, both as workers and as consumers.
>
> Sanctions, says Burton, would undercut the strike as an important weapon against apartheid. Black unemployment, he says, reduced the ability of blacks to fight apartheid. So what would he propose? His answer is contained in the substitute bill that would authorize housing loan guarantees for disadvantaged South Africans and provide for major new expansions of economic, educational and legal assistance and housing opportunities for South African blacks.

Therein, as Shakespeare says, lies the rub. Are we going to go on with more sanctions that are going to put 2 million blacks out of work by the year 2000, put 10 million blacks to bed hungry, cut off strategic minerals that we need for our economic health and our national defense security? or are we going to do what is the right thing to do, and that is help the blacks end apartheid in South Africa by creating economic power which will translate into political power.

If you create more black jobs, more buying power for blacks, if you create more black housing, if you create more black entrepreneurs, if you put 15 percent of the salaries that are being paid blacks by American companies in South Africa into an educational and development fund, thus increasing their educational level over there, you are going to help fight apartheid from within. Apartheid will never be destroyed from the outside. We here in the United States who believe we are omnipotent, that we have all this Godlike power, are making a terrible mistake if we think that by pulling out we are going to end apartheid. It is going to be just the opposite. We are going to solidify those forces of apartheid in South Africa and we are going to hurt the very people we want to help.

We should be doing what we suggest in this substitute, create black empowerment economically which will translate into political power and we can stay in there and help, through American involvement, through American business, through American Government contacts with their people, in the black townships, the black leaders, we can bring about a positive conclusion to the apartheid problem.

I want to say to my colleague once again from Idaho I really appreciate his taking time out from his busy schedule to address this issue tonight. I know the gentleman is not on the Committee on Foreign Affairs and he does not have any reason to be directly involved in this. That is why you deserve a double pat on the back for taking the time to address this issue tonight.

Mr. CRAIG. I thank my colleague from Indiana, Congressman Burton, for the leadership he has played on this very important issue. I think the points he has made, the way he improves the plight of the blacks in South Africa is an uplifting approach. The gentleman does not ultimately put them down and run them into the ghettos that are created by such a thing. But in fact he creates jobs and an environment in which they can become the economic force and we all know that the economic force of the nation is the force that dictates often times the politics of a nation.

I yield further to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding further and would like to say that I think that the points that the gentleman has made regarding these minerals is so important. The thing about it that is interesting is that they are going to sell them anyway; the gold, diamonds, platinum, rhodium, all those things are needed around the world. It is estimated 60 to 70 percent of their exports will go through anyhow.

So we are really not going to achieve what we want to by imposing sanctions on those people there. The other thing that is interesting as the gentleman pointed out in the coal industry 5,000 jobs are going to be lost or have been lost as a result of the price cutting taking place over there because of the previous sanctions. Bill Broomfield, of Michigan, the ranking Republican on the Committee on Foreign Affairs, estimated that at least 100,000 American jobs would be lost in the short run, not in the long run, in the short run if this new sanctions bill passes. So we are not talking just about what it is going to do to hurt the blacks and entrench those who are for apartheid; it is going to hurt Americans very severely as well.

Mr. Speaker, I submit a "Dear Colleague" and a table of selected metals for the Record:

House of Representatives,
Washington, DC, May 24, 1988.

Dear Colleague: On May 18th the Washington Post reported on the South African Black Taxi Association (SABTA), describing it as "a major economic force . . . its lobbying potential already has been recognized by both conservatives and radicals in black politics." James Ncgoya, the president of SABTA, testified before the Subcommittee on Africa on H.R. 1580, the Dellums-Wolpe South Africa legislation:

"I sat in this room yesterday and heard people say that if sanctions make black people in Africa suffer more, that does not matter because they are suffering already and won't mind suffering some more. I even heard them say that whether more sanctions will help bring down apartheid doesn't matter, because imposing sanctions puts America on the right side of history. Does that mean you really do not care what the black people of South Africa want? I ask you to listen to our voices before you decide what is good for us. Before you decide that black children must go hungry so you can be on the right side of history."

In 13 polls taken over the past four years by a variety of private research institutes and newspapers, South African blacks have opposed sanctions and disinvestment, mostly by a margin of 3 or 4 to one.

Is anybody listening?

Don't cosponsor H.R. 1580 until you know the facts. For more information call Saul Singer at 6-7810.

Sincerely,

Dan Burton,
Member of Congress.

TABLE 2.—CHANGES IN IMPORTS OF SELECTED METALS FROM COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE COUNTRIES FOLLOWING THE ANTI-APARTHEID ACT

Commodity/Units	Base period (1981–85)	12-month period (10/86–9/87)	Percent increase
Antimony—1b	1,281	62,551	4,783
Chrome ore (Refrac.)—GTon	1,252	3,220	157
Industrial diamonds—Car.	2	100	4,900
Ferrosilicon—Glb (U.S.S.R.)	692,970	3,302,975	377
Platinum bars—TroyOz	491	2,066	321
Rhodium—TroyOz	620	3,012	386
Platinum sponge—TroyOz	874	1,510	73

Source: Bureau of Census and Office of Strategic Resources, U.S. Department of Commerce.

Mr. Speaker, I submit a group of articles for the Record:

[From the Washington Post, May 18, 1988]

Taxis Give Blacks a Chance at the Driver's Seat

(By William Claiborne)

Johannesburg.—As dusk settles over the quickly emptying city and a crush of white office workers heads in gleaming BMWs and Mercedes for the M-1 expressway and the manicured suburbs of northern Johannesburg, another migratory ritual is played out almost unnoticed in the opposite direction.

Huge crowds of black workers spill off the sidewalks of Sauer and Bree streets, frantically pointing fingers in the fading light.

Nothing is said, but the language is understood: A "V" sign means the intended destination is Sharpeville or another black township in the Vaal River triangle south of Johannesburg; fingers circled mean Orlando, in Soweto.

Long lines of commuters, stretching for a block or more, slowly shrink as the black workers crowd 16 or 17 at a time into minibuses, encouraged to move faster by a driver who can barely make himself heard over the rock music blaring from his radio.

In an hour, the streets of South Africa's largest city are practically deserted.

The metamorphosis is accomplished mostly by the black taxi industry, an increasingly powerful institution in South African life and one that holds the potential for political as well as economic muscle for the country's disenfranchised black majority.

In just five years, the membership of the burgeoning South African Black Taxi Association (SABTA) has grown from 8,000 to 45,000 licensed jitney-buses, and it has set its sights on a membership of 100,000, planning to bring in an estimated 55,000 pirate taxi operators in the next 18 months.

The black taxi industry has grown spontaneously, much to the chagrin of the white-controlled public transport industry, from black public demand for better service than that offered on buses and trains.

Apart from becoming a major economic force—SABTA's taxis use 211 million gallons of gasoline annually, making it the country's biggest private fuel user—its lobbying potential already has been recognized by both conservatives and radicals in black politics.

Its president, Thupane Ncgoba, recently testified against economic santions before a U.S. congressional committee. At the same time, young black township radicals, known as "comrades," are acutely aware that no boycott or protest strike can succeed without the cooperation of black taxi operators.

When the late prime minister Hendrik F. Verwoerd and his social engineers made the concept of "Grand Apartheid" a reality, state-controlled or subsidized public transportation was regarded as a lynchpin for moving cheap black labor from the newly created tribal homelands and satellite black townships to the city workplace.

Out of that strategy evolved a human cargo rail network owned by the government's South African Transport Services and a privately owned but heavily subsidized monopoly bus company called Putco controlled by Albino Carleo, the son of an Italian immigrant.

The rail and bus networks are still in place. The crowded trains and pale blue Putco buses still carry hundreds of thousands of workers daily from the homelands and townships to the factories and businesses of South Africa's big cities.

But the black-owned minibuses, offering faster and often cheaper service, are eating steadily into the white-run transport monopolies' profits, forcing the government to increase it subsidies to Putco and to absorb greater losses on some of its rail routes.

More importantly, say SABTA Leaders, the black-owned jitneys are helping to create a new class of South Africans—black entrepreneurs whose economic clout is seen by some as a vehicle for dismantling the apartheid system of racial separation.

Historically, the taxi industry in South Africa has been an example of the government's success in suppressing the black majority's entrepreneurial spirit.

In 1892, when black carriage owners flourished in Cape Colony, the government passed legislation forcing them out of the business. It was not until 1930 that the first black-owned motor taxi began operating, in the Katlehong township near Johannesburg.

In the early 1960s, second-hand Chevrolets became popular as township taxis, but it was 1970 before the government allowed black taxi owners to use minibuses to carry up to eight passengers.

Pretoria briefly banned the use of minibuses for black transport in 1980, but the newly organized SABTA fought the decision and got it overturned.

SABTA's victory increased the average black taxi owner's income by 70 percent almost overnight, triggering a boom in the industry, association officials said.

"Since then we've never looked back. We've had to push hard for everything we've gained, and we're still pushing," James Chapman, SABTA's national adviser, said in an interview at the association's Pretoria headquarters.

Chapman, who is white, has been responsible for much of SABTA's rapid growth, although he said he takes his orders from the black executive committee and limits his efforts mostly to marketing strategy.

He said he was operating a service station in Pretoria when he realized the economic potential of black jitney-taxis and asked the drivers to support his business. In return, he met with the association and helped it to reorganize and expand.

The group also formally changed its name to the Southern African Bus and Taxi Association, but the new title never caught on, and passengers and drivers alike still call it the Black Taxi Association.

Because black taxis are a cash business in the informal sector of South Africa's economy and drivers are reluctant to tip their hand to the tax authorities, SABTA does not disclose its members' incomes.

But the association's rapid expansion is illustrated by its consumption statistics. Its members spend more than $400 million a year on spare parts and accessories and $85 million annually in insurance payments; they buy more than a million tires a year and represent South Africa's biggest private purchaser of vehicles.

The association owns 17 service stations nationwide and has plans to buy dozens more on a cooperative basis, providing more jobs for blacks.

Chapman said the association is moving into the full-sized bus business and is beginning to claim a corner of the road freight industry.

Its ambitions reached a peak last year when it came close to buying the Carleo family's 52 percent interest in Putco for $120 million, but the deal fell through at the last minute in a dispute with financial backers.

During the attempted buy-out, a consortium of Afrikaner businessmen tried to block the deal, first by offering more money and then by threatening to go to the government's Competition Board.

"We've proved already that we are busy changing the economic landscape. We are not regarded as just a junior partner anymore," Chapman said.

Although it may go against the grain of socialist thinking in the black liberation movement, SABTA remains firmly committed to a belief that the undoing of apartheid and a turnover of power from the white minority will come inevitably from an economic, not a political revolution.

The key to fair power sharing, SABTA maintains, is the creation of a well-organized black entrepreneur class that in tandem with the growing black trade union movement can exert powerful economic influence on a recalcitrant white government.

"I won't say that right now, if we threw down the gauntlet, they would listen to us. This government hasn't listened to anybody," Chapman said.

But he said if other black entrepreneurs, such as those in the growing black building industry and the estimated 900,000 black street vendors in South Africa, were able to combine their collective purchasing power, "We might have a more important effect on the government."

The street vendors recently organized into the African Council of Hawkers and Informal Businesses (ACHIB). But although they have begun to impress the government with their economic might—hawkers spend $14 million a year in the Johannesburg wholesale fruit and vegetable market alone—they have not organized as effectively as the black taxi owners.

A properly organized black consumers' movement, Chapman predicted, could have "unbelievable possibilities" in exerting influence for political change in South Africa.

Economists estimate that blácks comprise 52 percent of the total purchasing power in South Africa, while holding barely 2 per cent of the country's assets. Blacks make up 85 percent of the population.

The Black Consumer Association recently opened its first "people's cooperative" store, Chapman noted, which could develop into a trend that white businessmen could not afford to ignore.

Historically, Chapman said, white businessmen have tended to press hardest for political reform when they have felt their investments threatened, such as during 1986, when the value of the rand plummeted and business fell sharply as a result of social and political upheaval.

"Unless there is a change of heart from the [white] business sector, we will not solve South Africa's problems," Chapman said. "They can turn the government. And there is nothing like black economic muscle for forcing that change of heart."

[From the Washington Post, June 16, 1988]

SANCTIONS—OR STRIKES?

(By William Raspberry)

There are at least a couple of ways to think about the upcoming debate over new, tighter sanctions against South Africa.

First, the debate can be seen as a good-guy, bad-guy argument between those who are seriously concerned about the plight of South African blacks and those whose interest only developed after sanctions were proposed.

Second, it can be viewed as a debate over the most effective way of ending apartheid.

Clearly, sanctions—up to and including the nearly complete severing of U.S. economic, diplomatic and military links with South Africa's racist regime—is the most militant position an American can take. It is so strong a position, at least in terms of the domestic bebate, that it requires no more explanation on the part of those who hold it than simple opposition to apartheid.

That is why the Dellums-Wolpe bill is likely to prevail. That bill would prohibit all U.S. investment in South Africa, all imports from South Africa except strategic minerals and publications, U.S. military and intelligence cooperation with South Africa and energy leases in the United States by any person investing in or exporting oil to South Africa.

It clearly would strike hard at the South African government. But what would it do to end aparthied?

That is the question some Republicans, led by Rep. Dan Burton of Indiana, are trying to force into the debate. Burton's claim is that the Dellums-Wolpe bill is "anti-apartheid in name but not in effect" and that it would "actually blunt the tools that blacks are using in their struggle to end aparthied."

He argues that the sanctions already enacted have, by reducing the influence of American-based multinational companies, reduced efforts to improve conditions for black South Africans while forcing South Africa to become more self-sufficient.

"About 70 percent of South Africa's export income is derived from items that are essentially unsanctionable: gold, diamonds, platinum and other raw materials. . . . Four white South African corporations currently own 83 percent of the capital on the Johannesburg stock exchange. If the disinvestment provision [of Dellums-Wolpe] goes into effect, these corporations will probably be the main beneficiaries. Tax revenue to the South African government will rise, as the new owners increase profits by cuting payroll and abandoning black development projects undertaken by the former owners."

A number of internationally respected black South Africans have nonetheless urged the tightening of the sanctions screws. They acknowledge that blacks may be hurt initially, but they are prepared to endure interim economic pain in the interest of long-term weakening of the economic structure that supports apartheid.

Whether that is the view of most ordinary black South Africans is far from clear. What is clear is that if weakening of the South African economy is the way to fight aparthied, South Africa's blacks could do it more directly—and much more quickly—by staging a general strike. South Africa's economy relies heavily on blacks, both as workers and as consumers. But such strikes as have been called, including the recent three-day strike of the Congress of South African Trade Unions, have targeted economic advancement for the strikers, not the destruction of the national economy.

Sanctions, says Burton, would undercut the strike as an important weapon against apartheid. Black unemployment, he says, reduces the ability of blacks of fight apartheid.

So what would he propose? His answer is contained in a substitute bill that would authorize housing loan guarantees for "disadvantaged" South Africans and provide for major new expansions of economic, educational and legal assistance and housing opportunities for South African blacks.

As Saul Singer, minority staff cousultant to the House Foreign Affairs subcommittee on Africa (on which Burton is ranking Republican), said the other day: "We've been trying for months to get people to think about how best to increase the power of South African blacks to fight apartheid. But what I see coming down the road is a completely sterile debate pitting U.S. jobs and strategic minerals against South Africans' yearnings for freedom. We need to shift the debate onto moral and policy grounds and away from strategic and political grounds."

The question, he insists, is not what is the most acceptable position in terms of the domestic debate, but what is the best way to help end apartheid.

It is the right question.

[From the Washington Post, June 15, 1988]

MORE SOUTH AFRICAN SANCTIONS?

A bill imposing tough new sanctions against South Africa is coming along—nearly all investment and trade would be ended—and if the purpose is to express a hatred of apartheid and an impatience with its slow dismantling, this bill surely expresses both. The white minority regime has just extended the two-year state of emergency, tightened censorship and curtailed political activity by the black labor federation. The regime's reach for reform, such as it was, has been closed off by the surge of opposition on its right. In Washington, the House says South Africa has not made the "significant progress" the 1986 act sets as the standard for lifting the lesser sanctions imposed at that time, and has even gone backward.

In this analysis of what has happened, the House is right, but what it needs to ask is why progress has been disappointing. The House, which has passed the bill, sees the regime as gripped by a "fantasy that it can hold onto its monopoly of power indefinitely, free of severe economic costs and deepening international isolation." But few South Africans think they are headed down a cost-free path. They know the costs are heavy and getting heavier, but, tragically, they think these costs are more bearable than the risks of letting go. Meanwhile, they have available the great powers of a modern state to inflict terrible costs on the majority.

This underlies the agrument against sanctions that Helen Suzman, a South African parliamentarian and veteran opponent of apartheid, makes on the opposite page today. Noting the crucial role an expanding economy plays in black empowerment, she declares: "It is surely senseless to blunt [by sanctions] the only weapon with which blacks can improve their position at the work place, and beyond the work place." Precisely this notion of giving blacks an economic base for which they can if they wish withhold their own labor and purchasing power stirs the strike movement that is becoming an increasingly important arena of black struggle.

The bill was brought along at a momemt when it could be hitched to the election campaign. Michael Dukakis may have doubts about the Jackson team's platform demand to designate South Africa as "terrorist"—a word of many rings—but he is foursquare for sanctions. In the Senate the issue is what changes will be made to win enough Republican votes to surmount the expected presidential veto. But we don't think any new sanctions are justified while such doubt exists about whether the old ones were wise.

[From the Washington Post, June 15, 1988]

(By Helen Suzman)

A WRECKED ECONOMY WON'T END APARTHEID

At his enthronement in Cape Town in September 1986, Archbishop Desmond Tutu stated that "the onus is on those who do not want sanctions to provide us with a viable, nonviolent strategy to force the dismantling of apartheid." He has repeated his challenge several times since then.

While I disagree with the underlying premise of this remark—i.e., that sanctions do provide such a stretegy—he is certainly justified in asking what the alternative is. And the question is particularly relevant when it comes from a man who does not have a vote, despite the fact, as he has often pointed out, that he is a South African by birth, the head of the Anglican Church in southern Africa and a Nobel laureate.

Short of getting rid of this government and replacing it with a nonracial democracy—which is highly unlikely in the foreseeable future, sanctions notwithstanding—the sad truth is that there is no instant solution that will transform the South African scene. There are, in fact, only the long-term effects of economic expansion within the country itself—that is, the same factors responsible for those noncosmetic changes that have already taken place.

The repeal of job reservation—the law that reserved skilled work for whites—was a result of the increased demand for skilled labor to meet the growing requirements of the economy.

The recognition of black trade unions came about as a result of "wildcat" strikes, no one with whom to negotiate and the need therefore to bring the emerging black labor movement within the purview of the industrial conciliation machinery. The acceptance, at long last, of the permanence of blacks in the urban areas came about because of economic forces motivated by the "push factor" of poverty in the black rural areas and the "pull factor" of job opportunities in the "white urban areas." The irresistable force led finally to the impossibility of implementing effectively the hated Pass Laws and Influx Control, which restricted the mobility of blacks, and to their repeal two years ago.

None of these changes, however, has heralded the removal of such fundamental cornerstones of apartheid as the Race Classification Act or the Group Areas Act and the Land Acts, which designate ownership and occupation of land and property on a racial basis. Nor has the crux issue of political rights for blacks been addressed. But given the obduracy and military strength of the present government, it must be conceded that any prospect of a transfer of power by the National Party government is just not on the agenda. Survival is now the issue, and a siege economy is preferable, according to National Party thinking.

In the unfounded hope, therefore, of the rapid demise of the apartheid regime, it is surely senseless to blunt the only weapon with which blacks can improve their position at the work place, and beyond the work place, through their economic muscle, mobilized in trade union structures, and through their consumer power in the market.

Restriction of the economy through sanctions must inevitably result in a decrease in the demand for labor and widespread unemployment. Why then are sanctions and disinvestment advocated by people who are working for black advancement, thereby undermining the major power base that blacks can obtain? Some, like the archbishop, sincerely believe that this strategy will expedite the dismantling of apartheid. Others hope it will bring down the capitalist system, which they identify with apartheid.

The archbishop encourages disinvestment as well as sanctions, as evidenced by his refusal recently to accept an honorary degree at Tulane University because the trustees of the university had not divested of stocks in companies operating in South Africa.

Surely foreign firms should, instead, be encouraged to continue with their very extensive programs to help lay the foundation for a stable postapartheid society. In the past eight years U.S. corporations in South Africa, for example, spent more than $210 million on education, training and housing of their black employees and their families, on health facilities and on legal aid. Withdrawal of these firms has inevitably meant reduction or even curtailment of these programs, to the detriment of future black leadership and its participation in the postapartheid era. And once gone, the influence such firms exercised on the local scene is gone too.

Power takes many forms, and in South Africa today, blacks are slowly but surely accumulating economic power as they are drawn into the national economy, not only in ever-increasing numbers but at rising levels of skills. Economic muscle can be used, as has been shown in all industrialized countries, to redress imbalances in wealth, privilege and power.

I do not believe that South Africa will be the exception, though the solution offered is long term, and there is no doubt that blacks are impatient, as one can well understand, for change—fundamental change—now.

The archbishop has stated that if certain demands are met, he will call for the withdrawal of sanctions and presumably of disinvestment. However, once sanctions have been imposed, and once established enterprises have withdrawn, it will take more than the green light from the archbishop to restore normal trade and industrial activity, as the Rhodesian/Zimbabwean example demonstrated: few firms returned after liberation.

Moreover, if the United Nations imposes mandatory sanctions against South Africa, one veto at the Security Council will prevent those sanctions from being lifted.

An expanded economy is the mechanism that creates jobs and wealth in which all must share. Contact and a diplomatic presence within South Africa exercise significant influence. Isolation and a wrecked economy may give moral satisfaction to some of those who oppose apartheid, but this course of action should surely be weighed against the unintended consequences that are likely to result.

(The writer, a member of the South African parliament, belongs to the Progressive Federal Party.)

[From the Washington Post, June 17, 1988]

(By Stephen S. Rosenfeld)

Sanctions: A Washout

We are into another sanctions debate, this time, again, on South Africa, and it doesn't look good. On no single issue have politicians, the interest groups and, yes, journalists been more erratic, unbalanced and unhelpful than on the question of using economic pressure to shape political decisions in foreign lands.

At least since the United States cut off grain exports to punish the Soviet Union for invading Afghanistan, almost every sanction imposed has been at best a washout. Jimmy Carter's grain embargo gave those of us who supported it a feeling of grim satisfaction, but accomplished no visible part of its foreign policy purpose and was terminated on free-market grounds by Ronald Reagan.

As for weaker and presumably more docile targets: no doubt American economic sanctions added a layer to the burdens imposed on Nicaragua by revolution, war and Sandinista arbitrariness. But the impact probably fell most heavily on the pro-democracy middle class and the suffering peasants—the people we wanted to help—and pluralism remains a glimmer on a receding horizon. Sanctions against Panama, uniquely vulnerable because of its dollar-based economy, have wrought crushing and conceivably even permanent economic damage but have been exploited politically by Gen. Noriega, the rogue they were meant to expel.

About the only place where sanctions worked fairly well is in Poland. Their imposition when martial law was imposed and their gradual lifting as certain rights were restored did not demonstrably drive events but at least fit the curve of events. As things got worse we added to the pressure, and as things got somewhat better we went with the flow.

Now, having reflected too little on our experience, we are contemplating toughening the limited South Africa sanctions imposed in 1986. The argument is that, to get results, we have to do all the way a job that we did only halfway two years ago. But at least as good a case can be made that sanctions stiffen white resistance to change and weaken the foundation of black resistance to apartheid and that some part of the reason why reform goes poorly lies in the sanctions invoked in its name.

Anyone who has been drawn into these debates knows that the pro side commonly regards pragmatic questions about what works and what doesn't as an affront and a cop-out. Those who think it might be nice to be more consistent in the application of sanctions from one place to another tend to abandon the effort as too hard. The reason is, I think, that sanctions have come to occupy a more important role in our overall foreign policy than they actually deserve.

At one time, the United States could theoretically select from a long menu of unilateral options, including military force and covert operations, in the hard cases. But the progress of politics has shortened the menu and left a proportionately larger preoccupation on the remaining fewer options, including sponsorship of anticommunist insurgencies—the most provocative American policy of the 1980s—and economic sanctions. The desire to affect distant outcomes dies hard at both ends of our political spectrum, even though the means are diminished.

This is how we come to impose sanctions rather casually, to expect them to perform ambitious political tasks and then to be slow about checking how they are going. At this moment, for instance, sanctions tougher than any we have imposed on hostile countries are running against the friendly country of Panama. The entire American apparatus seems paralyzed, unable to put aside pride, to admit to the unanticipated economic as well as political consequences and to terminate these unhappy measures.

Other countries, perhaps not wiser than we but raised in a political culture that does not demand such urgent results from foreign policy, are slower to make commercial links hostage to political enthusiasms. In our passages of outrage, we come easily to the view that these countries lack civic virtue and moral fiber. I do not want to make an argument for being cynical and worldly. The capacity for outrage is one of the prides of the American character. But along with it comes a risk of selectivity and overreaching. A little self-discipline and a little humility are in order.

[From the Washington Post, June 12, 1988]

Inside S. Africa's Quiet Townships, New Black Power Tactics

(By William Claiborne)

Johannesburg.—Across the face of South Africa, they cling to the edges of prosperous white cities like unwanted appendages, providing a vast pool of cheap labor that emerges in the morning to stoke the country's production and retires at night to the seclusion that has been mandated for the black race.

They are known as the "townships," hundreds of satellite ghettos that were the inevitable result of decades of black urbanization and the failed experiment in social engineering called apartheid.

Their names—Soweto, Crossroads, Sharpeville, Mamelodi, Alexandra—became familiar around the world, synonymous with violent rebellion and brutal police and Army repression. And then they went quiet.

But behind their tranquility, enforced by a national state of emergency imposed two years ago today, the townships are undergoing a collective metamorphosis, one that seeks to supplant the street battle against the overwhelming military might with a new revolutionary strategy of denying whites the vast black majority's most valuable commodities—its labor and its enormous purchasing power.

"Denying the master what he needs most—the benefit of my services and my money—that is what will bring me freedom, not throwing stones at Hippos [armored personnel carriers]," said Thabo Gallens, who works as an assembly line quality control inspector at a Mobile Oil Corp. factory next to the Kagiso Township near Krugersdorp, west of Johannesburg.

"As soon as we blacks realize the strength of our labor and our pocketbooks, the closer we will be to liberation. The 'comrades' [young militants] played their part, and the revolutionary climate meant that the day of reckoning got closer. But now it is time for a new strategy. It is going to take longer, but at the end of the day it will win."

Gallens was speaking at the start of a three-day nationwide strike last week by more than a million blacks to protest emergency crackdowns on unions and anti-apartheid groups by the government.

The Congress of South African Trade Unions (COSATU), in an attempt to avoid prosecution for making "subversive" statements, had urged blacks to join in an unspecified form of protest. They took the hint by staging a general strike—the first of what the unions say will be many.

Two years ago this week, the townships' images flashed relentlessly across television screens around the world: Hippos packed with helmeted soldiers lumbering through shantytown streets littered with rocks and burning barricades, and white policemen with snarling dogs and long rubber whips wading into crowds of jeering teen-agers

As a result of the emergency and, later, the enforcement of the most draconian press restrictions in the western world, the images of black defiance of white authority have faded from the television screens and much of the world's consciousness

But the townships are still there, and so are the people whose expectations of instant political fulfillment soared so mightily that young street fighters committed arson and even murder in front of American television cameras, assuming that the government would collapse before the film found its way to Pretoria for use as evidence in prosecution.

Now those expectations have been lowered dramatically, and a new mood has settled over the townships like the blanket of acrid coal fire smoke that hangs over the Soweto valley each morning in this cold Southern Hemisphere winter.

The mood is not easy to define, even by returning day after day to different townships to engage blacks in conversation in the living rooms of their tiny brick homes, in their illegal beer parlors, called * * * in their work places and in the teeming streets of their ghettos.

The townships are not ideologically monolithic; there are radicals, moderates and conservatives among their inhabitants, and many political shades in between.

But after a while, some themes begin to emerge, a rhetorical tapestry that conveys a feeling of fatigue, subdued expectancy and resignation to the certainty of a longer haul in the struggle for equal rights and opportunities than that envisioned two years ago.

Attention seems to have been diverted, at least for the being, to improving individual economic well-being while new strategies are sought to achieve the larger goal of black voting rights.

Most importantly, there is a sober realization that liberation is not likely to be won in the streets by angry young men throwing stones and molotov cocktails at wave after wave of armored vehicles mounted with machine guns.

Since violence erupted in 1984, more than 3,000 people have died in township violence, and tens of thousands have been imprisoned at one time or another.

That is not say that blacks dismiss the possibility of a cycle of violence repeating itself, as it has after periods of enforced calm since March 21, 1960, when 69 people were shot to death by police in Sharpeville.

More violence is inevitable, most blacks interviewed said. But they also said it is unlikely that the government will permit confrontion to reach the pitch it did from 1984 to 1986, when many thought the white rulers were beginning to stagger from the pressure.

Isaac Meletse, a social worker, sat in the tiny living room of his four-room Soweto house and echoed Thabo Gallens. "For a long time, the status quo [of repression] set the agenda and the people reacted to it. Now people are tired of being cannon fodder. They want to set their own agenda and exert their economic muscle."

Another recurring theme in conversations with black township residents was the notion that better living conditions and a gradual, if slight, increase in home ownership have contributed to the shift of strategies of many township blacks.

Thabo Moeketsi, 30 who works with handicapped children in Soweto, recalled that when the violence flared in 1984, he was living in a two-room house with a dozen members of his extended family.

"When I was young, I yearned to live in a nice house with a toilet inside. Yes, I got angry when the police came in and beat up my friends, and I yearned for freedom like all blacks do. But I also yearned for a nice house," Moeketsi said.

Last September, Moeketsi and his wife, a registered nurse at Soweto's Baragwanath Hospital, pooled their incomes and bought a relatively spacious, three-bedroom house in Kagiso, complete with a decorative foundation in the foyer.

The $500 monthly mortgage payments strain the family budget, but Moeketsi said the responsibility of home ownership has changed his attitudes.

"Burning people's houses, that is one thing I will never believe in now. They will come and burn your house. When you own your own home, no matter how simple, you will not be so quick to burn someone else's house," he said.

Another manifestation of that attitude is the return of young blacks to school.

During the civil unrest from 1984 and 1986, black education in the townships was brought to a virtual standstill, with many students turning to the streets to confront security forces. "Liberation before education" was the rallying cry of almost continuous school boycotts.

Late in 1986, parents rebelled at the comrades intimidation of children seeking to go to school. Supported by the National Education Crisis Committee, they got the schools going again. The result was that there were no boycotts last year and, while segregated black education remained abysmally inferior to that for whites, a record number of black pupils took their year-end examinations.

Deep in the poorest section of Kagiso, a township of 70,000 not known for confronting government authority during the 1984-86 riots, a dozen young black men sat around a table drinking from quart bottles of Castle beer and talking black politics.

The nondescript house where they gathered is one of Kagiso's unnamed shabeens, a sub rose institution in the township.

The talk was laced with fiery rhetoric and occasional shouts of *amandla!;* (power), so the young men were reluctant to invite a visit by the security police by identifying themselves to a reporter.

But beneath the bravado and self-assurances that white rule is about to collapse, a sense of battle fatigue and despair over the unlikelihood that blacks will soon realize their political aspirations kept creeping into the conversation.

"Liberation is not in sight. They have the guns and we have nothing. If you throw a stone, they detain you. The only people who get hurt are the black people," said a 26-year-old unemployed laborer wo called himself "Lucky."

An older patron, who said he would not be able to make ends meet this month because he had joined the general strike, interrupted, saying, "No white man will liberate the black man as long as he is enjoying the fruits of the black man's work.

"The whites have their money because of our labor," he added. "That's all you have to say. If we get together as one unit, we will be able to cripple their economy. With stayaways and consumer boycotts, we have power. But if we are not together, we have no power."

The talk shifted to the possibility that workers who took part in political protest strikes might be dismissed, as some employers and the government have threatened.

"Let them be dismissed! It will feed the struggle. We have the force," one speaker shouted, to more cries of "amandla!"

The significance of the ahabeen patrons' comments is that the transition from blind faith in street confrontation to supreme confidence in economic confrontation is a grassroots phenomenon.

It is not a key part of the revolutionary rhetoric of the outlawed African National Congress, which is still talking about waging a "people's war" and at times seems to be out of step with many township residents, athough most blacks still regard the ANC as a symbol of their aspirations.

Nor is it part of the rhetoric of respected black leaders such as Anglican Archbishop Desmond Tutu and the Rev. Allan Boesak.

It is a strategy that appears to be moving from the bottom up—spontaneously—and many blacks said they were proud of that fact.

The irony is that the strategy conforms so closely to the government's current line, which is that blacks must achieve economic power before they can attain political power—although Pretoria's strategists clearly did not have protest strikes and consumer boycotts in mind.

The government's strategy has had three phases: to crush the violence with a show of strength and the detention of agitators; to attempt to reduce political discontent by dealing with blacks' grievances over unemployement, housing and education, and, finally, to try to give blacks some say in national government.

While the government succeeded in disrupting the comrades' shadow government of street committees, it did not eliminate the resistance. It only drove it underground, where it reorganized in a less structured form, township residents said.

Even before the press carried reports of COSATO's plans for a three-day general strike, word of the protest went out through the grapevine and township residents began stocking up on food, withdrawing money from the bank and filling their cars with gasoline.

Most stores, banks and service stations in the townships were closed during the strike.

"On the surface there is silence, but beneath there is activity," said Eric Mvundlela, a Soweto contractor. "It is not violent like it was before, but it is there. Do not be deceived by appearances."

Other residents said that organizing for the strike was conducted covertly by low profile groups that are not normally watched closely by the security police, such as neighborhood civic associations, women's organizations and local youth congresses.

"The thing about the emergency is that there is more politicization than ever, but it is following a different strategy. If they (the police) put down one organization, another will be created to take its place," said Mvundlela.

If more general strikes and consumer boycotts are staged, it will be these grass-roots groups that do the real organizing and not the big, high-profile opposition groups that issue the call and grab the headlines, he said.

Once again, I thank my colleague for yielding.

Mr. CRAIG. I thank my colleague once again. The reason I have targeted a specific area to talk about is because I think it is easier to understand what we are and what we do here in the Congress when we talk about the broad term of sanctions, to understand how it impacts a given area of our economy.

When I talk of chrome and the importance of that as an industrial metal and that United States imports from the Soviet Union, as a result of our past actions against South Africa, increased 157 percent and South Africans lost jobs in the chrome mining industry; in the ferrous silicone 377 percent. In fact, it is interesting that in the platinum group metals that are so critical for catalytic converters and those types of areas that we have discussed which enhance our environment, that the Soviet Union has had to open a new mine just to supply the demands that are now being placed on them by buyers from the United States. Of course, you have heard, as I have, many Members stand on this floor and talk about the slave labor of the Soviet Union, especially in the area of mining and in the area of industry.

Here we are finding out that our sanctions against South Africa have in fact caused a new mine to open up in the Soviet Union in large part where people are treated in a slave-like status.

Now the name of the game here is, of course, human rights as we deal with apartheid in South Africa. Yet not one person has suggested that we may be forcing more citizens of the Soviet Union into a slave-like environment simply because of a very narrow point of view that is being argued as it relates to apartheid.

I cannot understand the logic when black South Africans come here and talk about the destruction of jobs and the destruction of the economy that employs them and provides them with one of the better standards of living for blacks in Africa in the whole of the African Continent, that we have people in this Congress simply ignore it and say that the name of the game is to suffer and "we will inflict the suffering on South African blacks while we do not inflict any suffering upon ourselves."

That kind of hyocrisy is mind-boggling to me but it is one that is being practiced every day on the floor of this House by those who stand strongly in behalf of the sanctions that are being imposed and those that are being proposed to be imposed on the nation of South Africa and the economy of South Africa and the job base that employs millions of blacks from the whole continent of Africa itself.

Well, I hope that the point I have made tonight is clear, clear for the record of this Congress that the limited sanctions that we have already imposed have driven us, as an industrial nation, into the arms of our enemy, the Soviet Union, as a supplier of major critical and strategic metals for the defense industry and for the whole of the economy of this country.

I find almost impossible to believe that we would do that. But now the record demonstrates clearly that we have.

The report that I mentioned from the Department of the Interior as relates to the impact upon the metals that are so necessary for our economy if we were to experience either an embargo from this side or an imposed embargo from the South Africans as a reaction to further sanctions that we might place on this economy, on their economy, is hard to believe.

Well, this is the purpose for this special order tonight, to address this issue; it is only a part of the total issue but I think it is an important part. It is one that is hard to understand. To merely suggest that strategic and critical metals and materials are important to this country and we ought to impose sanctions because of it, is one thing. But it is much easier to understand when you begin to recognize it is in the area of our economy that is very critical.

UNIVERSAL VOTER REGISTRATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FISH] is recognized for 60 minutes.

Mr. FISH. Mr. Speaker, I welcome this opportunity to comment on H.R. 3950, legislation establishing national standards for Federal election voter registration. I believe that congressional consideration of matters addressed by this bill, which I am pleased to cosponsor, represents an important step in our national effort to broaden the availability of the franchise.

H.R. 3950, in my opinion, should be viewed in the historical context of many advances in voting rights. We have amended the Constitution to bar denials of voting rights "on account of race, color, or previous condition of servitude" (15th amendment), "on account of sex" (19th amendment), "by reason of failure to pay any poll tax or other tax" (24th amendment, applying to Federal elections), and "on account of age" (26th amendment, applying to citizens at least 18 years old). Numerous Supreme Court decisions have invalidatd bars to voting rights, including Carrington versus Rash, striking down an irrebuttable presumption of nonresidence for military personnel, and Harper versus Virginia Board of Elections, concluding that a State election poll tax is unconstitutional.

Congress has recognized its responsibility to safeguard the franchise—as evidenced by the passage of the Voting Rights Act of 1965 and various amendments to this landmark legislation. The current effort to remove additional barriers to voting is an expression of our continuing commitment to facilitating political participation.

Why is it important for us, as legislators, to give continuing attention to facilitating a broader franchise? The Supreme Court's observation in Wesberry versus Sanders is particularly pertinent:

> No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.—376 U.S. 1, at 17 (1964).

Raymond Wolfinger and Steven Rosenstone observe in their book, "Who Votes?," that "for most Americans, voting is the only form of political participation." The removal of unnecessary obstacles to voting can help enhance public involvement in American government and add to the vitality of our participatory democracy.

The objective of H.R. 3950 is to make voting less burdensome. Individuals are deterred from voting not only by invidious discrimination—which the courts and the Congress have addressed on a number of past occasions—but also by the details of voter registration provisions. "[I]ndirect barriers (to voting)," Eric Secoy writes in a recent law review article, "may be just as effective at abridging rights as direct barriers. [Footnote omitted.] Voting registration procedures, although they do not irreversibly disenfranchise anyone, can be formidable indirect barriers to voting." ("Providing Access to Voter Registration: A Model State Statute," 24 Harvard Journal on Legislation 479 at 489 (1987).)

H.R. 3950 effectively assures individuals a number of voter registration options for Federal elections: First, registration by mail; second, registration at a range of agencies; and third, registration at the appropriate polling place on election day. The result of enhanced registration options, in my judgment, will be enhanced participation in elections. "The likelihood that an individual will vote," Wolfinger and Rosenstone write, "is a direct expression not only of his motivation to vote but also of the costs associated with doing so. The easier it is for a person to cast a ballot, the more likely he is to vote." ("Who Votes?".)

Is the availability of voter registration on election day consistent with the governmental interest in preventing fraud? Three States do permit registration on election day, and one State has no registration on election day, and one State has no registration requirement. A recent Yale Law Journal article claims that "[s]ystematic election fraud is more likely to be conducted by election officials than by private individuals, and at the voting rather than registration stage. Registration restrictions thus are ineffective means of combating the more prevalent forms of voter fraud." [Footnotes omitted.] ("Voter Registration: A Restriction on the Fundamental Right to Vote," by Deborah S. James, 96 Yale Law Journal 1615 at 1635 (1987).) Election officials can be authorized to take special measures to verify the eligibility of individuals registering at the polling place. See section 6 of H.R. 3950.

An important point is that many individuals today are deprived of voting opportunities because they fail to meet voter registration deadlines. "[T]urnout might increase by more than six million voters within four years" with the adoption nationwide of election day voter registration, according to the Committee for the Study of the American Electorate. (Creating the Opportunity.) There are strong reasons for Congress to consider whether fraud prevention in the late 20th century may not require registration in advance of Federal elections.

An examination of the voting process—with emphasis on exploring options to reduce voting barriers—is an appropriate endeavor for this historic 100th Congress. "Modern voter turnout," Robert Landers observes in a recent Congressional Quarterly editorial research report, "is low not only by comparison with turnout in 19th century America but by comparison with turnout in most other Western industrialized democracies." ("Why America Doesn't Vote.") The challenge we face is to facilitate voting without creating unreasonable administrative burdens or compromising the integrity of the voting process. I am confident that we can succeed in making election participation easier for millions of Americans.

RAISING THE GAS GUZZLER TAX: AN INCENTIVE FOR FUEL EFFICIENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, although the last 10 years have seen an encouraging increase in the fuel efficiency of automobilies, the United States and its allies remain heavily dependent on imported oil. Dependent on foreign governments of dubious stability, dependent on terrorist nations. Our enormous trade deficit is made up in part by increasing oil imports. Clearly we must step up our efforts to conserve this natural and finite resource.

If the current rate of demand continues unchecked, by the mid-1990's the United States will be forced to import up to 75 percent of its oil, half of which will come from the politically unstable Middle East. If we do not make some serious plans now, we will be faced with a much greater fuel crisis and far fewer options than was the case in the mid seventies.

For this reason, I am introducing a bill to increase the gas guzzler excise tax and to raise gradually the mileage standard.

The last few years have seen unprecedented increases in profits for the auotombile industry, profits that have been largely diverted from research and development to nonautomotive investments. If mechanical engineering students can develop a stunt vehicle that gets almost 2,000 miles per gallon, it does not seem unduly onorous to encourage manufacturers to devote resources toward development of a car that would meet a fuel efficiency standard of 27.5 miles per gallon. An increase from 22.5 miles per gallon to 27.5 miles per gallon would save the individual consumer about $160 per year at the gas pump, would greatly reduce our national dependence on foreign oil, and would help reduce our unacceptable trade deficit.

Another benefit of increased fuel efficiency is safety. Between 1975 and 1987, concurrent with the increase in fuel efficiency, the national fatality rate dropped from 3.45 per million miles traveled to 2.55. This represents more than 17,000 lives per year. Claims that lighter weight, fuel efficient cars are not safe were definitively disproved by the Department of Transportation's 35 miles per gallon frontal crash tests. These tests demonstrated that fuel-efficient subcompacts such as the Chevrolet Nova at 2,580 pounds provided significantly more protection from potentially fatal head injury to the passenger than the 4,120-pound Chevrolet Caprice.

I ask my colleagues to join me in planning for the future, a future of decreased dependence on imported oil and increased safety for automobile travelers.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RAY (at the request of Mr. FOLEY), for today and the balance of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. LIGHTFOOT) to revise and extend his remarks and include extraneous material:)

Mr. FISH, for 30 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. BURTON of Indiana, for 60 minutes, on June 22.

Mr. DORNAN of California, for 5 minutes, on June 22.

(The following Members (at the request of Mr. OWENS of New York) to revise and extend their remarks and include extraneous material:)

Mr. HUTTO, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MACKAY, for 5 minutes, today.

Mr. DYMALLY, for 60 minutes, on June 22.

Mr. DYMALLY, for 60 minutes, on June 23.

Mr. DINGELL, for 60 minutes, on June 27.

Mr. DINGELL, for 60 minutes, on June 28.

Mr. DINGELL, for 60 minutes, on June 29.

Mr. DINGELL, for 60 minutes, on June 30.

(The following Members (at the request of Mr. CRAIG) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RAHALL, and to include extraneous material notwithstanding the fact that it exceeds two pages and is estimated by the Public Printer to cost $3,146.

(The following Members (at the request of Mr. LIGHTFOOT) and to include extraneous matter:)

(The following Members (at the request of Mr. OWENS of New York) and to include extraneous matter:)

Mr. GUARINI.

Mr. LAFALCE.

Mr. SKELTON.

Mr. DINGELL.

Mr. HAMILTON.

Mr. WILLIAMS.

Mr. LIPINSKI.

Mr. AUCOIN.

Mr. LOWRY of Washington.

Mr. ANDREWS.

Mr. LELAND.

Mr. LEHMAN of Florida.

Mr. LANTOS.

Mr. KLECZKA.

Mr. FUSTER.

Mr. FASCELL.

Mr. TALLON.

Mr. ROE.

Mr. ACKERMAN.

Mr. KOLTER.

Mr. OBERSTAR.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2485. An act to make minor substantive and technical amendments to title 18, United States Code, and for other purposes; to the Committee on the Judiciary.

S. Con Res. 121. Concurrent resolution to commemorate the 50th anniversary of the Javits-Wagner-O'Day Act; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1901. An act to designate the Federal building located at 660 Las Vegas Boulevard in Las Vegas, NV, as the "Alan Bible Federal Building," and

S. 1960. An act to designate the Federal building located at 215 North 17th Street in Omaha, NE, as the "Edward Zorinsky Federal Building."

ADJOURNMENT

Mr. CRAIG. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 22, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3840. A letter from the Chairman, National Labor Relations Board, transmitting the Board's 50th annual report, pursuant to 29 U.S.C. 154(c); to the Committee on Education and Labor.

3841. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of the agreement signed by the United States Government and the Government of Israel concerning the pricing of military training, pursuant to 22 U.S.C. 2761(g); to the Committee on Foreign Affairs.

3842. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting copies of the original report of political contributions by Carl C. Cundiff, of Nevada, Ambassador Extraordinary and Plenipotentiary-designate to the Republic of Niger, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3843. A letter from the Executive Secretary, Federal Deposit Insurance Corporation, transmitting notification of an altered Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3844. A letter from the Special Counsel, Merit Systems Protection Board, transmitting the findings and recommendations of the Secretary of Health and Human Services investigation at the Food and Drug Administration, Center for Veterinary Medicine, pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

3845. A letter from the Special Counsel, Merit Systems Protection Board, transmitting the findings and conclusions of the Secretary of the Navy's investigation at the Mare Island Naval Shipyard, Vallejo, CA, pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

3846. A letter from the Secretary of Commerce, transmitting an amended draft of proposed legislation to authorize appropriations for carrying out the National Climate Program for fiscal years 1988 and 1989; proposed original draft submitted March 16, 1987 (Ex. Com. No. 898), pursuant to 31 U.S.C. 1110; to the Committee on Science, Space, and Technology.

3847. A letter from the Assistant Secretary (Tax Policy), Department of the Treasury, transmitting a report on the reduced rate of fuels taxes for taxicabs, pursuant to Public Law 98-369, section 935 (98 Stat. 1010); to the Committee on Ways and Means.

2848. A letter from the Secretary of Housing and Urban Development, transmitting the Department's report on its participation in the systematic alien verification for entitlements system, pursuant to 42 US.C. 1320b-7 note; jointly, to the Committees on the Judiciary and Banking, Finance and Urban Affairs.

3849. A letter from the Secretary of Commerce, transmitting an amended draft of proposed legislation to amend title II of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for fiscal years 1988 and 1989; proposed original draft transmitted March 4, 1987 (Ex. Com. No. 753), pursuant to 31 U.S.C. 1110; jointly, to the Committees on Merchant Marine and Fisheries and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DERRICK: Committee on Rules. House Resolution 477. Resolution providing for the consideration of H.R. 1158, a bill to amend title VIII of the Act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes (Rep. 100-714). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 478. Resolution waiving certain points of order against consideration of H.R. 4800, a bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes (Rep. 100-715). Referred to the House Calendar.

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. H.R. 4853. A bill to amend title 31, United States Code, to establish new requirements and procedures to combat money laundering, and for other purposes (Rep. 100-716). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3680. A bill to revoke certain public land orders, transfer certain public lands, and for other purposes; with an amendment; referred to the Committee on Agriculture for a period ending not later than July 29, 1988, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(a), rule X (Rep. 100-717, Pt. 1). Order to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HUGHES (for himself and Mr. McCollum):

H.R. 4868. A bill to improve drug enforcement; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. ANNUNZIO:

H.R. 4869. A bill to amend title 31, United States Code, to prohibit fraud and misrepresentations in connection with the sale of numismatic items and the reproduction of numismatic items, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

By Mr. GEJDENSON (for himself and Mr. Montgomery):

H.R. 4870. A bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict; to the Committee on House Administration.

By Mr. GEKAS:

H.R. 4871. A bill to amend title 18 of the United States Code to create a criminal offense for public corruption; to the Committee on the Judiciary.

By Mr. HAWKINS:

H.R. 4872. A bill to establish education and prevention programs relating to the illicit use of drugs by youth; to the Committee on Education and Labor.

By Mr. JOHNSON of South Dakota:

H.R. 4873. A bill to require the Secretary of the Treasury to mint coins in commemoration of the golden anniversary of the Mount Rushmore National Memorial; to the Committee on Banking, Finance and Urban Affairs.

H.R. 4874. A bill to amend the Agricultural Act of 1949 to limit the quantity of milk protein products that may be imported into the United States; to the Committee on Ways and Means.

By Mr. LEACH of Iowa:

H.R. 4875. A bill to require the Federal Home Loan Bank Board to prescribe regulations to prohibit any increase in the amount of total assets of thrift institutions with negative net worth; to the Committee on Banking, Finance and Urban Affairs.

By Mr. McEWEN:

H.R. 4876. A bill to authorize and direct the Secretary of Agriculture to waive the collection and refund of advance deficiency payments made for the 1988 crops of wheat and feed grains because of drought, flood or other natural disaster, or other conditions beyond the control of the producers in an area where the producers' crops were located and were substantially affected by it; to the Committee on Agriculture.

H.R. 4877. A bill to authorize and direct the Secretary of Agriculture to make advance deficiency payments for the 1987 crop of corn and sorghum to producers in July 1988, because of the severe drought occurring across the United States; to the Committee on Agriculture.

H.R. 4878. A bill to allow producers of the 1988 crops of wheat and feed grains to be eligible for disaster payments regardless of whether crop insurance was available to such producers; to the Committee on Agriculture.

By Mr. PARRIS (for himself, Mr. Barnard, Mr. Dreier of California, Mr. Neal, Mr. Price of North Carolina, and Mrs. Saiki):

H.R. 4879. A bill to amend the Depository Institution Management Interlocks Act to revise the manner in which the service of directors of depository institutions and depository holding companies are regulated, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PETRI (for himself, Mr. Ballenger, Mr. Grandy, Mr. Lewis of California, Mrs. Martin of Illinois, Mr. Latta, Mr. Denny Smith, Mrs. Johnson of Connecticut, Mr. Houghton, Mr. Buechner, Mr. Donald E. Luken, Mr. Hopkins, Mr. Porter, Mr. Weldon, Mr. Sensenbrenner, Mrs. Vucanovich, Mr. Lagomarsino, Mr. Gilman, Mr. Barton of Texas, Mr. Dornan of California, Mr. Gunderson, and Mr. Bliley):

H.R. 4880. A bill to amend the Congressional Budget Act of 1974 to strengthen and ensure the political neutrality of the Congressional Budget Office; jointly, to the Committees on Government Operations and Rules.

By Mr. SOLOMON:

H.R. 4881. A bill to prohibit the establishment of parking fees at Arlington National Cemetery; to the Committee on Veterans' Affairs.

By Mr. STARK:

H.R. 4882. A bill to amend the Internal Revenue Code of 1986 to increase the fuel economy standards used in determining the gas guzzler tax and to increase the rates of such tax; to the Committee on Ways and Means.

By Mr. STUDDS (for himself, Mr. Moakley, Mr. Conte, Mr. Mavroules, Mr. Atkins, Mr. Markey, Mr. Donnelly, and Mr. Frank):

H.R. 4883. A bill to amend the Federal Water Pollution Control Act to include Massachusetts Bay, MA, in the National Estuary Program; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

By Mr. WILLIAMS:

H.R. 4884. A bill to ensure that certain retirement benefit payments are delivered early when the regular delivery date occurs on a Saturday, Sunday, or legal holiday; jointly, to the Committees on Energy and Commerce, Armed Services, Post Office and Civil Service, Education and Labor, Foreign Affairs, and the Permanent Select Committee on Intelligence.

H.R. 4885. A bill to amend title XVIII of the Social Security Act to provide the same limitation on increases in deductions for Medicare part B premiums from railroad retirement annuities as currently applies to Medicare part B deductions from Social Security monthly benefits, so that the amount of such an increase in a given year cannot exceed the amount of the cost-of-living increase in the annuity; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. de la GARZA (for himself, Mr. Bustamante, Mr. Coleman of Texas, Mr. Skeen, Mr. Hunter, Mr. Ortiz, Mr. Kolbe, and Mr. Udall):

H.J. Res. 593. Joint resolution designating March 1, 1989, as "International Boundary and Water Commission Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. PANETTA (for himself and Mr. Shumway):

H.J. Res. 594. Joint resolution designating October 20, 1988, as "Leyte Landing Day"; to the Committee on Post Office and Civil Service.

By Mr. LAGOMARSINO (for himself, Mrs. Saiki, and Mr. Sunia):

H. Con. Res. 319. Concurrent resolution commending His Majesty King Taufa' ahau Tupou IV, the Parliament, and the people of the Kingdom of Tonga on the occasion of the centennial of the Treaty of Amity, Commerce, and Navigation between the United States and the Kingdom of Tonga and the 21st anniversary of the coronation of, and 70th birthday of, His Majesty King Taufa' ahau Tupou IV; to the Committee on Foreign Affairs.

By Mr. LELAND (for himself, Mr. Lowry of Washington, Mr. Fauntroy, Mr. Crockett, Mr. Mrazek, and Mr. Hall of Ohio):

H. Con. Res. 320. Concurrent resolution expressing the sense of the Congress that the Secretary of the Treasury should not regulate the donation of articles intended to relieve human suffering in Nicaragua, except as provided in subparagraphs (A), (B), and (C) of section 203(b) (2) of the International Emergency Economic Powers Act; to the Committee on Foreign Affairs.

By Mr. ROSTENKOWSKI:

H. Res. 479. Resolution returning to the Senate the bill S. 727; considered and agreed to.

By Mr. SOLARZ (for himself, Mr. Leach of Iowa, Mr. Atkins, Mr. Sunia, Mr. Torricelli, and Mr. Blaz):

H. Res. 480. Resolution to encourage the establishment of genuine democracy in Pakistan; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

423. The SPEAKER presented a memorial of the Assembly of the State of New Jersey, relative to the FCC providing a sufficient number of radio frequencies for the exclusive use of public safety; to the Committee on Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FAUNTROY:

H.R. 4886. A bill for the relief of Jenny K. Johnson, Ph.D., to the Committee on the Judiciary.

By Mr. RICHARDSON:

H.R. 4887. A bill for the relief of Juana del Carmen Villalobos de Bruno; to the Committee on the Judiciary.

H. Con. Res. 321. Concurrent resolution honoring the Unser family for its accomplishments in the sport of auto racing; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 457: Mr. Rinaldo.

H.R. 551: Mr. Davis of Illinois.

H.R. 592: Mr. Harris, Mr. Nowak, Mr. Vander Jagt, Mr. Burton of Indiana, and Mr. Craig.

H.R. 778: Mr. Hertel and Mr. Carper.

H.R. 1566: Mr. Schuette.

H.R. 1638: Mr. Lowry of Washington and Mr. Cooper.

H.R. 1645: Mr. Annunzio, Mr. Anthony, Mr. Aspin, Mr. AuCoin, Mr. Barnard, Mr. Berman, Mr. Bevill, Mr. Boland, Mr. Boucher, Mr. Bosco, Mr. Brennan, Mr. Bruce, Mr. Campbell, Mr. Carper, Mr. Carr, Mr. Clarke, Mr. Clement, Mr. Clinger, Mr. Coelho, Mr. Coleman of Texas, Mr. Cooper, Mr. Coyne, Mr. Crockett, Mr. Dowdy of Mississippi, Mr. Durbin, Mr. Feighan, Mr. Florio, Mr. Fuster, Mr. Gejdenson, Mr. Gephardt, Mr. Gunderson, Mr. Hefner, Mr. Hochbrueckner, Mr. Hutto, Mr. Jones of North Carolina, Mr. Kennedy, Mr. Kleczka, Mr. LaFalce, Mrs. Lloyd, Mr. Manton, Mr. McHugh, Mr. Moakley, Mr. Mollohan, Mr. Mrazek, Mr. Nagle, Mr. Ortiz, Mr. Owens of Utah, Mr. Penny, Mr. Pepper, Mr. Price of North Carolina, Mr. Pursell, Mr. Robinson, Mr. Rose, Mr. Russo, Mr. Skelton, Mr. Slattery, Ms. Slaughter of New York, Mr. Solarz, Mr. Spratt, Mr. Stallings, Mr. Stenholm, Mr. Tallon, Mr. Tauke, Mr. Traficant, Mr. Traxler, Mr. Valentine, Mrs. Vucanovich, Mr. Weldon, Mr. Wise, Mr. Wolpe, and Mr. Wyden.

H.R. 2624: Mr. Rinaldo.

H.R. 2776: Mr. Donald E. Lukens, Mr. Burton of Indiana, Mr. Gunderson, and Mrs. Martin of Illinois.

H.R. 2854: Mr. Berman.

H.R. 3006: Mr. Richardson.

H.R. 3130: Mr. Gejdenson and Mr. Dwyer of New Jersey.

H.R. 3132: Mr. Molinari.

H.R. 3199: Mr. Rinaldo.

H.R. 3221: Mr. Blaz, Mr. Lowry of Washington, Mr. Moakley, Mr. Moody, Mr. Richardson, and Mr. Shays.

H.R. 3250: Mr. Bateman.

H.R. 3259: Mr. Ford of Tennessee, Mr. Rangel, and Mr. Owens of New York.

H.R. 3314: Mr. Lungren and Mrs. Johnson of Connecticut.

H.R. 3343: Mr. Sikorski.

H.R. 3455: Mr. Donald E. Lukens, Mr. Denny Smith, Mr. Hyde, Mr. Ballenger, Mr. Craig, Mr. Ridge, Mrs. Roukema, Mr. Houghton, Mr. Hastert, Mr. Dornan of California, Mr. Gunderson, Mr. Skeen, Mr. Gekas, Mr. Miller of Washington, Mr. Buechner, Mr. Hunter, and Mr. Porter.

H.R. 3560: Mr. Manton.

H.R. 3624: Mr. Brennan.

H.R. 3658: Mr. Brennan, Mrs. Johnson of Connecticut, Mr. Miller of Washington, Mr. Studds, Mr. Foglietta, Mr. Packard, Mr. Shumway, Mr. Stark, and Mr. Visclosky.

H.R. 3764: Mr. Pursell and Mr. Morrison of Connecticut.

H.R. 3766: Mr. Clinger.

H.R. 3840: Mr. Wolpe.

H.R. 3978: Mrs. Collins, Mr. Lehman of Florida, Ms. Pelosi, Mr. Porter, Mr. Rangel, and Mr. Edwards of California.

H.R. 4032: Mr. Boulter.

H.R. 4101: Mr. Lowry of Washington.

H.R. 4111: Mr. Kastenmeier and Mr. Ridge.

H.R. 4189: Mr. St Germain and Mr. Jeffords.

H.R. 4192: Mr. Mazzoli, Mr. Craig, Mr. DeLay, Mr. Jeffords, Mrs. Saiki, Mr. Donald E. Lukens, and Mr. Gradison.

H.R. 4226: Mr. Mavroules, Mr. Jeffords, Mr. Skelton, Mr. Ackerman, Mr. Visclosky, Mr. Hughes, Mr. Ridge, Mr. Vento, and Mr. Yates.

H.R. 4230: Mr. Flake, Mr. Clement, Mr. Mavroules, Mr. Shays, Mr. Martin of New York, and Mr. Swift.

H.R. 4277: Mr. Towns, Mr. Schumer, and Mr. Wyden.

H.R. 4288: Mr. Weldon, Mr. Wolf, Mr. Coyne, Mrs. Lloyd, Mr. Sensenbrenner, Mr. Neal, Mr. Donald E. Lukens, Mr. Chandler, Mr. Taylor, Mr. Rogers, Mr. Lipinski, Mrs. Bentley, Mr. Goodling, Mr. Livingston, Mr. Myers of Indiana, Mr. Bunning, Mr. Rostenkowski, Mr. Upton, Mr. McGrath, Mr. Whitten, Mr. Hammerschmidt, Mrs. Meyers of Kansas, Mrs. Patterson, Mr. Skeen, Mr. Anderson, Mr. Gray of Illinois, Mr. de Lugo, and Mr. Perkins.

H.R. 4302: Mr. Packard, Mr. Harris, Mr. Oxley, Mr. Shaw, Mr. Bilirakis, and Mr. Fawell.

H.R. 4410: Mr. Eckart and Mr. Sawyer.

H.R. 4427: Mr. Ackerman, Mr. Atkins, Mr. Biaggi, Mr. Beilenson, Mr. Borski, Mr. Conyers, Mr. Coyne, Mr. DeFazio, Mr. Dixon, Mr. Downey of New York, Mr. Edwards of California, Mr. Fauntroy, Mr. Fazio, Mr. Hayes of Illinois, Mr. Kastenmeier, Mr. Kostmayer, Mr. Levin of Michigan, Mr. Levine of California, Mr. Lowry of Washington, Mr. Martinez, Mr. Moakley, Mr. Moody, Mr. Mrazek, Mr. Neal, Mr. Owens of New York, Ms. Pelosi, Mr. Roybal, Mr. Sawyer, Mr. Stark, Mr. Synar, Mr. Torres, Mr. Udall, Mr. Waxman, Mr. Weiss, Mr. Wolpe, and Mr. Yates.

H.R. 4441: Mr. de Lugo, Mrs. Patterson, and Mr. Foglietta.

H.R. 4498: Mr. Ackerman, Mr. Lowry of Washington, Mr. Miller of Washington, and Mr. Donnelly.

H.R. 4618: Mr. Wise, Mr. Dannemeyer, Mr. Brown of California, Mr. Lancaster, Mr. Bonior of Michigan, Mr. Slattery, Mr. Sunia, and Mr. Lipinski.

H.R. 4691: Mrs. Martin of Illinois, Mr. Jontz, Mr. Weldon, Mr. Shaw, Mr. Stallings, and Mr. Schumer.

H.R. 4743: Mr. Fazio and Mr. Florio.

H.R. 4748: Mr. Bates.

H.R. 4760: Mr. Lagomarsino, Mr. Foglietta, Mr. Lancaster, and Mrs. Martin of Illinois.

H.R. 4796: Mr. Solomon, Mr. Stump, and Mr. Lagomarsino.

H.R. 4823: Mr. Dorgan of North Dakota, Mr. Johnson of South Dakota, and Mr. Hopkins.

H.R. 4829: Mr. Hoyer, Mr. Mfume, Mrs. Bentley, Mr. Dyson, Mrs. Byron, Mr. Cardin, Mr. Matsui, Mrs. Johnson of Connecticut, Mr. Fauntroy, Mr. Frank, Mr. Robinson, Mr. Lancaster, and Mr. Lagomarsino.

H.R. 4833: Mr. Slattery, Mr. Clarke, and Mr. Bates.

H.R. 4834: Mr. McCurdy and Mr. Synar.

H.J. Res. 50: Mr. Ford of Tennessee, Mr. Bonker, and Mr. Boland.

H.J. Res. 152: Mr. Lewis of Georgia, Mr. Kastenmeier, Mr. McDade, Ms. Oakar, Mr. MacKay, Mr. Kleczka, Mr. Smith of Iowa, Mr. Brown of Colorado, Mr. Dellums, Mr. Kasich, Mr. Miller of California, Mr. Morrison of Washington, Mr. Richardson, Mr. Weiss, Mr. Carper, Mr. Bruce, Mr. Anderson, Mr. Traficant, Mr. Matsui, and Mr. Sunia.

H.J. Res. 330: Mr. Hochbrueckner, Mr. Chandler, Mr. Wolpe, and Mr. Sawyer.

H.J. Res. 390: Mr. Torres and Mr. Mack.

H.J. Res. 403: Mr. Bilirakis, Mr. Boehlert, Mr. Burton of Indiana, Mr. Carper, Mr. Conyers, Mr. Feighan, Mr. Fish, Mr. Foglietta, Mr. Hyde, Ms. Kaptur, Mr. Kennedy, Mr. Miller of Washington, Mrs. Morella, Mr. Rinaldo, Mrs. Schroeder, Mr. Solomon, and Mr. Traficant.

H.J. Res. 453: Mr. Chapman, Mr. Walgren, Mr. Gingrich, Mr. Cheney, Mr. Clinger, Mr. Skaggs, Mr. Clay, Mr. Frost, and Ms. Pelosi.

H.J. Res. 467: Mrs. Bentley.

H.J. Res. 540: Mr. Weiss and Mr. Brennan.

H.J. 543: Mr. Moorhead, Mr. Thomas A. Luken, Mr. Atkins, Mr. Smith of New Jersey, Mr. Hammerschmidt, and Mr. Johnson of South Dakota.

H.J. Res. 575: Mr. Anderson, Mr. Bennett, Mrs. Bentley, Mr. Berman, Mr. Bevill, Mr. Biaggi, Mr. Bonker, Mr. Bosco, Mr. Bryant, Mr. Callahan, Mr. Carper, Mr. Chandler, Mr. Chapman, Mr. Courter, Mr. Davis of Michigan, Mr. DeFazio, Mr. de la Garza, Mr. Dymally, Mr. Edwards of Oklahoma, Mr. Emerson, Mr. Evans, Mr. Fauntroy, Mr. Feighan, Mr. Foley, Mr. Frenzel, Mr. Gray of Illinois, Mr. Hammerschmidt, Mr. Harris, Mr. Hunter, Mr. Hyde, Mrs. Johnson of Connecticut, Mr. Johnson of South Dakota, Mr. Kastenmeier, Mr. Kolter, Mr. Lancaster, Mr. Lantos, Mr. Lent, Mr. Lewis of California, Mr. Livingston, Mr. Lowery of California, Mr. McDade, Mr. McHugh, Mr. Martin of New York, Mr. Matsui, Mr. Miller of Ohio, Mr. Miller of California, Mr. Mineta, Mr. Murphy, Mr. Oberstar, Mr. Owens of Utah, Mr. Packard, Mr. Porter, Mr. Rangel, Mr. Ritter, Mr. Roberts, Mr. Rowland of Connecticut, Mr. Savage, Mr. Smith of Florida, Mr. Solomon, Mr. Sunia, Mr. Tallon, Mr. Taylor, Mr. Vento, Mr. Walgren, and Mr. Young of Alaska.

H. Con. Res. 28: Mr. Walgren and Ms. Pelosi.

H. Con. Res. 254: Mr. de Lugo and Mr. Packard.

H. Con. Res. 273: Mr. Fauntroy.

H. Con. Res. 276: Mr. Bonker, Mr. Olin, Mr. Clement, Mrs. Johnson of Connecticut, Mr. Rhodes, Mr. Johnson of South Dakota, Mr. Kolbe, Mr. Chandler, Mr. Jeffords, Mr. Hyde, Mr. Walker, Mr. Conte, Mr. Hawkins, Mr. Smith of Iowa, Mr. Leath of Texas, Mr. Smith of New Jersey, Mr. Thomas of California, Mr. Hunter, Mr. Dickinson, Mr. Badham, Mr. Ridge, Mr. McDade, Mr. Gibbons, Mr. Armey, Mr. Brown of Colorado, Mr. Weber, Mr. Frenzel, Mr. Bartlett, Mr. Rangel, and Mr. Pickle.

H. Con. Res. 282: Mr. Traxler, Mr. Hastert, Mr. Nielson of Utah, Mr. Evans, and Mr. Donald E. Lukens.

H. Con. Res. 288: Mr. Sunia, Mr. Badham, Mr. Lantos, Mr. Lipinski, Mr. Petri, Mr. Fish, and Mr. Stratton.

H. Con. Res. 303: Mr. Barton of Texas, Mr. Packard, Mr. Weber, Mr. Bereuter, Mr. Bustamante, and Mrs. Morella.

H. Con. Res. 310: Mr. Gilman, Mr. Hamilton, Mr. Hoyer, Mr. Rinaldo, Mr. Wyden, and Mr. Wortley.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3314: Mr. Goodling.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

187. By the SPEAKER: Petition of town of Lanesborough, MA, relative to antisatellite weapons; to the Committee on Armed Services.

188. Also, petition of the U.S. Conference of Mayors, Washington, DC, relative to hunger and homelessness; to the Committee on Banking, Finance and Urban Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1158

By Mr. DANNEMEYER:

—On page 2, between lines 23 and 24, insert the following:

"Nothing in this title shall be construed—

"(A) to require any person or group of persons selling, renting, leasing, or otherwise providing any dwelling to exercise a higher degree of care for a person with a handicap than for a person who does not have a handicap; or

"(B) to relieve any person or group of persons of any obligation generally imposed on all persons, regardless of any handicap, in any written lease, rental agreement, or contract of purchase or sale.".

—On page 2, line 23, insert the following new language: "Notwithstanding any other provision of law, the term 'individual with handicap' does not include any individual who has a contagious, infectious or communicable disease whether or not such disease causes physical or mental impairment during the period of such individual's contagion".

—On page 2, line 24, insert the following:

"(2) 'Handicap' does not mean any current inpairment that consists of alcoholism.".

—On page 2, following line 24, insert the following new language: "Such term does not include any current impairment that consists of alcohol abuse, or any infectious, contagious or communicable disease whether or not such disease causes a physical or mental impairment during the period of contagion, or any other impairment which would be a direct threat to the property, health, or safety of others.".

—On page 5, line 7, strike "full enjoyment of" and insert in lieu thereof "ready access to";

On page 5, line 11, strike "equal opportunity to use and enjoy" and insert in lieu thereof "ready access to the use and enjoyment of".

—On page 5, line 7, after "premises" insert the following: ", *Provided, however,* That in the case of a rental, no modification need be permitted, unless the renter first agrees to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted".

—On page 10, strike line 25 through page 12, line 18, and insert in lieu thereof "by section 812(g).".

By Mr. GEKAS:

—Page 19, line 7, delete all after "Secretary" through "subsection" on line 11 and insert in lieu thereof the following: "shall refer the matter to the Attorney General, with a request that a civil action be commenced under section 814(b)".

—On page 37, line 12, after "section" insert "810(e) or".

By Mr. SENSENBRENNER:

—On page 28, line 12, delete "$10,000" and insert in lieu thereof "$2500".

On page 28, line 15, delete "$25,000" and insert in lieu thereof "$5000".

On page 28, line 20, delete "$50,000" and insert in lieu thereof "$10,000".

By Mr. SHAW:

—Page 3, strike out line 6 and all that follows through line 13, and redesignate succeeding subsections accordingly.

Page 7, line 8, strike out "(1)".

Page 7, line 10, strike out "familial status,".

Page 7, strike out line 12 and all that follows through line 14.

Page 7, line 24, strike out "familial status,".

Page 8, line 15, strike out "handicap, or familial status" and insert in lieu thereof ", or handicap".

Page 8, line 20, strike out "(1)".

Page 8, beginning in line 23, strike out "Nor does" and all that follows through line 11 on page 9.

Page 37, beginning in line 11, strike out "familial status" and all that follows through "Act)," in line 10.

—Page 38, after line 20, insert the following:

SEC. 13. STUDY OF DISCRIMINATION BASED ON FAMILIAL STATUS.

(a) Study.—The United States Commission on Civil Rights shall conduct a study of the nature and extent of housing discrimination based on familial status. Such Commission shall report to Congress the results of such study, together with any recommendations for legislation, not later than 3 years after the date of the enactment of this Act.

(b) Definition.—As used in this section, the term "familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with—

(1) a parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person, with the written permission of such parent or other person.

H.R. 4800

By Mr. GONZALEZ:

—Page 3, line 18, strike the semicolon and all that follows through "years" on line 22.

Page 3, strike line 24 and all that follows through "months" on page 4, line 4.

—Page 6, line 2, strike "$478,422,000" and insert "$518,422,000".

Page 7, line 14, strike "$5,400,000" and insert "$7,000,000".

Page 8, line 17, insert before "all" the following: "$30,000,000 (to be available only for assistance for capital improvements in accordance with section 201 of such Amendments), together with".

Page 9, line 5, strike "$65,000,000" and insert "$113,400,000".

Page 9, line 11, strike "$85,000,000" and insert "$95,000,000".

Page 9, after line 12, insert the following new item:

SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

For supplemental assistance for facilities to assist the homeless, in accordance with subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11391 et seq.), $25,000,000, to remain available until expended.

Page 12, after line 24, insert the following new item:

URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5318), $150,000,000, shall remain available until expended.

Section 119(s) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(s)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) The maximum aggregate amount that the Secretary may approve for any 1 city or urban county in any 1 competition for grants under this section is $10,000,000, unless such limit may be exceeded without preventing the Secretary from approving grants for each eligible city or urban county for which the aggregate amount of funds requested for eligible projects is not more than $10,000,000.".

Page 21, line 19, strike "$1,950,000,000" and insert "$2,020,000,000".

Page 21, line 20, strike "$934,000,000" and insert "$969,000,000".

Page 21, line 23, strike "$934,000,000" and insert "$969,000,000".

Page 26, line 22, strike "$4,191,700,000" and insert "$3,791,700,000".

Page 37, line 6, strike "$10,567,546,000" and insert "$10,592,546,000".

Page 37, line 7, strike "$5,000,000" and insert "$10,000,000".

Page 37, line 9, insert after the colon the following: *Provided further,* That $20,000,000 of the foregoing amount shall be available for (1) converting to domiciliary care beds underused space located in facilities under the jurisdiction of the Administrator of Veterans' Affairs in urban areas in which there are a significant number of homeless veterans; and (2) furnishing domiciliary care in such beds to eligible veterans (primarily homeless veterans) who are in need of such care:

—Page 8, line 17, insert before "all" the following: "$50,000,000 (to be available only for assistance for capital improvements in accordance with section 201 of such Amendments), together with".

Page 9, line 5, strike "$65,000,000" and insert "$120,000,000".

Page 9, line 11, strike "$85,000,000" and insert "$95,000,000".

Page 9, after line 12, insert the following new item:

"SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

"For supplemental assistance for facilities to assist the homeless, in accordance with subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11391 et seq.), $25,000,000, to remain available until expended."

Page 25, line 12, strike "$114,000,000" and insert "$124,000,000".

Page 26, line 22, strike "$4,191,700,000" and insert "$4,041,700,000".

—Page 2, line 24, strike "$389,574,000 shall be for" and insert the following: "$661,024,000 shall be for assistance pursuant to 15-year contracts under".

Page 3, line 7, strike "$1,463,825,280" and insert "$1,192,375,280".

EXTENSIONS OF REMARKS

ADMINISTRATION SPEECH ON THE MIDDLE EAST

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. HAMILTON. Mr. Speaker, Secretary of State Shultz has made four trips to the Middle East this year seeking to advance the Arab-Israeli peace process. I commend the Secretary for his efforts. His initiative is an important expression of continuing American interests in a Middle East peace settlement.

Secretary Shultz has been accompanied on each of his trips by Richard W. Murphy, Assistant Secretary of State for Near East and South Asian Affairs. Mr. Murphy spoke in New York on June 14, 1988, on the status of efforts to restart the peace process in the Middle East, and his remarks are an articulate presentation of current U.S. policy.

His speech merits study, and I commend it to my colleagues. The text of Assistant Secretary Murphy's remarks follows:

ADDRESS BY RICHARD W. MURPHY

Major transformations are underway in global political and economic relations. And significant improvements are taking place in relations between the United States and the Soviet Union. Against the backdrop of potentially far-reaching changes in Soviet thinking—indeed, contributing significantly to those changes—new patterns of political dialogue are taking shape, most significantly represented by the progress achieved at the Moscow summit in stabilizing and intensifying superpower relations.

In the Middle East, however, old attitudes prevail and traditional illusions persist. Outdated concepts produce outdated actions, and result in policies which fail to meet the needs of today.

During his recent visit to the region, Secretary Shultz addressed the dichotomy between the dictates of reality and the illusions to which Arabs and Israelis cling. The Secretary argued that emerging realities—in superpower relations and, more particularly, in regional trends—require a serious rethinking by all parties.

What are some of these emerging realities in the Middle East:

DEMOGRAPHIC TRENDS

The migration of people throughout the Middle East, the ebb and flow of their movement and life cycles have shaped the fabric of the region for centuries. Today, these demographic trends pose enormous challenges for the modern nation state—straining the state's capacity to provide for its citizens and impeding social and economic development. Moreover, demographic changes, particularly when they overlap with sectarian and political conflict, can exacerbate or even cause confrontation:

With a population growth rate of 2.5 percent a year, Egypt has 1.3 million new mouths to feed each year. By the turn of the century, Egypt's population will exceed 70 million people; by 2010, its population will reach 100 million. Cairo, a city designed originally for some 1.5 million people now has a population of some 12-15 million people. Indeed, the consequences of Egypt's population boom is systemic and has placed a strain on housing, employment opportunities, social services and economic expectations.

In Lebanon, shifting population balances have contributed to the breakdown of the confessional political system and created severe local and economic dislocation. The Shia community, now estimated at roughly 40% of the Lebanese population, remains the largest and most disadvantaged of all Lebanese communal groups. This imbalance in relation to other religious groups has made large elements of the Shia community vulnerable to manipulation by Shiite Iran, which seeks to impose an Islamic Republic on all Lebanese.

In the West Bank/Gaza, changing demographic trends have created new realities. Israel's continued occupation of these territories means controlling 1.5 million Palestinian Arabs against their will—a fact which the intifadah confirms—and poses much more difficult challenges for Israel than in the past. And since the Arab population in territories controlled by Israel will outnumber the Jewish population within a generation, the challenges can only sharpen. Indeed, the occupation is a dead-end street that will guaranteed continued violence, compromise Israel's democracy and moral values, and frustrate any durable accommodation between Israel and its Arab neighbors.

ECONOMIC

On the economic front, lower oil prices and sluggish growth have affected all countries in the Middle East. Major oil producers have cut their domestic development plans and their foreign assistance. Opportunities for exporting goods and labor to these countries have diminished, resulting in a foreign exchange squeeze in Lebanon, Egypt, Jordan, Syria and the West Bank. Skilled and unskilled Arab workers in the oil producing countries have been forced to return to their own countries and remittances have dwindled, along with trade. Government-to-government grants and loans from richer to poorer Arab states have also fallen off sharply.

Israel has come through a wrenching period of economic readjustment, but there are signs of trouble. The hyperinflation of a few years ago, which dropped to a more manageable 16 percent, is now moving back up. And profoundly affecting both Israel and the occupied territories are population pressures on labor markets. In the West Bank and Gaza, population growth rates are 2½ to 3 percent per year. This exceeds the capacity to absorb manpower. The result has been substantial emigration. Income from outside the West Bank accounts for one-third of that area's GNP.

The Palestinian uprising on the West Bank has paradoxically highlighted the economic integration of Israel and the West Bank. Unpublished estimates suggest that the *intifada* will reduce the GDP of the West Bank and Gaza by 2 percent this year. The economic effects on Israel are equally profound. Israeli exports to the West Bank may have dropped by 35-50 percent. Absenteeism by Arab workers has cut the Israeli labor force by 1-2 percent. The cost to Israel could be as much as 2 percent of GNP growth, plus a hefty boost to inflation.

In the meantime, defense expenditures account for 19 percent of GNP in Israel and Jordan, 11 percent in Egypt. This compares with an average of under 5 percent for other countries in the world. The continued diversion of extraordinary material and human resources to military purposes in the Middle East will severely retard the efforts of these countries to keep pace economically and with technological and scientific change in the next century.

Economic insecurity and austerity reduce public confidence in the future and create a climate for political and religious demagoguery. This can, at its worst, lead to the sort of upheaval which has splintered Lebanon. And even if the situation is not immediately explosive, it breeds an atmosphere of caution, making it difficult for political leaders to take the bold decisions required for peace.

CHANGING ARAB-ISRAELI BATTLEFIELD

Increasing sophistication of military technology has revolutionized modern warfare and created scenarios of destruction that have dramatically raised the costs of conventional conflict.

In the Iran-Iraq war, we have witnessed use of chemical weapons and short-range ballistic missiles that have brought the war to urban areas and underscored the limitations of the concept of secure borders.

Syrian acquisition of the SS21 and other short-range ballistic missiles combined with Israel's own SRBM program has set off a potentially dangerous cycle of conflict with higher risks to both military and civilian targets.

Acquisition of chemical weapons has introduced a new element in battlefield planning and heightened danger of preemption and large-scale civilian casualties.

Saudi acquisition of the CSS-2 and Iraq's success in increasing the range of SCUD to over 300 miles and top-priority programs in other ME countries to develop or acquire longer-range missiles have aggravated the dangers and heightened the risks caused by widespread missile proliferation throughout the region.

EXTREMISM

The Middle East is a region of passionate beliefs and powerful ideas. All too often these ideas—both secular and religious alike—are converted into ideologies of an extreme nature.

Islamic fundamentalism of a revolutionary and sometimes violent nature has roots throughout the region. In Tunisia, Egypt, Lebanon and Syria, we have witnessed the emergence of small extremist groups which have challenged the state and spread their militant message through terrorism.

Terrorist organizations espousing radical ideologies, or in the case of the Abu Nidal organization, a nihilist philosophy, contrive

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

to attack moderate forces everywhere in an effort to prevent accommodation and resolution of the conflicts.

In Israel, Jewish extremists proclaim that there can be no compromsie with the Arabs and no accommodation based on any territorial compromise. Some even urge the transfer or expulsion of Palestinian Arabs.

WINNER-TAKE-ALL THINKING

Too often, parties to a conflict believe that only one side can win and that it is impossible for both sides to gain through negotiation. This thinking characterizes the Arab-Israeli conflict, particularly the Palestinian-Israeli confrontation. Israelis and Palestinians are prisoners of the past, locked into the prejudices of an historic conflict over what they perceive as absolute imperatives—territory, security, and political legitimacy. Too many persist in seeing the problem as a winner-take-all affair without an appreciation of the need for flexibility, let alone the importance of a practical negotiation.

In each case, the implications of these economic, demographic and military trends are felt in three independent, but inter-related, ways. First—and this is new—they affect the ability of countries and people to compete politically and economically in the increasingly interdependent, democratic and free market world of the late 20th Century. Second, they impose specific constraints on efforts to resolve the Arab-Israeli conflict by encouraging extremists on both sides. Third, they risk reversing the trend toward greater Arab acceptance of Israel, starting back down the road to major military confrontation sometime in the future.

The trends I just described are complicated by what Secretary Shultz has termed the propensity of the parties in the conflict to "cling to old visions and dreams as though they were immutable laws of nature." The Secretary has just returned from another round of discussions in the Middle East, and I would like to report to you on the state of play in the peace process.

As you know, the plan put forward by the United States says that negotiations between Israel and certain of its neighbors who wish to participate in the peace process should be based on United Nations Security Council resolutions 242 and 338. The plan also stipulates that, in the case of the West Bank and Gaza, negotiations should take place initially on transitional arrangements, but that these negotiations would be interlocked in time and sequence with final status talks.

Since we put this plan on the table, we have heard a number of complaints, problems and concerns about it. Two examples of reactions we have heard should suffice in explaining what we mean in asking all parties to shed illusions in favor of reality. From the PLO, we have read in the media that Resolution 242 is not sufficient for it is deficient in regard to Palestinian national rights; and the suggestion has been made that additional UN resolutions become the basis of negotiations, including Resolution 181, the partition resolution. From a strictly legal standpoint, I think I understand what 181 does for the PLO case; it puts the UN General Assembly on record in support of a Palestinian state west of the Jordan river. But can the PLO realistically believe that the clock can be turned back to 1947 and that we start negotiations on the basis of Resolution 181? This is an illusion that simply will not lead to negotiations and a peaceful settlement of the Arab-Israeli conflict.

On the other hand, some Israelis have argued that the timetable and inter-lock mechanism are unacceptable deviations from the Camp David accords; and they have suggested that the plan be revised to conform entirely with Camp David. Here, too, I understand the legal motivation, which is to avoid undermining the validity of Camp David, or seeing U.S. commitment to Camp David flag; but can these people realistically believe that the clock can be turned back to 1978 and that negotiations can start from a basis which Jordan, Syria and others rejected categorically? This is an illusion which cannot and will not be fulfilled.

So, as the Secretary said in Cario, "the recognition that dreams and reality need to be reconciled is a first principle for peace in the Middle East." All peoples share collective, national dreams; these are the stuff of nation-building and political acculturation. But all peoples must appreciate the effect which local, regional and international realities have on their ability to fulfill overblown, inflated dreams. In the Middle East, both Arabs and Israelis must shed the kinds of illusions which serve as convenient excuses for denying reality. Both sides must seize what is possible by engaging in a process of peace and accommodation.

When these sentiments are expressed, however, the reaction heard most often is one of disbelief: the United States is naive in believing that this is a resolvable conflict. Emotions run too high, and hatreds too deep for Arabs and Israelis to seek common bases on which to engage in a peace process.

This reaction is wrong, and it is its own form of illusion, one which borders on hubris. Arabs and Israelis own no monopoly on confict, violence and hatred. Just recall the European wars of religon and nationalism. The peoples of the Middle East are not the first or last protagonists who find it politically expedient to stick to unrealistic assumptions, rather than contemplate compromise or concession. It behooves us, friends of Arabs and Israelis, to tell both that there is no longer an excuse for extremist positions and demands.

So, if the emerging realities of demography, tools of war and extremism point up the need for a new approach; and if the illusions which the parties have hid behind for so long are revealed as weak excuses for realistic policy; then the answer lies in a serious process of negotiations leading to a comprehensive settlement. Such negotiations will require compromise, but they can achieve the minimum required by both sides—an outcome that will prove conclusively that both can win at peace what neither can win through war.

In the limited time available, I will not review the American plan for negotiations—even though such a review would demonstrate that our plan meets the criteria of realism, sensibility and achievability which are required. I can review the plan later, if you wish.

Rather, I will start from an assumption that our plan is workable and realistic. What it is not, however, is a full script for negotiations. It provides a certain amount of structure for necessary discussions among the parties designed to flush out operational details. But it requires leadership and partners so that the parties can use the plan as a springboard to negotiations.

Since January, the United States has been engaged intensively in the effort to draw the parties out, to evince their willingness to address the operational details of our proposal. We shall continue these efforts for as long a time as it takes. Our determination will not flag.

But at the same time, there are steps which the parties themselves can take to condition the environment, create an atmosphere conducive to negotiations and send signals to the other side that positions are negotiable. One key step would be the acknowledgement by all parties of the land for peace formula represented by Resolution 242. Traditionally, this has been seen as an issue only for those in Israel who favor retention of the West Bank and Gaza. But this is not the case, for Palestinians and other Arabs will also have to respond to the same land for peace issue.

As we measure illusion against the test of realism, we need to answer some key questions:

Would the Arabs be prepared to accommodate themselves to a negotiation premised on the non-return of territory? The answer is no.

Is land essential to satisfy demands for justice? The answer is yes.

Would Israelis be expected to accommodate themselves to something less than full peace? The answer is no.

Are peace and normalization essential to satisfy the necessity for security? The answer is yes, because geography and conventional military strategy can no longer ensure security.

Do Israelis and Arabs require a period of transition before they can be expected to complete agreement on land for peace? The answer is yes.

So, I suggest that we move on two tracks simultaneously—one which focuses on substance and modalities of a negotiating process, and another, complementary which builds bridges of accommodation and realism between parties about to negotiate with each other.

For Israel, the challenge is to accept and act upon the understanding that legitimate political rights and democratic self-expression for Palestinians are compatible with Israeli security. In the long run, they are the key to real security for an Israel at peace with its neighbors.

Surely, this will not be easy, for the recent violence in the West Bank and Gaza has heightened Israeli security concerns and focussed on short-term solutions. But Palestinian willingness to engage in a political process needs to be tested. And practical steps toward this end can be undertaken in the period ahead with an eye toward creating conditions more beneficial to negotiations.

For Palestinians, equally, the challenge is to turn away from the dead-end path of violence and rejectionism, and to forge an effective, forward-looking political program. Israel's existence and security are non-negotiable. But the shape and content of a future settlement are exactly what negotiations are about.

For other Arabs, the challenge is to step forward in support of negotiations. To await ideal negotiating conditions is to ensure that negotiations will not take place. Arabs can instill confidence in Palestinians and Israelis that negotiations can work. In this respect, it is noteworthy that the Algiers Arab Summit meeting did not reject the U.S. peace process initiative. Participants have been quick to signal us that the US dialogue with the parties—Israelis and Arabs—should continue on our proposals and it will.

Both Arabs and Israelis have met many challenges in the past. None were more important, however, than those which confront them now. Indeed, the future of the Middle East will be determined by their ability to work together to confront their common challenge of erecting a structure of relations within which they and their children can live in peace and security.

EGGHEAD SCRIBBLERS!

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. SOLOMON. Mr. Speaker, as our distinguished colleagues in the Senate move closer to passing legislation (S. 533), elevating the VA to a cabinet level department—the bill has 74 cosponsors in the Senate—it is time to reflect on the negative press reaction to this popular initiative. In this regard I am placing in the RECORD a recent editorial by Richard Harwood entitled the VA Question.

THE VA QUESTION

(By Richard Harwood)

On the 12th day of November, 1987, 69 years after the armistice ending World War I, The Post, in a manner of speaking, started a modest little war of its own. The guns of its editorial page were unlimbered and fired off at targets all over town: the president, the Veterans Administration, Congress and the various veterans' lobbies. The purpose of this assault, carried out at dawn when most people were still sloshing their oatmeal, was to blow holes in a scheme to grant the Veterans Administration Cabinet status. It is now a mere "independent" agency, owned and operated (somewhat like the Agriculture or Defense departments) by 80 million constituents (veterans and their dependents) and such patrons as the American Legion and G. W. "Sonny" Montgomery (D-Miss.), chairman of the House Veterans Affairs Committee.

Six days passed with no counterfire from the politicians. Then, on Nov. 18, the House responded with a barrage that shattered teacups all over the editorial department. It approved the Cabinet proposal by a vote of 399 to 17. Pow! Take that, you egghead scribblers!

The six-day war was over. Before the summer is out, the Senate will have passed the bill, the president will have signed it, and the next chief of the agency will be addressed as "Mr. (or Ms.) Secretary."

It is not clear whether the Post editorialists, perhaps suffering from a white-collar form of Post Trauma Stress Disorder, recognized what had happened on Nov. 18, because they launched on Nov. 25 a soporific harassing operation against the bill. It began with an editorial bearing a half-hearted headline hinting at broken spirits and a lack of enthusiasm for the fight: "Such a Bad Idea."

Four months later, the editorial campaign was terminated ("quietly," as we say) but not The Post's involvement in the issue. The news department, initially on the sidelines, had by that time joined the fray. It produced a series of low-key articles devoted largely to allegations made by critics of both the legislation and the VA and to occasional predictions that the bill was in trouble.

One of the more amusing stories related "fears" in the Senate that Cabinet status would "politicize" this agency, which historically has been approximately as nonpolitical as the Democratic and Republican national committees. It will spend, under the direct and constant supervision of the big veterans' lobbies, $27 billion this year. As a token of its liberality, it handed out $156 million in overpayments a couple of years ago, a fact reported with some pride to its approving partners in Congress.

A counterattack on the news department was launched on April 10 by the Disabled American Veterans, a strong proponent of Cabinet status for the VA. The Blind Veterans of America, led by John Fales, contributed supporting fires. One charge was that the news and editorial departments were engaged in a conscious and unethical alliance to torpedo the legislation. Given the rivalries and frequent intellectual conflicts between the two departments, such an alliance would represent the second great act of détente in 1988. As Meg Greenfield, the editorial page editor, remarked to Mikhail Gorbachev during an interview last month, "Our empire [the Post company] is competitive within itself . . . like all empires."

The only direct evidence of teamwork on the VA issue is vaporous, consisting of the appropriation in one news story of language obviously borrowed and paraphrased from an editorial: "There is no dispute that the government has a lasting obligation to veterans wounded in combat and to their families and survivors." Reporters don't usually talk or write that way.

Still, there was a clear coincidence of viewpoint in the paper's editorial stance and its news coverage. It is explained by the principal reporter involved, Bill McAllister, as a simple case of the VA's critics making the most noise. That is one of those all-purpose, self-protective statements journalists use when accused of bias. Taken at face value, it converts mindlessness into a virtue. Was the news coverage tilted against the VA plan? Yes.

Now that the war is over, there is another question I ask with great trepidation: Who's running this town anyway, the press or the politicians?

A TRIBUTE TO DR. RICHARD SHAPIRO

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Dr. Richard Shapiro, a very special resident of my 17th Congressional District. I had the distinct honor and great privilege of observing surgical procedures with Dr. Shapiro when I visited St. Joseph Riverside Hospital in Warren, OH, on June 17, 1988. It gives me enormous pride to inform my fellow Members of the U.S. House of Representatives about this master ophthalmologist.

Dr. Shapiro has had a burning desire to be a doctor all of his life. He began his quest with a bachelor's degree from Miami University, Oxford, OH, in 1959, and then proudly received his medical degree from Jefferson Medical College in Philadelphia in 1964. After serving internships at both Jefferson Medical College Hospital and Montefiore Hospital in Pittsburgh, he received a Heed fellowship at Ohio State University to research retinal detachments and diseases of the retina. He now practices in Warren, OH, is on the staff of St. Joseph Riverside Hospital and Trumbull Memorial Hospital, and formerly served as chief of ophthalmology at both hospitals.

Dr. Shapiro lives in Girard, OH, with his lovely wife Anita Tamarkin, and his three doting children—Andrea, Sam, and Tom. He is a past president of the Warren Lions Club, is a former district trustee for the Ohio Lions Eye Research Foundation, and is a member of both the Cleveland Eye Bank's Medical Policy Committee and St. Joseph Riverside Hospital's Board of Directors. He is president of Rodef Sholom Temple, chairman of the Combined Jewish Appeal, and serves on the Youngstown Area Jewish Federation Executive Board.

Dr. Shapiro is a man of firsts when it comes to surgical achievements in Warren. He performed the first intraocular lens implant, the first phacoemulsification, the first silicone foldable intraocular lens, the first corneal transplant, the first radial keratotomy, and the first televised surgery. He also accomplished the amazing feat of the first combined cataract, intraocular lens implant, and corneal transplant surgery.

Dr. Shapiro is truly a wizard when it comes to medical surgery, and through his miracles he has improved the eyesight of countless people in Mahoning and Trumbull Counties. I am proud to call Dr. Shapiro my friend, and hope that his successful services to humanity continue for a long time. Thus, it is with thanks and special pleasure that I join with people of the 17th Congressional District in saluting the astounding work and extremely admirable character of Dr. Richard Shapiro.

ENERGY AND ANWR

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. YOUNG of Alaska. Mr. Speaker, many of our colleagues are aware of our energy dependence upon other nations, and the fact that the picture is not looking any brighter for the foreseeable future. Nevertheless, legislation before the Congress to open to environmentally sound oil and gas leasing the coastal plain of the Arctic National Wildlife Refuge in my district—the State of Alaska—is the bright spot in terms of responding to this growing international threat. Today I submit for the RECORD an article from the Memphis, TN Commercial Appeal, which underscores the need for prompt action by the Congress on this subject. Because of the vast support nationwide for this legislation, I will do this daily.

The article follows:

[From the Commercial Appeal (Memphis, TN), Mar. 25, 1987]

THE COMING OIL CRISIS

With domestic oil production falling and imports rising, this country is looking at a future threat to its national security and economic well-being. How it faces the problem will be a test of the American people's political maturity.

Just over a year ago, the United States imported only 27 percent of its oil needs. Then the collapse of oil prices shut thousands of wells, and imports have climbed to 38 percent. Sometime between 1990 and 1995 the nation will be dependent on foreigners for 50 percent of its oil.

It's worth recalling that such dependency was only 33 percent when the 1973-74 Arab oil embargo hit. That supply interruption started a chain reaction: gasoline lines, soaring oil prices, inflation, high interest rates, recession, severe economic loss.

Does anyone want to go through that again with the country more at the mercy of the oil sheikdoms than in 1973?

Last fall President Reagan ordered the Energy Department to study the oil future. Its report, published last week, projected that by 1996 the Persian Gulf will provide 65 percent of the Free World's oil consumption.

The threat is clear. The OPEC oil cartel will regain—and use—the whip hand. That possibility is real and urgent enough to call for decisive government action. To ignore it would not be just foolish. It would be grossly irresponsible.

Fortunately, the report discredits the oil industry's favorite solution—a $10-a-barrel tax on imported oil, which would pull up the domestic price by the same amount and stimulate exploration and production here.

The tradeoff would be unacceptable. The study says the tax would save 120,000 petroleum industry jobs over 10 years, while killing 400,000 jobs in other sectors. Its cost to the economy in a decade would be $200 billion. No thanks.

Energy Secretary John Herrington instead suggests restoring the 27.5 percent depletion allowance, a generous tax break the industry enjoyed until 1975. While that also would bring some new production, it might not be acceptable to Congress.

We know this is heresy, but it would be best to bribe oilmen to find more oil. Yes, we mean evil, greedy types like J.R. and Blake. If you want an outlaw caught, you offer a reward. If you want a predator killed, you post a bounty. If you want oil, you give wildcatters a bonus for each barrel they discover, which is straightforward, efficient—and politically impossible.

What can be done? First, fill the Strategic Petroleum Reserve faster than planned, to protect against the next oil cut-off. Second, deregulate natural gas and let it replace oil in utility and industrial boilers. Third, develop the reserves off the California coast and in northern Alaska. Fourth, take less than 20 years to build a nuclear power plant. Fifth, conserve; we again are driving our big cars fast. Sixth, overcome congressional demagoguery and find a way to favor domestic production.

Or, alternatively, we can do nothing and go on living in our temporary fool's paradise of cheap, abundant gasoline.

In that case, see you, Senator, in the gas lines.

A DISSERVICE TO AMERICA'S VETERANS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. SOLOMON. Mr. Speaker, today I wish to place into the Record an excellent response by VA Administrator Tom Turnage to a Record statement made by Senator John Kerry regarding agent orange.

The article by Paul Eagan entitled "Does Congress Hide Behind Science on AO Issue?," expressed dissatisfaction with the fact that "Vietnam veterans are still not receiving any compensation from the Federal Government for diseases caused by agent orange." I have summarized below the response made by VA Administrator Tom Turnage.

Regarding the Veterans' Administration "Proportionate Mortality Study of Army and Marine Corps Veterans of the Vietnam War," the article correctly reports that there was a statistically significant increased proportionate mortality ratio for non-Hodgkins' lymphoma and lung cancer among marines serving in I Corps. However, the article then states that the "VA immediately characterized the study's findings as a statistical fluke—as having little merit in ascertaining a scientific relationship between exposure to dioxin and specific diseases." This statement bears little resemblance to the actual position of the Veterans' Administration.

The VA has not dismissed this study as is suggested by the article. Rather, the VA has stated that the study is of concern to them and identified issues requiring further study and analysis. A proportionate mortality analysis was undertaken using a mortality study. The study cannot however, by its very nature, determine whether the observed results constitute a direct cause and effect relationship. The VA's proportionate mortality study cannot tell us what circumstances or event may have been responsible for the observed results.

Rather than simply pronounce the issue unanswerable, the VA has committed itself to going forward. The VA is updating the mortality study to include an additional 11,000 deaths of Vietnam era veterans, adding strength to the study's findings. Also, a separate analysis is planned for Army Vietnam veterans who served in I Corps, the area of Vietnam where Marine Corps veterans predominantly served. A separate mortality study is planned exclusively for Marine Vietnam veterans. It is hoped that this effort will produce overall mortality rates and cause—specific mortality rates for Marine Vietnam veterans.

Finally, the VA is reviewing the patient treatment file, a computerized data base containing summary information about veterans who have received hospital care from the VA. Attention will be focused on non-Hodgkins lymphoma and Hodgkins disease. The cases and controls will be compared with respect to service in Vietnam and other military service factors.

The article also states that "virtually hundreds of thousands of veterans have been treated, but the VA has never attempted to evaluate the resulting data. Why the VA has never undertaken such an analysis is an open question." This assertion is wrong. The VA has, in fact, examined the data in the patient treatment file. A case comparison study by Kang et al., was published in the Journal of Occupational Medicine (vol. 28, pp. 1215-1218 (1986)) The study looked at the VA's patient treatment file to identify all Vietnam era veterans whose conditions were diagnosed as soft-tissue sarcomas from 1969 to 1983. There were 234 cases identified. A comparison group consisted of 13,496 patients systematically sampled from the same Vietnam era patient population from which the cases were drawn. Military service information was obtained and analyzed. The authors found no significant association of soft-tissue sarcomas and military service in Vietnam.

The VA is also accused of having a "foot-dragging attitude in awarding compensation for disabilities associated with agent orange." The inference of that accusation is that there are disabilities which the scientific community agrees are associated with exposure to agent orange. The position taken by the Veterans' Administration is similar to that of the American Medical Association expressed in 1985 when it concluded:

> The studies to date on the human health effects of Vietnam exposures to Agent Orange do not reveal a clear relationship between serious illness and exposure. A number of important studies are still in progress; until they or others that may be deemed necessary are completed, no final conclusions can be drawn. * * * A wide range of adverse reactions in animals has been observed, which are species-dependent. * * * Except for chloracne, however TCDD has not demonstrated comparable levels of biologic activity in man; that is to say, no long-term effects on the cardiovascular and central nervous systems; the liver, the kidney, the thymus and immunologic (sic.) defense, and the reproductive function—in the male, female, or offspring—have been demonstrated.

Finally, the article incorrectly states, "True to its longstanding reputation for failing to meet its responsibilities on the agent orange issue, however, the VA manipulated the committee's scope of dioxin literature review in order to prevent awarding compensation." The VA has never limited the scope of the committee's review and has repeatedly stated its willingness to bring studies to the committee's attention from a variety of sources including Members of Congress interested citizens, State agent orange programs, and veterans and their organizations. The VA has attempted to focus the committee's attention on human studies and on the studies most often cited as demonstrating a casual association.

Mr. Speaker, in conclusion I must say that I believe that the Veterans' Administration has responded to the difficult and complex question of the effects of exposure to agent orange in a responsible and responsive way. Those who would play politics with agent orange do a great disservice to America's veterans.

A TRIBUTE TO FRED LUSCHER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Mr. Fred Luscher, a very special resident in my 17th Congressional District. Mr. Luscher recently received the great honors of being named both "Sportsman of the Year" by the Trumbull County Federation of Sportsman and getting the "Service Appreciation Award" from the Lakeview Coon and Fox Hunters. And I believe that my fellow Members of Congress should be aware that this master hunter is still going strong at age 83.

His never-ending passion for hunting began 68 years ago when he went on his first rabbit hunt. Fred and his wife Dorothy have had countless rabbit meals over the years in their Cortland, OH home. But in time, fox hunting became his favorite sport. Aided by what was reported to be the best fox-sniffing beagle in the United States, Mr. Luscher tirelessly hunted fox, especially after the fox became a valuable fur.

Mr. Luscher helped found the Lakeview Coon and Fox Club 30 years ago. He is still an extremely active member, and has slavishly and exhaustively devoted himself to promoting the club. Fred is responsible for selling licenses for fishing, hunting, and trapping to people around the Mosquito Lake and Farmington, OH areas. He was also an outstanding worker for the Republic Steel Corp. for over 40 years, and is well known as an avid collector of duck stamps. Mr. Luscher firmly believes that the secret to fox hunting is to "start your dog, let them run awhile, then move in, find a spot and stay there."

Mr. Luscher is richly deserving of the awards he has received, for I can think of no one who has served Trumbull County sportsmen better for these past 30 years. Fred is well-respected and loved by hunters in Ohio and Pennsylvania, for he has helped countless numbers of them throughout the years.

I am very proud to call Fred Luscher my friend, and wish him many more years of successful hunting. Thus, it is with thanks and special pleasure that I join with the people of the 17th Congressional District to salute the very noble character and devotion to sport of Mr. Fred Luscher.

PUBLIC HEARING BY THE NEW YORK STATE DIABETES COUNCIL

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. LAFALCE. Mr. Speaker, on June 20, 1988, I had the opportunity to present opening remarks at the first in a series of hearings throughout New York State conducted by the New York State Diabetes Council. I would like to share those remarks with my colleagues:

As I understand it, the Council, chaired by Dr. Lester B. Salans, is comprised of scientists, physicians, allied health professionals, diabetics and people concerned about diabetes from across the State; and has been asked by New York State Health Commissioner, Dr. David Axelrod, to undertake a study of diabetes mellitus in the State. The study, supported by funds from the State, the Juvenile Diabetes Foundation and American Diabetes Association, will be a comprehensive examination and evaluation of the status of diabetes research and health care delivery in New York State.

The Chairman of the Council, Dr. Salans, is no stranger either to me or to the Western New York community. As the former director of the National Institutes of Health's Arthritis, Diabetes and Digestive and Kidney Diseases Institute, Dr. Salans traveled with me to Buffalo to address supporters of our diabetes associations. He has provided guidance and information to many in our area, and I welcome him back to Western New York today.

It is my understanding that the Council is seeking opinions from citizens, doctors, people with diabetes, parents and educators about research needs, care and service costs, patient and professional education, medical payment problems and the psychosocial aspects of diabetes; and hopes to identify problems and gaps in the current health care system and recommend effective solutions to the Commissioner of Health.

This is a serious goal for one of this nation's most serious medical and public health problems.

Diabetes mellitus affects an estimated 12 million Americans and the prevalence of this disorder is increasing at an alarming rate. Individuals of both sexes, all ages and all socio-economic groups are affected by this disease. Blacks, Hispanics, Native and Asian Americans have higher rates of the most common form of diabetes mellitus, Non-Insulin Dependent or Type II Diabetes, than do whites, and diabetes impacts especially hard upon the elderly. The vast majority of diabetics reside in metropolitan areas and a substantial proportion of the total diabetes population is in the Northeastern part of the country. Thus, diabetes is a very common disease affecting large numbers of people, especially in the populous state of New York. It has been estimated that diabetes affects approximately 832,000 of New York's citizens. In Buffalo an estimated 75,000 are afflicted and in Rochester approximately 51,000 persons suffer from diabetes mellitus.

Moreover, diabetes is a serious, life threatening disease. It is the third leading cause of death by disease in the United States, the leading cause of new blindness in adults, a major cause of end-stage kidney disease requiring dialysis, and a major cause of heart attacks, strokes and hypertension. The economic costs of diabetes to the U.S. and New York economies are enormous, representing at a minimum an estimated $13.5 billion annually or about 3.6 percent of the total health costs in the United States.

Thus, diabetes is a major medical and public health problem for the nation and is particularly serious for New York with its large population and heavy representation of ethnic and racial groups at high risk. Fortunately, during the past several years, a number of important advances have been made in virtually every field of diabetes research and patient care. These advances hold great promise for improving the outlook for individuals afflicted with diabetes. Among these are:

A new understanding of the causes and mechanisms of diabetes, such as the association of specific genetic factors with both Insulin Dependent Diabetes Mellitus and Non-Insulin Dependent Diabetes and the demonstration that Insulin Dependent Diabetes Mellitus is an autoimmune disease. Identification of early indicators of the autoimmune disorder lays the foundation for possible preventive therapy;

The identification of the biochemical events by which insulin produces its effects on glucose (sugar) metabolism by the cells of the body:

The production of human insulin by recombinant DNA technology;

An increased understanding of the roles of diet and exercise in the treatment of diabetes;

Improved methods for measuring and regulating blood sugar in patients with diabetes;

Laser photocoagulation therapy to treat diabetic retinopathy and reduce the risk of blindness;

The development of strategies for pregnant women with diabetes that improve metabolic control and thereby prevent birth defects and early infant mortality;

Effective medications to control high blood pressure, and preventive strategies to reduce lower extremity amputations; and

Development of standards for diabetes patient education programs to improve the quality of this component of care and to facilitate third-party reimbursement of outpatient education.

Despite these and other exciting advances, the personal and public health problem of diabetes in New York, already of vast proportions, continues to grow.

I applaud Dr. Axelrod for appointing a distinguished group of individuals to hold this series of public meetings and to receive information and advice from experts throughout the U.S. with special knowledge and experience in diabetes research, health care, education and public health related issues. I applaud those who are taking the time to share important information with the Council chairman and members. We all look forward to receiving a report of the Council's findings and recommendations to the Commission of Health so that progress continues in the effort to combat and eventually prevent this dread disease.

Thank you for affording me the opportunity to participate in this important event.

IT MUST BE AN ELECTION YEAR!

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. HEFLEY. Mr. Speaker, it must be an election year! Like the swallows returning to Capistrano, election years are marked by lavish, irresponsible, budget busting efforts to buy votes for incumbent Members of Congress.

An example of this is the recent effort in Congress to address the very real problems of catastrophic and long-term health care costs of the elderly.

When President Reagan asked in his State of the Union address in January 1987 that these issues be looked at, most Members agreed. These are definitely problems that should be solved. Retired persons should not have to impoverish themselves because of an illness before they can get help. But the plan Congress sent to the White House for the President's signature was more than he bargained for.

The president had presented a plan calling for a $2,000 annual cap on out-of-pocket expenses for Medicare covered services. The plan would have been financed by increasing the premium for the optional part B Medicare coverage by $4.92 per month.

Congress took over and set separate caps for part A—hospital—and part B—physician—costs, extended several other benefits, and added a new prescription drug benefit. To pay for this, the bill will increase the premium for part B coverage by $10.20 per month by the time the full benefit package is in place in 1993. But in addition, the bill will assess a mandatory "supplemental premium" through the income tax system. For every $150 of income tax owed, persons eligible for Medicare will have to pay an additional $42. That is an increase in income taxes of almost 30 percent. Both increases are indexed, and will rise as program costs rise.

Beneficiaries can avoid the flat premium increase by dropping part B coverge, but the supplemental premium is mandatory. By effectively requiring all elderly to enroll in the full Medicare Program, Congress has eliminated the option of turning to an insurance market that met the needs of approximately two-thirds of the elderly before this bill. In the words of one Congressman, "we are going to socialize, essentially federalize, the delivery of all acute care."

The bill passed, making health care mandatory, raising taxes, and dumping the costs on the backs of retirees, most of whom were taking care of this need already through their private insurance market. All retirees will pay to participate in a program in which a very small percentage will actually benefit.

To make matters worse, the bill did not really address what most elderly regard as the true threat of aging: the cost of long-term care for chronic health problems. By excluding long-term care from the bill, Congress recognized that long-term care presented much more difficult problems.

On June 8, the House faced its second vote on an expansion of the Medicare Program. That vote, on H.R. 3436, the so-called Pepper bill, had been presented as a vote for or against protecting the elderly from the crippling costs of long-term care. It was no such thing.

This bill did not present a realistic way of meeting the long-term health care needs of the elderly. It would have been difficult to implement, and attempting to do so would have meant disastrous results for health care providers, the Federal budget, and the elderly.

Though the bill was presented as a cure-all for long-term care, it would have not provided 1 cent for nursing home care, the major out-of-pocket expense of the elderly. The bill concentrated exclusively on home health care, which is very important but not all important. The bill promised everything but would have delivered very little.

It promised home care to all elderly, but relied on the efficient operation and expertise of agencies that do not exist in the number necessary to deliver that care. Creating the agencies and manning them on short notice would surely have resulted in waste, fraud, and abuse for years to come.

Additionally, no adequate methods of determining eligibility had been developed. As eligibility and benefits varied, the resulting conflicts would have resulted in thousands of appeals and lawsuits against the Government.

The program would have added $5 billion to the deficit each year, requiring either a 37-percent cut in payments to providers, or a 56-percent tax increase to cover the program. One option requires massive Federal intervention in the private marketplace, the other penalizes an already overburdened taxpayer who would already be expected to come up with an additional $30 billion in payroll tax increases.

The problems with this bill could have been addressed and perhaps solutions found had the bill been subject to the regular legislative process. But in an effort to gain from extravagant, and ultimately cruel promises to the elderly, the bill came directly to the floor of the House without ever being considered by any committee of jurisdiction.

Fortunately for everyone, the Pepper bill failed. But the problems didn't go away. We still need answers for the elderly's long-term health care needs—both home care and nursing home care. maybe after we get past the election year pandering we can move on to responsible solutions.

NATIONAL FEDERATION OF FEDERAL EMPLOYEES' RECOGNITION DAY HELD AT LIBERTY ISLAND

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. GUARINI. Mr. Speaker, a most meaningful event sponsored by a group of employees working at the U.S. Department of Housing and Urban Development [HUD], Newark, NJ, was held Sunday, June 12, 1988, in Jersey City, and at the base of the Statue of Liberty.

The group I speak of is the National Federation of Federal Employees, local 1616, which has in its membership a group of dedicated men and women who are working to provide the best housing opportunities possible for individuals at all levels.

On Sunday I was invited to make a presentation to Michael S. Gemza, outgoing president of local 1616 for distinguished service as a labor leader at the Newark office of HUD during the periods from 1975 to 1983 and 1985 to 1988.

Nearly 200 Federal employees, their families and friends, gathered at Liberty State Park in Jersey City to board the ferry to Liberty Island where the tribute was paid.

Among those present was James Peirce, national president of the 150,000-member National Federation of Federal Employees and his wife, Ellen; Abraham Orlofsky, national secretary-treasurer and his wife, Thelma; and Red Evans, national publicity director accompanied by his wife, Marie, who journeyed from Washington to officiate at the ceremony, which will be reported in the Federal Employee.

An old friend of mine, Pablo Rivera-Alvarez of the HUD Newark office was master of ceremonies and after leading in the Pledge of Allegiance, he read a congratulatory letter from U.S. Senator FRANK LAUTENBERG.

As I could not attend this function I asked a member of my staff, Conrad J. Vuocolo, who spent 22½ years in public housing serving for a time as executive director of the Jersey City Housing Authority, to represent me. He expressed my deep appreciation for the efforts of HUD employees, helping to provide every type housing for the homeless, for the low-income persons, the elderly and handicapped, affordable housing in private dwellings, one- and two-family homes and the multidwelling units in my district.

According to information on file in my office, upward of 75,000 individuals residing in the 14th District which I represent live in some sort of HUD supervised program. The National Federation of Federal Employees indeed echoes the words of our late President John F. Kennedy, who during September 1962 said:

> The activities you have sponsored since your founding in 1917, the advice and counsel you have rendered from your collective experience and wisdom—these have played an important role in building the present state of competence in the Federal service. I know I can count on your continued efforts to make the Federal service an even better instrument of our national goals: One that will offer the best in terms of challenges and rewards.

Their major achievements over the years is indeed a history of progress and success, starting in 1920 with successful support of the retirement law to the current fight to the protection of employees' rights in grade promotions, strengthening of the merit system, equal rights for women and minorities and safety in the workplace.

According to Richard Pace, a native of Jersey City, who is the current president of local 1616, the NFFE is indeed proud of the past and ready for the future. He reports:

> For over 68 years NFFE, the first and largest independent Federal employees union, has worked closely with Presidents, Members of Congress, and agency heads, to protect and advance the rights of Government workers.
>
> Before Federal workers had a union, they had little say about working conditions and employee rights. In 1917 Federal workers joined hands and formed the National Federation of Federal Employees. Through NFFE, Federal workers are united in a single voice to effectively make changes for the better in the civil service system.
>
> NFFE became the first independent union for Federal employees in 1931 when it withdrew from the AFL-CIO. Other Government employee labor organizations represent non-Federal workers as well as civil service workers. NFFE works exclusively for Federal employees.
>
> No other union can match NFFE's experience, independence, and exclusive representation of Federal workers.

I look forward to working closely with Mr. Pace, who holds a graduate degree in management from New York University. He coordinated the days' events. He was assisted in this task by the members of the union and his wife, Barbara, and their two daughters, Jean and Barbara Ellen.

In my opinion, it is of deep social significance that the ceremonies were held at the base of the Statue of Liberty. This location reiterates the symbol of liberty and justice for all, with special emphasis on liberty—in that all individuals deserve a place to live with rents commensurate with their income and ability to pay in a safe, sanitary facility.

I am sure fellow Members of the House of Representatives wish to join me in a salute to Michael S. Gemza, who received the first labor leader award from local 1616. His work in the area of improving working conditions through constructive dealings assuring everyone of the collective bargaining privileges has been exceptional. Indeed he has held high the 70-year tradition of union democracy within the National Federation of Federal Employees.

VIETNAM WOMEN'S MEMORIAL PROJECT

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. GEJDENSON. Mr. Speaker, as I introduce a bill for Vietnam Women's Memorial, I wish to bring to the Members' attention the testimony of Linda Spoonster Schwartz before the Subcommittee on Libraries and Memorials.

TESTIMONY SUBMITTED TO HOUSE SUBCOMMITTEE ON LIBRARIES AND MEMORIALS

(By Spoonster Schwartz RN, MSN-Major USAFNC, Retired)

My name is Linda Spoonster Schwartz. I am retired from the United States Air Force. I am a member of the Board of Directors of the American Nurses' Association and have served as a Regional Coordinator for the Vietnam Women's Memorial Project since 1985. I was elected to the Board of Directors of the Project on May 27 of this year. I would like to thank the Committee for giving me this opportunity to share my thoughts about this project.

The Vietnam Women's Memorial Project has come here today to ask you permission to give our country a gift—a statue to commemorate our service to the Nation. We have traveled the length and breadth of America with a prototype of the proposed statue. We have spoken in Grange Halls, churches, hospitals, county and State fairs and large convention halls. Everywhere we go, Americans not the sophisticated type that sit on Commissions, farmers, secretaries, housewives, postmen, children, veterans of WWI, WWII, Korea, Vietnam, Grenada, and Honduras—they all given us their encouragement, contributions, and confidence that this statue must take its' rightful place at the Vietnam Veterans Memorial.

This effort is not just the thoughts of a few but it is the hope of thousands. Over 2,000 citizens from every State in the union volunteer for the Project on a regular basis. We have identified over 3,000 women veterans of the Vietnam War. Men, women and children stood in the winter cold of Boston last January with tin cans, asking passing motorists to give us money for our cause. Those men didn't stop until they had collected over $12,000 to see this statue built. We have flooded these Halls of Congress with poster petitions signed by people who want to see the statue become a reality. I consider every contribution, every letter of support, every signature to be the people's vote of confidence for our Project. Our goal has been endorsed by the hands and hearts of Americans everywhere.

There are those in the past and no doubt again today will use philosophical and artistic reasons why you should not act favorably on H.R. 3628. It is troubling to me that a handful of opponents can obstruct the aspirations of so many others.

Perhaps it is less mystifying when you note that six months before our project sought any approval we were told we would not win. In a May 11, 1986 Memo to the Board of Directors of the Project our Corporate Council advised that "Information has been received by the Project that there is strong sentiment among certain members of panels which must approve placement of any statue on the Mall, that any statue added to the National Vietnam War Memorial be the work of the artist who created the statue of "Three Fighting Men" * * * Information received has indicated further that approval will not be given for the work of any other artist". The memo reads further, "Taken as given that the advisory panels will insist that only Mr. Hart create additional works of art that may be placed at the National Vietnam Veterans Memorial several legal issues are presented."

I would also like the Committee to note that a November 11, 1987 Post article reported that Mr. Fredrick Hart presently receives in excess of $85,000 annually from royalties on the sales of souvenirs and reproductions of the "Three Fighting Men". I would like you Congresswomen Oakar to think about the appropriateness of Mr. Hart sitting on the same Fine Arts Commission that rejected our statue. Review of the transcripts of that hearing indicate that Mr. Hart was present and participated in the discussion. We would not be here today if the Vietnam Women's Memorial Project had been given a fair hearing then. Furthermore, I do not believe we will ever be given fair treatment as long as Fredrick Hart will be sitting in judgment of a potential competitor to his royalty income.

To those who criticize our statue because it represents a nurse. I use Mr. Bob Dubek's explaination that the "Three Fighting Men" were chosen because the "grunts" bore the brunt of the war. By the same token nurses, especially Army Nurses, experienced the human tragedy of war on a daily basis. Young nurses with less than 6 months experience were sent to Vietnam, to active combat zones, they bore the brunt of the war—men with no arms or legs, men burned by napalm, young men gasping their last breath. The names of 8 women all nurses are engraved on the wall Congress didn't think twice about sending these women to Vietnam—you shouldn't hestitate in honoring them now.

Perhaps you are unaware that the names on the Wall represent only 2 percent of the actual numbers of casualties of the war. The 98 percent save rate, the best in any war was due to the professionalism and sacrifices of these nurses. Even today some of these brave women hide the fact they ever served our nation so valiently. Some still have the frightening memories, some feeling guilty they didn't do enough—for many the war still rages on.

It is difficult for me to understand why some people in Congress are so reluctant to specify the site for the statue. Hasn't Congress already set aside 2.2 acres to honor the men and women of the Vietnam War? Didn't the Vietnam Veterans Memorial Fund endorse the concept of adding a bronze statue of a nurse to the Memorial? Just as she stood with her brothers then, she belongs with them now. Near those rows and rows of names who's faces she will never forget. You see, Madam Chairman, we knew them. We worked with them, laughed with them, prayed with them and were with them when many of them passed from this life.

We ask your help in acknowledging one of the most heroic chapters in our nation's history the partiotism, sacrifices, and dedication of the women veterans of Vietnam. I believe those women will not have the "Homecoming" they truly deserve until our statue takes its rightful place at the Vietnam Veterans Memorial

STANLEY WHITMAN IS EXTRAORDINARY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. LEHMAN of Florida. Mr. Speaker, in business, Stan Whitman of Miami Shores in our 17th Congressional District defied common wisdom and ended up uncommonly successful. Square foot per square foot, his Bal Harbor Shop is the country's highest revenue-producing shopping center. It has an international reputation as one of the most prestigious in the world.

Stan Whitman, with his iconoclastic methods, is a role model for today's young entrepreneurs. I wanted to share with my colleagues the item reprinted below, which appeared in this month's Florida Trend magazine. It tells of a person who was unafraid to back his ideas and beliefs with his resources.

Stan, like me, is an avid tennis player, and for over 30 years we've competed. Mr. Speaker, I won't say who wins most often. I will only say that I'm glad Stan decided to put most of his energy into his Bal Harbor Shops, and not into his tennis game.

STANLEY WHITMAN, FOUNDER OF BAL HARBOUR SHOPS

On what made Bal Harbour Shops a success:

The most important thing about this center is definitely its merchant mix.

In the '50s and '60s when we got started, the biggest outfit in the country for feasibility studies was a guy named Larry Smith. His company came down here to look this over and come up with a feasibility study and how it should be merchandised. And they came in with supermarkets and hardware stores and drug stores and all of these things that everybody was putting in shopping centers at that time. Well, they flat didn't understand what I was talking about. The people who handled my account, other than Larry Smith, just didn't comprehend this thing. I couldn't get through their heads that I'm not going to put any variety stores in here. they don't fit.

Then I got Perry Meyers, who had come out of Allied Stores. And Perry understood it.

I can't tell you the shopping center developers who came by and would talk with me and they'd say, "Well, where's your supermarket?" I'd say, "Isn't one." They'd say, "Goddam fool, you're gonna go broke!" I'm not kidding you. It's just like charging for parking. We charge for parking. And they'd say, "You're out of your mind! Shopping centers don't charge for parking. You've been in the sun too long."

The big, big thing, and the big thing that will remain with us, is that we have a prestige, quality mix that nobody in the country can match.

And I attribute that to starting off with the number one salon operator in the world; she has been for probably the last 40 or 50 years. Nobody challenges Martha. I had lunch with her the other day. She's selling designer dresses for $30,000. She sold one customer in one shopping trip $240,000 worth of merchandise. The average dress shop, if it could do that much in a year, would be delighted. . . .

It took tremendous perseverance. I'll tell you what a horrible crapshoot it was. This was started without a single lease. You don't do that! You just don't do that. So I can't say this was smart to start. It was just dam lucky.

ETHIOPIA'S AUSCHWITZ

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. ROTH. Mr. Speaker, last Friday, the lead editorial of the Washington Times described the oppressive tyranny in Ethiopia that has enslaved 45 million people and threatens to kill by starvation 2 to 3 million people in the coming months.

While the world's attention is dispersed from hot-spot to hot-spot around the globe, a genocide is underway in Ethiopia paralleling the atrocities of Auschwitz. The Ethiopian people have suffered enough. Mengistu must go.

[From the Washington Times, June 17, 1988]

ETHIOPIA'S AUSCHWITZ

Ethiopia's Col. Mengistu Haile Mariam may not be one of this century's pioneers in the art and science of tyranny, but in the 14 years since seizing power he clearly has become one of its most ardent practitioners. While Stalin and Hitler relied on gulags and gas chambers to wipe out populations they hated, the colonel is content to use plain old mass starvation. This spring the Marxist despot cut off food supplies to his country's rebellious northern provinces and kicked out all foreign relief workers. The resulting deaths may number as many as 3 million, according to Frederick Machmer, head of the U.S. Agency for International Development.

With the help of East German secret police and 3,000-4,000 Cuban troops and advisers, Col. Mengistu has converted his country into Moscow's most reliable African satellite. Soon after his coup in 1974, he collectivized agriculture, crushed the Coptic Church and created a state-run media so enamored with Marxist jargon that the government had to issue a dictionary so the audience could understand the broadcasts. Nearly 3 million Ethiopians are believed to have fled from the regime's terror since 1974, and an untold number have paid with their lives the price of the colonel's government by nightmare.

The toll from the regime's active campaign of terror may be matched by the carnage from its ban on foreign food aid. Resistance movements in the provinces of Eritrea and Tigre have simmered for more than two decades, and the colonel's decision to starve them and their supporters along with anyone else hapless enough to live in the rebellious areas is intended as his own final solution for the insurgencies. His order to cut off food two months ago followed rebel victories that seemingly caused his governments to totter.

Until then, international relief efforts had made progress in caring for the victims of famine and war. More than 45 relief agencies had learned how to work together to transport, organize and distribute multinational donations of food totalling 1.2 million tons pledged in the last six months.

The strategy of the relief was to avoid the catastrophic famine of 1984-85, when an estimated 1 million people starved. The plan was to hand out food at regional centers so recipients could carry it home themselves and plant seeds for the next season. That worked well for a time, but with successful rebel offensives sending government troops reeling, Col. Mengistu decided to get tough. Despite denunciation of the colonel's genocidal order by Assistant Secretary of State Richard Williamson at the United Nations and by President Reagan, the colonel has remained indifferent.

The key to stopping the Ethiopian holocaust lies in Moscow, which could force him to rescind his policy. Secretary of State George Shultz broached the issue with Soviet Foreign Minister Eduard Shevardnadze in April, but received little more than non-committal shrugs in response. Nor was Ethiopia a large item on the Moscow summit's agenda.

The Soviets don't necessarily care what happens to the Ethiopians as long as Moscow can preserve its control over the strategically located nation that controls southern access to the Red Sea, yields entrance to sub-Saharan Africa and acts as a hinge around which two continents turn. In using forced famine to destroy political opposition, Col. Mengistu is following in the footsteps of communists from Stalin to Pol Pot, and glasnost apparently does not bar Mikhail Gorbachev from exploiting the genocide for his own geopolitical goals.

The United States has sent 250,000 metric tons of food to Ethiopia, and has taken the lead in protesting Col. Mengistu's brutality. The administration now must do all it can do to bring worldwide pressure to bear on Mr. Gorbachev, who alone seems capable of ending the genocidal atrocities of Africa's Hitler.

ADDRESS BY MR. SPENCER F. ECCLES

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. OWENS of Utah. Mr. Speaker, I rise today to share the comments of one of my most distinguished constitutents, Mr. Spencer F. Eccles, chairman and chief executive officer of First Security Corp., headquartered in Salt Lake City, UT. Mr. Eccles, a near legend in western banking circles, learned about the world of economics at the knee of his celebrated uncle, Marriner S. Eccles. As many of you know, Marriner Eccles was a Special Assistant to the Secretary of the Treasury during the New Deal era of the 1930's. He authored both the Federal Housing Administration Act of 1934, and the Banking Act of 1935.

President Roosevelt appointed him Chairman of the Federal Reserve Board in 1934, and he held what is still one of the longest tenures as Chairman of the Fed. He was instrumental in keeping the Fed independent, having pulled the trigger that initiated the famous Fed-Treasury accord of 1951. He went to Washington for 1 year and stayed for 17.

Another First Security executive, E.G. Bennett, was one of the original three FDIC directors and it was under his leadership that the FDIC was successfully launched. One of First Securities long-time presidents and former CEO, George S. Eccles, played a key role in originating the Association of Bank Holding Companies and was president of both that association and the Association of Reserve City Bankers.

So that my colleagues might benefit from the younger Eccles comments and expertise, I insert his March 17, 1988, address to the Bank Capital Markets Association, 16th annual conference held in Tucson, AZ, into the CONGRESSIONAL RECORD:

ADDRESS BY MR. SPENCER F. ECCLES

If your team didn't play in this year's Super Bowl, you might have taken the time to switch channels on Super Bowl Sunday to watch the golf match instead. If you did, you might have heard Lee Trevino respond to one of those deeply insightful questions that sport commentators are known to ask these days.

Specifically, Trevino was asked what inscription he'd like to have on his gravestone, and his well used reply was—"I told you guys I was sick!"

Well, our industry has been telling the Congress the same thing for the most of the past decade.

Specifically, we've told Congress that our industry has been losing market share! Banks' share of all financial assets held by financial institutions fell during the ten-year period 1975 to 1985 from 38 percent to 31 percent.

We've told Congress that while domestic bank deposits grew 130 percent during that ten-year period, other segments of the financial service industry grew much faster.

For instance: S&L deposits increased 203 percent, pension funds increased 264 percent, and mutual funds increased 496 percent.

But money market mutual funds grew 5,508 percent, and total liabilities and capital of securites brokers and dealers grew by 1,466 percent.

And we've also told Congress that making a profit in the banking business is getting harder and harder. Last year our industry recorded its lowest return on assets since 1933—0.13 percent.

We've told Congress that specific markets like auto-finance have nearly disappeared for many banks. And perhaps that's why you see that one group of bankers (IBAA) and the credit unions (CUNA) have asked the Federal Trade Commission to investigatse the advertising practices of the big three auto-finance companies.

And finally, we've told Congress that the best way to strengthen the banking industry is to enact positive legislation—not moratoriums and artificial market barriers.

We've been telling Congress that we're sick, and you know, there's some evidence that finally, Congress is listening.

I must confess that when the senior senator from my state of Utah—Jake Garn—lost his position a year and a half ago as Chairman of the Senate Banking Committee, I thought that modernization of the banking laws was definitely on the back burner. But William Proxmire of Wisconsin surprised us all when he placed Glass-Steagall on the bargaining table.

It was a truly pleasant surprise—not unlike one that comedian Rodney Dangerfield once had. He said he went to a fight, and to his surprise, a hockey game broke out! In our case, some pretty good legislation broke out.

It's almost as though Washington has become the scene of a "financial services perestroika"—a reform effort driven by a new understanding that to thrive and serve customers more fully, banks must be allowed to compete and profit. If a perestroika has come to Washington, it is certainly welcomed, and long overdue!

I should, however, stress that this phenomenon was by no means an accident, nor a case where Congress acted alone. As you know only too well, a great many bank people, and their various state and national associations, have worked long and hard to initiate this perestroika. I'm in somewhat of a unique position in that I've seen the process from inside, and from several different viewpoints. I'm currently a member of the board of directors of the American Bankers Association. I'm Vice-Chairman of the Association of Bank Holding Companies, and I'm a member of the Government Relations Committee of the Association of Reserve City Bankers. And through George Denton of our bank, we have a role in the leadership of your association also.

I've watched the important process over the past year or so by which these four bank groups, along with the Consumer Bankers Association and the Independent Bankers Association of America, have forged a unified front on the key banking issues. I've participated in the "summit" meetings of the leaders of these six groups. I've witnessed the steps that, gradually, have brought us all closer together.

Now, do the groups I mentioned agree on all the issues? No, of course not. Do they agree on the important issues? Yes—particularly when the issues are as important as the Congressional moratorium that expired on March 1, and the need for reform and modernization of the banking laws. When things get really tough, bankers and their associations pull together.

They tell me at the ABA that at least 250,000 letters went to the Congress on the moratorium issue, probably the strongest example of grassroots lobbying our industry has ever seen—even more than the "withholding at source" confrontation a few years ago. Of course, the moratorium was just one part of this letter writing effort. The other part was to show support for Senators Proxmire and Garn—and their bill S. 1886, amending Glass-Steagall. As you know, the Senate Banking Committee reported out a bill that comes pretty close to what our industry has wanted, at least on the securities side.

I want to talk about Glass-Steagall in a few minutes, but first I'd like to put this discussion in perspective—the perspective of a regional bank.

I represent a healthy regional bank from a recovering economic area. Ours is not a money-center bank, but we fully appreciate the benefits that will accrue to us should the Glass-Steagall Act be rewritten and banks be permitted to engage in securities activities.

First Security is the oldest continuous multi-state holding company in the country—established in June of 1928.

Since that time, our institution has made it a point to innovate to whatever extent we could in the banking business where we thought we could make a profit. We were an original and major shareholder, through our bank holding company and certain individuals, in the primary government securities dealer, Aubrey G. Lanston and Company. With passage of the initial Bank Holding Company Act of 1956, in 1959, we had to spin off to a separate holding company, the ownership of Lanston as well as three insurance companies. This spin off holding company—First Security Investment Company—also owned two savings and loans, one insured in Idaho, one uninsured in Salt Lake City. We also acquired a leasing company, and F.I.F., a mutual fund management company based in Denver, and established an insurance company in Liechtenstein. We have sold some of those entities since, and in 1969, we came full circle by acquiring back from First Security Investment Company, those that qualified. Also, at one time, our bank was a member of the Salt Lake Stock Exchange, and for a while we were able to earn split commissions from orders entered by the bank through brokers on the exchange. We also had a state nonmember bank that did property management, real estate brokerage and realtor business, and full line general insurance agency business. We started First Security Data Corp to do computer output microfilm work with offices in Salt Lake City, Boise, and Denver.

We are a member of the Independent Bankers Association (IBAA) and having been in the insurance agency business since 1931, are a member of Indpendent Insurance Agents of America (IIAA). First Security Corporation is one of the 15 bank holding companies in the United States who is exempt from the insurance restrictions under the Garn-St Germain Act because of Exemption G, Title 6, and we are the only bank holding company who has secured Fed approval to do general insurance agency business in all 50 States.

Along with 21 other bank holding companies and a non-bank entity, First Security is a shareholder user of BHC Securities, Inc., a broker-dealer located in Philadelphia and acknowledged to be one of the best discount broker entities in the country. We have also maintained our investment management activities in a separate subsidiary of the Corporation, which subsidiary has enjoyed very good performance during the recent period.

The Proxmire-Garn bill (and others) provide for supervision by the S.E.C. We are accustomed to supervision from numerous regulations and would see no problem in working with the S.E.C. for our securities operations.

I mention these things because I'd like you to know that our bank always has viewed new competitive opportunities as a chance we shouldn't pass up. We're looking forward with great anticipatation to the day when Glass-Steagall will be behind us. We'll view that day as an opportunity not to be missed.

Not because we view the repeal of Glass-Steagall as the panacea to cure all of our industry's ills, but because we view the repeal of Glass-Steagall as the chance to compete more effectively and flexibly in various areas, and to offer more complete and diversified service to our customer base and make a profit.

In other words, our vision of the future is not to turn to regional bank holding company like First Security into an investment banking house replete with every product known to modern capital markets: Our vision is one in which we can bring products to the marketplace that make sense to our customers, who otherwise might be precluded from availing themselves of these alternatives.

But the real opportunity—the one that you and I should be talking about with the decision-markers in our home towns and in Washington—is the opportunity for consumers once Glass-Steagall is changed. By "consumer", I mean the corporation, the municipality and the individual consumer—each important segments of the bank's customer base. Let me spend just a minute or so on each of these groups.

First the corporation.—It's clear that minus Glass-Steagall, the securites subsidiaries of our bank holding companies could really enhance their investment-banking services to middle-market and smaller corporate customers. That additional service might come in the form of underwriting public offerings of common stocks. More likely, it will come through the structuring and sale of long-term and short-term debt or preferred stock of a corporate customer—an intermediary function that will permit us to retain and develop new relationships with both the corporate seller and the institutional or individual buyer. Not only would this opportunity give us the ability to offer new financing vehicles to our customers. We believe it also provides our lending personnel with a new flexibility of various alternatives to offer the corporate customer, the most economical forms of fiancing possible at a reasonable profit to the bank.

Furthermore, these expanded powers would permit all banks to have less concentration in specific types of loans, especially by giving us the opportunity to directly originate and distribute securities to various types of investors. A regional bank such as ours certainly senses the opportunity that is there, since many broker-dealers have merged or simply deserted the local market altogether.

As for the commercial paper market, there are going to be new opportunities for the regional bank that does its homework, studies its market, invests in the technology and goes after the commercial-paper business of its mid-to-small sized corporate customers with slid credit ratings. There's a market niche there, and we should move quickly to occupy it.

I'm sure you read about the Senate Banking Committee survey that asked the chief financial officers of the nation's largest nonfinancial corporations what they thought about Glass-Steagall. Seventy-seven percent of the respondents said Glass-Steagall should be repealed. Almost 70 percent said their cost of raising funds would likely drop if banks got into the underwirting of corporate bonds and stocks.

Also, the National Association of Manufacturers announced in early February that its board supports removal of Glass-Steagall like barriers to competition.

So I think there is little debate in the minds of our corporate customers over the fact that corporate America will see significant and lasting cost benefits from repeal of Glass-Steagall.

WHAT ABOUT THE MUNICIPALITY?

Well, bank competition in the municipal revenue bond market will be a huge factor in reducing the costs of public works projects. More player offering more credit to local governemnts can only mean one thing—a lower price on that credit. The underwriting fees are certain to drop. An active secondary market will provide new liquidity and new investors. Taxpayers will get a better deal—perhaps even lower taxes.

And that's why you see groups like the National Governors Association, The National Association of Counties, the National Conference of State Legislatures, the National League of Cities, the American Public Power Association, and the U.S. Conference of Mayors supporting repeal of Glass-Steagall.

Some of the big investment houses have abandoned this business in recent years, particularly where smaller communities are involved. We view this as an opportunity to expand our own public finance business. Again, it will be the smart regional bank that will be able to take an active part in this market.

And finally,

HOW DOES THE INDIVIDUAL CONSUMER FARE IN REPEAL OF GLASS-STEAGALL?

Maybe I can rephrase the question—Can the consumer fare any worse after repeal of Glass-Steagall? We know that the real victim of Black Monday was the small investor. In the rush to satisfy the large, institutional investors last October 19, the stock markets pretty much ignored the small guy's portfolio.

The North American Securities Administrators Association, the organization of state officials who regulate stock brokers within the states, set up a consumer hot line shortly after Black Monday. Complaints poured in about brokers who delayed handling of transactions and provided insufficient information on the riskiness of investments. James Meyer, the group's president, said "The invisible victims of Black Monday and the days since then is the small investor, and there are thousands of them." I wish we could somehow mobilize this army of small investors. Of course, our industry is making some headway in educating the public about the role of banks in the securities business, but we have to accept the fact that ours is not a hot consumer issue yet—although I think it will be as we help more individual consumers to understand the issue.

We can point to the public statement of at least one consumer group as an indication that it supports repeal of Glass-Steagall. On February 9, the 250,000 member group, Citizens for a Sound Economy, announced its support for repeal.

Like many of you represented here, our bank has a very strong retail orientation as well as an active middle market commercial lending activity. The existence of a regional bank retail orientation lends itself to the formations of mortgage-backed securities. The advantage of selling and distributing through a bank are numerous. Not only does it provide an attractive investment vehicle for your customers, the act of originating and selling loans frees up funds so that new loans can be originated.

We also know that with banks underwriting privately issued mortgage-backed securities, the cost to the consumer of financing a house will fall. The National Association of Home Builders has estimated recently that the savings over the life of a $100,000 mortgage could be $1,000. We know that with banks more heavily involved in the mutual funds business, the cost and the availability of investment opportunities for small investors will improve. Furthermore, it goes without saying, that we believe significant profit opportunities are being lost as deposit dollars leave our retail banking system in search of these more diverse investment opportunities. Expanded powers in these areas will only serve to facilitate the more efficient delivery of these services to our customers. I also think the experience of banks providing discount brokerage services proves conclusively that bank competition saves investors dollars.

There's another advantage to repeal of Glass-Steagall that only recently has been discussed. The New York State Bankers Association asked the department of economics at Hunter College, along with the City University of New York, to examine the effects of Glass-Steagall repeal on employment. The study's authors concluded that resulting lower underwriting costs will stimulate U.S. investment and create as many as 30,000 additional jobs nationwide. The study also concluded that there would be other benefits, such as a shift of financing activities from foreign markets to U.S. markets, a slight improvement in U.S. competitiveness abroad, and a small but meaningful reduction in the Federal budget deficit. The study also concludes that riskiness for the basic banking industry will decrease through diversification and placement of risk with investors in the debt and equity markets.

One of Ronald Reagan's favorite stories is about a baseball manager who watched his young, hapless center fielder make a series of errors. Exasperated, the manager picked up a glove and told Eddie to sit on the bench and watch how it's done. On the next play, a ground ball to center field went skipping through the manager's legs. Seconds later, he fell down going after a line drive. Then a fly ball came down on his head.

The manager came in off the field and yelled, "Eddie. You've screwed up center field so badly, no one can play it any more!"

Well, let's hope that the investment bankers haven't done the same to the securities markets. We're ready to enter the business, and some of us are already in it around the margins. There are nearly 4,000 trust departments operating today in commercial banks. Together they manage over $1 trillion in assets. An independent research study (by CDA Investment Technologies, Inc.) confirms that for the fourth year in a row, bank money managers perform as well as or better than investment advisors, mutual funds and the insurance companies.

So the investment performance quality is there. And now every one of us should be explaining to our customers, local opinion leaders, and our elected representatives in Congress that repeal of Glass-Steagall will bring substantial benefits to corporations, municipalities and individual consumers—and the sooner the better!

Additional powers (especially securities powers) will provide all of us the flexibility we need to adjust our various activities to the demands of our particular base of customers and our marketplace. Just as volatile markets have created many changes, we must be prepared to adapt to such market changes.

The growing volatility and deregulation of markets, makes management of risks vitally important. The experience of banks in managing risks certainly places them in a position to handle the risks of expanded powers in an efficient and productive manner.

The investment banking industry has been going through a great deal of turmoil since October 19, occasioned in part by the difficulty of adjusting to reductions in their huge compensation programs and inability to adjust to the changing volatile markets. Bankers are accustomed to *adversity*. We would lend stability and credibility to the investment business.

Earlier I mentioned that we're witnessing what perhaps could be called a financial services perestroika. I'm reminded, however, of what is reported to have been heard on the streets of Moscow in recent months. To the question—"What comes after Perestroika?" people are saying "*perestrelka.*" Translated loosely, that means "shoot-out." If you doubt that that can happen in Russia, I suggest you look at what has happened in recent weeks in Soviet Armenia and Azerbaijan. (Ah-zer-by-john)

And if you doubt that a shoot-out can happen in the financial services arena, I suggest you look at the tremendous grassroots outpouring of bank support for ending the Congressional moratorium—and think of the potential for a shoot-out should Congress fail to complete the reform process.

It's one thing to be poised for repeal of Glass-Steagall. I sense that most of you are. It is yet another thing to take an active role in its repeal. On that score, I hope we have all of you with us, because again, the Congress is not going to act without our constant urging. Your trade associations are doing all they can, but they need to hear from every one of you. Or more precisely, your two U.S. Senators and U.S. Representatives need to hear from you.

As citizens, you have a right to ask your Congressional representatives to vote your way on the issues. As a banker, you have a responsibility to do that. I hope when you are called on to lend a hand in the effort, you will be glad to participate. We'll need every one of you.

I would like to add a final comment which is very pertinent, by paraphrasing a section of the Chairman's report to the shareholders in the First Security Corporation 1987 Annual Report. I quote:

"The American banking system has reached a crossroads as to whether we will be allowed to compete in the marketplace in providing financial services or will be relegated to further loss of market share and a declining role as the backbone of the U.S. economy.

Recent developments have substantially eroded the ability of the present banking structure to sustain fair competition. Thus, the requirement to modernize our federal banking laws is critical. The time is right and the need is great! Such modernization would be pro-competitive and pro-consumer. It would strengthen the safety and soundness of the financial system and be good long-term public policy. First Security's level of frustration with present banking regulations is epitomized in the following quote, which has lately become our battle cry:

"No First Security Bank customers
should be forced to walk across the street
to get a financially-related product
from a non-banking competitor
because of an outdated law
passed more than a half century ago."

RONALD F. CLARK: 1988 "GOOD SCOUT" AWARD

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. DIXON. Mr. Speaker, I am very pleased to recognize my close friend, Ronald F. Clark, who is being honored June 24, 1988, as the "Good Scout" for 1988 by the Pathfinders District of Los Angeles.

Ron has been a longtime supporter of the Pathfinders District of the Los Angeles Area Boy Scouts. The Pathfinders include most of the black and Hispanic communities of south-central Los Angeles and provide needed alternatives for our young people.

Ron is being recognized, not only for his contributions to Scouting, but because he is an outstanding role model for our youth. Ron is the owner of Printco, probably the most successful black-owned printing establishment in the United States. Through dedicated hard work Ron has achieved great personal and professional success. Printco was the first black printing establishment to be issued a union label in Los Angeles, and Ron assists charitable and civic organizations throughout Los Angeles.

Ron has contributed a great deal to our community, and he is respected and admired by everyone as a warm and caring individual, who is deeply concerned about young people.

It is a pleasure to join the Scouts, scoutmasters, parents, staff, and supporters of the Pathfinders District in honoring a great man, Ronald F. Clark, with the "Good Scout" Award for 1988.

NEW SOUTH CAROLINA PAPER MILL

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. TALLON. Mr. Speaker, it is with great pride and appreciation that I rise today to recognize the officials of Willamette Industries for their decision to build a $325 million paper mill, using state-of-the-art technology, in Marlboro County, SC. As one of the largest capital investments by an industry in South Carolina during the past decade, Willamette's decision is a fine example of just what can happen when government and business roll up their sleeves and work together.

According to Willamette officials, the Pee Dee River site represents the proper blend of forest resources for raw material, water supply, air availability, and the right community support. That Marlboro met this criteria should not have come as a surprise to anyone. The quality of Marlboro's natural and community resources are no secret. Of particular importance have been the leadership and diligence of the Marlboro County Council, the Marlboro County Development Board, Marlboro County legislative delegation, the South Carolina State Development Board, and South Carolina's Governor Carroll Campbell.

Of course, all of us in the Pee Dee owe a great debt of thanks to Mr. William Swindells, Jr., chairman, president and chief executive officer of Williamette Industries. We look forward to a long and productive working relationship with Mr. Swindells and Willamette.

A vertically integrated company from the forest to the finished paper product, Willamette Industries anticipates a bright future in South Carolina. When Willamette breaks ground this week, it will launch a massive building project that will peak in 1990 with some 1,000 construction workers and 600 temporary jobs. In 1990, when the fine paper machine starts producing, the mill at historic Welsh Neck section of Marlboro County will have over 200 permanent employees.

In addition to its direct economic impact, Willamette will also open new economic doors for our railroads and pulpwood producers. Vast tonnage of hardwood and pine chips will be purchased annually for the Marlboro Mill, which also will consume huge quantities of electricity and natural gas. Some 50,000 semi-truck loads of pulpwood will enter the Marlboro Mill each year, and rail traffic to and from the paper mill near the Pee Dee River will average between 4,000 and 5,000 cars.

The Marlboro Mill will be significant in the paper industry as not many "from the ground up" paper mills are being constructed in America. I see this as a characteristic decision from a company with a record of ingenuity and success. Willamette Industries was founded in 1906 as the Willamette Valley Lumber Co. in Dallas, OR. Now Willamette Industries is a Fortune 500 forest products company with locations across the Nation and a strong earnings record. Its strengths are vertical integration, concentration on a focused, related product range, low-cost fiber and energy efficient facilities, and an organizational structure with a minimum of corporate staff that encourage individual initiative.

Mr. Speaker, Marlboro County is cashing in on cooperation. The partnership between the Willamette Corp., and Bennettsville, Marlboro County and State officials represents a victory for the people of Marlboro and South Carolina. Again, on behalf of all of our citizens, I would like to thank the Marlboro Economic Development Commission and the many individuals who worked unselfishly and tirelessly to demonstrate to Willamette our receptiveness to having new people with new ideas join us in our efforts to make Marlboro County and the Pee Dee an even greater place to live.

DESIGNATING LEYTE LANDING DAY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. PANETTA. Mr. Speaker, I rise today to introduce a joint resolution to designate October 20, 1988 as "Leyte Landing Day." This will mark the 44th anniversary of the allied forces' return to Leyte in the Philippines to fulfill a national promise and liberate the Philippine people from Japan. Gen. Douglas MacArthur led 420 transports carrying 165,000 men of the U.S. 6th Army and 157 warships manned by 50,000 sailors who fought at Red Beach and represented the largest operation yet conducted in the Pacific war. Through the combined efforts of the Philippine Scouts and the allies the Japanese forces were defeated and the direction of World War II changed.

The events which occurred at Leyte between 1944–45 have not received much deserved recognition. The Leyte landing was as important in the events of World War II as were the events at Normandy on D-day, but I am sure you will agree the recognition of these two events has not been comparable. The Philippine Scouts fought bravely alongside the U.S. Army to defend the vital military and strategic American bases in the Pacific.

In the past the Leyte landing has been commemorated by ceremonies in various parts of the country including California. However, I believe it is time for national recognition of this important event in U.S. history. The dedication and sacrifice endured by these men during World War II should not be forgotten. I urge my colleagues to support this legislation to designate a day for national observance of the return of Leyte.

The following is the text of the resolution:

H.J. Res. 594

Whereas October 20, 1988, marks the 44th anniversary of the landing of allied forces on Leyte Island in the Philippines;

Whereas the allies' courageous return to the Philippines fulfilled a solemn national promise to liberate the Philippine people from the Japanese empire;

Whereas the 420 transports, carrying 165,000 men of the United States Sixth Army, and the 157 warships, manned by 50,000 sailors, which fought at Red Beach represented the largest operation yet conducted in the Pacific War; and

Whereas the combined efforts of Philippine Scouts and allied forces resulted in the eventual defeat of the Japanese forces and changed the direction of the war in the Pacific: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 20, 1988, is designated as "Leyte Landing Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

MORE THAN COVERT CAN ENDURE?

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. HYDE. Mr. Speaker, featured in the commentary section of today's editions of the Washington Times is a discussion of the impact that the 48-hour notification bill will have on the effectiveness of some of the more sensitive covert operations of this Government. On this, the eve of an important committee vote on the legislation, I commend the following essay to my colleagues for their serious consideration:

[From the Washington Times, June 21, 1988]

MORE THAN COVERT CAN ENDURE?—HOW 48-HOUR RULE WOULD IMPAIR THE UNITED STATES

The House of Representatives soon will consider whether to follow the Senate's questionable "lead" in decreeing that, without exception, Congress' intelligence committees or top leadership must be informed of every covert action within 48 hours of presidential approval.

As hearings have shown, many present and former policy officials, persons of widely varying political affiliations, strongly reject such inflexibility and congressional micromanagement of foreign policy. They cite the need to protect at least temporarily a very few of the most sensitive operations from security leaks, as well as the dubious constitutionality of the proposal.

So corrosive has the permissive culture of "leaking" become that it materially contributed to the disastrous Iran escapade. Adm. John Poindexter testified that in addition to keeping even the congressional leadership in the dark for more than a year, he also deliberately minimized information given to top Cabinet and White House officials, and kept few documents or records of key meetings.

This is corroborated in the just-published memoirs of Don Regan, then White House chief of staff, who writes that unauthorized disclosures "had achieved such epidemic proportions that the inner circle was afraid to take notes lest they read them the next day in the newspapers." Mr. Regan concludes that "in fact, the root of the scandal may well lie in the fact that McFarlane and Poindexter and their assistants were, in a sense, driven mad by leaks."

The result was prolonged pursuit of an ill-considered and politically dangerous policy which suffered grievously from lack of full consideration and thorough periodic review. The paucity of records also contributed to later confusion and charges of a deliberate cover-up.

Some airily dismiss these security concerns as figments of Adm. Poindexter's paranoia. But every recent administration has quickly become appalled by the pervasiveness of leaks harmful to U.S. foreign policy and intelligence capabilities.

Moreover, despite the admiral's extreme precautions, the Iran operation indeed was soon exposed, originally in some Jack Anderson columns. It finally unraveled because of a leak which, for a change, occurred in a foreign newspaper.

With increasing frequency, highranking intelligence officials testify before the House Intelligence Committee decrying the human, intelligence and policy damage inflicted by injurious leaks. Lately, some have even gone public in a campaign to point out the harmfulness of an avalanche of unauthorized disclosures.

In this effort, they are hampered by an inability to cite examples, for to do so would confirm the authenticity of published material and heighten the damage. A cursory glance at the daily headlines, however, should convince the average citizen that sensitive, intelligence-related issues have become regular media fare. One begins to suspect that the best way to publicize an issue is to stamp it "Top Secret" and wait for its predictable appearance in the media.

Nonetheless, members continue to press the 48-hour legislation, a key assumption being that Congress can indeed be trusted *in every instance no matter what the risk.*

Let us be clear about the facts here. Whatever its reservations about congressional reliability, each administration normally has swallowed its concerns and freely provided the legislature a wealth of classified information. The intelligence committees have controlled the oversight process for more than a decade now.

As CIA Deputy Director Bob Gates recently observed, the availability of classified information to the intelligence committees in particular, and to a lesser extent to Congress in general, has increased exponentially over these years, a factor which allows them considerably greater ability to probe and question administration foreign policy than Congress ever had before.

Prior to the Iran-Contra initiatives, there had been only two cases in which House and Senate leadership, rather than both full committees, were initially informed of a covert action.

There have been only four cases in which notification to Congress was delayed. Three occurred during the Carter administration. All involved attempts to retrieve U.S. citizens hiding in Iran or held hostage in Iran or Lebanon. In each of these cases, the administration feared deaths could result from media leaks, and knowledge of the operations was also highly restricted within the executive branch.

In three of those instances, although notification was delayed three to six months, the Congress heartily supported the administration.

In all four cases, the administration intended to notify the Congress eventually and was legally required to do so, but it could not be determined from the outset how long notification might be delayed. Thus, only one case—the Iran-Contra affair—has raised serious concerns about notification.

It is a precedent that is most unlikely to be repeated. Given heightened congressional sensitivities and the personal and political pain caused by the Iran-Contra investigation (exemplified by the attempted suicide of one policy-maker, financial burdens for them all, the destruction of reputations, and, in effect, the crippling of the Reagan administration during its final two years), it is beyond imagination that any future administration again will temporarily withold notification on an issue of similar potential controversy.

Moreover, as the bipartisan Tower Commission report noted, the Iran debacle occurred largely because existing procedures for handling covert action were ignored, not because new procedures were needed. The administration also has instituted additional precautions, such as an automatic review every 10 days if the president determines that notification to Congress must be delayed.

Congress will suffer a Pyrrhic victory if it wins on this issue. The Democratic majority will find succeeding presidents hamstrung in grappling with future hostage cases. Does anyone predict an end to hostage taking? And if, in one of those instances, word of covert initiatives leaks out prematurely, possibly triggering the death of a hostage or agent, it is Congress that will fall under a dark cloud of suspicion. At that point, the diminishing mutual trust essential to effective oversight will suffer yet another grievous blow.

UNITED STATES-JAPAN TRADE ACCORD

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. IRELAND. Mr. Speaker, the United States and Japan, after many months of negotiations, have concluded an agreement which will increase our citrus, as well as beef, exports to Japan. I want to commend Ambassador Clayton Yeutter for the fine work he and his entire staff did to bring this agreement to fruition.

Initially, the United States position was for total liberalization of the Japanese quota system as it pertained to citrus and beef exports. Four years ago, at the conclusion of the existing agreement (1984–88), the Japanese conceded that their quota system is illegal and that the Government of Japan would do away with it in 1988. Once again the Japanese Government failed to live up to one of its international obligations and refused to drop its quota system.

I, along with other Members of the Florida delegation and the Florida citrus industry, filed what is known as a 301 investigation with the United States Government which immediately initiated an investigation into the unfair trading practices utilized by the Government of Japan. In addition, our Government filed a formal complaint with the GATT [General Agreement on Tariffs and Trade] organization that the Government of Japan had failed to live up to its obligations and was in violation of the international treaties to which it had agreed. Fortunately, we did not have to pursue the 301 case or the GATT complaint further, but have been able to settle this dispute between our two countries.

While the new agreement is short of the immediate liberalization that we had been seeking, I welcomed our Trade Representative's announcement as good news for Florida citrus producers. My district, Florida's 10th, includes Manatee, Polk, Hardee, DeSoto, and part of Osceola Counties and is the largest citrus producing region in the Nation. Prior to my election to Congress in 1976, I was in the banking business in Florida, during which time I helped to finance many of those involved in the growth and development of the citrus industry. As a result, I have come to know the industry quite well not only from a financial perspective, but from the marketing and trade aspects as well.

I know only too well what an arduous road we have traveled when talking trade with the Japanese. Since my first term in Congress, I have worked without trade negotiators pressing them to support total liberalization of the citrus trade between the two countries. Citrus and beef quickly became, for the American people, major symbols—benchmark indicators of the willingness of the Japanese Government to commit itself to the principles of free and fair trade between friends.

At the end of the previous agreement which expired in April 1988, Japan imported 8,500 tons of frozen concentrated orange juice, and 126,000 metric tons of oranges. Under the terms of the new agreement, during the 1988–90 period market access for fresh oranges will be expanded by 22,000 metric tons yearly, reaching 192,000 metric tons in 1990. In addition, as of April 1, 1991, imports of fresh oranges will be permitted in unlimited quantities.

The potential for increased United States exports to the Japanese market is substantial. The export of frozen concentrated orange juice is particularly important for our Florida growers. As much as 60 to 80 million gallons a year could eventually be exported to the Japanese.

In addition to the quota increases and eventual liberalization, the Japanese agreed to a reduction in the current tariff on grapefruit. The current two-tiered tariff of 25 percent and 12 percent off season is being reduced to 15 and 10 percent respectively.

On the beef issue, Japan's market for imported beef will increase 60,000 metric tons per year, reaching 394,000 metric tons in 1990. By 1991, Japan's beef imports should nearly double from current levels.

While we did have to make concessions to reach this final agreement, I believe overall the result bode extremely well for our domestic citrus and beef industries. Both have gained access to a potentially tremendous market and I am positive that once the Japanese consumer has the opportunity to purchase these products at affordable prices, they will be extremely grateful for their Government's compromise on these issues.

GORBACHEV SHAKES HIS FIST AT PAKISTAN

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. WILSON. Mr. Speaker, I would like to bring to the attention of my colleagues an article which appeared in the Washington Times on Tuesday, June 14, entitled "Gorbachev Shakes His Fist at Pakistan." As many of you know, I have just returned from a week in Pakistan, during which time I spoke extensively with Government officials concerning the recent dissolution of the National Assembly as well as the war in Afghanistan.

I share my colleagues' concerns about the continued progress toward full democracy in Pakistan. During my discussions, I made those concerns clear to the officials of the Government of Pakistan. I fully believe that the Government will hold elections which will be free, fair and partybased.

With regard to Afghanistan, however, I would like to bring to my colleagues' attention the numerous threats which Pakistan has received from the Soviet Union due to its commitment to the Mujahidin. Pakistan continues to provide supplies to the Mujahidin in their continued struggle to expel the Soviet occupation army. For their continued support and principled stance on the Soviet occupation, Pakistan has received numerous threats from Soviet leader Gorbachev and other Soviet officials.

The article says that Gorbachev and his puppet leader in Kabul, Najib, warned of "resolute retaliatory steps" unless Pakistan halts aid to the Mujahidin. I do not think there is much doubt as to the meaning of this statement. The Soviets are threatening to increase their campaign of terror against Pakistan unless Pakistan abandons the Mujahidin. In the past, the Soviets have directly bombed Pakistan in cross-border raids and have conducted an extensive terrorist campaign inside Pakistan which resulted in thousands of civilian casualties.

Our present focus on democracy in Pakistan should not make us lose sight of the fact that Pakistan has played—and continues to play—a key role in support of United States national security interests as the conduit for support for the Mujahidin. The United States held firm in the Geneva agreement and refused to abandon its commitment to the Mujahidin. We should support our friend and ally at this time as Pakistan faces blatant Soviet threats for this very same commitment.

[From the Washington Times, June 14, 1988]

GORBACHEV SHAKES HIS FIST AT PAKISTAN

(By Richard Beeston)

Soviet leader Mikhail Gorbachev yesterday stepped up threats against Pakistan, warning of "resolute retaliatory steps" unless Pakistan halted aid to the Afghan resistance.

U.S. officials called the statement the strongest language so far used by the Kremlin against Pakistan in its efforts to protect the collapsing Afghan communist regime.

The threat was issued jointly by Mr. Gorbachev and Kabul's President Najibullah, who was in Moscow on his way home to Afghanistan from Cuba.

Their statement said that failure of the 50 United Nations monitors of the Geneva accords on Afghanistan to stop Pakistan's violation of the agreement "would make it necessary to take the most resolute retaliatory steps" against Pakistan.

U.S. officials said yesterday the Soviet leaders "clearly don't like what's happening" in Afghanistan as rebel forces take over from the withdrawing Soviet troops with little resistance from the Afghan army. The statement by Mr. Gorbachev may be an effort to try to reassure Najibullah, an official said.

Mr. Gorbachev might be showing his frustration, said one official. But he said there was no way 50 U.N. personnel, who were in Afghanistan and Pakistan to monitor Geneva accords, could stop the supply of arms to either side.

U.S. officials would not predict what form of retaliation was being threatened against Pakistan. But in the past the Soviet-backed Afghan air force has attacked Pakistani towns and villages, and the KGB-trained Afghan security service has been carrying out a widespread campaign of sabotage and terror inside Pakistan.

The Soviet troop pullout from Afghanistan has slowed down, but the goal of the withdrawal of half of the forces by mid-August is still "clearly achievable," the State Department said yesterday.

"They are committed to the withdrawal under the Geneva accords. Their problem is that the regime is falling apart faster than they expected," said an administration official.

U.S. officials, however, are showing no concern that Moscow might delay or halt its pullout over charges that the United States and Pakistan have violated the Geneva accords by continuing to supply the Afghan resistance with arms. "They have made the political decision," an official said. "The people in the Soviet Union expect it and want it. They have no other alternative."

Most of the new military supplies reaching the mujahideen resistance are not coming from weapons captured from Afghan government forces, claimed another U.S. official. "They thought they could pull out and leave government troops to hold the positions, but it is not working out that way. It is not as easy as they thought it would be."

Although Soviet warnings about the consequences of continued violations of the Geneva accords have recently become more frequent and strident, Moscow has stopped short of officially threatening to halt the withdrawal.

"We expected this maneuver of blaming the U.S. and Pakistan for the mess, but it remains in their best interests to withdraw," the official said. He estimated that only about 12,000 to 15,000 of the 120,000-man Soviet occupation force had left so far. But by stepping up the number over the next two months, the Soviets would still be able to meet their obligations to have the first half out by Aug. 15, he said.

U.S. officials contend that the collapse of government forces so early in the pullout is becoming an embarrassment for the Soviets.

Meanwhile, a senior Pakistani official said yesterday that Pakistan had told the mujahideen that attacking withdrawing Soviet forces was "a dumb thing to do."

Pakistan yesterday rejected charges that it had violated the Geneva accords. Soviet Foreign Minister Eduard Shevardnadze formally made the charges to the United Nations last week and the Soviet Union lodged a protest with the Pakistani ambassador to Moscow.

In an address to the U.N. General Assembly yesterday, Pakistani delegate Shah Nawaz said, "The world will not be surprised if a crumbling regime makes a desperate bid to retain the protective umbrella of foreign troops." But he predicted that the Soviet leadership would oppose reversing the process.

A U.S. official said that as long as the Soviet Union continued to provide military aid to the Kabul regime, the United States was not going to stop helping the resistance. The Soviet Union has spoken of leaving $1 billion in arms behind for the government forces.

MIAMI REPORT II: FOCUS ON LATIN AMERICA

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. FASCELL. Mr. Speaker, it sometimes may seem that the number of reports by "blue ribbon" committees and think tanks these days grows in proportion to the sales of word processors. The result is that even the boldest, most thoughtful and pragmatic recommendations on public policy issues of critical importance can be lost in the information din that surrounds us.

A new report on United States-Latin American relations stands above the crowd and deserves closer attention. To my mind, Miami

Report II: New Perspectives on Debt, Trade, and Investment—a Key to United States-Latin American Relations in the 1990's should be required reading for anyone concerned about the future of democracy in this hemisphere.

The report was prepared by a number of international minded residents of Miami, broadly representative of the city's business, financial, professional, and academic communities—people with hands-on experience in Latin America. In 1983, this group issued the first Miami report, listing specific policy recommendations for the U.S. Government. That report correctly predicted the continued growth of Latin American debt and inadequate economic performance to the detriment of the countries involved and to the United States. Miami Report II builds on the first report and focuses on economic matters, and related issues of drugs and immigration.

Miami Report II makes the valid point that the economic problems of Latin America need much greater and more sustained United States attention. Our preoccupation over Central America, however understandable, has overshadowed the consequences of the continued economic morass all over Latin America, which threaten hard-won democratic advances elsewhere. The muddling along case-by-case approach to the debt crisis will not work over the long haul.

Wisely, Miami Report II's recommendations for U.S. policies steer clear of expensive new aid programs and focus on investment, debt, and trade policies. Interesting suggestions for U.S. regulatory changes to enhance debt-equity swaps are made. The report empahasizes the critical importance of sound fiscal policies, in creditor as well as debtor nations.

Mr. Speaker, in addition to distributing copies of Miami Report II to our colleagues, I would like to call special attention here to the thoughtful recommendations made by the report, which are of special concern in this Presidential election year.

SUMMARY OF RECOMMENDATIONS

GENERAL

(a) U.S. citizens should demand a better definition from presidential and congressional candidates on their positions concerning North-South relations in the Western Hemisphere.

(b) The U.S. government, media, and private citizens should promote a better understanding in the United States of the inseparability of democracy, social justice and international economic cooperation in formulating a consistent United States policy toward the region.

(c) Congress should require the U.S. Treasury and Federal Reserve System to consider explicitly the impact on Latin American nations of fiscal and monetary policies that can have a profound effect through changes in real interest rates, in the dollar, and in commodity prices.

INVESTMENT

(a) The countries of Latin America and the United States should construct a legislative environment that will facilitate more extensive use of debt-to-equity and loan-to-bond conversions and other market mechanisms to convert debt into productive capital in Latin America.

(b) The U.S. Government and all its agencies shall strongly push for economic reform by Latin American governments to improve investment climates.

(c) Governments and private-sectors should stimulate country-specific capital funds, regional capital funds, privatizations of large state enterprises and other innovative and responsive means to gain access to world capital markets and repatriate flight capital.

(d) Latin American governments should use trade liberalization and regional integration plans to stimulate domestic and intra-regional investment.

(e) Congress should extend and revitalize the Caribbean Basin Initiative and make it more responsive to the needs of the region.

(f) The United States should fund additional capital for the Inter-American Development Bank and for the World Bank.

DEBT

(a) The U.S. Government should reduce interest rates on lending by private international banks in the United States through appropriate fiscal and monetary policies.

(b) Banks should encourage securitization of some debt.

(c) The U.S. Government should consider modifying Regulation K to allow U.S. banks greater involvement in trade, relaxing rules as to stock ownership and debt-equity conversions.

(d) Commercial banks should continue the processes of discounting debt in secondary markets and of partial writeoffs.

(e) Banks should reduce spreads and various costs of debt service.

(f) The U.S. Government should cut the interest rates on its existing development loans.

(g) The United States should encourage loans-to-bonds swaps with backing from an international agency, as proposed in the Omnibus Trade and Competitiveness Act of 1988.

TRADE

(a) U.S. citizens should question the need for protectionist measures at every stage; they should encourage the next Administration to continue the policy of resistance to protectionism.

(b) USAID and private banks should design programs jointly to improve and encourage management and technology development in Latin American companies, with the aim of enhancing productivity and levels of trade.

(c) Congress should re-allocate East Asian textile quotas from countries with trade surpluses with the United States to Caribbean Basin countries in the CBI.

(d) The U.S. Special Trade Representative should negotiate aggressively to solve problems with intellectual property issues.

(e) The Executive Branch should improve the regulatory climate to make the CBI more attractive as a vehicle to stimulate trade.

(f) The U.S. Government should improve level of staffing of federal agencies related to Latin America.

(g) The U.S. Government should increase CBI countries' sugar quota to the region's existing capacity and phase out subsidies to U.S. sugar production.

(h) The U.S. Government, other governments, and private sectors should encourage Latin American countries to abandon certain trade-discouraging practices.

SPECIAL CONCERNS

Immigration

1. The next Administration should define and develop a coherent policy toward political refugees and seekers of political asylum. This policy should be consistent with international legal principles.

2. The Congress should consider a special additional immigration quota for the Caribbean islands, to promote a more orderly immigration pattern.

Drug trafficking

1. The United States and Latin America must regard drug trafficking as a mutual problem requiring common solutions. Recriminations against "the suppliers" or "the market" from one side or another are not conducive to solutions.

2. A full study must be made of the impact of drug trafficking on Latin American countries themselves; assistance must be forthcoming from the United States consistent with their own efforts.

3. Vastly more resources must be dedicated to dealing with the demand side, i.e., in the United States in programs of education and publicity aimed at curbing drug use.

International education

1. State legislatures and school districts must draft and implement legislation and provide appropriate levels of funding to implement measures designed to promote language teaching and the internationalization of curricula, beginning at the primary level. A special focus on studies of Latin America should be an initial goal.

2. Congress must strongly support funding of the USAID and USIA scholarship programs designed to bring Caribbean Basin students to the United States.

3. Congress should pass the Inter-American scholarship Partnership Act, which would provide federal matching funds to states which offer scholarships to needy students from CBI countries.

DEATH OF A FRIEND

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. DYSON. Mr. Speaker, I rise with deep sadness to pay my respects to my good friend Frank Drozak, who passed away June 11 at the age of 60. Mr. Drozak was the president of the Seafarers International Union of North America and was also president of the AFL–CIO's maritime trades department. He will be sorely missed.

I knew Frank Drozak for almost 20 years in a professional capacity. He always took the time to help me understand complex marine issues and proved himself to be an experienced speaker. Through his interest in maritime affairs, he became very involved in these areas and contributed much to the Seafarers International Union. He also was a member of the AFL–CIO executive council and had chaired the general president's offshore committee. Mr. Drozak had served on the International Labor Organization's joint maritime commission and had been a member of the national board of the A. Phillip Randolph Institute, besides heading several organizations which were affiliated with the Seafarers.

Frank Drozak's impressive history with maritime affairs also include his involvement in the Congressional Maritime Caucus as a labor advisor and in the Public Advisory Committee on the Law of the Sea as the subcommittee chairman. He was a member of the board of governors of the National Maritime Council and had been an adviser to the office of the U.S. trade representative. He also had been honorary chairman of the American Trade Union Council for Histadrut and was a member of the Navy League. I commend Frank on his extensive involvement and dedication in these important areas.

Frank's contribution toward marine affairs began at the age of 16 in Coy, AL when he took a job in a shipyard in Mobile, AL and later served with the Merchant Marine during World War II. Since 1944, he had been active in the Seafarer's Union, first as an agent in Philadelphia in 1964, then as the international vice president in San Francisco in 1965. He moved to the old SIU headquarters in Brooklyn, NY in 1972 as the union's executive vice president. He held that post until succeding the late Paul Hall as international president.

Frank Drozac was a wonderful man with many admirable qualities and we will miss him greatly. His contributions to maritime affairs have been invaluable and we will miss his presence in this department.

THE VIETNAM WOMEN'S MEMORIAL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. LANTOS. Mr. Speaker, today the distinguished chair of the Subcommittee on Libraries and Memorials, the gentlewoman from Ohio [Ms. OAKAR], presided at hearings to consider H.R. 3628, authorizing the Vietnam Women's Memorial Project to establish a commemorative statue to honor women of the U.S. Armed Forces who served in the Vietnam War, and House Joint Resolution 502, authorizing the Vietnam Women's Memorial Project to establish a memorial on Federal land in the District of Columbia to honor women who served in the U.S. Armed Forces during the Vietnam era.

I placed a statement in the record of that hearing expressing my strong and enthusiastic endorsement of that legislation and urging the support of our colleagues in the House. Mr. Speaker, I insert my statement on that legislation in the Congressional Record:

STATEMENT OF HON. TOM LANTOS, MEMBER OF CONGRESS FROM CALIFORNIA, BEFORE THE SUBCOMMITTEE ON LIBRARIES AND MEMORIALS, JUNE 21, 1988

Madam Chair, I am most grateful for this opportunity to present my views on H.R. 3628, authorizing the Vietnam Women's Memorial Project to establish a commemorative statue to honor women of the U.S. Armed Forces who served in the Vietnam war, and House Joint Resolution 502, authorizing the Vietnam Women's Memorial Project to establish a memorial on Federal land in the District of Columbia to honor women who served in the U.S. Armed Forces during the Vietnam era.

Madam Chair, I commend you and the members of your subcommittee for holding this important hearing on these two bills. There is a clear need for recognition of the critical role women played during the Vietnam conflict. Despite the attention that has been given to the Vietnam war, the role of women in that conflict has largely been ignored. In fact, as you know, Madam Chair, there are no monuments recognizing the contributions women have made to any American war. It is time for us to change that.

Over 250,000 women served in some capacity in the Vietnam war—10,000 of those in Vietnam itself. But their contribution cannot be measured by numbers alone. The women who served in Vietnam were primarily nurses; however, they were much more than that. In addition to providing the necessary physical care to the wounded—which was a difficult and in some cases a dangerous task—they also provided psychological and moral support in this difficult war. As one woman veteran recently noted, the women were the "sympathetic sister, surrogate mother, and girl-next-door" to the soldiers, who were so young and so far from home.

Madam Chair, it is most appropriate and fitting that the heroism of these many fine women be recognized, as these two bills propose to do. The Vietnam Women's Memorial Project was established in 1984 to accomplish this. The adoption of the legislation which your subcommittee is considering today is the next essential step in the important process of granting this long-overdue honor.

I fully support these bills and urge my colleagues on this committee to consider them favorably so they can be acted upon quickly by the House. Last week, the Senate overwhelmingly supported similar legislation.

A memorial to the women who served in Vietnam will add an important dimension, to complete and enrich the moving Vietnam Memorial. This memorial, a place for reflection and reconciliation, will be enhanced by recognizing the important role women played in the Vietnam conflict. I urge this subcommittee and our distinguished colleagues in the House to support passage of these bills to establish this long-overdue monument.

LONG-TERM HEALTH CARE: THE MOST SERIOUS HEALTH ISSUE

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. ANDREWS. Mr. Speaker, a serious question that everyone must face is what we would do if we lost the ability to take care of ourselves and our loved ones. Many of us know of people who used everything they own to pay for an illness or disability that left them bedridden for years on end. In fact, long-term care pushes 1 million American families into bankruptcy each year. Long-term care is the most serious issue facing Congress.

The problem will not solve itself—it will only get worse. Over the next 40 years, our population over 65 will double, and the number of elders over 85 will triple. Today, 6.3 million elderly are disabled. By the year 2030, the number of disabled elderly will likely exceed 15 million. That is a 140-percent increase.

Our current long-term care programs were not designed to handle this problem. The largest Federal program for long-term care, Medicaid, requires the participants to use most of their savings before they receive assistance. In many States, including Texas, the disabled must use all but $1,900 of their savings before Medicaid pays for nursing home care. The result of this policy is that about 90 percent of single elderly people become impoverished within a year after they enter a nursing home, which cost an average of $22,000 per year.

The Catastrophic Illness Protection Act recently passed by Congress will help, but it does not solve the problem. It will expand Medicare coverage of nursing home care from 100 days to 150 days per year. It also allows couples with one spouse in a nursing home to keep more in income and more in assets while they are disqualified from Medicaid. But the main purposes of this legislation is to protect those with high medical bills above what Medicare currently covers.

Congressman CLAUDE PEPPER, a highly respected spokesperson for the elderly, has taught us the elderly do not want to become a burden to their families. I commend his efforts on behalf of the elderly. He knows the high value that Americans place on the dignity of living independently for as long as we are able. We cannot underestimate the importance of remaining at home for the emotional health of the ill and disabled.

A home health care program offered by Mr. PEPPER was recently acted on by the House of Representatives. A motion to consider the bill was defeated by a vote of 243 to 169 in part because it had not been reviewed by the appropriate committees. The vote does not reflect a decision to ignore the problems of the elderly.

Both home health care and nursing home care are part of the long-term health issue. But this bill did not cover nursing home care. It would not have halted the financial ruin of American families that have to pay for nursing care. Although it was not considered by the House, it served the need to raise the issue.

Congress should adopt legislation to provide a comprehensive solution. It should be a top priority for the 101st Congress. The new legislation should be based on four principles:

First, long-term care should not cause bankruptcy. Recent surveys show that over 80 percent of all Americans support legislation on long-term care. some form of insurance should be available to protect everyone from this financial risk.

Second, home health care should be available as an alternative to nursing home care. A seriously disabled person should not be forced to leave home until they choose to or they are forced by medical reasons. The home care industry has been growing to meet this demand. Home health care agencies now provide more intensive medical and nursing services than do nursing homes. But nursing home care should also be readily available when it is needed.

Third, the response to this problem should come from both the public and the private sectors. Neither the health insurance industry nor the Federal Government has the resources to tackle the issue on their own. The need to reduce the Federal deficit reduces the ability of the Government to create new entitlement programs. At the same time, private health insurance for long-term care has not been forthcoming. It paid for only 2 percent of the non-Government spending for nursing homes. A public-private partnership is clearly needed to overcome these obstacles.

Fourth, the cost of this program should not be borne entirely by the elderly. Illnesses requiring long-term care disable the young and old alike. The most difficult aspect of long-term health care debate is how to finance the program. Whatever solution is found must ensure that the program does not increase the Federal deficit and that it is fair.

Long-term health care legislation should be the result of the unique blend of policy and politics that we have in America. It is legislation that the people of this country clearly want. It is legislation that should be the result of the best minds in the country, hearings, studies, and discussions.

Long-term health legislation will help all of us. Disability or chronic illness can strike anyone. But very few of us could save enough to pay for the necessary care. Long-term health care legislation can help ease this burden for those of us who have a disability or a chronic illness that requires long-term care and for those of us who will need long-term care in the future.

JOHN DUNCAN, WE MISS YOU

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. QUILLEN. Mr. Speaker, my friend, JOHN DUNCAN, announced May 27 that he will not seek a 13th term in the House because of ill health. Shortly after this unhappy announcement, his son, Knox County Criminal Court Judge "Jimmy" Duncan, Jr., filed his candidacy papers for the Republican Party nomination for the U.S. Congress to succeed his father as Tennessee's Second Congressional District Representative in Congress. As an old friend of JOHN, his lovely wife, Lois, and their wonderful family, I wish to express a few thoughts on these unexpected events.

The first is that JOHN DUNCAN is my close, personal friend, and he is a fighter. He continues to fight to regain his health so he can return to Washington to be with us for the remainder of his term, and I hope his colleagues here in the House will remember him in their thoughts and prayers.

It has been my privilege to know JOHN DUNCAN for many, many years, and we have served together here in the House for 24 years representing adjoining districts in east Tennessee. His record of accomplishment and service to his constituents is legendary throughout the Second Congressional District. No constituent's problem was ever too small or unimportant for him to take up and turn around for the benefit of the person who asked him for help. Most of his colleagues here associate him with his diligent and effective work over a great many years as a member of the House Committee on Ways and Means, where he has served as ranking Republican Member since 1985. Over the years, I have gone to JOHN for advice and assistance and he has never failed to come through with sound advice and effective assistance. This is so because of his sound and steady judgment, abundant common sense, and practicality as well as his great heart and willingness to help.

So, with his retirement announcement after 24 years of outstanding service in the House, he has left big shoes to fill. For my money, or you might say, my 2 cents' worth, there is only one person big enough to fill those big shoes—his son, John "Jimmy" Duncan, Jr.

I have absolutely the highest regard and affection for Jimmy Duncan, whom I have known since he was a boy. His father is justifiably proud of him and the trail he has blazed in life. After a solid academic and practical training in law, Jimmy Duncan has served as a Knox County Criminal Court Judge since 1981. He has built a fine reputation for firmness, fairness, and compassion on the bench in administering justice to those brought before his court. He is a strong Republican Party man who knows the Second Congressional District and its people as few do, and he is an energetic and effective worker who will represent them well in the Congress.

JOHN DUNCAN's shoes are truly big ones to fill, but I am convinced Jimmy Duncan is the man who can do so. Because of this, I am proud to support him with great enthusiasm in his campaign for election to the 101st Congress.

At the same time, I salute Tennessee's Second District Congressman, my friend, JOHN DUNCAN, and wish him well in his fight against cancer. I know our colleagues in the House join me in saying to JOHN that we are thinking of you and you are in our prayers. We miss you, and we hope to see you back on the House floor soon. We need your leadership.

And to Jimmy Duncan, my best wishes as you begin to take up the challenges of campaigning for a seat in the Congress where your father serves with great distinction and the respect and affection of those who know him.

IN PROTEST OF THE EXTRADITION OF JOSEPH PATRICK DOHERTY

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. HOCHBRUECKNER. Mr. Speaker, I rise to protest the decision of Attorney General Edwin Meese to extradite political prisoner Joseph Patrick Doherty to the United Kingdom. Mr. Doherty, who was convicted in 1981 of killing a British Army captain in Belfast, escaped from a Northern Ireland prison and fled to the United States. The British Government immediately initiated extradition proceedings following his June 18, 1983, arrest in the United States.

In 1984, the United States District Court for the Southern District of New York after a full hearing denied the British request to extradite Mr. Doherty to Northern Ireland. The court found that his offenses were political not civil. In 1986, after judicial review, an order to deport Mr. Doherty to the Republic of Ireland was issued. This decision by the Board of Immigration Appeals was to end 4 years of litigation during which Mr. Doherty remained incarcerated in the United States without being charged of a crime in this country.

Archbishop Cardinal John O'Connor of the Archdiocese of New York, Bishop John McGann of the Diocese of Rockville Centre, as well as several Irish-American organizations have protested this situation. Members of the ad hoc congressional Committee for Irish Affairs, of which I am a member, sent a telegram to Attorney General Meese on July 14, 1987, urging him to uphold the decisions of both Immigration Judge Howard I. Cohen and the Board of Immigration Appeals which called for the deportation of Mr. Doherty to the Republic of Ireland.

On June 14, 1988, shortly before the fifth anniversary of Mr. Doherty's incarceration in the United States, Attorney General Meese overruled the decisions of these courts and ordered the extradition of Mr. Doherty to the United Kingdom. On June 16, I joined with a bipartisan group of 14 members of the Committee for Irish Affairs in issuing a statement strongly criticizing Attorney General Meese's decision. We declared, "The Attorney General's decision did not address issues of law—instead it was purely a political decision aimed at not jeopardizing relations with Great Britain over the problems in Northern Ireland." We concluded that Attorney General Meese "ignored the rulings of Federal judges which established that his crimes were political and which would bar extradition." Joe Doherty has become, thanks to Mr. Meese, a "political sacrificial lamb with no regard to any rights he might have under the law."

Mr. Speaker, I strongly protest the decision of Attorney General Meese to extradite Mr. Doherty to Great Britain and I urge him to reconsider this decision. The extradition of Mr. Doherty absolutely disregards the rulings of two U.S. courts and it forces our legal system to become entangled in diplomatic concerns. According to the U.S. Constitution, the executive and judicial branches of our Government are designed to operate separately and fairly. By protesting the Attorney General's decision, this separation can be upheld, and fair treatment can be ensured for every individual under the law of the United States.

INTRODUCTION OF LEGISLATION TO PROVIDE EQUITY FOR RAILROAD RETIREES

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. WILLIAMS. Mr. Speaker, today I am introducing two separate bills which will help provide equity for railroad retirees and other retirees so they are on a par with Social Security beneficiaries.

The first bill—the Railroad Retirement Medicare Equity Act of 1988, will amend title XVIII of the Social Security Act to provide the same limitation on increases in deductions for Medicare part B premiums from railroad retirement annuities as currently applies to Social Security. What this means is that any increase in part B premiums for Medicare cannot exceed the amount of the cost-of-living increase in the annuity. Legislation has already been enacted providing this consideration for Social Security recipients—this bill would provide equity for railroad retirees.

The second bill—the Retirement Payment Delivery Assurance Act of 1988, would provide for the timely delivery of certain Federal pension checks when the day normally scheduled for delivery falls on a weekend of a legal public holiday. In 1977, Congress authorized early delivery of Social Security and Veterans' Administration checks in these instances. This bill provides for the same timely delivery for railroad retirees, civil service retirees, military retirees, black lung beneficiaries, Foreign Service retirees, and Central Intelligence Agency retirees.

The Post Office receives Federal benefit checks for delivery on a specified date, usually the first or the third of the month. Because of the 1977 legislation, Social Security and veterans beneficiaries now avoid potential hardships of up to 3-day delays caused by Monday holidays. Unfortunately, the same provision does not apply to other retirees—numbering nearly 5 million. This legislation corrects this inequity.

I urge my colleagues to join me in supporting these two bills which will provide some important relief for our retirees.

A TRIBUTE TO CHARLES NEIL HAVENS

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. GALLEGLY. Mr. Speaker, I rise today to honor Charles Neil Havens of Simi Valley, CA, as he retires after 30 years of service in the U.S. Postal Service. Adding to the significance, Neil's retirement brings to a close 76 years of mail service by the Havens family.

When Neil's grandfather, Charles A. Havens, became the first carrier to deliver mail in the then-tiny hamlet of Simi, he served 45 patrons on an 11-mile rural route for the grand sum of $48.50 a month.

A year later, in 1913, his eldest son, Lester, took over the route and carried the mail until he enlisted in the Army in 1917. Lester's brother, Charles R. Havens, then was appointed to replace him, but he, too, soon went into the Army. Their father again carried the mail while his sons were away.

Lester did not return from the war, and "Charlie" became the permanent rural carrier, a post he filled until 1953, when he became postmaster. At that time, just 35 years ago, he was still serving the one and only rural route, though it had grown to 67 miles.

Today, in comparison, there are about 170 postal employees and some 60 routes to serve a city that now numbers close to 100,000 people.

When Charles Havens retired, Neil chose to continue the family tradition, and was appointed, by competitive examination, as postmaster in July 1958, and he served the Postal Service well as the community continued to grow.

Mr. Speaker, I ask that my colleagues join me in wishing Neil Havens many more years of good health and great success.

RAYMOND McCLELLAN OF TUCSON, AZ, CELEBRATES 100TH BIRTHDAY

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. KOLBE. Mr. Speaker, I rise today to recognize and congratulate a remarkable individual from Tucson, AZ. Raymond McClellan recently passed a great milestone in life—the celebration of his 100th birthday.

Mr. McClellan was born in Greene County, PA. He moved to Grand Rapids, MI, to start his own printing business. There, he and his wife, Nellie, raised their two sons, retiring to Tucson in 1956.

In his long and industrious lifetime, Mr. McClellan has well served our country and the communities he has called home. Raymond served in the U.S. Navy in World War I. In later years, he volunteered and helped organize a service at Sacred Heart Church in Tucson to take the sacraments to shut-ins. Raymond also volunteered to teach and call square dancing to winter visitors in his trailer park.

When I meet or learn of someone who has been graced with good health and lived to this age, I'm moved to reflect on the great advances and changes those 100 years have brought to this country. I think of the many historic events Mr. McClellan has witnessed and of which he was a part. During his life, Raymond has seen the admission of 11 new States, including Arizona, the inauguration of 18 Presidents, two World Wars, and many advances in our standard of living. Automobiles now dot our roads, and planes fill our skies. Even the Moon has the imprint of man's footsteps.

Certainly, everyday life has changed. Modern conveniences such as in-door plumbing, electricity, mass media, and telephones—unheard of 100 years ago—we now take for granted. Medically, we have seen such remarkable things as a cure for polio, the near doubling of life-expectancy and transplants of human organs. America has changed dramatically and Mr. McClellan has witnessed the changes first hand. He is a living history book.

In addition to recognizing Raymond McClellan, I would like to take a moment to thank the individual who brought this occasion to my attention. Ralph L. Levely is a citizen of Arizona who volunteers his time and service for a program that deserves our recognition. Ralph volunteers for Sacred Heart's Mobile Meals, a service that delivers meals to the elderly in Tucson. Through his work with this organization, Ralph became acquainted with Raymond McClellan, and thought to contact me on the occasion of his 100th birthday. Mobile Meals is an important facet of life to the individuals it serves. It is not just a service to provide meals. For many this is the only contact with the outside world, a friendly face who cares. The caring service Sacred Heart's Mobile Meals provides deserves not only our recognition, but our thanks.

I want to say thanks again to Ralph Levely for the much appreciated work he does and special congratulations to Mr. McClellan and his wife Nellie on this happy occasion. Best wishes for the second 100 years!

I would again like to wish this fine citizen a very happy 100th birthday.

THE 85TH BIRTHDAY OF THE CONGREGATION OF B'NAI ABRAHAM

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. KOLTER. Mr. Speaker, I am pleased to inform my colleagues that Congregation B'nai Abraham, Butler, PA's, only synagogue, is celebrating its 85th birthday with a grand reunion during the Fourth of July weekend.

During the 19th century, several Jewish families settled in Butler County, but it wasn't until 1903 that the Congregation B'nai Abraham was formed with 25 members, American born, as well as Hungarian, Lithuanian, and Romanian immigrants.

In 1911, the congregation dedicated its first synagogue on the west end of the city of Butler. As Butler County grew, so did its Jewish community, reaching 200 families in 1950. A new synagogue was built on the main street of Butler in 1956.

In addition to the support of their synagogue and the State of Israel, Butler County's Jewish residents continue to be integral part of the community of Butler. They provide participation, leadership, and generous financial support to a great many of the area's cultural, social welfare, political, economic, and educational institutions. They were fully involved both at home and at the front during both world wars with 72 young men in the Armed Forces in World War II making the supreme sacrifice.

Despite a decline in the Jewish population in Butler County, Butler's Jewish community remains active, serving Butler County with pride in its past and great hope for its future.

I commend the congregation of the B'nai Abraham for outstanding work on behalf of its members and all Butler Countians. I know my colleagues will join me in thanking the B'nai Abraham congregation for its selfless contributions to our great Nation. Happy 85th birthday.

OFF-BUDGET STATUS FOR THE U.S. POSTAL SERVICE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. DYMALLY. Mr. Speaker, today the House will take a final vote on H.R. 4150—the Postal Reorganization Act of 1988.

Well over 300 Members have cosponsored this measure, and this vote will affirm their support for removing the Postal Service from the Federal budget.

The Postal Service should never have been returned to the Federal budget. That decision by this administration was, obviously, the beginnning of its campaign to privatize the Postal Service.

Part of that effort was also evident in last year's budget summit where the administration required reductions in the Postal Service's operating and capital expenditures. These cuts were made on an agency budget which receives no operating cost appropriations from the Federal Government. These cuts also were imposed on an agency which usually operates without a deficit.

The administration claims the need to meet the deficit reduction targets of Gramm-Rudman. Make no mistake, it has nothing to do with the deficit, and everything to do with privatization.

Opponents of H.R. 4150 argue that maintaining the Postal Service on budget improves the accuracy of the deficit figures. Nonsense!

The Postal Service's mandate requires it to raise its own revenues to cover its costs. In fact, its accounting practices are significantly different from those used by the Federal Government. Including its revenues and expenses in the Federal budget distorts the deficit figures.

Whether the objective of the administration is privatization or deficit reduction, the net effect is the decline in the quality of the mail service. Our constituents have had to tolerate the necessary postal changes resulting from the budget reductions.

This Nation enjoys the least expensive, most effective, most efficient and most convenient mail service in the entire world. Adoption of H.R. 4150 assures the continuation of that record.

Deficiencies in the productivity of the Postal Service are indeed a concern. Those problems, however, are perhaps best resolved independent of the Federal budget process.

I commend Chairmen FORD and LELAND for the expeditious manner within which they considered this measure.

H.R. 4150 is more than a budget issue, it is a commitment to the future of the Postal Service, and I am very pleased to have been part of this commitment.

H.R. 2792—BILL TO AFFIRM AMERICAN INDIAN TREATY RIGHTS SHOULD BE PASSED SWIFTLY BY THE SENATE

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. LOWRY of Washington. Mr. Speaker, I am extremely pleased with yesterday's passage of H.R. 2792. This bill, when passed by the Senate and signed by the President, will affirm the treaty commitments made in the 1880's between the United States and tribal Indian nations. I would like to thank Chairmen UDALL, ROSTENKOWSKI, and RANGEL for their leadership in shepherding this bill through the House.

H.R. 2792, which I introduced on June 27, 1987, with bipartisan sponsorship, will clarify that income derived by American Indians from treaty-protected fishing activities is not subject to Federal taxation. This is not new law. It is merely an affirmation our Nation's moral and legal obligation to keep our word with regard to Indian treaty rights. The enactment of H.R. 2792 is required to end the Internal Revenue Service's effort to tax treaty-protected fishery resources.

One of the more shameful aspects of our Nation's heritage has been its disregard for Indian treaty rights and legal commitments made with American Indian tribes. This disregard and its destructive consequences, both for tribal Indian nations and American society as a whole, is well documented. There has been a head-in-the-sand tendency to view these wrongs as a part of our Nation's past. But unfortunately, ignorance and sometimes racism, continue to perpetuate this sad legacy.

The United States and Pacific Northwest Indian tribes negotiated treaties in the mid-1800's in which the tribes relinquished control over vast areas of land and reserved for themselves significant rights and resources. Because these Tribes traditionally relied on fishing for commerce and subsistence, it was logical that they specifically reserved the right to fish in their respective "usual and accustomed" waters. This clear, unequivocal language, and subsequent tribal fishing rights laws, have been upheld seven times in this century by the Supreme Court.

The Lummi Indian Tribe, a party to the Treaty of Point Elliott of 1855, manages its tribal commercial fishermen in the harvest of the tribes' treaty-protected fisheries resource. In 1982, the Internal Revenue Service cited 60 Lummi tribal fishermen for Federal income tax evasion and began to process these individuals through U.S. Tax Court. The Lummi Tribe, joined by two separate Interior Department Solicitor opinions—Colidiron 1983; Richardson, 1985—rightly contended that the IRS action expressly diminished the tribe's fishery treaty rights.

The Treasury Department Solicitor opinion—Kneightly 1983—held that tax exemption should have been included in the 1855 treaty even though the 16th amendment to the Constitution, which allowed a Federal income tax, was not ratified until 1913—58 years after the Point Elliott Treaty was signed. The Treasury Department's absurd position, which required remarkable prescience on the part of the tribes, was supported by the Justice Department over the Interior Department's decision as the "sounder view of the law" in December 1985.

Despite the Justice and Treasury Department positions, the administration has fully supported efforts to clarify treaty rights in this matter and has testified in support of H.R. 2792 during the hearing process. The Assistant Secretary of the Interior for Indian Affairs spoke in the bill's favor during markup in the House Interior Committee last year; the Treasury Department changed its position and gave qualified support of the bill in testimony before the House Ways and Means Committee earlier this year.

One of the most fundamental flaws in the IRS's aggressive action against tribal fishermen is that not once were the affected tribal governments afforded official consultations. The White House Indian policy of January 1983 spoke eloquently of the Reagan administration's plans to promote "government to government relations" with American Indian tribes. In this IRS-backed controversy, the reality proved to be quite different from the administration's 1893 policy pronouncement. Congressional vigilance is required to ensure that similar actions do not occur in the future.

The passage of H.R. 2792 by the full House is good news for American Indian tribes and our entire Nation. The bill confirms congressional intentions that treaty-protected tribal fishing rights are not subject to arbitrary Federal income taxes and that the United States does not intend to diminish treaties and agreements made with American Indian tribes.

In closing, I want to emphasize for the record that the tribal Federal income tax exemption is based on treaty rights, not any lesser action. I know that my colleagues in the House will join me in urging the Senate to act swiftly to pass H.R. 2792 so that the congressional position on this matter is absolutely clear.

SALUTE TO DOROTHA MOORE

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. DENNY SMITH. Mr. Speaker, I just wanted to take a moment to salute Dorotha Moore of Moro, OR—a grand lady of the grand old party.

This week, Dorotha is retiring after 32 years of service as Oregon's Republican National Committeewoman. In the 134-year history of the Republican Party, nobody has served on the National Committee longer than Dorotha Moore.

During her years of service, Dorotha has been a tireless advocate for a strong America and for equal rights. She has been a close friend of Presidents, of would-be Presidents, of Senators, of Governors, and of this Congressman.

Even though Dorotha has traveled in powerful circles, she has always returned to her wheat ranch in Moro. As a teacher and a neighbor, she was given much to her community.

Dorotha is the type of person who makes Oregon such a special place to live, work, and raise a family. I look forward to benefiting from her counsel and wisdom for many years to come.

H.R. 4143—GRAND RONDE RESERVATION ACT OF 1988

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. AuCOIN. Mr. Speaker, I rise in support of H.R. 4143, legislation to establish a 9,811-acre reservation for the Confederated Tribes of the Grand Ronde Community of Oregon.

The legislation is a compromise which reconciles several potentially conflicting goals. In particular, the terms and conditions of the bill will at once provide a stable economic base to enhance the tribe's drive to self-sufficiency while at the same time increasing economic opportunities for the entire community.

Rare is the bill which enables all interests involved to come out winners, but H.R. 4143 is one of those special instances.

While this particular bill represents the culmination of nearly 5 years of work on a plan to establish a reservation, I think it is important for the House to understand why this issue has arisen in the first place.

The simple reason is that the varied policies implemented by the Federal Government in its relations with Indian tribes over at least the last century have failed, with one of the biggest disasters being the drive in the 1950's to abolish several Indian tribes, including the Grand Ronde.

That termination policy was a striking irony for the Grand Ronde Tribe, which was essentially formed by the Federal Government a century before, through a fusion of several bands of Indians from the Oregon coast and the Willamette Valley.

From the Indian policies set more than 130 years ago through termination in the 1950's, the Federal Government has rarely acted in the long-term interest of the tribes and their members. This failure in no small part accounts for the socioeconomic situation in which Grand Ronde members now find themselves: a 1985 survey of tribal members concluded that Grand Ronde households, while larger than average in size, had lower median incomes, significantly higher rates of unemployment, and less formal education than their nontribal peers.

About a decade ago, Congress began to correct some of these policy mistakes by restoring Federal tribal status for tribes whose recognition was terminated in the 1950's. The Grand Ronde Tribe is among those tribes which had its recognition restored, through my legislation, Public Law 98-165.

Oregon's Siletz and Klamath Tribes have also had their Federal status restored, and a reservation for the Siletz Tribe was established by statute nearly a decade ago as well.

Establishing the Grand Ronde Reservation is the second step in putting the tribe and its members back on appropriate social, economic and cultural footing. The 1983 Restoration Act called for development of a reservation plan, which the tribe published in November 1985. It called for a reservation totaling 17,488 acres.

That plan generated substantial comment from the public, including business and community leaders in the area. Senator MARK HATFIELD and I spent considerable time analyzing the reservation plan proposed by the tribe and the public reaction to it.

Subsequently, Senator HATFIELD and I last July introduced two bills, one designating a 15,665-acre reservation, the other creating a reservation of roughly 5,100 acres.

Introducing these bills helped further refine the issues before us, and I organized a public meeting in Grand Ronde last August to air the controversies surrounding the reservation idea.

One of the biggest concerns I heard was whether the reservation would reduce the supply of timber available to local lumber mills. This concern arose because timber sold from Federal Indian reservations may be sold for export in unprocessed form.

At that time, the tribe proposed a 10-year restriction on the export of raw logs from its reservation, but this was felt by many to be insufficient..

Subsequently, I personally toured the Tillamook State Forest, which as most Oregonians know was largely destroyed in the infamous Tillamook Burn over 50 years ago. While that incredibly productive forest land was replanted after the fires, the timber there is not yet mature, and it will not be harvestable in substantial quantities for another 20 years.

In order to build a bridge to ensure stable log supplies to local mills, then, the tribe must restrict exports for 20 years from the day the reservation is created. That requirement is incorporated into a memorandum of understanding signed by the BIA and the tribe March 10, 1988, and given the full force of law in H.R. 4143.

A similar concern raised locally is whether creating the reservation would enable the tribe to build a sawmill in an already hotly competitive area. The timber from the reservation itself could not sustain a profitable mill, however, and the tribe has agreed, again for a 20-year period, not to bid for, purchase, cut or remove timber from the reservation itself or from adjacent public lands. This commitment is again spelled out in the March 10, 1988 memorandum and incorporated in section 5 of H.R. 4143.

A third concern raised during last summer's public meeting was over the creation through this reservation of hunting and fishing rights for the tribe. I believe that public meeting clarified this concern, and the legislation before the House adds an extra level of certainty on this issue.

Simply put, H.R. 4143 states that this reservation will not grant or restore any hunting, fishing, or trapping rights. The tribe's hunting, fishing, and trapping rights were settled once and for all by a judical consent decree issued January 12, 1987, and they arise irrespective of whether the tribe has a reservation.

A final concern raised during that public meeting was over public access to the reservation lands. Several points are important here. First, H.R. 4143 protects valid existing rights, such as reciprocal road rights of way, easements, and permits. Second, reservation closures are dictated by Bureau of Indian Affairs regulations, and the tribe must follow those rules.

In effect, tribal members and nontribal members are treated equally when access must be restricted, as is occasionally required due to fire threats and other unusual circumstances.

Several other matters merit the House's attention. First, the reservation acreage in H.R. 4143 is a middle ground between the tribe's proposal and the suggestions I received from some local residents. Many people told me they thought a reservation in the 10,000-acre range was appropriate, and the 9,811-acre area designated in H.R. 4143 is slightly below that suggestion. In addition, the designated area itself is almost entirely one contiguous block of land. The layout of the reservation is logical from a land management perspective, and eliminates many possible resource conflicts that could arise if scattered tracts were designated instead as reservation lands.

Second, the Bureau of Land Management has advised me on the most appropriate lands to change designation from public domain status to O&C grant land designation, in order to help block up the checkerboard pattern of BLM land in northwestern Oregon and to ensure an equal value redesignation of lands as the 9,811 O&C lands are designated as the Grand Ronde Reservation. This redesignation of 12,035 acres will result in no diminution of the value of land assets managed on behalf of the 18 western Oregon counties by BLM.

Finally, the Grand Ronde tribe has proposed a good-faith commitment to enhancing local economic opportunities by committing no less than 30 percent of its timber sale receipts to a special fund solely for expenditure on economic development projects.

To the best of my knowledge, this is without precedent—no other tribal government, and no local, State, or Federal governmental entity I know of has made a comparable up-front commitment of its resources to economic development. I believe this commitment, along with the other steps the tribe has taken to prevent weakening of the local economic foundation, are vital to making this reservation and the tribe a positive, integral part of the community.

Mr. Speaker, I believe both the tribe and the people from the local communities who played a construction role in shaping H.R. 4143 deserve a great deal of credit for developing this compromise package. The bill positively addresses the divergent needs and concerns of nearly all who will be touched by the reservation, making winners of the tribe and the local community.

A great deal of credit belongs to Mark Mercier, tribal chairman, who has guided the tribe and the development of this legislation intelligently and skillfully, and to Katherine Harrison, who for years has been a driving force behind the efforts of the tribe to revive its identity.

Many in the community, business people, civic activists, and the press, also deserve praise for their constructive work in making this plan a winner for all. And, of course, I want to thank my colleague in the Senate, Senator MARK HATFIELD, whose compassion and leadership have meant so much in the development of this and other bills.

VOTE "YES" ON THE POSTAL SERVICE REORGANIZATION ACT—H.R. 4150

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. INHOFE. Mr. Speaker, today the House is scheduled to vote on H.R. 4150, a bill to take the U.S. Postal Service off budget. If signed into law this would mean that all Postal Service transactions would be removed from Presidential and congressional budgets. It also means Postal Service revenues would be left out of any calculations to determine the Federal deficit.

In 1970, the Postal Reorganization Act transformed the Postal Service into an independent corporation. At that time congressional intent mandated that the Postal Service operate in a businesslike manner on a breakeven basis. The Postmaster General reports that this was done, and over the last decade Postal Service income has exceeded expenses by 23 percent. In 1986 a determination was made that the budget would be better served if the Postal Service was on budget. The Reconciliation Act of 1987 went further and required the Postal Service to reduce expenses by $160 million. To date, the service operates almost entirely from self-financing, except for Federal funds needed for revenue forgone. For that reason, I believe the deficit and the congressional budget would be better served if the Postal Service were off budget.

I am aware that the President opposes this effort because he believes all areas of Federal spending must share in deficit reduction efforts. However, since the Postal Service contributes nothing to the Federal deficit, and takes little taxpayer money, I believe Congress should leave the operations of Postal Service alone by taking it off budget. Furthermore, the Postal Service has demonstrated the management tools to remain self-sufficient in the future. This legislation deserves our support and I urge the President to reconsider his opposition.

I urge my colleagues to support passage of the Postal Reorganization Act.

SALUTE TO RAYMOND TUMMINELLO OF WAYNE, NJ, WINNER OF THE ROTARY CLUB'S HARRIS AWARD

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. ROE. Mr. Speaker, it is with the greatest pride that I rise today to salute an outstanding constituent in my Eighth District of New Jersey who, for more than four decades, has given of himself to his community, State and Nation, and who has made us all the better for his efforts.

I am speaking of Raymond Tumminello, of Wayne, NJ, who will be honored for his great service on Wednesday, June 29, by the Wayne Rotary Club, which he has served with such distinction for these many years. On that day, for his many efforts, Raymond Tumminello will receive the Paul Harris Award, the highest honor a Rotarian can achieve. Considering the scope of community service that Rotary Clubs provide around the world, I am certain that you, Mr. Speaker, and our colleagues will agree that the honor being accorded Mr. Tumminello is one of the greatest magnitude.

Mr. Speaker, Raymond Tumminello was born and raised in Hawthorne, NJ, and attended Hawthorne public schools. He helped defend our Nation during World War II when he served for 3 years in the Navy. He came to Wayne, NJ, in 1958 and has lived there ever since. Currently, Raymond Tumminello serves as president of the Passaic County Board of Taxation, and was recently reappointed by Gov. Thomas Kean to a third term on the board.

But Raymond Tumminello's professional and community activities go far beyond his work on the board of taxation and demonstrate how great his contribution to his community has been. Mr. Tumminello is a former president of the Wayne Rotary, and served this outstanding organization as installation dinner chairman, as director and as cochairman of the Rotary's Ladies Night.

Mr. Speaker, Raymond Tumminello is also an active member of Our Lady of the Valley Church, where he has served on the Survey and Fund Raising Committees and continues to serve as an usher; of the Wayne Elks; the Knights of Columbus, and of Unico, of which he is a charter member and has served as president.

Professionally, Mr. Tumminello has been actively involved in business and governmental activities in Wayne. After coming to Wayne, he and his brothers opened T-Bowl Lanes on Hamburg Turnpike, where they introduced a wide variety of bowling leagues and competitions, thereby fostering great community spirit. Currently, he is coowner of DePetro-Tumminello Realtors of Great Notch, NJ.

Mr. Speaker, Raymond Tumminello has served the municipality of Wayne as a member of the board of adjustment, the planning board, the township council, council president, and as a mayoral candidate. He has also served the Wayne Republican Party as a member of the board of governors, president and leader.

When Raymond Tumminello is honored by the Wayne Rotary at its luncheon in Wayne on June 29, I know that his devoted wife, Mary; his son, Anthony; his daughter, Susan, his grandchildren will be especially proud of all he has achieved, as will the rest of his family and his many friends and colleagues.

Mr. Speaker, I appreciate the opportunity to present a brief profile of a man who has given of himself to his community, his State and our Nation, and who has immeasurably improved his world through his innumerable contributions—Raymond Tumminello, recipient of the Wayne Rotary's Paul Harris Award.

NINTH ANNUAL NATIONAL HISTORY DAY CONTEST

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. SKELTON. Mr. Speaker, I would like to call to the attention of this legislative body that this week the Ninth Annual National History Day Contest is being held at the University of Maryland. I think my colleagues know that the study of history holds a special place in my heart, as do the 57 students that are in Washington this week to represent the great State of Missouri.

These students exemplify the best of Missouri's young people interested in history. They range in age from 12 to 18 and will compete in four categories: historical papers, projects, performances, and media presentations. I know they will represent the State well.

I am sure my colleagues are familiar with the well-publicized statistics of history's declining role in our children's education. Contests, such as the one being held this week, directly attack these depressing figures. History is the backbone of all education. As the great English statesman and philosopher Sir Francis Bacon once said, "Histories make men wise; poets, witty; the mathematics, subtile; natural philosophy, deep; moral, grave; logic and rhetoric able to contend."

I know my colleagues will join with me in praising not only the students from Missouri, but all the young people from across the Nation competing at the contest this week.

PUERTO RICAN ARTIST ON EXHIBIT AT THE MET

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. FUSTER. Mr. Speaker, the other day I noted in the RECORD a newspaper account of the world-class Casals Festival now underway in my home island of Puerto Rico. Now, I am pleased to bring to the attention of my colleagues another major cultural event that shows the growing appreciation of Puerto Rican culture in the United States.

It is the extraordinary exhibition at New York City's prestigious Metropolitan Museum of Art, and it features the work of the celebrated Puerto Rican painter, José Campeche. I had the pleasure of attending the June 14 opening in New York of the Campeche exhibition, and I was greatly impressed.

Truly, a thing of beauty is a joy forever, but it also gave me great joy to see the Met open its doors for a first-time, full-blown exhibition of a Puerto Rican painter. Just a couple of decades ago, when I was a student at nearby Columbia University, such an exhibit would have been unimaginable. This exhibit is a testimony to the growing appreciation of Puerto Rican culture in the United States.

The Metropolitan Museum of Art's Division of Education Services has planned a variety of programs in conjunction with the exhibition, "José Campeche and His Time: Puerto Rico, 1751-1809," which is on display at the Museum from June 14 through September 25.

The programs will include bilingual lectures, films, gallery talks, a concert of chamber music and activities for families.

Obviously, then, this is a major exhibition put on by one of the world's major museums, and we in Puerto Rico are proud to be so recognized and honored. Moreover, Banco de Ponce, one of the leading banks in Puerto Rico, is to be particularly commended for helping to make this exhibition possible. I recommend this important exhibition to all of my colleagues.

PERSONAL EXPLANATION

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. LELAND. Mr. Speaker, I was unavoidably absent on Tuesday, June 14, 1988, and Wednesday, June 15, 1988, because of official business in Laredo, TX.

Mr. Speaker, as an ardent supporter of the Veteran's Peace Convoy to Nicaragua—an organization carrying food, medicine, and clothing for the children of Nicaragua which was detained at the United States-Mexican border by United States Customs officials—I was asked by a broad coalition of groups in my district to travel to Laredo, TX, to offer my assistance in mediating a compromise of the controversy surrounding and deliverance of this humanitarian assistance.

As chairman of the Select Committee on Hunger, I have become well aware of the unfortunate circumstances surrounding the deliverance of humanitarian aid to the people of countries the U.S. Government disagrees with politically. I believe, however, that the Secretary of the Treasury should not interfere with the good faith efforts of the Veteran's Peace Convoy to deliver humanitarian assistance to the people of Nicaragua.

If I had been present on June 14 and 15, I would have cast my votes as follows:

"Nay" on the motion to adopt the Crane amendment to H.R. 4775, rollcall 181;

"Aye" on final passage of H.R. 4775, the Treasury, Postal Service, and General Government Appropriations Act 1989, rollcall 182;

"Yea" on the motion to approve the Journal, rollcall 183;

"Yea" on the motion to instruct conferees on H.R. 3051, the Airline Passenger Protection Act of 1987, rollcall 184;

"No" on Mr. DANNEMEYER'S amendment to H.R. 4783, the Departments of Labor, Health and Human Services and Education and Related Agencies Appropriations Act of 1989, rollcall 185;

"Yea" on final passage of H.R. 4783, rollcall 186;

"Nay" on Mr. SWINDALL'S amendment to H.R. 4782, the Departments of Commerce, Justice, State, the Judiciary and Related Agencies Appropriations Act of 1989, rollcall 187; and

"Yea" on final passage of H.R. 4782, rollcall 188.

SANTA MARIA LAWN BOWLING CLUB'S 10TH ANNIVERSARY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. LAGOMARSINO. Mr. Speaker, I rise to bring to the attention of my colleagues the 10th anniversary of the Santa Maria Lawn Bowling Club. The seeds of lawn bowling were planted in Santa Maria in 1972 when the local chapter of the American Association of Retired Persons appointed a committee, chaired by T.A. Stevenson, to establish a lawn bowling green in Santa Maria. The dream came true 6 years later by means of a grant from the Joslyn Foundation, a long-time supporter of lawn bowling organizations. The bowling green in Santa Maria was dedicated and the lawn bowling club founded on May 22, 1978. In September 1983 a clubhouse was added.

Since the founding of the Santa Maria Lawn Bowling Club, interest in lawn bowling in Santa Maria has grown considerably. Currently, the club boasts a membership of over 100, consisting of lawn bowlers both young and old. Membership and program activities include intraclub tournaments and visitations from five nearby bowling clubs. The Santa Maria Lawn Bowling Club has done much to promote the sport of lawn bowling and has involved many Santa Maria residents in this most enjoyable pastime.

Please join with me and the city of Santa Maria in wishing the Santa Maria Lawn Bowling Club a most memorable 10th anniversary and continued success in all future activities.

RETIREMENT OF CHICAGO POLICE OFFICER DUWAYNE R. HORNUNG

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. LIPINSKI. Mr. Speaker, I rise today to bring to the attention of my colleagues an exemplary public servant, Officer Duwayne Hornung of the Chicago Police Department, on the occasion of his retirement from public service.

Officer Hornung moved to the Chicago area in his childhood and attended Chicago's Hyde Park and Harper High Schools. After graduation, he served in the U.S. Marine Corps from 1946 to 1951 during the Korean conflict. Following this valuable service to his Nation, he joined "Chicago's Finest" and has been a distinguished member of that force, receiving two complimentary letters, nine department commendations, and three honorable mentions. On August 1, 1988, Officer Hornung will be retiring from active duty after 30 years of dedicated public service.

I am sure my colleagues join me in thanking Officer Hornung for his many contributions to the community, congratulating him upon this milestone in his life, and sending best wishes for the future. Your service to the Nation, Officer Hornung, is greatly appreciated.

THE CHOICES IN CHILD CARE ACT

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. COATS. Mr. Speaker, as the ranking Republican member of the Children, Youth and Families Committee I am proud to have coauthored the Choices in Child Care Act of 1988 (H.R. 4768), introduced on June 8 at a press conference attended by the House Republican leader, Mr. MICHEL.

As a member of the Child Care Task Force charged with drafting the bill I would like to share with you some of my thoughts on what the bill does and why.

H.R. 4768 recognizes the diverse needs of families and empowers parents to make choices about child care that are right for them. The bill provides for a refundable tax credit of up to $400 per child under the age of 6 for families with low and moderate incomes. Thus, regardless of the child care choices made, families of low and moderate incomes will be eligible for this refundable tax credit.

H.R. 4768 recognizes that the moral and spiritual upbringing of a child is the most important and personal decision made by parents. It also acknowledges the critical role that churches and synagogues have played in providing child care. Thus, our bill allows parents to use their vouchers at church-run centers and not be penalized in any way. I believe that this kind of flexibility in determining appropriate child care centers distinguishes America as a free nation and is a right that policymakers ought to respect.

The Choices in Child Care Act will provide for supplemental assistance to those low-income families who have child care expenses. This provision recognizes that with limited Federal resources, it is important to target resources to those families most in need.

The bill will strengthen the child care market by authorizing funds to States to address quality and availability issues at the local level. This provision will not drive up the cost of child care for all parents but will improve the quality and expand the supply of child care.

In addition to making funds available to States to increase supply, H.R. 4768 addresses this issue through tax incentives and by easing the burdens on family based child care providers.

In short, the Choices in Child Care Act does not create a new Federal child care infrastructure but puts most of the money directly into the hands of families. I believe that this approach is a sound one. It is responsive to families most in need of child care choices.

Finally, this bill does not discriminate against the one-earner family nor does it encourage one type of child care over another. What this bill does, is keeps child care decisions and policy in the hands of families, not Washington bureaucrats.

ACHIEVEMENT BY DICKSON COUNTY STUDENTS NOTED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. SUNDQUIST. Mr. Speaker, earlier this month, an accomplished group of young people from Dickson County Elementary School in Dickson, TN, took part in a series of prestigious academic competitions, and I would like to take just a moment to call their achievement to the attention of this House.

Twenty-one students from Dickson County Elementary School took part in the world finals of Odyssey of the Mind, an international competition in creative problem solving. It has proven to be a worthwhile and challenging exercise in creative thinking for thousands of young people, and I am particularly proud that these students from my district were judged among the best.

In the category, "Showtime," Dickson County Elementary was represented in the world finals by Becky Rountree, Janet Leech, John Oliphant, Greg Gerdeman, Nicole Work, Britt Wiser, Laura Loggins, and coach Dana Ramsey.

In the category "Straddle Structure," the participants were Ned Collins, Robert Kimbro, Laura Wolfe, Shawn Evans, Jerry Work, Larry Underhill, Pat Noble, and coach Gala Rountree.

In the category "Gift of Flight," the participants were Andrea Spencer, Dennis DeBlock, Craig Lampley, Shay Stinson, Jill Rountree, Karen Bettler, Laura Hayes, and coach Barbara Bettler.

Mr. Speaker, I join the parents and families of these fine young people and their teachers at Dickson County Elementary School in commending their accomplishment and effort and love of learning. I hope this House will join me in continuing to encourage programs like Odyssey of the Mind, which challenge and inspire our brightest young people to think and create.

PRAISING SPEECH BY CHAIRMAN LES ASPIN ON THE IMPORTANCE OF THE UNITED STATES-ISRAEL STRATEGIC RELATIONSHIP

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. LEVINE of California. Mr. Speaker, during last month's annual policy conference of the American Israel Public Affairs Committee [AIPAC], my good friend and colleague, chairman LES ASPIN of Wisconsin, delivered what I considered to be one of the finest speeches I have ever heard on the importance of the United States-Israel strategic relationship.

Chairman ASPIN'S remarks trace the evolution of that relationship, beginning with Presidents Truman and Eisenhower and continuing through the Reagan administration. His primary thesis is that the strategic and political partnership between these two countries has gone from one of the heart alone to one "of the head and heart together."

In other words, what began as support based on emotion, affection, and sympathy for Israel has matured into a deep appreciation of Israel's strategic value of the United States and the West; occasional bilateral frictions should not obscure this fundamental fact. In just the past few years alone, for example: Israel has by law been declared a major non-NATO ally; prepositioning of U.S. military equipment in Israel has been authorized; and purchases of Israeli-made equipment have grown enormously.

As my distinguished colleague notes, these developments have occurred without jeopardizing America's relations with our Arab friends—contrary to the dire predictions of so many in the diplomatic and military communities.

In short, the United States-Israel relationship has developed many of the trappings of a full-fledged, formal military alliance—although we are not quite there yet. Thus, as the distinguished chairman suggests in his conclusion, it is imperative to continue qualitatively strengthening and deepening the United States-Israel strategic relationship.

Mr. Speaker, I ask that the full text of Chairman ASPIN'S remarks be placed in the RECORD at this point. They are definitive. They reflect the thoughts of one who is an outstanding friend of Israel and who is a leading defense thinker in this country. All of my colleagues will benefit from taking the time to read them carefully.

INTRODUCTION

A review of newspaper headlines would tell you that U.S.-Israeli relations soar and plummet to astounding heights and depths. The headlines, however, introduce a distortion. As the old newspaper adage explains, dog-bites-man does not a story make; what the media seeks is the man-bites-dog story.

The man bites-dog headlines we tend to live by show dramatic ups and downs.

Camp David: president and prime minister hug one another; all is wonderful.

Another time: Annexation of the Golan Heights: Washington irate; relations plummet.

These are dramatic swings. We rave at the closeness; then we rage at the frictions.

But foreign affairs operate at a level other than headlines. Most of our relations with foreign countries never make headlines.

And below the headline level, there has been an undramatic but steady and very important evolution in the U.S.-Israel strategic relationship. If I were to sum it up in bumper sticker terms, I would say that our relations were formerly of the heart alone, but are now of the head and heart together.

HISTORY OF THE RELATIONSHIP

Let me run through a little history of the evolution in our strategic relationship.

The first period—roughly covering the Truman, Eisenhower and Kennedy Administrations—was characterized in the United States by deep sympathy for Israel and a sense of moral responsibility.

There was great public support for Israel, an outpouring of emotion, affection, sympathy, and vocal support for little David facing the Arab Goliath. But official Washington emphasized evenhandedness. Official Washington did not wish to offend the Arabs and insisted on keeping considerable distance between the United States and Israel. Arms sales? No, we were happy to leave that to De Gaulle. The Navy made no port visits to Israel. Israel's leaders made no state visits to Washington. However, even from the beginning, there was a significant official relationship, though much of it was out of sight since it was based on a community of interest between the two intelligence services.

The Johnson Administration saw one major change. After the 1967 war, De Gaulle halted arms deliveries. The United States didn't want to get into the arms business—but it also wasn't about to abandon Israel. Military sales began.

As the 1970s opened, the heart of the strategic relationship was comprised of intelligence exchanges and arms sales.

In the Nixon-Ford period—or, should I say, the Kissinger period—there were notable developments. Washington demonstrated a real interest in the peace process and a willingness to devote time and energy to try to make it a reality. Because of that initiative, the White House dropped its restrictions on meeting Israeli leaders. Eisenhower and Kennedy never met with Ben Gurion. LBJ saw Eshkol, but only at the UN, not in Washington. During the Nixon-Ford years, those bars were dropped. Second, during this period Kissingerian realpolitik governed. Washington was prepared to use American arms to leverage Israel into line—supplying arms as a reward for desired conduct, and withholding them as punishment when Israel strayed from Kissinger's reservation.

So far as the Arabs were concerned, Kissinger sought to wean them from Moscow by showing the Russians couldn't deliver the goods. There were still not port visits or other such demonstrable evidences of close U.S.-Israel ties. Don't rub salt in Arab wounds remained the refrain.

Carter shifted from realpolitik to idealism. He disliked the use of arms sales as a lever against Israel and refused to play that kind of hard ball. He also authorized the first U.S. Navy ship visits to Israeli ports—the first as a salve after grumbles erupted over an acrimonious visit with Prime Minister Begin, and the second as a sign of approval for Camp David. And Carter did much more: He put the prestige of the presidency personally behind the peace process—a commitment without which the Israeli-Egyptian peace may never have materialized.

As the decade of the 1980s opened, we were seeing a progressive evolution in the U.S.-Israeli relationship—an incremental growth:

From the Eisenhower years, we had close intelligence ties;

Under Johnson, arms sales were added;

Under Nixon and Ford, regular visits with Israeli heads of government became a staple; and

Under Carter, the Navy began making port visits and the President himself made a commitment to the peace process, a unique commitment of the prestige of that office.

Then came Ronald Reagan with his own ideas. He said: "The paramount American interest in the Middle East is to prevent the region from falling under the domination of the Soviet Union." Israelis would have preferred to hear a statement with a little more about the centrality of Israel. The Kissingers and the Carters would have told Reagan that he was making a 1950's observation in the 1980s.

But never mind the twisted analysis. The result of Reagan's analysis was to strengthen the U.S.-Israeli relationship. One can fault him for doing it for the wrong reasons—that is, to shaft Moscow rather than to help Israel. But regardless of the motivations, the product was a dramatic one.

The State Department wasn't all that overjoyed. It still held the view that we had a commitment to Israel's survival and that was all that mattered for Israel. So why complicate relations with the Arabs by adding port visits and joint military exercises and the like. They also argued that talk of a strategic relationship was meaningless because Israel was too small to do anything for us in return.

Four key developments overruled the naysayers and brought about the changes of the 1980's.

First, Ronald Reagan did want closer ties and did not want to read memos that advised otherwise.

Second, the Iranian revolution and the Carter doctrine expanded the American role in the region and necessitated closer ties to the one stable, reliable, and militarily capable nation in the region.

Third, the terrorism threat was growing and Israel was one of the few countries with any idea of how to cope with it.

Fourth, closer ties—of both the head and the heart—were a natural byproduct of Camp David.

So, what have we seen in the 1980's? A lot. We've signed three formal agreements with Israel. The President has issued a National Security Decision Directive that establishes a Joint Political-Military Group. Port visits have developed apace. We now have joint military exercises. We have authorized the prepositioning of U.S. military equipment in Israel for use in an emergency. Israeli hospitals are prepared to accept American casualities—and all the details, pinpointing helicopter landing pads and the specific skills of individual hospitals, have been worked out. Israel has been declared under the law to be a major non-NATO ally of the United States. Purchases of Israeli-made equipment by the U.S. military have grown about 20-fold. A lot has happened to cement the relationship—to build a relationship of the head as well as the heart.

UNIQUENESS OF RELATIONSHIP COMPARED TO OTHER ALLIES

The obvious question is where does it all go from here. Over the years, Israel has become more and more of an ally, although there is not yet a formal alliance.

It is interesting to compare our ties to Israel with our ties to those countries with which we do have a formal alliance, like those of NATO. When we just focus on the U.S.-Israel relationship, we can be troubled by the strains and frictions. But our relations with our formal allies are certainly bedeviled by many strains and frictions.

First, trade. This is a decade of trade in which we have clashes of deep political and economic significance with most of our friends and allies—including Canada, Japan and Germany. But not one complains of harsh or restrictive Israeli trade policies for the simple reason that they don't exist. Israel, of course, has a small economy. But other small countries are causing us economic grief with a flood of cheap exports. Israel is not.

Second, burdensharing. We devote over 6 percent of our GNP to defense; our allies in NATO devote only half that proportion to defense, and Japan even less, while accepting our troops and our planes and our ships that provide for much of their defense. It is an inequitable division of the burden of allied defense. And it is an issue that irritates the American public, often enflaming public opinion. Israel does not seek our troops and spends about 25 percent of its GNP on its own defense. We have no friction over burdensharing with Israel.

Third, lack of support. By this I mean the unwillingness of many of our friends and allies to support American initiatives around the world, especially in the Third World. This is an interesting issue with regard to Israel. Israel cannot be criticized for giving inadequate support to American policies; it might, however, be faulted for giving too much support to some questionable American policies—for example, in selling arms to Iran.

Trade, burdensharing, and lack of support all strain our relations with America's traditional allies—but not with Israel. However, while we don't have those common frictions with Israel, we do have some frictions and conflicting interests. And it would be a mistake not to recognize them. They stem from one fact: Israel is a regional power with a dominant security concern in the region, while we are a global power with global interests.

These differences ought not—and really cannot—be papered over. The Middle East is Israel's backyard. This is where its survival is at stake. As an oil importer, we have some obvious interests in the Middle East. And, as a global power, we have interests in being able to deal as even-handedly as possible with as many governments as possible.

That is the heart of the debate over the U.S.-Israeli relationship; the critics allege that we have made commitments to Israel that conflict with our own national interests and that hobble our relations with the Arabs.

It would take mental contortions of considerable proportions to deny that our relationship with Israel complicates our relations with the Arab states and make it harder to achieve our goals there.

But let's not exaggerate this. For three decades, naysayers in the Washington bureaucracy said: We can't let our warships call at Israeli ports. The Arabs will go into orbit. We can't hold military exercises with the Israelis. The Arabs will have a fit. We won't gain much from the port visits and the exercises, while we stand to lose a lot. But now we schedule regular port visits. And we hold military exercises. And the Arabs who liked us before still like us. And the Arabs who hated us before still hate us.

The reason is simple. Most Arabs thought the United States had cemented close military ties with Israel in 1948; the port visits and joint exercises didn't sound like anything new to an Arab who thought the American and Israeli militaries were already virtually one and the same.

I think every objective observer would now have to admit an important lesson from this experience. We were simply too cautious and imagined Arab sensitivities that didn't exist. If we are going to have a workable policy in the Arab world, we must do better than that in understanding the Arab world.

Now, let me summarize our relations with Europe as compared to our relations with Israel. This is what it looks like:

Focusing on Europe, we do not have serious problems within the region because we have shared interests within the region. While we contend over nuance and degree, we are united on holding back the Soviet Union. But in the greater world, we are not united. The Europeans have other interests around the world—interests that often conflict with ours in Asia, Africa, the Middle East and Latin America.

Focusing on Israel, the picture is reversed. The positives become negatives and the negatives become positives. We have interests in the region that sometimes conflict with Israel's. But in the larger world, there is rarely a conflict. Israel sees its larger interests served if American interests elsewhere in the world are not undermined and American capabilities not drained away.

WHERE DO WE GO FROM HERE?

So, where do we go from here?

Clearly, I do not see much threat to our relationship—to the underlying, long-term relationship. I do see glitches galore. The West Bank settlements. Arms sales to the Persian Gulf states. The Golan annexation. But these are glitches. They cause pain and give one or the other—or both of us—some stomach distress. But they don't alter the basic framework of enduring interests.

Some say that the next step in our relationship is a full-fledged formal alliance. Most recognize, however, that this won't come about until there is a comprehensive peace settlement.

Caution needs to be followed here. An alliance could make Israel more like a traditional ally. If we had a defense treaty with all its accoutrements, would our relationship be bedeviled by hassles over burdensharing? Would Israel no longer feel a need to support U.S. interests in the farflung corners of the world? Or, given the Taiwan experience, would Israel suffer doubts about a guarantee that it doesn't now want or need to rely on? It's an interesting possibility worth thinking about.

Nevertheless, the fact is: a genuine peace supported by real security guarantees remains the premier goal—the shared goal—of Israel and the United States. It is only important to recognize that an alliance is not the answer to—and will not end—all our problems.

So where might we go from here? I see both quantitative and qualitative improvements ahead.

First, there are some quantitative changes. I foresee more port visits, more prepositioning of American military equipment in Israel, more foreign aid freed for Israel to spend as it feels best, more integrated military planning, and more sales of Israeli-made equipment to the U.S. armed forces.

The last point presents a real challenge. Israel is selling superbly designed equipment to the United States right now. But more could be sold. I see, however, the heavy hand of the Pentagon bureaucracy interfering. There's a term in the Pentagon—NIH, for Not Invented Here. The bureaucracy is resistant to buyng Israeli weapons because they are NIH. We have to cut that Gordian knot. Then you will see a real surge—a real quantitative increase—in Israeli sales to the U.S. military.

I can also see some qualitative improvements in the relationship. There is one in particular that I think can be important. As I mentioned earlier, for five years we have had a Joint Political-Military Planning Group. It's purpose is to discuss and flesh out the U.S.-Israeli strategic relationship. Its existence is, in fact, a concrete expression of those close ties. But we can do better.

Two years ago, I pressed legislation under which Israel was officially designated a major non-NATO ally. That is also a concrete expression of our close ties. But we can do more.

We should upgrade our links. Let us not just meet on the level of the Joint Political-Military Group. Let's reach higher. The Minister of Defense of Israel and the Secretary of Defense of the United States should meet—formally and officially—at least once every two years—preferably every year—to coordinate and consolidate our ties. The United States has long had a commitment of the heart to serve as the defense of last resort for Israel's existence. Such regular contacts by the heads of each nation's military establishment would telegraph the commitment to friend and foe alike. This would be a significant, qualitative improvement in the U.S.-Israel strategic relationship.

CONCLUSION

Israel holds a unique position in the firmament of our foreign relations. In some ways, that uniqueness is awesome, to adopt the word of the decade. In other ways, that uniqueness generates unique problems that require unique management to devise unique solutions. But that isn't bad—especially from Israel's standpoint. the uniqueness requires us to devote particular attention to Israel. At least she never has to worry—as do scores of Latin American and African countries—that we will just lump her together with all the other countries of the region.

There's a final point to be made. There are people in this country worried about a closer U.S.-Israel alliance because of what's currently happening on the West Bank or some such point of friction. But differences such as those exist in any alliance. After all, look at what's happening with our other allies, in NATO and the Far East, for example.

One ally told us we couldn't overfly its territory to reach Libya. Another ally, whose capital city residents are unhappy at the noise made by our F-16s, is making us close our base there. Still others do not wish to cooperate with us in the Persian Gulf, even while we help assure their fuel supplies. And others are saying our ships can't visit unless we say they carry no nuclear weapons.

Those are all vexing problems that cause a great deal of perspiration to flow in the corridors of the State Department and the Pentagon. Yet, no one I know in the U.S. government is suggesting that we bury the NATO alliance.

To be sure, we have some workaday frictions with Israel. But we shouldn't hold the Israeli-American alliance to a higher standard than our other alliances.

THE REAGAN FOREIGN POLICY

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. RAHALL. Mr. Speaker, from time to time it has been my practice to insert into the CONGRESSIONAL RECORD articles I run across which I feel would be of interest to my colleagues as well as the American public. I was reading through the 1988 Harvard International Law Journal and came across this article by Dr. Stuart S. Malawer which I feel gives us an early and insightful look at the impact and legacy of the Reagan foreign policy and its effect on international law. It is an interesting and thoughtful piece and bears the reading of my colleagues. I would like to insert it into the RECORD at this point.

[From the Harvard International Law Journal]

REAGAN'S LAW AND FOREIGN POLICY, 1981-1987: THE "REAGAN COROLLARY" OF INTERNATIONAL LAW

(Stuart S. Malawer, Professor of Law, George Mason University, J.D., Ph.D., Dipl.)

I. INTRODUCTION

The unilateralism of the Reagan Administration's foreign policy has influenced its treatment of international law. Just as it has rejected international cooperation in many instances in favor of unilateral pursuit of perceived national interests,[1] the Reagan Administration has also attempted to mold international law to accommodate those interests.[2] I would call this challenge to the international legal system the "Reagan Corollary" of international law.

The Reagan Corollary is not merely a careless disregard for international law. On the contrary, it is an attempt to pressure the international legal system into changing in a manner beneficial to United States interests. In order to realize such change, the Reagan Administration has proffered new rules of international law, relied on previous versions of existing rules, and reinterpreted existing rules and treaties by applying them in unprecedented contexts.[3] The common threads connecting these practices are the assertion of unilateral state action and a broad right of self-defense, less reliance on international institutions such as the United Nations, and an emphasis on a state's right to pursue its national interests.

The Reagan Corollary supplements the "Reagan Doctrine" in foreign affairs.[4] The Reagan Doctrine stesses reliance on military action as a prominent instrument of foreign policy. In particular, it calls for assistance to insurgencies opposing Marxist governments.[5] The Reagan Doctrine is an example of the kind of state action that the Reagan Corollary aims to justify under international law.[6]

Both the Reagan Doctrine and the Reagan Corollary are symptomatic of disillusionment with the dreams of collective security and great power cooperation of the period following World War II.[7] While Americans have always hoped for a world ruled by reason and law,[8] the perceived irrelevance of the postwar international institutions and rules makes that ideal appear remote.[9]

This article does not attempt to present a comprehensive analysis of the foreign policy events of the Reagan era. Neither is it intended as a treatise on the sources of international law or as a detailed analysis of the legality of each of the foreign policy incidents discussed below.[10] Rather, it is meant to provide an overview of the foreign policy of the Reagan Administration and its relation to international law. This survey of important foreign policy decisions, in conjunction with the governing rules of international law, should illustrate the Reagan Corollary in practice, help identify the United States challenge to international law, and aid in assessing the foreign policy of the Reagan Administration.

II. METHODOLOGY

I have selected the thirty-two foreign policy decisions analyzed below as among the most significant of the last seven years in terms of their impact on the international legal system. In many instances they relate to the international legal system as a restraint on state action, where the issues involved are a state's use of force or the regulation of state behavior implicating important national interests. I have not included routine policy decisions unless they deviate significantly from accepted rules of norms.[11]

Each decision is grouped into a category reflecting its relationship to accepted rules or norms of international law. While the precise rules of international law are open to interpretation in most instance, I have measured the decisions against what I consider to be the prevailing standards of international law.

The first category, "Compliance," includes the foreign policy decisions of the Reagan Administration that follow generally accepted rules of international law or conform to the expectations of the international community. Under the traditional standards, there is no doubt that the action in question is permissible.

In the second category, "Modification," fall the foreign policy actions that the Reagan Administration has justified by "bending" the traditional rule of international law or applying that rule in an unprecedented context.[12]

The third category, "Significant Deviation," includes foreign policy actions that are in clear violation of the generally accepted rules or expectations of the international community.

The thirty-two decisions, numbered according to their place in the chronological survey that follows, are grouped by category in the table below.

I. Compliance:
1. Recogntion of Iranian Hostage Agreements.
19. Criticism of Soviet Human Rights Violations.
25. Arms Sales to Iran.
28, "Franchising" and "Privatization."
31. Failure to Enter Into Negotiations for Further Restrictions on Nuclear Tests.
II. Modification:
2. Gulf of Sidra I: Downing of Libyan Planes.
4. Polish Trade Sanctions.
5. Trans-Siberian Pipeline Sanctions.
6. Deployment of Marines in Beirut.
9. Buildup of United States Forces in Honduras.
10. Military Support of El Salvador.
16. Trade Embargo Against Nicaragua.
17. Interception of Egyptian Airliner and Capture of *Achille Lauro* Pirates.
20. Conditioning Foreign Aid on United Nations Voting Record.
21. Nonobservance of SALT II.
22. South African Trade Sanctions.
24. Trade Sanctions Against Libya, Syria, and Iran.
26. Changing leaders in Haiti and the Philippines.
27. Support of Angolan and Afghan Insurgents.
30. Rejection of 1977 Geneva Protocol I.
III. Significant Deviation:
3. Rejection of the Law of the Sea Treaty.
7. Invasion of Grenada.
8. Policy Towards Nicaragua.
11. Withdrawal from UNESCO.

12. Nonpayment of United States Obligations to the United Nations.
13. Withdrawal from the International Court of Justice in the Nicaragua Case.
14. Withdrawal from the Compulsory Jurisdiction of the International Court of Justice.
15. Restricting Nicaraguan Sugar Imports.
18. ABM Treaty Reinterpretation and the Strategic Defense Initiative.
23. Gulf of Sidra II: Bombing of Libya.
29. Indictment of a Foreign Diplomat.
32. Reflagging Kuwaiti Tankers.

This survey refers to a broad conception of international law. The traditional definition of international law encompasses customary law as evidenced by state practice.[13] In this light, expectations of the international community are relevant because they reflect developing customary laws. Thus the unilateralism of the Reagan Administration's foreign policy manifests itself not only in attempts to redefine and modify traditional rules, but also in the defiance of expectations of international cooperation.

III. SURVEY OF FOREIGN POLICY DECISIONS

1. Recognition of Iranian Hostage Agreements (Compliance)

The Reagan Administration resisted an opportunity to mold international law by demonstrating good faith observance of the Iranian hostage agreements.[14]

In 1981, the Carter Administration concluded executive agreements with the government of Iran to secure the release of fifty-two Americans held hostage in that country for 444 days.[15] The traditional rule of international law requires the good faith observance of such agreements.[16] The Reagan Administration accordingly issued various executive orders and regulations implementing the accords.[17]

The Reagan Administration failed, however, to invoke the "state duress exception" to the traditional rule.[18] According to emerging customary international law, agreements concluded by the threat or use of force are voidable.[19] The Iranian government's involvement in the 1979 seizure of the United States Embassy and its personnel arguably constituted state duress.

2. Gulf of Sidra I: Downing of Libyan Planes (Modification)

The United States Navy's downing of two Libyan planes in the Gulf of Sidra in 1981 was unusual, though not a violation of international law.

Libya had claimed the Gulf of Sidra as territorial waters and warned the United States not to conduct naval maneuvers there.[20] When the United States disregarded the warning, two Libyan jets challenged two United States F14s. The F14s responded by shooting down both Libyan planes.

The actions of the United States did not violate international law. Neither conventional nor customary law of the sea supports the Libyan claim of the Gulf of Sidra as territorial waters.[21] International law therefore permitted the United States planes to defend themselves while exercising their rights of overflight over international waters.[22] The Reagan Administration's decision to use force, especially in the context of its political campaign against Libya's alleged support of international terrorism, was nevertheless very unusual.

3. Rejection of the Law of the Sea Treaty (Significant Deviation)

The Reagan Administration also defied the expectations of the international community by rejecting the Law of the Sea Treaty.[23]

The Law of the Sea Treaty was drafted under the auspices of the United Nations and was near completion when President Reagan came into office.[24] The general expectation in the United States and abroad was that the United States would join the growing international consensus in favor of the Treaty if accommodation could be reached on key issues.[25] However, the Reagan Administration strongly objected to the provisions of the Treaty concerning international regulation of deep seabed mining.[26] The Reagan Administration's refusal to sign the Law of the Sea Treaty was a significant deviation from expectations of multilateral cooperation in favor of unilateral state action.

4. Polish Trade Sanctions (Modification)

Trade sanctions against Poland tested the limits of acceptable intervention in the internal affairs of other states.

The Reagan Administration imposed sanctions in 1982 to protest the Polish government's violation of the human rights of its nationals.[27] Although customary international law prohibits intervention in the domestic affairs of other states,[28] a state's violation of the human rights of its own population has become a justifiable subject of concern of other states.[29] The use of unilateral trade sanctions to manifest that concern is therefore acceptable but highly unusual.[30]

5. Trans-Siberian Pipeline Sanctions (Modification)

Export controls on products sold by United States firms and their foreign subsidiaries to Eastern bloc countries posed problems of interference in the internal affairs of United States allies in Western Europe.

The Reagan Administration imposed the controls[31] ostensibly in response to alleged Soviet pressure on the Polish government to suppress internal dissent.[32] Its underlying policy concern, however, was its fear of potential Soviet blackmail if the NATO allies became dependent on Soviet exports of oil and natural gas.[33]

Trade sanctions imposed through domestic corporations or their foreign subsidiaries are not an unusual form of interference in the internal affairs of other states.[34] If such export controls are unreasonable, however, they violate international law as an interference with the principal interests of the country where the foreign subsidiary is located.[35] In the view of NATO allies, the extraterritorial application of these controls constituted interference with their national sovereignty.[36] Such extraterritorial application of United States law is also objectionable to much of the international community.[37]

65. Deployment of Marines in Beirut (Modification)

The Reagan Administration's deployment of United States marines in Beirut was a controversial use of national forces as peacekeepers in other countries. The marines were deployed as a part of a multilateral force formed in 1982 by France, Italy, and the United States to keep peace in Beirut in the wake of the 1981 Israeli invasion of Lebanon.[38]

Other countries have deployed peacekeeping forces, although primarily under the auspices of the United Nations.[39] Whether such forces are unilateral or authorized by the United Nations, they are permitted under international law only with the consent of the host state.[40]

The deployment of United States marines in Beirut raises two issues. First, while the Lebanese government made a formal request for the peacekeeping force,[41] many Lebanese considered the government illegitimate. It was engaged in a civil war at the time and did not militarily control most of its territory. The validity of Lebanon's consent to the presence of the marines is therefore subject to attack. Second, the deployment set a precedent for the use of national forces in a non-United Nations peacekeeping context.

7. Invasion of Grenada (Significant Deviation)

The invasion of Grenada was a far-reaching deviation from the traditional rules governing the use of force in international relations.

United States Marines invaded the Caribbean nation of Grenada in October 1983. The Reagan Administration's justification of the invasion relied on a formal request by the Organization of Eastern Caribbean States (OECS).[42]

Conflicting rules of international law applied to this situation. On the one hand, the principles of nonintervention and restraint on the use of force in international relations, embodied in article 2(4) of the United Nations Charter, prohibit such an action. On the other hand, there is a right of collective self-defense when authorized by a regional organization and a right to use force when requested by a legitimate government.[43]

The dubious validity of the request for United States intervention,[44] however, justifies claims that the Reagan Administration was in effect asserting the right to use military force to overthrow Marxist governments when the opportunity arises. The Grenada invasion was thus a revealing illustration of the Reagan Doctrine, which sanctions the use of force in support of democratic revolutions.

8. Policy Towards Nicaragua (Significant Deviation)

The Reagan Administration's policy towards Nicaragua represents a significant deviation from even the broadest notions of self-defense.

The Reagan Administration helped organize and support the *contras*, an insurgency aimed at overthrowing the Sandinista government.[45] it also ordered the mining of Nicaraguan harbors.[46] There is thus considerable reason to believe that the Reagan Administration's goal is the overthrow of the Nicaraguan government.

While there is a broad right of self-defense under Article 51 of the United Nations Charter, it is not applicable here.[47] Article 51 permits collective self-defense only if a state is being attacked by armed or irregular forces. Nicaragua does not threaten an armed attack on the United States. Nor does the alleged Marxist nature of its government justify the organization and support of an insurgency intended to overthrow it. Furthermore, the mining of harbors is traditionally considered an act of war.[48]

The Reagan Administration's policy towards Nicaragua is the cornerstone of the Reagan Doctrine. It is the most egregious example of the Reagan Administration's disdain for existing international law, evidenced by reliance on new rules with little precedent.

9. Buildup of United States Forces in Honduras (Modification)

The Reagan Administration has increased the number of United States forces in Honduras to train and conduct joint exercises with the Honduran army.[49] in reinforcing United States forces in Honduras, the Reagan Administration has abided by the letter, if not the spirit, of international law.

International law provides that a state may comply with a host state's request for the stationing of troops.[50] In this case, Honduras clearly gave its consent.[51] The underlying purpose of the buildup, however, is to exert pressure on Nicaragua, Honduras' neighbor. Such pressure is a violation of the international legal principle of restraint on the use of force.[52]

United States policy in Honduras is a good example of the Reagan Administration's strategy of molding a traditional rule of international law to conform to its perception of national interests.

10. Military Support of El Salvador (Modification)

The Reagan Administration has sent military training forces to El Salvador to assist the Salvadoran army in combatting domestic insurgents, which are apparently receiving some external support.[53] Such assistance extends the notion of collective security to a novel context.

The applicable rule of international law in this situation is unclear. A state is permitted to exercise its right of collective security by stationing troops in other countries when requested to do so.[54] Yet the rule governing the stationing of troops in countries engaged in civil war is unsettled.[55] Possible external subversion would, however, justify such support.[56] But the external aggression here is nevertheless not the classic type of cross-border movement of troops. The Reagan Administration is therefore extending the traditional rule to a novel situation.

11. Withdrawal from UNESCO (Significant Deviation)

The United States withdrew from the United Nations Educational, Scientific and Cultural Organization (UNESCO) to create pressure for a reformulation of its policies and programs.[57] While the applicable treaty provisions permitted the withdrawal,[58] it was contrary to the long-standing United States policy of cooperation with the specialized United Nations organizations. Withdrawal also violated the international community's expectations of meaningful United States participation in multilateral organizations. This practice further illustrates the Reagan Administration's penchant for unilateral action concerning international organizations and its dependence on narrow interpretations of national interests to justify an otherwise lawful action.

12. Nonpayment of United States Obligations to the United Nations (Significant Deviation)

The Reagan Administration's policy on payment of United States budget obligations to the United Nations has deviated significantly from international rules and expectations.

Since 1985 the Reagan Administration has refused to pay various items of the United Nations budget which have been assessed to the United States. It has taken this position because it believes that the United Nations is not sufficiently responsive to the interests and concerns of the United States.[59]

The Reagan Administration's policy of nonpayment does not conform to international rules which mandate that member states fulfill their financial obligations to the United Nations when such obligations become due.[60]

13. Withdrawal from the International Court of Justice in the Nicaragua Case (Significant Deviation)

In 1984, the government of Nicaragua sued the United States in the International Court of Justice (ICJ) for the illegal use of force, charging the United States with recruiting, training, arming, financing, and directing military actions in and against Nicaragua.[61] The Reagan Administration claimed that the ICJ had no jurisdiction in matters concerning events in Central America.[62] It then withdrew the case from the ICJ's compulsory jurisdiction.[63]

The Reagan Administration's withdrawal violated both the compulsory jurisdiction provision of the Statute of the ICJ (article 36(2)) and the United States' optional declaration of adherence to that provision.[64] Pursuant to this latter declaration, the United States was required to give six months notice to the ICJ if it wished to withdraw from compulsory jurisdiction. It never gave the requisite notice.

In addition, the Reagan Administration's policy deviated significantly from that of most prior United States administrations, which promoted the development of the ICJ and advocated adherence to international law, especially international adjudication and arbitration.[65]

14. Withdrawal from the Compulsory Jurisdiction of the International Court of Justice (Significant Deviation)

In 1985, following its boycott of the case brought by Nicaragua, the Reagan Administration withdrew completely from the compulsory jurisdiction of the ICJ.[66]

Although article 36(2) of the Statute of the ICJ and the United States' optional declaration[67] both permit the United States to unilaterally restrict its future adherence to compulsory jurisdiction, the Reagan Administration's actions were inconsistent with traditional United States support for the ICJ and could serve as a precedent for similar steps by other states.[68]

15. Restricting Nicaraguan Sugar Imports (Significant Deviation)

In 1983, the Reagan Administration restricted imports of sugar from Nicaragua.[69] It claimed that such restrictions were legal under United States tariff legislation and international law.[70]

However, the General Agreement on Tariffs and Trade (GATT)[71] generally precludes such quota restrictions.[72] The Administration's actions violated United States obligations under this international agreement.

16. Trade Embargo Against Nicaragua (Modification)

In 1984, following the restriction on sugar imports from Nicaragua, the Reagan Administration imposed a more general trade embargo on that country.[73] It claimed that the embargo was justified by the United States' right of self-defense in its continuing conflict with Nicaragua.[74]

Article XXI of the GATT permits the imposition of such measures as trade embargos when a state must protect its essential security interests.[75] Furthermore, the United States and the international community have witnessed numerous precedents of the imposition of trade embargos and sanctions. By broadly construing the security interests at stake, the Reagan Administration was able to claim that its action was in conformity with international norms.

17. Interception of Egyptian Airliner and Capture of Achille Lauro Pirates (Modification)

In 1985, the Reagan Administration ordered United States military and intelligence forces to intercept an Egyptian airliner which was carrying terrorists who had previously hijacked the Italian passenger ship *Achille Lauro.*[76]

Although there is a universally recognized right to capture pirates,[77] there is no recognized right or precedent for intercepting civilian aircraft in order to capture pirates.[78] The interception was therefore an unprecedented action which violated existing international norms concerning freedom of aviation.

18. ABM Treaty Reinterpretation and the Strategic Defense Initiative (Significant Deviation)

Since 1985 the Reagan Administration has reinterpreted key provisions of the 1972 ABM Treaty[79] to allow development and testing of elements of the Strategic Defense Initiative (SDI).[80] The Administration's position has been in clear violation of the rules of treaty interpretation.

According to international law, one method of interpreting a treaty's provisions is by the subsequent practice of its parties.[81] In this case, both the Soviet Union and the United States acted until 1985 as if the ABM Treaty proscribed the development and testing of antiballistic missile systems. Such past behavior restricts new interpretations of the Treaty's provisions.[82]

At this point, development and testing are still in the early stages. The United States will be in violation of the ABM Treaty, however, once it commences significant development and testing. The Reagan Administration's reliance on an interpretation which directly conflicts with prior practice marks a very serious deviation from the accepted international rules of treaty interpretation.

19. Criticism of Soviet Human Rights Violations (Compliance)

The Reagan Administration has continuously criticized the Soviet Union for violating the human rights of Soviet dissidents and minorities.

Although there is a general principle of international law which mandates noninterference in the internal affairs of other states,[83] the treatment of minorities is now generally recognized as a matter of international concern when such treatment involves human rights.[84] The position of the Reagan Administration on this matter thus does not deviate from the international norm.

20. Conditioning Foreign Aid on United Nations Voting Record (Modification)

In 1984, the Reagan Administration supported legislation which permits the conditioning of foreign aid on a state's voting record in the United Nations.[85]

Although there is no general rule of international law which requires the United States to grant foreign aid,[86] there is an expectation that foreign aid will be granted regardless of a state's United Nations voting record.[87] The Administration's action was therefore a significant development in international law.

21. Nonobservance of SALT II (Modification)

In 1986, the Reagan Administration discontinued the United States' observance of the SALT II Treaty.[88] Since the Senate never ratified the SALT II Treaty, it was not legally binding on the United States. However, because the United States observed the agreement for a number of years,[89] the discontinuance represents a change in United States policy. Although the Reagan Administration did not violate international law, it did transgress world expectations.

22. South African Trade Sanctions (Modification)

In 1985-86, Congress forced the Reagan Administration to impose economic and trade sanctions on South Africa.[90] Although it is true that sanctions against South Africa have substantial precedent within the international community[91] and that traditional international law permits economic sanctions,[92] the imposition of sanctions on a state for the purpose of changing its internal policies is nevertheless international behavior of questionable legality.[93]

23. Gulf of Sidra II: Bombing of Libya (Significant Deviation)

The Reagan Administration ordered the bombing of the Libyan capital as retaliation for Libya's terrorist activities against the United States and other Western countries.[94] Customary international law does not condone the use of force for purposes of retaliation or deterrence.[95] It permits the use of force only in self-defense and perhaps, under some circumstances, in preemptive or anticipatory self-defense.[96] But the strikes against Libya were for purely retaliatory purposes. No matter what justifications the Reagan Administration gave for its action or how effective it has been in counteracting Libyan-supported terrorism, the bombing was clearly a deviation from the accepted international rules concerning the use of force by one state against another.

Perhaps the bombing will lead to the development of a special set of international rules applicable to the use of force against terrorist states. At this point, however, such actions violate existing rules of international law.

24. Trade Sanctions Against Libya, Syria, and Iran (Modification)

The Reagan Administration has ordered the imposition of trade sanctions against Libya, Syria, and, most recently, Iran for their support of international terrorism.[97] Traditional international law does not prohibit the use of economic and trade sanctions against hostile states.[98] Since World War II, the United States has frequently used economic sanctions as a foreign policy weapon against such countries as North Korea, Cuba, South Yemen, and the Soviet Union.[99] However, the use of such sanctions in response to international terrorism amounts to a new application of existing rules.

25. Arms Sales to Iran (Compliance)

As the Iran-Contra Hearings made clear, the Reagan Administration secretly supplied arms to Iran for use in Iran's war against Iraq.[100] The traditional law of neutrality forbids a neutral state from supplying any belligerents with arms or war materiel in time of war or open hostilities.[101] However, many countries, including the United States, have repeatedly supplied arms to belligerents in the past.[102] Although the secret arms sales to a hostile state like Iran may have violated the domestic law of the United States and were a significant deviation from the traditional law of neutrality, they were not inconsistent with the current expectations and practice of the international community.[103]

26. Changing Leaders in Haiti and the Philippines (Modification)

In 1986, the Reagan Administration assisted in the transfer of power from the Marcos dictatorship in the Philippines and the Duvalier dictatorship in Haiti.[104]

International law prohibits the interference by one state in the internal affairs of another.[105] Such interference includes assisting forces, whether democratic or antidemocratic, seeking to depose an existing government. However, there is no rule prohibiting a state from responding to requests by beleaguered leaders to arrange their exit to other countries, thus assisting in a peaceful transfer of power. There is also no rule prohibiting a state from using other peaceful means, such as declaring support for opposition leaders, to facilitate such a transfer.

While the United States thus technically adhered to the applicable international rules, the approach it took to facilitating the formation of new governments in the Philippines and Haiti was a novel twist.[106] It thus avoided the traditional prohibition against interference and established an important precedent.

27. Support of Angolan and Afghan Insurgents (Modification)

The Reagan Administration has provided covert military aid to insurgents who oppose Soviet-backed regimes in both Angola and Afghanistan (and, to a lesser extent, in Mozambique).[107]

The general rule of customary international law prohibits a foreign state from intervening in an insurgency against an existing government.[108] The support the United States has given to the insurgents in these countries is therefore a significant deviation from the accepted rules of international law. But since the support is limited in its form and scope, it cannot be said to be a blatant deviation.

28. "Franchising" and "Privatization" (Compliance)

The Reagan Administration, as the Iran-Contra Hearings indicated, has made significant use of other countries ("franchising") and private parties ("privatization") to further its foreign policy objectives.[109] There is no rule of international law prohibiting a state from using either a third state or a private party to conduct its own diplomacy. In fact, these are traditional modes of state action which conform to the expectations of the international community. Thus, despite possible violations of domestic laws, the Reagan Administration has complied with the traditional rules of international law and diplomacy.

29. Indictment of a Foreign Diplomat (Significant Deviation)

The Reagan Administration has sought the indictment of a foreign diplomat in the United States for violations of United States criminal law.[110] It contends that the indictment will allow the United States to prosecute the diplomat if he ever returns to the United States in a nondiplomatic capacity.[111]

The international law of diplomatic immunity, as contained in the Vienna Convention on Diplomatic Relations[112] and implementing federal legislation,[113] absolutely prohibits all criminal actions against an accredited diplomat.[114] The Reagan Administration's action is a significant deviation from the law of diplomatic immunity as understood by all countries. While some in the Administration justify it as an act of deterrence against future violations of United States law, it is still grossly inconsistent with accepted international norms and the practice of all other states.

30. Rejection of 1977 Geneva Protocol I (Modification)

The proposed Protocol I to the 1949 Geneva Conventions would give combatant status to insurgents and terrorists.[115] The Protocol has won wide international support and the virtually unanimous expectation was that the United States would ratify it.[116] However, as an expression of its proclaimed antiterrorist policies, the Reagan Administration refused to ratify Protocol I because of the provisions concerning the treatment of irregular forces as combatants.[117]

Failure to ratify a multinational agreement is obviously not a breach of international law, although there was a substantial expectation that this particular agreement would be adopted by all major countries.

31. Failure to Enter Into Negotiations for Further Restrictions on Nuclear Tests (Compliance)

The Reagan Administration has refused to enter into negotiations over further restrictions on future nuclear tests.[118] There is some minimal obligation to do so under the Non-Proliferation Treaty.[119] However, the obligation under the Treaty is, at the most, to continue negotiations with other nuclear powers.[120]

The United States is not unilaterally responsible for failing to enter into negotiations. Thus, the United States has not breached its legal obligations under the Non-Proliferation Treaty.

32. "Reflagging" Kuwaiti Tankers (Significant Deviation)

The Reagan Administration "reflagged" Kuwaiti oil tankers in order to protect perceived vital interests of the United States and its allies in the Persian Gulf and to pressure Iran to negotiate an end to the Iran-Iraq war.[121] Laws governing neutral merchant vessels require they not supply war goods or assist a belligerent state or the active allies of a belligerent.[122] Kuwait is an active de facto ally of Iraq. It provides Iraq with a port for off-loading military supplies, serves as a transit area for such goods, and furnishes needed capital. The protection of Kuwaiti ships by the United States in these circumstances violates the laws of maritime neutrality.[123]

In addition, the 1958 Geneva Convention on the High Sea requires the existence of a "genuine link" between a state and a ship before a state may extend its flag to a merchant vessel.[124] There is no genuine link here. The Kuwaiti ships are not owned by United States entities and have been reflagged merely as a convenience to secure United States naval protection., Thus, this policy is a significant deviation from the traditionally accepted rules of international law.

IV. CONCLUSION

These thirty-two incidents illustrate the implementation and breadth of the Reagan Corollary of international law. They demonstrate that the Reagan Administration has attempted to refashion the international legal system to loosen the restrictions that international law and international institutions place on unilateral state action.

The Reagan Administration has avoided the restrictions of international legal rules in three ways: by "bending" traditional rules or applying them to unprecedented situations; by reinterpreting treaty obligations; and, occasionally, by advocating new rules of international law.

If the thirty-two incidents examined above are indicative, the Reagan Administration's favored approach is to "bend" international legal norms to suit United States interests by applying them in an unprecedented manner. The imposition of economic sanctions against Poland, South Africa, Libya, Syria, and Iran established an important precedent for a practice whose legality was once questionable. The Reagan Administration's actions in the Gulf of Sidra, Lebanon, Honduras, El Salvador, Angola, Afghanistan, and during the *Achille Lauro* incident were similarly intended to test the limits on the internationally acceptable use of force.

The Reagan Adminstration has also attempted to avoid international legal strictures by reinterpreting treaty commitments. It has interpreted the ABM Treaty to allow development of SDI; it has minimized its obligation under the Nuclear Non-Proliferation Treaty to negotiate a nuclear test ban with the Soviet Union; and it has read the GATT to permit restrictions on Nicaraguan sugar imports and a trade embargo against Nicaragua for reasons of national security.

In a few instances the Reagan Administration has openly defied existing rules of international law and offered in their place new norms of international behavior. It has sought to indict an accredited foreign diplomat in disregard of the Vienna Convention on Diplomatic Relations. It has also established a pattern of using force, directly and by proxy, in clear violation of existing international law. It has implicitly asserted a right to use force to deter Libyan terrorism, to overthrow a Marxist government in Grenada, and to exercise a broad notion of self-defense against Nicaragua.

The Reagan Administration has demonstrated its irritation at the restraints imposed by international institutions by refusing to sign the United Nations Law of the Sea Convention, withdrawing from UNESCO, failing to fulfill its financial obligations to the United Nations, and withdrawing its acceptance of the compulsory jurisdiction of the International Court of Justice. Some of these actions were patently illegal, while others represented a more nebulous violation of expectations of multilateral cooperation.

Because of formulation of international law and the vitality of international institutions depend so much on state practice, the Reagan Corollary is likely to have a significant impact on the international legal system. Viewed in the most favorable light, the Reagan Corollary has the potential for encouraging adherence to international norms by allowing individual states to impose costs on other states for noncompliance. In this sense it could be seen as a surrogate for the weak enforcement mechanism of the international legal system. In the long term, however, the Reagan Corollary creates a risk of anarchy because the new rules that it seeks to create would authorize all states to apply and enforce their particular interpretations of international norms. Although intended to modify or replace existing rules, the Reagan Corollary does not represent a viable alternative to the current legal order because it would work best, if at all, if the new rules applied only to the United States.

The legacy of Reagan Administration's foreign policy is one of excessive unilateralism with little regard for international law or the future development of the international legal system. This legacy is contrary to traditional United States support for international law and multilateral cooperation. It remains for the next administration to revert to foreign policies more reflective of traditional United States global interests, policies which support the development of an efficient and effective pluralistic international legal system.

FOOTNOTES

[1] *See* Fitzgerald, *The American Millenium*, in Estrangement: America and the World 264, 275-76 (S. Ungar ed. 1985); Hamilton, *Power Without Purpose*, 65 Foreign Pol'y 29, 30 (Winter 1986/87). *See generally* Greenwald, *Foreign Policy Under Reagan II*, 63 Foreign Aff. 219 (1984) Discussing Reagan's second term); *America and the World 1984*, 63 Foreign Aff. 411 (1985) (discussing Reagan's first term).

This policy appears to be within the Morgenthau-Kennan school of foreign policy realism. *See generally* Kennan, *Morality and Foreign Affairs*, 64 Foreign Aff. 205, 205-06 (1985).

[2] Many have criticized the Reagan Administration's approach to foreign relations and international law. *See, e.g.*, D. Moynihan, Loyalties 66-67, 93-96 (1984); A. Schlesinger, The Cycles of American History 83-85 (1986); Henkin, *International Law and National Interest*, 25 Colum. J. Transnat'l L. 1. 2-3 (1986); Moynihan, *Remarks of Daniel Patrick Moynihan*, in Restoring Bipartisanship in Foreign Affairs 31, 34-39 (S. Soper ed. 1985); Tolchin, *As Laws are Flouted, Congress Seethes*, N.Y. Times, Nov. 13, 1985, at A24, col. 3; Oakes, *Reagan's Brezhnev Doctrine*, NY. Times May 20, 1985, at A19, col. 1. For a discussion of domestic illegality, see Henkin, *Foreign Affairs and the Constitution*, 66 Foreign AFF. 284 (1987).

However, few legal scholars have written on the effect of the Reagan Administration's foreign policy on international law. The scholarly debate has instead focused on the impact of international law of U.S. foreign policy. *See, e.g.*, Comment, *Does the U.S. Government Think That International Law Is Important?* 11 Yale J. Int'l L. 479, 488 (1986) Hamilton, *supra* note 1, at 30; Matheson, *The Role of Reagan Administration*, 9 George Mason U.L. Rev. 21 (1886).

[3] *See infra* notes 41-124 and accompanying text.

[4] *See generally* Layne, *The Real Conservative Agenda*, 61 Foreign Pol'y 73, 83-93 (Winter 1985/86).

[5] Unlike the Nixon Doctrine, which called for the use of United States materiel and training in support of friendly Third World governments, the Reagan Doctrine advocates using such support and training to overthrow unfriendly governments. George Will describes the Reagan Doctrine as "Containment Plus." *See* Wash. Post, Dec. 12, 1985, at A19, col. 6.

[6] *See* Tucker, *Exemplar or Crusader?* 5 Nat'l Interest 64, 67 (1986) ("[The Reagan Doctrine] declares that intervention may be justified in order to overturn governments that are illegitimate. In the new formulation, only legitimate governments have the right to demand non-intervention from others.").

[7] *See* Fontaine, *Beyond Wilson and Rambo*, 65 Foreign Pol'y 33, 37-38 (Winter 1986/87); *see also* A. Eban, The New Diplomacy: International Affairs in the Modern Age 4, 268-69, 397-98 (1983).

[8] *See generally* D. Acheson, Present at the Creation: My Years in the State Department (1969).

[9] *See Death of A Pipe Dream*, Wall St. J., Oct. 8, 1985, at 30, col. 1.

Dissatisfaction with the postwar international legal system may be the result of changes within the U.S. foreign plicy elite. *See generally* I. Destler, L. Gelb & A. Lake, Our Own Worst Enemy: The Unmaking of American Foreign Policy (1984). While the old elite was generally pragmatic and nonideological and prized consensus, the new elite is identified with the "populist tradition," favors unilateral action, and disparages existing international law. *See* W. Isaacson & E. Thomas, The Wise Men: Six Friends and the World They Made 29, 726 (1986).

The Reagan Corollary could nevertheless be viewed as an attempt to uphold in a more realistic fashion the objectives of the United Nations and the Western Alliance, interpreted as being the fundamental rights and freedom of states and individuals. This would, however, be a generous assumption. *But see* J. Kirkpatrick, The Reagan Doctrine and U.S. Foreign Policy 13 (1985). Rep. Jack Kemp (R-N.Y.) defends the Reagan Doctrine as consistent with nonpartisan idealism. *See* N.Y. Times, Dec. 27, 1985, at A30, col. 4.

[10] Nor does this article provide a comparison of the foreign policy of the Reagan Administration as it affects international law with that of the Carter Administration or prior U.S. administrations. Many claim that the Carter Administration was more concerned with the constraints of traditional rules of international law. *See, e.g.*, Comment, *Supra* note 2, at 480. *But see* D. Moynihan, Loyalties 66, 67 (1984) ("Neither the Carter Administration then nor the Reagan Administration now display a sense of the past American commitment to the role, if not the rule, of law in world affairs.").

[11] Additional foreign policy decisions that affected the international legal system could also be considered. They include the Reagan Administration's support for the Genocide Convention; support of Great Britain is the Falklands crisis; NATO deployment of cruise missiles in Europe; support of the resistance movement in Mozambique; the response to the Soviet downing of KAL 007; the forced return of Cuban refugees to Cuba; terrorism policy; the implementation of the Gulf of Maine Boundary decision; trade sanctions against Iran and Iraq; the closing of the Palestine Information Office in Washington, D.C.; the capture of a highjacking suspect at sea; and the destruction of an Iranian oil platform in the Persian Gulf.

Additional actions that demonstrate the Reagan Administration's irritation with international institutions include the dissenting vote cast by the U.S. in 1981 against the adoption by the World Health Organization of an ethics code concerning the promotion of baby formula; the antiabortion policy announced at a UN conference in Mexico City in 1984; the boycott of the 1987 UN conference on disarmament and development in New York; and the decision to send low-ranking officials to the 1987 Trade and Development Conference of the UN Commission for Trade and Development. *See generally Boycotting Guns and Butter*, N.Y. Times, Sept. 3, 1987, at A26, col. 1.

[12] Abraham D. Sofaer, Legal Adviser to the State Department, has said that there are legitimate arguments in favor of "bending" the rules of international law in extraordinary circumstances. He has acknowledged that the Reagan Administration has considered antiterrorist proposals that would violate existing international law. *U.S. Is Said to Weigh Abducting Terrorists Abroad for Trials Here*, N.Y. Times, Jan. 19, 1986, at 1, col. 4.

[13] Statute of the International Court of Justice, art. 38, para. 1(b), 59 Stat. 1055, T.S. No. 993, 1 U.N.T.S. xvi.

[14] *See Text of Administration's Statement on Review of Hostage Accords*, N.Y. Times, Feb. 19, 1981, at A10, col. 3.

[15] *See generally* Malawer, *Rewarding Terrorism: The U.S.-Iranian Hostage Accords*, 6 Int'l Security Rev. 447 (1982).

[16] Vienna Convention on the Law of Treaties, *opened for signature* May 23, 1969, art. 26, U.N. Doc. A/Conf. 39/27 (1969), *reprinted in* 8 I.L.M. 679, 690 (1969).

[17] *See generally* Malawer, *supra* note 15.

[18] *See* Malawer, *A Gross Violation of Treaty Law*, 3 Nat'l Law J., Mar. 2, 1981, at 13, col. 1. *See generally* Malawer, *supra* note 15.

[19] *See* Vienna Convention on the Law of Treaties, *supra* note 16, art. 52; Restatement (Revised) of the Foreign Relations Law of the United States §3319(d) note 2 (Tent. Draft No. 6, 1985) (citing Malawer's review of the background regarding the state coercion rule as a basis for invalidating treaties); Malawer, *Imposed Treaties and International Law*, 7 Cal. W. Int'l L.J. 5 (1977); Malawer, *New Concept of Consent and World Public Order: "Coerced Treaties" and the Convention on the Law of Treaties*, 4 Vand. J. Transnat'l L. 1 (1970).

[20] *See generally Before Plane Battle, Libya Assailed U.S. Over Its Maneuvers*, N.Y. Times, Aug. 20, 1981, at A16, col. 1; *U.S. Reports Shooting Down 2 Libya Jets That Attacked F14s Over Mediterranean*, N.Y. Times, Aug. 20, 1981, at A16, col. 6.

[21] *See generally* Restatement (Revised) of the Foreign Relations Law of the United States §511(a) comments f and h (Tent. Draft No. 6, 1985) (citing the 1958 Convention on the Territorial Sea and the Contiguous Zone); Current Development, *The Gulf of Sidra Incident*, 80 Am. J. Int'l L. 668 (1986).

[22] *See* United Nations Convention on the Law of the Sea, *opened for signature* Dec. 10, 1982, art. 83(1)(b), U.N. Doc. A/Conf. 62/125, *reprinted in* 21 I.L.M. 1261, 1287 (1982). For U.S. policy regarding the right of overflight, see United States Ocean Policy, 19 Weekly Comp. Pres. Doc. 383 (Mar. 10, 1983), *reprinted in* 22 I.L.M. 464 (1983).

[23] United Nations Convention on the Law of the Sea, *supra* note 22.

[24] *See generally* Recent Development, *Convention on the Law of the Sea*, 23 Harv. Int'l L.J. 455 (1983).

[25] *See* Richardson, *Power, Mobility and the Law of the Sea*, 58 Foreign Aff. 902, 919, (1980).

[26] *The World in Summary: Holding Course on Law of the Sea*, N.Y. Times, Dec. 12, 1982, §4, at 2, col. 2. A number of industrialized states, including the U.S., the U.K. the Federal Republic of Germany, and Japan, subsequently adhered to a separate agreement on deep seabed mining. Provisional Undertanding Regarding Deep Seabed Matters, Sept. 2, 1984, *reprinted in* 23. I.L.M. 1354 (1984).

[27] *Transcript of Reagan's Talk*, N.Y. Times, Oct. 10, 1982, §1, at 16, col. 1.

[28] Although not stated explicitly in the UN Charter, this is a generally recognized rule of international law. *See generally Declaration and the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty*, G.A. Res. 2131, 20 U.N. GAOR Supp. (No. 14) at 11, U.N. Doc. A/6014 (1965). Nonintervention is closely linked to the principle of the sovereign equality of states, contained in art. 2(1) of the UN Charter. *See* Military and Paramilitary Activities In and Against Nicaragua (Nicar. v. U.S.), 1986 I.C.J. 14, 196 (Merits Judgment of June 27).

[29] The concept of universal human rights, a rejection of the motion that a state may treat its citizens as it wishes, has developed into a fundamental principle of international law since World War II. *See generally* Human Rights in International Law (T. Meron ed. 1984). More controversial is the motion of humanitarian intervention, by which states claim the right to use force to prevent human rights violations or anarchy in other states.

[30] The UN has authorized trade sanctions against Rhodesia and South Africa for human rights violations. Trade sanctions outside the UN framework are more controversial.

[31] Controls on Exports of Petroleum Transmission and Refining Equipment to the U.S.S.R., 47 Fed. Reg. 141-45 (1982) (codified at 15 C.F.R. §§379, 399), *reprinted in* 21 I.L.M. 855 (1982); Amendment of Oil and Gas Controls to the U.S.S.R., 47 Fed. Reg. 27,250-52 (1982) (codified at 15 C.F.R. §§376, 379, 385), *reprinted in* 21 I.L.M. 864 (1982).

[32] *See* Controls on Exports of Petroleum Transmission and Refining Equipment to the U.S.S.R., *supra* note 31, at 141; Amendment of Oil and Gas Controls to the U.S.S.R., *supra* note 31, at 27,250.

[33] *See generally* Zaucha, *The Soviet Pipeline Sanctions: The Extraterritorial Application of U.S. Export Controls*, 15 Law & Pol. in Int'l Bus. 1169 (1983).

[34] *See generally* G. Hufbauer & J. Schott, Economic Sanctions Reconsidered ch. 1 (1985).

[35] Restatement (Revised) of the Foreign Relations Law of the United States §§403, 414 (Tent. Draft No. 2, 1981); *see also* A. Lowenfeld, Trade Controls for Ppolitical Ends ch. 3 (2d ed. 1983).

[36] *European Communities; Comments on the U.S. Regulations Concerning Trade with the U.S.S.R., reprinted in* 21 I.L.M. 891 (1982).

[37] The export controls are not unlike the restraints on trade caused by extraterritoral application of United States antitrust laws. *Cf.* Pettit & Styles, *The International Response to the Extraterritorial Application of United States Antitrust Laws*, 37 Bus. Law. 697 (1982).

The Dutch courts have rejected compliance with U.S. export controls as a defense to a breach of contract claim. *See. e.g., Compagnie Europeene des Petroles, S.A. v. Sensor Nederland B.V., reprinted in* 22 I.L.M. 66 (1982).

[38] *See* Bureau of Public Affairs, U.S. Dep't of State Current Policy No. 415, Lebanon; Plan for the PLO Evacuation from West Berbut 6-12 (1982).

[39] UN peacekeeping forces have been deployed, for example, in Korea, the Congo, the Sinai, Cyprus, and Lebanon. *See generally* D. Bowett, United Nations Forces (1961); R. Higgins, United Nations Peacekeeping; Documents and Commentary (1981).

[40] *See generally*, Malawer, *The Withdrawal of UNEF: A New Nation of Consent*, 4 Cornell Int'l. J. 25 (1970) (concerning peacekeeping forces under the auspices of the General Assembly and Chapter VI of the UN Charter).

[41] *See* Lebanese Note Requesting U.S. Contribution to MNF, Aug. 18, 1982, *reprined in* 21 I.L.M. 1196 (1982).

[42] *See* OECS Statement, 83 Dep't St. Bull, 67, 68 (1983) (statement of Oct 25, 1983). The U.S. also cited as justification for its intervention a request from the Governor-General of Grenada and its reponsibility for the safety of U.S. nationals in Grenada. Levitin, *The Law of Force and the Force of Law*, 27 Harv. Int'l L.J. 621 645 (1986).

[43] *See generally* Schachter, *The Right of States to Use Armed Force*, 82 Mich L. Rev. 1620, 1644-45 (1984).

[44] *See* Joyner, *Reflections on the Lawfulness of Invasion*, 78 Am J. Int'l L. 131, 135-36 (1984).

[45] *See* Military and Parmilitary Activities In and Against Nicaragua (Nicar v. U.S.) 1984 I.C.J. 169 (Interim Protection Order of May 10), 1984 I.C.J. 392 (Jurisdiction and Admissibility Judgment of Nov. 26), 1986 I.C.J. 1 (Merits Judgment of June 27). *See generally* Almond, *The Military Activities Case; New Perspectives on the International Court of Justice and Global Public Order*, 21 In[illegible] Law. 195 (1987).

[46] *See* Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.) 1986 I.C.J. 1, 22 (Merits Judgment of June 27).

[47] *See generally* Malawer, *Anticipatory Self-Defense; Article 51 of the United Nations Charter and the Middle East War of 1967*, 8 Int'l Probs. 14 (1970).

[48] *See, e.g., Definition of Aggression*, G.A. Res. 3314, art. 3(c), 29 U.N. GAOR Supp. (No. 31) at 142, U.N. Doc. A/9631 (1974).

[49] *See U.S. Guardsmen Building Road in Honduras*, N.Y. Times, Dec. 20, 1987, at A21, col. 1.

[50] *See* G.A. Res. 3314, *supra* note 48.

[51] *See U.S. Guardsmen Building Road in Honduras*, N.Y. Times, Dec. 20, 1987, at A21, col. 4.

[52] *See* U.N. Charter art. 2, para. 4.

[53] *See U.S. Embassy in El Salvador says Forces are Within Limits*, N.Y. Times, Feb. 20, 1986, at A3, col. 4; *see also* L. Cockburn, Out of Control 10 (1987).

[54] *See generally* Schachter, *supra* note 43.

[55] There has been extensive debate concerning U.S. involvement in the Vietnam War. *See, e.g.,* Falk, *International Law and the United States' Role in the Vietnam War*, 75 Yale L.J. 1122, 1122-28 (1966).

[56] *Id.*

[57] *Text of Statement by U.S. on its Withdrawal from UNESCO*, N.Y. Times, Dec. 20, 1984, at A10, col. 3.

[58] Constitution of the United Nations Educational, Scientific and Cultural Organization, Nov. 16, 1945, art. 2(6), 61 Stat. 2495, 3 Bevans 1311, 4 U.N.T.S. 275.

[59] *See For U.N. at 40, a Mixed Message from Reagan*, N.Y. Times, Sept. 17, 1985, at A1, col. 1.

Ironically, the Soviet Union, a longtime critic of the UN, has reversed its historic position and is now paying its prior assessments to the world body and suggesting that the UN's authority be increased. Keller, *Russians Urging U.N. be Given Greater Powers*, N.Y. Times, Oct. 18, 1987, §1, at 1, col. 5; Goshko, *Soviet Pledge to Pay U.N. Debt Pressures U.S. to Settle Up or Forfeit Influence*, Wash. Post, Nov. 14, 1987, at A8, col. 1.

[60] U.N. Charter art. 17.

[61] Military and Paramilitary Activities In and Against Nicaragua (Nicar. v. U.S.), 1984 I.C.J. 169 (Interim Protection Order of May 10), 1984 I.C.J. 392 (Jurisdiction and Admissibility Judgment of Nov. 26), 1986 I.C.J. 1 (Merits Judgment of June 27). *See generally* Recent Development, *International Court of Justice—Case Concerning Military and Paramilitary Activities in and against Micaragua*, 28 Harv. Int'l L.J. 146 (1987).

[62] Statement on the U.S. Withdrawal from the Proceedings Initiated by Nicaragua in the International Court of Justice, *reprinted in* 24 I.L.M. 246 (1985).

[63] United States Letter of April 6, 1984 to the UN Secretary General, *reprinted in* 24 I.L.M. 670 (1984).

[64] *See* Statute of the International Court of Justice, *supra* note 13, art. 36(2); Declaration Recognizing as Compulsory the Jurisdiction of the International Court of Justice, *deposi* Aug. 26, 1946, T.I.A.S. No. 1598, 1 U.N.T.S. 9 [hereinafter Declaration].

[65] The United States had most recently resorted to the ICJ during the Iranian hostage crisis, under President Jimmy Carter. *See* United States Diplomatic and Consular Staff in Tehran (U.S. v. Iran), 1979 I.C.J. 7 (Provisional Measures of Dec. 15), 1980 I.C.J. 43 (Judgment of May 24).

[66] *U.S. Limits Its Role at Court in Hague*, N.Y. Times, Oct. 8, 1985, at A5, col. 1; *see also* Department of State Letter and Statement Concerning Termination of Acceptance of I.C.J. Compulsory Jurisdiction, *reprinted in* 24 I.L.M. 1742 (1985). *See generally* Recent Development, *International Court of Justice—United States Termination of its Declaration Accepting Compulsory Jurisdiction of the I.C.J.*, 27 Harv. Int'l L.J. 725 (1986).

[67] Declaration, *supra* note 64.

[68] *See* Leigh, *Jurisdiction—U.S.-Nicaragua FCN Treaty—Art. 36 of the ICJ Statute—Nature and Effect of Reservations*, 79 Am. J. Int'l L. 442, 446 (1985).

[69] Malawer, *Trade Law: Import Quotas and Foreign Policy with National Security*, Daily Record (Baltimore), Apr. 20, 1983, at 4, col. 1.

[70] The Administration's position on the sugar embargo was one of the few supported by the ICJ in its judgment on the case brought by Nicaragua. The ICJ held, in part, that the economic measures taken by the U.S. against Nicaragua did not violate international principles of nonintervention. *See* Rowles, *Nicaragua Versus the United States: Issues of Law and Policy*, 20 Int'l Law. 1245, 1276 (1986) (contending that the ICJ judgment on economic measures, while of minor import to the Nicaragua case, was very important as a statement of present customary law of nonintervention).

[71] General Agreement of Tariffs and Trade, *opened for signature* Oct. 30, 1947, 61 Stat. A3, T.I.A.S. No. 1700, 55 U.N.T.S. 187 [hereinafter GATT].

[72] *Id.*, art. XI. Art. XXI(b)(iii) of the GATT does provide that such restrictions are not precluded if they are implemented for the protection of a nation's essential security interests in time of an international relations emergency. However, it is highly questionable whether such an emergency existed in this case.

[73] Exec. Order No. 12,513 (1985), *reprinted in* 24 I.L.M. 809 (1985). *See generally Embargo on Nicaragua Appears of Little Effect*, N.Y. Times, Nov. 10, 1985, §1, at 16, col. 1.

[74] *See* Message to the Congress on U.S. Actions, 21 Weekly Comp. Pres. Doc. 566 (May 6, 1985), *reprinted in* 24 I.L.M. 809-10 (1985).

[75] GATT, *supra* note 71, art. XXI.

[76] *See generally Documents Concerning the Achille Lauro Affair and Cooperation in Combating International Terrorism*, 24 I.L.M. 1509, 1512-24, 1554-57 (1985).

[77] Restatement (Revised) of the Foreign Relations Law Of The United States §404 (Tent. Draft No. 2, 1981).

[78] Although international agreements provide for general jurisdiction in air hijacking cases, they do not provide for the interception of commercial airliners in order to capture criminals for prior acts of piracy. *See id.*, note 1. *See generally* Paust, *Extradition and the Prosecution of the Achille Lauro Hostage-Takers: Navigating the Hazards*, 20 Vand. J. Transnat'l L. 235 (1987).

[79] Treaty on the Limitation of Anti-Ballistic Missile Systems, May 26, 1972, United States-USSR, 23 U.S.T. 3435, T.I.A.S. No. 7503.

[80] *Arms Debate Now Centers on AMB Pact*, N.Y. Times, Feb. 17, 1987, at 1, col. 1. *See generally United States: Statements on ABM Interpretation*, 26 I.L.M. 282-312 (1987) (various documents).

[81] Vienna Convention on the Law of Treaties, *supra* note 16, art. 31, paras. 1-3.

[82] The Senate Foreign Relations Committee has reviewed prior U.S. and Soviet practice and concluded that the past behavior of both parties contradicts the Administration's current interpretation. *Foreign Relations Panel Denounces Reinterpreting of ABM Treaty*, Wash. Post, Sept. 21, 1987, at A10, col. 1.

[83] *See supra* note 28.

[84] *See supra* note 29.

[85] *See generally* Kasten, *Friends Owe Us Their Vote*, N.Y. Times, May 23, 1986, at A31, col. 1.

[86] However, a number of General Assembly resolutions have declared a new international economic order, in which developed states would have an obligation to aid poorer nations. *See, e.g., Declaration on the Establishment of a New International Economic Order*, G.A. Res. 3201, 14 U.N. GAOR (Supp. VI) (1974), *reprinted in* 13 I.L.M. 715 (1974); *Charter of Economic Rights and Duties of States, G.A. Res. 3281, 15 U.N. GAOR (1974), reprinted in* 14 I.L.M. 251 (1975).

[87] *Declaration on the Establishment of a New International Economic Order, supra* note 86, art. 4(k) (proclaiming as a principle of the new order "active assistance to developing countries by the whole international community, free of any political or military conditions")

[88] *See Breaking with SALT II; Critics Should Present their Case,* Los Angeles Daily Journal, Dec. 3, 1986, at 4, col. 1.

[89] *See id.; see also Future of Strategic Arms Control in the Wake of SALT II,* Proc. Am. Soc'y Int'l L. 212, 213-14 (1980) (remarks of Paul Warnke). The Reagan Administration continued to observe the SALT II Treaty despite its belief that the Soviets were violating it.

[90] *Sanctions Veto Takes a Trouncing in Both Houses,* N.Y. Times, Oct. 5, 1986, §4, at 1, col. 1. *See generally* Recent Development, *Economic Sanctions—United States Sanctions Against South Africa,* 27 Harv. Int'l L.J. 235 (1986).

[91] The Security Council has authorized an arms embargo on South Africa. S.C. Res. 181, U.N. Doc. S/5386 (1963); S.C. Res. 282, U.N. Doc. S/9867 (1970). The General Assembly has passed many resolutions concerning the embargo. *See, e.g.,* G.A. Res. 33/183 B, U.N. Doc. A/33/L.19 & Ann. 1 (1979). For a statement by the Canadian government on its participation in the arms embargo, see Statement by the Secretary of State for External Affairs, July 6, 1985, *reprinted in* 24 I.L.M. 1464 (1985).

[92] *See* Farer, *Political and Economic Coercion in Contemporary International Law,* 79 Am. J. Int'l L. 405, 410 (1985).

[93] Interference in the domestic affairs of another state is generally prohibited under international law. *See supra* note 28. Trade sanctions in particular are prohibited when imposed with the aim of destroying or changing the government of another state. *See* Farer, *supra* note 92, at 413.

[94] *See Plots on Global Scale Charged,* N.Y. Times, Apr. 15, 1986, §1, at 1, col. 6.

[95] The UN Charter provides only for "the inherent right of individual or collective self-defense if an armed attack occurs," U.N. Charter art. 51, para. 1. It does not provide for use of force in non-self-defense situations.

[96] *See generally* Malawer, *Anticipatory Self-Defense—Article 51 of the United Nations Charter and the Middle East War, 1967,* 8 Int'l Probs. 14 (1970).

[97] For economic sanctions against Libya, see Exec. Order No. 12,543, 51 Fed. Reg. 1354-59 (1986); see *also* The President's News Conference of January 7, 1986, 22 Weekly Comp. Pres. Doc. 19 (Jan. 13, 1986), *reprinted in* 25 I.L.M. 173 (1986). For sanctions against Syria, see *White House, Expressing 'Outrage,' Imposes Several Sanctions Against Syrians,* N.Y. Times, Nov. 14, 1987, §1, at 4, col. 2. For sanctions against Iran, see *Iran Embargo: The Main Import is Political,* N.Y. Times, Oct. 11, 1987, §4, at 2, col. 1.

[98] *See generally* Abbott, *Economic Sanctions and International Terrorism,* 20 Vand. J. Transnat'l L. 289 (1987).

[99] *See Iran Embargo: The Main Import is Political,* N.Y. Times, Oct. 11, 1987, §4, at 2, col. 1.

[100] *See* House and Senate Select Committee Investigating the Iran-Contra Affair, The Report of the Congressional Committees Investigating the Iran-Contra Affair, H.R. Doc. No. 433, 100th Cong., 1st Sess. (1987). The Report states "[O]fficials viewed the law not as setting boundaries for their actions, but raising impediments to their goals. When the goals and law collided, the law gave way. . . ." *Id.* at 18. *See also* Report of the President's Special Review Board (The Tower Commission Report) (1987).

[101] The Hague Peace Conference of 1907 produced a convention outlining the rights of neutral states in naval wars which stil has some application today. Convention Concerning the Rights and Duties of Neutral Powers in Naval War (Hague Convention XIII), Oct. 18, 1907, 36 Stat. 2415, T.S. No. 545. *See also* Norton, *Between the Ideology and the Reality: The Shadow of the Law of Neutrality,* 17 Harv. Int'l L.J. 249, 297 (1976). The advent of the Covenant of the League of Nations and the UN Charter raised questions concerning the continued existence of the law of neutrality. However, it has recently been partially resurrected and has residual application in cases of limited and regional conflicts. *See* 2 P. O'Connell, The International Law of the Sea 1141 (1984).

[102] *See* Norton, *supra* note 101, at 297-302.

[103] *Id.*

[104] *Reagan & the Philippines: A Winning Style,* N.Y. Times, Mar. 30, 1986, §6, at 31, col. 1; *The U.S. & Dictators,* N.Y. Times, Mar. 15, 1986, §1, at 1, col. 1 (discussing "democratic revolutions").

[105] *See supra* note 28 and accompanying text.

[106] The Reagan Administration's actions in aiding the overthrow of right-wing dictators (as in the Philippines and Haiti) by use of democratic means and subtle persuasion, coupled with its attempts to overthrow leftist dictatorships (as in Nicaragua and Grenada), could be conceptualized as a policy in fostering "democratic revolutions." Of course, it is possible to make too much out of these particular incidents in an attempt to construct a coherent foreign policy concept that may or may not actually be guiding the policymakers in the Reagan White House.

[107] *See Open U.S. Aid to Rebel Groups is Urged,* N.Y. Times, Apr. 1, 1986, at A3, col. 4.

[108] *See generally supra* note 28.

[109] As to "privatization" the President's Special Review Board found: "[T]his practice raises substantial questions. . . . Such involvement gives private and foreign sources potentially powerful leverage in the form of demands for return favors or even blackmail." Report of the President's Special Review Board (The Tower Commission Report) pt. V, at 6-7 (1987). *See also The Price of Saudi Money,* N.Y. Times, Aug. 3, 1987, at A16, col. 1; *Franchising the Reagan Doctrine,* N.Y. Times, Feb. 8, 1987, §4, at 22, col. 1.

[110] *Crash of Envoy's Car Focuses Attention on International Law,* Legal Times, May 4, 1987, at 20.

[111] *Id.*

[112] Vienna Convention on Diplomatic Relations, *opened for signature* Apr. 18, 1961, art. 31, 23 U.S.T. 3227, T.I.A.S. No. 7502, 500 U.N.T.S. 95.

[113] *See* Diplomatic Relations Act, 22 U.S.C. §254(a)-(e) (1978).

[114] See Restatement (Revised) of the Foreign Relations Law of the United States §461 comment d (Tent. Draft No. 6, 1985).

[115] The definition of combatants entitled to protection under international law in Article 1(4) of the proposed Protocol includes those fighting against colonial domination, alien occupation, or racist regimes in the exercise of their self-determination. *Text of Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I), reprinted in* 16 I.L.M. 1391 (1977).

[116] *Reagan Shelving Treaty to Revise Law on Captives,* N.Y. Times, Feb. 16, 1987 at Al, col. 6.

[117] *Id.; see also* Roberts, *The New Rules for Waging War: The Case Against Ratification of Additional Protocol I,* 20 Va. J. Int'l L. 109 (1985).

[118] *See Lawless & Foolish,* N.Y. Times, Feb. 11, 1987, at A27, col. 1.

[119] Treaty on the Non-Proliferation of Nuclear Weapons, *opened for signature* July 1, 1968, art. VI, 21 U.S.T. 483, T.I.A.S. No. 6839, 729 U.N.T.S. 161.

[120] *Id.* ("Parties to the Treaty undertake to pursue negotiations in good faith.").

[121] *See generally The U.S. Plan to Protect Kuwaiti Ships in the Gulf by Putting Them Under U.S. Flags,* 26 I.L.M. 1429-80 (1987) (various documents).

[122] *See supra* note 101.

[123] Ships of neutral states are subject to inspection and, if found to be carrying contraband, are subject to capture or destruction. Ships of belligerent states are subject to capture and destruction even if not carrying contraband. *See* P. O'Connell, supra note 101, at 1109-18.

[124] Geneva Convention on the High Sea, *opened for signature,* Apr. 21, 1958, art. 5(1), 13 U.S.T. 2312, T.I.A.S. No. 5200, 450 U.N.T.S 82 ("The State must effectively exercise its jurisdiction and control in administrative, technical and social matters over the ship flying its flag.").

SENATE—*Wednesday, June 22, 1988*

The Senate met at 10:30 a.m., and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

***The effectual fervent prayer of a righteous man availeth much. Elijah was a man subject to like passions as we are, and he prayed earnestly * * * and the heaven gave rain, and the earth brought forth her fruit.*—James 5:16, 17, 18.**

Father God, may all who hear this prayer and are concerned join with me as I pray. We pray for the desperate plight of the farmers in the drought areas. Thou knowest the seriousness of the crisis and the helplessness we all feel. Gracious God, hear our collective prayer. Have mercy on the many who directly or indirectly suffer from this extreme heat and dryness. Mighty God, Lord of Heaven and Earth, hear our earnest prayer in this hour of cosmic critical need. We pray in His name, who spoke to the storm and there was great calm. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 22, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I thank the Chaplain for his prayer. Tennyson said "More things are wrought by prayer than this world dreams of." And through the fervent prayers of our people we hope that the farmers of the country who suffer will indeed receive succor, comfort, and rain.

RESERVATION OF THE MAJORITY LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

Mr. DOLE. Mr. President, are there 10 minutes reserved?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. DOLE. Mr. President, I reserve 5 minutes of my time, and following the Senator from Wisconsin I then yield the other 5 minutes to the Senator from Arizona [Mr. MCCAIN].

Mr. PROXMIRE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

NUCLEAR PROLIFERATION HERE WE COME!

Mr. PROXMIRE. Mr. President, we may be about to lose the one solid triumph of arms control. Far and away the most significant achievement for arms control in the past 40 years has been its success in preventing the proliferation of nuclear weapons. Twenty-five or thirty years ago the great international nightmare was the prospect that by the 1980's scores of countries would have nuclear missiles and the intercontinental delivery systems to strike not only their neighbor but nations hundreds or even thousands of miles away.

With the introduction of nuclear warheads and the intercontinental ballistic missile system to deliver those warheads, a small nation gains a degree of power parity with the biggest nations.

This is why the two super powers—together with the other nuclear powers, China, France, and the United Kingdom—have been so well served with their monopoly on effective strategic delivery systems, especially with their monopoly over intercontinental ballistic missiles. The nuclear nonproliferation treaty has succeeded in winning both abstention and tough verification of abstention from the nuclear arms race by the overwhelming majority of the world's nations. But the basic fact that has made the nonproliferation treaty an effective reality was the inability of most nations beyond the five nuclear powers to procure or produce the ballistic missiles that could carry nuclear warheads.

An article by Aaron Karp in the June 1988 Bulletin of the Atomic Scientists, headlined "The Frantic Third World Quest for Ballistic Missiles" documents in detail how dangerously this situation is changing. Mr. Karp is the arms trade project leader at the Stockholm International Peace Research Institute. Mr. Karp writes that 20 Third World countries currently possess ballistic missiles or are striving to develop them. These missiles typically have a payload of over 500 kilograms and therefore could carry nuclear warheads.

What is being done about this threat of a suddenly proliferated nuclear world with two score nations each able to deliver nuclear weapons over increasing distances? Answer: Since 1983 leading economic powers including the United States have been meeting secretly to develop a protocol restricting missile technology exports. Just over 1 year ago on April 16, 1987, the 4 years of negotiations produced the International Missile Technology Control Regime. The regime was signed by the United States, Britain, Canada, France, Italy, Japan, and West Germany. Mr. Karp notes that the regime comes on just when many Third World missile programs are nearing maturity. Will the regime stop the proliferation of a nuclear delivery system? Are we about to luck out? Not unless the regime is strengthened greatly as Mr. Karp writes, "There is no time to waste."

Ballistic missiles had been developed by Third World countries more than 20 years ago. By the mid-seventies, the Soviet Union has shipped surface-to-surface missiles to several Middle East nations and to North Korea. The United States had sold similar weapons to our regional allies. But none of

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the recipients, except possibly Israel, were in a position to arm the missiles with nuclear warheads. In the late 1970's, however, Third World nations began to develop their missiles together with "obvious nuclear weapons programs."

But the regime is weak. It resembles Cocom, the East-West technology transfer arrangement. Unlike the International Atomic Energy Agency, the missile control regime has no compliance power or even any monitoring authority to enforce restraint. As the world leader in missile technology the United States has enforced its own restrictions similar to those applied by the regime since 1972. We have done so both to protect our space launch industry from foreign competition and for national security reasons as well. But a unilateral U.S. policy is ineffective. We have no monopoly on missile technology. So we welcomed the support of United Kingdom, French, German, and Israeli experts, as well as Canada, Italy, and Japan. But as Mr. Karp points out the regime still fails to include some of the biggest missile technology exporters: including China, Brazil, and Argentina.

And of course, the big enchilada is the Soviet Union. The U.S.S.R. is far and away the biggest arms exporter on Earth. With an important exception, the Soviets have not shared individual missile technologies. The exception, however, is, indeed, important. It has to do with surface-to-surface missiles. Over the past 10 years the Soviets have at times indicated strong support for controlling missile sales. But Mr. Karp argues that the Kremlin's regional allies "have grown accustomed to regular infusions"—of missiles—and will not take a cutoff lightly. Also the regime is weak because it is simply an agreement in principle. The regime gives each member full authority over implementing and interpreting stipulations.

Mr. Karp makes these recommendations:

First. More suppliers of missile technology must be brought into the regime.

Second. The regime's restrictions must be broadened and translated into national law for strict enforcement.

Third. Exporters should condition the sale of space-launched technology on adherence to the Nonproliferation Treaty.

Fourth. Nations must press for a universal ban on testing ballistic missiles.

In the words of Aaron Karp, Mr. President, "there is no time to waste." We should strive to negotiate these recommendations into effect as soon as we possibly can.

Mr. President, I ask unanimous consent that the article by Aaron Karp to which I have referred be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE FRANTIC THIRD WORLD QUEST FOR BALLISTIC MISSILES

(By Aaron Karp)

On February 25 Indian Prime Minister Rajiv Gandhi announced that his nation had successfully tested a ballistic missile with a range of at least 240 kilometers (149 miles). The missile, named Prithvi, which is Hindi for "earth," has sufficient power to carry large warheads and will, according to Gandhi, eventually be part of the Indian military forces. Although such deployment lies in the future, the Prithvi alters New Delhi's relationship with Islamabad because it has the range to strike almost any target in Pakistan.

Three weeks after Gandhi's announcement, the U.S. State Department said China had sold Saudi Arabia an unspecified number of CSS-2 medium-range missiles. The Chinese missile has a range of 2,200 kilometers and can reach nearly any part of the Middle East. Like the Prithvi, Saudi Arabia's CSS-2, when it is finally deployed, will alter the regional military balance, particularly Riyadh's relationship with Israel and Iran.

Ballistic missiles already are being used in one Third World conflict. Since the end of February, Iran and Iraq have fired more than 100 short-range, inaccurate missiles at each other's cities, causing thousands of casualties.

These events illustrate that ballistic missiles are becoming an ominous reality in the Third World. Indeed, 20 Third World countries, including Israel and Brazil, currently possess ballistic missiles or are striving to develop them. On one level, these missiles—which are propelled by rockets into the upper atmosphere, travel in a ballistic trajectory, and are pulled by gravity to their targets—are for these nations a logical step in building up their military forces. While the missiles vary in range and accuracy, they can reach many targets in regional conflicts. Unlike manned aircraft, they do not require large, vulnerable bases. They are not as easily intercepted as slow bombers. And they are easier to develop because they are less sophisticated than modern cruise missiles such as the U.S. air-launched cruise missiles.

In terms of global security, the most worrisome aspect of Third World ballistic missiles is their potential as nuclear weapons delivery systems. They typically have a payload capacity of over 500 kilograms and thus could carry nuclear warheads. Recognizing this danger, many of the world's leading economic powers began meeting secretly in 1983 to develop a protocol restricting missile technology exports. After four years of negotiation, the international Missile Technology Control Regime was unveiled on April 16, 1987. The new regime is the first multilateral effort to include potential delivery systems under nuclear nonproliferation controls and thus represents a significant nonproliferation step. It was signed by the United States, Britain, Canada, France, Italy, Japan, and West Germany.

The regime comes at a critical moment, just as many Third World missile programs near maturity. The regime will complicate their work, but as currently structured it is too weak to do much more than slow their progress. If Third World ballistic missile programs are to be prevented from evolving into effective nuclear delivery systems, the regime must be strengthened considerably. And there is no time to waste.

Less than four months after unveiling the regime—which also covers cruise missile technology—the world learned that Israel had already tested in nuclear-capable Jericho II. This medium-range ballistic missile has a range of over 1,400 kilometers, equal to the old U.S. Jupiter missile. Such a missile is most likely intended as a nuclear delivery vehicle. The magnitude of this development is such that Moscow has threatened to retaliate against any Israeli threat to Soviet territory.

Ballistic missiles had made their way to the Third World many years before the idea for the Missile Technology Control Regime emerged. In the early 1960s, for example, German technicians developed crude missiles for Egypt; Israel tested its French-designed Jericho I in 1968; by the mid-1970s, Moscow had transferred nuclear-capable but conventionally armed surface-to-surface missiles to a half dozen Middle East nations and North Korea, and Washington had sold counterparts to its regional allies. From a superpower perspective these transfers were a relatively safe way of cementing relationships with friends and allies. The quantities involved were small, and none of the recipients, with the possible exception of Israel, were in a position to arm them with nuclear warheads.

But in the late 1970s Third World nations began developing their own ballistic missiles and these weapons no longer looked stabilizing. The dangers to international security were heightened when these programs were unfolded in direct combination with obvious nuclear weapons programs.

This combination became unmistakable in 1978 as the Carter administration, trying to restructure Washington's foreign policy toward East Asia, presented plans for withdrawing U.S. troops and nuclear forces from South Korea and withdrew diplomatic recognition of Taiwan in favor of the People's Republic of China. Both Seoul and Taipei reacted furiously; both dropped loud rumors about nuclear weapons research and ballistic missile development. The South Korea missile, which apparently is now operational although Seoul has no nuclear warheads to arm it with, was a highly modified Nike-Hercules surface-to-air missile. Taiwan deployed a copy of the U.S. Lance missile while hinting that another model with a range of 600-1,000 kilometers was in development. (Taiwan recently closed down a secret installation being built to extract plutonium, a prime ingredient of nuclear weapons, from spent nuclear fuel, after an informant revealed the plant's existence to U.S. officials.) If this was not enough, a group of German engineers, the Orbital Transport und Raketen Aktien Geselschaft (Otrag), was working in Zaire and Libya developing a commercially available space launcher with abundant military potential.

In the 1980s, more Third World nations have entered the ballistic missile business via space-launch programs. These programs benefited from the maturation of the technology and the rising sophistication of Third World aerospace industries. The major difference between a space-launch vehicle and a ballistic missile is the payload they carry, and the inherent similarities have not passed unnoticed. Brazilian and Indian space launchers can, with only modification, be used to delivery nuclear warheads and do not require a sophisticated guidance package to hit cities. Recall that U.S. Atlas and Titan rockets and the Soviet

SS-6 were used almost interchangeably as space launchers and intercontinental missiles; Third World missile makers can easily do likewise.

Now India has the Prithvi. A Brazilian company, Avibras, will soon begin testing missiles with ranges up to 300 kilometers, and Brazil plans to develop longer-range missiles. Otrag has conducted rocket development programs in Libya, and other countries, including Argentina, Egypt, and Pakistan, have announced programs of their own.

The missile threat intensified when Iraq developed chemical weapons and began using them in 1983 against Iran. Often called the "poor man's atom bomb," chemical weapons could easily be adapted to missiles already in a dozen Third World arsenals. U.S. Defense Department and British Ministry of Defence reports stated in 1986 that some 14 to 20 nations, including Syria and North Korea, had chemical arsenals, and the combination of chemical weapons with surface-to-surface missiles means that nations with no known nuclear capability can still field threatening arsenals.

Informal restrictions on the transfer of missile technology were in place by the end of 1985. As announced by the White House in 1987, a missile technology control regime essentially coordinates Western restrictions on the transfer of key technologies to most countries. Since the regime is not a treaty its authority rests exclusively on the consent of the signatories. The regime represents an agreement to align national policies and consult in cases of uncertainty and in this regard it resembles the Coordinating Committee on East-West technology transfer (CoCom) or the 1974 London Nuclear Suppliers Group. But unlike the London group, which can rely on the International Atomic Energy Agency, the missile control regime has no international agency to monitor compliance and no mechanisms to enforce restraint.

The agreement is not a total embargo. Its language, which specifies an intent "to limit the risks of nuclear proliferation by controlling transfers that could make a contribution to nuclear weapons delivery systems other than manned aircraft," leaves exporters with considerable latitude. The guidelines distinguish between military missile and civilian space-launch programs and "are not desgined to impede national space programs . . . as long as such programs could not contribute to nuclear weapons delivery systems."

Unable to establish an embargo, the regime codifies a prejudice. It sets restrictions under two categories, the first of which covers the most immediately dangerous items—those that could be assembled into working missiles in a matter of weeks or months. This includes complete rocket systems with a payload of at least 500 kilograms (1,100 pounds)—thought to be the minimum weight for a crude nuclear weapon—and a range of over 300 kilometers. Category one also covers major subassembles such as whole rocket stages, rocket engines, guidance systems, reentry vehicles, and warhead parts. The regime notes that for these items, "there will be a strong presumption to deny such transfers."

Category two covers less immediately threatening technologies, principally production technologies that would aid a nation aspiring to mass produce missiles many years in the future. This list is much longer and includes propellane production equipment, structural materials, avionic equipment, ground support equipment, test equipment, and computer software. While category one items generally will not be transferred without explicit government-to-government assurances between buyer and seller, category two items will be routinely transferred unless there are outstanding concerns. In that case, category two items may be transferred if official reassurances are supplied.

One practical effect of the missile technology control regime is to internationalize U.S. policy. The United States has since 1972 enforced restrictions similar to those of the regime. The United States implemented these curbs largely to protect its space-launch industry from foreign competition. According to State and Defense Department officials, the United States began applying them in the late 1970s for national security reasons as well.

As middle level officials in Washington focused their attention on the worrisome situations in South Korea and Taiwan they confronted the fact that a unilateral U.S. policy was ineffective. The United States, although undoubtedly the world's leader in space-launch and missile technology, had no monopoly on it. Now that Washington refused to export key missile technologies, other nations were filling the gap. Their technical wherewithal might not carry as much prestige, but it served nascent Third World programs just fine. British, French, German, and Israeli experts were welcomed abroad like evangelists for the missile age.

From this perspective the missile regime was a genuine success for Washington. Six other nations, all active or potentially significant suppliers, ageed to adopt the U.S. position. But this singular success conceals serious shortcomings that need to be addressed in the near future. Foremost, the agreement fails to include many of the most profligate technology exporters. China, which had already earned a poor reputation by selling Silkworm cruise missiles to both Iran and Iraq, recently entered the longer-range missile export business with the Saudi sale. Israel is widely suspected of helping Taiwan copy the U.S. Lance surface-to-surface missile and develop a family of shorter-range weapons. Israeli influence is also apparent in the design of South Africa's missiles. Brazil has made millions of dollars exporting artillery rockets and is developing missiles with ranges up to 1,000 kilometers that it also plans to export. Argentina clearly would like to enter the business. Before any missile technology regime is complete it must include these current and potential suppliers.

The Soviet Union poses a special problem, for while it does not appear to share individual missile technologies with anyone—not even with India, its favorite Third World ally—it has been exceptionally generous in exporting surface-to-surface missiles. Since the late 1960s, about 1,000 Soviet FROG and Scud missiles have been shipped to the Middle East and North Korea, and these missiles are being used for attacks against cities by both Iran and Iraq. The United States, of course, has furnished Honest John rockets to South Korea, Greece, and Turkey, and Lance missiles to Israel. But while Soviet missile sales burgeoned throughout the decade the United States has licensed no new sales since 1974. In 1983, for example, Moscow sent Syria a new generation of much improved SS-21s. Although these missiles are, in NATO parlance, battlefield weapons, they have a range of 120 kilometers and can reach strategic targets in many Third World environments.

Yet Moscow may eventually be a party to the new regime. During the 1977-78 conventional arms limitation talks, Soviet negotiators seemed especially enthusiastic about the possibility of controlling missile sales. And Moscow has demonstrated some export restraint. Despite widespread rumors in 1984, there is no evidence that the Soviet Union ever exported its 900-kilometer-range SS-12. And according to the July 24, 1987, Manchester Guardian, Moscow apparently refused to furnish Syria with highly accurate SS-23s, which have a range of 500 kilometers. But ending missile sales will not be painless or easy for the Kremlin; its regional allies have grown accustomed to these regular infusions and will not take a cutoff lightly. Nor is it clear that the regime's category one restraints apply to Moscow's highly popular Scuds, which have a range just under the 300-kilometer threshold.

A second shortcoming is that the regime, as an agreement on principles, gives each member full authority over implementing and interpreting its stipulations. There is no guarantee that members will apply equally strict definitions in their regulations of missile exports nor any assurance that they will not use grandfather clauses to perpetuate all contracts. Verifying compliance is catch-as-catch-can—there is nothing similar to the safeguarding and inspection procedures of the 1968 nuclear Non-Proliferation Treaty.

Third, the agreement ignores the most important category of technology: human knowledge. Many leading Third World countries such as Argentina, Brazil, Egypt, Pakistan, the Koreas, and Turkey can acquire the physical accoutrements necessary to build ballistic missiles. Through their aerospace industries, they have many of the basic resources; what they lack is design skills, managerial experience, and manufacturing confidence. Their physical resources are not state-of-the-art, but talented foreign consultants can use these resources to generate powerful military results.

Egypt's missile program in the 1960s and Otrag's rouge activity today show what nations can achieve with surprisingly little hard technology. The regime's failure to regulate the work of expatriate engineers is a major, and perhaps irremediable, flaw; laws can be passed making it illegal to assist missile research in specific countries, but restricting travel is not a strength of free societies.

Most important, the agreement does nothing to reduce the military incentives nations have for acquiring ballistic missiles. Third World nations may be turning to ballistic missiles for nuclear delivery missions just as the major power did before them. All five of the existing nuclear weapons states initially relied on piloted aircraft to deliver nuclear weapons and later shifted greater emphasis to missiles. In all likelihood nuclear proliferators will follow a similar pattern, relying initially on their air forces and gradually converting to missile forces. Nations such as Israel and Pakistan are believed to have instituted nuclear training for their forces.

This conversion should be hastened as Third World air forces lose the initiative to the defender. Improved and cheaper missiles, ground radars, and airborne early warning systems make aerial penetration ever more difficult and dangerous, even for the most dedicated attacker. The rising capability of surface-to-air missiles illustrates the trend vividly. Over North Vietnam, it took about 60 Soviet SA-2 missiles to down a single U.S. aircraft: today an Afghan rebel carrying a U.S.-made Stinger missile has at least a one-in-three chance of destroying an attacking Soviet aircraft. The difference in cost—$1.2 million for an SA-2 versus $35,000 for a Stinger—means defenders can easily saturate their airspace. The attacker's job will get progressively harder.

Of course there will always be methods to get around even the best defenses and a sky jammed with guns, missiles, planes, and radars cannot guarantee that no attacker will get through. But an attacker considering anything so consequential as nuclear war will probably try to find another way and ballistic missiles are the obvious alternative. It is no accident that even Israel, with arguably the world's best air force and less than the best opponents, has consistently invested in ballistic missiles.

Aside from the strategic imperatives, ballistic missiles are international status symbols. The prestige of having long-range missiles is enough to motivate many governments to pursue these weapons. This was illustrated in its most ludicrous form last summer as Iran and Iraq each announced they had indigenously developed missiles able to reach each other's capital cities. Tehran's claim in June that it was producing a missile called Oghab (eagle) was followed in August by Baghdad's claim that it had tested a better missile with a range of 600 kilometers (372 miles). Considering that neither country has the metallurgical, chemical, or electronics industries essential for missile building, their claims can safety be dismissed. Both countries still must rely on foreign missiles for long-range attack. The claims of the two countries regarding their missile industries stand, rather, as testimony to the powerful incentives the new regime must overcome.

Against the powerful incentives for missile proliferation, the regime's restrictions, although better than nothing, are woefully inadequate. In general, the regime serves to keep Third World countries from getting Western missiles the easy way, by buying them. This is less of a constraint than it appears, however, since Western nations rarely sell such equipment and Third World countries rarely seek it. Most Third World decision makers are aware that Moscow remains the sole supplier for complete ballistic missile systems.

Restrictions on manufacturing technology could be more significant, however, because the most serious long-term danger is that Third World countries will mass produce missiles; tight control of key technologies could significantly retard this. While Third World efforts cannot be stopped entirely because such missile technology is now publicly available, any delay can be used to ameliorate regional conflict and weaken the incentives for missile proliferation.

Unfortunately, the category two restrictions on manufacturing technology are little more than a symbolic gesture and can easily be circumvented by a determined government. A potential proliferator merely has to assure the exporting government that it will use the technology for its civilian space-launch program. While some of the regime's members will interpret category two restrictions rigorously, it is reasonable to assume, based on scores of disputes over other Western technology export restrictions, that a determined buyer will inevitably find an unscrupulous seller.

Despite these bad omens, the regime offers a sound formula for controlling missile technology exports and can still have a bright future. What is needed now is a sustained effort to strengthen the regime's terms and vigorously enforce its provisions.

Of course there are critics of the regime who doubt whether it has much of a future at all. On one side are Third World advocates who suspect that it is too tight and who condemn the agreement as a discriminatory device that unfairly penalizes their civilian space programs. They see the regime, like the Non-Proliferation Treaty and the attempts to control the international arms trade, as a conspiracy to keep them powerless and dependent and will try to circumvent its regulations. On the other side are rising voices in the West, including some who participated in the negotiations, who argue that the regime is weak; diplomatic initiatives, they believe, cannot offer as much security as new military programs to counter the missile threat. Instead of relying primarily on the regime these critics call for accelerating the development and deployment of antitactical ballistic missiles (ATBMs).

The demand for ATBMs, which are missiles designed to shoot down short-range ballistic missiles, is especially troublesome since it could erode the Western resolve to strengthen the accord. While the ATBM option is an important alternative that must not be foreclosed, it is no panacea for missile proliferation. ATBMs are no less vulnerable than strategic antiballistics missiles, may not be cost-effective against nuclear or chemically armed missiles, and probably will be ineffective. In any case, the cost of full-scale development and procurement will be very high, almost certainly much higher than the cost of protecting an entire nation with passive defenses such as shelters and protective gear.

Instead of jumping into controversial countersystems, nations should concentrate on making the new regime work. Several specific steps will greatly strengthen its potential:

More suppliers of missile technology must be brought into the regime. The most important holdouts are China and the Soviet Union, but all nations with significant export possibilities must be brought in as well. Argentina, Brazil, Israel, and Sweden are also high priorities. In the long run other nations with advanced aerospace industries must be included, among them Belgium, India, the Netherlands, South Africa, South Korea, and Taiwan.

The regime's restrictions must be broadened and translated into national laws for strict enforcement.

MILWAUKEE TRANSIT SERVICES—AN EXAMPLE OF GOVERNMENT EFFICIENCY

Mr. PROXMIRE. Mr. President, Wisconsin is proud of the honest, clean, efficient government it has enjoyed under both Democratic and Republican State and county administrations and under nonpartisan city administrations. At a time when so much American government is rightly criticized for gross inefficiency and persistent corruption, it is refreshing to read about a transit system in our State's biggest city, Milwaukee, that is operating with extraordinary efficiency.

The Wall Street Journal carried a letter in its June 22 edition from the managing director of the Milwaukee County Transit System, Thomas P. Kujawa. I quote one paragraph from that letter:

> At the Milwaukee County Transit System our 1988 operating budget is only 14.6% higher than in 1981, an average increase of barely 2% a year. During that same time our hourly wage rate for bus operators increased more than 30% and fringe benefits even more. Despite this increase in labor cost, which makes up 70% to 75% of our operating budget, we were able to operate under budget each year. How did we do it? We did it without cutting service to our passengers, without an overstaffed, congested management and without penalizing our employees with wage freezes and contract concessions. We were able to control our expenses by strictly monitoring our budget activities, implementing innovative purchasing programs, making effective use of part-time employees, carefully examining requests for new services, and by working with local officials dedicated to quality transit services.

How about that, Mr. President? Mr. Kujawa and the Milwaukee Transit Authority provide an inspiring example of what competent management and diligent workers can do to provide excellent government service while keeping the cost of that service under control.

I ask unanimous consent that the full text of Mr. Kujawa's letter to the Wall Street Journal be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 22, 1988]

Re Vincent Carroll's editorial-page article (May 12) on the awarding of contracts for the operation of public-transit services on the basis of competitive bids: He blames overstaffed and congested management as a major contributor to the high cost of public-transit services.

At the Milwaukee County Transit System, our 1988 operating budget is only 14.6% higher than in 1981, an average increase of barely 2% a year. During that same time our hourly wage rate for bus operators increased more than 30%, and fringe benefits even more. Despite this increase in labor cost, which makes up 70% to 75% of our operating budget, we were able to operate under budget each year. How did we do it? We did it without cutting service to our passengers, without an overstaffed, congested management and without penalizing our employees with wage freezes and contract concessions. We were able to control our expenses by strictly monitoring our budget activities, implementing innovative purchasing programs, making effective use of part-time employees, carefully examining requests for new services, and by working with local officials dedicated to quality transit services.

Only 12% of our budget goes toward administrative costs. This is about half the industry average and hardly represents an overstaffed, congested management. Our passenger revenues cover nearly 47% of our operating budget. This also is well above the national average.

Although Mr. Carroll chides local officials for electing to construct costly rail systems, he may be pleased to learn that in Milwaukee local officials have opted for expanded express-bus service as an alternative to a much more costly light rail system.

In short, his criticism of public-transit operations and promotion of privatization may be justified in some cities, but it simply does not reflect the reality of public transit in Milwaukee.

THOMAS P. KUJAWA,
Managing Director,
Milwaukee County Transit System.
MILWAUKEE.

Mr. McCAIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

JANE FONDA'S APOLOGY

Mr. McCAIN. Mr. President, last Friday night many Americans watched a "20/20" segment in which Barbara Walters interviewed the well-known actress, Jane Fonda. Ms. Fonda, at the conclusion of that program, rendered an apology to those Americans who served in the Vietnam war and their families for any injury or pain that her acts may have caused them.

There has been a lot of questioning about the motivation of Ms. Fonda for making that statement some 15 years after the completion of the United States involvement in Southeast Asia. I, among others, have been asked if I believe that apology to be sincere.

Mr. President, my response to these inquiries from people around the country and members of the media is that I accept Ms. Fonda's apology if she is sincere. I think it would be entirely inappropriate for any of us not to accept a sincere apology. I have also made serious mistakes in my lifetime. If I apologize for those, I would hope that my apology would be accepted.

At the same time, there are legitimate questions regarding Ms. Fonda's sincerity. I believe that I can suggest an opportunity for her to prove her sincerity. I think she can prove her sincerity, Mr. President, by working with the veterans' organizations, men and women throughout this country, and organizations such as the National League of Families. She can prove her sincerity by helping to resolve the tragic legacies of the Vietnam war.

She can prove her sincerity by working with the League of Families in helping to resolve the issue of those who remain missing in action, and those who may still be held prisoner in Southeast Asia. We do not know if there are Americans still held against their will, but we have to assume that there are. We do know for a fact that the Vietnamese are holding the remains of Americans who were killed during the Vietnam war and in a most cynical fashion they have doled them out on a piecemeal basis in the belief that this gives them political leverage. Ms. Fonda can help with the League of Families and other committed veterans and Americans in getting that issue resolved.

She can appeal to the Vietnamese who, by the way, thanked her publicly on nationwide American TV for her efforts in the antiwar movement. She can condemn and call for the closure of reeducation camps, gulags where thousands of South Vietnamese veterans and former South Vietnamese Government officials remain.

She can help in the emigration of 20,000 Amerasian children who remain pariahs in Vietnam. Also, of course, she can use her visibility and status as a celebrity to help out in fundraising for our veterans and for Vietnamese refugees.

Mr. President, a lot of things are happening in Southeast Asia as we speak. The Vietnamese have made what many view as a sincere commitment to remove 50,000 troops from Cambodia. They have made a commitment to remove all their troops by 1990. That can be a two-edged sword, because none of us want the return of Pol Pot.

General Vessey, the President's special envoy, has made significant advances in his dealing with the Vietnamese. He recently received a commitment that those detainees released from reeducation camps will be allowed to come to the United States. There has also been some progress in technical means of identifying some of the MIA remains that have been returned to us. Clearly the Soviet Union is seeking a rapprochement with the Chinese, which could then lead, I believe, to a resolution of the Chinese support of Pol Pot and the continued Vietnamese occupation of Cambodia.

The Vietnamese clearly won the war. They also clearly lost the peace. I do not believe the Vietnamese are content to be in perpetuity a client state of the Soviet Union.

A few days ago, Ms. Fonda held an encounter session with a group of veterans in the Northeast. I call upon Ms. Fonda to go much further, and to join the VFW, the Disabled American Veterans, the American Legion, the League of Families, and others who have spent many years trying to resolve the war's legacies. I hope she will, in a concrete way, work to heal the wounds of a war that caused much pain, suffering, and division in our society.

UNITED STATES-JAPAN SCIENCE AND TECHNOLOGY AGREEMENT

Mr. ROCKEFELLER. Mr. President, I should like to call the attention of my colleagues to a little known but very significant accomplishment that occurred 2 days ago in Toronto.

Monday afternoon, at 4:30, President Reagan and Prime Minister Takeshita signed a landmark United States-Japan Science and Technology Cooperation Agreement. This umbrella agreement governs United States-Japan relations in most areas of civilian science, including the access each has to the other's Government-supported research.

This negotiation is an outgrowth of more than 9 months of arduous work between the United States and Japan. Quite frankly, I think the President can be well satisfied with a significant victory for our country in the signing of that agreement.

Last October, it seemed that the agreement was not going anywhere. It appeared that the Japanese were stonewalling, did not want to have any change in the 1980 language. I called a hearing of the Subcommittee on Science Technology and Space, which I chaired, to focus attention on the importance of a meaningful science and technology cooperation agreement between our two countries.

At that time Clyde Prestowitz, former trade negotiator and author of Trading Places, said:

> Establishing a balance in flow of technology between the United States and Japan is one of the most important things that the United States should be focusing on, not only as part of its trade policy, but as part of its overall economic and national security policies.

The signing of this agreement marks an enormous step in the evolution of United States-Japan cooperation in the area of scientific research and development. Most significantly, it stresses that the United States-Japan science and technology relationship should now be based on the principles of balance, equivalence, and shared responsibilities.

In 1980, we entered into our first umbrella science and technology accord with Japan. The original agreement was a fairly routine, bilateral accord. It was general in scope and short on detail.

Under the 1980 agreement, science and technology relations over the past 8 years between the United States and Japan have been "business as usual." Large numbers of Japanese students study in American universities—up to 10,000 at any one time; Japanese researchers work in our top Federal labs, such as the National Institutes of Health; and the Japanese have access to both our published literature and to Government research reports.

On the other hand, our open-door approach to scientific research has not always been reciprocated. It was not until 1983 that Japanese universities were opened to foreign research for the first time. American scientists who work in Japanese laboratories claim that they are excluded from the best labs, from high level research within the labs and from important laboratory meetings.

There are lots of reasons for this imbalance, including: A very different laboratory system structure in Japan in which most of the top research is done at multicompany research labs—not at Government or university labs; an environment where there is less independence for junior research scientists; the fact that few non-Japanese speak Japanese, which is obviously a problem; and a very different living situation in Japan.

But no matter what the reason is, we can no longer afford to maintain the lopsided status quo. Changes in the United States-Japan relationship mandate that the science and technology relationship between the two countries should now be a two-way street.

For decades, the United States has been the world's No. 1 source of scientific and technological advances. But the world has changed over this period, and the relative power, wealth, and scientific capability of many other countries have improved drastically. In the area of technology, Japan, in particular, has become a global powerhouse, a developer of world-class science and technology.

Furthermore, the United States and Japan have reached an important new point not just in their science relationship but also in their economic relations. In past years, Japan was still recovering from wartime devastation. Under such circumstances, U.S. policy, quite properly, emphasized assistance, to allow things to flourish there and to encourage that. Now that Japan has joined the United States as one of the world's economic superpowers, our relationship must change and will change.

Recent signs are very encouraging. The Japanese Ministry of Education has begun a new program to invite about 100 young foreign Ph.D. scientists from the United States and Europe to spend 1 year at Japanese universities and other research institutions. These researchers will receive free travel, living expenses, and research costs. That is very good. The National Science Foundation this month signed an agreement with Japan's Agency of Industrial Science and Technology to accept up to 30 United States researchers each year at its laboratories. These are good starts, but the Japanese will need to do a lot more to remedy the lopsided relationship in research and technology that has taken place in the past 8 years.

Fortunately, as of Monday afternoon, we now have a meaningful United States-Japan science and technology agreement in place based on the principles of balance, equitable contributions, and shared responsibilities. The new accord includes a commitment to getting "Government sponsored or Government supported" labs to open up to foreign researchers. It also commits the United States and Japan to providing more foreign language training programs for scientists and engineers, fellowships with adequate allowances for housing, dissemination of information about the fellowships, and distribution of Government-sponsored technical reports. The agreement sets up a structure of committees dedicated to enforcing the terms of the agreement.

I am very pleased that we have been able to reach an agreement with the Japanese about what our science and technology relationship should be. Now that President Reagan and Prime Minister Takeshita have signed this accord, the challenge ahead is to ensure that the Japanese Government agencies fully implement, and live up to, this agreement to achieve that balance. American researchers, however, in turn, must make the effort to get into their laboratories, to make application to go to the Japanese laboratories, and take advantage of the opportunities opened up by this agreement. There is a real obligation on both sides to make this agreement work, and I will work to see that Congress and the Federal Government do everything possible to achieve that goal.

I thank the Chair and yield the floor.

The **ACTING PRESIDENT** pro tempore. The Senator from Tennessee.

UNTIED LOANS

Mr. **SASSER**. Mr. President, last week the Senate voted 96 to 0 that the issue of untied loans to the Soviet bloc and other East-West financial issues should be brought up for discussion during the Toronto Economic Summit. This was an overwhelming and unanimous expression of the U.S. Senate.

I am chagrined to report to the Senate today that there apparently was no substantive action taken on this issue by the heads of state in Toronto.

In fact, according to press reports, it would appear that the administration may have actually endorsed West Germany's efforts to expand credit to the Soviet bloc.

If these reports are true, not only did the administration disregard the unanimous vote of the U.S. Senate, but the leaders of this country at the Toronto Summit may have encouraged our allies in these unwise financial practices.

For the past several months, I have urged the administration to recognize this practice by our allies for what it represents, a clear detriment to the security of the free world.

It would appear that only the leadership of the Department of Defense understands the true nature of these financial practices by our allies. Secretary Carlucci testified before the Defense Appropriations Subcommittee that the question of loaning huge sums of money to Soviet bloc countries and to the Soviet Union tied to no particular commercial transaction, in other words just cold cash loaned at very favorable interest rates to do as the Soviets or the Soviet bloc wishes to do with it, this directly adds to the defense burden of the United States.

That is what this issue is all about. Our allies, with their overflowing cash accounts fed by unhealthy trade balances with the United States, are recycling their funds in the Soviet Union without regard to the potential harm that these dollars are doing to the military and political balance, without regard to the potential that these dollars are going to military and political activities of the Soviet bloc which may in fact be financing the international operations of the KGB, all of which adds to the defense burdens of the West.

I hasten to point out that I have no quarrel and most Americans have no quarrel with the legitimate trade and commercial activities with the Soviet Union. But I think we must draw the line when massive amounts of cash are poured into the Soviet Union without regard to how it is spent.

Here we are dealing with a nation that has very little foreign exchange, a nation that cannot convert its rubles to foreign exchange, a nation that generates foreign exchange only through the sale of oil and armaments, and a nation which is limited to about $30 billion in foreign exchange every year from the sale of oil and armaments. Yet, last year they received over $19 billion in additional funding in untied loans from Western banks.

Providing billions of dollars in untied loans to the Soviets with which they can do mischief abroad is not going to produce a START agreement. It is not going to produce important reductions in conventional armaments.

Untied loans and other unwise financial practices will only encourage Soviet activities detrimental to the interest of the United States and, I submit, the Western alliance.

The administration must demand that our allies return to more disciplined banking practices in dealing with the Soviets.

If the Japanese have so much cash then it should be used to increase assistance to the Philippines and to lift the burden that the United States is carrying there now. If West Germany is awash in money to the extent that they want to loan it to the Soviet Union or other Eastern-bloc countries, then why are they not investing it in Latin America where these countries are dying on the vine for want of capital? But to be throwing money around the streets of Moscow, Havana, and Ho Chi Minh City, I submit, is absolute folly.

I simply cannot explain why this administration, probably the most vocal and shrilly and anti-Soviet administration in modern times, would certainly suddenly turn its back on practices which encourage the worst of Soviet behavior.

No nation, in the East or the West, can expect to get something for nothing, but that is what our allies are granting to the Soviet Union. The administration ought to heed the message of this country, heed the message of this Senate sent to them in a 96-to-0 resolution to end this hemorrhage of cash going to the Soviet Union and Eastern-bloc countries.

Mr. SASSER. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

THE DETROIT PISTONS ARE WINNERS

Mr. RIEGLE. Mr. President, I rise today to pay tribute to the Detroit Pistons for a tremendous season this year and for the cliff-hanging outcome of last night's basketball game in Los Angeles.

But when one looks at the season of the Detroit Pistons this year, I think by any yardstick it is really an extraordinary accomplishment and brings great credit to our city and our State, but certainly to the team and to each of the individual members.

I think there are reasons why we use sports analogies so often in thinking about other things that go on in our daily lives, because the teamwork and the individual excellence that is required in competitive sports often tests the most important aspects of who we are and what we can be, and I think the performance of the Pistons this season in coming down through the playoffs sets a standard that few teams have met in the past or will likely meet in the future.

I know that all of us who root for the Pistons were disappointed in the final outcome last night. I feel our team was a winning team and that the final score on the scoreboard is just one measure that we look at, but if we look at everything, the season and the outstanding effort, I think our team is a team of winners, and I think we can take great pride in their accomplishments.

I want to say just a few more things about some of the teammates individually.

If you watch the magnificent performance of a player like Isiah Thomas, who is the captain of the team and is the leading playmaker on the floor, his performance in the sixth game when he was badly injured both coming into the game and then with a very severe ankle sprain during the game setting an all-time scoring record in the playoffs in the third quarter playing with that kind of adversity and sparking and leading the team up to the point where with less than a minute to go, they were ahead in the game and had every chance to win, although of course they did not.

Then last night, in a sense even a more dramatic effort, when injuries had taken their toll and one of their great players, Rick Mahorn was not able to play and Isiah Thomas having to go to the bench, other players coming through, coming from a deficit in the third quarter of 15 points behind, nearly winning the game and having a chance to win in the last 2 or 3 minutes, a truly heroic performance.

In the case of Isiah Thomas, in terms of his individual performance, playing injured, as he was, I think was one of the most significant sort of personal acts of individual excellence that I ever recall seeing. I think the lessons that are there go far beyond the world of sports, because I think oftentimes in our lives we are called upon to rise above difficulties that may come our way and to have to excel in the face of those difficulties. Clearly, his example of doing that is out there for everybody to see and apply in their own individual activities and walks of life and I think particularly for our young people.

Isiah Thomas probably spends as much time working with young people as any athlete in America to try to help them see how they can make their way forward in constructive ways, to develop their talents, to finish school, to walk away from drugs. So he is a premiere example, I think, of leadership, both on the basketball court and off, as well.

I want to say something about Adrian Dantley, because here is a person that probably fits the phrase of grizzled veteran, because he has been around the NBA for many years, oftentimes playing with teams where the talent was not of a sort that, together, the team could really challenge for a title. But through all those years of hard work and dedication day after day, month after month, year after year, finally culminating, in the sports world of NBA, in this mountaintop experience to be able to go and play for that title, but to be able to have the capacity to hang in there year after year after year and give the leadership, come out and work in a team way, is just tremendous. And my hat is off to him.

Other players, like James Edwards, who has been around for a long time, finally got an opportunity this year and made the most of it.

The other people on the team, people like Laimbeer, Salley, Dumars, Johnson, Rodman, and others on the squad all contributed.

I think what we saw was that teamwork, when it is really raised to its highest level and the individual effort along with that, can allow a team to go to heights that otherwise just cannot be achieved. And we saw that throughout the entire playoff period.

So we from Michigan are very proud that we have the eastern conference champions, who dethroned the Boston Celtics, great team that they are, and also that we played well enough to be able to win and, I think, in every sense of the word are winners today and can take great pride in our season.

I want to compliment Chuck Daly, the coach, and the owner, Bill Davidson, for all the work over a long period of years to build this team and to give us the capacity to have something to be proud of and to support in terms of coming down through this championship season and to this final game last night.

I think the grit and the hustle and the drive for individual excellence and team excellence by our team was outstanding in every way. I think if America can learn to work together, labor and management, Government and citizens, the way the Pistons work together as a team, we can set goals that are much higher and reach them in terms of the challenges that we face in the global economy at the present time.

So to our team, we take our hats off to you. You did a fantastic job. We all feel part of it. We feel very proud of you and we will be back next year.

Just one final thought on one of the players on the other side, Magic Johnson, who we also take a little credit for, from Michigan, as he grew up in East Lansing and played for Michigan State, an alma mater of many of us. He was also outstanding on the other side.

We take our hats off to those that won the game, but our hearts are with our own team, the Detroit Pistons, because they are winners in every sense of the word.

I thank the Chair for its indulgence.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be an additional 5 minutes for morning business under the same conditions.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONGRATULATING SENATOR GRASSLEY ON SPEAKING OUT ON THE SCANDAL IN THE PENTAGON

Mr. PRESSLER. Mr. President, I wish to pay tribute to our colleague, Senator GRASSLEY, who has done such a fine job of speaking out on the current scandal in the Pentagon. Senator GRASSLEY has spoken on this issue for many years. Four years ago he held hearings, under his Judiciary Committee subcommittee, looking into the issue of whistleblowers and the fact that there was a serious problem there. He was correct.

I think Senator GRASSLEY has defined this thing in a very proper way. He has pointed out that it is not just one administration. It has been several administrations, in fact, going back to Lyndon Johnson's TFX scandal.

There is an endemic problem in the way contracting is done in the Pentagon. This is something we need to think about as the U.S. Senate and we need to take action on it.

Indeed, I hope that there are prosecutions, I hope there are punishments, I hope people go to jail if they deserve it in the current scandal.

But the fact of the matter is that we have to go back to square one and examine what causes this. And what causes it is a system that has grown up where people will take as much taxpayers' money as they can if they can get away with it in the defense contracting business, and the view that beating Government is not bad unless you get caught.

Now, it is true, we must have very tough punishments. There is an attitude of arrogance on the part of both the Pentagon and the military contractors that people should not be looking over their shoulders, that people should not be investigating them. I know this Congress, on both sides of the aisle, has passed pieces of legislation for more oversight over there. But the name of the game seems to be to beat the Government, to take as much taxpayers' money as possible, and it does not really matter as long as one does not get caught.

That complete lack of public service attitude is what is at the root of the problem. Maybe the same thing is going on in other agencies and we do not yet know about it. It is an attitude of contempt for the people and contempt for the taxpayers. I think my colleague, Senator GRASSLEY, has defined that well in his speeches here on the floor this past week and in his various other appearances.

Let me say I am prepared to join in the effort on the Senate floor for reform of our contracting system. I am also very hopeful that the Pentagon, the association of contractors and others will come forward with some suggestions, because the American people demand a change.

Mr. President, I yield the floor.

(Mr. SHELBY assumed the chair.)

ELIE WIESEL, NOBEL LAUREATE

Mr. DECONCINI. Mr. President, I want to commend Elie Wiesel for his efforts in support of S. 332. Nobel Laureate Elie Wiesel is known the world over as an outstanding leader in the cause of human rights. His experiences in the Holocaust as a victim of Nazi persecution has made him acutely aware of the problems of all dislocated and disadvantaged people. His support for S. 332 reflects his commitment to providing refuge to today's victims of discrimination, a refuge he knows from firsthand experience has not always been provided in the past. Elie Wiesel reminds us that America has a human and moral obligation to assume a leadership role in providing refuge.

I also want to commend the American Jewish Committee for its continued support for S. 332. Over the years, the American Jewish Committee has demonstrated its commitment to human rights and to preserving the safety and dignity of oppressed communities, both Jewish and non-Jewish, around the world. My special thanks go to David A. Harris, the current, and Hyman Bookbinder, the former, AJC Washington representative, who have contributed so much to our efforts to pass S. 332.

I ask unanimous consent that a letter to me from Mr. Wiesel be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BOSTON UNIVERSITY,
Boston, MA, June 8, 1988.

Senator DENNIS DECONCINI,
Hart Office Building,
Washington, DC.

DEAR SENATOR DECONCINI: I write to express my appreciation to you for continuing your efforts, reflected in S. 332, to provide for appropriate management of the troubling issue of displaced Salvadorans and Nicaraguans. The Congress should indeed accept your proposals for a General Accounting Office investigation and for a temporary stay of detention and deportation of certain Salvadorans and Nicaraguans pending consideration of the GAO report.

I am persuaded that such action is needed if we are to continue America's leadership role in rescuing refugees fleeing persecution in their homelands. Until ambiguities about current law and the situation faced by returnees in El Salvador and Nicaragua are clarified, we have a human and moral obligation to provide refuge to these displaced men, women, and children.

Those of us who are committed to the memory of those who died in the Holocaust because no refuge had been provided them are committed also to providing refuge for today's victims of oppression. It is that commitment that makes us feel grateful to you for your efforts.

Sincerely yours,

ELIE WIESEL.

BICENTENNIAL MINUTE

JUNE 22, 1941: THE DEATH OF PAT HARRISON

Mr. DOLE. Mr. President, 47 years ago today, on June 22, 1941, a distinguished chairman of the Senate Finance Committee died. Pat Harrison, who was just 59 years old at his death, had been judged by Washington newspaper correspondents as the most influential Member of the U.S. Senate, despite his one vote loss of the majority leadership 4 years earlier.

Elected to the Senate in 1918—the year that the Democrats lost their majority in the Senate—Harrison became chairman of the Finance Committee when the Democrats returned to the majority in 1933. Far more conservative than President Franklin D. Roosevelt, Harrison nevertheless ushered key New Deal bills through his committee, most notably the Social Security Act of 1935 and early New Deal tax legislation.

Although Harrison supported the President's policies, he could not get Roosevelt's endorsement when he ran for majority leader in 1937. Instead, the President wrote his famous "Dear Alben" letter, implicitly supporting Senator Alben Barkley. While Roosevelt pretended to remain neutral in the race, Harrison angrily told reporters: "He's into it up to here" drawing his index finger across his throat.

Eventually, Barkley won the hard-fought contest by a single vote. But defeat freed Pat Harrison to take a more independent course from the Roosevelt administration. He took the lead in repealing a tax on undistributed profits that Roosevelt had strongly supported, fought with the President over the Revenue Act of 1938, and deflected White House efforts for a new tax bill in 1939. By then, Washington newspaper correspondents came to recognize Harrison as the real leader of Senate Democrats, even though Senator Barkley held the official title.

JOHN JAMES DUNCAN

Mr. DOLE. Mr. President, last night a good friend and colleague, Congressman JOHN DUNCAN, of Tennessee, died after a struggle with cancer.

JOHN, who had represented his district since 1965, was the ranking Republican on the House Ways and Means Committee. And it was during my tenure as a member, and then chairman of the Senate Finance Committee, during critical conferences on a wide array of issues—taxes and Social Security, that I got to know and admire JOHN. We worked side by side on the 1984 deficit reduction package, and then, when I became majority leader, to guarantee passage of the landmark 1986 tax reform package.

JOHN's diligence, his knowledge of the Tax Code, as well as many other areas that the Ways and Means Committee has jurisdiction over, and his commitment to his Knoxville constituents, were what built his reputation as an outstanding and esteemed Member of the House—a Member who was liked as well as admired.

Mr. President, I want to extend my sincere condolences to his wife Lois, his four children, and nine grandchildren.

RETIREMENT OF LT. GEN. FRANK E. PETERSEN

Mr. DOLE. Mr. President, The great State of Kansas has many people and achievements to take pride in. And certainly high on the list would be one of its native sons, Lt. Gen. Frank E. Petersen, the Marine Corps' first black pilot.

On July 8, Lieutenant General Petersen will give up command of the Marine Corps Development Command in Quantico, VA. Later this summer he will retire after 38 years of military service.

Lieutenant Petersen flew more than 350 combat missions in Korea and Vietnam. Today he is the Navy's "gray eagle"—the Navy or Marine Corps pilot who is the longest-serving active duty aviator, as well as the Pentagon's senior aviator.

Today's Washington Post includes a piece about Lieutenant General Petersen. In it, he attributes his success to his background. According to the article, "His mother, Edith graduated from Kansas University, and his father ran a successful electronics business. Frank Petersen, Sr., who came from St. Croix in the Virgin Islands, taught his four children to 'contest life' at every opportunity and never to sell themselves short," Petersen said.

Mr. President, I think it's fair to say that Frank Petersen has not sold himself short. His outstanding achievements in the Marine Corps, his dedication to America's security, and the pursuit of freedom and democracy around the globe, brings pride, not only to his home State of Kansas, but to the entire country. I wish the very best as he ventures into a new phase of his life.

Mr. President, I ask that the Washington Post article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MASTER OF HIS CRAFT—RETIRING QUANTICO CHIEF LEARNED ABOUT PLANES, PEOPLE

(By Pierre Thomas)

In 1944, at the height of World War II, 12-year-old Frank E. Petersen Jr. watched with wonder as the huge B29 bombers lifted off from Forbes Field not far from his Topeka, Kan., home.

His love affair with aviation had begun, but the realities of the time suggested that it would be unrequited. "We as blacks were always able to glimpse, but not really allowed to get our hands on," Petersen said.

Few of even the most liberal-minded residents of his community then would have dreamed that Petersen would become the Marine Corps' first black pilot, in 1952, and finally the Defense Department's senior-ranking aviator. He has held the honorary designations of "Silver Hawk" in the Marines and "Gray Eagle" in the Navy, sort of military equivalents of being labeled a dean.

On July 8, Lt. Gen. Petersen, at 56 the corps' only black active duty general, will relinquish command of the 7,010 military personnel and 5,930 civilians at the Marine Corps Combat Development Command in Quantico. In August he will retire, bringing an end to a 38-year military career.

He has gained more than the usual visibility at Quantico because he was the convening authority for two of the most publicized trials in recent Marine Corps history, including the racially charged Lindsey Scott case and the Clayton Lonetree espionage trial, which he described as "very emotional and very difficult."

In an interview last week on the base about 45 minutes south of Washington in Prince William and Stafford counties, Petersen chronicled the life of a man who seems to accept, though reluctantly, his role as a pioneer.

Being described as the first or only black to accomplish a goal "carries with it a stigma," he said. "It means that race is still important in America. It hurts me as an American that in the year 1988 black is still important."

The square-jawed, 6-foot-1 Petersen said he left home to get away from a "prejudiced, segregated environment" in which he saw few opportunities. In June 1950 he joined the Navy as a seaman apprentice, serving as an electronics technician, but at the time he was not considering flying as a military career.

"Quite frankly, I didn't even know blacks were allowed into the [naval aviation cadet] program," Petersen said.

After he learned of his eligibility, he said, he was somewhat afraid of accepting the challenge. However, "when someone says that you can't do or shouldn't do something, I go ahead and try it to see why the person didn't want me to do it," he said.

Petersen credits his success in large part to his background. His mother Edith graduated from Kansas University, and his father ran a successful electronics business. Frank Petersen Sr., who came from St. Croix in the Virgin Islands, taught his four children to "contest life" at every opportunity and never to sell themselves short, Petersen said.

Based on his accounts, Petersen would require all the wisdom his family had sought to instill. Although he enlisted two years after President Truman banned racial bias in the armed services, Petersen's flight and officer training took place in Pensacola, Fla., at a time when racial restrictions and hostility were a way of life.

Petersen described going to bars and restaurants with his fellow cadets and being ordered outside or told that he would not be served. "I knew that I couldn't win if I were to tackle that, as opposed to getting my wings," he said.

In 1952, he and a fellow black cadet decided to take a bus from Pensacola to nearby Mobile, Ala. Although segregation was not legal for interstate travel, the bus driver told the black passengers to sit in the back. Petersen confronted the driver, who stopped the bus and called the police.

"A crowd began to gather, and I looked around and there was a young black kid of about 12 leaning on a baseball bat with the biggest grin on his face I'd ever seen," Petersen said.

The Navy Shore Patrol arrived and put Petersen and his fellow cadet in a police wagon. After driving two or three blocks, the wagon stopped. One of the patrolmen unlocked the door and called Petersen "Frank." "That shocked me that he knew my name," Petersen said. "'I know who you are. I know you're about ready to finish up. . . ,' the patrolman said. 'Keep your cool, you'll make it.' He let us out and he walked away. That was a white officer."

Petersen said that one of his instructors reported that he had performed inadequately during a solo flight, but others intervened and he won his wings.

"Even though you had guys trying to do a job on you, you still had people who were there to make sure the system worked," Petersen said.

Petersen went on to fly more than 350 combat missions in Korea and Vietnam, where he flew the F4 Phantom fighter. He received several medals, including the Purple Heart and the Distinguished Flying Cross.

When he returned from Vietnam in the early 1970s, he found a country still grappling with civil rights, an issue made more complex by the war in Southeast Asia, which the Rev. Martin Luther King Jr. had publicly denounced in 1965.

"I had wanted him [King] to be above criticism," Petersen said. "I wondered if Martin were betraying me. I was confused." But Petersen said he put the confusion out of his mind because he had no choice. "We didn't ask to fight, we had to fight."

The high number of casualties among black soldiers in Vietnam had become a heated issue in public circles and on U.S. bases. After Petersen returned to the states, a group of black Marines went to Petersen and asked him to help plan the assassination of a high-ranking white officer. He recalled that the men said their future did not matter because they "were going to die anyway" in Vietnam.

Petersen said he told the men that they had to decide which one would pull the trigger. There were no volunteers. Petersen said he reported the plot, which effectively ended it.

Petersen was subsequently assigned to work as an adviser and special assistant on race relations to the Marine Corps commandant. "Part of the problem was that nobody wanted to talk about the problem" of racism, he said. "It was easier to whisper about than to talk about out loud."

Although there has been resistance to changing years of discriminatory habits, Petersen said he thinks that "the military, in terms of racial harmony, is now ahead of civilian society." There are currently 195,719 Marines, 36,882 of whom are black, according to the Corps. Of 20,163 officers, 960 are black.

Those numbers did not protect Petersen from racial controversy, however, when he found himself in command at Quantico in 1986.

Lindsey Scott, a black Marine, had been convicted by a military court in 1983 of charges that he raped a white woman; civil rights activists insisted that the prosecution was racially motivated. The nation's highest military court overturned the conviction on the basis that Scott had received an inadequate defense. It left to the convening authority—in this case Petersen—the decision on whether to retry Scott.

Petersen, caught between Scott's supporters and a military justice system that thought it had a good case, ordered a new trial. The decision was difficult, Petersen said, because he believed that he had a "debt to society and to the individual." Scott was acquitted.

Petersen said his decision to leave active duty and pursue a corporate job in the aviation field, preferably in the San Francisco area, has nothing to do with Scott or anyone else. It is just that, because of medical problems, he can no longer do what he loved best about the corps: fly.

Has his career meant anything to blacks? "As much as I would like to philosophize and say that it hasn't, it had made a difference," he said. He told of a young black corporal who screeched his vehicle to a halt and ran up to Petersen, saying, "I just want to shake your hand."

"I said, 'Thank you,'" Petersen said. Then, in a command voice that would bring even a civilian to attention, he added, *"Marine."*

RECESS FOR 15 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that there be a 15-minute recess.

There being no objection, the Senate, at 11:07 a.m., recessed until 11:22 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SHELBY).

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The majority leader will state the inquiry.

Mr. BYRD. Is the majority leader in position as of this moment to make a nondebatable motion to proceed?

The PRESIDING OFFICER. A nondebatable motion to proceed would be in order at this time.

Mr. BYRD. Mr. President, with the proceeding to a matter on the calendar by nondebatable motion and a vote occurring thereon and a majority of the Senate voting to proceed, such matter would become the unfinished business upon adjournment, would it not?

The PRESIDING OFFICER. If that matter were pending at the time of adjournment, that would be unfinished business.

Mr. BYRD. I thank the Chair.

Mr. President, I understand that the distinguished Republican leader is in a meeting and will be on the floor shortly. I shall move to proceed to take up the plant closing legislation. That will be a nondebatable motion, and upon adjournment of the Senate today, that matter, if the motion is agreed to by a majority of the Senate, would then become the pending business on the next meeting of the Senate.

Meanwhile, S. 430 and S. 1323 at this moment appear on the calendar of business as pending business.

S. 430 is a bill to amend the Sherman Act regarding retail competition, and the Senate went to that measure on yesterday by rollcall vote, and S. 1323, which is shown on the calendar of business as pending business is a bill to amend the Securities Exchange Act of 1934 to provide shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers. Both of those presently are in the status of pending business.

Mr. President, I would anticipate that there very likely will be a rollcall vote on a motion to proceed, and I would suggest that Senators' offices may be alerted to the fact. It may very well be that would be a voice vote.

However, I think it might be well to have a rollcall vote because this is an hour when the Senate might, by having a rollcall vote, be able to proceed with better attendance than we have in the Senate right now.

Mr. President, I will wait 5 minutes before making a motion to proceed.

Mr. KARNES. If the majority leader will yield for a question.

Mr. BYRD. Yes, I will be happy to yield for a question.

Mr. KARNES. I request 5 minutes for morning business for a statement.

Mr. BYRD. Mr. President, I ask that I may yield to the distinguished Senator from Nebraska for 5 minutes, not to exceed 5 minutes, without losing my right to the floor, and I yield for the purpose only of his statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska.

THE DROUGHT

Mr. KARNES. Mr. President, the drought is clearly spreading. Already it is a disaster in the Dakotas, Montana, and Minnesota, along the northern tier of States in the United States. There is also extreme drought in areas of the Southeastern part of our country, as the Chair well knows. Dry conditions are spreading in my State of Nebraska as well with 56 of the 93 counties declared drought emergency areas for haying and grazing. It is good to note last night spotty rainfall did occur in the Southeastern part of the United States but clearly not enough to alleviate the emerging drought situation.

Last Saturday I visited a farm and met with a number of farmers north of York, NE. Conditions are indeed very dry. There is a general lack of subsoil moisture that has affected crop growth and that is also complicated by continuing dry winds.

The next weeks are critical for corn and soybeans. If drought conditions continue, then yields will begin to decline. Indeed, this afternoon the Department of Agriculture will announce that corn yields will decline 8 to 10 bushels per acre nationwide as a result of the drought. Livestock feeders are as well feeling the effects of the drought. Pasture and forage areas are extremely dry and probably will continue to be so.

The Department of Agriculture decision to allow haying and grazing on set-aside acres and haying on conservation reserve acres will help indeed but more needs to be done.

MORE NEEDS TO BE DONE

A bipartisan group of Members of Congress and Senators will be meeting today to lay out a proposal which can be quickly dealt with in both Houses and quickly signed into law by the President. At that time I will be putting forward several proposals which I think will offer assistance to farmers while at the same time will not prove as costly as some of the other proposals that have been floated recently in Washington.

UPSIDE PROPOSAL

One proposal has been included in the 1985 farm bill and that is what I call the upside proposal. I will be proposing that the Secretary of Agriculture use his full discretionary authority to make guaranteed deficiency payments to wheat and feedgrain producers for 1988. This is known as the upside authority that is included in the 1985 farm bill. This will allow the Secretary to make a $1.41 per bushel deficiency payment to wheat growers and a 60-cent-per-bushel deficiency payment to corn growers with payments to sorghum, barley, and oat producers keyed to the payment for corn. This guaranteed payment would occur only if the deficiency payments were estimated to drop below $1.41 for wheat and 69 cents for corn, which I believe will happen. Authority exists in the 1985 farm bill already. The cost of implementing this provision would be less than the department currently projects that it will spend for price and income supports for these commodities.

CROP INSURANCE

Also we need to do certain things in the crop insurance area for nonprogram crops. I intend to propose that producers of nonsubsidized crops, who are suffering for the adverse effects of the drought, be allowed to sign up for Federal crop insurance. These participants would be required to pay a 65-percent insurance premium for a maximum of 50 percent loss coverage. This requirement I feel would not disadvantage those individuals who prudently signed up for Federal crop insurance before the drought conditions became apparent, yet it will provide critical loss coverage. Also, we have payments on the farmer-owned reserve loans. I am urging the Secretary to not call the farmer-owned reserve grain out of storage for corn and other feedgrains and let the producer decide when that grain should go to market. Further, the Secretary should forgive unearned storage and interest payments for farmer-owned reserve grain. This legislation is needed to achieve these goals.

DIESEL AND HEIFER TAXES

In the diesel fuel tax area, we are seeing some dramatically negative happenings. I would like to see an immediate repeal of the 15-cent-per-gallon tax on diesel fuel sold to farmers and also an elimination of the preproductive expense of replacement stock for stockgrowers—in other words, the heifer tax.

This drought will mean an additional cost of nearly $21 million this year for Nebraska farmers who irrigate with diesel powered wells. In addition the diesel tax will add $28 million of cost to producers in Nebraska. The total will then result in over $50 million of added cost as a result of this diesel tax to farmers in Nebraska and much more so around the country.

The heifer tax also adds to the cost of doing business in a drought. It has been estimated that the heifer tax will add between $50 and $100 per head to the cost associated with each and every replacement heifer added to a herd. Of course, we are seeing liquidation of herds right now as a result of this drought. So this heifer tax adds an additional burden and it should be eliminated.

These are proposals that I intend to put forth at today's meetings with congressional leaders.

TRAFFIC ON NAVIGABLE RIVERS

I am also concerned about the need to protect farmers' interests as water levels drop in various navigable rivers, particularly the Mississippi. In certain emergency situations the Corps of Engineers can declare what traffic will take place on these rivers. Farmers need equal access to this water transportation. I will be sending a letter to the head of the Corps of Engineers to make sure that agriculture has a top priority.

USDA PROGRAMS THAT ARE AVAILABLE

The Secretary of Agriculture is to be commended for his responsiveness to the drought conditions as they have unfolded.

Counties in Nebraska applying for drought assistance have been declared eligible for haying and grazing on set-aside acres generally within 24 hours.

There are other programs the Department can offer to mitigate the adverse effects of the drought.

The Department has two emergency feed programs to help livestock feeders maintain foundation herds.

They are:

The Emergency Feed Program which provides cost-share assistance of up to 50 percent, not to exceed 5 cents per pound for feed purchases.

The Emergency Feed Assistance Program which provides Commodity Credit Corporation grain at 75 percent of the county loan rate.

THE 0-92 PROGRAM FOR CROP PRODUCERS

In addition the Department can allow producers who suffer failed plantings to place their farms in the 0-92 Program which will pay them 92 percent of their deficiency payment as estimated at the end of the year.

The 0-92 option may become less desirable as prices rise and deficiency payments go down. The Congress may well look at possible legislative remedies that guarantee some level of deficiency payment; that is, the upside proposal I mentioned earlier.

CONCLUSIONS

The drought is a disaster in parts of the country.

It is a serious concern in other parts of the country.

There needs to be a well-thought-out plan of action that is national in scope and not limited only to program crops.

As a producer I intend to be a part of a bipartisan drought process.

I thank the majority leader.

Mr. BYRD. The Senator is welcome.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that notwithstanding the fact that the plant-closing bill would become the unfinished business on the next legislative day following today, provided that business is the business at the time of adjournment, the two bills, S. 430 and S. 1323, which are in the pending business status, retain their pending business status quo ante the motion to proceed.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The majority leader.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

Mr. BYRD. Now, Mr. President, I am prepared to move—the distinguished Republican leader is here, and we have both alerted our Cloakrooms that there will be a vote or votes at this point, so I now make the motion to proceed to the consideration of the plant closing bill, S. 2527. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I move to table the motion to proceed and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Georgia [Mr. Fowler], the Senator from Maryland [Ms. Mikulski], the Senator from Georgia [Mr. Nunn], and the Senator from Mississippi [Mr. Stennis], are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] and the Senator from Oklahoma [Mr. Boren], are absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. Mikulski], would vote "nay."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. Danforth], the Senator from Minnesota [Mr. Durenberger], and the Senator from Kansas [Mrs. Kassebaum], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 30, nays 61, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—30

Armstrong
Bond
Cochran
Dole
Domenici
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Helms
Humphrey
Kasten
Lugar
McClure
McConnell
Murkowski
Nickles
Pressler
Quayle
Rudman
Simpson
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—61

Adams
Baucus
Bentsen
Bingaman
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
Melcher
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Weicker
Wirth

NOT VOTING—9

Biden
Boren
Danforth
Durenberger
Fowler
Kassebaum
Mikulski
Nunn
Stennis

So the motion to table the motion to proceed to the consideration of S. 2527 was rejected.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the consideration of S. 2527.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Maryland [Ms. Mikulski], the Senator from Georgia [Mr. Nunn], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Oklahoma [Mr. BOREN] are absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

The **PRESIDING OFFICER.** Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 64, nays 29, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—64

Adams
Baucus
Bentsen
Bingaman
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
Melcher
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Weicker
Wirth

NAYS—29

Armstrong
Bond
Cochran
Dole
Domenici
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Helms
Humphrey
Kasten
Lugar
McClure
McConnell
Nickles
Pressler
Quayle
Rudman
Simpson
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—7

Biden
Boren
Danforth
Mikulski
Murkowski
Nunn
Stennis

So the motion was agreed to.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

The **PRESIDING OFFICER.** The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 2527) to require advance notification of plant closings and mass layoffs, and for other purposes.

The Senate proceeded to consider the bill.

Mr. BYRD. Mr. President, this measure, which was introduced by Mr. METZENBAUM for himself and other Senators, deals with an issue that will not go away—the issue of plant closing. I congratulate the Senator for his introduction of the legislation. It is an issue that will not go away because the principle of advance notice strikes a chord among the American people as being just plain good common sense, fair play, and a better way of doing business.

There has been a great deal of discussion over this very modest proposal. I do not understand why the opponents of advance notice are adamant in their opposition to the concept of advance notice. It makes a whole lot of sense to me. It makes sense because it breaks new ground in management-labor relations.

Management and labor in America have always had an adversarial relationship.

Mr. President, this adversarial relationship does not help America compete in the world. Once we could afford to elbow each other without worrying about our foreign competition. America dominated the markets of the free world in the post-World War II era. But that time is passed. America is being out hustled and out traded by our foreign competition.

Our foreign competition is going head to head against us and in a great many cases they have gotten ahead. The administration is all aglow because April's trade figures are down a wee bit. The Treasury is happy that we were only mired in $9.9 billion of red ink for that month—just $9.9 billion.

But in the afterglow of the April trade figures, let us remember that when a man is drowning it does not make any difference whether it is 9 feet of water or whether it is 12 feet of water in which he is drowning. He is still drowning. That is America's problem when it comes to the trade deficits. Whether we are $10 billion down or whether we are $12 billion down, neither is good for West Virginia and neither is good for the country. We are drowning either way.

By the end of last year, we were about $420 billion or more in debt to the rest of the world. We are in hock to the rest of the world. Other governments, foreign investors, are buying our notes and bonds, they are buying our financial paper, and they are collecting the interest, while we go deeper and deeper in debt.

Mr. President, America must change the way it has been doing business. One of the fundamental changes must be the way management and labor confront each other at the negotiating table. Management and labor must forge a new relationship if America is to compete against our foreign competition.

The trade bill passed by this Congress recognizes that America has entered a new economic era. Congress crafted a bill, supported by Democrats and Republicans in a strong bipartisan show of consensus, to help every sector of our economy: To smooth out, streamline, and shorten the turnaround time it takes for American business and labor to adjust to new competition. Central to this new approach is the concept of advance notice. Advance notice was put into the trade bill because it makes good sense. No matter how hard management and its work force try, some business activity simply becomes uneconomical. To save the rest of the company the decision to shut down a plant, although painful, must be made.

But when that situation is about to occur, every sector of the community—management, labor, local government, and other local businesses—must be given time to adjust to an unwanted and traumatic business situation because not only are the employees hurt; the communities in which shutdowns occur are also hurt. It is traumatic for everyone. This is what a "good neighbor" does.

Advance notice gives workers time to save some money for the lean days ahead. Advance notice gives local government time to prepare for new burdens on its retraining and education programs. And advance notice gives other local businesses a heads up that their customers will not be spending what they have spent in the past.

America is in economic trouble with our foreign competition because our Nation's trading policy has not been managed well. Business and labor must learn to work together. Advance notice will help to achieve that. It makes good, common sense, and it meets the American standard of fairness and decency. It is just plain right.

That is why I find it difficult to understand the strong opposition to this worthy idea. It only affect 2 percent of the businesses in this country, and it only affects businesses that employ 100 or more employees. And if the sudden circumstances that necessitate shutting down of a business are not foreseeable by the company, then the company is exempt from the requirement to give notice under this legislation. So what is so bad about it?

I hope that in the days ahead the opponents of plant closing will take another look at this legislation and see that it is in the best interest of American workers, in the best interest of American business, in the best interest of American communities, in the best interest of a strong America competitiveness position.

It allows the communities and the workers and management, as well, the advance notice, the opportunity to put into place retraining programs, while there is still time, while the workers are still getting a paycheck.

Mr. President, several of us are running for reelection this year. When the general election is over in November, on that election night, we will go to the television sets and we will see how we came out.

And if, perchance, some of us are not reelected, we know that our paychecks are going to continue to come in until January 3 of next year. We are still going to be on the public payroll until January 3 of next year because our jobs will continue until then. That is about 60 days' notice for Senators.

The President of the United States knows that after January 20 of next year he will not be on the public payroll. So he has ample notice and, if he were a first-term President and running for reelection to be President, on the night of the general election in November, if he—any President, Democrat or Republican—were unsuccessful in being reelected, he at least would know that he has until the following January 20 to remain on the payroll, and I mean the public payroll.

Why then should we all not be willing to give that same notice to the steelworkers, to the coal miners, to the glassworkers, to those who work in leather goods plants, textileworkers, those who work in the grocery stores, those who are meatcutters, those who are welders in the shipyards, those who are produce salesmen, or whatever? If advanced notice is given to them, they are not asking for any more than we ourselves are being given. A vote for the Worker Adjustment Retraining and Notification Act is a vote for simple justice, common decency, fair play, and common sense. I hope the Senate will adopt it.

Mr. President, I yield the floor.

The **PRESIDING OFFICER.** The Republican leader.

Mr. **DOLE.** Mr. President, on the matter that is pending before the Senate, I would just say a couple of things. Then, I know we are going to have a lot of debate on this and several amendments. I would also indicate that the distinguished manager on this side, Mr. HATCH of Utah, cannot be here until about 2 p.m. this afternoon because of a previous commitment.

But this has become a political issue. You talk about plant closing, there is much more to this legislation than a simple 60-day notice on plant closing. Most of the unions involved have already taken care of this problem through collective-bargaining agreements as they should, as they have a right to do. Now we are putting a political issue on the Senate floor while the trade bill languishes—the bill that would help millions of Americans in every State represented on this Senate floor. That has to wait while we go through this political exercise in an effort to aid some who have the view that we ought to have the Government stepping into business that the Government ought to determine how much notice you give, whatever may happen, whether you have notice on layoffs.

So, I would hope if this matter is passed in Congress that it is modified. We will on this side offer a substitute and offer some amendments, constructive amendments. There is a possibility that we might be able to come to some agreement, but I doubt it. Because my view now is that politics has a priority. It is not the working man or the working woman we're talking about. It is who might win in November. Suddenly that has become the issue, not the merits of this bill.

This is part of the trade package. It has nothing to do with trade. It has nothing to do with competitiveness. It has nothing to do with reestablishing the United States as a major trading country in the world. It simply is politics.

Mr. **KENNEDY.** Would the Senator yield on that point?

Mr. **DOLE.** Not right now. It has been made a political issue by the Democratic nominee for President, who comes from the Senator's home State.

So, I would hope when, after all the debate is over and when the Senator from Utah is able to return to the floor at 2 o'clock, that we will have a good discussion.

There will be amendments offered; and, as I said, there will be substitutes offered. But it would seem to me that there are a lot of things that we could be doing that would be very helpful to working men and working women in this country, including farmers, rather than take 2 or 3 days on a political issue. There are a lot of issues pending. There are a lot of things we should be dealing with. But the judgment has been made by the majority that this is a "hot" issue that ought to be brought up and maybe we can singe a few Republicans in the process.

We are prepared to debate the issue on its merits, not on the political side, but on its merits. And we have a number of Members on this side who are expert on this matter. I am not. I am not a member of the committee with the Senators on the other side now. But we have some who are, and they will be here. They will be debating this issue. And I hope we can have some resolution of it.

There will be no attempt on this side, as far as I know, to delay final consideration. But there should be the opportunity for a full discussion. There should be the opportunity to perfect this resolution, if possible.

So, I would hope that Members look carefully at what is said and what the bill contains. I hope they keep in mind that, while we are debating this, maybe 1 day, 2 days, or 3 days, the trade bill, as far as I know, remains dormant. That could be put on the calendar. Maybe we could go to that. But, in any event, there are many of us who would like to pass the trade bill. Leave out plant closing. Leave out the Alaska oil matter. Leave out the ethanol provision and the three other provisions mentioned in the President's veto. Pass the trade bill. Get it back on the President's desk so we can start implementing the hundreds of provisions in that trade bill that might be helpful to Americans, as I said, in every State.

I yield the floor.

The **PRESIDING OFFICER.** The Senator from Ohio.

Mr. **METZENBAUM.** Mr. President, we deal with many complex issues on the floor of the Senate. On many votes it is difficult to be certain of the right policy—there are huge gray areas. But that is not the case with the plant closing bill we are considering now. The issue is simple. The right policy is clear. The question is which side are you on. Do you want to help America's workers and their communities when they are most vulnerable?

Do you want to be fair to those workers in those communities that helped businesses grow only to learn without a moment's notice that they are going to close the plant? Or do you want to turn your back on those workers and communities who have tried to help the plant?

We are saying to employers: We are not asking much, 60 days' notice so that workers and their communities may try to make some arrangements in connection with their own lives and their future employment and training.

The plant-closing bill we are considering is identical, word-for-word, comma-for-comma, to the plant-closing provision we passed in the omnibus trade bill. I see no need for extended debate on the bill. We have already discussed this issue for hours on the floor of the Senate. The bill has bipartisan support. It has been endorsed by the New York Times, the Washington Post, the Christian Science Monitor, the Cleveland Plain Dealer, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, and by virtually every major church group and civil rights organization in the Nation; 86 percent of the American people believe mandatory advance notice should be the law of the land.

An overwhelming majority of the Members of Congress, both in the House and the Senate, have indicated in previous votes that they believe it should be the law of the land. Requiring 60 days' advance notice before a plant closing or mass layoff is a matter of basic fairness and simple human decency.

We have overwhelming support to pass this new plant-closing bill in the Congress. The President vetoed the trade bill in large part because of the plant-closing provision. I am hopeful he will not make the same mistake twice.

The Congress overwhelmingly wants a trade bill. The Congress overwhelmingly wants a plant-closing bill. The people of this country want both.

The plant-closing bill can become law if we just move ahead, pass the plant-closing measure, send it to the President, and hopefully have him sign it, if he does not, then pass it over his veto. With that, we know we will have a plant-closing bill and a trade bill.

I am hopeful that the President will support the Congress and the American people by signing the plant-closing bill into law. We expect to send it to him soon. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise in support of S. 2527, the Worker Adjustment and Retraining Notification Act. This bill is identical to the advance notice provision that was included in the conference agreement on the recently vetoed trade bill.

The bill requires employers with more than 100 employees to give 60 days' notice in advance of a plant closing in which at least 50 people will lose their jobs. Notice must also be given in advance of any layoff of more than 6 months' duration in which at least 500 employees are affected, or in which at least 50 people are laid off if they comprise one-third of the work force. Exceptions are provided for unforseeable business circumstances, faltering companies, transfer arrangements, temporary projects, and a number of other situations. Remedies for violation are limited to money damages—the equivalent of a day's wages and fringe benefits for each day of violation for each affected employee, and up to $500 for each day of violation for an affected community.

For over a year now, opponents of plant closing legislation have tried to deflect attention from one stark fact: Workers in this country are not getting the advance notice of closings and layoffs which they need if they are to make plans for new jobs and new lives. Confronted with the overwhelming support of the American people for this legislation, our opponents have contrived new variations on the tired old theme of voluntary notice.

If companies had begun giving notice after Congress urged them to do so in the Trade Act of 1974, we might not be here today. If companies had followed Senator QUAYLE's advice 4 years ago that they give more than a day or a week notice, we might not have had such support for this bill. If companies had abided by their own trade associations' principles of good business practice, we might have saved millions of dollars in unemployment payments and gained millions of dollars in tax revenues from workers who were back in good jobs after they lost their former positions.

But too many firms in this country have not done the right thing. They have not heeded the warnings that the American people would demand fair treatment by their employers. And so these firms have had to hide behind a veto of a trade bill and the votes of some Senators who actually favored advance notice, but were troubled by other provisions in that trade legislation.

Today we face the issue in the clearest possible way. There is nowhere for opponents of advance notice to hide any longer. The smokescreen of 11th hour complaints about extraneous provisions is gone. Today we need not worry about the effect of our vote on other matters of concern. Instead, we have a clean chance to vote for or against workers in factories, offices, and commercial establishments throughout the country.

In the swirl of ideological opposition to advance notice, the compelling reasons for this legislation have been pushed into the background. But they belong right up front, for everyone's consideration.

First, advance notice is essential to the successful adjustment of workers to the job loss caused by changing economic conditions. Times have changed for American workers. The person who will stay with one employer for 30 years is becoming more the exception and less the rule. Frequent changes are becoming more common.

An advance notice provision ensures that large numbers of workers will not be displaced without warning and without planning. It permits State agencies to set up adjustment programs before people lose their jobs. Under these circumstances, adjustment efforts are most effective in helping workers make the transition to new occupations.

Second, advance notice saves the Government money. The Office of Technology Assessment estimated that advance notice could help save between $257 million and $386 million in unemployment compensation benefits each year. A more recent study by the Economic Policy Institute estimated over $400 million in savings each year.

Third, advance notice makes each dollar we appropriate for adjustment efforts go further. We know that with advance notice, adjustment programs are more effective in getting employees back to work more quickly, and at better wages.

Fourth, and perhaps most important, an advance notice requirement assures fair play for American workers. By enacting this requirement, we reassure workers that they will not be thrown onto the street without warning. We tell them that we will not permit their callous treatment at the hands of companies that lock the plant gates and put up a sign saying, "Your job disappeared 10 minutes ago."

By requiring 2 months' notice, we take a modest step to help the millions whose lives have been broken when jobs are lost through no fault of their own. We affirm that we will not let the full brunt of adjustment fall on the backs of our workers.

For over a year now we carried on a public debate over this issue, and I have yet to hear a single persuasive argument against 60 days' notice. Opponents said that advance notice would cost hundreds of thousands of jobs, and GAO demolished the argument. Opponents said that they needed more flexibility, more exceptions. So we gave them some more flexibility, and now they argue that the very provisions giving this flexibility will cause litigation. Opponents have made up horror stories about what might happen if notice is required, even though OTA assured us that Canadian businesses have no trouble complying with their advance notice laws.

The real horror story is the intense and unyielding opposition to this bill. Every day workers are losing their jobs with little or no notice, but the business lobbies fight on. They have their golden parachutes, so who cares if their workers suffer crash landings? The National Association of Manufacturers thinks Government should mandate 60 days for management to make plans to respond to a tender offer, but they do not think we should give workers 60 days to make plans for pulling their lives together.

Every respectable academic and policy study reaches the same conclusion. Advance notice is the fair thing to do, and it is the pragmatic thing to do. Each time we prepare for a debate on this issue, I discover another study reinforcing the conclusions of all the previous ones. This time it is a recent paper by two professors at Cornell University, who concluded that a "strong case" exists for adoption of Federal legislation to require advance notice.

How many more studies will have to be done before we speak with a united voice and enact this provision into law? How many floor debates and favorable votes must we have? America's workers have been waiting for action, and they are rightly outraged by the delay that comes from the administration's unyielding support for business over workers.

The time for action is long overdue. Let us give a resounding vote to take this modest step that will help make job loss something other than a personal tragedy. Let us give workers and their families time to adjust, time to make painful changes in their lives. To those of my colleagues who have stood with us throughout these months, I ask once again that you stand with dislocated workers. To those of my colleagues who have opposed us, I ask you to take this new opportunity to stand with those workers and to vote with us today.

Finally, Mr. President, I heard the Republican leader make some general comments asking why we should be addressing this issue and were we not really involved in just a political effort. I have to remind the Republican leader that the 63 votes this morning included Republicans as well as Democrats. We have been grateful for the support that has been given to this legislation by our friends from the other side of the aisle.

I must say, Mr. President, if the President had not vetoed this legislation and pointed to this particular provision as being the most offensive, we would not be debating this issue. The issue would have been behind us. The issue would effectively be gone.

Nonetheless, the President insisted, as the Constitution permits, on the veto. He then fought to have it sustained, and he was successful in that effort.

Mr. President, this legislation is absolutely essential not only for the reasons I have outlined, but it was entirely appropriate that it be included in the trade legislation. We have in the trade legislation over a billion dollars for training programs. As I have already said, both the OTA and the GAO point out that moneys which are used for training of workers with adequate notice save the Federal taxpayers hundreds of millions of dollars in unemployment insurance benefits and in further payments under various entitlement programs. This provision was absolutely appropriate for the trade bill.

A new strategy has been reached, and it is one that I support. We will give an opportunity to all Members to make a narrow judgment on the one issue of plant closing, and I believe we will have overwhelming support. I speak for myself—and, I am sure, for the Senator from Ohio—when I say I am glad to have this vote and have it now. We are glad to have further debate and discussion on the other measures which the majority and minority leaders want to identify as the unfinished business of the Senate. We are not delaying. No one who I know is delaying. The Senator from Ohio has, I think, provided brilliant leadership on this issue and has been persistent in continuing to insist that we debate it and take action on it. We are quite prepared to see the roll called on this issue.

Finally, Mr. President, you cannot escape the facts. You have had over 10 million Americans who have lost their jobs over the period of the last 6 years, 40,000 factories that have closed, two-thirds of them without any kind of notification whatsoever. We are talking about families, Mr. President—husbands, wives, and children, whose lives will be bettered by this piece of legislation.

Again, as an OTA report showed so convincingly, we do not hear complaints about the extensive plant closing provisions of Canada, our neighbor to the north. We do not hear complaints from Canadian business, even those from more conservative political persuasions. And we saw from the OTA report, when the OTA asked American businesses which are complying with those provisions in Canada whether they found there were any difficulties, the answer was a resounding no.

What is wrong, Mr. President, with taking this very modest but very significant step for the American worker? The arguments are compelling and overwhelming. There is rarely an issue where the arguments are so convincing. Not only are they convincing in the Congress, but they have obviously been convincing to the American people, who have responded in overwhelming numbers in favor of this measure.

Again, I commend the Senator from Ohio and look forward to working with him closely as we debate these issues so that we see this legislation enacted into law.

Mr. President, I yield the floor.

Mr. METZENBAUM. Mr. President, I thank my friend and colleague from Massachusetts for his excellent statement and the great leadership he has provided in connection with this legislation. Without his help we would not be where we are today. I appreciate his working with us and being one of the leaders in bringing us to the point where I think we will be able to pass the plant-closing bill and hopefully pass it over the President's veto, which I hope will not be forthcoming.

Mr. CHAFEE. Mr. President, last summer, I expressed support for the motivation behind legislation requiring advance notice of plant closings and mass layoffs. At the same time, I was troubled by aspects of the Senate bill that I believed were unworkable or would result in excessive and burdensome litigation. I also stated at that time that the plant-closing provision should not be part of our omnibus trade legislation.

We now have before us a separate mandatory notice bill, one that is no longer connected to the trade bill. The new bill is taken word-for-word from the conference report language on the plant-closing provision that was approved by both the House and Senate in April of this year. I believe that this new legislative version addresses a number of specific concerns that I had expressed last summer. I would like to take a moment to seek clarification from the Senator from Ohio regarding some of these changes adopted by the conferees through legislative or report language.

Mr. METZENBAUM. I am happy to provide the requested clarification.

Mr. CHAFEE. The bill provides two principal exceptions to the requirement that employers give 60 days' notice. One involves employers that are so-called faltering companies; the other concerns "business circumstances that were not reasonably foreseeable" at the time notice was required. I have been concerned that these two exceptions were not sufficiently clear, and that they would produce endless litigation. It is my understanding that the conference report contains explanatory language addressing these exceptions. Is that correct?

Mr. METZENBAUM. The Senator is correct. With respect to the "faltering company" exception, the conferees included report language expressly intended to clarify the meaning of the exception. That language explains how an employer may qualify for the exception and what specific action must be taken to do so.

Likewise, the conferees added new report language illustrating the types of circumstances that would not be thought of as "reasonably forseeable," and therefore would not require 60 days' advance notice. The new report language makes each of these exceptions more precise.

While I cannot guarantee that these changes eliminate the potential for any litigation, I believe that the report language added in conference will diminish the frequency and complexity of lawsuits.

Mr. CHAFEE. Last summer, I also criticized the bill for excluding coverage where the shutdown involved a "temporary facility." I pointed out that without some additional langauge, a "temporary facility" might be viewed as one that exists for 50 years or more but is called "temporary." Have steps been taken to clarify use of the term "temporary?"

Mr. METZENBAUM. The conferees added report language to clarify and limit the impact of the term "temporary." The report makes clear that for the "temporary facility" exclusion to apply, the employees must have been hired with the understanding that their jobs would last only until an "obviously limited" activity of the employer was completed. In addition, the report language specifies that the work involved must in fact be temporary and limited: the exclusion does not apply where employer and employees expect that the employment relationship will continue indefinitely. With these additions, I believe that the conferees have precluded any prospect that a "temporary facility" exclusion would apply for a significant length of time, such as the 50-plus years referred to by the Senator.

Mr. CHAFEE. In the Senate bill approved last summer, notice was not required where an employer was selling a business and the buyer offered to hire "substantially all" of the employees, or where an employer was relocating a facility "within a reasonable commuting distance" and offered to transfer "substantially all" of the employees. At that time, I expressed concern about the vagueness of the term "substantially all" as it applies in these two instances. Has anything been done in the new version to address this problem?

Mr. METZENBAUM. The language to which the Senator refers was revised by the conferees. The term "substantially all" has been removed entirely from the statutory langauge. Instead, the sale or relocation of a business is now treated in the definition section of the bill. When an employee is offered continued employment by the buyer of a facility, or a transfer to another facility within a reasonable commuting distance, that employee has not suffered an "employment loss" that would help trigger the advance notice requirement.

Mr. CHAFEE. I thank the Senator for these clarifications. I believe the important steps taken by the conferees make the plant-closing requirement more workable, and minimize the prospects for burdensome litigation. With these changes in mind, I am now prepared to support enactment of the legislation.

Mr. President, I thank my colleague from Ohio for his work on this measure, and especially for his efforts to address the concerns I expressed last summer.

Mr. President, it is sound public policy to provide for the lifeblood of society, its labor force, in times of need. When a business is forced to shutdown, or retrench in the face of changing economic conditions, not only do workers lose their jobs, their security, and their incomes, but whole communities are shaken. The shock waves that follow a plant closing, or a mass layoff, can permeate into every level of a community, causing social and financial setback. The larger and more sudden the closing or layoff, the greater the impact.

The purpose of this plant closing measure we have before us today is to lessen this impact, to soften the blow of a plant closing or layoff. This plant closing notification measure would require, where realistically possible, a company to notify its employees of a closing or mass layoff at least 60 days before the event takes place. These 60 days would be used by the worker and the community to prepare for the crisis, to respond to the need for job placement, retraining, education, financial assistance—all the demands that arise in these situations. And, hopefully, in some instances, this 60-days notice will enable the community to respond in some way that forestalls the closing.

Notification means communities can band together and confront a problem with constructive, well thought-out solutions, not panic.

Mr. METZENBAUM. Mr. President, I yield the floor.

Mr. GORE. Mr. President, I am pleased to be an original cosponsor of S. 2527, the Worker Adjustment and Retraining Notification Act, to require advance notification of plant closings and layoffs. This measure is identical to that which both Houses of Congress approved as part of the trade bill earlier this year. I congratulate the distinguished Senator from Ohio [Mr. METZENBAUM] and the majority leader for pushing ahead with this bill, a modest but necessary step toward fair treatment for the working people of this Nation.

I have been a supporter of advance notification from the start. I cosponsored the original legislation, a much stronger version, that was introduced in February of last year. When the trade bill was being considered, the sponsors of the advance notification provision agreed to a much more modest version. Concession after concession was made to meet, I think unfounded, objections.

We shortened the notification period for closings or mass layoffs to just 60 days, down from a much longer period for large companies. We raised the small business exemption; excluded the layoff of seasonal and part-time employees; exempted businesses which were seeking capital or customers to keep going and which feared notification would hurt those prospects; and deleted an information disclosure requirement.

The result was a very mild, and perfectly reasonable, requirement that employers give just 60 days notice if they are going to close down a plant or layoff a huge number of employees. The Senate refused to delete this provisions from the trade bill by a 60-to-40 vote. We acknowledged that reasonable advance notification was a matter of basic fairness and common human decency.

But, as we all know, the President of the United States vetoed the trade bill because of this advance notification provision. That veto, for that reason, demonstrates probably more than any other action by this President his contempt for the working men and women of this country. It was a slap in the face to anyone who puts in an honest day's work in the United States of America. This administration spends more time protecting the interests of plant workers overseas than it does looking after the interests of the people who have made America what it is today. This President will give Noriega all the advance notification he wants, and cut a deal in the process; but he says. "tough luck" to the American garment worker or assembly line employee about to lose his job.

Mr. President, between 1981 and 1986, companies laid off almost 11 million Americans. Production workers all across this Nation—people with bills to pay and dependent families—were suddenly without work in a market woefully lacking in manufacturing jobs. About one-fourth of all workers, blue collar and white collar, receive no notice of a workplace closing. And only 26 percent get more than 30 days' notice. The United States of America is the only major industrialized country without a law requiring employers to notify their employees before closing down a workplace.

A major study published by the Department of Labor recommended a number of procedures for successful re-employment and retraining programs. It is important to note that all successful programs cited by the Labor Department included advance notice of layoffs. The study found almost no evidence of disruptions, theft, loss of customers, or declining productivity after notification.

Mr. President, it is unfortunate that many of the benefits available to American workers are not realized because they do not receive adequate advance notice when a workplace is planning to close. There seems to be a general consensus on the need for more investment in programs for job search services, vocational training, basic education, relocation assistance, adequate unemployment benefits, income support during retraining, and similar efforts. But the resources reserved for such benefits will often go for naught because of the lack of an advance notice requirement.

Clearly, advance notice would contribute to increased participation in various worker adjustment programs, significant declines in unemployment and under-employment for dislocated workers, easier adjustment to what might otherwise be a wrenching change in affected communities, and substantial savings in unemployment insurance costs.

Mr. President, the time has long passed when an employer should be allowed to withhold information simply because the corporation wants to avoid public scrutiny of its decision or public pressure to cushion the impact.

Opponents of advance notification have been active. They even claim that this legislation would prevent them from closing their plants or laying off workers. Of course, that is not true. If business circumstances not reasonably foreseeable occur, a company does not have to comply with the provisions of this bill. No company is compelled to change any business decision. The free-market system is not assaulted. The South is not unfairly penalized, as some have maintained. All that is required is that companies let their employees know what is going to happen to their jobs. I fail to see what is unreasonable about that.

Mr. President, some say that this bill constitutes Government interference. How interesting that is. I doubt that there is a single Member of this body who has not participated in some way in his or her State's effort to recruit a new industry. And we all know what is involved in recruiting a new plant. When the company wants—and gets—a new road, or an industrial park site already equipped with sewer and utility connections, or a property tax break, or State-sponsored training and recruiting programs, or any number of other incentives—that is "good government."

But when a community has invested all of this in a company—indeed when a community has staked its economic future on a plant operation—it is called government interference when it simply asks for 60 days' notice that the plant is going to close its doors, fire everybody, throw hundreds of people onto the unemployment rolls, destroy the tax base and the community's disposable income, and disrupt the lives of the employees and their families.

Mr. President, that logic won't wash. The American people overwhelmingly support this measure. It is time for us to do the right thing and pass this advance notification bill.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, the plant-closing legislation that is now before us I feel is the proper way to deal with this issue. I was very much opposed to putting this legislation on the trade bill. I am still opposed to any kind of belief that you have to pass this legislation before we are going to pass trade legislation. I do not believe there should be a linkage between the two. I think the plant-closing legislation ought to stand on its own two feet. We should deal with that. I personally believe—and I have said it for a long period of time—that employers should in fact give notice to employees when they are going to close their plant. There is absolutely no dispute on whether notification should be given. As a matter of fact, any CEO in this country that does not give notice and could have—and there are exceptions in this bill—ought to be fired. The board of directors ought to fire them. Shareholders ought to say you are going to give notice when you can and you should. That is the only common, decent thing that an employer can do.

It has been suggested that perhaps by passing this legislation you are going to have plants not close. That is not the case. Unfortunately, you are still going to have plants close, but you are going to have plants open. I have listened to the debate. So far it is always in the negative, plant closing, this many jobs lost. Think of the new job opportunities in this country. Think of the new plants, the 600,000 business startups we had last year, think of the 15 million jobs that we have created since 1982. Think of the opportunity of that person having a right to a job and getting that opportunity. We ought to be talking about how we are going to get plants to open. We ought to try to figure out how we are going to create the incentives to have those jobs. Should an employer give notice? You bet. And anybody who does not give notice when they can and should, as I said, I think they ought to be fired. Any CEO in this country who does not have that as a matter of corporate policy ought to rethink their policy. I have preached time and time again—as a matter of fact, my friend from Ohio quotes me, saying:

> Well, the Senator from Indiana a number of years ago told the business community they better establish a corporate ethic of giving notification or they are going to get legislation which they will not like.

Well, here we are, Mr. President. We are looking at legislation and some sort of legislation will, obviously, pass this Senate. It remains to be seen whether it will be vetoed or not. But this is the way to deal with it. We now have plant closing legislation before us.

When we had the trade bill, Mr. President, we had this legislation put on the trade bill which did not belong there. It was not in the House version. Many were under the impression that once it got to conference the plant-closing provision would be dropped. It was one of the final issues that was resolved, and I believe probably rather than for substantive purposes but because of political purposes it was maintained in that trade bill even though the House had not dealt with it before they went to conference. It should not have been attached to the trade bill. But now we have freestanding legislation, and as I say, I believe that is the right way to do it.

I have no desire to enter into any amount of extended debate. I am, I will announce to the Senate, working on a substitute. That substitute I think will be a very good proposal on how an employer should give notice to the employees, what the penalties should be and I will be offering that substitute. As a matter of fact, my staff is working on it at this moment. It will not in all probability be ready to be introduced today. I would imagine that we would be introducing it tomorrow to this legislation. We will have good debate on a substitute to the Metzenbaum proposal. But I can tell you that both proposals will adopt the idea that employers should give notice to employees. That is a commonly accepted principle.

The question is how we are going to enforce that notification, what kind of burdens we are going to place on the private sector, and whether we are going to deal with the very important issue of layoffs.

This bill is not just about plant closing legislation. One of the major components of this legislation which I think has been missed is the layoff provision. I have had a number of business people in my State that have come to me and said, "We agree with the proposal that you must in fact give notice." As a matter of fact, they give more than 60-day notice when they are going to close the plant. But they said it is a very difficult proposition in many cases to give that kind of notice on layoffs, particularly businesses that hire a lot of people back knowing that the work is going to be only for a certain period of time, and when the contract expires or whenever changes exist. Those people are going to be laid off.

What one employer told me is, "The way we would have to do this is just every day tell the employees that we in fact are thinking about laying them off." Every day they would simply give that notification. That is a heck of a way to run a business.

I heard the distinguished majority leader talk about the adversarial relationship between labor and management, and how we ought to try to get around that adversarial relationship.

I do not believe good companies in this country and good business practice have that adversarial relationship. I submit despite that statement that you will always have to have that adversarial relationship, I take strong exception to the proposition that adversarial relationship is the way the businesses ought to practice a business.

As a matter of fact, I will submit to the Senate that those businesses that do not have the adversarial relationship are your most productive and profitable businesses.

You cannot operate a good business, be productive and competitive in this competitive world if you are going to have that adversarial relationship.

This layoff provision, and if a company would have to give layoff notice every single day from the very first day that they are called back, I submit that in fact would probably create an adversarial relationship. It certainly would not try to get the working together of labor and management. And I believe that is one of the objections and one of the concerns of the legislation that is before us. This is a 60-day mandatory notice for layoffs, not just plant closing. If it was just plant closing, I think you would have many different viewpoints.

Mr. President, we will be submitting our substitute. It will be a proposal that in many respects will probably adopt some of the principles of the bill that is before us, deviate some, and we hope to have strong bipartisan support for this substitute. It is a substitute that will deal with notification and the basic principle of giving notification that will be embodied in this substitute that I intend to offer.

Mr. President, another debate that must take place when we talk about plant-closing notification and other mandated benefits that may be coming down the pike is how far is the Congress going to go into what has traditionally been an employer-employee relationship? Should an employer give notice? You bet. As I have said, and I will say it again, any CEO in this country that could, in fact, give notice and does not, ought to be fired, ought to be canned on the spot.

The question is what is the role of the Government in mandating certain things that we deem to be in the best interests of this country? I have heard almost ad naseum the debate on this floor about competitiveness, how we have to be a more competitive society. I submit, Mr. President, that going down the route of Government-mandated benefits forcing certain costs upon the employer will not increase competitiveness. As a matter of fact, we ought to have a discussion about mandated benefits because this is just the beginning of a number of issues that are percolating; a number of issues that are coming out of the Labor and Human Resources Committee.

I believe, as we look to this competitiveness, how we are going to improve our productivity, we need to look at these things in total, not just one issue, not just two, but look at the agenda that has been suggested of Government-mandated benefits. This Senate had better decide on how far it wants to go because if in fact we go the entire route, swallow and pass all the Government-mandated benefits, I can guarantee you will see economic disruption, and disruption of employment, and unemployment in this country.

I was struck by the testimony we had in our Labor and Human Resources Committee about the reason we needed all of these Government-mandated benefits. The argument goes like this: The United States of America is the only industrialized nation in the world that does not have a lot of these Government-mandated benefits. Therefore, since we do not have Government-mandated benefits, by golly, we ought to do it; that we ought to copy what Europe has done; that we ought to be coequal with Europe as far as their government-mandated programs.

That may strike a responsive chord for some, Mr. President, but it does not strike an intellectual responsive chord to me particularly looking at the economics of the situation. Government-mandated benefits having the Government forced upon the private sector, taking away the flexibility, a whole host of mandated benefits, will not improve productivity, competitiveness, or jobs.

I believe a good example would be just look at Europe. Do we really want to copy Europe? Europe in the last decade has had 3 million jobs. On a net basis we have created something like 15 million or 16 million jobs. Who should be the model for who?

I think, as a matter of fact, many in Europe are trying to say, you know, United States, you do a pretty good job of creating jobs for your people. I am sort of proud of the fact that in Indiana we are getting our unemployment rate down. Nationwide we have it below 6 percent. We have done a good job of producing jobs and opportunities for the people who go out, work, produce, and provide for their families. I want the American workers to have a job.

Let us face it. People would much rather cash a paycheck than to cash a welfare check. I have heard that stuff that people like to be on welfare. I do not believe it.

I think people will want to work. They want to be productive. They want to get up in the morning. They want to go to work, and they want to produce. They want to come home and be with their families. United States of America has done a darned good job in creating those opportunities. But if we go down this route of all of those Government-mandated benefits, we ought to think before we act on how far we want to go down this road, about what kind of costs we want to put on the private sector, how much flexibility do we want to take, and how much of those 600,000 businesses that started up last year do we want to not ever start up?

I do not want that kind of plant-closing legislation; plant-closing legislation that says to a business, by golly, because of all of these encumbrances and costs you are never going to open your doors.

We want those doors open. We want the opening of plants, not the closing of plants. From an economic basis, the economic model, the one that is the envy of the world is what we have in this country. When it is working, let us get to work. And it is working, Mr. President. Certainly, employees need and should have notice. Nobody disputes that. As a matter of fact, it ought to be more than 60 days. And many companies do give more than 60-days' notice.

When a company knows that they are going to shut down, obviously, they should in fact give notice. Our substitute will address that. Our substitute will take into consideration the economics, take into consideration what is best for the workers, and to come up with what will be prudent, fair, but tough legislation dealing with how we are going to provide incentives and under what conditions we are going to mandate this notification take place. But do not anybody misread what is going on, where those that have opposed and questioned legislation dealing with Government-mandated benefits are not opposed to the principle of notification and support that. It is the only fair, compassionate, and decent thing we can do. But there are many other issues, and I believe we will get into these issues during the course of the debate.

My staff is working on a substitute at this moment. I did not know this legislation was going to come up today. I caught wind of it last night and learned specifically this morning that it would come up. It will take a while to get organized and look at what alternatives we can produce and the amendments.

I have no desire to prolong the debate, but I do have a desire to have the Senate vote on a substitute. We will see what happens with that. We will see if there is any meeting of the minds, although, as the minority leader said, we do not have any great hope for that. Perhaps the political lines have been drawn already in the sand. I hope that is not the case, but it probably is. If it is, so be it. But if there is a meeting of the minds, to see legislation that would be passed here that would be veto-proof, if we would have a very large, significant, bipartisan vote, I think that would be the best for the workers. I think it would be best for the people of this country. Hopefully, we can achieve that; and if we can, that is all to the better. If we cannot, then we will have the votes and see how the Senate works its will.

There are still some concerns, particularly with the layoff provision. The layoff provision in this legislation was not focused on in the debate on the trade bill. On the trade bill, we took one vote and said: "Let's hope this goes away in conference, and we will have to deal with it later on." Now is later on. The legislation is before us. It is the way it should have been handled in the first place. The plant-closing provision should have come up freestanding. We would have debated it and seen where to go at that time. It is here now, and we will be prepared to engage in discussion on the substitute, to engage in discussion perhaps even later this afternoon. Much of my time will be spent working on the substitute, to come up with one that will have good, strong, bipartisan support and will help move this legislation toward enactment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. REID). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DIXON pertaining to the introduction of legislation appear in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DIXON. Mr. President, I understand that my distinguished friend from North Carolina is on the floor with some guests and I yield the floor.

VISIT BY REPRESENTATIVES OF EUROPEAN PARLIAMENT

Mr. SANFORD. Mr. President, we have the honor of having today as our visitors a delegation of parliamentarians, representatives of European Parliament. They are now on their 31st exchange with the U.S. Congress. We are pleased to have them here.

I would point out to them that they have heard our distinguished colleague from Illinois, one of our great orators, plead a case and do it very well.

RECESS

Mr. SANFORD. I ask unanimous consent that the Senate stand in recess for 3 minutes in order to give Senators an opportunity to greet our guests.

There being no objection, the Senate, at 2 p.m., recessed until 2:03 p.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. SANFORD).

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, by way of explanation as to what is going on or what is not going on at the moment, I should state that our friends across the aisle who are opposed to the plant-closing measure are thinking about drawing up an amendment or so, and they need a little time to do that.

In the meantime, we hope to be able to take up the Treasury-Postal Service appropriations bill. The 2-day rule has been met, and the bill qualifies. The distinguished Republican leader and I are in discussions about this bill, indirectly, but we are in touch, and I hope that in the next few minutes the Senate may be able to go to this bill.

Last week, the Senate passed three of the appropriation bills—energy-water, military construction, and legislative. At present, three additional appropriation bills have been reported by the Appropriations Committee—Treasury-Postal Service, Commerce-State-Justice-Treasury, Agriculture.

I understand that the other body will be sending over to the Senate, in very short order, the remaining five appropriations bills, making a total of 13. The House has sent over eight thus far.

That being the case, Mr. President, I hope that we will be able to dispose of the remaining 10 appropriation bills by the middle of July—well in advance of the beginning of the new fiscal year.

With that bit of explanation, I hope that those who are viewing the Senate at the moment—the press, the media, and others—will understand what is going on here and what is not going on, and what will be going on, hopefully, very soon.

So, work is not wholly stopped, but almost. It is hoped that we can get on with the appropriation bill shortly; and perhaps before the day is over, our friends who are drawing up an amendment will be in a position to present it.

Mr. HATCH. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. HATCH. I think that is an appropriate approach. If I understand the majority leader correctly, he wants to move to other matters on the legislative calendar. This matter has been called up hurriedly, and the minority did not have time to work up amendments. I hope we will be ready tomorrow to start calling up amendments.

I do not know how many amendments there will be, but I doubt there will be a great number. I do know that Senator QUAYLE has an amendment or he would like to have an amendment, and I have a number of amendments that will point out I think rather conclusively that this is not just a simple 60-day plant-closing provision, that it is much more significant and includes three massive changes in the National Labor Relations Act that could change the delicate balance between labor and management that has existed for really almost the better part of this century now, and it is not some insignificant little bill that everyone should be for, although it has some aspects I believe everyone could be for if they were presented in a proper legislative format.

I would suggest that it would be better to allow us that time, and then perhaps we could start first thing in the morning and do what has to be done with this bill and hopefully move expeditiously at that time. If Senator QUAYLE is not prepared to go forward with his amendment at that time, after making some opening remarks, I would certainly be prepared to go with an amendment or two of my own.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, obviously, we want to cooperate with the leader and we will.

The leader mentioned moving on to other items. I certainly would not object to that.

I did have a meeting earlier today of our Human Resources Committee to consider minimum wage legislation. The Senator from Indiana did indicate he wanted to be on the floor and be able to debate this issue, the plant closing legislation. So we deferred any action of our committee on a matter of very significant importance and consequence so that we could cooperate with the ranking minority member and the Senator from Indiana.

Having said that, I would hope that we could move along on this legislation.

Having listened to the early comments and remarks of those who have expressed opposition, there really has not been any point or issue that has been raised anew. We debated this issue at very considerable length a few weeks ago.

I think the issue has been laid out about as completely as any issue that I have seen in recent times. I obviously want to cooperate with the leader, but I would certainly hope that we would not bring undue delay in permitting the Senate to express itself on this question, because it is of very great significance to millions of American workers and their families.

So I will certainly support what the recommendation is of the leader, but I must say I had talked with our colleagues about whether we were going to have to try and seek cloture on this measure and then, understandably, we would be able to move on other issues and come back to a vote at a time certain.

But given the statements that have been made by the leader and the comments that have been made by the Senator from Utah that there at least is a good prospect that we might have a full debate of a variety of different votes tomorrow but that at least we might be able to see the end in sight, I would hope that would be the ultimate outcome.

So I am grateful to both the leader and the comments that have been made by my colleague from Utah.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. With objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, as I stated earlier, while the Senate is on the plant-closing bill at the moment, our friends across the aisle are seeking to develop some amendments to that bill, and they have a right to do that.

In the meantime, however, it would be possible, hopefully, that the Senate proceed to other business, so that we could be making the best use of our time. I would like to go to the Treasury-Postal Service bill. I understand that there would be an objection to a unanimous-consent request and that it is understood in that event that I would like to move to take that bill up.

However, if I move to take that bill up, that would displace plant closing. So I do not wish to proceed by motion unless I can get unanimous consent that such a motion, if agreed to, would not displace plant closing. Do I understand that it is all right to proceed with that request by unanimous consent?

I, therefore, ask unanimous consent, Mr. President——

Mr. SYMMS. Reserving the right to object. Would the leader please explain to me—I had a Member ask me to make a reservation on this—what is it the leader is trying to do?

Mr. BYRD. Yes. I am seeking to get the Treasury-Postal Service appropriation bill up before the Senate. That is one of the remaining appropriation bills that the Senate needs to do, hopefully, by the middle of July, in order to send all 13 appropriation bills down to the President separately. I was hoping to get that bill up this afternoon while we are on plant closing, but we are not making any progress, because there are Senators who wish to prepare amendments to plant closing. While they are doing that, in the interest of using our time to the best advantage, I had hoped to take up the Treasury-Post Office appropriation bill.

I would need to do it by unanimous consent, and that would be objected to, I am told. Therefore, I hope to make a motion to take it up, but I do not want to displace plant closing. That would be the purpose of my request.

I would ask unanimous consent that a motion to proceed to the consideration of the Treasury-Postal Service appropriation bill, H.R. 4775, if agreed to by the Senate, not displace the plant closing bill, S. 2527.

That is my request.

Mr. SYMMS. Reserving the right to object. While I have the reservation, Mr. President, I may not have an objection that would be lasting, but I may be constrained to object to this.

But I did, while the leader was on the floor, want to make another inquiry.

It has been brought to my attention that there are some 37 Federal judge appointments pending in the Judiciary Committee. I know we have a very fine nomination to the circuit court of appeals from my State that will be pending in the next few days. I just wondered what is the schedule that is planned for the confirmation of these judges in the next month or so.

Mr. BYRD. I have no plan. There has been no decision over here to hold up anything.

Mr. SYMMS. Pardon me?

Mr. BYRD. I know of no decision on this side of the aisle to hold up any nominations.

Mr. SYMMS. Well, I guess the question I have—maybe we do not have the Judiciary Committee members here, and I do not mean to put the leader on the spot. But I know there is a long list of judges that are pending before the committee. I just wondered what the holdup is.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the fact is that the Judiciary Committee has approved more judges than it actually recommended during this session. The Senator from Vermont has outlined in very careful and significant detail the status of the various judges. That has been put into the Judiciary Committee record this past week an analysis of each and every one of those that are being considered and the status of that. I think it would be useful to add that to the RECORD.

I ask unanimous consent to have printed in the RECORD what I believe would be the most complete response to the Senator's inquiry, the statement of the Senator from Vermont [Mr. LEAHY].

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 13, 1988.

Senator STROM THURMOND,
Senate Judiciary Committee, Washington, DC.

DEAR SENATOR THURMOND: At the most recent business meeting of the Judiciary Committee, you made a lengthy statement concerning the processing of judicial and non-judicial nominees. As I stated then, and as I had told you at a previous meeting of the Committee I would do, I cleared by schedule in order to review the relevant files and respond to your questions as a matter of the highest priority. I have now completed that review, and am pleased to provide the following information in response to your request. This letter addresses first the nominations you mentioned in your written statement, followed by the nominations about which you asked orally.

1. David Treen. You began your statement by referring at some length to the nomination of David Treen as "a recent example of what nominees are being subjected to during the nomination process." Mr. Treen asked last month that his nomination be withdrawn for the stated reason (among others) that he considered it more important to pursue partisan political activity than to pursue confirmation to the United States Court of Appeals for the Fifth Circuit. While I would think that you would be more concerned about nominations currently pending, as contrasted with those that have been withdrawn for political reasons, I have reviewed the files on this nomination and offer the following response to your concerns.

I agree with you that the Treen nomination exemplifies one disturbing aspect of "what nominees are being subjected to during the nomination process." For reasons that I cannot fathom, a number of nominees are "being subjected to" the utter refusal of the Department of Justice to respond promptly or meaningfully, and in some cases to respond at all, to legitimate requests by the Committee for further investigative assistance with regard to matters that bear directly upon their fitness for the federal bench. Perhaps this baffling reluctance to cooperate with this Committee is caused by the current problems at the Department, but in any event it has severely retarded the processing of several judicial nominations, all of which originated in the same Justice Department which now drags its feet and evades responding to this Committee's requests in a troubling proportion of cases.

The Treen nomination exemplifies this. I am constrained from giving full details by the need to maintain the confidentiality of this Committee's requests to the Justice Department. I think it would be totally unfair to Governor Treen to repeat the serious allegations of impropriety which the Committee received. These allegations have been neither proved nor disproved; indeed, from all appearances the Department refused to investigate them, so they remain simply allegations. However, I can state that, contrary to your statement, these allegations were neither "vague" nor "questionable"; they were quite specific, and between February 17, when they were first transmitted to the Department, and the time the Committee became aware of the nominee's request for withdrawal of the nomination, I advised the Department of the names of four individuals who should be interviewed with respect to the allegations. As far as I know, none of these individuals was ever interviewed; at least, the Committee has never received any report of such interview, although one letter from the Justice Department indicates that the FBI would be directed to conduct an interview of one of these individuals.

You indicate in your statement that these allegations "could have been investigated by the Committee's own staff and resolved almost immediately," and that the decision to request an FBI investigation was "an inefficient use of the Committee's resources." Many allegations received by the Committee with respect to nominees are investigated by Committee staff. Howver, when complex allegations, particularly those alleging criminal activity, are invovled, it does not seem unreasonable to ask the FBI to investigate rather than trying to resolve the matter "in house." After all, the FBI has at its disposal several thousand Special Agents, some large number of whom are stationed in Louisiana. By comparison, there are, to my knowledge, six or seven individuals on the Committee staff (majority and minority) who have any investigative responsibility with respect to nominations of all kinds. More importantly, persons interviewed by FBI Special Agents can be, and sometimes are, criminally prosecuted for giving false information; there are no similar inducements to veracity in the case of persons interviewed by Committee Staff.

Particularly in a matter such as this one, involving serious and sensitive allegations, I fail to see why it is "inefficient" to ask for an FBI investigation, and to direct the Committee staff to focus its attention on other matters bearing on the qualifications of nominees. If the Justice Department had promptly and thoroughly responded to the Committee's request for additional investigative assistance, I believe the Committee would by now be voting on the Treen nomination, rather than conducting a postmortem on a nomination that was voluntarily aborted for clearly stated political reasons. As you know, I agreed to hold a hearing on the Treen nomination, at which I would have asked the Department why they had not made the investigation requested by the Committee. Before such a hearing could be held, Mr. Treen withdrew in order to be involved in a political campaign.

I must make one additional comment about the discussion of this nomination at the May 24 business meeting. Frankly, I was surprised, and I remain surprised, that you chose to read into the record a letter from Acting Assistant Attorney General Boyd to Chairman Biden, which contained direct quotations from the allegations I transmitted to the Department in confidence. I assume you were misled about the confidentiality of this material by the failure of Mr. Boyd to mark his letter as confidential. (My letter to him, to which his letter responded, was so marked.)

2. Bernard Siegan: this nomination presents some complex issues pertaining to the nominee's judicial philosophy, and some less complex issues with regard to his experience and qualifications for the United States Court of Appeals for the Ninth Circuit. We have held two hearings on the nomination, and although we have received numerous requests from public witnesses who wish to testify, I believe the record is reasonably complete. As Senator Kennedy stated at the business meeting, the Committee has received a blue slip from one of the nominee's home state Senators objecting to his nomination. The treatment of this blue slip presents an important institutional issue for the Committee. As I am sure you appreciate, it is also an issue that is of particular importance to the Chairman's role in fashioning Committee policy in this area. I will be discussing this matter with my colleagues in the majority, and would be glad to talk further with you about it. I anticipate that Senator Biden will soon resume his Senate duties, and of course I would particularly like to know his views.

3. Susan Liebeler: your statement indicates that the report on this nomination has not been filed with the Senate. That is correct. As you know, the majority report is complete, and was given to your staff on May 12, more than a month ago, on the understanding that you wished to prepare a minority report. I take it from your statement that you have decided to forego a minority report, and therefore I will take steps to have the nomination reported to the floor as soon as possible, unless I hear otherwise from you.

4. Stuart Summit: a hearing was held on this nomination on April 21. At that time, the nominee was asked about letters which had been sent to debtors of a New York law firm by lawyers, represented by the nominee, who were seeking to renounce their law partnership agreement. The sending of these letters was enjoined by a New York state court. While the nominee testified that these tactics were employed by his clients against his advice, he subsequently acknowledged that he had signed at least one of the letters in question. After the hearing, the principal opposing party in this case, a New York attorney, asked to testify in order to contradict the nominee's testimony on this issue. I believe the Committee should seek to resolve this issue on the record, and I have arranged for this testimony to be taken at the hearing on June 21. In addition, the Committee staff has continued its investigation of the degree of Mr. Summit's involvement in questionable tax shelter activities undertaken by some of his clients, and he has responded to written questions on these and other matters.

5. Paul Gadola: this nomination is a classic case of the syndrome I described above: the Justice Department's continuing failure to provide the Committee with information which bears directly on the nominee's fitness for the federal bench. Our latest request for further investigative assistance was sent April 21. Some of the information sought in that letter was covered by our original request to the Department, which I sent more than one year ago, on May 15, 1987. No response to the April 21 request was received until May 31, when a partial response was received, not including some of the information originally requested in May 1987.

When I wrote to you on March 23 concerning the status of judicial nominations, in response to three letters you sent to the Chairman earlier that month, I noted that I was "at a loss to know why the Department has been so dilatory" in responding to the Committee's requests on this nomination, and concluded that "if you could prevail upon the Department to respond, that would certainly expedite matters." Evidently, your efforts over the past two months, like those of more than one Democratic Senator, have been unavailing. The Department's unresponsiveness has prevented the scheduling of a hearing on this nomination until now. I am reluctant to see this nominee continue to be held hostage by the Justice Department, however, and I plan to schedule a hearing on the nomination in June if at all possible. A representative of the Justice Department may be asked to testify at this hearing.

6. Richard Voorhees: I stated at the May 24 Judiciary Committee business meeting that a hearing would be held on this nomination on June 29. Since then, I have learned that the Senate might recess for the Independence Day holiday earlier than scheduled. In order to prevent any possibility of interference with my commitment to hold this hearing, I have decided to reschedule it one week earlier, on the morning of June 22.

7. Robert Roberto: a hearing was held on this nomination on April 21, at which I raised with the nominee several serious matters that had been the subject of investigation by the Committee staff. Among these matters were the following: 1) Justice Roberto's ruling, made without investigation and without consultation with prosecution or probation officials, that enabled a man who had just been convicted of conspiracy with organized crime figures to retain four liquor licenses that he held; 2) the interrogation of the nominee by prosecutors about a large pay claim he submitted when he left his position as Assistant District Attorney, a fact that he neglected to mention in responding to the Committee's questionnaire; 3) allegations that the nominee, while counsel to an attorney grievance committee, was made aware of serious charges of attorney misconduct by a close personal friend, and took no action either to investigate the charges or to disqualify himself from the matter for months after he received the information; and 4) the fact that the nominee, while a full-time judicial law clerk and assistant attorney general, conducted an outside practice of law.

Since the date of the hearing, the Committee staff has continued to investigate these matters, and has obtained statements from several individuals whose recollection of events differs significantly from the account of events provided by the nominee in his testimony. I asked Justice Roberto to respond to written questions in connection with the District Attorney pay claim matter (referred to above); his answers were received on May 25. I anticipate submitting further questions to him in connection with several of the matters discussed at the April 21 hearing as well as at least two additional allegations that have been brought to the Committee's attention since the hearing: 1) allegations that the nominee engaged in highly unusual undercover activities when he served as head of the vice squad in the Nassau County District Attorney's office; and 2) allegations that the nominee accompanied former District Attorney William Cahn on numerous overseas trips for which Mr. Cahn double-billed both Nassau County and the National Association of District Attorneys.

8. Vaughn Walker: I know you are familiar with the controversies surrounding this nomination, including the withholding of a blue slip by one of the nominee's home state Senators, and the formal opposition to the nomination from the governing body of the largest city in the district in which the nominee would sit if confirmed. The hearing on this nomination, including the testimony of witnesses pro and con, had been scheduled for May 26. Since proceeding with the hearing on that date would have prevented a timely response to the questions you raised at the business meeting last week, the hearing has been rescheduled for today, which was the earliest available date upon which all the invited witnesses could arrange to appear.

9. Non-judicial nominees: I am not in a position to comment directly on the status of the four non-judicial nominees mentioned in your statement. However, I have been informed that the Committee is awaiting responses from the Justice Department to long-standing requests with respect to all three of the nominations for U.S. Marshal.

With respect to Marshal Evans, the situation is unchanged from last March, when I noted in my March 23 letter to you that "the Committee asked the Justice Departmen several months ago for permission to interview a Department employee who has information relevant to the nomination. That request was refused." So far as I know, the Department persists in that refusal. With respect to Marshal Earnest, the Committee received a partial response on March 17, 1988, to a request it made to the Justice Department one year earlier. That response indicated that the FBI had been asked to conduct certain interviews requested by the Committee in March, 1987, and that a further response would be forthcoming once the Department had received the results of these interviews. My understanding is that no further response has been received since March. Finally, with respect to Marshal-designate Hair, I understand that a request to the Department for further investigative assistance has been pending for some months without a response. With respect to the U.S. Attorney nomination of Thomas Ashcraft, I am advised that the Committee's investigation is continuing. I am also informed that Mr. Ashcraft received a court appointment as United States Attorney last December, under which he may serve in that capacity until a nominee is confirmed for this position.

In your oral remarks at the May 24 business meeting, you asked about the status of the following four nominations:

10. Howard Levitt: a hearing was held on this nomination on April 21, at which I raised with the nominee questions about his prior association with Joseph Margiotta, the former Republican leader of Nassua County who went to prison for insurance fraud, and about several illegal schemes with which Mr. Margiotta was involved. In particular, I questioned Justice Levitt about his knowledge of the insurance scheme whereby Mr. Margiotta distributed commissions from public insurance contracts to party designees around the county and about a practice whereby Mr. Margiotta's political organization coerced political contributions from county and municipal employees. Justice Levitt acknowledged providing information to Mr. Margiotta to assist with the distribution of insurance commissions, but denied knowing of the extortion by which the commissioners were obtained. Similarly, he acknowledged knowing that Mr. Margiotta maintained lists of the political contributions made by county and municipal employees, but denied knowing why those lists were maintained and denied ever soliciting contributions from county or municipal employees working under him.

Since the date of the hearing, the Committee has received confidential information raising further questions about Justice Levitt's knowledge and involvement with the solicitation of political contributions from county and municipal employees. On behalf of the Committee, I submitted further written questions to him about this, to which he responded on May 25. In addition, the Committee staff has been conducting further investigation about this matter by contacting individuals personally familiar with contribution practices in issue. Finally, the Committee staff has been investigating allegations that Justice Levitt was publicly listed as maintaining an office at the firm of Margiotta & Ricigliano ten years after he left the firm to become a judge.

11. William Erickson. A hearing was held on this nomination on May 16, at which Senator Simon raised questions about the nominee's judicial temperament, his extensive involvement in extra-judicial activities, and his membership in a country club that has been alleged to be discriminatory. On May 24, Justice Erickson responded to written questions, submitted by Senator Simon on behalf of the Committee, touching on several of the issues raised at the hearing as well as on the nominee's decision to rule on a case in which one of his former partners was involved and his participation in the termination of employment of the Colorado Public Defender. Justice Erickson has not yet responded to a separate letter from Senator Simon concerning his membership in the allegedly discriminatory club. The Committee staff has reviewed the by-laws of the club in question, which contain provisions strictly limiting the number and the membership privileges of female members on terms different from those applicable to men. In addition, the Committee staff has not yet concluded its investigation of allegations, as to which the Committee received conflicting information after the hearing, that the nominee has himself engaged in discriminatory conduct.

12. Simeon Lake: a hearing was held on this nomination on May 16, at which Senator Simon questioned the nominee about his relative lack of pro bono work in 19 years as a lawyer, his membership in a country club that has no black members, and his consultation of a state senator, later indicted for corruption, in a hotly contested civil rights lawsuit. On May 20, Mr. Lake responded to written questions, submitted by Senator Simon on behalf of the Committee, concerning the nominee's *pro bono* work and two issues raised about his work on the civil rights lawsuit—a) allegations that his client in the suit paid two individuals to infiltrate the plaintiffs' group and dissuade them from proceeding with the lawsuit, and b) allegations that Mr. Lake disclosed a confidential settlement proposal in the suit to a non-party public official, who then proceeded to disclose its contents on a radio program.

Based on the responses received from Mr. Lake to these questions, and additional information received by the Committee, the Committee staff is conducting additional investigation into the civil rights suit and into another suit in which Mr. Lake defended charges of hazardous waste pollution. On June 8, Senator Simon forwarded additional written questions to the nominee on behalf of the Committee, raising the following issues: a) what steps the nominee took to prevent his client from contacting plaintiffs in the civil rights suit to dissuade them from proceeding with the suit; b) on what other occasions he has disclosed settlement proposals to nonparties; c) whether he requested the destruction of scientific evidence compiled in a controversial hazardous waste pollution case; d) whether he was aware of allegations of misconduct by the state senator whom he consulted at the time he consulted him; e) the total amount of time he has spent on *pro bono* matters in the 19 years he has been a lawyer; and f) his relative lack of experience in criminal matters. The nominee has not yet responded to these questions.

13. Shannon Mason: At the hearing held on this nomination on April 28, Senator Metzenbaum questioned the nominee extensively about his membership, maintained until shortly before the hearing, in two all-white clubs that allegedly have discriminatory membership policies. The Committee also took the testimony of Oscar Blayton, a black attorney from the nominee's community, who expressed the opposition of the local and state organizations of the NAACP to Mr. Mason's nomination, because of his long-standing membership in organizations widely perceived to practice racial and religious discrimination. On May 5, Senator Metzenbaum asked the statewide black bar association, the Old Dominion Bar Association, to evaluate Mr. Mason's candidacy. This organization interviewed Mr. Mason, convened a meeting of its Executive Board, and last week reported to the Committee that it opposed Mr. Mason's nomination. The Committee's further development of the record on this matter will include an opportunity for the nominee to respond to the views of the Old Dominion Bar Association.

The next-to-last paragraph of your statement "reiterate[s] Chairman Biden's commitment last December" concerning nominations processing. I assume you refer to the Chairman's statement at the December 3, 1987 business meeting, when he said "it is my intention to give everyone that has been brought before us an opportunity to be voted up or down."

The actions taken by the Committee in the unavoidable absence of the chairman are fully consistent with his statement. Of the nominations the Committee had received by December 3, 1987, the Committee has reported 60 nominations. Three nominations were withdrawn before the Committee could act, and five nominations (about seven percent of the total) are pending.

Your statement concludes with the remarks that the pace of nominations processing "reflects poorly on the process" and "is unfair to the nominees." I disagree with both those statements.

What has reflected poorly on the process in the past has been the habit of this Committee to report judicial nominations within a few days after their receipt, before the opportunity for anything but the most superficial examination of their qualifications and fitness for a lifetime appointment to the federal bench. When problems have emerged *after* the irrevocable step of Senate confirmation of these nominees, this Committee has been justifiably criticized for the abdication of its role in the advice and consent process.

I do not believe that it is enough to look at the President's signature on a nomination and a minimum qualified rating from the American Bar Association and then conclude that a nominee ought immediately to be confirmed. I do not believe that the Committee can thoroughly investigate and pass on a nomination for a federal judgeship in 9 days, as was done in the case of Judge Douglas Ginsburg in 1986, or in 6 days, as was done for two other nominees that year, or in 5 days as was done for three nominees the year before. By contrast, our nominations activity in this Congress aims to identify and resolve questions bearing on the fitness of nominees *before* they are given a lifetime charter to sit in judgment on the rights and liberties of the American people, not afterwards.

I sympathize with the position of nominees who must wait longer than they might have expected for a confirmation hearing and a Committee vote. They may well have gained the impression, from examining some of the past practices of this Committee, that once the President has decided to nominate them, the advice and consent process was a simple formality in which the Senate rubber-stamped the President's choice. While the expectations of these nominees may have been disappointed, it is not in any sense "unfair" to them that the Committee now approaches its constitutional responsibilities with greater seriousness and deliberation. And it is certainly not "unfair" to the American people, whose interest in the finest possible federal judiciary must take precedence over the subjective expectations of judicial nominees.

I trust that the foregoing is responsive to the questions raised in your remarks at the most recent business meeting of the Judiciary Committee.

Sincerely,

PATRICK LEAHY.

Mr. KENNEDY. Maybe the Senator can examine that statement and then, if he has additional questions, I would either be glad to try and find out any other answers from the Senator from Vermont, or perhaps the Senator would want to make inquiry of him.

Mr. SYMMS. I thank the Senator very much.

Mr. President, I object to the unanimous-consent request. It may be that I could withdraw that objection in a few minutes. But I do need to make a phone call to another Senator that I was in consultation with on this. So I do object to that for now and maybe we can change that in a few minutes.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. Mr. President, will the distinguished majority leader yield to the Senator from New Mexico, who is the ranking member on the appropriation bill that he has addressed the Senate about here this afternoon?

Mr. BYRD. Yes.

Mr. DOMENICI. As I told the majority leader a while ago in discussions on this bill, the distinguished Senator from Washington, Senator EVANS, indicated to us, since you have taken the floor and commenced your discussion, that he needs about 15 or 20 minutes before he would want our side to agree to your unanimous-consent request for purposes of discussing with the chairman, the Senator from Arizona, the issue regarding comparable pay.

I therefore am not going to object but I think the distinguished leader understands that we would not be in a position until that negotiation occurs—and, indeed, it may be that that negotiation could expedite matters. I am not sure of that but that would be our goal.

I also think the leader knows the appropriations are being marked up and the distinguished chairman of this subcommittee is there completing his work. The Senator from New Mexico is going to go there and see if I can complete mine. So I will be ready in the next 15 or 20 minutes, 30 at the most.

RECESS FOR 10 MINUTES

Mr. BYRD. Very well, I thank the distinguished Senator. Mr. President, I ask unanimous consent that the Senate stand in recess, in order that these discussions may go forward, for 10 minutes.

There being no objection, the Senate, at 2:40 p.m., recessed until 2:50 p.m.; whereupon, the Senate reassembled when called to order by the Acting President Pro Tempore [Mr. SANFORD].

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

FIFTEEN-MINUTE RECESS

Mr. BYRD. Mr. President, I have been hoping that I might be able to take up the Treasury-Postal Service appropriation bill, so as to give Senators time to prepare amendments to the plant-closing bill, believing that it would be better if we could utilize this time today in passage of legislation that needs to be passed before the Senate adjourns sine die.

Time is passing, and we are not getting much done, but I am told that if I would wait 10 or 15 minutes, the clouds may go away and the Sun may shine again.

People may wish to walk outside and feel the heat—I do not think I shall, at the moment—but to give them a little time, to give the officers of the Senate and the employees, and so on, an opportunity to get a drink of water, a little exercise, and walk out and get a breath of fresh air, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, at 3:28 p.m., the Senate recessed until 3:43 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. WIRTH].

BRIBERY ALLEGATIONS IN DEFENSE PROCUREMENT PRACTICES AND THE INTEGRITY IN POST EMPLOYMENT ACT OF 1987

Mr. THURMOND. Mr. President, since last week, the Nation has been deluged with stories speculating on the extent of the problems the Pentagon is now facing in its defense procurement practices. Innuendo and hyperbole have, unfortunately, supplanted facts in many instances. With that in mind, at this juncture it may be wise to assess where we may be going in this sure-to-be-lengthy investigation.

What we now know is some officials in the Pentagon and in various defense contracting firms allegedly engaged in practices that range from unethical to highly illegal. Some Government officials and various top defense consultants are believed to have practiced various forms of fraud, bribery and conspiracy to obtain lucrative Government contracts. One of the frailties of many—simply greed—appears to have triggered this scandal.

Reams of evidence already have been obtained, including taped conversations from a series of court-approved wiretaps that will prove voluminous when transcribed and untold numbers of documents seized from more than three dozen offices. A grand jury has been impaneled and confessions undoubtedly will follow as the judicial process moves forward.

It is imperative that any and all individuals found to have engaged in this type of illegal activity be prosecuted, both swiftly and to the fullest extent of the law. We should not hesitate to throw the book at any individual engaged in these heinous actions that are nothing short of an affront to our system of democracy.

Where we uncover Government contracts that have been obtained illegally, there is one significant step that should be taken. As I outlined in letters today to Attorney General Edwin Meese and Defense Secretary Frank Carlucci, I am now recommending the suspension of any Government contracts that are proven to have been obtained by illegal means. In these cases, adequate fines or penalties should be levied or these suspended contracts should be reopened to competitive bidding—or both. Some may view this recommendation as Draconian. We must however, ensure that all appropriate steps are taken to prevent this from occuring again.

With the current atmosphere surrounding the scandal being cloaked in an air of sensationalism, little is to be gained by reckless or inaccurate accusations, but a complete and thorough investigation must be made to obtain the facts and arrive at the truth.

This inquiry can succeed only if we proceed in an unbiased, objective manner that is void of backbiting and dramatic posturing.

As I said on the floor of this Chamber last Friday, influence peddling is nothing new to this town. Its ramifications can be extremely serious when past or present Federal officials use inside information they gained in Government service to profit financially.

We all understand that some form of influence peddling is the underpinning in the current affair. It is for this reason that I again urge the House of Representatives to expeditiously approve a strong version of my Integrity in Post Employment Act that the Senate passed unanimously earlier this year. My measure by itself would not have kept the current scandal from occurring, but it would help close the so-called revolving door.

Influence peddling is influence peddling, whether it be in the Pentagon or the plush K Street offices of myriad lobbyists whose financial futures are indelibly tied to the access they gained from past Government services. Let us show the Nation now, for the first time in history, that we will finally pass a tough measure to curb influence peddling among former Government officials—including Members of Congress.

Let us move forward with all available resources to get to the root of the current problem. Let us not hestitate to make stern examples of the price individuals and companies will pay when they choose to sell out their country for a fast buck.

Mr. President, I yield the floor.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SIMON). Without objection, it is so ordered.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1989

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4775, the Treasury-Postal Service bill.

Mr. DOLE. Mr. President, I have not been here. I have been in the drought meeting. I understand the problems that may have been involved have been temporarily resolved on this side, I am informed by my staff. Therefore, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 4775) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1989, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I

[OFFICE OF THE SECRETARY

[SALARIES AND EXPENSES

[For necessary expenses of the Office of the Secretary, including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $59,618,000.

[INTERNATIONAL AFFAIRS

[For necessary expenses of the international affairs function of the Office of the Secretary; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $24,063,000.]

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs and improvements of, and purchase of commercial insurance policies for real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $95,000 for official reception and representation expenses; not to exceed $200,000 for unforseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $573,000 to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex, $83,000,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

[For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed fifteen for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for community relations in support of law enforcement training; not to exceed $3,000,000 for major maintenance and facility improvements, and related equipment for the Federal Law Enforcement Training Center to remain available until expended; not to exceed $5,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided,* That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; acceptance of gifts; training of private sector security officials on a space available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further,* That the Federal Law Enforcement Training Center shall hire and maintain an average of not less than 325 direct full-time equivalent positions for fiscal year 1989; $31,018,000.]

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed fifteen for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $5,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: Provided, That the Center is authorized the acceptance of gifts: Provided further, That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: Provided further, That the Federal Law Enforcement Training Center shall hire up to and maintain an average of not less than 425 direct full-time equivalent positions for fiscal year 1989; $34,664,000: Provided further, That none of the funds appropriated under this heading shall be used to reduce the level of advanced training or other training activities of the Federal Law Enforcement Training Center at Marana, Arizona.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition, construction, improvements, and related expenses (to include design, equipment, furnishings, and other such costs) for the Federal Law Enforcement Training Center, $25,000,000 to remain available until expended: Provided, That of this amount, $7,000,000 shall remain available for the acquisition, renovation, and adaptation of the former Artesia Christian College campus in Artesia, New Mexico, as a facility of the Federal Law Enforcement Training Center: Provided further, That $18,000,000 shall be available for the first phase of implementation of the Master Plan for the expansion of the Federal Law Enforcement Training Center at Glynco, Georgia, and for on-going maintenance, facility improvements, and related equipment: Provided further, That the Master Plan for the Federal Law Enforcement Training Center shall make provision for construction of an *advanced firearms training range for participating agencies with specialized firearms training requirements.*

FINANCIAL MANAGEMENT SERVICE

Salaries and Expenses

For necessary expenses of the Financial Management Service, [$280,461,000] *$276,000,000*, of which not to exceed [$11,737,000] *$14,737,000*, shall remain available until expended for systems modernization initiatives.

[Payment of Government Losses in Shipment

[For payment of Government losses in shipment, in accordance with section 2 of the Act approved July 8, 1937 (40 U.S.C. 722) $960,000, to remain available until expended.]

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Salaries and Expenses

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed five hundred vehicles for police-type use for replacement only *without regard to the general purchase price limitation for the current fiscal year*, and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $5,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; [$231,003,000] *$240,000,000*, of which [$15,000,000] *$20,000,000* shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1989, and of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided*, That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further*, That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further*, That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device: *Provided further*, That funds made available under this Act shall be used to maintain a base level of 3,451 *3,701* full-time equivalent positions for fiscal year 1989, *of which no fewer than 543 full-time equivalent positions shall be allocated for the Armed Career Criminal Apprehension Program: Provided further, That not to exceed $2,500,000 shall be available until expended for the purchase of a mainframe processor and associated hardware and software for special occupational and excise tax processing, and $300,000 shall be available until expended for the development and implementation of a secure communications and intelligence facility.*

UNITED STATES CUSTOMS SERVICE

Salaries and Expenses

For necessary expenses of the United States Customs Service, including purchase of up to one thousand motor vehicles for replacement only, including nine hundred and ninety for police-type use and commercial operations; hire of passenger motor vehicles; not to exceed $110,000 for official reception and representation expenses, including $100,000 to be available only for the Customs Cooperation Council meeting; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; [$1,004,821,000] *$1,046,000,000;* [of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account;] of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $4,000,000, to remain available until expended, for research: *Provided*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further*, That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service[: *Provided further*, That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program]: *Provided further*, That none of the funds made available by this Act shall be available for administrative expenses to reduce the number of Customs Service regions below seven during fiscal year 1989: *Provided further*, That the United States Customs Service shall hire and maintain an average of not less than [16,599] *16,799* full-time equivalent positions in fiscal year 1989: *Provided further, That all of the additional full-time equivalent positions made available by this Act for the United States Customs Service over the full-time equivalent positions level of 16,099 contained in the President's budget for fiscal year 1989 shall be allocated only for commercial operations of the Customs Service in fiscal year 1989: Provided further*, That none of the funds made available in this or any other Act may be used to fund more than nine hundred positions in the Headquarters staff of the United States Customs Service in the fiscal year ending September 30, 1989: *Provided further*, That no funds appropriated by this Act may be used to reduce to single eight-hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1989: *Provided further*, That not less than $300,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District.

Operation and Maintenance, Air Interdiction Program

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; [$132,262,000] *$142,262,000*, to remain available until expended: *Provided*, That no aircraft or other related equipment, shall be transferred [on a permanent basis] to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1989.

Customs Forfeiture Fund

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $10,000,000, as authorized by Public Law 98-573, to be derived from deposits in the Fund.

Customs Services at Small Airports

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $1,588,000, for expenses for the provision of Customs services at certain small airports designated by the Secretary of the Treasury, including expenditures for the salaries and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports, and to remain available until expended.

UNITED STATES MINT

Salaries and Expenses

For necessary expenses of the United States Mint; [$47,869,000] *$46,000,000*, of which $665,000 shall remain available until expended for research and development projects.

BUREAU OF THE PUBLIC DEBT

Administering the Public Debt

For necessary expenses connected with any public-debt issues of the United States; [$242,840,000] *$219,430,000*, of which not to exceed $700,000 *shall be available* for expenses of the National Economic Commission.

Payment of Government Losses in Shipment

For payment of Government losses in shipment, in accordance with section 2 of the Act approved July 8, 1937 (40 U.S.C. 722) $960,000, to remain available until expended.

INTERNAL REVENUE SERVICE

Salaries and Expenses

For necessary expenses of the Internal Revenue Service, not otherwise provided; for executive direction and management services, and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; [$94,547,000] *$87,165,000*, of which not to exceed $25,000 for official reception and representation expenses and of which not to exceed $500,000 shall remain available until expended, for research.

Processing Tax Returns

For necessary expenses of the Internal Revenue Service not otherwise provided for; including processing tax returns; revenue accounting; computer services; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; [$1,850,134,000] *$1,691,076,000*, of which not to exceed $80,000,000 shall remain available until expended for systems modernization initiatives: *Provided*, That, of the total amount appropriated under this heading, $22,900,000 shall be available for the Statistics of Income Program in fiscal year 1989.

EXAMINATIONS AND APPEALS

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; employee plans and exempt organizations; tax litigation; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; [$1,864,819,000] *$1,849,581,000.*

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed four hundred and fifty-one for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); securing unfiled tax returns; collecting unpaid accounts; examining selected employment and excise tax returns; technical rulings; enforcement litigation; providing assistance to taxpayers; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: *Provided,* That notwithstanding any other provision of the Act, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1984 levels, or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1984 levels, including, but not limited to Internal Revenue Service toll-free telephone tax law assistance and walk-in assistance available at Internal Revenue Service field offices: *Provided further,* That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at [$2,650,000] *$2,850,000.* The Internal Revenue Service shall absorb within existing funds the administrative costs of the program in order that the full [$2,650,000] *$2,850,000* can be devoted to program requirements; [$1,490,225,000] *$1,431,058,000.*

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation.

SEC. 2. Not to exceed 15 per centum, or $15,000,000, whichever is greater, of any appropriation made available to the Internal Revenue Service for document matching for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation for document matching.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only *without regard to the general purchase limitation for the current fiscal year*) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided,* That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $12,500 for official reception and representation expenses; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year; [$362,000,000] *$354,500,000,* of which $2,500,000 shall remain available until expended for continued construction at the James J. Rowley Secret Service Training Center, and of which $7,126,000 shall be available for Presidential candidate protective activities pursuant to 18 U.S.C. 3056(a)(7).

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 2 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 1 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 104. None of the funds made available by this Act may be used to place the United States Secret Service, the United States Customs Service, or the Bureau of Alcohol, Tobacco and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury.

This title may be cited as the "Treasury Department Appropriations Act, 1989".

TITLE II

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; $436,417,000: *Provided,* That mail for overseas voting and mail for the blind shall continue to be free: *Provided further,* That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further,* That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further,* That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1989.

[UNITED STATES POSTAL SERVICE—ADMINISTRATIVE PROVISION

[SECTION 1. Funds made available to the United States Postal Service pursuant to section 2401(a) of title 39, United States Code, shall be used hereafter to continue full postal service to the people of Holly Springs proper, including upgrading, remodeling, and improving the United States Post Office building located at 110 North Memphis Street, Holly Springs, Mississippi.]

This title may be cited as the "Postal Service Appropriation Act, 1989".

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided,* That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further,* That none of the funds made available for official expenses shall be considered as taxable to the President.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; [$16,900,000] *$16,800,000,* including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $27,950,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $5,698,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109–110, 112–114.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $75,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $258,000: *Provided,* That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $2,199,000.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $2,787,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,000,000.

NATIONAL CRITICAL MATERIALS COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; [$178,000] *$300,000.*

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $5,100,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; [$39,780,000] *$39,500,000,* of which not to exceed $4,500,000 shall be available to carry out the provisions of 44 U.S.C., chapter 35: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further,* That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the [review] *altering* of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further,* That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: *Provided further,* That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further,* That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 205, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder[: *Provided further,* That none of the funds appropriated by this Act for the Office of Management and Budget shall be used by the Director or other official or employee of the Office of Management and Budget to prevent or delay the obligation or expenditure of funds identified in either an appropriations bill or in the accompanying reports except for proposed rescissions as permitted by title X of Public Law 93-344, as amended.]

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $2,353,000.

FUNDS APPROPRIATED TO THE PRESIDENT

[UNANTICIPATED NEEDS]

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1989".

EXPENSES OF MANAGEMENT IMPROVEMENT

For expenses necessary to improve the management of Executive agencies by providing a consolidated Federal budget and financial information system, under the direction of the Office of Management and Budget, and to provide a comprehensive office automation system, including equipment and software, for the Office of Management and Budget, $2,950,000, to remain available until expended.

TITLE IV—INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed $1,000 for official reception and representation expenses; $1,865,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended (42 U.S.C. 4271-79); [$1,275,000] *$1,040,000,* and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

[ADVISORY COMMITTEE ON FEDERAL PAY

[SALARIES AND EXPENSES

[For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $205,000.]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, $862,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $15,433,000.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of [$3,053,403,000] *$3,026,103,000,* of which (1) not to exceed [$92,139,000] *$137,147,000* shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

Connecticut:

Bridgeport, Federal Building, Courthouse Annex, $4,138,000

Hartford, Federal Building, Courthouse Annex, $6,612,000

Florida:

Lakeland, Federal Building, $15,000,000

Illinois:

Champaign-Urbana, Federal Building, Courthouse, $8,316,000

Louisiana:

Baton Rouge, Federal Building, Courthouse, to be constructed on a site donated by the City of Baton Rouge, $16,758,000

Michigan:

Detroit, Ambassador Bridge Cargo Inspection Facility, $10,197,000

Minnesota:

International Falls, Border Station, Site, $260,000

New Jersey:

Camden, U.S. Post Office, Courthouse Annex, $18,728,000

Newark, Martin Luther King, Jr., Federal Building, Site and Design (parking facility), $250,000

Paterson, Federal Building, $6,552,000

Trenton, Federal Building, Courthouse Annex, $25,939,000

New Mexico:

Albuquerque, Grant to the University of New Mexico, Zimmerman Library, Repair and Extension, $5,000,000

New York, The Martha Graham Center of Contemporary Dance, $7,000,000

South Carolina:

Columbia, Federal Building and Courthouse Claim, $100,000

Virgin Islands:

St. Croix, Federal Building, Courthouse, $8,827,000

Construction Projects, less than $500,000, $2,470,000:

Other selected purchases including options to purchase, $1,000,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further*, That all funds for direct construction projects shall expire on September 30, 1990, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That claims against the Government of less than $100,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed [$550,673,000] *$517,424,000* which shall remain available until expended, for repairs and alterations: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:

Alaska:

Juneau, Federal Building, Post Office, Courthouse, $24,700,000

Alabama:

Montgomery, Federal Building, Courthouse, $515,000

Arkansas:

Pine Bluff, Federal Building, Post Office, Courthouse, $2,084,000

California:

[County of Los Angeles, for a grant for Senior Citizens Health Center renovation, $1,000,000

[California State University at East Los Angeles for a grant to establish a center, $800,000]

San Francisco, 450 Golden Gate Avenue, Federal Building, Courthouse, $20,000,000

Santa Ana, Federal Building, $1,406,000

San Diego, Federal Building, $1,742,000

District of Columbia:

Mary Switzer Federal Building, $502,000

Commerce Building, $2,457,000

Interstate Commerce Building, $526,000

Health and Human Services, $1,395,000

U.S. Customs Building, $754,000

Internal Revenue Service, $2,179,000

Housing and Urban Development, $1,221,000

Hubert H. Humphrey Federal Building, $606,000

[Ariel Rios Federal Building, New Post Office, $29,000,000

[General Accounting Office, $12,000,000

[GSA Headquarters, $23,000,000

[James V. Forrestal Building, $19,970,000]

Florida:

Jacksonville, Federal Building, $6,889,000

Miami, Federal Building, $1,415,000

Hawaii:

Honolulu, Kalanianole Federal Building, $5,680,000

Kentucky:

Louisville, Post Office, Courthouse, Customhouse, $9,435,000

Louisiana:

New Orleans, Boggs Federal Building, Courthouse, $10,245,000

New Orleans, Customhouse, $1,672,000

Maryland:

Avondale, Interior (Bureau of Mines), [$6,000,000] *$6,500,000*

Woodlawn, SSA Complex $7,030,000

Baltimore, Garmatz Federal Building, Courthouse, $800,000

Suitland, Federal Building, #3, $1,926,000

Suitland, Federal Building, #4, $817,000

Baltimore, Fallon Federal Building, $6,901,000

Massachusetts:

Boston, John F. Kennedy Federal Building, $10,000,000

Boston, McCormack Federal Building, Courthouse, $3,000,000

Missouri:

Overland, Federal Archives and Records Center, $3,059,000

Mississippi:

Jackson, Eastland Post Office, Courthouse, $2,143,000

New Jersey:

Newark, Rodino Federal Building, $5,201,000

Trenton, Federal Building, Courthouse $1,417,000

New Mexico:

Albuquerque, Chavez Federal Building, Courthouse, $3,207,000

Albuquerque, Federal Building, $1,967,000

New York:

Brooklyn, Cellar Federal Building, $16,000,000

Rochester, Keating Federal Building, $6,800,000

New York, United States Mission to the United Nations, $4,300,000

North Carolina:

Asheville, Grove Arcade Federal Building, $2,900,000

Ohio:

Cleveland, Celebrezze Federal Building, $5,836,000

Pennsylvania:

Philadelphia, Green Federal Building, $1,200,000

Philadelphia, SSA Computer Center, $950,000

South Carolina:

Charleston, Rivers Federal Building, $1,275,000

Tennessee:

Memphis, Davis Federal Building, $9,466,000

Texas:

Austin, Federal Building, $3,241,000

Austin, Internal Revenue Service Center, $3,282,000

Austin, Post Office, Courthouse, $7,995,000

Houston, Casey Federal Building, Courthouse, $8,008,000

Lubbock, Federal Building, Courthouse, $3,674,000

Utah:

Salt Lake City, Post Office, Courthouse, $2,543,000

Virginia:

McLean, Central Intelligence Agency, Headquarters, $2,336,000

McLean, Central Intelligence Agency Printing Plant, $746,000

Reston, J.W. Powell Federal Building, $1,336,000

Arlington, Heating Plant, $593,000

Richmond, Annex, $3,287,000

Vermont:

Burlington, Federal Building Post Office, Courthouse, $4,100,000

Wisconsin:

Milwaukee, Federal Building, Courthouse, $7,586,000

[Capital Improvements of United States-Mexico Border Facilities, $28,678,000, as follows:

[Nogales, AZ

[Mariposa, $102,500

[Calexico, CA

[R & A, $6,202,305

[San Ysidro, CA

[Signs/security, $1,043,855

[Columbus, NM, $325,000

[Brownsville, TX

[Gateway Bridge

[Security, $218,000

[Expand Lanes, $1,253,865

[R & A, $3,870,065

[B & M Bridge, $3,227,000

[Del Rio, TX

[Expand Lanes, $1,075,000

[Eagle Pass, TX $4,050,000

[El Paso, TX

[Ysleta, $2,700,000

[Bridge of the Americas, $1,000,000

[Hidalgo, TX, $1,110,410

[Laredo, TX

[Convent Street, $2,500,000]

Capital Improvements of United States-Mexico Border Facilities, $75,799,000 as follows:

Arizona:

Douglas, AZ

New facility/R&A/Safety, $1,476,000

Lukeville, AZ

R&A/Safety, $412,000

Naco, AZ

New facility/R&A/Safety, $577,000

Nogales, AZ

Grande Ave./Morley Gate, New station/R&A/Safety, $4,354,000

Mariposa, R&A, $1,343,000

Sasabe, AZ

New facility/R&A/Safety, $639,000

San Luis, AZ

R&A/Safety, $898,000

California:

Andrade, CA

New station/R&A/Safety, $817,000

Calexico, CA

New station/R&A/Safety, $8,680,000

San Ysidro/Otay Mesa, CA

New facility/Otay Mesa, $1,298,000

Safety, San Ysidro/Otay Mesa, $4,809,000

R&A/Signs/Security/Commercial lot improvements, $8,914,000

Tecate, CA
New station/R&A, $1,550,000
New Mexico:
Antelope Wells, NM
Security/Housing, $285,000
Columbus, NM
Security, $425,000
Santa Teresa, NM
New station, $3,000,000
Texas:
Amastad Dam, TX
R&A, $150,000
Brownsville, TX
Gateway Bridge, Security/R&A/Lane expansion/New Bridge, $10,402,000
B&M Bridge, Replace station, $3,227,000
Los Indios, Replace station, $190,000
Del Rio, TX
Security/Lane expansion, $1,075,000
Eagle Pass, TX
Security/R&A, $4,050,000
El Paso, TX
Bridge of the Americas, Design/R&A/Import Lot Paving, $3,058,000
Paso del Norte, Extension/R&A, $1,150,000
Ysleta, Design/Construction, $2,700,000
Fabens, TX
Site acquisition/Security, $800,000
Falcon Dam, TX
R&A, $310,000
Hidalgo, TX
Safety/Design/R&A, $1,110,000
Laredo, TX
Juarez-Lincoln Bridge, Site/Design/R&A, $3,000,000
New bridge, $500,000
Convent Street, Design upgrade, $2,650,000
Presidio, TX
Security/Housing, $1,000,000
Progresso, TX
Security/R&A, $400,000
Roma, TX
Safety, $550,000

Minor Repairs and Alterations, [$212,780,000] *$194,780,000, of which up to $2,000,000 shall be made available to fund a pilot project establishing safe areas-of-refuge from fire for the disabled in six existing Federal buildings in the United States: Provided, That by no later than July 30, 1989, the Administrator of General Services shall assess the level of unobligated balances, if any, in the Federal Buildings Fund and request reprogramming of such balances, not to exceed $10,000,000, to provide additional funding for United States-Mexico Border Facility projects*: *Provided further,* That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1990, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed [$142,450,000] *$133,000,000* for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed [$1,200,000,000] *$1,177,532,000* for rental of space; (5) not to exceed [$881,703,000] *$882,000,000* for real property operations; (6) not to exceed [$49,740,000] *$49,000,000* for program direction and centralized services; and (7) not to exceed [$136,698,000] *$130,000,000* for design and construction services which shall remain available until expended: *Provided further,* That obligations of funds for lease, lease purchase, or installment purchase public buildings projects authorized in [the fiscal year 1988 Continuing Resolution] *Public Law 100-202* for the General Services Administration at Oakland, California and San Francisco, California, and for the Environmental Protection Agency and Department of Transportation shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1341(a)(1)(B): *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That none of the funds available to the General Services Administration with the exception of those for Capital Improvements for United States-Mexico Border Facilities; [Memphis, Tennessee, Internal Revenue Service Center;] Avondale, Maryland, Interior Department (Bureau of Mines) *Baton Rouge, Louisiana, Federal Building/Courthouse; and Lakeland, Florida, Federal Building* shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums accruing to this fund during fiscal year 1989 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of [$3,053,403,000] *$3,026,103,000* shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities, including services as authorized by 5 U.S.C. 3109; [$47,829,000] *$47,000,000.*

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; [$12,109,000] *$12,000,000* to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5).

REAL PROPERTY RELOCATION

For expenses not otherwise provided for, [$16,000,000] *$10,000,000,* to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided,* That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further,* That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property: *Provided further, That notwithstanding any provision of this or any other Act, not more than $1,500,000 of the appropriations made available under the heading "Real Property Relocation" by this Act or by Public Law 100-202, shall be available to pay for the relocation costs associated with the facility at Loran Station, Makahuena Point, Island of Kauai, Hawaii: Provided further, That upon relocation, such property shall be sold by the Administrator of General Services at not less than the estimated fair market value through a competitive public sale.*

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of

Claims, and services authorized by 5 U.S.C. 3109; $122,774,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: *Provided,* That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code.

Information Resources Management Service

operating expenses

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; [$36,835,000] *$33,000,000.*

Office of Inspector General

For necessary expenses of the Office of Inspector General; [$25,400,000] *$25,000,000*: *Provided,* That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property.

Allowances and Office Staff for Former Presidents

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; [$1,431,000] *$1,400,000*: *Provided,* That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

Expenses, Presidential Transition

For expenses necessary to carry out the provisions of the Presidential Transition Act of 1963, as amended (3 U.S.C. 102, note), $3,000,000: *Provided,* That the availability of these funds shall be in accordance with sections 3(b) and 4 of the Act.

National Defense Stockpile Transaction Fund

For the fiscal year ending September 30, 1989, in addition to the funds previously appropriated to the National Defense Stockpile Transaction Fund, notwithstanding the provisions of 50 U.S.C. 98h, there is hereby appropriated [$18,000,000] *$27,000,000* to the Fund, to remain available until expended, the amounts to be allocated for the following projects:

[University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a strategic materials research facility; $15,000,000;

[University of Texas at El Paso pursuant to 50 U.S.C. 98a and g for a grant to study and facilitate the development, transfer, and installation of strategic materials technologies among American industries; $3,000,000.]

University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a strategic materials research facility, $10,000,000;

Loyola College in Maryland pursuant to 50 U.S.C. 98a and 98g(a), for a grant to pay the federal share of the cost of construction and equipment, including approaches and appurtenances and costs already incurred, of a Center for Advanced Information and Resource Management Studies, $4,000,000;

University of Idaho pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a Strategic Research and Environmental Laboratory, $4,000,000; and

University of Utah pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Biomedical Polymers, $9,000,000.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

Section 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

Sec. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

Sec. 3. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

Sec. 4. Funds in the Federal Buildings Fund made available for fiscal year 1989 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

[Sec. 5. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.]

Sec. [6] *5.* The Administrator of General Services shall proceed with the site selection and design for construction of a facility of not less than 182,000 usable square feet for the Social Security Administration in Wilkes-Barre, Pennsylvania, pursuant to section 115 of the joint resolution entitled, "A Joint Resolution making continuing appropriations for the fiscal year 1987 and for other purposes", approved October 30, 1986 (100 Stat. 3341-49; Public Law 99-591).

Sec. [7] *6.* Notwithstanding any provisions of this Act or any other Act in any fiscal year, the Administrator of General Services is authorized and directed to charge the Department of the Interior for *design and* alterations to the Avondale, Maryland property at rates so as to recover the approximate applicable cost incurred by General Services Administration in providing such alterations, and the Department of the Interior is authorized to repay such charges out of any appropriation available to the department and the payments shall be deposited in the fund established by 40 U.S.C. 490(f).

[Sec. 8. (a) Lease-Purchase Agreement.—The Administrator of General Services shall acquire from the State of Tennessee or a political subdivision thereof by lease-purchase a building to house the Internal Revenue Service Center in Memphis, Tennessee, and such other Federal agencies as may be appropriate.

[(b) Limitations.—

[(1) Size.—The building to be acquired under subsection (a) may not exceed 600,000 gross square feet in size plus such additional space as may be necessary for parking.

[(2) Cost.—The total cost of the lease-purchase agreement under this section to the United States may not exceed $36,000,000, plus reasonable interest thereon, as well as operating costs, if applicable.

[(3) Term.—The term of the lease-purchase agreement under this section may not exceed thirty years. The agreement shall provide that ownership of the building will vest in the United States on or before the end of such term.

[(4) Obligation of funds.—Obligations of funds under this section shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code.

[(c) Sale of Leasehold Interest.—The Administrator of General Services shall sell any leasehold or other interest which the United States has in the building which is providing office space for Internal Revenue Service Center in Memphis, Tennessee, and shall deposit the proceeds from such sale in the Federal Buildings Fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949.

[Sec. 9. The General Services Administration is directed to construct under their lease-purchase authority, a 40,000 net sq. ft. office building at the CDC campus in Chamblee, Georgia, designed with funds which Congress provided the Center for Disease Control in the FY87 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations, and shall be acquired without regard to the provisions of the Public Buildings Act of 1959 regarding prospectus approval by lease-purchase contracts entered into by the General Services Administration prior to their construction using funds appropriated annually to GSA from the Federal Buildings Fund for the rental of space which shall hereafter be available for this purpose. The contracts shall provide for the payment of the purchase price and reasonable interest thereon by lease or installment payments over a period not to exceed 30 years. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. The Federal Buildings Fund shall be reimbursed from the annual appropriation to the Centers for Disease Control-Disease Control, Research, and Training (or any other appropriation hereafter made available to the CDC for construction of research facilities) and such appropriations shall hereafter be available for the purpose of reimbursing the Federal Buildings Fund. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1502 and 1341(a)(1)(B).]

Sec. 7. The Administrator of General Services is authorized and directed to hire up to and maintain an annual average of not less than 1000 full-time equivalent positions for Federal Protective Officers. This shall be accomplished by increasing existing staff levels at the end of fiscal year 1988 at a rate of not less than 50 positions per year until the full-time equivalency of 1000 is attained by not later than fiscal year 1992.

Sec. 8. Notwithstanding any other provision of law, the Administrator of General Services is hereafter authorized to transfer from the available resources of the Federal Buildings Fund, in accordance with such rules and procedures as may be established *by the Office of Management and Budget and the Department of the Treasury, such amounts as are necessary to repay the principal amount of agency borrowings from the Federal Financing Bank.*

Sec. 9. Notwithstanding any other provision of law, the General Services Administration is hereby authorized to sell, at competitive bid, the Federal Building located at 124 South Tennessee Avenue in Lakeland, Florida, and to deposit such proceeds into the Federal Buildings Fund.

Sec. 10. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

Sec. 11. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfork Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, [$125,962,000] *$117,862,000,* of which $4,000,000 *shall be available* for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, *and* shall remain available until expended[, and of which $4,100,000 shall remain available until expended for continuation of construction at the John F. Kennedy Library in Boston Massachusetts]: *Provided,* That notwithstanding the provisions of 31 U.S.C. 1341(a)(1) or any other provisions of law, the Archivist of the United States is authorized, pursuant to 44 U.S.C. 2903, to enter into a contract for construction and related services for a new National Archives facility in Prince George's County, Maryland, on a site provided, without charge, to the United States by the University of Maryland or the State of Maryland, which site may be transferred to the United States by less than fee simple estate, but shall remain available to the United States so long as it shall be used as a National Archives facility. The contract shall provide, by lease or installment payments payable out of annual appropriations over a period not to exceed thirty years, for the payment of the purchase price and associated costs, which shall not exceed $205,000,000 plus escalation to the midpoint of construction, and reasonable interest thereon. The contract shall further provide that title to the building shall vest in the United States at or before the expiration of the contract term upon fulfillment of the terms and conditions of the contract.

OFFICE OF PERSONNEL MANAGEMENT

Salaries and Expenses

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; [$107,477,000] *$108,977,000,* of which $170,000 shall be for the salaries, administrative support and for other expenses of the Commission on Executive, Legislative and Judicial Salaries; *$1,000,000 shall be made available for the establishment of Federal health promotion and disease prevention programs for Federal employees; and $500,000 shall be made available for implementation of the Combined Federal Campaign in fiscal year 1989;* in addition to $77,017,000 for administrative expenses, including direct procurement of health benefits printing, for the retirement and insurance programs, of which $7,000,000 shall be for costs incurred in implementing the recordkeeping system of the Federal Employees Retirement System, to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: *Provided,* That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further,* That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further,* That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1989, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

REVOLVING FUND

Pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

Government Payment for Annuitants, Employees Health Benefits

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $2,374,414,000, to remain available until expended.

Payment to Civil Service Retirement and Disability Fund

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $4,858,668,000: *Provided,* That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771-75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

MERIT SYSTEMS PROTECTION BOARD

Salaries and Expenses

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; $20,488,000, together with not to exceed $1,400,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

Office of Special Counsel

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia, and elsewhere, and hire of passenger motor vehicles; [$4,761,000] *$5,000,000.*

FEDERAL LABOR RELATIONS AUTHORITY

Salaries and Expenses

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $17,540,000: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government Service, and compensation as authorized by 5 U.S.C. 3109.

UNITED STATES TAX COURT

Salaries and Expenses

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $29,345,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge; and in addition, $1,225,000 shall be available only for installation of a chiller/air conditioning system in the United States Tax Court Headquarters Building in the District of Columbia, to remain available until expended.

This title may be cited as the "Independent Agencies Appropriations Act, 1989".

TITLE V—GENERAL PROVISIONS

This Act

Section 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans' Administration; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriations contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided*, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: Provided, That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. [506] *507.* None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. [507] *508.* No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits, and malt beverages, except if the expenditure of such funds, is necessary to comply with a final order of the Federal court system.

SEC. [508] *509.* None of the funds appropriated or made available by this Act shall be used to competitively procure electric utility service, except where such procurement is expressly authorized by the Federal Power Act or by State law or regulation.

[SEC. 509. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.]

SEC. 510. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 511. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 512. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, *and Marana, Arizona,* out of the Treasury Department.

SEC. 513. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 514. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

[SEC. 515. Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than twenty-two miles per gallon. The requirements of this section may be waived by the Administrator of the General Services Administration for special purposes or special mission automobiles.]

SEC. [516] *515.* No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. [517] *516.* The provision of section 517 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

[SEC. 518. No later than October 1, 1989, the Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all funds authorized and appropriated before January 1, 1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.]

SEC. 517. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

[SEC. 519. None of the funds appropriated by this Act may be used to establish on a permanent basis any test or program of the "port of arrival immediate release and enforcement determination."]

SEC. [520] *518.* None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

[SEC. 521. Not later than October 1, 1989, of the amounts made available pursuant to section 519 of the Treasury, Postal Service and General Government Appropriations Act, 1987, as incorporated in section 101(m) of Public Laws 99-500 and 99-591, not less than $1,000,000 shall be obligated for a pilot project to upgrade technologically obsolete cobalt deposited in the National Defense Stockpile. The funds used in this section for upgrading shall not exceed $2,000,000.

[SEC. 522. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, shall acquire, by means of a lease of up to 30 years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.]

SEC. [523] *519.* Funds under this Act shall be available as authorized by sections 4501-4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1989.

SEC. [524] *520.* (a) Notwithstanding any other provision of law, during fiscal year 1989, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, U.S.C., be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, U.S.C., be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, U.S.C., for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstances are significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1989 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, U.S.C.—

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1989, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. [525] *521.* None of the funds available in this Act may be used to contract out positions or downgrade the position classification of the Bureau of Engraving and Printing Police Force.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SECTION 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,600 except station wagons for which the maximum shall be $7,600: *Provided,* That these limits may be exceeded by not to exceed $2,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section shall not apply to electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-24.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Building Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c): *Provided*, That when the Administrator of General Services delegates responsibility to protect property under this charge and control to the head of another Federal agency, that agency may employ guards to protect the property who shall have the same powers of special policemen in same manner as the foregoing.

[SEC. 610. None of the funds available under this or any other Act shall be available for administrative expenses in connection with the designation for construction, arranging for financing, or execution of contracts or agreements for financing or construction of any additional purchase contract projects pursuant to section 5 of the Public Building Amendments of 1972 (Public Law 92-313) during the period beginning October 1, 1976, and ending September 30, 1989.]

SEC. [611] *610.* None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. [612] *611.* No part of any appropriation contained in, or funds made available by, this or any other Act shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted: *Provided, That the amount of space and service levels provided will be adjusted commensurate with the amounts appropriated, or otherwise made available therefor in this or any other Appropriations Acts.*

SEC. [613] *612.* (a)(1) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1989, or September 30, 1990, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 613 of the Treasury, Postal Service, and General Government Appropriations Act, 1988, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder, if any, of fiscal year 1989, and that portion of fiscal year 1990, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1990, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1989.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1988, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1988, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1988.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate or salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. [614] *613.* None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. [615] *614.* During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such renovation, remodeling, furnishing, or redecoration is [expressly approved by] *given to* the Committees on Appropriations of the House and Senate.

[SEC. 616. (a) If any individual or entity which provides or proposes to provide child care services for Federal employees during fiscal year 1989 or any fiscal year thereafter, applies to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such individual or entity provides or proposes to provide such service, such officer or agency may allot space in such a building to such individual or entity if—

[(1) such space is available;

[(2) such officer or agency determines that such space will be used to provide child care services to a group of individuals of whom at least 50 percent are Federal employees; and

[(3) such officer or agency determines that such individual or entity will give priority for available child care services in such space to Federal employees.

[(b)(1) If an officer or agency allots space during fiscal year 1989 or any fiscal year thereafter, to an individual or entity under subsection (a), such space may be provided to such individual or entity without charge for rent or services.

[(2) If there is an agreement for the payment of costs associated with the provision of space allotted under subsection (a) or services provided in connection with such space, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

[(3) For the purpose of this section, the term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems).]

SEC. [617] *615.* Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. [618] *616.* (a) Nothwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United

States Code shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. [619] *617.* (a) None of the funds made available by this or any other Act with respect to any fiscal year may be used to make a contract for the manufacture of distinctive paper for United States currency and securities pursuant to section 5114 of title 31, United States Code, with any corporation or other entity owned or controlled by persons not citizens of the United States, or for the manufacture of such distinctive paper outside of the United States or its possessions. This subsection shall not apply if the Secretary of the Treasury determines that no domestic manufacturer of distinctive paper for United States currency or securities exists with which to make a contract and if the Secretary of the Treasury publishes in the Federal Register a written finding stating the basis for the determination.

(b) None of the funds made available by this or any other Act with respect to any fiscal year may be used to procure paper for passports granted or issued pursuant to the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), if such paper is manufactured outside of the United States or its possessions or is procured from any corporation or other entity owned or controlled by persons not citizens of the United States. This subsection shall not apply if no domestic manufacturer for passport paper exists.

SEC. [620] *618.* TEMPORARY AUTHORITY TO TRANSFER LEAVE.—In order to ensure that the experimental use of voluntary leave transfers established under Public Laws 99-500, 99-591, and 100-202 may continue and may cover additional employees in fiscal year 1989, the Office of Personnel Management may continue to operate by regulation, notwithstanding chapter 63 of title 5, United States Code, a program under which the unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency as defined in the regulations. The Office may provide by regulation for such exceptions from the provisions of section 7351 of title 5 as the Office may determine appropriate for the transfer of leave under this section. The Veterans' Administration may operate a similar program for employees subject to section 4108 of title 38, United States Code. The programs operated under this section shall expire at the end of fiscal year 1989, but any leave that has been transferred to an officer or employee under the programs shall remain available for use until the personal emergency has ended, and any remaining unused transferred leave shall, to the extent administratively feasible, be restored to the leave accounts of the officers or employees from whose accounts it was originally transferred.

[EMPLOYEE DISCLOSURE AGREEMENTS

[SEC. 621. No funds appropriated in this or any other Act for fiscal year 1989 may be used to implement or enforce the agreements in Standard Forms 189 and 4193 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement:

[(1) concerns information other than that specifically marked as classified; or, unmarked but known by the employee to be classified; or, unclassified but known by the employee to be in the process of a classification determination;

[(2) contains the term classifiable;

[(3) directly or indirectly obstructs, by requirement of prior written authorization, limitation of authorized disclosure, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;

[(4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of the Congress;

[(5) imposes any obligations or invokes any remedies inconsistent with statutory law:

Provided, That nothing in this section shall affect the enforcement of those aspects of such nondisclosure policy, form or agreement that do not fall within subsection (1)-(5) of this section.

[SEC. 622. (a)(1)(A) Notwithstanding any other provision of law, in the case of fiscal year 1989, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 4 percent, except for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia if the rate of salary or basic pay payable for that office or position as of September 30, 1988, was equal to or greater than the rate of basic pay then payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

[(B) Each increase in a pay rate or schedule which takes effect pursuant to subparagraph (A) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1989.

[(2) Notwithstanding any other provision of law, amounts appropriated in order to provide for the adjustment under paragraph (1) shall cover not to exceed 50 percent of the increase in total pay for fiscal year 1989.

[(3) For the purpose of this subsection—

[(A) the term "total pay" means, with respect to a fiscal year, the total amount of basic pay which will be payable to employees covered by the statutory pay systems for service performed during such year;

[(B) the term "increase in total pay" means, with respect to a fiscal year, that part of total pay for such year which is attributable to the adjustment taking effect under this subsection during such year; and

[(C) the term "statutory pay system" has the meaning given such term by section 5301(c) of title 5, United States Code.

[(b)(1) Any adjustment required by section 1009 of title 37, United States Code, in elements of the compensation of members of the uniformed services to become effective during fiscal year 1989 shall not be made.

[(2) The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 4 percent effective on January 1, 1989.]

SEC. 619. (a)(1)(A) Notwithstanding any other provision of law, in the case of fiscal year 1989, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 4 percent.

(B) Each increase in a pay rate or schedule which takes effect pursuant to subparagraph (A) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1989.

(2) For the purpose of this subsection—

(A) the term "total pay" means, with respect to a fiscal year, the total amount of basic pay which will be payable to employees covered by the statutory pay systems for service performed during such year;

(B) the term "increase in total pay" means, with respect to a fiscal year, that part of total pay for such year which is attributable to the adjustment taking effect under this subsection during such year; and

(C) the term "statutory pay system" has the meaning given such term by section 5301(c) of title 5, United States Code.

(b)(1) Any adjustment required by section 1009 of title 37, United States Code, in elements of the compensation of members of the uniformed services to become effective during fiscal year 1989 shall not be made.

(2) The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 4 percent effective on January 1, 1989.

(c) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1988, and before October 1, 1989, shall have the effect of increasing the rate of salary or basic pay for any Members of the United States Congress.

[SEC. 623. Effective September 1, 1989, none of the funds made available to the Department of the Treasury by this Act shall be used to store, protect, maintain, own, hold or otherwise control more than 35,000,000 fine troy ounces of silver.

[SEC. 624. Effective September 1, 1990, none of the funds made available to the Department of the Treasury by this or any other Act with respect to any fiscal year shall be used to store, protect, maintain, own, hold or otherwise control more than 30,000,000 fine troy ounces of silver.

[SEC. 625. Effective September 1, 1991, none of the funds made available to the Department of the Treasury by this or any other Act with respect to any fiscal year shall be used to store, protect, maintain, own, hold or otherwise control more than 25,000,000 fine troy ounces of silver.

[SEC. 626. The Secretary of the Treasury may reduce the amount of silver required to be sold pursuant to this Act if he makes a written determination to the Congress that such a sale will severely disrupt the domestic market for silver.]

SEC. 620. Notwithstanding any other provision of law, no Executive Branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

SEC. 621. Employees currently performing stockpile management and related functions in the Federal Property Resources Service, General Services Administration, pursuant to the Strategic and Critical Materials Stockpiling Act shall continue to perform these functions notwithstanding enactment of any amendments to this Act placing the *direct functional responsibilities in another Federal department or agency. Any of these employees transferred from the Federal Property Resources Service, General Services Administration, to another Federal department or agency pursuant to law shall not be subject to agency reduction-in-force procedures nor shall they be reduced in classification or compensation for two years after such transfer, except for cause. A formal plan implementing these provisions shall be submitted to the House and Senate Committees on Appropriations by the recipient agency prior to any actual transfer that may be mandated.*

SEC. 622. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. **[**627**]** *623.* None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 89-306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and services procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

[SEC. 628. No funds appropriated under this Act shall be expended in any workplace that is not free of illegal use or possession of controlled substances which is made known to the Federal entity or official to which funds are appropriated under this Act. Pursuant to this section an applicant for funds to be appropriated under this Act shall be ineligible to receive such funds if such applicant fails to include in its application an assurance that it has, and will administer in good faith, a policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances by its employees.**]**

SEC. 624. Notwithstanding 31 U.S.C. 1346 or section 608 of this Act, funds made available for fiscal year 1989 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided in Executive Order No. 12472 (April 3, 1984).

SEC. 625. Subsection (e)(1) of section 1105 of title 31, United States Code, is amended by deleting the material beginning "In addition, the analysis" through the end of subsection (e)(1).

SEC. 626. (a) Section 5724(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) upon the separation of a career appointee (as defined in section 3132(a)(4) of this title), the travel expenses of that individual, the transportation expenses of the immediate family of such individual, and the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods of such individual and personal effects not in excess of 18,000 pounds net weight, to the place where the individual will reside within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as described in section 3(a) of the Panama Canal Act of 1979 (or, if the individual dies before the travel, transportation, and moving is completed, to the place where the family will reside) if such individual—

"(A) has previously been transferred in the interest of the Government from one official station or agency to another for permanent duty as a career appointee in the Senior Executive Service; and

"(B) is eligible to receive an annuity upon such separation under the provisions of subchapter III of chapter 83 or of chapter 84 of this title.".

(b) The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums otherwise authorized to be appropriated for such agencies.

SEC. 627. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1989".

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, today I am pleased to bring before the Senate H.R. 4775, the fiscal year 1989 Treasury, Postal Service and General Government appropriations bill, the fourth regular appropriations bill to reach the Senate floor this year.

Mr. President, the bill, as reported, calls for new budget authority of $15,917,541,000, which is $196,257,000 below the House-passed bill. This bill is also $246,211,000 below the budget estimates, when you assume the original Postal Service request for revenue forgone in that estimate.

The bill is also $8.8 million below its 302(b) allocation for budget authority and within $1 million of its outlay ceiling.

Mr. President, it was no easy path from subcommittee markup through full committee and on to the Senate floor this afternoon. The appropriations bill has been hit with last-minute, prior-year outlays from the 050 defense function attributed to an account that is no longer handled in this particular bill. We have gone through shifting scorekeeping adjustments as the budget resolution conference worked its way to its conclusion.

Literally 2 minutes before full committee markup, we received a revised scoring of our bill from the Congressional Budget Office that changed our total and forced us to make last-second cuts in the bill that already faced a $50 million cut in outlays. Then just yesterday, as we prepared to go to the floor, we received another scorekeeping report from the Budget Committee that differed from the one we received following full committee markup from the CBO.

We have to find a way to inject some kind of degree of certainty into the scoring of our appropriations bills. It is tough enough to craft a bill in these rigid fiscal times, but to consistently have to guess whether or not your bill is in compliance with a moving target makes it virtually impossible.

I hope that next year we can find a way to bring this matter under some kind of control. Despite my concerns about the scorekeeping process, I believe that the Treasury-Postal Service bill is an excellent bill. It deserves the overwhelming support of the Senate.

In putting this bill together, Senator DOMENICI, my ranking member, and I have attempted to balance the program, project, and language requests with the President with the legitimate differences of opinion and priorities that we have with the administration on certain items. We have attempted to strike a number of provisions opposed by the President that were included in the House-passed bill, while trying to accommodate the priority requests of Members of the Senate that may differ from the priorities of the President. And we have attempted to fund the important, basic governmental functions at Treasury, GSA, and other agencies. I believe that we have done so successfully.

DRUG ENFORCEMENT ITEMS IN THE BILL

Mr. President, there has been much finger pointing at the Congress in recent weeks for cutting the President's drug enforcement budgets. I am pleased to say to my colleagues that we have provided the President's budget request or exceeded his request for most, if not all, of the President's primary drug enforcement programs in this bill. We have provided the full budget request for the Customs Air Drug Interdiction Program. We have provided sufficient funds, not included in the President's request, to annualize the cost of the drug enforcement and other positions provided in the fiscal year 1988 continuing resolution for the Customs Service. We have provided an additional $21 million over the President's request for the successful Armed Career Criminal Program at the Bureau of Alcohol, Tobacco, and Firearms—a program that is intimately connected with BATF's effort to go after major, dangerous drug traffickers and trafficking organizations operating in this country and abroad. We have provided an increase of approximately $28 million over the President's request to beef up the Federal Law Enforcement Training Center and to allow this vital drug enforcement training center to meet its snowballing training workload in the aftermath of the 1986 drug bill.

Mr. President, that is a very important point. The 1986 drug bill authorized a number of new positions in law enforcement agencies that are trained at the Federal Law Enforcement Training Center. In fact, they have been swamped and unable to process all of these people to be placed in the different law enforcement agencies—particularly, the Border Patrol. This bill meets that problem by authorizing and appropriating money for additional personnel and training so that they can get caught up.

I am proud to say that this bill goes the extra mile, beyond the President's budget, to maintain our important antidrug effort at some of the most important drug enforcement agencies.

In a moment I will ask unanimous consent that the full text of H.R. 4775, as reported by the committee, be printed in the RECORD, but let me briefly provide a few specific highlights of this bill.

It provides the full amount assumed in the budget resolution for the Internal Revenue Service and will maintain the revenue initiative begun last year;

It provides an increase in the commercial operations of the Customs Service to improve service to the trade community at the ports of entry;

It provides an increase of $21.5 million over the President for the Bureau of Alcohol, Tobacco and Firearms to add about 500 positions for the Armed Career Criminal Program;

It provides the President's request for the Customs Air Drug Interdiction Program to help continue the war on drugs;

It provides $75.8 million for the second phase of a major, multiyear effort to improve the condition of our Southwest border facilities along the United States-Mexico border;

It provides authority to construct a new and desperately needed National Archives facility on a donated site at the University of Maryland;

It provides full funding for the Federal Election Commission to allow it to monitor the Presidential and congressional elections this year;

It provides for the full amount required for revenue forgone at the Postal Service, in the absence of legislation to change the requirements of this important program;

It provides a major enhancement at the Federal Law Enforcement Training Center and authorizes the expansion of this vital law enforcement training center at Glynco, GA; Marana, AZ; and Artesia, NM; and provides for a 4-percent pay raise for civilian and military Government workers.

Before I yield to my good friend, Senator DOMENICI, who has done an outstanding job, along with his staff members, I do want the record to show that it has not been easy to put this bill together. Without the help of Senator DOMENICI and his staff, I think we would be here today trying to figure out the difficult problems of scoring.

I will take just a moment to pay tribute to Chairman STENNIS and the ranking member, Senator HATFIELD, for the aggressive and unrelenting way they have been moving these appropriations bills. They have demonstrated real leadership in my opinion. I understand that all 13 bills will be reported out of committee by the July 4 recess, with 2 or 3 of them already in conference by that time. I hope this bill might be one of them. I hope that the President will take note of this action. In the past we have taken a heap of blame for not passing these bills, but in fact the blame needs to be shared by all, including the administration for not cooperating in helping to pass these bills. Often these bills have passed both Houses and we have been told by the administration, "Don't grind out these bills because we have a budget summit coming. That is what happened last year. So it looks as if we are on the right road. I contend that is the way to pass laws.

Finally, I thank the members of the subcommittee and my own staff for the work they have done on this bill. These markups have taken a long time. We have had 10 or more hearings. It is a pleasure to work with the Senator from New Mexico, who is not only a friend but a very able legislator. I thank Rick Brandon and Dave Williams of the Budget Committee staff for working with us on our bill; Jack Conway, Frank Sullivan, Bob Putnam, Janelle Grose, Nick Glakas, and members of Richard Voelker's editorial and printing staff, who helped us put this report together; Becky Davies of Senator DOMENICI's and, of course, Bobby Mills and Kathy Nageotte, for all of the time that they have put into it.

Mr. President, we have an opportunity to pass this bill and to continue the war on drugs. This bill has a major portion of that activity both in the alcohol and tobacco and firearms area, as well as Customs.

We have taken some gigantic leaps. For the first time, there are some radar airplanes now on the border in the Southwest. They have been in the southeastern part of the United States for over a year. We have aerostat balloons; P-3 AEW aircraft; some E-2C airplanes that are down right now because we did not get the best ones transferred over to Customs and the Coast Guard. We think that we can improve this effort with this bill.

Mr. President, I know the Senator from New Mexico is on his way. I ask unanimous consent that the committee amendments be considered and agreed to en bloc, provided that no points of order are waived thereon and that the measures as amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I commend the distinguished chairman of this subcommittee, Senator DECONCINI and the ranking member, Senator DOMENICI, for their efforts to craft a bill that stays within the 302(b) allocation set by the Appropriations Committee.

The Budget Committee scoring of the bill as it was reported by the full Appropriations Committee shows that the bill is under its 302(b) allocation by $9 million in budget authority and over its outlay target by $1 million.

Mr. President, I have a table setting forth official Budget Committee scoring on the bill and ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 4775

TREASURY-POSTAL SPENDING TOTALS (SENATE REPORTED)

[In billions of dollars]

	Fiscal year 1989	
	Budget authority	Outlays
302(b) Bill Summary:		
H.R. 4775, Senate reported (new BA and outlays)	15.9	14.0
Enacted to date		1.8
Adjustment to conform mandatory programs to resolution assumptions	+.1	+.1
Scorekeeping adjustments: Adjustment for IRS	−.4	−.4
Bill total	15.6	15.5
Subcommittee 302(b) allocation	15.6	15.5
Difference	−(1)	+(1)
Bill total above (+) or below (−): President's request	−.2	−.2
Summit Cap Summary:		
Defense (050) spending in bill	+(1)	−(1)
Allocation under defense cap		−.1
Difference	+(1)	+(1)
Domestic discretionary spending in bill	8.2	8.2
Allocation under domestic cap	8.2	8.2
Difference	−(1)	−(1)

(1) Less than $50 million.

Note.—Details may not add to totals due to rounding.

Prepared by Senate Budget Committee staff.

AMENDMENT NO. 2416

(Purpose: Technical Amendment to Treasury, Postal Service, and General Government Appropriation Bill Fiscal Year 1989)

Mr. DECONCINI. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) for himself and Mr. DOMENICI proposes an amendment numbered 2416.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 6, delete the line type through the words "Unanticipated Needs".

On page 96, line 6, transfer Section 627 in its entirety to page 71, after line 25, and redesignate the section as "Section 522".

Mr. DECONCINI. Mr. President, my amendment would make two technical changes in the bill as reported.

First, it would delete the line type through the heading "Unanticipated Needs" on page 25 of the bill, leaving it in roman type. This was inadvertently line typed by the Government Printing Office.

Second, the amendment would transfer section 627 of the bill to title V of the bill. This section contains the language mandating that any pay raise provided in this bill shall be absorbed from within the appropriations provided for the agencies covered by this bill. Since the language applies only to the agencies covered by this bill, it should be in title V, not title VI.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Arizona (Mr. DECONCINI).

The amendment (No. 2416) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DIXON). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I rise in support of H.R. 4775, the fiscal year 1989 Treasury, Postal Service, and General Government Appropriation Act, as reported by the Senate Appropriations Committee, and I urge its adoption.

I would like to commend my good friend from Arizona, the chairman of the Treasury Appropriations Subcommittee, for his leadership and hard work to produce the bill that is before us today. It is a bill which balances the ongoing needs of the basic Federal programs and activities it covers with the need to provide enhanced funding in some important areas.

The bill, as reported by the committee, provides a total of $15.9 billion in new budget authority for fiscal year 1989 for activities of the U.S. Treasury Department, the U.S. Postal Service, the Executive Office of the President, and a number of important independent agencies, including the General Services Administration and the Office of Personnel Management. Fiscal year 1989 outlays based on the total new budget authority recommended in the bill, together with prior year funding actions, are estimated to total $15.8 billion. Of the total funding provided for appropriated programs under the fiscal year 1989 budget resolution, the Appropriations Committee allocated $15.61 billion in budget authority and $15.54 billion in outlays to the Treasury Subcommittee, to be augmented by an additional $0.4 billion in budget authority and outlays in order to provide the fiscal year 1988 funding level for IRS enforcement initiatives required to meet the IRS compliance target of last year's budget summit agreement. The total level of budget authority recommended by this bill is under the subcommittee's 302(b) budget authority allocation and consistent with the outlay allocation, when rounded.

The total $15.9 billion recommended for fiscal year 1989 is $246 million below the level of the President's request and $196 million below the total funding level recommended in the House-passed bill.

The bill recommends a number of funding enhancements above the levels requested by the President. These include an additional $22 million to enlarge the physical capacity of the Federal law enforcement training center to handle the tremendous growth in the demand for Federal law enforcement training; an additional $80 million to provide an additional 700 full-time equivalent positions for commercial operations activities of the U.S. Customs Service; and an additional $21 million for the Bureau of Alcohol, Tobacco and Firearms to provide sufficient personnel for the armed career criminal apprehension program.

I think it is important to emphasize that the funding recommended in this bill for drug enforcement activities under the jurisdiction of the subcommittee exceeds the level of funding requested by the President. We have recommended the level of funding requested by the President for the Customs Service Air Interdiction Program. We have provided funds to annualize the cost of Customs enforcement efforts to prevent the illegal entry of drugs into the United States. We have recommended additional funding for the training of drug law enforcement officers. In addition, as I just mentioned, we have increased funding for the Bureau of Alcohol, Tobacco and Firearms to provide additional personnel for the Armed Career Criminal Apprehension Program; over 80 percent of the criminals apprehended under this program have direct involvement in illegal narcotics trafficking.

The committee's funding recommendations for the General Services Administration include second year funding of $75.8 million to continue a major effort to repair, alter, construct, and renovate border stations and other facilities at ports of entry from California to Texas. This is an important initiative. Funding of $28.7 million was provided in fiscal year 1988, together with up to an additional $12 million in unexpended Federal buildings fund revenues, for the initial phase of this multiyear program to improve facilities along the United States-Mexico border. The General Services Administration, together with the other Federal agencies with border responsibilities and the trade community, have been working aggressively to establish appropriate funding priorities. Continued funding is essential to bring many of the substandard facilities into acceptable working condition and to expand others to accommodate the increased flow of traffic and cargo.

The committee has also recommended an appropriation of $436 million for the revenue forgone payment to the Postal Service for fiscal year 1989. This payment reimburses the Postal Service for the revenues lost as a result of providing mail service to certain categories of mail at free or reduced rates. The appropriation recommended is the amount required to maintain the current levels of subsidy for authorized preferred mailers. The President proposed that only $19 million be provided for fiscal year 1989, predicated on the passage of legislation which would repeal subsidies for certain mail categories, shift subsidy costs to other mailers, and continue Federal funding only to provide free postage for the blind and overseas voter mail. These proposed legislative changes have not been enacted. The committee has therefore recommended an appropriation consistent with current law.

Aside from the funding recommended for the revenue forgone payment to the Postal Service, the other major difference between this bill and the President's request is in the total funding recommended for the Internal Revenue Service. The committee recommends total funding of $5.1 billion for IRS activities for fiscal year 1989, the same as the fiscal year 1988 funding level. The President requested a $241 million increase in funding for the IRS to improve IRS processing operations. This requested funding increase for the IRS does not include any new revenue initiatives; the revenues contained in the President's budget and assumed in the budget summit agreement of last year are a result of the fiscal year 1988 enchancement for IRS enforcement efforts and previous revenue initiatives.

The bill also provides a number of general provisions of benefit to Federal workers. These include a provision providing for a 4-percent governmentwide pay increase for all civilian and military Federal employees, except for Members of the Congress, effective January 1, 1989; a provision to permit Federal agencies to reimburse senior executives, upon retirement, for the costs of their last move home; and a provision extending the Federal Leave Sharing Program for an additional year in the unlikely event that a permanent program is not enacted into law this year.

Mr. President, I believe the levels of funding recommended in this bill are appropriate in light of the need for fiscal constraint. I believe it is a bill the President can support and I urge my colleagues to support it.

I would again like to thank the chairman of the subcommittee, Mr. DECONCINI, for his efforts on behalf of the subcommittee, and for the hard work put in on this bill by Robert Mills of the subcommittee staff. This bill truly represents a bipartisan product reflecting the input of all the members of the committee.

Mr. President, I understand that we may very well be within hours of passage by the Senate of the fiscal year 1989 Treasury and Postal Service and general Government appropriations bill. The House has already passed it. We generally know what is in their bill. Obviously, we know what is in ours. It would appear to this Senator that if indeed we do pass this bill within hours here in the Senate we can come out of conference with a bill that can go to the President, and if we do not add anything here on the floor that invites a veto there is at least a high probability, in my opinion, that it will get a signature.

I say that because it is rather historic. We talk a lot around here about the continuing resolutions. We talk a lot about the episodes last year and the year before with continuing resolutions. But it is my understanding that as far as a freestanding Treasury, Postal Service, and General Government Appropriations Act, if we do accomplish what I have just described, believe it or not, it will be the first time we have done that since 1979 when the fiscal year 1980 Treasury bill was signed into law. This means that for some 8 years now we have incorporated some of the most important aspects of the Federal Government in terms of the day-to-day operation of our Government, the Treasury Department, the Executive Office of the President, GSA, OPM, the FEC, and lots and lots of other agencies of our Government.

So, I am very hopeful that Senators—of course, they will have amendments; we know of some; it is everyone's prerogative—but I hope we will keep in perspective that this bill meets its budget targets. The House seems to have met their targets. The OMB has certain objections to our bill, and to their bill. Some of them are serious. Others are matters of advising us what they would prefer. But all in all, I am delighted with the progress that we have made. I support this appropriation bill, H.R. 4775, for 1989 that is before us today. I urge the Senate to adopt it.

I want to commend my good friend from Arizona, the chairman of the Treasury Appropriations Subcommittee. He has worked very hard to produce this bill.

I have tried my best in my role as ranking Republican to be helpful. I think I have been. It is a bill which balances ongoing needs of the basic Federal programs and activities. It covers the needs of those agencies and provides enhanced funding in some very important areas.

The bill as reported provides a total of $15.9 billion in new budget authority for 1989 for activities at Treasury, Postal Service, the Executive Office of the President, and a number of very important agencies.

The GSA is also funded in this bill. There are a number of GSA projects that are necessary and meet some longstanding needs.

So, all in all, when you look at this bill, clearly with the tremendous needs that are out there, I think we have done a reasonable job. And I think the Senate can support this bill with a significant degree of enthusiasm.

I should like to talk for a moment about law enforcement, because obviously a number of the law-enforcement activities of the Federal Government are included in this bill, as well as a number of programs and activities that are specifically directed and targeted at the war on drugs.

We have tried our best not only this year but also last year to put together a bill providing for enhanced capacity for interdiction and drug enforcement on our borders by the various agencies of the Government within the jurisdiction of this committee, and we continue this year to enhance the funding in those various areas charged with carrying on the U.S. Government's war on drugs.

Mr. President, in this bill we also make provision for Federal workers—the civilian work force of the United States. I believe everyone should know that in this bill there is a provision providing for a 4-percent pay raise across the board for civilian employees of the Federal Government and for military employees. Obviously, that could be controversial. If there are those who think the military should receive more than 4 percent, we ought to lay it right on the table. The President asked for 4.3 percent for them. On the other hand, he asked for 2 percent for civilian workers.

Our committee, the full Committee on Appropriations, decided that even though it may work a hardship on some of the agencies and activities of the Federal Government that might have to absorb the additional 2 percent on the civilian side—because their budgets are already based on only a 2-percent increase and full funding, absorption, partial absorption of it—we thought, in fairness to the Federal civilian work force, which has been falling behind in terms of parity, that this was the year in which we should give everyone 4 percent.

That is close to the cost-of-living adjustment, right in the range of what inflation is. So, in a real sense, it is a nominal increase. It keeps everybody where they were the year before, if we use the longstanding American tradition that inflation eats away at your ability to use your paycheck, in just about direct proportion to the degree of inflation that exists generally.

So we think this is fair. It passed with a rather substantial margin. There may be some who want to propose alternatives on the floor, but I believe that, without exception, we ought to give this pay raise to all civilian employees.

Some thought that perhaps in the very high echelons, the pay of civilian workers ought to be frozen. We said no. Congress is not included in this pay raise. Obviously, we do not vote a congressional pay raise with the general pay for our civilian and military workers. We are exempted from this increase. On the other hand, it was our feeling that executives in the very high levels of Government deserved a pay raise, also. Many of them have been with us a long time. They are doing very difficult jobs. Many, if not all, are very talented people, and we want to keep them in the Federal service if we can. Some would have exempted the very top levels. We said no.

The Senator from Alaska [Mr. STEVENS] suggested that we add all of them and not do what the House did.

They left out a couple of the top echelon grade levels. That is in the bill, also.

I think we should state that right up front, so that everybody understands that, along with many other good things, that is also in this bill.

AMENDMENT NO. 2417

(Purpose: For the transfer of the operation and maintenance of the William Langer Jewel Bearing plant from the General Services Administration to the National Defense Stockpile Manager)

Mr. DeCONCINI. Mr. President, I send an amendment to the desk, on behalf of the Senators from North Dakota [Mr. CONRAD and Mr. BURDICK] and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DeCONCINI], for Mr. CONRAD (for himself and Mr. BURDICK), proposes an amendment numbered 2417.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VI of the bill, insert the following new section:

SEC. . Notwithstanding any other provision of law, Public Law 89-784, 80 Stat. 1367 and Public Law 90-469, 82 Stat. 666 pertaining to the naming, maintaining and operating of the William Langer Jewel Bearing plant are amended by striking out all references to the "General Services Administration", "the Administrator of the General Services" and "Administrator" and insert in lieu thereof "the National Defense Stockpile Manager."

Mr. DeCONCINI. Mr. President, I am offering this noncontroversial amendment on behalf of Senator CONRAD and Senator BURDICK. It addresses the issue of the William Langer Jewel Bearing plant in Rolla, ND.

The jewel bearing plant in North Dakota is a Government-owned facility that is operated by a contractor, the Bulova Watch Co. The program managers for the plant are employees of the national defense stockpile, the management of which was transferred by Executive Order 12626 to the Department of Defense from GSA.

Because the William Langer Jewel Bearing Plant is specifically assigned to GSA under current law, the plant is not automatically part of the transfer. This amendment transfers the contracting responsibility for providing contract management for the plant to DOD and changes all references to GSA under the enabling legislation.

This amendment will make sure that the jewel bearing plant is officially transferred over to the national defense stockpile in DOD. I urge the adoption of this noncontroversial amendment.

Mr. CONRAD. Mr. President, the amendment I am offering today will transfer responsibility for the operation and maintenance of the William Langer jewel bearing plant from the General Services Administration of the national defense stockpile manager.

The William Langer Plant, located in Rolla, ND, is unique. It is the only place in the United States where jewel bearings are manufactured.

Jewel bearings are used for a variety of instruments, including gyroscopes, aircraft instruments, and other military precision instruments. They are a small, but important piece of our national defense pie.

Mr. President, my amendment corrects a problem inadvertently created by an Executive order issued on February 25 of this year. That order transfers the national defense stockpile and its employees from GSA to the Department of Defense. However, under current law, GSA is identified as the management agency for the William Langer Plant.

The expertise for the operation and maintenance of the plant has resided with the national defense stockpile program staff since the 1950's. But as a result of the Executive order issued in February, those who have overseen the operation of the plant will become DOD employees and, therefore, lose their authority to oversee those operations.

Mr. President, this eventuality was not the intent of those wishing to transfer the national defense stockpile from GSA to DOD. It makes no sense to prevent those who are knowledgeable of the operation and needs of the plant to continue to carry out their historical duties. Therefore, we need a change in the law.

Mr. President, all parties connected with the operation of the plant agree on the need for this correction. And they agree that the correction must be made quickly, in order to avoid any disruption in plant operations. Therefore, I urge the adoption of the amendment.

Mr. DOMENICI. Mr. President, we have no objection on our side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2417) was agreed to.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DeCONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2418

(Purpose: To clarify existing law on designation of Sullivan, Missouri, as part of St. Louis metropolitan statistical area)

Mr. DeCONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DeCONCINI] proposes an amendment numbered 2418.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the reading of the amendment be disposed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. 627. For purposes of §1886 of the Social Security Act, Missouri Baptist Hospital of Sullivan in Sullivan, Missouri, is deemed to be located in Franklin County, Missouri, retroactively effective for discharges beginning on or after December 22, 1987.

Mr. DeCONCINI. Mr. President, last year during floor consideration of the continuing resolution, the Senate approved and the President ultimately approved an amendment that directed OMB to include the city of Sullivan, MO, in an adjoining metropolitan statistical area [MSA] for the purpose of Medicare hospital payments. However, in a new proposed rule, the Health Care Financing Administration [HCFA] refused to implement the law and has taken the position that MSA reclassifications begin with the start of the Federal fiscal year following the change. We wrote HCFA on May 5, to ask why they had refused to respond to the statutory directive and we have not yet received an answer. We do know, however, that they are refusing to do anything until October 1.

This amendment makes it very clear what we intended to do last year when we passed the continuing resolution. It will essentially tell HCFA to do what we told them to do in 1987, and make the hospital payments to this hospital retroactive to the date the President signed the continuing resolution into law. Agencies should not be in the business of ignoring the law and refusing to comply with specific statutory directives that supersede their own rules.

I urge the adoption of the amendment.

Mr. DOMENICI. Mr. President, we have no objection. We concur with the statement made by the chairman and believe that this amendment ought to be adopted.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment offerd by the Senator from Arizona [Mr. DECONCINI].

The amendment (No. 2418) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2419

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] for himself and Mr. METZENBAUM proposes an amendment numbered 2419.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

No funds appropriated under this Act or made available by 39 U.S.C. 2401(a) shall be used by the U.S. Postal Service to implement phase II of the contract between the U.S. Postal Service and Perot Systems. The second phase of this contract shall be relet, on a competitive basis, upon completion of phase I.

Mr. SIMON. Mr. President, what this amendment does is very simply takes phase II of a contract that has been entered into by the Postal Service and says it ought to be let out on competitive bidding.

This is a contract that has been entered into with a new corporation called the Perot Systems Corp.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. SIMON. I am pleased to yield to my colleague from New Mexico.

Mr. DOMENICI. I wanted to say to him that the distinguished senior Senator from Alaska, Senator STEVENS, who is the ranking member on the subcommittee with jurisdiction over the Postal Service, has indicated that he wants to come to the floor to oppose your amendment. For that reason, we may have to delay a while. I will notify him now that the amendment is up, but I wanted you to know what we will wait for him to come up to the floor to make his particular case.

Mr. SIMON. Mr. President, because of that, I think I will hold off my remarks until the Senator from Alaska is on the floor.

I ask unanimous consent that the consideration of my amendment be temporarily suspended.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, I see no reason to lay it aside unless and until the chairman has another amendment. I do not think we have to do that. We can go into a quorum call or conduct some other business on other amendments.

Mr. DECONCINI. Mr. President, I would object, but I would be more than happy to suggest the absence of a quorum.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I have an amendment which I will send to the desk and ask for its immediate consideration.

Mr. DECONCINI. Mr. President, there is a pending amendment by the Senator from Illinois. We have to have unanimous consent to set that aside temporarily.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Arizona is correct.

Mr. MURKOWSKI. Mr. President, I thank my friend from Arizona. I ask unanimous consent that the amendment be set aside so that we can take this up now. It is my understanding it has been cleared on both sides and I ask if we can expedite the process?

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. SIMON. Reserving the right to object, I gather from the junior Senator from Alaska, this is not going to take too long and we will get back to my amendment very shortly; is that correct?

Mr. MURKOWSKI. The Senator is correct, and I appreciate his willingness. I assure him it will be less than 60 seconds.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The Senator from Alaska is recognized.

AMENDMENT NO. 2420

(Purpose: To deny funds for construction projects that use the services of a contractor or subcontractor of a foreign country that denies fair and equitable access to United States products and services in construction projects in that foreign country)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 2420.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . (a)(1) None of the funds appropriated by this Act may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary for the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

(3) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) The term "foreign country" includes any foreign instrumentality. Each territory or possession of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) Any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country.

(3) Subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(4) The restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country.

(5) The terms "contractor" and "subcontractor" includes any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Act.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

Mr. MURKOWSKI. Mr. President, this amendment prohibits foreign construction firms and suppliers from being utilized in federally funded public works projects if the country in question denies U.S. firms the opportunity to participate in their public works projects. From the standpoint of background, similar amendments applying to all federally funded projects was included in the continuing resolution for 1988 and has been passed by the Senate on the fiscal 1989 energy and water appropriations bill and the fiscal 1989 Milcon appropriations bill.

It is my understanding it has been cleared by both sides. I defer to the floor manager.

Mr. DECONCINI. Mr. President, we think it is a good amendment. The Senator from Alaska has, as he indicated, offered it and it has been accepted before. We think it is appropriate here on this legislation and we have no objection.

I am advised that the minority has no objection to the amendment.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2420) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. I thank the Chair and the floor manager, my friend from Arizona, and my colleague from Illinois for allowing me to take advantage of this time.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the Senator from Illinois, Mr. SIMON.

AMENDMENT NO. 2419

Mr. SIMON. Mr. President, let me explain the amendment that I have offered, and I understand my friend, the Senator from Alaska, is going to oppose this amendment.

This is in regard to a special contract the Postal Service has let with Ross Perot, a new company actually called Perot Systems Corp. that Ross Perot has started.

I happen to have a great deal of respect and admiration for Ross Perot. What he has done in the State of Texas for the educational system is a major contribution, not only to Texas, but to this Nation. He has been extremely successful in other ways. He is a good businessman. If you question whether he is a good businessman, you take a look at this contract and you will come away with a strong impression that he is a very good businessman.

He has formed a new corporation that has a phase 1, a $500,000 contract to make recommendations for improvements in the Postal Service. I have no objection to that.

Then there is phase 2 where for 5 years his company will be able, if they perform services, to not only get compensated for what they do, but receive compensation for any savings that result from what happens.

I am all for savings. U.S. News & World Report says the contract could result in $100 million for Mr. Perot.

I do not think anyone knows what the figure would be, but it could be very substantial.

Let me provide a few of the details on this contract. This is phase 2. What I am asking on phase 2 of this contract is that it be opened up for competitive bidding. And if Perot's new company is the best bidder, it ought to go to them. If some other company from Louisiana or Arizona or someplace else is the best bidder, it ought to go there.

Among other things, this particular contract prevents, if it is implemented on phase 2, the Postal Service from going to any other company for the implementation of any recommendation by the Perot company.

Now, that is really an unusual contract. If any Perot Systems project is not approved by the Postal Service, the Postal Service agrees not to implement the project or any portion thereof independently, whether through the use of USPS personnel and resources or through any other party at any time prior to the fifth anniversary of the effective date of the contract. The Postal Service is tied up for 5 years, and there is the possibility of three 5-year extensions for a possibility of a total of 20 years.

GAO recently criticized the Postal Service for making noncompetitive contracts and this flies in the face of precisely what the GAO has talked about. The new Postmaster General—I frankly have never met the man—when questioned about the wisdom of this sole source award under very unusual circumstances said:

> There are not exactly hundreds of firms around the beltway dying to do a nonprofit job.

Well, my friends, this is not a nonprofit job, I want to assure you.

Then there are some other provisions here. The savings. We do not know what percentage of the savings will go to the Perot company. Let us assume there is a savings of $100 million as one suggestion. Under this provision, that is negotiated—whether it is 50 percent or 10 percent, or whatever the percentage.

Another unusual feature of this recommendation: The contract says:

> The Postal Service expressly acknowledges and agrees that Perot Systems will not be precluded from providing any service,

> participating in any purchasing procedure, or being awarded any contract.

That might otherwise violate the rules of the Postal Service. They make the recommendation. They can get the contract for their recommendation.

Let me read this provision. This is from the contract.

> Notwithstanding any provision of this agreement, the Postal Service procurement manual or any other rule or regulation of the Postal Service to the contrary, the Postal Service expressly acknowledges and agrees that Perot Systems will not be precluded from providing any service, participating in any purchasing procedure, or being awarded any contract by reason of any services performed by Perot Systems during the study period.

They also have a very unusual provision on confidentiality. It says:

> The Postal Service and Perot Systems each agree that all information designated by the other as confidential or proprietary and communicated to it by the other, whether before or after the effective date, will be used only for the purposes of this agreement and that no such information will be disclosed by the recipient party, its agents or employees without the prior written consent of the other party.

My friends, it may well be that Perot Systems ought to get this contract. It is by all stretch of the imagination the most unusual contract I have ever seen. I have been in Government quite a few years—I was elected to the State legislature when I was 25—but I have never seen a contract like this.

Now, again so that it is very clear, I am not objecting to phase 1. I am not sure it was the most prudent contract ever awarded, but phase 1 is $500,000 to this new company that has no other customers, I might add. It is a brand new company. This company, $500,000 to make recommendations about improvements in the Postal Service.

Phase 2 is what I object to, and there I want to see, when those recommendations are made by Perot Systems, that whoever wants can compete for whatever needs to be done to implement those recommendations. I want competitive bidding. There is nothing un-American about competitive bidding. I do not want to see some one person or some one company walk off with untold millions.

I have a note from my friend, Senator STEVENS, that he was called off the floor for a few minutes. I know that he wishes to respond to what I have had to say. But my amendment is a very simple one calling for competitive bidding.

Mr. President, I question the presence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask that first I may be permitted to apologize to my good friend from Illinois. He waited long for me to be here to hear his explanation and at the same time I was made aware that I had kept people from my State waiting in my office for over an hour, and I had to go out and give them my apologies.

Mr. SIMON. If the Senator from Alaska will yield, I am used to people walking out while I am speaking, I want to assure the Senator.

Mr. STEVENS. There was no offense meant.

Mr. President, I do oppose this amendment, and I hope that the Senate will consider the basic policy Congress established with regard to the U.S. Postal Service and realize what has happened. In 1970, we passed the Postal Reorganization Act and established an independent Government agency, the U.S. Postal Service.

That agency is supposed to be able to stand on its own two feet without political—and I mean political in the sense of the congressional second-guessing of management decisions. We have basically avoided micromanagement of the Postal Service for all of these years.

There have been some comments concerning the contract that has been entered into that the Senator from Illinois has described. There is no question that this is a contract that the U.S. Postal Service has the authority to enter into, and on the other hand there is no question that it is a unique arrangement. I state to the Senate that in my opinion Ross Perot, whom I just met this morning, is a unique individual. He has a background in services that are not available to the Postal Service under any kind of competitive bid situation. Under this contract, as the Senator from Illinois has indicated, there are two phases. Under the first phase, the Perot Systems Corp. will look into five major areas of the Postal Service's operation.

Mr. SIMON. Will my colleague yield?

Mr. STEVENS. Yes.

Mr. SIMON. I have just been informed by Senator GRASSLEY, and originally I had an amendment which said that the second phase would be suspended until GAO could make a report making a recommendation. I have been advised that the Perot Systems would not object to that amendment. I do not know if that would be acceptable to the Senator from Alaska. My colleague from Iowa may wish to comment. I just pass that along. Maybe we can get this thing worked out so we have a satisfactory agreement.

Mr. STEVENS. I might say to my friend from Illinois such a concession would not make any difference to this Senator. I have served now on the old Post Office Committee for 20 years. I have been here during the entire period of the operation of the U.S. Postal Service. I have argued many times on this floor that Congress should not try to micromanage the Postal Service. If the Postal Service decides to let the phase 2 competitively well and good. And if the Perot group indicates that they have no problem with that, perhaps that will be the judgment of the Postal Service to go along.

But my feeling would be to implore the Senator from Illinois and his colleague on this amendment not to offer it because, if what he says is correct, in all probability that will come about. But this would still be a bad precedent. We have refrained from entering into a role of second-guessing the Postal Service with regard to contracts of this type. As a matter of fact, there is outstanding—I am sure my friend would be interested in knowing—a similar Postal Service contract is in effect at this time. It is not as large. The Postal Service entered into a similar contract, a shared saving concept, with a group in San Diego last December. The U.S. Postal Service will save $600,000 in a lighting retrofit project that was completed under that contract—a similar kind of contract to this one. This one is larger now following on in that concept.

But I am informed that the Perot group has about 75 days remaining in this phase. I understand that the Senator does not wish to interfere with phase 1 now. Is that correct? We are talking about phase 2.

But I am here today not to defend the Perot Systems Corp., and instead to defend the concepts of the Congress allowing this independent agency to make its independent judgments. It has the authority under existing law to enter the contract it has entered into. That is clear. It also has the duty now to find ways to save money in its overall operations. It has entered into this contract and under the contract it will not have any loss at all other than the phase 1 costs of up to $500,000. That is I think a limited amount in view of the fact that that corporation, the Postal Service, if it were on the big board of the exchanges, would be the eighth largest corporation in the United States. It has been run well. It is coming now into a period of great strain. The whole economy I think of this country is under a great strain because of the need to implement and utilize new technology.

Mr. President, in my judgment this proposed action, and I hope my friend from Illinois will rethink it, and I would be willing to support some concept of a report to Congress at the end of this first phase and ask them not to enter into the next phase until we have been notified, to give the Senator a chance once again to pursue his rights. Once again I say to the Senator from Illinois and to the Congress as a whole, do not do this. This independent U.S. Postal Service has worked. It has given us the best postal system in the world. It has problems. Those problems I think can be solved by the same system that has given us this best system in the world.

I am convinced from my meeting with Mr. Perot this morning that he wants to do this job right or he does not want to do it at all. I think that is a great attitude. Here is an outside resource, a group with proven management experience. I point out that he has not come to the Postal Service alone. Under the new organization he has put together some of the finest minds in the country if not the world in terms of implementing new technology will be available to the Postal Service. This concept that is in this contract will mean they will earn as the Postal Service saves money in its operations. It is an incentive contract, and one that to this Senator makes a lot of sense. But it is not a question of whether it makes sense. The question really is should the Congress at this time set the precedent that it is going to step in and tell the Postal Service it cannot continue under a contract that has already been negotiated, it is already outstanding, and it is subject to review by the General Accounting Office?

If the General Accounting Office which has been asked to make a report now by the House—and they could not incidentally give us any timeframe for that study—indicates that in any way there is any defect in the contract of course I will join with the Senator from Illinois in addressing that problem. But there is no question that this type of review of the Postal System operations is needed, and that the ratepayers, those who use this system, will benefit the most because if this approach works it will delay any further necessity to increase our postage cost. I think, as a matter of fact, unless something can give us additional savings in the operation of the Postal Service I can predict to you that the postage stamp rate will be 30 cents or above by the end of 1990. That is something we do not want to see.

I personally believe with the management techniques that have been developed by people in business such as Mr. Perot and his associates we could well bring about this cost savings through the implementation of the new technology and new systems that would help prevent further major rises in the rates paid by those who used our Postal Service.

Mr. President, I am here without any question to plead with those who are offering this amendment not to pursue it. This is in my judgment a contract that has been criticized by those who were not able to bid on it. Yet, all I can state is that the Postmaster General took it upon himself to fly down to talk to Mr. Perot, to ask him if he would do this. I consider it to be really a public service on the part of Mr. Perot and his associates because if they find that they cannot make recommendations that would bring about substantial savings, they really have wasted their time. I am impressed with my conversation with him as I indicated that if he finds he cannot make progress, if he cannot find ways to bring about substantial savings for the Postal Service, he will leave the study, and he will ask the Postmaster General to relieve him of this obligation after he finishes the commitments he has made for the phases that he has obligated to complete.

It is a difficult problem to deal with an entity of Government that is the size of the Postal Service, that is quasi-private and yet Government.

There are people who support the concept of privatization of the Postal Service, which I oppose. I am convinced, from my conversation with Mr. Perot this morning, that he shares the concept of the constitutional obligation of Congress to provide postal offices; that he is trying to help us find a way to continue to meet the service requirements of the Postal Service at less cost to the ratepayers and at no increased cost to the taxpayers. Under those circumstances, I think that the Perot Corp.—it is a new one—should be allowed to go ahead with its review under this contract.

Let me say this, Mr. President—and I do so remembering that my friend Howard Henry Baker used to say around this place, "If you don't toot your own horn, no one is going to toot it for you": There is no one in Congress I know of who has spent as much time with the Postal Service as I have. For 20 years, I have served on this committee and made it one of my objectives to see that I kept informed of the work of the Postal Service because it means so much to my State.

There is no other State in the Union which needs the Nation's Postal Service as much as Alaska. One-fifth the size of the United States, it has a substantial portion of its population without roads, without water access, and it is completely dependent upon air service. Mail comes by air to almost all our people. It means that they face unique circumstances, and we continue to learn.

I do not know whether the Senator from Illinois read the other day about the enterprising fellow who came to the Postal Service in Alaska and presented a load of bricks to be delivered from Fairbanks to a little community on the North Slope named Wainwright, AK. Unfortunately, all those bricks would have to be delivered by mail, under normal circumstances. The Postal Service, to its great credit, worked out a way to get them partway by truck and using airplanes to get them the rest of the way. These are types of problems faced in my State which has led me to spend the time I have on this service.

As I said to the Senator—I respect his approach to this matter—this service has done a better job than the old Post Office Department did.

I think this new Postmaster, who I never met before he was appointed, is a man of integrity and is trying to do a good job. This is one of his first contracts, and it is a test for him and the Board of Governors.

Major mistakes have been made by the U.S. Postal Service, primarily at the time when either the Board of Governors of the Postal Service or Congress tried to interfere with the role of management that was established by the Postal Reform Act.

I do not say we should not keep a sharp eye on the Postal Service. We should have real oversight.

I urge the Senator from Illinois to consider the approach I suggested, and that is to set a timeframe within which Congress could review this contract, which would be based either upon completion of the first phase or upon the GAO report. Otherwise, to mandate any concept that there would be no funds available to be used by the Postal Service to conplete this contract would be wrong.

Incidentally, I want to point out that the funds, in one portion of this amendment, to be prohibited for use by the Postal Service, are specifically the funds that are not taxpayers' funds. They are ratepayers' funds.

As the Senator knows, joined by many people in the Senate and in the House, I have urged that those funds be off budget. If they are off budget, I do not think they should be subject to restrictions by Congress, either.

Again, I urge the Senate not to pursue that concept.

Mr. President, what I am really asking the sponsors of the amendment, and the distinguished Senator from Illinois in particular, is that we step back and look at this, let the first phase of the contract run, wait for the General Accounting Office report, and have some sort of sense-of-the-Senate amendment added to this bill which urges the Postmaster General to give Congress a period of time within which to review the report that is derived from the first phase of the contract or from the General Accounting Office, before proceeding with any changes suggested by the Perot Systems Corp.

I make that suggestion to my friend in all friendliness, with the hope that we can work out something that would not require a vote in the Senate on the question of whether or not Congress should now start a policy which I say would be very detrimental to the Postal Service, and that is micromanaging the postal system.

Mr. SIMON. Mr. President, if I may have the attention of the Senator from Alaska, as I indicated earlier, I am willing to have an amendment that says phase 2 does not go into effect until we have a GAO study on this. But I believe the Senator from Alaska indicated earlier he would not accept such an amendment. My understanding is that the Perot Systems people do not have an objection to that amendment.

If the Senator from Alaska will accept such an amendment, I am willing to accept it. Otherwise, I want to proceed with a very simple amendment that does not micromanage. It just says let us have competitive bidding.

Mr. STEVENS. Mr. President, I respond to my friend by saying, No. 1, that I do not care whether the Perot Systems Corp. agrees or not. The question is whether we should mandate competitive bidding on a contract that, so far, the Postal Service management has undertaken on the basis of their own negotiation and selection of the contract.

Second, I do not have any problem, as I indicated, with a sense-of-the-Senate amendment which requests the Postal Service not to proceed with phase 2 until Congress has had an opportunity—Senator GRASSLEY suggests 60 days, and that is all right with me—to review the General Accounting Office report and to review the report that comes out of the first phase of the contract, so far as that is concerned. The Senator's amendment says: "None of the funds under this act or made available to the Postal Service can be used to carry out the provisions of this contract." That is micromanagement, to me; and with due reverence for my two friends, it is wrong. We have set a course with the Postal Service of not doing that, and we ought not start down that road now.

I believe that we have every right to review it, and it may well be that the GAO might agree with the Senator that this contract should not have been negotiated. If that is the case, I am sure the Postmaster General would put it up for bid.

Mr. President, I say to my good friend that we should not prejudge the GAO report, and we should not tell the Postmaster General and his management at this time that they must put it up for bid.

If we do that, then what about the first contract? The contract in San Diego that already saved us $600,000 was not bid. It was negotiated. How many other opportunities are there out there for the Postal Service to step in and take advantage of good backgrounds in management and get the services of these people and improve the system for the Postal Service without bid?

I know some of the people would like to bid. I know they are very capable people. Unfortunately, the Postal Service did not seek to negotiate with them. They negotiated with Mr. Perot.

I have to tell you from what I know, just by reading about this gentleman, I think the Postmaster General made a wise decision. Here is a man who has very little to do right now, if we understand his circumstances, because of the agreements he has entered into in the sale of his prior corporation, he has time on his hands. He really has the managerial ability that has been demonstrated, demonstrated to the extent that one of the largest corporations in the country bought him out.

Why not use those brains? Why not use the brains he acquired to bring with him and his colleagues who agreed to form this new corporation? They make no money, really at all, unless they come up with suggestions for savings.

Mr. President, again, I urge my friend not to pursue the concept of starting this process of no funds appropriated under this act or any other act made available under the Postal Reform Act can be used by the Postal Service unless we tell them to do it.

That is micromanagement. I think it should not be a course to be adopted by the Senate at this time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I ask unanimous consent that I be added as a cosponsor of the Simon amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I am wondering if my friend from Alaska might respond to a question as to whether he knows what the response of the Postal Service would be to a sense-of-the-Senate resolution that they not award phase 2 without competition until 30 or 60 days have passed following a GAO report.

I am very much troubled by this noncompetitive contract. There are indeed a lot of brains in Perot Systems, but there are a lot of brains in other corporations that would like to bid on this contract, too. There is no exclusive use or availability of brainpower in Perot Systems.

When the Postmaster General says that there are not exactly hundreds of firms waiting to do this job, there is only one way to find out, and that is if it is competitively bid.

Without arguing the merits of competition, although I strongly believe in it, I wonder if my friend from Alaska knows whether or not the Postal Service would be amenable to a request from the Senate that they withhold awarding the contracts in phase 2 until after the GAO request, because I have spoken briefly with our friend from Illinois and my hunch is that if they would be responsive to that sense-of-the-Senate language and indeed would withhold the phase 2 award that might be worked out in a way which would not require a vote.

Mr. STEVENS. Mr. President, I say to the Senator from Michigan I do not know the answer. I believe I know what the response would be if the sense-of-the-Senate resolution or sense of the Congress is that the Postal Service not go into phase 2 without the competitive bid. But I remind you that such action prejudges the GAO report.

Mr. LEVIN. Without what?

Mr. STEVENS. As I understood the Senator from Michigan, he says that he was suggesting or someone was suggesting that the sense-of-the-Senate resolution indicate that the second phase of this contract not be proceeded upon except by competitive bid.

Mr. LEVIN. No. What I said was—I am asking my friend from Alaska to follow—if the sense-of-the-Senate resolution was ready that it is the sense of the Senate or Congress that phase 2 not be awarded until 30 or 60 days following the GAO report, whether or not the Postal Service would accept that suggestion. I did not use the word "competitively" in that language.

Mr. STEVENS. It is my understanding that if the sense-of-the-Senate resolution type of amendment were added to this bill requesting, in effect, that the Postal Service not go ahead with phase 2 until the GAO report was completed and that a reasonable period, 30 or 60 days, be put in there, that there would be no objection to that.

I do not think that is micromanagement. That is asking time to determine whether we want to micromanage. I do not think there would be any objection to that.

I am not wishing, by the way, to in any way stage a revolution around here and usurp the powers of my good friend from Arkansas. I am just saying from my understanding of Postal Service management they would not oppose a request for a delay period to review the GAO report.

I yield to my good friend from Arkansas, if I may, to answer the Senator's question.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. I would be happy to yield the floor.

I think it would be wise for us to find out what the Postal Service reaction would be to such a request.

Mr. STEVENS. We have a request in for a specific answer. I do believe we can prejudge that they would have no objection to that delay so long as it did not now say the Senate has taken the position that in any event the second phase has to be competitively bid.

Let me ask my friend from Arkansas if he has any response he wants to make to that.

Mr. PRYOR. Mr. President, I thank very much my very good friend, the Senator from Alaska, for yielding to me.

The PRESIDING OFFICER. If the Senator will suspend, the Senator from Michigan has the floor.

Does the Senator from Michigan yield?

Mr. LEVIN. I have yielded.

The PRESIDING OFFICER. The Senator from Michigan yields the floor.

Who seeks recognition?

The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I thank you for recognizing me and I thank the Senator from Michigan for yielding.

Mr. President, I had not planned to become involved with this contract debate with the Ross Perot matter. I first heard about it, I must say, about 2 days after we conducted an oversight hearing of the Postal Service with the new Postmaster General testifying before our subcommittee for, I would say, over 2 hours.

During the course of his testimony we did not have any knowledge, nor were we informed, of this particular contract. I do not know the date it was signed.

I am not impugning any bad motives either to the Postmaster General and certainly not to Ross Perot. I think both are very splendid individuals.

However, in looking at this contract situation, looking at what the Postal Service did in its quest to make the Postal Service more efficient in the coming years, they signed a contract with Ross Perot or Perot Systems, Inc.

I do not know if this is a good contract or a bad contract. I do not know if it is a good deal or a bad deal. But I think unless we address it at this time, either with the recommendation by the distinguished Senator from Illinois, Senator SIMON, or the recommendation by the distinguished Senator from Iowa, Senator GRASSLEY, or Senator LEVIN or that proposed by Senator STEVENS, I think that we would be making a mistake if we were to allow this contract to go unnoticed, undiscussed, and unmonitored.

There has been some discussion in the last few moments about micromanaging the Postal Service. I do not think any of us want to micromanage any of the services of our Government. We have enough to manage without micromanaging. However, the Postal Service is a creature of this Federal system. It is referred to in the U.S. Constitution. And the Postal Service is not necessarily sacred.

For example, we held a hearing about a year ago in our subcommittee, and I asked the Postmaster General at that time or one of the representatives of the Postal Service, "How many attorneys does the U.S. Postal Service have on its payroll?"

At that time I think, if my memory serves me correctly, it was a legal staff of approximately 190 attorneys on the Postal Service staff, mostly in Washington. That was the answer.

Then I asked another question: "Why, if we have 190 lawyers representing the U.S. Postal Service do we have to go downtown in Washington, DC, and pay a law firm $500,000 a year to represent the Postal Service?" That law firm had been on the payroll for 5 years. Over $2.5 million has been paid to that particular law firm, notwithstanding the fact that we in the Postal Service had 180 or 190 lawyers.

Mr. President, that was a time when we had to micromanage. We said, "Get rid of the law firm." We said, "Get rid of that contractor, Mr. John Garrity," who was paid $120,000 to do a study of the Postal Service. His first contract was $120,000 to study the Post Office. He drew $900 a day. He got up to $120,000. Then the Postal Service said, "We have got to get Mr. Garrity to study the contract that we paid him $120,000 to perform." So they paid him another $60,000. He has drawn $180,000.

Well, Mr. President, sometimes we have to sort of micromanage and sometimes the train leaves the station and it is too late.

I am simply submitting this afternoon, with all due respect to all of those parties involved, that I think that we should delay the implementation of this contract. We should bring it totally out in the open.

I think we, as Senator LEVIN may have suggested, probably should have a hearing on it. That is not to say that Mr. Perot should not get this business or should not be considered ultimately for this business, because he is a tremendously creative and splendid businessman and could give us some advice. But I think this is one of those times when a contract, even though you cannot say it is bad, you still know something is wrong with it.

I think something is wrong here and I think all of us would feel much better about it if we delayed the implementation of the contract and held a hearing in the Governmental Affairs committee. I think that we would be doing the taxpayers and the postal customers and ultimately the Postal Service and, who knows, maybe even Mr. Perot a service in the long run.

Mr. STEVENS. Mr. President, may I respond to that?

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Alaska.

Mr. STEVENS. Mr. President, I do not have time tonight to get us into this mindset, but I would urge my friends to stand back and think about this. I oppose, and I think each Member of the Senate who has spoken so far opposes, privatization of the Postal Service. In my judgment, what will drive privatization on us whether we like it or not is if we so micromanage this huge corporation, it is a private corporation except for the string that we keep out there required by the Constitution, and our obligation to give oversight and advice to this corporation and to provide such moneys as required for taxpayers' contributions when and if they are required—and they are small now, Mr. President. This is basically a ratepayer-supported corporation.

If, in the competitive world, they have to pay fees that we would not countenance in the Federal Government for Government activities in order to keep up with technology, keep up with advice, keep up with systems, then, in my judgment, they ought to pay that money and we ought to rely on their advice to do it. And if they make mistakes, if they are wrong, we use the system to change the people. We have the capability of changing the people who run this system. We ought not to micromanage the system. We should manage through selecting the right people to do the job.

Again, as I have stated, I just met Mr. Perot today. I have read a lot about him in my lifetime. I think he is the type of man that can help improve this system. The Perot contract, I think, has attracted attention because of the way it was entered into, without people understanding similar contracts have been entered by the Postal Service. I will be surprised if the GAO says that it was improper to enter into this and that there had to be competition in this type of a contract.

Now, mind you, Mr. President, I have a request from my friends from Illinois and Michigan to find out the Postal Service's response to this suggestion about a delay. It is my understanding, the Postal Service has sent word to me through my assistant, Mr. Wayne Schley, that they have no objection to the timeframe for review by Congress.

The question is: When will the GAO report be completed? The first phase of the Perot contract will be through in about 75 days. We do not know, the GAO could not tell us, when their report would be completed. We need a timeframe that would give us time in this Congress to review the matter. It could be related to the contract itself. But I do not know how long it is going to take the GAO.

If we could find a time certain when it could go ahead or when it would come back up on the floor—I hope the Senator understands my dilemma.

Mr. SIMON. Will my colleague yield?

Mr. STEVENS. I am happy to yield to my friend.

Mr. SIMON. I think we can prepare an amendment—and I just want to say a word or two about this—that requires GAO to report back in 60 days or 90 days, whatever we can work out, so that there is no question about that.

But I think the advice of our colleague, the Senator from Arkansas, who has done so much in this whole field of consulting and trying to save money, is absolutely sound.

Let me just add, because I am not in favor of micromanaging either, but when the GAO criticizes the Postal Service for too many sole source, single, noncompetitive contracts, I think we ought to pay attention.

Mr. STEVENS. Mr. President, if the Senator would yield to me on that, again it is a mindset. If you get people that are used to reviewing Government employees and Government procedures that are purely Government and they say, "Look, over here these people are running this thing like a private corporation," that is what we told them to do in 1970, to run it like it was a private corporation. But they are not private. They are still a Government entity.

Now, somehow or other, they have to find the mindset for dealing with these people.

If the Senator would proceed with a concept of 45 days within which the GAO were to report and 45 days for the Congress to review it, we would still have a chance, as I understand it, to complete this process and go ahead with the second phase if the Congress decided not to interfere.

Mr. SIMON. If my colleague would yield, I think we could work that out. What I would like to do, Mr. President, is ask unanimous consent that my amendment be temporarily set aside to see if the Senator from Alaska, the Senator from Michigan, and the Senator from Arkansas can get something worked out and, obviously, we will check with Senator DECONCINI and Senator DOMENICI.

Mr. STEVENS. Mr. President, I am delighted with that spirit of cooperation. I hope there would be no objection and that we might proceed on that basis.

The PRESIDING OFFICER. Is there objection to the amendment of the Senator from Illinois being temporarily set aside?

Mr. DECONCINI. Mr. President, I only want to ask the Senator from Arkansas if he is prepared to offer an amendment now.

Mr. PRYOR. Mr. President, let me respond to the Senator from Arizona. I am willing to offer an amendment now. If the Senator from Arizona, my colleague, will not ask me too many searing, searching questions about what this amendment does, I will offer it.

The PRESIDING OFFICER. Is there objection to the request?

Mr. PRYOR. Mr. President, I am ready to offer my amendment.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the pending Simon amendment be set aside and that we proceed to the next amendment, which would be the Pryor amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas is recognized.

AMENDMENT NO. 2422

(Purpose: To assure compliance with section 1114 of title 31, United States Code.)

Mr. PRYOR. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I submit this amendment on behalf of myself, Senator PROXMIRE, and Senator BURDICK.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself, Mr. PROXMIRE, and Mr. BURDICK, proposes an amendment numbered 2422.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 96, between lines 8 and 9, insert the following:

CONSULTING SERVICES

SEC. . (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and support services for research and development activities; engineering development and operational systems development; technical representatives; training; quality control, testing, and inspection services; specialized medical services; and public relations; in excess of an amount equal to 95 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) Notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1989 is reduced by an amount equal to—

(1) 15 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a)(1); and

(2) 5 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a)(2).

Mr. PRYOR. Mr. President, I rise today to offer an amendment to the pending appropriations bill that I hope will clear up some of the confusion so pervasive in the Federal Government's use of consultants. I say "hope" because no one, not the U.S. Congress, not the General Accounting Office, and not the Office of Management and Budget knows what the Government spends on consultants.

All of us are concerned with the procurement scandal that is unfolding over in the Pentagon. But I want to assure my colleagues that the buddy system which is at work in the defense industry is well entrenched on the civilian side as well.

We have massive underreporting of consultant contracts. Over half of the inspectors general are not evaluating how the agencies are managing these contracts, a direct failure to comply with the law. A whole host of other issues, which were apparent in the late 1970's, still exist today. These include consultants doing official government reports without it being clear who is the actual author—contractor or Government agency, conflict of interests between consultants working for the private sector and the Government at the same time, and cozy relations between consultants and their high-ranking buddies in the Federal agencies.

It is for these reasons I am offering an amendment to the Treasury appropriations bill to reduce in fiscal year 1989 the expenditure of taxpayer money on consultant contracts and to return these savings to the General Treasury.

This amendment will reduce funds available to agencies—using fiscal year 1988 as baseline—for use on consultants. I think this action is fully justified, given the problems I just outlined.

Mr. President, you may ask why we selected the fiscal year 1987 spending figures as our gudielines. We did this for one reason. The agencies are supposed to supply the Appropriations Committee with the dollar amount they plan to spend on consultants. Beginning in fiscal year 1984, for some unknown reason, OMB failed to communicate to the agencies that they had to supply this information to the Congress. To their credit, some agencies still do supply information on consultant spending. But this information simply is not uniformly reported to the Congress. We have had to look to the last fiscal year for which we could get relatively hard data on actual expenditures. That was fiscal year 1987.

This amendment uses the new definition of consultant services, included in the revised OMB Circular A-120. I asked GAO to use this definition to produce estimated figures for agency expenditures for fiscal year 1987.

I should note that GAO supplied two sets of figures. One set includes everything that could be construed as pertaining to consultant services. In this category, which includes some undefined consultant activity such as contracts for technical representatives and quality control studies, I am requiring that agencies limit their spending to 95 percent of what they spent in fiscal year 1987, a 5-percent savings.

The second category, which GAO, OMB, and I all agree consists of consultant contracts, involves management and professional services, special studies and analyses, technical assistance and management reviews of program-funded organizations. Here I am requiring the agencies to limit their spending to 85 percent of what they spent in fiscal year 1987, a 15-percent savings. Also, I should note that the agencies, with OMB's guidance, will be required, under my amendment, to calculate their own fiscal year 1987 cost data—to which the cuts will be applied.

Most importantly, Mr. President, all savings which accrue as a result of my amendment, will be returned to the General Treasury; that is, to the American taxpayers. This being the case, my amendment represents a significant effort at deficit reduction. I believe this amendment could result in approximately $5 million of savings. I truly believe this to be an area which is ripe and ready to help us address our serious deficit problems.

My amendment will also require OMB to include in its budget instructions to the agencies the requirements that are contained in title 31, section 1114(a). This is the law that requires agencies to submit budget information on consultant contracts when they submit their budget justification to the Congress. OMB previously had this requirement in its budget instruction, but for some reason it dropped in 1984.

Mr. President, as I mentioned previously, reporting in this area is very uneven. I offer this part of the amendment to ensure that the Appropriations Committee receives the complete information it needs to do its job in reviewing the agencies' requests.

Finally, my amendment will assure that these consulting contracts start to receive the kind of scrutiny they demand. The agencies will have to come up with priorities and actually say no to some consultants. Let the U.S. Senate go on record as saying that we are doing something about a blatant waste of the taxpayers' money.

I have been involved with this issue, Mr. President, for about 9 years. I have attempted, through every good faith effort that I know, to obtain from someone in this Government the definition of a "consultant."

In 1980 we attempted to get that definition—with OMB. Eight years of waiting—January of 1988 OMB has finally, I underline finally, Mr. President come up with a new circular, A-120, in which at least some definition of consultants and consulting services have been attempted. I am not so certain that this is the best of all definitions. In fact, I still think there are too many loopholes in the OMB's definition of consulting services.

Notwithstanding that, Mr. President, I am going to attempt, on this appropriation bill, and each of the following appropriation bills, to establish a general rule and try to not only cap, but also to cut those dollars that were being used for consulting services, based upon 1987 expenditures.

Some of you say, "Why do you not base that on 1988?" Mr. President, we do not have those figures yet. We are signing new contracts every hour. In fact, we are signing, probably, 10,000 to 15,000 new contracts a day in this Government, with private advisers, private consultants, people to do research, people to write speeches, and on and on and on.

I have an amendment, Mr. President, and I am not going to make all of this statement, but I would simply refer, Mr. President, to page 2 of this amendment on line 23. This is the key. This is the thrust of this legislation that I am attempting to add to this bill and subsequent appropriation bills.

Starting on line 23, it says:

> Notwithstanding any other provisions of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1989 is reduced by an amount equal to—
>
> (1) 15 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a)(1); and
>
> (2) 5 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a)(2).

Mr. President, Monday a week ago, our subcommittee held a hearing on Government consultants. It was the first that had been held in some while. In this hearing OMB admitted that most of the consulting contracts, are sole source. OMB also admitted that 67 percent of all the consulting contracts have add-ons at the end of the original term. They never end. They never sunset, so to speak.

Finally, we got the General Accounting Office to deliver to us, as of yesterday, a Governmentwide summary of what its best estimates of what consulting services are costing the Federal taxpayer. The best estimates are, with no dispute with GAO, with no dispute from OMB, this is conservative, this is low: $4,137,232,000. That is a very low figure, Mr. President. In fact, I imagine the Department of Defense probably every week spends that much. But anyway, let us begin with that.

Then there are another seven categories, and this is where it gets a little bit fuzzy. These are seven GAO categories which are less certain. This is for speech writing. This is for research. This is for opinions. This is paid to consultants to study their own studies. This is paid to consultants to write, for example, as we found in one contract, $153,000 last week, paid to some group in Arlington to prepare something called an Air Force Accomplishments Manual. If there is no one there on duty, paid for by the Federal taxpayer at the Department of the Air Force that can tell us what the Air Force has accomplished, I do not know why we have to go pay someone $153,000 out there to tell us what the Air Force has accomplished.

Mr. President, that is not an isolated case. There are literally hundreds of thousands of these types of contracts that I am trying to put the lid on and trying to cap and, ultimately through this process, trying to save some $3 billion in all of the agencies of Government. And who knows, we might even avoid a sequestration, if all of these amendments pass, these riders on the appropriations bills, if we can just get a better definition of consulting services and narrow the scope of their activity.

I hope to save $5 million in these two categories. Five million dollars. Well, that is not a lot. But we are going to get into some big figures here in the next several weeks as the major appropriations bills come through. We will attempt to say that we can save a sizable sum with these amendments, especially as these bigger appropriations bills come through the Senate.

Mr. President, I am not going to speak any further, I may reserve the right to close or to answer any questions. I do yield the floor.

Mr. STEVENS. Will the distinguished chairman of our subcommittee honor me, if I may ask him some questions? Would he respond?

Mr. PRYOR. I will be happy to.

Mr. STEVENS. Let me state at the beginning I support the goals of the Senator from Arkansas and I certainly support the concept that there have been too many consulting contracts entered into. On the other hand, I have some problems about what is a consultant contract, as the Senator said at the beginning.

This Senator is of the opinion that at times it is to the great advantage of the Government, rather than going out and building a new building and hiring people to fill that building and letting them then buy vast arrays of computers, to contract out to a computer corporation in the private sector to do a specific job and get it done and not spend all the money that would be required to establish the system.

As the Senator says in his amendment, "to obligate and expend funds for consulting services involving management and support services for research and development activities." Then it says, "engineering development and operational systems development; technical representatives; training; quality control," et cetera.

Does the amendment of the Senator prohibit the use of funds for the research and development activities per se? Or the support services and management services incidental to those activities?

Mr. PRYOR. If I may, Mr. President, respond to my friend from Alaska, the answer would be no. The answer is negative. We do not attempt to limit any particular types of consulting contracts. What we are attempting to do is to cut off some of the dollars. We think that would force some of the agencies out there, one, to know that we are looking at those contracts that are going to be awarded; that they are not going to have any longer this open money sack, if you want to call it that; or they are not going to have any longer this total, unmonitored system of doling out this money to everyone that walks in the door that wants some and says you need a study done.

No, it will not relate to any specific activity in the consulting arena.

Mr. STEVENS. Mr. President, the first portion of the Senator's amendment indicates that there would be an amount available equal to 85 percent of the amount expended in fiscal 1987 for consulting services involving management and professional services, special studies and analyses, technical assistance, management review of program-funded organizations, and then the second part that I previously read was a 5-percent reduction.

Let me say this, Mr. President, I ask my good friend this question: It is my understanding that, if this goes into effect, and I think it is beneficial, to the extent that those management and professional services are absolutely necessary for the operation of the Government, it means they will have to be done in-house? We are not saying they cannot do them. We are saying that you cannot contract for them and take away the money that has been available for contracting out these services; right?

Mr. PRYOR. As I understand the observation of the Senator, he is absolutely correct.

Mr. STEVENS. That leads me to the suggestion I am going to make, and I have not offered the amendment yet, that under those circumstances, the savings that are mandated by this amendment be dedicated to that pay increase that we have already told the departments to absorb which would have the effect of forcing them to lay off people in order to absorb 4 percent. I think the savings mandated by this amendment, in the fiscal year particularly, ought to be dedicated to the pay increase.

Second, I say to my friend, and I will not offer this now—I think I will be involved in the conference on this, but, in any event, I will see to it it comes up then—I believe there should be a national security exception here.

I have not had time enough to analyze the impact of this on some of the programs where the Armed Services Committee and Defense Subcommittee of the Appropriations Committee have compelled the Department to contract out, to use existing and available services rather than develop those services in-house. Some of those are the analyses, for instance, of the stability of vessels. I think of that right now, and other things that we have done.

I think that if there is a requirement in existing law that the items ought to be contracted out, to tell them they do not have the money to pay for it would be inconsistent. I am particularly concerned with the ongoing programs of the Department of Defense in some secure areas where—and we cannot talk about them here on the floor, I am sure my friend knows about some of them—we have ongoing research that we have mandated the Department to conduct in the private sector.

To take the money away from them would be wrong. I would like to have the Senator consider putting an amendment on here that gives either the President or the Secretary of Defense the right to certify that items that might otherwise be impacted by this amendment would be exempted from them if they present to the Armed Services Committees of the Senate and the House a certification as to the national security implication if the exemption were not granted.

Mr. PRYOR. Mr. President, if I may respond to my friend from Alaska, one, the Pryor amendment does not apply to the Department of Defense. This only applies to the Treasury Department appropriations bill. I will offer similar amendments to each of the appropriations bills. This is just the Treasury.

Mr. STEVENS. You made this individual for each—I apologize.

Mr. PRYOR. We are not even talking about the Defense Department yet.

Mr. STEVENS. At this time, this applies only to this bill; it is not a generic amendment.

Mr. PRYOR. The Senator is right.

Mr. STEVENS. It was my understanding the last time we talked the Senator was going to offer a generic amendment.

Mr. PRYOR. I think if the Senator from Arkansas proposed this amendment to title VI of the appropriations bill, I think I would have an opportunity to amend it Governmentwide. I believe that would have been very comfortable because we would save a lot of time.

But I think we would have seen a large number of subcommittee chairmen running through every door of the Senate Chamber coming to the floor to defend their prerogatives. I did not want to do that, and I thought there might be some jurisdictional battles.

Mr. DOMENICI. Will the Senator yield?

Mr. PRYOR. Mr. President, I do not have the floor.

The PRESIDING OFFICER. The Senator from Alaska has the floor and had yielded for a question.

Mr. DOMENICI. Will the Senator from Alaska yield so I might inquire of the sponsor of the amendment?

Mr. STEVENS. I will be happy to do so. I do want to pursue my discussion.

The PRESIDING OFFICER. Does the Senator from Alaska yield?

The Senator from New Mexico.

Mr. PRYOR. Mr. President, if I might——

The PRESIDING OFFICER. The Senator from Alaska has yielded to the Senator from New Mexico. Is the Senator making a further request?

Mr. PRYOR. Before the Senator from New Mexico asks me a question, I am going to ask the Senator from New Mexico and the Presiding Officer if it is conceivable for us to momentarily lay this amendment aside in order that we might now move forward with the agreement relative to the so-called Perot situation?

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. The Senator from New Mexico has no objection. Is that a request being made by the Senator from Arkansas?

Mr. PRYOR. Will the Senator from Arizona, the manager of the bill, have any objection to this?

Mr. DeCONCINI. I have no objection to the request of the Senator from Arkansas to lay aside the pending amendment of the Senator from Arkansas to go back to the pending amendment of the Senator from Illinois.

Mr. PRYOR. Mr. President, I add the caveat we would then return to the pending amendment.

Mr. DeCONCINI. At the completion of the resolution of the amendment of the Senator from Illinois, then the pending business would be the amendment from the Senator from Arkansas [Mr. Pryor].

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Arkansas is temporarily laid aside and will be the pending business after we have completed the business of the amendment of the Senator from Illinois, which was previously laid aside.

So the pending business is the amendment of the Senator from Illinois, and the Senator from Illinois is recognized.

AMENDMENT NO. 2419 WITHDRAWN

Mr. SIMON. Mr. President, I think we can take care of it in 60 seconds. I withdraw my original amendment.

The amendment was withdrawn.

AMENDMENT NO. 2423

Mr. SIMON. I have another amendment, which is a sense-of-the-Senate amendment, that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. Simon], for himself, Mr. Grassley, Mr. Levin, Mr. Pryor, and Mr. Metzenbaum, proposes an amendment numbered 2423.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. STEVENS. Can he read it?

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The assistant legislative clerk read as follows:

It is the sense of the Senate that no funds appropriated under this Act or made available by 39 U.S.C. 2401(a) be used by the U.S. Postal Service to implement Phase II of the contract between the U.S. Postal Service and Perot Systems until 45 days after the GAO reports to Congress on the Perot Systems sole source contract and that the GAO report to Congress within 45 days of the adoption of this amendment.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENS. Will the Senator yield to me?

Mr. SIMON. Yes.

Mr. STEVENS. I congratulate the Senator for his plain language. It is not the stilted language we lawyers use at times. It is direct, and I congratulate him. I support that amendment.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DOMENICI. Will the Senator yield?

Mr. SIMON. I also want to give credit to Senator Levin for his assistance on this.

Mr. DOMENICI. Can I just ask the Senator to yield for an observation? I really do not insist on it. I think in the last line, he ought to change the word "adoption" to "enactment" and the word "amendment" to the word "act" so that it would be the "enactment of this act" rather than the "adoption of this amendment" because it is 45 days after the enactment of this bill, not of this amendment.

Mr. LEVIN. I do not think so.

Mr. SIMON. The Senator from Alaska would prefer the adoption of this amendment because that is a signal to GAO they better get started right away.

Mr. STEVENS. The Senator from New Mexico is quite perceptive. There is a distinct difference there. Forty-five days after adoption of the amendment, this gives 15 days after that, following the date of this action here tonight.

Mr. DOMENICI. Not the enactment of the bill, but rather the night we are working on this amendment?

Mr. STEVENS. Well, the House may change that, Mr. President, slightly. The intention is to tell the GAO to get on with it.

Mr. GRASSLEY. Mr. President, I rise to support the amendment sponsored by my colleague from Illinois.

Even though we all agree that there is plenty of room for improvement at the U.S. Postal Service, I have to question whether there is room for exclusive arrangements with private individuals.

The arrangement to which I am referring is the well-publicized contract of the Postal Service with Perot Systems Corp. Mr. Perot obtained this contract without competing against other firms.

I appreciate the experience of Mr. Perot and recognize his reputation as a trouble-shooter. I do believe that Mr. Perot and his firm will have valuable recommendations for the Postal Service. I may even go so far as to say that perhaps Ross Perot is exactly the man that the U.S. Postal Service needs to get its house in order.

This presents a difficult policy dilemma for me.

I fully support initiatives of the Post Master General, Anthony Frank, to increase efficiency and improve operations within the Postal Service. I cannot, however, support a process which disregards established procurement policies.

By way of background, on June 2 the U.S. Postal Service signed a contract with Perot Systems Corp. This contract covers two phases—a study and analysis phase and an implementation phase.

The first phase lasts for 90 days. Perot Systems will study five areas of cost savings and service improvements.

The second phase will implement the recommendations which come from the first phase study. Herein lies part of the problem. The same firm which will make recommendations and processes for creating cost savings is the same firm which will monetarily benefit from the implementation of the savings measures.

At first, it sounds great that Mr. Frank is taking serious action to resolve the problems of the Postal Service. Maybe we do need to provide this type of incentive to entrepreneurs to acquire their input. But it is a matter of great concern that a broad ranging consulting agreement was awarded without competition.

This action occurred less than a month after the release of a report by the General Accounting Office criticizing the use of sole source contracts by the Postal Service. GAO recommended improvements in the procurement process utilized by the Postal Service, but none of these were adopted in relation to the Perot contract.

Mr. President, it is not my intent to criticize the Perot Systems Corp. I do criticize the Postal Service's apparent disregard for the policy of competition for Federal Government contracts.

I have spoken with the legal counsel who represents Mr. Perot in this contract. I have been assured that Mr. Perot recognizes that our purpose in this amendment is not to prohibit or encumber his work with the Postal Service.

Therefore, I ask my Senate colleagues to support this amendment. It will simply allow Congress time to respond to the GAO study before the second phase of the contract is implemented.

I believe that we have reached agreement on this modified amendment. I would like to thank the other cosponsors of this amendment for their flexibility in reaching this solution. I think that we have been able to satisfy most concerns.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 2423) was agreed to.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2422

Mr. DeCONCINI. What is the pending business?

Mr. STEVENS. Mr. President, is the other amendment of the Senator from Arkansas before the Senate?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Arkansas.

Mr. STEVENS. Mr. President, I would like to ask my good friend now about section C, on page 2, of his amendment. I have an amendment that I am prepared to offer that would commit the funds as I indicated to the payment of the 4-percent pay increase that is due to the Treasury-Post Office people under this bill. In order to do that, it is necessary, in my judgment, to delete section C and to commit the moneys to—and I would read the proposal I have. It has been drafted for me. "All savings to the Department, agency, or instrumentality which result from the application of subsection (a) shall be"—and that is both 1 and 2—"used for the 4-percent increase in rates of pay in such Department, agency, or instrumentality" made under whatever provision the pay raise comes under in this bill. Will the Senator indicate if he has a judgment as to the impact of that amendment?

Mr. DOMENICI. Mr. President, may I ask the Senator, before he answers, to let the Senator from New Mexico give him an observation regarding this bill and the 2 percent that we are talking about?

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. DOMENICI. Will the Senator yield for 2 minutes to the Senator from New Mexico?

Mr. PRYOR. I have been asked a question by the Senator from Alaska.

Mr. DOMENICI. I was wondering if the Senator will yield.

Mr. PRYOR. If the Senator from Alaska will not consider me to be impolite, I will be glad to allow the Senator from New Mexico to make a statement.

Mr. DOMENICI. I ask the Senator from Alaska if I could share an observation with the Senate before the Senator answers the question.

Mr. STEVENS. Mr. President, I am delighted to withdraw my question for the time being.

Mr. DOMENICI. I would like to point out what we have done in this bill with reference to pay that I believe makes the Stevens amendment a very good amendment, very realistic so that the Senator can be assured that the savings which accrue will be applied properly and in a manner that I believe the Senator would be quite confident and pleased with.

What happened in the appropriations process and the budgeting process with reference to civilian pay is as follows. The President sent us a budget that assumed 2 percent pay for civilian employees and 4.3 for military. The bill before us has an amendment adopted by the full Appropriations Committee which we will be adopting tonight or tomorrow when we adopt this bill that says everyone, civilian, and military, gets a 4-percent pay raise. We have not provided for the additional 2 percent over the 2 percent that was in the President's budget. That 2 percent was in each department's budget, and they assumed that they could cover it. We have not provided the additional 2 percent for the various agencies of the Federal Government, and they are either going to have to RIF people through attrition, lay off people, or they are actually going to have to restrain some activities that they might have discretion to move around and postpone. Frankly, I believe that they are going to have a great deal of difficulty with that in some of the departments funded in this bill.

I urge that the Senator give serious consideration, even if you want to say "to the extent necessary" or whatever qualifying language, to agreeing that if savings accrue because of this amendment we be permitted to generically say they can be applied for the 2 percent that was not provided for in the pay raise for the various departments, many in number and very important, from the Secret Service to the Customs Service, OPM, and all kinds of other things in this bill.

I thank both the Senator from Alaska and the Senator from Arkansas for yielding.

Mr. STEVENS. Now, Mr. President, I renew my question but I would indicate my amendment says for the full 4 percent because I believe beyond the 4 percent the effect of this amendment is going to require additional people in-house and they will require additional money, so I emphasize that my amendment would direct all savings to be used for the 4-percent pay increase which in effect says they do not have to totally absorb them in other areas.

Mr. PRYOR. Mr. President, if I may respond to my friend's question, in the General Accounting Office report given me yesterday, it appears to me that the Treasury Department may be spending as much as $37 million a year for consultants. I am taking 15 and 5 percent out of consultant categories. Really, in this particular amendment we are not talking about a very large sum of money. We are only really talking about a $5 million, maybe a $6 million saving. That is not going to go very far in helping to pay a salary increase Governmentwide.

What I am concerned about is that this amendment, even though it is small in dollars, is going to establish the precedent by which the Senator from Arkansas will offer on 9 or 10 other appropriation bills similar amendments.

For example, if the distinguished Senator from Alaska says that any savings we obtain because of the Pryor amendment are going to pay the cost of increased pay for the civil service or Federal employees, then the next amendment is going to be perhaps from my friend from Arizona, who has been very active in the area of drug interdiction. He might want an amendment which says, "Let's take this several million dollars and beef up our drug enforcement program." And when we get to the education budget next week or next month, somebody is going to say that we have to revamp this program or that program, we have to do more on Pell grants, or whatever.

I would like to do this clean. I would like to send the money back to the Treasury. Then in the wisdom of the Appropriations Committee before we adjourn October 8 or whenever it might be, Mr. President—and I say this very respectfully; I am not on the committee, but then the Appropriations Committee might tally it up: "Well, look, we have saved $700 million or $800 million or $3 billion or $4 billion on these consultant amendments, and we have a little savings there for a supplemental appropriation." That would be my respectful suggestion. I hope we do not start whittling away. I do not want to be an obstructionist, but I do not think this is a wise course.

Mr. DeCONCINI. Will the Senator yield?

Mr. PRYOR. I will be glad to yield.

Mr. DeCONCINI. It is my understanding the suggested amendment of the Senator from Alaska to the amendment of the Senator from Arkansas would apply only to this bill, so we are not talking about it applying Governmentwide. We are only talking about applying it to this bill.

Mr. PRYOR. Just to the Treasury Department appropriations bill.

Mr. DeCONCINI. Right. Now, because I understand priorities very well, I think the Senator from Arkansas would agree that certaintly the priority here in this bill has to be drugs. We passed a bill in 1986. We added Customs agents. We added DEA agents, and border patrol agents. We are likely to pass another bill this year adding additional resources. This to me would be an exception. I understand when the chairman from the Labor-HHS Subcommittee is here talking about education or HUD, he is going to make the same argument to the Senator. I appreciate that. But it seems to me we are on the virge of meeting the President's request and going beyond the 1986 drug bill, 90 percent of this bill is people. It does not have much equipment. It does not have much grant money. It has people. Many of those people are in the Bureau of Alcohol, Tobacco, and Firearms Career Criminal Program. This bill adds 500 people to that program. That program is very important to enable us to go after some of these organized criminal activities, in particular from Jamaica known as the Jamaica posse that has committed over 800 brutal murders in this country all relating to drugs. There are going to be additional agents. The reason I hope that the Senator could accept this amendment is because you really get two birds with one amendment. You get the reduction in the consultants, which I agree to, and I compliment the Senator from Arkansas for finding it. And you help this personnel-intensive bill absorb the pay increase without hurting the levels of personnel. I have to admit that I have a hard time identifying the consultants and he has spent a good 9 years finding it. He has located it. I do not want to let it go either. At the same time if that savings are realized, I will assure the Senator that I will fight to keep that in the conference committee. As the Senator from Alaska suggests, second-degree amendment to the amendment of the Senator from Arkansas will permit those funds to go to the increase. Then we can maintain the 500 additional career criminal officers to go after the Jamaica posse and those other organized crime elements. We can maintain the Customs increased air interdiction effort. We do not lose pilots that are already trained and flying that I am very fearful we are going to lose unless we have a supplemental bill.

The Senator can make a very good argument that every year we have had a supplemental. But to this Senator it appears to me there may be not a supplemental. If there is a supplemental and we have already taken care of it in part here, we will not have to come back and ask for all of those additional funds. I hope the Senator might see his way clear to accept that on this bill only without setting any precedent.

Mr. STEVENS. Mr. President, if the Senator will yield, let me add if I may to the comments of the Senator from Arizona. This Senator's feeling is that the Senator from Arkansas is doing a great service to the country by starting us down the road to being even more insistent that work not be contracted out to consultants if it possibly can be done by the people who are already on our payrolls in the U.S. Government. But my worry is that knowing, as the Senator from Arkansas says and this Senator knows, there is this great dispute over what is a consulting contract, and I assume we are going to somewhere define that, we had an understanding I thought that we would define consulting services in its relationship under the Senator's amendment to be as defined in that current circular of the Office of Management and Budget. I do not see that in this amendment. I hope the Senator will add that. Knowing there is a dispute about the interpretation or the decision of what is a consulting service, I hope we realize we are walking down this new road.

It may well be that others might consider something to be a consulting service that neither one of us would, and we might be making more deep cuts into, as the Senator from Arizona says, the Customs people, the Immigration people, the Treasury including the consulting services that IRS may get. They hire consultants daily to go out and check values of properties. But we have just given them a lot more people and told them they have money in here for that. On the other hand, if we use the other hand to take away the money for consultant services, we may not have given them enough people.

I urge the Senator from Arkansas to at least on this one accept the approach that I am suggesting, and to consider putting it on each one because I am sure he would like to be alone on the floor when he presents the other amendments and not be bothered by my intervention.

Mr. President, I have great respect and fondness for my friend who serves as chairman of the subcommittee I chaired for so many years. Therefore, I would like to know when I offer this amendment that he would accept it. I would not want to offer it if he was not going to be ready to accept it.

Mr. PRYOR. Mr. President, I think if I accept this amendment, I was just looking at other similar amendments on future appropriation bills. Agriculture, for example, is going to be coming down the road soon. I have a host of programs right there in the State of Arkansas, Mr. President, that I would like to knock off, say, $7 million, $10 million, $15 million of consulting contracts that the Department of Agriculture is giving out and take that savings and apply it to some of those projects in Arkansas. But I do not think that is a wise course.

I use the analogy, if I might, and I say this with respect. What I am doing ultimately is trying to establish a little bank account. I am trying to start, maybe you could call it, a checking account. Before we even get that money out of this pocket to take down there and put it in the account at the bank, we are saying on this trip, let us not put any money in the bank. Let us just take it out of this front pocket and let us put it in that back pocket.

I am trying to build up an account for the Appropriations Committee to go in there in about 3 or 4 months when we ascertain the amount of savings put it all in that bank account, and then we can look at the drug program, we look at civil service, and we can look at agriculture. Then you can have a supplemental.

Mr. STEVENS. If I might respond to my good friend, I say it would be better to consult with the Budget Committee under the Budget Act. As this Senator understands that, the current version of the amendment of the Senator from Arkansas would say that the money would not be appropriated out of the Treasury and, therefore, it would not be available to the Appropriations Committee to use in this fiscal year. It would be an automatic savings under the Budget Act, as I understand it. I do not serve on the Budget Committee. But that is my understanding. Does the Senator have an interpretation to the contrary?

Mr. PRYOR. My interpretation beginning on line 23 on page 2 of the amendment is that this money would go back in the Treasury of the United States of America to the general fund.

Mr. STEVENS. The bill as a whole appropriates the money. This says from that money a reduction takes place of 15 percent and 5 percent. That means it is appropriated on the one hand, it is put back in the Treasury with the other. We have already had that under 302(b). We do not get it until next year. That is what worries me. It cannot be used to reduce the cost of that pay raise which is 4 percent as opposed to 2 percent as presumed in the President's budget nor is it able to meet the increased cost in-house of doing in-house previously what they were to contract out for.

Mr. PRYOR. I do not know this figure. I am trying to find it. What would the 4-percent increase Governmentwide cost, if I might ask the Senator?

Mr. DECONCINI. If the Senator will yield, it is estimated it would be about $600 million raising it from 2 to 4 percent which is in this bill Governmentwide.

Mr. PRYOR. I think this amendment is frankly irrelevant because we are talking about maybe $5- to $10-million just in the Department of Treasury on consultant savings. We are talking about a $600 million obligation to raise from 2 to 4 percent. This is not going to make that pay raise become effective. This is only a miniscule part of what the pay raise is going to cost.

Mr. DECONCINI. If the Senator will yield, it seems to me the Senator is talking about a bank account. That may not be a bad idea. But I think if you are going to establish a bank account, you have to go to a bank and open up the account, and not just put it into the regular checking account that goes out the back door with expenses and everything else attributable to the cost of Government.

I would like to suggest that the amendment of the Senator from Alaska that he is about to offer in fact does, in my opinion, create a savings because what we are saving is the loss of personnel that that raise of an additional 2 percent is going to bring about, particularly in an intensive manpower-womanpower-personpower bill that this is.

The agriculture bill is a little different. We have a lot of subsidy programs there. The Senator from Arkansas knows about it a lot better than I do. We have grant programs, disaster funds, emergency funds, and what have you. There are none of these here. These are people funds.

That is why I hope the Senator could see his way clear to take this amendment. I will not be here asking him to do it on the agriculture bill or the education bill, as much as I have some agricultural interests and think education is such a priority as well.

Mr. PRYOR. Mr. President, I do not want to be hard-nosed about this. I really do not. I do not want to be an obstructionist. I want to work with my colleagues. I have a very close, special working relationship on our subcommittee with the Senator from Alaska; also my very good friend from Arizona.

But I can just see right now what is going to happen on every one of these amendments in the next 10 appropriation bills. Everyone right now is saying: Wait a minute. Those fellows over there are going to save all of these consulting fees. We can get our pet project in. All we have to do is go over there, offer our amendments, and the savings from the consultant contracts are going to fund this purpose or that service of Government. The $5 to $10 million I am saving tonight is not going to pay for what the Senator from Alaska wants to buy—the Federal pay raise. It is going to have a very detrimental effect in establishing a precedent that an amendment on each of the 10 appropriations bills is going to create.

(Mr. EXON assumed the Chair.)

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. PRYOR. I yield.

Mr. DECONCINI. It seems to me that the Senator is also setting a good precedent by the fact that he is zeroing in on consultants. Maybe he can win his whole piece of cake here and walk away with it. But if the Senator from Alaska does not offer that amendment, I will have to offer one, and we will have to go for it, and maybe the Senator from Arkansas will succeed. if he does, well and good.

It seems to me a very good precedent to set here. You have zeroed in, found millions in consultant services and taken it out.

Then when it comes to agriculture and education, if they can make that case to the Senator from Arkansas, fine. I do not think you can make it except perhaps in this bill. This is only for pay. This does not have a lot of grants. There are few nonpeople programs in this bill.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. PRYOR. I am glad to yield.

Mr. STEVENS. I do not know the answer to this. Will the Senator state to the Senate whether this amendment has been reviewed by the Budget Committee? What is its impact under the Budget Act?

Mr. PRYOR. I say to the Senator from Alaska that I doubt that the Budget Committee has closely looked at this amendment.

Mr. STEVENS. Mr. President, I further state to my friend from Arkansas that this Senator would intend to offer this amendment to this bill and to the defense bill. I think others ought to take care of the problems that may arise in the other bills. In the defense bill, because of the great confusion over the definition of consulting services, until we see this run 1 year, we should not change the policies. Forcing these services back in house will give us better control over them, but it also may cost more money. On the defense part, I can state to my friend that I believe it will cost more money.

I do not want to offend him, but I think that in the first years, knowing that Congress has mandated many of the reports they are contracting out, in order to comply with the mandates of Congress to prepare reports for a time certain, the Department of Defense contracts those out, right within the beltway.

I do not have any problem in saying that they should be done in-house. I have a great problem, under the constraints the Department of Defense faces this year, in any event, to say that the amount that would be mandated by this amendment, if it is produced for the defense appropriation bill, would not be available to the Defense Department to meet those costs in the first years.

I do believe, without question, that in the long run the Senator's approach will save the Treasury a great deal of money. I do not think it will in the first year. Therefore, I think we must face this question.

This Senator is prepared to commit to the Senator from Arkansas that he will offer this amendment twice—on this bill, because of the drug provision, and on the defense bill. Otherwise the Senator may face others, but he will not face me in terms of the other bills.

Mr. PRYOR. The Senator from Alaska has always kept his word to this Senate and to every other Senator. But, once again, I think small savings in Treasury is not going to pay for the cost of the Federal pay raise. But I think it will establish a precedent that I do not want to face with all these appropriation bills coming to the Senate Chamber.

Mr. STEVENS. I have to state to the Senator that in spite of his dedication to the course he is on, I will be prepared to pose the amendment, unless the money are directed back to the accounts they were intended for, and I would be compelled to state that. I will support the amendment, if that amendment is added. On that basis, I wonder if I might have permission from my friend to offer my amendment, even without his approval.

Mr. PRYOR. I think this is one of the times when the Senate will have to work its will. I have no ill-feelings whatsover toward the Senator from Alaska, if he wants to offer a second-degree amendment to the pending amendment, which I assume it will be. I will have to oppose his amendment. If he desires to offer it, I urge him to do so.

Mr. DOMENICI. Mr. President, I want to ask both Senators a question.

It seems to me that the Senator from Arkansas has a very good point. In his opinion, as he has presented his case with reference to savings, he does not want to set a precedent—take it out of the left pocket and put it in the right pocket.

I think we can make a case that on the agencies covered by this bill, clearly, they are very necessary agencies. They are going to run into a tough problem on the 4-percent civilian pay.

I say to the Senator that I misspoke. Some of the main agencies did not even have the 2 percent provided for in its basic budget bill. The rest of them had full or partially provided for 2 percent. It was our judgment, after we had done the work, that we wanted to give everyone 4 percent. So, clearly, these agencies of tremendous importance, which the Senator supports, and we know they must have their work force—the Customs Service, those people involved in the war on drugs, the personnel at the IRS who are doing revenue collection, which we expect to result in more money, not less. These agencies will have to RIF people for the 4 percent or they will stop doing activities that the Senator is not addressing in his amendment. He is not asking them to stop those activities, but they may have to.

I am wondering if we could agree to adopt the Senator's amendment freestanding, the Pryor amendment with reference to consultants. Let the Senate adopt it; do our reconsideration and table; so that we are finished with it.

Then, before we finish the bill, with the concurrence of the Senator from Alaska, let the floor managers provide a freestanding amendment that refers to savings that might accrue in this bill, and we can do it in a way that satisfies both Senators. It will be applied to the pay absorption which has been contemplated, for which many agencies will not have money. It will not be part of your amendment. Your amendment would give us the savings in which we are looking for ways to make the 2 percent we do not have any way. They will have to RIF employees, not fill positions through attrition, or stop doing important activities. We will say that to that extent, we are applying savings to those agencies that need that money for the pay.

I think that is a fair approach. I recommend it to the Senator from Alaska. So the consultant amendment would be freestanding. Yet, this bill, before we are finished, would apply the savings to the pay absorption required by the agencies.

Mr. STEVENS. Mr. President, I have no pride of authorship, and I am not seeking credit on this amendment. I am expressing a great worry.

I remember working here with the former Senator from Georgia, who pursued the consulting contract reduction for the Defense Department, and he actually did reduce the amount expended by the Department of Defense for consulting services. But he did it in a way that did not reduce the amount of money. It was available to the agencies within the Defense Department to do their job.

I do not know whether this amendment of the Senator from Arkansas applies to the Postal Service. The Postal Service gets very little money out of this.

If you read it, it says "No department, agency, or instrumentality of the United States Government receiving appropriated funds under this act," and that is the Postal Service, "shall obligate or expend funds for consulting services."

It does not say appropriated funds; it says funds.

Congress still has some control of the Postal Service. If we try to tell the Postal Service not to hire consultants, I can tell you that the cost of postage stamps is going to go up real quick. We just do not have the people in-house to do some of the studies that they are doing down there to try and implement new developing technology to help keep costs down.

I assume it does not apply except to the appropriated funds. But in any event I am still worried about the agencies I know so well, having been involved in this one for a long time, too. They cannot stand even a 5-percent reduction in the consulting services involved without turning around and at least for this fiscal year accomplishing the same objectives, and if they do that that is a further cost they have to absorb and we have already mandated the assumption of the 4-percent pay raise.

So I will be happy to accept the suggestions of the managers of the bill if they wish to pursue it later.

I do not want to provoke the circumstances here. But I do believe that this reduction should not be beyond the use of the Appropriations Committee this year to meet the obligations of the Government. I think, in effect, it would violate the budget summit if we were to do this because it would deny these agencies the moneys that we indicated would be given to them under the 302(b) allocation to the extent that they would be returned to the Treasury and not be available for expenditure to meet the obligations of the Government this year.

Mr. PRYOR. Mr. President, in a very brief response to the distinguished Senators from New Mexico and Alaska—both Senators are my friends—I like the first part very much of what the distinguished Senator from New Mexico was proposing. I thought that was a grand idea. I do not like the last part.

I believe I can begin to count a few votes around here, but I tell you what I think is going to happen. If I might just tell a little personal story, the first few months that I was in the Senate, the first time I offered an amendment to anything was an amendment to defense authorization or appropriation bill. That amendment simply stated that the Defense Department is going to take $100 million out of their consulting budget. One of the managers of the bill came to me, and it was late in the evening, getting kind of like this, and he said, "What is your amendment?" I said, "I am going to take $100 million out of consultants for the Department of Defense." He said, "Oh, that is no problem. We will accept that."

I wish it had been $500 million, because it is a matter of definition. It is also a matter of interpretation, but more than anything else it is a matter of will. It is a matter of will whether the agencies or Congress are going to finally do something.

I would much prefer to see the Treasury-Postal bill go through with my amendment clean and take the savings, put that money in the bank, add it up, and then have a supplemental appropriation to pay for obligations which Congress later deems appropriate.

Frankly, I do not believe I have the votes to prevail on that. So all I am going to say right now is if we could get an up-or-down agreement on my amendment and then have a voice vote on the amendment offered by the Senator from Alaska, I am going to stand here and I am going to vote "no" and I am going to vote very loudly, but I want to be recorded as being in the negative because I do not think we are saving any money.

Frankly, I do not think we are going to save any money, and I am going to register a negative vote.

Mr. STEVENS. Mr. President, I understand the position of the Senator from Arkansas completely.

Before I send this amendment to the desk may I inquire of my good friend, does he intend to modify his amendment?

Mr. PRYOR. I do. I have been attempting to do that for the last several minutes.

Mr. President, let me ask unanimous consent to modify my amendment and place this amendment not page 96 but on page 71 add it after line 25. I believe that would be the modification. I think it would also tend to clear up the original concern of the Senator from Alaska about possible Defense Department changes.

Mr. STEVENS. Mr. President, the Senator from Alaska was inquiring as to whether the Senator from Arkansas intends to modify his amendment to provide that the definition of consulting services will be that contained in the Office of Management and Budget directive, a recently issued circular, so we would have no question developing in this statute as to what is the interpretation of consulting services government-wide. That has already been defined in that circular. I will state that I agree with the Senator from Arkansas, it is not very well, but it is the best we have been able to determine so far what is the definition of consulting services.

Mr. PRYOR. Mr. President, I have no objection to the Senator's amendment that is, making a specific reference to the new OMB circular issued January 1988, the A-120 circular.

I think we can use that at least for this bill. When other appropriations bills come through, we may treat them a little differently. For this bill, I would have no objection.

Mr. STEVENS. Mr. President, I think the Senator's amendment should be modified after line 22, in effect, subsection (b), and provide that the term "consulting services" should be as defined in Budget Circular A-120.

Mr. PRYOR. I have no objection whatsoever.

Mr. STEVENS. We will send that modification to the desk.

Does the Senator make another modification?

Mr. PRYOR. The only other modification I made was changing where we are putting the amendment on page 71 rather than on 96. It would come after line 25. That I think would answer the

Senator's concern he originally expressed about the possible impact on defense.

I am not ready to get on the Defense Department yet. That is going to take a long time, and we are going to have a major amendment on DOD. This is a minor amendment today.

Mr. STEVENS. The Senator, as usual, understates his position. He is correct. This is the beginning of a series of amendments.

Mr. President, I will send my amendment to the desk.

Mr. PRYOR. I would like to ask unanimous consent to be a cosponsor of the distinguished Senator's amendment.

The PRESIDING OFFICER (Mr. GRAHAM). Before we receive the amendment as offered by the Senator from Alaska, the Senator from Arkansas has the right to modify the amendment which he has previously sent forward. If he intends to do so and if he shall do so, the clerk will report the modifications which the Senator from Arkansas cares to make.

Mr. STEVENS. I do not think the Senator from Arkansas intends to cosponsor this amendment. This is the 4-percent amendment.

Mr. PRYOR. No. I did not know that was the amendment. The Senator has not sent the A-120 amendment to the desk?

Mr. STEVENS. No. That is being drafted.

Mr. PRYOR. I ask unanimous consent that I may be removed as a cosponsor of the 4-percent amendment offered by the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk has not received the modification which the Senator from Arkansas has indicated that he might consider making to his previously submitted amendment.

Mr. PRYOR. That would be simply the modification to have the different section of the bill amended. Is that what the Chair has reference to?

The PRESIDING OFFICER. The modification which the Senator from Arkansas——

AMENDMENT NO. 2422, AS MODIFIED

Mr. STEVENS. Mr. President, I apologize to the Chair and the Senate. I have at the desk the first amendment, which is cosponsored by the Senator; from Arkansas, and I ask that it be stated.

The PRESIDING OFFICER (Mr. GRAHAM). The clerk has received the modification as submitted by the Senator from Arkansas.

The amendment (No. 2422) as modified, reads as follows:

On page 71, after line 25, insert the following:

CONSULTING SERVICES

SEC. . (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989 shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall during fiscal year 1989, obligate and expend funds for consulting services involving management and support services for research and development activities; engineering development and operational systems development; technical representatives; training; quality control, testing and inspection services; specialized medical services; and public relations; in excess of an amount equal to 95 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) Notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency or insturmentality for fiscal year 1989 is reduced by an amount equal to—

(1) 15 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a)(1): and

(2) 5 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes decribed under subsection (a)(2).

AMENDMENT NO. 2424 TO AMENDMENT NO. 2422

The PRESIDING OFFICER. The clerk will report the second-degree amendment as offered by the Senator from Alaska.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for himself and Mr. PRYOR, proposes an amendment numbered 2424 to the Pryor amendment numbered 2422.

On page 2 after line 17 add: "the term consulting services shall be defined consistent with the provision of OMB Circular A-120."

Mr. STEVENS. Mr. President, I ask for adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2424) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2425 TO AMENDMENT NO. 2422

(Purpose: To apply the savings resulting from limitations on expenditures for consulting services to the increase in rates of pay for Federal employees)

Mr. STEVENS. Mr. President, I have another amendment at the desk.

The PRESIDING OFFICER. The Senator from Alaska has a second second-degree amendment.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2425 to the Pryor amendment numbered 2422.

On page 2 strike out section (c) and insert in lieu thereof: "management systems.".

(C) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the 4 percent increase in rates of pay in such department, agency, or instrumentality made under this Act.

AMENDMENT NO. 2425, AS MODIFIED

Mr. STEVENS. Mr. President, I modified that amendment as read, because it leaves a provision that was in the original amendment as presented to us by the legislative counsel. It is not applicable here. The words "management systems" have now been deleted.

The PRESIDING OFFICER. The Senator from Alaska has exercised his prerogative to modify the second-degree amendment.

The amendment (No. 2425), as modified, reads as follows:

On page 2 strike out section (c) and insert in lieu thereof:

(c) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the 4 percent increase in rates of pay in such department, agency, or instrumentality made under this Act.

The PRESIDING OFFICER. Is there debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2425) as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I wish to thank the Senator from Arkansas. I think he has been extremely helpful here and indeed has brought about not only an awareness but a real savings. I also want the record to indicate that that 2 percent pay increase that we have been talking about here for this bill alone is about $89 million. So, even though the Senate has adopted the application of the consultant savings, there is still going to be a greater deal of hardship to come. But, without the Stevens amendment, we would have even a worse problem.

I thank the Senator. I realize what this objective was here. I hope he feels like he got it, because I think he got it. I am not going to be here making this argument on every other appropriation bill, I can assure the Senator from Arkansas.

Mr. PRYOR. Mr. President, I wish to thank my colleagues, Senator DECONCINI from Arizona, Senator STEVENS from Alaska, and Senator DOMENICI from New Mexico.

I think maybe there is some good news here, some bad. I wish the amendment would have been clearer; that the money would have been reverted to the general fund rather than going to pay some other function of Government.

My will did not prevail in that, but it did prevail at least—I think all of our wills did—in trying to begin establishing once again another look at consulting services.

I will be, as I have said before, trying to amend all of the appropriations bills with similar amendments.

I wish to thank my colleagues and friends for helping work this out. I hope it will serve the taxpayers well.

AMENDMENT NO. 2422, AS AMENDED

Mr. DECONCINI. Mr. President, the pending amendment now is the Pryor amendment?

The PRESIDING OFFICER. The pending amendment is the amendment of the Senator from Arkansas, which has now been twice amended.

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2422), as modified, as amended, was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PRYOR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the remaining amendments to this bill be limited to the following:

An amendment by Mr. PRESSLER, amendment No. 2415, to require recorded votes for pay raises for Members of Congress; an amendment by Mr. MELCHER to exempt certain nonprofit senior citizen groups from IRS user fees; an amendment by Mr. MCCLURE on most-favored-nation status for certain countries; and a Nunn-Glenn amendment relating to military pay; and that no amendments to those amendments be in order.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Mr. President, I only ask that the majority leader add an amendment by this Senator to correct the heading of an amendment by the Senator from Illinois adopted earlier today.

Mr. BYRD. Very well, I include that, Mr. President.

Mr. DECONCINI. Mr. President, does the leader know what the Nunn-Glenn amendment is?

Mr. BYRD. Mr. President, before the Chair puts the request, if the request is granted it does not hinder further action on the bill this evening by way of acceptance of amendments or voice vote, but there would be no more rollcall votes today.

Mr. STEVENS. Mr. President, would the distinguished leader yield?

Mr. BYRD. Yes, I do.

Mr. STEVENS. May I inquire, Mr. President, if the adoption of the majority leader's request would bar amendments in the second degree to the amendment so stated in his request?

Mr. BYRD. It would.

Mr. STEVENS. I would like to request that the last amendment be subject to amendment in the second degree.

Mr. BYRD. If the amendment is germane?

Mr. STEVENS. Germane, yes.

Mr. BYRD. And relevant?

Mr. STEVENS. I have not seen the terms of it, but if what I think is going to happen is, we should reserve the right to amend to the Nunn-Glenn amendment.

Mr. BYRD. And one technical amendment.

Mr. STEVENS. I have no objection to the concept of germaneness. It would be germane to the amendment.

Mr. BYRD. Technical amendment by the chairman and the ranking member.

Mr. President, in relation to the amendment dealing with military pay, by Senators NUNN and GLENN, the requirement as to any second-degree amendment would be that it be on the same subject matter.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request as stated by the majority leader?

Mr. MELCHER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Might I inquire of the majority leader if the agreement does waive points of order?

Mr. BYRD. No. I know of no point of order that is being waived.

Mr. MELCHER. Might I inquire of the Chair? Then legislation on the Treasury appropriations bill would be subject to a point of order?

The PRESIDING OFFICER. No point of order is waived as a result of this unanimous-consent request, should it be agreed to.

Mr. BYRD. The only one thing I am trying to do is to limit any further amendments and limit all amendments to those I have enumerated. That does not mean they cannot be tabled and cannot be ruled out of order by virtue of being legislation on the appropriations bill.

Mr. MELCHER. Mr. President, I hate to have to tell the distinguished majority leader but I feel my amendment is well known to the managers of the bill. It is clearly legislation on appropriations. If I make an agreement on a time limit, I have locked myself into being subject to a point of order.

Mr. BYRD. Then I could change the request.

Mr. MELCHER. Might I inquire of the majority leader, this is only to limit the number of amendments?

Mr. BYRD. That is correct. If the Senator wants his amendment to be included, regardless of its being legislation on an appropriations bill, I would not want points of order to be waived, because I do not want to see these appropriations bills opened up to all kinds of legislation, authorizing measures and so on. I would like to have it understood that no points of order will be waived.

Mr. MELCHER. I accept the majority leader's position on this. I fully understand the request is not for a time limitation on the amendment.

Mr. BYRD. No, it is not.

Mr. MELCHER. Does it prevent secondary amendments? Is it agreed to prevent secondary amendments?

Mr. BYRD. It would, as I put the request.

Mr. MELCHER. All right. I thank the leader.

Mr. BYRD. With the exception of the Nunn-Glenn amendment. Second-degree amendments would be in order to that, provided they dealt with the same subject matter only.

Mr. MELCHER. I thank the majority leader. I have no objection.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. Are there other objections? Are there objections?

If not, it is so ordered.

The majority leader.

Mr. BYRD. Mr. President, the Senators may proceed with amendments, and I thank all Senators.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. MELCHER. Mr. President, an unanticipated inequity has developed out of the "Tax-Related User Fee" Program instituted by the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203.

Pursuant to section 10511 of that 1987 law the Internal Revenue Service, by Revenue Procedure 88-8, established a schedule of fees for requests submitted to the Service for rulings, opinion letters, determination letters and similar requests. One category in that fee schedule is for "Exempt Organization Determination Letters." That is the kind of letter from IRS which a non-profit organization must have to be exempt from the Federal income tax.

The fee for that kind of IRS letter is $150 for a nonprofit organization with annual gross receipts of not more than $5,000; $300 for one with annual gross receipts over $5,000. That fee schedule applies to all nonprofit organizations whether local, regional, statewide, or national.

Of course, we all know that there are a large number of large national nonprofit organizations for which a $300 fee is less than the cost of one of several table lamps in the reception area of the office of the organization's president. Many of them are headquartered in the Washington, DC, metropolitan area. For such national organizations, as well as many statewide nonprofit organizations, gross revenues in the hundreds of thousands of dollars, even millions of dollars, yes, even tens of millions, are not uncommon. And many of them serve well-founded and deserving causes. Such organizations would not, and should not, blink at a $300 fee.

But that $150-$300 fee schedule creates an unfair burden on purely local, not national, nonprofit senior citizen centers organized primarily to provide for older Americans on a local basis one or more of the types of supportive services the Older Americans Act is designed to support and implement, such as nutrition services, education and training services, health services, transportation services, recreational services, social services, and senior citizen center services. It is in and through those senior citizen centers that Older Americans Act supportive services are made available to local senior citizens.

The Older Americans Act does not provide financial support for those local senior citizen centers. Each center must generate its own operational revenue. This it does through member dues, bingo games, raffles and fundraising functions of that type. Membership of small town centers range from less than 100 to between 100 and 150. All revenue goes into the operation of the center. The revenue alone would not be enough to keep most of them operational. Most of them have to rely on donated services and time to supplement available revenue.

The IRS fee schedule is not realistic. There should be a gross revenue category for which there is no fee or just a very nominal fee. Even a small town senior citizens center with a small membership would have strictly operational costs in excess of 5,000 annually. For such an organization a $300 fee could be an absolute roadblock, I am satisfied that a reasonable gross revenue breaking point for strictly local, not national, nonprofit senior citizen centers is $50,000.

Therefore, to correct the present inequity, the amendment I will offer tomorrow would exempt from the User Fee Program the local, not national, nonprofit senior citizen organizations with annual gross revenue less than $50,000. Those with greater gross revenue can probably arrange to raise the money to cover a reasonable fee.

I hope my colleagues will join me in correcting this inequity in the present IRS User Fee Program schedule.

This amendment is revenue neutral. If this amendment results in a reduction in the amount of revenue raised under the IRS user fee schedule for exempt organization letters in Revenue Procedure 88-8, the amendment requires the IRS to adjust that fee schedule for such letters so as to increase the total revenue therefrom by the amount that this exemption reduces the revenue therefrom.

AMENDMENT NO. 2426

(Purpose: To provide that Members of Congress shall vote on any increase in the rates of pay of Members of Congress)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 2426.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 90, insert the after line 25, the following new subsection:

(d)(1) Notwithstanding any provision of section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.) in the application of such provisions to the rates of pay of Members of Congress, no Member of Congress may receive an increase in rate of pay pursuant to any recommendation under section 225(h) of such Act, unless such recommendation is approved by joint resolution on only the issue of such increase by recorded vote.

(2) Notwithstanding the provisions of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) or any other provision of law, no increase in the rates of pay under section 5305 of title 5, United States Code, in any fiscal year shall have the effect of increasing the rate of pay of any Member of Congress, unless such increase in the rates of pay for Members of Congress is approved by joint resolution on only the issue of such increase by recorded vote.

Mr. PRESSLER. Mr. President, I shall be very brief. The purpose of this amendment is to provide that Members of Congress shall vote on any increase in the rates of pay of Members of Congress. Indeed, the first portion of it is already in the legislative appropriations bill. The second portion would provide that if a pay raise for Members of Congress were somehow included in this bill, or included in the conference report, there would be a separate rollcall vote on the congressional pay raise provision.

Mr. President, this amendment does not make any judgment on whether there should be a pay raise for Members of Congress. However, it would guarantee that there would be a recorded vote if an increase for Members of Congress were to find its way into the bill.

I have spoken with both managers and they have indicated that they agree with this amendment.

Mr. STEVENS. Mr. President, I have great respect for my friend but the amendment does more than he says. The amendment demands the existing Federal Salary Act to require that there be a joint resolution approving action taken by the President pursuant to the Pay Act.

Pursuant to the Supreme Court decision in the Chadha case, we cannot reserve the right to veto Executive action taken pursuant to law. We changed that law so that the impact of it would be consistent with the Chadha case. If the amendment of the Senator is adopted, it will render the Pay Act unconstitutional because it is subject to the Chadha case.

The Senator indicated that his amendment would say if there is an attempt to make a pay raise in this act applicable to the Members of Congress, that it would be subject to a record vote. This Senator has no objection to that.

But this amendment does not do that. This amendment amends the Federal Salary Act and it specifically says, "Notwithstanding any provision of section 225 of the Federal Salary Act, as amended, that cannot come into effect unless it is approved by joint resolution by recorded vote."

This Senate has never failed to approve a pay raise by recorded vote so, as I am sure the Member knows, this is talking about the section of the House of Representatives and I would be compelled to ask my good friend, the Parliamentarian, if this is not subject to a point of order in that it is legislation on an appropriations bill.

Mr. PRESSLER. If I could respond first to my friend, Mr. President?

The PRESIDING OFFICER. The Senator from Alaska has asked for a ruling by the Chair.

Mr. STEVENS. I have the original. I send it to the desk.

The PRESIDING OFFICER. Is the Senator raising a point of order or making an inquiry?

Mr. STEVENS. The Senator made a parliamentary inquiry.

The PRESIDING OFFICER. The amendment, as submitted, does constitute legislation on an appropriations bill.

Mr. STEVENS. And would be subject to a point of order?

The PRESIDING OFFICER. And would be so subject.

Mr. STEVENS. I urge my friend from South Dakota not to provoke a point of order. If he wants to submit an amendment to do what he stated, I do not think anyone would object. That is, it would be really a statement of the Senate that no provision of this act—it does not presently provide a pay raise for the Members of Congress. I am sure the Senator knows that.

Its intent is to require a recorded vote on the issue if the conference committee were to attempt to change that and make the pay raise that is contained in this for Government employees to apply to Members of the Senate; is that what it says?

Mr. PRESSLER. Let me respond to my friend from Alaska. I have a great regard for him because he has worked in this area for so long. Indeed, ever since my days in the House of Representatives, I have objected to the pay raise procedure because it does not provide for a recorded vote. So I have a long history of taking a strong stand in this area. In fact, I have voted against every proposed congressional pay raise since coming to Congress in 1975.

My objective is to require a separate rollcall vote if a 4-percent increase for Members of Congress is added to the bill in conference.

Every Senator can amend his own amendment. Would my friend from Alaska accept my amendment if those requirements were included?

Mr. STEVENS. Mr. President, on the basis of the statement the Senator from South Dakota has made, I do not intend to ask him to modify it. I think we can take this as a statement of intent from the Senate. If the conference brings back a pay raise for the Congress, we can bring back that issue.

I am not going to raise a point of order. I accept my friend's statement.

Mr. PRESSLER. I thank my friend from Alaska for his courtesy. My objective is to assure that there will be a rollcall vote if congressional pay increase does pop up somewhere before this bill is signed.

Mr. DOMENICI. Mr. President, before my friend from Alaska leaves, I want to thank him for his efforts here this afternoon on both issues.

On the latter issue, we understand precisely what the proponent of the amendment intends, and we thank him for the clarification.

I understand what Senator PRESSLER, as ranking member, has in mind, and I believe, consistent with his colloquy with the Senator from Alaska, we can accommodate that with certainty in the conference.

Mr. DECONCINI. Mr. President, I want to join my friend from New Mexico in thanking the Senator from Alaska. He is very persistent and very precise. I thank him for bringing that to our attention.

I want to assure the Senator from South Dakota, as the Senator from New Mexico said, we are going to be certain that we comply with it if anything should come up.

I am prepared to accept his amendment, and I can give him every assurance it is going to be a cold, cold day in June, I think, if there is any pay raise in this bill coming out of the conference. I can assure him if there is, we will abide by the Senator's amendment.

I can almost certainly say that it is not going to happen, and I am prepared to accept the amendment. I thank the Senator for bringing it to the attention of this body.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2426) was agreed to.

Mr. MELCHER. Mr. President, I am going to describe the amendment I will offer tomorrow. I shall not offer it tonight because when it is offered, the chairman of the Finance Committee, Senator BENTSEN, wants to debate the amendment. It is not possible to do that this evening.

The amendment that I offer deals with senior citizen centers which are nonprofit organizations having to file with the Treasury Department to obtain an exemption from paying taxes on their meager income.

Senior citizen centers throughout the country, many of them very small, take in some money if for no other reason than those senior citizen centers serve a meal once a week, twice a week, 5 days a week, and have a box that says: "Please contribute a dollar" or a dollar and a half. Some do not even have a sign on the box, but the box is there. So senior citizens who can afford it naturally put in whatever the suggested amount is.

It generally ranges somewhere between $1 and $2. That is the suggested amount. And those senior citizens who cannot afford it do not put in anything. But this creates some gross receipts. If they take in zero dollars, which could be the case but is not the usual case, they would have to apply for this exemption, which costs them $150. If they take in up to $5,000 gross throughout the year, if that is their average during the past 4 years of what they have taken in, they have to apply for the exemption and it costs them $150. If they take in more than $5,000—and remember that that is only an average of about $98 a week—then they must pay $300 for the exemption. Senior citizen organizations on behalf of their senior citizen centers have protested this, and I thought Treasury wisely took care of it and changed the levels of exemption, changed the levels of fees they charge for these exemptions.

Well, that is not the case and they are still required to either pay the $150 or the $300. In their budgets that is just another outlay. It is an unusual outlay just to get an exemption.

What our amendment does is simply boost it up to $50,000 and says that organizations providing senior citizen services fostered by the Older Americans Act, which is every senior citizen center, do not have to worry about anything up to $50,000. Whether that is the magic number, the right level or not, I do not know. I am just suggesting that it is reasonable. It exempts them from the $150 charge or $300 charge and then the Treasury Department can readjust whatever they are charging for those exemption letters to get the same amount of revenue on those above $50,000.

That seems reasonable to me. Some organization that is nonprofit but actually deals in sums over $50,000 per year perhaps can afford some fee, whether it is $150 or $200. Those nonprofit organizations that have gross revenues, say, of $500,000 or $150,000 or some such figure can pay a greater amount and Treasury will get the same amount of money that Treasury is grasping to get into their coffers, but leave alone the struggling nonprofit senior citizen centers out across the countryside trying to make life a little more enjoyable and a little more fruitful for older persons.

That is all the amendment does. I had first thought that out of ordinary decency and compassion and reasonableness and common sense the amendment would be accepted. I am told that the Finance Committee feels that it is their turf, that it ought not to be attached to an appropriations bill, that it ought to come up at some later time on another bill.

Well, having thought that the Treasury Department was wise enough, having received all the comments they have had and some pretty stiff letters from Members of the Congress on what this was doing to senior citizen centers across the country, and that they had corrected it, I feel it is absolutely mandatory that we take a step now to make sure there is a correction. I repeat, it is revenue neutral. It is sensible because it allows these small senior citizen centers to hold on to whatever money they have and to use their money to make life more enjoyable for the elderly people who participate at these senior citizen centers.

Mr. President, I wanted to explain why I found it necessary to offer the amendment and why it apparently is necessary to debate the amendment. Tomorrow we will have that opportunity and I hope all my colleagues will give some attention to this matter and not feel that it should be lightly brushed aside. I think senior citizen organizations throughout the country and specifically the senior citizen centers themselves with their participants are expecting us to make this correction.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, as the Senate considers H.R. 4775, the appropriations bill for the Treasury Department, the Postal Service, and the Executive Office of the President and certain other independent agencies, I wanted to take the opportunity to make Members aware of a proposal which, though it will not be included in this legislation, remains extremely important to employees of the Federal Government, all those agencies whose budgets are included in this appropriations measure.

It is important because we are considering not only how we shall fund those agencies, but in the proposal that I wish to tell the Senate about, there lies the very realistic hope that we will be able to offer to those employees of those Federal agencies—in fact virtually all Federal employees who have enrolled in the Federal employees' group life insurance program—the hope for the kind of long-term care which is increasingly an expectation of elderly Americans.

This proposal comes after over a year and a half of effort by the Office of Personnel Management. OPM came up with a proposal to offer nursing home and home health care—that is, home visits by health care professionals—to all Federal employees who desire it, who have been enrolled for a stated period within that group life insurance plan.

Simply stated, when a young breadwinner—in this instance a Federal employee—selects from among employer-offered benefit options he or she most likely will buy life insurance in order to provide security to a young family from which that breadwinner may be taken. But, of course, once those children have grown up, attained their own independence, and left the nest, about that time that breadwinner is then confronted with the problems of how he or she will provide for their own health care in their advancing age. It comes at a time when they are still able to do something about it, have working years ahead of them but no longer need be concerned as they were in the past with providing for those dependent children.

At that point what we wish to offer, and what OPM has provided, is a plan whereby a Federal employee can achieve that kind of health care, and achieve independence that we all seek in old age without becoming a burden to those very children.

OPM's plan allows all Federal employees regardless of their health status, who have reached the age of 50, have been members, and actually participated in this group life insurance plan for 10 years, to convert a portion of the face value of their life insurance policy to prepaid health care, and at no additional expense to the Federal Government they can thereby achieve the kind of health care coverage which for all too many older Americans is both a requirement as an increasing expectation, and for almost all it is beyond reach because insurance is prohibitively expensive and the actual care itself can be ruinous. A prolonged stay in a nursing home care would take someone who is other than with extreme wealth and virtually eat up all their savings bringing them in time into medical eligibility.

Of course, under what we are proposing, because long-term care insurance for long-term health care of this kind costs more than simple group life insurance, the employee would have to make some small additional premium payment which we calculate for someone aged 50, having been a member for some 10 years in the Federal employees' group life insurance plan, would come to about $11 per pay period. The Federal Government would not be required to make any additional contribution but would instead simply redirect its contribution as an employer into this prepaid health care for long-term care.

These two sources—which is to say the employees' life insurance, and the employers' contribution continuing—would provide the means whereby this could be affordable, that and the obvious risk sharing occurring over a group that includes upward of 3 million members. These two sources plus the reserves in the employees' life insurance would pay for the new benefit and keep premium costs down. OPM would also make coverage available to spouses, but in that instance the employee would have to pay the full cost of the premium without an employer contribution.

President Reagan included this proposal as part of his budget request for fiscal year 1989. I and Senator DOLE, Senator DURENBERGER, and now Senator MITCHELL have become the sponsors of this legislation introduced at S. 1738 based upon the OPM proposal.

Mr. President, not only will OPM's proposal ensure that Federal employees have access to long-term health care but it will play a very important role in helping Congress make affordable quality long-term care coverage available to the many Americans who need it. Let me explain.

Currently, Medicare pays only 2 percent of nursing home expenses. Private insurance covers only 1 percent. That means that Medicaid and uninsured individuals now must struggle to cover the majority of the financial burden that long-term care makes necessary, and to repeat, for many that is not available. For many, it is unaffordable. And if they begin, they quickly find themselves impoverished by costs that their resources simply cannot bear.

As OPM points out, the pool of 3.1 million active workers offers a very tempting market and considerable incentive for insurance carriers to develop a competitive, long-term care insurance program.

To date, only 423,000 long-term care insurance policies have been sold throughout the entirety of America. That is not very many, considering those in need. Obviously, there is a market. Ninety percent of the Federal employees do participate in OPM's life insurance program.

Mr. President, if and when this legislation becomes law, immediately 655,000 would become eligible for the kind of long-term care coverage which they do not now have. Today, there are only 423,000 such policies. All by itself, this OPM proposal could double the number of people in this country who currently hold-term care coverage.

The bill will do a good deal more. By taking the lead to create a market in this area, the Federal Government can create what I think can properly be termed a long-term care domino effect.

With more insurance carriers entering the market and with existing group life insurance programs seeking to change and to expand their coverage, I think we can induce a competition that will result in not only much wider coverage but also increasing coverage, as those premium costs fall; and with competition, they can be expected to decrease. The decrease in prices, presumably, will make it possible for private companies and for State and local governments and for individuals to purchase their own private coverage.

If it will work, as indeed it appears clear that it will, from actuarial studies, for Federal employees, then why not for employees of Pacific Telephone, employees of the University of California, or employees of the city of Los Angeles or General Motors? The answer is that there is not any very good reason. To the contrary, it would be my expectation that very soon we would see a number of public and private employers, particularly those organized along these lines already, like State and local governments, participate with considerable enthusiasm.

By allowing OPM to move ahead with its proposal, Congress can help to make long-term care insurance available to the middle class and take it out of the realm of a benefit that has been available only to the wealthy.

We do not pretend that this is an answer which will reach everyone in need. Obviously, not everyone is employed by the Federal Government; it only seems that way. There are people who will not be able to take advantage of this kind of proposal, but so many will that it will enormously diminish the larger universe that otherwise is contemplated by such efforts as that introduced in the House by Representative PEPPER.

The recent defeat of Representative PEPPER's long-term care bill, I think, confirms that Congress still has great reservations, notwithstanding a clear need, about committing substantial new Federal funds to finance a new program that could impose excruciating new costs upon Federal taxpayers or upon those who are paying Medicare premiums.

There is not a great eagerness at the present time to require a further effort to expand Medicare coverage at the expense of those paying for Medicare. We have done that already this year with respect to catastrophic illness. The great virtue of what is being proposed here is that it does not require a similar effort.

Most Members would agree, I think, that Congress can find viable solutions to this problem without proposing unrealistic, new expenditures upon the Federal Government or upon those who pay for Medicare coverage.

While Congress labors over how to help those individuals suffering right now because they did not have the opportunity to plan ahead for their long-term care needs, we, with OPM as the catalyst, can do a great deal to make sure that today's workers and perhaps even today's independent retirees do not find themselves in the same awful situation as they grow older.

S. 1738 has received high praise from Democrats and Republicans alike and from many groups who would be most affected by its implementation.

I am particularly pleased that Senator MITCHELL, having done the yeoman service he has, as a member of the Finance Committee and as chairman of its Health Care Subcommittee, has seen fit to join Senator DOLE, Senator DURENBERGER, and me. His own efforts, I think, are well known, and he has been realistic and candid in attempting to assess ways in which long-term care needs can be achieved.

We would agree that this is by no means the total solution, but clearly he is of a mind, as am I, that it is a significant part of what will be the ultimate total solution.

OPM has every sound, simple, and straightforward idea which will unquestionably help a lot of people. It is rare when Congress can give something to many people without having to take something away from others.

In this instance, S. 1738 will provide a very important benefit to Federal employees. It will facilitate development of the private sector by inducing a market, encouraging competition among private carriers. In short, it offers a very significant hope for meeting a significant part of our responsibility to provide long-term health care coverage in a way that is affordable to those who will be the beneficiaries and in a way that will permit Congress to collect valuable data as we consider more comprehensive long-term care proposals in the future for those who would not be covered by this proposal.

In the weeks ahead, I will ask that Members join in a bipartisan effort to further the goal of insuring Americans access to high quality, long-term and affordable health care.

Mr. President, I thank my colleague from New Mexico for yielding time. I note the courteous attention that has been given me by the Chair [Mr. GRAHAM]—I am sure not only as a result of his own interest but also the fact that he represents a State with a very considerable retiree population. I may offer him that first opportunity.

Mr. DOMENICI. Mr. President, I rise to cosponsor S. 2545, which will redesignate Salinas National Monument in New Mexico as Salinas Pueblo Missions National Monument.

Salinas National Monument encompasses 1,077 acres in three units: Gran Quivira, Abo, and Quarai. These units are named after the ruins of the major prehistoric pueblo contained in each unit. In addition, four large churches built by Franciscan friars are preserved at Salinas. Salinas was abandoned by the Pueblo Indians and the Spaniards in 1670.

Characterized by red sandstone, the ruins of Abo are dominated visually by the ruins of the San Gregorio de Abo Church, considered to be one of the finest and most architecturally significant churches in the Spanish frontier region of New Mexico.

As at Abo, Quarai is characterized by red sandstone, but of a deeper hue. The Church of Nestra Senora de la Purisma Conception de Cuarac with its convento and the surrounding pueblo mounds are sheltered in a valley nourished by a spring.

Gran Quivira is isolated high on a mesa. Exposed to the elements, with views of the distant mountains and plains, the warm gray limestone structures of Gran Quivira take on a grand, austere aspect. Gran Quivira was the site of a Indian Pueblo that included over 300 rooms and 6 kivas. The Spanish settlers constructed a large church and convento known as San Buenaventura and the smaller Church of San Isidro at Gran Quivira.

When originally designated in 1909, Salinas was proclaimed as the Gran Quivira National Monument. When the monument was enlarged in 1980, the name was changed to Salinas National Monument in recognition of the salt lakes that have been of great importance in the settlement and trade of the region.

Redesignating the monument as Salinas Pueblo Missions National Monument will emphasize the historical significance of the unit and will present visitors and potential visitors with a more accurate description of the site.

However, renaming Salinas is just one step in making Salinas more meaningful and accessible to the public.

Since it was created in 1980, Salinas has not received the base funding sufficient to meet its needs for staff, site stabilization, and maintenance, as spelled out in its general management plan.

In fact, this year Salinas does not even have adequate funds to keep the monument open at all times. This past winter, the National Park Service had to close down two of the three units.

For the past 2 years, I have requested the Congress to provide adequate funding for Salinas. I am hopeful that this year the Congress will provide the funds necessary to allow Salinas to remain open on a full-time basis and to conduct much-needed work to protect the ruins at Salinas.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

AGREEMENT BETWEEN THE UNITED STATES AND THE SOVIET UNION ON MUTUAL FISHERIES RELATIONS—MESSAGE FROM THE PRESIDENT—PM 144

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to Public Law 94-265, was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 [MFCMA] (Public Law 94-265; 16 U.S.C. 1801 et seq.), I transmit herewith an Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Mutual Fisheries Relations, signed at Moscow on May 31, 1988 (the "Agreement"). This Agreement conforms with U.S. law and will replace both the Agreement Between the Government of the United States and the Government of the Union of Soviet Socialist Republics Concerning Fisheries Off the Coasts of the United States of November 26, 1976, as amended, and the Agreement Between the Government of the United States and the Government of the Union of Soviet Socialist Republics Concerning Fisheries Off the Coasts of the Union of Soviet Socialist Republics of February 21, 1988.

The Agreement provides opportunities for fishermen from each country to conduct fisheries activities on a reciprocal basis in the other country's waters. The Agreement also establishes a framework for cooperation between the two countries on other fisheries issues of mutual concern. Several U.S. industry interests have urged prompt consideration of this Agreement because of their desire to conclude joint fisheries ventures with the Soviet fishing industry.

In light of the importance of our fisheries relationship with the U.S.S.R., I recommend that the Congress give favorable consideration to this Agreement at an early date.

RONALD REAGAN.

THE WHITE HOUSE, *June 22, 1988.*

ADMINISTRATION OF THE REFUGEE ADMISSIONS PROGRAM—MESSAGE FROM THE PRESIDENT—PM 145

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report which was referred to the Committee on the Judiciary:

To the Congress of the United States:

In accordance with Public Law 100-204, section 904(d), I am pleased to transmit a report on the roles and responsibilities of the Immigration and Naturalization Service and the Department of State in administering the United States refugee admissions program. Recommendations for improving the program's effectiveness and efficiency over the next few years are also included.

I am proud of the roles both the Immigration and Naturalization Service and the Department of State have played in the implementation of the Refugee Act of 1980. While improvements can still be made in the operations of both the Immigration and Naturalization Service and the Department of State as well as in other aspects of the admissions program, the programs, procedures, and processes established since 1980 represent a positive legacy for the next administration.

RONALD REAGAN.

THE WHITE HOUSE, *June 22, 1988.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 2:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2470. An act to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore [Mr. SANFORD].

At 4:07 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following resolutions:

H. Res. 474. A resolution returning to the Senate the bill S. 1748, stating that said bill contravenes the first clause of the seventh section of the first article of the Constitution and is an infringement of the privileges of the House; and

H. Res. 479. A resolution returning to the Senate the bill S. 727, stating that said bill contravenes the first clause of the seventh section of the first article of the Constitution and is an infringement of the privileges of the House.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 121. A concurrent resolution to commemorate the 50th anniversary of the Javits-Wagner-O'Day Act.

The message further announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 4150. An act to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service Fund, and for other purposes;

H.R. 4229. An act to amend title 10, United States Code, to codify in that title certain defense-related permanent freestanding provisions of law;

H.R. 4781. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4857. An act to amend the Job Training Partnership Act to make a technical change; and

H.J. Res. 485. Joint resolution designating June 26 through July 2, 1988, as "National Safety Belt Use Week".

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4150. An act to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service Fund, and for other purposes, pursuant to the order of August 4, 1977; jointly, to the Committees on the Budget and Governmental Affairs.

H.R. 4229. An act to amend title 10, United States Code, to codify in that title certain defense related permanent freestanding provisions of law; to the Committee on Armed Services.

H.R. 4781. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes; to the Committee on Appropriations.

H.J. Res. 485. Joint resolution designating June 26 through July 2, 1988, as "National Safety Belt Use Week"; to the Committee on the Judiciary.

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2792. An act to clarify Indian treaties, Executive orders, and acts of Congress with respect to Indian fishing rights; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2554. An original bill to reauthorize the programs contained in the McKinney Homeless Assistance Act (Rept. No. 100-393).

By Mr. BUMPERS, from the Committee on Small Business, with an amendment in the nature of a substitute:

S. 1993. A bill to amend the Small Business Act to improve the growth and development of small business concerns owned and controlled by socially and economically disadvantaged individuals, especially through participation in the Federal procurement process, and for other purposes (Rept. No. 100-394).

By Mr. INOUYE, from the Committee on Appropriations, with amendments:

H.R. 4637. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes (Rept. No. 100-395).

By Mr. BUMPERS, from the Committee on Small Business, without amendment:

H.R. 1807. A bill to amend the Small Business Act to reform the Capital Ownership Development Program and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Warren J. Baker, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1994;

Helmuth J. Naumer, of New Mexico, to be a Member of the National Museum Services Board for a term expiring December 6, 1992; and

Richard J. Schwartz, of New York, to be a Member of the National Museum Services Board for a term expiring December 6, 1992.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

Major General Edwin H. Burba, Jr., for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a) in conjunction with assignment to a position of importance and responsibility designated by the President; and

Rear Admiral (Lower Half) Alvin B. Koeneman, to the Chief of Chaplains, United States Navy.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (by request):

S. 2552. A bill entitled the "INTERPOL Authorities Act of 1988"; to the Committee on the Judiciary.

By Mr. DIXON:

S. 2553. A bill for the relief of Margarida Magalhaes Silverman; to the Committee on the Judiciary.

By Mr. PROXMIRE from the Committee on Banking, Housing, and Urban Affairs:

S. 2554. An original bill to reauthorize the programs contained in the McKinney Homeless Assistance Act; placed on the calendar.

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 2555. A bill entitled the Emergency Agricultural Relief Act of 1988; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOMENICI:

S. 2556. A bill entitled "Merger and Acquisition Worker Notification Act"; to the Committee on Labor and Human Resources.

By Mr. ADAMS (for himself and Mr. CRANSTON):

S.J. Res. 343. Joint resolution to designate the period commencing November 13, 1988, and ending on November 19, 1988, as "Filipino American National History Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (by request):

S. 2552. A bill entitled the "INTERPOL Authorities Act of 1988"; to the Committee on the Judiciary.

INTERPOL AUTHORITIES ACT

Mr. THURMOND. Mr. President, today, at the request of the administration, I am introducing the INTERPOL Authorities Act of 1988. This bill authorizes the Attorney General to carry out certain activities with regard to the operation of INTERPOL.

The International Criminal Police Organization [INTERPOL] was first organized in 1923 to foster cooperation among police agencies in the European countries. Since its inception, INTERPOL has become a worldwide organization and today 146 countries are members. The United States became a member in 1938. The INTERPOL contingent in the United States, known as the U.S. National Central Bureau [USNCB], is located in Washington and since 1981 has been an agency within the Department of Justice.

This bill provides the Attorney General with authority in three areas necessary to ensure the smooth functioning of the USNCB-INTERPOL.

First, this bill authorizes the Attorney General to host the General Assembly and other periodic INTERPOL conferences. The General Assembly is the annual business meeting which member countries attend in order to determine administrative and operational policy. In 1985, the Attorney General hosted a General Assembly in the United States. In order to hold the General Assembly, Congress in 1984, passed legislation specifically authorizing the Attorney General to host that event. The current authorization bill, S. 938, which the Senate passed on July 31, 1987, contains an authorization similar to the provision included in this bill. Further, this bill authorizes the Attorney General to host or sponsor periodic INTERPOL meetings and conferences which are on a smaller scale than the General Assembly.

Second, this bill gives the Attorney General the authority to give gifts in connection with INTERPOL activities. This provision allows the Attorney General, along with most other countries, to present a gift on behalf of the United States to the new INTERPOL headquarters in France upon its opening in December 1988. Further, this provision allows the Attorney General, as is customary, to give gifts at the General Assembly, as well as to present tokens of appreciation when necessary. Under this section the Attorney General could not make a gift valued at more than $10,000 without the prior approval of the Secretary of State. Also, the appropriate committees of Congress would have to be notified of any commitment to make a gift valued at more than $10,000.

Third and last, this bill gives the Attorney General the authority to solicit and receive gifts in order to fund INTERPOL activities. Similar authority was given to the Attorney General when the United States hosted the General Assembly in 1985. Funds received under this section would be used for INTERPOL activities not covered by appropriations, such as receptions and representation expenses. Under this bill, the Attorney General would be required to promulgate rules governing the soliciting, giving, and accepting of gifts. The Attorney General would be required to report to Congress annually with regard to all gifts given and received.

Mr. President, this is important legislation which will allow the USNCB-INTERPOL to carry out its duties.

I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "INTERPOL Authorities Act of 1988".

SEC. 2. AUTHORIZATION.

(a) AUTHORITY OF ATTORNEY GENERAL.—The Attorney General is authorized—

(1) to make payments from Department of Justice appropriations for expenses necessary for the periodic hosting of the annual meeting of the General Assembly of INTERPOL and for the periodic sponsorship of INTERPOL conferences, meetings, symposia, and other events related to topics of international crime;

(2) to make gifts of personal property or money to individuals and organizations in connection with official INTERPOL activities subject to the following conditions:

(A) gifts in excess of $10,000 may be made only with the prior concurrence of the Secretary of State; and

(B) the Committees on the Judiciary of both Houses of Congress, the Senate Foreign Relations Committee, and the House Foreign Affairs Committee shall be informed of any commitment by USNCB-INTERPOL to make any gift valued at more than $10,000; and

(3) to solicit and accept gifts or bequests of money, property, or services for the benefit and support of activities sponsored by USNCB-INTERPOL, including official reception and representation expenses, subject to the following conditions:

(A) no gift may be solicited or accepted—

(i) that attaches conditions inconsistent with applicable laws or regulations; or

(ii) that is conditioned upon or will require the expenditure of appropriated funds unless such expenditure has been authorized by law; and

(B) property accepted pursuant to this Act and the proceeds credited to appropriations of funds pursuant to this Act shall be used as nearly as practicable in accordance with the terms of the gift or bequest;

(C) gifts and bequests of money, as well as the proceeds from sales of property received as gifts or bequests shall be credited to the account that funds the activities of USNCB-INTERPOL and shall remain available in that account until the end of the following fiscal year for use by USNCB-INTERPOL; and

(D) gifts, bequests of property, and property acquired from the proceeds of gifts or bequests pursuant to this Act, and which are no longer required by USNCB-INTERPOL for its needs and the discharge of its responsibilities, shall be disposed of in accordance with the provisions of the Federal Property and Administrative Services Act of 1949.

(b) RULES AND REGULATIONS.—The Attorney General shall promulgate rules for soliciting, accepting, and giving gifts pursuant to this Act, to ensure, among other things, that no gifts are solicited, accepted, or given under circumstances that will create a conflict of interest for the United States Government.

(c) GIFT TO UNITED STATES.—For the purpose of Federal income, estate, and gift taxes, money and property accepted under this Act shall be considered as a gift or bequest to or for the use of the United States.

(d) REPORT TO CONGRESS.—The Attorney General shall report annually to Congress regarding all gifts that have been accepted or given pursuant to this Act.

(2) Such reports shall specify—

(A) the nature and value of any gift that has been accepted or given;

(B) the identity of the donor or recipient;

(C) the nature of any terms or restrictions attached to the gift; and

(D) the reasons why acceptance or donation of the gift does not give rise to an actual or potential conflict of interest.

By Mr. DIXON:

S. 2553. A bill for the relief of Margarida Magalhaes Silverman; referred to the Committee on the Judiciary.

RELIEF OF MARGARIDA MAGALHAES SILVERMAN

Mr. DIXON. Mr. President, today I rise to introduce a bill for the relief of Margarida Magalhaes Silverman, a citizen of Portugal who is married to a United States citizen. I urge the Congress to consider this bill expeditiously and send it to the President by our adjournment this fall.

Margarida Magalhaes Silverman entered the United States to study medicine under the provisions of the Immigration and Nationality Act. According to the terms of her admission, Margarida agreed that after the completion of her medical studies in the United States, she would return to her home country for a minimum of 2 years. At the time of her entry, Margarida was a young student who did not envision a future for herself in the United States.

However, while studying in the United States, Margarida met, fell in love with, and married Dr. William Silverman, a U.S. citizen. Now that Margarida has completed her studies, she is required to return to Portugal for 2 years before she can legally immigrate to the United States, despite the fact that she is the wife of an American. This creates an absurd situation for Margarida and her husband.

They must choose to either be separated for 2 years, or else Margarida's husband, Bill, must give up his medical job, leave his own country, and move to Portugal to be with his wife. Bill cannot comprehend why he must leave his home and give up his life in the United States in order to be with his wife. Quite frankly, neither do I. Why is it necessary for the United States to separate this family?

Currently, both are employed at Illinois hospitals where they are doing valuable work. However, in Portugal there is a large surplus of doctors, so if Margarida was forced to return, there is little chance she would be able to practice medicine. Why remove a productive member of our society and force her to return to a country where she will likely face unemployment? This does not make sense to me.

As I understand the law, a waiver of this requirement may be granted by the U.S. Government when the alien can demonstrate an "extreme hardship" to herself or her U.S. citizen spouse. Accordingly, I have been working closely with the Silvermans for well over a year now in an effort to get this matter resolved favorably. When they filed their request for a waiver with the Immigration and Naturalization Service, I wrote a strong letter in support of their application. To my dismay, I have recently learned that the U.S. Information Agency [USIA]—which ultimately has jurisdiction over these matters—denied the request citing foreign policy considerations as the only justification.

Mr. President, I cannot understand to which considerations the USIA is referring. The Portuguese Government has issued a letter stating that it has no objection to Margarida's remaining in the United States with her United States citizen husband. I will ask unanimous consent that a copy of that letter be inserted in the RECORD at the conclusion of my remarks.

I might say that I am not the only person who questions this reasoning. My good friend Mike Royko, whose nationally syndicated newspaper column appears in the Chicago Tribune, recently made note of the Silvermans' plight. In his column, Mike pointed out several of the unfair aspects of this case. I will also ask unanimous consent that the text of his column be inserted in the RECORD at the conclusion of my remarks.

Mr. President, I believe that Margarida should be allowed to remain in the United States, and that existing laws and regulations cannot assist her. Therefore, I am introducing this bill which will allow Margarida to remain in this country, become a permanent resident of the United States, and continue her life together with her husband. I will ask unanimous consent that the text of my bill be printed in the RECORD at the conclusion of my remarks.

I wish to emphasize that this is only the second private relief bill I have introduced during my 8 years in the Senate. Under normal circumstances, I believe that we in the Congress have provided the executive branch with sufficient discretion to favorably resolve situations like the Silvermans. I am still hopeful that such an administrative solution can be found. To this end, I have sent letters to the Immigration and Naturalization Service, the U.S. Information Agency, and the U.S. Department of State. Unfortunately, I do not foresee a timely solution from the agencies involved before Margarida would have to leave our country.

Mr. President, I believe that separating this young couple by forcing Margarida Magalhaes to return to Portugal would be a grave injustice. Therefore, I urge my colleagues to join me in supporting this bill.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD, along with the Mike Royko column, and a copy of the letter from the Portuguese Government.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)), for purposes of such Act, Margarida Magalhaes Silverman shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year, or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the aliens birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the aliens birth under section 202(e) of such Act.

[From the Chicago Tribune, June 16, 1988]

TOPSY-TURVEY LAWS SPIN AGAINST DOCTOR

(By Mike Royko)

By any measure, Margarida Magalhaes, 33, is a useful member of our society.

She's a physician, but not the sort who parks a Mercedes in the hospital lot.

Her specialty is blood diseases. She works at the University of Illinois Hospital, where most of her patients are indigent, and she is paid about $28,000 a year.

But she's not going to be doing that much longer. She will soon be booted out of this country.

That's because she came here from Portugal seven years ago under an "exchange visitor's visa" to get advanced medical training.

Under this visa, she has to leave when her studies are finished or after seven years. Her seven years will end next month.

Why am I telling you about this? Just to show how nutty laws can be. I like telling nutty stories.

To begin, Dr. Magalhaes doesn't want to leave the United States. She has several reasons.

One is that while she was here, she met, fell in love with and married William Silverman, who is also a physician. He specializes in emergency medicine at a suburban hospital.

Because Dr. Silverman is an American, and prefers to remain one, he would like to have his wife live with him in his country.

Second reason. If Dr. Magalhaes returns to Portugal, it's unlikely that she could practice medicine there. For some reason, Portugal has a glut of doctors.

So here we have someone who is doing valuable work here, but we're telling her that we want her to go where her skills really aren't needed.

Naturally, she and her husband are trying to find a way for her to stay here. They've written to senators, talked to the immigration authorities and the State Department.

And here's the deal.

She can go back to Portugal for two years and then apply for U.S. residency and probably return.

The problem with that is that she would then be separated from her husband, which is not a pleasant prospect.

Of course, he could go to Portugal with her for the two years. But he wouldn't be able to practice medicine there. And he'd become a deadbeat on the student loans he's now paying back.

And both would fall two years behind in their medical training and experience.

Another option. They can appeal, which will delay Dr. Magalhaes' departure for a while.

But while their appeal is being studied by the State Department, she will have to stop her medical work.

And it is likely that the appeal will be denied. That's because the State Department has a limited number of reasons for letting someone like Dr. Magalhaes stay in this country.

The reasons must be "catastrophic" by State Department standards.

And what's "catastrophic?" The person has a disease that can be treated only in the U.S. Or the person's homeland is having a civil war or some other dangerous upheaval. Or the person needs political asylum.

As Dr. Silverman says: "The fact that a family would be separated isn't considered catastrophic.

"I'm looking at the calendar, counting the days to when my wife has to leave. And there's Reagan and Gorbachev discussing human rights. And Reagan was criticizing the bureaucracy in Russia for separating families while the bureaucracy here is separating me and my wife."

He does have a point. And he didn't even mention the "catastrophic" aspects of two reasonably young people who, I assume, have normal impulses, spending the next two years billing and cooing by long distance phone calls.

But what makes this even nuttier is that this country has been engaged in a campaign to persuade illegal aliens to drop in at their local immigration office so that they can be declared legal under the new laws.

We've been practically begging illegals to come forward so they don't have to worry about being shipped out anymore.

Yet, here we have someone who came here legally, paid taxes every year, has a useful humanitarian profession, and she's being shown the door.

In many big cities, entire subcultures of foreign dope pushers have flourished. They commit gang murders, knock off cops and make millions of dollars. They come and go, and the law can't keep up with them.

But a physician who works with the poor, and is married to an American, is told to take a walk.

Sometimes I think that we should try having a psychiatrist as president.

TO WHOM IT MAY CONCERN

This is to certify that the Portuguese Authorities have no objection in Margarida Maria Cancela De Magalhaes, holder of Portugese Passport No. 145/85, issued by the Consular Section of the Embassy of Portugal in Washington on May 29, 1985, to continue residing in the United States on a permanent basis.

Consular Section of the Embassy of Portugal, Washington, D.C., December 11, 1987.

The Vice-Consul,

LUCAS CAMPOS.

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 2555. A bill entitled the "Emergency Agricultural Relief Act of 1988"; to the Committee on Agriculture, Nutrition, and Forestry.

EMERGENCY AGRICULTURAL RELIEF ACT

● Mr. RIEGLE. Mr. President, today, Senator LEVIN and I are introducing the Emergency Agricultural Relief Act of 1988. Companion legislation has been introduced in the House of Representatives by our colleague, Congressman TRAXLER.

This legislation will reinstate an emergency agricultural assistance program that was enacted in 1986 to respond to drought and flood disasters that affected large parts of the Nation. In 1986, the emergency bill that Senator LEVIN, Senator MATTINGLY, and I sponsored, and which ultimately became law, provided $400 million in payments to producers of program and nonprogram crops. In the case of thousands of farmers, this assistance, which was prorated by the Department of Agriculture, meant literally the difference between survival and bankruptcy.

The bill is limited in the amount of assistance that it provides for producers. It would impose a 50-percent loss requirement before any disaster assistance would be available. Thus, the producer is bearing the full cost of the first 50 percent of loss. There is a payment limitation of $100,000 per producer, so total exposure of the Government is kept to an absolute minimum, but yet there is sufficient flexibility to respond fully to the magnitude of the emergency.

There is no limitation on the authority to draw from the Commodity Credit Corporation. This will avoid a prorating situation which developed in 1986, and has forced us to enact additional legislation just to meet the demands of that program.

This legislation provides nothing until disaster designations are made. We believe strongly that the Secretary of Agriculture needs some structure or framework to respond to the drought emergency. This structure should be in place and ready. There is no such structure today, and with the legislative session ending in less than 50 days, it is imperative that Congress put something in Secretary Lyng's hands now.

We have crafted this bill to closely approximate the 1986 program, because that program worked. It is familiar to farmers, it is familiar to the persons who will have to administer the program, and it is effective. We must, in responding to the drought emergency, help all farmers, of every type of commodity. Currently, programs seem to be aimed only at the major commodities such as corn or wheat. These are very important in many States as well as Michigan. We in Michigan, however, are fortunate to have a diverse agricultural base with major products ranging from cherries and apples to asparagus, potatoes, sugar beets, beans and many others.

There is currently no existing authority within the Department of Agriculture to provide direct assistance to producers of nonprogram crops. These are products such as dry edible beans, sugar beets, fresh vegetables, and fruit crops such as cherries and apples, and the producers of these commodities are just as important to the national agricultural economy as all other commodity producers.

Mr. President, this program makes good economic sense. It is clear that if we do nothing, if we permit thousands of farms to fail because of this massive natural disaster, the effects on this Nation cannot be calculated. The amount that we, as a nation, would have to expend to respond to these failures, amounts in the form of welfare payments, and other forms of assistance would in all likelihood be far greater than what might be necessary under these provisions.

Mr. President, I ask unanimous consent that the text of this legislation be printed at the conclusion of my statement. I hope that all of my colleagues will read carefully its provisions and join us in enacting this quickly. It is one method of disaster relief that has worked in the past, and which can be handed to the Secretary immediately so that if the emergency approaches the proportions that have been forecast, we can respond in a meaningful fashion to the hundreds of thousands of farmers who are in the midst of a terrible crisis.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,

SECTION 1. (A) Disaster assistance to meet needs resulting from drought and such other natural disasters throughout the

United States as may be determined by the Secretary of Agriculture:

EMERGENCY ASSISTANCE TO AGRICULTURAL PRODUCERS

As authorized by existing law, and within the funding levels provided by this Act, for disasters occurring in 1988, the Secretary of Agriculture shall, in the case of any farmer or rancher suffering a major loss from such disaster, direct the Administration of the Farmers Home Administration to, under such rules and regulations as the Secretary may determine as long as the objective of enabling farmers to stay in business is carried out:

(1) Refinancing existing debt at the lowest allowable interest rate and such term as will give the borrower a reasonable chance to repay;

(2) Provide loans for financing 1988 and 1989 crop production;

(3) Stretch out loan payments over a period of years, with no disaster loan required to be repaid in full in less than three years, and base such payments on regaining our normal fair share of world markets, and

(4) Coordinate disaster assistance programs with the Administrator of the Small Business Administration to assure that all individuals affected by natural disasters are provided with the appropriate financial assistance.

(B) Within the funds made available by this section, the Secretary of Agriculture shall:

(a)(1) As soon a practicable, but not later than forty-five days after the date of application by an eligible producer, make available to eligible producers for losses of production due to disasters declared in accordance with section (A) of this Act payments determined in accordance with this subsection.

(2) An eligible producer shall be a producer of the 1988 crop of wheat, feed grains, upland cotton, rice, soybeans, sugar beets, sugar canes or peanuts who—

(A) is eligible to receive price support under section 107D, 105C, 103A, 101A, 201 or 108B of the Agricultural Act of 1949 (7 U.S.C. 1445b-3, 1444-1, 1446,or 1445c-2);

(3) Payments made available to each eligible producer shall not exceed $100,000 for all crops (without regard to other limitations in farm program payments) and shall be determined for each crop of such commodities by multiplying—

(A) the payment rate; by

(B) the loss of production of the eligible producer.

(4)(A) Except for sugar beets and sugar cane, the payment rate shall be equal to the level of price supports established for the crop of the commodity for the farm.

(B) For purposes of determining the payment rate for sugar beets and sugar cane, the Secretary shall establish a payment rate which is fair and reasonable in relation to the level of price support which is established for the 1986 crop of sugar beets and sugar cane.

(5)(A) The loss of production of the eligible producer shall be the quantity of wheat, feed grains, cotton, rice, soybeans, sugar beets and sugar cane or peanuts that eligible producers on a farm are unable to harvest due to reduced yields or are prevented from planting to such commodity or other nonconserving crops due to the disasters determined in accordance with Section (A) of this Act. Such loss of eligible production of the eligible producer for each crop shall be the difference between—

(i) The results determined by multiplying (I) 50 per centum of the farm program payment yield established for the crop of the commodity by (II) the sum of the acreage planted to harvest and the acreage for which prevented planted credit is approved by the Secretary; and

(ii) The actual production on the farm of such crop of the commodity if such quantity is less than the quantity determined in accordance with clause (i).

(B) The sum of the acreage determined in accordance with paragraph

(5)(A)(i)(II) shall not exceed—

(i) with respect to wheat, feed grains, upland cotton, or rice, the 1988 permitted acreage determined for such crop of the commodity; and

(ii) with respect to soybeans, peanuts, sugar and sugar cane, the acreage so affected.

(6) Payments determined in accordance with paragraph (3) with respect to any producer with crop insurance shall be reduced to the extent the amount determined by adding the total amount of crop insurance indemnity payments (gross indemnity less premium paid) received by the producer for the loss of production of each crop of such commodities on the farm and the payment determined in accordance with paragraphs (3) through (5) exceeds the amount determined by multiplying—

(A)(i) the quantity determined by multiplying 100 percent of the farm program payment yield established for each crop of such commodities by

(ii) the sum of the acreage of each such crop planted to harvest and the acreage for which prevented planted credit is approved by the Secretary (the total not to exceed the quantity determined in accordance with subparagraph (5)(B)); by

(B) the payment rate for each crop of the commodity.

(7) The total amount of payments made under paragraph (3) to producers on a farm with respect to each crop of such commodity and the total amount of price support loans and purchases (and program benefits for sugar beets and sugar cane) made with respect to such crop on such farm may not exceed the amount determined by multiplying—

(A) The farm program payment yield for such crop of the commodity; by

(B) The sum of (i) the acreage of the crop of the commodity planted for harvest and (ii) the acreage for which prevented planted credit is approved by the Secretary, but for each such crop such sum shall not exceed the quantity determined in accordance with subparagraph (5)(B); by

(C) The payment rate for each crop of the commodity.

(8)(A) For purposes of determining the farm program payment yield, the Secretary shall use the 1988 farm program payment yield established for the crop of the commodity or, if such data is not available, a yield determined by the Secretary to be fair and equitable.

(B) Notwithstanding any other provision of this subsection—

(i) a loss of production of quota peanuts from a farm as otherwise determined under paragraph (5) shall be reduced by the quantity of peanut poundage quota which was the basis of such anticipated production which has been transferred from the farm; and

(ii) payments under this subsection shall be taken into account whether the lost production for which the loss of production is claimed was a loss of production of quota or additional peanuts and the payment rate shall be established accordingly. Futher, notwithstanding any other provision of law, the amount of undermarketings of quota peanuts from a farm for the 1988 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 for purposes of future quota increases shall be reduced by the quantity of lost production of such peanuts for which payment has been received under this subsection.

(9) The disaster payments required by this section shall be made in the form of generic, negotiable commodity certificates redeemable from stocks of commodities held by the Commodity Credit Corporation.

(b)(1) notwithstanding any other provision of this section for the 1988 crop year, the Secretary of Agriculture shall utilize certificates redeemable from stocks of commodities held by the Commodity Credit Corporation for the purpose of making disaster payments to producers of nonprogram crops for losses of production due to disasters declared in accordance with section (A) of this Act payments determined in accordance with this subsection.

(2) The Secretary of Agriculture shall make such payments (not to exceed $100,000 to any individual producer) if the Secretary determines that the producer has suffered a substantial loss of production due to the disaster declared in accordance with Section (A) of this Act).

(c) Within 30 days following the enactment of this Act the Secretary of Agriculture shall issue such rules and regulations as the Secretary determines necessary to carry out the program authorized by subsections (a) and (b) of this section. Such regulations shall provide that the term "nonprogram crops" shall include all crops insured directly or indirectly by the Federal Crop Insurance Corporation for crop year 1988, and in addition—

(1) the term shall include other commercial crops for which such insurance was not available for purchase or, if available was not purchased by such producers for crop year 1988, if—

(A) in accordance with rules and regulations issued by the Secretary of Agriculture, the producers of such crop(s) provides satisfactory evidence of actual crop yield for at least one of the immediately preceding 3 years: Provided, That in the event such data does not exist for any of the three preceding crop years the Secretary shall use county average crops yield data; and

(B) that the producer of such crop(s) also provides satisfactory evidence of 1988 crop year losses resulting from the disaster declared in accordance with Section A of this Act exceeding 50 percentum of the crop yield established in subparagraph (A) of this paragraph, and

(2) that payments made available to producers of such crops shall be based upon the average market prices received by producers of such crops as determined by the Secretary.

(d)(1) The Secretary shall carry out the program authorized by this proviso through the Commodity Credit Corporation.

(2) Applications for payments made in accordance with this proviso must be filed by June 30, 1989.

(3) Payments made by the Secretary of Agriculture to eligible producers under this section shall be made as soon as practicable, but not later than 45 days following the producer's application.

(e) For purposes of making payments in accordance with this Act, the Secretary of Agriculture is authorized to expend from the Commodity Credit Corporation such sums as may be necessary.●

● Mr. LEVIN. Mr. President, today Senator RIEGLE and I are introducing in the Senate legislation designed to provide assistance to farmers who produce both program and nonprogram crops: The Emergency Agricultural Relief Act of 1988. This legislation establishes a mechanism to provide disaster payments to producers who have lost more than half of their crop due to a natural disaster, and is modeled after the approach adopted in legislation that was passed by the Congress in 1986 in response to the flood and drought natural disasters in that year.

Our farmers need rain more than anything else. Barring rain, they need hope, and that is what this bill will give them. It will send a message to our agricultural community that the Federal Government is standing ready to lend a helping hand in the event that the severe drought affecting so much of the country continues.

I will continue to work closely with the Congressional Drought Task Force in the effort to develop an appropriate and comprehensive response to this natural disaster that includes the provisions of the Emergency Agricultural Relief Act of 1988.●

By Mr. DOMENICI:

S. 2556. A bill entitled the "Merger and Acquisition Worker Notification Act"; to the Committee on Labor and Human Resources.

MERGER AND ACQUISITION WORKER NOTIFICATION ACT

Mr. DOMENICI. Mr. President, I send to the desk a bill that I hope will resolve the difficult issue that has come to be known as "plant closings."

I joined with many of my colleagues, as well as many of the major newspapers of the Nation, in opposing that provision in the conference report on the trade bill.

Yet as I said then and have said on many occasions, a problem does exist. In my view, that problem is focused on situations during and following a major merger, often a merger engineered for Wall Street profits, or a hostile takeover where a raider threatens a company to dissect it for the more profitable morsels.

Such wheeling and dealing is often viewed by the American public as unfair. It certainly is unfair when an employee is tossed out of work as a result of such a corporate raid.

Therefore, my bill seeks to go after those job-threatening situations, and only those. My bill takes the basic framework of the "plant-closing" provision in the trade bill, and simply hones it to deal with the unfair situations, not those where a company's economic survival may require last minute decisions.

And in the process, my bill makes the rules tougher than those in the trade bill. My bill requires 90 days' notice, not 60 days, and it increases daily penalties to $5,000 per incident, instead of $500.

And my bill provides management with the option—and I think this is a sound option, one that will benefit workers—of providing either 90 days' notice or 90 days of severence pay.

That's how this bill is more compassionate, how it is more realistic than the trade bill version.

What does my bill cover, because it does cover less than the trade bill? My bill does not take the blunderbuss approach of shooting at everything. My bill narrows in on the unfair, the tough situations that are more the result of wheeling and dealing on Wall Street than matters of economic survival.

My bill focuses on what it terms certain "change of control" and "attempted change of control" situations involving a company with at least 100 employees.

This bill would become operative in those situations when ownership changes as a result of a hostile takeover, a leveraged buyout, or any other type of merger that fails to have the approval of a majority of the continuing directors of the company. If there are no continuing directors, clearly that approval is lacking, and this provision become operative.

In such a situation—for the 18 months following the change of control—the new management would be required to give plant closings or layoff notice or severance pay.

After 18 months—this notice requirement expires on the assumption that merger-generated changes will no longer be a threat to the employees.

A "change of control" would also occur in those instances where a hostile takeover is unsuccessful, but within 18 months the retained management sells a subsidiary or division—therefore a change of control—and that new management closes plants or lays off certain workers.

This usually takes place because management has incurred substantial debt in defending itself against the takeover and needs to increase cash flow by selling assets. Lack of board approval of the sitting board of the seller is not a necessary element.

Under this situation, the new management of the acquired subsidiary or division would be required to give 90 days' notice or 90 days' severance pay for layoffs or closures that take place within 18 months from the date the control contest began. A control contest begins when a tender offer of a proxy solicitation is made.

"Change of control" would also cover any company that has at least 100 employees and experiences a merger or acquisition under which the firm is sold for 1½ times—or more—book value, regardless of whether it is approved by the sitting board. The new management would be required to give 90 days' notice or 90 days' severance pay for plant closings or layoffs that take place within the 18-month readjustment period.

Any company that has at least 100 employees and experiences an "attempted change of control." This would cover the situation where a hostile takeover is unsuccessful, but within 18 months, the retained management closes plants or lays off a certain number of workers.

This bill is significant because:

Seventy-five percent of the attempted acquisitions result in a "change in control" of the company. Usually within 18 months after the change in control, an inordinate number of plant closings occur.

Testimony given before the Senate Banking Committee estimated that 500,000 jobs have been lost as a result of takeovers and takeover attempts. While it is a matter of dispute whether these jobs are permanently lost, or just short term displacements, the disruption is very real to the families involved.

Let me give you a few examples of takeovers that resulted in lost jobs:

That 3,400 jobs were lost when Boone Pickens and Carl Icahn engaged in a takeover bid for Phillips Petroleum.

The takeover of Chevron and Gulf resulted in 18,000 out of 79,000 lost jobs. When Sperry & Burroughs merged into Unisys another 10,000 jobs.

Between 1981 and 1986 the number of merger transactions nearly doubled from 2,326 to 4,084. The value of these transactions tripled during the same period from $67.2 billion in 1981 to $192.9 billion in 1986. Goldman Sachs has estimated that the volume will exceed $300 billion in 1988.

Debt as a result of battles for corporate control totaled more than $177 billion in 1986. The amount spent on hostile takeovers during that year was greater than the amount spent on new plant and equipment.

Over the last 3 years, there have been 15,497 mergers and acquisitions in the country, aggregating $757 billion—21 deals every business day, 3 deals every business hour.

While hostile takeovers, and leveraged buyouts and other involuntary change in control transactions represent a small fraction of all transactions, they represent a significantly larger part of the value of these transactions. According to a Congressional Research Service study requested by the Senate Banking Committee, contested tender offers represent only 2.8

percent of the number of transactions but 44.4 percent of the value of all mergers and acquisitions for which the value of the transactions was reported.

Because of its limited targeted approach, this bill leaves plenty of latitude for corporate America to restructure without Government regulation. At the same time, the bill targets the targets which is where the real abuse in the past few years have occurred.

I urge my colleagues to cosponsor this legislation, and ask unanimous consent that the text of the bill and summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. . Short title.—This bill may be cited as the "Merger and Acquisition Worker Notification Act."

SEC. . DEFINITIONS.

(a) "Employer" means any business enterprise—

( ) that employs—

( ) 100 or more employees, excluding part-time employees; or

( ) 100 or more employees who in the aggregate work at least 4,000 hours; and

( ) with respect to which either a Control Contest (as defined in or a Covered Acquisition (as defined in) has occurred within a period of two years prior to the date of a written notice given pursuant to section .

( ) the term "plant closing" means the permanent or temporary shutdown for a single site of employment, or one or more facilities or operating units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees;

( ) the term "mass layoff' means a reduction in force which—

( ) is not the result of a plant closing; and

( ) results in an employment loss at the single site of employment during any 30-day period for—

( ) at least 33 percent of the employees (excluding any part-time employees); and

( ) at least 50 employees (excluding any part-time employees); or

( ) at least 500 employees (excluding any part-time employees);

( ) the term "representative" means an exclusive representative of employees within the meaning of section 9(a) or 8(f) of the National Labor Relations Act (29 U.S.C. 159(a), 158(f) or section 2 of the Railway Labor Act (45 U.S.C. 152);

( ) the term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by their employer;

( ) subject to subsection ( ), the term "employment loss" means ( ) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (B) a layoff exceeding 6 months, or ( ) a reduction in hours of work of more than 50 percent during each month of any 6-month period;

( ) the term "unit of local government" means any general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers; and

( ) the term "part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required.

( )( ) ATTEMPTED CHANGE OF CONTROL AS A RESULT OF A CONTROL CONTEST.—For purposes of subsection (a)(1), a "Control Contest" with respect to an employer shall be deemed to have occurred at such time as any person (as defined in subsection ( ) other than the employer—

( ) commences or makes an announcement of an intention to commence a tender offer or exchange offer if, upon consummation of the offer such person, would be the beneficial owner, directly or indirectly, of 30% or more of the Voting Securities as defined in subsection of the employer;

( ) is or becomes the beneficial owner, directly or indirectly, of 15% of the Voting Securities of the employer (other than acquisitions of 15% or more of the Voting Securities of an employer which are made solely for purposes of investment and which involve no participation in the management of the employer):

( ) directly or indirectly solicits proxies or written consents with respect to, or becomes a participant in an election contest relating to, the election of directors (or, in the case of unincorporated entities the individuals exercising similar functions) of the employer (except on behalf of the employer or its directors or other governing body), or

( ) directly or indirectly joins or assists in the formation of any group within the meaning of section 13(d)(3) of the Securities Exchange Act of 1934 or otherwise acts to affect control of the employer.

which, in each case the tender offer or proxy solicitation fails and, results in no Change of Control of the employer.

( )( ) Change of Control as a result of a hostile takeover, leveraged buyout or other involuntary acquisition.—

For purposes of subsection , a "Change of Control" with respect to an employer shall be deemed to have occurred at such time as—

( ) any person is or becomes the beneficial owner of 50% or more of the Voting Securities of the employer; or

( ) acquires in one or more transactions assets or earning power aggregating 50% or more of the assets or earning power of the employer; or

( ) individuals who constitute the Continuing Directors cease for any reason to constitute at least a majority of the board of directors or other governing body of the employer.

Notwithstanding the foregoing, no Change of Control shall be deemed to have occurred if the events specified in ( ) and ( ) of subsection shall have been approved by a majority of the Continuing Directors; unless either:

( ) the aggregate consideration paid or given by such person in any transactions described in is at least 150% of the aggregate book value (determined in accordance with generally accepted accounting principles) of the Voting Securities, assets or earning power acquired by such person; or

( ) at any time during the one year period commencing on the date of such event, the employer's aggregate Indebtedness exceeds its Net Worth by a ratio of more than three to one.

in which case a Change of Control shall be deemed to have occurred irrespective of the approval of such event by a majority of the Continuing Directors.

( ) For the purpose of this subsection the term "Continuing Director" means a director (or in the case of unincorporated entities, the individuals exercising similar functions) who either was a member of the board of directors (or other governing body of the employer on June 1, 1988 or who became a director (or member of such other governing body) of the employer subsequent to such date and whose election, or nomination for election by the employer's stockholders or other equity owners, was duly approved by the Continuing equity owners, was duly approved by the Continuing Directors then on the board of directors (or other governing body) of the employer in which such individual is named as nominee for director (or member of such other governing body), without due objection to such nomination.

( ) The term "indebtedness" means all items (except items of capital stock, partners' capital, paid-in-surplus, retained earnings, contingency reserves, reserves for deferred income taxes or other similar items) which in accordance with generally accepted accounting principles would be included in determining total liabilities as shown on the liability side of a balance sheet of such employer as of the date on which such indebtedness is determined.

( ) The term "Net Worth" means all amounts which would, in conformity with generally accepted accounting principles, be included under stockholder's equity or partners' equity on a balance sheet of such employer as of the date on which Net Worth is determined.

( ) The term "person" shall mean any natural person, corporation, company, partnership, joint venture, association, joint stock company or trust, together with the affiliates and associates of such person;

( ) The term "affiliate and associate" shall have the respective meanings set forth in Rule 14b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934 as in effect on June 1, 1988;

( ) The term "participant" shall have the same meaning set forth in Rule 14a-11 of the General Rules and Regulations under the Securities Exchange Act of 1934 as in effect on June 1, 1988;

( ) The term "Voting Securities" shall mean all shares, securities or other interests of the employer entitled to vote in elections of directors (or, in the case of unincorporated entities, the individuals exercising similar functions.)

( ) EXCLUSIONS FROM DEFINITION OF EMPLOYMENT LOSS.—Notwithstanding subsection (a)(6), an employee may not be considered to have experienced an employment loss if—

( ) the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—

( ) the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; or

( ) the employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

SEC. . NOTICE REQUIRED BEFORE PLANT CLOSINGS AND MASS LAYOFFS.

( ) Notice to Employees, State Dislocated Worker Units, and Local Governments.—An employer shall not order a plant closing or mass layoff until the end of a 90-day period after the employer serves written notice of a proposal to issue such an order—

( ) to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

( ) to the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act) and the chief elected official of the unit of local government within which such closing or layoff is to occur.

If there is more than one such unit, the unit of local government which the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

( ) Reduction of Notification Period.—

( ) An employer may order a plant closing or mass layoff before the conclusion of the 60-day period if the closing or mass layoff is caused by Acts of God or business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

( ) Extension of Layoff Period.—A layoff of more than 6 months which, at its outset, was announced to be a layoff of 6 months or less, shall be treated as an employment loss under this subtitle unless—

( ) the extension beyond 6 months is caused by Acts of God or

( ) Exemption for Granting Severance Pay.—An employer is excluded from the requirements of subsection (a) if such employer grants to each employee who suffers an employment loss as a result of a closing or layoff—

( ) pay for each day of 90 days from the time that notice of a closing or layoff, as specified in subsection (a), is given by the employer, and such pay shall be at a rate of compensation not less than the higher of

( ) the average regular rate received by such employee during the last 3 years of the employee's employment; or

( ) the final regular rate received by such employee; and

( ) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss which would have been covered under an employee benefit plan if the employment loss had not occurred, for each day of 90 days from the time that notice of a closing or layoff, as specified in subsection (a), is given by the employer.

In no event shall pay or benefits, specified in subsection (e)(A) and (e)(B), need to be granted for more than one-half the number of days the employee was employed by the employer, for purposes of the exemption of this subsection.

SEC. . ADMINISTRATION AND ENFORCEMENT OF REQUIREMENTS.

( ) Civil Actions Against Employers.—(1) Any employer who orders a plant closing or mass layoff in violation of section of this Act shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing or layoff for—

( ) back pay for each day of violation at a rate of compensation not less than the higher of—

( ) the average regular rate received by such employee during the last 3 years of the employee's employment; or

( ) the final regular rate received by such employee; and

( ) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss which would have been covered under an employee benefit plan if the employment loss had not occurred.

Such liability shall be calculated for the period of the violation, up to a maximum of 90 days, but in no event for more than one-half the number of days the employee was employed by the employer.

( ) The amount for which an employer is liable under paragraph (1) shall be reduced by—

( ) any wages paid by the employer to the employee for the period of the violation;

( ) any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

( ) any payment by the employer to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation.

In addition, any liability incurred under paragraph (1) with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

( ) Any employer who violates the provisions of section 6403 with respect to a unit of local government shall be subject to a civil penalty of not more than $5,000 for each day of such violation, and such penalty shall be in addition to any severance pay the court may order.

SEC. . PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.

The rights and remedies provided to employees by this subtitle are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of the employees, and are not intended to alter or affect such rights and remedies, except that the period of notification required by this subtitle shall run concurrently with any period of notification required by contract or by any other statute.

SEC. . PROCEDURES ENCOURAGED WHERE NOT REQUIRED.

It is the sense of Congress that an employer who is not required to comply with the notice requirements of section 6403 should, to the extent possible, provide notice to its employees about a proposal to close a plant or permanently reduce its workforce.

SEC. . AUTHORITY TO PRESCRIBE REGULATIONS.

The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this subtitle. Such regulations shall, at a minimum, include interpretative regulations describing the methods by which employers may provide for appropriate service of notice as required by this subtitle.

SEC. . EFFECT ON OTHER LAWS.

The giving of notice pursuant to this subtitle, if done in good faith compliance with this subtitle, shall not constitute a violation of the National Labor Relations Act or the Railway Labor Act.

SEC. . EFFECTIVE DATE.

This subtitle shall take effect on the date which is 6 months after the date of enactment of this Act, except that the authority of the Secretary of Labor under section 6408 is effective upon enactment.

The 90-90 Plan for Notification or Severance Pay When a Plant Closes or Layoffs Take Place Because of Wall Street

PROPOSAL

Provide mandatory plant closing notification in certain "change of control" and "attempted change of control" situations. Under these situations plant closing or layoff notification would be required for a limited, readjustment period of eighteen months following the change or attempted change of control.

Workers would receive either 90 days notice or 90 days severance pay.

Firms Covered:

Change of Control Situations:

Any company that has at least 100 employees and experiences a "Change of Control." A change of control generally covers hostile takeovers, leveraged buyouts or other mergers or acquisitions that take place without approval of a majority of the continuing directors of the company. The new management would be required to give plant closing or layoff notice or give three months severance pay. A firm would remain covered under this provision for 18 months following the change of control. (This is the readjustment period). After such time, the notice or severance pay requirements would expire.

"Change of Control" would also cover any company that has at least 100 employees where a hostile takeover is unsuccessful, but within 18 months the retained management sells a subsidiary or division (therefore a change of control) and that new management closes plants or lays off certain workers. This usually takes place because management has incurred substantial debt in defending itself against the takeover and needs to increase cash flow by selling assets. Lack of Board Approval of the sitting board of the seller is not a necessary element. Under this situation, the new management of the acquired subsidiary or division would be required to give ninety days or ninety days severance pay for layoffs of closures that take place within 18 months from the date the control contest began. A control contest begins when a tender offer or a proxy solicitation is made.

"Change of Control" would also cover any company that has at least 100 employees and experiences a merger or acquisition under which the firm is sold for one and one-half times (or more) book value, regardless of whether it is approved by the sitting board. The new management would be required to give ninety days notice or ninety days severance pay for plant closings or layoffs that take place within the 18 month prior to the change of control.

Attempted Change of Control:

Any company that has at least 100 employees and experiences an "attempted change of control." This would cover the situation where a hostile takeover is unsuccessful, but within 18 months, the retained management closes plants or lays off a certain number of workers.

Notice required: Ninety days notice or ninety days severance pay.

Duration of Notification requirement: The government mandated notification would remain in effect for eighteen months following the change in control or attempted change of control. The notification requirement should only remain in effect long enough for the company to readjust to the takeover, leveraged buyout or other restructuring.

Scope and Condition of Coverage: Ninety days notice would be required when:

Plant permanently closes.

Idling of any facility (shutdown) that results in 75 or more people being laid off at a single site for a period exceeding six months if 33% of the work force at a site would be affected.

Idling of any facility (shutdown) that results in 500 or more employees being laid off for a period exceeding six months.

Penalties: Require employer to pay $5,000 per day per violation and up to ninety days severance pay.

Exemptions: Only for Acts of God.

By Mr. ADAMS (for himself and Mr. CRANSTON):

S.J. Res. 343. Joint resolution to designate the period commencing November 13, 1988, and ending on November 19, 1988, as "Filipino American National History Week"; to the Committee on the Judiciary.

FILIPINO AMERICAN NATIONAL HISTORY WEEK

● Mr. ADAMS. Mr. President, today I am proud to introduce, with my distinguished colleague and friend from California, Senator CRANSTON, a joint resolution that pays overdue tribute to Filipino Americans across the country. Filipino Americans have a long history in this country; 1988 marks the 225th anniversary of Filipino presence in the continental United States. Theirs is a history marked by unique contributions in spite of often difficult circumstances. This joint resolution, which designates the week of November 13-19 as "Filipino American National History Week," will present each of us with an opportunity to consider the significance of the Filipino American experience and their contribution to our country.

Filipinos were the first Asians to settle permanently in what is now the continental United States, establishing settlements in Louisiana as early as 1763. These early settlers came by way of the Manila galleon trade between the Spanish colonies of Mexico and the Philippines between 1565 and 1845. The Filipino seamen, forced into service by the Spaniards, jumped ship in New Orleans and escaped into the Louisiana bayous. They were known as Manilamen or Filipino Cajuns and established several villages in the bayous. Later, these Filipinos became the first of several generations to fight alongside Americans in the War of 1812.

During the early part of the 20th century, more Filipinos arrived in the United States to work in the agricultural sector—attracted by offers of employment and good pay. Conditions were less than ideal with few laws and little social conscience to protect the Filipinos. Nonetheless, the Filipino presence filled an important void in the Western agricultural economy.

Since the 1960's, the nature of the Filipino immigrant has changed. Unlike their predecessors, many of whom intended to return to their homeland, the new immigrant comes here to settle. These Filipino Americans bring with them a wide variety of skills—the vast majority have professional training, experience, and a college education. Today, Filipino Americans work as nurses and doctors in many of our Nation's hospitals, as accountants, as teachers. Their contribution is invaluable.

With a population of more than 1 million residing in the 50 States, Filipino Americans comprise one of the largest of all Asian/Pacific ethnic groups in the United States. Throughout 1988, Filipino Americans all over our Nation will commemorate the 225th anniversary of their presence in the continental United States.

Mr. President, in closing, I would ask unanimous consent to include an article from the Seattle Times in the RECORD commemorating this anniversary. And I would also like to congratulate my constituents of Filipino heritage and urge my colleagues to do the same by joining me in honoring them with this resolution.

Mr. President, I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. Res. 343

Whereas, Filipinos, by way of the Manila galleon trade between the Spanish colonies of Mexico and the Philippines, were the first Asians documented to have permanently settled in what is now the continental United States;

Whereas, the earliest documented permanent settlement was established in the State of Louisiana in the year 1763;

Whereas, one million Filipino American citizens and permanent residents of Philippine descent now live in the United States, and comprise one of the largest Asian/Pacific ethnic groups in America; and

Whereas, in 1988 Filipino Americans will celebrate the 225th anniversary of the Filipino presence in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing November 13, 1988, and ending on November 19, 1988, is designated as "Filipino American National History Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interest groups to observe the two hundred twenty-fifth anniversary of Filipinos in America with appropriate ceremonies and activities.

FILIPINO AMERICANS MARK THE 225TH ANNIVERSARY OF ARRIVAL IN THE UNITED STATES

(By Larry Brown)

Maybe you can't get *anything* you want at Alvin's Restaurant. But it's definitely *the* place to go for kari-kari, a savory oxtail stew with eggplant, green beans and cabbage cooked in peanut sauce.

Or for chicken and pork adobo. Or lumpias, crispy, golden, deep-fried egg rolls.

Your host for this sampling of Philippine cuisine is a young entrepreneur, Alvin Alazas. His already friendly face lights up even more when he glances over to one of the tables and sees a fellow Filipino who has brought in Caucasian business associates for a meal.

"We should be proud of our culture," says Alazas, who moved to Seattle from the Philippines in 1982. Two years later, with an MBA from City University, he purchased a restaurant near the Pike Place Market. His Filipino customers complained that it was too small; they tired of standing in line for a seat. So in 1986 he opened a second restaurant, four times larger, near Pioneer Square—and it's become an informal lunchtime gathering spot the first Tuesday of each month for some of the movers and shakers of Seattle's Philippine community.

In the midst of all this, Alazas finds time to counsel new arrivals to Seattle about finding jobs. "We should be working to help each other, as the Chinese and Japanese do," he says.

In his low-profile manner, a blend of hard work and hospitality, Alazas is contributing to the rich history of Filipino Americans.

This is the 225th anniversary year of the first Filipinos settling in the continental United States. In 1763 Spanish-speaking seamen arrived in Louisiana by way of the Manila galleon trade between Mexico and the Philippines and became known as Manilamen and Filipino Cajuns.

A sawmill worker on Bainbridge Island in 1883 is believed to be the first Filipino settler in Washington state.

Hallmarks of the Filipino culture include good food, good talk and gatherings of friends and relatives. Anniversary celebrations throughout the year will provide settings for these activities. The Philippine consul general in Seattle, Jaime Bautista, is emphasizing the anniversary and achievements of Filipino Americans during work this year in his six-state jurisdiction.

Tony Espejo, president of the Filipino-American Political Action Group of Washington, has arranged anniversary proclamations from state and local leaders.

Espejo's story is another example of achievement by Filipinos who settled here:

He enlisted as a U.S. Coast Guard steward in the Philippines in 1956. He worked his way up to chief steward during the next 13 years, then took a service exam for the warrant grade, got the top marks, and moved from the kitchen to the ward room. After retiring from the service in 1978 as a finance and supply specialist he applied for jobs in seattle, but was told he needed a college degree. He graduated from the University of Washington, but still had trouble getting employment. Encouraged to do graduate work, he returned to school. In 1983 he completed his master's degree in public affairs and public administration. He works now as a buyer for King County and two years ago became a member of the Senate Human Rights Commission.

"I've had my tastes of social injustices through the years in lodging, housing, even seats on buses," Espejo says. But he also has pride in the fact that, coming from a poor family in the Philippines, he was able to work his way up in the United States.

Now, at the age of 56, Espejo figures it is time to give something back to the Filipino community. He estimates there are at least 50 Filipino organizations in this state, but only a few focus on political action.

Espejo has three goals:

Education. Filipinos had a high-school dropout rate of nearly 12 percent in Seattle during the 1986-1987 school year, compared with 5 percent for Chinese and nearly 7 percent for Japanese. "I wish the community would get angry and demand that something be done to improve the situation. Our organizations give scholarships to students who are high achievers, but maybe we need to focus attention on those who are not making it and show that someone cares."

Employment. "There's too much stereotyping in the job place. There's the misconception that many Filipinos can't communicate well. If a Frenchman stumbles over words people think it is cute, but when a Filipino mispronounces a word, people say it's stupid."

Participation in the political process. "Our people need to spend less time being quiet in the corner. If we see an issue that affects the Filipino community, we need to study and respond to it. If we don't, nothing will happen."

Filipinos have the numbers for political clout—about 27,000 in King County, 38,000 in Washington state and about 1.25 million in the nation.

A national organization dedicated to preserving the culture and recognizing the achievements is headquartered in Seattle. Dorothy Cordova is executive director of the Filipino American National Historical Society. Her husband, Fred Cordova, is president.

Fred Cordova says a longstanding myth, still perpetuated, claims that Filipinos came to the United States initially in the 1920s to satisfy the needs of California agricultural farms and Alaska fish canneries.

The reality, he says, is that many other Filipinos came to the United States to pursue educations, and settled in the Midwest and East as well as the West Coast.

The historical society will hold its national conference in November in New Orleans, close to where the first Filipinos settled.

Dorothy Cordova is gathering photographs and information about pioneer Filipino families in this area between 1910 and 1940. She is planning a slide presentation for Seattle anniversary celebrations in June.

Highly visible Filipino influences here come easily to mind: Influences such as the Philippine foods served at restaurants and at street fairs; influences such as the Seafair Parade appearances of the Filipino Youth Activities Princesa drill team, Cumbanchero Percussioneers and Mandayan Marchers.

But one goal of community leaders during this anniversary year is to move beyond the obvious and spread the world about contributions of Filipinos in many walks of American life.●

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. CRANSTON, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 7, a bill to provide for the protection of the public lands in the California desert.

S. 1250

At the request of Mr. WIRTH, his name was added as a cosponsor of S. 1250, a bill to strengthen the criminal justice partnership between the States and the Federal Government.

S. 1419

At the request of Mr. DURENBERGER, the name of the Senator from Maryland [Ms. MIKULSKI], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 1419, a bill to prevent ground water contamination by pesticides.

S. 1600

At the request of Mr. FORD, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1768

At the request of Mr. DOLE, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1768, a bill to amend title XVIII of the Social Security Act to ensure that Medicare-dependent, small rural hospitals receive for a 3-year period at least their reasonable costs for inpatient hospital services furnished under the Medicare Program.

S. 1805

At the request of Mr. MITCHELL, the names of the Senator from Hawaii [Mr. MATSUNAGA] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 1805, a bill to protect certain pensions and other benefits of veterans and survivors of veterans who are entitled to damages in the case of "In re: 'Agent Orange' Product Liability Litigation".

S. 1929

At the request of Mr. BUMPERS, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1929, a bill to amend the Small Business Investment Act to establish a corporation for small business investment, and for other purposes.

S. 1993

At the request of Mr. BUMPERS, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1993, a bill to amend the Small Business Act to improve the growth and development of small business concerns owned and controlled by socially and economically disadvantaged individuals, especially through participation in the Federal procurement process, and for other purposes.

S. 2030

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2030, a bill to amend the Marine Protection, Research, and Sanctuaries Act.

S. 2115

At the request of Mr. DANFORTH, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 2115, a bill to amend the Internal Revenue Code of 1986 to eliminate tax credits from the passive activity rules, to modify the business credit limitation provisions, and for other purposes.

S. 2170

At the request of Mr. GRAHAM, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 2170, a bill to support democracy and respect for human rights in Haiti.

S. 2396

At the request of Mr. MITCHELL, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2396, a bill to amend title 38, United States Code, to expand the period considered as the Vietnam era in the case of veterans who served in the Republic of Vietnam.

S. 2466

At the request of Mr. MOYNIHAN, the names of the Senator from Louisiana [Mr. BREAUX] and the Senator from Connecticut [Mr. WEICKER] were added as cosponsors of S. 2466, a bill to amend the Public Health Service Act to establish a program of grants to the States for the purpose of providing to the public information on Lyme disease.

S. 2478

At the request of Mr. FORD, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of S. 2478, a bill to provide for a 2-year Federal budget cycle, and for other purposes.

S. 2527

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2527, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

At the request of Mr. METZENBAUM, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Maine [Mr. MITCHELL], the Senator from Washington [Mr. ADAMS], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 2527, supra.

S. 2528

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2528, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

At the request of Mr. METZENBAUM, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Maine [Mr. MITCHELL], the Senator from Washington [Mr. ADAMS], and the Senator from Maryland [Mr. Sarbanes] were added as cosponsors of S. 2528, supra.

SENATE JOINT RESOLUTION 149

At the request of Mr. Helms, the names of the Senator from Arkansas [Mr. Bumpers] and the Senator from California [Mr. Wilson] were added as cosponsors of Senate Joint Resolution 149, a joint resolution to designate the period commencing on June 21, 1989, and ending on June 28, 1989, as "Food Science and Technology Week".

SENATE JOINT RESOLUTION 275

At the request of Mr. Weicker, the names of the Senator from Illinois [Mr. Simon], the Senator from South Dakota [Mr. Daschle], and the Senator from Ohio [Mr. Metzenbaum] were added as cosponsors of Senate Joint Resolution 275, a joint resolution to designate August 1-8, 1988, as "National Harness Horse Week".

SENATE JOINT RESOLUTION 298

At the request of Mr. D'Amato, the names of the Senator from Nebraska [Mr. Karnes], the Senator from Mississippi [Mr. Stennis], the Senator from South Carolina [Mr. Hollings], the Senator from Missouri [Mr. Bond], the Senator from Rhode Island [Mr. Chafee], and the Senator from Utah [Mr. Hatch] were added as cosponsors of Senate Joint Resolution 298, a joint resolution designating September 1988 as "National Library Card Sign-Up Month".

SENATE JOINT RESOLUTION 315

At the request of Mr. DeConcini, the name of the Senator from Michigan [Mr. Riegle] was added as a cosponsor of Senate Joint Resolution 315, a joint resolution designating 1989 as, "Year of the Young Reader".

SENATE JOINT RESOLUTION 318

At the request of Mr. Armstrong, the names of the Senator from Illinois [Mr. Simon] and the Senator from Pennsylvania [Mr. Specter] were added as cosponsors of Senate Joint Resolution 318, a joint resolution to designate the week of July 25-31, 1988, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War".

SENATE JOINT RESOLUTION 320

At the request of Mr. Hatch, the name of the Senator from Louisiana [Mr. Johnston] was added as a cosponsor of Senate Joint Resolution 320, a joint resolution to commemorate the 50th anniversary of the passage of the Food, Drug, and Cosmetic Act.

SENATE JOINT RESOLUTION 323

At the request of Mr. Byrd, the name of the Senator from Oklahoma [Mr. Boren] was added as a cosponsor of Senate Joint Resolution 323, a joint resolution amending the War Powers Resolution to provide expedited procedures for legislation requiring the disengagement of U.S. Armed Forces involved in hostilities or providing specific authorization for their continued engagement in such hostilities, and for other purposes.

SENATE JOINT RESOLUTION 325

At the request of Mr. Rockefeller, the name of the Senator from New York [Mr. Moynihan] was added as cosponsor of Senate Joint Resolution 325, a joint resolution designating the third week in May 1989 as "National Tourism Week".

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DeConcini, the name of the Senator from Delaware [Mr. Roth] was added as a cosponsor of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

SENATE RESOLUTION 389

At the request of Mr. Lautenberg, the name of the Senator from Oklahoma [Mr. Boren] was added as a cosponsor of Senate Resolution 389, a resolution to express the sense of the Senate regarding future funding of the Construction Grants Program of the Clean Water Act.

AMENDMENT NO. 1908

At the request of Mr. Bentsen, the name of the Senator from New Jersey [Mr. Lautenberg] was added as cosponsor of Amendment No. 1908 intended to be proposed to S. 2223, An original bill to promote and protect taxpayer rights, and for other purposes.

AMENDMENTS SUBMITTED

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND RELATED AGENCIES APPROPRIATION ACT, FISCAL YEAR 1989

PRESSLER AMENDMENT NO. 2415

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the bill (H.R. 4775) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1989, and for other purposes; as follows:

On page 90, insert after line 25, the following new subsection:

(d)(1) Notwithstanding any provision of section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.) in the application of such provisions to the rates of pay of Members of Congress, no Member of Congress may receive an increase in rate of pay pursuant to any recommendation under section 225(h) of such Act, unless such recommendation is approved by joint resolution by recorded vote.

(2) Nothwithstanding the provisions of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) or any other provision of law, no increase in the rates of pay under section 5305 of title 5, United States Code, in any fiscal year shall have the effect of increasing the rate of pay of any Member of Congress, unless such increase in the rates of pay for Members of Congress is approved by joint resolution by recorded vote.

DeCONCINI (AND DOMENICI) AMENDMENT NO. 2416

Mr. DeCONCINI (for himself and Mr. Domenici) proposed an amendment to the bill (H.R. 4775) supra; as follows:

On page 25, line 7, delete the line-type through the words "Unanticipated Needs".

On page 96, line 6, transfer Section 627 in its entirety to page 71, after line 25, and redesignate the section as 'Section 522'.

CONRAD (AND BURDICK) AMENDMENT NO. 2417

Mr. DeCONCINI (for Mr. Conrad, for himself and Mr. Burdick) proposed an amendment to the bill H.R. 4775, supra; as follows:

At the end of title VI of the bill, insert the following new section:

Sec. . Not withstanding any other provision of law, Public Law 89-784, 80 Stat. 1367 and Public Law 90-469, 82 Stat. 666 pertaining to the naming, maintaining and operating of the Willaim Langer Jewel Bearing Plant are amended by striking out all references to the "General Services Administration", "the Administrator of the General Services" and "Administrator" and insert in lieu thereof "the National Defense Stockpile Manager".

DeCONCINI AMENDMENT NO. 2418

Mr. DeCONCINI proposed an amendment to the bill H.R. 4775, supra; as follows:

At the end of the bill, add the following new section:

Sec. 627. For purposes of §1886 of the Social Security Act, Missouri Baptist Hospital of Sullivan in Sullivan, Missouri is deemed to be located in Franklin County, Missouri, retroactively effective for discharges beginning on or after December 22, 1987.

SIMON (AND OTHERS) AMENDMENT NO. 2419

Mr. SIMON (for himself, Mr. Levin, and Mr. Metzenbaum) proposed an amendment to the bill H.R. 4775, supra; as follows:

No funds appropriated under this Act or made available by 39 U.S.C. 2401(a) shall be used by the U.S. Postal Service to implement Phase II of the contract between the U.S. Postal Service and Perot Systems. The second phase of this contract shall be relet, on a competitive basis, upon completion of Phase I.

MURKOWSKI AMENDMENT NO. 2420

Mr. MURKOWSKI proposed an amendment to the bill H.R. 4775, supra; as follows:

At the end of the bill, add the following:

Sec. . (a)(1) None of the funds appropriated by this Act may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary for the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

(3) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) The term "foreign country" includes any foreign instrumentality. Each territory or possession of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) Any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country.

(3) Subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(4) The restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country.

(5) The terms "contractor" and "subcontractor" includes any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Act.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

COMPREHENSIVE ALCOHOL ABUSE, DRUG ABUSE, AND MENTAL HEALTH AMENDMENTS ACT

QUAYLE (AND OTHERS) AMENDMENT NO. 2421

(Ordered to lie on the table.)

Mr. QUAYLE (for himself, Mr. Dodd, Mr. Weicker, Mr. Cochran, Mr. Stennis, Mr. Lugar, and Mr. Daschle) submitted an amendment intended to be proposed by them to the bill (S. 1943) to amend the Public Health Service Act to revise and extend the authority of the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, including revising and extending the program of block grants for the provision of services with respect to mental health and alcohol and drug abuse; as follows:

On page 81, strike out lines 12 through 24, and insert in lieu thereof the following new paragraph:

"(14) New mental health services and programs.—

"(A) In general.—Of the amounts allotted to a State for mental health activities under this part for fiscal year 1991, the State agrees to use, not less than 55 percent of such amount, to develop and provide community mental health services and programs, not available on October 1, 1988, and shall, with respect to each such service provided pursuant to this paragraph, provide funds for each service only for a limited period of time (as determined by the State), except that funds expended under this part for new services developed between October 1, 1984, and October 1, 1988, may be treated as a new service under this paragraph.

"(B) Exception.—If the chief executive officer of a State submitting an application under this subsection determines, after public notice and consultation with the State official responsible for mental health programs administered by the State, that existing State mental health services would be more effective under the criteria established under paragraph (4) in meeting the objectives of this part than would any proposed new services, the chief executive may use funds provided under this part to fund such existing services without regard to subparagraph (A). Any determination made under this subparagraph shall be made before the legislative hearing required by subsection (b).

● **Mr. QUAYLE.** Mr. President, I send to the desk an amendment on behalf of myself and Senators Dodd, Weicker, Lugar, Cochran, Stennis, and Daschle which I intend to offer to the Comprehensive Alcohol, Drug Abuse, and Mental Health Amendments of 1988, S. 1943. This bill, which may be brought to the Senate floor either freestanding or as part of an omnibus antidrug abuse package currently being drafted by Senate leadership, would reauthorize and provide increased funding for the Alcohol, Drug Abuse, and Mental Health Administration. This important Federal program provides block grants to the States for provision of these services to their citizens.

My amendment has to do specifically with the provision of mental health services in the States. I believe that certain restrictions under S. 1943 could do great harm to our States' ability to provide services to the mentally ill.

NEW SERVICES RESTRICTION

S. 1943 for the first time would require that for fiscal year 1991, 55 percent of State allotments must be spent on "new or expanded services" not available prior to October 1, 1984. The perceived purpose of this requirement is to promote enhancements in mental health service systems; according to advocates of this requirement, States have been using Federal money to maintain current services which in some instances they consider to be out of date. The problem is, however, that the new services requirement does not target specific States, but forces all States to comply regardless of whether their services are up to date or otherwise considered to be good or bad.

Mr. President, States are finding it increasingly difficult to run programs for the mentally ill due to shrinking funds, particularly from the Federal Government. Generally, there has been very little real growth in ADAMHA block grant funding since this program's inception in 1981.

The "new or expanded services" requirement would force States to divert over half of their Federal funds from maintaining current services, thus hurting States' ability to provide mental health services to the needy. Again, there is no consideration given to States who have worked hard over the years to keep their services up to date with current trends in treatment. It is ironic and unfortunate then that the new services requirement could directly penalize States for making progress toward the very system which this language seeks to promote.

To make matters worse, in order to make up for the loss of Federal funds needed to meet the new services requirement, considerable State funds would have to be spent to maintain current mental health services—meaning that funds would have to be diverted from other State priorities. In Indiana, our commissioner for mental health, Dennis Jones, has indicated that such an infusion of State funding for mental health services is highly unlikely due to the State's pressing needs in education, corrections, and economc development. I have no doubt that other States will face the same dilemma.

So rather than improve the quality of mental health service in the States, the new services requirement under S. 1943 may undermine already successful community mental health programs. Or in order to avoid this unfortunate consequence, States may simply resort to renaming and restructuring current programs, or making other bogus changes, in order to maintain current services and meet the new requirements. In any case, this would be an inefficient use of Federal dollars.

WAIVER AMENDMENT

Mr. President, the intent of my amendment to S. 1943 is not to eliminate the new services requirement, but to provide a waiver for States who determine that current community mental health services would be adversely impacted. My intent is that this waiver should be provided after adequate public notice and debate, so that States who really should update their services cannot escape doing so through my amendment.

S. 1943 sets out various requirements which a State must meet as part of its application to the Secretary of HHS for its ADAMHA funding allotment. First, in order to receive funds, the State must hold legislative hearings to review the proposed use and distribution of ADAMHA funding for mental health services. Second, the State must establish evaluation criteria for reviewing the effectiveness of services receiving Federal funding.

My amendment states that the Governor of a State, after using the evaluation criteria required by the bill and after consultation with its mental health advisory council, also set up by S. 1943, may seek to determine whether Federal funding should be used to maintain current versus new services. The amendment further specifies that this determination must be made through the legislative hearing process specified by the bill. This way both the Governor and parties interested in new or expanded services may make their case before the State legislature.

Mr. President, my intention in seeking this amendment is to assure that the mentally ill and their families have access to efficient public services. This is why I have proposed this compromise. If States need to update their services, then the new services language will remain fully in place for that purpose. If that language unfairly ties the hands of the States and would disrupt services, then my amendment would provide a public forum for weighing this critical consideration.

Mr. President, I feel that the new services language is too arbitrary and that some flexibility should be included under S. 1943. Also, my amendment is supported by the National Governors' Association, the National Association of State Mental Health Program Directors, and the National Council of Community Mental Health Centers. I hope that all Senators will support inclusion of this amendment as part of the reauthorization of the ADAMHA block grant program.●

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1989

PRYOR (AND OTHERS) AMENDMENT NO. 2422

Mr. PRYOR (for himself, Mr. PROXMIRE, and Mr. BURDICK) proposed an amendment, which was subsequently modified, to the bill H.R. 4775, supra; as follows:

On page 71, after line 25, insert the following:

CONSULTING SERVICES

SEC. . (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and support services for research and development activities; engineering development and operational systems development; technical representatives; training; quality control, testing, and inspection services; specialized medical services; and public relations; in excess of an amount equal to 95 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) Notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1989 is reduced by an amount equal to—

(1) 15 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a)(1); and

(2) 5 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a)(2).

SIMON (AND OTHERS) AMENDMENT NO. 2423

Mr. SIMON (for himself, Mr. GRASSLEY, Mr. LEVIN, Mr. PRYOR, and Mr. METZENBAUM) proposed an amendment to the bill H.R. 4775, supra; as follows:

At the appropriate place, insert the following:

It is the sense of the Senate that no funds appropriated under this Act or made available by 39 U.S.C. 2401(a) be used by the U.S. Postal Service to implement Phase II of the contract between the U.S. Postal Service and Perot Systems until 45 days after the GAO reports to Congress on the Perot Systems sole source contract and that the GAO report to Congress within 45 days of the adoption of this amendment.

STEVENS (AND PRYOR) AMENDMENT NO. 2424

Mr. STEVENS (for himself and Mr. PRYOR) proposed an amendment to amendment No. 2422 proposed by Mr. PRYOR (and others) to the bill H.R. 4775, supra; as follows:

On page 2 after line 17 add: The term consulting services shall be defined consistent wth the provision of OMB Circular A-120.

STEVENS AMENDMENT NO. 2425

Mr. STEVENS proposed an amendment, which was subsequently modified, to amendment No. 2422 proposed by Mr. PRYOR (and others) to the bill H.R. 4775, supra; as follows:

On page 2, strike out section (c) and insert in lieu thereof:

All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the 4 percent increase in rates of pay in such department, agency, or instrumentality made under this Act.

PRESSLER AMENDMENT NO. 2426

Mr. PRESSLER proposed an amendment to the bill H.R. 4775, supra; as follows:

On page 90, insert after line 25, the following new subsection:

(d)(1) Notwithstanding any provision of section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.) in the application of such provisions to the rates of pay of Members of Congress, no Member of Congress may receive an increase in rate of pay pursuant to any recommendation under section 225(h) of such Act, unless such recommendation is approved by joint resolution on only the issue of such increase by recorded vote.

(2) Notwithstanding the provisions of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) or any other provision of law, no increase in the rates of pay under section 5305 of title 5, United States Code, in any fiscal year shall have the effect of increasing the rate of pay of any Member of Congress, unless such increase in the rates of pay for Members of Congress is approved by joint resolution on only the issue of such increase by recorded vote.

MELCHER AMENDMENT NO. 2427

(Ordered to lie on the table.)

Mr. MELCHER submitted an amendment intended to be submitted by him to the bill, H.R. 4775, supra; as follows:

On page 14, line 10, strike out the period and insert in lieu thereof a semicolon and "*Provided further,* That, notwithstanding any other provision of this Act or any other Act, none of the funds made available by this Act or any other Act shall be used to impose any user fee under section 10511 of the Revenue Act of 1987 on any exempt organization (other than a national organization) organized primarily to provide to older Americans in the geographical area covered by the organization services of the type which may be furnished under the Older Americans Act of 1965, including nutrition services, education and training services, health services, transportation services, recreational services, social services, and supportive services and senior center services as described in section 321(a) of such Act, which organization has annual gross revenue less than $50,000: and *Provided further,* that in the event the preceding proviso reduces the user fee revenue from Exempt Organization Determination Letters under the fee schedule in Revenue Procedure 88-8 of the Internal Revenue Service, the Internal Revenue Service shall adjust the fee schedule in Revenue Procedure 88-8 for Exempt Organization Determination Letters to increase the total revenue therefrom by the amount that the preceding proviso reduces the revenue therefrom."

AUTHORITY FOR COMMITTEES TO MEET

CONSUMER SUBCOMMITTEE

Mr. BYRD. Mr. President, I ask unanimous consent that the Consumer Subcommittee of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 22, 1988, to hold a hearing on the authorization of appropriations for the Federal Fire Prevention and Control Act.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on June 22, 1988, to hold a hearing on budget authorizations for the Office of the U.S. Trade Representative and the U.S. International Trade Commission.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 22. To hold a hearing on United States policy options toward South Africa.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 22, 1988, to conduct a hearing on the Federal Employers' Liability Act [FELA] as it relates to Amtrak.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

DAVE WOOD: "MY MOTHER THE ARSONIST"

● Mr. DURENBERGER. Mr. President, my home State of Minnesota has had the good fortune of spawning some of this Nation's most reflective and inspiring writers and personalities. The experience of growing up in Minnesota, as seen through the eyes of Cedric Adams and Garrison Keillor, has provided sage and entertaining material for millions of Americans.

There is a new name to add to that unique and talented list, and he is Dave Wood, a local writer and newspaperman. One of Dave's strongpoints is that he uses personal anecdotes to convey the values and morals our generation grew up with. Furthermore, his material reaffirms the value of this Nation's older generation as he tells of thought-provoking and amusing conversations he has had with his grandparents and mother and father.

To carry the positive qualities of our experience in America, in the mid- and late-20th century, we need writers who will not only report the facts, but also tell the story and include the lessons to be learned.

Mr. President, at this time I would like to submit a brief excerpt from Dave's most recent book, "My Mother the Arsonist":

The excerpt follows:

MY OLD MAN LOSES SOME WEIGHT

It's not an easy thing to lose a leg. But my father is making the best of it.

It happened when the Beautiful Wife and I were vacationing in Italy. Pa has diabetes and he got a bruise on his foot. When we left for Rome, the sore was improving, the prognosis good. But when we returned four weeks later, my sister Kip called to tell us that Pa's leg had been removed below the knee. I put off telephoning him because I didn't know what to say to a guy who liked to dance about as well as any human being on the face of the earth. He also liked to plow for my brother Doug. Besides that he's had more than his share of troubles over the years.

But call I had to, and so I finally screwed up my meager helping of courage and dialed. He answered from his hospital bed.

"Gee, Pa, I'm sorry we couldn't have been home when you, er, had your operation."

"Don't worry about that," said the former Fred Astaire of Whitehall, Wis. "There was nothing else to do and I didn't want to spoil your vacation. And do you want to know the truth, Dave?"

"Oh, ab, sure."

"If the truth were known, I'm glad to be rid of it because it hurt so bad. . . ."

"Ha, ha. That's the way to think about it. Have a positive attitude. Of course, you won't be dancing the Charleston anymore. . . ."

"No, but I'll tell you one thing, kid. I'll be walking by Christmas."

That conversation helped me a lot.

And so when I got my first day off I drove to Wisconsin to have a look for myself. There he lay, in a big white bed, with my stepmother sitting at his side. I told her she looked real good and she said that she's lost some weight.

"I lost some weight, too." said Pa.

"Gee, you don't look it, Pa."

He looked at me impatiently, then pointed down at the end of the bed, where his foot should have been."

"Oh, ha, ha.

"I figure about 16 pounds."

That helped me a lot.

And then it was on to talk about how good the nurses were and how people had visited and how Pastor Kelling dropped by more than he needed to. He told me that Tony Berg, who lost a leg in World War II, came by and told him if he ever wanted to talk about it or know how the artificial limb would work that he was always available. Nothing about his problem, just stuff about kindnesses rendered him.

And then he did his therapy with a vengeance, flirting with the nurse's aide and wondering aloud if waltzing might be a distinct possibility.

That helped me a lot.

When it was time for me to leave, I hemmed and hawed and made some lame conversation and finally I spit it out: "Gee, Pa, I dreaded calling you, then I dreaded coming to see you. But now it's no problem. You've got a great attitude and that'll see you through."

He looked up from behind 75 years of acquired wisdom and he said, "Kid, you've got to be positive. Otherwise no one will come to visit you."

And that helped him a lot.

* * * * *

MY BLOOD PRESSURE RISES WHEN I THINK ABOUT MY OLD MAN

My father makes my blood pressure shoot right off the charts. He's not a mean guy, pretty amiable as a matter of fact. He's never egged me on to do better than I've done. And for a guy who'll be 75 next February, he's amazingly silent on how hopeless the younger generation is. Nope, Harold Wood is a pretty good guy. What sets my systolic and diastolic numbers humming is not his personality. It's his health.

Let's back up. Five years ago, my doctor told me I had high blood pressure and had to go on the pill. So I take the pill morning and night and everything's just fine. I thought it was just fine until my last trip to Dr. Earl, my sawbones. He took my blood pressure and did the typical doctor stuff. "Hmmm. Hmmm. Hmmm." You know.

And then he turned to me like a wise uncle and said, "You have to do better, Dave. You're on the pill and your blood pressure is 150 over 95."

He went on to say I probably wouldn't keel over in his parking lot, but, still, I had to do better. Like lose some weight, cut down on smoking, and eliminate salt from my diet.

When I was one and 20, I ignored doctors. Same when I was one and 30. But now that I'm eight and 40, I tend to take them more seriously. So I went home and really bore down. After 48 years of salting country ham and dipping my cheese sandwiches in a pile of salt, the way most people treat radishes, I went cold turkey.

I'm here to tell you that a cold turkey sandwich doesn't taste very good without salt, but I've stuck to that. These days, my eggs don't even get salted. I simply pepper them black and swallow them whole. And I went on a 1,000-calorie-per-day diet. Instead of having a juicy half-pound burger at lunch, I went for a walk and then ate a lettuce salad with a gloppy diet dressing that looked like a mixture of Agent Orange and bubble gum.

I pretty much stuck with that diet day in and day out for six weeks. I'd come home from work, grab the Beautiful Wife and we'd go for a four-mile walk. We'd get home and all 130 pounds of her would tie into a triple-decker peanut-butter, bologna and onion sandwich. Sort of an hors d'oeuvre before supper. I tied into half a grapefruit. Oh, sure, I fell off the calorie wagon once in a while, like the time I broke into the freezer at 3 a.m. on Tuesday and ate a box of Girl Scout cookies. But by and large I was very, very good. So the pounds started to drop off and I felt pretty jaunty.

Last week, after six weeks, I returned to Dr. Earl. He wrapped the thingamajig around my arm and pumped it up.

"Thud, thud, thud," said my pudgy little body.

He looked at me quizzically and pumped it up again.

"Thud, thud, thud."

He stopped. And he said. "This is wonderful! Your reading is 122 over 72. We are really getting some place. You can't go off the pill, but if you lost another, ah, 40 pounds, who knows?"

I bounded out of that office like a kid heading out of fourth grade for summer vacation. The next day I telephoned my dad, who drinks a gallon of whole milk every day, eats three dozen eggs a week and dips his sandwiches in rock salt. His idea of medication is an aspirin for bubonic plague. For exercise he watches "As the World Turns."

"How are ya, Pa?"

"Oh, OK, I guess. I've got a lot of aches and pains."

"Gee, that's too bad."

I had my annual physical yesterday. The doc said I was doing fine."

"How, ah, was your blood pressure?" asked I, ready to pounce.

OK, I guess—120 over 70."

Thud, thud, thud, thue-thud-thud. THUD!●

POLISH-AMERICAN HERITAGE MONTH

● Mr. HEINZ. Mr. President, today I would like to draw the attention of my colleagues to Senate Joint Resolution 281, which designates October 1988 as Polish-American Heritage Month. This resolution, originally introduced by Senators PAUL SIMON, of Illinois, and DONALD RIEGLE, of Michigan, will provide for a period in which Americans can commemorate the many contributions made by Polish-Americans to the development of our country.

These contributions began even before our country had achieved its independence or established our democratic government. We all remember Thaddeus Kosciuszko, a Polish officer who helped the American Revolutionary Army win the key Battle of Saratoga against the British. He was merely the first and most famous of many patriots of Polish descent who have distinguished themselves in peace and war, in all walks of life, who have helped make America the great country it is today.

In Pennsylvania we are fortunate to have a large Polish-American community. I am proud to be a cosponsor of Senate Joint Resolution 281, and urge all Pennsylvanians of Polish descent to take advantage of the month it designates to celebrate the proud heritage of the Polish-American community.●

AMENDING INTERNAL REVENUE CODE OF 1986

● Mr. HECHT. Mr. President, today I would like to voice my support for S. 39, which calls for an amendment to the Internal Revenue Code of 1986 to make permanent the exclusion from gross income of amounts paid for employee educational assistance. I believe this bill should be passed without delay.

Education is the foundation on which our society rests. While our private, business, and political lives are shaped in part by our experiences and by our individual ability, education plays a large role in how far we go toward achieving our goals in these areas. Tragically, however, many Americans cannot afford to continue their education to the extent they may wish. Not only is this situation unfortunate for the individual, it is just as unfortunate for society. Mr. President, S. 30 will allow economically burdened Americans to pursue their educational goals, improve their business and economic condition, and help keep American business ahead in this competitive world. Again, I would like to encourage the quick passage of this legislation.●

SUGAR POLICY

● Mr. INOUYE. Mr. President, there has been a large volume of press and editorial criticism of our country's sugar policy over the years. Much of that coverage seems to imply that the present sugar program is the result of very effective lobbying by what the press refers to as "the high-powered sugar lobby."

We now have a poll by the very reputable Cambridge Reports which demonstrates very broad based public support for the sugar program from every sector of the country. By a margin of almost 4 to 1, Americans favor the current program over increased reliance on sugar imports at the expense of American farmers.

I recognize that pollsters can achieve predetermined results through slanted questions and other techniques. I believe you will find the questions in this poll very straightforward and the sample a reliable examination of public sentiment.

Mr. President, I request that the poll, a press release, and a news story concerning the poll be printed in the CONGRESSIONAL RECORD.

The material follows:

[News Release]

POLL SHOWS AMERICANS OVERWHELMINGLY SUPPORT U.S. SUGAR POLICY

WASHINGTON, DC.—A substantial majority of Americans—73 percent—support protection of the U.S. sugar industry by limiting imports of foreign sugar, according to a national survey released today.

The survey also shows that 75 percent favor continuing the current policy of supporting prices for domestically produced sugar.

The national survey, conducted by Cambridge Reports, Inc., between May 6 and May 22 among a scientifically selected sample of 1500 adult Americans, was designed to reflect the overall population.

When asked why they support U.S. sugar policy, 54 percent cited the need to save farm jobs and 27 percent said the policy helps to keep business in the United States.

In the area of foreign trade, 73 percent said they favor a policy that expands the domestic market for American farmers at the expense of U.S. allies. Only 14 percent said they favor a policy that increases imports at the expense of American farmers.

Under current U.S. law, the minimum support for raw sugar produced in the United States is set at 18 cents per pound. Freight and other costs establish a market stabilization price of about 22 cents a pound. America's trading partners, such as the Caribbean nations and the Philippines, receive the same price for the sugar they sell in the United States. Import restrictions protect the integrity of the program, which does not provide direct payments to farmers and operates at no cost to taxpayers.

The poll reveals that 62 percent of Americans believe that reducing sugar supports would result in increased profits for major food processors and soft drink bottlers, not in increased savings for consumers.

On the subject of jobs, 71 percent agree that protecting the American farmer and thousands of other jobs related to sugar production is worth the price for sugar in the supermarket. A total of 63 percent believe that reducing sugar supports will cost thousands of sugar-producing jobs on the farm and in related industries.

Regarding foreign competition, 73 percent agree that America's sugar farmers need a support program until other sugar-producing nations are willing to compete fairly on the world market.

While U.S. law sets the minimum price at 18 cents per pound, almost all other sugar-producing nations provide subsidies for their sugar farmers, offer export subsidies, impose import restrictions, or provide a combination of other incentives. For example, European countries subsidize their sugar farmers by as much as 26 cents a pound.

The national telephone survey was conducted for the U.S. Sweetener Producers Group (USSPG), a non-profit corporation that represents the interests of the more than one million beet, cane and corn farmers who produce sugar and corn for sweetener. USSPG also represents thousands of workers in sugar production and processing, and in other related industries such as transportation.

[From the Journal of Commerce, June 17, 1988]

75% of Americans Favor Sugar Quota

Washington.—Nearly three-quarters of the adults in the United States favor limiting sugar imports to protect the domestic sugar industry, according to a national survey released Thursday.

The poll also shows that 75% want the government to continue supporting prices for domestically produced sugar.

Under current U.S. law, the minimum support for raw sugar produced in the United States is set at 18 cents per pound. Freight and other costs establish a market stabilization price of about 22 cents a pound.

U.S. trading partners, such as the Caribbean nations and the Philippines, receive the same price for the sugar they sell in the United States.

Import restrictions protect the integrity of the program.

The survey was conducted by Cambridge Reports Inc. for the U.S. Sweetener Producers Group, which represents the more than 1 million U.S. beet, cane and corn farmers who produce sugar and corn of sweetener.

It was carried out between May 6 and May 22, and consisted of 1,500 telephone interviews with adult Americans. The margin of error is plus or minus 2.5% in 19 cases out of 20.

More than half of the respondents—54%—said they support U.S. sugar policy because of the need to save farm jobs, and 27% said the policy helps to keep business in the United States.

In the area of foreign trade, 73% said they favor a policy that expands the domestic markets for U.S. farmers at the expense of U.S. allies. Only 14% said they favor a policy that increases imports at the expense of U.S. farmers.

U.S. allies in the Philippines, Caribbean and Central America were counting on a new U.S. sugar program that would allow them to export an additional 400,000 tons of sugar to the United States.

The sugar industry is one of the biggest employers and foreign exchange earners in those countries. But exports to the United States have been dwindling.

Since 1984, the U.S. sugar-import quota has been slashed by 75%. This year's quota of 750,000 tons is the lowest since way back in 1875.

Under the re-export program, which Congress passed last year, these countries would be paid the U.S. price for their sugar. The additional imports would be refined and re-exported for sale at the world price, about eight or nine cents a pound.

To compensate for the difference in price, U.S. sugar refiners would receive farm products held by the Agriculture Department's Commodity Credit Corp.

However, the export program has hit a snag. The Reagan administration argues that the Agriculture Department has neither the authority nor the money to carry out the program.

U.S. sugar producers contend their foreign counterparts are heavily subsidized. Governments abroad offer export subsidies, impose import restrictions, or provide a combination of other incentives, they say.

For example, European countries subsidize their sugar farmers by as much as 26 cents a pound.

The Cambridge poll shows that 73% agree that America's sugar farmers need a support program until other sugar-producing nations are willing to compete fairly on the world market.

American Attitudes Toward U.S. Sugar Policy

SURVEY SUMMARY

The following data were collected in a national telephone survey conducted by Cambridge Reports, Inc., between May 6 and May 22 among a scientifically selected sample of 1500 adult Americans. The survey was designed to reflect the overall population.

SUPPORT

73% think the American sugar industry should be protected by limiting imports of foreign sugar;

75% favor continuing the current U.S. sugar policy of supporting prices by limiting imports of foreign sugar;

70% agree that current U.S. policy promotes both a stable price and an ample supply of sugar, which benefits consumers and producers alike.

TRADE

73% prefer a sugar policy that expands the market for U.S. sugar growers at the expense of U.S. allies, rather than a policy that increases sugar imports from U.S. allies at the expense of U.S. farmers;

62% say removing the U.S. sugar price support program could drive U.S. sugar farmers out of business and make American consumers dependent on other countries—whose farmers are protected—for its sugar supplies;

73% think American sugar farmers need their price support program until other sugar-producing nations are willing to compete fairly on the world market.

JOBS

63% believe that if sugar supports are reduced, thousand of jobs will be lost on farms and in sugar processing and other related industries.

PROFITS

62% think that reducing the sugar supports would result in increased profits for major food companies like food processors and soft drink bottlers, not in increased savings for consumers;

86% say food manufacturers keep the price of their products about the same when the cost of an ingredient like sugar goes down, rather than reducing the price of their products the same amount.

PRICE

80% believe the price of sugar is fair compared with other food items;

61% prefer that the price of sugar remain relatively stable, rather than going up or down as market conditions change.

USE

54% think sugar is an important ingredient in food prepared at home and in packaged food purchased at the supermarket;

73% believe most of the sugar they eat comes in foods where the packager has added the sugar, rather than in foods where they have added the sugar themselves.

Methodology: This national survey, conducted between May 6 and May 22, consisted of 1500 telephone interviews. A survey of this size has a margin of error of +/−2.5 in 19 cases out of 20.

For a full copy of the survey results, write to David Williams, Vice President, or Jean Durall, Vice President, Cambridge Reports, Inc., 675 Massachusetts Avenue, Cambridge, MA 02139.

This survey was conducted for the U.S. Sweetener Producers Group, a non-profit corporation that represents the interests of the more than one million beet, cane and corn farmers who produce sugar and corn for sweetener. The Group also represents thousands of workers in sugar production and processing, and in other related industries such as transportation.

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1. Some people are very positive about sugar and sweetened foods, while other people are more negative about sugar. On a scale of "1" to "7," where "1" means "very negative" and "7" means "very positive," how do you feel about sugar and sweetened foods overall?

	Scale (percent)							
	1	2	3	4	5	6	7	8[1]
Overall	16	6	15	22	20	5	15	2
Northeast	22	9	14	20	18	5	10	1

	Scale (percent) 1	2	3	4	5	6	7	8[1]
Industrial	18	5	15	22	19	5	15	1
Midlands	14	4	20	24	19	4	15	1
South	15	7	14	23	19	4	16	2
Central	14	8	14	20	22	7	14	2
Pacific	12	6	13	23	23	6	15	2

[1] (Don't know.)

2. How important is sugar as an ingredient in the food you prepare at home and in packaged food you buy at the supermarket—whould you say it is a very important ingredient, somewhat important, not very important, or not important at all?

	Percent 1	2	3	4	5
Overall	18	36	28	18	1
Northeast	15	31	31	23	—
Industrial	19	37	23	19	1
Midlands	18	40	22	19	1
South	20	36	29	14	—
Central	19	35	31	14	1
Pacific	14	38	30	19	—

Scale: 1. Very important. 2. Somewhat important. 3. Not very important. 4. Not important at all. 5. (Don't know.)

3. Now, thinking about all the sugar you eat in various foods, would you say that most of the sugar you eat comes from sugar you add to foods yourself, or does most of the sugar you eat come in foods where the packager has added the sugar directly?

	Percent 1	2	3	4	5
Overall	20	73	3	2	2
Northeast	18	73	4	2	2
Industrial	19	75	3	2	2
Midlands	16	79	2	1	1
South	24	69	4	2	3
Central	23	74	1	1	—
Pacific	20	71	4	4	1

Scale: 1. Most of the sugar comes from sugar I add myself. 2. Most of the sugar comes from sugar added by the packager. 3. (Both equal.) 4. (Don't eat sugar.) 5. (Don't know.)

4. All things considered, do you think the cost of sugar has gone up, gone down, or stayed about the same over the last five years?

	Percent 1	2	3	4
Overall	32	8	47	13
Northeast	32	8	44	16
Industrial	33	8	47	12
Midlands	29	9	48	14
South	32	8	50	10
Central	28	7	50	15
Pacific	37	6	42	15

Scale: 1. Gone up. 2. Gone down. 3. Stayed the same. 4. (Don't know.)

5. Compared with other food items, would you say that the price of sugar is fair, somewhat fair, not very fair, or not fair at all?

	Percent 1	2	3	4	5
Overall	26	54	7	4	9
Northeast	26	50	10	5	10
Industrial	26	58	5	3	8
Midlands	25	57	6	3	8
South	31	51	7	4	6
Central	23	55	8	4	10
Pacific	24	53	5	6	13

Scale: 1. Very fair. 2. Somewhat fair. 3. Not very fair. 4. Not fair at all. 5. (Don't know.)

6. Would you prefer that the price of sugar remain relatively stable or that it go up and down as market conditions change?

	Percent 1	2	3
Overall	61	7	31
Northeast	57	7	36
Industrial	63	7	30
Midlands	66	9	25
South	62	7	31
Central	59	7	34
Pacific	61	8	31

Scale: 1. Sugar price remains stable. 2. (Don't know.) 3. Sugar price goes up and down.

7. When the cost of an ingredient line sugar goes down, do you think that food manufacturers generally reduce the price of their products the same amount, or do they keep the price about the same?

	Percent 1	2	3
Overall	10	4	86
Northeast	10	2	87
Industrial	8	2	90
Midlands	9	4	86
South	12	8	80
Central	10	3	87
Pacific	8	6	87

Scale: 1. Reduce the price accordingly. 2. (Don't know.) 3. Keep the price about the same.

8. As far as you know, is most of the sugar used in this country grown in the United States, or is it imported from other countries?

	Percent 1	2	3
Overall	34	13	53
Northeast	19	14	67
Industrial	29	10	61
Midlands	35	15	49
South	28	16	56
Central	43	12	45
Pacific	59	9	32

Scale: 1. Grown in the U.S. 2. (Don't know.) 3. Imported from other countries.

9. (If imported from other countries, 53%) What country would you say provides the most sugar to the United States?

	Percent
South America	16
Cuba	12
Brazil	6
US, Hawaii, Puerto Rico	6
Central America	4
Philippines	3
Jamaica	2
Mexico	2
Caribbean	2
Asia	1
Other	2
Don't Know	44

10. In fact, most of the sugar used in the United States is grown in this country. Recently there has been some controversy about the American sugar industry and foreign imports. Do you think the American sugar industry should be protected by limiting imports of foreign sugar, or not?

	Percent 1	2	3
Overall	73	6	21
Northeast	70	3	27
Industrial	75	5	20
Midlands	71	7	22
South	75	7	18
Central	74	7	20
Pacific	72	6	22

Scale: 1. Yes, American sugar industry should be protected. 2. (Not sure). 3. No, American sugar industry should not be protected.

11. Under current United States law, the minimum price of sugar is set at eighteen cents a pound and maintained at that price by limiting imports of sugar from other countries. Do you strongly favor, somewhat favor, somewhat oppose, or strongly oppose this policy?

	Percent 1	2	3	4	5
Overall	36	34	15	10	6
Northeast	33	35	14	10	7
Industrial	37	32	15	12	4
Midlands	37	35	17	8	3
South	32	35	15	11	8
Central	37	35	14	8	6
Pacific	38	30	13	13	6

Scale: 1. Strongly favor. 2. Somewhat favor. 3. Somewhat oppose. 4. Strongly oppose. 5. (Don't know.)

Next, I'm going to read you some statements that people have made about the government's policy toward sugar and other sweetners. For each statement, please tell me if you strongly agree, somewhat agree, somewhat disagree, or strongly disagree with that position.

12. Compared with the U.S. support price of 18 cents a pound, European countries provide higher support prices for their sugar farmers—up to 29 cents a pound—so American sugar farmers need their price-support program until other sugar-producing nations are willing to compete fairly on the world market.

	Percent 1	2	3	4	5
Overall	32	41	12	9	7
Northeast	27	40	13	11	8
Industrial	36	39	10	9	6
Midlands	29	46	10	8	7
South	33	42	11	7	7
Central	31	42	16	6	5
Pacific	35	36	10	10	9

Scale: 1. Strongly agree. 2. Somewhat agree. 3. Somewhat disagree. 4. Strongly disagree. 5. (Don't know.)

13. We should reduce sugar price supports because keeping the price of sugar artificially high in this country means that American consumers spend $3 billion more a year on sugar and packaged foods containing sugar than if sugar were imported at the world market price.

	Percent 1	2	3	4	5
Overall	21	37	20	14	9
Northeast	24	34	18	15	10
Industrial	21	37	20	15	7
Midlands	18	45	19	12	7
South	21	36	23	10	10
Central	18	34	24	15	9
Pacific	22	37	17	14	9

Scale: 1. Strongly agree. 2. Somewhat agree. 3. Somewhat disagree. 4. Strongly disagree. 5. (Don't know.)

14. Reducing the sugar supports would result in increased profits for major food companies like food processors and soft

drink bottlers, not in increased savings for consumers.

	Percent				
	1	2	3	4	5
Overall	29	33	17	12	9
Northeast	27	35	14	16	7
Industrial	32	28	17	15	8
Midlands	28	38	17	10	7
South	27	32	20	11	10
Central	27	38	17	11	8
Pacific	32	29	17	9	12

Scale: 1. Strongly agree. 2. Somewhat agree. 3. Somewhat disagree. 4. Strongly disagree. 5. (Don't know.)

15. Limiting sugar imports from developing nations like the Philippines has severely damaged their economies, causing the United States to provide millions of dollars in foreign aid to these countries. If we stopped restricting our sugar imports to support American farmers, these developing nations would not need so much aid.

	Percent				
	1	2	3	4	5
Overall	24	28	19	20	8
Northeast	25	31	17	17	10
Industrial	30	25	20	19	7
Midlands	21	30	19	20	10
South	24	30	18	19	9
Central	20	26	25	20	10
Pacific	23	27	19	25	7

Scale: 1. Strongly agree. 2. Somewhat agree. 3. Somewhat disagree. 4. Strongly disagree. 5. (Don't know.)

16. U.S. sugar supports should be reduced because they only benefit about 12,000 U.S. farmers at the expense of millions of U.S. consumers.

	Percent				
	1	2	3	4	5
Overall	19	29	25	16	10
Northeast	19	28	23	21	9
Industrial	25	30	20	17	9
Midlands	17	31	26	16	10
South	18	29	26	14	13
Central	15	31	29	16	10
Pacific	19	28	28	16	9

Scale: 1. Strongly agree. 2. Somewhat agree. 3. Somewhat disagree. 4. Strongly disagree. 5. (Don't know.)

17. If sugar supports are reduced, thousands of jobs will be lost—not just on the farms, but in sugar processing and other related industries.

	Percent				
	1	2	3	4	5
Overall	31	32	20	11	7
Northeast	31	31	19	13	5
Industrial	32	32	19	12	4
Midlands	29	35	18	12	5
South	30	29	23	8	10
Central	27	35	20	11	7
Pacific	35	29	15	8	13

Scale: 1. Strongly agree. 2. Somewhat agree. 3. Somewhat disagree. 4. Strongly disagree. 5. (Don't know.)

18. Without a U.S. price support program for sugar, the price went from 6 cents to 60 cents a pound in the United States. The current policy promotes both a stable price and an ample supply, which benefits consumers and producers alike.

	Percent				
	1	2	3	4	5
Overall	27	43	13	7	10
Northeast	25	39	15	13	8
Industrial	32	39	12	7	10
Midlands	22	52	10	8	9
South	27	45	12	6	10
Central	27	41	14	5	13
Pacific	26	40	15	6	13

Scale: 1. Strongly agree. 2. Somewhat agree. 3. Somewhat disagree. 4. Strongly disagree. 5. (Don't know.)

19. Virtually every sugar-producing country in the world protects its sugar farmers and consumers with price supports and import quotas. Removing the U.S. sugar price support program could drive U.S. sugar farmers out of business and make American consumers dependent on other countries—whose farmers are protected—for its sugar supplies.

	Percent				
	1	2	3	4	5
Overall	31	31	17	13	7
Northeast	32	27	17	17	7
Industrial	32	26	18	17	6
Midlands	80	34	17	11	7
South	31	33	17	11	8
Central	31	38	14	10	7
Pacific	29	32	16	14	10

Scale: 1. Strongly agree. 2. Somewhat agree. 3. Somewhat disagree. 4. Strongly disagree. 5. (Don't know.)

20. Some people say that supporting U.S. sugar prices at eighteen cents a pound when sugar sells on the world market for less is like a hidden tax on food products that contain sugar, and that such supports should be reduced or eliminated. Other people say that protecting the American farmer and thousands of jobs in this country is worth an extra price for sugar in the supermarket. Which of these views comes closer to your own opinion?

	Percent		
	1	2	3
Overall	20	8	71
Northeast	28	11	61
Industrial	18	4	78
Midlands	18	11	71
South	19	9	72
Central	21	8	72
Pacific	20	11	70

Scale: 1. U.S. sugar supports are hidden tax. 2. (Don't know.) 3. Protecting farmers and jobs is worth an extra cost.

21. Under the current sugar price support program, the amount of imported foreign sugar has actually gone down about 75% since 1984. Ths reduction in sugar imports has created a major market for U.S. sugar beet, sugar cane, and corn farmers in meeting the country's need for sweetners. At the same time, traditional foreign suppliers who are friendly to the United States have suffered economically because the United States is buying less of their sugar. If you had to choose between a sugar policy that expands the market for U.S. sugar growers at the expense of U.S. allies, or a sugar policy that increases sugar imports from U.S. allies at the expense of U.S. farmers, which would you choose.

	Percent			
	1	2	3	4
Overall	73	14	5	7
Northeast	74	14	4	8
Industrial	73	15	6	6
Midlands	75	14	5	6
South	72	14	4	10
Central	75	13	5	7
Pacific	72	14	8	6

Scale: 1. A policy that expands market for U.S. farmers at the expense of U.S. allies. 2. A policy that increases imports at the expense of U.S. farmers. 3. (Combination.) 4. (Don't know.)

22. Now that you have heard some more information about the U.S. sugar support policy, do you strongly favor, somewhat favor, somewhat oppose, or strongly oppose continuing the current sugar policy of supporting prices by limiting imports of foreign sugar?

	Percent				
	1	2	3	4	5
Overall	41	34	11	8	7
Northeast	38	32	12	10	8
Industrial	44	30	13	9	4
Midlands	36	39	10	5	10
South	42	34	9	7	8
Central	41	35	12	5	7
Pacific	41	35	6	10	8

Scale: 1. Stronmgly favor. 2. Somewhat favor. 3. Somewhat oppose. 4. Strongly oppose. 5. (Don't know.)

23. Why do you feel that way?

	Percent
Favor U.S. sugar policy	**75**
Need to save farmers' jobs	**54**
Keep business here	**27**
Don't like importing	**6**
Imports cost less	**1**
Oppose isolationism	**1**
Current policy prevents price increases	**1**
Other	**2**
Don't know	**8**
Oppose U.S. sugar policy	**19**
Free trade, don't like trade barriers	**22**
Need to save farmers' jobs	**13**
Should have less government intervention	**10**
Keep business here	**9**
Imports cost less	**8**
Oppose isolationism	**7**
Don't like importing	**4**
Oppose subsidies	**2**
Current policy prevents price increases	**1**
Other	**11**
Don't know	**14**

Now, I'd like to ask you some questions for statistical purposes only.

24. Sex:

	Percent
Female	**51**
Male	**49**

25. What is your race?

	Percent
White	**85**
Black	**10**
(Other)	**4**
(Refused)	**1**

26. What was the last grade you completed in school?

	Percent
Some grade school (1-8)	**3**
Some high school (9-11)	**9**
Graduated high school	**36**
Technical/vocational school	**2**
Some college	**23**
Graduated college	**19**

	Percent
Graduate/professional school	9
(Don't know)	....

27. What is your age?

	Percent
18 to 24	14
25 to 34	24
35 to 44	20
45 to 54	13
55 to 64	13
65 or over	14
(Refused)	1

28. Would you please tell me in which of the categories I read is your total household income—of everyone living in this house?

	Percent
0 to $7,999	7
$8,000 to $11,999	5
$12,000 to $14,999	6
$15,000 to $19,999	8
$20,000 to $24,999	11
$25,000 to $29,999	9
$30,000 to $34,999	10
$35,000 to $49,999	16
$50,000 and over	16
(Refused)	8
(Don't know)	4

29. Do you generally consider yourself as more of a liberal or more of a conservative?

	Percent
Liberal	35
(Moderate)	10
Conservative	51
(Don't know)	4

30. Are you registered to vote, or not?

	Percent
Yes	84
(Not sure)	1
No	15

31. Generally speaking, do you usually think of yourself as a Democrat, a Republican, an Independent, or what?

	Percent
Democrat	37
Republican	26
Independent	30
(Other)	2
(Undecided)	6

32. Are you married, single, divorced, or what? Do you have any children?

	Percent
Married, children	51
Married, no children	9
Single	20
Single, children	2
Divorced, children	7
Divorced, no children	1
Widow or widower, children	7
Widow or widower, no children	2
Separated, children	1
Separated, no children	......
(Other)	......

INFORMED CONSENT: MICHIGAN

● Mr. HUMPHREY. Mr. President, the decision to abort an unborn child is irrevocable once the operation is underway, and there is no guarantee that side effects will not follow. Therefore, it is imperative that women be told all the facts before consenting to this potentially dangerous surgical procedure. Unfortunately, less than full disclosure happens all too often. As the hundreds of letters received by my office reveal, someone, purposely or carelessly neglected to tell these women risks and alternatives to this procedure. Many have paid a high price for physician negligence. Perhaps, with full disclosure, they would have changed their mind about the abortion, perhaps not. The point is that they deserved the opportunity to choose. Someone took that away from them. By supporting S. 272 and S. 273, we can make sure that Federal dollars are not used in this way. I ask that three letters from Michigan be inserted into the CONGRESSIONAL RECORD.

The letters follow:

JUNE 25, 1987.

Hon. GORDON J. HUMPHREY: I had two abortions before I became a Christian. I first began to think about the feasibility of having an abortion when I visited a Planned Parenthood clinic in Pontiac during my freshman year at college in order to receive the pill at a minimal cost. It was there that I received information about the nearest abortion clinic and was told how "safe" it was. Yes, physically it was safe but they never mentioned the emotional trauma.

The first abortion was not as traumatic as the second one. The first abortion was performed one month before my marriage. I didn't want to get married and have my in-laws think he had to marry me. It was hard enough "fitting in" with his family without that hanging over my head.

The second one was performed one year after marriage. I was using an IUD and got pregnant. My gynecologist told me that one in five pregnancies under these circumstances results in a retarded child. He didn't think abortion was the answer. He didn't want to give me the abortion clinic address, but because of the law, he did.

I struggled with what to do. I dreaded the thought of having an abnormal child, so I had an abortion. I cried most of that night after the abortion and suffered from deep depression. I felt guilty and confused. A year later, I had a normal child using natural childbirth. Life seemed fine on the surface, but I struggled with depression and low self-esteem. I can't blame abortion for all my emotional problems but it did contribute.

I had not realized how much those abortions bothered me until I became a born-again Christian. It felt good to have the burden of guilt released but I still regret having had those abortions—it hurts knowing I killed 2 of my children.

In Christ,

JOANNE MORTON.

EMPIRE, MI.

MARCH 9, 1987.

DEAR SENATOR HUMPHREY: About two years after my husband and I were married, I continued to spot after a monthly period. When I called a doctor to make an appointment, he made an odd comment. He hesitated after I explained the situation, and then said, "I guess I'm blaming you for not coming in sooner." My symptoms had been going on for about a week after my period when I called. Not being well-informed about pregnancy symptoms, I didn't ask any questions or what he meant by that remark. When I went in for an exam, he simply recommended a D & C. I had the D & C, never suspecting that I was probably pregnant at the time.

Just this month, I read the testimony of a woman who had had the exact symptoms I did, and whose doctor made the same recommendation. Fortunately, she had been through two pregnancies and knew what was happening in her body. Even though the doctor thought she should have a D & C supposedly because those symptoms indicated she probably wouldn't carry the baby to term, she refused, and today she has a 12 year old son.

Thank you for working for passage of an informed consent bill. I pray that you have good success. I have two daughters now, for whom I am very thankful, but when I think that through my ignorance a child may have been murdered, I grieve.

Sincerely,

SALLY BERK.

DEAR SENATOR HUMPHREY: Women are exploited by abortion, and those people who think that they are helping women by releasing them from the pressure of "unwanted" children, are, in reality, tormenting women by persuading them to think only of themselves and disregarding a woman's natural instinct of motherhood. The post-abortion trauma and the loss of a child is a far greater burden to bear than the raising of an "unwanted" child.

My child would be nine years old now. My boyfriend at the time of my abortion is now my husband, and (like in the letter you read) we too would give anything to have our baby back. Thank God that we have three beautiful children now, but this does not make our loss any easier to bear. I have written to my abortionist asking him to reconsider his position on abortion and briefly relating my position to him.

The folly of the whole abortion story is that women of today are brainwashed by our society to think they want freedom through childlessness, so it becomes their choice to kill their children. Then their sought-after freedom becomes their eternal burden.

Thank God for men like you who stand up for these babies. They are not complaining, so we need to speak for them. The people are aware of who does what in Washington, and we thank you.

Sincerely,

MRS. JUNE JARVIS.

TRAVERSE CITY, MI.●

GLADYS NOON SPELLMAN

● Mr. SARBANES. Mr. President, today at Arlington National Cemetery we laid to rest one of Maryland's most distinguished and respected public servants, Gladys Noon Spellman. Congresswoman Spellman, who represented Maryland's Fifth District, will be remembered as a woman dedicated to providing her constituents with distinguished representation and the best service possible. This included everything from helping constituents with personal problems to getting the Federal funding necessary to repave and improve the Baltimore-Washington Parkway, which was dedicated to Gladys Noon Spellman in 1982. Before her tragic illness, Gladys has left her mark on the Fifth District, and indeed the entire State of Maryland.

She was a true servant of the people in every respect. Whether forcefully and effectively advocating the best interests of the people of her district in the Congress, serving as chairman of the Board of Commissioners of Prince

Georges County, or teaching in the classroom, this remarkable woman vividly demonstrated the best in dedicated public service and genuine personal commitment.

Gladys brought her considerable talents to bear in the special way that touched consumers, public employees, senior citizens, children, and indeed, all the people of Maryland. Her appreciation of and unending dedication to the needs of all of her constituents were matched only by Gladys' commitment to ensuring that government, at all levels, was serving the people.

I had the honor and privilege of serving with Gladys Noon Spellman when she first came to the Congress in 1974, after her distinguished career of service and leadership in county government. I also had the privilege of sharing with Gladys many public appearances. Perhaps I can best note that her success as a public servant was reflected by the genuine warmth and dedication that the people she represented gave back to her on those occasions.

Her tireless efforts to touch the people she represented took her to every corner of her district with unending energy and enthusiasm. Gladys Spellman loved her constituents and they loved her, as the Washington Post editorialized—Gladys Spellman entered the race for reelection to a fourth term in Congress as the most popular politician in Prince Georges County. Her career stands as an example for all who would serve the people. Simply put, we will miss her greatly.

I join with Gladys' many, many friends, admirers, and colleagues in extending my sympathy to her husband, Rueben, her three children and four grandchildren. I ask that an editorial from the Washington Post be included in the RECORD at this point.

The editorial follows:

[From the Washington Post, June 21, 1988]

GLADYS NOON SPELLMAN

When a severe heart attack sent Gladys Noon Spellman into a coma on Oct. 31, 1980, her many admirers in Prince Georges County, in Congress and throughout the Washington region found it difficult to believe that this most exceptionally popular politician wouldn't find a way to battle back and resume her remarkable 19-year story of success in politics. Everybody knew that Mrs. Spellman was never one to be underestimated—that she reveled in her work and loved her constituents. Mrs. Spellman never did regain consciousness, though; and on Sunday, she died at the age of 70. Yet now as then, her political career remains something of a classic for people who want to serve successfully in public office. She was a pro.

Mrs. Spellman, from the beginning, leapt into local issues with gusto, slugging away at zoning issues in the county civic associations and crusading for new and better schools as a PTA member. Then there was the fight for a home rule charter form of government in Prince Georges and her victory as reform-slate Democratic candidate for the Board of County Commissioners. Four years later, Mrs. Spellman became the first woman to head Maryland's largest county, and later she was elected to the new county council and, in 1974, to the U.S. House.

In the House as in her home district, Mrs. Spellman was present wherever her constituents' interests were engaged—charming, cunning and unshakable. Days on the Hill would be followed by nightly gatherings in neighborhood homes and meeting halls. Mrs. Spellman was especially dogged in representing the claims of federal employees, whom she loved to rally and commend in the "Beautiful Bureacratic" columnn of her newsletter.

Though her career came to an end almost eight years ago, the good memories of Gladys Spellman are still strong, and her death brings a moment of sadness.●

THE ZIEMAN FAMILY

● Mr. BRADLEY. Mr. President, I rise today on behalf of all the people who have been refused permission to emigrate from the Soviet Union and join their loved ones in the West. The needless suffering of individuals separated from family members in the Soviet Union continues to offend the sensibilities of Americans.

Today, it is a special pleasure to tell my colleagues that Yuri, Tanya, and Vera Zieman will soon be permitted to emigrate from the Soviet Union and join their daughter and Vera's sister in the United States. Since 1977, the Ziemans have applied for permission to emigrate. Their applications had been repeatedly denied with the most recent refusal coming just last week. There was no justification for their refusal because Yuri's access to any allegedly "state secrets" was severed when he left his job at the Computer Research Center over 11 years ago.

When I was in Moscow in January, I met with the Zieman family. The indignities and humiliation they have suffered for their beliefs would have broken the spirit of most people. They have not only survived, they have retained a measure of conviction, grace, and good humor that is extraordinary.

This truly is a triumph for all who work to secure the human rights of those whose basic rights have been denied. However, the unnecessary suffering and pain that the Ziemans have endured cannot be dismissed. Their pleas and others in similar plights repeatedly fell on unsympathetic ears. Too many requests continue to be ignored by the Soviet authorities. We must continue to ask the Soviets to recognize the struggle of those who are denied the basic right to live where they choose.

I am hopeful that the new Soviet policies of glasnost and peristroika will open the door which has been long closed and reunite all the families who are divided. Americans are deeply suspicious of a nation that keeps families divided, that denies loved ones the right to even visit. This may seem minor compared to regional conflicts and nuclear weapons. But to many Americans, permitting Soviet-Western families to unite is a basic requirement for membership in the international community. Repression and insensitivity to human rights do not produce greater understanding between the United States and the Soviet Union.

There are many important matters competing for our countries to resolve. Clearly the issue of divided families must remain a major concern. We cannot forget those who have suffered the agony of separation for far too long.●

ROBERT L. HANKINS, ARKANSAS DIRECTOR, FARMERS HOME ADMINISTRATION

● Mr. PRYOR. Mr. President, today the Department of Agriculture bestowed its highest departmental honor, the Distinguished Service Award, to Robert L. Hankins, Arkansas Director of the Farmers Home Administration.

Hankins, a resident of Little Rock, received an associate degree in agriculture from Arkansas Polytechnic College and after serving in the U.S. Navy during the Korean conflict, returned to Arkansas and earned a B.S. degree in agriculture from the University at Fayetteville.

His career with FmHA began in 1956 as an assistant county supervisor, serving in that capacity at Lonoke, Clinton, Berryville, and Bentonville, AR. From 1958 until his first appointment as State director, he served as county supervisor in Harrison and Jasper, AR. His first term as State director ran from 1968 to 1977, during which time he served 1 year as president of the AR Federal Executive Association, an organization he had been a member of for 8 years. In 1977 he also served briefly as program assistant to the Administrator at the FmHA National Office in Washington, DC.

Prior to his present appointment that began on May 4, 1981, he operated a 200-acre beef cattle farm near Harrison, AR. He has received awards for outstanding leadership in agriculture, presented by the Cattlemen's Association, and for outstanding leadership in rural development, presented by the Rural Electric Cooperative Administration. He is also active in many organizations and clubs including the National Cattlemen's Association, Harrison Elks Club, Huntsville Masonic Lodge, Scottish Rite in Little Rock, president, Boone County Cattlemen's Association, and the Boone County Farm Bureau. In addition to his awards and civic involvement, Mr. Hankins is also married with a son, 26, and a daughter, 23.

Mr. President, I join Bob Harkins' many friends and admirers as he receives this most deserving award and recognition by the Department of Agriculture.●

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that S. 2527 now recur as the pending business and that I be authorized at any time to return the Senate to the consideration of any of the following bills: S. 430, S. 1323, and H.R. 4775, which would thereby occur without prejudice to the status of any of these measures.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

The Senate continued with the consideration of S. 2527.

Mr. BYRD. Mr. President, what is the pending business now before the Senate?

The PRESIDING OFFICER. The pending business is S. 2527.

Mr. BYRD. Mr. President, I thank the Chair.

ORDERS FOR THURSDAY

ADJOURNMENT UNTIL 10 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALL OF THE CALENDAR WAIVED, NO MOTIONS OR RESOLUTIONS OVER UNDER THE RULE, MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow the call of the calendar be waived under rule VIII, that no motions or resolutions over, under the rule, come over and that following the two leaders under the standing order there be a period for morning business, not to extend beyond the hour of 10:30 a.m. and that Senators may speak during that period for morning business not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, tomorrow the Senate will resume consideration of S. 2527, which is the plant closing bill. I presently plan to be on that bill until the Senate completes action thereon. At least that is my present intention, and what my intentions will be on tomorrow will be determined by circumstances as we go along.

I would hope that we could have whatever amendments are going to be called up to the bill called up on tomorrow, debated, and disposed of one way or another, and that the Senate could complete action on that bill tomorrow. But in any event, Senators are on notice that there may be rollcall votes early, and I think it might be a good idea if we have a rollcall vote at, say, 10:30 tomorrow. If not on an amendment, if there is no amendment called up and pending, I may just ask that the Sergeant at Arms be instructed to help the Senate to establish a quorum. So Senators are alerted to the possibility of an early rollcall vote tomorrow.

So this means, Mr. President, that there could be a rollcall vote at 10:30 a.m. tomorrow for the purpose of establishing a quorum and getting a start on the plant-closing bill. I think that is what I shall do so that all Senators will know that there will be a rollcall vote so that we can get started on that bill.

I suppose there could be something that could cause me to change my mind but at the moment those are my intentions. I would suggest that both Cloakrooms put on their wires that there will be a rollcall vote at circa 10:30 tomorrow morning. That would be a 15-minute rollcall vote.

And I ask unanimous consent that the call for the regular order be automatic at the expiration of the 15-minutes on the rollcall vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, does the distinguished acting Republican leader have any other business he would like to transact or any statement he would like to make before we close up for the day?

Mr. WILSON. No.

I thank the distinguished Democratic leader.

Mr. President, we have no additional business.

Mr. BYRD. Mr. President, I thank my friend.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, I move in accordance with the order previously entered that the Senate stand in adjournment until the hour of 10 o'clock tomorrow morning.

The motion was agreed to, and the Senate, at 8:13 p.m., adjourned until Thursday, June 23, 1988, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 22, 1988:

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. MELVIN F. CHUBB, JR., [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. GORDON E. FORNELL, [redacted]FR, U.S. AIR FORCE.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5035, TO BE ASSIGNED AS VICE CHIEF OF NAVAL OPERATIONS IN THE GRADE OF ADMIRAL:

To be vice chief of naval operations

VICE ADM. LEON A. EDNEY, [redacted]/1310, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 711, TO BE REASSIGNED IN HIS CURRENT GRADE TO BE SENIOR NAVY MEMBER OF THE MILITARY STAFF COMMITTEE OF THE UNITED NATIONS AND TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be senior Navy member of the Military Staff Committee of the United Nations

VICE ADM. CHARLES R. LARSON, [redacted]/1120, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5141, TO BE CHIEF OF NAVAL PERSONNEL AND TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be chief of naval personnel and vice admiral

REAR ADM. (SELECTEE) JEREMY M. BOORDA, [redacted]/1110, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5149(B), TO BE ASSIGNED AS ASSISTANT JUDGE ADVOCATE GENERAL OF THE NAVY:

To be assistant judge advocate general of the Navy

CAPT. WILLIAM L. SCHACHTE, JR., [redacted]/2500 JUDGE ADVOCATE GENERAL'S CORPS, U.S. NAVY.

HOUSE OF REPRESENTATIVES—*Wednesday, June 22, 1988*

The House met at 10 a.m.

Rev. Austin R. Cooper, Sr., St. Andrews Episcopal Church, Cleveland, OH, offered the following prayer:

O Sovereign Lord God and Creator, Molder of the destiny of nations, Architect of peace and justice, be with us this solemn morning hour, as this body assembles to deliberate the affairs of state. Bless our President, the Speakers and Members of both Houses of Congress. May all that is done be to Your eternal praise and glory and the enrichment of the lives of people everywhere. These petitions we offer in Your name and we pray:

O God, our help in ages past,
Our hope for years to come,
Our shelter from the stormy blast,
And our eternal home.

O God, our help in ages past,
Our hope for years to come,
Be Thou our guide while life shall last,
And our eternal home.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize one Member only for 1-minute speeches before the day's business. The appropriation bill and the fair housing bill, which we hope to take up at the completion of the appropriation bill, will take precedence, and 1-minute speeches will be recognized following that legislative business, except for one.

The Chair takes pleasure in recognizing the gentleman from Ohio [Mr. STOKES].

FATHER AUSTIN R. COOPER, SR.

(Mr. STOKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STOKES. Mr. Speaker, it is a privilege and honor to welcome to the House of Representatives Father Austin R. Cooper, Sr., of Cleveland, OH. That welcome is also extended to the members of his family who have also joined us today. We appreciate Father Cooper coming to Washington to offer our opening prayer this morning.

Father Cooper is a distinguished and respected member of the Cleveland religious community. He has served as rector of St. Andrews Episcopal Church in Cleveland for 18 years. A graduate of St. Augustine's College in Raleigh, NC, Father Cooper received his master of divinity from Seabury-Western Theological Seminary in Evanston, IL, and completed further study at the Cleveland-Marshall School of Law.

Father Cooper is the cofounder, first secretary, and past president of the Union of Black Episcopalians. He is also past president and a life member of the NAACP, and is the recipient of the organization's Black Church Leadership Award. Father Cooper is a member of the standing committee of the Diocese of Ohio and he is listed in "Who's Who Among Black Americans" and "Notable Americans." He and his wife, Patricia, are the parents of three children; Austin, Angela, Kimberly, and a granddaughter, Ashley Arianne.

Mr. Speaker, Father Cooper is a dedicated and committed spiritual leader. I am pleased that he has been accorded the honor of conducting the opening prayer. I invite my colleagues to join with me in welcoming Father Cooper to the House this morning.

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF THE HONORABLE JOHN J. DUNCAN, A REPRESENTATIVE FROM THE STATE OF TENNESSEE

Mr. QUILLEN. Mr. Speaker, I offer a privileged resolution (H. Res. 481) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 481

Resolved, That the House has heard with profound sorrow of the death of the Honorable John J. Duncan, a Representative from the State of Tennessee.

Resolved, That a committee of such Members of the House as the Speaker may designate, together with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The SPEAKER. The gentleman from Tennessee [Mr. QUILLEN] is recognized for 1 hour.

Mr. QUILLEN. Mr. Speaker, it is my sad duty to inform the House that our friend and colleague, JOHN DUNCAN, passed away last night in Knoxville after a long struggle against cancer.

JOHN was my close personal friend and my heart is heavy with the pain of this loss. I know his many, many friends here in the House where he served with such distinction are also filled with grief at this report of his passing.

My heart goes out to JOHN's lovely wife, Lois, and to their children, relatives, and friends in this time of sorrow. All who had the good fortune to know JOHN DUNCAN have lost a little piece of their hearts. We are all diminished by his passing.

I want to further inform Members that I will reserve a special order for next Wednesday, June 29, at the end of legislative business to remember and pay tribute to the memory of JOHN DUNCAN.

Mr. Speaker, funeral arrangements are incomplete, but later on today I will be able to pass on to the Members of the House the funeral arrangements.

Mr. Speaker, I am happy to yield to the gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Ways and Means Committee.

Mr. ROSTENKOWSKI. Mr. Speaker, I thank the gentleman for yielding. I guess the gentleman from Florida, SAM GIBBONS, and I have served longer on the Ways and Means Committee with JOHN DUNCAN than any other Members. For a period of 10 years, JOHN DUNCAN has always been the ranking member of the minority on both the Subcommittee on Health and on the Select Revenue Measures Subcommittee, and presently as the ranking member on the Ways and Means Committee.

I have had the privilege of working with JOHN on some of the most vital legislation that this House has been considering. He was a man who showed genuine concern for people, who had humor and understanding, but most of all the decency that one person can possess. His constituents knew him as a man they could rely on to represent them with both force and fairness.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I am saddened really to find this morning that JOHN DUNCAN passed away. We on the Ways and Means Committee are certainly going to miss him, and I am sure that the great State of Tennessee has lost one of its most outstanding Members of Congress and citizens.

To his wife, Lois, on behalf of my wife, LaVerne, whom we have traveled with on many occasions, we extend our deepest sympathies and grief at the passing of a truly great American.

Mr. ARCHER. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I am happy to yield to the gentleman from Texas.

Mr. ARCHER. Mr. Speaker, with the death of our colleague JOHN DUNCAN last night in his beloved home town of Knoxville, TN, I, and many others in this body, lost a very dear friend. The Nation lost a statesman.

JOHN DUNCAN epitomized the definition of a Representative. His devotion to his constituents was a model for anyone who has ever held the office in which he served so honorably for nearly a quarter of a century.

Never during that long career of service in Congress did he ever forget why he was here. In an institution which is filled with people who are devoted to public service, none have ever been more dedicated to the regions of the country they represent than JOHN DUNCAN was to the State of Tennessee. The people of the Second Congressional District could not have been better represented for the past 24 years.

He was my friend and my leader on the House Ways and Means Committee. I'll miss him terribly in the months and years ahead.

May God bless JOHN's lovely wife, Lois, and his children. He left all of them a legacy of honor, dignity, and love.

Mr. SCHULZE. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Pennsylvania.

Mr. SCHULZE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we all feel a great sense of grief and loss at the passing of JOHN DUNCAN, our colleague. He leaves a void not only on the Ways and Means Committee but in this House, which will be very difficult to fill.

JOHN's sense of humor, his dignity, his integrity serve as an example for all of us. His family is and he was dedicated to public service. His wife, who stood by his side through thick and thin, was a helpmate unequaled in this House. We are honored to have shared a part of JOHN DUNCAN's tenure in Congress.

As our leader on the Ways and Means Committee on the Republican side, as the ranking member, he motivated us to do what was best for this Nation, to try to guide tax policy in a bipartisan way so that we could ensure the future for his children and grandchildren and for all of our progeny.

Mr. Speaker, we will miss JOHN DUNCAN. We can only be thankful for the time JOHN served with us.

Mr. FORD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Tennessee.

Mr. FORD of Tennessee. Mr. Speaker, I thank my colleague from Tennessee, Mr. QUILLEN, for yielding.

I would like to say, Mr. Speaker, that I have had the opportunity to serve with my colleague, JOHN DUNCAN, who we know passed away last night in Tennessee at his home, for 14 years, and to serve on that Ways and Means Committee from a different party affiliation with JOHN has been one good and sound experience not only for me, but it has been good for the Nation as well as our State, Tennessee.

We have lost a great American. We have lost a great leader in Tennessee. We have lost more so than anything else a great humanitarian.

On behalf of my family, to his family, his wife, Lois, and those who live in the Knoxville area, we have lost a great Tennesseean. He is going to be missed, and I join with my colleagues today, and will participate next week when the dean of the delegation of Tennessee reserves time.

□ 1015

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. Mr. Speaker, I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding, and thank him for raising this sad subject.

I was thinking last night, feeling sorry for myself, that I had lost a friend. This morning, on review, I find that it is more important that the House has lost a friend, each of us individually, and all of us collectively.

JOHN was a man who dignified this House with his presence. His grace, his courtesy, and gentlemanliness are almost a legend in the House. I am pretty sure I have never heard a harsh word from JOHN DUNCAN.

He loved the House environment and he improved the House environment by his presence. I think all of us want to say what we feel this morning, but there will be other opportunities to celebrate JOHN's career and his presence here.

For now let it suffice to say that while the House will sustain a terrible loss through his death, those Members of the House who will remember the example of his life will continue to improve the House in the way that JOHN DUNCAN did.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Florida.

Mr. GIBBONS. I thank the gentleman for yielding and commend the gentleman from Tennessee for bringing this to our attention and for allowing me to make some observations. I loved JOHN DUNCAN because of the man he was. I remember the first day he joined us on the Committee on Ways and Means. Mr. Mills introduced him as a new Member. We were then busy marking up one of those tax bills.

JOHN took his seat there in the executive session and nodded and worked hard, listened hard, and at the end of the session he came over and introduced himself to each one of us.

JOHN led by example. He never demanded a lot but he did a lot. He was a man of great personal integrity, great warmth of feeling. He and Lois were a devoted couple and he raised a very fine family. The State of Tennessee and all the Nation will miss the example and the service of JOHN DUNCAN.

Martha and I give our best prayers and wishes to the family.

Mr. MATSUI. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from California.

Mr. MATSUI. I thank the gentleman for yielding.

JOHN DUNCAN is the type of individual who was an extremely partisan individual in the sense that he voted his conscience. At the same time, JOHN was one of the most friendly, even-tempered human beings I have ever known. He treated everybody equally. He was certainly a great person and one that we will miss in this body very much.

I would like to mention just one anecdote which I think really exemplifies JOHN DUNCAN. One of my neighbors comes from Knoxville, TN, JOHN's home city.

Now, when her daughter was a child some years ago JOHN was kind enough to take that daughter, whenever he went back home to visit his constituents, with him on the plane from National Airport into Knoxville so that that daughter could be joined every other week or on a 3-week basis with the grandparents who still lived in Knoxville. I thought that was somewhat above and beyond the call of duty for any Congressman to take a constituent's child back home every month or so.

So I approached JOHN on the floor one day and I said, "JOHN, why would you do something like that?" I know I would have a very difficult time taking a child back home once a month with me, if the child was 2, 3, 4 years old, for the 3 years or so that JOHN did this. JOHN just said, "BOB, I don't have any problems doing it. She just sat on my lap. I had a very nice time with that child. It made the grandmother so happy whenever she saw the child when I landed Knoxville."

I think this says what JOHN DUNCAN is all about. He was just a wonderful human being who cared about his constituents and all the people that he worked with.

Mr. McGRATH. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from New York.

Mr. McGRATH. I thank the gentleman for yielding.

Mr. Speaker, with the passing of our dear friend and colleague JOHN DUNCAN, the city of Knoxville, the State of Tennessee and the country has lost a true patriot, a great American.

JOHN DUNCAN is the epitome of what a southern gentleman truly is. He led with quiet dignity. He was a great man who we in this House are going to miss.

Certainly I and the members of the Committee on Ways and Means will miss him terribly.

To his wife, Lois and to his family I extend on behalf of all our Members, the heartfelt condolences that each and every one of us feel on this terrible occasion.

I know that JOHN's legacy will be one of public service that for the many years that he was mayor of Knoxville and the Congressman from the eastern portion of Tennessee along with the gentleman in the well, his name will go down in history.

There is a bill in committee, I believe, right now that is going to name a Federal building in Knoxville, TN, the JOHN DUNCAN Federal Building. I hope that we can expedite consideration of that bill perhaps prior to the time when we go to visit Knoxville for this sad occasion.

Mr. JENKINS. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Georgia.

Mr. JENKINS. I thank the gentleman for yielding.

JOHN DUNCAN represented a district in Tennessee that joins my district in Georgia. Our people are almost identical in interest. For 11 years I have had the opportunity to serve with him, also, on the Committee on Ways and Means.

JOHN DUNCAN devoted his life to the people of Tennessee, indeed to the people of the Nation. He was a good mayor of the city of Knoxville, he was a good representative of the people of Tennessee. I shall miss him greatly. He was a true gentleman. He was a kind person and, most of all, JOHN DUNCAN was a good man. I shall miss him.

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Speaker, JOHN DUNCAN was, yes, a gentleman, a leader, a legislator, but I was always amazed at the great civil rights record that he enjoyed as a mayor of Knoxville where he felt it was important to protect the rights of all our citizens regardless of their color long before it became popular and even when politically it was not the thing to do, especially coming from the South.

On that Committee on Ways and Means I never really considered whether he was Republican or Democrat, whether he was senior or ranking, because the issues that he provided the leadership on always concerned people in need of health care, people who needed incentive to get jobs. And when I can take a look at the legislation that I have been proudest to support, I do not remember ever having anything that I was proud of without having JACK DUNCAN's name on it.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from California.

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Speaker, it has been my honor in recent years to work very closely with JOHN DUNCAN in his responsibilities in our Republican leadership. It has been expressed that JOHN was a dedicated, very effective, capable member of the Committee on Ways and Means where he served with great honor. But for those of us who did not have the privilege of working with him on that fine committee, let it be known that JOHN was one of those human beings within the leadership circle who constantly reached out in a human way to his colleagues on our side of the aisle. Ever helpful, gentle, not only hard working but a human being who added a great deal to public affairs, he made the Congress a little bit better place to work in.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding.

Mr. Speaker, the most unselfish member of the Committee on Ways and Means was JOHN DUNCAN of Tennessee. JOHN was not one who was advocating bills that would always help the people in his district, per se, or in special interest matters. He was trying to help us get good tax policy, progressive, sound policy. He was so extremely unselfish that he seldom offered amendments in his own name. When he did, though, it would pass almost without discussion because we just knew automatically that it would be fair and it would be right and it would be just.

And it usually was for a little person who was overlooked in the tax structure.

But another factor we ought to remember about JOHN DUNCAN was in my judgment that he was a force that brought us together. As the ranking member of that committee, he was willing to listen to the majority side and help us forge compromises that moved the tax legislation forward. He was the force that brought us together in a bipartisan manner perhaps as much as anyone on the entire committee.

The Nation owes him a great deal and we will always remember this sweet soul, this southern gentleman who will be personally missed by every Member of this body.

Mr. GRADISON. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Ohio.

Mr. GRADISON. I thank the gentleman for yielding.

Mr. Speaker, JOHN DUNCAN's life was a testimonial to that great truth that in a very real sense there is a love affair between Members of Congress and their districts. We all have this in varying degrees, those close ties that bind us to the people whom it is our great honor and responsibility to represent. But I do not know a Member of Congress during the 14 years that I have served here and the longer period of time that I have been an observer of the scene, who was closer to his district than JOHN DUNCAN was to his.

For many of us on the Committee on Ways and Means, our last time together with our colleague JOHN DUNCAN was just a few months ago—it seems like days, not months—when the final preparations were being made for the annual Ways and Means weekend long retreat.

JOHN had been urging us for a long time to come to his home State and indeed that is where we met. It was in the district of the gentleman from Tennessee [Mr. QUILLEN] but not far from JOHN's home district in Knoxville.

His pride in the fact that we were coming to Tennessee, that we would have a chance to enjoy the hospitality of that area, learn more about it and enjoy its natural beauty, was apparent to all the members of the committee and, indeed, the first inkling that we had that he might not be with us in the future was when he did not show up at the last minute for that retreat. His illness had reached a point where it was impossible for him to do so.

JOHN DUNCAN is going to be missed by all of us and it is difficult to make comparisons, but he certainly will be missed especially by the members of the Committee on Ways and Means who have had an opportunity through the months, through the years to see him, to appreciate him and, yes, come to love him.

Mr. CLEMENT. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Tennessee.

Mr. CLEMENT. I thank the gentleman for yielding.

Mr. Speaker, Congressman JOHN DUNCAN I have known practically all my life. He was a personal friend of my father's and the entire Clement family. I was a student at the University of Tennessee, Knoxville, I graduated there. I remember over and over again Congressman JOHN DUNCAN extending so many different courtesies to me as a student there and I will never forget it.

I remember him as mayor of Knoxville, as an outstanding leader, as a visionary thinker. I think of Congressman JOHN DUNCAN as sort of in the Abe Lincoln presence. He had a soft voice but a very effective leadership quality and someone we are going to miss in the House of Representatives very much because I know he was a friend of Democrats and Republicans alike.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the minority leader, the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding and appreciate his taking time today. I was very saddened this morning to hear the news of the departure of our dear friend, JOHN DUNCAN.

JOHN suffered a great deal over this last year and somewhat before that. Those of us who knew him well he confided in from time to time about his particular problems: but I will tell you when we would ever ask JOHN in the Cloakroom or out and about, "How are you doing, JOHN?" he would say, "Fine, just fine."

☐ 1030

There was never any indication at all that he would outwardly express the kind of concerns that I am sure he had inside for his own health and well-being. But let me say that I have picked up on what BILL GRADISON said with respect to the ties that he had with his own district. I know, when I have been down to his district several times campaigning in his behalf, what a joy it was to see how many of the people in those audiences he knew on a first-name basis. And he always wanted to introduce us to each and every one of those persons who were there that evening.

I can recall some years ago when our oldest boy was playing basketball for Yale and they were playing Tennessee. JOHN insisted on that occasion that they have a special reception after the game, just because he wanted to be a part of our joy in coming to Tennessee that night to play the game.

There have been just so many things that JOHN has done around here to endear himself to all the Members. He worked in a quiet sort of a way. He was never one of the flamboyant people around here waiving his arms and giving great speeches.

I had the occasion to make the comment yesterday in another arena about how good things are done around here off the floor, even outside the committee room and beyond the committee room itself, where Members get together and work out compromises that eventually result in seeing that something gets adopted here in the House of Representatives. JOHN was a master at working in that way. So it is not always those who make a name for themselves in flashing lights here on the floor of the House but those who gain the respect and admiration of their colleagues. Like this Member here, as leader on our side, we were looking from time to time to the leadership of JOHN DUNCAN on that committee and what he was able to put together by way of a working coalition.

We will certainly miss JOHN DUNCAN around here not only for the kindly manner in which he always conducted himself but for the wonderful individual he was.

Mr. Speaker, I thank the gentleman from Tennessee [Mr. QUILLEN] for yielding, and I certainly want to extend our sympathy to Lois and all the members of the family. We will await the funeral arrangements, and we expect, of course, that there will be the usual delegation appointed from the Congress to attend the funeral.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Ohio.

Mr. PEASE. Mr. Speaker, I thank the gentleman for yielding.

I, too, arise with a sense of sadness at the news of the death of our friend, JOHN DUNCAN. JOHN DUNCAN was a gentle man and a gentleman. He was an example to all of us in the House of Representatives, a civilizing influence in the sometimes partisan debate that goes on so often around here.

JOHN DUNCAN knew the tax law, and he knew the trade law and the laws of all the other areas of jurisdiction of the Ways and Means Committee. I never knew JOHN to be interested in narrow partisan interests. As the ranking member on the minority side of the Ways and Means Committee, he was always interested in the national interest and what made sense for the United States of America.

Allusion has been made to his sense of humor. It, too, was a gentle sense of humor, a self-deprecating sense of humor, but it was there and it brightened up many a meeting of the House Ways and Means Committee.

Mr. Speaker, he will be missed by everybody, certainly including me, and I would like to extend my sympathy as well to his wife, Lois, and to his family.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman from Tennessee [Mr. QUILLEN] for taking this time.

Mr. Speaker, it was my pleasure to know JOHN DUNCAN as a colleague on the Committee on Ways and Means and also as a personal friend. Over the years, as we moved around and talked to various groups about the issues that were in front of the committee or in front of the House, I shared the podium with him a number of times and got to know him as a person whom I, as someone from the West, viewed as a southerner in the best sense of the word. I know he was a border State Republican, but in terms of his manners, in terms of his sophisticated courteousness, and in terms of his—and I know this word has been used before—genteel manner, he was a southerner, and in the most positive sense of the word, he was a southerner in terms of almost always getting his way. He was never pushing, never loud, never obvious, but JOHN was the type of person who, once he understood what needed to be done, was very effective in getting it done.

I will always love him for the way in which he allowed the younger members of the committee to grow. His leadership was a quiet leadership, a leadership which he asserted by example rather than by rhetoric, and one which was all pervading.

Mr. Speaker, I know that Lois and his family will miss him very much. Those of us who lived with him, worked with him, and loved him will miss him very, very much.

Mr. FLIPPO. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Alabama.

Mr. FLIPPO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it was a great pleasure for me to get to know JOHN DUNCAN and Lois and his family. I say it was a pleasure to work with him and to get to know him, I think, because I believe JOHN DUNCAN, among all of the people I know, was very comfortable being a Representative of the people of the area that he represented. JOHN shared the common sense and the needs and the hopes and the humor and the dreams of his people like almost no other Representative that I have the pleasure of working with.

Mr. Speaker, he was a truly unique individual. I think we can say of JOHN DUNCAN what we would all like to have said of us, and that is that JOHN DUNCAN made a difference and he left this place better than he found it. I will miss him.

Mr. SUNDQUIST. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Tennessee.

Mr. SUNDQUIST. Mr. Speaker, I thank my distinguished colleague, the gentleman from Tennessee, for yielding on this sad day for both of us and for our colleagues.

We will miss JOHN DUNCAN. JOHN DUNCAN had integrity, wit, wisdom, a sense of fairness, and a dedication to this institution that ranks among the highest of anyone who has ever served. So we are saddened today, and our hearts are heavy over the loss of our good friend.

Congressman QUILLEN was with him a week ago. I was down there a week ago. Even though he was racked with pain and very ill, he still had a sense of humor. He said he wanted to come back to this body before he retired to say hello to his colleagues and to tell them how much he enjoyed serving in this body.

So I join with my colleagues in extending our thoughts and our prayers to Lois and his entire family and his grandchildren. JOHN DUNCAN was a wonderful man. JOHN DUNCAN took care of business for everybody, for his constituents and for his colleagues here where it made a difference.

Partisanship was not a part of JOHN DUNCAN when it meant something for his State or his district or his country. Many times I know that our colleagues have come to me and said, "Did you know that JOHN DUNCAN put an amendment of mine in or a piece of legislation in ahead of his own?" He did that for his colleagues. He would put my request or your request in very often ahead of his own on the list.

He had a great sense of humor. We are all going to remember JOHN standing back in the back of this Chamber and, with his dry wit, telling us his stories.

Ironically, yesterday we passed in the Public Works Committee a bill to name the new courthouse in Knoxville, TN, after JOHN DUNCAN. I am hopeful, Mr. Speaker, that we can expedite that and pass that bill through this body as quickly as possible, because that courthouse will be an indication of what JOHN DUNCAN meant to the people of his district, because he really did the work for the people there. They all knew him. They all called him JOHN. If you have ever been to one of his barbeques where over 30,000 people from all walks of life would come into that huge auditorium and walk by, one by one, and shake JOHN DUNCAN's hand, you would know that is the kind of Representative he was and that is the kind of person he was.

Our colleague, Senator Howard Baker, has said this on several occasions: JOHN DUNCAN was born in Scott County, the same county in which Howard Baker was born and now lives. Howard Baker's father served the Second District of the State of Tennessee for many years, and Howard Baker's mother served in the Congress representing the Second District of Tennessee, and Howard Baker, not saying this in any way that would in the remotest way be critical of them, said, "JOHN DUNCAN was the finest Congressman the Second District of Tennessee ever had."

□ 1040

And that is a tribute that we all join together in saying to his family that, "Lois and family, we're going to miss JOHN as you do."

Thank you for giving me this time.

Mr. DOWNEY of New York. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from New York.

Mr. DOWNEY of New York. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, this is a sad day for all of us, all of us who have worked with and love JOHN DUNCAN. What I remember best about him was that he was a man of perspective.

Mr. Speaker, when the Committee on Ways and Means would be writing legislation and there would be a hubbub of lobbyists and scurrying aides in the committee. JOHN would sit serenely listening, and understanding what was going on and have the right perspective.

We are now a Nation of fleeting images; television has made us that. But JOHN DUNCAN was not a fleeting image. He was a man who understood what was important.

Mr. Speaker, what was important was his family, his wife, Lois, the people that he represented and the people that loved him and that he in turn loved.

This was a unique man and one who will not be easily replaced. To have persons of character, judgment, dignity, and grace is a rare combination. He was a rare combination of all those qualities.

Mr. Speaker, I will miss him very much.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I am quite saddened by the loss of JOHN DUNCAN. I knew JOHN DUNCAN even before he came to the Congress. He was the owner and president of the Knoxville baseball club, and many years before I came to the Congress I was the president of the Rochester Redwings in Rochester, NY, in my district. I knew JOHN and his interest in baseball, and ultimately the Redwings were Oriole affiliates, and the Knoxville ball club was an Oriole affiliate, and on many occasions JOHN and I talked about his interest in sports, not only in baseball, but also the Tennessee football team and the University of Tennessee, which was his great love. I do not think that he ever missed a home game, and there were very few games that he missed that were away. I am sure that the great University of Tennessee is going to miss him.

But, Mr. Speaker, we in the House are certainly going to miss JOHN. As one of the ranking members of one of the committees in the House and the Committee on Government Operations, JOHN was a ranking member of the very important Committee on Ways and Means, and he and I on many occasions talked about our responsibilities.

Mr. Speaker, he was a good friend. I personally am going to miss him. My wife, Nancy, and I extend our sympathies to Lois, and the sons and other members of the family of JOHN DUNCAN.

Mrs. KENNELLY. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentlewoman from Connecticut.

Mrs. KENNELLY. Mr. Speaker, I thank the gentleman from Tennessee [Mr. QUILLEN] for calling us to the well at this time so that we can extend our sympathy to Lois Duncan, to JOHN's sons who he loved so much and was so proud.

I was a freshman member on the Committee on Ways and Means, and JOHN DUNCAN was extremely kind to me. There was so much to know. There was so much to learn. And yet JOHN, though he was of the other party and though he had such seniority, took the time to show me kindness. As I got to know JOHN as a friend, I realized this was the personification of JOHN DUNCAN: He was a kind man.

The gentleman from Ohio [Mr. GRADISON] mentioned that we all went to Gatlinburg, TN, because JOHN wanted us to go. JOHN could not go with us those last few weeks. We all knew that JOHN was sick. He was so brave. He never complained. But we understood, and we felt sad then as we feel so terribly sad today.

But, as I looked out at the hills in Gatlinburg and I saw the dogwood blooming, I looked at those mountains he loved so much. I knew a little bit about why JOHN loved Tennessee and wanted his Committee on Ways and Means colleagues to see it.

Mr. Speaker, we are going to miss JOHN DUNCAN here, but not anywhere near how they are going to miss him in Tennessee.

Mr. LEVIN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Michigan.

Mr. LEVIN of Michigan. Mr. Speaker, I thank the gentleman very, very much for yielding this time to me.

Mr. Speaker, I only had a chance to work with John Duncan for a year and a half. I very much enjoyed that association.

In a few words, I liked him very much. There were no airs about John. He was a humble person. He cared less about seniority than he did about relationships.

All the minority members of the committee who have spoken have mentioned that John Duncan was willing to submit their needs above his, willing to have them supersede himself. He treated all the members of the committee that way, and not because he was a minority member and we were majority members. But it was because of the way he dealt with all human beings.

So, Mr. Speaker, in a very personal way we will miss him.

Beyond the legislation there are associations and relationships, and in those, as well as legislation, John excelled.

Mr. Speaker, his loss to his family is also very much our loss. We send to them our deepest condolences. We will very much miss him.

Mr. GORDON. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Tennessee.

Mr. GORDON. Mr. Speaker, I thank the gentleman from Tennessee for yielding this time to me.

Mr. Speaker, Mr. Duncan's death is not only a loss to the Second District in Tennessee, but to all of Tennessee and our country.

I remember, as everyone here, of those types of occasions that touched them with Mr. Duncan, and I know, as a new Member in 1985, he reached out to me, helped to make me feel comfortable. And during that year when we would go to receptions, as my colleagues well know, so oftentimes people from Tennessee are up here for meetings in the morning like we had this morning, and at noon, and in the evening, and most Members wonder: "How can I attend all of these? How can I be with all these folks and still get my job done?"

But Mr. Duncan never had a hesitation. He was never too busy, although he was the ranking member on the Committee on Ways and Means. He was never too important, even though he had an enormous amount of seniority, to meet with Tennesseans and to stay in touch, and at every place I would go Mr. Duncan would already be there.

Mr. Speaker, John Duncan is someone that I will miss, and I want to extend my condolences to his family and to all those people that he represented so well.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Speaker, I thank my distinguished colleague, the gentleman from Tennessee [Mr. Quillen] for yielding, and I simply want to add to the remarks that have already been made that John Duncan was a special kind of person to me.

Mr. Speaker, in our environment here where we wage our battles daily on the floor, for all of that there is a personal relationship that we enjoy with one another, and mine with John was almost father-son. He was kind of like a surrogate father to me here, and serving on the Committee on Ways and Means with John, as I have for these last 13 years, I came to appreciate John in a very special way.

We had the privilege of taking a family vacation. We went down to Knoxville, and John lined us up with a houseboat we rented, and I took all my kids down to Watts Bar Reservoir, and we spent about 2 weeks in total isolation. Before getting on that houseboat though, we had a social gathering with my seven children at the time; we did not have our eighth yet, and John's children. It was kind of like going home to the farm. It was kind of like family reunion time.

Mr. Speaker, I have always maintained a special affection for John and Lois, and I know how proud they were of their four children and all those grandchildren they had. Knowing that John has left us, let us bear in mind that it is a temporary parting. And so I cannot say goodbye to John, just, "So long, John, and we'll be seeing you."

Mr. HUBBARD. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Kentucky.

Mr. HUBBARD. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to express my appreciation to the gentleman from the First District of Tennessee, Mr. Quillen, for taking this time to allow other Members of Congress to pay tribute to the late Honorable John Duncan.

Those of us from the neighboring State of Kentucky indeed admired John Duncan.

My wife, Carol, and I were very fond of John and Lois Duncan. We had the pleasure and privilege of being with them on many occasions here in Washington and elsewhere.

Those from Kentucky and Tennessee know of the rivalry between our two States, but we all realize that on many occasions John Duncan was indeed helpful, not only to his home State of Tennessee, but to other States including, for sure, neighboring Kentucky where he lived so close to towns such as Williamsburg, Middlesboro, and Harlan, KY. Those of us who know of the rivalry between Kentucky and Tennessee, especially the University of Tennessee and the University of Kentucky, know that many times we are competitors of sports, especially football and basketball.

□ 1050

This Member of Congress would try to avoid Congressman Quillen and Congressman Duncan after Tennessee would beat Kentucky, but when Kentucky would beat Tennessee in basketball or football, I always tried to find John Duncan and Jimmy Quillen on the House floor to remind them of the score of the day before.

Indeed, we will miss John Duncan. He was a tower in the Congress, a great man, and a great Tennessean.

I would close by simply saying that my father, who was pastor of the Oak Ridge Tennessee Central Baptist Church for 8 years, was an admirer of John Duncan. He knew him personally. He read about him many times in the Knoxville Journal and the Knoxville News Sentinel, and even though my father died 7 years ago, if he were living he, too, would want to pay tribute to John Duncan, a man he, too, admired.

To Lois, to his sons, those of us from Kentucky extend our sincere sympathy.

Mr. QUILLEN. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. Conte].

Mr. CONTE. Mr. Speaker, I thank my good friend, the gentleman from Tennessee, Mr. Jimmy Quillen, for yielding to me and commend him for taking out this time so we can pay a proper tribute to our good friend, John Duncan.

I have known John since the first day when he came here to the Congress. We had a lot in common. As the gentleman from New York, Mr. Frank Horton, says, he loved baseball. Of course, I have been an old baseball fan and coach of the Republican baseball team. John and I would talk baseball a lot. Just about every night, in fact if it failed, if he did not show up, I would be worried about him, but every night when the session was over and the work was completed in the office, I would meet John Duncan in the gym. We would sit in the steam room talking.

John and I had a lot in common. We both were operated on by the same doctor, Dr. Walsh at Johns Hopkins, for the same problem, prostate cancer, so we had a very close affinity comparing notes. He would ask me how I felt everyday and how I was progressing and I would ask him.

I know the last few days that he was here in the Congress, he was under extreme pain in his back. He and I talked about it.

He was a beautiful guy. He was a good Congressman. He did his homework. He was as honest as a hound's tooth. He was as solid as the Rock of Gibraltar. He was a good family man. He loved his wife, Lois. He loved his children and his family. All in all, he was an all-American Congressman.

I think one of the nicest things you can say about a man is that he was a good man, and in my book JOHN DUNCAN was a good man.

Mr. QUILLEN. Mr. Speaker, JOHN DUNCAN had the common touch. For 24 years he labored for the constituents in his district, the people of Tennessee and this Nation. Along with that labor and his efforts, he ingratiated himself into the hearts of his colleagues and in the people with whom he came in contact.

He was a great man. He will be terribly missed.

Just recently when the delegates met in Nashville after JOHN DUNCAN was in the hospital, there was every hope that he would come back and serve as a Member of this House.

I nominated him to be chairman of the Tennessee delegation at the Republican National Convention. He looked forward to that so much.

When I was in his home in Knoxville a week ago, I asked him if he thought he would be able to go to the convention. He said that he would like to very much if he could get rid of the pain that he was suffering, taking morphine to control it.

He confided in me at that time, after being operated on 7 years ago for prostate cancer, with every indication that it had been removed and it would not spread, but he said that in December of last year that he knew it had spread to the upper part of his body.

JOHN DUNCAN was a fighter. He served even with all the pain, not letting his colleagues know that it had spread and the extent of his suffering he kept to himself.

He will be missed not only as a friend and as a colleague, but with the people he served. He was also "JOHN."

The greatest attribute that you can pay to anyone as a tribute would be that he loved his fellow man, and JOHN DUNCAN did that.

We never had a misunderstanding or any conflict in the leadership of the Republican Party or on the floor of the House legislatively or in any personal matter. It was a very happy relationship.

My wife, Cecile, and I extend to Lois and to all the family our deepest sympathy and our prayers in this time of sorrow and loss.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman from Tennessee for yielding.

Mr. Speaker, I want to join my colleagues today in remembering JOHN DUNCAN. His service in this House will be long remembered, and well recorded. He was an effective leader, a tremendous legislator, an unselfish colleague and a great friend.

I have heard it mentioned previously that he was the epitome of a southern gentleman. I want to second that observation. He brought to the Congress a sense of honor and purpose that will serve as a standard for years to come. Added to his capabilities was a terrific sense of humor and kindness that reached out to everyone.

When the talk turns to able men and legislators who made America strong, resilient, and prosperous, the discussion will have to focus—in large part—on John Duncan. He is a former mayor and civic leader. He never lost sight of the grassroots and the day-to-day concerns and problems that confront the hometowns across Tennessee and across America.

I want to extend my sincerest sympathy to his wife Lois and their family. JOHN DUNCAN was a great American public servant. He will be missed deeply by all those who appreciated the man for what he was, what he did, and what he represented.

Mr. QUILLEN. Mr. Speaker, I yield to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I thank the gentleman for yielding.

I join with the gentleman today in paying tribute to the great life of JOHN DUNCAN. He was an outstanding public servant, a tremendous friend and colleague of all of us here.

Two aspects of his great career stand out most in my mind; first his friendliness. He never met a stranger. He, like Will Rogers, never met a man he did not like.

His constituents knew and appreciated that and tens of thousands of them formed a deep personal relationship with JOHN that will mean a great loss to them at this time of sadness.

The other outstanding quality that sticks with me about JOHN DUNCAN is his incredible humility. A lot of people in positions of great power and responsibility act sometimes like they are humble, but underneath they are not. JOHN DUNCAN was a humble man through and through. He never forgot where he came from. He never forgot his roots and his people knew and appreciated that as well.

I am fortunate to represent three or four of the counties that JOHN DUNCAN at one point in his long career represented. I view it as the highest compliment that I can be paid when people occasionally say to me, "Well, you're getting so that maybe one day you will be as good as JOHN DUNCAN." I view that as the highest compliment that anybody in that area can be paid.

He was an outstanding public servant, a great man and one that will be sorely missed in this Chamber.

The SPEAKER pro tempore (Mr. DE LA GARZA). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 4800, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1989

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 478 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 478

Resolved, That during the consideration of the bill (H.R. 4800) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes, all points of order against the following provisions in the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: beginning on page 2, line 7 through page 5, line 12; beginning on page 6, line 1 through page 7, line 9; beginning on page 8, line 9 through page 13, line 12; beginning on page 14, lines 1 through 9; beginning on page 15, lines 3 through 15; beginning on page 17, lines 3 through 14; beginning on page 18, line 1 through page 19, line 20; beginning on page 20, line 1 through page 21, line 8; beginning on page 23, line 8 through page 24, line 16; beginning on page 25, lines 11 through 17; beginning on page 26, line 12 through page 30, line 17; beginning on page 31, line 3 through page 34, line 13; beginning on page 37, line 24 through page 40, line 10; and beginning on page 42, lines 9 through 13. The first amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as having been adopted in the House and in the Committee of the Whole. It shall be in order to consider the amendments printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Gonzalez of Texas or his designee, and all points of order against said amendments for failure to comply with the provisions of clause 2 of rule XXI are hereby waived. Said amendments may be offered en bloc, shall be debatable for not to exceed one hour each, to be equally divided and controlled by the proponent and a member opposed thereto, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. It shall be in order to consider the amendments en bloc printed in the report of the Committee on Rules, if offered by Representative Oberstar of Minnesota, and all points of order against said amendments en bloc for failure to comply with the provisions of clause 2 of rule XXI are hereby waived. Said amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. It shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Walker of Pennsylvania, and all points of order against said amendment for failure to comply with the provisions of clause 2(c) of rule XXI are hereby waived, if the motion to rise and report under clause 2(d) of rule XXI is rejected or not offered.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 478 is a rule waiving points of order against certain provisions of H.R. 4800, a bill making appropriations for the Department of Housing and Urban Development and other independent agencies for fiscal year 1989.

Mr. Speaker, the rule waives points of order against those provisions in the bill, which are enumerated in the rule, for failure to comply with the provisions of clause 2 of rule XXI. This rule prohibits the consideration of unauthorized programs or legislation in an appropriations bill. The Committee on Rules has recommended these waivers in order to expedite the consideration of H.R. 4800 because in some cases, most notably the programs of the Federal Emergency Management Agency, the National Science Foundation, the Environmental Protection Agency, the Consumer Products Safety Commission and NASA have not been authorized. In the case of the Department of Housing and Urban Development, most of the programs in the bill have been authorized, but in order to protect those instances where an authorization is not yet in place or where the bill does contain legislative provisions, the committee has recommended the waiver. I should note, Mr. Speaker, with the exception of one instance which has subsequently been resolved, the Committee on Rules did not hear any objections from authorizing committees regarding the provisions of H.R. 4800 as recommended by the Committee on Appropriations.

In addition, Mr. Speaker, the rule also provides that the first amendment printed in the report accompanying House Resolution 478 shall be considered as having been adopted in the House and in the Committee of the Whole. This particular amendment is merely a change in language negotiated between the Committee on Science, Space and Technology and the HUD-Independent Agencies Appropriation Subcommittee regarding the disposition of funds appropriated for the space station program. This provision of the rule does not prohibit further amendment to this language when the bill is read for amendment.

The rule also makes in order specific amendments to be offered by two Members of the House and waives all points of order against those amendments for failure to comply with the provisions of clause 2, rule XXI. In the case of the first set of amendments, the rule provides for the consideration of three amendments printed in the report accompanying this resolution, if offered by the gentleman from Texas [Mr. GONZALEZ] or his designee. The rule further provides that each of those amendments maybe offered en bloc, shall be debatable for not to exceed 1 hour which is to be equally divided and controlled by the proponent and a Member opposed, that the amendments shall not be subject to amendment and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. The amendments proposed by Mr. GONZALEZ reorder the priorities recommended by the Committee on Appropriations by shifting funds from certain programs, most notably space, to supplement funds available for housing and homeless programs and to provide funds for the UDAG Program in the coming fiscal year.

In the second instance, the rule provides for the consideration of the amendments printed in the report accompanying this resolution if offered by the gentleman from Minnesota [Mr. OBERSTAR]. The rule specifically provides that these amendments may be considered en bloc. The Oberstar amendment seeks to shift $25 million from the construction grant program of the Environmental Protection Agency and to transfer those funds to the nonpoint source control program which is not recommended for funding in H.R. 4800.

Finally, Mr. Speaker, the rule provides that it shall be in order to consider the amendment printed in the report accompanying this resolution if offered by the gentleman from Pennsylvania, Mr. WALKER. All points of order against the amendment for failure to comply with the provisions of clause 2(c) of rule XXI are waived if the motion to rise and report under clause 2(d) of rule XXI is rejected or not offered. The Walker amendment is identical to amendments offered to other appropriations bills which prohibits the expenditure of Federal funds in any workplace that is not free of the illegal use or possession of controlled substances. This provision of the rule would simply permit the gentleman from Pennsylvania to offer his amendment, which is legislation, if the motion for the Committee of the Whole to rise is defeated or not offered.

Mr. Speaker, H.R. 4800 recommends $59.7 billion in new budget authority for the Department of Housing and Urban Development and 16 independent agencies and offices for fiscal year 1989. The amount recommended by the Committee on Appropriations is $2.4 billion over fiscal year 1988 appropriations, yet the recommendations represent only modest increases for the majority of the agencies and offices funded by this appropriation and a decrease in funding for the Department of Housing and Urban Development. Mr. Speaker, because Members are free to offer amendments which will reduce levels of funding recommended in the bill, I urge my colleagues to adopt this rule so that the House may proceed to the consideration of the important programs contained in this appropriation.

☐ 1105

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a good rule. The Committee on Rules did not make in order the Synar-Clinger amendment, and I believe rightly so.

We owe a great debt of gratitude to the gentleman from Massachusetts [Mr. BOLAND] and the gentleman from New York [Mr. GREEN] for bringing to the floor today a bill that has been worked out in a fair and just manner. I hope that the rule and the bill will have no problem in passing, especially this rule.

The gentleman from Massachusetts [Mr. BOLAND] has served in this House of Representatives for a long period of time and this probably will be the last HUD-independent agencies bill that he will bring to the floor of the House. During my 24 years here in the House of Representatives I have had the opportunity of working with the gentleman from Massachusetts [Mr. BOLAND] on many occasions and he has always lent a helping hand whenever he could to the Members, not only this Member but to the other Members of this body.

We are going to miss you, Mr. BOLAND, as you retire from this Chamber. We will always hold you in the highest esteem and remember the great job that you have done guiding legislation to the floor of the House, working for your constituents, and working for the people of Massachusetts and this great Nation of ours.

Mr. Speaker, it is with a great deal of sincerity that I say those words to the gentleman from Massachusetts. I mean them from the heart.

Second, this is a fair rule. It brings to the floor these appropriations for the various independent agencies and for HUD.

The Committee on Appropriations is doing a fine job in hammering out the bills and bringing them to the floor and it would be regrettable to have a fight to defeat this rule, however since those who do not agree with it may be.

Mr. Speaker, I yield 9 minutes to the gentleman from New York [Mr. Horton].

Mr. HORTON. Mr. Speaker, I thank the gentleman from Tennessee [Mr. Quillen] for yielding me this time.

Mr. Speaker, I rise in opposition to the rule on H.R. 4800, the HUD-Independent Agencies Appropriations Act and I strongly support the effort of the gentleman from Oklahoma [Mr. Synar] and the gentleman from Pennsylvania [Mr. Clinger] to offer an amendment to eliminate indemnity payments for the manufacturers of banned and suspended pesticides.

I also join with the gentleman from Tennessee [Mr. Quillen] in lauding the gentleman from Massachusetts [Mr. Boland] who is serving out his final days in the 100th Congress and in his service in the Congress. He is an outstanding Member and he certainly deserves to be honored for his contributions to the House of Representatives and I am proud to call him a friend. The fact that I oppose this rule does not carry with it any indication at all of my support for his efforts on this particular appropriations bill. I think this is an important bill and I know that he and the gentleman from New York [Mr. Green] have done an excellent job. But, Mr. Speaker, the Subcommittee on Environment, Energy, and Natural Resources of the Committee on Government Operations, on which I serve as the ranking minority member, has held hearings. The Subcommittee on Environment, Energy, and Natural Resources is chaired by the gentleman from Oklahoma [Mr. Synar] who is one of the cosponsors of this amendment with the gentleman from Pennsylvania [Mr. Clinger] who is the ranking Republican on that subcommittee. Their hearings were held in 1983 and last fall that subcommittee held further hearings and recommended to the full Committee on Government Operations, which the committee adopted, the report entitled "Soaring Subsidies for Banned Pesticides Stymie Safety Reviews."

Mr. Speaker, the Synar-Clinger amendment would implement two critical recommendations made by the Committee on Government Operations in that report which was approved last year. It is clear to me that year after year of oversight hearings and investigations are meaningless unless actions are taken to eliminate the problems identified over the course of those hearings.

The Synar-Clinger amendment would do just that while at the same time saving taxpayers potentially hundreds of millions of dollars. Only by defeating this rule on this bill can the House have an opportunity to vote on the Synar-Clinger amendment which will eliminate a taxpayer subsidy enjoyed by pesticide manufacturers, something that has been granted to no other segment of American business.

Mr. Speaker, taxpayers do not foot the bill when Detroit finds it necessary to initiate a recall of unsafe automobiles. The Government does not pay drug manufacturers millions of dollars to pull dangerous or tainted drugs off store shelves. There is simply no reason to pay pesticide firms to not only remove unsafe pesticides from the market but to then also pay these firms vast sums of money to store and dispose of those materials. By defeating the rule, the House will be afforded an opportunity to vote on an amendment that has a broad base of support, as broad as almost any I have ever seen. The repeal of indemnification payments is supported by the administration, every major environmental organization, the National Taxpayers Union, and national newspapers. It is being offered in a bipartisan fashion by two Members of Congress with primary oversight responsibility for the pesticide program.

Mr. Speaker, the gentleman from Pennsylvania has just provided me a copy of a letter dated June 22, 1988, from the Administrator of the Environmental Protection Agency, Lee M. Thomas, in which he says:

Environmental Protection Agency,
Washington, DC, June 22, 1988.

Hon. William F. Clinger, Jr.,
Environment, Energy, and Natural Resources Subcommittee, Committee on Government Operations, Washington, DC.

Dear Mr. Clinger: This is in response to your request for the Agency's position on indemnification, storage and disposal with regard to suspended and cancelled pesticides. Our position has been and continues to be that indemnification must be abolished. As for storage and disposal, we think the registrants should be responsible for performing these functions under EPA regulation and oversight. We also think the Agency should be able to issue enforceable regulations governing recall of pesticides.

Sincerely,

Lee M. Thomas,
Administrator.

Mr. Speaker, I urge my colleagues to vote in opposition to this rule and to voice their support for the Synar-Clinger amendment to eliminate this unfair and unjustified special interest subsidy.

Mr. de la GARZA. Mr. Speaker, will the gentleman from New York yield?

Mr. HORTON. Mr. Speaker, I am happy to yield to the gentleman from Texas [Mr. de la Garza], the chairman of the Committee on Agriculture and a good friend.

Mr. de la GARZA. Mr. Speaker, I thank the gentleman from New York [Mr. Horton] for yielding, and I want to correct some misinformation that is being used and bandied about in this situation. Granted, there is a problem but this is not a payment to manufacturers only. The perception of the public is simply that we are giving some big chemical companies money as a windfall, but the indemnification may be made to the smallest farmer back through the chain to retail suppliers and to the manufacturer—whomever is holding the suspended pesticide. So it is not only indemnification of the manufacturers, it is indemnification to ensure the safe recovery, storage, and effective disposal of the chemicals.

Also let me say, if the gentleman will continue to yield, that much is being made about food and drugs and why those items, if recalled, are not eligible for indemnification. Mr. Speaker, whenever a bottle of aspirin is recalled, it may simply be taken back to the drugstore or thrown away.

Mr. Speaker, I want to give the House accurate information and some comparisons. If one is told that a bottle of aspirin is no good, it is taken back to the drugstore, or it is dumped down the toilet bowl. This is how one disposes of it. There is no indemnification because one may simply throw the item away without threatening human health or the environment.

Mr. HORTON. Mr. Speaker, reclaiming my time, will the gentleman from Texas [Mr. de la Garza] answer this question? Do we do this in any other program that we have in the Federal Government, do we indemnify anyone as we do with these chemical companies? Do we do this for the automobile manufacturers, for example, on a recall that is ordered?

Mr. de la GARZA. If the gentleman will continue to yield, not for the automobile manufacturers.

Mr. HORTON. Or for the drug manufacturers? They have to eat that loss, do they not?

Mr. de la GARZA. Not necessarily, because we have passed legislation to indemnify other industries, such as for nuclear accidents, and so on, for expenses beyond the ability of a private utility to pay. We have enacted that kind of legislation.

We also have the Superfund to deal with chemicals and spills and chemical dumps. A small farmer could have 8 or 10 barrels of one of the chemicals that has been banned. He cannot dump it down the toilet bowl like one can do with a bottle of aspirin. That would be irresponsible.

Mr. HORTON. Mr. Speaker, reclaiming my time, I know the gentleman from Texas [Mr. de la Garza] is concerned about the small farmer, as all of us are. However, our Subcommittee on Environment, Energy, and Natural Resources held hearings over the last

5 years and they came out with recommendations.

Mr. CLINGER. Mr. Speaker, will the gentleman from New York [Mr. Horton] yield?

Mr. HORTON. Mr. Speaker, I am happy to yield to the gentleman from Pennsylvania [Mr. Clinger].

Mr. CLINGER. Mr. Speaker, I thank the gentleman from New York for yielding.

The chairman of the Committee on Agriculture makes the point that these payments are going to the small farmers and not to the major manufacturers. However, in our Subcommittee on Environment, Energy, and Natural Resources we determined that an overwhelming amount of these payments did indeed go to the large corporations, and not to the small farmers. For example, Chevron received $12.8 million of the $18 million paid under the Silvex ban. Dow Chemical, Uniroyal, and Great Lakes Chemical have all received enormous indemnity payments under this program.

So, Mr. Speaker, it is a little distorted to say all the money is going to the small businessman and to the small farmer.

□ 1120

Mr. de la GARZA. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I am glad to yield to the gentleman from Texas.

Mr. de la GARZA. Mr. Speaker, the gentleman from Texas did not say that, and again that is misinformation. Chevron did receive an indemnification payment.

The gentleman's report may be accurate, but the interpretation for the Members is inaccurate and misleading. Inaccurate information is being injected into the debate.

Mr. HORTON. Let me urge that we vote against this rule so we can have this debate full blown on this very important amendment, so that we can understand it better than what we do now.

Mr. de la GARZA. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I am happy to yield to the gentleman from Texas.

Mr. de la GARZA. Mr. Speaker, the debate should be in the committee of jurisdiction, not on an appropriation bill with limited time here on the floor.

Mr. HORTON. It has been 5 years that the gentleman's committee has had a bill.

Mr. de la GARZA. No, it has not been. We had a major bill on the floor of the House three times in 1986.

Mr. HORTON. And it has not been brought to the floor yet.

Mr. de la GARZA. The Washington Post and much of the information the gentleman has is incorrect.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 7 minutes to the gentleman from Oklahoma [Mr. Synar].

Mr. SYNAR. Mr. Speaker, first of all let me say that the effort by the gentleman from Pennsylvania [Mr. Clinger] and me today in no way are a reflection on the deep respect we have for the gentleman from Texas [Mr. de la Garza], chairman of the Agriculture Committee, and particularly for the gentleman from Massachusetts [Mr. Boland], who is now presenting his last subcommittee appropriation bill. In fact, in many ways I think the gentleman from Massachusetts [Mr. Boland] is supporting the efforts that we come forward with today.

Why are we here today? Ladies and gentlemen, what I would like to do in my time is to try to explain how we got to this situation, what the impact of the situation is and why we need to act today in defeating the rule.

Under the current pesticide law, which is FIFRA, EPA has the responsibility to register, register all of the pesticides, and this country has over 50,000 pesticides which they review for safety in our country. If EPA finds that a pesticide which is currently on the market is an imminent health danger, then EPA must issue what is called an emergency suspension for further use.

Under FIFRA, EPA issues an emergency ban, the agency must identify all holders of that product and pay all of the disposal cost. The bottom line to the taxpayers is that we are reimbursing the manufacturers for what they have in stock and excess, not only for removing it from the market but for storage and disposal.

As was pointed out by the gentleman from New York [Mr. Horton], for over 2 years the Subcommittee on Environment, Energy, and Natural Resources, which has the jurisdiction on behalf of this whole body to review this program, reviewed the pesticide program and came up with the following conclusions: That since 1972 EPA has had an emergency ban on only four pesticides. And what has been the cost of those four pesticides? In excess of $260 million. That is just 4 of the 50,000 that they are required to review under the law.

Because of that escalation cost, money is being diverted from EPA's safety program and review program in order to pay for this disposal cost, and that means that the farmers are in jeopardy, the consumers are in jeopardy because of the safety which is not being reviewed in a timely fashion.

Who are these indemnification payments going to? Are they going to farmers? To our knowledge, not one farmer has asked for indemnification.

Let me just review the four pesticides we have indemnified. Let us see who is getting the payments. First of all, for the pesticide 2,4,5-T/Silvex, Chevron, the 10th largest corporation in our country, received $12.8 million or 70 percent of the indemnification.

AGWAY, a $3.5 billion corporation, received $500,000.

For the pesticides, EDB, one of those four, Dow Chemical did indeed receive $197,000. Great Lakes Chemical with $276 million in 1986 sales, received $138,000.

For the pesticide Dinoseb, Uniroyal, which in its last year's annual report said it had the best year ever, received over $20 million in indemnification.

These are corporate giants, ladies and gentlemen. They are receiving our tax dollars which is jeopardizing the safety of consumers and farmers throughout this country.

The pesticide industry is in a unique market position. As the gentleman from New York points out, no other industry that produces products enjoys this position of a federally insured policy of guarantees on their products. When we pull a drug off the market, when we pull a food off the market, those manufacturers pay for that, for pulling it off, and they pay for the storage and they pay for the disposal. That is not the case in the pesticide market.

FIFRA reform is long overdue and the gentleman from Texas has worked endlessly to try to get the Senate to take this bill up, and I commend him for it. On three different occasions he has brought that to the floor and he has done an excellent job, but the fact is that even when we have discussed FIFRA reform, never have we discussed indemnification or disposal.

Ladies and gentlemen, what is at stake here in today's appropriation bill is that we are asking for an additional $53 million in disposal costs, and that is, and listen to this number, a 650-percent increase from just last year's appropriation for this. And we have 12 pesticides under special review now, ladies and gentlemen. That has literally the potential liability to the taxpayers of literally hundreds of millions of dollars, potentially billions of dollars, as we review these other 50,000. We have to close the door today. We have to stop this program in order to protect the taxpayers' money.

Ten years ago, in 1978 when I first came to Congress, was the last time we touched the FIFRA Program in the House and really got some enactment of legislation. EPA ran a study and let me give my colleagues what their conclusion was: There is simply no justification for continuing to provide this industry with special market protection. The taxpayers cannot afford it and the health of our farmers and the public cannot afford it.

Finally, today, as has been already stated, we received a letter from the Environmental Protection Agency, Lee Thomas himself, and he says, "Our position has been and continues to be that indemnification must be abolished."

My colleagues, this may be the only vote we get this year on the FIFRA Program. It may be the most important vote we have on pesticides. But, my colleagues, more important than that, this may be the most important vote in protecting taxpayers' liability which could potentially be hundreds of millions of dollars by the time we come back here next year on this appropriation bill.

I ask all who are watching on closed circuit for their Members and for those Members watching, this Member has supported almost every rule that has ever come in this body in 10 years, but believes that there are some times when we have to stand up and we have to represent our people, and there is a need for stopping the Treasury from being routed. This is one of those cases, and I ask Members to vote "no" on the rule.

Mr. QUILLEN. Mr. Speaker, I yield 6 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I thank the gentleman from Tennessee for yielding time to me.

Mr. Speaker, it had been my hope to come here today to offer an amendment, together with the gentleman from Oklahoma [Mr. SYNAR], to the HUD and independent agencies appropriation bill that could have saved the American taxpayers an enormous amount of money. I still hope that we are going to be able to offer that amendment if this rule is defeated, as I fervently hope it will be.

As the ranking minority member on the subcommittee with oversight jurisdiction for the Environmental Protection Agency and the pesticide program, I had anticipated joining with the gentleman from Oklahoma, Chairman SYNAR, in offering a bipartisan amendment that really has arisen out of the hearings that we have held over a long period of time with regard to the pesticide program, with regard specifically to the pesticide indemnification program. Unfortunately, the rule on H.R. 4800 does not allow or does not permit for such an amendment.

The amendment that we would like to offer, and which we seek Members' support in giving us an opportunity to offer, is strongly endorsed by the National Taxpayers Union, which recognizes that this indemnity program is really a raid on the Treasury. It is endorsed by virtually every national environmental organization. As the gentleman from New York said, it is strongly endorsed just today and it has been in the past by the administration with a letter we received from Mr. Lee Thomas of the Environmental Protection Agency.

The amendment would repeal current law, as the gentleman from Oklahoma [Mr. SYNAR] said, that really saddles, saddles taxpayers with costs resulting from removal of unreasonably hazardous pesticides from the market. Only by defeating the rule, my colleagues, can this amendment be offered, an amendment that this year would save us nearly $50 million, and in the years ahead substantially more.

The amendment we are trying to offer, I would point out, was not just pulled out of the air. It was not something that we dreamed up here in the last day or two, but was developed after a number of oversight hearings on the EPA's pesticide program that had been held over a 4- or 5-year period. It is in keeping with the position of the Committee on Government Operations as outlined in our 1987 committee report, which has been referred to here today, and the position of the administration can further be emphasized on the issue by a statement made previously by Dr. John Moore, who is the Assistant EPA Administrator for Pesticides, the gentleman who is directly responsible for the administration of this program, and who has seen what an albatross around the neck of the administration this is when he called the indemnification provision in the law a ludicrous statutory mandate, a ludicrous statutory mandate. As has been pointed out here earlier, it is the only program where we do have indemnification of the manufacturer.

Mr. Speaker, we are talking serious money here today. We are not talking pennies and nickels, we are talking serious money. The cost of the indemnification and disposal are literally staggering. In a memo provided by EPA to the subcommittee last year, the potential taxpayer costs relating to just three, just three pesticides were identified. The indemnification and disposal costs for Dinoseb were estimated at $50 to $200 million; for EDB, ethylene dibromide, at $2.6 million to $8.2 million; and for 2,4,5-T/Silvex at $1.7 to $2.6 million. The cost estimates have since, I might say, been updated and upgraded and raised up to an estimated cost now to the taxpayers for four major bans at $260 million.

The reason we need to address this issue today, the reason we cannot wait for the committee of jurisdiction to consider this, is because the costs of this program are escalating at an exponential rate. We are talking about a 650-percent increase in the cost of this program just this year. And I would point out that in the overall program, the registration program, the committee or the EPA is looking at registering 50,000 pesticides. If we are running a bill of $250 million for just 4, what can we anticipate that the costs of others out of that 50,000 will be which may be deemed to be hazardous?

In the 9 years I have served in Congress, Mr. Speaker, I have not come to the floor to ask for this kind of a waiver. I recognize that it is an extraordinary device to ask the committee to take away the jurisdiction from the committee of jurisdiction, but I would point out, Mr. Speaker, that the committee has brought this bill to the floor three times but has not addressed the indemnification issue. The matter is urgent because of the escalating costs of this program, and I think we need to address it today, and therefore I urge the defeat of the rule.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Has the gentleman considered or does the report consider what, if indemnification is done away with, will happen to all of those tons of dangerous pesticides that are scattered throughout America?

Mr. CLINGER. The gentleman I think is attempting to make the point that without the indemnification we lose a safety factor. The hearings that we held indicated that that was not the case, that the fact that there was no money out there would not affect the storage, would not affect the safety factors at all.

Mr. DE LA GARZA. How will they be disposed of and who will dispose of them?

Mr. CLINGER. Mr. Speaker, what we are talking about here is indemnification of producers of this substance.

Mr. DE LA GARZA. It is not indemnification of the producers alone.

□ 1135

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 7 minutes to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. I thank the gentleman.

First, let me thank the members of the Committee on Rules for abiding by the rules and providing that this debate should be in the committee of jurisdiction where it can be adequately addressed and intelligently pursued so that we may have accurate facts and not deal with emotion or erroneous perception.

Let me say that yes; there is a lot of money involved here. But to say that the reimbursement is made only to the large chemical companies is wrong. I am not here speaking in defense of the large chemical companies. This is not simply some gimmick to put money into the pockets of the large chemical companies. That is an inaccurate perception of what current law does.

First, let me go back: We passed a FIFRA bill through this House three times in the last Congress. In the last days of the last Congress a very fragile compromise had been reached. I will have to admit this specific issue was not addressed, but we had a FIFRA bill. So those who say we have not had a FIFRA bill are simply incorrect.

Now let me go to the question of who gets or who could get money. This is not an automatic payment. There are steps that you have to go through to be able to receive compensation. That is true for a farmer with one barrel, a retailer with thousands of barrels, or whoever has the pesticide.

I ask again: What happens to that toxic chemical that has been suspended to protect the health and safety of the American people? It is not, like others have said, a bottle of aspirin that is bad. You can simply throw the aspirin away. That is the difference.

Those who are looking only at the money issue for whatever reason are wrong, wrong, wrong. These are dangerous pesticides that our Government has said should not be used and have to be disposed of adequately and safely.

We got involved in this situation so that the farmer does not dump the suspended pesticide in the nearest creek, so that the retailer does not take it to the city dump; so that the chemical manufacturer does not improperly dispose of the pesticide. This is what we are talking about: Safety, the protection of wildlife, the protection of water and the health and safety of American citizens. When the manufacturer put the product on the market it was legal. When the retailer bought it, it was legal. When the farmer bought it, it was legal.

It was after the fact that EPA ruled under FIFRA that, "This chemical cannot and should not be used." We have no problem and no quarrel with that decision. The question is, How do you proceed from there? The Congress in its wisdom decided in 1972 that the best way would be for the Government to pay the costs, unless you want to have the Army Corps of Engineers or EPA or someone collect it all and see that it is adequately disposed of. But much is being said about how companies like Chevron got so many millions of dollars. But the money is to ensure that the product can be adequately and safely retrieved and disposed of under proper supervision.

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. I thank the gentleman for yielding.

The gentleman suggests that we need this money to insure safe disposal. Our hearings suggested that was not always the case. In Hudson, for example, the committee found thousands of gallons of EDB had been disposed of improperly even though we had the subsidy. So having the subsidy does not guarantee that you are going to have safe disposal.

What the bill does, what the amendment would do is put the responsibility where it belongs, which is on the manufacturer.

Mr. DE LA GARZA. The gentleman wants to penalize the company after the fact. After they have been told that this is a legal chemical, then they are told, "No, it is not legal and you are caught with stock."

It is the Government acting in behalf of the safety of the people that has done the act. This is what we have taken up, the committee has taken it, and the House has approved, that it is the responsibility of the Government because of their duty to safeguard the health, safety, and morals of the public. This is what we are talking about. I know it sounds great that we are going to save money, we are going to sock it to Chevron or Dow or whoever, we are going to do this and that. That is not the issue. The issue is the health and safety of the American people and it should be debated in the committee of jurisdiction; it should be adequately addressed and it should be done with facts and without emotion and some degree of ignorance that some of the outsiders have. I would not attribute that to any of my distinguished colleagues in this body. But there is emotion and ignorance outside, erroneous editorials. One newspaper says, "House and Senate have not dealt with the issue." They say we have not addressed the issue of pesticides. We have.

The gentleman from Iowa [Mr. BEDELL] dedicated 3 years of his life to working on the FIFRA legislation; passed it in just the last few seconds of the last session.

It was not considered by the other body for whatever reason. But they cannot just sweep with a broad broom or paint with a broad brush and say this committee and this House has not acted, because we have.

So the issue now is, a few headlines here, erroneous editorials there, proceeding under the rule—addressing the issue which is a serious issue—but addressing it adequately in the committee of jurisdiction. I pledge to the Committee on Rules, I am pledging to this House that this issue will be addressed, that the appropriate subcommittee will address the issue and it may be that we may even have FIFRA legislation this year, the other body cooperating with us.

So that is our pledge, that is our commitment. That has never been the issue and should not be the issue. That there be finger pointing that we have not done anything, that another committee has to act, that it be done in an appropriations bill—that is wrong. I think the best thing to do is to vote for the rule and wait for the committee of jurisdiction to handle the legislation.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I want to associate myself with the remarks of the distinguished chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA].

Everything he says is so right. Many Members here on this floor understand that I have been in the pesticide business for 18 years. I think I know a little bit about it.

I manufactured it, I formulated it, and also I applied it.

I rise today to try to explain to Members that this is not the time to address this amendment because even at this present time there is confusion over issues on the floor as we debate the merits of the proposed amendment.

It has been said on this floor that EPA has only banned 3 to 4 to 5—I think someone said—pesticides out of 50,000 that the EPA has to reregister.

Mr. Speaker, there are not 50,000 pesticides registered in this country. There are 50,000 brand names of the pesticides registered in this country. If you take Diazinon, for example, Diazinon probably is carried under 2,000, 3,000, maybe even 4,000 different brand names. You can go down into your hardware store and you can buy Ortho Diazinon, you can buy spectracide Diazinon, you can buy Evergrow Diazinon, you can probably buy Diazinon under your own local hardware store's private label, registered by EPA.

So it is not a matter of only 3 to 4 pesticides out of 50,000. That is the confusion on this floor. It is not a matter of saying we have spent over $200 million, $260 million in banning these pesticides. The EPA banned those pesticides—EDB for instance and 2,4-D were some of the most widely used pesticides and herbicides in America before they were banned. Therefore, there were huge stockpiles of some of the most commonly used pesticides. Therefore, naturally, it would be a big price tag to ban those. It is also an issue, if you want to talk about the merits of the issue, not only of safety which is very important as the chairman explained, but it is also an issue of property rights and rights of the owners, the pesticide companies all the way from the manufacturer down to the retailer and user who have an investment that the Government has decided to confiscate. It would be like your car pollutes, therefore, the Government decides to confiscate your car but we are not going to pay you for it. You bought the car in good faith, you went out understanding that it complied with all Government regulations and bought the car. But all of a sudden, because of the act on the floor of this House and the President signing it, we are going to do away with cars because they pollute, but we are not going to pay you for your car. We don't care about your property rights. We are just going to take them and dispose of them.

That is unconstitutional, Mr. Speaker, it is the wrong thing to do. It is not something we ought to be debating on the floor of this House and this rule.

If this were the appropriations committee amendment, the uproar would be unbelievable in this room that the committee was legislating on an appropriations bill. Now you want it the other way. Now you want to legislate on an appropriations bill and you want an exception for that. Well, you cannot have it both ways. You cannot complain about the appropriations committee usurping its jurisdiction and usurping the jurisdiction of other committees, on the one hand, and then come back and say, "Whoops, we want to do it in this particular case on a very, very complex issue."

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Speaker, we are talking about $260 million of indemnification here. I was interested in the gentleman's analogy to automobiles. Would the gentleman agree, I assume he would, that where the Government or anybody has determined that an automobile is defective and must be recalled for the repairs to be done, the Government does not pay for those repairs, it is paid for by the manufacturer of that defective automobile.

Why is there any difference here where we have a Government determination?

Mr. DELAY. Because the manufacturer was responsible for the defects in that automobile. If it was reversed, the Government is responsible for confiscating that polluting automobile. The Government may, as a policy, decide to confiscate my automobile. If you want to do that then you ought to pay me for my automobile. But if you messed it up because you had put a defect in it through manufacturing, then you ought to be responsible for it. But just to arbitrarily say "We are going to confiscate it all and not reimburse you for it," is a violation of my rights.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT] who has been patiently sitting through this debate.

Mr. TRAFICANT. Mr. Speaker, I am not here really to discuss the issue that has been recently bandied about, except to say evidently there is so much diverse debate and opinion that perhaps it behooves us, the Congress should have an opportunity to analyze it more so they can make an appropriate decision.

After reviewing the matter, I am more inclined to support the position of having that opportunity on the floor for the gentleman from Oklahoma.

I am here on another particular matter. First, I want to thank the committee chairman, the gentleman from Massachusetts [Mr. BOLAND] who has included in this particular bill $100 million for new counseling for a closure program that will be beyond just the HUD-funded agencies. That will be very good. It will force the banks out there, when they are dealing with a client who is imminently facing foreclosure, they would give them an 800 number and to fund these home ownership counseling types of assistance programs throughout the Nation, particularly those that are targeted to have lost an awful lot of industry.

But what I want to hear and talk about today and one of the other things that concerns me very much and I wonder how many people recognize that there is no money in this bill appropriated for UDAG.

The reason I bring that up is that the President, the administration, want to terminate UDAG's completely and they wanted to rescind any of the recaptured funds that were remaining that would be utilized to continue UDAG's. Now the committee has at least gone one positive step; it has not put any new money in, but allows the continued use of recaptured funds which means that the UDAG Program will have approximately $75 to $80 million next year for approximately two rounds.

Now I know what the mentality and discussions of debate have been here on the floor. Basically, they have been that local officials and many other officials have abused UDAG's.

They have given these projects to their friends. You have to have a pipeline to get into UDAG. That may be true. I am not going to debate the pitfalls and abuses of UDAG. What I am saying here today is that we have an upcoming Presidential election. One of those candidates states that UDAG can be an important tool.

□ 1150

I believe it can be, too. If UDAG is messed up, let us straighten it around. The gentleman from Texas [Mr. GONZALEZ] has offered an amendment that will provide us additional funds for UDAG. Although I am a member of the Committee on Science, Space, and Technology and even though this particular amendment offered by the gentleman from Texas [Mr. GONZALEZ] would take $400 million from NASA research money, I find it very important that every Member out there who has an interest in this, who understands the need for urban development action grants, try to spur on some economic activity in our depressed communities and take a very good look at this process.

If the amendment offered by the gentleman from Texas [Mr. GONZALEZ] fails, we could have on our hands, after having lost revenue sharing, somewhere down the line the prospect of losing the Urban Development Action Grant Programs. I am opposed to that.

Mr. Speaker, I will yield to the chairman of the committee so that we can engage in a colloquy for informational purposes.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

I wanted not only to refer to the issue which I debated earlier, but I wanted to associate myself with the gentleman's remarks on UDAG and commend him for his insistence that we look at this issue, because throughout rural America, we on the Agriculture Committee look at UDAG as being at the heart of many of the small cities, and this is the only activity within those small cities. So we in the Federal Establishment, yes, with taxpayer dollars, are nonetheless creating an opportunity for those who cannot themselves generate sufficient funds. They can put the meager funds they do have with the UDAG to build facilities for health and safety and progressive development in those communities.

Mr. Speaker, I want to associate myself with the remarks of my distinguished colleague.

Mr. TRAFICANT. Mr. Speaker, let me say to the chairman of the committee that I appreciate that. What I am concerned about, though, is that if the Gonzalez amendment would fail, there is no other opportunity, because of the rule, to offer an amendment specifically earmarked toward UDAG and the future of the UDAG Program.

I am not saying that this is a bad rule. I understand that we could have a situation where there could be so many Members on the floor that we would get no business done. I understand that, and I appreciate the position of the Rules Committee.

But I have a specific question that I would like to address to the gentleman relative to the pesticide issue, the bans, and the issue dealing the gentleman from Oklahoma [Mr. SYNAR]. Did the gentleman deal with this issue exhaustively in the committee and come to a resolution in the form of a vote, or what process do we have here now that we are being faced with the issue today?

Mr. DE LA GARZA. No. Mr. Speaker, if the gentleman will yield further, when I say we passed the FIFRA bill three times, it was consensus compromise legislation, and unfortunately it did not have this very controversial issue in it. However, in this Congress the Subcommittee on Department Operations, Research, and Foreign Agriculture has reviewed the issue, and the gentleman from Oklahoma [Mr. SYNAR] has testified before that subcommittee.

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

Mr. QUILLEN. Mr. Speaker, I urge the adoption of the rule and the passage of the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I rise in strong support of H.R. 4800, the Department of Housing and Urban Development-independent agencies appropriations bill. It would provide funding for programs vital to both the 30th District of New York and the Nation as a whole: low-income and senior housing assistance, community development block grants, wastewater treatment facilities, and veterans medical care. I urge all my colleagues to join me in passing this critically needed bill.

However, we have an opportunity to make this legislation better, to make sure the money in this bill is used most effectively to safeguard the health of our citizens and the quality of our environment. The Government Operations Environment, Energy, and Natural Resources Subcommittee on which I sit has held extensive hearings on the current indemnification program for banned pesticides. We have found that the costs of indemnification are skyrocketing with the majority of the funds not going to individual farmers or dealers but to pesticide manufacturers. We have also found pesticide indemnification is unique; in no other area does the Government indemnify manufacturers for products found to be unsafe. Unfortunately, the rising costs of indemnification have been met at the expense of EPA's other pesticide programs. It is time to end this subsidy of pesticide manufacturers and use these funds to complete the much delayed pesticide reregistration program. Our farmers need to know what chemicals can be used to control pests without endangering their health or the productivity of their land.

Mr. Speaker, I ask my colleagues to reject this rule. The Rules Committee could then quickly pass a new rule which would allow the consideration of the proposed bipartisan amendment to end pesticide indemnification. Rejection of the rule would not endanger the passage of H.R. 4800. It would allow us to vote to ensure the money we spend on pesticide safety is used wisely and effectively.

Mr. HOUGHTON. Mr. Speaker, today, we considered the HUD-independent agencies appropriation bill. While I commend the Appropriation Committee for the work they have done on this bill, I chose to vote against the rule on H.R. 4776. Why? Because the rule would not allow the Synar-Clinger amendment to be considered.

This amendment would save American taxpayers millions of dollars by repealing the payment requirements of FIFRA and correctly returning the responsibility for storage and disposal costs of banned products to companies who market them. The fiscal year 1989 EPA appropriation includes $53 million in funds soley to pay for storage and disposal costs for banned pesticides. This represents a 650-percent increase over the $8 million that we needed for these purposes just last year.

The issue has waited 16 years for action. The EPA recently estimated that the total indemnification and disposal costs that they now face for just four banned pesticides will come to $260 million.

We should seek every opportunity to put an end to budget-busting subsidies. It seems only right therefore to adopt a rule allowing consideration of the Synar-Clinger amendment to the HUD-independent agencies appropriations bill.

Mr. BROWN of California. Mr. Speaker, I want to give my support to the substance of Mr. SYNAR'S effort. The House Agriculture Subcommittee which I chair is responsible for the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA] which authorizes the pesticide regulatory program at the Environmental Protection Agency [EPA]. I have been involved in efforts over the last 10 years to enact reforms to FIFRA, efforts which have yet to yield any results. When I testified before the HUD-Independent Agencies Subcommittee last year, I promised the chairman, Mr. BOLAND, that I would try to resolve the indemnification issue when the Agriculture Committee moved a bill to amend FIFRA. I want to apologize to Mr. BOLAND for failing to keep my part of the bargain in this matter. I am not optimistic about chances for a bill this year and fear that, if we fail to enact needed amendments to FIFRA this year, it will be at least 2 years before we can return to this issue.

Mr. SYNAR has worked diligently on this serious and unwarranted drain which has been placed upon the taxpayer through the process of indemnifying registrants of suspended pesticides and then paying storage and disposal charges. His work is in the finest tradition of the Committee on Government Operations which in 1969 issued a report pointing out major deficiencies in the pesticide regulatory program, including problems in the removal of suspended pesticides from the market. The problem of removing suspended pesticides continued today, only now we have to pay for it.

Buying up suspended pesticides and paying for their storage and diposal is costing the taxpayer tens of millions of dollars—$60 million in fiscal year 1989 alone. No other sector enjoys this taxpayer largesse. Why is this provision in law? It is in statute because of the inability of the Department of Agriculture, when it has the authority over the pesticide regulatory program, to effectively use its product seizure authority. Because USDA failed to adequately protect the public from suspended pesticides, we tried a different approach and paid to have them removed.

Who benefits from this program. Since no individual farmer has been identified as having received an indemnification program, it isn't the individual farmer. It is the registrant of the pesticide and the companies involved in the distribution chain who benefit. Should they be receiving taxpayer insurance in this form? I think not.

Sales contracts on items of commerce regularly contain a "hold harmless" clause that states if the item being sold is subsequently found to be unsalable, the buyer can return it to the seller for a refund or credit. This works for every other item of commerce which is subject to a recall, why not in this case? Many of the other items recalled pose very serious threats to life and health and are rapidly removed from the market, especially in the modern litigious society in which we live. The amendments to FIFRA which Mr. SYNAR is attempting to bring before the House would correct the anachronistic situation which exists in this area today.

I regret that we are forced to take this provision up in this context. The procedural difficulties cloud what is otherwise a meritorious amendment. I pledge to both Mr. SYNAR and to Mr. BOLAND to continue my work to try and fix this situation.

Mr. BRENNAN. Mr. Speaker, I would like to offer my reasons for opposing House Resolution 478, the rule providing for consideration of H.R. 4800, the HUD-Independent Agencies appropriations bill for fiscal year 1989. I do so because I believe the Synar-Clinger amendment deserves our attention. By permitting the consideration of this amendment, the full House will have an opportunity to fully debate a subject of major concern—as witnessed by the debate during this past hour.

Current law requires the Federal Government reimburse holders of banned pesticides for market value and disposal costs. The Synar-Clinger amendment calls for repealing this language.

In reading the Synar-Clinger amendment and listening to debate, I support the full House debating the issue of banned pesticide reimbursement. This reimbursement holds the potential for rapidly escalating costs. The EPA recently estimated total bailout costs for just four banned pesticides at $260 million. And we do not know how many pesticides may be found dangerous in the future.

Also, no other industry apparently receives such Federal support. Why should such a subsidy be offered to the pesticide industry alone?

These problems have been lingering unanswered too long. The potential cost to the taxpayers could be enormous. It is time this issue be considered by the full House, and for this reason I will vote no on House Resolution 478 and give the proponents of the Synar-Clinger amendment ample opportunity to debate this issue.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am very reluctant to oppose a rule on the House floor, and I have done so very few times in my tenure here in this Congress. But I rise today to join in urging that this rule be rejected so that the Synar-

Clinger amendment can be presented to the Members on the House floor.

I would like to make several brief points about the importance of this amendment, points that I hope the Members will consider as they determine how they will vote on this rule.

First of all, Mr. Speaker, by this amendment, we are simply asking the pesticide industry to play by the same rules as every other industry in this country. If this amendment is presented and passed by this Congress, we are simply putting the pesticide industry on the same playing field as everybody else.

Second, Mr. Speaker, this amendment would be simply bringing before the body a recommendation of the Government Operations Committee that was made unanimously on a bipartisan basis. This is not something that is new or novel or has not had serious and thoughtful consideration. This is a recommendation that the unanimous bipartisan membership of the Government Operations Committee has suggested be incorporated into law.

Third, Mr. Speaker, let us just look at some of the numbers we are talking about in this appropriations bill. These numbers to me speak volumes about the importance of this amendment. The EPA's pesticide budget is getting eaten up because of the buy outs the EPA is being forced to make. In fiscal year 1988 the budget for these buy outs was $8 million. This is being increased 650 percent in the next fiscal year, to $53 million. When we compare that to the current pesticide Federal regulatory budget, it is less than that. It is only $42 million. We are paying more to store and dispose of than to regulate, Mr. Speaker, and that should be reversed.

I urge rejection of the rule, Mr. Speaker, so that the amendment can be heard.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Rules Committee considered this matter carefully. We heard the gentleman from Oklahoma [Mr. SYNAR] out, we heard the chairman of the committee out, and we decided to side with the committtee of jurisdiction, the Committee on Agriculture, in this matter.

The chairman of the Committee on Agriculture has assured us on the floor today and has assured the Speaker by letter yesterday and the chairman of the Rules Committee by letter of today that his committee will deal with this matter in an expeditious manner. The FIFRA legislation is controversial. We should give the committee on jurisdiction, the Committee on Agriculture, an additional opportunity to deal with this matter.

If they do not, however, deal with this matter in the not too distant future, it is unlikely that the Rules Committee would deny the gentleman from Oklahoma [Mr. SYNAR] the opportunity to offer this next year.

Mr. Speaker, I urge the House to adopt the rule as reported by the Rules Committee.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SYNAR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 209, nays 206, not voting 16, as follows:

[Roll No. 195]

YEAS—209

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Armey
Barnard
Barton
Bateman
Beilenson
Bereuter
Bevill
Bilbray
Bliley
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Brooks
Bruce
Bryant
Byron
Campbell
Carr
Chapman
Chappell
Cheney
Coelho
Coleman (MO)
Coleman (TX)
Combest
Coyne
Craig
Darden
Daub
Davis (MI)
de la Garza
DeLay
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Dwyer
Dyson
Early
Emerson
English
Espy
Fascell
Fazio
Fields
Flippo
Foglietta
Foley
Ford (MI)
Frost
Garcia
Gaydos
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (LA)
Hefner
Herger
Holloway
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Kaptur
Kennelly
Kolbe
Kolter
Kyl
Lancaster
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Lukens, Donald
Mack
Madigan
Manton
Marlenee
Mavroules
McCrery
McEwen
McMillen (MD)
Meyers
Michel
Moakley
Mollohan
Montgomery
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Oberstar
Obey
Olin
Ortiz
Oxley
Packard
Panetta
Pease
Penny
Perkins
Pickett
Pickle
Price
Pursell
Quillen
Rahall
Rangel
Regula
Rhodes
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rowland (GA)
Roybal
Sabo
Schuette
Schumer
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith, Denny (OR)
Smith, Robert (OR)
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Swift
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Volkmer
Walker
Watkins
Weber
Wheat
Whittaker
Whitten
Williams
Wilson
Wolf
Wylie
Yates
Yatron
Young (AK)

NAYS—206

Applegate
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Bartlett
Bates
Bennett
Bentley
Berman
Bilirakis
Boehlert
Bonker
Boxer
Brennan
Broomfield
Brown (CA)
Brown (CO)
Buechner
Bunning
Burton
Bustamante
Callahan
Cardin
Carper
Chandler
Clarke
Clay
Clement
Clinger
Coats
Coble
Conte
Conyers
Cooper
Coughlin
Courter
Crane
Crockett
Dannemeyer
DeFazio
Dellums
DeWine
DioGuardi
Downey
Dreier
Durbin
Dymally
Eckart
Edwards (CA)
Edwards (OK)
Erdreich
Evans
Fawell
Feighan
Fish
Flake
Florio
Ford (TN)
Frank
Frenzel
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gradison
Grandy
Gregg
Guarini
Hamilton
Hansen
Hastert
Hayes (IL)
Hefley
Henry
Hertel
Hiler
Hochbrueckner
Horton
Houghton
Hughes
Inhofe
Jacobs
Johnson (CT)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kildee
Kleczka
Kostmayer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Lent
Levine (CA)
Lewis (GA)
Lipinski
Lott
Lowry (WA)
Lujan
Luken, Thomas
Lungren
Markey
Martin (IL)
Martin (NY)
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McMillan (NC)
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Molinari
Moody
Moorhead
Morella
Morrison (CT)
Neal
Nielson
Nowak
Oakar
Owens (NY)
Owens (UT)
Parris
Pashayan
Patterson
Payne
Pelosi
Petri
Porter
Ravenel
Richardson
Ridge
Rinaldo
Ritter
Roukema
Rowland (CT)
Russo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Sikorski
Skaggs
Slaughter (NY)
Slaughter (VA)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Snowe
Solarz
Solomon
Spratt
Stark
Stokes
Studds
Sweeney
Swindall
Synar
Tauke
Towns
Traficant
Upton
Vander Jagt
Vento
Visclosky
Vucanovich
Walgren
Waxman
Weiss
Weldon
Wise
Wolpe
Wortley
Wyden
Young (FL)

NOT VOTING—16

Ackerman
Biaggi
Boulter
Collins
Davis (IL)
Dornan (CA)
Hoyer
Konnyu
MacKay
Martinez
McHugh
Mica
Pepper
Ray
Rogers
Spence

□ 1218

Mr. FLAKE, Mr. STOKES, Mrs. SCHROEDER, Mr. DYMALLY, Mr. STARK, Mrs. MARTIN of Illinois, and Messrs. SAXTON, WAXMAN, EVANS, TOWNS, LAGOMARSINO, SMITH of Texas, PARRIS, RINALDO, and BONKER, changed their vote from "yea" to "nay."

Messrs. PENNY, GRAY of Pennsylvania, HAMMERSCHMIDT, LELAND, HOPKINS, NELSON of Florida, MARLENEE, and RODINO changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, (H.R. 4800) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes, and that I be permitted to include tables, charts, and other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1989

Mr. BOLAND. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4800) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited not to exceed 1½ hours, the time to be equally divided and controlled by the gentleman from New York [Mr. GREEN] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. BOLAND].

The motion was agreed to.

□ 1221

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4800, with Mr. BEILENSON in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Massachusetts [Mr. BOLAND] will be recognized for 45 minutes, and the gentleman from New York [Mr. GREEN] will be recognized for 45 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before getting into this particular bill, I want to advise the gentleman from Oklahoma [Mr. SYNAR] and the gentleman from Pennsylvania [Mr. CLINGER] that they have fought well, and they will live to fight another day. I am sure that bill will be brought to the floor.

Mr. Chairman, we bring to the House today the 1989 HUD-independent agencies appropriations bill. Last year I opened my remarks by saying that in the years I had been a subcommittee chairman, the 1988 bill was the toughest we had ever faced.

But I was wrong. This year was tougher. As anyone who manages an appropriations bill recognizes, the economic summit has put a terrible squeeze on discretionary spending and on our ability to fund this country's domestic programs.

But having said that, I believe that we are bringing you a balanced 1989 HUD appropriations bill. We did not accept all the President's increases in NASA and the National Science Foundation, just as we did not accept all of his proposed decreases in subsidized housing, or construction grants, or community development block grants, or the homeless programs.

Mr. Chairman, the subcommittee's section 302(b) allocation is $43,688,000,000 in budget authority and $48,833,000,000 in outlays. The bill, as reported, hits those numbers virtually on the button. That means, of course, that any amendments offered must be both outlay neutral and budget authority neutral—if this bill is going to be passed within the subcommittee's allocation.

Before detailing some of the recommendations in this bill, I want to take just a minute to discuss the difficulty we faced in having to conform this bill to an allocation that was reduced $440,000,000 in budget authority and $87,000,000 in outlays.

We faced some tough choices, but I think we came up with a fair package. And how did we do that?

Basically, we delayed the obligation of $450,000,000 of space station funds and provided a mechanism that permits the next President to either proceed or cancel the Space Station Program. Our original language required the President to submit a message by April 15 of next year if he wanted the Station Program to continue. The rule, which we have just adopted, changes that from a negative requirement to a positive requirement, so that now the language requires the President to submit a special message if he wants to stop spending the $450,000,000, and in effect cancel the Space Station Program.

Also, the rule has changed the original language we recommended by eliminating the rescission of $300,000,000 and the transfer of $150,000,000 to the space flight account.

What will happen now is that if the President elects not to proceed with space station—the $450,000,000 will not be rescinded—will remain within NASA's total budget, but will require us to come back next spring in an appropriations bill and release the $450,000,000 for whatever purposes the new President and the Congress agree on.

The rule made this change following conversations with our good friend. The gentleman from New Jersey, who chairs the Science, Space, and Technology Committee. He felt that this was a better approach and we have no objection to the change. But the point is that we save more than $100,000,000 in outlays by delaying the obligation of the $450,000,000.

On the other side of the ledger, we found the $440,000,000 of budget authority by zeroing the Urban Development Action Grant Program, by reducing the Construction Grant Program by $132,000,000, by cutting $38,000,000 out of the Assisted Housing Program to conform with the Banking Committee's authorization bill, and by transferring $150,000,000 from the flexible subsidy fund to the Community Development Block Grant Program.

Obviously, we did not want to zero the UDAG Program, and we did not want to cut construction grants by $132,000,000, but we had to make some priority judgments. And when we did that, we thought it was time to "bring the curtain down" on the UDAG Program.

As originally conceived, it was an excellent program. It was intended to put moneys in those cities that had the highest levels of old housing stock, poverty, and unemployment. The program has done just that. It has leveraged substantial number of dollars from the private sector for hotels, office buildings, manufacturing plants, shopping malls, et cetera.

But last year, when the program was reauthorized, these carefully targeted provisions were substantially changed so that 35 percent of the funds are distributed widely across the country without recognizing age of housing stock or poverty or unemployment or other factors.

And so, Mr. Chairman, when we recognized that we could only find $200,000,000 for UDAG in 1939, and that $200,000,000 was going to have to be spread over many, many more participants, the program just did not make sense.

So that is how we found the savings we were forced to make. We did not like to do it but we had to do it. We had to make a priority judgment and I think we have done as good a job as anyone can expect.

Now, Mr. Chairman, let me go over a few details with you.

HUD

For the subsidized housing programs, we have provided a total of 83,438 incremental units in 1989. That is approximately the same level as 1988 and is made up of 5,000 new public housing units; 1,000 Indian housing units; 9,500 section 202 housing for the elderly or handicapped units; 50,000 housing voucher units; 12,938 section 8 existing units; 5,000 section 8 moderate rehabilitation units; and $35 million for six or seven Project Nehemiah grants.

The Nehemiah program was started in Brooklyn, NY, with no Federal funds and has been quite successful. Its success, however, is dependent on a number of factors, not the least of which is the fact that the city provided land with excellent tax incentives and an active coalition of east Brooklyn churches that worked well together.

The Nehemiah Program is not going to work everywhere—because conditions which led to its success in Brooklyn are not present everywhere.

But we have provided $35 million and suggested six or seven cities that HUD might look at.

We are providing $3 billion for community development block grants. We had been running this program at the $3 billion level for some years before 1988. However, when the economic summit required this subcommittee to cut $900 million in outlays last December we had to take a 4-percent reduction in CDBG grants. We are recommending restoring the program to the 1987 level.

We are also providing a total of $300 million for the various homeless programs in the HUD bill. That will provide more money for obligation in 1989—than any previous year. Given an allocation that was just reduced by $440 million, I think we can be very proud of the subcommittee's support of America's homeless.

EPA

As always, EPA is a very difficult mark. Each year we probably get more requests for special legislation and special funding of programs in EPA than in any other agency in the HUD bill. We have a stack of letters from Members 2 inches thick—most asking for money for this or that EPA Program.

We cannot accommodate them all, but we have done the best we can. We have added $109 million to EPA's operating programs which includes salaries and expenses, research and development, and abatement, control, and compliance. The additions are all enumerated on pages 24 through 28 of the report but they do not include everything that everybody wanted.

We did not fund any of the $100 million authorized for nonpoint source grants.

We did not fund any of the $30 million authorized for clean lakes.

We funded only $65 million of the $125 million authorized for the Asbestos in Schools Program.

We did not fund any of the sole source Aquifer Program authorized at $17.5 million.

And, Mr. Chairman, this illustrates the fact that the legislative committees are authorizing more and more new environmental programs, but their expectations are running way ahead of our ability to fund these programs.

For EPA construction grants we restored approximately one-half of the proposed reduction. And for Superfund, we cut $175 million from the request to put the program back in balance with more emphasis on enforcement.

FEMA

For FEMA, we are providing $733,932,000. That is virtually the same level appropriated last year.

Once again, under FEMA, we have restored most of the reductions proposed by the President. We are keeping the U.S. Fire Administration's Fire Prevention and Arson Control Program alive with $3 million. We are adding $1.1 million for student travel stipends. We are restoring $1 million to the Radiological Emergency Preparedness Program.

NASA

Probably the most difficult mark we faced was NASA's. The President's budget had proposed a 30-percent increase, up from roughly $9 billion in 1988 to a total of $11.5 billion. I have suggested for some time that the best we could do is $10.7 billion and, in fact, we have $10.7 billion in this bill for NASA.

We have also been saying for some time that unless we fund the space station at $900 million it just does not make sense to keep the program alive.

Providing only $700 million or even $800 million for space station does not make much sense. You still have to make some very tough cuts in other NASA programs and a $700 or $800 million Space Station Program builds virtually no hardware.

So our approach has been that unless we can keep this program at about $900 million, we might as well throw in the towel and restore some of the other NASA cuts we would not normally have taken.

For example, we would not normally have cut the space shuttle by $200 million.

We would not normally have zeroed the request for two Titan III expendable launch vehicles.

We would not normally have cut $90 million from the tracking budget.

We would not normally have cut life sciences by $25 million.

And on and on and on.

The fact is, however, that in many of the places where we took reductions the budget has proposed significant increases. So compared to 1988, almost all of the programs that we cut are still above last year's levels.

NSF

For the National Science Foundation, we are providing $1,855,000,000 in 1989. This is an increase of $168 million above last year, and a decrease of $165 million below the budget request.

The major reduction was taken in denying the request for $150 million in a new account to start approximately 15 to 20 science and technology centers. Depending upon what the final NSF numbers look like, we are not preventing the Foundation from starting S&T centers, but it may be that within the dollars they finally get they will not want to start these centers in 1989.

VA

Total appropriations for the Veterans' Administration are $28,177,068,000. Of that, $10,568,000,000 is provided for VA medical care. Once again, we have had to restore roughly 1,800 FTE to maintain the 194,140 full-time equivalent employment level.

And, Mr. Chairman, for the first time in 4 years we have added staff to our VA hospitals. The bill includes an additional 1,000 FTE of which 350 are earmarked for the 25 hospitals experiencing the largest population of AIDS patients.

Mr. Chairman, those are the highlights of the programs carried in the HUD bill. We have done the best we could. We have had to make some tough choices, but I hope you will support the bill.

I will include a table summarizing the amounts recommended in the bill with comparisons to the 1988 appropriations and the 1989 budget requests at this point:

SUMMARY OF ESTIMATES AND NEW BUDGET (OBLIGATIONAL) AUTHORITY IN BILL

Department or agency	Appropriations, 1988	Budget estimates, 1989	Recommended in bill	Bill compared with—	
				Appropriations, 1988	Budget estimates, 1989
[1]	[2]	[3]	[4]	[5]	[6]
American Battle Monuments Commission	$12,408,000	$15,085,000	$15,085,000	+$2,677,000	
Cemeterial Expenses, Army	8,164,000	13,195,000	13,195,000	+5,031,000	
Consumer Information Center	1,279,000	1,354,000	1,354,000	+75,000	
Consumer Product Safety Commission	32,696,000	32,917,000	34,500,000	+1,804,000	+$1,583,000
Council on Environmental Quality	826,000	870,000	870,000	+44,000	
Department of Housing and Urban Development	13,289,657,000	11,612,185,000	12,930,332,000	−359,325,000	+1,318,147,000
Environmental Protection Agency	5,027,442,000	4,779,000,000	5,163,882,000	+136,440,000	+384,882,000
Federal Emergency Managment Agency	632,337,000	698,396,000	733,932,000	+101,595,000	+35,536,000
Federal Home Loan Bank Baord[1]	(31,923,000)	(33,609,000)	(33,609,000)	(+1,686,000)	
National Aeronautics and Space Administration	8,856,461,000	11,488,000,000	10,706,000,000	+1,849,539,000	−782,000,000
National Credit Union Administration[2]	(600,000,000)	(600,000,000)	(600,000,000)		
National Science Foundation	1,717,000,000	2,050,000,000	1,885,000,000	+168,000,000	−165,000,000
Neighborhood Reinvestment Corporation	18,720,000	19,094,000	19,094,000	+374,000	
Office of Consumer Affairs	1,670,000	1,708,000	1,708,000	+38,000	
Office of Science and Technology Policy	1,888,000	1,787,000	1,587,000	−301,000	−200,000
Selective Service System	25,459,000	26,113,000	26,313,000	+854,000	+200,000
Veterans Administration	27,733,884,000	27,927,068,000	28,177,068,000	+443,184,000	+250,000,000
Total	57,359,891,000	58,666,772,000	59,709,920,000	+2,350,029,000	+1,043,148,000

[1] Limitation on administrative expenses, corporate funds.

[2] Limitation on direct loans.

□ 1225

Mr. Chairman, I want to thank the distinguished gentleman from New York [Mr. GREEN] the ranking minority member of this Subcommittee on HUD-Independent Agencies. Over the years, he has given this subcommittee marvelous judgment. His expertise and knowledge in this area is second to none in this whole committee. I want to thank all the other subcommittee members on both sides of the aisle—Mr. TRAXLER, Mr. STOKES, Mrs. BOGGS, Mr. MOLLOHAN, Mr. SABO, Mr. COUGHLIN, and Mr. LEWIS—for their help and their judgment, and I particularly want to thank the staffs on both sides—Dick Malow, Paul Thomson, Don Ryan, Beverly Taylor, Jeff Lawerence, and Gayl Mileszko—for their expertise and their knowledge.

Mr. Chairman, I reserve the balance of my time.

Mr. GREEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as usual the distinguished chairman of our Subcommittee on HUD-Independent Agencies, the gentleman from Massachusetts [Mr. BOLAND], has explained a very complicated bill very succinctly. I think he has laid out very carefully for the House the kind of constraints we were under and the kind of choices that we had to make.

As all the Members know, this is the last time that the distinguished gentleman from Massachusetts [Mr. BOLAND] will be making this kind of presentation to the House.

Mr. Chairman, I would hope that before the gentleman from Massachusetts is recognized to make the motion to rise and report back at the end of our consideration of this bill, the Chair would first recognize me to make a few further comments on that circumstance.

Mr. Chairman, as I think is very clear from the generally unhappy feeling of many if not almost all of the authorizing committees involved in this appropriation bill, this has been a very difficult bill to put together. Anyone who thinks that Gramm-Rudman and the budget summit conference of last fall are not having a serious impact in constraining appropriations has only to look at this bill to see that they are. As a result we had to make many difficult choices.

Let me address one of those choices, because I know it has involved particular comment by some and that is the situation of the UDAG Program. As the gentleman from Massachusetts [Mr. BOLAND] pointed out, when this program was started by the Carter administration in 1977 the program was a highly targeted program. The theory of the program was that there were communities around the country with a high degree of poverty and a very low local tax base which really did not have the capacity to pull themselves up by their own bootstraps. It was perceived that this mechanism could be used to target to those kinds of communities some money to set the economic development process in motion so that they could rebuild the tax base and provide jobs for their poor people.

Unfortunately, as seems to be the way with this kind of program, over the years the political reality has been that the ambit of the program has grown wider and wider. So first we had the pockets of poverty amendment in the late 1970's which allowed communities with ample tax bases but with pockets of poverty to qualify for the program. Most recently we have had 35 percent of the funds made available to communities which meet no targeting criteria whatsoever.

So as we were looking for places where to make difficult cuts, given the kind of constraints we were facing, it seemed to us that the justification for this program in the Carter years had largely evaporated.

However, I think it ought to be understood that if we find ourselves in a situation next year where for one reason or another our subcommittee has a more generous allotment given to it, we have not forced the termination of the UDAG Program. There are carryover moneys which will be coming in and which have come in and which will enable the program at least to make a start next year while the next President, whoever he may be, reaches a decision as to where he wants to go with the program.

Mr. Chairman, I should also point out with respect to the UDAG Program that almost invariably the grants that we made to the local governments in turn were not given away by them but loaned to the projects that they financed. As a result we are now in a situation where there is an increasing amount of funding coming back to the local governments that met the targeted requirements of the early days of the program, and under the Housing and Community Development Act of 1987 those funds are required to be used by those communities for economic and community development-type activities.

That funding is currently at a level that amounted to $93 million last year, and that number will increase gradually over the years. So in fact without any more Federal money these communities which were targeted for UDAG grants as a result of the early shape of the legislation will in fact, in essence, have revolving funds of their own with which to conduct UDAG-type activities.

Mr. Chairman, I should point out that we increased the community development block grant, CDBG, by $120 million above the level in which it exists in the current year's appropriations. As everyone knows, the community development block grant is the most flexible form of funding that this Congress makes available to municipalities. Everything that could be done under the UDAG Program can in fact be done by communities under the Community Development Block Grant Program. So if local governments and local citizens feel that economic development is their highest priority, we have given them $120 million extra in this bill compared with the present year in order to do it.

No municipalities have been ill-treated in the bill by any stretch of the imagination.

The other point I should like to stress is that we are in this bill reaching a crucial juncture with respect to the Space Station Program. I want every Member of this House to understand that if we vote for this bill we are undertaking a very significant commitment, and let me explain what that is.

Mr. Chairman, this bill provides a little over $900 million for the space station. It is in the research account of NASA. Up until now the money that we have been spending on the space station has been designed to look at which a space station should be and to define what the program would be, and NASA has done that with the money we have thus far invested in the program. With this year's appropriation for fiscal year 1989 we shall for the first time be starting to procure pieces of the space station, so that we are reaching a very crucial juncture in that program.

Mr. Chairman, I want everyone in the House who votes for this bill to feel a sense of obligation to that program because nothing can be more wasteful than to start on the program, start procuring parts for the space station, and then decide next year that we cannot afford it, that we have got to stretch it out.

Mr. Chairman, that is no way to buy any complicated piece of equipment. If we are going to go ahead this year, let us go ahead. It is absolutely intolerable to look at the space station appropriation as some sort of bank from which other desirable things either in NASA or other parts of this appropriation bill can be funded if we run short of funds. That is not the case, and it will just drive us into ruinous cost overruns on the space station if we start playing that game.

Just so everyone understands what we are talking about, next year as we understand it, the appropriation for the space station to move it along promptly has to go up from $900 million in this bill to $2.1 billion, and there will be higher amounts in subsequent years. So the Members should understand that we are undertaking a very serious commitment, subject only to the right we grant the next President early next year to recommend termination of the space station program. I think the Members should understand that there is no other place in this bill from which to get this money. There are many other programs in NASA that have to be funded that are very significant from an environmental or scientific point of view. I would note particularly "Mission to Planet Earth," which is a major program for using NASA's look-down capacity to establish environmental baselines and to measure changes in such things as ozone, the tropical rain forests, global warming, and so on, so that we can reach intelligent policy decisions as to how to deal with those very important phenomena.

Mr. Chairman, there is no place where we are going to be saving money in the next years in the Veterans Administration. The bulk of the veterans are aging, they require more medical care, not less, and unfortunately the AIDS crisis is pressing in on Veterans Administration hospitals as it is on the health care system in general.

I see no place where we are going to be saving money in the HUD appropriation in future years. If anything, the needs that we see for housing and the homeless are growing more acute, and I do not see where those programs can be cut.

The environmental needs that the Environmental Protection Agency addresses are enormous. We have not been able to reach all of them in this bill. They are certainly going to be there in future years, and I do not see where the Environmental Protection Agency is going to be cut.

In the case of the National Science Foundation we have been able to provide only roughly half of the increase that the President has requested.

□ 1240

I think his request is an appropriate one. That is a very important investment for the future of this Nation. Unfortunately, we have not been able to fund it fully. We are certainly not going to be able to find money in the National Science Foundation in future years.

Finally, to get to our last major account, the FEMA account, the fact of the matter is we have been very fortunate in not having had major floods or hurricanes these last few years. I do not think we can count on that forever, and certainly I do not see any likelihood that the FEMA account can be substantially reduced in future years.

I hope everyone in this House, and particularly the members of the Committee on the Budget and the chairmen of the other appropriations subcommittees, understand that everyone in this House who votes for this bill is undertaking a very significant commitment for the future. Ultimately, the National Research Council estimates that the space station is a $25 to $30 billion enterprise, and it is going to have to be paid for.

So Members should understand what they are voting for when they finally vote for this bill today and understand the commitment that they are undertaking for the future.

Mr. BOLAND. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. TRAXLER], a distinguished member of this subcommittee of the Appropriations Committee.

Mr. TRAXLER. Mr. Chairman, I rise in strong support of H.R. 4800 making appropriations for the Department of Housing and Urban Development and the independent agencies for fiscal year 1989.

I have a number of important statements to make that I will insert in the RECORD at this point.

My main purpose for taking the floor at this time is not only in support of a bill but also to recognize the fact that the distinguished chairman of the subcommittee, the gentleman from Massachusetts [Mr. BOLAND] is concluding this year his congressional career, some 36 years representing the Springfield, MA, area in Congress, and all of us know and have come to appreciate EDDIE for the very fine individual which he is.

It seems to me this bill is a fitting tribute and cap for his long and distinguished congressional career.

For many of us he has been a gentleman, mentor, teacher, person of exemplary integrity, an individual who has brought to this institution, class act, an individual whose personal ethics, and public ethics are above reproach. He has dedicated these years to the fine people of Springfield, MA, and to the United States. He has been involved in major legislation over the years, and his significant contributions have really been in the appropriation process where he has worked diligently and tirelessly on behalf of the agencies that are contained in this subcommittee bill.

He is dedicated to NASA, to HUD, to the EPA, the National Science Foundation, and the Veterans' Administration, that this subcommittee has, and it has been my pleasure for these years that I have been a member of the subcommittee to work with him, and to know him as a fine individual, an outstanding subcommittee chairman, a person of great conscience and talent, and a person that this body and this Nation is sorely going to miss in the years to come.

It is my wish and hope that, ED, you and your charming wife, Mary, and lovely children are going to enjoy these happy times following your departure here. We hope that the Dukakis administration will send you back to where you will be on the other side of the table from us. These are happy times for you, and we wish you and yours well.

Mr. Chairman, I rise in support of H.R. 4800, making appropriations for the Department of Housing and Urban Development and independent agencies for fiscal year 1989. This bill does not provide all the resources that we would have liked to provide for the wide range of programs represented, but I do believe the bill before us today represents the best possible compromise for funding the competing needs and priorities.

I have long believed that the HUD-independent agencies bill represents in magnified terms the basic funding dilemmas that we as a Congress must wrestle with. The most divergent and basic of human needs and aspirations come into a clear focus and unfortunately clear conflict in the HUD bill. How can one truly balance the basic human needs that we have attempted to address in this bill: housing for the poor, the elderly and the handicapped; funding to help revitalize our Nation's cities; programs to help clean our waters and our air; medical care for our veterans, men and women who have given so much of themselves for us and for our Nation. In each of these areas, we as a nation have long ago decided that we want to address these needs and so, in this bill, these needs are addressed to the best of our ability.

There are other areas covered in this bill, Mr. Chairman, which represent a collective human need, and that is the human need to explore and to learn. This bill includes funding for the development of a manned space station, our Nation's next logical step into space. This is a step that has been long delayed, but a step, I dare say, that the American people assume we as their representatives are working on. Do we really want to say to the American people that we are simply going to drop out of space and let the Soviet Union lead mankind to the planets and beyond. I don't think so, Mr. Chairman.

Here on Earth, the bill includes funding for the National Science Foundation. Again, Mr. Chairman, I don't believe there are many Americans who feel comfortable with the fact that fewer and fewer American students are in our universities for advanced degrees in mathematics and the sciences. This bill provides some of the resources that it will take to interest our young people in the sciences. Only through science and math education can we ever hope to regain some of the competitive edge that has been lost in recent years. Scientific research funding—funding for the quest for new knowledge—is included in this bill, Mr. Chairman, and I submit that this thirst for new knowledge is a very basic human need. If we as a people stop wanting to learn and to grow in that new knowledge, that is when I would be very, very concerned. And I don't believe the American people want to stop learning and growing. So, again, a balance of sorts has been struck.

Mr. Chairman, I compliment the gentleman from Massachusetts [Mr. BOLAND], the chairman of the HUD Subcommittee for his valiant fight for sufficient subcommittee allocation of budget authority to provide for these basic and compelling human needs. The bill originally reported by the Appropriations Committee received applause from nearly every sector. That was before the latest "budget process fog" rolled in, however, requiring the HUD Subcommittee to cut $450 million from its finely tuned bill. This final result in the House will not be the end of the cuts I am afraid, since our Senate counterparts have some $600 million less to work with.

If anything, Mr. Chairman, the 1989 HUD-independent agencies appropriations bill and the debate that is about to ensue vividly demonstrate—as few bills or debates have—the sheer folly of the underlying prescription for Government that we have lived with for the past 8 years. The same administration that said Government was the enemy has asked for nearly $1 billion for a space station, a project that will eventually cost more than $20 billion. We found we could provide only $900 million. The same administration that wanted to shut down the Department of Education asked for a nearly 20-percent increase in the National Science Foundation to support basic research and science education, its goal a doubling of NSF funding in 5 years. These are worthy goals, goals that I believe most Americans share. The folly is in the fact that this same administration has shamelessly led the American people to believe that these projects and these programs and these goals could be attained without paying for them.

Mr. Chairman, we are a great Nation and as a great Nation we have charged ourselves with certain responsibilities. We want to house our poor and our elderly; we want to clean our environment; we want to care for our veterans; we want to explore the universe and we want to equip our next generations for life in a changing world. Why have we forgotten that there is a justifiable and proper price for doing these things? When will we remember?

Mr. GREEN. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, I want to join in paying tribute to the retiring chairman of this subcommittee. The Nation owes him a debt of gratitude. If one thinks of the hundreds of thousands of people who use public housing that he has provided for those in need, if Members think of our space program, if they think of our science programs, if they think of our veterans' programs, our environmental programs, they all carry the unindelible mark of EDDIE BOLAND, and it is a tribute to him.

The Nation owes him a debt of gratitude for all he has done over these years.

I also want to compliment the distinguished ranking minority member of the subcommittee who has done a yeoman's job in helping to craft this bill as well as the staffs on both sides of the aisle.

This is a very, very tight bill. I do not envy the job the chairman had and that the ranking minority member had in putting this all together, and I do not know, as we proceed with this bill through the Congress, how we are going to accomplish what needs to be accomplished here.

I want to join in the remarks of my distinguished colleague from New York, the ranking minority member, in saying that if we start taking this bill apart and seeing if we can tap some money here and some money there for other purposes, it will unravel very quickly. In particular if Members look at what would be the deep pocket, the money that is provided for the space station, they very, very quickly come to the point where there is no sense in continuing that program. One has to reach the point of no return where one cannot continue the program.

We have funded in this bill the needs of our housing programs, our environmental programs, veterans' programs.

We had to accomplish all of that and accomplish an increase in funding for the space program and the National Science Foundation programs that were requested by the administration and do that in the context of a 302(b) allocation that was very tight, indeed.

It is a remarkable bill. It is as tough a bill as I have ever seen come to the floor of this House of Representatives, and I urge the Members to adopt this bill as is, because if they start tinkering with it, it will come apart very quickly.

Mr. BOLAND. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Mississippi [Mr. WHITTEN], chairman of the full Committee on Appropriations.

Mr. WHITTEN. Mr. Chairman, I take no pleasure today in calling attention to the retirement of our colleague from Massachusetts.

EDDIE BOLAND, and I say this for the record, was born in Springfield, MA, elected to Congress in 1953, appointed to the Committee on Appropriations January 13, 1955, and will complete 33 years of service at the end of this Congress. He was first assigned to the Independent Offices Subcommittee in 1955, which was subsequently renamed, HUD Independent Agencies, and became chairman of that subcommittee in 1971. He was appointed the first chairman of the new Subcommittee on Transportation in 1967. He served as the first chairman of the new Select Committee on Intelligence, 1977. He married Mary Egan, and has four children—a wonderful family.

My purpose in taking the floor is to show the feeling that we all have for EDDIE. Not only is he courageous, a man of ability, but very, very effective.

He has served with about 2,000 Members of Congress during his period of years. He leaves a fine record, and none of those 2,000 has been more attentive to his duties or doing a finer job than EDDIE BOLAND.

This fine record he leaves will benefit the people of the Nation for many years to come. Mr. Chairman, I frequently thought that those who retired are those we can least likely afford to give up. Certainly EDDIE BOLAND qualifies in every way.

We salute him not because he is quitting but because of the wonderful record that he leaves in this body.

Mr. GREEN. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. Skeen], our colleague on the Committee on Appropriations.

Mr. SKEEN. Mr. Chairman, I rise in strong support of the bill, and I want to take this opportunity to thank the chairman of the subcommittee, the gentleman from Massachusetts [Mr. Boland], whom I would also like to give my great commendation to. Eddie, we will certainly miss you around here. You have been one of the most fair gentlemen to deal with, and it has been a pleasure knowing you. I do not want any more eulogies or these things that sound like eulogies, because I think you have got a great future ahead of you. Congratulations on enjoying your retirement.

Also I want to thank the ranking member, the gentleman from New York [Mr. Green], and all the other Members and their staffs for the work that went into drafting of this bill.

As with all the other appropriations bills that have been brought to the House floor this year, difficult and sometimes painful decisions have had to be made in order to bring the bill within the budget guidelines. There is one specific decision made by the subcommittee that I would personally like to focus on.

□ 1250

I believe it shows the sensitivity of the subcommittee in addressing very real and immediate problems, and I am referring to the funding of the astronomical sciences within the National Science Foundation's budget.

I want at this time to also thank my colleague from New Mexico, Mr. Lujan, who is also leaving, and we are going to certainly miss you too around this place, and I say thank you for the support you have given the astronomical sciences as the ranking member on the Science, Space and Technology Committee and during the authorization work for the National Science Foundation. The colloquy that was held on this floor, I think, gave it a great deal of support, and I appreciate that very much.

Funding levels for the National Science Foundation research has had no real growth for the past 4 years. Within this timeframe, funding for the astronomical sciences has been even more constrained. Because of this, programs within the astronomical sciences, including the national optical astronomy observatories, has been forced to deal with these financial difficulties.

During the past year, NOAO has taken drastic budgetary and administrative action in order to keep all of our solar observatories in operation. I believe NOAO has truly cut to the bone and exhausted its options on where to make cuts in the program while still maintaining its basic programs. Any additional cuts could very well mean a major disruption of the operation of the national facilities, including closing some of our telescopes, which give us a preeminence in this field. So I applaud the subcommittee for holding the line on funding levels for astronomical sciences and appreciate this contribution very much.

Mr. Chairman, I think it is only appropriate to focus on one of the facilities that is funded by NOAO, and the need to keep this facility fully operational.

The National Solar Observatory, with facilities in New Mexico and Arizona, is the focus of U.S. efforts to understand the nearest star—our Sun—and how it affects the Earth. These national resources are the world's premier collection of unique solar telescopes, instruments, and staff.

At Sacramento Peak, near Alamogordo, NM, the vacuum tower telescope takes advantage of the excellent sky quality to make detailed, high resolution observations of the Sun. Its 350-foot-long telescope tube is evacuated to eliminate distortion of the air heated by the intense solar beam in the telescope. This telescope has discovered many fundamental new aspects of the Sun that arise because of the intense magnetic fields that dominate the solar surface, and has provided the tools to study these phenomena in detail. The vacuum telescope is equipped with a wide range of superb instrumentation used to dissect the sunlight in great detail to study the Sun's composition and motions as well as its magnetic fields. The vacuum telescope also serves as the testbed for the ongoing development of the next generation of solar instrumentation, as well as solar astronomers, and is a magnet for solar astronomers from other countries around the world who are eager to join this rapidly developing research area. The instrumentation includes so-called adaptive optics systems which will be able to remove the shimmering and blurring of solar images produced by disturbances in the Earth's atmosphere.

The superb sky quality at Sacramento Peak makes it an ideal spot to study the solar corona, the very thin solar atmosphere that is normally only visible during a solar eclipse. The Evans Facility there provides two 40-centimeter coronographs especially designed for this delicate work. A coronagraph is a telescope that contains a dark disk which blocks out the bright disk of the Sun, much like the Moon does during an eclipse. These NSO coronographs are the largest, and the only ones available to all astronomers in the United States.

The world's largest solar telescope, the 1.5-meter diameter McMath telescope and complex of instruments, is located on Kitt Peak, near Tucson, AZ. In addition to extremely high spectral resolution observations obtained with its unique 1-meter Fourier transform spectrometer, and research in the infrared portion of the solar spectrum, the McMath has become very valuable in the relatively new field of solar-stellar research. Here, detailed studies of stars other than the Sun, are being conducted using the same specialized techniques and instruments that have been developed for solar work, to gain many new insights into the structure of other stars.

The Kitt Peak magnetograph obtains daily, full solar disk, high resolution observations of the magnetic fields and maps in the near infrared. Such observations are not available anywhere else in the world and its remarkable 14-year archive of synoptic data has been and continues to be the basis for many solar investigations.

In addition to its base program, the NSO manages a new 1987—NSF initiative called the global oscillation network group GONG. The GONG project is developing an international network of six automated observing stations spaced equally around the world. These stations will permit continuous monitoring, over a 3 year period, of the subtle acoustic or seismic vibrations that penetrate deep into the Sun. By using sophisticated computer analysis of these data, solar physicists will, for the very first time, obtain pictures of the structure and dynamics of the interior of a star, our Sun.

The National Solar Observatory is part of the National Optical Astronomy Observatories, all the divisions of which provide world class research facilities for university-based research groups and students to pursue problems on a scale not otherwise available to individual institutions. The NOAO is managed by the Association of Universities for Research in Astronomy [AURA] under contract with the National Science Foundation. The NSO operates a partnership with, and provides significant services to, the Air Force Geophysical Laboratory, NASA, NOAA, as well as other Government agencies.

These facilities have been, are, and will continue to be an incomparable source of basic knowledge which will benefit the people of the United States in years to come. Support of the unsurpassed solar facilities of the NSO offers an opportunity to maintain and enhance U.S. preeminence in this important field of science, at a critical time when we are losing that leadership in so many other areas.

Mr. GREEN. Mr. Chairman, as has just been mentioned, the distinguished ranking minority member of the Science, Space, and Technology Committee, the gentleman from New Mexico [Mr. Lujan], has also announced his intention to depart these Halls at the end of this Congress, and I know that we shall miss him very much, too.

Mr. Chairman, I am delighted to yield 5 minutes to the gentleman from New Mexico [Mr. Lujan].

Mr. LUJAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 4800, the HUD/Independent Agencies appropriations bill. This bill includes appropriations for several agencies—including NASA, the National Science Foundation [NSF] and the Environmental Protection Agency—which the Committee on Science, Space, and Technology authorize. I would like to commend the efforts of subcommittee Chairman Eddie Boland and ranking member Bill Green. They are bringing a fair bill to the floor today.

Earlier this month, this House overwhelmingly approved H.R. 4561, a bill to authorize the appropriations for NASA. The authorization bill supported the President's budget request for research and development by authorizing $11.5 billion for NASA's aeronautics and space programs. Similarly, on June 9, 1988, the House adopted H.R. 4418, the NSF authorization bill for fiscal year 1989 and fiscal year 1990, which supported the administrations request for a 19-percent increase for next year.

At this time, I would like to recognize the efforts of my colleague from New Mexico, Mr. SKEEN, a member of the Appropriations Committee. He is acutely aware, as is the authorizing committee, of the serious conditions facing the U.S. astronomy community. With his participation, H.R. 4800 maintains the necessary balance within this field.

Finally, I note that the Appropriation Committee has often reduced the funding and staffing for the Office of Science and Technology Policy [OSTP]. Earlier this year, the Science Committee heard testimony from science advisors from the past five administrations who spoke overwhelmingly in favor of a stronger OSTP. As science and technology will play an ever-increasing role in the U.S. economic stability I would encourage the Congress to reconsider the role of OSTP in spearheading national priority setting.

Mr. Chairman, I simply note in closing that failure to adequately fund R&D programs today will have serious consequences on the future security and economic health of this Nation. I cannot emphasize too strongly the relationship between research and development today, and economic opportunity and jobs tomorrow. Our foreign competitors certainly understand this relationship, and we cannot afford to be shortsighted.

The 360-to-26 margin of victory for H.R. 4561 and the 405-to-5 vote on H.R. 4418 demonstrated strong support for NASA's and NSF's programs; frankly, I am personally disappointed that the appropriations we are now considering cannot fully fund these programs at the authorized levels. I am disappointed that we will not be appropriating the funds necessary to conduct these programs in a manner that I know most of us would want. Nonetheless, I support this bill as a fair compromise between competing funding requirements.

I understand the constraints on members of the Appropriations Committee, and I applaud their success in carefully crafting this legislation to preserve our future options on the space station without destroying other vital programs. I know that once again the demands on the budget far exceed the available resources, and I understand the pressures that some Members feel to provide greater support to those programs that address some of the near-term problems. However, the space station is far too important to sacrifice.

Mr. Chairman, not only is the space station a vital element of this Nation's Space Program, but it is also an extremely critical foreign policy issue. Our foreign partners have invested considerable resources in the space station and have developed their own space programs around this international facility. To cancel this program now would have disastrous consequences on our relations with our allies.

Regarding NSF, I am concerned that for the last 4 years, the research budget has been essentially level funded. The effect of this is apparent throughout the research community. One example: At a time when the European Community has dedicated $250 million to the construction of four next-generation telescopes, the U.S. astronomy community has to decide what projects to halt. I note that H.R. 4800 is accompanied by report language which would fund the NSF Astronomy Program at the fiscal year 1989 request, a 4-percent increase above current spending. I commend the Appropriations Committee for this action and strongly urge my colleagues to support this critical funding level.

I again want to emphasize that the bill before us is a fair compromise, and I strongly urge my colleagues to resist the temptation to tinker with these vital Science Agency appropriations, and support this legislation as it is brought before us today.

Mr. Chairman, I commend the efforts of the gentleman from Massachusetts, Mr. BOLAND, chairman of the subcommittee, and the gentleman from New York, Mr. BILL GREEN, the ranking member. They are bringing a fair bill to the floor today.

Mr. BOLAND. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New Jersey [Mr. ROE], the persuasive and knowledgeable chairman of the Science, Space, and Technology Committee.

Mr. ROE. Mr. Chairman, I think our distinguished chairman of our Subcommittee on the HUD and independent agencies appropriation bill for yielding me the time. May I take this opportunity to extend both to the Members who are here and those listening my highest regard to the gentleman from Massachusetts, EDDIE BOLAND, our chairman, who has done such a remarkable job over the years. I want to do something different. I have asked unanimous consent to extend my remarks because I am going to put my formal statement into the RECORD, which tracks pretty well what the distinguished gentleman from New Mexico, Mr. LUJAN, stated on behalf of the Science, Space, and Technology Committee.

Before I talk further about the gentleman from Massachusetts, EDDIE BOLAND, I want to give my high regards to the gentleman from New York, BILL GREEN. This has been a wonderful team here in the Congress that has gotten the job done in a very important area, perhaps one of the most important areas that we are dealing in. There was a vote on the rule and there were brothers and sisters who disagreed. That is understandable and happens in this House and it should. But when we talk about this subcommittee and we talk about the Appropriations Committee and we talk about the future of America, we are not only talking about housing and the homeless, that is all part of America, and I think EDDIE BOLAND has been a champion and a leader in that particular field, as has been BILL GREEN, but I thought I ought to report to the House and report to the distinguished Appropriations Committee that this particular month, or at the latest next month, the Soviets will be launching their Mars mission. They will be starting their Mars mission. I think it would be interesting for the Members of the House to realize that the Soviets will also be launching their space shuttle.

We are moving the Discovery launch vehicle out on the pad now, and we plan on launching that particular reentry into space, if you like, on August 29, if the program works out. When we come back and we talk about EDDIE BOLAND and we talk about BILL GREEN, this is the bottom line in the process. It is all well and good for us to do the authorization, for us to do the shaping of the direction that we should go in the authorizing committees, but the final line comes down to where the money is and where the appropriations are made, because that truly directs the country, and that directs the program and the scheduling that will go ahead. And EDDIE, when you look back on your career, and I believe your career is only beginning, you are going to be saying and we are going to be saying that on the bottom line because of EDDIE BOLAND and because of BILL GREEN and the leadership of this subcommittee there is a space program moving ahead, and it is not just another figment of something America is doing, it is the future of all mankind that is being accomplished by your efforts and the efforts of BILL GREEN and the Members respectively of both the majority and the minority.

When we speak about housing, and that debate is yet to ensue, we are going to come back and we are going to say that this committee can take peer to no one, owes nothing to anyone. They have led the fight in this country for the housing program that we have in this Nation today, the best in the entire world. There has never been a better program in housing anyplace. And there will be some debate on that a little bit later on.

When we talk about the environmental programs of the Nation and we talk about the EPA and the solid waste program, and we talk about funding for the sewer programs and to rebuild the environment and rehabilitating the environment of this Nation, it has come out of this committee, out of this Appropriations Committee, because as hard as we fight on the authorizations, this committee has made the funding available and has done the job.

So I would like to conclude my remarks in the compliments that I want to extend to both Eddie Boland and Bill Green and the members of their subcommittee and the full Appropriations Committee, and say that you people have been the very founders on the threshold on the future of this country, the future of mankind in science, space, and technology, in competitiveness and in all of the things that are important down the road. I hope that when we come together and we look at what the final vote is going to be on this particular piece of legislation that we recognize the extraordinary difficulty that this subcommittee has had under again the leadership of Eddie Boland and Bill Green, and recognize the fairness and the eminent quality that they have put forth for a very critical balance in providing the resources we need in these tough funding years.

So again let me offer my best regards, my highest support and strongest support possible for H.R. 4800. It is fair, it is equitable, and it will keep our communities and our country running ahead in the proper direction.

Mr. Chairman, I rise in strong support of H.R. 4800, the HUD-independent agencies appropriations bill. This bill will provide much needed funding for our Nation's space program and the National Science Foundation, two major areas within the jurisdiction of the Committee on Science, Space, and Technology.

Mr. Chairman, I would like to take just a few minutes to explain how vital these programs are to our technological leadership, our quality of life, and our prestige in the world community.

Our space program has been a source of great pride and industry for this Nation for over 25 years. Our accomplishments in space have added greatly to our national heritage. Our Moon landing is every bit as important to our youth as the Battle of Lexington. We cannot deprive our future generations of the right to share in an active space program nor can we afford to turn over our leadership role to the Soviets, the Europeans, or the Japanese.

Mr. Chairman, on June 2, 1988, the House passed the NASA authorization bill by a vote of 360 to 26. This appropriately demonstrated the commitment of Congress to an aggressive space effort. This space program is based on three fundamental building blocks—the space shuttle, the space station, and expendable launch vehicles. The space program simply does not make sense and cannot survive without all of these elements intact. We also provided a multiyear funding plan to try and address the program instability that has been evident in recent years. On the whole, these actions were deemed essential to providing our space program with the direction and leadership needed to fully recover from the *Challenger* accident 2 years ago. I commend my colleagues for joining me in showing support for that legislation.

Mr. Chairman, H.R. 4800 provides a total of $10.7 billion for NASA as compared to the $11.5 that was authorized. I know that the Appropriations Committee will agree that this decrease in NASA's funding will be very difficult to absorb. However, I know that they worked hard to find a way to distribute these reductions and I highly commend them for their efforts.

I must make the point that any further reductions will decimate our space program and I will oppose any amendments that will have that effect. Our colleagues in the other body have already reduced the space station funding to a level that will cancel the program. We cannot afford to give away our bargaining position ahead of time.

Mr. Chairman, last week—appeared before the Rules Committee to ask for a minor change to the language of the bill relating to the space station. I am gratified that my colleagues and I quickly reached agreement on this issue and the change was incorporated in the rule. The point to be made, though, is an important one and bears repeating. Recently the administration has successfully concluded a 2-year long series of negotiations on international participation on the space station. Our international partners—the Europeans, Canadians, and Japanese—have already spent over $1 billion on their contributions to the station and they have committed $7 billion more.

The agreements will be signed shortly and will begin a cooperative program of major proportion that will, not only bind together for the next four decades, but will determine the course of the entire free world in space.

To permit further reductions to the NASA research and development account that will cancel the space station will be to pull out of this commitment. This would be a supreme embarrassment to this Nation and a mistake we will long regret.

Mr. Chairman, let me close by noting that, later this week the Committee on Science, Space, and Technology will travel to Henderson, NV to review the damage and long-term impacts to our space program as a result of the rocket fuel plant explosion there. This is of the utmost concern to us and will be a further challenge to our ability to carry out an effective space program within our limited resources.

I urge my colleagues to join me in supporting H.R. 4800 and in providing as much as we can to keep our space program on track. Finally, I want to commend my colleague, Mr. Boland, for his years of leadership on the Appropriations Committee. This body will surely miss his insight and support for the space program.

Mr. BOLAND. Mr. Chairman, first of all I would like to thank the gentleman from New Jersey for his very kind and overly generous remarks, but I must say I enjoyed them. No one, in my judgment, in this Congress or the Congresses that I have served in has actually done more for space, science, and technology programs than Bob Roe and the members of his committee. The particular encomnia that he scatters to this subcommittee, to the gentleman from New York [Mr. Green] and all the staff, is deeply appreciated from one who enjoys the respect of all of the Members of this House.

Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Louisiana [Mrs. Boggs] who serves with such distinction and gives to this committee not only the woman's viewpoint but also the viewpoint from that magnificent State of Louisiana.

Mrs. BOGGS. I thank the gentleman very much for yielding time to me.

Mr. Chairman, I rise of course in support of this bill and to pay tribute, as others have, to the gentleman from Massachusetts, Chairman Boland, and to remind all of us that he has been serving on this committee since the inception of the space program. He has helped to bring the United States successfully to the Moon and to reaching beyond the start, and in all of it we have unfolded the mysteries of the universe which he has sought to bring the knowledge of to the betterment of the physical and the social and the economic environment on planet Earth.

My colleagues have heard about his amazing knowledge among the many disciplines encompassed in this balancing act which is called the HUD and independent agencies appropriation bill, and of his unfailing fairness in working with members and staff of the committee and with other Members of the Congress and staff members and with the representatives of Government agencies. But I should like to especially applaud his sensitivity to issues concerning women and minorities and in recognizing that scientific education must begin with the smallest children.

The chairman has told me on a number of occasions that he had to marry his wife, Mary, because she was thinking about running against him for Congress, and he was afraid she was going to win. I must say that he has certainly followed the advice that she has been able to give to us and to include all of those issues for which she would have stood had she indeed beaten him in the race for Congress. So it is with a great deal of sadness that we say au revoir to the chairman, but I hope that we will say it with a resounding applause for his bill, and to be able to wish him well in the years to come with another victory under his belt.

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Mr. GREEN. Mr. Chairman, I yield 4 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA], the distinguished ranking minority member of the Committee on Banking, Finance and Urban Affairs' Subcommittee on Housing and Community Development.

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman from New York [Mr. GREEN] for yielding me this time. I want to compliment the gentleman from New York, the ranking minority member of the subcommittee, and the gentleman from Massachusetts [Mr. BOLAND], the subcommittee chairman, for crafting a reasonable bill under very difficult circumstances. Like most of my colleagues, I am not totally satisfied with every detail of this bill, but I realize the limitations within which the committee must work. Most importantly, the committee kept the bill within the budget resolution. It is essential that we exercise restraint in spending so that we have a chance of avoiding sequestration later this year.

I particularly want to join my colleagues in paying special tribute to the gentleman from Massachusetts, who is in his final year as chairman of the subcommittee. I have always found the gentleman to be thoughtful, informed, articulate, and fair. All of us thank him for his labors and wish him well in his new life outside this institution.

As the ranking minority member of the Subcommittee on Housing Community Development, I do want to take just a minute to highlight a couple of the most significant aspects of this bill.

Over the years, I have advocated a mix of assistance with section 8 voucher and certificates. This bill appropriates $1.5 billion for 52,500 vouchers, and it provides almost $390 million for 12,938 certificates.

The committee bill provides $3 billion for the important Community Development Block Grant Program, which is the total amount authorized and a slight increase over the amount appropriated this year, a popular and effective program.

Since we first authorized the McKinney Homeless Assistance Act last year, I have been disappointed with the amount appropriated for programs under that act. For example, the authorization for the Emergency Shelter Grant Program this year was $120 million. Only $8 million was actually appropriated. That has been improved in this bill for next year by providing $65 million, but that is still too little. That is still only about half the authorized amount. The total amount for all homeless programs has been increased from $187 million this year to $300 million in this bill for next year. Obviously, that is a substantial increase in percentage terms, but it is not much of an increase in real terms. When you are starting from such a small number, it is easy to provide a large percentage increase. Unfortunately, it is still far below the authorized level and far below what we need to make a real impact on the terrible and growing problem of the homeless in America.

The bill appropriates $343,347,300 for public housing new construction, which will provide approximately 5,000 units. There is a great need for public housing across the land, waiting lists in many large cities have been closed. However, I do not understood the logic of building more public housing units when we cannot afford to maintain even the units which we already have.

We have thousands of units of public housing across the country in terrible need of modernization, and we just don't have the money to bring all of these units into proper condition. Given that, what sense does it make to spend enormous sums to build additional units? I realize the political pressures that come to bear on this issue, but I would plead with my colleagues to consider this issue for the future and ask if this is the most rational expenditure of the taxpayer's money.

I would also like to put my colleagues on notice that over the next several years we are facing some enormous expenditures on existing nonpublic housing. Between now and the end of the century, thousands of units of 236 and 221(d)(3) housing will become eligible for prepayment on their mortgages, and many of these may be converted from low-income housing. Recent testimony before our subcommittee indicated that saving these units could cost as much as $1 billion a year for the next several years. It would be a terrible tragedy to lose these units, but it will undoubtedly cost us some money to preserve them. Now, not all of this money will come in the way of direct expenditure. Much of it, for example, may come from tax incentives provided by the Ways and Means Committee. But, there can be no question, we are going to have considerable costs to save existing units over the next few years. Again, this calls into question the wisdom of spending significant sums on new units of housing for low-income individuals.

Second, my colleagues should also realize that we are going to have significant new expenses in the coming years to deal with hazardous lead-based paint in existing public housing and other federally subsidized housing. This is a terrible problem which is poisoning thousands of young children and which we are going to have to face in a responsible fashion. Again, this is going to be a great new expense just to take care of the housing which we already have. All of us would like to build new, additional units of subsidized housing if we could just wave a wand and make it happen without regard to expense. Unfortunately, we are facing a very tough situation with regard to expenses in housing. We just do not have all the money we would need to do everything we would like. Thus, we need to set priorities, and, for this Member, taking care of what we have is a greater priority than building new units.

Having mentioned the problem is lead-based paint, I want to compliment the Appropriations Committee in particular for recognizing and dealing with this problem. The committee has directed HUD to spend at least $1.5 million in R&D funds in fiscal year 1989 to deal with this problem. The committee further directs the Department to develop standards for lead-based paint abatement by December 1, 1988. This is a much-needed and responsible approach to a difficult and complex problem. Children are out there right now being poisoned in Federal housing. HUD needs to develop abatement standards in an expeditious fashion, and we need to get on with task of cleaning up this housing. It would irresponsible to delay.

As I indicated at the outset, I am not necessarily satisfied with every detail of this bill, and, thus, I may support certain amendments to be offered later which would adjust the priorities within the bill. However, overall, the committee has done a good job during trying times, and I compliment the members of the committee.

Mr. BOLAND. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Texas [Mr. LELAND].

Mr. LELAND. Mr. Chairman, let me join with those who have extended laudatory remarks about the chairman of the subcommittee dealing with this issue, Mr. BOLAND, who has for 33 years served this House so well. He in many ways has served too as an example from afar, as a philosophical mentor. I truly appreciate the example he has set for us, for those who come after him and who strive to get as close as we can to his record. I might say it is very difficult to reach that kind of perfection.

Mr. Chairman, I do have a great deal of affection for the gentleman. I would like to say at this point that he has been a great, great example for me and I appreciate him.

Mr. Chairman, I rise in support of H.R. 4800, the HUD—Independent Agencies Appropriations Act.

This legislation provides assistance for low-income housing and community development programs. I wish to take this opportunity to stress the importance of these HUD programs for low-income persons around the country.

Decent and affordable shelter is a basic necessity, and, I contend, a fundamental right. Yet our Nation is faced with an acute housing shortage for our low-income citizens. The numbers of homeless and inadequately housed increase dramatically with each passing day. This increase is further evidence of the lack of safe, sanitary, and affordable shelter for people living on the economic edge. The Federal Government must take a leading role in responding to this housing crisis.

Part of the solution to our housing problems can be found in the preservation of existing public housing developments. As long as the critical shortage of decent low-income housing exists, every effort must be made to maintain the present stock of public housing.

A major priority for the public housing program is modernization of existing structures. A concerted effort must be made to bring units up to standard and to extend their useful lives. Congress has made funds available for the modernization and rehabilitation of existing units in order to insure their continued availability for the benefit of lower-income families. Public housing is a valuable national resource to be preserved—not squandered.

Under the provisions of the Housing and Community Development Act of 1987, demolition or sale of public housing units is permitted only as a last resort. Demolition may not be considered unless there is no way to make the units livable. Statutory criteria restrict the circumstances under which existing public housing may be demolished or disposed of, and strict compliance with each and every prerequisite is mandated.

Mr. Chairman, I would like to clarify the intent of the amendment to H.R. 2783, which passed the Congress last year as section 415 of the fiscal year 1988 HUD-Independent Agency Appropriation Act.

As one of the authors of that amendment, along with my colleague, Mr. FROST, it was my intent that section 415 would prevent the demolition of public housing developments in Dallas and Houston, TX, specifically, Allen Parkway Village in Houston. By prohibiting the use of any Federal funds for any and all actions to demolish these developments, section 415 was intended to stop the demolition process and all demolition-related activities, including any further administrative development or review of demolition applications concerning the listed developments.

I understand that, currently, the HUD Secretary is still considering a demolition/disposition application for Allen Parkway Village. The intent of section 415 was specifically to prohibit the Secretary from any further consideration of that application. The prohibition was intended to extend to paying the administrative costs associated with considering the demolition/disposition application of the Housing Authority of the City of Houston for Allen Parkway Village. In fact HUD is required to reject any plans designed to demolish these extremely vital public housing units. The intent of the Frost-Leland amendment was to disallow HUD's approval for the demolition of these developments—for such action makes no sense and is bad public policy.

The national housing program sets the standards under which HUD is to operate, and it is imperative that HUD administer the housing program within the letter and intent of the law.

Mr. GREEN. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, it comes as some surprise to me and perhaps to others that I rise today in support of the HUD and independent agencies appropriation bill as it is presented to the House floor and will urge a "yes" vote for the bill. The committee has done good work. I will urge a "no" on several amendments that will be offered that would delete funds from high priority areas and even larger increases to those funds in lower priority areas, in some newer programs.

First the facts: The funding level of this bill overall is in fact $359 million below that which was provided in fiscal year 1988 appropriations. So it is a nominal cut of $359 million already. That reduction is consistent with both the budget resolution and with the summit agreement.

No. 2, the committee has made some tough choices. They have set out to adequately and appropriately prioritize programs within this bill. For example, the committee for the second year in a row provides for no new funding for HODAG and that is consistent with the Housing Act of 1987 which would terminate both HODAG and 235 subsidized home ownership program at the end of fiscal year 1989.

No. 3, this bill would provide no new funding for the UDAG Program. UDAG at this point by and large is a wasteful expenditure, it has been poorly targeted with little impact on communities and it is regarded by most of the country as somewhere between corporate welfare and pork barrel in its crassest form. Support for UDAG has diminished through the years indeed from a high of $675 million in 1981 to $216 in fiscal year 1988, down to zero this year.

Should a future administration choose to resurrect or revitalize or reform UDAG, well then this Congress at that point could make a decision as to whether to provide funding once again.

Now I will also note that the committee appropriately provided funding for a new program, Nehemiah Program, a successful program, a program that was appropriately provided in the Housing Act of 1987. They provided for funding of $35 million to get it started. This is a good new prospect for providing and allowing low income families to obtain home ownership opportunities.

Now there will be some discussion of amendments to add more money to homeless programs that this committee has already added to, to add an even larger amount than the amount that was already provided. I want to talk to the Committee of the Whole through some facts with regard to that.

First of all, homeless programs had been provided in this bill with rather significant increases. I want to call the attention of the House to exactly what those increases have been. Fiscal year 1988 appropriations for homeless programs are $187 million; for fiscal year 1989 appropriations in this bill they are $300 million, a 62-percent increase.

You will hear some comments that that $300 million is still less than authorized funding. That is true. But the money that would be taken to add to homeless would come from NASA and NASA is also below their authorized levels, in this case some $700 million below their authorized levels.

I would urge the committee and the House to vote against any proposal to take from NASA research and development, which has been provided a 16-percent increase, and add it to these programs which have already been provided a 62-percent increase.

In addition, you may be offered amendments that would substitute some of the 5-year vouchers in the bill with 15-year certificates. It does seem to me that if we do that, Congress needs to be aware that that provides for substantially fewer numbers of families that could be served.

While I have some sympathy for a 15-year voucher or a 15-year certificate, I think a better approach would be to just continue to insure, as we have always done, that 5-year vouchers are rolled over and reauthorized at the expiration. Nothing has ever been done any different. It can happen in this way.

I would urge Congress to pay careful attention to that amendment, vote for the bill and against these amendments on the HUD appropriations.

Mr. BOLAND. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Georgia [Mr. ROWLAND].

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Mr. ROWLAND of Georgia. Mr. Chairman, I rise in strong support of the fiscal year 1989 HUD-independent agencies appropriations bill—H.R. 4800.

I commend the distinguished chairman of the subcommittee, Mr. BOLAND, and the ranking minority member, Mr. GREEN of New York. The bill they are proposing is far better than the administration's budget for veterans.

When we received the VA budget just 4 months ago, it was obvious to those of us who serve on the Committee on Veterans' Affairs and the HUD-Independent Agencies Subcommittee that it was inadequate. As usual, Mr. BOLAND and his subcommittee have taken decisive action to insure that veterans' programs are adequately funded for the next fiscal year.

First of all, I want to thank Chairman BOLAND and his subcommittee for not deleting $54,200,000 for the construction of the clinical addition and parking garage at the Atlanta VA Medical Center recognizing the severe problem that exists there. When completed, this addition will address the enormous deficiencies that currently exist at the Atlanta facility.

During the past months, our committee has learned that thousands of VA hospital beds have been closed because the VA did not have adequate staff to operate them. This bill contains $240 million above the President's request for medical care. From this amount, $45 million will go for special pay rates for nurses and other scarce medical specialists. The bill also contains $15 million for tuition assistance payments and over $9 million for nurse and other health professional scholarships.

The bill contains $27 million and 350 full-time employees for the treatment of patients with AIDS. By this action, the House is expressing its intent that VA will take care of its AIDS patients, which now total about 6 to 7 percent of all reported cases nationwide.

The bill increases the medical and prosthetic research budget by $6 million. The $6 million increase includes $2.5 million for AIDS research, bringing the total to $8.5 million for this important research.

During the past several years, the Department of Veterans' Benefits [DVB] has lost significant numbers of employees, resulting in an almost shocking record of performance in the handling of veterans' claims. At a hearing before our committee last month, the VA almost casually admitted that only 30 percent of veterans claims for disability benefits are resolved in a timely manner; yet the administration's budget called for a reduction of almost 4 percent in DVB employees in fiscal year 1989. This bill rejects that recommendation, and provides for a continuation of the current staffing level of 12,989 employees.

This is a very good bill for veterans, Mr. Chairman, and I again want to applaud the efforts of the distinguished chairman of the subcommittee, Mr. BOLAND. Every year that he has headed the subcommittee, the gentleman has never wavered. The record will show that in almost every year, if not every single year, his subcommittee has added funds to the health care budget.

Since the gentleman from Massachusetts has already announced his intention to retire from the House at the close of this Congress following many years of distinguished service, I want him to know that he will be greatly missed. The gentleman is recognized as one of the outstanding leaders in the House. He is a man of his word. I appreciate the help the gentleman has given our veterans and thank him for his willingness to work with me and others who needed his counsel and experience. The gentleman is greatly admired by his colleagues. He is also admired by veterans throughout the country for his insistence that they be provided quality health care that they receive other benefits on a timely basis such as, education, compensation, and pension. He has insisted that the VA home loan program be funded so that young men and women have an opportunity to buy a home following their military service.

The lives of hundreds of thousands of other individuals have been enhanced because of Chairman BOLAND's firm commitment to better housing, and a cleaner and safer environment. So for these and other things the gentleman stands for, I thank the gentleman for the service he has given to the people of his district, his great State, and the Nation.

Mr. GREEN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, I thank the gentleman from New York [Mr. GREEN] for yielding time to me. I have requested this time for the purpose of engaging in a colloquy with the distinguished chairman of the subcommittee, the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. Mr. Chairman, if the gentleman will yield, I will be glad to engage in a colloquy.

Mr. SCHULZE. Mr. Chairman, prior to engaging in our short discussion, I would like to let the chairman of the subcommittee known how much his presence will be missed next year. You have judiciously and fairly steered HUD-independent agencies appropriations bill through Congress and we will sorely miss our effective guidance and stewardship.

The committee bill we are discussing today, H.R. 4800, adds approximately $300 million to the Superfund Program over last year's funding level. For fiscal year 1989, the committee recommends $1.4 billion. Is that correct?

Mr. BOLAND. The gentleman is correct.

Mr. SCHULZE. Further, I notice that the committee report accompanying H.R. 4800 comments upon the need for EPA to aggressively seek private party Superfund cleanups.

In areas where EPA is already aggressively seeking private party response actions, and pursuing enforcement actions, would it be the committee's intent that the fiscal year 1989 additional funds could be used to initiate immediate clean up actions at Superfund sites?

Mr. BOLAND. Mr. Chairman, will the gentleman yield further?

Mr. SCHULZE. I yield to the Subcommittee chairman.

Mr. BOLAND. The gentleman is correct.

Mr. SCHULZE. I raise this issue because of a Superfund site in my district. EPA is seeking private party response actions, and pursuing enforcement actions at this site. Yet recent soil samplings show contamination of PCB in my constituents' yards at levels as high as 9,800 parts per billion. My hope is that EPA will pursue cleanup activities at the same time it attempts to obtain reimbursement from private parties for the contamination. Is this the committee's intent?

Mr. BOLAND. Mr. Chairman, the gentleman is correct. It is the hope of this committee that the EPA will pursue cleanup activities at the same time it attempts to obtain reimbursement from private parties for contamination. I think the suggestion is a good one, and it is hoped that this suggestion will serve as a direction to the EPA.

Mr. Chairman, I thank the gentleman from Pennsylvania for his interest.

Mr. SCHULZE. Mr. Chairman, I thank the gentleman from Massachusetts.

Mr. GREEN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LEWIS], a distinguished member of our subcommittee.

Mr. LEWIS of California. Mr. Chairman, I thank my colleague for yielding this time to me.

Mr. Chairman, I would like to take just a moment to follow on the comments of many of our other colleagues in their not so light, but not elaborate praise for the almost incredible work of our subcommittee chairman, EDWARD BOLAND of Massachusetts. This is EDDIE's last year with this bill on the floor. To say the least, EDWARD BOLAND is a demonstration project of what positive legislative work ought to be all about in this House.

He is a leader in our committee. He knows what it is to deal with very important projects and subjects in very difficult times. You have been under probably greater stress this year, ED, than at any time since I have been on the committee, and I must say this Member very, very positively responds to the work that you have done. I am not happy with everything, as you know. My own bias leans to the point of recognizing that NASA is a part of our critical future. Indeed when we take programs like NASA or EPA and other independent agency programs and literally put them in competition with important programs like housing and veterans, the choices are tough. Overall, with those choices, the chairman and our ranking member have done an outstanding job in an atmosphere that is almost impossible.

I would like to take a moment to mention one such area to which my colleague, the gentleman from Texas, referred in his remarks. It is my understanding that we may very well have a number of amendments that would make some trades in the bill by way of amendment. Specifically, I refer to the suggestion that we may have some recommendation that we should take sizable funding from NASA programs in order to increase funding available for programs for the homeless. I must say to my colleagues that there is no question that the challenges of the homeless are very real; they are pressing and they are critically important.

Having said that, it should be clearly understood that there has been progressive movement by this subcommittee in terms of funding for the homeless. The 1987 figure involved $190 million for the homeless from our subcommittee, in 1988 the figure for the fiscal year was $187 million, and in fiscal year 1989 we are proposing some $300 million in funding. Those are substantial increases.

It should be pointed out that while there are some increases that can be pointed to in the NASA budget, the bulk of those increases reflects adjustments in programs that are already ongoing. New funding is very limited in the NASA budget. If transfers are made by way of amendment between NASA and the homeless, we could find ourselves on a pathway that would totally destroy our future in space.

Mr. Chairman, I urge the Members to support the bill in its present form. I urge the Members not to undermine the the fine work of our chairman and his subcommittee by way of amendment.

Mr. BOLAND. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, first of all I want to say to Chairman BOLAND what a great privilege is has been for me personally to serve with him in this Congress. I want to compliment him on his leadership, not only with respect to this committee but to the Intelligence Committee. His chairmanship of that committee, I think was critical to the future of our hemisphere, and I want to really say that it has been a great honor to serve with him.

I also want to pay tribute to the chairman of the subcommittee of the authorizing committee on housing, the gentleman from Texas [Mr. GONZALEZ]. The decisions we have before us today are very, very difficult because, in my judgment, it is not the fault of the chairmen of the committees. The fault lies in the process that we are strapped with under this sort of artificial Gramm-Rudman approach so that we have important programs competing against each other. This should not be the case.

I am one of the authors of a good part of the homeless bill, and it is difficult for me to not want to support amendments that would restore funds to that portion of the legislation. But I do think that the Appropriations Committee, faced with hard choices and varieties of categories, has really attempted to be fair, and that is why I will support this bill. I really believe that we should look at the space program, and, of course, when we say, "space program," it sounds to many people as if it does not affect the lives of the American people in a very specific way. The truth of it is, though, that it really does, and we cannot afford not to look at the future of not only our country but the global community.

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Just take the area of health care and the fact that space technology has revolutionized the way we practice medicine. Go ask a person who has a miniaturized pacemaker if he or she is grateful for the space program. Go ask a diabetic insulin implant, if he or she is grateful for the research and development of the space program. Go ask an individual who has an artificial hip or knee if he or she is grateful for the science of the space program.

These are just a few examples of the medical solutions that were developed through the knowledge gained in the space program. The food that we eat, the insulation of our homes, the clothes that we wear were all affected by the space program, and I believe that for those of us who believe very strongly in the environment that it is absolutely a fact that the Department of Agriculture and Environmental Protection, that agency has utilized space satellites which generate data to inventory natural resources and monitor the effects of pollution including the ozone program. Go ask someone in this country who has emphysema if he or she is not grateful for the space program.

And we also must remember the so-called space race. It is not a two-country competition, but a global marathon. It includes 13 European nations partnered as the European Space Agency: Japan, China, India, and Brazil. These nations have made space a budgetary priority with the United States dropping to fourth among industrial nations behind Japan, West Germany, and France and the fraction of gross national product invested in civilian research R&D. And so we see that Japan now is committed to the advancement of its space program by releasing plans which call for tripling their budget by the year 2000.

So I say to my colleagues: This is a difficult choice for us. It is an unfair choice for us to have to make. But we really do have to look to the future, and I say to all of us who care about housing needs and humanitarian needs of our people that the space program affects people in a very specific way, and I for one feel very, very comfortable, at least at this point in time, in supporting Chairman BOLAND. And it is not to be interpreted as any kind of indication of my lack of support for housing which we critically need as well.

Mr. BOLAND. Mr. Chairman, I yield 3½ minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I first of all want to say how privileged I have felt these last 10 years to serve in this body with our distinguished chairman, the gentleman from Massachusetts [Mr. BOLAND]. I do not think anyone is more respected on either side of the aisle for the commitment he has brought to his responsibilities and for his integrity. His presence will be sorely missed, and I believe that we are all truly in his debt.

It is, therefore, very reluctantly that I rise to express opposition to one element of the committee bill that is before the House today, that element of the legislation which would zero out funding for the Urban Development Action Grant Program. I am cosponsoring the amendment that will be offered later by the gentleman from New York [Mr. SCHUMER] and the gentleman from Texas [Mr. GONZALEZ] that would transfer a very small fraction of the substantial increase in funding for NASA's research efforts to partially restore UDAG funding and to meet other urgent needs faced by the homeless and by economically distressed communities throughout our country.

The Urban Development Action Grant Program, Mr. Chairman, is one of the most cost-effective programs in the entire Federal budget. The program was HUD's response to criticism that Federal programs that sought to address the needs of our Nation's older areas were simply throwing money at these problems.

The UDAG Program took a different approach. Since its inception its primary goal has been to use relatively small sums of Federal money to leverage much larger sums of private sector investment. And the program has been enormously successful.

From 1978 to 1987 some $4.3 billion in Urban Development Action Grants leveraged almost $27 billion in private sector investment, a ratio of more than six private sector dollars for every dollar of urban development action grant funding.

And let me tell you what this has meant for my home State of Michigan and for my congressional district: Michigan has received 119 UDAG's since the program's birth in 1978. That translated into $300 million in Federal funds which generated more than $3 billion in private investments. These investments created more than 32,000 new jobs and retained more than 10,000 existing jobs. In my own congressional district, from 1983 through 1987 the UDAG Program invested $6,255,000 in economic revitalization. This Federal investment leveraged $68,076,408 in private investments, a ratio of more than 10 to 1. This Federal investment created 550 permanent jobs in the district. And that does not even consider the tremendous number of construction jobs that these UDAG investments generated.

Mr. Chairman, this is a program that has meant literally the rebirth and revitalization of urban areas throughout my State and throughout our country. It has meant jobs. It has meant new hope.

In my own area, Battle Creek, Lansing, and Kalamazoo are now being reinvigorated as a result of the infusion of these critical Federal dollars that have leveraged large amounts of private sector investment.

Mr. Chairman, the argument that has been made against the Urban Development Action Grant Program, and offered as justification for its zeroing out this year, is that the program is no longer as targeted as it once was. There is a certain irony in that argument, because the original objection the UDAG Program was that it was too regionally focused in the Northeastern and Midwestern communities and needed to be more geographically dispersed, and so the formula was revised.

Mr. Chairman, in a sense the demand for that revision was testimony to the program's success. It was so demonstrably effective in generating new economic and community development that other States wanted in. I should say, however, that the vast majority of Urban Development Action dollar continue to be directed at communities of greatest economic need, those most in distress.

Mr. Chairman, the issue is one of balance, one of priorities. We can in fact, support a 16-percent increase in the NASA budget and still permit funding for these vitally needed domestic initiatives.

I am one who strongly supports the space program—it is vital to our future—its many spin-offs have had and will continue to have an enormous impact on our quality of life. Our technological and economic strength and leadership demands the strongest possible commitment of our Federal Government to the space program.

However, the critical issue we are facing today is whether to allow a 20-percent increase for NASA—at the expense of zeroing out the UDAG Program and restricting the urgently needed funds for the homeless—or allowing a 16-percent increase for NASA and permitting the continuation of the UDAG Program and more adequate funding to meet the urgent needs of the homeless.

It is a choice which I think is clear. It is a choice which addresses our future—our future on our city streets, in our urban construction projects, and in the heavens above. It protects our future and continues a UDAG Program which has created more than 556,000 jobs nationwide and generated more than $26.7 billion in private investment, while at the same time keeping our commitment to a forward moving, future-oriented space program.

Mr. GREEN. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. Hiler].

Mr. HILER. Mr. Chairman, I rise to commend the gentleman from Massachusetts [Mr. Boland] and the gentleman from New York [Mr. Green] for their efforts to craft the bill which tries to balance a variety of competing needs.

In contrast with the previous speaker I would particularly like to applaud the committee for its decision to eliminate funding for urban development action grants or UDAG's, as they are commonly called.

In 1987, just to give the House a little update, 6 States received more UDAG's than the other 45 States plus the District of Columbia and Puerto Rico combined. Pennsylvania alone received $65.8 million worth of UDAG's, nearly at 20 percent of the total UDAG's; 16 States did not receive a single UDAG. Hotels and motels accounted for $60 million of UDAG's, nearly 20 percent of the total funds awarded, and shopping centers accounted for another $33 million in UDAG's. One of the kinds of projects that were funded was financial assistance for a joint venture to help construct the 225-unit hotel, 25,000 square feet of retail space plus a 135,000 square-foot office building. The interesting thing about that particular project is that there were $17.5 million of public money expended, but only $2.5 million of private money.

So I think it is a suitable time to eliminate UDAG's, and I commend the committee for that. I would also like to commend the committee for language in the committee print which urges HUD to examine the possibility of using manufactured housing in connection with public housing. Manufactured housing can be a very cost efficient means of providing housing for many of our low-income citiznes. I commend the committee for its willingness to include that specifically in the committe print language.

Mr. BOLAND. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. Donnelly].

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Mr. DONNELLY. Mr. Chairman, I thank my friend for yielding time to me. If possible, I would like to engage the gentleman from Massachusetts [Mr. Boland] in a colloquy.

Mr. BOLAND. If the gentleman will yield, of course, it is possible.

Mr. DONNELLY. Mr. Chairman, I wish to call attention to the action taken by the first session of the Congress during deliberation of House Joint Resolution 295, continuing appropriations for the fiscal year ending September 30, 1988. Specifically, I refer to title I, Department of Housing and Urban Development, Housing for the elderly and handicapped funding for project No. 023-EH273 in Milton, MA.

Since enactment of House Joint Resolution 395, the town of Milton has worked to identify an acceptable site within the community, other than the site in the sponsor's application documents, due to the short period that has passed since the enactment of House Joint Resolution 395, the town wishes to proceed with the identification of an acceptable site and work to ensure that all site standards comply with the criteria of the secretary.

Is it the intent of the committee that under section 202 of the Housing Act of 1959, as amended, that funding for the HUD project No. 023-EH273 in Milton, MA be made available until the end of this calendar year?

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. DONNELLY. I am happy to yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, it is the intent of the committee under section 202 of the Housing Act of 1959, cited by the gentleman from Massachusetts, as amended, that funding be made available for HUD Project No. 023-EH273 in Milton, MA, until the end of this calendar year. The committee understands the extensive process that the town of Milton has engaged in since the enactment of House Joint Resolution 395. Therefore, it is the committee's intention that funding for this project be made available until the end of this calendar year in order for the town to identify a site, other than the site specified in the sponsor's application documents, that complies with the Secretary's criteria.

Mr. DONNELLY. Mr. Chairman, I wish to thank the gentleman from Massachusetts for his explanation.

Mr. GREEN. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I want to pay tribute to the chairman of the subcommittee, the gentleman from Massachusetts, Mr. ED BOLAND, my son's Congressman, and others. You know, there is something about the gentleman from Massachusetts, Mr. ED BOLAND, and that is that even though you disagree with the gentleman from time to time on philosophical issues perhaps, he is at all times a gentleman and he is at all times a man of his word. He has been that for the 10 years that I have had the privilege of serving with him.

Let me just say as the ranking Republican on the Veterans' Affairs Committee, I want to thank both the gentleman from Massachusetts [Mr. BOLAND] and the gentleman from New York [Mr. GREEN] for the outstanding service that they have given to the 27 million veterans and the 47 million members of veterans' families who have benefited from these vital programs. We really do thank them for all the cooperation they have given us in the past.

Mr. Chairman, as the ranking member of the House Veterans' Affairs Committee, I rise in strong support of the legislation.

If I may, Mr. Chairman, I would refer to the committee report on H.R. 4800 which makes one strong argument for elevating the VA to Cabinet level. The report states that the Veterans' Administration is the third largest Federal agency in terms of employment with over 222,000 employees.

It administers benefits for over 27 million veterans, 47 million family members of living veterans, and 1.8 million survivors of deceased veterans.

Mr. Chairman, what this means is that 76.5 million Americans comprising about 31 percent of the total population of the United States, are potential recipients of veterans benefits provided by the Federal Government.

Mr. Chairman, I thank Mr. BOLAND, Mr. GREEN and the other members of the Appropriations Committee for their excellent work in bringing this bill before us in such a timely fashion. I am very supportive of the veterans funding level under the bill and I urge adoption by the full House.

Mr. BOLAND. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. NELSON], one of the most knowledgeable men in this body or any body on space, science, and technology problems.

Mr. NELSON of Florida. Mr. Chairman, let me say to the gentleman from Massachusetts [Mr. BOLAND] that upon his retirement we are going to miss him and the leadership that he has provided for us in this important area of HUD and the independent agencies appropriations.

We have had some tremendous debate here, most insightful, and I would like to speak to two areas: fiscal myopia and foreign affairs.

I support the bill of the chairman, the gentleman from Massachusetts [Mr. BOLAND]. We are in a time of making choices, as the gentlewoman from Ohio [Ms. OAKAR] has stated, that through the artificiality of the clash that Gramm-Rudman cutbacks have brought us in making us make choices that we should not have to make. We ought to say, is the U.S. space station a national priority? If it is, then we should go out and fund it; but that is not where we find ourselves today by virtue of some of the amendments that are going to be offered.

So on fiscal myopia, I would remind my colleagues that research and development is the future of this Nation, and its competitiveness in the global arena in which we now compete, as well as research and development is our future with regard to our quality of life as citizens on the planet Earth.

Now, with regard to foreign affairs, the U.S. space station is an international space station.

Listen to the words of Secretary of State, George Shultz. I want to emphasize this quotation in his letter to the chairman of the Foreign Affairs Committee of this body:

> I want to emphasize to you the foreign policy importance of now going forward with this historic cooperative venture.

He is referring to the space station. He calls it in his letter "the largest international cooperative science and technology project ever undertaken."

Mr. Chairman, I would close my remarks by quoting the Secretary of State of the United States:

> If we now were to fail to go ahead with this space station program, we would undercut those countries that have tied their space futures to us on the basis of our offer of partnership. Were that to happen, it would have a serious adverse impact on our relations with key allies.

Mr. Chairman, there are many, many more reasons to support the chairman of the committee and his bill.

Mr. GREEN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I would like to ask if we could possibly engage in a colloquy with the gentleman from Massachusetts [Mr. BOLAND].

Mr. Chairman, I certainly want to add my name to those who have commended the gentleman from Massachusetts [Mr. BOLAND] for his work throughout the years and for his diligent work on this particular appropriations bill. I certain support this bill.

I do so with some disappointment that funding for a much needed parking facility at a major Veterans' Affairs hospital, a Veterans' Affairs Hospital in Pittsburgh, PA, is not included.

I would share with the chairman that the particular facility was authorized and included in the fiscal year 1989 medical construction bill reported out of the Veterans' Committee.

The hospital is due to receive these funds for the construction of a 750-car garage. The moneys are not anticipated until 1992 or 1993, and therein lies the difficulty with the situation, Mr. Chairman.

It is located in the Oakland area of the Pittsburgh community, where there are six other major hospitals, two large universities, major businesses, and all of this is in 1 square mile. We have veterans coming in from West Virginia, from Ohio, from New York, and from Pennsylvania, who must arrive 1 to 3 hours before their scheduled appointments, just to find a parking place.

This project has the support of the Veterans' Affairs Committee and several of our colleagues from the surrounding States who are not on the committee.

May I ask the chairman if he is aware of the needs and the merits of this particular project?

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. RIDGE. I yield to the distinguished gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I understand the need for the parking facility that the gentleman from Pennsylvania has spoken about. However, as the gentleman knows, budget constraints have limited the amount of funds available for VA major construction projects.

Mr. RIDGE. Mr. Chairman, I thank the gentleman. I certainly appreciate the gentleman's comments and I am quite aware of these constraints.

One final thought, if I might, Mr. Chairman, regarding possible funding for this project. I would hope that the distinguished chairman would consider the efforts made in the other body to finance construction of this project this year. Given the urgency of the problem and its broad impact, as I said, it does affect veterans from four or five surrounding States, I would appreciate the chairman's consideration of this project in next year's appropriation measure, if we are unable to do anything with it in conference.

Mr BOLAND. Mr. Chairman, will the gentleman yield?

Mr. RIDGE. I am pleased to yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I want to assure the gentleman from Pennsylvania that I will continue to keep in mind the urgency and the merits of the University Drive Parking Garage, particularly if the Senate approves funding during this appropriation proceeding. I am sure that my distinguished colleague, the gentleman from New York, agrees with that position, and the other members of the subcommittee, as well.

Mr. RIDGE. Mr. Chairman, I thank the gentleman for his time and his consideration.

Mr. GREEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in strong support of H.R. 4800, the HUD-independent agencies appropriations bill of 1989.

Once again, the chairman of the Appropriations Committee, Mr. WHITTEN, and the chairman of the Subcommittee on HUD-Independent Agencies, Mr. BOLAND, have demonstrated their commitment to America's veterans. I should also point out the fine work of Mr. CONTE, the ranking member of the full committee, and Congressman GREEN, the ranking member of the subcommittee.

As the ranking member of the Hospitals and Health Care Subcommittee of the Veterans' Affairs Committee, I commend their efforts to preserve and strengthen veterans' health care programs. The committee approved $240 million more for veterans' health care than was appropriated in fiscal year 1988.

Make no mistake, the VA is facing some very serious difficulties in the health care field. It is facing some difficulties in meeting the demands due to the increasing number of aging veterans. The average age of World War II veterans is now 66.

The VA is facing some difficulties coping with the additional costs associated with the treatment of patients with AIDS. The VA has the largest number of AIDS patients of any hospital or hospital system in the world. The VA is facing some very real problems in the recruitment and retention of nurses and other scarce medical personnel.

Mr. Chairman, I am very grateful that our friends on the Appropriations Committee have recognized these difficulties and have provided, for the short-term, additional resources to address them.

However, in the long term, I believe a much more comprehensive approach must be taken if we are to adequately address the growing national health care dilemma.

Mr. GREEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we near the end of general debate, I would be remiss if I did not report to the body in my capacity as ranking Republican member that I have been advised by the Office of Management and Budget that they would recommend that the bill, in its present form, be vetoed by the President.

I think it is instructive, in view of the amendments that are about to be offered, to see why they would recommend a veto of the bill.

First, they are upset that we have added $787 million for subsidizing housing above what the administration requested.

Second, they are upset that we have added $450 million for EPA sewage treatment construction grants.

Finally, I think many mayors who are concerned about UDAG ought to be aware they are upset because we have added $150 million for community development block grants above what the administration requested.

They are also concerned because we have added $250 million for the VA above what the administration requested. And when those amendments come before us, also keep in mind that they are upset because we have not fully funded NASA, as requested by the administration, and we are indeed almost $800 million below the authorization level.

In fact, there are $315 million of appropriations which they specifically point to as critical appropriations for NASA that we have not provided.

They are upset that we have reduced the increase in funding for the National Science Foundation requested by the administration by an amount of almost 60 percent.

Finally, they are upset at the $175 million reduction in the appropriations for the Superfund.

Mr. Chairman, if I can conclude the general debate for this side, let me say that our authorizing committees are not issuing forth malevolent authorizations. We would have dearly loved to be able to provide more funding for housing, more funding for the National Science Foundation, more funding for NASA, more funding for the environment, more funding for veterans. One could go on and on. And of course, our subcommittee would have provided that if it had been possible within the budget framework within which we operate, but we have not had that luxury. We have had to make choices. I think as one hears the general debate and then as one hears the Office of Management and Budget, one can see that everyone's ox has been gored. I regret having to do that, but that is the responsibility that falls on one when serving on the Appropriations Committee in these difficult times. I think we have lived up to that responsibility. I hope the Members will support our bill and reject the amendments to it.

Mr. BOLAND. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, at Rice University in 1962, President John F. Kennedy said:

> The exploration of space will go ahead whether we join in it or not, and it is one of the great adventures of all time, and no nation which expects to be the leader of other nations can expect to stay behind in this race for space. Those who came before us made certain that this country rode the first wave of modern invention, and the first wave of nuclear power, and the first wave of modern industrialization; and this generation does not intend to founder in the backwash of the coming age of space. We mean to be a part of it—we mean to lead it.

That was President John Kennedy in 1962 about goals that would allow us to show our strength and purpose to the world. Today we face the same challenge and the same opportunity in space in the space station.

This bill today is an appropriate and thoughtful compromise of all the competing interests that come into play in this kind of legislation. We have got to have a space station and we have to push it forward.

I urge my colleagues to oppose any kind of crippling amendments today that would come before this floor. Today in 1988, unlike 1962, we face larger competition in the race for space. The space station is one way out.

Mr. Chairman, when President Kennedy spoke in Houston 26 years ago, the space race was a two-nation competition between America and the Soviet Union. Our goal then was not only to excel in the use of technology in space, but also to show the strength of our society. Both of these aims were set forth in a dramatic way by President Kennedy, and America's Space Program was born.

Today we face a world of great challenge and opportunity. We in America live in the most powerful democracy our world has known.

We have the power to go to the distant reaches of space where we may find the cure for the oldest and most crippling diseases that have afflicted people; to create wealth and whole new industries in the vastness of outer space; and to explore the furthest reaches of our solar system. Imagine a cure for cancer or many of the neurological disorders that stricken millions of Americans or possibly a 10th planet in our solar system.

We stand on the threshold of some of our greatest space achievements.

We are moving ever closer to the day when the space station can be a reality, and when we can step permanently into space. Clearly challenges and opportunities abound for all of us.

The bill before us today appropriates $10.7 billion for the National Aeronautics and Space Administration. Although this amount is not as much as I would have liked, I believe that $10.7 billion will insure the planning and construction for such vital space progams as the space station; the Hubble Telescope, which has already been delayed for more than 2 years; the Pathfinder Program; the use of expandable launch vehicles and the Gamma Ray Observatory to just name a few.

Approval of the HUD-independent agencies appropriations bill is the first step. A "yes" vote for this legislation will send a clear message that America wants to participate in the technological advances of tomorrow.

For too long NASA's budget has been squeezed as tightly as a drum. For example, in 1965 the NASA budget was 3.79 percent of the Federal budget an today it is only 0.78 percent of the Federal budget.

Insufficient funding was noted by the Roger's Commission as a contributing factor to the shuttle disaster. Are we going to repeat that error by exacerbating those very funding problems? I truly hope not.

Americans have alway been proud of our civilian space effort. We basked in the glory of the Apollo Program. And yet today we wonder why we have all these problems. What happened to the giant leaps of advancement we made in those years? Well, that's pretty simple. We have starved NASA.

This has all occurred in spite of the economic and scientific windfall that space exploration has brought to our Nation. It is interesting to note that the Apollo mission yielded a 7-to-1 return on every dollar invested. Unfortunately since 1981 our Nation's initiative and leadership in aerospace trade has declined significantly.

For example, Arianespace, the French equivalent of NASA, now controls more than 50 percent of the world's commercial satellite launching business. In addition, Japan has committed more than $40 billion to becoming a major player by the year 2000.

Let there be no mistake that a vigorous U.S. civil space program contributes directly and positively to maintaining the Nation's competitive position.

Space exploration not only drives the economy over the long term, but is the best investment for our future because it sharpens the skills and harnesses the talents of all Americans involved.

Other countries recognize that the jobs and products of the future will come from space exploration. So should we. We can not affort to be left out.

A "yes" vote for this bill with $10.7 billion for NASA will send a clear signal to the Japanese, the French, and the Germans, as well as the rest of the world that America intends to rejuvenate its commitment in space.

Space beckons our entire Nation to new ideas, new efforts, and new heights of achievement.

I urge my colleagues to support this bill as reported out of the Appropriations Committee.

Mr. BOLAND. Mr. Chairman, I cannot think of a better Member in this Hall to close the debate on this bill than the distinguished chairman of the Veterans' Affairs Committee, the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY].

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Mr. MONTGOMERY. Mr. Chairman, I really did not know that I was going to be the heavy hitter here, but let me rise and say that I fully support this legislation.

Mr. Chairman, I say to the gentleman from Massachusetts [Mr. BOLAND] in behalf of the veterans of this country that we owe you so much and I say thanks from the bottom of our hearts. We are sorely going to miss you, sir, and the honors that will come your way from the veterans are certainly deserved. You have been very kind, you have been fair, and we veterans just could not have made it without your total support.

I say to the gentleman from New York [Mr. GREEN] and other members of the Subcommittee on HUD-Independent Agencies, as was mentioned earlier, they have tried to do the best they could for the veterans and others that come under this legislation.

Mr. Chairman, as I have done in past years, I want to thank the very able chairman of the subcommittee, Mr. BOLAND, and the ranking minority member of the subcommittee, Mr. GREEN of New York, the members of the subcommittee for their continuing support of our Nation's veterans. The funding level contained in this bill confirms the committees' desire that VA provide quality health care to veterans and that regional offices be properly staffed to make certain that claims for compensation, pension, education, and home loan benefits are processed on a timely basis.

Mr. Chairman, I must tell my colleagues that things aren't as good in the VA as the Administrator of Veterans' Affairs would have us believe. Recently I sent four members of our staff to visit 16 VA medical centers throughout the country to see whether eligible veterans are receiving inpatient and outpatient care when they need it. I must report to you that many hospitals do not have the staff nor the resources to provide the same level of services from 1 year to another. In the 16 hospitals visited, we found more than 1,700 beds closed because of lack of staff. This cannot continue.

This bill attempts to do something about it. The bill contains $240 million more than the administration requested for medical care. This level of funding will support a staffing level of 195,140 full-time employees, an increase of 1,000 above the current level. This funding level includes: $4.7 million to restore the 79 employees who were proposed to be cut in the readjustment counseling program; $27 million and 350 full-time staff for the treatment of patients with AIDS; $33 million and 650 full-time staff for new facility activations; $45 million for special pay for nurses and other scarce medical specialties—this is in addition to the $9 million recommended by the committee for the health professional scholarship program; $5 million for tuition assistance payments for nursing and other associated health care occupations, for a total of $15 million; and $5 million for the community-based residential treatment program for chronically mentally ill veterans.

All of these increased funds above what the President asked for will help alleviate some of the major problems VA hospitals are having in recruiting nurses and other hard to recruit health care staff.

In addition, the 25 hospitals that take care of most AIDS patients will be getting additional funds for the first time to help offset the high cost of care for such patients.

Medical and Prosthetic Research is increased by $6 million. The increase includes $2.5 million for AIDS research, with the balance to be distributed at the discretion of the VA. This brings the total AIDS research in the VA to $8.5 million.

Finally, Mr. Chairman, the bill contains $774,316,000 for General Operating Expenses, an increase of $3 million above the budget estimate. Under the bill, there would be no reduction of personnel in the Department of Veterans Benefits as proposed by the administration. The field staffing level would be set at 12,415—590 employees above the President's request. Funds have been added so that the Board of Veterans Appeals can maintain its current staff of 427 employees to avoid adverse effects on the quality of BVA decisions.

The bill contains $42 million for grants to assist states to construct State home facilities to provide nursing home or domiciliary care to veterans.

This appropriations measure is very fair to veterans, Mr. Chairman, and

I'm most grateful to the distinguished gentleman from Massachusetts [Mr. Boland]. Since the gentleman has announced his retirement from the House at the close of this Congress, I want him to know how much he will be missed by those of us who have served with him in the House. He is a man of great character and integrity and is held in high esteem by his colleagues.

In closing, I want to again thank the chairman of the subcommittee and, on behalf of all veterans who served our country during time of war or national conflict, express our appreciation for his untiring efforts in their behalf.

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 4800, making fiscal year 1989 appropriations for the Department of Housing and Urban Development and 16 independent agencies.

This is the 10th regular fiscal year 1989 bill to come before the House in the past 37 days. And, at $59.7 billion, it is the largest of all our domestic discretionary bills under the new summit scorekeeping rules.

As reported out of our committee last week, it is within our 302(b) summit allocation of discretionary budget authority by less than $2 million, and it is within our outlay allocation by about $9 million.

The recommendations before us are among the most difficult and troubling of all that we have had the task of making this year. No one is happy, and everyone is hurt. But from the very beginning of this budget cycle, we have seen the tradeoffs, the thankless and nearly impossible choices, that we have had to make.

No one has seen these choices as clearly as my old friend and colleague from Massachusetts, Eddie Boland, who has served as chairman of the subcommittee since 1971. The bill before us today is the 18th regular HUD bill that he has reported to us. The first one was for fiscal year 1972, and it totaled $18.1 billion in new budget authority. This one totals nearly $60 billion, but it will be his last.

I want to take this opportunity to thank and congratulate the chairman for his many years of loyal and dedicated service to our committee, to the Congress, and to the Nation.

Through our many years together, we have fought to establish, expand, and preserve programs serving low-income families, distressed communities, veterans, consumers, environmental protection, and scientific research. But this time, the battle he has led for the allocation of very limited resources among a host of competing priorities has been the hardest of all.

I am pleased that the committee has been able to include $3 billion for the Community Development Block Grant Program, 9,500 new units of housing for the elderly and handicapped and $1.65 billion for the Public Housing Modernization Program. And among the very few increases over the administration's requests that we have included on a priority basis with my strong support are: $65 million for school asbestos grants; $450 million for EPA construction grants; $473 million for veterans medical care; and $144 million for homeless assistance programs through HUD and FEMA.

But, Mr. Chairman, there is one recommendation included in this bill that I did not support: the termination of UDAG Program. This program has been one of the most important community development efforts funded through our committee over the years. It is one that I have worked time and time again to save from proposed elimination by the administration and the other body. It has gone from a level of $400 million in 1978, up to $675 million in 1981, down to $216 million this year.

Between 1978 and 1987, we have provided $4.4 billion in direct grants, leveraging $27.3 billion in private investments, creating 312,000 new jobs, constructing 80,000 units of housing and generating $620 million in annual tax revenues for our communities.

I regret that the committee's allocation was not adequate enough to accommodate the $225 million authorized for the UDAG Program. It is one of the most painful of the many cuts that we have had to make this year.

And I can only hope that the carryover of funds from previous years will keep this valuable program alive through the next year so that we can revise it and bring it back to this House at a workable level next year.

In closing, Mr. Chairman, I will point out to my colleagues that the lack of a fiscal year 1989 appropriation for UDAG is about the only thing that the administration likes in this bill. In its Statement of Administration Policy dated June 21, the Director of the Office of Management and Budget, Jim Miller, has indicated he would recommend that the President veto this bill.

I include the full text of the administration's statement.

Despite the administration's objections, and my own strong objections to the substantial cuts we have been forced to make in several important programs, I will support this bill and ask my colleagues to do the same.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4800—HUD/INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1989 (SPONSORS: MR. WHITTEN AND MR. BOLAND)

The HUD-Independent Agencies Appropriations Bill approved by the full Appropriations Committee provides funding which is excessive overall, which contains too much funding for low priorities and not enough for high priorities, and which contains objectionable language provisions. If the bill were presented to the President in its current form, the Director of the Office of Management and Budget would recommend that he veto it.

The budget authority provided by the Committee for discretionary programs is $1.1 billion in excess of the President's request. Some of the increases would provide for the expansion of low-priority services at the expense of reductions to higher national priority programs.

The following increases in budget authority relative to the President's request are either inappropriate or unnecessary:

$787 million for subsidized housing. The Committee's proposed subsidized housing program mix would serve 24 percent fewer low-income families in 1989—82,176 versus 108,000 in the President's Budget. In addition, the Administration strongly objects to the diversion of scarce low-income rental housing resources to the new moderate-income "Nehemiah" home ownership program.

$450 million for EPA sewage treatment construction grants. This excessive funding is not necessary to meet municipal compliance requirements and would fund many lower priority projects.

$150 million for Community Development Block Grants (CDBG). The Administration proposed $2.5 billion in BA, augmented with a transfer of $200 million from the Section 312 rehabilitation loan fund account. While the Committee is to be commended for not funding the "pork barrel" Urban Development Action Grants (UDAG) program, the total CDBG funding level of $3 billion (including $150 million transfer from the Flexible Subsidy Fund) exceeds the amount the Administration feels is sufficient for 1989.

$250 million for the Veterans Administration (VA) primarily to increase staffing by 3,513 FTE beyond that which is warranted. The Administration believes that with its expected increase in productivity, the VA can continue to provide timely and effective delivery of benefits and quality medical care to all veterans expected to apply for care without these increases.

On the other hand, the Committee reduces funds for priority programs significantly below the Administration's request:

The general reduction of $205 million from the Shuttle funds could seriously affect NASA's ability to achieve an adequate Shuttle flight-rate build-up, further delaying national security missions and increasing costs to other programs.

The reduction of $110 million (over one-half of the funds requested) for NASA's procurement of expendable launch vehicle services will reduce needed access to space for important scientific missions already delayed by at least three years, thus exacerbating the effect of the reduction in Shuttle funding.

The Committee reduces the President's FY 1989 increase for all of the National Science Foundation's proposed research programs by almost 60 percent. Such action will hinder efforts to strengthen the nation's scientific and technological base.

The Committee's $175 million reduction to the Hazardous Substance Superfund account may prevent EPA from meeting statutory deadlines and unnecessarily delay the clean up of 10-15 sites ready for clean up.

The enclosed material more fully describes these and other funding and language provisions that are objectionable.

The Administration urges the House to redirect the excessive increases in low-priority programs to more important national priorities, thereby providing a FY 1989 HUD-Independent Agencies Appropriations Bill that I could recommend the President sign. In particular, we would oppose any amendment to transfer funds away from NASA.

FY 1989 HUD/INDEPENDENT AGENCIES APPROPRIATIONS BILL OBJECTIONABLE PROVISIONS

I. FUNDING LEVELS

Department of Housing and Urban Development (HUD)

Subsidized Housing. The BA level for subsidized housing is $787 million higher than requested in the President's Budget. At the same time, the House's subsidized housing program mix would serve 24 percent fewer low-income families in 1989—82,176 versus 108,000 in the President's Budget. The most objectionable components within the subsidized housing program funded by the House include: (1) $35 million for Nehemiah, a new moderate-income housing subsidy program; (2) 2,000 subsidies funded under the new handicapped program rather than under Section 202/8; (3) 5,000 Section 8 Moderate Rehabilitation units; (4) $343.3 million for the construction of 5,000 new public housing units; and (5) $1.6 billion for public housing modernization, $600 million higher than in the President's 1989 request.

Community Development Action Grants (CDBG). The House Appropriations Committee proposes $2.6 billion in new BA for CDBG. Additionally, the Committee proposes augmenting CDBG with a transfer of $200 million from the Section 312 rehabilitation loan fund account in addition to a proposed transfer of $150 million from the Flexible Subsidy Fund. The proposed total FY 1989 funding level for CDBG (new BA and transfer authority) would be $3 billion.

While we commend the Committee for endorsing the President's Budget request in not funding UDAG, the $2.5 billion in BA proposed in the President's Budget (together with a $200 million transfer from the Section 312 account) is sufficient funding for this program in 1989. The Committee also continues the unneeded Section 108 loan guarantee program.

A more effective use of the transferred Flexible Subsidy resources is to augment the already limited NASA programs.

Payments for Low-Income Housing Projects. The House Appropriations Committee has provided $1.62 billion for public housing operating subsidies. This BA level exceeds the President's request of $1.52 billion which fully funds the operating needs of public housing projects, as projected by the Performance Funding System formula.

Management and Administration, Salaries and Expenses. The Committee bill increases HUD staffing by 643 staff-years, an amount well in excess of the President's request and of that justified by estimated program activity. In addition, the Committee funds the higher staffing level through budget gimmickry to avoid the discretionary funding ceiling. This entire staffing increase is paid for with FHA Fund resources (which are not subject to the discretionary cap), even though only a fraction (38 percent) is to be used for FHA-related activities. A scorekeeping adjustment of $13.7 million will be added to the Committee's discretionary total.

Environmental Protection Agency (EPA)

Construction Grants. The Administration strongly opposes the increase of $450 million for sewage treatment construction grants. Excessive funding for this program was one of the primary reasons for the President's veto of the 1987 Water Quality Act. Funding above the President's Budget is not necessary to meet municipal compliance requirements and would fund many lower priority projects. The Administration also objects to the unjustified funding of projects in Iowa, Massachusetts, and New York under special rules not available to other projects and outside the normal state allocation process.

Asbestos Program. The $65 million added by the Committee for the Asbestos School Loan and Grant Program is not necessary. It was not contained in the President's Budget because prior year appropriations have reduced the asbestos problem greatly. This additional funding would go to State and local agencies that are capable financially of addressing the problem themselves, or to low-priority projects that do not represent an environmental threat. Approximately $153 million in Federal funds have been provided to complete 1,767 projects in local educational agencies showing the greatest financial and environmental needs. The financiasl responsibility for asbestos abatement now rests with States and localities. Thirty-two States have enacted more than 60 asbestos-related laws and nearly half of the States have financing provisions in these laws.

Hazardous Substance Superfund. The Administration opposes the $175 million reduction to the President's Budget for the Hazardous Substance Superfund. This reduction may prevent EPA from meeting statutory deadlines and unnecessarily delay the cleanup of 10-15 sites ready for cleanup.

Operating Program: Abatement, Control and Compliance; Salaries and Expenses; Research and Development. The Committee bill would add $45 million (excluding asbestos loans and grants) and 70 FTEs to the President's Budget spread across EPA's operating program. These increases would either fund low-priority activities or special interest projects, or would increase current resources beyond levels consistent with Administration policy. The Adminstration urges the Senate to reduce this funding to the requested level.

National Aeronautics and Space Administration (NASA)

Space Flight, Control and Data Communications (SFCDC); Research and Program Management (R&PM). The general reduction of $205 million from the Shuttle funds could seriously affect NASA's ability to achieve an adequate shuttle flight-rate buildup. Delays in Shuttle flight-rate buildup could result in further delays in important national security missions and in increased costs to other programs. The reduction of $110 million, (over half of the funds requested) for the procurement of expendable launch vehicle services will reduce needed access to space for important scientific missions, already delayed by at least three years, thus exacerbating the effect of the reduction in Shuttle funding. The reduction in research and program management ($60 million) will likely require some adverse personnel actions and will seriously affect operational support activities related to the buildup of Space Shuttle flight activity. We urge the Senate to restore funding for these important activities.

Research and Development (R&D). In light of the recent action by the House Committee on Science, Space and Technology regarding the Commercially-Developed Space Facility, the rescission of $25 million of FY 1988 funds (originally intended for the Industrial Space Facility) is premature. We urge the Senate not to rescind these funds.

National Science Foundation (NSF)

The Committee has reduced the President's fiscal year 1989 increase for all of NSF's proposed research programs by almost 60 percent. Such an action would forestall the proposed doubling of the Foundation's budget and hinder efforts to strengthen the nation's scientific and technological base. Since FY 1985, the Foundation has had essentially a level research budget. This has forced the deferral of important research initiatives—including increasing the number of research awards; improving undergraduate science and engineering programs; and establishing new Science and Technology Centers—all ingredients essential for improvements in the nation's economic competitiveness.

Veterans Administration (VA)

In total, the Committee recommendation would add $250 million and 3,513 FTE to the President's 1989 request for the Veterans Administration (VA). The Administration believes that with its expected increase in productivity, the VA can continue to provide 1) high quality medical care to all veterans who are expected to seek VA care and 2) timely and effective delivery of benefits without these increases.

These objectionable increases include:

$240 million and 2,782 FTE for VA medical care;

$3 million and 601 FTE for the General Operating expenses account, earmarking 590 of that additional FTE to the Department of Veterans Benefits; and,

$6 million and 130 FTE for medical research.

In summary, these increases would enlarge the VA's staff beyond that warranted by current services, rather than achieving the staffing reductions and associated dollar savings resulting from the enhanced productivity anticipated in the President's Budget.

The Committee wuld also shift $12 million from minor construction to major construction and reallocate the funds to different projects in the major construction account. The Committee would add four nursing homes and design funds for a clinical addition in Dallas, Texas, while denying funds for construction of a regional office in Montgomery, Alabama and funding the design, but not the full construction, of a clinical addition in Nashville, Tennessee. The allocation of $14.7 million for a 120 bed nursing home and $17 million for a parking garage in New Orleans, Louisiana is particularly objectionable as this is over four times the average cost to construct a VA nursing home of this size and parking lot. The addition of funding for the four new nursing homes will result in permanent increases to operating costs in the out-years of more than $20 million per year. This is over 50 percent more than it would cost to provide nursing home care in these locations through VA's other nursing home programs. Splitting the funding for the design and construction of the Nashville clinical addition is an inappropriate way to budget for capital expenditures. This action, in effect, would shift the allocation of the $37.8 million requested for construction of the Nashville clinical addition to be used for construction and design of other projects, ignoring VA's priorities.

Budget authority of $8.4 million contained in the Administration's request for the General Operating Expenses account, to pay state Approving Agencies, will continue to be scored as a discretionary expenditure. The President signed P.L. 100-323, which requires that this expenditure be paid from an entitlement account. The scoring as a discretionary expenditure is in accordance with the Bipartisan Budget Agreement. The Committee does not score it as a discretionary expenditure (nor is it added to the entitlement appropriation). The $8.4 million will be scored as an adjustment to the Committee's discretionary total.

Defense-Related Agencies

Selective Service System (SSS). The Committee has provided a 1.0 percent increase beyond the President's request for this account, for allocation at the agency's discretion. This increase is in addition to the 2.6 percent increase over its FY 1988 budget, received by all Defense-related agencies. The SSS can meet its current mission requirements within the funding level requested by the President.

II. LANGUAGE PROVISIONS

Department of Housing and Urban Development (HUD)

Subsidized Housing: Vouchers. The Committee bill mandates that highest priority in the distribution of vouchers shall be given to families who as a result of rental rehabilitation activities pay rents in excess of 35 percent of their incomes. This means that families with greater rent burdens living elsewhere will be given lower priority. This provision is inconsistent with the desired policy of giving those families who are most in need priority in receiving housing assistance.

Subsidized Housing. The Committee bill raises fees for the costs incurred by housing authorities in administering the Section 8 certificate and housing voucher programs to the level authorized for such fees in Section 89 (q) of the 1987 Housing Act. The Administration opposes this language provision because recent research by GAO and HUD indicates that current fees paid to local housing authorities are actually in excess of incurred costs.

Management and Administration, Salaries and Expenses. The Committee establishes an administratively burdensome and overly prescriptive staffing floor for Public and Indian housing programs. Despite recommending cuts from last year's level for public and Indian housing development, the Committee mandates a floor that is 50 staff-years greater than the one required in 1988.

Environmental Protection Agency (EPA)

Pesticides Indemnification (Administrative Provision). The Committee bill includes language that has the effect of requiring the Claims and Judgment Fund, rather than EPA, to pay pesticide indemnification claims. This could automatically add to FY 1989 outlays without further Congressional oversight and takes pressure off the authorizing committees to address the indemnification issue. It also reduces EPA's incentive to find ways to minimize or contest the amount of these claims and runs counter to recent Justice Department and GAO efforts to limit use of the Judgment Fund.

Veterans Administration

The Committee would continue the cap on staffing for administrative support funded within the VA medical care appropriation that was imposed by the Congress for the last two years. In the 1989 Budget, the Administration has requested that the cap be deleted as an unwarranted intrusion into the day-to-day management of the VA medical care system.

The Committee would also continue to earmark $512 million and 12,898 FTE for the Department of Veterans Benefits. These earmarks unnecessarily restrict the Administrator's ability to manage the agency.

The Committee has not deleted appropriation language in the Major Construction account, as requested in the President's FY 1989 Budget dealing with section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344), by which the Comptroller General can classify impoundments and trigger whatever statutory procedures and time tables the 1974 Act provides. To the extent that consequences follow from such action by the Comptroller General, constitutional questions may be raised.

Mr. FROST. Mr. Chairman, I rise to indicate my support for this important legislation. In particular, I would like to draw my colleagues attention to the provision of the Veterans' Administration appropriation which will address a longstanding need at the Dallas Veterans' Administration Medical Center.

Since 1972, The Dallas VAMC has been in need of expansion and renovation. In 1982, the Dallas VAMC was identified as the most active medical center, without a spinal care unit, to be responsible for the treatment of spinal care patients. In 1983, a major construction project was proposed to meet the needs of the Dallas VAMC; and, since 1985, that project has been on the Veterans' Administration list of medical centers currently judged most in need of construction, replacement, or major modernization.

Today, with the passage of this legislation we will be able to ensure that design will begin on this much delayed project, and that the 473,000 veterans residing in the 28 counties of north Texas served by the Dallas VAMC will soon receive the quality care they deserve.

More importantly, with the design and construction of the only long-term spinal care injury facility in Texas, we can ensure that spinal cord injury patients in north Texas will be able to receive treatment locally, rather than travel hours and hundreds of miles to receive necessary care.

In closing, Mr. Chairman, I would like to commend Chairman BOLAND and the members of his subcommittee on their excellent work on this legislation and their assistance to the Dallas Veterans' Administration Medical Center.

Mr. MILLER of California. Mr. Chairman, I rise in support of the HUD-independent agencies appropriations bill, which contains important provisions to preserve public housing programs for low-income families and respond to the growing crisis of homelessness in our Nation.

I especially want to commend Chairman BOLAND and the other members of the Committee on Appropriations for continuing appropriations for the production and repair of public housing units despite the administration's recommendations to reduce or eliminate these funds.

Over the past year, studies from the Urban Institute, the National Low Income Housing Preservation Commission, the National Center for Policy Alternatives, Harvard University, MIT, and the congressionally appointed National Housing Task Force have documented that the number of families who can neither afford nor find a decent place to live is growing at an alarming rate. And the high cost of housing comes on the heels of over a decade of stagnation in real family income. In hearings before the Select Committee on Children, Youth, and Families, which I chair, we have heard from housing experts that homeownership has declined significantly in the 1980's. Young families in their first homes are spending 44 percent of the primary earner's income on mortgages. The median rent burden for the poorest families is now 46 percent compared to 35 percent in 1974. And homeless children, the newest faces among America's growing homeless population, now number half a million—the average size of a congressional district.

In this appropriations bill, the committee has tried to address these problems, but we've only managed to put a finger in the dike. A tremendous gap exists between what experts tell us we need to remedy our housing crisis and what Congress is willing to spend.

HOUSING SUPPLY AND VOUCHERS

I am pleased that the committee has agreed to fund 5,000 new public housing units in fiscal year 1989. While this is a far cry from the 50,000 units a year produced in the late 1970's, it is 5,000 more than the White House was willing to fund. The Reagan administration's campaign to abandon public housing without offering genuine alternatives has significantly contributed to the housing shortage for poor families and to the expansion of the homeless crisis.

Dr. Phillip Clay of the Joint Center for Housing Studies at MIT testified before the select committee that between 1983 and the year 2003, the total number of low-rent units available in America is projected to fall from 12.9 million to 9.4 million, a 27-percent loss. Yet, during the same period, the total number of households needing low-rent units is projected to increase from 11.9 to 17.2 million, a 44-percent increase.

Waiting lists for public housing are now commonplace across the United States. In New York City, low-income families must wait 18 years for subsidized housing. In my home district in California, most of the waiting lists have closed. Just last week, I received a copy of a letter to the National Housing Law Project from a low-income mother in Providence, RI. The public housing authority was writing to inform her that her family was eligible for low-income housing. However, the family would not be admitted into public housing until March 1, 2000. Instead of expanding efforts to increase the supply of low-cost housing, the Reagan administration has proposed to terminate production in favor of housing vouchers. I commend the HUD Appropriations Committee for curbing this trend and recognizing that without shoring up public housing supply, vouchers are worthless.

HOUSING REHABILITATION

I would also like to commend the Appropriations Committee for standing fast in support of housing rehabilitation. While the administration proposed slashing this money, the committee has appropriated more funds in fiscal year 1989. According to a new study by ABT Associates, the country needs $18 to $20 billion to repair public housing. While the money appropriated in this bill comes nowhere close to the required need, it does demonstrate that the House is committed to maintaining this program. While I recognize the competition for limited funds, I am pleased that part of this money will be used to remove lead-based paint from HUD-assisted or mortgage-insured property built before 1978, which now house children of 7 years or younger.

PUBLIC HOUSING CHILD CARE GRANTS

I am also pleased that the committee has appropriated funds for the Public Housing Child Care Grants Program against White House pressures to terminate it. The Select Committee on Children, Youth, and Families has documented the importance of child care to low-income parents struggling to attain economic independence. This demonstration program will provide quality child care that is accessible and affordable to public housing residents. At the same time, it will offer training and eventual employment to public residents interested in becoming child care providers.

THE STEWART MCKINNEY ACT

Mr. Chairman, I would also like to commend Congressman BOLAND and members of the Committee on Appropriations for their continued funding of the Stewart McKinney Homeless Assistance Act. This act, not yet 1 year old, is a serious attempt to grapple with the emergency needs of homeless Americans. American families are the fastest growing group among the homeless, increasing at the alarming rate of 25 percent each year. Over one-third of today's homeless are made up of families with children, yet shelters—where they are available—are often ill-equipped to handle them.

Mr. Chairman, homeless children and their families are not a statistical aberration, they are the direct result of cruel neglect by the White House and an all too often complicitous Congress. By slashing Federal aid to housing 75 percent, President Reagan has helped to create modern day Hoovervilles in America. And now the President asks us to gut homeless assistance by terminating the emergency shelter grants and supplemental assistance for facilities to assist the homeless. I commend my colleagues on the Appropriations Committee for refusing to walk away from our homeless citizens but I regret the committee funds these programs at nearly 40 percent below our authorization.

Last year, Stewart McKinney programs suffered a shortfall as Congress tried to recover from the shocks of black Monday. But this year, America's homeless are being sacrificed for NASA space stations. The bill would increase appropriations for NASA by 21 percent. My colleague, Mr. SCHUMER, and other members of the Banking Committee's Housing and Community Development Subcommittee will offer an amendment to shift some of those funds over to HUD in an effort to make up for this shortfall. I urge Members of this body to support this amendment.

Mr. Chairman, the increased numbers of the homeless, the high cost of housing, the difficulty of financing a first home, attest to the fact that the American dream of owning a home or at least having a decent place to live has eluded millions of American families. I view the action of the Appropriations Committee as important damage control, but as we look to the future, we must make a commitment to make good on that most fundamental of American promises.

Mr. FROST. Mr. Chairman, I, too, want to briefly comment on the intent of an amendment I offered to the fiscal year 1988 HUD-independent agency appropriations bill which prohibited the use of Federal funds for demolition activities at the west Dallas housing projects in my district in Dallas, TX, and the Allen Parkway Village project in Congressman LELAND's district in Houston.

This amendment was adopted by the House as part of the fiscal year 1988 HUD-independent agency appropriation bill and was later enacted into law as part of fiscal year 1988 continuing appropriation legislation.

As the author of the amendment, I want to make very clear that the intention of the amendment was to prohibit the use of any Federal resources for demolition activities, administrative or otherwise, at the west Dallas projects or at Allen Parkway Village. Any Federal activity to seek or promote the demolition process would be in violation of the amendment.

Mr. RAHALL. Mr. Chairman, I rise in strong support for H.R. 4800, which appropriates $59.7 billion for fiscal year 1989 for the Department of Housing and Urban Development and 16 related agencies. Included in this measure is funding for many programs of special importance to my home State of West Virginia and I would like to take this opportunity to highlight a few of these.

The legislation before us today appropriates $9.9 billion for housing programs in fiscal year 1989, including $7.4 billion for housing assistance and $1.6 billion for public housing operating subsidies. The funding levels in the bill are approximately at the fiscal year 1988 levels. I am very pleased that once again the Appropriations Committee has wisely rejected the Reagan administration's attempt to provide almost all low-income housing assistance in the form of 5-year housing voucher contracts. Instead, H.R. 4800 continues the present mix consisting of the voucher program, section 8 rental subsidies, rehabilitation of rental housing and reconstruction or development of public housing.

Under the section 202 program, the bill provides $1.5 billion for 9,500 rental units for the elderly or handicapped. Additionally, $5 million is appropriated for congregate services at elderly and handicapped housing projects, funding that the administration did not include in its proposal. To help address the growing homeless problem in this country, H.R. 4800 provides $65 million for grants to renovate or convert buildings for use as emergency homeless shelters and to pay for certain operating and social services at such shelters. In addition, $85 million is provided for housing and support services for the homeless mentally ill and homeless families.

Another program which has been of immense assistance to West Virginia is the Community Development Block Grant Program for which $3 billion is contained in H.R. 4800. Unfortunately, the bill does not appropriate any funds for the Urban Development Action Grant Program for fiscal year 1989, although it does provide for the continuation of the program with recaptured funds. I will strongly support an amendment being offered later today that would provide $150 million for the UDAG Program.

H.R. 4800 funds the Environmental Protection Agency at $5.2 billion for 1989. Of great importance to West Virginia is the $2 billion contained in the bill for construction grants to municipal, State, and interstate agencies to assist with the planning, design, and construction of waste water treatment facilities. Many of our communities in West Virginia are struggling to comply with the secondary sewage treatment standards mandated by the Clean Water Act. The funding provided for the sewer grants program is critical for these and other communities throughout the country which simply do not have the resources to meet the sewage treatment requirements.

Mr. Chairman, I am also happy to support this bill because it appropriates a total of $28.2 billion in fiscal year 1989 for the Veterans' Administration, which is $250 million more than the administration request and $443 million more than the fiscal year 1988 funding level. I am especially pleased since $15.7 million of the funding for major construction projects will be used for clinical improvements at the Beckley Area VA Medical Center in my hometown of Beckley, WV. The Beckley VAMC is a 174-bed acute medical and surgical center, with a 42-bed nursing home care unit. There are 57,000 veterans from 11 counties in West Virginia and 1 in Virginia with potential access to the Beckley VAMC. Money for clinical additions and alterations provided for by the bill would create essential extra space to accommodate an increasing staff serving an ever-growing number of patients. I salute my colleagues on the HUD-Indepedent Agencies Appropriations Subcommittee for recognizing the needs of veterans in southern West Virginia and southwestern Virginia. Our Nation's veterans have given so generously of themselves in protecting the rights of free Americans that it is only fair to reward them with adequate health care facilities. I strongly urge my colleagues to support H.R. 4800.

Mr. GARCIA. Mr. Chairman, I rise in support of certain amendments of H.R. 4800, the HUD-independent agencies appropriations for fiscal year 1989. Although we are struggling under the budget reconciliation agreement to reduce the Federal deficit, it is very important for us not to overlook the Government's responsibility to provide affordable housing for low- and moderate-income families and to provide emergency assistance to homeless individuals and families.

For this reason, I join my Democratic colleagues on the Subcommittee on Housing and Community Development in support of the amendment offered by Representative SCHUMER and Chairman GONZALEZ to provide higher appropriation levels for housing and homeless assistance programs. I support this amendment because it will increase funding for the urban development action grants which the administration would like to terminate, section 202 housing assistance for the elderly and handicapped, flexible subsidy programs for assistance to troubled multifamily housing projects, congregate services for the elderly, homeless assistance for veterans, emergency shelter grants and other McKinney homeless assistance programs, and EPA waste water treatment facilities grants.

I would like to commend the fine work of the Appropriations Committee and Chairman BOLAND of the HUD-Independent Agencies Subcommittee. Under the circumstances of this year's budget restraints, difficult decisions have had to be made. The Schumer amendments would raise appropriations to more appropriate levels to help alleviate the critical housing shortage. This funding comes at the expense of NASA research and development appropriations. No one wants to take from one program to give to another, but the NASA appropriations for fiscal year 1989 are $1.8

billion—20 percent—over last year's appropriations, with research and development appropriations at $4.2 billion, $892.5 million—27 percent—over last year's level. HUD appropriations on the other hand have suffered cut after cut year after year. Without the additional funding levels provided by this amendment, those of us fighting for the improvement of housing in America will be denied the money needed to accomplish our goals.

I also support the amendment offered by Chairman GONZALEZ to require the use of 15-year section 8 certificates to replace demolished or sold public housing projects. I also support the amendment offered by Representative MORRISON that requires the use of section 8 contracts for 15-year terms rather than the use of 5-year vouchers as requested by the administration. As both amendments recognize, we need to extend housing assistance over as long a period a time as possible. These 5-year commitments are not long enough to ensure the long-term availability of low-income housing. They have come into favor because of the appearance of less budgetary impact that 5-year contracts have compared to 15-year contracts.

The lack of commitment is, of course, a significant factor contributing to the underlying problem of the housing crisis the country is undergoing today. We have neglected our responsibilities and lost sight of our priorities. Housing, more so than any other Federal issue, requires long-term commitments. I support these increased appropriations and commitments because these are the steps that must be taken to ensure realistic levels of Federal fundings.

With no more than lip service and minimal appropriations, we will never overcome the unacceptable shortage of affordable housing and tragedy of the homeless crisis that exist in this great country today. I certainly understand and support the efforts of the Appropriations Committee to keep appropriations within the deficit reduction agreement, but as a Member of Congress representing an urban center and constituents of predominantly low-income means, I believe these housing programs have been cut far enough. Fiscal responsibilities should not become an excuse for social irresponsibility. I believe we must be fiscally responsible, but I also believe we have a responsibility to provide every American family with a decent place to live.

Mr. STOKES. Mr. Chairman, before I proceed to discuss the merits of the Department of Housing and Urban Development-independent agencies appropriations bill for 1988, I would like to commend the gentleman from Massachusetts [Mr. BOLAND] for his distinguished tenure in the House of Representatives, and I would like to extend to him my best wishes as he prepares to retire from Congress.

As a member of the HUD-Independent Agencies Subcommittee, I have had the honor and pleasure to work with Chairman BOLAND for over a decade. I have also worked with the chairman on the Intelligence and Iran Contra Committees. He is a man for whom I have deep respect and admiration.

As chairman of the HUD-Independent Agencies Subcommittee, ED BOLAND played a leading role in the maintenance and enhancement of our Nation's housing, space, science, environmental, and veterans programs. On many occasions, he has had to make unpopular and tough decisions. Even though he has been forced in recent years to keep the HUD Subcommittee's appropriations bill within the parameters of deficit reduction measures, the chairman has managed to maintain and enhance many domestic programs which are vitally needed.

The bill we consider today, H.R. 4800, reflects and epitomizes the fairness and skill the chairman has displayed during his 17-year service on the subcommittee. When we consider the restraints imposed by the economic summit agreement, this bill, which will provide $59.7 billion in fiscal year 1989 for the Department of Housing and Urban Development and 16 independent agencies, clearly presents a creative solution.

Some of the major highlights of the bill include over $7 billion for annual contributions for assisted housing, including $1.6 billion for modernization; $478.4 million for 9,500 elderly and handicapped units; $3 billion for community development block grants; $5.2 billion for the Environmental Protection Agency; $10.7 billion for the National Aeronautics and Space Administration, including $902 million for the space station; and, $28.2 billion for the Veterans' Administration, including an increase of $240 million for veterans medical care. The Federal Emergency Management Agency, the National Science Foundation, and other agencies have received an increase over last year's funding level as well.

Even though there are many domestic programs which are still in need of additional funding, this bill provides a fair and reasonable allocation of Federal funds. For this reason, I encourage my colleagues to support the passage of H.R. 4800, and I, once again, commend Chairman BOLAND for his efforts.

Mr. BRENNAN. Mr. Chairman, I rise today in support of H.R. 4800, a measure making appropriations for the Department of Housing and Urban Development, the Veterans' Administration, the Environmental Protection Agency, NASA, and the Federal Emergency Management Agency. While the committee remained within the funding level established by the so-called budget summit agreement of last November, there is funding transferred to provide substantially more assistance for low-income housing, community development block grants, EPA construction grants and pollution control, and veterans medical care. There are many important programs which are contained in this bill and I would like to highlight some of the provisions which I believe are worthy of this Chambers support.

One of the largest funding amounts contained in the measure is allocated for housing programs. Mr. Chairman, there is a serious housing crisis across America, particularly in Maine's First District which I am privileged to represent. Meeting with my constituents regularly back home indicates the growing concern over the lack of affordable housing. The $9.9 billion in funding for housing assistance contained in this measure will attempt to address the housing crisis confronting our Nation. While we will not reverse the 70-percent reduction in housing funding which has occurred over the past 7 years, this bill provides continued support for many vital housing programs such as: Elderly and handicapped housing, housing for low-income individuals, and assistance for the homeless.

Our Nation continues to lack a consensus as to what our national housing policy should be. We must continue funding essential housing programs while at the same time building the consensus needed to address the housing crisis. Adequate shelter is a necessity for all Americans. Unfortunately, many Americans are living in substandard units or are seeking to purchase homes which are fast growing in prices which are out of reach. We cannot overnight reverse the drastic housing funding decline which occurred over 7 years. However, we can continue to meet the challenges of housing needs our constituents seek.

I also highlight the $5.2 billion in funding for the Environmental Protection Agency. This funding level provides substantially more than the administration requested for abatement, control, and compliance regarding pollution, and more for construction grants needed for wastewater treatment facilities. These programs are not only essential to a clean environment, but to accommodate areas of the Nation, such as my district, which are experiencing tremendous development and growth. The committee is to be commended for adequately funding these important environmental programs.

The $28.2 billion in funding for the Veterans' Administration continues programs so vital to our Nation's many veterans, particularly in the area of health care. As our veterans population seeks medical treatment, we must ensure the care they receive is state-of-the-art and the facilities are adequate. The funding level contained in this measure will help ensure our veterans needs are addressed in fiscal year 1989.

I have highlighted some of the major provisions contained in H.R. 4800. There are numerous other programs which time doesn't allow me to detail. However, I will urge my colleagues to join me in support of adequate housing, a clean environment, and adequate treatment for our veterans in the passage of this measure.

Mr. PANETTA. Mr. Chairman, I rise to speak on the subject of the Community Development Revolving Loan Fund for Credit Unions, which is now administered by the National Credit Union Administration [NCUA].

As many of my colleagues know, Congress, in 1979, appropriated $6 million to establish this revolving fund for the purpose of providing loans of up to $200,000 and/or technical assistance to credit unions which serve low-income communities. Currently, the fund has a balance of about $6.5 million, since loans have been paid back and interest has been earned. However, since the fund was transferred to the control of the NCUA in 1986, no loans have been made, and it seems apparent that the fund has been allowed to go to waste.

It is my understanding that the NCUA has prepared and published regulations for loan applications and has modified them and requested from the Office of Management and Budget an allotment to support $3 million in direct loans. It is also my understanding that applicants, who expended significant resources in good faith in response to the NCUA's solicitation, have been advised that their applications will not be acted upon.

It seems to me that it was the intent of Congress that this fund be employed for the purpose of making the best possible use of the special resources and expertise of credit unions in low-income areas. At this time, that intent is not being adhered to.

It is my understanding that the Senate Appropriations Committee is probably going to include in its report on the Senate version of this legislation a statement urging that the NCUA begin to lend out some of the money in its revolving fund. I want to express my support for that viewpoint and to urge my colleagues to do the same. It is my hope that the NCUA and the administration will respond by making use of this fund as it was intended.

If I may, I would also briefly like to commend the committee for including $700,000 for EPA's air pollution training institute. It is my understanding that the institute offers valuable training to State and local air pollution control officials, at seven universities around the country, including the California Polytechnic State University at San Luis Obispo, in my district. I know that this has historically been a program for which the administration has not sought funding and for which the House has provided funding. I commend the committee for taking the lead on this program again, and I hope that funding can be retained in conference.

Mr. ROGERS. Mr. Chairman, I rise today in support of the bill, H.R. 4800, making appropriations for HUD, NASA, the Veterans Administration and a broad range of other important programs.

I would particularly like to commend the distinguished chairman for his leadership on this bill, under very difficult budget conditions, and to join with my colleagues in expressing our deep appreciation for all he has done for the Congress and for our country. He will be greatly missed upon his retirement. In addition, I would like to commend the distinguished ranking minority member for his work in crafting a well-balanced bill.

Nevertheless, I would like to take strong issue with one particular decision made by the subcommittee. I refer to the decision to provide no new funds for the UDAG Program. While the carryover of some previous, unobligated balances will allow a small round of funding during fiscal year 1989, this is not nearly enough. While, in theory, this will keep the program alive in a skeletal form, so Congress and a new administration can addresss the issue next year, I remain strongly opposed to the decision to provide no new funding. This is an essential program and deserves a clear vote of confidence from Congress as well as the continuation of funding. Let me provide some of the reasons.

First, this action represents yet another step in the dismantling of our Federal support for economic development. Over the past decade, we have seen a reduction in funding for such important economic development programs as EDA, ARC, FmHA and now UDAG. While Federal funds can never take the place of private funds and private initiatives, the fact remains that these programs have been essential in providing seed money to spur the allocation of these private dollars.

Second, UDAG funds are an essential part of the mix of Federal development dollars. They have proven especially useful to communities under the payback system. And they have provided a consistently faster turnaround time on decisions for eligible projects.

Finally, these funds are particularly, vitally needed as a means of promoting job development and general economic development in my own district. In Somerset, these funds were used for downtown redevelopment. In Pineville, they were used for the construction of a badly needed downtown medical facility. But nowhere is this program's usefulness more clearly apparent than in its demonstrated success in Russell County. In this case, about $2.5 million in UDAG funds were used for the expansion of the Russell County sewage treatment plant. This is turn supported private investments totaling $25 million. And together, this provided the means for 1,500 new jobs in Russell County and another 500 jobs in the surrounding area. Mr. Speaker, these were funds well invested.

For all these reasons, I would like to call on the subcommittee to do everything in its power to restore these needed funds whenever the opportunity arises, whether in conference on the fiscal year 1989 bill, or if it cannot be done earlier, in next year's bill. These funds are greatly needed and I urge the subcommittee to find some way to provide them.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the first amendment printed in House Report 100-715 is considered as having been adopted.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $7,673,765,000, to remain available until expended: *Provided,* That of the new budget authority provided herein, $71,850,788 shall be for the development or acquisition cost of public housing for Indian families; $343,347,300 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $1,646,948,200 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l); $1,020,600,000 shall be for assistance under section 8 of the Act for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q); $389,574,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f); $584,675,000 shall be for the section 8 moderate rehabilitation program (42 U.S.C. 1437f), of which $35,000,000 is to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77); up to $307,430,000 shall be for section 8 assistance for property disposition; and $1,463,825,280 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)): *Provided further,* That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families who as a result of rental rehabilitation actions are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 percent of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development); and, notwithstanding the provisions of section 18(b)(3)(A)(v) of the Act, vouchers under section 8(o) may be used to assist tenants of public housing projects which are sold or demolished and the contracts for such vouchers may be for a term of five years: *Provided further,* That up to $145,462,500 shall be for loan management under section 8 and that any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that exceeds five years, notwithstanding the specification in section 8(v) of the Act that such term shall be 180 months: *Provided further,* That the fees for the costs incurred in administering the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further,* That of the $7,673,765,000 provided herein, $299,376,000 shall be used to assist handicapped families in accordance with section 202(h) (2), (3) and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $35,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242): *Provided further,* That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition cost of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1989, shall be rescinded: *Provided further,* That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: *Provided further,* That amounts equal to recaptured amounts for housing development grants shall be made available during 1989 on the terms specified in the sixth proviso under this head in the Department of Housing and Urban Development appropriation for 1987 (section 101(g) of Public Laws 99-500 and 99-591, 100 Stat. 1783, 1783-242, and 3341, 3341-242).

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: Page 3, line 18, strike the semicolon and all that follows through "years" on line 22.

Mr. GONZALEZ. Mr. Chairman, this amendment simply carries out the intent of Congress as envisioned in the Housing Act that became effective in February. This is actually correcting the bill's inclusion of 5-year vouchers in the replacement program concerning the demolition of public housing units which is directly contrary to the express intent of Congress in the statute that became effective in February, and no more than that.

Mr. Chairman, this amendment has been discussed with the distinguished chairman, the gentleman from Massachusetts [Mr. BOLAND] and with the gentleman from New York [Mr. GREEN] the ranking minority member and as I understand this amendment is acceptable.

Mr. BOLAND. Mr. Chairman, will the gentleman from Texas yield?

Mr. GONZALEZ. Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. Mr. Chairman, the gentleman from Texas [Mr. GONZALEZ] correctly states the proposition as he discussed it with me and, on this side, we are delighted to accept the amendment.

Mr. GREEN. Mr. Chairman, will the gentleman from Texas yield?

Mr. GONZALEZ. I yield to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Chairman, this side is also delighted to accept the amendment. I understand the very difficult negotiations that surrounded this issue in the conference last year and we are happy to accede to the gentleman from Texas [Mr. GONZALEZ].

Mr. BARTLETT. Mr. Chairman, will the gentleman from Texas yield?

Mr. GONZALEZ. Mr. Chairman, I yield to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding. I am not going to oppose the amendment, but I want to ask a question because I do believe that we reached a fair compromise in the housing bill of last year. I just want to express some concern that as I understand the result of the Gonzalez amendment, it is that there would only be 333 replacement units for public housing made available for the entirety of the country even though HUD has required some 1,000 replacement units over the course of the last several years. It has been running about 1,000 per year.

I would ask the gentleman from Texas [Mr. GONZALEZ] if that is correct, would the result be 333 units of replacement housing?

Mr. GONZALEZ. Mr. Chairman, reclaiming my time, that is not really the complete picture. As the gentleman from Texas [Mr. BARTLETT] knows, we are talking about the plans offered by those authorities seeking to demolish existing public housing unit stock. The 5-year voucher we excluded in that which the Congress has mandated would be acceptable as an optimal plan in the presentation of a unit-for-unit replacement in the case of demolition of public housing.

The second portion of the amendment that is not offered here might have done what the gentleman is referring to. The first part actually enunciates policy. That is what is being accepted. It conforms to the existing statute which as the gentleman from Texas [Mr. BARTLETT] just described was a consensus that we agreed to in the authorization bill last year.

Mr. BARTLETT. Mr. Chairman, if the gentleman would yield further, I think it needs to be on the record, because as I understand the gentleman from Connecticut [Mr. MORRISON] and I simply agreed by working out a compromise on the demolition disposition replacement. There was controversay and I believe the subcommittee chairman opposed it but the full committee eventually adopted it in the housing bill.

If the Gonzalez amendment is adopted, it would provide for 333 units. This committee bill provides for 1,000 units of replacement vouchers, and that is for the country as a whole.

Mr. GONZALEZ. Reclaiming my time, that would be for 5 years.

Mr. BARTLETT. But if the gentleman would continue to yield, that would be for 1,000 of them. If the Gonzalez amendment is adopted, that is reduced to 333 vouchers for the country as a whole. If that is what we want to do and it has been agreed to, we only want to have 333 replacement vouchers for the country as a whole, I suppose we can all live with that but it will leave a substantial gap in that need for replacement housing.

Mr. Chairman, 333 does not go very far.

Mr. GONZALEZ. Mr. Chairman, reclaiming my time, let me say to the gentleman from Texas [Mr. BARTLETT] that his view as expressed is not necessarily the view that we express. I will not agree with that conclusion.

Mr. VENTO. Mr. Chairman, will the gentleman from Texas yield?

Mr. GONZALEZ. Mr. Chairman, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I appreciate the gentleman from Texas yielding. I appreciate the Committee on Appropriations recognizing the substantial work that had gone on in the conference of last year. Many of us were reluctant to accept any replacement of vouchers for public housing. The point is that it is not a matter of replacing, it is a matter of taking that public housing and keeping it in place, keeping that public housing open so that we can meet the growing concern and need in our society rather than permitting this administration or any other administration from walking away from the commitment for public housing which is so desperately needed in our communities across this country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. GONZALEZ].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RENTAL REHABILITATION GRANTS

For the rental rehabilitation grants program, pursuant to section 17(a)(1)(A) of the Housing Act of 1937, as amended (42 U.S.C. 1437o), $150,000,000, to remain available until September 30, 1991.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1989 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In fiscal year 1989, $478,422,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided*, That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further*, That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further*, That to the extent that there are approvable applications for loans under section 202(h), and notwithstanding the 15 percent minimum under section 202(h)(1), the amount of direct loan obligations to be made available for development costs for housing for handicapped families shall be adequate to permit the use of the amounts of budget authority provided in this Act for assistance under section 202(h) (2), (3), and (4): *Provided further*, That the Secretary may borrow from the Secretary of the

Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further*, That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further*, That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1989 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

AMENDMENTS EN BLOC OFFERED BY MR. SCHUMER

Mr. GONZALEZ. Mr. Chairman, pursuant to the rule, I designate the gentleman from New York [Mr. SCHUMER] to offer my first amendments en bloc.

Mr. SCHUMER. Mr. Chairman, pursuant to the rule, as designee of the gentleman from Texas [Mr. GONZALEZ], I offer amendments en bloc.

The Clerk read as follows:

Amendments en bloc offered by Mr. SCHUMER:

Page 6, line 2, strike "$478,422,000" and insert "$518,422,000".

Page 7, line 14, strike "$5,400,000" and insert "$7,000,000".

Page 8, line 17, insert before "all" the following: "$30,000,000 (to be available only for assistance for capital improvements in accordance with section 201 of such Amendments), together with"

Page 9, line 5, strike "$65,000,000" and insert "$113,400,000".

Page 9, line 11, strike "$85,000,000" and insert "$95,000,000".

Page 9, after line 12, insert the following new item:

SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

For supplemental assistance for facilities to assist the homeless, in accordance with subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11391 et seq.), $25,000,000, to remain available until expended.

Page 12, after line 24, insert the following new item:

URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5318), $150,000,000, shall remain available until expended.

Section 119(s) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(s) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) The maximum aggregate amount that the Secretary may approve for any 1 city or urban county in any 1 competition for grants under this section is $10,000,000, unless such limit may be exceeded without preventing the Secretary from approving grants for each eligible city or urban county for which the aggregate amount of funds requested for eligible projects is not more than $10,000,000.".

Page 21, line 19, strike "$1,950,000,000" and insert "$2,020,000,000".

Page 21, line 20, strike "$934,000,000" and insert "$969,000,000".

Page 21, line 23, strike "$934,000,000" and insert "$969,000,000".

Page 26, line 22, strike "$4,191,700,000" and insert "$3,791,700,000".

Page 37, line 6, strike "$10,567,546,000" and insert "$10,592,546,000".

Page 37, line 7, strike "$5,000,000" and insert "$10,000,000".

Page 37, line 9, insert after the colon the following: "*Provided further*, That $20,000,000 of the foregoing amount shall be available for (1) converting to domiciliary care beds underused space located in facilities under the jurisdiction of the Administrator of Veterans' Affairs in urban areas in which there are a significant number of homeless veterans; and (2) furnishing domiciliary care in such beds to eligible veterans (primarily homeless veterans) who are in need of such care:"

Mr. SCHUMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the amendments en bloc are not subject to amendment or to a demand for a division of the question.

The gentleman from New York [Mr. SCHUMER], as designee of the gentleman from Texas [Mr. GONZALEZ], will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a difficult amendment to offer for one reason; the gentleman from Massachusetts [Mr. BOLAND], the chairman of the Subcommittee on HUD-Independent Agencies, has done an outstanding job over the years. And he has done an outstanding job as so many people have acknowledged in defending housing programs and urban programs as well as defending space programs and veterans programs and environmental programs. Thus it is with a heavy heart that I must rise to offer this amendment. But rise I must, not out of any disrespect for the good gentleman from Massachusetts [Mr. BOLAND], nor because I do not recognize the difficulty that this Subcommittee on HUD-Independent Agencies had in dealing with the shrinking pot of money and in trying to spread it over so many different worthy causes.

Mr. Chairman, this is a time for tough choices, and this is probably the first of many amendments this floor will see that are made necessary by the Budget Act. We do not have enough money to fund all of the domestic discretionary programs that we would wish to. Probably most of the programs in this bill have widespread support on the floor but unfortunately there is not enough money to supply them all with everything that they need. We must make choices, and choices we are here to make today.

What the Schumer amendment does is very simply takes $400 million from research and development in NASA and puts that money into a variety of programs for veterans, the elderly, the handicapped, low-income households, and cities and urban areas.

Even if this amendment should pass, I remind my colleagues, the NASA budget will go up 16 percent or $1.45 billion.

Mr. Chairman, I will repeat that. Even if the Schumer amendment should pass, the NASA budget will go up a full 16 percent. Without amendment it goes up 20 percent. If this amendment fail, some very real needs would not be taken care of. I am supportive of our efforts in space, but I think those should not be the only efforts that we undertake with an increase in funds. That is why I ask my colleagues to make some of the difficult choices.

My colleagues may ask where the money would go. It would go as I mentioned to a variety of programs. We have homeless people in this country. We spoke last year, from both sides of the aisle, with heart and with passion about funding the needs of those homeless. We do not fund in this bill or even with this amendment the full amount authorized but we come a little closer. Every district across America has senior citizens who are desperate for housing, but they cannot find it. They do not get it because we have cut the 202 Program year after year.

The Schumer amendments takes $40 million and increases housing for the elderly and thus has the support of a broad coalition of elderly groups.

We have environmental programs, dirty waters, and places that need that kind of money.

The gentleman from Massachusetts [Mr. BOLAND] has done his best to fund them within the parameters of the increase in the NASA budget, but this amendment says that we should do another $40 million there.

We have a UDAG Program that has been one of the few urban economic development programs. But now it is a program, after the language was changed, that is going to States like North Carolina, South Carolina, and rural Pennsylvania. It is no longer aimed at just urban areas and, indeed, this kind of program has helped supply thousands and thousands and thousands of jobs throughout America. So what I say in this amendment, and what those who join me in offering this amendment say, is very simple: we do want an increase in space, but we also want less of a cut in programs for veterans, for the elderly, for the handicapped, for the low-income households. We cannot afford, given the priorities of this country, to see that the major increase in this budget for space funds and sops up all the other needs that are in this budget. So I would ask my colleagues to pay attention to the debate, to realize that we are not cutting space but only limiting its growth to 16 percent, the highest growth percentage in this budget, rather than 20 percent, and in exchange fund some needed programs that we very much need.

Mr. Chairman, I reserve the balance of my time.

□ 1410

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts [Mr. BOLAND] in opposition to the amendment.

Mr. BOLAND. Mr. Chairman, I ask unanimous consent that 10 minutes, of the 30 minutes granted to me be yielded to the distinguished gentleman from New York [Mr. GREEN], the ranking minority member, and that he be allowed to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts [Mr. BOLAND] for 20 minutes.

Mr. BOLAND. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New Jersey [Mr. ROE], chairman of the Committee on Science, Space, and Technology.

Mr. ROE. Mr. Chairman, I thank the distinguished gentleman from Massachusetts for yielding me this time.

I rise in very strong opposition to this amendment that has been proposed. In this life it becomes difficult, because one has to make decisions, and we are now faced with the real cutting edge of making decisions for the United States of America, and for the first time we have to deal with priorities.

Let us break a number of myths to begin with right at the very beginning. The myth, for example, that this Committee on Appropriations has not provided adequate resources for housing and has not increased the resources that were there before last year is simply not true. We are not cutting anything out of those particular programs. I think the Committee on Appropriations has done a remarkable job in trying to balance fair equitable needs for this country so, in effect, the complaint is not what we are taking out of housing, it is what we want to take out of someplace else to put it into housing.

Nobody in this House is worth their salt one way or the other if they are opposed to senior citizens. Most of us are going to be getting there, and I am getting there now. We need the housing, of course we do. There is nobody who has fought harder on this floor for housing for senior citizens, and will continue to do so. The homeless, those sleeping on the grates, who is not opposed to that? Can this country do better? Of course this country can do better. Does it have the resources to do better? Yes, it does. The question is: Will we allocate the resources? But there is an overriding question before all of us today. It does not matter who wins or loses. Nobody is going to win or lose in this particular program or this particular issue.

The issue before us today is where, ladies and gentlemen, where, Members and colleagues, are we going to create the new wealth that is going to be necessary in America to allocate the additional resources for housing and the homeless and education and all the things we need?

What is this exercise about now? We are talking about what we can take away, how we can reshuffle something.

How many have been on this floor so far today and spoke about: "What about the new century? What about next year? How are we going to create the new jobs?" It is going to be the rushing back and forth between this group and that group? We are talking about science, space, technology and education; the whole thousands and tens of thousands of jobs, hundreds of thousands of jobs, have been created alone out of the space program. Does it provide wealth and resources and sustenance for the citizens in a dozen States or every State across the Nation? Yes, it does. Does it provide the resources we need? Where are the new jobs going to come from? Do Members want to cut the superconducting super collider that affects other States? Do they want to cut down on the superconductivity? Do they want to reduce our resources we are putting into computers and supercomputers? Where is the new wealth going to come from for housing? Where is the new wealth going to come from for environmental protection? Where is the new wealth going to come from to build the reservoirs and power supplies and things this country needs?

We have to create new wealth. How are we going to create it? New ideas, new productivity. We have heard about productivity, productivity, productivity, productivity. What are we doing? We are going to cut the money out of the areas where the productivity is needed the most, the new opportunities and new jobs.

What about America's inspiration? What do we give as a legacy? What is the gentleman from Massachusetts [Mr. BOLAND] and what is the gentleman from New York [Mr. GREEN] giving as a legacy to this country? We are giving an inspiration. There is something greater than just the little, piddley things that make things worse. It is inspiration for mankind and womankind. That is what we are talking about in the next century as we move ahead. We are not just talking about rearranging the furniture on the deck of the *Titanic*. What we are talking about is decimating these programs so they will die.

We are going to fly come August 29, and we have been fighting since January. Do the Members know what we have been fighting about? "Do not cut out the money on safety, do not cut out the money that is needed, when we had seven people who lost their lives." Is this an emotional speech by ROE? Yes, it is.

We are not going to let them fly on August 29, God willing, unless we are prepared with the resources which have been given to them to get the job done.

The debate is not about housing or senior citizens. That is not the debate. The debate is about the future resources of the country to recreate the new wealth, provide the inspiration. That is what this whole debate is about, not to nitpick and say that BOB ROE is in favor or not in favor of senior citizens, BOB ROE is not in favor of housing. BOB ROE fought this battle on this floor for the last 20 years for environmental protection, money for sewers, money for water resources and things we need.

The time is at hand where we have got to stand up to nitpick a dollar here and a dollar there, which is a terrible mistake to the future of this country and for everybody involved in it, and I ask every Member to vote vigorously opposed to this particular amendment.

Mr. BOLAND. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Alabama [Mr. FLIPPO].

Mr. FLIPPO. Mr. Chairman, I rise in opposition to the Schumer amendment.

Mr. Chairman, the amendment offered by the gentleman from New York has some surface attraction because it pushes all the hot buttons of emotion. I say that it is ill-advised, however, because it will greatly restrict our capability to help those very groups that the gentleman proposes to assist. I will give you an example. The gentleman's amendment puts $40 million in the housing area. That is less than 1 month of spending.

Ten years from now our children will simply not understand why it was necessary to cancel some of our efforts in space, science and technology in order to advance the housing program to which he referred only 1 month.

Mr. Chairman, the amendment provides a slight relief to the homeless at the expense of canceling programs that are really at the cutting edge of technology. It will help keep us competitive internationally. The proposed amendment by the gentleman would have an absolutely disastrous effect on NASA and especially the space station. The space station is vital to our future, and it is essential to any other mission that we will undertake in the future.

We have already heard here today many examples of the spinoffs that the science program has given us in the medical area. We have improvements in blood filtering systems and medical implants and disease control and diagnostic equipment, and this new space station program will greatly enhance our ability for medical research and materials processing and give us even greater capability to help the people the gentleman is talking about.

Today NASA's budget is less than 1 percent of total spending. That is down from 3 percent in the 1960's.

If Members really want to help the elderly and the poor and the homeless and the sick, the best thing one can do is to increase and improve an efficient space, science, and research program that will enhance our capabilities to help those very people.

I commend the gentleman from Massachusetts for his great efforts.

Mr. SCHUMER. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, first of all, I am bewildered so far by the debate. One would think that the consequence of Congressman SCHUMER's amendment is the complete decimation, elimination of the space program.

Let us get the facts straight from the very outset. If Members support the Schumer amendment, they will be voting for a $500 million, or a 15-percent increase in NASA R&D; if Members support the Schumer amendment, they will be supporting a 16-percent increase in the total of $1.4 billion in the overall NASA budget.

Everybody in this Chamber understands the need, the continuing need, for this country to create new wealth. Everybody understands that, and I think everybody understands at the same time the significant commercial, scientific, and medical applications from the space program that this country enjoys and will continue to enjoy.

As we go about preparing for the future, do we not think it is necessary to redirect some of those resources to take care of those in need today.

□ 1420

Admittedly, the amounts that are being transferred as a result of this amendment to these four or five different programs in their overall budget are not significant, but indeed to the people who will benefit from those marginal transfers it is very, very significant indeed.

So indeed we want to proceed with the space program. Indeed we want to move into the next century. Indeed we want to be on the cutting edge of technology, but while en route, let us not forget those today who have some significant, real, human, personal needs that can be met if we transfer these moneys.

Mr. Chairman, Let me make a few remarks about the need to restore funding to the UDAG Program. Representing several distressed communities who have utilized this program, I can attest to its importance to needy communities and to its ability to create jobs. Over the past 9 years in Pennsylvania alone, UDAG awards of $1.3 billion have leveraged $7.2 billion in private investment creating 151,188 jobs and retaining 39,365 jobs. Across the United States, $4.2 billion in UDAG funds over 9 years has leveraged $26.7 billion in private investment creating 556,002 jobs and retaining 129,993 jobs.

Yes, some of my colleagues can and will argue that the distribution of UDAG funds has benefited some regions more than others. But, my friends, this argument misses the point. The program is a targeted program for distressed areas. That might mean that hard-hit industrial Northeast-Midwest benefits more now but it will also be there if crisis strikes in any community in any district in any region.

Without this program, communities in distress will have no mechanism to compete with well-equipped healthy communities in the competition for private investment. Communities will not be on equal footing—those who have the tax base to undertake economic development will be at an advantage; those who don't will struggle wounded by the loss of this program.

For those members who do not believe this program makes a difference, I want to point to two UDAG's approved just this year in my district.

The first UDAG recipient is Farrell, PA, an area where the unemployment rate has run in excess of 20 percent and still has unemployment far above the national average. It received a $5 million UDAG that leveraged over $21 million. The UDAG provided critical funds to reline or refurbish a blast furnace. Without the refurbished blast furnace, the company, Sharon Steel, would not be able to increase production to fight its way out of chapter 11 bankruptcy. Without the UDAG, 2,500 jobs would be lost. With the UDAG, 500 jobs are created.

None of these figures include jobs that are dependent on Sharon Steel or any kind of mutiplier factor—these are direct jobs. In this case, 3,000 jobs were at stake with a company who obviously could not otherwise afford the refurbishing in a community already decimated by changes in the economy. The workers and the community in our community had pulled together to save an otherwise viable and competitive steel company; the Federal Government was able to make the difference. Soon, Sharon Steel will be running at capacity for the first time in 10 years.

Another UDAG approved for my district benefited the Hermitage and Sharpsville area of my district. It provided $750,000 and leveraged $4.8 million in private investment. The UDAG made the expansion of the Joy Cone Co., one of the Nation's largest ice cream cone manufacturers, possible. It directly created 100 new jobs, good jobs for a needy community.

These are only two examples just this year. I could go on. This story should be told.

Mr. Chairman, we need to establish priorities in order to deal with the budget deficit. But in my view, keeping the UDAG Program alive must be on the top of the list. I ask that you support the Schummer amendment in support of communities, our veterans, the environment, and housing.

Mr. GREEN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. WYLIE], the ranking minority member of the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. Mr. Chairman, I regret that I must oppose an amendment offered by my good friends, the gentleman from New York [Mr. SCHUMER] and the gentleman from Texas [Mr. GONZALEZ], but oppose it I must. I know where they are coming from and I respect that, but I believe the Appropriations Committee has done an excellent job in the funding levels for the HUD programs.

The gentleman from New Jersey [Mr. ROE] earlier made the point that the allocation for housing programs is well thought out in this bill. They are within the budgetary limits of the concurrent budget resolution and the economic summit, and I wish to compliment the gentleman from Massachusetts [Mr. BOLAND] and the gentleman from New York [Mr. GREEN]. It has been my pleasure to work with the gentleman from Massachusetts [Mr. BOLAND] on HUD programs, and I have found him to be very knowledgeable. His expertise on these programs will be missed around here, I say to my friend, and he has dispensed it in a very friendly fashion indeed.

But the committee print to me reflects the realities and the need to examine carefully and prioritize Federal programs. Reducing costly programs, such as UDAG, makes a lot of sense to me. We can no longer afford the luxury of programs such as this. But to transfer $400 million away from

NASA, $150 million of which would go to support a program which has outlived its usefulness, makes no sense to me. The UDAG Program is well known for its generous taxpayer-supported giveaways to develop hotels, shopping malls, and parking garages, most of which if really needed and justified by market demand would have proceeded with 100-percent financing by private, profit-motivated corporations anyhow. It is finally being put to rest, and I think that is a constructive provision in this appropriation bill.

I would point out that the funding for the Community Development Block Grant Program has been increased. It has been a much more effective way to deal with local community development programs, and although I do not support every item in the bill overall, I would commend the gentleman from Massachusetts [Mr. BOLAND], chairman of the subcommittee and the ranking member, the gentleman from New York [Mr. GREEN], for bringing forth a good bill, one that is worthy of our support, and I urge the defeat of this amendment.

Mr. BOLAND. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. CHAPPELL].

Mr. CHAPPELL. Mr. Chairman, I rise in opposition to the gentleman's amendment.

The HUD-Independent Agencies Subcommittee has fashioned a balanced appropriations bill and it is the best bill that can be achieved in light of current allocations.

The subcommittee has already reduced NASA by $782 million and has provided substantial increases for assisted housing, public housing operating subsidies, emergency shelter grants, community development block grants and veterans medical care.

We cannot reduce NASA further and take a chance of stopping our space programs in their tracks. The Europeans, Russians, and Japanese continue to mount a fast pace space effort and the United States must not fall behind.

I understand the desire to increase these other programs and I agree there is a need, but these increases cannot come at the expense of further reductions in NASA programs.

I urge that the amendment be defeated.

Mr. BOLAND. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. McCURDY. Mr. Chairman, I rise in opposition to the Schumer amendment.

As chairman of the subcommittee with responsibility for overseeing our national civil aeronautical research, I'm deeply concerned about the damage the Schumer amendment would do to our aviation industry, one of our few industries with a favorable balance of trade.

In 1987, the United States suffered a 12th consecutive international trade deficit, the worst ever, at $171.2 billion. By contrast, the U.S. aerospace industry, the Nation's leading manufacturing segment, set an all-time record for exports—$25 billion—and recorded its best trade surplus—$17 billion. Over two-thirds of the export total resulted from civil aircraft and parts.

One of the main reasons for this performance is a long-term relationship between Government and industry, that has kept the United States ahead, technologically, of its competitors.

Since 1915, the National Advisory Committee on Aeronautics and its successor organization, NASA, the Department of Defense and the aircraft industry have worked closely to advance the state of aeronautical technology. Their efforts have represented a unique success story among Government programs. The evidence of this success can be seen in both the military and civil arenas. The superiority of U.S. military aircraft is a well-known element of our national security. Technology transferred from military development programs as well as a steady flow of NASA innovations has allowed U.S. aircraft to dominate the international market, resulting in large favorable contributions to our trade balance and many jobs for U.S. workers; 1986 aerospace employment: 1.3 million.

The trends clearly indicate the United States must run harder if it wishes to remain competitive in the aviation market. Improved technology will be a key element in this effort. Breakthroughs in performance have always been the sought-after goal that could change the outcome in air warfare situations or commercial competitions. The United States is preeminent in both areas today largely because unheralded researchers in NASA and DOD laboratories, working with small amounts of money, have found those breakthroughs. Revolutionary advances such as the area rule for supersonic flight, the tilt rotor and the prop fan have profoundly changed aviation. Yet the basic work that led to the ideas was achieved at very low cost.

Mr. Chairman, now is the time to be increasing NASA's budget, not decreasing it. I urge defeat of the amendment.

Mr. BOLAND. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to speak in opposition to this amendment. I think the areas this amendment seeks to fund are very important areas and areas that we do need to provide additional resources for. But, frankly, doing it in this fashion is, first, a patchwork fashion, which is inadequate to the dollars that are necessary to begin with; and, second, this is the wrong way to go about seeking these resources.

With all due respect to my very close friends who are supporting this amendment and whose goal I share and support, I believe, Mr. Chairman, that to essentially kill the space station, which is what this amendment would do, guts our competitiveness in a critically important area to our economy at a time where a viable, vital economy in terms of competitiveness in space is going to be key to our ability to accomplish so many of the goals that we are trying to accomplish through the resources that would be going to whatever areas that we are allocating, whether we are talking about cleaning up the environment, whether we are taling about improving the situation for the homeless, whether we are talking about housing, whether we are talking about hunger. If we do not meet the competitive challenges that we have with regard to space and with regard to the high technology competitive race that we are in right now, Mr. Chairman, we will not be able to accomplish these other goals.

To take this money out of space at this time and in this fashion would curtail very badly our ability to meet the challenges with regard to our economy, with regard to competitiveness and with regard to space. I urge the rejection of this amendment.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I rise in strong support of the amendment offered by my colleague, Mr. SCHUMER.

This amendment is about choices. It presents us with a choice about what our priorities for the future will be. Admittedly, it presents us with a difficult choice. It presents us with a choice between helping the homeless and revitalizing our cities, or boosting our efforts in space and technology.

I wish we didn't have to make this choice. I am a strong supporter of all of these programs and I will continue to extend every effort to strengthen and maintain them. But I do not believe that space and technology should take precedence over the plight of the homeless and the revitalization of our Nation's cities.

All of these programs are equally important and should be treated as such. But as I have painfully witnessed since the day I was elected to Congress, that providing a safe and decent place to live for the people of this country is simply not a high priority for either the administration or the majority of my colleagues.

Since 1980, Federal housing assistance has been slashed by more than 70 percent. We have reduced the number of assisted housing units by more than 75 percent. Consequently, there are twice as many of the lowest income families searching for affordable housing as there are units available. And all you have to do is look at what is happening in every city in this country to know that the plight of the homeless is becoming worse. Clearly, something must be done to reverse this crisis and restore this Nation's commitment to providing basic shelter.

The amendment by my colleague, Mr. SCHUMER, would not eliminate these problems. At best it represents a modest step toward alleviating the plight of the homeless. It would also maintain a program, the UDAG Program, that has helped revitalize countless cities and localities throughout this country.

In my own district, two UDAG grants totaling $5.4 million were responsible for leveraging over 47 million in private investment, increasing the local tax base by $1.4 million, and providing more than 1,300 new jobs.

Mr. Chairman, we are not asking our colleagues to gut the NASA or the space station. We are simply asking that the bare minimum be appropriated to programs which cannot afford to take another budget reduction. I urge my colleagues to support this amendment and help reverse the housing crisis that is affecting all of our communities.

Mr. GREEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I think it is unconscionable to pit the future of America against social programs, and I oppose this amendment.

Mr. Chairman, I rise in strong opposition to the gentleman's amendment. It seems to me that the priorities of Congress and this Nation have already been decided. Just a few weeks ago the House passed—by a wide margin—the NASA authorization bill. This legislation called for a strong space program and specifically, it gave a clear go-ahead message for the space station program.

The gentleman states that his amendment will not necessarily cut money from the space station but rather—the research and development funds. For the members edification, the space station is in the research and development portion of the NASA appropriation. In fact, only about 10 percent of the research and development funding for NASA is new. The other 90 percent is to fund ongoing projects that have been cut as much as they possibly can be. So what's left to cut? The 10-percent new research and development money. The space station represents most of this 10 percent new funding. So let's not kid ourselves on where the money is coming from. It is very misleading to make the statement that NASA can still elect to go forward with the space station when in fact the program has been gutted.

Some may believe that we are supporting the space program at the cost of social programs. Some may have us believe that funding for the homeless is being neglected.

Well, this is true. Yes true. The funding is being neglected—but in a different sense. Mr. Chairman, I would like to submit for the record an article regarding an owner of a hotel for the homeless. It shows how one gentleman is cashing in on Government subsidies for the homeless. It shows in detail how American tax dollars are being wasted on homeless programs that may not be benefiting anyone except those who are in the business of housing the needy. That's neglected funding.

GETTING RICH BY HOUSING THE NEEDY: HOW THE HOMELESS BOUGHT A ROLLS FOR CORNELIUS PITTS

[By Marianne Szegedy-Maszak]

It is a typical 90-degrees-and-humid June day in Washington, DC and Cornelius Pitts is an hour late. He bursts into the front office at the Pitts Motor Hotel, apologizes, then sits down in a maroon leather chair behind a large desk with lion-head drawer handles. A plastic plaque on his desk reads: "The trouble with some people is that they won't admit their faults. I'd admit mine . . . if I had any." Pitts asks one of his staff to get him an ice cream sandwich. Maybe two. He is a very big man and his voice is deep and raspy. On one hand he wears a large diamond on a gold band, on the other, three slightly smaller diamonds on a silver band. He wears a very, very thin gold watch.

The only hints that Pitts's prosperity comes from an unconventional enterprise are the images on small black and white monitors in the corners of his office. They show what was once the hotel's luxurious Red Carpet Lounge slowly filling up with his newest—and most lucrative—clients, homeless families getting their chicken dinner.

The homeless have been good to Pitts. If the city of Washington, D.C. hadn't given him its sole-source contract for providing emergency shelter for homeless families in 1982, he might never have achieved what he calls his "100 percent occupancy" rate. He and his wife would probably not have made $245,000 in salaries, benefits, and profits from the contract last year. And if the city hadn't renewed his multi-million-dollar contract each year—even after mounting evidence of fiscal irregularities—he might never have been able to build all those additions on his upper Northwest Washington home, which is now assessed at $399,562. Or buy his five cars, particularly the $61,000 Mercedes 560 SEL and the $117,500 1987 Rolls Royce Silver Spur. (Both cars have three-digit license plate numbers, a sign of access to the top city officials who dispense them.) Indeed, without the contract, Pitts might have lost his hotel.

Pitts doesn't understand why people have been critical of his business practices. He says he runs a class place, that his hotel at 14th and Belmont is as fine a shelter for the homeless as anyone could find anywhere. And if he makes a good profit, well, that's nobody's business. He is not, he points out, one of those nonprofits. His business, he says, emphasizing each syllable, is "a pro-fit-mak-ing-en-ter-prise."

ROOMS AT THE TOP

Living off government contracts was not the dream Cornelius C. Pitts brought with him when he came to Washington from New Orleans during World War II. At first, he worked as a clerk-typist for the War Department and moonlighted as a cab driver, saving his money for something bigger. He wanted to be successful in a white man's world. "I was determined to break through the color barrier," he said in 1968. "I was born into business. My mother and father ran a mom-and-pop grocery store in New Orleans."

In 1950 he made the leap, buying his first building on Belmont Street, then a middle-class black residential neighborhood. He converted his new property into a tourist home for blacks, who were not welcome in downtown hotels. Nine years later he bought another building on Belmont. Meanwhile, like the immigrant hero in a thousand American success stories, he went to college, and in 1964, at the age of 41, he graduated with a degree in business administration from Howard University. The next year he bought three more buildings on Belmont Street, then tore down all his buildings and constructed the Pitts Motor Hotel.

In the sixties, the Pitts Hotel was a showplace and Cornelius Pitts was one of Washington's most successful black entrepreneurs. His hotel attracted not only tourists and traveling businessmen but local customers, black and white. They lined up at the Red Carpet Lounge—which featured valet parking and a maitre d'—to listen to the likes of Aretha Franklin. "The place stayed packed," a former regular said. "The drinks weren't that high. You didn't feel like you were getting ripped off. The music was great. And the minute you walked in, you felt comfortable there."

Pitts viewed himself as having a definite role to play in his community. "Whenever he could, he did something for the neighborhood," says Leroy Hubbard, a local civic leader and long-time friend of Pitts. "He would donate food and space for neighborhood functions, sponsor kids in camps. He trained some summer youth employees in hotel work. He was what they called a progressive businessman." Calvin T. Rolark, president and founder of the United Black Fund, publisher of the weekly community newspaper, The Washington Informer, and a close friend of Cornelius Pitts since the early fifties, agrees: "He always offered lots of employment to the black community. He definitely shared his income with numerous blacks. There have been many times I called on Pitts to help out a family and he did it, only asking that we keep his help anonymous."

Pitts achieved his success in the face of the same racism any black entrepreneur of his generation experienced. Back in 1961, for instance, two white police officers from the department's morals squad tried to have Pitts' tourist home license revoked on the grounds that two women had been arrested there the previous year. Businessmen rallied to Pitts' defense. The D.C. Chamber of Commerce pointed out that the incident seemed to be part of "a pattern of questionable police tactics which are directed principally toward Negro establishments with integrated clientele." Pitts' efforts to expand his business were frustrated by the reluctance of banks to give loans to blacks. "I've seen white men get bank loans in this neighborhood," he said in 1968, while he was forced to pay "as much as a dollar for a dollar in interest. The only bank that really helped me was the Industrial Bank of Washington, a black bank."

As one of Washington's premier black businessmen, Pitts naturally drifted into the orbit of prominent black political figures. A month before his 1968 assassination, Martin Luther King rented 30 rooms at the Pitts for a board meeting of the Southern Leadership Conference. That same year Ralph Abernathy and other members of the Poor People's Campaign stayed at the hotel during their march on Washington.

Cornelius Pitts' slide from the top began with the assassination of King. News of the killing triggered rioting, and what had been a vibrant shopping district near the Pitts became a gloomy mass of burned-out buildings. "Location-wise he was beat," says Leroy Hubbard. "He was considered one of the more successful businessmen during that time, but after the riots things went downhill. The street deteriorated." Most businessmen whose stores were not destroyed quickly moved to other neighborhoods.

Pitts is still admired by many of the city's black leaders for remaining loyal to his neighborhood. But the neighborhood never rebounded, and Pitts never again made the profit he had enjoyed catering to middle-class customers. Ironically for Pitts, the effects of the neighborhood devastation were heightened by the success of the civil rights movement. After the riots, blacks who formerly had no alternative but to stay at the Pitts Hotel increasingly were allowed into the white hotels downtown.

Pitts' respectable clients were replaced by prostitutes and junkies. Within months of the riots, he could no longer keep up his $4,064-per-month payments on a Small Business Administration loan. As a spokesman for the D.C. Alliance of Active Black Businessmen, he pushed for city assistance to revitalize the battered neighborhoods, but little help came. By 1981, Pitts owed more than $415,000 in back federal and city taxes and his hold on the Pitts Motor Hotel was weak.

SUITE DEAL

Most cities were unprepared for the crisis of homelessness that erupted in the eighties. The combination of slashed federal low-income housing support, deinstitutionalization of mental patients, neighborhood gentrification, and hard economic times for poorer Americans created a homeless population that by 1985 was increasing by 25 percent a year, according to the U.S. Conference of Mayors. Within that population, homeless families comprise the fastest growing group. It was not clear whether federal funds available for emergency sheltering of the homeless could be used to build shelters or to create more permanent housing stock. As a result, many cities turned to an obvious expedient: hotels.

In Washington, officials turned to Cornelius Pitts. For a number of years he had occasionally sheltered homeless families for the District. Renting a few rooms to the homeless, he explained in 1969, was good business, especially "during the hard winter season." By 1982, the District needed more than a few rooms. It needed an entire facility devoted to homeless families and an "intake center" to centralize the Department of Human Services (DHS) processing. DHS asked for bids on a contract; Pitts submitted his and won. The price: $1.3 million. Soon, though, the Pitts was overflowing, and DHS began placing families in other hotels. But the Pitts remained the only intake center and the only hotel with a fixed-price contract.

There were some who doubted the wisdom of choosing the Pitts. After the 1982 contract was announced, The Washington Post reported that police had made 17 arrests at the Pitts in the previous 14 months for crimes such as drug possession and assault with a deadly weapon. "I would question the judgment of that decision [to move families into the hotel]," a D.C. narcotics sergeant told the Post; "It's right off 14th Street . . . drugs and prostitution are in that area." It also seemed odd that such a contract would go to someone who was paying off $415,000 in back taxes.

City officials, however, say they had little choice in the matter. "Back when we first made the award, we felt our backs were really against the walls," explains Robert Allison, deputy controller of DHS. "We asked the program people what to do and they said there was nowhere else to put them." That is not entirely true. Pitts had competed for his contract against two other bidders: the House of Ruth, an emergency shelter for women and children, and the 10th Street Baptist Church. Pitts won even though, as the Post reported at the time, the House of Ruth's proposal was lower than Pitts'.

The person least troubled by the contract award was, of course, Cornelius Pitts. "The contract was an absolute must for me," Pitts explained when the award was announced. "I just don't know how I would have been able to make it without it."

Pitts says he is proud that today, after more than five years as a home to the homeless, the Pitts Motor Hotel is again a showcase, much like it was in the sixties. "This is the best temporary shelter for homeless families in the city. There is no shelter in this city that is as fully equipped," he says. "I don't cut corners." In the staff area behind the thick bullet-proof window are several computer systems with the latest software. His hotel offers a completely renovated kitchen that the chef claims "is more well-equipped than any of those kitchens downtown." There is a small store, a first-class security system with monitors scattered throughout the building, and a video system that can feed any one of the more than 90 movies in the Pitts video library into each room.

The public areas of the hotel are relatively clean and cheerfully painted. The restaurant still has some of the panache of the Red Carpet days, though there is no red carpet over the white linoleum floor. A children's playroom is decorated with children's drawings of houses with bright roofs, curlicues of smoke, and single shade trees.

But the rooms where homeless families live are not so well maintained. A city inspection report of the hotel from last February repeatedly cited loose plaster, leaks, lack of ventilation, holes in the walls and floors, rooms infested with roaches, bedbugs, and other insects, an inoperable fire alarm system, and broken lights.

Although the Pitts contract specifies no more than four persons in each room, Angela Robertson says her family of six was crammed into one room. She shared a bed with her two youngest sons, her two older sons slept together, and her daughter slept on a roll-away cot. The room, she says, was infested with roaches and rats. A current resident, who was sitting with a crowd on the front steps, was reluctant to describe what it was like to live there because "it causes trouble." She turned her head and shook it saying, "I can't . . ." Then she said quickly, "It's hell."

BOOKED UP

For providing his first-class accommodations to the city's homeless families, Pitts has been guaranteed full occupancy; from 1982 to 1986, the city renewed his contract without bothering to seek other bidders. Two DHS internal memos from 1984 and 1986, which were leaked to the press, and a publicly released 1986 audit of the Pitts contract by city auditor Otis Troupe reveal where the millions were spent.

The 1984 memo says that Pitts was overcharging the city by one-third for the meals he provided his residents. Yet rather than demand that Pitts cut his prices, the city increased his volume: the following year, DHS began busing homeless housed in other shelters to the Pitts three times a day for meals. This extremely inefficient way of feeding people grossed Pitts more than a million extra dollars that year. DHS dropped the new system after the 1986 audit called it, and Pitt's meal prices, "diseconomical and excessive."

The audit also disclosed that Pitts had been charging $97.07 per square foot for the office space used by DHS officials. By comparison, the audit pointed out, DHS leased space at 1875 Connecticut Avenue, a more desirable location, for $15 a square foot. Indeed, the best office suites in Washington's fancy new Harbor Place now lease for $42 a square foot. When questioned about this, Pitts launched into a long, convoluted monologue about the Economy Act of 1932 and the critical distinction between "raw space" and what he provides. DHS Deputy Controller Allison, who wrote the 1986 memo, puts the overcharge at about $280,000. "We sent Pitts a letter asking for back space rental," says Allison. "I doubt we will get it."

The documents reveal dozens of other overcharges. Pitt's salary was too high—twice what DHS paid the administrators of the city's two largest nursing homes. Pitts charged the city $10,400 for damages, even though damages were already covered elsewhere in the contract. Pitts didn't keep track of furnishings, equipment, or household items purchased with DHS funds. When asked about such complaints, Pitts bristles. "We had a fixed price contract with the city. If we found that our expenses exceeded our income, we had to eat the expenses. Conversely, if we made an adequate profit, the government had nothing to do with the way we spend it." The government, however, paid Pitts $21,677 a year for three years to have CPAs do independent audits of his books. Pitts took the money but somehow never got around to commissioning the audits.

In total, the auditor concluded, the city's contract with Pitts was "sufficiently egregious and exploitative of the taxpayers' interest as to allow only a conclusion that the Agency was grossly derelict in its responsibility to guard the taxpayers' resources." Says Allison: "The guy was simply making too much money off the homeless."

"THE FRUITS OF MY LABOR"

Those who work with the homeless recognize the absurdity of sheltering homeless families in hotels like the Pitts. At $42 a night, plus $12 per person per day for meals, the government is paying almost as much per month to keep a family at the Pitts as it would cost to put them in public housing for a year. But with so little public housing available, families are kept at the Pitts for months on end. If this is frustrating for independent-minded families eager to get into their own apartments, it's even worse for those suffering from welfare dependency. "Putting families in these hotel shelters is unconscionable," says Reverend Tom Nees, who runs a 15-apartment nonprofit facility for homeless families called Community of Hope. "As desperate as some are to get out, others, sad to say, get hooked on it." Even Ricardo Lyles, chief of D.C.'s Office of Shelter and Emergency Services, agrees: "It's not the ideal for a family to live in a hotel. A family should be in an apartment."

Other cities heave learned to be "creative" with their federal emergency funds, using them to rehab apartments into which shelter residents can be moved. Washington, D.C. has been a slow learner, even though it has working alternatives as models.

The Community of Hope is just down the street from the Pitts. Its contract with the city is to provide "transitional," or medium-term, shelter for homeless families. The long stays at the Pitts—an "emergency," or short-term, shelter—make the distinction largely theoretical. There are differences, though. A homeless woman familiar with both the Community of Hope and the Pitts put it simply: "The difference between those two places is the difference between heaven and hell." A Community of Hope apartment is not only more livable than a room at the Pitts, it's also much less expensive. A month's room and board at the Pitts for a family of four costs the government $2,748. A month's rent for a Community of Hope apartment, where families have their own kitchens, costs $500. "We've been pressing the city for over a year to expand our contract," said Nees, "I told them the worst it could do is save you money. But we just haven't gotten anywhere."

According to Pitts, those who complain that the city had ignored better options are blind to the greatest virtue of his program: his program is necessarily the best because it is run by blacks. "98 percent of the recipients of services are black people. These are my people," he says. "It is difficult for a white business person to care for my people. But as a black business person, I am doing a better job." When asked about the Community of Hope program down the street, he responds, "It's nothing personal. I just don't believe that any white person can be as interested in the welfare of poor black people as a black person."

The issues of race and class inform Pitts' judgments. He explains that his neighborhood and business went into decline after the riots because "after Dr. King was shot, the whites left and they have yet to return" and because The Washington Post "kept writing about what a high crime area this was and never retracted it. What makes an area safe is people; when the press makes people scared, people stay away." He also blames his middle-class black clientele, who stayed away and starved his business. "Poor blacks have always supported black businesses. It is the middle-class blacks we have always had problems with. Maybe it is because we compete socially with each other and we don't want to give each other an edge. We meet up at parties and discuss the type of car you drive and the type of home you have."

He says critics of his program are racists or are swallowing a clever strategy of white real-estate developers. "Whites who have moved into this area are whites who want to build expensive condominiums on Belmont Street," he says. "They want to buy my property. I refuse to sell. So they try to discredit me so that the D.C. government would withdraw my contract."

Ask Pitts' many friends in Washington's black power elite about the criticisms of his program and the answers are almost always the same: white racism and not gross mismanagement of a public poverty program, is behind the complaints. "I don't know why the man is criticized," says an indignant Calvin T. Rolark of the United Black Fund. "Racism is still sticking its ugly head up. Some people, some white people, are not desirous of blacks achieving anything. They think, if they achieve it, they have to steal it."

Pitts works to keep support like that. When he still owed hundreds of thousands of dollars in back taxes, his hotel managed to come up with $2,000 for Mayor Marian Barry's 1982 reelection campaign—a few months before the DHS contract was awarded. Leroy Hubbard explains that this is a skill Pitts had to learn. "Sometimes he would catch the mayor's ear at special events. He wasn't very political before; now he is at every special event. He is very supportive politically and he will support the existing politicians."

The television monitors in Pitts' office show the staff clearing the tables. A number of homeless families have moved to the hotel's front stoop where they will sit talking until the 11 o'clock curfew. Pitts wades through the children eating fudgesicles and the women sipping Orange Crush on his way to his Rolls Royce. Their eyes follow him and conversation stops. "I have been in business for 37 years," Pitts says. "I feel I have earned the right to drive the kind of car I can afford and buy and live in the kind of home I can afford to live in. If I will ever enjoy the fruits of may labor, I should enjoy them in this life."

Anther example of neglected funding is the UDAG Program. It is common knowledge that the UDAG Program has suffered from cronyism, abuse, and widespread misappropriation of funds. It is only fitting that this program be zeroed out since it benefits very few.

I realize that these examples are not commonplace. However, until the internal problems of these programs are worked out, we simply cannot continue to throw money at the issue and expect it to get better.

Programs that already exist—ones that the homeless lobby don't want you to know about—work far better and are much more manageable. Mr. Chairman, I would like to submit for the RECORD a list of agencies and the amount of funding they set-aside to assist the plight of the homeless. The homeless lobby claims the Federal Government is doing next to nothing for the homeless. But in past years, there have been at least 20 programs and some $170 to $200 million targeted for the homeless—and that is not counting regular welfare benefits.

WHAT THE HOMELESS LOBBY DOESN'T WANT YOU TO KNOW

Action—VISTA volunteers, 267 volunteers/74 projects.

Department of Agriculture—Surplus houses for shelters, 3 houses.

Department of Defense—Surplus buildings for shelters, 10 shelters, surplus property, equipment, clothing, $3 million; surplus commissary food to food banks, 1.8 million pounds.

Department of Education—National Institute for Disability and Rehabilitation Research Grants, $206,420.

Federal Emergency Management Agency—Emergency Food and Shelter Program, $70 million.

General Services Administration—Surplus buildings for shelters, 3 buildings.

Department of Health and Human Services—Community Services Block Grant, $46-60 million; Runaway and Homeless Youth Program, $22 million; Community Services Discretionary Grants, $350,000; Alcohol, Drug Abuse, and Mental Health Administration Block Grants,$340,000; Community Support Program, $800,000.

Department of Housing and Urban Development—Surplus homes for shelters, 25 homes; Community Development Block Grants, $27 million.

Department of Labor—Jobs for Homeless Veterans Demonstration, $300,000.

Department of Transportation—Urban Mass Transit Administration discretionary grants, $80,000.

Veterans' Administration—VA Mental Health Care, $12,000.

Source: Federal Task Force on the Homeless.

Let's talk about something much more tangible that the sponsor of this amendment has overlooked—jobs. NASA has estimated that a reduction of $400 million in research and development funding will mean the loss of 7,700 jobs lost through direct contract losses. If we apply the multiplier effect, a conservative estimate of 19,000 jobs will be either lost or not created because of this reduction. Why are these numbers so high? Because research and development is the backbone of NASA. That's where the jobs are.

This Nation has already suffered a severe set-back in the space program caused by the tragic loss of the *Challenger* 2½ years ago. Do we really want to break the back of our space program just as it is getting on its feet? Of course not.

Mr. GREEN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, I implore my colleagues to stay with the committee on this and vote "no" on this amendment. The committee made very tough choices, as I mentioned in the course of the general debate.

I like the UDAG Program, for example. It is a good program and it has done a great deal in my area. But we have done with that program what we have done with so many others. It is advertised to be a targeted program, but it is no longer targeted, but now it is just a great big grab bag for everybody.

I like other housing programs. We made choices. We made tough choices in this bill and they are important ones. If we start taking money from the space program, the space station in particular, we might as well kill the program right there.

We do not want to do that, so let us stick with the committee and their decision.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, there are two points that need to be understood very clearly by this body. The first is that the Schumer amendment, which I strongly support, in no way eliminates the space station. If the Schumer amendment were to pass, NASA's overall budget would still be increased by 16 percent. NASA's research and development project would still be increased by 15 percent. If NASA considered the space station a high enough priority, enough funding would remain for full development of that space station.

Second, let us be very clear about the consequences of failure to enact the Schumer amendment. One of those consequences is not a reduction but the total elimination of the Urban Development Action Grant Program, a program that has meant hundreds of thousands of jobs all across this country, a program that has been targeted upon those most economically distressed, a program that has meant economic revitalization to cities and communities across this land of ours that were literally dying. That is the cost.

What we are calling for is both the acceleration of the space program and the meeting of urgent human needs. We can and must achieve both objectives. And the Schumer amendment, that I am proud to cosponsor, does just that.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I, of course, rise in strong support of the Schumer amendment. This is a well-reasoned amendment which provides an opportunity for us to meet all our responsibilities I think in a reasonable manner.

The fact is that the fundamental problem gets back to some of those wonderful sounding political campaign pledges. People want new programs, but they do not want to provide the revenue to pay for the programs. So what happens is that the funding comes out of the existing program stream where it is deserved and very much needed.

If my colleagues who want these new programs whether NASA or other programs, would be willing to stand up and vote for tax increases to pay for such programs, we would not face the dilemma that we face today.

Obviously when it comes to need, I think the needs are paramount for the needy in our society who need shelter.

This follows up on many months of work by those of us trying to obtain adequate funding levels for the homeless programs. My involvement dates back to nearly a year ago when I realized the Appropriations Committee had zero funded the emergency shelter grant program and grossly underfunded the remainder of the McKinney Homeless Assistance programs. I immediately called upon supporters of the homeless programs to join me in calling for adequate funding. A bipartisan coalition of more than 60 Members of Congress joined me in asking for more funding. The Appropriations Committee disregarded our plea, and tried to satisfy us by adding a miniscule amount for the homeless programs. Despite the strong support of many Members of Congress, the appropriation in fiscal year 1988 was only $187—less than half the amount authorized. Pushing the Appropriations Committee to adequately fund the homeless programs has been a painstaking and often futile excercise.

We have not given up and will not. Congressman LOWRY and I have previously sent several letters to the House leadership and the appropriations chairman and subcommittee chairman. Each time we were reassured that Congress would not renege on its promise to the homeless. But those promises have not been fulfilled. Sure there is an increase over last year's funding, but it is still less than 75 percent of the amount authorized.

When the weather is cold, suddenly concern for the homeless heats up. But as the weather warms up like today, compassion for the homeless seems to cool off. It doesn't make sense, because the sweltering heat we have today can be nearly as dangerous to the homeless as the chilling cold we had last winter. Nobody will live or die if NASA doesn't get its full $10.7 billion. But a number of homeless individuals could face death if we don't adequately address their needs.

We all support a strong space program but let's first take care of the needs of our citizens here on Earth.

We should not as a Congress be making public policy that, for instance, funds the space station on the backs of the homeless. I do not think that homeless are the most able to carry this burden. I do not think we should be funding the NASA increases out of the hides of the elderly and the handicapped at the cost of losing more housing for these groups. I do not think that we should fund it on the basis of taking dollars out of our community development, out of our cities through the Urban Development Action Grant Program or from homeless veterans.

No, we can provide a 16-percent increase in this instance, but please do not take an additional 4 percent from the neediest in our society. The fact is that we will lose 70,000 units of assisted housing this year because of expired contracts and demolition. We are going to lose that number in 1989 as well, and since 1980 the community and development dollars and the housing money has been cut by 60 to 70 percent. Yet the annual deficits today are higher than ever. Deficits are higher than ever because we are not willing to stand up and vote for the tax increases to pay for the increased programs that have been voted for the Department of Defense, for NASA, for the space shuttle, for the space station, not because of programs such as housing and community development or the homeless.

If my colleagues want those new programs you are going to have to pay for them. We cannot keep taking all the resources from the lowest income people in our society who are in reality the powerless in American society.

That is why we have homeless today, because we have not been doing the job in terms of public assisted housing, and we are going to have more homeless if this policy path continues. This homeless program need is expanding because the 60- to 70-percent cuts in the assisted housing programs leave low income and the poor in the street there is no regular program to deal with the housing needs of these people today. We can and should change that tomorrow, however, what we can do today, as the temperature outside is breaking all heat records, is to stand up and vote for the Schumer amendment so that basic human needs are met, so that the loss of dignity by our fellow citizens is not the price of NASA accomplishments. Vote "yes" on the Schumer amendment.

Mr. BOLAND. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong opposition to the amendment. I will continue to give my fullest support, as I have for more than 30 years, to housing programs for all Americans. But this amendment is a disaster.

The gentleman from Massachusetts [Mr. BOLAND] and his committee, the gentleman from New York [Mr. GREEN] have been the strongest supporters of the housing program that this Nation has known for more than 30 years. Before many of you Members were in Congress they were supporting housing programs, and it is disgraceful to think that they have not and are not now.

It is necessary to note that under the committee measure NASA has already been severely constrained in its major research and development programs, the space station, by restrictions on obligating funds until the spring of next year. While I am not in complete accord with the decision reached by the committee to delay the final obligation of $450 million for a program until the spring of next year, it certainly is a much more understandable and acceptable positon than reprogramming this crucial amount from NASA's shrinking budgets, and thereby threatening elimination of a space station for the United States.

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The head of NASA, Dr. Fletcher, told me today that Option 8, though it states "not from space station," Mr. BOLAND has already cut the rest of NASA funding to the bone. There is no place else other than the space station to now cut out this amount of money.

Mr. Chairman, not many of us here in this Chamber today were present at the time that the great race to conquer space began in the late 1950's. However, I was, and I can assure this House that this Nation's space effort has never been so seriously threatened since that time. NASA has certainly not been without its problems in recent years, but to abandon our most innovative Space Program in the last decade and to continue to cripple it by chopping away at already restricted appropriations can serve only to drive this Nation into a second-rate position in the exploration of the last great frontier.

It is not a position I can support, and I urge my colleagues to join me in defeating this amendment.

Mr. GREEN. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. I thank my friend for yielding.

Mr. Chairman, we always hear about "don't eat the seed corn." That is exactly what this amendment is doing, it is eating the seed corn. How can we ever expect to reap the harvest if we are not going to have the funds for planting? If this amendment goes through, people talk about it not affecting the space station, but it is going to affect an awful lot of other programs. How can we, for example, continue the Mars observer satellite that will keep us in pace with the Soviets? The space telescope, we have been trying to get that up since the disaster of the *Challenger*.

The upper atmospheric research satellite for conducting experiments on ozone depletion and the greenhouse efffect, that is for the benefit of everyone, not just for a few scientists.

Now these programs that are going to be enhanced, their funding is going to be enhanced, already have more than HUD requested.

The housing for the elderly and handicapped to which the amendment seeks to add $40 million, it is already $128 million above the request by HUD. The emergency shelter grants which they seek to add $48 million to, it is already $65 million above the request. The $10 million that is being asked for transitional and supportive housing demonstration, it already has $10 million over the request in it and they are asking to add another $10 million.

Sure, NASA has an increase over the previous year. We are embarking on a brandnew bold experiment to get on with the space station. The other programs are severely limited already.

We are short $60 million out of the $100 million for the Pathfinder.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I thank my friend for yielding me time.

I too would like to talk about seed corn and space stations.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, since the inception of the program, over 2,800 UDAG projects have been approved, assisting over 1,180 communities throughout the Nation.

A number of cities in my district, the 21st Congressional District of New York, have benefited tremendously from the UDAG Program. I believe a strong correlation can be drawn between the UDAG funding and the expanding economy throughout the Hudson Valley.

UDAG funds proved to be the catalyst in the cities of Newburgh and Peekskill, which were experiencing a stagnated economy and higher rate of unemployment than the rest of my district. These cities are now on their way to economic revitalization. For example in Newburgh approximately $11 million in Federal UDAG money stimulated $100 million in private sector funds to build housing and expand existing commercial enterprises. Termination of the UDAG Program at this time could undermine the progress that has been achieved throughout the country.

I realize that the budget deficit is forcing this body to make tough decisions. In many cases, as with the space station and the UDAG Program, it has become an either/or situation. I support our space effort, and believe the space station is an integral part of future space exploration.

However, we cannot drain the resources of critical programs such as UDAG and section 202 for the elderly. That simply would not be right.

I remind my colleagues that another space station, our planet Earth, must remain a priority for the Congress. I urge my colleagues to support the amendment.

Mr. GREEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment. Let me state at the outset that I do not oppose the purposes for which my colleague from New York wants to spend the money. Of course if our subcommittee had had the money we would have put it there plus some other places where we also had to cut funds. So I am not going to get up here today to attack what the gentleman from New York wants to accomplish by way of increases.

I will, however, point out that in the case of the UDAG Program there is expected to be available well over $50 million of funds recaptured by HUD. In addition to that there will be repayments to municipalities in the order of $100 million which, under the 1987 Housing Act, they must roll over and use for new economic development projects.

So even without a penny in this bill, there will be a UDAG Program next year in excess of $150 million.

I would rather address, because I think it is very important, what it is the sponsors of this amendment are cutting, because although they have been very specific about what they have been adding, they really have not told you what they are cutting.

Now is it or is it not the space station? If it is the space station, I want you to know that a $400 million cut in essence will grind that program to a halt, and we shall spend half a billion dollars basically treading water for a year. I think that is an expensive way to do business. So if it is the space station from which NASA is supposed to take the $400 milion, that does not make any sense.

The proponents of the amendment were very careful before the Rules Committee to say it is not necessarily the space station that is affected by this amendment, it is the rest of the research accounts. I want you to know that overwhelmingly those research accounts are ongoing programs in which this country has enormous investments. I think we ought to ask the sponsors of this amendment, "Which of those are you cutting if you are not cutting the space station?"

Are you canceling the Hubbell space telescope in which we have an investment of $1.7 billion at this juncture? Or do you simply want to keep it in the warehouse for another year, which is currently costing us $8 million a month. Is that the kind of useless cost you want to impose on the NASA Program? Do you want to cut out Mission to Planet Earth, designed to observe what is happening to the Earth's environment, what is happening to the ozone layer? We desperately need to replace the satellite we have up there now measuring the ozone because it is increasingly unreliable. And yet we know ozone deflation is a terrible problem.

Global warming, do you not want to address that? I think there are a lot of people out in the Midwest who would like to look at global warming. I do not believe you really want to cut out what NASA can do to get us some hard data on that issue.

Turning to solar system unmanned research, we have invested $420 million today in the Magellan mission to Venus, $812 million in the Galileo mission to Jupiter; $141 million in the Ulysses mission that we are doing jointly with the Europeans to learn more about the Sun. Which of those programs do you want to cancel and waste that investment? I think we are entitled to know from the sponsors—I will not yield at this time. The gentleman has 30 minutes in which to tell us which of those he wants to cut. I hope that he will.

Let me point out also that not a single person who has thus far spoken in favor of this amendment voted against the NASA authorization just a couple of weeks ago at $11.5 billion. One of them, Mr. WOLPE, was not here. Every one of the others voted for it. We have cut almost $800 million from that appropriation. So we were not doing any special favors for NASA. We funded it at $800 million less than all of you thought was appropriate just a couple of weeks ago. And in the research and development account we have made cuts there as well as elsewhere in NASA. We have cut the space station as much as we thought we could and still keep the program moving ahead. We cut the advanced x ray program by $11 million, and Mr. Chairman, I could go on and on if you were not about to advise me that my time has expired.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. Mfume].

Mr. MFUME. Mr. Chairman, I rise in strong support of the amendment.

Mr. SCHUMER. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from California [Mr. Lehman].

Mr. LEHMAN of California. Mr. Chairman, the issue here, my friends, is not whether or not we are committed to space exploration; we are. The issue here is not whether or not we are going to have a dramatic increases in the NASA budget. Regardless of how you vote on this amendment, the NASA budget is dramatically increased.

The real issue here is whether or not we can afford a dramatic increase for space while at the same time cutting funding dramatically for housing here at home.

The big cuts in this appropriations scheme are given to the homeless, the homeless, those who need the help the most. Over the past several years our housing programs have absorbed a budget cut in excess of 30 billion real dollars. Mr. Vento pointed out that is 60 to 70 percent. No other segment of the Federal budget has taken that kind of hit during that period.

Now that we finally have a good bipartisan housing plan in place, approved by this Congress, we come here and argue instead that the money might be better spent by dramatically increasing the NASA budget, perhaps by building a space station. That is disgraceful. We can wait a little bit longer on the NASA increases; space is still going to be there. But the problems that we exacerbate by not dealing with housing today will only get worse. The original version of the House budget had a 1-percent cut in housing. We were willing to take that.

Now we are asked to take a 6-percent decrease in housing so that we can increase the NASA budget by 16 percent. Is that a reasonable appropriation of our resources? Ask the homeless, ask the elderly, ask the handicapped, ask your local governments, ask the poor, ask the veterans how they would like to have that money spent: give it all to NASA or keep a little bit here so we can take care of some of the problems at home.

I ask you to support the Schumer amendment.

Mr. SCHUMER. Mr. Chairman, I yield 1½ minutes to the distinguished gentlewoman from California [Ms. Pelosi].

Ms. PELOSI. Mr. Chairman, I rise in support of the Schumer amendment. I too congratulate Chairman Boland for his fine work for so many years on issues of concern to our country. He did a fine job also on this legislation. I just do not happen to agree with all of his conclusions.

Mr. Chairman, I also commend Chairman Roe for his impassioned plea for the future. That is the most enthusiasm that I have seen for the future since I have come to Congress this 1 year and I agree with him almost completely, but not completely. I come from a high tech area. It is very important to the economy of our area.

As we make our long-term plans for high tech, we have to recognize we have some very, very low tech emergency needs that must be addressed. We must have a balanced public policy which will promote future goals without ignoring the needs of our own citizens today. Needs, for example, of the millions of homeless on our streets today, the homeless veterans, the elderly and the disabled in their special needs.

Public policy should promote human dignity of every person. I urge my colleagues to support the Schumer amendment and in doing so to take one small step for human dignity.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Delaware [Mr. Carper].

Mr. CARPER. Mr. Chairman, we are faced today with another exercise in hard choices. We are asked to choose between our Nation's basic commitment to research and development, between our commitment to providing a decent place for people to live, care for homeless veterans, commitment to rebuilding our cities and also reducing the pollution to our Nation's rivers and streams.

□ 1450

I guess if we had our druthers, we would rather do them all. We do not have that luxury today, in light of our budget deficits.

My decision to vote for this amendment is made easier because of the following facts: Even if this amendment is adopted, the space component of research and development within NASA's budget will receive a $500 million increase, not a cut but a $500 million increase. My support for this amendment is made easier because of the fact that we have already cut housing during the last 7 years by over one-half. If we had cut everything else in our Federal budget by as much as we have cut housing, we not only would have a balanced budget, we would have a surplus of some $200 billion.

My support for this amendment also is made easier by the fact that in 1994, and beyond, we will provide no more new Federal money for cleanup of sewage discharges into our Nation's rivers and streams.

In urging my colleagues to support this amendment, let me conclude by saying, "enough is enough."

An increase of nearly 15 percent in NASA's fiscal year 1989 budget is enough. Seven years of deep cuts in housing programs is enough. We can do something about it by voting in favor of this amendment.

The CHAIRMAN. The time of the gentleman from Delaware [Mr. Carper] has expired.

Mr. BOLAND. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. Nelson].

Mr. NELSON of Florida. Mr. Chairman, this past year the Nobel Prize in Economics was awarded to Robert Solow of the Massachusetts Institute of Technology. In his thesis he said that it is high technology and its research and development that basically is the creation of wealth and that leads a nation to productivity. That is simply our future. The Nobel Prize Committee recognized that, and that is part of the price that we have today.

Now, certainly the Soviets have recognized that, for they are in their third generation of a space station. This is merely the space station where a great deal of materials processing and medical research is taking place and future kinds of pharmaceuticals are now being experimented with in this extraordinary environment called zero gravity.

When we sent John Glenn into the heavens, we even thought that the human eyeball might change shape, but what we found was that we could harness this environment to do incredible things, including the experiment that will go on *Discovery,* at the end of this summer, an experiment called protein crystals.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kentucky [Mr. Hubbard].

Mr. HUBBARD. Mr. Chairman, I rise in strong support of the Schumer amendment.

This amendment transfers $400 million from NASA research and development into housing and economic development for our constituents in all 50 States. I hope that our colleagues, after hearing the advocates of NASA from Florida and Texas and other areas where NASA projects are located, will keep this in mind. This amendment will leave this NASA account with close to a $500 million increase over fiscal year 1988. Overall, after the Schumer amendment, NASA will still have 16 percent more money than last year.

Furthermore, NASA can still choose to go forward with the space station. Those Members of Congress who represent NASA projects and who have warned that this amendment offered by the gentleman from New York [Mr. SCHUMER] kills the space station know better than that. Surely, some Members of Congress represent central Florida or the Houston area and other areas where NASA projects are located, but none of us should forget those constituents who need adequate housing. They are located in all 50 States and in all 435 congressional districts.

Yes, by supporting this amendment we will be voting for medical care and shelter for homeless veterans, housing and associated services for the elderly, programs for the homeless and low-income households, urban development action grants for economic development and job creation, and EPA construction grants to keep a clean environment in all our districts.

Mr. Chairman, I say to the Members of Congress that the choice is clear: adequate housing or super amounts of money for the space industry. Which is our priority? Let us ensure that the Members of Congress today, on June 22, send a clear message to our constituents across America that our needs on this planet regarding housing will be met by the 100th Congress.

Mr. BOLAND. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Texas [Mr. ANDREWS].

Mr. DREIER of California. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Chairman, I thank my friend, the gentleman from Texas, for yielding.

Mr. Chairman, I rise in strong opposition to this amendment and in support of the space station.

Mr. Chairman, I rise in opposition to the Schumer amendment to transfer $400 million from NASA R&D to HUD and homeless programs.

First, I want to commend the Appropriations Committee for making the space station program a high priority in this legislation. The space station will provide a permanently manned presence in space and contribute to the development and utilization of diverse scientific capabilities. The United States must remain competitive in space and cannot afford to fail in obtaining the technology and knowledge derived from a strong civilian space program.

It seems to me that this amendment simply trys to exploit the strong sympathy in this Chamber for the poor and homeless in an effort to undercut our Nation's space program. The amendment would increase funding for homeless programs by $83.4 million at a time when current funds are so poorly spent. New York City spends an average of $1,900 a month to put up a family of four in a welfare hotel, and half of that money comes from the Federal Government. Many of these welfare hotels are nothing more than havens for drug dealers, dope addicts, and alcoholics.

The amendment would also restore $150 million for UDAG grants. The UDAG Program is by far and away the worst pork barrel program ever conceived by Congress. It does nothing to help the poor. Rather, it is a wasteful giveaway program that simply provides free money to wealthy developers of hotels and shopping centers who would not be considered "needy." The Appropriations Committee was right to zero out funding for the program, and it is ludicrous to consider taking funds away from our economic future and wasting it on giveaway programs such as UDAG.

Mr. Chairman, the Schumer amendment would do nothing to address the plight of the poor and homeless problem in this country. Rather, it would only contribute to the demise of our civilian space program, and inhibit scientific advances in medicine, transportation, communications, energy, and industrial productivity—things that will help to eliminate poverty and improve our Nation's standard of living. I strongly urge my colleagues to defeat this amendment.

Mr. ANDREWS. Mr. Chairman, let us be clear about what this amendment does. It chokes the space station, and then it kills it. It turns the program into nothing more than a paper exercise.

Twenty-five years ago our country competed with only the Soviets in space, and today we find ourselves in international competition with not only the Soviets but the French, the Chinese, the Japanese, and the Russians.

We are behind, Mr. Chairman. We are not No. 1 in space in 1988. The way out of this dilemma, the fundamental goal that should drive this program will be by the engine of the space station. That is the way we can get there.

We stand on the precipice of some of man's greatest discoveries in outer space, discoveries that may find the cure to cancer, discoveries that may explore the farthest reaches of our universe. Never before have we stood at the edge of such great opportunity and challenge.

I ask the Members to be clear about their vote today. A vote for this amendment kills the space station and stops our space program in its tracks. I urge every Member of this House not to try to balance housing versus space but to recognize what the fundamental goal of the space program is and get it back on track and move it forward into the next decade.

Mr. Chairman, I ask the Members to vote against this amendment.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, if we can create places for Americans to live in space; what about homes for American families here on Earth?

Twenty-five years ago, an American President challenged this country to open a new frontier in space.

But no one, no one who stood for that grand and noble dream ever thought that it would be financed at the expense of the very poorest and most vulnerable people here on Earth.

Let's not take a proud agency and make it battle for dollars with the homeless people of this country.

We are bound by conscience and compassion to side with those who need us most.

If we are to explore the heavens, the new worlds we discover must build on the foundations we lay here on our own planet Earth.

When 23 percent of our children under 6 are living in poverty;

When 300,000 families roam our city streets and highways in search of a place to call home;

When a million individuals crowd into shelters every winter night;

When countless others huddle in doorways, subways, and cars by the roadside, then we are building our dreams for the future on shaky, uncertain soil.

Those who would explore the stars should not forget those, who must live under the stars and under the storms of hardship. They look to the stars in anguish, asking why they must suffer so that satellites may fly overhead.

Invest in our future. Invest in our people. Vote to fund the homeless progam with the money it needs.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, this is an occasion for tough choices. Nobody enjoys the choice that is being put before us, but the choice is quite clear.

We are faced with a cut in programs for housing and community development. This is a cut of $200 million. This means the elimination of the Urban Development Action Grant Program in my district. Today we are building almost 300 2-family homes with UDAG funds, and those kinds of programs will no longer be available.

We are talking about cutting programs to house people who are homeless now in our streets. We are not talking about cutting the NASA Program. As has been said over and over again, a 15-percent increase in R&D funds will remain after this amendment is adopted, and a 16-percent increase remains in the NASA budget overall.

□ 1500

Since 1981 assisted housing has lost 70 percent of its funds on a nominal basis and even more in real terms while the NASA budget has increased 96 percent. This is not starving the future. This is not choking off technological development. This is plain fairness in terms of priorities.

Mr. Chairman, the people of this Nation need housing assistance now. They are going to get assistance in terms of the long-term research and development in the NASA budget when this amendment is passed, but, if this amendment is defeated, the opportunity to respond to the housing crisis and to build our cities which are so much in need will be lost.

This House should do its duty on this amendment. It should see to it that the homeless and those in need in our urban areas are not cheated because budget choices are tough. The committee has certainly struggled hard, and we would all prefer the choices could come from other programs, but this is the choice we have and the choice we need to make.

Mr. BOLAND. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. BOLAND] for yielding this time to me.

Mr. Chairman, this is a moment the Members of the House of Representatives will long remember. Perhaps it does not have the drama of Alan Shepard's ride or it is not a moment in history as Apollo landing on the Moon, but it is a moment of real importance for this country because, after a decade of debate and 1 billion dollars' worth of preparation, it is now time to decide whether the United States will build a space station. Indeed, it is time to decide whether or not America has a future in space at all.

Make no mistake about it. Adoption of the Schumer amendment is an end of the space station, not a cut, not a reduction, not a proposal for a smaller station. It ends the chances of a permanent American presence in space, and the implications are profound.

For 10 years the Soviet Union has been advancing on America in space. If we defeat it today, we would be behind.

Mr. Chairman, this is America's technological and economic future. Do not let the country down.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I thank the gentleman from New York [Mr. SCHUMER] for yielding me the 1 minute.

Mr. Chairman, I stand in strong support of the Schumer amendment. The way the debate has been framed today, it is an either/or situation. Either we are going to fund NASA, or we are going to fund programs like homeless assistance, section 202 and UDAG.

My colleagues, that is not correct. What we can do today by adopting the Schumer amendment is fund all those programs.

I find it very hard to believe that with a budget of $10 billion for NASA that, if we cut $400 million today, that we are going to grind all those programs to a halt. That is just not accurate. And to say otherwise I think is just kidding ourselves.

But what do we do? We can fund both and all programs by shifting a small reshuffle of $400 million to continue the UDAG Program which has benefited every one of our communities across this Nation. We can put more dollars into homeless shelters. The homeless assistance was cut by this subcommittee by some $89 million, less than the recommendation of the Housing Subcommittee.

Mr. Chairman, we can restore that today, and I ask the Members to do all these programs by adopting the Schumer amendment.

Mr. BOLAND. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, a couple of weeks ago I was prepared to come in and offer an amendment to this bill to increase the $10.7 billion provided for NASA by at least another $300 million. I intended to do so because $10.7 billion is the absolute rock bottom minimum required to maintain, not a healthy space program, but a minimal space program. And I know that the Senate in their wisdom is probably going to come in with a figure lower than the 10.7. It could be as low as 10.2.

No chairman, no matter how persuasive, going to conference with a 10.2 Senate budget is going to come up with the full 10.7, which is the minimum required for vital space programs to survive. However, the longer I have looked at this situation the better Chairman BOLAND's figure looks, and I am now here to enthusiastically support that $10.7 billion budget for NASA.

For 15 years I have watched the NASA budget go down in real terms. Despite the gross figures cited by a previous speaker today in real terms the NASA budget is about half what it was in 1970.

The Soviet space budget in the meantime has gone up at a steady rate in real terms of 2 to 3 percent per year. Today we face a situation where we are not even credible competitors in the global space race, and the countries of Europe, and Japan and Canada are more and more looking to the Soviets as a partner for cooperation in order to achieve their own goals in space.

Mr. Chairman, that is intolerable. This is the Nation which should be the preeminent space nation in the world, not only for the sake of prestige, and goodness knows we need enough of that, but because, as the gentleman from New Jersey, Chairman ROE, said it is absolutely necessary for a healthy U.S. economy which can survive in the global competition in the years ahead of us. If we do not maintain this program at the $10.7 billion level proposed, and I urge the chairman to go to conference with the Senate and fight for it, but, if we do not, this country faces a continued decline in every measurable index of economic and technical excellence.

Mr. Chairman, I therefore rise in strong opposition to the amendment offered by Representative SCHUMER of New York to reduce the funding level for the National Aeronautics and Space Administration in the Housing and Urban Development-independent agencies appropriations.

I commend the supporters of this amendment, for recognizing the essential need to augment budgets of the social and housing programs detailed in the amendment. The administration's policies have clearly taken a heavy toll on these funding areas. But, I must strongly object to my colleague's targetting of NASA for cuts to assist these other programs.

It is a discouraging situation that NASA is forced to compete for funds with other critical programs in the HUD-independent agencies appropriations bill. I agree that the programs earmarked in the amendment are important and necessary. However, I feel strongly that NASA should not be judged alongside these programs. I would hope that the leadership of the House and Senate will seriously consider modifying the way in which NASA is treated in the budget process. It is crucial that NASA's programs be considered on their own merits. To achieve this separation, it may require that NASA be placed in a different appropriations allocation or be given its own budget function in the budget resolution. If we are to have a viable civilian space program, and I believe most Americans want one, then we must stop the perennial debate over houses on Earth versus houses in space. Both are essential to the future health of this Nation.

Mr. Chairman, I believe the common refrain, that we must take care of the problems on Earth before we move into space, is misguided. Our society has benefited greatly from space technology over the past 25 years. Now, as we peer into the future, we see the potential for tremendous economic and social benefits from space never before imagined. Space science and development has become a pillar of the Government's activities and is not something which should be jeopardized. The less than 1 percent of the Federal budget which is spent on the civilian space program is a small price to pay for the wealth that program's developments return to society.

The tradeoffs represented in the Schumer amendment are particularly disheartening. By providing some additional housing and homeless funding for the near term, we risk future economic growth. It must be made clear that NASA's state is highly unstable. Lack of funding from Congress will have a ripple effect throughout the entire agency. This lack of support on our part will translate into a less enthusiastic public support, and will continue the spiraling decline of the American space program. If we are ever to emerge successfully from the ashes of the *Challenger* disaster, this Nation must recommit itself to a responsible space program. The amendment before us today does not represent such a commitment.

Although $400 million in reductions for NASA may seem like a reasonable cut, we must understand that NASA is already functioning at the budget margin. Such a cut would have damaging effects on critical ongoing space projects. Among those programs that could be canceled by the amendment are the Mars observer probe, the Hubble space telescope, planetary missions to Jupiter and Venus, the upper atmosphere research satellite, and the advanced x-ray facility. The National Aerospace Plane and the Pathfinder Technology Development Program will also be at risk.

In addition, the space station will be either significantly delayed or cancelled. We must bear in mind that the United States is a partner with other nations on the Space Station Program. Cancellation of the space station would have a devastating impact on U.S. foreign relations. Besides being a foreign relations tool, the space station is critical for the development of mankind's future activities in space. The benefits from microgravity research hold promise for pharmaceutical and materials breakthroughs. the potential in medical science and manufacturing could forever change the way we live on Earth. We should be careful not to delay or jeopardize such a mission. We should not wait until tomorrow to build a space station; we should start building it today.

Mr. Chairman, my colleagues certainly recognize the importance to our Nation's future of maintaining a healthy civilian space program. The Schumer amendment poses a direct threat to the viability of our Nation's space effort. I urge my colleagues to support NASA by voting no on that amendment.

Mr. BOLAND. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Michigan [Mr. TRAXLER], who will be chairing this committee and will have the problems next year.

Good luck to you.

Mr. TRAXLER. Mr. Chairman. I thank the gentleman for yielding this time to me, and I regret we will probably have the problem next year.

Mr. Chairman, I rise in support of the bill in opposition to the amendment, and I join in the very fine remarks by the distinguished gentleman from New York [Mr. GREEN].

Mr. BOLAND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I, of course, oppose the amendment, and parenthetically I should be making all the speeches that I have been listening to on the Schumer amendment as I have been doing for years.

First of all, let me say with respect to assisted housing that we provided every dime that the authorization permitted us to appropriate—$7.3 billion. This amendment is targeted principally to two programs, the homeless program and the UDAG Program. I have been here since the UDAG Program went into effect during the Carter years, and prior to it. That program was funded at $600 million plus at one time. And then we carried it along at about $400 million for a few years and then finally down to just over $200 million in 1988.

This administration over the past 4 years have zeroed the entire amount. And so we have to make a determination on what are the real priorities here. Oh, we could have cut CDBG, the Community Development Block Grant Program, but we raised that to $3 billion.

Can my colleagues think of the protests that would have been raised by the mayors or the Governors if we took it out of that program?

So we were faced with further reducing budget authority by $440 million—a very difficult task as the gentleman from California [Mr. BROWN] has said. When we go over to the Senate, we will have to face an even lower allocation—about $650 million in budget authority and $280 million in outlays.

How will we do it? I do not know. We are going to fight for whatever we can get over there.

What have we done for the homeless? There is over $300 million in this bill for the homeless. Granted, about $114 million is included for the FEMA emergency food and shelter program, which is a very important program. This committee has carried that homeless program since its inception.

And I back off to no man in this critical area of homeless programs. I can understand the feelings of those offering the amendment. I share the same feelings.

What does this bill do for the homeless? For the Emergency Shelter Program there was no request. We put in $65 million. They want to add another $48 million.

For the supportive housing demonstration program, $75 million was requested. We increased it by $10 million.

The FEMA emergency food and shelter program had $80 million requested. We put in $114 million.

Another of the programs that we are concerned about, congregate services for the elderly had no request. We provided $5.4 million.

And then there is the section 202, elderly and handicapped program, that this subcommittee is totally responsible for. We are the ones that crafted that program as a nonprofit program so that nonprofit organizations and associations could benefit from it without having to compete with developers. What did we do with that? We added $128 million for that. The gentleman's amendments would add another $40 million to it.

□ 1510

For VA homeless assistance, we added $5 million. The total VA budget is $28 billion plus, and we put money in there for the homeless. We also put money in there for the AIDS Program.

We could have taken more money out of EPA's Construction Grants Program. I guess it would have been easier to do that. But, I think we have another place to go here. We have to walk across this building in another couple weeks to conference with the other body, and we have got to prove that our particular numbers are the ones that should be adopted.

I would love to fund UDAG. But it reminds me of 1981 and the Revenue Sharing Program. Everybody thought that the sky would fall if we cut the State Revenue-Sharing Program. We knocked out the States in 1981—$2,200,000,000. We came along 6 years later and we took it away from the cities and the towns. There were about 39,000 governmental entities in the United States participating in that program, and it was abolished.

So the sky is not going to fall. Somewhere along the line maybe UDAG will get restored. I would love to be able to support it. I have supported it over the years and done the best I could. And this subcommittee has supported it.

I do not quarrel at all with the Members proposing this amendment. I know what the Banking, Finance and Urban Affairs Committee has done over the years, but I think you will have to admit that the housing programs, prior to this year and a couple years back, were carried solely by this committee. I do not brag about it. It was something we ought to do and we have done it. I think we have made a real effort to do the best we can with the dollars we had to work with, and not just here, but on the other side of this building, as well.

So again, as I say, I carry no brief and I carry no alarm for those who offer the amendment. But I do hope that this amendment is defeated.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Chairman, I am here to speak in favor of the Schumer amendment, particularly the $150 million that is in there for UDAG, down from more than $200 million last year, down from almost $700 million in years gone by.

Now, I have heard here today innuendoes about grab bags and abuses of UDAG, and really, we ought to talk about what we know something about.

Let me tell you what UDAG has done for the mecca of South Carolina, the mecca of the United States, which, of course, is Charleston. For those of you who have not been there, before you die you really need to make a pilgrimage.

Ten years ago the center of the city of Charleston looked like the Charleston of 1865 after 2 years of Federal bombardment. There were vast areas there, acres and acres where weeds were growing in the vacant lots and around them the stores were vacant. There was nobody there. Business had just gone to pot.

A very progressive mayor came into office and he was determined to do something about rebuilding Charleston. We spoke with developer after developer, but we could not make anything work. There was no bottom line because of special conditions, particularly the great expensive pylons. We could not build the buildings and make things economically work, and then they discovered UDAG.

Let me tell you what UDAG has resulted in rebuilding the heart of the city of Charleston. Over a period of years we have received $25 million.

Now, I know in some of the greater areas that is not a great deal of money, but it is a heck of a lot to us down there in South Carolina. That $25 million has leveraged into more than $150 million in new private investment and has resulted in over 3,000 new permanent private sector jobs.

So when you make your pilgrimage down there look with pride on what the Congress has done for us.

Mr. Chairman, I take heart in what has been said. Do not yield to any man and do not yield to any other body. Are we not the body of the people, having to face them every 2 years?

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I rise in support of the Schumer amendment.

Mr. Chairman, I rise in support of the Gonzalez-Schumer amendment. I do so reluctantly, because I am well aware of the vital role Chairman BOLAND has played in protecting our Nation's housing programs from the Reagan budget ax.

With the presence of Goddard Space Center, the Johns Hopkins Space Telescope and other such institutions, Maryland benefits greatly from NASA projects. For its part, NASA benefits from the important work of Marylanders on our Nation's space projects.

Baltimore has undergone a dramatic turn around in recent years, largely due to the public-private partnerships facilitated by community and urban development programs run by HUD. Because of these programs, Baltimore now has the beautiful new Inner Harbor that attracts tourists from throughout the country and provides jobs for citizens throughout the city.

Yet, this growth and success has not helped everyone. Many Marylanders still need a decent job and a place to live. Perhaps the most striking example of this is the fact that up to 1,700 people are homeless on any given night in Baltimore. Baltimore would have to double its public housing stock in order to accommodate all the families on its assisted housing waiting list.

The housing and development programs aided by this amendment will provide the jobs and the housing so desperately needed in Baltimore and throughout the Nation. During the Reagan administration assisted housing has been cut by 75 percent. No other program has endured such a drastic share of the deficit reduction burden. The Gonzalez-Schumer amendment allows us to provide some more money for our Nation's needy while still allowing for a significant increase in NASA funding.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York. I believe it is more important to use the limited amount of funds we have available to respond to the basic needs of those whom we represent than to set money aside for a project to which Congress is not ready to make a commitment. That is the course which has been taken with the superconducing super collider and it can be applied to all other projects which will be subject to the will of a new administration.

I don't think anyone here needs to be reminded that the lack of affordable housing is reaching epidemic proportions as its impact is increasingly being felt by all facets of society—families with children now make up almost 40 percent of the homeless population, the homeownership rate among young adults has dropped nearly 10 percent since the late 1970's, and the waiting lists at local housing authorities are growing. The Neighborhood Reinvestment Corporation recently reported that at the rate we are going, in 15 years the homeless population will equal the combined populations of Detroit, New York City, Houston, Chicago, Philadelphia, Dallas, and Los Angeles. It is time for Congress to act on, rather than just study, these figures.

In March of this year, the National Housing Task Force, established at the request of Senators CRANSTON and D'AMATO, issued its report, "A Decent Place to Live." In it the task force states:

> Recognition of the housing conditions and needs of the American people must be followed by action * * * The first step is commitment * * * We need a renewed federal commitment to capitalize on the private sector's growing body of experience in producing and rehabilitating low-income housing. * * * The combination of effort by * * * public and private entities constitutes a "new wave" of initiative and resourcefulness in meeting our critical housing needs. * * * (However,) what is missing is adequate participation by the federal partner. This 80 percent decline in HUD funds for the new housing commitments over the past decade has hindered the growth of this new system to deliver affordable housing.

Congress cannot deny this fact any further by continuing to cut the funding for HUD and related programs. The private sector, and in particular the nonprofits, has responded admirably to the service gap which has resulted from the Federal Government's withdrawal of support for urban programs.

We are now in a position to capitalize on the expertise which has developed at the local level. We can begin to do that by making the funding earmarked by this amendment available to the Federal agencies which work with those local groups. I urge my colleagues to support Mr. SCHUMER's amendment.

Mr. BONKER. Mr. Chairman, I rise in strong support of the amendment that my distinguished colleagues, Mr. GONZALEZ, Mr. SCHUMER, Mr. BRUCE, Mr. MORRISON, Mr. ROYBAL, and I bring before the House today. I challenge my other colleagues to listen to this debate and to vote on this amendment on its merits and on how your constituents would wish you to vote, because I am convinced that this amendment would make good sense to most Americans.

The amendment we offer modifies H.R. 4800, the HUD-independent agencies appropriations bill, by shifting $400 million from the National Aeronautics and Space Administration [NASA] to several housing, health care, and environmental programs. Our objective is to restore a modest portion of the funds that were cut from several crucial HUD programs, and EPA construction grants, and to provide additional funds to several underfunded programs including Veterans' Administration medical care and the McKinney Act Homelessness Programs. The Appropriations Committee cut or underfunded these programs substantially to provide for a massive increase of $1.8 billion for NASA.

Mr. Chairman, our amendment does not create new programs, and it does not provide funds over the authorized levels of these programs. It simply reflects several of our top priorities, and it does so with a very modest approach. Today's floor debate gives those of us on authorizing and oversight committees an opportunity to question the extreme and unwarrantable cuts that have occurred in certain programs and inadequate funding for several other programs. This is the House's chance to improve on the Appropriations' Committee work, so that we can vote on a product that the majority of us can feel good about in light of our severe budgetary situation.

I do not believe that the Appropriations Committee priorities fully reflect those of the American people or the majority of my distinguished colleagues. The committee chose to cut millions from housing and services for the poor that are needed now more than ever, particularly in the wake of the Reagan administration's cuts. At the same time, H.R. 4800 would increase the budgets of several programs including the whopping $1.8 billion increase for NASA. Make no mistake about my intent. I strongly support NASA and its research and development programs. But, as the chairman of the Select Committee on Aging's Housing and Consumer Interest Subcommittee, with oversight responsibilities for housing for this Nation's low-income older Americans, I can not stand by while very successful and needed programs are sacrificed for NASA programs.

If Congress would like to give NASA a $1.8 billion increase let's do it without cutting programs for the poor—that is not a reasonable trade-off. Before we continue our dreams of conquering space, let us act on the dreams of millions of poor Americans to have a decent and safe place to live here on Earth. We can not house the poor and homeless in outer space. And although space exploration is very important, we should be looking elsewhere for funds—not taking it from housing for the poor, EPA construction grants, and medical care for veterans. And besides, our amendment leaves an increase of $1.4 billion for NASA.

Mr. Chairman, our amendment is not complicated. We have identified several programs that were either cut or underfunded by the Appropriations Committee and we will add to those programs modest amounts. Let me discuss briefly why this amendment is fair and necessary.

First, I am a charter member of the House Select Committee on Aging, which was formed in 1974, the year that I was elected to the House. Since 1983, I have chaired the Aging Committee's Subcommittee on Housing and Consumer Interests. The subcommittee has a long-standing record of putting the spotlight on the section 202 program for the elderly and handicapped and the Congregate Housing Services Program [CHSP]. The section 202 program is the primary federally financed vehicle for constructing subsidized rental housing designed for the elderly and disabled. It is one of the few production programs that have survived the past 7 years, albeit on a limited basis. But 202 has also been under constant attack from the administration and has been cut by about 45 percent. Last year I worked with Chairman BOLAND to restore 1,000 units of 202 that were cut in subcommittee for fiscal year 1988, but we still suffered a 1,000-unit cut.

This year I testified before Mr. BOLAND'S subcommittee in an effort to provide the necessary justification for 12,000 units of 202, which would have cost less this year than 11,000 units cost last year because of the repayment of current 202 loans. Unfortunately, I was told that there was no room in the subcommittee's allocation for 12,000 units or even last year's level of 11,000. I believe there was plenty of room in the allocation for the elderly and handicapped and last years levels for all worthy programs should have been addressed first.

Therefore, Mr. Chairman, the amendment that we offer restores a small amount of the $149 million cut that 202 took in subcommittee from last year's budget authority level. We add back $40 million which will provide for 790 additional units in fiscal year 1989. This will give us a total of 10,290 units for the elderly and handicapped—still a cut of over 700 units from last year.

The amendment also adds $1.6 million for the Congregate Housing Services Program [CHSP] for a total of $7 million, to match the amount in the Senate appropriations bill. The CHSP Program has proven extremely successful as a long-term care option by enabling frail older adults and the disabled to remain in public housing and section 202 sites instead of being institutionalized. I have conducted a number of hearings on CHSP in the effort to make it a permanent part of our housing policy, and the housing authorization bill of 1987 did just that. Now it is time to allow the program to add a few new sites, and this can be done with the small increase that the amendment includes.

Mr. Chairman, another area that this amendment addresses is the homelessness crisis in our Nation. Last year, Congress took a giant step forward in admitting that we have a problem, and a responsibility to assist the homeless women, children, and men in our society, regardless of which unfortunate path led them to our doorsteps and sidewalks. The McKinney Act has the potential to make life more livable for homeless persons and to bring these Americans back into the mainstream. But without the necessary money, it is simply an act without a true commitment from Congress.

This amendment to the HUD appropriations bill will add $83.4 million to shelter programs for the homeless, and this still leaves us $43 million short of the authorized level. So until we have given every homeless individual and family the opportunity to have safe, decent shelter, and the possibility for a permanent home, there are those of us who will keep coming to the floor to seek fairness for those in need; we intend to keep the great needs of the homeless on our colleagues' minds.

Mr. Chairman, our amendment also provides funding for the flexible housing subsidy fund, EPA construction grants, and medical care for homeless veterans. These are priorities to me; they are worthy programs that serve severely needy people and communities. Other Members offering this amendment will speak about these programs.

I urge my colleagues to think about our duties as Members of this body. We are not simply a rubber stamp for every appropriations bill that comes before us. We have the right and obligation to make legislation better. I would like to do more but we have come up with a modest, reasonable amendment, and I hope that the House will support it overwhelmingly.

Mr. BRENNAN. Mr. Chairman, I will support Representative SCHUMER'S amendment calling for a $400 million shift in funding from NASA research to assist housing programs, environmental protection, urban development, and our veterans. Representative SCHUMER'S amendment attempts to assist programs that I find are an essential government function. In fact, I first became involved in public life to help individuals who are the recipients of these important programs.

As someone who realizes there are many benefits to further space exploration, I support a reasonable amount of funding for NASA. The many achievements our Nation has accomplished over the years in space and scientific technology breakthroughs are impressive. Despite the transfer of $400 million from NASA research to seven other housing and development programs, our NASA research budget will increase 16 percent. We all realize a 16-percent increase in funding during these austere budgetary times is quite an accomplishment. I am confident our goals in space can be met, even if the full $400 million addition in funds is transfered to housing and developmental programs.

This amendment calls for some $70 million being added to housing programs which are designed for elderly and handicapped housing. I am sure Maine residents are acutely aware of the pressing housing problems confronting many individuals who seek affordable and dependable shelter. While the need to explore the heavens is real, there is a priority on Earth to make adequate housing available to our handicapped and elderly citizens now.

In the past 7½ years, funding for housing has declined roughly 70 percent. This amendment attempts to restore some of the drastic reductions which have occurred in housing and developmental programs. Our Government is about making choices in Federal spending. Today, I will cast a vote which chooses to give priority to elderly and handicapped housing programs and still give NASA research a healthy increase. I urge my colleagues to join me in supporting essential housing programs by voting yes on Representative SCHUMER'S amendment.

Mr. MFUME. Mr. Chairman, to my great disappointment, H.R. 4800 does not appropriate any funds for the Urban Development Action Grant [UDAG] Program for fiscal year 1989—in spite of the efforts by me and others in the House who recognize the importance of maintaining essential and necessary local services. Therefore, I rise in strong support of the Schumer amendment to the HUD-independent agencies appropriations bill.

This amendment increases funding for HUD homeless programs, congregate services, elderly and handicapped housing, and provides funding for the UDAG Program and homeless veterans.

Mr. Chairman, it is necessary to reduce funding for the NASA research and development programs by $400 million in order to provide the funds necessary to sustain the HUD programs. And as we attempt to stay within this year's budget targets, difficult decisions will have to be made. I contend, Mr. Chairman, that this is but a small price to pay to ensure that as while we build space stations in orbit, we may also build houses and provide much needed community services here on Earth.

Many economically depressed cities are unsuccessfully trying to respond to the shrinking dollars available to them. For many communities in depressed areas, UDAG's are the only financial resources available for assuring the life of many essential services such as housing construction. Nationwide, $4.3 billion in UDAG resources has leveraged almost $27 billion in private investment. In addition, the program is credited with generating nearly 540,000 permanent new jobs, and 105,000 units of rehabilitated or newly constructed housing—40 percent has been for low- and moderate-income persons—and more than $600 million annually in local tax revenues over the past 10 years.

In my own district, I have witnessed the success UDAG funds have provided. Since the program's inception in 1978, Baltimore has received 88 grants totaling $114 million. UDAG funds have been able to leverage $484 million of private investment and generate over 8,000 new employment opportunities. Furthermore, UDAG funds have helped to produce 3,600 units of new and rehabilitated housing, a community health center, a supermarket owned in part by a development corporation and many other projects. This is a very important program, and if we elect to kill this program, the shock waves will be felt by communities across the country.

Many of my colleagues insist that this amendment would seriously affect NASA's ability to carry forward with the Nation's space program. In fact, NASA research and development would still receive a 16-percent increase instead of a 20-percent increase, accounting for a total of $1.45 billion. NASA would still be able to move forward with its space program.

Mr. Chairman, there is only one way to vote on this amendment. Vote yes for the Schumer amendment.

Mr. SCHUMER. Mr. Chairman, I yield my remaining time to the distinguished gentleman from Massachusetts [Mr. FRANK].

The CHAIRMAN. The gentleman from Massachusetts [Mr. FRANK] is recognized for 2 minutes.

Mr. FRANK. Mr. Chairman, none of us are happy that this is the choice, but that is the way the Budget Act structures it. I am sure we could find money elsewhere, but where are we today?

Obviously, there are some advantages to the entire country if we continue every aspect of the space program that is now budgeted.

On the other hand, there are crushing, impoverishing, and degrading disadvantages to a relatively small number of vulnerable people on the other side.

The question is whether all of us can sacrifice a little bit.

The gentleman from New York said, "Where are we going to give it up?" It is costing us $8 million a month already to store a telescope.

Well, it is not the fault of the homeless that it is costing $8 million to store a telescope. It is not being stored in a homeless shelter.

The gentleman says, "What would you cut?" Well, I would say if it meant slowing down the progress, and we are talking about slowing down progress, people say, "If you don't give us the money right here and now we will never ever have it again." Most of us have said that and none of us believe it. We are always exaggerating the impact of holdbacks.

These projects which are pronounced dead when they get a cut are the Phoenix's of all time. They are reborn. Resurrection is a major industry around here with projects which get a short cutback; but there is no way to give back to a 3-year old child the months and years of his or her life spent in homelessness, and that is the choice. I wish it were not, but that is indisputably the choice.

Do all of us benefit some by going to Mars and Jupiter and Venus this year, or do we say we will put off Mars, Jupiter, and Venus, so that the crushing burden of homelessness is a little bit lessened?

I forget the French philosopher who said that the rich and poor alike have the right to sleep under the bridges. Well, under this program, the homeless have a better shot at enjoying the space program. They can wake up in the middle of night and see the stars twinkle, but it is no comfort.

We have people in this society who do not have enough basic sustenance, and I say if we have to have all of us sacrifice a little bit by a form of delay, let us not turn it down.

The gentleman from Massachusetts is correct. In every instance he was more generous than the requests, which came from the Reagan administration, which begrudged every nickel they ask for, and asked for too little in the first place. He has done an excellent job up until now and it is not of his choosing that we have the choice, but we have it.

Innocent 3-year old children, elderly women, frightened by the neighborhood they live in, deprived of decent living surroundings, they are on the one hand and getting to Mars and Jupiter and Venus right away, rather than waiting a little while, is on the other.

Some of you will come to us and have come to us on the Housing Committee and said, "I've got housing developments in my district and the poor people are being kicked out because of the way those programs work."

Well, there is money in this amendment in the flexible subsidy program that will help us deal with them. Obviously, people are free to vote against the amendment, but vote against the amendment and when you then come to the Banking Committee in a couple years and say, "I've got 200 people being kicked out. What can you do about it?" The answer is, "We will give them a good brochure about the trip to Mars, Venus, and Jupiter," because there will not be any money here to help them.

None of us are happy about this choice, but it is before us. Some of the most helpless and vulnerable people in this society are on the one hand, with many fewer votes and many fewer contracts and much less clout, and getting to Jupiter, Venus, and Mars in a hurry is on the other.

I hope it will not be taken as any disrespect to the believers in astrology who are in this city if we put the heavens a little bit on hold and we say to the desperately poorest people in this society, all of us will sacrifice a little bit, all of us will wait a little longer so that your desperate misery and poverty will be relieved some. I think that is the choice the Schumer amendment represents.

The CHAIRMAN. All time has expired.

The question is on the amendments en bloc offered by the gentleman from New York [Mr. SCHUMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SCHUMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 256, not voting 9, as follows:

[Roll No. 196]

AYES—166

Applegate
Atkins
AuCoin
Bates
Beilenson
Bereuter
Berman
Bonior
Bonker
Borski
Boxer
Brennan
Cardin
Carper
Clay
Clinger
Coble
Coelho
Collins
Conte
Conyers
Coyne
Crockett
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DioGuardi
Dorgan (ND)
Downey
Durbin
Dymally
Dyson
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fish
Flake
Florio
Foglietta
Ford (MI)
Frank
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gilman
Gonzalez
Goodling
Gradison
Gray (IL)
Gray (PA)
Guarini
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jeffords
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lehman (CA)
Leland
Levin (MI)
Lewis (GA)
Lowry (WA)
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McDade
Mfume
Michel
Miller (CA)
Miller (WA)
Moakley
Molinari
Moody
Morella
Morrison (CT)
Murphy
Nowak
Obey
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Pursell
Rahall
Rangel
Ravenel
Ridge
Rinaldo
Robinson
Rodino
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Saiki
Savage
Sawyer
Saxton
Schneider
Schroeder
Schuette
Schulze
Schumer
Shays
Shuster
Sikorski
Slaughter (NY)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
St Germain
Stangeland
Stark
Stokes
Studds
Synar
Tallon
Torres
Towns
Traficant
Udall
Upton
Vento
Visclosky
Weiss
Weldon
Wheat
Williams
Wolpe
Wortley
Wyden
Yates
Yatron

NOES—256

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Armey
Aspin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bosco
Boucher
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Coats
Coleman (MO)
Coleman (TX)
Combest
Cooper
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Daub
DeLay
DeWine
Dickinson
Dicks

Dingell
Dixon
Donnelly
Dornan (CA)
Dowdy
Dreier
Dwyer
Early
Edwards (OK)
Emerson
English
Fascell
Fawell
Fazio
Feighan
Fields
Flippo
Foley
Ford (TN)
Frenzel
Frost
Gallegly
Gekas
Gibbons
Gingrich
Glickman
Gordon
Grandy
Grant
Green
Gregg
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Jones (NC)
Jones (TN)
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (FL)
Lent
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
McCandless
McCloskey
McCollum
McCrery
McCurdy
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Miller (OH)
Mineta
Mollohan
Montgomery
Moorhead
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Oakar
Oberstar
Olin
Ortiz
Oxley
Packard
Parris
Pashayan
Payne
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Quillen
Regula
Rhodes
Richardson
Ritter
Roberts
Roe
Rose
Roth
Sabo
Schaefer
Scheuer
Sensenbrenner
Sharp
Shaw
Shumway
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Spratt
Staggers
Stallings
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Traxler
Valentine
Vander Jagt
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Whittaker
Whitten
Wilson
Wise
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—9

Ackerman
Biaggi
Boulter
Davis (IL)
MacKay
Mica
Ray
Rogers
Spence

□ 1539

Messrs. ORTIZ, LENT, and McGRATH changed their votes from "aye" to "no."

Messrs. MAVROULES, TOWNS, FLORIO, and SIKORSKI changed their votes from "no" to "aye."

So the amendments en bloc were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, $5,400,000, to remain available until September 30, 1990.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $1,617,508,000.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii), section 106(a)(2), and section 106(c) of the Housing and Urban Development Act of 1968, as amended, $4,500,000.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z-1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, all uncommitted balances of excess rental charges and any collections after September 30, 1988, to remain available until September 30, 1990: *Provided*, That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

AMENDMENTS EN BLOC OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. GONZALEZ. Mr. Chairman, I designate the gentleman from Connecticut [Mr. MORRISON] to offer the amendments beginning at page 2, line 24.

Mr. MORRISON of Connecticut. Mr. Chairman. I offer amendments en bloc.

The Clerk read as follows:

Amendments en bloc offered by Mr. MORRISON of Connecticut:

Page 2, line 24, strike "$389,574,000 shall be for" and insert the following: "$661,024,000 shall be for assistance pursuant to 15-year contracts under".

Page 3, line 7, strike "$1,463,825,280" and insert "$1,192,375,280".

Mr. MORRISON of Connecticut (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the amendments en bloc are not subject to amendment or to a demand for a division of the question.

The gentleman from Connecticut [Mr. MORRISON], as the designee of the gentleman from Texas [Mr. GONZALEZ], will be recognized for 30 minutes, and a Member in opposition will be recognized for 30 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, I would first, since we have just had an extensive debate and a vote on another amendment affecting the housing program as it was funded in this appropriation bill, I want to make it clear that this amendment is internal to the housing program. There is nothing in this amendment that affects the NASA Program or any other program that is funded under this bill. This amendment affects a policy decision as to how the housing resources shall be allocated, and the amendment seeks to renew in this appropriation bill a decision that this House has previously made in how housing resources are to be allocated.

The basic question is to what extent shall we fund long-term dependable subsidies that keep the rents of tenants to 30 percent of their income versus short-term voucher assistance under which tenants are paying 40 and 50 percent of their income, and which certificates are only available for 5 years rather then a 15-year term.

What this amendment would do is transfer funds currently allocated under the appropriation bill to the voucher program, from the voucher program to the section 8 certificate program.

The purpose of rental assistance payments is to keep housing affordable, and it has been the policy of this country as enacted in the Congress since 1981 that affordable is defined as 30 percent of income, and under the section 8 certificate program, the amount paid for rent by any tenant who has a certificate is limited to 30 percent. Under the voucher program, there is no such limit.

The subsidy that the Government pays is based on the assumption of a 30-percent payment, but in fact that is not the case. Payments under the voucher program, payments by tenants, often exceed 30 percent, and in fact research that HUD has conducted under the voucher program has shown that over 50 percent of families using vouchers pay more than 30 percent of their income in rent, whereas 95 percent of the tenants using section 8 certificates have a limitation on the amount of rent that they pay, 95 percent limited to only 30 percent of income. Money that is committed to the voucher program does not ensure affordability. It, in fact, ensures that many who receive this subsidy will pay more than they can afford for their housing.

The purpose also of this amendment is to commit resources for a long term to housing subsidy. Vouchers are available for 5 years. Then they have to be renewed. That means that new appropriations have to be passed.

□ 1550

Under this amendment, funds that are transferred from 5-year vouchers go into 15-year certificates so that those who have certificates and those apartment owners who contract to allow people to live in their apartments using these certificates are making a long-term commitment to affordable housing.

In addition to that, section 8 certificates can be attached to specific units. Up to 15 percent of all section 8 certificates can be committed to a particular rehabilitated unit for a 15-year term. Without this 15-year possibility, we cannot designate section 8 units for the long term to particular units.

Under the demolition and disposition amendment that was recently passed on the House floor there is a provision that would allow the use of section 8 certificates for the replacement of demolished or sold public housing. That was a bipartisan agreement seeking to give the greatest possible flexibility in the replacement of that housing, but doing so in a fashion that ensured that real units of housing would result.

If the appropriation is passed in its present form, unamended, there will not be 15-year section 8 certificates to be made available as an alternative to traditional public housing in the replacement of sold or demolished public housing because the assumption of the bill is that the certificates will be for 5 years also.

When the housing authorization was considered on the House floor, a substitute was offered and the major thrust of that substitute was to use 5-year section 8 certificates instead of 15-year section 8 certificates. The House defeated that substitute and adopted the policy that this amendment represents.

This does not take money from other programs, but it sees to it that the housing investment is for truly affordable housing and for a long term and gives flexibility to the use of these certificates in conjunction with real housing units. I think this policy is preferable. I think this policy is one that this House has already adopted, and I think this amendment is one that ought to be supported.

I reserve the balance of my time.

The CHAIRMAN. Is there a Member who wishes to speak in opposition to the amendments?

Mr. BOLAND. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, I yield 15 minutes to the distinguished gentleman from New York [Mr. GREEN], the ranking minority member of the subcommittee, and I ask unanimous consent that he be allowed to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. BOLAND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Connecticut [Mr. MORRISON]. This amendment would increase the funding for the section 8 existing program by $271,450,000 with an offsetting reduction in the voucher program. The amendment also requires section 8 existing assistance to be provided for 15-year contracts instead of 5-year contracts.

The effect of this amendment would be to reduce the total number of incremental units provided by approximately 17,000. It would reduce the number of section 8 existing certificates from 12,938 to 7,318, a loss of 5,620 units.

The amendment would also reduce the number of voucher units from 50,000 to 38,792, a reduction of 11,208.

As the report of the committee stated, the committee regrets that because of continued budget pressure it had to recommend that 12,938 existing section 8 units be allocated on the basis of a 5-year contract term. The committee recognizes that this departs from the longstanding concept of a 15-year term which we have supported over the years.

The committee does not view this change to a 5-year contract term as a precedent for the future, and I am sure somewhere along the line the gentleman from Connecticut would agree that the contract length could be restored to 15 years. But the simple answer in opposing the amendment is that it would actually—it would actually cost about 17,000 units of assisted housing.

Looking at the table on page 7, the existing voucher program carries 12,938 units. The cost of that is $389,574,000 for the 5-year period. To increase that period to 15 year—we would have to multiply that figure by 3, which comes to over a billion dollars.

So we are faced with a budget problem here, and I can understand the position of the gentleman from Connecticut. But my position is that because of the budget crisis we face we had to take this kind of action.

I am sure that the 5-year terms will not last, and I am sure that there will be an adjustment probably next year or the year after. But the fact of the matter is that if we go to a 15-year period, as the gentleman from Connecticut wants, there is no way in the world that we can maintain the number of units at the 12,000 plus carried in this bill. There would be a reduction of approximately 11,000 in the voucher program and better than 5,600 in the existing 8 program.

So on that basis, Mr. Chairman, I am forced to, I must say with great reluctance, I am forced to oppose the amendment of the distinguished gentleman from Connecticut.

Mr. GREEN. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA], the ranking minority member of the Housing and Community Development Subcommittee.

Mrs. ROUKEMA. Mr. Chairman, I doubt I am going to need 2 minutes, but I want to rise in support of the statements of the chairman of the subcommittee just made and in opposition to the amendment.

The practical effects of this amendment, to summarize again in other terms what the chairman has just said, is to reduce, reduce the number of units to low-income individuals, and by my calculation that would be somewhere between 10,000 and 12,000. The chairman has said something in the vicinity of 15,000. In any case, whether it is 12,000 or 15,000, that is a substantial reduction in units.

By changing the contract terms for section 8 certificates from 5 to 15 years, we would be serving 10,000 fewer low-income individuals. That is the bottom line and the consequence of this amendment, and therefore I oppose it.

Mr. Chairman, I want to state again that the chairman and the ranking Republican member in this instance, using very austere budget numbers, have done the very best they can with a difficult task of spreading funds to satisfy a number of differing priorities. Some of those priorities I do not even agree with. For example, the funding of the Nehemiah Program, I do not agree with that. But let us not further complicate the problem by further reducing the number of units. The issue is not 5 years or 15 years, the issue is the number of units that are going to be funded next year, and that clearly, as the chairman said, is substantially lower.

I urge a "no" vote.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER.]

[Mr. SCHUMER addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. GREEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do realize this amendment is inside baseball among those of us who are heavily involved in housing issues here, and I can understand why those of our colleagues who are not so involved are a little frustrated about what is a bit of a technical discussion. Essentially the gentleman from Connecticut has aptly described the difference between the two programs, the voucher and the certificate.

What is critical from my point of view today is that the certificate program requires 15 years of budget authority; the voucher program requires only 5 years of budget authority. We are right up against our budget authority ceiling. Plainly, therefore, we can fund more people if we go with the 5-year program instead of the 15-year program, because the budget authority per unit is a good deal less.

So what the Appropriations Committee elected to do was to go for the shorter timeframe in order that we could help more people, and the number is 10,000 to 17,000 more households, depending on just how HUD should play around with this, if the amendment should pass.

Frankly, I urge the House to go with the Appropriations Committee on this. The bottom line is that we shall be helping 10,000 to 17,000 more households.

It is true that we are going to have a problem in the years ahead on expiring housing subsidies but this amendment is going to be very small potatoes compared with the overall problem that we are going to have in dealing with these housing programs over the years ahead, as my colleague, the gentleman from New York [Mr. SCHUMER] has just indicated. It woud seem to me, and it has seemed to our subcommittee and the full Appropriations Committee that, given the kinds of housing pressures we face in this country, and they were very well stated by the proponents of the previous amendment, we ought to do what we can to get the maximum bang for the buck right now. That is what voting "no" on this amendment and sticking with the Appropriations Committee does.

□ 1605

Mr. MORRISON of Connecticut. Mr. Chairman, I yield 8 minutes to the gentleman from Texas [Mr. GONZALEZ], the chairman of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Chairman, I rise in support of this amendment because, as has been pointed out, there should not be any question here of fights for control of certain segments of the budget and the money outlays from programs that every one of us favor, as compared to other programs that every one of us favor. This is, as has been described, an inherently authorization matter in the substantive law known as our housing statutes. And I think that if we can just simplify the discussion by point-by-point analytical and simple nontechnical jargon, that we can understand the issue and I think reasonably minded colleagues will agree with us.

In the first place, I know that these terms, this jargon in the housing field and in legislation, do confuse us.

Section 8 certificate as compared to, say a voucher. Section 8 certificate, poor families are required to pay now 30 percent of adjusted income for rent. Now there is a history in that, itself. The time-honored percentage was 20 percent. Then finally came the Brooks amendment, some 15 or so years ago in the Senate and the net result was 25 percent of income.

Then came reconciliation, in 1981, where the House or the Senate never voted on a percentage incremental increase in the ratio of poor family's rental as compared to income.

So that when we did have a direct vote, incidentally, on our appropriation bill last year and 2 years ago, the House voted overwhelmingly to reduce from 30 percent to 25 percent.

So that with a section 8 certificate poor families are required to pay 30 percent of adjusted income for rent. With vouchers, HUD research has shown over 50 percent of those families pay over 30 percent of their meager income for rent and 11 percent of voucher tenants pay more than 50 percent of their income for rent.

Point two, with a section 8 certificate the local housing authority must apply rent-reasonable tests to assure assisted units do not have excessive rents. With a voucher, local housing authority has no power to negotiate rents to assure fairness.

Third point, HUD research itself has shown that because each voucher payment has no relationship to rent charged in the unit, the average Federal subsidy payment is more expensive under the voucher program than under the section 8 existing program.

Now this point is stressed in the committee report to accompany this bill. On page 5 it says:

> The Department has indicated that the only real difference in the cost of section 8 vouchers versus section 8 existing units has been the difference between the contract length of 5 years compared to 15 years. However, in reports submitted to the committee and in testimony presented before the committee, there are indications that the section 8 voucher program may actually be experiencing higher costs than the section 8 certificate program.

So that this argument is specious that the budgetary outlays is going to be excessive with the certificate, 15 years as compared to the 5-year vouchers. Not only will it be false economy and more costly to the Congress and to the taxpayers that we represent, but it will be a very difficult program to administer efficiently.

HUD has shown that vouchers cannot be used in project-based contracts. So it cannot be used to induce landlords to improve their property by borrowing funds to rehabilitate the structure.

Up to 15 percent of section 8 certificates can be used in this way. It is a very valuable rehabilitation tool available to this 15-year certificate.

The 1987 Housing Act permits public housing units to be demolished or sold only if they are replaced by new public housing units or 15-year certificates. We need 15-year contracts to assure housing will be available over long periods to tenants when a permanent housing resource like public housing is demolished.

And I might say that just in the last 3 years, the total stock of available housing for the poor, not even the moderate or the low income, but the poor, has diminished, has decreased; the total volume of housing stock available to the poor has decreased 35½ percent. No wonder we have homelessness, because we can, in our safe, comfortable environments, in our nice air-conditioned—and in time of winter, heated—homes, we can say, "Who has a problem?" Well, let me tell you right here in this Nation's Capital, just walk right across the expressway and you will see how we are forcing Americans to live who cannot afford to even live as the best sheltered dog kennel can afford the poorest mongrel.

Now I think that is wrong. I think where the Congress has devised these programs that we should not subordinate them or liquidate them, in effect, in the name of false economy because the committee itself says that it is most costly to go through the 5-year voucher program than it does on your 15-year section 8 approach.

From the beginning of the program in 1974, the law has permitted the contracts to be for 15 years. It is important that housing authorities that receive an allocation of section 8 assistance know that they can rely on continuing Federal assistance over a substantial period of time. Landlords are more willing to participate in the program and house poor families when they know the subsidy period will extend beyond 5 years. Anybody having anything to do with real life out there knows that, he does not have to be any kind of an expert in housing or housing legislation. Fifteen-year contracts provide greater security to tenants. It is very upsetting to elderly tenants and tenants with children to be threatened with termination of assistance under a short-term contract. This is what is happening every minute of the day even as I am talking today.

We are faced right now with elderly and families with children shoved out at the rate, at the rate mind you, of over 1,000 a week with the removal of this housing.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, the gentleman from Texas has made some very important points. I would urge the Members not to treat this as simply a technical battle or a turf battle. There are some very important policy issues here. As others have made clear, this is not similar to the last amendment. We are not trying to take money away from boondoggles and putting it where it is needed. We had our chance to do that and we lost.

We are here trying to affect public policy in a real way.

The gentleman from New York said, I must tell him I think a bit too dismissably, that we will have this problem in 1992 and we are only going to make a small dent in it. Small dents in problems before they fall upon us are very important. If we try to do it all we are told we are doing too much; if we do not try to do it all we are told we are not doing enough to make a difference.

There is no happy medium for when people do not want the result to be accomplished.

As the gentleman from Texas pointed out, comparing the vouchers to the section 8's in sheer terms of numbers ignores the fact that vouchers give you much less help. In some areas of the country, the vouchers make a great deal of sense and they should not be totally abolished. In crowded urban areas, vouchers go begging. Vouchers simply do not work in many parts of this country. In crowded urban areas where economic development has driven up the price of housing, the vouchers do not work. What we have are hundreds of thousands of units of housing that the Federal Government subsidized; economic pressures will take that precious resource away from low income people. What we worked very carefully with on a bipartisan basis last year were policies that would use the combination of carrots and sticks to prevent this housing, 221(d)(3) and 236 and other kinds of housing, from being lost. What the gentleman from Connecticut is trying to do with his very thoughtful amendment because he is one of the most careful students of the law in this regard, as in others, he is trying to leverage the section 8 unit so that we do not lose housing units. A voucher in a crowded urban area which may require you to pay 40, 50 percent of your income is not nearly as much good, even if it was two or three of them, as a unit preserved. We have to get past a period when people will have an option to dispose of these units. What we have said is let us concentrate our resources so that we not only provide housing at a 30-percent level for an individual over a short period of time, but we preserve the unit. We are taking the long view here. In the short term, you will give less help to more people. In the longer term, you will not only give more help to fewer people, you will preserve units and that is something we desperately need to do. I want to repeat what I said before: Colleagues have come to us who are in the housing area and said, "People in my district are being displaced."

We passed a bill that tried to leverage money within existing tight budgetary constraints to prevent that displacement. If you vote against this amendment of the gentleman from Connecticut, I can guarantee you there will be cases where Members here will be confronted with constituents facing eviction and you will have deprived us of the tool to prevent that. So we will not only have that eviction and all its attendant problems, we will have a loss of housing units. This is not simply "x" thousand versus "y" thousand and not simply more substantive protection under the section 8 program and the voucher program; it is part of a program to protect units. And we can save 2,000 here and 2,000 there and being dismissed as saying "well, it does not help to save a few thousand because we are going to move many thousands more," that is the opposite of logic.

We ought to be doing everything we can. We have no one source that is going to save them all.

If you defeat this amendment, it will come home to roost in that there will be years from now, fairly short years from now, less housing units available. And those of us who want to be helpful will be rendered powerless to do so when you are confronted with constituents who are vulnerable, older, low-income people who are about to be kicked out.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this amendment seems like a battle over technicalities. It is not a battle over technicalities as a number of the speakers in support of this amendment have said. This is a policy choice of whether we are going to do the job in housing better or less well. And doing it better is adopting this amendment.

No. 1, on an annual basis section 8 certificates are cheaper than vouchers. The cost to the Government on an annual basis for each unit is greater under vouchers. This gets more bang for the buck.

No. 2, this gets units that are guaranteed for a longer period of time, perserves units and identifies particular housing units that will be preserved.

No. 3, this reduces outlays. Because of the 15-year payout period, the outlays, and therefore the budget deficit, is lower using the option of certificates over vouchers.

No. 4, the situation of availability of more resources for more units, for lengthening the terms of these units, is not going to get better in the foreseeable future.

The pressure of needed housing and on the budget is going to continue for quite a number of years to come.

☐ 1620

No. 5, this amendment within the terms of the budget authority of the Appropriations Committee is budget-neutral. It moves budget authority from one place to another, but, as I said, it reduces outlays and it reduces the deficit.

No. 6, this moves away from a process that has been going on, unfortunately, since 1984, which is to annually increase the number of vouchers while nibbling away at the more permanent lower cost section 8 certificates.

We have moved from 1984, with 54,000 certificates on section 8 and 14,000 units of vouchers, to almost completely the reverse, where we have 12,000 units of section 8 proposed in the bill and 52,500 units of vouchers. It is a penny-wise and pound-foolish approach.

No. 7, vouchers in a tight market lead to rent gouging. When we say that 11 percent of the people receiving vouchers are paying over 50 percent of their income in rent, we are saying something else, and that is that the landlord is receiving 80 percent of his income in rent.

What does that mean in the housing market? Those unfortunate people out there who do not have certificates, who do not have vouchers, are going to be asked to pay 80 percent of the rent. The vouchers create pressure in any housing market where there is a housing shortage.

Those in this body who live in areas where there are no housing shortages and who have low- and moderate-income people should oppose this amendment because their area will not be adversely affected in the choice between vouchers and 15-year section 8 certificates. Every Member of this House who represents an area where there is a shortage of low- and moderate-income housing should favor this amendment because preservation of units and holding down the cost of the housing for low- and moderate-income tenants will be advanced by approving this amendment.

It is not technical. It is about housing preservation. We have had this debate before. We had this debate on the floor of the House in the passage of H.R. 4, the housing bill that was overwhelmingly adopted, and on this amendment we defeated the notion of substituting 5-year vouchers for 15-year section 8's by a vote of 179 to 246.

Mr. Chairman, I hope the Members will vote again to support a more permanent long-run, preservation-oriented housing approach rather than to just see this in terms of a few extra units for a shorter period of time.

Mr. GREEN. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, let me say to my colleagues that during the past several years, as I have served on the Housing Subcommittee, the debate with regard to vouchers versus certificates is one that we are confronted with annually. In a larger context, neither program adequately responds to the national need that we have to take care of our low- and middle-income people, particularly the low-income families of our country.

But I want to take a little bit different perspective on this and respectfully disagree with some of my colleagues with whom we worked in the consideration of the preceding amendment. We talked about letting us do something for the short haul to address an immediate need without doing total damage or irreparable damage to a long-term program.

We wanted to take some money out of the NASA account and spread it around and try to meet some immediate needs. In effect, if we support the Appropriation Committee's position on this particular amendment, we would be doing the same thing.

Let us make no mistake about it, the practical effect of supporting this amendment is the reduction of available units to the needy community by 10,000 or more next year. That is the practical effect. So if we want to provide next year more housing units for more families in our districts and our communities, then we will support the Appropriations Committee.

I want to address a couple of concerns that were raised by some of my colleagues with regard to this particular program.

The inference has been raised that if we do not do more to support the certificate program as it exists today, this administration or other administrations would conclude those programs, not renew them, and these people would be out on the streets.

The fact of the matter is that we always renew them. These certificate programs have historically been renewed. I know a lot of my colleagues on the other side of the aisle place a great deal of blame for the shortage of housing on the Reagan administration, but even they would have to admit that this administration has also renewed those certificate programs.

So, Mr. Chairman, I would just remind my colleagues, if they are interested in some shortrun gain, if they are interested in helping 10,000 more families, if they are interested in providing 10,000 more units around this country for people who need them, then they will support the committee's position in opposition to the amendment.

Mr. BOLAND. Mr. Chairman, I do not think I have any more requests for time, but let me yield myself such time as I may consume and just let me indicate that the gentleman from Connecticut is absolutely right.

This is not a battle over technicalities, and as the gentleman from Pennsylvania has said and as my colleague, the ranking minority member of the subcommittee, has already indicated, it is a battle over how many assisted units we can provide.

Very simply, the amendment is going to cost approximately 17,000 incremental units. There is no question about that.

I am not a great believer in the voucher program, but it is a reality. As a matter of fact, over the past 4 or 5 years I think this subcommittee, with the assistance of the authorizing committee, has kept the section 8 existing program alive. Otherwise all we would have had, if the administration had its way, is the voucher program. But the fact of the matter is that we would lose up to to 17,000 incremental units if we adopt this amendment. The gentleman moves $271 million out of the voucher program into the existing section 8 program—but he does not provide sufficient funds under that particular item in order to maintain the 12,000 units that we provide under the 5-year program. So, Mr. Chairman, on that basis I must continue my objection to his amendment.

Mr. GREEN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in opposition to the amendment, although I do appreciate the good will of the sponsor of the amendment as he offered it.

Let me go beyond what the chairman of the subcommittee said and make sure that everyone understands the effect of this amendment. There are many of us who prefer the use of section 8 certificates to the use of vouchers, and many communities would rather have vouchers. If the amendment is adopted, there would be available next year 12,939 certificates and 52,500 vouchers. If the amendment is accepted, there would still be available only 12,938 certificates. The only difference is that those 12,938 certificates would be provided over a 15-year term instead of a 5-year term. But in terms of the number of vouchers, there would be 10,000 fewer vouchers provided around the country.

So if the amendment is adopted, we would be spending the same amount of money, for a net loss in the number of families that are assisted, and the number of section 8 certificates would be exactly the same. So far as I can tell, no one wins under the scenario of that amendment.

The fact remains that the certificates have traditionally been renewed at the end of the 5-year turnover or the 15-year turnover. That can be and will be done at the conclusion of those certificates.

So, Mr. Chairman, I urge a "no" vote on the amendment. If the amendment passes, we serve 10,000 fewer families. We serve the same number by the use of the section 8 certificate program and 10,000 fewer by the use of the vouchers. In that case no one wins, and 10,000 families lose.

Mr. BOLAND. Mr. Chairman, I yield back the balance of my time.

Mr. GREEN. Mr. Chairman, I yield back the balance of my time.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Connecticut [Mr. MORRISON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MORRISON of Connecticut. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 85, noes 330, not voting 16, as follows:

[Roll No. 197]

AYES—85

Anderson
Bates
Beilenson
Berman
Bonior
Bonker
Borski
Boxer
Cardin
Carper
Coble
Collins
Conyers
Coyne
Crockett
Dellums
Downey
Durbin
Dymally
Early
Edwards (CA)
Espy
Evans
Flake
Foglietta
Ford (TN)
Frank
Garcia
Gejdenson
Gonzalez
Gray (IL)
Gray (PA)
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Hubbard
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Lehman (CA)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Markey
Mavroules
McCloskey
Mfume
Miller (CA)
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Nowak
Oakar
Owens (NY)
Owens (UT)
Pelosi
Perkins
Rangel
Rowland (CT)
Roybal
Savage
Scheuer
Schumer
Shays
Sikorski
Solarz
St Germain
Stark
Studds
Torres
Towns
Traficant
Vento
Waxman
Weiss
Wheat
Wolpe
Young (AK)

NOES—330

Akaka
Alexander
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland

Bosco
Boucher
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Coughlin
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Dreier
Dyson
Eckart
Edwards (OK)
Emerson
English
Erdreich
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Florio
Foley
Ford (MI)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris

Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kaptur
Kasich
Kastenmeier
Kemp
Kolbe
Kolter
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (FL)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Mineta
Molinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Oberstar
Obey

Olin
Ortiz
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Penny
Pepper
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Russo
Sabo
Saiki
Sawyer
Schaefer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spratt
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Traxler
Udall
Upton
Valentine
Vander Jagt
Visclosky
Volkmer

Vucanovich
Walgren
Walker
Watkins
Weber
Weldon

Whittaker
Whitten
Williams
Wilson
Wise
Wolf

Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

NOT VOTING—16

Ackerman
Badham
Biaggi
Boulter
Courter
de la Garza

Dwyer
Konnyu
LaFalce
MacKay
Mica
Ray

Saxton
Sisisky
Spence
Stratton

□ 1648

Ms. SLAUGHTER of New York changed her vote from "aye" to "no."

Mr. BATES, Mrs. KENNELLY, Mr. FLAKE, and Mr. ANDERSON changed their vote from "no" to "aye."

So the amendments en bloc were rejected.

The result of the vote was announced as above recorded.

Mr. PANETTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage in a colloquy with the gentleman from Massachusetts, the chairman of the House Appropriations Subcommittee on HUD-Independent Agencies.

The HUD-Independent Agencies appropriations bill for fiscal year 1988 provided for funds for startup costs for six satellite outpatient clinics to be operated by the Veterans' Administration. One of these clinics is to be located in San Jose, CA. My effort here, Mr. Chairman, is to ensure that out of this new satellite clinic certain outpatient services will be provided at a veterans facility currently located in Marina, CA, as the Veterans' Administration has agreed in their letter to me dated April 25, 1988.

My goal today is to reaffirm the committee's intention to have outpatient services provided at Marina. I thank the chairman for his assistance and support in this matter.

Mr. BOLAND. Mr. Chairman, if the gentleman will yield, I would like to assure the gentleman from California that the subcommittee reaffirms its commitment to assure that the VA establish outpatient services at Marina, CA, in connection with the San Jose satellite outpatient clinic.

Mr. PANETTA. I would like to thank the gentleman from Massachusetts for confirming the subcommittee's intent on this matter. I assure you that the veterans of the Monterey/Santa Cruz area will be grateful for the chairman's cooperation and commitment on this matter and that the establishment of outpatient medical services in Marina will allow the VA to provide the benefits to which the veterans of Monterey and Santa Cruz are entitled.

The CHAIRMAN. The Chair will inquire if there are other amendments to this portion of the bill.

If not, the Clerk will read.

The Clerk read as follows:

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77, 101 Stat. 482, 495), $65,000,000, to remain available until expended.

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77, 101 Stat. 482, 498), $85,000,000, to remain available until expended.

INTERAGENCY COUNCIL ON THE HOMELESS

For necessary expenses of the Interagency Council on the Homeless, not otherwise provided for, as authorized by title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311-11319), $1,200,000, to remain available until expended: *Provided*, That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act only through detail, on a non-reimbursable basis, of employees of the departments and agencies represented on the Council pursuant to section 202(a) of such Act.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $237,720,000, to remain available until expended.

During fiscal year 1989, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1989, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $96,000,000,000.

During fiscal year 1989, gross obligations for direct loans of not to exceed $103,350,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

NONPROFIT SPONSOR ASSISTANCE

During fiscal year 1989, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $960,000.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During fiscal year 1989, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $144,000,000,000 of loan principal.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $3,000,000,000, to remain available until September 30, 1991, of which $200,000,000 shall be derived by transfer from the unobligated balances in the "Rehabilitation loan fund" and $150,000,000 shall be derived by transfer from the unobligated balances in the "Flexible subsidy fund": *Provided*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds set aside in the following proviso) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further*, That $5,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a child care demonstration under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z-6 note).

During fiscal year 1989, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $144,000,000 of contingent liability for loan principal.

For purposes of administering its community development block grant program for nonentitlement areas under section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)), the State of Pennsylvania may, with respect to funds provided in appropriations Acts for fiscal years 1987 and 1988, continue to utilize the data on low and moderate income populations that were utilized by the State with respect to funds provided in appropriations Acts for fiscal year 1986.

Section 105(c)(2)(A) of the Housing and Community Development Act of 1974 is amended by striking out "or" immediately before "(ii)" and inserting at the end thereof before the period the following:

"; or (iii) the assistance for such activity is limited to paying assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement".

REHABILITATION LOAN FUND

During fiscal year 1989, collections, unexpended balances of prior appropriations (including any recoveries of prior reservations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1988, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act: *Provided*, That none of the funds in this Act may be used to sell any loan asset that the Secretary holds as evidence of indebtedness under such section 312.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Administrator of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Administrator of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, $12,000,000, to remain available until expended.

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

All funds recaptured from the amount appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1988 (section 101(f), Public Law 100-202) to remain available until September 30, 1989, shall likewise remain available to the Department of Housing and Urban Development for obligation until September 30, 1989.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $17,000,000, to remain available until September 30, 1990.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, and section 561 of the Housing and Community Development Act of 1987, $10,000,000, to remain available until September 30, 1990.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $4,000 for official reception and representation expenses, $719,371,000, of which $381,528,000 shall be provided from the various funds of the Federal Housing Administration: *Provided*, That during fiscal year 1989, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,365 for Public and Indian Housing Programs.

TITLE II

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $15,085,000, of which $829,000 shall remain available until expended for the sole purpose of defraying the costs of foreign currency fluctuations: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further*, That section 409 of the general provisions carried in title IV of this Act shall not apply to the funds provided under this heading: *Provided further*, That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal Travel regulations.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and not to exceed $500 for official reception and representation expenses, $34,500,000: *Provided*, That no more than $308,500 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission appointed pursuant to 15 U.S.C. 2053.

DEPARTMENT OF DEFENSE—CIVIL CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of three passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses; $13,195,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $25,000 per project; and not to exceed $3,000 for official reception and representation expenses; $804,000,000: *Provided*, That of the total sums appropriated, the amount of program activities which can be financed by the licensing and other services special fund shall be derived from that fund: *Provided further,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

RESEARCH AND DEVELOPMENT

For research and development activities, $199,382,000, to remain available until September 30, 1990: *Provided,* That not more than $2,000,000 of these funds shall be available for replacement of laboratory equipment.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, $727,500,000, to remain available until September 30, 1990: *Provided,* That not more than $1,500,000 shall be available for administrative expenses to carry out the Asbestos School Hazards Abatement Act of 1984, as amended: *Provided further,* That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949).

AMENDMENTS EN BLOC OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Chairman, I offer amendments en bloc made in order under the rule.

The Clerk read as follows:

Amendments en bloc offered by Mr. OBERSTAR:

Page 19, line 5, strike "$727,500,000, to remain available until September 30, 1990:" and insert the following: "$752,500,000, to remain available until September 30, 1990, of which not less than $25,000,000 shall be available only to carry out section 319 of the Federal Water Pollution Control Act:"

Page 21, line 19, strike "1,950,000,000," and insert "$1,925,000,000,".

□ 1655

Mr. OBERSTAR. Mr. Chairman, with great reluctance do I offer this amendment to change the wisdom of the Subcommittee on HUD-Independent Agencies.

Mr. Chairman, the gentleman from Massachusetts [Mr. BOLAND] has been so responsive over the years to the needs of the Clean Water Act and has responded by providing funds even in those years when the administration refused to provide the level of funds authorized in the Clean Water Act, but I do so only because the issue is so critical. The Nation has made a 30-year-long commitment to clean up the Nation's waterways, our lakes, our estuaries, including the Great Lakes, and we have done a superb job. We have rolled back pollution. Rivers are becoming clean. Fish have returned to the Great Lakes. Now, however, we find the fish that have returned have cancer. They have elevated levels of PCB's. We find toxics in the food chain. One who lives within 20 miles of the Great Lakes has 440 parts per billion of PCB's in their body if they include fish in their diet. A person who lives anywhere else, has an average of five parts per billion of PCB's.

Mr. Chairman, where are those substances coming from? They are coming from lead, arsenic, PCB's, and polychlorinated hydrocarbons. They are coming from runoff from open-space land. Two-thirds of the Nation's assessed miles of river and stream in this country are affected by nonpoint-source runoff. Mr. Chairman, 76 percent of the lake acreage in this country is affected by nonpoint-source runoff. Forty-five percent of the estuaries, nearly half of the estuaries from San Francisco Bay to the Mississippi Delta to the Chesapeake Bay are affected by toxic substances from runoff from open spaces.

Since the start of the Clean Water Act in 1956 this country has invested some $47 billion in Federal funds alone for the cleanup of point sources, principally municipal waste treatment plants. We have leveled off, however, in our fight against pollution of lakes and streams and estuaries. We now are threatened with a major new problem that is of growing proportions as pesticides, fungicides, rodenticides, fertilizers, and other toxics run off from agricultural land, forest land, open spaces, parking lots, and airport runways into the sewers and into the streams and into the estuaries poisoning the fish and reversing the progress that we have made in cleanup of pollution. That is why the Committee on Public Works and Transportation wrote into the Clean Water Act a provision to begin a 4-year effort of controlling pollution from nonpoint sources. This was not an idle provision in the bill. It was arrived at after a decade of effort by States and the EPA to develop comprehensive areawide wastewater management programs from open-land runoff areas.

Mr. Chairman, 47 of the States are now ready with plans to move ahead on a matching basis with Federal funds to begin to control pollution from nonpoint sources. States are ready, and in many cases States have moved ahead of the Federal Government. We have determined that pollution abatement is a Federal-State-local partnership and the nonpoint-source program is a partnership in which 50 percent of the funds would come from the States and 50 percent from the Federal Government. This amendment would provide for a relatively modest investment of $25 million. Over a 4-year period, the law envisions $400 million, but this is a modest start of $25 million to get these nonpoint-source projects going for a very small investment and we can accomplish a very large result and effect control of pollution from open spaces.

Mr. Chairman, I realize that it is difficult to move funds from one account to another. What I have proposed in my amendment, in the hope of being fiscally responsible, is not proposing to increase funds under already strained budget limitations but to take from one source, construction grants, where we will not miss this money and where the spendout rate is very slow, it is only a 3-percent annual spendout rate, and put it into the nonpoint-source program where we can have a very big effect in a relatively short period of time and not break the Federal budget.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 2 additional minutes.)

Mr. OBERSTAR. Mr. Chairman, if we do not move ahead, if we put off for yet another year we inevitably increase the pileup of pollution entering the food chain and waterways of this country and continue reversing that $47 billion of investment we have already made in cleanup of the Nation's waterways. I know that, because over the years I have been very close to this program, first the planning part of it and then putting together the coalitions of farm groups, forestry management groups, urban and suburban organizations, and environmental groups to bring together a coalition in support of controlling nonpoint sources. I know that this program makes sense. I know that this is the turning point in our Nation's clean water effort. I know that we need to move ahead. I regret the administration did not put money into the budget for this program for the coming fiscal year. We do have an opportunity here now to move from one account into another without doing in the least any damage to the construction grants program.

If any of my colleagues have concern that their community or their district or their State might miss some money for a construction grant project, let me tell them that they will never miss $25 million on a nearly $2 billion budget.

Mr. BLILEY. Mr. Chairman, will the gentleman from Minnesota yield?

Mr. OBERSTAR. Mr. Chairman, I yield to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I rise in support of the Oberstar amendment.

In 1987 my State of Virginia, the State of Maryland, and the State of Pennsylvania together with the District of Columbia joined together with the Federal Government to work on the cleanup of the Chesapeake Bay.

This amendment will aid in that cleanup.

Mr. Chairman, not long ago the Chesapeake Bay was near death. This national treasure, whose waters provided food for our dinner table, recreation for our families, and a livelihood for so many of our communities was on its last leg from years of uncontrolled activities.

Recognizing this tragedy, the Federal Government joined with State and local governments in an unprecedented effort to clean up the bay. Initial studies showed that pollution acted as a nutrient that enhanced rapid algae growth in the bay. As the algae grew, it consumed greater and greater quantities of oxygen from the water. Of course, marine life found it difficult to survive in an environment with a diminished oxygen supply.

Surprisingly, we learned that one of the greatest sources for this pollution was in the form of runoff from agricultural pesticide use, animal waste from feed lots and poultry operations, and everyday use of chemicals and detergents in homes and businesses—located hundreds of miles away from the bay. The problem was much more complex than we had ever imagined.

This realization led to two important events. In December of 1987 the Environmental Protection Agency, the States of Virginia, Maryland, and Pennsylvania, as well as the District of Columbia, signed an agreement to reduce and control point and and nonpoint sources of pollution in order to improve the health of the bay. They agreed to develop, adopt, and begin implementation of a basinwide strategy to achieve at least a 40-percent reduction in these harmful pollutants entering the bay by the year 2000.

That same year, Congress passed the Water Quality Act that was to pave the way for the attainment of these goals. This plan requires each State to study the effects of nonpoint source pollution and develop a management plan to reduce this pollution. Last year, though this program was authorized for $75 million, it received no funding. Sadly enough, the program is not to receive a single penny under this year's bill. As Congress fritters time away, the threat to the bay grows by the day.

Mr. Chairman, this program is essential to the revitalization of the Chesapeake Bay. I urge my colleagues to support this amendment to transfer $25 million into this cleanup program. It is time Congress lived up to its commitment to the Chesapeake Bay.

Mr. OBERSTAR. Mr. Chairman, reclaiming my time, I appreciate the remarks of the gentleman from Virginia [Mr. BLILEY].

Mr. Chairman, I urge support of my amendment.

Mr. BOLAND. Mr. Chairman, I rise in opposition to the Oberstar amendment. Mr. Chairman, it pains me to do so because I have great respect and admiration for the distinguished gentleman from Minnesota [Mr. OBERSTAR]. He serves on the Committee on Public Works and Transportation and serves with a great deal of knowledge and a great deal of spirit, let me say.

As he indicated, this is a new program. The nonpoint source program is authorized by section 319 of the Clean Water amendments. What he actually does is take $25 million from the construction grants program and put it into this nonpoint source program. I recognize that we will never get a solution of the nonpoint source problem unless we provide money for it. Nonpoint source pollution is largely caused by runoff from agricultural lands, and it is a serious problem. But it is a new program and when he takes the money out of the construction grants program to put it into this program, it increases our outlays by $14 million. That is our big problem. It violates the Budget Act. I know that he would not want to do that. The spendout under his particular amendment would be 60 percent of the $25 million, while the spendout rate under the construction grants program would be about 3 percent. That is what we are looking at.

Mr. Chairman, this particular bill now is on target for budget authority and budget outlays, so I must say to the gentleman from Minnesota [Mr. OBERSTAR] with great regret I must oppose the amendment.

If there is something we can do in conference, knowing the gentleman as I do and the gentleman knowing me as he does, perhaps we can satisfy him. I think at this particular point in time it is impossible to do that because of the problem with the Budget Act. We have no way in which we can provide for the additional $14 million in outlays.

Mr. GREEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, again this afternoon I find myself in the very difficult position of having to oppose an amendment that wants to spend money for a very good and worthwhile purpose but wants to take it from another very good and worthwhile purpose, in this case the construction grants program.

Mr. Chairman, my feeling is that we have made a commitment to the States in terms of providing the construction grants funding. It is not a commitment we have kept all that well, to be honest, as the program has been on a yo-yo over the years, but I really feel we ought to see the States through the transition into the revolving fund program, and we are now entering those years, before we start nibbling away at this program in order to fund what is essentially a new start.

Mr. Chairman, I should point out that we are not in a situation where no work is being done on the nonpoint source issue. In fact, in response to a question asked of EPA by the gentleman from Pennsylvania [Mr. COUGHLIN], a member of the Subcommittee on HUD-Independent Agencies, EPA did advise us that from other sources within the EPA appropriation in 1987 the States spent $18.3 million in planning on the nonpoint source issue, and EPA anticipate that that figure will rise to $28.8 million this year. So it is not as if we are totally ignoring the problem.

Nonetheless, I agree with the gentleman from Minnesota [Mr. OBERSTAR] that the time has come when we have to move on from planning and to action to deal with the problem. In fact I think it is worth observing that under the revolving loan fund legislation, once a State deals with the point-source problem, it is then allowed to use its funds for nonpoint source purposes.

Again, with reluctance I do join the chairman, the gentleman from Massachusetts [Mr. BOLAND], in opposing this amendment. I think that we ought to do what we can to live up to the commitment to the States under the construction grants program.

Finally, although it only takes us a little bit above our outlay ceiling, and although in this House that is not a basis for a point of order against the amendment, nonetheless I think it is bad practice for these bills to come in above the outlay ceiling.

Mr. BOLAND. Mr. Chairman, will the gentleman from New York yield?

Mr. GREEN. I am happy to yield to the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. Mr. Chairman, a moment ago I misspoke when I said that this amendment violated the Budget Act. It does not. It actually violates the 302(b) allocation to the Subcommittee on HUD-Independent Agencies as well as the budget summit agreement. That is the solid reason why we oppose the Oberstar amendment.

In addition, as the gentleman from Minnesota [Mr. OBERSTAR] knows, because it came out of his committee, the construction grants program is going through a transition stage to State revolving funds. The $1.950 billion we provide in this bill is going to be divided between the old construction grants program and payments to State revolving funds in order to set the new program up. I think that at this particular time capping the construction grant program at more than what it has already been reduced would probably not be a good idea. It would be a good thing next year, and I would support it next year.

Mr. OBERSTAR. Mr. Chairman, will the gentleman from New York yield?

Mr. GREEN. I yield to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I am comforted that the chairman will support it next year from his study in one of the many shrines that will be erected to the gentleman from Massachusetts in his retirement years, but we would like his support now.

□ 1710

I sense through the trend on the floor today that amendments that have been offered have met with a disastrous fate.

Mr. Chairman, I ask unanimous consent to withdraw the amendments en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. BOLAND. Mr. Chairman, I move to strike the last word.

Just let me assure the gentleman that I appreciate the gentleman's position on this, and I think it enhances and reinforces what our position will be when we go to conference.

I thank the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. Mr. Chairman, I am happy to yield to the gentleman.

Mr. OBERSTAR. Mr. Chairman, when the committee goes to conference on the legislation, I know the gentleman is responsive, and should funds be provided in the other body to enhance nonpoint-source programs, he would be receptive in conference to that approach.

Mr. BOLAND. Yes.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $8,000,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $1,425,000,000, to be derived from the Hazardous Substance Superfund, to remain available until expended: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA, as amended: *Provided further*, That none of the funds appropriated under this heading shall be available for any Superfund site remedial investigation feasibility study (RI/FS) until the Regional Administrator certifies that (1) all appropriate interim measures are being taken to reduce risks to human health and the environment at such site, and (2) all RI/FS study elements are essential to making an informed decision on the remedial action: *Provided further*, That none of the funds appropriated under this heading shall be available for sections 111 (b), (c)(1), or (c)(2) of CERCLA, as amended: *Provided further*, That, notwithstanding section 111(m) of CERCLA, as amended, or any other provision of law, not to exceed $44,500,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further*, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA, as amended, during fiscal year 1989: *Provided further*, That no more than $190,000,000 of these funds shall be available for administrative expenses.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, $50,000,000, to remain available until expended: *Provided*, That no more than $5,000,000 shall be available for administrative expenses.

CONSTRUCTION GRANTS

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $1,950,000,000, to remain available until expended, of which $934,000,000 shall be for title II (other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209) of the Federal Water Pollution Control Act, as amended; $934,000,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $82,000,000 shall be for title V of the Water Quality Act of 1987, consisting of $27,000,000 for section 510, $3,000,000 for section 512, $30,000,000 for section 513, and $22,000,000 for section 515.

ADMINISTRATIVE PROVISION

None of the funds in this Act shall be available for any indemnity payment under section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $870,000: *Provided*, That not to exceed $290,000 of these funds shall be available for obligation in the first four months of fiscal year 1989.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $1,587,000: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for all of the personnel compensation costs of individuals detailed to it: *Provided further*, That not to exceed $400,000 of these funds shall be available for obligation in the first four months of fiscal year 1989.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), $200,000,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $1,500 for official reception and representation expenses, $137,494,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $282,438,000.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $10,178,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $43,200,000 shall, upon enactment of this Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $2,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1990. In fiscal year 1989, no funds in excess of (1) $36,000,000 for operating expenses, (2) $169,003,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $114,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,354,000, to be deposited into the Consumer Information Center Fund: *Provided,* That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,200,000. Administrative expenses of the Consumer Information Center in fiscal year 1989 shall not exceed $1,736,000. Appropriations, revenues and collections accruing to this fund during fiscal year 1989 in excess of $5,200,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,708,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS AND RESCISSIONS)

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $4,191,700,000, to remain available until September 30, 1990, of which $902,400,000 is for the space station program only: *Provided,* That $450,000,000 of the $902,400,000 for the space station program shall not become available for obligation until April 15, 1989, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That $450,000,000 of the $902,400,000 for the space station program shall not become available for obligation until April 15, 1989, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That the aforementioned $450,000,000 shall not become available unless the President submits a special message after February 1, 1989, notifying the Congress that such funds will be made available for the space station program: *Provided further,* That obligations from funds provided in this Act for the space station program from October 1, 1988 through April 15, 1989, shall not exceed $387,000,000: *Provided further,* That if the special message described in the second proviso is not submitted by April 15, 1989, $300,000,000 is rescinded, $150,000,000 is transferred to "Space flight, control and data communications", and the remaining $65,400,000 shall be available only for termination costs of the space station program.

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (H.R. 2783), as enacted under the provision of section 101(f) of Public Law 100-202, an Act Making Further Continuing Appropriations for the fiscal year ending September 30, 1988, $25,000,000 are rescinded.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $4,414,200,000, to remain available until September 30, 1990.

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $270,100,000, to remain available until September 30, 1991: *Provided,* That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further,* That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further,* That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards; lease, hire, purchase of one aircraft for replacement only (for which partial payment may be made by exchange of at least one existing administrative aircraft and such other existing aircraft as may be considered appropriate), maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $1,855,000,000: *Provided,* That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1989, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1989 shall not exceed $880,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of one aircraft; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $1,578,000,000, to remain available until September 30, 1990: *Provided,* That of the funds appropriated in this Act, $900,000 shall be available only for the International Institute for Applied Systems Analysis, and that, notwithstanding any other provision of law, the Director may choose not to obligate these funds for that purpose: *Provided further,* That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than $90,550,000 shall be available for program development and management in fiscal year 1989: *Provided further,* That none of the funds appropriated in this Act may be used, directly or through grants, contracts, or other awards mechanisms, for agreements executed after enactment of this Act, to pay or to provide reimbursement for the Federal portion of the salary of any individual functioning as a Federal employee at more than the daily equivalent of the maximum rate paid for ES-6 for assignments to Senior Executive Service positions, unless specifically authorized by law: *Provided further,* That contracts may be entered into under the program development and management limitation in fiscal year 1989 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That of the funds appropriated in this Act, not more than $73,480,000 shall be available for advanced scientific computing, networking and communications research and infrastructure: *Provided further,* That none of the funds appropriated in this Act may be made available for a new academic research facilities program: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $1,000 for official reception and representation expenses; $136,000,000, to remain available until expended: *Provided,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation: *Provided further,* That no funds in this account shall be used for the purchase of aircraft other than ones transferred from other Federal agencies: *Provided further,* That none of the funds appropriated to the National Science Foundation by this Act shall be used for research or service contractor leases, purchases, or leases with the option to purchase any research vessel with icebreaking capability built by a shipyard not located in the United States: *Provided further,* That the preceding proviso shall not apply to appropriated funds used for the lease of the vessel POLAR DUKE.

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science and engineering education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $171,000,000, to remain available until September 30, 1990: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), $19,094,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $26,313,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $14,759,100,000, to remain available until expended.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34-36, 39, 51, 53, 55, and 61), $597,600,000, to remain available until expended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $9,220,000, to remain available until expended.

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); $10,567,546,000, plus reimbursements: *Provided,* That $5,000,000 of the foregoing amount shall be available for a pilot program of community-based residential care for homeless chronically mentally ill and other veterans: *Provided further,* That, during fiscal year 1989, jurisdictional average employment shall not exceed 37,900 for administrative support.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law, to remain available until September 30, 1990, $210,241,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $48,909,000, plus reimbursements.

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $3,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of six passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $774,316,000, including $512,359,000 for the Department of Veterans Benefits: *Provided,* That, during fiscal year 1989, jurisdictional average employment shall not be less than 12,898 for the Department of Veterans Benefits.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, and site acquisition, where the estimated cost of a project is $2,000,000 or more or where funds for a project were made available in a previous major project appropriation, $363,040,000, to remain available until expended: *Provided,* That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further,* That funds provided in the appropriation "Construction, major projects" for fiscal year 1989, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1989, and (2) by the awarding of a construction contract by September 30, 1990: *Provided further,* That the Administrator shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further,* That no funds from any other account, except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Veterans Administration of the project or any part thereof with respect to that part only: *Provided further,* That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Veterans Administration medical facility must certify that the design of such project is acceptable from a patient care standpoint: *Provided further,* That not to exceed $8,000,000 of the funds available shall be used for the settlement of contractors' claims arising from the construction of a replacement hospital at the Veterans Administration Medical Center, Bronx, New York: *Provided further,* That not to exceed $2,600,000 of the funds available shall be used for the payment of sales and use tax to the State of Washington due on prior construction projects funded by this and other accounts, in lieu of payment to contractors of these tax costs which were not included in the contracts for these projects.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $2,000,000, $111,596,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $2,000,000: *Provided,* That not more than $41,731,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further,* That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Veterans Administration which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), $26,000,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031-5037), $42,000,000, to remain available until September 30, 1991.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1990.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by law (38 U.S.C. 1008), $9,000,000, to remain available until September 30, 1991.

DIRECT LOAN REVOLVING FUND

During 1989, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $658,000,000, to remain available until expended.

During 1989, the resources of the loan guaranty revolving fund shall be available for expenses for property acquisitions and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided,* That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1989, for transfer to the loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1989, with the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1989 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Veterans Administration for 1989 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

Appropriations available to the Veterans Administration for fiscal year 1989 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1988.

TITLE III

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development and the Federal Home Loan Bank Board which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1989 for such corporation or agency except as hereinafter provided: *Provided,* That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

Not to exceed a total of $31,942,000 shall be available for administrative expenses of the Federal Home Loan Bank Board for procurement of services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accordance with law (5 U.S.C. 5901-5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board revolving fund and receipts of the Board for the current fiscal year, of which not to exceed $800,000 shall be available for purposes of training State examiners and not to exceed $1,500 shall be available for official reception and representation expenses: *Provided,* That members and alternates of the Federal Savings and Loan Advisory Council may be compensated subject to the provisions of section 7 of the Federal Advisory Committee Act, and shall be entitled to reimbursement from the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703: *Provided further,* That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of 1932, as amended (12 U.S.C. 1421-1449).

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Not to exceed $1,667,000 shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to sections 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Federal home loan banks, the Federal Reserve banks, the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724-1730f).

TITLE IV

GENERAL PROVISIONS

SECTION 401. Where appropriations in titles I and II of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I and II exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitation.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specificially solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

SEC. 409. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations.

SEC. 410. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 411. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 412. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 413. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

Mr. BOLAND (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 52, line 14, be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. Are there any points of order against this portion of the bill?

If not, are there any further amendments to the bill?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 414. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offer by Mr. WALKER: On page 52, after line 19, insert the following new section:

SEC. 415. No funds appropriated under this Act shall be expended in any workplace that is not free of illegal use or possession of controlled substances which is made known to the federal entity or official to which funds are appropriated under this Act. Pursuant to this section an applicant for funds to be appropriated under this Act shall be ineligible to receive such funds if such applicant fails to include in its application an assurance that it has, and will administer in good faith, a policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances by its employees.

Mr. WALKER. Mr. Chairman, this amendment is the drug-free-workplace amendment which has been offered to all of the appropriation bills as they have come through the House.

In this particular case, this amendment was made in order under the rule, and it does have language in it which assures good-faith compliance as the procedure to be followed, and also that applicants for funds will, in fact, put in place drug-free polices.

I think that this amendment has been shown over the last several weeks to be noncontroversial in the House. I am somewhat concerned that as these matters go to the conference committees they seem to be running into some kind of problem there, and I would hope that because we have general agreement on both sides here on these amendments that it does not in any way jeopardize them when I do not go ahead and get a vote, because I am doing so on the understanding that the House has voted unanimously for some of this language on several occasions.

I think that I have agreement on both sides for this amendment, and I do not need to prolong the time of the House.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman.

Mr. GREEN. Mr. Chairman, the gentleman certainly has agreement on this side of the aisle.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Mr. Chairman, I am happy to yield to the gentleman from Massachusetts, as I was explaining I thought that we had general agreement on the amendment.

Mr. BOLAND. Mr. Chairman, I have no objection to the amendment. We accept the amendment and are delighted to do so.

Mr. WALKER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

Mr. GREEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I mentioned earlier, this is the last time that this bill will be brought to this House by the gentleman from Massachusetts.

It has been my privilege to work with the gentleman from Massachusetts these 8 years since I became ranking minority member on this subcommittee. As I have stated many times on the floor of the House, this is an extremely complicated bill. Each of the agencies involved has its own funding structures and patterns, and I am constantly impressed with the encyclopedic knowledge of the gentleman from Massachusetts of all of these very diverse agencies, his sense of feel of the will of the House with respect to how we should go forward, this sense of fairness in dealing not just with those of us on his subcommittee and not just with those of us on the Committee on Appropriations, but with all of the Members of this House, as we craft this bill each year.

It is with a touch of personal sadness that I heard of his decision to take leave of the House at the end of this Congress, but I know that he is looking forward to many, many happy years in retirement with his family, and I simply want him to know that he has all of my good wishes, and I know all of the good wishes of everyone in this House, to that end.

Mr. BOLAND. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate very much the remarks of my colleague and friend, the distinguished gentleman from New York, of whom I have said so many times on this floor this subcommittee could not operate without.

This probably is not my swan song. We may be back here later on in the year, so I had better be prepared for that. I must say I have enormously enjoyed working with this committee, working with this institution in the years I have been here—it is a long period of time. I am delighted to get the recognition today.

Mr. Chairman, I leave this place, of course, with fond memories, and I think, great friends. I appreciate very much the cooperation that I have received from all of the members of my subcommittee and the full committee.

We will be around for a little while longer and back probably before the elections.

I appreciate again the remarks of my very good friend from New York and all the others who participated in the encomia that I wish had been done a long time ago and not today.

Thank you very much.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989".

Mr. BOLAND. Mr. Chairman, I move that the Committee do now rise and report the bill as modified, back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as modified, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. FOLEY, having assumed the chair, Mr. BEILENSON, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 4800) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes, had directed him to report the bill as modified, back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as modified as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

The first amendment printed in House Report 100-715 is considered as having been adopted.

In a separate vote demanded on any amendment. If not, the Chair will put them engross.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill, as modified.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 377, nays 40, not voting 14, as follows:

[Roll No. 198]

YEAS—377

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton

Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Mack
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—40

Badham
Beilenson
Bereuter
Brown (CO)
Bunning
Burton
Cheney
Combest
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Dreier
Fawell
Frank
Frenzel
Kyl
Latta
Lightfoot
Luken, Thomas
Lukens, Donald
Lungren
Marlenee
McCollum
McEwen
Moorhead
Oxley
Petri
Roth
Russo
Sensenbrenner
Shumway
Shuster
Smith, Denny (OR)
Smith, Robert (NH)
St Germain
Stump
Tauke
Upton

NOT VOTING—14

Ackerman
Biaggi
Boulter
Courter
Hunter
Kemp
Konnyu
LaFalce
MacKay
Mica
Miller (CA)
Ray
Saxton
Spence

□ 1739

Mr. SHUSTER and Mr. TAUKE changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3251. An act to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the U.S. Congress.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1966. An act to amend the Public Health Service Act to improve information and research on biotechnology and the human genome, and for other purposes.

PERSONAL EXPLANATION

Mr. MILLER of Washington. Mr. Speaker, I was unable to be here yesterday. Had I been here, I would have cast the following votes:

"Yes" on roll No. 191, the vote on the Journal;

"Yes" on roll No. 192, the vote on the rule for DOD appropriations bill;

"Yes" on roll No. 193, the vote on the DOD appropriations bill; and

"Yes" on roll No. 194, H.R. 4150, Postal reorganization amendments.

LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, I take this time to advise Members that we will proceed to take up the rule on the fair housing bill which I am told is likely to draw a rollcall vote.

Following that we will proceed with general debate only this evening.

Tomorrow we will attempt to conclude the bill within the time that will be available prior to the adjournment of the House for the purpose of attending the funeral ceremonies of the gentleman from Tennessee, our late colleague, JOHN DUNCAN.

I hope that that can be accomplished tomorrow before the house finds it necessary to adjourn. But the program for this evening will be the rule and general debate only.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 4794, TRANSPORTATION AND RELATED AGENCIES APPROPRIATION, 1989

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 100-723) on the resolution (H. Res. 482) waiving certain points of order against consideration of the bill (H.R. 4794) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other programs, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 1158, FAIR HOUSING AMENDMENTS ACT OF 1988

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 477 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 477

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1158) to amend title VIII of the Act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. Gray of Illinois). The gentleman from South Carolina [Mr. Derrick] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. Quillen], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 477 is an open rule providing for the consideration of H.R. 1158, the Fair Housing Amendments Act of 1988. The rule provides for 1 hour of general debate, with the time equally divided and controlled by the chairman and ranking minority member of the Judiciary Committee. The rule also makes in order the Judiciary Committee amendment in the nature of a substitute printed in the bill, to be considered as original text, with each section considered as having been read. Finally the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 1158 is an important bill which provides an improved mechanism for the enforcement of the provisions of the Civil Rights Act of 1968 which prohibit discrimination in the sale or rental of housing, and extends the application of those provisions. The bill provides for an administrative enforcement system within the Department of Housing and Urban Development, with any party to the action granted the right to have the case heard in Federal court instead. It also removes barriers to the use of court enforcement by individuals and the Government. In addition it makes it illegal to discriminate against handicapped persons or against families with children, except that legitimate retirement communities for the elderly may exclude children.

Mr. Speaker, this bill will help to carry through on the promise that was made to the American people in 1968, that no one should be denied equal access to housing for reasons that have nothing to do with their ability to pay for the housing or willingness to comply with reasonable standards applicable to all members of the community. House Resolution 477 is a simple open rule that will provide full opportunity for Members to consider this legislation.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. Dreier].

CONGRATULATIONS TO LOS ANGELES LAKERS

(By unanimous consent, Mr. Dreier of California was allowed to proceed out of order.)

Mr. DREIER of California. Mr. Speaker, congratulations are in order for the Los Angeles Lakers. Last night they became the first team in 19 years to win back to back NBA championships. Dynasties are built on records, and the Lakers have the best in the 1980's—five championship rings. This is clearly an indication of their superiority over the rest of the league.

Give credit to the Pistons, they were a team that refused to fold. But they were no match for the talents of Magic and Worthy, who proved once again that the city of Los Angeles is a city of believers. Throughout the year, critics doubted whether the Lakers had what it takes to be among the greatest teams in the history of pro basketball. Some said they were too old, others questioned their ability. But in the end, the fans were in awe. The Los Angeles Lakers are the best in all of basketball.

Now I will wait to hear from my friend and colleague from Detroit, Dennis Hertel, who made the unfortunate decision to wager a bet: California Red Flame seedless grapes for Michigan cherries. Cherry pie for all, and thank you Los Angeles Lakers!

□ 1750

Mr. LEVINE of California. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to my friend, the gentleman from California.

Mr. LEVINE of California. Mr. Speaker, I thank my friend for yielding, and I want to associate myself fully with the most eloquent remarks I have heard from my friend for some time.

Mr. DREIER of California. I thank the gentleman.

Mr. LEVINE of California. Mr. Speaker, I am very, very pleased to join with my distinguished friend and colleague on this important occasion.

Mr. Speaker, last night was showtime again in the Los Angeles Forum. And what a show it was.

After demanding last-game triumphs against Utah and Dallas, the Los Angeles Lakers courageously and elegantly came back from a three-game to two-game deficit and defeated a talented Detroit Pistons team.

Led by the brilliance of James Worthy and Magic Johnson, stabilized by the incomparable Kareem Abdul Jabbar, sparked by the shooting of Byron Scott, A.C. Green, and Mychal Cooper, the Lakers simply outplayed an inspired Pistons team, despite the heroics of Isiah Thomas through the series.

Mr. Speaker, as the gentleman has indicated, the Los Angeles Lakers are the team of the 1980's. Last night the Lakers won their second NBA championship in a row, something no team has been able to accomplish for almost two decades. No team has dominated the sport during the 1980's the way the Lakers have dominated professional basketball.

Mr. Speaker, both the Pistons and the Lakers earned all of our respect last night and in this series, and it is out of no diminution of respect for the Pistons that I suggest that the Lakers are an extraordinary team and an outstanding group of athletes.

Mr. Speaker, I urge my colleagues to join the gentleman and myself in paying tribute to this remarkable team.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman for his fine compliment, and I wish very much that I could say the same for him.

The SPEAKER pro tempore (Mr. Gray of Illinois). The Chair recognizes the gentleman from Tennessee [Mr. Quillen].

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before speaking on the rule, I would like to advise the Members who would like to go to the funeral of the late John Duncan, our very fine and gentlemanly colleague, to contact the Sergeant at Arms. The names are being taken now, and the funeral will be held at 7 o'clock tomorrow night in Knoxville, TN. The bus will leave the steps of the Capitol at 3 p.m. and return to Washington at around 10:30 p.m. tomorrow evening.

Mr. Speaker, this is an open rule. I know of no objection to the rule, and to try to make up for the lost time which was taken on the Lakers, I urge the adoption of the rule.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes for debate only, I yield 1 minute to the gentleman from New York [Mr. Weiss].

Mr. WEISS. Mr. Speaker, I rise in support of the rule and in support of H.R. 1158, the Fair Housing Amendments Act of 1988. I want to especially commend the gentleman from California [Mr. Edwards] for his part in bringing this legislation to the floor.

Mr. Speaker, this bill represents an historic step forward for our Nation by improving the protections that currently exist in the Fair Housing Act and extending them to people with disabilities and to families with children. I congratulate the Members on both sides of the aisle who have worked to bring this bill to the floor in its present form, especially the distinguished gentleman from California [Mr. Edwards] and I urge my colleagues to approve it without any weakening amendments.

Amendments will be offered today to strike crucial protections in this bill. The gentleman from Florida [Mr. Shaw] is offering an amendment to strike the provision that prohibits housing discrimination against families with children under 18. Accepting this amendment would be a critical mistake. In a nationwide survey conducted by the Department of Housing and Urban Development, it was found that 75 percent of renter units barred or restricted children from living in them. In New York City and in other cities around the Nation, families make up an increasingly large percentage of the homeless. Many who can find homes often live in substandard housing. In order to help alleviate this terrible problem, American families must receive the protection provided in this bill. I urge my colleagues to vote against the Shaw amendment and vote for protecting American families.

The second critical protection in this bill is for disabled persons. Presently, individuals with disabilities are covered under section 504 of the Rehabilitation Act of 1973. This has been a critical source of protection for individuals with handicaps. Yet, unfortunately, that legislation covers only entities that receive Federal funds. The legislation before us today represents an important step forward because it extends protection to people with disabilities who experience discrimination in their efforts to obtain and maintain private housing.

This bill defines handicapped individuals consistent with the definition Congress established 15 years ago in the Rehabilitation Act of 1973. Under this definition, a person is handicapped if he or she has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such an impairment, or is regarded as having such an impairment.

When Congress first established this definition of handicap in the Rehabilitation Act, it noted the importance of establishing such a broad definition in order to cover the breadth and diversity of people with disabilities—and to cover the wide range of discriminatory actions that are directed against people with disabilities. The breadth of this definition has been reaffirmed by Congress, by agencies in administrative regulations, and by the courts over the past 15 years. Examples of this emphasis can be found in the Senate report accompanying the Rehabilitation Act (see 1974 U.S. Code Cong. & Admin. News 6373, 6389–90), regulations issued by the Department of Health and Human Services (see 45 C.F.R., sec. 84.3), and court cases such as *Southeastern Community College* v. *Davis,* 442 U.S. 397, 405–406 (1979) and *School Board of Nassau County* v. *Arline,* 107 S.Ct. 1123, 1127 (1987). We have specifically adopted that broad definition in this bill so that the same breadth and coverage of nondiscrimination protection will apply with regard to private housing.

This broad definition has been particularly important in protecting individuals who are often subject to the most irrational and virulent discrimination. For example, in our day and age, people with AIDS and people infected with the human immunodeficiency virus (HIV—commonly known as "the AIDS virus") are often subject to irrational discrimination in their attempts to obtain and maintain private housing. In the Arline decision, the Supreme Court reaffirmed that contagious diseases fall within the definition of handicap in the Rehabilitation Act—and that discrimination based on fear of the contagiousness associated with a disease is also covered. Thus, any discriminatory action motivated because a person has AIDS, or because of the fear of contagiousness associated with AIDS, is covered under the definition of handicap in both the Rehabilitation Act and the act before us today.

In addition, people infected with HIV are covered under both acts. As I noted, Congress made clear in 1974 when it passed the Rehabilitation Act—and we are making clear again today—that the definition of handicap is made intentionally broad so as to cover the range of discriminatory actions. Thus, for example, individuals are covered who do not in fact have a physical or mental impairment, but are perceived as having one, or those whose physical or mental impairment substantially limits their major activity solely because of the attitudes of others toward them. The Supreme Court made this point very well in its recent decision in Arline, where it noted:

> By amending the definition of "handicapped individual" to include not only those who are actually physically impaired, but also those who are regarded as impared and who, as a result, are substantially limited in a major life activity, Congress acknowledged that society's accumulated myths and fears about disability and disease are as handicapping as are the physical limitations that flow from actual impairment.

This is precisely the case with regard to individuals infected with HIV. Such individuals are covered under the definition of handicap because they are regarded as having a physical condition that substantially limits one or more of their major life activities—and are thus subject to discrimination. This is precisely the type of irrational discrimination, motivated by fear and myth, that Congress sought to eradicate in the Rehabilitation Act of 1973 for programs and activities receiving Federal funds and that Congress seeks to eradicate today in the Fair Housing Act amendments for private housing. This is a congressional goal and effort that has been recognized by the courts not only with regard to HIV infection (see, e.g., *Ray* v. *School District of DeSoto County,* 666 F.Supp. 1524 (M.D. Fla. 1987) (case dealing with three Ray boys who were asymptomatic carriers of HIV), but also with regard to individuals who suffer from other contagious infections (see, e.g., *Kohl* v. *Woodhaven Learning Center,* 672 F.Supp. 1221, 1224 (W.D. Mo. 1987) (case dealing with a hepatitis B carrier))).

I would point out that people infected with HIV can also be covered under the first prong of the definition of handicap because they clearly have a physical condition affecting their hemic and lymphatic systems which affects a major life activity. See, e.g., *Thomas* v. *Atascadero Unified School District,* 662 F.Supp. 376, 379 (C.D. Cal. 1987) ("Individuals in all of the four CDC classifications suffer from impairments to their physical systems."); *District 27 School Board* v. *Board of Education,* 130 Misc.2d 398, 502 N.Y.S.2d 325 (1986). This is a condition which substantially limits such individuals in activities such as working or obtaining housing or health care, as well as limits them in the activity of reproduction. An article in the Journal of the American Medical Association (253 JAMA 363, June 1985), noted that 30 to 50 percent of children born to HIV-infected mothers develop AIDS and that HIV-infected women who become pregnant are at increased risk of developing AIDS. Thus, HIV-infected individuals are advised to give serious consideration to deferring pregnancy. In a recent case, therefore, both parties—one of which was the Department of Justice—argued—and the judge accepted—that people infected with HIV are covered under the Rehabilitation Act either as individuals with physical impairments or as individuals regarded as having such impairments. See *Local 1812, AFGE* v. *U.S. Department of State,* 662 F.Supp. 50, 54 (D.D.C. 1987).

I would like to point out that I believe the Judiciary Committee acted prudently in adding a provision that states that nothing in the act requires a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of others. The committee noted that it was drawing on established cases and regulations that had been developed under section 504, including the Supreme Court's recent decision in School Board of Nassau County versus Arline. Thus, in the case of an individual with a contagious disease—such as AIDS or HIV infection—it would have to be proven that there was a significant risk that the individual's tenancy would result in the transmission of the infection to others. In fact, the current medical evidence is overwhelming that there is no such significant risk of transmission in the housing context. Nevertheless, I believe it is useful to have added this provision to the extent that it can allay any unnecessary fears.

I rise in strong support of this legislation and urge my colleagues to pass it without any weakening amendments. This bill will be looked upon as the foundation for further legislation protecting people with disabilities in the private sector.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 394, nays 1, not voting 36, as follows:

[Roll No. 199]

YEAS—394

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Armey
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin

Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conyers
Cooper
Coughlin
Coyne
Craig
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Derrick
DeWine
Dickinson
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lungren
Mack
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—1

Lukens, Donald

NOT VOTING—36

Ackerman
Applegate
Aspin
Bentley
Biaggi
Bliley
Boulter
Broomfield
Conte
Courter
Crane
DeLay
Dellums
Dicks
Durbin
Gray (PA)
Hawkins
Hayes (LA)
Houghton
Hunter
Konnyu
LaFalce
Lancaster
Lewis (CA)
MacKay
Mica
Michel
Price
Ray
Saxton
Sharp
Slaughter (NY)
Spence
Sundquist
Udall
Whitten

☐ 1812

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE JOHN J. DUNCAN FEDERAL OFFICE BUILDING

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 4288) to designate the Federal Office Building located at the corner of Locust Street and West Cumberland Avenue in Knoxville, TN, as the "John J. Duncan Federal Office Building."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HAMMERSCHMIDT. Reserving the right to object, Mr. Speaker, I yield to the distinguished chairman of the Public Works and Transportation Committee, the gentleman from California [Mr. Anderson], for an explanation of the gentleman's request.

Mr. ANDERSON. Mr. Speaker, I rise in support of H.R. 4288, a bill to designate the Federal building located at the corner of Locust Street and West Cumberland Avenue in Knoxville, TN, as the "John J. Duncan Federal Building."

Let me add that I am deeply saddened to learn of the death of my distinguished colleague and friend late last night. I know that he will be sorely missed by his family and friends and especially the State of Tennessee.

Congressman Duncan has been a public servant for the State of Tennessee for over 43 years. He was born in Scott County, TN. He served in the U.S. Army for 3 years. He was attorney general for the State of Tennessee from 1947 to January 1956, and subsequently became the director of Knoxville's legal department until 1959. He served in that capacity until 1964.

John was first elected to the U.S. House of Representatives in November 1964, and he has been reelected to each succeeding Congress until he died from a complication of cancer on June 21, 1988, last night.

He served on the Committee on Ways and Means, and has been the ranking Republican member since 1985. He also served on the House-Senate Joint Committee on Taxation.

He was recognized by his colleagues for his honest and fair manners. He was a consistent advocate for free enterprise and financial responsibility. Despite his most conservative voting record in the House throughout his career, his efforts to maintain the share for the elderly and the poor is obvious. He has also voted against the majority of Republicans several times in opposing proposals to restrict the scope of the Food and Stamp Program.

In view of his many contributions to the Nation and the State of Tennessee, it would be appropriate to salute this fine American by naming a Federal building in his honor.

The Committee on Public Works and Transportation passed this bill unanimously yesterday.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, it was with great regret that I received the news this morning that our friend and colleague from Tennessee, John Duncan, had passed away.

John served in this House with great distinction for 24 years since his election to the 89th Congress in 1964. In that time, he had gained the position of ranking minority member of the Committee on Ways and Means and served on the Joint Committee on Taxation.

Although John was involved in great national matters such as tax reform and other issues affecting all Americans, John never lost touch with his constituents of the Second District of Tennessee. He fought diligently to protect their interests, particularly on matters affecting the poor and the elderly.

John's years of public service began prior to his election to Congress. During World War II, John served in the U.S. Army and then returned home to Tennessee to practice law. Shortly thereafter, he became involved in local government, holding various positions in Knoxville until he became Knoxville's mayor, a position he held for 5 years until his election to the House.

John came to Congress just 2 years before I did. During all of our years of service together. I have always been proud to call him a friend.

Our colleague, Don Sundquist, also of Tennessee, had introduced a bill saying that in light of the many years of outstanding service to the people of the Second District of Tennessee and the country, it is truly fitting and appropriate that we honor our colleague by the naming of a Federal building in Knoxville, TN, the "John J. Duncan Federal Building."

I am privileged along with many other colleagues to be a cosponsor of this bill.

I know that John Duncan will be deeply missed by all of us.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. Gray of Illinois). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4288

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Office Building located at the corner of Locust Street and West Cumberland Avenue in Knoxville, Tennessee, shall be known and designated as the "John J. Duncan Federal Office Building."

SEC. 2 LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "John J. Duncan Federal Office Building".

The SPEAKER pro tempore. The gentleman from California [Mr. Anderson] is recognized for 1 hour.

Mr. ANDERSON. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. Pepper].

Mr. PEPPER. Mr. Speaker, there is not a Member in this House who is not heavy-hearted at the news of the passing of John Duncan. It is one of the sad experiences we have that our beloved comrade has left our Chamber and gone to dwell in another land.

I have never known of a man of more impeccable integrity, more respected and honored and revered, than John Duncan, from both sides of the aisle. He was an able legislator, a man deeply dedicated to the people's interests, a man extolled with diligence and dedication to make America a better land and to make ours a better world.

I want to extend my heartfelt sympathy to the bereaved members of his family, and I want to express our deep sentiment of affection for the memory and to honor with reverence our colleague, the gentleman from Tennessee, Mr. John Duncan.

Mr. SUNIA. Mr. Speaker, I rise today in support of H.R. 4288, a bill to designate a Federal Building in Knoxville, TN, as the "John J. Duncan Federal Building."

Mr. DUNCAN passed away last night in his home State of Tennessee. As someone who came to know him as a colleague and a friend, I was saddened and shocked to hear the news of his death.

The Committee on Public Works and Transportation approved this bill unanimously just yesterday, only hours before his passing.

Congressman DUNCAN was elected to the House in November, 1964. He served on the Committee on Ways and Means, a position that gave him power and prestige. However, with this powerful position, his sense of responsibility to his country were placed far above any power or prestige that may have come to him. His nine "Watchdog of the Treasury" awards and his continued efforts to eliminate waste in Government are all proof of this.

His fellow Members knew him for his hard work, his integrity, his honesty, and his fairness. Most of all, they knew him for his honor and decency. Mr. Speaker, this is only a decent honor, then, that we give our friend today, and I urge all of my colleagues to support H.R. 4288.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of substitute.

The Clerk read as follows:

Commitee amendment in the nature of a substitute:

Strike out all after the enacting clause and insert:

SECTION 1. DESIGNATION.

The Federal Building located at the corner of Locust Street and West Cumberland Avenue in Knoxville, Tennessee, shall be known and designated as the "John J. Duncan Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 12 is deemed to be a reference to the "John J. Duncan Federal Building".

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to designate the Federal building located at the corner of Locust Street and West Cumberland Avenue in Knoxville, TN, as the 'John J. Duncan Federal Building'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4288, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FAIR HOUSING AMENDMENTS ACT OF 1988

The SPEAKER pro tempore. Pursuant to House Resolution 477 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1158.

□ 1821

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1158) to amend title VIII of the act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes, with Mr. Weiss in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. Edwards] will be recognized for 30 minutes and the gentleman from Wisconsin [Mr. Sensenbrenner] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. Edwards].

Mr. EDWARDS of California. Mr. Chairman it is my pleasure and, of course, my honor to yield time to the gentleman from New Jersey [Mr. Rodino], who will be our first speaker on this major civil rights bill. The gentleman from New Jersey is the one Member of the House who has been an important key part—and this is hard to believe—of every civil rights bill since Reconstruction.

Mr. Chairman, there have been very, very important civil rights bills that have added so much to our society, and the bill that we have before us tonight is certainly one of those.

I am referring, of course, to the distinguished chairman of the Committee on the Judiciary of the House of Representatives, Mr. No. 1 for the Nation and for the world in civil rights, the gentleman from New Jersey [Mr. Peter Rodino]. I yield such time as he may consume to the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, the chairman of the subcommittee has distinguished himself, and has a very illustrious career, as a protector of the Constitution and the rights of individuals. I know for the many years I have been here, I have seen him as he has labored at our side. I and my predecessor chairman, Mr. Emanuel Celler, led this committee in the first civil rights legislation that was enacted by this House since Reconstruction days.

I was privileged and proud to be one of those who sponsored the first piece of civil rights legislation enacted by the House of Representatives and enacted into law since Reconstruction, which because the Civil Rights Commission.

I point out that the gentleman from California [Mr. EDWARDS] has been a tireless advocate of fairness, and has served to implement the commitment of our great country to equality and justice for all people.

I also want to address the ranking member of this committee, the ranking minority member, the gentleman from New York [Mr. FISH] who has, together with the gentleman from California [Mr. EDWARDS] lent yeoman efforts in trying to fashion a bipartisan bill which would provide fair housing in the truest sense of the word to all Americans.

The adoption of the Fair Housing Amendments Act of 1988, one of the most important civil rights proposals presented this year, would mark a turning point in our Nation's commitment to nondiscrimination in housing. It would signify a historic change in two important respects. First, it would go beyond a mere statement of principles on fair housing to create an effective and meaningful enforcement system. Second, it would extend the protections of the Fair Housing Act to disabled individuals and families with children.

In 1968, when the Fair Housing Act was adopted, it was viewed as a great victory for civil rights. Indeed, the passage of that measure was the final and probably the most difficult in the series of comprehensive civil rights statutes enacted in the 1960's. The path was long and hard.

Following the passage of the 1964 Civil Rights Act, efforts were first begun to enact legislation that would prevent racial discrimination in housing. In 1966, we passed the precedent-setting bill successfully on the House floor, but in the Senate, the climate for civil rights efforts had shifted, and the bill could not get off the ground. Accordingly, when the next Congress considered civil rights measures only a very narrow bill was proposed—H.R. 2516, which would protect blacks and civil rights workers by outlawing racially motivated acts of violence against persons exercising their 14th amendment rights. At this stage, the bill was anything but a landmark measure.

□ 1825

After the House passed H.R. 2516, however, historic events were to occur which would change the course of history. President Johnson sent a special message on civil rights to Congress, calling for a much broader measure, including provisions on fair housing. However, a filibuster that lasted 33 days was ended only when the minority leader, Senator Everett Dirksen, lent his support to a compromise substitute. Cloture was obtained and the bill passed the Senate. It was the Dirksen substitute that ultimately became the 1968 Civil Rights Act.

Thus, the modest House bill had been transformed on the floor of the Senate, but there was now the danger that the House would not pass the Senate bill.

The assassination of Dr. Martin Luther King completely altered the situation. His death and the rioting that followed led to irresistible pressure for speedy passage of the Senate bill. The Rules Committee allowed only 1 hour of debate, and permitted Members to only vote the Senate bill up or down. The vote on April 10 was 229 to 195 to accept the Dirksen substitute.

This historic account of the passage of the 1968 Fair Housing Act serves to illuminate the cause of our present dilemma. We now have a fair housing law that stands for the most important of principles, but reflects the compromise required to secure passage. Now 20 years later, the time has come for us to review the efficacy of that statute, and based on our experience, to update it so as to ensure that it will be a more effective tool in the struggle for equal housing opportunity.

Despite the present law, discrimination persists and highly segregated housing patterns still exist across the Nation. It is incumbent upon us, therefore, to strengthen this important weapon in the battle against discriminatory housing. The Fair Housing Amendments Act of 1988 will provide that strength.

I support H.R. 1158 because it will do the job and do it well. Minor tinkering with the present enforcement system will not. Private enforcement in the courts, with occasional help from the Department of Justice, has not begun to rectify this enormous social problem and there is no reason to believe that it ever can. Proof of this fact is apparent all around us as we observe the redlining and other unfair practices taking place daily.

The proposal in H.R. 1158 is neither unique nor untried. Not only is its administrative enforcement system similar to that found in many other Federal agencies, it is also almost identical to that utilized by States that have a proven record of effectively enforcing their State fair housing laws. In many States, including my home State of New Jersey, the State fair housing agencies have been empowered not only to investigate and conciliate, but also to issue administrative orders that include the full range of remedies, including damages, and orders to make the disputed unit, or its equivalent, available to the victim of discrimination. These State agencies have had a highly successful experience with administrative enforcement. Cases before these agencies are almost always settled prior to hearing. Unlike the situation under current title VIII, respondents must take conciliation efforts seriously. Greater efforts at accommodation and greater respect for the law are the result.

The second historic feature of the bill is its inclusion of handicapped persons and families with children within title VIII coverage. We knew of the plight of the handicapped when we voted to pass the Fair Housing Amendments Act of 1980; however, in the last few years, we have become increasingly aware of and sensitive to the problems of families with children. This bill will mark the first time a major civil rights statute will be expended to cover the rights of these groups. It is altogether appropriate that we do so.

Congress has already made the determination that society will benefit by including the handicapped in the mainstream of American life. But without access to housing, that simply cannot be achieved.

Families with children also suffer a difficult task in finding housing in this country. Over 75 percent of all rental housing place restrictions on the ages of children allowed to live in the premises. And in some areas, the percentage is much higher. Discrimination against families is racial discrimination by another name. It is discrimination against women by another name. If we are ever going to be able to change the downward trend in our children's education and economic well-being, we must first ensure them a decent place to live.

The promise of America is the promise of a nation dedicated to equality and opposition to discrimination. That is the promise we must keep.

This is a good and strong bill. The committee spent 3 days in markup refining the bill, and we are quite pleased with our product, which was reported by a vote of 26 to 9. As the final improvement, Mr. FISH plans to offer an amendment that would allow any party to elect to have a trial by jury in a Federal court, to address any remaining questions with the administrative enforcement procedure. I wholeheartedly support his amendment, because it answers questions raised about the constitutionality of the administrative enforcement procedure.

We must resist, however, any measures that weaken the provisions of this bill. It would be a travesty once again to enact a fair housing law that promises more than it can deliver.

I wish to commend again the ranking minority member of the committee, Mr. FISH of New York and the chairman of the Subcommittee on Civil and Constitutional Rights, Mr. EDWARDS of California, for their untiring efforts in helping to fashion in a bipartisan way a bill which will assure that fair housing will become a reality.

I believe this bill is the logical and necessary next step in our attempt to deal with housing discrimination. The effort that we began in 1966 must be completed, so that all Americans can be assured of freedom of choice in choosing their homes. It is not enough to establish the goal of fair housing—we must also provide the means to achieve that goal.

Mr. Chairman, I have had the privilege of serving our Nation for 40 years. I am proud of the many important and historic pieces of civil rights legislation we have passed during that time. This bill to finally make fair housing a reality for so many Americans is another significant step forward for our Nation in eliminating discrimination and providing equal opportunity for all in one of our most basic of human needs—housing. I urge my colleagues to support this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is the last major civil rights bill that will be brought to the floor under the chairmanship of the gentleman from New Jersey [Mr. Rodino] and I would like to add my voice in appreciation for the leadership role that he has played in forging civil rights legislation through this Congress during the last 40 years. Our Nation has had a civil rights revolution and Peter W. Rodino, Jr., has been at the center of that.

Mr. Chairman, I think it is particularly significant that this last major civil rights bill has been negotiated so that there will not be a contentious debate on it. One of the people who was in charge of that negotiation is the gentleman from New York [Mr. Fish]. I think that while the gentleman from New Jersey [Mr. Rodino] can justifiable claim title to being No. 1 in the area of civil rights in the United States, the Henry Clay Award for 1988 ought to go to the gentleman from New York [Mr. Fish]. He did form the great compromise that is going to have this bill pass by an overwhelming margin.

Mr. Chairman, I yield 12 minutes to the gentleman from New York [Mr. Fish].

Mr. FISH. Mr. Chairman, I thank my colleague, the gentleman from Wisconsin [Mr. Sensenbrenner] very much for his kind words, and I thank also the gentleman from New Jersey [Mr. Rodino] the chairman for his kind remarks. I appreciate the gentleman's very kind remarks. We will see this bill through this year as a tribute to the gentleman from New Jersey [Mr. Rodino].

Mr. Chairman, I rise in strong support of the Fair Housing Amendments Act of 1988 (H.R. 1158).

As many Members of this House may know, recent events have led us to a new level of optimism about the prospects for passage of major reforms in the Federal fair housing law. We have worked out a compromise amendment which I will offer later on in these deliberations, which resolves potential seventh amendment constitutional questions. This compromise agreement is particularly noteworthy because it reflects a landmark alliance between the civil rights community and the National Association of Realtors.

The statute which we seek to amend and strengthen, was originally passed by Congress as title VIII of the Civil Rights Act of 1968—Public Law 90-284. Title VIII was enacted within just a few days after the tragic assassination of Rev. Martin Luther King. At that time, the enactment of fair housing legislation was publicly hailed as an important, symbolic step—reflecting the American dream of which Dr. King had spoken so eloquently.

Unfortunately, because of fundamental defects inherent in the current law, there is a serious chasm between this symbolic dream and the reality of equal housing opportunity for all Americans. Simply put, title VIII lacks an effective means of enforcement and relies too heavily on informal and voluntary methods of conciliation to achieve its ends.

Under present law, the Secretary of Housing and Urban Development has the responsibility to investigate complaints of housing discrimination, but the Secretary has no real power to assure a remedy for the violations these investigations reveal. The alternative remedy for a victim of housing discrimination is to resort to the courts—suits may be brought under the Civil Rights Act of 1866, the equal protection clause of the 14th amendment, or under title VIII. But this is a costly and time-consuming option—an option that, in many cases, is simply not a realistic one for the typical victim. An option made even more unrealistic because of the law's unusually stringent limits on the awarding of attorneys fees and punitive damages.

Consequently, we are here today to consider a bill which, in my estimation, would transform the symbol and dream into legal and procedural reality. The focus of H.R. 1158 is on the potential victims of discriminatory practices in the sale and rental of housing. The current enforcement situation simply does not instill the necessary confidence on the part of possible victims, and these defects undermine the legitimacy of our stated national policy. The focus then is on a real remedy—or, more accurately, an optional series of effective remedies—for those victimized by discrimination.

ADDITIONAL PROTECTED CLASSES

The current law protects individuals against housing discrimination based upon race, color, religion, sex, or national origin. H.R. 1158 would add two additional covered classes to the groups to be protected. These are: First, handicapped persons; and second, families with children.

In my view, the Fair Housing Amendments Act is particularly historic because, for the first time, it extends the protection of the Fair Housing Act to people with disabilities. Individuals with handicaps often suffer unjustified and unfair discrimination in their efforts to obtain and maintain private housing. These occurrences of discrimination are often not based on legitimate concerns regarding individuals with disabilities. Rather, they all too often reflect ignorance, fear, stereotypes, and prejudices.

The estimates are that there are approximately 36 million physically and mentally disabled persons in our country. These citizens deserve assurances that they will receive fair treatment—that is, reasonable access to decent housing. There is no disagreement with the administration on the need to expand the scope of the fair housing law to cover the handicapped. In fact, the distinguished minority leader, my good friend, Bob Michel, just recently introduced the administration's fair housing bill—H.R. 4425. That legislation specifically would extend title VIII coverage to the handicapped. Similarly, in the previous Congress, both Senator Dole and the ranking Republican on the Subcommittee on Civil and Constitutional Rights, Jim Sensenbrenner, introduced legislation on behalf of the administration proposing to accomplish that same result.

Also, as mentioned earlier, this legislation would include fair housing protections for families with children. The problem of access to decent housing for families with children has been documented in numerous studies. One such national survey found that only one-fourth of all rental units in the United States accept children with no restrictions.

Before leaving the subject of familial status, I want to stress that our bill makes it clear that the rights of this newly protected class would not be absolute. The bill spells out three exceptions to this new prohibition. So, the bill would amend section 807 of the existing act to make it clear that reasonable local occupancy and zoning codes concerning the acceptable number of persons per unit would continue to apply. In addition, the provision regarding family status would not apply with respect to programs financed by the State or Federal Government where the dwellings involved are specifically designed and operated for elderly persons—such as the very popular section 202 Senior Citizen Housing Program. Finally, the bill contains language aimed at protecting senior citizens retirement communities—those that are intended for and principally occupied by the elderly. The aim is not to disrupt the lives of senior citizens or the operation of legitimate retirement communities. Rather, we seek to expand the availability of rental units for young families without arbitrary exclusions and limitations.

STRENGTHENING THE POWERS OF THE HUD SECRETARY

H.R. 1158 would continue to rely on the investigation and conciliation process for the initial resolution of discrimination complaints. Under current law, the Secretary of Housing and Urban Development is directed to resolve such complaints through the "informal methods of conference, conciliation and persuasion." 42 U.S.C. 3610(a). Under an expanded format, the HUD Secretary would continue these informal methods to bring the parties together and, furthermore, the statute would be amended so that conciliation agreements resulting from the informal negotiations could provide for binding arbitration of the dispute itself. Section 810(b) of H.R. 1158.

However, as I alluded to earlier, the HUD Secretary is now virtually without power to back up this informal conciliation process. It is extremely difficult to get respondents to take the current process seriously under these circumstances. Consequently, under H.R. 1158, the Secretary of HUD would be authorized to issue a charge in those circumstances where a dispute has not been resolved and the Secretary has found reasonable cause to believe that discrimination has occurred or is about to occur. Once the Secretary has issued such a charge, the enforcement process would proceed. The Secretary would have the discretion to issue a discrimination charge, if no resolution of the dispute has occurred within 100 days after the filing of the complaint.

This measure would continue and strengthen the ability of the HUD Secretary to issue subpoenas in an effort to fully examine relevant sources of evidence. Even more importantly, section 810(e) of the bill would provide the Secretary with the legal option of going to court to seek appropriate injunctive relief—such as a temporary restraining order—in those instances where the facts dictate the need for prompt action.

ADMINISTRATIVE ENFORCEMENT

Once the Secretary issues a charge, it is HUD that brings the administrative enforcement action on behalf of the injured party or parties. These hearings will be before administrative law judges and the proceedings will be subject to the due process protections of the Administrative Procedure Act (5 U.S.C. 551-559) and the Federal Rules of Evidence. A complainant may intervene in this proceeding should he/she choose to do so, and of course, each party may call, question, and cross-examine witnesses. The decision of the administrative law judge may be appealed to the Federal circuit court of appeals in which the discriminatory practice is alleged to have occurred. The administrative law judge is authorized to issue an order for relief as may be appropriate, including actual damages and injunctive or other equitable relief. Of course, if my amendment is adopted, all the interested parties would be provided with a judicial enforcement alternative to this administrative process. Also, under the terms of my amendment, the decision of the administrative law judge would not be the final agency decision, but rather would be subject to a 30-day review by the HUD Secretary.

SUBSTANTIAL EQUIVALENCY OF STATE AND LOCAL FAIR HOUSING LAWS

These fair housing amendments would also continue the existing practice of HUD recognition of State and local ordinances found to be substantially equivalent to the rights and remedies available under the Federal fair housing law. 42 U.S.C. 3610(c). In such cases, the complaint is filed with, or transferred to, the appropriate State or local agency for a resolution of the issues involved. At the present time, 36 States and 76 local ordinances have been granted such recognition by the Department of Housing and Urban Development. The most recent State to be certified was Missouri on October 28, 1987. In addition, three localities were certified as recently as March 3, 1988. What all this means is that between 70 to 75 percent of the fair housing complaints filed under title VIII are now referred to and handled by State or local fair housing agencies. For example, in fiscal year 1987, 4,699 complaints were filed with HUD; 3,388 of these were referred to State and local agencies for investigation and resolution.

Under section 810(f), these agencies would continue to have jurisdiction in most of these cases and would have 40 months to amend their State law or the local ordinance to bring it into compliance with the rights and remedies of the new law. In exceptional circumstances the HUD Secretary is given the authority to extend this 40-month grace period, for an additional 8 months. It should also be stressed that if the State or local agency fails to initiate action on a referral within 30 days, the HUD Secretary has the statutory authority to recall the complaint for action at the Federal level.

PRIVATE LEGAL ENFORCEMENT

This measure also contains amendments strengthening existing provisions relating to private judicial enforcement. Under current law, an individual must file such a suit in Federal court within 180 days after the discriminatory act. This unusually brief statute of limitations has had the effect of artificially cutting off a plaintiff's rights, particularly in those instances where he/she may have sought HUD assistance in the conciliation of a dispute. Under section 813 of H.R. 1158, alleged victims would have 2 years within which to file such an action.

This proposal would also remove language from the current statute that severely limits the possibility that a prevailing plaintiff could be awarded attorneys fees in such a private action. Furthermore, our bill also removes the existing $1,000 ceiling limitation on punitive damages. On this last point, I want to stress that it is our intent that punitive damages should only be awarded under section 813 or the new section 812(o) where it can be shown that the respondent acted in a willful, reckless manner in disregard of the rights of the complainant. The burden of proof for the recovery of punitive damages is intended to be higher than that required for actual damages; that is, by a showing of clear and convincing evidence.

JUDICIAL ENFORCEMENT FISH AMENDMENT

When the House considers this matter under the 5-minute rule, it is my intention to offer an amendment that responds to certain constitutional concerns that have been raised in connection with the administrative enforcement mechanism in the committee-reported bill. Seventh amendment questions have been raised regarding damage awards to aggrieved persons by administrative law judges, under an appeal process that provides limited judicial review in a Federal circuit court. Some have argued that the lack of the availability of a jury trial for the respondents on the issue of discrimination and the damages awarded could violate seventh amendment guarantees.

In an effort to resolve this problem, I have worked closely with subcommittee Chairman Don Edwards, the Leadership Conference on Civil rights, the NAACP, the American Civil Liberties Union, civil rights litigation groups, and the National Association of Realtors to formulate a compromise solution. Reflecting his strong commitment to civil rights, Vice President Bush talked with me on more than one occasion to offer his encouragement and personal assistance in this effort. The distinguished minority leader, Bob Michel, was also instrumental in forging this needed compromise.

Under the terms of my proposed amendment, following the Secretary's issuance of a charge, complainants, respondents, or any other aggrieved person would be given the option of electing to go to a U.S. district court rather than go before an administrative law judge. This election option means that any of the affected persons could unilaterally act to obtain a jury trial in these cases, after the HUD Secretary issues a discrimination charge. HUD itself may elect the district court option, but only in those instances where HUD filed the original complaint. If none of the interested parties choose to elect district court enforcement, the administrative enforcement process would proceed and the right to a jury trial under the seventh amendment will be deemed to have been waived.

This amendment, reflecting good faith and a willingness to compromise by both the civil rights community and the National Association of Realtors, is a key breakthrough on this legislation. It is my hope that its adoption will greatly increase the chances of enacting these important reforms this year.

Before concluding, I would like to stress that H.R. 1158 has the full support of the Leadership Conference on Civil Rights. In addition, the bill has been endorse by the National Committee Against Discrimination in Housing [NCDH], the NAACP, the Federal Administrative Law Judges Conference, and numerous groups representing the disabled—including, the Paralyzed Veterans of America, and the National Council of the Blind.

I urge the support of my colleagues for H.R. 1158.

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Mr. EDWARDS of California. Mr. Chairman, I yield myself such time as I may consume.

I thank the gentleman from New York [Mr. Fish] for his excellent explanation of the bill and congratulate him on the magnificent contribution that he made. There would not have been this success had it not been for the gentleman from New York [Mr. Fish].

Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. Pepper].

Mr. PEPPER. Mr. Speaker, we are all familiar with those tender words, "Be it ever so humble, there is no place like home." This bill will make possible the joy and the comfort of a home for millions of Americans who heretofore have been denied such a rare privilege because of one form or another of discrimination. It is the finest expression of the protection of human rights on the part of this Congress.

I, therefore, with all my heart strongly support this bill.

Mr. Chairman, I rise today in support of the Fair Housing Amendments Act. This is by no means an ordinary piece of legislation in an ordinary year. This legislation comes before us exactly 20 years after we passed the Fair Housing Act of 1968. We said then that we would no longer tolerate discrimination in the sale or rental of housing on the basis of race, color, religion, or national origin. In 1974, we added sex discrimination to this list. Today, 20 years later, discrimination and segregation are well-documented and we see the need to add to the list of protected classes, families with children and individuals with a handicap.

I would like to focus for a minute on the extension of protection from housing discrimination to families with children under 18. The American dream of having the ability to provide safe and decent housing for one's family is quickly becoming just that—a dream. One-third of the homeless population nationwide are families, a proportion that is rising. Families, the backbone of American society, are turned away from houses and apartments simply because they have children. A recent study conducted by HUD indicated that 75 percent of rental units either excluded or restricted families with children—legally.

The Fair Housing Amendments Act would prohibit discrimination against families with children. This means that landlords and owners cannot simply say, "No children." At the same time, the bill would protect the rights of owners and landlords by allowing them to reject families with children who are not financially qualified.

There are some who say that the rights of senior citizens to reside in an all senior community will be taken away if this bill is enacted. I am here today, as a well-known advocate for senior citizens, to say, unequivocally, that this will not happen. The Fair Housing Amendments Act fully protects the rights of senior citizens who live in retirement communities, and would allow these communities to exclude families with children if they so choose. Key groups whose purpose is to speak on behalf of our seniors are in support of this bill, the American Association of Retired Persons, the National Council of Senior Citizens, and the Gray Panthers to name a few.

So I ask you today to join with Mr. Fish and the many other distinguished Members of the House to take one more step toward ending discrimination in this country. Support an historic piece of legislation—vote in favor of H.R. 1158.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. Kastenmeier].

Mr. KASTENMEIER. I want to commend the gentleman from California [Mr. Edwards]. He has been a leader for both the constitutional and civil rights in this body for many, many years, and his advocacy of this particular bill is extremely important to the people of this country.

Historically, I would like to note, the gentleman from California, myself, and certainly our distinguished chairman, the gentleman from New Jersey [Mr. Rodino] have served on the Committee on the Judiciary many years. In 1968 we were cosponsors of the original Fair Housing Act, and that was the last of the civil rights acts that were enacted in that decade.

There were four civil rights acts that were necessary to ultimately make the Voting Rights Act effective—1957, 1960, 1964, 1965. We then tackled the most difficult of the civil rights areas, and that was housing, 1968, and I know the gentleman took the lead in 1979, and we passed a bill through this House to make the Fair Housing Act somewhat more effective even as we had tried to do for the Voting Rights Act. While it was never realized in the other body, we, in 1988, are now returning 20 years later to finish the job and, indeed, to expand it to new persons affected, families with children and the handicapped.

I want to say that I think history will shine brightly on the efforts of the gentleman from California, our chairman, and other Members, the gentleman from New York [Mr. Fish], particularly the gentleman from New York, and even those who may not agree with everything in the bill. The gentleman from Wisconsin [Mr. Sensenbrenner] has worked very hard on this issue.

Interestingly enough, if I may make a final observation, it is not with the same antagonism and bitterness of earlier days. The National Association of Realtors have, rather than fighting this, tried to achieve minimally what they thought they needed in terms of due process. The civil rights community was willing to compromise and largely through the gentleman's efforts, the gentleman from New York [Mr. Fish], that that has been achieved. I think it is a great monument to the work of the gentleman, and to this committee, and I am pleased to join him in advocating quick passage of this bill tomorrow.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman from Wisconsin [Mr. Kastenmeier], a most valued member of the Subcommittee on Civil and Constitutional Rights, and a Member of this body who is greatly admired and loved by all of us.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Gonzalez] for a colloquy.

Mr. GONZALEZ. Mr. Speaker, let me add my voice to those of the many others that have praised the gentleman from California as well as the full committee chairman, the gentleman from New Jersey [Mr. RODINO], as well as the ranking minority members for their long effort crowned by success as we see.

I have no reason to doubt that the vote will be overwhelming in support.

The reason I rise is that I wanted to have some discussion with respect to some aspects of this bill. I understand that this amends section 804 of the Fair Housing Act of 1968 in order to include the two new protected classes of handicapped and familial status. I further understand that other than these changes to section 804, no other amendment to that section is proposed, so that there has been preserved the status quo with regard to the case law, the interpretation and the enforcement of the language that makes it unlawful to "otherwise make unavailable or deny a dwelling to any person" who is in a protected class?

Mr. EDWARDS of California. The gentleman from Texas [Mr. GONZALEZ] is correct in his statement. We are grateful to the gentleman from Texas for his eloquent support of this important legislation and for making clear this important point.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman from California yield?

Mr. EDWARDS of California. Mr. Speaker, I am happy to yield such time as he may consume to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman from California for yielding.

Mr. Speaker, let me say that I believe that the interpretation of the gentleman from Texas is correct as well.

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Title VIII of the 1968 Civil Rights Act states categorically that it is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the country.

Unfortunately the law has not been effective because it lacks an effective enforcement mechanism. If conciliation fails, the aggrieved party must file an action in court.

Unlike other civil rights laws, the Government is not the enforcer in individual cases. The victim is the enforcer—in Federal court—and it doesn't work.

President Reagan agrees that reform is necessary. His words are "The gap in enforcement is the lack of a forceful backup mechanism which provides an incentive to bring the parties to the conciliation table with serious intent to resolve the dispute then and there."

This lack of enforcement mechanism has resulted in tragic discrimination in every part of our country.

HUD estimates that 2 million instances of housing discrimination occur each year.

Here in Washington and in the Virginia and Maryland suburbs a 1987 study found that blacks were discriminated against 57 percent of the time.

Similar studies in other parts of the country reveal the same distressing patterns—in Califorina, Houston, Phoenix, Boston, Denver, Chicago.

We confidently believe that the legislation before you provides the necessary mechanism, promptly, at low cost, and in a sound constitutional form. It works like this:

When someone believes that he or she has been or is about to be subjected to housing discrimination, that person files a complaint with HUD.

The HUD Secretary then investigates the complaint and at this time must engage the parties in conciliation.

If conciliation fails, and the investigation by the Secretary finds reasonable cause to believe there has been a discriminatory housing practice, the Secretary then issues a charge. At this point, under an amendment that will be offered by Mr. FISH, and which I strongly support, any party has the right to elect to have a trial by jury in Federal court. If no party elects to go to court, then within 120 days there is a hearing before an administrative law judge at HUD.

If the ALJ finds the respondent has or is about to engage in a discriminatory housing practice, the relief can be an injunction, actual damages, and/or a civil penalty, a fine, of not more than $10,000 for a first infraction, $25,000 for a second violation with 5 years or up to $50,000 for a subsequent violation within 7 years.

The committee is confident, Mr. Chairman, that this speedy, fair and inexpensive procedure will fill the gap in enforcement and ensure that conciliation will resolve these cases.

The heart of the bill is the new mechanism I have described. We want these cases resolved by conciliation between the parties. We are convinced that conciliation, under present law ineffective, will work if the parties understand that proceedings before an ALJ await them if conciliation fails.

This was the mechanism provided for in the fair housing bill that passed the House in June 1980, by a vote of 310 to 95. Unfortunately, the Senate was unable to break a filibuster, falling short by 6 votes of the 60 needed. The committee reported the bill this year by a strong bipartisan vote of 26 to 9.

The bill makes no major changes in existing enforcement provisions. Private litigation in Federal courts is still provided. The Attorney General can prosecute where a "pattern or practice" of discrimination exists.

The bill continues current law that provides for cases to be referred to State or local fair housing agencies. If the State or local agency is "substantially equivalent" as to rights and remedies, we encourage local or State enforcement.

The legislation also prohibits discrimination on the basis of handicap. The landlord must allow the handicapped tenant, at the tenant's expense, to make reasonable necessary modifications to the dwelling.

New construction of multifamily dwellings must be designed so that common use portions of the dwellings are readily accessible and usable by handicapped persons.

Doors must be wide enough for passage by wheelchairs, and the units must contain features that would make them adaptable for use by handicapped persons.

I'm talking here about an accessible route through the unit, light switches and other controls which are not too high or too low, reinforcements in bathroom walls to allow later installation of grab bars, and usable kitchens and bathrooms.

These requirements will be of minimal cost. HUD estimates that the cost of providing such features will be less than 1 percent of the cost of a unit. New York State estimates a cost between $400 to $480 per unit. The National Association of Home Builders estimates a cost of $364 per unit. This estimate is based on a 1979 study of the actual costs of providing these features.

We have tried with this provision to make ordinary housing available to handicapped persons. Neither handicapped persons nor landlords want a small number of specialized "handicap" units that look like hospital rooms. Many States have similar or far greater requirements than in this bill.

The bill also prohibits discrimination against families with children, and the need here is compelling.

Approximately 40 percent of American households have children under 18, but a HUD survey reflects 25 percent of all rental units do not allow children; and 50 percent were subject to restrictive policies that limited the ability of families to live in those units.

Studies in California reveal the staggering statistics that of rental units refusing to admit children were 71 percent in Los Angeles; 70 percent in San Jose; and 65 percent in San Diego.

The discrimination against children is epidemic, and 16 States have some laws prohibiting this dismaying practice.

We were careful in writing the bill to make clear exception for "housing for older persons"—senior citizens who live in retirement communities will not be forced to live with children.

Last, Mr. Chairman, let me reemphasize the necessity for this bill.

Housing affordable for middle- and low-income families is in short supply. New units not being built, and so the probability of discrimination is acute.

There are few experiences more humiliating, more cruel, than to be denied housing because of your race, handicap, or because you have children.

But the discrimination is out there, Mr. Chairman and my colleagues. It is pervasive in our country. It divides us into hostile camps. It encourages racial tensions, crime, and disillusionment.

The House is now called upon to approve another essential law, a statute that can bring hope and some comfort to men, women and children who need and deserve our help.

The House has a historic chance to again contribute to decency and fair play in American society. We now have the opportunity to add a bright star to the proud constellation that make up our galaxy of civil rights laws.

No other laws have been so good for American society than the civil rights laws written by this body. No other laws make America shine so bright in world society.

Today we have the opportunity and the duty to continue this remarkable progress.

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Mr. SENSENBRENNER. Mr. Chairman, I yield myself such times as I may consume.

Mr. Chairman, there is no question in my mind that the 1968 Fair Housing Act is in need of amendment. The enforcement provisions are cumbersome. The desired effect of conciliating disputes has not worked and as a result, most of the teeth in fair housing enforcement around the country has been under State and local laws rather than under the Federal Law. That is not the way it should be.

The Federal Government should be a leader in antidiscrimination legislation. In the case of the Fair Housing Act of 1968, sadly, the Federal Government has not been that leader. So, amendments are necessary to improve the enforcement mechanism of the Fair Housing Act, and to force conciliation as an alternative to settlement, rather as a means to stall justice being rendered. That is why I support H.R. 1158.

I am also delighted that H.R. 1158 extends its protections to handicapped persons. The right to be free from housing discrimination is essential to the goal of independent living. H.R. 1158 helps meet this goal by clearly prohibiting prejudice that denies critically needed housing the handicapped persons.

We are proceeding the way we should on civil rights bills—in a bipartisan fashion. I compliment the gentleman from California [Mr. EDWARDS], the chairman of the subcommittee and the interested parties for forging ahead in a constructive fashion to reach a compromise on the key issue of enforcement.

However, while many parties were involved in reaching this historic agreement, one individual was indispensable to this process, the gentleman from New York [Mr. FISH], the distinguished vice chairman of the Judiciary Committee. In my view, it was HAM's tireless efforts of shuttle diplomacy that will make strong fair housing enforcement and protection for the handicapped a realty. I have been closely involved with the knotty issue of fair housing enforcement for over 9 years and truly appreciate the achievement of the compromise. HAM should be saluted as well as Vice President BUSH for his support.

In 1980, as the gentleman from California [Mr. EDWARDS] related, the House of Representatives passed a fair housing bill on a split vote following a very bitterly contentious debate. The major amendment to the bill in 1980 was on the enforcement issue, and it was my amendment to strike the administrative law judges from the bill. My amendment failed by only one vote after a 32-minute rollcall, so I felt I was counted out.

This bill is stronger than the bill that was passed by the House but defeated in the other body in 1980. The constitutional and public policy arguments against administrative law judges have been resolved by the compromise that has been referred to by many of the preceding speakers, and as a result we are getting a stronger bill with better enforcement, and the reason that is happening is because there was a bipartisan effort to pass a fair housing bill.

I think we are getting back on the track of having civil rights progress being made on a bipartisan basis, and that is why we made so much progress in the 1960's when this Congress passed four major civil rights bills. I am hopeful that we will attack further civil rights problems in the same bipartisan way, because that is the way true progress is made in this area of civil rights, by taking it out of the realm of partisan politics and presenting a united congressional and governmental front against discrimination where it exists in our society.

So my hat is off to all, particularly the gentleman from New York [Mr. FISH]. I am glad that this bill will be sailing through this House, and I look forward to its speedy enactment.

Mr. Chairman, I reserve the balance of my time.

Mr. EDWARDS of California. Mr. Chairman, I yield myself 30 seconds. I thank the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER] for his remarks, and also thank him for all of his assistance in designing this bill and bringing it to the floor. I look forward to his assistance and support tomorrow when we face some rather difficult amendments which would do great harm to the bill. I think the subcommittee will be unanimous, and I hope that the amendments that are so crippling will be wholeheartedly defeated.

We had a most encouraging telegram yesterday from the President of the United States in Toronto which seemed to us to be an unequivocal endorsement of the bill. This bill is the product of much compromise and negotiation; it deserves this body's unqualified support.

Mr. Chairman, I yield 6 minutes to the gentleman from Michigan [Mr. CONYERS], one of the senior members of the Committee on the Judiciary and also a chairman of a subcommittee on his own. As one of the senior members of the subcommittee I chair, he is always of immense help, and the gentleman is one of the great civil rights leaders of the United States.

Mr. CONYERS. Mr. Chairman, I join in seconding all of the accolades that have passed through the Chamber this evening as the chairman of the Judiciary Committee, the gentleman from New Jersey, Mr. PETER RODINO, plays his swan song to civil rights with the fair housing legislation that has now come to the floor.

I also commend the gentleman from New York, Mr. HAMILTON FISH, and also want to single out the gentleman from Wisconsin, Mr. SENSENBRENNER, with whom I have enjoyed many differences across the years in the Judiciary Committee. But I am pleased for once to note that we are working together, and this is not the first time he has done so. I can recall other critical civil rights measures where without his cooperation they would not have passed. So I think it is very important that we hark back to a period of time in 1968, which has been mentioned so much, and the date I am concerned with is April 4, 1968, which is the day of the assassination of Martin Luther King, Jr. It makes me think about Dr. King, who this Chamber decided to honor in a way that I think is the highest honor that any American citizen can have conferred upon him, and that is to have his birthday made a national public holiday. As one who offered that first proposal some 15 years later, we were able to see it accomplished with all of the Members who are now participating in this fair housing legislation who were in the Congress then.

In those days, even the first Fair Housing Act of 1968 was a hollow piece of legislation. Because of the threat of filibuster, we had to leave out the enforcement mechanism. We made a statement, a proclamation. We made a statement of good faith intention. We realized that we had to leave out the mechanism, the heart of the bill that would create the enforcement.

So I am very, very thrilled now, 20 years later, with 2 months added on that we now come to a point in time where I think Dr. King would be very pleased about this legislation, to see that we have brought realtors and Republicans and civil rights leaders all together to say enough of the one embarrassing scourge that has made this Nation's civil rights declarations empty for many, many millions of Americans, and that is the inability for them to live or rent in the places that they choose.

Seventy-two percent of the black families seeking rental housing stand a chance of encountering discrimination. This is an incredible figure. Literally what we are saying is the Congress has reached this point in time where they are not going to reverse the accepted de facto segregated housing practices of purchasing and rentals in America, and that we have come together with the mechanism, with the method that all have agreed to. It is indeed an important point in American history, and it shows that the one piece of advice that I received when I first came into the Congress was dead wrong.

Someone told me do not seek, Mr. Freshman, the Judiciary Committee to serve on because in 1965 we have passed just about all of the civil rights laws that we are going to pass. I remember someone suggested not to go on the Judiciary Committee.

But this day and tomorrow will be important, and I am urging that all of those who are now a participant in this matter, my prayer this evening is to urge all of the parties that have participated in the forming of this great mechanism to see that we get fair housing in America, stand together tomorrow against any amendments that are not supported by this bipartisan leadership that brought us this far and that those who are in support of all of the congratulatory statements that have gone out to the soon departing chairman of the Judiciary Committee honor their support for him by sticking to the committee bill and that we make certain that under no circumstances any weakening amendments occur to this legislation. Unless we do that, then all of the great speeches that will be made about our progress, and all of the preliminary congratulations will come to naught.

Mr. EDWARDS of California. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland [Mr. Hoyer], a Member who has always been a great champion of civil rights and one on whom we count when times get difficult and we must confront situations where fairness to the American people become our concern.

Mr. HOYER. Mr. Chairman, first I want to thank the gentleman from California, Mr. Edwards. I am privileged to join in this debate with giants of the civil rights movement: my good friend, the gentleman from Michigan, John Conyers, who has been at the right hand of Martin Luther King and has carried on so able after the death of Martin Luther King. Dr. King would indeed be proud of John Conyers; and my friend, the dean of the California delegation, Mr. Edwards, himself a giant in the civil rights movement in this House on behalf of the protection of the rights of all Americans. I also congratulate the gentleman from Wisconsin, Mr. Sensenbrenner, the ranking member of the subcommittee for his leadership on this issue. I am pleased to join with him in support of this legislation.

I am reminded of the fact that I first ran for office in Maryland in 1966. Perhaps some of you will remember that election.

In the Democratic primary, the election was about "your home is your castle." That is a very important and valid premise of American constitutional law. The fourth amendment says that a man's home is indeed his castle and that the State cannot invade his home without probable cause.

But that very valid premise of constitutional law was abused and misused in Maryland in 1966 and that very valid premise was used to support the discrimination in housing against Americans; Americans who happened to be black or happened to have some other ethnic or racial origin than the majority.

I ran in a district that the proponent of the "your home is your castle" won.

Two years prior to that, George Wallace had won the district in which I ran.

I was pleased to run on a ticket with a gentleman named Carleton Sickles, a former Member of this House. He lost the election but he lost it contending for the rights of all Americans to have equal access, not only to public accommodations which had been almost resolved by that time, that is the fact that a black family could take their child into a Howard Johnson in South Carolina as well as they could in Maine or California was then becoming the law of this land; but they still could not come into Prince Georges County and buy a home where they wanted. It was legal then to say "I won't sell to a family that is black."

That was un-American. That was not allowing the pursuit of happiness as our Constitution promises.

Today we buried a woman named Gladys Noon Spellman. It is appropriate that I speak on this issue, because in 1967, Prince Georges County, under the leadership of Gladys Noon Spellman, was the first suburban county in the Nation to adopt open housing legislation. Gladys Spellman was the leader of that effort.

John Conyers, Don Edwards, Jim Sensenbrenner, and Chairman Rodino before, have said that we stated a principle in which we believe. But stating a principle is not enough. A nation must live out the promise of its principles. This bill takes another step in showing that America believes in what it preaches.

Mr. Chairman, as chairman of the Helsinki Commission I have the opportunity to go abroad and say to our Soviet counterparts and others that they ought to guarantee certain basic human rights. And I tell them that perhaps we are not perfect but we are striving toward attaining the goals that our ideals speak of.

So I am very proud to stand with Peter Rodino, Don Edwards, John Conyers, Jim Sensenbrenner, Hamilton Fish—who is one of the key proponents of this legislation—in reaffirming what this Nation stands for, that every individual who lives within our borders, who is our citizen, will have equal access to all opportunities: public accommodations, employment, education, and, a basic need of every person, housing.

I thank the gentleman for yielding and I thank him for his sponsorship and rise in strong support of the legislation.

Mr. Chairman, I want to congratulate the chairman and the committee for bringing the Fair Housing Act Amendments of 1988 to the floor for consideration by the House. This bill is a significant achievement, and I appreciate the hard work of the committee in crafting legislation that strengthens our ability to enforce antidiscrimination laws and ensure equality of opportunity.

Discrimination is one of the most intractable and debilitating social ills afflicting this great Nation. The Fair Housing Act of 1968, and the 1974 amendments prohibiting housing discrimination on the basis of gender, mark a turning point in our determination that such discrimination must be eliminated.

We have known for some time that the Fair Housing Act of 1968 has not, in practice, provided adequate protection from housing discrimination.

There are many public laws that express this body's will take equality of opportunity is a central tenet of our public policy and our national idenity.

We acknowledge, however, that even in those instances when we have spoken most clearly, problems remain.

Most of us agree the Fair Housing Act of 1968 does not provide an adequate response to a severe problem, and the responsibility for progress lies directly with us. HUD estimates that there are more than 2 million incidents of housing discrimination every year, and under current law HUD is virtually powerless to respond.

In our effort to ensure equality of opportunity, the Fair Housing Act of 1968 has clearly not been our most effective weapon.

Heretofore, the burden of action fell on individuals who were forced to pursue: legal counsel, a costly legal procedure, and a roof over their heads. Alternatively, the Justice Department was empowered to file cases where there is a pattern or practice of discrimination. Obviously, neither of these options is of value to an individual or family in immediate need of housing.

I am confident that most of my colleagues will agree that H.R. 1158, the Fair Housing Act Amendments of 1988, provides us an opportunity to fill this enforcement gap.

The compromise offered by the gentleman from New York [Mr. Fish] will strengthen the enforcement mechanism of the law. For the first time, an aggrieved party will have recourse to enforcement action by the Department of Housing and Urban Development. H.R. 1158 empowers HUD to file a charge against a party accused of discrimination for reasonable cause. The case may be adjudicated in Federal court or by an administrative law judge.

I also want to congratulate the committee for its wisdom in extending protection from discrimination to individuals on the basis of a handicap. I was not privileged to serve in this body in 1974 when housing discrimination based on gender was prohibited, but I knew then that provision was appropriate and long over due.

Similarly, establishing the principle of nondiscrimination in housing on the basis of a handicap is critically important. H.R. 1158 is a major achievement in this respect, and I congratulate the committee for extending protection to these individuals.

H.R. 1158, also incorporates a good faith attempt to provide access to quality housing for families with children. The bill's protections for children, families and the elderly are a genuine effort to balance the concerns of individuals and families whose preferences and needs at times conflict.

These is a deplorable lack of affordable housing in this country, both owner-occupied and rental. The Fair Housing Act Amendments of 1988 will not redress that problem, and is not intended as a solution to that problem. However, the fact that HUD estimates that 75 percent of rental units restrict children in some way strongly supports the committee's decision to extend protection to families with children.

In closing, Mr. Chairman, I want to again thank the committee for bringing to the floor a measure that will make a real difference in the lives of many of my constituents and many other Americans who are denied equal opportunity and equal access to decent housing.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman from Maryland for his eloquent statement.

Mrs. COLLINS. Mr. Chairman, I rise in support of H.R. 1158, the Fair Housing Act amendments. It is sad that 20 years after passage of the Fair Housing Act, we still find ourselves needing legislation in this area because discrimination still exists. It is heartening, however, that we do come today to act on a measure which will strengthen the enforcement of our fair housing laws.

I am particularly enthusiastic about this measure because for the first time, people with disabilities will be included as a covered class under the Fair Housing Act. This historic inclusion will greatly benefit over 36 million individuals with disabilities, and just as importantly, will require that qualified multifamily buildings be constructed in the future to provide access to people with mobility impairments. The protections offered by this bill will assure that persons with mobility impairments, including victims of physical disorders, accidents and veterans who fought for this country, will not have to continue to fight for their right to have adequate and accessible housing.

The Fair Housing Act as reported out of committee included features of adaptive design which equalizes the opportunities for people with disabilities. It will enable them to effectively utilize housing options and will eliminate the discriminatory practices of landlords who refuse to minimally accommodate needs of people with disabilities.

I understand that this bill has the support of the Paralyzed Veterans of America and other advocacy groups like it, who consistently report discrimination against their members who seek housing. Among the types of discrimination reported by mobility impaired persons include: landlords who refuse to allow the construction of a ramp to an entranceway of the landlord's building; often, in larger multiunit buildings, the main entrance and living quarters are accessible but the common areas, such as laundry and meeting rooms, often are not; and, landlords who refuse to make, or give permission for, alterations to a bathroom or kitchen. These examples clearly illustrate why it is long past time that we begin to address the problem of the lack of accessible housing and the long waiting lists for those few accessible units which do exist.

The changes suggested by the Fair Housing Act will alleviate the existing discriminatory problems and future housing shortages while providing the minimal structural modifications necessary to assure people with disabilities that they will not be discriminated against because of their inability to enter or use a building. It will also enable people who use wheelchairs to reasonably maneuver throughout the individual unit. Maneuverability is intended to include the ability for people who use wheelchairs to independently use the kitchen and bathroom facilities within the privacy and confines of the room. The door widths specified will provide wide enough passage for people who use wheelchairs to move throughout the unit and buildings. By voting for the Fair Housing Act, we will ensure that individuals with disabilities will be afforded every opportunity to conduct their lives independently.

The new construction provisions of the Fair Housing Act are supported by the National Home Builders Association, the American Institute of Architects, the Paralyzed Veterans of America, as well as over 50 organizations who represent people with disabilities. The wide range of support from various aspects of the community indicate an understanding of the need for accessible housing for people with disabilities.

I urge my colleagues to support this measure.

Mr. MILLER of California. Mr. Chairman, I rise in support of H.R. 1158, the Fair Housing Amendments Act of 1988, which, for the first time, would prohibit housing discrimination against families with children as well as the disabled. The Civil Rights Act of 1968 prohibits housing discrimination on the basis of race, color, religion, sex, and national origin. The bill we are considering today would simply extend these same protections to other vulnerable groups—families with children and the disabled population—while maintaining the rights of landlords as well as senior citizens. These amendments also create an enforcement mechanism which will allow families with children—and others who have experienced housing discrimination—a more effective and efficient procedure by which to redress their grievances.

I commend Chairman Rodino and other members of the Judiciary Committee for their leadership in bringing this legislation to the floor today. The housing situation for families and the disabled has become critical, and we must move quickly on every front to protect family stability and prevent homelessness.

FAMILIES WITH CHILDREN NEED PROTECTION

As the Select Committee on Children, Youth, and Families has documented, the number of families who cannot afford or even find adequate housing is skyrocketing. Families have suffered income stagnation coupled with enormous household debt. The most vulnerable families—young families with children, single-parent families, and poor families—have suffered serious declines in family income over the last decade. At the same time, the high cost of housing and a shrinking supply of low-cost housing has made owning a home an impossibility for many.

The increasing demands in an already overwhelmed rental market have left millions of families stranded. A 1986 nationwide study found that 8 million low-income renters were competing for only 4 million affordable vacant units. As a result, more than one-third of the homeless are now families with children. In some cities, homeless families comprise almost 50 percent of the total homeless population.

The responsibility for the devastating reduction in low income housing rests squarely with the Reagan administration. In the past 8 years, public housing programs suffered more than a 75-percent reduction in funds—the largest cut among all low-income programs. The House will soon have an opportunity to protect what's left of Federal housing assistance and to assure that families have at least temporary shelter when we vote on the fiscal year 1989 HUD appropriations bill, but it won't be enough.

Housing discrimination must not be allowed to exacerbate the already severe housing problems faced by so many American families. Such discrimination against families with children does not occur in isolated incidents. It is a growing and pervasive problem across the country. A nationwide study conducted by HUD in 1980 found that 75 percent of rental units either excluded or restricted families with children. More recent surveys in Iowa, Texas, Virginia, Florida, and Georgia indicate that no region of the country is immune from discriminatory practices against families.

Thirty-four States have no statutes on the books that would prevent landlords from refusing housing to families simply because they have children. In the remaining 16 States, a lack of effective enforcement mechanisms and loopholes in the laws prohibiting discrimination against families with children render these remedies inadequate. In California, which enacted an antidiscrimination statute in 1982, almost 40 percent of landlords in 11 major cities still exclude children or imposed discriminatory restrictions. And 56 percent of mobile home parks in California do not permit children.

DISABLED INDIVIDUALS NEED PROTECTION

In 1973, Congress enacted section 504 of the Rehabilitation Act to protect the civil rights of disabled individuals—but only in agencies or organizations of the Federal Government or supported by the Federal Government. In 1975, we passed the Education for All Handicapped Children's Act to assure that all disabled children had access to a free, appropriate public education. These educational protections end, however, soon after high school graduation.

We have come a long way in the last decade toward reversing discriminatory practices against disabled individuals, but these Federal protections do not go far enough. Every day, disabled persons are denied economic security because of discriminatory employment practices, denied access to mass transportation and to the mass media, excluded from housing, and discriminated against in almost every aspect of daily living because prejudicial attitudes still linger.

The legislation we are considering today takes a giant step forward by establishing that disabled individuals have the right to be protected from discrimination in housing and that they have the same recourse through the same legal avenues that are now available to other minorities to protest discriminatory actions.

Because many disabled persons have been left out of the economic mainstream, they encounter the same serious barriers to finding affordable housing as afflict families with children. But many disabled individuals face architectural barriers as well. Inaccessible apartment buildings or other housing units shrink their potential housing options even further.

Mr. Chairman, H.R. 1158 would begin to break down these barriers by prohibiting a landlord from refusing to allow reasonable architectural modifications at the disabled person's expense if those modifications are necessary to "afford such person full enjoyment of the premises." Thirty months after the act's enactment, new multifamily dwellings must be designed and constructed to be accessible to and livable by the disabled.

To those who suggest that the right of disabled persons to live in any building and in any neighborhood is too costly, let them consider the billions of dollars that result from increased dependency, demoralization, and lost opportunities. By denying a basic right, such as adequate housing, we are denying 36 million people with disabilities the right to be independent, productive, and economically self-sufficient.

This act, by protecting families with children as well as the disabled, would also go a long way in assuring that disabled children are able to remain at home with their families. The complex emotional and financial challenges often experienced by these families are sometimes made insurmountable because of a lack of housing opportunities.

It was nearly a decade ago that this Nation recognized its commitment to the rights of disabled children to live within the context of both a family and the community. Now, 10 years later this Congress has the unique opportunity to underscore, through fundamental housing antidiscrimination policy, that children belong with families, regardless of disability or illness, and that every family is entitled to decent and adequate housing.

CONCLUSION

Housing shortages, stagnating incomes, and increased poverty for many vulnerable groups over the last decade have combined to create a nationwide housing crisis. In addition, families with children and disabled individuals seeking to rent or buy housing during this crisis currently have no Federal protections or legal recourse if they believe they have been refused housing as a result of their familial status or disability. The fair housing Admendments Act of 1988 would significantly alter this situation by establishing essential protections to a most fundamental element of daily living—the right to decent shelter for oneself and one's family.

I urge my colleagues to support this legislation, and to oppose any efforts to weaken it. If we do not support this legislation today, we will not only be turning our backs on family strength, stability, and economic self-sufficiency, but we will be turning our backs on the basic civil rights of all our citizens.

Mr. SYNAR. Mr. Chairman, I am very pleased that today the House is considering H.R. 1158, the Fair Housing Amendments Act. I commend my colleagues Mr. FISH and Mr. EDWARDS for their work in bringing this bill to the floor.

This bill will give HUD the tools it needs to enforce fair housing laws, it will make it easier for families with children to find housing, and it will give people with disabilities, our Nation's largest minority, the opportunity to find and maintain livable homes.

We have fair housing laws on the books today, but they haven't been effective in preventing discrimination. One of the main reasons the laws haven't worked is because HUD has no tools for enforcement. If a claim of discrimination is brought, all HUD can do is ask the parties to sit down and talk it out. The victim of discrimination can file a private suit, but this takes money and time that many people don't have. If a pattern or practice of discrimination is found, the Justice Department can sue, but the Justice Department can't assist the individual victim of discrimination.

Discrimination in housing is widespread. In 1986, HUD reported 2½ million incidents of housing discrimination. A recent HUD study found that black families attempting to buy a home have a 48-percent chance of facing discrimination; black renters have a 72-percent chance of encountering discrimination. According to a Dallas study, Mexican-Americans have a 96-percent chance of facing discrimination. Discrimination against families with children is widespread. Currently, there are no laws to prevent this discrimination.

The fair housing amendments before us today will strengthen enforcement of the fair housing Act, as well as adding protection against discrimination for families with children and people with disabilities.

With the bipartisan amendment offered by Mr. FISH, H.R. 1158 will give HUD—at last—a way to enforce our fair housing laws in a timely and effective manner. HUD will still investigate complaints and try to get the parties to negotiate an agreement, but if this fails, HUD must bring a discrimination charge. At this point, either party can ask for a jury trial. If neither party makes this request, HUD will bring the matter before an administrative law judge. The ALJ has the authority to levy substantial fines and issue injunctions.

H.R. 1158 adds "familial status" as a protected class. HUD studies have found that, nationwide, 75 percent of the rental housing units surveyed either barred or restricted families with children. Today, families with children are the largest and fastest growing segment of the homeless population. While recognizing the needs of families with children, this bill also recognizes the special needs of older persons. H.R. 1158 provides for the exclusion of families with children from federally subsidized housing for the elderly, and from housing that meets other criteria that establishes it as housing specifically for older people. The AARP, the National Council of Senior Citizens, the Child Welfare League, and the Children's Defense Fund have come out in strong support of this provision.

This bill also protects people with disabilities against housing discrimination. Thirty months after enactment, all new multifamily buildings with four or more units will be required to incorporate basic features of adaptive design. This will enable tenants with disabilities, at their own expense, to modify their apartments so that they can "fully enjoy" them. The definition "handicapped" in this bill is consistent with the definition in section 504 of the Rehabilitation Act amendments. Consistent with case law on section 504, the Judiciary Committee adopted an amendment that specifically states that nothing in the bill requires making a dwelling available to anyone "whose tenancy would constitute a direct threat to the health and safety of other individuals."

Mr. Chairman, I strongly support H.R. 1158, with the enforcement amendment offered by Mr. FISH, and urge its prompt passage by the House.

Mrs. SCHROEDER. Mr. Chairman, I rise in strong support of H.R. 1158, the Fair Housing Amendments Act of 1988. This bill is important not only for the stronger enforcement provisions that it includes, but because it extends protection to two new classes of people—individuals with disabilities and families with children.

People with disabiities, including people who use wheelchairs, people with epilepsy, and people with AIDS and people infected with the Human Immunodeficiency Virus [HIV—the AIDS virus], have been subjected to discrimination in housing on a daily basis. This bill would ensure that such individuals have recourse to the courts in fighting such acts of discrimination.

The President's Commission on the Human Immunodeficiency Virus has recently recommended that Congress enact a comprehensive Federal statute to protect all people with disabilities, including persons with AIDS and persons infected or perceived to be infected with HIV from discrimination which lacks a medical basis. This bill would carry out that recommendation with regard to housing.

Under the law which has developed since the beginning of the AIDS epidemic, both AIDS itself and HIV infection which has not yet resulted in the symptoms of illness are conditions covered by the definition of handicap in the Rehabilitation Act of 1973. That act's definition of handicap is the one utilized for the purposes of this bill as well. The United States Supreme Court made clear in *School Board of Nassau County* v. *Arline,* 107 S.Ct. 1123 (1987), that contagious diseases were included within the scope of the Rehabilitation Act. We reiterated and reaffirmed that principle in an amendment to the employment sections of the act only 3 months ago, in the adoption of the Civil Rights Restoration Act. A U.S. Court of Appeals has now ruled specifically that AIDS is a handicap covered by the Rehabilitation Act. *Chalk* v. *United States District Court,* 840 F.2d 701 (9th Cir. 1988).

With regard to asymptomatic HIV infection, there has also developed a unanimity of court opinion under the Rehabilitation Act that such infection alone is a handicap for purposes of the anti-discrimination law. See, e.g., *Ray* v. *School District of DeSoto County,* 666 F.Supp. 1524 (M.D.Fla. 1987); *Thomas* v. *Atascadero Unified School District,* 662 F.Supp. 376, 379 (C.D.Cal. 1987); and *Local 1812* v. *Dept. of State,* 662 F.Supp. 50, 54 (D.D.C. 1987). Similarly, a Federal court has also found that hepatitis B infection is also a handicap for purposes of this law. *Kohl by Kohl* v. *Woodhaven Learning Center,* 672 F.Supp. 1226, 1236 (M.D.Mo. 1987). This body of court opinion accurately reflects the intent of Congress.

Of special relevance to the situation of HIV-infected persons was the Supreme Court's ruling in the Arline case, which stated definitively that a person may be considered handicapped under 29 U.S.C. 706(7)(b)(iii) based on a physiological condition which other persons believed to be a substantial limitation on that person's ability to work. The Court wrote, "the effects of one's impairment on others is as relevant as is the physical effect of one's handicap on oneself . . . Congress plainly intended the Act to cover persons with a physical or mental impairment (whether actual, past or perceived) that substantially limited" a major life activity. 107 S.Ct. at 1129 n.10

It is thus clear from the language of the statute and the interpretive regulations, as further explained in the Arline decision, that both the person with the actual physical impairment, which HIV infection would clearly be, and the person who is not truly impaired, that is, not infected, but is perceived to be are protected from discrimination under the Rehabilitation Act if the attitudes of others toward their actual or imagined condition creates a substantial limitation on a major life activity.

This same standard would govern the interpretation of handicap-based discrimination under this bill. Persons who were denied housing would certainly be substantially limited in a major life activity. The ability to obtain housing is essential to the goal of independent living and to caring for oneself, identified in the regulations as one example of a major life activity. HIV infection definitely qualifies as a "physiological disorder or condition affecting," for example, the blood system, as numerous courts have ruled. Thus persons who were denied housing because they were, or were thought to be, infected with the AIDS virus would be entitled to protection from that discrimination unless, for some individualized reason, they posed a significant risk of infecting others around them. Because the AIDS virus is not transmitted by normal contact, including household contact, however, it is difficult to imagine a situation in which discrimination against persons with HIV infection or persons perceived to be infected could be justified under this bill.

Even without the provisions of the Rehabilitation Act definition which protect those who are "regarded as" having an impairment, asymptomatic persons would be considered handicapped because of the substantially limiting effect mere infection has on the major life activity of reproduction. See *Thomas* v. *Atascadero Unified School District,* 662 F.Supp. 376, 379 (C.D.Cal. 1987). The "regarded as" provision, however, adds the class of persons who do not actually have the infection but may have simply gone in for HIV antibody testing or otherwise have been incorrectly identified as "AIDS virus carriers." It would also, for example, cover an individual who has been asked by an employer or landlord to undergo testing for HIV because the employer or landlord has some reason to suspect that the person is infected. As the Presidential Commission has pointed out, it is important that the law protect these persons as well, and I am pleased that this bill does so.

This bill before us today represents a historic step forward in the civil rights laws of our country. I urge my colleagues to pass it without any weakening amendments.

Mr. COELHO. Mr. Chairman, I am proud to rise in support of H.R. 1158, the Fair Housing Amendments Act of 1988. I wish to commend my colleagues, Mr. FISH and Mr. EDWARDS, for their leadership in guiding this bipartisan bill to the floor.

I believe that the goals of nondiscrimination that Congress sought to achieve in the Fair Housing Act of 1968 will finally be realized with the passage of these amendments. Not only does this bill contain enforcement provisions which are sorely needed, it expands protections to two classes of Americans that experience housing discrimination daily—families with children and people with disabilities. Today I wish to address the critical problem of housing discrimination which Americans with disabilities face.

Unfortunately, ignorance, stereotypes and misperceptions have been used to exclude people with disabilities from the mainstream of American life. I am familiar with such prejudice because, as my colleagues know, I have epilepsy and have experienced the ignorance and fears that others have about my disability.

Nowhere is such discrimination more blatant in America today than in the sale and rental of housing to people with disabilities. The prejudice and unfounded fears of landlords, owners and communities at large have denied housing to many of America's 43 million citizens with disabilities—people who, like me, have epilepsy, or people who are blind and deaf, or people who have mobility impairments and use wheelchairs—veterans who have lost limbs defending our country in foreign wars—or people who have HIV infections. All of these individuals will now be covered under the protections of this act.

Refusals to rent or sell to these citizens are often based on the unfounded belief that these people cannot possibly take care of themselves or that they would be "problem tenants." Some refusals are even based on the irrational fear that a person with a disability would "contaminate the neighborhood." Although such outright prejudice may seem astonishing in America in 1988, it is an everyday occurrence for disabled people in this country today.

During hearings on this bill, Ed Roberts, a respected advocate for people with disabilities in my home State of California, who is also a former director of my State's Department of Vocational Rehabilitation, testified about his personal experiences in obtaining housing. I think his story is illustrative of the discrimination faced by all Americans with disabilities. He said:

> As recently as 1984, a landlord told me "Oh my God . . . I couldn't have an iron lung here . . . can you imagine what the neighbors would say? On another occasion I was told that "We don't have invalids living in this neighborhood." Several landlords have explained "You can't live here. Polio is contagious—my family can catch it." It didn't matter that I was a public official or even a MacArthur Fellow. What mattered was that I was disabled.

This bill makes such discrimination illegal and thus requires that all disabled Americans be treated as individuals.

Most recently our country has witnessed the horrors of discrimination directed against people with "hidden disabilities" such as epilepsy or with infectious diseases such as AIDS and HIV infection. As a society, we cannot tolerate these acts of discrimination. This bill will provide protection for these individuals and their families in housing.

I am also gratified that the Judiciary Committee rejected almost all efforts to exclude categories of individuals with disabilities from the protection of the act. Instead the committee acted prudently by adding an explicit provision that the act does not protect individuals, whose tenancies would pose a direct threat to the health or safety of other tenants. This provision addresses any concerns that might be raised with regard to coverage of individuals with contagious diseases or individuals with mental impairments. I must say that it is extremely unlikely that a person with a disability would ever pose such a direct threat. Nevertheless, I believe it is a prudent course of action for the committee to include such a provision so as to allay any unjustified fears that might exist.

The overt discrimination which Mr. Roberts described and the de facto discrimination—physical barriers as steps and narrow hallways, have forced thousands of persons with physical and mental disabilities to live in nursing homes and institutions. Such confinement is not only restrictive, but it is extremely costly.

In addition, the lack of housing for disabled Americans impedes their efforts to secure gainful employment and become productive, tax-paying citizens. Disabled Americans cannot achieve economic independence without employment opportunities. And they cannot secure employment without accessible housing. Thus, housing discrimination exacerbates unemployment and severely undercuts state and Federal vocational rehabilitation programs and private sector initiatives which seek to promote the independence and economic self-sufficiency of Americans with disabilities. As a Nation, we cannot afford to let this vicious cycle of discrimination continue. This bill is an important step in breaking this cycle.

This bill is also historic because it addresses the severe shortage of accessible housing in America. The bill sets forth minimum requirements which will assure that future multifamily dwellings will be accessible and useable by people with disabilities. These provisions result from the collaborative hard work of representatives of the homebuilding industry, the disability community and others. The consensus that was reached addresses both the problem of de facto discrimination due to inaccessible housing and the industry's concerns about cost. Those provisions are consistent with the progress that is being made in the building industry and I believe they are ultimately fair to all. Without these provisions that mandate 100 percent of new construction to comply with the minimum requirements in building design, this body would relegate disabled persons to living only on the ground floor. This is as discriminatory as if to say the elderly can live on the second floor or allow families to live only on the third floor or to confine any one other group to a specific location in a housing unit.

Twenty years ago Congress established a national policy that it was not acceptable to discriminate in housing practices against minorities. Our Nation's commitment to achieve fair housing for all Americans demands that we act now to eliminate housing discrimination against persons with disabilities, our largest minority.

I urge my colleagues to join me in supporting H.R. 1158 to send a long overdue message to all disabled Americans. By enacting this legislation we will finally be telling Americans with disabilities that they have the right to live wherever they choose.

Mr. SENSENBRENNER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. CLARKE] having assumed the chair, Mr. WEISS, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 1158) to amend title VIII of the act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes, had come to no resolution thereon.

FILM DISCLOSURE AND PRESERVATION ACT OF 1988

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, I am pleased to introduce the Film Disclosure and Preservation Act of 1988. The House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice, which I chair, has over the past several months given the issue of film integrity a great deal of detailed consideration. Beginning with the subcommittee's hearings and consultations on legislation to permit the United States to implement the Berne International Copyright Convention, the issue of artists' rights in general has been prominent and controversial.

H.R. 4262, which allows the United States to adhere to Berne, passed the House by a vote of 420-0 in the spring, but it passed without the artists' rights provision I had originally proposed. There was sufficient interest in the issue among the members of the subcommittee, however, that we agreed to hold separate hearings on the issue. In addition, at my request, and that of my colleague, CARLOS MOORHEAD, the ranking minority member of the subcommittee, the United States Copyright Office is currently conducting a detailed inquiry into the specific issue of film integrity, and into the effects of new technologies on this very important part of our national cultural heritage.

Yesterday, the Subcommittee on Courts, Civil Liberties and the Administration of Justice held a hearing on a variety of proposals to protect our film heritage. While it is important that we not rush to judgment, it seems that a consensus is developing to require that if a film has been materially altered, that fact should be disclosed to the consuming public. That is the purpose of my bill which I believe will promote discussion of the details of this disclosure requirement, and facilitate further consensus.

In particular, my bill would require that for every public exhibition of a materially altered film, including one that has been colorized, and for all promotional and rental activity relating to that film, there shall be a clear and conspicuous disclosure: First, that the film has been materially altered from the form in which the public first saw it; second, of the nature of the alteration; and third, of the fact of any objection by an aggrieved director, screenwriter, editor, or cinematographer, or by their designated representatives.

The purpose of this disclosure requirement is twofold. First, it permits viewers of films to know what they are seeing. While it may be current practice to advertise a film as the "colorized version," or to advise that a film has been edited for television or airline viewing, my bill would require such disclosure in all cases of material alteration, and ensure that it is made clearly and conspicuosly. In this sense, then, the bill is a consumer protection measure.

In its second sense, the bill gives certain creative interests in the film the right to object to those material alterations. These parties generally do not now have such a right. Their objections would not serve to stop exhibition of films, because under our copyright laws they are not the owners of the films. This provision is therefore a careful balance between the creative integrity of these artists, and the copyright interests of the films' owners. In addition, I believe that many consumers would wish to know whether the director, screenwriter, cinematographer, and editor agree with the alterations. In this sense as well, then, the bill protects the consumer.

The term "material alteration" has been greatly debated, and is extremely difficult to define. Because debate on the issue of film integrity has focused to a large extent on colorization, that practice must be included in the definition of "material alteration." I welcome suggestions on whether the bill should specifically include other practices, or whether there should be exemptions to the term, for example, for business practices that are currently considered customary and reasonable. Editing for television might fall within such an exemption.

The bill does not set forth specific examples of disclosure that would satisfy its requirements. Instead, it seeks the cooperation of the various parties who have a stake in the disclosure, and in the creating and exhibiting of the film, in developing and agreeing upon appropriate disclosure standards. It is these parties, rather than the U.S. Congress, who know the intricacies of the art—and the business—of making and distributing a film, and they are the ones who know best what kind of disclosure makes sense. The bill limits those parties to representatives of the copyright owners, and of the guilds representing directors, screenwriters, cinematographers, and editors. I welcome comments about whether other parties should be included.

The bill permits the courts to consider the recommendations of these parties in determining whether the disclosure requirements have been violated.

The parties aggrieved by a failure to provide appropriate disclosure may sue, and may recover appropriate damages and costs, or obtain injunctive relief.

Some of the various proposals on film integrity have amended the copyright law. Some have amended the trademark law. My subcommittee has jurisdiction over both of these bodies of law, and has unique expertise in these areas. My preliminary determination is that it is wiser to amend section 43 of the trademark law—the Lanham Act—which prohibits false designations of origin and false descriptions.

Because it would be unfair to subject the parties to multiple disclosure requirements, the bill preempts the States from taking similar actions.

In addition to the disclosure requirements, the bill directs the National Film Preservation Commission to determine methods to encourage the restoration and preservation of films. Once again, it is important to encourage the concerned private parties themselves to restore and preserve films, rather than to rely on the U.S. Government. However, the Government's unique resources may be critical to this effort and governmental participation is in no way prohibited.

There may be other issues that the Commission should explore, and I am open to hearing about them.

The Commission's membership will be balanced. It will represent more than particular special interests, since it is composed of a wide variety of parties, representing all facets involved in the creation of films, and in distributing, broadcasting, and otherwise exploiting them. Consumers, archivists, academics, and appropriate governmental employees will also be represented. The chairpeople of the National Endowments of the Arts and of the Humanities will be members, as will be Librarian of Congress.

My bill permits the Congress to continue its consideration of the effect of new technology on film integrity. It may be an intermediate step, or it may be the last step. I believe that it would not be appropriate to do more until the Copyright Office has reported to us on the results of its study, and until my subcommittee can hold further hearings.

The issue of the integrity of our film heritage is important, and it is controversial. The Congress has been presented with many—often contradictory—proposals. We must be careful not to upset the careful balance we crafted in the 1976 Copyright Act. We must act in accordance with the system of trademark laws that has developed over the years. Above all, we must be guided by appropriate constitutional principles. I believe that my bill serves these essential interests well.

PERMISSION FOR SUBCOMMITTEE ON HUMAN RESOURCES AND INTERGOVERNMENTAL RELATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. WEISS. Mr. Speaker, I ask unanimous consent that on tomorrow the Subcommittee on Human Resources and Intergovernmental Relations of the Committee on Government Operations be permitted to meet during the 5 minute rule.

Mr. Speaker, I have cleared this with the minority member.

The SPEAKER pro tempore (Mr. CLARKE). Is there objection to the request of the gentleman from New York?

There was no objection.

AGREEMENT BETWEEN THE UNITED STATES AND THE SOVIET UNION ON MUTUAL FISHERIES RELATIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-207)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

(For message, see proceedings of the Senate of today, Wednesday, June 22, 1988.)

REPORT ON ROLES AND RESPONSIBILITIES OF IMMIGRATION AND NATURALIZATION SERVICE AND DEPARTMENT OF STATE IN ADMINISTERING REFUGEE ADMISSIONS PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection referred to the Committee on Foreign Affairs and the Committee on the Judiciary:

(For message, see proceedings of the Senate of today, Wednesday, June 22, 1988.)

LEGISLATION TO CLARIFY USE OF THE COAST GUARD AUXILIARY FOR NONEMERGENCY ASSISTANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. HUTTO] is recognized for 5 minutes.

Mr. HUTTO. Mr. Speaker, as chairman of the Subcommittee on Coast Guard and Navigation, I am today introducing legislation that will clarify use of the Coast Guard Auxiliary and the commercial towing industry for nonemergency towing of recreational boats in distress.

Joining me as original cosponsors of this legislation are the gentleman from North Carolina [Mr. JONES], chairman of the Committee on Merchant Marine and Fisheries; the gentleman from Michigan [Mr. DAVIS], ranking minority member of both the Committee on Merchant Marine and Fisheries and the Subcommittee on Coast Guard and Navigation; the gentleman from Alaska [Mr. YOUNG]; the gentleman from Delaware [Mr. CARPER]; and the gentleman from New York [Mr. MRAZEK].

This bill would amend section 88 of title 14, United States Code, by requiring the Commandant to make full use of all available resources, including the Coast Guard Auxiliary and commercial towing firms whose captains are fully licensed by the Secretary of Transportation, in rendering aid in nonemergency cases.

Historically, Americans are a generous people who are willing to assist others by giving of their time through voluntary organizations. Since Congress authorized establishment of the Coast Guard Auxiliary in 1939, volunteer members of the auxiliary have been ready and willing to assist fellow boaters in distress. In fact, in a recent survey of current and former auxiliary members, an overwhelming majority of respondents stated that the desire "to help others" was one of the most important reasons they had joined the auxiliary. This desire to help others is the essence of the many successful volunteer organizations in our Nation today.

For nearly 50 years, auxiliarists have been doing just that—helping others by teaching boating safety courses, providing courtesy marine examinations, and, of course, assisting disabled boaters. The Coast Guard Auxiliary is one of the most effective volunteer organizations in our Nation and it should be fully utilized to enhance the safety of the estimated 70 million Americans who enjoy boating.

In 1984, the Grace Commission report on privatization stated that the commercial towing industry should be utilized in nonemergency cases. However, it also recognized the value of the auxiliary. To avoid duplication of effort, the Grace Commission utilized among others, the findings of a January 1983 report by the National Advisory Committee on Oceans and Atmosphere [NACOA]. Incorporated into the Grace Commission report is the following statement from the NACOA report:

> In nonemergency cases, the Coast Guard watchstanders can send auxiliary vessels when available, and otherwise contact private towing interests.

The administration changed the Coast Guard towing policy in 1983 by requiring the Coast Guard to refer calls for assistance in nonemergency situations to qualified commercial towers when such operators are ready and willing to respond. This policy was based on 1982 legislation that required the Commandant to review policies and procedures for towing and salvage of disabled vessels in order to further minimize the possibility of Coast Guard interference with private towing activities. When that language was approved, it was not the intent of the Merchant Marine and Fisheries Committee for the auxiliary to be excluded from nonemergency towing. However, because the Coast Guard considers the auxiliary to be subject to the same rules as active Coast Guard units, the towing policy has been interpreted to also preclude volunteers in the auxiliary from responding to nonemergency assistance cases when a qualified commercial tower is available.

Many commercial towers are in business because of that policy change. I firmly believe that there is enough work out there for everyone, and this bill reaches an accommodation that permits use of the auxiliary as well as commercial towers in providing nonemergency assistance to recreational boaters.

The Subcommittee on Coast Guard and Navigation held a hearing on this issue in April. That hearing brought to the forefront a number of problems with the Coast Guard towing policy. Recreational boaters expressed a deep concern for their safety under this policy. Disabled boaters are more concerned with the quick appearance of qualified aid than with what form it takes. The Coast Guard should be able to use all available resources, including good samaritans, commercial towers and the auxiliary to assist distressed boaters on the water.

The administration recently issued a clarification of the nonemergency towing policy in response to the problems identified at a series of public hearings conducted by the Coast Guard around the country, the many letters received from concerned boaters, towers, and auxiliarists, and the concerns of Congress. This was a good first step; however, the amended policy gives commercial towing firms priority to respond to nonemergency cases rather than seeking a balance between the private sector and voluntarism. I recently received a letter from National Commodore William Harr of the auxiliary expressing the auxiliary's deep disappointment in the new policy. Mr. Speaker, I ask that Commodore Harr's letter be submitted for the RECORD.

I believe this legislation is necessary to clarify in law the responsibilities of the Coast Guard in the utilization of all resources to properly protect property and lives of American citizens on the water.

U.S. COAST GUARD AUXILIARY,
June 11, 1988.

Hon. EARL HUTTO,
Chairman, Subcommittee on Coast Guard and Navigation, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN HUTTO: The Coast Guard Auxiliary is deeply disappointed that the Coast Guard "Non-Emergency Assistance Policy" was not changed to remedy either of the two basic problems with the old policy, public safety and Auxiliary morale.

The amended policy, just issued, gives commercial towers the priority to respond to Marine Assistance Radio Broadcasts (MARB) by the Coast Guard in non-emergency cases and gives commercial towers a full hour to reach the distress scene. An Auxiliary vessel on patrol which is either already on scene or only a few minutes away cannot assist the distressed recreational boater unless the MARB is not answered by a commercial tower or until the tower fails to reach the scene one hour later.

Any time a small boat loses propulsion or steering, an emergency exists. Thus, the amended policy continues to leave the distressed vessel in a situation which may quickly worsen even though help could be provided sooner by the Auxiliary.

As a practical matter, in most areas, giving the commercial tower a full hour to reach the scene before dispatching Auxiliary assistance is tantamount to giving the commercial tower the exclusive right to handle all non-emergency cases. This means that our Auxiliarists who have trained long and hard and who have committed their time, effort and vessels are effectively deprived of the very mission which they joined the Auxiliary to perform and the mission which sparks their continuing effort and interest.

I have discussed the new policy with my District Commodores all over the country and they confirm my own opinion which I stated in my previous testimony: our people will not continue to commit their time, boats and effort when they perceive they aren't needed (or wanted). Our leaders have held our "operations" capabilities together for a long time with promises of relief. The amended policy will probably spell the end of our ability to do this.

I should also emphasize that the people and the boats we will lose because they cannot perform non-emergency missions are the same people and boats which perform emergency search and rescue and a whole variety of other important operation tasks, for example, port security, pollution detection, logistics for the regular Coast Guard, passive surveillance in support of law enforcement, assisting in training Regulars for Maritime Defense etc. All of these additional operations capabilities free up regular Coast Guard facilities to perform higher priority missions which they are stretched to handle under present budgetary restraints.

In summary, I appeal to the Committee to take the fastest possible effective action to resolve the public safety and Auxiliary morale problems discussed above.

Yours very truly,
WILLIAM C. HARR,
National Commodore.

COIN DESIGN CHANGE WILL CREATE CONTROVERSY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, should we change our coin design? To what? Shall we put Plymouth Rock on the penny, Niagara Falls on the nickel, a dove on the dime, and the Hoover Dam on the half-dollar? These ideas were suggested by a participant in a survey conducted by the coinage publication, Numismatic News, May 31, 1988. Results of this survey have shed light on yet another complication with the proposal to change coin designs—finding new designs which will please rather than disappoint or anger a majority of the American public.

A recurring theme prompted by the survey is to include the space shuttle on one of the new designs. The tragedy of the *Challenger* accident, as well as the continuing American aspiration to remain pioneers of space, makes this a sentimental favorite of many people. I, too, recognize the symbolism of such a design, and do not contest its worthiness. However, such a choice would not be made without some controversy.

Why did we not honor those men who lost their lives in the Apollo tragedy in 1967? Should we include them in another coin design? If so, we will have depicted on two coins spacecraft which represent past and contemporary technology. By law, these new designs must be kept for 25 years, during which time current technology will certainly become outmoded.

Donna Pope, Director of the U.S. Mint, expressed similar concern about the problem of selecting coin designs in her testimony before the Senate Committee on Banking, Housing, and Urban Affairs, April 22, 1988. She stated that proponents of coin design change, "largely members of the numismatic community, cite the need to 'modernize' coin designs, which they believe to have grown stagnant. * * * In our rapidly changing world, where technological marvels quickly become museum pieces, contemporary designs may not be desirable. For example, if contemporary designs had been adopted 25 years ago, coins depicting a Mercury Space Capsule or a revolutionary device known as the transistor, would certainly be dated in this era of space shuttles and microchips."

This is just one example of the kinds of controversies which will plague the selection of new coin designs. The Numismatic News article mentioned other suggestions by those surveyed. Ideas include depictions of Thomas Edison, Ernest Hemingway, and Norman Rockwell. Some people, however, might prefer to honor Alexander Graham Bell, Nathaniel Hawthorne, or Andrew Wyeth. Several people felt that baseball should be the theme for a new coin design. Would this upset football players, swimmers, soccer players, and other athletes? It would certainly alienate women, who at this time do not have their own leagues for baseball at the professional, collegiate, or even high school levels.

The space shuttle, Thomas Edison, baseball—all of these have played an integral role in shaping the country of which we are so proud today. To oppose such themes for coin design changes will be difficult, as it is tantamount to criticizing motherhood and apple pie. However, I want my colleagues to be aware that changing coin designs is an issue which should not be taken lightly. Many people will hate the new designs. They will object for reasons of aesthetics, the appropriateness of themes, and more. Evidence of this exists in the many letters which I have received criticizing the Secretary of the Treasury and the Commission of Fine Arts for their recent design selections for commemorative coin and gold medal programs.

Does this Congress really want to stir up such controversy? This is not an issue which is a priority in American political thought at this time. The general public is not inundating us with mail, phone calls, or office visits to show that they believe coin design changes are needed or wanted. Yet, people will notice new designs, and will certainly let us know that the designs are not to their liking. Judging by the wide range of ideas presented by participants in the Numismatic News survey, there is not a consensus as to what designs should be included. Undoubtedly, many people will disapprove of the selections. They will ask the Congress why it wasted time, effort, and money on unnecessary, uncalled for legislation at a time when our Nation is experiencing a debilitating budget crisis. I warn my colleagues that criticism from constituents will be relentless when this proposal ends up costing large sums of tax dollars instead of helping the deficit problem, as proponents would have us believe.

HOUSE TELEPHONE SYSTEM BREAKS DOWN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. KOLBE] is recognized for 5 minutes.

Mr. KOLBE. Mr. Speaker, I have reserved this special order today to discuss something that is of really pressing importance, fundamental importance to the preservation of democracy in our country.

During the last several days, Members of the House of Representatives have been confronted with a problem that threatens the physical and mental well-being of all of us. I am referring, of course, to the telephone system in the House of Representatives and the three office buildings here on Capitol Hill. I cannot help but think of the advertisements which AT&T, which is the subcontractor for our telephone system here in the House of Representatives, I think of those television advertisements which show these harried people, real people discussing their difficulties with their crippled businesses, how it ruined their lives and how it caused them to lose their hair. There is one woman sitting there saying, "I have got to get away to my meeting and I can't get a dial tone."

Well, in the interest of fairness in advertising or truth in advertising, I think we ought to admit that the same source of that advertising is the one that has the telephone system here in the House of Representatives. It is ironic, but, Mr. Speaker, the telephone system here is not working.

For those who may not be aware of this, and I speak to those who may be watching here trying with great frustration to get through to the House of Representatives, let me tell you very briefly what is happening. In a word, the telephones, the 20,000 plus telephones in the House of Representatives are not and have not been working, by and large, for the last several days. No calls in or out, or sporadic calls coming in and out.

The first time it happened last week it was kind of nice to have the break; no calls coming in, quiet in the offices, everybody went off and got a Coke or did something. But unfortunately, as the temperatures have soared, the length of time that this has gone on has increased, so have tempers increased. We found in our offices that if you hold the button down for 5 or 6 seconds sometimes you can get a dial tone.

□ 1920

Occasionally a call will randomly come through the system, and sometimes you can answer it and sometimes it will ring, but you cannot answer the telephone. And if you do get the call through, you cannot transfer it by and large. You cannot transfer it to the staff person who needs to get that telephone call. Other times all the lights go on and all the phones ring simultaneously.

I think it is very clear that that System 85, this great, grand new system which AT&T has been advertising to the world, and certainly advertising to the House of Representatives, as the most sophisticated telephone system it has is obviously not working.

I wish I could report some good news. I did finally, in one of the sporadic moments this afternoon when the phones were working, get through to the House telephone system office and ask them what we could expect, and the answer is that they have not a clue as to why the phones are down, they have not a clue as to why they came back up sporadically today, and they have not a clue as to how they are going to solve this problem or when they are going to solve it.

So for those of us who live here on Capitol Hill, we can expect to have the frustration of not having phones working for a long time. I had an idea that maybe we could turn the 1 minute at the beginning of the day into an electronic billboard, where the Members could come down and answer their phone messages, and they could say, as I have here, that they have a message from Mr. Conley about plant closing, and I want to let him know I do not plan to vote for the plant closing bill because I cannot call him to tell him that. And here is one to Delores, who is my scheduler in my Tuscon office, to please go ahead and schedule that meeting on Saturday that we had talked about this weekend. So I would hope we could get those messages through. So Members might come down and read their messages and they might engage in that kind of electronic billboard.

But if all else fails, I want the Members to know that the people from AT&T and the House telephone system are working on this problem, and in fact the people over at the House office said that the top executives from AT&T are coming down from New York tomorrow to try to solve this problem by talking to Members. I am not sure that is going to get the phones operating again, but they are going to talk to the Members.

And if nothing else works, my staff has come up with a prototype system, Mr. Speaker. This is going to be the new phone system we are going to use here. We are going to stretch these cups between various parts of the House of Representatives, and I thought we might talk to each other with this kind of new telephone system here. If I get the contract for this new telephone system, if I get the contract for $10 million or so to install this in the House of Representatives, I promise that it will work just as well as the phone system we have here now.

PERSONAL EXPLANATION

The SPEAKER pro tempore (Mr. CLARKE). Under a previous order of the House, the gentleman from Florida [Mr. MACKAY] is recognized for 5 minutes.

Mr. MACKAY. Mr. Speaker, due to a previous commitment I missed several votes. Had I been able to vote, I would have voted against the rule on H.R. 4800, against the amendments offered by Mr. SCHUMER and by Mr. MORRISON to H.R. 4800, for final passage of H.R. 4800 and for the rule on H.R. 1158.

I appreciate having this opportunity to state my position on these measures.

CONFERENCE REPORT ON H.R. 4567

Mr. BEVILL submitted the following conference report and statement on the bill (H.R. 4567) making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes:

Conference Report (H. Rept. 100-724)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4567) making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 4, 5, 6, 9, 15, 18, 23, 28, 31, 33, 39, 40, 41, 43, and 45.

That the House recede from its disagreement to the amendments of the Senate numbered 8, 16, 17, 20, 22, 27, 35, 37, 38, and 42, and agreed to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

Restore the matter stricken, amended to read as follows:

The Secretary of the Army is directed to complete the Arkansas River and Tributaries, South Central and Southeast Areas of Oklahoma, Comprehensive Study and the Oklahoma portion of the Red River Basin, Oklahoma, Arkansas, Louisiana, and Texas, Comprehensive Study being conducted by the Tulsa District by March 31, 1989, and to include in the final report data on the economic factors that affect the feasibility of each project, indicating on a sliding scale what levels of each economic factor could make each project feasible at a future date. The economic impact plans associated with the above studies shall be conducted without the requirement of meeting the completion date specified above.; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$712,305,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,370,714,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$187,731,000*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$2,142,326,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 10, 12, 13, 14, 24, 25, 29, 30, 32, 34, 36, and 44.

Tom Bevill,
Lindy (Mrs. Hale) Boggs,
Bill Chappell,
Vic Fazio,
Wes Watkins,
Robert Lindsay Thomas,
Jamie L. Whitten,
John T. Myers,
Virginia Smith,
Carl Pursell,
Silvio O. Conte,
Managers on the Part of the House.

J. Bennett Johnston,
John C. Stennis,
Robert C. Byrd,
Ernest F. Hollings,
Quentin N. Burdick,
Jim Sasser,
Dennis DeConcini,
Mark O. Hatfield,
James A. McClure,
Jake Garn,
Thad Cochran,
Pete V. Domenici,
Arlen Specter,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two houses on the amendments of the Senate to the bill (H.R. 4567) making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

TITLE I—DEPARTMENT OF DEFENSE—CIVIL

The summary table at the end of this title sets forth the conference agreement with respect to the individual appropriations, programs and activities of the Corps of Engineers. Additional items of conference agreement are discussed below.

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

GENERAL INVESTIGATIONS

Amendment No. 1: Appropriates $142,405,000 for general investigations as proposed by the House instead of $140,411,000 as proposed by the Senate.

The conferees are concerned that the new procedures being formulated by the Assistant Secretary of the Army to accelerate the planning and study process could severely limit the Corps of Engineers's ability to objectively evaluate and recommend the best project from an engineering and economic standpoint. Futher, it appears that the new procedures will confine the study and evaluation process to functions and areas predetermined by administration policy without input from the Congress.

While supporting efforts to reduce the time required to study and plan a water resource project, the conferees expect the Corps of Engineers to continue to provide an objective evaluation which can then be reviewed by the administration and the Congress for policy considerations.

The conferees have included funding for continued work on the Beaver Lake cleanup project. The amount included in this year's bill will be used to continue overall planning and design and for development of implementation plans for individual parcels of land within the drainage basin which contribute to water quality degradation and impairment of water supply uses at the Lake. This work is to be undertaken in close cooperation with the Soil Conservation Service and other affected Federal agencies.

The conferees direct the Assistant Secretary of the Army to submit a report to the Committee on Appropriations on the advisability of establishing a technology transfer center at Durant, Oklahoma.

The conferees have approved $400,000 for the continuation of the Arkansas River and tributaries study from Great Bend, Kansas, to Tulsa, Oklahoma. The conferees direct the Corps of Engineers to evaluate the potential for flood control measures along the Cimarron River in Payne County, Oklahoma, within funds made available for this study.

The conference agreement for coordination studies with other agencies provides $150,000 over the budget for each of the following states: Colorado, Minnesota, New Jersey, North Dakota, South Dakota, and Virginia.

Amendment No. 2: Earmarks $300,000 for Section 22 planning assistance in Nebraska as proposed by the House instead of $175,000 as proposed by the Senate.

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate limiting the funds available for obligation for research and development activities.

Amendment No. 4: Deletes language proposed by the Senate relating to the Eastern New Mexico Water Supply feasibility report. Funding for this item is included under the Bureau of Reclamation.

Amendment No. 5: Deletes language proposed by the Senate relating to the Charleston, West Virgnina, project. Funding for this item is included within the account.

Amendment No. 6: Restores language proposed by the House and stricken by the Senate relating to Sunset Harbor, California.

Amendment No. 7: Restores House language stricken by the Senate, amended to provide that the Oklahoma portion of the Red River Basin, Oklahoma, Arkansas, Louisiana, and Texas Comprehensive study being conducted by the Tulsa District of the Corps of Engineers be completed by March 31, 1989.

CONSTRUCTION, GENERAL

Amendment No. 8: Appropriates $1,066,735,000 for construction, general as proposed by the Senate instead of $1,193,687,000 as proposed by the House.

The conferees note that the general design memorandum for the Canaveral Harbor, Florida, sand bypass system is scheduled to be completed during fiscal year 1988. Accordingly, the conferees direct the Corps of Engineers to utilize available funds to proceed with continued engineering and design for this facility.

Congress appropriated $1,000,000 for the Mill Creek, Fort Smith, Arkansas, flood control project in fiscal year 1988. The conferees emphasize their continued support for this project and direct the Chief of Engineers to proceed with project construction once the local cost-sharing agreement is entered into.

The conferees have included an additional $300,000 for the Paintsville Lake Project as the Federal share to complete the recreation area.

The bill includes $1,000,000 for the Francis E. Walter project. The conferees are concerned with the lack of progress being made by parties in finalizing a local cost-sharing agreement on the project. The local sponsor indicated its intent to execute a local cooperative agreement (LCA) in August 1985, and construction funds were appropriated in 1987, but a final agreement has not been completed to date. This can only be taken as a lack of interest at the local level to proceed with the project. If an LCA is not executed in advance of action on the 1990 appropriation bill, the Committees will be forced to carefully review the need for further appropriations.

The conferees agree with the Senate Report language regarding the Columbia River Basin Fish Bypass Program.

The conference agreement includes $47,400,000 for the Levisa and Tug Forks and Upper Cumberland River, West Virginia, Kentucky and Virginia, project. Within the funds provided, $2,000,000 is for the Barbourville, Kentucky, flood protection project for structural and nonstructural measures; $3,000,000 for the Harlan, Kentucky, flood protection project for structural and nonstructural measures; $2,000,000 for nonstructural measures in lower Mingo County, West Virginia; $1,500,000 for land acquisition at Matewan, West Virginia; and $100,000 for design activities at Grundy, Virginia.

The conference agreement includes funding for the following projects in the Continuing Authorities Program:

Sec. 107, Small Navigation Projects.—$25,000 for engineering and design of the Sheepshead Bay, Brooklyn, New York, project; $1,000,000 to complete the Yellow Bend, Arkansas, project which was initiated in 1988; and $50,000 to initiate a reconnaissance phase study of the Hockanum River, Connecticut, project.

Sec. 205, Small Flood Control Projects.—$200,000 for engineering and design of the Lake Elsinore, California, project; $60,000 for engineering and design of the San Antonio Creek, Los Alamos, California, project; $200,000 for engineering and design of the East Fork 102 River at Bedford, Iowa, project; $100,000 for engineering and design of the Carter Lake, Iowa, project; and $400,000 to continue construction for the Kawkawlin, Michigan, project.

Sec. 14, Small Streambank and Shoreline Protection Projects.—$75,000 to initiate engineering and design of the Newport levee and floodway, Arkansas, project; and $50,000 for necessary studies on the Keystone Dam to Tulsa, Oklahoma, levee erosion project.

For the Washita River, Oklahoma, project, the conferees direct the Secretary to give priority to providing emergency streambank erosion control and protection assistance to three areas of dire need along the Washita River in Murray and Carter Counties, Oklahoma, from funds made available for the Emergency Streamboat and Shoreline Protection program (Section 14, P.L. 79-526). The erosion area in Murray County is endangering a county road and access to state campgrounds. One erosion area in Carter County is endangering state highway 53 and a $1,000,000 bridge, and the other area in Carter County is eroding so quickly that a county road is in immediate jeopardy.

The conferees have included $350,000 in the bill for the Red Lake River (Gentilly, MN) streambank erosion control project. The House bill identifies this funding under Emergency Streambank and Shoreline Protection (Sec. 14). Although this authority is applicable, the conferees agree that Section 603 (P.L. 99-662) is both an appropriate and preferred funding authority.

Sec. 103, Small Beach Erosion Control Projects.—$90,000 for engineering and design of the Dinner Key Beach Landing, Florida, project; and $500,000 to continue construction for the Sand Island Shore Protection, Hawaii, project.

Amendment No. 9: Restores language proposed by the House and stricken by the Senate earmarking $200,000 to carry out the provisions of section 847(b) of Public Law 99-662.

The conferees agree that funds are to be made available to the Army Corps of Engineers to complete a master plan and Environmental Impact Statement for the Hansen Dam Flood Control Basin to develop a recreational lake and associated facilities.

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

: Provided further, That the Secretary of the Army acting through the Chief of Engineers is directed to use, immediately upon enactment of this Act $8,700,000 previously appropriated in Public Law 100-202, and $9,600,000 of the total sum appropriated for design, testing and construction in fiscal year 1989 of juvenile fish passage facilities at the Little Goose, Lower Granite, McNary, Lower Monumental, Ice Harbor, and The Dalles projects on the Columbia and Snake Rivers as described in the report accompanying this Act; and in addition, $118,000,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project and for compliance with the directions given to the Secretary of the Army in the fiscal year 1988 Energy and Water Development Act, Public Law 100-202, regarding the construction of this project, and the Secretary is directed to continue the design of locks and dams 4 and 5 on the accelerated schedule in fiscal year 1989 in order to initiate the first phase of construction of locks and dams 4 and 5 by April 1990, and with funds provided in this title or previous appropriated to the Corps of Engineers, the Secretary further is directed to fund previously awarded and directed construction contracts and to award continuing contracts in fiscal year 1989 for construction and completion of each of the following features of the Red River Waterway: in pool 3, Fausse Revetment Downstream Extension; and in pool 4, Westdale Realignment, Hammell Revetment, Bull Revetment, and Williams Revetment Downstream Extension. None of these contracts are to be considered fully funded

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees continue to support the program to improve juvenile fish runs at the mainstem dams on the Columbia and Snake Rivers and have included $9,600,000 in fiscal 1989 for design and construction of fish passage facilities in the Columbia Basin. The additional funds are for the following activities: $4,700,000 to construct permanent gate raise modifications and improved collection and transport facilities at Little Goose Dam; $1,600,000 for permanent gate raise modifications, deflector screens, and an expansion of collection facilities at Lower Granite Dam; $1,200,000 is included for construction and testing of longer screens and design of holding and loading facilities at McNary Dam; $1,000,000 is provided for construction of a bypass system at Lower Monumental Dam; $400,000 is for continued design of bypass facilities at Ice Harbor; and $700,000 for continued design of bypass facilities at The Dalles project.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI AND TENNESSEE

The funds are to be allocated as shown in the table following this title.

OPERATION AND MAINTENANCE, GENERAL

Amendment No. 11: Appropriates $1,379,714,000 for operation and maintenance, general instead of $1,378,833 as proposed by the House and $1,362,894,000 as proposed by the Senate.

The Committee on Conference has included funds sufficient to address the add-ons and additional needs identified by the House and Senate Reports.

The Corps of Engineers should use available funds for their emergency drought planning activity.

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, shall allow an entity of the State of Oklahoma that is responsible for the development of the water and natural resources of the Arkansas River and Red River basins in southeast Oklahoma to operate and occupy, at no expense to such entity of the State, the Visitors Center at Crowder Point on Lake Eufaula, Oklahoma, provided that the State of Oklahoma signs a cost sharing agreement for the consruction of the Visitors Center according to the cost sharing provisions of Public Law 99-662.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate limiting the funds available for national emergency preparedness programs.

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate relating to Lake Koocanusa, Montana.

REVOLVING FUND

Amendment No. 15: Deletes $10,000,000 for the revolving fund as proposed by the Senate.

FLOOD CONTROL AND COASTAL EMERGENCIES

Amendment No. 16: Appropriates $20,000,000 for flood control and coastal emergencies as proposed by the Senate instead of $25,000,000 as proposed by the House.

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES		CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
	ALABAMA				
(N)	BAYOU LA BATRE, AL	---	200,000	---	200,000
(FDP)	VALLEY CREEK, WARRIOR RIVER AND TRIBUTARIES, AL	190,000	---	190,000	---
	ALASKA				
(FC)	HOMER SPIT STORM DAMAGE REDUCTION, AK	---	130,000	---	130,000
(N)	KODIAK HARBOR, AK	---	475,000	---	475,000
(FDP)	RIVERS & HARBORS AK	963,000	---	963,000	---
(FDP)	STORM DAMAGE REDUCTION; UNALASKA, AK	144,000	---	144,000	---
	ARIZONA				
(RCP)	ALAMO LAKE, AZ	100,000	---	100,000	---
(FC)	CLIFTON, AZ	---	450,000	---	450,000
(FDP)	SANTA CRUZ RIVER, AZ	---	---	200,000	---
(FC)	HOLBROOK, AZ	---	220,000	---	220,000
(FDP)	NAVAJO INDIAN RESERVATION, AZ	400,000	---	400,000	---
(FC)	NOGALES WASH, AZ	---	300,000	---	300,000
(FC)	OLD CROSS CUT CANAL, AZ	---	150,000	---	150,000
(FC)	RILLITO, AZ	---	290,000	---	290,000
(FDP)	GILA RIVER AND TRIBUTARIES, AZ	---	---	500,000	---
	ARKANSAS				
(FDP)	ARKANSAS RIVER BASIN, AR & OK	430,000	---	430,000	---
(MP)	BEAVER LAKE, AR	---	---	---	500,000
(FDP)	BELL FOLEY LAKE, AR	---	---	---	25,000
(FC)	CANE CREEK BRIDGE REPLACEMENT, AR	---	---	---	100,000
(FDP)	CENTRAL ARKANSAS STUDY, AR	600,000	---	600,000	---
(COM)	OUACHITA RIVER BASIN COMPREHENSIVE	---	---	200,000	---
	VILLAGE CREEK, JACKSON AND LAWRENCE COUNTIES, AR	---	---	---	10,000
	WHITE RIVER FISH HATCHERY, AR	---	---	100,000	---
	AMERICAN SAMOA				
(COM)	TERRITORIES DEVELOPMENT STUDY, AS	400,000	---	400,000	---
	CALIFORNIA				
(FC)	CACHE CREEK BASIN (OUTLET CHANNEL), CA	---	250,000	---	250,000
(FC)	CACHE CREEK SETTLING BASIN, CA	---	---	---	400,000
(FC)	CALIENTE CREEK, CA	---	1,200,000	---	1,200,000
(SPE)	COAST OF CALIFORNIA, STORM AND TIDAL WAVES, CA	1,000,000	---	1,000,000	---
(FC)	COYOTE & BERRYESSA CREEKS, CA	---	800,000	---	800,000
(FC)	DRY CREEK, ROSEVILLE, CA	---	400,000	---	400,000
(FC)	GUADALUPE RIVER, CA	---	611,000	---	611,000
(N)	HUMBOLDT HARBOR AND BAY (DEEPENING), CA	350,000	---	350,000	---
(FDP)	IMPERIAL AND SAN DIEGO COUNTY STREAMS - SALTON SEA, CA	100,000	---	100,000	---
(N)	LOS ANGELES - LONG BEACH HARBORS, CA	49,000	---	---	299,000

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
(FDP)	LOS ANGELES COUNTY DRAINAGE AREA REVIEW, CA	592,000	---	592,000	---
(FDP)	MARIN COUNTY SHORELINE, CA-SAN RAFAEL CANAL, CA	250,000	---	250,000	---
(N)	MORRO BAY HARBOR, CA	220,000	---	220,000	---
(FC)	NAPA RIVER, CA	---	550,000	---	550,000
(FDP)	NORTHERN CALIFORNIA STREAMS, AMERICAN RIVER WATERSHED,	600,000	---	600,000	---
(FDP)	NORTHERN CALIFORNIA STREAMS, SACRAMENTO METRO AREA, CA	300,000	---	300,000	---
(N)	NOYO RIVER AND HARBOR (BREAKWATER), CA	---	200,000	---	200,000
(N)	OCEANSIDE HARBOR, CA	---	240,000	---	240,000
(FDP)	PINE FLAT DAM, KINGS RIVER, CA	250,000	---	250,000	---
(N)	REDONDO BEACH (KING HARBOR), CA	---	250,000	---	500,000
(FC)	SACRAMENTO RIVER FLOOD CONTROL, CA	---	---	---	360,000
(FDP)	SACRAMENTO-SAN JOAQUIN DELTA, CA	230,000	---	230,000	---
(FDP)	SAN FRANCISCO BAY SHORELINE, CA	222,000	---	222,000	---
(FDP)	SAN JOAQUIN RIVER BASIN, CALAVERAS RIVER, CA	450,000	---	450,000	---
(FDP)	SAN JOAQUIN RIVER BASIN, KAWEAH RIVER, CA	350,000	---	350,000	---
(FDP)	SAN JOAQUIN RIVER BASIN, TULE RIVER, CA	150,000	---	150,000	---
(FDP)	SAN LORENZO RIVER, CA	200,000	---	200,000	---
(FDP)	SANTA ANA RIVER BASIN AND ORANGE COUNTY, CA	616,000	---	616,000	---
(FC)	SANTA ANA RIVER MAINSTEM, CA	---	---	---	6,150,000
(SP)	SANTA BARBARA COUNTY (BEACH EROSION), CA	200,000	---	200,000	---
(RDP)	SANTA BARBARA HARBOR, CA	130,000	---	130,000	---
(SP)	SANTA MONICA BREAKWATER, CA	100,000	---	100,000	---
(N)	SUNSET HARBOR-BOLSA CHICA, CA	---	---	100,000	---
(FDP)	UPPER GUADALUPE RIVER, CA	480,000	---	480,000	---
(N)	VENTURA HARBOR, CA	---	---	---	100,000
(FDP)	WALNUT CREEK BASIN, CA	150,000	---	150,000	---
(FDP)	YUBA RIVER, CA	---	---	500,000	---
	COLORADO				
(FDP)	BOX ELDER CREEK BASIN, CO	---	---	100,000	---
(FDP)	COLORADO SPRINGS, FOUNTAIN CREEK, CO	50,000	---	50,000	---
	CONNECTICUT				
(COM)	WEST CENTRAL CONNECTICUT COASTAL FLOODING, CT	100,000	---	100,000	---
	DELAWARE				
	CHESAPEAKE & DELAWARE CANAL PROJECT DEEPENING, DE & MD	---	---	400,000	---
	DIST OF COLUMBIA				
(N)	WASHINGTON, DC & VICINITY	---	470,000	---	470,000
	FLORIDA				
(N)	BISCAYNE BAY, FL	---	---	300,000	---
(FDP)	BROWARD COUNTY, FL	100,000	---	100,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
(N)	CANAVERAL HARBOR, FL	59,000	---	59,000	---
(FDP)	COAST OF FLORIDA EROSION AND STORM EFFECTS STUDY, FL	750,000	---	750,000	---
(SP)	FORT DESOTO, FL	---	---	50,000	---
(N)	FORT PIERCE HARBOR, FL	---	200,000	---	200,000
(N)	HUDSON RIVER, FL	---	200,000	---	200,000
(N)	MIAMI HARBOR CHANNEL, FL	---	700,000	---	700,000
(N)	MIAMI HARBOR CLEANUP, FL	---	100,000	---	100,000
(BE)	MONROE COUNTY, FL	---	---	---	200,000
(MS)	NORTHWEST FLORIDA WATER SUPPLY	---	---	300,000	---
(N)	PALM VALLEY BRIDGE, FL	---	---	75,000	---
(BE)	PANAMA CITY BEACHES, FL	---	250,000	---	250,000
(N)	PORT EVERGLADES HARBOR, FL	50,000	---	50,000	---
(BE)	SARASOTA COUNTY, FL	---	175,000	---	175,000
(BE)	ST JOHNS COUNTY, FL	---	70,000	---	70,000
	ST PETERSBURG PORT, FL	---	---	140,000	---
(FDP)	ST PETERSBURG AND VICINITY, FL	100,000	---	100,000	---
(FDP)	SUWANNEE RIVER, FL	257,000	---	257,000	---
(N)	TAMPA BAY (PORT SUTTON), FL	---	125,000	---	125,000
(SP)	VIRGINIA KEY BARRIER ISLAND PARK	---	---	50,000	---
	GEORGIA				
(N)	SAVANNAH HARBOR COMPREHENSIVE, GA	---	---	100,000	---
(N)	SAVANNAH HARBOR EXTENSION, GA	---	---	300,000	---
(FDP)	SAVANNAH RIVER BASIN, GA, SC & NC	210,000	---	210,000	---
	UMBRELLA CREEK, GA	---	---	50,000	---
	HAWAII				
(FC)	ALENAIO STREAM, HI	---	200,000	---	200,000
(N)	KAWAIHAE SMALL BOAT HARBOR, HI	---	157,000	---	157,000
(N)	MAALAEA HARBOR, MAUI, HI	---	210,000	---	210,000
	IDAHO				
(FDP)	COLUMBIA RIVER & TRIBS, ID, MT, OR & WA	904,000	---	904,000	---
(RDP)	MUD LAKE, ID	125,000	---	125,000	---
(FDP)	PALOUSE RIVER AND TRIBUTARIES, ID & WA	125,000	---	125,000	---
(FDP)	UPPER SNAKE RIVER & TRIBUTARIES, ID & WY	558,000	---	558,000	---
	ILLINOIS				
(FDP)	ALEXANDER AND PULASKI COUNTIES, IL	300,000	---	300,000	---
(FDP)	DES PLAINES RIVER, IL	200,000	---	200,000	---
(N)	LOCKS AND DAMS 52 AND 53, IL & KY (OLMSTED)	---	2,500,000	---	3,750,000
(FC)	LOVES PARK, IL	---	209,000	---	209,000
(FC)	MCCOOK AND THORNTON RESERVOIRS (CUP), IL	---	1,425,000	---	1,425,000
(FC)	O'HARE RESERVOIR, IL	---	365,000	---	365,000
(FDP)	WEST FRANKFORT AND VICINITY, IL	125,000	---	125,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES		CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
	INDIANA				
(FC)	FORT WAYNE METROPOLITAN AREA, IN......................	---	400,000	---	400,000
(FC)	LITTLE CALUMET RIVER, IN..............................	---	240,000	---	240,000
(FDP)	ST. JOSEPH RIVER BASIN, IN & MI.......................	200,000	---	200,000	---
	IOWA				
(RCP)	MISSOURI RIVER LEVEE SYSTEM RE-EVALUATION, IA, NE, MO.	50,000	---	50,000	---
(FC)	MUSCATINE ISLAND LEVEE & DRAINAGE DISTRICT, IA........	---	150,000	---	150,000
(FC)	PERRY CREEK, IA.......................................	---	187,000	---	187,000
(FDP)	THURMAN TO HAMBURG, IA................................	100,000	---	100,000	---
(FC)	THURMAN TO HAMBURG PUMPING FACILITIES, IA.............	---	---	---	100,000
(FC)	WEST DES MOINES-DES MOINES,IA.........................	---	250,000	---	250,000
	KANSAS				
(FC)	ARKANSAS CITY, KS.....................................	---	---	---	200,000
(FDP)	ARK RIVER AND TRIBS, GREAT BEND, KS TO TULSA, OK (REMA	400,000	---	400,000	---
(FDP)	CANEY RIV, KS & OK....................................	150,000	---	150,000	---
(FC)	DOUGLASS LAKE, KS.....................................	---	750,000	---	750,000
(FDP)	NEOSHO RIVER ABOVE JOHN REDMOND DAM, KS...............	250,000	---	250,000	---
(FDP)	TURKEY CREEK BASIN, KS & MO...........................	170,000	---	170,000	---
(FC)	UPPER LITTLE ARKANSAS RIVER WATERSHED, KS.............	---	200,000	---	200,000
	KENTUCKY				
(N)	CUMBERLAND-TENNESSEE RIVERS, KY, GA, AL, MS, NC, TN &.	1,050,000	---	1,050,000	---
(FC)	FRANKFORT (SOUTH FRANKFORT), KY.......................	---	175,000	---	175,000
(FDP)	GREEN & BARREN RIVERS, KY.............................	---	---	600,000	---
(FDP)	KENTUCKY RIVER & TRIBUTARIES, KY (STATION CAMP CK INTE	180,000	---	180,000	---
(FDP)	LICKING RIVER BASIN STUDY.............................	---	---	200,000	---
	LOUISVILLE WATERFRONT PARK, KY........................	---	---	---	400,000
(FDP)	METROPOLITAN LOUISVILLE, KY...........................	600,000	---	600,000	---
(FDP)	OHIO RIVER MAIN STEM, KY, IL, IN, OH, PA, & WV........	1,660,000	---	1,460,000	---
	TAYLORSVILLE LAKE, KY -FLYODS FORK BRIDGE REPLACEMENT.	---	---	---	60,000
	LOUISIANA				
(FDP)	ALOHA-RIGOLETTE, LA...................................	---	---	---	250,000
(FDP)	AMITE RIVER AND TRIBUTARIES, LA.......................	200,000	---	200,000	---
(N)	BAYOU LAFOURCHE AND LAFOURCHE - JUMP WATERWAY, LA.....	85,000	---	85,000	---
(N)	GULF INTRACOASTAL WATERWAY, LA & TX SECTION...........	210,000	---	210,000	---
(FDP)	LOUISIANA COASTAL AREA, LA-COMPREHENSIVE COASTAL PLAN.	250,000	---	250,000	---
(FDP)	LOUISIANA COASTAL AREA, LA - HURRICANE PROTECTION.....	200,000	---	200,000	---
(FDP)	LOUISIANA COASTAL AREA, LA-LAND LOSS & MARSH CREATION.	170,000	---	223,000	---
(FDP)	LOUISIANA COASTAL AREA, LA-MISSISSIPPI RIVER DELTA....	200,000	---	200,000	---
(FDP)	LOUISIANA COASTAL AREA, LA-SHORE & BARRIER ISLAND.....	225,000	---	245,000	---
(FDP)	MERM, VERM & CALC RIVERS & BY TECHE, LA...............	400,000	---	400,000	---
(N)	MR-GO BANK EROSION, LA................................	81,000	---	81,000	---
(COM)	RED RIVER BASIN, AR AND LA, COMPREHENSIVE STUDY.......	450,000	---	450,000	---
(N)	RED RIVER WATERWAY-SHREVEPORT, LA TO DAINGERFIELD, TX.	---	---	---	100,000
(N)	RED RIVER WATERWAY,SHREVEPORT, LA, TO INDEX, ARK......	---	---	---	250,000
(FDP)	UPPER BAYOU TECHE, LA.................................	82,000	---	82,000	---
(FDP)	VERMILION RIVER & BAYOU TIGRE, LA.....................	265,000	---	265,000	---
(FDP)	WEST BANK OF THE MISS. R. IN THE VICINITY OF NEW ORLEA	450,000	---	450,000	---
(FC)	WESTWEGO TO HARVEY CANAL, LA..........................	---	600,000	---	600,000

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	MAINE				
(FDP)	ANDROSCOGGIN RIVER, ME & NH	200,000	---	200,000	---
(FDP)	KENNEBEC RIVER, ME	250,000	---	250,000	---
(FDP)	PENOBSCOT RIVER, ME	250,000	---	250,000	---
(FDP)	SACO RIVER, ME & NH	150,000	---	150,000	---
	MARYLAND				
(BE)	ATLANTIC COAST OF MD AND ASSATEAGUE ISLAND, VA	---	709,000	---	709,000
(SP)	CHESAPEAKE BAY (SHORELINE EROSION), MD & VA	415,000	---	415,000	---
(SPE)	CHESAPEAKE BAY TIME VARIABLE MODEL, MD, VA, PA & DC	150,000	---	150,000	---
(FDP)	CHESAPEAKE BAY & TRIBUTARIES REALLOCATION, MD, PA, VA.	225,000	---	225,000	---
	MASSACHUSETTS				
(FC)	BROCKTON, MA	---	200,000	---	200,000
(SP)	COASTAL BREACH AT NAUSET BEACH, CHATHAM, MA	220,000	---	220,000	---
(FC)	MASSACHUSETTS COASTAL, ROUGHANS POINT, REVERE, MA	---	295,000	---	295,000
(COM)	SOUTHEASTERN NEW ENGLAND AUTH. REPORTS, MA, RI & CT	355,000	---	355,000	---
	SPICKET RIVER, MA & NH	---	---	250,000	---
	MICHIGAN				
	MONROE HARBOR, MI	---	---	---	200,000
(FDP)	SAGINAW RIVER, MI	464,000	---	464,000	---
(FDP)	SOUTHERN WAYNE COUNTY, MI	130,000	---	130,000	---
	MINNESOTA				
	CROOKSTON, MN	---	---	200,000	---
(N)	DULUTH - SUPERIOR HARBOR, MN & WI	---	150,000	---	150,000
(FDP)	MINNESOTA RIVER VALLEY, MN	139,000	---	139,000	---
(FC)	MISSISSIPPI RIVER AT ST. PAUL, MN	---	350,000	---	350,000
(FDP)	RAINY RIVER BASIN, MN	100,000	---	100,000	---
(FC)	ROOT RIVER AT HOUSTON, MN	---	260,000	---	260,000
	SKY HARBOR MUNICIPAL AIRPORT, DULUTH, MN	---	---	---	50,000
(RDP)	WAHPETON, ND - BRECKENRIDGE, MN	100,000	---	100,000	---
	MISSISSIPPI				
(N)	ESCATAWPA RIVER, JACKSON COUNTY, MS	173,000	---	173,000	---
(N)	GULFPORT HARBOR, MS	---	231,000	---	231,000
(FDP)	LOWER PEARL RIVER BASIN, FLOW DISTRIBUTION, MS & LA	200,000	---	200,000	---
(FDP)	MISSISSIPPI GULF COASTAL AREAS, MS	45,000	---	45,000	---
(N)	PASCAGOULA HARBOR, MS	---	260,000	---	260,000
(FDP)	PEARL RIVER BASIN, MS & LA	122,000	---	122,000	---
(FC)	PEARL RIVER, SHOCCOE DAM, MS	---	600,000	---	600,000
(FDP)	TOMBIGBEE RIVER AND TRIBUTARIES, MS & AL	500,000	---	500,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	MISSOURI				
(FDP)	BLUE RIVER BASIN, KANSAS CITY, MO	145,000	---	145,000	---
(FC)	BRUSH CREEK, KANSAS CITY, MO	---	390,000	---	390,000
(FC)	CAPE GIRARDEAU - JACKSON METRO AREA, MO	---	600,000	---	600,000
(FDP)	GRAND RIVER BASIN, MO & IA	80,000	---	80,000	---
(FC)	MALINE CREEK, MO	---	600,000	---	600,000
(FC)	RIVER DES PERES, MO	---	---	---	400,000
(FC)	STE. GENEVIEVE, MO	---	---	---	200,000
(FDP)	ST. JOSEPH, MO AND VICINITY	160,000	---	160,000	---
(N)	ST. LOUIS HARBOR, MO & IL	---	---	100,000	---
	NEBRASKA				
(FDP)	ANTELOPE CREEK, LINCOLN, NE	120,000	---	120,000	---
(FC)	PLATTE RIVER BANK STABILIZATION DEMONSTRATION PROJECT.	---	---	---	100,000
(FDP)	RALSTON AND LEYDEN CREEKS, CO	100,000	---	100,000	---
(FDP)	WOOD RIVER, GRAND ISLAND, NE	160,000	---	160,000	---
	NEVADA				
(FDP)	LAS VEGAS WASH AND TRIBUTARIES, NV	160,000	---	160,000	---
(FC)	TRUCKEE MEADOWS, NV	---	1,600,000	---	1,600,000
	NEW HAMPSHIRE				
(FDP)	ASHUELOT RIVER, NH	100,000	---	100,000	---
(FDP)	MASCOMA RIVER, NH	100,000	---	100,000	---
	NEW JERSEY				
(N)	ARTHUR KILL EXTENSION, HOWLAND HOOK TO CARTERET, NJ &.	175,000	---	475,000	---
(FDP)	BEATTIES DAM, NJ	300,000	---	300,000	---
(N)	DELAWARE RIVER COMPREHENSIVE NAVIGATION STUDY, NJ, PA.	316,000	---	316,000	---
(N)	DELAWARE RIVER, VICINITY OF CAMDEN, BECKETT ST TERMINA	---	30,000	---	30,000
(FDP)	HACKENSACK RIVER BASIN, NJ & NY	400,000	---	400,000	---
(FC)	LOWER SADDLE RIVER, NJ	---	750,000	---	750,000
(FC)	MOLLY ANN'S BROOK, NJ	---	250,000	---	250,000
(SP)	NEW JERSEY COASTAL EROSION AND STORM EFFECTS, NJ	---	---	250,000	---
(N)	NEW JERSEY IWW, SHREWSBURY RIVER TO DELAWARE BAY, NJ..	125,000	---	125,000	---
(N)	NEW YORK HBR & ADJ CHANNELS, PORT JERSEY, NJ	---	500,000	---	500,000
(SP)	PASSAIC RIVER EAST BANK STABILIZATION, NJ	200,000	---	200,000	---
(FC)	PASSAIC RIVER MAINSTEM, NJ	---	750,000	---	750,000
(FC)	PINE BROOK, MANALAPAN TWP, NJ	---	75,000	---	75,000
(FDP)	POPLAR BROOK, NJ	50,000	---	50,000	---
(FC)	RAMAPO RIVER AT OAKLAND, NJ	---	470,000	---	470,000
(FC)	RAMAPO AND MAHWAH RIVERS AT MAHWAH, NJ & SUFFERN, NY..	---	---	---	25,000
(FC)	RARITAN RIVER BASIN, GREEN BROOK SUB-BASIN, NJ	---	1,500,000	---	1,500,000

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES		CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
	NEW MEXICO				
(FC)	ABIQUIU DAM (EMERGENCY GATES), NM	---	150,000	---	150,000
(FDP)	ROSWELL, PECOS RIVER, NM	250,000	---	250,000	---
(FDP)	CARLSBAD, PECOS RIVER, NM	150,000	---	150,000	---
(FDP)	RIO GRANDE AND TRIBUTARIES, NM & CO	200,000	---	200,000	---
(FDP)	RIO GRANDE BASIN-REEVALUATION OF OPERATION PLANS, CO,N	250,000	---	250,000	---
(FC)	RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE	---	450,000	---	450,000
	NEW YORK				
(BE)	ATLANTIC COAST OF NEW YORK CITY (CONEY ISLAND), NY	---	600,000	---	600,000
(FDP)	BUFFALO METRO AREA, NY	277,000	---	277,000	---
(N)	GOWANUS CREEK CHANNEL, NY	---	200,000	---	200,000
(N)	HUDSON RIVER CHANNEL, PORT OF NEW YORK TO ALBANY, N.Y.	---	---	400,000	---
(SP)	LONG BEACH ISLAND, NY	200,000	---	200,000	---
(FDP)	MOOSE AND BLACK RIVERS, NY	190,000	---	190,000	---
(N)	OLCOTT HARBOR, NY	---	350,000	---	350,000
(FC)	WESTCHESTER CO STREAMS, MAMARONECK & SHELDRAKE RIVERS,	---	90,000	---	90,000
(FC)	WESTCHESTER CO STREAMS, TOWN OF MAMARONECK, NY	---	250,000	---	250,000
	NORTH CAROLINA				
(FC)	BRUNSWICK COUNTY, NC	---	150,000	---	150,000
(FDP)	EASTERN NORTH CAROLINA ABOVE CAPE LOOKOUT, NC	250,000	---	250,000	---
(N)	MOREHEAD CITY HARBOR, NC	120,000	---	120,000	---
(FDP)	NEUSE RIVER, NC	448,000	---	448,000	---
(N)	WILMINGTON HARBOR - NORTHEAST (CAPE FEAR) RIVER, NC	---	175,000	---	175,000
	NORTH DAKOTA				
(FC)	SHEYENNE RIVER, WEST FARGO AND RIVERSIDE, ND	---	---	---	880,000
	OHIO				
(FDP)	CENTRAL OHIO SURVEY (GRANDVIEW HEIGHTS INTERIM), OH	100,000	---	100,000	---
(FC)	FAIRFIELD, OH	---	150,000	---	150,000
(N)	LAKE ERIE-OHIO RIVER CANAL, OH & PA	---	---	1,000,000	---
(FC)	LOGAN, OH	---	300,000	---	300,000
(N)	LORAIN HARBOR, OH	---	136,000	---	136,000
(FDP)	METROPOLITAN REGION OF CINCINNATI, OH, KY, IN	50,000	---	50,000	---
(FC)	NELSONVILLE, OH	---	355,000	---	355,000
(FC)	NORTH CHILLICOTHE, SCIOTO RIVER, OH	---	600,000	---	600,000
(FDP)	SANDUSKY RIVER, OH	267,000	---	267,000	---
(FC)	WEST COLUMBUS, OH	---	---	---	200,000
	WEST FORK OF MILL CREEK LAKE, OH (SECTION 1135)	---	---	---	500,000

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES		CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
	OKLAHOMA				
(COM)	ARK RIV & TRIBS, SC&SE AREAS OF OK-COMPREHENSIVE STUDY	---	---	300,000	---
(MP)	BROKEN BOW, OK	---	---	---	100,000
(FDP)	CRUTCHO CREEK, CANADIAN R. & TRIBS, OK, TX, NM	---	---	250,000	---
(FC)	FRY CREEKS, BIXBY, OK	---	500,000	---	500,000
(FDP)	KEYSTONE DAM TO TULSA, ARKANSAS RIVER, OK	250,000	---	250,000	---
(RDP)	LUKFATA LAKE, OK (HYDROPOWER STUDY)	---	---	50,000	---
(FDP)	MIAMI, OK & VICINITY	50,000	---	50,000	---
(FDP)	NORTH CANADIAN RIVER ABOVE LAKE OVERHOLSER, OK	125,000	---	125,000	---
(COM)	RED RIVER BASIN, OK, AR, LA & TX (COMPREHENSIVE STUDY)	---	---	250,000	---
	OREGON				
(N)	COOS BAY, OR (DEEP DRAFT NAVIGATION)	80,000	---	80,000	---
(COM)	WILLAMETTE RIVER BASIN,OR	328,000	---	328,000	---
	PENNSYLVANIA				
(N)	DELAWARE RIVER, PHILADELPHIA TO TRENTON, SECTION 201, TIOGA MARINA TERMINAL	---	---	---	50,000
(FDP)	LACKAWANNA RIVER, PA	425,000	---	425,000	---
(FC)	LOCK HAVEN, PA	---	---	---	520,000
(FDP)	MONONGAHELA-YOUGHIOGHENY RIVER BASIN, MD, PA & WV	600,000	---	600,000	---
(FC)	PROMPTON LAKE, PA (MOD)	---	1,000,000	---	---
(FC)	SAW MILL RUN, PITTSBURGH, PA	---	300,000	---	300,000
(FC)	SCHUYLKILL RIVER BASIN, PA	---	---	100,000	---
(FC)	SUSQUEHANNA BASIN AT HARRISBURG, PA	---	540,000	---	540,000
(FC)	WYOMING VALLEY LEVEE RAISING, PA	---	1,550,000	---	1,550,000
	PUERTO RICO				
(FDP)	ARECIBO RIVER, PR	160,000	---	160,000	---
(FDP)	GUANAJIBO RIVER, PR	210,000	---	210,000	---
(FDP)	GUAYANILLA RIVER BASIN, PR	100,000	---	100,000	---
(FDP)	RIO NIGUA AT SALINAS, PR	100,000	---	100,000	---
(FC)	RIO PUERTO NUEVO, PR	---	1,700,000	---	1,700,000
	SOUTH CAROLINA				
(FDP)	SOUTH CAROLINA COASTLINE COMPREHENSIVE, SC	---	---	100,000	---
(BE)	FOLLY BEACH, SC	---	---	---	200,000
	SOUTH DAKOTA				
(FDP)	JAMES RIVER BASIN, SD	25,000	---	200,000	---
(FDP)	WATERTOWN AND VICINITY, SD	125,000	---	125,000	---
(FDP)	SIOUX FALLS, SIOUX RIVER, SD	---	---	200,000	---
	TENNESSEE				
(FDP)	METROPOLITAN REGION OF NASHVILLE, TN	273,000	---	273,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES		CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
	TEXAS				
(FC)	BEALS CREEK, BIG SPRING, TX	---	150,000	---	150,000
(N)	BRAZOS ISLAND HARBOR, TX (42-FOOT PROJECT)	---	400,000	---	400,000
(N)	BRAZOS RIVER DIVERSION CHANNEL, TX	100,000	---	100,000	---
(FDP)	BRAZOS RIVER AND TRIBUTARIES, TX & NM	400,000	---	400,000	---
(FDP)	CAMERON COUNTY, TX	375,000	---	375,000	---
(FDP)	CENTRAL COLORADO RIVER BASIN, TX	270,000	---	270,000	---
(N)	CHANNEL TO VICTORIA, TX	---	250,000	---	250,000
(RCP)	DALLAS FLOODWAY, TX	75,000	---	75,000	---
(FDP)	DENISON DAM-LAKE TEXOMA, OK AND TX	250,000	---	250,000	---
(FDP)	EL PASO AND VICINITY, TX & NM	300,000	---	300,000	---
(FC)	FIVE MILE CREEK, DALLAS, TX	---	150,000	---	150,000
(FDP)	FT. BEND & BRAZORIA COUNTIES, TX	100,000	---	100,000	---
(N)	GULF INTRACOASTAL WATERWAY, TX (SEC. 216)	---	---	100,000	---
(FDP)	HILLEBRANDT BAYOU AND TRIBUTARIES, TX	200,000	---	200,000	---
(FDP)	LITTLE FOSSIL CREEK, VICINITY OF HALTOM CITY, TX	75,000	---	75,000	---
(N)	MATAGORDA SHIP CHANNEL, TX	---	---	150,000	---
(FC)	SIMS BAYOU, HOUSTON, TX	---	455,000	---	455,000
(N)	TEXAS CITY CHANNEL, TX (50-FOOT PROJECT)	---	413,000	---	413,000
(FDP)	TRINITY RIVER COMPREHENSIVE FLOODPLAIN STUDY, TX	---	---	450,000	---
(FC)	UPPER WHITE OAK BAYOU & TRIBUTARIES, VICINITY OF HOUST	---	409,000	---	409,000
	UTAH				
(FDP)	BEAR RIVER AND TRIBUTARIES, UT, ID & WY	200,000	---	200,000	---
	VIRGINIA				
(N)	JAMES RIVER NAVIGATION, VA	200,000	---	200,000	---
(FDP)	ROANOKE RIVER, UPPER BASIN, VA	200,000	---	200,000	---
(FC)	ROANOKE RIVER UPPER BASIN, VA, HEADWATERS AREA	---	465,000	---	465,000
(BE)	VIRGINIA BEACH, VA (HURRICANE PROTECTION)	---	660,000	---	660,000
(FC)	UPPER JAMES RIVER BASIN, VA	---	---	---	300,000
(FDP)	WAYNESBORO, VA	175,000	---	175,000	---
	WASHINGTON				
(FC)	CENTRALIA, WA	---	650,000	---	650,000
(N)	GRAYS HARBOR, CHEHALIS & HOQUIAM RIVER, WA	---	1,070,000	---	1,300,000
(RCP)	HOWARD HANSON DAM, WA	---	---	60,000	---
(N)	OLYMPIA HARBOR, WA	109,000	---	109,000	---
(N)	SNOHOMISH RIVER & TRIBS, WA	125,000	---	125,000	---
(FC)	ZINTEL CANYON DAM, WA	---	500,000	---	500,000
	WEST VIRGINIA				
(FC)	CABIN CREEK, WV	---	---	---	250,000
	CHARLESTON, WV	---	---	---	250,000
(FDP)	ISLAND CREEK BASIN, LOGAN AREA, WV	---	---	---	200,000
(COM)	KANAWHA RIVER BASIN COMPREHENSIVE (AUTH REPORTS), WV	453,000	---	453,000	---
(N)	KANAWHA RIVER NAVIGATION STUDY, WV	750,000	---	750,000	---
(FDP)	LITTLE KANAWHA RIVER BASIN, WV	350,000	---	350,000	---
(FDP)	MONONGAHELA RIVER BASIN, WV	---	---	300,000	---
(FDP)	MOOREFIELD, WV	259,000	---	259,000	---
(FDP)	PETERSBURG, WV	180,000	---	180,000	---
(FDP)	POTOMAC RIVER BASIN, WV, VA, MD & PA	280,000	---	280,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	WISCONSIN				
(FDP)	LA CROSSE, WI (PHASE 1)	280,000	---	280,000	---
(FDP)	WISCONSIN RIVER AT PORTAGE, WI	---	---	300,000	---
	REVIEW OF AUTHORIZED PROJECTS				
	COORDINATION STUDIES WITH OTHER AGENCIES	11,100,000	---	9,505,000	---
	COLLECTION AND STUDY OF BASIC DATA				
	COASTAL FIELD DATA COLLECTION	2,300,000	---	2,300,000	---
	ENVIRONMENTAL DATA SYSTEMS	250,000	---	250,000	---
	FLOOD PLAIN MANAGEMENT SERVICES	10,000,000	---	10,000,000	---
	HYDROLOGIC STUDIES	260,000	---	260,000	---
	INTERNATIONAL WATERS STUDIES	1,600,000	---	1,600,000	---
	PRECIPITATION STUDIES (NATIONAL WEATHER SERVICE)	380,000	---	380,000	---
	SCIENTIFIC AND TECHNICAL INFORMATION CENTERS	130,000	---	130,000	---
	STREAM GAGING (U.S. GEOLOGICAL SURVEY)	550,000	---	550,000	---
	TRANSPORTATION SYSTEMS	700,000	---	700,000	---
	TOTAL	16,170,000	---	16,170,000	---
	RESEARCH AND DEVELOPMENT	22,000,000	---	20,500,000	---
	SUBTOTAL, GENERAL INVESTIGATIONS	89,765,000	42,712,000	96,044,000	57,371,000
	REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGES	-3,206,000	---	-6,010,000	---
	REDUCTION FOR ANTICIPATED UNOBLIGATED BALANCES	---	---	-5,000,000	---
	TOTAL, GENERAL INVESTIGATIONS	129,271,000		142,405,000	

TYPE OF PROJECT:

(N)	NAVIGATION
(FC)	FLOOD CONTROL
(BE)	BEACH EROSION CONTROL
(MP)	MULTIPLE-PURPOSE, INCLUDING POWER
(FDP)	FLOOD DAMAGE PREVENTION
(SP)	SHORELINE PROTECTION
(SPEC)	SPECIAL
(COMP)	COMPREHENSIVE
(RDP)	RESTUDY OF DEFERRED PROJECT
(RCP)	REVIEW OF COMPLETED PROJECT
(PHASE I)	AUTHORIZED FOR PHASE I STAGE OF ADVANCE ENGINEERING AND DESIGN IN THE WATER RESOURCES DEVELOPMENT ACT OF 1974 OR 1976

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	ALABAMA		
{N}	BLACK WARRIOR & TOMBIGBEE RIVERS, VICINITY OF JACKSON.	50,000	50,000
{N}	MOBILE HARBOR, AL	9,685,000	9,685,000
{FC}	THREEMILE CREEK, MOBILE, AL	4,500,000	4,500,000
{FC}	VILLAGE CREEK, JEFFERSON COUNTY, AL	3,800,000	3,800,000
{N}	WILLIAM BACON OLIVER LOCK AND DAM, AL	31,000,000	31,000,000
	ALASKA		
{MP}	SNETTISHAM, AK	5,845,000	5,845,000
	ST. PAUL HARBOR, AK	7,000,000	7,000,000
	ARIZONA		
{FC}	PHOENIX ARIZONA AND VICINITY, AZ {STAGE 2}	41,000,000	41,000,000
	ARKANSAS		
{FC}	FOURCHE BAYOU BASIN, LITTLE ROCK, AR	2,500,000	2,500,000
{N}	MCCLELLAN-KERR ARK. RVR NAV. SYSTEM LOCKS AND DAMS, AR	8,500,000	8,500,000
{N}	OUACHITA AND BLACK RIVERS, AR & LA	2,000,000	2,000,000
{FC}	RED RIVER EMERGENCY BANK PROTECTION, AR & LA	---	4,000,000
{FC}	RED RIVER LEVEES AND BANK STABILIZATION BELOW DENISON DAM, ARK, LA,TEX	---	1,000,000
	CALIFORNIA		
{FC}	CACHE CREEK SETTLING BASIN, CA	3,250,000	---
{FC}	CORTE MADERA CREEK, CA	1,800,000	1,800,000
{FC}	DRY CREEK {WARM SPRINGS} LAKE, CA	750,000	750,000
{FC}	FAIRFIELD VICINITY STREAMS, CA	2,400,000	2,400,000
{FC}	LOWER SAN JOAQUIN RIVER, CA	1,500,000	1,500,000
{FC}	MERCED COUNTY STREAMS, CA	4,000,000	4,000,000
{N}	OAKLAND HARBOR, CA	10,000,000	10,000,000
{FC}	PAJARO RIVER, CA	2,470,000	2,470,000
{FC}	REDBANK AND FANCHER CREEK, CA	4,500,000	4,500,000
{N}	RICHMOND HARBOR, CA	430,000	430,000
{FC}	SACRAMENTO RIVER FLOOD CONTROL PROJECT, CA {DEF CORR}	2,285,000	3,485,000
{FC}	SACRAMENTO RIVER BANK PROTECTION PROJECT, CA	10,000,000	10,000,000
{N}	SACRAMENTO RIVER DEEPWATER SHIP CHANNEL, CA	5,300,000	5,300,000
{N}	SAN FRANCISCO BAY TO STOCKTON, CA	1,700,000	1,700,000
{FC}	SAN LUIS REY RIVER, CA	6,200,000	6,200,000
{FC}	SANTA ANA RIVER MAINSTEM, CA	15,000,000	---
{BE}	SURFSIDE-SUNSET-NEWPORT BEACH, CA	1,300,000	1,300,000
{FC}	WALNUT CREEK, CA	6,300,000	6,300,000
{FC}	WILDCAT AND SAN PABLO CREEKS, CA	1,800,000	1,800,000
	COLORADO		
{FC}	CHATFIELD LAKE, CO	400,000	400,000
{FC}	FOUNTAIN CREEK, PUEBLO, CO	2,700,000	2,700,000
{FC}	WESTERLY CREEK, CO	5,100,000	5,100,000
	DELAWARE		
{FC}	DELAWARE COAST PROTECTION, DE	525,000	525,000
	FLORIDA		
{FC}	CENTRAL AND SOUTHERN FLORIDA, FL	19,000,000	19,000,000
{N}	CROSS FLORIDA CONSERVATION AREA, LAND MGMT. STUDY, FL.	---	500,000
{FC}	DADE COUNTY, FL	1,900,000	1,900,000
{BE}	DUVAL COUNTY, FL	3,443,000	3,443,000
{FC}	FOUR RIVER BASINS, FL	800,000	800,000
{FC}	INDIAN RIVER COUNTY, VERO BEACH, FL	---	500,000
{N}	KISSIMMEE RIVER, FL	---	300,000
{N}	MANATEE HARBOR, FL	5,000,000	5,000,000
{BE}	PALM BEACH COUNTY -DELRAY BEACH REEVALUATION , FL	---	350,000
{BE}	PINELLAS COUNTY, FL	4,000,000	4,000,000
	GEORGIA		
{FC}	OATES CREEK, RICHMOND COUNTY, GA	2,000,000	2,000,000
{MP}	RICHARD B. RUSSELL DAM AND LAKE, GA & SC	32,000,000	32,000,000
{N}	SAVANNAH HARBOR, GA	5,760,000	5,760,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	GUAM		
{FC}	AGANA RIVER, GU	1,840,000	1,840,000
	HAWAII		
{FC}	KAHOMA STREAM, MAUI, HI	1,784,000	1,784,000
	ILLINOIS		
{FC}	ALTON TO GALE ORGANIZED LEVEE DISTRICTS, IL & MO {DEF.	1,000,000	1,000,000
{FC}	EAST ST. LOUIS, IL	3,000,000	3,000,000
{FC}	GALLATIN COUNTY STREAMBANK EROSION, AREA 1, OHIO RIVER	---	900,000
{N}	LOCK AND DAM 26, MISSISSIPPI RIVER, ALTON, IL & MO	50,000,000	50,000,000
{N}	LOCK AND DAM 26, SECOND LOCK, MISS. RIVER, ALTON, IL &	13,000,000	11,000,000
{FC}	NORTH BRANCH CHICAGO RIVER, IL	4,000,000	4,000,000
{FC}	SOUTH QUINCY LEVEE AND DRAINAGE DISTRICT, IL	3,600,000	3,600,000
{N}	UPPER MISS. RVR SYSTEM ENV. MGT PROG., IL, IA, MO, MN,	7,000,000	7,500,000
	INDIANA		
{FC}	EVANSVILLE, IN	4,000,000	4,000,000
	IOWA		
{FC}	DES MOINES RECREATION RIVER AND GREENBELT, IA	750,000	750,000
{FC}	MISSOURI RIVER LEVEE SYSTEM, IA, NE, KS, & MO	350,000	350,000
{FC}	RED ROCK DAM AND LAKE, IA {LAND AQUISITION}	---	1,500,000
{FC}	SAYLORVILLE LAKE, IA 1958 ACT	---	2,700,000
{FC}	WATERLOO, IA, BRIDGES	---	625,000
	KANSAS		
{FC}	GREAT BEND, KS	3,500,000	3,500,000
{FC}	HALSTEAD, KS	1,800,000	1,800,000
	KENTUCKY		
{FC}	BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA, KY	4,500,000	4,500,000
{FC}	PAINTSVILLE LAKE, KY	500,000	800,000
{FC}	SALYERSVILLE, KY	---	170,000
{FC}	SOUTHWESTERN JEFFERSON COUNTY, KY	3,083,000	3,083,000
{FC}	TAYLORSVILLE LAKE, KY	540,000	540,000
{FC}	YATESVILLE LAKE, KY	11,800,000	11,800,000
	LOUISIANA		
{FC}	GRAND ISLE AND VICINITY, LA	1,500,000	1,500,000
{FC}	LAKE PONTCHARTRAIN AND VICINITY, LA {HURRICANE PROTECT	40,400,000	40,400,000
{FC}	LAROSE TO GOLDEN MEADOW, LA {HURRICANE PROTECTION}	2,970,000	2,970,000
{N}	MISSISSIPPI RIVER - GULF OUTLET, LA	500,000	500,000
{N}	MISSISSIPPI RIVER SHIP CHANNEL, GULF TO BATON ROUGE, L	3,800,000	3,800,000
{FC}	NEW ORLEANS TO VENICE, LA {HURRICANE PROTECTION}	12,900,000	12,900,000
{FC}	OUACHITA RIVER LEVEES, INCLUDING BAWCOMVILLE, LA	900,000	900,000
{FC}	PEARL RIVER, SLIDELL, ST. TAMMANY PARISH, LA	400,000	400,000
{N}	RED RIVER WATERWAY, MISSISSIPPI RIVER TO SHREVEPORT, L	118,000,000	118,000,000
	MAINE		
{N}	JONESPORT HARBOR, ME	1,800,000	1,800,000
{BE}	ROOSEVELT CAMPOBELLO INTERNATIONAL PARK, LUBEC, ME & C	200,000	200,000
	MARYLAND		
{N}	BALTIMORE HARBOR AND CHANNELS, MD & VA	27,600,000	27,600,000
	MASSACHUSETTS		
{BE}	REVERE BEACH, MA	3,510,000	3,510,000
{FC}	TOWN BROOK, QUINCY AND BRAINTREE, MA	7,950,000	7,950,000
	MINNESOTA		
{FC}	BASSETT CREEK, MN	1,500,000	1,500,000
{FC}	CHASKA, MN	1,000,000	1,000,000
{FC}	MANKATO AND NORTH MANKATO, MN	2,219,000	2,219,000
{FC}	SOUTH FORK ZUMBRO RIVER AT ROCHESTER, MN	7,100,000	7,100,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	MISSISSIPPI		
{FC}	SOWASHEE CREEK, MERIDIAN, MS	5,400,000	5,400,000
{FC}	TOMBIGBEE RIVER AND TRIBUTARIES, MS & AL	2,595,000	2,595,000
	MISSOURI		
{FC}	BLUE RIVER CHANNEL, KANSAS CITY, MO	9,116,000	9,116,000
{FC}	HANNIBAL, MO	1,000,000	1,000,000
{MP}	HARRY S. TRUMAN DAM AND RESERVOIR, MO	6,445,000	6,445,000
{FC}	LITTLE BLUE RIVER LAKES, MO	3,017,000	3,017,000
{N}	MISS. RIVER BTWN OHIO AND MO RIVERS {REG. WORKS}, MO &	4,400,000	4,400,000
	NEBRASKA		
{FC}	MISSOURI NATIONAL RECREATIONAL RIVER, NE & SD	75,000	75,000
{FC}	PAPILLION CREEK AND TRIBUTARIES LAKES, NE	3,547,000	3,547,000
	NEW HAMPSHIRE		
{N}	PORTSMOUTH HARBOR AND PISCATAQUA RIVER, NH & ME	6,900,000	6,900,000
	NEW JERSEY		
{N}	BARNEGAT INLET, NJ	7,800,000	7,800,000
{BE}	CAPE MAY INLET TO LOWER TOWNSHIP, NJ	1,000,000	1,000,000
{FC}	LIBERTY STATE PARK LEVEE AND SEAWALL, NJ	4,778,000	4,778,000
{FC}	RAMAPO AND MAHWAH RIVERS, MAHWAH, NJ AND SUFFERN, NY	300,000	---
{BE}	SANDY HOOK TO BARNEGAT INLET, NJ	1,200,000	1,200,000
	NEW MEXICO		
{FC}	ACEQUIAS IRRIGATION SYSTEM, NM	---	2,000,000
{FC}	ALAMOGORDO, NM	7,400,000	7,400,000
{FC}	PUERCO RIVER AT GALLUP, NM	3,100,000	3,100,000
{FC}	RIO GRANDE FLOODWAY, TRUTH OR CONSEQUENCES UNIT, NM	3,800,000	3,800,000
	NEW YORK		
{FC}	ARDSLEY, NY	2,680,000	2,680,000
{FC}	ELLICOTT CREEK, NY	1,200,000	1,200,000
{N}	HEMPSTEAD HARBOR, NY	400,000	400,000
{N}	KILL VAN KULL AND NEWARK BAY CHANNEL, NY & NJ	54,300,000	54,300,000
{N}	MORICHES INLET, NY	1,225,000	1,225,000
{N}	NEW YORK HARBOR COLLECTION AND REMOVAL OF DRIFT, NY &.	1,409,000	1,409,000
{FC}	NORTH ELLENVILLE DEF CORRECTION, NY	---	450,000
	NORTH CAROLINA		
{N}	AIWW-REPLACEMENT OF FEDERAL HIGHWAY BRIDGES, NC	550,000	550,000
{FC}	B. EVERETT JORDAN DAM AND LAKE, NC	4,468,000	4,468,000
{FC}	CAROLINA BEACH AND VICINITY, NC	300,000	300,000
{FC}	FALLS LAKE, NC	8,000,000	8,000,000
	NORTH DAKOTA		
{FC}	LAKE ASHTABULA & BALDHILL DAM, SHEYENNE RVR, ND {DAM S	1,000,000	1,000,000
{FC}	SHEYENNE RIVER, WEST FARGO AND RIVERSIDE, ND	2,700,000	---
{FC}	SOURIS RIVER BASIN, ND	17,600,000	17,600,000
	OHIO		
{FC}	BOLIVAR DAM, MUSKINGUM RIVER LAKES, OH {DAM SAFETY}	3,200,000	3,200,000
{BE}	MAUMEE BAY STATE PARK, OH	---	750,000
{FC}	MILL CREEK, OH	20,000,000	20,000,000
{FC}	NEWARK, OH	2,082,000	2,082,000
{FC}	RENO BEACH HOWARD FARMS, OH	1,610,000	1,610,000
	OKLAHOMA		
{FC}	ARCADIA LAKE, OK	2,000,000	2,000,000
{FC}	MINGO CREEK, OK	6,200,000	6,200,000
{FC}	PARKER LAKE, OK	2,000,000	2,000,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	OREGON		
{N}	THE DALLES	---	700,000
{N}	BONNEVILLE NAVIGATION LOCK, OR & WA	42,000,000	42,000,000
{MP}	BONNEVILLE SECOND POWERHOUSE, OR & WA	2,500,000	2,500,000
{FC}	ELK CREEK LAKE, OR	1,900,000	1,900,000
{FC}	LOWER COLUMBIA RIVER BASIN BANK PROTECTION, OR & WA	200,000	200,000
{FC}	WILLAMETTE RIVER BASIN BANK PROTECTION, OR	160,000	160,000
{N}	MCNARY LOCK & DAM, OR	---	1,200,000
	PENNSYLVANIA		
{FC}	FRANCIS E. WALTER DAM, PA {MODIFICATION}	4,200,000	1,000,000
{N}	GRAYS LANDING, LOCK AND DAM 7, MONONGAHELA RIVER, PA	14,200,000	14,200,000
{FC}	LOCK HAVEN, PA	1,000,000	---
{N}	POINT MARION, LOCK AND DAM 8, MONONGAHELA RIVER, PA &	2,800,000	2,800,000
{BE}	PRESQUE ISLE PENINSULA, PA {NOURISHMENT}	1,230,000	1,230,000
{BE}	PRESQUE ISLE PENINSULA, PA	4,000,000	4,000,000
{FC}	TAMAQUA, PA	1,640,000	1,640,000
{FC}	TURTLE CREEK, PA	200,000	200,000
	PUERTO RICO		
{FC}	PORTUGUES AND BUCANA RIVERS, PR	26,000,000	26,000,000
	SOUTH CAROLINA		
{N}	CHARLESTON HARBOR, SC	7,000,000	7,000,000
{MP}	COOPER RIVER SEISMIC MODIFICATION, SC	4,002,000	4,002,000
	TEXAS		
{FC}	BUFFALO BAYOU & TRIBS-ADDICKS & BARKER DAMS, TX	1,429,000	1,429,000
{FC}	CLEAR CREEK, TX	4,300,000	4,300,000
{FC}	BOGGY CREEK, AUSTIN, TX	8,000,000	8,000,000
{FC}	COOPER LAKE AND CHANNELS, TX	21,800,000	22,800,000
{N}	CORPUS CHRISTI SHIP CHANNEL, TX	4,000,000	4,000,000
{FC}	EL PASO, TX	4,400,000	4,400,000
{N}	FREEPORT HARBOR, TX	11,300,000	11,300,000
{FC}	JOE POOL LAKE, TX	4,500,000	4,500,000
{FC}	LAKE WICHITA, HOLLIDAY CREEK AT WICHITA FALLS, TX	7,500,000	7,500,000
{N}	MOUTH OF COLORADO RIVER, TX	5,800,000	5,800,000
{FC}	RAY ROBERTS LAKE, TX	20,000,000	20,000,000
{FC}	SAN ANTONIO CHANNEL IMPROVEMENT, TX	25,000,000	25,000,000
{FC}	TAYLORS BAYOU, TX	4,400,000	4,400,000
{N}	WALLISVILLE LAKE, TX	---	500,000
	UTAH		
{FC}	LITTLE DELL LAKE, UT	7,800,000	7,800,000
	VIRGINIA		
{FC}	HAYSI LAKE, VA	---	250,000
{N}	LYNNHAVEN INLET AND CONNECTING CHANNELS, VA	1,600,000	1,600,000
{N}	NORFOLK HARBOR AND CHANNELS, VA	2,700,000	2,700,000
{FC}	RICHMOND, VA	11,100,000	11,100,000
{BE}	TANGIER ISLAND SHORELINE PROTECTION, VA	2,576,000	2,576,000
{FC}	VIRGINIA BEACH STREAMS CANAL NO. TWO, VA	757,000	757,000
	WASHINGTON		
{MP}	CHIEF JOSEPH ADDITIONAL UNITS, WA	6,600,000	6,600,000
{MP}	LOWER SNAKE RVR FISH & WILDLIFE COMPENSATION, WA, OR,	12,200,000	12,200,000
{MP}	LITTLE GOOSE LOCK & DAM, WA	---	4,700,000
{MP}	LOWER GRANITE LOCK & DAM, WA	---	1,600,000
{MP}	LOWER MONUMENTAL LOCK & DAM, WA	---	1,000,000
{MP}	ICE HARBOR LOCK & DAM, WA	---	400,000
{FC}	MT. ST. HELENS SEDIMENT CONTROL, WA	21,500,000	21,500,000
{FC}	MUD MOUNTAIN DAM, WA {DAM SAFETY}	1,200,000	1,200,000
	WEST VIRGINIA		
{N}	GALLIPOLIS LOCKS AND DAM, WV & OH	60,000,000	60,000,000
{FC}	LEVISA & TUG FORKS & UPPER CUMBERLAND RIVER, WV, KY, &	42,400,000	47,400,000
{FC}	STONEWALL JACKSON LAKE, WV	13,300,000	13,300,000
{N}	WINFIELD LOCK AND DAM, WV	6,500,000	6,500,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	WISCONSIN		
(FC)	STATE ROAD AND EBNER COULEES, WI	6,400,000	6,400,000
	MISCELLANEOUS		
	AQUATIC PLANT CONTROL (1965 ACT)	7,900,000	7,900,000
	BEACH EROSION CONTROL PROJECTS (SECTION 103)	2,000,000	2,500,000
	COST SHARED DISPOSAL OF DREDGED MATERIAL ON BEACHES	1,000,000	1,000,000
	EMERGENCY STREAMBANK AND SHORELINE PROTECTION (SEC 14)	10,000,000	6,500,000
	EMPLOYEE'S COMPENSATION	13,042,000	13,042,000
	FLOOD CONTROL PROJECTS (SECTION 205)	30,000,000	22,000,000
	INLAND WATERWAYS USERS BOARD - BOARD EXPENSES	80,000	20,000
	INLAND WATERWAYS USERS BOARD - CORPS EXPENSES	200,000	100,000
	MITIGATION OF SHORE DAMAGE (SECTION 111)	500,000	500,000
	NAVIGATION PROJECTS (SECTION 107)	14,000,000	9,500,000
	SMALL SNAGGING AND CLEARING PROJECTS (SECTION 208)	500,000	500,000
	REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE	-118,332,000	-120,152,000
	REDUCTION FOR ANTICIPATED UNOBLIGATED BALANCES	---	-32,000,000
	TOTAL CONSTRUCTION, GENERAL	1,227,570,000	1,184,735,000

TYPE OF PROJECT:

(N)	NAVIGATION
(FC)	FLOOD CONTROL
(BE)	BEACH EROSION CONTROL
(MP)	MULTIPLE-PURPOSE, INCLUDING POWER

CORPS OF ENGINEERS - FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	GENERAL INVESTIGATIONS		
	SURVEYS:		
	GENERAL STUDIES:		
{FDP}	BOEUF & TENSAS RIVERS, AR & LA	575,000	575,000
{FDP}	EASTERN ARKANSAS REGION {COMPREHENSIVE STUDY}, AR.	280,000	280,000
{FC}	HELENA ARKANSAS AND VICINITY, AR	400,000	400,000
{FDP}	ST FRANCIS BASIN BELOW WAPPAPELLO LAKE, AR & MO	---	125,000
{FC}	WEST MEMPHIS ARKANSAS AND VICINITY, AR	300,000	500,000
{FDP}	ATCHAFALAYA BASIN {WATER AND LAND RES}, LA	54,000	54,000
{FC}	MISSISSIPPI & LOUISIANA ESTAURINE AREAS, LA & MS	715,000	715,000
	NATCHEZ, MS	---	200,000
{FDP}	YAZOO RIVER BASIN MS	360,000	360,000
{FDP}	ST. FRANCIS RIVER MO. & AR. {FISH AND WILDLIFE}	---	10,000
{FC}	ST. JOHNS BAYOU AND NEW MADRID FLOODWAY, MO	350,000	350,000
{FC}	HORN LAKE CREEK & TRIBS {INCL COW PEN CREEK},TN/MS.	283,000	283,000
{FDP}	REELFOOT LAKE, TN	270,000	270,000
	COLLECTION AND STUDY OF BASIC DATA	270,000	270,000
	PRECONSTRUCTION ENGINEERING AND DESIGN:		
	BIRD'S PT. - NEW MADRID FLOODWAY, MO	---	500,000
{FC}	LOWER WHITE RIVER {BIG CREEK AND TRIBS}, AR	400,000	400,000
	NONCONNAH CREEK, TN & MS	---	1,318,000
{N}	VICKSBURG HARBOR, MS	---	350,000
	SUBTOTAL, GENERAL INVESTIGATIONS	4,257,000	6,960,000
	CONSTRUCTION		
{FC}	CACHE RIVER BASIN, AR	920,000	920,000
{FC}	CHANNEL IMPROVEMENT, AR, KY, IL, LA, MS, MO, & TN	94,900,000	94,900,000
{FC}	EIGHT MILE CREEK, AR	546,000	546,000
{N}	HELENA HARBOR, PHILLIPS COUNTY, AR	5,300,000	5,300,000
{FC}	L'ANGUILLE RIVER, AR	800,000	800,000
{FC}	LOWER WHITE RIVER {AUGUSTA TO CLARENDON LEVEE}, AR	---	10,000
{FC}	LOWER WHITE RIVER {CLARENDON LEVEE}, AR	---	10,000
{FC}	SECTION 6 LEVEES	---	10,000
{FC}	MISSISSIPPI RIVER LEVEES, AR, IL, KY, LA, MS, MO, & TN	22,700,000	22,700,000
{FC}	MISSISSIPPI DELTA REGION, LA	7,450,000	7,450,000
{FC}	ST FRANCIS BASIN, AR & MO	9,900,000	9,900,000
{FC}	TENSAS BASIN, AR & LA: {	6,600,000 }{	6,600,000
{FC}	RED RIVER BACKWATER AREA, LA	5,758,000	5,758,000
{FC}	TENSAS-COCODRIE PUMPING PLANT, LA	842,000	842,000
{FC}	ATCHAFALAYA BASIN, LA	31,000,000	31,000,000
{FC}	ATCHAFALAYA BASIN, FLOODWAY SYSTEM, LA	11,700,000	11,700,000
{FC}	SARDIS DAM, MS {DAM SAFETY ASSURANCE}	600,000	600,000
{FC}	YAZOO BASIN, MS: {	32,600,000 }{	36,600,000
{FC}	BACKWATER	110,000	110,000
{FC}	BIG SUNFLOWER	3,800,000	3,800,000
{FC}	DEMONSTRATION EROSION CONTROL	17,725,000	17,725,000
{FC}	MAIN STEM	1,200,000	1,200,000
{FC}	TRIBUTARIES	4,300,000	4,300,000
{FC}	UPPER YAZOO PROJECTS	5,465,000	5,465,000
{FC}	YAZOO BACKWATER PUMPING PLANT	---	4,000,000
{FC}	NONCONNAH CREEK, TN & MS	1,500,000	---
{FC}	WEST TENNESSEE TRIBUTARIES, TN	5,100,000	5,100,000
	SUBTOTAL, CONSTRUCTION	231,616,000	234,146,000
	MAINTENANCE		
{FC}	CHANNEL IMPROVEMENT, AR, IL, LA, MS, MO & TN	60,082,000	60,082,000
{FC}	LOWER ARKANSAS RIVER - NORTH BANK, AR	64,000	64,000
{FC}	LOWER ARKANSAS RIVER - SOUTH BANK, AR	40,000	40,000
{FC}	MISS RIVER LEVEES, AR, IL, KY, LA, MS, MO, TN	4,649,000	4,649,000
{FC}	ST FRANCIS RIVER BASIN, AR & MO	7,083,000	7,083,000
{FC}	TENSAS BASIN, BOEUF & TENSAS RIVERS, AR & LA	2,254,000	2,254,000
{FC}	WHITE RIVER BACKWATER, AR	702,000	702,000
{FC}	ATCHAFALAYA BASIN, LA	6,893,000	6,893,000
{FC}	BATON ROUGE HARBOR - DEVIL SWAMP, LA	300,000	300,000
{FC}	BAYOU COCODRIE & TRIBS, LA	118,000	118,000
{FC}	BONNET CARRE, LA	501,000	501,000
{FC}	LOWER RED RIVER - SOUTH BANK LEVEES, LA	69,000	69,000
{FC}	OLD RIVER, LA	4,741,000	4,741,000
{FC}	TENSAS BASIN, RED RIVER BACKWATER, LA	2,583,000	2,583,000

CORPS OF ENGINEERS - FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
{FC}	WAPPAPELLO LAKE, MO	2,739,000	2,739,000
{N}	GREENVILLE HARBOR, MS	207,000	207,000
{N}	VICKSBURG HARBOR, MS	163,000	163,000
{FC}	YAZOO BASIN, MS:	{ 21,183,000 }	{ 25,683,000 }
{FC}	ARKABUTLA LAKE	2,493,000	3,093,000
	BACKWATER	391,000	391,000
{FC}	BIG SUNFLOWER	281,000	281,000
{FC}	ENID LAKE	2,886,000	3,886,000
{FC}	GREENWOOD	598,000	598,000
{FC}	GRENADA LAKE	3,470,000	4,870,000
{FC}	MAIN STEM	4,704,000	4,704,000
{FC}	SARDIS LAKE	3,435,000	4,935,000
{FC}	TRIBUTARIES	1,934,000	1,934,000
{FC}	WILL M WHITTINGTON AUX CHAN	559,000	559,000
{FC}	YAZOO CITY	432,000	432,000
{N}	MEMPHIS HARBOR {MCKELLAR LAKE}, TN	1,200,000	1,200,000
	INSPECTION OF COMPLETED WORKS	1,088,000	1,088,000
	MAPPING	719,000	719,000
	SUBTOTAL, MAINTENANCE	117,378,000	121,878,000
	REDUCTION FOR ANTICIPATED SAVINGS, SLIPPAGE, AND PRIOR YEAR UNOBLIGATED BALANCES	-18,954,000	-25,004,000
	TOTAL, FLOOD CONTROL, MISSISSIPPI RIVER & TRIBUTARIES	334,297,000	337,980,000

TYPE OF STUDY OR PROJECT:
{FC} FLOOD CONTROL
{FDP} FLOOD DAMAGE PREVENTION
{N} NAVIGATION

TITLE II—DEPARTMENT OF THE INTERIOR

The summary table at the end of this title sets forth the conference agreement with respect to the individual appropriations, programs and activities of the Bureau of Reclamation. Additional items of conference agreement are discussed below.

BUREAU OF RECLAMATION

GENERAL INVESTIGATIONS

Amendment No. 17: Appropriate $14,150,000 for general investigations as proposed by the Senate instead of $13,761,000 as proposed by the House.

Amendment No. 18: Earmarks $175,000 for the South Platte Frenchman Valley Project study as proposed by the House instead of $75,000 as proposed by the Senate.

CONSTRUCTION PROGRAM

Amendment No. 19: Appropriate $712,305,000 for the construction program instead of $709,332,000 as proposed by the House and $712,905,000 as proposed by the Senate.

The conference agreement includes $250,000 for preconstruction engineering and design activities only on the Lower Gunnison winter water project in Colorado.

No funds are included in the conference agreement for construction of the on-site disposal method of cleaning up Kesterson Reservoir.

The conferees agree with the House Report language regarding the Watsonville Subarea feasibility study as part of the San Felipe Division, Central Valley Project.

The conference agreement includes $250,000 under applied engineering for HIPLEX water management activities to continue research work related to cloud seeding and pilot training in North Dakota.

Amendment No. 20: Earmarks $2,000,000 for the Glendo Reservoir, North Platte Project, Nebraska and Wyoming as proposed by the Senate instead of $3,500,000 as proposed by the House.

The conferees wish to clarify that Sec. 210 of the Energy and Water Development Appropriation Act of 1988, Public Law 100-202, does not prevent the Bureau of Reclamation from making water available from the McGee Creek Project in Oklahoma to any entity or entities for emergency water supply needs provided such entities wanting water sign as appropriate repayment contract.

OPERATION AND MAINTENANCE

Amendment No. 21: Appropriates $187,731,000 for operation and maintenance instead of $192,331,000 as proposed by the House and $183,231,000 as proposed by the Senate.

The Committee of Conference has included funds sufficient to address the add-ons identified by the House. The Bureau of Reclamation should review the operation and maintenance program recommended by the conferees to determine what adjustments are needed.

LOAN PROGRAM

Amendment No. 22: Appropriates $26,022,000 for the loan program as proposed by the Senate instead of $29,022,000 as proposed by the House.

Amendment No. 23: Provides a limitation of $27,766,000 for gross obligations for the principal amount of direct loans as proposed by the House instead of $24,766,000 as proposed by the Senate.

WORKING CAPITAL FUND

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

WORKING CAPITAL FUND

For acquisition of computer capacity for the Administration Systems Modernization project, $4,000,000, to remain available until expended, as authorized in section 1472 of title 43, United States Code (99 Stat. 571).

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

GENERAL PROVISIONS—DEPARTMENT OF THE INTERIOR

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate relating to the Central Utah Project.

BUREAU OF RECLAMATION

TYPE OF PROJECT	PROJECT TITLE	FY 1989 BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	GENERAL INVESTIGATIONS		
	CALIFORNIA		
ADV.PLNG. M&I	ALL AMERICAN CANAL RELOCATION	116,000	116,000
PROJ.INV. M&I	DELTA WATER MANAGEMENT	350,000	350,000
PROJ.INV. M&I	INDIAN WELLS VALLEY GROUNDWATER PROJECT	155,000	155,000
ADV.PLNG. M&I	KELLOGG UNIT REFORMULATION STUDY	175,000	175,000
PROJ.INV.	OFFSTREAM STORAGE	---	375,000
PROJ.INV.	REFUGE WATER SUPPLY	75,000	75,000
	SAN BERNARDINO COUNTY	---	100,000
ADV.PLNG. I	SAN JOAQUIN VALLEY CONVEYANCE	150,000	150,000
	COLORADO		
SP.INV. M&I	HIGH MOUNTAIN AQUIFER STUDY	142,000	142,000
PROJ.INV.	UPPER GUNNISON-UNCOMPAHGRE BASIN PROJECT	120,000	120,000
	IDAHO		
PROJ.INV. I	OAKLEY FAN GROUNDWATER & RECHARGE INVESTIGATION	60,000	60,000
	KANSAS		
SP.INV. M&I	ARKANSAS RIVER WATER MANAGEMENT STUDY	150,000	150,000
SP.INV. M&I	KANSAS RIVER BASIN WATER OPERATIONS STUDY	90,000	90,000
	NINNESCAH RIVER SALINITY WATER MANAGEMENT	---	89,000
	NEBRASKA		
SP.INV. I	LOUP RIVER BASIN	100,000	100,000
	PRAIRIE BEND UNIT (P-SMBP)	---	800,000
PROJ.INV. I	SOUTH PLATTE FRENCHMAN PROJECT	75,000	175,000
	NEVADA		
PROJ.INV. M&I	NORTHERN NEVADA WATER AUGMENTATION PROGRAM	80,000	80,000
	NEW MEXICO		
PROJ.INV.	ALAMOGORDO WATER SUPPLY	---	100,000
	EASTERN NEW MEXICO WATER SUPPLY	---	150,000
	OKLAHOMA		
PROJ.INV. M&I	EAST CENTRAL OKLAHOMA WATER SUPPLY STUDY	125,000	125,000
PROJ.INV. M&I	NORTHWEST WATER SUPPLY STUDY	275,000	275,000
PROJ.INV. M&I	SOUTHEAST OKLAHOMA WATER SUPPLY STUDY	167,000	167,000
	OREGON		
PROJ.INV. I	JOSEPHINE COUNTY WATER MANAGEMENT STUDY	100,000	100,000
SP. INV. M&I	NORTHERN DOUGLAS CO. COOP.WATER RESOURCES STUDY	250,000	250,000
ADV.PLNG.	UMATILLA BASIN PROJECT	250,000	250,000
PROJ.INV. I	UPPER JOHN DAY WATER OPTIMIZATION PROJECT	125,000	125,000
PROJ.INV. I	WILLIAMETTE RIVER BASIN WATER OPTIMIZATION STUDY	75,000	75,000
	SOUTH DAKOTA		
FEAS.	GREGORY COUNTY, S.DAK	---	500,000
	TEXAS		
PROJ.INV. M&I	BEDIAS PROJECT	875,000	875,000
SP.INV. M&I	LOWER COLORADO RIVER BASIN TOTAL WATER MGMT STUDY	50,000	50,000
ADV.PLNG. M&I	SAN JACINTO PROJECT	870,000	870,000
	UTAH		
SP.INV.	SEVIER RIVER WATER MANAGEMENT STUDY	100,000	100,000
	WASHINGTON		
PROJ.INV.I	YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT	1,400,000	1,400,000
	WYOMING		
SP. INV. M&I	SEMINOE DAM MODIFICATION	287,000	287,000

BUREAU OF RECLAMATION

TYPE OF PROJECT	PROJECT TITLE	FY 1989 BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	VARIOUS		
PROJ.INV. M&I	COLORADO RIVER RECHARGE STUDY	150,000	150,000
PROJ.INV. I	COLORADO RIVER WATER QUALITY IMPROVEMENT PROGRAM	1,185,000	1,185,000
	SPECIAL INVESTIGATIONS:		
SP.INV.	ENVIRONMENTAL & INTERAGENCY COORDINATION ACTIVITIES	1,859,000	1,759,000
SP.INV.	GENERAL PLANNING STUDIES	475,000	475,000
SP.INV.	INVESTIGATION OF EXISTING PROJECTS	490,000	490,000
SP.INV.	MINOR WORK ON COMPLETED INVESTIGATIONS	240,000	240,000
SP.INV.	TECHNICAL ASSISTANCE TO STATES	850,000	850,000
SP.INV. I	UPPER SNAKE RIVER BASIN STORAGE OPTIMIZATION	100,000	100,000
PROJ.INV. M&I	VEGETATION MANAGEMENT ALONG THE COLORADO RIVER	150,000	150,000
	REDUCTION FOR ANTICIPATED SAVINGS & SLIPPAGES	---	-150,000
	TOTAL, GENERAL INVESTIGATIONS	12,286,000	14,250,000
	CONSTRUCTION PROGRAM		
	CONSTRUCTION AND REHABILITATION AND COLORADO RIVER BASIN SALINITY CONTROL PROJECTS		
	ARIZONA		
	HEADGATE ROCK HYDROELECTRIC PROJECT (BIA)	12,765,000	12,765,000
	CALIFORNIA		
	CENTRAL VALLEY PROJECT:		
	AUBURN-FOLSOM SOUTH UNIT	1,500,000	1,700,000
	MISCELLANEOUS PROJECT PROGRAMS	12,860,000	12,860,000
	SACRAMENTO RIVER DIVISION	5,231,000	5,231,000
	SAN FELIPE DIVISION	500,000	1,000,000
	SAN LUIS UNIT	27,732,000	24,732,000
	TRINITY RIVER RESTORATION PROGRAM	11,642,000	11,642,000
	COLORADO		
	GRAND VALLEY UNIT, TITLE II, CRBSCP	7,659,000	7,659,000
	LOWER GUNNISON WINTER WATER, CRBSCP	---	250,000
	PARADOX VALLEY UNIT, TITLE II, CRBSCP	7,704,000	7,704,000
	SAN LUIS VALLEY PROJECT, CLOSED BASIN DIVISION	10,321,000	10,321,000
	NEBRASKA		
	NORTH LOUP DIVISION, P-SMBP	14,776,000	23,000,000
	O'NEILL UNIT, P-SMBP	600,000	600,000
	NEW MEXICO		
	BRANTLEY PROJECT	5,785,000	5,785,000
	NORTH DAKOTA		
	GARRISON DIVERSION UNIT, P-SMBP	26,800,000	30,000,000
	SOUTH DAKOTA		
	BELLE FOURCHE UNIT, P-SMBP	4,200,000	4,200,000
	WEB RURAL WATER DEVELOPMENT PROJECT	11,089,000	12,000,000
	WASHINGTON		
	COLUMBIA BASIN PROJECT:		
	IRRIGATION FACILITIES	3,930,000	4,330,000
	THIRD POWERPLANT	14,392,000	14,392,000
	YAKIMA FISH PASSAGE & PROTECTIVE FACILITIES	7,410,000	7,410,000
	WYOMING		
	BUFFALO BILL DAM MODIFICATION, P-SMBP	23,238,000	23,238,000
	VARIOUS		
	BOULDER CANYON PROJECT	---	4,000,000
	MEASURES BELOW IMPERIAL DAM, TITLE I, CRBSCP	20,027,000	20,027,000
	SUBTOTAL, REGULAR CONSTRUCTION	230,161,000	244,846,000

BUREAU OF RECLAMATION

TYPE OF PROJECT	PROJECT TITLE	FY 1989 BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	DRAINAGE AND MINOR CONSTRUCTION:		
	ALL AMERICAN CANAL PROJECT, ARIZONA	1,600,000	1,600,000
	BOISE PROJECT, PAYETTE DIVISION, IDAHO	2,030,000	2,030,000
	CHIEF JOSEPH DAM PROJECT, OROVILLE-TONASKET UNIT	9,111,000	9,111,000
	COLORADO-BIG THOMPSON PROJECT, COLORADO	1,137,000	1,137,000
	COLORADO RIVER FRONT WORK & LEVEE SYSTEM, AR, CA, NV	12,071,000	12,071,000
	CULTURAL RESOURCES ACTIVITIES,CA, ND, NE, MT, SD, WY	50,000	50,000
	FRYINGPAN-ARKANSAS PROJECT, COLORADO	6,700,000	6,700,000
	GILA PROJECT, ARIZONA-CALIFORNIA	335,000	335,000
	GLENDO RESERVOIR, NORTH PLATTE PROJECT, NE	---	2,000,000
	KLAMATH PROJECT, OREGON-CALIFORNIA	1,197,000	1,197,000
	LEADVILLE MINE DRAINAGE TUNNEL, COLORADO	200,000	200,000
	LOWER COLORADO WATER SUPPLY PROJECT, COLORADO	530,000	530,000
	MCGEE CREEK, PROJECT, OKLAHOMA	5,880,000	5,880,000
	NEWLANDS PROJECT, NEVADA	500,000	500,000
	NUECES RIVER PROJECT, TEXAS	1,000,000	1,000,000
	PALMETTO BEND PROJECT, TEXAS	665,000	665,000
	PICK-SLOAN MISSOURI BASIN PROGRAM:		
	BOSTWICK DIVISION, NE	---	100,000
	CROW CREEK PUMP UNIT {P-SMBP}, MONTANA	---	150,000
	EAST BENCH UNIT, MONTANA	50,000	50,000
	FARWELL UNIT, NEBRASKA	660,000	660,000
	OAHE UNIT, SOUTH DAKOTA	65,000	65,000
	OWL CREEK UNIT, WYOMING	15,000	15,000
	VELARDE COMMUNITY DITCH PROJECT, NEW MEXICO	2,435,000	2,435,000
	WASHOE PROJECT, CALIFORNIA-NEVADA	405,000	405,000
	WEBER BASIN PROJECT, UTAH	1,494,000	1,494,000
	SUBTOTAL, DRAINAGE AND MINOR CONSTRUCTION	48,130,000	50,380,000
	SAFETY OF DAMS PROGRAMS:		
	CACHUMA PROJECT, BRADBURY DAM, CALIFORNIA	100,000	100,000
	CENTRAL VALLEY PROJECT, LITTLE PANOCHE DAM, CA	274,000	274,000
	CENTRAL VALLEY PROJECT, LOS BANOS DAM, CALIFORNIA	77,000	77,000
	CENTRAL VALLEY PROJECT, O'NEILL DAM, CALIFORNIA	45,000	45,000
	DEPARTMENT DAM SAFETY PROGRAM	450,000	450,000
	INITIATION OF SOD CORRECTIVE ACTION	5,335,000	5,335,000
	MINIDOKA PROJECT, JACKSON LAKE DAM, IDAHO-WYOMING	11,685,000	9,185,000
	MODIFICATION REPORTS AND PRECONSTRUCTION ACTIVITY	9,250,000	9,250,000
	NEWLANDS PROJECT, LAKE TAHOE DAM, CALIFORNIA-NEVADA	366,000	---
	SALT RIVER PROJECT, STEWART MTN. DAM, ARIZONA	18,086,000	18,086,000
	SEEDSKADEE PROJECT, FONTENELLE DAM, CRSP, WYOMING	2,520,000	2,520,000
	VENTURA RIVER PROJECT, CASITAS DAM, CALIFORNIA	50,000	50,000
	W.C. AUSTIN PROJECT, ALTUS DAM, OKLAHOMA	780,000	780,000
	SUBTOTAL, SAFETY OF DAMS	49,018,000	46,152,000
	REHABILITATION AND BETTERMENT:		
	HYRUM PROJECT	150,000	150,000
	MOON LAKE PROJECT, UTAH	161,000	161,000
	UNCOMPAHGRE PROJECT, COLORADO	337,000	337,000
	SUBTOTAL, REHABILITATION AND BETTERMENT	648,000	648,000
	APPLIED ENGINEERING:		
	GROUNDWATER RECHARGE DEMONSTRATION PROGRAM	3,000,000	3,000,000
	PROGRAM RELATED ENGINEERING & SCIENTFIC STUDIES	3,500,000	3,500,000
	ATMOSPHERIC WATER RESOURCES MANAGEMENT PROGRAM	---	250,000
	TOTAL, CONSTRUCTION AND REHABILITATION AND COLORADO RIVER BASIN SALINITY CONTROL PROJECTS	334,457,000	348,776,000
	COLORADO RIVER STORAGE PROJECT		
	UPPER COLORADO RIVER BASIN FUND		
	PARTICIPATING PROJECTS		
	COLORADO		
	ANIMAS LA-PLATA PROJECT	1,981,000	1,981,000
	DOLORES PROJECT	26,388,000	26,388,000
	UTAH		
	CENTRAL UTAH PROJECT, BONNEVILLE UNIT	143,453,000	143,453,000
	CENTRAL UTAH PROJECT, UINTAH UNIT	100,000	100,000

BUREAU OF RECLAMATION

TYPE OF PROJECT	PROJECT TITLE	FY 1989 BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	VARIOUS		
	DRAINAGE AND MINOR CONSTRUCTION		
	PARTICIPATING PROJECTS:		
	CENTRAL UTAH PROJECT, JENSEN UNIT..............	245,000	245,000
	DALLAS CREEK PROJECT..............................	198,000	198,000
	MODIFICATIONS & ADDITIONS TO COMPLETED FACILITES	1,640,000	1,640,000
	RECREATIONAL AND FISH AND WILDLIFE FACILITIES:		
	RECREATIONAL FACILITIES............................	4,183,000	4,183,000
	FISH AND WILDLIFE FACILITIES.......................	12,817,000	12,817,000
	TOTAL, COLORADO RIVER STORAGE PROJECT....... ...	191,005,000	191,005,000
	COLORADO RIVER BASIN PROJECT		
	CENTRAL ARIZONA PROJECT		
	ARIZONA		
	CENTRAL ARIZONA PROJECT, NON-INDIAN DISTR. SYSTEMS....	31,863,000	31,863,000
	CENTRAL ARIZONA-WATER DEVELOPMENT (LCRBDF)...........	180,389,000	180,389,000
	CENTRAL ARIZONA-SAFETY OF DAMS........................	8,267,000	8,267,000
	TOTAL, COLORADO RIVER BASIN PROJECT..............	220,519,000	220,519,000
	ASSOCIATED ITEMS		
	UNDISTRIBUTED REDUCTION BASED ON ANTICIPATED DELAYS...	-47,745,000	-47,995,000
	TOTAL, CONSTRUCTION PROGRAM..........................	698,236,000	712,305,000
	LOAN PROGRAM		
	ARIZONA		
	GILA RIVER FARMS SUPPLEMENTAL........................	1,691,000	1,291,000
	CALIFORNIA		
	SAN BERNARDINO COUNTY-DAY CREEK PROJECT..............	---	3,000,000
	ELSINORE VALLEY IRRIGATION DISTRICT..................	10,625,000	10,625,000
	RANCHO CALIFORNIA WATER DISTRICT.....................	5,450,000	2,850,000
	UNITED WATER CONSERVATION DISTRICT...................	---	5,000,000
	COLORADO		
	STAGECOACH...	---	2,000,000
	TEXAS		
	HIDALGO COUNTY IRRIGATION DISTRICT NO. 1 SUPPL.......	2,000,000	2,000,000
	VARIOUS		
	ADMINISTRATION OF THE LOAN PROGRAM....................	820,000	820,000
	UNDISTRIBUTED REDUCTION BASED ON ANTICIPATED DELAYS...	-1,564,000	-1,564,000
	TOTAL, LOAN PROGRAM..................................	19,022,000	26,022,000

TITLE III—DEPARTMENT OF ENERGY

The summary table at the end of this title sets forth the conference agreement with respect to the individual appropriations, programs and activities of the Department of Energy. Additional items of conference agreement are discussed below.

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

Amendment No. 26: Appropriates $2,142,326,000 for Energy Supply, Research and Development Activities instead of $2,092,622,000 as proposed by the House and $2,208,426,000 as proposed by the Senate.

Amendment No. 27: Deletes language proposed by the House and stricken by the Senate reducing the total Energy Supply, Research and Development Activities appropriation.

SOLAR AND RENEWABLE ENERGY

Photovoltaic Energy Systems.—The conferees agree to provide $35,500,000 for Photovoltaic systems. This recommended funding will continue the highest priority requirements needed to continue progress in reducing costs and improving efficiencies of photovoltaic systems.

Ocean Energy Systems.—The recommendation provides $4,105,000, of which $3,500,000 is to continue the PICHTR-OTEC project. Not less than $1,500,000 of the PICHTR-OTEC funds shall be made available directly to the organization established by the State of Hawaii pursuant to Section 3 of Act 152 of the 1983 Hawaii Legislative Session.

Other Solar Energy Activities.—The conferees agree that the Solar Technology Transfer line item is recommended at $2,400,000 as proposed by the House.

GEOTHERMAL

Funds deobligated from the Baca geothermal demonstration project shall be used to clean out the Hulin geopressure well in Louisiana.

ELECTRIC ENERGY SYSTEMS AND STORAGE

The conferees agree to provide $3,000,000 for research on the health effects of electromagnetic fields. In addition, $1,500,000 is included to continue the Seasonal Energy Storage program. An appropriation of $5,600,000 is provided to continue and complete the Hawaii deep water cable project. The conferees do not provide the additional $600,000 for advanced near-term battery work as proposed by the Senate. $1,500,000 is recommended for a laboratory-industry initiative in electrochemical research and proton exchange membrane fuel cell technology.

NUCLEAR ENERGY RESEARCH

The conferees agree to provide $600,000 from funds made available in advanced R&D for a critical comparative analysis by the National Academy of Sciences of the practical technological and institutional options for future nuclear power development and for the formulation of coherent policy alternatives to guide the Nation's nuclear power development.

CIVILIAN NUCLEAR RESEARCH PROGRAM

The conferees agree to provide $20,000,000 for the HTGR program. The conferees support the continuation of the funding for the University Research Program in Robotics for Advanced Reactors at $3,000,000.

An increase of $3,000,000 over the budget request is provided for the Argonne National Laboratory (ANL) in Idaho—$2,000,000 for modifications to the EBR II complex for the integral fast reactor fuel cycle process and $1,000,000 to support manufacture of metallic fuel for FFTF. In addition, $3,000,000 is included for the Advanced Control Test Operation (ACTO) Program and $1,000,000 is for the shielding work as proposed by the Senate.

SPACE AND DEFENSE POWER SYSTEMS

The conferees agree to restore $15,000,000 of the general reduction to the Space and Defense Power Systems.

FACILITIES

The conferees agree to provide $7,500,000 for the Fast Flux Test Facility (FFTF) in Richland, Washington. Of this amount, $6,000,000 is for fuel costs and $1,500,000 is for international collaborative programs.

BY-PRODUCTS PROGRAM

Because of severe funding restraints, the conferees have provided no funding for the continuation of the six food irradiator projects proposed by the House.

The conferees recommended that $570,000 be provided out of available funds to support development of radioluminescent lighting for remote air fields.

ENVIRONMENT, SAFETY AND HEALTH

The conferees agree to provide $91,000,000 for Environment, Safety and Health programs. The $3,000,000 increase over the House allowance is to be allocated to the Environmental Analysis activity of the program to carry out the global warming and greenhouse effects studies proposed by the Senate.

NUCLEAR MEDICINE PROGRAM

The conferees recognize that the Nuclear Medicine research program has produced remarkable technological breakthroughs with a relatively small budget. Because of the cost-effectiveness this program has demonstrated, and because of the static funding levels of this program for the past five years, the conferees recommend an increase of $3,000,000 in FY 1989 for Nuclear Medicine research operating expenses.

FACILITIES

The conferees' recommendation includes $12,000,000 for continuation and completion of the Federal commitment to Project 88-R-124, to expand and consolidate basic research facilities at the Oregon Health Sciences University including planning, design, construction, and equipment acquisition.

The recommendation also includes $8,000,000 to continue and complete Project 88-R-123, Cancer Reserch Center, Medical University of South Carolina.

MAGNETIC FUSION

The conferees have restored the $5,000,000 reduction made by the House in operating expenses and have approved an allocation of $3,500,000 to continue research development and planning work for Project 88-R-902, Compact Ignition Tokamak (CIT) (AE&D) only). No funds are provided for construction in fiscal year 1989.

SUPPORTING RESEARCH AND TECHNICAL ANALYSIS

Materials Sciences.—The conferees recommend an additional $5,000,000 which, together with the $3,700,000 proposed in the budget, will provide for a total of $8,700,000 in fiscal year 1989 to continue research and development and preliminary engineering work leading to an Advanced Neutron Source at the Oak Ridge National Laboratory. No construction funding is proposed or approved.

An additional $1,700,000 is approved for operating expenses for user program and commissioning of the Proton Storage Ring at Los Alamos Neutron Scattering Center (LANSCE). This provides a total of $3,100,000 in fiscal year 1989.

The conferees have included $6,000,000 for the 6-7 GeV Advanced Photon Source at Argonne National Laboratory (Project 89-R-601). Only continued research and development, engineering, and design work will continue in fiscal year 1989. No construction funding is approved.

FACILITIES

The conferees provide for the continued funding and completion of: Project 88-R-409, Proton Beam Cancer Treatment, Loma Linda; Project 88-R-404, Center for Advanced Microstructures and Devices, Louisiana State University; and Project 87-R-411, Barry Goldwater Center for Science and Enginering, Arizona State University. All projects were initiated in prior fiscal years.

UNIVERSITY RESEARCH SUPPORT

The conference recommendation provides $6,000,000 to be made available, on a competitive basis, to University nuclear engineering programs. These monies are to be made available for graduate fellowships, direct research support, and education support programs in the field of nuclear engineering .

TECHNOLOGY TRANSFER

The conferees have provided $200,000 for Rural Enterprises, Inc., a tax-exempt, nonprofit technology transfer center in Oklahoma, to conduct a technology transfer demonstration project for the Department of Energy.

ISOTOPE PRODUCTION AND DISTRIBUTION FUND

The conference recommendation is for the Department to examine the various alternatives for best managing this activity and provide to the House and Senate Committees its views and recommendations concerning this important responsibility.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

Amendment No. 28: Appropriates $1,133,080,000 as proposed by the House instead of $1,181,600,000 as proposed by the Senate.

The table that appears at the end of this title allocates funds in a manner that will permit the continued operation of the Uranium Enrichment enterprise and the expedited development of AVLIS.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment appropriating $922,116,000 instead of $929,116,000 as proposed by the House and $934,616,000 as proposed by the Senate as follows:

In lieu of the sum stricken and inserted in said amendment insert: ***$922,116,000***

The manager on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that of the $100,000,000 provided for the Superconducting Super Collider, $16,000,000 is included for capital equipment needed to support the R&D effort and $84,000,000 is provided for operating expenses, R&D, preliminary engineering and design, and site selection activities. Funds for construction or for procurement of long-lead items of equipment are not included.

The conferees agree that the Lawrence Berkeley Laboratory may undertake, upon approval from the Department, preliminary planning for a Bevalac upgrade including a formal construction review using funds within its allocation of Bevalac operating expenses.

NUCLEAR WASTE DISPOSAL FUND

Amendment No. 30: Reported in technical disagreement. The managers of the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides certain limitations on the Nuclear Waste Disposal Fund.

An amount not to exceed $11,000,000, at an annualized rate, may be provided to the State of Nevada for the period July 1, 1988, through June 30, 1989, for the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended. Further, an amount not to exceed $5,000,000, at an annualized rate, may be provided to affected local governments, as defined in the act, to conduct appropriate activities pursuant to the act.

Of the $11,000,000 provided to the State of Nevada, an amount not to exceed $1,500,000 may be expended on transportation studies, of which $1,000,000 is for studies and assessment of transportation needs and requirements in connection with the movement of nuclear waste within the State of Nevada at the University of Nevada-Reno or other appropriate place as determined by the State.

It was never the intent of Congress that the State of Nevada, or any volunteer State or Indian tribe, conduct its own site charaterization program. Grant funding provided pursuant to the act is to be used solely for the purpose of oversight of the Department of Energy's program. Such oversight is not intended to duplicate data collection done by the Department of Energy. It is further the intent of Congress that grant funds are to be spent to the maximum extent practicable within the State of Nevada. The Committee does not intend that grant funds be used to support multistate efforts or for coalition building with respect to the transportation of nuclear waste to a repository in Nevada. Further, such grant funds shall not be used to support, directly or indirectly, lobbying activities, subject to the same prohibitions of 18 U.S.C. 1913

An Advisory Committee on High Level Waste Licensing Support System has been meeting since September 1987 on a negotiated rulemaking by the Nuclear Regulatory Commission. The intent of this rulemaking is to provide the procedure for applications for a license to receive and process high-level radioactive waste and spent nuclear fuel at a geologic repository that will be based on an electronic information management system called the licensing support system (LSS) that will contain material from the license applicant—the Department of Energy—its contractors, and all other potential participants in the high-level radioactive waste licensing proceeding. It is presently intended that LSS will not be part of any computer system that is controlled by any potential participant to the high-level waste repository licensing proceeding, nor should the LSS be physically located on the premises of any of the potential participants. Nevertheless, DOE or other potential participants would not be precluded from using the LSS computer facility for a records management system independent to the LSS. The conferees agree that funds provided in the fiscal year 1989 appropriation are to be used to initiate this work in this fiscal year and that the University of Nevada/Las Vegas be designated as the site of the computer facility that would incorporate both the LSS and independent records management system of other potential participants including the Department and the NRC. Location of the LSS at the University of Nevada/Las Vegas is not intended to preclude it from becoming a contractor to DOE. An amount of up to $6,000,000 is made available for this purpose and to work out a cooperative arrangement with the university.

The conferees are concerned with the limited effort by DOE in response to the directive of Congress in the Fiscal Year 1987 Energy and Water Development Appropriations Act to evaluate the use of lead in high-level nuclear waste disposal canisters. The Brookhaven National Laboratory (BNL) study undertaken as a result of this directive did not consider current technologies such as those being developed in Canada, Sweden, Belgium, and Argentina, as well as in the United States, to determine whether or not this would be a viable technology in the United States' permanent waste repository project.

Therefore, the conferees direct that from within this nuclear waste disposal fund appropriation, up to $500,000 be for planning and assessment activities to review the BNL studies in regard to recent international work in this subject; identify additional information required; establish a peer review panel to review and recommend appropriate research tasks that must be taken to complete the evaluation directed in the Fiscal Year 1987 Energy and Water Development Appropriations Act. The panel should include appropriate scientific and technical persons from DOE and associated laboratories, BNL and INEL, the Bureau of Mines, and individuals having relevant expertise, for example, International Lead Zinc Research Organization.

ATOMIC ENERGY DEFENSE ACTIVITIES

Amendment No. 31: Appropriates $8,100,000,000 as proposed by the House instead of $8,092,000,000 as proposed by the Senate.

TESTING

The conferees agree that from within the overall amount for Weapons Testing, $4,850,000 is provided for the Marshall Islands radiological activities as outlined in the Senate Report.

INERTIAL CONFINEMENT FUSION

The conferees support an independent review of the status of the ICF program to determine whether the recommendations previously made are still appropriate to advance the technology. As part of the review, an assessment of the civilian energy potential of Inertial Confinement Fusion should be included. The conferees strongly believe that an independent group such as the National Academy of Sciences should be requested to conduct this review.

The conferees agree that within the Inertial Confinement Fusion operating expenses there are $12,900,000 for activities at the University of Rochester and $16,800,000 for research program activities at KMSF. Within the funds for capital equipment, $700,000 is included for equipment at KMSF.

PRODUCTION AND SURVEILLANCE

The conferees agree to include $4,000,000 for initiation of modifications to Building 371 at Rocky Flats (89-D-125), consistent with any restrictions contained in the defense Authorization Act.

MATERIALS PRODUCTION

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which restricts funds for a New Production Reactor until the Secretary has complied with certain requirements of P.L. 100-202.

The conferees feel it is essential that the Department address the serious national security implication of siting all production capacity in one location. Accordingly, the conferees direct the Department to consider in its siting and technology decisions, in addition to all other considerations, the advantages of dual siting from a national security perspective. The conferees wish to clarify that the dual siting approach does not in any way mean duplicating a full-scale plant at a second site. Rather, it assumes that the aggregate capacity requirements be split between the two sites via the construction of smaller units, including modular construction.

DEFENSE WASTE AND ENVIRONMENTAL RESTORATION

The conferees agree to increase Environmental Restoration operating expenses by $38,400,000 above the budget request. No specific allocations to specific sites have been made. Accordingly, the funds in this account are available to solve problems at all sites including the Hanford site.

PRIOR YEAR BALANCES

To the extent unobligated balances for the following activities are available from prior year appropriations, such balances are authorized to be reprogrammed and made available to environmental clean up or restoration activities at Richland Washington: Project 87-D-174, 241-AQ tank farm, Richland, Washington; Project 87-D-150, Radioactive Effluent Treatment Facility, Richland, Washington; Project 87-D-149, Productivity Retention Program, Richland, Washington only; Project 85-D-136, Components Protection System, Richland, Washington; Project 82-D-124, Restoration of Production Capabilities, Richland, Washington.

BONNEVILLE POWER ADMINISTRATION

Amendment No. 33: Deletes language proposed by the Senate directing Bonneville Power Administration to revise its budget to restore borrowing authority for the Third A.C. Intertie.

The conferees agree to recommend an additional increment of $65,000,000 of borrowing authority for the Third A.C. Intertie in FY 1989 in addition to the increment included in the House Report and to allow reprogramming of the $21,000,000 of the Third A.C. Intertie FY 1988 authority to other construction work deemed necessary by the Administrator. This should allow contruction of the Third A.C. Intertie to remain on its current schedule. The conferees understand that the Office of Management and Budget agrees to this course of action and has agreed to assure adequate outyear borrowing authority to complete the Intertie in a timely manner. The conferees recognize that the outyear amounts can change in accordance with changes in the schedule of the line, but that the BPA's ability to move ahead with the line is key to providing confidence to financial markets and regulators such that the southern end of the line can also proceed on schedule.

While the conferees recommend restoration of the borrowing authority to the BPA, its actions should not be taken as a decision favoring the construction of the Third A.C. Intertie with or without non-Federal funds. The conferees' actions merely reflect the belief that the Bonneville Power Administration should have at its disposal, the financial tools necessary to resolve these related matters in a manner which is in the best interest of the Federal Government and the region. It is the conferees' opinion that initiation of Federal construction of the line will not preclude or prejudice non-Federal participation in the Intertie. BPA's actions should be conducted accordingly.

Amendment No.34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Without fiscal year limitation, the Bonneville Power Administration continues to be authorized to incur obligations for authorized purposes and may do so in excess of borrowing authority and cash in the Bonneville Power Adminsitration fund.

The mangers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that the modified language clarifies Bonneville Power Administration's current authority to incur obligations, but does not grant the agency any new obligational authority. The conferees understand that other questions regarding budget formulation and excution for Bonneville Power Administration have been clarified and updated in a letter between Office of Management and Budget Associate Director Robert K. Dawson to the Department of Energy Under Secretary Joseph F. Salgado, dated June 16, 1988.

FEDERAL ENERGY REGULATORY COMMISSION

Amendment No. 35: Provides $5,000,000 to remain available until expended and be available only for contractual activities as proposed by the Senate instead of $3,000,000 as proposed by the House.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate dealing with the use of funds received by a State as restitution for certain petroleum pricing violations.

Sec. 305 provides that funds received as restitution for certain petroleum pricing violations are, when appropriated or expended by a state, deemed consistent with the restitutionary purposes for which they were received.

Currently over $3,000,000,000 is available, without appropriation, for use by states in supplementing certain federal energy programs, including low income energy assistance, weatherization, and for various state initiated programs. The source for these funds are a host of enforcement actions which have either been successfully litigated or settled by DOE, principally the "Exxon" and "Stripper Well" cases, while these funds are made available to the state without appropriation, each expenditure for each project must receive prior approval from DOE. For supplement of the federal programs approval is routine. However, an inordinate amount of delay results from the necessity of DOE approval of state initiated projects. The amendment simply provides that states with unemployment in excess of 10% may expend these funds on programs of any nature and need not seek the approval from DOE. The amendment does nothing to alter the amount of funds available to any state under existing law.

Department of Energy

	FY 1989 Budget Request	Conference
ENERGY SUPPLY RESEARCH AND DEVELOPMENT		
SOLAR ENERGY		
I. Solar applications		
A. Solar building energy systems		
Operating expenses	5,365	5,365
Subtotal, Solar building energy systems	5,365	5,365
B. Photovoltaic energy systems		
Operating expenses	23,380	34,700
Capital equipment	800	800
Subtotal, Photovoltaic energy systems	24,180	35,500
C. Solar thermal energy systems		
Operating expenses	14,700	14,700
Capital equipment	300	300
Subtotal, Solar thermal energy system	15,000	15,000
D. Biofuels energy systems		
Operating expenses	10,480	12,880
Capital equipment	555	555
Subtotal, Biofuels energy systems	11,035	13,435
E. Wind energy systems		
Operating expenses	8,339	8,339
Capital equipment	500	500
Subtotal, Wind energy systems	8,839	8,839
F. Ocean energy systems		
Operating expenses	3,105	4,105
Subtotal, Solar applications	67,524	82,244
II. Other solar energy		
A. International solar energy program - OE	541	1,000
B. Solar technology transfer		
Operating expenses	1,780	2,400
C. Solar Energy Research Institute		
Capital equipment	392	392
Construction:		
General plant projects	250	250
89-C-700 Solar energy research facility (SERF	4,000	---
Subtotal, Solar Energy Research Institute	4,642	642
D. Resource assessment		
Operating expenses	709	709
Capital equipment	45	45
Subtotal, Resource assessment	754	754
E. Program support - OE	970	970
F. Program direction - OE	4,164	4,164
Subtotal, Other solar energy	12,851	9,930
TOTAL, SOLAR ENERGY	80,375	92,174
(Operating expenses)	(73,533)	(89,332)
(Capital equipment)	(2,592)	(2,592)
(Construction)	(4,250)	(250)

Department of Energy

	FY 1989 Budget Request	Conference
GEOTHERMAL		
II. Geopressured resources		
Operating expenses	2,900	6,000
III. Geothermal technology development		
Operating expenses	11,935	11,935
Capital equipment	795	795
Subtotal, Geothermal technology development	12,730	12,730
IV. Program direction - OE	826	826
TOTAL, GEOTHERMAL	16,456	19,556
(Operating expenses)	(15,661)	(18,761)
(Capital equipment)	(795)	(795)
ELECTRIC ENERGY SYSTEMS AND STORAGE		
I. Electric energy systems		
A. Electric field effects research		
Operating expenses	2,200	3,000
B. Reliability research		
Operating expenses	2,494	2,494
C. System technology		
Operating expenses	12,722	17,722
D. Program direction - OE	350	350
Subtotal, Electric energy systems	17,766	23,566
(Operating expenses)	(17,766)	(23,566)
II. Energy Storage Systems		
A. Battery storage		
Operating expenses	6,671	9,671
Capital equipment	27	27
Subtotal, Battery storage	6,698	9,698
B. Thermal and mechanical storage		
Operating expenses	1,400	3,400
C. Program direction - OE	395	395
Subtotal, Energy storage systems	8,493	13,493
TOTAL, ELECTRIC ENERGY SYSTEMS AND STORAGE	26,259	37,059
(Operating expenses)	(26,232)	(37,032)
(Capital equipment)	(27)	(27)

Department of Energy

	FY 1989 Budget Request	Conference
NUCLEAR		
I. Nuclear Energy R&D		
A. Light water reactor		
Operating expense	26,800	26,800
B. Advanced reactor R & D		
Operating expense	60,200	79,500
Capital equipment	1,000	1,000
Subtotal, Advanced reactor R & D	61,200	80,500
C. Space & defense power systems		
Operating expense	75,490	64,490
Capital equipment	12,850	7,850
Construction:		
89-N-111 Dips	7,500	2,500
86-N-105 SP-100 fac. mods - HEDL	21,160	21,160
Subtotal, construction	28,660	23,660
General reduction	---	-5,000
Subtotal, Space & defense power systems	117,000	91,000
D. Advanced nuclear systems		
Operating expense	24,700	24,700
Capital equipment	3,000	3,000
Subtotal, Advanced nuclear systems	27,700	27,700
E. Facilities		
Operating expense	96,900	104,400
Capital equipment	4,600	4,600
Construction:		
89-N-112 Mods to reactors	3,400	3,400
89-N-113 GPP	3,800	3,800
89-N-115 Fire suf. imp., ANL	2,000	2,000
Subtotal, construction	9,200	9,200
Subtotal, Facilities	110,700	118,200
G. Program direction - OE	8,470	8,470
Subtotal, Nuclear Energy R & D	351,870	352,670
(Operating expense)	(292,560)	(303,360)
(Capital equipment)	(21,450)	(16,450)
(Construction)	(37,860)	(32,860)
II. Remedial actions & Waste technology		
A. Formerly utilized sites remedial action program		
Operating expenses	22,400	22,400
Capital equipment	200	200
Subtotal, Formerly utilized sites remedial action program	22,600	22,600

Department of Energy

	FY 1989 Budget Request	Conference
C. Uranium program mill tailings remedial action program		
Operating expenses	113,400	108,400
Capital equipment	2,600	2,600
Subtotal, Uranium program mill tailings remedial action program	116,000	111,000
D. Surplus facilities		
Operating expenses	46,900	46,900
Capital equipment	300	300
Subtotal, Management, of surplus radioactivity contaminated DOE facilities	47,200	47,200
E. West Valley		
Operating expenses	67,100	67,100
F. Low level waste		
Operating expenses	5,000	5,000
H. Program direction - OE	2,400	2,400
Subtotal, Remedial actions & Waste technology	260,300	255,300
III. Civilian waste R&D		
A. Spent Fuel Storage R & D		
Operating expenses	2,300	2,300
B. Program direction	198	198
Subtotal, Civilian waste R&D	2,498	2,498
TOTAL, NUCLEAR	614,668	610,468
(Operating expenses)	(552,258)	(558,058)
(Capital equipment)	(24,550)	(19,550)
(Construction)	(37,860)	(32,860)
ENVIRONMENT, SAFETY AND HEALTH		
I. Environment, safety and health		
Operating expenses	106,900	87,900
Capital equipment	3,100	3,100
TOTAL, ENVIRONMENT SAFETY AND HEALTH	110,000	91,000
LIQUIFIED GASEOUS SPILL TEST FACILITY		
I. Spill test facility		
Operating expenses	766	1,500
ENVIRONMENT R & D		
I. Biological and Environmental Research		
Operating expenses	232,500	222,500
Capital equipment	9,000	9,000
Construction:		
89-R-120 General plant projects various locations	3,500	3,500
88-R-123 Cancer Res. Ctr., Univ. of SC	---	8,000

Department of Energy

	FY 1989 Budget Request	Conference
88-R-124 Oregon Health Science Univ., OR	---	12,000
Subtotal, Construction	3,500	23,500
Subtotal, Biological and environ. research	245,000	255,000
II. Program direction - OE		
A. Bio and env. research - PD	4,000	4,000
Total, Biological and environmental research	249,000	259,000
(Operating expenses)	(236,500)	(226,500)
(Capital equipment)	(9,000)	(9,000)
(Construction)	(3,500)	(23,500)
FUSION		
I. Magnetic fusion		
A. Confinement systems		
Operating expenses	175,565	175,565
B. Development and technology		
Operating expenses	54,145	54,145
C. Applied plasma physics		
Operating expenses	78,155	78,155
D. Planning and projects		
Operating expenses	5,000	5,000
E. Program direction - OE	4,600	4,600
F. Capital equipment	21,635	21,635
G. Construction		
89-R-900 GPP	8,900	8,900
88-R-902 Compact ignition tokamak, PPPL, Princeton, NJ	12,000	3,500
Subtotal, Construction	20,900	12,400
Total, Fusion	360,000	351,500
(Operating expenses)	(317,465)	(317,465)
(Capital equipment)	(21,635)	(21,635)
(Construction)	(20,900)	(12,400)

Department of Energy

	FY 1989 Budget Request	Conference
SUPPORTING RESEARCH AND TECHNICAL ANALYSIS		
I. Basic energy sciences		
A. Materials sciences		
Operating expenses	134,621	180,746
B. Chemical sciences		
Operating expenses	93,125	134,993
C. Applied mathematical sciences		
Operating expenses	42,970	42,970
D. Engineering and geosciences		
Operating expenses	33,413	33,413
E. Advanced energy projects		
Operating expenses	14,643	14,643
F. Energy biosciences		
Operating expenses	20,780	20,780
G. Program direction - OE	4,900	4,900
H. Capital equipment	25,590	31,700
I. Construction		
89-R-401 AIP	720	2,300
89-R-400 GPP	4,900	4,900
89-R-601 6-7 GeV	---	6,000
88-R-403 3 GeV spear injector, SSRL	---	6,500
88-R-404 Ctr. for Advanced Microstructure & Devices, Louisiana State University	---	13,000
88-R-406 Ctr. for Automated Technology DREXEL	---	5,500
88-R-409 Proton Beam Cancer Treatment, Loma Linda Med'l Ctr., CA	---	11,100
87-R-403 Neutron Scattering Hall	---	4,000
87-R-406 1-2 GEV, LBL	---	25,000
87-R-411 Barry Goldwater Ctr. for Science & Engineering, Arizona State	---	10,000
Subtotal, Construction	5,620	88,300
Subtotal, Basic energy sciences	375,662	552,445
(Operating expenses)	(344,452)	(432,445)
(Capital equipment)	(25,590)	(31,700)
(Construction)	(5,620)	(88,300)

Department of Energy

	FY 1989 Budget Request	Conference
II. Energy oversight, research analy. & Univ support		
A. Energy research analysis - OE.................	3,800	3,800
B. University research support - OE		
Operating expenses:		
1. University reactor fuel assistance.......	2,100	2,100
2. Laboratory Coop Science Education Ctrs...	9,500	15,500
3. Energy manpower development program......	2,770	2,770
4. R&D Laboratory Tech Transfer.............	1,400	1,400
Subtotal, University research support.........	15,770	21,770
C. Advisory and oversight - OE..................	3,339	3,339
D. University research instrumentation...........	5,000	5,000
Subtotal, Energy oversight, res analy, & Univ sup	27,909	33,909
(Operating expenses)............................	(27,909)	(33,909)
III. Multiple Energy Laboratories - Fac. Sup.		
A. Multiprogram general purpose facilities Construction:		
89-R-113 Environmental Upgrades (BNL)........	1,500	1,500
89-R-112 Replace PCB Transformer (ANL).......	1,000	1,000
89-R-111 Building utilities, PNL............	668	668
89-R-110 Elec. Syst. Upgrade, ORNL...........	854	854
89-R-109 Measurements and Controls Support Facility, ORNL......................	1,100	1,100
89-R-108 Roads & Parking Rehab., ORNL........	2,520	2,520
89-R-107 Labsite Substation Rehab., LBL......	250	250
89-R-106 Instrument Support Lab., LBL........	200	200
89-R-105 Building Addition, BNL.............	1,625	1,625
89-R-104 Cosmotron Bldg. Rehab, BNL..........	300	300
89-R-103 Boiler Replacement, BNL............	409	409
89-R-102 Fire Protection III, BNL...........	645	645
89-R-101 Rehab Fire, Water, Pumping & Storage Systems, ANL........................	150	150
89-R-100 Trans. Fac. Replacement, ANL........	350	350
88-R-802 Lab building revitalization, BNL....	1,445	1,445
88-R-804 Piping system upgrade, ORNL.........	1,330	1,330
88-R-805 Environmental improvements, BNL.....	1,946	1,946
88-R-806 Environmental health & safety project, LBL...............................	3,448	3,448
88-R-807 Electrical system rehab, ANL........	2,150	2,150
88-R-809 Plant mods to comply with EPA requirements, ANL...........................	1,000	1,000
88-R-812 Hazardous waste handling fac, LBL...	3,950	3,950
88-R-814 Sewage treatment sys. upgrade, PNL..	2,060	2,060
88-R-817 Upgrade fire protection, ORNL.......	980	980

Department of Energy

	FY 1989 Budget Request	Conference
87-R-752 Piping System Restoration, ORNL.....	600	600
87-R-753 Rehabilitate Laboratory Space (Building 200), ANL..........................	3,600	3,600
87-R-755 Mechanical Systems Rehab., ANL......	500	500
87-R-756 Waterline Replacement, ANL..........	3,134	3,134
87-R-757 Electrical System Rehab., LBL.......	460	460
87-R-758 Rehab. Mechanical Utilities, LBL....	1,585	1,585
86-R-726 Fire protection improvements (BNL)..	464	464
85-R-706 Medical facility (LLNL)............	312	312
85-R-707 Hanford site fire alarm sys. upgrade	375	375
84-ER-103 Road repair (various locations)....	490	490
Subtotal, Construction........................	41,400	41,400
General reduction..............................	---	-10,000
Subtotal, Multi-program facilities..............	41,400	31,400
(Construction)...................................	(41,400)	(31,400)
B. Environmental compliance		
Operating expenses.............................	8,770	8,770
Capital Equipment..............................	305	305
Construction:		
89-R-770 General Plant Projects.............	2,500	2,500
88-R-830 Liquid low level waste collection and transfer sys upgrade, ORNL.............	11,787	11,787
86-R-801 Nonradiological process waste treat	1,113	1,113
Subtotal, Construction........................	15,400	15,400
Subtotal, Environmental Compliance Program	24,475	24,475
Total, Multiprogram Laboratories Facilities Suppo	65,875	55,875
(Operating expenses)...........................	(8,770)	(8,770)
(Capital equipment)............................	(305)	(305)
(Construction).................................	(56,800)	(46,800)
Total, Supporting research and tech. analysis....	469,446	642,229
(Operating expenses)...........................	(381,131)	(475,124)
(Capital equipment)...........................	(25,895)	(32,005)
(Construction)................................	(62,420)	(135,100)
POLICY AND MANAGEMENT		
I. Policy and Management		
A. Policy and management - ER....................	667	667
B. Policy and management - NE....................	2,165	2,165
C. Policy and management - CE....................	1,763	1,763
Subtotal, Policy and management..'...............	4,595	4,595

Department of Energy

	FY 1989 Budget Request	Conference
ENERGY APPLICATIONS		
I. Technical Information & Management Program		
Operating expenses	13,100	13,100
Capital equipment	900	900
Construction	2,500	2,500
Subtotal, Technical Information & Mgmt Program	16,500	16,500
II. In-house energy management		
Operating expenses	2,000	2,000
Construction:		
89-A-601 Modification for energy mgmt	17,520	17,520
Total, In-house energy management	19,520	19,520
III. Strategic facilities utilization program		
Operating expenses	1,977	1,977
General plant projects	198	198
Subtotal, Strategic facilities utilization prog.	2,175	2,175
SUBTOTAL, ENERGY APPLICATIONS	38,195	38,195
(Operating expenses)	(17,077)	(17,077)
(Capital equipment)	(900)	(900)
(Construction)	(20,218)	(20,218)
SUBTOTAL, ENERGY SUPPLY RESEARCH AND DEVELOPMENT	1,969,760	2,147,276
Adjustments:		
Use of prior year balances - (NE) ESRD	---	-4,950
TOTAL, ENERGY SUPPLY RESEARCH AND DEVELOPMENT	1,969,760	2,142,326
(Operating expenses)	(1,732,118)	(1,828,394)
(Capital equipment)	(88,494)	(89,604)
(Construction)	(149,148)	(224,328)
URANIUM ENRICHMENT		
I. Uranium enrichment activities		
A. Gaseous diffusion and operations support		
Operating expenses	1,014,000	984,000
Capital equipment	12,800	12,800
Construction:		
89-N-501 UF6 cylinders	5,800	5,800
89-N-502 General plant projects	15,000	15,000
88-N-502 Process inventory control system, Pa	41,300	28,000
Subtotal, Construction	62,100	48,800
Subtotal, Gaseous diffusion operations and suppo	1,088,900	1,045,600
B. Atomic vapor laser isotope separation		
Operating expenses	84,200	118,600
Capital equipment	4,000	5,000
Construction:		
89-N-503 General plant projects	1,800	3,400
Subtotal, Atomic vapor laser isotope separation	90,000	127,000

Department of Energy

	FY 1989 Budget Request	Conference
D. Program direction - OE	5,100	4,000
Subtotal, Uranium enrichment activities	1,184,000	1,176,600
Use of Prior Year Balances	---	-43,520
TOTAL URANIUM ENRICHMENT ACTIVITIES	1,184,000	1,133,080
(Operating expenses)	(1,103,300)	(1,063,080)
(Capital equipment)	(16,800)	(17,800)
(Construction)	(63,900)	(52,200)
II. Offsetting revenues	(-1,276,000)	(-1,276,000)
GENERAL SCIENCE AND RESEARCH ACTIVITIES		
I. High energy physics		
A. Physics research		
Operating expenses	123,806	123,806
B. Facility operations		
Operating expenses	---	256,600
Capital equipment	62,050	91,750
Construction:		
GP-E-103 General plant projects, various locations	5,750	11,068
86-R-104 Ctrl Computing Upgrade (FERMILAB)	3,632	3,632
86-R-105 AGS Booster	---	14,000
89-R-101 AIP	---	11,700
Subtotal, Construction	9,382	40,400
Subtotal, Facility operations	71,432	388,750
C. High energy technology		
Operating expenses	21,100	150,200
D. Other capital equipment - CE	4,050	4,050
Subtotal, High energy physics	220,388	666,806
(Operating expenses)	(144,906)	(530,606)
(Capital equipment)	(66,100)	(95,800)
(Construction)	(9,382)	(40,400)
II. Nuclear physics		
A. Medium energy physics		
Operating expenses	37,550	87,150
B. Heavy ion physics		
Operating expenses	43,288	68,650
C. Low energy physics		
Operating expenses	26,300	26,300
D. Nuclear theory		
Operating expenses	11,000	11,000

Department of Energy

	FY 1989 Budget Request	Conference
E. Capital equipment	16,050	17,100
F. Construction:		
89-R-201 AIP	4,300	4,300
GP-E-300 General plant projects, various locations	3,200	3,700
87-R-203 CEBAF	---	44,500
Subtotal Construction	7,500	52,500
G. Other capital equipment - CE	1,400	1,400
Subtotal, Nuclear physics	143,088	264,100
(Operating expenses)	(118,138)	(193,100)
(Capital equipment)	(17,450)	(18,500)
(Construction)	(7,500)	(52,500)
III. General Science program direction - OE	3,210	3,210
General reduction	---	-12,000
SUBTOTAL, GENERAL SCIENCE AND RESEARCH ACTIVITIES	366,686	922,116
(Operating expenses)	(266,254)	(714,916)
(Capital equipment)	(83,550)	(114,300)
(Construction)	(16,882)	(92,900)
ISOTOPE PRODUCTION AND DISTRIBUTION FUND		
A. Isotope Production	16,243	---
Net Isotope B/A	16,243	---
BASIC RESEARCH USER FACILITIES (BRUF)		
I. Basic Energy Sciences		
Operating expenses	86,293	---
Capital equipment	6,110	---
Construction:		
89-R-600 AIP	1,580	---
89-R-601 6-7 GeV	6,000	---
88-R-403 3 GeV spear injector, SSRL	6,500	---
87-R-403 Neutron Scattering Hall	4,000	---
87-R-406 1-2 GEV, LBL	30,000	---
Subtotal, Construction	48,080	---
Subtotal, Basic Energy Sciences (BRUF)	140,483	---
(Operating expenses)	(86,293)	---
(Capital equipment)	(6,110)	---
(Construction)	(48,080)	---

Department of Energy

	FY 1989 Budget Request	Conference
II. High energy physics		
A. Facility operations		
Operating expenses	256,600	---
Capital equipment	13,700	---
Construction:		
86-R-105 AGS Booster	14,000	---
89-R-301 AIP	11,700	---
GP-E-302 GPP	5,318	---
Subtotal, Construction	31,018	---
Subtotal, Facility Operations	301,318	---
B. High energy technology		
Operating expenses	45,100	---
Total, High Energy Physics (BRUF)	346,418	---
(Operating expenses)	(301,700)	---
(Capital equipment)	(13,700)	---
(Construction)	(31,018)	---
III. Nuclear Physics		
A. Medium energy physics		
Operating expenses	49,600	---
B. Heavy ion physics		
Operating expenses	25,362	---
Capital equipment	1,050	---
Construction:		
89-R-501 AIP	1,700	---
GP-E-500 GPP (LANL)	500	---
87-R-203 CEBAF	44,500	---
Subtotal, Construction	46,700	---
Total, Nuclear Physics (BRUF)	122,712	---
(Operating expenses)	(74,962)	---
(Capital equipment)	(1,050)	---
(Construction)	(46,700)	---
IV. Superconducting Super Collider		
Operating expenses	64,000	---
Capital equipment	16,000	---
Construction:		
89-R-450 Superconducting Super Collider	283,000	---
Subtotal, Superconducting Super Collider	363,000	---
Total, Basic Research User Facilities	972,613	---
(Operating expenses)	(526,955)	---
(Capital Equipment)	(36,860)	---
(Construction)	(408,798)	---

Department of Energy

	FY 1989 Budget Request	Conference
ATOMIC ENERGY DEFENSE ACTIVITIES		
I. WEAPONS ACTIVITIES		
A. Research and development		
1. Research and development - Core		
a. Operating expenses	766,000	780,500
b. Capital equipment	89,730	89,730
c. Construction:		
89-D-101 General plant projects, various locations (portion in Testing)	19,500	19,500
88-D-105 Special nuclear materials R&D laboratory replacement, LANL	22,000	22,000
88-D-106 Nuclear weapons research, development, & testing facilities revitalization, Phase II, various locations	60,352	60,352
85-D-102 Nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations	6,800	6,800
Subtotal, Construction	108,652	108,652
Subtotal, Research and development - Weapons	964,382	978,882
2. Environment, safety & health - construction		
88-D-102 Sanitary wastewater systems consolidation, LANL	7,600	7,600
88-D-103 Seismic upgrade-Bldg 111, LLNL	5,400	5,400
86-D-103 Decontamination and waste treatment facility, LLNL	12,000	12,000
Subtotal, ES&H construction	25,000	25,000
3. Safeguards & security - construction		
88-D-104 Safeguards and security upgrade, Phase II, LANL	7,300	7,300
87-D-104 Safeguards and security enhancement, phase II, LLNL	8,500	8,500
Subtotal, Safeguards & security - construction	15,800	15,800
Subtotal, Research and development	1,005,182	1,019,682
B. Testing		
1. Testing - Core		
a. Operating expenses	403,000	410,000
b. Capital equipment	38,161	38,161
c. Construction:		
89-D-101 General plant projects, various locations	7,000	7,000
Subtotal, weapons program	448,161	455,161
2. Safeguards & security - construction		
85-D-105 Combined device assembly facility, Nevada Test Site, NV	12,200	12,200
Subtotal, Testing	460,361	467,361
Subtotal, Research, development and testing	1,465,543	1,487,043
(Operating expenses)	(1,169,000)	(1,190,500)
(Capital equipment)	(127,891)	(127,891)
(Construction)	(168,652)	(168,652)

Department of Energy

	FY 1989 Budget Request	Conference
C. Production and surveillance		
Operating expenses	1,909,445	1,909,445
Capital equipment	118,614	118,614
Construction:		
Decision costs - construction:		
87-D-122 Short-range attack missile II (SRAM II) warhead production facilities, various locations	26,000	26,000
Production base - construction:		
Facilities capability program:		
88-D-122 Facilities capability assurance program, various locations	79,341	79,341
Production support facilities:		
89-D-121 General plant projects, various locations	29,194	29,194
89-D-122 Production waste storage facilities, Y-12 Plant, Oak Ridge, TN	2,000	2,000
89-D-125 Plutonium recovery modification project (Bldg. 371), Rocky Flats Plant, Golden, CO	18,000	4,000
88-D-125 High explosive machining facility, Pantex Plant, Amarillo, TX	13,000	13,000
86-D-130 Tritium loading facility replacement, Savannah River, Aiken, SC	31,800	31,800
85-D-112 Enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, TN	1,281	1,281
Subtotal, Production support facilities	95,275	81,275
Subtotal, Production base - construction	174,616	160,616
Environmental, safety & health - construction:		
89-D-126 Environmental, safety, & health upgrade, Phase II, Mound Plant, Miamisburg, OH	800	800
88-D-124 Fire protection upgrade, various locations	6,500	6,500
88-D-126 Personnel radiological monitoring laboratories, various locations	5,000	5,000
86-D-123 Environmental hazards elimination, various locations	5,203	5,203
84-D-124 Environmental improvements, Y-12 Plant, Oak Ridge, TN	4,775	4,775
Subtotal, Environ., safety & health - constr	22,278	22,278

Department of Energy

	FY 1989 Budget Request	Conference
Safeguards & security:		
88-D-123 Security enhancements, Pantex Plant, Amarillo, TX	7,500	7,500
84-D-211 Safeguards and site security upgrading, Y-12 Plant, Oak Ridge, TN	2,775	2,775
Subtotal, Safeguards & security	10,275	10,275
Subtotal, Construction	233,169	219,169
Subtotal, Production and surveillance	2,261,228	2,247,228
(Operating expenses)	(1,909,445)	(1,909,445)
(Capital Equipment)	(118,614)	(118,614)
(Construction)	(233,169)	(219,169)
D. Program direction		
Operating expenses		
1. Weapons program	72,166	72,166
2. Community assistance	9,234	9,234
Subtotal, Program direction	81,400	81,400
Subtotal, Weapons activities	3,808,171	3,815,671
(Operating expenses)	(3,159,845)	(3,181,345)
(Capital equipment)	(246,505)	(246,505)
(Construction)	(401,821)	(387,821)
II. NUCLEAR DIRECTED ENERGY WEAPONS		
a. Operating expenses	252,254	222,254
b. Capital equipment	17,509	17,509
c. Construction:		
88-D-106 Nuclear weapons research, development and testing facilities revitalization, Phase II, (NDER facility at LLNL)	12,000	12,000
86-D-104 Strategic defenses facility, SNLA	3,237	3,237
Subtotal, Construction	15,237	15,237
Subtotal, Nuclear directed energy weapons	285,000	255,000
III. INERTIAL FUSION		
a. Operating expenses	155,530	155,530
b. Capital equipment	8,240	8,240
Subtotal, Inertial fusion	163,770	163,770
IV. MATERIALS PRODUCTION		
A. Reactor operations		
Operating expenses	603,976	587,976
Construction		
Programmatic projects:		
88-D-154 New production reactor, design only, site to be determined	35,000	35,000
86-D-152 Reactor electrical distribution system, Savannah River, SC	6,000	6,000
Subtotal, programmatic projects	41,000	41,000

Department of Energy

	FY 1989 Budget Request	Conference
Environment, safety & health projects:		
89-D-141 M-Area waste disposal, Savannah River, SC	3,600	3,600
89-D-142 Reactor effluent cooling water thermal mitigation, Savannah River, SC	1,000	1,000
89-D-148 Improved reactor confinement system, design only, Savannah River, SC	2,000	2,000
Subtotal, ES&H projects	6,600	6,600
Subtotal, Construction	47,600	47,600
Subtotal, Reactor operations	651,576	635,576
B. Processing of nuclear materials		
Operating expenses	511,717	511,717
Construction		
Programmatic projects:		
86-D-148 Special isotope separation project, Idaho Falls, ID	28,000	28,000
Subtotal, Processing of nuclear materials	539,717	539,717
C. Supporting services		
Operating expenses	259,679	259,679
Construction projects		
Programmatic projects:		
89-D-146 General plant projects, various locations	35,260	35,260
86-D-149 Productivity retention program, Phase I & II & III & IV, various locations	72,140	72,140
85-D-139 Fuel processing restoration, Idaho Fuels Processing Facility, INEL, ID	65,000	50,100
82-D-124 Restoration of production capabilities, Phases II, III, IV, & V, various locations	5,879	5,879
Subtotal, programmatic projects	178,279	163,379
Environment, safety & health projects:		
87-D-152 Environmental protection plantwide, Savannah River, SC	2,224	2,224
87-D-159 Environmental, health, and safety improvements, Phases I, II, & III, Feed Materials Production Center, Fernald, OH	50,000	50,000
Subtotal, ES&H projects	52,224	52,224
Safeguards & security projects:		
89-D-140 Additional separations safeguards, Savannah River, SC	5,300	5,300
88-D-153 Additional reactor safeguards, Savannah River, SC	5,700	5,700
86-D-156 Plantwide safeguards systems, Savannah River, SC	12,800	12,800

Department of Energy

	FY 1989 Budget Request	Conference
84-D-134 Safeguards and security improvements, plantwide, Savannah River, SC	11,584	11,584
Subtotal, safeguards & security projects.....	35,384	35,384
Subtotal, Construction........................	265,887	250,987
Subtotal, Supporting services....................	525,566	510,666
D. Enriched material	169,000	169,000
E. Capital equipment	102,500	102,500
F. Program direction...........................	28,400	28,400
Subtotal, Materials production..................	2,016,759	1,985,859
(Operating expenses)............................	(1,572,772)	(1,556,772)
(Capital equipment)............................	(102,500)	(102,500)
(Construction)............................	(341,487)	(326,587)
V. DEFENSE WASTE AND ENVIRONMENTAL RESTORATION		
A. Environmental restoration - operating expenses	120,925	159,325
B. Waste operations and projects		
Operating expenses............................	532,042	532,042
Construction Programmatic projects:		
89-D-170 General plant projects, waste operations and projects, and waste research and development, various locations	28,000	28,000
89-D-171 INEL road renovation, ID	4,000	4,000
89-D-174 Replacement high level waste evaporator, Savannah River, SC	3,520	3,520
88-D-173 Hanford waste vitrification plant, Richland, WA...............................	22,500	22,500
87-D-173 242-A Evaporator crystallizer upgrade, Richland, WA........................	1,944	1,944
87-D-180 Burial ground expansion, Savannah River, SC..................................	2,068	2,068
87-D-181 Diversion box and pump pit containment buildings, Savannah River, SC...........	6,371	6,371
81-T-105 Defense waste processing facility, Savannah River, SC..........................	92,462	92,462
Subtotal, programmatic projects..............	160,865	160,865
Environment, safety & health projects:		
89-D-172 Hanford environmental compliance, Richland, WA	12,000	12,000
89-D-173 Tank farm ventilation upgrade, Richland, WA	1,800	1,800
89-D-175 Hazardous waste/mixed waste disposal facility, Savannah River, SC	3,500	3,500
87-D-177 Test reactor area liquid radioactive waste cleanup system, Phase III, INEL, ID ...	911	911
83-D-148 Non-radioactive hazardous waste management, Savannah River, SC	13,000	13,000
Subtotal, ES&H projects......................	31,211	31,211

Department of Energy

	FY 1989 Budget Request	Conference
Safeguards & security projects:		
86-D-175 INEL security upgrade, ID..........	2,084	2,084
Subtotal, Construction.......................	194,160	194,160
Subtotal, Waste operations and projects..........	726,202	726,202
C. Waste research and development		
Operating expenses...........................	58,460	58,460
D. Hazardous waste & compliance technology.......	8,377	8,377
E. Transportation management	9,720	9,720
F. Capital equipment	52,716	52,716
G. Program direction	3,100	3,100
Use of prior year AEDA balances....................	-43,000	-43,000
Subtotal, Defense waste & environmental restor. .	936,500	974,900
(Operating expenses).............................	(689,624)	(728,024)
(Capital equipment).............................	(52,716)	(52,716)
(Construction).............................	(194,160)	(194,160)
VI. NAVAL REACTORS DEVELOPMENT		
A. Plant development		
Operating expenses...........................	83,000	83,000
B. Reactor development		
Operating expenses...........................	236,700	236,700
C. Reactor operation and evaluation		
Operating expenses...........................	222,700	222,700
D. Capital equipment............................	48,000	48,000
E. Construction		
89-N-101 General plant projects, various locations	7,000	7,000
89-N-102 Heat transfer test facility, KAPL, Niskayuna, NY	2,800	2,800
89-N-103 Advanced test reactor modifications, Test Reactor Area, INEL, ID	1,600	1,600
89-N-104 Power system upgrade, Naval Reactors Facility, ID	600	600
88-N-102 Expended core facility receiving station, Naval Reactors Facility, ID.........	5,900	5,900
88-N-103 Material handling and storage modifications, KAPL, Niskayuna, NY...........	2,700	2,700
88-N-104 Prototype availability facilities, KAPL, Kesselring Site, West Milton, NY	6,000	6,000
Subtotal, Construction...........................	26,600	26,600
F. Program direction	13,000	13,000
Subtotal, Naval reactors development.............	630,000	630,000
(Operating expenses).............................	(555,400)	(555,400)
(Capital equipment).............................	(48,000)	(48,000)
(Construction).............................	(26,600)	(26,600)

Department of Energy

	FY 1989 Budget Request	Conference
VII. OTHER NATIONAL SECURITY PROGRAMS		
A. Verification and control technology		
1. Verification and control technology		
Operating expenses	131,200	146,200
Capital equipment	8,400	8,400
Subtotal, Verification and control technology	139,600	154,600
(Operating expenses)	(131,200)	(146,200)
(Capital equipment)	(8,400)	(8,400)
B. Nuclear safeguards and security		
1. Nuclear safeguards and security		
Operating expenses	75,400	75,400
Capital equipment	4,800	4,800
Subtotal Nuclear safeguards and security	80,200	80,200
(Operating expenses)	(75,400)	(75,400)
(Capital equipment)	(4,800)	(4,800)
C. Security investigations - OE	40,000	40,000
Subtotal, All Other	259,800	274,800
(Operating expenses)	(246,600)	(261,600)
(Capital equipment)	(13,200)	(13,200)
TOTAL, ATOMIC ENERGY DEFENSE ACTIVITIES	8,100,000	8,100,000
(Operating expenses)	(6,632,025)	(6,660,925)
(Capital equipment)	(488,670)	(488,670)
(Construction)	(979,305)	(950,405)
DEPARTMENTAL ADMINISTRATION		
I. Office of the Secretary - Salaries and expenses	2,204	2,204
II. General management - Personnel Compensation and Benefits	158,533	158,533
III. General management - other expenses		
A. Travel	5,625	5,625
B. Services	138,017	138,017
C. Capital equipment	7,162	7,162
Subtotal, Other expenses	150,804	150,804
IV. Program Support		
A. Policy analysis and system studies	3,219	2,600
C. Consumer Affairs	67	67
D. Public Affairs	260	260
E. Competition	50	50
F. International Policy Studies	1,000	1,000
G. Office of Minority Economic Impact	2,501	3,500
Subtotal, Program support	7,097	7,477
Subtotal, administrative operations	318,638	319,018
V. Cost of work for others	115,562	129,030
VI. Miscellaneous revenues	-224,273	-240,725
SUBTOTAL, DEPARTMENTAL ADMINISTRATION	209,927	207,323
A-76 Studies	-2,000	---
Use of unobligated balances	-30,113	-44,383
TOTAL, DEPARTMENTAL ADMINISTRATION	177,814	162,940
(Operating expenses)	(170,652)	(155,778)
(Capital equipment)	(7,162)	(7,162)

Department of Energy

	FY 1989 Budget Request	Conference
ALASKA POWER ADMINISTRATION - OPERATION AND MAINTENANCE		
I. Power marketing - Alaska Power Administration		
A. Operating expenses	3,279	3,279
Use of prior year balances	-120	-120
TOTAL ALASKA POWER ADMINISTRATION	3,159	3,159
SOUTHEASTERN POWER ADMINISTRATION - OPERATION AND MAINTENANCE		
I. Power marketing - Southeastern power administration		
A. Operating and maintenance	2,647	2,647
B. Purchase power and wheeling	33,620	33,620
TOTAL SOUTHEASTERN POWER ADMINISTRATION	36,267	36,267
SOUTHWESTERN POWER ADMINISTRATION - OPERATION AND MAINTENANCE		
I. Power marketing - Southwestern Power Administration		
A. Operation and maintenance	14,815	14,815
B. Purchase power and wheeling	7,936	7,936
C. Construction	5,838	5,838
Use of prior year balances	-13,200	-13,200
TOTAL SOUTHWESTERN POWER ADMINISTRATION	15,389	15,389
WESTERN AREA POWER ADMINISTRATION - CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE		
I. Power marketing - Western Area Power Administration		
A. Construction and rehabilitation	94,252	94,252
B. System operation and maintenance	90,461	90,461
C. Purchase power and wheeling	113,700	88,700
Transfer from DOI	-2,485	-2,485
TOTAL WESTERN AREA POWER ADMINISTRATION	295,928	270,928
FEDERAL ENERGY REGULATORY COMMISSION		
I. Federal Energy Regulatory Commission	106,760	108,760
II. Offsetting revenues	-106,760	-108,760
TOTAL, FERC	---	---
NUCLEAR WASTE DISPOSAL FUND		
I. Nuclear waste disposal fund	448,832	369,832
TOTAL NUCLEAR WASTE DISPOSAL FUND	448,832	369,832
GEOTHERMAL RESOURCES DEVELOPMENT FUND		
II. Program direction	75	75
TOTAL GEOTHERMAL RESOURCES DEVELOPMENT FUND	75	75
ENERGY AND WATER DEVELOPMENT ACCOUNTS:		
Energy supply research and develmt		
Operating expenses	1,732,118	1,828,394
Plant and capital equipment	237,642	313,932
Total energy supply research and development	1,969,760	2,142,326

Department of Energy

	FY 1989 Budget Request	Conference
Uranium enrichment -		
Operating expenses	1,103,300	1,063,080
Plant & capital equipment	80,700	70,000
Offsetting revenues	(-1,276,000)	(-1,276,000)
Total uranium enrichment	1,184,000	1,133,080
General science and research activities -		
Operating expenses	266,254	714,916
Plant & capital equipment	100,432	207,200
Total general science and research activities	366,686	922,116
Isotope production and distribution fund	16,243	---
Basic research user facilities		
Operating expense	526,955	---
Plant and capital equipment	445,658	---
Total, Basic research user facilities	972,613	---
Atomic energy defense activities -		
Operating expenses	6,632,025	6,660,925
Plant & capital equipment	1,467,975	1,439,075
Total atomic energy defense activities	8,100,000	8,100,000
Departmental administration		
Operating expenses	170,652	155,778
Capital equipment	7,162	7,162
Total departmental administration	177,814	162,940
Power marketing administrations:		
Alaska power administration -		
Operating & maintenance	3,159	3,159
Southeastern power administration -		
Operation & maintenance	36,267	36,267
Southwestern power administration -		
Operation & maintenance	15,389	15,389
Western area power administration -		
Construction, rehabilitation	295,928	270,928
Total power marketing administrations	350,743	325,743
Nuclear waste disposal fund	448,832	369,832
Geothermal resources development Fund	75	75
TOTAL, ENERGY AND WATER DEVELOPMENT ACCOUNTS	13,586,766	13,156,112

TITLE IV—INDEPENDENT AGENCIES

Appalachian Regional Commission

Amendment No. 37: Appropriates $110,700,000 as proposed by the Senate instead of $107,000,000 as proposed by the House.

The conferees agree that the increase proposed by the Senate is for access roads in Mississippi as outlined in the Senate Report.

The conferees agree that from within the amount planned for the highway program $2,000,000 is provided for Corridor H in West Virginia, an additional $2,000,000 above the planned amount for Corridor X in Alabama is provided, and an additional $1,000,000 above the planned amount for the Pontotoc to Oxford road in Mississippi is provided for the acquisition of rights-of-way.

Interstate Commission on the Potomac River Basin

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

Amendment No. 38: Appropriates $379,000 for the Contribution to Interstate Commission on the Potomac River Basin as proposed by the Senate instead of $79,000 as proposed by the House.

Nuclear Regulatory Commission

Amendment No. 39: Appropriates $420,000,000 as proposed by the House instead of $430,000,000 as proposed by the Senate.

Amendment No. 40: Retains $189,000,000 in revenues as proposed by the House instead of $193,500,000 as proposed by the Senate.

Amendment No. 41: Provides final appropriation estimate of $231,000,000 as proposed by the House instead of $236,500,000 as proposed by the Senate.

The conferees are concerned with the length of time required by the Commission to reach a final position on the adequacy of emergency planning preparation. The conferees urge the Commission to place high priority on the review process and take every action practicable to expedite the review process.

TITLE V—GENERAL PROVISIONS

Amendment No. 42: Deletes House language stricken by the Senate dealing with the funding of a workplace free of illegal controlled substances.

The conferees strongly agree with the intent of the provision included by the House. The conferees agree that this issue should be addressed on a Government-wide basis and understand that this matter will be addressed in a subsequent appropriation bill in such a manner that it applies to all Federal Government agencies.

Amendment No. 43: Deletes language proposed by the Senate dealing with the instructions contained in the statement of the managers.

The conferees strongly support the amendment adopted by the Senate which requires the Director of OMB and the head of each Federal agency to comply with the joint statement of managers accompanying the conference report of this Act. The conferees are disturbed by the position of OMB to disregard legislative intent included in report language. The conferees have agreed to withdraw the amendment, without prejudice, with the expectation that an agreement will be reached Government-wide that the Executive Branch comply with the legislative intent as provided in the House and Senate Reports and the Joint Explanatory Statement accompanying appropriations acts.

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment changing the Section number of the Section dealing with the funding of any fiscal year 1989 pay raise as follows:

In lieu of the matter proposed by said amendment, insert the following:

Sec. 509. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

The managers on the part of the Senate will move to concur in amendment of the House to the amendment of the Senate.

Amendment No. 45: Deletes language proposed by the Senate dealing with contracting with a foreign country for construction of public building or public works in the United States.

Conference Total—With Comparisons

The total new budget (obligational) authority for the fiscal year 1989 recommended by the Committee of Conference, with comparisons to the fiscal year 1988 amount, the 1989 budget estimates, and the House and Senate bills for 1989 follow:

New budget (obligational) authority, fiscal year 1988	$16,914,598,000
Budget estimates of new (obligational) authority, fiscal year 1989	18,144,547,000
House bill, fiscal year 1989	17,787,500,000
Senate bill, fiscal year 1989	17,956,901,000
Conference agreement, fiscal year 1989	17,831,995,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1988	+917,397,000
Budget estimates of new (obligational) authority, fiscal year 1989	−312,552,000
House bill, fiscal year 1989	+44,495,000
Senate bill, fiscal year 1989	−124,906,000

Tom Bevill,
Lindy (Mrs. Hale) Boggs,
Bill Chappell,
Vic Fazio,
Wes Watkins,
Robert Lindsay Thomas,
Jamie L. Whitten,
John T. Myers,
Virginia Smith,
Carl Pursell,
Silvio O. Conte,
Managers on the Part of the House.

J. Bennett Johnston,
John C. Stennis,
Robert C. Byrd,
Ernest F. Hollings,
Quentin N. Burdick,
Jim Sasser,
Dennis DeConcini,
Mark O. Hatfield,
James A. McClure,
Jake Garn,
Thad Cochran,
Pete V. Domenici,
Arlen Specter,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to: Mr. Saxton of New Jersey (at the request of Mr. Michel), for today, from 3:30 p.m. and for the balance of the day, on account of attending his son's graduation.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Kolbe) to revise and extend their remarks and include extraneous material:)

Mr. Davis of Illinois, for 5 minutes, today.

Mr. Quillen, for 60 minutes, on June 29.

Mr. Kolbe, for 5 minutes, today.

Mr. Sundquist, for 60 minutes, June 29.

Mr. DeLay, for 60 minutes, on June 29 and June 30.

Mr. Dornan of California, for 5 minutes, on June 23.

Mr. Dornan of California, for 60 minutes, on June 29 and 30.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Hutto, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. MacKay, for 5 minutes, today.

Mr. Lipinski, for 5 minutes, today.

Mr. Mfume, for 30 minutes, on June 23.

Mr. Gonzalez, for 60 minutes, on June 23.

Mr. Gonzalez, for 60 minutes, on June 27.

Mr. Lowry of Washington, for 60 minutes, on June 29.

Mr. Obey, for 60 minutes, on June 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Kolbe) and to include extraneous matter:)

Mr. Buechner.

Mr. Houghton.

Mr. Green.

Mr. Solomon.

Mr. Petri in two instances.

Mr. Broomfield.

Mr. Fields.

Mr. Crane.

Mr. Ravenel.

Mr. Donald E. Lukens.

Mrs. Bentley in two instances.

Mr. Gilman in three instances.

Mr. Parris.

Mr. Rogers.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. TAUZIN.
Mr. RAHALL.
Mr. KANJORSKI in two instances.
Mr. CAMPBELL.
Mr. STARK.
Mr. HOCHBRUECKNER.
Mrs. SCHROEDER.
Mr. ACKERMAN.
Mr. YATES.
Mr. FLORIO in two instances.
Mr. HAMILTON.
Mr. TOWNS.
Mr. HOYER.
Mr. FASCELL.
Mr. BATES.
Mr. WEISS.
Mr. CARDIN.
Mr. NOWAK.
Mr. GARCIA in two instances.
Mr. MCCURDY.
Mr. COELHO.
Mr. JONES of Tennessee.
Mr. EDWARDS of California.
Mr. OBERSTAR.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1966. An act to amend the Public Health Service Act to improve information and research on biotechnology and the human genome, and for other purposes; to the Committees on Energy and Commerce; Science, Space, and Technology; and Agriculture.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2470. An act to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, pursuant to House Resolution 481, I move that the House do now adjourn in memory of the late Honorable JOHN J. DUNCAN.

The motion was agreed to; accordingly (at 7 o'clock and 24 minutes p.m.), pursuant to House Resolution 481, the House adjourned until tomorrow, Thursday, June 23, 1988, at 10 a.m. in memory of the late Honorable JOHN J. DUNCAN of Tennessee.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3850. A letter from the Secretary of Education, transmitting a report entitled "The Condition of Bilingual Education in the Nation, 1988," pursuant to 20 U.S.C. 3262(c); to the Committee on Education and Labor.

3851. A letter from the Acting General Counsel, Department of Energy, transmitting a notice of meeting related to the International Energy Program to be held on June 28 and June 29, in Washington, DC; to the Committee on Energy and Commerce.

3852. A letter from the Secretary of Housing and Urban Development, transmitting a report on the implementation of housing quality standards for the Section 8 Certificate Program; jointly, to the Committees on Appropriations and Banking, Finance and Urban Affairs.

3853. A letter from the Executive Director, Pension Benefit Guaranty Corporation, transmitting a copy of the annual report for fiscal year 1987, pursuant to 29 U.S.C. 1308; jointly, to the Committees on Education and Labor and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4352. A bill to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes; with amendments (Rept. 100-118, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4503. A bill to amend the Public Health Service Act to revise and extend the programs establishing migrant health centers and community health centers; with an amendment (Rept. 100-719). Referred to the Committee of the Whole House on the State of the Union.

Mr. FASCELL: Committee on Foreign Affairs. H.R. 4841. A bill to control illicit narcotics production and trafficking, and for other purposes. (Rept. 100-720, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. Report of the activity of the Committee on Energy and Commerce for the 100th Congress, 1st session (Rept. 100-721). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 4288. A bill to designate the Federal Office Building located at the corner of Locust Street and West Cumberland Avenue in Knoxville, Tennessee, as the "John J. Duncan Federal Office Building"; with amendments (Rept. 100-722). Referred to the House Calendar.

Mr. HALL of Ohio: House Resolution 482. A resolution waiving certain points of order against consideration of H.R. 4794, a bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes. (Rept. 100-723). Referred to the House Calendar.

Mr. BEVILL: Committee of conference. Conference report on H.R. 4567; with amendment (Rept. 100-724). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 4417. Referral to the Committee on Energy and Commerce extended for a period ending not later than July 8, 1988.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 1580. Referred to the Committee on Energy and Commerce for a period ending not later than 3 legislative days after the final committee receiving joint referral of the bill reports it, for consideration of that portion of section 3 of the amendment reported from the Committee on Foreign Affairs which adds a new section 304(a) to the Comprehensive Anti-Apartheid Act of 1986 and falls within the jurisdiction of that committee pursuant to clause 1(h), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON of Indiana:

H.R. 4888. A bill to amend the joint resolution of June 22, 1942, to provide for the reading of a Tribute to the Flag before the Pledge of Allegiance; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Mr. BROWN of Colorado, Mr. SCHAEFER, and Mr. SKAGGS):

H.R. 4889. A bill to provide for the transfer of the Platoro Reservoir to the Conejos Water Conservancy District of the State of Colorado and for the enhancement of fish and wildlife habitat on the Conejos River; to the Committee on Interior and Insular Affairs.

By Mr. GRAY of Illinois:

H.R. 4890. A bill to designate Jackson and Williamson Counties in Illinois as a single metropolitan statistical area; to the Committee on Post Office and Civil Service.

By Mr. HUTTO (for himself, Mr. JONES of North Carolina, Mr. DAVIS of Michigan, Mr. YOUNG of Alaska, Mr. CARPER, and Mr. MRAZEK):

H.R. 4891. A bill to direct the Commandant of the U.S. Coast Guard to make full use of all available and qualified resources, including the Coast Guard auxiliary and individuals licensed by the Secretary pursuant to section 8904(b) of title 46, United States Code, in rendering aid in nonemergency cases, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mrs. LLOYD:

H.R. 4892. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. McEWEN:

H.R. 4893. A bill to amend the Agricultural Act of 1949 to freeze the support price for Burley tobacco for the crop year 1988 and to amend the Agricultural Adjustment Act of 1938 to provide that poundage carryovers may continue for up to 3 years; to the Committee on Agriculture.

By Mr. PARRIS:

H.R. 4894. A bill to establish a commission to be know as the National Thrift Institutions Commission; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STARK:

H.R. 4895. A bill to accelerate the removal of the Federal hospital insurance trust fund from the unified budget of the U.S. Government; jointly, to the Committees on Ways and Means and Government Operations.

By Mr. TRAXLER (for himself and Mr. Pursell):

H.R. 4896. A bill to provide disaster assistance to farmers affected by drought and other natural disasters during 1988; to the Committee on Agriculture.

By Mr. KASTENMEIER (for himself, Mrs. Schroeder, Mr. Berman, Mr. Cardin, and Mr. Bryant):

H.R. 4897. A bill to amend the act entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes," enacted July 5, 1946—popularly known as the Lanham Act—to require certain disclosures relating to materially altered films and to establish a National Film Preservation Commission; to the Committee on the Judiciary.

By Mr. LUNGREN (for himself and Mr. Brown of Colorado):

H.R. 4898. A bill to amend part A of title IV of the Social Security Act to require States as a condition of receiving assistance under the AFDC Program to institute measures designed to detect fraudulent AFDC applications before the applicant is determined to be eligible for such assistance; to the Committee on Ways and Means.

By Mr. GREEN:

H.J. Res. 595. Joint resolution to designate the week of November 28 through December 5, 1988, as "National Book Week"; to the Committee on Post Office and Civil Service.

By Mr. LUNGREN (for himself, Mr. Burton of Indiana, Ms. Kaptur, Mrs. Saiki, Mr. Wortley, Mr. Frost, Mr. Fuster, Mr. Wolf, Mr. Livingston, Mr. Fazio, Mr. Horton, Mrs. Martin of Illinois, Mr. Quillen, Mr. Levin of Michigan, Mr. Owens of New York, Mr. Kasich, Mr. Hefner, Mr. Bevill, Mr. Daub, Mr. Buechner, Mr. Dornan of California, Mr. de Lugo, Mr. McEwen, Mr. Henry, Mr. Crockett, Mr. Kolter, Mr. Smith of New Hampshire, Mr. LaFalce, Mr. Vander Jagt, Mr. Gunderson, Mr. Lagomarsino, Mr. Ford of Michigan, Mr. de la Garza, Mr. Bustamante, Mr. Broomfield, Mr. Smith of Texas, Mr. Lowry of Washington, Mr. Synar, Mr. Nowak, Mr. Hamilton, Mr. Archer, Mr. Anderson, and Mr. Atkins):

H.J. Res. 596. Joint resolution designating November 18, 1988, as "National Philanthropy Day"; to the Committee on Post Office and Civil Service.

By Mr. TAUZIN (for himself and Mr. Fields):

H. Con. Res. 322. Concurrent resolution recognizing the loyalty and dedication of the American and Panamanian employees of the Panama Canal Commission during the current political unrest in the Republic of Panama, and resolving to protect their personal safety and the integrity of their homes and workplaces; to the Committee on Merchant Marine and Fisheries.

By Mr. QUILLEN:

H. Res. 481. Resolution expressing the condolences of the House on the death of Representative Duncan of Tennessee, considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII,

424. The SPEAKER presented a memorial of the Legislature of the State of Alaska, relative to the highway trust fund and the airport and airway trust fund, which was referred to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 639: Mr. Akaka, Mr. Andrews, Mr. Moody, Mr. Skelton, Mr. Solarz, and Mr. Walgren.

H.R. 689: Mr. Mineta.

H.R. 772: Mr. Skelton.

H.R. 1179: Mr. Michel.

H.R. 1531: Mr. Armey.

H.R. 1692: Mr. Shaw, Mr. Tauzin, Mr. St Germain, Mr. Alexander, Mr. Holloway, Mr. Smith of Texas, Mrs. Patterson, Mr. Chapman, Mr. Coleman of Texas, Mr. Nagle, Mr. Glickman, Mr. Akaka, Mr. Donald E. Lukens, Mr. Ridge, Mr. Aspin, Mr. Lantos, Mr. Latta, Mrs. Johnson of Connecticut, and Mr. Lipinski.

H.R. 1917: Mr. Anderson.

H.R. 2666: Mr. Guarini, Mr. Ackerman, Mr. Hughes, Mr. Lehman of California, and Mr. Rangel.

H.R. 2724: Mr. Guarini.

H.R. 2776: Mr. Lewis of Florida, Mr. Roberts, Mr. Bereuter, and Mr. Boehlert.

H.R. 2976: Mr. Towns.

H.R. 3045: Mr. Towns, Mr. Spratt, Mr. Bustamante, and Mr. Parris.

H.R. 3065: Mr. Robinson, Mr. Neal, Mr. Jontz, Mrs. Johnson of Connecticut, Mr. Packard, Mr. Herger, Mr. Chapman, Mr. Biaggi, Mr. Penny, Mr. Nielson of Utah, Mr. Mazzoli, Mr. Donald E. Lukens, Mr. Atkins, Mr. Rinaldo, and Mr. Garcia.

H.R. 3142: Mr. Rangel.

H.R. 3250: Mr. Owens of New York.

H.R. 3294: Mr. Slattery, Mrs. Boxer, Mr. Fauntroy, Mr. Kennedy, Mr. MacKay, and Mr. Mfume.

H.R. 3410: Mr. Baker.

H.R. 3486: Mr. Rahall and Mr. Lowry of Washington.

H.R. 3517: Mr. Rinaldo.

H.R. 3552: Mr. Marlenee.

H.R. 3660: Mr. Moakley and Mr. MacKay.

H.R. 3723: Mr. Hammerschmidt.

H.R. 3814: Mr. Pickle.

H.R. 3834: Mr. Grant and Mr. Denny Smith.

H.R. 3845: Mrs. Schroeder, Mr. Crockett, Mr. Mazzoli, and Mr. Schumer.

H.R. 3893: Mr. McCloskey and Mr. Florio.

H.R. 3907: Mrs. Schroeder and Mr. Payne.

H.R. 4127: Mr. Smith of New Jersey, Mr. Campbell, Mr. Houghton, Mr. Hutto, Mr. Hochbrueckner, Mr. McCloskey, Mr. Erdreich, Mrs. Morella, Mr. Bruce, Mr. Jones of North Carolina, Mr. Scheuer, Mr. Sundquist, Mr. Lujan, Mr. Florio, and Mr. McCollum.

H.R. 4288: Mr. Gingrich, Mr. Clinger, Mr. Molinari, Mr. Shaw, Mr. McEwen, Mr. Petri, Mr. Packard, Mr. Gallo, Mr. Hastert, Mr. Inhofe, Mr. Shuster, Mr. Stangeland, Mr. Lightfoot, Mr. Fawell, Mr. Bosco, Mr. Kolter, Mr. Nowak, Mr. Oberstar, Mr. Rahall, Mr. Traficant, and Mr. Chapman.

H.R. 4297: Mr. Jeffords.

H.R. 4325: Mr. Ackerman, Mr. Bonker, Mr. Glickman, Mr. Roybal, Mr. Traxler, Mr. Fauntroy, and Mr. Wilson.

H.R. 4398: Mr. Moakley, Mr. Crockett, Mr. Markey, Mr. DeFazio, Mrs. Boxer, Mr. Edwards of California, Mr. Mrazek, Mr. Panetta, Mr. Ackerman, Mrs. Collins, Mr. Boucher, Mr. Dymally, and Mr. Towns.

H.R. 4428: Mr. Lancaster, Mr. Foglietta, and Mr. Upton.

H.R. 4451: Mr. Berman, Ms. Pelosi, Mr. Levine of California, Mr. Borski, and Mr. Dwyer of New Jersey.

H.R. 4474: Mr. Clinger.

H.R. 4514: Mr. Oberstar and Mr. Schaefer.

H.R. 4546: Mr. Foglietta and Mr. Towns.

H.R. 4548: Mr. Roberts.

H.R. 4614: Mr. Mazzoli, Mrs. Martin of Illinois, Mr. Bruce, Mr. Towns, Mr. Glickman, Mr. Ackerman, Mr. Fazio, Mr. Clinger, Mrs. Collins, Mr. Downey of New York, Mr. Lancaster, Mr. Foglietta, and Mr. Biaggi.

H.R. 4632: Mr. Ravenel and Mr. Smith of New Hampshire.

H.R. 4664: Mr. Weiss, Mr. Rinaldo, Mr. Berman, Mr. DioGuardi, and Mr. Martinez.

H.R. 4689: Mr. Owens of Utah.

H.R. 4691: Mr. Skeen and Mr. Applegate.

H.R. 4708: Mr. McMillan of North Carolina, Mr. Foglietta, Mr. Darden, Mr. Rinaldo, and Mr. Garcia.

H.R. 4788: Mr. Denny Smith, Mr. Edwards of Oklahoma, Mr. Herger, and Mr. Rhodes.

H.R. 4802: Mrs. Martin of Illinois and Mr. DioGuardi.

H.R. 4844: Mr. Lewis of Georgia, Mr. Upton, Mr. Ballenger, Ms. Slaughter of New York, Mr. Hastert, Mr. Boehlert, Mrs. Johnson of Connecticut, Mr. Sunia, Mr. Kolter, Mr. Cardin, Mr. Skaggs, Mr. Rowland of Georgia, Mr. Gray of Illinois, Mr. Shaw, Mr. Clinger, Mr. Stangeland, Mr. Molinari, Mr. Shuster, Mr. Valentine, Mr. Perkins, Mr. Sundquist, Mr. Roe, Mr. Gallo, Mrs. Bentley, Mr. Packard, Mr. McEwen, Mr. Nowak, and Mr. Bosco.

H.R. 4848: Mr. Pickle, Mr. Vander Jagt, Mr. Archer, Mr. Frenzel, Mr. Rangel, Mr. Stark, Mr. Gradison, Mr. Schulze, Mr. Jenkins, Mr. Pease, Mr. Anthony, Mr. Donnelly, Mr. Thomas of California, Mr. Brown of Colorado, Mr. Gregg, Mr. McGrath, Mr. Dorgan of North Dakota, Mrs. Kennelly, Mr. Andrews, Mr. Chandler, Mr. Levin of Michigan, Mr. Moody, Mr. Rose, Mrs. Lloyd, Mrs. Patterson, Mr. Jacobs, and Mr. Flippo.

H.R. 4865: Mr. Weiss.

H.J. Res. 50: Mr. Hall of Ohio.

H.J. Res. 449: Mr. Coleman of Missouri, Mr. Green, Mr. Towns, Mrs. Bentley, Mr. Gingrich, Mr. Spratt, Mr. Quillen, Mr. Rinaldo, Mr. Weldon, Mr. Solomon, Mr. McEwen, Mr. Lancaster, Mr. Burton of Indiana, Mr. Rhodes, Mr. Mollohan, Mr. Yatron, Mr. Hamilton, Mr. Berman, Mr. Robinson, Mr. Walgren, Mr. Madigan, Mr. Matsui, Mr. Stump, Mr. Kennedy, Mr. DeFazio, Mr. Lent, Mr. Rowland of Connecticut, and Mr. Archer.

H.J. Res. 458: Mr. Jeffords, Mr. Conyers, Mr. Coughlin, Mr. McGrath, Mr. Young of Florida, Mr. Coelho, Mr. Hertel, Mr. Bilirakis, and Mr. Hammerschmidt.

H.J. Res. 465: Mr. Valentine, Mr. Wilson, Mr. Kasich, Mr. Mineta, Mr. Wheat, Mr.

Ray, Mr. Waxman, Mr. Jenkins, Mr. Cheney, Mr. Gephardt, Ms. Kaptur, Mr. Porter, and Mr. Lightfoot.

H.J. Res. 501: Mr. Atkins, Mr. Berman, Mr. Beilenson, Mr. Dowdy of Mississippi, Mrs. Kennelly, Mr. Rodino, and Mr. Morrison of Connecticut.

H.J. Res. 509: Mr. de la Garza, Mr. Lancaster, Mr. Hutto, and Mr. DeFazio.

H.J. Res. 537: Mr. Lantos, Mr. Erdreich, Mr. Bonker, Mr. Levin of Michigan, Mr. Anderson, Mr. Espy, Mr. Scheuer, Mr. Young of Alaska, Mr. Lewis of Georgia, Mr. Savage, Mr. Wortley, Mr. Dowdy of Mississippi, Mr. Hefner, Mr. McDade, Mr. Watkins, Mr. Skaggs, Mr. Kasich, Mr. Guarini, Mr. Traficant, Mr. Traxler, Mr. Boucher, Mr. Jones of North Carolina, Mr. Dymally, Mr. Rhodes, Mr. Spratt, Mr. Hatcher, Mr. Blaz, Mr. Tauke, Mr. de Lugo, Mr. Lewis of Florida, Mr. Ravenel, Mr. Harris, Mr. McMillen of Maryland, Mr. Valentine, Mr. Weldon, Mr. Lewis of California, Mr. Jenkins, Mr. Towns, Mr. Leland, Mr. Daub, Mr. Pursell, Mr. Walgren, Mr. Weiss, Mr. Hammerschmidt, Mr. Coleman of Missouri, and Mr. Lancaster.

H.J. Res. 538: Mr. Bennett.

H.J. Res. 590: Mr. Dellums and Mr. Manton.

H. Con. Res. 281: Mr. Moorhead.

H. Con. Res. 302: Mr. Edwards of Oklahoma, Mr. Goodling, and Mr. Denny Smith.

H. Con. Res. 309: Mr. Smith of Texas, Mr. Shaw, Mr. Traficant, Mr. McDade, Mr. Roe, Mr. Lagomarsino, Mr. Herger, Mr. Denny Smith, Mr. Wyden, Mr. Fields, Mr. Rangel, Mr. Stallings, Mr. Lott, Mr. Kolbe, Mr. Bilirakis, Mr. Gregg, Mr. Moorhead, Mr. Badham, Mr. Davis of Illinois, Mr. Edwards of Oklahoma, Mr. Rinaldo, and Mr. Goodling.

H. Con. Res. 310: Mr. Clarke, Mr. Sabo, Mr. Boulter, Mr. Hayes of Illinois, Mr. Badham, and Mr. Smith of New Jersey.

H. Con. Res. 315: Mr. Porter.

H. Con. Res. 316: Mr. Gordon, Mr. Dowdy of Mississippi, Mr. Jones of Tennessee, Mr. Espy, Mr. Hayes of Louisiana, and Mr. Clement.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

189. By the SPEAKER: Petition of the city of Boston, MA, relative to hunger and homelessness; to the Committee on Banking, Finance and Urban Affairs.

190. Also, petition of the city of Berkeley, CA, relative to quality child care; to the Committee on Education and Labor.

191. Also, petition of Brigida Vargas, et al, Puerto Rico, relative to the admission of Puerto Rico as a State into the Union; to the Committee on Interior and Insular Affairs.

192. Also, petition of the Legislature of Rockland County, New City, NY, relative to funding for flood control; to the Committee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1158,

By Mr. DORNAN of California:

—Page 4, line 18, insert ", including children before birth" after "years" and before ")".

By Mr. DANNEMEYER:

—On page 4, between lines 9 and 10, insert the following new language: "Such term does not include any current impairment that consists of alcohol abuse, or any infectious, contagious, or communicable disease whether or not such disease causes a physical or mental impairment during the period of contagion, or any other impairment which would be a direct threat to the property, health, or safety of others."

—On page 4, between lines 9 and 10, insert the following:

"Nothing in this title shall be construed—

"(A) to require any person or group of persons selling, renting, leasing, or otherwise providing any dwelling to exercise a higher degree of care for a person with a handicap than for a person who does not have a handicap; or

"(B) to relieve any person or group of persons of any obligation generally imposed on all persons, regardless of any handicap, in any written lease, rental agreement, or contract of purchase or sale."

—On page 6, line 21, strike "full enjoyment of the premise" and insert in lieu thereof "ready access to the dwelling";

—On page 7, line 1, strike "equal opportunity to use and enjoy" and insert in lieu thereof "ready access to and use of".

—On page 6, line 21, after "premises" insert the following: ": *provided, however,* That in the case of a rental, no modification need be permitted, unless the renter first agrees to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted."

—On page 12, strike line 20 through page 14, line 13, and insert in lieu thereof: "quired by section 812(g)."

By Mr. McCOLLUM:

—Page 7, strike out line 3 and all that follows through line 3 on page 8 and insert in lieu thereof the following:

"(C) a failure to design and construct multifamily dwellings, constructed for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendment Act of 1988, where State or local law does not require that a certain number of units be accessible to and usable by handicapped persons, in such a manner that—

"(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons; and

"(ii) at least 10 percent of such dwellings (but not less than one unit) are, or can be adapted to be, accessible to and usable by handicapped persons, as required by the Uniform Federal Accessibility Standards adopted pursuant to the Architectural Barriers Act of 1968.

—Page 8, line 8, strike out "(3)(C)(iii)" and insert in lieu thereof "(3)(C)(ii)".

By Mr. SWINDALL:

—On page 8, after line 24, insert the following:

"(8) Nothing in this title shall be construed to require any person or group of persons selling, renting, or leasing property to exercise a higher degree of care for a person having a mental disability than for a person who does not have a mental disability; nor shall this title be construed to relieve any person or group of persons of any obligation generally imposed on all persons regardless of any disability in a written lease, rental agreement, or contract of purchase or sale.".

—At the end of the bill, add the following new section:

"SEC. 15. RULE OF CONSTRUCTION.

"Title VIII is amended by adding at the end thereof the following new section:

"RULE OF CONSTRUCTION.

Nothing in this title shall be construed to prohibit any local or State government or subunit thereof from making or failing to make any zoning decision unless any such decision or failure to make any such decision is intended to discriminate on a basis prohibited by this title; *provided, however,* that nothing in the Fair Housing Amendments Act of 1988 addresses the appropriate standard of proof for establishing a violation of this title in any other circumstance, or approves or disapproves of case law concerning the standard of proof under this title in such other circumstances."

H.R. 4794

By Mr. SHUMWAY:

—On page 5, line 7, insert before the period the following: ": *Provided further,* That of the funds provided for operating expenses for Fiscal Year 1989, in this or any other Act, not less than $4,800,000 shall be available to reopen and maintain the Coast Guard search and rescue stations located at Shark River, New Jersey; Eastport, Maine; Block Island, Rhode Island; Ashtabula, Ohio; North Superior, Minnesota; Lake Tahoe, California; Kennewick, Washington; Kauai, Hawaii; and Mare Island, California: *Provided further,* That none of the funds provided in this Act shall be used to close any other search and rescue station".

—On page 6, line 6, insert before the period the following: ": *Provided further,* That $4,800,000 of the funds provided in this Act for acquisition, construction and improvements, or in any other Act, shall be transferred to the "Operating Expenses" Account of the Coast Guard only for the purpose of reopening and maintaining the Coast Guard search and rescue stations located at Shark River, New Jersey; Eastport, Maine; Block Island, Rhode Island; Ashtabula, Ohio; North Superior, Minnesota; Lake Tahoe, California; Kennewick, Washington; Kauai, Hawaii; and Mare Island, California: *Provided further,* That none of the funds provided in this Act shall be used to close any other search and rescue station."

EXTENSIONS OF REMARKS

FEDERAL SAFETY AGENCIES NEED BETTER DATA

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. FLORIO. Mr. Speaker, product manufacturers are required to report information about possible product defects to the Consumer Product Safety Commission, or other relevant safety agencies. Unfortunately, as the following article from the June 5 issue of Newsday shows, manufacturers often fail to report necessary information. Furthermore, manufacturers are not currently required to report relevant information regarding their lawsuits.

The article follows:

[From the New York Newsday, June 5, 1988]

DEADLY SECRETS LEGAL MERRY-GO-ROUND CASE HIGHLIGHTS LACK OF DATA SHARING

In 1969, the Miracle Recreation Equipment Co. started selling what it promised was a child's delight—a playground merry-go-round that bounced up and down as it whirled.

Miracle's "Bounce-Around Whirl" turned out to be a menace. It chopped off two of Rebecca Walsh's fingers. It cut through the legs of Larry Espinoza and Dale Likens, crushing bones and nearly crippling them for life. And it injured at least 75 other children whose average age was 4 to 5 years old.

Today, 19 years after the first Bounce-Around Whirl was sold, Miracle stands accused by the U.S. Department of Justice of hiding these tragedies from federal safety regulators. But the company's alleged failure to inform authorities of its product's dangers—a charge Miracle vigorously denies—isn't the only reason safety watchdogs weren't aware of the problem.

Athough dozens of lawyers brought claims against Miracle over the course of 13 years, only one, court records indicate, alerted federal officials. Regulators, faced with the Reagan administration's pro-business posture, decided not to take full advantage of a 1980 plan that gave them access to a lawsuit database that included information about legal actions against Miracle. And the lawsuits themselves, most settled out of court, didn't automatically trigger an alarm, because, as with most product safety cases, they were filed one at a time in courthouses scattered from Montana to Florida.

The Miracle case is hardly unique. Scores of other dangerous products, many still on the market, are the subject of lawsuits that allege deaths or serious injuries. Yet because information about those legal claims remains largely in the hands of companies and lawyers, sometimes as a condition for settlement, regulators are kept in the dark with often disastrous results for the public.

One example: Accutane, the anti-acne drug linked to birth defects, has been the subject of numerous lawsuits, some dating back to the product's introduction in 1982. Indeed, one of those actions showed that physicians were improperly prescribing the drug to pregnant women. But government regulators weren't aware of the scope of the problem and are only now taking action to tighten those prescription guidelines.

A similar scenario unfolded in the case of an upstate New York company called Bernz-Omatic, which is now urging the public to stop using two models of camping heaters it once manufactured. It took nearly two decades, federal officials say, before they became aware that the heaters had been implicated in the carbon monoxide deaths of 30 people.

There isn't any guarantee that reporting of product-safety lawsuits by companies or attorneys would protect the public against potential hazards or result in more timely regulatory action. Some lawsuits are clearly frivolous, and some accidents are the consumer's fault. But such reporting, many safety experts argue, could serve a critical role in the early detection of dangerous products.

"Attorneys are among the first to identify product-related problems," says Stuart Statler, a former top official at the U.S. Consumer Products Safety Commission and now a safety consultant to private industry. "And if a federal agency had that kind of information early on, it could have a decided impact on averting recurring instances of product-related deaths and injuries."

But Congress has done little to force companies to disclose data about product liability lawsuits. And victims' lawyers, for a variety of reasons ranging from lethargy to fears of smaller settlements for their clients and themselves, are not in the habit of informing federal officials about their claims.

What results, many safety advocates contend, is a legal system that may compensate victims, but often fails to stop senseless deaths and injuries from occurring. For more than a decade, while Miracle's merry-go-rounds continued to injure children, both the company and lawyers for the victims were aware of the product's possible hazards. Many cases were settled out of court. But it wasn't until 1976 that Miracle stopped making the merry-go-rounds and four years would pass before the company began to recall the 522 it had sold nationwide. Another two years would pass until the federal safety agency realized the scope of the problem. Some of the merry-go-rounds are still found in playgrounds, safety experts say.

Miracle officials say their merry-go-rounds were safe, and the company stopped making them for economic reasons. The company acknowledges that the 1980 recall was triggered by accident reports but said that whatever injuries occurred resulted from faulty installation, vandalism or improper use. But even if that contention is ultimately upheld, safety experts say, early warnings are vital, if only to reassure the public that claims against a product are groundless.

"It is far better that regulators have the chance to reject allegations," says R. David Pittle, another former safety agency commissioner and now technical director for Consumers Union, "rather than never hear about them at all."

Seven years ago, Joseph Frost, a University of Texas education professor and playground safety expert, received a phone call he'll never forget. It came from Terrence Coriden, a lawyer in Columbus, Ind., who was representing a 9-year-old boy named Dale Likens.

Coriden related that five years earlier, in 1976, Likens had crawled under a merry-go-round that was suddenly turned by other children. His foot was nearly sliced off by a knife-like support bar protruding from the underside of the device.

The boy was operated on immediately, Coriden continued, but it soon became clear that the blade had damaged a "growing plate" at one end of his foot bone. As a result, the bone was growing unevenly, and Likens' foot was balling up into a cup-like shape that made it difficult for him to walk or run. Coriden sued Miracle, which manufactured the device.

Frost had never worked as an expert witness in a product safety suit before. He decided to get involved, he says, after Coriden told him what he had learned while checking insurance company records and other sources in preparing for the case. Over the previous decade, Coriden said, Miracle's Bounce-Around Whirl had been the subject of at least 30 injury claims and lawsuits. Many of them had been quietly settled, and Miracle, he claimed, wasn't doing anything to address the problem.

Frost says it isn't that unusual for little children to have accidents in playgrounds, sometimes even breaking bones. And, at a quick glance, the Bounce-Around Whirl looks harmless enough. It is shaped like a flying saucer, with a small dome on top and six rungs for children to grab. Miracle once sold a similar merry-go-round with horses instead of rungs called the "Buckaroo Whirl."

But the whirls had potential to maim, Frost would soon conclude. If a curious child crawled under a whirl, and the merry-go-round suddenly started, limbs could be sliced open by the sharp support bars. Also, if the small fiberglass dome fell off or was removed by vandals, children could reach into a whirl's mechanism with disastrous results.

"These devices have a shearing action that can cut through bones," says Frost. "They've done some tremendous damage to kids."

Miracle rejects that view. Paul W. Ahrens, the company's chairman and developer of the Bounce-Around Whirl, says the playground devices were safe and that any accidents resulted from faulty installation or improper maintenance. He adds that the federal safety agency gave the product a clean bill of health back in 1974. Ahrens declined to answer further questions about the product and referred a reporter to Ralph Murdock Jr., Miracle's lawyer, who didn't return several phone calls.

The safety agency, according to court papers, did indeed look into the matter in 1974, after the agency received a report from an Atlanta nursery school that a 4-year-old girl had her ankle crushed when she crawled underneath one of Miracle's

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

merry-go-rounds. An agency inspector traveled to the company's plant in Grinnell, Iowa, and interviewed Ahrens, who reportedly expressed surprise. Ahrens, according to the government's complaint against Miracle, said he knew of only three whirl-related accidents, none of which hinted that the merry-go-rounds were unsafe or defective.

In fact, the complaint says, the company was already aware of at least 14 injuries involving the Bounce-Around Whirl, five of them serious enough to result in lawsuits being filed. In several cases, settlements had already been reached.

At the time, the safety agency didn't know any of this, and based on the information at hand, soon closed its investigation without reaching any negative conclusions. The agency informed Miracle, however, that it was the company's responsibility to alert regulators to new data about possible hazards.

Miracle, now headquartered in Monatt, MO, sells $10 million in gym and playground equipment annually. Soon after the 1974 safety agency visit, Ahrens was named to an industry task force that worked with agency to set safety guidelines for manufacturers of playground equipment.

But, court papers show, the safety agency didn't hear from Miracle again until August, 1982. That was just after the agency confronted the company with information it had obtained from Frost, including the list of injury claims complied by Coriden in the Likens case.

At about the same time Joe Frost was learning about the hazards of the Bounce-Around Whirl, the problem of how to monitor product-safety lawsuits was a burning issue at the federal safety agency. The agency, created in 1972 to police consumer products not covered by the Food and Drug Administration or the National Highway Traffic Safety Administration, gets information about potential hazards from a network of hospital emergency rooms, from the public and from companies themselves.

But compared to its sister safety agencies, the Consumer Products Safety Commission has few research scientists or investigative resources to uncover product problems. As a result, it is forced to rely more heavily on what manufacturers tell it.

In 1980, former agency Commissioner Statler says, he and some other top officials at the agency were growing increasingly alarmed. Their fear: Because federal law doesn't specifically require companies to report product-safety lawsuits, some companies were using that loophole to hide allegations of product defects contained in such legal actions.

"There was the strong feeling that we weren't getting all the data we needed," Statler says.

Experts can only guess at the number of product-safety lawsuits filed annually. Estimates range from 10,000 to 25,000.

Not all of these lawsuits contain allegations of product defects, and some are spurious. But Statler says that, on a conservative basis, the safety agency should be receiving between 1,000 to 2,000 alert reports from companies every year. Instead, agency statistics show, an average of 150 such reports are sent by manufacturers to the agency annually.

For federal regulators to inspect every safety lawsuit filed, an army of foot soldiers would be needed to patrol courthouses from Anchorage to New Orleans to the Bronx, because there's no system in place to collect and analyze such data.

Legal experts say that jury verdicts, another form of public data, aren't likely to stop problem products early because an estimated nine of 10 cases are settled before trial. Miracle, though sued an estimated 25 times, it is often years after a case has been filed.

Business interests had beaten back earlier legislative efforts to require companies to report product-safety lawsuits. So Statler and others at the agency made a major effort in 1980 to gather that public data from other likely sources: insurers, who collect it in order to set policy rates, and lawyers.

"We ran up against a brick wall with the insurance industry," says Statler. A professional group of corporate defense lawyers, the Defense Research Institute, also ignored agency requests, he adds.

Safety agency officials had better luck, however, with the Association of Trial Lawyers of America, a Washington-based group of about 68,000 lawyers nationwide who typically represent alleged victims in product safety and personal injury lawsuits. The lawyers group compiles what it believes is the nation's largest database of product-safety lawsuits, one that gathers hundreds of filings monthly from the group's member attorneys.

The data serve a valuable purpose for the group's members. Coriden, for instance, contacted the organization in the late 1970s for the names of other attorneys around the country who had sued Miracle. So did Oliver Heard Jr., a lawyer in San Antonio, Texas, who sued Miracle in 1975 on behalf of Larry Espinoza, who, the attorney says, lost an inch of his right leg at 5 after a run in with a Bounce-Around Whirl shattered the bone.

Under a 1980 agreement reached with the lawyers' group, the federal safety agency researchers were given the opportunity to screen such requests and monitor the database to look for "hazard trends." The stated purpose of the agreement: to "reduce product-related injuries, identify and eliminate defective products and protect public safety."

The plan was never used. The lawyers group plan quickly came under attack by business interests and others, including one federal safety agency commissioner, Sam Zagoria, who said it was unfair for a government agency to align itself with plaintiffs' attorneys. With the incoming Reagan administration moving to dismantle the safety agency altogether, Statler says, the contentious plan was allowed to languish due to fears it might fuel that effort.

"For all intents and purposes, it was a document that was signed and never followed," says Michael Starr, the lawyers organization's general counsel.

The group's records show that the safety agency only contacted the lawyers' group once during the past eight years for product-related lawsuit data, a spokeswoman for the legal group says. That request came in 1986 and concerned recreational all-terrain vehicles. At that time, at least 325 people had already been killed in related accidents related to all-terrain vehicles—reports of which had been swelling the lawyers group database for the previous three years.

Some companies have been far less reticent in seeking publicly available data from the federal safety agency. The Honda Motor Co., for example, the nation's largest seller of the vehicles, made some 66 requests for information from the safety agency in a two-month period in 1985—21 of those on a single day—according to documents obtained by New York Newsday under the Freedom of Information Act.

Those requests came at the same time that Honda lawyers, in a separate letter to the federal safety agency, were complaining bitterly about efforts by the agency to seek public lawsuit data from the lawyers organization.

Just before the lawyers group's plan collapsed, Steven Lian, a lawyer in Minot, N.D., wrote a letter to the federal safety agency. His client, Mistine Extine, a young girl, had just had an ankle broken by a Bounce-Around Whirl. Lian says he wanted to know more about the device and also notified federal officials of his concern.

Federal safety agency officials told Lian they knew very little about the product, the lawyer says. But he decided to forward them Extine's account of the accident. That triggered a brief safety-agency investigation, court filings state, which quickly ended when watchdogs were unable to contact the injured child's parents.

It isn't known how hard these public safety guardians looked. But their efforts might have been more urgent if the agency was hearing from anywhere near the number of attorneys that Miracle was. Indeed, according to documents filed by the Justice Department in connection with the Miracle suit, Lian was the only plaintiff's attorney who contacted the federal agency about the Bounce-Around Whirl.

During the mid-1970s, the Miracle problem was getting worse, the court papers allege. In 1976, the company's own insurance adjustor urged Miracle officials to improve the whirls. That same year, the government now charges, Ahrens also admitted to a company official that "bolt holes on the whirls' fiberglass domes would break loose," revealing the knife-like inner works.

Miracle stopped manufacturing the Bounce-Around Whirl in 1976. It says it did so for economic, not safety, reasons.

But around that time, other potentially damning revelations also were falling into the hands of victims' lawyers and local officials. As a result of the accident that had hobbled Likens, for example, the City of Columbus, Ind., commissioned an independent engineers' report that found the design of the merry-go-rounds to be dangerous.

Coriden, who had also sued city officials on Likens' behalf, soon obtained that report. But he didn't alert federal officials then, he says, because to do so might have jeopardized the size of Likens' settlement with Miracle—a settlement reached in 1981 for an amount Coriden declined to disclose.

"A company's fear of that kind of information going to a regulatory commission is substantial," Coriden says, "and fear is a way of producing dollars and cents."

One problem victims' lawyers face, says Heard, the San Antonio attorney, is that blowing the whistle on a product hazard too early or too loudly can trigger a surge of complaints that might bankrupt a company before one's clients can be paid off. Such a scenario developed in the case of A.H. Robins Co., one-time producer of the Dalkon Shield, the defective birth control device that sterilized hundreds of women. Hundreds of women who filed claims against the company remain unpaid after the company sought bankruptcy protection in the face of the legal onslaught.

"As a private attorney, you have a contradictory problem to deal with," says Heard.

Such considerations, legal experts say, can lead victims' attorneys to voluntarily conceal information bearing on public safety or to allow such data to be sealed away in courthouse files in exchange for lucrative out-of-court settlements.

"I think what you have is a lack of [financial] incentive on the part of the plaintiffs' bar to exercise a broader public interest," says Simon Tamny, an engineer and expert witness in many product safety cases.

Some attorneys, such as Heard, argue that federal safety agencies are slow to respond to problem products, and that action is best taken on the local level. Heard, for example, says his lawsuits helped rid San Antonio of Miracle's whirls.

But such actions, though effective, did little to address the national scope of the problem. A few weeks after the lawyers group's plan was signed and forgotten, David Holmquist, an 8-year-old Florida boy, went out to play on a Miracle merry-go-round and had his thumb sliced off.

Some 19 years after it was started, the Miracle story is still in the hands of attorneys. It began to unravel when Frost went on a University of Texas radio station in 1982 to talk about dangerous playground equipment. By chance, a federal safety official happened to tune in during a discussion of the Bounce-Around Whirl. Frost was subsequently contacted by agency investigators and he sent them the documents collected by Coriden.

The result was a 1986 civil suit in which the Justice Department charged Miracle with failing to reveal reports of injuries to as many as 80 children, some 25 lawsuits, damning engineers' reports and even Miracle's own decision to recall the whirl in 1980 after dozens of accidents were reported.

Justice Department officials maintain that Miracle and other companies are supposed to report product-safety lawsuits if they contain allegations about hazards the government isn't aware of. Miracle says that since the government gave it a clean bill of health in 1974, and because it believed the allegations were unfounded, it didn't need to notify the government of legal claims against it. Some experts say that, legally speaking, Miracle could be right.

Meanwhile, the continuing controversy over whether companies have to disclose lawsuit data may be putting the public at serious risk, a recent federal safety agency memo obtained by New York Newsday reveals. The memo, prepared for the House Subcommittee on Commerce, Consumer Protection and Competitiveness, states that companies are waiting longer to alert the agency to potential public hazards and that most company alerts of possible dangers deal with relatively minor ones.

Some efforts are under way to crack down on the problem. Rep. James Florio (D-N.J.) has introduced legislation mandating the reporting of companies of product-safety lawsuits. But business interests have already announced they plan to battle such rules.

In recent weeks, the federal safety agency has decided to step up its oversight of such lawsuits, earmarking funds to hire a legal assistant to develop a system to monitor product-safety claims. David Schmeltzer, the agency's compliance director, suggested in an interview that the agreement with the lawyers' group wasn't followed up on because it might not have proved valuable. However, Schmeltzer acknowledged that his agency is moving to renew the agreement. One agency official said the move follows inquiries by New York Newsday into the matter in recent weeks.

As for the lawyers' group, Starr says he now plans to address the issue of voluntary reporting at the next meeting of the organization's executive board. Until now the group has never suggested that its members voluntarily alert federal regulators to what might be safety problems of national consequence. "I think it's been a matter of inertia on our part," Starr says.

Safety officials and some legal experts say lawsuits with vital importance to public safety will continue to be filed, settled—and forgotten. Observes expert witness Tamny: "I have come to the unhappy conclusion that juries are the only people in the legal system who care about justice."

CONFLICT IN THE PUNJAB REGION

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. PRICE of North Carolina. Mr. Speaker, I rise today to express my concern about the ongoing, increasingly violent conflict between the Government of India and members of the Sikh community living in the state of Punjab. Since the deplorable attack in 1984 on the Golden Temple in Amritsar, there have been recurrent accounts of violence and repression of the Sikhs in Punjab.

I am encouraged by evidence of restraint exercised by Indian Government troops during the clash at the Golden Temple in Amritsar last month. Prime Minister Rajiv Gandhi and the Indian Government have apparently taken a lesson from the 1984 raid on the Golden Temple and its aftermath and determined that such a tragedy should never be repeated.

Still, there is much that needs to be done if this regional conflict is to be peacefully and effectively resolved. The foundations of democracy lie in the freedom of religion and a respect for human rights. Even as we struggle to eradicate injustice in our own country, we must encourage our friends around the world to respect basic tenets of freedom and human dignity. The Indian Government's longstanding commitment to democracy must serve as the basis of a peaceful solution in the troubled Punjab region.

The increasing tensions created by the impasse in the Punjab have tragically led to indiscriminant attacks on innocent people. I urge the Government of India and the Sikh community to exercise caution and restraint in their dealings with each other. In particular, I urge Prime Minister Rajiv Gandhi and the Indian Government to work with responsible elements in the Sikh community in negotiating a lasting settlement; the alternative is a deteriorating situation that seems bound to encourage extremism and violence on both sides. The Indian Government should take steps to restore democratic rule in Punjab by allowing free elections and the early reestablishment of the legislature. It is also critical to ensure freedom of movement and of the press within the Punjab and fair and expeditious trials for individuals who have been arrested and imprisoned, many of them for a number of years.

PENNSYLVANIA DENTISTS INITIATE PROGRAM TO HELP THE NEEDY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. KANJORSKI. Mr. Speaker, today I rise to pay honor and tribute to the Pennsylvania Dental Association, and its president, Dr. Eugene S. Czarnecki, who recently initiated a program providing for the dental needs of citizens who cannot otherwise afford adequate care. The program, entitled Donated Dental Services [DDS], provides comprehensive care to physically and mentally handicapped citizens, as well as elderly individuals, and stands tribute to the dedication and humanitarian spirit of these fine doctors.

Many dentists regularly perform services without compensation of any sort for citizens who cannot afford dental care. Even when they are compensated, they frequently receive less than the customary fees for their services. The first DDS Program, organized in Colorado by the Foundation of Dentistry for the Handicapped, helped over 700 elderly and disabled individuals obtain over $350,000 worth of dental care in its first year.

The Pennsylvania DDS Program, acting in conjunction with the Foundation of Dentistry, seeks to extend this spirit of goodwill by coordinating dentists from around the State of Pennsylvania and having each practitioner provide comprehensive care for at least two deserving individuals a year. The dentists are directed to needy patients by a DDS Program coordinator, who provides background information about the prospective patients; in this way, each practitioner can decide whether to accept a referral before one is made. As some patients will need dentures or crowns, the DDS Foundation intends to raise money from local charities and businesses for the funds to reimburse dentists for the incurred laboratory bills. As you can see, Mr. Speaker, this program combines the goodwill of many members of the community, joining together to help those who are less fortunate.

The president of the Pennsylvania Dental Association, Dr. Eugene S. Czarnecki, deserves to be recognized here for initiating this fine program. Dr. Czarnecki's tenure as president of P.D.A. will end this month, and he will leave behind a legacy of caring for the less fortunate. I wish Dr. Czarnecki the best of luck in the coming years.

No one can disagree that good health is important to all citizens, and proper dental care contributes to the overall health and well-being of the individual and the Nation. I firmly believe that pro bono programs of this type benefit everyone: the needy disabled, the elderly, mentally handicapped individuals, the participating dentists, the profession, and the community at large. I urge all of my colleagues to examine this program and do what they can to initiate a similar program in their own State. Not one among us can disagree that a program of this type is a most helpful, worthwhile, and noble one, because, Mr. Speaker, in the words of Alexander Pope, in faith and hope the world may disagree, but all mankind's concern is still charity.

MR. JORDAN IS NORTH CAROLINA WINNER OF VFW VOICE OF DEMOCRACY SCHOLARSHIP

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. LANCASTER. Mr. Speaker, I am pleased to call to the attention of my colleagues in the House, an outstanding script, written by one of my constituents, Mr. Patrick Brooks Jordan, of Smithfield, entitled "America's Liberty—Our Heritage."

I am pleased to report that Patrick was one of the top nine winners of the Veterans of Foreign Wars and its Ladies Auxiliary Voice of Democracy broadcast scriptwriting contest. He was one of more than 300,000 secondary school students who participated in the contest competing for the nine national scholarships.

AMERICA'S LIBERTY—OUR HERITAGE

(1987/88 VFW Voice of Democracy Scholarship Program, North Carolina Winner, Patrick B. Jordan, 410 Wellons Street, Smithfield, North Carolina 27577)

A few statesmen gathered in the foyer of Independence Hall in Philadephia.

"What do you think?" asked Thomas Jefferson.

"It's treason!" said one. "The best we can hope for is hardship and struggle."

"We could all be hanged!" said another. "But we must do it!"

And on the evening of July 4, 1776, fifty six courageous men signed the Declaration of Independence and brought forth a mighty nation destined for leadership. Who were these men? They were not poor men. They were men of means; rich men, most of them, who had enjoyed much ease and luxury in their personal lives. They had more to lose than anyone else in that proud land. And many of them did lose.

Of the fifty six, five were captured by the British and tortured before they died. Twelve had their homes from Rhode Island to South Carolina sacked, looted, burned and occupied by the enemy before the struggle was over. Two lost their sons in the Army. One had two sons captured. Nine of the fifty six died in the war from hardships and from bullets. But they considered liberty more important than the security they had enjoyed, and when they signed the document, they pledged their lives, their fortunes, and their sacred honor. They fulfilled their pledge. They paid the price. And freedom was won.

John Adams told his wife Abigail, "I am well aware of the toil, and blood, and treasure that it will cost to maintain this Declaration and to support and defend these states; yet, through all the gloom I can see the rays of light and glory. I can see the end is worth more than all the means."

But he did not see all that would face us in these times to come. We have many problems. There is nuclear war, space defense, AIDS, recession, inflation, world hunger, South Africa, Iran, terrorism, immorality . . . and the list goes on. Today, we are called upon to pay a price just as great as theirs for the heritage of this proud land.

What can we do to ensure our freedom? We must

Obey the laws of the land. That makes for order.

Second, serve in the military in times of need. Freedom is never free. It is always purchased at a great cost to somebody.

Third, vote. President Eisenhower said, "A voter without a ballot is like a soldier without a bullet."

Run for office. Now is the time to proclaim, not complain.

Seek solutions, not excuses, for the problems of our land. Will Rogers said, "The history of America can be written in three phases—the passing of the Indian, the passing of the buffalo, and the passing of the buck." Don't pass the buck.

Get involved in church and community affairs. America's greatness is founded in the goodness of her people.

Pay taxes . . . cheerfully. Oliver Wendell Holmes said, "Taxes buy civilization." And they do, and finally,

Respect yourself and others. Good citizenship is not so much a respect of country as a respect of self.

John Quincy Adams wrote, "Posterity—you will never know how much it has cost my generation to preserve your freedom. I hope you will make good use of it."

And now, Mr. Adams, we pledge to you sir and to each other that we will protect this freedom with our lives, our fortunes, and our sacred honor . . . so help us God.

UNITED STATES AND SOVIET SPACE EFFORTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 22, 1988, into the CONGRESSIONAL RECORD:

UNITED STATES AND SOVIET SPACE EFFORTS

Not since the launch of Sputnik in 1957 have Americans been so concerned about falling behind the Soviets in space. While the American space program has suffered one setback after another since the Challenger explosion in 1986, the Soviets continue to pile up space endurance and launch records. In recent years they have produced a new heavy-lift rocket, undertaken sophisticated scientific missions to Venus and Halley's Comet, and even offered to launch U.S. satellites commercially. Most Americans now feel that the U.S. has fallen behind the Soviets in space. In some respect, that is true.

The race for space is no longer the intense competition we saw in the 1960s, when it was viewed as a major way for the Cold-War superpowers to show the superiority of their respective systems. Yet it is still important. The Soviets have used their space advances to gain respect from other countries for their technology advances, to show their own people a major accomplishment, and to expand their cooperation and commerce with Western countries. Space offers several practical applications for a country as large as the Soviet Union, such as communications and remote sensing to forecast agricultural yields and spot forest fires. While space continues to remain very popular and prestigious in the Soviet Union, in the U.S. it has a more secondary role, as one among many high-tech activities.

Space is one of the few areas that the Soviets have carried through more successfully than the West. Despite America's many successes, the Soviets are now the perceived leaders in space. They have doggedly stuck to their long-range space goals, rather than endured the stops and starts of the American effort. While U.S. interest has flagged in recent years, the Soviets have never lost interest in space. Funding for space remains strong in the Soviet Union. It is believed that the Soviets spend half again as much as the U.S. does on space. The Soviets see the evolution of humans into space as inevitable, and want to be a large part of the pioneering effort.

Yet it is important to recognize in what sense the Soviets are ahead. The Soviets are clearly ahead in the use of crews in Earth orbit. They have the only permanently manned space station in orbit, and hold every space endurance record. They are able to launch rockets frequently, cheaply, and generally reliably—averaging almost two launches a week. Last year they launched their new heavy booster, capable of carrying payloads four times larger than our shuttle can carry. Yet in other areas the U.S. is clearly ahead. We are ahead in space sciences (such as orbiting observatories and planetary probes), space applications (such as communications satellites), and basic space technology (such as electronics and computers). The two countries have roughly equal capabilities in military reconnaissance and evesdropping.

The Soviet lead in manned space flight and launch capability does not mean that they are technologically superior to us. In some sense, the Soviets have succeeded because they have a relatively low-tech operation. They have progressed slowly and steadily by building upon past successes. Their workhorse launch rockets today are basically the same ones used to send up Sputnik. Their current space station is a gradually upgraded version of the one they launched twenty years ago.

On the other hand, the U.S. space program opted for complex and expensive high-technology systems. We discarded the rockets that took Americans to the Moon in favor of the very sophisticated, reusable space shuttle. When the shuttle failed, our space program was seriously slowed. The costs of future U.S. projects have increased rapidly, putting into doubt our ability to carry out important missions.

Both the U.S. and the Soviets have ambitious projects in the works. The Soviets are directing much of their attention to Mars, including landing an automated spacecraft on its surface by 1994. They are proceeding with several scientific missions, often with Western European cooperation, that could threaten the U.S. lead in space sciences. The Soviets are working on their own space shuttle, a larger space station, and a smaller "spaceplane", possibly for military use. The U.S. is planning a space station that would be four times larger than the current Soviet one. We are developing the space technologies which could be used for either another series of missions to the Moon or a trip to Mars. Several major astronomical observatories are expected to be put into Earth orbit by the U.S. over the next decade, and probes to Jupiter, Venus and Mars are planned.

Despite the U.S. falling behind the Soviets in certain key areas of space, there does not seem to be any major interest for another all-out space race—by either side. Showing superior space technology is not considered quite as important as it once was, and there is no clear, overriding space goal. The Soviets do not want to battle American technology in an all-out race; and U.S. planners fear misallocation of scarce resources and another boom/bust cycle of U.S. interest in space. Indeed, both sides seem to be shifting more of their interest from competition in space to cooperation. Both sides recognize the enormous cost of future space projects, such as sending humans to Mars, as well as the gaps in their space programs that the other side could fill. They also recognize the advantages of peaceful cooperation between the two superpowers. There is growing interest in the U.S. scientific community, the Congress, and the country as a whole for joining the Soviets in peaceful endeavors if it is in our national interest to do so.

The Soviets deserve credit for their successes in space. The United States should not try to duplicate their program, but there is much we can learn from it. We should be less willing to abandon proven technologies, and should avoid making our entire space program vulnerable to single system failures. We also need to lengthen our national space attention span and make a commitment to reasonable, long-term goals. We should seek more international cooperation on space projects. We should view space less in terms of immediate economic payoffs from space manufacturing and more in terms of pioneering the next frontier.

COMMENCEMENT ADDRESS BY KAREN DONAHUE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. FASCELL. Mr. Speaker, I recently had an opportunity to read a commencement address delivered by a young woman—to her high school alma mater. I believe our colleagues will be impressed by the message she projected to these graduates and by her insight into our society, the world we live in and the future into which these young people will be entering.

Karen Donahue, now a consultant in international affairs with Neill & Co. here in Washington, graduated from Reitz Memorial High School in Evansville, IN. She makes note in her address of her work with the Congress and, incidentally, of the high regard in which our colleague from Indiana [LEE HAMILTON] is held by all of us.

Her commencement address was considered so pertinent that it merited an editorial in the local newspaper—the Evansville Courier. I commend both to our colleagues:

REITZ MEMORIAL HIGH SCHOOL COMMENCEMENT SPEECH, 1988

(By Karen Donahue)

Thank you very much Mr. Adams. I'm very pleased to be among the guests which the 1988 class of Memorial High have invited to be here today. And it's a particular honor to be here with Bishop Shea, who presided over my own graduation 13 years ago.

I want especially to thank the senior class of 1988 for inviting me here to help witness one of the most significant occasions in your lives. Today is significant because from this point on, it's up to you . . . you have to take the basic responsibility for your decisions and your life. That can be a very scary thing, but it can also be exhilarating.

You know, as I looked through the list of the graduates' names on the program, I found many that I grew up with . . . Ballard, Reising, Flittner, Libs . . . most of you know me and my family, and we know you, and I can tell you that it's really good to be home.

And by the way, Father Tom?, I want you to know that I was also the recipient of lots of advice from my brother Tom on what I should put in the speech. "The most important thing," he said, "is . . . Keep It Short!!"

Well, I intend to do that, and because I have a very simple message, I hope that I can put it in such a way that it might make some sense to you. Because we're of the same generation. The world that you are facing is the one that I'm trying to deal with right now.

And I can tell you that, from what I've seen so far, I think the future is going to be absolutely wonderful. But it's tough, I won't kid you. You're going to have to work really hard, and feel your way in a world that is changing faster than anyone can keep up with—whether you live in Evansville, or Washington, or Beijing.

In the relatively short time since I've left Memorial, I've seen and done some exciting things. I've traveled to places as different as Morocco, and Egypt, and parts of Africa and Europe. And I've come into contact with people that, at first glance, might seem pretty bizarre. But I've found that no matter how strange a culture may seem at first, there are certain fundamentals which we all have in common—family, community, faith (whether it's Christianity, Islam, Judaism, or whatever). And we all have a desire to work for a world in which our children can do better, and be happier, than we are.

Most of my brief international experience has been in the Middle East, and I can tell you that no culture holds family and faith more dear. Last January, I took a group of congressional staff members to Egypt and Jordan. In Jordan, King Hussein very kindly agreed to meet with us. We had a long discussion, covering everything from the situation in the Persian Gulf to the uprising in the West Bank. But I think that the thing that struck us most forcefully was simply his Majesty's intense desire to bring peace and calm to his people, so that everyone in the region could begin to live normal lives.

So I'm learning an enormous amount about the world we live in, and the things I see make me think very hard about the future, and particularly what we in America should try to do to see that the world becomes a better, happier, and freer place in which to bring up our children.

Our society is racing through changes every day. This world is shrinking so quickly and becoming so integrated that you will have to develop a global sense in which to make the basic decisions about your life from now on. You may think, at first, that what I have to say is irrelevant to your own situation. Most of you are likely to stay here in Indiana or the surrounding region, and you may feel that you don't need to be concerned with the world outside U.S. borders.

But it doesn't matter where you are physically located anymore, because the whole world is being wired together so tightly that decisions made in Tokyo or Moscow today are likely to affect you tomorrow. If we want the United States to continue to be a leader, so that we can help to shape the future which this world shares . . . then you guys, the American public, must sit up, take notice and get involved.

Stop and really think for a moment. Because you live in America, any option in the world is open to you right now. Forget about any limitations which you may have placed on yourself up till now, and start out from today with the attitude that the world is yours to conquer. Others may express their doubts, and it's always good to listen to other people's points of view. But you have to find out for yourself what is out there for you. I can tell you, if I had really known what I was getting into, I'd probably never have undertaken half the things I've done. But even if I haven't always succeeded, I've always been glad I tried.

So have enough respect for yourself—and for your potential—to explore all of the fantastic opportunities out there. Whether you go on to higher education, or into the Armed Forces, or get a job right away—keep expanding your horizons. High school was great, but it's such a tiny world compared to what you're about to get into. Keep your mind open to new ideas and new ways of thinking, because that's the best way to keep ahead of the game, instead of being pushed around like a game piece on a board.

Today, our laboratories are busy thinking up innovations in genetics and biotechnology that are tampering with the very essence of life. As Christians, we have a unique responsibility to try to deal with these changes.

Information is now the key to our society—just as the factory was 100 years ago. It is now as basic a resource as land, capital, and labor have been in the past. And the revolution in communications is changing established patterns of everyday life as well. We are at a point now where information can be conveyed in split seconds to every part of the globe. I have clients who call me from Egypt on their car phones to do business because that satellite link is so much clearer than the older satellite communications. Four years ago, when I was living in Cairo, you couldn't even call across town easily! Nowadays people go from Washington, to Paris, to Geneva, to Cairo, and back again in the space of a few days. Much the same way that you might travel from Evansville, to Chicago, to Milwaukee on business.

Think about the fact that only 40 years ago there was only one computer in the world. But today there are several million in use, everywhere from Calcutta to Korea. In the 17th century it took Johanes Kepler four years to calculate the orbit of Mars—a computer can do it today in four seconds flat! If our government is going to be able to fashion policies to guide us through the next century, it's got to be supported by an informed, internationally aware, public. And that can start right here, with the 1988 class of Memorial High.

You know, so many of my friends in Washington were delighted to know that I was going to have the privilege of speaking to you today. Everyone wanted to help me write the speech, and I've incorporated much of their advice into my remarks. They were interested because they know that you are important. The people of the Midwest represent the best this country has to offer . . . and right now, everyone needs to pitch in to help find solutions because our world is changing so rapidly that we're all confused—particularly in Washington!

In my work, I deal daily with the Congress. Since Vietnam, the Congress has become very involved with foreign policy, but they often don't have sufficient time to study all of the issues thoroughly. So countries which attach great importance to their relationship with the United States often use firms such as my own to help them get their views across to the Government in Washington.

Two of the most outstanding Members of Congress with whom I've been privileged to work are both from Indiana—Senator Lugar and Congressman Lee Hamilton. These gentlemen are widely admired, both here and abroad, for their thoughtfulness and integrity.

I think that there is a very simple reason why these men are such terrific examples of what an American leader can, and should be. It's because they're honest and direct, and they rely on the sound instincts and values which they acquired from growing up in Indiana when they make their decisions in Washington.

You have those same qualities. You got them from your family, and from the educational environment at Memorial. (You may have thought you had done your best to resist them, but they're there nonetheless!!)

Those basic values of honesty, kindness, charity and common sense are all you really need when you confront the great shock waves of the future. And you'll continue to develop them as you leave here, no matter what path you choose. I've found that the further away you get from home, the greater value you'll place on these qualities, because sometimes they're the only thing you can rely on.

I've always allowed myself to dream big, even when I didn't have any self-confidence. Now I dream even bigger dreams—because now I know that to fail is not a disaster. It only means that I have to try again, maybe with a different approach, or even a different goal.

That might be something you want to keep in mind when you start to make your own choices. It will be a bit scary, but the qualities which you have now are the most important assets you can have as you walk out these doors today. You will succeed—and as you become aware of the different lifestyles and priorities of others, you will be more convinced than ever of the truth and soundness of your own values.

Whatever paths you take after leaving memorial, I wish you the best of luck. The world today needs well-educated and well-trained individuals—that is certainly true. But what it fundamentally needs is well-balanced individuals. People like you—who have common sense, and sound judgment because you come from roots where family ties are strong, and faith is practiced, and a community which supports one another.

Finally, I would ask you to remember that you are an influential person simply because you are an American. Do everything you can to develop your talents and abilities, and take part in shaping the direction in which the world will go.

There are always many contributing factors to any person's success, not the least of which is your own ability to work hard. But I do know one thing. If you don't have parents who love you and have faith in you. . . (even when they don't have the foggiest idea of what you're doing) . . . it's likely to be a lot harder for you to get started in life.

My parents have done that for me, and nothing I can say or do can adequately repay them. All I can say is that knowing them makes me want very much to become a parent myself.

And the very fact that you are graduating from Memorial—and not one of the other city high schools—tells me that you probably have parents just like mine. Because they cared enough to pay special attention to your education and your environment until you were old enough to take care of yourself. If you haven't thanked them yet, you certainly will. And I do so for you now. Thank you very much.

I'd like to close with a saying from the Arab world, whose language expresses thoughts so beautifully. It sums up everything which all of us here wish for you today. "Salaam Alaikum, Wa rahmatu allah wa barakatu." "Peace be to you, and may the peace, mercy, and blessings of God be upon you."

Thank you for listening.

TAKE A GLOBAL VIEW

More than ever before, high school and college graduates this year are entering a global society. Opportunities for these graduates know few geographical boundaries.

Karen Donahue knows that. The 1975 Memorial High School graduate who has worked and traveled in the Middle East returned to her alma mater Sunday to deliver the commencement address.

She told 174 graduates that the world is racing through changes, but will readily accept individuals who are well educated and well trained. And she advised even those who will remain in this area to develop a concern for global issues, because of the fast changes in society and the way information has drawn the world closer together.

That's knowing advice, but, we believe, she told them something equally important. She said the values she learned from her parents and in school were those she remembered and relied on most in moving to another part of the world. Honesty, kindness, charity and common sense are what she relied on when little else was familiar.

Indeed. More and more, Americans are realizing just what strength comes from the family, from the values instilled by a strong family. That's our advice to this year's graduates from city and area high schools: No matter how far you roam in search of an identity, stay close to your families and friends.

In most cases, your families helped you get where you are today. They loved you, they helped you, they invested in you, at times they tolerated you, and they gave you support when you needed it most.

Give something back, and in so doing, you will give something to yourself and your society. First, thank them, and then make a commitment not only to hold on to your roots, but also to develop the same strength and loyalty in the families you will create in the coming years. Help your children to know their roots, and give them, through example, a sense of moral values. Let education and the work ethic each be held in high esteem in your homes.

Our country must have a well educated and well trained citizenry to survive an international economy. it must have graduates willing and able to be the leaders, workers and helpers of tomorrow. And it must have graduates dedicated to a renewal of strong, stable family life.

TRIBUTE TO JOSEPH P. TRAINOR III

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. FLORIO. Mr. Speaker, I rise today to pay tribute to an outstanding labor leader, Joseph P. Trainor III, who retires this month as national legislative director of the Transportation Communications International Union [TCU], formerly BRAC.

In 1942, Joe went to work for the Pennsylvania Railroad and soon thereafter became a member of BRAC Lodge No. 514 in Baltimore, MD. A few months later, he entered the military and upon his return in 1945 became active in union business.

Joe has served his union as a full-time officer since 1970, and was appointed national legislative director in 1982. For the past 10 years, he has also served as a member of the ad hoc committee for the U.S. Marines Marathon, and has received citations from the President's Council on Physical Fitness for these activities.

Joe has played a major role in the development and passage of legislation of importance to workers in the rail industry, both active and retired.

I join his many friends and colleagues in wishing Joe and his wife Helen many years of a healthy and happy retirement.

A TRIBUTE TO IRMA ACUNA THE NATIONAL BLIND WORKER OF THE YEAR

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. PRICE of North Carolina. Mr. Speaker, today I rise in tribute to a resident of my district, Ms. Irma Acuna, who this week in Washington is being presented with the National Blind Worker of the Year award by the National Industries for the Blind.

Ms. Acuna, who has overcome personal tragedy, illness, and other grave difficulties, was selected for the award over 52 other nominees from 36 States.

Congress passed into law the Wagner-O'Day Act, 50 years ago directing Federal agencies to purchase products manufactured by workshops employing blind workers. Today, these programs bring more than $44 million in wages and benefits to blind Americans.

Mr. Speaker, all of us in the Fourth Congressional District of North Carolina are extremely proud that one of our own has been named the outstanding blind worker for the entire Nation on this, the 50th anniversary of the National Industries for the Blind. I earlier participated in ceremonies honoring Ms. Acuna at the Raleigh Lions Club Clinic for the Blind, and I look forward to congratulating Ms. Acuna in person today as she and the other nominees visit us here in Congress for a ceremony on the steps of the Capitol. To Ms.

Acuna and all blind workers across this country, I say, "Thank you for a job well done, and thank you for your courage and for the inspiration and example you have given all of us."

THE COVERED BRIDGES OF PENNSYLVANIA

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. KANJORSKI. Mr. Speaker, if you ever have the opportunity to travel through the beautiful State of Pennsylvania, there you will find the landscape dotted with more covered bridges than in any other State of our Union. Nearly a quarter of our Nation's remaining 1,000 covered bridges are located in Pennsylvania, standing today as a symbol of the hard work and talent that went into their construction many years ago.

Our covered bridges are not only a source of pride for all Pennsylvanians, they are a source of inspiration, creativity, and delight for artists, historians, photographers, and tourists, and are a welcome component of our manmade environment. You feel this sense of antiquity and pride when you come across a covered bridge, hidden amongst the rolling hills and valleys of the Pennsylvanian countryside. Walking across a covered bridge and stepping into its darkness, you find a sense of appreciation for the sturdy craftsmanship and engineering genius that went into its construction.

The durability of these bridges, however, are not due simply to their craftsmanship. Natural disasters, acts of vandalism, and arson have endangered these structures and have caused many to deteriorate or be lost. Realizing the intrinsic value of our covered bridges, the Pennsylvania Historical and Museum Commission, the Theodore Burr Covered Bridge Society of Pennsylvania, and other concerned groups have undertaken efforts to preserve these precious landmarks and to promote a greater appreciation of them. It is because of the preservation efforts of these groups that Pennsylvania Gov. Robert P. Casey proclaimed the week of May 7-15, 1988 as "See Pennsylvania's Covered Bridges Week," a week dedicated to heighten awareness of these beautiful structures and the efforts to preserve them as part of our proud historic and cultural heritage.

Mr. Speaker, I urge all Pennsylvanians to assist in the preservation of these remaining historic covered bridges so that future generations can enjoy their distinctive beauty and grace. The historic, cultural, and aesthetic value of these fine transportation links and the degree of talent displayed by the citizens who constructed them deserve our appreciation and protection.

CUB HILL BIBLE PRESBYTERIAN CHURCH 25TH ANNIVERSARY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mrs. BENTLEY. Mr. Speaker, this is a very special time in America's history, for it marks the 200th anniversary of the signing of the Constitution and the subsequent creation of the United States of America. We have acquired freedoms known only to a relatively few other nations of the world, yet often we take them for granted and perhaps forget that they are there. It's a truly great feeling to see my constituents rejoicing in the exercise of their constitutional rights. Nowhere is this more evident than with the right of each individual to worship as they please.

This Friday the Cub Hill Bible Presbyterian Church will celebrate its 25th anniversary as a House of God. I wish to salute these fine people, Mr. Speaker, for playing their part in helping to keep one of the most fundamental freedoms possessed by all Americans alive.

The church had its origins in 1963 in a firehall on Hanover Street. The first pastor was the Reverend Arthur Slaght. When he died soon thereafter the reigns of leadership were taken up by the Reverend John Dekker. John was an immigrant from Holland who escaped during the Nazi occupation. Over the 3-year period following the church's founding Reverend Dekker preached to growing crowds in the firehall as well as the Towson American Legion Hall. The church's followers were loyal; they came from cities and countries far away just to share their common benefits.

The church did not have a building until 1967, when they settled in Cub Hill, MD. Today the church is thriving and has plans to increase in size. Its congregation consists of some 150 members, making it a relatively small church. However, the intense devotion and interest of its members in matters concerning their community has given Cub Hill Bible Presbyterian Church a very big message. Pastor Dekker hosts a radio show heard in 22 major cities, and the membership is quick to fight for those issues they feel are right. The pastor and his people have learned to interweave the twin freedoms of speech and religion in a way that would have truly pleased the Founding Fathers.

Mr. Speaker, I salute Pastor Dekker and the members of the Cub Hill Bible Presbyterian Church during their silver anniversary. They have fought the good fight, and they have kept their faith, and I wish to convey to them my most sincere congratulations for a job well done.

THE CONGRESSIONAL BUDGET OFFICE STRENGTHENING ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. PETRI. Mr. Speaker, yesterday 22 of us, including five members of the Budget Committee, introduced H.R. 4880, the Congressional Budget Office Strengthening Act.

This bill is designed to protect CBO from political manipulation, make it clear that it is up to CBO to decide what material is relevant for inclusion in its reports, and encourage CBO to take a broader and more realistic view of the budget consequences of legislation. We desperately need a CBO that is strengthened in all these ways if we are ever really to come to grips with our deficit problems. At present, unfortunately, the office is subject to political pressure and is too timid in its cost analyses. It needs both more independence and more backbone.

Our bill does five things. First, it makes the selection of the CBO Director bipartisan, by putting the minority leaders of both Houses into the process. Currently the Director is chosen by the Speaker of the House and the President pro tempore of the Senate. Adding the minority leaders, besides making the selection bipartisan, should also make it easier to make a selection at all, since it creates the possibility of a 3-to-1 vote. Some of CBO's current problems may be due to the fact that the directorship has been vacant for well over a year. Making a selection has been a problem in the past as well. We need a better way of getting an acceptable leader in there.

The second provision of our bill calls upon the Director to carry out his duties in an objective and nonpartisan manner. There is no statement to that effect in current law, and there should be.

Third, our bill prevents any CBO reports from being altered without CBO's agreement, as well as the agreement of the majority and minority leaders of the relevant House and the member or committee requesting the information. In other words, CBO should produce the best report it can, and then that should be the end of it. There should be no second guessing of the kind that occurred on the recent minimum wage bill report, where CBO's economic impact conclusions were deleted because the majority on the Education and Labor Committee didn't like them. CBO should have been able to say, "No, thank you—the possible loss of 500,000 entry level jobs and two- to three-tenths of a percent additional inflation per year are important effects of the bill with implications for the budget, even if we have not spelled those implications out, and we refuse to censor this material."

A version of this particular provision of the bill has already passed the House as an amendment to the legislative branch appropriation offered by FRED GRANDY and CASS BALLENGER. The version in our bill is a tiny bit stronger, since it makes it clear that CBO itself must agree to any alteration of a report, not just majority and minority Members of the Congress.

The fourth provision of our bill is designed to help prevent political manipulation attempts at any point in the process by requiring CBO to report any such attempts to the appropriate ethics committee.

Finally, the last provision directs CBO to include in its estimates, to the extent practicable, both direct and indirect costs, in an attempt to provide estimates that are as realistic and honest as possible. This is an attempt not just to bolster CBO's independence, but its corporate courage as well, which is probably related. The problem here is that CBO ignores all but the most absolutely direct effects of legislation. That can seriously skew its results. In the minimum wage case, what never got into the first report was as important as what got taken out. CBO ignored a long list of budget effects such as higher nursing home and hospital costs passed through to entitlement programs like Medicaid and Medicare. Those effects probably weren't direct enough for CBO because they wouldn't occur until Congress changed the relevant reimbursement rates. But it is ludicrous to suppose Congress wouldn't do that, and therefore the scoring was absurd.

Clearly CBO cannot consider all indirect effects, many of which are highly speculative, with little agreement on the underlying economic theory. But the list of these effects spans a very broad range from only slightly indirect, like higher nursing home costs being passed through to Medicaid, to the very indirect, like price fixing in a major market causing lower overall economic activity and consequently lower Federal revenues. CBO ought to start tackling at least the "only slightly indirect" end of the spectrum. It would be nice to have its judgments on the larger questions too, since it does use a macroeconomic model for overall budget projections, but it will be understandable if it finds that impractical right now. On the smaller issues, however, its best judgment, even if somewhat imprecise, will give us a more realistic picture than no judgment at all.

Thus, as I see it, there really are two main problems with CBO that are partly related. One is political pressure and the other is excessive timidity in considering effects of legislation.The organization needs both more independence and more backbone, and this bill is an attempt to encourage both.

I want to emphasize that this should not be a partisan issue, and the problems are not limited to the minimum wage report. Members of both parties have pressured CBO, and all of us with eyes at least half open know that there have been numerous inadequate CBO reports over the years, often facilitating "blue smoke and mirrors" budget savings bill that end up saving far less than advertised or actually costing us money.

To take just one other horrible example, consider the tobacco bailout provisions of the fiscal year 1986 reconciliation bill. At that time the tobacco program had stocks of tobacco in storage dating back to 1977. The Federal taxpayers were responsible for any losses on the 1981 and prior crops, and tobacco farmers, pursuant to the No Net Cost Tobacco Act of 1982, were responsible for any losses on the 1982 and subsequent crops. The farmers were paying to the Federal Treasury assessments on their marketings of tobacco in order to cover their impending losses, and those assessments were projected to reach 25 cents per pound in 1986.

But then a clever deal was struck—a deal which would have been fraud if it had been done wholly in the private sector. Instead of selling the program's tobacco into the world market for its actual value of 55 to 60 cents on the dollar, the Agriculture Department reached a package deal with the five major U.S. cigarette companies under which the companies agreed to buy all the tobacco in storage for an overall price equivalent to its market value. However, within the package deal, the 1981 and prior crops were prices at 10 cents on the dollar and the 1982 and subsequent crops were prices at 90 cents on the dollar. Thus the crops for which the farmers were responsible fetched much more than they were worth, and the taxpayers' crops fetched far less. About a billion dollars of liability was transferred in this way from the farmers to the taxpayers, and the farmers' 1986 assessments were then lowered from 25 cents a pound to 2 cents a pound.

The net result was that we sold the tobacco for its market value, which we could have done anyway, and we recovered a billion dollars less from the farmers than we should have. And how did CBO score this deal? They actually scored it as a budget savings. And it went into the overall savings total for the reconciliation bill that was supposed to reduce the deficit. CBO assumed that we couldn't or wouldn't have sold the tobacco without the deal—which was absurd—and they ignored the consequent reduction in assessments—perhaps on the grounds that it was somehow indirect. No one can convince me that the professionals at CBO were pleased with that performance, or that it wasn't the result of heavy political pressure, even if I have to admit that some of the pressure probably came from the Republican chairman of the Senate Agriculture Committee.

We could burst the seams of the Congressional Record with examples like this. There was a billion and a half dollar black lung bailout in the same bill as the tobacco bailout, and CBO scored that one as budget neutral. But it is enough to establish that we have a real problem here that hinders responsible efforts to deal with the deficit.

As a Representative from Wisconsin, I have a special interest in this issue since the whole idea of nonpartisan, professional legislative service agencies got its start in my State back at the beginning of the progressive era. Establishing the first such agency in the Nation was one of the first achievements of Robert M. LaFollette Sr. after he took over as Governor of Wisconsin in 1901. The idea wasn't copied at the Federal level until the establishment of the Congressional Research Service in 1914, followed by the House and Senate legislative counsels' offices in 1919, the Government Accounting Office in 1921, the Joint Committee on Taxation in 1926, the Office of Technology Assessment in 1972, and finally the CBO in 1974.

This idea was the brain child of a man named Charles McCarthy and was included in his famous book "The Wisconsin Idea." In 1906, he advised other States that, "The department must be entirely non-political and non-partisan or else it will be worse than useless. If you have the choice between establishing a political department and no department at all, take the latter." Clearly that was sound advice.

Mr. Speaker, I insert the Congressional Budget Office Strengthening Act in the Record at this point:

H.R. 4880

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Budget Office Strengthening Act of 1988".

SEC. 2. APPOINTMENT OF CBO DIRECTOR.

Section 201(a)(2) of the Congressional Budget Act of 1974 is amended—

(1) in the first sentence thereof by inserting "and minority leader" after "Speaker" and after "President pro tempore"; and

(2) by inserting after the first sentence thereof the following new sentence: "The Director shall carry out all of his duties in an objective and nonpartisan manner.".

SEC. 3. ALTERATION OF INFORMATION.

Section 202 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

"(h)(1) Except as provided by paragraph (2), after the Office has provided information compiled at the request of any Member or committee of the House of Representatives or the Senate or any joint committee of the Congress, the Office shall not add to, delete, or alter any such information, except to correct factual errors.

"(2) A change in any information so provided may only occur if the Office, the Member or committee making the request, and the majority and minority leaders of the House of Congress from which the request originated (or such leaders of both Houses in the case of a request by a joint committee of the Congress) agree.

"(3) Nothing in this subsection is intended to prevent the Office from providing new or updated information pursuant to a subsequent request similar or identical to an earlier request.

"(4) The Director shall notify the Committee on Standards of Official Conduct of the House of Representatives or the Select Committee on Ethics of the Senate, as the case may be, of any attempt by any Member or employee of either House of Congress to unduly influence the contents of any information requested to be provided under subsection (a), (b), or (c) or the contents of any report made by the Office.".

SEC. 4. COST ANALYSIS BY CONGRESSIONAL BUDGET OFFICE.

Section 403(a) of the Congressional Budget Act of 1974 is amended by inserting before the last sentence thereof the following new sentence: "The estimate of costs shall include all direct and indirect costs of each such bill or resolution.".

PALESTINIAN-ISRAELI SETTLEMENT

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. DYMALLY. Mr. Speaker, I wish to bring to your attention an article which appeared in the Washington Times newspaper of June 16, 1988, and a copy of the original article signed by Bassam Abu Sharif, as "Advisor to Chairman Yasser Arafat."

I believe this is a major breakthrough in the road toward Israeli-Palestinian peace. This is definitely worthy of our careful consideration.

PROSPECTS OF A PALESTINIAN-ISRAELI SETTLEMENT

(By Bassam Abu Sherif Advisor to Chairman Yasser Arafat)

Everything that has been said about the Middle east conflict has focused on the differences between Palestinians and Israelis and ignored the points on which they are in almost total agreement.

These points are easy to overlook, hidden as they are under a 70-year accumulation of mutual hostility and suspicion, but they exist nevertheless and in them lies the hope that the peace that has eluded this region for so long is finally within reach.

Peel off the layers of fear and mistrust that successive Israeli leaders have piled on the substantive issues and you will find that the Palestinians and Israelis are in general agreement on ends and means:

Israel's objectives are lasting peace and security. Lasting peace and security are also the objectives of the Palestinian people. No one can understand the Jewish people's centuries of suffering more than the Palestinians. We know what it means to be stateless and the object of the fear and prejudice of the nations. Thanks to the various Israeli and other governments that have had the power to determine the course of our people's lives, we know what it feels like when human beings are considered somehow less human than others and denied the basic rights that people around the globe take for granted. We feel that no people—neither the Jewish people nor the Palestinian people—deserves the abuse and disfranchisement that homelessness inevitably entails. We believe that all peoples—the Jews and the Palestinians included—have the right to run their own affairs, expecting from their neighbors not only non-belligerence but the kind of political and economic cooperation without which no state can be truly secure, no matter how massive its war machine, and without which no nation can truly prosper, no matter how generous its friends in distant lands may be.

The Palestinians want that kind of lasting peace and security for themselves and the Israelis because no one can build his own future on the ruins of another's. We are confident that this desire and this realization are shared by all but an insignificant minority in Israel.

The means by which the Israelis want to achieve lasting peace and security is direct talks, with no attempt by any outside party to impose or veto a settlement.

The Palestinians agree. We see no way for any dispute to be settled without direct talks between the parties to that dispute, and we feel that any settlement that has to be imposed by an outside power is a settlement that is unacceptable to one or both of the belligerents and therefore a settlement that will not stand the test of time. The key to a Palestinian-Israeli settlement lies in talks between the Palestinians and the Israelis. The Palestinians would be deluding themselves if they thought that their problems with the Israelis can be solved in negotiations with non-Israelis, including the United States. By the same token, the Israelis—and U.S. Secretary of State George Shultz, who has been shuttling to the Middle East for discussions on his peace proposals—would be deluding themselves if they thought that Israel's problems with the Palestinians can be solved in negotiations with non-Palestinians, including Jordan.

The Palestinians would like to choose their Israeli interlocutor. We have little doubt that we could reach a satisfactory settlement with the Peace Now movement in a month. We know, however, that an agreement with Peace Now would not be an agreement with Israel, and since an agreement with Israel is what we are after, we are ready to talk to Mr. Shimon Peres' Labor Alignment, or to Yitzhak Shamir's Likud Bloc, or anyone else the Israelis choose to represent them.

The Israelis and Mr. Shultz would also prefer to deal with Palestinians of their own choosing. But it would be as futile for them as for us to talk to people who have no mandate to negotiate. If it is a settlement with the Palestinians that they seek, as we assume it is, then it is with the representatives of that people that they must negotiate, and the Palestinian people, by the only means that they have at their disposal, have chosen their representatives. Every Palestinian questioned by diplomats and newsmen of the international community has stated unequivocally that his representative is the Palestine Liberation Organization. If that is regarded as an unreliable expression of the Palestinians' free will, then give the Palestinians the chance to express their free will in a manner that will convince all doubters: arrange for an internationally-supervised referendum in the West Bank and the Gaza Strip and allow the population to choose between the PLO and any other group of Palestinians that Israel or the United States or the international community wishes to nominate. The PLO is ready to abide by the outcome and step aside for any alternative leadership should the Palestinian people choose one.

The PLO will do this because its *raison d'être* is not the undoing of Israel, but the salvation of the Palestinian people and their rights, including their right to democratic self-expression and national self-determination.

Regardless of the satanic image that the PLO's struggle for those rights has given it in the United States and Israel, the fact remains that this organization was built on democratic principles and seeks democratic objectives. If Israel and its supporters in the U.S. administration can grasp that fact, the fears that prevent them from accepting the PLO as the only valid interlocutor toward any Palestinian-Israeli settlement would vanish.

Those fears, as far as I can tell from what has been written and said in Israel and the United States, center on the PLO's to unconditionally accept Security Council Resolutions 242 and 338 and on the possibility that a Palestinian State on the West Bank and Gaza would be a radical, totalitarian threat to its neighbor.

The PLO, however, does accept Resolutions 242 and 338. What prevents it from saying so unconditionally is not what is in the resolutions but what is not in them; neither resolution says anything about the national rights of the Palestinian people, including their democratic right to self-expression and their national right to self-determination. For that reason and the reason alone, we have repeatedly said that we accept Resolutions 242 and 338 in the context of the other UN resolutions, which do recognize the national rights of the Palestinian people.

As for the fear that a Palestinian State would be a threat to its neighbor, the democratic nature of the PLO—with its legislative, executive and other popularly-based institutions—should argue against it. If that does not constitute a solid enough guarantee that the State of Palestine would be a democratic one, the Palestinians would be open to the idea of a brief, mutually-acceptable transitional period during which an international mandate would guide the occupied Palestinian territories to democractic Palestinian statehood.

Beyond that, the Palestinians would accept—indeed, insist on—international guarantees for the security of all states in the region, including Palestine and Israel. It is precisely our desire for such guarantees that motivates our demand that bilateral peace talks with Israel be conducted in the context of a UN-sponsored international conference.

The Palestinians feel that they have much more to fear from Israel, with its mighty war machine and its nuclear arsenal, than Israel has to fear from them. They would therefore welcome any reasonable measure that would promote the security of their state and its neighbors, including the deployment of a UN buffer force on the Palestinian side of the Israeli-Palestinian border.

Time, sometimes the great healer, is often the great spoiler. Many Israelis no doubt realize this and are trying to communicate it to the rest of their people. As for us, we are ready for peace now, and we can deliver it. It is our hope that the opportunity that presents itself today will not be missed.

If it is missed, we will have no choice but to continue to exercise our right to resist the occupation, our ultimate aim being a free, dignified and secure life not only for our children but also for the children of the Israelis.

[From the Washington Times, June 16, 1988]

PLO DECLARES WILLINGNESS TO COEXIST WITH ISRAEL

(By James M. Dorsey)

The chief spokesman for the Palestine Liberation Organization, in uncharacteristically explicit and conciliatory language, says the PLO is willing to recognize Israel and accept a two-state solution.

In a telephone interview from Tunis yesterday, the statement's author, Bassam Abu Sharif, described it as a policy "breakthrough."

The statement, published in a London-based magazine of Middle Eastern affairs, said in part:

"We believe that all peoples—the Jewish and the Palestinians included—have the right to run their own affairs, expecting from their neighbors not only non-belligerence but the kind of political and economic cooperation without which no state can be truly secure . . .

"The Palestinians want that kind of lasting peace and security for themselves and the Israelis because no one can build his own future on the ruins of another's.

"The means by which the Israelis want to achieve lasting peace and security is direct talks, with no attempt by any outside party to impose or veto a settlement. The Palestinians agree," the article said.

Some Palestinian sources said the PLO's handling of the statement indicated it was meant as a trial balloon rather than the signaling of a definitive policy shift by PLO Chairman Yasser Arafat.

Mr. Abu Sharif said the statement had been drafted to influence President Reagan's discussions during the Moscow summit with Soviet leader Mikhail Gorbachev.

Palestinian sources said the statement had been intended to complicate efforts by

Israel and Secretary of State George Shultz to exclude the PLO from future Middle East peace talks.

Awkward attempts to distribute the statement and the fact that no major U.S. newspaper had published the statement by the time the Moscow summit was convened muted the statement's impact.

Seeking to buttress his credentials to write such a statement, Mr. Abu Sharif said: "I wrote this article as adviser to the chairman of the PLO. Whatever Shultz writes, it's Shultz; whatever the adviser to the chairman writes, it's the adviser to the chairman."

Some political analysts found the statement particularly interesting because of the background of its author. Before joining ranks with Mr. Arafat, Mr. Abu Sharif served as a senior aide to George Habash, the leader of the Popular Front for the Liberation of Palestine, which in the past has opposed negotiations with Israel.

Certain "peace activists" said the fact that the author wrote of "the Jewish people" rather than drawing a distinction between Israelis as a people and Jews as a religion seemed particularly significant.

"This is the first time that in the literature of the PLO and the trajectory of their policy that they have called the Jewish people a people," said Gail Pressburg of the Foundation for a Middle East Peace.

Mr. Abu Sharif said attempts to bypass the PLO in peace negotiations were as unrealistic as the PLO wanting to negotiate a settlement with representatives of the Israeli peace camp.

"We know, however, that an agreement with Peace Now would not be an agreement with Israel, and since an agreement with Israel is what we are after, we are ready to talk to Mr. Shimon Peres' Labor Alignment, and to Yitzhak Shamir's Likud Bloc, or anyone else the Israelis choose to represent them . . . The Israelis and Mr. Shultz would also prefer to deal with Palestinians of their own choosing. But it would be as futile for them as for us to talk to people who have no mandate to negotiation," his article said.

The PLO will accept an internationally supervised referendum on the Israeli-occupied West Bank and in the Gaza Strip to establish whether it represents the Palestinian people if the United States and Israel doubt the organization's credentials, he wrote.

"The PLO is ready to abide by the outcome and step aside for any alternative leadership should the Palestinian people choose one. The PLO will do this because its raison d'etre is not the undoing of Israel, but the salvation of the Palestinian people and their rights . . . our ultimate aim being a free, dignified and secure life not only for our children but also for the children of the Israelis."

Mr. Abu Sharif said he submitted his article to The Washington Post on May 29 after having been encouraged to do so by the executive editor, Ben Bradlee, in a message relayed by Paris correspondent Jonathan C. Randal.

The PLO spokesman accused Stephen Rosenfeld, an editor at The Post, of blocking publication of his "article" for "political reasons" and said it was then submitted to the London-based Middle East Mirror, where it ran on June 2 over Mr. Abu Sharif's byline.

Mr. Rosenfeld acknowledged that the article had been submitted but said no decision on publication had been made. "We're in touch with the author, we have not completed our discussions," he said.

Five days after publication in London, PLO officials distributed the article to foreign journalists covering the Arab summit in Algiers as part of an official PLO information package.

Palestinian sources noted that the article appeared unsigned on page 14 of a 20-page booklet and was preceded by another, less startling, article written by Mr. Abu Sharif as well as other statements on the Palestinian issue.

"If this is genuine, why did they do it this way? They could have held a press conference and created a revolution," one source said.

Arab journalists said the document was so "explosive" that their newspapers had not allowed them to touch it.

RECOGNIZING SEYMOUR POSNER

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. GARCIA. Mr. Speaker, I rise today to recognize Seymour Posner who recently retired as vice chair of the New York Worker's Compensation Board. Sy was an aggressive, pioneering labor legislator during his 13 years (1965–1978) in the New York State Assembly, where he vigorously represented a district in the South Bronx.

His long list of legislative accomplishments includes legislation protecting and extending prevailing wages, workers' compensation for farm workers, and New York's pregnancy disability benefits law. Sy also secured passage of the first laws in the United States giving collective-bargaining rights to employees of nonprofit organizations, minimum wage protection to household and home care workers, and collective-bargaining rights for workers.

He helped organize 200 workers in a South Bronx home care agency. This group won the first collective-bargaining election of home care workers in the United States on January 5, 1978. Sy also introduced the first bill making Martin Luther King's birthday a legal holiday.

Sy was a veteran of World War II and served in France and Germany in the "Old Guard" 3d Infantry Regiment. During the 1950's and 1960's he was an activist in the civil rights movement and was arrested on three separate occasions for his outspoken dedication to the movement. He served as public relations director for the 1958, 1959, and 1963 marches on Washington led by the Reverend Dr. Martin Luther King, Jr. He also organized some 800 tenants' councils, walked on countless union picket lines, and was a "sit-in" during Hostos College's struggle for survival in 1976.

Sy was a member of the Worker's Compensation Board for 11 years, where he was responsible for many precedent setting decisions and dissents that extended protection and coverage to thousands of workers in New York State. He has recently accepted a position as legislative representative for the New York City Central Labor Council, AFL-CIO.

Seymour Posner represents the best of civic minded activists. I am happy to be able to bring his distinguished career to the attention of my colleagues.

HONORING SUE-ELISE FREDERICK

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. ROGERS. Mr. Speaker, today I am privileged to place in the RECORD a copy of my State's winner in the Voice of Democracy speechwriting contest sponsored by the Veterans of Foreign Wars.

I am pleased to say that a constituent from my district, Miss Sue-Elise Frederick of Burkesville, KY, was this year's winner from Kentucky. Her very moving statement about the Vietnam Veterans Memorial is thoughtful reading, and I am enclosing this speech for my colleagues to read. I congratulate Sue-Elise on her outstanding achievement and commend the VFW for its work to instill patriotism and respect for our veterans through this national program.

The speech follows:

AMERICA'S LIBERTY—OUR HERITAGE

On that cold, bright morning we were lead to the long, black granite wall. Carved on it, in simple elegance, was the seemingly endless list of names of those who gave their lives in the Vietnam War. As I scanned over the long registry, I saw each name as a singular symbol of devotion to the cause of liberty; each a symbol of what Abraham Lincoln called the "last, best measure of devotion" one can give to the cherished cause of liberty. Each a symbol of all the devotion so sacrificially given throughout our nation's history. As I stood there in reverent silence, the names literally seemed to be engraved on the heart of our nation instead of just being inscribed on a black granite wall, for surely no human hand could carve the significance of so great a sacrifice. I have a feeling that visits to Gettysburg, Arlington, Flander's Field, or Pearl Harbor would bring the same overwhelming feeling of gratitude. But more importantly, I feel a need to be more dedicated to give what I am called upon to give to preserve this sacred heritage of liberty. Having seen what has been given, can I give any less?

Throughout time, brave souls have given their lives and talents to maintain the liberty we have as our heritage in this great democracy. At the founding of this nation were dedicated men who wanted this new country to be the best ever established upon the face of the earth. Through their dreams, the United States of America was conceived, and it is now a great nation and world leader. From the time of the Revolutionary War, Americans have had a yearning to be free and to maintain this legacy of freedom for future generations. Our country's heritage is our liberty, and through wise use of this liberty we must shape the heritage we will pass on.

"I gave my life for freedom," exclaimed W.N. Ewer. The freedoms of speech, of worship, of choice, of the press, and of assembly are all parts of our lives that we too easily take for granted. We forget in our busy lives that someone dedicated themselves to these freedoms and fought for them on battlefields the world over. To give your life for liberty is a great sacrifice not only for yourself but also for your country. This is what has made this country's great heritage of liberty—sacrificial giving of talents and lives. My generation must decide what heritage it will leave to posterity which will insure liberty.

As a child my freedoms were limited, and I was not allowed to do as I pleased. The older I become the more freedom I began to experience and through years of slowly developing my own independence, I can have freedoms. This country's freedom is similar concerning its growth. The heritage of this nation slowly led us to freedom. As one man so aptly said, "The aim of a life can only be to increase the sum of freedom and responsibility to be found in every man and in the world."

The question still remains—will the heritage we leave insure and strengthen the freedom future generations will have? But, this question can be erased through responsible citizenship and loyal leaders who realize the cost of liberty. Through our continuing sacrifice, liberty will not only endure, it will grow, for there must always be "liberty and justice for all."

And so, on future mornings as other tour groups approach the black granite monoliths of the Vietnam War Memorial, it is my prayer that they too will not just see the names, but that they will see the rich heritage of liberty wrought out of human suffering—a future of hope and of possibility.

KILDEE PAYS TRIBUTE TO THE ROBERT T. LONGWAY PLANETARIUM

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. KILDEE. Mr. Speaker, I would like to bring to the attention of my colleagues a shining crown jewel in my hometown of Flint, MI, on the occasion of its 30th anniversary. The Robert T. Longway Planetarium stands as a focal point in the college and cultural center in Flint. Since its dedication on June 26, 1958, thousands of Flint area residents and visitors have been drawn to the wonderment of the special effects generated by its projector.

The Longway Planetarium came about as a result of dedicated Flint men and women committing themselves to develop a cultural center located within the center of the city. It was made possible by voluntary contributions of the many sponsors of the college and cultural center and it is a tribute to the many Flint people involved in the planning and development of this great institution.

Over the last 30 years the Longway Planetarium has served as a primary educational instrument for students in Flint area schools. It has given many students their first and possibly only exposure to the wonders of astronomy and space exploration. The Longway Planetarium has expanded and enhanced its capabilities over its lifetime, thus enabling it to be utilized for a variety of subjects of current and historical interest.

The Robert T. Longway Planetarium is an integral part of Flint life. It serves as one facet of our educational system, and important partner with the colleges and universities located in Flint, and as a focal point of tourism in mid-Michigan. It truly is a valued and irreplacable asset within the city of Flint.

Mr. Speaker, it is indeed a great honor and pleasure for me to pay tribute to the Robert T. Longway Planetarium for its 30 years of educating, entertaining and amazing the thousands of visitors that pass through its portals each year. The Longway Planetarium will continue to play a crucial role in the future development of the college and cultural center as well as the entire city of Flint.

SMALL BUSINESS—THE BACKBONE TO OUR NATION'S ECONOMY

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. FAUNTROY. Mr. Speaker, small business is the backbone of our Nation's economy. Contrary to popular belief, far more persons are employed by small businesses than are employed by large businesses.

I am therefore pleased with the creation of Conti-National Business Services, Inc. This international marketing and consulting firm was founded by Mr. Clifton B. Smith, who also serves as its president.

Clifton B. Smith has a long, distinguished history of public and community service in the District of Columbia. He is a product of the District's public school system, a graduate of Howard University and the recipient of a law degree from American University. For 7 years, he served as the chief of staff in my congressional office. He then served from 1982 until this year in several key positions with the District government, including service as secretary of the District of Columbia and staff director for the Mayor.

From 1984 to 1987, he served as chairman of the DC Martin Luther King, Jr. Holiday Commission. He has also served as a member of numerous local and national organizations, including the National Educational Association, the Washington Arts Consortium, Associates for the Renewal of Education, the National Association of Secretaries of State and the National Association for the Advancement of Colored People [NAACP], where he enjoys life membership.

Perhaps most importantly, Mr. Speaker, the international experience and travel of Clifton B. Smith is extensive. In 1985, he coordinated the DC government's role in a significant Saudi Arabian trade mission throughout the United States, under the auspices of the U.S. Chamber of Commerce. He conceived, planned and executed both the Washington, DC, diplomatic corps receptions for 1986 and 1987, and the 10th and 11th procurement missions of Taiwan to the United States in 1980 and 1986. He has traveled to England, France, Russia, Jordan, Israel, Egypt, Taiwan, Lebanon, Japan, Libya, South Africa, throughout the West Indies and many other places abroad.

Clifton B. Smith brings to Conti-National Business Services, Inc., the talent and skills necessary to develop this vital enterprise, the energy and commitment to make it work, the vision and creativity to make it the best and the sensitivity to insure that successes for Conti-National means successes for many.

I am proud to recognize Clifton B. Smith as founder and president of Conti-National Business Services, Inc., one of the newest businesses in the District of Columbia.

SUPPORT THE FAMILY AND MEDICAL LEAVE ACT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. EDWARDS of California. Mr. Speaker, H.R. 925, the Family and Medical Leave Act is pending on the House calendar. I strongly urge my colleagues to support bringing this long-overdue legislation to the floor for debate and passage.

Sadly, the United States is the only major industrialized nation without a major parental and medical leave plan. We can no longer ignore the plight of working parents. We must seize this opportunity to endorse a profamily policy that will provide protection for mothers, fathers, their children and their families.

H.R. 925, authored by Congresswoman PATRICIA SCHROEDER, entitles employees to take up to 10 weeks of unpaid family leave over 2 years and up to 15 weeks of unpaid medical leave over 1 year. The leave could cover the birth or adoption of a child, as well as the care of a seriously ill child or parent, or the serious illness of an employee. Family and medical leave are essential components of a policy to strengthen the American family. And, without them not only does the family suffer, but workers' productivity declines.

Initially employers with less than 50 employees would not be covered. After 3 years, employers with less than 35 employees would not be covered. A GAO study released last month states that employers will suffer few financial setbacks as a result of having to replace workers and maintain output levels while employees are on leave. The employer coverage provisions have received ample attention at subcommittee hearings. I believe they are well considered and very fair to employers.

The Family and Medical Leave Act has already achieved strong bipartisan support. It has 151 cosponsors. I call on my colleagues to support this legislation which allows women and men the time that is necessary to nurture a family.

A TRIBUTE TO MR. ROBERT M. CREMEN

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mrs. BENTLEY. Mr. Speaker, it is with great honor and respect that I salute Mr. Robert M. Cremen, a longtime advocate of labor. He is a man of many achievements, and I am pleased to have the chance to enter his name and accomplishments into the CONGRESSIONAL RECORD.

Bob has been a Teamster for 48 years, during which time he has worked his way up the ladder from an organizer/agent in 1961 to his present position as principal officer of Teamsters Local Union No. 311. During the past half-century he has served the union in many different capacities. In 1978 he was elected trustee for the Teamsters Joint Council in 1978; in 1986 he was elected its President, succeeding my good friend, Joseph Towniley. Bob Cremen also served as trustee for the Building Trades Council for the past 4 years as well as a member of the Rules and Credentials Committees at the 1981 and 1986 International Brotherhood of Teamsters Convention.

Bob Cremen has consistently been a friend to labor, yet he has also made many friends in many other walks of life as well. He has long served in a leadership capacity to the Variety Club of Baltimore, a charitable organization which has achieved much world-wide prestige. In addition, Bob was appointed by Governor William Donald Schaefer to the Maryland truck safety task force. Indeed Bob has made the effort to use his expertise and concern for others in such a way as to make life better for everyone in the community.

On Saturday, June 25, 1988, family and friends will gather together at a testimonial dinner in honor of Bob Cremen. Jennie, his son Bob, Jr., and his daughter JoAnne, must certainly be proud of this accomplishment. To him I send my very best wishes as well as my congratulations for a job well done.

MILK MARKETING ORDERS: TIME FOR A CHANGE

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. PETRI. Mr. Speaker, apart from the problem of the drought, there are a number of problems facing midwestern dairy farmers. Our colleague from Wisconsin, TOBY ROTH, recently aired some of his views in a column published by the "Wisconsin State Farmer." I believe that solving the dairy industry's problems will require a lot of discussion and a lot of fresh thinking. At this point, I would like to insert Mr. ROTH's column into the RECORD for the benefit of my colleagues.

MILK MARKETING ORDERS: TIME FOR A CHANGE

(Representative TOBY ROTH)

The Federal Milk Marketing Order system is outdated and needs to be overhauled.

The system has contributed to excess production and clearly discriminates against farmers in traditional dairy producing states like Wisconsin and Minnesota.

Farmers in Wisconsin and Minnesota receive the lowest prices in the nation for their milk while farmers in states like Georgia and Texas get the highest prices. In fact, the gap in prices paid between regions was further widened in 1985 with the mandated increase in the Class I differentials.

The normal economic factors of supply and demand play a minimal role in this price determination. The price per cwt. is virtually the same throughout the 44 nationwide milk marketing orders. The price difference is determined by an antiquated formula based on the cost of transporting fluid milk from Eau Claire. Thus, marketing orders for regions located farthest from Eau Claire tend to claim the highest prices.

For example, a farmer in Shawano may receive $10.33 per cwt. for his milk. A farmer in Brehman, GA, would get $13.41. At this rate, a Wisconsin dairy farmer almost could book a super saver flight on a national airline, fly his milk to Georgia and still make more than if he sold it in his home state.

In March, the General Accounting Office, an independent federal investigative agency, released its findings on the status of the milk marketing order system. The GAO report concluded that the system no longer serves its original purpose of encouraging a local supply of milk. Today, milk is produced in every region of the country. Advances in technology have made it easier to store and transport milk in traditionally deficient areas.

An excellent example of how the price differential is at the root of our dairy surplus problem lays in the story of Masstock Farms in Montezuma, GA. Masstock is a foreign-owned dairy that targeted Georgia to eventually build five dairies with over 6,000 cows. The reason: Price. The price differentials have caused production increases of 25-25% in the South and Southwest.

Milk marketing orders were established in 1933 to safeguard dairy farmers and consumers from great swings in milk supplies and prices. An admirable goal in 1933 since milk was an extremely perishable, bulky commodity and refrigeration and other preservation technologies were primitive.

In 1988, however, 44 national milk marketing orders provide for cumbersome bureaucracy and the outdated transportation allowances cost the U.S. taxpayer an estimated $800 million a year in waste and income transfer. And technological advances that improve the shelf life of milk have virtually eliminated the need for vast transportation differentials based on Eau Claire.

With production estimates up 2% from a year ago, the dairy industry is on a collision course toward another 50¢ price cut. In order to preserve the health industry, we must have fundamental changes in dairy policy, starting with milk marketing orders.

Later this month, I will propose to the House Agriculture Dairy, Livestock and Poultry Subcommittee replacing the current 44 milk marketing orders with a regional marketing system that more accurately reflects transportation costs based on four regional midpoints.

I believe that there should be no more than four milk marketing orders based in corresponding regions. The national price paid for milk should be determined as it is now. The transportation differential should accurately reflect the 1988 costs of moving milk to and from the specific region's natural collection point.

I also strongly support efforts to pressure the USDA's Agricultural Marketing Service into holding oversight hearings on the net effect of the 1985 mandated increase in the Class I differentials. It is high time that the facts were on the table with respect to the changing distribution of milk production throughout the regions of the country.

While it is unlikely that Congress will fully tackle this issue before the session closes in October, I am hopeful that the groundwork will be firmly laid for changes in 1989.

A fundamental restructuring of the 44 milk marketing areas would reduce government bureaucracy, save taxpayers money by limiting the amount paid for transportation, and would not discriminate against farmers in the traditional milk producing areas of the Midwest. More important, restucturing the orders may result in such a saving that farmers could receive more for their product while consumers pay less.

It is time that we in Congress set aside our regional differences and do what is right for the nation for a change. It is time for all farmers across the nation to be treated equally and fairly. A streamlined regional milk marketing system is long overdue.

COUNCILMAN GILBERT WILLIAM LINDSAY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. DYMALLY. Mr. Speaker, Dr. Gilbert William Lindsay, a veteran of the U.S. Army's 10th Cavalry and 25th Infantry, and the first black member of the Los Angeles City Council, recently was the recipient of the honorary doctor of laws degree at the 1988 Howard University's graduation ceremonies.

I would like to bring to your attention, and to the attention of all my colleagues, Dr. Lindsay's significant contributions, and am requesting that the attached be inserted into the CONGRESSIONAL RECORD.

COUNCILMAN GILBERT WILLIAM LINDSAY

Gilbert William Lindsay, the first black man to become a member of the Los Angeles City Council, has a background in government that extends over 50 years. Born on a cotton plantation in Jasper County, Mississippi on November 29, 1900, he left the farm in his early teens and moved to Pittsburgh, Pennsylvania where he completed his secondary education.

Mr. Lindsay left Pittsburgh and went to Arizona to serve in the United States Army in both the 10th Cavalry and the 25th Infantry. Always seeking to progress by furthering his education, he enrolled in a program at the University of Arizona's School of Business Administration while in the Army.

Following military service, he went to California where he was hired by the Department of Water and Power for the City of Los Angeles. Using every available hour to pursue courses and take promotional examinations, he continually moved up through the civil service ranks.

Mr. Lindsay became quite active in politics and community affairs despite his busy schedule. In 1952, he served as Associate Manager in the campaign to elect Kenneth Hahn, Supervisor of Los Angeles County; and after the election, he was appointed the first black Deputy Supervisor, a capacity in which he served for 10 years.

In January of 1963, Mr. Lindsay was appointed to fill a vacancy on the Los Angeles City Council for the 9th District, becoming the first black Councilman in the City's history. In the general election in May, he was overwhelmingly elected, defeating 11 opponents. He has been re-elected for seven consecutive terms and has served for over 24 years. He serves on the Council's Public Works Committee as Chairman, as Vice Chairman of the Recreational, Library and Cultural Affairs Committee, and as a member of the Industry and Economic Development Committee. He is also Assistant President Pro Tempore of the City Council.

During Councilman Lindsay's tenure, District Nine has gained over 24 million square feet of office, commercial-retail and service industry space. A prominent concern of the Councilman has been senior citizen housing, and some of the major developments in the City continue to be in his district. Another area in which the Councilman has been instrumental in improving the quality of life for his constituents has been his support of parks and recreational facilities.

Councilman Lindsay has an extensive list of awards and honors which includes honorary degrees from City University, Los Angeles, Southwestern University School of Law and Lane College in Tennessee; the "Spirit of Los Angeles" award; and the Congressional Black Caucus Foundation's Adam Clayton Powell Award.

WILLIAM C. VELASQUEZ

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. GARCIA. Mr. Speaker, I rise today in tribute to the late Willie Velasquez, the director of the Southwest voter registration project and one of the most prominent Hispanic leaders in the country. The loss of Willie Velasquez last Wednesday was a devastating loss to the country and a deep personal loss to me; Willie was a good friend and I will miss him dearly. My heart goes out to this wife Jane and his three children Carmen, Catarina, and Guillermo and I wish them the courage and strength to deal with this loss. David S. Broder, the respected political columnist of the Washington Post, has written a tribute to Willie Velasquez that I would like to share with my colleagues.

The article follows:

[From the Washington Post, June 22, 1988]

DEATH IN THE FAMILY—THE LOSS OF WILLIE IS A LOSS TO THE NATION

(By David S. Broder)

The obituaries began with the formal name, William C. Velasquez. They quickly shifted to Willie. That was as it should have been, for there was an infectious, irresistible informality to the man who was mourned across America last week when he died in his home city of San Antonio at the absurd age of 44.

As with thousands of others—politicians, journalists and average citizens—my introduction to Willie came because I needed his help. In the mid-'70's, after stints of union and community organizing, he launched the Southwest Voter Registration Project, with the goal of mobilizing the Hispanic vote. Velasquez and his SVREP staff quickly became the repository of the most reliable information about Latino registration and voting patterns and an invaluable source of intelligence about political trends and leaders in that emerging constituency.

Our first meeting was literally an education. But like so many others, I came away, not just with statistics, but with the sence that I had been permitted to glimpse and to feel the energy and excitement of a fully committed human being.

As Willie talked about his charts, the columns of numbers came alive—as they do for few other political practitioners or observers. Every time we met, the conversation moved from the numbers to his current organizing campaign, and often it went on long past the scheduled time, through dinner, and on into the night.

Willie Velasquez's passion was the empowerment of people, his people, who have been the last of the major strains in our complex society to grasp and exercise the power of their numbers. The statistics say that in the 14 years he ran SVREP, the number of Hispanic-registered voters doubled to 5 million, and so did the number of Spanish-surnamed elected officials.

Willie's role was crucial. He did three jobs, at least. He used his national contacts to raise the funds for the organization. He directed its ambitious research program, insisting that it be scrupulously objective and, as he once told me, "not kid anybody about how far we have to go—especially not kid ourselves."

But his most important mission, the one he really enjoyed, was organizing the local registration, voting and redistricting drives. Hard as it was to overcome the inertia and the fear he found in the barrios, he always came back stimulated by the challenge—and the hope.

The last time I saw him, late one afternoon last year, in his cramped San Antonio offices, he was just back from an organizing trip somewhere in the Valley, and he asked me to join him in a debriefing session with his staff before we did anything else. He was dog-tired, but had a dozen follow-up assignments for them to get started in the morning.

Then we talked politics—from the 1988 presidential prospects to the situation of his friend and mayor, Henry Cisneros, of whom he spoke with a wonderful mixture of pride, affection and critical detachment. He suggested we go on to dinner, but I had another appointment—something I wish now I had canceled.

The cancer that killed Willie Velasquez was diagnosed only in the third week of May. He was told he had six months to a year, and he called Michael Dukakis, a man he had met while on a brief sabbatical at the Institute of Politics of Harvard's John F. Kennedy School of Government. He told Dukakis that with whatever time was left, he wanted to go ahead with the plan they'd been discussing for Willie to become the prospective Democratic nominee's deputy campaign manager. Three weeks later, Dukakis delivered a eulogy at Willie's funeral Mass.

I owe Willie Velasquez a personal debt, for 10 years ago, when I was writing a book about the younger generation of American political leaders, he not only talked reflectively about his own role but guided me to many others in the Hispanic communities across America who became part of the story.

So far as I know, he is the first of the 300-or-so principal figures in my book, "Changing of the Guard," who has died, and I feel as if it were a death in the family. It is, in fact, a loss to the nation, and his spirit, I hope, will continue to inspire the far-from-complete struggle for enfranchisement of millions of Hispanic Americans.

As this column was going to the editor, I received a phone call with the news that Richard Conlon, for 20 years the director of the Democratic Study Group of the House of Representatives, had been killed in a boating accident. Conlon was a product of the great liberal talent factory Hubert Humphrey started in Minnesota, and he became a major force in shaping a whole generation of young House Democrats. He was a central figure in the civil-rights and social-legislation battles and in the efforts to make House decision-making more open, honest and accountable. But beyond that, Dick Conlon was a clear-eyed guide for scores of reporters in understanding the dynamics of that unique institution to which he gave so much of his life—never cynical but always shrewd in his judgments of individuals and political forces.

If he and Willie get together in the next world and pool their energy and commitment, there will be no stopping them.

TRIBUTE TO JOE GRANT

HON. ELIZABETH J. PATTERSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mrs. PATTERSON. Mr. Speaker, it is my pleasure today to pay tribute to a dedicated and hard-working educator from my State of South Carolina. Joe Grant was recently honored at a ceremony in my district by many individuals who recognize his valuable contributions to education. Among his many honors, he is the first black executive director of the South Carolina Education Association, an organization with over 20,000 members.

Joe was born and raised in my home town of Spartanburg, S.C. He attended Clemson University for 2 years and later transferred to Wofford College. After the death of his mother, Joe took on the responsibility of raising his sisters and brothers and saw that they continued their education while he worked and continued his studies at Wofford. His dedication and desire to excel earned him a bachelor of arts degree in government and, ultimately, a masters degree in public administration from the University of South Carolina.

Joe has worked extensively in education and demonstrated his dedication to education and to the community in many ways. He has served as manager of governmental affairs for the South Carolina Education Association, associate project officer of the Nigerian manpower project for the U.S. Department of State Agency for International Development, assistant Executive Director to the government affairs manager for the South Carolina Education Association, assistant regional director of the midwest region of the National Education Association. Joe presently is executive director of the South Carolina Education Association.

Joe Grant is a positive role model in my district and the State of South Carolina. Despite numerous obstacles, his dedication and determination have resulted in an exemplary career in public service.

Mr. Speaker, I am proud to know Joe Grant. His contributions to education and his selflessness in helping others obtain their goals have helped the dreams of many of our young people to come true.

VIOLETA CHAMORRO ON NICARAGUA'S FATE

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, I would like to call your attention to a letter to Mr. Ortega from Violeta Barrios de Chamorro, editor of La Prensa.

Mrs. Chamorro's letter highlights the tragic conditions existing in Nicaragua today, months after Mr. Ortega made his pledge to democracy. Her words document the reality of a situation so many refuse to acknowledge: the Sandinista government never intended to restore full freedom and genuine democracy to the Nicaraguan people.

How could the Sandinistas be serious about democracy when they have received at least $105 million in military aid from the Soviet Union since January and more than $2 billion since 1980? It is absurd to think that we should even consider this acceptable. What could possibly justify any demand less than compliance by both the Sandinistas and the resistance?

I join Mrs. Chamorro in her charge that the Sandinista government never planned to comply with the terms of Esquipulas II: "The hesitations and double standards that your government has shown in the compliance of those commitments, have compelled us to speak the truth: Your government is giving proof of not wanting to honor your signature in those commitments. * * *"

Mrs. Chamorro's letter is a sad reflection of the cruel realities of life in Nicaragua. This freedom loving woman is just one of millions emotionally brutalized by the Marxist Sandinista government. I plead with my colleagues to listen to her words carefully and not allow partisan politics to determine the fate of real freedom in Nicaragua.

LA PRENSA,
MANAGUA, NICARAGUA, *June 7, 1988.*

MR. PRESIDENT OF THE REPUBLIC, COMMANDER DANIEL ORTEGA,
Managua.

I raise before you my most energetic protest, for the slanderous campaign being unleased against me, by the Sandinista Television System, a news media of your Party-Government, that has reached vulgar and dangerous extremes, never before seen in our society.

The last display in that Sandinista propaganda machine, which also appears in your Party's newspapers, "Barricada" and "El Nuevo Diario", shows the public the sacred remains of my husband, destroyed by gunshots, next to photographs or videos of me, taken out of context, that make me appear as if I am giving thanks for my husband murder.

Mr. Ortega: When you came to my house, pressured by circumstances at that time, offering me arrangements for the reopening of the newspaper "La Prensa", I not only refused them, but before qualified witness Mr. Rodrigo Madrigal Nieto, Foreign Minister of Costa Rica, I clearly expressed to you that "La Prensa" would either be published without any censorship, or would not be published at all. I even refused to accept, as direct pressure, the "responsible exercise of journalism", a phrase with which your negotiators intended to corner me, to insinuate previous arrangements in the reopening of "La Prensa".

You always knew that "La Prensa", in its new phase, having survived the brutal closing that for fourteen months prevented its circulation, imposed on us by your government, would carry out honest journalism, in favor of the interest of our people, without remaining silent in regards to any of the flaws that adorn your government. If you, in spite of all that, allowed the publication of "La Prensa", clearly because of the effect of "Esquipulas II" and not because of your generosity, that you would have to withstand responsible criticism of your acts and those of the people in your government, or, as in any democratic country, a condition that was intended to be achieved by the compliance of those same Guatemala Commitments, that you signed.

The hesitations and double standards that your government has shown in the compliance of those commitments, have compelled us to speak the truth: Your government is giving proof of not wanting to honor your signature in those commitments and it is my duty and that of "La Prensa" to point this out, before the Nicaraguan people and the civilized world.

On the other hand, it has been your government, and not La Prensa, that has sat in the table of negociations with the Nicaraguan Resistance, inspite of claiming that you would never do it, and that if, among the delegates of the Nicaraguan Resistance Commander, Enrique Bermudez, a former Colonel in the National Guard, has recently come along, it is exclusively your government, and not "La Prensa", that has accepted him as a legitimate speaker.

If negotiations are not developing in a favorable direction for the political interest of your Party-Government, in any case, it is your government delegation's fault, and not mine or that of "La Prensa", that is only limiting itself to publishing the truth. A truth that, in this case, whether you like it or not, consist in pointing out that your government, inspite of the disastrous state in which it has submerged Nicaragua, is bent only on defeating the rebellion, without allowing in reciprocity, the restoration of human rights to our people. In this state of things, we understand that we are reaching the end.

In this last round, your government, beseiged by disaster, due to the inefficiency and the stupidity displayed by the members of your government, is compelled to comply with "Esquipulas II" and you, as well as the people in your government, and your employees, know it.

All Nicaraguans know that you and your government have brought us to "the bottom of the barrel", to the point where there cannot be more delay in signing the peace accord. Which requires returning the people their usurped rights and freedoms.

For all this, neither La Prensa nor I are to blame, even less the memory of my husband, Pedro Joaquin Chamorro Cardenal, that should be sacred, more so for you, Sandinistas, who have benefited from his sacrifice.

While the destroyed body of my husband, killed by assassin bullets which I am still not certain what side they came from, in the infamous medio of your Party-Government, along with images of me, you are suggesting my satisfaction for his murder. This is a cowardly act, that can only be explained by the poor moral standards which distinguishes your government.

Trying to hide your weakness and that of your government, from the people and from your own party members, a weakness which will surely make you comply with 'Esquipulas II", forced by the miserable reality we are living, is something that might be understood by those who know and carry out your government's policy. But to try to camouflage this reality, handling the destroyed body of my husband, who was declared "Martyr of Public Freedoms" by your own law, insulting and slandering his widow, who by just being a widow and a woman should be given respect, is another thing.

This is a desplicable, infamous, ignominous and immoral act, of a nature that has characterized your abominable government, that one day, carried away by the excitement and emotion proper of a woman, I supported, something which I have deep sorrow for, just as I am sorry for my sins.

As a Nicaraguan, I support peace. As a woman, I join with the feelings of all the widows and mothers of this country, who suffer because of your government, and as Director at La Prensa, I promise you and the Nicaraguan people to continue in my path of truth and justice, that is, denouncing and fighting the acts of your government, until you and your government decide to deal me the "club" of barbarism or the "bullet" of the assassin.

VIOLETTA BARRIOS DE CHAMORRO.

SALUTING CONGRESSMAN STENY HOYER

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. CARDIN. Mr. Speaker, I rise today to salute our colleague Congressman STENY HOYER of the Fifth District of Maryland. Congressman HOYER will be honored this Saturday, June 26, 1988, at the Beth Torah Congregation in Hyattsville, MD, for his efforts on behalf of the Jewish community here and abroad.

Those efforts have been considerable. As you are all aware, Congressman HOYER is chairman of the Commission on Security and Cooperation in Europe, also known as the Helsinki Commission. He was appointed cochair in April 1985 and has chaired the Commission since January 1987.

Congressman HOYER has been a leader in the effort to have Jews released from the Soviet Union. As a member of the Helsinki Commission he has presented to Soviet leaders the names of refuseniks, dissidents, and religious believers who have been denied permission to emigrate. Thanks to Congressman HOYER, there are several local stories with happy endings.

As chairman of the Helsinki Commission he has had numerous opportunities to travel to the Soviet Union, and each time has actively pressed Soviet leaders to ease restrictions on emigration and to improve their record on human rights.

In addition, he is a nationally recognized expert on human rights and the plight of Soviet Jews. In October 1987 he was a member of the panel discussing Soviet Jewry on ABC's Nightline Capital-to-Capital, broadcast live to both the United States and the Soviet Union. There he discussed human rights with his Soviet counterparts. As a result of that discussion, the Helsinki Commission is now designated to discuss with members of the Supreme Soviet specific human rights cases. This is an enormous step forward, and Congressman HOYER played a critical role in setting up this dialog.

In addition to his international work, he has been closely involved with the Jewish community in the United States, addressing countless rallies and conferences, participating in the annual Call to Conscience Vigil, and in many other activities.

I could go on. These are only a few of Congressman HOYER'S achievements relating to the Jewish community. STENY HOYER is indeed to be honored for his tireless efforts on behalf of Jews both here and abroad, and for his courage and leadership in defending human rights around the globe. I urge my colleagues to join me in saluting our colleague and my friend, STENY HOYER.

THE SPORT OF HARNESS RACING

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. GILMAN. Mr. Speaker, the sport of harness racing and, indeed, our Nation, recognizes several important anniversaries in 1988—each one having significance in the history of the United States of America.

Two hundred years ago, the English thoroughbred horse Messenger was sent to the United States for the express purpose of replenishing the thousands of horses that were wiped out in our War for Independence. Due to his Norfolk breeding, Messenger sired both throughbreds and trotters, and all American thoroughbreds and trotters today are his descendants.

The arrival of Messenger on those shores in 1788 resulted, over a century later, in the creation of a new breed of horse, exclusively American: the Standardbred.

Celebrating its 200th anniversary, also, is the town of Goshen, NY, known throughout the harness racing world as the cradle of the trotter. Much of that sport's earliest history was recorded in this seat of Orange County government. And today the community is surrounded by burgeoning horse farms which produce some of the country's best harness horses.

Located in the heart of the Village of Goshen is the Historic Track, the oldest harness racing track in America and the first sporting site in the Nation to be designated a Registered National Historic Landmark (1966) by the National Park Service of the Department of Interior.

It was at Historic Track, in 1849, that a weanling was first introduced to the public by his owner, William Rysdyk, a local farmer. The young horse's name was Hambletonian, a direct descendant of the imported Messenger. And it was this very same Hambletonian that established the strong blood-lines which led to the world superior trotting and pacing family of Standardbreds.

To forever record and preserve the traditions and culture of this truly American sport, the Trotting Horse Museum, home of the Hall of Fame of the Trotter, was opened in the village of Goshen, NY, in 1951 to make the public mindful that the first, great American pastime was trotting.

Mr. Speaker, on Friday, July 1, the Goshen Historic Track will kick off 4 days of festivities to celebrate its sesquicentennial and to commemorate these other milestones. I invite our colleagues to visit the beautiful Historic Track at Goshen, NY, as well as the Hall of Fame of the Trotter. Trotter racing, which had begun as a purely American sport, has, in the last 50 years, become a major international amateur competition.

In addition to commemorating the 150th anniversary of the Goshen Track, the 200th anniversary of the founding of the town of Goshen and the 200th anniversary of the voyage of Messenger to the United States, the Goshen Historic Track will be hosting the third in a series of races in North America for the World Cup Amateur Driving Championship.

Mr. Speaker, I would like to insert into the RECORD at this point a brief history of Harness Racing's World Cup Amateur Driving Championship compiled by a local historian, Phil Pines.

HARNESS RACING'S WORLD CUP AMATEUR DRIVING CHAMPIONSHIP 1988

Amateur harness racing has been a major international sport in Europe for over half a century. More than a dozen European nations have national associations, and amateur driving clubs flourish in each country.

Competition developed between, and among, clubs and countries of the continent. In order to formalize this competition, and create international championships, a European super organization—Federation Europeenne Des Gentlemen Amateurs Et Cavalieres Du Trot (FEGAT)—was established.

Hoping to achieve Olympic recognition, a goal that is still being actively pursued, FEGAT, in 1972, organized the World Cup Amateur Driving Championship. It has been held every Olympic year since.

J. de Saint Bouveur, from France, was the first World Cup championship winner. Germany hosted that initial competition. Four years later, Erhard Schneider, Switzerland, won the championship, which was held in Paris, France.

Drivers from 16 nations converged on Austria for the 1980 renewal of the competition with Holland's Jan Onrust the champion. In 1984, in Holland, German reinsman, Edelbert Ohmer, prevailed.

Drivers from the United States and Canada were often invited to compete. As a result, North American Amateur Drivers Association (NAADA) was formed to represent U.S. and Canadian participants.

In 1985, FEGAT and NAADA joined together to form the World Amateur Drivers Federation (WADF). This organization now schedules and supervises the quadrennial World Cup championship.

For the 1988 championship series, WADF accepted a bid by NAADA to host the competition which now leaves the European continent for the first time.

The 1988 World Cup championship will be contested by the champion amateur drivers from 12 European countries, Canada and the United States. Each country qualifies its representative through its own championship series, or race.

These champions will compete in five races, at four different tracks, three in the United States and one in Canada.

In several of the races, all fourteen drivers will go to the post, a circumstance that perhaps favors the Europeans as they are used to racing in large fields. At at least one track, the competition will be in two seven-horse fields. It is anticipated that mutuels may be available for one or more races.

The medalists—Gold, Silver, Bronze—are the three reinsmen earning the greatest point totals in the series. The task of tabulating points, and the formula determining them, is the responsibility of WADF, which will have its president and several vice presidents in attendance at all events.

Nations represented, through association champions, in the 1988 competition are: Austria, Belgium, Canada, Denmark, France, Germany, Holland, Hungary, Italy, Norway, Spain, Sweden, Switzerland, and the United States.

A driver from a 15th country, Finland, was forced to withdraw following an after-deadline accident.

RICHARD CLAXTON (DICK) GREGORY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. DYMALLY. Mr. Speaker, Dr. Dick Gregory, the noted comedian and civil rights activist, recently received an honorary degree of doctor of humanities at Howard University's 1988 Convocation.

I would like to bring to the attention of my colleagues, the significant contributions made by Dr. Gregory, and am requesting that the attached be inserted into the CONGRESSIONAL RECORD:

FOR THE DEGREE OF DOCTOR OF HUMANITIES: RICHARD CLAXTON (DICK) GREGORY

Richard Claxton (Dick) Gregory, comedian, civil and human rights activist, author, lecturer and entrepreneur, was born during the Depression in St. Louis, Missouri in 1932. He attended Sumner High School, where he developed into a track star, and in 1951, he won the Missouri State Mile Championship with a time of 4:28. He was President of his senior class, wrote and acted in his class revue, and won the Sumner High School citizenship award. During his senior year, he was offered twelve athletic scholarships to colleges and universities. he accepted the one from Southern Illinois University at Carbondale. In 1952, while at Southern Illinois, he again ran the Missouri State Mile Championship in 4:27; he won the half mile in 2:07, a time that then ranked him third in the United States. He was captain of the cross-country and track teams and was named outstanding athlete of Southern Illinois University in 1953.

After two years of college, he left to join the United States Army, doing comedy routines in G.I. shows. When he completed his tour of duty, he returned to Southern Illinois, hoping to complete his studies and become a teacher. In 1956, before graduating, he left college for good.

It was at this time in Mr. Gregory's life that he met two persons who proved to have a major influence on his life—Tim Boxer, an unemployed press agent, who sang his praises to any night club owner who would listen, and his wife, Lillian, who he married in 1959, and who worked as a secretary to provide the financial support he needed over the difficult times.

His big break came in 1961 when an agent asked him to fill in for ailing comedian, Irwin Corey. The success of that appearance landed him a contract for three more weeks that was twice extended to accommodate the crowds. This break led to engagements in celebrated clubs such as the Playboy in Chicago and the Blue Angel in New York. He appeared on the Jack Parr Show several times and signed a contract with Colpix Records for two albums. In February of 1961, Time magazine published a profile on him which brought him national attention.

Fasting has played an important role in Mr. Gregory's life, changing it both physically and spiritually. His first fast was for 40 days in 1967 in protest of the Vietnam War. Since that time, he has fasted to help numerous worthy causes. He gives generously of himself and his possessions to various activist projects. He has sat with black students protesting segregation in restaurants, joined with students who took over buildings at Columbia University, and he has demonstrated with American Indians to protect their fishing rights.

Mr. Gregory is a prolific writer. Among his publications are "Nigger: An Autobiography (with Robert Lypsite)"; "What's Happening?" "The Shadow That Scares Me," "Write Me In," "From the Back of the Bus," "No More Lies," "The Murder of Martin Luther King, Jr.," and "Up From Nigger (with Mark Lane)."

Mr. Gregory and his wife are the parents of 10 children.

PERSONAL EXPLANATION

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. PACKARD. Mr. Speaker, this past week I had the honor of accompanying a group of the survivors of Wake, Guam, and Cavite, Inc. on a trip to Wake Island. I had the honor of dedicating a mounment as a memorial to these men and their colleagues. This trip had great meaning for me personally as my deceased father was one of the men who was taken prisoner on Wake Island during the early days of World War II.

Due to this trip, I missed a number of votes. Had I been present I would have voted in the following manner:

Rollcall vote No. 181, "yea."
Rollcall vote No. 182, "nay."
Rollcall vote No. 183, "nay."
Rollcall vote No. 184, "yea."
Rollcall vote No. 185, "nay."
Rollcall vote No. 186, "nay."
Rollcall vote No. 187, "yea."
Rollcall vote No. 188, "nay."
Rollcall vote No. 189, "nay."
Rollcall vote No. 190, "nay."

A SALUTE TO DR. JERRY J. CALLIS

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to pay tribute to Dr. Jerry J. Callis, a researcher with the U.S. Department of Agriculture's Agricultural Research Service who is one of my constituents. Dr. Callis was awarded an honor this morning by the Secretary of Agriculture for his distinguished service in protecting the Nation's livestock from disease.

Since 1952, this man has spent much of his life working on a small, isolated island off the north fork of Long Island. At the USDA's Plum Island Animal Disease Center, he directs an expert team of scientists in diagnosis and research involving approximately 40 animal diseases not found in the United States. With great foresight, Dr. Callis and his colleagues at Plum Island have been seeking ways to prevent the spread of these foreign microbes which, if spawned in our country, could spell disaster. Imagine the devastation to our Nation's farm economy and public health which could result if U.S. livestock were to fall victim to a plague against which the creatures bear no immunity.

Dr. Callis' scientific contributions have reached far beyond the Plum Island facility. His achievements throughout the world in cooperative research are truly outstanding. While Nikita Khrushchev was in power, Callis traveled to the Soviet Union to participate in a scientific exchange. In 1963, as an adviser for the Agency of International Development, he worked to control foot-and-mouth disease in Latin America, the Middle East, Turkey, France, and Switzerland. Two years later, Dr. Callis spent time evaluating the rinderpest control program in western and central Africa. In that year, President Lyndon B. Johnson awarded Jerry Callis with a Presidential Citation. These are but a few of his many accomplishments.

Mr. Speaker, I am pleased to have the opportunity to add my sincere thanks to that of our Secretary of Agriculture for Jerry Callis' long record of public service and significant achievements. He has earned the respect and admiration of his colleagues around the world as well as his friends and neighbors on Long Island. I look forward to his continued scientific contributions to the protection of the Nation's livestock.

CARL GREEN, SR. RETIRES FROM HOUSING AUTHORITY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. TOWNS. Mr. Speaker, on Friday, June 24, 1988, Carl Green, Sr. will be retiring from the New York City Housing Preservation Department after 25 years of service.

Carl Green, Sr. was born on March 17, 1922 in Wilmington, NC. He came to New York in 1936, settling in Brooklyn. He worked as a cutter in the garment district until World War II, when he served in the U.S. Army, as a sergeant with the 184th Combat Engineers.

Always a man of high ideals, Carl Green, Sr. became involved in the struggle for human rights and dignity in the early 1960's. He was prominently involved in demonstrations at Downstate Hospital for minority participation in the construction industry. He also participated in economic boycotts and marches against Woolworth's Department Store, to force them to hire African-American employees. In August 1963, Carl Green, Sr. was one of the millions of people to participate in the great March on Washington.

While an employee of the New York City Housing Authority, Carl was a moving force in the founding of the Progressive Inspectors. This organization of black inspectors was responsible for forcing and implementing positive change in the minority hiring policies of the department. In addition, Mr. Green worked very closely with the Honorable Harrison Jay Goldin, city comptroller, in reinstating employees who were laid off during the city's fiscal crisis.

Carl Green, Sr. was a dedicated supporter of Presidential candidate Jesse Jackson's bid for the Presidency of the United States in both 1984 and 1988. He volunteered a great deal of time and energy to this cause, ultimately helping Reverend Jackson to win the borough of Brooklyn, NY by an overwhelming 20,000 votes in the 1988 primary.

Mr. Green is, above all, a devoted family man. He and his wife Theopia Green are the parents of Carl Green, Jr., and Roger L. Green, who is assemblyman of Brooklyn's 57th Assembly District.

Carl Green's integrity and honesty are legendary throughout Brooklyn. I am confident that he will be sorely missed by the housing authority. I ask my colleagues to join me in extending best wishes to Carl in all his future endeacors.

IMPOSING CRIMINAL PENALTIES FOR DAMAGE TO RELIGIOUS PROPERTY AND OBSTRUCTION OF PERSONS IN FREE EXERCISE OF RELIGIOUS BELIEFS

SPEECH OF

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 14, 1988

Mr. DYMALLY. Mr. Speaker, I rise today in support of S. 794, a bill which makes it a Federal crime to interfere forcibly with the free exercise of religion.

I would like to extend my compliments to both sponsors, the distinguished Representative from Kansas, Mr. GLICKMAN and the honorable Senator from Ohio, Mr. METZENBAUM for their diligence and commitment to ensuring that our laws impose criminal penalties for damage to religious property and for obstruction of persons in the free exercise of religious beliefs.

On December 22, 1987, I expressed my support for H.R. 3258, a companion bill to S. 794, which the House passed on June 14, 1988. Our forefathers long ago came to our shores seeking refuge from religious persecution. Ever since, our Constitution has guaranteed religious freedom for all our citizens. This bill extends these protections by ensuring that those who do not abide by our Constitution are dealt with appropriately by our law enforcement system.

Mr. Speaker, when I addressed the House last regarding this bill, I expressed my concern that the bill was not clear in that it did not specifically include the protection of mosques. At that time, I cited as an example of violence against the Islamic community nationwide one incident, when two homemade pipe bombs were thrown from a truck through the window of a mosque in Houston, TX causing $50,000 in damage. Other mosques throughout the country were vandalized or threatened, and some even received threats stating: "You people are dead."

There has never been a greater need to protect the American Islamic community. According to a recent study published in Time magazine, the American Islamic population is rapidly approaching 5 million strong, and is estimated to become the second largest religious community in this country in 30 years.

I am glad to say, today, that Senator METZENBAUM has amended his bill to remove all ambiguity, and specifically to include the term mosques under its protection. I am grateful to the Senator for his amendment which demonstrates clearly that this is a truly comprehensive bill, one which affords protection to all religious segments of our society.

Mr. Speaker, I believe that this is an important legislation, one which reaffirms our heritage of religious tolerance as guaranteed by our Constitution, and I urge my colleagues to support its passage.

WILLIE VELASQUEZ

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 15, 1988

Mr. BUSTAMANTE. Mr. Speaker, as were many of my friends and colleagues, I was saddened to learn of the untimely death of Willie Velasquez. It is difficult to lose a member of your community who has done so much to bring it together and give it a feeling of self-worth and control over its condition. Though he was only 44 years old, he had lived a full life and accomplished the goals of a hundred lives.

When Willie began the Southwest Voter Registration Education project, the voice of Hispanic Americans in our Nation's affairs was a soft one. Fewer than 2½ million Hispanic citizens were registered to vote and only a miniscule few held elected office. Though our numbers were large, and growing, we had not established ourselves as a major participant in the political arena. In large part, through the major efforts of Willie, and the feelings of empowerment he gave us, our voice has grown stronger. Through hundreds of voter registration drives orchestrated by the project, the number of Hispanics registered to vote doubled to more than 5 million. That growth was accomplished by an increase in Hispanic elected officials, many of whom received votes from newly registered participants.

As the project grew and brought more people into the American dream of participatory democracy, Willie never lost sight of his purpose and remained true to his goal of empowering others rather than himself. When we think of Willie, our thoughts will be filled with admiration and thanks. Willie brought a sense of hope and self-worth to millions of our fellow Americans, and for that we will always be thankful.

DRUG FREE AMERICA ACT OF 1988

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. BUECHNER. Mr. Speaker, I recently introduced the Drug Free America Act of 1988 to help combat the war on drugs. H.R. 4822 would aid greatly in fighting the drug problem in our Nation. There are three areas where we need to focus our attention—user accountability, drug interdiction at our borders, cutting the production and supply of illicit drugs at the country of origin. This legislation will meet these three major objectives.

First, it is time to start toughening up on first offenders. Under this legislation, all first offenders convicted of possession, but merely placed on probation, would be sentenced to community service. Our prisons are clogged and as a result, rarely the place for first offenders. Let's not give offenders a slap on the wrist, but a sense of what they did wrong. If judges decide that mere probation is the appropriate sentence, a mandatory community service sentence would make them think long and hard about using drugs again.

It is vital that these users be held accountable. As the Wall Street Journal stated in its editorial: "What About the Users?" (June 21, 1988), "Anyone guilty of a drug crime should receive mandatory punishment. . . . By targeting users—raising the risk of their crimes with the promise of certain punishment—policymakers can seriously dent demand." I agree, and it's time we address the problem of first offenders.

Second, far too often we in Congress devise new programs without thinking about funding. Our war on drugs is a top priority for all of Members of Congress. It is, therefore, important for us to provide funding mechanisms without increasing taxes. In its frenzy to enact popular antidrug legislation, Congress may fail to consider the budgetary impact of new multimillion-dollar programs. Yes, more funding for drug interdiction may be needed, but let's be cognizant of how to pay for it.

This legislation would impose a special landing or customs fee on all passengers arriving in the United States. This fee, which I have designated as $10, would be added to each airline ticket and would go toward Customs drug interdiction efforts. On the basis of last year's statistics, this would raise over $250 million.

This fee is important because it would require non-American citizens as well as Americans who land in the United States from a foreign country to help finance our war on drugs. In addition, while drug interdiction money is falling—the House cut appropriations for the Coast Guard during the week of June 13—we need to find more funds to curb the flow of drugs into the United States.

In 1987, more than 300 million persons entered the United States. Customs seizures amounted to over $741 million. If additional funds can be wisely spent in furtherance of drug interdiction efforts and if these funds can be allocated without resort to new taxes, then a fee such as this should be considered.

Finally, the legislation mandates the President to devise two multinational strike forces for the Western Hemisphere and NATO. The purpose of the strike forces shall be to combat illicit narcotics production and trafficking through military or paramilitary actions, coordination of intelligence activities, and such other means as agreed to by the participating countries.

In a CBS/New York Times poll, Americans indicated that the most important foreign policy issue facing the Nation is drug trafficking. It is time for Members of Congress to tell their constituents, "we've heard you and now we're serious about doing something to stop this terrible problem." While H.R. 4822 is not a cure-call for our Nation's drug problems, I believe it could serve as a major impetus in stemming drug abuse in our country.

THE FAMILY AND MEDICAL LEAVE ACT

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. YATES. Mr. Speaker, in celebration of Mother's Day I joined with my colleagues in the House to call for the passage of a bill before the House, H.R. 925, the Family and Medical Leave Act. As the House has not yet considered this bill, it seems a fitting remembrance of Father's Day to again call attention to the importance of passing this legislation.

H.R. 925 is a simple bill with a simple but important purpose. The Family and Medical Leave Act states priorities, putting families and individuals first. The bill offers job protection to the person who wishes to start or add to his or her family and to the individual who must take time off to recover from a serious illness.

Single income, two-parent families are rapidly becoming a thing of the past. The rising cost of living has pushed both parents into the work force just to keep up. Single parent families are under even tighter constraints.

While the country is moving toward single parent families and dependence on two-earner incomes, the nonmaterial needs of the family often go ignored or unmet. This legislation is a step toward meeting these needs.

There is renewed discussion about the importance of our children and our families. We are finding that as a working society we will have to make changes. We cannot afford to let the strength of the family dwindle away unattended. H.R. 925 makes important changes and among other things, allows employees the freedom to attend to family priorities secure in the knowledge that they will have their jobs upon return. It's a fair and reasonable expectation.

On the occasion of this day set aside for fathers, I ask you, as a father, to consider and pass this important measure.

IT'S TIME TO TAKE THE TRUST FUNDS OUT OF THE UNIFIED BUDGET

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. STARK. Mr. Speaker, I am today introducing legislation to accelerate the removal of the hospital insurance [HI] trust fund from the unified budget and to not count the revenues/expenditures for Gramm-Rudman purposes.

This legislation is a companion bill to Representative BYRON DORGAN'S bill, H.R. 4396. His bill which excludes receipts and disbursements of the Old-Age and Survivors Insurance [OASI] and disability Insurance [DI] trust fund for Gramm-Rudman purposes in calculating Federal deficits and maximum deficit amounts.

The OASDI and HI trust funds were made a part of the unified budget by Executive order beginning in fiscal year 1969. This was done by President Johnson as a means of hiding the growing deficits from the Vietnam war. In the 1970's and early 1980's the various administrations and Congress again turned to the Social Security Trust Funds to relieve budgetary pressures.

Because of concern over the long-term reduction and even elimination of various types of Social Security and Medicare benefits, the bipartisan Commission on Social Security Reform recommended removing the Social Security and Medicare HI trust funds from the unified budget.

The Commission rightly argued that changes in the Social Security and Medicare programs should be made exclusively on the basis of the objectives and financial constraints of these programs. The Committee on Ways and Means and the Congress agreed with this assessment and enacted the Social Security amendment which contained the provision to remove the trust funds beginning in fiscal year 1993.

In short, it was Congress' intent that Social Security and Medicare Program decisions should not be made to meet other economic policy goals or budgetary constraints of the Federal Government as a whole.

Mr. Speaker, as chairman of the Subcommittee on Health I have seen first hand how the current administration has sought year after year to cut Medicare in order to reduce our unacceptably high deficits. We cannot allow this slight-of-hand bookkeeping process to determine Medicare policies. The Congress went through the painful process of solving the financial problems of Social Security. My Subcommittee on Health has worked diligently to push back the date of insolvency of the HI trust fund with each reconciliation bill.

If we are serious about deficit reduction—and we cannot afford to be otherwise—then we should look at those areas of the budget which are actually driving up the deficits.

This legislation would remove the HI trust fund from the unified budget in fiscal year 1990 and exclude receipts and disbursements from the HI trust fund from the calculation of Federal deficits and maximum deficit amounts under Gramm-Rudman.

I hope my colleagues will join me in once again affirming their commitment to making changes in the Social Security and Medicare programs based on sound policy decisions rather than on short-term budgetary considerations.

THE PISTONS ARE WINNERS NO MATTER WHAT

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. BROOMFIELD. Mr. Speaker, I would like to congratulate the Detroit Pistons for their fine effort in the National Basketball Association Championship Series against the Los Angeles Lakers. Although the Pistons, whose homecourt is now in my district, do not yet have an NBA Championship banner to hang from the rafters of the newly constructed Piston Palace, located in Auburn Hills, MI, I am confident that this fine young team will have many such banners in the years to come. The gritty determination which the Pistons showed in taking the Los Angeles Lakers to a final game in the seven-game NBA Championship Series was an inspiring as it was exciting.

I am sure that devoted Pistons fans everywhere join me in thanking the team for this season's effort. For those of us who must spend time away from Michigan, it is a great thrill to have the home team do so well. I know that my staff and I, loyal fans one and all, appreciated the opportunity to watch and cheer for our team, the Detroit Pistons, in their quest for the NBA crown. Of course, it would be nice to have bragging rights, but in the end the Detroit Pistons gave us much more than a win. Their solid play and hard working attitudes are the qualities on which the great State of Michigan was built. Their victories were our victories, and they gave us a chance to remind everyone what a great place Michigan really is.

I would like to offer my personal congratulations to all of the Pistons, Adrian Dantley, Isiah Thomas, Joe Dumars, Vinnie Johnson, Bill Laimbeer, James Edwards, Dennis Rodman, John Salley, Rick Mahorn, Chuck Nevitt, Walker Russel, and Ralph Lewis. In addition, I commend Head Coach Chuck Daly for his strategy and leadership, General Manager Jack McCloskey for his patience in building this team, and Owner William Davidson for his dedication and loyalty to the fans of the Pistons everywhere.

A "NO" VOTE FOR SANCTIONS AGAINST SOUTH AFRICA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. CRANE. Mr. Speaker, the Ways and Means Trade Subcommittee held a hearing on H.R. 1580, "the Anti-Apartheid Act of 1988" on June 9, 1988. In addition to testimony heard on the affects of sanctions on South Africa, many of the witnesses focused on the likely impact further sanctions will have on the United States. A report released by the Congressional Budget Office last month estimates that the Dellums bill, which eliminates all imports and exports to and from South Africa and prohibits all United States investment in that country, will cost the Federal Government $5 million in fiscal year 1989, and will increase to $14 million in fiscal year 1993. If the Dellums bill is enacted, we can anticipate a significant loss of U.S. jobs, possible penalties under the General Agreement on Tariffs and Trade, and substantial ramifications from excising our access to essential metals and strategic minerals.

An 18-page study recently conducted by the Wharton Econometric Forecasting Association has found that the United States coal exporters lost $250 million in 1986 and 1987 due to the United States embargo on imports of South African coal. The National Coal Association has stated that between 3,000 and 7,000 United States miners have lost their jobs as a direct result of sanctions against South Africa. Additionally, a report released in April by the U.S. Department of Commerce concluded that current sanctions could potentially cause a loss, in sales and canceled contracts, of up to $300 million annually to the U.S. uranium industry. Although that figure was not computed into actual jobs lost, we can be sure the number is substantial. The trade bill, which recently passed through Congress, before it was vetoed by the President, would lead one to believe that Members of both bodies are interested in protecting American jobs. If this is truly the case, it will be difficult for Members to justify voting in favor of this legislation.

A provision in the bill which authorizes the President to limit imports from any other country which benefits from or takes commercial advantage of any prohibition imposed by the bill may have serious implications for the United States. This measure has been said to violate article I of the GATT that requires all GATT signatories to be treated equally on a most-favored-nation basis. Additionally, these provisions may nullify and impair the benefits of other GATT trading partners and require significant compensation by the United States under article XXIII.

A further example of the impact of sanctions on the United States lies in the area of strategic metals and minerals. The provision in the Dellums bill which calls for a ban on the importation of most South African strategic metals has been estimated by a Bureau of Mines study to cost the United States economy at least $1.85 billion a year. As a result, our dependence on the Soviet Union for essential metals such as platinum, rhodium, and palladium will increase by an estimated 25 percent. Even with the Soviet supply, in addition to other available world sources, the amount will only satisfy approximately half of the United States industrial demand. Although the bill allows the continuation of some strategic minerals deemed irreplaceable by the President, some analysts have said South Africa could forbid the shipment of the metals as a form of retaliation.

As Members of Congress, it is clear that we are all in agreement in that the official policy of apartheid practiced in South Africa is appalling, and the United States should do everything in its power to see that it is dismantled. Unfortunately, we are not in accordance on the most effective method in which to achieve our mutually desired goal. The Dellums solution maximizes the destruction of the South African economy, which will increase black unrest, and ultimately lead to civil war. A more effective method, which may take a little longer but will not lead to bloodshed, would be to increase the power of blacks economically, and eventually the Government of South Africa will be forced to recognize them politically.

THINKING ABOUT THE FAMILY ON FATHER'S DAY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. BROWN of California. Mr. Speaker, in honor of Father's Day, I would like to join my colleagues in focusing congressional attention on family issues and the wide variety of legislation that has been introduced to address some of these needs.

While many Members of Congress agree that the problems of parental leave, health, and day care are issues that go beyond the strictly personal priorities and decisions of the individual, we are often overwhelmed in our attempt to legislate a solution.

It is obvious that this Nation does not want a generation of latchkey children, yet finding a workable solution to day care and family leave policy has so far evaded us. While I do not believe that government should go into the business of child care, I do believe we are in the business of leadership. And leadership means providing a forum where critical issues are constantly reviewed, discussed and kept on the agenda until they are resolved. Individuals, businesses and government cannot solve these problems separately.

The government's role in solving the problems faced by the American family is, it seems to me, to be in working to forge a partnership among all of the players—families, employers, and government. Today our concept of "father" goes beyond breadwinner. Fathers are expected and encouraged to be active participants in the lives of their children. Father's Day is an appropriate time to rededicate ourselves to tackling the problems faced by working families. But more importantly, we must all work together to find solutions.

A TRIBUTE TO GEORGE M. MARTIN

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. NOWAK. Mr. Speaker, at the end of this month, George M. Martin will reach a new plateau in a relationship with Canisius College in Buffalo that has spanned 50 years.

It is an association that began when he entered this Jesuit college as a freshman in the late 1930's and enters a new phase June 30 when he retires as the institution's executive vice president for administrative affairs. He has served in the college administration for more than 20 years.

Having had the privilege of being a representative of the city of Buffalo and an alumnus of Canisius College, I have firsthand knowledge of the tremendous contributions George Martin has made to the college and the Niagara Frontier.

A World War II veteran awarded the Bronze Star for his service in Europe, George Martin's multifaceted career is a textbook definition of civic awareness and public service.

That record is detailed in the following article from the June issue of the "Canisius College Chronicle," which I would like to insert in the RECORD at this point:

GEORGE MARTIN TAKES ON A NEW CANISIUS ROLE

(By Sue Hayward Banchich)

He has raised millions of dollars for his alma and devoted most of his life to its betterment. Now on the brink of retirement as executive vice president for administrative affairs at Canisius College, George M. Martin ('42) is not about to sever his ties with the institution he so loves. Friday, July 1 will merely mark a new era in that relationship as he steps aside from a full-time post to become special counsel to the president at the request of Canisius President, Rev. James M. Demske, S.J.

A South Buffalo boy, George attended St. Thomas Aquinas Parochial School and St. Joseph's Collegiate Institute before entering Canisius College in 1938. The business acumen that later became his hallmark was already evident. He served as president of the Commerce Club and circulation manager of the yearbook, was elected to the Coffin Club—foreunner of today's DiGamma honor society at Canisius—and earned a name for himself organizing the best campus dances in the area.

A note in the 1942 yearbook portended the political and administrative success to follow: "Organizer deluxe and persuader extraordinary describes this politican. George's pen is a mighty weapon and his arguments are overwhelming. Give him a worthy purpose and watch him work . . ."

George's plans to attend law school after graduation from Canisius were postponed by World War II. He served three years in the Army—during which time he earned the Bronze Star, one of the nation's highest military awards—before retiring from overseas to attend law school at the University of Buffalo.

POLITICAL INVOLVEMENT

Peter Murrett, one of George's law school classmates and now a Buffalo attorney, recalls, "The transition from active wartime service to the not-so-wrongfully-perceived terrors of law school put George and his classmates in a strict regimen of study and hard work. There was little time and less inclination to pursue the extra-curricular activities of our carefree college days, but George never seemed to regard politics as an activity to be regarded lightly. With him politics was always an essential part of citizenship, and if there ever was any doubt of his intention to participate, it was removed on the morning after Election Day in 1948 when we cut our classes and sat listening to a car radio outside law school until the California returns assured the Harry S. Truman victory."

A staunch Democrat, George would provide substantial service to state and local government and to the Democratic Party in the years to come.

In 1949, the same year he received his law degree, George returned to Canisius to work part time as the college's first alumni director, a position he held until 1958. He organized the Office of Alumni Relations; established and directed the Alumni Loyalty Fund, precursor of today's annual giving campaign; and began editing and publishing the Canisius College Alumni News.

He left Canisius in 1958 to devote full time to his law firm. Less than a year later, Buffalo Mayor Frank A. Sedita appointed him commissioner of parks, a post he held three years until he became public administrator of Erie County in 1962. His work in government fortified his political savvy, a tool he used later on behalf of Canisius College and many other institutions of higher education.

Canisius drew him back from the public sector in 1967, when he accepted a post as its administrative vice president—the first lay vice president in the college's history. In the ensuing 21 years he has helped bring Canisius to the forefront of the colleges and universities in New York State.

George's boundless creativity in establishing new programs and matching them to prospective benefactors has resulted in a richness of educational and cultural programs for the college, including the Frank G. Raichle Lecture Series on Law in American Society; the W.J. Conners Lecture Series in American Political History; the Alumni Tuition Plan, through which parents can save thousands of dollars by prepaying their children's tuition; myriad scholarships; and, more recently, the Palisano Vocation Fund, aimed at bolstering the dwindling number of new religious vocations in Western New York through a unique tuition rebate program at Canisius.

The scope of his work is evidenced by the dramatic growth of the advancement section of the college. A one-man shop when he first began working part time at Canisius in 1949, the area now encompasses alumni relations, annual giving, grants services, deferred giving, advancement records, development research, capital giving, publications, public information, and government relations. The staff includes 13 professionals plus support staff, all working under George's direction to ensure the financial stability and strength of the college.

The results have been equally dramatic: The current "Campaign for the Eighties" capital giving campaign is nearing completion of its $32 million goal in July. The annual giving campaign, which contributes to scholarships and the college's operating expenses, brought in more than $2.1 million last year. George's alumni newspaper, now published as the Canisius College Chronicle, reaches 41,000 people around the world.

His political skills have reaped important benefits for college students across the state. James C. Ross, executive director of the Council of Governing Boards—New York's independent higher education trustees—said George "was one of the major representatives from the independent sector who helped bring about the establishment of the Tuition Assistance Program [TAP]," a program created in 1974 by the state legislature that has become an important source of financial aid for New York's college students. "Over the years, he has been a key advisor to the commission on our legislative programs and in representing the interests of the independent colleges," Mr. Ross said.

In 1983-84, George furthered that effort when he created the Canisius College Shepherds Program to enlist state legislative support for increased TAP funds. He organized groups of Canisius faculty and staff into teams to "shepherd" state legislators to whom they were assigned, lobbying for TAP increases in the state budget. Student teams were organized separately. In March 1984, the New York State Legislature passed its budget with significant increases in TAP awards. Since that time, George's Shepherds Program has been adopted as a model at other New York State Institutions and at the national level as well.

"The Shepherds Program shows he is a master strategist and tactician," Mr. Ross added. "His vision of institutional advancement is panoramic; his energy is enormous."

George's *almae matres* have honored him numerous times for his continued service. St. Joseph's Collegiate Institute, where he was the longest-serving lay trustee with 26 years on the board, named him the first lay president of the board in 1968, "Man of the Year" in 1983, and a member of the Signum Fidel honor society in 1986. The Institute of the Brothers of the Christian Schools awarded him the Letters of Affiliation in 1985.

He was recognized in 1986 as a Distinguished Alumnus of the University of Buffalo Law School for achievements in public service. Canisius College awarded him the LaSalle Medal for distinguished service in 1969, the Distinguished Alumni Award in 1983, and an honorary doctor of humane letters degree at the May 28 commencement ceremonies this year.

OTHER LEADERSHIP

Yet schools have not been the only recipients of George's fire. He is chairman of the Niagara Frontier State Park, Recreation, and Historic Preservation Commission, the New York State Council of Parks, Recreation, and Historic Preservation, and the Natural Heritage Trust of New York State. He has lent his talents to many area cultural and civic organizations.

Father Demske said the college will continue to tap George's expertise as he takes on his new role at Canisius, particularly in the areas of government relations and organizing volunteers. "George has created a well-developed and sophisticated advancement department that has moved the college into a leadership position both in Western New York and nationally," Father Demske added.

John W. Koessler, Jr. ('49), chairman of the Canisius College Board of trustees, rates George's management skills "outstanding," adding, "With very little fanfare or notoriety, George is able to get the most difficult task accomplished and do it through other people while taking little credit for it himself."

"He is one of the few men I have ever met whom I consider to be irreplaceable," said William D. Hassett, Jr., ('57), chairman and chief executive officer of Boston Garden and the Boston Bruins. "Canisius College and the Western New York community have benefited incalculably from George's selfless dedication to their best interests rather than to the pursuit of his own career."

Those who know George Martin well know this personal history of his achievements is just the public side of his record, just the "tip of the iceberg" of what he has accomplished.

An immeasurable contribution, for example, are the many young men and women in western New York who launched careers of public service at various levels of government because of George Martin's counseling, inspiration, and example.

Equally vast are the many good causes George Martin has served with his boundless energy, determination, and amazing organizational and management skills.

I am proud to call George Martin a friend and have been fortunate to have been able to call on him from time to time for advice.

I join his many well wishers in congratulating him on his accomplishments and on the occasion of his retirement.

Typical of George Martin, however, he is retiring from a full-time administrative post but will continue to serve Canisius College as special counsel to the president. We look forward, therefore, to the continued benefits of his wisdom and his enthusiasm.

LET'S TAKE POLITICS OUT OF THE POSTAL SERVICE

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. MOODY. Mr. Speaker, I was not able to be present yesterday for the vote on H.R. 4150, the Postal Reorganization Act of 1988. Had I been present, I would have voted "aye."

Mr. Speaker, I generally am not an advocate for moving items off-budget. However, I believe the case of the U.S. Postal Service is unique. The Postal Service is a semi-independent Government corporation with its own source of revenue. Unfortunately, since it was put back on-budget in 1985, it has increasingly been used to help meet deficit reduction targets. The most recent cuts have forced the cancellation or delay of the majority of planned construction projects, reduced window service, and eliminated Sunday mail collection and processing.

Mail delivery is one of the most basic, if not the most basic, services that Government provides. If our constituents see that the Postal Service can't deliver a letter, how are they going to have any confidence in Government's ability to provide other services?

We have the best and most efficient Postal Service in the world. We can send a letter across the country for a mere quarter, cheaper than it would cost in any other nation. We have a 200-year tradition of providing universal mail service at uniform rates.

Let's not break that tradition. Let's take politics out of the Postal Service. Let's restore the Postal Service's ability to provide the quality mail service to which we have become accustomed. A vote for H.R. 4150 is a vote for our Postal Service, its employees, and its customers.

REMEMBERING JOHN DUNCAN

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. JONES of Tennessee. Mr. Speaker, I rise to join my colleagues in remembering our departed colleague JOHN DUNCAN, who served the Second District of Tennessee with such great honor and distinction. It is difficult, to say the least, to fully express the great sorrow that I feel.

JOHN DUNCAN was a very competent and able Member of this body. He brought thoughtful comments to the debates of issues throughout his career. He treated his colleagues as he wanted to be treated. He lived a life of dignity and respect. In return, he gained the respect of his peers and his colleagues.

As esteem for JOHN DUNCAN grew, he never forgot his roots and worked hard to represent the people of his district. He knew as well as anyone that his first obligation was to his people and he went about his duties with that principle foremost in his mind.

We are all going to miss JOHN DUNCAN and the quiet diligence he brought to our proceedings. He was a man we all respected and cared for.

More than that, he was a great and dear friend to me personally. Though we were separated by partisan lines, we shared enormous respect for each other and concern for each other. Though all of us in this Congress lost a respected colleague, I have lost a dear friend.

I want to express my deepest sympathies to his family in this time of their grief.

MEMBERS OF 10TH PRECINCT COMMUNITY COUNCIL HONORED

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. WEISS. Mr. Speaker, it is with great pride and appreciation that I draw the attention of my colleagues in the House of Representatives to the achievements of 15 members of the Tenth Precinct Community Council. They include four members of the precinct, its community patrol officers and three civilians of the Chelsea/Clinton community the richly diverse and unique area where the 10th precinct is located. These honors, which the community council is bestowing, show the success that members of this community have had in working with their precinct officers. This kind of community participation provides an essential element in developing and maintaining a vibrant neighborhood.

Four police officers of the 10th precinct are being honored tonight for their outstanding dedication and work on behalf of the Chelsea/Clinton community. These officers are commended for both their ability and their initiative to work above and beyond the call of duty. Those honored are Officer David Mucciariello for arrest of the year, Officer Joseph Oquendo for police officer of the year, Officer Albert Cicolli for years of dedicated work to the Chelsea/Clinton community and Auxiliary Police Officer Robert Torres for his contributions to the auxiliary forces of the 10th precinct.

In addition, I would like to compliment the 10th precinct's community patrol officers for exceptional ability in addressing the special needs of the Chelsea/Clinton community. They have been especially effective at keeping the peace in community soup kitchens and controlling student tensions among district schools. The community patrol members are: Sgt. Steven Anger and officers James Angotta, Steven Cochran, Keven Lenahan, Richard Lucus, Edward Vandenberg, Police Officer Salvatore Divita, and Edward Riley.

Finally, three students at the Fashion Institute of Technology are receiving awards for their civic contributions Kathy Andrade, Roger Overton, and Tony A. Bonilla. Their deeds have shown exceptional quality and ability.

I ask my colleagues in the House of Representatives to join me in offering congratulations and best wishes to these fine citizens.

INTRODUCTION OF PLATORO RESERVOIR BILL

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. CAMPBELL. Mr. Speaker, I am introducing a bill, cosponsored by members of Colorado congressional delegation, which provides for the transfer of the Platoro Reservoir to the local irrigation district and provides for the enhancement of fish habitat in the Conejos River in Southern Colorado.

The Platoro Reservoir was built in 1951 by the Bureau of Reclamation as part of the San Luis Valley Irrigation project. Because of the administration of the interstate Rio Grande Compact, the reservoir has never been used.

The Conejos district will make an advance, lump-sum payment of $500,000 to the Federal Government for the purchase of the Federal project. This sum represents the present value of the district's future obligations under the repayment contract, taking into account the Federal savings of operation and maintenance costs.

The reservoir and underlying lands will then be transferred to the district, which is responsible for operating, maintaining and repairing the dam. The District believes that after assuming the risk and responsibility for making this irrigation project work, they can implement an aggressive local water management program to realize the project's irrigation benefits.

This bill is also intended to end a longstanding environmental problem caused by the original construction of the reservoir, namely maintaining satisfactory in-stream flows in the Conejos River for fish and wildlife.

The Platoro was designed in the 1930's and 1940's; it was built in 1951—all before NEPA or the Fish and Wildlife Coordination Act. No in-stream flows were provided below the dam. This bill requires the Conejos district to provide in-stream flows by releasing water that would have been used for irrigation. This reduced yield for irrigation will be compensated by the further reduction in the lump-sum payment price.

The State of Colorado will manage the water rights protecting these released waters. Because of the State's provision of low-interest financing to the Conejos district, the result is a three-way shared responsibility to provide for the enhancement of the Conejos' fish habitat.

This transfer allows the Federal Government to discount and sell off a questionable loan. The risk of meeting compact obligations and the task of implementing a water management program is passed to the local water users.

The Conejos district is ready to meet the challenge of being directly responsible for the success of the project. This bill gives the district the opportunity to free itself from Federal bureaucratic overhead which makes the financial operation of the reservoir nearly impossible.

Platoro Reservoir is located in one of the poorest rural counties in the country. The local operation of Platoro Reservoir is seen as a key economic development issue and the Colorado General Assembly has overwhelmingly provided funding to the district in the form of a loan package to allow this transfer to go forward.

This bill deserves to be judged on its merits. The local water users are willing to take a Federal irrigation project which has not worked and assume responsibility for its success. This bill makes good sense for both the Federal Government and the Conejos district and I urge you to support it.

THE ROLE THAT FATHERS SHARE WITH MOTHERS AS PARENTS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mrs. SCHROEDER. Mr. Speaker, Father's Day has visited us again this year, reminding us of the profound role that fathers share with mothers as parents. Parenting has more to do with the job than the gender, and as the number of women who have entered the work force has tripled in recent decades, large numbers of fathers have joined mothers in becoming intimately involved in the day-to-day rearing of children.

What has been the impact on these children? Above all, they are healthy, assertive, and strikingly competent socially. In play, they comfortably switch gender roles, not feeling limited in their dreams of who they are and what their opportunities in life will be.

Once in awhile, my husband jokes that in his twilight years, he will find himself regretting not spending more time at the office. The men of America have moved from only being breadwinners to longing for and certainly deserving better relationships. They are juggling, caring for their families, and working to support them, and they need our support in policy. The Family and Medical Leave Act is ready to be brought to the House floor for a vote. It guarantees parents an unpaid job protected leave for the birth, adoption, or serious illness of a child or parent.

Let's close the gap between family lipservice and family policy. It's time to do something to help.

SUPPORT OF THE FAMILY AND MEDICAL LEAVE ACT

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. ACKERMAN. Mr. Speaker, with the recent observance of Father's Day, I want to reiterate my strong support of H.R. 925, the Family and Medical Leave Act. The provision which allows fathers to take family leave carries a personal interest for me. When I was a schoolteacher in New York, the board of education had a maternity and child care leave policy. In 1970, I applied for child care leave in order to spend more time with my newborn daughter Lauren. The board of education told me that the maternity and child care leave applied only to women and that I would not be allowed to take child care leave. I claimed that the board of education was discriminating against me and I won. The suit forced the board to allow either parent leave to care for their children.

The Family and Medical Leave Act addresses a fundamental shift in the demographics of the American work force and the American family. Between 1950 and 1985, the number of women in the work force has increased by 178 percent. According to the 1984 census, the labor force was 44 percent female and fewer than 10 percent of families are made up of a married couple with children where the husband is the sole provider.

As chairman of the House Post Office and Civil Service Subcommittee on Compensation and Employee Benefits, I am particularly concerned that the Federal Government has not met the challenge of a changing Federal work force. The guidance issued by the Office of Personnel Management is simply not adequate. There is still no separate category for parental leave, and any absence because of maternity leave must be charged to sick leave, annual leave, leave without pay, or a combination of these.

Sick leave may only be used to cover the time required for physical examinations and to cover any period of incapacitation. Therefore, a mother is forced to take either annual leave or leave without pay for any additional time to recuperate or integrate the new infant into the family. Additionally, fathers and adoptive parents are discriminated against because they are not entitled to leave in these cases. They must rely on their supervisors to grant requests for annual leave or leave without pay.

I believe that the Family and Medical Leave Act meets the needs of a changing American work force as well as the needs of a changing Federal civil service. I urge my colleagues to remember the American family and support the Family and Medical Leave Act.

FULL FUNDING FOR SAN DIEGO-TIJUANA SEWER SYSTEM

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. BATES. Mr. Speaker, I want to commend the chairman of the House Appropriations Subcommittee on HUD-Independent Agencies, Edward Boland, for his hard work and dedication in crafting H.R. 4800, the Department of Housing and Urban Development-independent agencies appropriation bill for fiscal year 1989.

H.R. 4800 contains a provision that greatly affects San Diego. The bill earmarks $27 million for the construction of a defensive collection and conveyance system for raw sewage originating from Tijuana, Mexico.

The purpose for requesting $27 million for fiscal year 1989 was for expediting the construction and completion of the Tijuana defensive works project. The Environmental Protection Agency has already agreed that if they received the full $27 million remaining from the original 1984 authorization this year, they could indeed expedite the construction and complete the entire defensive works system by July 1990. Anything less than $27 milion means that the project could not be completed and that San Diego would face a critical sewage problem well into the 1990's.

Congress authorized $32 million in 1984 for the construction of a defensive sewage treatment system when raw sewage flows from Tijuana were already a problem for San Diego residents. Today, 4 years after $5 million was appropriated for the design of a defensive treatment system, San Diego faces a sewage crisis. With Tijuana sewage flows projected to be 34 million gallons per day by 1990, San Diego will face an environmental crisis of catastrophic proportions.

When this bill goes to conference, I urge all members of the conference committee to not yield to outside pressures and keep the full $27 million intact as reported out of the HUD-Independent Agencies Appropriations Subcommittee and approved by the House of Representatives today. The people of San Diego need this project.

GUNDLE LINING SYSTEMS CO. RECEIVES INNOVATE HOUSTON AWARD

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. FIELDS. Mr. Speaker, I take this opportunity to acknowledge the unique achievement of a company located in my district. On June 10, the Gundle Lining Systems, Inc., was a recipient of the first annual Innovative Houston Award, given by the Greater Houston Chamber of Commerce, in recognition of Gundle's unique process for manufacturing and installing high density polyethylene plastic liners for use in hazardous waste landfills, municipal landfills, heap leach mining projects, canals, subways, secondary containment facilities, holding ponds, and many other uses. Gundle was selected over dozens of other companies because of the way in which it was quickly able to become the leader in its field. It is one of only two companies worldwide that manufacture and install the material. It makes the widest sheet that is seamlessly drawn directly from the extruder. And it has a patented welding process that is superior to others, and makes the seams actually stronger than the sheets.

Gundle has been one of the few bright spots in the Houston economy, going from $5 million in yearly sales in 1983, to $75 million in 1987. Under the guidance of its President, David Eakin, Gundle has expanded into dozens of international markets. Gundle has consistently increased its production capacity, hired more employees, and increased its markets. Mr. Eakin and his company are to be commended for their innovation and entrepreneurial spirit. The Greater Houston Chamber of Commerce is also to be commended for its efforts to reward innovation in the Houston area, where ideas and human resources have become as important as our natural resources in assuring a brighter future for east Texas.

PLANS TO RAID THE QUARTERS OF PANAMA CANAL COMMISSION EMPLOYEES

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. TAUZIN. Mr. Speaker, the situation in Panama continues to be a great concern to Members of the House. I regret that I have additional disturbing news to report.

Panamanian officials have notified the United States that its customs agents are planning to raid the quarters of Panama Canal Commission employees in search of contraband.

The so-called contraband is actually food and sanitary supplies purchased by Americans employed by the Canal Commission pursuant to an agreement between our Government and Panamanian President Eric Delvalle.

Members will recall that Representative Jack Fields, the ranking minority member of the Subcommittee on the Panama Canal and Outer Continental Shelf, and I sought access for canal employees to commissaries and other military stores during the political unrest in Panama. This House, on March 30, adopted our bill, H.R. 4256, which would have granted those rights. Unfortunately, the Senate did not act on the measure.

Even before that vote, an agreement was reached between the United States and Panamanian President Eric Delvalle allowing canal employees to use military shoppettes—convenience stores—following the arrest and beating of two Americans employed by the Panama Canal Commission while they were shopping in a public market in Panama.

Now, Panama's Customs office plans to search the homes of Panama Canal employees suspected of having goods purchased at the military shoppettes. Goods would be confiscated and fines would be levied against canal employees.

Today, as chairman of the Panama Canal/OCS Subcommittee in the House of Representatives, I urge Members to join with Mr. Fields and me in issuing a warning to Panama's military strongman Manuel Noriega that any action or threat against the personal safety or any violation of the homes of Panama Canal employees would be "an offense against the vital interests of the United States."

Indeed, the highly skilled employees of the Panama Canal Commission are critical to the continued operation of the Panama Canal. The resolution we have introduced recognizes the dedication of both the American and Panamanian employees of the Panama Canal Commission who have kept the canal open and operating despite personal hardship and life amid political and economic chaos under the dictatorship of Noriega.

The resolution sends a strong message of support to our canal employees, and it makes clear that the Congress supports appropriate U.S. action to protect them, their families and their homes.

The Panamanian plan to search the homes of canal employees is simply an effort by Noriega to push the United States into confrontation. From my perspective, the use of military convenience stores by canal employees was approved by the highest level of Panamanian officials, and any action by Noriega to penalize canal employees now would be a direct violation of that agreement.

The United States cannot recognize any right to search the homes of canal employees on the pretext that they have contraband in their homes when the so-called contraband is actually food and sanitary supplies purchased in accordance with the U.S. agreement with President Delvalle.

It is time to let drug-running dictator Manuel Noriega know that he is treading in dangerous waters.

WELCOMING THE ESTONIAN BOYS' CHOIR

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. HOYER. Mr. Speaker, on June 17, the Boys' Choir of Estonian S.S.R. State Academic Male Choir, comprised of 60 young men from Estonia, entertained an enthusiastic audience on the steps of the U.S. Capitol. These youth, ranging in age from 6 to 18, were on a singing tour of the United States, having already visited Illinois, Indiana, New York, and Wisconsin, prior to their performance here in Washington. The group's tour was sponsored by the Friendship Ambassadors Foundation and was the first such exchange from Estonia.

Under the leadership of Venno Laul, their artistic director and chief conductor, and Lydia Rahula, their choirmaster, the group performed a series of songs in their native Estonian, before singing a crowd-stopping "America the Beautiful" in English.

Mr. Speaker, one the best ways to continue to improve relations between the United States and the Soviet Union is to better understand the people and the cultures of each other's country. With the performance of the Boys' Choir of the Estonian S.S.R. State Academic Male Choir, those in attendance did just that.

WAR OF 1812 VETERANS RETURN HOME

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. HOUGHTON. Mr. Speaker, today I'd like to commemorate the return home of 28 American servicemen. They died in the War of 1812.

Strange, isn't it—174 years ago these soldiers were buried in unmarked graves at Fort Erie in Ontario, Canada. The story is they died during a successful United States march on Fort Erie during the closing days of the Niagara campaign of the war. Last November the remains were unearthed at a residential development site. A study followed and the dead soldiers were eventually identified as American militiamen—more than likely from the Finger Lakes area in western New York. This is an area which I represent.

Mr. Speaker, on June 30 the remains of these brave men will be brought home to be laid to rest in the National Cemetery in Bath, NY. There will be full American and Canadian military honors. The graves of each will be marked "Unknown Soldier, War of 1812."

Finally, these soldiers, these volunteers who ultimately died for their country are now being brought home—for good. Their heroism stands well the test of time. They will be given the welcome they deserve.

IN MEMORY OF WILLIE VELASQUEZ

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. ROYBAL. Mr. Speaker, today I would like to pause and remember a friend of mine. Indeed, he was a friend of all of us who believe in democracy.

Last week, Willie Velasquez was taken from us at the vigorous age of 44. He did more for others in the short time he was on this Earth than most people dream of doing for themselves. But the things he did gave other people foundation for their dreams.

Willie possessed the rare gift of leadership, although he never held an elected office himself. No constituency or bureaucracy gave him the authority to change the outlook of the Hispanic community in America; he created that authority from within the Hispanic community so that it could empower itself.

As the founder and force behind the Southwest Voter Registration project [SVREP], Willie embodied the new power of a vital, organized Hispanic vote. Under his enthusiastic leadership, the number of registered Hispanic voters and elected officials in this country doubled. I would not be overstating his influence to credit him in helping many Hispanic members get elected to this Chamber, as well as elevating many Hispanic officials into city halls and legislatures across the country. As the president of the National Association of Latino Elected and Appointed Officials, I can attest to the very real success of the SVREP in watching our numbers grow from year to year.

Willie was one of "el pueblo", whether of the cities, small towns, or rural areas of the Southwest and entire country. To the people he devoted his life to serving, he never seemed a distant figure off in the corridors of Washington, DC and Austin, TX; he was someone who cared about them, believed in them, and worked among them in the barrios.

And with Willie, they got results. Hispanics registered, voted, and elected members of their own communities to State and national offices. They began to feel what it meant to be citizens of the United States, not just simply residents. Their immediate situation began to improve, as well as their hopes for the future.

Although no one can hope to duplicate the personal spirit and commitment that Willie poured into his mission, we can remember and honor him by persevering in the work he began. We all expected Willie to be around for many more years, and while we may feel the loss of a good and caring man, we will never lose the good he has done for all of us. We will build on his dream.

BELEAGURED THRIFT INDUSTRY AND THE FSLIC

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. PARRIS. Mr. Speaker, for the fifth time I take to the well of the House to bring to the attention of my colleagues the ever-worsening state of the beleagured thrift industry and the Federal Savings and Loan Insurance Corporation [FSLIC].

The Washington Post today reported that the thrift industry has posted a $3.8 billion loss for the first quarter of this year. This amount is half of the total losses incurred by the thrift industry for the entire fiscal year 1987. The Federal Savings and Loan Insurance Corporation ended last year at $13.7 billion in the red. Government economists and experts in the financial services industry estimate that the total cost of closing all of the insolvent thrift institutions is approximately $50 billion. Needless to say, you don't have to be a genius to figure out that the $10.8 billion 3-year recapitalization plan passed last year falls far short of providing the resources needed to resolve FSLIC's caseload.

Unfortunately, we have reached the point where dollars lost today by the thrift industry are not just the industry's dollars or FSLIC's; we are losing taxpayer dollars!

For this reason, we in the Congress have an obligation. We have an obligation to the hard-working taxpaying citizens of this Nation to address the thrift crisis before their burden reaches a truly exorbitant amount.

On April 28 of this year, I addressed this body for 1 hour on the state of the thrift industry and the Federal Savings and Loan Insurance Corporation. At that time, I announced my intention to offer legislation establishing a task force which would study the current state of the thrift industry, the FSLIC, and to make recommendations for resolving FSLIC's heavy caseload while, at the same time, adding stability to our Federal insurance funds.

After working for several months on this concept with my staff and experts from the financial services industry, I have drafted legislation to establish the National Commission on Thrift Institutions which I am introducing today.

Under this bill, the National Commission on Thrift Institutions would be composed of Members of Congress, senior officials from the executive branch, and various experts from the private sector. The Commission would be charged with the responsibility to study, review, investigate, and report on the following:

First, the fiscal status of the Federal Savings and Loan Insurance Corporation and its ability to handle its existing and prospective caseload of insolvent thrift institutions;

Second, the impact of the FSLIC recapitalization plan, as enacted through the Competitive Equality Banking Act in adding to the stability of the FSLIC;

Third, the overall health of the thrift industry in the United States; and

Fourth, future changes in the financial services industry in the United States.

The Commission would have 6 months in which to complete and submit its report to the President and the Congress.

While I realize that some may view this proposal as establishing another useless task force to complete another report that will wind up sitting in the Government archives collecting dust, I would submit that the problems confronting the thrift industry and the FSLIC are extremely complex and it is imperative that this matter be given special attention by a distinguished panel of Government leaders and experts from the private sector. The inability of the Congress to formulate an adequate proposal without this type of report is evidenced by last year's recapitalization plan.

The time to act on this issue is now! Each week we delay, the taxpayers of this Nation lose more money. The sooner a National Commission on Thrift Institutions is established, the sooner we will have before us some well-thought-out, intelligent, and effective proposals for resolving the thrift crisis.

I urge my colleagues to support this bill, and I hope that the House will act swiftly and responsibly in addressing this important matter.

Thank you, Mr. Speaker, for the opportunity to address the House.

A FATHER'S DAY GIFT: THE FAMILY AND MEDICAL LEAVE ACT

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. GREEN. Mr. Speaker, Father's Day, Sunday, June 19, has come and gone, but is important for all of us to take a moment to appreciate the responsibilities that fatherhood entails. Although most fathers hold full-time jobs to support their households, there are times of crisis for every family when the father's presence is necessary in the home. Events like the birth or adoption of a child, or the serious illness of a spouse or child demand that the full attention of the father be given to his home and loved ones.

The Family and Medical Leave Act, H.R. 925, would give our Nation's fathers the chance to take the time they need to see their families through those turbulent times. It allows certain employees to take up to 10 weeks of unpaid family leave over a 2-year period, and up to 15 weeks of unpaid medical leave over 1 year. Three years after the passage of the bill, only employers with fewer than 35 employees would be exempt from the regulations. Employers would also be permitted to deny leave to the highest paid 10 percent of their employees, in order to avoid compromising business interests.

Much attention has been paid of late to the growing number of mothers in the workplace. But as more mothers go to work, more fathers are able to take on an active role in raising their children. Today's fathers need and want time to spend with their families when their families need them. They need leave time from work to devote to parenting, without worrying that they may lose their jobs. The Family and Medical Leave Act gives fathers the right to be nurturers as well as breadwinners. I ask my colleagues to join me in observing Father's Day by giving dad the chance to enjoy his fatherhood fully.

AFTER SHOREHAM, JUST SAY COAL

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. RAHALL. Mr. Speaker, on the list of nuclear powerplants that should never have been built, in my mind the Shoreham plant on Long Island ranks up there with the Seabrook and Diablo Canyon powerplants. Last week, however, New York Governor Mario Cuomo announced plans that would bring the Shoreham saga to a close.

According to press reports, it appears the plant will be sold to a State agency for $1 and decommissioned. In this regard, Shoreham, being abandoned after $5.3 billion, now joins another list occupied by the likes of the Marble Hill nuclear powerplant in Indiana, canceled half completed at a cost of $2.5 billion, and the Zimmer plant in Ohio, halted 97 percent completed.

The Long Island Lighting Co. [Lilco] announced plans to build Shoreham two decades ago, lulled as many other utilities were by the promise that nuclear plants would produce electricity that was too cheap to meter. This ill fated and costly foray into the nuclear arena will, instead, cost the utility's ratepayers, and to a lesser extent, its shareholders, dearly.

Meanwhile, still faced with a pressing need to construct new electric generating capacity to meet demand in the region, a number of options are being discussed. As with Marble Hill, consideration is being given to converting Shoreham to another fuel. In addition, it is being reported that Lilco may seek the construction of a couple gas turbines in the near term and several large powerplants in the future.

I would suggest to the New York Power Authority and to Lilco: "Just Say Coal." No other fuel choice offers the stability and long-term economics of coal. It will only be with a tried and proven fuel such as coal can the Shoreham fiasco ever be redeemed.

H.R. 4816, LAUNCH PROHIBITION LEGISLATION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. SOLOMON. Mr. Speaker, today I am requesting my colleagues in the House to join me in cosponsoring legislation (H.R. 4816) to prohibit United States satellites from being launched by the Soviet Union and other controlled countries.

America has undertaken an all-out effort to develop a competitive launch industry. The President and the Congress have laid the groundwork for the emergence of a competitive commercial space industry. In the last 2 years, American companies have signed contracts to launch 14 satellites, and there are reservations for 17 more.

American corporations have invested over $500 million in the program. Upcoming competition will involve 15 to 20 satellite launching contracts per year. These agreements will reduce the trade deficit by more than one-half billion dollars a year and create thousands of new American jobs. Yet, this progress is now threatened by the unfair competition from countries with controlled economies.

If we permit the use of Soviet launchers, their space capability will be further strengthened at the expense of the American launch effort. The Soviets have taken unfair advantage of our space launch difficulties by attracting U.S. firms with artificially low prices. The use of Soviet launchers by United States firms subsidizes their space/defense effort, while undermining the economic and national security interests of the United States. The use of Soviet launchers will make critical United States industry—that is, telecommunications—increasingly dependent on Soviet access to space.

Additionally, the use of controlled country launchers will strengthen a critical component of their space and/or defense industry which could be used against the United States in the event of war. I respectfully request that all my colleagues in the House join me in sponsoring this important bipartisan national security legislation.

CONGRESS MUST ACT TO CONTROL HIGH-STAKES GAMBLING ON INDIAN LANDS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. COELHO. Mr. Speaker, I and many of my colleagues have been working for some time to craft a comprehensive approach to regulating gambling on Indian lands. The main stumbling block in this effort has been the question of who should regulate so-called class III gaming—horse racing, dog racing, jai alai, and similar high-stakes gambling.

Certain segments of the Indian community and some Members of Congress have taken the position that these high-stakes games should be regulated by the tribes alone, or by the Federal Government acting through a proposed National Indian Gaming Commission. They have argued that the right of tribal self-government precludes any State jurisdiction over high-stakes gambling on Indian lands.

I and many other Members believe that if horse tracks, dog tracks, casinos, and the like are to be allowed on Indian lands at all, they simply must come under State control and supervision. Neither the Indian tribes nor the Federal Government possess the expertise or resources necessary for effective regulation of highly complex and easily corrupted class III activities. The States, on the other hand, already have a wealth of expertise in regulating these games.

Shortly before the end of the last session I proposed a compromise that I had hoped would break the impasse that had developed on the class III issue. The proposal, which was supported by the National Indian Gaming Association and the horse and dog racing industries, would have required Indian tribes and the States to meet as equal, sovereign states to negotiate compacts for regulating high-stakes gambling on Indian lands.

Unfortunately, my compromise proposal was not acceptable to Congressman MORRIS UDALL, chairman of the House Interior and Insular Affairs Subcommittee. Despite our continued efforts to settle our differences on this issue, Chairman UDALL and I remain far apart.

The outlook is somewhat brighter in the Senate, where negotiations are underway on compromise legislation based on a tribal-State compact mechanism similar to the one I proposed last year. While the work in the Senate is encouraging, some critical issues are still outstanding and the time in which to resolve them is very, very short. In fact, so few legislative days remain in this session that it may already be too late to enact comprehensive Indian gaming legislation.

But I strongly believe that this Congress should not adjourn without taking action to regulate high-stakes gambling on Indian lands. If a compromise that all parties in both Houses can agree to is not forthcoming soon, I believe the 100th Congress must act to require State regulation of all class III gambling on Indian lands, or to prohibit such gaming until some future Congress can come to grips with the issue. Therefore, while I remain willing to continue to work for a compromise, I intend to press forward with legislation that will ensure that high-stakes gambling on Indian lands will be permitted only if it is held to the same standards of honesty, safety, and accountability as gambling elsewhere in this country.

To help my colleagues understand the key issues in the debate over the regulation of Indian gaming, I invite them to study the following excerpts from a letter that I and Congressman CLAUDE PEPPER, chairman of the Rules Committee, wrote to Chairman UDALL last June.

DEAR MR. CHAIRMAN: Before describing in more detail our concerns with your approach and our reason for taking a different view, let us make one overall point about "Indian gaming"—it is not about Indians gambling among themselves. If this were the case, there would be a limited role for Congress and the Federal government. What is occurring in the bingo area, of course, is not "Indian gaming" but rather "gaming on Indian lands." There is a crucial difference, since under the latter, the vast majority of customers at such games—indeed we would guess 99.9 percent—are non-Indians. Conceptually, Mr. Chairman, there is no reason why Citizen X of State Y should be under certain rules and regulations as long as he gambles within the lands of State Y, but can avoid those rules and regulations by setting foot over a tribal boundary within State Y. It is not enough to talk about "Indian sovereignty". We understand and support that concept as it applies to tribes and their members, but the founding fathers never assumed that this concept would be extended to Las Vegas-styled high-stakes casinos that had as their sole purpose luring non-Indians onto reservations to gamble. That, in our view, is taking the concept of "Indian sovereignty" to the point of the ridiculous, and in turn makes a mockery of an equally important constitutional principle: State sovereignty.

We move from this conceptual question about all forms of gaming on Indian lands to the political reality of existing bingo games on Indian lands—so called "Class II" games. While there are legitimate questions from the States and law enforcement officials about actual or potential corruption of high-stakes bingo on Indian lands, no one is advocating putting those games under State control at this time. As a potentially large money-making source for the tribes, some of the economic burden that has faced both the Indians as well as the Federal government can be eliminated. We support your efforts to bring further supervision and control to these games through the National Indian Gaming Commission as envisioned in H.R. 1920.

As we stated earlier, it is the Class III games—horse racing, dog racing, casino gaming, jai-alai and other similar games—with which we disagree with your proposed approach. In our view, these games, if they are to proceed at all, simply must come under State control and supervision. The reason for this is simple: the complexity of the games, the degree of control exercised over such enterprises within the various States which permit such gaming, the manner in which these games can be so easily corrupted without constant vigilance by trained and experienced regulators, and the need to remove any economic incentive for corruption by insisting on identical regulation of all games whether run by Indians or non-Indians, all lead to one inescapable conclusion: these games must come under State control.

No Federal commission will have the money, manpower or expertise to regulate these games. No tribal authority with the best of intentions is capable of keeping out corrupting influences on high-stakes gaming. The money to be made is simply too great to avoid unsavory elements from attempting to influence these games unless they are under State control.

The concept of State control is important for a number of reasons. First, the States already have a wealth of expertise in regulating these games. They know how animals can be tampered with, regulations bypassed, systems rigged, and controls short-circuited. They have access to information on a number of people who have tried to enter legitimate gaming enterprises for corrupt purposes. There is no reason to duplicate this system at either the Federal or tribal level because it is too expensive. Also, the existence of a parallel system by definition would encourage abusive attempts to take advantage of such a dual system.

Second, implicit in State control is the critical question: Should Class III Indian games have to abide by the exact same rules, regulations, permits and controls that non-Indian games have to abide by? The answer, in our view, is emphatically yes. This is the only way to keep the "wall" erected by the States to fence out corruption from crumbling due to the existence of enclaves of differing rules and regulations within their borders. State regulation of games is far from perfect, Mr. Chairman, but we will only make matters worse if we allow high-stakes games on Indian lands to co-exist under differing rules and/or regulators within the borders of a State. Does putting Class III Indian gaming under State control mean that such games will be unprofitable? The evidence is clear that non-Indian games are profitable for their owners. It therefore seems illogical to assume that games on Indian lands can only make money if they are unfettered from the rules and regulations that apply to their competitors.

In short, Mr. Chairman, the concept of State control over Class III gaming is the only sensible approach that can be adopted. As you know, there is ample precedent for this approach. In the 1950's, Congress confronted the issue of alcohol on reservations, and decided to transfer the enforcement of liquor transactions to the States. We would submit that there is a direct corollary between alcohol and gambling. Both of these activities are viewed by many people in much the same light. Both are traditionally regulated by the States in a comprehensive manner. It is now wholly appropriate to regulate high-stakes gaming activities on Indian lands under similar State control.

It has been suggested that the recent Supreme Court decision in *Cabazon Band of Mission Indians* somehow makes State control inappropriate or impossible. Nothing could be further from the truth. The *Cabazon* decision does not prevent Congress from entering the issue of Indian gaming. It is a "status quo" decision which basically ratifies the existing hodgepodge of judicial decisions in the area of Indian gaming unless and until Congress acts with clarity on the subject. Indeed, the majority opinion clearly states that State laws may be applied to tribal Indians on their reservations if Congress expressly provides for such application. In our view, that is what is called for in this instance.

It has also been suggested that States cannot be trusted not to discriminate against Indians in approving gaming licenses, and in regulating Indian-run games. We will not argue that there have been examples of discrimination against Indians both in the past and present. We believe, however, that existing constitutional and statutory safeguards exist to prevent such discrimination * * *.

We appreciate your consideration of our position, and will look forward to working with you in a responsible manner through hearings and passage of sound legislation.

With best wishes,

Sincerely yours,

TONY COELHO.
CLAUDE PEPPER.

THE HONORABLE GLADYS NOON SPELLMAN

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. HORTON. Mr. Speaker, I rise today to call attention to the death of one of this body's most respected alumna. As many of you know, Gladys Noon Spellman passed away over the weekend. For those of us that knew her, this is a great loss.

During her years in Congress, Gladys Spellman was known for her dedicated work on behalf of her constituents. Since Prince Georges County, MD, is home to thousands of Federal employees, she worked to improve the lot of all civil servants. Federal workers owe a great deal to her efforts.

I came to know Mrs. Spellman before she came to Congress through her work on revenue sharing. I was delighted when she came to the House after winning a contest for an open seat in 1974. She was someone upon whose advice and counsel I could always rely.

When Mrs. Spellman fell ill 5 days before the 1980 election, the picture looked bleak. But with the same tenacious spirit that marked her career, Gladys fought to hang on. Her battle ended this past weekend when she was taken from us forever. For those of us who were blessed by her friendship, we will remember her dedication and charm. My wife Nancy and I offer our most heartfelt condolences to Rueben Spellman and their children.

A CONGRESSIONAL SALUTE TO BURLEY RAY JOHNSON

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding business and community leader in my district, Mr. Burley Ray Johnson. Burley will be honored on June 23, 1988 as the outgoing president of the San Pedro-Peninsula Chamber of Commerce. I am pleased to have this opportunity to say a few words about him.

Burley has been a resident of San Pedro since he was born in 1946. He attended San Pedro High School, where he was an exemplary student, athlete and leader. During that time, he earned the coveted prize of all Boy Scouts: the Eagle Scout degree. From there, Burley went to Los Angeles Harbor College where he received an Associate of Arts degree in German. Soon thereafter, Burley spent 3 years on a German mission in Duisberg-Hamborn, Westphalia with the Church of Jesus Christ of Latter-day Saints.

When he came back from Germany, Burley completed his education, earning several more degrees. Burley obtained a Bachelor of Arts degree in business administration from California State University at Long Beach, and a second bachelor's degree in German from Brigham Young University. Fortunately for the city of San Pedro, he returned to Southern California for graduate school, receiving a Masters in Business Administration from the University of Southern California.

After all of these degrees, Burley began his formal career as an accountant for Garrett Airsearch Manufacturing. In 1974, Burley began managing real estate holdings with his father and was asked to serve on the Las Vegas Management Board for Great Western Hotels. Later, he founded Administrative Business Consultants, which specializes in needs analysis and management consulting.

Burley is a member of the American Accounting Association, the National Accounting Association, the American Management Association and the American Society of Training and Development.

Burley has also been quite active in community organizations. He is a member of the San Pedro-Peninsula Chamber of Commerce, and as I mentioned above, is currently serving as its president. He is a member of Councilwoman Jon Milke Flores' Angel's Gate Advisory Committee, and is a member of the International Triathalon Committee. He is a member of the Rotary Club, and has served as the assistant secretary and chairperson of the Business and Education Committee. Burley is still active in the Boy Scouts, and has helped organize Boy Scout troops in San Pedro, and is currently serving as den coach leader to Cub-Pack 854. Burley was chairman of the Olympic games-San Pedro Clean-Up Committee, and was honored with a Certificate of Merit for Volunteer Service by the city of Los Angeles.

Burley is active in his church and has been a counselor to the bishop, stake clerk and seventy's president. He can also be credited with trying to merge his spiritual and business life, having founded the Latter-day Saints Business and Professional Association.

Burley Johnson is a man who epitomizes the word "success." He is a model businessman, community servant and spiritual leader. My wife, Lee, joins me in extending our warmest congratulations to Burley on this auspicious occasion. We wish Burley, his wife Dorothy and his children, Christianna, David, Frederick and Rebecca all the best in the years to come.

TRIBUTE TO CLAY BEAL

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1988

Mr. OBERSTAR. Mr. Speaker, I rise to pay tribute to a career civil servant, Mr. Clay Beal, who has given the people of the United States 34 years of dedicated service and who will retire from the U.S. Forest Service on July 2, 1988. The last 5½ years of Mr. Beal's distinguished career have been spent in my congressional district, at the 3 million acre Superior National Forest in northeastern Minnesota—one of the most personally challenging and professionally rewarding responsibilities within the U.S. Forest Service and a position which he has handled with consummate skill, balance and vision.

We in northeastern Minnesota will miss Clay Beal; the U.S. Forest Service and the Nation are diminished by his retirement; but we are also enriched by the legacy he has left in that long and remarkable career. The Clay Beal heritage is an unmatched record of devotion to public service, scrupulous integrity in carrying out official duties, a strong sense of trusteeship of the public resources entrusted to his care, and of forestry resources enhanced for the enjoyment and beneficial use of future generations.

Clay Beal began to work for the Federal Government in 1951, when, as a university student, he worked seasonally for the U.S. Forest Service. Following a post-graduation tour in the U.S. Army, he joined the Forest Service full time, working in the Pacific Northwest region. During his 18 years in that region, Clay was assigned to several levels of the Forest Service organization, including Ranger district offices, forest supervisor's office and regional office. His record in the Northwest brought many awards and promotions, ultimately leading to selection as forest supervisor of the Chugach National Forest in Alaska, where he served for 9 years. Clay's meritorious service in Alaska led to another promotion to supervisor of the Superior National Forest, which brought him to Minnesota.

Supervising the Superior has always been regarded as one of the premier assignments in the entire U.S. Forest Service because of the complexity of issues, the diversity of resources to be managed, and the swirling controversy surrounding the area considered by many to be the crown jewel of the National Forest system, the Boundary Waters Canoe Area Wilderness. It fell to Clay Beal to administer the 1978 Boundary Waters Canoe Area Wilderness Act under the most trying and complex of circumstances. To his everlasting credit, Clay Beal harmonized the concerns of environmentalists, those whose livelihoods were intimately linked to the BWCAW and those who live adjacent to the area and for whom it is a prime recreational area. He also had to invigorate the staff of the Superior, caught between the interests fo competing and disagreeing groups and thus often demoralized in what appeared to be the hopeless or at least thankless task of reconciling these seemingly irreconcilable viewpoints. It was a test of leadership and professionalism which proved the mettle of the man.

As if managing the wilderness issue, redirecting the mission of the Superior National Forest and revitalizing the staff on the Superior were not enough, Mr. Beal had to face a multitude of other explosive issues: contract relief, below-cost timber sales, a controversial forest management plan, consolidation of physical and personnel resources, and extended and controversial land exchange, and the U.S. Forest Service exit from the tree nursery business in Minnesota, to name only a few. He handled all those issues and accompanying tensions equitably, decisively, and effectively—with great equanimity.

Clay Beal leaves the Superior National Forest—in virtually every aspect—in far better shape than it was when he arrived. Under his professional guidance, the dedicated Forest Service professionals who represent the Federal Government in communities throughout northeastern Minnesota have won the respect of even their most vocal critics and adversaries, a very welcome turnabout from the preceding, more confrontational era. The Clay Beal era of cooperation among those competitors has paved the way for strong growth in Minnesota's thriving wood products industry, concurrent with continued growth in recreational use of Forest resources.

Clay Beal's strong skills, professionalism, fairness and open, cooperative and communicative approach in dealing with Government and the public have been very important to successful resource management with greatly reduced controversy in northeastern Minnesota. His many accomplishments throughout his career are contributions to the Nation of which he and the U.S. Forest Service should be very proud. Clay has served his country well and I expect he will continue to serve, in different ways, after his retirement from the Forest Service. The people of northern Minnesota, the U.S. Forest Service and the Nation will miss Clay Beal's dedicated leadership.

I wish Clay every full measure of well-deserved enjoyment, good health, happiness, and, hopefully, the fulfillment of dreams he and his gracious wife, Gerri, have had to defer because of the demands of public service. May the years ahead be good and fruitful ones.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 23, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 24

9:30 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to resume consideration of S. 1729, to establish within the Department of Agriculture a Rural Development Financing Authority, to provide loans and grants for development projects in rural communities, and to establish within the Treasury a Rural Development Loan Fund.

SR-332

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings on the effect of the Japanese patent system on American business.

SR-253

Foreign Relations

To continue hearings on U.S. policy options toward South Africa.

SD-419

Special on Aging

To continue hearings on the Equal Employment Opportunity Commission's enforcement of the Age Discrimination in Employment Act of 1967.

SD-628

10:00 a.m.

Appropriations

Business meeting, to mark up provisions of H.R. 4781, appropriating funds for fiscal year 1989 for the Department of Defense, and provisions of H.R. 4794, appropriating funds for fiscal year 1989 for the Department of Transportation and related agencies.

SD-192

Governmental Affairs

To hold hearings on the nominations of Susan E. Alvarado, of Virginia, and Tirso Del Junco, of California, each to be a Governor of the U.S. Postal Service, Hugh Hewitt, of Michigan, to be Deputy Director of the Office of Personnel Management, and Roger W. Mehle, of New York, and Richard H. Headlee, of Michigan, each to be a Member of the Federal Retirement Thrift Investment Board.

SD-342

JUNE 27

10:00 a.m.

Energy and Natural Resources

Mineral Resources Development and Production Subcommittee

To hold hearings on S. 2240, to authorize funds for the State Mining and Mineral Resources Research Institute program.

SD-366

12:00 p.m.

Governmental Affairs

Business meeting, to consider pending calendar business.

SD-342

2:00 p.m.

Governmental Affairs

To resume hearings on issues relative to alcoholism.

SD-342

JUNE 28

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 2165, to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Complex in the State of Washington.

SD-366

Environment and Public Works

To hold joint hearings with the Committee on Small Business on S. 2246, to establish the Lower Mississippi Delta Development Commission to study and make recommendations concerning the economic needs and economic development of the Lower Mississippi Delta region.

SD-406

Governmental Affairs

To hold hearings to examine a report on U.S. research and development in superconductivity.

SD-342

Small Business

To hold joint hearings with the Committee on Environment and Public Works on S. 2246, to establish the Lower Mississippi Delta Development Commission to study and make recommendations concerning the economic needs and economic development of the Lower Mississippi Delta region.

SD-406

10:00 a.m.

Commerce, Science, and Transportation

Business meeting, to consider pending calender business.

SR-253

Labor and Human Resources

Children, Family, Drugs, and Alcoholism Subcommittee

To resume hearings on S. 1885, to establish a Federal program for assisting States in providing licensed and regulated child care services.

SD-430

2:00 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 2322, to authorize certain elements of the Yakima River Basin Water Enhancement Project, and S. 1613, to authorize the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin Project, Oregon.

SD-366

JUNE 29

9:30 a.m.

Small Business

Rural Economy and Family Farming Subcommittee

To hold hearings to identify prospects for economic development in rural America.

SR-428A

10:00 a.m.

Environment and Public Works

To hold hearings on S. 2367, to promote highway traffic safety by encouraging States to establish measures for more effective enforcement of laws to prevent drunk driving, and S. 2523, to require States to promptly suspend or revoke the license of a driver found to be driving under the influence of alcohol.

SD-406

Governmental Affairs

To resume hearings on issues relative to alcoholism.

SD-342

Veterans' Affairs

Business meeting to consider pending calendar business.

SR-418

2:00 p.m.

Joint Printing

Business meeting, to consider pending committee business.

H-328, Capitol

JULY 11

9:30 a.m.

Special on Aging

To resume hearings to examine certain problems and challenges surrounding the provision of health care to rural communities, and to review recommendations and innovative strategies to deal with these problems.

SD-628

JULY 12

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on the Federal Reserve's Second Monetary Policy Report of 1988.

SD-538

Energy and Natural Resources

Mineral Resources Development and Production Subcommittee

To hold oversight hearings on the Department of Interior royalty management program.

SD-366

JULY 13

10:00 a.m.

Banking, Housing, and Urban Affairs

To continue oversight hearings on the Federal Reserve's Second Monetary Policy Report of 1988.

SD-538

JULY 14

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agriculture Credit Subcommittee

To resume oversight hearings on the implementation of the Agricultural Credit Act (P.L. 100-233).

SR-332

Veterans' Affairs

To hold oversight hearings to examine the extent of post traumatic stress disorder on veterans.

SR-418

JULY 27

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings to review the Department of Defense safety program for chemical and biological warfare research.

SD-342

JULY 28

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To continue oversight hearings to review the Department of Defense safety program for chemical and biological warfare research.

SD-342

AUGUST 11

9:00 a.m.

Veterans' Affairs

To hold oversight hearings to review certain veterans health care programs.

SH-216

CANCELLATIONS

JUNE 23

9:30 a.m.

Governmental Affairs

To resume hearings on S. 1504, to facilitate regulatory negotiation and other procedures to enhance the quality of regulations and foster communications between agencies and those affected by regulations.

SD-342

SENATE—*Thursday, June 23, 1988*

The Senate met at 10 a.m., and was called to order by the Honorable ALBERT GORE, Jr., a Senator from the State of Tennessee.

Mr. GORE. Our prayer today will be offered by Rev. Dr. Robert B. Pamplin, Jr., of Portland, OR.

PRAYER

The Reverend Robert B. Pamplin, Jr., of Portland, OR, offered the following prayer:

Let us bow our heads in prayer:

Dear Heavenly Father; sometimes, when I see the Sun bursting with bright fire at dawn, I feel the glow of Your love.

Sometimes, when I catch the Sun fading among the shadows of twilight, I sense the comfort of Your presence.

But everytime I face our flag waving and snapping in the air, I am thankful that America was formed as "one Nation under God."

God, as the protector of all Americans, grant us the continual grace of Your blessing. And by Your charity dedicate an unfailing love for those who forge the governance of this land. A land fertile with the prospects of unfilled destiny, but gentle in the humility of fulfillment. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC June 23, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ALBERT GORE, Jr., a Senator from the State of Tennessee, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. GORE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor at the moment.

I understand the distinguished Republican leader wishes to yield to the Senator from Oregon.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the minority leader is recognized.

Mr. DOLE. Mr. President, I yield 1 minute to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the leadership for yielding me 1 minute.

WELCOMING THE GUEST CHAPLAIN, THE REVEREND DR. ROBERT B. PAMPLIN, JR.

Mr. HATFIELD. Mr. President, I would like to take this occasion to welcome to the Senate this morning Robert Pamplin, Jr., who delivered the opening prayer. It was my privilege to know his father and mother, as well as his family. His father was one of the great industrial leaders, the head of Georgia Pacific, which was headquartered in Oregon at a period of time in history before it returned to Atlanta.

In the midst of his very successful business career, Robert Pamplin, Jr., decided to take a degree in theology. He is a very successful businessman and entrepreneur. He also is a man of great philosophy and wisdom. With his great theological training, he is now pastoring churches and entering into the work of the Lord.

So I am very happy to have had the opportunity for him to open the Senate this morning in prayer.

I thank the leadership for yielding.

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that I may reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

TIME FOR CONGRESSIONAL ACTION ON S&L'S

Mr. PROXMIRE. Mr. President, the $3 billion loss by the savings and loan industry in the first quarter of 1988 is still another reminder that the cost to the American taxpayer of bailing out the Nation's savings and loans will be very painful. Furthermore, the New York Times in an article on June 21 estimates the annual loss to the industry at the present rate as more than $13 billion per year. The Times quotes a former Home Loan Bank Board economist who estimates the ultimate cost of a Federal Government bailout of the industry at $75 billion. Obviously with every passing month of billion dollar losses, the situation grows worse. The potential loss to the taxpayer climbs higher. The savings and loan industry itself including the more than two-thirds of the industry that is still profitable is penalized. The entire industry is subject to an insurance premium that is nearly three times higher than the insurance premium charged to the industry's major competitors—the Nation's commercial banks. It is worse. The healthy and profitable thrifts are in many cases losing deposits to high risk thrifts that bid away deposits by offering higher interest rates. The high risk thrifts are then pressured to continue in high risk investments because these are the only investments that have any real prospects of yielding more than the interest these S&L's have to pay to take deposits away from more prudent and careful thrifts. And then there is the powerful adverse psychological effect the nationwide mega-losses of the thrift industry have on the business prospects of the two-thirds of the Nation's thrifts that are operating profitably.

The New York Times reports a debate among the regulators and industry experts over whether the savings and loan crisis is the result of economic conditions—particularly in the energy and agricultural States or whether it is largely the product of poor management or are the Congress and the regulators at fault? Who is to blame? In the judgment of this Senator, the blame lies primarily with the weakness of the Congress caving in to please the industry to provide relief from the painful shock effect of soaring interest rates in the late seventies. The limit imposed by law for many years on the interest S&L's could pay prevented S&L's from competing effectively for deposits. So the Congress removed the limit. This began a bidding war for deposits. The Congress compounded their mistake by permitting all State chartered S&L's to enjoy full Federal insurance on their deposits although many State chartered S&L's were allowed to invest in a number of risky areas including real estate ventures and even in business equities.

Of course, there have been some thrifts that have failed simply because of poor management. Some have failed because of adverse business conditions, especially in the energy States of the Southwest. But, Mr. President, the measure of the shocking failure of a system like the governance of the home lending industry in America is the many failures that have ensued in the past 8 years. Why did these failures occur? Did business conditions in our country deteriorate? No, indeed. Through most of the 1980's business conditions were generally more favorable than they are today. How about the management of S&L's? Has S&L management lost the average level of competence it enjoyed in the 1970's? Of course not. There is no reason to suspect that the thousands of S&L's in our country have been generally managed differently than they were in the 1970's. But the results were quite different. In the seventies there were less than three S&L failures in the country per year. In the eighties S&L failures have zoomed to more than 40 per year on the average and this year failures have risen to a pace more than 100. In the seventies the industry was profitable. This year net income has declined to a disastrous level that could provide a $13 billion loss for the industry.

So who is at fault? The answer is the Congress and the regulators. This means the Congress and the regulators should act. They should act now. With every passing day the regulators permit insolvent S&L's to continue to operate and to lose money, the future, inevitable taxpayer bailout grows larger. Congress must wake up to the fact that the S&L's carry more than a trillion dollars of Federal Government insured deposits. Congress has absolutely no choice except to make good on its pledge of the full faith and credit of the Federal Government to insure every penny of that trillion dollars in deposits.

Some members of our Banking Committee have sworn—"absolutely no bail-out under any circumstances." Most Senators will agree with that sentiment in view of the already huge Federal deficits and the rapidly growing national debt. But I am absolutely positive that virtually every Senator would agree that the Federal Government must stand behind every dollar of its trillion dollar insurance of savings and loan deposits. So how does the Congress meet this dilemma? The logical way to meet it would be to face up to it at once. Congress should provide the Federal Savings and Loan Insurance Corp. [FSLIC] with whatever funds are necessary to close the insolvent and money losing S&L's forthwith. In the long run that action would save tens of billions of dollars. Congress should follow that action with a prompt refusal to provide deposit insurance to any State chartered savings and loan that is not in full compliance with Federal limits on investments. Congress should also provide a reasonable and flexible cap on the rate of interest that S&L's could pay on insured deposits.

What will the Congress actually do? It will almost certainly not provide the money necessary to save billions by closing down insolvent S&L's. That action would increase the deficit for the current year or require an excruciatingly painful sequestration of funds for other Federal Government activities. Congress however, may, and certainly should, only provide insurance to future S&L deposits if the S&L's including State chartered S&L's comply with the limitations on investment applied to federally chartered savings and loans.

Mr. President, I thank the leaders and I yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Wisconsin.

ROLLCALL VOTE ON SENATE RESOLUTION 442 TO OCCUR AT 10:30 A.M. TODAY

Mr. BYRD. Mr. President, the distinguished Republican leader and I have been discussing the first vote today, which I have promised will occur at around 10:30. I had indicated that that would, in all likelihood, be a vote to establish a quorum, but the distinguished Republican leader and I have concluded that a vote on a substantive matter would be appropriate and probably better.

I ask unanimous consent that at 10:30 a.m. today, the vote occur on the passage of Senate Resolution 442, Calendar Order No. 747, the 5 minutes prior thereto to be under the control of Mr. TRIBLE for the purpose of making a statement.

I thank the distinguished Republican leader for his cooperation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROLLCALL VOTE ON SENATE RESOLUTION 408 TO OCCUR ON FRIDAY

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow at the conclusion of morning business the vote occur on Calendar Order 751, Senate Resolution 408, the vote occur on the adoption of that resolution without further debate and that Mr. MITCHELL have 10 minutes prior to that vote, and that the Republican leader have 10 minutes if he wishes to designate someone to utilize that time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on both those resolutions at this time with one show of seconds.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on each of those resolutions.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I thank the Republican leader and all Senators.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. Mr. President, I reserve the remainder of my time.

APPOINTMENT OF COMMITTEE TO ESCORT PRIME MINISTER OF AUSTRALIA TO JOINT MEETING TODAY

Mr. BYRD. Mr. President, I ask unanimous consent that the Deputy President pro tempore of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the Honorable Robert J.L. Hawke, Prime Minister of Australia, into the House Chamber for the joint meeting today.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the Senate will not be in recess. It will remain in session throughout the day and I hope that the Senate will be able to proceed quickly to the plant closing bill and that there will be amendments thereto, if such are going to be offered, and that the Senate can complete action on the bill today or tomorrow.

I have to say that the Senate will not be in session after circa 6 p.m. today. Members will be attending a dinner in honor of our President pro tempore, the distinguished Senator from Mississippi, Mr. STENNIS, who is chairman of the Appropriations Committee.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Republican leader.

BICENTENNIAL MINUTE

JUNE 23, 1832: SENATE REJECTS A KING'S DECISION

Mr. DOLE. Mr. President, 156 years ago today, on June 23, 1832, the Senate rejected a decision of the King of the Netherlands, who had been asked to arbitrate a long running dispute between the United States and Great Britain over the boundary of Maine.

The Maine boundary dispute had grown out of ambiguities in the terms of the 1783 Treaty of Paris, which ended the Revolutionary War. In essence, England wanted a military road on British soil that would link the cities of Montreal and Quebec with St. John and Halifax. The trouble was that the road would cross 7 million acres of land claimed by the United States. Negotiators had tried but failed to settle the matter during negotiation of the Treaty of Ghent in 1815, which ended the War of 1812. Finally, in 1827, Great Britain and the United States had agreed to submit the question to arbitration by the King of the Netherlands.

In 1831, the royal arbitrator decided on a compromise that evenly divided the disputed territory. Britain declared itself satisfied. President Andrew Jackson also was willing to accept the terms, but the citizens of Maine were not. Expecting to get much more than was awarded them, they protested vehemently. So in June 1832, the Senate responded to the outcry from Maine, narrowly rejecting the King's decision by a vote of 21 to 20.

After the Senate's action, the matter of the Maine boundary festered for another decade. In the end, Maine would have been acreage ahead had it accepted the King's solution. The terms of the Webster-Ashburton Treaty of 1842, which ultimately settled the matter, were less generous to the State of Maine than the King of the Netherlands had been.

THE DROUGHT

Mr. DOLE. Mr. President, I would again commend my colleagues on both sides of the aisle who have been meeting almost on a daily basis, and members of their staffs, to catalog what we might do on a bipartisan basis to answer many of the concerns of farmers, ranchers, livestock producers across this country who are caught in what could be our most severe drought in history.

Many things are now being done administratively by the U.S. Department of Agriculture through the extraordinary efforts and the leadership of Secretary Lyng who is doing an outstanding job. I believe that view is shared by Members on both sides of the aisle.

Those who need the most immediate attention are ranchers and livestock producers because their feed supply in many cases is gone and prices are rising. In some cases water supply is gone.

Those in the grain areas, corn, soybeans, nonprogram crops—wheat, whatever—have a bit more time because had it not been for the drought, had it been a normal year, there would still be no payments, no harvest at this time. So we have a little more time to address the problems that will probably face those in the Corn Belt and those who raise soybeans.

I would guess in the corn areas we have another week or two before we can, probably, make a final judgment. If there is not rain in some of the areas, Ohio and Illinois and Minnesota and Iowa and Nebraska, in those areas in another week or two weeks, then we are really going to have a problem that we will have to address very quickly.

As far as soybeans, we could probably wait a while longer. They could still be revised if we had some good moisture between now and August.

But, in any event the important point that I would make is that I believe the Congress is acting responsibly. I believe there has been a lack of partisanship, as there should be a lack of partisanship. We do not make politics out of people's misery and there is a lot of misery in the drought areas today. Not just for farmers, but for small towns and others who sell to farmers.

I would say also the consumers, who rely on farmers for the best food bargain in the world. Prices will go up and prices have already started to go up on some products because of lack of supply. So I congratulate my colleagues on both sides of the aisle and in the other body, in the House of Representatives. I also commend the Secretary of Agriculture, Secretary Lyng, and all others who are trying to focus on what we should do, what we can do, and when it can be done for the American farmer.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, within a few seconds, the Senate will proceed to a rollcall vote, and I ask unanimous consent Mr. TRIBLE be recognized prior to the vote.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. I yield the floor.

IN HONOR OF SENATOR HOWARD BAKER, JR., CHIEF OF STAFF TO PRESIDENT REAGAN

Mr. THURMOND. Mr. President, I rise today to honor my very good friend, Howard H. Baker, Jr., who recently announced his resignation as Chief of Staff to President Reagan. I understand his decision to leave the White House and think it is extremely admirable of him to wish to return to Tennessee to be with his lovely wife, Joy, who has always been a devoted and courageous woman. I know that much of Senator Baker's success was inspired by Joy's constant support and love.

Senator Baker's successful, honorable career began after he received his law degree from the University of Tennessee, where he served as student body president in 1949. Soon after graduation, he quickly established an outstanding reputation for his effectiveness as an attorney and businessman in Huntsville and Knoxville, TN.

In 1966, he became the first Republican since Reconstruction to be elected to the Senate from Tennessee, a feat that underscores Senator Baker's broad appeal. The people of Tennessee affirmed their pride and trust in his leadership by reelecting him to the U.S. Senate in 1972 and 1978.

Senator Baker's career in public service has been highlighted by a natural instinct to effectively guide our Nation. In 1973, he garnered national recognition as vice chairman of the Senate Watergate Committee, where he offered nonpartisan leadership and proved to be an invaluable asset in that historic investigation.

From 1977 through 1980, Senator Baker served as the Senate minority leader. In this capacity he earned further respect for his fair and impartial dealings with members of both parties. Senator Baker achieved another milestone in 1981, when he became the first Republican in more than 25 years to be elected to the post of Senate majority leader.

During my tenure as President pro tempore, I learned first hand of Senator Baker's diligent and hard working ethic. He was a master at the art of political compromise. When important legislation reached an impasse, often it was Senator Baker who adhered to the center and brought unwavering factions together.

In 1987, 3 years after retirement from the Senate, Senator Baker was selected to serve as President Reagan's White House Chief of Staff. His experience and political acumen helped direct the Reagan administration through the tumultuous Iran-Contra hearings with a single goal: He sought to swiftly uncover every pertinent detail, then bring the facts before the American public.

The accomplishments and contributions of Senator Baker are well known throughout the Nation. He is recognized as a compelling, articulate communicator whose advice and wise counsel are sought by all who know him.

It is my hope that Senator Baker will continue to utilize his abilities in ways that will benefit America. I am confident that his future will be as bright as his past.

Mr. President, Senator Baker can take pride in knowing that he leaves behind a record of achievement for which he deserves the gratitude of his colleagues in the Reagan administration, the Senate, and, indeed, of all Americans. Good luck to Senator Baker and his family, and may God bless him in all of his future endeavors.

THIS YEAR'S DROUGHT

Mr. PRYOR. Mr. President, as a member of the Senate Task Force on Drought, I continue to remain worried about the future of the American farmer and consumer as this year's drought continues.

The optimum planting date for soybeans has already passed and the cutoff date for planting under Federal crop insurance coverage fast approaches.

I spent this weekend touring my home State of Arkansas talking with county extension agents, farmers, ranchers, the Corps of Engineer, and others involved in the agriculture industry.

After talking with them and some of my colleagues, I have come up with the following suggestions for alleviating some of the pain and problems associated with this year's drought.

I presented these suggestions to Secretary Lyng at yesterday's Drought Task Force meeting and would like to share them with you at this point.

I hope we can act immediately on this most urgent national problem.

Mr. President, I ask unanimous consent that my letter to Secretary Lyng, dated June 22, 1988, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 22, 1988.

MR. RICHARD E. LYNG,
Secretary of Agriculture,
Washington, DC.

DEAR MR. SECRETARY: I made a trip to Arkansas on Sunday and Monday that included several stops around the state. This gave me an opportunity to visit with farmers and ranchers who face the most threatening drought of their lifetime. Of course, we all realize there is nothing we can do about the weather, but we now have an opportunity to grant some relief to our farmers. After listening to my fellow Arkansans and seeing the devastating effects of this drought, I have some initial suggestions to offer for consideration.

THE FEDERAL CROP INSURANCE PROGRAM

Currently, our farmers are required to plant their crop by June 25 in order to qualify for this coverage. At the same time, these very people know without doubt that there will be no hope for a crop on some of this parched land. In essence, the Government is telling our farmers to spend more money and time on a losing proposition so that they can receive federal compensation. This is travesty. I propose we grant an extension of the deadline, or redefine the preventive planting measure to include land that cannot be planted. I saw one farmer who just planted several hundred acres of soybeans in talcum powder, with no hope of making a crop, just to qualify for Federal Crop Insurance.

COUNTY DISASTER AREAS

Currently, there must be a 30% failure of all crops in a county in order for that county to be declared a disaster. I strongly urge that rice not be included in this formula so that a more accurate portrayal of the county's crops may be presented.

DIESEL FUEL TAX

I recommend an immediate repeal of the diesel fuel tax, which has proved an unnecessary, additional burden for our farmers who desperately need assistance instead of yet another hindrance. They don't owe these taxes, and by having to pay them, they have a serious cash flow problem.

LIVESTOCK FEED RELIEF

First, I believe that our CRP and waterbank acreage be opened for haying and grazing. Second, we should provide emergency feed for livestock from the CCC supply. Finally, I suggest we harvest hay from our interstate highway system.

NATIONAL HOTLINE

As a means of assistance in providing information to agricultural interests, I suggest we establish a national hotline. This should consist of representatives from FmHA, ASCS, SCS, and especially members of farm organizations. The hotline should be open from 8:00 a.m. until 10:00 p.m. daily and assist farmers with any questions they might have.

POULTRY FEED RELIEF

For our poultry growers, I call for the use of emergency feed from the CCC. Because the drought has caused the price of soybeans and corn to skyrocket, we must provide some relief to this segment of the farm community. I urge the Government to provide this supply at 75% of its loan rate.

1980 DISASTER LOAN EXTENSION

I recommend an extension of the 1980 FmHA disaster loans to include a one year grace period of no payments.

DEFICIENCY PAYMENTS

I propose that there be no requirement for the repayment of advance deficiency payments under this plan. Any advance deficiency payments already received should be calculated into the payment formula of the 0-92 program.

NON-PROGRAM CROPS ON SET-ASIDE LAND

I recommend we allow the planting of non-program crops on set-aside land.

SURVEY OF AGRIBUSINESS

I recommend a survey to focus attention on the small agribusinesses across this nation that are being directly affected by the drought. These businesses are caught with unusually high receivable accounts as they work to accommodate their agricultural customers. The survey should determine the extent of this problem.

DAIRY PRICE SUPPORT

For our dairy farmers, I ask for an increase in the dairy price support level. Without such a measure, we will witness milk production fall to dangerously low levels, additional cattle go to slaughter and finally, runaway prices for years to come.

EMBARGO

Any talk of an embargo is nearsighted and offers no positive results for our farmers. Not only would such a proposal trigger immediate and adverse results in our prices, it would damage America's place in the world market for years into the future. The farmer will pay for any embargo.

Mr. Secretary, when I originally suggested the formation of this "working group," it was my hope that we could work together to provide some relief and assistance to all who are being subjected to this terrible drought. Vast sections of our nation are now facing catastrophic economic devastation as a result of weather conditions. I sincerely hope that these proposals will serve as a foundation from which the drought task force, the USDA, and the entire United States Congress can define a package that will soften the devastating effects of nature.

Sincerely,

DAVID PRYOR.

AVOID HASTY LEGISLATION OF FINANCIAL MARKETS

Mr. DIXON. Mr. President, I rise today to bring to the attention of my colleagues yet another voice arguing against hasty legislation directed at our financial markets in response to last year's market break. I am referring to an article in the June 11, 1988, issue of the Economist.

Mr. President, America's futures markets serve an essential role of bringing together international buyers and sellers. And despite the contention by some individuals that they were culprits in last year's stock market break, they remain the envy of the world. In fact, it is noted in a capital markets survey published by the Economist that Japan's efforts to develop a futures market have actually accelerated since last October's international reevaluation of equities. The author goes on to remark about these sophisticated traders:

> The Japanese clearly recognize the inevitable: that financial futures are here to stay and that their importance will grow.

We must realize that the financial markets are truly global and that we cannot ignore the international consequences of any action we take concerning the functioning of those markets.

In the aftermath of the October 1987 market break, a panic-driven search began for simple answers to the cause and simple solutions to implement. Some individuals espoused the notion that if we but curtail the activity of futures we will reduce market volatility and restore order to the stock market. Yet, as experts began to examine the events which transpired during the stock market plunge, it became apparent that this naive idea was totally off the mark and that a quick-fix legislative solution was not in anyone's best interest.

The Presidential Task Force on Market Mechanisms, chaired by Nicholas Brady, put together a report which narrowly focused on the interrelationships of existing market mechanisms. The Senate Banking Committee, on which I serve, reviewed this report in detail and held several days of hearings on the issue. Witness after witness testified that we should not rush to enact quick-fix solutions. These individuals included: the Chairman of the Federal Reserve System, Alan Greenspan; the Secretary of the Treasury, Jim Baker; the Chairman of the Securities and Exchange Commission, David Ruder; and the Chairman of the Commodity Futures Trading Commission, Kalo Hineman. These distinguished leaders of the financial community have been echoed in the financial press. The Chicago Tribune and the New York Times are two which come to mind. And now the Economist also presents a persuasive argument why we should not pursue hastily conceived legislation. The author of that article reminds us that it was "ill-considered American legislation in the 1960's that allowed London to become the center of the international debt markets." We cannot afford to be so shortsighted in our perspective that we rush to enact restrictive measures which may destroy this vital exchange of information.

Instead of viewing the constant communication and interaction between the futures market and the stock market as a cause of October's break, the author of the Economist correctly points out that it was this exchange of information which kept the market from breaking down. Let me quote excerpts from the article:

> Worse, as confirmed by the Brady report, the NYSE's much-applauded decision on October 20th to stop Wall Street's broker-dealers from using its DOT automated system to execute "program trading" on their own account only made matters worse. It further weakened the vital link between the cash and futures markets, provoking fears of a total market breakdown.

Mr. President, it should be noted that at this time the New York Stock Exchange was laboring to complete a tremendous volume of transactions and was having difficulty coping with the strain. Several exchanges stopped trading. The author goes on:

> The closure of these and other exchanges meant that only one market was left open in America to reflect stock market sentiment: where, in fact, buyers could meet sellers. It was the Chicago Board of Trade's Major Market Index (MMI), a lightly traded stock-index future which is a proxy for the blue-chip Dow Jones industrial average. Everyone involved in financial markets anywhere should be grateful to the Board of Trade's five-man executive committee for not closing. For that gave the stock market the chance to recover. Between 12:30 p.m. and 1 p.m. the MMI index staged an explosive rally going from a record discount to a premium, equivalent to a 360-point rise on the Dow Jones, on a relatively tiny volume of 808 MMI contracts representing a face value of $60M. This triggered the turnaround in sentiment everyone was praying for, allowed the NYSE to resume trading normally again and the other exchanges to re-open.

Mr. President, clearly this article makes an important case for not restricting the futures market through legislation and I ask unanimous consent that the full article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Economist, June 11, 1988]

FUTURE PERMANENT

In America certain politicians, regulators and stock-exchange officials have sought to blame financial futures for the crash, just as their predecessors blamed short sellers in 1929. Chicago has presented a politically convenient scapegoat.

By contrast, in Japan plans to develop a financial-futures industry have been accelerated since October. Chicago has been inundated with Japanese visitors in the past six months. The Japanese clearly recognise the inevitable: that financial futures are here to stay and that their importance will grow. It is not fanciful to expect that within a few years the futures markets could become as dominant in the world of securities as they now are in commodities.

America's politicians would therefore be well advised to temper their natural desire to "do something" and refrain from hasty ill-considered regulation of Chicago. That "casino", as it is described by its opponents, is in fact one of America's most successful industries. Chicago currently enjoys 75% of world futures-trading volume, which is a dominant market-share by anyone's standards.

Tokyo and London, not to mention other financial centers, would dearly love to get a bigger slice and will seize any opportunity to do so. It was, it needs to be remembered, ill-considered American legislation in the 1960s that allowed London to become the centre of the international debt markets, usually known as the Euromarkets. Still, silly legislation looks less likely now than it did immediately after the crash when Chicago was everyone's favourite villain. This is because the facts have been revealed in the various post-mortem studies of the crash, of which the most important is the report of the Brady presidential task force.

COMING OF AGE

It can be argued that financial futures came of age as the result of events last October. After all, this is an industry which began only in 1977 when the Chicago Board of Trade started trading Treasury-bond futures. October's crash made the public aware of financial futures. It has also forced Chicago's two futures exchanges, the Board of Trade and the Chicago Mercantile Exchange (CME), to defend their role both in the media and before Congress.

The most persistent finger pointing at Chicago centres on so-called "program trading", in the sense of index arbitrage. This is nothing more than orthodox arbitrage between a related cash and futures market, much of which is done by a handful of Wall Street investment banks trading on their own account. These institutions used computers to speed up the execution of buy and sell orders through the NYSE's Designated Order Turnaround system (DOT).

Such index arbitrage brings the share and futures markets into line, and is therefore beneficial. The problem on October 19th-20th was not that there was a lot of index arbitrage, but rather that there was too little of it. In fact, less arbitrage took place then than on an average day. The culprit was the anachronistic specialist market-making system still employed on the floor of the NYSE. Under this system the task of making a market in a share is the monopoly of a single specialist.

What happened on October 19th-20th was that the share and futures markets became unhinged because the specialist system could not cope with the volume of selling orders. By the morning of October 20th about 90 shares were not being traded on the NYSE. This transferred selling to the future markets where stock-index futures were selling at an unprecedented 22 percent discount. In normal times this would represent a fantastic opportunity for index arbitrageurs. They could buy the futures and sell the underlying shares, pocketing the huge discount. They did not do so on this occasion because of the turmoil in the stock-market. They were scared to trade because they had no idea at what price they would be able to sell the shares.

Worse, as confirmed by the Brady report, the NYSE's much-applauded decision on October 20th to stop Wall Street's broker-dealers from using its DOT automated system to execute "program trading" on their own account only made matters worse. It further weakened the vital link between the cash and futures markets, provoking fears of a total market breakdown. By stopping index arbitrage the NYSE succeeded only in removing a large group of buyers from the futures markets.

The result was that America's equity markets stood on the verge of total breakdown at 12.15pm New York time on October 20th. At that point there were persistent rumours the NYSE was about to close. Scared of the panic selling that they thought would engulf them on the dramatic announcement of a formal shut-down in New York, the CME and the Chicago Board of Options both decided to stop trading when they heard the NYSE was going into a meeting to decide whether to shut down. These two exchanges felt most exposed because they trade the most popular stockmarket-related futures and options.

The closure of these and other exchanges meant that only one market was left open in America to reflect stockmarket sentiment: where, in fact, buyers could meet sellers. It was the Chicago Board of Trade's Major Market Index (MMI), a lightly traded stock-index future which is a proxy for the blue-chip Dow Jones industrial average.

NO COPY-CAT PANIC

Everyone involved in financial markets anywhere should be grateful to the Board of Trade's five-man executive committee for not closing. For that gave the stockmarket the chance to recover. Between 12.30 pm and 1 pm the MMI index staged an explosive rally going from a record discount to a premium, equivalent to a 360-point rise on the Dow Jones, on a relatively tiny volume of 808 MMI contracts representing a face value of $60m. This triggered the turnaround in sentiment everyone was praying for, allowed the NYSE to resume trading normally again and the other exchanges to re-open.

This episode shows the importance of keeping markets open. The market was by then so thin and had been so universally gloomy that only a small amount of buying was enough to trigger a powerful counter rally. However, if the Board of Trade had panicked and followed the copy-cat example of every other exchange, there would have been no way of measuring that change in market sentiment. As the Board of Trade chairman, Mr. Karsten "Cash" Mahlmann, put it: "We were the only thermometer to show that the temperature had turned around."

The part played by the MMI also illustrates one of the two essential roles of any futures market. On October 19th-20th it was the futures market, not the NYSE, that was establishing prices, as reflected first in the unprecedented discounts and then the move on the MMI from a discount on the Dow Jones average to a premium. The second role of a futures market is to enable investors to transfer risk by hedging. And such investors can do so extraordinarily cheaply.

[From the Economist, June 11, 1988]

THE CASINO WORKS

Futures are many times cheaper to trade than their cash equivalents. They are also much more liquid. For large institutional investors that have to deal in billions of dollars, whether they are managing pension funds, insurance-company assets or mutual funds, this makes futures hard to ignore.

The sheer competitiveness of futures is easily demonstrated. Take equities. It is at least six times cheaper to buy and sell stock index-futures than it is an equivalent portfolio of shares. This is both because of lower brokerage commissions and smaller bid-offer spreads. In the stockmarket the minimum dealing spread is one eighth of a dollar, or over 12%. That is the money the specialist makes every time he processes a transaction. In the futures markets it is one "tick", or $25, which is a tiny percentage of an S&P 500 contract now worth around $100,000.

The same pattern holds true for commissions. Say the S&P 500 is at 300, then the underlying cash value of that contract is $150,000 ($500×300). If the average price of a share is $50, then buying the S&P 500 contract is the same as buying 3,000 shares of a diversified portfolio ($50×3,000=$150,000). The commission costs, however, are quite different. At current rates an institutional investor would pay five cents per share in the stockmarket, which would cost him $150. By contrast, in the futures market the same investor would pay around $25 to buy one S&P 500 contract.

The sheer competitiveness of futures has always posed a threat to established interests in the underlying cash market. Mr. Morton Lane, president of Discount Corporation of New York Futures, a Chicago-based futures broker, used to trade Treasury instruments for the World Bank. He went to Chicago more than ten years ago sensing an opportunity to be in on the start of a new industry. He says: "What I have seen is a constant progression where the futures markets have broken down various oligopolies."

The first example was Treasury bonds where the primary dealers in the cash markets based in New York were initially hostile to futures, claiming they would never use them. That perception has now turned full circle both in New York and Washington. The Board of Trade's Mr. Mahlmann says: "The Treasury is aware of the benefits of these markets when they float the national debt." The same thing happened in banks, which initially viewed the Eurodollar contract as a threat when it was launched in 1982 on the CME. It has been a resounding success. Now there is the continuing conflict in equities between the specialist system and stock-index futures.

This is not to suggest that every futures contract is a success. Far from it. Two-thirds of the contracts which are introduced in the industry fail to attract sufficient volume to be viable. Examples are the municipal-bond contract and the NASDAQ contract based on America's telephone market in the shares of small companies. But when contracts work they often bring bonanzas.

Futures have bred one problem not of their own making. Because futures are cheap and liquid, naive institutional investors have embraced too eagerly mechanistic trading strategies which depend on futures. This can be shown in their love affair with the seductively named portfolio insurance. If futures markets as such were not to blame for the intensity of last October's stockmarket crash, portfolio insurance was certainly a contributing factor, a point conclusively established by the Brady report.

Portfolio insurance arrived in 1984. It offered multi-billion-dollar pension funds the apparent luxury of being able to lock in capital gains made during the 1980s bull market while remaining fully invested in equities: seemingly the best of both worlds. This financial version of having your cake and eating it lulled these supposedly professional money managers into a false sense of security. The result, as the Brady report aptly describes it, was an "illusion of liquidity". That only precipitated a bigger panic when everyone rushed for the exit at the same time.

Portfolio insurance is now discredited, though some other form of "dynamic hedging" will doubtless emerge to take its place. The strategy consisted of slavishly following a mechanical formula which made investors sell stock-index futures and/or shares after the market had fallen and buy them after it had risen, to achieve predetermined but variable cash-to-equity ratios.

By October 19th some $60 billion-90 billion of assets were "insured". With so much money tied up in what were essentially the same predetermined trading formulas, many money managers tried to execute the same sales at the same time when the market started falling. A lot of them were not able to do so, which created a continual overhang of sellers. And the more share prices fell, the bigger that overhang became as a falling market begat more portfolio insurance selling.

Strip away the jargon and portfolio insurance emerges as nothing more than deferred stop-loss selling. (A stop-less order is a pre-arranged order given to a broker to sell when a share falls to a certain price.) It should not have taken a genius to realise this and to understand that nobody is going to provide insurance when the house is already on fire. The "insurance" did not exist.

Many critics (including this newspaper) pointed out the inherent flaws of portfolio insurance long before the crash. It is therefore worrying that so many professional investors could have believed in this particular "free lunch". There is a lesson here. Portfolio insurance highlights one danger of the institutionalisation of investment flows. This is usually represented as a self-evident good thing because small investors have their money bundled together under the control of "experts".

It could equally be argued, however, that institutionalisation of investment has encouraged speculation by removing funds from their original owners. The latter, it could be argued, would be more averse to risks and less susceptible to high-tech balony which offends against common sense than are today's clone-like breed of MBAs turned money managers.

Certainly anyone who thought his money was safer for being invested in a pension fund, mutual fund, unit trust or insurance company had a rude shock last October. Most of these "safe havens" dropped by a similar percentage to the market or by more.

The problem is that money managers do not care. They are measured by comparative performance and not by absolute performance. The issue is whether a money manager outperforms more than 50% of his competitors in a three-month period, not how he has performed absolutely. The money manager is therefore happy if his fund loses only 20% of its value when most of the competition loses 30%. Equally he is unhappy if he makes 10% and his competitors make 20%. This is silly. What matters to the individual investor is absolute not comparative performance—and, most important, the preservation of capital.

With any luck, the demise of portfolio insurance will have taught money managers and the consultants who sold it to them a lesson about the dangers of all mechanistic, supposedly risk-free, products using futures and options. Dreamt up by the rocket scientists employed in recent years on Wall Street, most of whom know nothing about markets but everything about manipulating numbers, such hedging strategies are always based on historical statistical relationships between securities. These work in normal times. The trouble is they often break down in abnormal times, such as in the bond market in April 1987 and in the stockmarket last October, which is precisely when you most need them.

This applies not only to investment management techniques but also to hedging strategies employed by investment bankers to hedge their own trading positions. First Boston's Mr. William Mayer put a stop to much of this nonsense after the investment bank suffered a series of trading losses. He says: "The time you really need this hedging is in a violent move when the hedge does not work. The scientists who formulate hedging strategies will argue with me, but that is OK. I am in charge."

So futures are a powerful tool which need careful handling. The "locals" who make a market in Chicago's trading pits know this. If they do not, they are soon wiped out financially. However, in a business as naturally Darwinian as futures, not even the "locals" are sacrosanct. While others debate the causes of the crash, the futures industry is debating its own future. It is called screen trading.

Mr. DIXON. I recommend to my colleagues that they consider the excellent analysis contained in this article as we reflect on whether we ought to pursue any legislative initiative regarding our financial markets.

HANDGUN PURCHASES

Mr. METZENBAUM. Mr. President, this week, President Reagan endorsed a waiting period and background check for handgun purchases.

He said that he would generally like to see a system of handgun purchases like that in California. According to the President, in California, "for a citizen to buy a gun, that citizen has to come in, lay down the money, of course, name, address and so forth and then doesn't get the gun. And this goes to an agency in the State government that looks into that person's entire background as to who and what they are and then they come back after that investigation and if they don't have a record of any crimes or mental problems or anything of the kind, they are allowed to take their gun home."

I am gratified that the President has joined with law enforcement groups and Sarah Brady in indicating that there should be a waiting period before any person be permitted to go into a store and buy a gun. It would eliminate the opportunity to walk in, buy a gun, and go out and kill somebody.

It makes clear that this is not a liberal or conservative issue. It is a law enforcement issue directed at saving lives.

If the national waiting period, the 1-week period provided for in the Brady bill, had been in place in 1981 when John Hinckley bought a handgun at a Dallas, TX, pawnshop, it is likely that neither the President nor Jim Brady would have been shot.

I have raised this issue with nominees for top jobs at the Department of Justice, and have spoken with them, and I have inquired of them as to what their position is. I hope that the Attorney General will shortly join the President in supporting this law enforcement measure.

I urge my colleagues to consider the President's statement and join in support of S. 466, a bill to establish a national 7-day waiting period for handgun purchases.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

INTERNATIONAL CONFERENCE OF COMBATING ILLEGAL DRUG PRODUCTION, TRAFFICKING, AND USE IN THE WESTERN HEMISPHERE

The ACTING PRESIDENT pro tempore. The clerk will report Calendar Order 747, S. Res. 442.

The bill clerk read as follows:

> A resolution (S. Res. 442) expressing the sense of the Senate that the President should convene an International Conference on Combating Illegal Drug Production, Trafficking, and Use in the Western Hemisphere.

The Senate proceeded to consider the resolution.

Mr. TRIBLE. Mr. President, just 1 week ago, I introduced legislation calling on the President to convene an antidrug summit of heads of state in the Western Hemisphere. Two days ago, the Senate Foreign Relations Committee approved this measure. I'm pleased that our leaders, Senator Byrd and Senator Dole, have moved this measure quickly to the Senate floor.

Each morning the headlines are dominated by stories of drug-related violence and death, of addicted children and Jamaican gangs. But the illicit drug industry has spawned another threat, less clearly visible but just as ominous for our chances of winning the war on drugs: The growing acrimony between the United States and its neighbors in the hemisphere.

The growth and staying power of the drug trade have frustrated the nations of the hemisphere. For too long, our governments have viewed the drug war as one to be fought on someone else's soil. North Americans routinely blame their neighbors to the south for the seemingly endless supply of drugs that washes over our shores. South Americans, in turn, blame the United States for being unwilling or unable to dampen the demand for narcotics.

The hemisphere simply cannot afford that kind of finger-pointing any longer. It severely hinders our collective ability to cope with drugs. And the longer we spend parceling out blame instead of seeking solutions, the longer we will defer action on other pressing problems: The absence of freedom in some countries in the hemisphere and the unceasing poverty in most.

The fate of all the American nations is intertwined as never before. The narcotics trade now forms an integrated web of criminal activity from which no nation in the hemisphere is immune.

For example, the coca leaf which becomes crack in our streets is typically grown in the highlands of Peru and Bolivia. It is processed in Colombia, and transhipped through Mexico and the Bahamas. It finally arrives in Virginia or Florida or New York or the Nation's Capital. Along the way, it leaves a trail of illicit profits and corrupt officials, of dependency and death.

Nor is the north-south relationship strictly a consumer-producer one. The United States, for example, is the third largest producer of marijuana in the hemisphere, just behind Mexico and Colombia. Every year, the United States also sends Colombia millions of pounds of acetone and ether, essential chemicals for processing coca leaf into cocaine.

The warning signs of a burgeoning drug trade—growing demand, corruption and money laundering, and drug-related crime and violence—have begun to manifest themselves in virtually every country. They are visible throughout the hemisphere.

Demand. The United States is the Western Hemisphere's unquestioned leader in its demand for drugs. We've a long way to go toward teaching ourselves, and especially our children, to just say no. But we are not alone.

Countries that once functioned almost solely as drug exporters now face growing drug abuse problems of their own. Increased domestic demand for narcotics has been noted in Argentina, Bolivia, Brazil, Colombia, and Paraguay. Left unchecked, the rising demand in those lands will further entrench the drug lords and make it far more difficult to defeat them.

Corruption. Similarly, the drug lords have tried to buy and sell their influence throughout the hemisphere. In Panama, they have bought their way into power by lining the pockets of Manuel Noriega, and the United States has responded by indicting the Panamanian dictator. In Colombia last year, one of that country's biggest drug kingpins simply bought his way out of prison.

Elsewhere in the hemisphere, the corruption is more subtle. It ranges from simply looking the other way to actually helping to ensure safe passage for drug runners through customs or police checkpoints. It also includes attempts to entice the armed forces of many countries.

The United States, too, has its share of corruption. State and Federal courts in this country now hear about 100 cases each year involving drug-related corruption of police and public officials. The hemisphere's war on drugs cannot be won when the very people who should be enforcing drug laws are being paid to ignore them.

Nor can we shatter the international drug rings without breaking the vital money link in the drug chain. Laundering of drug-related profits helps fuel the drug cartels. Before the most recent wave of economic crises in Panama, that country was the money laundering capital of the hemisphere. The United States continues to be an attractive laundering target, though recent antilaundering statutes have helped. Paraguay, too, has recently emerged as a major money laundering center, and strict bank secrecy laws in Equador make it an attractive laundering target.

Crime and violence. The violence and killing that attend the drug trade also transcend national boundaries. Mexico's attorney general has said that, during the past 5 years, 154 of that nation's law enforcement officers were killed in drug-related violence.

In South America, especially, the drug trade is increasingly violent. Two years ago, Colombia's attorney general was gunned down after he threatened tough action against drug traffickers. In addition, traffickers have joined in a marriage of convenience with terrorists seeking to destabilize governments in Peru and Colombia.

Throughout the United States, Jamaican gangs threaten and kill others in their quest for control of the lucrative cocaine trade. These Jamaican posses, which claim thousands of members, have set up shop in city after city, even in the small town of Martinsburg, WV. In our Nation's Capital, roughly half of the more than 120 murders committed so far this year have been drug-related.

Clearly, the nations of the Western Hemisphere are suffering together. Just as clearly, we must address the drug problem in the same manner—together.

The time is ripe for an antidrug summit among governments of the Western Hemisphere. This resolution envisions a meeting of heads of state to focus on one thing and one thing only—combating the international drug trade. Those governments who share our opposition to illicit drugs would be invited to devise new strategies and propose new solutions to the narcotics industry.

The meeting would also provide a useful forum for further isolating those leaders who are themselves involved in the drug trade. Manuel Noriega and others like him must be made to realize that they will be shunned not just by the United States, but by all of the Americas.

A summit would also facilitate a common understanding of the enormity of the task confronting us. North Americans must come to understand the difficulty South American governments face in outlawing crops, like coca, which have been legal for centuries. We must realize the difficulty of asking a narcotics force like Bolivia's, which has only six aging American helicopters, to confront an entire jungle full of drug labs.

Make no mistake, the United States must reserve the right to suspend foreign assistance to governments that don't take the drug war seriously. But we must also make clear that we're prepared to reward cooperation by our colleagues in the hemisphere.

Likewise, South American nations must come to understand the great difficulty of interdicting drugs once they've left the source country, and why it is imperative that we undertake the most effective means of crop eradication.

A drug summit can help accomplish these goals, and more. Perhaps most important, it can foster a shared realization that it's not just the drug war we're losing. Certainly, our collective ability to combat the drug trade will be seriously impaired as long as we are significantly divided over how best to do it. But so too, will our ability to combat the most fundamental difficulties besetting the region: The absence of democracy, the persistence of poverty and want.

More than a quarter-century ago, President Kennedy forged a grand alliance to combat those problems. In launching the alliance for progress, the President called for "* * * a vast cooperative effort, unparalleled in magnitude and nobility of purpose, to satisfy the basic needs of the American people for homes, work and land, health and schools."

The hemisphere's narcotics trade demands an effort of similar sweep and magnitude. Left unchecked, the illicit drug trade will surely engulf us. Individually, we cannot meet this challenge. But collectively, we can and must take decisive action.

Combating the drug lords together will strengthen the bond among nations of this hemisphere. And as we succeed together, we shall strengthen our alliance and eventually free our resources to address the hemisphere's more fundamental human needs. The drug summit is a good place to start, and I urge my colleagues' support for this resolution.

The ACTING PRESIDENT pro tempore. Under the previous order, the question is on agreeing to the resolution. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES], the Senator from Georgia [Mr. FOWLER] and the Senator from Louisiana [Mr. JOHNSTON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Oklahoma [Mr. BOREN] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS] is necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—94

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NOT VOTING—6

Biden
Boren
Chiles
Evans
Fowler
Johnston

So the resolution (S. Res. 442) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 442

Whereas, despite increased enforcement and prevention efforts, the production, trafficking, and use of illicit drugs continues to be a serious problem throughout the Western Hemisphere;

Whereas the United States in particular continues to have a high demand for illicit drugs, and much of the supply of illegal drugs in the United States is imported from other countries in the Western Hemisphere;

Whereas many other countries in the Western Hemisphere are experiencing a substantial increase in drug abuse by their own citizens;

Whereas the drug trade in the Western Hemisphere is becoming increasingly violent, resulting in the murder by drug traffickers of law enforcement officials and other innocent people, and threatening the ability of governments to combat effectively the drug trade;

Whereas drug traffickers in the Western Hemisphere have increasingly sought to bribe or otherwise corrupt public officials, and such corruption impairs the ability of governments to combat the drug trade;

Whereas the laundering of drug-related profits through banks and other institutions in the Western Hemisphere remains a serious problem and continues to hamper efforts to crack down on drug trafficking;

Whereas the production, processing, trafficking, and use of illicit drugs form an integrated web of criminal activity which covers the entire Western Hemisphere;

Whereas cooperative efforts among all nations in the Western Hemisphere are essential to combat effectively the drug trade; and

Whereas such cooperative efforts will be most effective when they involve a strong commitment by heads of state and other high-ranking officials within each country in the Western Hemisphere that is willing to combat the drug trade, and whose cooperation the President deems essential to that goal: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President should convene as soon as possible an international conference to be known as the "International Conference on

Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere";

(2) such conference should involve the heads of state, the highest-ranking law enforcement officers, and other appropriate officials from every government in the Western Hemisphere that is willing to combat the drug trade, and whose cooperation the President determines is essential to that goal; and

(3) such conference should focus exclusively on combatting the drug trade and, in particular, should emphasize enhancing cooperative efforts among the governments of the Western Hemisphere to—

(A) substantially reduce the production, cultivation, and processing of illicit drugs;

(B) eliminate the transshipment of such drugs through countries in the Western Hemisphere;

(C) curb the demand for and use of such drugs in every country in the Western Hemisphere;

(D) combat the problems of drug-related corruption and drug money laundering; and

(E) share intelligence information, extradite drug traffickers, and take other steps necessary to improve law enforcement efforts against the drug trade.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

The ACTING PRESIDENT pro tempore. The clerk will report the unfinished business, Calendar Order No. 735, S. 2527.

The bill clerk read as follows:

A bill (S. 2527) to require advance notification of plant closings and mass layoffs, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The Senate will come to order. The Senator from Utah.

Mr. HATCH. Mr. President, can we have order in the Senate?

The ACTING PRESIDENT pro tempore. The Senate will come to order. Those Senators conversing in the aisles will please retire to the Cloakrooms. The Senate will come to order. The Senator from Utah.

Mr. HATCH. Mr. President, one of the most intensive issues we have ever faced in the Senate has been the plant-closing provision that was included in H.R. 3, the omnibus trade bill. We are now being asked to revisit this provision.

Once again, I am going to remind my colleagues that those provisions take away—if I could have order in the Senate, Mr. President?

The ACTING PRESIDENT pro tempore. Those Senators in the rear of the Chamber who are conversing will please retire to the Cloakrooms and cease their conversations.

Mr. HATCH. I want to point out to our colleagues that this provision takes away one of the most significant competitive advantages this country now has over its European trading partners. That is labor-management flexibility—the ability of American employers to react quickly to changing market conditions through work-force adjustments. It is evidenced from the experience the common market countries have and that they have had with similar laws, meaning similar plant closing laws, that mandatory notice requirements hurt employees far more than they help employees.

Mandatory notice laws stifle job growth and foster high rates of unemployment. This bill should not impart the failed labor policies of Western Europe into our country nor should it import them.

I hope my colleagues will bear with me because I would like to explain some of the aspects of this bill which continue to be misunderstood and, in some ways, misrepresented.

Mr. President, these so-called simple plant closing provisions go far beyond plant closings, and they certainly are not simple.

EMPHASIS ON LAYOFFS

When Owen Bieber, president of the United Auto Workers, testified in favor of plant closing regulation before the Senate Labor Subcommittee earlier this year, he told us of the devastating impact that plant closings have had on the members of his union and that the surprise of sudden plant closures and permanent layoffs would be prevented by a mandatory notice requirement. But, in fact, under the collective bargaining agreements the UAW has negotiated with the auto companies, laid off auto workers already receive supplemental unemployment benefits equal to 95 percent of the worker's regular pay for as long as 2 years after the layoff.

Mr. President, why are major industrial unions, like the United Auto Workers, the strongest supporters of plant closing legislation? Why would a union like the UAW, which appears to have already won through collective bargaining far more than this legislation provides, be working so hard to win enactment of the plant closing regulatory bill?

First, the primary utility of this legislation will be to regulate layoffs, not plant closings.

I do not know of an editorial that supports this bill that understands that particular statement.

Let me repeat it. The purpose of this bill is not to solve plant closings, but to regulate layoffs. One needs only to examine the definition on "plant closing" in the bill to understand that layoffs are the true concern of the bill's sponsors. Let me read the definition of "plant closing" for my colleagues:

> The term "plant closing" means the permanent or temporary shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 more employees, excluding any part-time employees.

Under the bill's enforcement section, employers are required to give 60 days advance notice whenever 50 or more employees are laid off at a single site during any 3 month period. In a large assembly plant which employs 5,000 employees, 50 workers represent only 1 percent of the work force. Yet this legislation would write into law the irrational policy that a temporary, short-term layoff of 1 percent of the work force from this time forth shall be considered a "plant closing and mass layoff." The legislation also requires that 60 days notice must be given no matter how short the layoff if the employer cannot predict the precise day on which the employees will be recalled. In other words, if 10 employees are laid off for a short indefinite period—let's say between 5 and 10 days each month—for 3 successive months, 60 days notice must be given to each employee even if it is clear that the layoffs are only temporary and the employer fully intends to recall them. That's not plant closing legislation—that's Federal regulation of layoffs.

NATIONAL POLICY FOR INDUSTRIAL RELOCATION

Second, the true purpose of this legislation is not just to give employees who have worked for a company for 20 years the right to hear 60 days in advance that their plant is about to be closed. The true purpose of this bill is to delay or prevent layoffs and closings. Here again the auto agreements provide some insight into labor's objectives. The recently negotiated UAW-Ford agreement, for example, contains a program which will, according to Mr. Bieber, "maintain current job levels at all units in all locations and will prevent layoff for virtually any reason except carefully defined volume reductions linked to market conditions." In addition, the agreement contains a moratorium on most closings of Ford facilities. When Mr. Bieber testified in favor of this legislation earlier this year, he told the Subcommittee on Labor that his union is "convinced that far too many plants are being closed needlessly."

For this second point to be understood more thoroughly, however, one must step back and look at this issue in its historical context. Plant closing legislation is not a new concept that appeared in Congress for the first time this year. As early as 1973, former Senator Walter Mondale introduced a bill calling for "a national policy for industrial relocation." The former Vice President criticized this Nation as being "among the few major industrial countries continuing to ignore the social impact of changes of business operations on employees and local communities." He pointed out that in

"England, Sweden, and West Germany, as in many countries, government permission is required for plant location and relocation," suggesting that the same policy should be adopted here in the United States.

To implement this industrial relocation policy, the Mondale bill proposed a comprehensive system of Government regulation of layoffs and plant closings. The centerpiece of his proposal was a National Employment Relocation Administration which would oversee all changes in business operations in the United States.

The National Employment Relocation Administration would have ensured that any business with more than 50 employees gave 2 years written notice of its intent to close or transfer all or part of the operations of a facility if it would affect as few as 15 percent of employees or even 15 percent of the membership of any union. Once notice had been issued, the Government would conduct a thorough investigation to determine whether the company's decision to institute layoffs was justified. A major part of that investigation would have been public hearings conducted by the Relocation Administration which would have been empowered to issue subpoenas to compel company officials to appear, force company officials to testify under oath, and compel the production and public disclosure of "any documentary evidence," which would have included any internal corporate memoranda, studies and financial papers. The bill provided that anyone who refused to cooperate could be thrown in jail for 6 months.

You talk about oppression. That is what became the forebear of this bill on the floor today, which is not all that different.

Once the investigation was completed, the Secretary of Labor would publish a report giving its views regarding whether the company decision was justified. If the company decision, according to the Relocation Administration, could not be justified, then the company would suffer severe tax penalties.

Mr. Mondale described his proposal as "only an outline and a beginning," which raised the question as to where he intended his proposal to end. Not surprisingly, the bill was never given serious attention by the Congress despite its being reintroduced several times in succeeding years.

In 1985, however, the proponents of industrial relocation policy abandoned their straightforward approach and came up with one that was given serious attention. H.R. 1616 had most of the same objectives as the earlier Mondale bills, but used much more subtle means to achieve those objectives.

First, it required 90 days' advance notice by any employer with 50 or more employees if, during any 30-day period, 50 or more employees at any site were terminated, laid off indefinitely, laid off for more than 6 months, or had their hours reduced by more than 50 percent in any 6-month period. Second, it required companies to make public disclosure of detailed and delicate financial information. Third, it required management to consult with the union for the purpose of reaching agreement on alternatives to the layoff that were acceptable to the union. Fourth, it permitted unions to obtain injunctions in Federal district courts to block layoffs and closings if the employer failed to meet the union's demands.

H.R. 1616, like the legislation before the conferees today, was described by its proponents as a "simple notice bill." The House of Representatives felt otherwise. First, injunctions were dropped from the bill. Then an amendment deleting the consultation and financial disclosure provisions forced House Members to look closely at the true intent behind the bill—to give labor unions far greater power over a company's basic business decisions. That amendment carried by a vote of 215 to 193.

The House then turned to the issue of mandatory notice. It considered two proposals, one for a 90-day notice, and one for a 60-day notice, virtually the same notice requirement now before the conferees. Both were rejected.

Despite the year's defeat of plant closing legislation in the House, the issue was introduced again this year in both the House and Senate. As the bill moved to the Senate floor, it went through the same dismembering process as had the House bill in the last Congress. First injunctions were dropped, then the consultation requirements were removed, and later the information disclosure provisions eliminated. When the notice requirement was reduced from 6 months to 60 days, Senators then succumbed and agreed to adopt the measure, even though there was still considerable confusion as to what the bill truly required, particularly since these changes were made one right after the other by the bill's sponsors. The paper was still warm from the copy machine when a new version of these provisions would appear.

Now, let us look at the question of mandatory notice.

The proponents and many of the editorial writers in this country, who do not know a doggone thing about labor law, have tried to present this as a simple 60-day notice of plant closing bill.

The arguments offered in support of the bill are all based on the theory that federally mandated advance notice of plant closings and layoffs—including routine layoffs—are a necessary prerequisite to a successful workers assistance program. Not that is, obviously, not the case inasmuch as title III of the Job Training Partnership Act has been assisting hundreds of thousands of dislocated workers since 1963. I know, because I had a lot to do with the enactment of that bill and have watched it very carefuly since that time.

While the Worker Readjustment Assistance Program proposed by President Reagan, and which we are support, would make desirable improvements in this program, title III has functioned quite well without mandatory advance notice requirements.

There are several other problems with the arguments of the proponents. First, as I discussed previously, this is not a pure and simple plant closing bill. This bill would apply to temporary layoffs, including those in large manufacturing facilities. Neither title III, nor the Worker Readjustment Assistance Program that we all support, however, is intended for employees on temporary layoffs. The Worker Readjustment Assistance Program, or the WRAP Program as we affectionately call it, is designed for displaced workers, those who have been permanently terminated by their employers who need help finding another job or retraining for another career field. These are transition assistance programs and workers on temporary layoffs are not in transition.

Second, this argument makes the very broad assumption that as a general practice employers will not inform their employees about a possible layoff unless the Federal Government requires it—that without a Federal mandate, businesses will close their doors and steal away without a word. To support this proposition, the proponents often cite two studies that the sponsors of the legislation requested from the U.S. General Accounting Office, one published in September 1986 and the other in June 1987. The most often heard statistic extracted from these studies is that the average amount of notice workers are receiving when plants close is 7 days. But these statistics being quoted and tossed about cavalierly are highly selective excerpts. When these studies are reviewed in their totality, it is clear that employers are giving employees much greater notice than the proponents are willing to admit.

The 1986 GAO study involved a national survey of 500 selected establishments of 100 or more employees in 1983 and 1984 which asked employers 16 questions about business closures and layoffs. Among these were questions dealing with the type and length of advance notice to workers and others affected by closures or layoffs. The 1987 study also surveyed establishments which had experienced a plant closing or layoff during those same years.

These studies make a sharp distinction between "general notice" and "specific notice." "General notice" is defined as an announcement that a closing or layoff will take place at some approximate point in the future, without specifying the exact date the termination or layoff will actually occur. "Specific notice" occurs when individuals are notified that they will be laid off on a date certain. The numbers being given by the proponents in this debate are the specific notice numbers exclusively. They have completely ignored the general notice numbers as if to say that an employee who has been told that he or she will be laid off 3 or 4 months from now, but who has not been given the exact date on which the layoff will occur, has not received notice.

The first GAO study reported numbers on both general and specific notice. The second study only looked at specific notice data, which of course means that Members of Congress are not being presented with a fair and evenhanded view of this important issue. I ask unanimous consent to have printed in the Record a table describing some of the results from the first study.

There being no objection, the table was ordered to be printed in the Record, as follows:

Days	Percentage of establishments		
	General	Specific	Overall
0	20	23	12
1 to 14	25	31	30
15 to 30	19	20	21
31 to 90	18	17	19
91 to 180	10	6	9
181 or more	8	3	9

Source: Plant Closing: Advance Notice and Rapid Response, OTA–ITE–321, Washington, DC, September 1986.

(Mr. SHELBY assumed the chair.)

Mr. HATCH. What these figures show is that 80 percent of businesses give advance general notice, and 55 percent give at least 2 weeks notice. Looking at the overall section, over 88 percent of companies give some notice, and nearly 60 percent provide more than 2 weeks.

The GAO studies are not the only studies that have been conducted to determine the extent of notification practices in the private sector. For example, a 1986 study by Ronald Berenbeim for the Conference Board found that the average period of advance notification was even longer than that reported by GAO. Over 45 percent of the firms responding to the Conference Board survey reported giving at least 90 days advance notice.

Proponents of the bill may argue that this notice policy by firms in the Conference Board survey was the result of collective bargaining between unions and management. Well, Mr. President, that is as it should be. Why should Congress interfere with the true collective bargaining process, especially when that process is working and it actually accomplishes more than what this mandatory notice bill does? But this is not just a mandatory notice bill. I have to even correct myself. It is a mandatory notice, layoff, et cetera, et cetera, et cetera bill.

In addition, a separate survey was conducted by the Bureau of Labor Statistics in 1986 at the request of Secretary Brock's task force. That BLS study found that companies gave an average of 46 days advance general notice in over 35 percent of the cases. General advance notice of 46 days and specific notice of 18 days was given in nonagricultural situations. The range was from a high of 63 days of general notice in durable goods industries to a low of 13 in nondurable goods businesses. Likewise, the specific notice ranged from 27 days in nonmanufacturing to 11 days in nondurable goods industries.

One reason for the differences in these studies is the time period during which the surveys were made. The GAO data, for example, reflects years in which two recessions coincided with a significant increase in the value of the U.S. dollar. As economic columnist Warren Brookes has written, the business climate has changed dramatically since the period for which GAO collected and analyzed its data; and, there is growing evidence that the U.S. market economy is now resolving the problem on its own.

We can see evidence of this trend in recent Department of Labor statistics. They show that manufacturing jobs rose by 60,000, their fifth straight monthly increase. In the fourth quarter of 1987, they rose by 461,000 in 1 year. In spite of record high trade deficits, the United States lost only 99,000 manufacturing jobs in 1986. Manufacturing employment rebounded from a recession low of 18.1 million in late 1982 to 19.4 through 1987.

In addition, look at the May 1988 employment figures. During that month, unemployment rate was 5.6 percent, one of its lowest levels since May 1979. Of even more significance, manufacturing employment rose by 16,000 between April and May. From December to May, according to the Department, the economy produced 127,000 new factory jobs. That is over 20,000 jobs in factories every month.

It is also becoming clear that this country is on the brink of major labor shortages in many skilled occupations. A recent study prepared for the U.S. Department of Labor by the Hudson Institute predicts that between now and the year 2000, the U.S. work force will grow more slowly than at any time since the 1930's, significantly tightening labor markets.

In other words, there is going to be a demand for employees all over America.

Government should focus its resources on training our work force for the thousands of new employment opportunities being created, not fruitless efforts to maintain antiquated business operations.

That is all this bill does, and it does it in a complex way. It changes the National Labor Relations Act in ways that would never have been permitted up until this Democratic-controlled Congress.

VOLUNTARY EMPLOYER EFFORTS

In performing his survey, the Conference Board's Berenbeim discovered another trend which has been largely ignored by the advocates of layoff and plant closing regulation—a "learning and generosity curve" among corporations that have experienced closures in the past. He found that companies have become more liberal in the terms and conditions of subsequent closures as they learn that advance notice can help to mitigate the adverse impact of closings on employees and communities.

There are several examples of this trend, such as the promulgation of voluntary guidelines by organizations like the Business Roundtable and National Association of Manufacturers urging member companies to provide employees with advance notice. In June 1983, for example, the Business Roundtable published "Plant Closings: A Position Paper," a set of voluntary guidelines representing "the best practices of responsible companies." Acknowledging the important responsibility the business community has to workers, families and communities affected by closings, the paper topped its list of guidelines with a recommendation that employers "provide the longest practicable notification to affected workers and communities."

That same year, the business community set up the National Center on Occupational Readjustment, Inc. [NaCOR] to collect and disseminate information on sound, practical means of mitigating the adverse effects of plant closings. NaCOR's initial publication, "Managing Plant Closings and Occupational Readjustment: An Employer's Guidebook," is still regarded as the best source of information for employers, employees and communities who must deal with the problems that arise during a major work force reduction. The guidebook recommends a notice period that will "provide sufficient time to allow for balancing the various interests of the employee, community, supplier, and customers." Stressing the advantages of advance notice to each of these interested groups, the guidebook suggests a notice period of 1 to 6 months, depending upon the unique circumstances surrounding each plant-closing decision.

I also think it is useful to stress the words "unique circumstances." Not all closing situations are alike, and they may be handled best in different ways.

With the trend moving in the direction of employers providing more and more notice voluntarily, Congress needs to ask itself what the impact would be of mandatory 60-day notice requirement. Employer organizations, like the Business Roundtable and National Association of Manufacturers, have gone out on a limb to encourage their members to adopt progressive work force adjustment policies. Yet Congress is responding to these initiatives by saying that since many companies have already taken these progressive steps voluntarily, let us write these "best practices" guidelines into law and hold employers liable for failing to abide by their letter. Mr. President, if we want employers to be progressive, to be innovative, to step forward on their own initiative, and to develop employment policies that do not require armies of plaintiffs' lawyers, and Government attorneys to enforce, then we should punish their progressive policies by making them legally binding. To do so will only discourage the taking of similar steps in other areas.

EXEMPTIONS/EXCEPTIONS AND JURY TRIALS

When this legislation was first introduced, employers repeatedly pointed out to Congress that there are certain situations in which it would be impossible to give advance notice of a layoff or closing. The proponents recognized the validity of this point and wrote several exemptions and exceptions into the bill. There is an important question, however, as to whether those exemptions and exceptions would be of much practical value.

A threshold point is that any litigation that arises from the use of the exemptions and exceptions would be conducted before a jury. Section 333 of the bill provides for a civil action by any aggrieved employee or unit or local government either for damages or civil penalties.

Now, what that means is that all of this can be thrown to a jury, which means that the exemptions and exceptions will not mean a darn thing by and large.

Under the seventh amendment to the Constitution, jury trials are allowed for causes of action created by Congress if the statute creates legal rights and remedies enforceable in an action for damages in the Federal district courts. Supreme Courts cases, such as the 1978 decision in Lorillard versus Pons, demonstrate clearly that jury trials would be available in any suit for damages claiming employer violations of this law.

What then would the juries be deciding? One exemption allows a company to reduce the notice period if the employer can meet a highly complex legal test. The employer would be required to show that "as of the time that notice would have been required the employer was actively seeking capital or business which, if obtained, would have enabled the employer to avoid or postpone indefinitely the shutdown and the employer reasonably and in good faith believed that giving notice required would have precluded the employer from obtaining the needed capital or business." It would be difficult to draft a more subjective legal test.

Another exemption says the notice period may be reduced if the shutdown is caused by business circumstances that were not reasonably foreseeable to whom? The company? The employees? The union? Maybe even an economic forecasting firm? How soon would events have to be foreseen—1 year, 1 quarter, 1 week? In each situation under this exemption, a jury would again have to make a highly subjective judgment.

It is not difficult to understand. Most jurors are going to be empathetic with the employees and against the company that may be shutting down its operations in their particular area, whether it is right or wrong. So the exemption really does not mean much.

When deciding whether to invoke an exemption or exception, therefore, the employer must be willing to accept the risk of a lawsuit and take his or her chances with the jury comprised of citizens whose friends and neighbors have been directly or indirectly affected by the so-called plant closing.

The legislation presumes corporate malevolence as the reason notice is not given under the terms and conditions Congress may think appropriate. The exemptions and exceptions are meaningful only if one believes that the possibility of large damage awards would not be an incentive for plaintiffs' lawyers to sue.

I have said it before. This bill will make even second-rate lawyers rich. There is no way it can fail but to make them rich.

CONCLUSION

Mr. President, I urge my colleagues to oppose this effort to legislate in this particular fashion, to legislate a national policy of governmental intervention in business layoffs and closings. As I have described, such a policy is inflexible and restricts the ability of American business to make needed adjustments in their production costs. Now is not the time to saddle our producing sector with additional labor market rigidities to compound the difficulties American companies have had making significant inroads into foreign markets. Many unions who advocate such a policy have already been successful in incorporating advance notice provisions into their collective bargaining agreements. Labor and management should maintain the freedom to do so under our current labor law system. A federally mandated standard, however, imposes new costs and uncertainties which can only be counterproductive to growth and job creation in the United States.

Mr. President, we are going to have some amendments this afternoon. I presume this will be after approximately 2 p.m., because the amendments are being drafted. Right now there is an anticipated meeting among various colleagues to discuss this matter, and see where we should go on them. It does not take many brains to realize that it is not the simple matter that the New York Times, for instance, seems to think it is or certain other editorials. It is a very, very complex bill. It changes the National Labor Relations Act, an act which basically has had very little change for most of the last half century. The reason it has not is because of the delicate balance that has to be maintained between labor and management. But it actually effectively changes the National Labor Relations Act in three major areas.

I think we have to be very, very careful making those kinds of changes without a complete dislocation of our business community. Let me point out that the proponents of this so-called plant closing layoff bill point to European plant closing laws and imply that the United States is somehow backward in its labor policies and that European governments have a higher degree or measure of compassion for their workers.

Mr. President, I wonder whether the unemployed workers of Germany, Italy, France or Britain where they have these laws would not be willing to trade some of these laws for increased job opportunities. The so-called worker protection policies including plant closing laws have contributed significantly to the economic stagnation of the European economies.

Every time central government gets too involved and too intrusive into what really is the basic free market system you have stagnation, and economic difficulties. Take the Federal Republic of Germany. Columnist Warren Brookes recently reported that since 1972, when Germany passed its plant closing law, 1 million jobs have been lost. The United States has created 33 million jobs. They have lost 1 million once this plant closing law in Germany was invoked into law.

Germany's employment-to-population ratio is just 51 percent compared to over 62 percent in the United States. I think this is an important issue. One prominent German company, Krupp, has expended 3 years and $800 million thus far trying to close one antiquated—necessary to close—

steel plant; $800 million and Krupp still has not completed the process. Do we want to saddle our economy like that? It is incredible. But that is what we are going to do to our country. Every time I see these organized labor bills come to the floor they never cease to astonish me, how antifree enterprise and anticompetition they really are.

In 1956, France had an unemployment rate of 1 percent. It was 4 percent in the United States, but in 1965 France adopted a law mandating severance pay, and in 1973, increased the amount of the payments, very similar to this law. Unemployment has been increasing ever since and today unemployment in France is around 10 percent. Is that what we are going to do in this country? That is what this law would do to this country. It is not as simple as a 60-day provision. I challenge my colleagues to look at this bill and look at it carefully.

Spain has a complex plant closing and layoff law which has its origin in the fascist regime of Francisco Franco. Spain also has an unemployment rate of 20.1 percent. By contrast, Japan has no specific notice requirements in closing and layoff situations, no mandatory severance pay, and no mandatory information sharing of Japanese companies, like American companies. They often take such action on a voluntary basis. Look at Japan's economy, which is booming as usual.

Switzerland has no mandatory severance pay; in other words, no mandatory plant closing law, and only 1 month's advance notice, and its unemployment rate is 1.8 percent. The more cumbersome the law, the greater the negative impact on the workers and on the economy of that particular company. If industry is forced to make honest expenditures whenever it needs to close a facility or layoff workers in order to adapt to new economic and market conditions, it should be no surprise that unemployment rises.

Let me quote a bit from the recent Washington Post editorial.

> Europeans profess astonishment at American success in keeping employment expanding despite oil crises, recessions, inflation, and high interest rates. The unemployment rate in Europe is nearly twice as high as here * * *. Part of the explanation is the extreme labor force rigidity of the European labor market * * *. It is difficult for an employer to fire or lay off people. Powerful legislation sees to it that it makes employers very wary about hiring. The paradox is that, beyond the point that Europe long since passed, laws to protect jobs result in high unemployment. That is part of the equation that the European left prefers not to discuss. Here in the freewheeling United States, the law does not do much to preserve jobs for the people who have them, with the result that people who do not have them are more likely to find them.

It is a pretty interesting editorial and I think a pretty interesting set of points.

The sponsors argue that their company closing layoff bill is modest. Perhaps it is modest relative to the laws of West Germany or France but in both of these cases the laws were broadened after they were passed. In this country we should pay some attention to our senior majority Members in the House who have been quite up front about their intentions to seek expansion of the plant-closing bill, should it become law. Make no mistake. This so-called simple plant closing and layoff bill represents the proverbial camel's nose under the tent, and it is indeed a very large camel.

Let me refer to the Wall Street Journal editorial dated Tuesday, June 30, 1987. It is entitled "The Democrat's European Disease." It says:

> By the time the Senate's monstrous 1,000-page trade bill slouches to the floor for a vote, it will be carrying more than 100 amendments. Among them is a plant-closing bill sponsored by Ohio's Democratic Senator Howard Metzenbaum. Slated for a vote today or tomorrow, it would create new requirements for closing a plant in the U.S. (The senators aren't too fastidious about whether their amendments have much of anything to do with trade.) The plant-closing amendment is among a half-dozen Big Labor measures sponsored by Democrats this year. Taken together, the bills add to a Democratic effort to infect the country with an epidemic known as the European disease.
>
> The European disease, which has enervated Europe's economies for years, was the result of good intentions gone haywire. The European model of employment called for strict government control of the labor market in the interests of "the social good." Practically every aspect of labor-management relations has been regulated to some degree—from wages and benefits to plant operations. The result: 15 years of relatively flat job creation. Since 1970, the economies of Britain and West Germany actually have shown a net decrease in the total number of jobs; France and Italy posted only modest increases.
>
> Unemployment among members of the European Community remains stubbornly high, with rates ranging from 9% in West Germany to almost 12% in Britain. As the accompanying chart illustrates, the U.S. economy has been a veritable job-creation machine compared with the EC. Since 1970, the U.S. economy has produced more than 30 million net new jobs, for an increase of nearly 40%. Since the 1981 recession (which resulted in 11 million displaced workers), the U.S. economy has created some 20 million new jobs, for a net gain over this period of nine million new jobs.

As of today, a year later, it is 14 million new jobs. That is what happens when you allow a free-market economy to expand and go. Do we want to go to the European disease? Those are my remarks.

Back to the editorial:

> Against this backdrop, the Democrats are now ready to march U.S. labor law backward into someone else's failed past.
>
> The plant-closing bill requires employers to give 3 months' advance notice of closings. A "double-breasting" bill places new strictures on construction companies operating both union and nonunion shops; the bill would effectively unionize many non-union operations and permit multisite picketing. A minimum-wage bill raises the minimum hourly scale by nearly 30%. An occupational disease bill requires notifying employees of job-related disease risks as broadly defined by the government; employers absorb the cost of testing. Another bill expands the scope of Davis-Bacon prevailing wage laws on federal projects. A parental-leave bill, part of an emerging "mandated benefits" strategy, would require employers to provide up to nine months a year in leave to parents.
>
> Most of these bills are rewrites of measures rejected by Congress in past sessions. The only thing that has changed is that Democrats now control the Congress. Howard Samuel, an AFL-CIO executive, said recently, "We control the committees and the agenda on the floor."
>
> The irony in all this is that Senator Metzenbaum and his like-minded colleagues are embracing a European-like labor policy at the very time Europeans are trying to move away from it. Last month the economic policy committee of the Organization for Economic Cooperation and Development issued a report asserting that broad reforms of Europe's labor policy are needed if the EC is to spur job creation and healthier economic growth. The report advocated "dynamic economies in which markets and competition [play] a wider and less constrained role." And improved "functioning of labor markets is essential to reduce joblessness and strengthen economic performance."
>
> So the imminent vote on the Metzenbaum plant-closings bill offers an odd spectacle. While the OECD seeks now to undo the damage of 15 years of policy that has raised labor costs, decreased productivity, stifled job creation and hindered competitiveness, the Democrats are intent on imposing the same disease on the American economy. Come to think of it, the Metzenbaum plant-closing measure looks right at home in the congressional trade bill.

Mr. President, I have a lot more to say about this bill, but I think I have said enough for today.

The fact is this bill comprises some major changes in Federal labor laws. It makes major changes in the National Labor Relations Act which has functioned very, very well and has maintained a delicate balance between the competing interests of labor and management for many years.

This particular bill will upset that relationship. It will change the laws in a detrimental way and it will lead us to what the Wall Street Journal, I think, very cogently calls the European disease. We will regulate business to such a degree that we really are not creating jobs anymore, we are taking jobs away and in the process we continue to prop up ailing and unstable businesses and businesses that are antiquated to the point that we are not competitive as we are not in many, many competition facts, just such with Japan, to use them as an illustration.

We have not been consistent in maintaining our industries in this country on a real competitive basis, and part of the reason is because we consistently have these type of bills come to the floor that will change the labor laws and inject Government in more and raise the cost of our particular commodity so that we really cannot compete.

It just amazes me that we go to these lengths, just because one segment that represents 18 percent of the workers in this country wants it. In all honesty, that segment is wrong. And we are doing it on the basis of legislating by title, just because it sounds good to give a 60-day notice provision and they call it a simple 60-day notice plant closing bill. It is a lot more than that, and I hope my preliminary remarks have gone into that to the degree that some are starting to realize that this is not a simple plant closing bill. It is a complex bill that changes labor law in this country and changes it detrimentally, I think, for our whole economy.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, will the Senator from Utah yield for a question?

Mr. HATCH. I am delighted to yield.

Mr. METZENBAUM. The Senator from Ohio is anxious to move this legislation forward and to deal with such amendments as the Senator from Utah and others of his colleagues might be offering. Do I understand him to indicate that none of those amendments will be ready until this afternoon?

Mr. HATCH. Yes; I have committed to Senator QUAYLE, who would like to file a substitute, that I would not present my amendments until after we had the opportunity of presenting a substitute and having a vote on it.

He intends to do that this afternoon, and it should not take an awful lot of time to get that done.

After that substitute is voted on, then I will have some amendments, I presume, and they should not take a lot of time, at least under present circumstances. But on the Quayle substitute, he would like that accommodation since it is an important substitute and it will make a number of points that he feels have to be made.

As the Senator knows, he is the chairman of the Subcommittee on Labor and Productivity. So I feel as though I have to defer to his interests.

Mr. METZENBAUM. I thank the Senator from Utah.

I will say that yesterday the Senator from Utah had indicated that he would be prepared to go with an amendment or two of his own the first thing in the morning.

Mr. HATCH. I did.

Mr. METZENBAUM. We are in the Thursday session. We know that people around here sometime try to get away on Friday. It is a little difficult to get someone back on Monday.

Does the Senator from Utah feel that we could bring this bill to a conclusion today?

Mr. HATCH. I feel we probably can. Although I am not sure, to be honest with the Senator. I do not know what Senator QUAYLE plans to do. I have a good idea what his amendment is going to be. I do not know how long he is going to require to debate it.

But I personally do not believe it is going to take the rest of day. If it does not take the rest of the day, then I have three or four amendments initially that may be all that I will offer and I do not intend to have extensive debate on any of those amendments.

Mr. METZENBAUM. I think we are all aware and I think everybody is sort of taking their position with respect to this legislation. We certainly want to consider any amendments that the Senator from Utah or anyone else on the floor has to offer, but I would hope that we could expedite the process.

I do not know we are changing many votes. I would hope that we are. But I am anxious to see if we cannot proceed.

Mr. HATCH. I appreciate the distinguished Senator's concerns because they are important concerns and I understand he would like to pass this bill today.

Let me say this: I think these amendments would have been prepared had more notice been given, had we had a 60-day notice provision in the Senate, but of course we do not have even a week's notice. As it was, it came up suddenly, and it does take some time to prepare some of these proposals.

So all I can do is say I think there is a good-faith effort being undertaken to do what needs to be done to have the Quayle amendment presented shortly after I would say 2 o'clock.

Once his amendment is disposed of, one way or another, I will be prepared to go ahead with some additional amendments that will be shorter in nature that will not be substitutes at least as far as I can see at this point. I know we have others who may want to try to substitute, but a lot depends on what Senator QUAYLE's amendment does.

So, I am trying to expedite it as fast as I can. I think it is to all of our advantage if we could finish tonight, but I am not sure we can. I will push toward that end.

Mr. METZENBAUM. I thank the Senator.

Mr. President, my distinguished colleague from Utah has attempted, and he does it so eloquently, to paint the 60-day notice as part of a long-term labor conspiracy.

As a matter of fact, it is no conspiracy. This is not labor's agenda. Certainly labor was instrumental in proposing it in the first instance and that is part of their responsibility around the Congress just as the NMM and U.S. Chamber of Commerce, small business groups, and agriculture groups present their concerns.

But the fact is what we are talking about is a very modest, decent idea whose time has come. It is not a novel idea. It is an idea that has been discussed and rediscussed over and over again. And the Business Week journal took a poll of the people of this country on this subject. Eighty-six percent of the people in this country favor plant closing notice. Eighty-six percent of the people. You can hardly get 86 percent of the people to agree on almost any other subject. But it is an indication instead of just being labor's baby, it is the people's baby. It is the concern of the American people. It is an indication of their fairness and their concern and their compassion and their willingness to treat workers who have given of their bodies and themselves over a period of years to give them notice when the plant is closed.

And there is another group that has a concern, the local community.

In the city of Norwood, OH, General Motors is closing down a plant. It is decimating the community. General Motors not only gave 60-days' notice, they gave substantially more than that. And nothing happened that was negative. It did not hurt the plant.

As a matter of fact, just this past week I was in the Rockwell plant in Columbus, OH, and Rockwell is shutdown. Rockwell is shutdown because it has lost its defense contract for a major plane part of the component of our Air force. An interesting chart was to be seen on the wall in that plant, a chart prepared by management and it showed that efficiency had increased as the workers knew that they were coming to the termination point.

And when I talked with the management of the company, the management of the company said, "With all of our employees, and they are up in the thousands, we did not have one single incident of vandalism or of lack of responsibility on the part of our workers and we are proud of our workers."

It was a UAW plant. It was just an incredible reality, not one worker. So why not give the 60-days' notice?

When we originally started with this bill it was 180-days' notice and a lot of plants in this country do give 180-days' notice. But we wanted to accommodate some of our colleagues on both sides of the aisle and so I brought it down to 90 days. And then I brought it down to 60 days in an effort to bring more people on board with respect to the bill and we did get 60 votes for it when it passed the Senate.

This is a modest proposal. As a matter of fact, every group that has discussed this subject that has been fair and impartial and objective has come to the conclusion that it is essential that there be a successful worker adjustment program and that plant closing notice is right.

The Commission, appointed by Secretary of Labor Brock, concluded that there should be such notice. As a matter of fact, the GAO said it and the National Academy of Sciences said it. Every single one of them.

Let me read you what the National Academy of Sciences—hardly a part of the labor group—said on this subject:

> The current system of voluntary advance notice does not provide workers with the "best-practice" amount of advance notice (a minimum of 2-3 months)—as Chapter 7 notes, too few workers are notified in advance of permanent plant closures or large permanent layoffs, thus hampering their adjustment. When workers receive sufficient advance notice, the evidence suggests that they adjust more rapidly and more successfully to job loss, which reduces the costs of displacement to them and to the public sector. We believe that the benefits of advance notice more than outweigh the costs of such a policy—

Every single group that has studied the subject, including the Secretary of Labor who, as a part of this administration, no longer in that role, but when he was, appointed a commission to study this subject and they concluded that plant closing notice made good sense.

Now Senator Hatch, I must say, has in his presentation attempted to take the GAO figures and to make it appear that companies do give advance notice. But the facts are clear. The GAO figures have never been disputed by the experts—7-day average for blue collar workers, 14 days for white collar workers.

I was at a plant just the other day—another plant, not the Rockwell plant—in Ohio, where the sign is up, "plant closed." The workers in that plant were told of the plant closing the very day the plant closed.

I have heard of instance after instance where the management has walked in and said to the employees: "Pack up your tools, pack up your lunchbox, clean out your lockers, you are through, now."

What kind of fairness, what kind of equity, what kind of decency, what kind of compassion would cause an employer to do that? These are not enemies. These are people who attempted to try to make the plant successful. They gave the best they had.

These are communities that have given utility consideration, brand new lines for the plants. These are communities that have given tax abatements, tax adjustments to try to help in every way possible. And suddenly the plant closes down.

That city of Norwood that I mentioned a few minutes ago is absolutely decimated by reason of the closing of the General Motors plant. And it will be a difficult job—General Motors is trying to help somewhat—to be able to rebuild, to find somebody to pick up that loss that occurs by reason of the closing of the main plant in the city.

The Bureau of Labor Statistics agrees that companies do not give anywhere near 60 days advance notice. The National Academy of Sciences has endorsed the figures I mentioned of the 7 days average for blue collar workers and 14 days notice for white collar workers. We need this bill to provide notice to millions of American taxpayers.

I am very proud of the fact that in today's New York Times they came out with a strong editorial. It is headlined: "A Plant-Closing Bill Worth Placing." It reads:

> The political fallout from President Reagan's veto of the trade bill has just hit the Senate floor. His main objection was an amendment that would require businesses anticipating large layoffs or plant closings to give 60 days' notice. His veto was a political windfall allowing Democrats to paint Republicans as uncaring plutocrats.
>
> Now, having failed to override the veto, the Senate is debating a new bill dealing only with plant closings. It deserves solid support.
>
> Since the bill is no longer tied to the trade fight, it can now stand on its own. For one thing, advance notice makes economic sense. It would give workers time to look for new jobs or start retraining. Dependent communities could make a head start on lining up new business. More important, advance notice is humane.

And then the editorial goes on to discuss the entire subject and concludes by saying:

> Some Democrats therefore feel they've got a good issue, win or lose—either way, they can nail the Republicans for protecting uncaring bosses. But the right way, regardless of the partisan politics, is to pass this worthy bill with a veto-proof majority.

To me, Mr. President, that is the issue. The issue is not what is good politics. Maybe it is better politics if the Republicans succeed in defeating the bill. But I do not want that to happen.

I am proud of the fact that a number of Members of the Republican minority have come on board with respect to this legislation, and I welcome their support. It would please me no end if this became a totally bipartisan measure, if every Member of this body saw fit to support it.

I am not looking for partisan advantage. I am looking for a piece of legislation that will help the workers and give them the advance notice that they are entitled to. I think there is nothing less that we should do.

You can make all of the arguments that you want. You can make the legalistic arguments. You can make any other kind of arguments you want. But, when all is said and done, what is the right thing? And the right thing is to pass the plant closing legislation. I hope we would have 100 votes in support of it.

Mr. President, I ask unanimous consent that the editorial to which I referred from the New York Times be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

A Plant-Closings Bill Worth Passing

> The political fallout from President Reagan's veto of the trade bill has just hit the Senate floor. His main objection was an amendment that would require businesses anticipating large layoffs or plant closings to give 60 days' notice. His veto was a political windfall allowing Democrats to paint Republicans as uncaring plutocrats.
>
> Now, having failed to override the veto, the Senate is debating a new bill dealing only with plant closings. It deserves solid support.
>
> Since the bill is no longer tied to the trade fight, it can now stand on its own. For one thing, advance notice makes economic sense. It would give workers time to look for new jobs or start retraining. Dependent communities could make a head start on lining up new business. More important, advance notice is humane.
>
> Labor and business lobbyists have dug in their heels on the issue, for and against. Business groups insist that a law would intrude on management's flexibility to act fast. They have a point; businesses shouldn't be forced to continue operations at a loss. Business also argues that notification can be given voluntarily. But while some large businesses already do so, most don't—a point made by labor.
>
> The bill now before the Senate is far weaker than labor would like. It limits penalties for violation and bars injunctions against planned layoffs. But the key point for labor is that it establishes a notification requirement as a matter of law.
>
> The Administration continues to fight the whole idea. Vice President Bush, campaigning for the Presidency, is less adamant, but might rather see the issue go away; inevitably, he's linked to Mr. Reagan's unpopular position. Some Democrats therefore feel they've got a good issue, win or lose—either way, they can nail the Republicans for protecting uncaring bosses. But the right way, regardless of the partisan politics, is to pass this worthy bill with a veto-proof majority.

Mr. HATCH. Mr. President, all I have heard the distinguished Senator say is that it is inequitable to not have notice of plant closing. Well, I agree with that. I do not have any problem with that. I might even be persuaded that we should have a mandatory 60-day notice provision. But not like this is written. He completely ignores the real reason and real purpose of this bill and that is the layoff provision. The unions have basically negotiated notice provisions in every collective bargaining agreement.

So does the New York Times. They put on all of our desks this New York Times editorial for today. It says:

> The political fallout from President Reagan's veto of the trade bill has just hit the Senator floor. His main objection was an amendment that would require businesses anticipating large layoffs or plant closing to give 60 day's notice.

Large layoffs or plant closings? Come on, 50 employees can trigger this whole bill and all the onerous provisions. There are a lot of small business people that have less than 100 employees.

It goes on to say:

> His veto was a political windfall allowing Democrats to paint Republicans as uncaring plutocrats.

That is certainly what they are trying to do, no question about that. At least those who really do not understand the bill.

Then it says:

> Since the bill is no longer tied to the trade fight, it can not stand on its own.

No, no, excuse me, let me go back to the preceding paragraph. It says:

> Now, having failed to override the veto, the Senate is debating a new bill dealing only with plant closings. It deserves solid support.

It does not deal only with plant closings. That is precisely the point. It deals with layoffs and that is what they are really trying to get and it stultifies the ability of businesses to survive and makes it almost impossible for them; all in the interest of satisfying one particular segment of our community, the international trade unions who present only 18 percent of the people.

They argue by citing a few horror stories, and there are some. I do not accept those actions by businesses. I think they ought to give as much notice as they can. And most of them do. You cannot, on the basis of a number of horror stories that are really miniscule in relation to the number of employers in this country, saddle the whole doggoned economy with a piece of legislation like this just because you have some horror stories—which you are going to have regardless of what you do.

To make a long story short, this bill is complex. This bill gets into very, very difficult labor law matters. This bill is going to stultify our economy. This bill is going to make it very difficult to make business decisions. This bill is going to make it almost impossible, when a business has to lay off employees in order to survive or continue in that community, to do so. And, if it does, the business is in jeopardy of going out of business anyway; especially if it is a small business of only 100, 200, 300 employees.

If you add it all up, this is not a simple 60-day notice, which the distinguished Senator from Ohio is trying to pawn off as what it is. And as is the New York Times, which is supposed to be an accurate, journalistic, and accountable newspaper. It is trying to pawn off that it is:

> Now having failed to override the veto, the Senate is debating a new bill dealing only with plant closings.

It does not deal only with plant closings. It deals with an expanded definition of plant closings that goes way beyond closing a plant. And it changes the basic labor laws of this country in ways that are detrimental to this country, which the Wall Street Journal calls the Europeanization of America. So that we are going to have 15 percent unemployment across the board like they do in Europe.

There is one thing that might prevent that and that is we have a diminishing labor pool. But we also have an increasing need for women to come into the work force.

Keep in mind, jobs are there for people who are skilled. One part of this bill does provide for worker readjustment and training. That part is good. That part I support. That part we wrote.

But to make a long story short, what this bill does is it makes it almost impossible under certain circumstances for businesses to even start up, let alone shut down.

I get a kick out of this—businesses do not give any notice voluntarily. The Department of Labor task force certainly has never been known as a Republican institution and everybody knows the Department of Labor is very much in tune with the wishes of organized labor, regardless of who the administration is controlled by. The Department of Labor task force found that circumstances surrounding a closure are so varied that existing data on notice has to be questionable.

The GAO survey, on which the committee relied heavily, used information from 1983 to 1984. None of those surveys reported on the reasons for plant closures or on an employer's reasons for giving little or no advance notice to employees.

A growing number of employers do give notice. They are doing right. They are ethical. They are fair. You have some horror stories where they are not, but even with some of those horror stories, there have been reasons why they could not, such as the fear of losing their whole business if they announced a plant closing.

According to a more recent survey by the Conference Board, notice was given in 88 percent of 224 incidents of plant closures reported by 512 respondents. Notice of 3 months or more was given in over half of those cases. And that is without a mandatory requirement by the Federal Government. We do not need to saddle business with these kinds of rigidifying statutes. And that is what we are doing here.

I have to say to the distinguished Senator from Ohio, he said that everybody who is fair agrees with this bill. Come on. There are millions of people who are fair and do not agree with this bill. And most businesses do not agree with this bill, and with just cause. Why? Why is business so opposed to this bill? Why should employees be opposed to this bill?

Advance notice prior to layoffs, voluntarily implemented, can be positive and constructive to the efforts of dislocated workers to readjust. The chamber encourages all businesses, when possible and appropriate, to give prenotification of layoffs. However,

First, advance notice is not always possible:

The typical employer who faces a decision to implement layoffs is financially troubled and fighting for survival, the survival of the company and its remaining jobs. The financially troubled employer may not know what will happen in 6 days, let alone 60 days, which is the advance notice requirement of Senator METZENBAUM's plant closings amendment to the omnibus trade bill, S. 1420. Efforts to refinance debt, acquire new contracts, merge with another company, sell off assets, or attract new investment capital all can insert a great deal of uncertainty into even the short-term planning of businesses in transition. So advance notice is not always possible and it is not always desirable.

Second, advance notice is not always appropriate:

These efforts to acquire new capital through financing, contracts, investment, or restructuring can be jeopardized by advance notice. Disclosures of plans to close a plant, discontinue a product, or cut back on production and the work force not only reduce an employer's leverage and ability to acquire new capital, they jeopardize the employer's current relationships to customers, suppliers and creditors. Advance notice can convert a financially troubled business into a bankrupt business. I am talking about a financially troubled business that can be saved without compulsory notice that will go into bankruptcy because of it.

Third, the bill does not adequately address the compliance problems of financially troubled businesses:

While the bill includes an "escape clause" from the notice requirement under certain limited circumstances, it does not truly address the exigencies of the average economically troubled business. However well-intentioned, these exemptions would be of little or no practical use to employers. They subject employers to an extremely difficult burden of proof to meet highly subjective standards for which litigation would be not only possible but effectively encouraged.

We are a country that is pricing ourselves out of the marketplace today because we continue to pass these bills that are havens for attorneys. We exalt the control of attorneys over this society here in the Congress like nowhere else. And this bill is a perfect exaltation of the right of attorneys to control all business in this country through the litigation process. Which will be like rolling off logs, if this bill passes; and very detrimental to both employers and employees.

Well, the bill creates, in an already too litigious environment, the capacity for dislocated workers to litigate every employer decision to lay off employees. Everyone will be litigated.

There is a fourth reason why businesses are so down on this bill. And they are in good faith in their condemnation of this bill. They know that mandatory notice, governmental interference, telling businesses what they can or cannot do in this instance is going to hurt job growth.

If the bill were enacted, employers may become reluctant to hire new employees. During times of high sales, employers may simply increase the hours worked by existing employees, creating overtime work hours. This may be perceived as a safer employment policy than creating new jobs which may subject the employer, at a later date, to significant liabilities for failure to comply with complex layoff requirements.

Again, it comes down to layoffs. It is not just notice of plant closings. I myself would entertain a consideration of whether we should have a 60-day plant closing notice provision, but when you add the layoffs to it, it is a disruption to our society like you cannot believe. It is an unfair imposition on businesses they have never had to put up with before, and especially on small business. It would be a tragedy for this country if we included the layoff provisions.

So do not keep referring to this as a simple plant closing bill which, in all equity and fairness, ought to be enacted. This is a complex plant closing and layoff bill that will interfere with business' right to exist and will stultify the growth of business in this country and probably bankrupt a lot of business in this country, certainly small businesses. They do not have the capacity to fight these lawsuits that will rise at every time. Labor lawyers are going to be the principal beneficiaries of this legislation, especially union labor lawyers and plaintiff labor lawyers.

I think if you have mandatory notice, you are going to hurt job growth because it will be perceived as a safer employment policy than not hiring new people. Why create jobs which may subject the employer at a later date to significant liabilities for failure to comply with the complex layoff requirements? Even though that employer is having increased sales, is doing well, can probably hire more people, they do not want to do it because the minute the sales go down, they have to lay people off and they wind up having to meet all these severance pay requirements, all the litigation requirements. You can bet your bottom dollar there will be one lawsuit after another brought against them. You can absolutely rely on it. You can count on it.

Let me give you a fifth reason why so many small businesses are concerned about this bill, especially with regard to the layoff provision. Mandatory notice would discourage expansion. Similarly, the bill may discourage employers from expanding operations or opening new workplaces because of the additional erosion of management prerogatives, Federal intrusion, if you will, into the workplace, and potential litigation and liabilities which this bill will augment and create.

A close decision to expand may become a close decision not to expand. In this regard, mandatory notice is another step, a significant step toward the Europeanization of the American economy.

That is what is wrong with Europe. They have expanded their labor laws, all one-sided, and do not have the delicate balance we have had for all these years. Mandatory notice is common and indicative of government intrusion into employment matters in Europe where employment has not increased a single job since 1970. During the same period, as I pointed out before, the United States has created 33 million new jobs because our economy is better, because we do not saddle business with these objectionable, rigid labor law provisions.

Let me give you a sixth reason. Mandatory notice is going to discourage significant labor-management cooperation. By insulating union members from layoffs for at least 60 days, this bill would discourage unions from engaging in constructive negotiations to increase productivity and hold the line on costs. Union negotiators may very well believe that management handcuffed by this legislation cannot meaningfully call for cooperation of concessions until notice has been given.

That is what is going to happen. It gives the upper hand in this delicate balance of labor-management relations, which has existed for so many years, to one side. I do not want business having the upper hand either.

Right now, we have a delicate balance. If we pass this bill, it becomes an indelicate overbalance toward one side.

Let me give you a seventh reason. This bill is not a compromise, as the distinguished Senator from Ohio has indicated. S. 2527 which was previously included in the omnibus trade bill, although revised several times now in the form of this bill, is not a true compromise. The deletion of consultation and information disclosure provisions for nonconcessions are requirements which were never politically feasible and never had a chance.

The real issue was then, when you added it to the trade bill, and is today and will continue to be mandatory notice. That is the real issue. Not just the plant closings, but layoffs. We are talking layoffs here and we are talking through this bill stultifying management decisions to expand and grow and to help the economy expand and grow. It is awful, just awful.

This bill was substantively equal to the plant closings bill defeated by the House in the 99th Congress. The House is more controlled than this body and they defeated that bill then. It is slightly better in some ways, but it is slightly worse than others. Fundamentally, it is the same. In fact, a 60-day notice bill was defeated 290 to 109 by the House on November 21, 1985.

Let me give you an eighth reason. The real compromise already has been reached and it does not include mandatory notice. This bill contains the real compromise on plant closings.

It authorizes $980 million for dislocated worker programs consistent with the recommendations of the Secretary of Labor with his task force on economic adjustment and worker dislocation. That is a consensus position agreed to by every union and management. That is the way this ought to be done. Every union and management representative agreed that is the way to approach this thing. That is what they consider to be fair and equitable. It was agreed to by the administration and, I might add, the business community and is a compromise which is virtually without controversy on Capitol Hill.

This bill is an overreach to allow one segment of the economic equation to have an overbalanced right or concept of rights.

Let me give you another reason, a ninth reason: Mandatory notice takes the wrong focus. The bill focuses on jobs which essentially already are lost. Rather than legislation which impedes the ways and perhaps prevents even very necessary layoffs, a more appropriate congressional focus would be on jobs creation and legislation which increases, not decreases, competitiveness. This bill decreases competitiveness.

Let me say, reason No. 10, mandatory notice, is unnecessary. Voluntary advance notice by employers of workers to be laid off is increasing in frequency and responsiveness. Like I say, the Government Accounting Office recently reported more than 88 percent of employers give advance notice and, of that, nearly 60 percent give more than 2 weeks. The problems faced by dislocated workers already are being resolved.

The trade bill, identifies the dislocated worker program as part of the solution. The original bill, which is basically mandatory notice, is part of the problem.

I can go on and on. The fact of the matter is this is a complex bill. It is much more than a simple notice of plant closing provision. It involves layoffs that puts business in a tremendously difficult position and virtually is going to lead to a 49-percent rule like they have in France where you will never go over so many employees. The employer will just stop his business at such a level rather than continue to expand because that employer does not want to go through the onerous burdens and rigidification of laws that this particular bill will impose upon the free enterprise community.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, just so my colleagues realize that this is not a simple plant closing bill but a very complex plant closing and layoff bill, let me discuss a few issues that are raised by this plant closing layoff notification legislation.

No. 1, what is the bargaining obligation? I might say, that the employers would not satisfy the law simply by giving a 60-day notice of a layoff. the company must first give the affected employees and local government a "notice of a proposal" to conduct a layoff. After a period of 60 days, the employer would then be permitted to "order a plant closing or mass layoff." The Secretary of Labor would issue regulations governing employer requirements when issuing proposals. And there is a real issue whether the 60-day provision has to trigger then, so there is really 120 days. It is ambiguous. I think you could find some real arguments, and you will find litigation up and down and all around on that provision, very complex, very poorly written.

It really does not work, and frankly, it is bad. It does include layoffs, which if you take away the right of an employer to lay off, you are taking away the right of that employer to exist under certain circumstances, especially small business owners and especially those who have expanded rapidly because their sales have expanded or for some reason their business has had an economic upturn, which will generally come back down, especially businesses in cycles. They just are not going to hire people, jobs will not be created, and in the end they just do not want to go to court the rest of their lives because they hired people and tried to give them a break with the understanding they might not be able to keep them on except during a limited period of time. This bill will make it almost impossible for them to do anything except meet all kinds of litigation requirements, hiring attorneys and all the defense costs and everything else that result from this ambiguous language.

No. 2. This is layoff, not plant closing, legislation. I have trouble with mandated plant closing notice in and of itself. I have a lot less trouble with that than I do including layoffs, but make no mistake about it, that is the real reason for this bill. It is not the plant closing part, because they know—at least big businesses throughout the country are voluntarily and overwhelmingly giving notice, and a lot of smaller businesses are, too. The trend is to move that way.

The real purpose of this bill is to cover layoffs. No matter how large the site, employee layoffs of 50 or more workers during any 90-day period will be considered a "plant closing" if the layoffs are the result of the shutdown of "operating units." For example, a 3,000-person giant business could shut down its 4-to-midnight truck-loading operation in January displacing 25 employees. In February it, could hire 40 new electrical component assemblers because of increasing production at the plant. In March, it could contract out its landscape operation laying off its landscape crew of 25 people. Remember the 25 dockloaders who, because they could not afford to keep going all night, were laid off. They increased 40 new electrical workers, but then in March they laid off another 25 people, a landscape crew they did not need. Under the legislation, a plant closing is triggered. It is underway. The employer must propose the layoff to the employees of both the truck-loading operation and the landscape crew, wait 60 days and then order the layoff.

Now, that company may be able to absorb that type of cost, although you will find it is a very expensive cost to them. It did not intend to basically stop its business, but it is going to be accused of a plant closure when in fact it really did not. So it has all kinds of unnecessary extra expenses that will have to be passed on to the consumers of America. It is ridiculous, but that is what this bill does.

No. 3. What are legal obligations in purchases and sales? A company selling part of its business must persuade the purchasers not only to agree in writing to offer "employment" to all employees of the business that it is acquiring but also to include that written employment contract in the purchase agreement and give the employees the legal right to sue to enforce it. If the seller does not obtain such an agreement, all employees must receive 60 days' notice of the effective date of sale.

I do not care who you are; you have to say that is not good business. That is not a business that is likely to grow, and it is not a way to do the things that have to be done.

Fourth, what about strike replacements? This is a major change in national labor relations law. If after a long strike over economic issues an employer decides to hire strike replacements, which is his right under current law, the employer might have to give the strikers 60 days' pay and benefits after hiring new replacements. Now, how is that fair and equitable? How is that not complex? How does that meet the New York Times definition that "Now, having failed to override the veto, the Senate is considering a bill dealing only with plant closing"? Come on. I do not know who writes these things, but they certainly did not read the bill and they certainly do not know much about labor law.

What about early retirement? If an employer has an early retirement program in place and conducts a permanent layoff without notice, employees eligible to receive early retirement benefits would collect both 60 days' pay and benefits plus early retirement benefits. It is something I do not think anybody intends but that is the way this bill is written. It is ridiculous.

The exemptions are just an empty promise in this bill. One of the business community's concerns with the 60-day notice requirement of the plant-closing bill is that employers do not always know what business conditions will be 60 days in advance.

For example, practically no one predicted last October's stock market crash 6 hours in advance, let alone 60 days. Not to worry, employers are told, because the bill exempts layoffs caused by business circumstances that are not "reasonably foreseeable." The problem is who decides whether the business circumstance was not reasonably foreseeable and when. That decision will not be made at the time the layoff needs to be conducted nor is it the employer's to make. Rather, the decision will be made by a jury acting with the benefit of hindsight several months after the layoff has occurred, and only after litigation has been brought against the company, which will be brought, mark my words, in every case.

Look at the case of Jeffrey Green, the CEO of Hutchison Technology, a maker of computer parts, who appeared recently on the MacNeil/Lehrer News Hour with Robert

McLaughlin of the AFL-CIO, a company whose employment stood at 1,400 workers in 1985. It received 2 days' notice of contract cancellations by two of its biggest customers. It forced the layoff of 400 workers. It was not that company's fault they had to cut back. They had to lay them off. There is no question about it.

Mr. McLaughlin, the union representative, responded that the bill contains "a specific exemption for that kind of situation." But was Mr. Green—the owner of the business that was forced to lay off 400 employees because his contract ended at that time, or at least a significant part of his contract ended—protected by that exemption? The laid-off employees would have every legal right to file suit claiming that Mr. Green should have foreseen the contract cancellation. After all, should not the CEO have been closely monitoring industry needs or trends, talking with his customers, and listening to the industry rumor mill? Should he not have known that the customers' products were not selling well and that a contract cancellation was really possible? Mr. Green, on the other hand, said he did not know the decision would be made on such a short notice.

Who is right, Mr. Green or the laid-off workers? Tell me how you decide as a juror. Only a court can tell. But I can tell you this—those workers are going to be sitting in that same community, perhaps without jobs, even then with the jurors who are workers who probably do not have a lot of sympathy for a business or a businessman regardless of the difficulties and regardless of the efforts being made to provide jobs. But even if Mr. Green wins in court, he has lost because he has had to defend a subjective case or he has had to settle for defense costs at least—in other words, extortion costs under those circumstances. So that he loses no matter what he does. This bill does that to him.

If that does not stultify business and opportunities in business, and opportunities for employment, I do not know what does. But let us assume that business can absorb those extra costs. After all, it was a 1,400 person business. Let us assume they can absorb those litigation fees, attorney and accounting fees, expert witness fees, and only God knows what else. Even if it can absorb all of those costs, guess who is going to pay for those additional costs? It is going to be you and me, the consumers who buy those products, assuming that business survives. They are going to pass those additional costs on to you and me, if they survive. There is no way for them to survive without passing on the costs. So that means inflation again, that means consumer prices going up, it means the cost of commodities are going up. It means you and I will be paying through the nose with really hidden taxes because we are rigidifying the workplace of America by requiring the Government to get in, intrude, and interfere, especially when the problems are already being solved, and we have by far the greatest of all free enterprise systems.

Further, employers invoking the exemption have to give notice as soon as the plant closing or mass layoff becomes reasonably foreseeable. Thus the grocery store entering negotiations over lease renewal with the landlord is going to have to go to an attorney and issue notice because the negotiations might break down and that grocery store might lose its lease. I do not know about you. That does not seem very fair to me. It means they are going to have to come up with all of the severance pay items and other items in addition to attorneys' fees, mailing costs, handling costs, and other costs that ultimately they will have to pass on to the consumer if they survive. We are only talking about a few of the onerous burdens that will be triggered by this bill.

If interest rates tick up for this poor grocery store entering negotiations over its renewal of the lease with the landlord, of course it is going to have to issue notice because the negotiations could break down, the company will lose its lease, and thus be thrown out of the building. Large construction companies are going to have to give notice because new home sales might drop off.

If the Republicans lose the White House, all defense contractors should put their employees on immediate notice, because, let us face it, Republicans are, it seems to me, much stronger on defense than Democrats as a general rule. There are certain exceptions to that. I will not list names although some would like to do that.

I am just giving a few illustrations of how difficult and complex this bill is. They are not inconsequential illustrations. You cannot even conjure up, you cannot even think of all the intrusions, costs, difficulties, attorneys fees, litigation costs, and so forth, that will come to business, and especially small business, which cannot afford those, or to be in court all the time, if this bill is passed.

It is a terrible bill. If it was limited solely to a 60-day notice provision of a literal plant closing, even that is onerous and intrusive, but I would have to say that I would look at that. But this goes far beyond that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARKIN). Without objection, it is so ordered.

PRIME MINISTER HAWKE OF AUSTRALIA

Mr. BYRD. Mr. President, the esteemed Prime Minister of Australia, the Honorable R.J.L. Hawke, delivered a stirring and powerful address to a joint meeting of the Congress this morning. He is in the Nation's Capital on an official visit, and he is renewing one of America's oldest and strongest alliances. As he said in his address this morning, "I wish to state clearly that Australia and the United States are not just friends; we are allies."

As Australia celebrates its bicentennial celebration this year, there can be no doubt of the veracity of Prime Minister Hawke's words. Australia is on the very short list of America's most reliable, steadfast allies. Australia can be counted on to be with us when the going gets rough.

Mr. Hawke said this morning that the "United States has every right to see alliances as two way streets, to expect that allies will carry their weight. I assure you that Australia is and will remain such an ally." Mr. President, those are welcome words.

Australia is a vibrant, strong democracy, with a representative political system that is healthy. We have had some differences with Australia, not on security matters, but on trade matters—particularly on the question of transatlantic agricultural subsidies. Those differences, I am sure, will be worked out. Honest differences between allies will result in equitable solutions. in the mutual security field, America and Australian must stand together to keep our shared system of alliances and bases together. This is especially the case when it comes to America's bases in the Philippines. Both Australia and America have a strong common interest in keeping our security relationship with the Philippines as healthy and meaningful as possible, in light of recent Soviet advances in Southeast Asia. I am pleased that Prime Minister Hawke made special mention of this need in his address today.

The Australian and American people, separated from each other by half the expanse of the globe, share a great democratic tradition and a special friendship. I was one of the first to speak on this floor to congratulate the Australians on their achievement in wresting away from us the prestigious America's Cup for 12 meter yacht racing in 1983. They are great competitors. Of course, I was also among the first to speak on this floor to commend the American Stars and Stripes yacht syndicate for winning the cup back last year. This great rivalry has been one of the outstanding sporting events of the world, and symbolizes the kind of healthy competition that characterizes our good friendship with Australia.

Mr. President, I commend Prime Minister Hawke on his address. I value his leadership. He comes to Washington to refresh our alliance. He is a good friend of the United States, an articulate leader and a respected statesman. I have had the honor of meeting with him in the past, and I am pleased that he has been honored to address the Congress on this occasion.

I hope that his address is widely read, and I know it will be well received. I ask unanimous consent that it be reprinted in the Record, so that it receives the wide dissemination that it deserves.

There being no objection, the address was ordered to be printed in the Record, as follows:

Speech by the Prime Minister of Australia, the Honorable R.J.L. Hawke, AC, MP, Joint Meeting of the U.S. Congress, Washington, June 23, 1988

Mr. Speaker, Mr. President, Members of Congress, friends, by inviting me to speak today to the Congress of the United States you honour not only the Prime Minister of Australia but all Australians.

Yours is an institution which, down through the years, has reflected the views and aspirations of the American people and taken its character from their character. From you I hear the voice of the American people and through you I am able to address the American people. I am most grateful.

Mr. Speaker, the concept of government of the people, by the people and for the people is as potent today as it was two centuries ago when that remarkable collection of farmers, lawyers, traders and intellectuals met in Philadelphia to craft a constitution. Although democracy is not the guiding precept of government in most nations, it is, assuredly, the guiding precept in those nations which have successfully delivered to their citizens a decent quality of life and a high standard of living. As we approach the 21st century no nation can fail to note that example. The western democracies can lead with self confidence and have no need of self doubt.

To be exposed to the vigour of the Australian political process is to realise that the underlying values of our political system are identical to your own. To say that there is debate in our Parliament, our media and among the Australian people would be roughly the equivalent of saying that when the Redskins and the Cowboys get together all that's involved is a friendly game of football—a fairly considerable understatement.

It is common values, going to the heart of our view of mankind and of society, which form the enduring basis of our relationship. Social and political circumstances may change; governments of various persuasions come and go; economies adjust and transform; international conditions evolve. American and Australian views and interests may at times diverge. But it is the values of individual liberty, equality before the law and the supremacy of people over the State to which we can always with confidence return as a powerful uniting force.

If it is this that gives our relationship its ultimate strength and stability, it is individual contact between Australians and Americans which provides the special warmth. There is an ease of contact, a readiness to trust and an enjoyment of each others company which readily transcends differences.

With the benefit of 200 years of hindsight I can acknowledge a debt which Australians owe Americans, although it must hardly have seemed something to thank you for at the time. In denying Britian a convenient repository here for the convicts overflowing British jails, your revolutionary forebears of six or seven generations ago provoked the decision to send convicts to Australia instead. If you were founded by the Pilgrim fathers, the founders of Australia were decidedly the prodigal sons.

But when the First Fleet arrived in New South Wales in 1788, its human cargo of convicts and prison guards in fact began the creation not of a prison but of a nation.

Our harsh beginnings required all the same grit and determination which marked the exploration, settlement and development of the United States. Two centuries later—in this, our Bicentennial year—we have, like you, a nation proud of the multicultural diversity of its people and of our national achievements. Our country is the size of the continental United States with, however, only the population of Texas. I know Mr. Speaker, that as a Texan you would agree of course, that that is all any country needs.

We have also built a nation more acutely aware than ever before of the precious heritage of the original Australians, the Aboriginal people who populated the land for 40,000 years before the European arrival.

The American contribution to our Bicentennial celebrations has added a special dimension to our relationship. If I were to describe it in all its detail I fear I would be accused, at least under Senate rules, of a filibuster.

Let me just say that we greatly welcome the opportunity to celebrate with a very special friend.

Mr. Speaker, it is because of the deep similarities between our two nations that my predecessor, Australia's wartime Prime Minister John Curtin, was able to declare in 1944 that Australians looked forward to "an uninterrupted friendship" with the people of the United States.

Curtin said those words in San Francisco, on his way to talks with President Franklin Roosevelt concerning the conduct of the war in which Australians and Americans were fighting side by side in defence of liberty in the Pacific.

I wish to state clearly that Australia and the United States are not just friends; we are allies. When my Government assumed office 5 years ago we determined that the ANZUS alliance clearly served Australian interests. That alliance is stronger, and the commitment of Australians to it greater, for its having been thought about rather than merely assumed. We never wanted the alliance to be merely an inheritance from a past era, a piece of history gathering dust, but a dynamic arrangement serving the modern needs of both sides. And it does.

The United States has every right to see alliances as two way streets, to expect that allies will carry their weight. I assure you that Australia is and will remain such an ally.

We welcome your ships and aircraft to our ports and airfields. There is intimate co-operation between us in joint exercises, intelligence exchange, defence science and technology, communications and logistics, and training. We are one of the top cash purchasers of defence equipment from the United States.

We host joint facilities important to the central strategic balance between the United States and the Soviet Union, facilities which have additional significance in the new phase of East-West relations through their contribution to arms control.

We support a strong American involvement in Asia and the Pacific, and believe that your bases in the Philippines make a crucial contribution to security and confidence in our region.

My Government has conducted the most thorough review of Australian defense policy in many years. Our policy emphasises the shouldering of our own responsibilities—defence self reliance, modernisation, regional commitment and the development of strong, independent military capabilities within the framework of the alliance.

Our economic relationship with you is also vitally important. You are our second largest trading partner, supplying over 20% of Australia's total imports and taking over 10% of our total exports. The trade relationship is about 2 to 1 in your favour. You are our largest single source of foreign investment. As our economy diversifies away from primary production and we strengthen our position as an exporter of manufactures and services, the business opportunities for America in Australia will expand still further. So again the benefits are very much two-way.

Mr. Speaker, you can therefore see why we believe our relationship entitles us to a fair go in our trade with the United States and in competition with the United States in third markets; not, I emphasise, special favours, but a fair go.

This is not the occasion to make detailed representations about particular export commodities. But it would be wrong of me, here in Congress, to pretend that within our otherwise excellent relationship trade is not an area of very real concern for us.

I should say to you, with the frankness which I trust is permitted to a friend, that some of the decisions made in Washington intended to defend the interests of Americans have turned out to hurt Australians.

In particular Australia's primary producers are unsubsidised and are among the most efficient in the world, and yet we are finding ourselves squeezed out of markets by practices which distort prices and levels of production. In agriculture we find ourselves caught in the crossfire of a destructive and counter-productive trans-Atlantic subsidies war.

The statistics are graphic—since your Export Enhancement Program has been operating, America's share of the world wheat market has jumped from 29 per cent to 43 per cent, the European Community's share has fallen only a little from 17 per cent to 14 per cent, but Australia's share has slumped from 20 per cent to 12 per cent.

The subsidies war is costing us—and I mean both of us—not just economically. There is also an impact, a damaging impact, upon the perceptions which Australians have of the major trading powers, the United States included.

Australians must not be given reason to believe that while we are first class allies, we are, in trade, second class friends. Trade issues must not be allowed to fester, or to erode our wider friendship or alliance.

I want to emphasise Australia's appreciation of the way in which we have been able to express our concerns to you. It is important that when we knock on doors in this city, including in Congress, those doors continue to open.

For the test of good United States/Australia relations is not that as individuals or governments we agree on everything.

It is, rather, that we are in accord on matters of basic principle and that where we disagree we do so with civility and respect for the others point of view. I am proud to say that the relationship between our countries is now regarded on both sides as being as warm, close and productive as it has ever been. And our relationship has a greater maturity than it has ever had before.

Mr. Speaker, all of us sense, I think, that the world we grew up with, whose shape emerged after the Second World War, is changing in some fundamental ways. New centres of economic power are emerging; there is less rigidity in the Eastern bloc; the familiar pattern of East-West strategic competition is often overlaid by a new pattern of economic competition within the West. Though we cannot yet see the fine detail, the blurred outlines of the 21st century—now only twelve years away—are becoming sharper.

What sort of world will it be? When I look at the international environment, when I talk to the leadership of major powers like the United States, the Soviet Union and China or countries in Australia's Asia-Pacific neighbourhood, I am generally encouraged by what I see. There have been few enough times in recent decades when it has been possible to permit ourselves a degree of optimism about the world's future. But this, I think, is such a time.

The Soviet Union is undergoing far reaching changes. The domestic reforms introduced by General Secretary Gorbachev are the most hopeful sign in that part of the world in the period since 1917. Where they will eventually lead—whether they will even succeed—we cannot tell. Like all economic reformers Mr. Gorbachev faces the classic dilemma that the pain always comes before the benefits. But the direction in which he is heading is encouraging.

Certainly we must withhold final judgment about the extent of change in Soviet foreign policy. We want to see deeds not just words. But there is unquestionably ground for hope. We are surely better off with a Soviet Union which has accepted that it must get out of Afghanistan than we were with the Soviet Union which originally invaded that country.

We have seen the first ever arms control agreement which makes real cuts in the nuclear arsenals of the two super powers. We see—and strongly support—prospects for further reductions. The West is now engaging the East in dialogue across a wide range and at the highest leadership levels, but not on the basis of naivety or weakness. I pay tribute to the role which President Reagan has played—with the invaluable support of the Congress—at the centre stage of this process.

China's continuing economic growth and its leaders' commitment to modernisation mark the emergence of that country from a barren period of upheaval and introspection. This is a development of historic importance, tremendously beneficial to regional and global stability.

Significant parts of the third world, particularly in Asia and the Pacific, are experiencing dynamic economic growth.

In parts of the third world there have, too, been significant advances for democracy. We acknowledge in particular the victory over autocracy in the Philippines, and democratic reform in the Republic of Korea.

And so, Mr. Speaker, although competition between nations and alliance systems will not disappear—we believe in our own values too strongly for that—we can be allowed to hope that we are entering a period when such competition will be channeled into less dangerous paths.

But no man or woman who has lived in the 20th century can fail to understand how quickly, and how disastrously, change can come. We still face many dangers and challenges. Intractable and tragic conflicts persist in the Middle East and Southern Africa; famine, war and disease still haunt many parts of the third world; hundreds of millions of people lack the freedom and human rights we take for granted in our countries; recent events have even disrupted the relative tranquility of the South Pacific.

So we must always remember that nothing is preordained. The future does not just happen to us. We make the future. And if we are to make it well, we need to remain engaged with the world, willing to struggle with its problems and to take our part in solving them. We live in an interdependent world and we don't have the practical option—or indeed the moral option—of sitting it out.

That is why Australia concerns itself with issues like arms control and the obscenity of apartheid in South Africa. It is also why we are members of the alliance.

Mr. Speaker, some Americans seem to be apprehensive about the changes they see around them in the world.

This is not surprising. Changes which alter familiar, and comfortable, relativities in economic and political power and familiar patterns of behaviour will always cause uncertainty and sometimes resentment. And the international system as we know it is very largely an American creation. The institutions, alliances and programs which characterise the system emerged from the generosity of this country and the farsightedness of your statesmen, including many members of the Congress. The World Bank, the Marshal Plan, NATO, ANZUS, modern multilateral diplomacy: all of them are, in part, and in many cases in large part, your creation. We were all the beneficiaries of that impulse towards internationalism.

So where change has come, it has often been because of the success of American policies, because you have achieved what you set out to do. It is because your policies worked that Japan, Western Europe, the Republic of Korea and others are now strong and prosperous.

In any case particular global changes have often been overstated. Portraits of a 'declining' United States have drawn upon beguilingly simple but very misleading indices of comparison, whether of GNP or net indebtedness. Moreover the trends have been portrayed as continuing inexorably. That is nonsense, and un-American in its determinism. With the right policies, this country will remain the world's largest and most important economy as far ahead as I or anyone else can see.

I put it to you therefore that we need not and must not permit our view of the world to be conditioned by some kind of creeping pessimism and dulling fatalism. As analysis that would be deeply flawed; as a policy prescription, potentially disastrous. Put bluntly, the United States and other Western nations, especially the major actors on the world stage, must not behave in ways that could turn some of the presently fashionable theories of decline into self-fulfilling prophecies.

Mr. Speaker, nowhere is this more clear than at the vital intersection of international economics and international strategy.

The cost of failure to resolve present economic tensions in the world would be measurable not only in dollars and cents. It would be measurable in the accentuation of destructive differences within the western alliance, and third world instability. We must understand that stronger world economic and trade growth is a fundamental foreign policy objective. It is ultimately a national security objective.

The greatest obstacle to that objective is the persistence of large current account imbalances in the three major economies; the United States, Japan and West Germany. This remains true despite certain trade statistics beginning to move in the right direction. The origin of the trade imbalances lies in turn, to a significant extent, in the divergent fiscal and monetary policies pursued by the United States on the one hand and Japan and West Germany on the other through the 1980s.

Now I know that these issues of economic and trade policy are contentious ones within the United States, including within this Congress. I have no intention of taking sides. You have enough political candidates already in 1988.

But they are issues with demonstrable impact upon, and therefore clear relevance to, other countries, Australia included. It is in that spirit that I ask you to take my comments.

The inescapable reality is that adjustment of economic imbalances will occur. It is only a question of how they occur. The adjustment can be forced by market pressures upon reluctant governments or it can come through deliberate strategies to enhance world growth and maximise the individual and collective trading opportunities of all countries.

It is clearly in the interests of all of us that the world's major economies opt for strategies of the latter kind. And this means a deliberate decision by them, the United States included, to reverse the corruption—I can use no lesser word—of the world trading system, combined with an equally deliberate commitment to make appropriate adjustments in domestic economic policies.

I am not saying that the burden of adjustment rests solely on the United States and I am not saying that you have no reason for frustration and complaint about the trade practices of others. I can understand your objections to the barriers the United States faces to its exports in certain markets. Australians can understand these problems precisely because we share them.

In the Uruguay round of multilateral trade negotiations the vehicle is at hand to negotiate a new, fairer and liberalized environment for world trade.

This crucial negotiation confronts us with a test of our collective common sense; whether we will recognize that any attempt to solve our national trading problems at the expense of others, rather than through pursuit of the common well-being, must ultimately be self destructive.

It is this same enlightened self interest which dictates that we accept rather than oppose the need for adjustment in our own economies. What a sad irony if, at the very moment in history when we are seeing the belated recognition by the planned economies of the need to accept the relevance of market signals in their decision making, the Western nations were to try to ignore and distort those signals, both at home and in the international marketplace.

In Australia we have practised the doctrine of economic adjustment, not merely preached it.

We have pursued the domestic economic policies necessary to cure our own external imbalance. We have converted a prospective fiscal deficit amounting to 5 percent of GDP just five years ago to a prospective surplus of 1 percent or more in the coming fiscal year. We have implemented reforms to deregulate industry, lift productivity and innovation, promote an export culture and encourage foreign investment on fair terms. We are prepared to show the lead on tariff reform. We will be cutting tariffs by about 30 percent on average over the next four years. Much larger reductions in protection will occur for the most highly protected industries.

Now you are practising politicians and so am I. I understand constituency interests. I know that the adjustment process is not easy. But it must be done.

The costs of failure will be very high; the rewards of success enormous.

Speaking to you as the closest of friends and allies, therefore, my message is that United States' action now can play a decisive role in the future shape of the world economy if you grasp the challenge of adjustment at home and drive with determination for the liberalisation of trade on a global basis. America can do the world, and itself, no greater service at this time.

Mr. Speaker, I have not the slightest doubt of the unique capability of the United States for leadership, whether in managing the pivotal relationship with the Soviet Union, maintaining the health of the western alliance, forging further agreements in the essential area of arms control, seeking solutions to regional issues such as the Middle East and Southern Africa, or resolving international economic problems.

If this sounds like a tall order, and an unfair burden, we do not look to the United States to solve all these problems alone or to mount the effort without the help of friends. We ask only that the United States continue to contribute the strength, persistence, creativity and breadth of vision which—to the immense benefit of mankind—have been the hallmarks of the American character.

I am confident that it will be so. No nation in the world surpasses the United States in justifiable pride in past achievements, confidence that problems can be overcome and contagious optimism about the future. Neither of us would claim that our nation is without blemish. Neither of us would claim that governments of our countries have always chosen wisely or acted well. But I do say this: that when all is said and done the United States of America is a great and a good country; that the people of the United States of America are a great and a good people; and that in Australia you will have in the years ahead the best kind of friend—independent to be sure, forthright in defence of our own interests certainly, but also firmly supportive and deeply proud of our rich and enduring relationship.

OMNIBUS TRADE AND COMPETITIVENESS ACT

Mr. BENTSEN. Mr. President, I am today introducing on behalf of myself and Senator DANFORTH, and some 68 other cosponsors, the new trade bill. That bill is the same as the conference report on H.R. 3, which was vetoed by the President, except for two major changes. First, the plant-closing notification provision is stricken. And, second, the Alaska oil import provision is replaced by a study.

There are also two minor changes in the bill. One makes the legislative history of H.R. 3 the legislative history of this bill. And the second is a group of technical changes in the amendments to section 201 of the Trade Act.

I ask unanimous consent to be allowed to place a description of these technical changes in the RECORD in order to assure Members that nothing substantive is affected by these changes.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

TECHNICAL AMENDMENTS TO CONFERENCE REPORT ON H.R. 3

The following are technical changes to the conference report on H.R. 3 that are reflected in S. ——, the Omnibus Trade and Competitiveness Act of 1988. All references are to Chapter 1 of title II of the Trade Act of 1974 as amended by Sec. 1401(a) of H.R. 3 and S. ——.

1. Section 201(b)(2): "at the time petition was filed under *subsection (a)*" was changed to "at the time the investigation was initiated under *section 202(b)*" in order to correct the cross-reference.

2. Section 202(a)(5)(A): "consult with the Trade Representative, the officers and employees of . . ." was changed to "consult with the Trade Representative *and* the officers and employees of . . ." in order to complete the sentence.

3. Section 202(a)(6)(B)(iii): "(iii) local community" was changed to "(iii) *state or* local community" in order to reflect the conference agreement.

4. Section 202(h)(2): "section 203(a)(3)(A), (B), (C), or (G) . . ." was changed to "section 203(a)(3)(A), (B), (C), or *(E)* . . ." in order to correct the cross-reference.

Mr. BENTSEN. Mr. President, this same bill was introduced last Thursday in the House of Representatives. When the President vetoed this bill, he listed a number of objections, but we were given to believe that if the plant closings and the Alaska provisions were removed from the bill, then the President would sign it. I hope that that is true. I must also state that I support the piece of legislation that was being spoken of just a moment before, on the plant closing provision.

We have been working on this trade bill since early 1985. Nearly 200 Members of the Congress labored on this bill in close consultation with the administration from August of last year until March 31 of this year. They worked in 17 different subconferences.

From the very beginning, this has been a bipartisan bill. Senator DANFORTH was its earliest cosponsor. When the bill was first introduced on February 5, 1987, it had 58 cosponsors. Twenty-four of them were Republicans.

Today, despite 18 months of scrutiny by 9 Senate committees, 5 weeks of Senate debate, over 170 floor amendments and a conference of 199 Members of Congress, this bill still has bipartisan support.

By the same token, we have sought cooperation, not confrontation, with the administration. From the outset of this process, I urged the chairmen of the Senate committees concerned to work out their problems to the best of their ability with the administration. And they did.

Senator SARBANES worked out the exchange rate and the debt provisions with Secretary Baker.

Senator DECONCINI worked out the patent issues with Secretary Verity and others.

Senator LEAHY talked to Secretary Lyng about the agriculture issues on an airplane to Geneva.

By the end of the process, when the administration people came to see me, I had in my hand four pages listing the main changes that the conference committee had made at the request of the administration. There were several hundred of them.

Why were we willing to work with the administration on such issues? We had a very practical reason for working with the administration. We wanted a bill enacted; not a political issue.

There were many who would have liked us to put American trade policy on automatic pilot; to provide that if certain circumstances developed, then the U.S. response would be inflexibly the same. And there were many, including some in the administration, who wanted nothing at all. This bill steers a middle course.

No one by themselves has written this piece of legislation. Not the President of the United States; not the U.S. Senate; not the House; not just the Democrats or just Republicans. This is a consensus piece of legislation.

The President is required to act under this bill when our trading partners violate trade agreements or when our agricultural exports are stymied by foreign subsidies. But he has a choice of actions. He always has the power to refuse to act for good reason. We cannot and do not want to run American trade policy from the standing committees of Congress. But we do see the need to have a trade policy in effect, and we believe Congress has the constitutional obligation to declare that policy. However, we do want to be consulted on that policy. We cannot do the negotiations, write out all the details; we understand that. But our constitutional responsibility is to be a part of the policymaking decision.

Under this bill when trade negotiations begin their discussions on trade with foreign officials, members of the committees of Congress that have jurisdiction over the U.S. laws that may be affected by a trade agreement in that area will be named as official advisors to those negotiations. They will be consulted or else Congress can be expected to react unfavorably to the agreements that come out of such negotiations.

Many people thought this bill was required because we had large trade deficits and, likewise, there are many who believe that, since we have now seen a few months of declining merchandise trade deficits, this legislation is unnecessary. Both of them were and are wrong.

A trade bill by itself cannot legislate away trade deficits. We understand that. But, on the other hand, you do need a trade policy and this helps bring that about. And these trade deficits are not going to go away by themselves.

Anyone who thinks our trade deficit is gone has been looking at the wrong numbers. Merchandise trade is only one aspect of our international income statement, although an important one. If you want to know whether a company that is losing money is doing better, you do not look at the profits of only one division. You want to know what is happening in the overall earnings of that company.

Just like that company, the United States earns its way internationally in three ways. First, it exports goods, and today we are running a deficit in that department of about $160 billion. That is a little better than last year, but four times as bad as we were losing in that department just 8 years ago. By the way, that deficit would have been over $200 billion and going up if the price of only one commodity had been at the level it obtained in 1980, and that commodity is oil.

If you think our merchandise trade deficit is getting better, look at the projection of what happens to the trade deficit if we have an interruption of oil supplies from the Middle East. You will see that our troubles are far from over.

In any event, that is only the merchandise trade deficit and that is the one we usually hear about. But this country also earns its living by exporting services such as engineering advice, medical services, banking, and many others. It also earns its way by investing abroad and earning a return on that investment.

If you put those three departments together: Goods, services, investments—they are called the current account. In effect, that is the income statement of the country, and it is getting worse, not better. Last quarter we had the worst current account deficit of our entire history.

Of course, as our current account gets worse, our debt to the world compounds. We are already the world's largest debtor, but that debt compounds as fast as the current account worsens, and we are worse off than was predicted when we began this bill. Within a year after the new President takes office, he will find this country $1 trillion in debt. This debt is roaring ahead so fast that the new President will be powerless to stop it during his first year or two in office. His first full budget will not take even effect, under the best assumptions possible, until October 1, 1989.

So why is this trade bill important?

Mr. President, what kind of negotiating position do you think the new President is in under those circumstances? Did anyone notice last week that for the first time in living memory, the Japanese Prime Minister was making proposals, rather than just answering criticism? Has anyone noticed how the attitudes of European businessmen have turned around 180 degrees in the last 5 years, from "euro-pessimism" to "euro-optimism"? The relative change in economic strength is changing attitudes about who is in the driver's seat of the world economy.

Did it strenghthen our President that he just vetoed a trade bill supported 3 to 1 in the House of Representatives and nearly 2 to 1 in the Senate. What proposals for improving world trade could he make?

I am sure there was a lot of talk about the new round of multilateral trade negotiations, but where was the muscle behind it? If anyone thinks the Japanese and the Europeans are not aware that the President had just vetoed the trade bill, they are sadly mistaken. This town is covered with lawyers and public relations experts hired by those governments to find out what our trade position is, and to influence what they do down there in the executive branch and what we do here in the Senate and the House.

They are spending over $100 million a year finding out what this Government thinks on trade, and how to influence it. This is more money than all the major business organizations in this country put together.

Our President did not even have his own Trade Representative with him at the economic summit. His counterparts may have had more information on American trade policy than he did at the economic summit. They knew that his only trade policy was a weak dollar and a regional trade agreement with Canada.

So when the economic summit solemnly declares that they are all for the trade negotiations, look between the lines, to see what is backing up that statement. Not much, unless this bill is enacted. Imagine, the role of our next President at the next economic summit and what he faces. That is what we are trying to address.

His country is $1 trillion in debt. That is a negative 3.6 percent of his gross national product. His most important allies and trading partners, Germany and Japan, have current account surpluses of, respectively, 3.6 and 3.9 percent of gross national product. In effect, he is largely dependent on European and Japanese investment to keep his economy from dragging down into a recession. He is spending literally millions of dollars each day to defend the Persian Gulf—which supplies cheap energy to his competitors.

And yet he is supposed to lead the world trading system back from the brink of protectionism. He is supposed to encourage Germany to heat up its economy, so it will import more. He is supposed to lead Japan in the fight against protectionism and the recycling of its immense reserves into investment in the developing world.

And he has to move fast. One reason for the euphoria among European businessmen today is that by 1992 they expect the European Community to have abolished the last of its internal barriers to trade. They can foresee the day of a European market half again as large as the United States market—and they are going to become tougher competitors in their own home market. They are going to want to protect that market.

If this trade bill dies, then confidence in U.S. leadership will plummet. Oh, there will be champagne corks popping in Germany and Japan. They won't have to open up their agricultural markets or reduce their agricultural subsidies. But what about Hong Kong, which has no trade barriers; they want this trade bill, because they see America in danger of protectionism if it dies, and in a leadership role if the bill succeeds. If the United States is tough about enforcing trade agreements, that is no danger to Hong Kong; they have no trade barriers. What about all the countries in the GATT, 96 of them, who want a higher standard of living for themselves? Do you think they look to Japanese leadership or German leadership to open up the world economy?

Absolutely not. They look to this country. If this country comes out of this year with a tough, fair trade policy, you watch the countries of the world decide which side on trade policy they want to support. They will support this country, because they know that in pushing for open markets, and fairness to our own exports, the United States will also be working to improve their economic conditions.

We should give that President all the authority we can to do that job, and all the muscle as well. He does not need to be working on a trade bill. He needs to be working with a trade law. He should be in a position to field a team of experienced trade negotiators who can say, "On trade, the United States has a bipartisan policy of opening markets, increasing our own competitiveness, and enforcing our trade agreements."

Mr. President, it is pretty close to the 11th hour on this trade bill. One year ago today, June 23, 1987, the Senate began debate on the trade bill. It was July 21 before we finished. You don't often get two tries at major legislation in one Congress. I have talked with the majority leader about getting time to consider a second trade bill. He points out how few legislative days are left in this session, how much there is yet to do, and how earnestly he wants to take the Senate out a month before the coming election. I believe him, and if our roles were reversed, I would be telling the chairman of the Finance Committee the same thing.

So I think we have a pretty tight window of opportunity to get this bill done this year. We do not have time, as we did last summer, for 5 weeks of debate or 8 months of conference. The trade bill passed the Senate just three votes short of overriding the President's veto. We have separated out the provision that appears to be—as best we can figure out—what the President really objects to about this bill, the plant-closing notification provision; we have removed a provision most of us think should have been removed before we sent the bill to the President, the Alaskan North Slope oil refining provision.

This bill is an attempt to get the trade bill enacted this year.

Our hope is that this new trade bill, representing the distillation of nearly 4 years of work will now move easily to enactment. It is ready for Presidential signature. Therefore, as soon as the House sends us their version of the new trade bill, I will urge the leader to bring that matter before the Senate for its approval.

Mr. President, I look forward to working with all Senators, Democratic and Republican, to get this legislation enacted at the earliest possible time.

Mr. RIEGLE. Mr. President, I firmly believe that we must enact a trade bill this year. It was a Herculean effort, by all involved, over a period of 3 years, and it is unfortunate that the best interests of the country were put aside when the President decided to veto this bill.

We have now decided to pursue another course, in the interests of the country and our economic future. However, it is precisely that economic future that I feel must be highlighted as one reservation I have about the new bill. I am cosponsoring the new bill, although I believe we are making an error in one respect: Removal of the provision limiting export of refined Alaskan oil from a refinery which is planned in Alaska.

Mr. President, there is a longstanding provision in the Export Administration Act, which I authored, prohibiting the export of North Slope Alaskan crude oil. There is a reason for that. It is vital to our Nation's energy security. There is not currently a provision affecting refined products. However, if there is a valid argument that this crude oil should remain in our nation, there is an equally valid argument that the refined product of this oil should also remain here.

I would agree that the provision affecting the export of only refined products from the specific refinery in Alaska is discriminatory. There is nothing currently in the law which would prevent this same North Slope oil from being refined elsewhere and exported.

However, the fact is, this provision, as it was originally included in the trade bill, could and should be changed to make clear the underlying policy, which is sound: That we should not be exporting a commodity which is essential to our national economic interest.

The numbers say it better than I can. In 1987, we exported $3.8 billion of refined petroleum products. We imported $14 billion. The crude oil story is even more pronounced. In 1987, we exported $126 million worth of crude oil. We imported $30.8 billion worth of oil.

Add to that the fact that the Japanese and the Taiwanese, who are the two most likely recipients of this refined product, are looking for ways to import something from the United States, and oil is at the top of their list. It is something that they need, and which will improve their balance of trade with us. But exporting it would be to the overall detriment of the United States.

So as an original cosponsor of this legislation, I would like to indicate my opposition to the removal of the provisions relating to the exportation of Alaskan oil. We have replaced it with a study of the problem, which may be needed, although I believe the issue is already pretty clear.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I am delighted to join with my good friend and colleague, the chairman of the Finance Committee, in reintroducing the trade bill, absent the controversial plant closing provision, which we are now debating on the floor. We can decide that on the merits or demerits by a vote later today or later on sometime.

This trade legislation is a good piece of legislation. I would not be supporting it if it was not. It gives the President his fast-track authority for multilateral trade negotiations. It puts into effect the harmonized system of tariff classifications, which we told the world we would put into effect last January and we have not done it yet.

Most important, Mr. President, this bill is not protectionist. It has been criticized by some as being a protectionist bill.

The President's veto message specified six objectionable items—of which plant closings and Alaska oil were two, and they are out of the bill. Interestingly, none of the provisions specified by the President are protectionist. Apart from those six, the President is perfectly prepared to live with the rest of the bill. Clearly, this President is not going to sign—and I would not support—a bill that is a protectionist piece of legislation.

Do we urge that the President bring some 301 actions? Yes, but he does not absolutely have to. Do we shift some authority to the U.S. Trade Representative? Yes, but in the last analysis, the President makes the final decisions on major trade policies, major efforts to open up markets overseas.

I am delighted to support this bill. I hope the House passes it soon. I hope we pass it soon and get this issue behind us so we can get on to negotiating with our trading partners to further reduce the tariff and nontariff barriers that still plague the world trading system.

I thank the Chair.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I want to congratulate both the chairman and the ranking member of the Finance Committee for their perseverance in pushing forward this latest version of the trade bill, and I want to echo everything that they have said in their comments. I am pleased to join with them and a majority of our colleagues in introducing a modified version of the trade legislation we have worked to enact since the beginning of the 100th Congress.

Mr. President, for 5 or 6 years, it was commonly said America did not have a trade policy. A lot of people criticized our country, the administration, and the Congress for not having anything that could be fairly called a trade policy. Trade was a hotly debated issue. Some people took very protectionist positions on trade; some people took very passive positions on trade. We did not have a consensus on trade policy in the United States.

This bill is especially important because it does establish a trade policy for the United States. As Senator PACKWOOD just said, it is a trade policy that is not protectionist. Instead, it is based on the principle of enforcing the rules of international trade and on insisting on access for American goods and services in the markets of other countries.

Sometimes when you form a consensus in the legislative process, you come up with something that is so weak and so watered down that it does not resemble anything of substance. By contrast, this is a bill of substance. It is a strong bill and a very positive measure. It provides meaningful tools for opening the markets of other countries. It is the product of tough negotiations with the administration and with our counterparts in the House. It is a bill that has won the support of Democrats and Republicans, of business and labor. The President has signed off on the trade provisions of this legislation. In short, this is a very positive measure for our country.

But for the deletion of two provisions, this bill is identical to H.R. 3, the Omnibus Trade and Competitiveness Act of 1988. I cannot overstate the significance of our effort today. By reintroducing this legislation with the support of a bipartisan majority of Senators, we indicate our determination to enact this much needed reform to our basic trade laws.

A credible and forward-looking trade policy must focus on opening markets for competitive U.S. goods and services and on enforcing the rules of international trade. Such a policy is absolutely critical if the United States is to continue as a major player in the international trading system in the years to come. As I have noted before, the trade provisions of this bill constitute a major step toward just that kind of coherent, aggressive trade policy—a policy based on the concept of reciprocity.

It is worth reviewing some of the major provisions in this legislation. First, the bill grants the President fast-track legislative authority to implement new multilateral and bilateral agreements aimed at reducing tariff and nontariff barriers to trade. This grant of negotiating authority is essential for the United States to participate in the multilateral trade negotiations now underway in Geneva. Clearly, it is in our best interest—and in the interest of the international trading system as a whole—for the United States to have an active role in these talks aimed at strengthening the General Agreement on Tariffs and Trade, GATT.

In addition to providing this important grant of authority, the trade bill also offers guidance to the executive branch in the form of priority negotiating objectives. It also guarantees that Congress will retain a meaningful role in trade policy formulation and implementation throughout the negotiating period.

The trade bill makes vital improvements in some of our most important trade laws. It provides for more aggressive and consistent use of section 301 of the Trade Act of 1974 against unfair foreign trade barriers and market distorting practices. Specifically, the bill ensures that barriers to competitive American exports will face time-certain retaliation if negotiations to eliminate the barriers are unsuccessful. Retaliation is mandatory in unresolved cases involving violations of trade agreements or other unjustifiable practices, except under certain specified circumstances. Action remains discretionary in cases involving unreasonable or discriminatory practices, though Congress has made it clear that this statute is to be vigorously applied when it is likely that the barrier can be eliminated. The improvements to section 301 were hammered out during hours of extensive negotiation between the House, the Senate, and the administration. Without unduly restricting the President's discretion, these provisions send our trading partners the message that we will no longer tolerate violations of our rights in the international trade arena.

An offshoot of this reinvigorated section 301 process is the so-called Super 301 provision. This barrier based, results oriented measure—coauthored by Senators BYRD, DOLE, RIEGLE, and myself—is the most important reciprocity initiative in the bill. It signals a commitment to tackle, in a systematic way, the major barriers and market-distorting practices of those countries that export freely to the United States while keeping their markets closed to our competitive goods and services.

Similarly, the bill establishes reciprocity in telecommunications trade as a major objective of this country's trade policy. Based on legislation I introduced more than 4 years ago, in the wake of the deregulation of the domestic telecommunications market, these provisions combine negotiations and the threat of retaliation into a coherent approach aimed at achieving specific objectives.

This legislation also makes important improvements to section 201 of the Trade Act of 1974 involving the treatment of injurious imports. These provisions emphasize positive adjustment and make it more likely that the President will provide temporary relief to those industries and workers truly in need. The bill goes a long way toward truly revitalizing section 201, which was sharply undermined by the President's 1985 decision not to grant relief to the domestic footwear industry—in spite of a unanimous recommendation by the International Trade Commission to do so. Likewise, the bill expands the eligibility pool for the Trade Adjustment Assistance, TAA, Program while also conditioning the receipt of TAA benefits on enrollment in a retraining program. These types of changes are designed to make both section 201 and TAA more the adjustment-oriented statutes they were originally intended to be.

The trade bill also makes significant improvements in the enforcement of our antidumping and countervailing duty laws; strengthens our laws on intellectual property rights protection; implements the harmonized system of tariff classification; permits duty-free entry of certain products used by domestic manufacturers; requires the presentation of trade statistics in a more useful form; provides for a triggered marketing loan program for major commodities in the 1990 crop year if there is not substantial progress in the GATT negotiations to eliminate export subsidies; repeals the windfall profit tax; clarifies the scope of the Foreign Corrupt Practices Act; modifies U.S. export control laws so as to minimize disincentives to American exports; extends the tied-aid credit fund for an additional year to enable our exporters to effectively combat predatory pricing practices by other countries; liberalizes the export trading company regulations to promote these types of arrangements; grants the President authority to prevent mergers, acquisitions, or takeovers of American firms by foreign interests if he determines that such control would threaten national security; provides for a $980 million Worker Readjustment Program; and, finally, includes a series of measures aimed at improving the competitiveness of American businesses.

It is obvious from this synopsis that the omnibus trade bill contains a great deal of material, touching on a wide variety of issues. Not everyone likes ever single aspect of the bill. But the fact remains that we have worked long and hard to craft a compromise measure that is, on balance, good legislation. We have accomplished a major victory by forging a bipartisan consensus on U.S. trade policy. We have agreed to shun the trap of protectionism and to shun blind adherence to free trade dogmatism, establishing in the process a well-balanced, aggressive, credible trade policy based on reciprocity.

Mr. President, it is not often that we are given more than one opportunity to really do something right. It is clear that a bipartisan majority of my colleagues agree that this is important legislation that deserves to be enacted into law. This has been a long, hard process, and I think we have come too far to let go of it now.

THE ETHANOL AMENDMENT TO THE REVISED TRADE BILL

Mr. EXON. Mr. President, I support passage of a new trade bill as introduced today as a necessary measure to help put America's economic house back in order. I supported the original version of the trade bill, the conference report and the attempted override of the President's veto. We must pass this new bill quickly.

The trade bill as passed, and vetoed, contained strong provisions for American agriculture as does the version before us today. These include provisions to regain lost overseas markets through extension of the Export Enhancement Program, institution of a triggered marketing loan program and market development initiatives through the Foreign Agriculture Service. It also calls for an end to Japanese and Korean barriers to American agricultural exports.

These measures offer our farmers and ranchers an opportunity to reestablish their competitiveness in the international marketplace which has been lost by unfair subsidized competition.

This bill also contains a provision which I authored to establish an Office of Barter in the Department of Commerce to help dispose of surplus agricultural commodities and other goods through cashless barter transactions.

We need all of these strong agricultural provisions today even more than we did when the original bill passed. Today, American agriculture is facing a drought of major proportions. The drought of 1988 is the worst since the drought of the 1930's. We must do all we can to assist our Nation's farmers and ranchers to survive and produce the food that we need so very badly in this country. We are talking in many cases about the very survival of many involved in American agriculture.

The one glaring problem for American agriculture remaining in this bill as it stands before us is the now-famous ethanol provision. I have opposed this provision from the beginning. It allows certain trading companies to transship heavily subsidized wine alcohol through the Caribbean Basin countries to avoid payment of import duties on fuel ethanol produced outside the Caribbean. Five trading companies are seeking to avoid any Caribbean Basin sugarcane content requirements through so-called "grandfather" exemptions in the trade bill.

For those who are not familiar with this provision, I will provide a little background. The Tax Reform Act of 1986 requires ethanol facilities in the Caribbean to utilize increasing levels of local cane sugar in the production of fuel grade ethanol for duty-free export to the United States. A transitional period was allowed for conversion of production to local feedstocks.

The 1988 trade bill extends that transitional period for the five companies for 1 year, until December 31, 1989, and limits total imports per facility to 20 million gallons per calendar year.

Many domestic producers fear a flood of European wine alcohol being transshipped through the Caribbean for dehydration and duty-free importation into the United States, and it is a legitimate concern. The whole idea of the Caribbean Basin Initiative was to help economies in that troubled part of our hemisphere. It was not meant to create a loophole to allow non-Caribbean nations to benefit from our generosity and our understanding of their problems.

The position of the House of Representatives in the trade conference was to let in as much ethanol from the Caribbean Basin as possible. During the House-Senate conference, the Reagan administration had the same position and we ended up with the provision I just described. Since conference reports, as we all know and understand, cannot be amended, many of us were forced to accept this outcome since, on balance, the trade bill was a big plus for agriculture.

However, when the President vetoed this bill he cited expanded ethanol imports as harmful to U.S. grain producers, a very interesting change in position by the administration from what they had fostered and encouraged in conference. For whatever reason, the President finally came around to the correct position and joined those of us who had opposed this provision. Now, with American agriculture in such great need, we have an opportunity to correct this one remaining problem for agriculture since this new trade bill can be amended.

The amendment that I am suggesting by printing in the RECORD today will do just that. This proposed amendment recognizes the problem and does something positive about it. It simply says that ethanol produced under this trade bill extension during 1989 may not be shipped into the United States unless the Secretary of Agriculture and the Secretary of the Treasury determine that we need it.

If the terrible drought now wracking the agriculture heartland of America persists we could find ourselves in a position of having such a serious shortfall in grain that we could not meet even the minimum fuels additive needs in America. If that should occur, we want to import enough foreign sources of ethanol to meet that demand.

The solution that I suggest goes to the heart of the dispute. Proponents of the trade bill, as it stands now, say it is needed to satisfy demands. They say it will help develop markets. I do not agree, but that is their contention. Opponents say it will flood us with cheap imported ethanol and drive out current producers.

I believe that the Secretary of Agriculture and the Secretary of the Treasury are in a good position and the best position to make that determination at some time in the future in the interest of domestic ethanol production. I think that if we left that decision, when all of the facts are in, up to the Secretary of Agriculture and the Secretary of the Treasury, we would satisfy the desires and the demands of considerable varying forces on this particular problem.

Suffice to say, Mr. President, the drought that we are facing in rural America could have a very definite impact on this whole topic. If the current drought persists, the rising value of corn and other feedstocks may force U.S. ethanol producers to reduce production. Disruption of supply under this scenario would hurt the alcohol fuel markets which American farmers and those of us concerned with ethanol from its very inception would find ourselves in a most difficult position because the significant strides that we have made in this whole area would be set back. It would be unfortunate for all those market expansion efforts to go down the tubes because of drought.

Therefore, I think this is the time to stop to look, to listen, and to think.

Requiring the Secretary of Agriculture and the Secretary of the Treasury to determine the wisdom for this imported alcohol fuel provides an option for preserving domestic alcohol fuel markets while limiting the risk of a flood of unwanted imported alcohol.

In short, it would allow the Federal officials who have responsibility in this area to make the determination based on the latest information rather than having Congress make the decision before all the facts are in.

In conclusion, Mr. President, I just want to say that the plant-closing provision and the Alaska oil provision have already been removed from the new trade bill. If we could eventually adopt the amendment that I am printing in the RECORD today to remove the most objectionable aspects of the ethanol provision from this bill, we can ensure its overwhelming bipartisan passage and have, I believe, it become law with the signature of the President of the United States.

Mr. President, it is the right thing to do. It is fair. It is necessary so that we can get this vital legislation passed and get on with the business of restoring America's economic strength.

Mr. President, I ask unanimous consent that my proposed amendment be printed in the RECORD following my remarks for informational purposes.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

At the end of section 1910 of the bill, add the following:

(c) EFFECTIVE DATE.—The amendments made by this section shall apply, if at all, with respect to ethyl alcohol, and mixtures of ethyl alcohol, entered after the date on which the Secretary of Agriculture and the Secretary of the Treasury, acting jointly, submit to the Congress, and publish in the Federal Register, a written statement certifying that the quantity of ethyl alcohol, and mixtures of ethyl alcohol, that would be imported into the customs territory of the United States free of duty by reason of the amendments made by this section is necessary to maintain adequate supplies of ethyl alcohol for consumers in the United States.

Mr. EXON. Mr. President, I thank the Chair, and I yield the floor.

Mr. ROTH. Mr. President I commend Senators BENTSEN and PACKWOOD, for introducing today a trade bill that holds every prospect of becoming law and I am pleased to join them as an original cosponsor of this legislation.

As many will recall on June 10, just after the vote on the President's veto of the trade bill, I called for just such an effort to move a second trade bill as quickly as possible on a bipartisan basis that could be enacted into law. My suggestion was to separate the trade bill and the plant-closing provisions in order to move ahead on both these issues. I am very pleased to see that this approach has been adopted. I am pleased to be a cosponsor of both these new bills and I am optimistic that we will see them become law.

As I indicated in my remarks on June 10, I have strongly supported the bipartisan effort to enact constructive trade legislation and I believe the trade provisions we are introducing today, while not perfect, meet that standard. This trade legislation is important to the continuation of American economic prosperity. In fact, I think this legislation is vital if we want to assure that Americans get their fair share of the benefits of the emerging global economy.

The bill includes provisions that are important for America—for its industries producing goods and services, its workers, its farmers, and its consumers. These include provisions on which I was pleased to play a leadership role, especially those to put the United States in a strong position to promote both equitable and expanding trade in international trade negotiations, and to help workers who are put out of work because of imports rejoin the work force with the help of the Trade Adjustment Assistance Program. I have also strongly pressed for changes in our laws to better protect American patents, trademarks, and copyrights against imports which infringe these intellectual property rights and for changes to our law to better assure that our President will take action if imports of a particular product are threatening an industry which is critical to our national security.

As I see it, the prospects are good for this second bill, if we continue to work together on both sides of the aisle to enact a trade bill this year. The override lost here in the Senate by only a few votes. While there is continual speculation about whether the administration would support a second trade bill, I think this speculation is unwarranted. The President's veto message speaks for itself. The President has said that he will "work vigorously to secure sound legislation this year," that he is "committed to a responsible trade bill this year," and he wants "to sign a trade bill this year." His veto message is very narrowly drafted, and I share his view that if we set partisanship aside, there is time enough in 1988 to finish a trade bill.

The fact is that the trade bill we are introducing today represents a long-sought consensus on the future direction of U.S. trade policy—not just a consensus here on Capitol Hill, but also a delicately and painstakingly developed consensus between the Congress and the administration. The administration played a key role in guiding the very precise drafting of the sections of this bill dealing with trade itself. For this reason, and the nature of the President's veto message, we should expect the administration to stand by the compromise language it helped develop on provisions other than those highlighted in the veto message itself.

I want to make it clear again that I supported this trade legislation with the plant-closing provision. Giving workers notification of a plant closing is a compassionate and decent thing to do. And as you know, I introduced the plant-closing provisions shortly after the override vote. Given the President's position, however, I think the leadership is doing the right thing in moving that issue separately from the trade bill itself.

For at least the last 15 years, I have often expressed my concerns about the fact that trade is not dealt with in this country as a top national priority. Many others in the Congress as well have expressed concern when other issues—foreign policy, defense—always seem to eclipse trade. If we allow the trade bill, which helps make trade a No. 1 priority in this country and which demonstrates that we can develop a coherent, constructive consensus on trade, to fall by the wayside because of disputes outside trade itself, we would only be demonstrating that trade is not a leading national priority. We would be fostering the very view that we are trying to reverse with this bill. Instead of having an affirmative trade policy, our trade policy would again be the passive result of what happens on other national issues.

As is clear from these remarks, I stand ready to work with my colleagues to move this second trade bill. In my view the best possible time to move this bill is right away.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, there has been some comment this morning and during the debate on this bill regarding the elimination of layoffs from the bill and whether or not that might be a topic or a question in issue.

Mr. President, the layoffs portion of this bill was carefully drafted to be part of a trade adjustment package and that is why it is part of the plant-closure bill that is now before the Senate. The great importance of including a provision that provides for structural layoffs as opposed to cyclical layoffs, or a layoff that may take place that is of a smaller nature in a large company is because layoffs, very often, have been used as a blueprint for a major company to lay off permanently people.

In other words, it is like a plant closure. And, therefore, very carefully drafted provisions of this bill, and they were originally in the Trade Adjustment Act, were to provide that if there were 500 people laid off, then the provisions of notice would apply. Or, if you had more than a third of the work force. But it had to be more than 50 people.

I think it is important, Mr. President, that we not be drawn off into a discussion of the layoff provisions as being something that is threatening in this bill. It has been here all along. We have not addressed it because we felt that this had been agreed upon and was not a major issue. I hope it will not be.

I thought it was important at this point in time to mention this so that we can put that to one side. Hopefully, Mr. President, we will be able to promptly reach a position of voting on any specific amendment to be offered by the minority and proceed with a final vote on this measure. It is an important part of moving forward an entire adjustment package.

We are prepared to proceed immediately with it. I hope that all other Members are and that we can move on these amendments as promptly as possible so that we can proceed with the entire trade package.

Mr. President, at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I rise in support of this plant closing bill and to commend my colleague, Senator METZENBAUM, for his leadership on this as he has led on so many things. He has been a giant in the Senate, and I am very honored to serve with him. Never was he more right than in pushing this plant closing legislation.

We have approximately 2 million workers every year who lose their jobs because of plant closing or because of layoff. Two out of three of these workers receive virtually no notice. The average blue-collar worker on plant closing receives a 7-day notice, and blue-collar workers in unorganized plants, nonunion plants receive on an average a 2-day notice. That certainly is, if I were a blue-collar worker, a powerful argument why it makes sense to join a union.

This bill says we are to have a 60-day notice.

It is interesting, and my colleague, Senator METZENBAUM, is on the floor right here. He happens to be up for election along with one-third of the Senate, and we provide for Senator METZENBAUM and for one-third of the Senate if they should lose this next election, and I hope he will not, but if he should lose, we give him 60 days notice that is he going to lose his job. He is not out of that job until early January. What is good enough for U.S. Senators ought to be good enough for working men and women in this country.

And there are all kinds of provisions in here. Frankly, it is a very anemic bill. Our friends in Canada and Western Europe have much stronger legislation protecting workers than we have in this legislation.

First of all, it exempts every business with fewer than 100 employees. Second, it does not cover it if there are less than one-third of the work force involved.

If you have a company with 1,400 workers, and you lay off or discharge one-third of them, 400 of them, you are not covered.

There are economic emergency exemptions here that frankly almost any business can drive a truck through. The loopholes are massive. But it is, it seems to me, a start in protecting people as they ought to be protected.

Secretary of Labor Bill Brock appointed a task force to take a look at this whole problem, and this is what that task force of this administration had to say.

> Experience has also shown that the earliest notification possible leads to more effective delivery of public and private services to dislocated workers * * *.
>
> The task force is in agreement with other studies that have concluded that advance notification is an essential component of a successful adjustment program * * *.
>
> It is true that a recent General Accounting Office survey indicated that in too many plant closing and permanent mass layoffs, insufficient advance notice of job loss is given to make possible an optimal private and public role in the reemployment process.

That is not the Democratic National Committee making that report. That is not the AFL-CIO making that report. That is a report of a task force appointed by the Secretary of Labor of this administration.

Then, finally, Mr. President, I used to be in business. The distinguished floor manager of this legislation used to be in business. I guess the thing that I always found that I hated to write the check out the most for was unemployment compensation because very often it had nothing to do with the unemployment in my own business.

What we do when we do not provide advance notice is we escalate unemployment compensation costs for business.

We ought to have the Chamber of Commerce and the National Manufacturers Association down here fighting for this legislation. When you provide advance notice people have a chance to secure other jobs and you have less payout for unemployment compensation. It is very simple.

This bill makes sense from the viewpoint of protecting workers. It makes sense from seeing to it that we have a productive economy and do not have people nonproductive and out of work. And it makes sense in protecting business.

I hope the Senate does the sensible thing and passes this, passes this with a kind of majority that will make clear to the President that we can override a veto if he vetoes it.

Let me add: I happen to a few weeks ago run into someone formerly high in this administration and a very prominent Republican, and he said: "Can't you get someone to get word to the White House that this plant closing bill is so modified and watered down that there is nothing that any responsible business ought to fear?"

And I said to him, "I think you are the person who has to get that message to the White House rather than me."

I mention that simply to say if you are just looking at symbols and you want to fight symbols go ahead and fight it, but if you are looking at substance this bill offers substance. We ought to pass it. We ought to protect American workingmen and workingwomen more than they are protected now. We ought to protect American business better than they are now being protected under current practices.

Mr. BINGAMAN. Mr. President, I am pleased to be a cosponsor of this reintroduced trade and competitiveness bill. I hope the Senate will act on this measure quickly.

The need for quick action is clear. Last week, I believe we had a glimpse of the future in the figures on the U.S. current account, which is the broadest measure of our trade deficit. In the past few months we have seen a modest improvement in our merchandise trade deficit. Yet, our current account deficit for the first quarter of 1988 has continued to worsen. This increase in our overall trade deficit is a direct result of our status as a debtor nation.

When we were a creditor nation, the income we earned from our investments abroad was much greater than the income we paid out to foreigners for their investments in this country. That investment income surplus was used to offset the deficit in our merchandise trade account. When our merchandise deficit grew so large that our investment income could no longer pay for it, we were forced to pay our bills by either borrowing from abroad or selling our assets to foreigners. In either case, foreigners increased their investments in this Nation faster than we invested abroad. Consequently, that past surplus in investment income has shrunk.

Mr. President, we are now in a situation where our investment income surplus has all but disappeared. We now face a future where we must run a merchandise trade surplus if we are to offset our investment income deficit. Each month we continue to run a current account deficit, the deeper we dig ourselves, and our children, into debt. And the deeper we go into debt, the greater our investment income deficit becomes and the greater our merchandise trade surplus must be in the future just to stay even.

That is the story the latest current account figures tell. It is not a pleasant story, but it is the truth. Thus, it is essential that we do all that we can to erase our trade deficit and lay the foundations for a strong economy in the future.

This bill is a step in that direction. Much has already been said over the past 2 years about the provisions of this bill. It begins to address our serious trade problems through reciprocity and positive structural adjustment. It is also more than a trade bill—it is a competitiveness bill. It lays the foundation for a stronger, more competitive U.S. economy and for an increasing standard of living for all Americans.

Mr. President, the debate over this bill does not need to be repeated. This bill may not be perfect. Nor is it a panacea for all our problems. But it is a beginning. I urge my colleagues to move forward with this bill. Its enactment is past due.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **KARNES**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. ADAMS). Without objection, it is so ordered.

Mr. **KARNES**. Mr. President, though ignored by the politicians and the national media, the trade bill that was recently vetoed by the President contained an expanded ethanol provision which would have provided the European Community with a dumping ground for up to 200 million gallons of heavily subsidized ethanol produced from surplus stocks of cheap wine. As I mentioned earlier, this was largely ignored by politicians and the national media, until recently.

I have been discussing this issue on the floor of the Senate and throughout the State of Nebraska for the past several months, sharing the concerns of those of us who are producers, as I am, of the product that generates the ethanol, which is largely corn.

I am very pleased to note today the statement by my colleague from Nebraska, Senator EXON, concerning ethanol and the concern he has about this issue.

These duty-free imports that would be allowed under this provision of the trade bill would have unfairly competed against Nebraska farmers as well as all American farmers who supply an estimated $150 million in corn stocks for use by the gasohol industry. Not only would farmers have lost out, but also, the American taxpayer would have to pick up the tab for this increased farm cost as a result.

Nebraska is home to gasohol and the ethanol industry. The very word "gasohol" originated in our State. We even have a state ethanol development board, and the Federal Government exempts gasohol purchases at the pump from the highway tax. Thirty-seven percent of Nebraska motorists buy gasohol regularly.

Nine million bushels of corn are used each year to supply Nebraska's gasohol market. The Hastings ethanol plant alone consumes 4 million bushels of corn annually and produces 10 million gallons of ethanol a year. As many as 50 persons are employed there, and the trade bill—had it been enacted—would have threatened their jobs.

Simply put, this provision of the trade bill would have seriously undercut our efforts to promote the use of gasohol, which burns cleaner than straight gasoline and causes less pollution. It would have allowed five major international companies to ship cheap wine, purchased at about 40 cents a gallon, from Europe to the Caribbean and then to the United States, after having gone through a very simple process whereby water would have been sequeezed out of this wine. The resulting ethanol would have been shipped duty free from the Caribbean to the United States.

These companies argued the ethanol would go to States in New England where market penetration has not been high, and that it would ultimately have created markets where none existed before. I doubt that would have happened. In fact, I believe the cheap wine ethanol would have come right up the Mississippi River and ended up competing against Nebraska-grown corn.

As a Senator from Nebraska, charged with protecting my State's interests, as well as our national interests, I could not vote for the trade legislation with this provision, which would have harmed efforts to spur this important, new industry in Nebraska and hurt farmers across the country. That is why, today, I am pleased to take the floor and compliment my colleague from Nebraska for the statement he made on the floor and his announcement that he will be proposing an amendment to the trade bill which would provide certain discretion to the Secretary of the Treasury and the Secretary of Agriculture to determine whether or not this provision of the bill would do damage to American agriculture; and, on balance, in light of the emerging drought situation we have in our country, whether it would be appropriate, in order to maintain this industry in a viable condition, to allow certain imports of this ethanol into the country.

Make no mistake: At this point, I still believe that the best solution for our country and for the farmers would be the total elimination of this provision in the trade bill, and that is the reason why I voted to sustain the President's veto.

However, I believe we are seeing now in this country, and in this Chamber, people talking about the importance of this provision and the importance of reconsidering this provision, as we look toward passing a trade bill, which all of us would like to do. Thus, I thought it was important for me to indicate publicly my support of the provision Senator EXON has introduced and to indicate that I will be willing to work with Senator EXON and anyone else in this body to make sure that ethanol is treated fairly, not only in the trade bill—hopefully, by eliminating that provision—but also by talking about the various interests we have that make this an important provision for us to consider.

While it was not my reason for voting to support the President's veto, I certainly agree with many who felt the issue of plant closure notification should not have been included in the trade bill. It had nothing to do with international trade.

Indeed, had the plant closure provision been law 6 months ago, it might well have forced the Lockwood Corp. plant, the largest employer in Scottsbluff and Gering, to close down even while they were trying to restructure and refinance so as to stay open. As many as 400 workers could have been jobless, despite the best efforts of management.

With the veto upheld and the need for a trade bill still present, I hope Congress will now get serious and pass new legislation without the ethanol provision. If it does, I will be first in line to vote for it.

Also, I should note that with the drought situation we see developing in this country, we have an interest in taking a look at the impact that the absence of available corn stocks would have on the ethanol industry. One of the worst things that could happen would be to have the drought draw down our corn stocks, which provide a great deal of the raw product for ethanol, and eliminate ethanol as a vital energy source because of what possibly could be one of the worst droughts in this country since 1934.

In light of the emerging drought situation, and as a member of the ad hoc House-Senate drought task force, I am greatly sensitized to the interest we have in making sure that industries like the ethanol and gasohol industry, fledgling industries in this country, be considered when we look at what happens with our production and stocks.

Thus, today, Mr. President, I rise to compliment my colleague from Nebraska and pledge to him and to the other Senators that I will work long and hard, as I have, to make sure that ethanol is treated fairly and that we recognize the importance of this very vital industry, not only to American agriculture but also to the American consumer and those people who would like to see this country have an effective, integrated energy policy.

Mr. President, I reiterate my interest in having this provision eliminated from the trade bill. I am pleased to see the discussion by other Members of this body directed toward ethanol, and I encourage all my colleagues to take special time to review the provision that my colleague from Nebraska has just introduced, to give consideration to whether or not this, indeed, is a fair treatment of ethanol, and to provide the type of discretion that Senator EXON indicates in his amendment would be available to the Secretary of Agriculture and the Secretary of the Treasury, to make adjustments, if necessary, in the event that, on balance, the ethanol industry, because of the drought, would be harmed in a fashion that could be deemed to be extremely detrimental to this very important developing yet fledgling industry.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAHAM). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, we went on this bill yesterday and on this side we have been prepared to move. There was an indication yesterday that my colleagues on the other side of the aisle would be ready with some amendments this morning. They so stated in the RECORD. That has not been forthcoming.

Then we were told they would be ready with some amendments by 3:15. It has not been forthcoming.

Mr. President, I have stood here on the floor all day, with some relief from a few of my colleagues, and have not asked for the regular order, and I do not intend to ask for the regular order because I would not play that kind of a game. But I must say to my colleagues, enough is enough. Let us move.

We have been told ever since yesterday that Senator QUAYLE had an amendment. Well, where is the amendment? I do not have any doubt that it will be forthcoming shortly, but the fact is, I think all of us would like to move. We know we are moving toward the end of the week. We know some of our colleagues are leaving on Friday. Some have difficulty from the west coast getting back on Monday. I think it is appropriate, and I hope that those who are within range of my voice understand that we are prepared to move. We have been prepared ever since yesterday to move. We are prepared to deal with amendments, and I hope that we can have some action promptly so that we can bring this entire issue to a close at the earliest possible point.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I rise to discuss the pending legislation that is before us and to make some observations about it, not being one who is on the committee that deals with this issue, but as a member of the Joint Economic Committee and the Budget Committee and formerly a member of the Finance Committee. It has been a subject of a great deal of interest to me about how our economy operates in this country, what has happened to the economy in this country, not to mention the fact of what has happened to the economies of Western Europe.

I know what the argument is that is being used here, a political argument to somehow paint Republicans not caring about people and the Democrats are the good friends of the working people.

The reality of it is, Mr. President, notwithstanding that argument, that in Western Europe, they have not had near the success in creating new jobs that we have had in the United States of America. If you watched the economic summit in Toronto, from which President Reagan just returned, with the leaders of the Western economies, if there was one general message that came out of the summit in Toronto, the message was, get rid of these idiotic Government intervention, socialistic schemes, if you will, that subsidize inefficient industries, burden management with the decisionmaking processes that are too slow and burdensome and allow economics to be able to adjust to a more informational and highly technological world that we live in a rapidly changing global economy. To give, in other words, the private enterprise system, the profit and loss system, the opportunity to reduce its losses, increase its profits, increase investment and expansion in areas where there are incentives so that more jobs are going to be had by the people who live in the respective countries.

What we are really talking about in this argument about the economy is jobs. Jobs is what the issue is all about. The question we should be talking about here is how many plants are going to open in the United States, instead of trying to focus our attention on the plants that are closing and then try to do things that will lead to, in my view, a situation that eventually will possibly lead to inefficiencies, to slow, burdensome ways that plants can be closed.

This bill that Senator METZENBAUM brings before us would require a 60-day advance notice for both plant closure and layoffs, as well as disclosure of financial information.

The argument really is not the 60-day time period, but rather the overall effects of this type of legislation, Mr. President, on the economy. What kind of a signal does that send to investors who may want to invest in a plant?

If we pass something like this, then maybe people will think we better close the plant now before the law goes into effect, or maybe we better not open the plant because if we open the plant, they will pass another law and we will not be able to close it.

The bill would legislate the same labor market rigidities that have stifled growth in Western Europe imposing restrictions on the ability of business to react to changing economic conditions. It will impede the ability of the economy to grow and create jobs.

Many European countries require notice for their workers prior to closure or layoff. They give them that notice. They have 3 million fewer jobs today than they did in 1970 and an unemployment rate of over 11 percent. Think of that, Mr. President, 3 million fewer jobs than they had in 1970 when they started passing these kinds of laws and an unemployment rate of over 11 percent.

During this same time period, since 1970, over 26 million new jobs were created in the United States, and our unemployment rate is significantly less. The European countries are just beginning to realize that the U.S. system provides greater worker protection because the people have a job, they have an income, they have a spending capacity, and they can buy the goods and services that are produced not only here but around the world because we are relatively an open market for foreign goods also. The consumers of this country enjoy a great deal of privilege and a great deal of opportunity that is not available in other countries.

Recently, the French chemical industry and its unions agreed to reduce its notice period from 180 days to 80 days in order to stimulate business growth. In other words, while Europe is trying to do away with this kind of archaic law that they know is bad for their economy, has been bad for economic growth, we are here in the Congress of the United States talking about passing some kind of a law like this.

Germany, which enacted a modest advance notice law in 1972, has systematically strengthened their law, and now their country spends approximately $4.5 billion a year in a lengthy and costly process to close any German company with more than 20 workers. One company, Krupp Steel Co., which has been mentioned on the floor by other Senators, has spent over $800 million in their effort to close a steel mill. The mill is old, out of date, not productive, not profitable, therefore, not secure for the people to work in. They expect to spend over $1.2 billion before the process is completed.

Mr. President, most Americans do not realize that one of the most pressing social problems facing Euopean countries today is the issue of job growth. That is what the issue is in Europe. Heavy blame for the disturbing loss of jobs and high unemployment rates is placed on the laws and practices common throughout Western Europe that have created a host of restrictions on labor market flexibility.

European employers, in recent surveys, believe strongly that one of the major factors contributing to their inability to remain competitive and thereby create enough jobs to keep up with the population growth is the limitation imposed by the labor market rigidities.

In Western Europe, mandatory notice periods range from 14 days to several months. The 60-day period is extremely arbitrary. The total historical effect of the notice requirements, notice consultation, disclosure, and compensation has been to increase labor market rigidity, reducing management flexibility, add to decision time and cost, divert resources, increase labor costs and encourage offshore sourcing.

Is that what we want for the United States of America, a country that has created 26 million jobs since 1970—26 million jobs since 1970, Mr. President—when at the same time Europe has lost 3 million jobs?

I do not think that is what the American people want. Nothwithstanding some of the propaganda put out by some of the labor bosses about the importance of plant closing, I think if you talk to most of the people who work in the plants, what they want is a company that is secure, that is flexible, that can modernize, that can do what it has to do; that if it has an inefficient plant, they can close it and create a more modern one. That is what people want. They want job security. They do not want legislation passed by Congress that makes it more difficult.

This bill, if passed into law, will increase labor market rigidity in the United States. It will reduce management flexibility. It will add to the decision time and cost, and it will divert resources from profitable, efficient ventures which provide jobs for people. It will increase labor costs, not necessarily increase wages but increase labor costs and thus productivity costs, and therefore encourage offshore sourcing of the products they produce.

I say to my colleagues, how in the world does it help this economy of ours if we do things which make it harder to do business in the United States.

Mr. President, our mission in the Senate should be to pass laws which make it easier for people to get into ventures, to develop products that are wanted and therefore create happiness for more people by not only supplying products at a price that consumers can afford but also provide jobs for people so they can raise their families in dignity and the security of their own home, provide the opportunity to educate their children and live their lives as they see fit.

This bill absolutely goes against the grain of what built America, what made it the bastion of free enterprise and made its economy the envy of the world, made it the vehicle to create new jobs where wages have been increasing, not decreasing.

That is what the United States is all about. We are not about this business of socializing the economy, extending the long arm of Government, so that everyone has to make decisions to comply with laws made in Washington.

Much has been said about the success of the Canadian notice program, but the real basis of success is the cooperation of labor and provincial government in voluntary committees, not advance notice requirements. Canada has an advance notice Federal law that applies to about 6 percent of their work force, primarily with the people in banking and those contracted with the Federal Government. The success lies in the unique voluntary labor-management approach, not forcing Government to be involved in that decisionmaking process.

U.S. companies with considerable experience in operating facilities in Western Europe cannot understand why Congress would take such a backward, unenlightened approach to the problem of dislocated workers. We have companies in my State, Mr. President, with plants in Western Europe and the people who work for those companies who regularly travel to Europe to see what is happening, watching the operation, ask me, "How in the world can you people in Congress even be considering an idea like this? It has been a dismal failure in Europe. Why would you want to copy what has been a dismal failure in Europe and force it on the United States when we are outcompeting the Europeans right now in terms of job creations, in terms of standard of living, in terms of productivity, and about anything else that you look at?

"Why," they say, "would you want to pass legislation which will actually create more, not less, displaced workers? Why can't Congress learn from Western Europe's mistakes instead of using those mistakes as models for our own laws? It seems very strange that in this period of rapid economic growth the Congress would try to act in a manner that is actually harmful to job growth and prosperity."

Mr. President, in my opinion, this bill should not be passed. It should be voted down. It should be taken off the calendar.

Mr. President, I offer those remarks, not that they would change anyone's mind but because this legislation does not contribute anything to job security in the United States. I know the name of the bill is advance notice layoff. People think that is going to somehow secure their job for the future. What will happen is that it will burden the economy, and there will be the same experience as in Western Europe. People will say, "Just a little slice of the baloney." Take a little slice off, a slice at a time, and first thing you know you have immobilized the market.

One of the beautiful things about the free enterprise system is that it is flexible and you can get rid of the inefficiencies by closing down unprofitable operations, and using the same people, invest capital in profitable ventures that will provide job security for people and be able to heal themselves as market times and conditions change.

If you burden the economy with advance notification and then a little more of this and a little more of that, the first thing you know no one wants to invest any money to start a new plant and in the long run you have the same Western Europe experience.

Mr. President, I close by saying that since plant notification bills were passed originally in 1970 in Western Europe, they have lost 3 million jobs, while at the same time in the United States through Republican and Democratic administrations we have created 26 million new jobs. That record alone tells me that the United States is a better place to invest money, to do business, rather than someplace that has a dead, static, dying economy. The message that comes from the Europeans, from these economic conferences, is that they need to get out from under this type of legislation. Instead of passing more of it, they are saying they have to rid themselves of it. What they are saying is they need to reduce regulations. They need to reduce taxes. They need a climate for people to invest and create jobs so people can actually seek the ultimate of happiness in their lives. We are going exactly in the opposite direction with legislation of this type.

So I hope my colleagues will see fit, when the time comes for a final vote on this legislation, to vote this bill down. I think the President was correct in vetoing the trade bill for many reasons. Notwithstanding this one reason that seems to attract the most attention, I think there were many other issues that were worthy of a veto, but certainly this issue was one that should never have been included in a trade bill. If we want to have a bill that is designed to help expand American markets and expand American business, this type of legislation should never have been included in the trade bill in the first place. It should not be, in my opinion, considered today. I hope there will be 51 Senators who will see fit to vote the legislation down.

Mr. RIEGLE. Mr. President, I am struck by many things as we approach this critical vote. The President's veto statement put great emphasis on the plant closing notification issue. He said: "I support voluntarily giving workers as much advanced warning as possible when a layoff or closing becomes necessary."

Well, we have that now. If it was working, we would not be putting so much emphasis on the legislation we are considering today. But the facts are clear—the volunteer system doesn't do the job. According to the General Accounting Office, which conducted the most indepth study of actual business practices, of companies with 100 or more employees in 1983 and 1984, the median length of notice provided to workers was 7 days. The median notice to white collar workers was greater—14 days. Union blue collar workers also received a greater than average notice—14 days. The median notice for nonunion blue collar workers was just 2 days.

Two days notice that you are about to lose a job which you may have had for 20 years is hardly a reasonable policy to follow. Yet that is precisely what the data show for companies which actually closed their facilities or layed off a large number of workers in 1983 and 1984.

Nearly one-third of the establishments experiencing permanent layoffs provided no notice to their workers and nearly two-thirds provided 2 weeks notice or less.

What we are trying to address is the case where a business closing is known ahead of time but the information is not shared with the workers or with the community so that they can get ready to deal with a facility closing, the loss of a job, the damage to the town, and maybe even find a way to prevent it from happening.

This bill only applies to larger companies and it only applies when they foresee the closing or mass layoff coming. That is the information that has to be shared with the workers and the community.

The President, in his veto message, referred to the Caterpillar Co., and quoted an executive of that company as saying:

> That they did not have the luxury then nor do they now of knowing with certainty what business conditions would be like 60 days in the future.

If they are not aware of the fact that they are going to have to close a plant in 60 days, they are under no obligation in this bill to have to give notice. So the very example that the President cited is one that our bill handles reasonably. There is no obligation on a company if it does not foresee the necessity to close a facility or lay off a large number of workers.

Mr. President, I want to get to a deeper issue related to the plant notification issue. We face an enormous trade deficit—last year, $170 billion. It continues to run in that range this year. That is doing tremendous financial damage to this country because we are going deeper into international debt. All of that money that we are borrowing to buy these foreign goods is still outstanding as a future liability against this country. And it is now estimated by the New York Federal Reserve Board that by the early part of the 1990's we will owe the rest of the world about $1 trillion. That is the debt that we will have accumulated from this trade invasion that we are experiencing.

We need a higher level of national performance. In order to do that, in order to really develop that team concept, managers and the workers really have to trust each other. They have to care about each other. Each day they have to talk and work together to find new ways to produce higher quality products at a higher level of efficiency. That kind of teamwork requires trust and faith. It requires a kind of reciprocal bond that means if a plant closing is likely to take place, and the managers foresee this disastrous eventuality, they should immediately share that information with the other part of the team, the worker part of the team, just as they would share any other critical fact. We cannot have a cohesive unit that is comprised of teammates one day, sharing problems and solutions, and the next day, keeping vital information which affects everyone on that team to themselves if it involves the closure of a facility or large scale layoffs.

That is not teamwork, it is not fair, it is not smart. In a situation like that, the very first thing the managers should do, if there is going to be real teamwork and unity of effort, is to go to the workers and say:

> Look, we have a real problem here, and it looks like we will have to close the plant in 2 or 3 months. We need your help in figuring out how to deal with this. What other answers might there be? Can we make changes in the plant? Can we improve the efficiency in some way? If we have to close, can we do it in an orderly fashion and help employees make a transition to another job or help the community deal with the loss of a major employer?

How can we produce as a team when, all of a sudden, the team concept goes out the window and the manager says, "I know the facts, but the workers don't have a right to know this and neither does the community."

That does not promote a good working environment. Business cannot succeed that way and America cannot succeed that way. It is only right and sensible that when such situations arise, the manager will share the information with the workers and the community. That is the way we will achieve a higher level of efficiency that will enable America to increase production and close the trade gap.

The purpose behind the plant closing notification is absolutely basic to the success we must have if we are going to perform better as a nation in our output and our national economic growth.

We need this legislation, not for the companies that already do it anyway, because they understand that it makes good sense, but for those who do not. A voluntary provision would not change their practices.

Other changes in our labor laws have not come about easily, yet they are looked upon as part of what makes this country an advanced, compassionate, and civilized society. We have laws which protect children from being exploited in the workplace; we have laws which protect workers from an unhealthy or unsafe working environment; we have laws which maintain a minimum wage and minimum hours of work. None of these protections came easily. They came about because those who cared about working men and women and those in government led the way to what most people now accept as the right thing to do. These are standards of which we should be proud. They have led to the standard of living which we sometimes take for granted.

Last month, the Department of Labor released a report on mass layoffs and plant closings in 1987. The survey covered 29 States, affecting about 55 percent of the U.S. workforce—2,020 layoff events were reported in 1,678 establishments—406,887 workers were separated from their jobs because of these events. Mass layoffs in manufacturing far exceeded those in other industries. The most often cited reason for the layoff was seasonal work or slack work. These eventualities are covered by the bill, and would not require advanced notice in most instances.

Other reasons cited were contract completion, which is exempted from the bill and business ownership change which is also addressed in the legislation.

I realize that the President does not like this bill. However, in 1986, the Secretary of Labor's Task Force on Economic Adjustment and Worker Dislocation, chaired by the distinguished former Secretary of Labor, Malcolm Lovell, concluded:

> Experience also has shown that the earliest notification possible leads to more effective delivery of public and private services to dislocated workers. Delivery of public services to affected workers should begin well before shutdown or layoff if possible.

Looking ahead, it will take all of us working together to hammer out the new answers needed for changing times. We will need all our experience, all our determination, and all the leadership we can bring to bear. We must create a whole new measure of American unity and teamwork in order to meet the global challenges that now confront us.

Business, labor, government, and citizens must join hands in a new era of true partnership and national teamwork to save jobs and create a higher standard of living from our ingenuity and hard work.

We need a national surge of greater individual effort to lift us to higher levels of performance and output. We must prepare ourselves to do the very best work we can—in our schools—our jobs—our families—our community life—and in all our State and national endeavors.

When we strive to reach higher levels of individual effort and excellence—when we help others to do the same—then we help lift America to higher levels of achievement and public good.

This bill is vital to our Nation's future. It is critical to our Nation's workers and the communities in which they live. I urge my colleagues to vote in favor of S. 2527.

Mr. CONRAD. Mr. President, I rise today in strong support of advance notice of plant closings. I defended this provision when it was included in the trade bill, and I support it as freestanding legislation.

Last month, President Reagan turned his back on American workers when he vetoed the trade bill over the plant closing provision. That provision would require companies with more than 100 employees to notify their workers 60 days before a mass layoff or plant closing. In his veto message, the President said that he supported voluntary notification. He said that mandatory advance notice would hinder the flexibility of business. He claimed that it would hurt American competitiveness abroad and cost jobs here at home. Well, Mr. President, that is just not fair.

The notification requirement we are debating is flexible. It exempts companies with fewer than 100 employees. It exempts firms victimized by unpredictable natural or business disasters. It exempts firms struggling to save a failing plant, and it does nothing that affects a company's decision or right to close a plant or institute layoffs.

Advance notice of plant closings can also save money. Studies by the Office of Technology Assessment and the Economic Policy Institute have shown that notice could save anywhere from $257 million to more than $400 million annually in unemployment compensation payments.

When the President vetoed the trade bill over the plant closing provision, he ignored the voice of 86 percent of the American public, including members of his own party. Instead, he listened to the narrow arguments of a small number of influential special interests. As Representative MARKEY said during debate in the House, President Reagan chose a policy of zero tolerance for American workers.

Mr. President, plant closings and mass layoffs abruptly alter the lives of millions of American working men and women, and 60 days notice can go a long way toward easing their burden. It can give workers and their communities a little time to adjust. They may not be able to find a new job within 60 days, but they could make plans and begin to conduct their financial affairs differently if they knew in advance that their jobs were being eliminated.

There normally is no reason why a firm cannot give its employees sufficient notice before a plant closing or layoff. While many employers are responsible and do so, far too many have ignored those responsibilities. Their employees came to work one morning only to be greeted by a pink slip—no notice, no questions asked.

Mr. President, this is an issue of fairness—nothing more, nothing less. The choice before us is crystal clear. Do we vote for American workers or against them? Do we treat them as pawns or as human beings with families and needs of their own? I urge the prompt passage of this important legislation.

QUORUM CALL

Mr. SYMMS. Mr. President, I see no other Senators seeking the floor. So I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

[Quorum No. 20]

Bentsen
Byrd
Graham
Kassebaum
Metzenbaum
Pell
Simon
Symms

The PRESIDING OFFICER. A quorum is not present.

The clerk will call the names of absent Senators.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from Tennessee [Mr. SASSER], and the Senator from Mississippi [Mr. STENNIS], are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Oklahoma [Mr. BOREN], are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Washington [Mr. EVANS], are necessarily absent.

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 20, as follows:

[Rollcall No. 200 Leg.]

YEAS—72

Adams
Baucus
Bentsen
Bingaman
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Hollings
Johnston
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Shelby
Simon
Simpson
Stafford
Thurmond
Trible
Warner
Wirth

NAYS—20

Armstrong
Bond
Cohen
Garn
Gramm
Hecht
Helms
Humphrey
Kasten
McCain
McClure
McConnell
Murkowski
Quayle
Specter
Stevens
Symms
Wallop
Weicker
Wilson

NOT VOTING—8

Biden
Boren
Chafee
Evans
Gore
Inouye
Sasser
Stennis

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The majority leader.

Mr. BYRD. Mr. President, I wonder if we could get some indication now as to whether and when amendments will be called up to the bill.

I yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The minority leader is right. There is not order in the Senate.

I ask Senators to take their seats or their conversations to the cloakrooms please, so that we can hear the debate.

Mr. DOLE. Mr. President, as the majority leader may know, we had a conference on this issue earlier today in my office and we had a very good attendance.

It is my understanding that my distinguished colleague from Kansas, Senator KASSEBAUM, will either now offer an amendment or discuss an amendment she will offer before the day is out and she will explain it.

It is a very clean-cut amendment, one that I do not think will be difficult for any of us to understand.

We understand the majority leader would like to get a vote on this issue and would like to have this bill out of here and disposed of.

So we are going to start right now.

Mr. BYRD. Very well.

I thank the distinguished Republican leader and I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I will soon be offering an amendment that I think will be helpful to us on this issue. I am one who has always supported the plant closing provision, believing that it was important to employees to be able to have 60-day notice if a plant was indeed going to be closed.

The amendment that I will be offering at some point——

Mr. BYRD. Mr. President, I beg the Senator's pardon. May we have order in the Senate?

The PRESIDING OFFICER. The distinguished majority leader is correct.

The Senator from Kansas deserves to be heard and I will ask all Senators to cease conversations and take them to the cloakroom.

The Senator from Kansas is recognized.

Mrs. KASSEBAUM. I thank you, Mr. President, and thank the majority leader.

The amendment that I will be offering makes good on the promise that we want to have legislation that requires employers to give notice prior to the closing of a facility. It does not include, however, language which is troubling to me as it is to others which would require such notice for situations involving layoffs.

I have supported, as I said, legislation requiring mandatory notice, because notifying workers is fair, it is equitable, and it is necessary. The evidence before us is clear that a mandatory notice requirement will help protect workers, will assist them in their transition to new employment, and will help local communities weather the inevitable economic storm that a closing causes.

The American people support mandatory notice and they have been led to believe that the legislation before us, S. 2527, is a simple plant closing bill. There is an editorial that has been on our desk from the New York Times, which certainly portrays it as such. But my colleagues on this side of the aisle are correct in the arguments that they have been making today. S. 2527 requires notice prior to a plant closing, but it also requires notice in a variety of situations such as layoffs, corporate sales, transfers, and other employment changes. It also raises legal questions—and for me this is the most important consideration—concerning the rights of parties during strikes.

I think it is probably clear to my colleagues that there will be problems enacting legislation that requires more than plant closing notice. I am extremely troubled that we may fail in our efforts to guarantee American workers the notice they deserve and expect, if we try to load up the bill with provisions which deal with other issues and which obviously are receiving some very vehement opposition here on the floor.

Therefore, Mr. President, the amendment that I will be offering makes good on our promise to the American people. It changes the underlying bill in one significant way. It deletes the provisions in S. 2527 which address layoffs. It guarantees that the legislation before us accomplishes what we are actually promising—60-day notice prior to a plant closing. It also guarantees, I believe, that plant closing legislation can be enacted during the 100th Congress.

Mr. President, we can argue, debate, and discuss the merits of S. 2527 for another week, and I greatly respect the efforts of those who have been engaged in this debate, but it will not change the political reality. We can pass the bill as drafted, and it will probably be vetoed, and that veto will probably be sustained. One can argue about who will benefit from this scenario, but we know clearly who will lose—American workers. I hope my colleagues will join me in consideration of this amendment and support for it after it is proposed and debated, because it provides what S. 2527 cannot—legislation which can become law this year.

Thank you, Mr. President.

I yield the floor.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I intended to debate this issue with the distinguished Senator when the amendment was actually laid down, but I believe I can make at least comments at this time in anticipation of the amendment, since the distinguished Senator has described what the amendment would do.

Very briefly, just to review where we are, Mr. President, in this legislation we are talking about layoffs of 50 workers, if they consist of one-third of the work force. So basically you are talking about reasonably decent size companies, not the very small companies, but reasonably decent size companies that have been established in the community.

If we accept the logic of the distinguished Senator, what we are effectively saying is that we will give notice when the plant closes down, for the reasons that those of us who have supported the plant closing legislation have stated during this debate and the previous debate, but you can still get laid off without notice on Friday afternoon at 5 o'clock. Do not come back on Monday. Do not bother coming back. You can get laid off and there is no responsibility to notify those individuals at all.

During the course of this debate, one of the strong and compelling points that has been made time in and time out is the basic issue of fairness, the basic issue of equity. We have seen 11 million workers who have lost their jobs over the period of the last 6 years, 40,000 plants that have actually closed down. Of those workers, roughly half that have actually lost their work have been laid off.

So if we are talking about those individuals whose lives have been affected, communities that have been affected, if we accept the Kassebaum amendment, we are basically saying to those millions of Americans that companies can still be free to give no notification for those workers. So, I have difficulty in seeing how really this amendment is acceptable, Mr. President.

The other argument which has been made during the course of the debate is that one of the important aspects of notification is that it permits the training and the opportunity for transition for the workers who are going to be laid off. This has implications not only for the individual family and the members of that family, but for savings in unemployment compensation, the various other entitlement programs, and the chance for those workers to find new employment. All of that would be lost under the Kassebaum proposed amendment.

I find, Mr. President, as we are coming into the final moments, hopefully, of debate on this issue, we are now asked to consider cutting the provision in half. When we are in the final moments and we have had the opportunity to examine all this in detail before, I find this an unwise way for us to proceed.

I think all of the arguments that have been made by the Senator from Ohio and other cosponsors that apply to the closing of the plants apply as well to these individuals who would be laid off. We are not just talking about the casual layoff that comes as a result of some particular adversity for a business. What you are talking about are very significant numbers of individuals for well-established companies or corporations.

Finally, Mr. President—I hope that it would not be the case, but nothing really surprises me when you look back over the history of some of the layoffs and the real failure of responsibility by many of the companies and corporations have had—you can imagine a situation where a company would have 1,000 employees and lay off 980 of them and have no notification requirement at all, and then hold the last dozen or so and not give them any notice and basically circumvent all of this legislation.

So it seems, Mr. President, that this would basically undermine the fundamental concepts of equity and fairness which are very much at the heart of this whole issue. It undermines the kind of protection which we are trying to establish for the employees, many of whom have worked a lifetime for a company or corporation.

It undermines the opportunities for training those individuals and to save American taxpayers money. I have had the opportunity, both here on the floor and through the television, to listen to the debates over the period of the last hours when we have not had many speak in opposition. Mr. President, these issues, these questions raised in opposition are not new. I just hope that we will reject this amendment.

The **PRESIDING OFFICER**. The Senator from Kansas.

Mrs. **KASSEBAUM**. Mr. President, a point of clarification. It would seem to me when the Senator from Massachusetts mentioned that if the amendment I would propose for consideration would be adopted it would lose all the training provisions, that, as you know, is really a separate issue because the retraining provisions are all covered under the trade adjustment assistance and this in no way would affect those retraining provisions.

Mr. **KENNEDY**. If the Senator will yield, what we have seen with the GAO studies, and we have put those in the record, is they increase their efficiency about 40 percent when you have adequate notification and the training programs start in before the actual layoff. So, what we are talking about is we have $1 billion of training programs in the trade bill. That is American taxpayers' money. We say use it wisely. The GAO has said if you start early intervention during that last period of 60 days, you get a much better result than waiting until the person has lost their job. Various figures show that of all those who have lost their jobs over the period of the last 8 years, half of them have been as a result of layoffs.

What we are saying is, if you are going to lay people off or you are going to close the plant down, you notify them 60 days in advance, you start the training programs, and you get them to work.

I have not seen the amendment of the Senator but the way I heard it described. If you do not give the notification, then the training program cannot even possibly start until after the person has been laid off and you have the same issues of equity and fairness which I think are at the heart of this whole proposal.

If I describe it incorrectly, I would welcome comment because, as I say, I have not seen the amendment so I do not want to do a disservice to the Senator. But a key element, as the Senator knows in this debate, is that with early intervention, training programs have shown a dramatic increase in the capacity for moving people from one productive job to another productive job.

Under the amendment of the Senator, that kind of early intervention would not be available, as I understand from the description of the amendment. And I do not see how it could be available if you are not going to provide notification. Because the person, if he or she is not notified, obviously is not going to be able to get involved in a training program. That is the point I was making.

Mrs. **KASSEBAUM**. Mr. President, to clarify, what the amendment does is simply address the issue which really all of us support and that is the notification for a plant closing. The Senator from Massachusetts is correct, it does not address the layoff issue.

Mr. **KENNEDY**. Will the Senator yield for a question? I understand the support of the Senator for plant closing. But of the people that have actually "lost their jobs," half of those have been the result of layoffs. So if we are feeling bad for the people who have lost their jobs, why are we not prepared to give the similar kinds of treatment and equity to the people that are getting laid off which, in so many instances, means that they are not going to be able to return to the employment?

Mr. **METZENBAUM**. Will the Senator from Massachusetts yield for a question?

Mr. **KENNEDY**. I do not have the floor. But that is part of the difficulty I have in following the arguments of the Senator.

Mrs. **KASSEBAUM**. I would be happy to yield to the Senator from Ohio.

Mr. **METZENBAUM**. Does the Senator from Kansas recognize that if you eliminate the layoff provisions and you have a plant of 1,000 employees and you lay off 980 of them, and the plant stays open with 20, if you eliminate all the layoff provisions, no notice would have to be given? Are you aware of that?

Mrs. **KASSEBAUM**. Yes. I am aware of that because there is nothing in the law that would say that, unless the legislation of the Senator from Ohio would pass. But, Mr. President, let me also say that trade adjustment assistance would be available for retraining to those workers. That does not eliminate that assistance.

Mr. **METZENBAUM**. But I think that is mixing apples with grapes. Because the question of trade adjustment assistance being available is not the issue. The issue is: Are employees who have given of their lives, given of themselves for 10 and 20 and 30 years, entitled to notice that their job is going to be terminated?

Under the plant closing provision, which I understand my friend and colleague is prepared to support, if you have 1,000 employees that lose their jobs because of the plant closing, you would support the concept of giving notice. And I am saying: Is it not just as hurtful to have 980 of the 1,000 employees laid off and then there would be no notice? Is there not some inconsistency in saying you are for notice with respect to plant closing but not for notice with respect to mass layoffs?

We have some limits. We have the limit with respect to having to have 100 employees before you are covered for plant closings or mass layoffs; that it has to be a layoff of one-third of the work force, or over 500 employees. We have some limits. We do not say every layoff you have to give notice.

But the fact is, if we go down the road of the suggestion of the Senator from Kansas and you take out all layoff language, then you find yourself in a position where no company would ever have to give notice. All they would do is indicate that the layoff is going to be only 980 of the 1,000 employees.

Mrs. **KASSEBAUM**. Mr. President, I would respectfully say to the Senator from Ohio, what I think is troubling about the layoff notification language is that it really opens the door that had not been anticipated in our earlier efforts to address fairness issues. I think that an employer does have to have some opportunity to make shifts and changes in the workplace. That is something that I think you cannot deny an employer either.

I think what we really are concerned about are hostile takeovers, where then you have a large number of layoffs that result from that which had not been planned. And that is troubling.

But for us to devise a remedy here regarding notification for layoffs really opens the door to interpretations in the courts that would not be beneficial at all and I have real trouble with where this leads. That is why I am offering an amendment that I think answers the whole question of fairness to employees—which I think we all support—but really does not take us down a step further, which I think is very troubling.

Mr. HATCH. Will the Senator yield for just a couple of comments on this particular issue?

Mrs. KASSEBAUM. I would be happy to yield to the Senator from Utah.

Mr. HATCH. This has been an interesting debate but title III is working now. Secretary Brock's task force did not condition their recommendation for the worker readjustment program on mandatory notice. It works without mandatory notice. It may be useful in certain isolated circumstances but it is not needed across the board. But training programs are not going to fall flat without notice with regard to layoffs because 70 to 88 percent of these businesses give notice now.

Mr. METZENBAUM. Then why not all? If 70 to 88 percent can to it, why not all?

Mr. HATCH. Seventy to 88 percent give notice now and, frankly, I think that more will, voluntarily, without the long arm of the Federal Government injecting itself and telling plants and companies what they ought or ought not to do.

With regard to the Senator's announced amendment, look. I think we are all getting a little tired of this bill being represented by its proponents as a simple plant-closing notification bill.

Mr. METZENBAUM. It is.

Mr. HATCH. Well, you can see it is not because we are in a little bit of a tangle right now over the issue of layoffs. In all honesty, the plant closing notification part really is not the important part, I submit. I think the important part is that certain segments of our economy want the layoff provision, which then stifles business in all kinds of ways and I think the distinguished Senator from Kansas is very accurate and right when she says if you want to stifle business and you want to deter business and you want to deter flexibility and opportunity, then keep the layoff provision in there. But if you want to do what the New York Times says this little simple bill does, and that is give notice, 60-day notice of an actual plant closing, then let us do that.

You know, there are a lot on this floor, a number of people on this floor, including myself, who find some fault in injecting the Federal Government even in the plant closings context. But when you start moving it toward layoffs, sure, I guess you can come up with isolated hypotheticals that really are not practical that you can say might not be fair.

But the real world says that layoffs have to be some option that employers have to have in order to keep their businesses alive. Worker readjustment is not going to be influenced one way or the other by that. I think the arguments of the distinguished Senator from Massachusetts are without any validity.

I commend the distinguished Senator from Kansas. I may not fully agree with her in her approach in the sense I think even the plant-closing part is extending the long arm of the Federal Government.

Mr. METZENBAUM. Mr. President, who has the floor?

Mr. HATCH. The Senate has yielded to me.

Mr. METZENBAUM. The Senator cannot yield to you.

The PRESIDING OFFICER. The floor is available, and requests addressed to the Chair will be recognized. The Senator from Wyoming.

Mr. QUAYLE. Will the Senator from Wyoming yield?

Mr. SIMPSON. I will yield.

Mr. METZENBAUM. Mr. President, I object. One Senator may not yield to another and give the floor back and forth. He can ask a question but cannot do anything beyond that.

Mr. SIMPSON. Mr. President, the person questioning the entry of debate has not even phrased the question. I think they deserve that courtesy.

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. SIMPSON. I yield for a question.

The PRESIDING OFFICER. The Senator from Wyoming has a right to yield for a question.

Mr. QUAYLE. The question I have—and I am trying to figure out, do we get these moving targets again—of exactly what the problem of the Senator from Ohio is with the Kassebaum amendment.

The understanding that I had listening to this is that the Senator from Ohio raised the question and the possibility that if you had a thousand employees working that you could layoff 980 and only keep 20 and, therefore, that you would never have a plant closing and these people would not get notification.

If that is the problem of the Senator from Ohio, if that is his problem with the Kassebaum amendment, I just would like to ask maybe the Senator from Wyoming if it is his understanding of the Senator from Ohio that that is his problem. I guess my question would be, if we could resolve that problem, then maybe the Senator from Ohio might be willing to support the Kassebaum amendment.

I ask the Senator from Wyoming if, in fact, during the debate he would want to get around to getting the Senator from Ohio pinned down to his objections?

I do not have the floor right now. I asked that he yield for a question. I throw that question out just trying to figure out exactly what his objection is to the Kassebaum amendment because if that is the objection, I have a good remedy for it, and I think the Senator from Ohio might be interested.

What will probably happen, he will say, "Well, once you fix that, I will have another objection somewhere else." We will get into the course of debate. We will find out really what the objection of the Senator from Ohio really is to this amendment.

Mr. SIMPSON. Mr. President, I am certain we will find that out during the debate, and I think the Senator from Indiana has posed a good question. I shall leave that to be answered by the debate. I think what we really are seeing here or what we will soon see is really where the rubber hits the road on this issue. We are going to find now that this is the crux of the issue.

We can forget the romance and the stuff we have been through for all these weeks because here we are at the issue of plant closing. That is what this bill is called. It is called the plant closing bill. It is not called the mass layoff bill. It does not have anything to do with—at least the American people were told that it did not have anything to do with—layoffs. It had to do with mass layoffs. That is the term of art within the legislation. They were told that this was a plant closing bill. That is how this has been sold.

I have never heard it described as a layoff bill or a mass layoff bill. I think we are right at the point now on this entire matter where we really are going to find that the emperor has no clothes. We are talking here about the Kassebaum substitute which is very simply nothing more than taking the original legislation that was presented by Mr. METZENBAUM of Ohio and colleagues and simply deleting the phrase, wherever it appears, "mass layoffs."

It does not have anything to do with the Trade Adjustment Assistance Act. That issue was not raised by the Senator from Kansas. It was raised by the Senator from Massachusetts. The Senator from Kansas said nothing about the Trade Adjustment Assistance Act.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. SIMPSON. Yes, I will yield for a question.

Mr. KENNEDY. The point I raised in response to the Senator from Kansas had pointed out was the notification is key in terms of the effectiveness of training programs. The earlier the notification, whether it is layoffs or whether it is closings, the more effective the dollar spent on those training programs would be for the beneficiary.

So the Senator from Kansas said to me there is nothing in her amendment that is going to stop trade adjustment programs, which I understand. But the point of this whole program and its relationship to the trade issue is that we put a billion dollars of funds in that program to provide training for people who lose their jobs as defined within the program.

The only point that I would say on it is that the logic still holds, whether it is in the trade bill or it is out of the trade bill. We spend billions of dollars every year, not only in the trade bill but in other training programs for workers. The issue, I think, still holds, and that is, the greater the notification, the better off the effectiveness of the training programs.

I just wanted to clarify that because the point that the Senator from Massachusetts was making regarding trade adjustment assistance is relevant, but it is not really the heart of the argument.

I thank the Senator.

Mr. SIMPSON. I thank my friend from Massachusetts. The issue rose with the Senator from Ohio stating to the Senator from Kansas that trade adjustment assistance is not the issue. That was the phrase of the Senator from Ohio. Let me go forward.

Mr. METZENBAUM. Before the Senator goes forward, will he yield for a question?

Mr. SIMPSON. I certainly will.

Mr. METZENBAUM. Has the Senator from Wyoming seen a copy of the amendment? The Senator from Ohio has been looking forward to reading it and cannot find it. It has not been sent to the desk.

My good friend, Senator QUAYLE, indicates we have Quayle No. 3 that they are working on. I just would like to see it. It is so much easier to debate the merits of an amendment once we know what the amendment is.

Mr. SIMPSON. Mr. President, the amendment has not yet been laid down, and the purpose of that is to assure, and I do not think it would arise, that a motion to table would not take place until we have had an opportunity to discuss it because it is the crux of the issue. We are finally down to where we can get away from the partisan politics of the issue, the fun and games of the issue and get to what is called the plant closing.

I will share this tattered copy of the amendment which will be very familiar to the Senator from Ohio, because it does nothing except exempt the phrase "layoff" wherever it appears in this bill so that we get back to the essence of the measure, which is plant closing.

So wherever in the original legislation the phrase appears "the closing or layoff" or, with regard to the 60-day notice period, a "closing or mass layoff," wherever those words appear, they have been stricken. Other than that, the bill is exactly the same. In other words, if a person were laid off, they would receive all benefits they would receive under existing law.

All of those things are carried through. There is nothing mysterious about the substitute. That is the very essence of it.

Mr. President, many voices have registered support for advance notification. There are people on our side of the aisle who have done that. If you recall, veto was sustained by 36 votes. So certainly it is not a partisan issue. There are many people on our side of the aisle who registered their support for advance notification of plant closings.

So to say we are not supportive of that, or some of us, and certainly I voted to sustain the President's veto, I think there were several reasons, good reasons, in my personal opinion, that have been better than plant closings to call off the shots. But I do not think the American public is aware of the layoff provisions of this bill.

The bill applies to "employment losses." Employment losses, affecting at least 50 employees. Employment loss is defined to be a layoff of more than 6 months or a reduction of work hours by more than one-half during each month of any 6-month period.

Mr. President, this provision of the bill obviously conjures up some absolute nightmares for employers. How is an employer to predict a decline in market demand that might necessitate layoffs? I do no know. Are employers to be penalized, as under the bill they would be, for failing to predict market conditions? I hope we could get away from the partisan union and management posturing and union-busting. It seems to make sense to me to allow an employer to lay off when market conditions necessitate that action and to do that in a way which is hopefully to the best interests of the employee. We would not only be impairing the ability of business to compete and to respond to market conditions, we would, under the original legislation, be subjecting them to financial penalties and litigation.

Some say this is an employees' bill. It is really a lawyers' bill. But I add another dimension to it. I believe the Senator from Massachusetts remarked that 11 million workers lost jobs over the last 8 years, but under this administration we have created over 16 million new jobs in that same period. Even though it is in vogue to say those were hamburger-flippin jobs, they were not. They were higher waged jobs in the service industries and in the lower executive levels. Those statistics I can present and will do so with regard to my brief remarks.

The final irony is that while many European countries have plant closing laws, they have had literally no new jobs created. So what is driving this issue which really should be bargained for in collective bargaining agreements? Is this really a layoff bill on behalf of unions that just cannot get it into the collective bargaining agreements? If you really look at it, I think that is what it is.

Now, there is nothing wrong with that. A lot of special interests do a lot of things from management's side. But when the American public is told it is a plant closing bill and that is all, here is our chance to make it just that—nothing more, nothing less. Many of us feel, indeed, that plant closing covering this issue is important to give to people. But if layoffs are deleted from the bill, what is lost? We at least would get back to what would be called truth in packaging, which was called notice of plant closings, not notice of layoffs because you lost 20 percent of your market share.

When you have a person who is laid off, that person is not necessarily terminated. They are often brought back. As things change in the market and the economy, these people are returned. We cannot say that just because a person is laid off, suddenly they drop from the work force. That is not true.

Plant closing, that is different. If you really honestly believe in plant closing and notice, the way to express yourself is with this amendment of the Senator from Kansas. You will have, if you do that, less litigation and more reliance on collective bargaining. Collective bargaining ought to be done by union and management. It should not be done on the floor of the House or the Senate. That is what we have. It is called the last hurrah. We just had the labor agenda kind of go aglimmering. It did go aglimmering. It will continue to go aglimmering because the employers cannot afford it. And yet it was told to us when that package was presented many months ago, "Do not worry about this package; it is not paid for by the taxpayers; it is paid for by the employers."

Who is that? The employers are the taxpayers. That was the pitch of the whole labor agenda—do not worry, this trip we have learned our lesson; it is not going to be the general Treasury; it is not going to be the poor old taxpayer. It is going to be employers. It is like killing the milk cow; it cannot be, and that is why it has stalled. High risk notification has stalled out. There are other kinds that have been stalled out. There are other things that will be stalled out. It is because there is an attempt to bring to the floors of these bodies things that should be done in collective bargaining. That is wrong, and that is why they are not ready to be received too well by many of us on both sides of the aisle.

So here is the opportunity. Lay it out. Vote it up or down. If you want a plant closing bill, the Senator from Kansas has presented one. If you want something else, some kind of fiction, some kind of dalliance away from the original issue, then go back to the bill of the Senator from Ohio. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, parliamentary inquiry. I assume there are no time limitations at this point?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, this morning I went down the hall and attended a joint session of the Congress expecting to hear the leader of a foreign country, Australia, perhaps talk about the friendly relationships between Australia and the United States. What I heard instead was an exhilarating speech that the leaders of this country, who are out talking about America's successes and America's failures, ought to read. As a matter of fact, Prime Minister Hawke gave the finest speech about the greatness and success of the United States that I have heard in recent years.

I submit that those of us who believe the United States is not in decline, those of us who believe the last 6½, 7 years, culminating now in a mature economic recovery of which we can all be proud—as compared with the years of 1978, 1979, and 1980 and 1981 when our economic system had reached "stagflation," the worst of all economic diseases for a democratic entrepreneurial country—ought to be proud of what has happened in the last 6½ years. We ought to be proud about the GNP growth, about 68, going on 69 months of continued recovery. We ought to be proud of the American businessmen, large and small, and American working men and women who have created a vitality in this economy that is truly incredible. I for one, as the evolution of this economic recovery was occurring, could not see it happening.

As a matter of fact, I could not believe that it could happen in the way that it did. I was unaware of the change that was taking place in this country as we moved the American business spirit to be competitive in the world. Change was rampant. As a matter of fact, change tends to scare us and frighten us but we have now lived for 68, going on 69 months, of solid economic recovery. And I am not going to repeat the litany of positive things that have occurred during this period of time. Suffice it to say that we have reached a point where we almost have full employment in the United States of America, even though there are pockets where things are not working well. That has happened in every recovery.

Change is what has been brought upon us by a free industrial world that we helped create and that was about to beat us at our own game of competition and of producing products for the world market that could stand the test of quality and price.

I am not going to go into the litany, nor try here in detail to refute the myths around about the poor jobs in America. That is truly refuted by the facts. Jobs are different but they are good, they could not be the same when we are going through change.

Let me complete my opening thought by suggesting the following to those who think the United States of America, in this economic adjustment period reaching what I choose now to call a mature recovery approaching full employment with low inflation, and meeting the competition of the markeplace is in decline. Suffice it to say that this visiting Prime Minister had the following to say about our country to us.

> Some Americans, he said, seem to be apprehensive about the changes they see around them in the world. . . .
>
> The international system as we know it is very largely an American creation. The institutions, alliances and programs which characterize the system emerged from the generosity of this country and the farsightedness of your statesmen, including many members of the Congress. The World Bank, the Marshall Plan, NATO, ANZUS, modern multilateral diplomacy: all of them are, . . . yours.

He went on to say: "We are all the beneficiaries of that impulse toward internationalism" * * * and the free market.

"So where change has come," the Prime Minister went on, "it has often been because of the success of American policies, because you have achieved what you set out to do. It is because your policies worked that Japan, Western Europe, the Republic of Korea and others are now strong and prosperous."

He went on to talk about the fact that those who think America is in decline, and this is my own paraphrasing of what he is talking about, are missing the boat.

Mr. President, I ask unanimous consent his speech be made part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPEECH BY THE PRIME MINISTER OF AUSTRALIA, THE HONORABLE R.J.L. HAWKE, AC, MP, JOINT MEETING OF THE U.S. CONGRESS, WASHINGTON, JUNE 23, 1988

Mr. Speaker, Mr. President, Members of Congress, friends, by inviting me to speak today to the Congress of the United States you honour not only the Prime Minister of Australia but all Australians.

Yours is an institution which, down through the years, has reflected the views and aspirations of the American people and taken its character from their character. From you I hear the voice of the American people and through you I am able to address the American people. I am most grateful.

Mr. Speaker, the concept of government of the people, by the people and for the people is as potent today as it was two centuries ago when that remarkable collection of farmers, lawyers, traders and intellectuals met in Philadelphia to craft a constitution. Although democracy is not the guiding precept of government in most nations, it is, assuredly, the guiding precept in those nations which have successfully delivered to their citizens a decent quality of life and a high standard of living. As we approach the 21st century no nation can fail to note that example. The western democracies can lead with self confidence and have no need of self doubt.

To be exposed to the vigour of the Australian political process is to realise that the underlying values of our political system are identical to your own. To say that there is debate in our Parliament, our media and among the Australian people would be roughly the equivalent of saying that when the Redskins and the Cowboys get together all that's involved is a friendly game of football—a fairly considerable understatement.

It is common values, going to the heart of our view of mankind and of society, which form the enduring basis of our relationship. Social and political circumstances may change; governments of various persuasions come and go; economies adjust and transform; international conditions evolve. American and Australian views and interests may at times diverge. But it is the values of individual liberty, equality before the law and the supremacy of people over the State to which we can always with confidence return as a powerful uniting force.

If it is this that gives our relationship its ultimate strength and stability, it is individual contact between Australians and Americans which provides the special warmth. There is an ease of contact, a readiness to trust and an enjoyment of each others company which readily transcends differences.

With the benefit of 200 years of hindsight I can acknowledge a debt which Australians owe Americans, although it must hardly have seemed something to thank you for at the time. In denying Britian a convenient repository here for the convicts overflowing British jails, your revolutionary forebears of six or seven generations ago provoked the decision to send convicts to Australia instead. If you were founded by the Pilgrim fathers, the founders of Australia were decidedly the prodigal sons.

But when the First Fleet arrived in New South Wales in 1788, its human cargo of convicts and prison guards in fact began the creation not of a prison but of a nation.

Our harsh beginnings required all the same grit and determination which marked the exploration, settlement and development of the United States. Two centuries later—in this, our Bicentennial year—we have, like you, a nation proud of the multicultural diversity of its people and of our national achievements. Our country is the size of the continental United States with, however, only the population of Texas. I know Mr. Speaker, that as a Texan you would agree of course, that that is all any country needs.

We have also built a nation more acutely aware than ever before of the precious heritage of the original Australians, the Aboriginal people who populated the land for 40,000 years before the European arrival.

The American contribution to our Bicentennial celebrations has added a special dimension to our relationship. If I were to describe it in all its detail I fear I would be accused, at least under Senate rules, of a filibuster.

Let me just say that we greatly welcome the opportunity to celebrate with a very special friend.

Mr. Speaker, it is because of the deep similarities between our two nations that my predecessor, Australia's wartime Prime Minister John Curtin, was able to declare in 1944 that Australians looked forward to "an uninterrupted friendship" with the people of the United States.

Curtin said those words in San Francisco, on his way to talks with President Franklin Roosevelt concerning the conduct of the war in which Australians and Americans were fighting side by side in defence of liberty in the Pacific.

I wish to state clearly that Australia and the United States are not just friends; we are allies. When my Government assumed office 5 years ago we determined that the ANZUS alliance clearly served Australian interests. That alliance is stronger, and the commitment of Australians to it greater, for its having been thought about rather than merely assumed. We never wanted the alliance to be merely an inheritance from a past era, a piece of history gathering dust, but a dynamic arrangement serving the modern needs of both sides. And it does.

The United States has every right to see alliances as two way streets, to expect that allies will carry their weight. I assure you that Australia is and will remain such an ally.

We welcome your ships and aircraft to our ports and airfields. There is intimate co-operation between us in joint exercises, intelligence exchange, defence science and technology, communications and logistics, and training. We are one of the top cash purchasers of defence equipment from the United States.

We host joint facilities important to the central strategic balance between the United States and the Soviet Union, facilities which have additional significance in the new phase of East-West relations through their contribution to arms control.

We support a strong American involvement in Asia and the Pacific, and believe that your bases in the Philippines make a crucial contribution to security and confidence in our region.

My Government has conducted the most thorough review of Australian defense policy in many years. Our policy emphasises the shouldering of our own responsibilities—defense self reliance, modernisation, regional commitment and the development of strong, independent military capabilities within the framework of the alliance.

Our economic relationship with you is also vitally important. You are our second largest trading partner, supplying over 20% of Australia's total imports and taking over 10% of our total exports. The trade relationship is about 2 to 1 in your favour. You are our largest single source of foreign investment. As our economy diversifies away from primary production and we strengthen our position as an exporter of manufactures and services, the business opportunities for America in Australia will expand still further. So again the benefits are very much two-way.

Mr. Speaker, you can therefore see why we believe our relationship entitles us to a fair go in our trade with the United States and in competition with the United States in third markets; not, I emphasise, special favours, but a fair go.

This is not the occasion to make detailed representations about particular export commodities. But it would be wrong of me, here in Congress, to pretend that within our otherwise excellent relationship trade is not an area of very real concern for us.

I should say to you, with the frankness which I trust is permitted to a friend, that some of the decisions made in Washington intended to defend the interests of Americans have turned out to hurt Australians.

In particular Australia's primary producers are unsubsidised and are among the most efficient in the world, and yet we are finding ourselves squeezed out of markets by practices which distort prices and levels of production. In agriculture we find ourselves caught in the crossfire of a destructive and counter-productive trans-Atlantic subsidies war.

The statistics are graphic—since your Export Enhancement Program has been operating, America's share of the world wheat market has jumped from 29 per cent to 43 per cent, the European Community's share has fallen only a little from 17 per cent to 14 per cent, but Australia's share has slumped from 20 per cent to 12 per cent.

The subsidies war is costing us—and I mean both of us—not just economically. There is also an impact, a damaging impact, upon the perceptions which Australians have of the major trading powers, the United States included.

Australians must not be given reason to believe that while we are first class allies, we are, in trade, second class friends. Trade issues must not be allowed to fester, or to erode our wider friendship or alliance.

I want to emphasize Australia's appreciation of the way in which we have been able to express our concerns to you. It is important that when we knock on doors in this city, including in Congress, those doors continue to open.

For the test of good United States/Australia relations is not that as individuals or governments we agree on everything.

It is, rather, that we are in accord on matters of basic principle and that where we disagree we do so with civility and respect for the others point of view. I am proud to say that the relationship between our countries is now regarded on both sides as being as warm, close and productive as it has ever been. And our relationship has a greater maturity than it has ever had before.

Mr. Speaker, all of us sense, I think, that the world we grew up with, whose shape emerged after the Second World War, is changing in some fundamental ways. New centres of economic power are emerging; there is less rigidity in the Eastern bloc; the familiar pattern of East-West strategic competition is often overlaid by a new pattern of economic competition within the West. Though we cannot yet see the fine detail, the blurred outlines of the 21st century—now only twelve years away—are becoming sharper.

What sort of world will it be? When I look at the international environment, when I talk to the leadership of major powers like the United States, the Soviet Union and China or countries in Australia's Asia-Pacific neighbourhood, I am generally encouraged by what I see. There have been few enough times in recent decades when it has been possible to permit ourselves a degree of optimism about the world's future. But this, I think, is such a time.

The Soviet Union is undergoing far reaching changes. The domestic reforms introduced by General Secretary Gorbachev are the most hopeful sign in that part of the world in the period since 1917. Where they will eventually lead—whether they will even succeed—we cannot tell. Like all economic reformers Mr. Gorbachev faces the classic dilemma that the pain always comes before the benefits. But the direction in which he is heading is encouraging.

Certainly we must withhold final judgment about the extent of change in Soviet foreign policy. We want to see deeds not just words. But there is unquestionably ground for hope. We are surely better off with a Soviet Union which has accepted that it must get out of Afghanistan than we were with the Soviet Union which originally invaded that country.

We have seen the first ever arms control agreement which makes real cuts in the nuclear arsenals of the two super powers. We see—and strongly support—prospects for further reductions. The West is now engaging the East in dialogue across a wide range and at the highest leadership levels, but not on the basis of naivety or weakness. I pay tribute to the role which President Reagan has played—with the invaluable support of the Congress—at the centre stage of this process.

China's continuing economic growth and its leaders' commitment to modernization mark the emergence of that country from a barren period of upheaval and introspection. This is a development of historic importance, tremendously beneficial to regional and global stability.

Significant parts of the third world, particularly in Asia and the Pacific, are experiencing dynamic economic growth.

In parts of the third world there have, too, been significant advances for democracy. We acknowledge in particular the victory over autocracy in the Philippines, and democratic reform in the Republic of Korea.

And so, Mr. Speaker, although competition between nations and alliance systems will not disappear—we believe in our own values too strongly for that—we can be allowed to hope that we are entering a period when such competition will be channeled into less dangerous paths.

But no man or woman who has lived in the 20th century can fail to understand how quickly, and how disastrously, change can come. We still face many dangers and challenges. Intractable and tragic conflicts persist in the Middle East and Southern Africa; famine, war and disease still haunt many parts of the third world; hundreds of millions of people lack the freedom and human rights we take for granted in our countries; recent events have even disrupted the relative tranquility of the South Pacific.

So we must always remember that nothing is preordained. The future does not just happen to us. We make the future. And if we are to make it well, we need to remain engaged with the world, willing to struggle with its problems and to take our part in solving them. We live in an interdependent world and we don't have the practical option—or indeed the moral option—of sitting it out.

That is why Australia concerns itself with issues like arms control and the obscenity of apartheid in South Africa. It is also why we are members of the alliance.

Mr. Speaker, some Americans seem to be apprehensive about the changes they see around them in the world.

This is not surprising. Changes which alter familiar, and comfortable, relativities in economic and political power and familiar patterns of behaviour will always cause uncertainty and sometimes resentment. And the international system as we know it is very largely an American creation. The institutions, alliances and programs which characterise the system emerged from the generosity of this country and the farsightedness of your statesmen, including many members of the Congress. The World Bank, the Marshal Plan, NATO, ANZUS, modern multilateral diplomacy: all of them are, in part, and in many cases in large part, your creation. We were all the beneficiaries of that impulse towards internationalism.

So where change has come, it has often been because of the success of American policies, because you have achieved what you set out to do. It is because your policies worked that Japan, Western Europe, the Republic of Korea and others are now strong and prosperous.

In any case particular global changes have often been overstated. Portraits of a 'declining' United States have drawn upon beguilingly simple but very misleading indices of comparison, whether of GNP or net indebtedness. Moreover the trends have been portrayed as continuing inexorably. That is nonsense, and un-American in its determinism. With the right policies, this country will remain the world's largest and most important economy as far ahead as I or anyone else can see.

I put it to you therefore that we need not and must not permit our view of the world to be conditioned by some kind of creeping pessimism and dulling fatalism. As analysis that would be deeply flawed; as a policy prescription, potentially disastrous. Put bluntly, the United States and other Western nations, especially the major actors on the world stage, must not behave in ways that could turn some of the presently fashionable theories of decline into self fulfilling prophecies.

Mr. Speaker, nowhere is this more clear than at the vital intersection of international economics and international strategy.

The cost of failure to resolve present economic tensions in the world would be measurable not only in dollars and cents. It would be measurable in the accentuation of destructive differences within the western alliance, and third world instability. We must understand that stronger world economic and trade growth is a fundamental foreign policy objective. It is ultimately a national security objective.

The greatest obstacle to that objective is the persistence of large current account imbalances in the three major economies; the United States, Japan and West Germany. This remains true despite certain trade statistics beginning to move in the right direction. The origin of the trade imbalances lies in turn, to a significant extent, in the divergent fiscal and monetary policies pursued by the United States on the one hand and Japan and West Germany on the other through the 1980s.

Now I know that these issues of economic and trade policy are contentious ones within the United States, including within this Congress. I have no intention of taking sides. You have enough political candidates already in 1988.

But they are issues with demonstrable impact upon, and therefore clear relevance to, other countries, Australia included. It is in that spirit that I ask you to take my comments.

The inescapable reality is that adjustment of economic imbalances will occur. It is only a question of how they occur. The adjustment can be forced by market pressures upon reluctant governments or it can come through deliberate strategies to enhance world growth and maximise the individual and collective trading opportunities of all countries.

It is clearly in the interests of all of us that the world's major economies opt for strategies of the latter kind. And this means a deliberate decision by them, the United States included, to reverse the corruption—I can use no lesser word—of the world trading system, combined with an equally deliberate commitment to make appropriate adjustments in domestic economic policies.

I am not saying that the burden of adjustment rests solely on the United States and I am not saying that you have no reason for frustration and complaint about the trade practices of others. I can understand your objections to the barriers the United States faces to its exports in certain markets. Australians can understand these problems precisely because we share them.

In the Uruguay round of multilateral trade negotiations the vehicle is at hand to negotiate a new, fairer and liberalized environment for world trade.

This crucial negotiation confronts us with a test of our collective common sense; whether we will recognize that any attempt to solve our national trading problems at the expense of others, rather than through pursuit of the common wellbeing, must ultimately be self destructive.

It is this same enlightened self interest which dictates that we accept rather than oppose the need for adjustment in our own economies. What a sad irony if, at the very moment in history when we are seeing the belated recognition by the planned economies of the need to accept the relevance of market signals in their decision making, the Western nations were to try to ignore and distort those signals, both at home and in the international marketplace.

In Australia we have practised the doctrine of economic adjustment, not merely preached it.

We have pursued the domestic economic policies necessary to cure our own external imbalance. We have converted a prospective fiscal deficit amounting to 5 percent of GDP just five years ago to a prospective surplus of 1 percent or more in the coming fiscal year. We have implemented reforms to deregulate industry, lift productivity and innovation, promote an export culture and encourage foreign investment on fair terms. We are prepared to show the lead on tariff reform. We will be cutting tariffs by about 30 percent on average over the next four years. Much larger reductions in protection will occur for the most highly protected industries.

Now you are practising politicians and so am I. I understand constituency interests. I know that the adjustment process is not easy. But it must be done.

The costs of failure will be very high; the rewards of success enormous.

Speaking to you as the closest of friends and allies, therefore, my message is that United States' action now can play a decisive role in the future shape of the world economy if you grasp the challenge of adjustment at home and drive with determination for the liberalisation of trade on a global basis. America can do the world, and itself, no greater service at this time.

Mr. Speaker, I have not the slightest doubt of the unique capability of the United States for leadership, whether in managing the pivotal relationship with the Soviet Union, maintaining the health of the western alliance, forging further agreements in the essential area of arms control, seeking solutions to regional issues such as the Middle East and Southern Africa, or resolving international economic problems.

If this sounds like a tall order, and an unfair burden, we do not look to the United States to solve all these problems alone or to mount the effort without the help of friends. We ask only that the United States continue to contribute the strength, persistence, creativity and breadth of vision which—to the immense benefit of mankind—have been the hallmarks of the American character.

I am confident that it will be so. No nation in the world surpasses the United States in justifiable pride in past achievements, confidence that problems can be overcome and contagious optimism about the future. Neither of us would claim that our nation is without blemish. Neither of us would claim that governments of our countries have always chosen wisely or acted well. But I do say this: that when all is said and done the United States of America is a great and a good country; that the people of the United States of America are a great and a good people; and that in Australia you will have in the years ahead the best kind of friend—independent to be sure, forthright in defence of our own interests certainly, but also firmly supportive and deeply proud of our rich and enduring relationship.

Mr. DOMENICI. Mr. President, having said that, I compliment the distinguished Senator from Kansas, Senator KASSEBAUM, who has offered an amendment to Senator METZENBAUM's bill. Senator KASSEBAUM is right on track. She is saying plant closures is not the issue. As a matter of fact, I surmise if Senator KASSEBAUM prevails on the issue of layoffs, letting workers go either temporarily or otherwise to keep a business open, if that portion is removed from this bill and we have what most Americans think this bill is, a 60-day mandatory notification of plant closure, severance pay, or a penalty, that this bill will pass overwhelmingly here in the U.S. Senate.

It is not a plant closure bill. It is an invitation to American businessmen, large and small; it is an invitation to them when they are in a fragile business position—and have to do something to stay alive—to close the doors. Does that create jobs? I believe it does the opposite. It is an invitation to litigation. What is a layoff and what is not? What are temporary workers and what are not?

Mr. President, none of us on this side who oppose this bill in its entirety, including the mandatory layoff notice provisions, regardless of what is said on that side of the aisle, none of us want the working men and women of this country to be mistreated as we go through this economic change, as we go through this absolutely necessary change in the American marketplace. None of us want them to suffer unduly.

As a matter of fact, Mr. President, I introduced a bill last night, and I will offer an amendment on this bill which will say, in those economic situations where we have hostile takeovers, where we have forced sweetheart deals which yield mergers, where we have corporations who heavily indebt themselves to avoid a hostile takeover, that in those cases, the resulting corporate entity ought to be prepared as part of their game plan to provide 90-day notice or 90-day severance pay if they intend to close plants or if they intend to substantially reduce the employees that were part of either the company that started or the company that ended up merged, or the company that ended up heavily indebted to avoid a takeover.

These are situations where everyone, except the worker, is protected. These are economic events that are planned by those who would like to make substantial amounts of money on the change of character or the change of ownership in American business. Indeed they ought to put in their plan covering that missing link in the mergers and acquisitions of the past few years—in fact of many years—and in their economics that they are going to have to pay some severance pay as part of their deal to make money for themselves, or they will be mandated to do so by the law of the land.

Nothing could be more fair, and nothing could be more needed than that. That ought to be a clear indication that those of us who oppose this bill which includes closures and layoffs are concerned about the working man and woman and giving them a fair shake as America changes its economic base, as business large and small has to change to accommodate to a changing economic world.

Mr. President, as the Prime Minister of Australia—it took a foreigner to put it into words this morning—said this morning, America is not in decline. America leads the world. And if you look at the last 6 or 7 years, yes, there are some resulting problems. There are deficits, and there is a trade deficit. But you also have to ask the question where were we when this economic recovery started? And what if we had not made the economic change at U.S. Steel, at Ford Motor Co., at all the hundreds and hundreds of American companies that had to change their way of doing business in order to stay alive, not for the purpose of laying off people, but to stay alive in order to prosper so that they could hire American people. That happened.

In that event, we have ended up with more jobs, not less. We have ended up selling more products overseas, not less. We have ended up with a gross national product that has increased enormously.

As I said earlier, most economists think we are getting very close to full employment in the American economy, generally speaking. There are innumerable States with less than 4 percent unemployment. There are many with 5 percent, and there are many with 5.5. percent. I am fully aware that there are some, because of either agriculture or the petroleum industry, that have not had full recovery. That will occur.

Mr. President, knowing of the genuine interest of the Presiding Officer [Mr. CONRAD] in this situation, I share this fact with him: I thought that this American recovery of the last 68 months—with the 15 to 16 million new jobs, the continued growth in the American economy for a sustained period of time, because it had left some areas without full recovery—I thought it was unordinary. I thought perhaps it was something we ought to address and say, "Why is the recovery not homogeneous across America, in every State?"

I built that notion on the assumption that every economic recovery since the Second World War had created economic recovery of parity in every State. So I asked those who have kept data on it, and anybody who wants to confirm it can go to the Federal Reserve Board. You will find that every sustained recovery in America, none of which had been much longer than this one, contrary to the prophets of gloom out there who talked about how bad everything is, left areas that did not receive the full benefits of the recovery. Each was different, and each left different residuals. If this particular recovery moved ahead on high technology, manufacturing, and a huge growth in the small business activity in this country, it did leave behind some residuals in oil patch, some residuals in the agricultural community of our country. But I believe it is now provable that it is as sound a recovery as we have ever had. It has now reached maturity because it is sustained. Inflation is not going through the roof. Interest rates have not skyrocketed.

My hope is that we will take the necessary steps in the ensuing months and years so that one criterion that we had better keep our eye on, interest rates, does not go up substantially. If we can see that phenomenon occur, do the right things, and perhaps cause interest rates in the next couple of years to come down, I submit that the prophets of gloom about where we are will be just as wrong in 2 years as they are today, because we will continue this growth pattern, this addition of jobs, every day, every month, every year, beyond our fondest expectations, contrary to the annual prophets who succeed each year in talking about the recession being just around the corner, about the poor quality and poor nature and types of jobs we have added.

I submit that we are going to see more and more growth, jobs, and success. Probably more than ever in our history, we will have to be careful to educate our people well; because if we are going to sustain ourselves during this period of change, the change I am talking about that was inevitable—and I repeat: had America not changed its way of doing business, its stodginess in terms of labor and management, its utter confidence that it could continue to do business as it had always done and the world would buy our products, its absolute optimism that Americans would buy cars even if they were inferior and too expensive, and our pompous attitude that they will buy our steel all over the world even though overpriced—those have all changed. During that change, Americans had to be worried, because change of the type we have had is not ordinary, but times were not ordinary.

As the Prime Minister of Australia indicated, most of the change occurred in this country because the free industrial world, built around the Marshall plan, built around our saying to Japan and Germany, "We want you free and prosperous," and that huge job-producing, wealth-producing machine that joined us in this free world—they came here and said you have to produce better things, you have to use your manpower better and your capital better, and you have to change into more productive units of business and labor, and we have been in the process of doing that.

Mr. President, that means that across America there are literally thousands and thousands of small business successes. There are 22,000 manufacturing companies in the United States that employ more than 100 people but fewer than 300. They are small businesses. Yet, I remind the Senate and those who are wondering why we are concerned, that all those firms would be subject to the plant closing and plant layoff mandates. I repeat: We would all be subject to the plant layoff provision.

I submit that if there is anything that is more certain to cause fewer rather than more of these small businesses to either come into existence or to continue to succeed, it is to have added to them a national mandate of 60 day's notice of significant layoffs. I believe those companies need the flexibility that the marketplace demands of them, or we are taking from them the opportunity to succeed. If we start doing that, I regret to tell you that I believe we are taking from this country the opportunity to continue the success story we have had, of growth and jobs and flexibility of our small business community to respond quickly—all in the name of helping those who the small businesses in the United States help most: those who work for them, men and women across America by the millions who work for the small businessmen and small businesswomen, small partnership or small corporation, as I have defined it, in the United States.

So, Mr. President, I hope we can prevail with the Kassebaum approach, to make it eminently clear to Americans and to American business that on plant closure, there shall be notice or severance pay. In the whole arena of letting businessmen try to manage the ups and downs of a changing economy, with layoffs, be they temporary or otherwise, it is complicated and apt to yield less jobs rather than more, apt to produce marginal businesses that go out of business because of this provision, either because of advance warning to the marketplace, advance warning to their financial helpers and to those who buy from them, or for any litany of causes—all in the name of helping those who work there.

What we will get is less employment, not more. We will get less equity in the marketplace, not more. We will get less opportunity, not more.

That is not to say that many of those businesses even though they are small do not take into consideration in a very serious, conscientious, and compassionate manner their work force. They do.

But, Mr. President, what we are asking for in the layoff provisions of this bill is epitomized in the country of France. They have similar laws that end at 50 employees. Where you have less than 50 you are not subject to their plant closure and plant layoff laws. Do you know what has occurred in France as a result? There is a whole group of small businesses that call themselves the 49'ers. They do not dare to go to 50, they do not dare go to 100, they do not dare go to 200, because they then come under the pervasive laws of layoffs, and the like and they stay at 49.

If that is what we would like, then that is what we are going to get, only ours is going to be called the 99'ers because of the 100. There are going to be a huge number of small businesses in America that instead of growing are going to say, "I am joining the 99'ers, and I will not go beyond it."

That is only one example of what has happened elsewhere that is going to happen here if we insist that in the name of plant closure, equity to the working men and women of the United States, that we adopt the layoff provisions of this bill fraught with litigation, absolutely an invitation to small business and others to close rather than get embroiled in the kind of litigation that is going to ensue as to whether or not there has really been a layoff, is it temporary, was it justified, or who owes who.

So I submit that the Senator from Kansas, Senator KASSEBAUM, has offered a very excellent amendment, and it focuses precisely on the issue.

If you want plant closure notification you do not need this bill. What you need is the bill as amended by the Senator from Kansas. I hope when we are finished across the country those who are wondering about where we stand will understand somewhat better now that this is not a plant closure bill. This is a bill aimed at every small businessman or businesswoman across America who has more than 100 workers and it is saying to them, "We want to get in your business with reference to your job force in terms of layoffs, temporarily or otherwise, that the marketplace might because of its changing nature, its fast-moving activities, its versatility, its diversity of response; we want to get into the business of making it more difficult for you to succeed, or we want to get into the business of making sure you stay small because you cannot take the risk, it is not worth it to you to grow."

I want to close by saying that I hope those in the Senate who are considering this issue, but equally as important those who are trying to pass judgment on where we stand with reference to fairness to American working men and women, understand that many of us on this side feel as I do and some of us feel that there are situations where mandatory notice of closure and significant layoffs should exist as part of the national plan, and that it is in those areas where we have hostile takeovers, where we have high-leverage sweetheart takeover deals of American businesses, and where we have those who resist hostile takeovers by going into heavy debt and then in due course sell off part of the business to pay the debt, and in due course no one worries about the worker, we will have an amendment that for 18 months after any of those events there will be 60 days' notice, and 60 days severance, we do this because we feel then and there, there is money being made in the mergers, the Wall Street engineered mergers, and they are not all bad, but if they are going to occur let them plan to pay severance pay or notify in advance substantially those who have been part of building the company that is being changed as the management changes in these kind of events.

So I thank the Senator from Kansas, Senator KASSEBAUM, for putting the issue right in focus with her amendment. I intend to support it. I will support the bill that results from it that requires notification when there is closure.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, the amendment has not been laid down. I must oppose it.

This amendment would strike from the legislation the provisions that require advanced notice in the case of mass layoffs.

The legislation only requires advanced notice for layoffs of 500 or more persons or one-third of the workers, whichever is the lesser number.

Layoffs of this magnitude are not small layoffs. There are exemptions under which the advanced notice is not required.

The closing of a plant is a tremendous shock to the workers, as well as to the community. However, mass layoffs can be just devastating. Workers face uncertainty in regard to their future. They do not know when they will be recalled and in many cases they do not get recalled. Communities in which they are located cannot plan on ways to mitigate the effects that such a layoff can have on the local economy.

West Virginia has been the plant closing, plant layoff capital of the country.

The problem of mass layoffs needs to be addressed. The American worker needs to be sure of bread on the table, and I oppose giving them half a loaf.

This amendment creates an enormous loophole in the plant closing law. An uncaring management could lay off workers in increments to get around the advance notice provision. The closing could be couched in terms of a layoff and thus the plant closing provisions could be circumvented.

Let us give the American worker and his or her family what the American people give to us here in the Senate and what the American people give to the President of the United States—advance notice that we are about to lose our jobs.

Mr. President, we have been here all afternoon and heard that there was going to be an amendment called up. We all know that Senator STENNIS, the President pro tempore, who is retiring at the end of this year, the chairman of the Appropriations Committee, revered by all Senators on both sides of the aisle, loved and respected, is having a dinner tonight in his honor. I had indicated earlier, either early this morning or yesterday, if not on the record—I may have done it on the record—but I did it at least privately, that we would not be able to go beyond 6 or 6:30 p.m. today because of that event.

So, Mr. President, here is what we have now. We are up to the last half hour, you might say, when we can deal with this particular amendment if it were before the Senate. I am sure that there may be some concern there may be a motion to table it, and there may be. But, Mr. President, tomorrow is Friday.

I am told that the distinguished author of the amendment may not be here tomorrow. Whether or not that is accurate, I cannot say. But the distinguished junior Senator from Kansas is here. She could indicate whether or nor that is the case.

I would be happy to yield to her if she wishes to respond.

Mrs. KASSEBAUM. Mr. President, I appreciate the majority leader asking. And it is true, I will not be able to be here tomorrow.

I would really hope that we could consider that particular amendment on Monday. I think there are some others that could be offered tomorrow. But if there could be that consideration, I would certainly appreciate it, although I know we are all anxious to move ahead on this bill.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Kansas for the information that she has given us.

I wonder if I might inquire of the distinguished Senator intends to lay the amendment down today.

Mrs. KASSEBAUM. Mr. President, I do not intend to lay it down, but I have asked that it be printed in the RECORD so that it will be available for everyone to read and everyone have a chance to look at.

Mr. BYRD. I thank the able Senator for her straightforward and candid response.

So we know we are not going to vote on or in relation to this amendment today. We know we are not going to vote on or in relation to the amendment that is to be offered by the able Senator from Kansas, Senator KASSEBAUM, tomorrow. We know that.

Mr. President, I say, with all due respect to the Senator from Kansas, who is the author of the amendment, that this is a killer amendment. I know that is not her intent. But, in effect, if it were to be adopted, it would be a killer amendment. Not only would it kill this measure which has been offered by the distinguished Senator from Ohio, Mr. METZENBAUM, but it will kill the trade bill.

The President has said, "Send plant closing and layoffs"—that was the area of the legislation to which he most objected—"Send it down separately and send down the rest of the trade bill separately. I will be glad to sign it."

Well, I have maintained all along the President did not want any trade bill. He had 6 years in which to have a trade bill. He ran from it. He did not want any trade legislation. We Democrats tried and tried and tried to get trade legislation up and, of course, we did not have the numbers. We could not get the trade legislation up. The President had his chance if he had wanted a trade bill. He had the numbers in the Senate. He could have crafted it almost any way he wanted to when he had the numbers. But he would rather have nothing.

Then the Senate and the House sent him a trade bill, a good trade bill, a comprehensive trade bill, with strong bipartisan support, with many Senators on the other side of the aisle supporting that legislation; a comprehensive bill on which more than half of the standing committees of this Senate had input, a bill which had been crafted by talented members of the Finance Committee on both sides of the aisle; the distinguished Senator from Missouri [Mr. DANFORTH] being one of the prime sponsors of that bill; crafted with painstaking care. And yet the President vetoed the bill. He said, "Send us the two separate."

Now we plan to send, hopefully, the plant closing part of the bill separately. And when we speak of plant closing, we mean layoffs as well. That was a part of the bill to which he objected. So they are both here.

Now, Mr. President, the reason I say this is a killer amendment, and everybody ought to know it, is if this amendment were to be adopted, then I will take down this plant closing legislation. And you can bet your bottom dollar that it will be offered to the trade legislation when that comes along. And it may or may not be a killer there, but we know that we sent that bill down with this plant closing provision to the President. He objected to it. He said, "Send it separately." He said, it had no business on the trade bill.

Now, we heard that. That is what we are trying to do. And we are not going to settle for half a loaf. We may not get any. We may not get plant closing or layoffs.

But in that sense, it is a killer amendment and it will jeopardize the trade bill, which the President said he would gladly sign—it would jeopardize that bill—because the plant closing layoff provision will not be kept off that trade bill unless the Senate, by a majority vote, votes that amendment down. But, as sure as my name is ROBERT BYRD, that amendment is going to be offered to the trade legislation if this amendment to this measure is added.

So I say that so that all Senators will know. If they do not want anything, if they do not want any trade bill at all, then let them answer to the American people. The American people want trade legislation. I hope that Senators will take that into consideration when they vote on or in relation to this amendment at such time as it is called up.

I regret that we will not have an opportunity to vote on or in relation to this amendment today. It is the distinguished Senator's right not to offer it today. It is the distinguished Senator's right to wait until Monday or to offer it and hope to get an agreement to vote on it Monday. I am not ruling that out.

But I am chagrined that we have spent all this day waiting on this amendment—waiting on an amendment. I was told that there would be an amendment. The manager of the bill indicates that he was told this morning that there would be an amendment. We do not have any amendment. So we have been talking all afternoon. We have been talking to the amendment. I have just addressed my remarks to it, because it was my understanding that we would not get a chance to vote on or in relation to it tonight.

I, again, assure the distinguished Senator from Kansas that what I have said certainly is said with the highest of regard for her and with the greatest of respect for her and for her rights.

But, as the majority leader, I have to utter a complaint at not having the amendment called up today. Here we have waited all day long. If that amendment was not going to be called up today, why did our friends on the other side of the aisle not call up some other amendment? If there are other amendments that have to be disposed of before this measure is disposed of, why could we not have had one or more of those amendments?

We are left at this late hour without any amendments, which means that those other amendments, if there are other amendments, and we have heard that there are, will not be disposed of until tomorrow or Monday or Tuesday or Wednesday. We have got until the close of business Wednesday in which to finish acting on this bill, hopefully. And we have no assurance that we can finish it by then.

Here we have had all day. We could have disposed of some amendments at least, even if not this one.

So I must say that I am disappointed and I just do not see any justifiable reason for having held the Senate in all day today with indications to those on this side of the aisle there was going to be an amendment. Now we come to the final hour of the day, when we know we cannot do anything about this amendment unless I were to call up a similar amendment and move to table it and vote against it. I do not want to do that.

I want the distinguished Senator from Kansas to have her opportunity to call her amendment up and I will protect her rights in every way I can in that regard. But I must say I am very disappointed that we have wasted these many hours. We come down to the last minute, we are going over to tomorrow, we will not have an opportunity to act on this amendment tomorrow.

Mr. KENNEDY. Will the Senator yield?

Mr. BYRD. Yes; I am happy to yield.

Mr. KENNEDY. I just want to join in the expression of frustration of the leader. We debated this yesterday. We were told in our Human Resource Committee at the markup that we had, by the Senator from Indiana, that he intended to introduce a substitute yesterday afternoon. Then we were told this morning, from the Senator from Utah, that he was prepared to offer amendments. And then we were told later in the day that there was going to be a caucus of the Republicans to try to make some decision about the way to proceed.

Mr. QUAYLE. Would the Senator yield?

Mr. KENNEDY. I do not mind spending a good part of yesterday and a good part of today out here ready to debate these issues but I am wondering if the majority leader could indicate whether there has been any willingness to establish at least some kind of time definite whether we will be able either to address the amendments or try to get final passage? I am wondering whether that is out of the question, for the leader, to try to be able to get some time definite when we are going to be able, at least, know that we are going to have a serious debate, serious discussion, and serious outcome. Or whether that is something that is not going to be reachable.

Mr. BYRD. Yes; I must apologize to the distinguished Senator. I was distracted, but I think I got the essence of the question he was directing to me. Perhaps I had better ask him to ask his question again.

Mr. KENNEDY. Well, can the leader give the Senate any kind of assurance that we are going to reach a conclusion on this legislation or any time when we will be addressing the amendments themselves?

Mr. DOLE. I think I can respond.

Mr. BYRD. Yes; but the distinguished Republican leader has asked to respond to the Senator's question. I yield to the Republican leader.

Mr. DOLE. As the majority leader indicated earlier, we did have a private conversation just a few moments ago. I indicated at that time I know the Senator from Utah has a couple of amendments; the Senator from Indiana has an amendment, the Senator from New Mexico has an amendment. We had hoped, I must say in response, to be able to dispose of the Kassebaum amendment today. But, very frankly, we think it ought to be discussed and we decided not to rush it. We offered it about 4 o'clock or a bit after that and, as the Senator from Kansas pointed out, she cannot be present tomorrow. I would also say that we have been cooperative in every way that I know of, to the point where I have been criticized by some of my colleagues for helping the majority leader too much.

We have got four matters that can be brought up right now: The appropriation bill, vertical price-fixing, corporate takeover, and the one we are on, plant closing.

So I would say to the distinguished Senator from Massachusetts, we understand the desire on the part of many, not just on that side but this side, to dispose of this issue, get it behind us one way or the other. And we intend to do that.

But from time to time Senators on both sides of the aisle want to reserve their rights and preserve their rights and that is essentially what we are doing at this time. So there is no effort to drag this along and eat up a lot of time. We believe that we have been able to save the majority leader a great deal of time. We want to continue that, cooperate in every way we can. But in this particular instance I think we have some obligation to protect some Members on this side.

Mr. BYRD. Mr. President, I thank the Republican leader. To those on his side of the aisle who criticize the Republican leader for cooperating too much with the majority leader, I am sure I do not have to say anything in his defense. He is perfectly able to defend himself. But I might say to those Senators that they are lucky to have Bob Dole as their leader. And perhaps if they knew a little more about the rules and precedents, they would understand he did the best he could, the best he could for them. I was in a position to move to take up these measures without unanimous consent. So the Republican leader is being realistic, as well as cooperative.

Mr. President, I read from yesterday's Record this paragraph, from page S8381 of yesterday's Record, from the statement by Mr. Hatch. And I quote: "I would suggest that it would be better to allow us that time"—he is speaking as of yesterday afternoon, I suppose, at some point.

"I would suggest that it would be better to allow us that time, and then perhaps we could start first thing in the morning"—this morning—"and do what has to be done with this bill and hopefully move expeditiously at that time. If Senator Quayle is not prepared to go forward with his amendment at that time,"—meaning this morning—"after making some opening remarks, I"—meaning Mr. Hatch—"would certainly be prepared to go with an amendment or two of my own."

Mr. Byrd said: "Mr. President, I thank the distinguished Senator.

"I yield the floor."

So there we have it. We were assured that there would be some amendments called up this morning, assured yesterday that there would be some amendments called up this morning. I will not belabor that.

Mr. DOLE. Would the majority leader yield just briefly?

Mr. BYRD. Yes. I will be happy to.

Mr. DOLE. It is not necessary to defend Senator Hatch, but I think that was his intention, I must say, until we had our caucus. That was even his intention during the caucus. It was his intention after the caucus. But others prevailed.

So I think Senator Hatch was in, certainly, totally good faith and intended to do precisely what he suggested and would have done it except we believed that before we did anything else there ought to be one clearly defined amendment that would indicate the position of many on this side before we got into more technical amendments that Senator Hatch had.

So I would say to both my colleagues, Senator Hatch certainly intended to do precisely what he has indicated.

Mr. BYRD. Mr. President, I do not question the good faith of Mr. Hatch at all. He is human like the rest of us and certainly can change his mind. His intent yesterday may have been one thing and because of circumstances he changed his mind. So I do not criticize him for that.

Mr. QUAYLE. Will the majority leader yield on that point?

Mr. BYRD. I am saying here we virtually wasted most of the day waiting on an amendment and we do not have any. We do not have any now.

Let me add just this one thing. I have not offered a cloture motion because I have not believed the other side was filibustering this measure. I do not intend to offer one now. I did not offer one yesterday. I will not offer one today. And I want to proceed believing that we can make progress tomorrow.

May I ask the distinguished Republican leader, will there be amendments tomorrow so that the Senate can be making progress on this bill and be disposing of other amendments so that when Senator Kassebaum offers her amendment for a vote on Monday that we will have made that much progress and will be that much nearer to a final decision on the bill?

Mr. QUAYLE. Will the majority leader yield?

Mr. BYRD. Can I inquire of the distinguished Republican leader first?

Mr. DOLE. Let me indicate that I am almost certain that there will be amendments offered. The point was to get it cleared before we offered other amendments. That is why we had the discussion in caucus before we offered amendments by Senator Hatch, Senator Quayle, and Senator Domenici. We thought we ought to have what would be the clearest position first.

Mr. METZENBAUM. A killer amendment.

Mr. DOLE. I would not characterize it that way. It is an excellent amendment, and other amendments would follow. If we cannot go to something else, and the majority leader wants to stay on this, I certainly share the view we do not want to waste additional time tomorrow. I think it would save time in the long run to go to the Treasury-Postal Service legislation, vertical pricing, or corporate takeover, and let us vote on the Kassebaum amendment at 2 o'clock on Monday. I think you will find after that the other amendments will go quickly.

There is no desire and I do not see any reason for need to file a cloture. That is up to the distinguished majority leader.

I must say, in the caucus, no one talked about extended debate. We are trying to make a case on this side. We believe we can make the strongest case by offering the Kassebaum amendment first. That is what we would like to do. I have not discussed it personally with Senator HATCH, Senator QUAYLE, or Senator DOMENICI.

Mr. METZENBAUM. Will the Republican leader yield for a question?

Mr. DOLE. Yes.

Mr. BYRD. Might we let the Republican leader finish his statement, and then I promised to yield to Mr. QUAYLE. Has the distinguished Republican leader finished his statement?

Mr. DOLE. Yes.

Mr. BYRD. Mr. President, I close by saying, in response to the suggestion by the Republican leader, that we perhaps go to pending business, and there are three items on the pending business. I would prefer not to do that. I would prefer to stay on this measure. I want to finish it before we go out for the break, hopefully in time to take up some other measures.

If there are going to be other amendments offered on the other side of the aisle, amendments other than that of Senator KASSEBAUM, I hope that we could get on with those amendments tomorrow so that once we have disposed of the Kassebaum amendment, we will know precisely where we are. If that amendment is adopted, we will then go on to other measures, and we will not do the plant closing.

Mr. President, I yield the floor.

Mr. METZENBAUM. Will the Republican leader yield for a question?

Mr. DOLE. I will be happy to yield for a question.

Mr. METZENBAUM. In the event the Kassebaum amendment is not adopted, would the Republican leader be willing to agree to a time certain for final disposition of the bill?

Mr. DOLE. That might be a possibility. I am not the principal in this.

Mr. METZENBAUM. I understand that.

Mr. DOLE. I need to check.

Mr. METZENBAUM. I asked the Republican leader if he would be good enough to explore that subject because it seems to me there is not that much happening out there. The amendments that are being talked about are bits and pieces, but the Kassebaum amendment has been so aptly described as a killer amendment. I think we have the vote to lay it on the table.

My question: After we dispose of the Kassebaum amendment, whether or not we could not get some agreement that at a time certain Monday, or whatever, we could go to final passage.

Mr. DOLE. I would not want to mislead the Senator from Ohio, but I will be happy to explore that with the principals, in this case being Senators HATCH and QUAYLE, who are on that committee.

I must say, we did not discuss that, but I again repeat there is no mention by anybody on this side to keep dragging this thing along. I know from time to time, notwithstanding the good intentions of Senators on either side, things like this happen. Not very often. If they did, the majority leader and the Republican leaders would not be able to move the Senate. Now and then, not too often, we get a day like today where we do not get much done.

Mr. METZENBAUM. I would appreciate it if the Senator could explore that subject with Senators HATCH and QUAYLE and such other interested parties on that side.

Mr. BYRD. Mr. President, I would like to go out soon. I wonder if we can have an amendment laid down by a Senator. A vote will occur after morning business tomorrow. Mr. President, the period for morning business on tomorrow will end at around 9:30. There will be a vote at 9:30 a.m. on another matter, and if we could have an amendment laid down this evening or consent that an amendment be laid down at the conclusion of that vote, then all Senators would know that there will be an amendment.

WAITING PERIOD FOR PURCHASE OF A FIREARM

Mr. McCLURE. Mr. President, I rise to clarify an issue that was raised on the floor earlier today. One of my colleagues suggested that President Reagan advocates a waiting period for the purchase of a firearm. I want to clarify that the President very clearly stated that the States might consider looking into this matter.

So the record is clear, I want my colleagues to have the benefit of reading what the President said. In response to a question at a news conference in Toronto, President Reagan said:

> In California, for a citizen to buy a gun, that citizen has to come in, lay down the money, of course, name, address, and so forth, and this goes to an agency in the state government that looks into that person's entire background as to who and what they are.
>
> And then they come back, after that investigation, and if they don't have a record of any crimes or mental problems, or anything of that kind, they are allowed to take their gun home. Now, I would like to see that generally—I think that all states ought to take a look at that system.

Mr. President, I want to emphasize the last line of the President's statement. He said the "States ought to take a look at that system."

Mr. President, those of us who have fought to protect the constitutional rights of Americans to bear arms agree with Ronald Reagan that this is a State matter and should be dealt with by the individual States.

The Federal Government has no business imposing waiting periods on the States. Those States desiring limitations have every opportunity to allow their citizens or their legislatures to vote waiting period laws into effect. In fact, many States have rejected the notion of the waiting period. Why should the Federal Government second-guess this choice?

Nine State legislatures and two towns have rejected waiting periods since 1985. Only one city, Lawrence, KS, has extended a waiting period during this same time.

In 1988, the Georgia Legislature rejected waiting period bills twice. Illinois voted down such a bill once. Rhode Island and Connecticut struck down waiting period amendments. Maryland defeated an extension of its present 7-day waiting period in committee.

In 1987, the Nevada Legislature defeated a waiting period bill.

In 1986, Lenexa, KS, considered and rejected a waiting period.

In 1985, committees in both Maine and Louisiana reported a bill with a "Do not pass" recommendation. The South Carolina House rejected a bill. Chagrin Falls, OH, voted down a proposal.

This does not take into account the bills that were introduced and aroused so little interest that they were never considered.

This clearly demonstrates that when given the choice, State and local governments reject waiting periods. Why then, should the Federal Government impose them?

Waiting periods do not work, and they do not work for the simple reason that the only people affected by them are those who obey the law. In that respect a waiting period resembles all other attempts to control criminal behavior by controlling an inanimate tool. Violent criminals do not buy firearms through legal channels. A waiting period means nothing to a stickup artist or a murdered. It does, however, mean something to law-abiding citizens. It has the practical effect of making firearms ownership an aristocratic privilege, not a constitutional right. For example, in New Jersey, for 1 year police refused to issue any permits. Is there really anyone here who believes that during that year, no criminals obtained firearms in New Jersey?

We must also consider that much of the information pertinent to the legal purchase of a firearm is not available to the police, even if they can afford the time to check every application. While law enforcement resources are being used to check the background of the law-abiding firearms purchasers, thugs are left free to obtain firearms illegally. We are diverting our already overburdened police away from actual investigation and curtailment of genuine firearms crime.

California presents a classic example. Starting in 1940, it imposed a 2-day waiting period. Over the years, this waiting period was lengthened to 15 days, longer than any other State. This increase in the waiting period has not reduced violent crime. Between 1965 and 1985, the rate of violent crime per 100,000 persons rose over 170 percent.

I am offended by the cruel sophistry that John Hinkley's attack on President Reagan, and the tragic wounding of Mrs. Brady's husband would have been prevented by a waiting period or a background check. When Hinkley purchased the gun he used in his attack on the President, he signed a form 4473, in which, among other things, he swore that he was a Texas resident. He was not actually residing in Texas at that time. However, he presented the dealer with a valid Texas driver's license. There was nothing in Hinkley's purchase of firearms that would trigger any kind of a background check. Contrary to what you may have heard, police do not verify residency on a valid drivers license—such a check would consume enormous amounts of time and effort to little effect.

The gun he used in his assassination attempt was purchased more than 6 months before the crime was committed. To take advantage of Mrs. Brady's grief, and to intimate that this crime could have been prevented is a cheap and dishonest trick.

A background check of Hinkley would not have divulged his history of mental illness, since this information is covered by the doctor-patient privilege, and Hinkley had never been legally committed. There was nothing in any record available to the police that would bar him from purchasing a firearm. Had there been some reason to check his residency, which there was not, since his driver's license was valid, he would have been barred from purchasing the firearm in Texas, but other than that, he complied with all of the Federal requirements for firearm ownership.

The only cure for violent firearms crime is to apprehend the criminal, not harass the law-abiding citizen. We have seen that waiting periods do not work; let us not fritter away our law enforcement efforts. In short, waiting period laws, as do all firearms control laws, lull us into a false sense of security. And when, as always, they do not work, they invite yet harsher restrictions.

Mr. President, I would encourage my colleagues to remember that those of us who are proponents of the American's right to bear arms agree with President Reagan that waiting periods should be decided by the States.

INTER-AMERICAN FOUNDATION SUCCESS STORIES

Mr. PRESSLER. Mr. President, my Army service in Vietnam in 1967-68 included work on small agricultural development projects in the Mekong Delta. Earlier in my life I was blessed by being elected as one of four all-American 4-H Club members to attend the World's Agricultural Fair in Cairo, Egypt, in 1963. In this case I became convinced that smaller scale economic development projects can make a dramatic contribution to progress.

Mr. President, I have spoken twice in recent weeks on behalf of small overseas development assistance projects, which through low cost programs significantly improve the status of truly poor people in underdeveloped nations. Once again today I would like to share with our colleagues some additional examples of successful small scale development assistance projects.

The Inter-American Foundation [IAF] was established to provide assistance to underprivileged people in Latin America and the Caribbean region. The IAF was created in 1969 after the inadequacy of conventional foreign assistance programs and agencies became increasingly apparent. In 1971, the foundation's first year in operation, three projects were funded; since 1974, the IAF has funded an average of 100 to 120 projects per year. Much of IAF's value stems from its reputation throughout this hemisphere as a nonpartisan entity. Funding for IAF comes partly from congressional appropriations and partly from the resources of the Social Progress Trust Fund [SPTF]. The successful implementation of IAF's overseas objectives is linked to the amount of SPTF financing which has been allocated.

The Inter-American Foundation president for the past several years has been the very capable Deborah Szekely. Under her leadership, the experience and the successes of the IAF have expanded considerably. I wish to compliment her and her hard working staff for their dedicated efforts.

To express appreciation for the IAF's contribution to the war on poverty in Latin America, and to let Mrs. Szekely and her staff know that we in Congress recognize their good work, I now would like to comment on six particularly successful development projects that were assisted by the Inter-American Foundation.

JAMAICA

Institute for Hunger Affairs, $16,000—1987-88. The Institute of Hunger Affairs [IHA] began work in 1981 when a group of poor high school students in Kingston organized a community soup kitchen to provide food for children and the elderly. The IHA youngsters solicited food donations from Jamaican supermarkets and from local residents. The Inter-American Foundation provided IHA with a grant to teach small groups of Kingston residents to cultivate 16 community vegetable gardens. The garden produce will help stock the IHA community food bank which provides approximately 2,000 meals per year to children and the elderly. IHA also will use its foundation grant to train 25 unemployed school dropouts in woodworking and carpentry and to help them find jobs. Revenues from the sale of items produced in the training program will be used to help finance other IHA skills training efforts.

GUATEMALA

Cooperativa Agricola de Servicios Varios "Zunil," $20,000—1986-87. In August 1986, the Zunil Cooperative, a 52-member organization of highland Indian small vegetable growers, received a foundation grant to purchase agricultural supplies and basic consumer supplies of the cooperative store. By August 1987, the cooperative had generated an additional $7,900 in operating capital; its one store had expanded to three stores handling foodstuffs, agricultural supplies, and clothing and hardware; and membership had increased to 145. Cooperative members, with more reasonably priced and readily available fertilizers, were able to increase their production and resulting profits through a newly devised marketing strategy. This meant that sufficient funds became available to construct an office/warehouse and employ a full-time salaried manager. This project also benefited the local community by making available a greater variety of consumer goods at lower prices. By mid-1987, the cooperative was also preparing to use 10 percent of its net profits to address community social problems.

COLOMBIA

Asociacion Sur Oriental para la Defensa de la Economica Familiar, $51,250—1979-84. The Asociacioin Sur Oriental para la Defensa de la Econoimica Familiar [ASODEFA] is composed of representatives from five of the poorest barrios in Bogota. It was founded to ensure an adequate supply of a cooking fuel commonly referred to as gasolina azul. With the 1979 grant, ASODEFA was able to purchase a storage tank and a truck, to construct five distribution tanks—one for each barrio, and to pay initial salaries for a secretary, a driver, and five employees—one for each barrio tank. The group pledged to use profits from the fuel sales to create a fund for community projects. By 1980, the association had negotiated a sufficient allotment of gasolina azul for the 1,795 families it serves. It subsequently invested the profits from this enterprise in a neighborhood health center, five neighborhood stores that sell goods at below market prices, a truck for commercial transportation, and land on which will be built a private primary school for the barrio children. Today, ASODEFA is totally self-financing.

CHILE

Centro de Educacion y Tecnologia [CET], $167,000—1986-89. The foundation provided CET with a grant in 1986 to train 450 people from 29 urban and rural communities in the Concepcion region in low cost, labor intensive agricultural and gardening techniques. CET also used its foundation support to help those being trained achieve financial self-sufficiency and to work with self-help food production groups. During the first year of this 3-year grant, 256 people improved their skills in one or more of the following: Family gardening, fruit tree grafting, organic fertilization, small animal production, solar fruit drying, and constructing water pumps. Most of those trained were slum dwellers or rural poor involved in the self-help food production groups. Five of the six rural communities assisted by CET have established and successfully maintained demonstration gardens. Near Concepcion, there are approximately 1,000 people participating in CET-trained gardening groups. The groups have established their own training school which, among other activities, sponsored a 2-week course on hillside gardening for students from the University of Concepcion.

BRAZIL

Centro de Tecnologias Alternativas Populares [CETAP] $239,000—1987-90. CETAP received a grant in 1987 to establish a small farmer training center in the Alto Uruguai region of southern Brazil. CETAP was created by a group of small-scale farmers who lost their lands to foreclosures on bank loans after world soybean prices plummeted. Subsequently, the farmers persuaded the state and federal governments in Brazil to implement an agrarian reform program and resettle thousands of families. The founding members of CETAP recognized the need to train the resettled farmers in low cost, appropriate technologies that would make productive use of their lands while avoiding the capital intensive techniques which had led to the previous insolvencies. As a result, CETAP developed training courses in crop diversification, composting, biological control of pests, seed selection, and irrigation. These courses have benefited approximately 1,000 families. When the project is completed in 1990, 3,000 families will have benefited from CETAP's training and technical assistance program. CETAP calculates that beneficiary families have reduced their agricultural production costs by 20 to 50 percent, and have increased their crop yields by 15 percent and income by 15 to 20 percent. In addition, CETAP has leveraged $900,000 in production credit for area farmers from the National Bank for Economic and Social Development. CETAP negotiated this line of credit so that farmers' crops rather than their land would serve as collateral. Thus, it is unlikely that the farmers could lose their lands again through bank foreclosures.

MEXICO

Asesoria Dinemica a Microempresas. A.C. [ADMIC], $246,000—1984-89. In September 1984, the foundation made a grant to ADMIC to provide technical and educational services to urban microenterprises in the city of Monterey, and to organize interested microentrepreneurs for group purchasing and sales. In June 1985, the foundation awarded ADMIC an additional $150,000 to expand its revolving loan fund for microentrepreneurs. Between 1984 and 1987—with additional funds from the Inter-American Development Bank, ADMIC made approximately 2,300 microbusiness loans averaging $200 each. ADMIC estimates that one job was created for every loan made. During this same time period, ADMIC also provided skills training and other forms of technical assistance to about 4,800 microenterprises. In addition to providing these services, ADMIC played a leading role in establishing eight affiliate organizations in seven Mexican states and training their directors and staff. It also helped to establish an association of 150 microentrepreneurs and has assisted groups of carpenters, seamstresses, and rugmakers to organize small trade associations. Based upon its performance, ADMIC negotiated a loan guarantee from the U.S. Agency for International Development which was used to establish a $450,000 line of credit for microentrepreneurs with the Banco Mercantil del Norte. ADMIC's success has also resulted in the creation of a similar state-run program in Monterey.

Mr. President, each of these examples provides evidence that low cost aid programs are successful in achieving lasting results. In this era of budget restraint, we should realize—as these examples demonstrate—that helping others to help themselves need not cost a great deal of money. The experimental project approach of the Inter-American Foundation has worked well.

ASSOCIATION OF AMERICAN CHAMBERS OF COMMERCE BICENTENNIAL OF THE CONSTITUTION ESSAY CONTEST

Mr. KENNEDY. Mr. President, I am pleased to join Senator **Stevens** in congratulating the winners of the Bicentennial Essay Contest held by the Association of American Chambers of Commerce in Latin America.

These students are talented individuals, and I commend them for their contributions to the bicentennial of the Constitution.

Over the 200 years of its existence, the U.S. Constitution has demonstrated a formidable ability to respond to challenges from any source—whether from the militant rivalry of totalitarian governments, or from the more friendly competition of parliamentary democracies, or from the political extremes in this country.

Again and again over the past two centuries, the Constitution has proved its capacity to protect and expand our freedom, while safeguarding the enduring values essential for liberty to grow and flourish.

All of the winners of the bicentennial essay contest should take pride in their achievement. Their participation has enriched their own lives and their countries, by developing a greater understanding of the principle of the separation of powers in the U.S. Constitution that helps to make it the precious charter of liberty and democracy. If the Founding Fathers were here today, I am sure they would be as proud as we are of the achievements of these students.

Mr. STEVENS. Mr. President, a bicentennial essay contest was recently held by the Association of American Chambers of Commerce in Latin America. High school and college students from 13 countries in South America, Central America, and the Caribbean participated in the essay contest. The essays analyzed the separation of powers in the American system of government and the avoidance of political extremes.

Considering recent problems in the Philippines, Panama, and Nicaragua, it is enlightening to see that young people from our southern neighboring countries recognize the greatness of our Nation's constitutional system.

Our attention is usually focused on the problem areas in Central and South America—and for good reason. There are countries that are having serious problems. But these are the exceptions. This contest should serve to remind us that democracy is spreading in Latin America.

The U.S. greatest contribution to this democratic movement has been by example. Our Constitution—the backbone of our Nation—has endured the test of time. These students have recognized this.

Karen Conway, 17, first-place winner from the Dominican Republic wrote:

> The Constitution has survived cleavage because of the separation of powers. As a general guide for management, it has adjusted and expanded to the new conditions imposed upon it. The very fact that it is able to adapt to change and isn't explicit has made it workable. The Constitutional Fathers must have certainly intended it this way and must have trusted the American people.

Ricardo Torres de Mello, 17, first-place winner from Brazil, noted:

> Some people have criticized the separation of powers arrangement, arguing that it creates confusion, causes delays and contributes to a lack of direction in American government. But this is the prize (sic) that must be paid to safeguard against potential abuses of the powers of the government. Power tends to corrupt!

Robert Lustberg, 16, first-place winner from Mexico said:

> The Founding Fathers separated the government into three branches. Yet one must say that the Constitution as well works due to the people which play a role in the political life of a country, for they try to hold the pieces together, and when an anarchist or havoc-wreaker finds his way in, he may very well upset the system. The separation of powers hence can be said to help make the Constitution work for it provides a framework in which the precepts of the Constitution can be easily enforced, making it easier for the Constitution to work.

The other winners of the essay contest expressed similarly enthusiastic perceptions of our constitutional system.

As members of the International Committee of the Commission on the Bicentennial of the U.S. Constitution, I would like to join Senator KENNEDY in asking unanimous consent that the list of 13 winners of the Latin American Bicentennial Essay Contest be printed in the RECORD.

There being no objection, the winners were ordered to be printed in the RECORD, as follows:

Karina Dawson, 17, Lincoln School Buenos Aires, Argentina.

Ricardo Torres de Mello, 17, Graded School of Sao Paulo, Sao Paulo, Brazil.

Martin Escobari, 15, Escuela Cooperative Santa Cruz, La Paz, Bolivia.

Paulina Bardon, 18, Santiago College, Santiago, Chile.

Karen Conway, 17, Carol Morgan School, Santo Domingo, Dominican Republic.

Michael Torres, 14, American School, Guayaquil, Ecuador.

Tania Brett, 18, American School, El Salvador, El Salvador.

Juan Carlos Guirola Palencia, 18, English-American School, Guatemala City, Guatemala.

Dacia Flores, 18, Maya School, Tegucigalpa, Honduras.

Phillip Bailey, 22, University of West Indies, Kingston, Jamaica.

Robert Lustberg, 16, American School Foundation, Mexico City, Mexico.

Sergio Luis Zanotti Cavazzoni, 17, American School, Asuncion, Paraguay.

Richard Kechichiam, 18, Liceo Miranda, Montevideo, Uruguay.

ADMINISTRATION SOUTH AFRICA POLICY

Mr. PRESSLER. Mr. President, yesterday the Senate Foreign Relations Committee on which I serve began a series of hearings on the issue of U.S. economic sanctions against South Africa.

At the hearing, the Honorable John C. Whitehead, Deputy Secretary of State, presented an explanation of the Reagan administration's views on pending legislation that would impose further economic sanctions on South Africa and Namibia. I thought Mr. Whitehead's exposition of the issues was excellent.

Mr. Whitehead's testimony was professionally competent. He is one of the State Department's most eloquent witnesses. As a public service I ask unanimous consent that the full text of his prepared statement be printed at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF DEPUTY SECRETARY OF STATE JOHN C. WHITEHEAD

Thank you, Mr. Chairman, for this opportunity to present the Administration's views on Senate Bill 2378, the Amendments to the Comprehensive Anti-Apartheid Act of 1986. If enacted, this legislation could have important consequences for the future of American diplomacy in South Africa and in the Southern Africa region. For reasons I hope to make clear in my testimony, the Administration strongly opposes Senate bill 2378. American interests are not served by legislation which requires that we experiment in the economic destabilization of South Africa without genuine prospects of contributing to the solution of that country's problems.

Despite our strong objections to this bill, we are quick to recognize the feelings which motivated it. South Africa's apartheid system is repugnant to all Americans. While many governments tolerate or even surreptitiously encourage discrimination on the basis of ethnicity, only in South Africa is racial discrimination a civic duty and the failure to practice it a punishable offense. Among nations which profess to identify with Western, democratic values, only South Africa classifies individuals, herds them into groups, and strips them of their individual political rights according to racial and ethnic criteria. This monstrous injustice affronts us all and cries out for redress.

Our aversion deepens when we are confronted by the stubborn resistance of the South African government to appeals for peaceful change. Successive generations of black activists—during the defiance campaigns of the early 1950s and early 1960s, during the Soweto uprising of the 1970s, and in the latest wave of township protest from 1984 to 1986—have been shattered by progressively harsher and more sophisticated forms of official repression. Despite repeated, worldwide censure and the imposition of severe sanctions—some of them dating back more than twenty years—South Africa's governing elite remains steadfast in its determination to retain its monopoly on political power.

Injustice and inequality are entrenched in South Africa, but not all the trends are negative. Over the past ten years, the nature of apartheid has changed markedly. Numerous petty apartheid provisions have fallen by the wayside, the Pass Laws have been scrapped, central business districts have been opened to blacks, and black labor unions have been legalized and have made impressive organizational strides. These changes testify to a growing awareness among many South African whites that apartheid in its purest sense is impractical and uneconomic, if not actually immoral. Consistent with this trend is the finding of the Dutch Reformed Church two years ago that no scriptural justification exists for the practice of apartheid. Another institutional pillar of the Afrikaner establishment, the Broederbond, also broke with apartheid orthodoxy at that time. Regrettably, this willingness to dispense with some forms of racial discrimination has not yet developed into a consensus in favor of addressing the truly critical issue confronting South Africa, which is the issue of permitting all South Africans to participate in deciding how and by whom they are governed.

A clear and dispassionate analysis of the crisis gripping South Africa is required if the United States hopes to play a constructive role there. Our interests demand that we avoid the pitfalls of desperate activism on the one side and resignation and disengagement on the other. We must accept that the transition to a non-racial democracy in South Africa will inevitably take longer than all of us would like. We must also understand that South Africans themselves—black and white—will be the agents of their own liberation, with outsiders, including the United States, playing only a secondary role at best. Above all, we need to acknowledge that such limited influence as we currently possess derives from our continuing presence on the ground in South Africa. A progressive U.S. business presence, an official aid program reaching out to tens of thousands of black South Africans, our persistence in urging South Africans to confront the imperatives of dialogue and compromise and to consider what they are for as well as what they are against—these are the most important assets we have for challenging apartheid. We can condemn, censure and sanction—as this legislation requires—and hope against logic and experience that we can achieve some beneficial result. Or we can take a longer view which refuses to disengage, preserves our lines of communication, our contacts and our limited resources within South Africa, and positions the United States to intervene positively at the moment when our limited leverage can accomplish the most good.

THE FALLACY OF SANCTIONS

Three years ago, at the height of the violent unrest in black townships across South Africa, it was fashionable to argue that apartheid had entered its final crisis. Activists in South Africa, exiled black leaders and many observers in Europe and the United States predicted that only a final push was needed to topple the system. Comprehensive and mandatory international sanctions were thought by some to be precisely the push required.

These prognostications were obviously wide of the mark. Few persons familiar with existing power relationships in South Africa seriously believe that a rapid resolution of the crisis is possible—with or without sanctions pressure. Surely it was unrealistic to expect the South African government to respond to our pressure by ending the State of

Emergency, releasing political detainees or meeting any of the other conditions for lifting sanctions outlined in the Comprehensive Anti-Apartheid Act. Not surprisingly, the South African government refused categorically to meet these demands.

Presumably in recognition of these factors, Congress has modified its expectations. In reporting out HR 1580, the House Foreign Affairs Committee describes sanctions as "part of a medium-to-long-term approach designed to maximize both internal and external pressure on the apartheid regime". The House report further notes that to ensure their effectiveness, sanctions must be multilaterialized; that U.S. pressure alone will be insufficient to accelerate the pace of change in South Africa.

It should be clearly understood that the Administration has consulted intensively with South Africa's main trading partners, all of whom are major allies of the United States. For the most part, these governments are strongly disinclined to either follow an American lead or act unilaterally in adopting further punitive sanctions. Our allies either reject or are highly skeptical of the premise that by destabilizing the South African economy, the West can somehow engineer a relatively peaceful transition to democractic rule in South Africa. Moreover, these governments judge—as does the Administration—that international sanctions cannot be effectively enforced without recourse to military measures.

As some of you may be aware, we have received in the past two weeks separate, official communications from the European Community and the British government informing us of their deep concerns over extraterritorial provisions in this bill. Passage of S2378, particularly the secondary boycott features, could lead to GATT disputes with our major trading partners and undermine the U.S. negotiating position in the current round of GATT talks.

We should not, therefore, delude ourselves into thinking that it is possible to internationalize sanctions under American leadership. Our allies will resist this approach, at least until such time as we can demonstrate convincingly that cutting trade links, selling off assets, and relinquishing contracts across the board in South Africa will result in something other than a costly, symbolic protest.

The central fallacy of the sanctions approach is not simply that it isn't feasible. Rather, the problem lies with a fundamental misreading of South African political and economic realities, and with the acceptance of a false correlation between economic pain and positive social change. Simply put, sanctions are the wrong tool brought to the wrong job.

Sanctions are the wrong tool because South Africa has the resources to resist an economic siege and has been preparing for such a contingency for many years. Although heavily dependent on international trade, South Africa has domestic deposits of virtually every key raw material input needed for an industrial economy, with the major exceptions of crude oil and bauxite. The South African government and private sector have spent millions of dollars stockpiling strategic imports—ranging from crude oil and bauxite to computer and aircraft parts; these stockpiles would provide a cushion against shortages until alternative sources of supply could be found or import substitution projects completed.

Based on previous experiences with international embargoes against South Africa, we believe that direct controls on shipments to South Africa would probably not prevent South African importers from obtaining the foreign supplies that they need. One possible exception would be certain high-technology goods, for which adequate enforcement mechanisms already exist.

With regard to South African exports, 65 percent of export earnings are made up of low bulk/high value items such as gold, diamonds and strategic minerals. Most economists believe that an effective boycott of these commodities would be difficult or impossible to enforce. The remaining 35 percent, mainly steel and manufactured products, would be more vulnerable to a general boycott. Even here, however, a boycott would not be airtight. For example, in the past two years sanctions have closed 80 percent of South Africa's traditional export market for steel, yet South African steel exports were only down by about 2.9 percent through October of last year. Given South Africa's proven capacity for trade realignment and diversion and its still untested capacity for full-scale sanctions-busting, we estimate that even reasonably well-enforced comprehensive U.N. sanctions would cut total export receipts by something less than 25 percent.

The net result of a total trade embargo on South Africa would almost certainly be far less dramatic than proponents of the sanctions approach believe. The impact is likely to be a moderate recession over the medium term, comparable to the 1982-1986 period in South Africa. Over the longer term, contraints on growth and a decline in competitiveness could push South Africa deeper into recession.

But, whatever their economic consequences, what counts is the political impact of sanctions. As one leading South African Marxist theoretician recently noted in a reversal of his previous position, the criterion for sanctions should be the question of whether they consolidate the position of the black worker and black organizations. He concludes that sanctions don't meet that criterion. As I will point out, sanctions are far more likely to produce perverse results: mild discomfort, at most, for white elites, but a risk of severe economic dislocation for the black work force.

THE ECONOMIC COSTS TO THE UNITED STATES

Sanctions are not cost-free for the United States. S. 2738 will require U.S. business to find new markets, assuming they are available, for over $1.2 billion in annual exports of mostly manufactured and high-technology goods. The forced liquidation of over $1 billion in direct U.S. investment will change little in South Africa except to consolidate the position of local business interests acquiring these assets at well below market value. It is reasonable to expect that at least some U.S. companies will challenge the constitutionality of this provision on the grounds that it results in the confiscation of assets without fair compensation.

While the precise impact of sanctions on the U.S. economy is hard to measure, some industries will be more seriously affected than others. Studies indicate that the U.S. coal industry has already lost an estimated $250 million over the past three years. A sizable portion of the loss is due to market distortions caused by existing U.S. sanctions against South Africa. Foreign customers of the U.S. government enriching services who use South African uranium provide approximately $350 million a year in revenues. Some of these customers will take their enrichment business to Europe and the Soviet Union if the U.S. cannot process their material.

These estimates do not include the potential cost of South African countersanctions. Even a temporary disruption of strategic mineral exports to the United States would have serious repercussions over a broad range of U.S. industries.

According to the U.S. Bureau of Mines, the direct economic costs to this nation resulting from a decision to embargo South African strategic and critical minerals imports are estimated at $1.85 billion per year. About 94 percent of these estimated costs are for two platinum-group metals (PGM's), platinum and rhodium.

Platinum is primarily used in the production of automotive catalytic converters, and about two-thirds of 1986 total domestic industrial consumption was used for this purpose. In 1986, the United States imported 86 percent of its platinum supplies from South Africa.

Outside the Soviet Bloc, there are insufficient alternative supply sources to South Africa to meet United States platinum metal requirements. In 1986, the total production of countries other than South Africa and the Soviet Union, including domestic primary and secondary production, could only satisfy about 40 percent of United States demand.

Rhodium is a very rare metal absolutely essential for compliance with Clean Air Act auto emissions standards for nitrous oxides. Omitting the Soviet Union and other centrally planned economies, U.S. consumption of rhodium was almost one-half of the Western world total. The primary application of rhodium is in the production of automotive catalytic converters. Over 70 percent of U.S. consumption (93 thousand ounces in 1986) was used in this application in 1986. Rhodium demand is increasing worldwide as emission-control requirements are placed on nitrous oxide emissions, and as the control requirements are applied to a larger fleet of vehicles. In 1986, South Africa provided about 53 percent of Western world supply, the Soviet Union 38 percent, and secondary recovery 5 percent. There are insufficient non-South African rhodium supplies to meet U.S. demand.

It should be pointed out that while the South African government has never threatened the U.S. with a disruption or a cut-off of strategic minerals supplies, it certainly has this option. Pretoria also has the option of slapping countersanctions on neighboring black states, all of whom are critically dependent on South African trade or transport routes or both. Passage of this bill would put South Africa's intentions to the test with regard to both the U.S. and our interests in stable development of the region.

THE POLITICAL COSTS OF SANCTIONS

If sanctions are the wrong tool, they are also being used for the wrong job. Ostensibly aimed at influencing South Africa's key decisionmakers, sanctions miss this target altogether while hitting everyone else, causing collateral damage in precisely those sectors of South African society which are pushing hardest for fundamental, peaceful change.

If comprehensive, international sanctions against South Africa are extended, we should anticipate that the main losers will be South African blacks. They will be the first to suffer the effects of a prolonged recession in terms of lost opportunities, lost jobs, and decreased government spending on black housing, black education, and services provided to black townships. This is an unintended and possibly tragic economic implication of the sanctions approach.

At the same time, the forced withdrawal of U.S. corporations from South Africa will end funding and logistical support for a wide range of programs designed to promote black economic empowerment, foster black self-reliance, and build professional and leadership skills. U.S. and other Western corporations play an important part in helping to sustain an estimated 2,000 such programs which exist at the grassroots level. In the face of mounting restrictions on most forms of opposition political activity, these programs provide a vital organizational network and fall-back position for those blacks working to build the power bases necessary for challenging the government.

In less direct fashion, we stand to lose other opportunities to deflect repressive measures directed at blacks. If the threat of a total economic embargo on South Africa becomes reality, the South African government will have even fewer reasons to heed outside advice on what it regards as its internal political affairs. Although our standing with the South African government declined sharply following passage of the Comprehensive Anti-Apartheid Act in 1986, we retained enough influence to argue persuasively in favor of a stay of execution for the Sharpeville Six. We have also successfully lobbied to postpone and, hopefully, sidetrack pending legislation which could end all foreign funding to groups whose activities the government broadly defines as "political." These are small but significant achievements. We cannot realistically expect to repeat them if we continue down the road toward punitive trade embargoes and a severance of ties with South African officialdom.

I cannot accept the argument that by inflicting additional economic hardship and political frustration on South African blacks we create the conditions necessary for a successful challenge to the apartheid system. Nor is it reasonable to think that sanctions will have a demoralizing effect on white elites, thereby rendering them more vulnerable to pressures for fundamental change. Under any conceivable sanctions scenario the South African government will assign top priority to protecting white jobs and to ensuring that the police and military are funded at levels sufficient to avoid any decline in their capabilities. The suppression of new outbreaks of black unrest is a foregone conclusion. To suppose that outside powers can rearrange government priorities through economic quarantines and reduced contact with South Africa is to misread tragically the staying power of the Afrikaner minority and its determination to put its security ahead of all other interests, including the interests of South Africa as a whole.

South African blacks will be the primary, but not the only, victims of an international sanctions campaign against South Africa. Other victims will be those South African whites who most closely identify with American democratic ideals and who support black aspirations for a more just society. Leaders such as Frederik van Zyl Slabbert, Wynand Malan, Helen Suzman, and Denis Worral staunchly oppose an economic and diplomatic quarantine of South Africa. As they struggle to build bridges across South Africa's racial divide, they need the support that a strong U.S. presence—both official and unofficial—provides. They have seen sanctions contribute to a siege mentality among whites which the ruling National Party has successfully fostered and exploited by converting to its ranks thousands of relatively moderate, English-speaking voters over the past two years. They have also witnessed a steady erosion over the past year of fundamental civil liberties even in the hitherto protected sphere of white politics. The same noose which has been used to strangle black dissent is now coiled expectantly around the white, reformist opposition. By dissociating ourselves from South Africa, we simply make it easier and less costly for authorities to pull that noose tighter.

By the same token, ultra-conservative factions in South Africa are increasingly drawn to the prospect of cutting trade links, ending the U.S. business presence in South Africa, and limiting contact with the West. From their standpoint, a strong American presence is an unwelcome restraint on South Africa's internal and external policy options. Conservatives resent what they regard as American meddling in South Africa's internal affairs, including our financial and moral support to anti-apartheid groups, and our persistence in seeking ways to dismantle racial barriers and promote dialogue. They also resent American films and television programs, our music, journalism and popular culture because of their supposedly subversive influence on a younger generation of Afrikaners. South Africa's U.N. representative was speaking to this constituency when, in responding a few months ago to harsh criticism of South Africa in the General Assembly, he invited the international community to "do its damndest" to Pretoria. He could have as well added: "and close the door behind you." Neither hardliners in the National Party, nor the growing conservative opposition, nor the more militant organizations even further to the right will mourn the absence of Americans from South Africa.

SANCTIONS AND THE BLACK OPPOSITION

Claims that the overwhelming majority of South African blacks support sanctions cannot be substantiated. Certainly respected black leaders of community, labor, church and student organizations, as well as the ANC and PAC in exile, continue to call publicly for further punitive measures against Pretoria. Some, like Archbishop Desmond Tutu, believe that sanctions are the only alternative to uncontrollable violence. Leaders of the Front Line States have also, in past years at least, been outspoken in calling for U.S. and Western sanctions against South Africa.

Yet there are signs that over the past two years a serious rethinking of the sanctions strategy has taken place. Some mass organizations, such as conservative black churches and Chief Buthelezi's Inkatha movement which claims to represent more than six million Zulus, have always been opposed to international sanctions. Other organizations, such as the National African Federated Chamber of Commerce, which represents most major black business interests, officially subscribe to sanctions while leaving individual members ample room to express doubts. Even within the staunchly pro-sanctions COSATU, debate simmers over the wisdom of promoting international embargoes.

While it would be wrong to infer that black opposition leaders are simply out of touch with their rank and file, debate over the effectiveness of sanctions is unquestionably livelier now than ever before. This new mood is captured in Soweto playwright Gibson Kente's popular drama "Sekunjalo," which depicts comrades destroying a township by intimidating, burning and boycotting. It ends with a declaration of hatred for Afrikaner rule and a dance routine in which the actors sing "Who's gonna plant that cane? Who's gonna drive that train? Who's gonna fly that plane?" Kente's actors recount the events of the 1850s when the Xhosa nation killed its cattle and burned its grain in the faith that the dead would rise and the Russians would come to drive the British into the sea. The actors compare those times with the current calls for sanctions and bemoan the self-destructive tradition of black South African resistance to white rule.

The Marxist intellectual and leader of the black-consciousness-based National Forum, Neville Alexander—hardly an apologist for apartheid—makes the same argument from a different perspective. He wrote recently that "I believe . . . that the insistence on total sanctions is senseless—as senseless as an unqualified academic boycott and unlimited school boycotts—which amount to suicide if you do not have real power, and if the government is not yet so weak that such pressure can bring it to its knees."

Across South Africa's borders, reassessments of the effects of sanctions and possible South African countersanctions on the economies of the Front Line States are also underway. As a result, Front Line leaders have modified their rhetoric, moved serious discussions of sanctions to the margins of international meetings and abandoned plans to apply sanctions of their own. Trade between South Africa and most neighboring states has actually increased over the past year.

These observations are not meant to suggest that black South Africans have come to terms with white domination, or that South Africa's black-ruled neighbors have accepted the status of satellites to the region's economic superpower. What has occurred, I believe, is that sanctions have been re-evaluated and strong misgivings have developed about both their high costs and effectiveness.

KEEPING OPEN U.S. OPTIONS

I alluded earlier to the combination of outrage and impatience with which many Americans react to the situation in South Africa. But neither we nor South Africans can afford U.S. policies motivated primarily by passion. There exists a broad American consensus on what is wrong in South Africa and on the steps South Africa and its citizens must take to correct these wrongs. This consensus could provide the basis for a realistic, workable, and non-partisan approach to the South African crisis.

Any sound American policy toward South Africa must take into account at least two fundamental constraints. First, we must accept that South Africa's crisis in an enduring one. There are no quick solutions. Resorting to drastic remedies, such as the misuse of American power to destabilize the South African economy, only increases chances of a catastrophic outcome for all South Africans. Second, we must also accept that our leverage is limited. South Africa can survive—even thrive—without trade or contact with Americans. Our mission should be one of using all available means to maximize our influence and leverage. This can't be achieved through a policy of economic and diplomatic dissociation from the problem.

Operating from these premises, the Administration has constructed an approach which emphasizes both the protection of enduring U.S. interests in South Africa and the promotion of rapid, fundamental change in that society. This approach has a number of key elements.

The Administration has undertaken strenuous efforts to keep open all our lines of communication, to expand contracts across the racial and political spectrum, and to open up opportunities for the kinds of negotiations which are South Africa's only alternative to a slow descent into civil war. Over the past eight years, all groups in South Africa, including the full range of opposition movement leaders, have had access to the highest levels of our government. We continue to make it clear to the South African government that we believe it has a special responsibility to create the necessary conditions in which negotiations with credible opponents can take place.

Expanding our assistance to apartheid's victims is a top priority. South Africa's struggling black communities need our financial support, our technical and professional training, and our help in developing organizational and leadership skills. These are the building blocks from which the disadvantaged majority will construct a more just and more democratic future for South Africa. To the extent that numbers of blacks already possess the knowledge and the skills, and hence the economic power, that a modern industrial state requires, they have greatly strengthened their bargaining position vis-a-vis South Africa's governing elite. We must work to develop further this leverage and to help turn it to political advantage. This is the central thrust of our official aid program to South Africa. Obviously, sanctions-induced unemployment, a turn by South Africa towards autarky and tighter state control of the economy, and a reduced American presence in South Africa would all work against this effort.

In dealing with South Africa, we must continue to put a strong emphasis on the regional context. Turmoil in South Africa continues to spread outwards in shock waves which threaten the economic and political stability of neighboring states. Our regional diplomacy is committed to reducing these states' economic vulnerabilities and to easing misunderstandings and tensions in their dealings with South Africa.

In this regard, negotiations currently underway to secure Namibian independence and the withdrawal of all foreign troops from both Namibia and Angola assume special importance. A negotiated solution would be a signal achievement for American diplomacy and would win widespread approval throughout Africa. Progress has been made which even sympathetic observers would have said a short time ago was impossible. We have laid down the conceptual basis for a settlement and brought all parties to the realization that Namibian independence, the removal of foreign armies from Angola, and the resolution of Angola's internal conflict are interrelated problems. None of these problems can be solved in isolation from the others.

Our mediation continues, and it is important that Congress not undercut this effort by ordering drastic changes in our bilateral relationship with one of the negotiating parties. While it may be in South Africa's best interests to achieve a negotiated settlement in Angola and Namibia, Pretoria could well decide that a harsh, diplomatic rejoinder to expressions of U.S. hostility is a higher immediate priority.

As a final note, I would like to point out that in a few months' time a new U.S. administration will enter office and will no doubt undertake a review of U.S. policy toward South Africa and the region. It would be wrong for Congress to commit the United States, in the final days of this administration, to the extreme measures contemplated in S2378. To do so will deny the new Administration the option of continuity in U.S. policy while at the same time seriously restricting its choices before it has even entered office.

The South African dilemma will be with us for some time to come. The only reasonable course Americans can adopt is one which ensures that we retain as many diplomatic tools and channels of influence as possible in the search for ways to remain relevant and involved in finding a solution. Regrettably, S2378 takes us in precisely the opposite direction.

APARTHEID AS IT AFFECTS NOSIPHO

Mr. METZENBAUM. Mr. President, I rise today to talk about one of the most poignant and painful aspects of the strife that has engulfed South Africa.

During the Senate's hours of debate over the situation there, we have addressed many issues.

We have debated the effects of sanctions on the black minority;

We have considered how Pretoria's actions destabilize the region as a whole;

And we have discussed the appropriate role for international corporations to play in ending apartheid.

In my view, the Senate has played a constructive role in charting the course of United States foreign policy toward South Africa. Yet, Mr. President, I think that in our debate over landing rights, Krugerands, and disinvestment we sometimes overlook the day-to-day suffering meted out by Pretoria's apartheid regime.

Now is a particularly important time to remember the painful consequences of apartheid for the children of South Africa.

Last year, I attended a symposium on the plight of South African children. Many have been caught in the web of mass arrests under Pretoria's martial law "justice system." In fact, nearly one-third of the total number of blacks detained by the Police during the 3-year-old "state of emergency" were children.

Mr. President, the numbers are shocking. The state of emergency was recently extended, and the number of children arbitrarily jailed remains unconscionably high.

Today I would like to bring to the Senate's attention the story of a single child which recently appeared in the Cleveland Plain Dealer. Only when we give names and faces to the individual victims of apartheid, can we begin to understand how South Africa's blacks are suffering.

This young girl's name is Nosipho, which means "unexpected gift," and she lives in the South African black township of Edendale. This is not one of the places that make the headlines. Crossroads, Soweto, Alexandra, and other names are more familiar to us as cauldrons of apartheid. Nosipho's troubles in Edendale, however, are typical of too many black children growing up in South Africa today.

Nosipho's problem, quite simply, is that she wants to go to school to learn—her problem is that she is black.

She is just a 10-year-old, who doesn't know that her teachers are barely literate themselves, or that her township school can't begin to compare with even the worst of public schools for whites. Nosipho may never even see a college campus, much less attend a university.

Nosipho is not even required to show up to her inferior school. Primary and secondary education in South Africa is compulsory only for white children. Nosipho just wants to be able to go to classes without fear, without looking over her shoulder. For the past year, however, this has been impossible.

In one of the great ironies that characterize the black majority's struggle for freedom, Edendale has become not only a black versus white battleground, but also a black versus black battleground.

Little more than a year ago, blacks called a boycott of Edendale schools to protest the pathetic education provided to them.

I can understand a protest boycott. It speaks to the frustration of black parents crying out, speaking out, protesting out against an inadequate school system. It will not work—in all probability. We know that. But to South African blacks, what else can they do? So they boycott—boycott the school system. And to prove their effectiveness, they insist that all black children boycott the school.

It is a sense of frustration. They do not know what to do. The school system is inferior. They cannot take up arms. They do not want to take up arms. They just want those who run the school system to know how unhappy they are with the school system, and so they boycott the school system. And little Nosipho is caught in between.

This left Nosipho's mother, Nancy, and others like her, in a quandary. If she sends her daughter to school in violation of the boycott, she—and Nosipho—appear to be supporting the regime. If she keeps Nosipho home from school, Nosipho falls farther and farther behind in her studies. She then becomes caught in the unbreakable cycle of illiteracy and poverty that traps South African blacks. Nancy is herself only marginally literate.

Nosipho wanted to attend school in spite of the boycott, and Nancy cautiously agreed. This was early last year. Nosipho's schoolbus was stoned on the first and subsequent days of the boycott, and she was accosted by black youths not much older than herself as she entered the school.

The school now requires badges to be worn by all students to prevent infiltration by disrupters. The badge is like a scarlet letter for Nosipho. While wearing it, she is a target for youths who accuse her of supporting apartheid—as if this 10-year-old child fully understands the implications of such a charge. Little Nosipho just wants to go to school.

Nancy has attempted to give her daughter an education, to break the iron grip of illiteracy and poverty. Ironically, though, Nosipho is left with a lasting fear of the classroom, not understanding the catch-22 that has made school in Edendale taboo.

Mr. President, during this time of remembrance for the massacre at Soweto, I call on the Senate to remember something just as important as those lives lost in the Soweto shootings 12 years ago. I ask my colleagues to think for a moment about Nosipho, and the plight of this single South African child who simply wants to go to school. She is a living victim of apartheid. Her plight symbolizes what apartheid is doing to the social fabric of South Africa.

In their callous disregard for human dignity, the white minority government is forcing horrible choices upon innocent children like Nosipho, and working-class people like Nancy.

Mr. President, I ask unanimous consent that a copy of the Plain Dealer article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Plain Dealer magazine, June 12, 1988]

THE LESSONS OF SOUTH AFRICA

(By Jean Hey)

This is the story of a 10-year-old girl so anxious to learn it could kill her.

"Kill her? That's a little melodramatic," you may think.

To American ears perhaps it is. But this is the story of Nosipho, a child struggling to learn in the trouble-torn land of South Africa.

Fear is part of a normal school day for Nosipho. Fear of the policemen—white and black—who stand at the school gates with their guns drawn to keep out "troublemakers." Fear on her daily bus ride to and from school, in case bricks are hurled through the windows. Fear of the big children who threaten to hurt her if she comes to class when they advocate school boycotts to protest the poor education offered to black South Africans. Fear as she sees the alarm that sweeps across the face of her mother, Nancy, at the unexpected knock at the door.

The voices behind the door shout: "Whose side are you on? Do you support the United Democratic Front, or Inkatha," Nancy freezes. She doesn't answer. She hopes they will go away.

This is Edendale, South Africa, 1988. It used to be a quiet black township sprawled next to the white city of Pietermaninzburg. Nobody paid much attention to it. Soweto . . . Alexandra . . . Crossroads. Those are the infamous names that for decades have stolen the limelight of the international press.

Now Edendale is on the world map because the United Democratic Front and Inkatha are fighting for control of the people of Edendale. Inkatha is the party of Chief Mangosuthu Buthelezi, accused by the UDF of being a stooge of the South African government. Its members are from the Zulu tribe whose home is in Natal. Without complete support in Natal, Inkatha loses all chance of becoming a national force.

The UDF, on the other hand, is a multiracial national organization that propounds the complete restructuring of South Africa along socialist principles. It is closely allied to the outlawed African National Congress.

Nancy's fear as she hears the knock at her door is real. She knows if she gives the wrong answer—if she says she belongs to the wrong organization—she could be killed. Easily. Life is cheap in Edendale these days. The bloody struggle between Inkatha and the UDF has taken more than 100 lives in the last few months alone.

Ambulance sirens pierce the nights. Gangs of children—many younger than 12—with knives and homemade guns carry out orders from the leaders of both groups: roam the streets, seek out the vigilantes and kill on sight. Blacks terrorize and kill blacks in a land where they share a much greater enemy—the white South African government.

Nancy doesn't belong to either Inkatha or the UDF. In fact she dislikes both. She wishes they would leave her and Nosipho in peace. She wishes the knocking at her door would end.

"If I say I don't belong to either party they call me a 'sellout.' They say if I don't support either, I support the South African government.

"Then they will burn my house."

Nancy is not a politically active black South African. Her political aspirations go no further than having a small home, with a garden big enough for a couple of chickens, and an education for her children that will bring them respect and money. She recognizes education as the lifeline that Nosipho must grab if she is to prosper. In Nancy's mind any education—no matter how bad—is better than no education.

Nancy's formal education stopped in the eighth grade. She wasn't stupid; she didn't hate school; and she wasn't lazy. Had she her way she would have completed the inferior schooling provided for blacks in South Africa. She would have stomached the third-rate education, the barely literate teacher, the overcrowded classrooms and the scarce and outdated textbooks. And she would have continued to walk the long miles to school every day.

If Nancy had been white, she wouldn't have been allowed to leave school for at least another two years. Schooling for whites is compulsory. Blacks, however, are free to drop out whenever they choose.

But by the time Nancy was 14 her father was dead and her mother needed her to stay at home and look after the other children while she went off to work.

Today, Nancy is a domestic servant. She lives in an outbuilding on the two-acre property of her employer during the week. On Friday afternoons she returns to the small tin-roofed house in Edendale that her employers bought for her, and where Nosipho waits for her supper.

I lived most of my youth in the large house where Nancy works. Her employer is my mother. Nancy did my laundry. She made my bed. She sometimes served me at dinner and every weekday, like clockwork, she brought in a tray of tea at 11 a.m. and 4 p.m.

The only time we slipped from the servant/mistress role was when I would try to give her an English lesson once the dishes from lunch were cleared. Now she spends most lunch hours reading the morning newspaper. The long and difficult words she says out loud, sometime looking up their meanings in her old school dictionary.

As she reads, she eats her vegetable stew of onions, potatoes and cabbage poured over a type of cornbread. As regular as a noonday gun, the pungent odor of Nancy's stew drifts through the house as it bubbles, and often burns, on the stove.

Now that we're apart, Nancy practices her English in letters to me. "Felicitous salutations," the letters always begin. And a few paragraphs later: "I beg to pen off. Yours in faith, Nancy." Those letters are never more than a page long. But they always include a few lines on Nosipho.

The name "Nosipho" means unexpected gift in the Zulu language. "Unexpected and unwanted" would better describe Nancy's feelings toward Nosipho in August 1977. The father was a talented black bricklayer who already had a wife and several children sapping his irregular income. With one child and no husband, another baby was the ultimate millstone to Nancy.

In fact, Nancy probably would have had a back-street abortion. Abortion in South Africa is illegal for both blacks and whites—unless the mother can prove rape, insanity or mental deficiency. Back-street abortions are dangerous but easy to come by in the black townships of South Africa. But Nancy was well past her third month before she realized she was pregnant.

She thought the doctor had sterilized her after her last pregnancy. At least, that's what she'd asked for and that's what she thought she'd got.

So Nancy had no alternative but to give birth to her "unexpected gift." Ten years later this gangly-limbed child, with a head of tight curls, sharp cheekbones and a shiny brown face, is what gives richness, focus and meaning to Nancy's life.

Nosipho is a child of wonder. Each new experience she grasps with abandon, like a baseball player straining for the ball just out of reach. Nosipho has none of the self-conscious coyness of Western children. She does not suffer the agonies of wondering what is socially acceptable.

Each school day she would pack her little brown cardboard suitcase and wait eagerly for the bus to carry her to school several miles away. And each weekend she would sing her latest school songs, recite her poems and explain all she had learned to her mother. Nancy would listen with a mixture of amusement and deep pleasure.

Now all that has changed. The luster has been forced out of her. School is now a source of pain, not pleasure. All because Nosipho is one of the innocent children caught in the storm of faction fighting and school boycotts that threaten not only her learning, but her life.

One Friday Nosipho came home with a letter. It said she was not to go to school the following Monday. All schools in Edendale were being boycotted in protest of the inferior education for black pupils.

Nosipho does not understand boycotts. She doesn't know her education is inferior to white education. All she knows is that she wants to go to school on Monday.

Nancy consults her neighbors. What are the risks? Will their children be harmed? Should they give in to the boycott call? The mothers decide to ignore it and let their children go to school.

The usual bus picks up Nosipho at 7 Monday morning. This time it's half empty. But Nosipho doesn't question it and she doesn't mind. After all, today her class is going to learn how to paint and that's all she cares about.

That day was a milestone for Nosipho for the first time, her carefree world of school and learning cracked. As the bus that picked her up trundled along the dust roads on its way to the school, a gang of adolescent boys waited with bricks and stones. Shouting wildly, they attacked the bus with violence and anger as if it held the essence of the hated word "apartheid."

The windows shattered. The bus careened off the road and the children crashed from their seats onto the floor, screaming. That was two years ago. Nosipho was not physically harmed. But so began the chain of events that has transformed her schooling from a source of delight and wonder into a cloud of constant anxiety.

The pixie-faced child who two years ago loudly sang to her mother the latest school songs and taught her the new lessons of the week, now talks in a whisper, eyes uncertain.

The next incident to darken Nosipho's school life happened when the school principal decided that all pupils must wear a badge to identify them as bona fide pupils of the school. The headmaster said youths unattached to the school were infiltrating the grounds and creating "havoc," threatening the smaller children and warning them to stay away from school.

"Hooligans," Nancy called them—unemployed youths jumping on the bandwagon of township unrest and making trouble for trouble's sake. But others said these youths were serious young leaders intent on the success of the boycott movement to end inferior black education once and for all.

Nosipho just saw them as a source of fear. She wore her badge and went to school. At the gate she discovered yet another conflict. The big children were waiting to rip the badge from her blouse. To wear the badge was to be on the side of authority. And authority was on the side of the establishment. And the establishment was on the side of the government.

Now her daily trip to and from school is plagued with fresh fear and confusion over this drab little badge. Every morning she pins it to her chest because without it she can't get past the policemen standing at the gate.

But before she reaches the gate she clutches her books to her chest, hoping that those protesters won't see it and vent their anger on her.

"Why," I thought as I sat in my safe apartment in Boston, "does Nosipho's education have to be a battle for survival?" In a flash of inspiration, I thought I would send Nosipho to my old school—a girls' school in the town of Pietermaritzburg. It is run independent of state funding and for the last decade it has accepted children of all colors.

I imagined Nosipho thriving. She would learn languages and skills she never could learn in the bowels of Edendale. She could join the choir, or perhaps she could rekindle her exuberance in the debating society.

Then I remembered her English—or lack of it. Zulu is her home language, not English, which goes no further in Nosipho than pointing out parts of her anatomy and blurting out their English name with the glee of discovery.

Then I thought of her being transplanted out of her familiar world of friends and family. What, after all, would Nosipho have in common with the privileged white children whose parents had the money to pay thousands of dollars a year for their education?

I thought of Nancy coming to the annual Open Day ceremony and listening to long eruaite speeches and witnessing the elaborate dishes of food spread out buffet-style on the well-trimmed lawns.

I thought of those perfumed mothers and their husbands parading in their elegant outfits. Then I imagined Nancy among them—Nancy who doesn't seem to notice her own heavy body odor and uses deodorant only when her employer gives it to her with a tactful request.

Nancy dresses with no regard for traditional combinations of color or style. In my mind I see her in an electric pink jersey—buttons tugging over her buxom frame—teamed with a maroon skirt; one light cotton, the other heavy wool. No matter what the season, she wears a woolen hat over her head, and in her hand she clutches the largest, shiniest black bag I have ever seen.

I couldn't imagine her at one of those pretentious Open Day ceremonies. Perhaps it's all right for the parents of other black children at that school—ambassadors, successful entrepreneurs, lawyers, doctors. Even among them, Nancy would feel like a fish out of water.

I also realized that my world of debating societies, Shakespearean plays and squash would be more of a nightmare for Nosipho than the dust and turmoil of Edendale. I thought of her being forced to attend the social "get togethers" with the boys from neighboring schools; of her having to eat the bland food made famous by British-based boarding schools, throughout the world; of her suffering through swimming lessons when she's never even learned to keep afloat.

Sentimental. Colonial. Patronizing. I've considered all those words to describe my whim over Nosipho's education.

But it doesn't solve her predicament. In the meantime she has started to fake illnesses rather than face another day of being threatened by police, students, teachers. . . .

She isn't alone. A growing number of Edendale parents have lost patience with number of school days lost because of rioting, mass stay-away and sit-ins. Factory workers, professionals and domestic workers all fear for their children's safety in Edendale. And they ask themselves the same desperate question: "What can my child learn when she is frightened all the time?"

The problem is to find an acceptable alternative. Nancy suggested sending Nosipho to a school for people of mixed race as a way to get her out of the township. But the "colored" school would not take her, or any black child. The principals said black children has been too much of a problem in their schools because their education was so bad. Even if they spent an extra year trying to catch up, their English and Afrikaans (the languages used in class) were too poor.

Then Nancy's employer suggested the mission school run by Catholic nuns. Strict discipline, classical old-fashioned learning habits; daily prayer; and school uniforms—such are the ingredients of the mission school system. Uninspiring perhaps, maybe even repressive for an exuberant 10-year-old.

But at least it would give Nosipho an escape from the violence and from the relentless "Catch 22" of black schooling in South Africa. It goes like this. Underqualified black teachers teach black children who in turn become poor, barely literate teachers.

Six months before the end of the year Nancy's employer began searching for a mission school that would take Nosipho in the next academic year, which begins in January. She only received Xeroxed letters that all carried the same news: The school is full.

So Nosipho must struggle through another year of school in Edendale., She is on the waiting list for a mission school 50 miles away. Nancy expects she will be able to go there next year, if not sooner. In the meantime, she hopes that Nosipho doesn't lose her appetite for learning; that she doesn't become a victim of Edendale's violence; and that she develops a sufficiently tough veneer to survive another year of terrorized schooling.

Mr. METZENBAUM. Mr. President, I believe that there is a message here. I believe the message is a message to South Africa: South Africa, I think the world calls upon you to hear the plea of the children, hear the appeal of the blacks, hear the appeal of the world, acknowledge the facts. Apartheid is so demeaning, so wrong, so evil that it must come to an end.

There is no question about it, that, at some point, apartheid will come to an end. Certain things are inevitable and the end of apartheid is a certainty. The only question is: When?

The only issue is when and how many lives will be lost before that day arrives. But, in the interim, Nosipho and Nancy and millions of other blacks in South Africa who want nothing more for their children than a decent education are forced to pay the price for this despicable policy.

We here in Congress have a solemn obligation to speak out and to enact legislation bringing to bear on South Africa such pressures as will cause it to live righteously, humanely, and in a civilized way.

I believe that it is time that South Africa get the message that the world protests apartheid and apartheid is making all of the people of South Africa, the whites and blacks alike, and the children, particularly, pay a horrible price. South Africa, we call upon you, on your own, to take such steps as are necessary in order to bring apartheid to an end once and for all.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:42 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following resolution:

H. Res. 481. A resolution relative to the death of the Honorable John J. Duncan, a representative from the State of Tennessee.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4288. An act to designate the Federal building located at the corner of Locust Street and West Cumberland Avenue in Knoxville, TN, as the "John J. Duncan Federal Office Building".

At 4:20 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agreed to the amendments of the Senate numbered 18, 23, and 28 to the bill (H.R. 3251) to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the U.S. Congress; it agrees to the amendment of the Senate numbered 36 to the bill, with amendment, in which it requests the concurrence of the Senate; and that it disagrees to the amendments of the Senate numbered 1-17, 19-22, 24-27, 29-35, and 37-39 to the said bill.

The message also announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 2342) to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes, disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Merchant Marine and Fisheries, for consideration of the House amendment, and the Senate amendment, and modifications committed to conference: Mr. Jones of North Carolina, Mr. Hutto, Mr. Studds, Mr. Davis of Michigan, and Mr. Young of Alaska.

From the Committee on Ways and Means, as additional conferees for consideration of section 6 of the House amendment, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Pickle, Mr. Archer, and Mr. Vander Jagt.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4288. An act to designate the Federal building located at the corner of Locust Street and West Cumberland Avenue in Knoxville, TN, as the "John J. Duncan Federal Building"; to the Committee on Environment and Public Works.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4857. An Act to amend the Job Training Partnership Act to make a technical change.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 1776. A bill to modernize United States circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Constitution (Rept. No. 100-396).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 2560. An original bill to amend the Temporary Emergency Food Assistance Act of 1983 to require the Secretary of Agriculture to make available additional types of commodities, to improve child nutrition and food stamp programs, to provide other hunger relief, and for other purposes (Rept. No. 100-397).

Mr. METZENBAUM. Mr. President, I rise today to add my name in support of a measure which will help maintain the Federal Government's active role in our Nation's partnership to end hunger.

Working together, Federal, State, and local authorities, along with a multitude of nonprofit charitable organizations, have created a system of effective hunger relief programs. Clearly, we must do more, and we cannot allow existing programs that work correctly to be dismantled.

One of the most cost-effective hunger relief programs is the [TEFAP]—Temporary Emergency Food Assistance Program. I was proud to be among witnesses at the Agriculture Committee's hearings this past February who testified in support of TEFAP. The program utilizes surplus, Government-owned commodities which are simply sitting in Federal warehouses. This extra food is distributed through a network of community based nonprofit organizations which are uniquely positioned to get food to those most in need.

I am particularly proud of one such program based in my hometown of Cleveland. The Cleveland Food Bank has been delivering TEFAP and other assistance for nearly 10 years across some 20 Ohio counties. It has the potential to reach 625,000 needy people.

Mr. President, organizations such as the Cleveland Food Bank deserve all the support that the Federal Government can possibly provide. The Hunger Prevention Act of 1988 authorizes $145 million to continue funding TEFAP including the transportation and administrative requirements of the program. It also expands Federal nutrition assistance targeted to the most needy of our Nation's disadvantaged.

Mr. President, I ask unanimous consent that a letter from House Budget Committee Chairman WILLIAM GRAY III appear immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. METZENBAUM. In his letter, Chairman GRAY reviews some of the legislative hurdles we have overcome during our fight to reauthorize TEFAP. Chairman GRAY has been a thoughtful advocate of effective Federal nutrition assistance, and I am pleased to include his comments as part of my statement.

Mr. President, I urge my colleagues to support this measure. In the richest Nation on Earth, we cannot allow hunger to be so widespread. I will continue my past efforts in support of the TEFAP and other nutrition assistance, and I commend Agriculture Committee Chairman LEAHY for taking a leading role in combating this problem.

EXHIBIT 1

COMMITTEE ON THE BUDGET,
Washington, DC, June 20, 1988.

Hon. HOWARD M. METZENBAUM,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR METZENBAUM: I want to thank you for taking the time to write me regarding your deep concern about the future of the Temporary Emergency Food Assistance Program (TEFAP) and Federal hunger assistance to low-income groups.

As you know, the Conference on the Fiscal Year 1989 Budget Resolution turned out to be more prolonged and difficult than originally anticipated. One of the more difficult issues was the amount and kinds of nutritional assistance to be provided to the hungry and homeless. Although it was one of the last issues resolved by the Conference, I believe that both Chairman Chiles and I were happy with the levels of nutritional assistance that the conferees agreed to.

First, the Conference agreement assumes full funding of the food stamp program, which is the mainstay of our nutrition assistance programs. Second, the Conference agreement assumes the continuation of the TEFAP program of distributing surplus Federally-owned agricultural commodities, including $50 million funding for the administrative portion of the program, which pays for storage and transportation costs. The final good news is that the Conference Agreement assumes an additional $275 million to expand nutritional assistance funding targeted to low-income groups in fiscal year 1989, $525 million in 1990 and $575 million in 1991. This funding reflects the ongoing legislative efforts in both the House and Senate to meet the needs presented by the growing hunger crisis.

I want you to know that having your thoughts and concerns regarding the hunger issue was essential to our work in developing a budget resolution that meets the goal of achieving deficit reduction while providing for our most important national priorities. By stressing the importance of TEFAP to the State and communities of Ohio we obtain exactly the kind of expertise we need to make informed decisions.

I look forward to working with you in the future to protect and expand these kinds of programs, which are essential to the well-being of our citizens. Thank you once again for your important assistance.

Sincerely yours,

William H. Gray III,
Chairman.

By Mr. HARKIN, from the Committee on Appropriations, without amendment:

S. 2562. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenue of said District for the fiscal year ending September 30, 1989, and for other purposes (Rept. No. 100-398).

By Mr. CHILES, from the Committee on Appropriations, with amendments:

H.R. 4783. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes (Rept. No. 100-399).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER:

S. 2557. A bill to amend title 18 United States Code to permit the incarceration in Federal prisons of State prisoners sentenced to a State career criminal or habitual offender statute; to the Committee on the Judiciary.

By Mr. BENTSEN (for himself, Mr. Danforth, Mr. Byrd, Mr. Packwood, Mr. Sarbanes, Mr. Garn, Mr. Kennedy, Mr. Hatch, Mr. DeConcini, Mr. Thurmond, Mr. Glenn, Mr. Roth, Mr. Leahy, Mr. Chafee, Mr. Stennis, Mr. Heinz, Mr. Nunn, Mr. Bond, Mr. Chiles, Mr. Cohen, Mr. Johnston, Mr. D'Amato, Mr. Ford, Mr. Kasten, Mr. Bumpers, Mr. McClure, Mr. Cranston, Mr. Murkowski, Mr. Boren, Mr. Nickles, Mr. Inouye, Mr. Simpson, Mr. Heflin, Mr. Specter, Mr. Burdick, Mr. Trible, Mr. Melcher, Mr. Wilson, Mr. Pell, Mr. Adams, Mr. Baucus, Mr. Bingaman, Mr. Bradley, Mr. Breaux, Mr. Conrad, Mr. Daschle, Mr. Dixon, Mr. Dodd, Mr. Exon, Mr. Fowler, Mr. Gore, Mr. Graham, Mr. Harkin, Mr. Kerry, Mr. Lautenberg, Mr. Levin, Mr. Matsunaga, Mr. Metzenbaum, Ms. Mikulski, Mr. Mitchell, Mr. Moynihan, Mr. Pryor, Mr. Reid, Mr. Riegle, Mr. Rockefeller, Mr. Sanford, Mr. Sasser, Mr. Shelby, Mr. Simon, and Mr. Wirth):

S. 2558. A bill to enhance the competitiveness of American industry, and for other purposes; to the Committee on Finance.

By Mr. DURENBERGER:

S. 2559. A bill to amend the Agricultural Act of 1949 to revitalize the dairy industry; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY:

S. 2560. An original bill to amend the Temporary Emergency Food Assistance Act of 1983 to require the Secretary of Agriculture to make available additional types of commodities, to improve child nutrition and food stamp programs, to provide other hunger relief, and for other purposes; from the Committee on Agriculture, Nutrition, and Foresty; placed on the calendar.

By Mr. HARKIN (for himself, Mr. Kerry, Mr. Weicker, Mr. Kennedy, Mr. Hatch, Mr. Simon, Mr. Stafford, Mr. Adams, Mr. Cochran, Mr. Mohnihan, and Mr. Riegle):

S. 2561. A bill to establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HARKIN:

S. 2562. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenue of said District for the fiscal year ending September 30, 1989, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. ARMSTRONG (for himself and Mr. Wirth):

S. 2563. A bill to provide for the transfer of the Platoro Reservoir to the Conejos Water Conservancy District of the State of Colorado, and for the enhancement of fish habitat on the Conejos River; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 2564. A bill to increase the amount authorized to be appropriated for acquisition at the Women's Rights National Historical Park; to the Committee on Energy and Natural Resources.

By Mr. SARBANES (for himself and Ms. Mikulski):

S. 2565. A bill to remove certain restrictions on land acquisition for Antietam National Battlefield; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for Mr. Sasser (for himself and Mr. Gore)):

S. Res. 446. Resolution relative to the death of the Honorable John James Duncan, of Tennessee; considered and agreed to.

By Mr. DOLE (for Mr. Stevens (for himself and Mr. Murkowski)):

S. Con. Res. 126. Concurrent resolution to express the sense of the Congress with respect to drug and alcohol free cultural events for native peoples and to commend Spirit Days, Inc., for sponsoring a drug and alcohol free cultural event for Alaska Natives living in an urban environment; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 2557. A bill to amend title 18 of the United States Code to permit the incarceration in Federal prisons of State prisoners sentenced pursuant to a State career criminal or habitual offender statute; to the Committee on the Judiciary.

INCARCERATION OF STATE CAREER OR HABITUAL CRIMINALS IN FEDERAL PRISONS

● Mr. SPECTER. Mr. President, today I introduce legislation to house defendants convicted under state habitual offender and career criminal statutes in Federal prisons.

This legislation is necessary to help complete the actions taken by the Senate on April 13, 1988, when it passed amendment No. 1938 by an overwhelming vote of 76 to 13 during consideration of the Budget Resolution. The amendment that I offered would have transferred $125 million from function 920 (Government travel allowances) and allocated $100 million to function 750 (Administration of Justice) to fund prison construction and $25 million for function 800 (Treasury Department Agency which administers the Armed Career Criminal Act) to fund the Bureau of Alcohol, Tobacco, and Firearms Repeat Offender Program. The intent of the amendment to the budget resolution was to provide additional funding to the Federal Bureau of Prisons to construct new cells that would house State prisoners who are convicted under career criminal and habitual offender statutes. The amendment, however, was dropped in the House/Senate Conference Committee on the budget resolution. Thus this legislation, at this time, becomes necessary.

Mr. President, the bill I introduce would authorize an appropriation of $100 million each year for 5 years to construct sufficient cell space to house 16,000 prisoners. Use of these additional Federal cells to house State prisoners would serve the important goal of encouraging States to more effectively utilize their career criminal and habitual offender statutes.

As the former district attorney of Philadelphia and member of the Senate Judiciary Committee, I long have been concerned with the phenomenon of the career criminal—that small segment of the criminal population with repeated offenses that is responsible for a disproportionate share of violence. The critical need to target the habitual offender was also one of the major findings in 1973 by the National Commission on Criminal Justice Standards and Goals, of which I was a member. The Commission reported that career criminals, though comprising less than 10 percent of all persons arrested commit more than 70 percent of all offenses. One of the Commission's key recommendations included the need to incarcerate unrehabilitative repeat violent felons for lengthy periods. In reaching its conclusion that violent crime for profit can be cut in half, the Commission stressed the need for the allocation of far greater resources concentrated to correct the specific deficiencies that prevent the system for incapacitating the truly dangerous criminal. In this regard, I introduced legislation in the 98th and 100th Congresses to allocate 1 percent of the Federal budget for "domestic defense."

It is my view that the only way to deal with such hardened criminals is with stiff prison terms with no prospect for parole. It was this view that led to my sponsorship of the Armed Career Criminal Act which was enacted during the 98th Congress. This law provides for a mandatory 15-year sentence for felons with three prior convictions for armed robbery and armed burglary. My 1986 amendment modified that act to include serious drug offenses and violent felonies as predicate offices.

Although enactment of this new Federal law is an important step, more needs to be done to address the problem of career criminals. The Bureau of Alcohol, Tobacco, and Firearms [BATF] of the Treasury Department has primary responsibility for enforcement of this law, and has implemented a Repeat Offender Program in 20 of its 22 law enforcement districts across the country. In April 1988, BATF reported that it has attained 128 indictments, 57 convictions, and 14 enhanced sentences under the statute. Many of the crimes these individuals commit are State law offenses, and it is only through the aggressive enforcement of analogous State statutes that the problems caused by these career criminals can be addressed.

Mr. President, the legislation that I am introducing today provides the necessary encouragement for aggressive enforcement of State career criminal and habitual offender statutes. It says to State and local prosecutors and judges that when you have a career criminal you can use the full sanction available without concern for whether there is adequate space in State prisons to house offenders because a Federal jail cell will be available. This eliminates what in my experience is the single biggest obstacle to aggressive enforcement of State habitual offender and career criminal statutes—prosecutors' and judges' concern about the ability of State prison systems to absorb inmates with lengthy prison sentences who are not eligible for parole.

This alarming trend is documented by a 1987 National Institute of Justice study by Dr. Edwin W. Zedlewski. The study confirms the reluctance by State court judges to incarcerate otherwise eligible offenders due to prison overcrowding. Dr. Zedlewski states that "communities are paying far more by releasing repeat offenders than by expanding prison capacity." The prison overcrowding problem thus exacerbates the crime problem.

Mr. President, passage of this legislation is a necessary component of enacting the program this body agreed to on April 13, by a vote of 76 to 13 during consideration of the budget resolution.

Today, I call on my colleagues to support this authorizing legislation which is absolutely essential to ensure that additional Federal cells are constructed to house those dangerous criminals convicted under State habitual offender statutes.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2557

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§4013. Imprisonment of a State career criminal or habitual offender

"(a) Upon the request of a State, the Attorney General may provide for the confinement of any State prisoner incarcerated pursuant to a State career criminal or habitual offender statute in a Federal penal or correctional institution.

"(b) For purposes of this section, the term 'State career criminal or habitual offender statute' means a statute providing penalties similar to the penalties provided in section 924(3) of this title.".

(b) The chapter analysis for chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"4013. Imprisonment of a State career criminal or habitual offender.".

(c) There are hereby authorized to be appropriated $100,000,000 for fiscal years 1989, 1990, 1991, 1992, and 1993 to carry out section 4013 of title 18, United States Code, as added by this Act.●

By Mr. BENTSEN (for himself, Mr. DANFORTH, Mr. BYRD, Mr. PACKWOOD, Mr. SARBANES, Mr. GARN, Mr. KENNEDY, Mr. HATCH, Mr. DECONCINI, Mr. THURMOND, Mr. GLENN, Mr. ROTH, Mr. LEAHY, Mr. CHAFEE, Mr. STENNIS, Mr. HEINZ, Mr. NUNN, Mr. BOND, Mr. CHILES, Mr. COHEN, Mr. JOHNSTON, Mr. D'AMATO, Mr. FORD, Mr. KASTEN, Mr. BUMPERS, Mr. MCCLURE, Mr. CRANSTON, Mr. MURKOWSKI, Mr. BOREN, Mr. NICKLES, Mr. INOUYE, Mr. SIMPSON, Mr. HEFLIN, Mr. SPECTER, Mr. BURDICK, Mr. TRIBLE, Mr. MELCHER, Mr. WILSON, Mr. PELL, Mr. ADAMS, Mr. BAUCUS, Mr. BINGAMAN, Mr. BRADLEY, Mr. BREAUX, Mr. CONRAD, Mr. DASCHLE, Mr. DIXON, Mr. DODD, Mr. EXON, Mr. FOWLER, Mr. GORE, Mr. GRAHAM, Mr. HARKIN, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. MATSUNAGA, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SANFORD, Mr. SASSER, Mr. SHELBY, Mr. SIMON, and Mr. WIRTH):

S. 2558. A bill to enhance the competitiveness of American industry, and for other purposes; to the Committee on Finance.

(The remarks of Senators on this legislation appear elsewhere in today's RECORD.)

By Mr. DURENBERGER:

S. 2559. A bill to amend the Agricultural Act of 1949 to revitalize the dairy industry; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY INDUSTRY REVITALIZATION ACT

● Mr. DURENBERGER. Mr. President, I rise today to introduce the Dairy Industry Stabilization Act of 1988, and urge my colleagues to join me in support. Of all the sectors of our agricultural economy, none has sacrificed more, or suffered as much, as the traditional family sized farms of the Upper Midwest. Without expeditious action on this legislation, I fear that these farms, the bedrock of the heartland, may go the way of the horse and buggy. Such a loss would be both unnecessary and unwise.

In reviewing the changes which have been made in the Dairy Price Support Program over the last 8 years, it is a wonder that we haven't lost more dairy farms than we have. The fact that over 23,000 Minnesota farm families call themselves dairy farmers is more a testimony to their perseverance than it is to the profitability of the current Price Support Program.

The legislation I introduce today addresses two concerns raised by the dairy farmers I have spoken to in Minnesota. First, this bill will eliminate the Secretary of Agriculture's authority to reduce dairy price supports in 50 cents per hundredweight increments on January 1, 1989 and 1990, when net CCC removals exceed 5 billion pounds, milk equivalent. The provision is simple recognition of the sacrifices made by our dairy farmers. They have watched as their support price has fallen from $13.10 cents per hundredweight to $10.60 cents per hundredweight. They paid well over $1 billion in assessments to finance a whole herd buyout program. They have given enough. Failure to adopt this change will almost certainly leave thousands of family-sized dairy farms with no alternative but to leave farming.

Second, this bill replaces the ax represented by the potential 50 cents per hundredweight cuts with a financial incentive to producers—if they can keep CCC net removals below 5 billion pounds, milk equivalent, then the Secretary would be required to increase the support price by 50 cents per hundredweight. This provision is a minor modification of current law, which requires the Secretary to increase support prices when removals fall below 2.5 billion pounds, milk equivalent.

Mr. President, the combined impact of these two changes is to restore common sense in our national dairy policy and income protection for our producers. It recognizes what dairy farmers have been saying for the past 8 years—cuts in support prices will be met with increases in production; incentives to restrain production will be met with reduced production.

Mr. President, there are very few Members of Congress who can explain just how the dairy provisions in the 1985 farm bill are supposed to work. I dare say that few people in the industry or the Department of Agriculture could explain it to you either. The long awaited report from the National Dairy Commission received equal amounts of praise and criticism, as did the General Accounting Office's study of milk marketing orders. About the only thing that is certain is that change seems to be in order.

Perhaps the best barometer of the state of America's dairy industry is the number of dairy farms that have failed or left the industry in the last few years. Over 30,000 nationwide, and over 6,000 in Minnesota, have closed the doors on the milking parlor for the last time. It was a painful decision for each one of those family farms. And as my visits around my State have made clear, inevitably it will prove to be a painful decision for the community.

Mr. President, I wonder how many of my colleagues have considered just what it means when a dairy farmer "hangs up the stool." Off the top of my head, the following come to mind: one less stop for the milk truck to make on its trip to the creamery; one less member for the co-op; one less farmer to purchase feed and forage from his/her neighbors; one less source of tax revenue for the local school district; one less cup of coffee to fill at the local restaurant.

This year's drought, coming on the heels of the January 1, 1988, 50 cents per hundredweight price support cut, is proving to be the final blow for many of Minnesota's small dairy farmers. The first cutting of hay was short and inferior. The second cutting could be a total loss. Pasture land that should be green and growing is brown and shriveled. Higher feed grain prices may benefit those with adequate reserves in storage, but they make dairying an extremely expensive proposition for the beginning dairy farmer who lacks the resources to grow his/her own and has no choice but to purchase feed on the market.

I suspect that some may prefer a more targeted approach to the problems raised by the drought, and I am willing to look at their proposals. But I fear that we in Congress may spend so much time debating how to target relief that by the time we reach agreement on a proposal, it will be too late for Minnesota's dairy farmers. With the specter of wholesale failure facing the industry in the Upper Midwest, I suggest that it is time to give the family dairy farmer the benefit of the doubt and pass this bill.●

By Mr. HARKIN (for himself, Mr. KERRY, Mr. WEICKER, Mr. KENNEDY, Mr. HATCH, Mr. SIMON, Mr. STAFFORD, Mr. ADAMS, Mr. COCHRAN, Mr. MOYNIHAN, and Mr. RIEGLE):

S. 2561. A bill to establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes; to the Committee on Labor and Human Resources.

TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT

● Mr. HARKIN. I am pleased to introduce today, along with my colleagues Mr. KERRY, Mr. WEICKER, Mr. KENNEDY, Mr. HATCH, Mr. SIMON, Mr. STAFFORD, Mr. ADAMS, Mr. COCHRAN, Mr. MOYNIHAN, and Mr. RIEGLE, legislation that establishes a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities.

We all depend on technology every day. From toasters to computers, technological advances make our lives easier at home, work, and play. For some individuals with disabilities, the provision of assistive technology devices can play a particularly critical role by enabling them to have greater control over their lives; participate in activities in their home, community, and school and work settings; and benefit from opportunties that are taken for granted by individuals who do not have disabilities.

These assistive technology devices can be very sophisticated and complex, such as a computer that augments a person's speech or converts spoken conversation to text, or a computer that can be controlled by eye movements. But they also include such simple things as a flashing light that enables a deaf person to know when someone is ringing their doorbell, or a toy with a switch that has been adapted so it can be used easily by a child with a disability.

Last July, I wrote a letter to over 100 individuals with disabilities, organizations representing persons with disabilities, State agency representatives, business leaders, and experts in providing services to persons with disabilities, letting them know of my plans to develop comprehensive national assistive technology legislation, and my intention to hold hearings before the Subcommittee on the Handicapped, which I chair. In that letter, I asked for their participation in those efforts.

Since then, my staff and I have spent considerable time obtaining input from these people and others in identifying the important issues, and in developing a strategy that will work to fill in the gaps in the current service delivery systems.

On May 19 and 20 of this year, hearings on assistive technology for persons with disabilities were held before the Senate Subcommittee on the Handicapped. At these hearings we heard testimony from 18 witnesses, many of whom have disabilities and use assistive technology. We heard from groups such as United Cerebral Palsy Association, the Association for Retarded Citizens, and Self Help for the Hard of Hearing. We also heard from private industry representatives, including IBM, and the Electronic Industries Foundation. We heard from State governments, including departments of vocational rehabilitation and special education, and the director of the Minnesota Governor's Initiative on Technology for People with Disabilities. And we heard from experts on financing systems and costs and benefits.

One of the witnesses at the hearing was Denny Theesfield, a farmer from my home State of Iowa. Denny thought that he would never be able to farm again after he returned from Vietnam with injuries that left him a paraplegic, and so he went about selling his family farm. But after his uncle and cousin adapted a tractor for him, Denny found that he was able to continue in his proud family tradition of farming. Another witness was Leo Lucas, a 45-year-old man with cerebral palsy who was never able to attend public school because of his disability. Now, with the aid of an augmentative communication device, Leo is attending Northeastern University and doing well.

And, we heard from Teddy Pendergrass, the well-known popular singer who became paralyzed after a car accident in 1982. Teddy told us how important the role of the consumer is in developing individual plans for assistive technology. He is now continuing his career as a singer, songwriter, and record producer after simple adaptations to a sophisticated computerized musical synthesizer made it accessible to him.

Along with the hearings we held a demonstration of assistive technology where Senators, their staffs, and the public had a chance to "try out" different kinds of technology. There were computers that could "read" a book to a blind person, toys with adapted switches that could be easily used by children with handicaps, and simple household gadgets that had been modified to be used by people with mobility impairments. There were sophisticated wheelchairs, and a recumbent bicycle that could be wheeled using arm instead of leg motion. And there was much more than that, all kinds of devices that could be used by elderly people or people with handicaps of all types—whether visual, auditory, cognitve, or mobility—to increase their functioning at work, at school, and in independent living.

All of this information—from the hearings, responses to my letter, and our meetings with people—led us to identify five major themes for Federal legislation.

First, the possibilities for using assistive technology to change the lives of people with disabilities are immense. And I emphasize the word "possibilities," because while the significant benefits of assistive technology for persons with handicaps are clear, it is also clear that this technology is simply not reaching most of these people.

Second, while technology is often a luxury for individuals who are not disabled, for some individuals with disabilities technology is a necessity that enables them to be more independent, productive, and integrated into the mainstream of society. It benefits them without regard to their ages, the nature or extent of their disabilities, or the functions that they perform. And it can benefit them in all areas—early intervention programs, education, rehabilitation and training, employment, residential living, recreation, and other aspects of their daily living.

Third, the use of assistive technology devices and services by individuals with disabilities is cost effective—it can reduce the costs of disabilities to society, by reducing costs of education, rehabilitation, health care, transportation, and telecommunication services.

Fourth, States don't have comprehensive programs for making technology-related assistance available to people with disabilities. They lack resources, trained personnel, and information about the potential of technology available to assist individuals with disabilities. And the various programs that do provide technology aren't coordinated, particularly when individuals must make a transition between programs, such as a young person leaving the education system and entering the systems serving adults. Simply put, most States currently just don't have the capacity to provide consumer-responsive statewide programs of technology-related assistance for individuals with disabilities.

Finally, we found that we should be doing more at the Federal level. There are some programs that provide funding for the provision of assistive technology devices or services. But, there is little, if any, coordination between these programs. And the Federal Government doesn't provide enough in the way of adequate assistance and information to States to enable them to develop and implement consumer-responsive statewide programs of technology-related assistance for individuals with disabilities.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 responds to each of the findings from our hearings and our research.

It is bipartisan, consensus legislation. In developing the bill, I worked closely with my colleague and good friend Senator KERRY. I also worked closely with Senator WEICKER, the ranking minority member of the subcommittee, and Senators KENNEDY and HATCH, the chairman and ranking minority member of the Committee on Labor and Human Resources, as well as with the other Senators cosponsoring the legislation. And I also worked closely with our colleagues from the other body who are introducing a companion bill. Finally, we received invaluable input from the Coalition on Technology and Disability, a group consisting of representatives from over 50 advocacy, provider, and consumer organizations working together for legislation on assistive technology.

The bill has two titles. The overall purpose of title I is to assist States develop and implement consumer-responsive statewide programs of technology-related assistance for individuals with disabilities so that such individuals may acquire information about and obtain assistive technology devices and services. This title also authorizes the Secretary of Education to provide technical assistance to assist States to respond fully and effectively to the charge to develop statewide programs.

Title I establishes a competitive grant program, in which up to 10 States may enter the first year, 20 additional States the second year, and the remaining States the third year. A State that competes successfully receives a 3-year grant, and then must submit another application for 2 more years of funding, for a total of 5 years. Funding per State per year is $500,000 to $1 million in years 1 and 2 and $500,000 to $1,500,000 in years 3, 4, and 5.

It is anticipated that these grants will function as a catalyst for increasing the availability of and funding for assistive technology devices and services. The specific purposes of grants are to: increase awareness of the needs of individuals with disabilities for assistive technology devices and services; increase awareness of policies and practices that facilitate or impede the availability and provision of such device and services; increase the availability of and funding for such devices and services; increase awareness and knowledge of the efficacy of such devices and services by such individuals, their families, and other individuals including service providers, employers, and insurers; increase the capacity of public and private entities to provide and to pay for such devices and services; and increase the likelihood that individuals with disabilities will be able to retain devices as they make a transition from one environment or service system to another.

States are given considerable discretion in setting up statewide programs, although specific suggestions are included in the legislation. In developing and implementing a statewide program a State may elect to accomplish the purposes described above through such functions as—identification and evaluation of needs; provision of assistive technology devices and services; dissemination of information, training and technical assistance, a public awareness program, assistance to community-based organizations, partnerships and cooperative initiatives, collection of program data, and procedures for involvement of concerned individuals. Suggested uses of funds to carry out the purposes of the grant include, but are not limited to—using funds for model delivery systems, a statewide needs assessment, public awareness programs, training and technical assistance, an information system, and interstate agreements.

The authorization of appropriations for title I in fiscal year 1989 is $9,000,000, and such sums as may be necessary in the 4 succeeding years.

Title II authorizes a variety of discretionary activities and studies, including a study of the financing of assistive technology and services, and a study of the feasibility and desirability of establishing a national information and programmatic referral network on technology-related assistance. It also supports training and public awareness grants to increase the knowledge and effective use of assistive technology devices and services; and funds demonstration and innovation projects related to model projects for delivery of assistive technology devices and services, applied research and development in assistive technology devices and services, and a loan program for assistive technology services.

The bill authorizes to be appropriated for title II—except the model projects for delivery of technology-related assistance—$5 million for fiscal year 1989 and such sums as may be necessary for the 4 succeeding years. The bill authorizes to be appropriated for the model projects for the delivery of assistive technology devices and services $1.5 million for fiscal year 1989 and such sums as may be necessary for the 4 succeeding fiscal years.

There is no doubt that the time has come—indeed, it is overdue—for the Federal Government to assist individuals with disabilities obtain needed assistive technology devices and services. I urge my colleagues to support this important effort.●

● Mr. KENNEDY. Mr. President, I am pleased to join my colleagues today in support of the Technology Related Assistance for Individuals with Disabilities Act of 1988. The Senate and House staffs have worked long and hard to put together a comprehensive package, and I believe the legislation we are introducing today will take an important step toward providing our Nation's disabled citizens with assistive technology devices.

Last month, the Senate Subcommittee on the Handicapped held hearings on the dramatic differences that assistive technology can make in the lives of the disabled. In conjunction with the hearing, the subcommittee invited dozens of companies to the Congress to demonstrate these remarkable devices. The Kurzweil Co. in my own State of Massachusetts has developed a machine that can actually read the text of a book or magazine, by converting it to a computerized voice.

At the demonstration, I met Leo Lucas, a student at Northeastern University. Leo has cerebral palsy and communicates through a device called the touch talker. Without it he could not attend college or pursue his degree in psychology.

Without these technological innovations, many disabled individuals would be unable to attend school, find jobs, or become participating and productive members of society. The cost is low, and the benefits are extremely high. Assistive technology is truly revolutionizing life for the disabled.

Despite the many proven successes of assistive technology, many States have not developed comprehensive delivery networks because of the recent emergence of assistive technology and the lack of funds available to States to develop systems. The legislation Senator HARKIN is introducing today will provide States with funding to develop systems that best meet the needs of the population they will serve. This bill allows States much flexibility in designing a system. I am particularly pleased with this because it essentially allows to Congress to learn from programs developed by States and will provide Congress with a wealth of knowledge to fashion future legislation.

Some States have assistive technology delivery services in place, and other States are just beginning to tap the rich potential of assistive technology. I hope that the States which have a system in place will use their State grants to provide direct service delivery. In States that are just beginning to put a system in place, I urge them to experiment with various options, but to also make a concerted effort to provide direct services to consumers.

The Technology Related Assistance for Individuals with Disabilities Act of 1988 directs the National Council on the Handicapped to conduct a study on the financing of assistive technology devices and services. The National Council will report to Congress and the executive branch on major untapped sources of funding that can help provide assistive technology devices to disabled Americans.

I am proud to say that two of the most effective leaders in this new age of opportunity are my colleagues—TOM HARKIN of Iowa and JOHN KERRY of Massachusetts. Senator HARKIN's strong commitment to producing an assistive technology bill is the reason we are introducing this comprehensive legislation today. Senator KERRY introduced legislation earlier in the 100th Congress, the Technology to Educate Children with Handicaps Act, and has provided useful insight into the development of this bill. We are truly indebted to them for their leadership on this important issue.

Mr. President, I urge my colleagues to support this legislation.●

● Mr. SIMON. Mr. President, I am pleased to be joining the chairman of the Subcommittee on the Handicapped, Senator HARKIN, in the effort to bring the full benefits of modern technology to our citizens with disabilities. The Technology Related Assistance for Individuals with Disabilities Act of 1988 is not a pie-in-the-sky kind of promise that we can't hope to fulfill. It is a solidly crafted piece of legislation that will pull together the resources, the expertise, and the technology to make a significant difference in the lives of people with disabilities.

This legislation will be a catalyst for increasing the availability of assistive technology devices. It will greatly increase knowledge about the technology that is available. It will make people with disabilities, their families, educators, rehabilitation professionals, and potential employers, and others aware of the benefits of assistive technology. It will help develop ways to overcome the barriers that prevent people who could benefit from assistive devices from acquiring them. It will give support to the efforts of those who are training people with disabilities and their family members in the use of assistive technology devices. And by increasing their use, it will help bring down the cost of highly specialized devices.

I was pleased we had as a witness during the subcommittee hearings Sally de Vincentis, the director of the National Lekotek Center in Evanston, IL. Lekoteks are resource centers for families whose children have special needs. To help children with severe handicaps communicate and participate, the National Lekotek Center developed a computer project. They are working to develop software programs that simulate normal childhood experiences. The Lekotek family resource centers being established across the country are one example of the type of support group that can be assisted through this legislation and can be an effective network for the distribution of technology.

We all use technology in our lives today. It enhances our productivity and, in general, makes our lives a little easier. But for many people with disabilities, having the appropriate technological assistance can mean the difference between being dependent or independent; between holding a job or collecting unemployment; between having others make all of their decisions, or being able to make decisions for themselves in the most basic and fundamental areas of their lives.

The technological solution to the challenge of a disability can be as uncomplicated as making a glove with a built in wrist support so that a logger who has lost two fingers can continue to use a chain saw and continue to hold his job. Or it can be as complex as a computer system with voice recognition capabilities that is linked to everything from a television set to a vibration massage pad and videocassette recorder. This type of environmental control system can help a person like Daryl Smith of Alabama, an extraordinary person who has the use of only his high intelligence and one index finger, to pursue a career in the field of psychology. Or, as we were told by the Association of Retarded Citizens, it can give a 42-year-old woman with profound mental retardation, someone who has always been completely dependent on others, the first chance she has ever had to exercise some basic freedom of choice and control in her life.

As one of the witnesses before our subcommittee stated, technology and the support of its delivery is a key ingredient in a society that is both politically and economically committed to full integration of people with disabilities in all phases of society, including employment.

I share the hope of my colleagues who are cosponsoring this bill that we are taking a long step toward the fulfillment of that commitment.●

Mr. KERRY. Mr. President, I am pleased to join with several of my colleagues today in introducing legislation which establishes a blueprint for States to help them begin to address the technology needs of all handicapped citizens. The Technology-Related Assistance for Individuals With Disabilities Act of 1988 is designed to assist States in their planning efforts so that down the road they can provide technology-related assistance to disabled Americans that will enable them to lead more independent and productive lives.

Mr. Chairman, as the former ranking member on the Subcommittee on the Handicapped, I have had the opportunity to witness first hand the difference that assistive device technology can make for a handicapped person. Whether it is adapting a wheelchair with a special seating system or providing a nonspeaking person with an augmentative communication device, adaptive device technology can mean the difference for a disabled person between participating in school and sitting alone in a corner of a classroom; being gainfully employed or languishing at home. For that reason, in the beginning of 1987, I set out to establish a legislative initiative which would enable handicapped infants, children and youth to have access to necessary technology and adaptive devices at formative age.

After working with rehabilitation engineers, educators, therapists, State officials, and many other experts in the field, last year I introduced S. 1586 the Technology To Educate Children With Handicaps Act, known to many as the TECH Act. The TECH Act is straighforward. It was designed to address the problems that families and individuals currently face when trying to gain access to technology and to establish assistive device and technology resource systems nationwide. Mr. President, the bill being introduced today embodies that same concept. As one who offered the first legislation in this area, I am proud to further the process along by supporting the legislation being introduced today by my good colleague and the chairman of the Subcommittee on the Handicapped, Senator HARKIN.

Mr. President the benefits of assistive device technology are overwhelming. They offer handicapped individuals the chance to focus on their abilities, particularly persons who are severely handicapped. Technology permits severely handicapped persons to participate and contribute at home, at school, in the workplace, and in social and recreational settings. For many with severe disabilities, without assistive device technology, these activities would be impossible. In addition when individuals with special needs are more active and productive members of society, the cost to assist these individuals are reduced as they become more independent.

In particular, Mr. President, the cost benefit to help children with disabilities access technology is very great. Helping children maximize their potential through technology at the front end of their lives, will diminish the creation of barriers as well as limit the need for costly services later on. The ability of special needs children to develop their cognitive, social skills at the beginning means entering society and school with an advantage that would otherwise not exist. Assistive technologies offers kids a very real legup. If a child's disability is compensated for through technology during the formative years then the stage is set for them to receive a decent education. If they are assisted through technology to be independent in the classroom then their expectations and abilities to achieve greater independence when they finish school and prepare for the work force will be greatly enhanced. Mr. President getting assistive device technologies into the hands of our youngsters is truly a worthwhile investment.

The legislation that we are introducing today will help States coordinate existing services, get the private sector involved with their efforts as well as determine and plan for what they need to set up statewide assistive device delivery systems.

One provision in the bill which is particularly important to me is the model projects for delivering assistive technology devices and services. This section of the act will enable model programs which currently exist to receive Federal dollars to deliver direct services. While States are planning and developing for their future statewide systems, actual services will be delivered at the same time.

In my own State, for example, there are a number of assistive device technology centers that are fully operative and delivering quality services to many handicapped citizens in the Commonwealth. These centers and programs in other States could really benefit from additional funds to expand their programs and increase the number of handicapped persons that they are currently serving. And even more important is the fact that many of the current assistive device technology programs can serve as true national models for delivering services both statewide and nationally. And lastly, Mr. President, ensuring that services will be delivered this year with the help of Federal dollars, means that we will be giving a few extra children an advantage that they may otherwise have to forgo, or helping an adult receive a job that without adaptive technology would be given to someone else. So, Mr. President, I strongly endorse the concept provided in these model service delivery grants.

In closing let me reiterate my support for this legislation. Today the race continues to develop new and better technologies to serve mankind. While the technology revolution is upon us, redesigning the way we work, learn, and recreate, we as lawmakers have a responsibility to tap into these resources and adapt such changes to benefit individuals with disabilities. The legislation that we are introducing today lays the groundwork for such a system that will provide handicapped Americans with the necessary access to the technology revolution, and I urge my colleagues to join us in cosponsoring this worthy initiative.

● Mr. WEICKER. Mr. President, I am pleased to be an original cosponsor of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, and want to commend my colleague, Senator HARKIN, for his leadership in ensuring that this legislation represents a comprehensive approach to delivery of assistive technology services for people with disabilities. Hearings recently held by the Subcommittee on the Handicapped examined ways to promote the use of assistive technology for people with disabilities, and provided a blueprint for eliminating many of the barriers which impede their access to these important services and devices.

In recent years there has been a tremendous growth in the rate of technological innovation. Indeed, we all hear daily of new developments in this area, and these developments certainly enrich our lives. But for people with disabilities, particularly people with severe disabilities, technology has clearly become one of the most important innovations for assisting them in leading independent, productive lives.

The importance of technology in lives of disabled individuals was strongly reinforced at the subcommittee hearings. Led by Senator HARKIN, the subcommittee examined a wide range of needs and barriers to making technology services and devices available for people with disabilities. Because the impact of the advances in technology is much greater when you actually see what can be accomplished, the subcommittee, assisted by the coalition on technology and disability, made available a demonstration of the multiple ways in which technology can enhance the daily lives and activities of people with disabilities. Toys can be adapted so that even very severely disabled children can play as would a nondisabled child. Sophisticated devices devices such as electronic communication devices can enable individuals who cannot speak to express themselves. Environmental control devices can permit people with limited functional abilities to operate telephones and direct the use of a pencil or other utensil. And these are just a few examples of the exciting developments in the area of assistive technology. As a result of these advances, disabled individuals are becoming increasingly integrated into our educational system, our work force, and our communities.

But during the hearings we also learned that individuals who need assistive technology face a number of problems in obtaining necessary services and devices. There is no single, identifiable source one can use to obtain information about assistive technology. And, coordination at the Federal level is lacking.

For example, provisions for assistive technology exist under part G of the Education of the Handicapped Act which expand the use of technology for disabled children. Through assistive technology in the classroom, disabled children can be integrated into the educational system with their nondisabled peers.

The Rehabilitation Act Amendments of 1986 also include numerous provisions to increase the availability of rehabilitation technology in State rehabilitation systems. Indeed, often the provision of a very simple technological service or device can make the difference between employment and productivity, or unemployment and dependence, for many people with disabilities.

But what current legislation does not do is facilitate a comprehensive approach at either the Federal, State, or local level for the utilization of assistive technology.

The bill being introduced today will enable States to develop comprehensive and coordinated systems for providing assistive technology to disabled individuals. It will allow for analysis of the financial disincentives which prevent people with the devices and services they need. The bill will also enable the Secretary of Education to determine the feasibility of establishing a national information and referral network. Further, the bill addresses the need for training and public awareness by authorizing grants to collect information about available assistive technology and to educate consumers and providers through national media campaigns, conference, and public recognition programs. This heightened awareness would target employers, commercial developers of technology and insurers in providing the acquisition of and funding for services.

For most people technology makes things easier. For disabled persons technology makes things possible. The challenge is to stay abreast of the rapid technological advances and make them available to those people with disabilities who need them. I believe that the bill we are introducing today will assist us in that challenge. The chairman's leadership in this effort is to be commended and I look forward with Senator HARKIN, Senator KERRY, and members of the subcommittee to ensure the swift passage of this legislation.●

By Mr. ARMSTRONG (for himself and Mr. WIRTH):

S. 2563. A bill to provide for the transfer of the Platoro Reservoir to the Conejos Water Conservancy District of the State of Colorado and for the enhancement of fish habitat on the Conejos River; to the Committee on Energy and Natural Resources.

TRANSFER OF PLATORO RESERVOIR AND ENHANCEMENT OF FISH HABITAT ON THE CONEJOS RIVER

● Mr. ARMSTRONG. Mr. President, today I am introducing, with my fellow Senator from Colorado, S. 2563 transferring title of Platoro Reservoir to the local irrigation district, and providing for the enhancement of fish habitat on the Conejos River.

Platoro Reservoir is in southern Colorado. The reservoir was built in 1951 by the Bureau of Reclamation as part of the San Luis Valley irrigation project. Because of the administration of the interstate Rio Grande compact, the reservoir has never been used for its intended purpose of agricultural irrigation.

The Conejos Water Conservancy District is the local governmental agency with the repayment obligation to the United States. The Conejos District will make an advance lump sum payout of $500,000, which is the present value of its future obligation under the repayment contract, taking into account the Federal savings of operation and maintenance costs.

The reservoir and underlying lands are to be transferred to the district, which will assume all responsibility for operation and maintenance of the dam. The water uses of the Conejos District will assume the risk and responsibility of making this irrigation project work. Only through an aggressive local water management program can the irrigation benefits of the project finally be realized.

In addition, the bill provides instream flows in the Conejos River. Platoro was planned in the 1930's and 1940's, and built in 1951—all before NEPA or the Fish and Wildlife Coordination Act. No instream flows were provided below the dam. Now, due to agreements with the Bureau, the Forest Service, and the State of Colorado, we can anticipate the Conejos District providing for such flows by releasing water that otherwise would have been used for irrigation. This reduced yield for irrigation will be compensated by the further reduction in the lump sum payout price. Because the State holds water rights which will protect these released waters, and because of the State's provision of low-interest financing to the Conejos District, the result is a three-way shared interest in this project.

From the Federal perspective, the effect of the transfer is to discount and sell a questionable loan. Project costs owed by the Conejos Water Conservancy District were to be repaid within 40 years. However, the 40 year repayment period did not start ticking until water was available to the district for irrigation. Water from the reservoir has not been available because Colorado owed water to Mexico under the 1939 Rio Grande compact. Under this interstate compact, Colorado cannot store water in post-compact reservoirs if Colorado owes a water debt under the compact. Not until 1985, due to recent high water years, was the compact water debt finally paid. Consequently, Conejos District has paid virtually nothing on its obligation to the government because it has received almost no water from the project.

Also, the risk of compact problems and the task for implementing an aggressive water management program is passed to local water users with this legislation.

From the Conejos District's perspective, the effect of the bill is direct responsibility for the success of the project and freedom from Federal bureaucratic overhead which renders efficient financial and water management of the reservoir extremely difficult.

Platoro Reservoir is located in one of the economically hardest hit rural counties in the State of Colorado. Local operation of Platoro Reservoir is seen as a key economic issue in that rural county. The Colorado Legislative eagerly provided funding to the district in the form of a grant and loan package allowing this transfer to proceed.

The Bureau of Reclamation, the State of Colorado and the Conejos Water Conservancy District support transfer of title of Platoro Reservoir to the Conejos District. Local water users are willing and able to take a Federal irrigation project which has not worked, and manage it efficiently and responsibly to ensure its success. Intergovernmental agreements with water users address instream flow. Recreational use of the reservoir will continue. This bill makes good sense financially and environmentally for the Federal Government, people enjoying the outdoors, and the Conejos District irrigators and I urge your support.●

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 2565. A bill to remove restrictions on land acquisition for Antietam National Battlefield; to the Committee on Energy and Natural Resources.

REMOVAL OF RESTRICTIONS ON LAND ACQUISITION FOR ANTIETAM NATIONAL BATTLEFIELD

● Mr. SARBANES. Mr. President, as we all know, the Civil War shaped the course of American history. Preserving the battlefields of this historical watershed is of great importance not only to historians, but also to the education of our children and grandchildren.

Antietam National Battlefield in Sharpsburg, MD, the site of the bloodiest day of the Civil War, is one of the few Civil War battlefields virtually untouched since the war. The preservation of this battlefield, however, is endangered by increasing pressure to develop farmland. Indeed, one of the most significant battlefield sites at Antietam—the cornfield where more than half of the casualties occurred—is totally unprotected from development.

I am therefore introducing legislation today which will enable the National Park Service to acquire land from voluntary sellers or donors within Antietam's boundaries. I am very pleased that my colleague from Maryland, Senator Mikulski, is joining me in this effort. Currently, the Park Service is allowed to purchase outright only 600 acres. There are, however, almost 1,200 acres of battlefield land that are unprotected. Although the Service is permitted to acquire scenic easements from landowners within Antietam boundaries, this power is not sufficient to preserve the area.

Many landowners do not wish to sell scenic easements because such easements may decrease the market value of their land. Further the acquisition of a scenic easement does not give the Park Service authority to conduct necessary preservation activities on the land. In order to give the Park Service maximum flexibility in acting to preserve this national landmark, we must allow the Service to acquire fee simple title to lands within park boundaries when they feel it is required to preserve the character of the site. That is the essence of this important bill.

Mr. President, I urge my colleagues to support this legislation to preserve Antietam National Battlefield.●

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. Moynihan, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 554

At the request of Mr. McConnell, the name of the Senator from Kansas [Mr. Dole] was added as a cosponsor of S. 554, a bill to provide greater certainty in the availability and cost of liability insurance, to eliminate the abuses of the tort system, and for other purposes.

S. 684

At the request of Mr. Heinz, the names of the Senator from North Dakota [Mr. Burdick], and the Senator from California [Mr. Wilson] were added as cosponsors of S. 684, a bill to amend the Internal Revenue Code of 1986 to make permanent the targeted jobs credit.

S. 1340

At the request of Mr. Pryor, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of S. 1340, a bill to provide for computing the amount of the deductions allowed to rural mail carriers for use of their automobiles.

S. 1787

At the request of Mr. Daschle, the name of the Senator from Rhode Island [Mr. Chafee] was added as cosponsor of S. 1787, a bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service during the Vietnam era.

S. 1848

At the request of Mr. Kerry, the name of the Senator from New Mexico [Mr. Bingaman] was added as cosponsor of S. 1848, a bill to authorize a Minority Business Development Administration in the Department of Commerce.

S. 1851

At the request of Mr. Metzenbaum, the name of the Senator from Alabama [Mr. Shelby] was added as cosponsor of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 1942

At the request of Mr. Moynihan, the name of the Senator from Texas [Mr. Bentsen] was added as a cosponsor of S. 1942, a bill to amend title 13, United States Code, to remedy the historic undercount of the poor and minorities in the decennial census of population and to otherwise improve the overall accuracy of the population data collection in the decennial census by directing the use of appropriate statistical adjustment procedures, and for other purposes.

S. 1947

At the request of Mr. Ford, the name of the Senator from Colorado [Mr. Wirth] was added as a cosponsor of S. 1947, a bill to authorize the acquisition of the Old City Post Office in the District of Columbia by the Architect of the Capitol.

S. 2119

At the request of Mr. Heinz, the name of the Senator from New York [Mr. D'Amato] was added as a cosponsor of S. 2119, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion from income of amounts received under qualified group legal services plans.

S. 2182

At the request of Mr. Mitchell, the name of the Senator from Tennessee [Mr. Gore] was added as a cosponsor of S. 2182, a bill to amend title XVIII of the Social Security Act to increase the amount authorized for the patient outcome assessment research program, and for other purposes.

S. 2199

At the request of Mr. Chafee, the name of the Senator from Connecticut [Mr. Weicker] was added as a cosponsor of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2274

At the request of Mr. Grassley, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of S. 2274, a bill to authorize and encourage Federal agencies to use mediation, conciliation, arbitration, and other techniques for the prompt and informal resolution of disputes, and for other purposes.

S. 2330

At the request of Ms. Mikulski, the names of the Senator from Hawaii [Mr. Matsunaga], the Senator from Indiana [Mr. Lugar], the Senator from Wisconsin [Mr. Kasten], and the Senator from North Dakota [Mr. Conrad] were added as cosponsors of S. 2330, a bill to promote the integration of women in the development process in developing countries.

S. 2454

At the request of Mr. Boschwitz, the name of the Senator from Nebraska [Mr. Karnes] was added as a cosponsor of S. 2454, a bill to seek the eradication of the worst aspects of poverty in developing countries by the year 2000.

S. 2469

At the request of Mr. Heinz, the names of the Senator from Rhode Island [Mr. Pell], the Senator from Vermont [Mr. Stafford], the Senator from Michigan [Mr. Levin], the Senator from New York [Mr. D'Amato], the Senator from South Carolina [Mr. Hollings], and the Senator from Virginia [Mr. Trible] were added as cosponsors of S. 2469, a bill to amend chapters 83 and 84 of title 5, United States Code, to expedite the processing of retirement applications of Federal employees, and for other purposes.

S. 2477

At the request of Ms. Mikulski, the name of the Senator from Connecticut

[Mr. Weicker] was added as a cosponsor of S. 2477, a bill to amend the Public Health Service Act to modify the authority for the regulation of clinical laboratories to require licensed laboratories to qualify under proficiency testing programs, and for other purposes.

SENATE JOINT RESOLUTION 270

At the request of Mr. Nickles, his name was added as a cosponsor of Senate Joint Resolution 270, a joint resolution designating June 26 through July 2, 1988, as "National Safety Belt Use Week."

At the request of Mr. Riegle, the names of the Senator from Montana [Mr. Baucus] and the Senator from Massachusetts [Mr. Kerry] were added as cosponsors of Senate Joint Resolution 270, supra.

SENATE JOINT RESOLUTION 271

At the request of Mr. Quayle, the name of the Senator from Ohio [Mr. Metzenbaum] was added as a cosponsor of Senate Joint Resolution 271, a joint resolution to designate August 20, 1988, as "Drum and Bugle Corps Recognition Day."

SENATE JOINT RESOLUTION 295

At the request of Mr. DeConcini, the name of the Senator from Indiana [Mr. Lugar] was added as a cosponsor of Senate Joint Resolution 295, a joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 304

At the request of Mr. Lautenberg, the names of the Senator from Nebraska [Mr. Karnes] and the Senator from Texas [Mr. Bentsen] were added as cosponsors of Senate Joint Resolution 304, a joint resolution designating July 2, 1988, as "National Literacy Day."

SENATE JOINT RESOLUTION 342

At the request of Mr. Moynihan, the names of the Senator from Florida [Mr. Chiles], the Senator from Hawaii [Mr. Matsunaga], the Senator from Connecticut [Mr. Dodd], the Senator from Maine [Mr. Mitchell], and the Senator from Virginia [Mr. Warner] were added as cosponsors of Senate Joint Resolution 342, a joint resolution to designate the week of November 28 through December 5, 1988, as "National Book Week."

SENATE CONCURRENT RESOLUTION 117

At the request of Mr. Chiles, the name of the Senator from Michigan [Mr. Levin] was added as a cosponsor of Senate Concurrent Resolution 117, a concurrent resolution to express the sense of the Congress regarding relief for the United States Citrus Industry under section 301 of the Trade Act of 1974 and other appropriate relief.

SENATE RESOLUTION 442

At the request of Mr. Trible, the name of the Senator from Nebraska [Mr. Karnes] was added as a cosponsor of Senate Resolution 442, a resolution expressing the sense of the Senate that the President should convene an International Conference on Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere.

SENATE CONCURRENT RESOLUTION 126—RELATIVE TO DRUG EDUCATION FOR ALASKAN NATIVES

Mr. DOLE (for Mr. Stevens, for himself and Mr. Murkowski) submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 126

Whereas, Spirit Days, Inc., a non-profit corporation, was formed in Alaska in 1986 to maintain the cultural integrity of Alaska's Native people who live in an urban environment and to provide an opportunity for Alaska's Eskimos, Aleuts, and Indians to celebrate their unique heritage in a drug and alcohol free environment;

Whereas, the mission of Spirit Days, Inc. is to foster the self-respect and self-confidence of individual Natives, to share with the Alaskan public the rich history of Native social and spiritual traditions, and to celebrate the cultural heritage of Alaska Natives;

Whereas, Spirit Days 1988 will be a drug and alcohol free event;

Whereas, Spirit Days 1988 will be held June 24-26 ion Anchorage, Alaska and will mark the fourth annual celebration of Alaskan and American Native heritage;

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) Congress strongly supports and encourages drug and alcohol free events to celebrate the rich and diverse heritage of America's Native peoples;

(2) Congress believes it is important for Native Americans living in an urban setting to have the opportunity to maintan a link with their culture; and

(3) Congress commends Spirit Days, Inc. for the role it has played in providing a drug and alcohol free cultural event for urban Eskimos, Aleuts, and Indians in Alaska.

SENATE RESOLUTION 446—RELATIVE TO THE DEATH OF THE HONORABLE JOHN J. DUNCAN, OF TENNESSEE

Mr. BYRD (for Mr. Sasser, for himself and Mr. Gore) submitted the following resolution; which was considered and agreed to:

S. Res. 446

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable John James Duncan, late a Representative from the State of Tennessee.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

AMENDMENTS SUBMITTED

PLANT CLOSING LEGISLATION

McCONNELL AMENDMENT NO. 2428

(Ordered to lie on the table.)

Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill (S. 2527) to require advance notification of plant closings and mass layoffs, and other purposes; as follows:

At the end of the pending matter, add the following new title:

TITLE II—FULL DISCLOSURE OF ELECTION-RELATED EXPENDITURES

Sec. 1. (a) Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end thereof the following new subsection:

"(d)(1) When used in this subsection—

"(A) the term 'election' means—

"(i) in the case of a corporation or labor organization, an election (as defined in section 301(1)) with respect to which such corporation or labor organization is prohibited from making a contribution or expenditure under section 316; and

"(ii) in the case of a national committee of a political party, an election (as defined in section 301(1)) for any Federal office;

"(B) the term 'otherwise exempt activity' means any act of furnishing, arranging to be furnished, or otherwise making available any services, payment, or other benefit described in paragraph (A) or (B) of section 316(b)(2) (2 U.S.C. 441b(b)(2));

"(C) the terms 'corporation' and 'labor organization' have the same meanings as in section 316 (2 U.S.C. 441b).

"(2)(A) At the times prescribed in paragraph (4), a corporation shall file a report with the Commission under this subsection if, during the period for which the report is filed, such corporation has engaged in any otherwise exempt activity in connection with an election.

"(B) At the times prescribed in paragraph (4), a labor organization shall file a report with the Commission under this subsection if, during the period for which the report is filed, such labor organization has engaged in any otherwise exempt activity in connection with an election.

"(C) At the times prescribed in paragraph (4), each national committee of a political party shall file a report with the Commission under this subsection containing a declaration of whether, during the period for which the report is filed, such committee has engaged in any otherwise exempt activity in connection with an election. For purposes of this subparagraph, the term 'otherwise exempt activity' refers to an activity described in paragraph (8)(B) or (9)(B) of section 301 (2 U.S.C. 431 (8)(B) or (9)(B)).

"(3) Each person required to file a report under this subsection shall include in such report—

"(A) a description of each exempt activity engaged in, in connection with an election, by such person during the period covered by the report; and

"(B) the amount of each payment and the cost and fair market value of each of the services and other benefits described in the report in accordance with clause (A).

"(4) The reports under this subsection shall be filed at each of the times prescribed in subsection (a)(4)(A) for reports of political committees other than authorized committees of a candidate.

"(5)(A) Any nonprofit corporation, receiving reduced postal rates because of its status as a nonprofit corporation, which uses the mails to engage in any activity described in paragraph (1)(B) during the period 90 days immediately prior to a general or special election shall be subject to a fine as provided in subparagraph (B).

"(B) The Commission, upon receiving a complaint under subparagraph (A), or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, by an affirmative vote of 4 of its members, may institute a civil action, including an order for a civil penalty which is an amount equal to the postage rate for first class mail for all of the mail relating to activities described in paragraph (1)(B), which is mailed during such 90-day period.

"(e)(1) Any independent expenditures (including those described in subsection (b)(6)(B)(iii)), by any person with regard to an election which may directly result in the election of a person to the office of United States Senator, which in the aggregate total more than $10,000 shall be reported by such person to the Commission within 24 hours after such independent expenditures are made. Thereafter, any independent expenditures by such person in the same election aggregating more than $5,000 shall be reported by such person to the Commission within 24 hours after such independent expenditures are made.

"(2) Such statements shall be filed with the Commission, Secretary of State for the State of the election involved and with the principal campaign committee of each candidate in the general election, and shall contain the information required by subsection (b)(6)(B)(iii) of this section and a statement filed under penalty of perjury by the person making the independent expenditures indicating whom the independent expenditures are actually intended to help elect or defeat. The Commission shall notify any candidate in the election involved about each such report within 24 hours after such report is made.

"(3) Notwithstanding the reporting requirements established in this paragraph, the Commission may make its own determination that a person has made independent expenditures with regard to an election which may directly result in the election of a person to the office of United States Senator that in the aggregate total more than $10,000, and thereafter that in the aggregate total more than $5,000.

"(4) The Commission shall notify each candidate in the election involved about each such determination within 24 hours after such determination is made.".

(b) Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end thereof the following new subsection:

"(c) Any activity exempt under paragraph (A) or (B) of subsection (b)(2) shall be subject to the reporting requirements of section 304(d).".

SEMIANNUAL REPORTS BY PARTY POLITICAL COMMITTEES OF PAYMENTS UNDER SECTION 301(8)(B)(XV) AND COSTS UNDER SECTION 301(9)(B)(XI)

SEC. 2. Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by adding at the end thereof the following:

"(11) if the committee is a political committee of a political party, with respect to payments under section 301(8)(B)(xv) and costs under section 301(9)(B)(xi) the treasurer shall file—

"(A) a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and

"(B) a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.".

SOFT MONEY REPORTING REQUIREMENTS FOR NATIONAL COMMITTEES OF POLITICAL PARTIES

SEC. 3. (a) Section 304(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(2)) is amended—

(1) in subparagraph (J), by striking out "and" after the semicolon;

(2) in subparagraph (K), by inserting "and" after the semicolon; and

(3) by adding at the end the following:

"(L) for a national committee of a political party, all funds received, from any source, for purposes other than to influence a Federal election;".

(b) Section 304(b)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(3)) is amended—

(1) in subparagraph (F), by inserting "and" after the semicolon;

(2) in subparagraph (G), by inserting "and" after the semicolon; and

(3) by adding at the end the following:

"(H) for a national committee of a political party, person, or organization providing funds to the committee for purposes other than to influence a Federal election;".

(c) Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

(1) in subparagraph (H), by striking out "and" after the semicolon at the end thereof;

(2) in subparagraph (I), by inserting "and" after the semicolon; and

(3) by adding at the end the following new subparagraph:

"(J) for a national committee of a political party, all disbursements from funds received for a purpose other than to influence a Federal election;".

KASSEBAUM AMENDMENT NO. 2429

(Ordered to lie on the table.)

Mrs. KASSEBAUM submitted an amendment intended to be proposed by her to the bill S. 2527, supra; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Worker Adjustment and Retraining Notification Act".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions; exclusions from definition of loss of employment.
Sec. 3. Notice required before plant closings.
Sec. 4. Exemptions.
Sec. 5. Administration and enforcement of requirements.
Sec. 6. Procedures in addition to other rights of employees.
Sec. 7. Procedures encouraged where not required.
Sec. 8. Authority to prescribe regulations.
Sec. 9. Effect on other laws.
Sec. 10. Effective date.

SEC. 2. DEFINITIONS; EXCLUSIONS FROM DEFINITION OF LOSS OF EMPLOYMENT.

(a) DEFINITIONS.—As used in this Act:

(1) AFFECTED EMPLOYEE.—The term "affected employee" means an employee who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing by the employer of the employee.

(2) AGGRIEVED EMPLOYEE.—The term, "aggrieved employee" means an employee who—

(A) has worked for the employer ordering the plant closing; and

(B) as a result of the failure by the employer to comply with section 3, did not receive timely notice either directly or through the representative of the employee as required by section 3.

(3) EMPLOYER.—The term "employer" means any business enterprise that employs—

(A) 100 or more employees, excluding part-time employees; or

(B) 100 or more employees who in the aggregate work at least 4,000 hours per week (exclusive of hours of overtime).

(4) EMPLOYMENT LOSS.—Subject to subsection (b), the term "employment loss" means—

(A) an employment termination, other than a discharge for cause, voluntary departure, or retirement;

(B) a layoff exceeding 6 months; or

(C) a reduction in hours of work of more than 50 percent during each month of any 6-month period.

(5) PART-TIME EMPLOYEE.—The term "part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required.

(6) PLANT CLOSING.—The term "plant closing" means the permanent or temporary shutdown of a single site of employment if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees.

(7) REPRESENTATIVE.—The term "representative" means an exclusive representative of employees within the meaning of section 8(f) or 9(a) of the National Labor Relations Act (29 U.S.C. 158(f) or 159(a)) or section 2 of the Railway Labor Act (45 U.S.C. 152).

(8) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

(b) EXCLUSIONS FROM DEFINITION OF EMPLOYMENT LOSS.—Notwithstanding subsection (a)(4), an employee may not be considered to have experienced an employment loss if—

(1) the closing or layoff is the result of the sale of part or all of an employer's business and—

(A) the purchaser agrees in writing, as part of the purchase agreement, to offer employment to the employee with no more than a 6-month break in employment and the agreement specifies that the employee is a third-party beneficiary; or

(B) the purchaser, within 30 days after the purchase, offers employment to the employee with no more than a 6-month break in employment; or

(2) the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—

(A) the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; or

(B) the employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

SEC. 3. NOTICE REQUIRED BEFORE PLANT CLOSINGS.

(a) In General.—An employer shall not order a plant closing until the end of a 60-day period after the employer serves written notice of a proposal to issue such an order—

(1) to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) to the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.)) and the chief elected official of the unit of local government within which such closing is to occur.

(b) Multiple Units of Local Government.—If there is more than one such unit, the unit of local government that the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

(c) Reduction of Notification Period.—

(1) Capital or business.—An employer may order the shutdown of a single site of employment before the conclusion of the 60-day period if as of the time that notice would have been required the employer was actively seeking capital or business that, if obtained, would have enabled the employer to avoid or postpone indefinitely the shutdown and the employer reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.

(2) Business circumstances.—An employer may order a plant closing before the conclusion of the 60-day period if the closing is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

(3) Notice.—An employer relying on this subsection shall give as much notice as is practicable and at that time shall give a brief statement of the basis for reducing the notification period.

(d) Extension of Layoff Period.—A layoff of more than 6 months that, at its outset, was announced to be a layoff of 6 months or less, shall be treated as an employment loss under this Act unless—

(1) the extension beyond 6 months is caused by business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and

(2) notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required.

(e) Determinations With Respect to Employment Loss.—For purposes of this section, in determining whether a plant closing has occurred or will occur, employment losses for 2 or more groups at a single site of employment, each of which is less than the minimum number of employees specified in section 2(a)(6) but which in the aggregate exceed that minimum number, and which occur within any 90-day period shall be considered to be a plant closing unless the employer demonstrates that the employment losses are the result of separate and distinct actions and causes and are not an attempt by the employer to evade the requirements of this Act.

SEC. 4. EXEMPTIONS.

This Act shall not apply to a plant closing if—

(1) the closing is of a temporary facility or the closing is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking; or

(2) the closing constitutes a strike or constitutes a lockout not intended to evade the requirements of this Act.

SEC. 5. ADMINISTRATION AND ENFORCEMENT OF REQUIREMENTS.

(a) Liability to Aggrieved Employees.—

(1) In general.—Any employer who orders a plant closing in violation of section 3 shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing for—

(A) back pay for each day of violation at a rate of compensation not less than the higher of—

(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) the final regular rate received by such employee; and

(B) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss that would have been covered under an employee benefit plan if the employment loss had not occurred.

(2) Period of liability.—Such liability shall be calculated for the period of the violation, up to a maximum of 60 days, but in no event for more than one-half the number of days the employee was employed by the employer.

(3) Reduction of liability.—The amount for which an employer is liable under this subsection shall be reduced by—

(A) any wages paid by the employer to the employee for the period of the violation;

(B) any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

(C) any payment by the employer to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation.

(4) Further reduction for defined benefit plans.—In addition, any liability incurred under this subsection with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

(b) Liability to Units of Local Government.—Any employer who violates section 3 with respect to a unit of local government shall be subject to a civil penalty of not more than $500 for each day of such violation, except that such penalty shall not apply if the employer pays to each aggrieved employee the amount for which the employer is liable to that employee within 3 weeks from the date the employer orders the shutdown or layoff.

(c) Good Faith Violations.—If an employer that has violated this Act proves to the satisfaction of the court that the act or omission that violated this Act was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this Act, the court may, in its discretion, reduce the amount of the liability or penalty provided for in this section.

(d) Jurisdiction.—A person seeking to enforce such liability, including a representative of employees or a unit of local government aggrieved under subsection (a) or (b), may sue either for such person or for other persons similarly situated, or both, in any district court of the United States for any district in which the violation is alleged to have occurred, or in which the employer transacts business.

(e) Attorneys' Fees.—In any such suit, the court may, in addition to any judgment awarded the plaintiff or plaintiffs, allow a reasonable attorneys' fee to be paid by the defendant, together with the costs of the action.

(f) Exclusivity of Remedies.—The remedies provided for in this section shall be the exclusive remedies for any violation of this Act.

SEC. 6. PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.

The rights and remedies provided to employees by this Act are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of the employees, and are not intended to alter or affect such rights and remedies, except that the period of notification required by this Act shall run concurrently with any period of notification required by contract or by any other statute.

SEC. 7. PROCEDURES ENCOURAGED WHERE NOT REQUIRED.

It is the sense of Congress that an employer who is not required to comply with the notice requirements of section 3 should, to the extent possible, provide notice to its employees about a proposal to close a plant or permanently reduce its workforce.

SEC. 8. AUTHORITY TO PRESCRIBE REGULATIONS.

The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this Act. Such regulations shall, at a minimum, include interpretative regulations describing the methods by which employers may provide for appropriate service of notice as required by this Act.

SEC. 9. EFFECT ON OTHER LAWS.

The giving of notice pursuant to this Act, if done in good faith compliance with this Act, shall not constitute a violation of the National Labor Relations Act (29 U.S.C. 151 et seq.) or the Railway Labor Act (45 U.S.C. 151 et seq.).

SEC. 10. EFFECTIVE DATE.

This Act shall take effect on the date that is 6 months after the date of enactment of this Act, except that the authority of the Secretary of Labor under section 8 is effective on the date of enactment of this Act.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold a markup on Monday, June 27, at 12 noon on the following nominations: S. Jay Plager, to be Administrator, Office of Information and Regulatory Affairs, OMB; Dennis M. Devaney, to be General Counsel of the Federal Labor Relations Authority; Susan E. Alvarado, to be Governor of the U.S. Postal Service; Tirso Del Junco, to be Governor of the U.S. Postal Service; Hugh Hewitt, to be Deputy Director of the Office of Personnel Management; Roger W. Mehle, to be Member of the Federal Retirement Thrift Investment Board; and Richard H. Headlee, to be Member of the Federal Retirement Thrift Investment Board; and legislation including: S. 2449, the Postal Service Budgetary Treatment Act of 1988; H.R. 4318, the General Accounting Office Personnel Amendments Act of 1988; S. 1504, the Negotiated Rule Making Act of 1987; S. 1647, the Former Presidents Act of 1987; S. 2478, the Biennial Budget Act of 1988; and Homeless reauthorization amendments. For further information, please call Len Weiss, staff director, at 224-4751.

Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Tuesday, June 28, at 9:30 a.m., on U.S. efforts to commercialize superconductivity. For further information, please call Len Weiss, staff director, at 224-4751.

Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Wednesday, June 29, at 10 a.m., on the subject of alcoholism prevention. For further information, please call Len Weiss, staff director, at 224-4751.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET AND ACCOUNTING

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Federal Spending, Budget and Accounting, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, June 23, 1988, to hold hearings on the accountability and disposition of cash and property seized as a result of criminal acts.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 23, 1988, to mark up the budget authorizations for the U.S. Customs Service, the Office of the U.S. Trade Representative and the U.S. International Trade Commission.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Senate Energy Committee be authorized to meet during the session of the Senate on June 23, 1988, to conduct a hearing to receive testimony on S. 1643, a bill to establish the Mississippi River National Heritage Corridor; S. 2018, a bill to expand the boundaries of the Congaree Swamp National Monument, to designate wilderness therein, and for other purposes; and S. 2058, a bill to authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina, and for other purposes.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Production and Stabilization of Prices of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, June 23, 1988, to hold a hearing on the barley and oats situation.

The PRESIDING OFFICER. Without objection, it is ordered.

SPECIAL COMMITTEE ON AGING

Mr. BYRD. Mr. President, I ask unanimous consent that the Special Committee on Aging, be authorized to meet during the session of the Senate on Thursday, June 23, 1988, to hold a hearing on the EEOC's performance in enforcing the Age Discrimination in Employment Act.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 23, 1988, to conduct a hearing on S. 2221, legislation to expand the Federal Telecommunications systems for the benefit of the hearing impaired.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 23, 1988, to hold a hearing on United States policy options toward South Africa.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, June 24, 1988, to conduct hearings on S. 2467, a bill to amend the Federal Home Loan Mortgage Corporation Act to remove the ownership restrictions placed on nonvoting preferred stock of the corporation.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, June 23, to conduct a business meeting to mark up pending business.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Full Committee of the Senate Energy Committee be authorized to meet during the session of the Senate on June 23, 1988, to conduct a Hearing—Oversight—to receive testimony concerning the Greenhouse Effect and the development of policies for responding to global climate change.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

RURAL HOSPITAL CLOSINGS

● Mr. SASSER. Mr. President, I would like to call the attention of my colleagues to an article that appeared today in the Washington Post. The article accurately describes the situation that many rural hospitals are facing. If Medicare hospital reimbursement does not improve for rural hospitals, hundreds of hospitals including many in my home State of Tennessee may have to close.

Over the past 2 years, more than 150 hospitals across the Nation have closed for financial reasons. The article estimates that as many as 700 more may close within the next 5 years.

This continued reduction in the number of rural hospitals means that even less health care will be available to an already underserved market—rural America.

Almost every week I receive letters from small, rural hospitals in Tennessee underscoring the urgency of this situation. These hospitals are often the sole providers of health care in their communities. Often, they are unable to lure as many quality physicians as their urban counterparts. And while reimbursed at a lower rate than urban hospitals, these rural hospitals have to carry the burden of rising medical costs felt across the board.

The good news, Mr. President, is that the urban/rural payment differential will be phased out over a period of years. But this phase out does little to ease the financial difficulties that rural hospitals are having now.

I am a member of the rural health care caucus. The caucus has been active in monitoring issues crucial to rural health and in suggesting reasonable ways to ease the strain on our Nation's rural hospitals.

In light of the increased burden on rural health providers, I hope that my fellow Senators will give special attention to the issues that are being promulgated by the rural health care caucus.

Mr. President, I ask that a copy of the Washington Post article be printed in the Record.

The article follows:

[From the Washington Post, June 23, 1988]

700 HOSPITAL CHIEFS FORESEE CLOSING

(By Spencer Rich)

Administrators of as many as 700 hospitals, many in rural areas, fear their hospitals may be forced to close in the next five years because of financial problems such as government curbs on Medicare payments, according to a survey released yesterday.

"The fact that so many hospitals anticipate failure is even more dramatic when one realizes that 150 hospitals have already closed in the past two years," said Raymond J. Cisneros of Touche Ross, the accounting and management firm that conducted the survey.

The firm sent questionnaires to the nation's 5,678 general acute-care community hospitals and received 1,419 responses.

Almost half of the administrators and medical directors who responded said they feared their institutions would fail in the next five years, largely because of Medicare's new prospective-payment system, which is designed to hold down costs.

Under that system, enacted in 1983, Medicare sets a fixed payment in advance for each hospital stay and normally does not pay any more regardless of how many days the patient stays or how many tests and other services the patient receives.

With Congress and the White House striving to hold down federal deficits, annual increases voted by Congress in the fixed-payment rates have generally not kept pace with inflation. Nearly 70 percent of the administrators said hospital income has dropped since the system took effect.

According to the Touche Ross survey, hospitals with fewer than 100 beds and rural hospitals were the most pessimistic. Administrators of about three-fifths of each group said they fear their hospitals will fail in the next five years.

Fears were particularly strong in the Southwest, which has suffered from the collapse of oil prices, and in the Midwest, where heavy industry declined sharply in the early 1980s.

In recent years there has been a consensus that rural hospitals are more threatened by adverse financial conditions than nonrural hospitals. Smaller and with fewer resources, they often lose patients to nonrural hospitals. Many also complain that while they must compete with metropolitan area hospitals for personnel, labor costs factored into their Medicare payments are lower.

To meet these complaints, Congress has recently made some adjustments, such as voting to give rural hospitals a larger inflation increase.

Most hospitals are also picking up a large burden of charity and uncompensated care, estimated at $7 billion annually by the American Hospital Association.

Many health economists said they believe Medicare cost controls are no more a factor in hospital economic problems than the nationwide excess of hospital beds—one-third are empty every day—and a shift of many services from hospitals to less costly settings, such as doctors' offices.

Economists also point out that while hospital profit margins have declined in recent years—to 4.7 percent of revenues in 1987, according to the American Hospital Association—they are still higher than at any time during the 1970s.●

THE 2-YEAR BUDGET BILL, S. 2478

● Mr. DOMENICI. Mr. President, today I am pleased to join as a cosponsor of S. 2478, the Ford-Roth 2-year budget bill. I applaud the Senator from Kentucky and the Senator from Delaware for putting this bill together and for their efforts to move this issue forward this year.

There is a great deal about this bill that I like. The mechanics of the 2-year process are generally the same as Senator Roth and I introduced at the beginning of the 100th Congress. The new bill would also provide permanent continuing appropriations when Congress fails to enact individual bills on time, which I believe would improve the appropriations end of the budget process.

But I do not support every aspect of S. 2478. I am particularly concerned about three provisions: lengthening the time for consideration of a reconciliation bill; requiring extensive detail in Budget Committee and other reports; and increasing congressional involvement in the executive branch budget process.

Current law limits the time for consideration of a budget reconciliation bill in the Senate to 20 hours. The Ford-Roth bill would increase this to 100 hours, twice the time available for even the congressional budget resolution. I find this a curious response to one of the most often-heard complaints around here—that we spend too much time on the budget process, not too little.

The bill would also establish new requirements for budget-related reports, including reports on the budget resolution and section 302(b) allocations. It would require these reports to contain budget information at the account level. While there may be problems with this requirement at other stages in the process, I am particularly concerned about applying it to budget resolution reports.

The Budget Committee is not a line item committee. We make assumptions about individual accounts, but those are not binding. We take great pains in reminding people of this fact when sharing our assumptions with them. Requiring the committee to publish account level detail would only make it more difficult to focus on our true purpose, which is to establish broad targets for spending and revenues.

Finally, the bill would require Federal agencies to provide budgetary information to the Congress, including agency requests to the President. As a practical matter, I do not think that there is any need for such a provision. Furthermore, I object to writing it into law, on the grounds that it represents unwarranted interference in the executive budget process.

Mr. President, I have weighed these objections against my support for a biennial budget and decided to cosponsor the bill. I look forward to working with the sponsors to resolve these concerns and to achieve our mutual goal of adopting a 2-year budget.●

A GREATER EMPHASIS ON EDUCATION

● Mr. SIMON. Mr. President, columnist Robert Maynard serves as editor and publisher of the Oakland Tribune in Oakland, CA. I do not see that journal regularly, but I do read his column when it appears in the Chicago Sun-Times, and recently he had a column about education and the need for a greater national emphasis on education.

If this Nation believes it can continue to ignore both economic poverty and the poverty of educational opportunity that face too many Americans, we are fooling ourselves, and we are destined to be a nation with a declining standard of living and a declining quality of life.

His column is personal but its lesson is national, even international.

I urge my colleagues to read the column, which I ask to have printed in the Record at this point.

The column follows:

AMERICA NEEDS A LOVE AFFAIR WITH LEARNING

(By Robert Maynard)

My brothers and I were squeezed into the cab of the moving van, our little knees bouncing against each other on every wide turn. My father, at the wheel, was impervious to our discomfort. Steering the van through the streets of New York with effortless ease, physical discomfort was the last thing on his mind.

Instead, his deep baritone voice vibrated in the cab of the truck. "Do you understand," he would say to no one of us in particular, "how our system of justice was influenced by ancient Greece and by the teachings of Jesus Christ?"

There we were, in the middle of the cacophony of traffic trying to cross the Manhattan Bridge. The other motorists might have been listening to the Dodgers game or jazz on the radio. Not us.

In my father's "Green Hornet," as he called the van, lessons on history and theology were in full swing. My parents never missed an opportunity to cram us full of some historical or biblical observation.

Always, they were romancing our minds with the idea of the love of learning.

My brothers and sisters agree on one thing a half-century later: My parents deliberately set out to create in each of us a curious and inquiring mind. It is no accident they produced six children who are educators, linguists, journalists and the like.

Even though they came to America as immigrants, my parents never doubted what it took to make it in the United States: hard work and a love of learning.

The strategy of my parents comes regularly to mind of late as I watch the growing debate over public education. It is clear we are about to be inundated in a discussion over the proper role of the federal government in the schools.

As that debate unfolds in the political campaign of 1988, my sense of unease grows. I fear we are about to rush off in the wrong direction. The present motivation for all this talk by Democrats and Republicans about education concerns the latest political buzz-work, "competitiveness."

Because we are in a new global market, competing for jobs with the rising Asian and Latin economies, politicians realize our work force must be better educated to be competitive. Hence the new emphasis among political leaders on education.

Why do I fear they are leading us astray? Only because I think politicians look at education the way they address war—throw massive amounts of money and materiel at the adversary. But more important than money is our attitude toward education. My parents made that point often by speaking with contempt of "educated fools." These, to them, were people with advanced degrees but without elementary common sense.

For that reason, my folks described people whose intellects they admired as "learned," never educated. That, it seems to me, is a major distinction.

Instead of having "education" as our focus, I think we should aim at "learning" as our goal. The difference is one of attitude, an important aspect of the intellectual process.

This is no mere semantic distinction. It has everything to do with how we approach this "competitive" challenge. If we think of the national need as being "education," I fear we will think in narrow mechanistic and technocratic terms. Education in that sense is measured in degrees attained and number of hours logged in this subject or that.

By contrast, a lifetime of learning suggests a continuing hunger for new knowledge and new ways of looking at old problems and new ones. When I think of education, I think of a goal being achieved. When I think of learning, I think of a continuing process of growth from infancy to the end of our days.

That is why I hope our political leaders can inspire a national atmosphere where learning is loved for its own sake.

In such an environment, much more than mere "competitiveness" will be attained. That is the atmosphere in which creativity can triumph over the mastery of mechanics.●

CHARLES WILLIAMS/INDIANA BLACK EXPO

● Mr. LUGAR. Mr. President, I want to pay tribute to an outstanding Hoosier who has made a large contribution to the State of Indiana.

The Indiana Black Expo is an exposition which is held yearly in Indianapolis to accomplish three goals. First, it unifies Black people statewide to share and exchange information of achievements of black Americans. Second, Indiana Black Expo encourages education and provides scholarships to the black community in Indiana. Third, the Expo establishes an agenda to enhance black achievement and culture for the future.

Great leadership has been an integral part of the success of the Indiana Black Expo. Former Expo chairmen including Jim Cummings to William Crawford, have provided strong vision for the future of blacks. Today, however, I want to pay tribute to another superb Indiana Black Expo chief executive officer, the Reverend Charles R. Williams.

Reverend Williams is a native Hoosier and a graduate of Indianapolis Crispus Attucks High School and Indiana State University. He served in the U.S. Navy from 1965 to 1968 which included a tour of duty in Vietnam. Charles' leadership skills were enhanced by his vast experience: Executive coordinator of the NAACP National Convention Planning Committee; and administrative assistance to former Gov. Otis Bowen—now Secretary of HHS—for community service study. He also served as special assistant to Mayor William Hudnut III, major of Indianapolis.

Under Charles' leadership, Indiana Black Expo reduced its deficit, doubled its revenues and brought on full-time staff to develop this 100,000 person events. From the recognition of Indiana Black Expo has received nationally, one can see that Charles Williams has done a great job.

His present activities include; boardmember, Indianapolis OIC; boardmember, Indiana Convention and Visitors Association; State chairman, NAACP Act-So Program; and cochairman Pan Am Organizing Committee. He has received numerous awards including: Who's Who in Black America; Indiana Jefferson Award; Citizen of the Year Award—1984—from the Omega Psi Phi Fraternity, and the Outstanding Citizen award by NAACP—1987.

He recently toured Israel with Martin Luther King III, was featured in Ebony magazine and appeared on the Phil Donahue Show.

I urge my colleagues to join me in saluting a Great Hoosier, the Reverend Charles Williams, president of Indiana Black Expo.●

THE WARWICK "GREAT BOOKS" PROGRAM

● Mr. CHAFEE. Mr. President, last week, an article in Time magazine entitled "In Rhode Island: Book Talk," was published about a very distinctive group of people in my home State. This group is remarkable because instead of sitting at home in front of a television set, the members spend their free time discussing the great masterpieces of literature, written by such greats as Shakespeare, Vergil, Plato and Conrad among others.

Hope La Salle, Daphne Shein, Ray Finelli, and the rest of the stalwarts of Warwick, as the article refers to them, meet twice a month, and in 22 years they have participated in almost 400 2-hour sessions. They are not doing this for college credit, but for sheer intellectual enjoyment.

Otherwise known as the Great Books Discussion Group, these 15 or so regulars satisfy their addiction for classical literature by reading challenging pieces of work by some of the best authors of all time. They then get together at the Warwick Public Library to discuss and pass judgment on these books. These discussions provide the group with a unique intellectual stimulation that cannot be provided from a television show, movie, or play. A more comprehensive impression of the characters and plots is created, allowing each member to benefit from the diverse points of view of the other members.

Unfortunately, Mr. President, not enough people have discovered the deep sense of satisfaction and enjoyment that comes from reading. In this modern era, there are too many distractions pulling us away from this important aspect of our education.

My hat is off to the Great Books Discussion Group. There are 2,500 such groups around the country and I would like to see this number grow.

I request that the attached article be printed following my remarks in the CONGRESSIONAL RECORD.

The article follows:

[From Time magazine, June 20, 1988]

IN RHODE ISLAND: BOOK TALK

(By Richard Conniff)

A few minutes late on a Thursday evening, Hope La Salle bundles herself up the stairs to the second floor of the Warwick (R.I.) Public Library. Palpitations of the heart. She breaks out a prescription bottle. "We may be dying in bed, but we'll get up and drag ourselves here," she gasps, before choking down a pill. "I'll pop my nitroglycerine."

"I'll use my asthma medicine," says Daphne Shein, also late, pulling her face away from the plastic mouthpiece on an aerosol inhaler.

"We don't miss Great Books," they agree.

They settle down at the conference table with their colleagues and address their shared addiction. Time for another fix of . . . literary talk. What we have here is a

Great Books discussion group, and the pure love of words has been bringing these good people together twice a month for 22 years now. The membership has changed some, but altogether, the group has logged almost 400 two-hour sessions without a single college credit being offered. Back when she started, says Shein, the books were still written on papyrus.

They have worked and reworked the familiar ground of Shakespeare and Vergil and have taken the measure of lesser Greats, like Galen's "On the Natural Faculties" and Fichte's "The Vocation of Man." The Great Books Foundation, which sponsors 2,500 such groups around the country, once actually ran out of reading material to suggest. For a few years, these stalwarts of Warwick had to scrape by on books that were merely "pretty good." Middle-weights like Hemingway. Now they can handle anything literature can dish out.

It is perhaps a little easier than it sounds, La Salle interjects. Great Books, which is based in Chicago, leans heavily on excerpts, and in a year a group can polish off 15 masterpieces condensed in three slim paperbacks. La Salle, a droll gargoyle, founded the Warwick chapter and considers herself its elder stateswoman. She recalls that the readings were weightier back in her day. When The Iliad came around again on the reading list not long ago, she disdained the 144-page abridgment and brought in her own complete edition. Unhappily for the cause of purism, she confessed that age and rank having their privileges, what she'd really read that week was a murder mystery, "Presumed Innocent." This is why the others, who are more dutiful, like the excerpts: "The goal," one of them says, "is to read the damned thing before it's time to discuss it."

The 15 or so regulars are mostly over 50. They are a nice mix of personalities: Shein, who prints slogans on T shirts by day (It's Better in a Skiff), is the wit, casting mordant glances over the rims of her reading glasses. Ray Finelli, an adman, is the old philosopher, with his thumbs hooked in the pockets of his vest. Marguerite Allen, a retired nurse, is a bulwark of feminism and familial love. Her patience is frequently tested by a newcomer who tends to blurt out opinions. On Chaucer's "The Wife of Bath's Tale," for instance, the Blurter remarks, "Talk about whoredom!" Allen's chin comes up and the corners of her mouth pull down, but she remains polite. They are a civilized group.

Their literary criticism has a New England flavor. In their discussion of Chekhov's "Uncle Vanya," for example, everyone agrees that Professor Serebryakov is an "old codfish." But another character in the play elicits genuine bewilderment: "If he's idle, how can he be happy?" No one has an answer.

At times, they display every reader's urge to pluck up a character by the lapel and offer advice: "I think if Astrov would give up his drinking, he and Sonya would make a terrific couple."

"Nah, he's too old." Astrov is also too busy making eyes over his cognac at Elena. Serebryakov's beautiful young wife.

"Elena's a piece of furniture: she's a couch," says Shein, outraged on poor Sonya's behalf. And when Astrov tries to woo Elena with talk of the reforestation work on his plantation. Shein sneers, like a heckler in the audience." A likely story—'Come out and see me seedlings.'"

"He never even looks at Sonya," someone else laments.

Ray Finelli tilts his head to one side and presses his lips together in disappointment, the gesture of a would-be father-in-law. "He was a fool," he says.

Women predominate in this group, and they are inclined to rescue female characters from a chauvinist world. When a man in the group, Pat Waters, suggests that the Wife of Bath has been "fadoodling around" on her unfaithful fourth husband. Shein goes to the text and points out that she merely gave the appearance of fadoodling. The question of what-women-really-want arises, and they try to reconcile the Wife of Bath's answer—mastery over husband and lover—with their own convictions about equality.

"Maybe what she's saying," a woman ventures," "is that if the man is king, the woman doesn't want to be queen, she wants to be king too."

"She wants to be King I," Waters retorts.

The discussion never becomes heated. The women back off from the Wife of Bath, and Waters redeems himself a few minutes later by calling the husband in another Chaucer tale "kind of sick." (It is, in truth, an easy redemption. The husband in question has tested his wife's obedience by pretending to kill their children.) They argue not out of the familiar morass of self-interest and ideology but out of intellectual curiosity. "It's more objective, more like you're adding to what you already know," says one.

Their shared love of books makes them tacitly respectful. Waters joined the group when he was construction supervisor remodeling the library building where they meet. "When I was working here, I could walk down the aisles and see all the titles and hear all the noises—the love stories and the battles," he recalls. Now he drives 45 minutes to recapture that feeling. Finelli comes because he gets to ponder bookish ideas that do not figure in a typical advertising campaign. He is sometimes pleased with the copy he writes: "We Put In Some Tall Orders Yesterday So You Wouldn't Go Short Today." But writers like Plato and Conrad plumbed the meaning of life. "I do love to think in depth," he says.

They know one another's families, work and travels almost entirely through books. When Marguerite Allen says Dickens and Thackeray made her feel at home on a visit to London, the others nod. No one corrects her when she refers to Leningrad as St. Petersburg; they've also lived in Tolstoy's Russia. They are appreciative when Daphne Shein reports that her son phoned home to complain that he was feeling like Ivan Ilyich. He was depressed; she was delighted—another 25-year-old might have felt like Billy Idol. These are the small bonuses of reading.

They could, of course, reap these benefits on their own. But reading on your own, says one, "is like saying you read it in high school." They need the talk and the perspective of other minds to fix a book in the memory. They need the comfortable discipline of the group schedule, without the dreaded rigmarole of college literature classes. "It's like a painting. Each time, it has a new meaning, a new delight," says Hope La Salle, utterly undaunted by her neglect of "The Iliad" and her dalliance with "that boy Scott Turow."

At 8:45, the library lights blink off, then on again, for closing time. They have been trading ideas about Homer's warriors. The Blurter, having described Paris as a "good-looking dude," is now doing her worst for Achilles: "He fluctuated, and I like that because I'm a fluctuator too." Marguerite Allen prefers Hector, but is more interested in the question of moral vs. merely physical courage. Finelli wants to theorize about why soldiers are willing to die.

A janitor appears at the door long enough to register his impatience. La Salle urges the group to continue: "When the lights go out, we grab our coats and run for the door." Briefly, they debate whether glory seeking can be a force for civilization, and the conservation continues on out into the parking lot. They will have plenty to think about on the ride home.●

INFORMED CONSENT: MINNESOTA

● Mr. HUMPHREY. Mr. President, I ask unanimous consent that the following letters from the State of Minnesota be inserted in the RECORD.

The letters follow:

WYOMING, MN.

DEAR SENATOR HUMPHREY: The abortion issue has touched all of our lives whether or not we all know or admit to it.

In 1975, at the age of 15 I found myself pregnant and scared. My boyfriend insisted that I get an abortion. I did not want the abortion so I put it off until I was between 12 and 14 weeks pregnant. Finally he convinced me to have the abortion. While at the clinic I was never given anything that I would call counseling. We were called into the office only to give them our money. I was only given a brief description of the abortion procedure. Nothing in depth, only a few basic mechanics.

After the abortion I become heavily involved in drugs and alcohol and underwent another abortion 11 months later. It was a different clinic, but the same lies. Again I was told nothing about my unborn child. I was high on drugs the day of my second abortion. The only type of counseling I got there was how to take birth control pills.

After that I became pregnant again. That child is my son Andy. During my pregnancy I started learning about fetal development. When I finally realized what I had done, I was sick with remorse. But how do you get back the two children that you yourself had a hand in killing? Had I only known before my abortions what my child was I never would have aborted.

I urge you to pass a bill of informed consent because if girls and women knew the truth about their unborn child, they would not choose to kill them. As the "pro-death" people claim women should have "free choice" doesn't that mean that they need all of the facts in order to make a real choice? The argument that it would be too hard on the women if they were given information on fetal development before an abortion. Let me tell you this from someone who knows. Better before than after!

Sincerely,

LOUISE WARREN.

PLYMOUTH, MN.

DEAR SENATOR HUMPHREY: In April of last year, I went to Robinsdale Clinic in Minneapolis. A woman there led me into a room (where) I told her I was thinking about abortion. I was confused and cried for an hour before I could even enter the clinic. She told me that we only do abortions up to 12 weeks. I said "why?" "Is it a different kind of abortion?" She replied, "yes, it is. We don't have that kind of equipment to do them over 12 weeks." They said they would have to find out how far along I was first. They took a urine sample—that sample was all they took. A nurse said, "here. Take this pill. He's going to do you anyway." "Anyway" didn't sink in. When the Doctor came into the room and started, he was very rough, and I said, "No. Stop. Stop." He shouted, Be quiet, or you can bleed to death right here." I never felt anything so severely excruciating in my life. A nurse was holding me down and they shot me up with Valium. He pushed and jerked and pulled for nearly twenty minutes. Abortions I've heard about aren't supposed to happen like that and be so severe. When he finished, he threw his instrument in the sink, and turned toward me, and said, "and, by God, keep him out of you," and turned and slammed the door.

The nurse told me to just lie still and rest and she left the room. I tried to stand up, but I was in so much pain and dizzy, I layed on the floor. I also couldn't control vomiting. The nurse led me to what they call a recovery room. There were two other girls in this room. Aren't they hurting like me? How come they're not so sweaty and sick, like me? They seemed fine—I however was not.

Finally the nurse came back and she leaned over me and said, "Honey, I am sorry, you were over 17 weeks along." She looked sad and turned and left. My friend stopped the car three times so I could get sick on the way home that day.

I had a fever of 101 degrees for three days before I went in to see a doctor. I was so devastated, so ashamed that I told the doctor it was back pain. She gave me pain pills and it was then that my real problems were to begin.

Night after night, I cried and could remember my stomach and lower abdomen go up and down and see my baby fight for life. It took my breath away and not only did my baby die that day. My soul died too.

Four long treacherous months passed. I knew nothing can change the past, but things were stable in my relationship again and I wanted another baby. I did get pregnant, but it turned out that it was a tubular pregnancy. The Doctor who did the surgery said there were large parts of degenerating parts of pregnancy left inside of me. I lost my tubes. If only I'd known the murderous hands that would harm me that day. They let me believe I was 12 weeks or less. They took away my choice.

One day in my living room that clinic was on national news. Twenty week old fetuses were found in the trash cans behind the clinic. I haven't yet begun to deal with my emotions. I've got to get healthy first.

I lost a priceless gift in ever having children. I haven't been healthy for so long. Sometimes I feel that I can't go on. Thank you Senator Humphrey. Pray for me and all those who do not know the real truth about abortion. God bless you.

PROSPER LUJONS.

PLYMOUTH, MN.

DEAR SENATOR HUMPHREY: I had an abortion. Unfortunately, I did not receive adequate counseling or proper information prior to the abortion. I was very concerned for the developing fetus, but I was told my baby was just a mass of cells. I also was past the 12 week limit, but was not told this until the procedure was performed. I was a teenager at the time of the abortion. I was shocked to find out about the development of a fetus when I became pregnant with my first born son.

I had severe psychological adjustments following my abortion for many years. At times, during the month the procedure was done, I became depressed and didn't feel like living.

My prayers are with you in succeeding to pass the informed consent bill.

Sincerely,

SHERI CROWE.●

SALUTING MAXWELL M. RABB, AMBASSADOR TO ITALY

●Mr. D'AMATO. Mr. President, I would like to commend the outstanding service and statesmanship of Maxwell M. Rabb. As the Ambassador to Italy since June 1981, Mr. Rabb has been an essential participant in this administration's foreign policy initiatives including deployment of intermediate range nuclear missiles in Italy, the dispatch of three multinational peace forces by Western powers to the Middle East, and the development of an extradition treaty permitting joint prosecuting in drug trafficking and organized crime, as well as numerous bilateral accords in the arts, sciences, and business.

Mr. Rabb is highly respected in his own country and is also apparently much admired in Italy as well. In 1982 he was named Cavaliere di Gran Croce by Italian President Sandro Pertini, an honor awarded to foreigners for distinguished contributions to the Italian Republic.

Mr. Rabb's impressive educational and professional credentials include undergraduate and law degrees from Harvard. He practiced law both in Massachusetts and New York, and served as a senatorial and Presidential administrative assistant. His involvement, in varying capacities, with Unesco, the World Bank's ICSID—International Centre for Settlement of Investment Disputes, the NAACP Legal Defense and Educational Fund, and many other educational and charitable institutions only underscore both his versatility and commitment.

As an Italian-American, I would like personally to recognize Maxwell M. Rabb's great contributions to American-Italian relations. His work will serve as an example of statesmanship for years to come.●

BEYOND THE INF TREATY: THE NEXT STEPS IN ARMS CONTROL

● Mr. McCAIN. Mr. President, now that we have completed our debate of the INF Treaty, and have nearly completed our deliberations on the fiscal year 1989 Defense Authorization Act, it is time to consider our next steps in arms control.

The present climate for arms control is one which creates a peculiar mix of hope and fear. The reason for hope is clear. The ratification of the INF Treaty marks the first major nuclear arms control treaty that achieves real reductions in nuclear arms, rather than an exercise in political symbolism.

The INF Treaty sets an important precedent for both the West and the U.S.S.R. It shows that arms control treaties can lead to real reductions in nuclear forces, and not just set ineffective ceilings on selected aspects of force modernization. It shows that both sides can agree to onside inspection, and it offers the hope that future arms control treaties can offer a means of reducing the risk and cost of war.

With care, the next step in arms control could be a START Treaty that would both reduce the nuclear weapons on each side and reduce the risk of any kind of nuclear attack or escalation. It also could be a revitalization of the conventional arms reduction process that would reduce the present asymmetry in forces and the risk of a European conflict.

At the same time, it is all too easy for the West to give in to false hopes and expectations. In spite of the long debate over the INF Treaty, many in the West are far more aware of its strengths than its limitations. There also is little understanding of the fact that the West faces negotiations in START, conventional arms reductions, and theater nuclear arms reductions that can all end in either increasing the risk of conflict or another set of treaties which redirect the arms race, rather than reduce its cost and dangers.

To be more specific, the West has the following reasons to fear the next steps in arms control:

The cuts in theater nuclear forces growing out of the INF Treaty could lead to a major imbalance in NATO and Warsaw Pact theater nuclear forces if the Warsaw Pact continues to expand and modernize its theater nuclear forces and NATO does not.

The broad public support for arms control in the West could push the West into a START Treaty that would make broad reductions in some categories of strategic weapons without constraining others. This again could give the U.S.S.R. an advantage, and this advantage could be compounded if the West accepted the wrong sublimits on warheads and delivery systems. With the wrong sublimits, a START agreement could easily increase the incentive for a Soviet first strike or escalation.

The current wave of support for arms control could lead the West to accept conventional arms reductions which do not allow it to maintain its current level of conventional deterrence and warfighting capability. Such reductions could partially decouple the United States from Europe. Even without such reductions, the current climate of detente could lead many in the West to reduce the money and manpower they contribute to NATO.

The political momentum of the INF Treaty could lead to further reductions in theater nuclear forces, as well as block the modernization of NATO theater nuclear forces. Under these conditions, such reductions might act to decouple United States, British, and French nuclear forces from the defense of NATO, and encourage the Soviet Union to exploit its advantage in conventional forces.

The same problems could occur in terms of treaties to ban chemical and biological weapons and enforce a test ban. Valid treaties could accomplish a great deal, but cosmetic agreements could simply freeze a Soviet advantage in place, or ignore the ongoing proliferation of chemical and biological weapons throughout the Third World.

These risks are not a reason to fear arms control per se, but they are a reason for the West to be cautious. They are a reason for the West to seek a clearer and more informed approach to the next step in arms control. They are a reason for the West to carefully evaluate new arms control agreements in net assessment terms, and they are a reason why the West should develop a common strategy that will ensure the West remains united.

THE PROBLEMS IN THE INF TREATY AND THEIR IMPORTANCE TO FUTURE ARMS CONTROL TREATIES

The INF Treaty is the starting point for any next step in arms control, and it is important to understand that the very real political and strategic advantages of this treaty come at the cost of accepting an agreement with serious limitations that will impact heavily on START and the prospects for conventional arms reductions.

In some respects, the INF Treaty is as likely to increase the military risk of escalation, and the cost of war fighting, as it is to reduce it. The INF Treaty is also a poor model for many critical aspects of future arms control negotiations. It does not provide for secure verification or enforcement, and it presents a wide range of technical problems.

The treaty is not verifiable in many ways:

It is clear from the testimony the Congress received on the INF Treaty that the United States cannot firmly establish the precise number of missiles or delivery vehicles that are now in Soviet hands. The nuclear warheads and guidance systems on the delivery systems are to be salvaged and reused, rather than destroyed, and the United States does not have a good count of the total number of warheads for these missiles. There is no way the United States can determine how many warheads and delivery vehicles have been produced, and how many are in storage.

There are problems in determining precisely how many stages of the SS-20 will actually be destroyed in the missile's canister. There are problems in knowing how many SS-20 launch vehicles exist, and in ensuring that all declared SS-20 launch vehicles are converted to peaceful uses like pipe-laying.

The United States is dependent upon the U.S.S.R. for an accurate declaration of the size of its arsenal of launchers and missiles, and of the sites where they are built, maintained, and deployed. The United States does not know how many of the SS-20 missiles ever contained nuclear warheads.

All the United States can do is to detect and verify whether the missiles are deployed in active units, and whether they are being tested, and even here, the United States will have trouble distinguishing between the SS-20 and the SS-25. Further, there is no way to determine where and how the U.S.S.R. will use the fissile material and guidance package salvaged from its warheads.

The 13-year duration of the inspection agreement has important limits, given the fact that the treaty has unlimited duration. The United States can only inspect declared sites, not sites it suspects may have missiles after the treaty is signed, or sites where mobile missiles may be deployed. It will lose some important inspection rights once the missiles are destroyed, and it will never be able to know whether up to several hundred missiles are stockpiled outside the declared sites.

These limits are acceptable in a treaty that makes limited initial reductions in nuclear forces that do not materially affect war fighting. They would, however, be unacceptable in a START Treaty, in conventional force reductions, and in any later reductions in other theater nuclear forces. In these cases, the U.S.S.R. could conceal enough weapons to sharply affect the military balance and war fighting capability. It could use arms reductions to increase its strategic first strike capability, and its ability to attack or intimidate Europe.

There is no clear mechanism for enforcing the treaty:

The INF Treaty does not provide penalties for violation, or specific enforcement measures. It describes methods of detecting and discussing violations, but it does not create an effective deterrent to violation by either side.

The INF Treaty's lack of enforcement provisions could lead future U.S. administrations, and other Western governments, to ignore uncertain intelligence indicators, or even actual violations, because of the political cost of publicizing them and taking substantive action. This could well encourage the U.S.S.R. to threaten major breaks in East-West relations, or to exploit divisions within the Western alliance, in order to force governments to suppress data on violations or to ignore a Soviet buildup in the forces and capabilities which are not covered by the treaty.

No arms control treaty can avoid some ambiguities in its wording, specify detailed penalties for every violation, or create a foolproof mechanism for defining the nature and seriousness of every possible violation. Nevertheless, the INF Treaty fails to make a serious attempt to deal with any of these issues. It fails to assure the United States Congress, allied governments, or the people of the West, that violations will be fully publicized and reacted to, and to create a diplomatic climate that makes the U.S.S.R. aware it cannot try to negotiate United States and allied willingness to tolerate or ignore violations.

The treaty does not improve the theater nuclear balance.

The INF Treaty eliminates a major class of delivery systems, and requires the destruction of roughly 2,400 missiles, but it does not affect the number of nuclear strike aircraft, short-range land-based ballistic missiles, short-range GLCM's, or any category of SLCM's and ALCM's. It does not require the reduction or destruction of any nuclear warheads.

The U.S.S.R. can increase its number of strike aircraft, ALCM's, and SLCM's. It currently has some 4,000 dual capable aircraft, of which 25 to 30 percent are exclusively configured for nuclear use. It can increase its number of land-based missiles with ranges under 500 kilometers and use them to reach many of the targets that were covered by the SS-4, SS-12, SS-23, and SS-20. The U.S.S.R. can even evade the INF Treaty using systems it has already deployed.

The recent trends in the forces which are not covered by the INF Treaty are shown in table 1, and they are scarcely reassuring. Long before the INF Treaty, NATO agreed to reduce its theater nuclear weapons by some 2,800 bombs and warheads. In contrast, the Warsaw Pact increased its land-based short-range nuclear delivery systems by 50 percent between 1980 and 1986. It established a decisive lead over NATO in these systems, and it will have a lead in delivery systems of over 2 to 1 by the mid-1990's. Its lead in terms of deployed nuclear warheads will be far greater.

NATO also converted many of its dual capable nuclear strike aircraft to purely conventional missions when it took the decision to deploy the GLCM and Pershing II. The Warsaw Pact built up to a 3-to-1 lead in its number of nuclear strike aircraft, and simultaneously doubled their average range-payload capability.

As Secretary of Defense Carlucci has pointed out in recent months, the U.S.S.R. has made no reductions in the rate at which it is building up its nuclear strike aircraft, short-range ballistic missiles, or nuclear artillery as a result of the INF Treaty. While NATO has agonized over theater nuclear force modernization, the Soviet Union has continued to act.

The INF Treaty also has important technical problems and ambiguities. The INF Treaty does not set limits on the number of ICBM's that can be used against theater targets, and any missile that is tested even once at ranges over 5,000 kilometers is counted as an ICBM, even if it its then tested extensively at INF ranges.

[Graphics not reproducible in the RECORD].

Similarly, a GLCM can still be deployed if it is never tested at ranges above 500 kilometers, even though its range could be extended with only a limited sacrifice in reliability by cutting the weight of the warhead. Iraq, for example, has recently fired Scud missiles at ranges well over 600 kilometers. Finally, the INF Treaty does not set any clear limits on new forms of weaponry like boost glide vehicles.

As a result, the INF Treaty does not establish controls on the future trends in the theater nuclear balance. This gives the U.S.S.R. a serious potential advantage. For all its rhetoric, the U.S.S.R. has led the nuclear arms race during the Nixon, Ford, Carter, and Reagan administrations. This includes all of the categories of theater nuclear weapons that will not be reduced as a result of the INF Treaty.

The INF Treaty does not reduce the risk of war or escalation:

The INF Treaty may well help create a political climate that will reduce the risk of war. There is no evidence, however, that it will reduce Soviet willingness to launch an attack if some radical changes should occur in the political situation, or that it will reduce Soviet willingness to escalate to the use of nuclear weapons.

Even after the INF reductions are fully completed, the U.S.S.R. will be able to use many other weapons to complete the same missions. The U.S.S.R. can continue to increase these weapons under the terms of the treaty, and even if it does not, there is a relatively limited number of fixed targets in NATO where the U.S.S.R. will benefit from long range time urgent strikes. The U.S.S.R. not only will be able to cover all of these targets with its remaining forces, the removal of the GLCM and Pershing II will cut the number of survivable targets and remove a great deal of the risk of time urgent retaliation by NATO.

The INF Treaty might help in some war fighting scenarios, but it will increase the Soviet advantage in preempting, or launching surprise nuclear attacks in many others. This will be particularly true of strikes against ports, main operating bases, and NATO remaining nuclear delivery systems and weapons storage sites. NATO will be particularly vulnerable if the U.S.S.R. can strike before NATO disperses its nuclear strike aircraft and nuclear weapons.

While the situation is more complex in the case of Asia and the Middle East, the U.S.S.R. will again be able to strike just as effectively. Many, if not most, of the advantages the INF Treaty offers in reducing the risk of war will be matched by the disadvantages.

The INF Treaty does not reduce the cost of war: Since the Warsaw Pact will be able to strike at all the same targets it had an incentive to strike at before the INF reductions, the INF Treaty will not reduce the cost of nuclear war in lives, economic facilities, and military forces. The main impact of the treaty will be to change the timing and impact of the weapons systems used in a nuclear exchange.

In fact, the INF reductions may well lead a Soviet targeteer allocating aircraft, ICBM's and SLBM's to use higher yield weapons, and to allocate more weapons, against many targets to make up for a loss of accuracy and predictable kill capability.

THE INF TREATY AND START ARE PART OF A COMMON PROCESS

These problems in the INF Treaty create a clear linkage between the ultimate success of the INF Treaty and the ability of the United States to negotiate a successful START Treaty. Unless START places the right kind of limits on Soviet strategic forces, the U.S.S.R. can substitute a small portion of its total strategic warheads to achieve virtually the same result against NATO's limited target base as it would if it used the intermediate range missile systems it is destroying.

The Warsaw Pact has recently conducted new tests of its ICBM's at ranges similar to those of the SS-20 and other IRBM's it has agreed to destroy. It also is rapidly increasing its ability to use its strategic forces in theater roles. In spite of all of Gorbachev's talk about arms control and glasnost, the U.S.S.R. produced 300 new ICBM's during 1984-86. All of NATO, including our British and French allies, produced 10.

The U.S.S.R. now has some 6,500 nuclear warheads on its ICBM's versus a little over 2,150 for the United States. It can afford to allocate many of these warheads to attacks on Western Europe. The U.S.S.R. is also continuing to build-up its other missile forces. During 1984-86, the U.S.S.R. produced 250 SLBM's, and NATO produced 170. As for the short-range—less than 500 kilometers—missiles not covered by the INF Treaty, the U.S.S.R. produced 1,350 missiles and NATO produced none.

This makes the modernization of strategic forces as important an issue for Europe and Asia as for the United States, and it is interesting to note the comparative trends in United States and Soviet nuclear forces.

These trends in strategic forces pose an equally serious challenge to the United States. The United States is proceeding with the modernization of its SSBN force, and has deployed the B-1. It is make important advances in its cruise missiles and has the B-2, or "Stealth" bomber, in advanced development. The United States, however, is making agonizingly slow progress in modernizing its ICBM force, will probably cancel its small ICBM Program, and will only slowly deploy a mobile force of 50 M-X missiles.

There are some significant uncertainties regarding the rate at which the U.S.S.R. will introduce a new heavy ICBM and improve the MIRVing of its SLBM's—steps which will make it easier for the U.S.S.R. to allocate strategic warheads to theater nuclear missions. Nevertheless, the current best estimate of United States intelligence indicates that the U.S.S.R. will have replaced all its SS-18's with a new heavy ICBM by the mid-1990's, will have phased out its SS-17's. The U.S.S.R. will also have converted roughly 50 percent of its entire ICBM force to mobile SS-24 and SS-25 missiles.

The United States also estimates that nearly 40 percent of Soviet SLBM warheads will be on the missiles on Typhoon submarines, that the U.S.S.R. will have deployed a new class of more heavily MIRV'd SLBM's, and that a new class of SSBN's will have begun deployment. The United States also estimates that the U.S.S.R. will have replaced nearly all of its Bear A's, B's, C's, and G's with the new Blackjack bomber, and that the Blackjack will make up nearly 50 percent of the Soviet bomber force.

If these estimates are correct, they mean that the Soviet Union will modernize over 35 percent of its SLBM's by the mid-1990's, and nearly 50 percent of its strategic bombers. The U.S.S.R. will also deploy large numbers of ALCM's and SLCM's, and continue to build up massive numbers of deep nuclear shelters and other defenses. In fact, the latest United States intelligence estimates strongly indicate that the U.S.S.R. is spending more on SDI programs than the United States.

These trends affect nuclear warheads as well as delivery systems. The U.S.S.R. has deployed over 500 additional ICBM warheads since 1982; the U.S.S.R. has added 1,000 more SLBM warheads to its SSBN force since 1984, and the U.S.S.R. overtook the United

States in terms of deployed intercontinental range bombers in 1982.

This growth in Soviet nuclear power is reflected in the total nuclear stockpile, or killing power, available to each side. The U.S.S.R. has made a great many claims about a buildup in United States nuclear strength under the Reagan administration. The truth is that the United States has concentrated on making its forces survivable and on improving their accuracy and command and control. It has steadily cut its stockpile since 1975, and now has 12 percent fewer weapons.

In contrast, table 2 shows that the U.S.S.R. increased its number of nuclear weapons by 37 percent during 1975–88. It now has a 30 percent lead over the United States in terms of total deployed weapons. During this same period, the U.S.S.R. also built up a 3-to-1 lead in the total megatonage or killing power of its nuclear weapons stockpile.

In spite of close study by United States intelligence experts, there are no current signs that the Soviet Union is reducing its effort to increase its lead in the number and total yield of either overall mix of theater nuclear or strategic nuclear weapons. In fact, unless a dramatic breakthrough takes place in START, the nuclear balance will almost certainly continue to deteriorate in terms of both theater and strategic nuclear weapons.

These trends link the United States and Europe together in any effective approach to the next step in arms control. There is no way in which either side can decouple their efforts in reducing strategic, theater nuclear, and national nuclear forces.

THE NEXT STEPS IN START

More broadly, the INF Treaty is the practical limit of what the West can accept in the form of arms reductions which do not clearly alter or stabilize the military balance, or significantly reduce the risk and cost of war. Any future reductions in strategic nuclear arms, conventional arms, and NATO's remaining theater nuclear arms must come to grips with the three real goals of arms control: Reducing the overall arms race and the instabilities in the military balance, reducing the risk of war, and reducing the cost of war if deterrence fails. Above all, such reductions must provide the West a firm assurance that a higher level of deterrence will exist after such reductions than before the reductions take place.

The strengths of the START Treaty:

The West cannot rush into START in the name of detente, good will, or domestic political considerations. It cannot afford to rush into a START agreement that does not achieve its purpose.

If the West acts wisely, this will not be the case. The START Treaty, unlike the SALT treaties, can lead to deep reductions in nuclear forces. While there is no final agreement on all the terms of START, or the Joint Draft Treaty on Reduction and Limitation of Strategic Offensive Arms, both sides agreed to the following points at the end of the May 29–June 1, 1988 summit meeting in Moscow:

Ceilings of no more than 1,600 active delivery systems and 6,000 warheads as defined by the treaty counting rules;

A subceiling of 4,900 warheads on SLBM's and ICBM's;

A subceiling of 1,540 warheads on no more than 154 heavy ICBM's.

Agreement that the number of warheads on existing missiles will be defined on the basis of the maximum number used in past tests as defined in the joint statement of December 10, 1987, and that the number of warheads attributed to each new missile will be determined by negotiation.

Agreement that heavy bombers equipped only with free fall bombs and SRAM's—short range attack missiles—will count as one delivery vehicle with one warhead.

Agreement to a detailed draft text which is already in excess of 200 pages, and which agrees to data exchanges, baseline inspections, onsite observation of the elimination of strategic systems or their removal from deployed status, continuous onsite monitoring of production facilities, and short notice inspection of areas where weapons systems are, or have been located. Short notice inspection of possible areas for covert deployment, production, storage, and repair. Prohibition of interference with national technical means. Onsite verification of the number of warheads actually on strategic missiles, and open displays of the treaty-limited items at missile bases, bomber bases, and submarine ports and times and locations chosen by the inspecting party.

These steps not only go far beyond the previous SALT treaties, they can correct many of the shortcomings in the INF Treaty. If they are linked to the proper resolution of the outstanding issues affecting the treaty, and to the proper modernization of United States and other Western national nuclear forces, they will largely eliminate any incentive for the U.S.S.R. to carry out a first strike, or to be the first nation to escalate.

The conditions under which START can threaten the West:

At the same time, however, the issues that still divide the United States and U.S.S.R. are important and they present some very real risks.

No outcome of a START Treaty is likely to seriously undermine United States retaliatory capabilities in terms of United States ability to inflict unacceptable damage on the Soviet population and economy, and even on many important fixed military targets. A surviving force can achieve these targeting objectives with 1,500 to 2,000 warheads. A properly defined post-reduction force of 6,000 warheads will allow both sides to ensure they have enough surviving warheads.

The problem is very different, however, if the issue is one of escalation, intimidation, damage limiting or decoupling. A reduction of something approaching 50 percent of each side's active force means that if either side's remaining forces are substantially more vulnerable than the other's, a major crisis or theater conflict could lead to either a limited counterforce strike or threats to launch such a strike.

Put differently, the extent to which a START Treaty makes the nuclear balance more stable is not a function of the number of weapons it reduces, but rather the structure of the post-reduction force posture on each side. Further, it is a function of the extent to which each side ensures that its forces are survivable in every sense, including the ability to maintain survivable command and control and sufficient flexibility in targeting to ride out an attack, rather than risk preemption or launch under attack in any form.

These problems are further compounded when, as is the case with START, the treaty only sets partial limits on the total force. As currently written, START would not set any limits at all on the number of nuclear warheads and weapons on each side. Many of the missiles removed from active status could be stored rather than deployed. Given the counting rules, this would allow each side both the option of deploying far more SRAM's and free fall bombs than it now deploys, and the option of some form of strategic nuclear breakout using the stored missiles.

There also is no agreement between both sides on four key issues: The counting rules for ALCM's, the treatment of mobile ICBM's, whether to include SLCM's, and how to deal with strategic defenses.

The impact of the ALCM issue:

The way in which START deals with ALCM's is particularly important because advances in stealth and guidance technology make this an exceptionally attractive means of delivering limited strategic attacks. Cruise missiles are not a good means of attacking time urgent targets, but time urgency may not be a critical issue in many scenarios.

The United States currently deploys ALCM's on part of its B–52 force, and can quickly convert its B–1's. The new B–2 will also be an ALCM carrier. The U.S.S.R. deploys the AS–15/KENT on the Bear H and, as is shown in table 3, will soon deploy them on the Blackjack. Both the United States and U.S.S.R. have far more advanced ALCM's in development.

Depending on the counting rules that are used in START, a treaty could seriously under or over count each side's force. Too high an assumed loading per bomber could penalize a given side by forcing it to sharply reduce its total warheads on other systems. Too low an assumed loading would create a substantial breakout option.

Both the United States and Soviet Union have so far agreed to several important principles:

All currently existing long-range air-to-surface cruise missiles will be considered to be nuclear armed.

Future conventionally armed long range cruise missiles will be physically distinguishable from nuclear armed long range air-to-surface missiles.

Heavy bombers equipped to launch long range cruise missiles will be distinguishable from other heavy bombers.

All ALCM's tested with a nuclear variant shall only be carried on heavy bombers.

Heavy bombers which are counted as cruise missile carriers shall only be counted as one delivery system. An agreed number of warheads shall be set for each type of bomber. The total number of ALCM's counted in START will be the sum of the total number of ALCM carrying heavy bombers of each type times the number of warheads agreed to for each type.

Each side may convert ALCM-armed heavy bombers to bombers using SRAM's and free fall bombs, or heavy bombers equipped for nonnuclear roles. Each side may convert a limited number of nuclear armed heavy bombers to reconnaissance aircraft, jamming aircraft, and tanker aircraft without these counting toward the 1,600 or 6,000 limits.

These rules are good, as far as they go. They do not, however, provide any indication of what counting rules will be applied. This could be critical because if the maximum possible load of ALCM's is assumed, rather than a more realistic average count, the United States would end up with a very limited number of platforms per warhead.

The B-52G can carry up to 12 ALCM's and the B-52H can carry up to 20, the B-1B does not currently carry ALCM's but could carry up to 22, and unclassified press reports indicate the B-2 or Stealth bomber can carry up to 9. The United States will be far better off in terms of vulnerability if the counting rules set low limits on the number of ALCM's per bomber.

Further, there is no agreed definition of long-range, and no agreement on how conventional and nuclear armed cruise missiles can be physically distinguished, or on how each side can be prevented from putting a nuclear warhead on a conventional missile. This latter point is particularly important since there would be no technical problem in substituting a nuclear weapons package of the same weight for a conventional explosive.

This means that the best real world solution to the key problem in dealing with ALCM's is to set counting rules that are based on the real world average load of long range bombers, and not on their maximum payload. At the same time, it is clear that both sides still have other issues to deal with that are going to require a great deal of detailed negotiation.

The mobile ICBM issue:

The mobile ICBM issue is affected by both arms control issues and U.S. domestic politics. There is little real doubt that both sides would reduce their vulnerability by converting from silo-based to road and rail mobile ICBM's. There is equally little doubt that this could make their forces far harder to count and verify.

This mix of arms control and deployment problems has led the United States to take the position it opposes any deployment of mobile ICBM's unless agreement can be reached on verification measures, strict numerical limits on the number of missiles and warheads they carry, and effective verification measures.

Once again, there has been impressive progress in agreeing on several key points:

Road mobile ICBM's would be confined to small restricted areas which are limited in size. Rail mobile systems would be confined to a limited number of garrisons. Limits would be set on the number of missiles, launchers, and shelters in each area or garrison. No other missiles, launchers, or related structures would be permitted in these areas. The areas and garrisons would have a fixed number of exits.

Missiles and launchers would only depart their area or garrison after prior notification, and these movements would only involve a fixed percentage of the total force.

Exercise and operational dispersal of road and rail mobile systems would require similar prior notice. Provisions would be made for enhanced use of national technical means or onsite inspection after the return of the missiles to their area or garrison.

Nondeployed missiles would be restricted to facilities listed in the treaty MOU or transit with prior notification.

Continuous perimeter and portal monitoring would be permitted at agreed production facilities.

These agreed areas may well allow both the United States and U.S.S.R. to both reduce the vulnerability of the ICBM forces and still set verifiable limits on mobile ICBM's. There are, however, some important areas where no agreement exists.

The areas where no agreement exists include the size of the restricted areas and garrisons, the production facilities that should be continuously monitored, the need for new limits on ICBM characteristics, permitting dedicated mobile resupply vehicles, the use of unique identifier tags, the "suspect site inspection" regime, and the measures that should be taken to ensure there are no covert mobile ICBM's or launchers.

The scale of the problem is illustrated by the fact that a force as small as 100 covert mobile ICBM's could carry up to 1,000 warheads. This could radically change the counterforce, limited strike, and theater capabilities of Soviet forces.

The United States also faces continuing domestic uncertainty as to whether it can find the congressional and public support for deployment of either the rail-based M-X or the road mobile small ICBM [SICBM]. Barring a major change in United States domestic policies, this could leave the United States with no more than 50-100 rail-mobile M-X's by the mid-1990's, when table 3 indicates 50 percent of the Soviet ICBM force would be on rail mobile SS-24's with 10 warheads each or on road mobile SS-25's with one warhead each.

Further, the rail basing mode of the M-X is highly dependent on strategic warning for effective mobility. This becomes particularly important because each M-X has 10 warheads, and this makes it an exceptionally attractive target because of its high warhead loading. Any Soviet breakout that allowed it to achieve a surprise attack might destroy 500 to 1,000 of the warheads in the United States post-reduction force, depending on the number of M-X's deployed.

As is the case with theater nuclear forces, even the most effective arms control treaty will not meet Western security needs without effective force modernization. If the United States should falter in deploying a more survivable ICBM force, it not only would undermine any agreement on the mobile ICBM issue, it would restore much of the Soviet incentive for a counterforce or first strike in the post-reduction balance. In fact, some preliminary U.S. studies have shown that without suitable parity in vulnerability, the U.S.S.R. could end up with a more than 2-to-1 advantage in post-exchange residual nuclear warheads.

This same risk, incidentally creates serious doubts about any move toward a comprehensive test ban or agreement to the limits in SALT II. Various forms of nuclear freeze may appear to be superficially attractive, but they may well do more to hurt arms control than help it. The problem in the arms race is not competition per se, but the kind of competition. When this competition is limited, and channeled toward creating forces that reduce the risk of war or escalation, it is both constructive and a vital insurance against some form of cheating or failure in verification.

The SLCM issue:

The SLCM problem is also serious. Sea launched cruise missiles can be deployed on virtually any major modern warship. They are one of the most promising single conventional weapons the West has developed in recent years. There also is no way to be sure that any long-range sea-launched cruise missile has not been equipped with a nuclear warhead, and ships and submarines are far harder to count and verify than long-range bombers.

The United States is already deploying large numbers of Tomahawk BG-109 sea launched cruise missiles. The land attack version of the Tomahawk has both nuclear and conventional variants. The nuclear version has a range of 1,350 nautical miles, and the conventional version has a range of over 450 nautical miles. Both weigh only 3,200 pounds, and are 20 feet 6 inches long and 20¼ inches in diameter. It is interesting to note that substituting a lighter nuclear warhead for the conventional warhead of the Tomahawk significantly increases its range.

The Soviet Union has tested the SS-N-21 sea-launched cruise missile and a number of Soviet general purpose submarines, including the *Victor, Akula,* and *Sierra* class can carry the SS-21. A *Yankee*-class nuclear submarine has already been converted to carry the SS-N-21, and the U.S.S.R. has a larger system called the SS-NX-24 under development. This will be deployed during the next few years, and could be carried on a variety of platforms, including modified *Yankee*-class submarines.

The U.S.S.R. has proposed a detection system to deal with this issue, but it would be unreliable at best, has exceedingly short range, and would not work if the missile warheads have even minimal shielding. It is far from clear that any effective way exists to verify the strength of each side's cruise missile forces.

It is also uncertain that capping the number of SLCM's serves Western security interests. The SLCM is not usable against time urgent targets and is relatively invulnerable. It is neither a first strike weapon nor an incentive for a first strike. The SLCM offers the United States a potential counter to the Soviet theater nuclear build-up, and it also offers the United States a way of avoiding the problem that its weapons loadings have tended to maximize the number of warheads on a given delivery system, and help to create a potential first strike or escalatory advantage if these systems can be targeted.

While it is always tempting to seek a complete package in a treaty like START, it may well be better to agree on a package of reductions that leaves one area open to the United States and U.S.S.R. where restraint will depend on the extent to which both sides shape their post-reduction forces to actually reduce the cost and risk of war. This is particularly true of a system where monitoring numbers and deployments is so difficult, but which can act to stabilize both the strategic and theater nuclear balances.

At the same time, the uncertainties affecting the ALCM, mobile missile, and SLCM illustrate the importance of British and French efforts to create modern and survivable deterrents. The British and French forces will never be large enough to threaten the U.S.S.R. in any offensive sense, but the fact such European forces exists will help reduce any risk of decoupling United States strategic forces, regardless of the uncertainties in the post-reduction balance after START and the INF Treaties. They also will be a powerful deterrent to any Soviet attempt to exploit some limited advantage in escalatory capability in either political or military terms.

The ABM Treaty, strategic defense initiative, Asat, and deep shelter issues:

It is always tempting to decouple complex issues like the ABM Treaty, SDI, the Asat, and deep shelters, and to try to deal with them in isolation from START and from each other. In fact, however, the future of the ABM Treaty and SDI have become so closely linked to START that it is difficult to discuss them in any other context. The same is true of Asat programs and of the Soviet deep shelter program, at least to the extent it affects post-reduction war fighting capability.

SDI and the interpretation of the ABM Treaty are now so politicized in the West that there is a tendency to make them litmus tests of the conservative and liberal approach to arms control. Both issues have so polarized the experts, that it is also possible to martial an immense amount of evidence on both sides of the issue, as well as to support or oppose the early deployment of some limited system or accidental launch protection system.

This debate has done more to obfuscate Western security needs than help define them. There has been relatively little effort outside a narrow group of top-level U.S. policymakers to objectively consider precisely what programs will and will not be stabilizing in a post-START reduction context, or could provide a solution to the problem strategic systems can be used against theater targets. The same is true of precisely how SDI and the ABM Treaty can best be used as bargaining chips in getting the kind of provisions in START that will best serve Western interests.

These problems in the Western approach to the ABM Treaty and SDI are further complicated by the fact that the U.S.S.R. is simultaneously opposing any Western activity that could lead to the deployment of strategic defenses while conducting a massive effort of its own. The size of this Soviet effort is indicated by the fact the U.S.S.R. not only has a force of 100 new ABM launchers using new missiles in the Moscow area, it has some 2,250 interceptors and over 9,000 surface-to-air missiles launchers in its air defense forces.

The U.S.S.R. may complain about SDI, but is spending more in terms of personnel, plant space, and capital on research and development on SDI research than the United States. This includes major programs in launch detection radars and satellites, ground based lasers, Asat's, and space based laser and particle beam weapons.

The U.S.S.R. is deploying a completely redesigned ABM system around Moscow, using a modified form of the Galosh and a new shorter range, high acceleration, missile called the Gazelle. These new missiles are expected to become operational in 1988 or 1989. The U.S.S.R. also should make its new multifunction phased array radar at Pushkino operational in 1989, and this will give its Moscow defense system 360-degree coverage for the first time.

Further, the U.S.S.R. is deploying many elements of a breakout system that could provide it with either an interim SDI capability, or the ability to rapidly deploy protection for its postreduction nuclear delivery forces. This includes the nine large phased array radars [LPAR] that are now nearing completion, particularly the radar at Krasnoyarsk—which seems to have been designed for ABM functions and in violation of the ABM Treaty. It has also deployed special radar units with its SA-10, SA-12A, and SA-12B missiles to test their ABM capabilities.

As if this situation was not complicated enough, most research efforts on strategic defense will inevitably create the capability to build vastly improved antisatellite or Asat systems, and to protect postreduction strategic delivery systems against counterforce attacks. This makes any debates over the current crude generation of Asat's virtually meaningless, and creates the problem that neither side can firmly predict the relative counterforce vulnerability of either its own or threat forces because it cannot predict their level of active defense.

Finally, the whole problem of predicting the post-reduction stability of the strategic and theater nuclear balance cannot be divorced from the fact that the United States and U.S.S.R. now have very different degrees of endurance in the survivability of their command and control systems. Both sides can ride out the initial phases of a massive strategic exchange, but the United States is heavily dependent on airborne systems with limited endurance and the U.S.S.R. is dependent on deep shelters.

As both sides move toward deep reductions, these vulnerability factors could become steadily more important in terms of the incentive for Soviet first strikes and escalation unless the United States deploys a highly survivable mix of forces which are sufficiently accurate so no combination of Soviet attacks on United States delivery systems and command and control could achieve damage limiting, or the denial of an important war fighting option.

There is no easy way to deal with these issues, just as there is no magic solution to the problem of controlling the SLCM. At this point in time, the West still have a great deal of basic thinking and research to do. It also needs to redirect much of its existing research inside and outside of governments to make it more objective, and to reduce the present politicization and polarization, and to end the compartmentation that prevents all these issues from being looked at in a net assessment context and as part of one broad problem in arms control.

The most that can be said in terms of immediate action is that the West can probably afford to agree to delay deploying any variant of SDI provided that: first, it gets the kind of detailed START agreement that will firmly and decisively reduce any incentive for a first strike or escalation; second, it proceeds to modernize its own nuclear forces in ways which make them less vulnerable and more flexible under ride out scenarios; and third, the U.S.S.R. confines its own activities to research and development in a form that ends its move toward some variant of the breakout capability.

START and the need for a comprehensive arms control strategy:

Taken collectively, this mix of issues provides a clear indication that the West cannot deal with the next steps in nuclear arms control on an ad hoc, step by step, or piecemeal basis. The West does need to be flexible, but it also clearly needs a comprehensive arms control strategy that looks at the impact of START in the broadest possible context, that pays close attention to the coupling of INF and strategic nuclear issues, and that links the West's goals in arms control to its goals in force modernization.

The basic terms of the START Treaty seem sound, but it would take a relatively few careless consessions in regard to verification or counting rules—or failure to properly modernize NATO, United States, French, and British nuclear forces—to create a START Treaty that would act to increase the incentive for some kinds of nuclear war or help to decouple the United States from its European allies.

We cannot ignore the risk that a START Treaty can give the Warsaw Pact more of a military incentive to launch a first strike, preemptive strike, or counterforce strike, unless the treaty has the proper sublimits on the mix of weapons on both sides.

This means the West not only must find ways to deal with the problem of verification and enforcement in a way that combines its treatment of INF and START, it must develop an agreed strategy for arms control and force modernization that will bind the United States and Europe together, and prevent any divisions between the front line states of Europe and other European countries.

The West must also remember its true objective in strategic arms control. There has been careless, if not reckless, talk about abolishing nuclear weapons. The West cannot treat the fate of the human race as an exercise in mindless political slogans. We are decades away from a world in which we can hope to place firm limits on all forms of weapons of mass destruction.

The goal of START is not to abolish nuclear weapons. It is to limit the arms race and above all to reduce the incentive on each side to initiate or escalate to nuclear war. START will also stand or fall on its ability to end any incentive for a first strike against the opposing side's strategic nuclear delivery systems. It will stand or fall on Soviet willingness to abandon the search for some form of nuclear warfighting capability and to accept mutual assured destruction.

This will not be easy. The U.S.S.R. has long rejected assured destruction for a damage limiting and war fighting strategy. The Soviet Union has also approached strategic arms control from a totally different perspective. A START Treaty will only serve Western interests if it has sublimits that show the U.S.S.R. has shifted away from any effort to "win" a nuclear exchange.

It also is much too soon to deal with the U.S.S.R. on a basis of trust. Just before the final Senate debate on the INF Treaty, the United States negotiators at Geneva found that their Soviet counterparts were still willing to try to exploit every ambiguity in the INF Treaty relating to new technologies, and every weakness in the treaty text.

It will be years, if not a decade, before we can easily move on the kind of reductions that will make even minor forms of cheating and violations strategically significant—reductions to level of 3,000 on-line strategic weapons or less. Even then, neither the West or Soviet Union will be able to ignore the proliferation of nuclear, chemical, and biological weapons.

Useful as a START Treaty can be, the West cannot ignore the fact that the "deep reductions" sought in the START Treaty will not rid the world of a single nuclear weapon or place any constraints on the production of new ones. It cannot ignore the fact that nuclear weapons in storage are only safer than deployed nuclear weapons if they stay in storage, and that storing nuclear weapons may actually encourage cheating and the surprise deployment of such weapons.

CONVENTIONAL ARMS CONTROL AND FURTHER REDUCTIONS IN THEATER NUCLEAR SYSTEMS

There is even more reason for caution in proceeding with deep reductions in conventional arms and additional reductions in NATO's small pool of remaining theater nuclear forces. There certainly is no reason why NATO and the Warsaw Pact cannot begin to explore such reductions, exchange data, and begin to come to grips with the major asymmetries in each side's force structure.

The truth is, however, that NATO simply is not ready to go beyond the limited reductions it has proposed in MBFR and to address deep cuts in conventional forces. It is easy for individual analysts to glibly propose cuts based on tanks and artillery, common ceilings, and other loosely defined criteria. It is equally easy for such analysts to take a revisionist approach to the NATO and Warsaw Pact balance and to claim this balance is so close that only minor asymmetries will be required in the NATO and Warsaw Pact reductions.

The need for major improvements in the assessment of the NATO and Warsaw Pact balance:

NATO cannot afford to bet its already fragile conventional capabilities on the poorly researched and reasoned work of inexperienced analysts, professional opponents of its existing force structure, and policymakers who have only a limited grasp of net assessment and military requirements. Amateurs may have a place in terms of proposals and concepts, but they have no place in trying to assess the balance or the impact of reductions.

At a minimum, the planning analysis of both conventional force reductions and NATO's future requirements requires access to an accurate data base on the quantitative and qualitative strength of both sides, and an adequate model for assessing their war fighting capabilities in various scenarios after different types of reductions.

The analysis of conventional force reductions requires long experience in establishing counting rules, in combining qualitative and quantitative assessments, and in understanding the readiness and buildup capabilities of both sides.

If this level of capability exists outside the narrow range of experts whom governments clear to work in this area, it is not at all apparent from any of the recent spate of articles in various books and magazines.

In fact, it is interesting to note that there are serious problems in estimating the most basic data on each side's forces in even the most informed sources. If one compares the IISS analysis of the NATO and Warsaw Pact balance in the 1987-88 edition of the Military Balance, the data in the British 1988 defense estimates, the recent analysis of the balance by the West German MOD, and the United States analysis in Soviet military power, there are amazing differences between these sources as to the total forces on each side and the resulting force ratio.

These data problems emerge even in such critical categories as main battle tanks. While all four sources reach approximately the same total for the Warsaw Pact forces that should be included in the Atlantic to the Urals area, or its closest equivalent: The range is from 51,000 to 53,100 tanks. In contrast, these sources show a range for NATO of from 17,000 to 28,200 tanks. This produces a difference in the resulting Warsaw Pact advantage of from 1.9 to 3.0 to 1. Similar differences in the figures for the number of land based combat aircraft produce ratios ranging from 1.2 to 2.3 to 1, and although the artillery data are not comparable, the resulting range of ratios varies from 1.8 to 1 to 5.6 to 1.[1]

There is no doubt that such basic differences in counting each side's forces can be resolved by a careful comparison of counting rules and data, but they are only the tip of the iceberg. Major differences now exist in the classified data bases NATO countries keep on Warsaw Pact forces. There are many differences in how to model and simulate the military capabilities of each side, and some nations conclude that NATO could be decisively defeated in a conventional war in as little as 3 days, while others feel it could defend for nearly 30.

There are basic differences in attitudes regarding the acceptability of the loss of territory in forward defense, in regard to confidence in warning, in regard to how quickly each side can deploy its forces, and as to the measure that could create symmetry in each side's reinforcement capability. These debates also do not focus on intangibles; they are the basic debates over hard data, intelligence capabilities, and the quantifiable elements of war fighting capability.

They need to go beyond the bean count and consider mobility and readiness:

Intangibles, however, do matter. If the West is to agree on force reductions it must be able to go beyond the bean count and the factors that can be analyzed in war games and analytic models, it must take readiness and deployment capabilities into full account. This means, for example, that NATO must begin with a fully accurate picture of just how far the United States really is from being able to meet its commitment to NATO to be able to deploy 10 divisions in 10 days.

At present, the United States has massive shortages in its POMCUS stocks. Even if these POMCUS division and brigade stocks were complete, the United States would lack the combination of air and sea lift to meet its commitment in 30 days, much less 10. Further, nearly half the manpower it would deploy would consist of Reserves with major training and readiness problems. While these forces are often described as combat ready, recent testimony before the Senate Armed Services Committee has made it clear that the United States must mobilize and deploy more than 50 percent of the manpower required to bring the combination of combat and support units it already has in Europe to full strength, and over 75 percent of the forces necessary to meet its full 10 division commitment to NATO.

This situation is no better for European forces. Denmark's active manning is only about 20 percent of its war authorized strength, and would take nearly a week to deploy one poorly equipped division to an area in Jutland that needs three good divisions. More than 50 percent of all West German forces must be mobilized, and many corps areas are understrength for the front they must cover. Only one Dutch brigade is deployed in the FRG, and it could take four days or more in the real world for Netherlands Army forces to move the 350 kilometers to their wartime positions.

The British Army must more than double its strength in the FRG, and much of this strength would have to come from mobilized forces or forces with limited training in their wartime assignments. Belgian units would have to move 130 to 200 kilometers, and it could take a week to mobilize reserves which often have severe training problems. Canada provides only one understrength brigade, which other nations must support, and France's divisions are only half the size of United States and German divisions, lack a single modern main battle tank, and are critically short of stocks and support forces.

There are, of course, similar problems in many Warsaw Pact forces, nevertheless, the balance in the critical central region does easily lend itself to major reductions to cover a border where most Soviet divisions in the GDR can reach NATO defense positions faster than the defending NATO units, and where NATO is already close to the critical minimum of forward deployed and reserve forces to cover many lines of attack.

While the risks involved are complex, it is possible to get a broad idea of the risks involved by comparing the balance of equipment that is actually in forces with at least 20 percent manning. Unlike the similar IISS counts for the central region, this eliminates the problems inherent in counting all the equipment in NATO forces against a count of Warsaw Pact forces that largely includes only that equipment in active units.

These figures are shown in table 4, and it is clear that the Warsaw Pact has a 2.4-to-1 advantage in main battle tanks, a 2-to-1 advantage in mechanized infantry combat fighting vehicles, a 1.4-to-1 advantage in all types of other armored vehicles, a 4-to-1 advantage in major artillery weapons and antitank guns, a 1.8-to-1 advantage in mortars, a 1.6-to-1 advantage in antitank guided missiles, a 1.7-to-1 advantage in AA guns, a 2.1-to-1 advantage in surface-to-air missile launchers, a 1.5-to-1 advantage in armed and attack helicopters, and a 1.9-to-1 advantage in land combat aircraft.

The need for a new force improvement strategy:

These same issues illustrate why it is so dangerous to talk about improving NATO's conventional options without a realistic net assessment of the quantitative and qualitative trends in the balance—a warning which is strongly reinforced by the NATO inferiority in major equipment production shown in table 5. There are good reasons why military planners are increasingly impatient with political talk about the effectiveness of low or no cost force measures, or bright ideas for new military tactical concepts. The fact is that two decades of similar rhetoric and flexible response have seen the Warsaw Pact steadily expand its advantage in numbers and close the gap in technology and readiness.

Regardless of how soon it can begin reductions in conventional forces, NATO needs a force improvement strategy that goes beyond good intentions and rhetoric. Arms control will not make NATO's problems in buying new technologies easier, and it makes tailoring technology to the needs of post reduction forces absolutely critical. Conventional arms reductions may limit the number of delivery platforms, but they could radically alter the requirement for the mix of delivery platforms, munitions, mobility assets and command and control capability.

Reductions in NATO forces will make deployment from CONUS even more of a problem and require new lift systems and forces that are better tailored to rapid deployment. Since reductions will create a problem in providing a suitable density of ground forces, they may well make deep strike and FOFA systems even more important than they are today. It is also important to understand that any reductions in Warsaw Pact forces will free resources that pact countries can spend on closing the remaining gap in deployed tactical technology.

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[1] A detailed analysis of these differences showing the exact definition and source, is presented in Anthony H. Cordesman's article on "Soviet Military Developments" in the July edition of "Armed Forces Journal International."

Taking a slow and methodical approach to conventional force reductions:

It may be that this situation can eventually be resolved with the kind of carefully structured common ceilings or asymmetric reductions now under study—although most such expert studies imply that the Warsaw Pact would have to reduce 3 to 5 times as many major combat equipment items as NATO. This, however, is going to require years of careful study.

In the interim, NATO is in no position to take added risks with its conventional forces. It is too close to the edge of losing the level of conventional capability it needs and to being forced to reply on rapid escalation to nuclear war in even limited attacks. While such attacks may now seem unlikely, this has not been a great century for predictable and rational attacks. Further, NATO cannot leave Europe vulnerable to intimidation, decoupling, political threats, or Soviet efforts to divide the West.

Delaying further reductions in theater nuclear forces until after the START and Conventional Arms Reduction Treaties:

Finally, the West needs to act quickly to educate public opinion to the fact that it cannot risk further reductions in theater nuclear forces until it has a suitable START Treaty and has at least made major progress in conventional force reductions.

We cannot deter war if we are trapped into allowing our theater nuclear capability to degenerate without creating a stable balance of conventional and nuclear forces in Europe. Regardless of the current political climate in the FRG, and some other European countries, we cannot afford to follow public opinion when we need to lead it.

We need to delay further theater nuclear reductions until we have established the conditions where we are ready to conduct them properly. We also cannot delay the modernization of our remaining theater nuclear forces, or hand the Warsaw Pact a major advantage in air delivered theater nuclear capabilities by default.

It may be possible to work out some pattern of mutual restraint that ties modernization to limits on weapons numbers, if the Soviet Union is willing to give up its present effort to develop a massive advantage in short range and air breathing nuclear delivery capabilities. In the interim, we must show our resolve, modernize our air breathing and short range nuclear systems, and encourage Britain and France to modernize their national tactical nuclear forces as well.

Reductions of chemicals weapons, however, will be a different story if both sides end up either with no chemical offensive weapons or the same basic mix of technologies and systems. If the verification problems can be solved, eliminating chemical weapons can do both sides nothing but good.

IMPLEMENTING A NEW APPROACH TO ARMS REDUCTIONS

If there is any single lesson to be drawn out of the complex web of issues that affect our next steps in arms control, it is that the West can no longer deal with arms control on the basis that it has during the previous decades. The West needs to clearly recognize that arms control is becoming an essential part of defense planning.

The West also needs to recognize that it cannot approach the issue simply in terms of seeking reductions and constraints on the arms race. The West must seek arms reductions which will really reduce the threat and cost of war. Further, if the West is to achieve such treaties, it must create a new political climate for arms control that will build a consensus around a sound approach to arms reductions.

The West clearly needs a comprehensive arms control strategy that will be regularly updated, and educate public opinion in the United States and allied countries. It needs a strategy that is sufficiently open and detailed to help force the key nations in the West to work together, and to help create a consensus between left and right.

The U.S. Congress has already taken an important first step toward achieving this goal. The fiscal year 1989 Defense Authorization Act requires the President to submit an annual report, on December 31 of each year, which sets forth a comprehensive strategy for arms control to the Congress, and which requires this strategy to be justified in terms of a detailed data base on the forces involved and a net assessment of the impact of arms control on the military balance.

The same objective could be met for the West as a whole by having the NATO Ministers authorize the Secretary General to issue a similar document. Such a document should also provide a detailed and comprehensive statement of NATO's arms control strategy on all existing and prospective arms control treaties and negotiations. It should specify the nature and sequence of an NATO's approach to future arms control efforts.

It should describe how NATO will approach strategic, conventional, and additional theater nuclear force reductions. It should provide a comprehensive net assessment of the current trends in the military balance as they affect arms control.

This document should establish its credibility by including a comprehensive data base on the forces on both sides affected by the arms control treaty, it should specify the methodology used to analyze them in full detail, it should provide the results of both static and dynamic methods of analysis, and it should examine all major scenarios and contingencies ranging from political confrontation to full scale war.

It should assess the military impact of arms control proposals and would explain the level and impact of Western arms control proposals on the risk and cost of war in typical contingencies or scenarios. It should show the impact of proposed subceiling, asymmetries and other driving factors affecting a treaty or arms control proposals on the military balance, and show how these act to increase deterrence and to reduce the risk and cost of war.

There is no doubt that such an open and coordinated approach to arms control will involve serious debates within the Alliance, and a much more open and integrated approach to arms control than in the past, although authorizing the Secretary General to issue such a report could ease some of the problems in coordination.

As for the argument that such a document would somehow bind the hands of negotiators, or provide signals that the U.S.S.R. could exploit, one has to consider the alternative. The West will be far better off with a slow, united, and meaningful approach to arms control. Such an approach will be far harder for the U.S.S.R. to exploit, and at the same time, it will build up Soviet trust in its ability to negotiate stable and lasting positions.

Most importantly, developing such a coordinated strategy would help shape a broader consensus into NATO and the West. It would help ensure that Western public opinion would be fully informed, and could not be manipulated to support the kind of arms control that might destabilize the East-West balance, rather than increase Western security.

The West must face the fact that its competition with the U.S.S.R. in arms control will be a long and difficult process, and that the most serious risk it faces is the U.S.S.R.'s ability to exploit political divisions within the United States and other Western nations.

Some of these differences are inevitable. There will always be differences between liberals and conservatives, and among the nations of the West, as to the best way of dealing with verification and enforcement and with arms control strategy. The challenge we face is to find ways to limit those differences and to use them constructively, rather than allow the Soviet Union to exploit them. To do this, we have to work toward a consensus on key issues and we must do so in an open and democratic way.

We need to stop dealing in secret information, and to educate our publics. We need to build a broad popular consensus, not simply one among decisionmakers and experts. If we do not, we are almost certain to see the left and right polarize. We are likely to see domestic politics force unilateral cuts in modernization, manpower, and forces in anticipation of arms reductions. We also are likely to see the U.S.S.R. split the West by exploiting its lack of cohesion and national differences, and we may well destroy any serious Soviet interest in arms control by creating so many opportunities for political opportunism that the U.S.S.R. cannot resist exploiting them.

It is easy to rush forward into the wrong kind of arms control. History will be no more forgiving of those who do so, however, than those who rush into confrontation and an arms race. The stakes in the next arms control treaties will be the security of the world. We need to move forward in a way that not only will preserve Western security, but ultimately that of the peoples of the Soviet bloc and of the rest of the world.●

HONORING RECIPIENTS OF ISRAEL'S 40TH ANNIVERSARY MEDAL

● Mr. LAUTENBERG. Mr. President, I rise to draw my colleagues' attention to the recipients of the Israel 40th Anniversary Medal, who will be honored at a celebration in Jersey City, NJ, on June 28, 1988.

This year, as we celebrate Israel's 40th anniversary, it is especially fitting to take note of those individuals who have given of their time and energy to make sure that Israel stays strong and secure for at least another 40 years. The recipients of this medal have dedicated themselves to that cause, and to strengthening the bond between Israel and the United States. Their success in this endeavor is attributable to their outstanding leadership within the Jewish community. I extend my warmest congratulations to each of the following award winners.

Horace Bier, a resident of Livingston, NJ, is president of Richards Manufacturing Inc. He is former president of the United Jewish Federation of MetroWest, and a founder of Congregation Ahavas Achim B'nai Israel. He is particularly celebrated for introducing the Solomon Schechter Day School concept to North America.

Daniel Drench, a resident of White Lake, NJ, is the current president of United Jewish Centers of Metrowest. He is a former president of both the Jewish Federation of Morris and Sussex Counties and of Artisan Electronics. He has devoted countless hours to securing a fruitful and enduring partnership between Israel and the United States.

Michael Griffen, a resident of Clinton, NJ, is president and chief executive officer of Maplewood Bank and Trust and a member of the Financial Resources Committee of Metropolitan New Jersey. His contribution to Israel-American relations through his service as advisor of financial institutions and investments of Israel Bonds is invaluable.

Albert Klein, a resident of South Orange, NJ, is the chairman and chief executive officer of Lyon & Lyon. As the past general chairman of Israel Bonds, he was honored for his service to Israel by Green Brook Country Club and State of Israel Bonds. I honor him today for his continued commitment to helping Israel build its economy.

Sam Oolie, a resident of North Caldwell, NJ, is president of Oolie Enterprises, Inc. He is currently the president of Jewish Federation of MetroWest and a national vice president of the United Jewish Appeal. His service to the State of Israel includes membership on the Boards of Haifa University and the Jerusalem Institute of Management.

Hattie Segal, a resident of Short Hills, NJ, is past chairman of the Women's Division of Metropolitan New Jersey and present national chairman of the Ambassador's Society of Diamond Trustees. She is also a member of the National Woman's Division Board of Trustees. I would like to congratulate Ms. Segal for her strong dedication to national and international Jewish concerns.

Mr. President, it gives me great pleasure to pay tribute to the recipients of this medal, and to the cause for which they won it. Again, I want to congratulate them on their work in the community and on behalf of the State of Israel.

SALUTE TO SEDALIA'S GOLDEN PLAYERS

● Mr. BOND. Mr. President, this weekend a very special group of people will be performing a new play entitled "Bugaboos Under The Big Top" at the State Fair Community College in Sedalia, MO. Though I will be unable to attend the performance, I would like to take the time to bring the attention of my colleagues to this group and applaud their efforts.

The Golden Players senior citizen theatre group has been a source of inspiration for this Missouri community for several years. The members of this group, all retired, continue to share their talents and energies with those around them through creative dramatic productions.

In my years as Governor of Missouri, I encouraged the senior citizens of our State to remain active, contributing members of their communities through volunteer services in homes, schools, and hospitals. Missouri and America profit greatly from the knowledge and experience of our senior citizens. I can think of no more vibrant way for seniors to continue to serve their communities than through participation in the performing arts. The creativity and energy of the Golden Players is an inspiration to us all. I wish them luck in their performances this weekend and success in their future endeavors.●

REIMBURSEMENT OF SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS FOR ELDERLY

● Mr. INOUYE. Mr. President, on June 8, 1988, the Senate passed H.R. 2470, the Medicare Catastrophic Protection Act of 1987. This bill is extremely important to the many elderly people in our Nation who turn to us for assistance in a most fundamental need for adequate health care and protection from financial disaster if a catastrophic illness should occur.

I am concerned that two of the many technical amendments adopted by the conferees change a direct reimbursement fee schedule for the services of certified registered nurse anesthetists before that fee schedule has been developed fully and proposed for congressional and public comment. I am afraid these provisions may be premature and, without further modification, could be detrimental to certified registered nurse anesthetists and to small rural hospitals. I hope that we can revisit these two issues when the certified registered nurse anesthetist fee schedule is published for public comment.

The first provision redefines the term certified registered nurse anesthetist to include anesthesiologist assistants. The effect of this change is to broaden the types of providers eligible for direct fee-for-service payment. The anesthesiologist assistant is not a certified registered nurse anesthetist. The anesthesiologist assistant has a limited scope of practice and must be employed and supervised by an anesthesiologist-M.D. Anesthesiologist assistant services, therefore, can be billed by physician employers as physician services. On the other hand, most certified registered nurse anesthetists, who are licensed registered nurses, are self-employed or hospital-employed and could be billed directly for services.

The second amendment limits the amount which may be paid for certified registered nurse anesthetist services. The current "cost reimbursement" plan reimburses hospitals for the cost of anesthesia, regardless of volume of cases. The amendment changes this to a fee-for-service schedule that reimburses certified registered nurse anesthetist services not to exceed a physician payment for the same service. In rural areas with small hospitals, often there are no physicians providing anesthesia—only certified registered nurse anesthetists. The number of surgical cases per year in rural hospitals usually is small relative to the number of cases in large, urban hospitals. For small hospitals with small volume of surgical cases, the fee payment schedule should be adjusted to account for the difference in physician/certified registered nurse anesthetist payments or should continue to allow hospitals to implement the current cost reimbursement program.

This esteemed body has responded similarly to the Family Security Act, S. 1511, by adopting two technical amendments that addressed similar issues. These amendments are now in conference.●

ALLOCATIONS UNDER SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT OF 1974

● Mr. CHILES. Mr. President, when I filed with the Senate revised allocations under section 302(a) of the Congressional Budget Act in connection with the catastrophic insurance initiative, there was a mistake in one of the numbers: the budget authority for the Finance Committee. To correct this mistake, I send to the desk revised allocations, functional levels, and aggregates to carry out section 5 of the budget resolution. The only change is the one I mentioned. These numbers have been cleared with the ranking member of the Budget Committee, Senator DOMENICI, and the chairman of the Finance Committee, Senator BENTSEN.

REVISED FUNCTIONAL LEVELS AND AGGREGATES FOR THE 1989 BUDGET RESOLUTION

[In million of dollars]

	1989	1990	1991
REVISED AGGREGATES			
Unified budget aggregates:			
Budget authority	1,232.05	1,309.70	1,394.70
Outlays	1,099.75	1,162.40	1,222.10
Revenues	964.70	1,047.15	1,127.90
Deficit	135.05	115.25	94.20
On-Budget aggregates:			
Budget authority	973.55	1,027.20	1,088.60
Outlays	885.85	937.20	985.30
Revenues	706.20	764.70	821.90
Deficit	179.65	172.50	163.40
FUNCTION 570, REVISED LEVELS			
Budget authority	104.05	117.50	129.30
Outlays	86.95	99.80	112.20

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT FOR 1989

[In million of dollars]

Committees	Direct spending jurisdiction		Entitlements funded in annual appropriations	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations	611,401	625,083		
Agriculture, Nutrition and Forestry	22,823	21,216	17,961	18,021
Armed Services	46,700	31,027	0	8
Banking, Housing, and Urban Affairs	8,504	6,279		
Commerce, Science, and Transportation	2,145	201	382	381
Energy and Natural Resources	1,333	931	33	33
Environment and Public Works	15,156	1,335		
Finance	680,949	605,078	61,941	62,255
Foreign Relations	7,810	8,674		
Governmental Affairs	64,444	40,943	0	0
Judiciary	1,350	1,283	109	109
Labor and Human Resources	3,476	2,826	5,087	5,082
Rules and Administration	48	15		
Small Business	0	0		
Veterans' Affairs	1,632	1,360	15,533	15,502
Select Indian Affairs	398	392		
Not allocated to committee	(236,119)	(246,893)		
Total	1,232,050	1,099,750	101,046	101,391●

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business—there will be no more rollcall votes today—and that Senators may speak during that period not to extend beyond the hour of 6:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the able Republican leader as to whether or not the following nominations have been cleared on his side of the aisle, beginning with new reports on page 4, going through 5 and nominations placed on the Secretary's desk in the Foreign Service?

Mr. DOLE. Those have all been cleared except the nominations placed on the Secretary's desk.

Mr. BYRD. Very well.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on page 4 beginning with new reports, going through the Army on that page, the Army continued on page 5 and Navy on page 5; that those nominations be considered and confirmed en bloc; that the motion to reconsider en bloc be laid on the table; that the President be immediately notified of the confirmations, and the Senate return to legislative session; that if any Senators have statements, they be permitted to include them in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL SCIENCE FOUNDATION

Warren J. Baker, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1994 (reappointment).

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Helmuth J. Naumer, of New Mexico, to be a Member of the National Museum Services Board for a term expiring December 6, 1992.

Richard J. Schwartz, of New York, to be a Member of the National Museum Services Board for a term expiring December 6, 1992, vice Louis Roman DiSabato.

IN THE ARMY

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Edwin H. Burba, Jr., [redacted] U.S. Army.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 5142 to be chief of chaplains, U.S. Navy:

To be chief of chaplains

Rear Adm. (Lower half) Alvin B. Koeneman, [redacted]4100, Chaplain Corps, U.S. Navy.

LEGISLATIVE SESSION

LEGISLATIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the able Republican leader if he is prepared to consider the calendar orders numbered 744, 745, 746, 748, and 749.

Mr. DOLE. Yes. Those have been cleared on our side.

Mr. BYRD. Mr. President, I ask unanimous consent that those various resolutions, concurrent resolutions, joint resolutions, and bills be considered en bloc, and that wherever amendments to the preambles are shown, such amendments be agreed to; that such measures be agreed to en bloc; that the motion to reconsider en bloc be laid on the table; that the action on the various measures appear severally on the surface of the RECORD, and that any Senators who have statements may have their statements included as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF CERTAIN U.S. INFORMATION AGENCY FILMS

The bill (S. 2365) authorizing the release of 86 U.S. Information Agency films with respect to the Marshall plan, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2365

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States the master copies of the following films with respect to the Marshall plan: adventure in Saradinia; Air of Freedom; The Appian Way; Assignment Europe; Belgium—A Year of Progress; Breakthrough; Bull's Eye For Farmer Petersen; Calabia; Ciampino—Airport of Europe; City Out of Darkness; Clearing the Lines; Corinth Canal; Council of Europe; A Doctor For Ardaknos; Dunkirk To Dunkerque; Edge of Freedom; Europe Looks Ahead; Expert Services; A Farm in Four Countries; Finding the Time; Free City; The Good Life; A Gun For Gaetano; Handicraft Town; Hansel and the 200,000 Chickens; The Marshall Plan At Work in Ireland; The Marshall Plan At Work in Norway; The Marshall Plan At Work in Turkey; Men and Machines; Mill Town; Open Secret; Over to You; Power for Peace; Productivity—Key to Progress; Project for Tomorrow; The Promise of Barty O'Brien; Report From Britain; Return From The Valley; Rice and Bulls; The Ruhr; The Shoemaker and the Hatter; School For Colonels; A Seed is Sown; Shoot the Nets; The Smiths and the Robinsons; Somewhere to Live; Story of Koula; Story of Mahmoud; Streamlined Pig; Teeth of the Wind; Houen Zo!; The Hour of Choice; Ideas At Work; Indo-China Story; Indo-China Today; The Invisible Ink; Island of Faith; Italy Today; I Went Back; Jour de Peine; The Jungle That Was; Keep 'em Flying; Land of Apulia; The Lesson of Korea; Let's Be Childish; Liberte; Liquid Force; The Living Stream; Machines at Work; Marketing; The Marshall Plan at Work in Australia; The Marshall Plan At Work in Belgium; The Marshall Plan At Work in Denmark; The Marshall Plan At Work in Germany; The Marshall Plan At Work in Great Britain; The Marshall Plan At Work in Greece; The Marshall Plan At Work in Holland; Transatlantic; Trieste to Lampedusa; Turkish Harvest; Victory at Thermopylae; Village Without Water; Village Without Words; Without Fear; The Years of Decision; The Marshall Plan Act Work in Italy; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of these films, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making master copies available;

(B) deposit these films in the National Archives of the United States; and

(C) make copies of these films available for purchase and public viewing within the United States.

Any reimbursement of the Director pursuant to this section shall be credited to the applicable appropriations of the United States Information Agency.

COMMEMORATING THE BICENTENNIAL OF THE FRENCH REVOLUTION AND THE RIGHTS OF MAN AND THE CITIZEN

The joint resolution (S.J. Res. 317) commemorating the bicentennial of the French Revolution and the Rights of Man and of the Citizen was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. Res. 317

Whereas the Treaty of Commerce and Amity concluded February 6, 1778, between France and the United States was the first alliance entered into by the United States;

Whereas the independence of the United States was achieved with significant assistance from France and from individual citizens of France;

Whereas the ideals of liberty and freedom which animated the people of the United States during the American Revolution were shared by many of the people of France and are held sacred by both peoples today;

Whereas the year 1789 was of particular significance in the history of both France and the United States, marking the opening chapter of the French Revolution and the concluding chapter of the American Revolution;

Whereas within a single thirty-day period, the National Assembly of France approved the Declaration of the Rights of Man and of the Citizen on August 26, 1789, and the Congress of the United States approved the Bill of Rights on September 25, 1789, thereby proclaiming the sanctity of human rights on both sides of the Atlantic Ocean and guaranteeing them for future generations;

Whereas the Government of France has established a Commission for the Bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizens; and

Whereas an American Committee on the French Revolution has been organized to plan an appropriate commemoration in the United States of the bicentennial of the historic events of 1789 and of the shared aspirations, ideals, and experiences of the French and American peoples: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress and people of the United States extend to the people of France an expression of friendship and high regard on the occasion of the bicentennial of the French Revolution.

(b) The Congress hereby—

(1) urges the people of the United States to observe the bicentennial of the French Revolution as may be appropriate to the occasion;

(2) expects that, in the future, issues affecting human rights will be further illuminated by the International Foundation on Human Rights; and

(3) finds with pride and satisfaction that France and the United States remain fully committed to the principles of the Declaration of the Rights of Man and of the Citizen, and the Bill of Rights, respectively.

(c)(1)(A) There shall be printed as a Senate document during the bicentennial year 1989 the Declaration of the Rights of Man and of the Citizen, and the Bill of Rights, with accompanying historical notes.

(B) Such document shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Committee on Foreign Relations.

(C) In addition to the usual number of copies, there shall be printed—

(i) bound volumes suitable for presentation to the President of the French Republic, the President of the Senate of France, and the President of the National Assembly of France; and

(ii) extra copies for the Committee on Foreign Relations of the Senate in the amount of $1,200.

(2) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

TRIBUTE TO PORTUGESE DIPLOMAT DR. DE SOUSA MENDES

The Senate proceeded to consider the resolution (S. Res. 270) paying special tribute to Portugese diplomat Dr. de Sousa Mendes for his extraordinary acts of mercy and justice during World War II.

Mr. LAUTENBERG. Mr. President, I rise to urge my colleagues to agree to this resolution to pay special tribute to Portuguese diplomat Dr. Aristides de Sousa Mendes do Amaral e Abranches for his extraordinary acts of mercy and justice during World War II. I greatly appreciate the support of the chairman of the Senate Foreign Relations Committee, who joined me in submitting this resolution, and who has helped this resolution through the Senate Foreign Relations Committee.

This resolution honors Dr. de Sousa Mendes for his service to humanity during the war, and requests the President of the United States to transmit a copy of the resolution to the President of the Republic of Portugal and the President of the Assembly of the Republic of Portugal. It is similar to a resolution submitted in the House of Representatives, House Resolution 162, by Representative TONY COEHLO.

Dr. de Sousa Mendes was the Portuguese Consul General in Bordeaux, France between 1938 and 1940 when the German armies were conquering Europe. At that time, France became the home of European refugees fleeing Nazi persecution. When the French Republic collapsed in June of 1940, thousands of refugees fled invading armies by going south to Bordeaux. Many of those refugees were Jews. The only escape route for these individuals was over the Pyrenees Mountains through Spain to neutral Portugal.

As a Portuguese diplomat, Dr. de Sousa Mendes was given specific orders by the government of Antonio de Oliveira Salazar not to issue visas to refugees. But in defiance of his government's orders, Dr. de Sousa Mendes issued more than 30,000 Portuguese visas to stranded refugees. At least 10,000 of these refugees were Jews who were saved from almost certain death by Dr. de Sousa Mendes' humanitarian gesture.

Although Portugal later received international praise for its humanitarian treatment of Jewish and other refugees during World War II, Dr. de Sousa Mendes suffered for his acts of kindness and heroism. For issuing these visas, he was recalled to Lisbon and was dismissed from the Foreign Service. Unable to practice law and barred from diplomatic service, he died in poverty in 1954.

Dr. de Sousa Mendes was a man of rare courage. Recognizing that the lives of thousands of desperate refugees were in his hands, he dared to help. At great personal risk and sacrifice, he followed his conscience and issued visas for these stranded individuals. He is one of the few righteous who stands out in that dark period in world history as a hero. A hero who stood for humanity, dignity, and respect.

Mr. President, in 1967, Yad Vashem, the Martyrs and Heroes Remembrance Authority in Israel awarded Dr. de Sousa Mendes a gold medal inscribed with a phrase from the Talmud: "One who saves a human life saves, as it were, a whole world". Israel again expressed its gratitude to Dr. de Sousa Mendes in 1985 by planting a tree in his name in the Garden of the Righteous at Yad Vashem.

The President of Portugal, the Honorable Mario Soares, has also honored Dr. de Sousa Mendes. President Soares awarded Dr. de Sousa Mendes with the Portuguese Ordem da Liberdade, the Order of Liberty, in recognition of his bold efforts to save thousands of lives during the war. On May 19 of this year, that award was presented to Dr. de Sousa Mendes' children at the Embassy of Portugal in Washington, DC.

The Portuguese Assembly has also recognized Dr. de Sousa Mendes for his courage and service. On March 18 of this year, the Portuguese Assembly unanimously passed legislation restoring Dr. de Sousa Mendes' diplomatic title and honoring his noble efforts.

I hope the Senate will join in honoring Dr. de Sousa Mendes for his courage and service to humanity by agreeing to this resolution.

The resolution (S. Res 270) was considered and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 270

Whereas during the early days of World War II, France became the home of European refugees from Nazi persecution;

Whereas following the collapse of the French Republic in June 1940, thousands of refugees fled south to Bordeaux, away from invading armies;

Whereas their only escape route from France was over the Pyrenees Mountains through Spain to neutral Portugal;

Whereas Portuguese diplomats were under specific orders by the government of Antonio de Oliveira Salazar not to issue visas to Jews;

Whereas the Portuguese Consul to Bordeaux, Aristides de Sousa Mendes do Amaral e Abranches, remaining faithful to the dictates of his conscience, defied government orders and issued more than 30,000 Portuguese visas to stranded refugees, at least 10,000 of them Jews, saving them from almost certain death;

Whereas Portugal received international acclaim for its humanitarian treatment of Jews and other refugees during World War II;

Whereas Dr. de Sousa Mendes, the man responsible for saving more than 30,000 lives, was recalled to Lisbon, was dismissed from the Foreign Service, and, unable to practice law, died in poverty in 1954;

Whereas in 1967, Yad Vashem, the Martyrs and Heroes Remembrance Authority in Israel, posthumously awarded Dr. de Sousa Mendes a gold medal inscribed with the Talmudic dictum: "One who saves a human life saves, as it were, a whole world";

Whereas Israel's gratitude to Dr. de Sousa Mendes was again proclaimed in 1985 with the planting of a tree in his name in the Garden of the Righteous at Yad Vashem in Jersualem; and

Whereas Dr. de Sousa Mendes served as Portuguese Consul to San Francisco in the 1920's, two of his children were born in California, and four of them are now residents and citizens of the United States; and

Whereas the Honorable Mario Soares, the President of Portugal, conferred posthumously on Dr. de Sousa Mendes the Ordem da Liberdade (the Order of Liberty), and presented this medal to the children of Dr. de Sousa Mendes at ceremonies at the Embassy of Portugal in the city of Washington, District of Columbia, on May 19, 1987: Now, therefore, be it.

Resolved, That, the Senate pays special tribute to Portuguese diplomat Dr. Aristides de Sousa Mendes do Amaral e Abranches for his extraordinary acts of mercy and justice during World War II.

SEC. 2. The Secretary of the Senate shall transmit copies of this resolution to the President. The President is requested to transmit a copy of this resolution to the President of the Republic of Portugal and the President of the Assembly of the Republic of Portugal.

HUMAN RIGHTS OF MEMBERS OF THE BAHA'I FAITH

The concurrent resolution (S. Con. Res. 120) urging the Government of Iran to respect the human rights of members of the Baha'i faith, and for other purposes, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 120

Whereas the Congress has, by concurrent resolutions adopted in 1982 and 1984, and in numerous other appeals, declared that it holds the Government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i faith, Iran's largest religious minority;

Whereas the Congress has condemned the Government of Iran's actions against Baha'is on account of their religious beliefs, and has urged the President to work with appropriate foreign governments and with the United Nations in efforts to appeal to the Government of Iran concerning the Baha'is;

Whereas nearly 200 Iranian Baha'is, including many elected leaders of the religious community, have been executed since 1979, on account of their religious beliefs, thousands more have been imprisoned, and many subjected to torture and demands for recantation of their religious faith; and

Whereas the Government of Iran has not only undertaken to deprive Baha'is of civil, economic, and social rights, but also has in many cases confiscated Baha'is community and personal property and denied access for Baha'is to education, employment, pensions, insurance, and other benefits available to other Iranians: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) continues to hold the Government of Iran responsible for upholding the rights of all its nationals, including Baha'is, in a manner consistent with that Government's obligations under international agreements guaranteeing the civil and political rights of its citizens;

(2) welcomes reports of the recent release of Baha'is from prisons in Iran and takes note of the decline in the numbers of Baha'is and others executed in that country;

(3) expresses the hope that these developments may indicate a greater willingness on the part of the Government of Iran to act in a manner consistent with its obligations under the various international agreements to which it is a party;

(4) urges the Government of Iran to restore fully the rights guaranteed by the Universal Declaration of Human Rights, including freedom of thought, conscience and religion, education, and equal protection of the law; and

(5) calls upon the President—

(A) to continue to observe and report on developments affecting the Baha'i minority in Iran, and to monitor developments affecting Baha'is in countries in which their rights might be abridged on account of their religious beliefs;

(B) to cooperate with other governments in continuing to make appeals to the Government of Iran concerning the situation of the Baha'is;

(C) to initiate and support efforts in the United Nations and its agencies on behalf of measures to promote the protection of the religious rights of Baha'is; and

(D) to provide, and to urge others to provide, for refugee and humanitarian assistance for those Baha'is who flee their homelands for reasons of religious repression.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

APPLICATION OF INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT TO THE ORGANIZATION OF EASTERN CARIBBEAN STATES

The bill (H.R. 4162) to make the International Organizations Immunities Act applicable to the Organization of Eastern Caribbean States was considered, ordered to a third reading, read the third time, and passed.

MEASURES INDEFINITELY POSTPONED

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Orders numbered 436, 515, and 398 be indefinitely postponed.

Mr. DOLE. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR—H.R. 4857

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 4857, a bill making technical changes to the Job Training Partnership Act, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE DISCHARGED FROM CONSIDERATION OF CERTAIN MEASURES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 334, Senate Joint Resolution 318, and House Joint Resolution 587.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPACE EXPLORATION DAY

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Joint Resolution 334.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 334) to designate July 20 as Space Exploration Day.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered, ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. Res. 334

Whereas on July 20, 1969, people of the world were brought closer together by the first manned exploration of the moon;

Whereas a purpose of the United States space program is the peaceful exploration of space for the benefit of all mankind;

Whereas the United States space program has provided scientific and technological benefits affecting many areas of concern to mankind;

Whereas the United States space program, through Project Apollo, Viking, and Voyager missions to the planets, the space shuttle, and other space efforts, has provided the Nation with scientific and technological leadership in space;

Whereas the National Aeronautics and Space Administration, the United States aerospace industry, and educational institutions throughout the Nation contribute research and development to the United States space program, and to the strength of the economy of the Nation;

Whereas the space program reflects technological skill of the highest order and the best in the American character—sacrifice, ingenuity and the unrelenting spirit of adventure;

Whereas the spirit that put man on the moon may be applied to all noble pursuits involving peace, brotherhood, courage, unity of the human spirit, and the exploration of new frontiers; and

Whereas the human race will continue to explore space for the benefit of future generations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 20, 1988, is designated as "Space Exploration Day." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL WEEK OF RECOGNITION AND REMEMBRANCE FOR THOSE WHO SERVED IN KOREAN WAR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Joint Resolution 318.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 318) to designate the week of July 25-31 as the National Week of Recognition and Remembrance for those who served in the Korean War.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered, was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. Res. 318

Whereas on June 25, 1950, the Communist army of North Korea invaded and attacked South Korea, initiating the Korean War;

Whereas the week of July 25-31, 1988, includes July 27, the 35th anniversary of the Cease Fire agreement that ended the active combat of the Korean War;

Whereas the Korean War was brought to an end primarily through the efforts of the United States Armed Forces;

Whereas for the first and only time in history a United Nations Command was created, with the United States as the executive agent, to repel this invasion and preserve liberty for the people of Korea;

Whereas, in addition to the United States and the Republic of Korea, twenty other member nations provided military contingents to serve under the United Nations banner;

Whereas, after 3 years of active hostilities, the territorial integrity of the Republic of Korea was restored, and the freedom and independence of its people are assured even to this date;

Whereas over 5.7 million American servicemen and women were involved directly or indirectly in the war;

Whereas American casualties during that period were 54,246 dead, of which 33,629 were battle deaths, 103,284 wounded, 8,177 listed as missing or prisoners of war, and 329 prisoners of war are still unaccounted for;

Whereas, although the Korean War has been known as America's "Forgotten War", this nation should never forget the ultimate sacrifice made by those who fought and died in Korea for the noble and just cause of freedom;

Whereas the Congress and the President of the United States have enacted a law authorizing the establishment of a Korean War memorial in the nation's Capitol to recognize and honor the service and sacrifice of those who participated in the Korean War;

Whereas increasing numbers of Korean War veterans are setting aside July 27, the anniversary date of the Armistice, as a special day to remember those with whom they served and to honor those who made the supreme sacrifice in a war to preserve the ideals of freedom and independence; and

Whereas on this significant anniversary of the cease fire which started the longest military armistice in modern history, it is right and appropriate to recognize, honor, and remember the service and sacrifice of those who endured the rigors of combat and the extremes of a hostile climate under the most trying conditions and still prevailed to preserve the independence of a free nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of July 25-31, 1988, is designated as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities, and to urge the departments and agencies of the United States and interested organizations, groups and individuals to fly the American flag at half staff on July 27, 1988 in honor of those Americans who died as a result of their service in Korea.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNITED STATES-CANADA DAYS OF PEACE AND FRIENDSHIP

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 587.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 587) to designate July 2 and 3 as U.S.-Canada Days of Peace and Friendship.

The joint resolution was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SAFETY BELT USE WEEK

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 270.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I understand that the Senate has just received House Joint Resolution 485, the companion resolution, from the House. I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 485.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 485) designating June 26 through July 2, 1988, as "National Safety Belt Use Week."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that Senate Joint Resolution 270 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION DISCHARGED FROM FURTHER CONSIDERATION OF SENATE RESOLUTION 425, SENATE RESOLUTION 430, AND HOUSE CONCURRENT RESOLUTION 296

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of Senate Resolution 425, Senate Resolution 430, and House Concurrent Resolution 296.

The PRESIDING OFFICER. Without objection, it is so ordered.

JACOB K. JAVITS SENATE FELLOWSHIP PROGRAM

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 425.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 425) to establish a Jacob K. Javits Senate fellowship program.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

S. Res. 425

Resolved, That this resolution may be cited as the "Jacob K. Javits Senate Fellowship Program Resolution".

FELLOWSHIP PROGRAM ESTABLISHED; ELIGIBLE PARTICIPANTS

Sec. 2. (a) In order to encourage increased participation by outstanding students in a public service career, there is established a Jacob K. Javits Senate Fellowship Program.

(b) The Jacob K. Javits Foundations, Incorporated, New York, New York, in consultation with the Secretary of the Senate (hereinafter "Secretary"), shall select Senate Fellowship participants. Each such participant shall complete a program of graduate study in accordance with criteria agreed upon by the Jacob K. Javits Foundation, Incorporated.

SENATE COMPONENT OF FELLOWSHIP PROGRAM

Sec. 3. (a) The Secretary is authorized from funds made available under section 4, to appoint and fix the compensation of each eligible participant selected under section 2 for a period determined by the Secretary. The period of employment for each participant shall not exceed 1 year. Compensation paid to participants under this resolution shall not supplement stipends received from the Secretary of Education under the Fellowship Program.

(b) For any fiscal year no more than ten (10) fellowship participants shall be so employed.

(c) The Secretary, after consultation with the Majority Leader and the Minority Leader of the Senate, shall place eligible participants in positions in the Senate that are, within practical considerations, supportive of the fellowship participants' academic programs.

FUNDS

Sec. 4. The funds necessary to compensate any such eligible participant shall be made available for five years to the Secretary and paid from the contingent fund of the Senate. For the first five years of this program such funds shall not exceed $250,000 each year.

PROGRAM EXTENSION

Sec. 5. This program shall terminate five years from the effective date of this resolution. Three months prior to such expiration the Secretary shall submit a report evaluating the program to the majority leader and the Senate along with recommendations concerning the program's extension and continued funding level.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL PRINTING OF THE OLDER AMERICAN ACT AMENDMENTS OF 1987

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 430.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 430) to order printing of an additional 300 copies of "The Older American Act Amendments of 1987."

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

S. Res. 430

Resolved, That 300 additional copies of Senate Document 100-68, 100th Congress, 1st Session, entitled "The Older Americans Act Amendments of 1987: A Summary of Provisions" shall be printed for use by the Special Committee on Aging.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING OF HOUSE OF REPRESENTATIVES ELECTION LAW GUIDEBOOK, 1988

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 296.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 296) to authorize printing of the House of Representatives Election Law Guidebook, 1988.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to, as follows:

H. Con. Res. 296

Resolved by the House of Representatives (the Senate concurring), That the House of Representatives Election Law Guidebook, 1988, shall be printed as a House document. In addition to the usual number, two thousand copies of the document shall be printed for the use of the Committee on House Administration of the House of Representatives.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DRUG AND ALCOHOL FREE CULTURAL EVENTS FOR NATIVE PEOPLES

Mr. DOLE. Mr. President, I send a concurrent resolution to the desk on behalf of Senators STEVENS and MURKOWSKI and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 126) to express the sense of the Congress with respect to drug and alcohol free cultural events for Native peoples and to commend Spirit Days, Inc. for sponsoring a drug and alcohol free cultural event for Alaska Natives living in an urban environment.

Mr. STEVENS. Mr. President, this concurrent resolution commends Spirit Days, Inc., a nonprofit corporation formed in 1986, for sponsoring a drug and alcohol free cultural event for Indians, Eskimos, and Aleuts living in Alaska's cities.

Spirit Days 1988 will be held June 24 to 26 in Anchorage, AK, and will make the fourth annual celebration of Alaskan and American Native heritage. The event will help maintain the cultural integrity of Alaska Natives living in an urban environment.

This concurrent resolution, which is cosponsored by my distinguished colleague from Alaska, is intended to demonstrate Congress' support of drug and alcohol free cultural events for Native Americans. I also hope it will encourage other Native groups to develop ways in which Native Americans living in an urban setting can maintain a link with their heritage.

Mr. MURKOWSKI. Mr. President, I welcome the opportunity to rise in support of the pending concurrent resolution which recognizes Spirit Days, Inc., an Alaska Native organization which provides Alaska Aleuts, Eskimos, and Natives with the means to celebrate their traditions in a drug and alcohol free environment.

Spirit Day's Inc., a nonprofit organization, will hold its fourth annual Spirits Day Festival June 24 to 26 in Anchorage, AK. Drug and alcohol abuse is a problem which reaches all segments of society but is particularly widespread among Alaska Natives.

It is appropriate for the Senate to agree to this concurrent resolution which acknowledges congressional support for events which are alcohol and drug free, and also recognizes the importance of native heritage in our history.

I urge the adoption of the concurrent resolution and I thank the Chair.

The concurrent resolution (S. Con. Res. 126) was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, read as follows:

Whereas, Spirit Days, Inc., a nonprofit corporation, was formed in Alaska in 1986 to maintain the cultural integrity of Alaska's Native people who live in an urban environment and to provide an opportunity for Alaska's Eskimos, Aleuts, and Indians to celebrate their unique heritage in a drug and alcohol free environment;

Whereas, the mission of Spirit Days, Inc. is to foster the self-respect and self-confidence of individual Natives, to share with the Alaskan public the rich history of Native social and spiritual traditions, and to celebrate the cultural heritage of Alaska Natives;

Whereas, Spirit Days 1988 will be a drug and alcohol free event;

Whereas, Spirit Days 1988 will be held June 24–26 in Anchorage, Alaska and will mark the fourth annual celebration of Alaskan and American Native heritage;

Resolved by the Senate (the House of Representatives concurring), that it is the sense of Congress that—

(1) Congress strongly supports and encourages drug and alcohol free events to celebrate the rich and diverse heritage of America's Native peoples;

(2) Congress believes it is important for Native Americans living in an urban setting to have the opportunity to maintain a link with their culture; and

(3) Congress commends Spirit Days, Inc. for the role it has played in providing a drug and alcohol free cultural event for urban Eskimos, Aleuts, and Indians in Alaska.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—H.R. 1495

Mr. BYRD. Mr. President, I ask unanimous consent that the report to accompany H.R. 1495, the Great Smoky Wilderness Act, be star-printed to reflect the change which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALLOCATIONS UNDER SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT OF 1974

Mr. BYRD. Mr. President, I ask unanimous consent that the revised budget figures submitted earlier today by Senator CHILES be considered for the purposes of the Congressional Budget Act as allocations, functional levels, and aggregates contained in the budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, when I filed with the Senate revised allocations under section 302(a) of the Congressional Budget Act in connection with the catastrophic insurance initiative, there was a mistake in one of the numbers: the budget authority for the Finance Committee. To correct this mistake, I send to the desk revised allocations, functional levels, and aggregates to carry out section 5 of the budget resolution. The only change is the one I mentioned. These numbers have been cleared with the ranking member of the Budget Committee, Senator DOMENICI, and the chairman of the Finance Committee, Senator BENTSEN. I ask unanimous consent that these revised figures be printed in the RECORD.

There being no objection, the figures were ordered to be printed in the RECORD, as follows:

REVISED FUNCTIONAL LEVELS AND AGGREGATES FOR THE 1989 BUDGET RESOLUTION

[In million of dollars]

	1989	1990	1991
REVISED AGGREGATES			
Unified budget aggregates:			
Budget authority	1,232.05	1,309.70	1,394.70
Outlays	1,099.75	1,162.40	1,222.10
Revenues	964.70	1,047.15	1,127.90
Deficit	135.05	115.25	94.20
On-Budget aggregates:			
Budget authority	973.55	1,027.20	1,088.60
Outlays	885.85	937.20	985.30
Revenues	706.20	764.70	821.90
Deficit	179.65	172.50	163.40
FUNCTION 570, REVISED LEVELS			
Budget authority	104.05	117.50	129.30
Outlays	86.95	99.80	112.20

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT FOR 1989

[In million of dollars]

Committes	Direct spending jurisdiction		Entitlements funded in annual appropriations	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations	611,401	625,083		
Agriculture, Nutrition and Forestry	22,823	21,216	17,961	18,021
Armed Services	46,700	31,027	0	8
Banking, Housing, and Urban Affairs	8,504	6,279		
Commerce, Science, and Transportation	2,145	201	382	381
Energy and Natural Resources	1,333	931	33	33
Environment and Public Works	15,156	1,335		
Finance	680,949	605,078	61,941	62,255
Foreign Relations	7,810	8,674		
Governmental Affairs	64,444	40,943	0	0
Judiciary	1,350	1,283	109	109
Labor and Human Resources	3,476	2,826	5,087	5,082
Rules and Administrations	48	15		
Small Business	0	0		
Veterans' Affairs	1,632	1,360	15,533	15,502
Select Indian Affairs	398	392		
Not allocated to committee	(236,119)	(246,893)		
Total	1,232,050	1,099,750	101,046	101,391

THE DEATH OF THE HONORABLE JOHN JAMES DUNCAN, OF TENNESSEE

Mr. BYRD. Mr. President, on behalf of Senators SASSER and GORE I submit the following resolution and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will please report.

The legislative clerk read as follows:

A resolution (S. Res. 446) relative to the death of the Honorable John James Duncan, of Tennessee.

Mr. BYRD. Will the clerk read the resolution?

The PRESIDING OFFICER. The clerk will read the resolution.

The legislative clerk read as follows:

S. RES. 446

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable John James Duncan, late a Representative from the State of Tennessee.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

JOHN DUNCAN—THE PUBLIC SERVANT

Mr. SASSER. Mr. President, I rise today to honor a great man, Congressman John J. Duncan. Throughout his distinguished career, John Duncan demonstrated lasting dedication and a life of service to Congress, to his community, and to his country. John Duncan's life was a testimony of remarkable public service and accomplishments. He will be greatly missed.

One of ten children from a farm family in Scott County, John managed to finance his colleage studies by holding a multitude of ingenious jobs. Some early examples of ingenuity included working at the University of Tennessee and starting a business of reserving taxicabs for fans at UT football games. Indeed, his hard work and practical nature which characterized his service in the House were evident at a young age.

After finishing both college and Cumberland Law School, as well as serving in the U.S. Army for 3 years, John Duncan began his life in public service. He served in a progression of jobs ranging from assistant attorney general to mayor of Knoxville and then moved on to represent the Second District of Tennessee. He served as a representative to the people of Knoxville and the surrounding areas from 1964 to 1988.

Throughout his career, John Duncan devoted his life to the well-being of his constituents. He long advocated the wise combination of responsible Government spending coupled with effective Government programs and community improvement projects.

With this prudent philosophy, John Duncan was able to accomplish significant community improvements in the Knoxville area. Under his direction, historic preservation projects took root, traffic problems were unsnarled, and plans were laid to attract major new industries to the second district. Clearly, the Knoxville area experienced great strides of progress under the guidance of John Duncan.

John's wisdom and experience benefited Tennessee and our Nation as a whole in countless ways. Through his years of service to his country, John climbed the seniority ladder to a position of prominence. For the past few years John Duncan served as the ranking member of the powerful House Ways and Means Committee. He also held a position of prominence on the Joint Taxation Committee.

Despite the heavy time demands of his congressional schedule, John Duncan still found time to maintain close ties with the people who chose him as their representative. Indeed, his dedication and commitment to his district can serve all Members of Congress as a primer on constituent service. He regularly attended local functions and took the time to talk to his constituents, to learn about their needs and do the best job that he could in representing the people of his district.

John Duncan continued to serve the people of the second district despite a bitter and noble fight against the ravages of cancer. A dedicated public servant who echoed his integrity and steady sense of justice in his personal life, he will be sorely missed by all who knew him.

Our condolences go out to his family—his wife Lois, his children, and his grandchildren. Our thoughts and prayers are with them in this time of need. Mr. President, I know all of our colleagues share in the sorrow of John Duncan's passing.

Mr. President, I ask unanimous consent that a series of articles on this remarkable public servant be included in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Knoxville Journal, June 23, 1988]

DUNCAN'S SERVANT ATTITUDE REMEMBERED—ALL WALKS OF LIFE TREATED EQUALLY, CONSTITUENTS SAY

(By Robert Womack)

Sue Worsham took the news hard when John Duncan announced last month he would not run for a 13th term in Congress.

"When he made that speech that his heart told him to run, but his doctor said no, I cried," said Worsham, a Knoxville postal employee who came to Rose Mortuary Wednesday night to pay her respects to Duncan, who died Tuesday of cancer.

Like many others who came from counties throughout the district that Duncan represented for nearly 24 years, Worsham did not know Duncan personally.

But she said he had helped her obtain worker's compensation benefits after she was hurt on the job.

"I had waited three months without getting a check. I called his office and got it in two weeks," said Worsham, 4521 Silverhill Drive.

"He also helped my dad get his Social Security Benefits," the said.

The hallmark of Duncan's years in Congress was his service to constituents in the 2nd Congressional District.

Young and old, public officials and private citizens filed past the flag-draped bier of the 68-year-old congressman.

"There'll never be another like him," said Pete Petree, who described himself as a friend of Duncan for more than 30 years.

"Whenever I asked him for help, he always responded," said Petree, of 3228 Avondale Ave.

Jim Varnes, another longtime friend of Duncan, recalled that Duncan never snubbed anybody."

"He'd always speak to you. It didn't matter if you were in your old work clothes and he was with a group of people in business suits.

"I always voted for him, and I'll vote for his boy, too," said Varnes.

Duncan's oldest son, former Criminal Court Judge Jimmy Duncan, is seeking the Republican nomination in the Aug. 4 primary to replace his father.

Ken Emert also talked about Duncan's ability to mix with people from all walks of life.

Emert is maintenance supervisor at Bill Meyer Stadium, a job he said Duncan helped him get.

"If you were poor or rich, he always had time for you," said Emert.

Others stood in small groups and talked about Duncan's willingness to help with almost any civic or charitable project.

One woman remembered when Duncan came to her community to dedicate a baseball field.

Others who knew Duncan only by reputation said his death was like "losing a member of the family."

Meanwhile, a delegation of about 100 of Duncan's colleagues in the House of Representatives was scheduled to attend a memorial service at 7 p.m. today at Cedar Springs Presbyterian Church, with the Revs. Frank Sells and Donald Hoke officiating.

White House Chief of Staff and fellow Scott County native Howard Baker also was expected to attend.

Duncan will be buried Friday, in the family cemetery in Scott County.

JOHN J. DUNCAN OF, BY, FOR THE PEOPLE

When word came around on Tuesday evening that John J. Duncan was low sick and might not last the night, a lot of thoughts crossed the mind. Those thoughts kept flowing through much of the ensuing night and morning, before and after his death in the dark hours to cancer.

In the bright hot Wednesday light, the freshly illuminated life and work of John Duncan appeared as the definition of the term, public servant.

For 24 years the U.S. representative for the 2nd Congressional District of Tennessee had trekked back and forth to Washington, performing a congressman's yeomanly duties.

He called little attention to himself and made no grand gestures of the kind that produce great impact in the Capitol. Throughout, he stayed to his own ideals, to his brand of conservatism and to his loyalty to the Republican Party.

But party, issues and philosophies were consistently placed behind the individual rights and needs of his constituents, the people who sent him to represent them. He was earnest to a fault in making sure that those people had a voice in him.

It may seem to some as if the role of Congress in determining the plight of America and the Free World overshadows at all times the interests of an elderly man in Strawberry Plains, who in suffering three months without a Social Security check because of some bureaucratic snafu, or the worries of a World War II veteran from Maryville, who is denied admission to a veterans hospital because of a paperwork delay.

That attitude of concern for the greater good at the expense of the lesser citizen is easily adopted only by those who have never waited in hunger or in ill health for government to get them what they are entitled to receive. Rep. Duncan did not attempt to balance those interests amid his concerns. He made a simple decision and made it clear to his staff. If a deserving citizen requests help, do it.

He did not neglect the business of Congress; his record of presence for roll call votes on all types of legislation went unblemished for years on end. Neither did he neglect issues of special importance within his district. Never did he neglect those individuals back home.

If his longtime colleague and frequent foe, former House Speaker Tip O'Neill of Massachusetts was right in declaring the modern maxim, "All politics is local," then John Duncan was the consummate politician.

A former Knoxville mayor and city law director, he took to Congress the combined essence of his rural Scott County roots, his East Tennessee religion, and his city governmental experiences. Rep. Duncan kept them all close. And they served him as he served us.

Whether he was pouring a cup of icewater for a farmer at the Tennessee Agricultural and Industrial Fair, greeting one of those urban street derelicts who always got tickets to his annual barbecue at the Civic Coliseum or being introduced to an ambassador in the White House rose garden, John Duncan held them with same steady eye and offered the same unhesitant hand.

He never gave himself an excuse to be haughty, nor a reason to show deferences. He had done his job as he saw it. And would keep doing it for as long as he could, God willing. That and his family left him pride enough. Good enough, Congressman. Rest easy and well now.

[From the Knoxville News-Sentinel, June 23, 1988]

U.S. Rep. John Duncan

Tennessee's Second Congressional District has lost one of its best friends in the death of U.S. Rep. John J. Duncan of Knoxville.

Less than a month ago we wrote here that because of health problems, Duncan planned to announce his retirement when his 12th term in Congress was over.

He died Tuesday night at St. Mary's Medical Center, the victim of cancer of the prostate and upper body. He was 69.

Duncan crammed a lot into his career of serving the public, as a soldier, lawyer, assistant attorney general, city law director, mayor and U.S. representative.

Duncan was first elected mayor of Knoxville in 1959 upon the death of Mayor Jack Dance whom Duncan served as law director. Duncan then served as mayor until 1964 when he was elected to Congress.

This tall, quiet, mild-mannered man went about serving the voters of the Second District and the nation with little fanfare. Thousands of his constituents are grateful to him for aiding them with their problems. He had a burning desire to help people, a trait that a good U.S. Representative must have.

The voters showed their gratitude by returning him to Washington every two years, usually by large margins. They also let him know how grateful they were by sending him some 1,500 letters a year.

In 1985, Duncan became the senior Republican on the important Ways and Means Committee.

He and his family were regular attendants at Eastminster Presbyterian Church. But as a lay leader, he had spoken from the pulpits of many of the area's churches of many denominations.

When he was mayor he revived a custom of having a minister give an invocation before each meeting of City Council.

He was known to school children throughout the Second District. Quite often, on his trips back home from Washington, he brought with him an American flag that had flown briefly over the Capitol to present to a school.

Also on Tuesday, a House committee showed its gratitude to Duncan by voting unanimously to name Knoxville's new federal building after him. We expect the house to pass the bill soon. Also, Tennessee's two Democratic senators, Jim Sasser and Albert Gore Jr., announced they are also supporting the honor for their colleague by introducing a similar bill in the Senate. It is a fitting tribute.

So, as do his thousands of friends, we join in extending our condolences to Duncan's family. Like them, we will treasure our fond memories of this man who guarded our interests so well.

[From the Knoxville News-Sentinel, June 23, 1988]

Congressman Extolled as "A Fighter"—House Mourns Colleague's Death

(By Richard Powelson)

Washington.—Rep. Silvio Conte said Wednesday he knew the "extreme pain" from cancer that his fellow representative, John J. Duncan, had suffered in his last days in Congress.

Conte, R-Mass., noted that he also has cancer of the prostate.

"We had a very close affinity comparing notes," Conte told his colleagues on the House floor. "I know the last few days that he was here he was under extreme pain in his back."

Several members of Congress praised Duncan, who died at 11:15 Tuesday night at St. Mary's Medical Center in Knoxville.

A number of them will attend Duncan's funeral today in Knoxville, but a complete list of names was not available late Wednesday. Those planning to go, House aides said, include Rep. Dan Rostenkowski, D-Ill., the chairman of the House Ways and Means Committee on which Duncan was the senior Republican; Sens. Albert Gore Jr. and Jim Sasser, both Tennessee Democrats; Rep. Harold Ford, D-Tenn.; Rep. Jimmy Quillen, R-Tenn.; and Rep. Jim Cooper, D-Tenn.

Meanwhile, the full House passed a bill to name the new federal building in Knoxville after Duncan. The Senate and President Reagan still must act before it becomes law.

Quillen, who announced Duncan's death on the House floor and introduced a resolution in Duncan's honor, praised the Knoxville Republican as a great leader and "a fighter. He served even with all the pain, not letting his colleagues know that it (his cancer) had spread and the extent of his suffering." In Duncan's last weeks of life, Quillen said, he was taking morphine to control the pain.

At least 25 of his colleagues spoke on the House floor to praise Duncan for his friendliness, humor, leadership, integrity, fairness and dedication.

Rep. Bob Clement, D-Tenn., a former TVA director, said Duncan had "the Abe Lincoln presence. He had a soft voice but a very effective leadership quality."

Duncan's friendliness reminded Rep. Jim Cooper, D-Tenn., of Will Rogers' philosophy: "He never met a man he did not like."

During Duncan's frequent trips from Washington to Knoxville, he often would care for the same little girl on the flight so she could visit her grandmotherr in Knoxville, Rep. Robert Matsui, D-Calif., said. Escorting this small child once a month or so was "above and beyond the call of duty for any congressman," Matsui said.

When Matsui asked Duncan why he did it, Duncan said: "I don't have any problems doing it. She just sat on my lap. I had a very nice time with that child. It made the grandmother so happy whenever she saw the child."

Rep. Charles Rangel, a liberal black Democrat from New York, said he was "always amazed at the great civil rights record that he (Duncan) enjoyed as mayor of Knoxville (1956-64) * * * long before it became popular and even when politically it was not the thing to do, especially coming from the South."

Duncan also was very humble and unselfish, several said. Rep. J.J. Pickle, D-Texas, said, "He was so extremely unselfish that he seldom offered amendments in his own name." When legislation came up, Duncan often would put others' amendments ahead of his own. Rep. Don Sundquist, R-Tenn., said.

Cooper said some members acted humble, and they were not. "John Duncan was a humble man through and through. He never forgot where he came from. His people knew and appreciated that as well."

Sasser called Duncan "a distinguished public servant who devoted his life to the well-being of his constituents."

"He fought nobly against cancer for more than a decade, just as he fought vigorously for his constituents during nearly three decades in elected office. He will be sorely missed."

LEGIONNAIRES MOURN LAWMAKER

Members of the American Legion Post 2 and the Veterans of Foreign Wars Post 1733 remembered John J. Duncan Wednesday as "a pillar" on which they leaned. Duncan was Post 2 commander, then district commander and in 1953-54 state Legion commander.

"Knoxville, Knox County, the 2nd District, state and nation all share grief in the loss of (Duncan). Many have benefited from our dear district congressman's service," the members said in a statement. "So long. You will be remembered by so many. You didn't know all their names, but they knew and loved you."

[From the Knoxville News-Sentinel, June 23, 1988]

CONGRESSMAN'S LIFE SIMPLE, FULL OF WORK—SERVICES TO BE HELD EARLY THIS EVENING

(By Jim Balloch)

U.S. Rep. John J. Duncan, who represented the 2nd Congressional District for nearly a quarter century, will be laid to rest Friday in the family cemetery near his rural Scott County birthplace.

Services will be at 7 p.m. today at Cedar Springs Presbyterian Church. A funeral motorcade will leave Rose Mortuary for Scott County at 11:30 a.m. Friday. There will be an interment service at 1 p.m.

Duncan, 69, suffering from cancer of the prostate and upper body, had decided not to seek reelection. His son, John J. Duncan Jr., resigned his Knox County Criminal Court judgeship earlier this month to seek the office.

The congressman had been in St. Mary's Medical Center for five days, undergoing chemotherapy treatments. Though it was widely known that his illness was terminal, the suddenness of his Tuesday night death surprised his family, friends and staff.

"This has just floored all of us," said Mildred McRae, longtime aide in Duncan's Knoxville office. "This is a sad, sad day."

McRae said she began receiving calls at home early Wednesday morning, some from as far away as Texas and Chicago. Calls continued to pour into the office.

"I, and the entire city of Knoxville, mourn the passing of Representative John Duncan, a man whose life was devoted to his family and to serving the people of the city and area he loved," Mayor Victor Ashe said. "It was the qualities he possessed—faith, dedication, a desire to serve and an ability to get the job done, that made him a great leader."

Ashe declared an official three-day mourning period.

Duncan's style as a politician was as legendary as it was simple: He avoided attempts at lofty statesmanship and built his career on serving folks in his district. He never faced serious opposition in elections.

"If there was a secret to his success, it was that he liked everybody and was friendly to everybody," McRae said.

Duncan almost never traveled overseas but came nearly every weekend to meet with people in his district. He kept his Knoxville office open six days a week.

The most publicized legislation Duncan sponsored was a bill that exempted the Tellico Dam from the Environmental Protection Act. Debate over the controversial dam, built on a site that was then believed to be the only habitat of the endangered snail darter fish, received international attention.

Art Miller, Knox County Sheriff's Department spokesman who worked for Duncan for several years in Washington, said: "I think he was at his best when he had opportunity to help people living in the more rural areas. He always gave the poor areas of his district full attention."

Miller recalled his second day on the job with Duncan: "He told me the quickest way to lose my position was to fail to respond to a constituent's request for help. He made it clear that that was regardless of political party, personal stature or financial condition. He was adamant they all be treated alike."

City Councilman Ed Bailey, who worked for Duncan for 12 years, remembers him as "the congressman who made house calls. There were times when someone who was ill needed to see him about something, and he would personally go to that person's home, just so he could talk one-on-one.

"I remember one time, he drove seven or eight miles out of his way to buy a stuffed animal for a sick little girl, the daughter of one of his constituents, then drove to her home to deliver it personally," Bailey said. "The guy is going to be missed."

[From the Johnson City Press, June 23, 1988]

DUNCAN CALLED MAN OF THE PEOPLE

(By Tom Sharp)

KNOXVILLE.—Rep. John Duncan was remembered Wednesday as a man who in 24 years in Congress never forgot his responsibility to the people he represented.

Duncan, 69, died of cancer Tuesday night, less than a month after announcing his health would not allow him to seek a 13th term from Tennessee's 2nd District. Colleagues Wednesday lauded Duncan's commitment to the people who elected him, regardless of their wealth, political connections or party affiliation. Duncan was a Republican.

At the White House, President Reagan and his wife, Nancy, offered their condolences to the Duncan family, and Regan praised Duncan's record.

"He set the highest standards of excellence and integrity in public service. the nation and the people of Tennessee have benefited beyond measure from his statemanship and his commitment to the national well-being," the president said in a statement.

"Nancy and I will miss our good friend, and our prayers are with Lois and the Duncan family."

Duncan will be buried Friday at 1 p.m. EDT in a family cemetery in Scott County. Services will be at 7 p.m. EDT Thursday at Ceder Spring Presbyterian Church in Knoxville.

After serving as an assistant attorney general and later mayor of Knoxville, Duncan sought the 2nd District seat in 1964. At the time the seat was held by Irene Baker, who was filling the unexpired term of her late husband, Howard Baker Sr., father of White House Chief of staff and former Sen. Howard Baker Jr.

"I grieve at the loss of John Duncan as my congressman, friend and colleague of many years," Baker said. "He served the district, the state and the nation with great distinction."

House members delivered eulogies for an hour Wednesday morning in Duncan's honor, after being told of his death by Rep. James H. Quillen, the senior Republican from Tennessee.

"John Duncan had the common touch. . . . He ingratiated himself in the hearts of his colleagues and all the people with whom he came in contact," Quillen said. "He was a great man; he will be terribly missed.

"I served for 24 years with my close personal friend, and always found him to be outstanding in every way," Quillen said. "He was completely dedicated to his constituents, to the people of the state and this nation."

Senator Jim Sasser, D-Tenn., called Duncan "a distinguished public servant who devoted his life to the well-being of his constituents."

"He fought nobly against cancer for a decade, just as he fought vigorously for his constituents during three decades in elected office. He will be sorely missed," Sasser said.

Representative Don Sundquist, R-Tenn., said Duncan "had integrity, wit, wisdom and a sense of fairness that ranks among the highest of anyone who has ever served here."

Representative Bob Clement, D-Tenn., said Duncan had "an Abe Lincoln presence—a soft voice but an able and effective leader."

A TRIBUTE TO JOHN DUNCAN

Mr. GORE. Mr. President, today, we express our sorrow over the death of Congressman John J. Duncan. I was deeply saddened by John's death. The State of Tennessee will remember for a long time to come his valuable service and relentless devotion on behalf of the people of his Second Congressional District and all Tennesseans.

At the same time that we mourn his absence, Mr. President, a reflection of John Duncan's 24 years of service calls to mind his distinguished career and stirs our appreciation for it. John Duncan was a devoted husband and father and was a strong voice in Tennessee politics who always displayed strength which lies in firm dedication and integrity of character.

John Duncan was born in Scott County, TN, and after completion of his service in the U.S. Army he attended the Cumberland University Law School. His career achievements spanned all realms of public service: He was assistant attorney general for the State of Tennessee and city of Knoxville Law Director. He was elected mayor of Knoxville in 1959 and served outstandingly. He served this district in Congress since his election in 1969, during which time he maintained close contact with the residents in his district by coming home nearly every weekend for local events, celebrations and meetings.

In Congress, he rose to a position of power and influence as the ranking minority member of the House Ways and Means Committee, but remained attentive to the needs of his district. He served on the Joint Committee on Taxation. He received much well-deserved recognition for serving Tennessee on these committees and in other legislative areas. Such a career of public service is refreshing and serves as inspiration to those who pursue a life in this profession.

Congressman John Duncan will be missed greatly by the entire Tennessee delegation and all the Members of Congress; however, the work he did and the progress he made on behalf of Tennessee will endure. My thoughts and prayers are with his family and friends.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 446) was agreed to.

The **PRESIDING OFFICER**. The Chair, pursuant to the resolution just agreed to, appoints the Senators from Tennessee (Messrs. SASSER and GORE) as the Senate members of the committee to attend the funeral.

ORDERS FOR FRIDAY

RECESS UNTIL 8:45 A.M.

Mr. **BYRD**. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:45 tomorrow morning.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

MORNING BUSINESS

Mr. **BYRD**. Mr. President, I ask unanimous consent that following the two leaders tomorrow morning, with 5 minutes for each leader, there be a period for morning business not to extend beyond the hour of 9 o'clock with Senators permitted to speak therein for 1 minute each.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—SENATE RESOLUTION 408

Mr. **BYRD**. Mr. President, I ask unanimous consent that at 9 o'clock, the Senate proceed to the consideration of Senate Resolution 408 on which a rollcall vote has been ordered; that there be 30 minutes of time for debate on that measure.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BYRD**. Mr. President, I ask unanimous consent that there be 20 minutes equally divided between Mr. MITCHELL and the distinguished Republican leader, or his designee; that that 20 minutes begin running at 9:10 a.m. tomorrow and that the additional 10 minutes, which I have just created, be added to the period for morning business.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

RESUMPTION OF CONSIDERATION OF THE UNFINISHED BUSINESS

Mr. **BYRD**. I ask unanimous consent that upon the conclusion of the rollcall vote on the resolution in the morning, the Senate resume its consideration of the unfinished business.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BYRD**. Now, Mr. President, that sets the program up for tomorrow. If we could have an amendment laid down today so that the Senate could proceed forthwith to that amendment upon the disposition of the vote, we would be in business then for tomorrow.

RECOGNITION OF SENATOR QUAYLE

Mr. **BYRD**. Mr. President, I ask unanimous consent that immediately upon the return to the unfinished business on tomorrow, Mr. QUAYLE be recognized to call up an amendment.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BYRD**. Mr. President, I thank the Republican leader and all Senators.

PROGRAM

Mr. **BYRD**. What this means, Mr. President, is that the Senate will come in at 8:45 a.m. tomorrow. There will be 5 minutes to each leader, after which there will be morning business to extend until 10 minutes after 9 a.m. There will then be 20 minutes equally divided between Mr. MITCHELL and the Republican leader on Calendar Order No. 751, Senate Resolution 408, a resolution to condemn the use of chemical weapons by Iraq, and urging the President to continue applying diplomatic pressure to prevent their further use, and for other purposes.

There is a rollcall vote ordered on that resolution. The vote will come up or down on the resolution, and that vote will occur at 9:30 a.m.

I ask unanimous consent that the call for the regular order be automatic at the conclusion of 15 minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BYRD**. Mr. President, does the able Republican leader have anything further he would like to say or any further business he wishes to transact?

Mr. **DOLE**. No additional statements or business. I thank the majority leader.

Mr. **BYRD**. I thank my friend.

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. **BYRD**. Mr. President, there being no further business to come before the Senate, I move, in accordance with the previous order, and as a further mark of respect to the memory of our late departed colleague, the distinguished Representative from Tennessee [Mr. Duncan], that the Senate stand in recess until the hour of 8:45 tomorrow morning.

The motion was agreed to; and, at 6:26 p.m., the Senate recessed until Friday, June 24, 1988, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate June 23, 1988:

DEPARTMENT OF STATE

MAYNARD WAYNE GLITMAN, OF VERMONT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF BELGIUM.

JOHN ANDREW BURROUGHS, JR., OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF UGANDA.

EXECUTIVE OFFICE OF THE PRESIDENT

ANTONIO NAVARRO, OF NEW YORK, TO BE A MEMBER OF THE ADVISORY BOARD FOR RADIO BROADCASTING TO CUBA FOR A TERM EXPIRING OCTOBER 27, 1991 (REAPPOINTMENT).

THE JUDICIARY

LEWIS T. BABCOCK, OF COLORADO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLORADO VICE JOHN L. KANE, JR., RETIRED.

MELINDA HARMON, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS VICE JOHN V. SINGLETON, JR., RETIRED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

JACK R. STOKVIS, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE ALFRED CLINTON MORAN, RESIGNED.

NATIONAL INSTITUTE OF BUILDING SCIENCES

MACDONALD G. BECKET, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1990 (REAPPOINTMENT).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FREDERICK K. GOODWIN, OF MARYLAND, TO BE ADMINISTRATOR OF THE ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION, VICE DONALD IAN MACDONALD, RESIGNED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

HILLEL FRADKIN, OF WISCONSIN, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1994, VICE A. LAWRENCE CHICKERING, TERM EXPIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 23, 1988:

NATIONAL SCIENCE FOUNDATION

WARREN J. BAKER, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1994.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

HELMUTH J. NAUMER, OF NEW MEXICO, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1992.

RICHARD J. SCHWARTZ, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1992.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. EDWIN H. BURBA, JR., xxx-xx-xxxx U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5142 TO BE CHIEF OF CHAPLAINS, U.S. NAVY:

To be chief of chaplains

REAR ADM. (LOWER HALF) ALVIN B. KOENEMAN, xxx-xx-xxxx/4100, CHAPLAIN CORPS, U.S. NAVY.

HOUSE OF REPRESENTATIVES—*Thursday, June 23, 1988*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As our prayers lift toward heaven so may they move as a calming spirit to people whose lives are troubled by uncertainty or sorrow. We remember members of our own community, especially our friend and colleague, John Duncan, and those families who suffer sadness or loss. We recognize, O God, that our joys and sorrows are shared by one another and that we can receive encouragement by our common concerns. We thank You, O God, for friends and family and colleagues who demonstrate the care and love that eases any pain and helps heal any hurt. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

APPOINTMENT AS MEMBERS OF FUNERAL COMMITTEE OF THE LATE JOHN J. DUNCAN

The SPEAKER. Pursuant to House Resolution 481, the Chair appoints as members of the funeral committee of the late John J. Duncan, the following Members on the part of the House:

Mr. Quillen of Tennessee;
Mr. Michel of Illinois;
Mr. Jones of Tennessee;
Mr. Ford of Tennessee;
Mrs. Lloyd of Tennessee;
Mr. Cooper of Tennessee;
Mr. Sundquist of Tennessee;
Mr. Gordon of Tennessee;
Mr. Clement of Tennessee;
Mr. Rostenkowski of Illinois;
Mr. Gibbons of Florida;
Mr. Pickle of Texas;
Mr. Dickinson of Alabama;
Mr. Hammerschmidt of Arkansas;
Mr. Crane of Illinois;
Mr. Archer of Texas;
Mr. Rangel of New York;
Mr. Gradison of Ohio;
Mr. Schulze of Pennsylvania;
Mr. Flippo of Alabama;
Mr. Lewis of California;
Mr. Rogers of Kentucky; and
Mr. McMillan of North Carolina.

Without objection, the Chair will reserve the right to add other Members to this delegation and will announce any additional names later in the day.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces that during the joint meeting to receive the Prime Minister of Australia, only the doors immediately opposite the Speaker and those on his left and right will be open.

APPOINTMENT OF CONFEREES ON H.R. 2342, COAST GUARD AUTHORIZATION ACT OF 1987

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2342), to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes, with a House amendment to the Senate amendment thereto, insist on the House amendment to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina? The Chair hears none, and appoints the following conferees:

From the Committee on Merchant Marine and Fisheries, for consideration of the House amendment, and the Senate amendment, and modifications committed to conference: Messrs. Jones of North Carolina, Hutto, Studds, Davis of Michigan, and Young of Alaska.

As additional conferees from the Committee on Ways and Means, for consideration of section 6 of the House amendment, and modifications committed to conference: Messrs. Rostenkowski, Gibbons, Pickle, Archer, and Vander Jagt.

HOUSE TELEPHONE SYSTEM

(Mr. JONES of North Carolina asked and was given permission to address the House for 1 minute.)

Mr. JONES of North Carolina. Mr. Speaker, Alexander Graham Bell, in all probability, was quite proud of his invention of the telephone, which was designed to provide essential service for all mankind. But alas, if he had been a Member of the U.S. House of Representatives for the last 2 weeks with the new telephone system being installed, he no doubt would have been most depressed and despondent, to say nothing of being embarrassed. I cannot think of any phone system in history which has been as inefficient and confusing as the new system installed in recent days.

I don't know what motivated the installation of this new system, but it has certainly proven to be a failure.

Mr. Speaker, surely there is a better system, for one can hardly be any worse than the present in providing Members of Congress with round-the-clock access to their constituents. Please, Mr. Speaker, assure us there is some relief in sight.

ANNIVERSARY OF ORDINATION OF CHAPLAIN FORD

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute.)

Mr. MYERS of Indiana. Mr. Speaker, this announcement should have been made yesterday, but 30 years ago yesterday our House Chaplain, Jim Ford, was ordained.

Congratulations, Jim.

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, June 16, 1988, the House will stand in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 7 minutes a.m.), the House stood in recess subject to the call of the Chair.

During the recess, beginning at about 10 o'clock and 55 minutes a.m., the following proceedings were had:

JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY THE HONORABLE R.J.L. HAWKE, AC, MP, THE PRIME MINISTER OF AUSTRALIA

The SPEAKER of the House presided.

The Doorkeeper, the Honorable James T. Molloy, announced the Deputy President pro tempore and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the Deputy President pro tempore, Senator Mitchell, of the Senate taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the Prime Minister of Australia into the Chamber:

The gentleman from Washington, Mr. Foley;

The gentleman from California, Mr. Coelho;

The gentleman from Missouri, Mr. Gephardt;

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The gentleman from Florida, Mr. FASCELL;

The gentleman from Michigan, Mr. BONIOR;

The gentlewoman from Ohio, Ms. OAKAR;

The gentleman from Illinois, Mr. MICHEL;

The gentleman from Wyoming, Mr. CHENEY;

The gentlewoman from Illinois, Mrs. MARTIN;

The gentleman from Michigan, Mr. BROOMFIELD; and

The gentlewoman from Hawaii, Mrs. SAIKI.

The DEPUTY PRESIDENT pro tempore. On behalf of the Senate, pursuant to the order previously entered, the following Senators are appointed as a committee on the part of the Senate to escort the Prime Minister of Australia into the Chamber:

The Senator from Rhode Island, Mr. PELL;

The Senator from Maryland, Mr. SARBANES;

The Senator from Nebraska, Mr. EXON.

The Senator from Kansas, Mr. DOLE;

The Senator from Wyoming, Mr. SIMPSON; and

The Senator from Mississippi, Mr. COCHRAN.

The Doorkeeper announced the ambassadors, ministers, and chargés d'affaires of foreign governments.

The ambassadors, ministers, and chargés d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 11 o'clock and 5 minutes a.m., the Doorkeeper announced the Prime Minister of Australia.

The Prime Minister of Australia, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, I have the proud privilege and I count it a high personal honor to present the chosen head of a great nation, a fair, a free, and a friendly people, the Prime Minister of Australia, the Honorable Robert J.L. Hawke.

[Applause, the Members rising.]

ADDRESS BY THE HONORABLE R.J.L. HAWKE, AC, MP, THE PRIME MINISTER OF AUSTRALIA

Prime Minister HAWKE. Mr. Speaker, Mr. President, Members of Congress, friends, by inviting me to speak today to the Congress of the United States you honour not only the Prime Minister of Australia but honour all Australians.

Yours is an institution which, down through the years, has reflected the views and the aspirations of the American people and taken its character from their character. From you I hear the voice of the American people and through you I am able to address the American people. I am most grateful.

Mr. Speaker, Mr. President, the concept of government of the people, by the people, for the people is as potent today as it was two centuries ago when that remarkable collection of farmers, lawyers, traders and intellectuals met in Philadelphia to craft a constitution. Although democracy is not the guiding precept of government in most nations, it is, assuredly, the guiding precept in those nations which have successfully delivered to their citizens a decent quality of life and a high standard of living. As we approach the 21st century no nation can fail to note that example. The western democracies can lead with self confidence and they have no need of self doubt.

To be exposed to the vigour of the Australian political process is to realise that the underlying values of our political system are identical to your own. To say that there is debate in our Parliament, our media and among the Australian people would be roughly the equivalent of saying, that when the Redskins and the Cowboys get together all that's involved is a friendly game of football—a fairly considerable understatement.

It is common values, going to the heart of our view of mankind and of society, which form the enduring basis of our relationship. Social and political circumstances may change; governments of various persuasions come and go; economies adjust and transform; international conditions evolve. American and Australian interests and views may at times diverge. But it is the values of individual liberty, equality before the law and the supremacy of people over the state to which we can always with confidence return as a powerful and uniting force.

If it is this that gives our relationship its ultimate strength and stability, it is individual contact between Australians and Americans which provides the special warmth. There is an ease of contact, a readiness to trust and an enjoyment of each others company which readily transcends differences.

With the benefit of 200 years of hindsight I can acknowledge a debt which Australians owe Americans, although it must hardly have seemed something to thank you for at the time. In denying Britain a convenient repository here for the convicts overflowing British jails, your revolutionary forebears of six or seven generations ago provoked the decision to send convicts to Australia instead. If you were founded by the Pilgrim fathers, the founders of Australia were decidedly the prodigal sons.

But when the First Fleet arrived in New South Wales in 1788, its human cargo of convicts and prison guards in fact began the creation not of a prison but of a nation.

Our harsh beginnings required all the same grit, the same determination which marked the exploration, settlement and development of the United States. Two centuries later—in this, our Bicentennial year—we have, like you, a nation proud of the multicultural diversity of its people and of our national achievements. Our country is the size of the continental United States with, however, the population only that of Texas. I know, Mr. Speaker, that as a Texan you would agree of course, that that is all any country needs.

We have also built a nation more acutely aware than ever before of the precious heritage of the original Australians, the Aboriginal people who populated and cared for our land for 40,000 years before the European arrival.

The American contribution to our Bicentennial celebrations has added a special dimension to our relationship. If I were to describe it in all its detail I fear I would be accused, at least under Senate rules, of a filibuster.

Let me just say how greatly we welcome the opportunity to celebrate this great year in Australia with a very special friend.

Mr. Speaker, Mr. President, it is because of the deep similarities between our two nations that my predecessor, Australia's wartime Prime Minister John Curtin, was able to declare in 1944 that Australians looked forward to "an uninterrupted friendship" with the people of the United States.

Curtin said those words in San Francisco, on his way to talks with President Franklin Roosevelt concerning the conduct of the war in which Australians and Americans were fighting side by side in defence of liberty in the South Pacific.

I wish to state clearly that Australia and the United States are not just friends; we are allies. When my Government assumed office 5 years ago we determined that the ANZUS alliance clearly served Australian interests. That alliance is stronger, and the commitment of Australians to it greater, for its having been thought about rather than merely assumed. We never wanted the alliance to be merely an inheritance from a past era, a piece of history gathering dust, but a dynamic arrangement serving the modern needs of both sides. And it does.

The United States has every right to see alliances as two-way streets, to expect that allies carry their weight. I assure you that Australia is and will remain such an ally.

We welcome your ships and aircraft to our ports and airfields. There is intimate co-operation between us in joint exercises, intelligence exchange, defence science and technology, communications, logistics, and training. We are one of the top cash purchasers of defence equipment from the United States.

We host joint facilities important to the central strategic balance between the United States and the Soviet Union, facilities which have additional significance in the new phase of East-West relations through their contribution to arms control.

We support a strong American involvement in Asia and the Pacific, and believe that your bases in the Philippines make a crucial contribution to security and confidence in our region.

My Government has conducted the most thorough review of Australian defence policy in many years. Our policy emphasises the shouldering of our own responsibilities—defence self-reliance, modernisation, regional commitment and the development of strong, independent military capabilities within the framework of the alliance.

Our economic relationship with you is also vitally important. You are our second largest trading partner, supplying over 20 percent of Australia's total imports and taking over 10 percent of our total exports. The trade relationship is about 2 to 1 in your favour. You are our largest single source of foreign investment. As our economy diversifies away from primary production and we strengthen our position as an exporter of manufactures and services, the business opportunities for America in Australia will expand still further. So again the benefits are very much two-way.

Mr. Speaker, Mr. President, you can therefore see why we believe our relationship entitles us to a fair go in our trade with the United States and in competition with the United States in third markets; not, I emphasise, special favours, but a fair go.

This is not the occasion to make detailed representations about particular export commodities. But it would be wrong of me, here in Congress, to pretend that within our otherwise excellent relationship trade is not an area of very real concern to us.

I should say to you, with the frankness which I trust is permitted to a friend, that some of the decisions made in Washington intended to defend the interests of Americans have turned out in fact to hurt Australians.

In particular Australia's primary producers are unsubsidised and are among the most efficient in the world, and yet we are finding ourselves squeezed out of markets by practices which distort prices and levels of production. In agriculture we find ourselves caught in the crossfire of a destructive and counter-productive trans-Atlantic subsidies war.

The statistics are graphic—since your Export Enhancement Program has been operating, America's share of the world wheat market has jumped from 29 percent to 43 percent, the European Community's share has fallen only a little from 17 percent to 14 percent, but Australia's share has slumped from 20 percent to 12 percent.

The subsidies war is costing us—and I mean both of us—not just economically. There is also an impact, a damaging impact, upon the perceptions which Australians have of the major trading powers, the United States included.

Australians must not be given reason to believe that while we are as we are, first class allies, we are, in trade, second class friends. Trade issues must not be allowed to fester, or to erode our wider friendship or alliance.

I want to emphasise Australia's appreciation of the way in which we have been able to express our concerns to you. It is important that when we knock on doors in this city, including in Congress, that those doors continue to open.

For the test of good Australia/United States relations is not that as individuals or governments we agree on everything.

It is, rather, that we are in accord on matters of basic principle and that where we do disagree we do so with civility and respect for the others point of view. I am proud to say that the relationship between our countries is now regarded on both sides as being as warm, as close and as productive as it has ever been. And our relationship has a greater maturity than it has ever had before.

Mr. Speaker, Mr. President, all of us sense, I think, that the world we grew up with, whose shape emerged after the Second World War, is changing in some fundamental ways. New centres of economic power are emerging; there is less rigidity in the Eastern bloc; the familiar pattern of East-West strategic competition is often overlaid by a new pattern of economic competition within the West. Though we cannot yet see the fine detail, the blurred outlines of the 21st century—now only twelve years away—are becoming sharper.

What sort of world will it be? When I look at the international environment, when I talk to the leadership of major powers like the United States, the Soviet Union and China or countries in Australia's Asia-Pacific neighbourhood, I am generally encouraged by what I see. There have been few enough times in recent decades when it has been possible to permit ourselves a degree of optimism about the world's future. But this, I think, is such a time.

The Soviet Union is undergoing far-reaching changes. The domestic reforms introduced by General Secretary Gorbachev are the most hopeful sign in that part of the world since 1917. Where they will eventually lead—whether they will even succeed—we cannot tell. Like all economic reformers Mr. Gorbachev faces the classic dilemma that the pain always comes before the benefits. But the direction in which he is heading is encouraging.

Certainly we must withhold final judgement about the extent of change in Soviet foreign policy. We want to see deeds not just words. But there is unquestionably ground for hope. We are surely better off with a Soviet Union which has accepted that it must get out of Afghanistan than we were with the Soviet Union which originally invaded that country.

We have seen the first ever arms control agreement which makes real cuts in nuclear arsenals of the two super powers. We see—and we strongly support—prospects for further reductions. The West is now engaging the East across a wide range and at the highest leadership levels, but not on the basis of naivety or weakness. I pay tribute to the role which President Reagan has played—with the invaluable support of the Congress—at the centre stage of this process.

China's continuing economic growth and its leaders' commitment to modernisation mark the emergence of that country from a barren period of upheaval and introspection. This is a development of historic importance, tremendously beneficial to regional and global stability.

Significant parts of the third world, particularly in Asia and the Pacific, are experiencing dynamic economic growth.

In parts of the third world there have, too, been significant advances for democracy. We acknowledge in particular the victory over autocracy in the Philippines, and democratic reform in the Republic of Korea.

And so, Mr. Speaker and Mr. President, although competition between nations and alliance systems will not disappear—we believe in our own values too strongly for that—we can be allowed to hope that we are entering a period when such competition will be channeled into less dangerous paths.

But no man or woman who has lived in the 20th century can fail to understand how quickly, and how disastrously, change can come. We still face many challenges, many dangers. Intractable and tragic conflicts persist in the Middle East and Southern Africa; famine, war and disease still haunt many parts of the third world; hundreds of millions of people still lack the freedom and human rights we take for granted in our countries; recent events have even disrupted the relative tranquility of the South Pacific.

So we must always remember that nothing is preordained. The future does not just happen to us. We make the future. And if we are to make it well, we need to remain engaged with the world, willing to struggle with its problems and to take our part in solving them. We live in an interdependent world and we don't have the practical option—or indeed the moral option—to sit it out.

That is why Australia concerns itself with issues like arms control and the obscenity of apartheid in South Africa. It is also why we are members of the alliance.

Mr. Speaker, and Mr. President, some Americans seem to be apprehensive about the changes they see around them in the world.

This is not surprising. Changes which alter familiar, and comfortable, relativities in economic and political power and familiar patterns of behaviour will always cause uncertainty and sometimes resentment. And the international system as we know it is very largely an American creation. The institutions, alliances and programs which characterise the system emerged from the generosity of this country and the farsightedness of your statesmen, including many members of this Congress. The World Bank, the Marshall Plan, NATO, ANZUS, modern multilateral diplomacy: all of them are, in part, and in many cases in large part, your creation. We were all the beneficiaries of that impulse towards internationalism.

So where change has come, it has often been because of the very success of American policies, because you have achieved what you set out to do. It is because your policies worked that Japan, Western Europe, the Republic of Korea and others are now strong and prosperous.

In any case particular global changes have often been overstated. Portraits of a "declining" United States have drawn upon beguilingly simple but very misleading indices of comparison, whether of GDP or net indebtedness. Moreover the trends have been portrayed as continuing inexorably. That is nonsense, and it is un-American in its determinism. With the right policies, this country will remain the world's largest and most important economy as far ahead as I or anyone else can see.

I put it to you therefore that we need not and we must not permit our view of the world to be conditioned by some kind of creeping pessimism and dulling fatalism. As analysis that would be deeply flawed; and as a policy prescription, potentially disastrous. Put bluntly, the United States and other Western nations, especially the major actors on the world stage, must not behave in ways that could turn some of the presently fashionable theories of decline into self-fulfilling prophecies.

Mr. Speaker, Mr. President, nowhere is this more clear than at the vital intersection of international economics and international strategy.

The cost of failure to resolve present economic tensions in the world would be measurable not only in dollars and cents, it would be measurable in the accentuation of destructive differences within the western alliance, and third world instability. We must understand that stronger world economic and trade growth is a fundamental foreign policy objective. It is ultimately a national security objective.

The greatest obstacle to that objective is the persistence of large current account imbalances in the three major economies; the United States, Japan, and West Germany. This remains true despite certain trade statistics beginning to move in the right direction. The origin of the trade imbalances lies in turn, to a signficant extent, in the divergent fiscal and monetary policies pursued by the United States on the one hand and Japan and West Germany on the other through the 1980s.

Now I know that these issues of economic and trade policy are contentious ones within the United States, included within this Congress. I have no intention on taking sides. You have enough political candidates already in 1988.

But they are issues with demonstrable impact upon, and therefore clear relevance to, other countries, Australia included. And it is in that spirit that I ask you to take my comments.

The inescapable reality is that adjustment of economic imbalances will occur. It is only a question of how they occur. The adjustment can be forced by market pressures upon reluctant governments or it can come through deliberate strategies to enhance world growth and maximise the individual and collective trading opportunities of all countries.

It is clearly in the interests of all of us that the world's major economies opt for strategies of the latter kind. And this means a deliberate decision by them, the United States included, to reverse the corruption—and I can use no lesser word—of the world trading system, combined with an equally deliberate commitment to make appropriate adjustments in domestic economic policies.

My friends, I am not saying that the burden of adjustment rests solely on the United States and I am not saying that you have no reason for frustration and complaint about the trade practices of others. I can understand your objections to the barriers the United States faces to its exports in certain markets. Australians can understand these problems precisely because we share them.

In the Uruguay round of multilateral trade negotiations, the vehicle is at hand to negotiate a new, fairer and liberalised environment for world trade.

This crucial negotiation confronts us with a test of our collective common sense; whether we will recognise that any attempt to solve our national trading problems at the expense of others, rather than through the pursuit of the common wellbeing, must ultimately be self destructive.

It is this same enlightened self interest which dictates that we accept rather than that we oppose the need for adjustment in our own economies. What a sad irony if, I put to you, at the very moment in history when we are seeing the belated recognition by the planned economies of the need to accept the relevance of market signals in their decision making, the Western nations were to try to ignore and distort those signals, both at home and in the international marketplace.

In Australia we have practised the doctrine of economic adjustment, not merely preached it.

We have pursued the domestic economic policies necessary to cure our own external imbalance. We have converted a prospective fiscal deficit amounting to 5 percent of GDP just five years ago to a prospective surplus of 1 percent or more in the coming fiscal year. We have implemented reforms to deregulate industry, lift productivity and innovation, promote and export culture and encourage foreign investment on fair terms. We are prepared to show the lead on tariff reform. We will be cutting tariffs by about 30 percent on average over the next four years. Much larger reductions in protection will occur for the most highly protected industries.

Now you are practising politicians and so am I. I understand constituency interests. I know that the adjustment process is not easy. But it must be done.

The costs of failure will be very high; and the rewards of success enormous.

Speaking to you as the closest of friends and allies, therefore, my message is that the United States' action now can play a decisive role in the future shape of the world economy if you grasp the challenge of adjustment at home and drive with determination for the liberalisation of trade on a global basis. America can do the world, and itself, no greater service at this time.

Mr. Speaker, Mr. President, I have not the slightest doubt of the unique capability of the United States for leadership, whether in managing the pivotal relationship with the Soviet Union, maintaining the health of the western alliance, forging further agreements in the essential area of arms control, seeking solutions to regional issues such as the Middle East and Southern Africa, or resolving international economic problems.

If all of this sounds like a tall order, if it sounds like an unfair burden, we do not look to the United States to solve all these problems alone or to mount the effort without the help of friends. We ask only that the United States continue to contribute the strength, the persistence, creativity and breadth of vision which—to the immense benefit of mankind—have been the hallmarks of the American character.

I am confident that it will be so. No nation in the world surpasses the United States in justifiable pride in past achievements, confidence that problems can be overcome and contagious optimism about the future. Neither of us would claim that our nation is without blemish. Neither of us would claim that governments of our countries have always chosen wisely or acted well. But I do say this: That when all is said and done the United States is a great and a good country; that the people of the United States are a great and a good people; and that Australia in the years ahead you will have the best kind of friend—independent to be sure, forthright in defence of our own interests certainly, but also firmly supportive and deeply proud of our rich and enduring relationship.

[Applause, the Members rising.]

At 11 o'clock and 40 minutes a.m., the Prime Minister of Australia, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The ambassadors, ministers, and chargés d'affaires of foreign governments.

JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses now dissolved.

Accordingly, at 11 o'clock and 41 minutes a.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The joint session is now dissolved and the House will convene at 12 noon.

□ 1205

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock and 5 minutes p.m.

PRINTING OF PROCEEDINGS HAD DURING THE RECESS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

FAIR HOUSING AMENDMENTS ACT OF 1988

The SPEAKER. Pursuant to House Resolution 477 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union and for the further consideration of the bill, H.R. 1158.

□ 1206

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1158) to amend title VIII of the act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes, with Mr. OLIN [Chairman pro tempore] in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, June 22, 1988, all time for general debate had expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill is considered as an original bill for the purpose of amendment, and each section is considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Housing Amendments Act of 1988".

The CHAIRMAN pro tempore. Are there any amendments to section 1?

Mr. FISH. Mr. Chairman, I offer an amendment and I ask unanimous consent that the amendment, which is not to section 1, be considered out of order.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. SENSENBRENNER. Mr. Chairman, reserving the right to object, I have a better idea. I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

Mr. EDWARDS of California. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. SENSENBRENNER. Mr. Chairman, I object to the request of the gentleman from New York [Mr. FISH].

The CHAIRMAN pro tempore. Objection is heard to offering the amendment out of order.

The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. SHORT TITLE FOR 1968 ACT.

The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by inserting after the comma at the end of the enacting clause, the following: "That this Act may be cited as the 'Civil Rights Act of 1968'.".

The CHAIRMAN pro tempore. Are there any amendments to section 2?

The Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. REFERENCES TO 1968 ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968).

The CHAIRMAN pro tempore. Are there any amendments to section 3?

The Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 6. SHORT TITLE FOR TITLE VIII.

Title VIII is amended by inserting after the title's heading the following new section:

"SHORT TITLE

"SEC. 800. This title may be cited as the 'Fair Housing Act'.".

The CHAIRMAN pro tempore. Are there any amendments to section 4?

The Clerk will designate section 5.

The text of section 5 is as follows:

SEC. 5. AMENDMENTS TO DEFINITIONS SECTION.

(a) Modification of Definition of Discriminatory Housing Practice.— 802(f) is amended by striking out "or 806" and inserting in lieu thereof "806, or 818."

(b) Additional Definitions.—Section 802 is amended by adding at the end the following:

"(h) 'Handicap' means with respect to a person—

"(1) a physical or mental impairment which substantially limits one or more of such person's major life activities.

"(2) a record of having such an impairment, or

"(3) being regarded as having such an impairment,

but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(i) 'Aggrieved person' includes any person who—

"(1) claims to have been injured by a discriminatory housing practice; or

"(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"(j) 'Complainant' means the person (including the Secretary) who files a complaint under section 810.

"(k) 'Familial status' means one or more individuals' (who have not attained the age of 18 years) being domiciled with—

"(1) a parent or another person having legal custody of such individual or individuals; or

"(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

"(l) 'Conciliation' means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Secretary.

"(m) 'Conciliation agreement' means a written agreement setting forth the resolution of the issues in conciliation.

"(n) 'Respondent' means—

"(1) the person or other entity accused in a complaint of an unfair housing practice; and

"(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).

"(o) 'Prevailing party' has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 188).".

The CHAIRMAN pro tempore. Are there any amendments to section 5?

The Clerk will designate section 6.

The text of section 6 is as follows:

SEC. 6. DISCRIMINATORY HOUSING PRACTICE AMENDMENTS.

(a) Additional Discriminatory Housing Practices.—Section 804 is amended by adding at the end the following:

"(f)(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

"(A) that buyer or renter,

"(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

"(C) any person associated with that buyer or renter.

"(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of—

"(A) that person; or

"(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

"(C) any person associated with that person.

"(3) For purposes of this subsection, discrimination includes—

"(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises;

"(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

"(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwellings in such a manner that—

"(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

"(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

"(iii) all premises within such dwellings contain the following features of adaptive design:

"(I) an accessible route into and through the dwelling;

"(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

"(III) reinforcements in bathroom walls to allow later installation of grab bars; and

"(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

"(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as 'ANS1A117.1') suffices to satisfy the requirements of paragraph (3)(C)(iii).

"(5) As used in this subsection, the term 'covered multifamily dwellings' means—

"(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

"(B) ground floor units in other buildings consisting of 4 or more units.

"(6) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.

"(7) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals.".

(b) Additional Protected Classes.—(1) Section 806 and subsections (c), (d), and (e) of section 804, are each amended by inserting "handicap, familial status," immediately after "sex," each place it appears.

"(2) Subsections (a) and (b) of section 804 are each amended by inserting "familial status," after "sex," each place it appears.

(c) Discrimination in Residential Real Estate-Related Transactions.—Section 805 is amended to read as follows:

"DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS

"Sec. 805. (a) In General.—It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national orgin.

"(b) Definition.—As used in this section, the term 'residential real estate-related transaction' means any of the following:

"(1) The making or purchasing of loans or providing other financial assistance—

"(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

"(B) secured by residential real estate.

"(2) The selling, brokering, or appraising of residential real property.

"(c) Appraisal Exemption.—Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.".

"(d) Additional Exemption.—Section 807 is amended—

"(1) by inserting "(a)" after "Sec. 807.";

and

"(2) by adding at the end of such section the following:

"(b)(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to dwellings provided under any State or Federal program specifically designed and operated to assist elderly persons, as defined in the State or Federal program, or to housing for older persons.

"(2) As used in this subsection, 'housing for older persons' means housing communities consisting of dwellings—

"(A) intended for, and at least 90 percent occupied by, at least one person 55 years of age or older per unit, and providing significant facilities and services specifically designed to meet the physical or social needs of such persons; or

"(B) intended for and occupied solely by persons 62 years of age or older.".

"(e) Clerical Amendment.—The heading of section 804 is amended by adding at the end the following: "AND OHER PROHIBITED PRACTICES".

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Walker: On page 11, after line 5 insert the following new subsection:

(3) Nothing in this title prohibits conduct against a person because such person has been convicted two or more times by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this amendment is a reasonably clear amendment and I think we have agreement on both sides that it is an amendment that can be taken in the bill.

To explain what this amendment does, it assures that those people who are convicted of the manufacture or distribution of drugs will not receive undue protection under this act. The reason for this is that we should not force people to accept as their neighbors or accept into their buildings the kinds of folks who might be operating crack houses.

We already know in many of our urban areas there are drug manufacturing and distribution units within housing projects, within apartment buildings, and that they are terribly burdensome on the neighbors of those buildings. We ought not be saying to anyone that they should have to accept that kind of situation in their building or in their neighborhood.

So what this amendment says is that if you have a person who has been convicted two or more times by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance, that they would not be someone who receives unusual protection under this act. In other words, that is somebody that can be excluded from a housing project, can be excluded from a building on the basis of that particular criminal record in the drug area.

As I say, it goes along with language which is presently in the bill and in the committee report. I want to congratulate the committee for what they did. In an earlier section of this bill the committee made it clear that any current user of illegal drugs is in fact excluded under the bill. In the committee report they make it very clear what their intent was on that, and that somebody who has cleaned up their act would not be covered, but that we are not going to allow current users to have the protection.

All this does is extends and makes certain that we do not have people who are currently engaged in the manufacture and distribution moving into neighborhoods using this particular act as a cover.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am very glad to yield to the gentleman from California.

Mr. EDWARDS of California. I thank the gentleman for yielding, and I am sure that we are going to accept this amendment. However, I would like to ask the gentleman from Pennsylvania a question or two.

I understand that the gentleman from Pennsylvania [Mr. Walker] is concerned that the bill before us today should not extend nondiscrimination protection in housing to individuals who are drug addicts and who in fact may be using their apartments for drug deals. Let me say emphatically that the bill before us did not intend and does not extend that protection and was never intended to extend such protection. Rather it is a bill that prohibits discrimination on this basis of handicap.

I therefore do not believe my colleague's statutory amendment is necessary because, as I have noted, I believe it is consistent with what the bill already provides. However, let me clarify one point with my colleague.

As I read the gentleman's amendment, if an individual is discriminated against because he is a member of some other protected class under the bill, for example, because he is black or Hispanic, and not because he was twice convicted of drug offenses, then of course that individual would remain within the protection of the act, is that correct?

Mr. WALKER. Yes, that is certainly the intent of this amendment.

Mr. EDWARDS of California. I thank the gentleman for his contribution. This side accepts his amendment.

Mr. WALKER. I thank the gentleman from California.

Let me say to the gentleman from California the reason why I thought it was important to go with this amendment, and I think there may be some necessity for it, is the very fact that we did have language in the bill that deal with users. It seems to me that there is some need to clarify for others that might want to try to find protection that may not be users, but rather dealers, and so then should be considered covered, so I understand there was was no intent of the committee to do anything that might be covered in this amendment, but it seems to me the amendment clarifies very, very clearly that we are not going to permit the crack dealers and these kinds of people to try to find cover under this particular act. As the gentleman from California knows, some of their attorneys get very inventive with regard to protecting some of these folks who are engaged in nefarious activities.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I think the gentleman from Pennsylvania has made a contribution to this bill, but I just wish to further clarify the intent of the author along the lines of what the gentleman from California [Mr. Edwards] has been saying.

Is it the purpose of the gentleman from Pennsylvania in inserting this provision in the bill that if one declines to sell or rent housing solely on the basis of that person having two or more convictions for drug offenses, that is not an illegal act in and of itself?

Mr. WALKER. That is the purpose of this particular amendment, the gentleman is correct.

Mr. SENSENBRENNER. However, if the discrimination is caused by one of the prohibitions contained in the law, as amended by this bill, then a fair housing complaint would lie and could be prosecuted?

Mr. WALKER. The gentleman is precisely right.

Mr. SENSENBRENNER. With that understanding, I am happy to support the amendment as well.

Mr. WALKER. I thank the gentleman from Wisconsin.

The **CHAIRMAN** pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. Walker].

The amendment was agreed to.

The **CHAIRMAN** pro tempore. Are there other amendments to section 6?

If not, the Clerk will designate section 7.

The text of section 7 is as follows:

SEC. 7. ADDITIONAL ADMINISTRATIVE AUTHORITY.

(a) Administrative Law Judges To Be Within Justice Department.—Section 808(c) is amended by inserting after the second sentence the following: "The Secretary shall delegate such functions with respect to hearing, determining, and ordering under section 812 to administrative law judges appointed by the Attorney General under section 3105 of title 5, United States Code, and serving in the Department of Justice.".

(b) Cooperation With Secretary.—Section 808(d) is amended by inserting "(incuding any Federal agency having regulatory or supervisory authority over financial institutions)" after "urban development".

(c) Additional Functions of Secretary.—(1) Section 808(e) is amended—

(A) in paragraph (2), by inserting before the semicolon at the end, the following: ", including an annual report to the Congress—

"(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

"(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which—

"(i) investigations are not completed as required by section 810(a)(1)(B);

"(ii) determinations are not made within the time specified in section 810(g); and

"(iii) hearings are not commenced or findings and conclusions are not made as required by section 812(g)";

(B) by striking out "; and" at the end of paragraph (4);

(C) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(D) by adding at the end, the following:

"(6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).".

(2) Section 808 is amended by adding at the end the following:

"(f) The provisions of law and Executive orders to which subsection (e)(6) applies are—

"(1) title VI of the Civil Rights Act of 1964;

"(2) title VIII of the Civil Rights Act of 1968;

"(3) section 504 of the Rehabilitation Act of 1973;

"(4) the Age Discrimination Act of 1975;

"(5) the Equal Credit Opportunity Act;

"(6) section 1978 of the Revised Statutes (42 U.S.C. 1982);

"(7) section 8(a) of the Small Business Act;

"(8) section 527 of the National Housing Act;

"(9) section 109 of the Housing and Community Development Act of 1974;

"(10) section 3 of the Housing and Urban Development Act of 1968;

"(11) Executive Orders 11063, 11246, 11625, 12250, 12259, and 12432; and

"(12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purposes of this subsection.".

AMENDMENTS OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer several amendments.

The Clerk read as follows:

Amendments offered by Mr. Fish: Page 25, strike out line 14 and all that follows through line 3 on page 26 and insert in lieu thereof the following:

"ENFORCEMENT BY SECRETARY

"Sec. 812. (a) Election of Judicial Determination.—A complainant, a respondent, or an aggrieved person, with respect to a charge filed under section 810, may elect to have the issues raised by that charge decided in a civil action under subsection (o) in lieu of a hearing under subsection (b). The election must be made not later than 20 days after the receipt by the electing person of service under section 810(h) or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

"(b) Administrative Law Judge Hearing in Absence of Election.—If an election is not made under subsection (a) with respect to a charge filed under section 810, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 810. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5, United States Code. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occured or to be about to occur.

Page 33, after line 15, insert the following:

"(o) Civil Action for Enforcement When Election is Made for Such Civil Action.—(1) If an election is made under subsection (a), the Secretary shall, not later than 20 days after the election is made, commence and maintain a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28, United States Code. The Secretary shall promptly notify the Attorney General of the filing of any action under this subsection.

"(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

"(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occured or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 813. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 813 shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

Redesignate succeeding subsections accordingly.

Page 24, after line 2, insert the following:

"(h) Service of Copies of Charge.—After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 812(a) and the effect of such an election, to be served—

"(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

"(2) on each aggrieved person.

Page 33, line 18, insert "or any civil action under section 812," after "therefrom,".

Page 11, strike out line 10 and all that follows through line 17.

Redesignate succeeding subsections accordingly.

Page 30, strike out line 15 and all that follows through line 23 and insert in lieu thereof the following:

"(h) Review by Secretary; Service of Final Order.—(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued.

"(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

Page 30, line 24, strike out "(2)(A)" and all that follows through "judge" in line 25 and insert in lieu thereof the following: "(i) Judicial Review.—(a) Any party aggrieved by a final order for relief under this section".

Page 31, line 3, strike out "(B)" and insert "(2)" in lieu thereof.

Page 40, beginning in line 15 and ending in line 16, strike out "of an administrative law judge".

Page 41, line 1, strike out "administrative law judge" and insert "Secretary" in lieu thereof.

□ 1215

Mr. FISH (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the Record, and also that they be considered en bloc.

The CHAIRMAN pro tempore (Mr. Olin). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FISH. Mr. Chairman, page 4 starts the amendment language that refers to this particular section but it does cover other sections as well.

Mr. Chairman, the amendment I offer allows us to overcome a major stumbling block to the passage of new fair housing legislation. It is a legislative solution that addresses constitutional concerns raised over the bill H.R. 1158. With the addition of my amendment, the bill enjoys the support of the civil rights community, the National Association of Realtors, and the majority and minority leadership of the House.

I have worked closely with the Leadership Conference on Civil Rights and representatives of the NAACP, the American Civil Liberties Union, civil rights litigation groups as well as the National Association of Realtors to reach a solution acceptable to all. Their good faith and willingness to compromise has resulted in a major breakthrough. It raises hopes for prompt action on these important reforms to strengthen the Federal fair housing law.

I wish to acknowledge those who encouraged this process and who actively support this amendment: The majority leader, Mr. Foley; the minority, Mr. Michel; the Judiciary Committee chairman, Peter Rodino; the chairman and ranking minority member of the Subcommittee on Civil and Constitutional Rights, Mr. Edwards and Mr. Sensenbrenner; and judiciary committee members who directly contributed to this compromise—John Conyers, Dan Glickman, and Barney Frank.

My amendment addresses constitutional concerns over the bill's enforcement provisions, which allow an administrative law judge to award damages but do not guarantee the right to a trial by jury.

The amendment will give complainants, respondents, and other aggrieved persons the option of having the claims decided in an administrative law judge proceeding or in the U.S. district court, where a jury is available. In either instance, the case would be brought and maintained by HUD attorneys.

The opportunity to elect occurs after the 100-day period during which the Secretary investigates the complaint, attempts to reach a conciliation and issues a "charge" whenever the investigation reveals "reasonable cause" to believe that discrimination has occurred or is about to occur.

My amendment also incorporates recommendations by Mr. Glickman. It returns ALJ's to HUD and provides a 30-day period in which the Secretary of HUD may review any finding, conclusion or order issued by the ALJ. An appeal to the circuit court of appeals would lie from any review decision made by the Secretary within 30 days, or from the ALJ decision if the Secretary does not act.

Mr. Chairman, the fair housing law was enacted two decades ago at a time of national mourning and strife. It stands as a symbol of our national commitment to the goals of equal housing opportunity for all Americans. Unfortunately, however, the reality confronting victims of housing discrimination falls far short of our lofty legal goals. The proposed bill, together with my amendment, provides victims a quick, effective, and constitutional means of seeking redress. Passage of this legislation will boost confidence in the effectiveness of our fair housing law.

Mr. Chairman, I urge the support of my colleagues on this measure.

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word and I rise in support of the amendment.

Mr. Chairman, in a couple of minutes I will have a colloquy that I would like to engage in with Mr. FISH.

Mr. Chairman, it is a pleasure to speak today in support of the Fair Housing Amendments Act of 1987. Housing discrimination on the basis of race and physical handicap is insidious and still widespread, in part because the civil rights laws provided no expeditious way to bring a housing discrimination claim against the discriminator and obtain appropriate relief. The enforcement procedure originally proposed had some problems which remained unresolved in the Judiciary Committee. The two-track procedure offered today by Mr. FISH is expeditious, fair to both parties, and legally sound. It solves the constitutional and administrative law questions raised during the markup, but more important, this unique approach may serve as a model for laws in the future.

This bill is also a political triumph resulting from a long process of negotiation and compromise by parties who were at odds on more than a few provisions of this bill only weeks ago. The Leadership Conference on Civil Rights and the National Association of Realtors deserve real credit for working together, with our encouragement, to achieve an agreement which in no way compromises the potential effectiveness of this bill. I enthusiastically endorse this bill as amended by Mr. FISH, and expect that the Fair Housing Amendments Act of 1987 will provide the means to make significant progress toward ending discrimination in the rental and sale of housing in this country.

Mr. Chairman, I may add parenthetically that if people can live where they want to live, that is probably the most important foundation for a society which is fair and free to all citizens.

Now, Mr. Chairman, I would like to engage in a quick colloquy with the gentleman from New York [Mr. FISH].

The gentleman's amendment includes a provision identified as subsection 812(h) that allows the Secretary 30 days to review any finding, conclusion, or order of an ALJ issued pursuant to subsection (g). If the Secretary does not act during this 30 days period, the ALJ's order becomes final. Does this subsection require that a nonprevailing party appeal an ALJ decision to the Secretary, in order to preserve the right of appeal to a U.S. circuit court?

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New York [Mr. FISH].

Mr. FISH. I thank the gentleman for yielding. No; that is not the purpose of subsection 812(h). The subsection is intended simply to allow the Secretary of HUD 30 days to review the findings, conclusions, and order of an ALJ issued pursuant to subsection (g), and consistent with his authority under the Administrative Procedure Act. If the Secretary does not act within the 30-day period, the ALJ's findings, conclusions and order become final, and are appealable to the circuit court of appeals pursuant to subsection 812(i).

Mr. GLICKMAN. So, section 812(h) means that a nonprevailing party does not lose a right to appeal to the circuit court of appeals under subsection 812(i) if they do not petition or otherwise ask the Secretary to review the ALJ's findings, conclusions and order under subsection 812(h)?

Mr. FISH. If the gentleman will yield further, yes, that is correct. Subsection 812(h) does not affect in any way the right of appeal created under subsection 812(i).

Mr. GLICKMAN. I would close by saying that this is an outstanding bill. It has had excellent bipartisanship. We have brought the business community and the civil rights groups together to do something good for America. It is supported by the Republican leader, the Democratic leader, it is something that we need to do more in this Congress. This is a good first step to try to wipe out housing discrimination in this country.

Mr. FISH. If the gentleman would just briefly yield again, although I mentioned this in my remarks in support of my amendment, I would like to reiterate my thanks personally to the gentleman from Kansas [Mr. GLICKMAN] for his support and contribution and input with respect to the Administrative Procedure Act throughout this process. I thank the gentleman.

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Fish amendment.

Mr. Chairman, I am delighted to join in support of this desperately needed reform of our fair housing law, which has not been updated since its creation 20 years ago. The bill before us, with the amendment offered by my good friend from New York, will make dramatic improvements in our effort to eliminate discrimination in the housing market.

Although many of us differ in the manner in which we would correct the existing flaws, all of us agree that reform is long overdue. The lack of enforcement procedures has undermined the effectiveness of the current law. The lack of protection for the handicapped in the housing market is shameful. We need fair housing reform.

As you may know, President Reagan called for reform of the Federal fair housing law in every single State of the Union speech he has given. When the President proposed legislation again in this Congress, I introduced the Fair Housing Amendments Act of 1988, H.R. 4425, at his request.

Earlier this week the President stated his hope that "the Congress will move quickly on the legislation to strengthen fair housing laws." The President's commitment to fair housing makes me very hopeful that our actions today will contribute to a new Federal fair housing law in the very near future.

We are able to take this additional step toward much needed reform today because we have resolved the most serious disagreement in our approach to reform. Through the amendment process, we have agreed to improve the bill by, among other things, resolving the constitutional question of right to a jury trial.

This would not be possible without the dedicated search for compromise between the civil rights community and the realtors.

Under the excellent amendment, authored and fostered by Mr. FISH, we are able to combine the efficient, effective enforcement of our antidiscrimination laws with the option of a jury trial as mandated by the seventh amendment. With the solution to this major problem, we are able to resolve other issues through the amendment process today under an open rule, which I support.

We would not, indeed could not, be here today without the work of HAM FISH. Single-handedly, HAM forged the path to this compromise. His work toward a resolution of a serious constitutional crisis in this bill began well over a year ago. Because of his willingness to keep trying, even when it was unpopular, we are able to come together today in support of the Fish amendment.

I also think we should take a moment and recognize the value of excellent staff work. Ham Fish has been faithfuly, and excellently represented in this effort by the Committee Republican Staff Director, Alan Coffey.

The public is well served by our commitment to strong antidiscrimination laws, and I am proud to support the amendment offered by Mr. Fish.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Mr. SENSENBRENNER asked and was given permission to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Chairman, this amendment resolves a dispute that has lasted for 11 years over the question of how best to enforce the fair housing law in order to put teeth into the law and yet protect the rights of those who are accused of unlawful discrimination.

Throughout my career in Congress, I have expressed my concern over the constitutionality and the fairness of taking away the right to a jury trial of someone who is accused of violating this law. I believe that the gentleman from New York has done the country a great service in reaching a happy compromise which does establish an administrative law judge procedure, but at the same time gives the right of removal to any of the parties involved to bring the case before a Federal district court where trial by jury can be had.

The dispute was probably the most critical dispute in 1980 when this House last debated fair housing legislation. I introduced the amendment to strike the administrative law judge procedure.

As I indicated yesterday, that amendment was defeated by the narrow margin of one vote after a 33-minute rollcall.

I am now happy with the procedure that has been established in this amendment. For those who wish to have their cases adjudicated before an administrative law judge, that is their choice and their choice alone. And those who wish to have the disputes adjudicated in a Federal district court with the possibility of a jury trial have that as an absolute matter of right.

The solution was so simple I wish we had come up with it years ago, but now that the day is at hand I want to again congratulate the gentleman from New York, [Mr. Fish], the civil rights groups and the realtors in coming up with the compromise that has broken the logjam that has prevented this Congress from enacting a strengthening of the fair housing law for at least 11 years.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr SENSENBRENNER. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Chairman, I want to join the gentleman in complimenting Mr. Fish for coming up with this amendment. I think it solves, it has solved a problem which has delayed consideration of this bill. With the adoption of this amendment, I think almost everybody can be and will be in support of the legislation.

☐ 1230

Mr. EDWARDS of California. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I also commend the gentleman from New York [Mr. Fish] and the various people and organizations that worked out this compromise. It really does not weaken the bill. It merely gives each party the choice of either going the administrative law judge route or the Federal Court route.

In these housing cases the victims are often poor and they cannot afford to be the plaintiff in Federal Court. Under the amendment offered by the gentleman from New York [Mr. Fish] the HUD Secretary is the plaintiff, and that is how it should be.

As in other civil rights laws, the Government does the enforcing. We do not force the individual to enforce the Federal law. As others have pointed out, the Fish amendment answers all possible constitutional questions. It is a very good addition to the bill.

Mr. Chairman, I would like to ask the author of the amendment a question or two. I will address this question to the gentleman from New York [Mr. Fish].

Mr. Chairman, subsection 812(o)(3) of the gentleman's amendment provides that a court that determines that a discriminatory housing practice has occurred, or is about to occur, may grant such relief as the court could have granted in a civil action under section 813. Does this language mean that compensatory or punitive damages could be awarded that would accrue to the benefit of the U.S. Government?

Mr. FISH. Mr. Chairman, will the gentleman yield to me?

Mr. EDWARDS of California. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I am happy to answer that question. The answer is, no, it does not. The subsection does contemplate that the Secretary may sue to recover actual or punitive damages, but these damages, if awarded, would be paid to the aggrieved person, not the Government. The relief that would be awarded to the Government in its own right would be the injunctive or equitable relief that is described in section 813(c).

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman from New York.

Mr. FISH. Mr. Chairman, will the gentleman yield for a further colloquy?

Mr. EDWARDS of California. I yield for further colloquy.

Mr. FISH. Mr. Chairman, if I could, I would like to ask my colleague, the chairman of the subcommittee, some questions with respect to other parts of the bill that are of concern, particularly on the issue of res judicata.

Mr. EDWARDS of California. Yes. Would the gentleman proceed, please?

Mr. FISH. Mr. Chairman, the committee bill provides in section 810(g)(4) that the Secretary may not issue a charge regarding an alleged discriminatory housing practice after the beginning of a trial of a civil action commenced by the aggrieved party seeking relief with respect to that discriminatory housing practice. Analogous provisions are found in section 812(f), which bars an ALJ from continuing administrative proceedings regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party with respect to that discriminatory housing practice, and section 813(a)(3), which bars an aggrieved person from commencing a civil action under that subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an ALJ has commenced a hearing on the record with respect to such charge. Do I understand these provisions to mean that a request for relief by a specific aggrieved person or on that person's behalf can only be adjudicated once on the merits under this title?

Mr. EDWARDS of California. Yes. It is not the committee's intent to afford an aggrieved person or the Government an opportunity to relitigate the merits of the claims asserted by or on behalf of that aggrieved person.

Mr. FISH. Does this mean that if an ALJ or a district court or a circuit court of appeals finds, with respect to a proceeding commenced by or on behalf of an aggrieved person challenging a discriminatory housing practice, that the respondent did not violate title VIII, that the respondent would not be subject to any other proceedings commenced by the aggrieved person under this title with respect to that challenged practice?

Mr. EDWARDS of California. Yes, it does.

Mr. FISH. And, likewise, if an ALJ or district court or circuit court determines in a proceeding commenced by or on behalf of an aggrieved person, that a respondent did violate title VIII and awards relief for that violation, does this mean that the aggrieved person or the Goverment may not seek additional relief for that person through a further action under section 812 or 813, as the case may be?

Mr. EDWARDS of California. Yes, it means that also.

Mr. FISH. Mr. Chairman, I thank the subcommittee chairman very much.

The CHAIRMAN pro tempore (Mr. Olin). The time of the gentleman from California [Mr. Edwards] has expired.

(By unanimous consent, Mr. Edwards was allowed to proceed for an additional 2 minutes.)

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the distinguished chairman of the committee, the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I merely want to take this time to applaud and congratulate the gentleman from New York [Mr. Fish], who has offered this amendment which I think resolves a problem which had been a stumbling block insofar as a question might have been of concern as to whether or not a jury trial might have been available.

I think that with the amendment offered by the gentleman, which provides an opportunity to make an election between going through the administrative law judge procedure or to a district court, we have eliminated any possible constitutional questions, as I see it, and I think we have gotten over that stumbling block. The Department of Justice retains its right under section 814 to be able to go in. So I think really we have a whole bill, and we have created as a result of this compromise a real bipartisan measure which I am sure should generate the kind of support this measure should enjoy.

Again, Mr. Chairman, I offer my congratulations to the gentleman from New York [Mr. Fish], who has been really at the fulcrum of all this. I, of course, also thank our subcommittee chairman, the gentleman from California [Mr. Edwards], for his part in this.

Mr. EDWARDS of California. Mr. Chairman, I thank the chairman of the committee for his observations. We agree with him that this is a good bill, a strong bill, and the compromise has not weakened it an any way.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from New York [Mr. Fish].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FISH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 401, noes 0, not voting 30, as follows:

[Roll No. 200]

AYES—401

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—0

NOT VOTING—30

Biaggi
Bonker
Boulter
Brown (CA)
Coleman (TX)
Crane
Dannemeyer
Dowdy
Flake
Frenzel
Garcia
Gray (PA)
Hunter
Kaptur
Kemp
Konnyu
LaFalce
Lowery (CA)
MacKay
McCurdy
Mica
Moody
Murtha
Oberstar
Ray
Savage
Schumer
Spence
Sundquist
Wise

□ 1257

So the amendments were agreed to.

The result of the vote was announced as above recorded.

Mr. FRANK. Mr. Chairman, I ask unanimous consent to go back to section 6 for the purpose of offering an amendment.

The CHAIRMAN pro tempore (Mr. Olin). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AMENDMENT OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Frank: Page 8, line 24, after "individuals" insert "or whose tenancy would result in substantial physical damage to the property of others".

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, we have examined the gentleman's amendment on this side and find that it is an improvement to the bill, and we accept the amendment.

Mr. FRANK. Mr. Chairman, I thank the gentleman from Wisconsin.

I just want to explain to the Members that we dealt in committee with an expansion in some areas to cover people with various forms of handicaps, mental and physical; for instance, one of the issues arose as well, suppose someone in that category might be a threat in terms of health. We believe that in most of these cases there would be no threat, but we have provided that if the individual, whether the individual has the AIDS virus or there was an emotional problem or an alcoholism history or a physical problem, whatever was covered, and all of those are covered, but if the individual posed a direct threat to the safety or the health of others, we are making it explicit that in those exceptional cases, we believe there will be, and you provide or you present a threat in some special circumstances, you can be excluded.

When that was offered, I used the language of Grove City and that dealt only with health and safety. It was pointed out to me in the committee that we are dealing here with rental property, and property ought to be included.

I assure the gentleman from Wisconsin that it does improve the bill. I promised in full committee to offer this amendment and I appreciate the gentleman allowing me to offer it at this time, and I hope it is adopted.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The amendment was agreed to.

Mr. SHAW. Mr. Chairman, I ask unanimous consent to return to section 5 for the purpose of offering an amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENTS OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. SHAW: Page 4, strike out line 17 and all that follows through line 24, and redesignate succeeding subsections accordingly.

Page 9, line 1, strike out "(1)".

Page 9, line 3, strike out "familial status,".

Page 9, strike out line 5 and all that follows through line 7.

Page 9, line 18, strike out "familial status,".

Page 10, line 18, strike out "handicap, or familial status" and insert in lieu thereof ", or handicap".

Page 10, line 14, strike out "(1)".

Page 10, beginning in line 17, strike out "Nor does" and all that follows through line 5 on page 11.

Page 39, beginning in line 24, strike out "familial status" and all that follows through "Act)," in line 25.

Page 41, after line 8, insert the following:

SEC. 13. STUDY OF DISCRIMINATION BASED ON FAMILIAL STATUS.

(a) STUDY.—The United States Commission on Civil Rights shall conduct a study of the nature and extent of housing discrimination based on familial status. Such Commission shall report to Congress the results of such study, together with any recommendations for legislation, not later than 3 years after the date of the enactment of this Act.

(b) DEFINITION.—As used in this section, the term "familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with—

(1) a parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person, with the written permission of such parent or other person.

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SHAW. Mr. Chairman, I would like to also thank the members of the committee for allowing us to go back to this section for the purpose of offering these amendments.

Mr. Chairman, H.R. 1158 as written would be the first civil rights bill to include familial status as a protective class. We have not adequately explored the potential issues surrounding such a classification. Therefore, this amendment would not only strike that provision of the bill dealing with familial status, but it would also mandate a study by the U.S. Commission on Civil Rights on discrimination based on familial status.

Should the Commission find that there is substantial discrimination, then Congress should take appropriate action to protect families with children. The appropriate action is not that action taken by this particular bill.

This bill, Mr. Chairman, in its present form would outlaw senior communities.

Now, it was not intended to do such a sweeping act, granted, but by its very words, the very verbiage in the act in itself, that is exactly what it does.

There is an exception in the act that I would like to point out to the committee. It says:

> (2) As used in this subsection, "housing for older persons" means housing communities consisting of dwellings—
>
> (A) intended for, and at least 90 percent occupied by, at least one person 55 years of age or older per unit, and providing significant facilities and services specifically designed to meet the physical or social needs of such persons.

Now, I immediately raised a question of great concern. What type of services and facilities do people aged 55 years need that the rest of the community does not need?

In looking for that, I went to the report language and found this:

> Such facilities and services include congregate dining facilities, social and recreational programs, emergency and prevention health care or programs, continuing education, welfare information and counseling, recreational homemaker, outside maintenance and referral service, transportation to facilities, access to Social Services and services designed to encourage and assist recipients to use the services and facilities available to them.

□ 1305

After determining that, then it was necessary to find out how much these services would cost. In doing that, I found that the facilities required in the first exemption would cost anywhere from $400 to $1,095 per month. The cost is $400 which is the HUD congregate services, and $1,195 per month with is the Vantage House in Maryland, their charges for such services.

So what we have essentially done is put senior citizen housing outside of the ability to pay of most of our senior citizens.

Granted, discrimination is not right when practiced against anybody but I do not think that the senior citizens who wish to maintain and live in a senior community should be told by us here in Washington, DC that they no longer can do so.

There is a second exception in the bill where it says that the facilities are intended for and occupied solely by persons 62 years of age or older. I do not know what in the world we are thinking about there. All we are doing is saying that all the senior citizens in the communities that would want to maintain that eligibility would be required to absolutely ban people under the age of 62 years of age. Perhaps an older gentleman would decide to marry a wife that is 55 years of age. Immediately they would have to leave the senior community because they would jeopardize the exemption set forth in this bill.

Again, Mr. Chairman, I do not attack the motives of the framers of this bill. I think they were straightforward and they tried as best they could to exempt senior communities but they missed. I tried to work up language that would perfect the language in here but exclude senior communities, and I could not draft it either. That is a problem that we have.

What the committee has done is, and I think without any exception, has outlawed the senior communities all across the country. I do not think that was our intent but the only way to correct that error is to strike this provision of the bill. Mr. Chairman, I urge passage of my amendment.

Mr. SYNAR. Mr. Chairman, I rise in opposition to the Shaw amendment.

Mr. Chairman, I rise in opposition to the amendment and this is really the guts of the debate that we will hear today during this fair housing bill. Oftentimes I have sat on this floor and listened to some of the great speeches of our colleagues from both sides of the aisle and many times they are used in the context of our children. I took down some of those quotes from the CONGRESSIONAL RECORD and allow me to read what some of our colleagues have said in defense of certain issues.

"Children are our Nation's single greatest resource."

"Children are the future of our country."

"We must make sure that this legislation is profamily."

Mr. Chairman, if we are only going to give lipservice to the types of issues we believe are important to our families, we will accept the Shaw amendment, but I say to my colleagues today I think what we have to do is we have to support the committee and protect the familial status as a protected class.

Mr. Chairman, I do not need to remind the Members of this body who have studied this issue of housing over the years of the statistics that point to the need for this type of protection.

Mr. Chairman, in 1980 HUD found that 25 percent of the rental units in this country did not allow children at all. They found also that an additional 50 percent had restrictions which kept families out.

Mr. Chairman, I do not need to remind my colleagues that the most recent studies we have available to this Congress have found that almost half of the market available in this country has entirely closed the opportunities to families.

Finally, and most importantly, I do not need to remind my colleagues today that the largest and fastest growing segment of the homeless in our society is our children. It is because of that that I rise in strong opposition to the Shaw amendment today.

When these facts show a problem to be as widespread as this, and these statistics are very clear that over 75 percent of the rental housing nationwide restricts or bans children, it is time for we, the Federal Government, to weigh in and get involved. The gentleman from Florida [Mr. SHAW] has basically said that the legislation as drafted would "outlaw senior communities." That could be no further from the truth. We would never infringe upon the elderly rights. As a member of the Select Committee on Aging and one who is deeply involved and concerned about the issues facing our older citizens in this country, I have studied this issue at great length and as the gentleman from Florida [Mr. SHAW] pointed out, the committee went to great lengths to make exceptions which we believe take care of the situations which would affect our elderly.

As the gentleman from Florida [Mr. SHAW] further points out, there are two major exceptions that will allow our senior citizens to have the type of housing which they desire. First of all, under the legislation federally subsidized housing for the elderly will be protected.

Second, in other housing where there are older Americans, if they meet one of two tests they would be able to have that type of protection.

The second major exception is where there is housing by older Americans and where they meet one of two tests, and the first test is that it was intended that at least 90 percent be occupied by at least one person 55 years of age or older per unit and provides for significant facilities and services to meet the physical and social needs of older people.

The gentleman from Florida addressed that and he tried to make the statement that that would require expenditures of money in order to qualify. The fact of the matter is, if one looks at the report language of the committee, we do not require specific facilities to be retrofitted in order to meet this qualification. Second, and more importantly, most of the senior citizen type of housing in this country already meets these types of restrictions and limitations.

The second exemption is the fact that we have extended this to those which are occupied solely by people 62 years of age and older. If this was offensive, if these two exceptions which I have just pointed out were offensive to the elderly community in this country, I would like to know why we have the following sponsors of this important legislation but more importantly these specific provisions are in the bill with their sponsorship. They include the AARP, the National Council of Senior Citizens, the Child Welfare League, and Children's Defense Fund. They have all endorsed these provisions with this familial status.

The CHAIRMAN pro tempore [Mr. OLIN]. The time of the gentleman from Oklahoma [Mr. SYNAR] has expired.

(By unanimous consent, Mr. SYNAR was allowed to proceed for 2 additional minutes.)

Mr. SYNAR. It is very clear that the committee went to great lengths to try to protect the familial status without violating the rights of any other protected group in our society. Others have argued that by these provisions we would be violating landlords' rights and basically keep landlords from contracting in certain things. Again, I think the committee went to great lengths to solve that problem because nothing in this bill will prevent a landlord from determining that a family is otherwise qualified before agreeing to rent to them. Nothing in this bill means that a landlord would not be able to limit occupancy on State and local standards, to do credit checks, and to talk to references.

Mr. Chairman, let me conclude with these remarks. There will be no more profamily legislation that we will address in this 100th Congress. For all of us who truly believe that children are our future and this Nation's greatest resource, let us remember that great nations will be judged on how they deal with those who are in the dawn of their life and to deny them the equal access to the necessary housing in this country would be leaving a gap which none of us want to do.

Mr. Chairman, I ask my colleagues to reject the Shaw amendment because the families of our children and the children themselves need protection against housing discrimination.

The CHAIRMAN pro tempore. The time of the gentleman from Oklahoma [Mr. SYNAR] has again expired.

(On request of Mr. SHAW and by unanimous consent, Mr. SYNAR was allowed to proceed for 2 additional minutes.)

Mr. SHAW. Mr. Chairman, will the gentleman from Oklahoma yield?

Mr. SYNAR. Mr. Chairman, I yield to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I would like to congratulate my friend the gentleman from Oklahoma [Mr. SYNAR] for putting the best possible spin he could possibly put on to legislation that is going to kill senior housing.

Mr. Chairman, I would like to ask the gentleman from Oklahoma this question: What does the gentleman from Oklahoma consider as significant facilities that are offered for people over 55 years of age?

I have many senior facilities in my district, senior citizen housing, condominium apartments, and I know of nothing in those particular apartments that in any way is near unique. That is why I turned to the language of the report where I talked about what these facilities are because this is what the committee said they are. I would like to ask the gentleman from Oklahoma if it is not what the committee says they are, then what is it?

Mr. SYNAR. Mr. Chairman, I think the gentleman from Florida [Mr. SHAW] has answered his own question by quoting the report language as he did in his initial remarks. What the committee tried to do was to say that we truly wanted these facilities to be that of the elderly category. If my colleagues will read carefully the report language, the committee does not require some level of significance but makes recommendations or suggestions of what things would be reviewed. We do not require any of the things that the gentleman from Florida [Mr. SHAW] mentioned to be part of any senior citizen center. Second, and most importantly, I think the gentleman from Florida recognizes it already, but most of the elderly housing in this country already qualifies under some of the suggestions that the committee has made.

Mr. SHAW. Mr. Chairman, if the gentleman from Oklahoma will yield further, I would like to ask with regard to the 90-percent provision, that 90 percent of the apartments or the complex be occupied by persons 55 years of age or older, what happens in the situation where on the demise of one of the individuals, or one of the individuals moves out, and all of a sudden now we find ourselves with a situation perhaps for example where there is a widow who is 50 years old and her husband has died. She knocks the balance out of whack. Would it be a fair reading of the bill that all of a sudden now the exemption status is being lost because no longer are 90 percent of the occupants 55 years of age or older?

Mr. SYNAR. Reclaiming my time, I believe the gentleman from Florida [Mr. SHAW] is trying to split hairs. Obviously when we are talking about elderly housing there are going to be cases where people will depart from that housing either voluntarily or otherwise.

The CHAIRMAN pro tempore. The time of the gentleman from Oklahoma [Mr. SYNAR] has again expired.

(On request of Mr. SHAW and by unanimous consent, Mr. SYNAR was allowed to proceed for 1 additional minute.)

Mr. SYNAR. It is clearly not the intent of the committee to try to be inflexible with the change in demographics of any type of housing and as has been the case with enforcement of all housing laws those types of things are taken into consideration. The major purpose and thrust of this legislation is to try to avoid the very cognizant discrimination that is going on with respect to families. But that would not in any way alter what the gentleman's fact situation is.

□ 1340

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I am happy to yield to the gentleman.

Mr. SHAW. Mr. Chairman, I would agree with the gentleman that that is not the intent of the committee, and the gentleman is absolutely correct, we are trying to protect the rights of families. He is absolutely correct. But we are destroying the rights of a whole class of people in doing this, and that is the problem I have with the legislation. That is why I would like to go back and try to adopt or draft language that would do exactly what the gentleman wants and what I want.

Mr. SYNAR. Reclaiming my time, could the gentleman respond to me to the question how did we get the AARP and the National Council of Senior Citizens to sign off on these provisions if they were so offensive to the elderly populations? This is a thing we are stressing on our side is the fact that these groups which clearly represent the elderly interests better than most in this country have signed off on these provisions. We do not quite understand why the gentleman thinks this is so offensive.

Mr. SHAW. Mr. Chairman, I would say to the gentleman that the senior citizen groups that he has mentioned thought that they were protected, but they did not take a close look at the legislation.

Mr. SYNAR. Does the gentleman have a letter saying that they had withdrawn their support?

Mr. SHAW. I did not say that. But they do have some false comfort though, and I would also like to advise the gentleman that the Shaw amendment is supported not only by the administration but the National Apartment Association, the National Multihousing Council, the National Alliance of Senior Citizens, and the Independent Bankers Association.

I would like to further advise the gentleman as to discrimination. There is discrimination.

The CHAIRMAN pro tempore. The time of the gentleman from Oklahoma has expired.

(At the request of Mr. SHAW and by unanimous consent, Mr. SYNAR was allowed to proceed for 1 additional minute.)

Mr. SYNAR. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, in the HUD study, which is the only one that I know of which is in existence, I would like to point out that the 1980 study which shows the percentage of discrimination shows approximately 20 percent of the rental units exclude children, but most of these are efficiencies and one- and two-bedroom apartments. Only 3.7 percent of the rental units with more than three bedrooms do not permit children. There is discrimination out there, but it is not of the magnitude that the gentleman is concerned about. I think it would be right even with 3.7-percent discrimination, it is right that we address the issue, but we have to do it much more carefully. We are using a sledgehammer here.

Mr. SYNAR. Mr. Chairman, reclaiming my time, I will close these remarks with, first of all, that there have been a number of studies since then, whether it be California, Iowa, Texas, or Georgia, significant studies that showed that there is clear discrimination going on with respect to families and, second, and I think this is where we ought to end, if these provisions were so objectionable, if we violated the rights of basically protected groups, that we were not trying to do, I think there would be an outpouring of opposition to this particular amendment. That is not the case. We do have the support not only of the children's groups, the family groups, but most importantly the most representative of the elderly groups, and I ask the Members to reject the Shaw amendment.

Mr. FISH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I shall not take the entire time, but I would like to address the concerns that were expressed a few minutes ago about a HUD study and the remark that 3.7 percent of the units of three-bedrooms or more had a no-children policy.

First of all, Members must realize that there are many more one-bedroom units and two-bedroom units than there are three-bedroom units, and 20 percent, the study shows, of all two-bedroom units excluded children and over 40 percent of one-bedroom units excluded children, and then there is the question of short of exclusion, of restrictions. These can be limitations on the age and sex of children that, for example, a unit would find acceptable, and it turns out that the overwhelming majority of three-bedroom units as well as one- and two-bedroom units only accept children under conditions.

I thought I just wanted to mention that in rebuttal, that this situation is a lot more serious than simply a figure of 3.7 percent would show.

Let me stress that our bill makes it clear that the rights of this newly protected class are not absolute. The bill spells out three exceptions. The bill would amend section 807 of the existing act to make it clear that reasonable local occupancy and zoning codes concerning the acceptable number of persons per unit would continue to apply; in addition, the provision regarding family status would not apply with respect to programs financed by the State or Federal Governments where the dwellings involved are, and I quote, "specifically designed and operated" for elderly persons. Here we are referring, of course, to popular programs such as section 202 senior citizen housing.

Finally, Mr. Chairman, the bill contains language aimed at protecting senior citizen retirement communities, those that are intended for and principally occupied by the elderly, and I think it is safe to say that the aim of the committee is not to disrupt the lives of senior citizens or the operation of legitimate retirement communities; rather, Mr. Chairman, we seek to expand the availability of rental units for young families without arbitrary exclusions and without limitations.

I urge a "no" vote on the pending amendment.

Mr. Chairman, I yield back the balance of my time.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, I think that defeating this amendment is one of the most important things we can do. If Members go back and look at the definition of the American dream, the No. 1 thing is a home, a home. What we are talking about here is allowing families the same rights to a home that everyone else has.

The gentleman from New York who just preceded me was absolutely right to say that 3.7 percent of the rental units with three bedrooms or more do not discriminate is ridiculous, because there are very few of those, and the reason they would build those is to rent them to families.

The real issue is the one and two bedrooms that many smaller families want and are shut out of. I think there is another very important thing to point out. All of these surveys do not mean a lot, because in parts of the country where there are very high vacancy rates such as in Denver, CO, now, almost anyone can rent, but let me tell the Members that the minute the market gets overheated and the minute that the vacancy rate starts to go down rather than up, overnight we find all sorts of people suddenly deciding they do not want to bother with families anymore, and that is exactly what we had in Denver, CO, a few years ago, when we had a housing shortage.

The problem is the surveys have to look at the areas with the housing shortages, and when there is a housing shortage, the first group of people discriminated against are families, no question about it. Nationwide surveys do not really show that, and I think we absolutely cannot let that go by the boards.

Mr. SCHEUER. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I am happy to yield to the gentleman.

Mr. SCHEUER. Mr. Chairman, I support my colleague, the gentlewoman from Colorado [Mrs. SCHROEDER] in opposing this amendment.

In the course of my precongressional career, I had a great deal to do with housing development involving thousands of units in eight or nine cities in America. I can tell the Members from my experience that there is absolutely no legitimate reason for any landlord who runs a tight management ship to exclude families with children simply because of the fact that there are children. If the children are well-behaved and if the parents exercise some control over their children, children are an adornment to a housing community.

Elderly people do not want to live in isolation from children. They enjoy kids around who behave themselves and who obey the ground rules.

I think it is an outrage that apartment owners exclude especially kids from two-bedroom apartments. One might say that there is a question on a one-bedroom apartment, but even there the parents can use the living room as their bedroom and the regular bedroom for the kids, but in a two-bedroom apartment, there is not the slightest iota of an excuse to exclude kids. Parents can live in the one bedroom and the kids would live in the second bedroom, and for two-bedroom apartments, especially, to be prohibited for family use, I think that is an affront. It is immoral, it is unethical, it is unacceptable and un-American.

This amendment should be defeated.

Mrs. SCHROEDER. Mr. Chairman, reclaiming my time, let me thank the gentleman.

I want to go on and emphasize what the gentleman was saying. The real discrimination comes when the housing market gets short, and the real discrimination starts against single mothers first, because people say, "Oh, well, we are not sure we want them," and it can be documented in every single city.

What did the committee do? We tried to be very fair. The gentleman from Florida asked several questions about what happens if one spouse dies and the remaining spouse is below the age limit and so forth and so on. The regulation says 10 percent. It does not say 100 percent. That was precisely why we did it, to put that in mind, to give some flexibility.

The gentleman from Florida is protesting that we put in there facilities. Yes, the reason that we wanted facilities is if we did not have a facility requirement in there, it would be a loophole that one could drive a Mack truck through, because anytime a housing market overheated, people would instantly declare their building for seniors only or for singles only or for something and shut families out.

□ 1330

So we wanted to be sure that it was truly a facility built for seniors with facilities that were there to service them, and not a loophole to get around serving families the minute the vacancy rate fell.

I am really surprise that this amendment was offered.

The CHAIRMAN pro tempore. The time of the gentlewoman from Colorado [Mrs. SCHROEDER] has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 1 additional minute.)

Mrs. SCHROEDER. Mr. Chairman, I must say that I think there is absolutely nothing more important in America than people being able to have housing, and especially families. I think our seniors know that, and I think they would be shocked to know that people were trying to defeat families' rights to housing by hiding behind seniors' rights.

The seniors' rights have been balanced, the seniors' rights are being treated fairly, and I think we should defeat this amendment.

Mr. GLICKMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I agree with my colleague. But let me say I did vote for the Shaw amendment in the committee, and I will tell my colleagues why.

I did it because this was not a right that had established itself in specific protections under the 1968 housing laws, and I was concerned about creating the remedy when we had no precedential value for the right.

However, I have become convinced that it is a national problem, and in areas of tight supply people exclude families. They are being discriminated against.

I am also convinced that both this law as well as common law protects landlords from renting to people who may be viewed as particularly undesirable in terms of cleanliness or in terms of being a nuisance, regardless of their families or anybody. Those rights are still protected. So the landlord keeps most of his rights that he would have with respect to all of these classes.

But it does seem to me that this is an area of discrimination that is quite large. It is an untested area of the law, but I still believe it would be wrong to approve the amendment based upon those circumstances.

The CHAIRMAN pro tempore. The time of the gentlewoman from Colorado [Mrs. SCHROEDER] has again expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 1 additional minute.)

Mrs. SCHROEDER. Mr. Chairman, I would just like to conclude by saying that there is another gentleman from Florida in this body who has always had the senior first and foremost in his concerns, and I think no Member in here can defer to him. He has been the leader forever and ever, and he is the gentleman from Florida [Mr. PEPPER]. The gentleman from Florida [Mr. PEPPER] supports this bill and he feels that it is a wonderful balance and that it is very important, and I think we ought to be listening to that gentleman from Florida and defeat this amendment.

The CHAIRMAN pro tempore. The time of the gentlewoman from Colorado [Mrs. SCHROEDER] has again expired.

(On request of Mr. SHAW and by unanimous consent Mrs. SCHROEDER was allowed to proceed for 2 additional minutes.)

Mr. SHAW. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I would ask the gentlewoman, she either misunderstood the amendment or misunderstands this legislation, when she stated that one of the exceptions did not require 100 percent of the members in the community to be over 62 years of age, did I hear her correctly, she said it did not require that?

Mrs. SCHROEDER. It said 10 percent 55 or over.

Mr. SHAW. I would invite the gentlewoman's attention to page 11, line 4, where it says, "Intended for and occupied solely, solely, by persons 62 years of age or older." If one person, if one person occupying one of these apartments drops below the age of 62, then under this exclusion they are no longer exempt, and we have killed that senior citizen community. That is the problem.

The gentlewoman says this is un-American. The American dream sometimes is retirement by the senior citizens.

I agree with what the gentlewoman wants to do, but she has fallen short of her mark. We will in effect have killed senior citizen housing in this country.

Mrs. SCHROEDER. Mr. Chairman, the gentleman from Florida I think is absolutely trying to nitpick this thing to death.

Let me say it is very clear that we are talking about one of the two-person family being of that age. It is not talking about 100 percent of everyone in there must be the same age.

Mr. SHAW. Read the legislation.

Mrs. SCHROEDER. The gentleman agrees with me, right?

Mr. SHAW. The (a) exemption is the one that is 10 percent. The (b) exemption is 100 percent. So the gentlewoman has to read the legislation when debating it to be sure she has her facts straight.

Mrs. SCHROEDER. And the issue is no one over 62 has ever dropped below the age of 62 that I know of. Maybe there is a fountain of youth in Florida, but we are not aware of it. So if they are in there on that provision, I do not see that it is a problem. I think that everyone can understand what the intent of this law is when we are looking at one of the couples being at a certain age and that is what we are checking.

So I think that the gentleman is making a mountain out of a molehill in trying to make an issue that is not here.

The CHAIRMAN pro tempore. The time of the gentlewoman from Colorado [Mrs. SCHROEDER] has again expired.

(On request of Mr. RHODES and by unanimous consent, Mrs. SCHROEDER was allowed to proceed for 2 additional minutes.)

Mr. RHODES. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. Certainly, I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I thank the gentlewoman for yielding and I have a question about this.

In Arizona, and in my district, senior housing is generally in subdivisions, in detached homes which are for sale, and the senior restrictions are enforced by deed restrictions which are recorded against the property by the developer before the houses are built and before the houses are sold.

Under the legislation as written, would this legislation void those deed restrictions?

Mrs. SCHROEDER. This goes to rental properties, I think that is what we are talking about, rental properties.

Mr. RHODES. Mr. Chairman, it is my understanding, and I certainly can be corrected, but my understanding is that this particular provision applies to sales and to rentals. So my concern is would the legislation as written void currently valid deed restrictions?

Mrs. SCHROEDER. But in the sales, my assumption is by the sales they are selling, such as Sun City, they are selling a package of facilities that are attractive to that age, and we talk about that in the bill. So I do not think that is a problem, because we are talking about the package of facilities.

What we do not want is for them to pick an area of Phoenix that is a suburb and suddenly declare it seniors only as a way to get around the law, and that is why the facilities thing is in there, to make sure we do not have a loophole around us.

But the subdivisions that I have seen have sold it as a package because there is this and there is that and there is something else, and again the seniors are not worried about this.

Mr. BERMAN. Mr. Chairman, will the gentlewoman yield?

Mrs SCHROEDER. I am delighted to yield to the gentleman from California.

Mr. BERMAN. I thank the gentlewoman for yielding.

California, like Arizona, has just these kinds of senior complexes. In fact, in many cases I think it was the same developer, Del Webb, who started this.

The CHAIRMAN pro tempore. The time of the gentlewoman from Colorado [Mrs. SCHROEDER] has again expired.

(On request of Mr. BERMAN and by unanimous consent, Mrs. SCHROEDER was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. California, for a number of years now, has had a law prohibiting discrimination in the sale or rental of housing, recognizing the unique nature of senior complexes like the Leisure Worlds. There was a tremendous storm of protest when those bills were moving through the Legislature and the owners were convinced that people would no longer want to rent in units where there might be children, convinced that the whole concept of seniors' housing would fall apart.

I can tell the gentleman and the author of the amendment without question that in the 9 or 10 years since that has been the new law in California, I have not seen, I have not heard of one protest with respect to the application of the law, with respect to how it is affecting seniors only housing, with respect to the difficulty of renting units in apartment houses where there are children. It turned out the whole storm of protest was over nothing. The law is working, the law is working well. The only problem is in the question of the level of enforcement.

But with respect to all of the problems that I think legitimately concerned apartment owners, they disappeared in the actual practice.

Mrs. SCHROEDER. I think the gentleman from California is making a point. Let me just emphasize I would love to try a case where one spouse was predeceased and somebody decided to throw them out because they were too young. I could win that case easily because of the way this law is written and we assume that people of like ages do not always marry, and that is what this is all about. We are talking about the whole area of facilities and of a certain package moving in of such and such an age, and that, too, is protected.

All I want to say is everybody who has looked at this has felt that it was a very good balance, and I think we have to start being as concerned about families and their rights as we are about others, and bring them up to an equal plane, and that is what this bill does. That is why I hope the amendment goes down and is defeated.

Mr. SHAW. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I am delighted to yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, a minute ago the gentlewoman said this bill applies only to rental housing. That is incorrect.

Mrs. SCHROEDER. The gentleman is right.

Mr. SHAW. It says purchasing, construction, improving, maintaining.

Mrs. SCHROEDER. I stand corrected and the gentleman from Florida is correct. But my second answer then would be correct where I said because they build those Del Webb things around those facilities, they would still be covered if they had a certain percentage that were going in with one of them at a certain age.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we all agree that shelter is a basic human need, but the right to shelter must be constantly reaffirmed. An unenforceable right is no right at all and access to decent and affordable housing goes to the core of America values. I am pleased to speak in support of the Fair Housing Amendments Act, which would strengthen the Fair Housing Act of 1968 by giving the Department of Housing and Urban Development the authority to sue violators of the law on behalf of discrimination victims.

I am a parent who has raised nine children, and I strongly support the provision that extends protection against housing discrimination to families with children under age 18. Without decent housing, quality family life is virtually impossible. A nationwide study conducted by the Department of Housing and Urban Development in 1980 found that 25 percent of rental units did not allow children, and another 50 percent carried restrictions on ages and numbers. More recent State and local surveys confirm these disturbing findings. In California, 56 percent of the mobile home parks did not allow families with children. Only 9 percent of the rental units in Alexandria, VA, accept children without restrictions. In Iowa, a survey of landlords who control over 11,000 rental units found that 48 percent of them did not allow children.

As a result of restrictions on families with children, families now account for at least 30 percent of our Nation's homeless population. Sadly, families with children are the fastest increasing homeless group in the United States. Children are increasingly being placed in foster homes because their families have no place to live.

This provision to protect families with children from housing discrimination does not hinder senior citizens from living in retirement communities. This bill protects all elder housing that is Government subsidized or is qualified as "housing for older persons." Indeed, H.R. 1158 is supported by the American Association of Retired Persons, the National Council of Senior Citizens, and the Grey Panthers.

The rights of landlords are protected by this legislation. Landlords may still require families to provide references and proof of their ability to pay rent, as long as they ask this of all their applicants. This bill respects State and local ordinances regarding the number of occupants per unit and other safety standards.

In summary, the fair housing amendments are necessary because housing discrimination against families with children still exists. With so many families now headed by single, working women, equal access to housing is more important than ever.

This legislation protects elder housing and landlord rights, but would be a step in the right direction in alleviating our increasing number of homeless families. I urge a vote against the Shaw amendment and for prompt passage of the Fair Housing Amendments Act, retaining the provision extending protection to families with children. A vote for this legislation is a vote for quality family life. As Robert Frost wrote "Home is where when you go there, they cannot turn you away." Let's make certain our families are not turned away.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I had not planned to take part in the debate on this amendment, but listening to the arguments that have been made by the opponents of the amendment compels me to say that I believe that the amendment has got to be adopted.

The opponents of the amendment have been approaching the issue from a generic standpoint, that there is discrimination against families with children, that there is a shortage of housing for children, and that we ought to amend the fair housing law to prevent such discrimination.

I agree with all of those points. We ought to amend the fair housing law to prohibit discrimination against families with children. However, there is a fatal defect in how this amendment is made in the bill, and the gentleman from Florida [Mr. SHAW] and the gentleman from Arizona [Mr. RHODES] very aptly pointed that out.

□ 1345

We are making a rush to judgment in passing this particular piece of legislation containing a flawed exemption so that senior citizen housing will be protected. But the gentleman from Florida and the gentleman from Arizona pointed out that the way the exemption is worded does not protect senior citizen housing and there has been no rebuttal to those allegations by any of the speakers who are in opposition to the amendment.

I think the best thing for the committee to do this afternoon is to adopt the amendment of the gentleman from Florida striking the imperfectly worded section out of the bill and then for the Subcommittee on Civil and Unconstitutional Rights to sit down and to craft a piece of legislation that would provide protection for families with children that do not have the flaws that are contained in what we have before us today.

I wish we did not have a motion to strike; I wish we had been able to work this matter out like we worked the enforcement matter out. But that did not happen.

So I hope that we will not make a mistake and pass legislation on this issue with unintended consequences because we will be right back here in a couple of years, after the first couple of court decisions come down, fixing up the unintended consequences.

It is better to do it right the first time. Since we do not have the language to do it right the first time, we should strike the language that is in the bill that is flawed out of the bill and come back and do it right later on this year or the first thing next year.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, I would hope that we would reject the Shaw amendment. I think the Shaw amendment is the most antifamily, antichildren amendment that I have seen in the last years in this Congress. It is aimed directly at enforcing people's rights to discriminate against families with children. I think it fails to take into account the real world. I think it fails to take into account the change of the American landscape with respect to the homeless population, to the advent of single-parent working families. I think it fails to take into account that we are now told by more and more judges throughout this country that children are being placed into foster care simply because their parents are not able to find housing. And much of the reason they cannot find housing is people refuse to rent to them because they have children.

In our hearings in the Select Committee on Children, Youth and Families, we have confronted this issue time and again. One thousand children last year were placed in foster care at an expense of anywhere from $500 to $1,000 a month in the State of New Jersey simply because their parents did not have housing. In Los Angeles County we are told there by judges that more and more children are being placed into foster care because their parents do not have housing. That does not mean that those parents do not love that child, that does not mean that those parents do not want that child to stay with them, that does not mean that the child does not want to stay with the parent; it means because they do not have a house. We split up that family because we do not want the child living on the streets.

Now that is no way to run family policy in this country. When you say, "Why can't you find housing?", the judges will tell you, the social workers will tell you, the family protection people will tell you, the reason you cannot find housing is because people insist on discriminating against these families with children. They say, "You can have this apartment; leave your child somewhere else."

In many counties in this country what that means, that means that your child can go to juvenile hall, it means your child can go to a group home and live with strangers. It does not make a difference if your child is an infant, it does not make a difference if your child is a toddler. The policy is we do not rent to people with children.

The Shaw amendment does not say whether you are a good tenant or a bad tenant. You can be a very, very good tenant and give birth to a child and be thrown out of your apartment. That should not be the policy of this country.

When we see two parties struggling to be profamily, to write planks into their platform so they can present to the American public that they care about average families, about the changing families, then to come along and suggest that we are going to endorse discrimination against the children? Why? They are not protected in the Constitution because they are short? Or because they wear diapers? What have these children done? What is it that these children have done? In most instances, they have the unfortunate fact to be born into a poor family. And when we talk about, as Mrs. MORELLA has talked about the dramatic increase in the homeless, that is families with children, let us remember the increase we are also seeing that many of those families who are homeless, bringing children to the shelters, are families that are working.

They are working every day but they cannot find housing. That should not be a policy that we endorse.

This amendment in fact protects senior citizen villages, senior citizen housing, senior citizen complexes.

What this amendment does not allow you to do is use it as a subterfuge to deny families with children their housing.

We have got to understand that if you vote for the Shaw amendment you are putting the stamp of approval of the Congress of the United States on the discrimination against American families with children. Their sin apparently is that they went out and decided to have a family. And somehow this Congress finds that unacceptable and says that somebody has a private right to discriminate against you because you had a child. Not because you are a lousy tenant, but because you had a child; not because you are unclean, you had a child. That just cannot be in this country in 1988.

Our committee, the Select Committee on Children, Youth and Families has encountered this problem time and again. We have the ability with the passage of this bill as written by this committee, carefully written by this committee, to once and for all say that the policy of the United States of America is that we will treat all alike, will not discriminate because you made a decision to have a child. And we will not continue to force local governments to spend inordinate amounts of moneys to place children in shelters, to place children in juvenile halls, to place children in group homes supported by the Federal Government because somebody chose to discriminate against those children.

I would just hope that we would overwhelmingly, just overwhelmingly, in the name of the children of this country, say that we would defeat the Shaw amendment.

Mr. SMITH of Florida. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

The gentleman who preceded me in the well whom I respect a great deal is the chairman of the select committee, has made a great deal of sense on most of what is contained in this bill and on the issue of what the policy of this country should be with reference to families and housing and rentals and availability of shelter for children as part of a family unit.

The problem is that the problem is more complex. The problem is that much of what goes on in this country today is selective housing built by developers who are looking to sell to a particular market, not who are wishing to discriminate against anyone because in our free enterprise society they can aim what the build for sale, especially, at a particular target audience. It is not illegal. Not only is it not illegal, we have found it to be a preferable way to go so long as there is no discrimination involved. We have built in those safeguards.

Now the gentleman from California, the chairman of the Select Committee on Children, Youth and Families has given you all the reasons to support what is basic language in this bill and I agree. The difference is the bill also needs a little bit of a change to accommodate the differences in our society, which exist, which are not superficial, which have not been artificially created, which have not been superimposed by somebody else, but have grown up, evolved through the way our society evolves, and never with the intention of discriminating.

Many adult communities in this country today were not designed for families with children and not out of a discrimination basis.

Condominium ownership of apartments and the facilities that are attendant were not designed for, nor desired by, families with children.

The funny part, the unfortunate part about this bill is that they fall under the same, and are hooked in by the same, net of attempting to prevent discrimination. And yet the reality is you will not see families with children going to buy in these units, because, first, many of them cannot afford them. That does not mean the developer was a discriminator because he built the units that might be selling for $80,000, $90,000, or $100,000 in an area where many elderly have already settled; or second, the units are not suitable because they were not designed with families in mind.

But to the proponents of this bill, that makes no difference. Once you have a place where people live, automatically everybody ought to be able to live there.

Well, I agree, assuming that it is practical and feasible for them to be able to do so; not that you have this right, appropriate, idea that there ought to be no discrimination. You cannot make one capable of totally merging with the other in all instances. Many adults who live in adult retirement communities and I am talking mostly about communities where they buy their ownership, are fortunate enough to be able to semiretire, many have fully retired by age 55 and have chosen to live with other adults. They have raised their children, they have had them, they raised them, they loved them. They see them, they come visit, but they choose to live this way. It is a right and a right that we should be protecting and respecting. I am not convinced that the restrictions claimed by the committee report really do exist. The statistics that are being thrown about are rather confusing. For instance, the most quoted statistics come from a 1980 HUD report that found that 25 percent of all rental units did not allow children. I am for that. But the same report indicated that only 4 percent of three-bedroom or larger units are restricted to adults. So while they tell you they will not rent to them, at the same time they are telling you that most of the units are not suitable for the rental purpose.

The committee report talks about percentage of complexes that differentiate based on familial status.

But the issue here is availability of housing, not percentages of complexes. A complex that is virtually all studios or even one bedrooms may not permit children.

The CHAIRMAN pro tempore (Mr. OLIN). The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. SMITH of Florida was allowed to proceed for 2 additional minutes.)

Mr. SMITH of Florida. The simple fact is that such apartments are even not suitable for single parents with even one child. So while you could ascribe discrimination, the reality is it is discrimination based on physical circumstance, not on the desire of someone to actually discriminate or to prevent children from coming out. And nobody has ever yet said that we have to force builders to build units in a certain way.

Before we create an entirely new protected class, we should be certain that we have discrimination against families and not the lack of availability of family suitable apartment units. Again, there is a large distinction and a real problem between lumping family apartment units that are rental and family apartment units that have been purchased through mostly condominium or co-op ownership.

That is why I am particularly pleased that the gentleman from Florida calls for a study of the discrimination based on familial status. If the study finds in fact that families and not rental units are restricted, then I would certainly do what I can to help the gentleman from California achieve those goals which he wants to achieve which are appropriate goals.

I think we all ought to be very careful about wanting to do right in helping one class and at the same time hurting another whole class or doing an injustice to the system that has evolved where people may live as they wish, especially in units that they purchase rather than rent.

Mr. GEKAS. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment offered by the gentleman from Florida.

Mr. Chairman, the gentleman from Florida.

Mr. Chairman, the gentleman from Florida who just spoke I think fairly articulated the entire issue. It is not a question of adopting the Shaw amendment in order to force discrimination, but rather to adopt the Shaw amendment to preserve the rights of senior citizens to live in places of their choosing in a senior citizen status, in a senior citizen setting which they themselves have worked for and desired and intended to live out the remainder of their days.

□ 1400

What the proponents of the bill and the opponents of this amendment seem to be indicating is that the only fair housing that can be guaranteed is to make certain that families with children are permitted to live in senior citizen settings. That is not rational, and it is not one that is generally understood by the American public. Senior citizens who have come to that status, having earned it, also like to live in conclaves with other senior citizens, with their own peers, shall we say, and with their own standing in the community. There is nothing wrong with accommodating that kind of decision by senior citizens.

That is all the Shaw amendment seeks to do. It does not by implication, as the opponents seem to say, discriminate against children. We want to accommodate both families with children and senior citizen couples or single individuals who choose to be in a senior citizen setting. We can do both by adopting the Shaw amendment.

On the one hand, the Shaw amendment will allow freedom of choice by senior citizens, and the remainder of the Fair Housing Act that is proposed here will accommodate the families with children.

I think we can all win a joint battle here if we adopt the Shaw amendment. We would not be succumbing or surrendering to some form of discrimination if we adopt the Shaw amendment. We would simply be accommodating another segment of our society, the senior citizens who seem to want predominately to live in communities with other senior citizens. By failing to adopt the Shaw amendment, we are signaling the end of the possibility of developers working with senior citizen groups to plan a community to go where senior citizens would be given this peer type of development.

Mr. Chairman, we are going to signal the end of planning for senior citizen communities if we reject the Shaw amendment.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been sitting here listening to the debate, and I must admit that I have gotten awfully confused. I would like to ask a couple of questions, if I may, because I gather that the Shaw amendment deals with some language problems in a way, but it seems to me that I am uncomfortable with the way in which it is doing it.

As I understand the Shaw amendment, it goes to section 5 which strikes discrimination based on familial status; is that correct?

Mr. SYNAR. Mr. Chairman, if the gentleman will yield, let me suggest that he ask the gentleman from Florida [Mr. SHAW]. It is his amendment.

Mr. WALKER. All right. The amendment goes to section 5 where the gentleman strikes all the language with regard to familial status; is that correct?

Mr. SHAW. Mr. Chairman, if the gentleman will yield, the gentleman is correct.

Mr. WALKER. So that is the thing we are striking. So under that language we would no longer have the question with regard to discrimination; we would not have that particular exemption if this amendment is adopted. But then, if I understand it, the Members who are against the gentleman's amendment basically takes us back to page 10 where there are exemptions written in providing for senior citizen housing; is that correct?

Mr. SHAW. Yes. If the gentleman will yield, the gentleman is correct. The committee did try to exempt senior citizen housing, but they missed. That is the problem I have with the legislation. I do not have any problem with the question of familial status except that it kills senior citizen housing.

Mr. WALKER. All right. I guess my question is, why are we knocking out familial status in order to deal with that problem. Why not clean up the language? Why not have an amendment to clean up the language on pages 10 and 11, then?

Mr. SHAW. Mr. Chairman, I would tell the gentleman that if he could come up with language that would do that, I would support the gentleman. The problem, though, is that it is very difficult. The reason the committee failed to exempt senior citizen communities is not because they wanted to fail; they did it because it is a very difficult task.

Mr. WALKER. Mr. Chairman, let me say to the gentleman that as far as the senior citizen housing which is in my district is concerned, it seems to me the exemptions we have in here hit it pretty. It says that 90 percent has to be occupied by at least one person 55 years of age or older per unit. That seems to cover it pretty well.

Mr. SHAW. Mr. Chairman, if the gentleman will continue to yield and if he would continue to read the language, it says, "and providing significant facilities and services specifically designed to meet the physical or social needs of such persons."

Mr. WALKER. Significant facilities and services, that is right.

Mr. SHAW. Mr. Chairman, I would submit to the gentleman that people of the age of 55 may not need such facilities. I am getting very close to that age myself, and I do not think I need any particular facilities or services. I do not think that most people of that age do.

The problem is a question of drafting. The gentlewoman from Colorado said a few minutes ago, well, if certain circumstances happened where somebody fell through the cracks because they didn't meet the percentage requirements any more, she would like to have that case because she would win it. She might very well win it because the court, I think, would look at this legislation and say that this is nonsense.

Mr. WALKER. I understand that, but what I am saying to the gentleman is that my guess is that most of the places to which he is referring and which we try to protect do, in fact, provide those physical and social services to meet those needs. The ones I am familiar with do.

Mr. SHAW. Mr. Chairman, will the gentleman yield further to me on that?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. SHAW. I submit to the gentleman that there is a community in Arizona called Sun City which has a population of 48,000, and they would not meet these requirements here.

Mr. WALKER. I do not know the community, but my understanding of that community is that they have recreation centers that meet the social need of the residents of the community.

Mr. SHAW. But they are not specific needs. They are not specific senior citizen needs.

Mr. WALKER. It does not say specifically these are senior citizen needs. It does not say it has to meet the needs of each citizen. It is a fairly general provision.

Mr. SYNAR. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Oklahoma.

Mr. SYNAR. Mr. Chairman, let me just say that every so often the gentleman from Pennsylvania hits the target, and he has hit the target here in the last 5 minutes. I think the gentleman is making the case for us that we have been trying to make, that the language in the bill specifically meets the concerns of the gentleman from Florida.

Mr. WALKER. Let me ask the gentleman about one thing that I have a little bit of a problem with in this language. I just want to clarify it because I think I agree with where the gentleman is going.

It says here that this only applies with respect to "dwellings provided under any State or Federal programs specifically designed and operated to assist elderly persons."

Does that mean that if a facility was privately built, it would not be covered under this particular provision, under this examination?

Mr. SYNAR. Mr. Chairman, I have been specifically informed by the gentleman from California [Mr. EDWARDS] that it would indeed be covered. The private facilities would be covered.

Mr. WALKER. Private facilities are still covered under this provision?

Mr. SYNAR. That is right.

The CHAIRMAN pro tempore (Mr. OLIN). The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. So if we have a senior citizen complex that was paid for purely by people who put it up on a for-profit basis but it provided for the physical and social needs of people and was occupied by at least one person in each unit 55 years or older, it would still be covered under this exemption; is that correct?

Mr. SYNAR. That is correct.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Shaw amendment, which would strike the provisions of the Fair Housing Amendments Act extending protection from housing discrimination to families with children under the age of 18.

To oppose the amendment is to support the American family. We need laws protecting American families; we do not need a study. We already know that families with children trying to rent experience discrimination. A recent national survey conducted by HUD found that 75 percent of rental units either excluded or restricted families with children. In my State of California, almost 40 percent of landlords surveyed in 11 major California cities excluded children or imposed discriminatory restrictions.

Families now represent about a third of the homeless population nationwide, and that proportion is rising. It is outrageous that every day, families cannot rent housing only because they have children.

I urge my colleagues to support this bill without weakening amendments such as the Shaw amendment. H.R. 1158 would prohibit discrimination against families with children, and, at the same time would protect the rights of owners and landlords by allowing them to reject anyone who is not otherwise qualified to rent. For example, a landlord could legally refuse to rent to a family with bad credit history.

This bill also fully protects the rights of senior citizens to live in retirement communities, excluding families with children if they choose to do so.

Mr. Chairman, when I first moved to San Francisco, I experienced this discrimination against families with children firsthand. I had four small children and we were unable to find rental housing solely because we had children. Many, many families are not in the position to buy a home when they are unable to rent.

This bill is carefully crafted to protect American families, without placing an undue burden on owners and landlords. I urge my colleagues to oppose this amendment and to support final passage of this important bill.

Mr. DELLUMS. Mr. Chairman, I strongly support H.R. 1158, the fair housing amendments, and urge my colleagues to support the bill and oppose all floor amendments whose only effect would be to weaken this critical bill.

Despite the passage 20 years ago of the Fair Housing Act of 1968, housing discrimination and housing segregation, tragically, are still the reality today.

The Fair Housing Act of 1968 prohibited discrimination in the sale or rental of housing on the basis of race, color, religion, or national origin. Unfortunately, it was a law without teeth. The two principal enforcement mechanisms of the act—private lawsuits by persons alleging discrimination, and lawsuits filed by the Department of Justice where a "pattern or practice" of housing discrimination is found to exist—have proven to be grossly insufficient. Individual lawsuits require both time and money, neither of which are generally available to victims of discrimination. The Department of Justice administrative mechanisms offer no relief to individual discrimination victims. Moreover, they tend to take many years to reach resolution.

This bill provides the first real mechanisms to enforce the Fair Housing Act. On this basis alone it deserves support. Additionally, this bill greatly expands the breadth of the law by outlawing discrimination on the basis of disability or age and "familial status." These expansions are of major importance.

In expanding current law to prohibit discrimination on the basis of disability, the bill not only makes a firm statement outlawing such discrimination, it also requires certain new multifamily construction to meet minimal standards to ensure access and use by many disabled persons. In addition, it prohibits more sophisticated forms of discrimination by requiring landlords to provide disabled persons an equal opportunity to use the dwellings, including reasonable modification of the premises at the tenants' expense.

The age discrimination provisions of this bill are particularly important. First, discrimination against families with children is antithetical to protecting our country's most previous resource, our children. We must do everything possible to increase the opportunity for our children to live in good and decent housing. Many studies have shown that discrimination against children results in children too often living in substandard and overcrowded housing and contributes to the growing crisis of homelessness among families with children.

Second, while age discrimination may be qualitatively different from discrimination based on race, we should note that age-based discrimination is often used as a smokescreen to exclude minorities from housing. While not all age restrictions are racially motivated, the impact of such policies is statistically more likely to affect minority households. Moreover, adult only housing tends to be located in newer development areas which are predominantly white areas. The net result of such policies is to force minority households with children into existing ghettoes thus reinforcing racially segregated housing.

For these reasons, I urge my colleagues to defeat the Shaw amendment and to pass H.R. 1158.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Florida [Mr. SHAW].

The question was taken; and (on a division demanded by Mr. SHAW) there were—ayes 14, noes 19.

RECORDED VOTE

Mr. SHAW. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 116, noes 289, not voting 26, as follows:

[Roll No. 201]

AYES—116

Applegate
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bilirakis
Brown (CO)
Burton
Byron
Callahan
Chappell
Cheney
Clinger
Coble
Combest
Courter
Craig
Crane
Darden
Daub
DeLay
Dickinson
Dornan (CA)
Dreier
Fawell
Fields
Gallegly
Gaydos
Gekas
Goodling
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hefley
Herger
Hiler
Holloway
Hopkins
Huckaby
Hunter
Inhofe
Ireland
Johnson (SD)
Kanjorski
Kolbe
Kolter
Kyl
Leath (TX)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lott
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
McCandless
McCollum
McCrery
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Mollohan
Moorhead
Nielson
Packard
Parris
Pease
Petri
Quillen
Rhodes
Ridge
Roberts
Roth
Russo
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (FL)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stenholm
Stump
Swindall
Tauzin
Taylor
Thomas (GA)
Upton
Vander Jagt
Vucanovich
Whittaker
Wortley
Yatron
Young (FL)

NOES—289

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Bruce
Bryant
Buechner
Bunning
Bustamante
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallo
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Guarini
Hall (OH)
Hamilton
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson (CT)
Jones (NC)
Jones (TN)
Jontz
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lloyd
Lowery (CA)
Lowry (WA)
Luken, Thomas
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McEwen
McGrath
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Montgomery
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Panetta
Pashayan
Patterson
Payne
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price
Pursell
Rahall
Rangel
Ravenel
Regula
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schuette
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauke
Thomas (CA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Young (AK)

NOT VOTING—26

Biaggi
Boulter
Brown (CA)
Dannemeyer
Dellums
Dowdy
Ford (TN)
Frenzel
Garcia
Gray (PA)
Gregg
Hyde
Kemp
Konnyu
LaFalce
MacKay
Mica
Moody
Murtha
Oberstar
Ortiz
Ray
Schumer
Spence
Sundquist
Whitten

□ 1432

The Clerk announced the following pair:

On this vote:

Mr. Frenzel for, with Mr. Boulter against.

Messrs. KENNEDY, GRAY of Illinois, DYMALLY, LATTA, SWIFT, and WEBER changed their votes from "aye" to "no."

Mr. KOLTER, Mrs. BYRON, and Mr. WORTLEY changed their votes from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

Mr. STOKES. Mr. Chairman, I rise today in support of H.R. 1158, the Fair Housing Amendments of 1988. An an original cosponsor of H.R. 1158, I would like to say that this bill will go a long way in strengthening enforcement procedures against those persons who violate our Nation's fair housing laws. The bill also expands the categories of persons protected by Federal fair housing laws to include disabled persons and families with children.

In addition to these protections, an amendment proposed by Representative HAMILTON FISH, Jr. will allow any party involved with a fair housing suit to opt for a jury trial in a district court shortly after the Secretary of HUD issues a charge of discrimination. This amendment will permit expeditious and effective enforcement of our Nation's fair housing laws without violating an individual's right to a jury trial.

Title VIII of the Civil Rights Act of 1968, as amended, has helped to provide our Nation with the ammunition it needs to fight discrimination in the sale, rental, or financing of housing. Despite the fact that our Nation has made modest gains in fighting discrimination through the enforcement of current laws, much work remains to be done.

Many of our Nation's children, disabled, and minority persons continue to live in substandard and segregated housing. While part of this phenomenon is directly attributable to the lack of affordable housing for low- and moderate-income persons, the Department of Housing and Urban Development has found that unlawful discrimination against minorities, and other groups has contributed greatly to creating the current patterns of housing segregation.

Related studies reveal that segregated housing conditions are pervasive within many of our Nation's communities. Consider, for exampe, reports which suggest that in at least 28 major cities, over 80 percent of blacks or of whites would have to relocate in order to achieve perfect integration. Consider also that a national study conducted by the Department of Housing and Urban Development has found that 75 percent of those rental units surveyed either exclude or restrict children. This type of restriction makes it even more difficult for minority, disabled, and low-income persons, who already face limited access to our Nation's housing supply, to find housing which is both affordable and suitable for the raising of their children.

Mr. Chairman, it is absolutely deplorable that many of our Nation's citizens cannot obtain housing because of the color of their skin, sex, familial association, ancestry, or physical condition. This bill will help to send a message across the Nation, loud and clear, that such conduct will not be tolerated. Moreover, it takes us one step closer to achieving the goal of providing decent homes and suitable living conditions for all Americans. Therefore, I ask my colleagues to join me in supporting the passage of H.R. 1158.

Ms. PELOSI. I rise in support of H.R. 1158, the Fair Housing Amendments Act of 1988.

This act represents a particularly important step forward because it extends the protection of the Fair Housing Act to people with disabilities. All people with disabilities, including people with epilepsy, people with AIDS or people infected with the human immunodeficiency virus-HIV, the AIDS virus—would be covered under the three-part definition of handicap adopted in this bill. This three-part definition of handicap is under section 504 of the Rehabilitation Act of 1973, as the committee report accompanying this bill notes and has been evident in recent cases, such as local 1812 versus Department of State and Ray versus DeSoto County. Such coverage has been essential in section 504 and it is critical that the bill before us extends that same protection in private housing to individuals with AIDS and with HIV infection.

I specifically want to mention one amendment adopted by the Judiciary Committee concerning the coverage of handicapped persons, including those with contagious diseases and infections. The amendment provides that individuals with such handicaps are protected under the statute unless their tenancy would pose a direct threat to the health or safety of others. This amendment is consistent with current standards under section 504 of the Rehabilitation Act of 1973, as we recently reaffirmed in the Civil Rights restoration Act of 1988. These acts require that handicapped individuals must be "otherwise qualified" for the jobs they seek in order to be protected from employment discrimination. As the Supreme Court made clear in the recent case of School Board of Nassau County versus Arline, a person with a contagious disease is not otherwise qualified for employment purposes if that person poses a significant risk of communicating an infectious disease to others in the workplace and the risk cannot be eliminated by reasonable accommodation. The committee amendment to the Fair Housing Amendments Act now applies the basic standard and approach articulated in Arline to housing discrimination as well.

Some people today are unnecessarily concerned that they could be required to rent or sell housing to individuals with handicaps who pose a direct threat to the health or safety of their neighbors. The law imposes no such requirement. A person whose ternancy would directly threaten the health or safety of others, by reason of any handicap, is not "otherwise qualified" for housing and is not protected by this act from denial of housing on those grounds. Of course, I should note that it is extremely unlikely that such a risk would ever exist. Certainly, with regard to AIDS and HIV infection, the current medical evidence is clear that no significant risk of transmission exists in the housing context.

People with contagious diseases and infections, such as people with AIDS or people infected with HIV are subject to intense and irrational discrimination. I am pleased that this legislation makes clear that such individuals are protected from unjustified discrimination in housing. By codifying the "otherwise qualified" requirement of section 504 in this respect, we are simply extending the law that now applies to employment, housing, and services by the Government and its contractors to the private sector. I urge my colleagues to support this bill and to oppose all weakening amendments.

Mr. MFUME. Mr. Chairman, I join my colleagues in strong support of H.R. 1158, the Fair Housing Act Amendments of 1987. I commend my colleagues, Mr. EDWARDS of California and Mr. FISH of New York, for their hard work and leadership on this important legislation.

Since the enactment of the Federal Fair Housing Act 20 years ago, small gains have been made in the area of equal housing for all. Today, many Americans are faced with the disheartening fact that discriminatory housing practices still exist in our Nation.

According to a Department of Housing and Urban Development [HUD] survey, minorities seeking to purchase a house in a metropolitan area stands a 48-percent chance of encouraging discrimination and a 72-percent chance when seeking rental housing. Further, 25 percent of rental housing was unavailable to families with children.

Although title VIII of the Civil Rights Act of 1968 prohibits discrimination in the sale, rental, or financing of housing based upon race, color, religious, national origin, or sex. Our goal of providing equal opportunity and fair housing to everyone has not been fully realized.

The most serious obstacle to reaching this goal is the lack of adequate enforcement provisions in the law. Today, we have the opportunity through H.R. 1158 to strengthen the law by extending administrative and judicial remedies. In addition, H.R. 1158 will expand the scope of protection against discrimination in housing—a long overdue affirmative of the rights of over 36 million disabled citizens and families with children, particularly those families with single parents.

Mr. Chairman, let us act accordingly today and ensure that those rights provided by the Federal Fair Housing Act are afforded to all Americans and properly administered. Today's hopes for fair housing must become tomorrow's reality.

Mr. MICA. Mr. Chairman, I am pleased to have the opportunity to speak before you in support of the Fair Housing Amendments Act of 1988. This is an historic opportunity, and I want to praise all of the parties involved in the compromise agreement. Prior to today, Congress has not been able to amend the Fair Housing Act since it was first enacted in 1968.

The Committee on the Judiciary, and its Subcommittee on Civil and Constitutional Rights, have worked long and hard to fashion this bill. They deserve credit for their perseverance, despite the intense public debate that occurred on various controversial provisions within the bill.

I particularly hail an agreement reached early this week between the National Association of Realtors and the Leadership Conference on Civil Rights. These organizations have seen a way to rise above their differences in the interests of fair housing, and have worked together representing wider business and civil rights interests.

I am in strong support of the Fish amendment, which is deserving of our support. This amendment has come into existence as the result of this great compromise.

Despite provisions within the original legislation of 1968 preventing discrimination, housing discrimination is wide spread within our country. The Fair Housing Amendments Act will provide the Federal Government with enforcement powers to respond to housing discrimination complaints filed with the Department of Housing and Urban Development. This enforcement mechanism must be instituted in order to strengthen the original intention of this act.

Central to this agreement is a provision allowing those people who have been the victims of discrimination and those who are being accused of wrongful action, to choose between pursuing the action in front of an administrative law judge or in Federal district court. Parties can have the matter reviewed in front of an administrative law judge who will operate within the Department of Housing and Urban development or in Federal district court, where cases will be reviewed in front of a jury. This provision will protect the rights of our citizens as guaranteed under the seventh amendment. The legislation authorizes HUD to sue violators of the bill on behalf of the discrimination victims.

The Fair Housing Amendments Act is supported by a wide coalition of organizations, both business groups and civil rights groups. I am proud to add my name to those supporting this historic legislation. It is necessary that we work together to improve the housing situation for all of our citizens, and the Fair Housing Amendments Act is a means to achieving this goal.

Mr. JEFFORDS. Mr. Chairman, I rise in strong support of H.R. 1158, the Fair Housing Amendments Act of 1988. The development of this legislation offers an example of our system of government at its best. I would like to commend the members of the Judiciary Committee for their hard work on this legislation.

The committee heard testimony from many different points of view and struggled mightily to craft a compromise that would be acceptable to all. H.R. 1158 meets this challenge. It is to the bill's credit that it has been endorsed by the national organizations representing the homebuilders, the realtors, civil rights activists, and advocates for handicapped, and elderly Americans.

This consensus-building approach was particularly evident in the development of the provisions governing enforcement procedures and requirements for accessibility of new multifamily housing units. These provisions have been agreed upon after months of deliberation and deserve our strong support.

Perhaps I am most familiar with the aspects of H.R. 1158 regarding discrimination against handicapped individuals and I would like to take a few moments to discuss these provisions. The bill adds a prohibition of discrimination prohibited under the Fair Housing Act. This is a critical addition, since discrimination against people with disabilities is a serious problem in our country.

Ignorance, prejudice, and unfounded fears cause some providers of housing to be reluctant to rent or sell their housing units to people with disabilities. In other instances, physical barriers such as steps, narrow doorways, and inaccessible bathrooms deny people with disabilities access to housing that would otherwise be appropriate and available. Because of such discrimination, people with disabilities are often unable to obtain suitable housing or have extremely limited options on where they will live.

In addressing discrimination on the basis of handicap, H.R. 1158 establishes some reasonable and straightforward requirements. In general, it prohibits discrimination against people because of their handicaps, the handicaps of their tenants or residents, or the handicaps of their friends, relatives, or other associates. It applies to the refusal or denial to rent or sell a dwelling because of an individual's handicap, as well as discrimination in the terms, conditions, or privileges associated with the sale or rental of a dwelling.

I am pleased that the bill preserves the three-part definition of handicap that has been used for over 15 years under the Rehabilitation Act of 1973. Under this definition a broad range of people with disabilities, such as individuals who use wheelchairs, who have epilepsy or cancer, who are suffering from AIDS, or who have any other disabling condition, would be covered under the protections offered by the act.

Because there has been some concern expressed about the coverage of people with AIDS, I would like to use some of my time to explain why people with AIDS are covered. People infected with the AIDS virus [HIV] could be covered if it is determined that they have a physical impairment which substantially limits a major life activity or they are regarded as having such an impairment. Coverage of HIV-infected persons was recently reaffirmed by Congress in an amendment to the Civil Rights Restoration Act where Congress included people with "contagious diseases or infections" under coverage of section 504 of the Rehabilitation Act of 1973. Protection against discrimination based on HIV-infection have also been recommended by Surgeon General C. Everett Koop and the Presidential Commission on the Human Immunodeficiency Virus Epidemic.

I would point out that the Judiciary Committee added a provision to H.R. 1158 stating that nothing in the act requires a dwelling be made available to an individual whose tenancy constitutes a direct threat to the health or safety of others. As the ranking minority member of the committee with jurisdiction over section 504, I can say that this concept has been a longstanding part of that law's requirement that individuals with handicaps must be "otherwise qualified" under the statute.

The report accompanying this bill notes that the Judiciary Committee drew on established case law under section 504 in developing this amendment, including the Supreme Court's recent decision in School Board of Nassau County versus Arline. Thus, for example, a person with a contagious disease or infection would be covered unless that individual's tenancy posed a significant risk of transmission of the infection. While it is doubtful that such significant risks will ever be present in the case of people with handicaps, I believe that this amendment is useful in alleviating any concerns that individuals may have.

Again, I rise in support of this legislation and urge its immediate passage.

Mr. GARCIA. Mr. Chairman, I rise in strong support of H.R. 1158, the Fair Housing Amendments to the Civil Rights Act of 1968. I want to commend Chairman EDWARDS, the Subcommittee on Civil and Constitutional Rights and the Judiciary Committee for their hard work and dedication that allowed this measure to come to the floor. Those of us with a large home constituency of blacks and Hispanics have followed this legislation carefully and urge all Members to vote in favor of this landmark revision of the law prohibiting discrimination in the housing market.

This bill makes three important changes in the current law. First, it extends the protection of the fair housing laws to families with children under the age of 18 and to handicapped individuals. Today, a significant number of low- and moderate-income families face barriers in the housing market. This is particularly troublesome during the current shortage of affordable housing. Because of the shortage and the high cost of housing relative to income, many families live on the edge of homelessness. Handicapped individuals have experienced a similar housing crisis. The additional burden of discrimination is outrageous and should not be tolerated.

The second important change made by this bill is the enforcement provisions. Under current law, HUD is limited to investigating complaints and engaging in conciliation efforts on behalf of aggrieved renters and home buyers. Enforcement is often left to the individual's initiative, many of whom are unable to afford the high cost of private lawyers. H.R. 1158 would authorize HUD to enforce the law before an administrative law judge or at the request of either party before a jury in Federal district court. This represents the result of a true bipartisan effort and a significant step forward toward eliminating unlawful discrimination in the housing market.

The third change in the law allows the administrative law judge to levy fines of $10,000 for the first violation, $25,000 for a second violation within a 5-year period, and $50,000 for a third violation within a 7-year period. Federal district court judges will be able to award compensatory damages, injunctive relief, and punitive damages as provided under current law. The measure removes the ceiling on punitive damages, extends the statute of limitations, and removes the financial need requirement for the award of attorney's fees. In cases of pattern or practice for housing discrimination, the bill allows the Justice Department to seek substantial civil penalties against violators. Orders of administrative law judges to be appealed to Federal court of appeals just as orders of Federal district courts may be appealed.

I take a particular interest in this legislation because minority groups, including blacks, Hispanics, and Asian Americans continue to live in substandard and overcrowded housing concentrated in inner city communities and segregated neighborhoods. Certainly the inadequate supply of affordable housing partly explains this fact. But the inadequate housing stock or the prevalence of low income levels among these minority groups is not the sole factor. The unacceptable patterns of residential segregation that exit all across this country are in large part a result of an underlying discrimination against racial and ethnic minorities.

I would like to digress one moment to emphasize the housing crisis faced by families with children. There is an amendment to delete this protective provision from the bill. I feel very strongly that these families need this special protection and therefore urge my colleagues to preserve the original language of the bill. Single family households constitute a significant part of the low-income households today. Most of these are female headed households. The circumstances that these families find themselves in is tragic enough. Many mothers, particularly the increasing number of young mothers, take low paying jobs and leave their children at day care centers or at home with friends, or leave their school age children unattended at home after school. The additional burden of discrimination forces the single parents to seek less desirable locations and accommodations and significantly interferes with the task of supporting a family and raising growing children.

It is also important to recognize the hurdles faced by handicapped individuals in the housing market. This measure addresses these special problems by requiring all new construction of multifamily housing of more than four units to meet minimal standards for accessibility. The new standards include making hallways and doorways wide enough and making kitchens and bathrooms large enough for wheelchairs, and providing for the installation of appropriate facilities. The bill also requires reasonable modification of existing premises if necessary for handicapped occupancy. The bill does not extend these protections to drug abusers and addicts or to any person whose tenancy would constitute a threat to the health and safety of other residents.

Let me conclude by saying that discrimination of any kind is unacceptable, and within the context of housing, it is shameful. People must have the full opportunity to choose where and under what circumstances they will live. The home and neighborhood is of significant importance to the development of families and the growth of children. The location of housing determines the quality and level of services and more than any other single factor allows families to make the gains over time that is such a large part of the American dream of success and mobility. Neither the color of one's skin, nor the size of one's family, nor the condition of one's body should determine the choice in quality and location of one's home. Strong, enforceable fair housing laws are a necessary part of our national housing policy. It is most appropriate that we take up this measure during a time of heightened awareness of the Nation's housing needs. The goal of providing a decent home and suitable living environment for every American family can be fulfilled only with a full commitment to both fair and affordable housing for all. For these reasons, I support passage of H.R. 1158 and urge my colleagues to do the same.

Mr. RANGEL. Mr. Chairman, the perpetuation of large-scale housing discrimination that continues to exist in our country is a national disgrace, and an evil that should be erased from the American way of life.

The main reason for this tragedy is the fact that the Fair Housing Act of 1968 did not provide any effective enforcement mechanisms. Today, however, the House has a chance to correct this injustice by voting for H.R. 1158, as amended by Representative FISH.

This amendment provides HUD with the authority, for the first time, to enforce the Fair Housing Act. Under the current law, HUD can only attempt to reconcile discrimination through conciliation. H.R. 1158 would authorize HUD to either prosecute cases before the administrative law judges or in Federal district court if either party so requests.

Mr. Chairman, it is abundantly clear that the Fair Housing Act of 1968 is simply not working, and is in need of enforcement mechanisms. Unlawful housing discrimination is still widespread. In fact, the most recent study HUD estimates that 2 million cases of housing discrimination occur each year. Furthermore, one HUD-commissioned study, covering 3,000 brokers and rental agents in 40 metropolitan areas, found that black families looking for a home to buy stand a 48-percent chance of encountering discrimination. Blacks looking for a place to rent have a 72-percent chance of encountering discrimination. Clearly, something needs to be done.

H.R. 1158 would also add two new classes to those already protected from the discriminatory practices under the present Fair Housing Act—persons with handicaps and families with children. I believe these provisions are essential to any meaningful fair housing legislation.

Disabled in America, of whom there are 36 million, continue to be excluded from large segments of the housing market. This bill would ensure that these individuals will no longer be subject to discrimination because of fears and prejudices. H.R. 1158 rejects the approach of excluding any category of individuals with disabilities from the act, with the exception of current illegal users or addicts of controlled substances. Instead the bill includes a specific provision, paralleling that added to the Civil Rights Restoration Act, that individuals who pose a great threat to the health of others are not protected.

The familial status provisions of H.R. 1158 are desperately needed. In the most recent national survey, HUD found that 75 percent of the rental units either exclude or restrict families with children. The result is that children are often living in substandard or overcrowded housing. In addition, housing discrimination contributes to the growing crisis of homelessness among families.

Mr. Chairman, it is time we correct this longstanding injustice, and give our support to this crucial piece of civil rights legislation.

Mr. GONZALEZ. Mr. Chairman, I am pleased to rise in support of H.R. 1158, the Fair Housing Amendments Act of 1988. In the many years that I have spent in this distinguished body, I have sponsored and supported legislation to enable minority Americans to enjoy the opportunities that are the promise of our society. Today we are finally extending the protections of the Fair Housing Act of 1968 to others in our Nation who are just as deserving of the promise of decent housing—people with disabilities and families with children.

Many of the problems experienced by Americans with disabilities today in obtaining housing are not the result of their inability to live in the community or their physical or mental disabilities, but rather result from the false perceptions and prejudices others hold about these disabilities. As the authors of "Disabled People as Second Class Citizens"—Eisenberg, Griggins and Duval—have told us:

> Being disabled means being treated by the world as someone different, abnormal, inferior. It means people shying away from you, pitying you or rejecting you completely. It means trouble finding a job or a decent place to live. It oftens means living at the poverty level or going on welfare. It means discrimination.

Housing discrimination against families with children and people with disabilities is a pervasive problem today. Many disabled Americans are barred from living where they choose because of old-fashioned prejudice. Others are excluded because of physical barriers. Whatever the reason, American society has effectively told disabled Americans that they are not welcome in our communities. Families with children face similar discrimination. The fastest growing segment of our homeless population are families with children. In many communities, adult-only apartments predominate. Even with the assistance of Federal rental certificates, many families are denied accommodation by private building owners.

Simply, what this means is, for the Americans who already have the most to deal with, housing is the hardest to find. Some social service agencies report that, for every wheelchair-accessible apartment available, there are 50 clients in need. In some places, a wait of 2 to 4 years for usable housing is commonplace. Many families with children are desperate to find decent housing they can afford.

Another dimension of this problem comes at the other end of the cycle, not in finding the housing, but in being forced to leave. This problem especially plagues our disabled elderly when their disability worsens, and they can no longer negotiate steps, or fit the new wheelchair into the bathroom.

There is an enormous human cost, an emotional cost, when elderly persons are uprooted from their home communities and placed in other, often more institutionalized settings. Gone is the relationship with the corner grocer, the local church, neighbors and friends. This is unnecessary isolation.

The provisions of this bill are very fair—they are fair to the housing industry, they are fair to the disability community, they are fair to families with children. America was built on the premise that anyone could participate fully in society. This bill ensures that in the future we will have communities where all Americans can live without fear of discrimination.

Mr. McCOLLUM. Mr. Chairman, I ask unanimous consent to return to section 6 for the purpose of offering an amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM: Page 7, strike out line 3 and all that follows through line 3 on page 8 and insert in lieu thereof the following:

"(C) a failure to design and construct multifamily dwellings, constructed for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act, in such a manner that—

"(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons; and

"(ii) at least 10 percent of such dwellings (but not less than one unit) are, or can be adapted to be, accessible to and usable by handicapped persons, as required by the Uniform Federal Accessibility Standards adopted pursuant to the Architectural Barriers Act of 1968.

Page 8, line 8, strike out "(3)(C)(iii)" and insert in lieu thereof "(3)(C)(ii)".

Mr. McCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, we have no objection to the amendment on this side.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman.

Mr. EDWARDS of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. PANETTA] having assumed the chair, Mr. OLIN, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 1158) to amend title VIII of the act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes, had come to no resolution thereon.

□ 1435

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I asked for this 1 minute for the purpose of inquiring of the majority whip the program for next week.

Mr. COELHO. Mr. Speaker, will the distinguished gentleman from Illinois [Mr. Michel] yield?

Mr. MICHEL. I would be happy to yield to my friend the majority whip.

Mr. COELHO. Mr. Speaker, as the membership knows, there will be no more votes today, and tomorrow the House will not be in session.

On Monday, June 27, 1988, the House will meet at noon and there will be nine bills under suspension. They are:

H.R. 4612, Federal Employees Liability Reform and Tort Compensation Act;

H.R. 4726, to designate the Dan Daniel Post Office in Danville, VA;

H.R. 4065, Federal Energy Management Improvement Act;

H.R. 4604, International Energy Agency extension;

H.R. 3893, to amend the Toxic Substances Control Act relating to asbestos in the Nation's schools;

H.R. 4101, Telemarketing Fraud Prevention Act;

H.R. 4503, Community and Migrant Health Centers Amendments of 1988;

H.R. 1841, Fishing Vessel Compensation Safety Act Amendments; and

H.R. 4030, to strengthen certain Fish and Wildlife laws.

We will not have any votes on Monday, June 27.

On Tuesday, June 28, we will meet at noon and bring up first the District of Columbia appropriations followed by the Department of Transportation appropriation and then we will have recorded votes on suspensions that were postponed from Monday, June 27.

The membership should be alerted that Tuesday night could well be a late night. I will repeat, as a result of the two appropriations bills and the votes from suspensions debated on Monday, Tuesday night could well be a late night.

On Wednesday, June 29, the House will meet at 10 a.m. and we will consider the Plant Closing Notification Act, assuming that the Senate has completed it. We will then consider the Omnibus Trade and Competitiveness Act of 1988, subject to a rule.

On Thursday, June 30, the House will meet at 10 a.m. and we will consider the Department of the Interior appropriations bill, subject to a rule.

On Friday, July 1, we will not be in session. We will be out for the commencement of the Independence Day district work period and we will be back on July 6 at noon.

The membership should be alerted that there will be votes on Wednesday, July 6, and Thursday, July 7. There will be no votes on Friday, July 8.

Mr. MICHEL. Mr. Speaker, reclaiming my time, might I inquire, on Wednesday, June 29, I see the Plant Closing Notification Act with a Senate bill number being scheduled. What happens if the other body does not complete action on that measure by that time?

Mr. COELHO. If the gentleman from Illinois will yield further, our expectation is that the other body will complete action by then so there should not be a problem.

Mr. MICHEL. And, Mr. Speaker, I would gather that it is absolutely a prerequisite that plant closing be considered before consideration of the omnibus trade bill?

Mr. COELHO. If the gentleman will yield further, the gentleman is correct, yes.

Mr. MICHEL. And then with respect to the recess next week beginning on Friday, it starts on Friday, July 1, and we will return on what day?

Mr. COELHO. We will return on Wednesday July 6. I would hasten to add that there will be votes on Wednesday, July 6, and Thursday, July 7, and there will be no votes on Friday, July 8.

Mr. MICHEL. Mr. Speaker, I appreciate that.

Mr. COELHO. If the gentleman would yield further, in case Members are interested and nobody has raised this, but we will go back to the fair housing bill next week, but because of the schedule we will have to fit it in somewhere. It is a priority for next week and we will complete it next week.

Mr. MICHEL. Mr. Speaker, does the gentleman from California [Mr. Coelho] have any idea when the South African sanctions measure might come to the floor?

Mr. COELHO. There is no schedule on that one.

Mr. MICHEL. Mr. Speaker, I have a hunch the gentleman from Texas [Mr. Bartlett] would like to ask something with respect to minimum wage.

Mr. BARTLETT. Mr. Speaker, will the gentleman from Illinois [Mr. Michel] yield?

Mr. MICHEL. I would be happy to yield to the gentleman from Texas at this juncture.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman from Illinois for yielding. I have a question on two related subjects. One concerns minimum wage. The other is that noting that next Wednesday we are scheduled for consideration of a new piece of legislation for the House, the Plant Closing Notification Act, would the gentleman from California [Mr. Coelho] anticipate that amendments that Members would seek to offer that are germane to the bill would be in order to be offered on the floor so the House could consider those amendments?

Mr. COELHO. Mr. Speaker, if the gentleman will yield?

Mr. MICHEL. I would be happy to yield to the gentleman from California [Mr. Coelho].

Mr. COELHO. The Committee on Rules will have to consider that. That will be considered sometime next week.

Mr. BARTLETT. Mr. Speaker, would the gentleman from Illinois [Mr. Michel] continue to yield?

Mr. MICHEL. Mr. Speaker, I would surely want to ask a question, also, whether or not the gentleman from California [Mr. Coelho] would expect that the Committee on Rules would grant an open rule, or is it going to be closely structured, or do we have any kind of insight as to the type of rule we might be considering on plant closing?

Mr. COELHO. Mr. Speaker, if the minority leader would continue to yield, I am sure the Committee on Rules will consider all appropriate requests.

Mr. BARTLETT. Mr. Speaker, would the gentleman yield?

Mr. MICHEL. Mr. Speaker, I would be happy to yield to my friend the gentleman from Texas [Mr. Bartlett].

Mr. BARTLETT. Mr. Speaker, the gentleman from California [Mr. Coelho] has attempted to answer this question in the past with regard to what recommendations the leadership would make on a rather major piece of legislation. The leadership of the other side of the aisle does have some interest in this legislation, publicly announced. The question is not a trick question. The question is, If a Member of this body has an amendment will the leadership recommend a rule to the Committee on Rules that would permit a Member of this body who has an amendment that is germane to the bill, to offer the amendment? This similar legislation has been before the House, or attached to the trade bill twice, and neither time was it amendable. My question is, Will this body be allowed to consider this bill under the rules of the House and be permitted to offer germane amendments?

Mr. COELHO. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman.

Mr. COELHO. Mr. Speaker, the Committee on Rules will properly consider all requests. We will wait to see what the other body does in regard to this legislation and we will consider all requests and the decision will be made next week.

Mr. BARTLETT. Mr. Speaker, will the gentleman from Illinois [Mr. Michel] yield?

Mr. MICHEL. I yield to the gentleman from Texas [Mr. Bartlett].

Mr. BARTLETT. Mr. Speaker, on a related question to the question of minimum wage which this is the third week in a row that I have asked, it continues to be indicated privately through staff sources with the Committee on Rules that minimum wage will be up on the House floor on July 11 which would be 2 weeks from now, the week following the July 6 week of business. It continues to be indicated that it will be up on an unprecedented closed rule or something that has all of the earmarks, it will look like a closed rule and act like a closed rule and talk like a closed rule even though it may permit one or two amendments. My question is again, Will the leadership be making a recommendation that the Committee on Rules bring that bill out under a rule that will allow germane amendments to be considered by the House or will the leadership recommend more of a closed rule that will not permit germane amendments to be offered by Members of the House?

Mr. COELHO. Mr. Speaker, will the gentleman from Illinois [Mr. Michel] yield?

Mr. MICHEL. I yield to the gentleman from California [Mr. Coelho].

Mr. COELHO. Mr. Speaker, as we have answered the gentleman from Texas [Mr. Bartlett] many times, several times in the last few weeks; that decision has not been made and the gentleman from Texas has asked for date certains on this bill coming up and we have continuously said a decision has not been made as to whether it will come up. We have indicated that we want to complete the appropriations bills. We hope to complete them next week. We intend to complete them before we go home for the July district work period and then we will go on to other legislation after we come back, minimum wage being one of those bills that we want to go on to.

We will consider it under some type of procedure without having a variety of different amendments, but there has been no decision made as to what amendments will or will not be considered, and that is a subject to be decided at a later date when we get set on when we are going to bring it up.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield for one last clarification?

Mr. MICHEL. I yield to the gentleman from Texas [Mr. Bartlett].

Mr. BARTLETT. Mr. Speaker, I am trying to make certain we are all fully understanding of the answer. That answer I think if I understood correctly says that amendments by House Members that are germane to the bill would not be permitted under the rule to be offered.

Mr. COELHO. They may or may not be. If the gentleman from Illinois will continue to yield, I did not say that. What I did say was that that decision has not been made, but that it may or may not.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. Frank].

Mr. FRANK. Mr. Speaker, I understand one of the concerns of my friend the gentleman from Texas [Mr. Bartlett] which I share which has to do with applicability here. I would like to assure him that I have had conversations with the gentleman from California [Mr. Panetta], the gentleman who is now presiding, and others, on one of those issues and I believe there will be a fair chance to address it. I would say to the gentleman from Texas [Mr. Bartlett] that I think some progress is being made in that regard in terms of the coverage where appropriate around here.

Mr. OBEY. Mr. Speaker, will the gentleman from Illinois [Mr. Michel] yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to the gentleman from Wisconsin [Mr. Obey].

Mr. OBEY. Mr. Speaker, as the distinguished minority leader knows and as the distinguished majority whip knows, Dick Conlon, executive director of the Democratic Study Group, died earlier this week and the memorial ceremony for him will be held on Tuesday afternoon at around 5 o'clock p.m. in the Committee on Ways and Means hearing room. I am sure the family would appreciate it if there was some way that we could work out an arrangement under which there would not be any rollcalls occurring that approximately 1-hour time period.

I am wondering what, if anything, has been done to try to assure us that that in fact would be the case?

Mr. MICHEL. Mr. Speaker, reclaiming my time, if I might respond, I think that probably it would be much more in control of the majority on an item of that nature, and I would be happy to yield to my friend from California [Mr. Coelho] for any response he would care to make.

Mr. COELHO. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California [Mr. Coelho].

Mr. COELHO. Mr. Speaker, that is the intent of the majority, to try to work that out. We will be attempting to do that.

Mr. OBEY. Mr. Speaker, I thank the gentleman.

Mr. MICHEL. Mr. Speaker, I might make one final observation. It is a quarter to three now and those Members of course who are going to attend the funeral of our late colleague John Duncan should be aware that buses will be leaving the Capitol here at 3 o'clock for the funeral, and we are just 15 minutes away.

I thank the Speaker.

ADJOURNMENT TO MONDAY, JUNE 27, 1988

Mr. COELHO. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday, June 27, 1988.

The SPEAKER pro tempore (Mr. Panetta). Is there objection to the request of the gentleman from California?

There was not objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. COELHO. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore (Mr. Panetta). Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3343

Mr. DeFAZIO. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 3343.

The SPEAKER pro tempore (Mr. Cardin). Is there objection to the request of the gentleman from Oregon?

There was no objection.

BICENTENNIAL OF THE U.S. CONGRESS COMMEMORATIVE COIN ACT

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3251) to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the U.S. Congress, with Senate amendments thereto, concur in Senate amendments numbered 18, 23, and 28; disagree to Senate amendments numbered 1 through 17, 19 through 22, 24 through 27, 29 through 35, and 37 through 39; and concur in the Senate amendment numbered 36 with an amendment.

The Clerk read the Senate amendments, as follows:

Senate amendments:

Page 1, after line 2, insert:

TITLE I—BICENTENNIAL OF THE UNITED STATES CONGRESS COMMEMORATIVE COIN

Page 1, line 3, strike out "SECTION 1." and insert "SEC. 101".

Page 1, line 4, strike out "Act" and insert "title".

Page 1, line 6, strike out "2." and insert "102.".

Page 1, line 9, strike out "Act" and insert "title".

Page 2, line 8, strike out "4" and insert "104".

Page 2, line 24, strike out "4" and insert "104".

Page 3, line 16, strike out "4" and insert "104".

Page 3, line 23, strike out "Act" and insert "title".

Page 4, line 3, strike out "Act" and insert "title".

Page 4, line 4, strike out "3." and insert "103.".

Page 4, line 6, strike out "Act" and insert "title".

Page 4, line 9, strike out "Act" and insert "title".

Page 4, line 12, strike out "4." and insert "104.".

Page 4, strike out lines 13 to 20, and insert:

(a) Design Selection.—The director of the Mint shall submit the proposed designs of the coins to be minted under this title to the Commission of Fine Arts. The Commission of Fine Arts, in consultation with the United States Capitol Restoration Commission, shall obtain such refinements and alterations in the submitted designs as they deem fit, and then select at least two design pairs each consisting of one obverse and reverse design per coin for each of the five dollar, one dollar, and half dollar coins. After receiving all design selections from the Commission of Fine Arts, the Director of the Mint shall submit the proposed design pairs to the Secretary in the same manner as they were submitted to the Director. After receiving the proposed design pairs for each denomination, the Secretary shall select from among them the design of the coin to be minted under this title, but in no case shall the obverse and reverse design selections be interchanged from among the submitted design pairs.

(b) Submissions—All submissions produced under this title shall become the sole property of the United States Capitol Restoration Commission.

Page 4, line 21, strike out "5." and insert "105.".

Page 4, line 23, strike out "Act" and insert "title".

Page 4, lines 24 and 25, strike out "Bullion Depository at West Point" and insert "Mint at West Point, New York".

Page 5, line 2, strike out "Act" and insert "title".

Page 5, lines 3 and 4, strike out "except that not more than 1 facility" and insert "and all facilities".

Page 5, line 8, strike out "Act" and insert "title".

Page 5, line 11, strike out "Act" and insert "title".

Page 5, line 11, strike out "December 31, 1988" and insert "June 30, 1990".

Page 5, line 12, strike out "6." and insert "; 106.".

Page 5, line 15, strike out "Act" and insert "title".

Page 5, line 19, strike out "Act" and insert "title".

Page 5, line 22, strike out "Act" and insert "title".

Page 5, line 23, strike out after "coins." down to and including line 25 and insert "Sale prices with respect to such prepaid orders shall be at a reasonable discount".

Page 6, line 2, strike out "Act" and insert "title".

Page 6, line 5, strike out "7." and insert "107.".

Page 6, line 8, strike out "Act" and insert "title".

Page 6, line 11, strike out "Act" and insert "title".

Page 6, strike out all after line 20, over to and including line 2 on page 7, and insert:

SEC. 108. UNITED STATES CAPITOL RESTORATION COMMISSION.

(a) Establishment.—

(1) In general.—There is established a United States Capitol Restoration Commission ("Commission") which shall remain in existence until January 1, 1993, unless otherwise provided by law or resolution.

(2) Composition.—

(A) Co-chairmen.— The Commission shall be co-chaired by the President pro tempore of the United States Senate and Speaker of the United States House of Representatives or their designees.

(B) Composition.—The Commission shall be composed of the following members: The Chairman of the Commission on the Bicentennial of the United States Senate, the Chairman of the Commission of the United States House of Representatives Bicentenary, the Chairman and Vice-Chairman of the Joint Committee on the Library, the Chairman of the Committee on Rules and Administration of the Senate, the Chairman of the Committee on House Administration of the House of Representatives, the Majority Leader and Minority Leader of the Senate, the Majority Leader and Minority Leader of the House of Representatives, and the Architect of the Capitol.

(b) Expansion; Other Entities.—The membership of the Commission may be expanded by act of the Commission. The Commission, with the approval of the Co-Chairman, may establish and maintain additional entities to further the purpose stated in this section.

(c) Expenditures.—Any expenditures by the Commission of funds available under this section or otherwise shall be authorized by act of the Co-Chairman.

(d) Purpose.—The purpose of the Commission shall be to receive funds under this section or from other sources and expend such funds for any improvements in or acquisitions for the United States Capitol Building and for any activities related thereto.

(e) Establishment of Fund.—

(1) In general.—There is established in the Treasury a fund for use in accordance with the provisions of this section.

(2) Deposits and availability.—An amount equal to the amount of all surcharges that are received by the Secretary from the sale of coins minted under this title shall be deposited in the fund, which shall be available to the Commission for the work of the Commission. Such funds shall be held in trust by the Secretary of the Treasury.

(f) Acceptance of Gifts.—The Commission is authorized to—

(1) accept gifts and bequests of money and other property of whatever character for the purpose of aiding, benefiting, or facilitating the work of the Commission;

(2) hold, administer, use, invest, reinvest and sell gifts and bequests of property received under this section for the purpose stated in subsection (d); and

(3) deposit gifts of money received under this section in the fund established in subsection (e).

(g) Taxes.—For the purpose of Federal income, estate, and gift tax laws, property accepted under this section shall be considered a contribution to or for the use of the United States.

(h) Disbursements.—Disbursements from the fund established under subsection (e) shall be made on vouchers signed by both Co-Chairman of the Commission.

(i) Contracts.—Any contract to be made with the Department of the Treasury or the Director of the Mint involving the promotion, advertising, or marketing of any coins to be minted and sold under this title shall be approved by the Commission, to be valid.

Page 7, after line 2, insert:

SEC. 109. REPEAL OF THE REQUIREMENT THAT UNITED STATES CURRENCY NOTES BE REISSUED AFTER REDEMPTION.

Section 5119(b)(2) of title 31, United States Code, is amended by adding at the end the following: "The Secretary is not required to reissue United States currency notes upon redemption.".

Page 7, after line 2, insert:

SEC. 110. AUTHORITY TO ENGRAVE AND PRINT.

(a) In General.—Section 5114 of title 31, United States Code, is amended by adding at the end thereof the following subsection:

"(d) The Secretary, after apprising the Secretary of State, may engrave and print currency and other security documents, or engage in research and development for the engraving and printing of currency and other security documents, on behalf of a foreign country if the engraving and printing or research and development does not interfere with the production of the Bureau of Engraving and Printing necessary for domestic use. Foreign nations shall be charged their proportionate share of the costs for activities carried out under this section.".

(b) Conforming Amendments.—Section 5143 of title 31, United States Code, is amended—

(1) in the first sentence, by inserting "or a foreign country" after "agency"; and

(2) in the last sentence, by inserting "or the foreign country" after "agency".

Page 7, after line 2, insert:

SEC. 111. AMENDMENTS TO THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION RECAPITALIZATION ACT OF 1987.

Section 306 of the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987 (12 U.S.C. 1730 note) is amended—

(a) by striking "1-Year" in the caption of subsection (h) and inserting in lieu thereof "2-Year"; and

(b) by striking "1-year" in subsection (h)(1) and inserting in lieu thereof "2-year".

Page 7, after line 2, insert:

TITLE II—DESIGN OF COINS

SEC. 201. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. 202. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end of the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first redesigned coin shall have a design commemorating the 200th anniversary of the United States Constitution for a period of two years after issuance. After that 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. Such selection, and the minting and issuance of the first selected coin shall be made not later than 1 year after the date of the enactment of this paragraph. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 203. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end of the following new paragraph:

"(4) The design on the obverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall contain the likeness of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 204. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary and shall be done at the rate of one or more coins per year, to be phased in over six years after the date of the enactment of this Act. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following constitutional concepts: freedom of speech and assembly; freedom of the press; right to due process of law; right to a trial by jury; right to equal protection under the law; right to vote; themes from the Bill of Rights; and separation of powers, including the independence of the judiciary. The designs shall be selected by the Secretary upon consultation with the United States Commission of Fine Arts.

SEC. 205. REDUCTION OF THE NATIONAL DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

Page 7, after line 2, insert:

TITLE III—DWIGHT DAVID EISENHOWER COMMEMORATIVE COIN

SEC. 301. SHORT TITLE.

This title may be cited as the "Dwight David Eisenhower Commemorative Coin Act of 1988".

SEC. 302. DWIGHT DAVID EISENHOWER COMMEMORATIVE COINS.

(a) Authorization.—Subject to subsection (b), the Secretary of the Treasury (hereinafter in this title referred to as the "Secretary") shall mint and issue one-dollar coins in commemoration of the one hundredth anniversary of the birth of Dwight David Eisenhower.

(b) Limitation of the Number of Coins— The Secretary may not mint more than 10,000,000 of the coins referrd to in subsection (a).

(c) Specifications and Design of Coins.— Each coin referred to in subsection (a) shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches;

(3) contain 90 percent silver and 10 percent copper;

(4) designate the value of such coin;

(5) have an inscription of—

(A) the year "1990"; and

(B) the words "Liberty", "In God We Trust" "United States of America", and "E Pluribus Unum";

(6) have the likeness of Dwight David Eisenhower on the obverse side of such coin; and

(7) have an illustration of the home of Dwight David Eisenhower located in the Gettysburg National Historic Site on the reverse side of such coin.

(d) Numismatic Items.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins referred to in subsection (a) shall be considered to be numismatic items.

(e) Legal Tender.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 303. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins referred to in section 1(a) only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 304. MINTING AND ISSUANCE OF COINS.

(a) Uncirculated and Proof Qualities.— The Secretary may mint and issue the coins referred to in section 301(a) in uncirculated and proof qualities.

(b) Use of the United States Mint.—The Secretary may not use more than 1 facility of the United States Mint to strike the coins referred to in section 301(a).

(c) Commencement of Authority To Sell Coins.—The Secretary may begin selling the coins referred to in section 301(a) on January 1, 1990.

(d) Termination of Authority To Mint Coins.—The Secretary may not mint the coins referred to in section 301(a) after December 31, 1990.

SEC. 305. SALE OF COINS.

(a) In General.—Subject to subsections (b) and (c), and notwithstanding any other provisions of law, the Secretary shall sell the coins referred to in section 301(a) at a price equal to—

(1) the face value of such coins; and

(2) the cost of designing, minting, dies, use of machinery, and overhead expenses.

(b) Bulk Sales.—The Secretary shall make any bulk sales of the coins referred to in section 301(a) at a reasonable discount to reflect the lower costs of such sales.

(c) Prepared Orders.—Before January 1, 1990, the Secretary shall accept prepaid orders for the coins referred to in section 301(a). The Secretary shall make sales with respect to such prepaid orders at a reasonable discount to reflect the benefit to the Federal Government of prepayment.

(d) Surcharges.—The Secretary shall include a surcharge of $9 per coin on all sales of the coins referred to in section 301(a).

SEC. 306. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.— The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 301(a) shall result in no net costs to the Federal Government.

(b) Payment for the Coins.—The Secretary may not sell a coin referred to in section 301(a) unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the Federal Government for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 307. PROCUREMENT OF GOODS AND SERVICES.

(a) In General.—except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title.

(b) Equal Employment Opportunity.— Subsection (a) shall not apply with respect to any law relating to equal employment opportunity.

SEC. 308. REDUCTION OF FEDERAL DEBT.

The Secretary shall deposit in the general fund of the Treasury for the purpose of reducing the Federal debt an amount equal to the amount of all surcharges that are received by the Secretary from the sale of the coins referred to in section 301(a).

Page 7, after line 2, insert:

TITLE IV—STATEHOOD CENTENNIAL COMMEMORATIVE COIN

SEC. 401. SHORT TITLE.

This title may be cited as the "Statehood Centennial Commemorative Coin Act of 1989".

SEC. 402. STATEHOOD CENTENNIAL COMMEMORATIVE COINS.

(a) Authorization.—Subject to subsection (b), the Secretary of the Treasury (hereinafter in this title referred to as the "Secretary") shall mint and issue 5 dollar coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington and Wyoming.

(b) Limitation on the Number of Coins.— The Secretary may not mint more than 350,000 of the coins referred to in subsection (a).

(c) Specifications and Design of Coins.— Each coin referred to in subsection (a) shall—

(1) weight 31.103 grams;

(2) have a diameter of 1.650 inches;

(3) contain 90 percent palladium and 10 percent alloy;

(4) designate the value of such coin;

(5) have an inscription of—

(A) the year "1989"; and

(B) the words "Liberty", "In God We Trust", "United States of America", "E Pluribus Unum", and "Statehood 1889-1890"; and

(6) contain an engraving of the regional logo on one side and a combination of a bust of Thomas Jefferson and Lewis and Clark overlooking the Missouri, on the other side;

(d) Numismatic Items.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins referred to in subsection (a) shall be considered to be numismatic items.

(e) Legal Tender.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 403. SOURCES OF BULLION.

The Secretary shall obtain palladium for the coins referred to in section 402(a) by purchase of palladium mined from natural deposits in the United States within one year after the month in which the ore from which it is derived was mined and by purchase of palladium refined in the United States. The Secretary shall pay not more than the average world price for the palladium. In the absence of available supplies of such palladium at the average world price, the Secretary shall purchase supplies of palladium pursuant to the authority of the Secretary under existing law. The Secretary shall issue such regulations as may be necessary to carry out this paragraph.

SEC. 404. MINTING AND ISSUANCE OF COINS.

(a) Uncirculated and Proof Qualities.— The Secretary may mint and issue the coins referred to in section 402(a) in uncirculated and proof qualities.

(b) Use of the United States Mint.—The Secretary may not use more than 1 facility of the United States Mint to strike the coins referred to in section 402(a).

(c) Commencement of Authority to Sell Coins.—The Secretary may begin selling the coins referred to in section 402(a) on January 1, 1989.

SEC. 405. SALE OF THE COINS.

(a) Bulk Sales.—The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(b) Prepaid Orders at a Discount.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(c) Surcharge Required.—All sales shall include a surcharge of $20 per coin.

SEC. 406. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 402(a) shall not result in any net cost to the Federal Government.

(b) Sale Price.—Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

SEC. 407. PROCUREMENT OF GOODS AND SERVICES.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title.

(b) Equal Employment Opportunity.—Subsection (a) shall not apply with respect to any law relating to equal employment opportunity.

SEC. 408. REDUCTION OF FEDERAL DEBT.

The Secretary shall deposit in the general fund of the Treasury for the purpose of reducing the Federal debt an amount equal to the amount of all surcharges that are received by the Secretary from the sale of the coins referred to in section 402(a).

Mr. ST GERMAIN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read, and printed in the Record.

The SPEAKER pro tempore (Mr. Panetta). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The Clerk read the House amendment to the Senate amendment numbered 36, as follows:

House amendment to the Senate amendment numbered 36 to H.R. 3251: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

Page 7, after line 2, add the following new sections:

SEC. 9. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 10. AMENDMENTS TO THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION RECAPITALIZATION ACT OF 1987.

(a) In General.—Section 306(h)(1) of the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987 (12 U.S.C. 1730 note) is amended by striking out "1-year" and inserting in lieu thereof "2-year".

(b) Clerical Amendment.—The heading for section 306(h) of the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987 (12 U.S.C. 1730 note) is amended by striking out "1-Year" and inserting in lieu thereof "2-Year".

Mr. ST GERMAIN (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment numbered 36 be considered as read and printed in the Record.

The SPEAKER pro tempore (Mr. Panetta). Is there objection to the request of the gentleman from Rhode Island?

Mr. WYLIE. Mr. Speaker, reserving the right to object, and I do not intend to object, but I do so for the purpose of yielding to the distinguished gentleman from Rhode Island [Mr. St Germain], the chairman of the Committee on Banking, Finance and Urban Affairs.

□ 1450

Mr. ST GERMAIN. Mr. Speaker, I thank the gentleman for yielding to me under his reservation.

Clearly, Mr. Speaker, it is in the public interest to stabilize FSLIC and to protect against further drains from the insurance funds. The legislation before us is an integral part of the stabilization effort.

Last year—in the Competitive Equality Banking Act—the Congress placed a 1-year moratorium against savings and loan institutions picking up their baggage and walking off and leaving FSLIC—actions that would have deprived FSLIC of badly needed premiums.

Mr. Speaker, that was a wise decision. Now, we need to keep that decision in place for another year while efforts continue to shore up and stabilize the FSLIC fund.

The legislation before us would extend the moratorium for another year and assure that FSLIC does not have a sudden loss of premiums. The moratorium, Mr. Speaker, is not a cure-all, but it is an important and necessary step. The Banking, Finance and Urban Affairs Committee, on July 7, will open a detailed examination of FSLIC problems and prospects. Much needs to be done to restore the savings and loan industry to health and to assure a strong FSLIC fund. Today's action will be one important step as long-range solutions are considered.

Mr. Speaker, let me review the situation before the House at this moment.

On September 29, 1987, the House by voice vote passed the bill, H.R. 3251, which authorized the minting of a gold coin to commemorate the bicentennial of the Congress.

The Senate considered the House bill on June 15 and added several more coin authorizations and, most importantly, the extension of the prohibition on FSLIC insured savings and loans from exiting the FSLIC insurance fund.

The motion before the House is to agree with the congressional bicentennial coin authorization and the FSLIC provision and to disagree with the sundry additional coin authorizations.

Mr. Speaker, I urge my colleagues to support this essential measure.

Mr. WYLIE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Georgia [Mr. Barnard].

Mr. BARNARD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we all recognize the seriousness of the savings and loan associations in this country. We know that a further exiting of sound savings and loans will have its effect upon the Federal Savings and Loan Insurance Fund. We all recognize that.

Nearly a year ago we passed the CEBA bill. Already before that what we had done is we had provided an exit fee for those who were planning on leaving FSLIC whose arrangements had been made; we agreed in this House a 2-percent exit fee. It passed the subcommittee, the full committee, and the House Committee, but in consideration a year ago of the plight, we agreed that a 1-year moratorium would be extended, but at the end of that moratorium there would be a 2-percent exit fee imposed on those wanting to leave FSLIC.

As I said before, we are in agreement that the FSLIC is in a serious situation and possibly the extension of this moratorium is the right thing to do. Certainly I will not object.

However, there were a number of institutions who made their plans. They made applications, and now they are being held up from carrying out their plans of leaving FSLIC and going to a FDIC-insured situation meaning, of course, that they would not be leaving as savings and loans but would be leaving as commercial banks.

Mr. Speaker, I say the situation is such that we need to study the FSLIC situation; $10 billion was given them last year, Mr. Speaker. We do not know where that stands. The stories we get in the paper every day are just astounding. More and more failures are taking place. The GAO tells us that FSLIC is in the hole about $30 to $40 billion.

What does the administration tell us? "They are just in the hole $10 million-$11 million; they can hold on."

Mr. Speaker, what I am saying right now is we need to extend this, but we need to get on with the problem of the savings and loans. This House needs to consider it. We know we should find answers to this problem. It is not right for the public or sound financial institutions to have to go through this crisis from now on.

I would hope that we could get on with a solution to this problem as fast as we possibly can.

Mr. WYLIE. Mr. Speaker, further reserving the right to object, the gentleman from Georgia has made an excellent statement as he usually does on the subject.

May I say the chairman has already announced that the Committee on Banking, Finance and Urban Affairs would begin extensive hearings on FSLIC on July 7, and that was part of a discussion we had in this connection.

As the chairman mentioned last Wednesday the Senate passed H.R. 3251, the Bicentennial of the U.S. Congress Commemorative Coin Act and added several amendments. All of the amendments would be deleted by the amendment offered by the chairman except the amendment which would extend for 1 year the moratorium prohibiting thrifts from withdrawing from the Federal Savings and Loan Insurance Corporation fund. I want to join with the chairman in saying that it is necessary that we extend this moratorium for a year to protect the FSLIC recap arrangement which we adopted in the Competitive Equality Banking Act last year.

Also, the Chairman of the Federal Home Loan Bank Board, Mr. Danny Wall, has requested this extension. I might add that this extension does not in any way affect or alter the rights of a very limited number of institutions who were grandfathered under CEBA last year. The extension of the moratorium is not a solution to the problem facing the FSLIC as the gentleman from Georgia has mentioned, and I am sensitive to those arguments which are being made by persons who think we ought to do more, but the chairman has assured me that we will have hearings. He has assured others that we would, and for those reasons, I would urge that we pass this bill today.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Indiana [Mr. Hiler].

Mr. HILER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, part of the bill that has come back from the Senate has included three different coin bills, an Eisenhower coin, a coin redesign of our current currency, and a centennial six Western States. My understanding is to the many people who have cosponsored the Coin Redesign Act, it is my understanding that the Coinage and the Consumer Affairs Subcommittee will be having hearings at some point this year and that we will be having these hearings and considering the views of those who would like to redesign the coins and those who would not, and so to those who were concerned about that, that is my understanding. Based on that, I certainly have no reservations.

Mr. GOODLING. Mr. Speaker, I would like to comment on a provision that was dropped from H.R. 3251 after it was recently passed by the Senate. The provision that was removed is identical to a bill I introduced last November, H.R. 3654, which calls on the U.S. Mint to produce a silver commemorative coin to honor the 100th birthday or President Dwight David Eisenhower in 1990.

I would like to express my disappointment with this decision, although I recognize that the chairman of the Subcommittee on Consumer Affairs and Coinage, Mr. Annunzio, had to consider many competing and compelling arguments in deciding on this course of action.

I am convinced that the coin created by my bill would provide a fitting and popular tribute to a grat national leader. Furthermore, it is in keeping with the practice of using numismatic items to celebrate and honor American people, places, events, and institutions that have patriotic and historical value for the citizens of the United States. George Washington was recently honored with a commemorative coin, and in my view, President Eisenhower is deserving of such a tribute. A quote concerning President Washington can just as easily be applied to President Eisenhower: "A citizen, first in war, first in peace, and first in the hearts of his countrymen."

I hope Chairman Annunzio will give every consideration to my bill, H.R. 3654, in the form of hearings and floor consideration. It is indeed a worthwhile proposal which has been favorably received by the numismatic community, and one that is faced with somewhat of a time constraint, because of the fact that President Eisenhower's 100th birthday is only 2 years away.

Mr. Speaker, I appreciate the chairman's consideration during negotiations on H.R. 3251, and look forward to timely consideration of H.R. 3654.

Mr. WYLIE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Rhode Island?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3251.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

APPOINTMENT AS ADDITIONAL MEMBERS OF FUNERAL COMMITTEE OF THE LATE HONORABLE JOHN J. DUNCAN

The SPEAKER pro tempore. Pursuant to House Resolution 481, and the order of the House of earlier today, the Chair announces the Speaker's additional appointments to the funeral committee of the late John J. Duncan the following Members on the part of the House:

Mr. Broomfield of Michigan;
Mr. Miller of Ohio;
Mr. Downey of New York;
Mr. Jenkins of Georgia;
Mr. Thomas of California; and
Mrs. Kennelly of Connecticut.

PHONE SERVICE WILL HOPEFULLY BE RESTORED

(Mr. ROSE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSE. Mr. Speaker, no service is more basic to the running of this House than our telephone system. Unfortunately, our state-of-the-art phone system and its modern computers have been acting totally unacceptably for the last several days.

Several hours ago the gentleman from California [Mr. Thomas] and I met with some very worried officials of our phone company and with the Clerk of the House. We have instructed them to do as they have been doing around the clock for the last several days—any and everything that they have to do to see that our phone system is restored to its proper level of service. Hopefully by the time Members come back here on Monday that will be the case. If it is not, a level of service will be provided next week to get us into the Fourth of July weekend and, if necessary, the whole blooming thing will be replaced during the Fourth of July recess. I assure the members of the committee that we are on top of this.

The gentleman from Connecticut [Mr. Gejdenson], a member of our subcommittee, asked that we remind everybody that he did not have anything to do with this phone system, that it is all our fault. But we will stay on top of it, and thank the Members and ask them to be as indulgent and patient as they possibly can.

□ 1500

WILD AND SCENIC RIVERS ACT WEEK

(Mr. McDADE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDADE. Mr. Speaker, I am introducing a resolution today, along with my distinguished colleague, Mo UDALL, chairman of the House Committee on Interior and Insular Affairs, to designate the week of October 2 of this year as "Wild and Scenic Rivers Act Week."

Twenty years ago Congress had the foresight and wisdom to enact legislation to protect stretches of wild and scenic rivers in their free flowing and undeveloped condition. That legislation, the Wild and Scenic Rivers Act of 1968, ranks as an important environmental achievement that should be noted and celebrated. It established the principle that certain rivers in our Nation possess such remarkable scenic, recreational, geologic, fish and wildlife, historic or cultural qualities that they must be protected and used wisely for the benefit and enjoyment of present and future generations.

The National Wild and Scenic Rivers System was established in 1968 with 789 miles in eight rivers. Congress has since expanded the system to include 71 rivers with 7,369 miles. These are stretches of rivers that will be protected in a free flowing and undeveloped state—protected from inappropriate water resource development, commercialization and pollution.

I am pleased that 73.4 miles of the Upper Delaware River bordering my congressional district in northeastern Pennsylvania was added to the National Wild and Scenic Rivers System in 1978. That designation, which is unique in that it relies on the efforts of local and State governments and private landowners, ensures that residents and visitors of our area will be always able to enjoy a true natural treasure.

I might add, and I do so with a great deal of pride, that my congressional district contains not only the Upper Delaware Wild and Scenic River, but also the Delaware Water Gap National Recreation Area. The Delaware River in this area is also a free-flowing river in the National Wild and Scenic River System.

It is my hope that the resolution we are introducing today will increase public awareness and appreciation of the historical, recreational and environmental importance of our wild and scenic rivers. Mo UDALL is one of the great environmental champions of our time and I want to say how good it is to be working together with him again in this effort to promote the continued preservation of our Nation's rivers. I urge my colleagues to join us in sponsoring this resolution.

DEFENSE BURDEN SHARING

(Mr. HALL of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL of Texas. Mr. Speaker, in 1982, as a result of discussion with then Defense Secretary Caspar Weinberger and the Japanese Government, an informal goal was established for Japan to assume responsibility and the costs of defending the Pacific sealanes and the airspace within 1,000 miles of its coastline. This was a major breakthrough for the United States in its efforts to get Japan and our other allies to begin to pick up the costs of the defense of the Western World.

Today it is 6 years later, and I believe it is time to reassesses that goal and see if it is not possible for the Japanese to extend its reach beyond 1,000 miles, and to look seriously at the possibility of their increasing their responsibility for protection of the sealanes toward the Middle East.

Japan is about 98 percent dependent on imported crude oil and refined petroleum products, much of which comes from the Middle East. It seems to me to be altogether appropriate for them to either begin to make firm plans to become a major and effective presence throughout the Pacific or to help support our Pacific fleet monetarily in its efforts to maintain the peace in that part of the world.

I hope my colleagues will urge the State and Defense Departments to apply continuing pressure on Japan to substantially increase its defense outlays, much more so than they have done in the last couple of years, and begin serious discussions on increased monetary support of our air and sea defenses in that vital part of the world.

THE FAMILY AND MEDICAL LEAVE ACT

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mrs. MORELLA. Mr. Speaker, last Sunday we celebrated Father's Day and today we voted to include children in the fair housing amendments. I now urge my colleagues to recognize families by becoming a cosponsor of H.R. 925, the Family and Medical Leave Act. This legislation is urgently needed to ensure job security for employees who take leave for the birth or adoption of a child, to care for a seriously ill parent or child, or for an individual's own serious health condition.

Currently, there is no Federal law to protect the jobs of employees who need leave for the birth or adoption of a child or the serious illness of a child or parent. The United States is the only advanced industrialized nation without a family leave policy—the time has come for us to take a firm stand for the family, particularly at a time when so much attention is being focused on family issues, such as child care and long-term care for elderly family members.

H.R. 925 has been revised to accommodate many of the concerns of the business community, and the General Accounting Office has estimated the cost of the compromise bill for employers to total $188 million per year, at most. For firms covered under the bill, the weekly average employer cost per worker was estimated by GAO to be about $25 in 1985.

Mr. Speaker, I urge my colleagues to remember Father's Day and families by taking a strong stand in favor of the Family and Medical Leave Act.

HOUSE TELEPHONE SYSTEM

Mr. Speaker, if I might be indulged for one moment, if my constituents in Maryland's Eighth Congressional District have tried to reach me for the past 3 days, please know, Mr. Speaker, that we have been there, we have been working. We have been very frustrated that the lines are ringing but the phones are not working, and I hope that they will be ameliorated immediately.

A TRIBUTE TO LOUIS J. HOLLIS

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, funeral services for Louis J. Hollis, a photographer with the U.S. House of Representatives from February 1978 until his untimely death last Saturday, June 18, were held at 11 a.m. yesterday at Murphy's Funeral Home, Falls Church, VA.

Lou Hollis, age 59, died at Fairfax Hospital after a heart attack.

A native of Washington, DC, Lou Hollis lived at Falls Church. He served in the Navy from 1950 to 1952. After serving in the Navy, he worked in the photography laboratory of the Department of Agriculture. He worked as a photographer for the old Washington Times-Herald newspaper, then the Washington Daily News.

Members of Congress will remember Lou Hollis as an efficient, friendly House photographer who was always willing to be helpful to House Members, whether taking photos of Members with their constituents, at committee hearings and the like.

I extend sympathy to Louis Hollis' wife Judy, his son John Hollis, his daughter Patricia Ann Hollis, his sister Peggy Sondheimer, all of Falls Church, and two brothers, Robert Hollis of Rockville and Frank Hollis of Chevy Chase.

ORDER OF BUSINESS

Mrs. MORELLA. Mr. Speaker, I ask unanimous consent that the special order of the gentleman from Maryland [Mr. MFUME] precede the special order entered into today by the gentlewoman from Maryland [Mrs. BENTLEY].

The SPEAKER pro tempore (Mr. CARDIN). Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

THE CROP INSURANCE IMPROVEMENTS ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SCHUETTE] is recognized for 5 minutes.

Mr. SCHUETTE. Mr. Speaker, today I am introducing no cost legislation to improve the Nation's ailing Crop Insurance Program. The purpose of this legislation is to provide farm families in Michigan and across this Nation with workable, cost-effective insurance protection from the unsympathetic blows of Mother Nature.

Right now, Mr. Speaker, thousands of farmers in many States around the country are suffering from a disastrous, scorching drought. Farmers around the Nation affected by this tragedy may lose their farms because of this disaster. At least some of these affected farmers would not lose their farms, if we only had a crop insurance program that was working in the family farmer's best interest. In short, if we had the provisions of this legislation in place today, many of those farmers who will now lose their farms because of this drought would not be facing the type of financial pressures that will claim their livelihood, their dreams, and perhaps their homes.

The reason for this bill is that the Federal Crop Insurance Program is simply not working. It is neither an affordable nor reliable option for farmers. When this program was first passed into law back in 1938, Congress intended to provide farmers and their families with certain protection from the catastrophic loss of their crops. However, to a large extent this has not happened, and participation in Michigan and around the country is astoundingly low. The national participation rate of less than 10 percent nationally and 5 percent in Michigan is completely unacceptable and is a complete contradition to the goals and intent of the program.

Long ago, the Congress made a commitment to the American farmer to provide some protection from the unpredictable irregularities of weather. The way the program is designed, farmers are able to insure up to 65 percent of their losses which may occur due to natural disasters. The concept for crop insurance was born out of the widely held belief that it is not right for a family to lose several generations of hard work and dedication derived from carving a livelihood out of the soil just to the fickle whims of nature.

Mr. Speaker, that was as good idea back then, and it certainly remains so today. Even though crop insurance was never intended to provide 100 percent protection—and it is not my intention to make it so with this legislation today, it is becoming increasingly obvious that something needs to be done to guide the program back to its original course. In fact, we need to implement substantial reforms if this program is to ever work as the Congress meant it to work.

Farmers do not want an insurance program that shelters them from all things. Most farmers will agree that a bad year is as natural to farming as nature itself. Farmers deserve a workable and efficient Crop Insurance Program. With this legislation today, I seek to bring the Crop Insurance Corporation's Program back on course toward the goal of providing producers with cost-efficient protection from the devastating losses of catastrophic disasters.

THE BEAN PROBLEM

The first part of my bill addresses an important area of the Crop Insurance Program that has been grossly reglected by the Corporation. A major crop across this Nation and in my own State of Michigan, dry edible beans, are largely ignored by the Crop Insurance Program, and that is precisely what title I of the Crop Insurance Improvement Amendments Act of 1988 would address.

Michigan is the dry-bean capital of the world. Michigan produces a broad spectrum of dry bean varieties ranging from pinto to cranberry to kidney and navy beans. Michigan produces all of these beans in significant quantities, and the issue here is not that insurance is completely unavailable. The problem is that the cost of insuring dry edible beans is simply not reflective of the economic and risk circumstances surrounding the production of different varieties of beans, and is therefore not economical.

In many cases, bean farmers are not offered enough coverage to insure even a third of the value of their crop. For example, kidney bean farmers in my district are often faced with the option of being able to purchase coverage for their crops which amount to only 65 percent coverage for a crop of navy beans which command roughly only one-half of the price. That means that farmers who produce these higher valued beans have their coverage roughly halved because the Federal Crop Insurance Program fails to properly distinguish between bean varieties with differing values in the market.

If the regulators at Federal Crop Insurance Corporation want the program to work, they would not be neglecting the need to recognize the difference between the insurance needs of the many different types of dry edible beans produced around the country. This is not helpful to either farmers in Michigan or the farmers in the 13 other bean producing States of the Union.

To me it is incomprehensible how the FCIC could offer the very same insurance package for the beans grown for good Texas chili as the beans we find in the famous bean soup served daily in our caferteria. That is like insuring every car driven in American, no matter what its value, with Chevette-type coverage. While this may be a simple oversight, it is precisely the type of oversight that has prevented the crop insurance program from successfully meeting the needs of farmers.

COMMUNICATIONS AND EDUCATION

The second component of my bill will refocus the Corporation's activities in order to make greater use the communication and education assets available within their own parent organization, the USDA. How can anyone expect farmers to invest in crop insurance if the sources of information about the program that farmers turn to within the Department of Agriculture are not knowledgeable or comfortable with the Crop Insurance Program.

The U.S. Department of Agriculture has the facilities and mechanisms in place to make crop insurance as understandable for farmers as the use of fertilizer in production agriculture. However, the Federal Crop Insurance Corporation has yet to see its way clear to use the well developed education systems available within its own Department of Agriculture.

This section of my legislation addresses this problem head-on. It directs the Manager of the FCIC to identify and utilize methods of communication and education in order to make crop insurance more understandable to farmers and their families. Only if this is accomplished will crop insurance become the risk management tool it should be.

RESEARCH

Finally, Mr. Speaker, the bill requires that the Federal Crop Insurance Corporation, in cooperation with the Comptroller General of the United States to research and recommend changes in the crop insurance program to: First, make crop insurance more available to family-sized farmers; second, make the insurable crop yields and rates more reflective of actual production capacity; third, determine whether certain provisions of the 1985 Food Security Act are restricting farmer eligibility for crop insurance, and finally; provide a definitive answer as to whether the crop insurance program can operate as a no-cost corporation within the USDA.

These four critical questions need answers if we are going to fix the Federal Crop Insurance Program and make it the self-financing, effective risk management program Congress intended. With the correct answers to these deficiencies in the program, the Manager of the Crop Insurance Corporation will be able to offer insurance not only to more of the farm families it was designed to serve, but also make crop insurance an affordable alternative for the American farmer.

Mr. Speaker, in December 1987, the Secretary of Agriculture declared much of Michigan and parts of 38 other States to be natural disaster areas. Ordinarily, this would be good news for the farmers in Michigan as well as to producers in other States who suffered disasters. However it has not been good news because in order to qualify for disaster assistance farmers are required to have purchased crop insurance to be eligible for the special assistance programs. They are required to hold crop insurance policies which more often than not, are priced well beyond the real protective value, or which fail to reflect the risk protection needs of the family purchasing the policy. Once again, the proof in the pudding is that fewer than 1 in 20 farmers around the country hold crop insurance policies.

This low participation around the country and in the State of Michigan is not the problem it is the symptom of the problem. Crop insurance today is not working and farmers risk management needs are not being met. This bill would make important progress toward meeting the needs, needs which have become clear to me after taking a hard look at this troubled program.

Furthermore, this bill would identify solutions to the problems that no one has been able to answer, Mr. Speaker. Clearly, this legislation should be welcomed by the Manager of the Crop Insurance Corporation and those who share a common concern for the success of a viable, self-financing crop insurance program in America. I urge all my colleagues to join me in supporting this important legislation.

THE 100TH ANNIVERSARY OF THE FOUNDING OF THE MORMON CHURCH IN SAMOA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. SUNIA] is recognized for 5 minutes.

Mr. SUNIA. Mr. Speaker, 100 years ago this week, two Mormon missionaries arrived in Samoa, They were a Hawaiian Native named Manoa and his friend Pelia. Celebrations of the century of Mormon work in Samoa began this week, and I am proud to represent the island where those festivities are being held.

In 100 years since its arrival, the Church of Jesus Christ of Latter Day Saints has become one of the main institutions in the territory. Through the church, many American Samoans migrated to Hawaii and even as far away as Independence, MO, where today about 2,000 Samoan Mormons live and work. The Samoans who left the islands benefited from much more than the opportunity to work for their church. The children and grandchildren of those original emigrants have become established in a variety of areas in our country. Many have returned to Samoa, bringing job skills, experiences in business and training in the fine arts.

The largest educational facility in my territory was, in fact, constructed by the Mormon Church. And today it is the home of the American Samoa Community College. Before the Mormon Church left the field of education in the territory, it had given thousands of young people a high school education and training. Its several churches on the island of Tutuila are, today, landmarks which complement the tropical nature of our homeland.

For the missionaries of this faith who faced the task of spreading their message in our islands, the work was enjoyable but extremely difficult. Aside from the traditional hardships missionaries face everywhere, the Mormons faced not merely competition from other faiths, but also quite often outright ridicule and abuse. The diligence of the original missionaries has lead to the acceptance and growth of the Mormon Church. Today, members of that church are among our territory's government, business and social leaders. And they are some of the major providers of education, health and other public services.

American Samoa, and to an equal extent, Western. Samoa have benefited tremendously from the availability of opportunities at the church's college in Laie, HI. A number of young men and women have received their educations at this institution.

The leaders and the membershp of the Mormon Church in American Samoa are to be congratulated on this occasion. Additionally, the worldwide church should also be congratulated for the work it has done in nurturing the growth of the church in Samoa. I wish them many joys during this celebration, and I add my voice to the prayers being offered this week in the islands for the continued success of their work.

CELEBRATION OF AUSTRALIAN BICENTENARY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana [Mrs. BOGGS] is recognized for 5 minutes.

Mrs. BOGGS. Mr. Speaker, this morning the Prime Minister of Australia, the Honorable Bob Hawke, addressed a joint session of the House and Senate. I find that it is particularly appropriate that he appeared with us this year as it is the 200th anniversary of European settlement on the continent "down under."

This year will also witness the continuation of the bicentennial celebration of the U.S. Constitution and its ratification and the first Federal elections under the new Constitution. I believe that it is the shared ideals and goals expressed in this document and in the debates for its acceptance, even more so then the common heritage of Australia and America, which so strongly unites our countries.

I applaud modern Australia's commitment to democracy and a "fair go" for all countries through her staunch support of the ANZUS Treaty and her consistent involvement with the U.N.'s Commission on Human Rights. When these leadership roles abroad are combined with the knowledge that at home this fellow frontier nation was first to grant universal male suffrage and to grant women the right to vote, we discover an Australia evolving from the fellow child of the ideals we both hold sacred and into a world-class implementer of these ideals.

And for these great accomplishments and for all Australia has done and will do in the next century, we wish her a very happy birthday.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MACKAY] is recognized for 5 minutes.

Mr. MACKAY. Mr. Speaker, due to a previous commitment I missed several votes. Had I been able to vote, I would have voted for the amendment of Mr. FISH and for the amendment of Mr. SHAW to H.R. 1158.

I appreciate having this opportunity to state my position on these measures.

SBA INCONSISTENCIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. MFUME] is recognized for 30 minutes.

Mr. MFUME. Mr. Speaker, I find it necessary to reserve this time for a special order this evening to talk just a little while about the Minority Business Development Agency and to talk also about my fears as they relate to that agency under this current administration and perhaps what the future holds.

As my colleagues know, the Minority Business Development Agency was created in 1969 by an Executive order of then President Richard Nixon. It has existed pretty much since that time from year to year, from administration to administration on that same Executive order.

There are efforts that are underway here in the House being led by myself and in the other body being led by Senator JOHN KERRY and Senator PETE WILSON to in effect codify the MBDA. That is contained in language of my bill, H.R. 1769, and in the Senate companion bill, S. 1848. Consideration of this legislation came during the 1st session of the 100th Congress amid administration attempts to transfer that agency into the Small Business Administration, a proposal which many of us believe will have a negative effect on the economic progress of the Nation because it will prove in many instances and in many ways to be a deterrent to the development of minority business enterprise in this country as we know it.

Fortunately, the Appropriations Committee and the Budget Committee voted to maintain funding for the Minority Business Development Agency in fiscal 1988 as a part of the Commerce Department. However, there still remains a clear need in Congress to permanently establish the MBDA within the Department of Commerce as the administration's fiscal 1989 budget proposal has again proposed a transfer of control of that agency to the Small Business Administration.

Furthermore, the House Appropriations Committee has not included funding for MBDA in the Commerce, Justice, State and Judiciary appropriation measure as they did not include appropriations for any program that was not yet authorized for fiscal 1989.

The problem in this, however, is that with the Minority Business Development Agency being lumped into that kind of a category, it remains clear to those of us who have followed the history of the agency that it becomes quickly imperiled because the MBDA has never been authorized, as it has operated, as we all know, under this Executive order that I mentioned a moment ago.

□ 1515

So the commitment to aiding minority businesses we believe must be fundamental, it must be integrated into the American economic system and in establishing that integral part, the Minority Business Development Agency must in fact be placed on solid ground and be allowed to continue to exist in a way that it is not in a vulnerable position. The subcommittee held hearings on H.R. 1769 during the first session and has plans shortly within a week or two to have completed consideration and a markup at the subcommittee level.

Out of the hearings that were held came very good recommendations, however, on the ways to strengthen the intent and purpose of the legislation and an obvious consensus by those who are on the committee, both Democrat and Republican alike, that the Minority Business Development Agency belongs within the Department of Commerce and not necessarily under the SBA. We have had a significant opportunity through H.R. 1769 to help meet the existing needs of minority businesses and I hope and I certainly can count on the members of that committee as well as colleagues in the House to make sure that that takes place.

Now the interesting thing is that the SBA, off the record, will quickly say that they do not need another agency to have to sort of see through. They were established in 1954 with a clear and specific agenda. The MBDA was created by Mr. Nixon in 1969 simply because the SBA could not do its own mandated mission, to service the needs of the minority business community.

However, the SBA, in debating for the transfer of the Minority Business Development Agency to them, proclaimed that they would in fact be more efficient and more effective in the delivery of service to minority business enterprises in the Nation. However, again their 1989 budget request shows absolutely no sensitivity toward minority businesses and no real desire to provide services.

In their budget request, the SBA called for, and I quote, "the elimination of SBA direct loans now provided to minorities as well as handicapped and Vietnam and disabled veterans," and these incidentally are loans of last resort, they can only be made if in fact the applicant cannot secure funds from any other source. They also called for the reduction—the SBA did in their fiscal 1989 budget for the reduction in the amount of loan guarantees which entices lenders to make loans to small and minority businesses.

They also call for the elimination of minority assistance now provided through counseling contracts under section 7 of the program. They further suggested in this budget request to eliminate business development expense funds, to eliminate the special incentives to minority enterprise small business investment companies, otherwise known as MESBIC's which encourage them to provide venture capital to minority business enterprises. And they went further, to suggest phasing out management assistance now being provided through the small business development centers.

So the SBA's management is to services small businesses; the MBDA also services small businesses but they service minority businesses as well, and do it rather effectively.

Most of the minority businesses that are serviced by the SBA are firms that have been certified as 8(a) companies.

So currently there are 3,000 or so certified 8(a) companies.

There are, however, over 700,000 minority business enterprises. And of the clients that the MBDA services, approximately 3½ percent are 8(a) companies.

So the SBA has never really identified what programs of the Minority Business Development Agency that they deem to be duplicative or that they deem to be similar in some way. The SBA serves much more instead as a financing and direct lending function while the Minority Business Development Agency provides technical and management assistance and has, as its overall interest, the goal of encouraging an environment for minority businesses to participate fully in this Nation's economic structure.

The current administration, not so long ago, moved as we all know, for the abolishment of the Small Business Administration charging the agency was ineffectively carrying out its mandate.

Now that same administration advocates an even broader mandate for the agency that they were trying to do away with several years ago under the guise of a more efficient and enhanced provision of services by calling for the agency now to encompass functions of another agency. How hypocritical indeed.

We believe that if we are serious and if we mean to be serious about minority business development in this Nation, we have to do more than just simply talk a good game. We have to transfer that rhetoric into some sort of meaningful action.

So I was a bit taken aback and at the same time I was pleased to read recently on June 7 of the Vice President's statement of how he certainly was concerned about the plight of minority businesses and, through a spokesperson, said essentially that one of the highest ranking priorities under his administration would be to revitalize and to beef up the Office of Business Enterprise in the Department of Commerce.

Well, if Mr. BUSH is serious about that, I at this time certainly offer him the invitation to come before the committee as we will be marking up the bill shortly and give testimony in support of my legislation that does, in fact, codify and give statutory authority to the Minority Business Development Agency.

If, however, this is simply campaign rhetoric, I would strong suggest, Mr. Speaker, that it goes a long way in furthering, to confuse and muddy and cloud the issue in such a way that those persons who are concerned about minority business in this Nation then in fact get mixed signals.

Mr. Speaker, I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman and wish to add my voice to his and to compliment him for the very hard work that he is doing as a member of the Small Business Committee. As one who has been a charter member of this committee since it became a legislative committee in 1975, instead of an ad hoc or select committee, as it had been for years and years and also of which I had been a member upon my arrival to Congress some 27 years ago, he is to be commended because the gentleman is quite correct. This administration zeroed out, as it did many of the other programs that in some cases over a period of 30 years the Congress had, as a matter of national policy and priority, instituted and had sustained. So this administration with Mr. Reagan as the Chief Captain, said everything that was done was wrong. As the gentleman well said awhile ago, given the reason that SBA was not carrying out its function, it wanted to eliminate it no less than 3½ to 4 years ago.

The truth is the reason that it could not function was that the administration had literally crippled it through the budget recommendations that the President has been sending to the Congress since 1981 which, like other areas of our domestic budget, would zero out the program.

The gentleman should know that the record is here. It is stark, it is unhappy, it is sad, it is tragic, but it is a record.

For example, every one of the 29 minority, so-called and described minority, which is ethnic and racial minority, savings and loan institutions have within the last year and one-half totally disappeared in America. There is not one left. They are all gone.

Now these institutions were founded as the direct result of action originating in the Small Business Committee before it was even a legislative committee; then undertaken in a statutory way by the Congress, gave rise in the days of the early seventies, late sixties, to minority business enterprises in the financial institutions, both savings as well as banking.

But I think it is tragic, I think it is one of the most poignant, dramatic evidences of the total failure of this administration to sustain those programs that address the core question of the mainstream and backbone of economic life in our country which is the small business, the real small business.

So I want to compliment the gentleman from Maryland because there will be another day. I think the very fact that a candidate for the Presidency who has been in power all those years—you know, the Nixon administration used to have a statement that was incorporated and has been in every succeeding Republican organizational and national political effort, and that is, "Don't look at what we say, but look at what we do."

And I think that that is cynical, I think that those of us that share the responsibility of representing at least some sacred segment of America, should call it for what it is, redouble our efforts and reclaim success in a better day which I think will be soon with us.

I again end up by complimenting the gentleman from Maryland. His entrance into our Congress—this is his first Congress—I wanted the record to show that he has been preeminent, not only in the small business community, but in the Subcommittee on Housing and Community Development which I happen to have the honor to chair.

I think the record ought to show that his emergence and service in the Congress is one that has served a national purpose very well and with great distinction.

Mr. MFUME. I thank the gentleman from Texas for those kind words and for associating with my remarks also earlier as they relate to the Minority Business Development Agency.

Mr. Speaker, I would like to reiterate again the offer that I have extended to the Vice President who apparently, at least, through a spokesperson, has indicated that he has, unlike the President in many respects, a greater sensitivity toward the plight of minority business development in this Nation. Again, I say I was encouraged to read the Vice President's remarks through his spokesperson that he would make the Minority Business Development Agency and its existence within the Department of Commerce a priority.

So, Mr. Vice President, if in fact you are listening we certainly would appreciate your appearance at the committee hearing and welcome your support of my bill, and to say also, if I may take a moment and speak on behalf of many small businesses in this Nation that may be run by a Democrat or a Republican—they are small and minority businesses nonetheless—they do not seek welfare, they do not seek special breaks or special treatment. All they seek is fair share and a fair chance to compete equally in this society.

We have to remember, I think, that the backbone of any democracy, the economic backbone is really built on small businesses.

Minority business enterprise fits into that fold also because it creates jobs, it adds to a tax base, it brings about, I think, a sense of worth and a sense of dignity for many people who want to compete economically.

I believe our Nation has a moral obligation certainly to do everything possible and everything it can do to make sure that those businesses have a fair chance. Again, they are not asking for a handout or for welfare, but just a chance to compete on a level playing field and to do so to the best of their ability.

So I want to commend again all of those Members of the House, both Republican and Democrat, who have looked at the Minority Business Development Agency, recognizing its development in 1969 under then-President Richard Nixon was, in fact, the right way to go and for those who are as confused as I am about why we now see attempted this year, as last, by the current administration to do away with that agency under the guise of placing it under the Small Business Administration.

DISCUSSION OF PROBLEMS AS A RESULT OF THE CURRENT DROUGHT

The CHAIRMAN pro tempore (Mr. CARDIN). Under a previous order of the House, the gentleman from Texas [Mr. CHAPMAN] is recognized for 5 minutes.

Mr. CHAPMAN. Mr. Speaker, I rise today to discuss with my colleagues and point out some of the problems that we in America are experiencing as a result of the current drought, lack of rain throughout America. Of course, the best solution and one for which we should all pray is a good rain. But in the meantime, we have responded with the appointment of a task force of House and Senate Members who are working in a bipartisan fashion toward solutions that will address what most surely will become a severe national disaster in the next few weeks.

□ 1530

I would be remiss, I think, if I did not point out at the outset and compliment the work that the Secretary of Agriculture has done and the attention he has given to this national problem. I know that yesterday he appeared before the meeting of the task force and expressed not only his concern but the activity and actions that the Secretary, through his department, is administering to the farmers and producers of America.

This is a bipartisan drought. It demands bipartisan solutions. It is going to require that we work as Americans in this Congress and throughout this land for programs that will provide the kind of relief quickly that our agricultural producers need to see their way through this problem.

I would like to take just a few minutes today to discuss and perhaps point out some of the programs and perhaps express some thoughts that a Member from Texas has as to some of the things that I hope the task force and the Secretary and this Congress will consider as a way perhaps of relieving some of the problems we will experience.

First and foremost, I think we should address these issues in a way that will provide solutions quickly. It does very little good for our agricultural producers or for the farmers and ranchers in east Texas to be told that there are programs which will provide them relief, yet they must walk through a maze and over a tightrope of rules, regulations, forms, and procedures that make relief virtually impossible to obtain.

One of the things that I hope the task force will address and the Secretary will address very quickly is how we can consolidate the programs in a way of management so that the benefits that are already in law can be provided to our producers very quickly.

I would like to point out some things that I hope will be a part of those programs, things that I think can be provided either under current law or with a minimum of work so the Congress will help target relief to our agricultural producers. First, under the Emergency Feed Program, it applies to beef cattle producers only, and I would hope that the task force and the Congress would consider expanding this to the dairy industry and the dairy producers as well, because that is an industry that is critical and vital in my home district.

I would ask that the Secretary of Agriculture approve the haying on Conservation Reserve Program lands. Haying on Conservation Reserve Program lands is approved for only 30 days under this current program. I hope the task force and the Secretary will consider extending the time this haying may be permitted on this property. I realize the importance of protecting our national lands and the land that is within the Conservation Reserve Program, but it is important in this crisis that we provide our farmers with the means of feeding their livestock.

Mr. Speaker, I think we need to make modifications to our Disaster Insurance Program. I would propose that we suspend the premiums for farmers who have already signed up for Federal crop insurance, and furthermore I would propose that we suspend the provision for planting requirements. If a farmer has already signed up for crop insurance but has not yet planted his crop, the farmer should not be required to plant.

Just yesterday I received a call from a producer just outside Texarkana, TX, who is spending $15 an acre to plant 15,000 acres of soybeans, and he said to me, "Congressman, there is no chance, there is zero chance that these beans will ever germinate. Yet to participate in the program and be entitled to Federal crop insurance, I must plant the soybeans."

It seems that perhaps there we have a program that has slightly gone awry when this producer must spend that kind of money to qualify for benefits, knowing that each dollar he spends is literally going down the drain.

I would hope that the task force would consider assistance for farmers with nonprogram crops. I know that was discussed yesterday in the task force meeting, since I was there and heard the concerns of the agricultural producers throughout America who are not specifically involved in Federal farm programs, those who grow beans, vegetables and fruits. They have been equally hit by the drought, and these products are equally important to all of us as Americans, and they are important to our agricultural economy.

Relief programs must be extended and targeted to this group of farmers as well. Poultry producers have also been hard hit by the drought situation. I hope the task force and this Congress will consider the establishment of temporary credits through the Farmers Home Administration that will allow for the installation of insulation and large fans in poultry houses that will help provide relief in this situation.

Mr. Speaker, I would like to remind my colleagues that we must quickly consider a repeal of the diesel fuel tax, that onerous tax that we in the Congress have imposed on the farmers of this country, a tax that they must pay and then apply for a rebate later. This tax is unfair, it is counterproductive, and in the current drought situation it is only going to complicate and make worse the problems our farmers face. And as a part of that, we should also repeal the heifer tax. The preproductive expenses and the way we have changed the accounting for our family farmers was never well reasoned in my judgment. It is not logical, it does not make sense, and in this current situation it is only going to make the problems of the family farmer worse.

Mr. Speaker, as I say, we have got to work together on this problem. The problem demands a quick, bipartisan resolution, the consolidation of programs, and this Congress responding quickly to the needs of America's agricultural producers. I hope that we can prevent a national calamity by being reasonable and responsible to the needs of our agricultural producers.

I plan to be in meetings with the farmers in my district in the days and weeks ahead, asking for their input, their concern, and their help on what we can be doing in the Congress, and I hope to be a constructive part of the solutions that must be found to avert what surely may be a national calamity.

Mr. Speaker, we must work together. We must work soon, and we must do what we have to do quickly to make sure that this national calamity is averted.

UNITED STATES DANCING TO THE TUNE OF FOREIGN MONEY

The SPEAKER pro tempore (Mr. Cardin). Under a previous order of the House, the gentlewoman from Maryland [Mrs. Bentley] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, the American people are a very fair-minded, generous people. However, I have heard from some of them over this past week who have expressed difficulty in understanding the Defense Department cutting off research and development funds to American contractors in May, on May 20 to be specific, for whatever reasons, and then inviting 13 Japanese firms, including Toshiba to participate in a seminar and even to go so far as to provide them with a tour of R&D and other defense facilities. It is abhorrent to me that Toshiba was invited to participate in this seminar after selling our sensitive technology to the Russians. I have been reading stories about our need for foreign loans and the sale of assets to balance our trade accounts, but do we really need to go this far? I question that.

Do we need to do business with a company which deliberately, after signing an agreement with us, sold that precious technology? This sale enabled the Russians to develop quieter submarines, which in turn affected our national security, and, naturally, the national security of the whole Western World. It also is going to cost the American people at least $30 billion and maybe as much as $60 to $100 billion to offset the loss of that security.

□ 1540

My father always told me "You know a man by his word," and in this country many people did business on a handshake. Well, Toshiba did not honor its contract, nor its word. Any American company, any American company selling secrets to affect our national security, not only would be barred from doing business with the military, but it would face jail sentences and also would be ostracized by Americans.

Mr. Speaker, are we operating under a double standard in favor of foreign firms? It appears we are by inviting Toshiba to this defense seminar.

My colleagues know with all that is going on around Washington these days in the defense business, the defense world, and hearing that Japan, Inc. meaning all the Japanese firms, have spent more than $100 million lobbying in Washington this past year, that I cannot help but wonder whether some of that lobbying money helped pave the way for that invitation. The Defense Department actually is giving 13 Japanese companies a selected tour of R&D facilities and instructing them. Imagine this: We are even instructing them, according to the newspaper reports, how Government procedures function and how we deal with foreign interests.

Oh, boy; we are really great.

We all know that research and development is essential to keep a nation competitive, and that the United States has been the leader in innovation and creativity of products and that R&D is the heart of competitiveness.

Now any good American farmer will tell you that it really is not necessary to instruct a fox what to do in a chicken coop. All that can be done is to hope that the fox does not get all of the chickens. Well, let us hope that the Japanese fox does not eat our defense and arms industry as they have targeted and literally destroyed our semiconductor, machine tools, and a dozen other industries as I have been relating here on the floor as I have been reading bit by bit out of the book "The Japanese Conspiracy."

The Toshiba story, however, is only one example of the foreign interest stories which appeared in the paper over the past weekend. At the heart of these stories is our trade balancing jobs.

I have here a story from the Washington Post on June 19 entitled "Money Talks: How Foreign Firms Buy U.S. Clout," by Pat Choate. Pat also wrote that very excellent book called "The Hi-Flex Society," which spells out the impact of high technology on our industry and society.

Mr. Speaker, before reading the story I want to point out that foreign firms make a point of claiming that they are providing jobs by investing here. Well, according to the Harper's Index in the May issue this is not so. The estimated number of jobs created by American companies in Japan was 336,000. And the estimated number of jobs created in the United States by Japanese firms was 230,000.

There is one big difference. There is a difference of 106,000 more in Japan than in the United States, but there is also another big difference, and that is: How much control do we allow a Japanese firm to have in this country over that corporation versus how much do they allow for an American firm over in their country? It is a big difference.

To achieve this very unhealthy balance of trade the Washington Post article points out that 152 Japanese companies have hired 113 firms for Washington representation.

Now that is that lobbying money that we are talking about, and I will include the list of firms in the RECORD at this point:

JAPAN

Ajinomoto USA: Mike Masaoka Associates; Miner, Fraser & Gabriel Public Affairs (Edward Gabriel, J. Peter Segall).

All Nippon Airways Co.: Daniel J. Edelman, Inc.; Global USA, Inc.; SMC Internat'l (Sandra S. Mitchell); Zuckert, Scoutt and Rasenberger (James L. Devall).

American Honda Motor Co.: Toni Harrington, Manager, Government and Public Relations; Shogo Iizuka, Senior V. President; Schmeltzer, Aptaker and Sheppard (Michael Brown) Wilmer, Cutler and Pickering (Lloyd N. Cutler, Ronald J. Greene).

American Japanese Trade Committee: Mike Masaoka Associates (Mike M. Masaoka).

Asahi Chemical Industry Co.: Barnes, Richardson and Colburn (James S. O'Kelly).

Ass'n for the Advancement of Human Rights in Japan: Heron, Burchette, Ruckert and Rothwell; Parry and Romani Associates Inc. (Carmen G. Lowrey, Romano Romani).

Bank of Japan: Wilbur F. Monroe Associates (Wilbur F. Monroe).

Bank of Tokyo Trust Co., Epstein Becker and Green, Mike Masaoka Associates (Jennifer Smith).

Brother Industries, Ltd.: Hill and Knowlton Public Affairs Worldwide.

Brother Internat'l, Inc.: Richard W. Bliss; Tanaka, Ritger and Middleton (H. William Tanaka).

Central Union of Agricultural Cooperatives (ZENCHU): Arter & Hadden (Georgia H. Burke, William K. Dabaghi, Tom McDonald); Lerch and Co., Inc. (Donald G. Lerch, Jr.)

Chuba Electric Power Co.: Tatsuo Yagi, Chief Representative.

Communication Industries Ass'n. of Japan: Anderson, Hibey, Nauheim and Blair (Stanton D. Anderson); Mintz, Levin, Cohn, Ferris, Glovsky; and Popeo, P.C. (Charles D. Ferris).

Council of European and Japanese Nat'l Shipowners' Ass'ns: Kirlin, Campbell and Keating (Russell T. Weil), Peter G. Sandlund, Washington Representative.

Daiwa Securities Co., Ltd.: Heron, Burchette, Ruckert and Rothwell (Thomas A. Rothwell, Jr.).

Electric Power Development Co. Ltd.: Takeo Hirai, Chief Representative.

Electronic Industries Ass'n of Japan: Anderson, Hibey, Nauheim and Blair (Robert A. Blair); Hill and Knowlton Public Affairs Worldwide (Ralph Goldberg); Mudge Rose Guthrie Alexander and Ferdon; Saunders and Company (Steven R. Saunders); Shaw, Pittman, Potts and Trowbridge; Tanaka, Ritger and Middleton (B. Jenkins Middleton, H. William Tanaka).

Export-Import Bank of Japan: Deckert Price & Rhoads (Allan S. Mostoff).

Fanuc, Ltd.: Global USA, Inc.

Federation of Bankers Ass'ns of Japan: Shaw, Pittman, Potts and Trowbridge (John L. Carr, Jr.).

Federation of Japan Tuna Fisheries Cooperative Ass'ns: Anderson and Pendleton.

Flat Glass Ass'n of Japan: Tanaka, Ritger and Middleton (Patrick F. O'Leary, H. William Tanaka).

Florida Council on Asian Affairs: Saunders and Company (Brian Riendeau, Steven R. Saunders).

Fuji Heavy Industries Ltd.: Willkie Farr and Gallagher.

Fuji Photo Film U.S.A.: Daniel J. Edelman, Inc. (Daniel J. Edelman); Patton, Boggs and Blow (Ronald H. Brown); Tighe, Curhan & Piliero (Daniel J. Piliero, II).

Fujinon, Inc.: Marks Murase and White (Matthew J. Marks); Tighe, Curhan & Piliero (Pamela J. Mazza, Danial J. Piliero, II).

Fujitsu Ltd.: Akin, Gump, Strauss, Hauer and Feld (Warren E. Connelly, Richard Rivers); Paul, Hastings, Janofsky and Walker (Richard M. Fairbanks, III, G. Hamilton Loeb).

Hitachi America Ltd.: Hill and Knowlton Public Affairs Worldwide (Gary Hymel, Donald F. Massey); McDermott, Will and Emery (Robert S. Schwartz, Carl W. Schwarz); Jack McDonald Co. (Jack McDonald, Myron G. Sandifer, III).

Hitachi Ltd.: Junichi Aoki, Senior Representative; Global USA, Inc.; Hill and Knowlton Public Affairs Worldwide, Hiroshi Kitazki, Representative; McDermott, Will and Emery (Carl W. Schwarz), Powell, Goldstein, Frazer and Murphy (Stuart E. Eizenstat); TKC Internat'l, Inc.

Hitachi Metals, Ltd.: Graham and James (Stuart E. Benson, Mary Dennison, Michael A. Hertzbert, Lawrence R. Walders).

Industrial Bank of Japan, Ltd.: Wilbur F. Monroe Associates (Wilbur F. Monroe).

Internat'l Public Relations Co.: Civic Service, Inc. (Roy Pfautch); TKC Internat'l, Inc.

Izumi Seimitsu Kogyo Kabushiki Kaisha: Graham and James (Stuart E. Benson, Michael A. Hertzbert, Lawrence R. Walders).

Japan Aero Engines Corp.: Global USA, Inc.

Japan Aluminum Federation: Mudge Rose Guthrie Alexander and Ferdon.

Japan Auto Parts Industry Ass'n; Robinson, Lake, Lerer & Montgomery (James H. Lake).

Japan Automobile Manufacturers Ass'n; William C. Duncan, Deputy General Director; Akihiko Miyoshi, General Director, Washington Office; John P. Sears Law Offices (John P. Sears); Tanaka, Ritger and Middleton (H. William Tanaka), Elizabeth J. Vick, Public Relations Director.

Japan Automobile Tire Manufacturers Ass'n: Tanaka Ritger and Middleton (James Davenport, B. Jenkins Middleton, Michele N. Tanaka).

Japan Bearing Industrial Ass'n: Tanaka Ritger and Middleton (H. William Tanaka).

Japan Bicycle Ass'n: Bishop, Cook, Purcell & Reynolds (Bill Alberger).

Japan Center for Information and Cultural Affairs: Kaye, Scholer, Fierman, Hays and Handler.

Japan Chemical Fibers Ass'n: Internat'l Business and Economic Corp.

Japan Deep Sea Trawlers/Hokuten Trawlers Ass'n: Garvey, Schubert & Barer.

Japan Economic Institute of America: Eileen Marie Doherty, Government Relations Analyst; Barbara Warner, Political Economist.

Japan, Embassy of Dechert Price & Rhoads (Allan S. Mostoff); Laxalt, Washington, Perito & Dubuc; Milbank, Tweed, Hadley & McCloy; Ragen, Tremaine, Kreiger, Schmeer and Neill (Walter H. Evans, III); Saunders and Company (Steven R. Saunders); Sutherland, Asbill and Brennan (Douglas E. Rosenthal); Tanaka, Ritger and Middleton (H. William Tanaka); Verner, Liipfert, Bernhard, McPherson and Hand, Chartered (Leonard E. Santos); Washington Resources and Strategy, Inc (William R. Sweeny, Jr.).

Japan Export Metal Flatware Industry Ass'n. Tanaka, Ritger and Middleton (H. William Tanaka).

Japan External Trade Organization (JETRO) Mike Massoka Associates; Craig J. Spence Assoc., Inc. (Craig J. Spence); Verner, Liipfert, Bernhard, McPherson and Hand, Chartered (Leonard E. Santos).

Japan Fair Trade Center: APCO Associates (Kevin G. Nealer); Arnold and Porter (Patrick F.J. Macrory).

Japan Fisheries Ass'n: Frank, Richard A., Law Offices of Ginsburg, Feldman and Bress (David Ginsburg, Steven R. Perles, P.C.

Japan Galvanized Iron and Steel Exporters Ass'n; Wilkie Farr and Gallagher (Noel Hemmendinger).

Japan General Merchandise Exporters Ass'n: Tanaka, Ritcher and Middelton (H. William Tanaka).

Japan, Government of: Lerch and Co. Inc. (Donald G. Lerch, Jr.); Wilbur F. Monroe Associates (Wilbur F. Monroe); Tanaka, Ritcher and Middleton (H. William Tanaka).

Japan/Korea-Atlantic and Gulf Freight Conference: Warren and Associates.

Japan Lumber Importers Ass'n: Internat'l Business and Economic Research Corp.; Mudge Rose Guthrie Alexander and Ferdon (David P. Houlihan).

Japan Machine Tool Builders Ass'n: Anderson, Hibey, Nauheim and Blair (Stanton D. Anderson); Mibank, Tweed, Hadley & McCloy.

Japan Machinery Exporters Ass'n: Anderson, Hibey, Nauheim and Blair (Stanton D. Anderson).

Japan Metal Forming Machine Builders Ass'n: Anderson, Hibey, Nauheim and Blair (Santon D. Anderson).

Japan, Ministry of Foreign Affairs of: Eddie Mahe, Jr. & Assoc.; Saunders and Company (Steven R. Saunders).

Japan, Ministry of Internat'l Trade and Industry of: Wellford, Wegman and Hoff (W. Harrison Wellford).

Japan Pottery Exporters Ass'n: Tanaka, Ritger and Middleton (H. William Tanaka).

Japan/Puerto Rico and Virgin Islands Freight Conference: Warren and Associates (Charles F. Warren).

Japan Railway Technology Corp: Mike Masaoka Associates (Mike M. Masaoka).

Japan Special Steel Exporters Ass'n: Willkie Farr and Gallagher (William H. Barringer, Noel Hemmendinger, Zygmunt Jablonski).

Japan Telescopes Manufacturers Ass'n: Mike Masaoka Associates (Mike M. Masaoka).

Japan Times, The: Saunders and Company (Eric Edmondson, Brian Reindeau).

Japan Tobacco, Inc: Daniel J. Edelman, Inc. (Stephen K Cook); Hoppel, Mayer and Coleman (Neal M. Mayer); Internat'l Business-Government Counsellors, Inc. (John F. McDermid); Yutaka Komine, Director, Milbank, Tweed, Hadley & McCloy; Kazuya Takahashi, Exec. Director.

Japan Trade Center: Hill and Knowlton Public Affairs Worldwide; Mike Masaoka Associates (Mike M. Masaoka); Tanaka, Ritger and Middleton (B. Jenkins Middleton, H. William Tanaka); TKC Internat'l, Inc.

Japan Tuna Fisheries Cooperative: Anderson and Pendleton (Edmund E. Pendleton).

Japan Wire Products Exporters Ass'n: Willkie Farr and Gallagher (Noel Hemmendinger).

Japan Woolen and Linen Textiles Exporters Ass'n: Internat'l Business and Economic Research Corp.

Japanese Aircraft Development Corp.: Global USA, Inc.

Japanese Productivity Center: Daisaku Harada, Director, U.S. Office.

"K" Line Air Service (U.S.A.), Inc.: Robert N. Meiser, P.C.

Kawasaki, Kisen Kaisha, Ltd.: O'Connor & Hannan (George J. Mannina, Jr.); Warren and Associates (Charles F. Warren).

Kawasaki Motors Corp., USA: Paul, Hastings, Janofsky and Walter (Mark L. Gerchick); Fred B. Rooney.

Keizai Koho Center: Saunders and Company (Steven R. Saunders).

Kiutetsu World Express (U.S.A.), Inc.: Robert N. Meiser, P.C.

Komatsu Forklift, Ltd.: Graham and James (Michael A., Hertzberg, Lawrence R. Walders).

Komatsu Ltd.: Arnold and Porter, Global USA, Inc.

Konishoruku Photo Industry U.S.A.: Ginsburg, Feldman and Bress; Jones, Day, Reavis and Pogue (Robert M. Brown, Jerome J. Zaucha).

Kyocera Corp: Global USA, Inc.

Makita Electric Works Ltd.: Bell, Boyd and Lloyd (William Zeitler); Hill and Knowlton Public Affairs Worldwide (Anna Maria Dresen).

Manufactured Imports Promotion Organization (Japan): Norihiro Kono, Director, Washington Office.

Marubeni America Inc.: Lerch and Co., Inc. (Donald G. Lerch, Jr.).

Matsushita Electric Corp. of America: Morgan, Lewis and Bockius; Patton, Boggs and Blow (Ronald H. Brown); Weil, Gotshal & Manges (Bruce H. Turnbull).

Matsushita Electronic Corp.: Weil, Gotshal & Mange (Jeffrey P., Bialos, Eric P. Salomen).

Minebea Co.: Tanaka, Ritger and Middleton (H., William Tanaka).

Mitsubishi Corp.: Barnes, Richardson and Colburn (Edgar Thomas Honey); Winston and Strawn (L. Daniel O'Neill).

Mitsubishi Electric Corp.: Baker and McKenzie (Thomas P. Ondeck, William D. Outman, II); Robinson, Lake, Lerer & Montgomery (James H. Lake); Saunders and Company (Steven R. Saunders).

Mitsubishi Internat'l Corp.: Gordon Epstein, Manager; Jiro Kamimura, General Manager; Motoatsu Sakurai, Deputy General Manager.

Mitsubishi Trust and Banking Corp.: Civic Service, Inc. (Roy Pfautch).

Mitsui and Co.: Barnes, Richardson and Colburn (James S. O'Kelly); Steptoe and Johnson (Charlene Barshesky, Richard O. Cunningham, Susan G. Esserman).

Mitsui and Co. (U.S.A.), Inc.: William C. Bell, Research Associate, Government Reserach Corp.; Arthur E. Klauser, Senior V. President; Ronald Soriano, Assistant to the General Manager; Elaine L. Swanson, Research Associate.

Mitsui O.S.K. Lines, Ltd.: Warren and Associated (George A. Quadrino, Charles F. Warren).

Nakajama All Co.: Patton, Boggs and Blow (Thomas Hale Boggs, Jr.).

NEC Corp.: Coudert Brothers (Mark D. Herlach); Hill and Knowlton Public Affairs Worldwide, Manatt, Phelps, Rothenberg & Evens; Paul, Weiss, Rifkind, Wharton and Garrison (Thomas J. Fortune, Robert E. Montgomery, Jr.)

NEC Electronics (USA) Inc.: Dorsey and Whitney; Paul, Weiss, Rifkind, Wharton and Garrison (Robert E. Montgomery, Jr.).

New Energy Development Organization: Toshiaki Yamamoto, Chief Represenative.

Nippon Benkan Kogyo Co., Ltd: Akin, Gump, Strauss, Hauer and Feld (Warren E. Connelly).

Nippon Cargo Airlines: Lord Day & Lord, Barrett Smith (Joanne W. Young); Williams and Jensen, P.C. (John J. McMackin, Jr.); Zuckert, Scoutt and Rasenberger (James L. Devall).

Nippon Electric Co., Ltd.: Coudert Brothers (Milo C. Coerper).

Nippon Kokan K.K.: Willkie Farr and Gallagher (William H. Barringer).

Nippon Steel Corp.: Steptoe and Johnson (W. George Grandison, Daniel J. Plaine).

Nippon Telephone and Telegraph Corp.: Civic Service, Inc. (Roy Pfautch); Winston and Strawn (L. Daniel O'Neill).

Nippon Yusan Kaisha (NYK) Line: Pettit & Martin (Harry W. Cladauhos, John H. Korns, George W. Thompson Jr.); Warren and Associates (George A. Quadrino, Charles F. Warren).

Nisei Lobby: Mike Massoka Associates (Mike M. Massoka).

Nissan Aerospace Division: Charles Louis Fishman, P.C.

Nissan Chemical Industries Ltd.: Graham and James (Stuart E. Benson, Michael A. Hertzberg).

Nissan Industrial Equipment Co.: Arnold and Porter (Patrick F. J. Macrory).

Nissan Motor Co., Ltd.: Arnold and Porter (Patrick F. J. Macrory); Charles Louis Fishman, P.C.; Manchester Associates, Ltd. (John V. Moller).

Nissan Motor Corp in U.S.A.: Franklin J. Crawford, Director, Government and Public Affairs; Dorsey and Whitney; Yutaka Suzuki, Vice President, External Relations.

Nomura Research Institute: Kiyohiko Fukushima, Manager, Washington Office; Wilbur F. Monroe Associates (Wilbur F. Monroe).

Ohbayashi Corp.: Saunders and Company (Eric Edmondson, Steven R. Saunders).

OKI Electric Industry Co., Ltd.: Saunders and Company (Brian Riendeau); Wilmer, Cutler and Pickering (Robert C. Cassidy, Jr., John D. Greenwald).

Onoda Cement Co., Ltd.: Tanaka, Ritger and Middleton (Patrick F. O'Leary, H. William Tanaka).

Sambo Copper Co., Ltd.: Sharretts, Paley, Carter and Blauvelt (Beatrice A. Brickell, Peter O. Suchman).

Sanyo Electric Co., Ltd.: Patton, Boggs and Blow (Ronald H. Brown); Sharretta, Paley, Carter and Blauvelt (Peter O. Suchman).

Seiko-Epson Corp.: Saunders and Company (Steven R. Saunders).

Sharp Electronics Corp.: Marks Murase and White (Matthew J. Marks); Patton, Boggs and Blow (Ronald H. Brown); Tighe, Curhan & Piliero (Daniel J. Piliero, II).

Shigehiro Uchida: Graham and James (Eliot J. Halperin).

Shows Line, Ltd.: Hoppel, Mayer and Coleman (Neal M. Mayer); Warren and Associates (George A. Quadrino Charles F. Warren).

Sony Corp.: Arent, Fox, Kintner, Plotkin & Kahn; Debevoise and Plimpton (Robert R. Bruce, Jeffrey P. Cunard); Miller and Chevalier, Chartered (Donald Harrison); Patton, Boggs and Blow (Ronald H. Brown).

Subaru of America: Alfred Gloddeck, Manager, Regulatory Affairs.

Sumitomo Bank Ltd.: Shaw, Pittman, Portts and Trowbridge.

Sumitomo Corp.: Stafford, Burke and Hecker (Kelly H. Burke, Guy L. Hecker, Thomas P. Stafford).

Sumitomo Corp. of America: Mike Massoka Associates (Patti A. Tilson); Robert N. Meiser, P.C.

Sumitomo Electric Industries, Ltd.: Marks Murase and White.

Sumitomo Metal Industries, Ltd.: Marks Murase and White; Wilmer, Cutler and Pickering (John D. Greenwald, David Westin).

Sumitronics Inc.: Robert N. Meiser, P.C.

Suntory Internat'l: Mike Massoka Associates.

Suzuki Motors Co., Ltd.: Pettit & Martin (Harry W. Cladouhos).

Suzuki of America: Robinson, Lake, Lerer & Montgomery (James H. Lake).

Taiyo Fishery Co., Ltd.: Garvey, Schubert & Barer.

Takata Corp.: Mike Massoka Associates (T. Albert Yamada).

TEAC Corp.: Patton, Boggs and Blow (Ronald H. Brown).

Toa Nenryo Kogyo Kabushiki Kaisha: First Associates Inc. (Floyd I. Roberson).

Tokyo Electric Co., Ltd.: Kelley, Drye and Warren (Edward M. Lebow).

Tokyo Electric Power Co.: Kazuo Asano, Director and General Manager Koichi Miyamoto, Manager.

Tokyo Juki Industrial Co., Ltd.: Dorsey and Whitney.

Toshiba America, Inc.: Anderson, Hibey, Nauheim and Blair (Robert A. Blair): Arent, Fox, Kintner, Plotkin & Kahn (Burton V. Wides); Dickstein, Shapiro and Morin (John C. Drill); Mudge Rose Guthrie Alexander and Ferdon (Jeffrey S. Nelley, N. David Palmeter); Worldwide Information Resources (WIRES) Ltd. (Richard J. Whalen).

Toshiba Corp.: Anderson, Hibey, Nauheim and Blair (Robert A. Blair); Dickstein, Shapiro and Morin (Leonard Garment, James R. Jones, G. Joseph Minetti); Daniel J. Edelman, Inc.; Mudge Rose Guthrie Alexander and Ferdon (Julia Christine Bliss, David P. Houlihan, David A. Vaughan); Patton, Boggs and Blow (Ronald H. Brown).

Towa Optical Manufacturing Co.: Mike Massoka Associates (Mike M. Massoka).

Toyo Menka Kaisha, Ltd; Sedam and Shearer.

Toyo Umpanki Co., Ltd.: O'Melveny and Myers (Kermit W. Almstedt, Greyson Bryan, Sheila J. Landers).

Toyota Motor Corp.: Arent, Fox, Kintner, Plotkin & Kahn (John D. Hushon, Burton V. Wides); Jones, Day, Reavis and Pogue; Miller and Chevalier, Chartered.

Toyota Motor Sales, U.S.A.: Robert C. Daly, National Industry Affairs Manager; Hogan and Hartson (Clifford S. Gibbons, Gerald E. Gibert); Charles E. Ing, Legislative Affairs Manager; Kendall and Associates (William T. Kendall); Mike Massoka Associates (Mike M. Massoka, Patti A. Tilson, T. Albert Yamada); C. Douglas Smith, Government & Industry Relations Manager; Motoyuki Tsutsui, V. President; Kenji Ueno, Senior Exec. Coordinator; Koichi Watanabe, Senior V. President; Worldwide Information Resources (WIRES) Ltd. (David W. Secrest, Richard J. Whalen).

Trans-Pacific Freight Conference of Japan/Korea: Warren and Associates.

Universal Public Relations Co.: Civic Service, Inc. (Roy Pfautch).

Yamaha Motor Corp.: Wald, Harkrader and Ross; Willkie Fary and Gallagher (William H. Barringer, Stephen (Greiner).

Yamaichi Internat'l: Brownrigg and Muldoon.

Yamashita Shinnibon Steamship Co.: Warren and Associates (George A. Quadrino, Charles F. Warren).

Yamazaki Machinery Works, Ltd.: Finnegan, Henderson, Farabow, Garreti and Dunner (Brain G. Brunsvold).

"Foreign interests are spending more money than our most prestigious organizations representing American business," the Post articles states. For this representation and grassroots activity they pay more than $100 million; that is what I referred to a minute ago, and listen to this: more than the combined budgets of the U.S. Chamber of Commerce, the National Association of Manufacturers, the Business Round Table, the Committee for Economic Development and the American Business Conference. In other words, the Japanese interests spent more money in lobbying here in Washington than all of the American organizations combined.

I also question if foreign corporations should be permitted to operate political action committees and become involved in the financing of American elections. According to the Post article they spent $2 million in the 1968 election cycle.

Now my colleagues know that the thing that really bothers me, I think as much as anything, is why our media does not go after that, why our media simply reports the facts and lets it go. I could imagine how our media would go after any American companies or any American group that spent $2 million anywhere overseas in political action money to try and influence the legislatures in the other countries. This disturbs me a great deal, and let us refer to this article a little bit. It was a well laid out, big article.

And under that title, "Money Talks: How Foreign Firms Buy U.S. Clout," it says, "When senior statesman Elliot Richardson appeared on the national television "It's Your Business" a couple of months ago, he was addressed throughout the show as "Mr. Ambassador," because he was an Ambassador representing our Government at one time. He was also Secretary/Cabinet officer on two or three of the three Cabinet posts. His comments on the many benefits of growing foreign investment in this country were accorded the respect due to one who has held three Cabinet posts, three, and a score of other high-level Government positions at home and abroad. Never mentioned throughout the program, and this is important here again how the media fails to identify everything in this country, was the fact that Richardson now is representing other interests, those of the recently formed Association of Foreign Investors in America.

Richardson is only one among scores of other high-level Government officials, according to Pat Choate's article, including former Vice President Walter Mondale, 18 senior Presidential aides, 6 Senators, 10 Congressmen, and 4 top-level military officers who have become spokespersons, advisers or lobbyists for foreign companies and their governments in recent years.

James H. Lake, and this one breaks my heart, named last week as an unpaid adviser to the Bush campaign, for example, was already regarded as an especially effective representative for European and Japanese interests because of his close ties to United States Trade Representative Clayton Yeutter to whom he provided advice on staffing and organization of the United States Trade Representative Office and to earlier Reagan-Bush campaigns.

> The involvement of these former officials illustrates that, as foreign ownership of U.S. assets expands, foreign owners are seeking to protect their interests by deepening their involvement in our domestic politics. Aping their American competitors, they are lobbying, politicking and propagandizing on an unprecedented scale, and often much more effectively. As a result, America's trade and economic policies—a sure focus for debate at this week's economic summit—are often shaped as much by foreign companies and their governments as by U.S. interests.

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And it goes on about the $100 million or more that they spend, passing up all the American organizations, and it asks in this article:

> Should foreign corporations be permitted to operate PACs and become involved in the financing of American elections—as they now are to the extent of at least $2 million in the 1988 election cycle?
>
> Has Congress become too susceptible to political pressures generated by grass roots propaganda campaigns sponsored by foreign corporations and their governments and can tighter lobbying and disclosure laws reduce this pressure?
>
> How pervasive is foreign support of research and policy analysis on international economic issues by think tanks and scholars who generate the ideas for America's political candidates, elected officials and policymakers? Would expanded support for such research from U.S. foundations, businesses and government be desirable?

Mr. Speaker, I ask unanimous consent to include the entire article in my statement today.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

MONEY TALKS: HOW FOREIGN FIRMS BUY U.S. CLOUT

(By Pat Choate)

When senior statesman Elliot Richardson appeared on the national television program "It's Your Business" a couple of months ago, he was addressed throughout the show as "Mr. Ambassador." His comments on the many benefits of growing foreign investment in this country were accorded the respect due to one who has held three Cabinet posts and a score of other high-level government positions at home and abroad. Never mentioned throughout the program was the fact that Richardson is now representing other interests: those of the recently formed Association of Foreign Investors in America.

Richardson is only one among scores of former high-level government officials—including former Vice President Walter Mondale, 18 senior presidential aides, six senators, 10 congressmen and four top-level military officers—who have become spokespersons, advisers or lobbyists for foreign companies and their governments in recent years. James H. Lake, named last week as an unpaid adviser to the Bush campaign, for example, was already regarded as an especially effective representative for European and Japanese interests because of his close ties to U.S. Trade Representative Clayton Yeutter (to whom he provided advice on staffing and organization of the USTR office) and to earlier Reagan-Bush campaigns.

The involvement of these former officials illustrates that, as foreign ownership of U.S. assets expands, foreign owners are seeking to protect their interests by deepening their involvement in our domestic politics. Aping their American competitors, they are lobbying, politicking and propagandizing on an unprecedented scale, and often much more effectively. As a result, America's trade and economic policies—a sure focus for debate at this week's economic summit—are often shaped as much by foreign companies and their governments as by U.S. interests.

This year, for example, 152 Japanese companies and government agencies have hired 113 firms for Washington representation. For this representation and grass-roots activities they will pay more than $100 million—more than the combined budgets of the U.S. Chamber of Commerce, the National Association of Manufacturers, The Business Roundtable, the Committee for Economic Development and the American Business Conference—the five most influential business organizations in Washington.

This kind of muscle can pay off. In this year's political battle over the trade bill, for example, a coalition of European, Canadian and Japanese lobbyists masterminded the defeat of a legislative proposal that would have enabled the federal government to monitor foreign investment in this nation—something other governments do as a matter of course. Similarly a coalition of European and developing nations overwhelmed efforts by American firms to close a major loophole in the dumping laws that permits the import of goods sold at below production cost once a third country incorporates them into another product.

No one doubts that foreign interests are entitled to representation in Washington. But one may raise questions about the nature and form of such representation:

Should former high-ranking U.S. officials—people who are privy to Washington's economic and trade strategies—be permitted to lobby for foreign economic rivals?

Should foreign corporations be permitted to operate PACs and become involved in the financing of American elections—as they now are to the extent of at least $2 million in the 1988 election cycle?

Has Congress become too susceptible to political pressures generated by grass roots propaganda campaigns sponsored by foreign corporations and their governments and can tighter lobbying and disclosure laws reduce this pressure?

How pervasive is foreign support of research and policy analysis on international economic issues by think tanks and scholars who generate the ideas for America's political candidates, elected officials and policymakers? Would expanded support for such research from U.S. foundations, businesses and government be desirable?

While growing foreign investment in the United States is partially documented, the escalating foreign efforts to shape America's trade and economic policies are virtually uncharted. One aspect of this influence is, however indisputable: Foreign lobbying is well-staffed, well-organized and well-financed.

Canada, the next most active country after Japan, currently has 61 organizations representing its government and firms. Third in line are the British with 44 lobbying, public relations and law firms representing their interests in Washington. There are now almost 8,000 foreign agents registered with the Justice Department.

Not all would-be foreign agents are as blatant in their approach as former Commerce Department official Robert Watkins. Watkins was criticized by some U.S. firms and members of Congress as insufficiently tough in representing U.S. interests when he was in charge of efforts to open Japanese markets to U.S. auto parts in 1986 and 1987. Just as the negotiations were concluding last fall, Watkins sent a letter to Japanese auto parts manufacturers offering to organize and lead a lobbying association to represent their interests in this country.

Watkins is probably an extreme case. But the easy availability of many well-connected former U.S. government officials certainly increases the effectiveness of foreign lobbying. Since 1980, more than 100 former federal office-holders have joined the ranks of many others who once held important U.S. positions and now advise or speak for foreign companies and their governments.

Watkins is probably an extreme case. But the easy availability of many well-connected former U.S. government officials certainly increases the effectiveness of foreign lobbying. Since 1980 more than 100 former federal office-holders have joined the ranks of many others who once held important U.S. positions and now advise or speak for foreign companies and their governments. Former officials are unusually effective representatives: They have a special knowledge of the inside workings. of U.S. trade, investment and related economic strategies. Moreover, like James Lake, they have privileged access to high-ranking friends, former colleagues and subordinates who still work within the government.

Ex-officials are also excellent public relations people. Their expertise is often sought out by the media through which they can advance positions by writing editorial pieces, appearing on television and commenting on trade matters. But when they do so, they are generally identified only as knowledgeable former government officials. Those who are required to file foreign-agent registrations with the Justice Department are supposed to attach a copy of their registration statement with any testimony they give before Congress. An informal check shows that fewer than 2 percent do.

Foreign interests also have the diplomatic edge in Washington. A key function for foreign ambassadors is opening political doors for their country's economic interests and, when necessary, escalating trade matters into national issues.

For most American companies, the only comparable political access comes from the direct involvement of the Chief Executive Officer. CEOs still have a certain cachet in Washington since the powerful, after all, are intrigued by the powerful. But only a handful of American CEOs are moved to translate this fascination into Washington influence. A recent A.T. Kearney Company survey of the CEOs of 150 manufacturing companies found that only a quarter of those surveyed even try to affect public policies.

Furthermore, as U.S. companies become more dependent upon foreign sources for financing, components and supplies, their willingness to complain about predatory foreign trade practices diminishes. Witness the cacaphony of conflicting responses when the U.S. finally moved to stop several years of illegal Japanese dumping of semi-conductors upon which many American companies had, in the interim, become dependent (a practice of economic entrapment which U.S. robber barons understood and applied well in the 19th century.)

Just as foreign interests invest wisley and handsomely in direct lobbying so too they invest strategically to shape public opinion to their advantage. More than 100 foreign companies, for example, have legally created their own Political Action Committees (PACs) by stimulating contributions from their American employees. Bruce Stokes reported in the National Journal that foreign-company PACs contributed more than $1.1 million in the 1985-86 election cycle. Federal Election Commission data indicate that these expenditures will rise considerably to the end of the current cycle.

In addition to lobbying and politicking, a growing number of foreign companies and their governments are propagandizing. The Japanese, moreover, are systematically integrating the three approaches into a carefully crafted grass-roots public relations campaign, the details of which have received almost no attention in the general press. Japan's campaign, like those of other nations, is designed to influence federal officials by going over their heads to U.S. voters, local officials and the press. It was begun in 1986 to deflect American criticism about the fairness of Japanese trade practices and to emphasize the benefits of Japanese investment in the United States. Its clear message: Criticism of Japanese protectionism threatens these benefits upon which America is increasingly dependent.

In late 1985, Akio Morita, chairman of the powerful Electronic Industries Association of Japan, laid out for the member companies how and why EIAJ must "seek direct contact with the American people * * * [and] make stronger efforts to convince local governments, leading to a concerted effort to have more impact on the federal government."

The EIAJ campaign is extraordinarily comprehensive. It includes: (1) staging debates and seminars in states and localities; (2) staging local events with local Japanese factories and plants; (3) publishing local newsletters and magazines; (4) exchanges with state universities and think-tanks; (5) contacting state economic development bureaus, local Chambers of Commerce and state offices of U.S. senators and representatives; (6) exchanges with local consumer organizations; seminars at the state level; (7) contacting local press representatives, and (8) introducing student exchange programs.

Japan's PR effort is also extraordinarily well-bankrolled. Craig Smith, editor of the "Corporate Philanthropy Report" estimated that between 1985 and 1986, contributions by Japanese companies to U.S. nonprofit organizations alone jumped from $50 million to $100 million.

Japanese publicists have also demonstrated a hair-trigger willingness to label criticism of Japanese protectionism as "Japan-bashing" and tough U.S. actions as "racism." In a remarkable outburst last April, for instance, Hajime Tamura, Japan's powerful Minister of International Trade and Industry, urged a presidential veto of an American trade bill he deemed "racist."

Of course, Japan-bashing does occur; and some Americans are racist. But a large number of the accusations of Japan-bashing are nothing but cynical gambits served up to weaken legitimate American complaints and to avoid substantive action. Unfortunately, these ploys often succeed.

Another source of potential influence comes from the growing number of foreign corporations and their governments supporting the work of the policy institutes and scholars who supply elected officials and other policy makers with ideas. While the views of these institutes and scholars are genuinely held, significant foreign funding amplifies their particular perspectives and gives them a sharp competitive advantage in the idea marketplace.

A good example of this dynamic is the work of the Institute for International Economics, almost certainly the think tank with the greatest influence on trade policy thinking in Washington. It was created—and, until recently, principally financed—by monies provided by the West German government through the German Marshall Fund of the United States. This support is now augmented with funds from Japan and U.S. donors.

From its inception, the Institute has been a strong advocate of laissez-faire trade policies. Its studies have minimized both contributions of foreign protectionism to America's trade deficit and the feasibility of reciprocal actions to reduce that protectionism.

A measure of the Institute's influence is the wide and quick acceptance of its estimates that Japanese protectionism contributes relatively little to the U.S.-Japan trade deficit. For example, in 1981 Institute scholars estimated that the Japanese barred only $2 billion of U.S. exports—an amount that, as author and former trade official Clyde Prestowitz has pointed out, could be accounted for by restrictions on sales of U.S. tobacco products alone. Commerce Department analysts, by contrast, calculated that the figure for 1982 was closer to $20 billion.

In early 1985, the Commerce Department compiled a short list of U.S. products, such as citrus and soda ash, excluded by Japanese protectionism and worth an estimated $17 billion—then equal to about half the U.S.-Japan trade deficit. Later that year, however, an Institute report made a startling, widely reported assertion: America's trade and economic practices were actually more protectionist than Japan's. The Institute concluded that Japanese protectionism contributed only $5 billion to $8 billion to the U.S.-Japan trade deficit—about 10 to 15 percent.

This 10-to-15-percent estimate has been quoted so often that its source is seldom cited any longer and its validity never questioned. Japanese negotiators use it as proof that their trade barriers are minimal. The administration has used it to oppose tough new provisions in the current trade bill against predatory practices including the controversial Gephardt amendment whose author, Rep. Dick Gephardt (D-Mo.), himself cited the Institute estimate. And yet ongoing work by scholars estimates that Japanese protectionism, in all its many forms, may now deflect an annual amount of U.S. exports roughly equal to the $50 billion-plus U.S.-Japan trade deficit.

As foreign investors increase their holdings in this country, it is understandable that they will make every effort to protect those interests. Far less understandable are the jaded attitudes of U.S. policymakers, politicians and public towards the conflict of interest that can certainly arise where high government officials and advisers trade in their expertise for well-paid positions representing foreign interests.

The most important step toward curbing undue foreign interests is to eliminate the American overconsumption that has led to our reliance on foreign loans and foreign purchases of U.S. assets to balance our trade accounts. Beyond that we need stricter ethics laws, better enforcement of existing laws and—especially—a commitment by future administrations to set and enforce the highest standards of conduct for government officials.

Finally, it would be helpful if the media would more carefully identify the affiliations of former government officials who now serve as foreign agents or advisers, as well as those of independent experts. Perhaps few if any of these spokespersons and commentators are influenced in their opinions by the sources of their livelihoods, but certainly there can be no harm in giving readers and viewers all the information that might help them balance their judgment of what they read and hear.

Well, we see how much foreign influence there is around us here in Washington.

The Post had another article, "How Foreign Money Is Changing Washington," by Paul Farhi.

Foreign money is flowing into Washington, according to that Post article, because the decline of the value of the dollar against foreign currencies during the past 3 years makes American assets relatively cheap. Foreign firms find it to their advantage both politically and financially to have factories or other operations in America, the world's largest consumer market.

Today's foreign interests own between 16 and 30 percent of all commercial real estate in downtown Washington. And of course, we know already the Japanese interests own about 46 percent of the commercial properties in downtown Los Angeles, and on and on we go.

The Post article also points out that we are a Government town and the foreign interests are profiting from the toil of our Government workers, not the Americans.

Mr. Speaker, I will include that article, "How Foreign Money Is Changing Washington," at this point. I will just touch on one or two paragraphs.

How Foreign Money Is Changing Washington

(By Paul Farhi)

You don't need to be an international economist to understand how foreign money is transforming the Washington area. Take a typical day.

You awaken and wash up with a bar of Dove soap. You dress in a Brooks Brothers suit or an outfit purchased at Bloomingdale's and hop into your car, which sports Michelin tires and parts supplied by Marada Inc. At your downtown office in the U.S. News and World Report Building, you cozy up to a Fujitsu computer or use a Northern Telecom phone system.

At lunchtime you pick up an out-of-town business associate who is staying at the Embassy Suites hotel. After work you shop at a Benetton store or maybe Laura Ashley, paying for it with money from a First American Bank cash machine.

For a late snack, you eat cookies made by Keebler Co.

In each instance, foreign-owned companies with operations a few miles from the White House produced or marketed what you're eating, wearing, driving and working on. Other foreign investors own your office building, the hotel, the stores and the bank.

Most consumers know that Sony ships its VCRs here from Japan and Hyundai brings over cars from South Korea. But less obvious is that a bar of Dove soap comes from a Baltimore factory owned by the giant Dutch marketer Unilever, or that Brooks Brothers is owned by a British concern, Marks & Spencer PLC. And while General Motors makes its own cars in Baltimore, Marada, a Canadian-owned company, produces the parts.

Foreign money is pouring into the Washington area, and not just the kind that goes to finance the federal deficit. In recent years, foreign investors have become an important component in the local economy as the owners of such "hard" assets as plants, equipment and office buildings.

According to a new study by the Washington/Baltimore Regional Association and interviews with other analysts, the region is one of the nation's strongest magnets for francs, yen, pounds, marks and other international currencies. Consider:

Between 1980 and 1987, direct foreign investment in the area grew by about $4.2 billion, or about 168 percent. Total direct foreign investment—that is, the value of all hard assets held by foreigners—was estimated at $6.7 billion at the end of last year.

The region's 914 foreign affiliates employed 85,458 workers as of last year, a 54.5 percent gain between 1980 and 1987. The total is equivalent to the combined work forces of such home-grown companies as MCI Communications Corp., Gannett Co. Inc., Giant Food Inc., Geico Corp., and Potomac Electric Power Co.

Foreign interests own between 16 percent and 30 percent of all the commercial real estate in downtown Washington, according to the District of Columbia's Office of International Business. The Kenneth Leventhal & Co. accounting firm estimates that Japanese landlords alone own $510 million worth of downtown property.

Although the region's 168 percent growth in foreign investment during 1980-87 lags slightly behind the national average of 173.2 percent, the national picture is distorted by heavy foreign investment in a few key areas. The New York metropolitan area, for example, attracted nearly 40 percent of all major foreign transactions in 1986, while foreign investment in California climbed a staggering 565 percent between 1977 and 1984, driven by huge infusions of Asian money.

By contrast, the Washington metropolitan area gets a disproportionate share of foreign investment relative to its size. The nation's 10th most-populous region as measured by the Census Bureau in 1985, the Washington-Baltimore market had the fourth-highest number of major transactions by foreign investors in 1986, ranking behind the New York, Los Angeles and San Francisco areas, according to the Department of Commerce. Most of the money—78 percent—comes from Canada and Europe; a relatively small amount comes into the area from the Middle East and Asia, according to the Baltimore-Washington Regional Association.

"We've had a gut feeling for some time that this area has been a tremendously strong draw for foreign capital," said Richard W. Story, executive director of the Washington/Baltimore Regional Association. "The numbers confirm our impression."

Foreign money is flowing into this area for many of the same reasons it is flowing into the United States generally: The decline in the value of the dollar against foreign currencies during the past three years makes American assets relatively cheap; foreign firms find it to their advantage, both politically and financially, to have factories or other operations in America, the world's largest consumer market; and the United States is considered a safe investment, both for its political stability and its long-term economic prospects.

But the Washington-Baltimore corridor has its own particular attractions, according to civic boosters like Story. These include proximity to federal regulatory and research agencies, a large professioanl labor pool, a highly developed transportation system and an economy that has been called recession-proof.

"Washington is the safest harbor in a safe harbor," said Courtland Cox, acting director of the D.C. Office of International Business. "As the seat of the federal government, we'll always have some basic strength."

Fokker B.V., the Dutch commerical airplane manufacturer, for instance, set up its U.S. subsidiary in Alexandria four years ago. Stuart Matthews, chief executive of Fokker Aircraft USA, says the company wanted to be on the East Coast to maintain overlapping business hours with its parent firm in Amsterdam. Matthews also likes the idea that his sales representatives are an airplane ride away from potential customers throughout North America, and that the subsidiary is near industry trade groups in Washington. It doesn't hurt, either, that Fokker's biggest client is Washington-based USAir Group Inc.

Although almost three-quarters of the foreign capital invested here went into real estate or manufacturing deals, Fokker may be typical of the multinationals that have set up shop in the area. Fokker doesn't manufacture anything at its Alexandria site. Its 50 employees are service and support workers—sales representatives, accountants, attorneys, administrators.

Other companies, such as Olivetti, Canon, Sharp, British Aerospace and Toshiba, have sales offices or distribution warehouses in the Washington area—reflecting the regional economy itself, which is heavily service-oriented.

As always, the large presence of foreign-owned businesses and real estate worries some people. They say foreign ownership places Americans at the economic mercy of outsiders, subject to decisions taking place thousands of miles away.

In this view, the profit from the toil of local workers is taken from the region and repatriated to enrich Canadians, Germans, Japanese, British and Dutch nationals. Consumer advocate Ralph Nader, for one, recently complained that rents were going up so fast in buildings owned by foreigners in downtown Washington that public-interest groups were being forced out of the city.

"Down the road, we may look around and not like what's happended," said Ronald H. Daversa, president of the Suburban Maryland International Trade Association, an export-promotion group. "We may find ourselves on the outside looking in. When you have foreign ownership, you have foreign control."

Nonsense, reply those who see foreign investment as a positive economic force. Their argument goes like this: Foreign investment creates jobs, generates taxes, brings new technical skills, and may even lead to increased exports. Besides, unlike foreign investment in U.S. financial assets, foreign owners of local factories and building can't take their investment out of the country.

Downtown Washington is a case in point: A large portion of new construction in the city, such as the Market Square development on Pennsylvania Avenue and several buildings east of 15th Street NW, has been financed by Canadian, Dutch and Japanese money.

"There is no [indigenous] capital formation in D.C.," Cox said. "It would be nice if the moms and pops could raise the kind of money it takes to build a building, but moms and pops don't build big buildings." To keep the money rolling in, the District formed the Office of International Business last October.

By doing so, the District joined the long parade of states seeking foreign investment with all the fervor of a crusade.

Virginia Gov. Gerald L. Baliles had made advocacy of foreign trade a key part of his administration and has led several delegations overseas in search of markets for Virginia products and foreign investment in the state. And Maryland spends $4 million annually on international trade and tourism promotion; it recently reorganized its effort under an office called the Maryland International Division.

Maryland's effort apparently is paying off: Employment at firms owned by foreigners in the state grew 2½ times, to 50,000, between 1977 and 1986, according to Eric Feldmann, who directs the international office. Within the past few months, a German electronics test-equipment maker opened a facility in Lanham and a French luggage manufacturer opened a factory on the Eastern Shore.

But before it gets too bullish on foreign investment, Maryland, and the rest of the region, might keep an eye on what could be some nasty weather ahead. After all, some of the economic conditions that have allowed the nation to suck in foreign capital must inevitably slow, experts say, and with it will go the flurry of foreign acquisitions.

The most important of these is the expansion of the economy, which has made foreigners willing to bet on America's future. A recession could delay further capital investment from overseas. Second, the dollar appears to have stopped its slide, at least temporarily, meaning U.S. assets won't continue to come cheaply to foreigners (although dollar profits from foreign-owned businesses here won't be losing value, either). Third, if the restructing of large American companies winds down, there simply may not be as many assets for sale in the near future.

Robert Grow, director of research for the Washington/Baltimore Regional Association, says one support for foreign investment has been removed. With the repeal of the capital-gains tax exemption in the Tax Reform Act of 1986, American companies lost one incentive to sell assets. But Grow also points out the inevitable flip side: If the nation's trade and budget deficits continue to widen, the dollar would weaken again, touching off a new round of foreign acquisitions.

And how bad would that be? For government officials and workers who have gotten used to bosses from across the border, it might well be business as usual.

FOREIGN INVESTMENT

	1980	1986	1987 (estimate)	Percent change (1980–87)
In United States:				
Number of affiliates of foreign companies	6,822	9,669	10,143	48.6
Gross value of plants/equipment (billions)	$127.8	$317.6	$349.2	173.2
Employees	2,033,932	2,964,492	3,017,214	51.0
In Washington-Baltimore Area:				
Number of affiliates of foreign companies	569	865	914	60.6
Gross value of plants/equipment (billions)	$2.5	$6.1	$6.7	168.0
Employees	55,293	81,310	85,456	54.5

Note: Gross value of plants and equipment is book value.

Source: U.S. Department of Commerce; Washington/Baltimore Regional Association.

FOREIGN DIRECT INVESTMENT[1]

[Transactions by market (1986)]

Market	Number of transactions	Percent of all transactions
1. New York/northern New Jersey/Long Island	161	39.5
2. Los Angeles/Anaheim/Riverside	62	15.2
3. San Francisco/Oakland/San Jose	45	11.0
4. Washington/Baltimore	37	9.1
5. Chicago/Gary/Lake County	36	8.8
6. Dallas/Ft. Worth	21	5.1
7. Boston/Lawrence/Salem	16	3.9
8. Houston/Galveston/Brazonia	15	3.7
9. Philadelphia/Wilmington/Trenton	10	2.5
10. Detroit/Ann Arbor	5	1.2

[1] Foreign direct investment is the direct or indirect ownership by a foreign entity of 10 percent or more of the voting securities of an incorporated business, or an equivalent interest in an unincorporated business and a 10-percent or more interest in real property.

Source: U.S. Department of Commerce, Washington/Baltimore Regional Association.

It points out:

Between 1980 and 1987, direct foreign investment in the area grew by about $4.2 billion, or about 168 percent. Total direct foreign investment—that is, the value of all hard assets held by foreigners—was estimated at $6.7 billion at the end of last year.

The region's 914 foreign affiliates employed 85,458 workers as of last year, a 54.5 percent gain between 1980 and 1987.

They own 16 to 30 percent of all commercial real estate in downtown Washington, and in New York, for instance, the New York Metropolitan area, for example, attracted nearly 40 percent of all major foreign investments in 1986, while foreign investment in California climbed a staggering 565 percent between 1977 and 1984.

Now, Mr. Speaker, one of the things that none of these articles point out and why some people say, "Well, you know, Helen, why are you objecting to this money coming in here from overseas? It is good to have it."

Well, it is to a degree, but it depends on how it comes in. It depends on what is done with it and it depends on what it does to the value of properties here. If our assets are so cheap to foreigners right now to buy, they are not cheap to Americans. With so much of that kind of money coming in, the values are being inflated and making it much more difficult for the average American to buy property or to invest, and that is something that we in this Congress should be concerned about and should look into. We cannot afford the kind of prices that these foreign interests are putting on property right now, the values, because the dollar is the same as far as we are concerned, but to the outside interests it is so far down that they can come in and take it over.

Well, I hate to say that we are beginning to dance to the tune of foreign money. You know, it hurts. It hurts when the United States was really the leader for so many, many years, and should still be.

Among the things that we have to do is get our own operating deficit under control and our foreign trade deficit under control and then once again we will not have to dance to the tune of foreign money. I am sure that the American people will prefer that than the other way around.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise once again to continue "My Advice to the Privileged Orders," and wish to say at the outset that the only reason that impels my getting up today originally was to point out in a different way what the gentlewoman from Maryland has just addressed in specific instances and a subject matter that some of us have been working on and attempting to prevent as long as 22 years ago when we had the first credit crunch and the fact that so many of our people do not realize that they have no protection.

The Congress has not seen fit since 1865 to set up the safeguards that every society throughout the known history of man has had to in one form or another set up or suffer the consequences thereof, and that is the interest rate and the accessibility of credit, the allocation of that credit by select groups not subject to the overriding dictum of the greatest interest of the greatest number.

The gentlewoman refers quite correctly to these tremendous interests, alien and foreign, but which in effect really are not. They are interrelated with the interconnected high corporate levels, both in the financial corporations as well as in our highest, richest, and most powerful and potent business corporate interests. The interlocking directorship which has existed and which the committee that I am on impelled by the then chairman, my fellow Texan, Wright Patman and myself, were attempting to address in 1960 and clear through the tenure of Mr. Patman as chairman of the Banking Committee, but at which we failed miserably because we had the strongest opposition from the great banking and financial institution representatives, the national organizations representing them, and their tremendous influence with our colleague from the Banking Committee and in the Congress generally.

The reason is that if we had been allowed to do what we intended, the Banking Committee would have addressed this question of the beginning of what now has turned out to be a flood of penetration by foreign money and substantial interests in the acquisition of not only financial institutions, banks, but related sensitive activities, such as the aircraft production corporations and the other sensitive production aspects of our economy that today literally are out of the picture.

We are now an importing nation, as the gentlewoman from Maryland has brought out on several occasions prior and today. We are no longer a producing nation. The reason is not that there are 100 percent foreign devils out there. It is that we have had a dramatic and a radical change in the way our world is constituted and the scientific breakthroughs, electronic instantaneous communication and the like, which has reduced our world to what that great leader in America used to call one world and for which he was considered to be quite un-American at the time.

The fact is that every one of my three predecessor spokesman on this House floor today spoke on an issue that today is a crisis for America, but which in all fairness to some of us, and I do not know who else is still in the Congress from that period who raised their voices—I know I am—did raise our voices and did intend to try to get some awareness, and failed in our legislative attempts to anticipate and prevent what today is a great crisis and dilemma; for instance, foreign money is elections.

Well, in 1966 in the U.S. Senate races in Texas, we had reported almost $50,000. Now, that was a lot of money in 1966 in terms of volume in election campaigns, that came from West Germany in the name of the Bonn West Germany anti-Communist front, but which actually had as its sources German industrial and other activities that had been very active during Adolf Hitler's regime.

We have got to remember, all my colleagues, I must remind you that the biggest anti-Communist of all time was Adolf Hitler, so that when we get lost in these ideological and phraseology labeling matters, we are going to lose what we ought to be targeting, and that is America's interests.

America is not only now an importing nation, it is also a debtor nation. We are the biggest debtor Nation in the world.

The newspapers reporting on the recent summit in Toronto, Canada, have as they have in every one of these economic summit meetings, talked about everything else except the most important issues that have everything to do with our well-being, that is our standard of living. Every economic summit meeting, whether the ones previous in Bonn or Tokyo or Venice, Italy, last year, have been shrouded in this mystique of international finance jargon.

What are the real implications for America? Today's headlines, for instance, talked about the summit in Toronto having arrived. They said at the conclusion they would intervene and bolster the dollar. The big story was that the dollar had risen. Well, that is very relative and it may mean absolutely nothing insofar as the critical question confronting us today is concerned.

The truth is that we have lost control of even our most powerful unaccountable institutions, such as the Federal Reserve Board.

Now, you know, they say that the mills of the gods grind slowly, but exceedingly fine. I think it is ironic and tragic that all these Federal Reserve Board Chairmen that I have had the ability to listen to in the last 27 years, and that is a total of seven to nine different Chairmen that we have had, have all had this refrain about how they had to maintain independence. What they meant by independence was that they would have no accountability, as they do not now.

Now, they wielded this tremendous power, but for whom? The Federal Reserve Board is not a Federal agency. It was created by Congress, but it is actually run and operated by the commercial banks in the United States, and actually within the last two decades by the seven and eight principal banks in the United States. They are the ones that forge the policy.

We are still operating like England used to, but ceased to do when it regained control of its own economic, fiscal, and monetary destiny; that is, the Federal Reserve Board through its Open Market Committee can determine the rise or fall of any administration, as it has, and as it might despite its efforts to intervene for political reasons, and they have been doing that openly and notoriously since 1972, but they have lost control.

It is ironic. It is like punishment from on high. It is ironic that even they have lost control, because there are now external forces which the gentlewoman has given us some more dramatic manifestations of, and I think, yes, we ought to be alarmed, but I think it is a wee bit too late.

The litany of names read of those defending those interests, well, these are high corporate officials. They come from corporate kingdoms and they are going back to corporate kingdoms, so that what we are now told in this very story about our imbalance of trade with Japan is that there are quite a number of hundreds of billions of dollars in Japan that represents American corporate business interests.

Now, that money is not coming back, because for the first time in the last report available, these same overseas or external interests, supposedly based in the United States, supposedly American corporations, but in effect transnational and not accountable to any one of these nations over which they rule, are reporting for the U.S. tax purposes and revenue now, losses rather than revenue profits.

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That means that the European Community which is now in place, the European Monetary System, the European Currency Unit now in place with Great Britain and being the key to this and which is compelled by the very fact that it is a member of the European Community to go along, so by 1992 their boast is that everything will be in place and there will be a United Europe. That means that as far as the ECU, [European Currency Unit] is concerned, the monetary system, it is in place mostly and principally to supplant the dollar ostensibly because the dollar is unstable, because it is in effect supplanted by a more stable system known as the European Monetary System or the ECU, the European Currency Unit in which West Germany has probably the greatest amount of power or control than any of the other nations.

At this point Great Britain is trying to make up its mind whether it will be fully integrated into ECU or the European Monetary System [EMS]. Only the 6 or 10, depending on which we want to consider as the potents or definitive members of the European Community, have to back up their currency far more gold reserves than we have. It goes back to the 1970's when Nixon's administration and President

Nixon devalued the dollar in 1971, August 15 to be precise, and took the United States and the dollar off the gold exchange system.

That was not reported that why by our press. I have not seen any kind of an account in the popular press publications that had defined it that way. Yes, if we read the Brookings Institution publications and the almost esoteric financial publications, yes, they will come around grudgingly and say that is in fact what was done, that the dollar was devalued. But it was devalued twice in rapid succession. First in 1971 and in 1973. I think I ought to remember because I was the lone voice that raised questions on the Committee on Banking, Finance and Urban Affairs, or off the Committee on Banking, Finance and Urban Affairs. The question then occurred and recurs to this day, what do we do about it?

The gentlewoman from Maryland [Mrs. BENTLEY] a few minutes ago was respectfully suggesting that it is time we do something. But what? It comes back to some of the things that we have been advocating for years and we have to start with first things first which I think is a bit too late at this point. The fact is that in the one case, the gentleman from Maryland [Mr. MFUME] spoke prior and I joined in his special order in discussing the question of the plight of small business and the inability of our Government to carry out the original congressional intent in both the basic Small Business Administration program and policy as well as some of the corollary programs such as the minority enterprise part of which has been placed in the Department of Commerce ever since the first year of President Nixon's administration because of a turf fight, a political fight between the Senator from Illinios and my Texas predecessor, Senator Tower. Incidentally, it was Senator Tower who reported the near $50,000 contribution to his campaign for reelection in 1966 from these foreign interests in Germany. Incidentally it was my committee and subcommittee and I who first uncovered the international money laundering that really later exploded as the Watergate scandal. That money laundering actually was in violation of even the meager banking laws that we had then. It was money that was going out of a Houston corporation to a Mexican bank and then ending up laundered in a Florida bank owned by one of then-President Nixon's cheek-by-jowl buddies.

The fact is that this thing has become so complicated and it is so beyond the national sovereignty and prereogatives of the United States that all we can do at this moment is try to erect an anticipatory framework of reference in order to attenuate the full impact which will be highly destructive of our standard of living and both our monetary as well as our fiscal policies.

As I have brought out every time we brought out these budgetary gimmicks, the Grambo legislation for example known as Gramm-Rudman-Hollings, the first reduction was supposed to have been on March 15 following its enactment. On March 15 everybody was announcing that the Congress, because of Grambo's legislation, had reduced the deficit by $15 billion but what they did not say was at that same date on March 15, $30 billion more had to be advanced to offset the cost of interest on that same debt.

How have we saved anything? We have a built-in situation that originated as a result of the setting up of the open market committee in the Federal Reserve Board which has an open market but it is everything except open and it has control because it can determine the interest rates of Treasury yields, Treasury bills, and everything. Anybody that has that power has the power to control the allocation of credit in this country. This is what the Founding Fathers worried about the most even when we had no Constitution, at the time when we had the First and the Second Continental Congresses.

Reading the record we see that later as we emerged under the Constitution it was the biggest issue under Andrew Jackson, who was going to determine the allocation of credit?

Interest rates is the mechanism by virtue of which wealth is transferred from one segment to another in a society. Should we be surprised that since 1981 we have a worse situation than some of these Third World countries that we denounce because of the heavy concentration in an upper small percentage group and the great masses of underprivileged and those deprived of any kind of economic power or position. We have reached the same point today.

Since 1981 we have had an upward rise in the concentrated wealth of the upper 6 percent in our country who now control the tremendous amount of more than 50 percent of the total wealth resources of this Nation. How can we say we are economically free? How can we regain our control of our destiny? We have to start one thing at a time. We should go back and start from where the Congress left off and actually allow a contradiction in the original intention of the 1913 Federal Reserve Board Act. That was the way that the old exchequer used to handle it in England until they got tired of it after World War II. They discovered that any chancellor of the exchequer could determine the rise or fall of any one of those administrations no matter what party seemed to be in control at the moment because they had that power which now the Federal Reserve Board through its open market committee can control.

Is there such a thing in human existence as an infallible institution?

We are treating the Federal Reserve Board as if it is infallible. Of course it is not. I have brought out and put in the record what would be tremendous scandals. These scandals we are reading about which incidentally are also part cause and effect of the same type of philosophy or approach, the sacrosanctity of so-called private or public enterprise. To those of my colleagues that think that free enterprise is synonymous with private enterprise, let me point to Italy and Germany where there was private enterprise until the day Mussolini died and until Hitler died. There was no free enterprise, but there was private enterprise.

This is what we have in our country today, it is uncontrollable, unaccountable, not accountable to the Congress, and the Congress has seen fit to act like a little kitten purring at the pants legs of these powerful interests. Our great vaunted free press which is really today a corporate press has concentration of newspapers that is very great. Mr. Speaker, 95 percent of the viewing time of American public television, another source of information, is controlled by three networks who in turn have a corporate structure interlocking with the banking and other great corporate structures.

We have got in the Congress a lot of accounting to do ourselves. One of these days, and I am afraid that all nations show that those days come after a great catastrophe or upheaval or social disturbance, yes, maybe the people in anger will then vent it on those who perhaps had nothing to do with it. But the case regardless of who is to blame rests on whether or not we in the Congress will respond to the critical issues which we are not even taking cognizance of even in the committees of pertinency such as the one I belong to and happen to be the ranking minority member of, the Committee on Banking, Finance and Urban Affairs.

I have not heard anybody on either side of the dome, on this side of the dome or on the other side of the dome, even so much as mention the European Monetary System, or the European Currency Unit which was first accepted, they said, in principle in May 1979 with President Jimmy Carter being the President representing us at that economic summit.

In 1985 one would have thought that the big thing of the economic meeting at Bonn was that President Reagan was going to go and put a wreath of flowers at a Nazi cemetery. That was not it at all. The real thing that came out of that which was not seen in the communique was that all of the finance ministers finally accepted the fact that the European Currency Unit and the European Monetary System are now fleshed out, they were in place, and that decision was made 1 month before in Palermo, Italy, by these finance ministers from the European Community. So that we think, at least I do, that the time is late. Hopefully it is not too late to attenuate that which is upon us. We cannot avoid it, I do not believe.

Earlier today we also had the request based on a unanimous consent and also based on a Senate bill that came over with all kinds of attachments to it supposing to be a coinage bill, but it had this extension of the moratorium of those savings and loan institutions wanting to go from the savings and loan insurance fund known as FSLIC to the bank insurance fund known as FDIC. But they have been prevented by a high fee of exit, that is, exit fees.

☐ 1620

We can argue all we want to. Why should the healthy S&L's at this point be jeopardized in their good health by those that are dead as a doornail? But the Government, through FSLIC in my State of Texas, now owns 50 percent, but they are dead as doornails. They are extracting deposits or savings, whatever you want to call it, from innocent constituents of mine attracted by high yields of interest, 10 percent, and you cannot blame them.

We have reached the point where those insurance funds are inadequate totally. What are we doing about it? Nothing. What has been the response to the cry of some of us to address this? Nothing. Singlehandedly in a body of 435, nobody can do anything.

What I am saying is that all of these are now consequences. These are evidences of something that we had anticipated, had warned of, had advocated measures. For instance, I had information, and this was after the 1974 election, that through a leak in the Federal Open Market Committee there was one major banking institution that had reaped an improper benefit. Where would the leak come from? It had to come from somebody on the Open Market Committee, as it did. When the Chairman of the Federal Reserve Board came before us, I think I made a little unhappy note by insisting that a report be given.

For years Chairman Patman and I had introduced a bill to provide for audit of the Federal Reserve Board which today you do not have, did not have then, and do not have now and never had it. On the basis of that, if the Congress were to demand an audit, it would imperil the independence of the Federal Reserve Board—this has been the only argument.

When I had, through a source that nobody would ever dream of, a little Member such as myself would have, had the facts, I raised the issue. Finally I did get the chairman, who followed and succeeded Mr. Patman, to call the Chairman of the Federal Reserve Board and inquire as to the connection between this leakage and this unjustifiably earned profit to the detriment of competing banks in the New York area. We now have such great concentration of financial resources that just in less than a 2½-mile radius in New York, there is over 45 percent of the concentrated financial resources of this country. Anyway, the Chairman of the Federal Reserve Board saw that the chairman of the Banking Committee was getting a little concerned, and he said, "All right, we are going to appoint an in-house committee to look into this," and they did. But who was the in-house committee? Who did they hire as an attorney? They hired an attorney who happened to be one of the attorneys for the very bank involved, and they came back, and there was no report. It took a year before, and I kept saying, well, what has happened, and they said, "Well, you know, this is an in-house; we don't have to tell the Congress anything, but we will; we will make a report." We finally got it a year later, and all it said was that it was not an intentional leak, that it was an error, a mistake somebody had made somewhere, some undisclosed hireling somewhere.

I redoubled the efforts to get an audit bill of the Federal Reserve Board and, again, with no results. How much of that has gone on? I introduced an impeachment resolution on the last Federal Reserve Board Chairman, whether we had jurisdiction or not, because in effect the Federal Reserve Board is not a Federal agency even though the Federal Reserve Board Act of 1913 defines the Federal Reserve Board as one that should be the fiscal agent of the U.S. Treasury.

Why, you take a dollar bill out of your pocket today and it says "Federal Reserve Note." When I came to the Congress, if I took a dollar bill out of my pocket, the chances were 9 out of 10 it would have been a U.S. Treasury note. There is a vast difference there. What is means is that we have sacrificed the economic freedom of our citizens and should now not be surprised that we have, as the gentlewoman from Maryland so dramatically brings out, these foreign interests that are now in occupation of our land, who now own these tremendous percentages of farmland, these tremendous interests beginning with the postoil boycott of the so-called recycled money, Arab oil money, that came in and accounted for the greatest increment of increase which I brought out in 1979 of our chief financial institutions in Third World countries that everybody who knew anything about it knew would never be able to pay back, and so foolishly, and so unbelievably foolishly, that no small bank in any small community would think that a board of director member of that bank would allow such tactics, that just by 1979, in August, I reported from this well that these big banks, saying that they were recycling oil money, had invested, had gone from just $3 billion in less than a year and a half time to over $45 billion in these countries.

There was such an overhang that the total capital structure, that is, if one wanted to call it assets, liquidity, not what they call regulatory accounting, assets which today are being used to consider good will instead of cash or liquidity, exceeded the total structural capitalization of these main banks, was exceeded by the size of their overhang on this debt, on this loan, our foreign debt of countries that could not then and cannot now pay back and have not paid back. All they have been able to do is reduce interest rates, roll over interest rates, but not one penny onto principal.

I think that is tragic, but it is done, and there, the Government, unless we change our system of government, and I am not advocating that, has no control.

The reason the Federal Reserve Board System was set up was that that was intended to be the protector of the general interest as the fiscal agent of the U.S. Treasury, but today the U.S. Treasury is the little errand dog, if not lap poodle, of the Federal Reserve Board, all the way around, and I must say, regrettably, to my fellow Congressmen, with our acquiesence, either through silence or overt action in sleeper clauses that passed undetected that have undone the original thrust of the 1913 Federal Reserve Board Act, so that when we talk today about this dangerous invasion of these foreign interests and moneys, how now they have invaded the very sacrosanct procedures and internal domestic political mechanisms.

Recently this administration winked at all of these Contra leaders with millions of dollars to get involved in congressional races in 1982. I had to face them in my hometown. They spent $65,000 at the local CBS channel alone, $65,000 that came from that source. In 1986, 2 years ago in Texas, there were no less than seven congressional districts that had visits and money from this same interest which were part of those coming from the very moneys Congress had appropriated for the so-called Contras.

It comes back to what I have already said: If we are wrong and we are doing something that is cutting the corners of our constitutional prerogatives, sooner or later we are going to end up very badly off.

□ 1630

There is no question about it. Every time the President, every time the Congress has offered aid to an illegal group in an external country to prepare it to undo through physical destruction and other a regime that we proclaim to the world is the legitimate regime, because we have an ambassador in that nation's capital, we have not withdrawn our ambassador, that is violating fundamental international law. It is violating three of our basic statutes.

This is the reason why I introduced an impeachment resolution last year on March 5 on the President. When I introduced the impeachment resolution on Chairman Paul Volcker, then the Chairman of the Federal Reserve Board, I did not go around making public releases or anything, and I was accused of doing it because I wanted publicity. The truth was that it was based on actions of omission and commission in violation of the trust placed in those high offices. Secretary Volcker had held secret meetings together with the president of City National of New York, Ben Wriston, the billionaire, Hunt, who had involved over 35 billion dollars' worth of banking credit in this illusory and vain and defeated purpose of controlling the silver markets.

Can my colleagues imagine, a rather minimally literate Texan, involving himself in the most intricate and in the most controlled speculative market of all, silver or gold, competing with these wizards in London and Zurich who have 400 years of experience. But 35 billion dollars' worth of banking resources?

Our banks are supposed to be set up under the law for public need and convenience. Who remembers that now in or out of Congress or among our own colleagues and peers? They have all forgotten the purpose for this.

So I say that, yes, it is good to denounce and jump on the Japanese.

Let us take the case of the construction of the trans-Siberian to Europe gas pipeline, which is functioning, supplying natural gas to Western Europe. Who built it? And was not President Reagan the one who said I am going to have an embargo? And what happened? We did not hear anything after he declared an embargo. We had to back off because all of his corporate chums were invovled in the financing of what is known as the Ruhr Gas Co. based in the Ruhr and whose principal owners were whom? Chase Manhattan through its interlocking corporations with the Standard Oil and the Gulf Oil and the British Petroleum. And, of course, a lot of American material.

The gentlewoman from Maryland talks about how American know-how has gone there. Of course it has.

But we would have these high priced lobbyists, and as well known figures ranging from Mondale to Richardson unless we had American corporate interests that were involved. As the President found out, and to his chagrin he discovered that Europe, it sure wanted that Russian Siberian gas, and it is getting it today, and it is far less vulnerable than we are to the Persian Gulf.

What about the Persian Gulf? Today's Washingtoin Post says that our leaders, the President, the Secretary of State is alarmed because the Chinese are selling ballistic missiles and every other kind to Syria, to the Middle East, that is to the Arabs. But they also have been selling them to Iran and Iraq.

Iraq was the one that killed 37 of our sailors, yet we have got our sailors in the Persian Gulf right now as I am talking under the peril of death, fighting for what? The American flag increested on that Iranian ship? No, to defend SOCAL, Standard Oil of California and British Petroleum. That is who they are defending, that is who our sailor boys are out there exposing their lives for, and that is the long and the short of it, and these are the missiles that are going to be shot at them and have already, the so-called silkworm, which Iran has.

The President and Colonel North and Colonel Secord and all of them, they got caught with their hands in the plum there with these arms deals. With whom? With Iran.

But Israel is still in a state of war with Iraq. Israel bombed the so-called nuclear facility that the French were building in Iraq. But it is Iran that we are saying we are going to be ready to go to war right now. But the missiles, the silkworms, that resulted from the trip that Mr. Reagan and Secretary Weinberger when he was Secretary of War made to China, that was their big deal. Why? Because China was going to open to private business.

It had for years. It is our gulf corporations and others who have been doing the oil drilling that has given China the facilities offshore to produce their oil. It has been American firms. Why? There is a good profit in that. Business is business, and if there is any danger, well, we will get the American Navy to come over there and save it for them, of course.

But who is bringing out the fact that if China can sell these, this is because Vickers, of course, obtained the right by getting the license, that is, it is an American license, Americans brought up the silkworm. Mr. Weinberger thought it was a great idea because is not China against Russia, and would this not be a countervailing pact with China, that we help them in military security areas and we enable them to get the license to allow Vickers of Great Britain to produce a silkworm, and for China to sell it to Iran and the other countries. They do not care whether it is an Arab or an non-Arab country. Iran is non-Arab; Iraq is Arabic. And we have managed to get into the middle of a war because the moment we go in, as President Reagan did when he sent the marines to Beirut, you do not have to be an expert to know that we are endangering our military. We have given them no clear purpose, no clear military mission.

What are our sailors supposed to be doing in the Persian Gulf? What is their mission? To protect shipping? What about when Iraq sinks a tanker? We go along with it. If Iran attempts to sink a tanker, then we bomb them. That is taking sides, my colleagues, like the marines sent to Beirut and for 14 months I took this floor and said, Mr. President, your marines are under the shadow of death. You are defying the unanimous advice of the Joint Chiefs of Staff. They do not think the marines ought to be there, especially under those circumstances.

Oh, we were supposed to be peacekeepers, but how can we be a peacekeeper if we are going to come in and take sides with one side of a four-sided internal war, religious, and civil? You do not have to be an expert. All I think that is needed is for those of us in Congress that have the responsibility, even if we are not national Representatives, we do represent a sacred segment of this country, and one segment cannot be well off if other segments are sunk in misery, or the interests of the Nation through a willful or callous disregard by a Commander in Chief, or the unpreparedness of a Commander in Chief who callously ignores the united, the solid, the unanimous advice of the chief military experts that our Congress provides for and pays a lot of money and budgetary provisions for.

So I say all of this is one big ball of wax. It is not one of these issues external and disconnected from others.

But no matter how much we spend, no matter how many dollars or volume of dollars we say will be for defense, if the defense is not predicated on a real world, or if the value of that dollar is not there, if I had been a sustained and long-hating enemy of this country I could not have planned it better. All through history enemies have said, opponents have said, if you want to hit a foe, the best way is first to do what you can to debase his currency and his money.

We had four of the chief economists of this country before our committee, one of the committees, last year in the autumn. They were all advocating the same thing: We have to let the dollar drop. When I said how far they said, oh, well, you know, as long as necessary. But I said, well, wait, necessary to what? They said, well, until we can compete in the world. But I said, wait, how is that, we have an intricate world. I said, gentlemen, right now as you and I are talking there is over a half a trillion dollars moving instantaneously electronically. Today we can talk about how the Japanese have invaded our country, and of course they have. They have what Jefferson used to call a standing army. He said once let your bankers take over and you will have the same as a standing army of occupation.

They certainly knew what the shooting was all about, which seems to escape us in this day in time. How in the world can we say on the one hand, as these economists were saying under the delusion that we still had the power that we might have had 10 years ago that lost not more than 3½ years ago, that it was within our power to determine how far that dollar could drop. So when I said, gentlemen, what happens if you cannot control it and you have a freefall of the dollar? They said, "We don't know."

Of course that is the danger right now. So I say let us go back to some of these fundamentals.

Some of us have been introducing legislation. I have had it in this Congress, as I have for the last 13 Congresses, and we start by bringing the Federal Reserve Board back to the control of the people through the Congress and the Presidency. Who determines the Federal Reserve Board? The Congress? No. The President? No. All he can do is affirm. But it is a self-perpetuating community emanating from the banks that it is supposed to control.

Today they have lost control of their own because that regulatory body just as in the case of FSLIC, just as in the case of the other regulatory bodies that the Congress has set up, thinking it is going to be there, have turned out to be quite fallible and have been right cheek by jowl with the very interests they were supposed to regulate.

I say, Mr. Speaker, that it is not too late to take anticipatory action to attenuate the break. There has to be action. Every bubble bursts, or if it is a balloon and you can control it, you can let it out easy. But the bubbles we build will burst.

Mr. Speaker, I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SUNDQUIST (at the request of Mr. MICHEL), for today, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mrs. MORELLA) to revise and extend their remarks and include extraneous material:)

Mr. SCHUETTE, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mrs. BOGGS, for 5 minutes, today.

Mr. CHAPMAN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MACKAY, for 5 minutes, today.

Mr. HOYER, for 50 minutes, on June 29.

Mr. SUNIA, for 60 minutes, today.

Mr. WEISS, for 60 minutes, June 27, June 28, and June 29.

(The following Member (at the request of Mr. CHAPMAN) to revise and extend his remarks and include extraneous material:)

Mr. DELAY of Texas, for 60 minutes, on July 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. MORELLA) and to include extraneous material:)

Mr. YOUNG of Alaska.

Mr. LOWERY of California in two instances.

Mr. EMERSON.

Mr. GILMAN in two instances.

Mr. DORNAN of California.

Mr. SKEEN.

Mr. QUILLEN.

Mr. MADIGAN.

Mr. BADHAM.

Mr. SWINDALL.

Mr. DAVIS of Illinois in two instances.

Mr. BUECHNER.

Mr. JEFFORDS.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous material:)

Mr. HOCHBRUECKNER.

Mr. MILLER of California.

Mr. HAWKINS.

Mr. DIXON.

Mr. SIKORSKI.

Mr. FASCELL.

Mr. CLAY.

Mr. PAYNE in two instances.

Mr. TORRICELLI.

Mr. LANTOS.

Mr. SABO.

Mr. HOYER.

Mr. FLORIO in two instances.

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 2470. An act to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the medicare program, and for other purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 45 minutes p.m.), under its previous order, the House adjourned until Monday, June 27, 1988, at 12 noon.

EXECUTIVE COMMUNCIATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3854. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting the determination by the President that the conditions for lifting restrictions against Benin, Congo, Guyana, and Suriname have been met, pursuant to The Export-Import Bank Act of 1945; to the Committee on Banking, Finance and Urban Affairs.

3855. A letter from the Chairman, The President's Committee on Employment of People With Disabilities, transmitting a copy of the 1987-1988 annual report; to the Committee on Education and Labor.

3856. A letter from the Director, Administration and Management, Office of the Secretary of Defense, transmitting notification of five new records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3857. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting a copy of a report by the Director of the Bureau of Prisons setting forth the findings and conclusions of his investigation into allegations of violations of regulations, mismanagement, gross waste of funds, abuse of authority and creating a substantial danger to public safety by officials of the U.S. Penitentiary, Atlanta, GA, in the Cuban detainee disturbances of November 1987, pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASPIN: Committee on Armed Services. H.R. 1580. A bill to prohibit investments in, and certain other activities with respect to, South Africa, and for other purposes; with amendment (Rept. 100-642, Pt. 3). ordered to be printed.

Mr. BROOKS: Committee on Government Operations. Report on absence of management: the Farmers Home Administration's implementation of the Food Security Act of 1985 (Rept. 100-725). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on Defense Department fails to assure reasonableness of contractors' health costs (Rept. 100-726). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on Defense Department's foreign military sales accounting problems continue (Rept. 100-727). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on strategic defense initiative organization management deficient in key areas; program costs now double original estimate (Rept. 100-728). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 1841. A bill to establish guidelines for timely compensation for temporary injury incurred by seamen on fishing industry vessels and to require additional safety regulations for fishing industry vessels; with an amendment (Rept. 100-729). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4604. A bill to extend the expiration date of title II of the Energy Policy and Conservation Act; with amendments (Rept. 100-730). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4101. A bill to amend the Federal Trade Commission Act to strengthen the authority of the Federal Trade Commission respecting fraud committed in connection with sales made with a telephone; with an amendment (Rept. 100-731). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STOKES:

H.R. 4899. A bill to authorize the Secretary of Labor to make grants to public housing agencies for the provision of literacy training, training in basic and employment skills, and support services, and to establish the Gateway Task Force; jointly, to the Committees on Education and Labor and Banking, Finance and Urban Affairs.

By Mrs. BOXER (for herself, Mr. Bennett, Mr. Miller of California, Mr. Stark, Mr. Wolpe, Mr. Thomas A. Luken, Mr. Glickman, Mr. Bustamante, Mr. Evans, Mr. Levine of California, Mr. Durbin, Mr. Kleczka, Mr. Smith of Florida, Mr. Bates, Mr. Foglietta, and Mr. DeFazio):

H.R. 4900. A bill to establish as an independent establishment in the executive branch an Office of Defense Inspector General which shall be responsible for overseeing financial programs and activities of the Department of Defense and which shall be independent of the Secretary of Defense; jointly, to the Committees on Armed Services and Government Operations.

By Mr. DYMALLY:

H.R. 4901. A bill to amend part D of title IV of the Social Security Act to require each State, under the Child Support Enforcement Program, to authorize and provide for awards of child support on a retroactive basis in appropriate cases; to the Committee on Ways and Means.

By Mr. FLORIO (for himself, Mr. Waxman, Mr. Madigan, Mr. Walgren, Mrs. Roukema, Miss Schneider, Mr. Rodino, Mr. Roe, Mr. Dwyer of New Jersey, Mr. Studds, Mr. Jontz, Mr. Gray of Illinois, Mr. Rinaldo, Mr. Gilman, Mr. Torres, Mr. Foglietta, Mr. Molinari, Mr. Beilenson, Mr. Gejdenson, Mr. Bates, Mr. Ackerman, Mr. Guarini, Mr. Smith of New Jersey, Mr. Fazio, and Mr. Solomon):

H.R. 4902. A bill entitled: "Municipal Incinerator Act of 1988"; to the Committee on Energy and Commerce.

By Mr. HAWKINS (for himself and Mr. Richardson):

H.R. 4903. A bill to codify certain portions of Executive Order 11246, to strengthen the administrative enforcement mechanism of the Office of Federal Contract Compliance Programs in the Department of Labor, to establish the education improvement fund, to create an Assistant Secretary for Federal Contract Compliance, and for other purposes; to the Committee on Education and Labor.

By Mr. JEFFORDS (for himself, Mr. Bartlett, Mr. Owens of New York, Mr. Ford of Michigan, Mr. Perkins, Mr. Lujan, Mr. Hawkins, and Mr. Gunderson):

H.R. 4904. A bill to establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes; to the Committee on Education and Labor.

By Mr. LANTOS:

H.R. 4905. A bill to deny Social Security benefits to individuals deported or ordered deported on the basis of association with the Nazi Government of Germany during World War II; to the Committee on Ways and Means.

By Mr. LATTA:

H.R. 4906. A bill to to amend section 558 of the Tax Reform Act of 1984 with respect to the treatment of certain collective bargaining agreements; to the Committee on Ways and Means.

By Mr. LELAND (for himself, Mr. Waxman, Mr. Dingell, Mr. Scheuer, Mr. Walgren, Mr. Wyden, Mr. Sikorski, Mr. Bates, Mrs. Collins, Mr. Roybal, Mr. Vento, and Mr. Wilson):

H.R. 4907. A bill to amend the Public Health Service Act to revise and extend the authority of the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, including revising and extending the program of block grants for the provision of services with respect to mental health and substance abuse; to the Committee on Energy and Commerce.

By Mr. McEWEN:

H.R. 4908. A bill to extend the deadline for producers of wheat and feed grains to sign up for the wheat and feed grains acreage limitation programs for crop year 1988 until October 31, 1988; to the Committee on Agriculture.

By Mr. MANTON:

H.R. 4909. A bill to amend the Controlled Substances Act to provide a death penalty for drug related killings; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. PEPPER:

H.R. 4910. A bill to authorize the appropriation of funds for the operation and maintenance of a special operations wing of the Air Force Reserve, to authorize the appropriation of funds for the operation and maintenance of the Directorate of the Department of Defense Task Force on Drug Law Enforcement, and to require certain reports; to the Committee on Armed Services.

By Mr. SCHUETTE:

H.R. 4911. A bill to improve crop insurance coverage for types of dry edible beans, improve the effectiveness of the delivery system for, and increased accessibility to, crop insurance and for other purposes; to the Committee on Agriculture.

By Mr. SMITH of Iowa (for himself, Mr. Rogers, Mr. Alexander, Mr. Early, Mr. Regula, Mr. Dwyer of New Jersey, Mr. Carr, Mr. Kolbe, and Mr. Mollohan):

H.R. 4912. A bill making a special supplemental appropriation for the fiscal year ending September 30, 1988, to enhance and speed up the war on illegal drugs and for other purposes; to the Committee on Appropriations.

By Mr. SWINDALL:

H.R. 4913. A bill to amend the Internal Revenue Code of 1986 to permit dealers to use the installment method of accounting, and for other purposes; to the Committee on Ways and Means.

By Mr. TAUKE:

H.R. 4914. A bill to amend the Agricultural Act of 1949 and the Food Security Act of 1985 to allow producers for a fee to hay and graze on conservation use acreage at any time during a crop year, and for other purposes; to the Committee on Agriculture.

By Mr. WAXMAN (for himself, Mr. Madigan, and Mr. Tauke):

H.R. 4915. A bill to amend the Public Health Service Act to revise and extend the program of grants for the prevention and control of sexually transmitted diseases; to the Committee on Energy and Commerce.

By Mr. de LUGO (for himself, Mr. Udall, Mr. Miller of California, Mr. Lehman of California, Mr. Kildee, Mrs. Vucanovich, Mr. Sunia, Mr. Vento, Mr. Clarke, Mr. Darden, Mr. Lewis of Georgia, Mr. DeFazio, Mr. Richardson, Mr. Blaz, Mr. Murphy, Mr. Young of Alaska, Mr. Edwards of California, Mr. Fuster, Mr. Lujan, and Mr. Levine of California):

H.J. Res. 597. Joint resolution to authorize entry into force of the Compact of Free Association between the United States and the Government of Palau, and for other purposes; jointly to the Committees on Foreign Affairs and Interior and Insular Affairs.

By Mr. McDADE (for himself and Mr. Udall):

H.J. Res. 598. Joint resolution designating the week of October 2 through 8, 1988, as "National Wild and Scenic Rivers Act Week"; to the Committee on Post Office and Civil Service.

By Mr. MILLER of Washington:

H.J. Res. 599. Joint resolution to designate the week beginning November 6, 1988, as "National Filipino American History Week"; to the Committee on Post Office and Civil Service.

By Mr. BIAGGI (for himself, Mr. Manton, Mr. Weldon, Mr. Borski, Mr. Lent, Mr. Traficant, Mr.

Downey of New York, Mr. Mrazek, and Mr. McGrath):

H. Con. Res. 323. Concurrent resolution expressing the sense of the Congress that the decision of the Attorney General to order the deportation of Joseph Patrick Doherty to the United Kingdom was politically motivated to appease the Government of the United Kingdom and that Joseph Patrick Doherty should be released on bond during the review of his application for asylum and should be granted asylum in the United States; to the Committee on the Judiciary.

By Mr. ROSE (for himself, Mr. Gilman, Mr. Lantos, Mr. Levine of California, Mr. Dymally, Mr. Conyers, and Mr. Dornan of California):

H. Con. Res. 324. Concurrent resolution expressing the support of Congress for the Dalai Lama and his proposal to promote peace, protect the environment, and gain democracy for the people of Tibet; to the Committee on Foreign Affairs.

By Mr. HAWKINS:

H. Res. 483. Resolution honoring the 24th Infantry Regiment of the U.S. Army; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 988: Mr. Lantos.

H.R. 1001: Ms. Slaughter of New York.

H.R. 1028: Mr. Frank and Mr. Flippo.

H.R. 1078: Mr. Foglietta, Mr. Visclosky, Mr. Shaw, Mr. Pepper, Mr. Goodling, and Mr. Roe.

H.R. 1810: Mr. Coyne and Mr. Moakley.

H.R. 1918: Mr. Fazio, Mr. Kolter, Mr. Stokes, Mr. Roe, Mr. Dymally, Mr. Bustamante, Mr. Staggers, Mr. Rangel, Mr. Fauntroy, Mr. Wise, Mrs. Boxer, Mr. Lehman of Florida, Mr. Wilson, Mr. McCandless, Mr. Bilirakis, Mr. Jeffords, Mr. Badham, Mr. Horton, Mr. Wolf, Mr. Nielson of Utah, Mr. Gray of Illinois, Mr. McEwen, Mr. Daub, Mr. Boland, Mr. Gunderson, Mr. Martinez, Mr. Young of Florida, Mr. DeFazio, Mr. Murphy, Mr. Oberstar, and Mr. Gallegly.

H.R. 2134: Mr. Bonker.

H.R. 2532: Mr. Saxton and Mr. Henry.

H.R. 2731: Mr. Schuette.

H.R. 2999: Mr. Torricelli, Mr. Lagomarsino, Mr. Guarini, Mr. Carr, Mr. Fauntroy, and Mr. Oberstar.

H.R. 3143: Mr. Conte and Mr. Shays.

H.R. 3361: Mr. Hammerschmidt, Mr. Bruce, and Mr. Schuette.

H.R. 3454: Mr. Aspin and Mr. Spratt.

H.R. 3628: Mr. Tauke, Mr. Tallon, Mr. Dannemeyer, Mr. Walgren, Mr. Waxman, Mr. Parris, Mr. Ravenel, Mr. Bevill, and Mr. Hunter.

H.R. 3636: Mr. McCloskey and Mr. Rinaldo.

H.R. 3719: Mr. Gallo, Mr. Dornan of California, Mr. Lipinksi, Mr. Wilson, Mr. Darden, Mr. Beilenson, Mr. Thomas A. Luken, Mr. Hayes of Louisiana, Mr. Bartlett, Mr. Broomfield, Mr. Rowland of Georgia, Mr. Hyde, Mr. Frank, Mr. Rhodes, Mr. Bateman, and Mr. Skeen.

H.R. 3723: Mr. English and Mr. Bevill.

H.R. 3742: Mr. Clinger, Mr. Andrews, Mr. Atkins, and Mr. Rinaldo.

H.R. 3754: Mr. Marlenee.

H.R. 3791: Mr. Clinger and Mr. Hughes.

H.R. 3809: Mr. Miller of California and Mr. Kildee.

H.R. 3907: Mr. Bateman, Mr. Cooper, and Mr. Rahall.

H.R. 4013: Mr. Rinaldo, Mr. Jenkins, and Mr. Penny.

H.R. 4015: Mr. Neal, Mr. St Germain, Mr. Stangeland, Mr. Penny, Mr. Nielson of Utah, and Mr. Callahan.

H.R. 4049: Mrs. Kennelly, Mr. Hertel, Mr. Bryant, Mr. Martinez, Mr. Lancaster, Mr. Andrews, Mr. Beilenson, Mr. Skaggs, Mr. Robinson, Mrs. Martin of Illinois, Mr. Dyson, Mrs. Saiki, Mr. Bosco, and Mr. Clinger.

H.R. 4115: Mr. Burton of Indiana, Mr. Swindall, Mr. Rhodes, Mr. Goodling, and Mr. Hopkins.

H.R. 4127: Mr. Stallings.

H.R. 4190: Mr. Garcia, Mr. Jontz, Mr. Clarke, Mr. Bevill, Mr. Weldon, and Mr. Barnard.

H.R. 4277: Mr. Darden and Mr. Coyne.

H.R. 4338: Mr. Edwards of California and Mr. Torricelli.

H.R. 4542: Mr. Fazio and Mr. Coelho.

H.R. 4552: Mr. Ford of Michigan, Mr. Owens of New York, Mr. Vento, Mr. Frank, Mr. Foglietta, Mr. Bustamante, Mr. DeFazio, Mr. Ackerman, and Mr. Dwyer of New Jersey.

H.R. 4554: Mr. Jontz, Mr. Rangel, Mr. Davis of Illinois, Mr. Sisisky, Mr. Beilenson, and Mr. Frost.

H.R. 4603: Mr. Wolf and Mr. Owens of New York.

H.R. 4617: Mr. Smith of Florida, Mr. Chapman, and Mr. Clinger.

H.R. 4678: Mr. Rowland of Connecticut, Mr. Chapman, Mr. Hochbrueckner, Mr. Foglietta, Mr. Torres, Mr. Derrick, Mr. Rinaldo, Mr. Garcia, Mr. Leath of Texas, Mr. Bateman, Mr. Kleczka, Mr. Mavroules, and Mr. Florio.

H.R. 4711: Mrs. Boggs and Mr. Livingston.

H.R. 4721: Mr. Atkins, Mr. Bates, Mr. Biaggi, Mr. Coats, Mrs. Collins, Mr. DeFazio, Mr. Fauntroy, Mr. Frost, Mr. Henry, Mr. Horton, Mr. Jeffords, Mr. Johnson of South Dakota, Mr. Jones of North Carolina, Mr. Jontz, Ms. Kaptur, Mr. Leland, Mr. Lewis of Florida, Mr. Moakley, Mr. Owens of New York, Mr. Penny, Mr. Richardson, Mr. Schuette, Mr. Staggers, Mr. Stallings, Mr. Tauke, Mr. Wilson, and Mr. Wolf.

H.R. 4726: Mr. Whitten, Mr. Brown of California, Mr. Chapman, Mr. Emerson, Mr. DeWine, Mr. Frost, Mr. Coelho, Mrs. Bentley, Mr. Edwards of Oklahoma, Mr. Payne, Mr. Bevill, and Mr. Garcia.

H.R. 4758: Mr. Weldon.

H.R. 4789: Mr. Vento.

H.R. 4862: Mrs. Kennelly and Mr. Vander Jagt.

H.J. Res. 417: Mr. Kasich, Mr. Mrazek, Mr. Bonior of Michigan, and Mr. Schumer.

H.J. Res. 441: Mr. Dowdy of Mississippi, Mr. Kostmayer, Mr. Sweeney, Mr. Borski, Mr. Broomfield, Mr. Yatron, Mr. Young of Alaska, Mr. Chapman, Mr. Fawell, Mr. McGrath, Mr. Coughlin, Mr. Hefner, Mr. Bonker, Mr. Miller of California, Mr. Fascell, Mr. Espy, Mr. Downey of New York, Mrs. Collins, Mr. Guarini, Mrs. Boxer, Mr. Nielson of Utah, Mr. Wortley, Mr. Levin of Michigan, Mr. Owens of New York, Mr. Horton, Mr. Atkins, Mr. de la Garza, Mr. Dannemeyer, Mr. Roe, Mr. Rodino, Mr. Florio, Mr. Lipinski, Mr. Jontz, Ms. Kaptur, Mr. Towns, Mr. Gallo, Mr. Smith of Florida, Mr. Stenholm, and Mr. Shaw.

H.J. Res 463: Mr. Fauntroy, Mr. Lewis of Georgia, Mr. Derrick, Mr. Spratt, Mrs. Meyers of Kansas, Mr. Mack, Mr. Garcia, and Mr. Madigan.

H.J. Res. 464: Mr. Wise, Mr. Courter, Mr. Atkins, Mr. Kanjorski, Mr. Gilman, and Mr. Frenzel.

H.J. Res. 526: Mr. Clarke.

H.J. Res. 537: Mr. Murphy, Mr. Fuster, Mr. Barnard, Mr. Brennan, Mr. Tauzin, and Mr. Mack.

H.J. Res. 554: Mr. Coelho, Mr. Scheuer, Mr. Brennan, and Mr. Chapman.

H.J. Res. 559: Mr. Owens of Utah.

H.J. Res. 578: Ms. Kaptur, Mr. Carper, Mr. Frost, Mr. Lantos, Mr. Horton, and Mr. Upton.

H.J. Res. 580: Mr. Kasich, Mr. Jones of Tennessee, Mr. Towns, Mr. Roe, Mrs. Patterson, Mrs. Collins, Mr. Wheat, Ms. Kaptur, Mr. Bevill, Mr. Horton, Mr. Ballenger, and Mr. Hughes.

H.J. Res. 591: Mr. Manton, Mr. Rangel, Ms. Pelosi, Mr. Gray of Illinois, Mr. Walgren, Mr. Atkins, Mr. Martinez, Mr. de la Garza, Mr. Jones of North Carolina, Mr. Gordon, Mr. Lantos, Mr. Horton, Mr. Bennett, Mr. Anderson, Mr. Stump, Mr. Lancaster, Mr. DeFazio, Mrs. Saiki, Mr. Lewis of Georgia, Mr. Carr, Mr. Erdreich, Mr. Bevill, Mr. Espy, Mr. Gonzalez, Mr. Bunning, Mr. Blaz, Mr. Andrews, Mr. Tallon, Mr. Dymally, Mr. Rowland of Georgia, Mr. Kolter, Mr. Young of Alaska, Mr. Roe, Mr. Traxler, Mr. Ravenel, Mr. Hammerschmidt, Mr. Rodino, Mr. Sabo, Mr. Bliley, Mr. Frost, Mr. Leland, Mr. Daub, Mr. Cardin, Mr. Richardson, Mr. Brown of Colorado, Mr. Gray of Pennsylvania, Mr. Whitten, Mr. Donald E. Lukens, Mr. Smith of Florida, Mr. Fazio, Mr. Clement, Mr. Florio, Mrs. Patterson, Mr. Dixon, Mr. Chapman, Ms. Oakar, Mr. Towns, Mr. Berman, and Mr. Lehman of Califorina.

H. Con. Res. 304: Mr. Clinger.

H. Con. Res. 318: Mr. Johnson of South Dakota.

H. Con. Res. 320: Mr. Boucher, Mr. AuCoin, Mr. St Germain, Mr. Walgren, Mrs. Boxer, Mr. Downey of New York, Mr. Dicks, Ms Schneider, Mr. Evans, Mr. Mavroules, Mr. Bonior of Michigan, Mr. Bonker, Ms. Pelosi, Mr. Dellums, Mr. Williams, Mr. Olin, Mr. Dymally, Mr. Bustamante, and Mr. Hochbrueckner.

H. Res. 379: Mr. Clinger.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3343: Mr. DeFazio.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE GATEWAY BILL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. STOKES. Mr. Speaker, I am introducing the gateway bill today. This bill will provide literacy, job and skills training, and supportive services such as child care to public housing tenants. Unlike other legislative measures which attempt to enhance the literacy level of the economically disadvantaged, this bill is unique in that it will target assistance to areas where large numbers of low- and moderate-income persons live—our Nation's public housing facilities.

By creating literacy training programs for our Nation's public housing tenants, we will open the way for many persons who have been shackled to poverty, generation after generation, because of illiteracy. It is my hope that this bill will assist those victims of generational poverty to go on and claim economic independence for themselves and their children.

As our Nation prepares to cross the threshold into a highly technological and competitive 21st century, illiteracy threatens to close the doors of opportunity for many of our Nation's young adults and children. The U.S. Department of Education estimates that 17 to 21 million adults are illiterate. Over one-third of these persons are in their twenties and thirties. The numbers are equally alarming when we take a look at our Nation's youth. Even though recent studies suggest that more students are graduating from high school, or going on to receive their GED's, related studies suggest that many of these students are unable to read their diplomas.

While illiteracy is a national problem, it is a problem which disproportionately affects our Nation's poor. Therefore, if we are to effectively tackle the problem of illitercy, we must direct our efforts toward those in most need of assistance—the economically disadvantaged. Moreover, as we attempt to draft remedies for those problems affecting our Nation's poor, it would be most unwise to ignore the role public housing can play. Consider, for example, that over 18 percent of those families living in poverty receive some form of housing benefits.

For these reasons, I bring to you today, the gateway bill. The text of the bill follows.

H.R. 4899

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Housing Gateway Act of 1988".

SEC. 2. STATEMENT OF PURPOSE.

The purpose of this Act is to establish programs, through public housing agencies, to increase the abilities and self sufficiency of young residents of public housing, increase the prospects for employment of young residents of public housing, and end generational dependency on public assistance in public housing, through—

(1) the provision of literacy training, training in basic and employment skills, and support services through the public housing agencies; and

(2) the employment of residents of public housing and of professional staff to perform outreach services, including identification of and assistance to residents who could prosper from education and training programs.

SEC. 3. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Labor may, with the advice and participation of the Gateway Task Force established in section 7, make grants under this Act to public housing agencies for the utilization of public housing in the provision of training and services to economically disadvantaged residents of public housing through gateway programs.

(b) SELECTION OF GRANT RECIPIENTS.—The Secretary shall select public housing agencies to receive grants under subsection (a) and may select only public housing agencies that meet the following requirements:

(1) PROVISION OF FACILITIES.—The public housing agency shall agree to make available suitable facilities in the public housing projects administered by the public housing agency, or any facilities provided by a State or local governmental agency or any private organization or person, for the provision of training and services under this Act.

(2) NEED AND CAPABILITY TO PROVIDE SERVICES.—The public housing agency shall demonstrate to the Secretary the need and ability to provide the training and services described in section 4(a) to individuals qualified to receive the training and services under section 5.

(3) PROVISION OF SERVICES TO QUALIFIED INDIVIDUALS.—The public housing agency shall demonstrate to the Secretary that any training and services to be provided under this Act will be provided only to individuals qualified to receive the training and services under section 5.

(4) PROVISION OF SERVICES TO YOUNG FAMILIES.—The public housing agency shall demonstrate to the Secretary that the training and services to be provided under this Act will be provided to residents of public housing projects where a significant number of young families receiving public assistance reside.

(5) COOPERATION WITH PRIVATE ENTITIES.—The public housing agency shall demonstrate to the Secretary the abilty to create cooperative working relationships with private entities that are to provide training and services under this Act and are located in the same community as the public housing agency.

(c) APPLICATIONS FOR GRANTS.—The Secretary shall prescribe the form and procedures for public housing agencies to make applications for grants under this section.

SEC. 4. GATEWAY PROGRAM ESTABLISHED UNDER GRANT PROGRAM.

(a) MANDATORY TRAINING AND SERVICES.—Any public housing agency that receives a grant under section 3 shall use the grant to establish a gateway program to make available to individuals eligible under section 5 all of the following training and services, subject to the limitations of section 5:

(1) INFORMATION.—The provision of information designed to make individuals aware of training, employment, education, or the provision of services offered by the public housing agency, including the training and services available under this Act.

(2) LITERACY TRAINING.—Literacy training and bilingual training.

(3) BASIC SKILLS TRAINING.—Remedial education and training in basic skills.

(4) DEVELOPMENT OF WORK HABITS.—Development of good work habits and other personal management skills to enable individuals to obtain and retain employment.

(5) CHILD CARE.—Child care services provided free of charge to facilitate the participation of individuals in other training and services provided under this section. The child care services shall be designed, to the extent practicable, to employ and train economically disadvantaged residents of the public housing project involved, and shall include—

(A) services to provide daytime care for the child dependents who do not attend school and adult dependents of eligible individuals;

(B) services to provide care after school hours for the child dependents of eligible individuals; and

(C) irregular, periodic, and evening care for the child dependents of eligible individuals scheduled to allow the eligible individuals to pariticipate in the training and services provided under this section.

(b) PERMISSIVE TRAINING AND SERVICES.—Public housing agencies that receive grants under section 3 may make available as part of their gateway programs to individuals qualified under section 5 literacy training, training in basic and employment skills, and support services, in addition to the training and services described in subsection (a) and subject to the limitations of section 5, including the following:

(1) EMPLOYMENT ASSISTANCE.—Assistance in acquiring employment.

(2) EMPLOYMENT COUNSELING.—Employment counseling and vocational exploration services.

(3) DEVELOPMENT OF JOBS.—Development of employment positions.

(4) PRIVATE JOB TRAINING.—The provision of training in occupations for which demand is increasing and training in the course of employment, by private employers or organizations.

(5) OTHER FEDERAL EMPLOYMENT TRAINING OR SERVICES.—Training or services coordinated with other Federal employment-related activities.

(6) HIGH SCHOOL EDUCATION.—Assistance in the attainment of certificates of high school equivalency.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(7) Computer skills training.—Training in computer skills for use in education, skills training, and employment preparation.

(8) Training in application of skills.—Services to help individuals receiving training and educational assistance to utilize their acquired skills in the competitive employment market.

(9) Transitional activities.—Activities designed to provide transition from education to employment.

(10) Support services.—Support services, including child care services in addition to the services described in subsection (a)(5) and transportation to training and services not held in public housing projects.

SEC. 5. LIMITATIONS ON GATEWAY PROGRAMS.

(a) Eligibility in General.—Public housing agencies receiving grants under this act shall limit participation in training and services provided under gateway programs to individuals who meet the following requirements:

(1) Residency.—The individual shall be a resident of public housing.

(2) Age.—The individual shall be not more than 25 years of age.

(3) Economic disadvantage.—The individual shall be economically disadvantaged.

(4) Educational disadvantage.—The individual shall—

(A) have encountered barriers to employment because of a deficiency in a basic skill; or

(B) if over 16 years of age or beyond the age of compulsory school attendance under State law, not have a certificate of graduation from a school providing secondary education and not have achieved an equivalent level of education.

(b) Limitations on Child Care Services.—

(1) Eligibility.—Public housing agencies receiving grants under this Act shall limit the provision of child care services under section 4(a)(5) to the following individuals:

(A) Participants under gateway programs.—Individuals who are participating in training or services under a gateway program (not including the provision of support services), during the participation of the individual in the training or services.

(B) Unemployed former participants under gateway programs.—Individuals who have successfully completed participation in training or services under a gateway program (not including the provision of support services) and who are not employed, during a period in which the individual searches for employment after the completion of the training or services, as follows:

(i) Commencement.—The period shall begin on the completion of the training or services by the individual.

(ii) Termination.—The period shall end on whichever of the following occurs first:

(I) The expiration of the 3-month period after the completion of the training or services by the individual.

(II) The commencement of the employment of the individual in a position not funded by grants made under this Act.

(C) Employed former participants under gateway programs.—Individuals who have successfully completed training or services under a gateway program (not including the provision of support services) and who are employed in a position not funded by grants made under this Act, during the 12-month period that begins with commencement of the employment of the individual.

(2) Compliance with state and local laws.—A public housing agency that provides child care services under this Act shall ensure that the child care complies with applicable State and local laws.

(c) Limitations on Support Services.—An individual may receive support services under this Act after the individual terminates any participation in training or services under a gateway program (not including the provision of support services) only if the individual has completed the training or services. An individual may not receive support services later than 18 months after the completion of the training or services by the individual.

(d) Limitation on Nonresident Personnel.—A public housing agency receiving a grant made under this Act shall attempt to employ in positions relating to the administration and delivery of training and services under gateway programs residents of the public housing project involved whenever qualified residents are available.

SEC. 6. EFFECT OF GATEWAY PROGRAMS.

(a) Nonconsideration as Income for Participating Individuals.—The earnings of and benefits to any individual resulting from participation in training and services under a gateway program shall not be considered as income for the purposes of determining eligibility for or the amount of public assistance or determining a limitation on the amount of rent paid by the individual during the following periods:

(1) Period of participation under gateway program.—The period during which the individual participates in training or services under a gateway program (not including the provision of support services).

(2) Employment period.—If the individual participating in training or services under a gateway program (not including the provision of support services) successfully completes the training or services, a single period, not to exceed 18 months, as follows:

(A) Commencement.—The period shall begin on the commencement of employment of the individual in the first position acquired by the individual after completion of the training or services that is not funded by a grant under this Act.

(B) Termination.—The period shall end on whichever of the following occurs first:

(i) The expiration of the 18-month period following the commencement of the period described in subparagraph (A).

(ii) The individual ceases to continue employment without good cause, as the Secretary shall determine (with the advice of the Gateway Task Force).

(b) Public Housing Operating Assistance.—The use of the facilities of a public housing agency receiving a grant under this Act in the provision of training or services under a gateway program shall have no effect on the amount of assistance provided to the public housing agency under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

SEC. 7. TASK FORCE.

(a) Establishment.—There is established an interagency task force to be known as the "Gateway Task Force."

(b) Purpose.—The Task Force shall advise and assist the Secretary in carrying out the responsibilities of the Secretary under this Act and shall carry out the functions of the Task Force under this Act.

(c) Information and Facilities.—The Secretary shall provide the Task Force with the information and facilities necessary to carry out the purposes of the Task Force.

(d) Membership.—The Task Force shall be composed of 8 members as follows:

(1) Officer of Department of Labor.—An individual, designated by the Secretary of Labor, who is an officer of the Department of Labor.

(2) Other Designee of Secretary of Labor.—An individual, designated by the Secretary of Labor, who is not an officer or employee of the Federal Government and has demonstrated knowledge or experience in the provision of social services or has demonstrated concern for underprivileged individuals.

(3) Officer of Department of Housing and Urban Development.—An individual, designated by the Secretary of Housing and Urban Development, who is an officer of the Department of Housing and Urban Development.

(4) Other Designee of Secretary of Housing and Urban Development.—An individual, designated by the Secretary of Housing and Urban Development, who is not an officer or employee of the Federal Government and has demonstrated knowledge or experience in the provision of social services or has demonstrated concern for underprivileged individuals.

(5) Officer of Department of Education.—An individual, designated by the Secretary of Education, who is an officer of the Department of Education.

(6) Other Designee of Secretary of Education.—An individual, designated by the Secretary of Education, who is not an officer or employee of the Federal Government and has demonstrated knowledge or experience in the provision of social services or has demonstrated concern for underprivileged individuals.

(7) Officer of Department of Health and Human Services.—An individual, designated by the Secretary of Health and Human Services, who is an officer of the Department of Health and Human Services.

(8) Other Designee of Secretary of Health and Human Services.—An individual, designated by the Secretary of Health and Human Services, who is not an officer or employee of the Federal Government and has demonstrated knowledge or experience in the provision of social services or has demonstrated concern for underprivileged individuals.

(e) Terms.—Members of the Task Force shall be appointed for the duration of the Task Force.

(f) Vacancies.—A vacancy in the Task Force shall be filled in the manner in which the original appointment was made.

(g) Continuation of Membership.—If any member of the Task Force who was appointed to the Task Force as an officer of the Department of Labor, the Department of Housing and Urban Development, the Department of Education, or the Department of Health and Human Services, leaves the department, or if any member of the Task Force who was appointed from persons who are not officers or employees of the Federal Government becomes an officer or employee of the Federal Government, the member may continue as a member of the Task Force for not longer than the 60-day period beginning on the date the member leaves the department or commences employment with the Federal Government, as the case may be.

(h) Compensation.—Members of the Task Force shall receive no pay on account of their service on the Task Force, except that members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code.

(i) Chairperson.—The Chairperson of the Task Force shall be elected by receiving a vote of a majority of the members of the Task Force.

(j) Termination.—The Task Force shall cease to exist 5 years after the date of the last regularly called meeting of the Task Force, not including an initial meeting called for organizational purposes.

SEC. 8. REVIEW AND SANCTIONS.

(a) Review.—

(1) Secretary.—The Secretary shall review at least annually the compliance of the public housing agencies receiving grants under this Act with the provisions of this Act.

(2) Task Force.—The Task Force shall review at least annually the gateway programs of public housing agencies receiving grants under this Act for the purpose of determining the merits of the various programs in enhancing the employability of residents of public housing, advising the Secretary regarding the determinations, and making recommendations regarding the grant program under section 4 and the various training and services under gateway programs.

(b) Sanctions for Noncompliance.—Whenever the Secretary determines on the record after opportunity for a hearing that a public housing agency has failed to comply substantially with the provisions of this Act, the Secretary shall notify the public housing agency that no further grant payments will be made to the public housing agency under this Act until the public housing agency demonstrates, to the satisfaction of the Secretary, that the public housing agency will comply. Until the public housing agency demonstrates as required by this subsection, the Secretary may not make further grant payments to the public housing agency under this Act.

SEC. 9. REPORTS.

(a) Annual Reports.—The Secretary shall transmit annually to the President and to each House of the Congress a report containing a detailed statement of the activities of the Task Force in the preceding 12 months and the recommendations of the Task Force for any action it considers appropriate.

(b) Final Report.—The Secretary shall transmit to the President and to each House of the Congress a report not later than the date of termination of the Task Force under section 7(i). The report shall contain a detailed statement of the findings and conclusions of the Task Force with regard to the activities of public housing agencies awarded grants under this act and the recommendations of the Task Force for any action the Task Force considers appropriate.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) Basic skills.—The term "basic skills" means the rudimentary skills necessary for an individual to function in daily living, including literacy, arithmetic skills, and problem-solving.

(3) Economically disadvantaged.—The term "economically disadvantaged" has the meaning given the term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(4) Gateway program.—The term "gateway program" means a program for the provision of training and services described in section 4 established by a public housing agency under a grant made by the Secretary under this Act.

(5) Literacy.—The term "literacy" means the knowledge and skills necessary to communicate, including reading, writing, speaking, and listening normally associated with the ability to function at a level greater than the 8th grade level.

(6) Officer.—The term "officer" has the meaning given the term in section 2104 of title 5, United States Code.

(7) Public assistance.—The term "public assistance" means cash payments, credits, or other assistance or benefits provided to individuals or families under Federal law.

(8) Public housing.—The term "public housing" has the meaning given the term in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(9) Public housing agency.—The term "public housing agency" has the meaning given the term in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(10) Secretary.—The term "Secretary" means the Secretary of Labor.

(11) Support services.—The term "support services" means services to facilitate the participation of residents of public housing in training and services under gateway programs. The term includes child care services under section 4(a)(5) and services under section 4(b)(10).

(12) Task Force.—The term "Task Force" means the Gateway Task Force established in section 7.

SEC. 11. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $50,000,000 for fiscal year 1989. Any amount appropriated under this section shall remain available until expended.

IN MEMORY OF THERESA VERA ROWELL CARTER

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. DIXON. Mr. Speaker, it is with deep sadness that I rise today to pay tribute to a woman whose life stands as a shining example of the precious ideals of family unity and strength. Theresa Vera Rowell Carter, who passed away recently, was a devoted mother and housewife and an inspiration to her community. The harmony and sincerity with which she integrated both aspects of her life will undoubtedly be remembered by all of us who had the privilege of knowing her.

Theresa was born on May 12, 1904, in Oxford, MS, and subsequently moved to Water Valley, MS. She completed her formal education in Water Valley, and attended Rust College of Holly Springs from which she graduated on May 27, 1926. In 1929, she met and married John Bennett Carter; a marriage which lasted a beautiful 59 years. John and Theresa had two children; Betty Jo, Russell Earl while still in Mississippi, and then had their third child, Robert Thomas after moving to Cleveland in 1936. Theresa and her husband found employment that contributed to the war effort after their children were born. Theresa was also a pillar of her church, the Greater Abyssinia Baptist Church, where she attended services faithfully. On March 15, 1979, Theresa and John joyously celebrated their golden wedding anniversary.

Mr. Speaker, I would like to extend my heartfelt condolences to Theresa's devoted husband, sons, daughter, grandson, and a host of relatives and friends. Theresa was a truly remarkable woman and those who knew and loved her will indeed miss her.

PROTESTING THE DETENTION OF K.C. CHEW

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. HOCHBRUECKNER. Mr. Speaker, today I would like to call to the attention of my colleagues, the plight of Mr. Chew Kheng Chaun. This case was first brought to my attention by a constituent of mine, Dr. Daniel Gluck, who has expressed concern regarding the arrest and detainment by the Singapore Government of his good friend and colleague, K.C. Chew.

The two men became friends during their time as roommates at Harvard University. After graduation, Mr. Chew finished his studies at the London School of Economics and returned to Singapore, where he is currently employed as the managing director of a company which typesets legal and financial publications. Mr. Gluck, who resides on Long Island, remained in touch with his friend and was visiting Mr. Chew in Singapore at the time of his first detainment.

Mr. Chew was first arrested by the Internal Security Department of the Singapore Government on June 20, 1987, under its Internal Security Act. Citing his alleged involvement in a "conspiracy to subvert the existing social and political system in Singapore," the Government of Singapore held Mr. Chew and 14 other men and women without trial or formal charges until September 12, 1987.

Mr. Chew was arrested again on May 8, 1988, following his alleged role in the drafting of a statement which responds to Government accusations against him and the other detainees and describes their treatment while held in detention by the Government of Singapore. According to Jerome A. Cohen, an international lawyer and representative of the human rights organization, Asia Watch, the detainees' statement describes cruel and inhumane treatment at the hands of captors who sought confessions of conspiracy at any price. The detainees state they were subject to puncturated with slapping sessions and periods of standing wet under a freezing cold air conditioner for 20 hours or more.

The physical bombardment endured by the detainees, combined with their captors' threats of harm to their families, the inability to consult with a lawyer, and other extreme mental and physical methods of persuasion, effectively explains why each detainee confessed to conspiracy against the Singapore Government. These confessions, known as statutory declarations, are recognized by most human rights organizations, including Amnesty International and Asia Watch, to be written under great duress, heavily edited, and of little credibility.

According to the well-respected organization, Human Rights Watch, Mr. Chew's assistance in drafting a statement to publicly recant his and the other exdetainees' statutory declarations led to his second arrest. Ironically, unlike the other detainees, he chose not to sign the draft he had helped compose, fearing the emotional shock of another arrest would destroy his wife. Nonetheless, the Singapore Government took Mr. Chew and the eight exdetainees who had signed the statement into detainment, where they have remained without official charges of wrongdoing or hope of a trial since May 8, 1988.

The lack of credible evidence of internal conspiracy against the Government of Singapore has led Amnesty International to declare Mr. Chew and the other detainees official "Amnesty International Prisoners of Conscience." The Asia Watch Committee, the International Human Rights Law Group, the International Commission of Jurists, and many other organizations concerned with human rights have also protested the unfair treatment of political detainees in Singapore.

In the past, the United States Congress has successfully assisted in the release of Singapore detainees. As you may recall, a letter signed by myself and 54 of my colleagues in protest of the detention of 15 persons in Singapore was sent to the Minister of Home Affairs on August 12, 1987. By the end of December all but one of the detainees were freed by the Singapore Government.

I urge my colleagues to once again stand up for the rights of political detainees in Singapore by supporting a resolution introduced by Congressmen FEIGHAN and PETRI. This resolution expresses congressional concern over the Singapore Government's restrictions of human rights, calls upon the Singapore Government to release the peaceful political detainees and permit them to practice their rights of free speech and association, and urges the State Department to continue to prominently raise human rights concerns in its dealings with governmental officials.

K.C. Chew and other men and women remain in jail for the peaceful expression of their political opinions. Freedom of speech and the ability to associate with others without fear of imprisonment are rights protected under international law. These are rights we must not take for granted, but must honor and protect. Please help call for the Singapore Government to immediately and justly rectify this situation.

AMERICA THE BEAUTIFUL IS OPERATION GREEN PLANT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. GILMAN. Mr. Speaker, on the morning of June 21 I had the pleasure of welcoming to the U.S. Capitol grounds the America the Beautiful Fund's Operation Green Plant van.

Operation Green Plant has been traveling the east coast distributing free seeds and plants to anyone who comes to their Green Plant van. These seeds and plants are being used for volunteer work in growing food for the sick, elderly, and handicapped.

Since its inception in 1980, the Operation Greenplant Program has distributed over 20 tons of surplus vegetable, flower, and herb seeds to over 15,000 projects in all 50 States.

The goal of the Operation Green Plant Program is to use plants as a means to promote charitable good works. As the America the Beautiful Fund likes to say, due to the work of the Operation Green Plant van, help feeding the elderly and sick can be as close as their own backyards.

Mr. Speaker, I know that my colleagues join me in saluting the America the Beautiful Fund for all of their good works. This outstanding organization is a great comfort to the many people it has assisted throughout our Nation. May the America the Beautiful Fund continue its good work for many years to come, "making America beautiful from sea to shining sea."

COUNTY CLERK AT WORK

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. FLORIO. Mr. Speaker, I would very much like to bring to the attention of my colleagues one of Camden County's outstanding public officials, Mr. Michael S. Keating, who will be the recipient of the Frank Nustra Bowl this year for his meritorious service at the annual conference of the International Association of Clerks, Recorders, Election Officials and Treasurers [IACREOT].

After only 16 years in existence, IACREOT is one of the most successful, well-respected organizations of its type. IACREOT has made itself heard in the corridors of effective government, placing strong emphasis on its members establishing and maintaining good working relationships with legislators at all levels.

Mr. Keating, a Cherry Hill, NJ, resident and Camden County clerk for close to 20 years, has been an exemplary and long-standing community activist and public servant. I am proud to be associated with someone of Mike's caliber and dedication to the residents of Camden County.

Mike is a charter member of IACREOT, a member of the County Officers' Association of New Jersey, for which he is chief of the county clerks, and a member of the American Legion, among numerous other organizations. His civic and professional affiliations are beyond enumeration.

I would, however, just like to touch upon a few of his awards and accomplishments. Mike has received awards from both Presidents Nixon and Ford for his efforts in the administration of the Selective Service Act of 1967 and the President's Energy Conservation Program, respectively. He has received awards from the Camden County Democratic Executive Committee and the Camden City Young Democrats for his service and dedication to the Democratic Party. Mike's accomplishments also include lengthy and dedicated service to the Southwestern New Jersey Multiple Sclerosis Society and the American Heart Association.

Starting in 1957 as a member of the Young Democrats, Mike has led a long, dedicated and successful career. He worked for John Kennedy in 1960 as well as several Federal, State, and local candidates. He has been involved with a number of national Democratic conventions, seconding the Vice Presidential nomination of U.S. Senator Mike Gravel of Alaska in 1972. Mike is very active in almost every aspect of the County Democratic Party. After his election as county clerk in 1970, he was reelected in 1975, 1980, and 1985, receiving the most votes of any candidate in the county in three elections.

I applaud Michael S. Keating for his long and tireless service to the residents of Camden County, NJ, and for receiving the Frank Nustra Award. This award is certainly well-deserved and we all owe Mike a tremendous debt of gratitude for his 30 years of service to his community and his Nation.

VIRGINIA CHAMBER'S 64TH YEAR CLOSES IN McLEAN

HON. LEWIS F. PAYNE, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. PAYNE. Mr. Speaker, On May 16, the Virginia State Chamber of Commerce presented its Distinguished Service Award to the late Congressman Dan Daniel.

The award, which has over the years been presented to some of the most outstanding Virginians, was given to Mrs. Daniel at the chamber's annual Congressional Dinner in McLean, VA.

Since I have the distinct honor of succeeding Congressman Daniel and knowing of the affection which many of my colleagues held for him, I would like to include in the RECORD an article which appeared in the June 1988, edition of "Frontline", the publication of the Virginia State Chamber.

I commend this to the reading of the Members of the House.

The article follows:

VIRGINIA CHAMBER'S 64TH YEAR CLOSES IN McLEAN

The Virginia Chamber's Annual Meeting, held May 16 and 17 at the McLean Hilton in McLean, was termed a success by all who attended.

The annual business session began at 3 p.m. Monday, and featured an address and question-and-answer session with Frank Swain, Chief Counsel for Advocacy at the U.S. Small Business Administration. Following the business session, Glenn Reynolds, VP-Valley, substituting for Nominating Committee Chairman William Groseclose, proposed a list of directors and a slate of officers for the Chamber. Both slates were elected by unanimous vote.

At the annual Congressional Dinner, held Monday evening, eight of the 11 members of Virginia's Congressional delegation were in attendance. Senators Paul Trible, and John Warner arrived late, following debate on the defense bill on the Senate floor. Senator Trible was honored with a gift of a videocassete recorder, in recognition of his service to

Virginia in the Senate. Trible surprised everyone during his thanks, when he said he had reached a decision and would announce "Tonight, that I will not be a candidate for (long pause) Attorney General!"

President Wilbur S. Doyle passed the gavel to his former first vice president, Leigh B. Middleditch, Jr., officially marking the end of President Doyle's term in office. President Middleditch, as his first official act, called on Doyle to introduce the keynote speaker William S. Kanaga, Chairman of the U.S. Chamber of Commerce, spoke on "Keeping America on Top."

The highlight of the evening was the presentation of the Distinguished Service Award to the late Congressman W.C. (Dan) Daniel. The award is a framed certificate, done in calligraphy, which cited Congressman Daniel's many accomplishments. Few people saw the award, which was presented by Mr. Daniel's long-time friend W. Brooks George, because of the standing ovation given to Mrs. Daniel as she approached the podium. Reading from the citation, George noted that "Dan Daniel served his state and country with strength, compassion and uncompromising dedication, and did so with the integrity, spirit and resolve of a truly outstanding Virginian."

Chamber Immediate Past President Doyle said later "Congressman Daniel was a true friend, and a great leader and politician in the best sense of the word. He worked tirelessly to improve the welfare of all Americans, and was dedicated to preserving Virginia's interest in Washington. His contributions are too numerous to count."

TRIBUTE TO 125 FIREFIGHTERS WHO FOUGHT REDONDO BEACH PIER FIRE

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to pay tribute to the more than 125 firefighters who battled the Redondo Beach Pier fire on May 27. Crews from the cities of Redondo Beach, Hermosa Beach, Manhattan Beach, Hawthorne, Torrance, El Segundo, Gardena, and Los Angeles County fought the blaze for 2 hours under very difficult circumstances before bringing it under control.

The fire, apparently started by electrical wiring that was damaged in two major storms earlier this year, was further fueled by an oily protective creosote coating on the 50-year-old pier's wooden timbers. That burning creosote produced potentially hazardous toxic fumes. Nonetheless, the firefighters donned masks and air tanks to continue their work to try to bring the flames under control.

The layout of the pier itself caused additional problems. Because the worst part of the fire was on the inner portion of the horseshoe-shaped pier, fireboats were unable to move close enough to spray water directly on the flames. Firetrucks likewise had difficulty moving into position because of the great distance between the fire and the closest onshore approach. As they fought the blaze, large sections of the pier were collapsing into the ocean below, sending into the sky columns of steam and smoke which could be seen for miles.

Mr. Speaker, at this point, I would like to list the names of the fire companies and firefighters who bravely risked their lives under extremely frustrating and hazardous conditions to put out the Redondo Beach Pier fire.

Engine, 61, truck 61, fireboat 61, rescue 61, engine 62, rescue 62, and engine 64 from Redondo Beach. The following Redondo Beach Fire Department personnel were present: Incident Commander B/C Aust, Battalion Chief Desmond, inspector age, F.P.O. Franck, F. Mechanic Soladay, Captains Krig, Northern, Reed, Cody, Kittell, Allred, and Parsons; engineers Denhart, Skirvin, Mitchell, Hodges, Skibiski, Pemberto, Frohoff, Engler, McLaughlin, and Butterworth; firefighters/PM Hyink, Strouse, Growchowski, O'Hagan, Coffelt, Baker, DiPane, Whittaker, Lamaont, Franck, Evans, Harper, Martinez, and Johnson; firefighters Petty, Cabez De Vaca, Bark, Villasenor, Herrera, and Coffelt.

Seventeen firefighters from Torrance Fire Department's engine 94, engine 91, truck 91, air 95, and B/C 91. B/C McCarter and Chief Adams were in command. three firefighters from engine 11, under Captain Chesson came from Hermosa Beach. The crew of engine 22, Captain Dixon and Chief Hackamack responded from Manhattan Beach. From Hawthorne Fire Department came five personnel, including engine 52, station 2, Chief Milstead and Captain Ley. Gardena sent five firefighters from engine 81, and B/C Mailloux. El Segundo's engine 31 and B/C Chandler, and Captains Moore and Monnich from Glendale were also present. The Los Angeles County Fire Department sent 46 firefighters from engine 2, engine 106, engine 56, squad 2, utility 14, engine 57, engine 214, engine 122, engine 241, B/C B–1, fireboat 110. Captain Malsta, Assistant Chief Brunstrom, B/C Crowe, B/C Clady, B/C Beliveau commanded these vehicles. The Los Angeles County Life Guards, under Captain Voorhees, contributed 13 members from the Redondo Beach Bay Watch, Marina del Rey Bay Watch, and Cabrillo Beach Bay Watch. Finally, the 17 U.S. Coast Guard personnel aboard the cutter *Point Camden* and one smaller fireboat also battled the flames.

I ask my colleagues to join with me in saluting the bravery and dedication of these outstanding men and women.

GOMPERS WINS NATIONAL TEST ON CONSTITUTION

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. LOWERY of California. Mr. Speaker, as we progress into the most sophisticated forms of technology, it is of the utmost importance that our children do not forget what, how, and why our forefathers gathered together to form a more perfect union. The Constitution has been interpreted in many ways since its development, but, the learning process must go on. It pleases me immensely to congratulate Gompers Secondary School for winning the national test on knowledge of the Constitution.

The following is an article which appeared in the San Diego Union on Thursday, April 28, 1988:

GOMPERS WINS NATIONAL TEST: TEAM BESTS 1,000 OTHERS IN KNOWLEDGE OF CONSTITUTION

(By Dori Meinert)

WASHINGTON.—Students from San Diego's Gompers Secondary School yesterday were named national champions in the National Bicentennial Competition on the Constitution.

The winners were announced at an awards dinner by retired Supreme Court Chief Justice Warren E. Burger, chairman of the Bicentennial Commission.

The competition is the main project of the Bicentennial Commission's five-year educational effort. It received $2.85 million of the commission's $6.25 million grant program for 1988.

More than 1,000 high school students from 43 states began the national competition here on Monday. After Tuesday's rounds, the teams were narrowed to 10.

The 20 Gompers students divided into panels of four to answer questions from judges testing their knowledge and understanding of the Constitution and the Bill of Rights. The students were grilled as if they were experts at a congresssional hearing.

During the final round yesterday, Gomper students Erica Rowe, William Noetling, Noel Lozares and Seth Padowitz offered quick and concise answers to weighty question about the 14th Amendment's guarantee of equal protection to all citizens.

"This round on equal protection was our toughest, but we put our most work into it. So there's a great amount of satisfaction in getting through this," Noetling said.

When the round was over, one judge remarked that the students had performed at a level comparable to his law school class.

The students spent "countless" hours preparing for the competition during an intensive six-week course on the history and principles of the Constitution at Gompers, which is more widely known for its math-science-computer magnet program. They and their competitors won congressional and statewide competitions in order to represent their states in the national finals.

Before the awards were announced, Gompers student Milele Kudumu said "even if we don't win today, I personally will be pleased that we made it to represent our entire state . . . and I've learned so much about the Constitution and the government."

Kudumu, a junior at Gompers who plans to study medicine, also said the students learned the value of teamwork.

"We're all different. But when we come together, we're a group. We're one.

"You can feel it when you're up there giving your presentation," she said. "You can feel them adding energy."

Jack Gaffney, social studies curriculum coordinator for the San Diego Schools, said earlier that he hoped the Gompers team would win to help dispel the "laid-back" image of California students. The team's win may also help win support for a proposed humanities magnet school.

The Gompers team also included Thomas Colthurst, J. Erik Grimm, John M. Houkom, Cybele Knowles, Larissa Kosits, David Lau, Sheung Li, Joanna Lowenstein, Paul Manoguerra, Sean P. O'Brien, Quan L. Phung, Joel Pratt, Jessica Shanks, Miki Wheeler and Ann Marie Wood.

The team was coached by David Vigilante, who taught their American Government in World Affairs class.

The competition was sponsored by the Bicentennial Commission and administration by the Center for Civic Education in Calabasa.

The six-week curriculum provided by the center can be used competitively and noncompetitively. About 500,000 high school students participated in the classroom project this year. More than 2 million students in elementary, middle and high school levels are expected to participate next year.

THANK YOU TO CATHERINE J. MILES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. HOYER. Mr. Speaker, it is not often enough that we stop to thank the people who really make this House a home, the staff. I would like to take this opportunity to one such person, Catherine Miles, who will be retiring from the Office Supply Service later this summer.

I am fortunate to have Mrs. Miles as a constituent, she has lived in my district for 30 years, the last 15 years in Laurel. Unfortunately, with her retirement, I will be losing Mrs. Miles as she will be moving to a new home in Calvert County.

Mrs. Miles began her work in the accounting department of the Office Supply Service on July 23, 1964. In 1977, she became accounting supervisor. In her position she reports directly to the Chief of the Office Supply Service. Mrs. Miles is responsible for: Ensuring that the stationery store has enough cash on hand to operate, maintaining all daily and monthly ledgers, and making sure that billing to the finance office is made in a timely fashion.

For 24 years we have depended upon Catherine Miles and she has not let us down. She has worked hard to make the House of Representatives a better place for us to work.

I ask all of my colleagues to join in congratulating Catherine Miles on her career and wishing her many years of happy and healthy retirement.

CHARLOTTE ANDERSON, VFW VOICE OF DEMOCRACY SPEECH WINNER

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. QUILLEN. Mr. Speaker, one of my constituents, Miss Charlotte Anderson, a 17-year old student at East Tennessee University High School in Johnson City, has made us all proud back home by taking the top Tennessee honors in the Veterans of Foreign Wars of the United States' national Voice of Democracy broadcast scriptwriting contest.

Charlotte is an outstanding young woman who hopes to attend the U.S. Naval Academy at Annapolis after graduation, and is the daughter of Frank and Barbara Anderson of Johnson City. I know her parents are proud of her, and I want to extend my own congratulations to Charlotte for her splendid achievement.

Charlotte Anderson's fine winning speech is an inspiring reflection on our liberties and heritage as Americans, and I am inserting it into the RECORD at this point for the benefit of the Members:

AMERICA'S LIBERTY—OUR HERITAGE

I'm a modern student. Now, as a student, I don't really feel a total part of a heritage. I'm just beginning to wake up to the immensity of my country, its liberties, and its heritage. I sit, reflecting on these things, and it occurs to me, we are all part of that heritage. My dad, and a lot of men like him, responded to the call to come forth in defense of our liberties our freedoms and our way of life. As I sit here, the realization sweeps over me that the liberties and freedoms bestowed on me and my classmates became the reasons for men of my father's generation stepping forward. I am sure when he crouched behind the palm logs, in the atolls far away, the sweat trickling down his back and into his eyes, his mind was not filled with lofty words such as "We hold these truths to be self evident, that all men are created equal", rather more than instinct for survival and supporting fire when his buddies needed it. He doesn't know how many times I would take out of a little blue box that heavy metal disc with the golden ribbon and read the inscribed words, "Asiatic-Pacific Campaign". The significance of it became lost on me. And the other ones, especially the big, heavy one with George Washington on it, and a purple ribbon with thin white stripes, that says, "For Merit". These are mere symbols of how many brave men became woven into the tapestry of our heritage as Americans. I see these men, both young and old, who so seldom speak of the great service done for their country, only on Memorial Day, Veterans Day and the Fourth of July. I am beginning to comprehend the look on their faces when the colors of their country pass, carried by younger stronger men and women, who march by, in sharp uniforms and scintillating brass. The wizened faces of the veterans seem to hold more than just respect for the colors and what they represent. Appreciating the freedoms that manifest themselves in every day life can pose an interesting problem to the new generation.

The freedoms we take for granted can be threatened at anytime. That either I or others in my family or generation might answer the call to perpetuate these traditions poses another interesting problem. As the next generation of protectors, we may uphold the proud traditions of our ancestors.

Our children may someday gingerly touch new medals forged in our own struggles to retain freedom. It is an awesome responsibility. Our liberties and heritage can only be perpetuated by the citizens. Sometimes, in order to appreciate something it must be threatened or taken away. For instance, if there is a threat of war, the nation would mobilize. But, if it comes to that, I'm confident that even as we are proud of our fathers and all of their sacrifices, we will make our children proud of their American heritage.

ENERGY AND ANWR

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. YOUNG of Alaska. Mr. Speaker, many of our colleagues are aware of our energy dependence upon other nations, and the fact that the picture is not looking any brighter for the foreseeable future. Nevertheless, legislation before the Congress to open to environmentally-sound oil and gas leasing the Coastal Plain of the Arctic National Wildlife Refuge in my district—the State of Alaska—is the bright spot in terms of responding to this growing international threat. Today, I submit for the RECORD and article from the Tampa Tribune, which underscores the need for prompt action by the Congress on this subject. Because of the vast support nationwide for this legislation, I will do this daily.

[From the Tampa (FL) Tribune, Aug. 8, 1987]

MIDEAST UNREST INCREASES U.S. NEED FOR ARCTIC OIL

Political instability in the Middle East is turning America's attention once again to developing domestic sources of petroleum. That translates into the need for immediate coastal plain exploration in the Arctic National Wildlife Refuge on Alaska's all-but-uninhabited northeastern coast.

The Interior Department has estimated that the plains, representing only eight percent of the 19-million-acre refuge, could contain as much as 9.2 billion barrels of economically recoverable oil.

Naturally, any discussion about drilling in the wildlife refuge will draw cries of anguish from racial environmentalists. They talk about oil spills destroying plants and wildlife, pipelines interfering with caribou migrations, and the destruction of migratory bird habitats.

The threat, however, is greatly exaggerated. After 20 years of experience in oil production at Prudoe Bay the petroleum industry has demonstrated that it can co-exist in harmony with the arctic ecology and wildlife population.

For instance, the Prudoe Bay caribou herd has prospered, progressively increasing in size from 3,000 in 1976 to 15,000 in 1985. Based on the Prudhoe Bay experience, less than one-tenth of one percent of the refuge surface (fewer than 23 square miles) would be affected by drilling, production pads, roads and related facilities. And this would be temporary. When work is completed, the land would be restored to its natural state.

The American Petroleum Institute estimates that opening these new reserves in the coastal plains to production would result in an additional million barrels of domestic oil per day. This would hold the world price of oil as much as $9 a barrel below the level it otherwise would attain. That would cut $38 billion (in 1984 dollars) from the nation's cost of imported oil.

The coastal plain does not involve fragile coral reefs such as are found in Florida's Keys. The territory is remote, often frozen and visited by few humans. Yet, the oil industry sees it as an invaluable link to U.S. energy security in years to come—if Congress acts now to open it to gas and oil leasing.

Time is the vital element in this scenario. After leasing takes place, it may take up to 10 years or more to bring arctic discoveries into commercial production.

There is no shortage of oil worldwide, but the largest reserves are under the deserts of the Middle East and the tundra of Siberia. That leaves the oil-consuming nations at the mercy of the large producers, in terms of both price and supply.

The United States has the means to reduce its dependence on petroleum imports and should exercise it by opening up Alaska's coastal plains to production as soon as possible.

The sense of urgency is defined in the following grim statistics:

Domestic oil production in the United States this past May was nearly 400,000 barrels per day less than in May 1986.

U.S. oil consumption in May was 300,000 barrels per day greater than for May a year ago.

GOOD FRIENDS, SOLID ALLIES

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. EMERSON. Mr. Speaker, it was refreshing to hear from Prime Minister Hawke this morning on behalf of our good friends and solid allies, the Australian people. It was refreshing to have a foreign head of government come to us, not as a supplicant, but as a constructive partner willing to engage with us in addressing common problems in an increasing complex world.

It was good to hear a message of challenge and "can-do" from a foreign leader, one who shares with us a fundamental vision of hope and progress in the solution of common problems facing our nations and the human condition.

Congratulations, Mr. Prime Minister, and please carry back to your people the sense of appreciation and warmth Americans feel for Australians and our common commitment.

JOSEPH DOHERTY RESOLUTION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. BIAGGI. Mr. Speaker, as chairman of the bipartisan Ad Hoc Congressional Committee for Irish Affairs, I am today, together with Mr. THOMAS MANTON of New York, Mr. CURT WELDON of Pennsylvania, Mr. ROBERT BORSKI of Pennsylvania, Mr. NORMAN LENT of New York, Mr. JAMES TRAFICANT of Ohio, Mr. THOMAS DOWNEY of New York, Mr. ROBERT MRAZEK of New York, and Mr. RAYMOND MCGRATH of New York, introducing a concurrent resolution concerning Joseph Patrick Doherty, an Irish political prisoner, who was the subject of a ruling by the Attorney General of the United States, last week.

The resolution expresses opposition to the Attorney General's ruling on the grounds that it was politically motivated. It calls for Joe Doherty, after more than 5 years of incarceration for immigration law violation, to be released on bail while his application for asylum is adjudicated. The resolution also expresses support for the asylum petition.

At this point in the RECORD, I wish to insert the entire text of the resolution which provides a chronology of events associated with the case of Joseph Patrick Doherty. For those of you who believe the case of Joe Doherty warrants a new degree of justice, I urge you to cosponsor this resolution.

H. CON. RES. 323

Whereas Joseph Patrick Doherty, a citizen of the Republic of Ireland and of the United Kingdom, was convicted in 1981 of a series of crimes related to an incident involving the death of a British Army soldier and was sentenced to life imprisonment;

Whereas Joseph Patrick Doherty escaped from prison and entered the United States, where he was arrested pursuant to a deportation warrant;

Whereas since June 18, 1983, Joseph Patrick Doherty has been a prisoner in the Federal prison system because of his illegal entry into the United States and has spent considerable portions of this time in solitary confinement;

Whereas the United States, acting on behalf of the United Kingdom, requested the extradition of Joseph Patrick Doherty to the United Kingdom;

Whereas the District Court of the United States for the Southern District of New York in the action styled Matter of Doherty, 599 F. Supp. 270 (1984), denied the request for extradition on the ground that the crimes of Joseph Patrick Doherty were within the political offenses exception of the then existing extradition treaty between the United States and the United Kingdom;

Whereas Joseph Patrick Doherty, pursuant to section 243(a) of the Immigration and Nationality Act (8 U.S.C 1253(a)), designated the Republic of Ireland as the country of deportation;

Whereas in September 1986, an immigration judge ordered the deportation of Joseph Patrick Doherty to the Republic of Ireland, and this decision was affirmed by the Board of Immigration Appeals in March 1987;

Whereas on December 3, 1987, Joseph Patrick Doherty resubmitted an application to the Attorney General for asylum; and

Whereas on June 14, 1988, the Attorney General overruled the Board of Immigration Appeals and ordered Joseph Patrick Doherty deported to the United Kingdom on the ground that deportation to the Republic of Ireland would be prejudicial to the interests of the United States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the decision of the Attorney General to order the deportation of Joseph Patrick Doherty to the United Kingdom was politically motivated to appease the Government of United Kingdom; and

(2) Joseph Patrick Doherty should be—

(A) released on bond during the review of his application for asylum; and

(B) granted asylum in the United States.

SAKHAROV AND THE CRIMEAN TATAR STRUGGLE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. FASCELL. Mr. Speaker, earlier this month, the Soviet Government granted thousands of Crimean Tatars the right to return to their homeland, 44 years after Stalin accused them of collaborating with the Nazis and forcibly deported them to remote regions of the Soviet Union. This long overdue and very welcome development follows the unprecedented day-long demonstration in Red Square last July by hundreds of Crimean Tatars and subsequent similar demonstrations staged all over the Soviet Union.

The tragic struggle of the Crimean Tatars, 200,000 of whom were rounded up in 1 night in May 1944 and shipped off in sealed boxcars to Central Asia, has long been championed by Soviet human rights activist Andrei Sakharov. It is estimated that over half of those resettled—a total of 112,000 people—perished during the deportation and in the following 18 months. A 1967 decree of the Supreme Soviet exonerated the Crimean Tatars of collective war crimes and Sakharov advocated their 20 year campaign to return to their homeland, which became part of the Ukrainian SSR in 1954. On March 21, 1988, the Nobel Peace Prize laureate sent an appeal to General Secretary Mikhail Gorbachev asking him to make a "just and unavoidable resolution" to the plight of the Crimean Tatars. Soon after, Sakharov received a telephone call from Gorbachev to discuss the letter.

The June 9 decision by a Government commission, headed by President Andrei Gromyko, granting the Tatars the right to return to Crimea, appears to be in response to this and other appeals. The statement issued by the Government commission acknowledged that the rights of the Crimean Tatars had been violated and guaranteed them "complete equality with other Soviet citizens in all matters."

So that our colleagues might be better informed on this remarkable development, I ask unanimous consent to reprint a portion of Dr. Sakharov's letter which appeared in the independent Soviet magazine Glasnost and was released by the human rights organization, Freedom House, which publishes the English-language version of Glasnost.

[Portions of the letter follows:]

MARCH 21, 1988.

DEAR MIKHAIL SERGEYEVICH. I have decided to turn to you in regard to two of the more acute current nationality questions—that of the Crimean Tatars' return to the Crimea and the reunification of Nagorno-Karabakh with Armenia. Both of these cases, which involve injustices that pertain to some of the peoples of our country, must be corrected.

It is unjust to hold accountable an entire nation for the acts of a few of its representatives during war time. It is even more inadmissible to distort historical facts and to use them to inflame national hatreds. It is also not correct to cite demographic changes that have since taken place in the Crimea. The infusion of settlers from other parts of the country into the Crimea, including those who were recruited, should have no bearing on the restoration of justice.

A special commission has been set up under the Presidium of the Supreme Soviet of the USSR, but so far it has not found a means of solving the problem. Crimean Tatars who wish to return to their homeland face all sorts of discriminations, including the denial of residency based on their ethnic origins, prohibitions to acquire homes, and provocative agitations, which have emerged during various meetings and in the press.

(In this part of the letter, Sakharov describes the campaigns which were waged against the Crimean Tatars during the 1960s and 1970s.)

The homes of Crimean Tatars were destroyed by bulldozers and were burned to the ground, and people were driven to self-immolation. Like other prisoners of conscience, Crimean Tatar activists who were subjected to repressions have not been rehabilitated. Two of them, Kadyrov and Ablayev, are still in prison.

I believe that activists of the Crimean Tatar national movement should take part in the work of the commission. It would be useful to conduct a referendum among the Crimean Tatars in order to determine the means whereby the problem could be solved, and to ascertain how many want to return to the Crimea. Justice must be done. In my opinion, the government must make a decision to organize a voluntary return of Crimean Tatars to the Crimea, it must give them a preferential right of residence, etc.

The problems that were raised in this letter, relating to the Crimean Tatars and to Nagorno-Karabakh, have become the first tests of perestroika, and of its ability to overcome opposition and the weight of the past. It is impossible to put off once again for dozens of years a just and unavoidable resolution of these questions, and to leave in the country permanent zones of tension.

With deep and sincere respect,

ANDREI SAKHAROV,
Academician.

CHAMPIONSHIP LAKERS WIN BACK TO BACK

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. DIXON. Mr. Speaker, it is with great pride that I rise for the third time in the past 4 years to pay tribute to a truly exceptional basketball team—the Los Angeles Lakers. They are the first team in 19 seasons to repeat as champions of the National Basketball Association, and clearly rank among the greatest teams in basketball history. Today I join my colleagues in congratulating the world championship team and recognizing the contributions the Lakers have made not only to basketball, but to professional sports.

James Worthy, the most valuable player, capped a brilliant championship series, with his 36 points in the seventh and deciding game. Magic Johnson's dominating presence controlled the tempo of the Lakers' attack, and demonstrated once more that he is the spark that ignites the team. Magic, who has three MVP's, is an unselfish leader whose consistent scoring and rebounding challenged the best of players in the NBA. Byron Scott's offensive assault terrorized opposing teams throughout the season. A.C. Green, a rare combination of power and speed, plus a fierce determination to win, got the Lakers off to their fast break. Michael Cooper's intimidating 3-point shot was clearly a weapon and his great defensive effort contributed to the winning edge.

However, the jewel in the Lakers championship crown is Kareem Abdul-Jabbar. After 19 years in the NBA, he still maintains the grace and poise which has characterized his illustrious career both on and off the court. When the game is on the line, the Lakers look to Kareem, with his signature sky hook. When our young people look for a role model, they too can look to Kareem.

An outstanding team is the reflection of an outstanding organization, and the entire Lakers organization—coaches, managers and fans—are to be congratulated. Coach Pat Riley promised to return to the NBA championship in 1988 and he kept his promise. He molded the Lakers individual talents into a powerful, winning, repeating championship team. I also want to congratulate Dr. Jerry Buss, who is always willing to obtain the best talent and general manager Jerry West, who has an uncanny ability to recognize the best talent.

I thank the Lakers and the Detroit Pistons for providing basketball fans around the world with a great championship series.

Today we honor an outstanding group of sportsmen whose relentless determination and unyielding spirit have brought the National Basketball Association trophy home to Los Angeles.

HEIKI AHONEN: ESTONIAN HERO

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to pay tribute to Heiki Ahonen, a very special guest who will be visiting the First Congressional District on June 25. On that day, in Middle Island, Estonian Americans will be celebrating their traditional midsummer's eve festival. And they will be joined by one of their modern day heros.

Heiki Ahonen is only 32 years old. But since 1983, he has been a constant target of Soviet authorities. He has been singled out because he speaks for freedom.

In 1983, Heiki Ahonen was sent to Siberia for demanding human rights and freedom for the people of Estonia. He served 5 years of hard labor for being a witness to the inalienable right of men and women to be free. Earlier this year, Mr. Ahonen was thrown out of his occupied homeland for speaking to French journalists about life in Estonia.

Ahonen is one of many heros in Estonian history, from those who won independence in 1918 for Estonia to those Estonians who fought against both the Nazis and the Soviets in World War II, to those many victims of the deportations of 1941—where tens of thousands of Estonians were sent to their deaths in Siberian slave labor camps—to the dissidents and political prisoners of today who demand Soviet compliance with the Helsinki accords, and the end of the illegal occupation of Estonia by the Soviets.

The courage of Heiki Ahonen in sacrificing his career, his family, and his freedom is an inspiration to all of us in the free world. He has spoken for the right of Estonia to be free again, a right still recognized by virtually all Western nations. He has demanded Soviet adherence to human rights, and basic liberties for his people. Until the Soviets recognize the right of people to live in freedom and dignity, people like Heiki Ahonen and his colleagues, Mart Niklus and Enn Tarto, both of whom still suffer in Siberia, will continue to make these demands. Until these demands are met, the lack of Soviet observance of human rights will continue to be an important item on the United States-Soviet agenda.

Heiki Ahonen is touring America this month to speak to groups about the situation in Estonia, and the need for those of us in the free world to speak up for those political prisoners who still suffer in the Gulag. Many of these people are serving 10-year prison sentences for saying 2 years ago what some Soviet leaders are starting to admit today.

Heiki Ahonen's message is one well worth listening to, and I will be delighted to be with my Estonian-American constituents on the 25th to hear that message, and welcome this remarkable man to Long Island.

HOUSE CONCURRENT RESOLUTION 324, HUMAN RIGHTS IN TIBET

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. GILMAN. Mr. Speaker, today I am joining CHARLIE ROSE in introducing House Concurrent Resolution 324, a resolution expressing the support of Congress for the Dalai Lama and his proposal to promote peace, protect the environment and gain democracy for the people of Tibet. Mr. Speaker, on June 15, his holiness the Dalai Lama, the spiritual and temporal leader of Tibet addressed the European parliament.

The purpose of his visit was to break new ground. He proposed a far reaching concilatory new approach to solving his Nation's problems with the People's Republic of China.

Along with the Tibetan Government in exile he has informed the distinguished European parliament that:

First. Tibet should become a self-governing democratic political entity founded on law by agreement of the people for common good and the protection of themselves and their environment, in association with the People's Republic of China.

Second. The Government of the People's Republic of China, could remain responsible for Tibet's foreign policy.

Third. The Government of Tibet should be founded on a constitution of basic law.

Fourth. That China could have the right to maintain a restricted number of military installations in Tibet for defense purposes until demilitarization and neutralization is achieved through a regional peace conference.

Recent riots in Tibet have taken many lives. Asian watch reports torture, illegal arrests, and detention are common place. Lord Ennalds, a long time friend of the Chinese and who recently returned from a factfinding mission to Tibet, reports that there is immense fear, oppression, and thousands still in jail.

Mr. Speaker, the Dalai Lama proposes steps that are matched in their historic proportions by his selfless intentions. He and his people during their disapora deserve our support. I could not be with my colleagues in the European parliament when he addressed them, but I want them to know that I am moved by the Dalai Lama's proposals and encourage my colleagues to wholeheartedly support them.

I also urge my colleagues here in the Congress to support the Dalai Lama's proposal and to cosponsor House Concurrent Resolution 324. Mr. Speaker, I would like to request that the full text of House Concurrent Resolution 324 be printed in full at this point in the RECORD.

H. CON. RES. 324

Resolved by the House of Representatives (the Senate concurring),

SEC. 1. FINDINGS.

The Congress makes the following findings:

(1) The Congress has previously expressed its concern regarding the policies of the Peoples' Republic of China in Tibet, including the violation of Tibetan human rights by the Peoples' Republic of China, and has called on China to ameliorate the situation.

(2) The Dalai Lama presented a Five Point Peace Plan for the restoration of peace and human rights in Tibet during his visit to the Congress in September, 1987. This Peace Plan has received considerable international support.

(3) The Dalai Lama has now prepared a proposal for a democratic system of government for the people of Tibet founded on law, by agreement of the people of Tibet, for the common good and protection of themselves and their environment.

(4) The proposal of the Dalai Lama recognizes that the primary responsibility for the conduct of the foreign affairs, and the exclusive responsibility for the defense, of Tibet will remain with the Government of the People's Republic of China. Under this proposal, the Government of the People's Republic of China, in order to fulfill its defense responsibility, will be permitted to maintain a restricted number of military bases in Tibet, but these bases must be located away from population centers.

(5) The proposal of The Dalia Lama contains important measures to ensure and enhance the human rights of the Tibetan people and include the following:

(A) Specific steps will be taken to fulfill the goal of transforming the Tibetan plateau into a peace sanctuary. These steps will include convening a regional security conference to determine ways to reduce regional tensions and to eventually demilitarize the Tibetan plateau and bordering regions.

(B) Tibet will be founded on a constitution, or basic law, which will provide for a democratic form of government, with an independent judiciary and a popularly elected chief executive and legislative assembly. The basic law will contain a bill of rights which will guarantee individual human rights and democratic freedoms as expressed in the Universal Declaration of Human Rights.

(C) The basic law of Tibet will ensure the protection of the natural resources of the plateau by requiring the passage of strict laws to protect wildlife and plant life and by effectively converting almost the entire area of Tibet into national park lands or biosphere.

(D) During an interim period, following the signing of an agreement based on the proposal, Tibet will be governed according to a transitional agreement providing for a gradual reorganization of the administration of Tibet, the restoration of human rights to Tibetans, and the return to the People's Republic of China of Chinese recently settled through inducement and involuntary placement by the People's Republic of China in Tibet.

(E) In order to create an atmosphere of trust conducive to fruitful discussions, the Government of the People's Republic of China should respect the human rights of the people of Tibet and not engage in a policy of transferring Chinese persons to Tibet.

(F) Before ratification of any agreement, the proposal will be submitted to the Tibetan people in a popular referendum.

(6) The Dalai Lama has asked the Government of the People's Republic of China and other concerned governments to study carefully, and respond constructively to, the substance of the proposal.

SEC. 2. EXPRESSION OF CONGRESSIONAL SUPPORT FOR THE DALAI LAMA AND HIS PROPOSAL FOR TIBETAN DEMOCRACY.

The Congress—

(1) commends the Dalai Lama for his past efforts to resolve the problems of Tibet through negotiation with the People's Republic of China, and for dissuading the Tibetan people from using violence to regain their freedom;

(2) commends the Dalai Lama for his new proposal in his continued quest for peace and expresses its support for the thrust of his proposal;

(3) calls on the leaders and the Government of the People's Republic of China to respond positively to the proposal of the Dalai Lama, and to enter into earnest discussions with the Dalai Lama, or his representatives, to resolve the question of Tibet along the lines proposed by the Dalai Lama.

(4) calls on the President and the Secretary of State to express the support of the United States Government for the proposal of the Dalai Lama and to use their best efforts to persuade the leaders and the Government of the People's Republic of China to enter into discussions with the Dalai Lama, or his representatives, regarding the proposal of the Dalai Lama and the question of Tibet.

EXPLANATION OF POSITION OF H.R. 4150

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. FLORIO. Mr. Speaker, for the record, I would like to explain that had I been present in the House on Tuesday, June 21, 1988, I would have voted in favor of H.R. 4150, the Postal Reorganization Act Amendments of 1988.

As a cosponsor of this legislation, I feel that the employees of the U.S. Postal Service need more than just assurances that they will not be the beasts of burden for the Federal Government's budget deficit. Although the Nation's mail delivery system does not contribute to our budgetary woes, the USPS has often been called upon to suffer by contributing to deficit reduction.

I am pleased by the swift action that the House has taken on this legislation, removing the USPS from the general budget of the United States. Passage of this measure ensures that the employees of the USPS and the citizens of this Nation will not be deprived of their jobs or of their access to an efficient and reliable postal system.

TWO PRINCE EDWARD MEN HONORED

HON. LEWIS F. PAYNE, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. PAYNE. Mr. Speaker, on Wednesday two gentlemen who reside in the Fifth District of Virginia were honored for superior service by the U.S. Department of Agriculture.

Mr. David S. Farmer of the Soil Conservation Service and Mr. Donald C. Gantt, Agricultural Stabilization and Conservation Service, both serve the Prince Edward County area and both are based in Farmville, VA.

These gentlemen have been cited for providing superior leadership to an outstanding natural resource conservation program. It represents a cooperative effort not just between Mr. Farmer and Mr. Gantt, but between their respective agencies.

This is not the first time these two gentlemen have been recognized by their agencies in public ceremonies, but I am told this is their most prestigious award. It is an honor which both genuinely deserve.

When I asked one of their associates how long Dave and Don had been with their agencies, the reply was "since Gee Whiz". Well, it hasn't been quite that long, but between them they have more than 66 years of dedicated service to the farmers of their areas and to the protection and enhancement of the environment.

We will leave to future generations a better world, because of the service of David Farmer and Donald Gantt, and I was pleased to join in this honor bestowed on two dedicated and effective public servants.

OWEN LEE IS SELECTED TO PARTICIPATE IN AMERICAN-SOVIET YOUTH ORCHESTRA

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to congratulate Owen Lee, who has been selected to participate in the American-Soviet Youth Orchestra. Owen is an 18-year-old bassist who is majoring in music performance at the University of Southern California. Owen started playing the piano at the age of 6, but switched to the bass in 1985 because Santa Monica High School, which he was attending at the time, needed a bass player. His musical accomplishments since then include being an assistant principal in the Young Musicians Foundation Debut Orchestra and, since 1985, a member of the American Youth Symphony. During the summers of 1986 and 1987, he participated in the Los Angeles Philharmonic Institute. He has also performed as a principal in the California All State Honor Orchestra.

The 110-member orchestra is composed of talented young musicians from the United States and the Soviet Union, and will tour both the countries. The American tour will begin with a concert at the Kennedy Center, with Zubin Mehta as guest conductor. Additional performances will be given in New York, Milwaukee, San Francisco, Trenton before beginning a 2-week concert tour of the Soviet Union. Under the direction of Dmitri Kitayenko, the orchestra will open its Soviet tour with a concert in Moscow's Tchaikovsky Hall. The orchestra will then travel to Leningrad, Riga, and Tallinn.

Mr. Speaker, these young musicians will live, work, and travel together for a 6-week period it will be an excellent opportunity to improve United States-Soviet understanding. I ask my colleagues to join me in commending this historic collaboration.

SAMUEL GOLDSTEIN, RETIREE OF THE YEAR

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. LOWERY of California. Mr. Speaker, I would like to call the attention of my colleagues and the American people to the notable accomplishments of a distinguished San Diegan.

Samuel Goldstein is a remarkable man. he personifies public service; he exemplifies our American spirit and he embodies the character of our great Nation's Federal employees, and Civil Service.

Sam was born on February 25, 1910, in Brooklyn, NY. Unfortunately, his father passed away before Sam finished the 9th grade. Sam, as did so many other young men of the day, left his studies temporarily to support the family.

At the age of 18, he began a career in the U.S. Army that would eventually span almost four decades and three wars. He retired as a sergeant major at the Presidio of San Francisco after receiving numerous decorations and awards of distinction.

His second career, with the U.S. Postal Service, continued for 7 years until his retirement in 1975.

Retirement has hardly slowed his pace of accomplishments. Sam finished his high school and college education as a retiree.

And now, another career has begun. Sam is legislative liaison officer for branch 70 of the National Association of Letter Carriers. He has attended every State and National convention of the NAIC from 1970 until now.

For his service above and beyond the call of duty to the NALC, he was named "Retiree of the Year," not once, but twice in the years, 1982 and 1986.

Sam's other civic activities include the Clairemont Town Council, liaison to the board of trustees for the San Diego Community College District Division of Continuing Education and annual assistance to the Muscular Dystrophy Association's annual Walk for Mankind.

Sam has been blessed with a beautiful and equally energetic wife. Renate Goldstein has been his partner for more than 36 years.

Mr. Speaker, as a result of his dedication and service to our great Nation and the good people of my congressional district, please join me in honoring Samuel Goldstein on July 2, 1988.

PRINCE GEORGES COUNTY CIVIC FEDERATION HONORS MAJ. LARRY L. SHANKS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. HOYER. Mr. Speaker, on Thursday, June 30, 1988, an outstanding resident of my congressional district, Larry L. Shanks, will receive the Journal Cup Trophy. This prestigious award is presented annually to a person selected each year by the Prince Georges County Civic Federation as "Outstanding County Citizen."

Major Shanks, a native of our county and a graduate of Suitland High School, first joined the police force in April 1960 as a patrol officer. He has risen through the ranks, while also receiving a bachelor of sciences from the University of Maryland, 1973, and an M.A. from Central Michigan University, 1976.

Before becoming central area patrol commander in 1987, Major Shanks served as area patrol commander of the southern district from 1984 to 1987. He also had commanded various police bureaus. At one point in his career, he supervised more than 600 officers and civilian personnel. Earlier, he had supervised and coordinated investigative operations in the juvenile division.

It is not simply for his notable professional achievements that Major Shanks has been named outstanding county citizen for 1988. Above and beyond the call of duty, it is how he has used his position to reach out to communities in the central county area which commands. Through his efforts, police-community relations have been enhanced. He has led the fight to drive overt drug activity out of these areas and to enlist residents in cooperating with police efforts. The support Major Shanks has won from the community has been hard earned. He has met with community groups and leaders often, frequently on evenings and weekend.

Maj. Larry Shanks is a complete, committed, professional police officer. It is all too infrequent that we stop to commend those individuals who work so hard to make our streets and communities safer. I commend the Prince Georges Civic Federation and the Journal newspapers for recognizing Major Shanks in this way. He has dedicated his life to the betterment of our community and is truly deserving of the award as "Outstanding County Citizen for 1988."

I know my colleagues join me in sending congratulations to Maj. Larry Shanks and his family on his receiving the Journal Cup Trophy.

TRIBUTE TO AMOS HAWKINS

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. McDADE. Mr. Speaker, I would like to take this opportunity to acknowledge an exceptional public servant, Amos Hawkins, Superintendent of the Delaware Water Gap National Recreation Area and project manager of Steamtown Historic Site. Amos is retiring as of July 1 after 34 years of Federal service.

Amos Hawkins' contribution cannot be measured by a mere recitation of his career development. His high level of dedication, his graceful rapport with the public and his coworkers, his effectiveness is getting things done and his ability to take on tough jobs can never be captured in a few words, but I do want to at least attempt to express my gratitude for the cooperation he has shown to me and my staff and the excellent work he has done on behalf of the region I represent.

Before joining the National Park Service in 1956, Amos graduated from the University of Richmond, served in the U.S. Coast Guard and taught high school history and physical education in Rappahannock County, VA.

Amos has distinguished himself in the Park Service, starting as a seasonal ranger, moving into the position of career park ranger at Blue Ridge Parkway in North Carolina and being promoted to supervisory park ranger at Prince William Forest Park in Virginia, where he became superintendent in 1968. He received a Meritorious Service Award for "imaginative interpretive programs" that he began which offered certain groups—particularly mentally handicapped and deaf children—activities they could do in a park environment.

In 1976 he was appointed superintendent of Mammoth Cave National Park in Kentucky where he received a Special Achievement Award in 1978 for "outstanding work in resolving a difficult labor-management dispute and in dealing with many opposing viewpoints to achieve a general management plan for the park.

I came to know Amos Hawkins from his work for the last 9 years as Superintendent of the Delaware Water Gap. Amos performed admirably in overseeing the completion of the first general management plan for the riverside park and helping to bring about the regulation of commercial truck traffic on Route 209 that goes through the park.

Amos did double duty for the past 2 years in continuing as Superintendent while taking on the considerable new responsibility of starting up the Steamtown National Historic Site as a new national park area. Steamtown was created 2 years ago to commemorate the steam locomotive era and the industrial heritage of the Lackawanna Valley.

The citizens in my area have certainly benefited from the able leadership Amos has demonstrated with both the Delaware Water Gap and Steamtown. Both of these projects are demanding, but Amos responded in a way that will positively contribute to the recreational and historic values of northeastern Pennsylvania. He did it with tact, skill, and patience.

I am grateful that I was able to work with someone of Amos' high caliber on these projects. I wish Amos and his wife, Denise, the very best in their future endeavors, and I look forward to working with those who have the very difficult task of filling Amos' shoes.

CONGRATULATIONS TO THE ST. LOUIS JEWISH LIGHT ON 25 YEARS OF EXCELLENCE

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. BUECHNER. Mr. Speaker, I rise today to congratulate the St. Louis Jewish Light on it's 25th anniversary. How fitting it is to celebrate this brilliant instrument of Jewish religion, tradition and culture.

The St. Louis Jewish Light was the brain child of Morrie Pearlmutter. In 1947, Morrie, along with Alfred Fleishman and Sam Krupnick examined options to create a community-wide newspaper to replace the St. Louis Light, which was originally established by the Jewish Federation to serve as the primary vehicle for the Jewish Federation's annual campaign.

Morrie Pearlmutter and his committee recommended that the St. Louis Light be modeled after newspapers in Pittsburgh and Philadelphia—creating a board of tustees, but continuing its affiliation with the Jewish Federation. The committee also decided to include the word "Jewish" in the name of the paper. The first issue of the St. Louis Jewish Light rolled off the presses on April 3, 1963. During the past 25 years, the Light's circulation list has grown to more than 15,000 Jewish households in the St. Louis area.

Over the years, the Light has become more than a newspaper; it provides a central focus for the St. Louis Jewish community. Many of us eagerly receive our Light each week and skim the pages to read community news: who has been married, who has been bar or bat mitzvahed, who has been confirmed, who has celebrated a birthday or anniversary and sadly, who has recently passed away. The Light keeps us in touch with community events such as seminars, club meetings, and other social and religious events.

But the Light, under the editorship, of Bob Cohen, has also brought indepth and professional stories as well, enhancing our understanding of the events around the world. This year, for example, the Light did an extensive analysis of the Palestinian uprisings in the West Bank and Gaza Strip in an informative and unbiased manner. When Bill Kahn, executive vice president of the Jewish Federation of St. Louis, led a delegation to Moscow to visit refusenik families, the Light was there, providing personal coverage of the plight of each family. And of course, the Light covers the activities of Congress, keeping its readers informed about what Congress is, and in some cases is not, doing.

On this, the silver anniversary of the Light, I extend my heartfelt congratulations and warmest wishes to the men and women of the Light who have served the St. Louis community so exceptionally this past quarter century. Now on to another 25 years of excellence.

TAX BURDEN

HON. PATRICK L. SWINDALL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. SWINDALL. Mr. Speaker, today I am introducing a bill to reinstate the installment sales method of accounting for retail dealers, which had been repealed in last year's Budget Reconciliation Act.

I have received numerous letters as I am sure many of my colleagues have, which express desperate situations as a result of the repeal of the installment sales method of accounting. While most retail dealers are not facing the threat of bankruptcy, many have been forced to scale back operations and forego plans for expansion.

Here are some examples of some of the comments that I have received:

> I need your help desperately. Congress has recently passed into law the total repeal of installment sales treatment for closed-end installment sales contracts. Where this is an inconvenience for most traditional furniture stores, our accountant has assured us that it will put [us] out of business.—An American furniture business owner.
>
> I own three installment furniture and jewelry stores . . . The Omnibus Budget Reconciliation Act that took effect Jan. 1, 1988 is devastating. We originally thought we may have to go out of business because of the tax burden and this may still prove to be our best course of action. We have now slowed our sales down and concentrated on reducing our inventory in order to build a cash reserve to pay accelerated taxes. This not only has hurt us but also hurt our customers and suppliers . . . We also had planned opening additional stores that would have employed more people, but for now this is impossible and may never come about. An America jewelry and furniture business owner.

The repeal of the installment sales method of accounting for dealers—furniture, automobile, et cetera—was supposed to bring in additional revenues. Instead, the impact has been to slow economic growth: dealers are being forced to slow down their productivity levels and lay-off workers to pay the additional taxes. Why?

Simply put, dealers now must pay taxes at the time of sale even though they do not receive the gain from the sale until payments are received. Therefore, dealers who have large outstanding accounts receivable are now forced to pay taxes immediately, even though they may not receive all the payments for several years. Businesses which primarily sell merchandise to individuals of marginal credit risk may never collect full payments.

It is unfair to require businesses to pay taxes on money that they have not yet received. It is also foolish to change our Tax Code in such way that it discourages economic growth. I urge my colleagues in cosponsoring my bill to reinstate the installment sales method of accounting for dealers.

A TRIBUTE TO DR. JOSEPH S. WALL

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to congratulate a distinguished constituent of mine. Dr. Joseph S. Wall, a biophysicist at Brookhaven National Laboratory on Long Island, NY, is a recipient of the 1988 Ernest Orlando Lawrence Award from the U.S. Department of Energy. Following Brookhaven's tradition of meritorious achievement in science, Dr. Wall has earned national and international distinction for his work in the field of electron microscopy.

One of six nationwide recipients of the E.O. Lawrence Award this year, Dr. Well is recognized for his lifelong dedication to the development and application of the scanning transmission electron microscope [STEM]. This device allows scientists to observe the minute biological structures of cells at a resolution of 2.5 angstroms. It enables researchers to measure the masses of proteins, nucleic acids, and complexes of both. Using STEM, a researcher can also determine the weight and mass distribution within single macromolecules and complexes.

Not unlike Anton van Leeuwenhoek, the 17th century microscope inventor who ground his lenses by hand, Dr. Wall pioneered cellular microscopy by building the STEM. He first contributed to the creation of a prototype STEM as a graduate student of Albert Crewe at the University of Chicago. Dr. Wall continued to modify and improve the STEM while working as a research associate at the Enrico Fermi Institute at the University of Chicago from 1971–73. He then joined Brookhaven's biology department and built the lab's first STEM, which began operating in 1975.

Rather than viewing a microworld of life through a hand-ground lens as van Leeuwenhoek did, Dr. Wall utilizes an advanced technical approach. First, the objects to be viewed are cooled to the temperature of liquid nitrogen. As electrons are transmitted from the specimen, STEM registers these transmissions and creates an image. This process enables a scientist to see smaller, more frail objects which would otherwise be damaged by less sophisticated electron microscopes.

Besides his work as a pioneer-inventor, Dr. Wall has organized a STEM user facility which enables a broad community of scientists to utilize STEM technology. Two of the three STEM's in the world can be found at the Brookhaven National Laboratory.

A native of Madison, WI, Dr. Wall received his B.S. from the University of Wisconsin at Madison, and his Ph.D. from the University of Chicago. He lives in Wading River, NY, with his wife, Maureen, and their four children. Dr Wall is a member of the New York Academy of Sciences, the Biophysical Society, the Electron Microscopy Society of America, the American Association for the Advancement of Science, and the New York Society of Electron Microscopists.

Mr. Speaker, Dr. Wall's contributions to science merit our recognition today. As his Representative in Congress, I am proud to draw attention to his achievements and to the institution which made STEM possible, Brookhaven National Lab. On behalf of the citizens of Long Island, I want to thank Dr. Joseph Wall for his work.

THE 50TH ANNIVERSARY OF THE JAVITS-WAGNER-O'DAY ACT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. GILMAN. Mr. Speaker, this Saturday, June 25, marks the 50th anniversary of the landmark legislation, the Jobs for the Blind Javits-Wagner-O'Day Act. Earlier this week, the House adopted the Senate concurrent resolution, S. Con. Res. 121, commemorating this historic occasion.

Over the last half century, the Javits-Wagner-O'Day Act has enabled hundreds of thousands of blind Americans to lead productive and independent lives. Currently, jobs are provided for over 4,500 blind workers at 92 workshops throughout the United States. Another 11,000 severely handicapped are employed at an additional 254 workshops. These jobs are not limited to menial tasks. Many qualified blind and handicapped workers hold various management and supervisory positions.

The Javits-Wagner-O'Day program does not shield the blind from the seeing world but assists them in living fruitful and unconstrained lives outside the shops. One person from my area who exemplifies the success of the program is Richard Bernstein, who was recently named a finalist for "Blind Worker of the Year." Richard is a deaf-blind client of the Helen Keller Services for the Blind in Brooklyn. Deaf since birth, Richard has had to overcome many traumatic experiences and hardships. At 12, he was diagnosed with retinitis pigmatosis, or "Usher's Syndrome," becoming legally blind by age 18.

Richard entered Helen Keller 35 years ago as a sewing machine operator. Richard displayed an abundance of talent and mechanical inclination and has been promoted to assembly line positions and to riveting machine operator. His quality goods and services, such as trouser belts, VA surgical kits, and pillow cases, are subsequently purchased by the Federal Government. The $90 weekly take home pay which he earns enables Richard to maintain his own apartment and travel independently to and from work.

Richard Bernstein and thousands of other blind Americans would not have been given the opportunity to become a contributing part of our society were it not for the passage of the Javits-Wagner-O'Day Act 50 years ago. Congress must continue its commitment to this program and the blind as long as blindness exist.

NINETY YEARS OF SUNSET MAGAZINE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. LANTOS. Mr. Speaker, I am delighted to call to the attention of my colleagues in the Congress the 90th anniversary of one of our Nation's most successful periodicals—Sunset magazine. With a circulation of 1.4 million, Sunset is one of the top five best sellers in the United States, ranking with such magazines as Reader's Digest, National Geographic, Better Homes and Gardens, and TV Guide. This outstanding magazine is published in Menlo Park, CA, in my congressional district, by Lane Publishing.

Sunset magazine was created by the Southern Pacific Railroad in 1898 as a means of luring settlers to the American West. In 1928, Laurence W. Lane bought the magazine, and transformed it into "Sunset—the Magazine of Western Living." The magazine is now published by Melvin Lane. In the 60 years that it has been published by the Lane family, it has become a truly unique Western American publication.

Indeed, much of Sunset's appeal comes from its provincialism. It outshines the competition of city, State, and regional publications through careful targeting. The magazine caters to residents of the 13 Western States—Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming—and it is further tailored to the different areas within these Western States, with a large portion of the editorial material changing to reflect each region's unique needs and concerns. Sunset has achieved its success by focusing on the good life values. Its primary focus is suburbanites who are interested in the four subject areas covered in the magazine—travel, gardening, home improvement, and food.

The standards Sunset maintains for its advertising are a model, and it maintains among the most restrictive advertising policies of any major consumer magazine. Advertisements for tobacco, digestives, laxatives, lingerie, hard liquor, and beer have no place in the magazine. Furthermore, Lane Publishing frequently tests unknown or untried products before they are advertised so as not to mislead or misinform its readers.

Mr. Speaker, I am honored to represent a part of this unique, diverse region known as the West, and I salute Sunset magazine's great contribution to enhancing the quality of life in the West. I invite my colleagues to join me in extending congratulations and warmest best wishes to Sunset on its 90th anniversary.

WILLIE VELASQUEZ REMEMBERED

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. FUSTER. Mr. Speaker, it is with great sadness that I rise to remember Willie Velasquez, who passed away last week at the early age of 44 and who was a living legend in the Hispanic community of this Nation.

Much has been written and said in the national media about this giant of a man who did so very much for the Chicano community of the southwest, particularly in his voter registration efforts.

He was director of the Southwest Voter Registration Education Project, the largest and most successful voter registration organization for minorities in the United States. Virtually every city in the southwest with any appreciable minority population had been worked by Willie Velasquez' organization.

He was the dynamo responsible for increasing voter registration of Hispanics by 25 percent throughout the Nation and for the resulting growth of Latino elected officials. As president of the Southwest Voter Registration Education Project since its inception in 1974, Velasquez led more than 1,000 voter registration campaigns in 200 cities throughout its six-state region.

Willie Velasquez went on to distinguish himself as a Fellow at Harvard University's Institute of Politics. While there, at the Kennedy School of Government, he taught a course on Mexican American politics.

Velasquez will also be remembered as the very capable assistant director of the National Council of La Raza, which is a confederation of Latino community development groups throughout the United States. Earlier, he was the founder and first executive director of the Mexican American Unity Council, which was one of the first Latino community development corporations in the Nation.

Willie Velasquez was truly a giant of his times, and his untimely death at only 44 leaves a void that will be very difficult to fill. Willie Velasquez was a tribute to the Hispanic community and to the Nation.

He truly believed that "it is better to light a candle than to curse the darkness."

IT'S TIME FOR A PARENTAL-LEAVE POLICY

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. SABO. Mr. Speaker, last Sunday was Father's Day. Then, as on Mother's Day a month before, we celebrated the American family. We paid tribute to the importance of the parent-child relationship. On these occasions, it is appropriate to focus on what we as a nation can do to foster strong and healthy families.

If we are serious about our commitment to the family we must take the steps needed to ensure that children get proper care and that parents can personally provide the attention and nurturing needed. If, we as a society, are going to be strong tomorrow—if we are going to be prepared to meet the challenges of the future—we must meet the needs of the next generation.

One important step we should take is to adopt a national parental-leave policy. The United States is the only industrialized nation that does not have one. It's time we get one.

A mandatory parental-leave policy is a simple recognition of the changing composition of the American work force. Today most women work outside the home. There are more and more two-earner families. And a significant number of single-parent families. This reality is here to stay. But we have so far failed to deal with it.

The bottom line is that parents should not be penalized for having children and wanting to take proper care of them. They should not have to choose between holding down a job and giving needed attention to their children at critical times.

This fall the House will vote on parental-leave legislation. The bill that will be before us requires businesses with 50 or more employees to grant unpaid leave to workers who need to care for a newborn, newly adopted, or seriously ill child or parent. Employers would have to continue to make health-insurance contributions to those on leave and, upon the workers return, reinstate the employees to their old or equivalent position.

The proposal is not overly generous. The leave would be limited to 10 weeks over 2 years. Workers would not be entitled to the leave until they had been with the firm for at least a year, working a minimum of 20 hours per week.

A mandatory parental-leave policy is a minimum standard we should have in the same way as minimum-wage and child-labor laws. With the adoption of this important legislation we can ensure that American children get proper care and their parents are not penalized for providing it. That is not only good for the individuals involved, but also for our society as a whole.

FILIPINO-AMERICAN NATIONAL HISTORY WEEK

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. MILLER of Washington. Mr. Speaker, today, I am introducing a resolution which recognizes the special contribution which Filipino-Americans have made to this country. It was 225 years ago that Filipinos first came to America by way of the galleons in the course of trade between the Spanish colonies of Mexico and the Philippines. This resolution, which designates the week of November 19, as "Filipino-American National History Week" is a fitting and overdue tribute to Filipino-American's longstanding and significant contributions to our country.

Filipino sailors, forced into service by the Spaniards who ruled their homeland, jumped ship when they reached New Orleans and fled into the swamps of Louisiana. these new settlers, known as "Manilamen" or "Filipino Cajuns," were among the first to settle the State of Louisiana, setting up villages in the bayous. Now 225 years later Filipino-Americans comprise one of the largest ethnic groups from Asia and the Pacific in the United States, with over 700,000 citizens and permanent residents of Philippine descent now living in the United States. Filipino's in the United States have grown and prospered since those first settlers in 1763. They overcame the obstacles of a harsh life in the frontier and discrimination by their fellow Americans and have made a singular mark with their cultural and economic contributions.

Filipinos-Americans fought in the War of 1812, they battled heroically during World War II, and today Filipino-Americans are physicians, engineers, educators, business executives, clergymen and every other sort of occupation. Filipino-Americans, one of the first emigrants to our country, have made this Nation of emigrants a better, more prosperous place. I urge my colleagues to join me in honoring all Filipino-Americans by signing onto this resolution.

TRIBUTE TO ROBERT CLARK

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. BADHAM. Mr. Speaker, it is my privilege today to recognize Robert L. Clark, who will step down on June 28 as a member of the Orange County Water District Board of Directors.

Bob Clark has served for 20 years as a member of this board. His outstanding contributions to our community include work with the Santa Ana Watershed Project Authority, the Santa Ana River Flood Protection Agency and the National Water Supply Improvement Association.

Mr. Speaker, we in the political arena often overlook the importance of reliable water sources and effective flood control, only to be caught by surprise when we face shortages and disasters. Too often, we fail to remember that our entire way of life, especially in California, depends upon water.

But Bob Clark has been there day in and day out, dealing with these complex, vital problems and challenges. I'm sure my colleagues join me in commending him for his service and wishing him the best as he leaves the board.

MICHELLE EVANS WINS VFW BROADCAST SCRIPTWRITING CONTEST

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. SKEEN. Mr. Speaker, the Veterans of Foreign Wars of the United States each year sponsor a broadcast scriptwriting contest in which winners are selected from each State. This year's winner for the State of New Mexico is Michelle Evans. Michelle lives in Hobbs, NM, where she is a senior at Hobbs High School. It is with pleasure that I read her winning script. The theme of the script is "America's Liberty—Our Heritage."

"Four score and seven years ago, our fathers brought forth upon this continent a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal." These famous words uttered by President Abraham Lincoln, on a battlefield many years ago, symbolize the liberty that America has achieved for herself. But the question is, is that still all it symbolizes to us now? Do we still think of liberty as they did then? For a moment, let us travel back in time to that day so long ago when President Lincoln delivered his simple yet eloquent speech.

The date is November 19, 1863. Everyone has gathered to hear the President dedicate the new cemetery that was erected on the Gettysburg battlefield. As we look about, we see the triumphs of war. The tear stained faces and moist handkerchiefs reveal the heartbreak of the few that gather in the heat of the sun. Probably right now they are asking themselves if it is really worth the loss that they are feeling. This freedom . . . will it take the place of my dead son or husband? As the President takes the stand, the shuffle quiets and the voice of the great man rises over the grief stricken crowd. They will hear, but grief will not help them understand anymore than they did before.

For a moment let us read the minds of the people that have gathered. Many must be wondering if the pain they are feeling is really worth the freedom that the President is speaking of. They must be feeling the loneliness that accompanies the loss of someone to the war. The definite feeling that something so precious to them was lost for the benefit of a few individuals. Is it worth the loss? So they turn to his words for comfort. "If destruction be our lot, we must ourselves be it's author and finisher. As a nation of free men, we must live through all time or die by suicide." These words lack the comfort that the people deserve, but provide a solace in thought and emotion that maybe things will turn out for the best.

As free people today do we really know what liberty is? They knew what it was then. They knew it was the reason for this horrible war that had affected their lives and those they loved. They knew it was the reason for the death of their son, husband, or father. But now that that freedom is something that we really do not worry about, do we really know what freedom is?

Today, as a teenager in the world, I think of liberty as something that I don't have. It seems that my parents are the givers of any liberty that I wish to achieve. It is not something they fought for so long ago, but something that I fight for as a teenager today. This liberty is something totally different from what was fought for way back then . . . or is it? For a moment let us consider the reasons that this nation was settled upon in the first place. Weren't those people searching for liberty from the Crown? They were looking for the freedom to do as they pleased, when and where they wanted. Pretty ironic that they could have been looking for the same kind of freedom that I'm looking for. They were looking for the freedom to and be what they thought was best for themselves. Isn't that the same thing that just about everyone is looking for?

So what would have happened if this country had never made that break from their parents? This country may never have developed into what it is today if we had not broken away from our parents. But isn't it just the same with us? If we lived within the confines of our family all our lives, wouldn't we be children forever? The freedom that was fought for so long ago can be assimilated with the liberty we search for today from our parents. So today we are still fighting for our freedom in a way. If this is so then why don't people appreciate their freedom more than they do? It may be because the war we fight for is not like the war they fought so long ago. Maybe we must experience the pain of loss just as those people did to cherish our freedom. It seems we always have to learn appreciation the hard way. I shudder to think that the only way we will learn to appreciate our liberty is to lose it.

It seems that liberty is not only our heritage, but also our obligation. Look at what America has become. If we had remained with our mother country, we would not be half the country we are today. So that means that to be all that we can be, we have to fight for our freedom from our parents just as America did so long ago.

Liberty . . . we search for it every day. Liberty and your fight for it will make you into whatever it is that you need to be. Listen to the words of Milton, as he struggles for his own liberty. "Give me the liberty to know, to utter, to argue freely according to conscience, above all liberties." America's precious liberty . . . it comforts our losses, shapes our lives, and allows her children to grow into what they need to be.

EXPLANATION OF VOTES

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. SAXTON. Mr. Speaker, due to my son's high school graduation yesterday, I was unable to be here for three votes. Had I been here, I would have voted:

"No" on the Morrison amendment (A003) to transfer low-income housing assistance funds appropriated in the bill from the 5-year voucher program to the 15-year certificate program of the Department of Housing and Urban Development.

"Yes" on final passage of the HUD appropriations bill (H.R. 4800) and "Yes" on the rule to consider the fair housing bill (Roll No. 199) (H. Res. 482).

CONGRATULATIONS TO JAMES DUDERSTADT

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. PURSELL. Mr. Speaker, I rise today to offer sincere congratulations to James J. Duderstadt, chief academic officer of the University of Michigan. On September 1, 1988, he will become the university's 11th president.

Jim's appointment ends a selection process that began when President Harold Shapiro announced in April 1987 that he was leaving the University of Michigan to become president of Princeton University. Shapiro assumed that position on January 1, 1988, and Robben W. Fleming has served as interim president since Shapiro's departure.

Widely known in higher education as an exceptional administrator, distinguished scholar, and scientific investigator, Jim has received numerous awards for his research, teaching, and service both at the University of Michigan and with national advisory boards. A member of the University of Michigan faculty since 1969, he served as dean of the University of Michigan College of Engineering from 1981 to 1986 overseeing major growth in academic activity, research, and facilities.

As provost and vice president for academic affairs since 1986, he has served as chief academic officer and chief budget officer with line responsibility for all schools, colleges, institutes, and other academic units as well as monitoring the University's $1.4 billion annual operating budget.

Born on December 5, 1942, in Iowa, Jim grew up in Carrollton, MO. he attended Yale University where he received a bachelor's degree with highest honors in electrical engineering in 1964. He continued his education at the California Institute of Technology earning a master's degree in 1965 and a doctorate in engineering science and physics in 1967.

After serving as a U.S. Atomic Energy Commission Postdoctoral Fellow at Caltech, Jim was appointed assistant professor of nuclear engineering at the University of Michigan in 1969. He was promoted to associate professor in 1972 and professor in 1976.

As president, Jim will preside over a university that enrolled 49,244 students on the Ann Arbor, Dearborn, and Flint campuses in the 1987 fall term. In addition to the 17 schools and colleges at the Ann Arbor campus, there are 5 at the University of Michigan-Dearborn and 3 at the University of Michigan-Flint. The university also operates the University of Michigan Medical Center which is one of the largest concentrations of health care facilities in the world.

The University of Michigan consistently is ranked one of the top 10 universities in the Nation, private or public. Its alumni body is one of the largest in the Nation with 316,546 living degree holders.

Jim and his wife of 24 years, Anne, have two daughters; Susan, who recently received a B.A. cum laude from Yale University in molecular biophysics and biochemistry; and Katharine, a senior at Harvard University majoring in English literature.

Both Jim and Anne are entirely devoted to further enhancing and strengthening the University of Michigan and have a thorough knowledge of the university and its relationship and responsibility to the people of Michigan.

Mr. Speaker, I commend the University of Michigan's Presidential Selection Committee for its excellent selection and I ask my colleagues in the U.S. House of Representatives to join me in wishing Jim and Anne Duderstadt many years of happiness and success at the University of Michigan.

MEDIA HAS THEODORE ROOSEVELT SEEING STARS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. GREEN. Mr. Speaker, the media has given a great deal of attention of late to astrology in politics. Unfortunately, with all of the mud being slung around, some of it has ended up sticking where it does not belong. On May 9, 1988, the CBS Evening News claimed that President Theodore Roosevelt believed in and practiced astrology.

In response to the broadcast, the Theodore Roosevelt Association has spoken up to defend the man who cannot defend himself from disparaging allegations. The association has asked that CBS publicly retract its story, since the network refuses to reveal the basis for its report. According to my friend Judge Theodore Kupferman, a former Member of the House who is now president of the association, and John Gable, the group's executive director, the story is baseless. These men, both distinguished Roosevelt scholars, agree that the ex-President had no faith in mysticism and never practiced astrology in any form.

Mr. Speaker, I am a firm believer in a free press, and I respect the need for the media to protect their sources. I cannot, however, help but feel that in this case it is unfortunate that CBS continues to refuse to divulge the origin of its information.

Theodore Roosevelt was a President to whom history accorded justified respect and admiration. It is a shame that vague and faddish allegations could be allowed in any way to tarnish the reputation of a man to whom America owes so much.

I stand by the Theodore Roosevelt Association and hope that some resolution to this conflict is in the stars.

TRIBUTE TO THE KILGORE COLLEGE LADY RANGERS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. HALL of Texas. Mr. Speaker, the Kilgore College Lady Rangers of Kilgore, TX, who earlier this year won the National Junior College Athletic Association championship with a 33-1 season, were honored at the White House May 5, 1988, in recognition of their fine athletic accomplishments.

President Ronald Reagan, in a very pleasant Oval Office meeting, extended his warmest admiration to the group and expressed his congratulations to the team and Coach Evelyn Blalock.

Team members presented the President with numerous gifts: A Rangers warm-up suit, baseball cap with the school emblem, college yearbook and school history, and a gym bag filled with similar gifts for Mrs. Reagan.

The Kilgore Lady Rangers captured the NJCAA championship with a 33-1 season record. In the NJCAA national tournment, Kilgore College defeated Lees College, Jackson, KY, 105-102: Moberly Area College, Moberly, MO, 79-73; Northeastern Oklahoma A&M College, Miami, OK, 72-69; and John A. Logan College, Carterville, IL, in the championship game 78-71.

During the season, Kilgore Lady Rangers scored 3,071 points—an average of 90.3 points per game—while allowing their opponents only 2,381—an average of 70.0 points per game.

Kilgore College went to the national tournament for the first time in 1986, finishing seventh. The team returned in 1987, finishing sixth, and in 1988 became the NJCAA national champions.

The Lady Rangers are coached by Evelyn Blalock, who started the women's basketball program at Kilgore in 1979. Managers and members of the championship team who were received by President Reagan included Yolanda Brown, Vicki Dunbar, Rosalind Hodge, Pam Hudson, Charlotte Jones, Barbara Latham, Joey McReynolds, Wendy Martin, DeDe Palmer, Kim Scott, Hope Walker, Terail Walker, Cheron Wells, and Pam Wells.

Also attending the reception were: Kilgore Mayor Bob Barbee; Jim Campbell, Kilgore College's dean of student services and assistant vice president; Latane Speer, cheerleader sponsor and teacher at Kilgore College; and James A. (Archie) Whitfield, director of public relations at Kilgore College.

Mr. Speaker, as we adjourn Congress today, it is my hope that we do so in honor of the NJCAA champions for 1987-88—the Kilgore College Lady Rangers of Kilgore, TX.

Mary Ellen and I were proud to present these champions to the President of the United States—and we will be pulling for a repeat performance in 1989.

TIME TO SUPPORT AMERICA'S FATHERS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. CLAY. Mr. Speaker, this weekend, American families celebrated the importance of fathers. Over the past several decades, the role of fathers has changed dramatically. No longer are fathers the sole or solely breadwinners with few other family responsibilities. Today's fathers are taking an active role in caring for and raising their children.

The increased family responsibilities undertaken by men have placed new demands on them. With over 95 percent of fathers and almost 60 percent of mothers at work, the need for one parent to attend the needs of newborn or seriously ill children has intensified. Many companies have recognized the changed needs of workers and provide temporary job leave for family needs. Unfortunately, the majority of companies have yet to formally protect their workers. Only 40 percent of companies provide job protected parental leaves. Many of these companies provide less generous leave to men, in clear violation of title VII of the Civil Rights Act's prohibition against sex discrimination.

Our society has finally begun to realize that women should not alone bear the responsibility for caring for family members. More and more men are taking active roles in child rearing. It is time the United States join the rest of the civilized world and enact a national family policy that allows working men and women to care for their families.

DECLARING "VIETNAM VETERANS WEEK" IN BOLINGBROOK, IL

HON. JACK DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. DAVIS of Illinois. Mr. Speaker, there are many, many good reasons for Americans to feel proud on the Fourth of July. I would like to share one particular event happening in Bolingbrook, IL, that is going to make 1988 a very special, and very proud Fourth of July for a group of Americans that have certainly earned the right to hold their heads up high.

Mayor Roger Claar of Bolingbrook has issued a proclamation declaring the week of June 28, 1988, through July 4, 1988, as Vietnam Veterans Week in his community. This proclamation, though, is only a portion of the mountain of compassion and support that the community of Bolingbrook is offering to Vietnam veterans.

The Vietnam veterans convoy to the wall is a group of several hundred Vietnam veterans that are volunteering their own time and efforts in a journey from one end of this great country of ours to the other. They will start out from Portland, OR, and travel across America in their own vehicles to arrive at the Vietnam Veterans Memorial Wall in Washington, DC, for the Fourth of July. They want to recognize America's celebration of independence by paying tribute to their comrades—and in many cases—their friends, who answered the call of their country and left their homes and families to defend the ideals on which this country was founded on that first Fourth of July, 212 years ago.

When the Vietnam veterans convoy to the wall arrives in Bolingbrook, IL, they will be greeted by a community that has gone out of its way to welcome the travelers and show its support. From the police to the fire department, from local businesses and restaurants to families and their homes, the entire community of Bolingbrook is welcoming the Vietnam veterans with open and supportive arms.

I know that the efforts of Bolingbrook will be warmly appreciated by the veterans traveling to Washington. I hope, however, that the rest of America will take a moment and turn their heads toward Bolingbrook, IL. I hope that they will open their eyes and see a community that is extremely proud to be American—a community that has the time to take a moment and say thank you to those who clearly deserve all of our thanks.

I would like to insert the proclamation of the village of Bolingbrook into the CONGRESSIONAL RECORD to stand as an example to the rest of the country of the compassion and gratitude of a fine American community.

VILLAGE OF BOLINGBROOK—PROCLAMATION

VIET NAM VETERANS WEEK JUNE 28-JULY 4, 1988

Whereas, the Viet Nam Convoy to the Wall is making their 2nd annual trek from Portland, Oregon to Washington, D.C. where they will participate in our Nation's Fourth of July celebration and while enroute Bolingbrook will have the opportunity to host this convoy on June 28th and 29th; and

Whereas, the Village of Bolingbrook wishes to encourage the rest of our nation to follow our lead in welcoming home Viet Nam Veterans and provide them with a time and place to participate in the healing and sharing experience required to bring our veterans home; and

Whereas, members of the Armed Forces of the United States who served in Southeast Asia during the Viet Nam Conflict performed such service under the most trying conditions because of the lack of domestic support for the conflict and the nature of the conflict itself; and

Whereas, the courage and sacrifice of America's soldiers, sailors, marines, and airmen during the Viet Nam era was by all measures equal to that of their counterparts in other wars; and

Whereas, we have never fully expressed our thanks to those who have given a substantial portion of their lives at their country's request and in the name of the people of the United States, and who served honorably during this period; and

Whereas, the Village of Bolingbrook would like to dedicate this week to giving back some peace and joy to the 6 million men and women who fought for years to insure us those same rights and privileges.

Now, Therefore, I, Roger C. Claar, President of the Board of Trustees of the Village of Bolingbrook, Will and DuPage Counties, Illinois, do hereby proclaim the week of June 28th through July 4, 1988 to be Viet Nam Veterans Week in our community and urge all citizens to join with me in this expression of our appreciation to all the Viet Nam Veterans who have given so much in our behalf in times of both war and peace.

KOREAN WAR MEMORIAL NEEDS SUPPORT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. SOLOMON. Mr. Speaker, on October 26, 1986, 33 years after the end of the Korean war, the President signed Public Law 99-572 authorizing the establishment of a memorial in Washington to honor members of our Armed Forces who served during the Korean war.

The Korean war has been named by some people as "America's Forgotten War." To the 5.7 million men and women who served in that war and contributed so significantly to the stability, economic advancement and to the growth of democracy, this title is a painful weight on their shoulders. More than 5 million of these men and women are alive today and deserve national recognition of their courageous efforts.

I should also note that almost as many Americans died in Korea in 3 years as did during the 10 years of the Vietnam war. The brutal statistics cannot be ignored: 33,600 killed in action, 21,400 nonbattle deaths and 103,000 wounded, many for life.

The legislation authorizing the Korean War Memorial requires that $5 million be raised through private contributions. Since the start of the American Battle Monuments Commission fundraising, the Commission has only raised $2.2 million, with $1.5 million of that coming from the Hyundai Motors Co.

In other words, Mr. Speaker, without contributions from private individuals, corporations and organizations, the construction of this long overdue memorial will never be completed. In my view, this would be a national disgrace.

On the behalf of the 5 million American veterans who served during the Korea conflict, we would appreciate every American's support in the Commission's effort to raise the remaining funds. For more information, please contact Korean War Memorial Fund/American Battle Monuments Commission, P.O. Box 2372, Washington, DC 20013-2372.

INTRODUCTION OF THE FEDERAL CONTRACT COMPLIANCE AND WORKFORCE DEVELOPMENT ACT OF 1988

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. HAWKINS. Mr. Speaker, today I rise to introduce the Federal Contract Compliance and Workforce Development Act of 1988. This legislation proposes the most significant and important equal employment opportunity law enforcement since the Civil Rights Act of 1964. But the bill goes much further than equal employment opportunity and civil rights. This act links civil rights and Federal contract compliance with funding a targeted, education program. It does this because by the year 2000, the majority of the new entrants into the labor force will be women and minorities, and unless they and others are trained and qualified for the kinds of jobs available at that time, this Nation will face a serious crisis. With this bill then, both Government and the Federal contractor community, which earns billions of Federal dollars annually, will share in investing to prepare our Nation for the workforce demands of the 21st century.

This bill has two principal purposes: (1) To strengthen the administrative enforcement mechanism of the U.S. Department of Labor's Office of Federal Contract Compliance Programs, [OFCCP] which is mandated by Executive Order 11246 to enforce the nondiscrimination and affirmative action requirements in Federal contracts; and (2) to create an Education Improvement Fund, which is derived from assessing every Federal contractor covered by Executive Order 11246, a small percentage of each Federal contract to provide educational opportunities for members of racial, ethnic or gender groups so that they may be prepared and qualified to undertake employment opportunities in fields in which they are currently underrepresented and in which there is a national need.

We continue to need strong civil rights legislation because the dream of a fully integrated, fully utilized workforce has yet to be fulfilled. The number of discrimination complaints filed with the Federal civil rights agencies has not diminished; nor have the letters we receive from constituents who allege that they have been discriminatorily excluded from hiring opportunities or barred from well-deserved promotions, even though they were highly qualified.

In order to strengthen the authority of the OFCCP to combat such discrimination and promote affirmative action, this act would codify Executive Order 11246, issued by President Lyndon Johnson in 1956. This Executive order has been found to be one of the Nation's most effective tools in achieving nondiscrimination in the workplace. Codification will give stability and permanence to the Executive order. The recent efforts to weaken the Executive order amply support the need for codification.

Sections 4 through 6 of the bill seek to address the funding crisis we are experiencing in needed investments in education, and the labor shortages private industry is projected to have in the next 12 years. The education improvement fund assesses a small percentage from each Federal contract in order, first, to provide scholarships for minority and women higher education students to pursue careers in which they are underrepresented and in which there is a national need; and second, to provide grants to local education agencies, State education agencies, and vocational schools in order to encourage the development of programs to enhance the training and preparation of underrepresented students and teachers, consistent with the national need. The Department of Education will administer this fund.

The bill also provides for an advisory board whose members are to be appointed by the Congress and the executive branch, and are to include Federal contractors, civil rights organizations, educators, and others. This advisory board will give direction to the Department of Education regarding the disbursement of the fund. We anticipate that the education improvement fund will be in excess of $800 million per year.

The other sections of the bill contain important provisions to streamline and enhance the efficiency and effectiveness of the current Federal Contract Compliance Program. We lessen the paperwork burden upon employers by reducing the number of required EEO reporting forms and streamline the current reporting requirements, while at the same time enhancing the quality of information reported.

We provide for a neutral statistical agency, the Bureau of Labor Statistics, to determine the actual availability of racial, ethnic, and gender groups in the workforce. We enable the Labor Department's administrative law judges to issue final and binding decisions which may be appealed in Federal courts of appeals. We offer complainants, including the handicapped and Vietnam veterans, the option of filing discrimination suits directly in Federal court if they wish to avoid the OFCCP's often lengthy and time-consuming administrative enforcement process.

This bill also adds civil penalties and other forms of relief to the OFCCP's principal sanctions: the suspension and debarment of contracts, and prohibits the blacklisting of persons who file complaints of discrimination. Many such individuals are subsequently unable to find employment in other companies because of having filed complaints. Finally, the bill creates the Office of Assistant Secretary for Federal Contract Compliance, thereby restoring the OFCCP to its former position in the Department of Labor, in order to enhance the visibility and status of this agency and to improve its effectiveness.

The Federal Contract Compliance and Workforce Development Act of 1988 is the culmination of many hearings held by my committee and others in the past decade. More importantly it takes account of and directly addresses the several problems discovered during in-depth committee investigations, including an 18-month on-site review of the Office of Federal Contract Compliance Programs of the U.S. Department of Labor, a report of which was issued last fall, and the committee's recent investigation of the Southern California Aerospace Industry. In addition, the Labor Department's own "Preliminary Report on the Revitalization of the Federal Contract Compliance Program," issued in 1977, suggested the policy direction contained in this bill, as does some of the testimony presented by private industry in Senate oversight hearings on the OFCCP which were held in 1981 and 1982. Lastly, this bill reflects recommendations made by the Federal contractor community, statistical experts, the civil rights community and educators.

This bill will bring Federal contract compliance into the 21st century, will lessen the burden on Federal contractors while increasing the Government's capacity to scrutinize their compliance with the Federal equal employment opportunity laws, will prepare the Nation's workforce for the demands of the future, and will promote this country's goal of international competitiveness and productivity.

Mr. Speaker, I believe that the Federal Contract Compliance and Workforce Development Act is both a business necessity and a national imperative. I invite Members of this body to cosponsor this legislation and participate in hearings which we plan to hold this year to discuss the proposals contained in this bill. Join with us in making meaningful preparations for the next century.

CONTRA COSTA COUNTY: A "TOP 50" COUNTY

HON. GEORGE E MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. MILLER of California. Mr. Speaker, I want to bring to the attention of the House a special recognition accorded to Contra Costa County, which I am honored to represent in the Congress.

City and State magazine has recognized Contra Costa as one of the Nation's 50 outstanding counties based on economic performance.

Two of the fastest growing cities in the San Francisco Bay Area are located in Contra Costa. Clayton experienced a phenomenal 39-percent increase in growth, while San Ramon enjoyed a 10.5-percent increase over the past fiscal year. The latter's growth has produced an explosive 200-percent increase in jobs since 1980, as well as office and industrial parks which include major employers such as Chevron, Pacific Bell, and Bank of America.

Countywide, we have achieved a 6.8-percent increase in new jobs from 1985 to 1987. Unemployment stands at about 5 percent.

City and State has recognized Contra Costa County as a desirable place to live, citing in particular its strong economy and well organized government. That is a record few jurisdictions can match, and we are proud of our achievements.

I know my colleagues in the House join me in saluting Contra Costa, and its leaders as well as residents, on being designated one of America's 50 outstanding counties.

THOUSANDS OPPOSE REALLOCATION OF 220-222 MHz RADIO FREQUENCY BAND

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. DORNAN of California. Mr. Speaker, recently, I introduced House Concurrent Resolution 317 which addresses an issue of concern to amateur radio licensees who perform vital public safety work. The Federal Communications Commission [FCC] has licensed 435,400 such radio amateurs throughout the United States. My resolution would express the sense of the Congress that

First, the Amateur Radio Service should be supported in its emergency communications efforts in every way possible; and second, Government agencies shall avoid actions which would reduce amateur radio frequency allocations used for such purposes.

As you may know, on February 2, 1987, the FCC proposed to reallocate the 220-222 MHz radio frequency band from the amateur service to the land-mobile service. The proposal, contained in FCC General Docket No. 87-14, has generated thousands of public comments, mostly in opposition to the reallocation. The reallocation proposal is presently awaiting a final rule by the FCC.

Mr. Speaker, amateur radio operators form an indispensable communications network during emergencies. Public and private emergency service organizations throughout the United States rely on them when ordinary communications networks are unavailable. In fact, FCC regulations describe emergency communications as one of the basic purposes for the amateur service.

The 220-222 MHz band is extremely important for the future improvement of such emergency communications because of the development of the packet radio, which is a major advance over slow and inaccurate voice or teletype communications. With packet radio, written documents, such as lists of victims and detailed emergency instructions, can be quickly and accurately transmitted from the emergency site. Packet radio networks are already being developed in the 220-222 MHz band to interconnect cities, towns and rural areas throughout the United States. So you can see the necessity of allowing the amateur service to use the band permanently.

At present, the 220-222 MHz band is used by amateur radio operators for a variety of applications, including radio control of repeater stations and auxiliary operations throughout the United States, repeater stations in California, scientific research for "weak signal" and other communication techniques, and high-volume emergency communications using new packet-radio techniques.

Those who want to give this band to the land mobile service claim that the band is "underutilized" since there are not many repeater stations in this band. But the fact is that besides many of those in California, many of the repeater stations throughout the United States are controlled using frequencies in this band. If the 220-222 MHz band were taken from the amateur service, there would be no more room in other bands which have the technical characteristics to support these important uses. As a result, the amateur service could be seriously handicapped.

Those who want to give the 220-222 MHz band to the land-mobile service really want to foster the use of ACSSB technology for the land-mobile service. The 220-222 MHz band is only 2 MHz wide, which is hardly enough space to effectively use the band for a new commercial ACSSB service. As I understand it, least 4 MHz of bandwidth would be necessary for efficient and economic technical and commercial use of ACSSB technology. And there are other areas of the spectrum which could be used for this purpose. Besides, there is at present plenty of radio spectrum assigned to the land-mobile service; in fact, more than enough to accommodate land-mobile needs into the next century.

The use of the 220-225 MHz band during the numerous fire emergencies in the Western United States in 1987 is a good reason why the 220-222 MHz band should not be taken away from the amateur service. In my home State of California, for example, lightning in the Stanislaus National Forest started a fire which consequently claimed one life and destroyed 18 homes and 24 buildings, in addition to consuming 139,000 acres of precious timber. Although local amateur radio operators responded instantly, more communications capabilities were needed. Additional amateur radio operators joined the effort using the 220-225 MHz band because all the other emergency radio bands were either filled or all the radio gear using those bands had been deployed and depleted. It was possible for amateur radio operators to establish a packet-radio network in the 220-225 MHz band without interfering with other communication. The availability of this band enabled amateur radio operators to transmit fire updates between base firefighting camps to other State and regional offices. The reallocation of the 220-222 MHz band will reduce this emergency communications capability by 40 percent. Without the full capacity of this emergency communications network, we could conceivably lose more lives and property in case of disasters.

Therefore, Mr. Speaker, I would like to urge my colleagues to join me in recognizing the vital services provided by the amateur radio operators and in facilitating their work by cosponsoring and passing House Concurrent Resolution 317.

APPROPRIATION OF FUNDS FOR DRUG LAW ENFORCEMENT

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. PEPPER. Mr. Speaker, today I am introducing a bill to authorize the appropriation of funds for the operation and maintenance of a special operations wing of the Air Force Reserve, to authorize the appropriation of funds for the operation and maintenance of the Directorate of the Department of Defense Task Force on Drug Law Enforcement, and to require certain reports.

Mr. Speaker, the inflow of illegal narcotics across our borders continues unabated. The interdiction efforts of the Customs Service and the Coast Guard are clearly inadequate to stop or even significantly reduce the flow of illegal drugs. Also, given our current budget constraints the probability that these two agencies will be properly funded are low. The Department of Defense is the only area in the budget which has the equipment and resources to mount a successful initiative to detect and interdict the smuggling of drugs into our country. The Department of Defense has an obligation for the good of our Nation to increase their drug detection and interdiction role by developing a plan which would protect our citizens against the ravages of illegal drugs. Therefore, I am proposing a bill which gives the military the flexibility to develop a modest plan within the broad guidelines of this legislation which will increase our Nation's national security, increase our military preparedness and also detect and interdict drugs. This bill simply establishes a framework in which the military is given wide latitude in the development of a policy directive from Congress. Let us hope that the Department of Defense will alter their hostile attitude toward further military involvement in the war on drugs and accept this directive and opportunity to increase the national security of our Nation.

This bill simply authorizes the creation of a special operations wing of the Air Force Reserve to protect our borders from terrorist or drug smugglers utilizing low flying aircraft. This air wing could provide invaluable assistance to the war on drugs and could also train our military in the tracking and detection of suspect aircraft. This bill does not allow the military to make arrest of citizens. It is permitted under the posse comitatus laws and is clearly a proper response to a national problem.

TRIBUTE TO JOAN PRANSKY

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. TORRICELLI. Mr. Speaker, I rise to pay tribute to Joan Pransky, an outstanding individual from my State. On June 26, the New Jersey Tenants Organization [NJTO], one of the oldest and largest tenant groups in the Nation, plans to honor Joan at their Sixth Annual Ronald Atlas Awards Breakfast for her unstinting participation and active involvement during the past 13 years.

In 1975 Joan Pransky worked for the Essex Newark Legal Service Program as an attorney specializing in housing law and in 1979 was elected NJTO vice president and legal counsel. A woman of unbounded energy and enthusiasm, talent and intellect, she has earned respect and admiration for her willingness to focus upon the problems and opportunities on behalf of tenants' rights and has spoken out publicly and assertively, organizing and advancing the struggle for affordable housing.

As a longtime tenants' rights activist, Joan has served as legal counsel and advisor to citywide tenant organizations, including those in Paterson, Jersey City, Plainfield, East Orange, and Bloomfield. She was instrumental in drafting local rent ordinances and numerous laws, including the senior citizen condominium protection law and the emergency fuel oil delivery law, which helped make New Jersey the leader in tenant protection laws.

I welcome the opportunity to join with family, friends, and associates in recognizing Joan's commitment and integrity, strength and vision. Mr. Speaker, let me conclude my remarks by extending my appreciation for all her efforts and accomplishments. I know the House will join me in wishing Joan Pransky continued success in the years ahead.

THE DEATH OF FRANK DROZAK

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. SIKORSKI. Mr. Speaker, I want to take a moment to recognize a monumental loss to the maritime community and American working men and women across this Nation. On Saturday, June 11, 1988, Frank Drozak, president of the Seafarers International Union of North America passed away. Frank was one of America's most effective advocates for working men and women. His life and work will leave an indelible imprint on the national landscape—he served not only his union, but the people of this Nation.

Frank's years of service to the Seafarers serve as his most eloquent memorial. Frank stood at the helm of America's revitalization of our domestic maritime industry. He navigated his union through the schoals of foreign interests and large private industries that sought to control the domestic maritime industry for their own shortsighted profit motivations. Frank fought for good maritime legislation. And in the process, he protected his membership and enhanced the quality of life of thousands of maritime laborers in the United States.

At the vanguard of our national efforts to restore the strength of our merchant marine industry, Frank provided critical leadership during the tenure of an administration that has offered little but trial and tribulation for American maritime interests. As the president of the Maritime Trades Department of the AFL-CIO, Frank was America's major proponent of a strong maritime policy and industry. He was effective and eloquent. And his crowning achievement is a body of work that is essential to our national defense, security and economy. As president of a membership of over 100,000, Frank will be sadly missed. But the influence of Frank's good work extends beyond the hundreds of thousands of members of the Seafarers, to millions of Americans whose lives have been bettered by his hard work.

When we first came to Washington, Frank and Marianne were some of the first to offer their hands in friendship and support. I relied on them as valuable resources for information, for sound counsel, and for an insightful perspective on the men and women of the maritime community. I will remember Frank Drozak and I will miss him. Susan and I wish to express our heartfelt sentiments and condolences to his talented and wonderful wife, Marianne Rogers Drozak.

ROBERT LIFTON BECOMES PRESIDENT OF THE AMERICAN JEWISH CONGRESS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. FRANK. Mr. Speaker, one of the most useful and effective organizations in the country in my judgment is the American Jewish Congress. The American Jewish Congress fights hard in defense of the interests of American Jews and Jews elsewhere in the world, within the context of a firm commitment to the values enshrined in the American Constitution. The American Jewish Congress does a superb job of demonstrating how it is possible to combine the particular concerns of one of the groups within our society with a universal commitment to justice for all people. Since my days in the Massachusetts Legislature I have enjoyed working with the American Jewish Congress, especially with the Massachusetts chapter which is a very distinguished one. And since coming to Washington I have found that the National American Jewish Congress is a valuable ally for those of us in this body on a wide range of significant issues.

In March of this year Robert K. Lifton made an important address on accepting the presidency of the American Jewish Congress. One need not agree with every item in the agenda he addresses to appreciate the wisdom and forthrightness of his approach. Because this speech is an excellent example of the kind of work the American Jewish Congress does for the improvement of our society, I ask that Mr. Lifton's speech be printed here.

A PAST TO CELEBRATE; A FUTURE TO BUILD

(By Robert K. Lifton)

It is particularly gratifying for me to become President of AJCongress on the occasion of its 70th anniversary. During these seven decades we have acquired the experience and maturity of the septuagenarian, yet, remarkably, we have retained the vitality, drive, and enthusiasm that animated Congress during the first heady years of its existence. Let me assure you that all of us will do everything in our power to preserve the American Jewish Congress's unparalleled achievements of the past and move forward to an equally inspired performance in the future. It is both with extraordinary pride and with profound humility that I assume the office previously held by Stephen Wise, Irving Miller, Israel Goldstein, Joachim Prinz, Arthur Lelyveld, Arthur Hertzberg, Howard Squadron, and Ted Mann.

Upon accepting this awesome responsibility, I feel as Moses did when he said to God, "Mi anochi, ki elech el Par'oh ve-chi otzi et B'nai Yisrael mi-Mitzrayim?" "Who am I, that I should go unto Pharoh, and that I should bring forth the children of Israel out of Egypt?" (Exodus III, 11). Similar sentiments were expressed by Isaiah, Amos, and Jonah upon their selections for challenging roles so I know my self-doubts are grounded in a venerable Jewish tradition.

Ever cognizant of our illustrious past, I come to you with some thoughts about our common future. We must create a much closer nexus between our regions and our National office. We cannot allow the regions to feel forgotten, neglected, and isolated. They are an integral, vital part of the American Jewish Congress family, and as a family we must all work together in harmony. The regions for their part, need to recognize that with increased closeness comes the responsibility for a larger share in our common goals. The regions will have to reach out to their respective communities for more extensive relationships and for additional sources of income. They will be expected not only to carry their own weight but to contribute to the welfare of the American Jewish Congress as a whole.

More than ever, we need to expand our ability to reach out and attract people who share our views and who are willing to give of themselves both actively and financially. We must achieve financial self-sufficiency, and then move on to the building of a financial reserve for emergencies.

In order to accomplish that goal we need to continue to hold our place on the front line while developing new ideas and programs that will attract committed members and leadership. Good programs require good organization and adequate funding, and on their part are a prerequisite for the generation of further funding. With the help of Henry Siegman, Phil Baum, Haskell Bernat and the staff, I hope further, to expand programs such as the 25-Club, an extremely successful program that brings selected AJ-Congress supporters together with ranking public officials and heads of state. Using our Washington Representative office I hope to intensify and expand our relationship with our government. I hope to see the continuation of AJCongress delegations interfacing with the U.S. Congress and the Administration. This will simultaneously stimulate our members and help clarify for our nation's leaders, our positions and concerns.

I particularly want to attract the younger generation to our ranks. AJCongress is the natural home for young Jews who want to be involved in an organization which provides intellectual excitement and a commitment to social justice and civil liberties. Our value system, rooted in the best traditions of our people, is a major attraction for the new generation.

Over the years AJCongress has established a commitment, a mandate, and a national reputation for defending Jewish rights throughout the world. That means combating anti-Semitism wherever it arises, resisting repeated attempts to undermine the separation of church and state and eliminating racial and religious bigotry. It also means defending Jewish communities in distress in the Soviet Union, in the Arab countries, and elsewhere in the world.

Among these momentous matters, separation of church and state, in particular, has been central to our ability to live in this country as free and proud Jews, practicing our religion without hindrance and enabling us effectively to safeguard the interest and needs of our brothers and sisters in Israel. Without First Amendment protection our secure position in the United States would be threatened. At a time when the pressure for school prayer comes from the President himself, when clergymen actively seek the Presidency of the United States, when top government officials openly speak of a "Christian nation," and when creches and menorahs proliferate on public properties around the country, keen vigilance and increased efforts to prevent a breach in the wall of separation are rightly expected of us. We shall not falter! Nor shall we waver in our determination to fight for the rights of the poor, the minorities, and women in this country: these rights are not only moral and social imperatives, they are also the Jewish community's first line of defense.

As President of the American Jewish Congress I intend to give special emphasis to a subject that deserves sharper focus. The world has changed dramatically in recent times. Economic realities are forcing new disciplines on political and territorial ambitions. Our main adversary—the Soviet Union—has recognized the weakness of its centrally-controlled economy and under Chairman Gorbachev is trying to move to an era of glasnost and perestroika—openness and economic restructuring toward more private initiatives—in order to compete more effectively with the capitalist countries of the West. To succeed in this enterprise the Soviet Union will have to cut down on the arms race. Our country must encourage it to do so. For our part, we need to recognize that the simplistic notion of Western capitalism combating the "evil empire" of Soviet communism for world supremacy, has become obsolete. While the two superpowers have squandered their wealth on a grotesque nuclear arms race, Japan, Germany and other nations have used their capital to develop their productive capacities and are defeating both superpowers on the economic battlefield. We cannot compete for economic hegemony while we suffer from enormous budget and trade deficits.

It is high time that we too avail ourselves of the economic opportunities afforded by sensibly reduced defense budgets. To accomplish that result, we have to recognize that we can no longer act as the world policeman without much greater participation from our partners. We cannot afford international adventurism at the expense of our domestic well-being. We can win the hearts and minds of the world and better defend our nation and our allies, including Israel, by building an economically healthy America. A sound economy and a commitment to eliminate the underclass, and improve the education, health and security of our people will assure the safety and future of our country far more than billions of dollars of overkill nuclear missiles or starry-eyed weaponry that becomes obsolete as it is built.

Another important emphasis of my Presidency will be to reach out to Jewish communities around the world to join forces in helping other Jewish communities defend themselves against the scourge of anti-Semitism. As members of the most powerful, secure, free and affluent Jewish diaspora community in history, it is incumbent upon us to strengthen our ties with our brothers and sisters abroad and redouble our efforts on behalf of those who are less fortunate.

As all of you know, Congress' 70th anniversary happily coincides with Israel's 40th anniversary. I salute Israel for its miraculous feat of absorbing nearly 2 million Jewish immigrants from the four corners of the world and turning them into productive citizens in a vibrant, democratic, and valiant nation. I take great pride in Congress' historic role in the emergence of the Jewish Yishuv in British-mandated Palestine at a time when most other American Jewish organizations were hostile to Zionism. Indeed, the defense and the promotion of Israel's needs has always been very high on our agenda.

Last fall we took a bold step in stating our view that the status quo in the Israeli-administered territories would become untenable over a period of time. We noted that the demographics of a rapidly growing Arab population would force Israel to choose between becoming a non-Jewish state or a non-democratic state—neither an acceptable choice. As the first American Jewish organization to put forth this point of view we gained credibility for courage, honesty, and realism. Other Jewish organizations have since followed our lead.

We must continue to encourage Israel to seek a peaceful solution to the Middle East crisis but one which assures it of secure and safe borders and a truly lasting peace. As part of that process we must work diligently in this country to continue support for Israel by other Americans and by our government.

Our position in the American Jewish community has led to the opportunity to meet with world leaders and attempt to influence them to help advance the peace process. Indeed, perhaps in some small way we even moved that process forward. We must use the credibility we have gained to continue to press the Palestinians as well as other Arabs to come forward and publicly and unequivocally accept Israel's sovereignty, integrity and security. We must deliver the message to them that no amount of stone throwing and no number of TV pictures will lead them to peace. They can only advance their cause by choosing a new—non-PLO leadership that can negotiate with Israel. A promising first step in this direction was made when Henry Siegman's article, urging the Palestinians to move from riots to negotiations, was recently published in Hanna Siniora's East Jerusalem newspaper Al-Fajr. Siniora's daring decision to print the article was perhaps the beginning of recognition of reality. We also need to challenge the Arab states to stop using the Palestinian refugees' misery as a weapon against Israel. We must convince them that fundamentalism and extremism which threaten the stability of their respective governments breed fastest in poverty and pain. We must call on them to cooperate with Israel and other nations to integrate the Palestinians into the real world and convince the Palestinians to forsake any false dreams of capturing the land that is now Israel.

In sum: We have a glorious tradition on which we can—and will—build a bright future. We have always been—and will strive always to be—in the forefront of the American Jewish community, serving as its moral leadership and as its cutting edge on all critical issues. Many years before the establishment of Israel we stood almost alone in petitioning for international support for the nascent Jewish state, and today we are the first to urge a change in Israel's perilous status quo to help preserve its unique character as a Jewish and democratic state. I am grateful to Will Maslow, Henry Siegman, Phil Baum, and Haskell Bernat, and all the AJCongress Presidents—particularly Ted Mann and Howard Squadron whose presence here tonight inspires my efforts. I look forward to working closely with the entire Congress leadership and staff. Together with all of you and our 50,000 members we shall continue to keep Congress at the forefront of American Jewish political action in our proud tradition of seeking the truth, and of defending the rights of Jews throughout the world.

EDUCATION FOR HISPANICS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. RANGEL. Mr. Speaker, much has been said about how great this Nation is in educating our young. However, there can never be too much said when it concerns our children. The young people of today are, after all, the leaders of tomorow. Educating them is not only to their interest, but to the interest of the Nation as a whole.

With this in mind, it is with great concern that I am addressing the education problems that cities all over the United States are encountering—that is—the overwhelming rate of dropouts, particularly those of Hispanic origin.

Hispanics are becoming the largest minority group that are having difficulty in New York City's schools. They account for 39 percent of the dropout rate while they are only 29 percent of the high school body. Obviously they are vastly overrepresented in this category.

This cannot be viewed as just a New York City school problem. There is a large population that will later be uneducated in a nation where education is vital to compete. By the year 2000, Hispanics will account for about one-third of the population in the United States. We can no longer afford to continue ignoring this group. It is now more important then ever to invest in the population that will affect the future of this Nation—whether it is positively or negatively depends on us.

At this time, I would like to share with you an article printed on the front page of the New York Times on June 21, 1988, regarding this issue.

The article follows:

HISPANIC DROPOUT RATE IS HIGHEST IN STUDY OF NEW YORK CITY SCHOOLS

(By Suzanne Daley)

Confirming studies by educational groups, the New York City Board of Education released statistics yesterday showing that Hispanic teen-agers dropped out of the city's public high schools far more often than students of other ethnic origins.

In its annual report on dropout rates, which for the first time included racial and ethnic data, the board offered no explanations for the phenomenon.

It said Hispanic students, who make up 29 percent of the high school student body, made up an estimated 39 percent of the dropouts. Over four years of high school, an estimated 31.1 percent of the Hispanic students who entered as the class of 1987 dropped out.

Blacks, with 39 percent of the student body, accounted for 39 percent of the dropouts. In the class of 1987, an estimated 24.3 percent of the black students dropped out.

Indications that the city's Hispanic students were having more trouble finishing high school than other groups came more than five years ago, when Aspira, a Puerto Rican advocacy group, said it had found that perhaps as many as 60 percent of the Hispanic students did not graduate.

WHAT EVER HAPPENED TO THE CLASS OF 1987?

Estimated dropout rates at the end of four years for New York City high school students in the class of 1987.

	Percent
All students	26.3
Hispanic	31.1
Black	25.3
American Indian, Pacific islander	23.9
White	18.0
Asian	12.7

Source New York City Board of Education.

At that time the board did not collect such information. However, in the last two years, the board has begun expanding its statistics, using new methods of accounting and data collection. All of its statistics for ethnic groups, however, relied on traditional accounting methods using estimates.

The report released yesterday also looked at the dropout rates for all students and found little change from last year: more than half the 300,000 students in the city's high schools failed to qualify for a diploma within four years.

The Schools Chancellor, Dr. Richard R. Green, said any school system with such statistics could not consider itself successful. But he added, "Let us not be so focused on the Hispanic that we fail to realize that this report card is not satisfactory for all these categories."

The study defined Hispanic and its other ethnic and racial categories according to definitions established by the Federal Government's Office of Civil Rights Guidelines. But a spokesman for the Board of Education, Frank Sabrino, said he did not have the definitions available last evening.

A CALL FOR MORE STUDY

Dr. Green said he wanted more study on the subject of why Hispanic students did poorly, noting that different groups within the Hispanic population might be having different problems.

In addition, he said he wanted more efforts focused on all students before they got to high school.

"We must focus our efforts more intensively on the elementary and middle schools to reach at-risk students while there is still time to halt the downward slide that leads to dropping out," the Chancellor said.

The Board of Education, which has a budget of $5.2 billion a year, spent about $40 million on dropout prevention programs last year. The board expects to spend at least $56 million for such programs over the next school year and has asked for an additional $8 million, which is still in the process of being negotiated with the city.

Dr. Luis O. Reyes, the director of research and advocacy for Aspira, said yesterday that he was pleased that the board's report finally included ethnicity and race. But, he said, it had taken too long and it was unfortunate that the findings were disclosed long after the budget process had begun.

"They've had this report for a while and Dr. Green has not indicated the urgency of this problem," he said.

Dr. Reyes said he believed that Hispanic students were having such a difficult time because of a number of factors, including lower teacher expectation for the students, more segregation of Hispanic students from the rest of the student body, not enough bilingual teachers and guidance counselors, and rules that pushed students out of the bilingual program before they were ready.

MISLEADING INDICATOR

Last year, the board came under fire from a civic group when it released statistics showing a dropout rate of about 30 percent. The group, the Educational Priorities Panel, said that the rate, which measures the number of students who have officially quit school, was a misleading indicator of the school system's success. The panel pointed out that fewer than half the students actually graduated on schedule.

This year, the board offered both dropout and graduation rates and a new study that indicated what happened to students who had neither graduated nor dropped out.

The board found that 17,800 teenagers, or 25 percent, of the students who were supposed to graduate in June 1986 stayed in school a fifth year. Of those, 3,200 then dropped out, 3,200 received their degrees and 15 percent, or about 11,000, registered for a sixth year.

Dr. Green said he thought this should be regarded as a positive sign.

"To me it's good news" that the students are still in school, Dr. Green said. "Others might argue: why is it taking so long?"

BASIS FOR CHANGES

Leaders of education advocacy groups welcomed the expanded study, saying it could be the basis for important changes.

Robin Wilner, an analyst for the Educational Priorities Panel, said the new information about the time it took students to graduate should lead the Board of Education to create programs for the older students.

"We have to make sure they don't feel like failures," Ms. Wilner said. "We have to make sure that they stay since they are so close to finishing."

The way in which the board compiles its statistics on dropout rates continues to be something of a controversy.

Yesterday, in fact, the board released two different studies, with one based on a longstanding system of accounting, which takes the number of students who left school in one year and extrapolates the trend over four years.

The other report, which was produced for the first time last year, is not an estimate. It keep tabs on the students over the four years, a method championed by most education advocacy groups as more accurate.

According to the study tracing the students over the four years of high school, the overall dropout rate for the class of 1987 was 22.4 percent, up 0.6 percentage points from the class of 1986.

Using the estimating formula, the dropout rate was 26.3 percent, down 1.6 percent from the preceding school year.

The ethnic breakdowns released yesterday were based on the estimated formula, drawing criticism from some of the advocacy group leaders. Dr. Reyes said the figures might well be undercounting the Hispanic dropouts.

Nonetheless, the report found the Hispanic dropout rate to be disproportionately high.

INTRODUCTION OF THE TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. JEFFORDS. Mr. Speaker, today with my colleagues Messrs. BARTLETT, OWENS, FORD of Michigan, PERKINS, LUJAN, HAWKINS, and GUNDERSON, along with colleagues in the other body, I am introducing the Technology-Related Assistance for Individuals with Disabilities Act of 1988. This legislation, when enacted, will increase the likelihood that our friends, neighbors, and family members of all ages with disabilities, will have greater access to assistive technology devices and services and will become fuller participants in the business of daily living.

Most of us take the activities of daily living for granted, such as brushing our teeth, eating, getting from one place to another, and communicating with others. Most of us do these activities independently and choose when we do them. Individuals with disabilities often have functional limitations which prevent them from choosing independently what to do, when to do it, and even how to do something. Assistive technology devices and services can make a difference, a significant difference, in the life of an individual with a disability, by allowing such an individual to do many of the things we take for granted.

Unfortunately, today this individual often cannot acquire the assistive technology devices and services he or she needs. I anticipate that legislation we are introducing, with strong bipartisan and bicameral support, will serve as a catalyst to promote greater access to such devices and services for individuals with disabilities resulting in a greater probability of social, educational, and economic parity with other individuals. Moreover, the increased access and availability of assistive technology devices and services will not only facilitate greater participation but greater independence of individuals with disabilities, thereby reducing burdens on families and costs to society.

Let me offer two examples. The Subcommittee on Select Education of the Committee on Education and Labor held a hearing on May 10, 1988, pertaining to the impact of technology on the lives of individuals with disabilities.

One witness, Mrs. Dormer, the mother of the 8-year-old boy with cerebral palsy who cannot speak, has limited movements, and is confined to a wheelchair, had these comments about the impact of technology on her son's life and her own:

> Eight years ago when the neurologist called me into this office and told me my child had cerebral palsy and he would not have control over his body, I felt cheated.
>
> Well, today, due to the use of computer technology:
>
> He now writes me notes.
>
> He writes letters to his favorite cousin * * *.
>
> He cheered for the Redskins when they went to the Super Bowl.
>
> The best thing of all is when my child who cannot talk says, "Mommy I love you!"
>
> Without the use of technology, how else could he have done all of that? * * *

Let me offer one other example from testimony by Gerald Weisman, a rehabilitation engineer from my home State of Vermont, who spoke at the same hearing. He gave many examples of low-cost assistive technology devices which he has designed that have changed people's lives in simple, but dramatic ways. He told this story:

> David is a young man with arthogyposis. This condition limits David's mobility, endurance and affects his dexterity. David has been working at home lacing snowshoes. He used a holding fixture provided to him by the company to hold the snowshoe frames while he laced them. Because the fixture held the snowshoe rigidly, David was forced to walk around the frame in order to pull the laces tight. This constant motion and standing affected David's endurance such that he could not work at full productivity. A new holding fixture was designed and fabricated at a cost of $450 that allowed David to rotate the snowshoe, thus enabling him to sit on a stool. Sitting on a stool and bringing the snowshoe to him, enable David to work a full day and earn a competitive wage.

Over the years I have heard many powerful human stories like these, stories in which technology fundamentally, although often simple and at low cost, changed the lives of citizens with disabilities. However, over the same period and during the May 10 hearing I have heard far too many stories about individuals with disabilities being denied the benefits of technology because of lack of information, no access or availability or because of costs.

There are four major reasons why such persons cannot acquire assistive technology devices and services: First, such persons, their families, and service providers do not have access to appropriate and relevant information and training; third, devices and services are not available to the extent that they should be; second, public, private, and personal financing of assistive technology devices and services is difficult because available resources are limited and uncoordinated; and fourth, commercial producers are not as involved as they could be in providing assistive technology devices because of the limited market. This bill addresses these problems.

I would like to outline the purposes of the bill. The bill has two titles. The primary purpose of title I is to assist States develop and implement consumer-responsive statewide programs of technology-related assistance for individuals with disabilities so that such individuals may acquire information about and obtain assistive technology devices and services. This title also authorizes the Secretary of Education to provide technical assistance to assist States to respond fully and effectively to the charge to develop statewide programs.

The purposes of title II are to: Direct the National Council on the Handicapped to study the financing of assistive technology devices and services and make recommendations for administrative and legislative actions to the executive branch and Congress; authorize the Secretary of Education to study the feasibility and desirability of, and if warranted to establish, a national information and program referral network in technology-related assistance for individuals with disabilities; support training and public awareness grants to increase the knowledge and effetive use of assistive technology devices and services; and fund demonstration and innovation projects related to—model projects for delivery of technology-related assistance, applied research and development in assistive technology devices, and a loan program for assistive technology devices.

At this point I would like to describe in more detail how the State Grant Program under title I works. It is a competitive grant program, in which up to 10 States may enter the first year, 20 additional States the second year, and the remaining States the third year. A State that competes successfully receives a 3-year grant, and then must submit another application for 2 more years of funding, for a total of 5 years. Funding per State per year is $500,000 to $1,000,000 in years 1 and 2, and $500,000 to $1,500,000 in years 3, 4, and 5.

It is anticipated that these grants will function as a catalyst for increasing the availability of and funding, both public and private, for assistive technology devices and services. The purposes of grants are to: Increase awareness of the needs of individuals with disabilities for assistive technology devices and services; increase awareness of policies and practices that facilitate or impede the availability and provision of such devices and services; increase the availability of and funding for such devices and services; increase awareness and knowledge of the efficacy of such devices and services by such individuals, their families, and other individuals including service providers, employers, and insurers; increase the capacity of public and private entities to provide and to pay for such devices and services; and increase the likelihood that individuals with disabilities will be able to retain possession of devices as they transition from one environment or service system to another.

States are given considerable discretion in setting up statewide programs, although specific suggestions are included in the legislation. In developing and implementing a statewide program a State may elect to accomplish such a program through functions such as—identification of needs and evaluation, provision of assistive technology devices and services, dissemination of information, training and technical assistance, a public awareness program, assistance to community-based organizations, partnerships and cooperative initiatives, collection of program data, and procedures for involvement of concerned individuals. Suggested uses of funds to carry out the purposes of the grant include, but are not limited to—using funds for model delivery systems, a statewide needs assessment, public awareness programs, training and technical assistance, an information system, and interstate agreements.

The authorization of appropriations for title I in the first year for which funds are appropriated will be $9,000,000, and in the 4 subsequent years, the State grant program will be authorized at such sums as may be necessary.

Now I would like to now outline the activities authorized in title II in more detail.

In the study on the financing of technology by National Council on the Handicapped (part A) the key task will be to identify Federal laws and practices which facilitate or impede financing of assistive technology devices and services for individuals with disabilities. A report to Congress is required within 18 months of enactment of this act.

Following receipt of the results of a feasibility study, the Secretary of Education is authorized to establish a national information and program referral network, part B, to assist States to respond to technology-related information needs such as—costs, availability, experts, effective programs, training, model policies, and practices.

Part C authorizes training and public awareness grants. Training grants will be for the cost of training individuals to train others in the use and efficacy of assistive technology devices and services. Grants will also be available to support leadership training in careers pertaining to technology-related assistance.

Public awareness grants will be awarded for national media campaigns, conferences, and public recognition programs, especially for employers, commercial developers of technology for individuals with disabilities, and insurers which facilitate the acquisition of or provide funding for devices.

Part D authorizes demonstration and innovation projects. Three types of projects will be authorized: model projects for delivering assistive devices and services; applied research and development related to identifying and testing durable and reliable devices, designing customized devices and combinations of devices, and providing incentives for producing limited market devices; and a loan program for purchasing assistive technology devices for individuals with disabilities.

Authorization of appropriations for title II will be at a level of $6,500,000 in the first fiscal year for which funds are appropriated, and at such sums as may be necessary for the subsequent 4 years.

My colleagues and I have worked with interest groups, professional organizations, representatives of State organizations and staff in the Department of Education interested in the technology-related needs of individuals with disabilities to develop this legislation. It is legislation, I am pleased to report, which is based on a broad consensus. I urge my colleagues to join us in sponsoring the Technology-Related Assistance for Individuals with Disabilities Act of 1988. This legislation is a reflection of the belief in the potential of individuals with disabilities, a commitment to helping them achieve greater independence in and control over their own lives, a reaffirmation of their right to contribute to and be integrated into our society, and a challenge to make a special investment in America's future.

SENATE—*Friday, June 24, 1988*

(*Legislative day of Thursday, June 24, 1988*)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by the Honorable William Proxmire, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Loving Lord, Your invitation "Come unto me all ye that labor and are heavy laden and I will give you rest" (Matthew 11:28) is compelling, especially to those of us whose hard work seems often to yield few results. There are many in need of Your comfort, the rest, the renewal which You promised. Though we do not know who they are, You know, Lord. Where there is illness, hospitalization, financial need, career change, vocational direction, family alienation, or just plain weariness and frustration, help all who need You to respond to Your simple invitation, "Come unto me" that they might find rest. Thank You, Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, June 24, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable William Proxmire, a Senator from the State of Wisconsin, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized for not to exceed 5 minutes.

RESERVATION OF LEADER TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of both leaders be reserved.

The PRESIDING OFFICER (Mr. Reid). Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9 a.m. with Senators permitted to speak therein for a period not to exceed 5 minutes.

The Senator from Wisconsin.

WILL THE TRADE BILL KILL THE FOREIGN CORRUPT PRACTICES ACT?

Mr. PROXMIRE. Mr. President, the Congress is about to repeal the one law we have enacted in the past 30 years that has eliminated major bribery with respect to the sale of military weapons to foreign countries. We are about to take this shocking step simultaneously with the worst bribery scandal with respect to the sale of military weapons to our Defense Department in many years. This Senator is talking about the provision in the revived trade bill to repeal the Foreign Corrupt Practices Act of 1977. That law passed the House and Senate overwhelmingly in the wake of a total of at least $300 million in bribes paid by more than 400 American corporations to foreign officials in the early 1970's. The Foreign Corrupt Practices Act ended that shameful chapter in American foreign policy. Now corporate lobbyists have persuaded Senators to slip a few words into the 1,000-page trade bill that would bring back American corporate bribery of foreign officials with a vengeance.

All of us fully understand that when multibillion-dollar sales of arms involving hundreds of millions of dollars in profits are on the line, bribes will be paid to secure the sales unless the law is unequivocal in making such bribery a criminal act and unless that law can be enforced with effective prosecution. The present law that Congress enacted in 1977 is unequivocal. It has been enforced. Consider how it works. The Foreign Corrupt Practices Act requires corporations to keep a written record of their payments to foreign agents. It makes corporation officials responsible for that written record. The record constitutes an essential "paper trail." In effect it provides the critical basis for prosecuting a corporation executive who is responsible for the bribe his corporation has paid to foreign officials. The law provides that if the corporation official has "reason to know" that his corporation has paid a bribe, that corporation official is subject to criminal prosecution. So, Mr. President, it is easy to see why this law has been effective. It is easy to understand why the widespread American corporate bribery of foreign officials stopped when this law was enacted.

How does the proposal in the trade bill "tear the heart out" of the antibribery law? Here's how: the trade bill language deletes the basis in the present law for prosecuting a corporation official; that is that he has "reason to know" that his corporation was paying a bribe. And what does it substitute for "reason to know"? It substitutes the requirement that the prosecution must prove that the corporation had actual knowledge that the bribe was paid. Mr. President—if you are a prosecutor charged with responsibility for enforcing this proposed law, you would have an impossible task. It would not be enough for you to prove that the corporation made payments to an agent that were in turn used to bribe the foreign official. You as a prosecutor would have to prove what was actually in the head of the corporation official. Would it be enough to prove that the corporate official had every reason to know the bribe was paid from corporate funds? No, indeed. Would it be enough if you as a prosecutor could show that the corporate official showed a "reckless disregard" of the fact that his corporation paid the bribe, would that provide the basis for prosecution? Again, the answer is: No way. Under the language that would gut the FCPA, you, as a prosecutor, would have to prove what was actually in the head of the corporation official when his corporation bribed the foreign official. In virtually every conceivable circumstances you simply could not do it. The language in the proposed trade bill makes the FCPA a paper tiger. The law that has worked so well for 11 years becomes worthless.

Mr. President, this is an artful piece of work that has been achieved in the Senate and House committees. Only a small handful of Members of the Congress have achieved this coup on behalf of corporate bribery. They have done it in a very slick way. Except for a few speeches like this one by this Senator, no one has publicly even

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tried to debate this critical nullification of this major antibribery bill. Few publications have even mentioned this action. The National Law Journal did carry an exceptional article on the gutting of the Foreign Corrupt Practices Act back on May 9. The Members of Congress who authored this elimination of the antibribery law chose the perfect vehicle. They needed a big bill that would be handled by a myriad of committees so they could bury the few fatal lines that killed the Foreign Corrupt Practices Act deep in this forest of hundreds of thousands of words. They needed a controversial bill that would concentrate the debate on a series of economic matters that shook and divided the country and distracted the press from the death knell to antiforeign bribery law. What an opportunity to slip through a bribery repealer. The authors of the provision fully understood the gutting provision could not stand by itself. Even in a moderately complex bill the amendment would be vulnerable. But pushed by one of the many committees developing the details of this king size trade bill that was furiously contested by the Congress and the President, the press and public could hardly be expected to notice the death of the Foreign Corrupt Practices Act.

Mr. President, it is still just possible that the recent explosion of interest in bribery as a companion of defense contractors sales of military weapons to the Defense Department will at last bring congressional and press and public attention to this funeral service for an antibribery bill that actually worked—that actually stopped bribery. We will see.

THE PLIGHT OF THE SAVINGS AND LOAN INDUSTRY

Mr. **PROXMIRE**. Mr. President, I want to call the attention of my colleagues in the Senate to the lead editorial in this morning's New York Times of the terrific plight of the savings and loan industry, of the fact we may have $75 billion required of the Federal Government to bail out that industry. As the Chair knows, we have guaranteed $1 trillion in deposits, and the industry is in very serious condition.

Unless Congress takes the painful action of providing that money, which, of course, would greatly increase the deficit and the national debt, unless Congress takes that action, every day we are losing $30 million; every month $1 billion; and every year $13 billion in losses.

Mr. President, I ask unanimous consent that the editorial in the New York Times, to which I have referred, be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 24, 1988]

PAY NOW FOR THRIFTS, OR DROWN LATER

Sunbelt Savings in Dallas declares a $1.2 billion loss in a single quarter . . . Two bankrupt savings and loans in California are liquidated at a cost of $1.35 billion . . . Regulators estimate thrift industry losses at $15 billion annually . . .

Wave after wave of grim news from the thrifts confirms what many insiders have long argued: The industry is too far gone to cover its debts from current and future premiums to the deposit insurance fund. One way or another, taxpayers will have to pony up tens of billions of dollars to protect insured depositors from losses. The unanswered question is whether Washington can muster the political will and act now. That's the only way to save healthy institutions from decline and minimize the ultimate liability to the Treasury.

Just 15 years ago thrifts were plain-vanilla businesses, funneling savings deposits into home mortgage loans for modest profits. When inflation and deregulation in other financial markets squeezed the industry's income in the early 1980's, Federal and state governments agreed to ease restrictions on how thrifts invested their money.

The resulting diversification, it was believed, would create healthy new competition while insulating the S & L's from cycles in interest rates and housing prices. In fact, the new regulations amounted to an open invitation to use federally insured deposits to invest in virtually anything. Discovering that regulators lacked the rudimentary skills to police their operations, the owners of hundreds of thrifts set out to fleece the system.

In a typical case, a thrift would solicit millions or even billions in deposits from broker networks, and use the cash to speculate in everything from mini-malls to junk bonds. Hefty up-front fees from borrowers in real estate deals were siphoned into salaries and dividends. When commercial real estate prices in the Sun Belt collapsed, it became obvious that the industry was in deep trouble. But the buccaneer thrifts didn't give up easily. They persuaded influential Congressmen to intervene with regulators to slow the pace of S & L closures.

President Reagan has since brought in a more competent administrator, Denny Wall, to head the thrifts regulatory agency. And last year Congress gave the agency authority to borrow $11 billion, to be paid back from future deposit insurance premiums, to shutter bankrupt S & L's. Embarrassed Democrats and Republicans now pretend it was all a bad dream.

But this is a nightmare: estimates of the ultimate losses to the insurance fund are running as high as $80 billion, twice as much as can conceivably be extracted from the future income of solvent thrifts. And by delaying the reckoning, the taxpayers' bill is sure to rise.

Many insolvent S & L's remain open because regulators lack the funds to merge or liquidate them. With nothing more to lose, these "walking dead" have every incentive to stay afloat by making risky loans. Compounding the problem, the industry's uncertain future forces all thrifts to pay premium rates for deposits, reducing profits at a time when healthy thrifts are being asked to cover the losses of their bankrupt competitors.

Congress can muddle along for another year or two probably adding billions to the debt and certainly subtracting billions from the industry's capacity to cover it. Or it can acknowledge the likely dimensions of the debt and set up an emergency mechanism to fund it from Government revenues. As a matter of politics, that's a tough call. As a matter of responsible government, it's no choice at all.

Mr. **PROXMIRE**. I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

Mr. **REID**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

(The remarks of Mr. REID pertaining to introduction of legislation appear later in today's RECORD under "Statements on Introduced Bills and Resolutions.")

Mr. **REID**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER** (Mr. WIRTH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **MITCHELL**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

UNTIED LOANS

Mr. **SASSER**. Mr. President, this morning the Senate Appropriations Committee called on the Department of Defense to become the lead agency in the battle to persuade our NATO allies and Japan to end financial practices with the Soviets and Eastern bloc which are detrimental to the security interests of the free world.

The committee included report language in the committee's report accompanying the fiscal year 1989 appropriations bill which provides for the administration to conduct a study of these practices and to provide the Congress with a report on action to be taken by our allies to end the practice of granting untied loans to the Soviet bloc.

Mr. President, the Department of Defense should take the lead in resolving this issue because it appears that only Pentagon officials fully understand the national security implications of granting massive amounts of cash to the Soviet Union and Soviet client states, which are not tied to any project, commercial activity, or report.

The administration has failed, thus far, to effectively present this issue to the allies. The time is long overdue. The administration must soon articulate a clear policy which opposes these practices and seeks an end to our allies providing untied loans—billions of dollars to the Soviets—at very low interest rates.

Mr. President, let us be clear about what this issue represents. This is a defense burden sharing issue. Many people only think of burden sharing as it relates to direct military spending. But this, also, is an important aspect of the burden sharing issue.

The practice by our allies of providing billions of dollars to the Soviet bloc—money which can be used to promote Soviet military and political activities around the world—is clearly adding to the defense burden of the United States.

Mr. President, the administration must let it be known to our allies that these practices must cease.

Mr. President, I ask unanimous consent to include a statement in the Record by Mr. Roger Robinson, a leading expert in the field of East-West finance.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Written Testimony of Roger W. Robinson, Jr., President, RWR, Inc.

ECONOMIC AND FINANCIAL BURDEN-SHARING

The relationship between U.S. international economic policies and national security is rapidly gaining public prominence and bipartisan Congressional attention. The coordinated adoption and reaffirmation of more disciplined East-West financial policies should become the next major Alliance burden-sharing obligation. The lack of Western public support for increased defense spending to modernize conventional and nuclear forces and maintain an effective global basing structure is a compelling argument for allied cooperation in curtailing the undisciplined financial underwriting of a substantial portion of Soviet global commitments by Western banks. The West can no longer afford to counter the strategic consequences of the continued flow of billions of dollars in untied commerical bank credits to Soviet Bloc borrowers (estimated at over $20 billion in 1986 alone).

Similarly, the Alliance would pay an exorbitant defense price were it to abandon the International Energy Agency (IEA) Agreement of May, 1983 which, in effect, limits Soviet natural gas deliveries to Western Europe beyond those amounts already contracted by year-end 1982 (i.e. a 30 percent ceiling on the Soviet share of total West European gas supplies). This IEA agreement, endorsed in the Williamsburg Summit Declaration (May 1983) and the NATO Ministerial Communique (June 1983) is projected to cost Moscow roughly $150 billion in foregone hard currency income over a twenty-five year period beginning in the mid to late 1990's Sustained implementation of the IEA agreement would ensure that constructive economic pressures on the USSR for arms control would remain. The agreement is also preventing the Soviets from eventually commanding a 50-60 percent share of Western Europe's total gas supplies and the attendant political leverage which would result from such a development.

The uncontested Soviet entry into the international securities markets in January, 1988 is representative of the kind of strategic set-back the West is now facing as Moscow pursues its ambitious international economic agenda. For the first time, Western securities firms, pension funds, insurance companies, corporations and even individuals are being attracted as new lenders of untied funds to the USSR. Not only does this development open new avenues for Moscow to obtain, over time, billions of dollars in additional general purposes, cash loans, but it potentially recruits politically-influential new constituencies in the West which would have a vested interest in supporting continued economic, financial and even political concessions to the USSR.

The purpose of this paper is to outline briefly proposed Alliance policy prescriptions in the field of economic and financial security, including recommended Western responses to the current and projected Soviet economic policies toward the West.

EAST-WEST FINANCE

I. Achieve an Alliance agreement to phase-out untied, general purpose lending to Warsaw Pact countries and other potential adversaries.

Untied loans are loans which are discretionary cash with no underlying trade transactions, projects or jobs. Untied, general purpose lending to sovereign borrowers was one of the four major causes of the current trillion-dollar international debt crisis (i.e. along with the collapse of commodity prices, disinflation, and capital flight) and therefore cannot be justified from a purely commercial perspective. Untied funds are not earmarked for productive purposes, such as export-oriented industries, and hence do not create the expanded economic growth necessary to repay the loans. Ironically, the Soviet Bloc is one of the only group of countries remaining in the world which continue to receive 1970's-style general purpose loans on the syndicated loan market.

In 1986, about 80% or $19 billion of the estimated $24 billion in medium term Western commercial bank loans made to Soviet Bloc borrowers were in the form of untied cash credits (not including short-term credits or deposits). The interest rates on 8-10 year loans to the USSR, Bulgaria, and Czechoslovakia were very low compared to terms for LDC borrowers, approximately ⅛ of 1% over the cost of funds (about 7½%).

The next economic summit of the industrialized countries in Toronto should be used to launch a multilateral initiative to supervise and monitor the voluntary adoption by the commercial banks of more disciplined and transparent Western lending practices with regard to Warsaw pact countries and other potential adversaries.

The Organization of Economic Cooperation and Development (OECD) and/or the Economic Committee of NATO are well equipped to supervise such a voluntary initiative and have successfully accomplished the implementation of similar undertakings in the past (e.g. there are at least three major OECD precedents for financial and trade reforms in the 1980's when the US share of the practice in question was marginal or nonexistent).

Western commercial banks should eliminate untied credits by: 1) lending only in support of specific trade transactions and projects; 2) matching loan maturities to the duration of the underlying transactions; 3) aggregating and monitoring bank deposits in Soviet Bloc-owned banks, including those located in the West; and 4) applying established project lending techniques to ensure that loan proceeds are strictly dedicated to the project or joint venture in question.

The US Government should include the untied loan issue and other major East-West economic and financial security policies as central components of all future approaches to our allies (bilaterally and multilaterally) in the area of defense burden-sharing. The multibillion dollar annual savings for US taxpayers in the defense budget which could eventually result from such coordinated economic and financial burden-sharing policies should be underscored.

Alliance governments should deny the USSR expanded access to the international securities markets because of the potentially damaging consequences to vital Western security interests which result from the diversion of untied Western borrowings by Moscow (e.g. support for client states, funding of Soviet arms sales, KGB activities etc.).

The allies should reaffirm the OECD agreement reached in 1982 discouraging taxpayer-subsidized terms on government-backed loans to the USSR.

II. Western governments and financial institutions need to substantially upgrade financial data collection and disclosure conerning Soviet Bloc indebtedness and financial flows.

The Bank for International Settlements (BIS) should close current gaps in Western statistical reporting. For example, inter-German financial flows, presently not reported to the BIS, should be detailed in BIS periodic reviews.

The BIS should include the estimated $10 billion in Western bank deposits in 100 percent-owned Soviet subsidiary banks located in the West as part of the total indebtedness of the Soviet Union. (These deposits—which are untied loans—are currently listed as the debt of the Western countries in which the banks are located).

The BIS should report credit exposure of Western nonbanking institutions (e.g. trading companies, securities firms, pension funds etc.) as part of the total indebtedness of the USSR. The same should hold for Western credit exposure to Soviet joint ventures whether in the USSR or third countries.

The Federal Reserve should collect data detailing all credit exposure to the Soviet Bloc (including deposit placings) of US banks from off-shore branches and subsidiaries, and make the data available for public review.

The OECD and/or the Economic Committee of NATO should examine the quality and terms of Soviet hard currency loans to Third World countries (estimated to total as much as $65 billion) in order to identify the scale of portfolio problems.

Western commerical banks should try to ensure that the proceeds of Western bank loans to and deposits with banks of third countries (e.g. the Middle East or Finland) are not downstreamed to Warsaw Pact countries on an unreported basis.

Western intelligence agencies should monitor, if possible, the accounts of Soviet client states to ensure that the proceeds of Western syndicated credits to Soviet Bloc borrowers (e.g. the German Democratic Republic) are not "skimmed" and downstreamed to those accounts on an unreported basis.

Western commercial banks should tightly structure loans dedicated to large projects and joint ventures within the Soviet Bloc to ensure that the loans are not, in effect, providing duplicate financing for the project or joint venture in question. For example, in the case of the massive Orenburg gas pipeline project in the USSR during the late 1970s, the Soviet Bloc paid for the Western equipment imports primarily through natural gas deliveries, while the proceeds of the series of Western "project" loans, ostensibly for the same purpose, were largely diverted for other purposes.

Those involved in data collection should recognize that the uses of Western borrowings and West to East financial flows can be potentially strategic in nature, depending on whether or not the funds are tied to identifiable, peaceful purposes. The Soviets have incentives to divert credits given their shortages of hard currency income. In 1986 the Soviets earned only about $30 billion in hard currency or a little over a quarter of the total sales of General Motors in 1986. In addition, it should be recognized that the temptation for Soviet Bloc diversion of Western borrowings is substantial given the debt-laden status of Cuba, Nicaragua, Ethiopia, Mozambique, Syria, Angola, Afghanistan and Vietnam.

EAST-WEST ENERGY SECURITY

III. The allies should reaffirm the International Energy Agency (IEA) Agreement of May 1983 in the context of economic summitry and NATO ministerials.

The Soviets reportedly expanded their gas exports to Western Europe by roughly 20% last year and are gradually approaching the 30% ceiling on Moscow's share of total West European gas supplies which is, in effect, embodied in the IEA agreement. Soviet predatory pricing practices could easily undercut the commercial viability of future Norwegian and other more secure Western supplies in the absence of the IEA agreement.

The recent establishment of an official US-Soviet energy working group has sent an inconsistent signal to our allies concerning US resolve to inhibit Soviet gas exports to Western Europe beyond those amounts already contracted by year-end 1982.

Japan is under pressure from Moscow to proceed with the $3-3.5 billion development phase of the Sakhalin offshore gas and oil project (i.e. a subsidized joint venture between Japan and the USSR established in the mid-1970's). Tokyo should be urged to reserve its projected LNG demand in the 1990's and beyond for competitive US supplies, not Soviet or other less secure third country supplies. This would both enhance Asian energy security and help ease our serious bilateral trade imbalance.

Generally, it should be recognized that the energy sector is the most strategic civilian sector of the Soviet economy, accounting for about 65% of total annual Soviet hard currency income. Any decision by Alliance members and Western companies to assist the extraction, processing, and transmission of Soviet energy resources, particularly for export, would provide potentially enormous assistance to the USSR's hard currency earnings and, in the case of natural gas, could create inordinate Western dependence on Soviet supplies.

NATIONAL SECURITY EXPORT CONTROLS

IV. Strengthen the Coordinating Committee on Multilateral Export Controls (COCOM).

U.S. and Western taxpayers are, in effect, penalized billions of dollars annually in additional and unnecessary defense spending to counter the consequences of the illegal Soviet Bloc acquisition of militarily-relevant Western technology. Much of this strategic technology is diverted through third countries.

COCOM has proved useful in impeding the flow of strategic technology to Warsaw Pact countries. Nevertheless, COCOM's annual budget and institutional capabilities are woefully inadequate given the crucial national security function it performs. The Administration and the Congress need to persuade our allies to increase substantially both of the above and negotiate effective export control agreements with non-COCOM countries.

The bolstering of enforcement measures is fundamental to the success of COCOM's mandate. The prodigious Soviet effort to illegally acquire and apply strategic Western technology involves billions of dollars and tens of thousands fo espionage and technical professionals. The West, in comparison, dedicates a tiny fraction of these massive Soviet resource allocations to curtailing Western sponsorship of Soviet military R&D and hardware requirements.

Although streamlining and routinely reviewing the COCOM list to avoid unnecessarily impeding Western export competitiveness is important, we should not lose sight of the need to secure greater public understanding and support for a stronger COCOM.

HUMAN RIGHTS AND EAST-WEST TRADE

V. Reaffirm the Jackson Vanik and Stevenson amendments to the Trade Act of 1974.

The Jackson-Vanik and Stevenson amendments link the granting of equal tariff treatment (most favored nation status) and US Export-Import Bank credits to greater freedom of emigration from the USSR. The amendments have become a symbol of the US commitment to human rights and compliance with the Helsinki Accords and enjoy broad bipartisan Congressional support.

Any efforts to decouple the linkage between human rights and East-West economic and financial relations should be opposed until the Soviet Union is in full compliance with the Helsinki Final Act.

During a period when Moscow has an unprecedented need for major Western infusions of capital, equipment, technology, management, distribution and marketing skills, the leverage to advance the cause of Soviet Jews and other ethnic minorities is particularly potent.

SOVIET MEMBERSHIP IN THE INTERNATIONAL INSTITUTIONS

IV. Soviet efforts to gain observer status and membership in Western economic and financial institutions should be opposed.

The Soviets are actively pursuing membership in such institutions as the General Agreement on Tariffs and Trade, the Asian Development Bank, the World Bank, and the International Monetary Fund, in that order. There are three basic reasons why such efforts by Moscow should be opposed:

The USSR has traditionally used its presence in such organizations for disruptive, and propagandistic purposes, often recruiting Third World countries to advance its short-term political goals. Until there is concrete evidence that this kind of behavior has changed, new opportunities should not be presented.

The centrally-controlled, command economy of the USSR is fundamentally incompatible with the market-oriented philosophy underpinning these institutions. An irreversible track record of market-oriented economic reform should be present prior to consideration of observer status and membership.

The Soviet Union and other Warsaw Pact countries should demonstrate considerably greater compliance with the Helsinki Accords as a precondition to observer status and membership of these organizations.

ELIMINATE SUBSIDIZED WHEAT SALES

VII. US sales of subsidized wheat to the USSR should be ended as part of an Alliance effort to eliminate all taxpayer subsidies of trade and financial relations with the USSR.

It is inconsistent for the Administration to have achieved a hard-fought allied consensus to eliminate subsidies on government-backed credits to the USSR and then itself engage in subsidized wheat sales. The signal sent by this development could easily erode allied willingness to steer away from any subsidies in trade or financial transactions with Warsaw Pact countries.

Thus far, about 13 million metric tons of US subsidized wheat has been sold to Moscow at an estimated cost of over $500 million to US taxpayers.

The Soviets are now seeking to have wheat subsidies made a permanent feature of the US-USSR Long-Term Grain Agreement through the insertion of language in the agreement to the effect that "US wheat prices will be competitive with the world price." This is a diplomatic way of saying that any disparity between US wheat prices and the world price will be subsidized by US taxpayers or the Soviets will be under no obligation to buy.

On occasion, subsidies may be necessary to counter unfair trading practices by the European Community and other suppliers which routinely use subsidies. Nevertheless, the line should be drawn that a "subsidy war" among the allies favoring Moscow will not be permitted.

EXECUTIVE BRANCH REFORMS

VIII. Establish the position of Undersecretary of Defense for International Economy Security.

The emergence of economic and financial security as a central underpinning of US national security, requires a high-level institutional focal point in the Administration.

The occupant of this new position would be responsible for identifying, analyzing, and monitoring the range of issues associated with capital, trade, and energy flows primarily between the Free World and potential adversaries.

The Undersecretary of Defense for International Economic Security would prepare policy recommendations for the President and the Cabinet on strategic dimensions of international economic and financial relations, including security-related issues outside of East-West relations, such as the international debt crisis.

The absence of such a position in the Executive Branch risks the continuation of sporadic, ad hoc attention to this crucial family of issues. For example, how is it possible that the US policy-making community has never systematically analyzed and debated the central question of how the Soviet Union funds itself and its global activities?

IX. Reestablish a Cabinet-level Senior Interdepartmental Group-International Economic Policy (SIG-IEP) under the auspices of the National Security Council.

Between July 1982 and April 1985, the SIG-IEP successfully integrated overarching US national security and foreign policy goals in the formulation of international economic policy.

The competing and often contrary views of the relevant government agencies were either reconciled at the Cabinet level or accurately translated into options for the President's decision, in the context of his broader foreign policy objectives.

The prominent role of the US security community helped ensure that economic and financial security policies received proper priority on the President's agenda. Regrettably, under the current Economic Policy Council, the roles of Defense, the CIA and the NSC have been diminished.

CONCLUSION

The suggested policy prescriptions and Western responses to Soviet economic overtures outlined above are specifically designed not to impede the expansion of nonstrategic East-West trade and finance. Implementation of these recommendations on the security aspects of economic and financial relations would substantially reduce Soviet flexibility with regard to financial and technology diversions and could result in multibillion dollar defense-related savings annually for Western taxpayers.

Reforms in East-West trade and finance could even advance prospects for arms control. The Soviets would have a greater incentive to make the kind of positive tradeoffs between their military and civilian economies that we are hopeful of seeing in the context of perestroika. Thus far, there is no evidence that Gorbachev's economic reform program is resulting in the reduction of the Soviet military sector's share of Soviet GNP. Indeed, the intelligence community has recently estimated that Soviet defense spending as a share of total GNP increased in 1987.

Most Alliance countries have acknowledged the effectiveness of the technique embodied in the words "follow the money" to identify and locate drug traffickers, organized crime figures, inside-traders, espionage agents, and international terrorists. In meeting the Soviet challenge, it is troubling that the same kind of investigatory tool has not been more vigorously applied as a major component of our most vital Alliance security policy. The growing bipartisan consensus in the Congress on the untied loan issue and the heightened interest on the part of the US security community, human rights groups and organized labor in East-West economic policy reforms, indicate that economic and financial burden-sharing with our allies has come of age for the 1990's and the twenty-first century.

TRIBUTE TO SENATOR ROBERT C. BYRD, SENATE MAJORITY LEADER

Mr. PELL. Mr. President, the announcement by our distinguished majority leader, Senator ROBERT C. BYRD, that he will not seek reelection to his leadership position in the 101st Congress is a cause for my very real regret.

Indeed, it is difficult for me to envision the operation of the next Congress without ROBERT BYRD as our majority leader. I am now serving my 28th year in the Senate, and for 22 of those years ROBERT BYRD has been prominent in the leadership of the Senate and of its Democratic Members. His record of service includes 4 years as Secretary to the Democratic Conference, 6 years as assistant majority leader, 6 years as minority leader and 6 years as majority leader.

It is not only the length of his leadership service, but the quality of that leadership as well that has earned for him a place of distinction in the history of the U.S. Senate.

The foundation of the majority leader's outstanding leadership record is his love of the Senate and his dedication to the Senate as an institution. That is in fact the basis for his unprecedented knowledge of the rules and procedures of the Senate and for his studied use of those rules and procedures to protect the interests of the Senate as a whole and the rights of every individual Senator, regardless of party affiliation.

It is a mark of his integrity and of his dedication to the Senate that he has never to my knowledge sacrificed the rules and precedents of the Senate to gain a partisan legislative advantage or victory. Within these basic limits of fairness, however, he is unmatched in ability to facilitate and speed the work of the Senate through imaginative, innovative, and aggressive use of the established rules of the Senate.

Although he has a reverence for the traditions of the Senate, Senator BYRD has also been in the forefront of efforts to accommodate the Senate to essential changes in our society and in technology. He played a central role in opening up the proceedings of the Senate to the American people through radio and television broadcasting—potentially one of the most far-reaching and influential changes in the history of the U.S. Senate.

The Senate as a whole, the Nation as a whole, and the American people have been extraordinarily well-served by the leadership of Senator ROBERT BYRD here in the U.S. Senate.

Although we will all miss Senator BYRD's contributions to the Senate as majority leader, it is reassuring to know that the voters of West Virginia will have the opportunity this fall to return Senator BYRD to the Senate where we will continue to have the benefit of his presence and his legislative wisdom.

I know how very much I appreciate his friendship and fairness and look forward to our continuing to serve together.

TV MARTI DESERVES PROPER CONGRESSIONAL CONSIDERATION—H.R. 4782

Mr. PELL. Mr. President, I want to address myself to a provision in title V of this bill which has received little attention but yet has far-reaching implications for U.S. foreign policy as well as domestic broadcasting. It is the $7.5 million appropriation for TV Marti that causes my deep concern. From the perspectives of the national broadcasting industry, the cost-benefit balance sheet, the changing United States-Cuba relationship, and the legislative process, TV Marti has the potential to create many problems.

The National Association of Broadcasters [NAB], in letters to all members of the Subcommittee on Commerce, State, Justice and the members of the full Appropriations Committee, provided some important information as well as expressed very real concerns about the TV Marti project. The NAB points out that not only can the TV signal directed at Cuba be easily blocked by the Cubans but that engineers believe that it is likely to create interference with TV reception in south Florida, and far beyond, depending on the ducting phenomenon in the gulf coast. That seems to be pretty high cost for a TV signal that is not going to cover much more than the city of Havana and the northern part of Cuba.

The NAB also expresses concern over the possible retaliatory action against radio stations in the United States. Cuban objections to the Radio Marti Program, in its formative stages, resulted in several incidents of Cuban interference with radio broadcasting in many areas of the United States. In fact, as if to remind us of its capability to wreak havoc with United States broadcasting, the Cubans recently interferred with United States radio stations in the United States. I do not believe that it was mere coincidence that the Cuban interferrence with United States radio came on the very evening that the Appropriations Committee approved TV Marti in its markup.

The Cubans are extremely sensitive to the issue of a United States Government-run station beamed toward their country and are very likely to take retaliatory action in the political area also. I remind my colleagues that in response to the startup of Radio Marti in 1985, the Cubans abruptly suspended the immigration agreement which had recently been signed. Just this past November, the immigration agreement, which provides for the normal flow of refugees from Cuba, finally began to be implemented. At this very time, the United States and Cuba are involved in discussions on issues that are of mutual concern, one, incidentally, being the radio interference problem. Another issue being discussed with the Cubans is the withdrawal of Cuban troops from Angola. Cuban response to TV Marti could bring a halt to any progress that is being made in these and other areas and thus work against the best foreign policy interests of the United States.

Finally, I must object to the way TV Marti is being handled in the Congress. The entire authorization process is being bypassed. Because of the wide-ranging implications that I have discussed, the TV Marti proposal deserves the same indepth consideration as the Congress devoted to the Radio Marti Program. The Congress studied, deliberated, and modified Radio Marti in 1982 and 1983. In several committees of both the House and Senate, substantive hearings were held to receive testimony from broadcasters, technicians, and others with opinion on the subject. Extensive debate took place on the floor of both Chambers. It was this careful consideration that led to the modification and compromise which resulted in the approval of the Radio Marti Program.

TV Marti deserves no less. Little is known about the concept. Very few people have seen the feasibility studies that have been commissioned to look into it. The House played a large role in the Radio Marti consideration but TV Marti is not even in the House appropriations bill. TV Marti deserves full study and consideration by the Foreign Relations Committee and more extensive consideration by the full Senate. We need time to read and analyze the feasibility studies, time to hold hearings to receive testimony from the experts and others who can speak to the foreign policy implications of TV Marti. We need to fully examine TV Marti in the same manner we considered the Radio Marti Program.

I realize that the relatively small amount of money contained in this bill is basically for a 90-day experimental period. I want to make it very clear that any further action on TV Marti must be done in the proper legislative manner and that the authorizing committees in both the House and Senate be permitted to exercise their proper role.

CAMPAIGN FINANCE REFORM

Mr. REID. Mr. President, I believe that our inability to succeed with comprehensive campaign finance reform should not prevent this body from addressing some of the serious flaws of the Federal campaign process.

There are many of us who have not forgotten the battle of S. 2. S. 2 campaign reform was an effort to change the purchase of seats in the U.S. Senate. We failed in that effort.

A majority of the Senate favors reform of the campaign spending law. Vote after vote indicated that.

The bill that I am going to talk about today does not deal with spending limits; it does not deal with PAC's. It deals with another type of reform. That is, the ability to enforce the laws as they now exist.

Those of us who went through the last Senate cycle of elections know that the laws were not adhered to, that the Federal Election Commission has not the power nor the authority nor the manpower to enforce the laws as they now exist.

Therefore, I would hope that this body would not look at the legislation which I will introduce as in any manner partisan. We are all aware of the limits imposed on campaign laws by the ineffectiveness of our current enforcement provisions. We must provide for more accessible, more effective and a swifter process.

One of the opponents of S. 2, the junior Senator from Kentucky, spent a great deal of time talking about how the present laws are avoided, not enforced. Therefore, I would direct that Senator's attention to the statement that I am going to make today and the legislation that I will later introduce because it will deal with accessible, more effective, and a swifter process. That is why I introduced Senate bill S. 780, which now has 30 cosponsors. I will introduce another bill, the product of further consultation. Why start over? I am starting over because S. 780, after consultation with experts in the area, is not the best possible means of enforcing the laws that now exist.

As the Chair knows, the current law provides for unnecessary delays before action is taken by the Federal Election Commission or by the courts in a civil action.

In addition, the penalties, if ever imposed, are insufficient to deter or punish violations of the laws governing a fundamental aspect or our democratic process. I believe it is outrageous, but no secret, that the worst thing a violator of the law might fear is a penalty amounting to a few dollars several years after the election.

In my election, which took place in November almost 2 years ago, there were numerous complaints filed regarding my election by various people in the State of Nevada. Only one of those has been resolved. About a dozen are still yet to be resolved, having been filed well over 2 years ago.

So a fear that a penalty amounting to a few dollars several years after the election does not deter anything. Such a penalty hardly matters and violations may have been an instrument in an election victory.

Mr. President, the bill I will introduce addresses those problems and makes Federal campaign law enforcement fairer, swifter, and stiffer.

I have noticed in my consultations a great deal of support for such an approach.

First, my bill would empower the Federal Election Commission to request an injunctive order to stop the most serious and obvious violations while they are occurring rather than having to wait until after all the damage is done.

My legislation would also speed and encourage the conciliation process that takes place between the respondent and the Federal Election Commission prior to any action in court.

Access, another objective of the bill, would be made easier by ending the exclusive jurisdiction of the U.S. District Court for the District of Columbia allowing suits to be brought in any court with jurisdiction over the respondent. Mr. President, frivolous suits, however, would be discouraged by imposing the final burden of a suit on the loser, including attorneys' fees.

Finally, and most important, penalties would be raised substantially and sometimes made mandatory, especially when the violation has been knowing and willful. If such a violation has been committed just before the election, the penalty would even be higher because we all know that some of the worst is saved until last. Why? Because nothing can be done. This legislation would address that, and if a violation has been committed just before the election, the penalty would still be higher.

I do not intend to detail all the provisions of a bill which is somewhat technical in nature. I simply ask my colleagues in this body to support an effort that we all have a stake in regardless of on what side of the aisle we sit. We all want the electoral process to be honest, and my legislation would take us to that goal.

THE MURDER OF MAJOR NICHOLSON: A TRAGEDY AND A DISGRACE

Mr. HELMS. Mr. President, on June 14, Dan Howard, spokesman for the Defense Department, announced that the Soviet Union had apologized for the killing of Maj. Arthur D. Nicholson Jr., on March 24, 1985. I have often deplored the brutal Soviet murder of Major Nicholson, and I have been amazed at the general disinterest in the subject by the American media—and the State Department in subsequent discussions of United States-Soviet relations.

In fact, Mr. President, the Soviet killing of Major Nicholson constituted a straightforward, cold-blooded act of premeditated murder by a foreign power in direct violation of every legal and moral standard. I was astonished by the Defense Department's announcement, and decided to take a closer look. Having done so, I regret to say that basic "truth-in-advertising" standards have been woefully ignored in this sordid affair, and I am thus obliged to try to remind my colleagues of the bizarre facts of the case.

To begin, Mr. President, let me recount the full text of the statement which the Defense Secretary Carlucci received from Soviet Defense Minister Dmitri Yazov on May 31:

> I express my regret over the incident and I'm sorry that this occurred. This does not promote improved relations. Secretary Carlucci and I have agreed we will do all we can to prevent these kinds of incidents in the future.

In commenting on this text, the Defense Department's spokesman said:

> We feel we have received the appropriate apology from the Soviets. The demand for an apology, we feel, has been responded to appropriately by the Minister. The central fact is that we had an American military attache who was shot and killed. It was a tragedy. We demanded an apology. We've received an apology, and we have begun the steps to prevent this sort of tragedy from occurring in the future. That seems to be the most productive path we can follow.

Now, Mr. President, many questions rise from this concise little interchange. First, the Defense Department—our Defense Department, not the Soviets'—calls the Nicholson murder a tragedy. What troubles me, Mr. President, is the Defense Department's pretense that the callous Soviet statement was somehow "appropriate." It was neither appropriate nor was it an apology.

The fact is, Major Nicholson's death was an outrage. I recall that the then-Secretary of Defense, Caspar Weinberger, attacked the Soviet Union for the murder, and insisted that the Soviet Union apologize to Major Nicholson's widow, Karin, and pay compensation to her and her then 8-year-old daughter Jennifer. It is outrageous that, once the Soviets shot Mr. Nicholson, who was unarmed, they refused to allow him medical treatment, thus assuring that he would die. And, of course, because of this Soviet act of brutality, the incident was indeed fatal. Perhaps that is why Mr. Weinberger protested at the time that the Soviets "simply don't respond the way that civilized people do."

Mrs. Nicholson was grateful to Secretary Weinberger:

> I think it's very special that someone sort of took up the family position and asked for compensation. I think it's very good to keep reminding them of it. I don't think that Nick should have just died and been forgotten.

Of course, Mr. President, the overwhelming majority of the American people agree with Mrs. Nicholson. But not the U.S. State Department. The Washington Post on May 22, 1985, reported that:

> The continuing focus on Nicholson has annoyed some officials in the State Department, and one unidentified U.S. diplomat made clear that demands for an apology and compensation were making life difficult for him in his routine dealings with the Soviets in Berlin. "We've got to live with these guys," he said.

How's that for callousness, Mr. President? He's "got to live with those guys." The point is that Major Nicholson died at their hands.

Therein lies the true tragedy, the fatal flaw in the otherwise strong, devoted moral fiber of the American people. That tragic flaw is the arrogance of U.S. diplomats who appease the brutality of Communists around the world—and sweep heroes like Major Nicholson under the rug.

Small wonder, Mr. President, that so many Americans find the State Department so bewildering, when they learn that our diplomats, hiding behind anonymity, complain that pursuing the truth interrupts their comfortable lives.

But that anonymous diplomat has won, Mr. President. Secretary Weinberger is gone, and, according to the New York Times of April 5, 1985, Secretary Shultz never shared Mr. Weinberger's tenacity in insisting that the Soviets apologize before going forward with other issues.

Back to the so-called apology by the Soviets some days ago: There is no remorse on the part of the Soviets for that brutal, premeditated act of murder. No, what Mr. Yazov, Soviet Defense Minister, said was:

> I express my regret for the incident, and I'm sorry that this occurred. This does not promote improved relations. Secretary Carlucci and I have agreed we will do all we can to prevent these kinds of incidents in the future.

Mr. Yazov accepts no blame for a cold-blooded murder—and the United States allows him to get by with it. Did he admit the Soviets' debt to Mrs. Nicholson and her daughter?

No. In short, Mr. President, this "apology" in no way resembles "civilized people"—to use Secretary Weinberger's term.

The Soviets have not apologized, and for that reason they have won, because, now that Caspar Weinberger has gone, the Soviets have merely issued an Orwellian disclaimer. And our Defense Department—our Secretary of Defense—has accepted it as an apology, which it clearly is not.

Mr. President, we should not forget Major Nicholson. The United States must continue to insist that the Soviets who murdered him owe his family an apology and appropriate compensation. Failure to do that will be a disgrace.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

CONDEMNATION OF THE USE OF CHEMICAL WEAPONS BY IRAQ

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate Resolution 408, which the clerk will report.

The legislative clerk read as follows:

> A resolution (S. Res. 408) to condemn the use of chemical weapons by Iraq.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Under the previous order, there will now be 20 minutes on the resolution to be equally divided and controlled by the Senator from Maine [Mr. MITCHELL] and the minority leader or his designee.

The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, I am pleased that today my colleagues will have the opportunity to express their support for Senate Resolution 408. I ask unanimous consent that Senators KERRY, PRYOR, SPECTER, and CRANSTON be allowed to join the other 40 cosponsors of this important resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, the resolution condemns the use of chemical weapons by Iraq and urges the President to continue American efforts to achieve an international ban on the production and use of chemical weapons.

It is tragic that there is any need for a resolution of this nature. Yet we cannot ignore the horrifying developments in the Iran-Iraq war. We must place the U.S. Senate firmly on record in condemnation of the use of chemical weapons, and we must express our support for the ongoing efforts to reinstate the moral and legal prohibition against chemical weapons use.

A few months ago, the international community was shocked by the graphic evidence of Iraq's use of chemical weapons against its own citizens. On March 16, Iraq launched a chemical attack on the Iranian-occupied town of Halabja, killing up to 2,000 Kurdish civilians with chemical agents. The resolution praises President Reagan for his prompt condemnation of Iraq's action as a "particularly grave violation" of international law.

The grotesque images of civilians frozen dead in the midst of their daily routine outraged us all. But even before this incident, there had been increasing signs of expanding chemical capabilities in the Middle East.

We knew that in early 1982 Iraq began experimenting with the use of chemical weapons and accidentally poisoned its own troops. United Nations investigators had concluded that Iraq employed chemical weapons against Iran in 1984, in 1986, and again in 1987. Each attack was a flagrant violation of the 1925 Geneva protocol that Iraq had signed.

Iran apparently began producing chemical weapons in limited quantities a few years after Iraq's experiments began. Iran has reportedly used chemical weapons, including at Halabja, in retaliation for Iraqi chemical attacks.

Unless both sides forgo the use of chemical weapons, there could be an even more alarming escalation of the nearly 8-year-old gulf war. Iran and Iraq now use conventional missiles in attacks against cities. If they were to arm these missiles with chemical warheads, they could devastate civilian populations in urban centers.

Senate Resolution 408 conveys a strong message to the combatants in the gulf war. It condemns Iraq's pattern of chemical weapons attacks. It expresses concern about reported Iranian use of chemical weapons. It calls upon the President to exert diplomatic efforts to prevent the further development or use of chemical weapons. The Senate should resoundingly support this unequivocal condemnation of chemical weapons use by any country.

The recent Iraqi chemical attack symbolizes the failure of the international community to effectively prevent the transfer of chemical capabilities and the failure to prevent the use of weapons that were outlawed by the 1925 Geneva protocol.

While the United Nations has repeatedly condemned Iraq's use of chemical weapons, that body has never invoked sanctions of any sort against a violator of the Geneva protocol.

The use of chemical weapons is not yet routine, but it threatens to become widespread as chemical production technology crosses borders and as the strictures against chemical use weaken with every reported violation. Clearly, it is time for a strengthening of both international law and national policy to prevent the spread and use of chemical weapons.

Many countries, particularly in the Middle East, are fast acquiring chemical weapons and chemical production capabilities. For example, Syria is upgrading its chemical capabilities and has built a new production facility to ensure its own chemical supplies. Libya reportedly has also acquired chemical weapons.

Chemical weapons are attractive to such states because they pose a serious military threat, but are relatively cheap and easy to make. The manufacturing technology is not highly complex, and much of it can be bought on the open market—in the name of seeking an industrial chemical capability.

Of course an effective delivery system is required to actually use chemical weapons. But as ballistic missile technology proliferates throughout the Third World and particularly the Middle East, so too does the capability to deliver chemical munitions across great distances.

The increasing range and sophistication of delivery vehicles and the expansion of chemical capabilities are a potentially devastating combination.

Therefore, the resolution urges the President to seek allied cooperation to further tighten controls on the export of chemical technology to countries seeking to develop a chemical weapons capability.

The United States has already recognized the need to closely monitor and control the spread of chemical weapons capabilities. The 1984 Chemical Weapons Export Control Act prevents the sale to Iraq and Iran of industrial chemicals that could be used to manufacture chemical weapons. In 1987, the State Department extended the ban to include Syria. But more can be done. For example, it seems obvious that Libya should be added to this list.

Anticipating which countries may seek to acquire chemical weapons is crucial for successfully preventing proliferation. But it is equally important that other industrialized nations participate fully in the application of export controls.

Our allies, many of whom have large domestic chemical industries, have not enthusiastically joined our effort to limit access to chemical weapons capabilities. They should be encouraged to help prevent increasing numbers of nations from becoming chemical weapons producers and distributors.

In addition to restricting access to chemical weapons components, we must focus attention on the need to achieve a comprehensive and verifiable chemical arms control agreement.

World War I, in which chemical weapons killed at least 90,000 and wounded well over a million, convinced the world that chemical weapons should never be used and led to the signing of the 1925 Geneva protocol.

But the protocol bans only the use—not the production or stockpiling—of chemical weapons. Furthermore, the law lacks enforcement mechanisms and the ethical strictures against chemical weapons use have been undermined by the increasingly violent means of modern warfare. It is time to strengthen international law's prohibition against chemical warfare.

The resolution expresses the Senate's support for American efforts to reach an international agreement banning the use, production, development, stockpiling, transfer, and acquisition of chemical weapons.

Since the midsixties, the United States has been engaged in such negotiations. Today the primary forum is the 40-nation Conference on Disarmament in Geneva.

The Soviets, who have a huge stockpile of chemical weapons and even dedicated chemical warfare forces, have long expressed reservations that posed serious obstacles to agreement.

However, there have been some hopeful signs. During the 1985 Reagan-Gorbachev summit meeting, the two leaders vowed to pursue a worldwide chemical weapons agreement and agreed to discuss ways to stem the proliferation of chemical weapons. In 1987, the Soviet Union announced that it had halted production of chemical weapons. The Soviets have also adopted a more open attitude in the Geneva chemical arms negotiations.

Although this altered Soviet attitude has led to encouraging progress at Geneva, many hurdles must be overcome before an agreement can be reached.

The subject of chemical weapons control is exceedingly complex. Verification in particular poses a very difficult problem.

National technical means—photoreconnaissance satellites—clearly are not sufficient to verify compliance with a ban on chemical weapons. The overlap between legitimate commercial chemical plants and weapons production facilities would enable chemical munitions to be surreptitiously stored in conventional munitions depots.

The United States has correctly insisted that onsite inspection, including provisions for challenge inspections, is a critical prerequisite for meaningful chemical arms control. The Soviets appear more open to the possibility of challenge inspections. Furthermore, the unprecedented onsite verification provisions incorporated in the INF Treaty provide additional reason for hope that this prime obstacle can be overcome.

As the recent Iraqi chemical weapons attack reminds us, banning the production, stockpiling, and use of chemical weapons must remain a high international priority.

I hope that this resolution will help convince all nations that the U.S. Senate condemns in no uncertain terms the use of chemical weapons by any country. It is also my hope that this call for an international chemical weapons ban will help bring this issue the immediate attention it surely deserves.

Mr. HATFIELD. Mr. President, it is with great pleasure that I rise this morning in support of the resolution submitted recently by Senator MITCHELL. He deserves great credit for submitting the resolution, as does the Senate Foreign Relations Committee for acting on it. The pictures of Kurdish villagers frozen in their tracks by poisonous, deadly nerve gas jarred us all out of our complacency last March, and this resolution offers us all the opportunity to express our outrage in a genuinely bipartisan manner. My hope is that it will pass unanimously.

Before we cast our votes, however, I would like to share a couple of brief observations with my colleagues.

First, Mr. President, the nerve gas attack in Kurdistan must be considered in the broader context of the 8-year-old war between Iran and Iraq. A headline in the Economist said it all: "If you can think of something even beastlier, do it." Who will ever forget—can ever forget—the stories about Iran's use of children to sweep minefields? The atrocities come from both sides, Mr. President, and so do the victims. More than 1 million people have lost their lives in this crazy war, and even more have been permanently injured. In fact, of the more than 100 wars fought since World War II, this one is already the most deadly. As we cast our votes for this resolution, let us also cast our votes for international efforts to bring an end to this war.

My second observation, Mr. President, is that I am surprised that ghastly attacks like these do not happen more often. Nerve gas is a poor man's neutron bomb—it just kills people, and this crazy world is full of countries and terrorist groups that love the strategic implications of that. This crazy world is awash with nerve gas—all shapes and sizes, all models and makes. As an aside, Mr. President, I might point out that that includes us—the United States of America. Although President Richard Nixon declared a moratorium on nerve gas production in 1969, this Congress—this very Congress—gave the green light to production of an entirely new generation of nerve gas weapons just last year.

I hope this bears on the conscience and on the minds of this Senate.

All this brings me to my final observation, Mr. President. In my opinion, the most important section of the resolution now before us is the one that urges the President to pursue a multilateral agreement banning the use, production, development, transfer and acquisition of nerve gas weapons. Our choice is clear—either we sit around and wait for the inevitable—the next nerve gas attack—or we actively and aggressively pursue an agreement today that seeks to prevent that next attack tomorrow.

Again, Mr. President, as we cast our votes for this resolution—let us also cast our votes for an end to the Iran-Iraq war, and for the complete and final destruction of the world's nerve gas arsenals.

Mr. MURKOWSKI. Mr. President, I rise to support the important resolution offered by my colleague from Maine.

As we reflect on the hideous realities of the Iran-Iraq war, which have touched members of our own U.S. Navy, we must consider that the greatest of those horrors is the use of chemical weapons by both sides.

This legislation is important because it highlights that particular aspect of the Persian Gulf situation. I am afraid, Mr. President, that with the constant television pictures of ships burning in the gulf, with the discussion in this Chamber and in other places of the rightness of our U.S. reflagging policy, and with the vigorous discussions that we have had on the meaning and application of the War Powers Resolution, we and the American people may lose sight of the real horrors of the war which has dragged on between Iran and Iraq.

That war, in terms of casualties and, in terms of the disruption of people's lives is rapidly becoming one of the most horrific events in this already horrific century.

Mr. President, much has been said here in the course of this session of Congress about the reduction of nuclear arms. This resolution provides an important moment, however, for us to focus on a threat which is older and in some ways more terrifying than nuclear weapons, that is chemical weapons.

Mr. President, it is incredible that in the late 20th century, we can witness the barbarity of chemical weapons being used in the Iran-Iraq war. It is also incredible that civilized nations must maintain chemical warfare arsenals at this late date.

I do not have to remind my colleagues of the horrors of chemical warfare. The history of the First World War tells us that, but we must not content ourselves with believing that the flow of gas in the trenches is an event which occurred three quarters of a century ago and is therefore irrelevant to our times.

In these days of terrorist activities, we have all heard of the possibilities of nuclear weapons being employed by terrorists. We have read that it is possible to develop a nuclear bomb in a relatively unsophisticated laboratory with relatively sophisticated materials.

It is much simpler, Mr. President, to develop and field chemical weapons.

As we reflect on the recent major step which the United States has taken in arms control with the ratification of the INF Treaty, it is essential that the administration place the highest emphasis on the achievement of a ban on chemical arms. I particularly call the attention of our colleagues and of the administration to the language in this resolution which calls on the President to put a chemical weapons ban at the top of the list. I also urge the other nations of the world, friends and adversaries, to join in this effort.

The tale of suffering which has been written across the record of this century must end.

We in Congress must support this effort, first of all by assuring that our own Armed Forces have adequate defenses against nuclear weapons and then seeking every opportunity to call for a chemical weapons treaty.

It is also our duty to call barbaric behavior to the attention of the world. The resolution offered by my friend from Maine is timely and I urge our colleagues to support it.

Mr. HATFIELD. Mr. President, I know of no one else anxious to speak at this time on my side.

If the Senator from Maine [Mr. MITCHELL] wishes additional time, I would be happy to yield time under my control.

Mr. MITCHELL. Mr. President, I simply want to thank the distinguished Senator from Oregon, who, with his usual directness, forcefulness, and clarity, has presented the issues clearly before the Senate.

I have no further remarks at this time and am prepared to vote.

Mr. PELL. Mr. President, I would like to commend my colleague from Maine, Senator MITCHELL, for his initiative in sponsoring Senate Resolution 408, a resolution condemning Iraq for its use of chemical weapons.

The 1925 Geneva Convention outlawed the use of chemical weapons in warfare. This convention grew out of the horrors of the First World War where hundreds of thousands of soldiers succumbed to mustard gas and other chemical weapons. Since 1925 the ban on chemical weapons has been honored with only a few relatively minor exceptions. Even Hitler, murderous as he was, did not use poison gas against the allies because he understood the potentially catastrophic consequences for Germany if these relatively accessible weapons were introduced into combat.

The ban on the use of chemical weapons has been largely honored for the last 60 years. That is, until the current Iran-Iraq war. As Iraq's military position deteriorated after 1982, it has made increasing use of poison gas to offset the greater numbers and zeal of the Iranians. Tragically, poison gas has become a standard part of the Iraqi arsenal. Today it is used not only against Iranians but also against Iraq's rebellious Kurdish population. Last March, some 5,000 civilians—children, women, men, old people—were brutally murdered when Iraqi forces deployed chemical weapons on the Kurdish village of Halabja. Even as Iraq's military position improves, as it has over the last 4 months, Iraq continues to deploy chemical weapons.

The breakdown of the norms against the use of chemical weapons could have catastrophic consequences. The raw materials for chemical weapons are readily available, and poison gas is easy to make and easy to use. Chemical weapons are truly the poor man's nuclear bomb. Unless the world community is firm in its condemnation of Iraq's violation of international law, there is every likelihood Iraq's example will be followed by other countries.

Iraqi diplomats defend their country's use of chemical weapons by arguing that the Iran-Iraq war is the source of the problem. End the war, they say, and there will be no further use of chemical weapons. There can be no doubt but that Iran is responsible for the continuation of the war. Iraq has accepted U.S. Resolution 598 to end the war; Iran seems intent on continuing this cruel and pointless conflict. However, Iran's conduct cannot excuse Iraq's use of chemical weapons. The 1925 Geneva Convention governs the conduct of war. The fact of war cannot be used as an excuse for violating this convention.

Once again, I commend Senator MITCHELL for bringing this matter to the attention of the U.S. Senate. In agreeing to Senate Resolution 408 we are sending a message to Baghdad. I hope our message will be heard.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

The question is on agreeing to the resolution, as amended. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Oklahoma [Mr. BOREN] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Idaho [Mr. SYMMS], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 201 Leg.]

YEAS—91

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wirth

NAYS—0

NOT VOTING—9

Biden
Boren
Dodd
Evans
Heinz
Matsunaga
Stennis
Symms
Wilson

So the resolution (S. Res. 408), as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble, reads as follows:

S. RES. 408

Whereas the international community recognized the dangers of chemical warfare during World War One, in which at least 90,000 were killed and well over 1,000,000 wounded by chemical weapons;

Whereas the 1925 Geneva Protocol outlawed the use of chemical weapons;

Whereas Iraq has been producing and stockpiling chemical weapons;

Whereas United Nations investigators concluded in 1984, 1986, and 1987 that Iraq had employed chemical weapons, and the United Nations Security Council has condemned the use of chemical weapons in the Iran-Iraq war;

Whereas Iraq's chemical weapons attack on March 16, in which hundreds of Kurdish civilians were killed on Iraqi soil, underscores the horror of these weapons and their impact on noncombatants;

Whereas the United States condemned that Iraqi attack as a "particularly grave violation" of international law; and

Whereas it has been reported that Iran may be producing chemical weapons, and Iran has also used chemical weapons in retaliation for Iraqi use of such weapons: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the use of chemical weapons by Iraq and declares that such action violates international law;

(2) calls upon Iraq to halt immediately and permanently the use of all chemical weapons;

(3) commends the President for his prompt condemnation of Iraq's recent chemical weapons attack on civilians;

(4) urges the President to seek allied cooperation to further tighten controls on the export of chemical compounds to countries seeking to develop a chemical weapons capability;

(5) expresses concern about reported Iranian use of chemical weapons and urges the President to make appropriate diplomatic efforts to prevent Iran from developing or using chemical weapons; and

(6) urges the President to pursue American efforts at the Geneva Conference on Disarmament to reach an arms control agreement banning the use, production, development, stockpiling, transfer, and acquisition of chemical weapons.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

The PRESIDING OFFICER. The Senate will now resume consideration of the unfinished business, S. 2527, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2527) to require advance notification of plant closings and mass layoffs, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana is recognized to offer an amendment.

The Chair recognizes the Senator from Indiana.

Mr. QUAYLE. Mr. President, I ask unanimous consent that I be recognized at 10 o'clock to offer an amendment to the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, Senators should be on notice that we expect to have meaningful business in connection with the plant-closing bill today. I expect rollcall votes and I expect to start early on Monday. There will be a rollcall vote by 10 o'clock on Monday morning. We only have 3 days next week before the break and there is no point in getting a slow start on those 3 days. We have much work to be done and Senators should arrange their schedules accordingly.

I hope that on Monday we can have a vote on the amendment by Senator KASSEBAUM. She is not able to be present today so we know we are going to have to wait for Monday on that vote.

As I said on yesterday, that is a killer amendment. Mass layoffs are a part of the legislation which the President said that he wanted separated out of the trade bill, and he said such legislation should not be on the trade bill. He said that it ought to be in a separate bill. And he said that he would then be glad to sign the trade bill. Glad to sign the trade bill.

Well, he has never been glad to sign a trade bill. He could have had a trade bill when his party was in control of the Senate 6 years ago. But I think we ought to send Mr. Reagan a separate plant closing; mass layoff bill. If an amendment were to be adopted removing mass layoffs from this bill I will take the bill down.

That would assure that when the trade bill is called up here, it would have plant closing, mass layoff amendments offered and probably adopted. That is why I say that the Kassebaum amendment is a killer amendment. I do not say that as a threat, but it is facing up to reality.

I think we ought to give the President what he asked for, a separate bill. And I would hope that we could dispose of this bill by, say, Monday or Tuesday of next week so that the Senate can get some other work done before we go out for the break.

Mr. METZENBAUM. Would the leader yield for a question? Let me just ask a question——

Mr. BYRD. Let me yield first to the Republican leader.

Mr. DOLE. If the majority leader would like, we could agree to vote at 2:30 on Monday on the Kassebaum amendment right now.

Mr. METZENBAUM. That is what I was just going to ask.

Mr. BYRD. Mr. President, I ask unanimous consent that at 2:30 Monday, a vote occur on or in relation to the amendment to be offered by Senator KASSEBAUM.

Let me withdraw that request for a moment. I want to be sure that there are not some other killer amendments offered to that amendment.

Mr. DOLE. I think I can assure the majority leader it will be the Kassebaum amendment. She may modify it some with reference to layoffs, but there will be nothing else, other than the amendment printed in the RECORD.

I visited some with the Senator from Ohio last night. I may want to make some suggestions to Senator KASSEBAUM when she returns Monday morning.

Mr. BYRD. Very well. I appreciate the assurances of the distinguished Republican leader and I think we can arrange a unanimous-consent request that would be protective all around, of all interests. But for the moment, I would not want to present the request until we know more precisely what the amendment by Senator KASSEBAUM contains.

But, in any event, there will be a vote at 10 o'clock on Monday morning and Senators are urged to be here.

Mr. President, I have nothing further unless another Senator wishes to make an inquiry of me.

Mr. DOLE. If the majority leader would yield further?

Mr. BYRD. Yes.

Mr. DOLE. I would say that it seems, looking from this side and looking at the list the majority leader has given me, that we are going to have a lot of time around here with nothing to do. We are going so rapidly on the legislation that we may have 4½ weeks or 5½ weeks here without much, except maybe the free trade agreement and minimum wage and parental leave, if that is brought up, and maybe a second trade bill; and the appropriations bills, of course, are on the list now that we want to complete if we can by the August recess.

So I certainly commend the majority leader for his leadership in moving the program along and it is our intention to make every effort to facilitate that, as we have.

But, as I look at the calendar, it would seem to me that there may even be a possibility of beating the October 8 adjourment date.

Mr. BYRD. Mr. President, the distinguished Republican leader and I are singing out of the same hymn book. I would like to complete action, as the distinguished Republican leader has indicated, and we are both driving toward that goal. And I have also said this to the Speaker yesterday and Mr. Foley and Mr. Coelho, that I would hope we could finish by the 30th of September. That would mean that we would have adjourned sine die, prior to the beginning of the next fiscal year on October 1.

That is doable, provided we are not confronted with a sequester down the road or some unforeseeable circumstance.

This means that we have a lot of work to do. I would like very much to fulfill our commitment to the administration to take up the United States-Canadian Trade Agreement. I anticipate that we will do all of the 13 appropriations bills. And on that point, I suggest that Senators not try to use the appropriations bills as horses to carry controversial legislative riders. It may be that we will all agree at some point, or most of us, that we ought to put some legislation on an appropriations bill. But I hope that Senators will restrain their thirst for that kind of action so we can get all or most of the appropriations bills passed, get them to conference, and get them to the President.

That is the way we used to do it. I would like to see us go back to the old fashioned way of having separate bills.

I do not have a list in my hand, but there are other legislative measures that I have discussed with the distinguished leader on the other side of the aisle. I have alerted him to what those pieces of legislation are. Some of them are controversial. Some of them we may have some problems with. But I have alerted the leader, as far as I can foresee at this point, as to what I hope to try to do before we go out sine die.

We are operating on a quadruple-track system right now. We have four items on tracks: corporate mergers, vertical pricing, the Treasury-Postal Service appropriations bill, and plant closing. I would hope to do genocide treaty legislation; the VA excecutive department legislation; the intelligence authorization, which is, I believe, still in Armed Services Committee; a drug bill, which we are working on on both sides of the aisle so that that would have bipartisan support; and minority small business, which is in committee.

There are several conference reports which I discussed with the Speaker yesterday. The plant closing bill, child nutrition—I would hope that we could do those measures before we go out. I hope to get all that done, and more, by July 15. When I say "and more," this helps us to achieve the objective of the September 30 sine die.

Incidentally, I should say too, that the distinguished Republican leader and I have also discussed the problem of the drought; the fact that at some point there will have to be some legislation. But I would be happy to hear what the leader on the other side has to say. As far as I am concerned, I hope that we will not play one upmanship on this very serious problem and that we will allow the task force time to do its work so that we will be able to approach the matter in an orderly, sensible, effective way and not have Senators on both sides trying to outdo one another and perhaps doing the wrong thing that will not be as helpful as we all hope.

I would like to yield to the distinguished Republican leader.

Mr. DOLE. On the last point, I certainly share the leader's view. We discussed this yesterday. Let us face it, the drought is a serious problem. It will be addressed and I guess the worst possible way you could address it is for each Senator to make some amendment to make certain the farmers in his State know that he is concerned or she may be concerned. So there is a bipartisan effort being led by Senators LEAHY and LUGAR in the Senate and the same effort being made on the House side, working with Secretary Lyng whom I think has the respect of everyone in this Chamber and the other Chamber.

So when we have a bill, it will be sort of an omnibus bill and will cover the needs of livestock producers as well as grain producers, program crops, nonprogram crops, and that probably would come, I would say, if not before the Democratic convention, before the Republican convention.

I certainly hope that whatever the bill is, it will keep off legislation. I understand some committees are putting legislative items in the bills. They have an ERISA provision—the chairman of the Finance Committee is here—they have an ERISA provision in one of the appropriations bills I know is going to be troubling to the Finance Committee and other committees.

I agree with the majority leader, we ought to try to keep off legislative matters on appropriations bills, unless there is some emergency or urgency that we have.

Mr. BYRD. Mr. President, I thank the Republican leader. I yield the floor.

Mr. KASTEN. Mr. President, listening to the plant closing debate, one would think that the sky is falling, that plants and businesses are closing all over America and that middle-class Americans are losing their jobs at a record rate.

The reality is that America is opening more new plants and businesses than ever before. According to Dun & Bradstreet, there were 702,000 new business incorporations in 1986—a new record. Six plants are opening in America for every single one that closes.

Unemployment has reached its lowest rate in over a decade. Columnist Warren Brookes notes that the layoff rate in the United States is at its lowest level in 20 years, down more than 40 percent from the Carter years.

Plant closing may be the biggest issue in the State of Massachusetts, which has lost 96,000 manufacturing jobs in less than 4 years to other States with sounder economic policies.

But in the rest of the country, the real issue facing American families and workers is how to open new plants and businesses, how to create new jobs, and how to ensure that workers have the skills to fill these new jobs.

Instead of adopting the kind of intrusive government policies that have crippled Europe's job growth, our challenge is to continue the proven approaches of the 1980's to keep the American economy growing. That means providing incentives and opportunities for new jobs, new investment, new savings, and new training.

The bill I have introduced, the Plant Opening Act of 1988, builds on the approaches that have stimulated our present economic boom. The bill proposes to cut the tax rate on capital gains to 15 percent; keep payroll taxes down; open up markets for U.S. exports; promote education and training for workers by continuing the tax exclusion for employee educational assistance; and use enterprise zones to bring jobs and hope to America's inner cities and other distressed areas where plants have closed.

While many of my colleagues are supportive of this approach, there is some concern over its implications for the budget. I believe that in the final analysis, these tax incentives would not lose revenue—but would end up increasing revenue.

Not including the capital gains tax cut and the payroll tax-hike repeal, the total static cost of the bill is $1 to $2 billion a year. The payroll tax provision would cost about $9 billion a year by 1991. But based on the latest research by the Treasury Department, cutting the capital gains tax would raise enough revenue to pay for the static losses of the other tax provisions.

Treasury's findings reaffirm academic research by Martin Feldstein, Prof. Lawrence Lindsey of Harvard and others showing that lower capital gains taxes are a significant revenue raiser. In fact, Lindsey has estimated that cutting the capital gains rate to 15 percent would raise $31 billion over 3 years—and continue raising revenue in the outyears.

Mr. President, putting the revenue question aside, the point of my legislation is to show the American people that there are two ways to go. The Democrats believe the issue facing our country is "plant closing" and how to manage America's economic decline. We believe the issue is "plant opening" and how to keep the American economy growing and creating jobs in years to come.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I was interested in the——

The PRESIDING OFFICER (Mr. DIXON). Under the previous order, the Senator from Indiana is to be recognized at this point in time for the introduction of an amendment.

Mr. QUAYLE. Mr. President, I yield the floor at this time. Upon the conclusion of the statement by the Senator from Utah, I will seek recognition.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah.

Mr. HATCH. I ask unanimous consent that Senator QUAYLE be recognized immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I think yesterday was a very fruitful day on plant closing. I intended to offer some amendments in the morning, as I stated earlier, but then I made it very clear yesterday that Senator QUAYLE may have an amendment and that I would defer until after the caucus by the Republican Senators and defer to him if he wanted to bring one up.

At the caucus, it was determined the way to proceed would be with the Kassebaum amendment. So I have deferred my amendments until after the Kassebaum amendment because if that amendment should happen to be agreed to, then there would be no need for any of the amendments I have. My amendments basically bring out that point which I have been making for a long time, which is that this is not a simple 60-day notice of plant closing provision or bill, as described by the New York Times and so many other editorialists who really have not read the bill. It is anything but a simple bill.

I might also add that I think those who have been arguing that on the other side pretty well admitted that yesterday when they said that the Kassebaum amendment is "a killer amendment." I do not know why, because they have been talking as though this is just a simple 60-day notice of plant closing provision. By saying that the Kassebaum amendment, which is going to make it exactly that, is a killer amendment, what they are really saying is that, "Oh, HATCH is right. His arguments that we had been making on the floor happen to be true," in spite of the fact they are not reported by anybody, that the layoff provisions are far more important than the so-called 60-day notice of plant closing provision, and the layoff provisions is where they really want to go. Why? Because that constitutes a major change in the National Labor Relations Act. It will lead to all kinds of stifling controls by the unions in this country over the workplace. it will lead to litigation ad infinitum that could stifle any type of growth in this country.

I had the interesting experience last evening of sitting with the President of one of the major companies in this country. He asked me: "How is plant closing coming?"

I said: "Well, right now it looks as though the votes are on the side of those who want this bill."

He said: "It is a lot more than the 60-day notice provision, isn't it?"

I said: "It sure is."

He said: "Do you think they are going to have the layoff provision passed?"

I said: "Well, it depends on the Kassebaum amendment." She is willing to make this exactly what this side over here has argued from day 1, that this is just a very simple little bill, it is equity and fairness, it gives 60 days notice to employees that they are going to shut down a plant. Senator KASSEBAUM said "I agree with that, if that is what it is and that is the equity and fairness, I will narrow this bill to where it is exactly that, exactly what they have been representing this bill to be right from the beginning."

Then when she attempts to do that and announces she is going to do this, we hear this hue and cry set of statements: "My goodness, if she does that, that will kill the bill. For us to get exactly what we have been representing this bill to be will kill the bill." And why is that? Because she is going to strike, if she has her way, the layoff provisions from this bill, and that is supposed to be a killer amendment? Come on.

Let us go a little bit further here. The President of this company said: "I'm not along when I say this, Senator HATCH. If that bill passes in its present form with the layoff provisions on the bill, we will not hire any more people, and we will have to get rid of those who are marginal workers that we would normally try and give work to because we cannot afford the litigation that would arise out of that provision. Furthermore, not only can we not afford the litigation that would arise out of that layoff provision, we cannot afford all of the other onerous burdens that provision would force on us. As a matter of fact," he said, "we could not afford the interference of the Federal Government in basic business decisions as to what to do during times of up-and-down economics to save our business, augment our business, make it a better business or even just survive."

The point I was making yesterday was a paraphrase of the Wall Street Journal. The Wall Street Journal's editorial policy has been, it seems to me, quite moderate to conservative, and some people do not like it because of that. But in this instance, they are absolutely right. They are accusing the sponsors of this bill, because the layoff provision is in this bill, of Europeanizing the United States of America so that we can have 15 percent unemployment also, so that we can have to spend $800 million, as the Krupp factory did, to try to shutdown a plant that really is not up to snuff, and they still have not gotten it done because of the plant closing provisions we are going to saddle America with?

Why do we not learn that socialism does not work? Why do we not learn that Federal Government intrusion into all of our lives has offended almost everybody? Why do we not learn that it is no good for the creation of jobs and opportunities in this country? Why do we not learn that this type of manipulation of economic principles really is a flash-in-the-pan, worthless thing to do for our country?

Well, I do not know. Here we are again, debating that plantclosing and layoff provision. These provisions seem to have as many sequels as the horror movie, "Friday the 13th," and they are just as scary, if people would really look at this stuff.

So far, the Senators have debated this issue four times in the context of the omnibus trade bill, yet the sponsors seem more interested in promoting this bill not just for the policy changes it would make, it seems to me, but also for what they believe might possibly be political gain. Why else would they advertise this lawyers' delight as a simple notice bill and try to pawn it off on the media of this country as that?

Even if I were a liberal writer for newspapers or television or whatever media source it is, and I saw what happened yesterday when they stood up and said, "Well, if you keep layoffs in there, my gosh, it would be a killer amendment," after having represented how simple this bill is, what a simple 60-day provision it is, I would be so doggone offended I would finally report it to the American people because I have been misled as a journalist.

This is a lawyers' delight bill like almost everything that comes from that side of the floor; they are sponsored solely by the international trade union movement in this country. They love lawyers. They love litigation. They can stifle anything they want. They can use it as leverage. They can use it unfairly. This is what this bill will allow them to do, just like in Europe; $800 million to try and shutdown a very poor plant. And they are not through yet. Why would we do this to this country? Why else would the proponents threaten to bring it up again as an amendment to the new version of the trade bill if Senator Kassebaum's amendment to mandate notice for closings but not layoffs were adopted?

That takes an astounding amount of brass, it seems to me, after having sold it as such a simple little bill.

Do the sponsors of plant closing and layoff provisions believe they are going to get more political mileage if we kill two trade bills instead of one? The President is right on this issue. I thought they wanted a trade bill as much as those of us on this side of the aisle, but I apparently was wrong.

Why is the majority continuing to hold the trade legislation hostage to plant closing and layoff provisions? It is obvious that it is not just a simple plant closing bill. It has to be obvious to anybody who is fairly looking at this matter. It was pretty well admitted by the majority leader and others yesterday. They are insisting on the layoff provisions as well, so, therefore, we cannot have a trade bill. This bill has no relationship to the trade bill. It really has no relationship to why we want a trade bill. This is a pure and simple power grab by the major constituent supporters of Democrats in this country. That is exactly what it is. Unfortunately—and I hate to say it—I think the media is going right along with them, not looking at it, not scrutinizing it, not paying any attention to the admissions that occurred yesterday or the debate that occurred, because everything I said yesterday with regard to this bill is right.

It should be clear to everyone at this stage that this bill is a very complex bill with much that is hidden from the voters' eyes, but I believe the people out there are not stupid. I think they can tell when they are being had. I am equally confident that the American people are not going to stand for very much more of this political campaigning on the floor of the Senate. The opportunity exists to virtually guarantee enactment of an advance notice requirement for company and facility closings if the Kassebaum amendment is adopted. They can get what they want, and I think they would have an overwhelming vote for it. That is if that is what they want.

Now, I hate to tell you this, Mr. President, and I hate to tell anybody in the media or anybody else—it is absolutely gospel truth—the 60-day notice provision is irrelevant, and yet that is what the whole country has been sold on, a simple equity and fairness. There are a number of reasons why it is, including the fact that most businesses give notice like that already. We made that case yesterday, too. The real goal here is bascially to amend the National Labor Relations Act in three particulars. They want to prevent the Federal courts from enjoining a company to stop closings or layoffs. Second—well, let me not go into that. I just think it is time to show our constituents whether we are interested in policy or politics because, frankly, that is what is being played here. It is being played, in my opinion, very poorly.

I think the Kassebaum amendment is a breath of fresh air. We really, in all honesty, should keep encouraging business to voluntarily—because it is an equitable thing to do—give notices and not throw this into the courts like this bill is going to do. But it is a lot more than that. They want to interfere with the strike laws; they want to interfere with the layoff laws, the rehire laws, and a whole raft of other things in this country that literally comprise the delicate balance between management and labor and that has worked so well and served this country for so long.

Mr. President, some of my colleagues on the other side of the aisle have described the amendment of the Senator from Kansas as a killer amendment. It sounds like we are talking about the amendment that are Washington.

It is not a killer amendment at all. The amendment of the distinguished Senator from Kansas merely changes the bill to a pure plant closing bill, which is what it was represented to be. It is what the sponsors have said that it was all along.

When we close a plant, we shut off all the utilities. We lock the gate. We post a "for sale" sign out on the front. There is no activity at the facility. Except for a caretaker or two, there is really nobody who works there. Though we may differ on whether advance notice should be mandated by Government, we all agree that notice for the employees of the company or facility which is closing is the right thing to do.

I personally do not believe that it should be mandated because we in Congress cannot possibly write a standard which takes all of the possible contingencies which make 60 days' notice impossible into account. The sponsors of this bill have, to their credit, acknowledged that such contingencies exist and have incorporated some exemptions into the bill. The only problem is that as a practical matter employers cannot rely on these exemptions. They will surely end up defending their good faith reliance on them in court and will incur all of the costs including attorneys' fees in that process.

But closings may be more predictable than layoffs and more and more employers are recognizing the importance of notice to their employees. Most large companies have notice provisions in their collective-bargaining agreements. It is not something that is new. We do not need to put the long arm of the Federal Government into something that is already working.

Now, it could work 100 percent, and that is what mandated plant closing legislation will do. If we pass the Kassebaum amendment, we will have that. What is most problematic about the bill, however, is that it applies to layoffs. Layoffs are simply not plant closures although this bill defines them as such. Layoffs are not pleasant. They are not desirable but they are sometimes necessary for companies to have flexibility, to survive, so that they can hire people again. It is perhaps one of the principal ways business can adjust its variable costs according to its production needs.

One of the chief examples of this is our steel industry. Perhaps real industry experts can explain this better than I, so let me quote from testimony given to the Labor and Human Resources Committee by J. Bruce Johnston, executive vice president of USX:

> Steel plants make molten steel tailored to thousands of precise recipes for its many and varied uses by our customers. Infinite varieties of molten steel are engineered to meet ultimate end point chemistries required to furnish steel products to the specific characteristics of customer orders. We can draw steel finer than human hair, or make it into armor plate for a super carrier. . . . We can use it to carry millions of tons of traffic across huge bridges or for tiny instrumentation on a space vehicle's most exquisite technology. . . . But until a customer order is in hand, a steel production cycle cannot start.

The following is from a letter dated April 14, 1988, to Speaker Jim Wright from USX chairman and CEO, David Roderick:

> The layoff requirements are especially onerous because of the customer-driven and cyclical nature of our steel business. Our frequent work schedule changes are based on sales orders and related production orders on hand each week. If no work is available, the employee is laid off for an unknown part of time. During this time, workers receive state unemployment compensation benefits, company-provided supplemented unemployment benefits, life insurance, medical, dental and eye care coverage, with total income replacement of about 90 percent of pay.
>
> Even with the changes from the Senate bill in the conference agreement, we remain seriously concerned about the bill, especially with the layoff requirements. There continues to be layoffs in our company that are indefinite in nature; it is virtually impossible to predict how many of these people will return to work before the end of the 60-day required notice period—people who may or may not return to work within six months.

Now, out in Orem, UT, we have just opened a new steel company. The operation is barely a year old. I think it is essential that we give this new company the flexibility it needs to compete in this international market; let us not strap them with unnecessary Federal regulations, which this bill would do. Let us permit them to adjust their work force if necessary. If we do not, our new Utah steel company will go down the drain and the economy of central Utah will again be devastated.

I cannot tell you how hard it was to save that steel company. I want to protect not only those existing jobs but the prospect of new jobs for Utahns in the future. Again I cite the president of this electronics company last night. He said:

> We just won't hire any more people. We are going to keep the people who are the most stable and we are going to keep our work force as the most lean possible work force we can have because we can't afford the litigation and problems that would come from that bill.

Utah is also home to hundreds of small businesses, actually thousands. What effect will these layoff provisions have on small businesses?

What if a hotel at Snowbird Ski Resort has to layoff people because the snowfall was less than predicted and Easterners began canceling their reservations—as if the skiing here would be any better even under optimum conditions. How could a hotel possibly provide 60-day notice in those circumstances?

Asking business to foresee events in the financial markets and in the demand for products and services is difficult enough, but predicting the weather is too much. Yet, that is what the employer would be required to do under this bill unless the employer wanted to play judicial Russian roulette with one of these exemptions which are not going to work for the benefit of employers.

The fact is, Mr. President, that employers cannot always predict consumer demand, interest rates, changes in Government policy—or the weather. Layoffs, unfortunately, enable business to adapt to changing conditions.

But, this is by no means a "killer amendment." This amendment by the distinguished Senator from Kansas will ensure that in the process of mandating notice for company closings, we do not create inertia in our economy—a condition that has plagued workers in Europe. No, if anything, this amendment helps to promote growth and entrepreneurial viability. I urge my colleagues from both sides of the aisle to support it, because it is the right thing to do.

I have taken enough of the time of the distinguished Senator from Indiana. Let me make a couple of other remarks.

The way to solve unemployment problems in this country is not through more regulation, and more Government intrusions, more long-arm approaches, and more stifling approaches by the Government nor by the Europeanization of this country—by following that overregulatory approach of socialist countries that have tremendous economic difficulties and problems and also because of the nature of their political system.

The best way is to continue to support programs like the Worker Readjustment Assistance Program, the Job Training Partnership Act that Senator Quayle and I have worked so hard to enact back in the early days of this administration, along with other members of our committee. Our approach on this side of the aisle is to provide opportunities, not sit around and try to protect that which is dying or that which is not functioning well or that which is archaic or out of date just in the hope that you might save a few jobs. When, in fact, what you do is transfer the whole doggone industry to Japan, which is what is happening in so many of our electronics industries and other processing industries, including, to a large degree, the automobile industry.

I have to compliment Japan because they have moved some of their plants back here because of our free enterprise systems. The way to do it is to provide the incentive and opportunities to create more jobs and more workplace opportunities than to stifle opportunities by having legislation like this.

If we have to have notification of plant closings, if that is what it is supposed to be, if that is what it is represented to be in the media, then let us do it. The Kassebaum amendment will do that. But let us not saddle every business of a certain size in this country, and that will mean many, many small businesses under this bill as well as many large businesses that are not going to hire as many people because they want to be in litigation all of their lives on these issues. Let us not stifle them with worker layoff provisions and change the labor laws of this country. I can tell you that the plant closing provisions change the labor laws of this country. They will upset the delicate balance but nowhere near as much as the worker layoff provisions will do.

So I call on my more thoughtful friends on the other side of the aisle and on our side of the aisle to look at this as what it is. Do not look at it as a simple slogan which is the way bills are passed. Put the words "civil rights" on something and it is tantamount to passage no matter how little it does to civil rights, or wrong it does to civil rights. When you put something on that appeals to worker rights, use the title and everybody wants to pass it. This is no exception.

The Kassebaum amendment is a reasonable approach. I call our colleagues' attention to it, and I hope they will support it this coming Monday when we vote, if at 2:30 or whenever we vote. Personally I would rather see that vote on Tuesday or Wednesday because it needs to be debated, and we need to get into the specifics of labor law on this matter and show just how bad it is. But whether it is voted on Monday or Tuesday or Wednesday, I think we will certainly make every effort to explain what really is involved here.

I want to thank the distinguished Senator from Indiana for allowing me to make these comments early in the debate today. I want to compliment him for the leadership he has provided with regard to our Labor Committee and his ranking position on the Labor Subcommittee. He has played a very, very noble and important role. I think he should be listened to.

These are tough issues. They are not as simple as they are explained to be. We should not legislate by title only. We ought to look into the complexities of this.

I really resent people standing up here acting like this is a simple little itty-bitty bill and later coming on the floor and admitting it is a lot more than a simple little itty-bitty bill and admitting it blatantly and then of course acting again like it is a simple little itty-bitty bill.

I think it is time for people to start realizing what this bill is, and look behind the words of it and realize it is a bill that could have a tremendously detrimental impact on our work force and on our whole society, much as it has on Germany, France, Italy, Spain, and other European nations.

The Wall Street Journal is right. Let us not Europeanize America. We have the greatest economic system in the world. We have the greatest system for creating jobs. And rather than have 1 million lost jobs like countries in Europe have had over the last 18 years, let us continue the process and the system that has provided 33 million new jobs since 1970.

It is a shame to botch that process up borrowing from Europe, which is what this bill is, a wholesale borrowing from a defunct, bankrupt approach that already has been proven to be stifling to opportunities for employees and everybody else in Europe.

With that, I yield the floor. I turn it back to the distinguished Senator from Indiana.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 2430

Mr. QUAYLE. Mr. President, I send a nonkiller amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the nonkiller amendment. [Laughter.]

The assistant legislative clerk read as follows:

> The Senator from Indiana [Mr. QUAYLE] proposes an amendment numbered 2430.
>
> At the end of the bill insert the following new section.
>
> "SEC. 11. SEVERANCE PAY IN LIEU OF NOTICE.
>
> "Notwithstanding any other provision of this Act, it shall be a complete defense to any action by or on behalf of an employee for violation of the notice requirements of this Act that the employer has, within three weeks of the shutdown or layoff, paid to the employee who was not provided the requisite notice an amount equal to the employee's compensation as computed under section 3(1)(A) multiplied by the number of days that the requisite notice was not given and has maintained the employee's benefits under any employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 for such period."

Mr. QUAYLE. Mr. President, I would like to modify the amendment and send a modification to change the title of section 11 to read "Severance Pay in Lieu of Notice—a non-killer amendment."

I send that modification.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment (No. 2430), as modified, is as follows:

> At the end of the bill insert the following new section
>
> "SEC. 11. SEVERANCE PAY IN LIEU OF NOTICE—A NON-KILLER AMENDEMNT.
>
> "Notwithstanding any other provision of this Act, it shall be a complete defense to any action by or on behalf of an employee for violation of the notice requirements of this Act that the employer has, within three weeks of the shutdown or layoff, paid to the employee who was not provided the requisite notice an amount equal to the employee's compensation as computed under section 3(1)(A) multiplied by the number of days that the requisite notice was not given and has maintained the employee's benefits under any employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 for such period."

Mr. QUAYLE. Mr. President, what we have before the Senate is a nonkiller amendment. I do not want anybody to stand up, sit there, say this is going to be a killer amendment; if we are going to pass this amendment, we will have to bring the whole plant-closing legislation down, the trade bill down, stop the Senate, stop the world. This is as described in the title by my modification a nonkiller amendment.

The distinguished Presiding Officer knows what killer amendments are. He and I serve on the Senate Armed Services Committee. He has never accused me of offering a killer amendment but I do not want to get into this, particularly after we went through the INF debate. We always heard about the killer amendments. We were here around midnight one time, and a little amendment was offered by the distinguished Senator from California who said we ought to be bound by the same interpretation. The United States ought to be bound by the same interpretation as the Soviet Union.

What he forgot to do was put on the title of the bill "a nonkiller amendment." The Senate now knows that this is a nonkiller amendment.

I think what this amendment does is simple and straightforward. It is not going to be difficult for the Senate to understand this. It is a straightforward amendment, a very simple, equitable amendment. The amendment is so simple that this nonkiller amendment really should be part of the bill. Some people think it is already in the bill.

The amendment does this: It says that an employer who does not give notice can provide 60-days' severance pay in lieu of that notice. End of nonkiller amendment.

We make sure complete payment is made within 3 weeks after the shutdown of the plant; or, since layoffs are still in here, we have even kept in layoffs. If an employer wants to give severance pay in lieu of notice, 60 days. That is what we can allow. That is what probably many feel this bill already does, that it would permit an employer, so to speak, to buy his way out of giving notice.

Mr. President, giving severance pay is not an uncommon business practice. As a matter of fact, I think it is a business practice that should be encouraged. Severance pay, to give a worker pay plus time off, is something we ought to encourage businesses to do.

What we have now, unfortunately, as the bill is drafted, is that it requires the employer who has a contractual or statutory obligation to pay severance pay twice. However, the employer who has no such contractual or statutory obligation need only pay once.

An employer could say to his employees when he hires them:

> If the plant would be shut down or there would be any mass layoffs, I, as a good employer, one who wants to see harmonious relationships, if these unfortunate events come about, to help you out in your transition, I am going to provide you 60 days of severance pay, instead of making you work those other 60 days, and I want to deem that as part of my employer obligation.

Many employers do this. But the way this legislation is now written, that employer would not only have to give that 60-days' notice, which he already said he would do, but also would have to give another 60 days on top of it; so that person would have to give 120-days' severance pay.

So we have a two-tiered system. We have a penalty for those employers who would communicate to their employees and obligate themselves to give 60-days notice, a penalty for doing what I think is a good, responsible, corporate employer practice. I would hope employers would do this. I would hope more employers would say:

> We have a business here that I think I am going to be able to make a success, and I am going to stay in business for 50 years. But I want to tell you employees that we are going to work hard; and if for some reason I get into losing a contract, if business is not good, if we get an economic downturn, and I have to get into mass layoffs or, God forbid, we have to shut down a unit or a plant, I want you to know that I will give you 60 days' severance pay; and I will tell you employees that I will give you 60 days' severance pay if that event would happen. I don't think it is going to happen, but if it does, I

want you to know that I am a person who has a lot of compassion, and I believe you ought to have the opportunity to go out and find a job.

If you are an employee and not the employer, I think you would like to have 60-days' severance pay, rather than having to work for those 60 days when you know you are going to be laid off or the plant is going to shut down. If the employer is willing to give you 60-days' pay rather than the notice, why not do it? The employee will benefit by having severance pay rather than continuing working on a job he knows he is not going to have.

I am the author of the Job Training Partnership Act and have been involved in job retraining matters. The earlier that employee can go out to begin to develop some new skills and seek new retraining and not be pinned down to a job that is no longer going to be there, the better off he or she will be.

This amendment will encourage employers to adopt the policy of severance pay and to give the severance pay in lieu of notice, 60 days, "Here, I'll pay you out of my pocket. Unfortunatley, this job isn't going to be here. I'm going to pay you, and you will keep your fringe benefits for 60 days, too. You will be on equal status for the next 60 days."

As I said, Mr. President, this is a nonkiller amendment. It gives an employee more time for education retraining, gives more time for job search. What is wrong with that? Should we not be encouraging that? Should we not be encouraging employers to tell their employees, "If this unfortunate event happens, I'm going to give you 60 days' severance pay"? The employer does not have to give 60 days' severance pay. He can give 60 days' notice; and when that time is up, they are out of a job. But they would have to come to work every day. That may or may not be the case.

From an employee's point of view, if they are going to be paid full wages and fringe benefits for 60 days and know they will lose their jobs at the end of 60 days, I think employees would just as soon have the severance pay. Maybe not. I think most employees would like to have the 60 days' severance pay in lieu of notice. Some employers might want to do that.

Many employers have said to me: "If we're going to shutdown a plant or have mass layoffs, there are a lot of human emotions that go into shutting down a plant or having mass layoffs." If somebody does not have a job and will have to go out and find another job, it is a human tragedy. It is a personal tragedy. It is not the fault of the employee. It is not that the employee was not productive or that the workers did not show up on time or that they were not honest, hardworking individuals, providing for themselves and their families. These employees, the workers of America, worked hard. The business, because of the market, simply was not going to make it; and, unfortunately, it is going to be time to find another job.

I would think that the employee who is in the situation where he is confronted with his job being lost, the plant being shutdown, and with a mass layoff would want to have and would like to see the employer give severance pay if in fact the employer wants to.

The way this legislation is drafted, there is a disincentive for the employer to obligate himself to give that severance pay in lieu of notice.

Some employers are very fearful when they close down a plant there may be some disruptive practices; if they are in a food business, there may be some problems with putting certain things in there, if they are going to announce mass layoffs or a plant closing.

The employer in that case would be inclined to give severance pay rather than notice.

So there are both sides where sometimes the employer might want to do it—I think in most cases the employees, if they are going to lose their job, would rather take the payment for 60 days and begin that very difficult task of trying to get their lives together, perhaps seek some additional training, some additional education, go around and interview for a job. It would be easier to interview for a job during the working hours rather than having to do it before working hours or after working hours.

So I think that the practice of paying severance pay in lieu of notice is a common one and one that should be encouraged. I think that we should encourage having severance pay in lieu of notice.

Some may think that this arrangement appears to be contained in the bill before us, S. 2527. Many of us might think that this allows an employer to pay severance pay rather than giving a 60-day notice, but that is simply not the case, at least some of the time, because section 5 of the bill says that the employer's liability to provide 60 days' advance notice shall be reduced by any, and I quote, "voluntary and unconditional payment that is not required by any legal obligation." In other words, the employer may pay severance wages in lieu of notice, but only if that payment is not required by contract or only if that payment has not been obligated. An employer can obligate himself or herself in many ways. As a matter of fact, I think it would probably be a good business practice to have a standing policy that "unfortunately, if a plant were closed, I am going to give severance pay rather than notice."

I will tell you from the employees' point of view I think they would rather have that pay than the notice. I am fortunate not to have been in that situation of having a job, working in a business where the plant and the business is going to close, but I cannot imagine that it would be that exciting or rewarding to go to work the final days before the plant is going to close, if I know I am going to lose my job. If my employer wants to give me the severance pay why should we not encourage that? Why should we not encourage that as a policy?

What we have is if the employer, which I think is a good social corporate responsible act, says "I am going to pay you that," under the provisions of this bill he is penalized because not only would he have to give what he says he is going to give, maybe he would say, "I am going to give you at least 30 days," he has to give 60 days beyond that so it would be perhaps as much as 120 days' severance pay.

So what you are going to do is create disincentive for employers to consider giving severance pay in lieu of notice.

Mr. President, this also has some impact on States. The State of Maine, for example, has a State law which requires the employers who are personally discharging 100 or more employees to pay severance pay to any worker with 3 or more years in seniority, and that severance pay in the State of Maine works with 1 week of severance pay for every year.

The State of Maine will have on their businesses a higher standard than other States. All States, like the State of Maine that would have a severance pay in their statute, would be obligated to that plus the 60 days in this legislation.

I think that some of the Senators and perhaps the Senators from Maine might want to think about this. One of the ideas of having a Federal law was to level the playing field. The State of Maine and other States—I just happen to know the State of Maine law—will be having a higher responsibility on their employers than those States that do not have this. And I could imagine the debate in the General Assembly and with the Governor of Maine. When they passed this legislation they thought it was the right thing to do and that is the reason that it passed.

Now we are going to establish a Federal law which I think some may think would create uniformity, create that level playing field, but, no, you are not going to have that level playing field when States have a statutory obligation. This is beyond that.

So I would think that some of the Senators who come from States that have laws like the State of Maine might want to think about supporting any nonkiller amendment because this nonkiller amendment simply says that an employer can in fact provide severance pay in lieu of notice, that an employer can provide 60 days' severance pay instead of 60 days' notice.

It is simple, straightforward, and I hope the Senate adopts it.

The **PRESIDING OFFICER**. The Senator from Ohio.

Mr. **METZENBAUM**. Mr. President, allowing employers to give 60 days pay and benefits in lieu of notice sounds simple, but it is really not that simple.

First of all, I point out that if we were to adopt this amendment there would be a hue and cry across the countryside that we are attempting to put more financial responsibility on employers who have to close down; at the very time when they should not be faced with financial responsibility, we are placing an additional financial responsibility on them.

Mr. **QUAYLE**. Mr. President, will the Senator yield?

Mr. **METZENBAUM**. No, not at the moment.

Mr. **QUAYLE**. He does not yield.

Mr. **METZENBAUM**. What this amendment says is that severance pay may be paid in lieu of notice, but the fact is it would be interpreted as an extra financial burden. The fact is we do provide that if the notice is not given then there is an obligation to make up the salary, but we do not want anybody to think that this bill is a way of providing additional financial obligations on the part of employers. That is not the object of this bill.

The object of this bill is to give employees notice so that they can be involved in retraining and readjustment.

The Quayle amendment sounds simple, but there are two things wrong with that approach. First of all, the bill is about giving notice. It is not a mandatory severance bill, and no matter how you slice it, the Quayle amendment is going to be interpreted that way if it were to be adopted. A mandatory severance bill it is not. The important element is that people——

Mr. **QUAYLE**. Mr. President, will the Senator yield on that point?

Mr. **METZENBAUM**. I will not. I did not interrupt the Senator from Indiana, and I would ask him to just give me the courtesy to be able to deliver my remarks and then I will be very happy to have an exchange with him. But I do not think that, while I am trying to make a point, I ought to be interrupted. So I do not want to be discourteous, but I feel that I cannot make the points that I am making until I conclude my remarks, and then I will be very happy to have a colloquy with my colleague.

Mr. **QUAYLE**. I want to make sure he understands the amendment, though.

Mr. **METZENBAUM**. I think I do understand the amendment. I will be happy to read the amendment into the Record if that would be necessary.

Mr. **QUAYLE**. There is nothing mandatory about severance pay.

Mr. **METZENBAUM**. I understand.

The **PRESIDING OFFICER**. The Senator from Ohio has the floor and he declined to respond to a question at this time and indicated he will at the appropriate time.

The Senator from Ohio.

Mr. **METZENBAUM**. I thank the Chair.

The important element in our bill is to see to it that people have the time to seek readjustment and retraining while they are working.

As stated by the National Academy of Sciences, certainly an impartial, objective body, it is the notice that is essential to successful worker adjustment programs. It is the notice that gives the employee the chance to make other arrangements. That is what a top General Motors executive said recently and was quoted in the New York Times. He was describing General Motors' successful worker retraining program. To quote his words:

> If we can get to people early we will involve about 85 percent of them in our retraining program, but once they are laid off, we only get 10 to 15 percent.

What he is saying is, we have to have them together in the plant in order to get across to them what can be done for retraining and how they can go out and find another job.

We are not seeking to get workers paid because their plant is closing. We are trying to get them retrained. We are trying to put them back into the mainstream of the job market. If we wait to tell people they are losing their jobs until the day of the job loss, then, according to the top executive of General Motors, 75 percent will drift away without ever getting counseled or trained for a new job.

Now, Mr. President, this matter of counseling and training may sound like a lot of gobbledygook. But if you are a worker and you have been working on the same machine for 5, 10, or 20 years and suddenly you are out of work, you may not know what other kind of work you can do. You may not know how to go about it. You may not know how to apply. You may not make yourself the kind of employee that some new employer may want.

But if you can get that retraining, if you can get that counseling, if you can get advice with respect to placement, then we achieve the object of the bill, and that is to get people into the job market, not to give them money.

The Quayle amendment undermines the prime focus of the bill which is to give notice to help workers prepare for the future. And the Brock task force, the Secretary of Labor's task force, agrees with the General Motors executive. What did they say about this subject? This is the administration's Labor Secretary's task force. Said they: "Advance notice is essential because notice facilitates greater participation and because a functioning plant is perhaps the program's single most important resource." Replacing notice with severance is bad public policy, according to the Brock task force. And I agree.

Mr. President, there is a second and more subtle problem with the Quayle amendment. The Quayle amendment suggests that severance pay should automatically substitute for notice in all instances. But the employees may already be entitled to severance pay and benefits under a collective-bargaining agreement or he or she may have been promised severance pay as part of his or her employment contract when the employee was hired 20 years earlier. Thousands of employees in this country already have a legal duty to pay severance. The duty to give notice is a separate legal requirement.

The Quayle amendment would allow employers who already owe severance pay to escape the notice requirement simply by paying the severance they already owed. Mr. President, that is unfair. We would not allow a legally required severance payment to offset an employer's obligation to pay overtime or a minimum wage. We should not establish such a precedent here.

Our bill does allow for an employer who fails to give notice to reduce his backpay liability by making voluntary payments not previously required. That is the proper approach.

The Quayle amendment will undermine successful worker adjustment. It also will cheat employees of money to which they already were entitled. It should be rejected.

As I said earlier, if you were to adopt the Quayle amendment, this whole proposal would be misinterpreted throughout the countryside and somehow it would appear to be that we were placing an additional financial burden on the part of the employer. This Senator does not want to be a party to it.

I would hope that the Senator who has offered this amendment and all those who might think about supporting him would recognize that if you adopt the Quayle amendment this bill will be considered an additional financial burden on employers, even though my colleague from Indiana will say, "But it is not mandatory." I agree it is not mandatory. But that is the way it will be interpreted.

Mr. President, we just want notice. We are not asking for money. We are not asking to place an additional financial burden on the employers of this country. All we seek is notice, not money.

Mr. President, I do want to announce that, just as soon as my colleague from Indiana has concluded his remarks, I will offer a motion to table.

Just for the information of our colleagues, I wonder if the Senator from

Indiana could indicate at what point he will be ready to yield the floor so that I might offer that motion.

Mr. QUAYLE. Mr. President, let me have our staff run a quick check and see if anybody wants to come over and speak on this. No one has come up and said, "I want to come over and speak to your amendment." There may be. So let me make a couple of remarks, let us check it out, and then go ahead.

Mr. METZENBAUM. I just do not want to take anybody by surprise.

Mr. QUAYLE. So the Senate should be fully on notice that, as soon as I conclude my remarks and make a quick check to see if anybody else wants to speak on the amendment, the Senator from Ohio intends to move to table. Is that correct?

Mr. METZENBAUM. Mr. President, I ask unanimous consent that, upon the conclusion of the remarks of the Senator from Indiana, the Senator from Ohio be immediately recognized.

The PRESIDING OFFICER. Is there objection?

Mr. QUAYLE. Reserving the right to object. If, in fact, there are other Senators who want to come over and speak to this, could we have an understanding that they would be allowed to speak for a brief period of time?

Mr. METZENBAUM. For an additional 20 minutes; would that be fair?

Mr. QUAYLE. There may not be anybody who wants to speak.

Mr. METZENBAUM. I modify my request: that, if any additional Senators wish to speak, there would be an additional period of 20 minutes after the Senator from Indiana yields the floor and, at the conclusion of that time, I be recognized for the purpose of offering a motion.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Ohio?

Without objection, it is so ordered.

Mr. QUAYLE. Mr. President, I want to make sure we understand this—that the main objection to this amendment is somehow that it might be misinterpreted. So this is not a killer amendment. This is an amendment that might be misinterpreted.

Well, I can assure the Senator from Ohio, and I will assure my friend that is sitting in the Chair up there, that I will volunteer, as the author of this amendment, to appear in court, if this thing ever gets to court, as an expert witness on what the interpretation of this amendment ought to be.

The Senator from Ohio says that this thing is going to be interpreted as placing an additional financial obligation on the business community. I am delighted to see the Senator from Ohio interested in placing additional financial burdens on the business community. I am absolutely overwhelmed by his interest in placing additional burdens on the private sector, that in fact this may do it. This will not do that.

Mr. President, what this will do is create flexibility; that, in fact, if an employer wants to offer severance pay he or she can offer severance pay in lieu of notice. It has been said that, "Oh, well, substantively it may be OK, but it might be misinterpreted." Well, I hope—I do not know, maybe I should not say that.

Let me say that I would encourage Senators to vote on the substance of the amendment, what the amendment says, not how someone says that it might be interpreted. The amendment is very simple and straightforward. It just says that, if an employer wants to give severance pay in lieu of notice, he or she can do it.

The Senator from Ohio raises the objection and says, "Well, we need to have people to show up for work so they can get involved in training and retraining." So I suppose if that is an objection, the objection to that is that they could get more training and education while they put in their 37½ hours a week rather than taking those 37½ hours a week and going out and getting the training and education.

I think the Senator from Ohio might want to solicit opinions from his workers in Ohio. It is not different from any workers in Indiana. We are both in the Midwest and have similar culture, similar background, similar work rules in the marketplace and the manufacturing industry. But I can assure you that my workers in Indiana, to go out and to get training and education, if they have the opportunity to not come to work and get paid—that they would feel that they would have a better opportunity to go out and get a job, search for that education, search for that training. So, what we are saying is it is optional. We are not forcing an employer to give severance pay. We are only saying that if you want to, fine.

My own viewpoint, my personal viewpoint as an employer, is that that would be a good business practice. It is a common business practice.

So we have before us an amendment of which it is said, "Oh, I am not sure we can have this amendment, it might be misinterpreted." But again I say I will be out there as the author of the amendment. I will explain that interpretation so it will not get misinterpreted. So now we have gone from killer amendments to misinterpretation amendments. I just hope Senators understand what this amendment is. The amendment is one to give the employer an option, to give the employer flexibility. As a matter of fact, even in the Metzenbaum bill, a noncontractual employer can, in effect, give severance pay in lieu of notice. Am I correct?

I ask my friend from Ohio, is that not correct? I do not want to misstate the bill. If I could get the attention of the Senator from Ohio.

The PRESIDING OFFICER. I wonder if the Senator from Ohio would yield for the question by the Senator from Indiana.

Mr. QUAYLE. I want to make sure I understand. Under a noncontractual situation an employer could give severance pay rather than the 60-day notice; am I correct?

Mr. METZENBAUM. He could give voluntary severance pay?

Mr. QUAYLE. If he wants to give severance pay instead of 60-days' notice on a noncontractual basis, he could do that under legislation?

Mr. METZENBAUM. He could make a voluntary goodwill payment; if that is what you are asking?

Mr. QUAYLE. Could he make a voluntary severance pay?

Mr. METZENBAUM. It would not be severance pay as such. It would be a voluntary payment. In other words, he can make a voluntary payment. What you are saying is can he make a voluntary payment which would be in lieu of the penalty payment he would have to pay if he did not give notice? Is that what you are saying?

Mr. QUAYLE. So he could make that voluntary severance payment in lieu, if he did not give that notice?

Mr. METZENBAUM. It would not be a severance payment but he could make voluntary payment. Of course, it is a fact that he may have an obligation under the contract that he has with the employee.

Mr. QUAYLE. I am talking about a noncontractual situation. On a noncontractual situation an employer does not have any contract or obligation, if no notice is given that he in fact could go ahead and on a voluntary basis pay that person 60-days' pay benefits?

Mr. METZENBAUM. If it is a voluntary, goodwill payment, that could be in mitigation of his obligation. But if it is contractual, then it would not be.

Mr. QUAYLE. I understand that. So, in a noncontractual situation under your legislation an employer could, in fact, give a voluntary goodwill severance pay to the employee in lieu of 60-days' notice? Is that correct?

Mr. METZENBAUM. That would not be severance pay. That would not be severance pay.

Mr. QUAYLE. What is the difference between voluntarily paying him 60 days and severance pay?

Mr. METZENBAUM. I think the difference is a voluntary payment to the employee and the other would be severance pay, as such.

Mr. QUAYLE. If we would change this to say not severance pay but voluntary payment, would that satisfy your problem? I will say "voluntary payment" in this misinterpretation amendment if that would satisfy you?

Mr. METZENBAUM. I think the Senator from Indiana is misunderstanding the Senator from Ohio's position. The Senator from Ohio feels very strongly that there should be nothing in this bill that can be interpreted as being a financial obligation on the part of the employers. I feel certain if the amendment of the Senator from Indiana was adopted that that would be the interpretation across the country; that the plant-closing bill now provides for the payment, and although you do not make is obligatory, I think it would be interpreted in that manner. I think it would be hurtful, and I think the employers of this country would not be at all happy with what you have done. Because I think in many instances employees would be pressing to get that 60 days' pay. And that is really not the objective of this legislation.

Our bill is about notice, not severance. And that is the key point. This amendment is unfair to employees as well as employers. I am frankly a little bit surprised that the Senator from Indiana is offering the amendment because, as I see it, employers are going to be pressured to make the financial payment.

The employees are going to be anxious to get the money. They are not going to be thinking about job training and counseling. And I think to do that to them, I think, is to do a disservice to the employers as well as the employees. I almost would urge my colleague to withdraw the amendment because you are not serving the purpose of the employees who need the jobs, who need the counseling; and you are not serving the purpose of the employers who may come under pressure from the employees to pay this kind of money rather than to get the job training and the counseling.

There is a tendency on the part of many people: Just get the buck. Get the money. Gosh, if I can get 2 months pay, that would be far better for me. I am not worrying about counseling or training. I just want the money.

I think that is hurtful to the whole economic picture in the country.

Mr. QUAYLE. Mr. President, let me make sure that I understand. Under the legislation of the Senator from Ohio on a noncontractual employer, he can, in fact, give—he calls it voluntary pay—severance pay. I am not going to get involved in semantics. As a matter of fact I said I would change it to voluntary pay if you do not like severance pay. I think they are essentially the same.

Under a noncontractual situation, under the Metzenbaum bill you could be exactly what the Senator from Indiana says ought to be allowed for all employees.

I am not concerned that this amendment is going to be burdensome to the employers. As a matter of fact it is rather interesting, I do say to my friend from Ohio, that he is now supposedly trying to protect corporate America from financial burdens placed upon them by Congress. I mean, that is a bit of an ironic situation.

But, be that as it may, Mr. President, this amendment is not going to be misinterpreted. It is just too simple. I mean, it is too simple and too straightforward.

The Senator from Ohio says, gee, employees are just greedy. They just want money. Just say give me the money.

Well, I disagree with my friend from Ohio. I think what employees in this country want is a job. They want an opportunity. They want to produce for themselves and for their families. That is what the employees and the working people of this country want.

I do not think they are greedy. I think they are hard working. Yet for some reason, this amendment is going to bring out their greed. That is a bunch of nonsense. Come on. How far have we come? We know the workers of America want a job. What this amendment does, it says that, in fact, in lieu of notice that you can give severance pay of we will call it voluntary payment. Call it voluntary payment.

We will simply allow that to be an option: flexibility. I think that some Senators who have State law like that of the State of Maine might want to think about this. I have a hunch they are under the impression that this is going to level the playing field. This is not going to level the playing field, because the way the Metzenbaum legislation is drafted, you have those statutory obligations. You are going to continue to have those statutory obligations above what the Federal statutory obligation is going to be.

That means there will be more costs. Believe me, talk about placing financial costs in the private sector, this legislation in totality is going to do that. You can imagine the lawyers when they get into this on both sides. Talk about interpretation.

Let me read this. Talk about interpreting things and misrepresentation, just on the layoff provision, talk interpretation problems, talk about costs, they are going to have to go down, if we are really serious about placing financial costs on the private sector—we ought to read a little bit of these definitions here.

The term "mass layoff," which the Kassebaum amendment goes to, means a reduction in force which is not the result of a plant closing; results in an employment loss at the single site of employment during any 30-day period; at least 33 percent of the employees, excluding any part-time employees; two, at least 50 employees, excluding any part-time employees; or, three, at least 500 employees, excluding any part-time employees.

Then jump down to subsection (6): "subject to subsection (b), the term 'employment loss' means (A) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (B) a layoff exceeding 6 months, or (C) a reduction in hours of work of more than 50 percent of each month during any 6-month period."

I can go on and on if we want to talk about interpretation. If we want to talk about costs that are going to be placed on the employer, I will say, there will be a lot of costs placed on the employer which will be passed on, as we know. The employer will be paying these costs.

I am not so sure it will go to increase the wages of the hourly workers in this country. I imagine that these costs would go down to some of the super lawyers. Probably a lot of lawyers in this town will get rich. I think they do all right now, quite frankly. They will just get richer.

What about the worker out there? What about that man and woman who gets up and works by the sweat of the brow for a week, Monday through Friday, has a family to raise, kids to educate, is he or she going to benefit by this?

The Senator from Ohio really stretches this amendment by saying that one of the things on this notice in layoff legislation is to give employees time to readjust, to get training, to get education.

I think employers ought to think about this giving severance pay. It is not mandatory, and it is not going to be interpreted as mandatory. Sure, the Senate is not going to be interpreted as saying it is mandatory. It simply allows an employer to give severance pay of 60 days in lieu of notice. If they do, then those workers, through no fault of their own, can go out and seek training, seek education, seek that job and that hope for the future.

Mr. President, this is a simple, straightforward amendment. There is absolutely no reason that this amendment should be defeated. It should be adopted, and I hope that it is.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table.

Mr. QUAYLE. Mr. President, will the Senator withhold? I have a cross-reference error in the amendment. It should be "5(a)(1)(A)" rather than "3(1)(A)." I would like to modify the amendment.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment, as further modified, is as follows:

At the end of the bill insert the following new section:

"SEC. 11. SEVERANCE PAY IN LIEU OF NOTICE—A NON-KILLER AMENDMENT.

"Notwithstanding any other provision of this Act, it shall be a complete defense to any action by or on behalf of an employee for violation of the notice requirements of this Act that the employer has, within three weeks of the shutdown or layoff, paid to the employee who was not provided the requisite notice an amount equal to the employee's compensation as computed under section 5(a)(1)(A) multiplied by the number of days that the requisite notice was not given and has maintained the employee's benefits under any employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 for such period."

Mr. QUAYLE. Mr. President, I also say to the Senator, I am told that Senator GRASSLEY is on his way in and would like to briefly speak on this.

Mr. METZENBAUM. I have no objection to the modification of the amendment, but I offer my motion to table the amendment, as modified.

Mr. BYRD addressed the Chair.

Mr. QUAYLE. Mr. President, did we not have a unanimous-consent order that if, in fact, other Senators wanted to come over and speak that we would have an additional 20 minutes after the Senator from Indiana concluded? Is that the unanimous-consent request?

Mr. BYRD. Mr. President, if the Senator will allow me to be a peacemaker here, if I can be—blessed be the peacemakers—I think the Senator is entitled to have Senator GRASSLEY come over, and that was the impression I got that Senator GRASSLEY would speak for 20 minutes.

If the distinguished Senator from Ohio would withhold the motion to table, and let me make a request.

Mr. METZENBAUM. I would say this, I am willing to withhold the tabling motion provided Senator GRASSLEY gets here promptly. I had been told 10 minutes ago he was on his way over. I want to accommodate my friend. He is my friend, but I also know it is 11:15 and many Members of the Senate are leaving.

If we can arrange it so that if he gets here within the next several minutes, fine, but otherwise, the Senator from Ohio does want to proceed.

Mr. QUAYLE. Mr. President, do we not have a unanimous consent request once the Senator from Indiana yields the floor that the Senator from Ohio would not offer his tabling motion for 20 minutes to allow Senators to speak?

The PRESIDING OFFICER. The order was that if there are other Senators who wished to be recognized, there then would be 20 minutes, and there is no Senator here to be recognized.

Mr. METZENBAUM. There is nobody here to be recognized.

Mr. QUAYLE. I suggest the absence of a quorum.

Mr. BYRD. Will the Senator allow me to make this request?

I ask unanimous consent that the vote occur on or in relation to the amendment by Mr. QUAYLE, on or in relation to that amendment, with no amendments in order thereto at the hour of 11:40 a.m. today. That allows 22 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. QUAYLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I rise in support of the amendment by the Senator from Indiana, and I also rise to compliment the Senator from Indiana for not only his leadership on this amendment but on the broader issue of labor-management relations and the role of Government. He has worked to bring forth the real facts and to eliminate the politics within the debate on whether the appropriate role for Congress in regulating the marketplace.

The debate over plant-closing legislation, both in the version now before us as well as provision contained in the trade bill, raises some very basic questions.

The fundamental question is whether this body should make political decisions which impact upon workers and business and influence labor-management relations and negotiations, or whether we ought to leave the politics aside and leave these decisions to the free market principles that have been the foundation of our economy. Our system of free enterprise has been responsible for the creation of so many jobs, and for the high standard of living enjoyed by so many working men and women in this country, particularly as compared to the rest of the world. The marketplace works, so I believe that politics ought to be at a minimum in this area.

So my answer to the basic question raised by this debate is that we, in the Federal Government, or at any level of government, should not be deciding these issues. Rather, they should be left to the private parties affected. There has been some great success by the labor unions of this country, in negotiating with businesses to bring about the protection for working people that is presumably the goal of this legislation. That's the way this issue should be handled, not with Government interference, but with give and take between employees and employers.

So the plant closing legislation, in my mind, raises this fundamental question on the appropriate role of Government in labor relations. And it appears that the answer to this question will be that Congress will inject itself into issues better left to the marketplace.

This legislation is apparently going to pass. Support has grown for this advance notice measure, so I believe we must seriously look at the Quayle amendment and the reasons for it.

The Quayle amendment is all about choices. It gives the employer the choice of giving employees who face a plant closing or layoff 60-days' pay in lieu of notice.

We are embarking down a new road with this bill, and giving employers some flexibility, some choice, some accommodation to changing economic conditions only makes good sense. This is what the Quayle amendment offers.

Employers simply have the choice to keep the business going while the 60 days' advance notice runs, or to pay out the equivalent of 60 days' pay in lump sum to those employees.

Many of my colleagues have argued, throughout this debate, that companies have a responsibility to their workers to give advance notices. Why is that responsibility only satisfied by the proposal on mandatory advance notice? There are other ways of addressing this responsibility. Senator QUAYLE offers a very satisfactory compromise—the employer can fulfill its responsibility by paying severance pay in an amount equal to the 60 days' pay. That's what notice is usually about—notice, or pay in lieu of notice. So if we are taking this first step toward a national industrial policy, like the policy which has been detrimental to the economy of Western Europe, then we should do so cautiously, giving the business community some flexibility in their effort to meet their responsibility, to give advance notice.

And while we are discussing choices, let me talk about choices for employees. The Quayle amendment offers employees choices that they might not otherwise have. If an employer offers severance pay in lieu of notice, the employee will not be tied to a dead end job. Employees will be available for retraining. Employees will have the time to search for a new job. Employees may have the opportunity to devote time to starting a business. Or maybe, an individual would use this free time even for a vacation. Wouldn't these choices be better than holding an employee to a job that has no future?

I have difficulty understanding why my colleagues would not want to give the working men and women of America some more choice in the painful process of economic dislocation.

This severance pay option would be no financial burden to the employers. In fact, it would be less burden than the current bill before us. Employers are required, from time to time, to make some adjustments in the operation of their businesses, changes that may have to be made because of economic conditions beyond their control. So the Quayle amendment offers a reasonable and simple solution to a difficult situation. And it is likely to avoid the necessity of consulting with high-priced lawyers and incurring costly litigation to figure out what this plant closing legislation means in the first place. I know that after 20 years we will probably have a number of court decisions that spell out the plant closing legislation and its requirements. But right now, we have a lot of unanswered questions. My colleagues have not provided answers to these questions—what happens in the sale of a business, what is a faltering business, just to mention two questions I have raised in the past. So businesses, in trying to figure out what Congress meant, will have to pay a lot of lawyers' fees. The lawyers will profit enormously here, and when that happens, I fear that the employees, the ones whom this legislation was intended to help, won't benefit in the least. If this bill becomes law, lawyers will be hired to make some sense of it, and where their views differ, the courts will have the last say. Both employers and employees will pay for that. So a simple solution is to adopt Senator Quayle's amendment and give employers the option to pay severance pay.

The authors of this legislation say they are not concerned with the welfare of employees. But their concern is the same concern held by the employers of another era who provided for their employees with company towns. Likewise, the drafters of this legislation want to keep employees tied to a job with no future, supposedly so the employees can get appropriate retraining and readjustment. But it seems to me, that in the 1980's American workers are capable of making some choices. And Congress should be concerned with maximizing choices and opportunities. Employees are competent to make decisions about their economic future.

And most importantly, we have to give employers some choice, some alternative. We ought to even give more alternatives than are present even in the Quayle amendment, so that we do not, through the heavy weight of the legislation we pass, frustrate the entrepreneurial spirit and success in our society.

So I urge my colleagues to examine the Quayle amendment and see if it is not a legitimate alternative. We ought to be concerned with flexibility and choice, especially when we pass landmark legislation such as this bill sponsored by Senator Metzenbaum. I note that it is landmark legislation, not in a positive sense, but because it makes a significant change in the 50-plus years of the way we have handled labor-management relations.

Mr. President, I yield the floor.

Mr. METZENBAUM. Mr. President, I move to table the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Dodd). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi [Mr. Stennis] is necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] and the Senator from Oklahoma [Mr. Boren] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. Evans], the Senator from Texas [Mr. Gramm], the Senator from Kansas [Mrs. Kassebaum], the Senator from Idaho [Mr. Symms], the Senator from Wyoming [Mr. Wallop], the Senator from Virginia [Mr. Warner], and the Senator from California [Mr. Wilson] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. Wallop] and the Senator from California [Mr. Wilson] would each vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 31, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—59

Adams
Baucus
Bentsen
Bingaman
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Weicker
Wirth

NAYS—31

Armstrong
Bond
Boschwitz
Chafee
Cochran
D'Amato
Danforth
Dole
Domenici
Garn
Grassley
Hatch
Hecht
Helms
Humphrey
Karnes
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Quayle
Rudman
Simpson
Stevens
Thurmond
Trible

NOT VOTING—10

Biden
Boren
Evans
Gramm
Kassebaum
Stennis
Symms
Wallop
Warner
Wilson

So the motion to table the amendment was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will come to order. Conversations will please cease on the floor.

The majority leader.

Mr. BYRD. Mr. President, could we have an understanding now as to who is ready to call up another amendment?

Mr. THURMOND addressed the Chair.

Mr. BYRD. Mr. President, I wonder if we could reach an agreement as to the time for a vote on Monday on or in relation to the amendment by Senator Kassebaum? Will we be able to clearly identify the amendment?

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. I am happy to yield.

The PRESIDING OFFICER. The Senator will withhold for 1 minute.

The Senate will please be in order.

Mr. DOLE. Mr. President, I hope the vote might come on the Kassebaum amendment, say, at 3:15 or 3:30 and we might have a little extra time than the normal 15 minutes for the vote.

As far as the amendment is concerned, there may not be any changes in the amendment. If there is a change, it would simply be with reference to the layoffs; maybe have notice for layoffs, but have it less than the Metzenbaum provision, fewer days. It is not going to change the substance, essentially. Senator Kassebaum is unavailable right now.

It is my understanding now that there probably will not be a change. It will be the same amendment as printed in the Record. But if there should be a change, it would be in reference to the number of days notice on layoffs.

Mr. BYRD. Very well, then, could we agree on the vote to begin at, say 3 o'clock and allow 30 minutes for the vote, so it would run until 3:30?

Mr. PRESSLER. Mr. President, may I inquire of the leaders?

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The majority leader is correct. The Senate will please be in order.

Mr. BYRD. Mr. President, if Senators will stay in their seats, I will try to be loud enough.

The PRESIDING OFFICER. The Senate will please be in order.

The majority leader.

Mr. BYRD. Mr. President, does the Senator have an inquiry?

Mr. PRESSLER. I have no problem with that. I wanted to inquire about the 10 o'clock in the morning vote. I am having drought meetings in my State on Sunday. There is no scheduled airline, and there is no way I can get back here until 11:15 by leaving my State Sunday night and staying overnight in Minneapolis. There is no scheduled airline. Unless I charter a plane back, I will miss the 10 a.m. vote.

I know the leader wants to get started, but if we could have a vote at 11:30, it would be much more helpful to me. But I do not object.

Mr. KASTEN. Mr. President, reserving the right to object.

Mr. BYRD. Does the Senator wish to object to anything?

Mr. KASTEN. I thought there was about to be a unanimous-consent request for the 3 o'clock vote. I just wanted to share the concern. I can make a 3 o'clock vote, also, but I am going to object to ordering these votes if, in fact, there are going to be votes occurring in the morning, because I also have difficulty making the morning votes.

Mr. BYRD. Mr. President, if that is the position the distinguished Senator is going to take, I think we should all understand that each of us is probably going to be inconvenienced from time to time in the interest of getting on with the work of the Senate.

Now, if a Senator wishes to say, "Well, we won't have a vote until it is convenient with me," then he might be able to make that binding on the Senate on that particular occasion or he might not.

We are only in 3 days next week. Earlier this year, I discussed with the Republican leader—and I am sure he discussed it in his conference—our going on a schedule of 3 weeks in session and 1 week out. Everybody knows those days well in advance. But I also said that that means we do not start late on Mondays and we do not quit early on Fridays. That means 5 full days of work here, all of which was well understood at the time.

Now, next week, it is 3 days in and then we have a break. And then we have 8 days in and another break, that second break will be for the Democratic Convention.

The distinguished Republican leader and I have been talking about the possibility, if we can get enough work done, of being back in for 5 working days rather than 8.

Now, we cannot cut this to fit every individual Senator's needs and wishes.

The Senator says he will object—what was he going to object to; to the 3 o'clock vote?

Mr. PRESSLER. So I may be understood, will my good friend yield?

Mr. BYRD. Yes.

Mr. PRESSLER. I am willing to work around the clock. But the 10 o'clock in the morning vote, if that is a substantive vote—in my particular case, I am having some drought meetings on Sunday afternoon. I then fly to Minneapolis Sunday night, stay overnight in a motel, and then the first flight out of Minneapolis to Washington, I am told, is at 7:50. We lose an hour and we land at 11 o'clock on Monday morning. If there is to be a vote on Monday morning, I could charter a plane back.

But the point is I am not going to object to a 3 o'clock vote. I will be here by that time. But if the 10 o'clock in the morning vote is not a substantive, meaningful vote, if it is a bed-check vote, I do not think it makes any difference how much work we get done. That is the point I am trying to make.

I shall not object to the 3 o'clock vote. That is fine with me. From my particular State, since airline deregulation—and I shall not give a speech on that because I know the leader has given several—it is a little tough traveling East Sunday nights and Monday mornings. But I will be here at 11:15. If there has to be a vote before that, it is an inconvenience for me.

The PRESIDING OFFICER (Mr. SHELBY). The majority leader has the floor.

Mr. BYRD. Mr. President, I always want to be as accommodating as I can be, but I also want to finish this bill that we are on. If we can possibly finish it, I want to finish it by or before Tuesday. We have other work to do on Wednesday.

The reason for having a vote early on Monday is because, No. 1, there are only 3 days next week. No. 2, we are trying to move our work as fast as we possibly can. I think all Senators would be very much accommodated if, indeed, we could have an additional day or two or even three out for the Independence Day break.

Now, that is to accommodate every Senator, not just Senator BYRD; accommodate every Senator.

The reason why we have a vote early on Monday is to get Senators back here so that we can, indeed, begin to work. Now, some of us think—I think—we frittered away a lot of time yesterday.

I think the distinguished Republican leader probably has some problems on his side from time to time when Senators complain to him that we are having so-called bed-check votes early in the day. I guess they feel that the distinguished Republican leader is making it easy on me by agreeing to a substantive vote instead.

I can have a substantive vote, Mr. President, and the Republican leader cannot keep me from it. I can have a substantive vote. I could possibly even have one or two or more substantive votes on Monday morning without any consent from anybody.

So I hope that Senators on the other side will not make it too difficult for their own leader to cooperate with this leader in trying to set the schedule so as to accommodate the Senate and all Senators. I want to be accommodating. I understand that it makes it difficult for a Senator to have to travel a long distance and have to start the night before. Senators on the other side of the aisle are not unique in that respect. I have Senators on this side of the aisle who live in the West and Midwest and who also have problems with the drought and their farmers and their constituencies are hurting, as well.

So now we are either going to get cooperation by consent or we will have a substantive vote otherwise. And there may not just be one vote. I will not suggest how it will be done, but it will be done under the rules. I am just asking for cooperation.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. Mr. President, I am not certain what the situation is on the other side, but it may be that we could devise a plan where we could have one amendment offered—the amendments are coming from this side—in fact, two amendments offered and maybe have two votes at noon on Monday.

In other words, that would ensure we are moving with the bill. We would dispose of two amendments by 12 o'clock and have the votes by 12 o'clock, with rollcalls where necessary; if that might be helpful? That way we would start early, we would dispose of one amendment, we would not vote on it. We would dispose of the second amendment and then vote on the two amendments by noon, which would give us progress in the morning.

Mr. BYRD. That is very helpful. Perhaps we can work out something on that suggestion so that it will accommodate Senators. I spoke with a Senator over here earlier who was not planning to be back until 1 o'clock and I said we are going to have a vote at 10 o'clock on Monday.

He said: Well, that means I am going to have to reschedule my weekend. But he didn't complain about it.

This leader has problems also, but it ought to be made clear once and for all that if any Senator thinks that a substantive vote on a Monday morning can occur only by having the consent of every Senator, then that Senator is mistaken. It can be done without the consent of anyone.

That is no threat. I am simply saying this to let Senators know that substantive votes can be had and that no single Senator can prevent this Senate from having one or more substantive votes on this coming Monday or any other morning if it is necessary.

Now, having said that, I want to cooperate with the Republican leader, if we can provide today for two rollcall votes on amendments Monday at noon, then we will not schedule a vote at 10 o'clock.

I have problems on my side. At noon?

Mr. DOLE. I am being advised I may have a problem on the noon. The same thing I just heard from your side.

Mr. BYRD. You cannot just accommodate everybody. I am here trying to get this bill through.

Mr. DOLE. I believe we can do it. Let me make one check.

I will get back to the majority leader. We are going to have another vote on another amendment today; will that be satisfactory?

Mr. BYRD. At least one more vote on this bill today and then we will go to the postal appropriations and perhaps finish it up today.

Would the Republican leader be prepared then to agree to a vote on, say, 2:30 on Monday afternoon, to go for an hour; 2:30 to 3:30? That is a very key vote.

Mr. DOLE. Let the vote run that long?

Mr. BYRD. Let the vote run for 1 hour, 2:30 to 3:30 Monday afternoon, the vote on or in relation to the Kassebaum amendment.

Mr. President, I ask unanimous consent that on Monday the vote on or in relation to the amendment by Senator KASSEBAUM, being a key vote—and I mean "key," because if it is adopted the bill will be taken down and we can be assured that there will likely be a plant closing amendment on the trade bill when it comes back. That is a key vote.

VOTE IN REGARD TO A KASSEBAUM AMENDMENT TO OCCUR AT 2:30 PM ON MONDAY NEXT

Mr. BYRD. I ask unanimous consent that the vote on or in relation to the amendment by Senator KASSEBAUM, on Monday, begin at the hour of 2:30; and run no later than the hour of 3:45 p.m., which means that it could close earlier, if Senators who are around will vote earlier.

Two thirty to three forty-five p.m. on Monday.

Mr. SASSER. Reserving the right to object, and I will not object, I would say to the distinguished majority leader, I am not asking the leader to adjust the Senate schedule to my schedule. But in all likelihood I will not be able to return to Washington until 4:30 Monday afternoon. I have so advised the Policy Committee staff just a moment ago.

Mr. BYRD. I would like to accommodate the distinguished Senator. Our problem is that at that hour of 4:30 in the afternoon we are probably going to be missing at least three Senators.

Mr. SASSER. I just wanted to be sure the majority leader was aware of that if he is anticipating a close vote.

Mr. BYRD. I thank the distinguished Senator. I wish that it could be done to accommodate the distinguished Senator. He has an excellent rollcall record here. This is just one of those situations in which we might lose more Senators. I hope we will not. I understand his situation, but we might lose three or four others.

Mr. President, I ask unanimous-consent also that no amendment be in order to the Kassebaum amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators.

I will be, certainly, amenable to having the 10 o'clock rollcall vote stayed on Monday if we can arrange today for two votes on amendments to the bill by Senators to occur at noon, Monday, back to back.

I thank the distinguished Senator from South Carolina for his courtesy and patience.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. I am glad to accommodate the majority leader.

AMENDMENT NO. 2431

(Purpose: To subject labor violence to coverage under the "Hobbs Act")

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself, Mr. HATCH, Mr. SYMMS, Mr. WILSON, and Mr. NICKLES, proposes an amendment numbered 2431.

Mr. THURMOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. DEFINITION OF EXTORTION UNDER HOBBS ACT.

Paragraph (2) of section 1951(b) of title 18, United States Code, (commonly known as the "Hobbs Act") is amended to read as follows:

"(2)(A) The term 'extortion' means the obtaining of property of another—

"(i) by threatening or placing another person in fear that any person will be subjected to bodily injury or kidnapping or that any property will be damaged; or

"(ii) under color of official right.

"(B) In a prosecution under subparagraph (A)(i) in which the threat of fear is based on conduct by an agent or member of a labor organization consisting of an act of bodily injury to a person or damage to property, the pendence, at the time of such conduct, of a labor dispute (as defined in section 2(9) of the National Labor Relations Act (29 U.S.C. 152(9))) the outcome of which could result in the obtaining of employment benefits by the actor, does not constitute prima facie evidence that property was obtained 'by' such conduct.".

Mr. THURMOND. Mr. President, this legislation is intended to amend the Hobbs Anti-Racketeering Act, to reverse the Supreme Court's decision in United States versus Enmons, and address a long-term, festering problem under our Nation's labor laws. The United States regulates labor relations—union organizing and collective bargaining—on a national basis. Our labor management policies are national policies. They are enforced by laws such as the National Labor Relations Act that Congress designed to preempt comparable State laws.

The Enmons decision involved the Hobbs Anti-Racketeering Act. The Hobbs Act is intended to prohibit extortion by labor unions. This language is very clear. It outlaws extortion by labor unions. It outlaws violence by labor unions.

The problem, however, is that the Supreme Court in Enmons created an exemption which says that as long as a labor union commits extortion and violence in furtherance of legitimate collective bargaining objectives, no violation of the act will be found. In other words, if the end is correct, the means to that end, no matter how reprehensible, will not result in a violation of the act.

The Enmons decision is wrong. This bill will make clear that the Hobbs Act is intended to punish the actual or threatened use of force or violence to obtain property irrespective of the legitimacy of the extortionist's claim to such property and irrespective of the existence of a labor-management dispute.

Let me describe the Enmons case.

In that case, the defendants were indicted for firing high-powered rifles at three utility company transformers, draining the oil from a company transformer, and blowing up a transformer substation owned by the company—all done for the purpose of obtaining higher wages and other employment benefits from the company for the striking employees. The indictment was, however, dismissed by the district court on the theory that the Hobbs Act, 18 U.S.C. 1951, did not prohibit the use of violence in obtaining "legitimate" union objectives. On appeal, the Supreme Court affirmed.

The Supreme Court held in Enmons that the Hobbs Act does not proscribe violence committed during a lawful strike for the purpose of achieving legitimate collective bargaining objectives, like higher wages. By its focus on the motives and objectives of the property claimant who uses force or violence to achieve his goals, the Enmons decision has had several unfortunate results which make legislation overturning it necessary. It has deprived the Federal Government of the ability to punish significant acts of extortionate violence when they occur in a labor-management context.

The Enmons decision affords parties to labor-management disputes an exemption from the statute's broad proscription against violence which is not available to any other group in society. This bill would make clear that the Hobbs Act punishes the actual or threatened use of force and violence which is calculated to obtain property without regard to whether or not the extortionist has a colorable claim to such property, and without regard to his status as a labor representative, businessman, or private citizen.

Mr. President, encouraged by their special exemption from prosecution for acts of violence committed in pursuit of "legitimate" union objectives, union officials routinely use terror tactics to achieve their goals.

Between 1975 and 1988 there were over 5,800 newspaper-documented incidents of compulsory unionism violence. This chilling statistic gives clear testimony to the existence of a pervasive national problem.

The tragic hotel blaze in Puerto Rico, in which the use of arson as a bargaining tactic by the Teamster Union ultimately claimed 97 lives, clearly illustrates the need for Congress to act.

Mr. President, I ask unanimous consent that a Washington Times article dated February 4, 1988, which outlines this tragedy in more detail, appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Feb. 4, 1988]

3 TEAMSTERS SEIZED IN HOTEL FIRE DISASTER

SAN JUAN, PUERTO RICO (AP).—The vice president of the Teamsters Union's Puerto Rico local and two members were arrested yesterday and charged in connection with the 1986 New Year's Eve fire that killed 97 people in the DuPont Plaza Hotel.

The three were charged with murder, arson, conspiracy and perjury. They were unable to meet bail totaling $2.5 million and were jailed at an unspecified location.

The action came as hotel maintenance worker Hector Escudero Aponte, a Teamsters member, was to go on trial in San Juan Superior Court on charges of first-degree murder in connection with the fire.

The commonwealth's Justice Department issued a statement identifying the three men charged as Manuel de Jesus Santiago, Teamsters Local 901 vice president, and Luis M. Nunez Marquez and Luis Vega Rios, both union members.

The statement did not say if they were hotel employees or why the government had not implicated the men sooner.

The government has said it will present nearly 60 witnesses in its case against Escudero Aponte, 36, who is to be returned to Puerto Rico from a federal prison on the U.S. mainland for the trial.

He and two other Teamsters members—Armando Jiminez Rivera, 30, and Jose Francisco Rivera Lopez, 41—already are serving sentences ranging from 75 years to 99 years after pleading guilty to federal arson charges.

The fire at the beachfront DuPont Plaza was the second worst hotel fire in U.S. history, after the 1946 Winecoff Hotel blaze in Atlanta that killed 119.

Federal and local investigators said the blaze, which broke out in the ground-floor ballroom moments after members of Teamsters Local 901 voted to strike, was set to pressure hotel management into accepting the union's contract demands.

Police said Escudero Aponte confessed to lighting a can of Sterno provided by Jimenez Rivera, while Rivera Lopez shielded them from view. The fuel ignited a stack of new furniture wrapped in heavy plastic, and set off a fireball of intense heat and toxic gas that burst into the crowded casino above.

The 20-story hotel was packed with nearly 1,000 tourists and local residents preparing to celebrate New Year's Eve. Eighty-four of the victims died in the casino, including 19 hotel employees and a U.S. Secret Service agent. The others died in other sections of the hotel.

Lawsuits from the fire now total more than $1 billion. Defense lawyers charge that negligence by the hotel's owners, who comprise a corporate web of 30 to 40 entities, and by the hotel suppliers contributed to the deaths and injuries.

A trial is scheduled for June 1, although attorney David C. Indiano, a spokesman for the court-appointed committee that is coordinating claims, said he expected an out-of-court settlement.

Mr. THURMOND. Mr. President, violence has no place in our society, regardless of the setting. Our national labor policy has always been directed toward the peaceful resolution of labor disputes. It is ironic that the Hobbs Act, which was enacted in large part to accomplish this goal, has been virtually emasculated. The time has come to change that. I think that my colleagues on both sides of the aisle share a common concern that violence in labor disputes, whatever the source, should be eliminated.

Mr. President, this Washington Times article that I referred to is written from San Juan, PR. As I said, it is dated February 4, 1988:

The vice president of the Teamsters Union's Puerto Rico local and two members were arrested yesterday and charged in connection with the 1986 New Year's Eve fire that killed 97 people in the DuPont Plaza Hotel.

The three were charged with murder, arson, conspiracy and perjury. They were unable to meet bail totaling $2.5 million and were jailed at an unspecified location.

Mr. President, I have another excerpt from this article:

The fire at the beachfront DuPont Plaza was the second worst hotel fire in U.S. history, after the 1946 Winecoff Hotel blaze in Atlanta that killed 119.

Federal and local investigators said the blaze, which broke out in the ground-floor ballroom moments after members of Teamsters Local 901 voted to strike, was set to pressure hotel management into accepting the union's contract demands. . . .

The 20-story hotel was packed with nearly 1,000 tourists and local residents preparing to celebrate New Year's Eve. Eighty-four of the victims died in the casino, including 19 hotel employees and a U.S. Secret Service agent. The others died in other sections of the hotel.

Mr. President, I have another clipping here form the Miami Review, Miami, FL, dated June 7, 1988. The heading is: "Jury: Union Local Fostered Violence."

$67,500 AWARDED IN PUNITIVE DAMAGES TO BEATING VICTIM

A week after David Ray Kinder refused to help his union organize the non-union company he was working for, two men forced their way into his Lauderdale Lakes home and broke four of his ribs.

Kinder didn't sue his admitted assailants, James D. and Dean Lowrie. Kinder sued his union, the International Union of Operating Engineers, Local 675.

A Broward Circuit Court jury last month awarded Kinder $439,650 in compensatory damages for physical and emotional distress. The jury also tacked on $67,500—the local's identification number times 100—in punitive damages because it found the union to be wantonly negligent in supervising its members. James Lowrie was a member of Local 675; Dean Lowrie was not. . . .

"The jury believed that the union either authorized, participated or organized David Kinder's beating," said Pickard, an associate in Miami's 79-lawyer Mershon, Sawyer, Johnston, Dunwody & Cole.

Mr. President, I have another article from the Casper Star Tribune. The heading is "Saboteurs Cut Power to Decker."

10 BULLETS FIRED AT TRANSFORMER

(By Jim Newsom)

SHERIDAN.—Unknown saboteurs fired 10 bullets into a substation tranformer early Tuesday, cutting power to the Decker Coal Mine, limiting some mine operations, and causing a 1,000 gallon oil spill, according to Pacific Power & Light Co.

Meanwhile Tuesday, about 50 striking Decker miners and supporters were arrested during a two-hour blockade of Wyoming State Highway 338 about seven miles north of Sheridan.

According to Sheridan County Sheriff Bill Johnson, those arrested were charged with unlawfully blocking a state highway.

Tuesday's mass arrest was the third such incident since members of the United Mine Workers of America Local 1972 struck the Decker Coal Company on Oct. 1, and members of UMWA Local 2055 struck the Big Horn Coal Mine Oct. 5.

Mr. President, I have another article from the Washington Times dated November 27, 1987, headed, "Railroad Sabotage Is Being Probed."

The Federal Railroad Administration is investigating charges that vandals are sabotaging a labor-troubled New England railroad system that runs daily freights from

Potomac Yard in Alexandria, The Washington Times has learned.

"I want to make it clear that we view cut air [brake] hoses, vandalized switches and similar acts of vandalism as real and immediate threats to both public and employee safety." FRA administrator John H. Riley said in a Nov. 20 letter to Michael Maloof, general chairman of the United Transportation Union in Worcester, Mass.

A copy of the letter was obtained by this newspaper. A spokesman for the union said the letter has not yet been received.

In addition, a "full-scale top-to-bottom audit of every aspect of the Guilford operation will begin this winter," said an FRA official.

Another excerpt:

"This series of violent incidents, ranging from locomotives being set loose when their engineers have braked them for storage, to switches being thrown to derail trains, to brake hoses being cut, started the same day that the union pickets appeared at two of our yards," said Colin Pease, vice president of Guilford Transportation Industries, based in North Billerica, Mass.

Mr. President, I have another article from the Lewiston Daily Sun, Lewiston, ME, dated March 9, 1988. The heading is: "Two IP Workers Assail Police Protection."

Two International Paper Company workers whose houses were reportedly shot at Monday night have charged that Jay Town Police are not protecting residents from strike-related violence. Darryl House and Richard Marston called for permanent assignment of state police to the troubled town.

Mr. President, I have another article from the Casper Star Tribune, dated January 7, 1988. It is headed: "Three Power Poles Near Mine Bombed. Incident Deemed Strike-Related by Decker, Kiewit." It is written by Jim Newsom, Star Tribune correspondent. It is written from Sheridan.

Authorities here are investigating the apparent strike-related Tuesday night bombing of three electric power poles located just inside Wyoming about three miles south of the Decker Coal Mine.

Mr. President, I have another article from the Village Gazette, April 18, 1988, entitled: "Replacement Workers Speaks Out on Strike 'Terrorism.'" This is written from Sheridan, WY, by AP.

Vandalism at the home of a Decker Coal replacement worker has shattered his low profile, and now Terry Miller says he's ready to speak out.

Miller and his family returned home from an Easter trip to find "scab" spray-painted in 4-foot-high letters on the outside of his Sheridan home.

The family had been trying to maintain a low profile since moving to the strike-torn mining town on Oct. 12.

"We're pretty careful. It's almost like living in prison," Miller said.

He called the act a "sort of terrorism" designed to intimidate him into leaving town.

"We don't have anyplace to go. We can't leave," he said, adding that he has decided against moving. "There's no use running. It's better to stand and meet it head-on."

Mr. President, I have another article from the Staten Island Advance, Staten Island, NY, dated February 18, 1988, entitled "Violence Escalates in Tug Strike. Fires Set, Shots Hit Tug." This is written by Glenn Chapman and Brian Larkin, Advance staff writers.

Members of the Police Bomb Squad were called to the North Shore to cart off a pipe bomb dropped in a Mariners Harbor street this morning, marking the second day in a row that the unit has been called to defuse a potentially explosive situation in the strike-battered area.

A Florida man suspended of carrying the bomb and intending to plant it was arrested a few feet from the device.

Another excerpt from the article says:

The discovery and removal of the bomb this morning increased the tension and escalating violence that has marked the strike at seven Staten Island marine firms.

A Molotov cocktail exploding in a spray of liquid flame, gunfire and a hit-run incident marked the tugboat workers' strike yesterday.

Mr. President, I think these articles show the need for this bill. I do not think I need to say more. The violence displayed here by the unions and their agents is enough to put the public on notice that now is the time to act. There is no use putting off this matter. Now is the time to pass this bill and protect the public.

Mr. President, I ask unanimous consent to add Senator GRASSLEY as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, this amendment applies to violent acts committed by both labor and management. It does not single out labor. It applies to management and labor if there is violence. Nobody can say it is a biased bill. Nobody can say it is an unfair bill. It is merely a matter of protecting the public. After all, the chief purpose of Government should be to protect the people, and this is to protect them internally from criminals who practice terrorism and injure people, even breaking into homes. They broke into one man's home and broke four of his ribs because he did not participate in a strike.

Mr. President, I think the need to act is now. I hope the Senate will see fit to pass this amendment. It does not matter on what bill it goes. This amendment is important for the good of the public, for the safety of the public.

Mr. DURENBERGER. Mr. President, I rise today in support of a motion to table the amendment offered by my distinguished colleague from South Carolina [Mr. THURMOND]. His amendment is identical to the bill, S. 2036, which redefines the term "extortion" under the Hobbs Act to make labor union violence a Federal crime.

I believe that my colleague's amendment would unnecessarily expand Federal jurisdiction into an area which has traditionally been effectively covered by State and local law. Supporters argue that State and local law enforcement officials may be unwilling or unable to arrest and prosecute union members accused of illegal acts. They claim that if union violence were made a Federal crime, Federal law enforcement officials would prosecute without hesitation or fear. Mr. President, I have not seen sufficient evidence to support this argument.

In my home State of Minnesota, one finds an excellent example of a situation where Federal law would have only intruded upon State and local governance. I am certain my colleagues saw media accounts of the prolonged labor dispute that took place at the George A. Hormel packinghouse in Austin, MN. In the past, violence erupted on the picket line; however, the Governor of Minnesota took steps to control that violence. Furthermore, the State and local law enforcement officials have consistently prosecuted and jailed those union members who have committed crimes. The public officials are fulfilling their law enforcement responsibilities. Why should the Federal Government intervene?

And, in cases where a local prosecutor does not wish to try a case against his own constituents, the State of Minnesota has sufficient procedure to ensure that justice is carried out. If such a situation were to arise, the Governor could request that the State attorney general take over the case.

Mr. President, I do not believe that the Federal Government should be in the business of policing picket lines. This is an inefficient use of our resources at a time when budgetary pressures are forcing deep spending cuts in all Federal programs.

Finally, the intervention of the Federal Government into union protests can greatly interfere with the collective bargaining process, thus slowing rather than speeding up a resolution to the strike.

My vote against the amendment of my colleague from South Carolina does not mean I condone labor union violence. To the contrary, I firmly believe that anyone who commits a crime, regardless of his affiliation with a union, should be properly prosecuted and punished. However, in this situation, I do not think that Federal law would be more effective than State or local law at eliminating or deterring labor union crimes. In fact, it could be detrimental to the resolution of labor disputes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I respect my colleague from South Carolina, and I understand how strongly he feels about this amendment. I disagree with the substance of the amendment, and it is my feeling that under any circumstances it does not belong on this bill. We ought not to confuse the issue. This amendment is as far removed from the substance of the plant closing legislation as anything could possibly be.

Therefore, Mr. President, I ask unanimous consent that I reserve the right to hold the floor with the proviso that I be permitted to yield the floor shortly for a period not to exceed 10 minutes to the Senator from Pennsylvania, who I understand is on his way over and wishes to make a statement, but that I would have the right to the floor immediately thereafter.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Ten minutes?

Mr. METZENBAUM. For Senator SPECTER, yes.

Mr. THURMOND. I do not object if it is just for 10 minutes.

Mr. President, I want to say a few words in response to the distinguished Senator.

Mr. METZENBAUM. First, may I have my unanimous-consent request ruling?

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. I can talk while we are waiting. I can be finished in a few minutes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request by the Senator from Ohio.

Mr. THURMOND. Mr. President, will the Senator object if I make a response?

Mr. METZENBAUM. Mr. President, I include in my unanimous-consent request that the Senator from South Carolina be permitted to speak for not to exceed 5 minutes.

Mr. THURMOND. I want to respond to the Senator about putting it on this bill, I imagine about 10 minutes.

Mr. METZENBAUM. Not to exceed 10 minutes and 10 minutes for the Senator from Pennsylvania, and immediately thereafter the Senator from Ohio will be recognized, at which time, I announce to my colleagues, I intend to offer a motion to lay the amendment on the table.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from South Carolina is recognized for 10 minutes.

Mr. THURMOND. Mr. President, there is nothing new about this bill. This is the same compromise legislation as Senators McClellan, KENNEDY, and I worked out back in 1977. I would like for the Senator to hear that, the Senator from Ohio.

There is nothing new about this legislation. It is the same compromise legislation as Senator KENNEDY, Senator McClellan, and I worked out back in 1977.

Let me outline just a little of the history of this measure.

Attempts to rectify the injustice of the Enmons decision have been before the Senate on several occasions. Shortly after the decision was handed down, a bill was introduced which was clearly drafted with the intent of repudiating the decision, and over the next several years attempts were made to come up with language which was acceptable to organized labor and at the same time restore the original intent of the Hobbs Act.

On May 2, 1977, Senators McClellan and KENNEDY introduced S. 1437, the Criminal Code Reform Act of 1977. This bill represented a proposed compromise on several controversial and important points, the lack of agreement on which had kept prior bills from moving through the legislative process. The extortion offense, however, was again simply defined, as obtaining property of another "(1) by threatening or placing another person in fear that any person will be subjected to bodily injury or kidnaping or that any property will be damaged; or (2) under color of official right."

The committee report on S. 1437 contains an excellent summary of the then existing law with respect to extortion under the Hobbs Act and indicates approval of the judicial decisions holding that "fear" under the statute applies not only to fear of physical violence but also fear of economic harm to the victim's property or business. Moreover, the report is unequivocal in its repudiation of the Enmons "legitimate objectives" rationale. Noting that such an exception had not been recognized with respect to extortion by other persons, the committee felt that labor union officials were not entitled to such a privileged treatment:

> The thrust of an extortion statute should be to punish violent extortionate means to obtain the property of another regardless of the legality of the ends sought, and this principle should apply in the collective bargaining context as well as elsewhere. Thus, an employer who blows up a union office or causes a union official to be assaulted in order to instill fear and thereby obtain property of the union ought to be guilty under the Act irrespective of whether the property could have been obtained lawfully through collective bargaining. And the same should be true in the reverse situation. Accordingly, the Committee has proposed in effect to overturn the Enmons result by treating the parties engaged in a labor dispute no differently from other persons in terms of the applicable prohibition under this section, which is limited to extortionate means involving actual or threatened violence.

The committee report, however, also responded to the concerns expressed by the Enmons court that minor acts of picket line violence might, but for a narrow reading of the statute, be elevated into a Federal felony. The report noted that:

> * * * in the Committee's view such acts do not fall within the purview of the Hobbs Act (nor should they be Federally punishable) since there is no intent thereby to obtain the employer's property through the use of force and the acts do not in fact cause the employer to part with his property; in short, such isolated acts of violence do not partake of the nature of extortion.

Later in that Congress, Senator KENNEDY and I introduced an amendment to S. 1437 which is similar to the bill being introduced today. At that time I noted that:

> * * * this amendment would add a "proof" subsection designed to prevent a trial judge from holding that, in a case described in the new subsection, mere proof that personal injury or property damage occurred during a labor dispute constitutes a sufficient showing of the causal relationship between the obtaining of property and the threat of fear based on that injury or damage to justify submission of that issue to the jury. It prevents such a holding directly, by providing that proof of the coincidence of the labor dispute and the injury of damage in such a case is not "prima facie evidence" of the causal relationship. It is true, of course, that such a causal relationship sometimes does exist where injury or damage occurs during a labor dispute. This proposed subsection however, is based on the belief that where there is a cause and effect relationship, or the intent to obtain property by means of a threat or fear resulting from injury or damage, it should be possible to prove, in addition to that coincidence, some other circumstances adding to the strength of the inference of causation.
>
> The proposed subsection does not address the question of which particular additional circumstance or circumstances, when proven along with that coincidence, will suffice to justify the submission of the issue to the jury. One which clearly would be sufficient in many cases to avoid a directed verdict is the circumstance that the defendant was, or conspired with, a person negotiating on behalf of the union involved in the labor dispute. The same result might obtain the repetitive or systematic nature of property damage, or its exact timing, contributed to an inference, based also on the fact that a labor dispute was pending at the time the damage was done, that the damage was purposeful rather than mindlessly vindictive.

The amendment was adopted, and S. 1437 passed the Senate on January 30, 1978; however, the bill was allowed to die in the House. The Senate should again restate its opposition to violence in labor disputes.

Mr. President, with regard to the matter of this not being appropriate on this bill, this bill involves labor matters, and it involves plant closings. It certainly involves labor. That is the very point that has been made here by the opponents on this matter. It certainly is. You can always find every time an amendment is offered here to a bill to do something when they say, well, it is not appropriate on this bill. Put it on some other bill.

Listen. If the Senate wants to end violence, if it wants to end violence on the picket lines, now is the time to do it. Today is the day to vote it and protect the public. The idea of the union people going in a man's home, in his own home and breaking four ribs, the idea of blowing up all kinds of plants here, and doing the damage they have done that I just cited is ridiculous. How can the public stand for it? I hope the Senate will see fit to adopt this amendment.

The **PRESIDING OFFICER**. The Senator from Pennsylvania is recognized for 10 minutes.

Mr. **SPECTER**. I thank the Chair.

Mr. President, I oppose the amendment. I do so with some reluctance considering the presentation just made by my distinguished colleague from South Carolina, Senator THURMOND, who as chairman of the Judiciary Committee for some 6 years and now as ranking member has provided extraordinary leadership. But I disagree with the amendment based principally upon my experience as a State prosecuting attorney, and on the hearings which the Judiciary Committee has held on this issue in the past.

Mr. President, the essence of the proposal is to amend the Hobbs Act to overrule a Supreme Court decision which said that an assault and battery case for example or force or threat of force on a picket line did not constitute extortion under the Hobbs Act.

My sense is that that matter was correctly decided, and there should not be a change in the law, because there are adequate procedures under existing law for prosecutions by district attorneys or attorneys general or other officials of the State government to see to it that this kind of violence is prosecuted and prosecuted vigorously.

I served as district attorney of the city of Philadelphia for some 8 years and as an assistant DA for 4 years before that and had substantial experience in dealing with picket line violence and with this specific issue. The experience was that State prosecution could handle the matter; and in that context, it is my view that the Federal Government should not come into the picture.

One way of looking at the issue is in terms of states rights. There is no man in America who has fought harder in the 20th century for States rights than has the distinguished Senator from South Carolina, to the extent of waging a Presidential campaign in 1948 on that issue.

What you have here is the effort to move the Federal Government into an area where the States traditionally have had the law enforcement responsibility in assault and battery cases or in violent misconduct, whether it is on a picket line or wherever it may be.

It may be, Mr. President, that the Federal Government has to move into areas which the States have acted on traditionally if there is a need to do so and if there is a showing that the States are unable to accommodate the problem. But I submit that the States are adequately prepared to handle this matter, and I would cite my own experience, going back many years ago, as an assistant district attorney, to the prosecution of the case of the Commonwealth of Pennsylvania versus the local 107 Teamsters. It was a prosecution that evolved out of the McClellan committee investigations in the late 1950's. It was a case which was tried in 1963, the longest criminal prosecution in Pennsylvania history at that time, some 10 weeks and a day, in which six individuals were prosecuted for a conspiracy to cheat and defraud local 107 of the Teamsters Union of Philadelphia. Part of that case involved union violence and picket line violence.

The conclusion of that case, under a State prosecution, was conviction of all six defendants, and all six defendants went to jail. That case has been replicated many times across this country where there is violence and where there is inappropriate conduct and the States cannot handle the problem.

We had extensive hearings on this issue in the Judiciary Committee. The matter was extensively considered back in 1986. It came up in the context of a cloture vote on a Hobbs Act amendment, and a cloture motion was rejected by a vote of 44 to 54. Of course, the cloture motion required 60 votes; it received only 44. But on the substance, which is what this vote indicated, some 54 U.S. Senators opposed the amendment and 44 apparently were in favor of it.

I know of nothing which has happened in the intervening 2 years to cause a change in attitude. There has been no showing of this kind of violence, no showing of the inability of the State to handle it.

When we had the extensive hearings before the Judiciary Committee we found that when you get right down to the nub of the cases presented to us, they could have been handled adequately under existing procedures. There are procedures available, if the district attorney fails or refuses to prosecute, to take the matter to the State attorney general, who, under most State laws, has the power to step in.

There are provisions in most State laws, perhaps all State laws. I do not want to make a representation as to the law in all 50 States, but I wrote an article on this, and most States have provisions where, if the district attorney failed or refused to act, the court had the authority to appoint substitute counsel to carry the case forward.

So we have the first line of defense, the district attorneys, we have the possibility of the court appointment to take over the responsibility, and we have the State attorney general.

I suggest, Mr. President, that there is no showing of the inability of State prosecutions to handle the issue. On the contrary, there has been a positive showing that State prosecutors can handle the matter. For those reasons, it is my sense that we should not change the Hobbs Act.

I do not disagree with my distinguished colleague from South Carolina that it is appropriate for consideration at this time. I would not raise that argument in opposition. I simply say that, on the merits, we can handle this matter through State action and should not bring the Federal Government into the picture.

One other factor: The right to picket is a first amendment right emanating from freedom of speech, as interpreted by the courts. I suggest that to bring the Federal marshals and the U.S. attorney into what may be a simple fistfight could have a chilling effect on first amendment rights and is another weighty consideration to lead to the rejection of the proposed amendment.

Mr. President, I yield back the remainder of my time.

The **PRESIDING OFFICER**. The Senator from Ohio is recognized.

Mr. **METZENBAUM**. Mr. President, what is the situation with respect to time?

The **PRESIDING OFFICER**. The Senator from South Carolina has used 8 of his 10 minutes. The Senator from Pennsylvania has used 7 of his 10 minutes.

Mr. **METZENBAUM**. The Senator from Ohio is prepared to offer a motion to table but does not want to do that, absent the Senator from South Carolina being on the floor. I wonder if the staff might see to it that he returns to the floor and see if he wants a couple of minutes more.

Mr. President, while we are waiting, let me make an observation.

If we were to put this amendment on this bill, which I do not think we are going to do, it would totally vitiate the words of the President. He indicated that he wanted a clean bill, and we are trying to send him a clean bill. But if you send him a bill with repeal of the Hobbs Act on it, it is not a clean bill, and you may as well as add 20 subjects to it. I believe that, regardless of the attitude of many Members regarding the Hobbs Act, I do not think this is a proper vehicle to attach it to, and I hope everyone will support my motion to table, which I am about to make, subject to the 2 minutes available to the Senator from South Carolina.

Mr. **THURMOND**. Mr. President, does the Senator favor the amendment if we offer it on some other bill?

Mr. **METZENBAUM**. I am unalterably opposed to the amendment.

Mr. THURMOND. I was thinking that.

Mr. METZENBAUM. But that does not mean that is the answer. The question is that it does not belong on this bill, and the President does not want it on this bill. He wants nothing on this bill. He wants a clean bill.

Mr. THURMOND. Mr. President, I have been around here now for 34 years. I have heard that argument over and over and over again. When they do not want something, they say: "This is not the legislation to put it on. Put it on something else." I am sure the Senator is tired of hearing that argument, too.

If this is a good bill, if we want to stop violence on the picket line, if we want to protect the lives of people and protect property, the Senate should vote for this amendment.

Mr. METZENBAUM. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Maryland [Ms. MIKULSKI], the Senator from Nevada [Mr. REID], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Oklahoma [Mr. BOREN] were absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI], would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH], the Senator from Washington [Mr. EVANS], the Senator from Texas [Mr. GRAMM], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Idaho [Mr. SYMMS], the Senator from Wyoming [Mr. WALLOP], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. SYMMS], the Senator from Wyoming [Mr. WALLOP], and the Senator from California [Mr. WILSON], would each vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 27, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—60

Adams
Baucus
Bentsen
Bingaman
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Weicker
Wirth

NAYS—27

Armstrong
Bond
Cochran
Cohen
Dole
Garn
Grassley
Hatch
Hecht
Heflin
Helms
Karnes
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Pressler
Quayle
Rudman
Simpson
Stevens
Thurmond
Trible
Warner

NOT VOTING—13

Biden
Boren
Danforth
Evans
Gramm
Humphrey
Kassebaum
Mikulski
Reid
Stennis
Symms
Wallop
Wilson

So the motion to lay on the table the amendment (No. 2431) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1989

Mr. BYRD. Mr. President, I ask the Chair lay before the Senate H.R. 4775, the Treasury-U.S. Postal Service Appropriations Act.

The PRESIDING OFFICER. Under the previous order, the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4775) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 1989, and for other purposes.

The Senate resumed consideration of the bill.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2427

(Purpose: To restrict the use of funds by the Internal Revenue Service to impose user fees on certain exempt organizations providing services to older Americans)

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 2427.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 10, strike out the period and insert in lieu thereof a semicolon and "*Provided further*, That, notwithstanding any other provision of this Act or any other Act, none of the funds made available by this Act or any other Act shall be used to impose any user fee under section 10511 of the Revenue Act of 1987 on any exempt organization (other than a national organization) organized primarily to provide to older Americans in the geographical area covered by the organization services of the type which may be furnished under the Older Americans Act of 1965, including nutrition services, education and training services, health services, transportation services, recreational services, social services, and supportive services and senior center services as described in section 321(a) of such Act, which organization has annual gross revenue less than $50,000; and *Provided further*, that in the event the preceding proviso reduces the user fee revenue from Exempt Organization Determination Letters under the fee schedule in Revenue Procedure 88-8 of the Internal Revenue Service, the Internal Revenue Service shall adjust the fee schedule in Revenue Procedure 88-8 for Exempt Organization Determination Letters to increase the total revenue therefrom by the amount that the preceding proviso reduces the revenue therefrom."

Mr. MELCHER. Mr. President, an unanticipated inequity developed out of the tax-related user program instituted by the Omnibus Reconciliation Act of 1987, which is Public Law 100-203. Pursuant to section 10511 of that 1987 law, the Internal Revenue Service, by revenue procedure 88-8, established a schedule of fees for requests submitted to the Service for rulings, opinion letters, determination letters, and similar requests.

One category in that schedule of fees is for "exempt organization determination letters." That is a kind of letter from IRS which a nonprofit organization must have to be exempt from the Federal income tax. The fee for that kind of IRS letter is $150 for a nonprofit organization with annual gross receipts of not more than $5,000.

I want to emphasize that that is not more than $5,000. That means from zero to $5,000. I also want to emphasize that that is gross receipts per year, not net receipts or anything like that. It is gross receipts. Any dollar taken in is counted.

If it is over $5,000 per year in gross receipts, then it is $300 for this letter from IRS saying that they are nonprofit. That is a fee.

We know there are a large number of national nonprofit organizations for which a $100 fee is practically nothing or a $300 fee is less than the cost of one of several table lamps in the reception area of the office of the organization's president. In other words, it is chickenfeed.

There are a lot of other nonprofit organizations where it becomes a fee that hurts them. Many statewide nonprofit organizations' gross revenues, of course, are high, maybe $100,000 or $1 million, or perhaps it is not uncommon to have them in the neighborhood of $5 to $10 million.

Many of those organizations, of course, are nonprofit. So these are gross receipts. Many of them serve well-founded, deserving causes. Such organizations, if they have $1 million in their budget, probably do not think that a $30 fee amounts to anything, but there is a different category. It is that category I want to talk about.

It is a category where to pay the IRS $150 or $300 for a letter that says they are a nonprofit organization, and there are organizations, outfits around where $150 or $300 is a very significant sum in their annual budget.

I am talking about those nonprofit senior citizen centers, in particular, which have been organized primarily to provide for older Americans on the local basis one or more of the types of supportive services the Older Americans Act is designed to support and implement.

They have a very small budget, but they take in some money. What do they do? Well, a great number of them have a meal. They serve a lunch or, as most senior citizens call it, a nutritious dinner probably served at noon. It is a good meal. And there are other things they do.

Well, first of all, do they charge money for it? The usual procedure is this: There is a box at the head of the line or at the end of the line after you have your tray and meal, or if they serve the meal to you sitting down, somewhere in that room there is a box. It is generally understood in most senior citizen centers, if you can afford to pay whatever the suggested payment is, you do so. If you cannot afford it, you do not have to.

In most instances, a suggestion is about $1.50, sometimes $1, sometimes $2. It is a rather nominal amount for the type of meal that they serve, which is generally very good.

Mr. BENTSEN. Will the distinguished Senator from Montana yield for a question?

Mr. MELCHER. Yes, I will be delighted to yield to my friend.

Mr. BENTSEN. I am sure a number of Senators have plans, as far as returning to their own States, and would like to have some feel for how long the debate will continue this afternoon. I am wondering if we can arrive at a time agreement we discussed previously?

Mr. MELCHER. I have no request for time. So I am sure an hour equally divided will be adequate for me, and I may not use the full 30 minutes.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the time on this amendment be limited to 1 hour maximum and that the allocation and management of time be divided equally between the distinguished Senator from Montana and myself, and that further amendments to the amendment be precluded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. I thank my friend, the distinguished chairman of the Finance Committee.

That dollar or dollar and a half or two dollars for those who put it in the box to cover the cost of the meal is probably in most instances—what is the average? Well, the average in my State is around 45 to 50 who would participate in a noon meal, and so if it is a dollar, it is $45 to $50. If it is a dollar and a half that is the nominal amount placed in the box, it is somewhere between $60 and $70. Now, bear in mind that in most cases the senior citizen center does not require that you place something in the box for the meal. Some who cannot afford it do not put in anything.

What I am getting to is this. If you add up the 5 days in a week and multiply that times 50 or 52 weeks which the senior citizen center is open, that kind of revenue is very small. It may be in the $150 bracket. It would be less than $5,000 gross revenue per year. Does $150 mean something to them? Of course, it does. With that kind of an annual budget, $150 means something.

Now, what we are trying to do with the amendment is very simple. We are saying that money collected by a senior citizen center in those programs or other functions under the Older Americans Act would not have to be subject to $150 if their revenue, gross receipts are somewhere between $0 and $5,000 per year. We would exempt them.

As a matter of fact, we would take a higher figure. The amendment says up to $50,000. Well, there are not very many senior citizen centers that have that kind of gross revenue. There may be a few, or there may be other types of programs under the Older Americans Act serving the elderly where their gross receipts are of such a nature. And maybe they can get up to $50,000. I doubt it. The $50,000 gross revenue to be exempt from all fees is our figure. There is nothing sacred about that figure.

Does this amendment cost money? No. The amendment simply requires the Treasury Department to adjust their fee schedule and make it more than $300 for those in the upper bracket to make up for what is going to be exempted from being on the schedule itself. They would just be exempt like they were before. They do not have to pay something to get a letter.

Perhaps some of my colleagues might think this does not bother people very much. Well, they have not checked their senior citizen center probably because I found that invariably every senior citizen center has this on their agenda for correction. They are shocked that they are being charged this amount. I do not believe that the intention of Congress when we put this into law last year was to get so picky as has the Treasury Department.

When I first got letters on this from some senior citizens centers in my State and some from other States, as I sometimes get as chairman of the Senate Special Committee on Aging, I felt that this was simply something about which we wrote the Treasury Department, and indeed several of us did exactly that, asking them to correct it and hoping that it would be corrected. They have the authority under the law to correct it. We did not write that into the statute itself, that everybody, no matter how little they had in a nonprofit organization, had to pay $150 just to get a letter back from them to say yes, you are a nonprofit organization. So we thought, well, they will correct that. That is outrageous.

Mr. President, it has not been corrected, and that is the reason I am offering this amendment at this time on this Treasury appropriation bill.

The point will be made, and it is logical to make it, that this is legislation on an appropriation act and therefore subject to a point of order. Of course, it is legislation on an appropriations act. I ordinarily do not advise that as being the right and proper procedure. But the Treasury Department has not responded to gentle nudging, stronger letters, and some rather vigorous prodding to do this on their own, and so I feel that legislation is necessary. Jurisdiction, of course, lies in the Finance Committee, and I can well understand the chairman and ranking member of the Finance Committee objecting to my calling up an amendment that is clearly within their jurisdiction. Ordinarily, it would not be necessary at all to infringe on the jurisdiction of any other committee, but the question is, If we are going to get a tax bill sometime this year, when? Another question is, is there certainty of having a tax bill this year to which this could be attached? That uncertainty is the reason I am now offering the amendment.

There is an old saying that when you see a poisonous snake, like a rattler, take the first opportunity to kill it to protect yourself. This provision in the Tax Code is such of an objectional character. The first opportunity and maybe the only opportunity we are going to have this summer to make the correction is right now. That is why I am offering the amendment.

I repeat, the amendment is revenue neutral. This amendment results in a reduction in the amount of revenue raised under the IRS user fee schedule for exempt organization letters in revenue procedure 88-8.

The amendment requires the IRS to adjust that fee schedule for such letters so as to increase the total revenue therefrom by the amount that this exemption reduces the revenue therefrom. That is revenue neutrality. That says to the Treasury, change your regulations, get the same amount of money on a different fee schedule. Leave these poor, struggling senior citizen centers alone; $150 or $300 per year is a significant item in their budget. Let that amount remain with them to do things for the elderly in their own center, in their own organization to help out the elderly.

I hope the amendment can be accepted.

Mr. President, I yield the floor and reserve the balance of my time.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I yield myself 10 minutes on this particular amendment and rise in opposition to the amendment.

Let me state first my great respect for the distinguished Senator from Montana and the fact that he has long had a very strong interest in trying to assist the elderly in their concerns. I am sure the organization to which he refers is a good one with a lot of worthy citizens in them. But what you have here is an agreement that was made as we tried to solve the problems of the deficit and the budget, and tried to work back toward a balanced budget in achieving our objectives under Gramm-Rudman.

One of those things was to use a user fee that would bring in approximately $166 million over a period of 3 years. That justified a charge because it calls for work, and some commitment on the part of the IRS. Certainly these senior citizens groups are worthy. But you have a lot of the other groups that could well be just as worthy, whether we are talking about some organization for the handicapped, or we are talking about some organization for children, or hospice organization for the terminally ill. All of these do good work and that is why they are tax exempt. This provision says add to the charge, add to the cost of those other organizations. That is how this one is paid for.

Once again, I understand the Senator has a very commendable organization doing good work, but I do not understand the rationale of then turning around and putting that additional charge on an organization that is trying to do all it can for the terminally ill and having a tough time raising money anyway. I do not understand saying that you are going to put an extra charge on an organization that may be helping crippled children or handicapped children, and have another organization that may be doing some things to try to help victims of crime. All of these are concerns and all of these are good works.

So what we are talking about here is carrying out the commitment of the budget conference at the end of last year to try to get this deficit down, and making some headway in that regard. I was delighted to hear my distinguished friend from Montana say that this is totally in the jurisdiction of the Finance Committee. That it is. I also say to him that we are seeing the technical corrections bill moving in the committee on the House side in the Ways and Means Committee. They worked on it this week. They anticipate having it out of that committee next week. I think they will move very quickly on it on the House side. We intend to follow on just as fast as we can on this side.

I am going to be striving very hard to get a technical corrections bill. I know the distinguished ranking minority member shares that concern and objective. So we will be pushing for that. We can give consideration to this kind of a change in the assessment at that point. That is where it ought to be. We ought not be looking at legislation on an appropriation bill trying to resolve a tax matter on the floor of the U.S. Senate without witnesses, without proper hearings, without proper consideration by the committee which has jurisdiction.

So I urge very strongly my colleagues not add to the tax burdens of all of these other worthy tax-exempt organizations that I have—those are all I can think of at the moment. I am sure there are a lot more of them. But when you are talking about trying to help the handicapped, or trying to help crippled children, or hospice houses, or those organizations trying to help the victims of crime, the justification for saying we are going to add those additional charges to you even though you may have a tough time raising money for your causes really is a decision that ought not be made at this time on this floor and be attached to a piece of legislation where obviously it does not fulfill the rules of the Senate.

So I strongly urge that we keep the commitment of the summit agreement at the end of last year, that we not try to shift the burden of the expense onto other worthy tax-exempt organizations, and that this amendment be defeated.

I yield such time as my friend, the distinguished ranking member, minority member, should ask for.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I thank my good friend, the chairman of the Finance Committee. I think many of us can say very few people have worked harder on behalf of the rights of the elderly than the Senator from Montana, and what we are about to say, which the Senator from Texas has said, is no way meant to diminish his efforts. But this really is unfair. Here is the situation.

Up until a few years ago the Treasury Department by the Internal Revenue Service was obligated to answer not dozens, not scores, not hundreds, thousands of requests for opinions on what is the law and did not charge. So a year and a half ago we put into law a provision allowing the Treasury Department, which of course is over the IRS, to have jurisdiction to put in user fees of between $200 and $350 when you ask for these opinions with rights to waive it where there is any kind of a showing of hardship. Based upon my conversations with the IRS, I am quite sure from time to time they are going to waive it where there are cases of hardship.

The question is do you want to put in the statute a provision which says for this particular type of group, senior citizens groups, under $50,000 to the group, they will not have to pay at all even if they could afford to pay $200 for an opinion, and if enough of those are exempted we will increase the fees because the Treasury Department is told to keep this whole thing revenue neutral and produce enough money to pay for those opinions. We will raise the fees on everybody else, as the chairman of the Finance Committee has said. That is not fair. You can make as good a case for children or the environment, or any number of other organizations that do equally worthy work as you can for those which help senior citizens.

Having a user fee imposed by the Government is not new. Any of us that have gone to national parks are used to paying a certain amount of money when you go into the national park. We have user fees for a whole variety of things where you can identify the benefit directly related to the user. In this case of asking the Internal Revenue Service for an opinion that relates to you, you are not asking them usually what is the situation of the law, generally. You are saying in our situation here are our facts, how does the law affect us? Will you please give us a letter opinion about us? That is as identifiable a user as you can have.

To be very frank we have found this in the past. I am not here pointing the finger at anybody. We have found this in the past to be abused. All kinds of groups would ask all kinds of things of the Internal Revenue Service that took hours and hours and hours of time obviously at the expense of the general taxpayer to answer.

So we put into the law this provision where you can have this sliding scale of user fees which could be waived in cases of hardship, and I think it ought to be allowed to fully work. We ought to see whether the IRS abuses it. I doubt if they are going to. I will wager that any group can show a really legitimate need—they do not get it for nothing now—to have to know the opinion of the Internal Revenue Service on their specific situation. If they can show that, and if they can show too they are so poverty stricken that they cannot pay $200, $250 to get an expert opinion from the Internal Revenue Service as to whether the law affects them individually and solely in a certain way I would be surprised.

So I join with the chairman of the committee, Mr. President, in hoping that this amendment will be set aside and withdrawn perhaps by the sponsor or tabled if we have to vote on it. But I hope we will not start carving our special exceptions when very frankly all of us could make a record for any particular group we would like to start carving out special exceptions, and going home, and saying, "I tried to protect you homeless; I tried to protect you, children; I tried to protect you, environment, or I tried to protect you, senior citizens." I think it is unfair to carve out one.

I yield the floor.

Mr. MELCHER. Mr. President, on ordinary points of what is in the Tax Code, I would certainly always defer to either the distinguished chairman or the distinguished ranking member of the Finance Committee. But on this point, I do not defer.

I think the remarks that have just been made by the distinguished Senator from Oregon might lead—well, I would assume they would lead almost everybody to believe that you write in and get an expert opinion about it, get somebody in the counsel's office from IRS to review the facts, and see whether you are exempt from paying Federal income taxes. That is not the case at all.

This is a requirement in the law passed last year, that a senior citizen center that is not exempt by law must write to IRS and get a letter back saying, "You are exempt." No expert opinion on that.

We have the Older Americans Act for a purpose. We never anticipated that, under the Older Americans Act, they would have to start paying a fee.

If this were something we could have waived easily, that would be fine; but IRS is not waiving this fee of $150 or $300. It just requires them to send it in: $150 if their gross revenues, gross receipts, are from zero to $5,000; $300 if their gross revenues, annual revenues, are over $5,000. It is, I believe, an imposition, a draining of the very small amount of funds that senior citizen centers have and which could be better used for the purposes of helping the elderly. That is the purpose of the amendment.

I do not wish to have a violation of our budget agreement. That is why the amendment just directs the Treasury Department to readjust the fee schedule, to exempt any requirement of payment of this fee by those organizations under the Older Americans Act whose gross receipts per year are less, than $50,000.

As to the question, why not have crippled children and hospices included, I am willing to do that, and I would so modify my amendment if it were acceptable to the chairman of the Finance Committee and the ranking member of the Finance Committee. It is very simple to do. I would be very delighted to modify it, and it would still be revenue neutral. Those organizations that take in over $50,000 would just have their fees slightly higher. At that point, it is not such a big item, and I do not suppose it would be objectionable or too onerous to them.

I do not suspect that the distinguished chairman and the ranking member of the Finance Committee would be in favor of the amendment if I modified it that way, but I am perfectly willing to do so.

Having made that offer, Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DASCHLE). Who yields time?

Mr. DECONCINI. Mr. President, will the Senator yield me 3 or 4 minutes?

Mr. BENTSEN. I yield the Senator 4 minutes.

Mr. DECONCINI. I thank the distinguished chairman of the Finance Committee.

Mr. President, I understand and I cannot help but agree with my friend from Montana, Senator MELCHER, in what he is attempting to do here. I think nobody stands taller on this floor in coming forward on behalf of the senior citizens.

Being the chairman of the Committee on Aging, he certainly has demonstrated, time and time again, where he is on subjects, and I appreciate this particular situation.

I also must admit that I, for one, on occasion have offered amendments that the distinguished Senator from Texas probably would rather not see on the floor because they dealt in an area that his committee is involved in. I have had my share of disagreements.

However, I must say that the Senator from Texas [Mr. BENTSEN] and the Senator from Oregon [Mr. PACKWOOD] seem to make a very valid point in this instance as to why we should not adopt this amendment.

We do have a technical bill but I understand it is already in the process of being moved through the House. I know that the Senator from Texas has indicated on many occasions here that that is one of his top priorities, to see that this body addresses this particular subject matter of technical corrections to the 1986 bill. He has not indicated hostility toward modifying this type of problem, because it can be put together on a revenue-neutral basis, and I know that is what the Senator from Montana is suggesting, by increasing the fees on all other exempt groups to make up for the lost revenue that would have been charged these smaller senior citizen groups.

It is difficult for me, on this floor, not to want to give a break to senior citizen groups, and I applaud that. I wish the Treasury Department would do what it now has the right to do, as I am advised, and that is to waive this in a hardship case. But apparently there is a history of some groups indicating that they do not think the Treasury is adhering to the authority they already have.

I do not want to make a decision on which groups should be granted this type of exemption. As has been pointed out, there are many other groups: child abuse, one in Tucson, a homeless center, and another in Phoenix, which I know would fall in the area of $50,000 a year in gross receipts and thereby would not be exempt. Therefore, I find it difficult to support the amendment, with great reservation. But the Senator from Texas has indicated that we have a good opportunity of seeing this come about, perhaps in an even more comprehensive manner than the amendment offered by the Senator from Montana. So I am going to vote with the Senator from Texas if he moves to table the amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I yield myself such time as I may need.

Mr. President, I appreciate the comments of the distinguished Senator from Arizona.

I say to the Senator from Montana that it is my absolute priority to have a technical corrections bill. It is imperative to do it.

We are talking about the tax reform that took place in 1986, the most major reform in 40 years. A bill of that complexity, that magnitude, had to end up with a lot of concerns and problems and ambiguities and conflicts and problems of interpretation.

We have a lot of people out there making out tax returns who are not sure whether they are in compliance. So it has to be done.

I would be happy at that time to look at this situation and see if there is some change we might make, and I would consult with the Senator from Montana. But I do not want to do that on the floor of the Senate, without a hearing, without hearing from these people. I do not want to see a shift in the burden on those other organizations who are also doing worthy work and are doing the things that have been enumerated, many worthy things we are all concerned about, whether it be crippled children, the terminally ill, or an environmental group or one made up of senior citizens, where the distinguished Senator from Montana has been such a wonderful proponent and has shown his deep concern. But I would be happy to work with him on the technical corrections and see if we can arrive at something that would satisfy his concern.

Barring that, as soon as he has completed his time, I would be prepared to move to table.

Mr. MELCHER. Mr. President, I thank the distinguished chairman, my friend from Texas, who is a very able chairman and most gracious friend and generous friend, for his comment.

Ordinarily, with that kind of assurance, I would just withdraw the amendment. But it is not ordinary right now. I know the distinguished chairman is going to do everything he can to bring up a tax bill, specifically the technical corrections bill, and to get it passed. I know he will do that. He will do absolutely everything he can possibly humanly do to bring it up and get it passed.

I hope I do not sound like I am throwing cold water on that when I say this: I think there is just a 50-50 chance of passing a technical corrections bill this year.

As I recall, early in 1987 there was an effort or hope to get a technical corrections bill called up, and it was not called up. I am sure that it was the hope of the distinguished chairman to call it up earlier this year during this session of Congress, and it has not been called up.

I feel quite certain that the House wants to pass a technical corrections bill. I was over in the Longworth Building the day before yesterday, and I will tell you that place was chaos, where I used to have my office when I was in the House of Representatives; I never heard or saw such a hubbub as there was going on right then when I entered in there and I said, "What is going on? What is going on?" They almost had to shout. They had to talk rather loud so you could hear it. Somebody said, "Technical corrections bill," and pointed around the corner through a mob. "The House Ways and Means Committee is busy with that technical corrections bill."

There will be a lot of stuff in it as evidenced by the large crowd in the Longworth Building as they were marking up the bill. They could not possibly get into the large Ways and Means Committee hearing room. They were lined up clear out around the corners and all through that lobby waiting their turn hopefully to get in.

I only mention that because I know what faces the Finance Committee here in the Senate in attempting to move a technical corrections tax bill. It becomes quite a large bill. It comes under a lot of scrutiny. It comes under a lot of debate. It comes under numerous amendments to be offered. And now it is getting toward the end of June and we have two conventions coming up, one for our party and one for the party on the other side of the aisle, to nominate our Presidential candidates, and we hope to adjourn sometime around the 1st of October. So time is awasting, and my strong feeling is that there is just a 50-50 chance that a technical corrections tax bill will be passed in the Senate this year.

I apologize to my good friend from Texas, the distinguished chairman and friend, and to all my friends on the Finance Committee, including the ranking member, the Senator from Oregon, for imposing on them this amendment that is under jurisdiction or the Finance Committee.

But, my friends, if we want to do something about it this year, and I dearly want to do something about it, I feel this is the chance to do it and may be the only logical chance to do it. This is the Treasury bill. This is a direction to IRS. It is revenue neutral. It will just remove one thorn out of the side of those programs under the Older Americans Act, specifically, senior citizen programs.

I have nothing further to say on this, Mr. President. So if my distinguished friend would like to make a motion, it is perfectly agreeable with me.

I yield back any time I have remaining.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, do I have any further requests for time?

Mr. DOLE. No.

Mr. BENTSEN. If not, the distinguished author of the amendment is prepared to yield back, and I am prepared to yield back the remainder of my time.

Mr. MELCHER. Mr. President, I do yield back my time.

Mr. BENTSEN. And I move to table the amendment, and I am joined by the distinguished ranking minority member of the committee.

The PRESIDING OFFICER. The yeas and nays have not been requested.

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Montana. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. METZENBAUM], the Senator from Nevada [Mr. REID], the Senator from North Carolina [Mr. SANFORD], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Oklahoma [Mr. BOREN] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH], the Senator from Washington [Mr. EVANS], the Senator from Texas [Mr. GRAMM], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Arizona [Mr. McCAIN], the Senator from Delaware [Mr. ROTH], the Senator from Idaho [Mr. SYMMS], the Senator from Wyoming [Mr. WALLOP], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 21, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—63

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boschwitz
Bradley
Breaux
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Hecht
Heinz
Helms
Hollings
Inouye
Karnes
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Proxmire
Pryor
Quayle
Riegle
Rockefeller
Rudman
Sarbanes
Simon
Simpson
Stafford
Stevens
Trible
Warner
Wirth

NAYS—21

Bumpers
Burdick
Conrad
D'Amato
Gore
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Johnston
Kasten
McClure
Melcher
Pressler
Sasser
Shelby
Specter
Thurmond
Weicker

NOT VOTING—16

Biden
Boren
Danforth
Evans
Gramm
Humphrey
Kassebaum
McCain
Metzenbaum
Reid
Roth
Sanford
Stennis
Symms
Wallop
Wilson

So the motion to lay on the table the amendment (No. 2427) was agreed to.

Mr. DeCONCINI. Mr. President, it is my understanding the majority leader might have an announcement on additional votes today.

Mr. BYRD. Mr. President, there will be no more rollcall votes today. There will be early votes Monday. I say there will be an early vote on Monday or votes on Monday.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DeCONCINI. Mr. President, we are now ready to proceed to the amendment of the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

The Senate will be in order. The Senator from Maryland will suspend momentarily until the Senate is in order.

AMENDMENT NO. 2432

(Purpose: To delete the section of the bill dealing with a pay raise for military personnel in fiscal year 1989)

Ms. MIKULSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the consideration of the amendment?

Mr. BYRD. Mr. President, reserving the right to object, is this one of the amendments that was included in the order?

Mr. DeCONCINI. If the majority leader would yield, this is the Nunn-Glenn amendment the unanimous-consent order that we are operating under is involved in.

The PRESIDING OFFICER. Without objection, the Senator from Maryland may propose the amendment. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] for herself, Mr. GLENN, and Mr. NUNN, proposes an amendment numbered 2432.

The amendment is as follows:

On page 90, delete lines 12 through 19.

Ms. MIKULSKI. Mr. President, I offer this amendment on behalf of myself, Senator GLENN, and Senator NUNN.

The amendment modifies an amendment which Senator STEVENS and I offered in committee that provides for an increase in Federal employee civilian pay.

The amendment which I am offering as a modification to that provision would provide a 4.1-percent increase in military basic pay and basic allowance for subsistence, and a 7-percent increase in basic allowance for quarters, for fiscal year 1989 beginning January 1, 1989.

This provision would allow compensation for military personnel at the same level agreed to by the conferees on the Defense Authorization Act. The Defense authorization conferees have agreed that these benefit increase levels should be taken from the targets set by the budget summit agreement.

This amendment would still guarantee a 4-percent raise for all civilian employees in the Federal Government. While the military raise is one-tenth of 1 percent above that for civilians, it still provides basic parity between these two groups.

Basic parity is unfortunately not part of the administration's request of 4.3 percent for military personnel and only 2 percent for civilians.

I want to thank the Senators from Ohio and Georgia for their firm support of a 4-percent raise for civilians for 1989.

We also want to recognize the important need for a pay raise for our military. I hope they and their colleagues in the Armed Services Committee will join with me in improving pay and benefits for the civilian work force in both DOD and other Federal agencies. That concludes my description and argument for the amendment. I yield the floor.

The PRESIDING OFFICER. Is there further debate?

The Senator from Georgia.

Mr. NUNN. Mr. President, I want to thank the Senator from Maryland for her understanding and very cooperative attitude in working this matter out. Senator GLENN has worked long and hard in the conference to get a package together that we feel makes sense for the military component of our overall effort in national security. The Senator from Maryland has been very delightful to work with, and she has been very understanding about the importance of separating these two issues.

We thank her for making this presentation.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I join in the remarks of my colleague from Georgia. I agree completely it is a good move. We are happy to support this. Senator MIKULSKI took the lead in this and rightly so. We give her credit for this. We are glad to join in this effort. We think it is well justified and compliment her for her efforts.

The PRESIDING OFFICER. If there is no further debate, the question is on the amendment.

The Senator from Arizona.

Mr. DeCONCINI. Mr. President, I want to add the Senator from Maryland proposes a logical and proper amendment based upon the amendment she put in the appropriations—Treasury bill, this one right here, that did grant the full pay raise to Federal employees, as was approved by the Budget. That amendment passed, which means civil servants, civilian employees of the Federal Government across the board are going to get a 4-percent pay raise thanks to the amendment of the Senator from Maryland.

In doing so it also affected the military pay raise that had already been approved, ranging from 4 to 4.3 percent, depending upon some variances there. This is correcting that amendment and I thank the Senator and join the Senator from Georgia and the Senator from Ohio in thanking her for making this accommodation and letting us modify her amendment but preserving exactly what she wanted in the first place.

We are prepared to accept the amendment on the majority side.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I, too, want to compliment the Senator from Maryland. I joined her in the amendment in committee to provide a 4-percent pay raise across the board. I am convinced that the arguments made here today in talking to the leadership of the Armed Services Committee that the amendment she offers, which will permit the authorizing bill on defense to establish the pay increments for those men and women in military is appropriate, and we support it on this side.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment offered by the Senator from Maryland.

The amendment (No. 2432) was agreed to.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I ask unanimous consent to move to reconsider the previous motion to table the amendment of the distinguished Senator from Montana.

Mr. DeCONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI. Mr. President, while the Senator from Arizona is moving to expedite this legislation, I take this opportunity to thank both he and the Senator from New Mexico for really their strong support of Federal employees in addressing the very serious work force issues facing our country. Their constituents and colleagues should know what advocates they have been.

Mr. CONRAD. Mr. President, I am dismayed that the pending measure includes a cut of $241 million from the fiscal 1989 budget request for the Internal Revenue Service. While I appreciate the fact that the Senate Appropriations Committee had to operate under a very tight allocation, the IRS is a revenue-generating agency. The resources sought by the agency for fiscal 1989 represented the minimum level needed to achieve the revenues anticipated under last year's budget summit agreement. With the level provided by the Senate version of the Treasury appropriations bill, there's a real risk that some of the revenue we're depending on will not come through.

As my colleagues know, I have a strong and long-standing interest in the potential for improving Federal tax compliance. A comprehensive effort to upgrade both enforcement and taxpayer services could build upon the successes we've seen at the State level—and produce substantial additional revenue for years to come. Given the scope of this country's budget deficit problems, the value of making this effort should be indisputable.

In fiscal 1987 and 1988, the appropriations for the IRS accommodated the first two installments of the agency's multiyear revenue initative. Although not as ambitious an approach as I would advocate, the IRS initiative provided for significant additional hiring of examinations and collections personnel.

The administration did not request additional funds in the fiscal 1989 budget request for these activities, even though the IRS calculates that each dollar spent on examinations produces $15 of additional revenue, while each dollar spent on collections produces $20. The request was a freeze-level budget: the third installment of the IRS revenue initiative was put on hold. That third year of the plan, which would have cost $280 million in fiscal 1989, was estimated to produce $3.3 billion of additional revenue during fiscal 1989 and fiscal 1990.

Regrettably, the bill before us does not take that third step forward. But the committee's action to provide $241 million less than requested by the administration is a false economy—and a serious mistake. The increase of $241 million was intended to cover mandatory cost increases and enable the agency to handle growth in its workload. A major component of this increase is improvements in data processing which cannot be deferred. Cuts below the level of the budget request would most likely fall on the divisions responsible for examinations and collections. Besides preventing us from realizing some additional revenue now, cuts in enforcement activity undermine any serious longer term hope of improving compliance.

Adequate resources for the IRS to do a good job of enforcing the law and assisting taxpayers should be a top priority as we consider this appropriations bill. According to new estimates in March, the Federal tax gap was $85 billion in 1987. It has shot up from $28 billion in 1973 to $95 billion in 1986—and is projected to grow to $114 billion 4 years from now. I'm convinced that much of this revenue is collectible. A study issued by the California Institute of Technology last year concluded that if 1977 audit rates—2.3 percent for individuals and 9.5 percent for corporations—had been maintained, the Federal Government would have collected an additional $47 billion of revenue in 1985. Instead, we've allowed audit rates to plummet—to 1.2 percent for individuals and 2.1 percent for corporations last year. Meanwhile, rapid increases in accounts receivable—which reached $56 billion at the end of last year—justify more resources for collections as well.

Better taxpayer service is also crucial—particularly now. As taxpayers struggle to cope with the major changes and complexity of the 1986 tax law, the benefits of providing prompt, accurate, and courteous service cannot be overstated.

Last year, a task force headed by my colleague Representative Byron Dorgan issued a report on how to reduce the Federal tax gap. It outlined a thorough, balanced approach to upgrading enforcement and taxpayer service over a period of 5 years, with the goal of raising the voluntary compliance rate by 1 percentage point per year. These recommendations are sensible—and deserve our full support. But at a minimum, we should not set back current efforts underway at the IRS by cutting the budget request. I will vote for the pending bill with reluctance, and would urge my colleagues on the Appropriations Committee to recede to the House appropriation levels for the IRS in conference.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DeCONCINI. Mr. President, I know of only one further amendment that is outstanding, and that is the amendment of the Senator from Idaho, Senator McClure. I understand that he will be prepared to offer that amendment Monday, and I might ask the majority leader if he has anything else he wants to do on this bill. I do not know of anything else. We have offered the technical amendments. I wonder if the majority leader could advise us as to what time we might come back in on the bill Monday.

Mr. BYRD. We will start fairly early on it. I understand that Senator McClure will be prepared to call up his amendment. The Senate will have a 10 o'clock vote on something to try to get Senators into the Chamber so that we will not spend 2 hours waiting on Senators to get here. So we will have one or more votes early—beginning at ten—on something. And then I am interested in getting on the appropriations measure as soon as we can, disposing of it and getting back on plant closing.

Mr. DeCONCINI. Can we go on it at 10 o'clock?

Mr. BYRD. Going on it is one thing. I want to make sure we have Senators here so we can get some action. Otherwise, we will fritter away one of the remaining 3 days before the break. As I understood it, Mr. McClure is willing to call up his amendment on Monday.

ORDER OF PROCEDURE

Mr. BYRD. There will be a rollcall vote at 10, and then we can go on the bill.

A rollcall vote will be at 10. We will come in a little earlier to allow the two leaders their standing orders, and if there is any morning business, we will do that. We will have a rollcall vote at 10; immediately after the rollcall vote, go on this bill. I do not want to stay on it too long because we do need to get back on the plant-closing bill.

I thank both Senators.

Mr. DOMENICI. I thank the distinguished majority leader.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business; that Senators may speak therein for not to exceed 5 minutes each and that there be a limit on the morning business of 30 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIENNIAL BUDGETING

Mr. FORD. Mr. President, 7 years ago, I introduced my first bill to move the Federal Government to a 2-year budget and appropriations cycle. Over the years, I have seen many converts to this idea, and numerous other Members have joined with me in supporting my legislation or introducing proposals of their own. Just 2 weeks ago, I was pleased to join with my colleague, Senator Roth, in introducing a truly bipartisan approach to biennial budgeting. Our bill, S. 2478, is now cosponsored by 26 other Members, including 14 Democrats and 12 Republicans. It has been a long 7 years in the making, but I believe the time for action has finally come.

I publicly thank the chairman of the Governmental Affairs Committee, Senator Glenn, for allowing this bill to be considered at the full committee markup on Monday. Senator Glenn has been most accommodating in allowing this measure to move forward, I am hopeful that the committee will take affirmative action to keep this issue alive this year.

We had some good news from the majority leader, Senator Byrd, this week. It appears that the Senate can complete action on all 13 individual appropriation bills by the middle of July, far ahead of the beginning of the fiscal year. There are several reasons for this, but 3 in particular, that I think are noteworthy. First, we had the participation of the White House in budget deliberations last fall which lead to the budget summit agreement. Second, that agreement produced a 2-year budget plan which has significantly reduced the workload of Congress this year and the hard work of the majority leader.

The budget summit agreement was actually an experiment in biennial budgeting. If this approach can help produce action on all 13 appropriation bills by mid-July, then I think we can say that it works. And this multiyear approach has produced other benefits. Just this week the House acted to complete action on the fiscal year 1989 Defense appropriation bill in an unprecedented single day of debate.

There are several advantages to a 2-year budget cycle. First, there will be a savings of time and money. Congress currently debates spending priorities and funding decisions not only every year, but several times within 1 year. By limiting budget action to only one session of each Congress, we eliminate repetitive votes on budget priorities and spending allocations. We also allow the executive branch and recipients of Federal aid, such as State and local governments, to better manage Federal dollars to get more cents out of the dollar.

When I was Governor, I learned that savings can be achieved through the use of a construction management plan. Biennial budgeting allowed State agencies to spread the cost of building over 2 years and take advantage of cyclical price fluctuations. Federal contractors and agencies can achieve these same savings.

Second, biennial budgeting allows for greater planning and more considered spending decisions. Too often, Congress has padded the budget resolution with spending for anticipated reforms and new initiatives only to find that action is not completed on the authorization before the new fiscal year begins. Unfortunately, those funds provided for in the budget are not deleted or reserved for the next fiscal year, but spent on other programs.

A 2-year budget, with one session reserved specifically for oversight and authorizations, will give Congress the time to enact responsible spending proposals before the adoption of a budget resolution and appropriation bill. A 2-year budget cycle will give the executive branch and State and local governments, 2 years to plan for the most efficient use of Federal dollars.

Third, a 2-year budget will give Congress the opportunity to review spending decisions, and allow the executive branch to conduct compliance review. Too often we hear that once a Federal program is created, it will be funded into eternity. Congress simply needs more time to review existing spending programs to determine whether they should be modified, expanded, or replaced.

Similarly, the executive branch lacks the time to conduct the necessary compliance review that would hopefully uncover $600 hammer costs before the taxpaying public finds out about such abuses through the press. If over $1 trillion in taxpayer funds are going to be spent every year, it is not too much to ask that Congress and the executive branch take 1 year in each Congress to ensure that those funds are being spent wisely and as intended. A 2-year budget, with 1 year devoted to reviewing spending decisions, provides enough time for Congress and the executive branch to ensure that abuse is caught before it becomes a public scandal.

Fourth, biennial budgeting provides greater funding certainty for State and local governments. Our elected counterparts in the State must plan their budgets in large part around Federal spending decisions. Too often, Congress misses deadlines and does not complete action before the beginning of the fiscal year. However, State and local governments simply cannot put their budget deliberations on automatic pilot while Congress completes its work. It is not unusual for Congress to reach the end of the fiscal year only to pass a one short-term continuing resolution, followed by one or more extensions. State and local governments cannot be expected to efficiently caryout Federal spending programs if they lack the certainty that funds will be provided on time.

A 2-year budget will not solve all of our budget deficit problems. But it will give Congress and the executive branch a management tool to more effectively and efficiently administer the Federal Government. It will provide greater funding stability for the State and local governments whose budgets are often dependent upon Federal aid. It will allow Congress the time to not only make considered budget decisions, but complete our action on time so that we can spend more time with our constituents and family.

I urge my colleagues on the Governmental Affairs Committee not to miss the opportunity to send a message to the incoming administration and congressional leadership that we are serious about considering a 2-year budget cycle. It is an idea that enjoys wide support and makes sense for the White House, Congress, and the economy. I urge my colleagues to voice their support.

CONGRATULATIONS TO CHAIRMAN STENNIS

Mr. HATFIELD. Mr. President, this afternoon the Appropriations Committee reported the last of the 13 regular appropriations bills for fiscal 1989. The committee has met the goal set by Chairman Stennis that all 13 bills be reported before the July 4th recess. We have already passed three of those bills and completed conference on one of them, we have another one pending, and several more ready for floor action. We are well on our way toward achieving what many thought would be an impossible goal—the separate enactment of all 13 appropriations bills.

Chairman Stennis is to be commended for this achievement. He has set a demanding pace, with full committee markups on eight bills just this week.

It has not been easy for the staff to keep up with the chairman, but they have done so with their customary professionalism. I want to especially thank a few poeple who often go unrecognized: Our printers—Dick Voelker, Clarence Erney, Richard Larson, Bob Swartz, and Bernie Babik; our computer staff—Jack Conway, Bob Putnam, and Janelle Grose; our switchboard—Rheda Freeman and Nancy Brandel; Norman Edwards and Joseph Chase, who deliver markup materials, set up the hearing rooms, and manage the crowds; and Luann Dawson, the stenographer in all our markups. These people have provided the members, the staff, and the public with the support necessary to maintain the schedule set by the chairman. Though swamped with demands from all quarters at all hours, they have served us well, and deserve our special thanks.

BICENTENNIAL MINUTE

JUNE 24, 1834: SENATE REJECTS ROGER TANEY AS TREASURY SECRETARY

Mr. DOLE. Mr. President, 154 years ago today, on June 24, 1834, the U.S. Senate for the first time rejected the nomination of a Cabinet Secretary. Since then, the full Senate has turned down only seven other Cabinet nominees.

President Andrew Jackson, during his struggle with the Senate over the Bank of the United States, had nominated Roger B. Taney in September 1833 to be Secretary of the Treasury. The previous year, Jackson had vetoed a bill to renew the bank's charter. He was determined to remove all Federal funds from what he considered an unconstitutional and aristocratic institution. When two Treasury Secretaries refused to withdraw funds from the bank, Jackson decided to give the job to his Attorney General, Roger Taney.

Taney served 9 months as a recess appointment, carrying out Jackson's wishes by removing Government funds and depositing them in various State banks. When the Senate returned to session, a coalition of national Republicans and independents outnumbered the Jacksonian Democrats by a margin of 28 to 20. Senator Henry Clay, a leader of that opposition, introduced resolutions requiring Federal funds to be restored to the bank and, in March, the Senate voted to censure Jackson for his bank policies. Under those circumstances, it was inevitable that the Senate would also reject Taney, as it did by a vote of 28 to 18 on June 24. Jackson reluctantly replaced Taney with former Senator Levi Woodbury.

Less then 2 years later, however, President Jackson had the satisfaction of seeing the Senate vote to confirm Roger B. Taney for another post. Restored to Democratic control, the Senate consented to Taney's appointment as Chief Justice of the United States. Taney served as Chief Justice until his death, 28 years later.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:30 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4800. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4800. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

H.R. 2881. A bill to establish a National Commission on Acquired Immune Deficiency Syndrome (Rept. No. 100-400).

By Mr. PROXMIRE, from the Committee on Appropriations, with amendments:

H.R. 4800. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies and offices, for the fiscal year ending September 30, 1989, and for other purposes (Rept. No. 100-401).

By Mr. STENNIS, from the Committee on Appropriations, with amendments:

H.R. 4781. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes (Rept. No. 100-402).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PROXMIRE (for himself and Mr. GARN) (by request):

S. 2566. A bill to amend the Trust Indenture Act of 1939; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BENTSEN:

S. 2567. A bill to suspend temporarily the duty on furniture of unspun fibrous vegetable materials; to the Committee on Finance.

By Mr. HATFIELD:

S. 2568. A bill for the relief of Jessielito G. Infante; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE (for himself and Mr. GARN) (by request):

S. 2566. A bill to amend the Trust Indenture Act of 1939; to the Committee on Banking, Housing, and Urban Affairs.

TRUST INDENTURE REFORM ACT

Mr. PROXMIRE. Mr. President, at the request of the Securities and Exchange Commission, I am introducing a bill to amend the Trust Indenture Act of 1939. The bill, the Trust Indenture Reform Act of 1988, is the Commission's proposal for comprehensive modernization of Federal law applicable to publicly offered debt securities. The Commission's objectives in the proposal are to adjust the requirements of the law to contemporary financing instruments and techniques and to ensure the statute's adaptability to future market developments while preserving the act's rigorous standards of investor protection.

Since 1940, the act has regulated the public issuance of debt securities and the relationships among security holders, indenture trustees and obligors. Particularly in the last several years, significant changes in the markets in both the types of debt securities offered to the public and the techniques for their sale have occurred. As a result, aspects of the act have become administratively or substantively obsolete. The intent of the Commission's proposal is to cure these deficiencies without altering the act's basic structure or essential intent.

The bill would amend five areas of the act. It would make inclusion of mandatory indenture terms part of every qualified indenture through operation of law. This change is intended to provide greater substantive assurance that required provisions are part of every qualified indenture and to remove substantial administrative burdens from the Commission's staff and from persons subject to the act. Qualification procedures under the act would be altered to permit coordination with current Securities Act practices for delayed or continuous public offerings. The Commission's exemptive power would be expanded to allow variation from the act's exact requirements in circumstances where alternative provisions serve reasonable business requirements without lessening investor protection. This power is intended to assure that the act can adapt to future market developments.

In recognition of the character of indenture trustees' legal duties and the realities of institutional trust practice, under the bill a trustee's eligibility under an indenture to provide the administrative services necessary prior to default would no longer turn on technical conflicts of interest. This is intended to remove inhibitions on trustees' legitimate business activities by permitting a trustee to provide a wider range of financial services, including participation in overseas underwritings, without prejudice to the interests of holders under qualified indentures. The act's present 3-year standard making underwriting of the obligor's securities a forbidden conflict will be reduced to a year. Following default, creditor status would be added to the list of impermissible conflicts of interest, which disqualify a trustee from service.

To promote the internationalization of public securities markets, the act would permit the Commission to allow foreign trustees to serve under qualified indentures, if their trust powers and regulation are comparable to U.S. trustees and reciprocal treatment is afforded to U.S. trustees. Finally, the proposal effects miscellaneous technical changes to the act.

The benefits of the proposal would be applicable to already-qualified indentures on enactment. Higher standards of conduct or independence could, however, be negotiated in future indentures.

The Commission believes that enactment of the Trust Indenture Reform Act of 1988 will assure protection of debenture holders, while simplifying compliance with the act and easing its administration. For these reasons, the Commission has urged the Congress to enact the Trust Indenture Reform Act of 1988.

I ask unanimous consent to include the proposed legislation with the Commission's section-by-section analysis and memorandum in support of the proposal in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. This Act may be cited as the "Trust Indenture Reform Act of 1988".

Sec. 2. Section 303(8) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(8)) is amended by inserting "section 305 or" after "provided for in".

Sec. 3. Section 304 of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd) is amended—

(1) by striking ", as heretofore amended," in subsection (a)(4)(A); and

(2) by striking subsection (d) and inserting in lieu thereof the following:

"(d) The Commission may, by rules or regulations upon its own motion, or by order on application by an interested person, exempt conditionally or unconditionally any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any one or more of the provisions of this title, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by this title. The Commission shall by rules and regulations determine the procedures under which an exemption under this subsection shall be granted, and may, in its sole discretion, decline to entertain any application for an order of exemption under this subsection.".

Sec. 4. Section 305(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77eee(b)) is amended—

(1) by striking "The" and inserting "(1) Except as may be permitted by paragraph (2) of this subsection, the";

(2) by redesignating paragraph (1) as subparagraph (A) and inserting "or" at the end thereof;

(3) by striking paragraph (2);

(4) by redesignating paragraph (3) as subparagraph (B); and

(5) by adding at the end thereof the following:

"(2) In the case of securities registered under the Securities Act of 1933, which securities shall not be sold until a date subsequent to the effective date of the registration statement relating to such securities, the Commission shall not be required to issue the order described in paragraph (1) if, prior to the sale of such securities, the obligor of such securities has filed an application for qualification for the indenture under which such securities shall be issued pursuant to such rules and regulations as the Commission may prescribe. The Commission shall issue an order prior to the effective date of such an application for qualification refusing to permit such application to become effective, if it finds that—

"(i) the security to which such application relates has not been or is not to be issued under an indenture; or

"(ii) any person designated as trustee under such indenture is not eligible to act as such under subsection (a) of section 310 or has any conflicting interest as defined in subsection (b) of section 310;

but no such order shall be issued except after notice and opportunity for hearing within the periods and in the manner required with respect to refusal orders pursuant to section 8(b) of the Securities Act of 1933. If and when the Commission deems that the objections on which such order was based have been met, the Commission shall enter an order rescinding such refusal order, and the application shall become effective at the time provided in section 8(a) of the Securities Act of 1933, or upon the date of such rescission, whichever shall be the later.".

Sec. 5. Paragraph (2) of section 309(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77iii(a)) is amended by inserting "section 305 or" after "pursuant to".

Sec. 6. Section 310(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(a)) is amended—

(1) by inserting at the end of paragraph (1) the following: "The Commission may, pursuant to such rules and regulations as it may prescribe, or by order on application, permit a corporation or other person organized and doing business under the laws of a foreign government to act as sole trustee under an indenture qualified or to be qualified pursuant to this title if—

"(A) such corporation or other person—

"(i) is authorized under such laws to exercise corporate trust powers; and

"(ii) is subject to supervision or examination by authority of such foreign government or a political subdivision thereof substantially equivalent to supervision or examination applicable to United States institutional trustees; and

"(B) under such laws, a United States institutional trustee is eligible to act as sole trustee under an indenture relating to securities sold within the jurisdiction of such foreign government.";

(2) by striking "The indenture to be qualified shall require that there" in paragraph (1) and inserting "There";

(3) by striking "The indenture to be qualified shall require that such" in paragraph (2) and inserting "Such";

(4) by striking "such indenture shall provide that" in paragraph (3); and

(5) by striking "the indenture to be qualified shall require that" from paragraph (4), and inserting "shall" after "the indenture trustee or trustees".

Sec. 7. Section 310(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(a)) is amended by adding at the end the following:

"(5) No obligor upon the indenture securities or person directly or indirectly controlling, controlled by, or under common control with such obligor shall serve as trustee upon such indenture securities.".

Sec. 8. Section 310(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(b)) is amended to read as follows:

"(b) Disqualification of Trustee.—If any indenture trustee has or shall acquire any conflicting interest as hereinafter defined, (i) such trustee shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign, and the obligor upon the indenture securities shall take prompt steps to have a successor appointed in the manner provided in the indenture; (ii) in the event that such trustee fails to comply with the provisions of clause (i) of this subsection, such trustee shall, within 10 days after the expiration of such 90-day period, transmit notice of such failure to the indenture security holders in the manner and to the extent provided in subsection (c) of section 313; and (iii) subject to the provisions of subsection (e) of section 315, any security holder who has been a bona fide holder of indenture securities for at least 6 months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of such trustee, and the appointment of a successor, if such trustee fails, after written request therefor by such holder to comply with the provisions of clause (i) of this subsection.

"For the purposes of this subsection, an indenture trustee shall be deemed to have a conflicting interest if the indenture securities are in default (as such term is defined in such indenture, but exclusive of any period of grace or requirement of notice) and—

"(1) such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of an obligor upon the indenture securities are outstanding or is trustee for more than one outstanding series of securities, as hereafter defined, under a single indenture of an obligor, unless (A) the indenture securities are collateral trust notes under which the only collateral consists of securities issued under such other indenture, or (B) such other indenture is a collateral trust indenture under which the only collateral consists of indenture securities, or (C) such obligor has no substantial unmortgaged assets and is engaged primarily in the business of owning, or of owning and developing or operating, real estate, and the indenture to be qualified and such other indenture are secured by wholly separate and distinct parcels of real estate: *Provided*, That the indenture to be qualified may contain a provision excluding from the operation of this paragraph other series under such indenture, another indenture or indentures under which other securities, or certificates of interest or participation in other securities, of such an obligor are outstanding, if (i) the indenture to be qualified and any such other indenture or indentures are wholly unsecured, and such other indenture or indentures are specifically described in the indenture to be qualified or are thereafter qualified under this title, unless the Commission shall have found and declared by order pursuant to subsection (b) of section 305 or subsection (c) of section 307 that differences exist between the provisions of the indenture to be qualified and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures, or (ii) the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under the indenture to be qualified and such other indenture or under more than one outstanding series under a single indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures or series;

"(2) such trustee or any of its directors or executive officers is an underwriter for an obligor upon the indenture securities;

"(3) such trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with an underwriter for an obligor upon the indenture securities;

"(4) such trustee or any of its directors or executive officers is a director, officer, partner, employee, appointee, or representative of an obligor upon the indenture securities, or of an underwriter (other than the trustee itself) for such an obligor who is currently engaged in the business of underwriting, except that (i) one individual may be a director and/or an executive officer of the trustee and a director and/or an executive officer of such obligor, but may not be at the same time an executive officer of both the trustee and of such obligor, (ii) if and so long as the number of directors of the trustee in office is more than 9, one additional individual may be a director and/or an executive officer of the trustee and a director of such obligor, and (iii) such trustee may be designated by any such obligor or by any underwriter for any such obligor, to act in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent, or depositary, or in any other similar capacity, or, subject to the provisions of paragraph (1) of this subsection, to act as trustee, whether under an indenture or otherwise;

"(5) 10 per centum or more of the voting securities of such trustee is beneficially owned either by an obligor upon the indenture securities or by any director, partner, or executive officer thereof, or 20 per centum or more of such voting securities is beneficially owned, collectively by any 2 or more of such persons; or 10 per centum or more of the voting securities of such trustee is beneficially owned either by an underwriter for any such obligor or by any director, partner, or executive officer thereof, or is beneficially owned, collectively, by any 2 or more such persons;

"(6) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, (i) 5 per centum or more of the voting securities, or 10 per centum or more of any other class of security, or an obligor upon the indenture securities, not including indenture securities and securities issued under any other indenture under which such trustee is also trustee, or (ii) 10 per centum or more of any class of security of an underwriter for any such obligor;

"(7) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, 5 per centum or more of the voting securities of any person who, to the knowledge of the trustee, owns 10 per centum or more of the voting securities of, or controls directly or indirectly or is under direct or indirect common control with, an obligor upon the indenture securities;

"(8) such trustee is the beneficial owner of, or holds as the collateral security for an obligation which is in default as hereinafter defined, 10 per centum or more of any class of security of any person who, to the knowledge of the trustee, 50 per centum or more of the voting securities of an obligor upon the indenture securities;

"(9) such trustee owns, on the date of default upon the indenture securities (as such term is defined in such indenture but exclusive of any period of grace or requirement of notice) or any anniversary of such default while such default upon the indenture securities remains outstanding, in the capacity of executor, administrator, testamentary or inter vivos trustee, guardian, committee or conservator, or in any other similar capacity, an aggregate of 25 per centum or more of the voting securities, or of any class of security, of any person, the beneficial ownership of a specified percentage of which would have constituted a conflicting interest under paragraphs (6), (7), or (8) of this paragraph. As to any such securities of which the indenture trustee acquired ownership through becoming executor, administrator or testamentary trustee of an estate which include them, the provisions of the preceding sentence shall not apply for a period of not more than 2 years from the date of such acquisition, to the extent that such securities included in such estate do not exceed 25 per centum of such voting securities or 25 per centum of any such class of security. Promptly after the dates of any such default upon the indenture securities and annually in each succeeding year that the indenture securities remain in default the trustee shall make a check of its holding of such securities in any of the above-mentioned capacities as of such dates. If the obligor upon the indenture securities fails to make payment in full of principal or interest under such indenture when and as the same becomes due and payable, and such failure continues for 30 days thereafter, the trustee shall make a prompt check of its holdings of such securities in any of the above-mentioned capacities as of the date of the expiration of such 30-day period, and after such date, notwithstanding the foregoing provisions of this paragraph, all such securities so held by the trustee, with sole or joint control over such securities vested in it, shall be considered as though beneficially owned by such trustee, for the purposes of paragraphs (6), (7), and (8); or

"(10) except under the circumstances described in paragraphs (1), (3), (4), (5) or (6) of section 311(b) of this title, the trustee shall be or shall become a creditor of the obligor.

"For purposes of this subsection and of section 316(a) of this title, the term 'series of securities' or 'series' means a series, class or group of securities issuable under an indenture pursuant to whose terms holders of one such series may vote to direct the indenture trustee, or otherwise take action pursuant to a vote of such holders, separately from holders of another such series: *Provided*, That 'series of securities' or 'series' shall not include any series of securities issuable under an indenture if all such series are wholly unsecured, unless the Commission shall have found and declared by order pursuant to subsection (b) of section 305 or subsection (c) of section 307 that differences exist between the series under the indenture which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting under one such series.

"The specification of percentages in paragraphs (5) through (9) shall not be construed as indicating that the ownership of such percentages of the securities of a person is or is not necessary or sufficient to constitute direct or indirect control for the purposes of subparagraph (3) or (7).

"For the purposes of paragraphs (6), (7), (8), and (9)—

"(A) the terms 'security' and 'securities' shall include only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay moneys lent to a person by one or more banks, trust companies, or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness;

"(B) an obligation shall be deemed to be in default when a default in payment of principal shall have continued for 30 days or more, and shall not have been cured; and

"(C) the indenture trustee shall not be deemed the owner or holder of (i) any security which it holds as collateral security (as trustee or otherwise) for any obligation which is not in default as above defined, or (ii) any security which it holds as collateral security under the indenture to be qualified, irrespective of any default thereunder, or (iii) any security which it holds as agent for collection, or as custodian, escrow agent or depositary, or in any similar representative capacity.

"For the purposes of this subsection, the term 'underwriter' when used with reference to an obligor upon the indenture securities means every person who, within 1 year prior to the time as of which the determination is made, was an underwriter of any security of such obligor outstanding at the time of the determination.

"Except in the case of a default in the payment of the principal of or interest on any indenture security, or in the payment of any sinking or purchase fund installment, the indenture trustee shall not be required to resign as provided by this subsection if such trustee shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that (A) the default under the indenture may be cured or waived during the period and under the procedures described in such application, and (B) a stay of the trustee's duty to resign will not be inconsistent with the interests of holders of the indenture securities.

"Any resignation of an indenture trustee shall become effective only upon the appointment of a successor trustee and such successors's acceptance of such an appointment.".

SEC. 9. Section 311(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77kkk(a)) is amended—

(1) by striking "the indenture to be qualified shall provide that";

(2) by striking "four" in all references to "four months" or "four months' " and inserting "3" in lieu thereof; and

(3) by adding the following at the end of the subsection:

"In any case commenced under the Bankruptcy Act of July 1, 1898, or any amendment thereto enacted prior to November 6, 1978, all references to periods of 3 months shall be deemed to be references to periods of 4 months.".

SEC. 10. Section 312 of the Trust Indenture Act of 1939 (15 U.S.C. 77lll) is amended—

(1) in subsection (a), by striking "The indenture to be qualified shall contain provisions requiring each obligor upon the indenture securities to" and inserting in lieu thereof "Each obligor upon indenture securities shall"; and

(2) in subsection (b), by striking "The indenture to be qualified shall also contain provisions requiring that, within" and inserting in lieu thereof "Within".

SEC. 11. Section 313(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77mmm(a)) is amended—

(1) by striking "The indenture to be qualified shall contain provisions requiring the indenture trustee to" and inserting in lieu thereof "The indenture trustee shall";

(2) by inserting "any of the following events which may have occurred within the previous 12 months; if no such event has occurred within such period no report need be filed;" after "a brief report with respect to";

(3) by inserting at the beginning of paragraphs (1), (3) and (4) "any change to"; and

(4) by striking from paragraph (1) ", or in lieu thereof, if to the best of its knowledge it has continued to be eligible and qualified under such section, a written statement to such effect".

SEC. 12. Section 313 of the Trust Indenture Act of 1939 (15 U.S.C. 77mmm) is amended—

(1) in subsection (b), by striking "The indenture to be qualified shall also contain provisions requiring the indenture trustee to" and inserting in lieu thereof "The indenture trustee shall"; and

(2) in subsection (c), by striking "The indenture to be qualified shall also provide that reports" and inserting in lieu thereof "Reports"; and

(3) in subsection (d), by striking "The indenture to be qualified shall also provide that a copy" and inserting in lieu thereof "A copy".

SEC. 13. Section 314 of the Trust Indenture Act of 1939 (15 U.S.C. 77nnn) is amended—

(1) in subsection (a)—

(A) by striking "The indenture to be qualified shall contain provisions requiring each" and inserting in lieu thereof "Each";

(B) by inserting "shall" after "thereby";

(C) by striking "to" at the beginning of paragraphs (1), (2), and (3);

(D) by striking "and" at the end of paragraph (2);

(E) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(F) by inserting at the end of paragraph (3) the following new paragraph:

"(4) file with the indenture trustee, at stated intervals of not more than 12 months, a brief certificate from two officers of such obligor as to their knowledge of such obligor's compliance with all conditions and covenants under the indenture. For purposes of this subsection, such compliance shall be determined without regard to any period of grace or requirement of notice provided under the indenture.";

(2) in subsection (b)—

(A) by striking "such indenture shall contain provisions requiring"; and

(B) by striking "to furnish" and inserting in lieu thereof "shall furnish";

(3) in subsection (c)—

(A) by striking "The indenture to be qualified shall contain provisions requiring the obligor" and inserting in lieu thereof "The obligor"; and

(B) by striking "to furnish" and inserting in lieu thereof "shall furnish";

(4) in subsection (d)—

(A) by striking "such indenture shall contain provisions" and inserting in lieu thereof "the obligor upon the indenture securities shall furnish to the indenture trustee a certificate or opinion of an engineer, appraiser, or other expert as to the fair value"; and

(B) by striking "requiring the obligor upon the indenture securities to furnish to the indenture trustee a certificate or opinion of an engineer, appraiser or other expert as to the fair value" from paragraphs (1), (2), and (3).

SEC. 14. Section 315 of the Trust Indenture Act of 1939 (15 U.S.C. 77ooo) is amended—

(1) in subsection (a), by striking "such indenture shall contain provisions requiring the indenture trustee to examine" and inserting in lieu thereof "the indenture trustee shall examine";

(2) in subsection (b), by striking "The indenture to be qualified shall contain provisions requiring the indenture trustee to" and inserting in lieu thereof "The indenture trustee shall"; and

(3) in subsection (c), by striking "The indenture to be qualified shall contain provisions requiring the indenture trustee to" and inserting in lieu thereof "The indenture trustee shall".

SEC. 15. Section 316 of the Trust Indenture Act of 1939 (15 U.S.C. 77ppp) is amended—

(1) in paragraphs (1) and (2) of subsection (a), by inserting "or of the series of securities" after "principal amount of the indenture securities";

(2) in subsection (b), by striking "The indenture to be qualified shall provide that, notwithstanding any other provision thereof," and inserting in lieu thereof "Notwithstanding any other provision thereof, the indenture shall provide that"; and

(3) by adding at the end the following new subsection:

"(c) The obligor upon any indenture qualified under this title may set a record date for purposes of determining the identity of indenture security holders entitled to vote or consent to any action by vote or consent authorized or permitted by subsection (a) of this section. Unless the indenture provides otherwise, such record date shall be the later of not more than 30 days prior to the first solicitation of such consent or the date of the most recent list of holders furnished to the trustee pursuant to section 312 of this title prior to such solicitation.".

SEC. 16. Section 317 of the Trust Indenture Act of 1939 (15 U.S.C. 77qqq) is amended—

(1) in subsection (a), by striking "to be qualified shall contain provisions" and inserting in lieu thereof "trustee shall be authorized";

(2) by striking "authorizing the indenture trustee" in paragraphs (1) and (2) of subsection (a); and

(3) in subsection (b), by striking "The indenture to be qualified shall provide that each" and inserting in lieu thereof "Each".

SEC. 17. Section 318 of the Trust indenture Act of 1939 (15 U.S.C. 77rrr) is amended—

(1) by striking subsection (a) and inserting in lieu thereof the following:

"(a) If any provision of the indenture to be qualified limits, qualifies, or conflicts with the duties imposed by operation of subsection (c) of this section, the imposed duties shall control."; and

(2) by adding at the end the following new subsections:

"(c) Those provisions of sections 310 through 317, inclusive, that impose duties upon any person are a part of and govern every qualified indenture, whether or not they are physically contained therein. Those provisions of sections 310 through 317, inclusive, that may be included at the option of the obligor are not a part of such an indenture unless they are specifically included.

"(d) The provisions of this title shall be deemed to apply to any indenture heretofore or hereafter qualified under this title.".

SEC. 18. Section 322(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77vvv(b)) is amended by inserting "or duty" after "any liability".

SECTION-BY-SECTION ANALYSIS

Section 1. Section 1 contains the Act's title.

Section 2. The amendment adds a new reference to section 305 in paragraph (8) of section 303, a change necessitated by new procedures for qualification of indentures after the effective date of the related Securities Act registration statement.

Section 3. The Act extends the Commission's exemptive power through amendments to section 304(d), which in its present form is limited to exemptions by order for debt offerings of foreign persons. New section 304(d) permits the Commission to waive or modify the statutory requirements where their application would be unnecessary or inappropriate for the protection of investors. The Commission will be able to adapt the statutory requirements to particular situations and developing market conditions under standards that look to the statute's fundamental purposes. Changes in the types of debt securities, in the methods of public financing and in the character of relations between obligors and their financial intermediaries have produced situations where the exact demands of the law's requirements do not serve its own intent and are incompatible with reasonable business terms. Under present law, the Commission is unable to provide relief. General exemptive authority is a necessary complement to the self-executing inclusion of mandatory indenture terms effected through new section 318(c). Without such authority in the Commission, needless costs and restrictions may be imposed without corresponding public benefit.

The amendment allows the Commission to grant an exemption from any provisions to any person, security or transaction or any class or classes hereof. Exemptions may be granted in full or in part and with or without such conditions as the Commission may require. Both exemptive rules and orders are contemplated. The Commission will be required to adopt rules prescribing procedures for grants of exemption. Such rules would be designed to expedite the exemptive process without imposing undue burdens on the Commission. The new subsection also vests in the Commission discretion to decline to entertain any application for exemption, a decision that would not be subject to judicial review.

Section 3 also deletes a qualification from section 304(a)(4)(A) that misleadingly suggests a limitation on Trust Indenture Act exemptions related to enumerated exemptions from section 3(a) of the Securities Act.

Sections 4 and 5. These sections allow for qualification of indentures in registered debt offerings after the effectiveness of the Securities Act registration statement covering the offering. Under present law, effectiveness of qualification is coordinated with that of the registration statement, a procedure based on the premise that all indenture terms would be fixed at the time of the registration's effectiveness. While this premise conformed to the administrative and financial customs extant in 1939, it has become obsolete because of delayed or continuous offerings now permitted under Securities Act rule 415. The indentures used in such offerings frequently do not specify business terms with significance under the Trust Indenture Act until the actual sale of the securities at some date later than the effective date. Post-effective qualification may be appropriate in delayed offerings and in offerings where debt securities must be included on a registration statement but may never be issued, as is the case with preferred stock exchangable into debt at the issuer's election. Post-effective procedures also would be a useful mechanism in conjunction with section 304(d) applications for exemptive orders where variation from the Act's requirements would be appropriate.

Section 6. Section 6 gives the Commission the power to permit certain foreign persons to act as sole trustee under the indenture of a foreign obligor. The section will allow for trusteeships by business organizations that are not in corporate form, but are not natural persons.

The conditions for availability will be substantial equivalence of trust powers and regulation to the powers and regulation of institutional trustees in the United States, and reciprocal treatment of United States trustees. Trustees not meeting these standards would be required to seek permission to serve under amended section 304(d).

The Commission's authority under section 6 may be exercised by rule or order. Rulemaking authority will permit the Commission to exempt trustees of an entire jurisdiction upon a finding of comparability of trust powers and regulation of such jurisdiction's system and reciprocity.

Section 7. Section 7 relocates the proscription of an obligor's or its affiliate's serving as trustee under its own indenture. The change as necessitated by the amendment to section 310(b), generally making conflicts of interest irrelevant to a trustee's eligibility prior to default. An obligor should not serve as its own trustee under any circumstances.

Section 8. Significant changes to section 310(b) are effected by section 8. Most notably, the amendment will permit a trustee to serve under a qualified indenture so long as there is no default under the indenture. The technical conflicts currently described in section 310(b) furnish no incentive to a trustee to act against the interests of indenture security holders so long as no default exists. Prior to default, the indenture trustee's duties are ministerial, involving no substantial exercise of discretion on behalf of indenture security holders. In contrast, at the time of default, the indenture trustee is transformed into an active party representiang the indenture security holders, so that insistence on strict standards of independence is ordinarily necessary.

"Default" for purposes of this amendment means default as defined within the indenture. Periods of grace and requirements of notice, however, must be disregarded for purpose of the conflicts standard in order to prevent avoidance of the disqualification standard through definitions in the indenture.

As further assurance of the trustee's independence after default, the amendment adds new paragraph (10) to section 310(b) to define creditor status as a proscribed conflict. Lending relationships between trustee banks and obligors are conventional and, prior to default, involve little possibility of prejudice to the interests of holders under an indenture. Although present law does not prohibit a trustee that lends to an obligor from serving under a qualified indenture at any time, such trustees almost invariably will resign after a material default, in acknowledgement of the conflict of interest that the lending relationship entails.

New section 310(b)(10) recognizes this reality. The amendment makes exceptions to the disqualification of creditors in the situations described in paragraphs (1), (3), (4), (5) and (6) of section 311. These exceptions generally allow for incidental creditor relations, such as debt acquired through the trustee's ownership of the obligor's debt securities or incurred through rented property, which ordinarily do not involve opportunity for material conflict with the interests of indenture security holders.

The amendment to section 310(b)(1) codifies an interpretative position concerning the possibility of conflict to a trustee serving under several series of a single indenture. Contemporary forms of indenture often allow for significant differences between separate series under a single indenture. The definition of series at the end of the subsection will generally confine application of the position to series with separate voting rights, and, consistent with section 310(b)(1)(i), will create no conflict between series that are wholly unsecured and rank pari passu.

Section 310(b) (2) and (3) are modified to delete reference to obligors. The prohibition of an obligor's acting as trustee on its own indenture is now covered by new section 310(a)(5), which applies before and after default. The definition of "underwriter" for 310(b) purposes has been changed to reduce the relevant period from three years to one year. Section 310(b)(9) is amended to relate the present check of holdings of the obligor's securities in other fiduciary capacities to the date of default and anniversaries thereof while the indenture securities remain in default.

A new provision has been added to the subsection to create a procedure under which the trustee's duty to resign may be stayed in certain cases. The mechanism is intended to prevent unnecessary resignation in the event of a curable technical default. The provision concerning effectiveness of trustee's resignations is relocated and modified to apply to all resignations, rather than compelled resignations, to prevent abandonment of a trusteeship in anticipation of an obligor's default.

The subsection has been changed to substitute direct statutory commands for the directives to include required provisions within the indenture. This conforms to the operation of new subsection 318(c). Statements such as "the indenture shall provide," which would suggest the necessity to include required terms in the text of qualified indentures, have been eliminated.

Section 9. In addition to the change to statutory commands, the amendment changes the period for preferential collections from four months to make the Trust Indenture Act consonant with the Bankruptcy Reform Act of 1978. The four-month period is preserved for actions commenced under prior law.

Section 10. Section 10 amends section 312 to impose duties by statutory command.

Sections 11 and 12. The amendment eliminates the requirement for a trustee to report on its eligibility and other matters where no change in eligibility or other specified event has occurred. Present law requires the report annually. The change to statutory command is also made.

Section 13. In addition to the change to statutory commands, section 314 is amended to require an annual no-default certification from the obligor. Periods of grace and notice again will be disregarded for this purpose.

Section 314(d) is also amended to eliminate repetition.

Section 14. This makes the editorial change to section 315, imposing duties by statutory command.

Section 15. In addition to the editorial change, section 15 applies section 316's requirements on voting procedures to separately voting series covered by section 310(b)(1). New subsection (c) authorizes an obligor to set a record date for solicitations of votes or consents, a technical addition that will alleviate considerably administrative problems in the conduct of such solicitations. The reference to votes or consents permitted by section 316(a) is intended to exclude any inference that the record date procedure is available only when section 316(a) specifically describes the action under consideration. As a result, the record date procedure may be used for any vote, so long as the action is not forbidden by the statute.

Section 16. This section makes the editorial change to section 317, consistent with section 14.

Section 17. Section 318(a) is amended editorially. New section 318(c) is the operative provision for self-executing inclusion of mandatory indenture terms. The new subsection will eliminate the necessity of reciting the required terms within qualified indentures. The second sentence is intended to make it clear that optional provisions permitted by sections 310 to 317 are not part of a qualified indenture unless actually included.

New section 318(d) makes the Act's benefits available to indentures qualified under existing procedures. Because of the terms of existing section 318(b), the Act will not prevent future indentures from prescribing higher standards of independence or conduct.

Section 18. The addition clarifies the status of prescribed indenture provisions as federal questions. Jurisdiction is concurrent in federal and state courts to preserve a plaintiff's right to select a forum.

MEMORANDUM OF THE SECURITIES AND EXCHANGE COMMISSION IN SUPPORT OF THE TRUST INDENTURE REFORM ACT OF 1987

A. INTRODUCTION

The Trust Indenture Act of 1939 (the "Act") regulates the public issuance of debt securities and the relationships among the security holders, the indenture trustee and the obligor. Since the Act's adoption, there have been significant changes in the markets, with respect to both the types of debt securities offered to the public and the techniques for their sale. As a result, aspects of the Act have become administratively or substantively obsolete. The attached legislative proposal would modernize the Act and ensure its future adaptability to market developments, while continuing to mandate necessary protections for debt holders.

B. THE COMMISSION'S PROPOSALS

Both substantive and procedural amendments for qualification of indentures under the Act are included in the proposals. Qualification of indentures would be simplified by statutorily mandating standards of behavior. Procedures under the Act would be conformed to current practices under the Securities Act of 1933 (the "Securities Act"), principally shelf registration. The Securities and Exchange Commission (the "Commission") would be given general exemptive power to permit adaptation of the Act's requirements to particular transactions and circumstances while maintaining the Act's fundamental purposes. The indenture trustee's eligibility would no longer turn on conflicts of interest prior to default. Trusteeships by foreign institutional trustees would be permitted if trust powers and regulation or supervision are comparable to those in this country and reciprocal treatment is provided for United States trustees under foreign law. Preferential collection periods would be conformed to those under the Bankruptcy Code. Unnecessary administrative procedures and reports would be eliminated.

1. QUALIFICATION PROCEDURES

The Act currently protects holders of publicly issued debt by requiring that, to be qualified by the Commission, the trust indenture governing the relations among the obligor, trustee and debt holders must contain provisions required by the Act and may not contain other terms denying or qualifying rights conferred and duties imposed by the required terms. Under this indirect technique of mandating standards of conduct, non-conforming indentures must be uncovered by the Commission's review staff before qualification.[1]

The legislation would guarantee that every indenture conforms to the statutory requirements, while eliminating the need to use the Commission's staff resources for this purpose. It would substitute direct statutory commands for the directives to include required provisions contained in sections 310 to 317 of the Act within the indenture. Moreover, new section 318(c) would automatically incorporate those statutorily prescribed duties into every qualified indenture. This would preserve debt holders' right to sue for breach of contract, as well as their federal right of action for enforcement of indenture terms required by the Act,[2] which is clarified by the amendment to section 322, the Act's jurisdictional provision.

The legislation also would amend the Act's procedural provisions for qualification. Under section 305, qualification of registered debt offerings operates in direct coordination with the registration process under the Securities Act. If the indenture or trustee fails to meet the Act's standards, the Commission is required to refuse to permit a registration statement to become effective. Because of developments in registration techniques, most notably shelf registration, there are now circumstances in which post-effective qualification would be more appropriate. Since the adoption of rule 415 under the Securities Act in 1982, significant terms of debt sold in delayed offerings may not be determined at the effective date and may be changed after effectiveness. Moreover, the ultimate issuance of securities included in a registration statement may not be certain. The legislation would permit post-effective qualification in such circumstances. Because of the proposed mandated requirements replacing reliance on contract terms and the proposed post-default conflict terms, post-effective qualification will not interfere with effective administration of the Act.

2. EXEMPTIVE AUTHORITY

The amendments will confer more general exemptive authority on the Commission. Under the Act in its present form, the Commission's exemptive powers are very narrow. Exemptions may be ordered for securities outstanding on January 1, 1959, and for securities of foreign issuers, but only after application, notice and opportunity for hearing. Exemptions by rule are limited to the securities of small business investment companies. The legislation would retain the Commission's existing exemptive authority and would extend such authority to permit the Commission to exempt any person, security, transaction, or classes thereof from any or all of the Act's requirements under standards of the Act's essential purposes. Exemptions could be granted by rule or by order.

The Act's present limits on the Commission's exemptive authority inhibit the Commission's ability to adapt the Act's requirements to securities and financing techniques unknown in 1939 but familiar to today's public markets, such as collateralized mortgage obligations ("CMOs"). In many such cases, the Act's uniform command to include the provisions of sections 310 to 318 may require indenture terms that are incompatible with reasonable business needs and do not serve the Act's purposes.

CMO offerings, to illustrate, are often secured by pools of fungible, high quality securities. In such cases, the elaborate verification procedures of section 314(d) of the Act, requiring expert statements of value prior to the release or substitution of collateral, may not be necessary. Nevertheless, the Commission cannot permit variation from mandatory terms. With general exemptive authority, the Commission would be able to adapt the Act's provisions to the changing needs of the market.

3. CONFLICTS OF INTEREST

The legislation will amend subsection 310(b), governing trustee's conflicts of interest, in several significant respects. In its present form, if any of the relationships described in the subsection arises at any time, the indenture trustee must remove the conflict or resign its office within 90 days. However, a trustee's duties under the indenture prior to default are ministerial. Thus, the Act's absolute standard of independence is unnecessary while no default exists under the indenture.

The current pre-default conflicts standard severely restricts other business activities of trustees. For example, the Act does not permit a trustee or its affiliates to serve as underwriter of securities issued by the obligor. The Act's broad definition of "underwriter" prohibits such activities even in offerings made exclusively overseas, where no registration is required under the Securities Act. With recent increases in the participation by affiliates of national banks in Euromarket offerings, the Act's restrictions on underwriting activities have become increasingly problematic. The proposed amendment will remove this and other restrictions on trustee's pre-default conduct by making the event of default the time at which conflicts defined by subsection 310(b) become disabling relationships. Grace and notice provisions within the indenture will be disregarded for purposes of this determination.

The amendment also will shorten the disabling period for underwriting activities from three years to one year. Given increasing competition among investment and commercial banks in recent years, the assumption underlying the three-year prohibition, that an underwriter has a long-standing and close relationship with the obligor, no longer holds true.

The proposal also will add creditor status to the list of prohibited conflicts. Since most institutional trustees are commercial banks, a creditor relationship with the obligor is a normal occurrence. Nonetheless, a trustee that is also a creditor of the obligor may hold interests adverse to those of holders under the indenture. Prior to default, there is no apparent significance to the conflict. At the time of default, institutional trustees that are creditors routinely resign their offices, even though not compelled by the Act, because they can no longer represent fairly both the claims of holders under the indenture and their own claims. Because not all creditor relations suggest the same possibilities for conflict with holders under the identure, exceptions are provided for incidental creditor relationships that provide no significant incentive for preference of a trustee's position over that of indenture securities holders.

The proposal includes a procedure under which a trustee holding a 310(b) conflict may apply to the Commission for permission to continue to serve more than 90 days after default. Transient, technical failures of compliance may not justify the expense and inconvenience of the trustee's compelled resignation. The proposed procedures for application to the Commission would prevent unnecessary resignations for curable technical defaults. An order permitting continued service would be available only for events of default not involving failures of payment and would require, after notice and opportunity for hearing, showings that the default may be cured or waived and that the trustee's continued service would not be prejudicial to holders under the indenture.

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[1] Section 309 (b) and (e) prevent the Commission from correcting failures in the qualification process or enforcing indenture terms after the effectiveness of qualification.

[2] *Zeffiro* v. *First Pennsylvania Banking and Trust Co.*, 623 F.2d 290 (3rd Cir. 1980), cert. denied, 456 U.S. 1005 (1982); *Morris* v. *Cantor*, 390 F. Supp. 817 (S.D.N.Y. 1975).

The proposal alters slightly the Act's provisions on the effectiveness of an indenture trustee's resignation so that it applies to any such resignation and not only those compelled by the Act. The amendment will prevent the possibility of an orphaned trust resulting from a voluntary resignation in anticipation of the obligor's default.

The legislation would codify an interpretative position of the Commission's Division of Corporation Finance recognizing the possibility of conflicts of interest within a single indenture. The substantive rights of debt holders may differ as significantly between series as those under more than one indenture. These differences carry with them the possibilities of inconsistent direction to the trustee from holders under different series and of the trustee's preference of one set of holders against another. As defined, a series exists under an indenture only if holders of one series may vote to direct the trustee independently from holders of other series under the indenture. Consistent with treatment currently provided by the Act with respect to debt issued under multiple indentures with the same trustee, this conflict will generally have no application if all series are wholly unsecured and rank pari passu.

4. FOREIGN TRUSTEES

Given the continuing growth in the internationalization of the securities markets, the legislation would permit foreign persons to act as sole trustee of qualified indentures in certain circumstances. This would ease the entry of the debt of foreign obligors into domestic markets. Subsection 310(a)(1) as amended would permit the Commission to allow, by rule or order, foreign institutional trustees to act as sole trustee under qualified indentures provided that the trust powers and regulation are substantially equivalent to those applicable in the United States and that there is reciprocal treatment of United States trustees under the laws of the relevant foreign jurisdiction. Persons not meeting these standards would be able to serve only if authorized by exemptive rule or order of the Commission under section 304(d).

5. TECHNICAL CHANGES

Five technical changes will be effected by the amendment. Section 311 is changed throughout to make reference to the three-month period for preferential collection provided by title 11 of the United States Code, as amended in 1978. An addition to subsection 314(a) will require an obligor to certify the absence of defaults to the indenture trustee at least annually. Because of the importance of this matter to the trustee's eligibility under amended subsection 310(b), disqualifying a trustee with conflicts of interest at the time of default, the need for a fixed mechanism to inform the trustee from time to time seems clear. Subsection 313(a) has been amended so that the trustee's report concerning its eligibility will not be required on an annual basis. Reports will be required of the trustee only if any change to its status or any other event described in the subsection has occurred. New section 316(c) will facilitate solicitations of consents from indenture security holders. Because much publicly-held debt is registered to depositories under current practices, identification of beneficial owners at any time is difficult in itself and further complicated if, as is frequently true, the indenture does not provide a record date mechanism. Identification will be eased and consent solicitations encouraged by such a mechanism within the Act itself. Finally, new section 318(d) will make the benefits of the Act automatically applicable to already qualified indentures. Higher standards of conduct or independence will not be precluded in future indentures because of the operation of present section 318(b).

C. CONCLUSION

Enactment of the Trust Indenture Reform Act of 1987 would substantially improve the effectiveness and administation of the Act while maintaining fully the fundamental purposes of the public interest and protection of investors intended in its original adoption. For these reasons and the reasons described above, the Commission strongly urges that the Congress enact the Trust Indenture Reform Act of 1987.

Mr. GARN. Mr. President, at the request of the Securities and Exchange Commission I am today introducing, along with Senator PROXMIRE, the Trust Indenture Reform Act of 1988. This legislation would amend the Trust Indenture Act of 1939 and is intended to improve the effectiveness and administration of the act while maintaining the fundamental purposes of the public interest and protection of investors intended in its original adoption.

By Mr. BENTSEN:

S. 2567. A bill to suspend temporarily the duty on furniture of unspun fibrous vegetable materials; to the Committee on Finance.

DUTY SUSPENSION OF CERTAIN FURNITURE

Mr. BENTSEN. Mr. President, today I introduce a bill to suspend import duties on rattan, wicker, and buri furniture for 5 years.

Over 200 million dollars' worth of rattan, wicker, and buri furniture was imported in 1987. Although the current rate of duty on rattan, wicker, and buri furniture for most-favored-nation status nations is 9.6 percent, until recently much of this furniture was imported duty-free, since it has been exported primarily from developing countries that qualify for duty-free treatment under the Generalized System of Preferences. However, GSP benefits for rattan, wicker, and buri furniture imported from Taiwan, one of the primary exporters, terminated in July 1987, and GSP benefits for furniture exported from Hong Kong will terminate next year. Thus, unless the bill is enacted and duties are temporarily suspended, U.S. importers and sellers of this furniture will face a significant increase in their costs.

There seems to be no significant U.S. production of furniture that competes directly with the products that would be covered by this bill. Thus, the bill should have no adverse impact on domestic industry, and I believe that the bill will be noncontroversial.

In sum, Mr. President, I believe that this legislation is needed and noncontroversial, and I urge my colleagues to support it. I ask unanimous consent that a copy of the bill be printed following my remarks.

There being no objection, the bill was ordered to be printed on the RECORD, as follows:

S. 2567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN FURNITURE.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new item:

"1921.25	Furniture of unspun fibrous vegetable materials (provided for in item 727.11, 727.13, or 727.14, per 4A, schedule 7).	Free	No change ...	On or before 12/31/93".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

ADDITIONAL COSPONSORS

S. 684

At the request of Mr. HEINZ, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 684, a bill to amend the Internal Revenue Code of 1986 to make permanent the targeted jobs credit.

S. 1600

At the request of Mr. FORD, the name of the Senator from Nebraska [Mr. KARNES] was added as a cosponsor of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1738

At the request of Mr. WILSON, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 1738, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 1817

At the request of Mr. KENNEDY, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from U.S. savings bonds which are transferred to an educational institution as payment for tuition and fees.

S. 2120

At the request of Mr. MATSUNAGA, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2120, to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either.

S. 2221

At the request of Mr. MCCAIN, the name of the Senator from Massachusetts [Mr. KERRY] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 2221, a bill to expand our national telecommunications system for the benefit of the hearing-impaired, and for other purposes.

S. 2284

At the request of Mr. METZENBAUM, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2284, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide for a moratorium on reversions to employers of assets of terminated pension plans and to establish as a fiduciary duty that assets of such plans which would otherwise revert to the employer but for the moratorium must be maintained in trust until the end of the moratorium.

S. 2348

At the request of Mr. PRYOR, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2348, a bill to amend title 31, United States Code, to permit the Comptroller General of the United States to review and decide protests of Federal Government employees relating to converting to contractor performance certain functions performed by such employees.

S. 2477

At the request of Ms. MIKULSKI, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2477, a bill to amend the Public Health Service Act to modify the authority for the regulation of clinical laboratories to require licensed laboratories to qualify under proficiency testing programs, and for other purposes.

S. 2478

At the request of Mr. FORD, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2478, a bill to provide for a 2-year Federal budget cycle, and for other purposes.

S. 2484

At the request of Mr. DANFORTH, the names of the Senator from Nevada [Mr. HECHT] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 2484, a bill to amend the Internal Revenue Code of 1986 to enhance the incentive for increasing research activities.

SENATE JOINT RESOLUTION 248

At the request of Mr. QUAYLE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 248, a joint resolution to designate the week of October 2, 1988, through October 8, 1988, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 342

At the request of Mr. MOYNIHAN, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of Senate Joint Resolution 342, a joint resolution to designate the week of November 28 through December 5, 1988, as "National Book Week."

SENATE RESOLUTION 408

At the request of Mr. MITCHELL, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Arkansas [Mr. PRYOR], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Resolution 408, a resolution to condemn the use of chemical weapons by Iraq and urge the President to continue applying diplomatic pressure to prevent their further use, and urge the administration to step up efforts to achieve an international ban on chemical weapons.

SENATE RESOLUTION 432

At the request of Mr. MOYNIHAN, the names of the Senator from Florida [Mr. CHILES], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Maine [Mr. MITCHELL], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Resolution 432, a resolution to honor Eugene O'Neill for his priceless contribution to the canon of American literature in this the 100th anniversary year of his birth.

AMENDMENTS SUBMITTED

PLANT CLOSING LEGISLATION

QUAYLE AMENDMENT NO. 2430

Mr. QUAYLE proposed an amendment, which was subsequently modified, to the bill (S. 2527) to require advance notification of plant closing and mass layoffs, and for other purposes; as follows:

At the end of the bill insert the following new section:

"SEC. 11. SEVERANCE PAY IN LIEU OF NOTICE—A NON-KILLER AMENDMENT.

"Notwithstanding any other provision of this Act, it shall be a complete defense to any action by or on behalf an employee for violation of the notice requirements of this Act that the employer has, within three weeks of the shutdown or layoff, paid to the employee who was not provided the requisite notice an amount equal to the employee's compensation as computed under section 5(a)(1)(A) multiplied by the number of days that the requisite notice was not given and has maintained the employee's benefits under any employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 for such period."

THURMOND AMENDMENT NO. 2431

Mr. THURMOND (for himself, Mr. HATCH, Mr. SYMMS, Mr. WILSON, and Mr. NICKLES) proposed an amendment to the bill, supra; as follows:

On page 12, after line 13, insert:

SECTION 1. DEFINITION OF EXTORTION UNDER HOBBS ACT.

Paragraph (2) of section 1951(b) of title 18, United States Code, (commonly known as the "Hobbs Act") is amended to read as follows:

"(2)(A) The term 'extortion' means the obtaining of property of another—

"(i) by threatening or placing another person in fear that any person will be subjected to bodily injury or kidnapping or that any property will be damaged; or

"(ii) under color of official right.

"(B) In a prosecution under subparagraph (A)(i) in which the threat or fear is based on conduct by an agent or member of a labor organization consisting of an act of bodily injury to a person or damage to property, the pendence, at the time of such conduct, of labor dispute (as defined in section 2(9) of the National Labor Relations Act (29 U.S.C. 152(9))) the outcome of which could result in the obtaining of employment benefits by the actor, does not constitute prima facie evidence that property was obtained 'by' such conduct.".

TREASURY, POST OFFICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATION ACT, FISCAL YEAR 1989

MIKULSKI (AND OTHERS) AMENDMENT NO. 2432

Ms. MIKULSKI (for herself, Mr. GLENN, and Mr. NUNN) proposed an amendment to the bill (H.R. 4775) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1989, and for other purposes; as follows:

On page 90, delete lines 12 through 19.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that the location of the July 1 hearing before the Subcommittee on Public Lands, National Parks and Forests on

S. 1967, the Tallgrass Prairie Preserve legislation, has been changed. The hearing will be held at the Agricultural Exhibition Building at the Osage County Fairgrounds Complex, Pawhuska, OK.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Commerce and Tourism, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 24, 1988, to conduct a hearing on the effect of Japanese patent policy on American businesses.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to hold a hearing on Friday, June 24, on the following nominations: Susan E. Alvarado, to Governor of the U.S. Postal Service; Tirso Del Junco, to Governor of the U.S. Postal Service; Hugh Hewitt, to be Deputy Director of the Office of Personnel Management; Roger W. Mehle, to be member of the Federal Retirement Thrift Investment Board; and Richard H. Headlee, to be member of the Federal Retirement Thrift Investment Board. For further information, please call Len Weiss, staff director, at 224-4751.

The PRESIDING OFFICER. Without objection, it is ordered.

SPECIAL COMMITTEE ON AGING

Mr. BYRD. Mr. President, I ask unanimous consent that the Special Committee on Aging, be authorized to meet during the session of the Senate on Friday, June 24, 1988, to hold a hearing on the EEOC's performance in enforcing the Age Discrimination in Employment Act.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, June 24, to hold a hearing on United States policy options toward South Africa.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, June 24, 1988, in open session to consider the nominations of Charles S. Whitehouse to be Assistant Secretary of Defense for Special Operations and Low Intensity Conflict and David S.C. Chu, to Assistant Secretary of Defense for Program Analysis and Evaluation.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Friday, June 24, 1988, to mark up S. 1729, the Rural Economy Act of 1987.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

A PUBLIC CITIZEN'S GIFT TO CHILDREN

● Mr. DODD. Mr. President, I rise today to thank the distinguished actor and public citizen Paul Newman, on behalf of children and parents across America, for his singular gift to kids whose bodies are infirm but whose yearning for fun and frolic is strong: The Hole in the Wall Gang Camp, a summer camp for sick children that opens for its first season on June 26.

When kids arrive at the 300-acre camp, located in the Connecticut towns of Ashford and Eastford, they will be greeted by the happy sights and sounds and smells of summer in the country—a respite from the too somber worlds of hospitals and doctors' offices. They will be able to canoe, swim, go fishing, and play tennis; they will gather around the flagpole in the morning and listen to tall tales around the campfire at night; they will eat camp food and put on camp shows. Mostly, they will do what all children—well and ailing alike—do best: they will play. They will loose the bounds of illness and be just what they are: kids.

Children will arrive at the Hole in the Wall Gang Camp from around the country, and they will stay there without charge—largely through the vision and generosity of Mr. Newman, a constituent of mine and a valued friend. The physical condition of campers will hardly be ignored; the camp is equipped with a state-of-the-art medical facility. But dealing with illness, though necessary, is not the first order of camp business; higher on the agenda are discovery and comradeship, laughter and cooperation.

Mr. Newman was drawn to the idea of a camp for sick children several years ago, when he saw how debilitating it is for kids to fight a serious illness, and how much they need a retreat designed especially for them. It took an unusual combination of determination and modesty for this man so much in the public eye to stay behind the scenes during the last 2 years as he brought his dream to fruition. I have been honored to serve on the camp's board of directors in that period and to play a small part in the realization of that dream.

What Mr. Newman wanted to create was a camp that had the look and feel of an authentic turn of the century summer camp. He succeeded. The cabins are built of hand peeled Canadian white pine logs. Deer graze nearby; flocks of geese fly overhead in the mornings. The complex was designed with the help of dean Thomas Beeby of the Yale School of Architecture.

The extensive facilities, the dedicated and professional staff, the distinguished roster of sponsors, and the enthusiasm of children and parents who have seen or read about the Hole in the Wall Gang Camp all testify to this good man's convictions, his commitment to kids in need of an old-fashioned good time.

Paul Newman is no newcomer to the business of lending a helping hand. For years he has visited hospitalized sick kids. Since 1982 he has donated a staggering $15 million to charity. He is one of the best friends a sick child could ever have.

Mr. President, as the Hole in the Wall Gang Camp opens, I commend Mr. Newman for his generosity and vision. And I know my colleagues join me in wishing the campers, counselors, and staff a fun and rewarding summer, and many more summers to come.●

NATIONAL RECOGNITION OF THE ACCOMPLISHMENTS OF WOMEN IN THE WORK FORCE WEEK

● Mr. HEINZ. Mr. President, this is National Recognition of the Accomplishments of Women in the Work Force Week, June 19-25. It is also a time for reflecting on how much our country has changed.

Many of us in this Chamber remember the wartime posters of Rosie the Riveter. Rosie in her overalls and peaked hat was the working woman of the 1940's, America's frontline of defense in factories from Boston to Pittsburgh to Los Angeles. This Nation needed Rosie on the job, and she willingly put aside rolling pin and diaper pin to do her share. Then, with peace restored, thousands of Rosies returned home.

Forty years later, women once again stand in assembly lines, at classroom chalk boards, in courtrooms and boardrooms in great numbers. More than half of women of working age held jobs in 1988 to make up fully 45 percent of the American work force. Many among this new generation of workers actively elect a career out of the home. But many others work not to win a war—or build a résumé—but simply to make ends meet for their families.

A constituent of mine in Harrisburg summarized the dilemma facing so many women when she wrote, "as more and more women continue to flood the job market, mostly out of economic necessity, it becomes increasingly apparent that they must struggle to balance house work and job work. Unfortunately, children too often are the losers in this struggle." A woman from Sharon, PA, expressed another conflict created in today's world where both parents work—the responsiblity of caring for aging parents. She wrote that "we can no longer ignore the competing demands of work and family."

Mr. President, what my constituents are telling me is a message we have all heard with increasing frequency: Working women today need more than just praise for their accomplishments—although praise is due. They don't need their pictures on posters—although their efforts make America a safer shore for democracy. What today's working women need is help with the day-to-day pressures of balancing job, children, and spouse, of aging parents or grandparents—of wearing a hard hat and a nursing cap—and doing it all well.

This week is dedicated to recognizing the accomplishments of women in the work force. My point, Mr. President, is that while we recognize their tenacity in overcoming barriers to professional achievement, while we articulate their skills and innumerate their achievements, we must not forget the costs. The most significant recognition we can give is a legislative commitment to diminish these costs.

The list of solutions runs the gamut from dependable, affordable quality child care, to respite care, to a parental leave incentive that serves the employee and employer alike, to ridding our streets and classrooms of destructive drugs—and those who deal in them. These are not just "women's" issue, Mr. President. They are family and community issues as well.

I pledge to make them among my priority issues in the months to come, and ask that my colleagues on both sides of the aisle do the same.●

MULTIPURPOSE CADASTRE [MPC]

● Mr. BREAUX. Mr. President, as we are both aware, H.R. 1860 passed the Senate on June 13, 1988, by a voice vote. I did not want the opportunity to slip by, however, without commending the senior Senator from Louisiana, Mr. JOHNSTON, the chairman of the Committee on Energy and Natural Resources, for bringing this bill to the Senate. I wish to comment on a provision in the bill which addresses an issue with which I have long been interested.

The bill includes a study of the organization of surveying and mapping in the Federal Government and the future of a technology known by such names as multipurpose cadastre [MPC], land information systems [LIS] and geographic information systems [GIS]. This provision recognizes this technology as one with great potential and seeks a strategy for its development.

This section of the bill was added in the House Interior and Insular Affairs Committee as an amendment by Representative MANUEL LUJAN, JR., of New Mexico. It was in 1981 that Mr. LUJAN and myself introduced a bill known as the Federal Land Survey Act, which included a feasibility study for the multipurpose cadastre.

That bill was not enacted into law, but since the time of its introduction, events have rapidly moved on. Today, the MPC is not only feasible, but practical and, in fact, fast becoming a reality.

A private market analysis has estimated that by the year 2000 some $90 billion will be invested in the geographic data bases by government at all levels, utilities and private companies. I am pleased to note that pilot projects, designed to demonstrate the benefits of development of a MPC are currently under way in Orleans, Jefferson, and Calcasieu Parishes in Louisiana.

So this provision goes one step beyond the proposal offered by Mr. LUJAN and myself. It builds on previous studies conducted by the National Academy of Sciences and the Office of Management and Budget and seeks specific actions that can be taken to make sure government at all levels and the private sector can take full advantage of the benefits a MPC has to offer.

I would urge careful consideration of the Louisiana projects during this study. There are a number of compelling reasons why they are excellent models for the attention of this study group.

First, the provision in H.R. 1860 calls for the development of model standards for compatible multipurpose land information systems for use by Federal, State and local government agencies and by the public and private sector. The purpose of the Louisiana pilot projects is to determine the scope of an MPC. From the experience in Louisiana, other communities across the Nation will learn about the creation of these systems and their potential applications. When the study authorized by H.R. 1860 looks a model standards and development, they should look at the Louisiana projects.

Second, unlike other Federal ventures into research and development in this area, the Louisiana projects are being accomplished by contract to private firms. I believe this element is critical to the long-term success of land information systems. If this technology becomes a big Government program here in Washington, it will soon die. Budget constraints simply will not permit the Federal Government to have a major role in this area. That is why I am pleased this study provision requires consultation with representatives of private sector surveying and mapping science.

I am pleased to note once again Louisiana's leadership on this account. The leading private sector group in this field is the Management Association for Private Photogrammetric Surveyors [MAPPS], a trade association of surveying and mapping firms. The vice president of this organization is Rodger D. Phelps of the firm of Vernon F. Meyer & Associates, Inc. of Sulphur and New Orleans, LA. It is, in part, the result of Mr. Phelps' leadership that Louisiana is involved in our pilot projects. When conducting this study, it is critical that the views of the private firms that will be building these data bases be known and I would urge the study group to rely on the views of the MAPPS organization.

Finally, Mr. President, our Louisiana projects are worth investigating because of the unique role of the Office of Charting and Geodetic Services [C&GS], formerly the Coast and Geodetic Survey, an office within the National Oceanic and Atmospheric Administration [NOAA]. C&GS is providing Federal grant money to the Louisiana parishes for these projects, while the parishes are providing a local share. When looking at new and innovative ways to provide surveying, mapping and land information services to local government, the study group should take a hard look at the C&GS arrangement with Louisiana. I believe this is an example of where the Federal Government, local government and the private sector work together with a common goal.

Although the Department of the Interior is the lead agency in this study, one of the topics to be considered is the role of various Federal agencies. I believe C&GS would be an appropriate lead agency in land information activities due to its longstanding history in surveying, mapping, charting and geodesy and its experience with our Louisiana projects.

Again, I commend my colleague for his leadership on this issue.●

KEITH M. MISER

● Mr. LEAHY. Mr. President, today I rise to pay tribute to a good friend, Keith Miser, who has announced he will be leaving Vermont where he and his wife Ann have resided for the past 17 years.

In 1971, Keith Miser became assistant dean of students and director of residential life at the University of Vermont. Since then he has served the university and Vermont with distinction. He provided leadership and an undaunting commitment to improving student activities during years that have marked a startling transformation at Vermont's largest institution of higher education.

Over 60 percent of UVM's 50,000 living alumni have graduated from the university during the Miser era in the dean of student's office. Upon the announcement of his departure, UVM President Lattie F. Coor appropriately remarked, "Keith is a legend at UVM."

I got to know Keith when I was State's attorney for Chittenden County, and there were student demonstrations against the Vietnam war. He and I worked together to ensure that public order was maintained while the students' rights to protest were protected. During those times, I came to respect and admire Keith for his decency and common sense.

Mr. President, I could stand here and list Keith Miser's many accomplishments and publications but that would take far too long and it would painfully highlight how much UVM will miss him. But, rather than dwell on the past, we should turn to the future and wish him well in his new position. He, and his extremely talented wife Ann, will be missed by me and my family.●

THE CALENDAR

Mr. BYRD Mr. President, I inquire of my good friend, the distinguished Senator from Wyoming [Mr. SIMPSON], as to whether or not Calendar Order No. 742 has been cleared on his side.

Mr. SIMPSON. Mr. President, that item has been cleared on our side of the aisle.

Mr. BYRD. Mr. President, I thank the assistant Republican leader.

USE OF CERTAIN PROPERTY CONVEYED TO PENINSULA AIRPORT COMMISSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 742.

The PRESIDENT OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 2247) to modify restrictions on the use of certain property conveyed to the Peninsula Airport Commission, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 2247 *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That paragraphs **[**3 and 4**]** *(3) and (4)* of subsection (b) of the first section of the Act entitled "An Act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission, Virginia, for airport purposes", approved November 6, 1986 (Public Law 99-618; 100 **[**STAT. 3490)**]** *Stat. 3490),* are repealed.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2247) was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Morning business is closed.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER (Mr. FORD). The clerk will report.

The legislative clerk read as follows:

A bill (S. 2527) to require advance notification of plant closings and mass layoffs, and for other purposes.

The Senate resumed consideration of the bill.

ORDERS FOR MONDAY, JUNE 27, 1988

ADJOURNMENT UNTIL 9:15 A.M., MONDAY, JUNE 27, 1988

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:15 a.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders on Monday next the Senate proceed to morning business; that there be a period for morning business not to extend beyond the hour of 10 a.m.; that Senators may speak therein for not to exceed 5 minutes each; and that that period for morning business begin following the orders recognizing the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVER OF CALL OF CALENDAR ON MONDAY

Mr. BYRD. Mr. President, I ask unanimous consent that the call of the calendar be waived, under rule VIII, on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, it is the understanding that there will be a rollcall vote at 10 a.m. on Monday.

I have alerted Senators that there would be a vote or votes beginning at 10 a.m., and I have assured the two distinguished managers of the Treasury-Postal Service bill that following the vote at 10 o'clock on Monday—or votes, as it could conceivably turn out to be, and I do not foresee it that way at the moment—the Senate will return to the appropriations bill making appropriations for the Treasury Department and Postal Service. That is H.R. 4775.

It is the understanding that Mr. MCCLURE will have an amendment at that time, and I would hope the Senate could dispose of that amendment and then dispose of the bill at a reasonably early hour. Then the Senate could return to the plant closing bill.

On Monday afternoon, there will be a long rollcall vote, a vote that will begin at 2:30 p.m. and will last not to exceed the hour of 3:45 p.m. It could be less than 1 hour and 15 minutes or it could require the full 1 hour and 15 minutes. That vote will be on or in relation to the amendment by the distinguished Senator from Kansas [Mrs. KASSEBAUM], and no amendments are in order to that amendment.

The form and shape of that amendment is fairly well known. The distinguished Republican leader indicated the contents of it. So Senators are on notice as to what the amendment is all about and as to the importance of it.

So there will be rollcall votes throughout the day. I would hope that we could finish the plant closing bill on Monday. I am showing my good faith by not offering a cloture motion. This is the third day that the Senate has been on that bill, and I have not wanted to offer a cloture motion. I have wanted Senators to have ample time to debate and act on the measure, so I am not going to offer a cloture motion, which I would have to do if I wanted to have a cloture vote as early as next Tuesday.

I believe all Senators are acting, as I am acting, in good faith. Therefore, I have every reason to hope and believe that the Senate will complete action on the plant closing bill before the Senate goes out for the break; and certainly my hope is that the Senate can complete action on that bill Monday, and no later than Tuesday. That is really necessary, and it may be that the Senate will have to stay in late Monday evening.

I believe I should emphasize that for the record, so that Senators will be prepared to stay in late Monday in order to finish action on that bill, if that can possibly be done.

Having said that, I have nothing further to say at the moment except there are several appropriations bills now that are eligible to be called up, and I hope that the Senate will be able to act on some additional appropriations bills before the break, and also there is the child nutrition bill that is an eligible candidate.

It would be well if the Senate could complete action on the plant closing bill and also complete action on several of the appropriation bills before the Senate goes out for the Independence Day break.

The Senate has completed action on three. It has almost finished with the action on the fourth one. And the following appropriations bills will qualify under the 2-day rule by Monday: H.R. 4637, the foreign operations appropriations; H.R. 4783, the Labor, HHS, and Education appropriations; H.R. 4782, Commerce, Justice, State, and Judiciary—however, that one has a problem and that is not a likely candidate for the time being—H.R. 4781, Defense appropriations.

And anent what I had just said concerning Commerce, Justice, State, and Judiciary appropriations, I have discussed that with the distinguished Senator from South Carolina [Mr. HOLLINGS], and he understands what the problem is. So what I have just said will not come as any surprise to him. He and I have an understanding on that bill.

Mr. President, I have nothing further.

I yield to the distinguished assistant Republican leader for any comments that he has to make, and I also ask him if there is any further business he would like to transact before the Senate goes out for the weekend.

Mr. SIMPSON. Mr. President, I thank the majority leader for his usual courtesy to me always, and it is a pleasure to drop by occasionally now that our leader has returned and pick up some of the duties which I was honored to perform while the minority leader was heavily involved in these last months. I think the majority leader would agree it is good to have the minority leader return, and it seems to me that things are moving rather well.

I want to say on behalf of the minority leader that we want to assist on this side of the aisle in moving the appropriations bills as swiftly as we can.

The Appropriations Committee I think has done some yeoman work in these last days in considering eight appropriations bills at the full committee level this week. That is overtime for that body, and they are working very hard and they have. They do have a tremendous workload.

I, too, feel that we could complete plant closing before the Fourth of July recess and do that without the imposition of cloture. I do not sense on our side of the aisle that there are those who are considering extended debate, and that is my view. I think there might be several more amendments on this side, but I am not certain about that. But I do not believe that there is anything concerted that I am aware of.

Then I would hope that as soon as we finish the Treasury-Postal Service appropriations we could go to further debate on the Kassebaum amendment—I think the majority leader would perhaps agree to that—and with a time certain set. At least we would be discussing that amendment.

Mr. BYRD. Yes, I agree with the Senator.

Mr. SIMPSON. And then, finally, I would just add I was here during some of the debate as to schedule and votes, and so on, and even though it is difficult on both sides of the aisle to turn down our colleagues who have a certain squeeze in their schedules, I think that I have always believed in the majority leader in helping us lead the fashioning of these 3 weeks where we know we are going to have Monday and Friday votes, and that is so obvious and real, and in return for that be able to spend a week in our States to actually be able to attend Tuesday, Wednesday, and Thursday functions.

Even though that is difficult and not always the most popular thing, I certainly concur with the majority leader it just has to be done. I know myself that I missed votes on Fridays when I felt it was worth the risk and the risk always was found to be there.

So, even though we do want to accommodate those on both sides of the aisle, I think it has to be that there will be Monday votes, probably Monday morning votes, and Friday afternoon votes, and that was part of the deal. And, indeed, it was.

So I admire the majority leader for sticking to that, even though it is regretful that some of our Members just get caught up in important things and their other duties and cannot make it. So I know you will continue to accommodate those on our side of the aisle and on that side of the aisle, but the mission of that effort is still there. And that was part of the promise made. So I hope we can keep to that.

Mr. BYRD. Mr. President, I thank the distinguished assistant Republican leader for his comments. They are most helpful and I certainly cannot improve on them.

ADJOURNMENT UNTIL MONDAY, JUNE 27, 1988, AT 9:15 A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9:15 a.m. on Monday next.

The motion was agreed to; and, at 3:20 p.m., the Senate adjourned until Monday, June 27, 1988, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate June 24, 1988:

FEDERAL AGRICULTURAL MORTGAGE CORPORATION

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION:

JOHN R. DAHL, OF NORTH DAKOTA. (NEW POSITION)

GEORGE JAMES BENSTON, OF NEW YORK. (NEW POSITION)

DERRYL MCLAREN, OF IOWA. (NEW POSITION)

GORDON CLYDE SOUTHERN, OF MISSOURI. (NEW POSITION)

EDWARD CHARLES WILLIAMSON, JR., OF GEORGIA. (NEW POSITION)

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. KENNETH L. PEEK, JR [redacted] FR, UNITED STATES AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. DONALD O. ALDRIDGE [redacted] FR, UNITED STATES AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. VINCENT M. RUSSO, [redacted] UNITED STATES ARMY.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. JOHN S. DISHER, [redacted]/1310, U.S. NAVY.

IN THE FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

Department of Commerce

KENNETH P. MOOREFIELD, OF THE DISTRICT OF COLUMBIA

Agency for International Development

ROBERT ELLIOTT ARMSTRONG III, OF PENNSYLVANIA
SARAH C. CLARK, OF TEXAS
JUAN JOSE BUTTARI CRESPO, OF VIRGINIA
EVERETT B. ORR, OF FLORIDA
KENNETH R. RIKARD, OF MISSOURI
RICHARD ROSENBERG, OF VIRGINIA
ROGER L. RUSSELL, OF FLORIDA
RICHARD C. THABET, OF VIRGINIA
EMMANUEL VOULGAROPOULOS, OF FLORIDA
BARBARA B. WILLIAMS, OF THE DISTRICT OF COLUMBIA

United States Information Agency

YOLANDE VERON-SULLIVAN, OF TEXAS

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

Department of Commerce

TERENCE FLANNERY, OF VIRGINIA
DANIEL E. HARRIS, OF NEW YORK
GENE R. HARRIS, OF TEXAS
DOLORES F. HARROD, OF NEW HAMPSHIRE
ARTHUR D. TREZISE, OF VERMONT
JAMES E. WINKELMAN, OF CONNECTICUT

Agency for International Development

ANDREW A. AKERS, OF VIRGINIA
KRAIG H. BAIER, OF FLORIDA
LOIS E. BRADSHAW, OF OHIO
RICHARD P. BURNS, OF THE DISTRICT OF COLUMBIA
JOHN WILLARD COGDILL, OF WASHINGTON
WALTER COLES, JR., OF VIRGINIA
DAVID MICHAEL CONNER, OF TEXAS
WILLIAM G. DUNCAN, OF CALIFORNIA
JAMES A. M. ELLIOTT, OF VIRGINIA
SHARON EPSTEIN, OF THE DISTRICT OF COLUMBIA
BRUCE G. GATTI, OF FLORIDA
WILLIAM CHRISTOPHER GRAHAM, OF CALIFORNIA
JOYCE M. HOLFELD, OF THE DISTRICT OF COLUMBIA
PETER JAMES HOWLEY, OF VIRGINIA
JAMES RAY KIRKLAND, OF TENNESSEE
MARGARET ALISON NEUSE, OF THE DISTRICT OF COLUMBIA
CHARLES ARDEN SCHEIBAL, OF HAWAII
EUGENE J. VAN DYK, OF CALIFORNIA
DAN VINCENT, OF OREGON
JAMES O. WATSON, OF CALIFORNIA
MICHAEL JOHN WILLIAMS, OF CALIFORNIA

United States Information Agency

DUNCAN HAGER MACINNES, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

Department of Agriculture

KENNETH J. ROBERTS, OF MINNESOTA

Department of Commerce

CARMINE G. D'ALOISIO, OF NEW JERSEY
JOHN J. FOGARASI, OF MARYLAND
STEPHEN J. HELGESEN, OF CONNECTICUT
CATHERINE HOUGHTON, OF CALIFORNIA

Agency for International Development

JONATHAN STUART ADDLETON, OF FLORIDA
RICHARD L. CASTRO, OF TEXAS
LESLIE B. CURTIN, OF CONNECTICUT
TIM M. ELKINS, OF TEXAS
WILLIAM SPENCER ELLIOTT, OF FLORIDA
JEFFREY WILEY GOODSON, OF TEXAS
ROY JOSEPH GROHS, OF VIRGINIA
CHRISTINE ELEANOR LYONS, OF NEW JERSEY
KERMIT CRAIG MOH, OF FLORIDA
ANTONIO MONSERRATE, OF MARYLAND
HENDERSON M. PATRICK, OF FLORIDA
SHELDON J. SCHWARTZ, OF FLORIDA
WALTER E. SHEPHERD, OF MARYLAND
GEORGE URBAN, OF MARYLAND
DENNIS JAMES WELLER, OF ILLINOIS

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

Department of State

THOMAS STEPHAN PABST, OF CALIFORNIA
RICHARD CHARLES WESTON, OF MISSOURI

Department of Commerce

DENNIS E. BARNES, OF OREGON

United States Information Agency

GREGORY ADAMS, OF ARIZONA
CARLOS ENQIQUE ARANAGA, OF MARYLAND
DAVID LEE BALLARD, OF TEXAS
BENEDICT JAMES DUFFY III, OF NEW YORK
RENEE M. EARLE, OF KENTUCKY
PATRICIA ANN GARON, OF FLORIDA
NORMA HARRIS, OF FLORIDA
REBECCA J. IDLER, OF PENNSYLVANIA
CATHERINE J. JARVIS, OF MINNESOTA
EDWARD ARTHUR KEMP, OF MASSACHUSETTS
RICHARD OLIVER LANKFORD, OF THE DISTRICT OF COLUMBIA
MARK S. LARSEN, OF NEW JERSEY
STEVEN JOSEPH LEBENS, OF MINNESOTA
JOSEPH ESTEY MACMANUS, OF NEW YORK
JOAN MCKNIFF, OF CALIFORNIA
MARCIE ELLEN PORTER, OF CALIFORNIA
DAVID RUSSELL SIEFKIN, OF CALIFORNIA
STEPHEN J. THIBEAULT, OF MASSACHUSETTS
DANIEL FRANK WHITMAN, OF OHIO

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE AND THE UNITED STATES INFORMATION AGENCY, TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

MOSES EUGENE AARON, OF DELAWARE
AMIT AGARWAL, OF CALIFORNIA
REID H. ALBERT, OF MICHIGAN
E. RICHARD ALLEN, OF VIRGINIA
KURT E. AMEND, OF IOWA
FULTON T. ARMSTRONG, OF VIRGINIA
ROBERT A. ARMSTRONG, OF KANSAS
STEVEN L. BABCOCK, OF GEORGIA
KEN C. BARRETT, OF VIRGINIA
MARK F. BAVELOCK, OF VERMONT
EDEN BROWN, OF ILLINOIS
JANE BETH BUCHMILLER, OF MISSOURI
DAVID G. BUTTERWORTH, OF MICHIGAN
SANDRA L. B. CAPPIELLO, OF PENNSYLVANIA
THOMAS H. CASEY, JR., OF NEW JERSEY
GREGORY DEAN CHAPMAN, OF GEORGIA
RICHARD W. COFFMAN, OF OHIO
LINDA D. COHEN, OF VIRGINIA
LEIGH S. COLITRE, OF CALIFORNIA
ROBERT L. CULLEN, OF TEXAS
CHARLES DALGLEISH, OF MICHIGAN
TERRY R. DAVIDSON, OF CALIFORNIA
A. L. DOCAL, JR., OF NEW YORK
CAROL ANNE DUMAINE, OF VIRGINIA
EDWARD J. FENDLEY, OF ILLINOIS
PHILIP A. FRAYNE, OF NEW YORK
EMIL A. FURIATI, OF VIRGINIA
PATRICK J. GAFFNEY, OF VIRGINIA
DAVID B. GOLDSTEIN, OF GEORGIA
ARTHUR LEE GORDON, OF TENNESSEE
LAWRENCE J. GUMBINER, OF CALIFORNIA
RUSSELL J. HANKS, OF NEW MEXICO
ROBERT F. HANNAN, JR., OF MASSACHUSETTS
VICTORIA E. HARRIS, OF THE DISTRICT OF COLUMBIA
RICHARD P. HARRISON, OF MARYLAND
KRISTINE A. HELSTROM, OF FLORIDA
LAWRENCE LEE HESS, OF WASHINGTON
ROBERT BUTLER HILTON, OF MICHIGAN
CHRISTOPHER HOMBERG, OF VIRGINIA
THOMAS J. HUSHEK, OF WISCONSIN
KATHERINE MARIE INGMANSON, OF WASHINGTON
ALFRED DUDLEY IRONSIDE, OF PENNSYLVANIA
KAREN ELIZABETH JOHNSON, OF TEXAS
TRACI A. JUDD, OF CONNECTICUT
GEORGE D. KENNEY, OF ILLINOIS
STEPHEN EDWARD KERN, OF VIRGINIA
DAMARIS ALLEN KIRCHHOFER, OF HAWAII
CHRISTIAN S. LANSING, OF VIRGINIA
NORMA V. LEONARD, OF VIRGINIA
PHILIP NELSON LOHRE, OF COLORADO
JONATHAN RILEY MCHALE, OF NEW JERSEY
MARTHA L. MELZOW, OF MICHIGAN
GARY STEPHEN MIGNANO, OF KANSAS
SHAUN MICHAEL MURPHY, OF VIRGINIA
R. BRUCE NEULING, OF CALIFORNIA
PAUL ALEXANDER NEUREITER, OF TEXAS
JUAN F. NORIEGA, OF NEW JERSEY
LAWRENCE PATTERSON NOYES, OF MARYLAND
STEVEN R. NUGENT, OF VIRGINIA
JOHN OLSON, OF CALIFORNIA
PAUL B. PATIN, OF TEXAS
BRIAN A. PENN, OF WISCONSIN
TREVOR PHILLIPS, OF FLORIDA
CAPIE ALLYN POLK, OF GEORGIA
DALE THOMAS PRINCE, OF MICHIGAN
KENNETH E. PROULX, OF VIRGINIA
SHELDON RABIN, OF VIRGINIA
JOSEPH REGGIMENTI, OF NEW JERSEY
MICHAEL N. REGNIER, OF NEW YORK
MAUREEN REIMULLER, OF CALIFORNIA
ROBERT A. ROBINSON, OF MISSOURI
PAMELA K. ROE, OF VIRGINIA
RICHARD G. ROSENMAN, OF THE DISTRICT OF COLUMBIA
LOWELL T. SAMPLES, OF VIRGINIA
KATHLEEN KEARNS SANTOS, OF MAINE
CHROSTOPHER J. SASSEEN, OF TEXAS
STEPHEN I. SCHWAB, OF VIRGINIA
STEVEN M. SHERMAN, OF CONNECTICUT
BRIAN P. SHORTLEY, OF DELAWARE
THOMAS A. SILEO, OF NEW JERSEY
JONATHAN W. SMITH, OF PENNSYLVANIA
SUSAN ELIZABETH STAHL, OF CALIFORNIA
ERIC B. STUBENBERG, OF CALIFORNIA
PHILIP NYE SUTER, OF MASSACHUSETTS
EILEEN G. SWICKER, OF VIRGINIA
ANTHONY J. TENORIO, OF VIRGINIA
CHARLES D. THOMAS, OF COLORADO
HEATHER ANN TOWNSEND, OF MAINE
HOWARD ANDREE VAN VRANKEN, OF CALIFORNIA
KURT D. VOLKER, OF PENNSYLVANIA
CAROLINE S. WAGNER, OF VIRGINIA
LAURIE WEITZENKORN, OF THE DISTRICT OF COLUMBIA
PETER W. WHITE, OF MARYLAND
WILLIAM EDMUND WILKIN, OF NEW HAMPSHIRE
ROBERT K. WILLIAMS, OF TEXAS
THOMAS E. WILLIAMS, JR., OF THE DISTRICT OF COLUMBIA
COLIN M. WINSTON, OF MARYLAND
CHARLES D. WISE, OF OKLAHOMA
HARRY E. YEIDE, OF MARYLAND
ALEXA S. ZIEGLER, OF NEW JERSEY
BENJAMIN GREGG ZIFF, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE JANUARY 3, 1988.

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

PHILIP S. KAPLAN, OF CALIFORNIA

EXTENSIONS OF REMARKS

TAX INCENTIVES FOR RESCUERS OF THRIFTS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1988

Mr. CRANE. Mr. Speaker, the Ways and Means Committee currently is marking up a technical corrections tax bill which includes the extension of several provisions due to expire at the end of this year. I do not intend to discuss here the merits of this bill or even the merits of those programs which are expiring. My purpose is to bring to the attention of my colleagues a recent article that appeared in the American Banker regarding an expiring provision which is not now included in the package being considered by the committee.

The Nation's thrift industry is faced with a major crisis. While several approaches are being employed by the thrift regulators to deal with ailing savings and loans, the tax exemptions available for Federal Savings and Loan Insurance Corporation assistance to problem thrifts should be given careful consideration before they are allowed to expire. The arguments made by Mr. Bacon in his piece deserve to be part of that deliberation.

Mr. Speaker, I urge my colleagues on the Ways and Means Committee as well as all Members to give this article their attention, and insert the attached in the RECORD.

[From the American Banker, June 10, 1988]

CONGRESS SHOULD PRESERVE TAX INCENTIVES FOR RESCUERS OF THRIFTS

(By Richard I. Bacon)

As deals begin under the Federal Home Loan Bank Board's Southwest plan for combining and selling Texas thrifts, time is running out on one of the Bank Board's most useful tools for turning the S&L industry's massive losses into a partial solution to its problems.

These are a group of federal tax provisions that help the Bank Board induce healthy thrifts and other private rescuers to invest new capital and new management in failed thrifts, to assume the depositors' accounts, and thereby conserve the Federal Savings and Loan Insurance Corp. fund.

Special provisions exempt FSLIC cash assistance to ailing thrifts from any tax in the hands of the receiving institutions. Such assistance might reimburse a new owner, for example, for part of the losses in the existing loan portfolio.

They also allow the Bank Board to merge insolvent thrifts into healthy thrifts, or transfer control to other buyers, with full "carryover" of their existing tax histories—including the face amounts of their mortgages and their own past operating losses. The net operating loss (NOL) carryovers of the failed institution can be absorbed as fast as profits can be generated by the business under its new owner.

The FSLIC also treats a percentage of the NOL carryovers as a substitute for direct FSLIC assistance. This means that less money is spent from the insurance fund to fulfill the regulators' obligation to protect the accounts of depositors in insolvent thrifts.

The $13.4 billion in 1987 losses among approximately 1,000 savings associations, for example, translates into roughly $4 billion in potential tax benefits for both the FSLIC and the troubled thrifts (assuming a 31% effective tax rate for S&Ls).

The FSLIC tax provisions expire at year-end under a compromise struck by the tax committees of Congress in 1986. The Bank Board and industry lobbyists are currently seeking an extension of the provisions through the end of 1991.

The extension is not proving an easy sell. Some legislators see the provisions as "tax subsidies" and insist that the S&L industry's problems should be paid for with higher assessments on healthy thrifts or direct appropriations of Treasury funds, not indirectly through tax benefits. In any case, they say, tax amendments that lose revenue must be offset by equal revenue raisers.

The Bank Board argues that because insurance payouts or a Treasury bailout are both considered federal expenditures, the "budget cost" of an extension is neutral.

The FSLIC provisions are not special tax subsidies in the first place. They simply adapt the long-standing tax rules for business bankruptcies to the peculiarities of thrift mergers.

Any company can freely deduct its net operating losses over the following 15 years, except where a major change in its stock ownership occurs. But in bankruptcy cases creditors of an insolvent company are allowed, in the interest of rehabilitation, to take stock control of the company and keep its tax history in place—so long as the creditors' claims are fully preserved in the process of reorganizing the company.

The creditors usually do not want the stock. But they take it as a way to use the loss carryovers to offset future earnings and repay themselves as "stockholders" with the first dollars earned.

Because of the unique nature of a savings account, however, depositors (creditors) in a failed savings and loan association do not become formal stockholders. Therefore the FSLIC rules do not require the new owner of a reorganized thrift to issue stock to the depositors.

But the new owner must assume all of the insured deposits, so that the basic principles are the same as in general bankruptcy: The loss carryovers were incurred with the depositors' money; their claims are fully preserved through the acquisition; and the NOL carryovers are used to protect the depositors' accounts.

Moreover, the thrift's premerger losses are not a tax shelter for earnings from outside the savings and loan business. Loss carryovers are confined to the thrift's own future business. Even a new owner's access to the thrift's "paper" losses requires his infusion of substantial capital into a heavily regulated business and a sharing of tax benefits with a governmental overseer.

The tax exemption of FSLIC financial assistance is not unique, either. The Internal Revenue Service has ruled that similar financial assistance to a commercial bank from the Federal Deposit Insurance Corp. is not taxable under long-standing rules exempting "contributions to capital" of any corporation. This general exemption is permanent if the money comes from a shareholder.

The FSLIC, in a real sense, becomes the owner of an insolvent thrift by paying a buyer to assume depositors' accounts. The Bank Board has even begun taking actual stock in restructured thrifts under the Southwest plan.

In essence there is no separate "revenue cost" in continuing the FSLIC rules or allowing the thrift industry to use its losses in the same manner as other insolvent companies do. The industry's losses are a valuable resource that can be used to bootstrap the thrifts' own rescue. The unique factor is that these losses can be captured only through the tax system.

The FSLIC tax rules would not be needed, of course, if our national policy were to combine all insolvent thrifts with a few giant firms that monopolize the country's housing finance. But the tax rules dovetail with the purposes of the Southwest plan to reduce excessive numbers of thrifts and branch networks throughout Texas, while still preserving competition and diversity in the number, size, and markets served by thrift institutions.

The regulators' strategy is to attract numerous types of new owners into the savings and loan business. The tax rules help keep alive a range of banks for these new investors to consider.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HOUSE OF REPRESENTATIVES—*Monday, June 27, 1988*

The House met at 12 noon.

Rev. Charles A. Mallon, permanent deacon, Holy Family Church, Mitchellville, MD, offered the following prayer:

A false balance is an abomination to the Lord, but a just weight is his delight. When pride comes, then comes disgrace; but with the humble is wisdom. The integrity of the upright guides them, but the crookedness of the treacherous destroys them. Riches do not profit in the day of wrath, but righteousness delivers from death.—Proverbs 11:1-4.

Father teach us our limits that we might exercise just stewardship within them. Have mercy on us for we have caused a false balance in the work of Your creation. We covet the choice and rare things of Your creation and we are ambivalent toward that which is good and common.

Father give us the wisdom to set aright the balance, thus avoiding the day of wrath. Help us to fix our eyes on Your kingdom with its promise of eternal life; and allow our personal kingdoms to die for they deliver us unto death.

We ask this through Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agreed to the following resolution:

S. Res. 446

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable John James Duncan, late a Representative from the State of Tennessee.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

The message also announced that the Senate had passed without amendment a bill, joint resolutions and a concurrent resolution of the following titles:

H.R. 4162. An act to make the International Organizations Immunities Act applicable to the Organization of Eastern Caribbean States;

H.J. Res. 485. Joint resolution designating June 26 through July 2, 1988, as "National Safety Belt Use Week";

H.J. Res. 587. Joint resolution designating July 2 and 3, 1988, as "United States-Canada Days of Peace and Friendship"; and

H. Con. Res. 296. Concurrent resolution authorizing printing of the House of Representatives Election Law Guidebook, 1988.

The message also announced that the Senate had passed bills, joint resolutions, and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 2247. An act to modify restrictions on the use of certain property conveyed to the Peninsula Airport Commission;

S. 2365. An act authorizing the release of 86 U.S. Information Agency films with respect to the Marshall plan;

S.J. Res. 317. Joint resolution commemorating the bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen;

S.J. Res. 318. Joint resolution to designate the week of July 25-31, 1988, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War";

S.J. Res. 334. Joint resolution designating July 20, 1988, as "Space Exploration Day";

S. Con. Res. 120. Concurrent resolution urging the Government of Iran to respect the human rights of members of the Baha'i faith, and for other purposes; and

S. Con. Res. 126. Concurrent resolution to express the sense of the Congress with respect to drug and alcohol free cultural events for Native peoples and to commend Spirit Days, Inc. for sponsoring a drug and alcohol free cultural event for Alaska Natives living in an urban environment.

THE GOVERNMENT CONTRACTOR WHISTLEBLOWER PROTECTION ACT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the recent military procurement scandal has cost taxpayers millions and perhaps billions of dollars. Contractors and procurement officials have binged for the last 8 years on a diet of greed and waste.

If it were not for the cooperation of conscientious whistleblowers, none of this would have come out. Their willingness to put themselves and their jobs on the line is indeed courageous. It is especially courageous given the pathetic protection afforded to contractor whistleblowers. Employees who work for Government contractors often have few if any protections against being fired or transferred for exposing corruption.

That is why I have introduced legislation to protect employees of Government contractors. H.R. 1716 would provide protection from reprisals to employees of Government contractors who disclose to appropriate Government officials misconduct relating to the contract.

I ask that you join me along with 66 of your colleagues in cosponsoring H.R. 1716, the Contractor Whistleblower Protection Act. The recent procurement scandal is a gross waste of taxpayers dollars. If we are unable to protect whistleblowers, we are unable to protect taxpayers.

HOUSE TELEPHONE SYSTEM INOPERATIVE IN RECENT WEEKS

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, I am here today to disprove the maxim that silence is golden as anyone who has tried to contact me in Washington this past week has discovered already. I have often regretted my speech, but never my silence until my choice in this matter was unexpectedly taken away recently.

The telephone system in the House of Representatives has not been operational and many callers have been cut off during our conversation or have found our lines to be busy. We have been equally frustrated by our inability to return constituent calls or to answer our phones when they ring. I apologize for the inconvenience this has caused and I sincerely hope that the technical problems we have been experiencing will be resolved soon.

Until that time I hope that the American people will bear with us and please feel free to visit us in person or contact us through the mail or any of our district offices. Thank you for your cooperation.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a re-

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

corded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on tomorrow, Tuesday, June 28, 1988.

FEDERAL EMPLOYEES LIABILITY REFORM AND TORT COMPENSATION ACT OF 1988

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4612) to amend title 28, United States Code, to provide for an exclusive remedy against the United States for suits based upon certain negligent or wrongful acts or omissions of U.S. employees committed within the scope of their employment, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Liability Reform and Tort Compensation Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares the following:

(1) For more than 40 years the Federal Tort Claims Act has been the legal mechanism for compensating persons injured by negligent or wrongful acts of Federal employees committed within the scope of their employment.

(2) The United States, through the Federal Tort Claims Act, is responsible to injured persons for the common law torts of its employees in the same manner in which the common law historically has recognized the responsibility of an employer for torts committed by its employees within the scope of their employment.

(3) Because Federal employees for many years have been protected from personal common law tort liability by a broad based immunity, the Federal Tort Claims Act has served as the sole means for compensating persons injured by the tortious conduct of Federal employees.

(4) Recent judicial decisions, and particularly the decision of the United States Supreme Court in Westfall v. Erwin, have seriously eroded the common law tort immunity previously available to Federal employees.

(5) This erosion of immunity of Federal employees from common law tort liability has created an immediate crisis involving the prospect of personal liability and the threat of protracted personal tort litigation for the entire Federal workforce.

(6) The prospect of such liability will seriously undermine the morale and well being of Federal employees, impede the ability of agencies to carry out their missions, and diminish the vitality of the Federal Tort Claims Act as the proper remedy for Federal employee torts.

(7) In its opinion in Westfall v. Erwin, the Supreme Court indicated that the Congress is in the best position to determine the extent to which Federal employees should be personally liable for common law torts, and that legislative consideration of this matter would be useful.

(b) PURPOSE.—It is the purpose of this Act to protect Federal employees from personal liability for common law torts committed within the scope of their employment, while providing persons injured by the common law torts of Federal employees with an appropriate remedy against the United States.

SEC. 3. JUDICIAL AND LEGISLATIVE BRANCH EMPLOYEES.

Section 2671 of title 28, United States Code, is amended in the first full paragraph by inserting after "executive departments," the following: "the judicial and legislative branches,".

SEC. 4. RETENTION OF DEFENSES.

Section 2674 of title 28, United States Code, is amended by adding at the end of the section the following new paragraph:

"With respect to any claim under this chapter, the United States shall be entitled to assert any defense based upon judicial or legislative immunity which otherwise would have been available to the employee of the United States whose act or omission gave rise to the claim, as well as any other defenses to which the United States is entitled.".

SEC. 5. EXCLUSIVENESS OF REMEDY.

Section 2679(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) The remedy against the United States provided by sections 1346(b) and 2672 of this title for injury or loss of property, or personal injury or death arising or resulting from the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment is exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against the employee whose act or omission gave rise to the claim or against the estate of such employee. Any other civil action or proceeding for money damages arising out of or relating to the same subject matter against the employee or the employee's estate is precluded without regard to when the act or omission occurred.

"(2) Paragraph (1) does not extend or apply to a civil action against an employee of the Government—

"(A) which is brought for a violation of the Constitution of the United States, or

"(B) which is brought for a violation of a statute of the United States under which such action against an individual is otherwise authorized.".

SEC. 6. REPRESENTATION AND REMOVAL.

Section 2679(d) of title 28, United States Code, is amended to read as follows:

"(d)(1) Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a United States district court shall be deemed an action against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant.

"(2) Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place in which the action or proceeding is pending. Such action or proceeding shall be deemed to be an action or proceeding brought against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant. This certification of the Attorney General shall conclusively establish scope of office or employment for purposes of removal.

"(3) In the event that the Attorney General has refused to certify scope of office or employment under this section, the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment. Upon such certification by the court, such action or proceeding shall be deemed to be an action or proceeding brought against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant. A copy of the petition shall be served upon the United States in accordance with the provisions of Rule 4(d)(4) of the Federal Rules of Civil Procedure. In the event the petition is filed in a civil action or proceeding pending in a State court, the action or proceeding may be removed without bond by the Attorney General to the district court of the United States for the district and division embracing the place in which it is pending. If, in considering the petition, the district court determines that the employee was not acting within the scope of his office or employment, the action or proceeding shall be remanded to the State court.

"(4) Upon certification, any action or proceeding subject to paragraph (1), (2), or (3) shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of this title and shall be subject to the limitations and exceptions applicable to those actions.

"(5) Whenever an action or proceeding in which the United States is substituted as the party defendant under this subsection is dismissed for failure first to present a claim pursuant to section 2675(a) of this title, such a claim shall be deemed to be timely presented under section 2401(b) of this title if—

"(A) the claim would have been timely had it been filed on the date the underlying civil action was commenced, and

"(B) the claim is presented to the appropriate Federal agency within 60 days after dismissal of the civil action.".

SEC. 7. SEVERABILITY.

If any provision of this Act or the amendments made by this Act or the application of the provision to any person or circumstance is held invalid, the remainder of this Act and such amendments and the application of the provision to any other person or circumstance shall not be affected by that invalidation.

SEC. 8. EFFECTIVE DATE.

(a) GENERAL RULE.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICABILITY TO PROCEEDINGS.—The amendments made by this Act shall apply to all claims, civil actions, and proceedings pending on, or filed on or after, the date of the enactment of this Act.

(c) PENDING STATE PROCEEDINGS.—With respect to any civil action or proceeding pending in a State court to which the amendments made by this Act apply, and as to which the period for removal under section 2679(d) of title 28, United States Code (as amended by section 6 of this Act), has expired, the Attorney General shall have 60 days after the date of the enactment of this

Act during which to seek removal under such section 2679(d).

(d) CLAIMS ACCRUING BEFORE ENACTMENT.—With respect to any civil action or proceeding to which the amendments made by this Act apply in which the claim accrued before the date of the enactment of this Act, the period during which the claim shall be deemed to be timely presented under section 2679(d)(5) of title 28, United States Code (as amended by section 6 of this Act) shall be that period within which the claim could have been timely filed under applicable State law, but in no event shall such period exceed two years from the date of the enactment of this Act.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very straightforward bill, unanimously passed by both subcommittee and full committee.

In January of this year, I believe, the Supreme Court decided a case which held employees of the Federal Government liable for common garden variety type negligence suits. This bill simply restores what we believe to have been the law. It is a status quo ante bill that says, "If you are working for the Federal Government and are within the scope of your employment," and we have procedures for deciding that if it is in dispute, "and you are guilty of negligence," we are not talking about intentional acts of harming people, "if you are guilty of negligence, the Federal Government, as it always has been, will be the defendant under the Federal Tort Claims Act procedures."

We make special provisions here to make clear that the more controversial issue of constitutional torts is not covered by this bill. If you are accused of having violated someone's constitutional rights, this bill does not affect it. You might be individually sued. That depends on other factors.

Similarly, we made it very clear in this bill that nothing in this bill takes away any right an individual might have had to sue an individual Federal employee under any other statute. This is simply restoring the law under the Federal tort Claims Act, under common cases of negligence and perhaps some unique ones, but we are talking about negligence within the scope of the employment.

Other remedies under other acts, Civil Rights Act, are not affected at all. It is an important one to restore a sense of security to hard working and dedicated people who work for this Federal Government—at too little compensation I must say I believe—and I hope that the bill is adopted.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4612, the Federal Employees Liability Reform and Tort Compensation Act of 1988. Mr. Speaker, as has been mentioned here today, H.R. 4612 is a bill that was encouraged by the Reagan administration and introduced at the behest of the administration to address a problem facing Federal employees that was recently created by a Supreme Court case. I believe H.R. 4612 addresses that problem as well as it could be addressed and I commend the chairman of the subcommittee, Mr. FRANK, for moving the bill to the floor as swiftly as he has.

Historically, Federal employees have been immune from personal liability for their acts as long as they could show that their acts were carried out within the scope of their employment. However, the U.S. Supreme Court in the case of Westfall versus Erwin in January of this year put that theory of immunity in question. In summary, what the Westfall decision said was that no longer will a Federal employee be immune from personal liability solely by showing that his acts were within the scope of his employment, but that he must also show that his acts involved a requisite degree of discretion in order to be protected. The Court's decision has placed all Federal employees in a state of uncertainty with regard to personal liability. The Westfall decision from a practical viewpoint will now require a factual determination in every suit filed against any Federal employee to determine whether he or she used discretion in carrying out their acts before immunity will be found to exist.

H.R. 4612 addresses this issue by returning the state of the law back to where it was before the Westfall decision regarding Federal employees' liability. As has been noted, the Supreme Court in the Westfall decision indicated it would welcome guidance from Congress with regard to how and when a Federal employee should be personally liable and I think it is fitting that we pass this bill today in order to give the Court that guidance.

Mr. WOLF. Mr. Speaker, I rise in support of H.R. 4612, the Federal Employees Liability Reform and Tort Compensation Act. I was an original cosponsor of this bill, as introduced, and testified on its behalf because it addresses a serious problem affecting the liability of Federal employees for State common law torts.

For the first time in 30 years, a recent Supreme Court decision, *Westfall* v. *Erwin* (56 U.S.L.W. 4087), makes all Federal employees liable for damages under certain common law torts. In Westfall, the Court held that Federal employees sued in their personal capacities are not entitled to immunity for State common law torts unless the actions were both "within the scope of their employment" and "involved an exercise of governmental discretion." In effect, Westfall restricts the immunity for personal liability for common law torts previously accorded to Federal employees. Prior to Westfall, civil servants could operate under the assumption that they were absolutely immune from State common law tort liability.

Mr. Speaker, a bipartisan coalition of Members from both Chambers has demonstrated that the Westfall decision could seriously undermine the functions of Federal agencies, and jeopardize the personal lives and fortunes of Federal workers. As I stated before the House Subcommittee on Administrative Law and Governmental Relations earlier this year, it is unconscionable to ask Government employees, who have no reasonable way of knowing whether they are protected when they act, to make decisions or take actions capable of spawning tort lawsuits.

To return protection to Government workers, H.R. 4612, amends the Federal Torts Claims Act to operate in the way that it effectively has been operating for three decades—as an exclusive remedy. In no way does this measure infringe or diminish any legal rights of the individual. Under the legislation, the United States is substituted as the sole defendant in cases alleging that a Federal employee committed a common law tort within the scope of his office or employment. Since the remedy against the Government would be exclusive, no other action or civil suit could be lodged against the employee or his estate, as is the current situation under Westfall.

I congratulate the committee for its expeditious work on behalf of this legislation and urge its immediate passage.

Mr. MOORHEAD. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HARRIS). The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 4612, as amended.

□ 1215

The question was taken.

Mrs. SAIKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. HARRIS). Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4612, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

COMMUNITY AND MIGRANT HEALTH CENTERS AMENDMENTS OF 1988

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4503) to amend the Public Health Service Act to revise and extend the programs establishing migrant health centers and community health centers, as amended.

The Clerk read as follows:

H.R. 4503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community and Migrant Health Centers Amendments of 1988".

SEC. 2. MIGRANT HEALTH CENTERS.

(a) ADDITION OF PATIENT CASE MANAGEMENT SERVICES TO LIST OF PROVIDED SERVICES.—Section 329(a)(1) of the Public Health Service Act (42 U.S.C. 254b(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (F) and inserting "and" at the end of subparagraph (G); and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H) patient case management services (including outreach, counseling, referral, and follow-up services),".

(b) ADDITION OF APPROPRIATE HEALTH NEEDS TO LIST OF SUPPLEMENTAL HEALTH SERVICES.—Section 329(a)(7) of the Public Health Service Act (42 U.S.C. 254b(a)(7)) is amended—

(1) by striking "and" at the end of subparagraph (K);

(2) by striking the period at the end of subparagraph (L) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(M) other services appropriate to meet the health needs of the population served by the migrant health center involved.".

(c) PROCEDURES FOR ALTERATION OF DETERMINATION OF HIGH IMPACT AREA.—Section 329(d)(1)(A) of the Public Health Service Act (42 U.S.C. 254b(d)(1)(A)) is amended—

(1) by inserting "(i)" after the subparagraph designation; and

(2) by adding at the end the following new clause:

"(ii) If the Secretary makes a determination that an area is a high impact area, the Secretary may alter the determination only after providing to the grantee under subclause (i) for the area, and to other interested entities in the area, reasonable notice with respect to such termination and a reasonable opportunity to offer information with respect to such termination.".

(d) REQUIREMENT OF FEES CONSISTENT WITH LOCALLY PREVAILING RATES.—Section 329(f)(3)(F)(i) of the Public Health Service Act (42 U.S.C. 254b(f)(3)(F)(i)) is amended—

(1) by inserting after "provision of its services" the following: "consistent with locally prevailing rates or charges and"; and

(2) by inserting "has prepared" after "operation and".

(e) AUTHORITY WITH RESPECT TO EXPANSION OF CENTERS.—Section 329 of the Public Health Service Act (42 U.S.C. 254b) is amended—

(1) in the second sentence of subsection (c)(1)(A), by striking "acquisition and modernization" and inserting "acquisition, expansion, and modernization";

(2) in the matter after and below subsection (c)(1)(B)(iv), by striking "acquisition and modernization" and inserting "acquisition, expansion, and modernization";

(3) in the matter after and below subsection (d)(1)(B)(iv), by striking "acquisition and modernization" and inserting "acquisition, expansion, and modernization";

(4) in the matter after and below subsection (d)(1)(C)(iii), by striking "acquisition and modernization" and inserting "acquisition, expansion, and modernization";

(5) in subsection (d)(2), by striking "acquiring and modernizing" and inserting "acquiring, expanding, and modernizing"; and

(6) in subsection (d)(4)(B)(ii)(III), by striking "construct and modernize" and inserting "construct, expand, and modernize".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 329(h) of the Public Health Service Act (42 U.S.C. 254b(h)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) For the purposes of subsections (c) through (e), there are authorized to be appropriated $46,000,000 for fiscal year 1989, $48,000,000 for fiscal year 1990, and $50,000,000 for fiscal year 1991.

"(B) Of the amounts appropriated pursuant to subparagraph (A) for a fiscal year, the Secretary may obligate for grants and contracts under subsection (c)(1) not more than 2 percent, for grants under subsection (d)(1)(C) not more than 5 percent, and for contracts under subsection (e) not more than 10 percent."; and

(2) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2)(A) For the purpose of carrying out subparagraph (B), there are authorized to be appropriated $1,100,000 for fiscal year 1989, $1,200,000 for fiscal year 1990, and $1,300,000 for fiscal year 1991.

"(B) The Secretary may make grants to migrant health centers to assist such centers in—

"(i) providing services for the reduction of the incidence of infant mortality; and

"(ii) developing and coordinating referral arrangements between migrant health centers and other entities for the health management of infants and pregnant women.

"(C) In making grants under subparagraph (B), the Secretary shall give priority to migrant health centers providing services in any catchment area in which there is a substantial incidence of infant mortality or in which there is a significant increase in the incidence of infant mortality.".

SEC. 3. COMMUNITY HEALTH CENTERS.

(a) ADDITION OF PATIENT CASE MANAGEMENT SERVICES TO LIST OF PROVIDED SERVICES.—Section 330(a)(1) of the Public Health Services Act (42 U.S.C. 254c(a)(1)) is amended—

(1) by striking "and" at the end of paragraph (4) and inserting "and" at the end of paragraph (5); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) patient case management services (including outreach, counseling, referral, and follow-up services),".

(b) ADDITION OF APPROPRIATE HEALTH NEEDS TO LIST OF SUPPLEMENTAL HEALTH SERVICES.—Section 330(b)(2) of the Public Health Service Act (42 U.S.C. 254c(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (L);

(2) by striking the period at the end of subparagraph (M) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(N) other services appropriate to meet the health needs of the medically underserved population served by the community health center involved.".

(c) REQUIREMENT OF NOTICE AND COMMENT WITH RESPECT TO REGULATIONS ON MEDICALLY UNDERSERVED POPULATIONS.—Section 330(b)(4) of the Public Health Service Act (42 U.S.C. 254c(b)(4)) is amended by inserting after and below subparagraph (B) the following:

"The Secretary may modify the criteria established in regulations issued under this paragraph only after affording public notice and an opportunity for comment on any such proposed modifications.".

(d) REQUIREMENT OF FEES CONSISTENT WITH LOCALLY PREVAILNG RATES.—Section 330(e)(3)(F)(i) of the Public Health Service Act (42 U.S.C. 254c(e)(3)(F)(i)) is amended—

(1) by inserting after "provision of its services" the following: "consistent with locally prevailing rates or changes and"; and

(2) by inserting "has prepared" after "operation and".

(e) AUTHORITY WITH RESPECT TO EXPANSION OF CENTERS.—Section 330 of the Public Health Service Act (42 U.S.C. 254c) is amended—

(1) in the second sentence of subsection (c)(1), by striking "acquisition and modernization" and inserting "acquisition, expansion, and modernization";

(2) in the matter after and below subsection (d)(1)(C)(iii), by striking "acquisition and modernization" and inserting "acquisition, expansion, and modernization";

(3) in subsection (d)(2), by striking "acquiring and modernizing" and inserting "acquiring, expanding, and modernizing"; and

(4) in subsection (d)(4)(B)(ii)(III), by striking "construct and modernize" and inserting "construct, expand, and modernize".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 330(g) of the Public Health Service Act (42 U.S.C. 254c(g)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) For the purpose of payments under grants under this section, there are authorized to be appropriated $408,000,000 for fiscal year 1989, $423,000,000 for fiscal year 1990, and $437,000,000 for fiscal year 1991.";

(2)(A) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(B) by redesignating paragraph (2) as subparagraph (B);

(C) in paragraph (1)(B)(i) (as so redesignated), by striking "this section" and inserting "paragraph (1)"; and

(D) in paragraph (1)(B)(ii) (as so redesignated), by striking "this section" and inserting "paragraph (1)"; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2)(A) For the purpose of carrying out subparagraph (B), there are authorized to be appropriated $19,400,000 for fiscal year 1989, $20,000,000 for fiscal year 1990, and $21,000,000 for fiscal year 1991.

"(B) The Secretary may make grants to community health centers to assist such centers in—

"(i) providing services for the reduction of the incidence of infant mortality; and

"(ii) developing and coordinating referral arrangements between community health centers and other entities for the health management of infants and pregnant women.

"(C) In making grants under subparagraph (B), the Secretary shall give priority to community health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.".

SEC. 4. REQUIREMENT WITH RESPECT TO FRONTIER AREAS.

Section 330 of the Public Health Service Act (42 U.S.C. 254c) is amended by adding at the end the following new subsection:

"(j) In making grants under this section, the Secretary shall give special consideration to the unique needs of frontier areas.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the community and migrant health centers programs are the centerpiece of our Nation's effort to provide primary health care to medically underserved areas. In conjunction with the National Health Service Corps, these two programs are carefully targeted to reach the most vulnerable citizens who have little or no access to reasonably priced primary health care services.

In addition to this basic role, it is the community and migrant health centers that the Congress has looked to when there has been a crisis with health care delivery. When unemployment was high and people lost their health insurance in 1983, when the numbers of homeless people began to rise, and when we saw little improvement in infant mortality rates, the Congress provided funds to community and migrant health centers to address the new health care needs.

Now with the number of uninsured individuals and families rising to record levels, I believe it is imperative that we maintain and expand these two programs.

H.R. 4503 provides for modest, but very important increases in authorizations for fiscal years 1989-91 for grants to the community and migrant health centers as well as for the continuation of the infant mortality initiative through the centers which was began last year.

This bill has strong bipartisan support. I urge all Members to join in supporting this important bill.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the chairman of the Subcommittee on Health and the Environment in supporting the reauthorization of the community and migrant health centers' programs and the grant program to reduce infant mortality. The provisions in H.R. 4503 will enhance the operations of the health centers and improve the prevention-oriented, primary care services provided to otherwise medically underserved populations.

The authorization levels in the bill reflect increases in current services based on the inflation factors utilized by the administration. Therefore, the administration supports enactment of the bill.

I urge my colleagues to join me in supporting H.R. 4503.

Mr. WAXMAN. Mr. Speaker, we have no further requests for time, and I yield back the balance of our time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 4503, as amended.

The question was taken.

Mrs. SAIKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

THE EVOLUTION OF THE UNION STATION

(Mr. GRAY of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAY of Illinois. Mr. Speaker, there is an old saying that inch by inch anything is a cinch.

In 1967, I stood in this well and talked about the need of building a National Visitors' Center so we could accommodate the more than 20 million foreign and American visitors who come to our great Nation's capital. We formed what is known as a Visitors' Center Advisory Commission that was composed at that time of the Secretary of the Interior Stewart Udall, who is the distinguished brother of our distinguished colleague, the gentleman from Arizona, Mr. MO UDALL. We had a bipartisan group from each side of the aisle on each side of the Capitol. We had many great Senators like Hugh Scott, who at that time was minority leader of the Senate. Senator STROM THURMOND, who still serves with great distinction as a Senator from South Carolina, Senator Baker of Tennessee and many others. I will include the complete list at the conclusion of my remarks. We studied possible locations throughout the Nation's Capital as the best location in which to build a National Visitor's Center.

The Secretary of the Interior at that time felt very strongly about utilizing Union Station, the train station in Washington that had grown obsolete. The station was cavernous in size, 350,000 square feet. As the Members know, we have been going down hill in our train transportation. We can go to the Moon, but for some reason we cannot seem to travel on Earth when it comes to traveling by train.

So it was decided by that bipartisan commission to take over Union Station as the National Visitors Center. That was undertaken by the National Park Service. They advertised for bids. They got a contract. It was started under Hyman Construction here in Washington. But for some reason, because of labor strife and the bankruptcy of the Penn Central Railroad Co., which owned Union Station at that time, it took 7 years to try to get that project underway.

It seems that we can build weapons for war without delay but when it comes to showing our friendship and putting out our hand to those who sent us here, our constituents, we seem to falter by the wayside.

I retired from Congress in 1975, in January, and a new incoming Secretary of the Interior, Thomas Kleppe, decided to shut the project down when it was within $4 million of being finished. We said we cannot afford it; now it will cost $4.2 million to finish a $4 million job. The whole guts of the project was parking. We wanted to bring the tourists into Washington, let them park their automobiles in a nice garage, and then take public transportation. This would have had a very salutary effect on the traffic jams around

Washington. Then they could taken the interpretive shuttle service which we started and which incidentally is still running today, down around The Mall, over to Arlington, down to Mount Vernon, and all those places that would be necessary to really let the American people and foreign visitors see this beautiful Nation's Capital.

As I said, we got within $4 million of finishing the parking garage, which was the guts of the whole project, and they shut it down. So for 10 long years this project was allowed to lie dormant, and it was called Gray's white elephant. I did not mind that part of it, Mr. Speaker, because we saved historic Union Station. Had we not decided to utilize Union Station as the National Visitors Center, this big, beautiful facility would have been torn down. I am including testimony from the railroads concerning their intentions. The owners of Union Station testified to that effect in the committee on which I served at that time, the Subcommittee on Public Buildings and Grounds. They testified that if we did not buy that station or utilize the air rights over the tracks, they would tear the station down. If we go down there today, Mr. Speaker, and look at that beautiful facility, we would see that that would have been a national tragedy. So I am willing to take the onus of calling it Gray's white elephant, to be able to preserve that beautiful building. But the reason I take the floor today is to reiterate what I said a moment ago—that inch by inch, anything is a cinch.

After a new Secretary of the Interior and Congress finally decided they would finish the facility. Unfortunately, it is not going to be used as a National Visitors Center, although it should have been. It is going to be turned over to private entrepreneurs. There will be about 100 stores and about 8 theaters, and in September of this year that grand facility will be opened to the general public. We estimate that millions and millions of people will be able to come and see that great facility known as Union Station and be able to trade in the shops and go to the fine restaurants and theaters. There are eight or nine theaters that are going to be opened down there.

But the reason I take the floor today is to mention the fact that we are going to have this facility opened to the public, and also to cry out once again and say that it is a disgrace that we have a great Nation's Capital and no place for the visitors to sit down and rest their weary feet and park their automobiles. Incidentally, 74 percent of the people who come to Washington today still come by automobile. The others fly or take buses or trains. But almost three-quarters of all the people—and we estimate we have around 20 million visitors a year, foreign and America—who come to Washington come by automobile. It is a national disgrace. We have visitors' centers at Gettysburg, we have visitors' centers at Williamsburg, we have visitor's centers at Cape Canaveral, and we have visitors' centers at almost every park and Government facility around the United States, but here in this great Nation's Capital, there is no place, no central place for people to come and park their car and get a hot meal, particularly school groups, and go about the city.

So I hope that as we celebrate this September the opening of this fantastic Union Station, we will appreciate the fact that we have saved it for posterity, that we have saved it for generations yet unborn, but, more importantly, I hope we will rededicate ourselves, Mr. Speaker, to building a National Visitors Center where people can come and feel like this is their Nation's Capital. The original Visitors Center was not a white elephant. It was an incomplete project that no one had the will to finish. It would be insane to say that we don't need parking on Capitol Hill and that was the main purpose of a National Visitors Center.

One thing further in closing, Mr. Speaker, the press has bandied around all kinds of figures as to cost of this station. Some have said "over $100 million was wasted." Mr. Speaker we did not pay one penny for Union Station per se. We bought the 30 acres of air rights which will allow the taxpayers to own this national historic trademark. Under permission granted me I am enclosing documents to prove my statements. Thank you.

CHESSIE SYSTEM,
Baltimore, MD, July 22, 1976.
Hon. KENNETH J. GRAY,
Washington, DC.

DEAR KEN: On this day of the official dedication of the National Visitor Center in historic Union Station, Washington, I am presenting to you, with congratulations and best wishes, the enclosed ceramic ashtray, which was given to me by John Collinson some years ago but which I think really belongs in your hands.

You will note the inscription, attributed to Sir Edmund Burke:

"Those who carry on great public works must be proof against the most fatiguing delays, the most mortifying disappointments, the most shocking insults and, what is worst of all, the most presumptuous judgments of the ignorant upon their design."

It seems to me that you have met this test 100%, for surely without your intelligence, perseverance and powers of persuasion this magnificent public edifice would not exist today. You are entitled to take great pride in this accomplishment.

With warm personal regards,
Sincerely yours,
F.W. DOOLITTLE, Jr.,
Counsel.

NATIONAL PARK SERVICE,
NATIONAL CAPITAL REGION,
Washington, DC, September 26, 1986.
Hon. JAMES J. HOWARD,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, DC.

DEAR MR. HOWARD: As requested, briefly listed below are costs incurred by the Department of the Interior, National Park Service, in development of the Union Station-National Visitor Center pursuant to Public Law 90-264 (the National Visitor Center Facilities Act of 1968).

Period	Amount	Cost item
From passage of Public Law 90–264 on Mar. 12, 1968 to September 1976, when NPS stopped construction.	$21,245,397	Advance and project planning, complete renovation work, portion of parking facility and ramps, and Columbia Plaza.
Fiscal years 1977 through 1982.	20,439,946	Rental and taxes after Department of Transportation took lead in completing project and DOI became tenant.
Fiscal year 1980	2,300,000	Emergency roof repairs.
June 1982 to present	6,499,332	Roof repairs and renovation of storm drainage system.
Total	50,484,675	

If we can be of further assistance, please do not hesitate to contact me on 426-6614.

HEARINGS—NATIONAL VISITOR CENTER ACT OF 1967

Mr. GRAY. And you would provide up to $11 million for the parking facility and $5 million for remodeling the existing Union Station, and $3.5 million for a new railroad terminal, making a total investment of $19.5 million plus the existing investment plus the air rights over the tracks, and the aggregate cost to the United States for the leases would not exceed $2.9 million a year for a term of not more than 20 years?

Mr. MULLIGAN. That is right. Mr. Chairman, I think we should recognize that all of these figures are ceilings, they are maximum figures.

Mr. GRAY. You would have no objection to this committee writing in that the exact figures would be determined through negotiation but not to exceed $2.9 million?

Mr. MULLIGAN. I would prefer to go with Mr. Knott's figure of not to exceed $3 million.

Mr. GRAY. We are talking about less than a $100,000 a year difference.

NATIONAL VISITOR CENTER STUDY COMMISSION

Chairman: Secretary of the Interior—Hon. Stewart L. Udall.

Citizen Members named by the President: Mr. Carlisle H. Humelsine, Rev. Walter E. Fauntroy, Mrs. Jack Coopersmith.

Senate Members named by the Vice President: Sen. Alan Bible, Nevada; Sen. Gaylord Nelson, Wisconsin; Sen. Joseph D. Tydings, Maryland; Sen. Hugh Scott, Pennsylvania; Sen. Strom Thurmond, South Carolina; Sen. Howard H. Baker, Jr., Tennessee.

House of Representatives Members named by the Speaker: Rep. Kenneth J. Gray, Illinois; Rep. John C. Kluczynski, Illinois; Rep. J. J. Pickle, Texas; Rep. William C. Cramer, Florida; Rep. Fred D. Schwengel, Iowa; Rep. George V. Hansen, Idaho.

Ex Officio Members named in Legislation: Administrator of General Services, Mr. Lawson B. Knott, Jr.; Secretary, Smithsonian Institution, Chairman, Council on Arts and Humanities, Dr. S. Dillon Ripley; Chairman, National Capital Planning Commission, Mrs. James H. Rowe, Jr.; Chairman, Commission on Fine Arts, Mr. William Walton.

INTERNATIONAL ENERGY AGENCY EXTENSION

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4604) to extend the expiration date of title II of the Energy Policy and Conservation Act, as amended.

The Clerk read as follows:

H.R. 4604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 281 of the Energy Policy and Conservation Act (42 U.S.C. 6285) is amended by striking "1988" both places it appears and inserting in lieu thereof "1990".

SEC. 2. STUDY AND REPORT ON ENERGY POLICY COOPERATION BETWEEN UNITED STATES AND THE OTHER WESTERN HEMISPHERE COUNTRIES.

(a) STUDY.—The Secretary of Energy, in consultation with the Secretary of State and the Secretary of Commerce, shall conduct a study to determine how best to enhance cooperation between the United States and the other countries of the Western Hemisphere with respect to energy policy including stable supplies of, and stable prices for, energy.

(b) REPORT.—On completion of the study described in subsection (a), the Secretary of Energy shall—

(1) report the results of such study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate;

(2) propose a comprehensive international energy policy for the United States designed to enhance cooperation between the United States and the other countries of the Western Hemisphere; and

(3) recommend such action as the Secretary deems necessary to establish and implement such policy.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our participation in the IEA—the International Energy Agency—lets us work with the other industrialized oil consuming nations to minimize the uncoordinated kind of "panic bidding" activity that can exacerbate an energy supply disruption.

We saw this panic in 1973 and 1979, and the IEA is an institution we've developed to prevent a replay of that.

Since the 1970's the oil markets have changed: For example, we and other IEA nations now have very large strategic oil stockpiles of nearly 1 billion barrels—an ideal tool to buy time in a crisis, to limit panic and to lower prices.

The IEA has also "changed its tune" since the 1970's to stress continued building of these stockpiles and to urge their coordinated use in a crisis. We applaud that.

The IEA now downplays the oil allocation programs that, 10 years ago, we felt might be needed in a crisis—perhaps because we then had no large oil stocks.

This emergency allocation authority is what the bill extends. It expires on June 30, and we are acting today to prevent a lapse of this authority.

The extension in this bill is 2 years: It's a single world oil market, so we must cooperate with other consuming nations. We must keep up our international commitments here, and maintain the institutions we've developed over time—like the IEA—to deal with mutual energy problems.

Otherwise, we'll just have to reinvent the IEA when a new energy crisis comes along. That would be costly.

Our continued IEA participation lets us push other nations to invest in bigger oil stockpiles that give us all more elbow room in a crisis—and prevent bickering over which nation is carrying its fair share of the burden or just enjoying a "free ride" on our SPR.

Congress has repeatedly extended this authority in past years.

The bill's "last resort" allocation authority will be used, if at all, only after and not before a coordinated stockdraw.

Why only 2 years, and not longer? Because allocation in a crisis is potentially controversial—it could send our oil to Italy, which is nice for them, but maybe not for us.

On South American study:

Mr. Speaker, this bill also requires the Department of Energy to study ways to cooperate on energy trade between the United States and Central and South America.

I want to commend the gentleman from Texas [Mr. LELAND] who has authored this provision. We believe this kind of cooperation can help ease our growing energy vulnerability.

There are huge oil supplies south of us, in Brazil, Venezuela, Colombia, and so forth.

Many of these nations, like Mexico, have huge debts to United States banks and dire need for hard cash—making them more likely to try to boost production and steal markets from OPEC if prices move up.

Renewed Persian Gulf market power in the 1990's is a real concern for us. Why not study ways to dilute that power and help our own energy security by taking steps that also shore up political stability and improve profits in these nations?

If the Canadian Free Trade Agreement makes sense—and it does—maybe similar efforts with Mexico do, too. Possibly more legal and cultural differences stand in the way of freer energy trade with South America, and a study could show what different approach might be needed.

The Department gave limited attention to South America's potential in last year's energy security report. It didn't even mention that Venezuela added the equivalent of an entire new United States in proved oil reserves, 26 billion barrels, in 1987.

The Russians want to cooperate with us on Siberian gas projects. Saudi Arabia wants to joint venture with Texaco. We cooperate with and even defend the Saudis and Kuwaitis, and we cooperate with the IEA nations, and with Canada—so why not also with our southern neighbors?

□ 1230

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation. This country decided to participate in the International Energy Program following the first Arab oil boycott in 1973. Many words have been written about the cause and effects of the 1973 crisis, as well as the 1979 boycott. There is no need for a detailed reexamination of these events today. Suffice to say that the oil boycotts caused great damage to our economy and to the world's economy. This damage was probably made worse by the intervention of the Government, which attempted to manipulate supply, demand, and price. The result was artificial scarcity of supplies and higher prices. Recognizing the failure of this approach, President Reagan eliminated oil allocation regulations as one of his first acts as President.

In view of this demonstrated failure of regulation, there is much doubt as to whether the emergency oil sharing plan which is a central feature of the International Energy Agency, would do more harm than good in the event of another cutoff of oil supplies.

Putting aside questions about the oil sharing plan, I understand that the United States' role in the IEA is important to the continued functioning of the organization. Participation in the IEA manifests the determination of our country to work with other consuming nations to strengthen our common abilities to minimize the effects of an oil supply disruption. The buildup of strategic petroleum reserves, which is required of IEA member states, is of tremendous significance in this regard. The mere existence of such reserves serves as a deterrent to those who would consider using their oil production as a political weapon. Our strategic petroleum reserve now contains over 540 million barrels of crude oil, and exceeds the IEA requirements for protection against a cutoff of imports. Other IEA countries need to duplicate our efforts in this area. I believe the SPR is our most effective safeguard against a repeat of the oil crises of the last decade, and I will continue to work for full funding of the SPR oil acquisition program. Indeed, as I have often stated, I support increasing our ultimate goal for the SPR from 750 million barrels to 1 billion barrels.

The IEA also serves information gathering and distribution purposes. We are much better informed about the state of the world oil market because of the activities of the IEA. This information assists the private sector and the Government so that we may be better prepared to respond to market developments as they occur.

I therefore urge my colleagues to vote for passage of this bill.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4604, the bill under consideration.

The SPEAKER pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 4604, as amended.

The question was taken.

Mr. MOORHEAD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

NATIONAL ENERGY CONSERVATION POLICY ACT AMENDMENT

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4065) to amend the National Energy Conservation Policy Act with respect to the energy policy of the United States, as amended.

The Clerk read as follows:

H.R. 4065

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Energy Management Improvement Act of 1988".

SEC. 2. FEDERAL ENERGY MANAGEMENT IMPROVEMENTS.

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251-8261) is amended to read as follows:

"PART 3—FEDERAL ENERGY MANAGEMENT

"SEC. 4. FINDINGS.

"The Congress finds that—

"(1) the Federal Government is the largest single energy consumer in the Nation;

"(2) the cost of meeting the Federal Government's energy requirement is substantial;

"(3) there are significant opportunities in the Federal Government to conserve and make more efficient use of energy through improved operations and maintenance, the use of new energy efficient technologies, and the application and achievement of energy efficient design and construction;

"(4) Federal energy conservation measures can be financed at little or no cost to the Federal Government by using private investment capital made available through contracts authorized by title VIII of this Act; and

"(5) an increase in energy efficiency by the Federal Government would benefit the Nation by reducing the cost of government, reducing national dependence on foreign energy resources, and demonstrating the benefits of greater energy efficiency to the Nation.

"SEC. 542. PURPOSE.

"It is the purpose of this part to promote the conservation and the efficient use of energy by the Federal Government.

"SEC. 543. ENERGY MANAGEMENT GOALS.

"(a) ENERGY PERFORMANCE GOAL FOR FEDERAL BUILDINGS.—(1) Subject to paragraph (2), each agency shall apply energy conservation measures to, and shall improve the design for the construction of, its Federal buildings so that the energy consumption per gross square foot of its Federal buildings in use during the fiscal year 1995 is at least 10 percent less than the energy consumption per gross square foot of its Federal buildings in use during the fiscal year 1985.

"(2) An agency may exclude from the requirements of paragraph (1) any building, and the associated energy consumption and gross square footage, in which energy intensive activities are carried out. Each agency shall identify and list in each report made under section 548(a) the buildings designated by it for such exclusion.

"(b) IMPLEMENTATION STEPS.—To achieve the goal established in subsection (a), each agency shall—

"(1) prepare or update, within 6 months after the date of the enactment of the Federal Energy Management Improvement Act of 1988, a plan describing how the agency intends to meet such goal, including how it will implement this part, designate personnel primarily responsible for achieving such goal, and identify high priority projects;

"(2) perform energy surveys of its Federal buildings to the extent necessary;

"(3) using such surveys, apply energy conservation measures in a manner which will attain the goal established in subsection (a) in the most cost-effective manner practicable; and

"(4) ensure that the operation and maintenance procedures applied under this section are continued.

"SEC. 544. ESTABLISHMENT AND USE OF LIFE CYCLE COST METHODS AND PROCEDURES.

"(a) ESTABLISHMENT OF LIFE CYCLE COST METHODS AND PROCEDURES.—The Secretary, in consultation with the Director of the Office of Management and Budget, the Secretary of Defense, the Director of the National Bureau of Standards, and the Administrator of the General Services Administration, shall—

"(1) establish practical and effective present value methods for estimating and comparing life cycle costs for Federal buildings, using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of 25 years, whichever is shorter, and using average fuel costs and a discount rate determined by the Secretary; and

"(2) develop and prescribe the procedures to be followed in applying and implementing the methods so established.

"(b) USE OF LIFE CYCLE COST METHODS AND PROCEDURES.—(1) The design of new Federal building, and the application of energy conservation measures to existing Federal buildings, shall be made using life cycle cost methods and procedures established under subsection (a).

"(2) In leasing buildings for its own use or that of another agency, each agency shall give appropriate preference to buildings which minimize life cycle costs.

"(c) USE IN NON-FEDERAL STRUCTURES.—The Secretary shall make available information to the public on the use of life cycle cost methods in the construction of buildings, structures, and facilities in all segments of the economy.

"SEC. 545. BUDGET TREATMENT FOR ENERGY CONSERVATION MEASURES.

"Each agency, in support of the President's annual budget request to the Congress, shall specifically set forth and identify funds requested for energy conservation measures.

"SEC. 546. INCENTIVES FOR AGENCIES.

"(a) IN GENERAL.—Each agency shall establish a program of incentives for conserving, and otherwise making more efficient use of, energy as a result of entering into contracts under title VIII of this Act.

"(b) IMPLEMENTATION.—The head of each agency shall, no later than 120 days after the date of the enactment of the Federal Energy Management Improvement Act of 1988, implement procedures for entering into such contracts and for identifying, verifying, and utilizing, on a fiscal year basis, the cost savings resulting from such contracts.

"(c) USE OF SAVINGS.—The portion of the funds appropriated to any agency for energy expenses for a fiscal year that is equal to the amount of cost savings realized by such agency for such year from contracts entered into under title VIII shall remain available for obligation, without further appropriation, to undertake additional energy conservation measures.

"SEC. 547. INTERAGENCY ENERGY MANAGEMENT TASK FORCE.

"(a) IN GENERAL.—To assist the interagency committee organized under section 656 of the Department of Energy Organization Act (42 U.S.C. 7266) to coordinate the activities of Federal Government in promoting energy conservation and the efficient use of energy and in informing non-Federal entities of the Federal experience in energy conservation, the Secretary shall establish an Interagency Energy Management Task Force (hereafter in this section referred to as the 'Task Force').

"(b) Members.—The Task Force shall be composed of the chief energy managers of agencies represented on the interagency committee organized under section 656 of the Department of Energy Organization Act.

"(c) Duties.—The Task Force shall meet when the Secretary requests, but not less often than twice a year, to—

"(1) assess the progress of the various agencies in achieving energy savings;

"(2) collect and disseminate information to agencies, States, local governments, and the public on effective survey techniques, innovative approaches to the efficient use of energy, incentive programs developed under section 546, innovative contracting methods developed under title VIII of this Act, the use of cogeneration facilities and renewable resources, and other technologies that promote the conservation and efficient use of energy;

"(3) coordinate energy surveys conducted by the agencies;

"(4) develop options for use in conserving energy;

"(5) report to the committee organized under section 656 of the Department of Energy Organization Act; and

"(6) review, from time to time as may be necessary, the regulations relating to building temperature settings to determine whether changes in such regulations would be appropriate to assist in meeting the goals specified in section 543.

"SEC. 548. REPORTS.

"(a) Reports to the Secretary.—Each agency shall transmit a report to the Secretary, at times specified by the Secretary but at least annually, with complete information on its activities under this part, including information on—

"(1) the agency's progress in achieving the goals established by section 543; and

"(2) the procedures being used by the agency pursuant to section 546(b), the number of contracts entered into by such agency under title VIII of this Act, the energy and cost savings that have resulted from such contracts, the use of such cost savings under section 546(c), and any problem encountered in entering into such contracts and otherwise implementing section 546.

"(b) Reports to Congress.—The Secretary shall report annually, with respect to each fiscal year beginning after the date of the enactment of this subsection, to the Congress—

"(1) on all activities carried out under this part and on the progress made toward achievement of the objectives of this part, including a copy of the list of the exclusions made under section 543(a)(2);

"(2) the number of contracts entered into by all agencies under title VIII of this Act, the difficulties (if any) encountered in attempting to enter into such contracts, and proposed solutions to those difficulties; and

"(3) the extent and nature of interagency exchange of information concerning the conservation and efficient utilization of energy.

"SEC. 549. DEFINITIONS.

"For the purposes of this part—

"(1) the term 'agency' has the meaning given it in section 551(1) of title 5, United States Code;

"(2) the term 'construction' means new construction or substantial rehabilitation of existing structures;

"(3) the term 'cogeneration facilities' has the same meaning given such term in section 3(18)(A) of the Federal Power Act (16 U.S.C. 796(18)(A));

"(4) the term 'energy conservation measures' means measures that are applied to a Federal building that improve energy efficiency and are life cycle cost effective and that involve energy conservation, cogeneration facilities, renewable energy sources, improvements in operations and maintenance efficiencies, or retrofit activities;

"(5) the term 'energy survey' means a procedure used to determine energy and cost savings likely to result from the use of appropriate energy related maintenance and operating procedures and modifications, including the purchase and installation of particular energy-related equipment and the use of renewable energy sources;

"(6) the term 'Federal building' means any building, structure, or facility, or part thereof, including the associated energy consuming support systems, which is constructed, renovated, leased, or purchased in whole or in part for use by the Federal Government and which consumes energy; such term also means a collection of such buildings, structures, or facilities and the energy consuming support systems for such collection;

"(7) the term 'life cycle cost' means the total costs of owning, operating, and maintaining a building over its useful life (including such costs as fuel, energy, labor, and replacement components) determined on the basis of a systematic evaluation and comparison of alternative building systems, except that in the case of leased buildings, the life cycle cost shall be calculated over the effective remaining term of the lease;

"(8) the term 'renewable energy sources' includes, but is not limited to, sources such as agriculture and urban waste, geothermal energy, solar energy, and wind energy; and

"(9) the term 'Secretary' means the Secretary of Energy.".

(b) Conforming Amendment.—Section 381(c) of the Energy Policy and Conservation Act (42 U.S.C. 6361(c)), is amended to read as follows:

"(c) The Secretary shall include in the report required under section 548(b) of the National Energy Conservation Policy Act the steps taken under subsections (a) and (b) of this section.".

(c) Technical Amendment.—Part 3 of title V of the table of contents of the National Energy Conservation Policy Act is amended to read as follows:

"PART 3—FEDERAL ENERGY MANAGEMENT

"Sec. 541. Findings.
"Sec. 542. Purpose.
"Sec. 543. Energy management goals.
"Sec. 544. Establishment and use of life cycle cost methods and procedures.
"Sec. 545. Budget treatment for energy conservation measures.
"Sec. 546. Incentives for agencies.
"Sec. 547. Interagency Energy Management Task Force.
"Sec. 548. Reports.
"Sec. 549. Definitions.".

SEC. 3. SURVEY OF ENERGY SAVING POTENTIAL.

(a) In General.—The Secretary of Energy shall, using funds appropriated to carry out this section, carry out an energy survey, as defined in section 549(5) of the National Energy Conservation Policy Act, for the purposes of—

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the Federal Government in different areas of the country; and

(2) making recommendations for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar Federal buildings.

(b) Implementation.—(1) The Secretary shall transmit to the Congress, within 180 days after the date on which funds are appropriated to carry out this section, a plan for implementing this section.

(2) The Secretary shall designate buildings to be surveyed in the project so as to obtain a sample of buildings of the types and in the climates that is representative of the buildings owned or leased by Federal agencies in the United States that consume the major portion of the energy consumed in Federal buildings.

(3) For purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of a Federal building or the remaining term of a lease of a building leased by the Federal government as determined by the life cycle costing methodology developed under section 544 of the National Energy Conservation Policy Act.

(c) Personnel.—(1) In carrying out this section, the Secretary shall utilize personnel who are—

(A) employees of the Department of Energy; or

(B) selected by the agencies utilizing the buildings which are being surveyed under this section.

(2) Such personnel shall be detailed for the purpose of carrying out this section without any reduction of salary or benefits.

(d) Report.—As soon as practicable after the completion of the project carried out under his section, the Secretary shall transmit a report of the findings and conclusions of the project to the Congress and to the agencies who own the buildings involved in such project.

(e) Authorization of Appropriations.—There is authorized to be appropriated $250,000 to carry out this section.

The **SPEAKER** pro tempore (Mr. Gray of Illinois). Is a second demanded?

Mr. **MOORHEAD.** Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Indiana [Mr. Sharp] will be recognized for 20 minutes and the gentleman from California [Mr. Moorhead] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. Sharp].

Mr. **SHARP.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Federal Energy Management Improvement Act of 1988 will strengthen the Government's efforts to reduce energy use in its own buildings and facilities.

The energy used in Federal buildings is significant. In 1986, the last year for which figures are available, the Government spent $3.3 billion on energy for its roughly 500,000 buildings and facilities. The energy used by those buildings was the equivalent of 120 million barrels of oil.

Reducing the Government's energy use will have several benefits. First, it will reduce Government spending. The Congressional Budget Office estimates that it will save the Government $225 million in the period between 1989 and 1993.

Second, the energy saved will help reduce our dependence on foreign imports.

Third, by vigorously pursuing energy conservation, the Federal Government provides a good example to the private sector and State and local governments. The message is that "Conservation is still important!"

The bill achieves its benefits in several ways. It sets minimum goals for agencies to reduce their energy use by 1995. The agencies have not had such an overall goal since an old Executive order expired in 1986.

The Executive order set a goal for all agencies to reduce their energy use by 20 percent per square foot of building floor space within 10 years. By 1985 the agencies on average had cut their energy use 16.6 percent compared to 1975.

When the Executive order expired in 1985, the administration chose not to renew it. In 1986, energy use per square foot of building space was up 2.8 percent over 1985. Figures are not yet available for 1987, but the expectation is that they will again be up over the previous year. The progress the agencies made from 1975 to 1985 is now being eroded.

The bill also authorizes a modest study of a representative sample of Federal buildings to determine the maximum potential energy savings that can be obtained.

Finally, the bill provides an economic incentive to agencies to encourage them to go beyond the minimum goals toward the maximum potential.

The Senate has passed a similar bill, S. 1382. The committee amendment which I am offering on H.R. 4065 is the result of discussions between the House and the Senate. It reconciles the differences in the two bills. It also eliminates an inadvertent reference to the Department of Energy's national labs, which the chairman of the Science and Technology Committee pointed out are in that committee's jurisdiction.

Specifically, the amendment has an improved incentive program, restricts the bill to buildings by deleting the provisions on automobiles in the Senate bill, and provides an exemption for energy intensive buildings such as DOE nuclear facilities. It also includes some suggestions from executive agencies to improve implementation of the bill, and, as I said, deletes some language that raised concerns with the Science Committee.

The committee amendment represents a compromise that both the House and Senate can live with; it was worked out with the participation of the minority, and I have been assured that it will be accepted by the Senate.

In response to a question from my colleague [Mr. Roe], I would like to clarify the intent of this bill with regard to section 544 and the National Bureau of Standards.

Section 544(a) of this bill restates existing responsibility of the Department of Energy to develop life-cycle cost methods and procedures, in consultation with, among others, the National Bureau of Standards. This responsibility was first created in the National Energy Conservation Policy Act. To the extent that further consultation with the National Bureau of Standards is necessary to carry out the provisions of this act, the intent of this legislation is that the Bureau would be compensated in the same manner that it has been compensated in the past by [DOE] for work pertaining to life-cycle cost methods and procedures.

I would like to take this opportunity to thank my colleague from across the aisle, the gentleman from California [Mr. Moorhead] for his cooperation and support for this bill.

H.R. 4065 is fiscally conservative and energy conservative. I urge its swift passage.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to commend the gentleman from Indiana [Mr. Sharp], the chairman of our subcommittee, for bringing this legislation in so timely a fashion to the floor.

Mr. Speaker, I rise in support of H.R. 4065. Reduction in the Federal Government's use of energy through conservation is an important and timely step. The Federal Government is the Nation's largest user of energy. In 1986 the Federal Government's use of energy in Federal buildings represented approximately 2.4 percent of all energy used in the United States. Conservation by the Federal Government to reduce this consumption of energy would not only save taxpayer dollars but would help reduce our dependence on foreign oil.

H.R. 4065 will accomplish this reduction in energy use in Federal buildings by setting minimum goals for all Federal agencies to reduce their energy use by 10 percent by 1995. Federal agencies are encouraged by this legislation to conserve beyond the minimum goals by allowing the agencies to keep savings from funds allocated for energy expenses. These savings can be used for additional energy conservation efforts or other authorized activities of the agency.

These goals and incentives will also cause Federal building managers to make use of shared savings contracts, a method of private financing of energy savings improvements authorized by the Consolidated Omnibus Budget Reconciliation Act of 1985. Under a shared savings contract, a private energy service company provides the capital for energy efficiency improvements; in exchange the contractor receives a share of the energy cost savings from the conservation measure over the term of the contract.

In addition, this bill establishes a task force under the leadership of the Department of Energy to coordinate the activities of the Federal agencies in their promotion of energy conservation.

For these reasons, I think H.R. 4065 constitutes sound energy conservation policy and I urge expeditious enactment of this legislation.

□ 1245

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 4065, the bill now under consideration.

The SPEAKER pro tempore (Mr. Gray of Illinois). Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. Sharp] that the House suspend the rules and pass the bill, H.R. 4065, as amended.

The question was taken.

Mrs. SAIKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

TELEMARKETING FRAUD PREVENTION ACT OF 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4101) to amend

the Federal Trade Commission Act to strengthen the authority of the Federal Trade Commission respecting fraud committed in connection with sales made with a telephone, as amended.

The Clerk read as follows:

H.R. 4101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE: REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Telemarketing Fraud Prevention Act of 1988".

(b) REFERENCE.—Except as otherwise specifically provided, whenever in section 2 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Trade Commission Act.

SEC. 2. COMMISSION AUTHORITY.

The Federal Trade Commission Act is amended by redesignating sections 24 and 25 (15 U.S.C. 57c, 58) as sections 25 and 26, respectively, and by adding after section 23 the following:

"SEC. 24. (a)(1) The Commission shall promulgate rules for the telemarketing activities of a person, partnership, or corporation. In promulgating such rules, the Commission shall consider the inclusion of—

"(A) a requirement that products or services offered by telemarketing be shipped within a specified period and that if the products or services are not shipped within such period a refund be required,

"(B) authority for a person who orders a product or service through telemarketing to cancel the order within a specified period,

"(C) restrictions on the hours of the day when unsolicited telephone calls can be made to consumers, and

"(D) recordkeeping requirements.

"(2) Any person, partnership, or corporation which violates any rule promulgated under paragraph (1) shall be considered to have engaged in an unfair or deceptive act or practice in or affecting commerce.

"(3) The Commission shall promulgate the rules under paragraph (1) within 180 days of the date of the enactment of this section and in accordance with section 553 of title 5 of the United States Code.

"(b) A person, partnership, or corporation which engages in telemarketing may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the telemarketing, including conduct which involves—

"(1) the use or threat of the use of violence or other criminal means to harm the physical person, reputation, or property of any person,

"(2) the use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader, or

"(3) the placement of telephone calls without meaningful disclosure of the caller's identity.

A person, partnership, or corporation which engages in such conduct shall be considered to have engaged in an unfair or deceptive act or practice in or affecting commerce.

"(c)(1) Any attorney general of a State and any other official of a State vested under State law with the authority to enforce State consumer protection laws may bring a civil action in the name of the State in a district court of the United States having jurisdiction of the defendant to secure relief, as provided in paragraph (3), against any person, partnership, or corporation which engages in telemarketing which is a fraudulent act or practice or which violates the rule promulgated pursuant to subsection (a) if the attorney general or other official alleges that such telemarketing affects the State or its residents.

"(2) No action may be commenced under paragraph (1) unless the Commission has been given written notice of the commencing of the action—

"(A) at least 30 days before the action is to be commenced, or

"(B) as early as practicable if the attorney general or other official commencing the action—

"(i) alleges that the harm to the public is ongoing or presents an imminent hazard, and

"(ii) petitions the court for temporary or preliminary relief from such harm.

The Commission may intervene, by its own attorneys, in any such action, and the attorney general or other official of another State may intervene in any such action if the State or its residents are affected by the telemarketing with respect to which the action is brought.

"(3) In an action brought under paragraph (1) a court may grant such relief as the court finds necessary to redress injury to consumers or other persons, partnerships, and corporations resulting from the telemarketing for which the action is brought. Such relief may include—

"(A) rescission or reformation of contracts,

"(B) the refund of money or the return of property,

"(C) the payment of damages,

"(D) public notification respecting the telemarketing involved in the action, and

"(E) injunctions.

An attorney general or other official of any State may petition any court which has jurisdiction of a person, partnership, or corporation subject to an order of a court granting relief to enforce such order with respect to such person, partnership, or corporation if the attorney general or other official alleges that failure to comply with such order affects such State or its residents.

"(4) For purposes of this section—

"(A) the term 'attorney general' means the chief legal officer of a State, and

"(B) the term 'State' includes the District of Columbia.

"(d)(1) Any person, partnership, or corporation may commence a civil action to secure relief, as provided in subsection (c)(3), against a person, partnership, or corporation which engages in telemarketing which is a fraudulent act or practice or which violates the rule promulgated pursuant to subsection (a) if the amount in controversy exceeds the sum or value of $10,000. Such an action may be brought in a district court of the United States having jurisdiction of the defendant.

"(2) No action may be commenced under paragraph (1) unless the Commission has been given written notice of the commencing of the action at least 30 days before the action is to be commended.

"(3)(A) The Commission may intervene, by its own attorneys, in any such action.

"(B) The court, is issuing any final order in any action brought under paragraph (1), may award costs of suit and reasonable fees for attorneys and expert witnesses if the plaintiff prevails.

"(C) Nothing in this subsection shall restrict any right which any person, partnership, or corporation may have under any statute or common law to seek enforcement of this Act or any rule or order under this Act or to seek any other relief.

"(e) For purposes of this section—

"(1) a financial institution or other participant in a payment system used to pay for products or services offered or sold through telemarketing, including the credit or payment authorization aspect of such payment system, is not, solely by virtue of such participation, a person, partnership, or corporation which engages in telemarketing or acts in concert with, or on behalf of, a person, partnership, or corporation which engages in telemarketing, and

"(2) the term 'telemarketing' means the use of a telephone in the ordinary course of business to communicate with a person an offer for sale or to complete a sale of a product or service.".

SEC. 3. CLEARINGHOUSE.

The Federal Trade Commission shall establish a clearinghouse for inquiries made to Federal agencies concerning telemarketing (as defined in section 24(e)(2) of the Federal Trade Commission Act). The clearinghouse will provide information (other than information which may not be disclosed under section 552(b) of title 5 of the United States Code) to anyone making inquiries respecting persons, partnerships, or corporations engaged in telemarketing or direct such inquiries to the appropriate Federal or State agency.

SEC. 4. STUDY OF COMPUTER CALLS.

The Federal Trade Commission, in consultation with the Federal Communications Commission, shall conduct a study of telemarketing telephone calls which are generated by computers. In conducting the study, the Commission shall—

(1) determine the hours of the day in which such calls are made,

(2) determine if such calls unduly harass the individuals called, and

(3) determine the effect of the inability of the individual called to terminate such calls.

Not later than 12 months after the date of enactment of this Act, the Commission shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the results of the study under this section together with recommendations.

The SPEAKER pro tempore. Is a second demanded?

Mr. OXLEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. THOMAS A. LUKEN] will be recognized for 20 minutes and the gentleman from Ohio [Mr. OXLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, telemarketing is a large and growing business. The Federal Trade Commission told our committee that telemarketing sales exceed $100

billion a year. Unfortunately, there is also a lot of fraudulent telemarketing. The FTC told us that there is at least $1 billion a year of telemarketing fraud. Newsweek recently had a full page story on telemarketing fraud, indicating that it may be as high as $20 billion a year. Yet the FTC has been able to get back only about $25 million—less than 1 percent—for defrauded consumers during the last 4 years.

The Telemarketing Fraud Prevention Act of 1988, H.R. 4101, has been prepared in a bipartisan manner, and I want to thank Mr. WHITTAKER and the other sponsors of this legislation for their help in crafting solutions to the problem of telemarketing fraud. The bill, as amended, has six essential elements. First, it directs the FTC to promulgate rules on telemarketing within 180 days after the bill is enacted. Second, it authorizes State attorneys general to sue in Federal court anyone who engages in fraudulent telemarketing or violates the FTC's telemarketing rules. Third, it authorizes private parties to sue in Federal court anyone who engages in fraudulent telemarketing or violates the FTC's telemarketing rules. The FTC is authorized to intervene in these suits by either an attorney general or a private party. Fourth, it prohibits harassment or abuse by a telemarketing salesperson. Fifth, it instructs the FTC to establish a clearinghouse on telemarketing. Finally, it directs the FTC to study the use of computers to make telemarketing calls and to make a report, including recommendations, to Congress within a year.

The structure of having attorneys general and private citizens sue in Federal court to enforce Federal regulations is not new. It has been successfully used by the Commodities Future Trading Commission in connection with commodity fraud and by the National Highway Traffic Safety Administration in connection with odometer fraud.

It is also used in the antitrust laws and in some environmental laws, such as the Solid Waste Disposal Act and the Noise Control Act.

Mr. Speaker, no piece of legislation is going to end fraud. But I think this bill will significantly reduce the losses now being suffered by American consumers.

The New York Times of June 25 had a story about telemarketing fraud, and I will insert it in the RECORD. The story describes the problem and goes on to say that this bill is supported by "banks, consumer groups, and the American Telemarketing Association." It is also supported by the National Association of Attorneys General, the National Office Machine Dealers Association, and the National Tour Association.

I urge my colleagues to support this bill.

The article referred to follows:

[From the New York Times, June 25, 1988]

TIGHTENING CONTROLS OVER SALES BY PHONE

WASHINGTON, June 24.—All Jolaine Viskoe had to do was buy 12 boxes of vitamins, the salesman said over the telephone, and she would receive one of the following: a car, a trip, a valuable lithograph of $5,000.

Mrs. Viskoe declined. A few days later the salesman, who identified himself as Bob Faro of the Omni Pharmaceutical Company of Brea, Calif., called her again at her North Branch, Minn., home, offering a money-back guarantee.

That time he made a sale. Mrs. Viskoe ordered the vitamins, at $381, giving Mr. Faro her Mastercard number for payment, Soon the purchase came in the mail, along with Mrs. Viskoe's "prize," a print in a plastic frame, which was valued at $35. When she tried to return the vitamins, which her doctor warned her not to take, and demanded her money back, the company refused.

Each year, hundreds of thousands of people are taken by telephone sales agents. But while there are Federal rules against fraudulent mail-order and door-to-door sales, none protect telephone customers, largely because "telemarketing," or telephone sales, is too new.

LEGISLATION PENDING

Soon that may change. On Monday, the House of Representatives has scheduled a vote on a bill to direct the Federal Trade Commission to issue a rule against telemarketing fraud and to make it easier to sue offenders.

The legislation, approved unanimously by the House Energy and Commerce Committee last month, is expected to pass easily. A companion bill has been introduced in the Senate.

The bill leaves the details to the F.T.C, but it asks that the commission consider several issues: the right of telemarketing customers to a refund, restrictions on the time of day when calls may be made and the right of customers to withdraw their orders within a certain period.

In addition, the legislation would allow state attorneys general and private parties to bring suits against telemarketers in Federal court. They may now sue only in state courts, which makes legal recourse difficult since much telemarketing its conducted across state lines.

The bill also directs the F.T.C. to set up a clearinghouse for complaints.

SALES ARE BIG BUSINESS

Telemarketing, propelled by the growth in credit-card use and tollfree 800-number lines, has become a $100 billion-a-year business, according to the F.T.C. Documented frauds amount to $1 billion a year, and consumer groups say the amount is far higher. The acceptance of shopping by phone "opens the opportunity for con artists," said Jane King, deputy director of the National Consumers League. People have lowered their guard to telephone pitches, she said, but "don't know the rules of the road to be wise shoppers."

"People who are not gullible on other things seem to be taken in," said Representative Thomas A. Luken, Democrat of Ohio, who introduced the bill.

Banks, consumer groups and the American Telemarketing Association support the legislation. The industry group says it fears that the fraudulent telemarketers are giving the business a bad name.

The most common frauds have to do with travel, health products and office supplies. Paige Martino, a lawyer for the National Office Machine Dealers Association, said the group receives more than 1,000 written complaints of telephone scams a year.

Companies commonly use promises of free extras to lure customers. That is what happened to Jan Schmitt, of Marietta, Ga., who owns several day-care centers. She received calls from companies calling themselves Central Marketing and Delta Marketing in New York State selling pens with a printed business logo. "If you bought 200 pens they would give you a free trip," she said.

Ms. Schmitt bought about $4,000 worth of pens in 1986, accumulating a pile of vouchers for trips, which she planned to give her employees. When she called to cash in, the company's phone had been disconnected.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill we are considering today, the Telemarketing Fraud Prevention Act of 1988, makes a number of improvements in the way the Federal Government, along with the States and private parties, pursue remedies against fraudulent telemarketers. I commend the gentleman from Ohio [Mr. THOMAS A. LUKEN], the chairman of the Subcommittee on Transportation, Tourism, and Hazardous Materials, and Mr. WHITTAKER, the ranking Republican member of that subcommittee, for their work in developing the bipartisan bill we have before us today.

There is nothing new, of course, about fraud or the use of the telephone to perpetrate fraud. But the problem seems to be growing worse, to the tune of about $1 billion per year according to estimates of the Federal Trade Commission. The victims are consumers, credit card companies who often end up accepting a charge that a defrauded buyer will not pay, and legitimate telemarketers whose business and reputations are injured by scam artists.

These scam artists are particularly hard for enforcement authorities to catch up to. They frequently operate out of "boiler rooms" and can move easily from State to State. While the FTC and the States have been increasing their enforcement of laws against telemarketing fraud, the activity is clearly not sufficient to keep up with the problem, and actions that have been brought have often lacked coordination and have produced inconsistent results. When separate States sue the same firm in separate State actions we are left with a duplication of efforts and perhaps with different rulings.

To improve enforcement against telemarketing fraud, the bill first of all requires the FTC to issue rules on telemarketing. This will establish standards and make it easier for the FTC to prove cases when there is a violation of the rules.

The second major feature of the bill is that it gives the FTC help in enforcement, by permitting States and private parties, with certain important limitations, to bring actions in Federal court to enforce the FTC rules. States and private parties are also given authority to bring suit against persons engaged in telemarketing which is fraudulent, regardless of whether a specific rule is violated. This authority is provided in recognition of the fact that the FTC rules will not anticipate all forms that fraud may take, and the committee determined that enforcement could be more effectively carried out by permitting these suits. We know that the FTC's limited resources will prevent it from tackling the problem by itself; the States and injured persons who are directly affected can initiate many of the actions that would otherwise not be brought.

Since States and private parties can now bring actions under State law for fraud, the question that is asked is why we propose to give access to the Federal courts. The problem we are addressing is that it has been difficult to obtain uniform, nationwide enforcement against the fraudulent operators because of the many jurisdictions in which they operate and because of the ease of movement from one jurisdiction to another. By bringing States and private plaintiffs into Federal court and permitting the FTC and other States to intervene, the bill promotes nationwide enforcement and uniformity of decisionmaking. Instead of having a number of State courts coming to different decisions on the same or similar sets of facts under State laws, we will have more uniform results in Federal courts. Therefore, the bill will certainly enhance the ability of the FTC and the States to obtain judgments against fraudulent telemarketers and to enforce those judgments nationwide.

A number of changes were made in the drafting of this bill to accommodate concerns that were raised. For example, changes were made to give the FTC greater flexibility and discretion in devising the telemarketing rules, so that the FTC could take into consideration the particular needs of different groups of telemarketers. The committee also imposed limitations on the ability of States and private parties to enforce the provisions of the bill, for example by requiring notice to the FTC, permitting automatic intervention by the FTC, and limiting private actions to those with an amount in controversy over $10,000. These are intended to provide the FTC greater control in the direction of these lawsuits and to limit Federal court jurisdiction to the most significant cases.

I do not claim that we have solved all the potential problems in telemarketing fraud, but I think the committee has made important changes that will benefit consumers without adversely affecting legitimate firms. Indeed this bill will help those firms by removing the bad actors from the scene and restoring the confidence of the American consumer in the products they buy over the telephone.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. DINGELL. Mr. Speaker, I rise in strong support of H.R. 4101, the Telemarketing Fraud Prevention Act of 1988.

I would like to congratulate the subcommittee chairman, Mr. THOMAS A. LUKEN, and the ranking minority member of the subcommittee, Mr. WHITTAKER, for having crafted this bipartisan legislation which will help put an end to fraudulent telemarketing.

Telemarketing is rapidly becoming an integral part of the day-to-day business of this country. In fact, the FTC estimated that there were over $100 billion in telemarketing sales last year. Unfortunately, some firms choose to take advantage of this convenience by establishing elaborate schemes to defraud consumers.

H.R. 4101 would require the FTC to promulgate a rule on telemarketing practices and will give State attorneys general and private citizens the right to enforce this rule. It would also permit State AG's to take action against telemarketing which is an unfair or deceptive act or practice under section 5 of the FTC Act.

By giving State AG's the right to bring suit in Federal district court, we would be encouraging uniform interpretation of these laws and providing for nationwide relief from fraudulent telemarketing.

This bill would benefit American consumers in several ways. First, by broadening the scope of enforcement and relief, fraudulent telemarketing firms can be enjoined swiftly and decisively. Second, when consumers have been defrauded of more than $10,000, they may bring suit to enforce their case. Finally, by creating a clearinghouse of telemarketing information, this legislation would provide interested consumers with the information they need to protect themselves against fraudulent telemarketing.

I encourage all of my colleagues to join me in this bipartisan effort to stop this egregious victimization of the public by fraudulent telemarketing firms. Vote "aye" on passage of H.R. 4101, the Telemarketing Fraud Prevention Act of 1988.

Mr. WHITTAKER. Mr. Speaker, I am pleased that the House is today considering H.R. 4101, the Telemarketing Fraud Prevention Act of 1988. This is an important piece of legislation that is designed to provide better enforcement tools to combat the growing problem of telemarketing fraud. The bill was developed in a bipartisan effort in the Energy and Commerce Committee after a series of hearings which demonstrated to the members of the committee that telemarketing fraud is a growing problem that affects consumers, credit card companies, and legitimate firms, and that current efforts to stop it are inadequate.

The particular problems that this bill addresses are the inadequate resources on the Federal level to combat telemarketing fraud and the uneven and fragmentary enforcement that occurs when States bring actions under State laws against fraudulent operators whose operations may easily move from State to State.

The bill enhances the ability of the FTC to get to the roots of the telemarketing fraud problem by requiring the FTC to promulgate telemarketing rules. Whereas now the FTC proceeds on a case-by-case basis in bringing telemarketing fraud cases, the FTC rules would have the advantage of establishing uniform standards for telemarketing and reducing the FTC's burden of proof in individual cases.

The bill also increases our overall ability to stop telemarketing fraud by authorizing States and private parties, in certain circumstances, to bring actions under the FTC rules and also to bring actions separately against firms engaging in telemarketing which is fraudulent, regardless of whether that conduct specifically violates the rules. The FTC must be notified of these suits and has the right to intervene. States also have the right to intervene in actions brought by other States. This creates the opportunity for nationwide enforcement in a single action. Also, once an order is issued in an action brought by a State, another State may petition to have that order enforced in that State upon a showing that failure to comply with the order affects the State.

By creating this structure, the bill increases the likelihood of consistent rulings and effective nationwide enforcement against fraudulent telemarketers. Currently States must bring separate actions against the same firm, thus duplicating efforts, and State courts applying State law may render inconsistent decisions based on the same or similar facts. While States and private parties would not be preempted by the bill from bringing actions under State law, the advantages of bringing suit in Federal court would, I believe, lead States and private parties to seek Federal court enforcement. This will promote uniformity of decisionmaking and enforcement.

I believe, therefore, that the bill increases the overall ability of the FTC, in combination with the States and private parties, to bring enforcement actions against fraudulent telemarketers. Some have expressed a concern, however, that this delegation of enforcement authority is overly broad. I have indicated that we have put in the bill limitations on this authority to take care of particular concerns that have been raised. The bill requires notification to the FTC for suits brought by States and private parties, gives the FTC the right to intervene in these actions, and in the case of actions by private parties requires a minimum amount in controversy of $10,000. In this way, we have appropriately limited this delegation of authority. This type of sharing of enforcement is provided under a number of Federal statutes, including laws administered by the Commodities Futures Trading Commission and the National Highway Traffic Safety Administration.

We have learned in the drafting of this bill that it is difficult to legislate solutions to a problem as complex as fraud—difficult but not impossible. As problems have been raised with particular provisions of the bill, the committee has attempted to deal with them.

For example, we originally tried to draft more specific requirements for the FTC telemarketing rules. We found that being specific didn't work very well because of the diversity in telemarketing practices among different industries. So we changed approaches and gave the FTC the discretion to fashion the details of the telemarketing rules, giving direction on subjects that should be considered. With this discretion, the FTC will have the flexibility to apply parts of the rule to particular industries in different ways as circumstances warrant.

Another example involves the limitation on private actions to those involving an amount in controversy of at least $10,000. Concerns were raised about clogging the Federal courts with nuisance suits, so the committee decided to require this minimum amount. This solution balances the interests of providing private parties with an opportunity to bring actions against fraudulent telemarketers, on the one hand, and limiting the use of the Federal courts to substantial cases on the other.

We have examined the concerns raised with this bill and attempted to come to reasonable compromises. We may not have solved all of the problems in the way particular groups would have liked, but I think the committee has done a good job of balancing the various interests concerned.

This bill is good for consumers who are cheated by fraudulent operators, good for the credit card companies who often must absorb charges that buyers won't pay after discovering the fraud, and good for the vast majority of telemarketers who are scrupulous and whose reputations and businesses suffer from the bad actors.

I urge my colleagues to support this bill.

Mr. OXLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS A. LUKEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. THOMAS A. LUKEN] that the House suspend the rules and pass the bill, H.R. 4101, as amended.

The question was taken.

Mrs. SAIKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 4101, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMERCIAL FISHING INDUSTRY VESSEL SAFETY ACT OF 1988

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1841) to establish guidelines for timely compensation for temporary injury incurred by seamen on fishing industry vessels and to require additional safety regulations for fishing industry vessels, as amended.

The Clerk read as follows:

H.R. 1841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Fishing Industry Vessel Safety Act of 1988".

SEC. 2. UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSEL SAFETY REQUIREMENTS.

(a) IN GENERAL.—Chapter 45 of title 46, United States Code, is amended to read as follows:

"CHAPTER 45—UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

"Sec.
"4501. Application.
"4502. Safety standards.
"4503. Fish processing vessel certification.
"4504. Prohibited acts.
"4505. Termination of unsafe operations.
"4506. Exemptions.
"4507. Penalties
"4508. Commercial Fishing Industry Vessel Advisory Committee.

"§ 4501. Application

"(a) This chapter applies to an uninspected vessel which is a fishing vessel, fish processing vessel, or fish tender vessel.

"(b) This chapter does not apply to the carriage of bulk dangerous cargoes regulated under chapter 37 of this title.

"§ 4502. Safety standards

"(a) The Secretary shall prescribe regulations which require that each vessel to which this chapter applies shall be equipped with—

"(1) readily accessible fire extinguishers capable of promptly and effectively extinguishing a flammable or combustible liquid fuel fire;

"(2) at least one readily accessible life preserver or other lifesaving device for each individual on board;

"(3) an efficient flame arrestor, backfire trap, or other similar device on the carburetors of each inboard engine which uses gasoline as fuel;

"(4) the means to properly and efficiently ventilate enclosed spaces, including engine and fuel tank compartments, so as to remove explosive or flammable gases;

"(5) visual distress signals;

"(6) a buoyant apparatus, if the vessel is of a type required by regulations prescribed by the Secretary to be equipped with that apparatus;

"(7) alerting and locating equipment, including emergency position indicating radio beacons, on vessels that operate on the high seas; and

"(8) a placard as required by regulations prescribed under section 10603(b) of this title.

"(b) In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations for documented vessels to which this chapter applies that operate beyond the Boundary Line or that operate with more than 16 individuals on board, for the installation, maintenance, and use of—

"(1) alerting and locating equipment, including emergency position indicating radio beacons;

"(2) lifeboats or liferafts sufficient to accommodate all individuals on board;

"(3) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;

"(4) radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;

"(5) navigation equipment, including compasses, radar reflectors, nautical charts, and anchors;

"(6) first aid equipment, including medicine chests; and

"(7) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.

"(c) In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing minimum safety standards for vessels to which this chapter applies that were built after December 31, 1988, or that undergo a major conversion completed after that date, and that operate with more than 16 individuals on board, including standards relating to—

"(1) navigation equipment, including radars and fathometers;

"(2) life saving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;

"(3) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;

"(4) use and installation of insulation material;

"(5) storage methods for flammable or combustible material; and

"(6) fuel, ventilation, and electrical systems.

"(d)(1) The Secretary shall prescribe regulations for the operating stability of a vessel to which this chapter applies—

"(A) that was built after December 31, 1989; or

"(B) the physical characteristics of which are substantially altered after December 31, 1989, in a manner that affects the vessel's operating stability.

"(2) The Secretary may accept, as evidence of compliance with this subsection, a certification of compliance issued by the person providing insurance for the vessel or by another qualified person approved by the Secretary.

"(e) In prescribing regulations under this chapter, the Secretary—

"(1) shall consider the specialized nature and economics of the operations and the character, design, and construction of the vessel; and

"(2) may not require the alteration of a vessel or associated equipment that was constructed or manufactured before the effective date of the regulation.

"(f) The Secretary shall examine a fish processing vessel at least once every 2 years to ensure that the vessel complies with the requirements of this chapter.

"§ 4503. Fish processing vessel certification

"(a) A fish processing vessel to which this section applies may not be operated unless the vessel—

"(1) meets all survey and classification requirements prescribed by the American Bureau of Shipping or another similarly qualified organization approved by the Secretary; and

"(2) has on board a certificate issued by the American Bureau of Shipping or that other organization evidencing compliance with this subsection.

"(b) This section applies to a fish processing vessel to which this chapter applies that—

"(1) is built after July 27, 1990; or

"(2) undergoes a major conversion completed after that date.

"§ 4504. Prohibited acts

"A person may not operate a vessel in violation of this chapter or a regulation prescribed under this chapter.

"§ 4505. Termination of unsafe operations

"An official authorized to enforce this chapter—

"(1) may direct the individual in charge of a vessel to which this chapter applies to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the official observes the vessel being operated in an unsafe condition that the official believes creates an especially hazardous condition, including ordering the individual in charge to return the vessel to a mooring and to remain there until the situation creating the hazard is corrected or ended; and

"(2) may order the individual in charge of an uninspected fish processing vessel that does not have on board the certificate required under section 4503(1) of this title to return the vessel to a mooring and to remain there until the vessel is in compliance with that section.

"§ 4506. Exemptions

"(a) The Secretary may exempt a vessel from any part of this chapter if, under regulations prescribed by the Secretary (including regulations on special operating conditions), the Secretary finds that—

"(1) good cause exists for granting an exemption; and

"(2) the safety of the vessel and those on board will not be adversely affected.

"(b) A vessel to which this chapter applies is exempt from section 4502(b)(2) of this title if it—

"(1) is less than 36 feet in length; and

"(2) is not operating on the high seas.

"§ 4507. Penalties

"(a) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel to which this chapter applies which is operated in violation of this chapter or a regulation prescribed under this chapter may each be assessed a civil penalty by the Secretary of not more than $5,000. Any vessel with respect to which a penalty is assessed under this subsection is liable in rem for the penalty.

"(b) A person willfully violating this chapter or a regulation prescribed under this chapter shall be fined not more than $5,000, imprisoned for not more than one year, or both.

"§ 4508. Commercial Fishing Industry Vessel Advisory Committee

"(a) The Secretary shall establish a Commercial Fishing Industry Vessel Advisory Committee. The Committee—

"(1) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to the safe operation of vessels to which this chapter applies, including navigation safety, safety equipment and procedures, marine insurance, vessel design, construction, maintenance and operation, and personnel qualification and training;

"(2) may review proposed regulations under this chapter;

"(3) may make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary; and

"(4) shall meet at the call of the Secretary, who shall call such a meeting at least once during each calendar year.

"(b)(1) The Committee shall consist of 17 members with particular expertise, knowledge, and experience regarding the commercial fishing industry as follows:

"(A) 10 members from the commercial fishing industry who—

"(i) reflect a regional and representational balance; and

"(ii) have experience in the operation of vessels to which this chapter applies or as a crew member or processing line worker on an uninspected fish processing vessel;

"(B) 3 members from the general public, including, whenever possible, an independent expert or consultant in maritime safety and a member of a national organization composed of persons representing owners of vessels to which this chapter applies and persons representing the marine insurance industry;

"(C) one member representing each of—

"(i) naval architects or marine surveyors;

"(ii) manufacturers of equipment for vessels to which this chapter applies;

"(iii) education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety or personnel qualifications; and

"(iv) underwriters that insure vessels to which this chapter applies.

"(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee, and, after timely notice is published, appoint the members of the Committee. An individual may be appointed to a term as a member of the Committee more than once.

"(3)(A) A member of the Committee shall serve a term of 3 years.

"(B) If a vacancy occurs in the membership of the Committee, the Secretary shall appoint a member to fill the remainder of the vacated term.

"(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

"(5) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to vessels to which this chapter applies which are under the jurisdiction of their respective agencies. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 App. U.S.C.).

"(c)(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to the safe operation of vessels to which this chapter applies.

"(2) The Secretary shall consider the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding the safe operation of vessels to which this chapter applies.

"(d)(1) A member of the Committee who is not an officer or employee of the United States or a member of the Armed Forces, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

"(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-18 of the General Schedule under section 5332 of title 5 including travel time; and

"(B) travel or transportation expenses under section 5703 of title 5.

"(2) Payments under this section do not render a member of the Committee an officer or employee of the United States or a member of the Armed Forces for any purpose.

"(3) A member of the Committee who is an officer or employee of the United States or a member of the Armed Forces may not receive additional pay based on the member's service to the Committee.

"(4) The provisions of this section relating to an officer or employee of the United States or a member of the Armed Forces do not apply to a member of a reserve component of the Armed Forces unless that member is in an active status.

"(e)(1) The Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) applies to the Committee, except that the Committee terminates on September 30, 1992.

"(2) Two years prior to the termination date referred to in paragraph (1) of this subsection, the Committee shall submit to Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.".

(b) INITIAL APPOINTMENTS TO COMMERCIAL FISHING INDUSTRY ADVISORY COMMITTEE.—

(1) TERMS OF INITIAL APPOINTMENTS.—Of the members first appointed to the Commercial Fishing Industry Advisory Committee under section 4508 of title 46, United States Code (as amended by this Act)—

(A) one-third of the members shall serve a term of one year and one-third of the members shall serve a term of 2 years, to be determined by lot at the first meeting of the Committee; and

(B) terms may be adjusted to coincide with the government's fiscal year.

(2) COMPLETION OF INITIAL APPOINTMENTS.—The Secretary shall complete appointment of members pursuant to this subsection not later than 90 days after the date of the enactment of this Act.

(c) REPEAL.—Subsection (e) of section 4102 of title 46, United States Code, is repealed.

SEC. 3. PLAN FOR LICENSING OPERATORS OF FISHING INDUSTRY VESSELS.

The Secretary of the department in which the Coast Guard is operating shall, within 2 years after the date of enactment of this Act, and in close consultation with the Commercial Fishing Industry Vessel Advisory Committee established under section 4508 of title 46, United States Code (as amended by this Act), prepare and submit to the Congress a plan for the licensing of operators of documented fishing, fish processing, and fish tender vessels. The plan shall take into consideration the nature and variety of the different United States fisheries and of the vessels engaged in those fisheries, the need to license all operators or only those working in certain types of fisheries or vessles, and other relevant factors.

SEC. 4. ACCIDENT DATA STATISTICS.

(a) Compilation and Submission of Data.—Chapter 61 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 6104. Commercial fishing industry vessel casualty statistics

"(a) The Secretary shall compile statistics concerning marine casualties from data compiled from insurers of fishing vessels, fish processing vessels, and fish tender vessels.

"(b) A person underwriting primary insurance for a fishing vessel, fish processing vessel, or fish tender vessle shall submit periodically to the Secretary data concerning marine casualties that is required by regulations prescribed by the Secretary.

"(c) After consulting with the insurance industry, the Secretary shall prescribe regulations under this section to gather a statistical base for analyzing vessel risks.

"(d) The Secretary may delegate to a qualified person that has knowledge and experience in the collection of statistical insurance data the authority of the Secretary under this section to compile statistics from insurers.".

(b) Penalty.—Section 6103 of title 46, United States Code, is amended as follows:

(1) before "An" insert "(a)"; and

(2) add the following new subsection:

"(b) A person failing to comply with section 6104 of this title or a regulation prescribed under that section is liable to the Government for a civil penalty of not more than $5,000.".

(c) Conforming Amendment.—The analysis for chapter 61 of title 46, United States Code, is amended by adding at the end the following:

"6104. Commercial fishing industry vessel casualty statistics."

SEC. 5. STUDIES.

(a) Fishing Industry Vessel Inspection Study.—The Secretary of Transportation, utilizing the National Academy of Engineering and in consultation with the National Transportation Safety Board, the Commercial Fishing Industry Vessel Advisory Committee, and the fishing industry, shall—

(1) conduct a study of the safety problems on fishing industry vessels;

(2) make recommendations regarding whether a vessel inspection program should be implemented for fishing vessels, fish tender vessels, and fish processing vessels, including recommendations on the nature and scope of that inspection; and

(3) submit the study and recommendations to Congress before January 1, 1990.

(b) Unclassified Fish Processing Vessel Study.—The Secretary of the department in which the Coast Guard is operating, in consultation with the Commercial Fishing Industry Vessel Advisory Committee established under section 4508 of title 46, United States Code (as amended by this Act), and with representatives of persons operating fish processing vessels—

(1) shall conduct a study of fish processing vessels that are not surveyed and classed by an organization approved by the Secretary;

(2) shall make recommendations regarding what hull and machinery requirements should apply to vessels described in paragraph (1) to ensure that those vessels are operated and maintained in a condition in which they are safe to operate at sea; and

(3) shall submit the study and recommendations to Congress before July 28, 1991.

SEC. 6. FISHING VOYAGE REQUIREMENTS.

(a) Enactment of New Chapter in Title 46.—Title 46, United States Code, is amended by inserting after chapter 105 the following:

"CHAPTER 106—FISHING VOYAGES

"Sec.
"10601. Fishing agreements.
"10602. Recovery of wages and shares of fish under agreement.
"10603. Seaman's duty to notify employer regarding illness, disability, and injury.

"§ 10601. Fishing agreements

"(a) Before proceeding on a voyage, the master or individual in charge of a fishing vessel, fish processing vessel, or fish tender vessel shall make a fishing agreement in writing with each seaman employed on board if the vessel is—

"(1) at least 20 gross tons; and

"(2) on a voyage from a port in the United States.

"(b) The agreement shall be signed also by the owner of the vessel.

"(c) The agreement shall—

"(1) state the period of effectiveness of the agreement;

"(2) include the terms of any wage, share, or other compensation arrangement peculiar to the fishery in which the vessel will be engaged during the period of the agreement; and

"(3) include other agreed terms.

"§ 10602. Recovery of wages and shares of fish under agreement

"(a) When fish caught under an agreement under section 10601 of this title are delivered to the owner of the vessel for processing and are sold, the vessel is liable in rem for the wages and shares of the proceeds of the seamen. An action under this section must be brought within 6 months after the sale of the fish.

"(b)(1) In an action under this section, the owner shall produce an accounting of the sale and division of proceeds under the agreement. If the owner fails to produce the accounting, the vessel is liable for the highest value alleged for the shares.

"(2) The owner may offset the value of general supplies provided for the voyage and other supplies provided the seaman bringing the action.

"(c) This section does not affect a common law right of a seaman to bring an action to recover the seaman's share of the fish or proceeds.

"§ 10603. Seaman's duty to notify employer regarding illness, disability, and injury

"(a) A seaman on a fishing vessel, fish processing vessel, or fish tender vessel shall notify the master or individual in charge of the vessel or other agent of the employer regarding any illness, disability, or injury suffered by the seaman when in service to the vessel not later than 7 days after the date on which the illness, disability, or injury arose.

"(b) The Secretary shall prescribe regulations requiring that each fishing vessel, fish processing vessel, and fish tender vessel shall have on board a placard displayed in a prominent location accessible to the crew describing the seaman's duty under subsection (a) of this section.".

(b) Conforming Amendment.—The table of contents at the beginning of title 46, United States Code, is amended by inserting after the item relating to chapter 105 the following:

"106. Fishing voyages ....10601.".

(c) Repeals.—Sections 4391, 4392, 4393, and 4394 of the Revised Statutes of the United States (46 App. U.S.C. 531-534) are repealed.

SEC. 7. TRANSITIONAL PROVISION.

Until July 28, 1990, a foreign built fish processing vessel subject to chapter 45 of title 46, United States Code, is deemed to comply with the requirements of that chapter if—

(1) it has an unexpired certificate of inspection issued by a foreign country that is a party to an International Convention for Safety of Life at Sea to which the United States Government is a party; and

(2) it is in compliance with the safety requirements of that foreign country that apply to that vessel.

SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Immersion Suits.—

(1) Requirement.—Section 3102 of title 46, United States Code is amended by striking "exposure" each place it appears and inserting in lieu thereof "immersion".

(2) Section Heading.—The section heading for section 3102 of that title is amended by striking "Exposure" and inserting in lieu thereof "Immersion".

(3) Analysis.—The chapter analysis for chapter 31 of that title is amended by striking "Exposure" and inserting in lieu thereof "Immersion".

(b) Other Uninspected Vessel Requirements.—Section 4101 of title 46, United States Code, is amended by inserting "not subject to chapter 45 of this title" after "uninspected vessel".

(c) Major Conversion Defined.—

(1) Definition.—Section 2101 of title 46, United States Code, is amended by inserting after paragraph (14) the following:

"(14a) 'major conversion' means a conversion of a vessel that—

"(A) substantially changes the dimensions or carrying capacity of the vessel;

"(B) changes the type of the vessel;

"(C) substantially prolongs the life of the vessel; or

"(D) otherwise so changes the vessel that it is essentially a new vessel, as decided by the Secretary.".

(2) Repeal.—Section 3701(2) of title 46, United States Code is repealed.

The SPEAKER pro tempore. Is a second demanded?

Mrs. SAIKI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. Studds] will be recognized for 20 minutes and the gentlewoman from Hawaii [Mrs. Saiki] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Studds].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to bring before the House H.R. 1841, the Fishing Vessel Safety and Compensation Act, which will put into place stringent new safety requirements for fishing industry vessels and thus save the lives of fishermen who might otherwise perish as a result of unsafe or ill-equipped fishing boats. H.R. 1841 establishes for the first time a comprehensive set of Federal Safety standards for all fishing industry vessels. Passage of this legislation will make our Nation's fishing fleet a safer place to work.

Nearly 4 years ago, the Merchant Marine and Fisheries Committee began its investigation of the safety and insurance problems that plagued the fishing industry. At that time, the safety record of the fishing industry was poor. Fishing had been identified as one of the most hazardous occupations in the land. At the same time, the liability problems that crippled many of our major industries created an insurance crisis for our fishermen. Insurance companies refused to extend coverage to fishing boats, and those companies that continued to underwrite fishing vessels more than doubled their premiums. In one instance, over 200 boatowners were given 14 days notice that their insurance was be cancelled. In short order, we found that the poor safety record of the industry and the insurance crisis were interrelated.

Since that time, our committee has held almost a dozen hearings, received hundreds of pages of testimony and spent an extraordinary amount of time and energy attempting to find acceptable solutions to both problems. Last Congress, our committee brought to this floor a balanced bill which offered hope for both the liability and safety problem. Unfortunately, a barrage of lobbying by the trial lawyers against the bill because its liability provisions sought justifiably to modify the unacceptable status quo defeated the bill, and 1 more year was lost.

This Congress, the Merchant Marine and Fisheries Committee continued its efforts to address both the safety and insurance problems. H.R. 1841, as introduced, contained two titles, the first concerning the liablity issue and the second involving safety. Our committee members and staff have worked the entire Congress with the fishing industry and the legal community to reach an agreement on a proper set of liability and compensation rules. Until the final hour, we were encouraged that some accommodations could be made, but Mr. Speaker, in the final analysis the lawyers could not agree with the fishermen.

The commitment of Chairman JONES and virtually every member of our committee to improving safety on our fishing vessels has encouraged us to bring H.R. 1841 to the floor today, notwithstanding the lack of consensus on the question of liability. The committee amendment therefore drops title I of the bill, those provisions dealing with liability and compensation, but maintains the safety provisions of title II. I am myself disappointed that we are not able to progress on our attempts to improve the methods of compensating injured fishermen, for the traditional approaches are costly, cumbersome and inadequate. But the need to secure the necessary improvements on the safety front dictates that we push forward with title II at this time, reserving for another day the issues of full, fair, and prompt compensation for injured fishermen.

As amended by the committee amendment, H.R. 1841 establishes a comprehensive set of safety standards for all fishing industry vessels. The typical small inshore dayboat will be required to be equipped with fire extinguishers, life preservers, flares, proper ventilation and—if operating on the high seas—emergency position indicating radio beacons or EPIRB's. Most of these equipment requirements already exist, and because the safety record for this class of fishing boats is good, the committee determined that these requirements are sufficient.

For larger documented fishing industry vessels operating in Federal waters or with more than 16 people onboard, the bill prescribes new additional safety requirements. This class of vessels must carry EPIRB's or emergency locating equipment, liferafts, safety or immersion suits for all crewmembers, radio equipment sufficient to communicate with the Coast Guard, navigation equipment, medicine chests, and other equipment if the Secretary determines that a risk of serious injury can be eliminated by that equipment.

The third class of vessels covered by the bill are new vessels, built after December 31, 1988, and that normally operate with crews of more than 16. These vessels are the largest in our fleets and will be subject to the most stringent safety requirements, such as proper radars, life saving and firefighting equipment, ventilation and electrical systems as well as bilge pumps and alarms.

Because fishing vessel stability has been a major factor in many vessel sinkings, the bill also requires the Secretary to prescribe regulations for the operating stability of vessels built after December 31, 1989. The Coast Guard and the NTSB believe this requirement will go a long way in preventing needless sinkings due to unstable boats.

H.R. 1841 establishes a 17-member commercial fishing industry vessel advisory committee for 4 years, designed to assist the Coast Guard in preparing regulations implementing the safety standards required by this bill. Additionally, the advisory committee is directed to assist the Coast Guard in preparing a plan for the licensing of operators of documented fishing industry vessels. This plan will be submitted to Congress and is intended to lay the foundation for future legislation concerning the licensing of captains.

Similarly, the bill requires the Secretary of Transportation, utilizing the services of the National Academy of Engineering, to conduct a study of the safety problems in the fishing industry and to make recommendations to Congress as to whether a vessel inspection program should be required for the various classes of fishing vessels.

Last, the bill requires fishermen who are injured while working on a fishing vessel to report that injury to the master of the vessel. Throughout our examination of accidents onboard fishing vessels, it became clear that in many instances the captains of the vessels were unaware that a fisherman received an injury. In some cases, further injuries can be avoided if the captain is made aware of a dangerous condition and promptly remedies it. Also, keeping the captain informed of injuries will allow him to take the necessary precautions to help prevent an injured fisherman's condition from worsening.

Mr. Speaker, I want to thank the members of the Merchant Marine and Fisheries Committee for their perseverance and contributions in shaping this bill. I believe this is a sound bill that will save lives and I urge my colleagues to support it.

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Mr. Speaker, I reserve the balance of my time.

Mrs. SAIKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill and the committee amendment before us today and urge its adoption.

H.R. 1841 is the product of nearly 4 years of work by the Committee on Merchant Marine and Fisheries. As reported, it provides an alternative compensation system for seamen who are temporarily injured on board commercial fishing industry vessels. It also puts into place a new comprehensive set of safety regulations including required safety equipment for vessels in our fishing fleet. Finally, it establishes a Commercial Fishing Industry Vessel Advisory Committee which will report to the Secretary of Transportation and will provide information and advice on fishing vessel safety issues.

In the 99th Congress, the committee held an extensive set of hearings around the country on the issues of fishing vessel safety and insurance. A great deal of testimony was received from Federal agencies, fishing vessel owners, safety advocates, and associated industries. The committee reported a bill to the House, but the bill was not accepted due to perceived problems with the compensation title. At the beginning of the 100th Congress, similar legislation was reintroduced which did not contain the language to which House Members had objected. After additional hearings and markup sessions, the committee reported out the bill that we have before us today. Unfortunately, the committee has been unable to secure agreement from those affected by title I of the bill, which deals with compensation of injured seamen. As a result, the committee has chosen to delete title I and simply proceed with title II, which deals with fishing vessel safety.

I want to make clear that some members of the committee believe that we should continue working on legislation which will provide a compensation system for injured fishermen. Although such legislation is not before us today, it should remain a high priority for this committee.

I also want to clarify some of the provisions of the committee amendment that is being adopted today.

The new section 4502(f) of title XLVI that is being added by this bill required the Coast Guard to conduct compliance examinations of fish processing vessels at least once every 2 years. In conducting such examinations, the Coast Guard, to the extent possible, should coordinate scheduling with the vessel owner to avoid unnecessary loss of time on the fishing grounds. In addition, for those vessels that are classed by a recognized classification society, the Coast Guard should presume compliance with those requirements covered by the classification society and avoid duplicative examination and loss of at-sea time for the vessel.

The new section 4503 of title XLVI that is being added, requires a fish processing vessel to have on board a certificate issued by the American Bureau of Shipping or a similarly qualified organization. The committee notes that two entities—Det Norske Veritas and Germanischer Lloyd—have extensive experience in the fishing industry and are already used by U.S. fishing companies. The committee believes that the Coast Guard should consider approving them subject to review of their guidelines.

Finally, section 8(c) of the bill provides a definition for the term "major conversion." Among other things, this includes conversion that changes the type of a vessel. The committee intends that this factor be interpreted using common sense and not be used as a catchall to cover every sort of conversion. For example, conversion of an oil supply vessel to a fish processing vessel obviously constitutes a major conversion; substitution of one type of processing equipment for another does not. While the committee does not intend to limit the ability of the Coast Guard to ensure vessel safety, neither does the committee intend that broad and intrusive regulations be enacted to the detriment of the commercial fishing industry.

Mr. Speaker, this bill enjoys broad support in the committee and in the U.S. commercial fishing industry. I urge its adoption.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of H.R. 1841, the Commercial Fishing Industry Vessel Safety Act of 1988. This bill imposes long overdue safety standards on the commercial fishing vessel industry. These safety equipment requirements will allow this industry to improve its safety record, and thereby relieve some of the problems the industry is experiencing in obtaining insurance.

The new safety requirements in this bill are effective, and the operating stability regulations to be prescribed by the Secretary of Transportation would allow flexibility to respond to special industry conditions. The fish processing vessel certification process provided by this bill goes a long way toward ensuring that these large vessels operate under minimally safe conditions.

The bill provides for a Commercial Fishing Industry Vessel Advisory Committee to advise the Secretary on all matters related to fishing vessel safety. In addition, the bill provides for followup studies on the need for inspections for all fishing vessels and for licensing of fishing vessel operators.

I believe the provisions of this bill will benefit everyone involved with the commercial fishing vessel industry—vessel insurers, owners, and crew members—and I urge my colleagues to support it.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of the bill before us today and urge its adoption.

Our committee has labored for nearly 4 years on legislation which would provide a compensation system for injured fishermen, stabilize insurance rates for fishing vessel owners, and improve safety on commercial fishing industry vessels. The bill that we bring before you today, and the committee amendment, unfortunately only accomplished one of those three purposes.

Fishermen, like members of other high-risk occupations, continue to face rapidly increasing insurance costs when insurance is available at all. Even the most careful fisherman who has the safest boat afloat has trouble getting insurance. There are two reasons for this. One is that the insurance industry will not treat fishermen as individual entities and adjust insurance rates and coverage based on safety records. The other is that the trial lawyers of this Nation have seen fit to prey mercilessly on fishermen in cases involving minor injuries. After a lengthy education effort, the first problem involving the insurance industry is being solved. Unfortunately, the second problem, that of greedy trial lawyers seeking high contingency fees at the expense of working fishermen, remains with us.

At the beginning of the 100th Congress, a number of committee members joined together in introducing H.R. 1841 and, in doing so, modified provisions from the previous year's bill which were objected to by the American Trial Lawyers Association. The Subcommittee on Fisheries and Wildlife Conservation and the Environment held a hearing at which the American Trial Lawyers Association was invited to testify. In spite of every effort we made to accommodate legitimate concerns by the trial lawyers, the only compensation provisions they would support were those which were so unworkable and watered down as to be worthless to the commercial fishing industry.

As a result of this absolute refusal to recognize the problems facing our fishing fleet, the committee was forced to delete all compensation provisions from H.R. 1841 as reflected in the committee amendment that is being adopted today.

Mr. Speaker, the bill we are passing today is a good one but it is flawed. It is flawed because a small group of greedy individuals seeking to line their own pockets have forced us to ignore the cries for help that have come from an important national industry. I have heard Members stand before this body and wax eloquent about the trade deficit with Japan. Let me remind you that our trade in fish products with Japan represents a surplus for the United States. I have heard Members talk about feeding the homeless. We have 20 percent of the world's marine protein resources in the 200-mile zone off our shores. I have heard Members talk about jobs. The U.S. fishing industry employs hundreds of thousands of people. In spite of all of this, and due to a single pressure group, we are harming a domestic industry. I suggest that we ask the trial lawyers in this Nation a question. If you make money for yourselves and at the same time tear the economic fabric of our Nation, what have you accomplished?

Mr. Speaker, I reluctantly urge the passge of this bill.

Mr. MILLER of Washington. Mr. Speaker, for almost 3 years the Committee on Merchant Marine and Fisheries has been working on fishing vessel safety and liability reform legislation. We have had over a dozen hearings, including two in my district, and numerous meetings. The bill we take up today addresses the most pressing problem—assuring that fishing vessels are safe.

Today, we should approve, H.R. 1841, a most important fishing vessel safety bill. And, as you know Mr. Speaker, we are not taking up a title on liability reform. While I would like to see us consider legislation to reform the system we use to compensate injured crew members, I agree with the wise decision of our committee chairman, Mr. JONES, to delay action so we can have a fishing vessel safety bill this year.

Mr. Speaker, we all know the statistics which remind us that there is little margin for error at sea. We also know that the industry in the Pacific Northwest deserves a tremendous amount of credit for taking the bull by the horns and putting together a sound safety education program. I've taken one of their courses on survival at sea. The men who joined me in that class told me that these courses were designed to save their lives. They told me that the boatowners are working to make the fishing vessels they work on safer and that they support a bill like this.

The chairman's amendment also deserves our support. It represents a realistic and responsible approach to regulating a growing fleet of processing vessels. I urge my colleagues to support it. I particularly want to thank the chairman for improving the language in the bill relating to the classing of processing vessels.

Mr. Speaker, H.R. 1841 will help Washington's fishing industry. Our fishermen are among the best in the world. They catch more food fish from the 200-mile fishing zone than fishermen from all other States. Fish processing companies from Washington State process seafood worth more than of any other State. Exports of seafood products from Washington State are worth more than those from any other State in both value and quantity. Washington State is the Nation's leading fishing State. Our fishermen go further and catch more species than most others. Their catches can fill any banquet table to overflowing with king crabs, salmon, halibut. They also catch species that we once avoided like pollock and cod.

Mr. Speaker, some statistics may help the House appreciate why H.R. 1841 is important to my constituents. In recent years, the fastest growth has been in groundfish. In 1980, U.S. fishermen caught 2 percent of the groundfish taken off Alaska, that had an ex-vessel value of about $27 million. In 1987, we took about 98 percent of the groundfish worth an estimated $350 million. Next year, there will be no direct foreign fishing in the North Pacific. All the groundfish will be caught by U.S. fishermen. This is not to detract from our traditional fisheries like those crabs, salmon, and halibut which add hundreds of millions more. Our salmon industry was worth another $650 million. When you add up all of the money the fishing, the processing and the marketing sectors contribute to our economy it is amazing. A couple of years ago, it was estimated to me over 25,000 jobs and over $1.6 billion in product and payrolls. Both numbers are considerably larger this year and will be even bigger next year.

The contribution of our fishing industry is spred from the accountants and lawyers, to the supply stores and to our shipyards. In fact, our fishing industry has spent over $250 million in domestic shipyards over the past 5 years making it about the only nongovernmental industry helping keep this important industry afloat. In rough terms, that makes the fishing industry in Washington State about one-forth the size of Boeing. And it makes it a very important industry to me.

Mr. Speaker, the fishing industry to me is more than just boats and processing plants and statistics. Over the past 3 years, I have gotten to know the people of that industry. They are open and honest. The industry leaders and the crewmembers think this is a good bill. I value their counsel. They have pointed out problems in previous drafts and with the help of the committee leaders like Congressmen STUDDS and YOUNG, we have fixed them.

H.R. 1841 contains an excellent set of safety and survival equipment section which includes requiring survival suits, life rafts, radio equipment, medical equipment, and other necessary provisions and equipment. These are basic necessities of operating at sea where a small emergency can be life threatening. I might note, Mr. Speaker, that three of these standards: Life rafts, survival suits, and stability surveys where the center of a bill Congressman LOWRY and I introduced last session. We thought then, and I think today, that these are basic to responsible vessel operations.

The Senate has held one hearing and is waiting for the House to complete its work before they vote on the bill. We are not saying to the Senate that the time for action is now. Let us pass H.R. 1841. Let's assure the families who have lost loved ones that we have heard their anguish and listened to their plea that others be spared. H.R. 1841 will not return loved ones lost at sea. But it is a lasting and fitting memorial to the men and women, young and old who did not return home from fishing.

At Fisherman's Terminal in Seattle, Mr. Speaker, there is a new memorial to those who lost their lives at sea. A memorial for those whose families did not have the comfort of knowing the final resting place of their loved ones. The fishing industry has raised the money for this memorial. They have, as I mentioned, also been leaders in training themselves about the dangers of going to sea. No one who goes to sea wants another name added to that memorial.

Mr. Speaker, there is no question about what we should do today. Our memorial to those who lost their lives at sea is H.R. 1841. It is a good bill. It is a well considered bill. And it is overdue. Let us approve it today. And Mr. Speaker, I urge the Senate to follow our lead and pass it promptly.

Mr. JONES of North Carolina. Mr. Speaker, I rise in strong support of H.R. 1841, as amended. During the past 4 years the Committee on Merchant Marine and Fisheries has conducted numerous hearings, both in Washington and in the major fishing centers around the country, to examine the safety and insurance crisis facing the fishing industry. We have heard from vessel owners, insurers, safety experts, casualty survivors, families of individuals killed, and the administration.

Fishing is among the most dangerous professions in the United States. However, from a safety perspective, there is very little Government regulation to protect the safety and welfare of seamen. Basically, the only items the Coast Guard can require on most commercial fishing vessels are life preservers and fire extinguishers. OSHA doesn't even go on these vessels.

The committee found that it was the safety and claims record that played a major factor in the spiralling insurance rates. The committee spent the past 4 years attempting to craft a Federal compensation system for seamen who were temporarily injured. To date we have not been able to design a program that both employers and seamen's representatives can agree upon.

In the meantime seamen are being severely injured or killed. I do not believe we can wait any longer to implement safeguards for these hard-working individuals. Therefore, the bill before us today is strictly a safety bill. I believe that H.R. 1841 will significantly improve the working conditions on fishing industry vessels, and increase the survival rate on those vessels that do encounter a casualty.

In many ways this bill is also a product of the hard work of many of the relatives of individuals killed on fishing vessels. In particular I would like to salute Peggy and Bob Barry whose son Peter was lost when his fishing vessel the *Western Sea* sank. I would also like to say to Mary Hoyt, Rosemary Hofer, and Robert Darling, that this legislation represents a serious effort by Congress to spare other families from tragedies like the ones which claimed the lives of your loved ones. Your tireless efforts played a major role in moving this legislation forward.

Mr. Speaker, working on the seas on a pitching boat is a very dangerous occupation. It may be impossible to make any vessel absolutely safe. But the Government has an obligation to these workers to make sure that the chances of injury or death are as low as practicably possible. I believe that H.R. 1841 does this in a very responsible manner. The committee will continue to watch this industry very closely, and if stronger measures are needed we will not hestitate to implement them.

I strongly urge my colleagues to support H.R. 1841, the Commercial Fishing Industry Vessel Safety Act of 1988.

Mr. BIAGGI. Mr. Speaker, it may surprise many to learn that commercial fishing is the most dangerous industry in the United States. The death rate is twice that of mining—the next most dangerous.

The Committee on Merchant Marine and Fisheries has been contending with legislation involving the problems of insurance and safety of commercial fishing vessels for well over 3 years. We have held many hearings in various fishing ports and here in Washington. We have listened to all interested parties and have been more than reasonable in considering all aspects of this industry. We now have before us H.R. 1841—a vessel safety bill that satisfactorily addresses many problems.

Our goal has been to pursue a course of action that balances the interests of all parties. I believe we have developed a realistic and fair regime to ensure the viability of our commercial fishing industry, as well as to promote the welfare and safety of those who go to sea to earn a living by fishing.

H.R. 1841 breaks new ground in a number of ways. It establishes, for the first time, new and reasonable safety programs for fishing industry vessels. Hopefully, these actions will make hull and protection and indemnity insurance available at reasonable rates. The end result should be a safer industry with adequate protections for our fishermen and their families—and the survival of this vast, varied, and very important commercial fishing industry.

This legislation is, in the truest sense, a compromise—one that all parties ought to be able to live with. H.R. 1841 is a reasonable and workable fishing vessel safety bill, which deserves our support.

Mr. LOWRY of Washington. Mr. Speaker, I rise in support of H.R. 1841, the Commercial Fishing Industry Safety and Compensation Act. I would like to congratulate my colleagues on the Merchant Marine and Fisheries Committee, especially Mr. STUDDS, Mr. JONES of North Carolina, Mr. YOUNG of Alaska, and Mr. DAVIS of Michigan, who have spent considerable time and effort in helping to shape this legislation and get it to the floor of the House. I commend them for their efforts and their perseverance in helping to move this legislation, which I believe is a major milestone for the U.S. commercial fishing industry.

Mr. Speaker, the reason that this legislation is of critical importance is that it establishes, for the first time, a comprehensive safety regime for fishing industry vessels, including fishing vessels, fish tender vessels, and fish processing vessels. In the past, because of the sometimes artisanal, and especially diverse nature of the U.S. commercial fishing industry fleet, fishing industry vessels have been largely exempted from any type of Coast Guard inspection or examination for safety purposes.

Because of this specific exemption, even minimum safety regulations have not been applied to fishing industry vessels. As a result, Mr. Speaker, according to the Coast Guard, on the average, approximately 84 lives and 250 vessels in the fishing industry are lost every year. These statistics point up the fact that the fishing industry is even more dangerous as an occupation than the mining industry.

Mr. Speaker, in 1977, the Magnuson Fishery Conservation and Management Act [MFCMA] was enacted into law. This act established a new 200-mile exclusive economic zone [EEZ], thus asserting U.S. management jurisdiction over living marine resources within the EEZ. As a result of this act, and many of its provisions, the fishing industry has seen substantial development and investment in recent years, especially in the Pacific Northwest. In fact, numerous new catcher/processor vessels are currently being constructed to engage in the pollock fishery in the North Pacific and Bering Sea areas. Many of these catcher/processors are relatively large vessels, employing much larger crews than fishing industry vessels of the past. As a result, Mr. Speaker, I believe that now is an appropriate time for the establishment of a comprehensive safety regime for the fishing industry, and this legislation provides the basis for such a regime.

Mr. Speaker, I will briefly describe the critical provisions of the legislation. First, and most important, the legislation requires that small vessels have on board, life boats, survival suits and emergency position indicating radio beacon [EPIRB], as well as fire extinguishers, life preservers, ventilation for fuel, radio and navigation equipment, first aid equipment, and any other equipment deemed necessary by the Coast Guard to minimize the risk of injury to the crew during vessel operations.

In addition, for large vessels, additional standards would be established by the Coast Guard for such items as radars, fire protection and firefighting equipment, safe insulation, electrical systems, ventilation systems, and fuel systems. For fish processing vessels constructed, or for which a major conversion occurred after July 27, 1990, the vessel would have to meet the hull and machinery standards of one of the recognized classification societies, such as the American Bureau of Shipping [ABS] or Det norske Veritas.

Mr. Speaker, the legislation also establishes a Commercial Fishing Industry Advisory Committee which is required to report to and consult with the Secretary of Transportation regarding fishing industry vessel safety matters. The legislation also requires that the National Academy of Engineering assist the Secretary in carrying out a study of whether inspection of fishing industry vessels is appropriate, and specifically, the Secretary is required to study whether classified fish processing vessels should have additional hull and machinery requirements, such as those required by existing classification organizations. These studies are both to be carried out in consultation with the newly established Commercial Fishing Industry Vessel Advisory Committee.

Finally, the Secretary of Transportation is required to develop statistics regarding marine casualties in connection with fishing industry operations, in order to develop a better statistical base for computing actuarial risks and determining where problems occur within the fishing industry. The primary purpose of building a better statistical base within the fishing industry is to provide a better information base to the insurance industry, which will hopefully result in smaller increases in insurance premiums than we have seen in recent years. Partly due to the cyclical nature of the insurance industry, the diversity of the fishing industry, itself, and the poor safety record of certain types of fishing industry vessels, hull and other insurance rate premiums have been rising substantially in recent years. Mr. Speaker, I believe that these minimum safety requirements for the industry, establishing for the first time a comprehensive safety regime for the fishing industry, and the conscious development of a better statistical base will enhance the long-term objective of first, a safer fishing industry; and second, lower insurance rates for the industry.

Mr. Speaker, I would also like to explain in more detail the legislative intent with respect to specific requirements for fish processing vessels, based on an amendment which I authored as part of this legislation. Specifically, the compliance examinations for fish processing vessels require that the Coast Guard examine these vessels once in compliance with the applicable regulations. It should be made clear that although the Coast Guard has the authority to make random checks for compliance with safety requirements at any time, and a vessel can be sent into the nearest port if it is deemed unsafe, a comprehensive examination should be undertaken under this provision only once in every 2-year period. The Coast Guard should make every effort to coordinate the scheduling of this regular examination with the vessel owner in order to avoid any unnecessary loss of time engaged in the fishery. And, with respect to those vessels which are classed by a recognized classification society, and which are maintained as classed vessels, the Coast Guard should presume compliance with those requirements covered by the classification society.

Second, with respect to specific recognized classification societies, the committee clearly recognized that certain additional classification societies are equivalent to the ABS. Specifically, Det norske Veritas and Germanischer Lloyd are established classification organizations with extensive experience in the fishing industry. Because many companies, especially those in the Pacific Northwest, have already relied on some of these other organizations for classifying their vessels, the committee expects that the Coast Guard will approve these organizations as recognized classification organizations, following review of thier guildelines.

Finally, with respect to the term "major conversion," the purpose of this provision is to limit the application of any new requirements to vessels that have already undergone major changes.

In some cases, extensive conversions result in rebuilt vessels and in fact, almost new vessels. In other cases, more minor conversions often result in technical rebuildings without a major change in the vessel's capabilities. The term "major conversion" is intended to deal only with the more major and extensive conversions. For example, with regard to subsection (B) relating to a change of vessel type, the intent of the language is that a conversion of a vessel from an oil supply boat to a fish processing vessel would be a change of vessel type. However, a change from being a catcher-processor to a pure processor would not be such a change. Similarly, a change from a heading and gutting processor to a fileting vessel would not be a change in type. In addition, a conversion of a crab processing vessel to a white fish processing vessel would also not be a change in type.

Mr. Speaker, with the above clarification of the committee amendment, which is not reflected in report language, I strongly support passage of this legislation. I believe that it is extremely important legislation which will help to reduct the number of injuries and the loss of life at sea. It is also very timely at this stage in the development and growth of what I believe will be a modern, healthy, and robust fishing industry as we move into the 21st century.

Mr. Speaker, in addition to my colleagues who have helped fashion the legislation, I would like to thank and applaud the efforts of two additional people who have helped make this legislation a reality. These people are Peggy and Robert Berry, whose son Peter, perished in a fishing vessel accident off Alaska in the summer of 1985. The vessel, the *Western Sea,* on which their son—Peter, was working, disappeared off Kodiak Island, and neither the captain nor the crew was heard from again, until their bodies washed up on the shore of Kodiak Island. The *Western Sea* had no survival suits, no EPIRB's, and no life raft on board the vessel. Based on the accident investigation, it is clear that the vessel was an older wooden vessel, it was not very seaworthy, and probably, it should not even have been at sea.

Mr. Speaker, I would like to commend Peggy and Robert Berry for their noble efforts to enact legislation which will for the first time establish a comprehensive safety regime for the fishing industry.

Mrs. SAIKI. Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 1841, as amended.

The question was taken.

Mr. OXLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AMENDING TOXIC SUBSTANCES CONTROL ACT RELATING TO ASBESTOS IN THE NATION'S SCHOOLS

Mr. THOMAS A. LUKEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3893) to amend the provisions of the Toxic Substances Control Act relating to asbestos in the Nation's schools by providing adequate time for local educational agencies to submit asbestos management plans to State Governors and to begin implementation of those plans as amended.

The Clerk read as follows:

H.R. 3893

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFERRAL OF DEADLINE FOR SUBMISSION OF ASBESTOS MANAGEMENT PLANS.

(a) REQUEST FOR DEFERRAL OF SUBMISSION OF MANAGEMENT PLAN.—Section 205 of the Toxic Substances Control Act (15 U.S.C. 2645) is amended by adding at the end the following new subsection:

"(d) DEFERRAL OF SUBMISSION.—

"(1) REQUEST FOR DEFERRAL.—A local educational agency may request a deferral, to May 9, 1989, of the deadline under subsection (a). Upon approval of such a request, the deadline under subsection (a) is deferred until May 9, 1989, for the local educational agency which submitted the request. Such a request may cover one or more schools under the authority of the agency and shall include a list of all the schools covered by the request. A local educational agency shall file any such request with the State Governor by October 12, 1988, and shall include with the request either of the following statements:

"(A) A statement—

"(i) that the State in which the agency is located has requested from the Administrator, before June 1, 1988, a waiver under section 203(m); and

"(ii) that gives assurance that the local educational agency has carried out the notification and, in the case of a public school, public meeting required by paragraph (2).

"(B) A statement, the accuracy of which is sworn to by a responsible official of the agency (by notarization or other means of certification), that includes the following with respect to each school for which a deferral is sought in the request:

"(i) A statement that, in spite of the fact that the local educational agency has made a good faith effort to meet the deadline for submission of a management plan under subsection (a), the agency will not be able to meet the deadline. The statement shall include a brief explanation of the reasons why the deadline cannot be met.

"(ii) A statement giving assurance that the local educational agency has made available for inspection by the public, at each school for which a deferral is sought in the request, at least one of the following documents:

"(I) A solicitation by the local educational agency to contract with an accredited asbestos contractor for inspection or management plan development.

"(II) A letter attesting to the enrollment of school district personnel in an Environmental Protection Agency-accredited training course for inspection and management plan development.

"(III) Documentation showing that an analysis of suspected asbestos-containing material from the school is pending at an accredited laboratory.

"(IV) Documentation showing that an inspection or management plan has been completed in at least one other school under the local educational agency's authority.

"(iii) A statement giving assurance that the local educational agency has carried out the notification and, in the case of a public school, public meeting required by paragraph (2).

"(iv) A proposed schedule outlining all significant activities leading up to submission of a management plan by May 9, 1989, including inspection of the school (if not completed at the time of the request) with a deadline of no later than December 22, 1988, for entering into a signed contract with an accredited asbestos contractor for inspection (unless such inspections are to be performed by school personnel), laboratory analysis of material from the school suspected of containing asbestos, and development of the management plan.

"(2) NOTIFICATION AND PUBLIC MEETING.—Before filing a deferral request under paragraph (1), a local educational agency shall notify affected parent, teacher, and employee organizations of its intent to file such a request. In the case of a deferral request for a public school, the local educational agency shall discuss the request at a public meeting of the school board with jurisdiction over the school, and affected parent, teacher, and employee organizations shall be notified in advance of the time and place of such meeting.

"(3) REPONSE BY GOVERNOR.—(A) Not later than 30 days after the date on which a Governor receives a deferral request under paragraph (1) from a local educational agency, the Governor shall respond to the local educational agency in writing by acknowledging whether the request is complete or incomplete. If the request is incomplete, the Governor shall identify in the response the items that are missing from the request.

"(B) A local educational agency may correct any deficiencies in an incomplete deferral request and refile the request with the Governor. In any case in which the local educational agency decides to refile the request, the agency shall refile the request, and the Governor shall respond to such refiled request in the manner described in subparagraph (A), no later than 15 days after the local educational agency has received a response from the Governor under subparagraph (A).

(C) Approval of a deferral request under this subsection occurs only upon the receipt by a local educational agency of a written acknowledgment from the Governor that the agency's deferral request is complete.

"(4) SUBMISSION AND REVIEW OF PLAN.—A local educational agency whose deferral request is approved shall submit a management plan to the Governor not later than May 9, 1989. Such management plan shall include a copy of the deferral request and the statement accompanying such request. Such management plan shall be reviewed in accordance with subsection (c), except that the Governor may extend the 30-day period for revision of the plan under subsection (c)(2) for only an additional 30 days (for a total of 60 days).

"(5) IMPLEMENTATION OF PLAN.—The approval of a deferral request for a local educational agency shall not be considered to be a waiver or exemption from the requirement under section 203(i) for the local educational agency to begin implementation of its management plan by July 9, 1989.

"(6) EPA NOTICE.—(A) Not later than 15 days after the date of the enactment of this subsection, the Administrator shall publish in the Federal Register the following:

"(i) A notice describing the opportunity to file a request for deferral under this subsection.

"(ii) A list of the State offices (including officials (if available) in each State as designated under subsection (b)) with which deferral requests should be filed.

"(B) As soon as practicable, but in no event later than 30 days, after the date of the enactment of this subsection, the Administrator shall mail a notice describing the opportunity to file a request for deferral under this subsection to each local educational agency and to each State Office in the list published under subparagraph (A).".

SEC. 2. NOTIFICATION TO EPA OF STATUS OF STATE MANAGEMENT PLAN SUBMISSIONS.

Section 205 of the Toxic Substances Control Act (15 U.S.C. 2645), as amended by section (1), is further amended by adding at the end the following new subsection:

"(e) STATUS REPORTS.—(1) Not later than December 31, 1988, the Governor of each State shall submit to the Administrator a written statement on the status of management plan submissions and deferral requests by local educational agencies in the State. The statement shall be made available to local educational agencies in the State and shall contain the following:

"(A) A list containing each local educational agency that submitted a management plan by October 12, 1988.

"(B) a list containing each local educational agency whose deferral request was approved.

"(C) A list containing each local educational agency that failed to submit a management plan by October 12, 1988, and whose deferral request was disapproved.

"(D) A list containing each local educational agency that failed to submit a management plan by October 12, 1988, and did not submit a deferral request.

"(2) Not later than December 31, 1989, the Governor of each State shall submit to the

Administrator an updated version of the written statement submitted under paragraph (1). The statement shall be made available to local educational agencies in the State and shall contain the following:

"(A) A list containing each local educational agency whose management plan was submitted and not disapproved as of October 9, 1989.

"(B) A list containing each local educational agency whose management plan was submitted and disapproved, and which remains disapproved, as of October 9, 1989.

"(C) A list containing each local educational agency that submitted a management plan after May 9, 1989, and before October 10, 1989.

"(D) A list containing each local educational agency that failed to submit a management plan as of October 9, 1989."

SEC. 3. PUBLICATION OF EPA-APPROVED ACCREDITATION COURSES.

Section 206 of the Toxic Substances Control Act (15 U.S.C. 2646) is amended by adding at the end the following new subsection:

"(f) LIST OF EPA-APPROVED COURSES.—Not later than August 31, 1988, and every three months thereafter until August 31, 1991, the Administrator shall publish in the Federal Register a list of all Environmental Protection Agency-approved asbestos training courses for persons to achieve accreditation in each category described in subsection (b)(1)(A) and for laboratories to achieve accreditation. The Administrator may continue publishing such a list after August 31, 1991, at such times as the Administrator considers it useful. The list shall include the name and address of each approved trainer and, to the extent available, a list of all the geographic sites where training courses will take place. The Administrator shall provide a copy of the list to each State official on the list published by the Administrator under section 205(d)(6) and to each regional office of the Environmental Protection Agency.".

SEC. 4. WORKER PROTECTION.

(a) WORKER PROTECTION REQUIRED.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is further amended by adding at the end the following new section:

"SEC. 215. WORKER PROTECTION.

"(a) PROHIBITION ON CERTAIN ACTIVITIES.—Until the local educational agency with authority over a school has submitted a management plan (for the school) which the State Governor has not disapproved as of the end of the period for review and revision of the plan under section 205, the local education agency may not do either of the following in the school:

"(1) Perform, or direct an employee to perform, renovations or removal of building materials, except emergency repairs, in the school, unless—

"(A) the school is carrying out work under a grant awarded under section 505 of the Asbestos School Hazard Abatement Act of 1984; or

"(B) an inspection that complies with the requirements of regulations promulgated under section 203 has been carried out in the school and the agency complies with the following sections of title 40 of the Code of Federal Regulations:

"(i) Paragraphs (g), (h), and (i) of section 763.90 (response actions).

"(ii) Appendix D to subpart E of part 763 (transport and disposal of asbestos waste).

"(2) Perform, or direct an employee to perform, operations and maintenance activities in the school, unless the agency complies with the following sections of title 40 of the Code of Federal Regulations:

"(A) Section 763.91 (operations and maintenance), including appendix B to subpart E of part 763.

"(B) Paragraph (a)(2) of section 763.92 (training and periodic surveillance).

"(b) EMPLOYEE TRAINING AND EQUIPMENT.—Any school employee who is directed to conduct emergency repairs involving any building material containing asbestos or suspected of containing asbestos, or to conduct operations and maintenance activities, in a school—

"(1) shall be provided the proper training to safely conduct such work in order to prevent potential exposure to asbestos; and

"(2) shall be provided the proper equipment and allowed to follow work practices that are necessary to safely conduct such work in order to prevent potential exposure to asbestos.

"(c) DEFINITION OF EMERGENCY REPAIR.—For purposes of this section, the term 'emergency repair' means a repair in a school building that was not planned and was in response to a sudden, unexpected event that threatens either—

"(1) the health or safety of building occupants;

"(2) the structural integrity of the building.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by adding after the item relating to section 214 the following new item:

"Sec. 215. Worker protection.".

(c) EFFECTIVE DATE.—Section 215 of the Toxic Substances Control Act, as added by subsection (a), shall take effect on October 12, 1988.

SEC. 5. ENFORCEMENT.

Section 207 of the Toxic Substances Control Act is amended—

(1) by striking out "or" at the end of paragraph (2); and

(2) by adding after paragraph (3) the following new paragraphs:

"(4) which carries out any activitity prohibited by section 215, or

"(5) which knowingly submits false information to the Governor regarding a deferral request under section 205(d),".

SEC. 6. TECHNICAL CORRECTIONS TO AHERA.

(a) PLACEMENT OF SENTENCE.—Section 512 of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4021) is amended by moving the last sentence of such section (as added by section 4(a) of the Asbestos Hazard Emergency Response Act of 1986) to the end of paragraph (1) of subsection (a).

(b) CROSS REFERENCES.—Paragraph (4) of section 505(g) of such Act (20 U.S.C. 4014) (as added by section 3(a) of the Asbestos Hazard Emergency Response Act of 1986) is amended—

(1) in subparagraph (B)(i), by striking out "this title" and inserting in lieu thereof "such Act"; and

(2) in subparagraph (B)(ii), by striking out "subsection (d)" and inserting in lieu thereof "section 206(d) of the Toxic Substances Control Act".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **OXLEY**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Ohio [Mr. THOMAS A. LUKEN] will be recognized for 20 minutes and the gentleman from Ohio [Mr. OXLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. **THOMAS A. LUKEN**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased today to bring before the House legislation to provide additional time to the Nation's schools for the important task of removing asbestos materials from school buildings under the process established by the Asbestos Hazard Emergency Response Act, or AHERA.

The health threats from exposure to asbestos, which can cause asbestosis and lung cancer, are clear, as are the enormous dimensions of the problem for the Nation's schools. EPA estimates that some 31,000 school buildings contain some form of asbestos material and that as many as 15 million schoolchildren—almost one-third of the Nation's school population—and as many as 1.4 million school employees attend schools and work in buildings that contain asbestos materials.

In the subcommittee hearing on this legislation, we heard from officials from several States who run schools and actually have to undertake the inspections, develop the management plans and perform the proper abatement actions to remove asbestos hazards. They told us that a large number of schools across the country will not be able to perform these tasks adequately within the AHERA-imposed deadlines. We learned that the infrastructure for carrying out the AHERA program—the accredited inspectors, management planners, and abatement contractors necessary for performing AHERA functions—is not in place. Because of this, the rush to meet the October 1988 and July 1989 AHERA deadlines may actually increase the risks from asbestos exposure to the Nation's school population.

We also heard from the U.S. Environmental Protection Agency which has the responsibility to see that the comprehensive AHERA program is properly carried out by promulgating regulations spelling out school obligations under the law and building the infrastructure of accredited asbestos personnel to assist schools in meeting their obligations. Unfortunately, we found out that EPA has not done all that it should to see that AHERA's goals are met.

The House has before it today H.R. 3893, legislation introduced by my colleagues Mr. OXLEY, Mr. LENT, Mr. WHITTAKER, and Mr. FIELDS to address the AHERA deadline problem. The subcommittee worked with all the parties interested in this legislation—representatives of school boards, administrators, unions, teachers, and education organizations—to arrive at an agreement with respect to the AHERA deadlines acceptable to all parties. The agreement had to provide relief to schools unable to meet the AHERA deadlines and to guarantee diligence in complying with AHERA and protecting students, teachers, and school workers from unnecessary exposure to asbestos.

I am pleased that such an agreement has been worked out, as represented in the bill reported by the Committee on Energy and Commerce. The bill allows an additional 7 months from October 1988 for schools to perform the inspections and prepare management plans for submission to the Governor. This should provide ample time for schools to obtain accredited personnel or train their own employees to perform these functions. The bill also guarantees that all management plans, whether submitted by October 1988 or under deferral by May 1989, will be ready for implementation by the July 1989 deadline under existing law.

Although an LEA management plan may still be in the process of being reviewed by the Governor on July 9, 1989, H.R. 3893 does not in any way extend the July 9, 1989 AHERA implementation deadline. Rather, those schools whose plans are still in the review process on that date are required both to follow the schedule contained in the management plan as submitted, and to comply with all EPA regulatory provisions governing schools which have had a final management plan approved.

Those EPA regulatory provisions include: Implementation of the operations and maintenance program included in the management plan; completion of training for all custodial and maintenance workers employed by the LEA: The attachment of warning labels adjacent to any friable asbestos in routine maintenance areas; LEA selection of a designated person to ensure that a variety of activities are carried out in accordance with the rule; public availability of the management plan at the LEA administrative office and in the individual school to which the management plan attaches; compliance with all recordkeeping requirements; the use of accredited personnel to both design and conduct response actions; and commencement of periodic surveillance no later than 6 months, and reinspections no later than 3 years, from July 9, 1989, unless the management plan schedule provides that these activities shall be performed sooner. In addition, any measures needed to protect human health and the environment, as set forth in section 763.90 of title XL of the Code of Federal Regulations, must be initiated.

In sum, the bill provides some necessary flexibility to the AHERA plan submission process without altering the schedule for implementation of plans next year.

The bill also includes provisions to protect workers from exposure to asbestos during the deferral period in which schools are performing inspections and preparing plans. These provisions guarantee that the deferral period will not allow needless exposure of school employees to asbestos containing material. We remain committed to seeing that the asbestos in schools program under AHERA is implemented fully and properly, reducing once and for all the risks from exposure to asbestos in our Nation's schools.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering legislation designed to give relief to our Nation's schools from what has turned out to be an unrealistic deadline that we imposed 2 years ago. At that time, we passed the Asbestos Hazard Emergency Response Act—or AHERA—to ensure that the asbestos problem in our Nation's schools was addressed in a safe and complete manner. Circumstances now compel us to modify the deadline we set then, so that it doesn't end up undermining AHERA's goals.

Even as EPA issued its final AHERA regulations late last year, school officials started voicing their concerns about their ability—despite their best good-faith efforts—to complete inspections and submit management plans by this coming October 12. Under AHERA, huge daily fines can be imposed for failure to meet the deadline.

In response to concerns raised by schools in my district in Ohio and schools nationwide, I introduced H.R. 3893 in February with my colleagues, Mr. Lent, Mr. Whittaker, and Mr. Fields. The original legislation provided a straight extension of AHERA's deadlines and has gained the support of over 100 House Members from all regions of the country and both sides of the aisle.

At our subcommittee hearing on this issue. We heard evidence that: There are not enough accredited inspectors; and some inspectors are using the tight deadlines to engage in price-gouging and shortcuts in their work.

Of course, shoddy work could endanger the health of the same schoolchildren we are trying to protect. And, inflated prices mean that less money will be available for other things like teachers' salaries and text books.

Deadlines are important—I think they do help get things done. But, as in the case of the one we are extending today, unrealistic deadlines can be counterproductive.

The hearing made it clear to me that we need to provide some relief to schools from the unrealistic October 12 deadline that is quickly approaching. The compromise bill that we are considering today gives Governors the power to extend the October 12 deadline, as long as schools can demonstrate: First, their "good-faith" efforts to comply with the original law; and second, their schedule to comply with the new May 9, 1989, deadline.

This compromise is the result of months of negotiations with all interested parties, and I believe that it represents a well-balanced approach that all sides can accept. I particularly want to thank our chairman, Mr. Dingell, the subcommittee chairman, Mr. Thomas G. Luken, and AHERA's original sponsors, Mr. Florio, for their efforts in developing this consensus bill.

This bill will provide needed relief to school districts while at the same time ensuring that asbestos work continue. It will improve the quality of the management plans our schools develop, and, therefore, will promote the health goals of AHERA better than the original deadline.

I urge my colleagues to support this important and needed legislation.

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Mr. THOMAS A. LUKEN. Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield 9 minutes to the gentleman from Nebraska [Mr. Bereuter].

Mr. BEREUTER. Mr. Speaker, I rise today to express great disappointment in the contents of H.R. 3893. This bill only provides an overlong deferral of deadlines for local educational organizations which prove a good faith effort to comply with the deadline for filing of asbestos-abatement plans with States and beginning the implementation stage.

Mr. Speaker, I say respectively, in light of my colleagues' many responsibilities and their best intentions, that this is an inadequate legislative response, a cop-out. States and local public and private educational organizations not only need more time to comply with the planning requirements of the law—note, I said, planning requirements—the program to implement the law itself is fundamentally flawed. This law does not provide enough direction to States in the development of their strategies to remove or encapsulate deadly asbestos. It does not assist to strongly encourage States in developing a corps of trained inspectors in each school district or groups of school districts or private schools but allows States to squander their AHERA trust fund moneys for the purpose of purchasing costly inspection services.

My colleagues from Ohio has already mentioned some of the unscrupulous activities that sometimes have been involved in these consulting processes. Such an approach does absolutely nothing to address the reinspection requirements which will occur in 3 years.

In many States and schools, this will turn into a paper process which fails to really address the problem of asbestos removal in schools and fails to put into place an adequate continuing asbestos inspection and removal capacity. The effort will be particularly expensive and ineffective among smaller religious schools and rural low population States with many small school districts.

I point to my own State with some 1,000 public school districts and many small Catholic and Lutheran schools for an example.

This bill also adds an additional review requirement in the approval or disapproval of deferral requests to the existing State functions of approving or disapproving management plans.

As it is, many State agencies are already severely understaffed and undertrained to perform these duties. Without additional qualified staff, State responsibilities and efforts will deteriorate into a morass of paperwork with management plans and deferred requests flooding the asbestos offices in State agencies, but with little capacity or real expertise to deal with the asbestos problem. We will have a new layer of bureaucracy, but that is about all we will have. Quite frankly, all this Member sees ahead is chaos in many States unless changes are made in the legislation and in the administrative approach taken by EPA.

Meanwhile, our kids and our grandchildren—yours and mine—and the Nation's teaching and administrative staffs are absorbing asbestos with every breath, stockpiling those insidious little fibers in their particularly vulnerable lungs and membranes and are going to be doing it for a longer period of time.

Twenty years may pass and memories of this failure to act will dim, but many will develop cancer or asbestosis. Many will die of this cause and Congress will have failed to take the opportunity to prevent some of this tragedy because it did not have the will or the foresight to make the proper changes in the law and to give the direction to EPA which is required.

We have had the opportunity to make significant changes. This Member, for example, introduced H.R. 4495, entitled the Asbestos Hazard Emergency Response Improvement Act. I firmly believe it would have been a major improvement. The bill would have extended the October 1988 deadline to April 1989 but this grace period would have been tied to changes in the law to make it more responsive to the actual problems that I know exist in many or most States including my own.

My bill would have provided funds to hire additional qualified personnel, to adequately review management plans. It would have encouraged school districts to train their own personnel to become authorized inspectors.

Finally, it would have leveled the playing field, so to speak, by reimbursing certain categories of schools for exaggerated and inadequate costs of contracts entered into before May 31, 1988, for services relating to inspections and management plan development; thereby not punishing those schools which have made every effort to comply with the law by swift action.

If Congress passes this bill, it will have missed the boat. We are rewarding some States for incompetence, impractical and unresponsive plans. We are rewarding some terrible foot-dragging.

Slipping the deadline is not in and of itself a bad policy approach, as far as AHERA is concerned.

Slipping the deadline with no significant changes, however, is bad public policy.

This committee, I respectfully suggest, either ought to start over this bill to truly organize an adequate response to the States' and local governments' roles in addressing the critical problem of asbestos in the public and private schools of our Nation or it should make some radical changes in the legislation during conference with the other body. It should do this along with granting an extension of 6 months for only the first of two upcoming deadlines.

It should be apparent by the tone of my voice how concerned I am about this problem. I have a child and a wife in asbestos-inflicted school rooms right across the river in Virginia. A Member from the other side of the aisle and myself brought the kind of pressure to bear on the school district to make those changes to get rid of that asbestos. But who is going to protect the rest of the kids in the country who have school districts which are not taking action? Not everybody has a Congressman for a father or a grandfather.

In my State we are taking a very generous share of money from the Federal Government and we are squandering it; we are squandering it by paying for consulting services to go to less than 10 percent of the school districts in the State. Instead of building an ongoing capacity in those schools to run their inspection programs in the future, we are squandering it at this point because the State is not picking up the requirement, and it does not have the capacity on board to do so. This unfortunately is not a unique situation. It is a common situation. I believe that EPA wants in good faith to implement this law. They have not been given the guidance that they need; they have not been given the time perhaps and they certainly have not been given the resources to help the local governments and State agencies.

I can understand why the Governors are unhappy, but they ought to be looking to the problems of dealing with those States that have innumerable small school districts and very small private schools.

Some of those schools are using over 15 percent of their total resources for the year just for these inspection services, dealing with a bunch of charlatans who came around and convinced them that they have to act now.

How are we going to address that inequity?

I think we have done nothing today to meet these problems.

I would ask my colleagues on both sides of the aisle who have to deal with a very difficult problem if you think you can make some administrative changes by giving some direction to EPA, by requiring the States to turn around on these issues and to do an adequate job, or are we stuck with what we have?

If any of my colleagues want to say that they think there is some room for giving EPA some different kind of direction to their States I really would welcome that kind of addition to the RECORD here today.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Ohio [Mr. OXLEY] who has been very generous in granting me time.

Mr. OXLEY. I thank the gentleman for yielding.

Mr. Speaker, I would only say that this has been an ongoing process. A lot of the things the gentleman from Nebraska has said I agree with wholeheartedly. However, politics is the art of the possible. We tried to do the best we could understanding that there was a lot of opposition to any kind of extension. Some elements in the gentleman's bill are good and would help AHERA work better.

We are under a situation where we have to get the deadline extended. There is no question that EPA can use some additional direction, as well as the States and local officials.

We would be glad to work with the gentleman in trying to provide that direction. But right now, the bill before us today—H.R. 3893—is the only game in town.

The gentleman knows that we would certainly be glad to work with him in the future toward providing more direction to EPA.

Mr. BEREUTER. I thank the gentleman for his good faith efforts and his comments. And I thank the gentleman from Ohio for his good faith efforts in this very difficult problem. I think part of the problem traces back to the original legislation. Some people do not want to admit that it needs some improvement in order to deal adequately with the problem.

I thank my colleagues for listening to my remarks today and hope that we will have some changes in the future either through legislation or perhaps additional administrative action by EPA.

Mrs. ROUKEMA. Mr. Speaker, today we have legislation, H.R. 3893, under consideration which would extend the deadline by which the Nation's schools must submit plans for removal of asbestos-containing materials, as required under the Asbestos Hazard Emergency Response Act, enacted in 1986. Under this law, schools are required to submit management plans by October 12, 1988, and to begin implementation of these plans by July 9, 1989. I am in support of the legislation before us today.

As many of us are aware from the letters, phone calls, and visits from school board administrators, many school districts will not be able to meet the October 1988 deadline. Due to a shortage of EPA accredited inspectors and management planners, it will be impossible for many schools to meet this federally imposed deadline.

Under the bill, the deadline for submission of the asbestos plans will be extended until May 9, 1988, if a local education agency [LEA] is granted a deferral by the Governor of the State involved. However, I would like to stress that this legislation does not change the current requirement that LEA's begin actual implementation of management plans by July 9, 1989.

Therefore, I believe this legislation is an appropriate response to the difficulties many school districts are facing in meeting an unreasonable deadline and certain sanctions. Clearly, if we are going to do the job right, extra time is warranted. However, under this legislation, our commitment to the original deadline for removal of asbestos continues to be unwavering. For the health and safety of our Nation's schoolchildren, this commitment must be unwavering.

Mr. FLORIO. Mr. Speaker it is in one sense regrettable that we are here today. If the Environmental Protection Agency had responded more promptly to the mandate Congress gave it when we passed AHERA in 1986; if the administration had chosen to devote the necessary resources to assure that our school districts had full information and proper guidance in following the law; if OMB had supported adequate funding to assist needy school districts with the costs of inspection and cleanup; then school boards would not be faced with the confusion and uncertainty which has given impetus to their petition for relief from this vital law.

Congress enacted AHERA to begin the process of eliminating from our environment one of the most dangerous substances known to science. An estimated 10,000 people will die each year for the rest of this century from asbestos-related diseases due to exposures which have already occurred. Studies have indicated that even very slight exposures to asbestos can be life threatening.

Unfortunately, because its fire-resistant characteristics were known before its dangers to human health were widely understood, it was used extensively in insulating schools and other buildings. The Environmental Protection Agency estimates that asbestos is present in 30 percent of our Nation's 110,000 schools, where as many as 15 million children and 1.4 million school employees are subject to exposure to it on a daily basis.

The EPA under the Reagan administration has resisted efforts to address this danger. When the administration took office in 1981, EPA shelved a pending school cleanup proposal. The weaker proposal EPA substituted in its place required inspection of school buildings and notification of parents, teachers, and other school personnel if asbestos was found, but did not require any action to reduce the threat or set any standards for training people to inspect for asbestos and clean it up. Even a 1985 EPA survey estimating that 75 percent of all school cleanup work was being done improperly, unnecessarily releasing asbestos into the air, did not persuade EPA of the need for clearer guidance.

Even after Congress enacted AHERA, EPA was slow to respond. The administration did not support the bill, and assigned only a fraction of the EPA personnel needed to implement the act. EPA dragged its feet in setting up trained courses for inspectors and management plan contractors. It has been derelict in making a list of approved accreditation courses for schools, who want to train their own employees for inspection and abatement work.

As a result, there is much confusion about what AHERA requires and what options are open to schools for protecting against exposure to asbestos. Removal, the most obvious option, is also the most expensive, and may not always be the soundest. And the schools are not always getting sound advice. One school in New Jersey was told it would have to spend $200,000 to inspect for asbestos, despite the fact that the school was built so recently that it did not contain any asbestos whatsoever.

I understand the difficulties that many schools are facing. But having said that, I could not support H.R. 3893 as introduced. It would have extended across the board every deadline under which the schools must operate. It would have unnecessarily delayed the urgent response to this deadly hazard. It would not have taken into account the concerns of parents, teachers, and school administrators and employees—the people who spend, or whose children spend, the major part of the day in schools where they might be exposed to asbestos and who want the problem addressed without delay.

The bill before us does respond to those concerns, and I am pleased to support this compromise proposal.

We are not giving a blanket extension of all deadlines to all schools regardless of the legitimacy of their complaint. Instead, we are allowing the deadline for initial inspection for asbestos, and submission of a management plan for response to asbestos when it is found, to be deferred. We are allowing this deferral only for schools that genuinely need the extra time and can prove they are already taking steps to comply. And we are requiring the school boards to notify teachers, parents, and employees before asking for an extension, giving them an opportunity to voice their opinions.

We are maintaining intact the deadline for actually starting the response action called for in the management plan. Even if the Governor uses the maximum time for reviewing the management plans, and even if the school boards use the maximum time for revising disapproved plans according to the Governor's directions, the management plans will be submitted in final shape by the start of the 1989-90 school year.

And very importantly, we are establishing important new protections for asbestos workers, children, teachers, and school employees, as well as new procedures to monitor compliance with AHERA. Until a management plan is submitted for a school, no renovations or removal work that might release asbestos into the air or expose workers to it may be conducted, except for emergency repairs, and no operations and maintenance activities may be conducted except under established regulations. Even emergency repairs may not be conducted unless school employees directed to conduct them are properly trained, properly equipped, and allowed to follow safe work practices.

We are requiring that the Governors notify EPA in December of this year as to which school districts received deferrals and which are not in compliance with AHERA. And we are requiring an updated status report in December 1989 of compliance with the management plan requirement.

This bill is a well-crafted, responsible approach, which balances the recent concerns raised about AHERA's implementation with the original concerns which resulted in AHERA's passage. While it gives some flexibility to school districts in genuine need, it remains faithful to the goal of eliminating the hazard of asbestos exposure in our Nation's schools as promptly, efficently, and safely as possible. It is an approach which I believe everyone can be comfortable in supporting.

Mr. SYNAR. Mr. Speaker, I want to commend the many people who worked long and hard to develop an acceptable compromise on this bill. The result, which includes a process for obtaining a postponement in the due date for an asbestos management plan but retains the deadline for implementation of the plan, balances health concerns with the need to respond to administrative problems.

I support this short-term modification. But, I think it is important to recognize that addressing the health problems created by asbestos in our schools is a long term and expensive project. To date, the Federal Government, and this administration in particular, has been unwilling to commit the resources and make the innovative changes that we must have. The successes to date are a tribute to the sheer dedication and hard work of a small group of people who are serious about serving the public. The failures to date are testimony to the half-hearted way in which we have addressed this serious health hazard.

Some of the problems are administrative, and can be addressed by changes in regulations and procedures. The Environmental Protection Agency knows what many of these are, and I urge them, once again, to get them resolved as quickly as possible. However, the biggest and continuing problem is the lack of resources. A lot of money and people are needed to implement and enforce regulatory requirements and to do abatement work. It is time for the administration, Congress, the States, and asbestos manufacturers to quit giving lip service to this problem and to start thinking seriously about providing the kind of commitment that is needed to make our schools—and ultimately all public buildings—safe.

Mr. MILLER of California. Mr. Speaker, I rise in support of H.R. 3893, which defers the deadline for submission of asbestos removal plans by schools, as required by Public Law 99-519.

Eight years ago, I authored the first Federal law directing the attention of our school systems to the potential hazards associated with exposure of pupils and school employees to friable asbestos materials which were used in school construction. The law I wrote, Public Law 96-270, the Asbestos School Hazard Detection and Control Act, was an effort to develop a cooperative program between the Federal, State, and local governments to minimize danger from exposure to this carcinogenic substance.

Unfortunately, the Reagan administration proved totally indifferent to the asbestos hazard in school buildings. The interdepartmental panel mandated by the law rarely met, and did nothing; a small amount of funding was approved; and little information was provided to school districts.

As a result, Congress in 1986 passed a much tougher law, one which mandated inspection and abatement of dangerous asbestos construction materials.

The asbestos hazard is a real danger to the health, and the lives, of millions of Americans. The cancer-causing aspects of this substance, which have been known to the asbestos industry for many decades, pose particular dangers to young children for whom the long latency period represents a threat of middle-age cancer and lung disorders.

We do not want to alarm parents or school employees unnecessarily, and that is why a reasonable, planned program of inspections and repairs was designed. Unfortunately, for a variety of reasons—including the inadequate availability of licensed removal technicians and the well documented indifference of the administration—the dangers of asbestos hazards in schools and other public buildings has been relegated to the long list of environmental problems ignored over the last 7 years.

H.R. 3893 provides some additional flexibility to school districts which have been unable to meet the October 12, 1988, deadline for the submission of asbestos management plans. It should be noted, however, that the bill does not defer the requirement that schools begin implementation of their mitigation plans by July 9, 1989. The bill permits deferral of the plan submission only after alerting the State and affected parent and employees organizations, which is appropriate. Moreover, the local education agency must set out the timetable leading to the final management plan, and discuss the request for delay at a public meeting of the local school board.

Asbestos contamination is a serious problem, where it exists, and it will be a financial challenge to school districts to correct. Congress has a strong role, and an obligation, to play in assuring our constituents that this potential problem receives appropriate attention, but we obviously ought not compound the difficulties facing schools and local officials. H.R. 3893 provides a reasonable approach that keeps us on track and committed in the effort to rid our schools of asbestos hazards.

Mr. WHITTAKER. Mr. Speaker, we passed the Asbestos Hazard Emergency Response Act—or AHERA—2 years ago to ensure that the asbestos problem in our Nation's schools were addressed in a safe and complete manner. Since then, I understand that the EPA and many school officials have worked hard to comply with requirements of our 1986 legislation. Despite this substantial effort to rid our Nation's school of asbestos problems, we all recognize that much more work remains. However, circumstances now compel us to modify a deadline we set 2 years ago, so that it doesn't end up undermining AHERA's goals.

Even as EPA issued it's final AHERA regulations late last year, school officials started voicing concerns about their ability—despite their best good faith efforts—to complete inspections and submit management plans by this coming October 12. Under AHERA, huge daily fines can be imposed for failure to meet the deadline.

The Subcommittee on Transportation, Tourism, and Hazardous Materials—where I am the ranking Republican member—held a hearing on this issue. We heard evidence that there are not enough accredited inspectors, and that some inspectors are using the tight deadlines to engage in price-gouging and shortcuts on their work. Of course, the shoddy work could endanger the health of school children. And, the inflated prices mean that less money will be available for other things like teachers' salaries and books.

Deadlines are important, but unrealistic deadlines can be counterproductive. The hearing made it clear to me that we needed to provide some relief to schools from the unrealistic October 12 deadline.

I commend my colleague from Ohio [MIKE OXLEY] for his initiative in introducing H.R. 3893. As amended, the bill gives Governors the power to extend the October 12 deadline. This bill will improve the quality of the management plans our school develop, and, therefore, promote the health goals of AHERA better than the original deadline. This compromise is the result of negotiations with all the interested parties. I believe it represents a well-balanced approach all parties can accept.

Finally, I also want to commend our chairman, Mr. DINGELL, the subcommittee chairman, Mr. LUKEN, and AHERA's other original cosponsors, Messrs. LENT and FIELDS, for their efforts in developing this consensus bill.

Mr. OXLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS A. LUKEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Ohio [Mr. THOMAS A. LUKEN] that the House suspend the rules and pass the bill, H.R. 3893, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3893, AMENDING TOXIC SUBSTANCES CONTROL ACT RELATING TO ASBESTOS IN THE NATION'S SCHOOLS

Mr. THOMAS. A. LUKEN. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3893, the Clerk be authorized to correct section numbers, punctuation, and cross references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in passing this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter therein, on H.R. 3893, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

SOUTH DAKOTA WATER SUPPLY AND ASSISTANCE ACT OF 1988

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2772) to authorize the Lyman-Jones, West River, and Oglala Sioux rural water development projects, as amended.

The Clerk read as follows:

H.R. 2772

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "South Dakota Water Supply and Assistance Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are insufficient water supplies available to residents of the Pine Ridge Indian Reservation in South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) Shannon County, South Dakota, where the Pine Ridge Indian Reservation is located, is the poorest county in the United States, and the lack of water supplies on the Pine Ridge Indian Reservation restricts efforts to promote economic development on the reservation;

(3) serious problems in water quantity and water quality exist in the rural counties of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota;

(4) the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Pine Rige Indian Reservation; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Pine Ridge Indian Reservation, and the residents of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties is the Missouri River.

(b) PURPOSES.—The Congress declares that the purposes of this Act are to—

(1) ensure a safe and adequate municipal, rural, and industrial water supply for the residents of the Pine Ridge Indian Reservation in South Dakota;

(2) assist the citizens of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, to develop safe and adequate municipal, rural, and industrial water supplies;

(3) promote the implementation of water conservation programs on the Pine Ridge Indian Reservation and in Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota;

(4) provide certain benefits to fish, wildlife, and the natural environment of South Dakota; and

(5) repeal the authorization of appropriations for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program.

SEC. 3. OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.

(a) AUTHORIZATION.—The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") is authorized and directed to plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the Oglala Sioux Rural Water Supply System, as generally described in the report entitled "1988 Planning Report and Environmental Assessment" and dated February 1988. The Oglala Sioux Rural Water Supply System shall consist of—

(1) pumping and treatment facilities located along the Missouri River near Fort Pierre, South Dakota;

(2) pipelines extending from the Missouri River near Fort Pierre, South Dakota, to the Pine Ridge Indian Reservation;

(3) facilities to allow for interconnections with the West River Rural Water System and Lyman-Jones Rural Water System;

(4) distribution and treatment facilities to serve the needs of the Pine Ridge Indian Reservation;

(5) appurtenant buildings and access roads;

(6) necessary property and property rights;

(7) electrical power transmission and distribution facilities necessary for services to water systems facilities; and

(8) such other pipelines, pumping plants, and facilities as the Secretary deems necessary or appropriate to meet the water supply, economic, public health, and environmental needs of the reservation, including (but not limited to) water storage tanks, water lines, and other facilities for the Oglala Sioux Tribe and reservation villages, towns, and municipalities.

(b) AGREEMENT WITH NON-FEDERAL ENTITY TO PLAN, CONSTRUCT, OPERATE, AND MAINTAIN THE OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.—

(1) In carrying out subsection (a), the Secretary with the concurrence of the Oglala Sioux Tribal Council, shall enter into agreements with the appropriate non-Federal entity for planning, designing, constructing, operating, maintaining, and replacing the Oglala Sioux Rural Water Supply System.

(2) Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

(A) the responsibilities of the parties for needs assessment, feasibility, and environmental studies; engineering and design; construction; water conservation measures; and adminstration of any contracts with respect to this subparagraph;

(B) the procedures and requirements for approval and acceptance of such design and construction; and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(3) Such cooperative agreements may include purchase, improvement, and repair of existing water systems of individual tribal members located on the Pine Ridge Indian Reservation.

(4) The Secretary may unilaterally terminate any cooperative agreement entered into pursuant to this section if the Secretary determines that the quality of construction does not meet all standards established for similar facilities constructed by the Secretary or that the operation and maintenance of the system does not meet conditions acceptable to the Secretary for fulfilling the obligations of the United States to the Oglala Sioux Tribe.

(5) Upon execution of any cooperative agreement authorized under this section, the Secretary is authorized to transfer to the appropriate non-Federal entity, on a nonreimbursable basis, the funds authorized to be appropriated by section 10 of this Act for the Oglala Sioux Rural Water Supply System.

(c) SERVICE AREA.—The service area of the Oglala Sioux Rural Water Supply System shall be the boundaries of the Pine Ridge Indian Reservation.

(d) CONSTRUCTION REQUIREMENTS.—The pumping plants, pipelines, treatment facilities, and other appurtenant facilities for the Oglala Sioux Rural Water Supply System shall be planned and constructed to a size sufficient to meet the municipal, rural, and industrial water supply requirements of the Pine Ridge Indian Reserviation, the West Rural Water Supply System, and the Lyman-Jones Rural Water Supply System, taking into account the effects of the conservation plans described in section 5. All three systems may be interconnected and provided with water service from common facilities. Any joint costs associated with common facilities shall be allocated to the Oglala Sioux Rural Water Supply System.

(e) TITLE TO SYSTEM.—Title to the Oglala Sioux Rural Water Supply System shall be held in trust for the Oglala Sioux Tribe by the United States, and shall not be transferred without a subsequent Act of Congress.

(f) LIMITATION OF AVAILABILITY OF CONSTRUCTION.—The Secretary shall not obligate funds for the construction of the Oglala Sioux Rural Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met;

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than 90 days; and

(3) the recommendations required by section 6(b) of this Act have been submitted to the Congress.

(g) TECHNICAL ASSISTANCE.—The Secretary is authorized and directed to provide such technical assistance as may be necessary to the Oglala Sioux Tribe to plan, develop, construct, operate, maintain, and replace the Oglala Sioux Rural Water Supply System, including (but not limited to) operation and management training.

(h) APPLICATION OF INDIAN SELF-DETERMINATION ACT.—Construction and operation of the Oglala Sioux Rural Water Supply System within the Pine Ridge Reservation shall be subject to the provisions of the Indian Self-Determination Act (Public Law 93-638; 25 U.S.C. 450f et seq.).

SEC. 4. WEST RIVER RURAL WATER SYSTEM AND LYMAN-JONES RURAL WATER SYSTEM.

(a) PLANNING AND CONSTRUCTION.—

(1) The Secretary is authorized and directed to enter into cooperative agreements with appropriate non-Federal entities to provide Federal funds for the planning and construction of the West River Rural Water System and the Lyman-Jones Rural Water System in Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, as described in the report entitled "1988 Planning Report and Environmental Assessment" and dated February 1988.

(2) The Secretary may not provide more than 65 percent of the total cost of—

(A) the West River Rural Water System, and

(B) the Lyman-Jones Rural Water System.

Such Federal funds may be obligated and expended only through cooperative agreements described in subsection (b).

(3) The non-Federal share of the costs allocated to the West River and Lyman-Jones rural water systems shall be 35 percent.

(b) COOPERATIVE AGREEMENT.—

(1) The Secretary, with the concurrence of the Lyman Jones and West River Rural Water Systems, shall execute cooperative agreements with the appropriate non-Federal entities to provide Federal assistance for the planning, design, and construction of the West River Rural Water System and Lyman-Jones Rural Water System. Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

(A) the responsibilities of the parties for needs assessment, feasibility and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

(B) the procedures and requirements for approval and acceptance of such design and construction; and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(c) Facilities on Which Federal Funds May Be Expended.—The facilities on which Federal funds may be obligated and expended under this section shall include—

(1) water intake, pumping, treatment, storage, interconnection, and pipeline facilities;

(2) appurtenant buildings and access roads;

(3) necessary property and property rights;

(4) electrical power transmission and distribution facilities necessary for service to water system facilities;

(5) planning and design services for all facilities; and

(6) other facilities and services customary to the development of rural water distribution systems in South Dakota.

(d) Service Area.—The service area of the West River Rural Water System and the Lyman-Jones Rural Water System shall be as described by in the engineering study entitled "1988 Planning Report and Environmental Assessment" and dated February 1988.

(e) Limitation on Availability of Construction Funds.—The Secretary shall not obligate funds for the construction of the West River Rural Water System and the Lyman-Jones Rural Water System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met;

(2) final engineering reports have been prepared and submitted to the Congress for a period of not less than 90 days; and

(3) the recommendations required by section 6(b) have been submitted to Congress.

(f) Prohibitions on Use of Federal Funds.—The Secretary may not obligate or expend any Federal funds for the operation, maintenance, or replacement of either the West River or Lyman-Jones rural water systems.

SEC. 5. WATER CONSERVATION.

(a) Development and Implementation of Conservation Programs.—The Secretary may not obligate any Federal funds for the construction or the West River Rural Water System, the Lyman-Jones Rural Water System, and the Oglala Sioux Rural Water Supply System, until the Secretary finds that appropriate non-Federal interests have developed and implemented water conservation programs throughout the service area of each such rural water system. The purpose of such programs shall be to ensure that such rural water systems and their customers are utilizing the best practicable technology and management techniques to reduce water use and water system costs. Such conservation programs shall include (but are not limited to) adoption and enforcement of the following:

(1) American National Standards Institute low consumption performance standards for all newly installed plumbing fixtures;

(2) Beneficial reductions in nondomestic uses.

(3) Leak detection and repair programs.

(4) Metering for all elements and individual connections of the rural water supply systems.

(5) Conservation pricing schedules.

(6) Public education programs.

(7) Coordinated operation between each rural water system and the pre-existing water supply facilities in its service area.

Such programs shall contain provision for periodic review and revision, in cooperation with the Secretary.

(b) Authority to Withhold Water.—The Secretary is authorized to withhold water deliveries to the West River Rural Water System, the Lyman-Jones Rural Water System, and the Oglala Sioux Rural Water Supply System if the Tribal authority or non-Federal sponsoring agency fails to comply with the water conservation plans required under subsection (a).

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

(a) Oglala Sioux Rural Water Supply System and the West River and Lyman-Jones Rural Water Systems.—Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with or prior to project construction.

(b) Oahe and Big Bend Dams and Reservoirs.—The Secretary, in cooperation with the State of South Dakota and other Federal agencies, shall develop and submit recommendations to the Congress for financing and implementing mitigation plans for fish and wildlife losses incurred as a result of the construction and operation of the Oahe Dam and Reservoir and Big Bend Dam and Reservoir. Such plans shall incorporate the proposal of the United States Army Chief of Engineers as outlined in Design Memorandum M(Gen)-19 of December 1987 for improved management of existing Federal lands, and purchase of single-purpose mitigation lands, such as the Olson and Mudon Ranches, from willing sellers.

SEC. 7. PROHIBITION ON USE OF FUNDS FOR IRRIGATION PURPOSES.

None of the funds made available to the Secretary for planning or construction of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, or the Lyman-Jones Rural Water System may be used to plan or construct facilities used to supply water for the purpose of irrigation.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act is intended, nor shall be construed, to preclude the State of South Dakota or the Oglala Sioux Tribe from seeking congressional authorization to plan, design, or construct additional federally assisted water resource development projects.

SEC. 9. USE OF PICK-SLOAN POWER.

(a) In General.—The Systems authorized by sections 3 and 4 of this Act shall utilize power from Pick-Sloan for their operation. This power shall be deemed to be a project use pumping requirement of Pick-Sloan.

(b) Power To Be Used.—As of the date of enactment of this Act, power identified for future project use pumping at the Pollock-Herreid Unit of the Pick-Sloan shall be reserved for and utilized by the Systems and made available for the purpose authorized by subsection (a).

(c) Rate.—The rate for project use power made available pursuant to subsection (a) shall be the wholesale firm power rate for the Pick-Sloan (Eastern Division) in effect at the time the power is sold.

(d) Additional Power.—If additional power beyond that made available through subsection (b) is required to meet the pumping requirements of the Systems, the Administrator of the Western Area Power Administration is authorized to purchase the additional power needed under such terms and conditions the Administrator deems appropriate. Expenses associated with such power purchases shall be recovered through a separate power charge, sufficient to recover these expenses, applied to the Systems.

(e) Definitions.—For purposes of this section—

(1) the term "Systems" means the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman Jones Rural Water System; and

(2) the term "Pick-Sloan" means the Pick-Sloan Missouri Basin program authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891; commonly referred to as the Flood Control Act of 1944).

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) Planning, Design, and Construction.—There are authorized to be appropriated $87,500,000 for the planning, design, and construction of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System under the provisions of sections 3 and 4 of this Act. Such sums are authorized to remain available until expended.

(b) Operation and Maintenance of Oglala Sioux Rural Water Supply System.—There are authorized to be appropriated such sums as may be necessary for the operation and maintenance of the Oglala Sioux Rural Water Supply System.

SEC. 11. WATER RIGHTS.

Nothing in this Act shall be construed to—

(1) impair the validity of or preempt any provision of State water law, or of any interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body or surface or ground water, whether determined by past or future interstate compacts, or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal;

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources; or

(5) affect any water rights of any Indian or Indian tribe if such rights were established by the setting aside of a reservation by treaty, Executive order, agreements, or Act of Congress.

Nothing in this Act is intended, nor may be considered, to diminish or affect the quantity or quality of water from the Missouri River basin or elsewhere that is owned or claimed by the Oglala Sioux Tribe under aboriginal title, recognized title, or under the Winter's doctrine (Winters against United States, 207 U.S. 564 (1908) and progeny).

SEC. 12 REPEAL OF AUTHORIZATION OF APPROPRIATIONS.

(a) Pollock-Herreid Unit.—Section 407 of the Reclamation Authorization Act of 19754 (Public Law 94-228; 90 Stat. 209) relating to the authorization of appropriations for the Pollock-herreid Unit of the Pick-Sloan Missouri Basin Program is hereby repealed. The Pollock-Herreid Unit shall remain an authorized feature of the Pick-Sloan Missouri Basin program.

(b) Feasibility Studies.—Paragraphs (2) and (3) of section 3(a) of Public Law 97-273 (96 Stat. 1181) are hereby repealed.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. Richardson] will be recognized for 20 minutes and the gentleman from Arizona [Mr. Rhodes] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. Richardson].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2772, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2772 would authorize the construction of a rural water supply system to serve the Pine Ridge Indian Reservation and surrounding communities.

This bill, which was introduced by my colleague, Congressman Tim Johnson, would ensure that this area receives a reliable supply of drinkable water.

Congressman George Miller, chairman of the Water and Power Subcommittee, wanted to be here today for this bill, but was unavoidably detained. This bill has his full and enthusiastic support.

It also has the support of the South Dakota congressional delegation, the Governor of South Dakota, the Sioux Tribe, local water users, and environmental groups.

H.R. 2722 was reported by the House Interior Committee on June 22 by a voice vote. No opposition was voiced to the bill during subcommittee and full committee consideration.

Construction of a rural water supply system is critically important to the Pine Ridge Indian Reservation and the nearby communities.

Water supplies in the project area are of poor quality. Some water supply systems do not meet drinking water standards.

The primary beneficiary of this legislation is the Oglala Sioux Tribe. The water system authorized in the bill will deliver treated water from the Missouri River to the reservation by buried pipelines.

The non-Indian portions of the project will be cost-shared. The Federal portion will be 65 percent of the construction costs. Non-Federal interests will pay the rest of the costs—about $12.5 million.

H.R. 2772 authorizes the appropriation of $87.5 million for this project. However, the bill would repeal $47 million in authorization of appropriations for the Pollock-Herreid unit of the Pick-Sloan project.

This bill authorizes a good project. It will meet the critical water supply needs of the Pine Ridge Reservation. And, it will assist adjoining rural counties to bring good quality water to their homes and communities.

Mr. Speaker, I must conclude by paying special tribute to the gentleman from South Dakota for his hard work on this bill. He has worked long hours to forge this compromise. It is not often that a successful compromise can be reached between environmentalists, Indians, water users, and State officials.

Mr. Johnson has demonstrated his remarkable legislative skills by putting together this compromise. He deserves full credit for this bill.

Mr. Speaker, I urge my colleagues to join me in supporting this bill.

Mr. JOHNSON of South Dakota. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from South Dakota.

Mr. JOHNSON of South Dakota. Mr. Speaker, I want to first extend my thanks to the gentleman from New Mexico for his assistance and also to the subcommittee chairman, the gentleman from California [Mr. Miller] and of course, the chairman of the full committee, the gentleman from Arizona [Mr. Udall] as well as to the gentleman from Arizona [Mr. Rhodes] for their assistance on this bill through the Committee on Interior and Insular Affairs and the Subcommittee on Water and Power Resources.

□ 1330

The gentleman from Arizona [Mr. Rhodes] has very quickly demonstrated great ability in this area and has established himself as a credible and highly regarded leader in the area of water and power resources on both sides of the aisle.

Mr. Speaker, the Mni Wiconi project is a new name for what was formerly known as the Lyman-Jones, West River, and Oglala Sioux rural water development projects, a consolidation of three different water projects which have been worked on for over 20 years by residents of western South Dakota in an effort to bring clean and reliable drinking water to a vast region of South Dakota, to western South Dakota.

The project will involve 2,300 miles of pipe serving over 25 communities over this vast region of western South Dakota. The Mni Wiconi project is a culmination of a coalition, bringing together our Indian citizens, white ranchers, our environmental community, our business community, our public power leaders, and Republicans and Democrats alike, both in the State of South Dakota and here in Washington, on a bill which received unanimous support in the subcommittee of the Committee on Interior and Insular Affairs, as well as in the full committee.

The tragic drought which we are facing today in the State of South Dakota demonstrates more than ever the need to correct the problem of bad water and lack of water across western South Dakota. Currently the residents of this region rely on ground water sources, and they rely on deep wells, over 3,000 feet in depth, and even at the expense of drilling those wells they find themselves with a water quality which far exceeds Federal standards for radium and chloride and as well exceeds Federal standards for sodium phosphates and iron.

Shannon County, which is coterminus with the Pine Ridge Indian Reservation, is one portion of this water project. Shannon County is the most impoverished county in all of the United States. This county, more than ever, if it is ever going to break its cycle of poverty and dependency which it has seen for too long, is going to require reliable, clean drinking water, not only for its citizens and for economic development but to save its lifestock industry. This project, too, I think, represents the culmination of a model of Federal and State and local cooperation.

Many years ago the mainstream dams were created under the Pick-Sloan plan in the State of South Dakota, flooding over 500,000 acres of prime farmland in the State of South Dakota. At that time it was conceived that there would be massive irrigation projects created in the State of South Dakota to offset that loss of farm land. Times have changed, the climate has changed, the emphasis has changed, and the direction now is to recognize that those projects may not have been realistic, at least all of them, and that the emphasis now should be on bringing clean and reliable drinking water. In the WEB system and now in the Mni Wiconi system we are now doing just that.

This project brings together our Federal, State, and local governments with a cost share which should serve as a model for water projects generally, and in short it brings us a project in the State of South Dakota with an authorization this year which should address the long-term problems we have of stabilizing the economy and maintaining the high quality of life and a safe quality of life in western South Dakota.

Mr. Speaker, I urge my colleagues to support this legislation, and I want to again thank the gentleman from New Mexico [Mr. Richardson] for yielding.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great pleasure that I rise in support of H.R. 2772, as described to us here by my colleague, the gentleman from South Dakota [Mr. Johnson].

This bill would authorize Federal funding for rural water systems in western South Dakota for the benefit of the Pine Ridge Indian Reservation, the Lyman-Jones, and the West River systems. The Oglala Sioux water system will provide clean drinking water to over 12,000 Indians on the Pine Ridge Indian Reservation, which is located in one of the poorest counties in this country.

Mr. Speaker, this is more than a water project bill; this is a humanitarian bill. The water quality in the area that will be served by this project is so poor that the samples that were brought to us at our hearings last December literally stank. The Indian health service attributes many of the health problems which are found at the Pine Ridge Reservation specifically to the quality of this water supply. It is so poor and high in dissolved minerals, including iron, sodium, and radium, that it is a shame that anybody living in this country should be subject to subsistence on such a low quality of water.

The Lyman-Jones and West River systems will serve many thousands more citizens in neighboring areas of South Dakota who have similar water problems. None—and I think it is important to emphasize this—none of this water will be used for irrigation purposes; it all goes for human consumption.

Even having said that, when this bill was heard in December 1987 before the committee, it was a piece of legislation that was probably not going to be passed. When Governor Mickelson and the gentleman from South Dakota [Mr. JOHNSON] realized the problems with this legislation, they went home and exercised their considerable leadership with the water community in South Dakota and came back to us with a cost-sharing arrangement which calls for 35 percent local participation of the non-Indian features of this system.

This is a very impressive compromise. It is a very impressive indication of the importance of this project to the people of South Dakota.

I want to commend my colleague, the gentleman from South Dakota [Mr. JOHNSON] and Governor Mickelson for their considerable leadership in putting together the package that is before us today and showing to us the dedication and commitment of the people of South Dakota to provide for their citizens a safe, drinkable supply of water. Without their support and their commitment, we would not be here, and I would not be here advocating passage of this bill.

Mr. Speaker, I want to commend the delegation and the Governor, and I want to thank the gentleman from New Mexico [Mr. RICHARDSON] for his assistance as well. I urge my colleagues to support this bill.

Mr. RICHARDSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RHODES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 2772, as amended.

The question was taken.

Mrs. SAIKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

MONTGOMERY GI BILL DOING ITS JOB

The SPEAKER pro tempore (Mr. HUBBARD). Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I want to share with my colleagues this article, which first appeared in the March/April edition of the Vanguard, a magazine printed by the California National Guard. It was reprinted in the June 27, 1988, edition of the Stars and Stripes-National Tribune.

The article points out how the GI bill's incentives are helping make recruiters' jobs easier and how they are bringing bright young men and women into the Armed Forces. In addition to strengthening our military, the new GI bill is providing educational opportunities that young men and women might not otherwise have had.

The article follows:

THE GI BILL: FORTY-FOUR YEARS LATER

Sixteen days after the D-Day invasion of Europe, President Roosevelt signed Public Law 78-346. Drawn up and supported by members of both political parties, the GI Bill passed the 78th Congress without a dissenting vote.

After June 22, 1944, America had the greatest veterans' program in history. No other country approached America's generosity in quality health care, education, job-training and a chance for a decent home.

Later, the GI Bill had a tremendously positive impact on Vietnam veterans—just as it had a powerful effect on veterans after World War II and the Korean Conflict.

Amended and extended, it changed the national concept of adult education and started the greatest home construction boom in history.

Many Vietnam veterans grew up in homes with a VA mortgage guarantee. Like his father, G.I. Joe's eldest son returned from Vietnam to enroll in college, purchase a home, establish a family and take a responsible place in his community.

But the final impact of this revolutionary program is still to be felt by the academic, economic, government, social and cultural scene that makes up America.

Post-Vietnam veterans—like G.I. Joe's youngest son and daughter—are using new VA entitlements to secure their share of the American dream.

Current statistics show remarkably high participation rates for the "new" GI Bill. (Actually, Public Law 100-48—called the New GI Bill Continuation Act—changed the name of the New GI Bill to the Montgomery GI Bill on 1 June 1987.)

For December 1987, the Army reported 90.6 percent of its recruits elected to participate; 63.3 percent of the Navy's recruits joined the program.

For the same month, the Air Force reported a 67.7 percent participation rate and 74.5 percent of the Marine Corps opted for the program.

Close to 66 percent of eligible Vietnam era veterans have taken GI Bill training—compared with 50.5 percent from World War II and 43.4 percent for Korean Conflict veterans.

Since 1944, 7.8 million World War II veterans, 2.4 million Korean Conflict veterans, and 8 million post-Korean and Vietnam era veterans have received some form of training. But current participation rates are the highest ever.

Total Department of Defense enrollment for the Montgomery GI Bill—active-duty was 73.1 for December 1987. The number of active-duty and selected-reserve participants in the Montgomery GI Bill is nearing 450,000.

Why do almost 91 percent of today's soldiers participate in the new Montgomery GI Bill? The answer seems obvious.

If you have plans for college, the Army has two new programs that can change the way you plan to pay. And if you hadn't planned on going, these programs could change your plans completely.

Attending a college today—whether it's private, public, or vocational/technical—can be costly. Tuition can range from $500 to more than $10,000 a year, while room and board can cost from $2,000 to $3,800 a year.

Of course, there are additional expenses that must be kept in mind.

You can spend as much as $350 a year on books and supplies. Transportation home two or three times can easily cost several hundred dollars. And personal expenses such as clothing, laundry, medical bills and spending money can add up to an additional $500 a year or more.

Joe's youngest son found a way he could enrich his finances as well as his mind. Through the GI Bill plus the Army College Fund, he could accumulate money three ways:

First, from the $100 he contributed each month during his first year in the Army.

Second, from the government's contribution of up to $8 for every * * *.

And third, from the Army's contribution of up to $14,400.

By the time he graduated from college, he could receive as much as $25,200 from the VA.

"Under the new GI Bill," said Sgt. 1st Class David Clark, Army recruiting station commander of Fairfield, Calif., "even students who serve part-time in the Army Reserve are eligible to receive up to $5,040."

In addition, the Army provides up to 75 percent tuition assistance for reservists who qualify and complete the required training.

SFC Clark says the GI Bill has made his job a lot easier.

"I knew it was necessary for survival of the all-volunteer force. I knew it would attract bright young men and women. But I never suspected it would be so effective."

A veteran of the Air Force, Edna Barnes, director of the Solano County, Calif. veterans services office, is one of the country's few female American Legion commanders. She commands Reams Post 182 of the Fairfield-Suisun Division.

Barnes echoes Clark's appreciation of the new GI Bill.

"Good incentives are necessary to draw bright recruits in large numbers. The opportunity for an education seems to be the best incentive of all," said Barnes.

America's newest veterans have earned a wide variety of benefits, ranging from home loan guarantees and education assistance to medical care and burial benefits. Sometimes, one benefit helps another.

Barnes tells the story of a veteran who was in her office seeking educational assistance. When asked for his service number, he pulled out his false teeth. After reciting the numbers engraved on his VA dentures, he put his teeth in his mouth and continued documenting his case.

PRESIDENT REAGAN'S QUALITY VALLEY IS THE LEHIGH VALLEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. RITTER] is recognized for 10 minutes.

Mr. RITTER. Mr. Speaker, Malcolm S. Forbes, Jr., deputy editor-in-chief of Forbes magazine, recently wrote, "given the realities of the world and the frailties of human beings, the Reagan administration's economic policy to date has to be judged an enormous success." He adds, "If people have an incentive to get ahead—if they're able to keep enough of what they earn through their labor and innovation—then the economy as a whole benefits, even if some of the traditional business incentives aren't in force." Mr. Speaker, it is clear the Lehigh Valley's success in recent years has, in no small part resulted from policies of growth, opportunity, regulatory relief and budget restraint.

Increasingly, American firms are applying quality principles and are achieving tremendous results. To expand a special emphasis on "Quality" in the Lehigh Valley of Pennsylvania, three groups have been formed: First, a leadership and policy group comprised of the top executives from business, and leaders in education, to provide commitment, resources and guidance to our efforts; second, a working group that acts as a "self-help" group of executives and quality managers who seek to share, pool and learn from their counterparts—group members meet to compare quality programs and to learn from each other's experiences, their successes and mistakes; and third, the valley, USA's information arm, with responsibility for developing programs to bring the quality message to the valley.

Mr. Speaker, President Reagan in his address on June 13 just a few days before the economic summit, told the Atlantic Council that "Everywhere in the democratic world we're seeing the emergence of a new consensus that growth and opportunity must go hand in hand." The new consensus is more than just tax rate reduction, it also involves as the President emphasized, "streamlined manufacturers" or in other words, "Quality" with a capital Q. To dramatize this point, President Reagan told the story of the economic turnaround in the Lehigh Valley. I include the full text of the President's remarks and urge my colleagues to assess the full impact of the achievements of "Quality Valley, USA."

REMARKS BY THE PRESIDENT AT ANNUAL MEETING OF THE ATLANTIC COUNCIL

Washington, DC, June 13, 1988.

The PRESIDENT. (Applause.) Thank you very much. And thank you, General Goodpaster, Secretary Shultz, John Gray, General Seignious, Gene Bradley, James Shinn, and ladies and gentlemen. Just a week and a half ago, I had the honor to address the British people, the Atlantic Community, and the world from the ancient and historic podium of Guildhall in London. After my report on the Moscow summit, Mrs. Thatcher graciously said that she believed that "There is now more hope between East and West than ever before in the lifetime of most of those" there. And she spoke of the new confidence and optimism in the West, and she recalled the words of Sir Winston Churchill when he wrote, "Where we are able to stand together and work together for righteous causes, we shall always be thankful and the world will always be free."

Well, this message of unity and optimism and hope and strength is the message that I bring to you today. You've been talking here today about "rebuilding the consensus on East-West relations." And I would admit that, at times, in recent years a free world consensus in this area seemed particularly elusive, rather like the story that Franklin Roosevelt liked to tell about the Marine who was ordered home from Guadalcanal. The Marine was very unhappy because he hadn't shot a single enemy soldier, so his sergeant just told him, "Just go up on that hill over there and shout, 'To the devil with Tojo.'" Well, the Marine did as he was told, and sure enough, out of the jungle ran a Japanese soldier shouting, 'To the devil with Roosevelt.' "And, of course," said the Marine afterward, "how could I shoot a fellow Republican?" (Laughter.)

But our consensus is built not only on what we're against, but on what we're for. And we are against totalitarianism. We're for freedom and democracy—for them without hesitation or apology, and virtually, I would venture, without division. This is the first great truth to keep in mind. There may be divisions within our countries as to methods, but there are none as to fundamental goals.

In the last decade-and-a-half, we in the democracies have, in true democratic fashion, tested the various propositions about the methods for best approaching East-West affairs. Now that we have an INF Treaty, the first agreement ever to eliminate an entire class of U.S. and Soviet nuclear missiles and with the most stringent verification procedures in arms control history; now that the Soviets have begun withdrawing from Afghanistan; now that we've begun to see internal changes within the Soviet Union—can there be any doubt that we were right about a forward strategy for freedom, right about the importance of candor regarding the differences between our systems, and right to say that the road to peace is not through weakness, division, or preemptive concession, but through unity, confidence, and strength?

In just a few days I will attend another summit—the economic summit in Toronto, as the General has told you. And this is an excellent forum before which to talk about our hopes for that summit. I know that the Atlantic Council is examining how to best integrate economics and security. The International Management and Development Institute is meeting to discuss economic challenges facing us.

Over the years, the economic summits have been a cornerstone of cooperation among the major democratic economies. They're part of the superstructure of Western strength and East-West affairs. And here again our democracies have, as democracies do, tested among ourselves various propositions about economic growth and vitality since the first of the summits that I attended in 1981.

Everywhere in the democratic world we're seeing the emergence of a new consensus that growth and opportunity must go hand in hand. Consider taxes. In the past three years, Britain, Canada, Japan, and France, among others, have all let their top tax rates tumble. Why? Well, here's what Nigel Lawson, Britain's Chancellor of the Exchequer, said not long ago, in his words: "The reason for the worldwide trend toward lower top rates of tax is clear. Excessive rates of income tax destroy enterprise, encourage avoidance, and drive talent to more hospitable shores overseas. Far from raising additional revenue, over time they actually raise less. And he concluded, "By contrast, a reduction in the top rates of income tax can, over time, result in a higher, not lower, yield to the Exchequer." Well, it seems I've heard somebody else say that before, somewhere.

But this new consensus doesn't stop with taxation. Country after country has begun to sell off state-owned industries. Restrictive regulations have begun to fall. Paying for the excesses of government spending with high inflation has all but stopped. And, at least in the United States, deficit spending by government is falling.

The idea that connects all this is the market. The industrial world—the entire world—is turning away from state control of economies, and returning to the marketplace. From India to Argentina, from Africa to China, and even in the Soviet Union, the shackles of state economic domination are beginning to loosen. And you know something's happening when there's talk of lower taxes in the Soviet Union.

Now I don't need to tell you that the United States has led the way, or that the remarkable performance of our economy since our expansion began has been the driving force behind this new consensus. I don't need to recite all we have done—the longest peacetime expansion on record; more than twice as many jobs created as the other six summit countries combined—and they have 50 percent more employment-age population than we do. The family income is up sharply after riding a falling roller coaster through the previous decade; a larger percentage of the workforce employed than ever before; exports the highest in our history. I don't need to tell you all this, but you might guess that I'm a little proud of it. And I have to watch myself when I talk about it. I don't want people to get the impression that I think of politics the way Will Rogers thought of in the movies. He said, "The only business where you can sit out front and applaud yourself." (Laughter.)

This new consensus has not only brought the economies of America, Britain, Canada, and so many other countries roaring back. It has also opened the way for a coordination of economic policy among the summit countries that would have been unthinkable just a few years ago. Whether it's through what's known as the G-7, or in managing the debt crisis in so many Third World countries, or responding to the tremors in the world financial markets last October, we work together.

Today we use a common set of books to tell how our policies are doing, and we're working in common for balance in trade and capital flows and government budgets and for surefootedness in the world's financial markets. Starting with the United States, the summit countries have had nearly six years of uninterrupted growth. I'd like to make it 60 and more.

But it can't happen if we try to live as if we're the only economy on earth. The summit nations are working together as never before because our economies are tied together as never before. To give an example of this, someone pointed out to me recently, while the New York Stock Exchange does $8 billion of business on a good day, the foreign exchange markets do over 25 times as much business every day.

In this global marketplace, industries around the world rise and fall together. The decline in the worldwide demand for steel was felt in the Rhine Basin of Europe in just the same way it was felt in our Lehigh Valley. Thousands of jobs disappeared in both places, and not just to foreign competition. Here in America, high-tech mini-mills melted down the business of many old, integrated producers.

But there's one difference in the way we in America dealt with the decline. We lost the same kind of jobs other countries lost, but—unlike those European nations that lag behind in cutting taxes, regulations, and government ownership—we created new jobs in place of the old ones. Allentown in Lehigh Valley was once a home of heavy industry. Then the steelmill and the truck factory shut down. Many people wrote off Allentown—too soon. In place of a few big, old companies, dozens of new companies started up. Small companies that were already open grew. Entrepreneurs created what David Birch, MIT's authority on job creation, calls "a hidden economy." He adds that all across America, "the small companies, not the big ones that get so much attention, are building a new economy that is providing jobs and making the country competitive again." And that's why today, Allentown has an unemployment rate of only 5.4 percent.

Throughout what used to be called the rust belt, the story is the same. One midwesterner recently told the New York Times, as he said, "I go through the newspapers from county-seat-size towns, and I'm finding dozens of announcements of new plants and plans for new plants and expansion projects."

And new or expanding entrepreneurial companies and bigger, older, but now streamlined manufacturers are leading an export boom that some say has stretched our production capacity to the limit. Not long ago, for example, Business Week reported that America's steelmakers had become among the world's most productive and announced in its headlines, "Cancel the Funeral, Steel is on the Mend."

Yes, America is leading the world—both as consumer and producer—into the global marketplace of the next century. For all of us, what's happening in Japan or Germany, Britain, France, Italy, or Canada is as momentous as what's happening in California, Florida, New York, or Illinois.

There's a lesson in all this—in the story of Allentown and one of the so-called Rust Belt, as well as in the globalization of trade and finance—and the lesson is that the future belongs to the flexible. It belongs to those who look at the problem and see an opportunity; to those who look at the unknown and see an adventure; to those who look at the untried and see a challenge; to those who have shed the weight of structural rigidities and protective subsidies and face the future with energy and excitement.

In no field do we all have more weeding to do than agriculture, where subsidies cost the consumers and taxpayers of Europe, North America, and Japan $200 billion a year. Agriculture is planted on the agenda of the Uruguay round of trade talks—as are the issues of establishing rules for trade in intellectual property, investment, services, and the lowering of tariff and non-tariff trade barriers. Those talks were scheduled to go for four years. They are now nearing the halfway point. It's time to narrow down and lay out specific goals, a road map, and a timetable to the finish line. In Toronto we—the heads of the major industrial states—can push our ministers to have that job completed by the end of the year. No excuses. You know, sometimes when I hear people say why we can't do this or that in the trade talks, it reminds me of how Chico Marx, one of the Marx Brothers, used to try to walk off the Hollywood sets in the middle of the afternoon. As he explained, "But it's after quitting time in New York." (Laughter.)

Well, it's time that we in the summit nations forget about quitting time and join in a great "venture to progress"—a joint venture that opens the international marketplace and that also strengthens the weak links in the international economy.

Let us join together to help restore the economies of two countries: One—the Philippines—an heroic democracy ravaged by Communist-led insurrection; the other, Afghanistan, a victim of brutal aggression.

Let's join together to bring the newly industrialized countries into the full and mature place in the world trading system that they have earned.

Let's join together in helping the countries of sub-Saharan Africa work out their debt problems. We'll take up their problems, as we have those of other debtor nations, on a case-by-case basis, working to help develop economic policies that promote growth and opportunity. The United States has already indicated its willingness to consider new ways of rescheduling the debt of the poorest countries, ways that can produce substantial new relief.

And let us join together to attack the lifeblood of one trade that should never be part of international trade, the international narcotics trade. At this summit, we should join in a common offensive against money laundering and the flow of drug profits through the world's financial institutions.

Pushing forward the trade negotiations, a joing venture for progress, strengthening the system of policy coordination—this is the agenda of the Toronto summit. We'll be building on a decade of progress, on the new economic consensus in our countries. We'll be looking to continue the building of the global marketplace.

I know there are some who want to turn back, who want to return to the more insular and isolationist days of old. I vetoed the trade bill last week because I don't believe we can or should turn back.

Critics of our policies complain that, on one hand, America is, as they say, "exporting jobs," which is to say our companies invest overseas; and on the other hand, that America is selling itself to foreigners, which is to say that foreign companies are investing here. Put it together and what they're really saying is "turn back." The isolationism of their foreign policy walks hand-in-hand with the isolationism of their economic policy, and both will lead us to disaster.

We're in a new age of invention and exploration, a time when the vast capacity of the human imagination is opening new universes for exploration. "To see the universe in a grain of sand" is no longer poetic metaphor but the daily reality of the silicon chip. F. Scott Fitzgerald wrote that when the early explorers just looked on this land, they must have held their breath. They had, for the last time in history, come face-to-face with something commensure to man's infinite capacity for wonder. Yet it was not for the last time. We, too, stand on the shores of something as vast—of an economic and technological future immense with promise.

If we seize it, if we don't turn away from it, that future will transform the democratic world and, I am confident after my visit to Moscow, the countries of the Soviet bloc, as well. I believe that the House of Democracy's current consensus for strength and growth will usher in a new age of which we can only dream. But if we have the courage and the resolve, I believe that age will give us a world of peace and freedom, of opportunity and hope for generations to come. And I believe that even more after the summit that we've just been to and what I saw on the faces of the rank and file, the people of the Soviet Union.

And I can't resist now, I'm—I brought back a story that was being told there—I didn't bring it back, one of our Secret Service agents did and told it to me. The story has it—this is what they tell among themselves—that General Secretary Gorbachev and I were in the limousine with the head of our Secret Service unit, Ray, and he had a security man with him. And we were sightseeing. And they pulled up before a magnificent big fall, a waterfall, and we got out to look at it.

And Gorbachev said to Ray, "Go ahead, jump over." And Ray said, "I've got a wife and three kids." And Gorbachev turned to his man and said to jump over—and he did. And Ray, with great humanity, went down around the waterfall, scrambling over the rocks to the bottom, and found the man wringing out his clothes. And he said, "When he told you to jump, why did you jump?" The man says, "I've got a wife and three kids." (Laughter.)

Thank you all very much. (Applause.)

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislation program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. SAIKI) to revise and extent their remarks and include extraneous material:)

Mr. RITTER, for 10 minutes, today.

(The following Members (at the request of Mr. JOHNSON of South Dakota to revise and extend their remarks and include extraneous material:)

Mr. MONTGOMERY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GEPHARDT, for 60 minutes, on June 28.

Mrs. BOXER, for 60 minutes, on June 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. SAIKI) and to include extraneous material:)

Mr. BROOMFIELD.

Mr. GILMAN.

(The following Members (at the request of Mr. JOHNSON of South Dakota and to include extraneous material:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. LANTOS in two instances.

Mr. MONTGOMERY.

Mrs. BOXER.

Mr. MCMILLEN of Maryland.

Mr. LELAND.

Mr. DINGELL.

SENATE BILLS, JOINT RESOLUTIONS, AND CONCURRENT RESOLUTIONS REFERRED

Bills, joint resolutions, and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2247. An act to modify restrictions on the use of certain property conveyed to the Peninsula Airport Commission; to the Committee on Public Works and Transportation.

S. 2365. An act authorizing the release of 86 U.S. Information Agency films with respect to the Marshall plan; to the Committee on Foreign Affairs.

S.J. Res. 317. Joint resolution commemorating the bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen; to the Committees on Foreign Affairs and House Administration.

S.J. Res. 318. Joint resolution to designate the week of July 25-31, 1988, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War"; to the Committee on Post Office and Civil Service.

S.J. Res. 334. Joint resolution designating July 20, 1988, as "Space Exploration Day"; to the Committee on Post Office and Civil Service.

S. Con. Res. 120. Concurrent resolution urging the Government of Iran to respect the human rights of members of the Baha'i faith, and for other purposes; to the Committee on Foreign Affairs.

S. Con. Res. 126. Concurrent resolution to express the sense of the Congress with respect to drug and alcohol free cultural events for Native peoples and to commend Spirit Days, Incorporated, for sponsoring a drug and alcohol free cultural event for Alaska Natives living in an urban environment; to the Committee on Interior and Insular Affairs.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4162. An act to make the International Organizations Immunities Act applicable to the Organization of Eastern Carribean States;

H.J. Res. 485. Joint resolution designating June 26 through July 2, 1988, as "National Safety Belt Use Week"; and

H.J. Res. 587. Joint resolution designating July 2 and 3, as "United States-Canada Days of Peace and Friendship."

ADJOURNMENT

Mr. GRAY of Illinois. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 41 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 28, 1988 at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3858. A letter from the Deputy Director, Office of Management and Budget, transmitting a report that the appropriation to the Veterans' Administration for compensation and pensions for fiscal year 1988 has been reapportioned on a deficiency basis, pursuant to 31 U.S.C. 1515(b)(2); to the Committee on Appropriations.

3859. A letter from the Auditor, District of Columbia, transmitting a copy of his report entitled "FY 1988 Mid Year Revenue Analysis," pursuant to D.C. Code section 47-117(d) to the Committee on the District of Columbia.

3860. A letter from the Secretary of Education, transmitting a copy of final regulations—National Institute on Disability and Rehabilitation Research—Research Training and Career Development Program. pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3861. A letter from the Secretary of Education, transmitting a copy of notice of final biennial research priorities, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3862. A letter from the Secretary of Education transmitting a copy of the annual report of the Helen Keller National Center for Deaf-Blind Youths and Adults [HKNC] for the 1987 program year, pursuant to 29 U.S.C. 1903(b)(2); to the Committee on Education and Labor.

3863. A letter from the Secretary of Education, transmitting the Department's 14th edition of the annual statistical report entitled, "The Condition of Education," pursuant to 20 U.S.C. 1231a(b); to the Committee on Education and Labor.

3864. A letter from the Chairman, Securities and Exchange Commission, transmitting drafts of proposed legislative provisions prepared by the Commission in response to concerns raised by the October, 1987 market break; to the Committee on Energy and Commerce.

3865. A letter from the Administrator, Agency for International Development, transmitting a copy of the annual report of sales and barter activities from October 1, 1986 through September 30, 1987, pursuant to 7 U.S.C. 1726; to the Committee on Foreign Affairs.

3866. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original reports of political contributions by Maynard W. Glitman, of Vermont, Ambassador Extraordinary and Plenipotentiary-designate to the Kingdom of Belgium; by John Andrew Burroughs, Jr., of Maryland, Ambassador Extraordinary and Plenipotentiary-designate to the Republic of Uganda, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3867. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a report on the use of a foreign mission in a manner incompatible with its status as a foreign mission, pursuant to 22 U.S.C. 4315; to the Committee on Foreign Affairs.

3868. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3869. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a report on progress made in implementing the requirement to request the United Nations to extend the mandate of UNIFIL to protect Tyre, and to obtain an order prohibiting the purchase of artifacts from Tyre by persons associated with the United Nations, pursuant to Public Law 100-204, section 708(c) (101 Stat. 1391; to the Committee on Foreign Affairs.

3870. A letter from the Assistant Secretary, Department of Housing and Urban Development, transmitting notification of the proposed alteration of two Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3871. A letter from the Acting Administrator, General Services Administration, transmitting a draft of proposed legislation to amend section 603(a) of the Federal Property and Administrative Services Act of 1949, 64 Stat. 590, 40 U.S.C. 475(a) by adding a provision authorizing the expenditure of moneys for official reception and representation expenses; to the Committee on Government Operations.

3872. A letter from the Director, Norfolk Naval Shipyard Co-operative Association, transmitting a report on the Norfolk Naval Shipyard pension plan for fiscal year 1987 pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3873. A letter from the Solicitor, U.S. Commission on Civil Rights, transmitting the 11th annual report of the Commission's activities under the Government in the Sunshine Act during calendar year 1987, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3874. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3875. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3876. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3877. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3878. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3879. A letter from the Chairman, U.S. Sentencing Commission, transmitting the 1987 annual report of the activities of the Commission, pursuant to 28 U.S.C. 997, 998(a); to the Committee on the Judiciary.

3880. A letter from the Secretary, Department of Transportation, transmitting a draft of proposed legislation to amend the Federal Aviation Act of 1958, as amended, to strengthen aviation security programs; to the Committee on Public Works and Transportation.

3881. A letter from the Secretary of Health and Human Services, transmitting an interim report on studies being conducted on issues related to the volume and intensity of physicians' services covered under part B of Medicare, pursuant to Public Law 100-203, section 4056(c)(2) (A) (B) (D) (E); jointly, to the Committees on Energy and Commerce and Ways and Means.

3882. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to clarify title I of the Railway Labor Act with regard to secondary activity in the railroad industry; jointly, to the Committees on Energy and Commerce and Education and Labor.

3883. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the National Ocean Pollution Planning Act of 1978, as amended, to authorize appropriations to carry out the provisions of the act for fiscal years 1988 and 1989, and for other purposes, pursuant to 31 U.S.C. 1110; jointly, to the Committees on Merchant Marine and Fisheries and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of June 23, 1988]

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4030. A bill to strengthen certain fish and wildlife laws; with amendments (Rept. 100-732). Referred to the Committee of the Whole House on the State of the Union.

[Submitted June 27, 1988]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2772. A bill to authorize the Lyman-Jones, West River, and Oglala Sioux Rural Water Development Projects; with an amendment (Rept. 100-733). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3893. A bill to amend the provisions of the Toxic Substances Control Act relating to asbestos in the Nation's schools by providing adequate time for local educational agencies to submit asbestos management plans to State Governors and to begin implementation of those plans; with amendments (Rept. 100-734). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X:

[The following action occurred on June 24, 1988]

The Committee on Public Works and Transportation discharged from further consideration of H.R. 3767; H.R. 3767 referred to the Committee of the Whole House on the State of the Union. Ordered to be printed.

[Submitted June 27, 1988]

The Committee on Appropriations discharged from further consideration of H.R. 4340 pursuant to section 401(b) of Public Law 93-344.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HUGHES (for himself, Mr. McCollum, Mr. Mazzoli, Mr. Feighan, Mr. Smith of Florida, Mr. Staggers, Mr. Smith of Texas, Mr. Shaw, and Mr. Gekas):

H.R. 4916. A bill to improve drug enforcement; jointly, to the Committees on the Judiciary; Energy and Commerce; Banking, Finance and Urban Affairs; Post Office and Civil Service; and Government Operations.

By Mr. FRANK (for himself, Mr. Glickman, Ms. Kaptur, Mr. Wolpe, Mr. Berman, Mr. Cardin, Mr. Nagle, and Mr. Bryant):

H.R. 4917. A bill to amend section 207 of title 18, United States Code, relating to restrictions on postemployment activities; to the Committee on the Judiciary.

By Mr. BENNETT:

H.R. 4918. A bill to amend the Federal Election Campaign Act of 1971 to prohibit any member of or candidate for the Congress from making contributions to any other member of or candidate for the Congress and to prohibit Members of the Congress from soliciting and accepting contributions with respect to elections for congressional leadership officers within a political party; jointly, to the Committee on House Administration and Rules.

By Mr. STUDDS (for himself and Mr. Young of Alaska):

H.R. 4919. A bill to approve the governing international fishery agreement between the United States and the Union of Soviet Socialist Republics; to the Committee on Merchant Marine and Fisheries.

By Mr. WAXMAN (for himself and Mr. Madigan):

H.J. Res. 600. Joint resolution to commemorate the 50th anniversary of the passage of the Federal Food, Drug, and Cosmetic Act; to the Committee on Energy and Commerce.

By Mr. SOLARZ (for himself, Mr. Leach of Iowa, Mr. Atkins, Mr. Sunia, Mr. Torricelli, Mr. Blaz, and Mr. Dymally):

H. Res. 484. Resolution to encourage the establishment of genuine democracy in Pakistan; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

425. By the SPEAKER: Memorial of the Legislature of the State of Alaska, relative to the need for ice-capable ships for Arctic research; to the Committee on Merchant Marine and Fisheries.

426. Also, Memorial of the Senate of the State of Michigan, relative to requiring the Veterans' Administration to provide on site care to State-incarcerated veterans with service-related problems; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 722: Mr. Dornan of California and Mrs. Boxer.

H.R. 958: Mr. DioGuardi, Mr. Fazio, Mr. Petri, Mr. Wylie, Mr. Lujan, Mr. Lipinski, Mr. Gallegly, Mr. Parris, Mr. Tauzin, Mr. Courter, Mr. Lowry of Washington, Mr. Manton, Mr. Florio, Mr. Traficant, and Mr. Thomas of Georgia.

H.R. 3133: Mr. Beilenson.

H.R. 3241: Mr. Feighan, Mr. Mfume, Mr. Gilman, Mr. Garcia, Mr. Owens of New York, and Mr. Hayes of Illinois.

H.R. 3353: Mr. Burton of Indiana.

H.R. 3893: Mr. DioGuardi and Mr. McDade.

H.R. 4156: Mr. Coble, Mr. Lagomarsino, Mr. Bustamante, and Mr. Henry.

H.R. 4189: Mr. Ravenel, Ms. Oakar, Mr. Kanjorski, and Mr. Evans.

H.R. 4213: Mr. Rahall.

H.R. 4396: Mr. Yates.

H.R. 4531: Mr. Armey, Mr. Archer, Mr. Schulze, Mr. Boulter, and Mr. Walker.

H.R. 4609: Mr. Baker, Mrs. Smith of Nebraska, and Mrs. Martin of Illinois.

H.R. 4662: Mrs. Bentley.

H.R. 4760: Mr. Dwyer of New Jersey and Mr. Garcia.

H.R. 4879: Mr. Hubbard, Mr. McMillen of Maryland.

H.R. 4894: Mr. Denny Smith.

H.J. Res. 528: Mr. Brennan.

H.J. Res. 551: Mr. Atkins, Mr. Bryant, Mr. DeWine, Mr. Evans, Mr. Fish, Mr. Hughes, Mr. Kasich, Mr. Mineta, Mr.

OWENS of New York, Mr. SISISKY, Mr. WEISS, Mr. WOLPE, and Mr. YOUNG of Florida.

H.J. Res. 576: Mr. BEVILL, Mr. BIAGGI, Mr. CALLAHAN, Mr. COELHO, Mr. COOPER, Mr. DWYER of New Jersey, Mr. FAZIO, Mr. FLIPPO, Mr. LANCASTER, Mr. LANTOS, Mr. LUNGREN, Mr. NELSON of Florida, Mrs. PATTERSON, Mr. SHUMWAY, Mr. VOLKMER, Mr. WEISS, and Mr. YATRON.

H. Con. Res. 277: Mr. WOLPE, Mr. KOSTMAYER, and Mr. STUDDS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

193. By the SPEAKER: Petition of the International Good Neighbor Council, Monterrey, N.L. Mexico, relative to the establishment of a permanent United States-Mexico Border Environmental Health Commission; to the Committee on Foreign Affairs.

194. Also, petition of the International Good Neighbor Council, Monterrey, N.L. Mexico, relative to commending the PEMEX and the Secretary of Tourism of Mexico on the noticeable improvements of the conditions of certain service stations along Highway 101; to the Committee on Foreign Affairs.

195. Also, petition of the International Good Neighbor Council, Monterrey, N.L. Mexico, relative to drug trafficking; to the Committee on Foreign Affairs.

196. Also, petition of the International Good Neighbor Council, Monterrey, N.L. Mexico, relative to the appointment of a binational committee of United States and Mexican citizens to effect a more expeditious mail service between the two countries; to the Committee on Post Office and Civil Service.

197. Also, petition of the City Council, Melbourne, FL, relative to its opposition to the "Off-Airport User Fee Legislation," H.R. 3764 and S. 1834; to the Committee on Public Works and Transportation.

198. Also, petition of the Dutchess County Legislature, Poughkeepsie, NY, relative to amending the Commercial Motor Vehicle Safety Act of 1986; to the Committee on Public Works and Transportation.

199. Also, petition of the City Council, Schenectady, NY, relative to the proposed taxation increase on employees' vacation and sick leave accurals; to the Committee on Ways and Means.

200. Also, petition of the International Good Neighbor Council, Monterrey, N.L. Mexico, relative to the formating of documents to facilitate the importation of certain equipment donated to Mexican institutions; to the Committee on Ways and Means.

201. Also, petition of the International Good Neighbor Council, Monterrey, N.L. Mexico, relative to the income taxes being levied on students in the United States receiving scholarships and grants; to the Committee on Ways and Means.

202. Also, petition of the International Good Neighbor Council, Monterrey, N.L. Mexico, relative to methods to improve the exportation process of cattle from Mexico to the United States; jointly, to the Committees on Agriculture and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1158

By Mr. DANNEMEYER:

—Page 41, after line 22, insert the following:

SEC. . DISCLAIMER RELATING TO DEGREE OF CARE.

Section 807 (as amended by section 6 of this Act) is further amended by adding at the end the following:

"(c) Nothing in this title shall be construed—

"(1) to require any person or group of persons selling, renting, leasing, or otherwise providing any dwelling to exercise a higher degree of care for a person with a handicap than for a person who does not have a handicap; or

"(2) to relieve any person or group of persons of any obligation generally imposed on all persons, regardless of any handicap, in any written lease, rental agreement, or contract of purchase or sale.".

—Page 41, after line 22, insert the following:

SEC. . DEFINITION OF TERM HANDICAP

Section 802 (as amended by section 5 of this Act) is further amended by adding at the end of subsection (h) the following: "Such term also does not include any current impairment that consists of alcohol abuse, or any infectious, contagious, or communicable disease (whether or not such disease causes a physical or mental impairment during the period of contagion), or any other impairment that would be a direct threat to the property, health, or safety of others.".

—Page 41, after line 22, insert the following:

SEC. . ELIMINATION OF UNNECESSARY REPORTS.

Section 808 (as amended by section 7 of this Act) is further amended—

(1) in subsection (e)—

(A) by inserting "; and" at the end of paragraph (4);

(B) by striking out "; and" at the end of paragraph (5) and inserting a period in lieu thereof; and

(C) by striking out paragraph (6); and (2) by striking out subsection (f).

—Page 41, after line 22, insert the following:

SEC. . MODIFICATION OF RENTAL HOUSING BY HANDICAPPED PERSONS.

Section 804 (as amended by section 6 of this Act) is further amended by striking out the period at the end the subsection (f)(3)(A) and inserting in lieu thereof ", except that, in the case of a rental, no modification need be permitted unless the renter first agrees to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.".

—Page 41, after line 22, insert the following:

SEC. . ACCESS BY HANDICAPPED PERSONS.

Section 804 (as amended by section 6 of this Act) is further amended—

(1) in subsection (f)(3)(A), by striking out "full enjoyment of the premises" and inserting "ready access to the dwelling" in lieu thereof; and

(2) in subsection (f)(3)(B), by striking out "equal opportunity to use and enjoy" and inserting "ready access to and use of" in lieu thereof.

SENATE—*Monday, June 27, 1988*

The Senate met at 9:15 a.m. and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*In everything give thanks, for this is the will of God * * *.*—1 Thessalonians 5:18.

Father in Heaven, we have so much for which to be thankful—and we are so often thankless. Your word declares, "* * * when they knew God, they glorified Him not as God, neither were thankful; but became vain in their imaginations, and their foolish heart was darkened."—Romans 1:21. Forgive us for presuming on routine common benefits which so many do not enjoy—many within a few blocks from this building. Thank You, gracious God, for housing, abundance of food, comfortable beds, provision for personal hygiene, families who care, peers who confirm and encourage, work to keep us busy, good incomes. We thank You, we praise You, we worship You—and we pray that we will be aware of the needs around us and responsive to the needy with compassion and selfless generosity. We pray in His name who so selflessly, unceasingly demonstrates His unconditional love to us. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 27, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. DASCHLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

Mr. BYRD. Mr. President, for the moment, I reserve my time. I ask unanimous consent that both the leaders may reserve their time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 o'clock, with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

FAREWELL TO UDAG: MAY MANY OTHER FEDERAL PROGRAMS FOLLOW

Mr. PROXMIRE. Mr. President, the Congress is about to take the oh-so-rare step of killing a costly Federal program that has provided great political advantage to many Members of the Congress. I am talking about the Urban Development Action Grant Program or UDAG. Both the House and Senate Appropriations Committees have zeroed out all funds for UDAG for 1989. It's about time we did this. I say this although as chairman of the Senate Banking Committee I was the author of UDAG. Here was a program that starting in 1977 cost the Federal Government up to $400 million per year. The program had some merit. It leveraged Federal money by requiring cities, States, and the private sector to match each Federal dollar of contribution with substantially more non-Federal money. In many cities UDAG provided the initiative necessary to spark a rebuilding of deteriorating downtown sections. Most big cities benefited. So did some smaller cities. Obviously the urban construction stimulated by this program provided thousands of jobs. The revived downtown areas of the cities also enjoyed UDAG-created commercial and industrial activity that helped add jobs.

What was wrong with the program? First, thanks to UDAG over the past 11 years Congress has spent billions of dollars of Federal money to provide the kind of construction that local communities and especially the private sector itself should have provided based entirely on sound free market considerations. UDAG was not a social program for the benefit of the needy poor. Who did it benefit? Business benefited. Here are the facts. From 1978 to 1987 commercial projects received a massive 50 percent of all UDAG funds. Industrial projects picked up another 25 percent. Mixed use projects got 14 percent. And housing received a meager 11 percent of all UDAG funds. What's wrong with a Federal program for business that costs billions of dollars over the years? What's wrong is that in a free market, capitalistic system like ours, economic efficiency should be determined by free competition without Government subsidy. Should this be the case in meeting all social needs? No, indeed. As those who serve in the Congress know only too well there are enormous national needs that our private economy cannot meet. Only with Government assistance can our society provide for the ill, the poor, the handicapped, the homeless, the jobless. Government also has to take full responsibility for the military security of our Nation, for law enforcement, for health research, and for many other services. So when it comes to the industrial, commercial, and mixed commercial-industrial use projects that constitute 89 percent of all the money spent on UDAG, should we not leave that to the private sector?

When I introduced the UDAG bill in 1977 the deficit problem was far less than it is today. The national debt was less than a third of its present level. I conceived of the program as a kind of stimulus to show cities what they could do to improve their commercial and industrial position by matching the hundreds of millions in Federal contributions with substantially more local and private funds. Now we have done the job. Eleven years is enough to show our cities how they can rehabilitate their downtown areas. Now they have had enough experience to proceed to carry on without a Federal nursemaid spending hundreds of millions of dollars to show them the way.

Mr. President, even in the production of jobs UDAG did not simply serve the interest of the low-income people who most urgently need Government help in our society. Consider: Although approved UDAG projects had a planned production of more than 500,000 new permanent jobs, only 58 percent of these jobs were targeted to low- and moderate-income groups. Furthermore only 57 percent of these jobs have been created to date. Here is a program that is not adequately serving low-income groups and is not meeting its job-creation goals

Mr. President, one of the most painful responsibilities in the Congress is to decide to eliminate any Government spending program—especially a program that enables the Members of the Congress to claim success in bringing millions of dollars and hundreds of jobs to a crucial city in their State or district. But if we are going to cut the deficits that are building a mountain of debt, if we are to begin to reduce the rate of increase in the mammoth interest charges of that debt that now constitutes the most rapidly rising cost of Government, we must find other programs costing hundreds of millions or billions of dollars and stop their funding, too. Our success in ending funding for UDAG should set an example. Of course, there is a case and often a strong one for continuing every one of the programs that cost the taxpayer so much money. But serving a good and useful purpose is not enough, a program must be truly essential to justify keeping it in these days of killer deficits.

WISCONSIN RECYCLES VIDEO AWARD

Mr. PROXMIRE. Mr. President, last year, Wisconsin Recycles produced a 17-minute educational video about the benefits of recycling Wisconsin's natural resources. Recently, this video was selected as one of the country's best educational tools released in 1987. This selection was made by a panel of 25 professors and media specialists.

Wisconsin Recycles is a nonprofit coalition of State businesses, trade associations, and labor organizations. It is based in Oshkosh, WI, and is concerned with conserving Wisconsin's natural resources.

This video is part of a children's recycling awareness program. The video was written in Milwaukee by Jerry Slaske of the public relations firm, Barkin, Herman, Solochek & Paulsen, and produced by Visuals Plus and Milwaukee Sound Studios. Entitled, "It's Not Nice To Foul Mother Nature," the video tells Wisconsin's recycling story in a fun, yet instructive manner. The video opens with an introduction by Gov. Tommy Thompson. It features nine specially created animated characters, as well as an exciting music track.

The video focuses on three of the major benefits of recycling: How it keeps the environment clean, how it saves energy and resources, and how it creates jobs. It targets children between the ages of 7 and 14, and is available to schools and community groups. In addition to the video, the educational package includes a study guide and colorful bookmarks and decals featuring the nine characters that star in the video. More than 200 Wisconsin schools and organizations, as well as environmental organizations in Illinois, Minnesota, Nebraska, and Ohio, are using the educational package.

The contest, the Media and Methods Awards Portfolio Contest, is sponsored by the trade magazine Media and Methods. The magazine is targeted at educators and media consultants throughout the country, and has a circulation of more than 40,000.

The Wisconsin Recycles video was chosen as an outstanding educational resource from a field of 400 entries. Some of the criteria used to judge the entries are: How the package is put together, the clarity of the objectives, the extent of supporting materials, the degree of the interest level, and the flexibility of views. The purpose of the award is to recognize outstanding achievements in the area of educational products. "It's Not Nice To Foul Mother Nature" won in the category of Social Studies.

Mr. President, I am proud to honor Wisconsin Recycles, and I congratulate them on this outstanding achievement. Theirs is an exceptional social and creative contribution to the environmental movement. All of America wishes them well.

Mr. McCONNELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

CAMPAIGN SPENDING

Mr. McCONNELL. Mr. President, about a month ago, there was an article in the Washington Post on the oped page by a person named Dexter Filkins who was the issues director for Reubin Askew, who was running for the Senate for a while and then dropped out. It was very well positioned, Mr. President, in the middle of the week on the op-ed page, a case for spending limits, which is what he was advocating in congressional races. The Sunday after that, there was an article by a man named Stern. He has written a book called "Best Congress Money Can Buy," which is a complete outrage. That was in the Outlook section of the Post.

I submitted to the Post a response to the Filkins article, and it appeared in the seldom-read Saturday issue of the Washington Post, last Saturday. Since virtually everybody in Congress is home on the weekend and everybody who is not is out doing something else on Saturday and probably no one saw it, Mr. President, I ask unanimous consent that my reply to that appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 25, 1988]

CAMPAIGN SPENDING IS GOOD FOR DEMOCRACY

(By Mitch McConnell)

Dexter Filkins, who was issues director for Reubin Askew's Senate campaign, claims that the campaign finance system prevented his boss from running a personalized, reflective campaign, forcing him to raise money in order to buy television time ["For Senate Candidates, the Only Issue Is Money," op-ed, May 25].

It wasn't campaign finance that kept former Florida governor Askew from chatting with voters and pondering the issues; it was choosing to run in Florida. If he had tried to have a meaningful five-minute conversation with every eligible voter in Florida, it would have taken him, working 14 hours a day, about 150 years. As architect Der Scutt tells people who want to limit the height of buildings in New York City, "If you want sunlight, move to Kansas." Rather than move to a state like Wyoming (only 5 years to chat with every voter), Askew could have used modern technology—the telephone and television—to gather contributions from those who believed in him and communicated his views directly to voters at home. With these tools, today's candidates can involve more people in politics than ever—both by encouraging them to participate through small, disclosed contributions and by informing and energizing voters through advertising.

The $1,000 limit on individual contributions, together with the communications revolution, has immensely broadened political participation and awareness, thereby strengthening our democracy. Today, the omnipotent, corrupt ward boss and the whiskey-toting vote buyer are being drummed out of politics by an independent-minded, well-informed electorate. Coerced "volunteer" election work by union members and factory employees is being eclipsed by voluntary, individual support of candidates.

These improvements are a direct consequence of increased campaign spending—although the rate of increase is dropping, and campaign spending is nowhere near what we spend on necessities like pet food, yogurt and bottled water. Most campaign finance scholars, including those at the John F. Kennedy School of Government at Harvard, argue that most campaigns spend far too little money, not too much, given the positive effect of campaign spending on the democratic process.

Yet some politicians are repulsed by having to ask the people for support, using the excuse that such mundane chores take time away from eating fried chicken at picnics and mulling over foreign policy. Therefore, to armchair candidates who loathe fundraising and advertising, the best advice is: *don't do it.*

No one forced Reubin Askew to raise money. Before dropping out, he already had raised 30 percent more than his primary opponent and was miles ahead in name recognition and popularity, armed with a strong record as governor. If he felt his integrity compromised by PAC contributions, he could have just said no and had plenty of time for picnics and perusing The Atlantic Monthly.

Campaign spending is a matter of personal choice and political strategy—and you do not necessarily need a lot to win. Sen. William Proxmire spent $145.10 in his last election and got 64 percent of the vote. Jesse Jackson ran "the poorest campaign with the richest message" and nearly was carried to victory by interested media coverage. In the 1986 Senate races, six out of the seven challengers who won were outspent by 75 percent or more.

Presumably to help fund-raisers who just can't stop, Filkins prescribes spending limits. But spending limits have only intensified the financial frenzy in presidential races—because there the contest is not just raising the money, but excavating new loopholes through which to spend it. In 1984, one out of four campaign dollars was budgeted for accountants and lawyers to circumvent—or comply with—the law. Of course, this means less money for issues directors, Filkins ought to note; nothing is more demoralizing than being replaced by a calculator.

Spending limits have proven a monumental failure at limiting campaign spending in presidential elections, merely diverting the money underground. Nearly half the money spent in 1984 was out of the candidates' control, and at least one-fourth was entirely unreported, unlimited and unaccounted for. More important, spending limits would cripple the expansion of political participation and awareness our democracy has benefited from under the private campaign finance system. People wanting to support candidates would be shut out, political competition would be stunted, and voter education would go begging. Perhaps Filkins would have time to write foreign policy speeches, but who would hear them?

Spending limits would make it nearly impossible for little-known but promising challengers to take on proven, popular candidates like Askew. Although such challengers rarely can raise as much as their established opponents, they must be able to raise a certain threshold amount to have a chance at winning. Spending limits would effectively give incumbents and well-known politicians like Askew a monopoly over elections, by undercutting any credible competition.

Fund-raising and spending bring people *into* the election process and give challengers a fighting chance. Spending limits would wall these people out—and provide shade for armchair candidates.

Mr. McCONNELL. Second, Mr. President, there is an interesting article on the front page of the Washington Post today. The headline says that the fall race may cost twice the amount of public funds. As the Senator from Kentucky has said time and time again, spending limits do not work. They never have and they never will.

The best example we have before us is the Presidential race that is unfolding this year. Let me read some pertinent parts of this morning's Washington Post study. It says, Mr. President:

> The two major presidential candidates each will get $46 million in public funds to run their campaigns, but the amount spent on the presidential race this fall could double that, specialists say.
>
> Much of the additional money will be in the form of unregulated and often unreported contributions from wealthy individuals, corporations and labor unions not permitted to contribute directly to the campaigns.
>
> After their respective party conventions this summer, the campaigns of Vice President Bush and Massachusetts Gov. Michael S. Dukakis each will get checks for $46 million from the U.S. Treasury.
>
> But that's only the start. Tens of millions of dollars more will be raised and spent to benefit each presidential candidate, and the total could surpass the public funding, party and outside experts agree.
>
> Robert A. Farmer, chief fundraiser for Dukakis, said he intends to raise $50 million more. The GOP aims to raise $18 million that can be spent in 20 crucial states and "substantially more" than that for the others.

Skipping over, the article further says:

> The parties are also preparing accounts to receive "soft money," funds that are not raised under the stringent requirements of the federal law—individual donations that exceed federal limits as well as corporate and union treasury donations.

Further on in the article, Mr. President, it quotes Herbert Alexander, one of the great professors in this country who is an expert on campaign finance. Herbert Alexander says to the reporter who wrote the article for the Post—he has, by the way, studied campaign finance for years. He estimates the burst of fundraising between now and November will raise the cost of the 1988 election cycle, including primaries and conventions, to nearly $500 million, compared to an estimated $325 million spent in 1984.

Alexander says:

"This means the expenditure limits are not very meaningful."

Now, Mr. President, we waltzed for a year and a half on S. 2. People wanted to put spending limits on so-called hard money in congressional races. What we really ought to be doing is changing the scandal that is out there happening, and it has been happening since 1976, and that is the way we elect Presidents of the United States under this system of so-called spending limits under which spending has risen astronomically. Spending has risen astronomically in unreported and unaccounted for ways. Spending limits work about like putting a rock on jello. Put a rock on the jello and it just oozes out the sides.

So sometime this week, Mr. President, I am going to be introducing a bill to repeal the system under which we have elected Presidents since 1976 because it is a disaster. It has done everything it should not have done. It has been about as successful as prohibition was in eliminating whiskey. It is high time that we brought sensibility to the way we elect Presidents in this country. Later in the week, Mr. President, I will be introducing that bill, and I hope we have some cosponsors on both sides.

I know some of the people on the other side of the aisle who have run for President understand what a disaster this system is. Ever since we started in 1976, $1 out of $4 raised has gone to lawyers and accountants looking for ways to circumvent the system. We need to stop it.

Mr. President, I have several articles I would like to have included at the end of my comments, and I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 25, 1988]

. . . AND A REPUBLICAN COMPLAINT

Where do you draw the line on money? That's a question raised by the complaint the Republicans' Senate campaign committee has made against Citizens Action and its state affiliates. Citizens Action, which claims 1.75 paid canvassers to advocate its positions on issues and sometimes to support candidates, says that the charges are based on false premises and erroneous allegations and, at most, point to only minor technical violations of the law.

This is one of those areas in campaign finance where the lines zig and zag, and it's possible that Citizens Action has gotten on the wrong side. It's generally agreed that groups operating with tax-exempt money can conduct voter registration drives, on the benign fiction that these are just civic-minded enterprises, though in fact most are intended to help one party or faction. It's also agreed that any group, even a corporation or a union forbidden to spend corporate or dues money on political campaigning, can communicate its political views to its own members and can communicate views on issues to the public generally.

Citizen Action's paid canvassers typically go door to door, explain the group's views on issues such as utility rates or toxic waste and then ask people who agree with them to become members, for dues that range from $5 to $20. Once people join, the canvasser can take advantage of the communicating-to-members exception and tell them that Citizens Action opposes Sen. X and favors challenger Y. If the canvasser communicates the endorsement to member and nonmember alike, Citizens Action sees that the portion of the canvasser's time that was devoted to nonmembers is paid for by Citizens Action's PAC, which, unlike Citizens Action, discloses its contributions and expenses and can pay for any political activity.

The Republicans charge that the people who pay Citizens Action $5 to $20 don't have the close relationship with the organization that qualifies them as members under the law. They charge that the PACs that reimburse Citizens Action for canvassing nonmembers get almost all their money from labor union PACs that have already contributed the maximum to the candidates Citizens Action endorses, and that these bookkeeping transactions are in fact illegal double contributions by the union PACs.

These are serious charges that deserve careful consideration. Citizens Action seems to be operating near a borderline created by the conflict of two worthy goals. One is to encourage legitimate political activity by such groups as Citizens Action as well as by parties and candidates. The other is to disclose fully and regulate political money by limiting contributions and by setting boundaries on the use of tax-exempt money in political causes. Of course the Republicans are politically motivated in bringing these charges. But in practice these matters are policed primarily by political adversaries, and the complaint raises the possibility that the line has been crossed.

[From the Washington Post, May 22, 1988]

Dukakis Fund-Raiser Aims for Advantage in Fall Campaign

Robert A. Farmer, chief fund-raiser for Massachusetts Gov. Michael S. Dukakis, says he wants his candidate, the likely Democratic presidential nominee, to be able to compete financially with Vice President Bush this fall on "a level playing field." But the plans he revealed to Democratic state chairmen Friday in Atlanta would give Dukakis a decided advantage.

Farmer, who has raised $16.5 million in individual donations for Dukakis through April, told the party chiefs he wants to raise another $50 million over the next four months. That would be $8.3 million for a Democratic National Committee fund and another $42 million in "soft money" for state parties to use in the fall election.

In comparison with Farmer's ambitious goal, in 1984 the Democrats could raise only $2.7 million of the $6.9 million the DNC was permitted to spend for Walter F. Mondale that year.

Bush campaign officials have said they plan to raise $8.3 million for the national GOP and another $14 million for 25 targeted state party committees.

The "soft money" can be raised from corporations and labor unions and individuals in large amounts, limited by state laws, without being reported to the Federal Election Commission. It is supposed to be used for state party building and get-out-the-vote campaigns not directly tied to the presidential race, and is considered a major loophole in federal election laws.

Counseling a Presidential Campaign

(By Lyn Oliphant, Pat Fiori, and Michael S. Berman)

The date is January 3, 1987. It is four years from the day that the Mondale for President Committee registered with the Federal Election Commission (FEC) and 26 months since the campaign was over.

Inside a small office, piled high with files and boxes, sit two deputy counsel of the Mondale campaign. A few miles away in another office the committee's treasurer periodically meets with his lawyers and reviews documents passing to and from the Federal Election Commission. These three people (the authors of this article) plus a part-time controller and a part-time secretary are all that is left of the Mondale for President campaign, a campaign which for most people has been long since over.

In the past, we have all been reasonably confident that the Federal Election Commission Act (FECA) is a workable solution to the admitted and potential problems which plague the area of the campaign financing. Now we are troubled by a campaign finance law which is used as a campaign weapon; spawns "creative" efforts to comply with—really evade—its limits; has made presidential campaign fundraising increasingly burdensome; and has led to rules which in our view sometimes make no sense and inhibit healthy campaign activity.

For those of us responsible for the campaign's compliance with the Federal Election Campaign Act of 1971, as amended,[1] the path from registration of the committee in 1983 until today has been a long and frustrating one. It is our hope that by sharing some of our experiences and highlighting some of the unresolved questions, the trail will be easier for future campaigns.

A BROAD RANGE OF ISSUES

A broad range of legal issues arises throughout the course of a presidential campaign. While the primary emphasis is on election laws, there are a number of other legal matters that also require attention; for example, tort liability, contracts, equal employment opportunity laws, corporate law, copyright questions and communications law. These problems range from weighty legal questions to those that sound more like the script of a television sitcom.

For example, during 1984, Mondale staffers and volunteers backed a rented truck into a cathedral in San Francisco, damaging both; clipped a wing off an airplane with another truck; broadsided cow with a rental car (the cow was held liable); and drove another rental car the wrong way down a one-way street into an oncoming fire engine with its siren on and lights flashing. A routine day also included a request for permission to market a "Gerry" wig.

With such a range of legal problems, it is important for a campaign treasurer and the campaign's counsel to find as much volunteer legal help as possible. There is a need for those who may be able to spend large amounts of time and those with critical expertise, but who are only available for telephone consultations and an occasional meeting.

When the campaign is in full swing, in-house lawyers and campaign management can easily lose perspective. Invaluable to us were two seasoned practitioners who were there to reason with or pitch in during times of crises.

One of the key questions confronting the treasurer is how to structure the internal campaign organization in order to facilitate compliance with the law. From a legal standpoint, the treasurer is the key person in the campaign because that person is responsible for FECA compliance.[2] The treasurer is, in essence, the client and, for this reason, the jobs of treasurer and counsel should never be filled by the same person.

A second key element in fostering compliance is a good accounting system. It should be in place before any financial activity occurs. Whether to maximize matching funds[3] or to stay within expenditure limits,[4] a solid accounting system is essential.

UNRESOLVED QUESTIONS

Campaign organizations tend to push the limits of permissible election finance activity. Practices and legal interpretations adopted in one presidential cycle become the new jumping off point for the next cycle, raising new questions concerning the reach of the federal election laws.

1.—Delegate Committees

Frequently these new frontiers of campaign activity are the subject of FEC compliance actions, often when a candidate's opponent files a complaint. This happened to the Mondale campaign and the much-publicized delegate committees.[5] One of the central questions posed in that matter before the FEC concerned the permissibility of delegate committees engaging in the same activities as individual delegates under the FEC's delegate regulations.[6]

Under the regulations, delegates may make expenditures for grassroots activity such as the production of literature which advocates their own selection as delegates and also advocates the election of their candidate.[7] These expenditures are not considered contributions to the candidate, nor are they subject to the candidate's expenditure limit. The Commission had previously issued an advisory opinion interpreting the grassroots activity provision as applicable to individual delegates and delegate committees.[8] However, in this instance in considering the delegate committee complaint the FEC was unable to reach a consensus as to whether the activity of the Mondale delegate committee fell within the parameters of the regulation.

The issue was not resolved in this matter because the campaign entered into a conciliation agreement with the Commission.[9] In late 1986, the Commission considered proposed staff revisions[10] to the regulations intended to clarify this question, but it has never adopted a notice of proposed rulemaking. Thus it is entirely possible that the ambiguity of these delegate regulations will not be resolved before the next campaign counsel must render advice on this question.

2.—Redesignation of Excessive Contributions

Another issue that was unresolved prior to the 1984 campaign and remains unresolved concerns the disposal of excessive contributions to the primary campaign.

Campaigns frequently receive aggregate contribution from an individual in excess of the $1,000 limit.[11] One option available to the campaign is to simply return the excess amount in a timely fashion.[12] This is not the most desirable course of action if there is some other lawful way in which the funds might be used by the campaign. A second option is to redesignate the excess amount to a general election compliance fund.

The FEC manual for publicly financed campaigns[13] published in 1983 does not address the question of what procedure a campaign must use to redesignate excessive primary contributions to the general election compliance fund. Unfortunately, the FEC did not resolve this question in its regulations in time for the 1984 campaign.

The issue is whether a campaign may simply notify a contributor that the excessive amount of his or her contribution is being redesignated by the campaign or whether the contributor must sign a form agreeing to the redesignation. Both options were used by different campaigns in 1984.

In our view the most sensible resolution is to permit redesignation with notice by the campaign, so longer as the contributor is given a period of time to request a refund.

If the FEC fails to resolve this issue, campaigns might consider including language in the original solicitation and on the contributor card specifying how excessive contributions will be redesignated or allocated.

3.—Sources of Funds for Repayments and Penalties

Neither the FECA nor the regulations make clear what funds can be used to make required payments of public funds.[14] The issue has been before the Commission on several occasions since 1976, yet remains unresolved.

In the aftermath of the 1984 campaign, the FEC took the position that repayments are neither qualified nor nonqualified campaign expenses.[15] Unless the Commission makes clear from what funds repayment may be made, candidates in 1988 will not know whether they will be able to make repayments from their regular campaign accounts, which include a mix of private and public funds.

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[1] Footnotes at end of article.

The Commission has taken a clear position that civil penalties can only be paid publicly-funded campaigns from sources which do not include public funds.[16] Similarly, the Commission should take a position on the repayment question.

4. Draft Committees

Through no fault of the FEC, the status of draft committees remains unresolved.

Persons involved in the Draft Kennedy movement prior to the 1980 presidential campaign refused to comply with subpoenas issued by the FEC on the grounds that the activity of the draft committees was beyond the purview of the FECA.[17] Meanwhile, the Congress made a minor change in the FECA's reporting requirements. The Federal appellate courts confirmed the lower court decisions and interpreted the change in the law as subjecting draft committees to the reporting requirements but not the contributions limits.[18]

Congress, despite the FEC's repeated recommendations,[19] has not chosen to take further action, leaving the FEC essentially powerless to extend its control over draft committees.

CURRENT STATUTORY AND REGULATORY DILEMMAS

In certain respects the FECA was not designed nor has it been modified to deal with the passage of time. Certain of the regulations adopted by the FEC seem to deny the realities of modern-day campaigns, while others beg for a rationale. The net result is that the law has become sustantially more burdensome than it needs to be to meet its overriding goals.

1. Contribution Limits

The FECA limits contributions by individuals to $1,000 per election.[20] Had the contribution limits been indexed in the same manner as the expenditure limits, the individual limit in 1984 would have been more than $2,000. Fund raising is no longer a test of viability, it is a test of stamina. Candidates are forced to divert attention from issues and campaigning to raising money.

Because of the limits, potential candidates for president have turned to vehicles other than campaign committees to finance activity at the very early stages. First, it was the creation of independent multi-candidate political action committees (PAC's), which may accept $5,000 per year from individuals.[21] PAC expenditures do not count against any limit. Now, it is the organization of think tanks, which are tax-exempt, tax-deductible foundations.

The FECA does not serve its goals, and the real public interest does not benefit, when unrealistically low limits cause candidates to wear themselves out with fund raising and finding new vehicles to attract and spend money. Respect for the law and confidence in the integrity of campaigns is in no way enhanced by these activities.

If we are not careful, over time the FECA will go the route of all those campaign finance laws which preceeded it.

2. Primary Matching Funds

Under the Presidential Primary Matching Payment Account Act,[22] a candidate seeking nomination by a political party may opt to accept public funding to match contributions which the candidate raises privately. After meeting certain threshold requirements, private contributions are matched with public funds up to the first $250 received from each individual, up to an aggregate amount equal to one-half of the expenditure limit.[23] The $250 matching amount has not increasesd since the 1976 campaign. The amount of matching funds the candidate may receive has doubled.[24]

Currently, contributions cannot be matched unless they are made and received after January 1 of the year before the election and before December 31 of the election year.[25] No matching funds are distributed to candidates until after January 1 of the election year.[26]

Presidential candidates should not be constrained by the campaign finance laws from beginning their campaigns early if they so choose. A candidate should be permitted to begin a campaign two or three years before the general election year if he or she is willing to register a committee at that time.

The end of the period during which private contributions are eligible for matching, December 31 of the election year,[27] is unrealistically short. Many candidates finish the primary season in debt. The period between the national conventions, which mark the end of the primary season, and the general election is the most difficult time for most candidates to raise primary funds. Candidates who have met the eligibility threshold for matching funds should be allowed to continue to raise contributions that qualify for primary matching funds until all debts, and winding down costs, have been met. At a minimum, the matchability period should be extended for a full year after the election.

Campaigns must be particularly mindful of the current limitations as they accumulate debts during the later stages of the primary campaign.

3. Expenditure Limits

A presidential candidate who accepts public funds for the primary or general election is limited in the amount he or she can spend in those campaigns.[28] These limits are adequate to enable a candidate to mount a viable campaign. However, the FECA creates one limit on general campaign activity [29] (in 1984, $20.2 million) and a separate limit for fund-raising [30] (in 1984, just over $41 million).

The separate limit for fundraising serves no useful purpose. It greatly complicates record-keeping and compliance. And, candidates are encouraged to devise ways to bypass it. For example, when using the mail as a persuasion device to reach large numbers of voters, the inclusion of a pitch for funds transforms the cost of the letter into a fund-raising expense.

One limit combining the amount allowed for general campaigning with the amount allowed for fund-raising is more realistic, would void the need for such "creative" devices and, of equal importance, would ease bookkeeping.

4. State-by-State Limits

The Presidential Primary Matching Payment Account Act and the FECA limit the amount that can be spent in each state by a presidential primary candidate who has opted for matching funds.[31] These state-by-state expenditure limits create an accounting nightmare, serve no useful purpose, and have no practical effect except in Iowa, New Hampshire, and perhaps, in Maine. These states have political and media importance well beyond their size but expenditure limits commensurate with their size.

If a candidate wants to spend every nickel he or she can raise, in a small, early state on the theory that a win there will carry him or her much farther than a war of attrition, that should be his or her choice. These limits spawn the most creative efforts to evade the spirit, if not the letter, of the Act.

5. Grassroots Expenditures

Provisions permitting certain grassroots activities by state and local party committees were added to the FECA in 1979.[32] Essentially, they permit political parties to engage in traditional party volunteer activities without the expenditures for those activities counting against the candidate's limits.

Some have suggested that the current grassroots provisions are being exploited as a loophole. Moreover, the requirements of this law are so difficult to follow that they curb healthy campaign activity. Add to this the fact that state laws and federal laws usually differ. It is easy to see why well-meaning volunteers get frustrated, and much spontaneous participation, so important to the process, is lost.

6. Use of Private Aircraft

The FEC's regulations controlling the use of private, nonscheduled aircraft by federal campaigns are something to behold. By careful choice of airports and selection of aircraft based on who owns the plane (regular charter company or other corporation), the amount which a candidate pays for a trip may vary by tens of thousands of dollars.[33]

REVISION OF PUBLIC FINANCING REGULATIONS

The Commission is considering significant revisions to its public financing regulations.[34] Some of these changes can have significant impact on the audit process and on the ultimate financial position of the campaign. the proposed changes to watch include:

Shifting the burden to candidates to prove that reallocations by FEC auditors are incorrect [35]

Requiring that taxes paid on any income earned from funds invested by the campaign be counted as expenditures subject to the overall expenditure limit [36]

Considering expenditures incurred before the date of ineligibility [37] as non-qualified expenses if the goods or services are received after the date of ineligibility [38]

Considering the costs of preparing the matching fund submissions as a fund-raising cost rather than a compliance cost [39]

Requiring a campaign to have all assets appraised at the time of acquisition and at the time of disposal [40]

Using the last-in-first-out method for determining when a candidate no longer has matching funds in his or her account [41]

Changing the treatment of loans to publicly financing campaigns by various alternatives such as requiring certain types of security for such loans [42]

Requiring a 100 percent repayment of non-qualified expenditures paid after the date of ineligibility.[43]

THE COMMISSION AND STAFF

At one time or another every presidential campaign will deal with the Commission, the General Counsel's office and Audit Division.

In each instance in which the Commission, itself, has considered matters specifically relating to our campaign, its decisions have been fair and reasonable. This is not to say that we like the outcome of every encounter with the Commission. It is to say that the results were reasonable in the circumstances.

Throughout the campaign, our lawyers, talking with the General Counsel's office, and our accountants, talking with the Audit Division, were accorded courteous and helpful treatment. We encourage every campaign to establish these lines of communication. However, you must keep in mind that your comments during these communications may be noted for the record by FEC personnel and used during an audit or investigation.

The Commission and its staff acted expeditiously during the campaign, when time was of the essence, in such things as certifying and delivering matching funds. However, the post-election audit process dragged on longer than should be necessary

It is not clear to us whether the length of the post-campaign audit process is a function of the experience (or lack thereof) of some of the auditors, their practice of going beyond sampling in reviewing certain kinds of transactions, a lack of funding, or the propensity of the audit staff to constantly be searching for new theories under which transactions are/can be deemed improper. Whatever the cause, there has to be some way to complete it more quickly.

There are several changes that would likely speed up the process. First, the FEC should adopt regulations and require adherence to strict time deadlines for the completion of audit work and the staff review. Second, the audit should not be commenced and, at least shouldn't be brought to even a preliminary close until the bulk of the financial activity has been completed. In no case should the audit of a successful primary candidate begin until after the general election. Third, allocate less time to state limits. As much as 50 percent of staff audit time may be devoted to the state limits, which essentially means reviewing expenditures in Iowa, New Hampshire and Maine.[44] While the Commission does have an obligation to enforce the state limits, this does not seem like an appropriate allocation of audit time, given the size of the total campaign.

Because presidential campaigns are a unique animal in the election law firmament, perhaps the Commission and the campaigns would be well served by using major accounting firms to handle this audit under the supervision of the Audit Division.

SERVING AS TREASURER

The FECA requires that a campaign have at least one officer, a treasurer.[45] No contribution can be received or expenditure made when that post is vacant.[46] Oftentimes the title of treasurer is given as an honor to a prominent supporter. However, in our view, treating the job of treasurer as an honorific rather than as an operating position is a mistake for the campaign and for the individual seeking or accepting the "honor."

Treasurers will be found by the Commission to have violated the Act, in their official capacity, if the campaign committee is found to have violated the law, whether or not the individual has taken any specific action which violates the law.[47] The Commission's theory seems to be that some individual must be accountable for the activities for the campaign. With that theory as a premise, the only alternative to holding the treasurer liable would be to hold the candidate liable, and that policy would not likely last longer than the time it took the ink to dry on the document proposing it.

The fact of the matter is that no campaign treasurer can maintain sufficient day-to-day control over the operation of a large campaign spread over 50 states, so as to assure that no provision of federal law is violated.

Anyone who accepts the position of treasurer should assume that there is a better than 50/50 chance that he or she will at least be cited in his or her official capacity, for violating the FECA. The day may come when no reasonable person will accept this responsibility.

CONCLUSION

Eventually, every campaign completes its responsibilities under the Act, the last report is filed, the last box of records is placed in storage and it is over. In our case that may well occur just about the time this article is published.

While we have written about many of the problems and frustrations inherent in financing a presidential campaign, the fact of the matter is that with thoughtful planning and diligent efforts by all concerned you can avoid adverse consequences to the operation of the campaign by complying with the FECA.

For us the bottom line is very simple. The time has come for the Congress to take a hard look at the way in which we are regulating presidential campaigns, or one day we may find that these laws have in fact subverted the process.

FOOTNOTES

[1] 2 U.S.C. § 431.

[2] 2 U.S.C. § 432(a).

[3] 26 U.S.C. § 9034.

[4] 2 U.S.C. § 441a(b); 26 U.S.C. § 9035(a).

[5] FEC MUR's 1667, 1704.

[6] *Id.*

[7] 11 C.F.R. § 110.14(d)(2).

[8] AO 1980-5.

[9] MUR 1704.

[10] FEC Agenda Doc. 1986-94.

[11] 2 U.S.C. § 441a(a)(1).

[12] 11 C.F.R. § 103.3(b).

[13] FEC, MANUAL FOR CANDIDATES RECEIVING PRESIDENTIAL PRIMARY MATCHING (1983).

[14] 26 U.S.C. § 9038(b); 11 CFR §§ 9038.2, 9038.3.

[15] Brief for the Federal Election Commission in Mondale for President v. FEC, No. 85-1338 (D.C. Cir.).

[16] 11 CFR § 9038.4(b)(4).

[17] FEC v. Florida for Kennedy Committee, 492 F. Supp, 587 (S.D. Fl. 1979); *rev'd*, 681F.2d 1281 (11th Cir. 1982), *reh. denied*, No. 80-6013 (11th Cir. Oct. 8, 1982); FEC v. Citizens for Democratic Alternatives in 1980, 655 F.2d 397 (D.C. Cir.) *cert. denied*, 454 U.S. 897 (1981); FEC v. Machinists Non-Partisan League, 655 F.2d 380 (D.C. Cir.), *cert denied*, 454 U.S. 897 (1981).

[18] *Id.*

[19] FEC Legislative Recommendations, FEC Annual Reports, 1980 to 1985.

[20] 2 U.S.C. § 441a(a).

[21] 2 U.S.C. § 441(a)(1)(c).

[22] 26 U.S.C. § 9031; 11 C.F.R. Parts 9031-39.

[23] 26 U.S.C. §§ 9033(b), 9034; 11 C.F.R. § 9033.2.

[24] 2 U.S.C. § 441a(c).

[25] 26 U.S.C. § 9034(a); 11 C.F.R. § 9034.2(c)(4). The starting date of the period is set by statue, the closing date by FEC regulation.

[26] 26 U.S.C. §§ 9032(6), 9033(c); 11 C.F.R. §§ 9032.6 9037.1.

[27] 11 C.F.R. 9034.2(a)(4).

[28] 2 U.S.C. § 441a(b).

[29] *Id.*

[30] 2 U.S.C. § 431a(b)(vi).

[31] 2 U.S.C. § 441a(b)(1)(A).

[32] 2 U.S.C. §§ 431(8)(B)(X), (xii).

[33] *Cf.* 11 C.F.R. §§ 114.9(e), 9034.7(b)(7).

[34] 51 Fed. Reg. 28154, August 5, 1986. These proposed revisions were pending before the FEC at the time of drafting this article.

[35] Proposed § 106.2(a)(1).

[36] Proposed § 9034.4(a)(4)

[37] Under FEC regulations, candidates are no longer "eligible" to receive matching funds: (1) when they became inactive; (2) when they fail to receive at least 10 percent of the votes in two consecutive primaries; or (3) at the end of the matching payment period (for major party candidates—the date of nomination). 11 C.F.R. §§ 9033.5(a), (b), (c).

[38] Proposed § 9034.4(b)(3).

[39] Proposed § 9035.a(c)(1). This addition to the regulations would essentially ratify the approach used by the auditors in 1980 when the regulations were silent as to treatment of the costs.

[40] 51 Fed. Reg. 28154, August 5, 1986.

[41] *Id.*

[42] *Id.*

[43] Id.

[44] FEC Written Responses to Questions by Congressman Al Swift Concerning Fiscal Year 1987 Budget Request, February 18, 1986.

[46] *Id*

[47] Agenda Doc. 84-79, adopted at Open Session held on May 24, 1984.

[From the Washington Post, June 27, 1988]

FUND-RAISERS GEAR UP FOR FALL RACE—CAMPAIGN MAY COST DOUBLE THE AMOUNT OF PUBLIC MONEY

(By Charles R. Babcock)

The two major presidential candidates each will get $46 million in public funds to run their campaigns, but the amount spent on the presidential race this fall could double that, specialists say.

Much of the additional money will be in the form of unregulated and often unreported contributions from wealthy individuals, corporations and labor unions not permitted to contribute directly to the campaigns.

After their respective party conventions this summer, the campaigns of Vice President Bush and Massachustts Gov. Michael S. Dukakis each will get checks for $46 million from the U.S. Treasury.

But that's only the start. Tens of millions of dollars more will be raised and spent to benefit each presidential candidate, and the total could surpass the public funding, party and outside experts agree.

Robert A. Farmer, chief fundraiser for Dukakis, said he intends to raise $50 million more. The GOP aims to raise $18 million that can be spent in 20 crucial states and "substantially more" than that for the others.

The multiplicity of bank accounts necessary to hold all these funds could confuse an accountant.

"Hard money" accounts are being set up on the national and state party levels to receive funds raised according to federal limits—including the $8.3 million each national party is allowed to spend for its presidential ticket.

Under federal law, an individual can give $1,000 to a presidential candidate for the primary season, $20,000 to a national party and $5,000 to a state party federal account.

The parties are also preparing accounts to receive "soft money," funds that are not raised under the stringent requirements of the federal law—individual donations that exceed federal limits as well as corporate and union treasury donations. This soft money cannot be used by the campaigns themselves but can be used for grass-roots party-building activities—such as producing generic advertisements, organizing voter registration and getting out the vote.

For example, hard money can be used to finance "Vote for Bush" or "Vote for Dukakis" ads, while soft money could buy "Vote Democratic" or "Vote Republican" ads.

Separate from national party fund-raising, "independent expenditure" campaigns for Bush or Dukakis can spend millions more. A conservative political action committee announced last week that it is starting a $10 million ad drive for Bush. The Bush campaign, however, said it does not want the help of the National Security PAC, which it said preys on the elderly in its direct-mail solicitation, and filed suit to stop the PAC.

Two Democratic consultants, Brian Lunde and George Burger, are trying to raise money to put at least a few million dollars for television commercials supporting Dukakis into a couple of swing states in the Midwest.

Also, unions and corporations can spend unlimited funds to "communicate" with their memberships or employees. And friends of the parties can raise money for tax-exempt "nonpartisan" voter registration drives that might affect the presidential race.

Hebert Alexander, who has studied campaign finance for years, estimated that the burst of fundraising between now and November may raise the cost of the 1988 presidential election cycle—including primaries and conventions—to near $500 million, compared to the estimated $325 million spent in 1984. "This means the expenditure limits are not very meaningful," he said, referring to the ceilings each candidate agrees to in return for public financing.

The most controversial area of this fundraising is soft money. Some critics call it the loophole that ate the law because political committees are permitted to accept large donations without making them public.

Officials of both national parties say they will voluntarily disclose how they raise and spend soft money this year. But Ellen S. Miller, head of the Center for Responsive Politics, which has tried to monitor these funds, said that because many of the donations are sent directly to state parties rather than through national parties, disclosure is likely to remain incomplete.

Farmer said he will raise the extra $50 million—some of it hard money, some soft—through an aggressive direct-mail campaign, 30 or more fund-raisers and a group of "Victory Fund trustees" who will donate or raise $100,000 each.

In 1984, the Democratic National Committee and the campaign of Walter F. Mondale were deeply in debt at this stage of the campaign and could raise only about half the hard money each national party is permitted to spend for its nominee. This time around, the DNC and the Dukakis campaign have no major debts and the party has a head start on its Victory Fund money.

Don Sweitzer, the DNC finance director, said Friday that the fund has raised $6.3 million-$1.5 million toward the $8.3 allowed in the federal account and $4.8 million in soft money.

About $900,000 of this soft money has been spent to develop computerized voter files in about 40 states that will be used for fund-raising and, eventually, a get-out-the-vote campaign.

James C. Calaway, a Houston oil man, and his wife, Connie, have been leading the Victory Fund effort, trying to get "trustees" to agree to give or raise $100,000 each. Sweitzer said 112 individuals have made that commitment and about 75 will be raising that money by the time of the convention in three weeks. Between 20 and 25 donors so far have personally contributed the full $100,000, he added.

Margaret Alexander, the Bush campaign finance director, said Friday that the Republican National Committee has raised more than $4 million toward the $8.3 million of hard money the national committee can spend on the Bush ticket. The RNC also assists state party committees in raising money for their federal, or hard money, accounts.

Alexander and Sweitzer both said their committees would rather raise hard money because they can use it directly to help their nominees rather than spending it generically for all party candidates.

Farmer said Dukakis wants the extra $50 million to be raised without taking donations from corporations, PACs or unions, money that long has been a staple for the DNC.

Farmer said that in 1984, seven people gave $250,000 each to the DNC and "the governor wasn't comfortable with that level of support." Dukakis, who wouldn't take $5,000 PAC donations during the primary campaign, only reluctantly agreed that the DNC could accept individual donations of up to $100,000, he said.

Dukakis offficals agreed that although the party would not take union, corporate of PAC gifts for the campaign, the DNC can for its operating budget. DNC officials had balked at giving up such contributions because they represent an important part of the committee's operational budget, Farmer said. Sweitzer said that $3.9 million of the $12.5 million the DNC raised last year came from those three sources. Farmer said members of the party's business and labor councils will continue to renew their memberships.

Though each national party said it will disclose how it raises and spends its soft money, the Democrats said they aren't ready to do so yet because top officials have been so busy with the upcoming convention they haven't made logistical decisions about how to make the files available.

The Republicans readily gave a reporter access to what officials said was the main RNC soft money account, the National Republican State Election Committee, which accepts major donations.

The main account started this year with $492,189 in the bank and through June 17 had collected $2.7 million in donations, mostly in large individual or corporate checks from the 700 or so GOP Eagles, who already had contributed $10,000 to the RNC's federal account.

Its donors included Atlantic Richfield oil company, $35,000; Dallas developer Trammell Crow, $30,000; Philip Morris Co., $20,000, and Morgan Guaranty Trust Co. $20,000. An earler printout of donations from 1986 to early 1988 showed larger clusters of gifts, with Crow and his wife down for another $100,000, Kidder Peabody brokerage house, $105,000 and Merrill Lynch, $125,000.

The committee has spent $1.4 million so far this year, mostly on overhead expenses such as telephones and mailing-list development. There have been on transfers yet to state party accounts. It has nearly $1.8 million in the bank.

RNC spokeswoman Kathryn Murray said that only about 7 percent of the national committee's $45.5 million budget this year is expected to come from soft money. Soft money also goes to a building fund, but that money won't be disclosed because it doesn't go to support candidates directly, but to pay off the mortgage for the GOP head-quarters, she said.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MOTIONS AND RESOLUTIONS OVER, UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that no motions or resolutions over, under the rule, come over.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 9:35 a.m., recessed until 9:50 a.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore [Mr. DASCHLE].

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEATH OF FORMER ILLINOIS STATE SENATOR ESTHER SAPERSTEIN

Mr. DIXON. Mr. President, I rise today with great sorrow as I recognize the death of a dear friend and former colleague, Esther Saperstein of Chicago, IL, who died in her home on May 17, 1988, at the age of 86.

Mrs. Saperstein was the first Democratic woman ever elected to the Illinois State Senate. In 1956, she began her career of 19 years in the Illinois General Assembly, having been elected to serve her first of five terms in the house of representatives.

She was known throughout the State of Illinois not only for her many outstanding political accomplishments, but also as a fighter for the poor, disadvantaged, and disabled.

As a senator, Mrs. Saperstein introduced the equal rights amendment and sponsored many reforms in education, mental health, aging, and child care laws.

Mr. President, I am impressed by Esther Saperstein's numerous successes both in the difficult task of raising a family and the demanding responsibility of representing her constituents. Her evolution from president of the Chicago PTA to chairwoman of the senate education committee, the Illinois Mental Health Commission, and the Illinois Status of Women Commission is an inspriation to us all.

I wish to extend my deepest sympathy to Mrs. Saperstein's daughter, Natalie Stein, and her son, Sidney, and I wish to tell them that their mother and her generous actions will always be remembered.

AN UNACCEPTABLE HUMAN COST

Mr. DASCHLE. Mr. President, a significant amount of additional information has surfaced on the effects of agent orange upon those veterans who were exposed in Vietnam.

A report issued by the Air Force in February 1988 provided a reassessment of its 1984 report. It concluded that dioxin cannot be "exonerated" as a causative agent in regard to both cancer and birth defects.

Combined with the 1987 mortality study by the Veterans' Administration which found dramatically higher rates of death from non-Hodgkins lymphoma and lung cancer in veterans exposed to agent orange, the Air Force study provides even more impetus to the arguments offered by many of us that such diseases should be compensated when detected and treated and where evidence of exposure exists.

I reiterate my thanks to the distinguished Senator from California, Senator CRANSTON, who as chairman of the Veterans' Committee has continued to build the record of information and debate within the committee on this contentious issue. It is my sincere hope that before the end of this Congress we may resolve the issue of compensation for certain additional diseases based upon the information which has now surfaced.

Mr. President, I ask unanimous consent that an article I wrote, which appeared in the Stars & Stripes, addressing the issue and entitled "An Unacceptable Human Cost," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Stars & Stripes, June 12, 1988]

AN UNACCEPTABLE HUMAN COST

(By Senator Tom Daschle)

The Vietnam War ended long ago, but many Vietnam veterans continue to fight a seemingly endless battle against bureaucratic intransigence—a battle for government recognition of what they firmly believe are service-connected disabilities due to exposure to Agent Orange. It is a battle in which the veterans can hope to win only a partial victory, for even compensation will not erase the hurt caused by a combination of disease and government insensitivity.

There are encouraging signs, however, that some in the government are finally responding more effectively to this problem. Until recently, the government has consistently argued that few veterans were exposed to substantial levels of Agent Orange, that those most heavily exposed were the "Ranch Handers," who executed the Air Force defoliation and crop destruction missions, and that studies show the Ranch Handers are not suffering from any significant increase in major illnesses. Those making this argument have relied heavily on reports that the Air Force's 1984 Ranch Hand Report was "negative" and "should be viewed as reassuring to the Ranch Handers and to their families."

In February 1988 the Air Force issued an interim report on the Air Force Health Study (Ranch Hand Report) entitled *United States Air Force Personnel and Exposure to Herbicide Orange.* This report offers a reassessment of the original "negative" study, pointing out important new evidence and drawing a very different conclusion. While the 1984 report found a statistically significant increase among the Ranch Hand population in birth defects and cancers, the report downplayed the significance of those findings, suggesting that might be explained away in further review. The report noted that birth defects were self-reported and, thus, needed to be verified by record review, and that they appeared to be limited to minor skin defects. The report also noted that cancers were also limited to the skin and that they were probably due to overexposure to the sun.

The February 1988 report provides a long-overdue update. According to this report and information I have received from the Air Force, positive reports of birth defects have been verified, and the defects are not limited to the skin. There are major birth defects in the Ranch Hand children, and it appears that the overall birth defect rate is approximately twice the rate of birth defects in the control group. The skin cancers cannot be explained by overexposure to the sun, and an increase in systematic cancers cannot be ruled out.

The 1988 report also explains the inherent problems in the study's current method for identifying exposure (the Air Force is developing a new exposure index based on dioxin levels in the blood), and takes a special look at health effects generally associated with dioxin exposure. Finally, the report's abstract concludes that "dioxin is not exonerated as a causative agent."

It is also important to note that the 1987 VA Mortality Study released reluctantly by the VA last fall found that Marine troops serving in an area of I Corps sprayed heavily with Agent Orange had a 110 percent higher rate of death from non-Hodgkin's lymphoma than their Army counterparts who served in less heavily sprayed areas.

The Marines also suffered from a 58 percent higher death rate from lung cancer than the Army veterans.

Agent Orange victims ask only to be given accurate, timely information about their health and to be treated fairly within the Veterans Administration (VA) disability compensation system. Because many of their disabilities manifest themselves years after their military service, they have been asked to "prove" that their illnesses are service-connected. That is a standard to which other veterans are not held.

In the cases of veterans whose disabilities are caused by enemy fire, there is little question of their relationship to military service. For the sake of argument, I will not compare Agent Orange victims to those veterans, though their pain and injuries are no less real. I will, instead, compare Agent Orange victims to veterans with multiple sclerosis, or those with diabetes contracted within seven years of service, or POWs with spastic colon. All these veterans have been granted a presumption of service-connected disability, though many might find the scientific evidence linking their disabilities to service weaker than the evidence suggesting a relationship between certain disabilities and exposure to Agent Orange.

S. 1787 is a reasonable approach to a very difficult problem. It is not rigid and uncompromising in its identification of diseases to be considered for compensation. It does not close its eyes to the need for continued scientific inquiry into the effects of dioxin. Moreover, it is not a bill which takes lightly our obligation to exercise restraint in spending federal funds.

S. 1787 would presume that non-Hodgkin's lymphoma and lung cancer manifested within 25 years of service, both clearly linked in the scientific literature to dioxin exposure, are service-connected disabilities to be compensable under the VA disability compensation system for those veterans who, based on current VA regulations, were exposed to Agent Orange. The bill would also establish a procedure for identifying immune system disorders which might, in the future, be compensable. Finally, the bill would require that the VA make a careful and concerted effort to gather and analyze information about the medical treatment of veterans' disabilities which may have been caused by exposure to Agent Orange and other toxic herbicides.

Does the scientific evidence of Agent Orange toxicity support the presumption provided in S. 1787? Numerous studies on animals make it abundantly clear the dioxin—the contaminant of Agent Orange most often alleged to have harmful effects—is an extremely toxic substance. The precise level of toxicity varies from species to species, but the evidence of harm is incontrovertible. For some species of guinea pigs, minute quantities of dioxin are sufficient to cause immediate death.

Are humans at risk from dioxin exposure? Some studies have been inconclusive, but many others have provided strong suggestive—and frightening—evidence of the tragic effects of dioxin exposure. Various studies of men and women exposed to dioxin, including those of American soldiers in Vietnam, have linked the chemical to health problems ranging from skin disorders to liver damage to cancer to birth defects. The Environmental Protection Agency puts dioxin at the very top of its list of carcinogens and requires dioxin researchers to wear "moon suits" to prevent contact of any kind while handling the substance.

No one should misconstrue S. 1787 as a statement that dioxin research should stop. I will continue to support an aggressive research effort, and I greatly appreciate the work of those scientists, in the Air Force and in the scientific community at large, who are working to uncover the full extent of dioxin's effects. Indeed, I am gratified to see that the scientists who have worked on the Agent Orange problem appear to be coming together to help us answer these difficult questions. Our job is to: oversee these studies, ensuring that valid scientific efforts will be freed from the interference of those who feel threatened by the results of objective scientific inquiry; and promote a sound, cautious policy to meet the public health and environmental concerns related to dioxin.

Will the scientists here today claim that the link between dioxin and disease is definitive, that a simple cause and effect relationship has been irrefutably established? No. It is far too easy, in fact, to argue that more time is needed to study the problem, that more time is needed to ensure that money is not paid to veterans who don't deserve compensation. Indeed, there are those who would wait for science to "prove" beyond a shadow of a doubt that dioxin is a killer.

I submit that we will be waiting for a very long time, and at an unacceptable human cost.

There is a time for study and more study, and there is a time for leadership. We cannot wait for science to dictate this policy. We must be willing to act on behalf of our nation's veterans while that action can still be meaningful.

Are we so afraid of being wrong that we are unwilling to risk being right?

Public Law 98-542 specifies that in compensation cases where there is reasonable doubt, the benefit of the doubt shall be awarded to the veteran. The evidence supporting the claims of Agent Orange victims far exceeds this "reasonable doubt" standard.

Our policy choice is clear: Do we give the benefit of the doubt to the veterans or the VA? As a member of Congress, I have faced this choice for almost 10 years. Based on the preponderance of evidence I have seen, the choice has not been difficult for me. I decided some time ago that if I am going to err in this case, I will err on the side of caution and compassion. It is time to grant meaningful compensation to Agent Orange victims.

S. 1787 represents an attempt to address the Agent Orange problem in a comprehensive fashion. I welcome suggestions as to how the bill could be improved. In the process, however, we should not forget that many Vietnam veterans are suffering—some dying—as we debate the most effective, compassionate way to deal with this problem.

CLEAN AIR ACT AMENDMENTS

Mr. MITCHELL. Mr. President, this morning's Washington Post contains an editorial recommending Congress take no action on Clean Air Act amendments which are currently pending. The editorial suggests that the high price of pollution controls should dissuade action. This position again unfortunately ignores the high price we, and especially our children, are paying for polluted air.

Not 2 weeks ago on the front page of the same newspaper was a headline center article about the poor quality of the air in the Washington area due to an early inversion of air.

Last Friday, the New York Times had a front page article on the problem of global warming. The article indicated that scientists are now concluding that we have seen "the signal" that the Earth is getting warmer faster than it ever has.

Last week the New York Observer had a front page article on the effects of acid rain on New York City's outdoor monuments.

These are but three examples of air pollution and its effects on human health and the environment. In the 11 years since the Clean Air Act was last reauthorized, we have learned much more about air pollution and its effects. We know enough now to conclude that these problems are more, not less, serious than previously anticipated.

According to the Washington Post article of June 15, the Washington metropolitan area exceeded the health-based Federal air quality standards for ozone 5 times this year already, compared to 13 exceedances last year. The article states, and I quote:

> As the temperatures rose and the air quality decreased, health officials advised the very young and the very old to stay indoors in air conditioned rooms if possible, and out of the sun, while school officials in Fairfax and Prince William Counties announced they will close some schools early today, as they did yesterday.

In 1970, the Clean Air Act was passed in order to avoid pollution events such as these. In 1977 the act was amended to improve control over air pollution. While we have made some progress on air pollution control, we have also found out that ozone and other pollutants may cause greater damage to our health than previously believed.

The U.S. Environmental Protection Agency is required to set National Ambient Air Quality Standards for pollutants of concern at a level that protects the public health with an ample margin of safety. EPA has set this standard for ozone at 0.12 parts per million for 1 hour. Areas that exceed this 1-hour standard four times or more in a 3-year period are deemed to not have attained the standard. Most of our urban areas are nonattainment for ozone. Over 117 million people, over half of the U.S. population according to the 1980 census, live in areas that exceed the ozone standard.

The Occupational Safety and Health Administration [OSHA] standard for ozone is 0.10 parts per million over an 8-hour period. That is, workers in a factory are not protected if they are exposed to ozone levels that exceed this standard. Workers exposed to levels higher than this must wear a personal monitor. These standards do not apply to ambient air, but are a useful comparison. OSHA designs these standards for people working in an enclosed environment for a limited period of time. Should the levels be exceeded, it is possible to remove oneself from the area that is exceeding the standard.

Yesterday, Fairfax County reported that its ozone levels at one station reached a high of 0.16 parts per million and were at or above 0.10 parts per million of ozone for 10 hours. According to a Maryland air quality official "most areas of the State exceeded the OSHA standard" yesterday.

This means children in Fairfax County and in areas in Maryland were playing in air that OSHA considers to be unhealthy for factory workers. On hot summer days, it is not unusual for children to be outside engaged in vigorous activity such as swimming and biking for long periods of time. On days such as yesterday, these common activities may be placing our children's health at risk.

Unfortunately for these children, there was no place outdoors that was safe. Some indoor areas with air-conditioning may provide lower ozone levels.

The former chairman of EPA's Clean Air Scientific Advisory Committee, Dr. Bernard Goldstein, and his colleague Dr. Lioy wrote in an article of the Journal of the Air Pollution Control Association:

> * * * the finding of significant ozone concentrations persisting during daylight hours is of concern. These episodes usually occur during the summer on days in which meteorological conditions otherwise tend to favor outdoor activities. Exercise increases ozone toxicity through increasing minute ventilation. *This is particularly worrisome for healthy active children who tend to be outdoors most of the day and for consecutive days, since there is evidence of increased susceptibility of ozone in children.* Conversely, during summer months rainy days which limit outdoor activities will be the days with the lowest ozone levels. (emphasis added)

It is unfortunate that the Post editorial did not note that air in the Washington metropolitan area recently exceeded the occupational standards and that the adverse health effects of high ozone levels place children at particular risk.

Even the 0.10 part per million standard, which is less than the standard EPA has set creates risks. Another former chairman of the Clean Air Scientific Advisory Committee, Dr. Morton Lippman, in a report on a recent symposium on ozone and health, said that the 0.10 parts per million standard is "a level which produces substantial function decrements and lung inflammation in controlled exposure tests of healthy young adults."

Based on data presented at this symposium, which Dr. Lippman summarizes, our children may be at risk even on days when the EPA standards are not exceeded.

The Clean Air Act requires protection of the public health with an ample margin of safety. It is hard to discern where the margin of safety is in the current standard. As Drs. Goldstein and Lioy noted:

> As compared to other primary air quality pollutants, the ceiling of observed ozone effects and the floor of the natural background leaves little room for the regulator to choose a margin of safety for a 1-hour standard. To some extent, an 8-hour standard does provide the opportunity for some flexibility in dealing with the potential for chronic effects which is a major reason for the margin of safety.

As serious as the health implications of ozone are, these are not the only air pollution problems facing this country or the globe. Acid rain is also a major problem. I have repeatedly stated my concerns about the adverse effects of acid rain and its precursors on the public health and the envrionment. The article in the New York Observer highlights another aspect of this problem. The article in the June 20 edition of that paper describes the risk to New York City monuments from acid rain. According to the article:

> Scientists and others studying the effects of acid rain in New York City are pointing to severe damage to the city's largerly man-made landscape, including its buildings and outdoor monuments, and anything constructed of metals, masonry and concrete. * * *
>
> Acid rain is usually considered a problem for rural ecosystems. But in New York City experts say they have all the evidence they need to account for a dramatic illustration of how acid rain can be an urban problem as well.
>
> Concern centers on the irreplaceable victims of the pollution: the outdoor monuments that are part of the city's cultural heritage * * * Conservators and others report what they call a cancerlike spread of devastation of outdoor monuments made of bronze and marble from the effects of acid rain. As long ago as 1982, some suggested that acid rain had accelerated the damage to the Statue of Liberty.

The article notes that bronze and marble have been used throughout the ages as the media for outdoor monuments that will last. Unfortunately, acid is the "Achilles' heel" for these materials.

Some are searching for a different medium for these works of art. But according to Kent Barwick of the Municipal Art Society, "the trick is not to find a new medium, but to clean up the air while there's still time."

One consultant estimates the economic effect of sulfur dioxide and acidic deposition in 17 Midwestern and Northeastern States and concludes that annual costs could range close to $2 billion 1984 dollars. While enacting acid rain legislation this year cannot reverse the ravages on our buildings and sculptures, or immediately save the funds needed for repair work, it can do much to prevent additional damage if Congress acts quickly.

On a longer timeframe, but on a global scale, the problem of climate change presents a profound challenge to the way we think of and use energy. In testimony last week, Dr. James E. Hansen of the National Aeronautics and Space Administration stated, "It is time to stop waffling so much and say that the evidence is pretty strong that the greenhouse effect is here."

Dr. Hansen based this statement on data that the Earth is warmer in 1988 so far than it ever has been and that the 4 hottest years on record were in the 1980's.

While individual warm years may not be of interest, this string of warmer years indicates a global warming trend. Scientists believe that emissions of greenhouse gases are causing this warming. Chief among the greenhouse gases is carbon dioxide which is associated with fossil fuel combustion.

Global warming is a serious global problem that needs immediate and persistent attention. The drought now being experienced in the Midwest may be but one sign of climatic changes to come. Global warming may melt polar ice caps and cause sea level rise. A State such as Maine with a long coastline could face disaster if there is a significant rise in the sea level.

While the effects may be different, each of these problems has at its core inadequately controlled sources of air pollution. While the problems may seem insurmountable, we have developed effective control mechanisms and can develop new ways to control these emissions.

Air pollution is a serious national and global health and environmental problem which this Congress has a responsibility to address this year. I urge my colleagues to review the data and to consider that the risks and costs of inaction are too great to support a policy of continued inaction.

BICENTENNIAL MINUTE

JUNE 29, 1890: THE SENATE STABLES BOONDOGGLE

Mr. DOLE. Mr. President, 98 years ago this week, on June 29, 1890, a New York Times reporter filed a story under the headline "A Very Costly Senate." Focusing on the "luxuries" enjoyed by Senators at the taxpayers' expense, the article was sparked by debate over the perennial funding bill needed to keep Members in ink, soap, and, in this case, horseshoes. While the reporter took aim at a variety of perquisites, he saved his deadliest fire for the Senate stables.

The stables came in for scrutiny when Senator Isham Harris of Tennessee tried to create the new position of Superintendent of the Senate Stables. Senator Eugene Hale of Maine successfully quashed the proposal, claiming that there were already three employees for each horse in the stables. That claim set the enterprising Times reporter off to inspect the stables at Delaware Avenue and C Street. Inside he found nine "Senate Horses," five used to draw the Senate's wagons, and four for the riding pages, who carried messages around the Hill. But he found 13 "other horses," 6 of which belonged to Senators, 2 to Representatives, and the rest to various officers of the Congress. These 13 horses were not fed, the reporter acknowledged, out of the Senate contingent fund, "out of which so much is fed." Members paid $12 a month for their feed. But "for the attention that these guests of the Senate stables receive there is no charge. * * * The brushes, currycombs, cloths, and labor are all taken care of on the Senate payroll."

A quick survey of public livery stables revealed that such care would cost the average citizen no less than $20 a month. "It is perfectly plain," fumed the aggrieved reporter, "that the man who is privileged to keep his horses in this stable can save the price of a pretty good horse—say $100—in a year." The reporter referreted out the names of the owners of the 13 "not Senate horses," and it came as no surprise that Senator Harris, who had proposed the new position, was first on the list with one steed among the boarders in the Senate stables.

WOODLAWN HIGH SCHOOL WARBLER'S CLUB REUNION

Mr. HEFLIN. Mr. President, for almost 50 years, from 1929 to 1977, the citizens of Birmingham and all of Alabama were privileged to be entertained by the Warbler's Club, a highly professional singing group composed of students of the Woodlawn High School which is located in Birmingham, AL. Not only did the organization provide memorable performances to thousands of Alabamians, but it also provided hundreds of students of Woodlawn High School an opportunity to work with others under expert guidance to develop their common talent and accomplish joint successes.

Many were saddened when in 1977 the Warbler's Club ceased to exist. However, I know that many, including myself, were delighted to learn that on the first, second, and third days of July they will have another opportunity to hear the great music and share the spirit of the Warbler's Club as former Woodlawn Warblers of all ages will gather to honor and recognize the three teachers who directed the group, John Light, Amos Hudson and Joseph Turner. They will gather to tribute the men who contributed so much to their own lives, to Woodlawn High School, and to music as a whole. Appropriately, the returning Warblers will again raise their voices in song and in dedication to their leaders and their organization. It was a unique organization led by unique men. Perhaps the greatest evidence of its special nature is the tight bond that unites all of its members and that brings them together this week.

The Warbler's Club members who will return to Birmingham will present three public performances, in keeping with the tradition started by Mr. Light, who served as director for the first 18 years of the Warblers' existence. These shows, which began as vaudeville-type minstrels, grew in popularity and in prestige in the Birmingham area following World War II.

Amos Hudson continued the musical enrichment of the Woodlawn Warbler's during his tenure, leaving in 1950 to pursue a master's degree at Columbia University. Upon Hudson's departure, Joseph Turner—affectionately known as Uncle Joe to hundreds of young men—assumed direction of the club and expanded the musical program at this intercity school.

Under Turner's leadership the Warblers not only presented an annual 3-night performance, which was always to sold out audiences, but conducted the Warblers' other public performances for civic clubs, symphony orchestras and music festivals. What makes this so impressive is the wide range of musical experience to which the boys from this innercity school were exposed. They were well-schooled in classical and operatic music as well as vaudeville and more popular musical forms.

The Warbler's Club membership cuts across every socioeconomic demographic line. But members all had in common a dedication to excellence, a desire to learn, and a commitment to hard work. They also learned that excellence was acquired primarily through repeated practice and hard work. One requirement was for club members to give up their spring vacation in order to build sets and rehearse music for the annual shows which were held the week after spring break. I do not know many high school students who would be so eager about giving up this time off. Yet the Warblers uniformly welcomed this time during which they could hone their talents and prepare to entertain others.

They also learned to discipline themselves to work within a group setting to produce harmonious sounds. One byproduct of this training is the harmonious interpersonal relationships among the men who were privileged to survive the auditions and gain membership into the Warblers.

The Warbler's Club would not have had the impact on the lives of the hundreds of men who were members of that singing group but for the exceptional influence of the dedicated teachers they gather to honor. Those teachers, two of whom—Hudson and Turner—are still alive, have been honored to see a tremendous return on the investment they made of their time and energies to the many young men who were Warblers. The lessons that were instilled in those young men live today through their own accomplishments, and the benefits they make possible in the leadership positions they hold in our schools, churches and community organizations which bond our Nation together.

When the Warbler's Club meets again in Birmingham later this week, the members of this singing group will honor their mentors by doing what they trained and practiced to do, performing their shows in the restored Alabama Theatre facility in Birmingham. Although the music will be melodious, and the renewed friendships warm, it is the teachers they gather to honor, and it is this purpose that will make this occasion particularly memorable and noteworthy. For it is the teachers—the late John Light, Amos Hudson and Joe Turner—whose dedication to the hundreds of men privileged to be members of the Warbler's Club, that have brought mirth and song to generations of music lovers across Alabama and the Nation.

CENTENNIAL CELEBRATION OF CARBON HILL, AL

Mr. HEFLIN. Mr. President, I am delighted to rise, today, to congratulate the citizens of Carbon Hill, AL, on the centennial anniversary of their city. On Saturday, July 9, the people of Carbon Hill will gather together to celebrate their city's 100th birthday. They will have a parade, will feature a centennial king and queen, and will honor the town's oldest citizens and veterans of World War I, in addition to having music, speakers, food, and fireworks. I am sure the celebration will be a special event that is much enjoyed and long remembered.

Although Carbon Hill was incorporated 100 years ago in 1888, the area in and around the city enjoys a rich and very old history. While it is hard to ascertain who, in fact, first settled the area of Carbon Hill, from existing records it appears that a man named William M. Richey entered Government land within the present limits of the city on February 1, 1821—one of the first settlements that is recorded in Walker County. Five years later, a man named Jeptha White moved into the area, then Alex Richey in 1830, and then in 1835 a host of others followed these earliest settlers. By that time, the area was fairly well settled primarily by farmers. In 1837, "Squire" James Hogan, who had served with Andrew Jackson, was rewarded with a land grant and built the Pisgah Tavern and Post Office which also served as a stagecoach post. During the War Between the States, Gen. John T. Croxton's radiers came to the tavern and cleared it of all food and wines. They were about to burn the building, but hurried away when they heard that the famous Confederate Gen. Nathan Bedford Forrest was close behind with his cavalry.

Perhaps the settler who was most important to the future of Carbon Hill was Henry Ferguson. Ferguson was a farmer who moved into the area in the mid-1850's. Although the area was already well known for its rich coal deposits, the area was undeveloped primarily because there was no way to ship the coal to a destination outside of the area. In 1871, Ferguson gave the land to his daughter, Mrs. Adeline Burton. Then, in 1886, Mrs. Burton had the great foresight to deed part of her land to the Kansas, Memphis & Birmingham Railroad. The railroad was built and the development of Carbon Hill began.

As one can tell by its name, Carbon Hill has long been a coal mining center and through the years has contributed significantly to the development of Alabama as a whole. The first coal mine was opened by an Irish engineer named John Lang, and with the railroad, others were opened in 1886 by the Pratt Consolidated Coal Co., and the Galloway Coal Co. In 1887, a post office was established with John F. Anderson as the first postmaster. By 1888, the community had grown large enough to support a church, and the Carbon Hill Methodist Church was organized. And in the census of 1890, the town had a population of 568.

According to an account in John Martin Dombhart's book, "the History of Walker County, its Towns and its People," around this time, "the rapid growth of the community attracted a number of rough characters, and during the spring of 1891 the town suffered a number of depredations and killings. However, this was rapidly stamped out by the * * * town officials." Thus, since a very early time in the history of Carbon Hill, the city has enjoyed the guidance and care of responsible, capable elected officials.

Since its early development, the citizens of Carbon Hill have made numerous contributions to the economic strength of Alabama, and they have never hesitated when called upon to serve our Nation. This centennial celebration is not merely a birthday celebration for the people of Carbon Hill. It is an opportunity for them to remember their past, to be mindful of the outstanding contributions they have made, to remember the great citizens of their history, and then to join together to work for a brighter future. This is a time when the citizens of Carbon Hill can identify goals and dreams and begin to work to accomplish all of their hopes.

In just 50 years, the children of today will be making plans to celebrate Carbon Hill's sesquicentennial anniversary. The dreams of today will grow, take shape, and mature in time to benefit them. Knowing the resolve, the determination, and the spirit of the people of Carbon Hill as I do, I am certain that in 50 years there will be tremendous progress and great advances. I am sure that Carbon Hill will offer even more to Alabama and America than ever before.

I am proud to represent the people of Carbon Hill in the U.S. Senate and am pleased to serve them in every way I can. I look forward to working with them to sow the seeds for the future, to make their city stronger and better, and to work with them to improve and enrich our State and our Nation. Thank you Mr. President.

THE CALIFORNIA DESERT

Mr. CRANSTON. Mr. President, as the debate continues about the future of the California desert and my bill, S. 7, the California Desert Protection Act, I would like to share with my colleagues the Los Angeles Times editorial last Saturday discussing Secretary of the Interior Hodel's recent tour of the California desert.

I ask unanimous consent that the editorial appear at this place in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE DESERT: A BETTER DEFENSE

Secretary of the Interior Donald P. Hodel misses the point when he says that reports of damage to the California desert have been exaggerated—he misses several points, actually, or chooses to overlook them. Hodel recently spent three days touring the 25-million-acre California desert region to promote the good job that he says the U.S. Bureau of Land Management has done as the nation's chief desert administrator.

This is another way for Hodel to express his opposition to the legislation by Sen. Alan Cranston (D-Calif.) to turn the management of a considerable portion of BLM territory over to the National Park Service. The Cranston measure would expand Death Valley and Joshua Tree national monuments and make them national parks, create a new 1.5-million-acre Mojave National Park and designate 4.5 million acres of the desert territory as wilderness.

After Hodel's tour, much of it by helicopter, the secretary said that he saw little sign of human damage to the desert. But he could have found out much more by talking to Bureau of Land Management naturalist Kristin H. Berry, as did The Times' Louis Sahagun. The visitor has to know what to look for, she said, adding: "In fact, the desert habitat is deteriorating and being destroyed at a rapid rate by off-road vehicles, development of urban communities, and sheep and cattle grazing, among other things."

Cranston's bill is opposed by the Bureau of Land Management, which manages the California Desert Conservation Area created by Congress in 1976 after considerable negotiation and compromise between conservation groups and user organizations. Both the bureau and the National Park Service are agencies of the Interior Department, but they have markedly different directives from Congress. The Park Service's mandate is to preserve the nation's prime natural areas while also making them available for visitation and enjoyment. The Bureau of Land Management is wedded to a hybrid, self-conflicting concept known as multiple use. While the bureau is supposed to offer protection of the best natural areas, it also is mandated to facilitate and encourage the economic exploitation of its lands.

Beyond arguments over what damage has been done to the desert so far is the larger issue of pressures that the desert will face in the future. About 13 million people already live within a few hours' drive of the desert, and population growth is accelerating. The best way to guard against future degradation of the desert on a broad scale is to have the best portions of it under the more protective banner of the National Park Service, just as is the case in alpine mountain regions, grasslands and places of historic significance.

In a sense this is a massive federal turf war. However, a number of officials within the National Park Service cannot publicly express their support of the Cranston legislation because their boss, Hodel, already has sided with the Bureau of Land Management. The bureau is defensive about the job that it has done, and is protective of its own desert plan. On occasion the bureau has been unfairly accused of not adequately safeguarding the desert, given the meager tools that it has been allowed by Congress for the job. But that is the point. The higher visibility and stature of national park status, and its more specific mandate, are bound to offer greater long-term protection.

AMERICAN POLITICAL SCIENCE ASSOCIATION, 35TH ANNIVERSARY OF CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. DOLE. Mr. President, I rise today to salute the American Political Science Association on the occasion of the 35th anniversary of its Congressional Fellowship Program.

Since 1953 the association has enabled more than a thousand outstanding men and women to serve the Congress and our Nation. After a highly competitive selection process and a rigorous orientation program, these eminent individuals apply for placement in Member's personal offices or with committee staff.

Coming from many countries and with diverse backgrounds, the fellows bring us a wide range of experience and expertise. We have journalists, political scientists, health professionals, teachers and many from other occupations and callings giving freely their special and sometimes unique knowledge to the benefit of Congress.

Equally important, the fellows gain a keen understanding of the political process that cannot be gotten from classrooms or textbooks. The effects of these experiences are multiplied when the fellows return to their institutions, agencies and organizations. Many have made important changes and advances in their careers as a result of their service.

I am personally grateful to the program for the many fellows that have been of assistance to my office over the past 20 years and am pleased to pay tribute to APSA for its important accomplishments and contributions.

COUP BY GEN. HENRI NAMPHY, HAITI

Mr. KENNEDY. Mr. President, I condemn last week's coup by Gen. Henri Namphy who has reversed his own fraudulent election, deposed his own puppet president and installed himself as military dictator of Haiti.

Two years after the Duvaliers fled Port-au-Prince, their crony system remains in place. Democracy remains a distant hope for the oppressed people and there is no end in sight to lives of poverty and despair.

General Namphy should now abide by article 149 of Haiti's Constitution which requires new elections to be held within 45 to 90 days should the "Office of the President of the Republic become vacant for any reason."

The Haitian military must lift the oppression, hold new—and this time fair—elections, and restore democracy to Haiti. When that happens, the American people will work with the Haitian people—with economic and political support—to preserve their liberty.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, is morning business closed?

The ACTING PRESIDENT pro tempore. Morning business is now closed.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I move that the Senate proceed to executive session to consider Calendar Order No. 730.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

NOMINATION OF HENRY F. COOPER, OF VIRGINIA, FOR THE RANK OF AMBASSADOR

The ACTING PRESIDENT pro tempore. The nomination will be stated.

The assistant legislative clerk read the nomination of Henry F. Cooper, of Virginia, for the rank of Ambassador during his tenure of service as U.S. negotiator for defense and space arms.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. CONRAD). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Henry F. Cooper, of Virginia, for the rank of Ambassador during his tenure of service as U.S. negotiator for defense and space arms?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota

[Mr. BURDICK], the Senator from Florida [Mr. CHILES], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Michigan [Mr. LEVIN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Rhode Island [Mr. PELL], the Senator from North Carolina [Mr. SANFORD] and the Senator from Tennessee [Mr. SASSER] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. SASSER] and the Senator from Rhode Island [Mr. PELL] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from Missouri [Mr. DANFORTH], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Pennsylvania [Mr. HEINZ], the Senator from North Carolina [Mr. HELMS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Nebraska [Mr. KARNES], the Senator from Wisconsin [Mr. KASTEN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Utah [Mr. STAFFORD], the Senator from Connecticut [Mr. WEICKER] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. DURENBERGER] and the Senator from California [Mr. WILSON] would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 71, nays 0, as follows:

[Rollcall Vote No. 205 Ex.]

YEAS—71

Adams
Armstrong
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Breaux
Bumpers
Byrd
Cochran
Cohen
Conrad
Daschle
DeConcini
Dixon
Dole
Domenici
Evans
Exon
Ford
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Hollings
Johnston
Kassebaum
Kerry
Lautenberg
Leahy
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Shelby
Simon
Simpson
Specter
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wirth

NAYS—0

NOT VOTING—29

Biden
Bond
Bradley
Burdick
Chafee
Chiles
Cranston
D'Amato
Danforth
Dodd
Durenberger
Fowler
Gore
Heinz
Helms
Humphrey
Inouye
Karnes
Kasten
Kennedy
Levin
Metzenbaum
Pell
Pressler
Sanford
Sasser
Stafford
Weicker
Wilson

So the nomination was confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I move the Senate return to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. BYRD. Mr. President, let us have a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the motion. All in favor, signify by saying "aye"; opposed, "no."

The motion was agreed to, and the Senate resumed the consideration of legislative business.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1989

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate H.R. 4775, the Treasury-U.S. Postal Service Appropriations Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4775) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 1989, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. As soon as we can have order in the Chamber, we can proceed with the business of the Senate.

The Senator from Arizona.

Mr. DECONCINI. Mr. President, it is my understanding that the last eligible amendment, with the exception of technical amendments that might be offered by the ranking member and this Senator, is the so-called McClure amendment on most-favored-nations status, and I ask the Chair, is the Senator accurate?

The PRESIDING OFFICER. The Senator is correct.

Mr. DECONCINI. If Senator MCCLURE is ready to go, I am more than happy to proceed now, at this time. I believe the ranking member is.

Mr. DOMENICI. We are ready.

Mr. DECONCINI. Also, if the Senator from Idaho would be interested in a time agreement I think it would be helpful to the leader. It would certainly help this Senator. I have some things I need to do at noon today. I would like to finish this bill, if possible.

I do not want to rush the Senator from Idaho. I know he feels very strongly about this. We have talked at great length and it is important, and I do not wish to leave the suggestion of unimportance because I suggest a time agreement. Also, the Senator from Texas may have something to say about the time that he would like to respond to the amendment. So I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I think maybe it would be helpful for us to get into the amendment a little bit before we start talking about a time agreement, because I am not certain how many Senators are going to want to speak. There is, of course, a great deal of interest in the subject matter and maybe we will try for just a few minutes, and then we will find out what the interest is in the amendment and maybe we, at that time, could get a time limit. Right now, I think that would be difficult to do.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2433

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. MCCLURE] proposes an amendment numbered 2433.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following section:

(a) In considering the extension of Most Favored Nation trading status to any country signatory to the Final Act on Security and Cooperation in Europe (also known as "the Helsinki Final Act"), which as of May

1, 1988 did not enjoy such status, the President shall consider the extent to which that country is in compliance with such Final Act, particularly the human rights and humanitarian provisions. In determining such compliance, the President shall consider—

(1) The extent to which a pattern of compliance exists in which violations are clearly the exception and contrary to established policy and generally observed practices in such country;

(2) The existence, in theory and in practice, of legal procedures and presumptions, statutes, administrative regulations, limitations on law enforcement authorities, and judicial means of redress that facilitate and encourage, rather than frustrate, the exercise of fundamental freedoms as specified in the Helsinki Final Act by the citizens and inhabitants of such country, and

(3) The ability of citizens of such country and citizens of other signatory countries, in theory and in practice, freely to monitor the performance of the governmental authorities of such country with regard to the requirements of the Helsinki Final Act throughout the territory of such country, and to publicize their findings, both in such country and abroad.

(b) If the President extends MFN status to any country such as described in subsection (a), he shall at that time submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives describing the extent to which such country is in compliance with the Helsinki Final Act, with emphasis on the criteria described in subsection (a)(1)(2)(3).

(c) Nothing in this section shall be construed as vitiating, limiting, or otherwise having any effect on any other barriers to, or requirements or waiver procedures necessary for the granting of MFN to any country in any other section of law.

Mr. McCLURE. Mr. President, I have been struggling with the wording of the amendment in order to try to meet some of the concerns that have been expressed about the general subject matter. Let me first address, rather than the detail, the general purpose of the amendment.

Mr. President, as originally written, this amendment would have barred the use of funds appropriated under this bill to grant most-favored-nation trade status to the Soviet Union until that country was in "complete or substantially complete compliance" with the 1975 Helsinki accords on human rights and humanitarian affairs. If that seems familiar that is because the provision was adopted, without opposition, to the Senate defense authorization bill. It was subsequently dropped in conference.

I was prepared to offer essentially the same amendment to this bill because it is the Executive Office of the President, which is funded by this bill, that would process the granting of MFN status, and the Treasury Department which would administer MFN trading privileges.

A number of concerns have been raised in relation to the purpose of my amendment, which is to link MFN status with broad human rights improvements in the Soviet Union, both by the State and Commerce Departments, and by some Jewish groups. Since I am already familiar with many of these questions, and since they are relevant both to my original amendment and to the modified version I am offering now, let me take the opportunity to address them now. Let me also say this. If the amendment is adopted, as I hope it is, I am willing to work with these groups to see if we cannot address their concerns in some way.

"What is substantially complete compliance?" This is defined as a pattern of compliance in which noncompliance is the exception; the existence of a legal structure which works to protect, rather than discourage, the exercise of basic human rights; and the right of citizens to monitor and publicize their government's compliance. The last item is especially important given the record of the Soviet Government in repressing the monitoring of the Helsinki accords.

"What would the Soviets be expected to do?" Nothing they did not promise to do 13 years ago at Helsinki, "to respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion, or belief. * * *" That is quoted from Principle VII of Helsinki Final Act. At Helsinki, the West paid a high price for these Soviet promises, by formally recognizing Soviet annexations of territory and the post-war division of Europe. It is time that the Soviets kept their end of the bargain.

"What is current law regarding MFN status for the Soviet Union?" As most of my colleagues are aware, under the Jackson-Vanik amendment to the Trade Act of 1974, the President can only grant MFN to Communist countries if he certifies that doing so would substantially promote freedom of emigration and that he has received assurances to that effect.

"Why is the McClure amendment necessary?" There is pressure at the highest levels of the administration for granting MFN. This pressure can only increase in the rosy afterglow of the Moscow summit. Commerce Secretary Verity says the administration will adhere to the Jackson-Vanik requirements. But his previous opposition to Jackson-Vanik and his current desire for more United States-Soviet trade are no secret. Soviet emigration figures may already be reaching a point where the administration thinks a Jackson-Vanik waiver is justified.

I also believe that it is important to tie MFN status, which has enormous political symbolism on top of its economic impact, to progress on a much broader range of human rights. The question is, Is the Congress ready to permit the granting of MFN status when, despite some welcome developments, the system created by Lenin and Stalin remains intact? By doing so, we would lose one of our most important levers for promoting Soviet reform.

"But wouldn't the orginal McClure amendment undercut Jackson-Vanik?" No; I believe this provision would reinforce the concept of linkage between Soviet human rights policies and United States-Soviet trade. It is this concept which lies at the heart of Jackson-Vanik, and it is this concept that some in the administration would like to abandon.

Likewise, in our concern to increase emigration, we must not lose sight of the vast majority of Soviet citizens, Jews and others, who might not emigrate but who deserve the religious, political, and civil freedoms they have been promised under the Helsinki Act. Jackson-Vanik was enacted before Helsinki. So it does not address the broad range of human rights commitments the Soviets made there. It is important to remember why so many Soviet citizens want to emigrate in the first place.

Additionally, under this amendment, the Soviets would not be able to satisfy Jackson-Vanik criteria by a temporary, and easily revoked, increase in emigration. Soviet emigration policies can be changed overnight. But once MFN status is granted and contracts are signed, it will be next to impossible to turn off the flow of trade. As the experience of the gas pipeline deal shows us, trade levers us a lot more than it levers them.

"Haven't the Soviets already made great strides in human rights?" Gorbachev has taken some impressive, but easily revocable, steps. For example, he has released over 380 political prisoners, allowed Sakharov to return to Moscow, released political prisoners held in psychiatric hospitals, allowed new latitude for the exercise of religious rights, and increased emigration. However, there is still no semblance of the rule of law as we in the West understand it or guaranteed political or religious rights. Despite rumors that they would be repealed or weakened, the most offensive laws remain on the books, for example the slander and "anti-Soviet agitation and propaganda" articles of the Criminal Code, and the laws limiting and intimidating the practice of religion.

A recent Helsinki Commission report summarized the situation as follows:

> A short hand account of the Soviet Union's Gorbachev era human rights record might go: past violations—partly redressed; current violations—notably restrained; future violations—potentially unlimited.

"Isn't the original McClure amendment designed to make it impossible for the Soviets to ever receive MFN status?" No. Whether they do or not is up to them to decide. If they want to take the steps necessary to join the ranks of civilized nations, which is what MFN would mean symbolically, they can certainly do so. There is nothing here they haven't already agreed to. On the other hand, if all Gorbachev intends is a few cosmetic reforms and carefully regulated increases in emigration, why should we reward him?

Mr. President, the Soviet Union under Gorbachev has made important strides. I was in the Soviet Union in April and I have seen and sensed these changes. But they are only a beginning. As the Helsinki Commission found, despite Moscow's improving human rights record, the oppressive power of the state remains essentially untouched. Though our influence over Soviet policy is limited, we must use it responsibly. Will we reward Gorbachev for chipping at the Leninist-Stalinist edifice, or do we seek true and permanent change?

Mr. President, let me describe just briefly the exact mechanics of the amendment which I have offered. It is somewhat different from that which was offered to the DOD authorization bill, which as I indicated earlier was adopted by this body without dissent and was dropped in the conference, and which I had originally intended to offer to this bill. Hence, I am back here again today.

That amendment as then drafted would have required them to come into substantial compliance with the Helsinki accords before receiving MFN, and there were a number of concerns expressed over that. One is that, "Well, obviously they are not going to do it. Therefore, we should not expect them to do it."

That by itself would not impress me very much, because 13 years ago at Helsinki they agreed to respect human rights, and they got the quid. We are looking for the quo. The quo is the observance of human rights that were specified in the Helsinki Accords. They have failed to do that, although as I have said already they are making some progress in that direction.

One of the major concerns that I have is that there were monitoring groups set up to monitor compliance with the Helsinki accords, and that even the Helsinki monitors have been oppressed within the Soviet Union. They did not want anyone in their own country, let alone anywhere else, tracking their compliance with the agreement which they had signed just a short while before.

But the amendment as offered today does not tie MFN status to strict observance of the Helsinki accords. It was suggested by a number of Jewish groups that to do so would make it impossible for the Soviet Union to comply. Therefore it would make it impossible for us to certify compliance and to grant MFN status. And if indeed it was impossible to gain MFN status, the Soviet Union would have no incentive even to meet the goals of Jackson-Vanik, namely, increase emigration.

I think there is some truth in that. And because there is truth in that, a great many people concerned with the issue of Jewish emigration, as am I, were very reluctant to accept the strictures of the McClure amendment.

So I have softened that provision, so that it does not require a strict observance of the agreements that the Soviets signed 13 years ago, and it does not require the President of the United States to certify that they are in compliance with the Helsinki Final Act. But it does require that the President of the United States shall submit a report to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs of the House of Representatives describing the extent to which the Soviet Union is in compliance with the Helsinki Final Act, with emphasis on the criteria described in the amendment.

Concerning emigration, it is important for us to continue to expect movement under Jackson-Vanik toward freedom of emigration. This is not simply a question of Jewish emigration, though the focus has been on Jewish emigration for people in this country and around the world looking at the issue of emigration of Soviet citizens from the Soviet Union to Israel. It covers other emigration as well, and our concern on this issue is an important part of our foreign policy, and an important part of our relationship with the Soviet Union. But we need, in addition, to ensure that the Soviet Union is moving toward compliance with the other human rights commitments which are contained in the Helsinki final accords.

I am a little bit puzzled at how much credibility General Secretary Gorbachev receives when he complains that we are interfering in the internal affairs of the Soviet Union. If there were no Helsinki agreement, and if his country had not signed that agreement, I suppose he would have some right to say that that is true, even though we would still have a right to be concerned and a duty, I believe, to express our concern about the observance or lack of observance of basic human freedoms in that country. But what makes this issue different is that the Soviet Union in Helsinki signed an agreement in which they and we agreed to do certain things. We have kept our side of that bargain, and as is so often the case they are failing to keep their side. We have a perfect right, and some would say, as I do, that we have an obligation, to try to see that the Soviet Union complies with the terms of the agreement which they and we negotiated along with other countries and which they and we signed. All we are saying in these instances is "live up to your agreement." This is not interference in their internal affairs. This is living up to our own responsibilities.

I will take just a few minutes to go through the amendment so people understand exactly what it says. Subsection (a) says:

> In considering the extension of Most Favored Nation trading status to any country signatory to the Final Act on Security and Cooperation in Europe (also known as the Helsinki Final Act), which as of May 1, 1988 did not enjoy such status, the President shall consider the extent to which that country is in compliance with such final act, particularly the human rights and humanitarian provisions.

Get this. It does not say the President shall do anything except consider the extent to which the country is in compliance with the final act.

> In determining such compliance, the President shall consider.

It does not say what he shall have to do with it, except he shall consider.

> (1) The extent to which a pattern of compliance exists in which violations are clearly the exception and contrary to established policy and generally observed practices in such country.

What is the pattern? Are they generally in compliance? Are they generally out of compliance? I do not want to have anyone charge, nor would I want to see the effect, that this provision was so rigid that a minor deviation from a general pattern of compliance would make it necessary for the President under my original amendment to deny MFN status. I think that would be too strict a standard. So the question is, in the pattern of compliance, are the violations the exception or is compliance the exception?

> (2) The existence in theory and in practice, of legal procedures and presumptions, statutes, administrative regulations, limitations on law enforcement authorities, and judicial means of redress that facilitate and encourage, rather than frustrate, the exercise of fundamental freedoms as specified in the Helsinki Final Act by the citizens and inhabitants of such country, and
>
> (3) The ability of such citizens of such country and citizens of other signatory countries, in theory and in practice, freely to monitor the performance of the governmental authorities of such country with regard to the requirements of the Helsinki Final Act throughout the territory of such country, and to publicize their findings, both in such country and abroad.

No Helsinki monitors have the opportunity to determine whether their country is complying, and do citizens within that country have the opportunity to express themselves freely with respect to compliance or noncompliance. That is also anticipated and provided for in the Helsinki Final Act, and a critical component of the agreement which the Soviet Union signed 13 years ago.

Then in subsection (b), as I mentioned a while ago:

> If the President extends MFN status to any country such as described in subsection (a), he shall at that time submit a report to the chairman of the * * *.

appropriate committees in the Senate and the House,

> Describing the extent to which such country is in compliance with the Helsinki Final Act, with emphasis on the criteria described in * * *.

the subsections I have read.

It does not say he can or cannot grant MFN status. It says that if the President decides to extend MFN status, after having considered these matters, he shall then submit a report with respect to the degree of their compliance with an emphasis on the criteria contained in this amendment.

Finally, nothing in this section, it says in paragraph (c), shall be construed as vitiating, limiting or otherwise having any effect on any other barriers to or requirements or waiver procedures necessary for the granting of MFN status to any country in any other section of the law. The provision is not confined to Jackson-Vanik, but it is specifically designed to avoid any question of a conflict with Jackson-Vanik, and the requirements of that statute. It ensures that we do not send a message to anyone in this country or any where else that we are lessening our determination as expressed in Jackson-Vanik.

Mr. President, I do not know why there would be any opposition to this amendment but I look forward to hearing some expression from those who might desire a different action, a different time, a different place, and a different way. I hope the Senate will adopt the amendment.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I rise in opposition to the amendment. I must say, like the Senator from Idaho, I would have strong misgivings about the Soviet Union getting most-favored-nation treatment. But I think that is very unlikely to happen because of the treatment we see from an economic standpoint, and for some strong legal reasons this country has very little trade with the Soviet Union. We import about a half billion dollars a year, and most of that is in raw materials the real reason being because they do not have the quality of manufactured products that our market would accept and that our consumers would find attractive.

We export to them about 5 or 6 times as much, but that is principally in agricultural products. Besides the economics of the situation, our trade laws severely limit trade between our two countries. The Soviet Union does not currently get most-favored-nation treatment and under the current laws thay are not likely to get it.

The first of those laws is the one of course the distinguished Senator from Idaho was discussing, and that is the Jackson-Vanik amendment. Under that Jackson-Vanik amendment, and that was part of the trade law of 1974, a Communist country cannot get most-favored-nation treatment unless that country allows free emigration, or the President of the United States certifies that waiving that ban on most-favored-nation status and giving them the most-favored-nation treatment would lead substantially to the achievements of the objectives of free emigration.

Today, only Hungary and China currently get the most-favored-nation treatment of the Communist countries under the Jackson-Vanik amendment. Romania loses that treatment this coming weekend. I think the principal factor for that was the administration was going to withdraw it because they can see the continuing pressure by the Congress urging that kind of action.

Second, under sections 404 and 405 of the Trade Act of 1974, the President cannot proclaim most-favored-nation treatment for a Communist country unless the Congress first approves the trade agreement under which that treatment is provided. These are two barriers to the Soviet Union getting most-favored-nation treatment. First, under the old Nixon trade agreement with the Soviet Union, that one has never been approved by the Congress. It still is off there in the wings with no likelihood of approval. But since then, Congress approved an agreement with China. But that Soviet agreement has not moved in 15 years. The Soviet Union cannot get most-favored-nation treatment by agreement without the Congress, without the United States Senate, approving of that. There again is another checkpoint that we have under the current laws.

Second, the trade bill recently vetoed by the President provides that the Soviet Union cannot join GATT, the General Agreement on Tariffs and Trade, without first obtaining once again the United States Senate approval, by obtaining congressional approval. Joining the GATT was the way the Soviets hoped to get the most-favored-nation treatment. But if the trade bill is enacted, that avenue once again will be closed to them without congressional approval.

Senator DANFORTH and I, Senator PACKWOOD, the distinguished minority member of the Finance Committee, joined together in reintroducing the slimmed down version of the trade bill. We had 70 sponsors of that. I welcomed that kind of support. Hopefully, we will be bringing this bill before the Senate very shortly. I believe it will be approved by an overwhelming vote. I am convinced the President of the United States is going to sign it at that point.

So I believe current law, plus the trade bill as a further requirement making it subject to approval by this Congress, gives us the kind of control that we want over the most-favored-nation agreement and status for the Soviet Union. Nevertheless, I certainly recognize the Senator's concern. But let me tell you again what concerns me about this amendment even with the modifications to it—and I must say I think that is an improvement to the amendment.

But trade legislation is tax legislation. I will give you an example of what we are talking about. We are talking about the difference between most-favored-nation and the regular provisions of tax. You are talking about some 12,000 items that are subject to change that you have to go through. The House of Representatives regards trade legislation as tax legislation. That has been true since the beginning of this Nation. Most-favored-nation treatment is in fact explicitly a change in the tax treatment. Current law prescribes a tariff schedule for the United States.

Again, when we are talking about those 12,000 items, we are talking about two different rates of duty, and two different taxes on them. In that first column is the most-favored-nation rate. That is the rate that Presidents have negotiated with our trading partners around the world. They are pretty low now. On the average they are about 5 percent ad valorem. But then there is that second column. That column contains essentially the rates of customs that were put on by Smoot-Hawley back in 1930. Those rates are the highest in America's history. They apply only to Communist countries, including the Soviet Union. And the President has no right, no authority to remove those high rates, go to those lower rates, and apply them to the Soviet Union without the approval of the United States Congress.

If we now legislate about most-favored-nation treatment on this appropriation bill, then we will be legislating conditions upon a rate of taxation. That is clear. That is a basic part of the jurisdiction of the Finance Committee. Nothing then would prevent the Senate legislating changes on other rates of taxation on appropriation bills without the benefit of hearings on those subjects.

I urge the Senate to avoid taxation matters on appropriation bills. Invading the trade jurisdiction of the Finance Committee is bad enough. But it would be almost impossible to cope with tax legislation on appropriation bills.

I urge the defeat of the amendment.

Mr. **PACKWOOD** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Oregon.

Mr. **PACKWOOD**. Mr. President, I heartily concur with the chairman of the Finance Committee, Senator BENTSEN, on procedural grounds for turning this amendment down, tabling it or voting to sustain a point of order, whatever the motion may be to dispose of it, because it is Finance Committee jurisdiction. There is no question about that.

But I would like to argue on substantive grounds in addition that this is bad legislation. I wish that we could pass legislation in this country and make every nation adhere to what we think ought to be their standard of conduct. In the Washington Post today is a story about where the women's rights rank in the world. In fact, the United States does not do badly. We rank third, just behind Sweden and Finland. Saudi Arabia, although a wealthy country, ranked almost at the bottom. I wish we could go like that and say henceforth we are not going to dot, dot, dot. We will not buy any oil, we are not going to dot, dot, dot, unless they treat their women nicer. My hunch is we would not succeed in getting them to treat their women any nicer.

Some people are beginning to question whether or not we are doing the blacks in South Africa any good with the series of votes that we have here about sanctions which may make us feel better, and I voted for them, but are they working, to make South Africa a nicer country in our eyes? I do not know whether they are working or not. I do not think that the proposals of the Senator from Idaho will work to make Russia a nicer country, as we think Russia ought to be.

Would we like them to have our Bill of Rights? You bet.

It is interesting that the Anglo-Saxon concept of the right of individuals against the state to be protected from the state is found, really, only extensively in countries that have an English common-law background. You do not find it in European countries that are democratic. It is a civil law concept that places the state on a higher plane than it does the individual.

Would we like Russia to be like England, Australia, Canada, and like us? Yes, we would. Trial by jury. Search and seizure. Self-incrimination. Independent judiciary. We would like all those things.

Is this likely to achieve those things or anything close to it? I realize that the final act in the Helsinki accords is not the equivalent of our Bill of Rights, but it is a significant step toward allowing dissent and freedom—a significant step from where most countries are, let alone the Soviet Union, today.

If you cannot achieve everything, however, in a trice, just by snapping your fingers, then I think the most important thing you want to achieve for those you would like to help in other countries is the right to get out of the country, to be allowed to freely emigrate to some other country where the domestic politics are more in accord with your views.

That is why Jackson-Vanik was passed, and I was a supporter of it. It says to the Soviet Union: "You want to trade with us? You want some preferred status from time to time with us? You have to open up and allow emigration, especially Jewish emigration."

That has fluctuated over the years, up and down. In the last year, it has gone up rather dramatically. Prior to a year ago, you would see about 1,000 a year in emigration. It is now about 1,000 a month. It ought to be 10,000 a month. We are moving in the right direction.

The question is, How much straw can this camel hold, if we say: "We want 1,000 a month next year, and 10,000 a month after that; in addition, we want you to put into effect very quickly all of the accords of the Final Act at Helsinki?" I do not think that is going to work.

The Soviet Union is going through turmoil right now. Their party congress, which is about to meet, is going to go through the most wide-scale, broadening, opening debate that country has seen, not just since the Soviet revolution but probably in the last 100 years, because Russia did not change much when it became Communist. They have been almost a dictatorial country, barren of civil rights. They were that way under the czars, and they are under the Communists. To ask them to change that because we pass a piece of legislation, I think, is unlikely.

What is going to cause them to change, if anything, is the fact that the free country markets of this world are beating the Soviets absolutely hollow in terms of economic development.

A recent study by the Rand Corp. indicates that not only is the United States outstripping the Soviet Union badly in terms of growth—we are leaving them way behind—but also that Japan is ahead of the Soviet Union, with a third of the population, in terms of gross national product. By the end of the century, China will be ahead of them. Russia cannot be a major power in this world if her economy continues to dwindle or stagnate, if the free market countries of the world are leaping ahead. It is difficult to leap ahead economically and at the same time keep a clamp on everybody with respect to freedom.

If you decide to allow a farmer to keep the greater portion of his product and sell it in the market, it will be harder to do if he has to go through the Government all the time.

If you are going to allow a manufacturer to turn out T-shirts instead of bathing suits because the manufacturer thinks he can sell T-shirts instead of bathing suits, it will be hard to do if the manufacturer has to check first with the Government to see whether he can turn out bathing suits or T-shirts.

Factors that are going on in Russia now are going to do more to achieve the intent of the amendment of the Senator from Idaho than anything we will pass.

Russia may decide, in the long run, that it is not worth it and would rather have bad housing and long lines for food and everybody guaranteed a job, albeit at an inefficient factory.

Mr. **DOMENICI**. At very low pay.

Mr. **PACKWOOD**. At very low pay.

Housing conditions which, if they existed in the United States, would be regarded as a scandal, and we would have a national commission wanting to know why housing was so bad.

Those factors may impel the Soviet Union to move toward the Helsinki accords and our concept of human dignity and feedom and dissent. But I fear that the amendment of the Senator from Idaho will simply go in the wrong direction.

Russia will have to crawl before it can walk—Russia in the traditional 500 years of the Czarist-Communist sense, not just the last 7 years. As I said before, this country has never been a bastion of liberty or the free market in its entire history.

If we now try to say to them that in addition to everything else, in addition to letting people emigrate—which they are doing reluctantly, because some of the best people want to leave that system—if, in addition, we say, "Now put into effect the Helsinki accords, also," it is going to cause Russia to withdraw and retrench and not go forward as we would like.

Mr. President, I wish we could pass legislation to make every country in the world behave as we think they should, whether Saudi Arabia, Russia, China, or South Africa. But we cannot. It is beyond our ken; certainly beyond our capacity.

The one thing we can wisely do is to leave the one law on the books that has given us some little leverage and holds out a hope to those people who, if all else fails in the Soviet Union, should be allowed to leave the country. Maybe they will go to Israel, maybe they will go to Austria and then the United States, or maybe they will go to Canada. But at least they can get out. That is what we should concentrate on and can do most effectively, because it is related to an economic area; and Russia is much more concerned about their economic growth than they are about expansion of civil liberties, although I am not sure they can do one without allowing the other.

I hope this amendment will be rejected. I might add that the administration has informed me that they are opposed to the amendment as redrafted and would encourage the Senate to turn it down.

(Mr. HARKIN assumed the chair.)

Mr. DOMENICI. Mr. President, will the Senator yield for an observation?

Mr. PACKWOOD. I yield.

Mr. DOMENICI. The Senator from Oregon has eloquently described what is going on in the Soviet Union, and I have a thought for him with reference to the economics.

I have heard it said that a Soviet worker, when asked about their system, made the following statement: "We pretend that we are working, and they pretend that they are paying."

I thought that might fit into this description of what the Senator has just observed.

Mr. PACKWOOD. That is exactly what they are up against, and until they change their whole system, that is not going to change. It requires them to overthrow 500 years of tradition.

Mr. DECONCINI. Mr. President, the Senator from Oregon certainly makes a very convincing case based on the economics necessary to change in the Soviet Union. That really is not what we are here discussing. We are not talking about snapping a finger and expecting the Soviet Union to change dramatically.

And I find myself in a little bit of a quandary, I must tell the Senator from Idaho, being the chairman of the subcommittee, where he has offered this amendment. I would much rather see it offered someplace else, and I discussed that with him.

But quite frankly the amendment that the Senator from Idaho offers is not one that prohibits anything. In my judgment, it does not interfere with trade. It is really a statement. It is a statement that this body ought to be proud to make, whether it is on this bill, the defense authorization bill, a trade bill or any bill. This amendment is not offensive at all.

In fact, let me just read a little bit of it. "In considering," and I want to underline, "In considering," if the administration should consider, ". . . the extension of Most Favored Nation trading status to any country signatory to the Final Act on Security and Cooperation in Europe—also known as 'the Helsinki Final Act'—which as of May 1, 1988 did not enjoy such status, the President shall consider the extent to which that country is in compliance with such Final Act, particularly the human rights and humanitarian provisions. In determining such compliance," if that is the decision of the President and the administration wants to do it, "the President shall consider."

It does not say that he must follow these or that he is prohibited from negotiating MFN status.

We are talking about really just a principle here, and there comes a time you cannot sacrifice principle even if it is in someone else's "technical" jurisdiction, and I respect the Senators from Oregon and Texas who feel they have to protect that, and I do the same thing on the Judiciary Committee in other areas. But we are not talking about infringing on the right of any committee here to pass trade legislation, to raise tariffs, to raise taxes. This is not a tax issue. It is simply a human rights statement. We are not asking that the Soviet Union change like that with a snap of the finger, as the Senator from Oregon has suggested.

This is a very modest approach, and I thank the Senator from Idaho quite frankly because I was going to oppose it because his first amendment absolutely prohibited any funds from this bill being used in any way for most favored nation status consideration if they were not in total compliance, which to me would be asking exactly what the Senator from Oregon said we should not do. We should not demand that they do this and this and this.

We are only suggesting here. We are only asking the President to consider a very modest principle. It is not as strong as it would be if we were doing it on a treaty or if we had the Jackson-Vanik amendment before us. Many of the same Senators would be standing up and waving the flag and saying we are going to talk about human rights and we are going to restrict the Soviet Union. But, no, here because of someone's jurisdiction we feel we cannot stand for a principle, a principle that you ought to comply with the Helsinki accord on human rights. It does not say you have to. It does not say the President cannot consider dealing with the Soviet Union or consider most favored nation status. It only says if he is going to do so he should consider the Helsinki accord and the human rights provisions therein, and then it lists them.

Mr. President, I have to say I hope the opponents of this do not press this to a vote. This is not something that the Senate ought to vote in favor of whether it is tabling or anything else, because it is foolish, in my judgment, not to accept a modest approach that the Senator from Idaho has offered in good faith and in an effort to find a way to state a principle here that this body would like the President of the United States, whoever it is, to be careful, to consider before he does something and does not prohibit him from doing it.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I thank the Senator from Arizona for his statement and his support. I am very grateful to him, for obviously we have discussed this matter, and obviously the Senator is correct when he says he would rather this amendment came up on somebody else's bill. I understand that.

I have managed bills before, tried to get bills through, and I am very sympathetic to his situation. I am especially appreciative of his support because of his excellent work as cochairman of the Helsinki Commission on behalf of human rights in the Soviet Union and the entire Soviet bloc.

I would also like to remind my colleagues that I offered this amendment in a much more rigid form in this body on the DOD authorization bill, and it was adopted by this body in a tougher form than this before going to conference and being dropped by the conferees.

Now I must respond a little bit to my friend from Oregon and my friend from Texas with respect to the arguments that were made.

If I understand the Senator from Oregon correctly, he was saying we should concentrate on emigration. Yes, I understand that. Jackson-Vanik has a tough standard, and I support that standard.

This amendment sets a much weaker standard. But it does require the President to consider the broad range of human rights. I cannot imagine this body taking the position that we are going to be tough on emigration, but that other human rights are unimportant to us, or at least not important enough for us to express ourselves about.

Mr. DOMENICI. Mr. President, will the Senator yield for a question.

Mr. McCLURE. Surely.

Mr. DOMENICI. Would the Senator from Idaho clarify for the Senator from New Mexico, is he saying, I ask my friend from Idaho, that all of the requirements of Jackson-Vanik are still there?

Mr. McCLURE. Absolutely.

Mr. DOMENICI. But in addition, this nonmandatory finding by a President is going to be added as a requirement?

Mr. McCLURE. The Senator is correct. This amendment says the President shall consider before granting MFN status the things set forth here concerning overall human rights, and he shall report the extent of compliance or noncompliance.

Mr. DOMENICI. But the essential way to grant most-favored-nations treatment is not changed.

Mr. McCLURE. The Senator is correct.

Mr. DOMENICI. It is not broadened, but rather a report must accompany it with the requirements of the Senator's amendment; is that correct?

Mr. McCLURE. Yes. I would not say it is not changed, but there is a specific requirement that the President must consider certain things and must file a report.

Mr. DOMENICI. But these do not avoid all the other requirements of Jackson-Vanik.

Mr. McCLURE. Or any other provisions of law.

Mr. DOMENICI. Or any other provision of law.

I thank the Senator.

Mr. McCLURE. The Senator is correct.

The Senator from Oregon had indicated that emigration is the thing we can really affect, so let us concentrate on that. I could not disagree at all that emigration is an important issue and indicator, and important in itself, but it is not our sole concern.

When I was in the Soviet Union last, I met with a group of dissidents and refuseniks, and I mention that because it is important to recognize that there are two distinct groups of people. The refuseniks are those who have applied for emigration and have been denied the opportunity to do so. They are not all of one ethnic group, and they are not all of one religious group, but there are across-the-board substantially more Jewish people than people of other backgrounds and faiths. Some of them, incidentally, are ethnically Jews, but are nonpracticing. They are not practicing their religion but nevertheless seek emigration.

It is also important to note that there is another group, the dissidents, the people who are seeking change within the Soviet Union. They do not seek to leave. They want to move their own country toward the observance of some of the human rights that we take for granted in our own country, and they are looking to us for help. I want to underscore that. They are looking to us for help. Are we going to say, "No, we don't care about you who wish to have freedom in your own country; we care only about those who wish to emigrate"

I do not think that is the intention of the Senator from Oregon. I do not believe it for a minute that he means to say that, nor do I take him to say that, but I do not want anybody to be confused about that issue.

There are people in the Soviet Union who are willing to stay there and engage in the struggle.

I had dinner with Dr. Sakharov, and if you ever want to feel the moral force of a dominant and strong personality, just seek the opportunity to sit and talk with that man for a while. He is not seeking to emigrate. He is seeking to bring about fundamental reforms in his own country and he looks to us for help.

It is also argued that we cannot change them overnight. I think it is obviously true that we cannot change them overnight. We cannot even change our own practices overnight in this country. But we can stand for something. We can stand for bringing about some fundamental change in the Soviet Union in the direction of what those people like Dr. Sakharov and others seek to bring in their own country for their own people.

It is suggested, if I understood the Senator from Oregon correctly—and I have heard it from others outside worried about Jackson-Vanik and worried about the emigration progress, who say "Don't up the ante. Don't increase the pressure on the Soviet Union. Don't raise other issues because then we lose the leverage on emigration."

This is not just a narrow view of a single dimension of human right. It is a real concern about that single dimension of emigration. But as important as that is, it is not the only measure of human rights.

But, somehow, we are told that if we raise other issues, no matter how gently, we will have reduced our capacity to put any pressure on the Soviets with respect to emigration. As the argument goes, it is only the lure of MFN that brings them to increase emigration in other to comply with Jackson-Vanik.

Well, maybe it is. Maybe their economic conditions are as described by the Senator from Oregon and by many, many other observers. Maybe their economic condition is such that they desperately need new economic ties with the West. But, if that is so, then we ought to use that urgent need on their part to broaden the issue of human rights for the benefit of all of the peoples of the Soviet Union, those who wish to leave, and those who do not, consistent with our own tradition and our values.

But I hear the Senator from Texas arguing on the other side: this is all irrelevant because MFN status will not be granted anyhow.

Well, goodness gracious, if the Senator from Oregon is correct, and the Russians hear what the Senator from Texas is saying, we are not going to get any emigration anyhow.

The Senator from Texas may be reading this body correctly when he says that we will not now or under any conditions grant MFN status to the Russians. But that is directly contrary to the arguments of those who say the McClure amendment undercuts Jackson-Vanik. Because if indeed that is the case that under no circumstances will MFN status be granted by this Congress, then there is no leverage for Jackson-Vanik.

I remind my colleagues that when the Romanian MFN status was before this body for debate and a vote, it was turned down. But it was not turned down on emigration alone—as a matter of fact, their emigration policy was not that bad—it was turned down for human rights reasons. That is precisely the same idea as this amendment with respect to the Soviet Union.

As the Senator from Arizona has very cogently noted, this is a softened version of the original amendment, a minimal statement, in my view, about what we should say to the Soviet Union about what we expect. But it does not speak just to the Soviet Union. It says something to the Romanians. It says something to East Germany. It says something to Czechoslovakia. It says something to people who are our trading partners or who desire to be, that the United States stands for something, that we stand for the observance of human rights. If you want to have good trading relations with the United States, the United States is going to expect that you do something about human rights.

That is particularly true of a nation that signed the Helsinki Final Act and undertook those obligations freely. We did not require them to. We did not snap our fingers and say, "Do it." That was a negotiated agreement in which they get certain things they wanted, in the stabilization of boundaries in Europe, a recognition of de facto boundaries in Europe, and we got something that we wanted in their commitment to the observance of a higher standard of human rights.

Will we get the improvement immediately? No, I cannot say that.

The Senator from Oregon is exactly correct. He is a good student of history as well as contemporary events. Indeed, the Soviet Union is their heir of all of its history.

I think it was Rudyard Kipling who described the country of Russia as the most Eastern of Western civilizations and the most Western of Eastern civilizations. The Russians are an amalgam; they are a mixture. They are different. We sometimes make the mistake of viewing them through our eyes and viewing their values through our eyes, viewing their responses as though we would respond in the same way and, therefore, assuming that is how they would respond. We make a mistake when we "mirror image" like that.

The Senator from Oregon is correct in pointing out that, indeed, their history, their culture, and their traditions lead them to think differently than we. And he is also correct in saying that it appears that the debate that will occur in the Soviet Union this week will be a fundamentally different debate than they have had in the past.

We should encourage that trend. We should give to General Secretary Gorbachev an additional lever to use in his own internal debates: If you want better economic relations with the United States, we need to make progress on the human rights front in our own country.

We are not dictating to them. We could not do that if we tried. But we are suggesting to them that there is a standard that is important to human beings around the world, and that the United States still represents the best expression of that standard. The United States is not ashamed of standing up for that standard. We are proud to. And we signed the Helsinki accord, as we have signed other agreements, in the full expectation that the other signatories would honor that agreement as they signed it.

All this amendment does, is to hold up the standard of the United States, to say to the Soviet Union: "You agreed in the Helsinki Final Act to do certain things, and we expect you to do them." We are saying that human beings have a right to live in freedom and in dignity, and that there are minimum standards of human rights that should be observed.

Under this amendment, the President is not bound. His hands are not tied. He can act with discretion, and exercise that discretion. I do not know how much more we can do, perhaps, but certainly we should do no less

Mr. **BENTSEN.** Mr. President, I listened with considerable interest to my friend from Arizona say this is just merely a statement of principles, and taxes are not involved.

Mr. President, I always wished I could be on the Appropriations Committee, with all the power that goes with that, the control of the purse. As we handled the customs authorization in the Finance Committee, I thought to myself that they really have not put enough money in there by way of appropriations for customs and drug interdiction. I would like to do a lot more of that. I would like to do it with the authority of the Finance Committee—just a little statement of principle, that is all it would be—and that we would have the appropriation and lock it up.

But I do not do that because I understand the reason for the rules for jurisdiction of committees, where committee members develop expertise in those areas, the incredible expanse of issues dealt with by the U.S. Congress, and those on the committee that put the extra time in to better understand those particular issues.

That is what they do on appropriations and that is what they do on tax. But to have my friend say this is not a matter of taxation, that tariffs are not taxes; that trade legislation is not taxes or tariffs really baffles me.

I look at 12,000 items; this column and that column; one that gives you the most favor nations treatment and the other that gives you the effect of Smoot-Hawley, and that is the law that is applicable.

Ball bearings, 11 percent ad valorem tax or 67 percent ad valorem tax. That is not taxes? Of course that is taxes.

Twelve thousand of these items.

If the Appropriations Committee wants to pass tax legislation, why is it that they are always talking about how long it takes for a tax bill to get through? It is because of all of the amendments that will be offered. You let the Appropriations Committee start having the jurisdiction of taxes in addition and then you wait and see how long it takes to get an appropriations bill. They will be lined up out here with their amendments to the appropriations bill to take care of taxes, someone's particular version of that.

Under the present law we have the safeguards insofar as most favored nation. There is no way that a President of the United States can give most-favored-nation clause treatment to the Soviet Union under the present law.

We have to have a trading agreement with a country to be able to accomplish that and then it has to come back to the Congress for their approval. We have that jurisdiction and we have that kind of control.

I urge the U.S. Senate not to invade the jurisdiction of the Finance Committee; not to bring taxation to an appropriations bill. Invasion of the trade jurisdiction is bad enough. But it would be almost impossible to cope with tax legislation on appropriations bills and it is that, pure and simple. The House has long held to that point of view. This is revenue, this is taxes, and obviously is the jurisdiction of the Ways and Means Committee and jurisdiction of the Finance Committee. At the appropriate time, when the distinguished Senator from Idaho has felt he has explored this issue long enough, I will make the point of order, along with my distinguished colleague the ranking member of the Finance Committee, the Senator from Oregon, that this is legislation on an appropriations bill.

The **PRESIDING OFFICER.** The Senator from Arizona.

Mr. **DECONCINI.** I have the greatest respect for my friend from Texas, the chairman of the Finance Committee. I greatly appreciate his concern, of anyone trying to raise taxes other than through that committee. But I have to say to my friend, I do not see anything that raises the taxes here on ball bearings, any reference, even, to customs duty. In determining such compliance with the Helsinki accord the President shall consider—it does not say that he must do something other than just to consider—"the extent to which a pattern of compliance exists in which violations are clearly the exception and contrary to established policy and generally observed practices in such country."

That does not put a tax on ball bearings or raise customs duties or anything else.

> (2) The existence, in theory and in practice, of legal procedures and presumptions, statutes, administrative regulations, limitations on law enforcement authorities, and judicial means of redress that facilitate and encourage, rather than frustrate, the exercise of fundamental freedoms as specified in the Helsinki Final Act * * *

I am not talking about taxes. We are talking about fundamental freedoms.

> (3) The ability of citizens of such country and citizens of other signatory countries, in theory and in practice, freely to monitor the performance of the govenmental authorities of such country with regard to the requirements of the Helsinki Final Act throughout the territory of such country, and to publicize their findings, both in such country and abroad.

We are not talking about customs duties here. We are talking about fundamental freedoms. We are talking about the Helsinki Final Act. And if the President extends, going through all the procedures the Senator from Texas points out that are necessary, the Senator from Idaho says he is not altering those, then the President, if the President extends this status to any country, such as described in subsection (a), he shall, at that time, submit a report. It does not say that he is going to raise taxes or do any such things. It says he is going to submit a report to the chairman of the Foreign Relations Committee and Foreign Affairs Committee of the respective Houses, describing the extent such country is in compliance with the Helsinki Act.

It seems to me, Mr. President, we are talking about a principle here, only to urge a President, whoever he or she may be, that if they are thinking about most-favored-nations status for the Soviet Union or for any other country, I hope, that they will consider these things. It does not say they cannot do it; cannot do it tomorrow. It does not say in our judgment we think we should have the most-favored-nation status for the Soviet Union and send up the most-favored-nations legislation and compliance—it really merely is a statement of principles and this body ought to be proud to go on record in stating the principles that we feel that any President should consider, these particular items, in dealing whenever they deal with most favored nations status.

Mr. **BENTSEN.** Mr. President, the statement of the distinguished Senator from Arizona exemplifies, when he says this does not involve taxes and yet this is what the President has to consider when he goes into most-favored-nations agreement, exemplifes the danger I am talking about of getting into a jurisdiction that is not yours.

Mr. McCLURE. Mr. President, parliamentary inquiry. Has the Senator raised the point of order?

The PRESIDING OFFICER. No point of order has been raised.

Mr. McCLURE. I thank the Chair.

Mr. President, let me respond as did the Senator from Arizona, and I thank him again for his comments with respect to the amendment.

Nobody can argue that this does not have consequences with respect to the imposition of tariffs. It does. It has consequences. But this does not change the application of tariffs. It tells whether somebody qualifies for one system or another for reasons that are entirely different than the question of tariffs.

It is a foreign policy issue. It is a substance issue. If there is any committee that should be here objecting, perhaps, it is the Foreign Relations Committee. It is not the Finance Committee, in my judgment, that has any particular jurisdiction in this particular area that could bar the Senate from acting upon the subject matter.

We are not talking about whether or not we are going to tax ball bearings, one grade or another. We are talking about whether or not the Soviet Union is entitled to be placed in one class of nations with relations to this country or in another. And I would hope that the Senator from Texas would not raise the point of order, but perhaps he will.

I would also say that I understand that his argument is that this is really a tax matter and belongs on the trade bill. We are hoping to get a trade bill. I think there is a widespread expectation that there may well be a trade bill for this Senate to act on yet this year. I also know that the people who are trying to bring that bill to the floor of the Senate want it to be clear and free of other issues. If the Senator from Texas is correct, and I do not believe that he is, that this amendment is a matter within the exclusive jurisdiction of the Finance Committee and does not belong on this bill, certainly that same argument cannot be made to keep this amendment off a trade bill, because that is the jurisdiction of the Finance Committee.

If this matter is not resolved, it will certainly be offered with respect to that trade legislation when it comes. If the people who are very concerned about that bill want it to be clean, they ought not to deny us the opportunity to deal with it here today on this vehicle.

As I said in my opening remarks, it is relevant to this bill because it is the Executive Office of the President, which is funded by this bill, that would process the granting of the MFN status and the Treasury Department which would administer MFN trading privileges.

I hope the point of order is not made. It is is, I hope it is rejected.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I make the point of order that the amendment constitutes legislation on the general appropriations bill.

The PRESIDING OFFICER. The amendment changes the guidelines for the making of a determination by the President. It therefore constitutes a legislation proposal, and, as such, is not in order in an amendment to a general appropriations bill. The point of order is well taken.

The Senator from Idaho.

Mr. McCLURE. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there debate on the appeal of the point of order?

Mr. McCLURE. Mr. President, I am ready for the vote.

Mr. BENTSEN. Mr. President, I am ready for that vote.

The PRESIDING OFFICER. The question then before the Senate is: Shall the decision of the Chair stand as the judgment of the Senate.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Ohio [Mr. METZENBAUM], the Senator from Rhode Island [Mr. PELL], the Senator from North Carolina [Mr. SANFORD], and the Senator from Tennessee [Mr. SASSER] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN], is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] and the Senator from Rhode Island [Mr. PELL] would each vote "yea."

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Pennsylvania [Mr. HEINZ], the Senator from North Carolina [Mr. HELMS], the Senator from Nebraska [Mr. KARNES], the Senator from Vermont [Mr. STAFFORD], the Senator from Connecticut [Mr. WEICKER] and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 24, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—57

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Burdick
Byrd
Chiles
Cohen
Conrad
Danforth
Daschle
Dixon
Dole
Domenici
Evans
Exon
Ford
Glenn
Graham
Harkin
Hatch
Hatfield
Inouye
Johnston
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Proxmire
Pryor
Reid
Rockefeller
Roth
Sarbanes
Shelby
Simon
Specter
Stennis
Trible
Warner
Wirth

NAYS—24

Armstrong
Bumpers
Cochran
D'Amato
DeConcini
Garn
Gramm
Grassley
Hecht
Heflin
Hollings
Humphrey
McClure
Melcher
Nickles
Pressler
Quayle
Riegle
Rudman
Simpson
Stevens
Symms
Thurmond
Wallop

NOT VOTING—19

Biden
Chafee
Cranston
Dodd
Durenberger
Fowler
Gore
Heinz
Helms
Karnes
Kennedy
Matsunaga
Metzenbaum
Pell
Sanford
Sasser
Stafford
Weicker
Wilson

So the decision of the Chair was sustained as the judgment of the Senate.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the decision of the Chair stood as the judgment of the Senate.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DeCONCINI. Mr. President, before we move to final passage of the Treasury-Postal Service—

The PRESIDING OFFICER. If the Senator will suspend, the Senate is not in order.

Will the Senate please come to order? The Senate will please come to order. Will Senators please cease audible conversations and clear the well?

Senators will please cease audible conversations. Please clear the well.

The Senator from Arizona.

Mr. DeCONCINI. Mr. President, before we go to final passage, I want to thank my distinguished ranking member, Senator DOMENICI, for his outstanding work on this bill. We are prepared to now go to passage. His great source of information has been extremely helpful to getting this bill to where we are today.

I also thank the Senator from Texas, the distinguished chairman, and the Senator from Idaho for a good debate on the amendment. I am disappointed, but that is the way it goes around here. We will move on to other things. Mr. President, I hope that this bill will receive unanimous support of the Senate. It is a good bill. It funds some of the Government's most important programs——

Mr. DOLE. May we have order? May we have order?

The PRESIDING OFFICER. The Senate will come to order.

The Senator from Arizona will suspend. The Senator from Arizona is entitled to be heard.

Mr. DECONCINI. I thank the Chair.

The PRESIDING OFFICER. The Senators will clear the well and take their seats.

The Senator from Arizona.

Mr. DECONCINI. Mr. President, this bill has a large portion of the funds for our war on drugs, as much as it is going on now. The Internal Revenue Service is the largest revenue raising agency in the Federal Government.

The conference with the House will be a difficult one. So the stronger the vote that we can possibly get on this matter it will give us a stronger position in conference, along with our ranking member.

If there are no further amendments, and I believe the unanimous consent forbears that, I yield to the Senator from New Mexico and thank him again.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me reciprocate, and say it has been a pleasure working with the distinguished Senator from Arizona, the chairman of the subcommittee. I think we have a good bill.

For those who are committed to freestanding appropriations bills, I might suggest to them and say to the distinguished majority leader that I just checked the history. We have not had a freestanding Treasury-Postal Service-General Government Appropriations Act since fiscal year 1980. If we can get this done and go to conference and signed into law, I think it is a high achievement. It meets the targets. It enforces the summit agreement, and I think it sends us a signal that if we could have 2-year mandatory budgeting of some type that indeed we might greatly enhance the opportunities for appropriations bills coming out on a regular schedule.

I hope the Senate will approve this with an overwhelming vote so we can get a conference with the House that is successful well in advance of October 1 so we do not need a continuing resolution.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. President, I agree with the able Senator. Another thing it does, I hope, is it sends a message that legislation on an appropriations bill is not going to be received gladly in the Senate. That is a very progressive step if we can accomplish that.

Mr. President, I compliment both the managers while I have the floor and commend them on their skill, their teamwork, and their expertise. The Senate is in their debt.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed for a third reading, and the bill to be read a third time.

The bill was read a third time.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, following this vote the Senate will return to the plant closing bill, and the debate will resume on the amendment by Senator Kassebaum, which has not yet been laid down. That vote will occur this afternoon at 2:30. It will be an hour and 15 minutes, from 2:30 to 3:45. I hope Senators will make the vote early because if all Senators vote before the hour of 3:45, the vote can be closed and we can proceed to further business.

So I hope Senators will not wait until 3:45 to cast their vote just knowing that there is an hour and 15 minutes on the vote. I thank all Senators.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. Dodd], the Senator from Georgia [Mr. Fowler], the Senator from Tennessee [Mr. Gore], the Senator from Ohio [Mr. Metzenbaum], the Senator from Rhode Island [Mr. Pell], the Senator from North Carolina [Mr. Sanford] and the Senator from Tennessee [Mr. Sasser] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. Gore], the Senator from Rhode Island [Mr. Pell], and the Senator from Tennessee [Mr. Sasser] would each vote "yea."

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. Chafee], the Senator from Minnesota [Mr. Durenberger], the Senator from Pennsylvania [Mr. Heinz], the Senator from North Carolina [Mr. Helms], the Senator from Vermont [Mr. Stafford], the Senator from Connecticut [Mr. Weicker] and the Senator from California [Mr. Wilson] are necessarily absent.

I further announce, that, if present and voting, the Senator from Connecticut [Mr. Weicker] and the Senator from California [Mr. Wilson] would each vote "yea."

The PRESIDING OFFICER (Mr. Shelby). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 81, nays 4, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—81

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Evans
Exon
Ford
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sarbanes
Shelby
Simon
Simpson
Specter
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Wirth

NAYS—4

Humphrey
Proxmire
Roth
Symms

NOT VOTING—15

Biden
Chafee
Dodd
Durenberger
Fowler
Gore
Heinz
Helms
Metzenbaum
Pell
Sanford
Sasser
Stafford
Weicker
Wilson

So the bill (H.R. 4775), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. President, I ask unanimous consent that the Senate insist on its amendments to H.R. 4775 and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

There being no objection, the Presiding Officer (Mr. Shelby) appointed Mr. Stennis, Mr. Hatfield, Mr. DeConcini, Mr. Domenici, Mr. Proxmire, Mr. D'Amato, and Ms. Mikulski conferees on the part of the Senate.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

The PRESIDING OFFICER. The clerk will report the unfinished business.

The assistant legislative clerk read as follows:

A bill (S. 2527) to require advance notification of plant closings and mass layoffs, and for other purposes.

The Senate resumed consideration of S. 2527.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I ask unanimous consent to proceed for 4 minutes on a separate subject?

The PRESIDING OFFICER. Without objection, the Senator from South Dakota is recognized.

THE DROUGHT

Mr. PRESSLER. Mr. President, this weekend I toured drought areas in South Dakota. I grew up on a family farm, and I had never seen such dry conditions as I saw this weekend. In fact, on some of the farms we visited near Eureka and Hosmer, absolutely no harvesting will be done. The corn is completely dead. The first cutting of alfalfa has not been harvested. There will be no oats. Thistles are growing in the oats fields.

But farmers still have to spend money on their fields. For example, farmers will have to spray the thistles, which will cost about $8 an acre, to keep them from spreading, and using the nutrients that are in the soil.

It is a very severe problem. Farmers are losing their land, and selling their livestock herds. Small businessmen are also hurt by the drought. Seed and diesel fuel dealers, hospitals, and nursing homes, are experiencing financial problems.

A group from the Eureka Nursing Home met with me to discuss a Federal loan. They pointed out there will be less private-pay patients in that nursing home because of the drought. Many retired farmers depend on their crop share to pay medical and nursing home bills.

This drought is a disaster. It is a very serious situation in my State and several other States are experiencing similar problems. Congress must act quickly.

Some officials in the U.S. Department of Agriculture have suggested that we should wait and see what the crop is like. On the farms we visited this weekend, there will be no crop. That has been determined. There will be no harvesting. The crop is completely lost even if it rains now.

There are also environmental concerns. Trees are dying because of the drought. There is going to be some wind erosion of topsoil. Wildlife is being hurt by the lack of feed and habitat.

Mr. President, there are a number of legislative proposals being considered by Congress. I have sponsored legislation exempting drought stricken farmers from repaying the 40 percent advance deficiency payment they have already received. There will be about $4 to $6 billion saved this year on deficiency payments because of the increase in the market price. There are many other things that need to be considered:

On Saturday I had a drought meeting with Senator Bob Dole in Watertown, SD. Several of the South Dakota farm leaders were there and made specific suggestions. At my meeting Sunday afternoon in Eureka there were 583 people in attendance. That is a big crowd in South Dakota.

Several of the farmers, ranchers, businessmen, and citizens in attendance made specific recommendations. I would like to share some of those recommendations with the Senate.

First of all, it was strongly recommended that drought stricken farmers be allowed to keep the 40-percent advance deficiency payment they already received. Farmers will not have money to repay it.

Second, it was recommended that we consider a 100-percent deficiency payment. I told the farmers I do not want to overpromise. We have to operate within a budget and we would have a very difficult time getting a budget waiver. That would take over 60 votes. I described to them the legislative and budget waiver process. I did not want to raise their hopes too much.

With money available in the agriculture budget we should provide disaster assistance.

A third area is haying and grazing of CRP and waterbank acres. Some action has been taken administratively by the Secretary of Agriculture to allow haying of CRP acres. However, the Secretary of Agriculture and the Secretary of the Interior should work together on the waterbank land. This should be done this week. We cannot wait any longer.

I am recommending that USDA allow contiguous counties; that is, counties that are adjacent to disaster-declared counties would be able to hay and graze CRP and waterbank acres. That would be very helpful to farmers.

We must consider implementing low interest disaster loan programs for farmers in the drought-stricken areas.

There are also the human needs of people, nursing homes, hospitals, and other institutions that will suffer. County commissioners told me they were not going to be able to collect some taxes.

Mr. President, the Federal Government has a tradition of helping when there is a disaster. There is a disaster in farm country. I saw it firsthand. There are many other actions that should be considered.

Another specific recommendation was to allow farmers to reseal corn, wheat and other crops so that they can sell them on the rising market for a potential profit. This is something we should consider.

There is a whole host of other specific recommendations, that the drought task force will be considering. I will be giving a report on my meetings to the drought task force, the President, and Secretary Lyng.

I was very pleased to have Milt Hertz, the Director of the ASCS, with me in South Dakota. He answered several specific questions. We were honored to have the administrator of ASCS programs in South Dakota. Mr. Hertz did a fine job. He took a lot of heat on some areas where the Secretary has not taken administrative actions. We must realize that the Secretary of Agriculture is in a difficult position because some parts of the country have a partial drought, some parts have a good crop, and some areas have a complete drought. The area I was in was a complete drought and we need action now.

Also accompanying me was our State ASCS director, Dale Anderson, who commented on some of the specific problems that we have in South Dakota.

In conclusion, Mr. President, the drought tour I took this weekend in South Dakota was one of the most moving experiences I have had during my time as a U.S. Senator. We saw areas that are completely drought stricken; where corn did not even come up; where farmers have spent as much as $50 an acre fertilizing, planting, and spraying and nothing is growing; where oat fields only have Russian thistles growing; where there is nothing growing in an alfalfa field except some weeds. These are very depressing sites.

We need to do many things. We need to get the Drought Research Center at South Dakota State University started. We need to develop hardier drought-resistant seeds and plants, and new methods of controlling grasshoppers and other pests. We need to do all of these things.

Mr. President, grasshoppers are going to be a big problem in the next month or two in these areas. We need to give our States additional money to fight grasshoppers before they take over these areas. The grasshoppers are very thick in the area we visited. Within a month they are going to be adult grasshoppers. They are not very pleasant creatures. They eat everything in sight.

Mr. President, we have a major problem on our hands. The drought is one of the most devastating things that I have seen in my life. I grew up on a farm and I have seen a lot of hardship. But this drought, where it is really severe has gotten the spirit of our people down. Congress must act. I am sure we will act within 2 or 3 weeks on a drought assistance program.

SOUTH DAKOTANS OPPOSE THE BRADLEY BILL

Mr. PRESSLER. Mr. President, I would like to report to the Senate on another matter. Last night I held a meeting in Hot Springs, SD, to discuss S. 705, the Sioux Nations Black Hills Act. This legislation, commonly called the Bradley bill, would give 1.3 million acres of public lands in my home State to the Sioux Indians.

I am very much opposed to the Bradley bill. I met with about 400 people at this meeting who are very opposed to this legislation.

Since coming to Congress, I have worked very closely with our Indian people on numerous issues. In fact, I have one member of my staff devoted exclusively to Indian Affairs. In the near future, I shall chair a Senate Committee on Aging hearing on the problems of the Indian elderly in my State. In the 1970's, I helped our Indian tribes bring a case to the Supreme Court to resolve a land claim dispute in western South Dakota. I was quoted in a footnote in this Supreme Court decision in which they described the res judicata legislation and its purpose. I have been involved in Indian Affairs issues for a long time in my State and I feel that I speak with some experience.

In 1980, the Supreme Court made a ruling regarding the disputed lands. I believe it was a good ruling. The Sioux Indians were provided monetary compensation, over $106 million, for certain inequalities that had occurred. That, to me, is a final settlement of the dispute.

S. 705, in effect, would legislatively reverse the Supreme Court decision. In my judgment, such action would be entirely wrong. Many Indians agree with me. The monetary compensation awarded by the Court has never been distributed, and it continues to draw interest. The tribal leaders who were involved with this decision have gone on to other things. In the turbulence of tribal politics, people have come to power who insist on a legislative solution. They support passage of the Bradley bill.

We must not forget about the descendants of non-Indians whose families have lived in the Black Hills of South Dakota for over 120 years. These individuals own and work much of the land. They have some rights, too.

Also, the land involved here is public land. It is now open to all people. I believe in the concept of leaving it open to everyone, regardless of race, color or creed.

I think this is a very important issue. I have spoken on the Senate floor many times about the Bradley bill and I will continue to in the future.

But the history of this area has been misinterpreted by some in the national media. It has been misconstrued by others. Those supporting the Bradley bill state that the Sioux were the original inhabitants of the land. I dispute their claim. The original Indians in the area were the Arikara Indians, who were conquered by the Sioux. When the settlers pushed West, conflicts arose between the Indians and settlers. Treaties were made to restore peace. Treaties were broken by the Indians and U.S. Government. I tend to agree with the Supreme Court that there were wrongs on both sides; that the Indian tribes at that time in the 1880's and 1890's violated parts of the treaty and perhaps the U.S. Government violated parts of them. The Supreme Court held that the Government and Congress had acted correctly and within the legal bounds. We cannot correct every wrong.

Almost every State in our Nation has some native American land claims. If we are going to do something in one State, I believe we should do it in all States.

I might say, in the State of New Jersey, there were Indian people living there who were relocated to other States forcefully. Even though no treaty was broken, the Indians were moved.

In the States of Massachusetts and New York, there are Indian land claims. Virtually every Western State has Indian land claims.

It is time for us to think of the future and not the past. No longer should we consider giving public lands to one segment of our population. We are all one people, and these public lands, in my judgment, should belong to all Americans, not just to one group.

In Hot Springs, SD, I was presented with over 1,500 signatures of people who oppose the Bradley bill. I think we sometimes forget how intense some of our local citizens feel about legislative issues. It is good for a Senator to get out to his or her State, as I did last night, to listen to constituents. Most will agree that inside the Beltway we sometimes get out of touch with our constituents.

I want to compliment the citizens of Hot Springs for the large spontaneous turnout. These were people interested in government, and wanted their voices heard. There were Indians and whites in attendance.

Let me say that many Indians disagree with the Bradley bill. I did a survey in my newsletter, and found that a sizable number of Indian people in our State who responded want to see the moneys disbursed.

So, Mr. President, it is important that Congress know of the intense opposition of South Dakotans to the Bradley bill.

I compliment our minority leader, Senator Dole, who has written a strong letter of opposition to this bill. We were also honored this weekend to have Senator McCain in South Dakota state his opposition to this type of legislation. The Republican Presidential nominee, George Bush, has stated his opposition. The Reagan administration has also stated their opposition to the Bradley bill.

So I think one should note there is much opinion in Washington that this legislation should not see the light of day. If it is considered, there will be amendments offered putting other States in the same category as South Dakota. Interestingly enough, the Wyoming portion of the public lands was dropped out of the Bradley bill for political reasons, so it could pass more easily.

I think we should be very careful. I have worked on a great deal of legislation positively affecting Indian tribes. My record is very strong in that area.

We have many people from the Indian and white races who worked in harmony. South Dakotans elected an Indian, Ben Reifel, to Congress.

This bill was introduced by someone from outside our State. The Bradley bill has heightened racial tensions in our States. It is viewed as a setback for equality.

So, Mr. President, I take this opportunity to report to the Senate on that meeting in Hot Springs, SD, and compliment the citizens for attending.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, just for clarification, we are not in morning business, are we, at this point?

The PRESIDING OFFICER. The pending business before the Senate is the plant closing legislation, S. 2527.

AMENDMENT NO. 2429

(Purpose: To provide a substitute amendment)

Mrs. KASSEBAUM. Mr. President, I have an amendment at the desk in the nature of a substitute to S. 2527, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mrs. Kassebaum] for herself, Mr. Dole, Mr. Simpson, Mr. Hatch, Mr. Karnes, Mr. Quayle, Mr. Kasten, Mr. Lugar, Mr. McCain, Mr. Rudman, Mr. Bond, Mr. Domenici, Mr. McConnell, Mr. Cochran, and Mr. Pressler, proposes an amendment numbered 2429.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Worker Adjustment and Retraining Notification Act".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions; exclusions from definition of loss of employment.
Sec. 3. Notice required before plant closings.
Sec. 4. Exemptions.
Sec. 5. Administration and enforcement of requirements.
Sec. 6. Procedures in addition to other rights of employees.
Sec. 7. Procedures encouraged where not required.
Sec. 8. Authority to prescribe regulations.
Sec. 9. Effect on other laws.
Sec. 10. Effective date.

SEC. 2. DEFINITIONS; EXCLUSIONS FROM DEFINITION OF LOSS OF EMPLOYMENT.

(a) DEFINITIONS.—As used in this Act:

(1) AFFECTED EMPLOYEE.—The term "affected employee" means an employee who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing by the employer of the employee.

(2) AGGRIEVED EMPLOYEE.—The term, "aggrieved employee" means an employee who—

(A) has worked for the employer ordering the plant closing; and

(B) as a result of the failure by the employer to comply with section 3, did not receive timely notice either directly or through the representative of the employee as required by section 3.

(3) EMPLOYER.—The term "employer" means any business enterprise that employs—

(A) 100 or more employees, excluding part-time employees; or

(B) 100 or more employees who in the aggregate work at least 4,000 hours per week (exclusive of hours of overtime).

(4) EMPLOYMENT LOSS.—Subject to subsection (b), the term "employment loss" means—

(A) an employment termination, other than a discharge for cause, voluntary departure, or retirement;

(B) a layoff exceeding 6 months; or

(C) a reduction in hours of work of more than 50 percent during each month of any 6-month period.

(5) PART-TIME EMPLOYEE.—The term "part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required.

(6) PLANT CLOSING.—The term "plant closing" means the permanent or temporary shutdown of a single site of employment if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees.

(7) REPRESENTATIVE.—The term "representative" means an exclusive representative of employees within the meaning of section 8(f) or 9(a) of the National Labor Relations Act (29 U.S.C. 158(f) or 159(a)) or section 2 of the Railway Labor Act (45 U.S.C. 152).

(8) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

(b) EXCLUSIONS FROM DEFINITION OF EMPLOYMENT LOSS.—Notwithstanding subsection (a)(4), an employee may not be considered to have experienced an employment loss if—

(1) the closing or layoff is the result of the sale of part or all of an employer's business and—

(A) the purchaser agrees in writing, as part of the purchase agreement, to offer employment to the employee with no more than a 6-month break in employment and the agreement specifies that the employee is a third-party beneficiary; or

(B) the purchaser, within 30 days after the purchase, offers employment to the employee with no more than a 6-month break in employment; or

(2) the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—

(A) the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; or

(B) the employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

SEC. 3. NOTICE REQUIRED BEFORE PLANT CLOSINGS.

(a) IN GENERAL.—An employer shall not order a plant closing until the end of a 60-day period after the employer serves written notice of a proposal to issue such an order—

(1) to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) to the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.)) and the chief elected official of the unit of local government within which such closing is to occur.

(b) MULTIPLE UNITS OF LOCAL GOVERNMENT.—If there is more than one such unit, the unit of local government that the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

(c) REDUCTION OF NOTIFICATION PERIOD.—

(1) CAPITAL OR BUSINESS.—An employer may order the shutdown of a single site of employment before the conclusion of the 60-day period if as of the time that notice would have been required the employer was actively seeking capital or business that, if obtained, would have enabled the employer to avoid or postpone indefinitely the shutdown and the employer reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.

(2) BUSINESS CIRCUMSTANCES.—An employer may order a plant closing before the conclusion of the 60-day period if the closing is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

(3) NOTICE.—An employer relying on this subsection shall give as much notice as is practicable and at that time shall give a brief statement of the basis for reducing the notification period.

(d) EXTENSION OF LAYOFF PERIOD.—A layoff of more than 6 months that, at its outset, was announced to be a layoff of 6 months or less, shall be treated as an employment loss under this Act unless—

(1) the extension beyond 6 months is caused by business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and

(2) notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required.

(e) DETERMINATIONS WITH RESPECT TO EMPLOYMENT LOSS.—For purposes of this section, in determining whether a plant closing has occurred or will occur, employment losses for 2 or more groups at a single site of employment, each of which is less than the minimum number of employees specified in section 2(a)(6) but which in the aggregate exceed that minimum number, and which occur within any 90-day period shall be considered to be a plant closing unless the employer demonstrates that the employment losses are the result of separate and distinct actions and causes and are not an attempt by the employer to evade the requirements of this Act.

SEC. 4. EXEMPTIONS.

This Act shall not apply to a plant closing if—

(1) the closing is of a temporary facility or the closing is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking; or

(2) the closing constitutes a strike or constitutes a lockout not intended to evade the requirements of this Act.

SEC. 5. ADMINISTRATION AND ENFORCEMENT OF REQUIREMENTS.

(a) LIABILITY TO AGGRIEVED EMPLOYEES.—

(1) IN GENERAL.—Any employer who orders a plant closing in violation of section 3 shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing for—

(A) back pay for each day of violation at a rate of compensation not less than the higher of—

(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) the final regular rate received by such employee; and

(B) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss that would have been covered under an employee benefit plan if the employment loss had not occurred.

(2) PERIOD OF LIABILITY.—Such liability shall be calculated for the period of the violation, up to a maximum of 60 days, but in no event for more than one-half the number of days the employee was employed by the employer.

(3) REDUCTION OF LIABILITY.—The amount for which an employer is liable under this subsection shall be reduced by—

(A) any wages paid by the employer to the employee for the period of the violation;

(B) any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

(C) any payment by the employer to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation.

(4) FURTHER REDUCTION FOR DEFINED BENEFIT PLANS.—In addition, any liability incurred under this subsection with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

(b) LIABILITY TO UNITS OF LOCAL GOVERNMENT.—Any employer who violates section 3 with respect to a unit of local government shall be subject to a civil penalty of not more than $500 for each day of such violation, except that such penalty shall not apply if the employer pays to each aggrieved employee the amount for which the employer is liable to that employee within 3 weeks from the date the employer orders the shutdown or layoff.

(c) GOOD FAITH VIOLATIONS.—If an employer that has violated this Act proves to the satisfaction of the court that the act or omission that violated this Act was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this Act, the court may, in its discretion, reduce the amount of the liability or penalty provided for in this section.

(d) JURISDICTION.—A person seeking to enforce such liability, including a representative of employees or a unit of local government aggrieved under subsection (a) or (b), may sue either for such person or for other persons similarly situated, or both, in any district court of the United States for any district in which the violation is alleged to have occurred, or in which the employer transacts business.

(e) ATTORNEYS' FEES.—In any such suit, the court may, in addition to any judgment awarded the plaintiff or plaintiffs, allow a reasonable attorneys' fee to be paid by the defendant, together with the costs of the action.

(f) EXCLUSIVITY OF REMEDIES.—The remedies provided for in this section shall be the exclusive remedies for any violation of this Act.

SEC. 6. PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.

The rights and remedies provided to employees by this Act are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of the employees, and are not intended to alter or affect such rights and remedies, except that the period of notification required by this Act shall run concurrently with any period of notification required by contract or by any other statute.

SEC. 7. PROCEDURES ENCOURAGED WHERE NOT REQUIRED.

It is the sense of Congress that an employer who is not required to comply with the notice requirements of section 3 should, to the extent possible, provide notice to its employees about a proposal to close a plant or permanently reduce its workforce.

SEC. 8. AUTHORITY TO PRESCRIBE REGULATIONS.

The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this Act. Such regulations shall, at a minimum, include interpretative regulations describing the methods by which employers may provide for appropriate service of notice as required by this Act.

SEC. 9. EFFECT ON OTHER LAWS.

The giving of notice pursuant to this Act, if done in good faith compliance with this Act, shall not constitute a violation of the National Labor Relations Act (29 U.S.C. 151 et seq.) or the Railway Labor Act (45 U.S.C. 151 et seq.).

SEC. 10. EFFECTIVE DATE.

This Act shall take effect on the date that is 6 months after the date of enactment of this Act, except that the authority of the Secretary of Labor under section 8 is effective on the date of enactment of this Act.

Mrs. **KASSEBAUM**. What this amendment does, Mr. President, is require advance notification for plant closings. It is cosponsored by Senators DOLE, SIMPSON, HATCH, KARNES, QUAYLE, KASTEN, LUGAR, MCCAIN, RUDMAN, BOND, DOMENICI, MCCONNELL, and COCHRAN.

It was introduced by myself, discussed on last Thursday in an effort to express our concerns for plant closing and a belief that, in all fairness to employees, there should be mandatory notification of 60 days when a plant would be closed.

However, the change between this and S. 2527 would be that layoffs, as defined in S. 2527, would not be included. And I have initiated this amendment in the nature of a substitute because I believe that there should be some flexibility in the options that are open to a company when they have to make changes without unduly hurting employees and it is in an effort to try to be fair and yet accommodating that we have introduced this amendment.

We will be debating this at some length later in the course of the debate and a vote is scheduled, I believe, at 2:30.

At this point, I yield the floor, Mr. President.

The **PRESIDING OFFICER**. The Senator from Massachusetts.

Mr. **KENNEDY**. Mr. President, we had a brief opportunity to talk about this amendment last week. I want to reiterate some of those points because I think it is extremely relevant to the issue that we are considering here today.

There are 10 million workers who have lost their jobs since 1980. That figure could go as high as 13 million depending on how you define dislocation. But let us take the figure to be 10 million who have lost their jobs since 1980. Of those who have actually lost their jobs, almost half were laid off and then became either indefinitely unemployed or eventually went to work elsewhere.

If the Senate is accepting the premise of the Senator from Kansas, we are talking about half of all of those who lost their jobs.

If we follow the logic of the Senator from Kansas, she is prepared to give the 60-day notice if the plant is actually going to close. But those people who are going to be laid off will still be subject to the blue slip on Friday afternoon, with no right to any notification. So the burden on that person who loses his or her job, in terms of fairness and equity, is just as significant as the burden on those who are going to have the plant close down.

So, we say if the idea behind plant closing is one of fairness and equity to men and women who have worked in plants and factories, in many instances for a lifetime, I think the same kind of premise should apply to those who are going to be laid off and may not regain their jobs at all.

If what we are interested in is fairness and equity to those people, it seems to me that the logic of that argument applies equally to those who are going to be laid off. Any review of the relevant studies shows that a great percentage of those workers do not go back into the plant or factory where they have been laid off.

Second, one of the very important reasons for this legislation is that those who are going to be laid off or lose their jobs will be able to get some training or other assistance so that they can make a transition to other types of employment. During the continuing debate on this issue, I believe we showed that of those who lose their jobs, only a modest percentage go on into training programs. In those situations where workers have 60 or more days' notice, a good many more of those people go into training. And those individuals are employed a good deal more quickly after their job loss. And the burdens of the community and on the society are a great deal less: Less unemployment insurance, less eligibility for various entitlement programs, less burden on the taxpayer.

So what we are talking about is fairness for the individual worker. We are talking about the training programs for those that would lose their jobs. And that, again, is something that can be made available at that plant and factory when notice is given. It is not a requirement. It is an option, if they want to get that training.

But we are talking about saving the taxpayers money as well. So it seems to me, Mr. President, the arguments for layoff coverage that have been made during the course of this debate last week and earlier during the debate on the trade bill are so compelling that this amendment should fall.

Finally, Mr. President, we had a series of studies that were done with regard to the plant-closing provisions. We find, according to the General Accounting Office, two-thirds of the firms gave their workers 14 days or fewer advance notice. Maybe they gave them a day, or maybe a week. But the average blue-collar worker got 7 days' notice. And the average nonunion worker got 2 days' notice, nationwide. Nationwide.

And about a third of all of the workers got virtually no notice whatsoever. It was the Friday afternoon, at 6 o'clock, they get the pink slip and are told not to come back.

There are tragic stories. In many instances those individuals were told that they had a half hour to clear out all of their personal belongings.

Mr. President, having seen that situation with regard to plant closings and similar types of situations with regard to layoffs, we believe that this amendment should be defeated.

Mr. President, we are, hopefully, in the final hours before we are going to reach a final vote in the Senate on this bill. I am very hopeful that we can reach it, if not today, no later than tomorrow. It seems to me that this has been an issue that has been given full consideration. This is not really a new issue at all. I think the membership have a good idea exactly what we are talking about, what the issues are.

I certainly hope that since the membership does have good insights into the issues behind this amendment that we will reject it.

I have great respect for the Senator from Kansas, and I know she is trying to work out some kind of a balance on these various issues. I know she believes this particular amendment is crafted in a way to try and balance the various interests, but I must say I find it difficult to understand quite the support for this amendment, both in human terms and economic terms.

I hope at a time when the membership has an opportunity to come over and debate this further that we will have a chance perhaps to get into greater detail on this amendment. I hope it will not be accepted.

Mrs. KASSEBAUM. Mr. President, I wonder if the Senator from Massachusetts will yield for a question for just a moment? I would like to ask the Senator from Massachusetts if he could explain a bit about how Massachusetts law on plant closing works. It is my understanding that in the last 3 years they have adopted plant-closing legislation in Massachusetts.

Mr. KENNEDY. Yes, I would be glad to. We generally do not have required notice in Massachusetts, but in order for the Massachusetts plants to be eligible for various State assistance programs, there has to be the notification.

We have had experience in our State with a number of companies which are going to alter their employment situation: the Framingham GM plant, for example; the GE plant out in Pittsfield, MA, where they gave far beyond the given 60 days' notice.

There have been some exceptions, but where we have had significant layoffs and some closings themselves, the State has put the training programs into effect. They have had important success, some better than others, but it has been important success.

Mrs. KASSEBAUM. Is it not true that the Massachusetts legislation, however, is based on percentage of laid-off workers rather than specific numbers as is designated in the legislation before us, the original legislation?

Mr. KENNEDY. The Senator is correct. There are percentages and times that they have worked in the particular employment. The fact is, the measure we have before us today establishes both percentages and some basic numbers.

We tried, and this is an interesting concept, not to overburden the smaller businesses. So we had a healthy number of people that had to be laid off, but we also require a percentage of the work force. So we have both percentages and total numbers.

That was a point of trying to accommodate some of the pressures that might exist on some of the smaller businesses.

It does seem to me, we tried to work out a reasonable approach that would not overburden some of the newer businesses and corporations. Senator METZENBAUM raised the numbers, and altered, to some extent, the percentage that had been proposed in other legislation.

We have some variation from that procedure but, by and large, our experience in Massachusetts has been that notification helps with the training programs. That is what we are most interested in in supporting this legislation.

Mrs. KASSEBAUM. Mr. President, I would like to ask the Senator from Massachusetts, has it worked well in Massachusetts to have the 90 percent, I believe it is, level work force—it has to be 90-percent layoff before it kicks in and has that been successful?

Mr. KENNEDY. I will be glad to put in the RECORD details of what the impact of that 90 percent has really been on Massachusetts firms. As the Senator probably knows, we have one of the oldest work forces in the country. That has definitely been true in the manufacturing sector. We are still a manufacturing State, but we have lost a good many of the manufacturing facilities in our State.

I just offhand do not know the numbers of newer firms that actually would have been caught that did not reach this percentage, the 90 percent for 6 months or less. I will find that out from our commerce department in Massachusetts and try and include in the RECORD those firms that had the longer and those firms which had the shorter.

It might be less.

Mrs. KASSEBAUM. It seems to me, Mr. President, that that is a much more reasonable approach to take rather than trying to put in some rigid numbers.

My problem, Mr. President, with S. 2527, as it is written, is a company which must make a decision in one of its operating units to reduce and lay off employees for a period of time may pick up those employees elsewhere in their unit.

I am thinking, for instance, of Cessna Aircraft Corp. in Wichita which has a separate unit in Hutchinson, KS. If within their plant facility in Hutchinson or in Wichita, KS, they have to lay off a number of employees within one of the operating units within the single site, they would then be under the original provisions of S. 2527, subject to mandatory notification.

I think that this does not allow the flexibility that is necessary, given some changes that may occur in other industries that affect, say, the Cessna Aircraft industry, and there does need to be some limits to where we would require mandatory notification which significantly binds a company's operation.

Therefore, it seems to me either we can separate out, as I am doing with my amendment, just the plant closing, or we can try and find some accommodating language regarding layoff notification.

It seems to me this is a much more reasonable approach which takes into account those employees who are hurt by plant closings who obviously need to have time to prepare using the training programs which are ongoing anyway. It is really a question of when those training programs then begin.

I yield the floor at this point, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Massachusetts law was passed in 1984. We were one of a handful of States to pass that legislation. As has been described here, we stipulated a percentage of the work force that had to be laid off over a period of time. That is one particular way of approaching this issue. It had worked, given the situation in our State.

Quite frankly, we have had a successful economy in Massachusetts. We have not had the traumatic experience that has existed in other parts of the country, but we were one of the first in the country to accept the concept of notice to workers who were being laid off in the plants were going to be closed. We also built upon the system of training. That has been extremely successful.

Now, in this legislation, we are talking about 50 workers being laid off, if they comprise a third of the work force, or 500 layoffs even if they are not a third of the work force.

So you are talking about reasonably sized companies or corporations. So we take numbers. You can take it one way or the other. We have had a successful experience.

The figures that we propose here have not been pulled out of the air. They represent the best judgment of the National Academy of Science and the reviews and studies that have been done by the Office of Technology Assessment based on what is necessary for the adjustment period so that new skills can be developed by the workers and they can find other kinds of employment. It is based on real life experiences in other countries. Our neighbor to the north, Canada, has a much more extensive program. It provides a procedure roughly the way we do—certain threshold numbers for layoffs, and plant closings. They have in some of the Provinces more time for notification.

We do not hold this to be a magic formula, but we do believe it is a bare minimum to do the job. We are satisfied that, both for closings and layoffs, this bill will have a positive impact on the lives and well-being of the affected workers.

I appreciate the opportunity to talk briefly about the experience in our Commonwealth and to also talk about this particular proposal. I am very hopeful we will at the appropriate time not accept the amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. QUAYLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. QUAYLE. Mr. President, the amendment that is pending before the Senate, if we could set everything aside and look at this just straightforward to where the original proponents of mandatory plant-closing legislation began and where opponents of mandatory plant-closing legislation began, I would think, if we had politics out of it, that you would say the Kassebaum amendment is a good-faith effort to strike a balance to see enacted into law a plant-closing requirement, when in fact plants are going to close, that notification must be given.

Anyone looking at where the two sides started would certainly conclude that this is a good-faith effort to deal with this issue.

We have a "Dear Colleague" letter dated June 27, signed by Senators ROTH, METZENBAUM, and KENNEDY, dealing with the Kassebaum amendment. There are two important points this "Dear Colleague" letter emphasizes in opposition to the Kassebaum amendment. Both points, I believe, can be clarified and both points can be addressed, particularly the first requirement. I read from the letter:

> If adopted, the Kassebaum amendment will create a gaping loophole in the legislation. The amendment will allow employers to evade their obligations to provide advance notice by whittling down their operations, rather than closing down entire facilities. For example, an employer with 800 employees could lay off 750 workers with no advance notice because 50 workers would still remain employed. The Kassebaum amendment may insure, ironically enough, that there will never be another "plant closing" in America. But hundreds of thousands of workers will still lose their jobs without any advance warning because they were "laid off."

The contention of this paragraph and this number one concern by the authors of this "Dear Colleague" letter is that there is a loophole. If that is the objection of the authors of this letter, we could fix that loophole. As a matter of fact, I believe there has been some colloquy between the Senator from Kansas and the Senator from Massachusetts about this issue.

I urge that if we want to work on this particular aspect, we could adopt the Massachusetts model. The Massachusetts model says that a plant is considered closed if you lay off 90 percent of the work force. We could work with the definition of what a plant closing is. We would not have to have 100 percent; 90 percent would be a good figure. We could work out that difference, if that is the objection of the authors of this letter. That objection can be met, if that is it.

The second one, dealing with the layoff, is a more difficult proposition. That is where we come down to whether we ought to be involved in giving the notification for plants that are going to close or giving the notification for the layoffs. It is not an easily understood definition. There are a number of determining factors of what a layoff is.

According to the "Dear Colleague" letter, a layoff must exceed 6 months. There is a possibility that many employers might feel reasonably comfortable that they could call people back within a 6-month period, but they are not certain. They think they can meet the 6-month deadline, but they are not certain. Under the legislation, the way it is drafted, if they are not certain, they have to give the notice.

There are a lot of layoffs, and there are a lot of call-backs. If an employer is faced with a lot of lawsuits and uncertainties, prudent economics and advice from investors would be to shut the plant down and not keep it going.

Let me give the Senate, if they are interested—and if they are not, that is all right—a few of the statistics of data to support the Kassebaum amendment.

In 1987, 400,000 persons were separated in closing and layoffs events; 200,000 of those were due to seasonal or slack work. The plant remained open in 80 percent of those 200,000 people who were laid off due to seasonal or slack work.

For those who are going to be called back to their place of employment, there is no need to have the training and readjustment, because they will be called back; they will go back to work. That is the very difficult problem with this legislation, with the indefinite layoff.

With the indefinite layoff, in my judgment, there will be a host of potential lawsuits, a host of potential problems in meeting those requirements, because the employer is not certain he will be able to make that call-back within 6 months.

That is where the Kassebaum amendment focuses: on how we deal with layoffs. How do we deal with the indefinite layoffs? Should we not have a different standard and a different requirement for when a plant closes than when indefinite layoffs occur with the hope of calling back? When someone is going to be laid off and there is no hope of being called back, that is a different story. But in the data I gave, 80 percent of the plants remained open. I think it is the objective of the authors of this legislation to have plants stay open, not to have plants close.

We have engaged in a lot of rhetoric. One might imagine, from listening to the debate the last few days, that we were in a national economic emergency, with high unemployment, high interest rates, that we would have the European experience of double-digit unemployment, permanent plant closings, and layoffs on a very significant basis. You would think that would be the case, listening to some of the rhetoric.

Mr. President, I do not believe we need to go into the economic situation. The fact is that the economy is moving ahead, and I think the economy will continue to move ahead.

One of the questions you ask economists, to try to develop a consensus, is, "Why does the American economy do better than the European economy? Why is the American economy thriving in jobs and opportunity and hope for the future, while European economies are having 10 percent to 12 percent unemployment on an annual basis?" They will say that the dynamics and stability of the American economy are ingredients that make this economy as robust as it is.

I think the Kassebaum amendment addresses a balance on how we can do that which is common decency, of any employer to give employees notice when he can. I have stated that any CEO who does not give notice when he can should be fired. They should give notice. Nobody is objecting to that. The Senator from Kansas has put her finger on the issue.

I am not here to condemn advance notice. As a matter of fact, as a sponsor of the amendment, I am supporting advance notice for plants that are going to be closed.

Where we want to try to work out the language deals with the layoffs.

I know the reason for this legislation is that some businesses unfortunately have not given that notice, and they should. I have heard Senators time and time again stand up on this floor and say "I had an example in my State where a company could have given notice and didn't give notice, and shut the gate."

That is wrong. That should not happen.

I have talked to the business community in the past, and I will be talking to them in the future after this legislation. If in fact there is not a discernible perceived corporate ethic that in fact would give this voluntary notice, then in fact what you are going to get is something that is mandatory, and that is the legislation that we have before us.

Many of us who question the intrusion of the Federal Government in the marketplace are willing to make it mandatory on the plant closing notification but not on the indefinite layoff. Should they give notice on layoff? Certainly. But there are particularly seasonal workers. You have highs; you have lows. Business does not always flourish at a certain level. You have ups and downs. If in fact an employer cannot make that decision, and particularly when he has some downs, on calling people back or saying, "This time, I am going to be able to keep it at 600, a few months at maybe 450. I want to get back to 600. I want to be able to do that."

The flexibility that he has now in fact can provide that.

But if we put this straitjacket on the private sector, I think what you are going to have and the probability is you are going to have more plant closings because of indefinite layoffs. They are going to say, "Look, I don't know whether I can make it or not. I am not going to chance it. I am not going to chance a lawsuit. Here is your notice. I have had my day in business. The plant is closed."

They get their 60-days notice, but they do not have a job.

I think what the workers in this country want and the workers in my State is they want a job. That is the right that they want to have protected. It is the job, the opportunity.

If in fact this legislation goes along the European model and creates some disemployment effect, people are going to be disenfranchished of that right and that hope of having a job, and having a job is one of the most precious objectives and rights that I find the workers in this country want.

So I think that the Kassebaum amendment certainly is and should be acceptable. It is a compromise. It is a good-faith effort. It is one that I feel has gone, at least in my judgment, a long way.

The reason that the Kassebaum amendment makes sense is that first there are fewer cases of where we have actual plant closings than there are layoffs. So let us focus on the problem and that is when the plant is closed.

The second reason is that workers whose employment is closed are in the most need of readjustment assistance. Obviously if a worker is going to get called back to that place of employment where they were just laid off the readjustment assistance is not that necessary.

Twenty-five percent of all layoffs are due to seasonal work, ups and downs. We know that. There is nothing that would be more detrimental to hiring people back than to try to have the legislative straitjacket that does not have the flexibility of the employer.

Mr. President, one of the problems that you have and the potential litigation you have on this layoff provision and the indefinite layoff provision deals with, let us say, a company of 300. Let us take an automobile dealership that has 300 employees. Auto sales are down. They say they are going to cut their work force back by 50 percent, down to 150. He thinks and he hopes he is going to be able to hire many of those back in 6 months. Let us say that the 6 months expires and he has only hired back 45. He did not quite meet the one-third requirement. Therefore, he is subject to all sorts of litigation, many costs on top of it, even though he would be within five people of that one-third threshold that is in this legislation.

I am not even exactly certain, and I looked at the legislation, on what data when he used the data base to see whether they achieved the one third. There would be a very important point particularly in a lawsuit and there would be many lawsuits dealing with this legislation.

Mr. President, this legislation and this amendment are identical to the bill that is before the Senate with just one important exception, and that is the layoffs have been taken out. The inclusion of routine cycle layoff is the biggest problem with the bill. It is a point that I have made time and time again and it is not necessary to make that again.

But if we are going to have and encourage readjustment education assistance, it ought to go those who are not going to be called back, that have lost their job through no fault of theirs because the plant has closed. That is where our priority should be.

I do not believe that this is a so-called killer amendment. I think this amendment is one that is born of common sense and compromise. Our economy is great. I think it is still moving forward, and I do not believe that this legislation, particularly dealing with the indefinite layoffs, is going to help it.

So I would hope in the spirit of a good-faith effort having the Senate work its will and having the Congress work its will. This issue has received a lot a political attention. Interestingly enough the Massachusetts or the Dukakis plant-closing legislation is more voluntary than mandatory. It is going way beyond the Massachusetts law.

The Kassebaum amendment is trying to strike a balance that those who fear an unfettered intrusion by the Federal Government may in fact turn seeing the disemployment that would result from that kind of legislation and a whole host of other mandated Government benefits for employees. There may in fact be financial burdens placed on the private sector.

The Kassebaum amendment strikes a balance and legislation should strike a balance, and I hope it is considered in that context.

Although I am not terribly optimistic that we will have a bipartisan vote for the Kassebaum amendment, we may be beyond that. We may be locked in a bitter political partisan struggle on this legislation. I hope not. I think there is still time to see what we can in fact work out. We may be able to work something out and maybe not. But in any event, the Kassebaum amendment deserves the strong support of this Senate.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **METZENBAUM.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **METZENBAUM.** Mr. President, all in all, the proposal of the distinguished Senator from Kansas has incorporated many of the features of the plant-closing bill, but there are several critical and glaring deficiencies. As a matter of fact, I must say that I am pleased to see that some who would not originally accept the concept of notice in connection with plant closing have now indicated that they are prepared to accept that concept. I think that is well and good.

But I think we have to be realistic about the fact and recognize that you can have a layoff that is tantamount to a total plant closing but not have that name. You can lay off 980 of 1,000 employees and keep a few watchmen on and that is not a plant closing.

Being very fair and candid about it, if there were any thought of accepting the Kassebaum amendment, which I do not think there is, it just is not realistic and it would not be fair.

But I will say this: I am pleased that so many on the other side of the aisle have now seen fit to accept the concept that there should be notice in connection with a plant closing. But what we know about this amendment as proposed is that it is a killer amendment. It simply guts the bill. It was described in those terms by the majority leader of the Senate.

By eliminating advance notice for mass layoffs, the amendment guarantees that from now on there will be no more plant closings. The Republican amendment is a blueprint for employers who wish to evade the mandatory notice requirement. Employers simply will lay off workers bit by bit, piece by piece, until no one is left at the plant.

It concerns me that we understand the significance of this amendment, because, with this amendment, there is no bill. With this amendment, there is just no bill. So I feel confident that those who respect the concept of plant closing will agree with the Senator from Ohio when a motion is made to table the Kassebaum amendment.

There will be additional debate after that, but I think that we have to put this amendment aside, this amendment to sleep, because to pass this amendment would mean that we were not going to have a bill. Because if we did have a bill, the bill would be meaningless. It would be a sham. We would be kidding the workers of America.

The 86 percent of the American people who believe that there ought to be mandatory advance notice would think that such legislation had been passed, only to wake up to the reality that it was passed in name only, but not actually in fact. By dropping advance notice for mass layoffs, the Republican amendment undermines the entire purpose of the bill: To help workers who have lost their jobs adjust and retrain so they can move quickly back into the work force.

Let us face it, there was an amendment offered the other day to provide dollars instead of notice. And we made it clear that was not our direction, that was not what we were seeking. We are not looking for money.

Some contracts presently do provide for severance payments. 57 percent of white-collar workers and 37 percent of blue-collar workers, as a matter of fact, are so covered. But we were not seeking that. What we are seeking is the notice so that the employees can retrain, readjust, be able to find new employment. As a top official of General Motors said:

> If we can get to the employees soon enough while they are still on the job, we can help them with retraining and counseling. But if we cannot get to them until after the fact, then we are unable to achieve the objective we seek, and that is to help them find a new job.

The Senator stands on the floor of this body to make it clear, that we are not looking for money. We are looking for fairness. We are looking for the decent thing to be done. We are looking to give the employees a chance to work. Workers of this country are anxious to be able to have a job and when you give them retraining, when you give them counseling, when you give them placement advice, then indeed you are helping those workers and you are helping the American free enterprise system.

Even the administration's own blue ribbon task force concluded that advance notice is essential to running a successful retraining program. The proposed amendment breaks the crucial link between advance notice of a job loss and retraining for a more productive work force.

Our bill, by contrast, maintains that crucial link. The bill requires advance notice of mass layoffs, layoffs that result from structural dislocation and lead to long-term unemployment.

I hope, Mr. President, that when we deal with this issue, which will be soon, at 2:30, that at that point this body will see fit to lay the Kassebaum amendment on the table.

Mr. President, I have a parliamentary inquiry.

The **PRESIDING OFFICER**. The Senator will state the inquiry.

Mr. **METZENBAUM**. Would the Senator from Ohio be in order to offer his motion to table at this point, notwithstanding the fact that the vote in connection therewith would not occur until 2:30 under the previous unanimous-consent agreement?

The **PRESIDING OFFICER**. The motion to table would not be in order at this time. It would take unanimous consent.

Mr. **METZENBAUM**. Mr. President, I ask unanimous consent that, at the hour of 2:30, the Senator from Ohio be recognized for the purpose of offering a motion to table.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **METZENBAUM**. I yield the floor.

The **PRESIDING OFFICER**. The Senator from Utah.

Mr. **HATCH**. Mr. President, I would like to commend the Senator from Kansas for this amendment. It shows a keen understanding of the hardships faced by workers whose employer is forced to close the plant or facility as well as of the essential need for flexibility in order to protect jobs in the long run. In my opinion, Mr. President, workers win all the way around if this amendment is enacted.

I agree with Senator KASSEBAUM that it is time we discussed the interests of workers. I do not believe American working men and women want to hamstring American enterprise. I do not believe they want Government to step in and micromanage every business decision. I do not believe they want their voices, as union members or as independent employees, silenced by a Government mandate which limits their bargaining power. The American people are not stupid. Given the true facts of this legislation, they would probably agree that notice for closings is a decent thing to do, but that mandating notice for layoffs, is overregulation which will ultimately cost them jobs, pay increases, benefit increases, business expansion, and prosperity within their communities.

Let me state some of the reasons why this is not a simple plant-closing bill as the sponsors have said. The rest of the Senate, however, is beginning to realize that it is far more than that. S. 2527 is a bill with more than 2,000 words. It is a bill that contains dozens of requirements for employers. And it is a bill that is confusing in several respects.

NO. 1. DEFINITIONS OF PLANT CLOSING AND MASS LAYOFF

Look at the definitions of plant closings and mass layoffs. Now, to me and to most people, a plant closing is a permanent shutdown of a manufacturing plant of some kind in which all, or substantially all, of the employees are terminated, and the production processes of the plant are permanently shut down. Look, for example, at the Massachusetts plant-closing bill that Governor Dukakis recently signed into law. It says that a plant closing is, and I quote, "a permanent cessation or reduction of business at a facility which results or will result as determined by the director in the permanent separation of at least 90 percent of the employees of said facility within a period of six months." In other words, in Massachusetts, a plant closing is when a plant is actually closed and 90 percent of the employees are let go. Is that what the bill before us requires? No. The bill before us says that whenever as few as 50 employees are laid off at a single site of employment, a plant closing is underway, even if there are 10,000 employees in that facility.

NO. 2. OPERATING UNIT

Now, the sponsors will be quick to say that the bill only considers it a plant closing when the 50 employees laid off in the 10,000 person plant are part of facility or "operating units that have been shut down." But, what is a facility under this legislation? What is an operating unit? The terms are not defined by this simple notice bill. Is an operating unit a mailroom, an assembly line, two employees making house calls in a service truck, three workers who assemble the right rear passenger door on a Ford Taurus, five baggage handlers loading luggage on an airport carousel, or an office shared by two stockbrokers? Who knows? The simple fact of the matter is that the term "operating unit" is meaningless. Whenever 50 employees are laid off during any 90-day period—that's a 90-day period—this legislation will be triggered. That's a plant closing according to the sponsors. A layoff of 50 employees in a 10,000-person manufacturing plant would not be a plant closing to most people, but it is according to the language of this legislation.

NO. 3. SINGLE SITE OF EMPLOYMENT

The term "single site of employment" is used throughout this legislation; but, nowhere in this simple notice bill is there any hint of what a single site of employment is supposed to mean. We need to get this point clarified, Mr. President. What types of business operations are to be considered a single site of employment under this legislation? The conference report states that "geographically separate operations are not to be considered when determining whether the employment threshold for triggering the notice requirement is met." The example provided is that of two assembly plants on opposite sides of town, which would be considered two separate sites, and two plants on opposite sides of the street, which would be considered one site. Distance seems to be the criteria, but the lack of definition will create havoc with employers whose two plants at opposite ends of town are only a short distance apart. No employer will know with any certainty whether the company's two plants are one site or two. The ambiguity of this standard will be resolved by the courts.

Also, Mr. President, it is very important for my colleagues to realize that this bill does not deal only with plants and factories as the proponents have implied. Let me just ask:

Is a plant a single site of employment?

Is a factory a single site of employment?

Is a grocery store, warehouse, department store, commercial business, financial transaction processing center, airport terminal, amusement park, quarry, mine, sports stadium, printing and/or copying company, law firm, plant nursery, athletic organization, bus line, tree farm, bank, savings and loan institution, bottling company, casino, television or radio station, messenger service, motion picture studio, brokerage house, real estate agent office, orchestra, construction site, hospital, hospice, data processing center, power generating facility, lumber yard, dairy, hotel or motel, nursing home, farm, automobile dealership, travel agency, laundry, janitorial service, photographic laboratory, or school, a single site of employment?

NO. 4. FALTERING COMPANY EXEMPTION

Let us look at the so-called faltering company exemption—section 3(b) of the bill. It seems to recoginze the point made by the business community, that is, when a company announces a plant closing, the company's customers, creditors, and suppliers often abandon the company immediately, thus making advance notice of a closing or layoff a self-fulfilling prophecy. So, how is an employer to comply with this exemption?

The employer must be actively seeking capital or business. That would seem fairly easy to do. The employer would need to keep a telephone log of all his contacts with banks, customers, and lenders. The employer would need to keep a list of all the visits he and his managers made to people and businesses that might be willing to give the company new capital or new orders. The employer would need to keep memorandums describing each of these contacts and the substance of all conversations. In short, the employer has to be able to prove that he or she was actively seeking business or capital. And, in producing this documentation, the employer also risks the exposure of key business information.

On the other hand, the employer must next show that if the capital or business were obtained, it would enable the employer to avoid or postpone the shutdown indefinitely. How long is that? A year? Two years? Ten? who decides? Now, how would the employer show that? Is there anything in this world that lasts indefinitely? Of course not. At some point, all businesses shut down. It would be an absolute impossibility, therefore, for an employer to meet this test. The heavy burden of proof demanded to show compliance with the requirement for this exemption renders it essentially useless.

NO. 5. SALE OR PURCHASE

Let us look at another provision of this simple notice bill—the one dealing with the sale or purchase of a business. There is no question that under this legislation, when a business is sold to another company and the employees go off the old company's payroll and on the new one, a plant closing for purposes of this act has taken place.

It would seem fairly obvious that if the business continues on as before with no significant changes of any kind, that there would be no need to go through the formal notification process. But that is not how the bill works.

Under S. 2527, an employer has three choices when the ownership of businesses are transferred. Choice No. 1 is that the employer selling a business can issue notice 60 days prior to the effective date of the sale. If the company being sold is a large one, then a form must be delivered to each and every employee of the company, even if tens of thousands of employees are involved.

Under this clause, we will now have a new way of doing business in this country. Namely, no business will be bought or sold in the United States without there being a public announcement of the sale 60 days ahead of time. The fact that two businesses are interested in making a change in the ownership must now be publicly disclosed under this legislation.

This choice, of course, would generate significant risks in situations involving delicate negotiations—situations in which the company and its employees would be better off having ownership transferred quietly without competitors and others trying to disrupt the proceedings. In those situations, the company could try choice No. 2.

Under choice No. 2.—section 2(b)(1)(a) of the act—the seller would have to persuade the purchaser to agree in writing to:

First, offer employment to each employee of the business that is being acquired; second, offer employment with no more than a 6-month break in employment; and third, make each employee of the business a third-party beneficiary of the purchase agreement.

Now, what does all of this mean? For the purchaser it means that the company must enter into a written employment contract with each employee of the business that it is acquiring. What must that written employment contract guarantee in order to be in compliance with this simple notice bill? The sponsors give no hint.

No one knows if this written employment contract is supposed to last for 60 days, 60 months, or 60 years. What does the phrase "with no more than a 6-month break in employment" mean? Does it mean that the purchasing employer is to give each employee a guaranteed job for life, and that during the employee's working life, he or she cannot be laid off for more than a total of 6 months? What if the employer tries to fire an employee who is caught stealing from other employees? Can the disciplined employee file a law suit against the employer using a breach of contract theory?

S. 2527 clearly states that each employee must be a third-party beneficiary to the purchase agreement. That means that each employee would have legal standing to sue both the purchaser and seller to enforce the employment contract that the bill requires.

What company in its right mind is going to go along with these vague, open-ended requirements when there is no meaningful guidance in the bill, in the statements of the sponsors, in the conference report, or anywhere else that we have been able to find, as to what this means? The simple fact of the matter is that choice No. 2 is one that no intelligent business person is going to make. No purchaser is going to be willing to bind itself to such a poorly defined legal obligation.

What about choice No. 3 found in section 2(b)(1)(B) of the bill? That provision says that the purchaser—30 days after the business is purchased—must "offer employment" to each employee of the company that it is buying with no more than a 6-month break in employment. Again, the requirement is not that the purchaser offers employment to the employee for a period of 60 days, which is the notice period provided in the bill. Rather, choice No. 3 seems to be a general requirement of some kind under which the employer must offer some type of long-term employment to each employee. What if the purchaser were to try to change this employment relationship at some later date? What legal liability would the employer be under? We have no idea.

To sum it up, it is clear that this legislation will substantially alter the way U.S. companies are bought and sold. An employer would be at great legal risk for trying to qualify for either choice No. 2 or choice No. 3. As a result, this legislation will have the effect or requiring public notice 2 months before the effective date of sale of a business enterprise that employs more than 50 persons. Whether or not the sponsors intend it, this requirement obviously will have a chilling effect on the transfer of business operations in the United States, and thus will lead to a lot of dislocations for businesses and a lot more failing businesses that could have been saved had there been the flexibility that this bill does not provide for or does not allow or the flexibility that presently exists, especially with regard to the layoff provisions.

NO. 6. INJUNCTIONS

Are injunctions available under this legislation for employees and local governments to use to keep a failing plant from closing? This is a very key question and one that needs to be closely looked at by the Senate.

We know that the sponsors want to restructure U.S. labor and employment policy so that it more closely resembles Western Europe.

(Mr. DIXON assumed the chair.)

Mr. HATCH. They have repeatedly said that we are one of the last major industrialized nations in the world that does not have plant-closing legislation. We know that one of the byproducts of plant-closing legislation—if not its primary reason for being—is that under these restrictive laws, it is far more difficult for employers to phase out failing operations and bring new production processes into full operation. I have already spoken of the terrible situation facing the West German steel company, Krupp, which is being forced to spend hundreds of millions of dollars—$800 million, as I understand it—trying to shut down a failing, antiquated steel mill because the German labor unions do not want it shut down, even if it means that Krupp will be forced into bankruptcy. Spending $800 million to try to do that indicates that very few companies could survive under those circumstances.

What about S. 2527? Are we to adopt all the same wrong-headed policies of foreign countries, including one that bars employers from closing failing companies? Section 5(b) of this legislation says that "the remedies provided for in this section shall be the exclusive remedies for any violation of this act." We are told by the sponsors that the purpose of this language is to prohibit courts from using injunctions to block layoffs or plant closings pending the outcome of any litigation under this legislation. But would it not have been much more clear for all concerned if the sponsors had written their intent into the language of S. 2527 or, at a minimum, taken the time to include an explanatory statement in the conference report on H.R. 3?

So once more, this simply notice bill leaves many significant questions unanswered. If the sponsors are unwilling to clarify their intent with the language found in section 5(b), then employers may be forced to wait years while all the test cases work their way through the courts. Unfortunately, this problem could be handled very simply right now with the sponsors being willing to add just a few words that would make it crystal clear that no injunctions are available under this act to stop a plant-closing or mass layoff

NO. 7. CONSULTATION REQUIREMENTS

I hope every employer in the United States realizes that this legislation still contains language that may require employers to consult with employees and local governments over their decision to close a plant or implement a layoff. Unfortunately, I do not think that very many employers realize this key point. Ten years from now, after the case law has been developed and activist judges have had an opportunity to stretch S. 2527 to its fullest, I would not be at all surprised if this country has the same restrictive, suffocating plant-closing laws that have choked off job growth in Western Europe.

As I cited before, Germany has had 1 million net jobs lost while we have had 33 million gained since 1970, and I attribute a lot of that to this type of restrictive legislation.

Look at what section 3 of this legislation requires. It says that an employer is prohibited by this law from ordering a plant closing or layoff until the end of a 60-day period after the employer serves written notice "of a proposal" to issue such an order to the employees and local government. Section 3 does not provide 60 days notice of a plant closing or layoff. It says employers must propose a plant closing or layoff for a period of 60 days before taking any further action.

How is this proposal to be made? According to section 8 of the bill, "The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this act." It goes on to say that "Such regulations shall, at a minimum, include interpretative regulations describing the methods by which employers may provide for appropriate service of notice as required by this act."

In other words, the Secretary of Labor will issue regulations governing what will go in the notice of a proposal. There will be a new Department of Labor form that employers will use, called a notice of a proposal. The regulations may say that whenever an employer is considering laying off 50 or more employees at a single site of employment, all employers must serve this form—the notice of proposal—to all affected employees. This form shall specify with particularity the action proposed. The regulations might go on to say that should the employees or local government desire to discuss the proposed action with the employer, the form shall indicate the senior management level person responsible for responding to alternatives proposed by local governments and unions. Failure to include such person's name and to engage in any subsequent negotiations shall be considered a violation of the act, the regulations might say.

The point here is, why else would the legislation call for the serving of a proposal—instead of the serving of notice of an impending action—if the sponsors do not fully intend to require some type of consultations over fundamental management decisions? If this is not the sponsors' intent, then once again it would be very easy for them to strike out the words that future Secretaries of Labor and courts might use to require what no one in Congress has said they want—bargaining over plant-closing decisions.

NO. 8. STRIKES

Let's look at another provision of this simple notice bill—the provision dealing with strikes. Section 4 of the bill states that the act shall not apply to a plant closing or mass layoff if the closing or layoff "constitutes a strike." In other words, if the employees of a plant go out on strike closing the plant, no notice is required because the layoff constitutes a strike.

What if the employees go out on strike and stay out on strike indefinitely and the business is destroyed. Will the employer be required to give 60 days notice when he gives up the business for lost and legally terminates it? Yes; it would seem. In this case, the closing does not constitute a strike; the closing is the result of a strike. Notice would be required. When the employer legally terminates the business operation, he would be required to give all striking employees 60 days pay and benefits, even though these employees voluntarily walked off the job and have no intention of going back to work. This hardly seems fair.

What if the employees of a plant are laid off because a factory supplying their plant is on strike? Does this exemption apply? No. Section 4 exempts closings or layoffs that constitute a strike, not closings or layoffs that are caused by a strike. All of us remember past labor history where major steel mills have gone on strike and major automobile factories have been hurt because of it. This bill does not take care of that.

What if in a few years when the NFL players' union begins negotiations with the owners of the National Football League teams, talks again break down, and the owners again decide to hire replacement players? What if the regular players decide not to return to work for the rest of the season, and the fans get to watch an entire season of replacement teams? How does this legislation apply? No one knows for sure. But labor lawyers who have read this bill carefully have concluded that the owners might have to pay the replacement teams and also give the striking football players 2 months pay and benefits.

Here is how it works. When 50 or more employees are laid off under this legislation, a "plant closing" is underway. If 60 days' notice was not given to each employee before the layoff was implemented, the employer is liable to each employee for the 60 days' pay and benefits, among other things., When the NFL owners hired the replacement teams, the regular players were replaced. In effect, they were discharged. The replacement players have been given the regular players' old jobs. The regular players, therefore, would probably be entitled to 60 days' pay and benefits if they were not told 60 days ahead of time that they would be replaced if they went on strike.

NO. 9. SEVERANCE PAY IN LIEU OF NOTICE

Senator Quayle pinpointed this problem on Friday by his amendment to clarify that employers who pay wages and benefits in lieu of 60 days' notice did not violate this act. But the bill's sponsors rejected it. Why, I am not sure. Clearly, giving employers this assurance does no harm to workers. In fact, it can be argued they are better off with 2 months severance and the ability to engage in job search or retraining activities full-time. Under this bill, employers who do not give 60 days' notice, despite paying 60 days wages and benefits, are still technically liable for violating the act.

NO. 10. RELOCATION AND "REASONABLE COMMUTING DISTANCE"

The sponsors also acknowledged that many employers try immediately to place workers from a facility which has closed in new jobs. The bill, therefore, exempts employers from the 60-day notice requirement if the employee is offered a job in another facility "within a reasonable commuting distance, with no more than a 6-month break in employment." The trouble here is, again, ambiguity about what a "reasonable commuting distance" is. Around Washington, all it takes is a few inches of snow to indicate just how far people are willing to commute. Nevertheless, "reasonable commuting distances" will be assessed by a court.

NO. 11. JURY TRIALS

This legislation allows any aggrieved employee or unit of local government to file a civil action against an employer. This action includes the right to a jury trial. Juries are comprised of members of the community—neighbors and friends of those who have been affected directly by the layoff or closure. Let's look at this realistically. Layoffs, even when they are clearly necessary and justifiable, are not welcome news in any community. I have some empathy with the employer who is forced to take such action. Laying off two-thirds of my committee staff after the 1986 election was one of the hardest things I've ever had to do as a Senator. But we still have to question whether the publicity, deliberations, and outcome of a jury trial under these circumstances would be truly objective and fair.

NO. 12. ATTORNEYS' FEES

Under the bill, recovery of attorneys' fees is possible only for the plaintiff, not the defendant. This provision, coupled with the ambiguities in the bill, will be food for the sharks who are certain to be circling around any company who has had to lay off workers. Take, for example, a company that has had to lay off 300 workers with only a month's notice instead of two. Assuming those workers had an average wage and benefit package amounting to $20 per hour, the total back pay award could equal $1,440,000. That is quite an incentive.

Mr. President, I hope my colleagues have listened carefully to this brief analysis. I think these are important questions. This is not a simple plant closing bill at all. It is complex legal quicksand for the American economy and for its labor force. I hope Senators will support Senator Kassebaum's amendment. It is one way that we can respond to the desire to help workers adjust following a plant closing. But it is also a way we can preserve flexibility for American business and industry. It is one way we can prevent the employment debacle that has occurred in Europe.

The fact remains, Mr. President, as anyone in this Chamber who has had Economics 101 knows—indeed, as every family knows—if you spend resources for one purpose, you cannot spend them on another. I personally believe that all of us would rather spend billions of dollars building companies, renovating plants, developing new products and technologies, and hiring workers. I do not think we really want to spend $1.8 billion a year on compliance costs for this bill alone—not to mention the inestimable billions more in the costs of litigation and delay. What a waste, Mr. President.

And, the sad thing is that not one single job would be saved if the bill is enacted. If the proponents say that jobs will be saved, then they are misleading their colleagues in the Congress as well as their constituents.

I have clearly stated my position often enough. I am opposed to any mandates that are clearly detrimental to economic growth to consumers and to workers. But, Senator Kassebaum has offered a very balanced approach. She has acknowledged the concerns of those Senators who feel strongly that workers deserve 60 days' notice of a plant closing. I agree that actual plant closings are predictable and that notice in such events is less onerous. I agree that businesses should always give advance notice when they can. No one is condoning the withholding of notice for no good reason. But to enact a Federal labor standard, which will cost the Nation billions of dollars annually, is like using agent orange to clear a little patch of poison ivy. And frankly, Mr. President, if this bill passes—especially if it passes without the Kassebaum amendment—we will face a much more serious problem in our economic environment.

Mr. KARNES addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

The Chair should state that under the unanimous consent, at 2:30, the Chair will recognize the Senator from Ohio for a tabling motion.

The Senator from Nebraska.

Mr. KARNES. Thank you, Mr. President.

I have just a couple of short remarks to make. I would like to thank my distinguished colleague from Kansas for introducing this very important piece of legislation, an amendment to S. 2527, a bill that has received a great deal of attention and debate in my State of Nebraska.

I rise in support of the amendment of my colleague from Kansas because I believe the layoff provisions in S. 2527 will create a great deal of trouble for American business. It will lead to a legal and definitional quagmire over the consequences of what is "reasonable or foreseeable" under section 3(a)c of S. 2527. The amendment by Senator KASSEBAUM provides very important flexibility for employers in this country who want to encourage job formation rather than plant closings by eliminating the prospects for lawsuits over what impact, say the current drought, may have on the basis of a decision by an employer to lay off employees.

Mr. President, this amendment deals with my major concern with this legislation and it came into great focus this weekend as I traveled around Nebraska looking at the ravages of the emerging drought. As a cattle feeder myself, I am anticipating the concerns of the packing industry as to what may happen in the future as far as availability of the livestock they process and slaughter in great numbers in Nebraska.

Without the elimination of the layoff provision in my mind it will be impossible for those businesses that are now involved in agribusiness to fully estimate and plan for what none of us know, which is what will be the consequences of this drought that was brought upon us not by management but by Mother Nature. Thus, I believe it is imperative for the Kassebaum amendment to be adopted in order for a plant-closing provision to be acceptable to me.

Also I think it is important for people to recognize that many of us in this country have been viewing S. 2527, as have many of my constituents, as a plant-closing provision, not a "layoff" provision. They have not focused on the aspects of layoffs. They have been considering this to be a provision dealing with when plants close, but it also affects when employees may need to be laid off for undetermined periods of time.

I firmly believe, particularly in agricultural America, with the drought that we see and we hear so much about that, if S. 2527 is adopted without the Kassebaum amendment, it may well assure that many plants in my State may have to close unnecessarily or will be closing because of the vagueness of the layoff provision. Thus, I would like to state my complete support for the amendment of my colleague from Kansas, and also indicate that if this amendment is adopted I will be prepared to vote for passage of S. 2527.

Mr. President, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, we will soon be voting on whether to table or not to table the amendment that I think is very fair, and to both employees and employers. It is an effort to really make sure as a matter of fact that there can be adequate protection for both sides.

Mr. President, I would just say it is my big disappointment—as a matter of fact, this has become a very political issue—that we are going to I think by tabling this amendment be denying employees the very protection that we are all seeking.

So I urge my colleagues to not table this amendment, not deny employees protection that is guaranteed to them under this amendment, and if it is not tabled, I say, Mr. President, I think there are ways by which we can even make further adjustments that will help us define plant closings in an ever more constructive manner.

Mr. President, I close by saying by voting to table this amendment we are going to be denying employees the very protection that we are all trying to guarantee.

Mr. HEINZ. Mr. President, we find ourselves once again debating the issue of plant closings and layoffs. This issue, in my State, is not simply a matter of public opinion polls and idle conversation. My home town of Pittsburgh has seen over 400 closed and idled plants since 1980.

I supported plant-closing legislation as part of the trade bill because I am convinced, based on three independent studies, that notice enhances a worker's ability to adjust from a lost job to a new job. The GAO has found that most workers receive less than 7 days' notice of plant closings or long-term layoffs. When such short notice is given, State and local job training agencies cannot respond. Workers fail to receive adequate training, and are all too often lost to permanent dislocation.

When a plant shuts down, Mr. President, it is not always considered closed. Instead, they are idled indefinitely, thus avoiding payment of shutdown benefits which many collective bargaining agreements today require. To cite only one example, J&L plant in the Mon Valley, which laid off its work force in 1977, was not declared closed until 1987—10 years after the fact.

Aside from lost benefits, what happens to a worker who is placed on layoff? Layoffs are hardly uncommon in heavy manufacturing industries. Workers expect and plan for seasonal layoffs, with the expectation that they will return to work when orders pick up. When workers who are indefinitely laid off receive no notice, they have every reason to expect that they will go back to work.

Let me cite another example. In the spring of 1983 the National Tube Works of U.S. Steel laid off 80 percent of its 3,500 workers. The workers affected assumed that it was just another seasonal layoff. They did not sign up for trade adjustment assistance benefits, because they did not believe they had lost their jobs.

For those who are not familiar with the Trade Adjustment Assistance Program, it has a time limit on it. You must sign up for training within 210 days. You have only a set number of weeks—between 52 and 104 weeks in total—to collect reajustment benefits. If you don't sign up in time, you lose all eligibility for these benefits.

Mr. President, the 2,800 workers laid off from National Tube did not understand the intricacies of the TAA Program, did not understand the implications of their indefinite layoff, and they lost their benefits. The great majority of these workers have yet to go back to work. This is a loss which will be felt for years to come—skilled and experienced workers permanently lost to an economy which badly needs each and every one of them.

I do not see how we expect to expand our position in the world economy if we cannot return our best workers to meaningful employment.

In short, I am very troubled by the Kassebaum amendment's failure to address long-term layoffs. I agree with those who believe that seasonal layoffs and unforeseeable layoffs should not be covered under the notice provisions. I disagree with those, however, who would remove coverage of indefinite layoffs. There is often no distinction between a plant closing and a long-term layoff. For that reason, I cannot support the Kassebaum amendment.

Advance notice of job loss—whether by plant closing or indefinite layoff—has been found by three independent studies conducted by OTA, GAO, and the Secretary of Labor's Task Force on Economic Adjustment and Worker Dislocation—to enhance a worker's ability to find new employment. I thus support advance notice of job loss.

Mr. DURENBERGER. Mr. President, I want to make a brief statement explaining why I oppose the amendment offered by my distinguished colleague from Kansas, Senator KASSEBAUM. A few weeks ago, I think I made it clear why I supported the idea of giving advance notice of a plant closing. Not only does advance notice facilitate the transition that an employee and his or her colleagues must make when their jobs are suddenly terminated, but it also provides the community and the State with a chance to mobilize resources to cope with such a sudden shock.

Although on the surface it appears that the pending amendment would only affect temporary layoffs, I fear that if this amendment is adopted, we will, in effect, create a giant loophole that will undermine the very idea of providing advance notice of a plant closing. It is just too easy for a company that employs 1,500 people at one of its facilities to announce that it has decided to indefinitely layoff 1,475 people at the facility, and then maintain a skeleton crew of 25 people at the facility while the plant technically stays open.

Maybe the plant will reopen. Maybe it will not. If, a few weeks later, the company decides that the plant really should be closed, and the remaining 25 people should be let go, there would be no requirement of advance notice of the plant closing. And, even if the company retained more than 100 people at the plant, the requirement of advance notice would be a meaningless gesture. What about the 1,400 who had no notice?

Moreover, this amendment will just open the floodgates of litigation. In the example I cited, there would appear to be a strong presumption that the company was just trying to circumvent that plant-closing rules. The affected employees would surely file suit to seek damages. The courts would have to make a case-by-case judgment of what constitutes a plant closing and what constitutes a legitimate layoff. I do not think that is what the author of this amendment intends, but that is the likely result.

Finally, Mr. President, everyone of us knows what an indefinite layoff of 500 or 800 or more people can mean to a small community or even a large city. It can devastate a community and the employees just as easily as a plant closing. We've seen it in the iron ore industry in Eveleth and Silver Bay, MN; we've seen it in the semiconductor industry in Minnesota; we've seen it in the steel industry in Ohio, Indiana, and Pennsylvania; we've seen it in the automobile industry in Michigan and California. There is no reason that I can see for excluding mass layoffs from the advance notice provisions of this bill, and I urge my colleagues to reject this amendment.

Mr. KARNES. Mr. President, the Kassebaum amendment addresses the heart of the matter because the amendment would make the bill a pure plant closing bill since the bill, if amended, will trigger the penalty provisions only in the case of a total shutdown. I do not find the pure plant closing provisions that objectionable.

The layoff provisions could have a most damaging effect on a number of smaller businesses. Without this amendment, this legislation is a true plant closing bill because the legislation will force some plants to close. Since layoffs are often necessitated by unforeseen changes in market conditions, mandating 60 days' employment at full pay and benefits for employees who would otherwise have been laid off could create severe cash-flow problems for a faltering company and force the company to close.

Mr. President, a perfect example of rapid and unforeseen changes in market conditions can presently be seen in the agricultural sector of the economy because of the drought. One possibility whereby industry could be impacted adversely by the layoff provisions would involve the meat packing or cattle feeding industries. Presently, the market is being flooded by cattle from producers who fear that they will not have enough feed for their herds. The layoff provisions will not have an impact now, but they will in the next year following this influx of cattle sent to market. It takes considerable time to build a herd. This means that packing plants could have to lay off workers for a period of more than 6 months, at some point within the next year. At what point I don't know, nor is it likely that the management of those plants know. Will they know 60 days ahead what the market is going to do? If they don't, they will have to dish out 60 days' pay and full benefits. If it is a small plant, this added cost may cause them to shut down the whole plant.

If they are unable to give 60 days' notice and are unable to keep the employees on the payroll for 60 days, they will be subject to extensive costly litigation with a remedy of 60 days' back pay and benefits or, if some notice is given, back pay and benefits for each day short of the 60 days required. Furthermore, the company can be found liable for an additional penalty of $500 per day to the community for each day, after 3 weeks, if the aggrieved employees are not compensated within 3 weeks of the layoff. The bill does provide for an extension of the layoff period; however, the determination of whether the need for an extension was reasonably foreseen will likely be made in court.

Once again, this bill could put many small businesses in a precarious situation which could turn layoffs into plant closings. We should not force our companies to hire fortunetellers to make their business decisions. Nor should we force companies to shut down rather than to let some workers go, save the business and allow many more to keep their jobs.

Indeed the courts will be the battleground if Senator KASSEBAUM'S amendment is not adopted. I can see it now—lawyers arguing in court whether the consequences of a drought as potentially bad as the one this country is presently experiencing were reasonably foreseeable. The layoff provisions of the plant-closing provision should be amended pursuant to the Kassebaum amendment or else American employers and employees will find themselves in a legal and definitional quagmire over what should or should not have been "reasonably foreseeable."

Mr. DODD. Mr. President, I rise today in strong opposition to the Kassebaum amendment to the plant closings and layoffs legislation.

As I understand it, the amendment of my colleague from Kansas would delete the provisions in S. 2527—the advance notification of plant closings and mass layoffs legislation—which address layoffs. Thus amended, the legislation would then only provide for 60 days' notice prior to plant closings.

Both plant closings and layoffs affect the lives of millions of working Americans. The Bureau of Labor Statistics has determined that in an average 5-year period, 11,600,000 workers face dislocation from their jobs. Of that amount, 5,100,000 face dislocation due to plant closings.

The proponents of the Kassebaum amendment are not troubled by giving 60 days' notice to these workers and therefore now support such notice for them. I applaud my colleagues for having come around to that conclusion.

But what about the remaining 6,500,000 American workers who experience dislocation in an average 5-year period because of layoffs? Should we not give notice to these American workers? This amendment would permit the employers of these millions of working men and women to lay them off without so much as a minute's notice.

The layoffs that are covered by the legislation are defined as those lasting at least 6 months that result in employment loss for 50 or more employees, if 33 percent of the work force at an employment site are affected; or, that result in employment loss for 500 employees whether or not 33 percent of the work force is affected. The legislation is not aimed at the casual layoff, but at big firms and big numbers and dislocations that affect entire communities. Yet, this amendment would strike this provision from the bill.

Mr. President, I do not understand the logic of this amendment. Its proponents seem to accept that mandatory notice in cases of plant closings is fair and necessary because it helps workers, it will assist those workers in transition to new employment, and it will help local communities weather the economic storms that result from such closing. Wouldn't this same logic prevail in cases of major layoffs? Do they not affect workers? Is it not necessary to assist laid off workers in transition to new employment? Do local communities not need assistance in weathering the economic storms that result from massive layoffs?

In the now well-worn debate surrounding the plant closings and layoffs legislation, the effects of this legislation should never have been construed as revolutionary or draconian from the perspective of either labor or business. In fact, Walter Mossberg wrote in the Wall Street Journal that the plant closings and layoffs provision is a modest idea:

> Squarely in the tradition of such social reforms as the child labor and minimum wage laws. These act to soften the social consequences of free market decisions and thus permit the market continued public acceptance without the sort of deep Government involvement often practiced abroad.

But throughout the debate on this legislation, whether contained in the trade bill or debated as a free-standing proposal, the provisions of this legislation have taken on a political significance disproportionate to their intended meaning. When it was part of the trade bill, the hue and cry from the opponents of plant closings and layoffs legislation was that it did not belong on the trade bill. In fact, the plant closings and layoffs provision was cited by the majority of opponents of the trade bill as the reason for their opposition. Now it's out of the trade bill and, true to the word of the majority leader and committee chairmen of this side of the aisle, we are debating this legislation separately.

As requested by the opponents of this legislation, we are at long last debating this legislation on the merits of the issue. And just as we are nearing a decision on those merits, my colleagues on the other side of the aisle have developed this crippling amendment. It is crippling because it separates the plant closings and layoffs legislation into two parts that should not be separated. If passed, this amendment will, more than likely, force the plant closings and layoffs legislation back onto the trade bill and we will be back where we started. We will have a crippled trade bill and American workers will still be without the benefit of the plant closings and layoffs notification—notification which enhances their ability, in the face of dislocation, to seek counseling and engage in the training and retraining that will help confer on them the respect and dignity that they deserve.

I urge my colleagues to support the tabling motion on this amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Ohio to lay on the table the amendment of the Senator from Kansas. On this motion, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. SASSER], is necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN], is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. SASSER], would vote "yea."

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from California [Mr. WILSON], are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. WILSON], would vote "nay."

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 64, nays 32, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—64

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Shelby
Simon
Specter
Stafford
Stennis
Weicker
Wirth

NAYS—32

Armstrong
Bond
Boschwitz
Cochran
Dole
Domenici
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Pressler
Quayle
Rudman
Simpson
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—4

Biden
Helms
Sasser
Wilson

So the motion to lay on the table amendment No. 2429 was agreed to.

(During the preceding vote, Senators BINGAMAN and BREAUX assumed the chair.)

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I wonder if we can get some idea now as to what amendments remain to be called up.

It is our hope that we might be able to finish this bill today, so that we can go on to other important measures.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. I understand that there may be an amendment in the next few minutes by the Senator from Kansas [Mrs. KASSEBAUM]. If not, the Senator from New Mexico [Mr. DOMENICI] has an amendment. So we know that we will have an amendment soon.

Mr. BYRD. I wonder if we can get some idea as to how many remaining amendments there are. Will the distinguished Republican leader let me know how many amendments remain?

I suggest that the Senate be prepared to stay in a little longer than usual, perhaps, today, in the interest of completing action on the bill, if that is possible.

Mr. DOLE. I inquire of the majority leader: It is my understanding that unless there is some disposition to have an agreement or indicate when we might be able to give the majority leader that agreement, he may, of necessity, file a cloture motion today.

Mr. BYRD. Yes. I have been reluctant to file a cloture motion because I felt that the Senate would be able to work its way through this bill without a cloture motion. I have been under the impression thus far that there is no filibuster going on. But I cannot wait longer than today, because the cloture vote would occur on Wednesday. It would ripen on Wednesday, if such a motion were to be offered today. The Senate will be out Thursday, beginning at the close of business Wednesday, for the Independence Day recess. So this is the only time I have remaining in order to get a cloture vote before the Senate goes out, if that becomes necessary. I would much prefer to have an agreement that would see us through this bill—if not today, then certainly tomorrow.

Mr. DOLE. I thank the majority leader.

Mr. METZENBAUM. Mr. President, may I ask the minority leader to yield for a couple of questions?

Mr. DOLE. Yes.

Mr. METZENBAUM. As I understand the situation at the moment, there are several amendments that are sort of flopping around. Nobody is quite sure when they are prepared to go with them. Senator GRAMM has one on banks. Senator DOMENICI has one. Senator QUAYLE, I gather, has as many as he feels are appropriate.

I do not see anything really dramatic happening. I think the Kassebaum amendment was a major amendment, unless something should come up in the nature of a compromise, which I do not see developing, either, at the moment.

I wonder whether the minority leader might explore the possibility of our agreeing upon voting at a time certain, either tonight or tomorrow, or whenever. I think just standing out here and handling amendments and voting them down does not serve anyone's purposes. I wonder if we can get an agreement.

Mr. DOLE. I say to the Senator that I am not certain that amendments are flopping around.

Mr. METZENBAUM. Flitting around.

Mr. DOLE. There is an amendment by Senator GRAMM; Senator DOMENICI, three; Senator SYMMS, two; Senator QUAYLE, three; Senator HELMS, one, which may not be offered; maybe an amendment by Senator KASSEBAUM; one by Senator HUMPHREY.

They may not all be offered. That would be perhaps a dozen. Out of that dozen, I am not certain how many might be offered.

Yes, I would be happy to see if we could agree on a vote. I discussed that with the majority leader this morning.

Mr. METZENBAUM. Would 2 o'clock or 3 o'clock tomorrow afternoon be all right?

Mr. DOLE. I will be happy to check that and give that information to the majority leader.

Mr. METZENBAUM. I would like to say, as manager of the bill, that if we cannot get an agreement, I urge the majority leader to file a cloture motion. I would hope he would not have to do so.

So far, the debate has moved along, but we have not made as much progress as hoped.

I wonder if the matter can be explored to get a time certain for final passage, or I hope the majority leader will see fit to file the cloture motion.

Mr. DOLE. I appreciate the Senator from Ohio.

I understand the Senator from Utah, if there is going to be any delay at all, is willing to offer an amendment right now. The Senator from Kansas is examining her amendment. We are not going to waste any time.

We are happy to yield the floor, so we can do that.

Mr. BYRD. That would be well if we could do that.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 2434

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], proposes an amendment numbered 2434.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 11, after the period, add the following:

"Under this Act, a federal court shall not have authority to enjoin a plant closing or layoff."

Mr. HATCH. Mr. President, I am offering the following amendment to clarify one area of ambiguity in the legislation.

One of the concerns raised regarding this legislation is whether it would permit a court to issue an injunction holding a plant closing or a mass layoff, thus giving the courts the power to keep a failing plant operating indefinitely.

The purpose of this legislation is to require notice not to interfere with the employer's right to close.

The sponsor added language to the bill found in section 5(b), which they say is intended to guard against this occurrence.

Mr. President, this language is exceedingly vague and ambiguous and does not seem to address the problem directly.

Also, the conference report does not provide an explanation of the sponsor's intent. My amendment is intended to resolve any remaining ambiguity regarding section 5(b) of the bill.

With this amendment, section 5(b) will clearly state the Federal courts shall not have equitable jurisdiction or authority to give any form of injunctive relief including an injunction to stop a business closing or layoff.

All it does is clarify the intentions of the sponsors, the announced intentions of the sponsors, I might add, and provide protection against any unnecessary and unproductive delay in expense for companies and workers alike.

Mr. President, labor law is a highly charged emotional area of the law. My amendment would make it absolutely clear that no injunctions would be issued under this legislation. As I understand it, that has been the intention of the sponsors of the bill.

All this amendment says is on page 11, line 11, after the period, add the following:

Under this act, a federal court shall not have authority to enjoin a plant closing or layoff.

I think this would clarify the ambiguity. It would strengthen the bill rather than hurt the bill, meet the needs of the authors of the bill and those sponsoring it, and I think probably my colleagues should take this amendment.

With that, I yield the floor.

Mr. METZENBAUM. Mr. President, the amendment proposed by the Senator from Utah on its face would appear to have some merit to it.

I would like to suggest to my distinguished colleague that we lay this amendment aside temporarily, that he bring up such other amendments that he has, in order that we may explore the situation as to whether we would be willing to accept this amendment.

I, therefore, ask unanimous consent that this amendment be laid aside to the hour of 4:30 or until the next amendment is disposed of, whichever arrives earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, allow me to take time to have a copy made of this amendment.

I will send another amendment to the desk.

I think the prior amendment does have merit. It would solve the technical problem in the bill, an ambiguity within the bill, and I think would make a lot of difference.

I will wait until I get the amendment back to submit this second amendment to the clerk. So I will just chat about it for the time being.

AMENDMENT NO. 2435

Mr. President, I will offer another technical amendment to clarify the application of this legislation to situations involving replacement of economic strikers.

As drafted, the bill is not clear on this point. Take, for example, a plant whose production and maintenance employees have been out on strike over economic issues for 3 months, and no reasonable resolution of the dispute seems possible. If the company decides to replace the strikers, must it give the strikers 60 days' notice; in other words, 60 days' pay and benefits? These are strikers. These are people who have a right to strike, but it seems to me they should not have the right to have 60 days' pay and benefits, because they are the ones who initiated the strike. This bill does not address this point.

Under well-established National Labor Relations Act principles, there is no question that a person on strike has not terminated or has not voluntarily terminated his or her employment relationship even when replaced.

However, concerns have been raised whether it could be argued that a constructive discharge has taken place under the plant-closing legislation, not necessarily under the National Labor Relations Act.

If the court were to reach that conclusion, then it would seem clear that an employer would be required to give 60 days' notice before replacing an economic striker because the replaced striker could not return to work until the job opening occurred or became available.

Mr. President, my amendment would make clear that nothing in this act would require an employer to serve written notice pursuant to section 3(a) of this act when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act.

It would make little sense for Congress to require notice for strikers. An employee who goes out on strike is fully aware that under present law he or she could be replaced. More importantly, this bill is intended to provide notice in plant closing situations not to interfere with traditional rights and obligations under the National Labor Relations Act.

This amendment solves that problem. All it says is on page 8, line 12, after the period, add the following:

> Nothing in this Act shall require an employer to serve written notice pursuant to Section 3(a) of this Act when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act.

AMENDMENT NO. 2435

Mr. HATCH. Mr. President, I send this amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

> The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2435.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 8, line 12, after the period, add the following:
>
> "Nothing in this Act shall require an employer to serve written notice pursuant to Section 3(a) of this Act when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act."

Mr. HATCH. Mr. President, we should not disturb the delicate balance that exists in labor law today. Certainly, we should not require employers to have to give 60 days' notice and give pay and other benefits to people who have voluntarily, on their own, gone on strike, who are in fact economic strikers, trying to bring pressure on the employer for the purpose of obtaining better collective bargaining agreements or whatever is legal.

So what this does is preserve that delicate balance and allows present law to continue, and I am sure the authors of the bill just overlooked this particular provision. If they have not, then certainly they ought to either accept this provision or we ought to vote it up because it is the right type of thing to do.

With that, I yield the floor.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2434

Mr. HATCH. Mr. President, with regard to amendment No. 2434, I send a modification to the desk and ask for its immediate consideration. This is the amendment which states:

> Under this Act, a Federal court shall not have authority to enjoin a plant closing or layoff.

We would modify it to say: "mass layoff."

With that modification, I understand the manager of the bill will accept the amendment.

The PRESIDING OFFICER. The clerk will report the modification.

The bill clerk read as follows:

> Amendment No. 2434, as modified, reads as follows:

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, reads as follows:

> On page 11, line 11, after the period, add the following:
>
> "Under this Act, a federal court shall not have authority to enjoin a plant closing or mass layoff."

Mr. METZENBAUM. Mr. President, this amendment, as modified, would not change anything in the bill. We see no problem with respect to it. It was never the intent of the authors of the legislation and the supporters of the legislation to give Federal courts any authority to enjoin a plant closing or mass layoff.

Under the circumstances, I ask unanimous consent that, notwithstanding the previously adopted unanimous-consent agreement, we immediately move to the disposition of this amendment. We are prepared to accept the amendment.

The PRESIDING OFFICER (Mr. FOWLER). Is there objection to the request? Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, we are prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2434), as modified, was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2345

Mr. HATCH. Mr. President, I wonder if the distinguished Senator from Ohio is willing to accept the second amendment that I sent to the desk.

Mr. METZENBAUM. I regret to advise my colleague that we are not prepared to accept the second amendment. The Senator from Utah has indicated that the bill will force employers to give 60 days' notice before hiring permanent replacements during an economic strike, thereby tipping the balance of rights under traditional labor law.

As I understand it, courts have given varying interpretations to the National Labor Relations Act regarding the circumstances under which permanent replacements may or may not be hired during an economic strike. I do not know what interpretations the courts may offer in the future regarding this complex issue.

The point is that no one associated with this bill ever intended to affect the balance of rights under the National Labor Relations Act. This bill is absolutely neutral with respect to labor law. We want to keep it that way. That is the reason that we added section 9, which specifies that the giving of notice in good faith may not constitute a violation of the National Labor Relations Act.

This bill has no effect on existing court interpretations of the National Labor Relations Act, nor should it have any effect, whatsoever, on future court decisions relating to the balance of rights under traditional labor law.

Senator HATCH may be interested in debating labor law reform, but that is not what this bill is about. We will not engage in that debate because it is totally irrelevant to the plant closing issue. The Senate should be on notice that shortly I will move to table the Hatch amendment so that we make progress in finishing up this bill.

Mr. HATCH. Mr. President, let me just ask the distinguished Senator from Ohio a question., On page 8 of the bill, in section 4 it states:

> This Act ought not apply to plant closing or mass layoff if * * * (2) the closing or layoff constitutes a strike or constitutes a lockout not intended to evade the requirements of this Act.

What does that language mean?

Mr. METZENBAUM. We intend that the right to replace economic strikers and the circumstances of replacing economic strikers be determined by the National Labor Relations Act and court interpretations of that act. We believe our bill leaves that issue unaddressed. If any confusion exists, we state now that our intention—and I want to make it loud and clear—our intention is to leave this complex issue to the National Labor Relations Act and the interpretations of that act by the courts.

Mr. HATCH. Mr. President, I would just hasten to point out to the distinguished Senator that, in those cases where the layoff was not caused by anything except a strike, this language in the bill is very ambiguous. Frankly, if production and maintenance employees had been out on a strike over economic issues for 3 months and there is no reasonable resolution of the dispute, if the company then decides to replace the strikers, does it have to give the strikers 60 days' notice or other pay and benefits when it is clearly an economic strike? The language does not solve that problem. In fact, it leaves it open.

If that is so, then you may very well be changing the National Labor Relations Act principles, because there is no question that a person out on strike has not voluntarily terminated his or her employment or their employment relationship.

Mr. METZENBAUM. The Senator raises an interesting issue. We are so determined not to affect the rights of employers or employees with respect to their respective rights under the National Labor Relations Act and the interpretations of that act by the courts that we have deliberately refrained from injecting ourselves into that issue. This is a plant closing bill. It has to do with notice of plant closing. We want to leave the interpretation to the National Labor Relations Act and the interpretations of that act to the courts.

Mr. HATCH. But the point is that the courts have never had to determine that before. This bill is not law. If this bill becomes law, then it may very well be that an employer would be put in the unfair situation—and it would be unfair—of having to give 60 days' notice and pay and severance benefits to employees who voluntarily economically struck the plant. Now, that is not right. I am afraid of activist judges giving precisely that interpretation of this ambiguous and unclear language of the bill.

Now, I do not see how you can argue that there should even be a right or an obligation on the part of the employer who has been struck, for whatever economic reason the union decides to strike, who did not cause the strike and, even if he did cause the strike because of, say, a too tough attitude or whatever it is that causes employees to go out on strike, why that employer would have to give plant closing notice, or layoff notice, and perhaps 60 days' severance pay and other pay or other benefits. To me, it is a tremendously big addition to the present status of labor law. This bill leaves it ambiguous and nobody knows how that is going to be interpreted.

I do not believe that should be the intention of the sponsors of the bill. If it is, then they ought to step up and say, "That is our intention. We hope the courts will do that." If you do, I think it exposes what a rotten bill this is even more.

I suspect that if you are going to force a vote on this and not take this amendment, that is precisely what you have in mind, by saying, "Oh, we will leave it up to the courts." I do not think we should leave it up to the courts. I think we should strike that kind of inequity now. That is what this amendment does.

It is a fair amendment. It makes sense. It stops an unreasonable approach, from this bill's interpretive standpoint, and if a court were to conclude that an employer is required to give a 60-day notice before replacing an economic striker because the replaced striker could not return to work until a job opening became available, then I think that is wrong.

All my amendment does is make it clear that nothing in this act would require an employer to serve written notice pursuant to 3(a) of this act when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act.

It makes little sense for Congress or the courts to require notice for strikers who caused the layoff to begin with. An employee who goes out on strike is fully aware that under present law he or she, as a striker, can be replaced. So, if the distinguished Senator does not like this amendment it must be that he does not want even strikers—does not want the employers to have the right to even replace strikers.

If that is the case, my gosh, Katie bar the door. We really will be Europeanized fully and completely. Who knows, if we leave it up to the courts that is precisely what is going to happen. So this amendment corrects what really is an injustice or an unjust interpretation of this particular bill.

Let me just ask the sponsor of this bill, under this bill do you have to give striking workers 60 days' notice before they can be replaced?

Mr. METZENBAUM. Since I have already answered that question once, I shall just answer it the second time. This is the second time you have asked me the same question.

The first time I said: We intend that the right to replace economic strikers in circumstances of replacing economic strikers shall be determined by the NLRA and the court interpretations of the NLRA. We want to leave that issue unaddressed.

As a matter of fact, there are a number of unresolved issues with respect to economic strikers. One of them has to do with whether striking employees may be permanently replaced. Another has to do with what constitutes a permanent replacement. A third has to do with what rates accrue to persons hired as permanent replacements. Fourth has to do—we want to keep hands off of this issue. We do not want to involve ourselves in the NLRA disputes. We are trying to lean over backward to just stay with the plant-closing issue.

Under the circumstances, Mr. President, I move to table the amendment.

Mr. HATCH. I just hasten to point out to everybody in the U.S. Senate who is going to vote on this amendment, whether it is a motion to table or not, that literally if they vote to table this amendment and they do not adopt this amendment, they are participating in a major change in the National Labor Relations Act law, and do not let anybody think otherwise.

The PRESIDING OFFICER. The Chair must advise the Senator from Utah a motion to table is not debatable.

Mr. HATCH. I understand that, but he has indicated he is going to make a motion to table.

The PRESIDING OFFICER. No. He made it.

Mr. HATCH. Oh, the Senator already made it? Well, I will ask the Senator to withdraw the motion for 90 seconds, and I will finish my remarks. I am sorry.

Mr. METZENBAUM. I ask unanimous consent that the Senator from Utah may be heard for 90 seconds and immediately thereafter we go to a vote on the motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I will go back through this again. For everybody in the U.S. Senate who really is concerned about what is right in our labor laws, make no mistake about it. If this amendment is not adopted, then we are going to find, as an end result, that voluntary economic strikers are going to have to be given notice and/or pay and severance pay benefits under this bill. What an unjust imposition that would be on any employer in this society, because he did not cause the strike. They voluntarily did it and they did it for economic purposes, so why should they be paid or even given notice for striking?

That is what is involved. It is an important amendment and I hope my colleagues will not vote for the motion to table.

With that, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Ohio to table the amendment offered by the Senator from Utah.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

There being no further debate, the yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD. I announce that the Senator from Washington [Mr. ADAMS], the Senator from California [Mr. CRANSTON], the Senator from South Dakota [Mr. DASCHLE], the Senator from Tennessee [Mr. SASSER], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Nevada [Mr. Hecht], the Senator from North Carolina [Mr. Helms], the Senator from Indiana [Mr. Lugar], and the Senator from California [Mr. Wilson] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. Wilson] would vote "nay."

The **PRESIDING OFFICER.** Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 37, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—53

Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cohen
Conrad
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Shelby
Simon
Stafford
Stennis
Weicker

NAYS—37

Armstrong
Bond
Boschwitz
Chafee
Cochran
D'Amato
Danforth
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatch
Hatfield
Heflin
Humphrey
Karnes
Kassebaum
Kasten
McClure
McConnell
Murkowski
Nickles
Nunn
Pressler
Quayle
Rudman
Simpson
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—10

Adams
Biden
Cranston
Daschle
Hecht
Helms
Lugar
Sasser
Wilson
Wirth

So the motion to lay on the table amendment number 2435 was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, may we have order in the Chamber.

The **PRESIDING OFFICER.** The Senator is correct. The Senate will be in order.

Mr. HATCH. Mr. President, this is going to be a cause celebre because we have just made a major wholesale change in the National Labor Relations Act. I think there has been a lot of misrepresentation about what this amendment means. I have stood in the well and listened to some of it. Despite assurances to the contrary, this bill now offers a brandnew right in labor law. Strikers are entitled to brandnew treatment. Do not make any mistake about it. They cannot now be replaced without 60-day notice. It means that employers all over your various States are not only going to have to give the notice, but they are going to have to pay severance pay and other benefits. If I was sitting in any State of this Union and I knew that this passed in the Senate of the United States, I would be so incensed I would never get over it. What we have done is disturbed the delicate balance that has been preserved for almost half a century between management and labor and titled it completely in favor of organized labor. Now, failure of the sponsors to accept this amendment as they did the first amendment, which made a good change—and this one is an even more important change—indicates very clearly to everybody that this is not a simple 60-day notice bill. This bill involves some of the most important aspects of labor law, and I personally have resented the way it has been represented on this floor as just a modest, little, itsy-bitsy, 60-day notice bill, until they finally had to stand up and say, well, if the Kassebaum amendment passed affecting layoffs because it is a lot more than a 60-day plant-closing bill, then that is a killer amendment.

We bring up an amendment that really would correct the bill, preserve present law and preserve the rights of employers to be treated with dignity and equality, and we now provide a major change in the National Labor Relations Act. I want to make it clear that anybody who voted for tabling is going to have to live with this amendment the rest of their lives. It is not just going to be the National Right-to-Work Committee that is upset about it. It is going to be every employer in this country of any size that might be affected by this bill.

It is an important amendment. I have some others I am going to bring up. I hope they will be given more consideration than this one was, not because it does not mean anything to me personally. Of course, it does. I fought these issues for many years, not because I want to stop organized labor from having a fair shake. I want them to have a fair shake. When they are right, I will lead the fight for them. This morning—and it is no secret I fought very hard all the way through to the end—the President signed the Polygraph Protection Act into law. So I am not just saying it when I say I will support organized labor when they are right. I am not going to slavishly support them because I think that is wrong. This particular amendment would have corrected a terribly tragic aspect of this bill.

Now, let me make it clear. I have seen it all here in the Senate. But I will tell you this: If these kinds of bills are going to be brought on the floor, count on this Senator fighting them tooth and nail every step of the way. From this time on, in this Congress, just count on a donnybrook and count on every possible embarrassing vote. If this is the way we are going to play the game, then, this Senator is going to play, too. If we are going to change the basic labor laws of this country and mess up the delicate balance in this country that has served us well for all these years just because of politics, then, by gosh, let us pay the price to do it. As a matter of fact, the bill is wholesale ready for amendment and I do not care what kind of amendments are brought. And I guarantee any other labor bill that is brought to this floor is going to see everything but the kitchen sink on it. It is just that simple.

The distinguished Senator from Ohio said yes, we want strikers to get notice. We want them to be covered under this bill. He told me that personally. That is why they would not make this effective clarification, which is all that it was, leaving the law as it presently is.

I get tired of hearing that this is not any real big thing. I cannot tell you what a big thing it is. Your employers are going to tell you, and your employees as they lose their jobs, they have Krupp Corp. problems, $800 million to try and shut down an antiquated plant because of a bill like this. I can take just so much of that stuff, but I will tell you this is really wrong.

Mr. METZENBAUM. Will the Senator from Utah yield for a question?

Mr. HATCH. Yes.

Mr. METZENBAUM. The Senator said he is going to fight this bill tooth and nail.

Mr. HATCH. I did not say this bill. I do not know what I am going to do on this bill. In all honesty, I am saying, just be served notice that if we are going to play politics on labor issues, then that works both ways and it is going to be a rough, tough battle every time.

Mr. METZENBAUM. He said he is going to offer wholesale amendments. Is the Senator talking about this bill?

Mr. HATCH. I do not know. We will have to see.

The Senator from Utah is very upset right now as you can see, and I think justifiably so, because for 12 years now we have fought these issues. Like I say, when the labor unions are right, I have been with them. Today is a perfect illustration for me to make my point. Against the advice of some of his top advisers, and in accordance with the advice that I have given, the President signed the Polygraph Protection Act, which he himself had qualms about.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. HATCH. I am happy to yield for a question.

Mr. METZENBAUM. Does the Senator agree that the Senator from Ohio, just before this amendment, took an amendment offered by the Senator?

Mr. HATCH. Yes, I do. The Senator from Ohio should have taken this amendment, too.

Mr. METZENBAUM. Will the Senator from Utah agree that the Senator from Ohio made it very clear that we want to stay out of the issue that is being decided by the courts having to do with the National Labor Relations Act, and the interpretation of who is an economic striker and who is not?

Mr. HATCH. That is a cop-out. The Senator knows by failing to clarify the bill, this particular Senator is leaving it open, and it is likely that interpretation as a result of this bill—because there has been no effort to clarify—will be that in the case of voluntary economic strikers they will have to be given 60 days' notice before they can be replaced. That means severance pay, and the other benefits provided under this bill.

Let me tell you that the employers in most instances probably will not be the cause or the reason they have gone on strike to begin with. It is an economic right they have, and I want to preserve that right. In other words, I do not want to give them an unjust advantage over employers who have to pay them because they are striking improperly and trying to bring them down economically.

Mr. METZENBAUM. Will the Senator yield for another question?

Mr. HATCH. Yes.

Mr. METZENBAUM. Will the Senator from Utah be good enough to tell the Senator from Ohio when he said on this floor "we want striker to get notice", which is what the Senator just quoted me as having said because I have no recollection of having said that? I did not intend to say it, and I did not say it.

Mr. HATCH. The Senator said it to me right in the well. I was right there, and also he said it when I asked him deliberately, did he agree that there should be 60 days' notice to strikers, and he said it in conjunction with a conversation with Senator PACKWOOD. I was making the point that this is what is going to happen. The Senator comes up, and said, yes, we want to give 60 days' notice to strikers, and Senator PACKWOOD then voted "aye."

Mr. METZENBAUM. The Senator from Oregon, Senator PACKWOOD, was inquiring about whether strikers could under certain circumstances get notice when they are on strike.

Mr. HATCH. No. He was asking a direct question. At least that was my recollection.

Mr. METZENBAUM. Will the Senator from Utah be prepared to yield the floor shortly so that I might respond?

Mr. HATCH. I would be glad to. Let me ask the Senator from Ohio a question. I do not want to take his statement here now. If it is more important for it to be interpreted correctly and not incorrectly by me. Does the Senator believe that strikers should be given 60 days' notice under any circumstances?

Mr. METZENBAUM. I think that is a question that has to be resolved by the NLRA, and the courts. And I think it depends upon whether or not they have been replaced. If they have been replaced——

Mr. HATCH. They should be given notice.

Mr. METZENBAUM. No. If they have been replaced they would not need to get notice. If they have not been replaced then they have the rights of all other employees, and they would be entitled to know. But I want to make it very clear that issues as to whether they have or have not been replaced is an issue that will have to be decided by persons other than the Senator and I on this floor. And I have leaned over backward to keep this bill clean, and keep it so it only has to do with plant-closing notice, and not to inject ourselves into an issue that is constantly before the courts. That is what I think this vote reflects. That is the effort to keep this bill clean, and to keep from injecting ourselves into other issues having to do with the interpretation of the National Labor Relations Act.

Mr. HATCH. This issue is not before the courts right now. As a matter of fact, it cannot be before the courts because this bill has not been passed. If this bill passes, it then becomes an issue of the courts. It was my clear interpretation of the Senator's statements that he preferred that strikers be given notice, and that this bill apply to them. Let me just say this to the Senator.

Mr. SPECTER. Mr. President, will the Senator from Utah yield for a question?

Mr. HATCH. I am delighted to. Then I want to yield to the distinguished Senator from Missouri so we can introduce our distinguished guests.

Mr. SPECTER. The question which I have, on the statement of the Senator from Utah, turns on whether it might not be better to consider this issue after some reflection, and after studying the record. This Senator's knowledge of this particular amendment is limited to having heard the debate on the subject, and of course that is the way amendments arise on the Senate floor, appropriately without notice, then debate, and then a vote.

But as I have heard the distinguished Senator from Utah and the distinguished Senator from Ohio debate this issue, there is not a great deal of difference as I see it in their underlying positions. I voted with the Senator from Utah in opposing the motion to table because it seems to me that this plant closing bill ought not to deal with an issue under the National Labor Relations Act which relates to strikers in any way. The Senator from Ohio started off saying that the bill did not relate to strikers. If they have been replaced, then you have a different situation. That is a matter which is entirely different. But after the Senator from Ohio said that his bill did not reach this issue, I could understand the Senator from Utah seeking a clarification in the event of ambiguity. Now you have the Senator from Utah having to offer an amendment for clarification, and the amendment stands to be defeated if there are votes following the tabling motion which throws the entire record into a state of confusion. It may appear notwithstanding the statement of the Senator from Ohio that he did not deal with this issue. The upshot will be a negative inference that we are dealing with it by defeating the motion from the Senator from Utah.

So it seems to me what we ought to do is let the matter sit for a while, review the record on it, and try to straighten it out.

Mr. METZENBAUM. Will the Senator from Pennsylvania permit me to yield to him in response?

Mr. HATCH. I have the floor.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. SPECTER. I do not have the floor as the Chair obviously noted. But my question to the Senator from Utah would be in the light of what has happened here today would it be wise to put this matter aside, to review the record, and perhaps have some of the record conversations to try to straighten out the legislative intent on this issue where I believe there is an agreement between the two Senators. But this record is going to lead to a lot of confusion, if and when the matter comes to the floor.

Mr. HATCH. Let me say this, and then I would like to yield to the distinguished Senator from Missouri. As important as this debate is we have some very important guests he would like to introduce.

I would just have to point out to the distinguished Senator from Pennsylvania that the distinguished Senator from Ohio holds responsibility for part of the interpretation of what is going to happen as a result of the rejection of this amendment by the passage of the motion to table. And we are opposed because part of our interpretation of what will happen now if that amendment has been rejected is the bill is left ambiguous in its present state. This is a very, very important issue. It is not something that can be treated cavalierly. But I will be happy to let it simmer for a while, and see if there is some way we can reach accord on this. I think that is a good suggestion by the distinguished Senator from Pennsylvania. I hope there is a way we can because I do not think the voluntary economic strikers should have these kind of rights.

I do not think employers should have these kinds of difficulties thrust upon them that they never had to face before—all in the interest of one side and an advantage over the other.

It is one thing to be for the unions. It is one thing to be for management. But it is another thing to be for a right balance, so that both sides are treated fairly. The present law does that.

If this amendment or something similar to it is not accepted, then this clearly leaves an ambiguity in the bill that I think will result in an overbalancing of labor-management relations in favor of the unions or in favor of employees over employers, with such a detriment to the employers that it could cost us hundreds of thousands if not millions of jobs, and I think it could cause the loss of a lot of employers and the loss of their businesses.

So it is a very important subject, and all I can do is point that out. Let us let it simmer.

I yield to the Senator from Missouri.

VISIT TO THE SENATE BY THE AMBASSADOR OF CZECHOSLOVAKIA AND MEMBERS OF THE CZECHOSLOVAKIAN PARLIAMENT

Mr. BOND. Mr President, I thank the distinguished Senator from Utah and the distinguished Senator from Ohio for permitting us this moment to intervene, and I appreciate the majority leader's permitting me to introduce to my colleagues in the Senate some very good friends of ours.

Ambassador Miroslav Houstecy, of Czechoslovakia, has brought with him three distinguished parliamentarians. With us today we have Deputy Speaker Boshuslav Kucera, Chairman Miroslav Stepan of the Foreign Relations Committee, and Chairman Richard Nejezchleb, of the Armed Services Committee.

We were treated most graciously when Senator Glenn and Senator Stevens led a congressional delegation to Czechoslovakia. We are honored to have them returning that visit.

I hope that Senators who have not had a chance to meet them will join us so that they can be introduced and have an opportunity to talk with these distinguished visitors.

The PRESIDING OFFICER (Mr. Fowler). The Chair joins in welcoming the distinguished visitors from Czechoslovakia.

Mr. METZENBAUM. Mr. President, I am happy to join the others in welcoming our distinguished guests to the Senate.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

RECESS FOR 2 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes.

There being no objection, the Senate, at 4:51 p.m., recessed until 4:53 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Fowler].

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

The Senate continued with the consideration of S. 2527.

Mr. METZENBAUM. Mr. President, we were having a discussion on this issue with respect to notification to strikers.

The Senator from Ohio has constantly made it clear that I did not want to get this bill into that issue. As a matter of fact, I should point out that the language of the bill already provides that this act shall not apply to a plant closing or mass layoffs if the closing or layoff constitutes a strike or constitutes a lockout not intended to evade the requirements of this act.

I think Senator Specter said it well when he indicated that it probably would be helpful to get this entire matter clarified. I have just spoken to Senator Hatch, and my staff is prepared to meet with his. We are not seeking to provide notice to strikers. We are seeking to keep this bill away from the issue of whether or not they are entitled to notice or obliged to receive notice, because the issue of when there is a replacement for a striker is an isssue that is hotly contested. I think we can probably work that matter out between our staffs, and I hope we will. We are not seeking to add additional responsibility.

Mr. QUAYLE. Mr. President, will the Senator yield for a question?

Mr. EXON. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Ohio.

Mr. EXON. I thought the Senator from Ohio yielded the floor.

Mr. METZENBAUM. I did yield the floor, yes.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I was glad to see the discussion that has just taken place.

I voted on the last motion before the Senate, the tabling motion, to give me a chance to understand better what the proposed amendment does and does not do.

I must say that after listening to the discussions between the Senator from Ohio and the Senator from Utah and the Senator from Pennsylvania, I am not much better informed than I was before. How I vote when this matter comes up will depend, to a large extent, on whether or not this is making changes in the basic labor law of the land.

My question to the Senator from Ohio and the Senator from Utah is simply this: As I understood it, the plant-closing measure was not to address the basic labor laws of the land. I felt that if we got ourselves into that situation, we would have an awful lot of difficulty down the road.

I wonder if I correctly heard my friend from Ohio and my friend from Utah. Their main difference of opinion, as I understand it, is that because of the provision that was just cited in the law by the Senator from Ohio, the Senator from Ohio maintained that the bill before us clearly does not get into any existing law. The Senator from Utah, on the other hand, says that it is clear that the bill does get into existing labor law—whether that is the interpretation of the Senator from Ohio or not. There is a basic disagreement between the managers of this bill as to whether or not this does, indeed, get us into the basic labor law regulations of the United States. Is that correct?

Mr. METZENBAUM. May I respond?

Mr. EXON. Yes. And I would like to have the response of the Senator from Utah.

Mr. METZENBAUM. I want to say as strongly as I can that we have no intention of affecting the basic labor law. That is the reason why the language I previously read was put into this legislation.

There is additional language, which has been pointed out to me by my staff, which provides that the giving of notice pursuant to this act, if done in good faith compliance with this act, shall not constitute a violation of the National Labor Relations Act or the Railway Labor Act.

We just want this to be a plant-closing notice bill. We do not want to get into the question of when there is a replaced striker or an economic striker. We want to stay out of that issue. That is a hotly contested issue.

We are not looking to add any additional responsibilities on the employers over and above that which they presently have.

Because there seems to be some confusion and because my good friend over here from Utah seems to have added to the confusion by some of his rhetoric, I have indicated in response to the Senator from Pennsylvania that we are prepared to provide clarifying language to make it very clear that we are not trying to affect the basic labor law in this country, neither add to it, nor detract from it.

Mr. EXON. I think the Senator from Utah heard my question.

Mr. HATCH. I did.

Mr. EXON. Have I properly phrased the concern that this Senator has and is that a legitimate concern?

Mr. HATCH. I think the Senator has properly phrased his question and it is a very legitimate set of concerns.

The fact is this is not a simple 60-day notice plant closing bill. It has been presented as that but when Senators have had to stand up and say that the Kassebaum amendment would have to be defeated because it would be a killer amendment, when all it did was strike the layoff provisions of this bill which have nothing to do with plant closing and which open this whole area of labor-management relations up to additional litigation and additional difficulties, I think it is a very conscious admission that it is a lot more than a simple little itty-bitty bill they have been explaining. When we brought our first amendment to the floor here this afternoon, it was accepted, preventing injunctions under this bill that clarified, that corrected what was a very bad, glaring ambiguity in this bill, and I commend the distinguished Senator from Ohio because if we had not done that that would have meant a major change in National Labor Relations Act law.

When this last amendment was rejected by the distinguished Senator from Ohio, through his motion to table, and by our colleagues here on the floor, I think because there was a lack of knowledge as to what it really meant, and I do not blame any Senator for that because I think there were statements made that were clearly inaccurate during the debate with regard to this, that constitutes a major substantive change in National Labor Relations Act law, and make no mistake about it. The fact is it creates a new right to mandatory notice in people who voluntarily strike and a new obligation on the part of employers who did not cause that voluntary economic strike.

There is no question about it. Under current law, strikers who are replaced are not entitled to notice. With the failure to clarify this ambiguity if this bill passes, I have to ask the Senator what is the law going to be? The Senator from Ohio says it will be up to the courts. There is no question what it is right now, and that means the courts could very easily go contrary to what the distinguished Senator from Nebraska really believes the current law to be.

The law should be clear, and it is clear today without this bill. It should be clear that voluntary strikers should not qualify for mandatory notice under the bill because with the rejection of that amendment I believe voluntary economic strikers will qualify for mandatory notice under the bill and severance pay pursuant to this bill.

That is a major substantive change in current labor law, and it is an important change.

I have some other amendments that will, hopefully, clarify other ambiguities in this bill, because what I am trying to do is not throw shibboleths into this bill, but trying to clarify it and if I have to live with it, I might as well try to make it the best bill I possibly can.

I am at the point where if amendments that are that clear are going to be tabled, I think basically because there is a kind of a party politic here that is leading to tabling anything that is brought up, then I am not sure that there is anything we can do to clarify or straighten out this bill.

But there are a lot of problems like that in this particular bill, and I think we ought to try at least to strike them. I think the distinguished Senator from Pennsylvania is right. Perhaps we should let this simmer for a while and then either bring up another amendment or try to resolve the amendment, and maybe we can.

Mr. EXON. May I ask further of the Senator from Utah, did the Senator from Utah offer this amendment either in committee or on the floor when the plant closing bill was in its original form, the form that was vetoed by the President?

Mr. HATCH. This particular bill had never been in the committee, not in this form. This is a new bill.

Mr. EXON. Is the Senator telling me this provision was not in the bill that was incorporated in the Trade Act? It could be it was something the Senator discovered afterward. I am not trying to put the Senator on the spot. I am trying to get information.

Mr. HATCH. I am trying to be accurate in response. There are so many things in the Labor Committee. I cannot remember them all.

Part of this bill was, as I recall, clarified and changed in conference, and that is where the new ambiguous language came from.

What we are trying to do, to the best of our ability, knowing that the votes are on the side of the majority here, is to clarify it and straighten it out and try to get rid of these ambiguities that really will lead to wholesale change in the National Labor Relations Act.

Let me make another point: I do not blame Senators who have no basic understanding or training in labor law. It is a tough technical field. I do not blame them for standing and saying, "Well, this is just an itty-bitty 60-day plant closing notice law." But it is wrong for them to say that. And I think this debate shows that it is wrong for them to say that, and I think that the Kassebaum amendment debate shows that it is wrong for them to say that because it not only involves plant closings, it involves layoffs as well. Plus it involves potential new obligations on the part of employers toward strikers. These are serious problems, and they are problems that will lead to tremendous labor unrest in this country and tremendous economic dislocation.

Mr. SARBANES. Mr. President, will the Senator yield for a question?

Mr. EXON. The Senator from Ohio had asked me to yield. Has it to do with the question the Senator from Nebraska asked?

Mr. SARBANES. Yes, it does because I would like to find out from the Senator from Utah, because he has obviously been impelled to go down this path in terms of his various assertions by the tabling of the Kassebaum amendment. He has constantly come back that that has been his reference point as he discusses his own amendment.

The question I want to put: It was my understanding that the provision which the Kassebaum amendment sought to remove was in fact contained in the original version of this proposal. Is that correct?

(Mr. SANFORD assumed the chair.)

Mr. HATCH. I think the distinguished Senator maybe misunderstands what the Senator is saying, but the Kassebaum amendment did not address this particular issue.

Mr. SARBANES. No. The Senator has moved his amendment in light of the tabling of the Kassebaum amendment. My question only goes to the Kassebaum amendment. As to the provisions which the Kassebaum amendment sought to remove, were not those provisions present when we originally acted on this matter?

Mr. HATCH. The Kassebaum amendment had no relationship to the amendment that I just offered. In other words, the reason I agreed not to present any amendments until after the Kassebaum amendment was brought up was because, had that amendment passed, I may very well would have brought this amendment up and the injunction amendment up afterward anyway to clarify the bill because these are errors in the bill that I think amount to major changes in the National Labor Relations Act law. I say one amendment has been accepted.

Mr. SARBANES. This amendment addresses layoffs which is what the

Kassebaum amendment addresses, is that not correct?

Mr. HATCH. This does not address layoffs.

Mr. SARBANES. It addresses notice to people.

Mr. HATCH. Not with regard to layoffs. It addresses the question, what is the status of replacement workers and strikers?

Mr. SARBANES. I understand that. But you have constantly gone back to reference the Kassebaum amendment. Now, the only question I am putting to the Senator is: Were not the provisions which the Kassebaum amendment sought to remove contained in the original version of this legislation when we passed it?

Mr. HATCH. I do not know what that has to do with this present debate, but the provisions pertaining to layoffs have been in the bill as long as I can remember, right from the beginning. They have been represented as just a simple plant closure part of the bill, which they are not. That is the point I am making.

Mr. SARBANES. So the Kassebaum amendment did seek to take out of the bill something that has been in there from the beginning?

Mr. HATCH. That is correct.

Mr. SARBANES. All right. That is all I wanted to know.

Mr. HATCH. But not the provision with regard to the strikers.

Mr. EXON. Mr. President, I am prepared to yield the floor. The Senator from Ohio wanted to answer my question and I will be glad to yield to him.

But I hope, since both sides seem to want to make this bill that we are debating now free and clear from getting into the labor-management problems and laws of America, I hope we can come to some kind of an understanding to do that.

I am somewhat concerned about this. I appreciate the explanation given by my friend from Utah and my friend from Ohio, plus whatever he is about to respond to further, because I think this is a matter that I want better defined before I cast my final vote on this measure.

Mr. BYRD. Will the Senator yield?

Mr. EXON. I am happy to yield to the majority leader.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I think the distinguished Senator from Maryland made a good point.

I ask unanimous consent that the Senator may yield to me, that I may make an inquiry of the Senator from Ohio.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Is not this bill, which is presently before the Senate, identically the same bill as those provisions that were in the trade bill that went to the President which he vetoed? Are they not identically the same provisions dealing with plant closures and mass layoffs?

Mr. METZENBAUM. The answer is "Yes," with the exception of the small amendment which we accepted from the Senator from Utah.

Mr. HATCH. Could the Senator yield on that point, because it is important. The answer is "No."

Mr. BYRD. If I may, let me finish.

If that is the case, then, did the Senate not pass judgment on this bill before as it was a part of the trade measure that was vetoed?

Mr. METZENBAUM. The answer is "Yes," the Senate did pass judgment on this. I might also add that when this matter was in committee—both I and the distinguished Senator from Utah serve on that committee—this issue had never before been raised. I feel it is just an effort to confuse the issue.

Mr. BYRD. That is the point I was getting to.

Second, the conference report that came back from the conference contained precisely what is contained in this bill right now, with the exception of the amendment which was accepted and then agreed to by the Senate earlier today. Is that correct?

Mr. METZENBAUM. The Senator from West Virginia is correct.

Mr. BYRD. So what we have here is a measure that has been debated in this Senate, has been discussed in conference, has been brought back to the Senate as a conference report, passed by the Senate, agreed to by the Senate, agreed to by the other body in that same conference report, went to the President, and the President vetoed the bill. Now, here, at the last minute—we have been on this bill for 4 days, 3 days last week and today——

Mr. HATCH. Will the Senator yield?

Mr. BYRD. In a moment.

We have been on this bill 4 days, and now, at the last minute, there is an effort to change this bill. The President vetoed the trade bill. He said he wanted a trade bill, but he had 6 years in which to get a trade bill in this Senate when his party was in control of the Senate. Now he received a trade bill. But he vetoed it on the pretext that it had this plant closing mass layoff measure as a part of it. He suggested that that should not be a part of the trade bill.

Now we are attempting to send the President a clean plant closing bill, and then, hopefully, later send him the rest of the trade bill. If this bill is amended, and every effort is being made here to amend it, then it is going to have problems in the other body, I can tell the distinguished Senator that. And that means, then, that there are going to be problems with the trade bill, which the President says to send back to him and he will sign it. I would like to send it back to him and I hope he will sign it. But if this bill is amended, it really jeopardizes the trade bill in the end.

So now at the last minute, this straw man is called up in an effort to confuse the whole issue on plant closing. I hope Senators will be mindful of that.

Mr. HATCH. Will the Senator yield?

Mr. EXON. I believe the Senator from Nebraska has the floor.

I would be glad to yield, but the point that has just been made by the Senator from West Virginia, the majority leader, is exactly the point that I had on my mind when I raised this issue.

Mr. HATCH. Will the Senator yield on those points?

Mr. EXON. Let me ask this question, and you can respond, if you would, again, in your response to my question.

Mr. HATCH. Sure.

Mr. EXON. I am not accusing anybody of bad faith here. Maybe I am wrong, but I am convinced that there has been a deliberate attempt by some to string out this debate for reasons not to consider the plant-closing bill.

Was not the bill that we had before us in this regard the same bill that we passed previously?

Mr. HATCH. The answer to that is no. In other words, the distinguished majority leader has been misled, because this bill went to conference and a number of changes were made in conference and we could not amend the conference report. So, the answer from the distinguished Senator from Ohio was inaccurate.

The fact is, there were changes made in conference that we could not address until we got to the floor. When we got to the floor, we had a day of general debate and then it was decided the next day for the Republicans to hold a caucus at 1:30. So we really could not add amendments at that time. At that time, we decided to go to the Kassebaum amendment. I indicated that I would be willing to go with amendments on that morning, Thursday morning—as I recall, it was Thursday—but I agreed to agree with my colleagues. We decided to wait for the Kassebaum amendment. She mentioned she was going to call it up, but then had to leave and, of course, she could not call it up until today. I was asked to withhold amendments until after that amendment was voted on. We withheld.

I brought up an amendment and 5 minutes later it was accepted. I brought up another amendment. We have had a fairly hefty debate on it, because it is an important amendment regarding a very, very important part of this bill which, to the best of my knowledge, was amended in conference, along with other parts of this bill that were unamendable with regard to the conference report.

So I think we have proceeded with dispatch. Yes, it could have been maybe a little bit better had the distinguished Senator from Kansas been ready and prepared to go earlier than she was. But she was not. And that is her right, and she certainly wanted to do it right and she did it right.

Now, do not talk about delays from the distinguished Senator from Kansas or the Senator from Utah, because I called up these amendments immediately after her amendment was voted down.

So, to answer the question, yes, the bill was changed in conference. Yes, they were substantive changes, to the best of my recollection. We were unable to change it in conference. And, yes, this is the first chance we have had to amend it. And, yes, these are substantive, not frivolous amendments. They are substantive, important amendments.

I think it is imperative that the Senator from Utah's amendment was a very substantive amendment. It has people all over this floor concerned that maybe they do not understand this issue correctly. And I do not blame them, because I do not think most of us do, in the sense of at least understanding the amendment that was just tabled.

So all I am saying is that everybody has a right to do what they want to on this floor, and I uphold that right, but I do believe that we have made a terrible mistake in tabling an amendment that would have clarified a very serious, glaring error in this particular bill that presently exists that really did not exist originally when the bill was filed.

So the answer to the distinguished Senator from West Virginia's query is that, if this bill passes in its present form and it is sent to the President, it is not the original bill that was sent.

Mr. BYRD. Will the Senator allow me? I did not say it was the original bill.

Mr. HATCH. I thought you were indicating it was the bill that was put through on the trade bill and I do not believe it is.

Mr. BYRD. No. I said it was the bill that came back from the conference after it had been worked over in conference.

The Senate adopted the conference report. The House adopted the conference report. And it was my understanding, maybe I am wrong, it was my understanding that this bill before the Senate now is precisely what went to the President in the conference report with the exception of the amendment which was earlier adopted today, offered by the able Senator from Utah.

Mr. SARBANES. Does the Senator from Utah agree with that?

Mr. HATCH. No. I do not. I do not think it was. The conference amended the bill.

Mr. SARBANES. No, the Senator did not listen to the statement of the Senator from West Virginia.

Mr. QUAYLE. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senators will address their remarks to the Chair.

Mr. QUAYLE. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Does the Senator from Nebraska yield?

Mr. EXON. I will be glad to yield for a parliamentary inquiry without losing my right to the floor.

Mr. QUAYLE. Parliamentary inquiry, Mr. President. Was the trade conference report subject to amendment on plant closing?

The PRESIDING OFFICER. The conference report, as the Senator knows, is not amendable.

Mr. QUAYLE. I thank the Chair.

Mr. HATCH. That is my point.

Mr. BYRD. The point is not germane to this discussion we are having.

I ask unanimous consent that the distinguished Senator from Nebraska may be allowed to yield to me, that I may state the point that I attempted to make earlier so that we can see, indeed, if the point was accurate and then that the distinguished Senator from Ohio may answer the question.

It is my understanding that the bill which the distinguished Senator from Ohio introduced—and in connection with which I initiated the rule XIV procedure to get it on the calendar—was precisely the same measure dealing with plant closings and mass layoffs as was sent to the President in the overall trade bill which he vetoed.

Mr. METZENBAUM. The Senator from West Virginia is right——

Mr. BYRD. With the exception of the one amendment that was earlier agreed to today.

Mr. METZENBAUM. Right. That is the same question the Senator asked previously. The Senator was right then. The Senator is right now. This is identically the bill that we had as part of the trade bill with the exception of the amendment offered by the Senator from Utah, which I accepted earlier in the day.

Mr. BYRD. There may be a confusion by the use of words, the words——

Mr. HATCH. I do not disagree with that.

Mr. BYRD. I ask unanimous consent that the Senator may retain the floor.

I have not maintained that this is the same measure that constituted the amendment that was offered on the Senate floor during the debate of the trade bill, such amendment dealing with plant closings and plant layoffs. I have not maintained that. But I have maintained that it was my understanding—and I would like to know if I am incorrect—it was my understanding that the measure which the Senator from Ohio introduced, which was put on the calendar by way of rule XIV and which has been called up and which is presently before the Senate, is precisely that part of the trade bill which the President vetoed dealing with mass layoffs and plant closings, with the exception of the amendment that has been accepted today.

Mr. HATCH. I agree with that.

Mr. METZENBAUM. The Senator from Utah and the Senator from Ohio agree the answer is yes.

Mr. BYRD. I thank them.

Mr. EXON. May I reclaim my right to the floor?

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. EXON. After all of this deliberation, do I understand it, as a nonlawyer and not a member of the Labor Committee and certainly not well versed in labor law, do I understand it, then, that this amendment now offered by the Senator from Utah could have been offered at a previous time but was not?

Mr. HATCH. If the Senator would let me respond to that.

Mr. EXON. I would be glad to. I am anxious to have you respond.

Mr. HATCH. The answer to that is no, because the bill was changed in conference. We had a conference report that was unamendable, and until this bill was called up, pursuant to rule XIV, we could not offer this amendment to the bill. This is the first time, to my knowledge, that I have been able to offer this amendment to this precise language.

Now, that is why this debate is important and to the best of this Senator's ability, this is the earliest that I have been able to do that. And I have done it in good faith and I have done it expeditiously. We spent less time on the amendment than we have on matters subsequent to the amendment.

So what I am trying to point out is this. The plant closing legislation was added to the trade bill. It was changed drastically on the floor from the bill that came out of our committee. It then went to conference with the House. They changed it in the conference. It then came back and was passed through both Houses of Congress and was vetoed, as far as I recollect. And then to get it up today, rule XIV was utilized and, of course, the bill has come up in its present form and this is the bill, as the distinguished Senator from West Virginia has pointed out, which was the same as the conference report except for the added amendment the distinguished Senator from Ohio took.

Once he took that amendment then I for the first time had the privilege of calling up this amendment that was tabled. This amendment is an extremely important amendment because unless it is adopted current law will not be maintained. The delicate balance of present National Labor Relations Act law will be overturned; employers will be greatly disadvantaged and I believe employees as well. And, in the process, we will have made a substantive change in our labor laws which I believe concerns the distinguished Senator from Nebraska as much as the Senator from Utah. And I think that is the situation.

Mr. EXON. I would like to yield to the Senator from Ohio for an appropriate response to my question.

Mr. METZENBAUM. I think that my colleague from Utah, his recollection and his memory is not quite as good as it should be. Because this amendment, having to do with the matter of strikes and lockouts, was adopted on the floor of the Senate last July. At that time, if there had been any question about it or any desire to offer a clarifying amendment, the Senator from Utah would have been in a position to do so. He never mentioned a word.

Then the matter went to conference after the trade bill left the floor of the Senate; it went to conference. My distinguished colleague from Utah served on that conference committee as did I. It was never mentioned at that point and he would have had an opportunity to raise the issue at that point.

As a matter of fact, it is only fair to point out that there were some issues raised by members of the minority party who sat on the conference committee, Members of the other House, and we made concessions to them in other areas.

This is the first time we have learned of this issue and I think the distinguished majority leader is right on target when he points out that suddenly, out of nowhere, comes this amendment that has never been talked about, never suggested, never argued, never mentioned at this point earlier, notwithstanding the fact that we have been on this bill about a year. Last July is when we added the amendment having to do with plant closing; never mentioned before until now, after the Kassebaum amendment is not agreed to. Then we suddenly find we are going to get a host of amendments and nobody is really quite certain what all those amendments are about.

I have to believe that what we find ourselves engaged in is an effort to confuse the issue and maybe to bamboozle the public. But the fact is this Senator, who is the author of the bill, was the author of the amendment, wants to keep the issue unequivocally clear. We just want notice when a plant is closed and we are not trying to affect in any way whatsoever the basic labor laws of this country.

Mr. HATCH. If the Senator would yield——

Mr. EXON. I thank my friend from Utah and my friend from Ohio.

Mr. HATCH. If the Senator would yield for one more comment I would appreciate his indulgence. When this bill came back in the form of a conference report, I raised the whole issue on the floor at that time. This is not the first time I raised it and I think the distinguished Senator from Ohio's recollection is faulty on this. If I have a faulty recollection, I am willing to admit it, but I can tell you this has been a serious thing.

The original language in the bill was amended in conference. I did raise it. I think if you go back and look in the CONGRESSIONAL RECORD, you will find I did raise it. It is an important issue; it is not an inconsequential issue. Even if I did not raise it, which I did, but even if I did not, I still have an obligation if I just found out about it yesterday to bring it up and protect the labor laws of this country. That is what I am trying to do. I have done it expeditiously. In all honesty, I think we have done it not only expeditiously but honorably. I think it is an amendment that should have passed.

I can stand to lose. I have lost many times on this floor and I have won sometimes, but this is one that really does bother me because it really is important. We cannot just, in the name of winning political victories here, run roughshod over the labor laws of this country and that is what the rejection of this amendment does.

Mr. QUAYLE. Will the Senator from Nebraska yield?

Mr. EXON. I hope they will be able to get together. The Senator from Ohio said he would be glad to consider some possible language on this. I do not believe their faulty memories are to blame. May be it is a possible misunderstanding. I hope this can be clarified.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, let me just try to give my memory of the events to add to this. I am sure if I go off, we can set the record straight.

My memory serves me that when the trade bill was before the Senate, through parliamentary maneuvers, plant closing was also part of the trade bill. Those of us who objected to plant-closing legislation being on the trade bill had the motion to strike before the Senate. It was fully understood at that time that this was veto bait; that if the plant-closing legislation was on the trade bill, it was going to be vetoed.

Further, my memory is that there was one amendment that was offered in relationship to plant-closing legislation on the trade bill that was before the Senate. That one amendment was a motion to strike and to get the entire plant-closing legislation out. That amendment failed.

The House of Representatives did not have plant closing in their trade bill, and it was hoped by many that when we went to conference that the plant-closing legislation, in fact, would be dropped and that we could deal with it in a separate piece of legislation, as we are doing now.

That hope was not realized, for whatever reasons, and there have been a lot of accusations. I am not going to get into that. The plant-closing legislation came back attached to the trade bill.

As the Chair has stated, the conference report is not amendable. So, therefore, no amendments to this were in order. The trade bill was sent down, and we knew full well it was going to be vetoed. Now the plant-closing legislation is back before us and, for some reasons, some say, "Why would the Senator from Utah bring up this amendment?"

It has been implied that we fully considered this; that we have fully debated this; that we ought to accept everything in that trade bill, I suppose even the Alaska oil provision, and send it on back down to the President.

Mr. President, this is the first time that we have had an opportunity to look at this legislation. This is the first time we have had an opportunity to get involved in that. Now that we are going to deal with it in a separate piece of legislation, as many had suggested before, why not have amendments? Why not have discussion? I think that it is certainly not only within the rights, obviously, of the Senator from Utah, but I do not consider what the Senator from Utah is doing is abnormal at all. As a matter of fact, I think it is a very normal response that he has to a bill that he is very concerned about. The issue is a very fundamental one.

Mr. President, if I can get the attention of the Senator from Ohio, I have a question I would like to propound to him.

I would like to ask the Senator from Ohio about this particular amendment, a factual situation. My question is this: If you have people on strike and if an employer, after a certain period of time, decides to hire replacements, does the employer have to give notice to the striking workers?

Mr. METZENBAUM. I do not know the answer to that question. That is the issue I spoke about before, that there is no simple answer to that question because that is going to be resolved by the courts. But I might say to the Senator from Indiana, he is asking the same question that the Senator from Utah asked before. My observation to both of you and to all of this body is that I think it helps to know. The Senate has voted on this issue. We moved to table. The motion to table was agreed to.

Beyond that, the Senator from Pennsylvania raised a question as to whether or not we would be willing to agree to some clarifying language. The Senator from Ohio said we are willing to agree to some clarifying language. I do not know what we are beating a dead horse for because if you want to keep debating it and hearing your own voice, I suppose we can do it.

Mr. QUAYLE. May I ask the Senator from Ohio, Mr. President, if his legislation would require the employer to give notice to those workers?

Mr. METZENBAUM. The legislation provides that the act shall not apply to a plant closing or mass layoff if the closing or layoff constitutes a strike or constitutes a lockout not intended to evade the requirements of this act.

Mr. QUAYLE. Let me ask the question again, Mr. President.

Mr. METZENBAUM. Let me say to my colleague——

Mr. QUAYLE. I want an answer to my question.

Mr. METZENBAUM. Let me finish my answer.

Mr. QUAYLE. That is not an answer. Either yes or no. Mr. President, my question is this: Does the legislation of the Senator from Ohio require an employer to give notice when he decides to hire replacements? Does the legislation require notification, yes or no?

Mr. METZENBAUM. For the third time, or fourth time today, I will respond again, and then I am not going to respond to any more questions.

Mr. QUAYLE. Can you answer yes or no?

Mr. METZENBAUM. We believe our bill leaves this issue unaddressed. If any confusion exists, we state now that our intention is to leave this complex issue to the NLRA and the courts.

Having said that, I responded to Senator SPECTER that we are willing to try to work out some clarifying language. I do not see any reason just going over and over and over again. The leader of the Senate has made it clear that he is going to offer a cloture motion if we cannot move this bill forward or bring it to a conclusion. We all know that we are going out on Wednesday. We all know that would like to dispose of this bill before then, and I am concerned that there are some in the Senate who would like to hear themselves talk so much and if they are going to keep talking constantly, I am not going to be a party to it.

Mr. QUAYLE. I understand that it may be somewhat embarrassing when a Senator stands up and asks the author of legislation whether a factual situation is covered or not and the answer comes back, "I don't know" or, "It is ambiguous."

The only thing I was asking was a simple yes-or-no question. Either the legislation of the Senator from Ohio requires that the employer give notice to the strikers, once he hires replacements, or he does not. It is a fairly straightforward question.

I am sure there could be many amendments that would be germane so the majority leader can go ahead and file cloture; there would be germane amendments that would deal with this issue. I am sure that the Senator from Utah can draft those amendments and the Senator from Indiana can draft those amendments and those amendments would be voted on because I do not think that we can just sit there and say, "Well, we just don't happen to know what this legislation does."

The Senate ought to make that decision. It is very fundamental decision. Under a factual situation, it is very clear that when you have a strike that is going on and after the duration of that strike, the employer says, "I am going to hire replacements," does he or she, the employer, have to give notice now at that time? The answer should be no, but reading the legislation, I think the answer is yes, and I think it is something the Senate should, in fact, resolve and will one way or another. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. I am going to ask a question of all Senators. Is there going to be another amendment offered today?

Several Senators addressed the Chair.

Mr. BUMPERS. Mr. President, has the majority leader's question been answered,

Mr. QUAYLE. Yes, I have an amendment I can offer.

Mr. BYRD. Would someone offer an amendment,

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I shall not be long because I believe this is really subject to being clarified relatively easily.

When the Senator from Ohio has responded as he has on the question of whether the act applies, it seems to me that what the distinguished Senator may be responding to is whether someone may be replaced under the National Labor Relations Act, and that is a very complicated question which has to be interpreted by the courts. There is a difference whether someone may be replaced under the National Labor Relations Act, whether it is a right to work State or a State which does not have right to work laws. Under the laws of right to work, the replacement is easier, but even in States where they do not have right-to-work laws, there can be replacement under certain circumstances where the conditions are the same, where there are precautions by the employer to avoid vengeance or retribution, where the employer has bargained in good faith so there is a genuine economic circumstance.

If I may have the attention of Senator METZENBAUM, what I think Senator METZENBAUM has sought to do is to make no change in the National Labor Relations Act, leaving that complex legislation precisely where it stands now, where the courts have to make a determination as to whether employees may be replaced legally under the National Labor Relations Act. But I believe what Senator METZENBAUM has said earlier it, if my recollection is correct of earlier today, that it there is a genuine effort to replace a worker, that is not a layoff which comes within the purview of this act on plant closings or layoffs it there is a bona-fide replacement.

Now, if the circumstance involves a situation where there are layoffs, then the 60-day notice provision requires. If the employer, for example, is driven to his knees as a result of what has happened and there are going to be layoffs, then the 60-day provision applies under the act. But if there is a genuine replacement, I believe this legislation does not reach that issue to require 60 days notice if there is going to be a legitimate replacement. Now, the question on replacement depends upon the complex provisions of the National Labor Relations Act which Senator METZENBAUM does not want to change.

Now, as I understand the amendment of Senator HATCH, it was to clarify the existing law so that there would not be any change to require notice if there was a legitimate replacement. And that is why I said earlier that if the two managers got together, I thought they could work out the issue.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator has the floor.

Mr. SPECTER. A question?

Mr. METZENBAUM. Yes.

Mr. SPECTER. I yield for a question, Mr. President.

Mr. METZENBAUM. The Senator from Pennsylvania has spoken well and ably and added to the answer that I gave the distinguished Senator from Indiana, because it is correct. When is a replacement a replacement is a question for the courts to decide. There are different interpretations to that. And so I want to make the observation to the Senator from Pennsylvania that he has added to and elucidated well on the short answer that I gave the Senator from Indiana, and that I believe only serves to confirm the point the Senator made earlier and that is that we probably ought to provide some clarifying language in this legislation.

Mr. SPECTER. The issue of replacement is determined under the National Labor Relations Act, not under this legislation.

Mr. METZENBAUM. The Senator is correct.

Mr. SPECTER. So under this legislation, if you go to the question of the distinguished Senator from Indiana, does this legislation require notice when there is a legitimate replacement under the National Labor Relations Act, I think the answer is no. If the requirements of the NLRA are satisfied and there is a legitimate replacement, then this bill relating to layoffs does not seek to deal with replacement, where there is not some job which is terminated on a layoff but the substitute employee replaces the individual.

Mr. METZENBAUM. Will the Senator yield?

Mr. SPECTER. For a question, I do.

Mr. METZENBAUM. Yes. The Senator is 100 percent accurate and that is what I was attempting to say to the Senator from Indiana. That is, what is that definition. There is no way of knowing whether there is or is not a legal replacement until you look at the NLRA and the court decisions. That is the reason we are trying to stay away from the issue in this bill. And so when I say I do not know, it is because that issue is not a resolved issue before the courts.

Mr. SPECTER. Precisely.

Mr. METZENBAUM. The Senator from Pennsylvania has spelled it out completely and he is right on target in his response.

Mr. SPECTER. So that if there is a determination by the court that there is a legitimate replacement under the National Labor Relations Act, this bill, plant closings and layoffs, does not impose a new obligation to give 60 days' notice where the replacement complies with existing law under the National Labor Relations Act.

Mr. METZENBAUM. The Senator is again correct.

Mr. SPECTER. I think that is the issue, Mr. President. I yield the floor.

Mr. QUAYLE. Will the Senator yield?

Mr. SPECTER. I yield.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 2436

Mr. BUMPERS. Mr. President, I have an amendment which I send to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS), for himself and Mr. PRYOR, proposes an amendment numbered 2436.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is a follows:

At the end of the bill, add the following:

"SEC. REPORT ON EMPLOYMENT AND INTERNATIONAL COMPETITIVENESS.

Two years after the date of enactment of this act the Comptroller General shall submit to the Committee on Small Business of both the House and Senate, the Committee on Labor and Human Resources, and the Committee on Education and Labor a report containing a detailed and objective analysis of the effect of this act on employers (especially small and medium-sized business), the economy (international competitiveness), and employees (in terms of levels and conditions of employment). The Comptroller General shall assess both costs and benefits, including the effect on productivity, competitiveness, unemployment rates and compensation, and worker retraining and readjustment.

Mr. BUMPERS. Mr. President, this amendment has been cleared on both sides. It is very simple. It says that at the end of 2 years the Comptroller General will do a study as to the impact of this bill on business, employees, and the economy.

I voted against the plant-closing measure when it was first submitted to the Senate on the trade bill. I did it for a number of reasons. I had concerns about the impact it was going to have, particularly on medium-size businesses. I had concerns about the impact of the one-third provision in the layoff part of it.

Mr. QUAYLE. Will the Senator yield? Could we have a copy of the Senator's amendment? We have not seen it.

Mr. BUMPERS. Yes, of course.

As I was about to say, I voted against the plant-closing measure because I was concerned about the impact it would have on medium-sized businesses, particularly those with 100 to 500 employees. I was concerned about the fact that it did not really define what constituted a layoff.

When it came back from the conference, it provided that a layoff would only be considered those that involved at least 33 percent of the employees, and there were other changes that were made to the bill that I thought improved it immeasurably.

I also felt that the President's veto threat was a real one, had a chance for defeating the trade bill, and that we ought to consider it separately, as we are now doing.

But having said that, I also think that the Senate and the Congress would be well served to provide that the Comptroller General would do a study of the impact of the legislation and report back to the Congress how it has impacted business, employees, and the economy. It is a fairly simple, straightforward amendment, and as I say I understand it has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. QUAYLE. Mr. President, the Senator said it was cleared on both sides. I have no doubt that it was. I am not exactly sure who cleared it over here because I just talked to the staff of the manager of the bill, who momentarily had to be off the floor, and I am going to substitute for him.

I just received the amendment. It seems to be a very straightforward amendment. This is a report on employment and international competitiveness. It deals with the impact on small- and medium-sized businesses, international competitiveness. I do not see anything wrong with the amendment. As a matter of fact, I think it is probably a good amendment. Actually, we probably should do this before we pass this legislation. I wonder if the Senator from Arkansas would have any comment about that. I think that we ought to find out about what the impact is going to be on the small- and medium-sized businesses, the economy, the international competitiveness, and the employees in terms of levels and conditions of employment. I wonder if the Senator from Arkansas might have any general comment that this is what we ought to be doing before we pass this legislation.

Mr. BUMPERS. The Senator will remember the high-risk notification bill on which he and I were both on the same side. We had a GAO report on that. Actually, I wound up voting against that bill as did the Senator from Indiana.

But the most important information that would have served the Senate well before voting on that was the cost. GAO said they simply could not determine cost. While I thought the GAO report was fairly instructive, it was not as definitive as either I or the Senator from Indiana would have liked for that reason. So it is for these reasons that, yes, I think it would have been good if we had a GAO report study as to what impact this bill might have.

Any time you are doing a report before legislation takes effect you are always taking some assumptions that have to be made that may turn out to be fallacious. In this particular case I doubt that a GAO report, if we had done it before we passed the bill—we have not yet passed the bill, and maybe it will never become law—or the Comptroller General's report would be much more definitive and provide a much better guide for the Senate after the bill is passed than it would before, though I have no quarrel with what the Senator is saying. It would have been good if we had at least their best shot before the bill was considered.

Mr. QUAYLE. Mr. President, let me congratulate the Senator from Arkansas on the thrust of the amendment as a very good and appropriate one. I know his concern as chairman of the Small Business Committee that he is very interested in what the impact is going to be, particularly on small- and medium-sized businesses. We know big business is not going to be affected by this plant closing notification. They all do it any way. As a matter of fact, in the contract they have a lot more than 60-day notification. Many should and do give up to a year's notification.

But the real question we have is what is going to be the impact on the dynamics of the small businesses. I can assure the Senate I think this amendment certainly goes to achieve that objective. I congratulate the Senator from Arkansas on taking the lead on these issues and trying to sort through as we have to balance these issues out. On the one hand, yes, these things should be done. On the other hand, when you get a mandate from the Government, the small businessman or woman may not be able to afford the lawyers, the luxury to understand all the interpretations, regulations, and what the impact is going to be.

I can assure you that the Senator from Arkansas, particularly in his capacity as chairman of the Small Business Committee, has been very vigorous in the pursuit of the impact that the Government will have on potentially either stifling or helping small business.

So I concur with his assessment that it would have been nice to have had this kind of information before we passed this legislation. It is not possible because the legislation will be sent down and may or may not be enacted into law. At least Congress is going to dispose of it before we get this information.

So I thank the Senator for the amendment. Having spoken for a few minutes, I have not heard anybody rushing out of the cloakroom to object to this. They should not. It is a good amendment. I think this side will be prepared to accept it.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, we welcome this amendment. I believe it is offered by Senators BUMPERS and PRYOR. Is that correct?

Mr. BUMPERS. Yes. It is offered on my behalf and Senator PRYOR's.

Mr. METZENBAUM. I think it is important we assess the impact the bill will have on unemployment, worker readjustment, productivity and competitiveness.

I am confident the study will show that advance notice increases worker participation in job training programs, reduces unemployment compensation, increases our productivity and competitiveness.

I very much appreciate this constructive addition to the bill and urge its adoption. We are prepared to accept it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (No. 2436) was agreed to.

Mr. BUMPERS Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I want to make two general statements, and then I want to offer an amendment. First of all, we do not need this study. All we have to do is look at the world we live in. Europe has extensive plant closing provisions, and they have not created a job in 10 years. In fact, they have spent billions of dollars keeping open old, inefficient plants rather than creating new, efficient plants.

Second, we could look at our own procedures having to do with the railroad where it costs over $100,000 to lay somebody off in the railroad industry. We have not created a job there in years.

So I think it is clear. If somebody wants to look at the facts they are pretty clear on this issue. Plant closing notification mandated by governments produce rigidities in the marketplace. It does not create jobs, growth or opportunities. It stifles those things.

The second issue, what this bill says about replacing strikers, seems to me to be a critically important issue. We do not want to leave it to the courts to interpret. I hear all these people jumping up and down saying, "do you not think it is reasonable to give somebody 60-day notice?" I think it is reasonable for firms to do that. But I think if people understand that there was an ambiguity as to whether somebody who voluntarily left his job was going to be given 60-day notice, or given severance pay, or whether restrictions were going to be imposed on the company, I think there would be a great swing in public opinion.

So I think this is something that ought to be clarified. It ought to be clarified by amendment, and people should know that this does not apply to strikers. Quite frankly, I am suspicious of those who do not want that explicitly included in this bill.

AMENDMENT NO. 2437

(Purpose: To exempt certain banks and savings and loan associations from the definition of "employer")

Mr. GRAMM. Mr. President, I send an amendment to the desk on behalf of myself and Senator NICKLES, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. GRAMM] for himself and Mr. NICKLES, proposes an amendment numbered 2437.

On page 2, strike out line 12 and insert in lieu thereof the following:

"clusive of hours of overtime),

except that such term shall not include a bank that, in the judgment of the Federal Deposit Insurance Corporation, is in danger of closing, or a savings and loan association that, in the judgment of the Federal Home Loan Bank Board, is in danger of closing;".

Mr. GRAMM. Mr. President, this amendment addresses a very clear problem, a problem that exists around the country, but a problem that is focused on a regional basis. I would like to outline the problem to our colleagues. I would like to ask them to join me in supporting the amendment.

First of all, Mr. President, in the case of savings and loans there is no secret that a lot of these savings and loans are insolvent. And, therefore, if we simply decided tomorrow to take action to close them, I think it is clear that one would have a hard time to say that such action was unexpected or unforeseen. In fact, we have numerous savings and loans that have continued to operate because we have not had money in the FSLIC insurance fund to take action to close those savings and loans, have cash-assisted purchases, or to take other action to secure depositors.

Second, we are talking about a megaproblem. In the last 3 months, savings and loans that are troubled have lost $3.8 billion. In the last year, they have lost $11.5 billion. There are 344 insolvent savings and loans in the country. Currently, we are looking at a Southwest plan that is aimed at consolidating these savings and loans. FSLIC is injecting new money into savings and loans out of the insurance fund, and in the process is asking that roughly one out of four savings and loans offices be closed as part of this process. This, in my State, for example, would entail closing 400 savings and loan offices.

Mr. President, there are a lot of reasons why the logic of this bill does not apply to this particular problem. No. 1, a 60-day notice at a bank or savings and loan can create a deposit flight at that bank or savings and loan. Second, we are talking about a problem that represents financial hemorrhaging. In 60 days, we are now losing $2.4 billion at troubled thrifts.

The amendment I have offered simply requires that in the case where the FDIC says that a bank is troubled or the FSLIC says that a savings and loan is troubled, the provisions in this bill will not apply.

This amendment is supported by the Federal Home Loan Bank Board and FSLIC.

The FDIC says that they do not believe they are covered by this bill, and that they will contest any effort to cover them, but if there is any doubt about their being covered, they also endorse this amendment.

The National Council of Savings Institutions endorses this amendment. The United States League of Savings Institutions endorses this amendment. The American Bankers Association endorses this amendment.

Mr. President, this is a simple amendment. We have financial institutions in the savings and loan industry alone, 344 of them, that are insolvent. It is no mystery to anybody. There is no surprise about it. Nobody can claim that these problems, in the language of the bill, are unforeseen and unexpected economic difficulties. These are problems that have existed for months and for years.

To come in now and say: "We want you to come into Texas and buy a troubled thrift and put money in. We are going to make you close one of every four offices in order for us to approve the deal"—which is what the Federal Home Loan Bank Board is saying—"and, by the way, you have to give people 60 days' notice. You can't give them severance pay. You have to keep them employed for 60 days, during which time we can expect to lose $2.4 billion"—that does not make sense.

I am shocked that our colleague from Ohio has not decided to accept this amendment. This amendment is absolutely essential for Texas and Louisiana and Oklahoma and New Mexico.

We are going to be hard pressed to solve our financial problems without bankrupting FSLIC and without severely damaging FDIC if the provisions of this bill are applied to banks and savings and loans. To do that is going to assure that after a savings and loan or a bank is acquired, after insurance funds are pumped in, the institution will have to continue to operate with its current level of employees for 60 days. Frankly, I wish it were possible for them to operate for 60 days, but the problem is that we are losing $2.4 billion every 60 days on these thrifts.

We want to act immediately to consolidate, to cut our losses, and to get our banks and savings and loans back into a position where they can make loans to build new homes, new farms, new factories, to generate new economic growth.

I want to anticipate our opposition by saying that there is no doubt about the fact that FSLIC and the Federal Home Loan Bank Board think this amendment is indispensable. It is clear to them and clear to me, by looking at this bill, that savings and loans are not exempt, because nobody can say that their problems are unforeseen or unexpected.

There is some debate about whether FDIC is covered. FDIC views this bill as being so devastating that they say there is absolutely no way they are covered.

My point is that if they are not covered, why do we not come out and say so? Why do we not make it clear that we do not intend to include banks, so that there will never by any doubt about it?

When we are trying to rebuild the financial base of our financial institutions in the Southwest and elsewhere in the country where there are troubled banks, as there will be in areas where we have a drought, and both banks and savings and loans will be affected, let us not leave it to a Federal judge to make this decision. Let us make this decision ourselves.

The FDIC says: "We don't think we are included. If there is any doubt, then we are strongly in favor of the amendment."

Why leave it to doubt? Let us make it clear that when a bank is designated by the FDIC as being troubled, that bank is not covered by this bill. It is clear that the Federal Home Loan Bank Board and FSLIC do believe they are covered. They are strongly support this amendment.

We should make it clear, again, that this exemption is not for a healthy savings and loans that are shutting down or moving. They are covered by the bill. But when one is broke, when it is losing millions of dollars a month, when it is part of $2.4 billion being lost every 60 days, do we want these institutions to have to stay in operation and comply with this bill for 60 days?

The truth is that it is not going to happen. The truth is that they are going to become exempted from this bill by going bankrupt. If this bill is passed and it is applied to savings and loans, rather than cash assisted purchases that inject new capital, if the letter of this law is applied, you will see a rash of bankruptcies; you will see a lot of savings and loans close their doors; you will see depositors above the insured limit lose money; you will see deposits tied up in courts; you will see the Federal Home Loan Bank Board involved in selling off assets, most real estate assets, and those sales are going to collapse those markets in Louisiana, Texas, Oklahoma, and New Mexico. That will put more of their banks and savings and loans under.

FSLIC, which is already $11 billion in the red, is going to become hopelessly insolvent; and the same people who are here saying that we have to give 60-day notice on these banks and savings and loans will be here and say: "By the way, while your 60 days are being used up and you are losing your job, you will have to help us bail out these banks and savings and loans with taxpayer money."

So this is a reasonable amendment. I cannot understand why the Senator from Ohio and others do not support this amendment. One can argue that there may be debate about whether it applies to banks. I do not think you can make that argument with respect to savings and loans; but even if you could, why leave it to doubt? Should we not make it clear what we intend? With all the problems we have in our financial institutions, it seems to me that we should settle this issue.

This is a straightforward amendment. We are not talking big numbers of people, but we are talking about big dollars.

I remind my colleagues that the same people who last year were saying, "This is not a big problem, $5 billion will solve it," when some people said, "It will take $15 billion," now say that this is such a big problem that we have to have the taxpayers solve it and reach deep into the taxpayers' pockets.

If we take this action on this bill and reject this amendment, we are in grave danger of seeing the American taxpayer be forced to bail out not just insolvent thrifts but also an insolvent insurance fund for the thrift industry. That is the peril that I think should be avoided, and I urge my colleagues to vote for this amendment.

I yield the floor.

(Mr. BREAUX assumed the chair.)

Mr. PROXMIRE. Mr. President, first, I thank my friend from Texas, the author of the amendment, for letting me know that he is going to offer this amendment. I have had an opportunity to look into it. I oppose the amendment, and I will support the tabling motion.

I will explain why I believe the amendment offered by Senator GRAMM to the definition section of the plant closing bill is not needed. Senator GRAMM's amendment would specify that the provisions of the plant closing bill do not apply to banks that, in the judgment of the Federal Deposit Insurance Corporation, are in danger of closing, or to savings and loan associations that, in the judgment of the Federal Home Loan Bank Board, are in danger of closing.

I understand that this amendment may be prompted by concerns that the plant closing bill as written might interfere with the ability of the FDIC or the FHLBB to step in and close banks that are in danger of failing or closing. That appears to be a needless concern. Let me explain why. Section 3 of the plant closing bill provides that "an employer shall not order a plant closing or a mass layoff. * * *" When the appropriate banking agency moves in to close a bank, it is not the employer bank itself which is ordering its closing and the subsequent layoff of bank employees. It is an instrument of the Government which is doing so. The Government action in such a situation is analogous to the police closing down an illegal gambling operation, or the public health authorities closing down a restaurant violating the health code, or the sheriff carrying out an eviction. The plant closing provision on its face does not apply to such situations.

Another concern, however, is that the plant closing provision might apply in a situation where the banking regulator does not actually close a failing bank or S&L but rather uses its authority and resources to arrange for its takeover by a healthy bank or S&L. Such actions are taken by regulators to save money for the insurance funds. The concern is that a healthy purchasing institution should not be inhibited from streamlining the operations of a failing financial institution that might result in layoffs either at the headquarters of the failing financial institution or at one or more of its branches.

The plant closing provision only applies if an employer will let 50 or more employees go at a single site of employment. As a practical matter this provision would not affect FSLIC or FDIC assisted mergers. Most banks and S&L's do not have any branches employing 50 or more people. The average number of employees at each banking establishment is only 30, while the average S&L establishment employs only 18. So the acquiring bank or thrift could close almost any branch office without being affected by the plant closing provision. With regard to headquarters offices of a failing bank or thrift, which might employ more than 50 people, we should realize that when a healthy financial institution acquires a failing one in an FDIC or FSLIC assisted transaction it does so in order to keep the failing institution in business. The acquiring institution sees a value in the failing institution and does not engage in mass layoffs of employees at the headquarters. It may remove the top managers of the failing institution but normally the acquiring institution keeps most employees of the acquired institution and if it does let people go it does so gradually. The acquiring financial institution would then not be affected by a provision requiring 60 days' notice of layoffs of more than 50 people at a given site.

The FDIC does not believe the provisions of this bill would be applicable to the vast majority assisted mergers and thus believes the Gramm amendment is not necessary.

Mr. President, the Senator from Texas is going to say, "Well, if it is not going to have any effect, what harm will it do?"

Mr. President, the Gramm amendment is not warranted because the plant closing bill would not affect any FDIC or FSLIC closing or merger of a financial institution, and if an instance ever arose where the plant closing provision would apply, I think it would be a good public policy to require those employees affected to have 60 days' notice of being discharged.

For those reasons, I will offer a motion to table the Gramm amendment.

Mr. GRAMM. Mr. President, I can be brief. I thank our chairman for coming over, and I think I can get right to the heart of the matter.

The distinguished chairman of the Banking Committee is correct when he says that the bill applies to an employer closing a plant. So that if in fact you let a bank go bankrupt and you close it, and the Federal Deposit Insurance Corporation comes in and orders it closed, it is exempt from this bill. If you let a savings and loan go bankrupt and the Federal Home Loan Bank Board comes in and closes it, it is exempt from this bill.

The problem is, I do not want that to happen to my banks. I do not want it to happen to my savings and loans.

What I want to happen is, I want to have assisted mergers to keep those institutions open. When you work out a consent agreement on an assisted merger, it is then a private company that is making the consolidating decisions.

The distinguished chairman said that the branches are averaging 30 employees. It depends on what kind of institution you are talking about and where you are. In some cases, they go above the 50 number. It is not clear to me to what extent you are going to aggregate.

But I go back to the point. It is one thing to say that if you close the institution, and the Government in a bankruptcy function comes in and hits the gavel and says: "This bank is closed. All depositors should respond to the Federal Home Loan Bank Board. We will set up a procedure whereby you can file for your deposits. Those of you who were over the limit are out of luck. Others can apply to get their money. We are going to try to raise part of this money selling off buildings and selling off raw land."

It may be that under those circumstances you feel good because you are not going to be covered by this law, but at that point you have an economic disaster in Texas, Louisiana, Oklahoma, and New Mexico, and some other States that are affected.

So my point I think is very clear. What is happening, what the whole Southwest plan is about, is cash-assisted mergers and consent agreements whereby private individuals still control these institutions.

The last thing we want to do is get the Government in the business of running these banks and running these savings and loans.

So when a consent agreement is worked out whereby they will consolidate, they will close down some of their institutions, they will try to reduce their costs, they will try to stay in business, the provisions of the bill will be applied. We get to the heart of this whole bill.

Is it better for a company to scale back and stay in business, or is it better to just have it go broke to be exempted from this law?

I submit that it is better to have the institution stay in business.

Let me remind my colleagues that the way the Southwest plan is working is that well-managed thrifts that have some degree of capital, often not very much, are coming in to take over bankrupt thrifts that are losing literally tens of millions of dollars a month.

Often they are institutions in the same city. What they are doing is they are coming in and they are shutting down either their branch, and in a big city it can be a major branch with bookkeeping functions, or the one they acquired, depending on which one is better located. They merge their employees in some cases; in some cases they lay off people that are duplicative. The alternative, of course, is to let the entire savings and loan close.

So my point is, this is not just a case of shutting down isolated branches out in Cut and Shoot and Ben Hur and places like that. We are talking about San Antonio and Dallas, and we are talking about a very tough situation.

Do not get me wrong. The idea of a savings and loan closing in Bryan-College Station is something that weighs very heavy on my heart.

But the point is I would rather that they consolidate and still be in business than to wait around for what the chairman says will not be covered by the bill. That is when the Federal Home Loan Bank Board comes in and says: "All right, I order the savings and loan closed. We are going to sell off the assets. We are going to pay off the depositors on a first-come-first-served basis. You have to line up and get your money."

At that point a town like my hometown is devastated. I remind my colleagues, the Federal Home Loan Bank Board is saying one out of every four branches will be closed. Some of those are big-city branches, because you have a bank, a savings and loan that has already a branch in San Antonio. They are acquiring another one, a branch in San Antonio, so some big branches are going to be closed.

So I do not disagree with the distinguished chairman. Somebody would be foolish to do that. On the facts he is right, as far as they go. The point is, there are institutions in the Southwest plan with branches that have over 50 employees that are going to be covered.

Second, the way you get out from under that is to have the Government come in and to close the institutions. That is the last thing in the world that I want to happen, that is the last thing that the FSLIC wants to happen. I do not think we ought to let it happen.

I think this amendment ought to be adopted, and I hope my colleagues will agree with me on that.

The PRESIDING OFFICER. The Senator from Ohio, Senator METZENBAUM.

Mr. METZENBAUM. Mr. President, I rise to join with the distinguished chairman of the Senate Banking Committee in his opposition to this amendment. It is an 11th hour amendment to exempt an entire industry.

I have not heard from the FDIC and the FSLIC, and frankly I think the last-minute approach is unbecoming for two Government agencies that knew this matter had been pending for about a year.

In addition, the amendment seems to reflect concern that advance notice might interfere with ability of Federal Deposit Insurance Corporation or Federal Home Loan Bank Board to step in and close banks that are in danger of closing or failing; But the amendment is unnecessary, because as the chairman of the Banking Committee has already pointed out, the bill does not cover that situation at all.

The bill requires notice to be given by employers. But when the appropriate banking agency moves in to close a bank, the closing is by the Federal Government, not by the employer itself.

The Government action in such a situation is analogous to police closing down a gambling operation or public health authorities closing down a restaurant that violates the health code. The bill on its face simply does not apply.

Now, the Gramm amendment also seeks to cover the situation where a healthy bank takes over a failing bank and wants to streamline the operations by laying off hundreds of employees. It is a healthy bank that is taking the action. The bill would apply in that situation and I frankly believe that it should be covered.

Employees are not less entitled to notice because their employer is a bank rather than a steel mill or an auto plant. If the purchasing bank finds that it must suddenly and unexpectedly lay off hundreds of workers, there is an exception for unforeseeable business circumstances. But if the purchasing bank and the failing bank know that those employees will lose their jobs, they should have notice. That is the fair and that is the decent thing to do.

The amendment is either unnecessary or unfair or both. I urge rejection of the amendment.

Mr. President, it is my understanding that the distinguished Senator from Wisconsin will shortly offer a motion to table. I make that statement only so that our colleagues may be advised of the fact that there probably will be a motion on the floor very shortly to that effect.

Mr. GRAMM. Mr. President, I think the distinguished Senator from Ohio got right to the heart of the matter. In fact, his last statement was exactly my major point in response to the distinguished chairman of the Banking Committee. What we are trying to do is prevent banks from being closed. We are trying to get healthier institutions to come in and take their bad debt and take their deposits and streamline their operation and try to keep them open.

Now, it is true, if you want to take the position that if a bank acquires another bank—and often it is with cash assistance and, quite frankly, in my part of the country, there are not a lot of banks that have a lot of cash, and there are very few savings and loans that have any real capital as compared to the situation in my part of the country 10 years ago—but if you want to take the position that if you do a cash-assisted merger or you do a buyout, that you want to make them give the 60 days' notice, what you are going to do is prevent the buyout from occurring. You are going to keep the capital from being invested. The result is going to be more banks are going to close, more banks are going to be liquidated, more savings and loans are going to be closed, more savings and loans are going to be liquidated. And that is what I am trying to avoid.

Second, in the First City case, in Houston, TX, which was a cash-assisted buyout where private investors brought in a half-billion dollars, where the Federal Government put up over a billion dollars, the first thing they had to do to try to save First City was to layoff hundreds of people in the corporate headquarters. Now, do I wish First City had not had to do that? Yes; I do. I hate it. But would I have preferred that First City had gone to the auction block, would I have preferred that they closed the bank down and put everybody in the bank out of business? Is it better to lay off a few people and consolidate and save the instituion and then try to come back and hire them back later when your business is recovered, or is it better to shut the institution down, put it out of business completely? That is what we are talking about here.

I just want to go on record, because I suspect that this amendment is not going to be adopted. But I do not want anybody to be able to say that nobody ever raised this issue; that when we see the number of savings and loans and banks in the southwestern part of the United States become insolvent and become liquidated, and we see their depositors paid off and their assets sold off, I do not want anybody to say, "Well, nobody ever raised this issue. We clearly did not understand what it was going to do."

And when, with this drought, we have banks and savings and loans in other parts of the country become insolvent, I want us to remember that under normal circumstances there would have been a cash-assisted consoldiation. They might have hated it that some people lost their jobs, but the institution would have been saved. But, under this bill, when they are not saved, I want people to know that this issue was debated and that they had an opportunity to do something about it. That is what this amendment is about.

I yield the floor.

Mr. PROXMIRE. Mr. President, at the suggestion of the distinguished manager of the bill, I am going to move to table shortly.

Before I do that I would just like to take a couple of minutes to point out that, in the first place, it is clear that when the Home Loan Bank Board or the FDIC moves in to close an institution, a bank or a savings and loan, the bill does not apply. The distinguished Senator from Texas has agreed with that.

In the second place, the overwhelming majority of banks would be exempt because they employ far less than the required number to qualify under the bill. The typical, average branch of a bank employs 30 people. Savings and loans establishments employ 18, on the average, Mr. President. Now, there are a few branches that employ more than that, but not very many.

Mr. President, furthermore, most layoffs under circumstances of a FDIC or FSLIC assisted merger are slow and gradual. The people who are laid off are not suddenly laid off by groups 50, most employees; are laid off over a period of time. It would be a most unusual situation if a bank would layoff as many as 50, or a savings and loan would lay off as many as 50.

Mr. President, where there are more than 50 laid off, I cannot for the life of me understand why bank employees are not like other human beings, why they should not be told in advance. I think it is very important. That is the heart and soul of this bill, that people are given a 60-day notice. It is a modest requirement that they be told.

Furthermore, Mr. President, I want to make it clear that, as chairman of the Banking Committee, the FDIC, with whom I am in frequent touch, has never come to me about this issue. They have not said a word to me that this would be necessary.

As the distinguished Senator from Ohio has pointed out, this bill has been before the Senate for a long time. From the Home Loan Bank Board, we see Danny Wall, the chairman of the Home Loan Bank Board quite a lot. He has not come to me and said this amendment was necessary. And no bank and no savings and loan has come to me, on this matter. I see many bankers and savings and loan people because I am chairman of the committee. None of them have come to me and said that we have to be saved from the plant-closing bill. Not one. Now, you would think they would come to the chairman of the committee or you would think the regulators would come and let us know if they needed the action proposed by Senator GRAMM. They have not done that.

For those reasons, Mr. President, I hope the Senate would table this amendment, and I move to table. The Senator from Ohio joins me in that tabling motion.

The PRESIDING OFFICER. The nays and yeas are requested.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I hope it would be possible to get an agreement to vote on final passage of this bill tomorrow. I have been reluctant to offer a cloture motion. I would prefer not to have to go that route. But I will have to offer a cloture motion today in order to have a vote no later than Wednesday. We have been on the bill now for 4 days.

Mr. President, this will be the last rollcall vote today.

The PRESIDING OFFICER. The question occurs on agreeing to the motion of the Senator from Wisconsin to table the amendment of the Senator from Texas. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Mississippi [Mr. STENNIS], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Nevada [Mr. HECHT], the Senator from Pennsylvania [Mr. HEINZ], the Senator from North Carolina [Mr. HELMS], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 29, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—63

Baucus
Bentsen
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Warner
Weicker

NAYS—29

Armstrong
Bingaman
Bond
Boschwitz
Cochran
D'Amato
Dole
Domenici
Garn
Gramm
Grassley
Hatch
Humphrey
Karnes
Kasten
Lugar
McClure
McConnell
Murkowski
Nickles
Pressler
Quayle
Rudman
Simpson
Stevens
Symms
Thurmond
Trible
Wallop

NOT VOTING—8

Adams
Biden
Hecht
Heinz
Helms
Stennis
Wilson
Wirth

So the motion to table amendment No. 2437 was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, as chairman of the Committee on Small Business, I have a special responsibility to evaluate the effect of legislative proposals on small business, the backbone of the American economy which has created upward of 80 percent of all new jobs in the past decade. The task is an important one. We must carefully consider the additional burdens and costs that many legislative proposals impose. Many businesses are hanging on by their thumbs, Mr. President, and legislation that imposes substantial additional burdens may push them over the edge.

When the omnibus trade legislation came to the Senate floor last summer, it contained many provisions that had my wholehearted support and I was convinced that the legislation overall was sound public policy. The bill in general tightened up our trade laws and strengthened our ability to deal with unfair foreign trade practices, changes that were long overdue. The bill also contained provisions to enhance our international competitiveness, enhance our export potential, aid our farmers in international markets, and strengthen the Foreign Corrupt Practices Act.

Also, I was pleased that the legislation contained three provisions that I helped to author: first, a requirement that Senate committees reporting legislation include an analysis of the bill's impact on small business, employees, and the economy; second, an authorization for the creation within the Deparment of Commerce of a Clearinghouse on State and Local Competitiveness Initiatives; and third, a small business trade title to provide special assistance to small businesses who compete in international markets.

In short, Mr. President, I thought the bill was a good one, and wanted it to become law.

During the pendency of the bill, Mr. President, the administration expressed concerns about several of its provisions but flatly threatened a veto if the bill contained the plant-closing provision. I wanted the trade bill to become law and took the President's veto threat seriously, and that is one of the reasons I voted no on the plant-closing provision. I also had concerns about the impact of the provision on small business, although the provision we voted on out of conference was a rather dramatic improvement on the original language reported from committee.

It was a close call for me and I deliberated long and hard before I voted no on plant closing. Frankly, Mr. President, I was not completely confident at the time that I made the right decision, but I was influenced by the President's veto threat and my concern for small business. I have always favored employers providing notice, and said at the time that I would support legislation requiring a shorter notice period, perhaps 30 or 45 days. I probably would have voted for the 60-day plant-closing provision the Senate passed if it had come up as separate legislation.

To make a long story short, Mr. President, after careful deliberation I have decided to vote for S. 2527. This is not to say I will not vote for any amendments. In addition to the considerations I just mentioned, I am influenced by other factors. This bill was taken word for word from the provisions hammered out by the House and Senate conferees after the Senate vote last summer. The conference report notes several important changes in the legislation, changes which in my judgment make the legislation more palatable for small and medium-sized businesses:

Important language in the bill provided employers with exemptions from the notice provisions in cases where there were unforseeable businesses circumstances, faltering companies, or closure or layoffs where the work was temporary in nature. I had concerns, however, about whether the bill language was sufficiently clear. I feared that these provisions especially would cause needless litigation, which is disproportionately costly for small business. Importantly, the conference report, and hence S. 2527, contain substantial clarification of the meaning of these provisions. For example, the report fleshes out the meaning of the phrase "unforseeable business circumstances" and gives examples of such circumstances.

The Senate-passed bill included in the definition of "employment loss," one of the provisions that triggers the notice requirement, a reduction in hours of more than 50% over a six month period. The conference report clarified that such a reduction in hours must occur in each of 6 consecutive months to be considered an employment loss.

The conference report, and hence S. 2527, corrects an important omission from the Senate bill by making clear that in case of mass layoffs the 33% threshold applies (i.e. the layoff must involve at least 33% of the employees at a particular site).

The conference report made clear that in cases where an employer fails to give timely notice and is liable for "each day of the violation," the maximum violation period is 60 days. The Senate-passed bill was vague and could have led to a broader interpretation by the courts.

Mr. President, these are just some of the changes that are reflected in S. 2527, and I believe they offer meaningful improvements in the bill. Finally, Mr. President, I am pleased that the managers of the bill have agreed to accept an amendment I am offering that also improves the bill. My amendment simply requires the Comptroller General to submit a report to Congress 2 years after the date of enactment detailing the effect of this act on businesses, the economy, and employees. Although on balance I have decided to vote for this bill and I still have some concerns about how it will affect businesses, workers, and our economy, and the submission of this report will force us to revisit this issue in 2 years to ensure that there has been no adverse impact.

Mr. President, for all of these reasons I intend to vote for S. 2527.

CLOTURE MOTION

Mr. BYRD. Mr. President, I hoped that I would not have to offer a cloture motion, but we have been on the bill now for 4 days. It is obvious that a good many amendments are still out.

I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 2527, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

Senator Howard Metzenbaum, Lloyd Bentsen, Jeff Bingaman, Carl Levin, Spark Matsunaga, Paul Simon, George J. Mitchell, J. Bennett Johnston, Daniel K. Inouye, Don Riegle, Barbara A. Mikulski, Christopher Dodd, Wyche Fowler, Jr., J.J. Exon, Max Baucus, John Melcher and Claiborne Pell.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I hope that a Senator will lay down an amendment so when the Senate resumes consideration of this bill on tomorrow, there will be amendment pending.

ORDERS OF PROCEDURES

FIFTEEN-MINUTE ROLLCALL VOTE

Mr. BYRD. Mr. President, there will be a rollcall vote at 9:45 a.m. in the morning. That will be a 15-minute rollcall vote, and I ask unanimous consent the call for the regular order be automatic.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, there will be no more rollcall votes this evening. Would the distinguished Republican leader like for me to yield?

Mr. DOLE. I ask the majority leader to yield. I understand the Senator from Indiana will be prepared to lay down an amendment. I do believe we may be able to complete this bill before the cloture vote. Maybe not.

I think this is the best procedure to follow. Otherwise, there could be a lot of amendments, not even germane, to this bill. Most of us on this side want to stick to germane amendments that do have some impact or could have some impact.

Mr. BYRD. Mr. President, I thank the Republican leader. Would it be possible, perhaps the leader cannot tell me at this moment, would it be possible for the Senate to have a vote on this cloture motion tomorrow in view of the fact the Senate will be going out for the Independence Day holiday at the close of business on Wednesday?

Mr. DOLE. Let me indicate that I will be happy to discuss that at our luncheon tomorrow. In addition, we have a meeting with the White House on this issue tomorrow morning. If we know pretty much what the amendments are, I will be happy to explore it on our side.

Mr. BYRD. Mr. President, I thank the leader. I yield.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 2438

Mr. QUAYLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. QUAYLE] proposes an amendment numbered 2438.

At the appropriate place add the following:

No notice under this Act shall be required if the closing or mass layoff is due, directly or indirectly to a strike.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, we will not be voting on this amendment tonight. We will be voting on it tomorrow. Maybe we can get a short-time agreement. I do not need a lot of time to explain this amendment. It is fairly straightforward. It says no notice under this act will be required if the closing or mass layoff is due directly or indirectly to a strike.

We had a rather interesting debate on a different amendment, but this is very straightforward and if, in fact, there is a strike and economic damages are incurred that the employer would not be obligated to follow the notice requirements under this act.

I will be prepared to debate it tomorrow and, as I said, I do not have any lengthy debate on this amendment. I think it is rather straightforward and very easy to understand.

Mr. BYRD. Mr. President, will the distinguished Senator be willing to enter into an agreement today as to a time limit on the amendment?

Mr. QUAYLE. Thirty minutes equally divided?

Mr. METZENBAUM. I have no objection to the 30 minutes equally divided, but I may want to offer a second-degree amendment to this amendment. I have just seen it at this point, and we could have a 30-minute agreement with the understanding that the Senator from Ohio, or any other Senator, could offer a motion to amend or such other motion as would be appropriate.

Mr. QUAYLE. Mr. President, I hope that the normal unanimous consent would be entered and that is there would not be any second-degree amendment; that this amendment is the amendment that would be voted upon.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. If I may respond to my colleague from Indiana, I have just seen the amendment within the last 10 seconds and I do not think I could agree to that, but I want to say I have no desire to drag out the debate tomorrow and in the morning we may be able to suggest some modifying language which might be agreeable to the

Senator from Indiana and we might not even have to have a vote. I want to explore that overnight.

Mr. QUAYLE. Mr. President, I imagine in that case getting a unanimous-consent agreement tonight would be rather difficult because I am not going to agree to unanimous consent if there is going to be a second-degree amendment. As I said, this amendment is very straightforward and I do not think there is any necessity to have a second-degree amendment. I am willing to enter into a short time agreement so we can move this legislation and everybody can get out for the July 4 break. So maybe we can enter into a time agreement tomorrow.

Mr. METZENBAUM. I think that is entirely possible and I look forward to working that out.

Mr. President, I want to be heard very briefly. I have accepted one amendment, and I have suggested clarification in connection with the Hatch amendment which was earlier voted down, having to do with giving notice in connection with strikes. I believe we should attempt to clarify that because I do not think we are that far apart.

I accepted the Hatch injunction amendment in the spirit of making clear our position that we did not want to go beyond the limits of the language of the bill. I rejected the second Hatch amendment because I feared that it went beyond mere clarification and injected us into new areas of labor law.

We have just submitted to Senator HATCH language that we believe would clarify the situation and it would protect the neutrality of this bill with respect to labor law.

With that clarification, I would be prepared to accept the Hatch amendment, as modified. I do that in the spirit of accommodation and because so many Members seem to have some confusion with respect to the amendment. Notwithstanding the fact that the amendment has been laid on the table, I think a number of Senators feel it is desirable that we clarify the question as to when strikers are to be notified and when they are not to be notified, and we do not want to confuse the issue.

I particularly thank Senator SPECTER and Senator EXON and Senator SARBANES, who were the cool heads urging us to recognize that we were close in our actual positions. I hope that by morning we will be totally together and have the original Hatch amendment sufficiently clarified that it can be accepted.

I hope in the same manner that we may be able to look over the Quayle amendment and see whether or not there is any way in which we can make right that amendment so it would be acceptable. But since I have not had sufficient time to study it, I do not want to address myself to the issue.

Mr. President, I yield the floor. I think we have now concluded our business with respect to the pending plant closing provision this evening.

The PRESIDING OFFICER. The Senator from Ohio yields the floor.

Mr. SYMMS. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been noted, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 12:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 4162. An act to make the International Organizations Immunities Act applicable to the Organization of Eastern Caribbean States;

H.J. Res. 485. Joint resolution designating June 26 through July 2, 1988, as "National Safety Belt Use Week"; and

H.J. Res. 587. Joint resolution designating July 2 and 3, as "United States-Canada Days of Peace and Friendship".

The enrolled bill and joint resolutions were subsequently signed by the Acting President pro tempore (Mr. DASCHLE).

At 2:24 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3893. An act to amend the provisions of the Toxic Substances Control Act relating to asbestos in the Nation's schools by providing adequate time for local educational agencies to submit asbestos management plans to State governors and to begin implementation of those plans.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3893. An act to amend the provisions of the Toxic Substances Control Act relating to asbestos in the Nation's schools by providing adequate time for local educational agencies to submit asbestos management plans to State governors and to begin implementation of those plans.

MEASURES READ THE FIRST TIME

The following bill, previously received from the House of Representatives for concurrence, was read the first time:

H.R. 4517. An act to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to provide for indemnification and hold harmless agreements.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3426. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report concerning housing quality standards under the Section 8 Existing Housing Program; to the Committee on Appropriations.

EC-3427. A communication from the Principal Deputy Assistant Secretary of Defense (comptroller), transmitting, pursuant to law, a report on contract award dates for the period July 1 to August 31, 1988; to the Committee on Armed Services.

EC-3428. A communication from the Deputy Assistant Secretary of the Air Force (logistics), transmitting, pursuant to law, a report on the conversion of the military family housing maintenance function at Loring Air Force Base, ME, to performance under contract; to the Committee on Armed Services.

EC-3429. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Impacts of Alternative Residential Energy Standards-Rural Housing Amendments Study"; to the Committee on Banking, Housing, and Urban Affairs.

EC-3430. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on "Barriers to the Commercialization of Federal Computer Software and Feasibility and Cost of Compiling an Inventory of Federally Funded Training Software"; to the Committee on Commerce, Science, and Transportation.

EC-3431. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, a report on FAA progress on rulemaking proceedings; to the Committee on Commerce, Science, and Transportation.

EC-3432. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend title II of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, to authorize appropriations for fiscal years 1988 and 1989; to the Committee on Commerce, Science, and Transportation.

EC-3433. A communication from the Director of the Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the annual progress report on the California Desert Conservation Area for 1987; to the Committee on Energy and Natural Resources.

EC-3434. A communication from the Acting General Counsel of the Department of Energy, transmitting, pursuant to law, notice of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-3435. A communication from the Acting General Counsel of the Department of Energy, transmitting, pursuant to law, notice of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-3436. A communication from the Acting Administrator of General Services, transmitting, pursuant to law, informational copies of certain proposed prospectuses; to the Committee on Environment and Public Works.

EC-3437. A communication from the Secretary of Commerce; transmitting a draft of proposed legislation to amend the National Ocean Pollution Planning Act of 1978, as amended, to authorize appropriations to carry out the provisions of the act for fiscal years 1988 and 1989, and for other purposes; to the Committee on Environment and Public Works.

EC-3438. A communication from the Director for Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, notice of five new Privacy Act systems of records; to the Committee on Governmental Affairs.

EC-3439. A communication from the Chairman of the Prospective Payment Assessment Commission, transmitting, pursuant to law, a report on studies or urban-rural and related geographical adjustments in the Medicare prospective payment system; to the Committee on Finance.

EC-3440. A communication from the Chairman of the Prospective Payment Assessment Commission, transmitting, pursuant to law, a report entitled "Medicare Prospective Payment and the American Health Care System"; to the Committee on Finance.

EC-3441. A communication from the Assistant Secretary of the Treasury (Tax Policy), transmitting, pursuant to law, a report entitled "A Report to the Congress on the Reduced Rate of Fuels Taxes Provided for Taxicabs"; to the Committee on Finance.

EC-3442. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to June 23, 1988; to the Committee on Foreign Relations.

EC-3443. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, a report on five new Privacy Act systems of records; to the Committee on Governmental Affairs.

EC-3444. A communication from the Executive Secretary to the Federal Deposit Insurance Corporation, transmitting, pursuant to law, a report on a revision to a Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3445. A communication from the Director of the Norfolk Naval Shipyard Cooperative Association, transmitting, pursuant to law, the annual report on the Norfolk Naval Shipyard Pension Plan for plan year 1987; to the Committee on Governmental Affairs.

EC-3446. A communication from the Assistant Secretary of Housing and Urban Development (Administration), transmitting, pursuant to law, a report changes to a Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3447. A communication from the Special Counsel to the Merit Systems Protection Board, transmitting, pursuant to law, a report and recommendations of the Secretary's investigation into allegations of violations of law and regulation, mismanagement, abuse of authority and creating a specific danger to public health and safety at the Food and Drug Administration Center for Veterinary Medicine; to the Committee on Governmental Affairs.

EC-3448. A communication from the Administrator of Veterans' Affairs, transmitting, pursuant to law, a report on changes to a Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3449. A communication from the Special Counsel to the Merit Systems Protection Board, transmitting, pursuant to law, a report on findings and conclusions of the Secretary's investigation into allegations of violations of law and regulation and endangering public health and safety at the Mar Island Naval Shipyard, Vallejo, California; to the Committee on Governmental Affairs.

EC-3450. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Annual Audit of the D.C. Lottery and Charitable Games Control Board for Fiscal Years 1986 and 1987"; to the Committee on Governmental Affairs.

EC-3451. A communication from the Secretary to the Postal Rate Commission, transmitting, pursuant to law, a copy of the order adopting the final rule "Amendment to Domestic Mail Classification Schedule"; to the Committee on Governmental Affairs.

EC-3452. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the combined 1986-1987 edition of the Office's Insurance Report"; to the Committee on Governmental Affairs.

EC-3453. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, notice of a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3454. A communication from the Secretary to the Commodity Futures Trading Commission, transmitting, pursuant to law, a report on proposed changes to a Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3455. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports issued by the General Accounting Office during May 1988; to the Committee on Governmental Affairs.

EC-3456. A communication from the Acting Assistant Attorney General (Legislative Affairs), transmitting, pursuant to law, the annual report of the Assistant Attorney General for Justice Programs, Fiscal Year 1987; to the Committee on the Judiciary.

EC-3457. A communication from the Assistant Attorney General (Office of Legal Policy), transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-3458. A communication from the Chairman of the Board and the Executive Director of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the annual report of the Corporation for fiscal year 1987; to the Committee on Labor and Human Resources.

EC-3459. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final biennial research priorities; to the Committee on Labor and Human Resources.

EC-3460. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the status of handicapped children in Head Start programs; to the Committee on Labor and Human Resources.

EC-3461. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "The Condition of Bilingual Education in the Nation: 1988"; to the Committee on Labor and Human Resources.

EC-3462. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on the financial position and results of operations of the Student Loan Marketing Association (Sallie Mae); to the Committee on Labor and Human Resources.

EC-3463. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the semiannual report of the Inspector General, Small Business Administration, for the period October 1, 1987 to March 31, 1988; to the Committee on Small Business.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-556. A resolution adopted by the people of the town of Worthington, MA, concerning the strategic defense initiative; to the Committee on Armed Services.

POM-557. A joint resolution adopted by the Legislature of the State of New Jersey; to the Committee on Commerce, Science, and Transportation.

"ASSEMBLY JOINT RESOLUTION NO. 14, STATE OF NEW JERSEY

"A Joint Resolution memorializing the Congress and the President of the United States to instruct the Federal Communications Commission to dedicate radio frequencies to public safety.

"Whereas, Most of the emergency response organizations in New Jersey, including State and local police, fire departments and emergency medical services use communications systems that are not compatible because of the multiplicity of frequency groups; and

"Whereas, A Passaic county grand jury found that during the tragic fire that occurred in the city of Passaic in September 1985, police and fire departments from nearby towns were hindered in their attempts to aid that city in fighting the 40-acre blaze because their communications systems were not compatible; and

"Whereas, The State Emergency Response System Study Commission has found that additional factors contribute to these communications difficulties, including an insufficient number of frequencies for public safety; an increasing number of nonemergency service users whose communications interfere with those of public safety users and who do not observe proper radio etiquette; the density of the State's population; and interference because of the State's location between the high volume radio and television markets of New York City and Philadelphia; and

"Whereas, On December 8, 1983, the United States Congress directed the Federal Communications Commission to develop a comprehensive communications plan for public safety services through the year 2000 and the Federal Communications Commission, responding to the Congressional mandate through its Notice of Proposed Rulemaking No. 87-112, proposed allocating a section of the 800 MHz radio band to public safety communications; and

"Whereas, the State Emergency Response System Study Commission has found that these additional frequencies will be insufficient for the State's needs and that public safety organizations will be required to share these frequencies with incompatible nonemergency service users; now, therefore,

"Be it Resolved by the General Assembly of the State of New Jersey:

"1. The government of the State of New Jersey, on behalf of the citizens of this State, for the urgent public policy purposes expressed in the preamble, respectfully memorializes the Congress and the President of the United States to instruct the Federal Communications Commission to dedicate a sufficient number of radio fequencies to the exclusive use of public safety, specifically State and local police, fire departments and emergency medical services, and to consider repacking several contiguous UHF television channels so that that safety organizations can build a Statewide system of communications.

"2. Upon approval by the Governor, duly authenticated copies of this joint resolution shall be transmitted to the President and Vice President of the United States, the Speaker of the United States House of Representatives, the majority and minority leaders of both Houses of Congress, and every member of the Congress representing New Jersey.

"3. This joint resolution shall take effect immediatly."

POM-558. A resolution adopted by the Senate of the State of Florida; to the Committee on Commerce, Science, and Transportation:

SENATE MEMORIAL NO. 894

"Whereas, the coastline of Brevard County, and Cape Canaveral in particular, has experienced considerable beach and dune line damage, and

"Whereas, a real and imminent danger exists to major sections of public and private property from hurricanes and winter storms in the Cape Canaveral area, and

"Whereas, the State of Florida is concerned about future degradation of the beach and dunes in Cape Canaveral, and

"Whereas, the United States Congress has recognized that the Port Canaveral Jetty Park Project significantly impacts the erosion rate of downdrift properties; and

"Whereas, Congress has authorized the construction of a sand transfer facility at Port Canaveral, and

"Whereas, the installation of a sand transfer facility could serve to reduce the frequency of maintenance dredging with an overall savings of maintenance funds, now, therefore, be it

Resolved by the Legislature of the State of Florida, That the Congress of the United States is requested to allocate sufficient funds to develop, implement, and operate the sand transfer facility at Port Canaveral; be it further

Resolved That copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress."

POM-559. A resolution adopted by the Committee on Rules of the Legislature of Guam expressing appreciation to Senator Johnston for his sincere contributions to Guam; to the Committee on Energy and Natural Resources.

POM-560. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Foreign Relations.

"Be it Resolved by the Legislature of the State of Alaska:

"Whereas plutonium is a long-lived, highly radioactive, and extremely toxic material that is used to construct nuclear weapons and as fuel in nuclear reactors; and

"Whereas the proposed Agreement for Cooperation between the Government of the United States of America and the Government of Japan Concerning Peaceful Uses of Nuclear Energy establishes a 30-year nuclear cooperation agreement that would permit the shipping of plutonium as reprocessed reactor fuel from reprocessing plants in Europe to Japan; and

"Whereas the shipments would begin by air carrier in the early 1990's and would occur every two weeks in amounts of 500 to 600 pounds each, which is enough plutonium to build 40 bombs of the size dropped on Nagasaki, Japan at the end of World War II; and

"Whereas the plutonium would be shipped in the form of plutonium oxide powder, and the amount of the powder that is the size of a sugar cube can cause 3,000,000 fatalities from lung cancer; and

"Whereas the polar route planned for the shipments may necessitate emergency landings in Alaska, and emergency landings are the major concern of Alaskan citizens; and

"Whereas a cask for the economical and safe transportation of plutonium that meets the requirements of the Nuclear Regulatory Commission has not been developed; and

"Whereas the cask standards of the Nuclear Regulatory Commission may be overlooked in favor of the standards of the International Atomic Energy Agency that require the cask to meet only 1/10th of the impact velocity required by the Nuclear Regulatory Commission; and

"Whereas a cask that met the standards of the International Atomic Energy Agency recently failed a test that simulated an airplane crash; and

"Whereas a cask should not be considered safe unless the cask loaded with test materials can survive both a test crash of a cargo aircraft that has been fully loaded with full-scale samples of loaded casks, and a test drop from the maximum cruising altitude of the aircraft; and

"Whereas both the United States Senate Foreign Relations Committee and the United States House Foreign Affairs Committee have requested that the President withdraw or renegotiate the proposed agreement because each has independently concluded that the agreement is not consistent with the provisions of 42 U.S.C. 2153(b) (Atomic Energy Act of 1954) which is designed to protect the Nation against unreasonable risks to common defense and security; and

"Whereas an environmental impact statement has not been prepared for the proposed agreement, although there is court precedent for the proposition that the movement of nuclear fuel qualifies as a major federal action requiring preparation of an impact statement; and

"Whereas state law (AS 18.45.027) expressly prohibits the transportation of used nuclear reactor fuel except for purposes of disposal outside the state; and

"Whereas allowing the planes carrying the plutonium to make emergency landings in the state would have tremendous consequences for the health and safety of the state's residents and the protection of the state's environment;

"Be it resolved that the Alaska State Legislature opposes the proposed 30-year nuclear agreement between the United States and Japan that would allow the shipment of plutonium by air between Europe and Japan by polar route, an agreement which could result in emergency landings in the state during the shipments; and be it

"Further resolved that the Legislature respectfully requests the Governor to prevent to the greatest extent possible under the authority of AS 18.45.027 the use of state airports for any shipments of plutonium by air between Europe and Japan."

POM-561. A resolution adopted by the Northwestern Ohio Synod of the Evengelical Lutheran Church in America concerning their brothers and sisters in Namibia; to the Committee on Foreign Relations.

POM-562. A resolution adopted by the Senate of the Commonwealth of Massachusetts; to the Committee on Foreign Relations.

"THE COMMONWEALTH OF MASSACHUSETTS;

"Resolutions urging the Congress of the United States to seek the adoption of a policy promoting true glasnost and freedom of the press for independent publications in the Union of Soviet Socialist Republic.

"Whereas, the Soviet Union has proclaimed a new policy of glasnost, openness; and

"Whereas, the Soviet Union is obliged to participate in the international process of human rights advocacy found in the Helsinki accords; and

"Whereas, the United States has long encouraged the development of greater freedom in the USSR including freedom of the press; and

"Whereas, "Glasnost" magazine has been a leading voice of independent public opinion in the USSR since its inception in June nineteen hundred and eighty-seven; and

"Whereas, the treatment of the magazine and its publisher, editors, and writers is a crucial test of the Soviet authorities' commitment to developing true glasnost for the Soviet people; and

"Whereas, a massive media campaign against Grigoryants, "Glasnost" and other independent publishers has been undertaken since March twenty-third, nineteen hundred and eighty-eight, when an article appeared in "Literaturnaya Gazaeta", an official Soviet publication; and

"Whereas, Publisher Grigoryants was arrested in the magazine's rented office outside of Moscow on May ninth, nineteen hundred and eighty-eight; and

"Whereas, Grigoryants was sentenced to a week in prison for allegedly "resisting the authorities; and

"Whereas, the police confiscated office equipment needed to produce future issues of "Glasnost" including a computer, archives, and the magazine's funds; and

"Whereas, Grigoryants has reported that he suffered severe mistreatment at the hands of Soviet authorities including beating his head on the window of the police car and hanging him, arms handcuffed behind his back, on the wall of the prison for an hour; and

"Whereas, Grigoryants held a seven day hunger strike to protest his arrest, persecution, and the attacks on his magazine; and

"Whereas, the leaders of the United States and the Soviet Union will be meeting in Moscow beginning on May twenty-ninth to discuss the many serious issues of concern to the two nations; Now therefore be it

"*Resolved*, That the Massachusetts Senate deplores the miscarriage of justice and physical abuse in the case of Sergey Grigoryants; and be it further

"*Resolved*, That the Massachusetts Senate urges President Reagan to instruct United States diplomats, ambassadors, and negotiators to create opportunities to discuss the case of Mr. Sergey Grigoryants and the furtherance of freedom of the press for independent publications in the USSR and to advise their Soviet counterparts that improved treatment of independent publishers such as Grigoryants will lead to more fruitful negotiations in all areas between the two countries; and be it further.

"*Resolved*, That the Massachusetts Senate will appeal directly in writing to Soviet General Secretary Mikhail Gorbachev for increased freedom for publications such as "Glasnost" magazine; and be it further

"*Resolved*, that copies of these resolutions be transmitted forthwith by the clerk of the Senate to the President of the United States, the presiding officer of each branch of Congress and the Members thereof from this Commonwealth, and General Secretary Gorbachev."

POM-563. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Governmental Affairs:

"Legislative Resolve No. 94

"Be it Resolved by the Legislature of the State of Alaska:

"Whereas the renewable resources of the American Arctic, specifically fish and shellfish, represent one of the nation's greatest commercial assets with the value of the Bering Sea fisheries alone being estimated at $2,000,000,000 per year; and

"Whereas the American Arctic is a vitally important rearing and feeding ground for bottomfish, king crab, and a majority of the salmon stocks that serve as cornerstones for a large number of subsistence activities in the state; and

"Whereas the biological and physical characteristics of the American Arctic are important with respect to producing large numbers of fish and shellfish in the area and in determining optimal opportunities for harvesting the fish and shellfish; and

"Whereas the American Arctic has been defined by the U.S. Congress in the Arctic Research and Policy Act of 1984 to include bodies of water that are of great importance to Alaska, such as the Bering Sea, the Chukchi Sea, and the Arctic Ocean; and

"Whereas the Arctic Research Commission has reported to the President and the Congress that research in the Arctic Ocean and marginal seas is vital not only to the management of renewable resources but also to national security, prediction of weather and climate, and development of nonrenewable resources; and

"Whereas the commission also reported that most Arctic-rim countries possess Arctic technologies far more advanced than those currently available in the United States, which threatens our national security and severely affects the ability of United States citizens to compete in the development of the resources of the Arctic; and

"Whereas the types of research needed to increase our understanding of the structure of the ecosystems of the Bering Sea, the Beaufort Sea, and the Chukchi Sea include elements related to physical features such as ice edges and hydrographic structures; and

"Whereas the United States does not have the ships required to conduct this research, especially since the deactivation of the U.S. Coast Guard Icebreaker "Glacier"; and

"Whereas several foreign icebreakers are currently idle because of the downturn in the oil industry, and one of these vessels might be modified and put under charter to meet immediate needs; and

"Whereas sponsorship of currently neglected research in basic oceanographic science is a necessary and proper function of the federal government in order to fulfill national objectives in Arctic research; be it

"*Resolved*, That the Alaska State Legislature strongly urges the United States Congress to authorize

"(1) construction of new icebreaking vessels for use in Arctic research;

"(2) upgrading of at least one of the planned U.S. Navy additions to the fleet or construction of an additional vessel capable of Arctic research; and

"(3) immediate leasing, or leasing with an option to buy, or a foreign icebreaker for use in connection with Arctic research."

POM-564. A resolution adopted by the City Council of Berkeley, California, favoring legislation for better child care services; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 1979. A bill to establish the Grays Harbor National Wildlife Refuge (Rept. No. 100-403).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 2415. A bill to provide that surplus dairy products should be provided to carry out the temporary emergency food assistance program before certain dairy export programs, to extend such dairy export programs and such food assistance program, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Susan E. Alvarado, of Virginia, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1996;

Dennis M. Devaney, of Maryland, to be General Counsel of the Federal Labor Relations Authority for a term of 5 years;

S. Jay Plager, of Indiana, to be Administrator of the Office of Information and Regulatory Affairs;

Tirso del Junco, of California, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1991;

Richard H. Headlee, of Michigan, to be a Member of the Federal Retirement Thrift Investment Board for a term of 2 years; and

Roger W. Mehle, of New York, to be a Member of the Federal Retirement Thrift Investment Board for the term of 4 years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BRADLEY (for himself and Mr. Simon):

S. 2569. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to establish and support prevention and treatment programs relating to juvenile gangs; to the Committee on the Judiciary.

By Mr. EXON (for himself, Mr. Burdick, Mr. Harkin, Mr. Rockefeller, Mr. Pressler, Mr. Gore, Mr. Adams, Mr. Kerry, Mr. Cochran, Mr. Simon, Mr. Baucus, Mr. Bumpers, Mr. Melcher, Mr. Sanford, Mr. Metzenbaum, Mr. Daschle, Mr. Pryor, Mr. Grassley, Mr. Boschwitz, and Mr. Stennis):

S. 2570. A bill to authorize appropriations for the local rail service assistance program; to the Committee on Commerce, Science, and Transportation.

By Mr. NICKLES (for himself and Mr. Boren):

S. 2571. A bill to designate certain National Forest System lands in the State of Oklahoma for inclusion in the National Wilderness Preservation System, create the Winding Stair Mountain National Recreation and Wilderness Area, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BENTSEN (for himself and Mr. Chafee):

S. 2572. A bill to amend title XVIII of the Social Security Act to recognize as an allowable cost under the Medicare Program the reasonable costs incurred by a provider in conducting, by contract with an educational institution, certain approved educational activities under a post-graduate nursing program, and for other purposes; to the Committee on Finance.

By Mr. BOSCHWITZ:

S. 2573. A bill for the relief of Lorraine Rose Roban, William David Roban, Dianne Louise Roban, and Richard James Roban; to the Committee on the Judiciary.

By Mr. SYMMS (for Mr. Helms (for himself, Mr. Sanford, and Mr. Symms)):

S. 2574. A bill to designate certain projects on United States Route 23 as priority highway projects; to the Committee on Environment and Public Works.

By Mr. SYMMS (for himself, Mr. Hecht, Mr. Fowler, and Mr. Adams):

S. 2575. A bill to amend the National Trails System Act by designating the Pacific Northwest Scenic Trail, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BRADLEY (for himself and Mr. Simon):

S. 2569. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to establish and support prevention and treatment programs relating to juvenile gangs; to the Committee on the Judiciary.

PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS

Mr. BRADLEY. Mr. President, I rise today to introduce a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to confront a growing problem for many cities throughout the country—youth gangs. Specifically, this bill provides funds to establish and support prevention and treatment programs for the young street gang members to give them viable alternatives to life on the streets.

Membership in one of today's street gangs is passport to a life of crime and violence, and more and more that violence is spilling over and engulfing innocent citizens.

Last November, Stacey Childress buried his 16-year-old brother, Edmond. Edmond was shot in the head and chest as he stood on a sidewalk in Los Angeles. Word on the street was he was killed by members of a south Los Angeles street gang because he had erased some of their graffiti.

In February, Stacey helped bury his uncle, Walter, who had been shot by two men who were stealing his car.

On Friday in April, Stacey went to visit some friends. He stood on the sidewalk, talking with them when a car drove up. Suddenly, without warning the occupants opened fire. Bullets ripped through Stacey's 19-year-old body, killing him and wounding 10 others. The gang members had just come from shooting a rival gang member and an innocent pedestrian.

At 4:30 in the morning on May 8, seven youths were cut down in a hale of gunfire in another drive by. This time the shooting was right here in Washington, DC, at the corner of 13th Place and Congress Street, SE., just a short drive from the Capitol.

Clearly such violence is only part of the problem assaulting the urban ghettos of our country. We have to find solutions to deteriorating schools, a plodding welfare bureaucracy, miserly health care coverage, the lack of adequate and affordable housing, but we cannot begin to crack through the pervasive hopelessness such conditions breed unless we can keep intact the most basic of all social contracts a government must make with its citizens: the promise to provide secure, safe communities in which we and our children may grow, learn, and prosper.

To this end, we must provide legitimate alternatives to the seductive life of the street gang. For many poor urban youth, the street gang seems to offer the only available road to personal security and a sense of self-esteem and success. We can't let that continue.

This amendment to the Juvenile Justice and Delinquency Prevention Act provides funds to support treatment and prevention programs designed to reduce the number of juveniles involved in gang crime, to expand drug-related treatment programs relevent to the gangs, to help teachers confront gang activities in and out of school, and to help coordinate work of local juvenile justice, employment, and social service agencies to better work with gangs.

Mr. President, today's violent street gangs have become one of the greatest threats to the security and safety of our communities. And the threat is growing.

I will be offering other legislative initiatives to improve law enforcement activities. But the reauthorization of the Juvenile Justice and Delinquency Prevention Act gives us an excellent opportunity to see that national attention and action is focused on how we prevent more children from being lost to gangs.

Today, Americans face a new moment in history. Many of our fellow citizens have no dreams for themselves or for their children. They live lives of numbing desperation born of abject poverty, a poverty of body and of spirit.

These Americans face a hopelessness whose crushing weight smothers the promise of a better life. Without the possibility of a better future, the American dream will end. And living in fear that some random act of violence may end their lives, who can seriously plan and work for a better future? This bill is a step toward a better future for many of our Nation's youth who are now under the thrall of the gangs.

Mr. President, to keep the promise of our founding, we must regain control over the forces that corrupt the foundation of opportunity within America. We must give our youth an opportunity beyond the gangs.

Mr. SIMON. Mr. President, today I join with Senator BRADLEY in introducing legislation to address the frightening problem of gang violence. Recent reports indicate that 46 States have problems with gang violence and gangs which trade in illegal drugs. The studies also confirm that gangs are not confined to large urban areas, but are invading rural communities as well. Although no nationwide figures exist in street gang crimes, the rate of violent juvenile crimes increased 9 percent from 1984 to 1986. Even more disturbing is that younger and younger children are being arrested for selling drugs and carrying weapons.

The peer pressures that once attracted young people to beer drinking and joy riding, now are turning many toward drugs, violence, and gang life. This March the House Select Committee on Children, Youth, and Families heard from several young adults who told of their lives in gangs. Ismael Huerta, an 18-year-old gang member from Los Angeles, described a life of selling drugs to buy weapons, "being shot at many times" and watching girls barely in their teens offer sex in exchange for drugs. Shawn Grant, an 18-year-old gang member from Philadelphia, reported that "when we're high, we'll do anything, we'll jump people for nothing at all." Shawn told the committee about his fear that the gang would hunt him down and possibly kill him if he defected.

The reasons that children join gangs are multifaceted. The weakening family structure evidenced by the rise in teenage pregnancy and single parent households, the increase in the number of children who never learn many basic skills because of truancy which in turn leads to youth unemployment, and the growing problem of homeless youth all contribute to this situation. For many of these children the gang serves as an alternate family, offering both emotional and economic support.

All across the Nation communities are searching for solutions to the gang problem. Unfortunately there is no simple answer. First, we must stem the flow of drugs across our borders and prosecute those who deal in drugs. We must also improve the job market for our young people so that they have real opportunities to succeed. Our schools must provide the environment where many of our children can overcome their initial economic disadvantage. We must all work together to develop a comprehensive strategy against gangs and the violence they breed.

The bill Senator BRADLEY and I are introducing today will contribute to the fight for our Nation's youth by providing grants for community-based intervention and prevention programs. Specifically the bill permits the Administrator of the Office of Juvenile Justice and Delinquency to make grants and enter into contracts with public and private nonprofit agencies, organizations, institutions and individuals to establish and support programs that are designed to prevent and reduce participation in gangs by including youths and their families in counseling and alternative activities. The resources can be used both to counsel children already in gangs and to work with youngsters to prevent them from joining gangs.

We must let our communities know that the Federal Government cares and that they are not alone in fighting the gang war. Together we can work to ensure that our children's future is one of hopes and dreams, not death and drugs. With this bill, we can take a step in the right direction. I urge my colleagues to join Senator BRADLEY and me in this effort.

By Mr. EXON (for himself, Mr. Burdick, Mr. Harkin, Mr. Rockefeller, Mr. Pressler, Mr. Gore, Mr. Adams, Mr. Kerry, Mr. Cochran, Mr. Simon, Mr. Baucus, Mr. Bumpers, Mr. Melcher, Mr. Sanford, Mr. Daschle, Mr. Metzenbaum, Mr. Pryor, Mr. Grassley, Mr. Boschwitz, and Mr. Stennis):

S. 2570. A bill to authorize appropriations for the local rail service assistance program; to the Committee on Commerce, Science, and Transportation.

AUTHORIZATION FOR LOCAL RAIL SERVICE ASSISTANCE PROGRAM

● Mr. EXON. Mr. President, as chairman of the Surface Transportation Subcommittee, I take pleasure in introducing legislation to reauthorize the Local Rail Service Assistance Program [LRSA] for fiscal years 1989, 1990, and 1991. The authorization levels in this bill take into consideration current budget constraints as well as the need that still exists for funding to assist States in preserving efficient rail transportation systems.

While the Local Rail Service Assistance Program has been in existence for some time—dating from the time when Northeastern rail bankruptcies resulted in the creation of Conrail in 1976—many of the circumstances which initially indicated the need for the program still persist. In fact, since enactment of the Staggers Rail Act in 1980 there has been a very significant growth in the number of shortline and smaller regional railroads.

For many years the railroads have been abandoning marginal light density rail lines, some of which have survived as shortlines. In recent years, however, the railroads, in addition to abandoning those light density branch lines, have been spinning off lines which, as part of a larger system, are marginal but have potential for profit as smaller, more local railroads. Some of these lines are being sold to entrepreneurs who are forming shortline railroads or regional railroads of more significant size. These smaller railroads can often provide service more tailored to the local shipper, while serving as feeders to the entire rail system. Over 3,000 miles of line were sold to regional railroads in 1986 alone.

What these facts tell us is that the structure of the railroad system in this country is still as much in transition now as it was 12 years ago when Congress acted to initiate the LRSA Program. Meanwhile, without congressional action the program will expire at the end of this fiscal year. The administration has recommended that the program be discontinued, in part, due to the fact that States and private interests are now more significantly supporting rail needs than is the Federal program. The LRSA Program as it is structured currently requires that 30 percent of the funding come from non-Federal sources for rehabilitation projects. In practice, the States, railroads, and shippers have provided many times the amount required for this match. However, in a considerable number of cases these funds would not have been made available without Federal funds. This bill seeks to change the matching formula whereby the Federal share would be reduced from 70 to 60 percent. The States have no objection to the formula change.

I urge continuation of the LRSA Program in order to minimize the adverse effects of rail abandonments and to address the critical rehabilitation needs of our rail freight facilities in light of the impact rail service has on our national, State and local economies. I am especially pleased that Senators Burdick and Harkin have joined me as primary cosponsors of this legislation.●

By Mr. NICKLES (for himself and Mr. Boren):

S. 2571. A bill to designate certain National Forest System lands in the State of Oklahoma for inclusion in the National Wilderness Preservation System, create the Winding Stair Mountain National Recreation and Wilderness Area, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

WINDING STAIR MOUNTAIN NATIONAL RECREATION AND WILDERNESS AREA ACT

● Mr. NICKLES. Mr. President, I am today introducing, with my colleague from Oklahoma, Senator Boren, a bill to establish the Winding Stair Mountain National Recreation and Wilderness Area in the Ouachita National Forest in LeFlore County, OK.

The goals of this bill are to promote and increase scenic, wildlife, recreation, timber, and conservation priorities within the Ouachita National Forest in LeFlore County. These goals are addressed through special area designations, specific management techniques, and the cooperative input of a local advisory board.

The basis for this legislation, Mr. President, is H.R. 4354, a bill introduced on March 31, 1988, in the House of Representatives by Wes Watkins, the third district Congressman from Oklahoma. I would like to commend Mr. Watkins for his hard work and diligence in drafting his bill and the commitment he has made to making it a reality.

Since the introduction of H.R. 4354, I have been contacted by many of the groups affected by this proposal. After listening to the input of these local citizens and reviewing the information garnered at the hearing on H.R. 4354 on June 7, 1988, I became convinced of the need to introduce a bill in the Senate which accomplished the goals of H.R. 4354, but which incorporated some of the valid concerns of the local citizens.

In summary, Mr. President, this bill designates portions of the Ouachita National Forest as a national wilderness area consisting of the Black Fork Mountain Wilderness Area and the Upper Kiamichi River Wilderness Area. These areas will be preserved in their current pristine state to be enjoyed for generations to come.

The bills also designates the Winding Stair Mountain National Recreation Area. These forest lands will be managed for their wildlife and scenic values.

Unique plant species and vegetation in the Rich Mountain area and the Kerr Arboretum will be protected in the Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area. Additionally, a tract near Beech Creek will be designated at the Beech Creek Botanical Area.

Areas along and in view of Talimena Drive and Holson Valley Road are to be designated as the Indian Nations National Scenic and Wildlife Area. These beautiful lands, now scarred by clearcuts, will be managed to promote their scenic and wildlife potential.

Mr. President, I would like to outline some of the important differences between H.R. 4354, and the bill I am introducing today. Most importantly, these changes would:

Increase local imput through establishment of an advisory committee representing local interests;

Restore and maintain the natural diversity of forest species within the national recreation and wilderness areas;

Protect the Ouachita National Trail from being clearcut;

Eliminate new authority in H.R. 4354 to restrict hunting, fishing, and trapping; and

Increase funds available for implementing tourism and recreation improvements by reducing administrative costs.

These changes, Mr. President, have come about through discussions with local citizens who are concerned about potential shortfalls in H.R. 4354.

The advisory committee established by this bill, Mr. President, would be equally divided between local representatives of conservation, timber, fish and wildlife, tourism and recreation, and economic development interests. The committee would oversee the general operation of the Ouachita National Forest in LeFlore County and would specifically be involved in the development and implementation of changes brought about by the legislation. The committee's duties would include defining appropriate buffer zones along waterways, roads and trails. No local advisory committee was established under H.R. 4354 to oversee general forest operations.

Maintaining the natural diversity of forest species and avoiding pine conversion within the national recreation and wilderness areas would be required under this legislation. H.R. 4354, while requiring unevenaged management as the timber harvesting method in the recreation and scenic and wildlife areas, did not define "unevenaged management;" leaving these areas subject to potential pine conversion.

Under the current boundaries, the Ouachita National Trail forms a portion of the southern boundary of the upper Kiamichi River Wilderness Area. As currently written, H.R. 4354 would allow logging immediately adjacent to this portion of the Ouachita National Trail. This bill, Mr. President, would clarify that a buffer zone, developed with the input of the local advisory committee, will be retained to protect the trail.

Mr. President, H.R. 4354 provides authority for the Secretary of Agriculture to ban hunting, fishing, and trapping at certain locations or during certain periods for various reasons. The bill I am introducing today would eliminate this authority and leave these activities subject to existing Federal and State law. This bill also eliminates a provision in H.R. 4354 which demotes wildlife management's importance to a secondary position in the scenic and wildlife areas.

Finally, Mr. President, this legislation authorizes $15 million to carry out the provisions of the bill, including the development and implementation of a tourism and recreation plan. H.R. 4354 mandates the use of the RedArk Development Authority to develop this plan, and authorizes use of these funds to reimburse RedArk and its employees for salary, travel and supplies. The bill I am introducing today would instead utilize the expertise of the Oklahoma Department of Tourism and Recreation to develop the plan. By eliminating the reimbursement provision, this bill would make more funds available for the implementation, rather than the development, of the plan.

My colleague, Mr. Boren, and I have tried to take a very good bill, Mr. President, and build upon it. We realize, however, that even this bill is not perfect. I am still concerned, for instance, with boundaries of the Black Fork Wilderness Area which are not easily accessed from existing roads. In addition, certain areas in view to the south from the eastern portion of the Talimena Drive are not afforded the protection of the other designated scenic areas. Finally, I am sensitive to concerns over the amount of acreage afforded protection in the Beech Creek area. These boundaries, I feel, are open for review, and by working with Mr. Watkins, Mr. Boren, and the local citizens, I intend to determine the appropriate designations and boundaries for these areas.

Mr. President, I would like to request unanimous consent that the language of the bill be included in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Winding Stair Mountain National Recreation and Wilderness Area Act".

FINDINGS AND PURPOSES

Sec. 2. (a) The Congress finds that—

(1) select areas of undeveloped National Forest System lands in the State of Oklahoma possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (Rare II) and other studies of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System;

(3) the Department of Agriculture's second roadless area review, evaluation, of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values, and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws;

(4) many areas of the Ouachita National Forest possess qualities that can only be expressed and utilized in such a manner that designation of such areas as a national recreation area is appropriate for the maximum potential and enjoyment of the area by the American people;

(5) select areas possess unique plant and tree species and plant communities that are significant in their occurrence, variety and location to be designated botanical areas; and

(6) select areas possess unique scenic and wildlife qualities that designation of such areas as a national scenic and wildlife area is appropriate for the preservation of the natural beauty and wildlife habitat for the enjoyment of the American people.

(b) The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Oklahoma as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and to ensure that certain other National Forest System lands in the State of Oklahoma be available for nonwilderness multiple uses; and

(2) designate certain National Forest System lands in the State of Oklahoma as national recreation area, botanical area, and national scenic and wildlife area in order to enhance and further certain natural resources characteristics.

ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM

Sec. 3. In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1181 et seq.) the following lands in the State of Oklahoma are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System;

(1) certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately four thousand five hundred and twenty three acres, as generally depicted on a map entitled "Black Fork Mountain Wilderness—Proposed", dated March 1988, and which shall be known as the Black Fork Mountain Wilderness; and

(2) certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately nine thousand three hundred and seventy-one acres, as generally depicted on a map entitled "Upper Kiamichi River Wilderness—Proposed", dated March 1988, and which shall be known as the Upper Kiamichi River Wilderness.

MAPS AND DESCRIPTIONS

Sec. 4. (a) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in section 8 of this Act and legal descriptions of each wilderness area designated by section 8 of this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(b) Subject to valid existing rights, each wilderness area designated by section 8 of this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that with respect to any area designated in section 8 of this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

WILDERNESS REVIEW CONCERNS

Sec. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (Rare II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in Oklahoma and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the Rare II Final Environmental Impact Statement

(dated January 1979) with respect to National Forest System lands in States other than Oklahoma, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Oklahoma.

(2) with respect to the National Forest System lands in the State of Oklahoma which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (Rare II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Oklahoma reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided,* That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Oklahoma are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Oklahoma for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to:

(1) those National Forest System roadless lands in the State of Oklahoma in the Ouachita National Forest which were evaluated in the Rich Mountain and Beech Creek unit plans; and

(2) National Forest System roadless lands in the State of Oklahoma which are less than five thousand acres in size.

ADJACENT MANAGEMENT

SEC. 6. Congress does not intend that designation of wilderness areas in the State of Oklahoma lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to this boundary of the wilderness area. Notwithstanding this section, section 12(b) of this Act regarding the retention and establishment of protective buffer areas or zones along designated trails shall apply to those lands adjacent to the Ouachita National Trail where the Ouachita National Trail forms the southern boundary of the Upper Klamichi River Wilderness area established under section 3 of this Act.

(b) The Winding Stair Mountain National Recreation Area (hereafter referred to as the "recreation area") shall comprise approximately twenty-six thousand four hundred and forty-five acres as generally depicted on the map entitled "Winding Stair Mountain National Recreation Area—Proposed", dated March 1988, which shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture.

FIRE, INSECT AND DISEASE MANAGEMENT

SEC. 7. Nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infection of insects or disease.

WINDING STAIR MOUNTAIN NATIONAL RECREATION AREA

SEC. 8. (a) In order to assure the conservation and protection of certain natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith, the Winding Stair Mountain National Recreation Area located in the Ouachita National Forest, Oklahoma, is hereby established.

(b) The Winding Stair Mountain National Recreation Area (hereafter referred to as the "recreation area") shall comprise approximately twenty-six thousand four hundred and forty-five acres as generally depicted on the map entitled "Winding Stair Mountain National Recreation Area—Proposed", dated March 1988, which shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture.

(o) The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the recreation area with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(d) The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best provide for (1) public outdoor recreation; (2) conservation of scenic, natural, historic, and other values contributing to public enjoyment; and (8) such management and utilization, of natural resources of federally owned lands within the recreation area which are compatible with and which do not significantly impair the purposes for which the recreation area is established. The recreation area shall be principally managed for public enjoyment and wildlife.

(e) Unevenaged management shall be the management practice administered in the recreation area. The recreation area shall be managed to restore and maintain the natural diversity of multiple species in a variety of age classes. Evenaged management within the recreation area shall be limited to only those situations, such as fires and insect and disease infestations, where the removal of dead and/or dying trees and subsequent reforestation are desirable to rapidly restore the scenic qualities of the affected areas. Any timber sales shall be designed so as to not detract from the scenic value of the recreation areas. Management practices that would detract from the scenic quality and natural beauty within view from the Talimena Drive or the Holson Valley Road shall not be conducted in the recreation area.

BOTANICAL AREAS

SEC. 9. In furtherance of the purposes of this Act, the following lands in the State of Oklahoma are designated as botanical areas. In order to protect these areas which contain unique plant species and plant communities that are significant in their occurrence, variety and location, no vegetative manipulation will occur except that which is necessary for the protection, enhancement or interpretation of the area and its resources:

(1) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately eight thousand and twenty-six acres as generally depicted on a map entitled "Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area—Proposed", dated March 1988, which shall be known as the "Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area".

(2) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately four hundred acres as generally depicted on a map entitled "Beech Creek Botanical Area—Proposed", dated March 1988, which shall be known as the "Beech Creek Botanical Area".

(3) The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the botanical areas with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(4) The Secretary shall administer the botancial areas in accordance with the laws, rules and regulations applicable to areas such as these in the national forests. Mechanized cutting for trail building and appropriate actions for improved trails shall

be allowed. Improvements and expansion of roads and facilities shall be permitted in the vicinity of the Robert S. Kerr Nature Center. Timber harvesting of any kind shall be prohibited.

NOMENCLATURE

SEC. 10. In order to provide for universal identification and association the wilderness areas, national recreation area, and botanical areas designated in this bill shall be known as the Winding Stair Mountain National Recreation and Wilderness Area of which twenty-six thousand four hundred and forty-five acres are designed national recreation area, and twenty-two thousand three hundred and twenty acres are designated as wilderness and botanical areas.

INDIAN NATIONS NATIONAL SCENIC AND WILDLIFE AREA

SEC. 11. In furtherance of the purpose of this Act, certain lands in the Ouachita National Forest, Oklahoma, as generally depicted on a map entitled "Indian Nations National Scenic and Wildlife Area—Proposed", dated March 1988, shall be administered by the Secretary principally for aesthetics and wildlife.

(1) The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and legal description of the national scenic and wildlife area with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(2) The Secretary shall administer the Talimena Drive and Holson Valley areas in the Indian Nations National Scenic and Wildlife Area of the Winding Stair Mountain National Recreation and Wilderness Area within the Ouachita National Forest in LeFlore County, Oklahoma, principally for aesthetics, to preserve the natural beauty of these areas for future generations, and to improve habitat and further hunting, fishing and trapping opportunities. These areas shall be managed to restore and maintain the natural diversity of multiple species in a variety of age classes. Management practices that would detract from the scenic quality and natural beauty shall not be allowed in the Indian Nations National Scenic and Wildlife Area as viewed from any location on the Talimena Drive and Holson Valley Road Areas. This primary aesthetic zone, as illustrated on a map, constitutes the boundary for visual limitation prohibitions and shall be managed with unevenaged management unless irregular cuts can be hidden from view by natural geographic barriers.

ADVISORY COMMITTEE

SEC. 12. Pursuant to the Federal Advisory Committee Act (P.L. 92-463), the Secretary of Agriculture is directed to establish an advisory committee for Ouachita National Forest lands in LeFlore County, Oklahoma. The Committee's purpose shall be advisory in nature and the Committee shall provide information and recommendations to the Secretary regarding the operation of the Ouachita National Forest in LeFlore County. The Committee shall be composed of local representatives equally divided among conservation, timber, fish and wildlife, tourism and recreation, and economic development interests.

TIMBER MANAGEMENT

SEC. 13. (a) In the remainder of the Ouachita National Forest in LeFlore County, Oklahoma, evenaged management, including clearcutting, may be allowed on selected tracts not to exceed thirty-nine acres in size in meeting timber production objectives. Any evenaged units which would collectively exceed the foregoing size limitation shall not abut one another and shall be separated by an area of at least equal in size to that area harvested until such time that the vegetation in one unit reaches a height of at least 25 per centum of the height of the adjacent stand and is no longer considered an opening. Evenaged managed tracts shall retain scattered clumps of mast producing hardwoods within the regeneration areas at a minimum ratio of 10-20 per centum of basal area per acre and an appropriate number of den trees shall be maintained. Stands shall be managed to maintain the natural species ratio of those stands in a variety of age classes.

(b) Within the Ouachita National Forest in LeFlore County, protective buffer areas or zones shall be retained and established along—streams, creeks, rivers, and other bodies of water to meet water quality standards, and wildlife requirements; officially designated State and Federal highways and paved county roads shall be managed to protect and enhance their scenic values; designated trails to provide adequate aesthetics protection and allow for wildlife travel corridors. Clearcutting shall not be permitted in the buffer areas or zones and any unevenaged management activities employed in these areas shall employ harvesting methods which meet water quality and wildlife requirements. The Secretary shall consult and cooperate with the local advisory committee established under section 12 of this Act to define and determine the dimensions of protective buffer areas or zones necessary to meet the objectives of this subsection.

PLANNING

SEC. 14 (a) The Secretary shall develop an amendment to the Ouachita National Forest land and resource management plan regarding the wilderness areas, the national botanical areas, the national recreation area and the national scenic and wildlife area designated by this Act. The amendment shall further the purposes for these areas as specified in this Act and shall be developed in accordance with the provisions of the National Forest Management Act, including provisions for public involvement. The Secretary shall consult with the local advisory committee established under section 12 of this Act regarding the development and implementation of the amendment required under this subsection.

(b) The amendment shall include a section with provisions to promote tourism and outdoor recreation in ways consistent with the purposes for which these areas are designated.

(c) There are hereby authorized to be appropriated not to exceed $15,000,000 for the development and implementation of the amendment.

(d) The Secretary is authorized and encouraged to enter into cooperative agreements with the Oklahoma Department of Tourism and Recreation, the Oklahoma Department of Wildlife Conservation, and local nonprofit entities, as appropriate, to assist in the development and implementation of the amendment required under subsection (a). The Secretary is directed to enter into a cooperative agreement with the Oklahoma Department of Tourism and Recreation to assist in the preparation of the tourism and outdoor recreation section of the amendment required under subsection (b).

GRAZING

SEC. 15. Subject to such limitations, conditions, or regulations as he may prescribe, the Secretary shall permit grazing on lands within the Ouachita National Forest, LeFlore County, Oklahoma, to the same extent as was permitted on such lands prior to the date of enactment of this legislation.

HUNTING, FISHING, AND TRAPPING

SEC. 16. The Secretary shall permit hunting, fishing, or trapping on lands and waters under the Secretary's jurisdiction within the boundaries of the Winding Stair Mountain National Recreation and Wilderness Area in accordance with the laws of the United States and the State of Oklahoma. It is expected the Secretary will continue cooperative agreements with State of Oklahoma agencies responsible for managing fish and game. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State with respect to wildlife and fish in the areas identified by this Act.

PERMITS

SEC. 17. The Secretary shall cooperate with other Federal agencies, with State and local public agencies and bodies, and with private individuals and organizations in the issuance of permits for facilities, services, and recreational facilities in the Winding Stair Mountain National Recreation and Wilderness Area. The Secretary is authorized and encouraged to seek local nonprofit entities in issuing permits for the purpose of helping to implement the findings of section 18 of this Act.

LAND ACQUISITION

SEC. 18. (a) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds including those from the Land and Water Conservation Fund, exchange, or bequest, any lands or lesser interests therein, which the Secretary determines are needed to establish and manage the Winding Stair Mountain National Recreation and Wilderness Area.

(b) In exercising the authority conferred by this section to acquire lands, the Secretary shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the Winding Stair Mountain National Recreation and Wilderness Area. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property. Purchases made under this authority shall be made on a willing buyer, willing seller basis.

(c) The Secretary or his agent may acquire sites at locations outside such boundaries of the Winding Stair Mountain National Recreation and Wilderness Area, as he determines necessary, for visitor orientation and the establishment of a lodge and additional facilities to enhance the quality of the area.

ACREAGES

SEC. 19. The acreage cited in this Act is approximate and in the event of discrepancies between cited acreage and the lands depicted on reference maps, the maps shall control.●

● Mr. BOREN. Mr. President, I thank my fellow Senator from Oklahoma. I too am proud to introduce our bill to establish the Winding Stair National Recreation and Wilderness Area in the Ouachita National Park in LeFlore County, OK.

As Senator NICKLES has pointed out, this legislation would designate parts of the forest as the Black Fork Mountain Wilderness Area and the Upper Kiamichi River Wilderness Area. The bill would also create the Winding Stair National Recreation and Wilderness Area.

Mr. President, I truly believe these areas would make excellent additions to the National Wilderness Preservation System. We Oklahomans are proud of our State and we wish to share its unique natural features with the rest of the Nation.

This bill also creates two botanical areas. The existing Kerr Aboretum will be expanded and renamed the Robert S. Kerr Aboretum, Nature Center, and Botanical Area. Also, the Beech Creek Botanical Area will be established to protect one of two existing stands of beech trees west of the Mississippi River.

Finally, Mr. President, our bill will protect areas along the beautiful Talimena Drive by designating the Indians Nations National Scenic and Wildlife Area. This is one of the most important provisions of the bill. Protection from clear-cutting was specifically requested by the citizens of LeFlore County. As Governor of Oklahoma, I took decisive action against the clear-cutting that was being allowed in LeFlore County and I am working for this legislation to continue the fight to preserve the scenic beauty.

As my colleague has mentioned, similar legislation has been introduced in the House of Representatives. Congressman WES WATKINS, who represents LeFlore County, has done an outstanding job of working with the local citizens and achieving a consensus among the differing interests affected by this proposal. In fact, I understand that Congressman WATKINS is holding his second hearing on the matter this very week. I thank him for his leadership and I look forward to continuing our work together.

Senator NICKLES and I stand ready to do our part in the Senate. We have met with the local citizens and have done our best to address their concerns. We believe our bill is a very good starting point from which we can continue to work with all of the interested parties to make this plan into a reality.

Mr. President, I too have concerns about the proposed boundaries. However, I am confident that we can all agree that these lands have something special, something so unique, that they must be protected from further abuse and be saved for our children and grandchildren to enjoy.●

By Mr. BENTSEN (for himself and Mr. CHAFEE):

S. 2572. A bill to amend title XVIII of the Social Security Act to recognize as an allowable cost under the Medicare Program the reasonable costs incurred by a provider in conducting, by contract with an educational institution, certain approved educational activities under a postgraduate nursing program, and for other purposes; to the Committee on Finance.

MEDICARE GRADUATE NURSE TRAINING ACT

● Mr. BENTSEN. Mr. President, today, our Nation's health care system faces an unprecedented shortage of nurses, at a time when our needs could not be greater. With an aging population, and with the development of increasingly sophisticated health-care technology, we need an adequate supply of nurses who are highly skilled and whose training enables them to act as the frontline of America's health-care system. As chairman of the Committee on Finance, I am well aware of the potential effects of the nursing shortage on the care provided the millions of Americans who receive their health care through Medicare, Medicaid, and private insurance. An interim report by the Health and Human Services Secretary's Commission on Nursing is expected to conclude that the gap between the future demand for nurses and the available supply will widen. We can afford to wait no longer to address the Nation's nursing shortage, so I am pleased to introduce S. 2572, the Medicare Graduate Nurse Training Act of 1988.

I am honored to be joined by my distinguished colleague and member of the Committee on Finance, Senator CHAFEE, in introducing this legislation, which offers to nurses expanded opportunities to obtain advanced clinical training. Promoting the professional growth of nurses not only will encourage them to remain active in their profession but also will equip them to practice in an increasingly complex health care environment. The bill expands educational opportunities for nurses by modifying Medicare hospital payment rules to promote the formation of graduate clinical training programs jointly operated by hospitals and schools of nursing.

Last October, the Health Subcommittee of the Committee on Finance heard testimony about a national shortage of nurses. The national average job vacancy rate for hospital nurses more than doubled between 1983 and 1987 from 4.4 percent to 11.3 percent. By 1990, the Nation is expected to be short about 400,000 baccalaureate level nurses.

According to the American Hospital Association, about 75 percent of hospitals report a nurse shortage, and the shortages are delaying admissions and surgeries and temporarily closing emergency rooms. We're seeing this in my own home State of Texas, where several hospitals—John Peter Smith in Fort Worth, Hermann Hospital in Houston, and Parkland in Dallas, to name three—have had to divert emergency cases to other hospitals.

Mr. President, the nature of the nursing shortage is complex. In part, nursing school enrollments are declining because of increased professional opportunities for women. But nurses have a higher labor force participation rate than any other profession among women, and the number of registered nurses is at an all-time high, suggesting that the shortage is a function of increased demand for nurses, as more severely ill patients are treated with increasingly sophisticated technology. One factor on which virtually everyone agrees, however, is that nursing salaries are part of the problem. While starting salaries for college graduate nurses average $21,000, average maximum salaries of $29,000 are reached within a few years and plateau thereafter. There is some evidence that nursing salaries are slowly increasing. Continued Federal budget constraints, however, make substantial change unlikely in the near term.

In sum, it is commonly believed that the nursing shortage is a function of limited opportunity for professional and financial growth.

The evidence suggests that one promising approach would be to increase support for clinical training of nurses who are seeking masters' or doctoral degrees. Promoting graduate training is consistent with increasing needs for highly skilled nurses, and expands the opportunities for professional growth and higher salaries. Focusing on clinical training ensures that nurse trainees will not merely be in classrooms, but will be actively treating patients. Contrary to popular wisdom that graduate level nurses are primarily administrators, 70 percent of masters level nurses are engaged in clinical practice.

The Medicare Program is one of the largest sources of support for training nurses because Medicare pays hospitals their direct costs of educating nurses as well as resident physicians, and other health professionals. Direct costs can include stipends, salaries of supervisers, and classroom space. As interpreted by HHS, Medicare will only pay for educational programs operated by hospitals, not those operated by medical or nursing schools. This rule limits Medicare payment for nurse training because most nursing education programs are operated by nursing schools, often within universities.

This situation results in an inequity: Medicare helps pay stipends and other costs for graduate physicians—residents—who are enrolled in hospital-based programs, but graduate nurses—who enroll in school-based programs—are not eligible for stipends or other forms of Medicare support. The inequity is reflected in the fact that, in fiscal year 1986, Medicare paid $1 billion in support of physician education but only about $300 million for support of nursing education.

While about 80 programs across the country currently engage in clinical training of graduate nurses, their role is hindered because Medicare will not share in their costs. Presumably, hospitals find it difficult to promote these programs since they cannot be paid their costs for providing a clinical setting for trainees.

Therefore, this legislation overrides Medicare's current policy, allowing graduate clinical nurse training programs to be reimbursed for the same costs currently covered in a resident physician program. HHS is directed to help pay hospital costs where hospitals and nursing schools cooperate in operating a program of this type. As under current law for hospital-operated programs, the hospital could be reimbursed for stipends—which would be particularly important to nurses reentering the nursing profession after a hiatus—supervisory and classroom costs.

It need not be expensive to ensure a measure of comparability between Medicare payment for resident physicians and graduate nurses in clinical training. Indeed, the Congressional Budget Office estimates that this legislation will cost $5 million in fiscal year 1989 and $56 million in fiscal year 1989-93, compared to projected Medicare hospital payments of $53 billion in fiscal 1989. The legislation also codifies current regulations that Medicare not pay current costs that are simply shifted from an educational institution to the hospital.

Mr. President, in order to ensure that the Congress evaluates this program and adopts any necessary changes, this legislation provides increased Medicare support for these training programs for a limited period of 4 years. At that time, we can assess the usefulness of this approach and consider other alternatives if appropriate.

The Secretary of HHS would be directed to evaluate the effects of this change on the supply and characteristics of nurses. If the program is as successful as I assume it will be, Congress could then delete the sunset and make the program permanent.

Mr. President, I urge my colleagues to join me in supporting this important piece of legislation. Working together with the Nation's hospitals and nursing schools, I am confident that we can do more to maintain the critical role played by nurses across the country in delivering the highest quality health care to all Americans.●

● Mr. CHAFEE. Mr. President, I am pleased to join the distinguished Chairman of the Finance Committee in introducing the Medicare Graduate Nurse Training Act of 1988.

This bill is designed to addresss one of the most serious issues our health care system faces: a shortage of qualified nurses. We spend a great deal of our health dollars on research, better technology and ensuring a high quality of care. Unfortunately, we seem to forget that all of our health services are only as good as the people who provide them. Our services depend on skilled, caring, and motivated people. Nurses are perhaps the most important of these people.

As a group, nurses have a depth of experience that is unsurpassed by any other group of health care professionals. They touch every aspect of the field. They are the hands-on providers of care.

However, they are undervalued as a group by both society in general and the health care industry specifically. Nurses have limited opportunities for financial and professional growth. I believe these are two of the most significant reasons for the alarming nurse shortage we face today.

The bill we are introducing would address both of these issues by offering expanded opportunities to nurses in advanced clinical training and allowing Medicare to help pay for that training.

Currently, the Medicare Program pays hospitals for their direct costs of educating nurses as well as physicians. These costs can include stipends, salaries of supervisors, and classroom space. However, under current law, Medicare will not pay for educational programs operated by medical or nursing schools. Unfortunately, this rule has had the effect of limiting Medicare payment for nurse training because most nursing education programs are operated by nursing schools, often in universities. On the other hand, graduate physician education generally takes place in hospitals—residency programs.

The result is a disturbing difference between Medicare support for graduate physician education which equaled $1 billion in 1986 and its support for graduate nursing education which amounted to only $300 million in the same year.

There are approximately 80 academic health centers across the country currently providing clinical training of graduate nurses. However, their role is hindered because of this inequity. In addition, hospitals are reluctant to develop these programs because they are not paid for the costs of providing a clinical setting for nurse trainees.

Our legislation will change the Medicare Program by allowing graduate nurse training programs to be reimbursed for the same costs currently covered in a resident physician program. The Congressional Budget Office estimates that the bill will cost an additional $5 million in 1989 and $56 million from 1989 through 1993. The program will sunset at the end of 4 years in order for Congress to evaluate its effectiveness. If the program is as successful as we believe it will be, Congress will make the program permanent.

Mr. President, promoting the professional growth of nurses will encourage them to remain active in their profession and will equip them to practice in an increasingly complex health care system. Passage of this legislation will also let the nurses of America know that we recognize the vital role they play in our system and that we intend to do whatever we can to increase our support for their work.

I urge my colleagues to join us in sponsoring this critical legislation.●

By Mr. SYMMS (for Mr. HELMS, for himself, Mr. SANFORD, and Mr. SYMMS):

S. 2574. A bill to designate certain projects on U.S. Route 23 as priority highway projects; to the Committee on Environment and Public Works.

PRIORITY HIGHWAY PROJECTS

● Mr. HELMS. Mr. President, I am offering a bill to add a section of U.S. 23 between Asheville, NC, and the Tennessee State line and a section of the Charlotte Outer Loop from Interstate 77 South east to Interstate 85 North to the list of priority highway projects included in the Federal Aid Highway Act of 1987. The able junior Senator from North Carolina [Mr. SANFORD] is cosponsor of this legislation.

Mr. President, North Carolina Gov. James G. Martin requested priority status for these projects based on their importance to the respective regions and their benefit to our entire State.

Passage of this bill, Mr. President, will give North Carolina access to all of its annual allotment of Federal-aid highway funds—except interstate construction and critical bridge funds—for the construction and maintenance of these two projects. Without this priority status, North Carolina's Department of Transportation would only have access to primary highway funds and a small percentage of Interstate 4R funds to expedite completion of the projects.

Mr. President, the section of U.S. 23 from Interstate 26 in Asheville to the Tennessee line is part of North Carolina's Strategic Highway Corridor System. Improving this route will provide the economically depressed central mountain regions of North Carolina and Tennessee easy access to the Johnson City, TN, and Asheville, NC, urban areas in order to spur development and growth.

Tennessee also appreciates the importance of U.S. 23 to its mountain regions, Mr. President, and has announced plans to upgrade its portion of the highway from the North Carolina line to Interstate 81. The concerted action of both States will result in the creation of an interstate quality highway—which will eventually be redesignated Interstate 26—offering the central mountain regions of both States direct access to the Midwestern United States.

Mr. President, Charlotte—like many metropolitan areas throughout this Nation—is plagued by rapidly increasing highway congestion. It has the fastest growing transportation and highway safety problems in our entire State. The most important transportation requirement in the area is an eastern connection between Interstate 77 south of Charlotte and Interstate 85 north of the city.

When completed, Mr. President, this connector will allow through traffic to bypass the center of downtown Charlotte—alleviating the air pollution and high accident rates in the downtown area of the city.

Mr. President, providing these two projects with priority status does not give North Carolina more money. I reiterate, Mr. President, priority status does not provide a State with additional Federal funds. It merely grants a State's transportation department greater flexibility with respect to the use of its regularly apportioned Federal aid highway funds—except interstate construction and critical bridge funds—and ultimately will allow North Carolina to channel more resources into these much needed projects. A priority project designation simply affords a State more funding flexibility for whatever work it may choose to do on such highways.

Mr. President, North Carolina only seeks to meet the transportation needs of its citizens in the most expeditious manner possible. The bill I am introducing would allow the State the flexibility it needs to do that.●

By Mr. SYMMS (for himself, Mr. HECHT, Mr. FOWLER, and Mr. ADAMS):

S. 2575. A bill to amend the National Trails System Act by designating the Pacific Northwest Scenic Trail, and for other purposes; to the Committee on Energy and Natural Resources.

PACIFIC NORTHWEST SCENIC TRAIL

● Mr. SYMMS. Mr. President, today I am introducing legislation concerning the designation of the Pacific Northwest Trail as part of the National Trails System. This 1,200-mile long backpacking trail is a loose connection of existing trails, back-country roads, Indian routes, and stock driveways which extends from Montana's Glacier National Park to the Pacific Coast of Washington.

Within this trail lies a collection of breathtaking treasures which vary from high rocky mountains and dry desert lowlands to cool rain forests and a long coastline. Along this trail hikers can take single day trips or pursue weeklong excursions. In addition to its scenic beauty, the Pacific Northwest Trail greets hikers with much history. The trail is being developed lightly in order to maintain the historical frontier challenge. Early American travelers and explorers marked this trail with log cabins and old clearings. The trail also holds past Indian legends in the Kettle Range's White Mountains and a 500-year-old city at Cape Alva currently under archeological exploration.

Since the late 1960's the number of backpackers in America has immensely grown to the point that it is not merely a fad but rather a popular long-term activity. The popularity of backpacking in the Pacific Northwest has led to increased use and congestion on our current hiking trails.

The public has shown firm support of the trail which has met legislative approval in Montana, Idaho, and Washington. Including the trail in the National Trail System would require no initial Federal funding or purchasing of land because the trail is being developed and maintained by local volunteer work. These volunteers are the only people who have the necessary grass roots contacts and knowledge to efficiently maintain the trail at no cost.

The inclusion of the Pacific Northwest Trail in the National Trail System would provide the recognition necessary for backpackers to identify and pursue this trail. As hikers expand from other crowded Northwest trails, the entire area would experience a healthy increase in the economy, benefitting merchants, outfitters, trail crews, and motels.

Currently, there are only eight scenic trails in the entire National Trail System, and none of them are located in the far Northwest. By designating the Pacific Northwest Trail as part of the National Trail System, the need for recreational areas for a growing population could be met. This is an opportunity for the public to better see and enjoy the beauty of the Nation.●

ADDITIONAL COSPONSORS

S. 1340

At the request of Mr. PRYOR, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1340, a bill to provide for computing the amount of the deductions allowed to rural mail carriers for use of their automobiles.

S. 1897

At the request of Mr. THURMOND, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 1897, a bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Inc.

S. 1933

At the request of Mr. BENTSEN, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 1933, a bill to improve the efficiency of operation of the Rural Electrification Administration loan guarantee programs and to prevent interagency disputes with the Federal financing bank from disrupting the working of these programs.

S. 1958

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. KARNES] was added as a cosponsor of S. 1958, a bill to establish regional government fraud law enforcement units for effective investigation and prosecution of fraud against the government.

S. 2033

At the request of Mr. THURMOND, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 2033, a bill to amend title 18, United States Code, with respect to child protection and obscenity enforcement, and for other purposes.

S. 2105

At the request of Mr. CRANSTON, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2105, a bill to amend title 38, United States Code, to extend for 4 years the authority of the Veterans' Administration to contract for drug and alcohol treatment and rehabilitation services in halfway houses and other certain community-based facilities.

S. 2367

At the request of Mr. LAUTENBERG, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 2367, a bill to promote highway traffic safety by encouraging the States to establish measures for more effective enforcement of laws to prevent drunk driving, and for other purposes.

S. 2379

At the request of Mr. SASSER, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2379, a bill to authorize the insurance of certain mortgages for first-time home buyers, and for other purposes.

S. 2449

At the request of Mr. PRYOR, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from

Alaska [Mr. MURKOWSKI], the Senator from California [Mr. WILSON], the Senator from California [Mr. CRANSTON], the Senator from Georgia [Mr. FOWLER], the Senator from Idaho [Mr. SYMMS], the Senator from Arkansas [Mr. BUMPERS], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 2449, a bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service, and for other purposes.

S. 2480

At the request of Mr. MOYNIHAN, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 2480, a bill to amend the Internal Revenue Code of 1986 to clarify that section 457 does not apply to nonelective deferred compensation or basic employee benefits.

S. 2490

At the request of Mr. SASSER, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2490, a bill to amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care provided during peacetime.

S. 2506

At the request of Mr. THURMOND, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2506, a bill to extend the authorization of appropriations under the Runaway and Homeless Youth Act.

S. 2523

At the request of Mr. REID, the names of the Senator from Kentucky [Mr. FORD], and the Senator from Nevada [Mr. HECHT] were added as cosponsors of S. 2523, a bill to amend title 23, United States Code, to require States to promptly suspend or revoke the license of a driver found to be driving under the influence of alcohol and for other purposes.

S. 2551

At the request of Mr. HARKIN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2551, a bill to provide additional enforcement authority for the Forest Service to deal with the production of controlled substances on the National Forest System, and for other purposes.

SENATE JOINT RESOLUTION 272

At the request of Mr. DURENBERGER, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Joint Resolution 272, a joint resolution to designate November, 1988, as "National Diabetes Month."

SENATE JOINT RESOLUTION 273

At the request of Mr. LUGAR, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of Senate Joint Resolution 273, a joint resolution designating October 6, 1988, as "German-American Day."

SENATE JOINT RESOLUTION 291

At the request of Mr. COCHRAN, the names of the Senator from West Virginia [Mr. BYRD], the Senator from Virginia [Mr. WARNER], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of Senate Joint Resolution 291, a joint resolution to designate the month of September 1988 as "National Sewing Month."

SENATE JOINT RESOLUTION 298

At the request of Mr. D'AMATO, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Joint Resolution 298, a joint resolution designating September 1988 as "National Library Card Sign-Up Month".

SENATE JOINT RESOLUTION 315

At the request of Mr. DECONCINI, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 315, a joint resolution designating 1989 as, "Year of the Young Reader."

SENATE JOINT RESOLUTION 326

At the request of Mr. MOYNIHAN, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from California [Mr. CRANSTON], the Senator from Michigan [Mr. LEVIN], the Senator from New Jersey [Mr. BRADLEY], the Senator from South Carolina [Mr. THURMOND], the Senator from Utah [Mr. GARN], the Senator from Arkansas [Mr. PRYOR], the Senator from Mississippi [Mr. STENNIS], the Senator from Louisiana [Mr. BREAUX], the Senator from Georgia [Mr. NUNN], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. INOUYE], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 326, a joint resolution designating June 12 through 18, 1988, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 342

At the request of Mr. MOYNIHAN, the names of the Senator from New York [Mr. D'AMATO], the Senator from Mississippi [Mr. STENNIS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Mississippi [Mr. COCHRAN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from South Carolina [Mr. THURMOND], the Senator from Idaho [Mr. MCCLURE], the Senator from Michigan [Mr. RIEGLE], the Senator from Utah [Mr. GARN], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 342, a joint resolution to designate the week of November 28 through December 5, 1988, as "National Book Week."

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DECONCINI, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

SENATE CONCURRENT RESOLUTION 120

At the request of Mr. HEINZ, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of Senate Concurrent Resolution 120, a concurrent resolution urging the Government of Iran to respect the human rights of members of the Baha'i faith, and for other purposes.

SENATE RESOLUTION 432

At the request of Mr. MOYNIHAN, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of Senate Resolution 432, a resolution to honor Eugene O'Neill for his priceless contribution to the canon of American literature in this the 100th anniversary year of his birth.

SENATE RESOLUTION 444

At the request of Mr. QUAYLE, the names of the Senator from Utah [Mr. HATCH], the Senator from Illinois [Mr. SIMON], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Resolution 444, a resolution to express the sense of the Senate on the Internal Revenue Service tax offset program.

AMENDMENT NO. 2429

At the request of Mrs. KASSEBAUM, the names of the Senator from Kansas [Mr. DOLE], the Senator from Wyoming [Mr. SIMPSON], the Senator from Utah [Mr. HATCH], the Senator from Nebraska [Mr. KARNES], the Senator from Indiana [Mr. QUAYLE], the Senator from Wisconsin [Mr. KASTEN], the Senator from Indiana [Mr. LUGAR], the Senator from Arizona [Mr. MCCAIN], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Missouri [Mr. BOND], the Senator from New Mexico [Mr. DOMENICI], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Mississippi [Mr. COCHRAN], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of amendment No. 2429 proposed to S. 2527, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

AMENDMENTS SUBMITTED

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATION ACT, FISCAL YEAR 1989

McCLURE AMENDMENT NO. 2433

Mr. McCLURE proposed an amendment to the bill (H.R. 4775) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1989, and for other purposes; as follows:

At the end of the bill, add the following section:

(a) In considering the extension of Most Favored Nation trading status to any country signatory to the Final Act on Security and Cooperation in Europe (also known as "the Helsinki Final Act"), which as of May 1, 1988 did not enjoy such status, the President shall consider the extent to which that country is in compliance with such Final Act, particularly the human rights and humanitarian provisions. In determining such compliance, the President shall consider—

(1) The extent to which a pattern of compliance exists in which violations are clearly the exception and contrary to established policy and generally observed practices in such country;

(2) The existence, in theory and in practice, of legal procedures and presumptions, statutes, administrative regulations, limitations on law enforcement authorities, and judicial means of redress that facilitate and encourage, rather than frustrate, the exercise of fundamental freedoms as specified in the Helsinki Final Act by the citizens and inhabitants of such country, and

(3) The ability of citizens of such country and citizens of other signatory countries, in theory and in practice, freely to monitor the performance of the governmental authorities of such country with regard to the requirements of the Helsinki Final Act throughout the territory of such country, and to publicize their findings, both in such country and abroad.

(b) If the President extends MFN status to any country such as described in subsection (a), he shall at that time submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives describing the extent to which such country is in compliance with the Helsinki Final Act, with emphasis on the criteria described in subsection (a)(1)(2)(3).

(c) Nothing in this section shall be construed as vitiating, limiting, or otherwise having any effect on any other barriers to, or requirements or waiver procedures necessary for the granting of MFN status to any country in any other section of law.

PLANT-CLOSING LEGISLATION

HATCH AMENDMENT NO. 2434

Mr. HATCH proposed an amendment, which was subsequently modified, to the bill (S. 2527) to require advance notification of plant closings and mass layoffs, and for other purposes; as follows:

On page 11, line 11 after the period, add the following:

"Under this Act, a federal court shall not have authority to enjoin a plant closing or mass layoff."

HATCH AMENDMENT NO. 2435

Mr. HATCH proposed an amendment to the bill S. 2527, supra; as follows:

On page 8, line 12, after the period, add the following:

"Nothing in this Act shall require an employer to serve written notice pursuant to Section 3(a) of this Act when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act."

BUMPERS (AND PRYOR) AMENDMENT NO. 2436

Mr. BUMPERS (for himself and Mr. Pryor) proposed an amendment to the bill S. 2527, supra; as follows:

At the end of the bill, add the following:

SEC. . REPORT ON EMPLOYMENT AND INTERNATIONAL COMPETITIVENESS.

Two years after the date of enactment of this act the Comptroller General shall submit to the Committee on Small Business of both the House and Senate, the Committee on Labor and Human Resources, and the Committee on Education and Labor a report containing a detailed and objective analysis of the effect of this act on employers (especially small- and medium-sized businesses), the economy (international competitiveness), and employees (in terms of levels and conditions of employment). The Comptroller General shall assess both costs and benefits, including the effect on productivity, competitiveness, unemployment rates and compensation, and worker retraining and readjustment.

GRAMM (AND NICKLES) AMENDMENT NO. 2437

Mr. GRAMM (for himself and Mr. Nickles) proposed an amendment to the bill S. 2527, supra; as follows:

On page 2, strike out line 12 and insert in lieu thereof the following:

"clusive of hours of overtime),

except that such term shall not include a bank that, in the judgment of the Federal Deposit Insurance Corporation, is in danger of closing, or a savings and loan association that, in the judgment of the Federal Home Loan Bank Board, is in danger of closing;".

QUAYLE AMENDMENT NO. 2438

Mr. QUAYLE proposed an amendment to the bill S. 2527, supra; as follows:

At the appropriate place add the following:

No notice under this Act shall be required if the closing or mass layoff is due, directly or indirectly to a strike.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place Monday, July 11, 1988, at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to consider the nominations of Joseph F. Salgado to the Deputy Secretary of Energy; Donna R. Fitzpatrick to be Under Secretary of Energy; and Robert O. Hunter, Jr. to be Director of the Office of Energy Research.

For further information, please contact Mike Harvey, chief counsel, at (202) 224-0611.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Mineral Resources Development and Production of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Monday June 27, 1988, to receive testimony on S. 2240, a bill to reauthorize the State Mining and Mineral Resources Research Institute Program.

The **PRESIDING OFFICER.** Without objection, it is ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Monday, June 27, on the following nominations: S. Jay Plager, to be Administrator, Office of Information and Regulatory Affairs, OMB; Dennis M. Devaney, to be General Counsel of the Federal Labor Relations Authority; Susan E. Alvarado, to be Governor of the U.S. Postal Service; Tirso del Junco, to be Governor of the U.S. Postal Service; Hugh Hewitt, to be Deputy Director of the Office of Personnel Management; Roger W. Mehle, to be a member of the Federal Retirement Thrift Investment Board; and Richard H. Headlee, to be a member of the Federal Retirement Thrift Investment Board; and legislation including: S. 2449, the Postal Service Budgetary Treatment Act of 1988; H.R. 4318, the General Accounting Office Personnel Amendments Act of 1988; S. 1504, the Negotiated Rule Making Act of 1987; S. 1647, the Former Presidents Act of 1987; S. 2478, the Biennial Budget Act of 1988; and homeless reauthorization amendments. For further information, please call Len Weiss, staff director, at 224-4751.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

S. 430, THE RETAIL COMPETITION ENFORCEMENT ACT

● Mr. BINGAMAN. Mr. President, I rise today to express my support for S. 430, the Retail Competition Enforcement Act, and to commend the distinguished Senator from Ohio [Mr. METZENBAUM] for his tireless work on behalf of consumers throughout this country.

As a former attorney general for the State of New Mexico, I am very interested in the policies for Federal enforcement of our antitrust laws and in the protections enforcement of these laws provides the citizens of New Mexico and our country generally.

I am concerned that court decisions issued in recent years are denying consumers the full benefit of competitive prices, and I am pleased to be one of more than 30 bipartisan cosponsors of the Retail Competition Enforcement Act.

Recent editorials, such as those quoted below, summarize the importance of this legislation and express the feelings of many of S. 430's cosponsors.

Business Week magazine states on May 16, 1988:

> The guts of the argument is that higher prices benefit consumers because they will lead to better service. But anyone who believes that hasn't been shopping lately. As it happens, Congress has been pushing ahead with legislation designed to protect consumer. * * * If the legislation survives * * * consumers will have the freedom of choice and price competition that antitrust laws are supposed to ensure.

And on May 6, 1988, a New York Times editorial stated:

> The Senate Judiciary Committee's bill, and a companion that has already passed the House, would codify the 1911 percedent and spell out what constitutes evidence of price fixing. It shoud be easy for manufacturers to live with. Indeed, the puzzle is why the * * * measure is controversial. If common sense prevails, it will pass.

Finally, in the May 4, 1988, edition of the Los Angeles Times:

> For discounters now worried about survival and consumers fearful that the court's decision will boost prices, there is one comfort: whatever the court has done can be undone by Congress. The nation's lawmakers ought to take a hard look at where antitrust law is going.

A number of wide-ranging organizations have taken a hard look at where our antitrust law is going and have decided that its path must be corrected and redirected. These organizations include: the National Association of Attorneys General, the American Association of Retired Persons, the AFL-CIO, Public Citizen, the Committee to Support the Antitrust Laws, the Small Business Legislative Council, the International Mass Retailing Association, and the Service Station Dealers of America. These organizations and many others have pledged their vigorous support for S. 430.

Opponents of this important consumer-oriented legislation have raised concerns regarding frivolous lawsuits, free riding, and dealer distribution efficiency. Based upon careful study and anaylsis with the assistance of legal experts who have no vested interest in the bill, a short question and answers dialog has been prepared to address these and other concerns. I will request that this dialog be printed in the RECORD following my statement.

As our distinguished colleague from New Jersey, Senator BRADLEY, stated in recent correspondence to you:

> [m]anufacturers lose no rights or latitude for maneuver that they currently enjoy. The bill simply insists that it is illegal to terminate a distributor on the grounds of price.

And by that insistence, consumers are benefited. I urge you to support the Retail Competition Enforcement Act.

I ask that the dialog to which I earlier referred be printed in the RECORD.

The dialog follows:

QUESTIONS AND ANSWERS ON S. 430

1. *Under S. 430, won't a terminated distributor be able to get to a jury if there is just a single price complaint in the files of the manufacturer?*

No. This is one of the most common misconceptions about S. 430. Under *Monsanto*, it is clear that a terminated discounter cannot get to a jury just by showing that its supplier received a price complaint on Monday and it was terminated on Tuesday. S. 430 does not change this principle. In fact, S. 430 contains a tough causation requirement. In order to get to a jury, a plaintiff must make a showing that a price-related "suggestion", "request", "demand", or "threat" was a "major contributing cause" of the termination. This causation requirement will weed out cases in which the plaintiff's only evidence is a complaint followed by a termination.

(Pg. 10 "Paragraph 8(a)(1)", Pg. 11 Report Language; Pg. 5-6 Prof. First letter of 4/27/88)

2. *As price complaints are a fact of life, won't S. 430 make it impossible for manufacturers to terminate non-performing dealers?*

No. One of the principal faults with the *Monsanto* decision was that it recognized the inevitability of price complaints and almost legitimized them. In fact, manufacturers can take steps to minimize the possibility that they will receive price complaints (as by writing relevant provisions into their dealership contracts) and to make sure that, in any event, they do not act on price complaints. Moreover, the causation requirement makes clear that the plaintiff has to introduce evidence that there is a price-related reason behind the termination.

(Pg. 5-6 IV Discussion A, Report Language; Pg. 3-4 Prof. Wood letter of 3/10/88; Pg. 4 Prof. First letter of 4/27/88)

3. *Won't S. 430 unleash a wave of frivolous lawsuits?*

No. In fact, the evidentiary standard in S. 430 is tougher than that which existed in many areas of the country prior to the *Monsanto* decision (The evidentiary standard in section 8(a) does not even represent a return to prior law as it existed in many circuits.) Prior to *Monsanto*, vertical price fixing cases were not a major workload problem for the courts. They will not be after S. 430 either. Also, all the tools the defendant traditionally can use to dispose of frivolous litigation, including summary judgment, are still available. Finally, Congress, beefed up Rule 11 in 1983 to bring down sanctions on those who bring frivolous suits.

(Pg. 10, Pg. 12, Pg. 6 Report Language; Pg. 4-5 Prof. First letter of 4/27/88)

4. *If the discount industry is flourishing, why is S. 430 necessary?*

It is true that the discount industry is flourishing. Much of that growth has taken place since 1976, when the "fair trade" laws were repealed. There can be no question that the legal climate for discounting after 1976 helped this growth. In the present legal climate, consumers will eventually have to pay higher prices and will have less selection.

The negative effects on the discount industry could be substantial, particularly where new discounters seek to establish themselves or where established discounters seek to move into new product or geographic markets. A vertical price fixing problem of the type contemplated by this bill can arise whenever a large full price store encounters competition from less powerful discounter. With rising concentration among the department stores, there's a reason to believe the problem will get anything but worse. Currently, a terminated discounter really does not have much of a chance even to get to a jury in a vertical price fixing case. If this problem persists the discount industry could be badly hurt if not destroyed.

(N.Y. Times, Business Week Editorials, L.A. Times; Pg. 3-4 Prof. First 4/27/88; Pg. 3-4 Prof. Wood 3/10/88)

5. *Won't S. 430 encourage "free riding"? Shouldn't there be a "high-tech" exemption?*

No. Under existing law, manufacturers have all the tools necessary to stop "free riding". If point-of-sale or post-sale service is necessary for the proper marketing of a "high-tech" product, a manufacturer can directly require that service by contract. The main thing that a manufacturer cannot do under current law is to fix a price. S. 430 in no way changes these principles. A manufacturer can still directly require necessary services by contract. Nothing in the antitrust laws prevents a manufacturer from imposing restraints and conditions that are necessary for the proper marketing of its product.

(Pg. 4-5 Prof. First letter of 4/27/88; Pg. 4 Prof. Wood letter of 3/10/88)

6. *Isn't vertical price fixing one good means to make sure that necessary services are performed by the dealer?*

No. Some economists believe that vertical price fixing provides a guaranteed margin under which a retailer can provide necessary services. The better view, however, is that vertical price fixing is an undesirable way of making sure that services are performed because there is not necessarily any relationship between price and service. A full price outlet may not use its guaranteed margin to provide full service. At the same time, another dealer might provide all necessary services and still be able to compete on price. Therefore, price fixing is at best a very blunt instrument for guaranteeing service.

(Pg. 4 Prof. Wood 3/10/88)

7. *Doesn't S. 430 change the current legal standard used to judge the legality of restraints relating to territories, quality control, promotional efforts, and repair services (so-called non-price vertical restraints)?*

No. S. 430 applies only to vertical price fixing. In the words of the bill, it applies in civil actions which allege an illegal agreement "to set, change or maintain prices". The bill in no way applies to non-price restraints. Furthermore, the Committee Report states plainly that the bill "does not apply to non-price vertical restraints" and that *Sylvania* "still governs the legality of non-price restraints". (Pg. 8 Report Language)

8. *Doesn't S. 430 change the substantive law of conspiracy by permitting a jury to infer a conspiracy where there is no agreement?*

No. An antitrust conspiracy has never required a formal bi-lateral exchange of promises. Rather, it is merely an understanding or "meeting of the minds". In this type of conspiracy, it is sufficient that the manufacturer act at the behest of a full price retailer. The request to terminate a discounter and action because of that request is itself an agreement. That is not a change from current law and it's hardly a radical proposition.

(Pg. 6, paragraph and footnote, Pg. 5 first paragraph Report Language)

9. *Won't S. 430 chill legitimate communications between dealers and manufacturers?*

No. It is certainly important that dealers have a free flow of communications with manufacturers about the product and market conditions. However, there is no need for one dealer ever to talk about another dealer's prices. Discouraging these price communications does not in any way chill other communications that are necessary to conduct business.

10. *Doesn't S. 430 overrule the "Colgate" doctrine?*

No. Under current law, a manufacturer can refuse to deal with discounters altogether. S. 430 does not impinge on that right. A manufacturer can still establish a policy of not dealing with discounters and enforce that policy by terminating dealers who do discount. S. 430 does not apply to unilateral business decisions of manufacturers. The Committee Report makes this point clearly.

(Pg. 7-8 Report Language; Pg. 1 Prof. Wood letter of 3/18/88)

11. *I understand that, in the securities industry, issuers frequently require underwriters to guarantee a maximum price. Won't S. 430 put an end to this securities industry practice?*

No. The securities industry is regulated by the Securities and Exchange Commission. As such, it generally enjoys an antitrust exemption. S. 430 does not purport to apply to areas that are otherwise exempt under the antitrust laws.●

THE JAPANESE BEEF AND CITRUS AGREEMENT

● Mr. BAUCUS. Mr. President, I rise today to congratulate United States Trade Representative Clayton Yeutter for successfully concluding an agreement to open the Japanese beef and citrus market to United States exports.

I have been intensely involved with efforts to pry open the Japanese beef market for United States cattlemen over the last 5 years.

In 1983 and 1984, I worked closely with former USTR Bill Brock on the first beef and citrus understanding that gave United States cattlemen a foot in the door to the Japanese beef market.

Many thought that we would never get an agreement to open the Japanese beef market in 1984. But perseverance and a unified administration-congressional effort paid off and the door was opened a crack in 1984.

On June 20, we pushed the door open wide. But only after months of effort by the U.S. beef industry, the administration, and the Congress.

The events leading up to the June 20 agreement provide valuable lessons to those interested in U.S. trade policy for opening foreign markets. I would like to spend a few minutes tracing the history of this agreement.

On April 1 of this year, the agreement reached in 1984 expired.

For months before the expiration date was reached, Ambassador Yeutter, Secretary Lyng, and those of us in the Congressional Beef Caucus had been telling Japan that we were fed up.

The United States had tolerated Japanese protectionism long enough. U.S. cattlemen were being kept out of a potential $2 billion per year market by an import quota. In the face of a $60 billion trade deficit with Japan, such Japanese protectionism was simply intolerable.

But it took months of effort to communicate this message to Japan.

The most recent effort to open the Japanese beef market began in earnest in the winter of 1987. In February, Ambassador Yeutter and Secretary Lyng had the first meeting with the Senate Beef Caucus to discuss United States efforts to open the Japanese market.

Later in the spring, we held a second meeting at which we exchanged thoughts on how best to get our message across to the Japanese.

In the late spring, Ambassador Yeutter and Secretary Lyng had a highly successful tour of Japan during which they explained to Japanese consumers that Japanese protectionsim was driving up their food costs—forcing them to pay five times what they would otherwise pay for beef.

Communicating the costs of Japanese protectionism to the Japanese consumer created a new ally for United States cattlemen in Japan—millions of Japanese housewives that were tired of paying too much for beef.

Ambassador Yeutter also made his position clear to the Japanese on this trip: the United States was no longer going to tolerate the beef quota. We would hold no further talks on the extension of the quota, and would only discuss establishing a date certain by which the quota would be eliminated.

That message took time to sink in, and the intensive efforts of the United States Meat Export Federation in Japan to make Japanese consumers aware of the quality of American beef and the cost of Japanese protectionism helped a great deal to drive it home.

We also attempted to drive the message home through legislation. In mid July, I, with the support of almost 50 other Senators, included an amendment to the trade bill moving through the Senate that condemned the Japanese import restrictions on beef, and called for their elimination once the 1984 understanding expired.

Over the course of the summer and into the fall, the Japanese spent time trying to convince United States meat packers and exporters that phasing out the quotas was not in their interest.

We heard repeated threats from the Japanese that they would buy all their beef from Australia if the quota was eliminated.

But the beef industry, the Congress, and the administration stood firm.

In December 1987, we in the beef caucus decided to step up pressure on the Japanese.

The first major new initiative was a luncheon for Japanese officials hosted by Congressman BOB SMITH of Oregon, Congressman JIM OLIN, Senator MALCOLM WALLOP, and myself as the cochairmen of the congressional beef caucus.

In attendance for the luncheon were the acting Japanese Ambassador and other high-ranking Japanese officials, Ambassador Yeutter, Secretary Lyng, the president of the National Cattleman's Association—Dale Humphrey, the chairman of the American Meat Institute—Manley Molpus, and 75 Members of Congress.

It was at this meeting that many U.S. Congressmen finally understood how difficult Clayton Yeutter's job was. We listened in shock as senior Japanese officials explained that they could not purchase American beef because their intestines were too long to properly digest beef.

But, despite their protestations about intestine length, the Japanese officials at the meeting came away with a clear message that the industry, the administration, and the Congress were united in their call for liberalization of the Japanese beef market.

In March 1988, I decided to travel to Japan myself to carry the message of the United States beef industry.

During my trip, I met with senior Japanese officials from numerous ministeries, several influential Diet Members, United States Embassy officials, and the United States Meat Export Federation personnel in Japan. I was also able to give a number of Japanese consumers a taste of United States beef at an outdoor fair.

Thanks to excellent cooperation and support from the United States Meat Export Federation and the United States Embassy in Japan—including personal assistance from Ambassador Mike Mansfield—I was able to help carry the message that Japanese protectionism was costing Japanese consumers billions and straining the United States-Japan relationship to the Japanese people.

Still, later in March, the prospects for an agreement were uncertain. And, in mid-April, a major round of negotiations to open the beef market broke down. Agriculture Minister Sato flew back to Japan from Washington and gave indications that a bilateral agreement might not be possible.

At that point, the United States had no alternative but to challenge the Japanese beef quota under the General Agreement on Tariffs and Trade on the grounds that the quota was inconsistent with Japanese obligations under the GATT.

The United States was on strong ground calling for a GATT panel because the United States had recently won a GATT case against Japan that involved 12 similar, but less important, agricultural quotas.

After some delay, Japan did eventually agree to allow a GATT panel review the Japanese restrictions on beef imports.

But by late May of this year, many had given up on the possibility of achieving an agreement to open the Japanese beef market in the near future.

We had all seen television pictures of Japanese farmers destroying American cars and burning Uncle Sam dolls in protest of the United States effort to open the beef and citrus market. And we had all also seen a propaganda film produced by a Japanese agriculture group designed to frighten Japanese consumers out of buying American agricultural exports. It looked as though Japanese farm groups might be winning the political struggle inside Japan.

Many thought that Japan would try to delay the GATT process, and wait out this administration hoping that Japan would fair better with the next administration.

But we did not give up. The beef caucus chairmen and Clayton Yeutter called a press conference and warned the Japanese that the United States would pursue unilateral action under section 301 of the Trade Act if a solution was not soon forthcoming.

Clayton Yeutter and his fine staff kept up relentless pressure on the Japanese.

The result of all this effort is the June 20 agreement to open the Japanese beef market over the next 6 years. Under the agreement, the Japanese beef quota and the government-controlled distribution system will be phased out and partially replaced by a tariff over the first 3 years of the agreement. The new tariff will be phased down over the final 3 years of the agreement.

This agreement was a big win for the administration, the U.S. beef industry, and the Nation as a whole.

There are three lessons that we should draw from this experience about negotiating to open foreign markets: First, present a unified front; second, apply relentless pressure; and third, cultivate the natural alliance with consumers in the foreign country.

If we learn from these successful experiences and are lucky enough to have gifted men and women—like those currently at USTR—representing the United States in the future, we will continue to make real progress in getting U.S. products into foreign markets.●

INFORMED CONSENT: MISSISSIPPI

● Mr. HUMPHREY. Mr. President, today I would like to insert a letter from a woman in the State of Mississippi into the CONGRESSIONAL RECORD. Mrs. Williams writes and tells us about her feelings as one who counsels women who have had abortions and the deep pain and regret that the woman she has counseled feel. Women who have abortions must be given all the facts about this serious medical procedure so they can make an informed decision. I urge my colleagues to join me in support of S. 272 and S. 273 so that we can be sure that all women are given the facts. I ask unanimous consent that this letter be inserted in the RECORD.

The letter follows:

CLINTON, MS.

DEAR SENATOR HUMPHREY: In the last fifteen years, I have counseled numerous young women in connection with teenage pregnancy and abortion. The girls who had their babies and placed them in loving homes had peace afterwards. Those who had abortions in the past still live in regret.

One young adult, who had an abortion at 16 years of age, said she tried to figure a way to sue America for allowing a law that would take such advantage of her at age 16.

Another young adult friend, who also had an abortion at age 16 years, found later after marriage that she was sterile because of scar tissue from the abortion.

I interviewed an abortion clinic nurse for a radio program of which I am hostess. This nurse, told of the Doctor timing himself to see how many abortions he could do in one hour. He performed ten. The University Medical Hospital called the clinic saying they had a patient who claimed to have had an abortion at the clinic. The hospital found an eleven week old fetus floating in her abdomen. She (the nurse) told of many complications and the fact that most of the girls were minors. Their parents were not aware of the abortions unless something went wrong and the parents had to rush their daughter to the hospital where they then indeed had to give consent for treatment. No doctor would dream of removing a 13 year old girl's tonsils or appendix without parental consent—yet they can perform a dangerous operation which can indeed result in death as long as its entitled "abortion."

We indeed have gone mad when a school cannot administer an aspirin to your child without consent, yet a health class teacher could take your child to an abortion clinic without parental consent.

I pray your efforts will be fruitful and effective in helping lead our nation back to sanity we seem to have lost. If I can assist in any other way, please let me know.

May God bless you in your efforts.

Sincerely,

MRS. RUTH ANN WILLIAMS.

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by the foreign government or organization.

The Select Committee has received a request for a determination under Rule 35, for Mr. David Apgar, a member of the staff of Senator BRADLEY, to participate in a program in Berlin, West Germany by the Aspen Institute Berlin, from June 27, to June 29, 1988.

The committee has determined that participation by Mr. Apgar in the program in Berlin, West Germany, at the expense of the Aspen Institute Berlin, is in the interest of the Senate and the United States.

The Select Committee has received a request for a determination under Rule 35, for Mr. Greg Jenner, a member of the staff of Senator PACKWOOD, to participate in a program in Israel sponsored by Project Interchange, from August 22 to August 29, 1988.

The committee has determined that participation by Mr. Jenner in the program in Israel, at the expense of Project Interchange, is in the interest of the Senate and the United States.●

COSPONSORSHIP OF FAMILY AND PARENTAL LEAVE ACT

● Mr. D'AMATO. I am pleased to join my colleagues in cosponsoring S. 2488, the Family and Parental Leave Act of 1988.

In view of the changing demographic composition of today's work force, the United States should join the other major industrial nations of the world in providing a national standard for family-related benefits.

The family is the cornerstone of our Nation and society. It is increasingly important that we have a national policy that encourages family unity and stability. These interests, and longstanding American values, dictate that a way be found for parents to be granted leave for the birth, adoption, or serious illness of a child. All of our hopes for the future depend on our children, the leaders to tommorrow. They must have the best care and attention we can offer. Parents should not have to lose their jobs to provide this care.

Recent studies underscore that, in our shifting economy, the working men and women of our country need help in coping with the responsibilities of work and family in today's complex world.

A number of issues have been raised regarding the burden this measure might place upon American business, and in particular, on the small business sector, which has played such a key role in our Nation's economic resurgence. Let me just state that this bill was substantially modified and refined prior to my willingness to cosponsor it. As it now stands, it strikes a reasonable balance between very legitimate competing interests by focusing on those essential commitments to child care and family stability that are in everyone's interest.

Mr. President, I particularly congratulate my good friend from Connecticut, Senator DODD, on his shepherding of this legislation, and urge its adoption.●

COSPONSORSHIP OF THE FEDERAL RETIREMENT APPLICATIONS ACT

● Mr. D'AMATO. Mr. President, I am pleased to join my colleagues Mr. HEINZ and Mr. GRASSLEY in supporting the Federal Retirement Applications Act of 1988, S. 2469.

I applaud their efforts to ensure that Federal retirees begin receiving their annunity checks promptly. This measure would being some peace of mind to retirees at a turning point in their lives. Our Federal retirees should not be burdened with unnecessary financial hardship caused by bureaucratic inefficiency.

It is time for agencies to be held accountable for the speed in which they process the retirement data of employees. The requirement for agencies to provide counseling is also a good one. Certainly these hard-working employees deserve such consideration at this crucial time in their lives.

The Federal Retirement Applications Act is a thoughtful piece of legislation. I am delighted that this measure would aid the 9,400 Federal employees who retire each year in my State of New York.

I commend my colleagues Mr. HEINZ and Mr. GRASSLEY for their wisdom in introducing this important bill.●

MEASURE PLACED ON CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 3893, a bill dealing with the implementation of local asbestos management plans by educational agencies, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL LITERACY DAY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 304, a joint resolution to designate July 2, 1988, as "National Literacy Day," and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 304) designating July 2, 1988, as "National Literacy Day".

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time.

The preamble was agreed to.

The joint resolution, with its preamble, read as follows:

S.J. RES. 304

Whereas literacy is a necessary tool for survival in our society;

Whereas thirty-five million Americans today read at a level which is less than necessary for full survival needs;

Whereas there are twenty-seven million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;

Whereas illiteracy is growing rapidly, as two million three-hundred thousand persons, including one million two-hundred thousand legal and illegal immigrants, one million high school dropouts, and one hundred thousand refugees, are added to the pool of illiterates annually;

Whereas the annual cost of illiteracy to the United States in terms of welfare expenditures, crime, prison expenses, lost revenues, and industrial and military accidents has been estimated at $225,000,000,000;

Whereas the competitiveness of the United States is eroded by the presence in the workplace of millions of Americans who are functionally or technology illiterate;

Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare and unemployment compensation;

Whereas the percentage of illiterates in proportion to population size is higher for blacks and Hispanics, resulting in increased economic and social discrimination against these minorities;

Whereas the prison population represents the single highest concentration of adult illiteracy;

Whereas one million children in the United States between the ages of twelve and seventeen cannot read above a third grade level, 13 per centum of all seventeen-year-olds are functionally illiterate, and 15 per centum of graduates of urban high schools read at less than a sixth grade level;

Whereas 85 per centum of the juveniles who appear in criminal court are functionally illiterate;

Whereas the 47 per centum illiteracy rate among black youths is expected to increase to 50 per centum by 1990;

Whereas one-half of all heads of households cannot read past the eighth grade level and one-third of all mothers on welfare are functionally illiterate;

Whereas the cycle of illiteracy continues because the children of illiterate parents are often illierate themselves because of the lack of support they receive from their home environment;

Whereas Federal, State, municipal, and private literacy programs have only been able to reach 5 per centum, of their total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to understand the severity of the problem and its detrimental effects on our society, and to reach those who are illiterate and unaware of the free services and help available to them; and

Whereas it is also necessary to recognize and thank the thousands of volunteers who are working to promote literacy and provide support to the millions of illiterates in need of assistance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1988 is designated as "National Literacy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, is there a House bill at the desk, H.R. 4517?

The PRESIDING OFFICER. There is.

OUTER CONTINENTAL SHELF INDEMNIFICATION AND HOLD HARMLESS AGREEMENTS

Mr. BYRD. Mr. President, on behalf of Mr. BREAUX, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4517) to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to provide for indemnification and hold harmless agreements.

Mr. BYRD. Mr. President, I ask for the second reading.

MR. DOLE. Mr. President, I object.

The PRESIDING OFFICER. The bill will be read for the second time the next legislative day.

EXTENSION OF AUTHORITY FOR WORK INCENTIVE DEMONSTRATION PROGRAM

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 739.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4731) to extend the authority for the Work Incentive Demonstration Program.

The PRESIDING OFFICER. Is there debate?

Mr BYRD. Mr. President, I ask unanimous consent that the bill be advanced through the various steps up to and including the vote on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

ORDER TO VOTE AT 9:45 A.M. ON H.R. 4731

Mr. BYRD. Mr. President, I ask unanimous consent that, at 9:45 a.m. tomorrow, the Senate return to Calendar Order No. 739, that there be no further debate or action on the bill, and that the vote occur on passage.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDERS FOR TUESDAY, JUNE 28, 1988

ADJOURNMENT UNTIL 9:20 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:20 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that, following the recognition of the two leaders under the standing order on tomorrow, there be a period for morning business to extend to the hour of 9:45 a.m., and that Senators may speak during that period for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALL OF THE CALENDAR WAIVED

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow the call of the calendar be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO MOTIONS OR RESOLUTIONS OVER, UNDER THE RULE, COME OVER

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow no motions or resolutions over, under the rule, come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUME CONSIDERATION OF THE UNFINISHED BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that, upon the disposition of the vote on the passage of H.R. 4731 tomorrow, that vote having been ordered to begin at 9:45 a.m., the Senate resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will come in tomorrow at 9:20 a.m. After the two leaders have been recognized under the standing order, there will be a period for morning business to extend until the hour of 9:45 a.m. Senators will be permitted to speak during that period for morning business for not to exceed 5 minutes each.

At the hour of 9:45 a.m., the Senate will proceed, without further debate or action, to vote on the passage of H.R. 4731, an act to extend the authority for the Work Incentive Demonstration Program.

Upon the disposition of that vote, the Senate will resume consideration of Calendar Order No. 735, S. 2527, the plant closing bill. An amendment by Mr. QUAYLE, I believe, is pending and would be the pending question at that time.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I thank the Chair.

Mr. President, the Senate will continue probably throughout the day on the plant closing bill. I hope an agreement can be reached whereby final action can be achieved on that legislation tomorrow.

A cloture motion has been entered. That cloture motion will mature on Wednesday. If an agreement cannot be reached on tomorrow on plant closing so that we can see the Senate complete that measure on tomorrow or on Wednesday, I would hope that it would be possible to agree to a vote on the cloture motion at some point tomorrow, if the distinguished Republican leader would not mind ascertaining on his side of the aisle if that might be possible; in other words, to have a cloture vote tomorrow or, even better, to have a time agreement if we were to see the Senate complete action on the plant closing bill on tomorrow or Wednesday.

Mr. President, does the distinguished Republican leader have any further statement or any business he wishes to transact?

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. If the majority leader will yield, we have no further business. We will, as I have indicated earlier after the meeting at the White House and the meeting on policy, attempt to get either a time certain or some agreement, if we can. Otherwise, cloture is ripening.

But, in my view, I believe that there is an interest on this side to offer amendments that only relate to the bill and not get off on other amendments, death penalty and others I have heard floating around.

In addition, it would be my hope and it is the wish, also, of the ranking member on the Appropriations Committee, that we might be able to get an agreement which would permit the majority leader after consultation with the Republican leader, which would be, really, consultation with the ranking member on the Appropriations Committee, to start moving some of the appropriations bills. I have indicated to the majority leader we will try to clear that tomorrow.

There are a number of others we are working on, but the Endangered Species Act, as I understand it, the majority leader would like to work out some time agreement and that is in process.

Mr. BYRD. Yes. I thank the able leader.

Mr. President, perhaps this would help the leader in his discussions with Senators on his side and I state it for the record for Senators on my side as well.

There have been some discussions under way between the two leaders as to the work that remains before the Senate adjourns sine die, hopefully by September 30, just prior to the beginning of the new fiscal year. And, also, discussions have been had between the two leaders as to the possibility of extending the Independent Day break beyond the 5th of July, which is the presently scheduled break, and extending through July 10, Sunday. And it is possible that such an arrangement might be had. However, it will greatly

depend upon at least two very important matters which I hope the Senate can accomplish.

One would be the final action on the plant closing bill and the other would be either action on the appropriations bills or an agreement which would facilitate the action on those bills to the extent that the majority leader could move, after consultation with the minority leader, to any of those bills and back and forth, to and fro, among those bills in such a way that the Senate can best utilize its time during the week of the 11th of July and beyond. And the Republican leader and I are pretty well agreed on the approach that would help in that regard.

If the Republican leader can get that agreement tomorrow in time for us to inform our colleagues, as to whether or not the Senate is indeed going to be in the 6th, 7th, and 8th, it would be helpful to our colleagues and certainly would expedite the action of the Senate.

The Senate needs to go to those appropriations bills as soon as they qualify under the 2-day rule and dispose of them in as orderly a way as possible; get them to conference, let the conferees begin their work between the two Houses, and get the bills to the President, then, as soon as the work can be expedited.

I hope that all of those bills will be passed and in conference by the conclusion of business on the 14th of July.

That may be a goal that cannot be achieved, but if the agreement we had will expedite the action on those measures and utilize the Senate's time to the best purpose, then we will be in a position to talk about extending the Independence Day break.

ADJOURNMENT UNTIL 9:20 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 9:20 a.m. tomorrow.

The motion was agreed to; and, at 7:35 p.m., the Senate adjourned until Tuesday, June 28, 1988, at 9:20 a.m.

NOMINATIONS

Executive nominations received by the Senate June 27, 1988:

DEPARTMENT OF STATE

ROBERT L. PUGH, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHAD.

THE JUDICIARY

JOHN M. DUHE, JR., OF LOUISIANA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT VICE ALBERT TATE, JR., DECEASED.

JACQUES L. WIENER, JR., OF LOUISIANA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT VICE ROBERT M. HILL, DECEASED.

CONFIRMATION

Executive nomination confirmed by the Senate June 27, 1988:

AMBASSADOR

HENRY F. COOPER, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS UNITED STATES NEGOTIATOR FOR DEFENSE AND SPACE ARMS.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

FRAUDS BY TOP OFFICERS AT WEDTECH

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. DINGELL. Mr. Speaker, my attention was drawn recently to a newspaper article describing how various frauds were conducted by top officers at the Wedtech Corp. The June 3, 1988, edition of the Washington Post reports that a former president of Wedtech, Mr. Anthony Guariglia, has testified company officials raided the corporate treasury after raising $24 million in a public stock offering that covered up repeated instances of corporate fraud. Mr. Guariglia joined Wedtech after uncovering some of the fraud himself as an outside auditor.

Mr. Guariglia, who pleaded guilty last year to bribery and conspiracy charges, has been described as the "brains" of the Wedtech operation. He is now cooperating as a government witness.

According to the Post article:

Guariglia said he became familiar with Wedtech's ways as an accountant at the firm of Main Hurdman in 1982-83 when he and other outside auditors discovered existence of a Wedtech slush fund called FHJ Associates. According to Main Hurdman memos that Guariglia identified, FHJ was simply a "vehicle" used by Wedtech "to divert money out of the company to the general use of its officers."

Guariglia and other Main Hurdman officials subsequently took jobs at Wedtech, and no mention was made of the FHJ or other defalcations in the prospectus for the company's initial stock offering in August 1983.

I am concerned about this matter because professional CPA's responsible for the independent audit of Wedtech actually participated in covering up the company's fraudulent activities. We cannot accept a system that lets these outside auditors subsequently become employees of Wedtech, where one of them became the company's president and the brains of the operation. The question must be asked, "Who watches the watchmen?"

Since 1985, the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce has held 23 public hearings in an effort to answer that question and others. We have heard from the Securities and Exchange Commission, the Federal Home Loan Bank Board, the American Institute of Certified Public Accountants, and representatives of major audit firms involved in the various cases of fraud and mismanagement examined by the subcommittee. The subcommittee's goal is to assure that there are adequate checks and balances so that the disclosure regulatory system set forth in the Federal securities laws protects the public from false and misleading financial information.

We have found serious and pervasive problems in the present system. The Securities and Exchange Commission has not met its responsibility to regulate independent auditors for public companies, and the major accounting firms have been unable or unwilling to regulate themselves effectively. The result has been a system where faulty books and poor internal controls have been commonplace, and where massive fraud and incompetence have gone unreported until a company goes bankrupt. This system also permitted Mr. Guariglia to go from being independent auditor to president of Wedtech.

There have been sound proposals for change. The National Commission on Fraudulent Financial Reporting, a private sector study group appointed by five business and accounting organizations, has recommended mandatory corporate audit committees, public reports on internal controls, and stronger enforcement by the SEC. The Comptroller General has recommended strong internal controls that are independently reviewed by outside auditors, a system that has worked well on audits of Government programs. Subcommittee members have called for direct notification to regulators when an audit firm resigns or is fired because of fraud.

These are all good ideas which have been discussed for years, but never implemented. The time to act is now. I have instructed the subcommittee staff to develop an immediate implementation plan, including new legislation where appropriate.

The reluctance of the SEC, the AICPA, and major audit firms to act on these recommendations has in the past been an impediment to achieving necessary changes in the regulatory system. I note that SEC Chairman Ruder has now made a commitment in testimony to support these changes, and that leadership has emerged from the accounting profession. The firms of Arthur Andersen and Price Waterhouse have both put forward concrete proposals which recognize that the public and audit firms have a mutual interest in an audit system that addresses the realities of today's marketplace.

I look forward to working with such lenders, and I encourage others to join us. I am committed to seeing that these changes are implemented by legislation and other means. The real story of Wedtech is that the time for waiting is over.

Mr. Speaker, I ask unanimous consent that the Washington Post article be printed in the RECORD at this point.

[From the Washington Post, June 3, 1988]

WEDTECH OFFICIALS' RAIDS ON ITS TREASURY OUTLINED

(By George Lardner, Jr.)

NEW YORK, June 2.—A former president of the Wedtech Corp. told today how company officials raided its treasury after raising $24 million in a public stock offering that covered up repeated instances of corporate fraud.

Anthony Guariglia, who joined Wedtech after uncovering some of the fraud himself as an outside auditor, described in stark detail a meeting in late 1983 at which company officials decided to "adjust" their salaries soon after transforming the cash-starved Bronx firm into a publicly held corporation.

John Mariotta, company founder and then president, took the lead, announcing that he wanted a salary of $300,000 to $400,000 a year, Guariglia recalled at the Wedtech corruption trial in U.S. District Court here.

Guariglia, then a recently hired Wedtech vice president and now a government witness, said he told Mariotta that he could not do that because the public would not take kindly to such an action and "it would affect the marketing of the stock."

At that, "John Mariotta used a vulgarity," Guariglia testified. "He said, 'Blank the stockholders. This is my company, and I'll take what I want to take'. . . He said as long as I worked for him, I had to fill his pockets. He said he was an entrepreneur and I was just an accountant."

Guariglia pleaded guilty last year with three other Wedtech executives to bribery and conspiracy charges and faces stiff cross-examination. He has been described as the "brains" of the Wedtech operation, and his testimony against Mariotta is the most damaging and comprehensive produced by the prosecution.

According to Guariglia, Wedtech's corruption encompassed not only defendants such as Rep. Mario Biaggi (D-N.Y.) and former Bronx borough president Stanley Simon but also a farflung cast that included dishonest bank officials, conniving lawyers, bribed bureaucrats and pliable auditors.

Guariglia recounted one episode in 1984 when he told Pat Simone, a Bronx businessman who had loaned Wedtech $500,000 "at an interest rate of 100 percent," about kickbacks that the company had paid to two officials of a New York bank where Simone had arranged for them to pick up the money.

"Mr. Simone was upset . . . [he] said he didn't know why the kickbacks were paid. . . . because he not only put up the cash . . . . He told me he owned" the bank.

Guariglia said he became familiar with Wedtech's ways as an accountant at the firm of Main Hurdman in 1982-83 when he and other outside auditors discovered existence of a Wedtech slush fund called FHJ Associates. According to Main Hurdman memos that Guariglia identified, FHJ was simply a "vehicle" used by Wedtech "to divert money out of the company to the general use of its officers."

Guariglia and other Main Hurdman officials subsequently took jobs at Wedtech, and no mention was made of the FHJ or other defalcations in the prospectus for the company's initial stock offering in August 1983.

The jurors were told that Biaggi, whose New York law firm had been representing

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Wedtech as a minority-owned business, said he had been promised 5 percent of stock by Mariotta and Wedtech executive Mario Moreno but ran into angry protests from another top Wedtech official, Fred Neuberger.

Biaggi "said that he had made the company in the Small Business Administration and he could destroy it the same way," Guariglia testified. After a huddle, he said, Wedtech "agreed to the 5 percent."

Guariglia said Wedtech planned to leave the SBA's minority-business program on going public but devised a fraudulent way to stay in it in order to obtain a lucrative Navy pontoon contract. He said Wedtech executives and Simone formed a partnership to lease a city-owned building to house the work, only to find that Biaggi was "very upset not to get 5 percent of the building."

Simone said, "'Blank Biaggi . . . . Don't worry about it. I own him [Biaggi],'" Guariglia said. "He told me he had gone way back with Mario Biaggi."

Guariglia said the FHJ account also served as repository for kickbacks paid by subcontractors hired to refurbish the building under a scheme proposed by Simone.

AFTER THE SUMMIT—SOVIET REFUSENIKS ARE STILL NOT PERMITTED TO EMIGRATE; JEWISH CULTURE AND RELIGION ARE STILL RESTRICTED IN THE SOVIET UNION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. LANTOS. Mr. Speaker, in recent months there has been a substantial improvement in relations between the United States and the Soviet Union. For the past 4 years, there have been annual summit meetings between President Reagan and Soviet General Secretary Gorbachev. I most enthusiastically welcome these developments.

Furthermore, Mr. Speaker, human rights—including Jewish emigration—has been an issue on the agenda of every important bilateral meeting between United States and Soviet officials during this time. And there are hopeful signs. In the past 9 months, the number of Jewish emigrants from the Soviet Union has increased dramatically—8,817 refuseniks left the Soviet Union between August 1987 and May 1988.

The Soviets appear to be making important changes in their emigration practices. Rudolf Kusnetsov, head of the Soviet Visa Department [OVIR], told the United Nations Commission for Human Rights that Soviet emigration policies have "now been liberalized" so that eligibility for emigration no longer requires that an applicant have an invitation from a first-degree relative abroad, or approval from his or her parents residing in the Soviet Union.

Last January—between the December summit in Washington and the May summit in Moscow—I visited with refuseniks in Moscow to discuss firsthand the current Soviet human rights policies. Following the May summit, I spoke with Secretary of State Shultz and with other officials of the State Department.

All of us—refuseniks in Moscow and officials in Washington—welcome the changes that have taken place. All of us think these changes are long overdue. All of us expect more from a country that has long pledged to allow free emigration and observe internationally recognized human rights in documents that it has signed—the Universal Declaration on Human Rights in 1948 and the Helsinki Final Act of 1975.

As positive as these changes are, Mr. Speaker, there is absolutely no question that further improvements are needed and expected in view of international human rights standards and Soviet human rights commitments. When will it be possible for Soviet Jews to study their history and learn Hebrew without risking persecution? When will Soviet citizens be permitted to openly recite the prayers of the Jewish rituals and attend an independent synagogue of their choice? When will Soviet officials be courageous enough to allow free travel and emigration to Israel, the United States, or other countries where Soviet Jews seek to visit or live?

There are still thousands or unresolved emigration applications involving divided families—Mikhail Shteynberg of Moscow and Bela Nudel of San Francisco, Yuri Semenovsky of Moscow and his sister Svetlana Khachaturyan of Berkeley, CA. There are thousands of Jews, such as the Chernobilsky family of Moscow or the Keis-Kun family of Leningrad, who simply wish to emigrate so they can worship freely and be reunited with friends.

Mr. Speaker, when Soviet policy and practice reach the point that refuseniks are permitted to emigrate and the practice of Jewish culture and religion is unrestricted, then we will have solid evidence of truly significant change in the Soviet Union. Then we will know that "glasnost" is real. Then we can be assured that United States relations with the Soviet Union can progress to even higher levels.

A TRIBUTE TO LORENE ALEXANDER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Ms. Lorene Alexander, a very special resident of my 17th Congressional District. It is my sad duty to inform the U.S. House of Representatives that Ms. Alexander is retiring after 25 years of outstanding service for the Mahoning County Department of Human Services. A beautiful dinner is being held to honor her inspiring career on June 30, 1988, at the Moonraker Restaurant in Boardman, OH.

Ms. Alexander grew up in Dublin, GA. Her burning desire to obtain a college education led her to graduate from Paine College of Augusta, GA. She then did an excellent job instilling the values of education in young people as an elementary school principal.

Her belief in trying to change society led her to join the Mahoning County Department of Human Services in 1962. After 5 years as a caseworker for the elderly, she was promoted to supervisor of the welfare office. In 1974, she became administrator of social services, and was later appointed director of social services. Ms. Alexander oversaw Mahoning County's title XX Program, and consistently received excellent reviews from Ohio government for her exemplary and tireless work.

Ms. Alexander's community service has been exhaustive. She is on the board of directors for the Young Women's Christian Association, the United Methodist Community Center, and the Community Corrections Association. She has also devoted countless hours to the Youngstown Urban League, the National Association for the Advancement of Colored People, the Quota Club, and the Negro Women Business and Professional Club.

Lorene is an active and strong person whose energy and zest for life will be missed by every single employee of the Mahoning County Department of Human Services. Lorene, I salute you for your years of sincere service to the citizens of Mahoning County, and you have all of my best wishes for a happy and productive retirement. Thus, it is with thanks and special pleasure that I join with the people of the 17th Congressional District in paying tribute to the wonderful life and extremely noble character of Ms. Lorene Alexander.

THE 100TH BIRTHDAY OF COMPTON, CA

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. DYMALLY. Mr. Speaker, the city of Compton, CA, is celebrating its 100th birthday.

Compton, though just south of the more recognized city of Los Angeles, is hardly in the shadows. Founded by Griffith Dickenson Compton in 1868, the city of Compton was officially incorporated on May 11, 1888, and has prospered to become known as the "Hub City."

Compton started out as a flourishing farm community, initially proving very fertile for grain and vegetables. By 1910, most farmers diversified their crops, and before the turn of the century, apples, peaches, pears, oranges, lemons, and walnuts were abound.

With the discovery of oil in Dominguez Hills, and the rapid industrialization centered around the San Pedro and Los Angeles Harbors farming declined dramatically after 1920. These developments were the seeds for increased population growth and established business, which ranged from a "trading post" to a shoe shop, to a one-man meat market.

This brought more and more people to Compton and today there are more than 100,000 proud residents of this great city.

Today, Mr. Speaker, Compton is a prosperous city—at the forefront of municipal and social innovations. The mission of the city is, "To create a viable, affluent, self-reliant, and safe community."

There is a thriving ethnic mixture of people and the local government reflects that rich mixture of histories and cultures. There is a racial harmony among the citizens of this city which reflects a potpourri of ethnic backgrounds. Every culture contributes to the attractiveness of this peaceful community.

With the Nation's gang and drug-related crime reaching crisis proportions, law enforcement officials in Compton enjoy the confidence and support of the residents. Government officials function with the legitimate mandate of the people. Elected officials at all levels are integral to the promotion of economic vitality and improving the quality of life of the city's residents, both socially and politically.

Within Compton's boundaries are churches, schools, business establishments, medical facilities, civic organizations, ethnic organizations, a community college, a university and social organizations working together and committed to maintaining an economically viable and socially desirable living environment.

Compton is the site of a booming development industry reflected in the growing number of subdivisions and the planned hotel and convention center in the city's outer area. These are all indications of the commitment and confidence the residents and entrepreneurs have in this city. This demonstration of a willingness to invest is a clear signal of a healthy and vital community.

I am honored to represent the city of Compton in the 100th Congress, as I have, with the same reverence, in the three previous Congress.

Mr. Speaker, I call on my colleagues to join me in saluting the city of Compton, CA, on its centennial. One hundred years of growth, pride, and prosperity are not only Compton's history, but we pray that these distinctions characterize its future.

A SALUTE TO ROBERT L. BOND

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. STOKES. Mr. Speaker, I would like to take this opportunity to salute a valuable member of the Cleveland community, Robert L. Bond, who will be retiring after 25 years of service to the Neighborhood Centers Association. On June 29, Mr. Bond's friends and colleagues will gather at Cleveland State University to celebrate "Bob Bond Day." I am pleased to be able to join in honoring a man who has contributed so much to our community.

Mr. Speaker, at this time I would like to share some of Bob Bond's achievements and contributions with my colleagues.

Bob began working with the settlement movement while a graduate student in 1940. Except for a 5-year stint in the Air Force during and after World War II, he has been involved in the movement ever since.

The settlement movement was founded in the 19th century to serve the needs of immigrants arriving from Europe. During the past 90 years the movement has evolved with changing waves of immigration and changing community needs. Settlement houses, which are now called neighborhood centers, have become the social service hubs of their communities, helping area residents in a number of ways, including coordinating social services for both needy youngsters and senior citizens and planning for the future needs of the community.

Bob served with settlement and neighborhood associations in New York, California, and Louisiana before founding the Neighborhood Centers Association in Cleveland in 1963. At that time, he recognized the need for individual settlement houses to join together. He knew that only through organization could these separate entities have the strength to generate communitywide support. During the past 25 years, Bob's leadership has helped bring NCA both local and national recognition. The organization he founded has grown from 13 to 25 agencies and from a budget of $1 million to almost $14 million, becoming the largest neighborhood center association in the world. Even more important is the fact that NCA now serves 65,000 people in Cleveland and its suburbs.

Mr. Speaker, there is no question that this record of success is due in large part to the vision and dedication of Robert Bond. Because of his efforts, NCA has been able to play an active role in improving the quality of life for Cleveland families and neighborhoods, reaching out to build bridges between people of different races, religious, and socioeconomic backgrounds.

Mr. Speaker, the solid foundation laid by Bob Bond will enable the vital work of NCA to continue. I join the community in saluting Bob on this auspicious occasion and wishing him Godspeed upon his retirement.

PERSONAL EXPLANATION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. BONKER. Mr. Speaker, I was unable to be present [illegible] the vote on the en bloc amendment offered [illegible] Representative FISH to the fair housing amendment, H.R. 1158 (rollcall vote 200). Had I been here, I would have voted "aye."

PORTER SALUTES PAMELA COHEN, PRESIDENT OF UCSJ

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. PORTER. Mr. Speaker, I am pleased to announce that Pamela Braun Cohen, a constituent and close personal friend, recently received the 1988 Edward J. Sparling Alumni Award from Roosevelt University in Chicago.

Pamela has distinguished herself as a leader of the Soviet Jewry movement during her term as national president of the Union of Councils for Soviet Jews and her 7 years as cochairman of Chicago Action for Soviet Jewry. Ruth Benton of Roosevelt University described Pamela most accurately when she stated: "The Edward J. Sparling Alumni Award is given to the alumnus who has contributed to our society by giving unselfishly of time and resources to civic and cultural activities."

I encourage my colleagues to read the attached article:

ROOSEVELT SALUTES DEERFIELD'S COHEN

Pamela Braun Cohen, national president of the Union of Councils for Soviet Jews and co-chairman of Chicago Action for Soviet Jewry, is the recipient of the 1988 Edward J. Sparling Alumni Award for Roosevelt University in Chicago.

Cohen, of Deerfield, is honored for her valuable contributions to society and unselfish devotion to community and civic affairs.

Cohen has been a leader in the activist Soviet Jewry emigration and rescue movement for over 15 years. She has traveled to numerous cities in the Soviet Union to meet with leaders of the Refusenik community, and participated in national and international conferences concerned with human rights conditions inside the USSR. Recently, she briefed President Reagan and Secretary of State Shultz on the plight of Soviet Jews and their strategies for rescue.

Despite her normal 12-hour work days, beginning with phone calls to Refuseniks in the Soviet Union, Pamela Cohen serves without financial compensation. Ruth Benton, director of alumni relations at Roosevelt University, stated, "The Edward J. Sparling Alumni Award is giving to the alumnus who has contributed to our society by giving unselfishly of time and resources to civic and cultural activities. When we were told of Pamela's work, we decided that if there was anyone who deserved the award—based on the amount of time and effort contributed—it would be her. We could think of no one who deserves the award more. There was really no contest."

In her acceptance speech, Cohen said, "For nearly two decades, our work, our intervention has been profoundly felt within the closed borders of the Soviet Union. Over those years, more than 270,000 Soviet Jews have been rescued from the brute force of Soviet anti-Semitism and from the cultural genocide inspired by Stalin and enforced by each of his successors."

PAN AMERICAN ENERGY SECURITY

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. LELAND. Mr. Speaker, Americans are well familiar with the uncertainties and hazards associated with imported oil. We were all witness to the long gas lines of the 1970's when supplies were scarce and prices high; the depressed oil prices in the 1980's which have wrecked havoc with the U.S. energy industry and States with energy-dependent economies; and, most recently, the escalating tanker war in the Persian Gulf. These examples underscore the perils of supply and price volatility associated with increased dependence on imported oil. Can this dependence be broken? Unfortunately, not. Rather, this country's dependence is expected to increase as domestic production declines.

A comprehensive energy policy is sorely needed if this country is to obtain reasonable prices in the future. Consequently, the United States must take all necessary steps to ensure that any future increased dependence on imports be from reliable sources—sources which will provide stability in prices and supplies.

Within the Western Hemisphere, there exist an abundant supply of energy resources with an estimated 148 billion barrels of crude oil, 516 trillion cubic feet of natural gas, and 306 billion short tons of coal. A concerted effort to tap these reserves would maximize our utilization of reliable energy and natural resources. Furthermore, most Latin American countries such as Venezuela and Mexico and our neighbor to the north, Canada, enjoy stable political climate and promise to offer such stable supplies. Because some of these countries are heavily in debt and require hard currency or development assistance, perhaps the United States and these countries could fashion an arrangement. The potential for such an arrangement should not be ignored.

Consequently, I have proposed a study on Pan American Energy Security. It directs the Departments of Energy, State, and Commerce to conduct a study on energy policies between the United States and other North, Central and South American countries. Upon completion of the study, recommendations for increasing our cooperation with specified countries would be offered. The study could examine energy issues relating to oil, natural gas, coal, nuclear energy, renewable energy, conservation, and synthetic fuels. Upon completion, the Department could recommend free trade agreements, a multinational energy organization or other action as needed to enhance our relations with selected countries on energy security.

The need for such a study is great. Past effects have examined selected areas or have failed to focus on a comprehensive policy. Bilateral agreements, research and development efforts, and educational exchange programs, while helpful, merely amount to a haphazard approach to an area which is central to this Nation's security.

While it may be impossible for the United States to avoid reliance on oil from the Presian Gulf region, we must take full advantage of the stability within our own hemisphere and exploit all facets available for increased cooperation with our neighbors to the north and south.

DEPORTED NAZI PERSECUTORS SHOULD BE DENIED SOCIAL SECURITY BENEFITS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. LANTOS. Mr. Speaker, few crimes are so loathsome or so appalling as the persecution and murder carried out by the Nazi regime against other human beings solely because of race, religion, national origin, or political opinions.

The U.S. Congress and the American people have taken a very strong and correct stand against individuals who were involved in these Nazi persecutions. Under U.S. law, which was enacted a decade ago, any individual who "ordered, incited, assisted or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion" is subject to deportation from the United States.

Current U.S. law now denies or withdraws Social Security benefits from individuals who are deported from the United States for a large variety of reasons, including the commission of crimes, lying about their eligibility to enter the United States, and seeking the violent overthrow of the U.S. Government. Although our laws call for the deportation of individuals who were involved in Nazi persecution, we do not now deny those individuals Social Security benefits.

Mr. Speaker, it was to correct that oversight that I have introduced H.R. 4905. My bill will deny Social Security benefits to those individuals who are deported or ordered to be deported on the basis of their participation in or assistance for Nazi persecution during the period of Nazi rule in Germany.

The enormity and brutal inhumanity of the crimes of those who carried out the Holocaust transcend our ability to understand, but at the same time justice demands that those who were responsible must be held accountable for their crimes. This legislation takes another small, but important, step in that direction. I urge my colleagues to support it.

A TRIBUTE TO KAREN GABEL-AMON

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Ms. Karen Gabel-Amon, a very special resident of my 17th Congressional District. Karen has been a very close friend of both myself and my wife for many years. She is both physically and intellectually a very beautiful young woman, and has unusual tenacity and zest for life.

Karen recently became a 1988 graduate of Youngstown State University with a bachelor's degree in marketing and management, and it is one of my proudest and most humbling moments as a Member of Congress to have the great honor of informing my fellow Members about her accomplishment. She worked for 12 long years to get her degree, because she firmly believed that she should pay for her own education. Karen suffered through many trying moments during those 12 years. But her tireless energy and never-say-die competitive spirit, combined with her burning desire to obtain an education, led to her receiving a college degree.

Karen's success story is an inspiring example of determination and commitment. Not only did she pay for her entire college education, but for most of her high school expenses as well. She is typical of the people of Mahoning and Trumbull Counties, for they never give up no matter how great the odds. Despite the rough times my district has been through, I am certain that with strong and aggressive individuals like Karen, glorious days are coming soon.

Karen was born on the north side of Youngstown—where she still resides—on June 24, 1954, and graduated from Youngstown Ursuline High School in 1972. Karen is eternally grateful to her mother for being very helpful and emotionally supportive, and is extremely thankful that she has a father who always gave her an extra push. It should be noted that Karen is known as one of the best hairdressers in the Youngstown/Warren area. She used her astounding and wizardly skills to create gorgeous hairstyles for countless people at Hair Fashions by Fred for 3 years, and at Henri's for 9 years. It makes me burst with abounding pride to announce that Karen's driving obsession to improve herself is leading her to seek a master's degree in business administration, and that she is looking forward to becoming an amazing worker and a great success in the business world.

I want the whole world to know that I have greatly admired Karen's perseverance and ambition ever since I have known her. I salute you here on the floor of the U.S. House of Representatives, and I am totally confident you will rise rapidly wherever you work. Thus, it is with thanks and special pleasure that I join with the people of the 17th Congressional District in paying tribute to the outstanding achievements and noble personality of Ms. Karen Gabel-Amon.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1988

Mr. BURTON of Indiana. Mr. Speaker, I have introduced an amendment which expresses the sense of Congress that the United States must maintain its commitment to a 600-ship Navy. We are at a perilous crossroads in our Nation's history as we move from reliance on nuclear weapons for our national security to conventional deterrence. Now more than ever, there is a need for the United States and its allies to have modern, credible, and well-equipped navies capable of force projection worldwide.

A strong, well-balanced Navy is fundamental to our interests. First, we must recognize the realities that geography imposes on our maritime strategy. Three fourths of the globe is covered by water. To maintain our freedom and that of our allies, we must be capable of meeting aggression wherever it occurs. The waters of the world cannot become an uncontested medium from which our adversaries can launch hostile attacks.

Second, until recently, we had the relative luxury of planning on moving carrier battlegroups from the Pacific to support Atlantic operations if the need arose. We can no longer afford that luxury. The increasing presence and activity of the Soviet Navy in the Western Pacific has required us to revise our maritime strategy. Their acquisition of a warm water port in Cam Ranh Bay, Vietnam typifies the Soviet's high regard for the value of the Pacific area of operations. When this military reality is coupled with the economic fact that our trade with the Western Pacific exceeds our trade with Europe by over $26 billion, the importance of a credible, multiarea deterrence becomes clear.

Third, as an island nation, control of the seas is fundamental to our survival and that of our allies. In time of war, over 90 percent of war materiel must move by sea. We ourselves are dependent on many nations for resources which our country cannot provide, from the oil which fuels our industries to the strategic materials that are integral to our weapons platforms. Without a Navy capable of providing us with open sealanes of communication, we are paper tigers.

Our responsibilities are great and our resources limited. Our commitments, however, must be unwavering. Our national interest demands that we be ready to sail in harm's way in any of our four key areas of interest—the Mediterranean (which includes support of NATO's Southern flank and the Middle East); the Atlantic, with a strike force which must stretch from the Norwegian Sea through the Mid-Atlantic and Carribean to the South Atlantic and West Africa; the Western Pacific, our largest geographic area and the source of our new economic reality; and finally, the Indian Ocean-Persian Gulf area. These far-flung areas of responsibility, together with our 40-plus treaties and understandings with our allies, require a minimum peacetime Navy of 15 carrier battlegroups and 600 ships. We need the flexibility that only a fully equipped and deployed Navy can provide.

Since the 97th Congress, we have remained committed to the 15-carrier battlegroup, 600-ship Navy, the minimum necessary for meeting our global commitments. The recent events in the Persian Gulf, with the mining of the U.S.S. *Samuel B. Roberts* and the subsequent actions by our fighting forces, better demonstrates our need for readiness than any speech I can make from the floor of this revered House. The fantail of that ship was lifted 15 feet in the air from the force of the explosion. There was a 10-foot hole in the starboard side of the ship and a 22-foot rip in the port side. The officers and men of the ship were prepared; they were battle-ready; and they saved that ship. Later, when the Iranians tried to press home an attack after our Navy's measured response to the mining, the men, ships, and weapons of the Navy validated the wisdom of our commitment to a modern, capable fighting force. We had given our sailors a fleet ready to sail in harm's way. And they made it work.

The Soviets are capable of deploying over 1,700 ships against us. We cannot and should not attempt to match them ship for ship or man for man. But we must provide an effective deterrent force that demonstrates our continued resolve worldwide. The striking force of the carriers, the technology of the Aegis-class ships, and the omnipresent threat of our submarine force, when combined with the will and dedication of our fighting forces, is the heart of our deterrence. The Persian Gulf incident shows anew that our sailors are ready to put their lives on the line for our country. The modern, well-equipped and well-manned 600-ship Navy is our commitment to them. We must not renege on that commitment. We can't pick where we will fight but we can ensure that we give the Navy the tools to win. There is no second place in war, and there is no substitute for victory.

At the beginning of my time, I said that I had introduced an amendment to express the sense of Congress in favor of the 600-ship Navy. The performance of our Navy in the Persian Gulf has drawn the support and praise of the President, our own leadership, and the Members of Congress on both sides of the aisle. That bipartisan support of our Navy is a clear reaffirmation of our commitment and makes my amendment unnecessary. Therefore, I now withdraw that amendment while reaffirming my unwavering support of the early attainment of the 15-carrier battlegroup, 600-ship Navy. I look forward to 600 American flags waving proudly from our ships on the briny foam worldwide.

CONGRATULATIONS ON RECEIVING THE 1987-88 ALL-AMERICAN CITY AWARD

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. DYMALLY. Mr. Speaker, today I rise to congratulate Paramount, CA, on being selected to receive one of ten 1987-88 All-American City Awards.

This award is presented annually by the National Civic League to communities which demonstrate a working partnership among citizens, business and government in solving community problems.

On Saturday, June 11, 1988, this year's winners were announced by former Mississippi Governor William F. Winter, chairman of the National Civic League Board.

The league was founded 94 years ago as the National Municipal League by a group of conscientious civic reformers. This is the 39th year of the League's Award Program representing the Nation's oldest and more regarded community recognition program.

In keeping with the league's mission of promoting and strengthening the "civic infrastructure of America's communities by encouraging citizen participation in community decision making", Paramount is being recognized for several community based programs.

An "Alternative to Gang Membership" program was implemented to facilitate the need to educate young people about the perils of gang activity. This program was quite successful. After 6 years, 2,900 youth have participated and less than 15 former participants were reported to be involved in gang-related activity.

In this era, when gang and drug wars are consuming our youth with alarming frequency and at an incredible early age, Paramount should be commended for its effort.

In another project, over 982 volunteers donated 4,873 hours of labor during a clean-up program to refurbish 1,700 properties.

And finally, a landmark cooperative effort between law enforcement officials and community groups resulted in the creation of a "Public Safety Innovations Program." This program has upgraded law enforcement services. By transferring less critical functions to civilian "Neighborhood Watch" groups, more deputies are free for patrol duties, resulting in better responsiveness by the county.

Mr. Speaker, this is a fitting tribute to a city where cooperation and commitment have successfully challenged problems which plague our Nation in disturbing proportions.

I call upon my colleagues to join with me in congratulating Paramount, CA, on a job well done.

TRIBUTE TO FRANK W. BRADLEY

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. DANNEMEYER. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to Frank W. Bradley, vice president of the Chevron Corp., Washington office. Frank will retire on June 30, 1988. He has been with Chevron for 30 years, more than half of that time as the vice president in the Washington, DC office.

Frank has had a distinguished career. He served at the Perth Amboy, NJ refinery on the corporation's supply and distribution staff and then as a Middle East advisor on the foreign staff. He was president and director of Iran California Oil Co., headquartered in London, which represented Chevron Corp.'s interests in Iran. In 1971 he was loaned to the U.S. Government as a participant in the President's Executive Interchange Program where he served for a year as a senior policy adviser in the U.S. Department of Housing and Urban Development.

Frank is highly regarded in the business community and has been a leader within the petroleum industry. He has played an active role in politics in Washington, DC, and has set a good example for others to follow. Steering his company through both good and bad times, Frank has continuously exhibited his tireless energy and dedication.

In addition to his dedicated work within the company, Frank has devoted his personal time and attention to a number of community activities. Frank served as a chairman of the Presidential Interchange Executive Association and received the 1971-72 Outstanding Achievement Award of the President's Commission. He was a member of the board of directors of the Business-Government Relations Council, Ford's Theater, and the Community Foundation of Greater Washington. Frank is to be commended for his personal commitment to his community.

Frank has been a very busy man and has made numerous contributions to his company and to his community. Despite his active schedule, he has been able to find time to pursue his own special interests with his family. Frank is a formidable tennis player, an avid fisherman, and an accomplished skier.

I am pleased to join with my colleagues in bidding Frank a healthy and happy retirement.

THE SAN FRANCISCO FESTIVAL AT THE KENNEDY CENTER

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mrs. BOXER. Mr. Speaker, I rise to invite my colleagues to join me in extending congratulations to the many artists, artistic groups, community organizations and leaders in both Washington and San Francisco whose creativity, shared vision, and strong commitment to the arts have made possible the Kennedy Center's San Francisco Festival. The festival has just completed a month of exciting performances at our national cultural center, performances showcasing the wealth of cultural talent with which San Francisco is blessed, and which help to make San Francisco the special place it is.

It is exciting to see the John F. Kennedy Center for the Performing Arts focusing a national spotlight on the distinctive work of San Francisco's artists, and thereby give them the important national exposure and recognition they so richly deserve in the center's first regional performing arts festival.

For this festival, the Kennedy Center and guest curator William B. Cook of San Francisco have focused on ideas that have originated in the bay area or have been blended among artists who, Cook has written in the festival catalog, "decided to make the landscape of the bay area their palette."

Included in the month-long festival, which filled four halls and the front lawn of the Kennedy Center in dozens of free and modestly priced performances, were artists representing San Francisco's Ethnic Dance Festival and World Drum Festival, George Coates Performance Works, Kronos Quartet, ODC/San Francisco, the San Francisco Mime Troupe, Theatre Rhinoceros, the National Symphony Orchestra in a program of music by west coast composers conducted by Andrew Massey, the associate conductor of the San Francisco Symphony, plus exhibits from the Exploratorium, Bill Fontana's sound sculpture "Through the Golden Gate," and a series of a dozen films by San Francisco's independent film and video artists programmed by the Film Arts Foundation. In addition, the foods and wines of San Francisco were served on carts before the performances and also in the Center's Roof Terrace Restaurant, which recreated the savory cuisine of San Francisco's Hayes Street Grill under the guidance of its chef, Patricia Unterman.

Private and public sources have all contributed to the goal of making this festival possible. Those individuals and organizations deserving special applause are: the Kennedy Center's Regional Performing Arts Fund, which is presently underwritten by the William and Flora Hewlett Foundation and the William Randolph Hearst Foundation; Pacific Telesis Foundation as the festival's corporate sponsor; and the Fleishhacker Foundation, the Walter and Elise Haas Fund, and the National Endowment for the Arts. The colorful San Francisco Festival catalog, designed by the bay area's Keilani Tom Design Associates, was underwritten by Grants for the Arts, which is funded by the San Francisco hotel tax fund.

Again, congratulations to the participating San Francisco artists and to the Kennedy Center, to which I wish every success with future festivals highlighting the performing arts of other regions of our wonderfully diverse Nation.

A SALUTE TO DON BLACK

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. BADHAM. Mr. Speaker, it is my privilege today to honor an outstanding Orange Countian, an outstanding Californian, and an outstanding Amercian, Mr. Donald B. Black.

Don Black is the outgoing president of the Laguna Beach Chamber of Commerce. In his brief time at the helm, he has united the leaders of this community behind common goals and he has proven the value of this vital organization.

Mr. Speaker, Don Black is uniquely suited for his current post with the chamber, a position which requires limitless amounts of tact and intelligence. He earned a political science degree from UCLA and a law degree from USC. His experience in both advocacy and arbitration and his generous community service prepared him well for the presidency of the chamber.

His accomplishments speak well of him. His tenure has seen a membership boom. In 1 month alone, the chamber gained 35 new members. He has nurtured even better relations betwen the world-famous Laguna art community and the business community. He has come up with outstanding ideas about how to stabilize the local economy and improve city revenue and services.

Whether the issues are controversial or common sense, political or practical, Don Black is there, working hard to improve our community. It is an honor to represent all central and coastal Orange County residents in the Congress of the United States, but it is an even greater privilege when we find someone like Don Black among these citizens.

With my colleagues, I want to offer Don Black the most sincere congratulations for a job well done and the best of luck in his future endeavors.

A TRIBUTE TO JOHN AND SHIRLEY DEPRETA

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to John and Shirley Depreta, two very special residents of my 17th Congressional District. John and Shirley exemplify deep humanitarian concern for children of all races. It is one of my proudest and most humbling moments as a Member of Congress to have the great honor of informing my fellow Members of the U.S. House of Representatives about these two outstanding human beings.

John and Shirley Depreta have five children of their own, and have deprived themselves of every possible luxury in order to make sure their children received the best education possible. For this, Mr. and Mrs. Depreta are to be highly commended. However, the heart-warming story of this family does not end there.

One cold evening, John found a young black child living and sleeping in an abandoned car. Without hesitation, he took the little boy into his home and made him part of his family. He later did the same for a white boy he found living in the streets. John and Shirley raised these two children as their very own, without a second's thought about the additional financial burden.

I also must note that John and Shirley did an outstanding job raising them. Their black son is now enrolled with Jobs Corp in Pittsburgh and the white child is studying at the New Castle School of Trades.

I salute John and Shirley Depreta for their great sacrifices and prejudice-free concern for humanity. It is with abounding pride that I recognize their achievements. Thus, it is with thanks and special pleasure that I join with the people of the 17th Congressional District in paying tribute to the outstanding accomplishments and extremely admirable characters of John and Shirley Depreta.

MR. GORBACHEV, MORE FOOD, NOT GUNS, IS THE ANSWER TO ETHIOPIA'S PROBLEMS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. BROOMFIELD. Mr. Speaker, one of the seamier aspects of current Soviet foreign relations is that country's policy regarding Ethiopia. Now is clearly the time for the Soviets to stop their excessive military aid to Ethiopia if prolonged civil conflict in that beleaguered country is ever to end. Now is the time for the Kremlin to join the United States in a joint humanitarian relief effort to ward off yet another serious famine in Ethiopia.

Over the years, Ethiopia has been ravaged by several protracted civil wars as well as a series of droughts, locust attacks and a well publicized and tragic famine. Many innocent Ethiopian civilians have fallen victim to the Government's war against the Eritrean and Tigrayan insurgents while many others have died of starvation in that problem plagued country.

While Mr. Gorbachev talks about reducing regional tensions with the United States, he has done little to encourage the central Government of Ethiopia to stop its brutal and costly war efforts. Over the years, the U.S.S.R. has provided over $4 billion in military assistance to that country. Thanks to this massive Soviet military assistance, Ethiopia now has the largest military establishment in black ruled Africa. Over 1,400 Soviet advisers and larger numbers of Cuban troops are stationed there and often become directly involved in Ethiopian military operations against the guerrillas.

During a recent military clash with the Eritrean rebels, one Soviet adviser was killed and three others were taken prisoner. Insurgent successes have caused the Kremlin to speed up arms deliveries to the Ethiopian forces fueling yet another costly military buildup. Experts agree that the insurgents could go on fighting for years. Billions more in Soviet military aid will do nothing to end hostilities. The Soviets appear to be doing little to convince the Ethiopian Government that the war in the north is unwinnable. The Kremlin should try to convince President Mengistu Haile Mariam that more military assistance from the U.S.S.R. is not the answer to his country's problems. More food, and fewer AK-47's, is the answer.

The tragic conflicts in Eritrea and Tigre provinces seriously hinder food distribution efforts in those dry northern Ethiopian areas. To make matters worse, the Ethiopian Government recently expelled international relief agencies from those war torn regions. This cruel decision comes at a critical time when famine could affect millions of poor Ethiopian peasants. Our Government has called upon the Soviets to urge the Ethiopian Government to reverse this decision and to refrain from military tactics that prevent food from reaching famine threatened areas.

War efforts are putting a massive strain on the finances of the Ethiopian Government. A recent government decision requires that all Ethiopians earning more than $25 per month must donate 1 month's salary for the Government's futile and costly war effort. The Marxist-Leninist economic policies of the Ethiopian Government continue to cripple the economy of that country.

During the terrible 1984-85 famine in Ethiopia, the Soviets were justifiably criticized for failing to provide much humanitarian assistance to that poor country. Their generous military assistance, however, continued to flow in a torrent. During that period, the U.S. Government donated 1 million tons of food to help to relieve that terrible famine and also provided transportation for food deliveries inside Ethiopia. In an effort to repair its tattered image, the Soviet Union has promised to donate 250,000 tons of emergency grain to Ethiopia this year. This large pledge is obviously designed to surpass the U.S. contribution of 247,000 tons. Soviet assurances have yet to be accompanied by concrete actions. It is regrettable that the Kremlin may be playing politics with the lines of innocent people in that famine stricken country.

Now is the time for Mr. Gorbachev to practice what he so often preaches. Now is the time for the Soviet leader to work with the United States Government to relieve the terrible famine conditions that threaten the Ethiopian people. It is time for the Kremlin to stop sending billions in military assistance to Ethiopia to fuel an unwinnable war. Let's stop the war and feed the hungry before thousands more die of starvation. Food, not guns, is the answer to Ethiopia's problems.

NYACK HIGH SCHOOL JAZZ ENSEMBLE TOURS THE SOVIET UNION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. GILMAN. Mr. Speaker, I am pleased to share with my colleagues the news of the Nyack High School Jazz Ensemble to travel throughout the Soviet Union from June 27 to July 10. Comprising 24 talented musicians from my district in New York State, the Nyack High School Jazz Ensemble has been given this monumental opportunity by the Russian Youth Division of the Sputnik Organization.

The Sputnik Organization is a Russian organization that fosters cultural exchanges between the Soviet Union and various other nations. The Nyack High School Jazz Ensemble is privileged to have the opportunity to perform public concerts in Moscow, Leningrad, and Minsk. In addition, Sputnik has arranged for the jazz ensembles extensive travel and informal gatherings with Russian youth groups.

It is my pleasure to have the Nyack High School Jazz Ensemble as representatives of our Nation, for they have served as superb ambassadors at home as well, touring extensively throughout my State and district. Mr. Speaker, I am confident that the jazz ensemble will greatly contribute to international concordance and enhance friendships as they share the common bond of music with the Soviet population.

Accordingly, I would like my colleagues to join me in saluting the Nyack High School Jazz Ensemble. This is an outstanding endeavor to promote bilateral understanding and cooperation for the Soviet Union and the United States.

STEPHEN NOVAK ESSAY CONTEST WINNER

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. FAWELL. Mr. Speaker, today I would like to recognize an outstanding student from my congressional district. Stephen Novak is this year's winner in my Heritage Essay Contest. Over 350 eighth graders submitted essays for this competition.

Stephen's essay focuses on the importance of the Bill of Rights to our basic freedoms. The text of Stephen's essay, "The Bill of Rights: America's Legacy of Freedom," follows:

"THE BILL OF RIGHTS: AMERICA'S LEGACY OF FREEDOM"

The Bill of Rights is the very foundation of our government by the people and for the people. It guarantees basic rights for all the people. Most of the time I take these rights for granted. I take them for granted because I have grown up with them and they have always been a part of my life. As I study about other countries, I realize not everyone is as lucky as I am to have these rights. They are a part of our Constitution and something all Americans should be proud to call their own.

The Bill of Rights begins with the First Amendment which is very important because it covers many of the freedoms we all take for granted. It forbids the government to do a number of things and guarantees some of the most basic rights. Many of the first settlers and the immigrants who followed them came to America looking for these freedoms. Freedom of religion and freedom of speech were very important to these new settlers, just as they are to me. When it came time to form "a more perfect union," the right to assemble and to petition the government also became important.

The First Amendment is important to me because I do not have to worry about what I say or who I say it to, as long as what I say does not hurt anyone. I am free to express my feelings and ideas. I would not like living in a country where I had to worry about what I said. Freedom of religion means a lot to me because I want to choose where I go to Church. The freedom to assemble and petition the government may not be important to me now, but I can see that as I get older and have the right to vote, these freedoms will become part of my life. The Federal Government has to set some rules and regulations for a country of this size but it should not interfere with our basic freedoms.

The Second, Third and Fourth Amendments guarantees the right to be safe in our personal life and in our homes. I feel pretty safe in our house and I know that the government cannot enter our house without a legal permit.

One of the most important principles of the United States' Bill of Rights is that every person has the right to a fair trial. The Fifth, Sixth, Seventh and Eighth Amendments guarantee this right. These amendments deal with our justice system. I hope I never get into trouble with the laws of this country or state. However, it could happen and it gives me peace of mind to know that I would get a fair trial and have the chance to prove that I am innocent. Or if I am ever harmed by another person, I would be able to use the court system to obtain justice.

State rights are those rights not actually stated in the Constitution. The Ninth and Tenth Amendments gave the states the authority to make many of their own laws. Each state would set up its own form of government that would work through representatives elected by the people. It would be my responsibility to know what these laws are in the state where I live and how they affect me. For example, Illinois has a seat belt law and if I am riding in the front seat I must wear a seat belt. When I am old enough to drive, I will need to know the rules of the road, the driving age and the speed limits. As a teenager, I will need to know: curfews that affect me, types of fireworks I can use, the drinking age and gambling restrictions. The Bill of Rights gives me many freedoms, but it also sets limits that I must observe.

After studying the Constitution this year in Social Studies, I have become more aware of how the Bill of Rights affect me. They are part of my everyday life. Even though I may not think about them all the time, I am very glad our forefathers realized how important they are to the people. America's legacy of freedom has been handed down to me and my generation. I hope it continues for a long time for others to enjoy as I do now.

PHANTOM BEDS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. MONTGOMERY. Mr. Speaker, recently staff members from the Veterans' Affairs Committee, responding to alarming rumors regarding the VA Medical Center System, conducted an onsite survey of 16 hospitals across the Nation.

What they found were numerous staffing shortages which have in some cases forced beds to be unavailable for veterans. The Office of Management and Budget or VA Central Office refuses to let these beds be officially closed. This means there are phantom beds available on any given day that cannot be used to take care of veteran patients. Why? Because the Congress has passed a law requiring the VA to operate 90,000 hospital and nursing home beds and OMB doesn't want to get into a discussion about these beds being shut down. Officials of the VA have used these artificially high bed figures in public statements as evidence that all eligible veterans are receiving the care they need at the time they need it.

Unfortunately, Mr. Speaker, our staff found that more than 1,700 beds have been shut down in just the 16 hospitals we surveyed. As is obvious, the number of veterans who are receiving care cannot help but be affected by such a drastic reduction. What is it nationwide? We intend to find out.

Mr. Speaker, this is no way for our system to operate if we are to insure that our Nation's veterans get the care they deserve. The administration should take immediate action to remedy the situation.

OIL OVERCHARGE AMENDMENT IS BAD POLICY

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. SHARP. Mr. Speaker, when the House considers the conference report on H.R. 4567, the Energy and Water Development appropriation for fiscal year 1989, there will be a separate vote on an important amendment that will be brought back in disagreement. The Senate amendment would permit States with unemployment over 10 percent—only Louisiana currently meets this definition—to divert oil overcharge funds for any spending purpose rather than the energy purposes that have been established in court orders and legislation. I will urge my colleagues to vote no on a motion to recede and concur.

Billions of dollars have been returned to individuals and businesses who were victims of overcharges during the period of oil price controls in the 1970's. Because it was impossible to identify all of the overcharge victims, the courts have developed remedies to provide indirect restitution. In the $2 billion Exxon case, the court ordered the funds to be used for various State energy conservation programs or for fuel assistance. In another large case, known as the Stripper Well case, the court approved a settlement agreement that provided funds to the States for energy programs, subject to the approval of the Department of Energy.

The amendment would alter these decisions, taking funds away from energy programs for low-income families and the elderly, and let the State spend funds for any purpose it desires. It totally eliminates the restitutionary purposes of the court ordered programs.

The amendment is of dubious constitutionality. The American Law Division of the Congressional Research Service has analyzed the provision. They wrote, in a June 24, 1988, opinion: "Thus, it would seem that the proposed legislative language modifying the court-ordered uses that may be made of the overcharge restitutionary funds may raise constitutional problems under the fifth amendment and the doctrine of separation of powers."

The procedure under which this amendment was adopted is also troubling. The provision, which is legislative in nature, would have been subject to a point of order if offered in the House. It is not even related to the funds in the bill. There have been absolutely no hearings on the issue.

In summary, the amendment represents bad energy policy. The amendment is of dubious constitutionality. The amendment reflects an abuse of legislative procedures.

A wide variety of organizations have expressed their concerns about this provision. I would like to share their views with my colleagues. Their letter follows:

JUNE 24, 1988.

Re: Section 305 of H.R. 4567 Energy and Water Development Appropriation Bill for FY '89.

DEAR REPRESENTATIVE: Next week, the House of Representatives will consider the conference report to accompany the Energy and Water Development Appropriation bill, H.R. 4567. At that time, you will be asked to vote on an amendment in disagreement, a provision which would allow states with unemployment levels above 10 percent to spend oil overcharge funds for any purpose. The undersigned organizations urge you to vote against that provision.

Oil overcharge monies, collected from companies which violated past pricing regulations, are designed to provide restitution to energy consumers who were overcharged in the first place. The distribution of oil overcharge funds in instances where the actual purchaser can no longer be identified has been carefully and deliberately considered by the courts and the Congress. As a result of current law, court orders and settlement agreements which have been agreed to by all parties, including the states, the funds must be used for low-income weatherization and fuel assistance programs, energy conservation programs, and energy projects approved by the Department of Energy.

Our concerns with this amendment are several. First, it ignores the benefits that energy conservation and assistance programs have for those very energy users who deserve restitution. Use of those monies for the Low-Income Home Energy Assistance Program has obvious importance for those unable to meet high fuel bills. Moreover, funding conservation programs serves the multiple purposes of improving our domestic energy supply/demand balance, protecting the environment, and reducing energy expenditures for all sectors of the economy.

Second, passage of this provision would in effect overturn court orders and court-approved agreements that have literally been years in the making. While this is unjustified on substantive grounds, it therefore also holds open the possibility that its legality will undergo future legal challenge. That could delay expenditures of oil overcharges funds by all states and threaten future distribution of funds to the states.

Third, this provision would set a dangerous precedent by allowing states to use monies already set aside for a specific set of purposes for any state program. Because there would be no guidelines for how states could use these funds, they could be used for any purpose whatsoever regardless of the merit.

For these reasons, we again ask that you reject this provision, which has never been the subject of consideration or review by any House committee. Its passage would threaten the long-awaited expenditures of oil overcharge monies and reduce funding for badly-needed energy conservation and low income assistance programs.

Sincerely,

Gary L. Groesch, Executive Director, Alliance for Affordable Energy; Marc Ledbetter, Senior Associate, American Council for an Energy Efficient Economy; Michael Baly III, Vice President of Government Relations, American Gas Association; Larry Hobart, Executive Director, American Public Power Association; Edwin Rothschild, Deputy Director, Citizen Labor Energy Coalition; Ellen Berman, Executive Director, Consumer Energy Council of America; Nicholas Fedoruk, Director, Energy Conservation Coalition; Brad Oelman, Vice President of Corporate Relations, Owens-Corning Fiberglas Corporation.

Ruth Caplan, Executive Director, Environmental Action; David Conrad, Legislative Representative, Friends of the Earth; Ken Menzer, Executive Vice President, Mineral Insulation Manufacturers Association; Edward L. Block, Executive Director, National Association of Community Action Agencies; Michael V. Dunn, Director of Legislative Services, National Farmers Union; The Honorable Mary Lou Munts, Commissioner, Wisconsin Public Service Commission, Vice-Chair, NARUC Committee on Energy Conservation, National Association of Regulatory Utility Commissioners.

VOICE OF DEMOCRACY BROADCAST SCRIPTWRITING CONTEST

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. McMILLEN of Maryland. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct the Voice of Democracy broadcast scripwriting contest. I would like to bring to the attention of my colleagues the winning script from the State of Maryland. The winning

"America's Liberty—Our Heritage" theme was written by William H. Rubin of Odenton, MD.

The article follows:

AMERICA'S LIBERTY—OUR HERITAGE

"We the People of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America." This—the Preamble to our Constitution—underlies the hopes and dreams of freedom-seeking individuals, from times past into the future, throughout the world. It set the precedent for government that not suppresses but rather upholds the liberty of the governed. For liberty did our Founding Fathers throw off the British yoke in open rebellion and declare our independence; for liberty was our august nation thus born. Truly, America's liberty is our heritage.

Americans have always prized liberty. Even before the American Revolution, it was a much sought-after commodity. Instances such as the Zenger trial and Boston Tea Party merely illustrated the inherent love for liberty held by all Americans. The War for Independence, then, was but the climax in a short drama that had been set by the British over a century earlier; the finale was the birth of our nation amidst liberty.

Undoubtedly, the freedom we as Americans have enjoyed have allowed us to incorporate even greater liberty into our lives. Given the fundamental First Amendment guarantees of religion, speech, press, and assembly, the American citizenry has acted with remarkable determination to enjoy such privileges. Freedom of religion has molded scores of previously antagonistic religious sects into an interdependent theological community. Whether Catholic or Protestant, Jew or Gentile, Americans coexist peaceably. Free speech has provided us with the means by which we can rally behind and voice our support for any number of causes. Censorship is exercised only sparingly in our society, where truth is all-important. This want for truth is the basis for our free press. The news media can print freely that which the American public has the right to know. Freedom of assembly, too, has provided for a naturally democratic people. From the town meetings of early New England to the presidential caucuses of the Midwest, the right to assemble is longstanding in our history. Clearly, then, these precepts of liberty have given the American populace the flexibility needs to survive in the shining example of democracy that is America.

And these precepts of liberty have delivered far beyond those modest expectations. With the First Amendment as a sound constitutional basis, Americans have striven to achieve far greater freedom in their lives. Demonstrations have become an accepted part of the American way of life. Without them, we might never have known Dr. Martin Luther King, Jr., or his civil rights movement in the 1960's. Without them, we would not have women nor blacks at the polls on election days. Without them, our men might still be fighting the endless conflict in Vietnam. Certainly, these rights have built our national character into one of the most respected in the world.

It should come as no great surprise then, to learn that America has come to be equated with the very concept of liberty that it has fostered. From our earliest days, immigrants and refugees have flocked to our shores in search of liberty, the liberty of which they were deprived in their homelands. From Central America, the Caribbean, Southeast Asia and Europe, came an onslaught of new people who have become integrated in the American Melting Pot. Defectors from the Soviet Union come to America to find the freedom of choice that has eluded them in Mother Russia. Only in Amercia was there—is there—liberty. Such a swelling of numbers would have devastated other countries, forcing them to reject any newcomers. But in the United States, the disgruntled have always been welcome, if in limited numbers. But they have always been welcome. They have strengthened our nation with the addition of their culture, their values, their beliefs. They have given fresh insight into new problems. They have served as the backbone of the American labor force, and consistently move up the labor chains. Such successes as these immigrants have had in America—where elsewhere they had nothing—pays tribute to liberty in America. Such success proves that only where freedom reigns can the people truly live. Only with liberty can the people endure, as the American people have endured half a dozen global conflicts and its own civil strife. Only with liberty—for as Patrick Henry pleaded before his colleagues: "Give me liberty or give me death."

GRADUATION OF LEADERSHIP

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1988

Mr. FLORIO. Mr. Speaker, on June 7, 1988, Congressman ROBERT G. TORRICELLI addressed the graduating class of Harvard University's John F. Kennedy School of Government. In the tradition of the leadership of our Nation's 35th President, Mr. TORRICELLI spoke of the qualities and the priorities that are essential in leading this class into positions of leadership and commitment.

His remarks, taken from the perspective of the anniversary of his own graduation from Harvard, are a thoughtful, intelligent, and sensitive analysis of the agenda for a new generation of American leadership.

The address follows:

ADDRESS BY HON. ROBERT G. TORRICELLI TO THE 1988 GRADUATING CLASS OF THE JOHN F. KENNEDY SCHOOL OF GOVERNMENT OF HARVARD UNIVERSITY

Twenty six years ago, John F. Kennedy, the man whose name this proud institution bears, spoke at Berkeley. In his address, Kennedy quoted Prince Bismarck who noted that "one third of the students of German universities broke down from overwork; another third broke down from dissipation; but the other third ruled Germany."

Having survived until this day and having remained until this evening, I am confident that you are destined to be among the final third. Therefore, I want to speak to you as people whose hands shall touch and shape the American future.

And when I speak of the future, I do not refer to the new month or new year or even of the new decade to come. I want to speak of a new century, a time when our generation shall—with the strength of our experiences, upon the application of our values, in pursuit of our own ambitions—exercise leadership in America.

It is a time now closer than the critical events that shaped our experiences, a time now closer than Vietnam, closer than Watergate, and nearly half again as close as the assassinations which punctuated the end of our adolescence.

A new century that is America's third, but the first that shall be governed by a generation born in a fundamentally different America, born to the latter half of this century. A time with prosperity assured, when atomic weapons became a permanent reality, and a time of American world leadership. How these experiences translate into the policies of government, we cannot now begin to fully understand.

But if fifty years of political leadership shall provide us with anything, if the conclusion of the American century shall afford us one quality different from those who preceeded us. it must certainly be the single ability to see America as she is, a quality of candor about who we are and what we have achieved, and an understanding that the questioning and doubting of our nation is an expression of concern and an element of deep devotion.

In the Soviet Union, it is termed "glasnost." In America, it requires only a simple honesty. It is what America briefly afforded herself fifty years ago, when Franklin Delano Roosevelt said that he saw "one-third of a nation ill-housed, ill-clad, ill-nourished." This is not an admission of failure, but a statement of fact, a simple assessment of where we are and what separates us from a more perfect society. This is a painful process perhaps, but a hopeful one to those who are prepared to follow admissions with commitment and to face the realities of life for many in America.

To face these realities, we must recognize some harsh facts about America. In our cities, infant mortality rates are higher than in some emerging nations of Latin America. Nearly forty million people possess no health insurance and are forced to choose between medical care, food, or shelter. The rates of innoculation for our children decline, while 1 million people seek bankruptcy every year because of the catastrophic costs of modern health care. Fifty million functional illiterates confront the reality of a modern economy.

These are problems within our reach. But they are problems which are real, problems that define who we are and speak more about us as a people than any conquest or discovery. Each may represent a failure of a program, but each also reveals something more fundamental. Illness when there is no cure, exposure when there is no shelter, and hunger when there is no food are acts of God. They are timeless and tragic. But hunger, illness, and homelessness in a land of bounty is an offense to God, and a violation of human rights.

In a new century, under the leadership of a new generation, the basic rights of Americans may need to be revisited and defined to be as relevant to our time as the need for the liberties of speech, assembly, and religion were in the face of the British monarch, in whose denial our vital liberties were born. Internationally, the need for a new honesty shall be just as real.

No matter how selfless our sacrifices or how noble our causes, we shall need to confront the realities of our relations with the world. America is leading an alliance where few are following and where less share our view of their security or our own.

We are the product of a revolution. America is the one nation where change is an element of culture. But, to those who have little and want something, to those who seek freedom and have none, America is perceived as a defender of the past.

"America believes in defending freedom," one Greek student told me, "if it is freedom for America that is at issue."

Our good intentions or the error of the world's perceptions are of no solace. Identifying America with the aspirations of the many, rather than defending the interests of the few, is our first obligation. America's role as the world's principle advocate of challenge and change must be restored.

It is more than anything else a renewal of confidence, restoring the belief that our values are a weapon in our arsenal, understanding that while competition with the Soviets may persist, that confrontation alone neither defines all friendships nor explains all events.

If there were no Soviet Union, the poor of Central America would still seek opportunity. Blacks in South Africa would still seek freedom and America would still be asked to take a stand. These are the realities of our time, different perhaps by one more exception: the world is no longer waiting for us to decide. For as certainly as our generation shall exercise leadership, we shall also share it.

This month the Congress votes on a minimum wage law. It was an exciting issue for my father when he was in college. It was settled in 1933 as a policy question and should now be a matter of consensus. Soon catastrophic health care will be debated and later it shall be day care. Both were recognized in Europe and Japan as economic and social necessities decades ago.

America does not have time to revisit the issues of another time. Our social needs are too great and our economic challenges too immediate. The debate which we lead must be more fundamental. The scope of our thinking must change.

The future of education in America is not a question of a few dollars more or less. It is an issue of whether we can afford a system of local school finance, 2:30 p.m. school days, and three month summer vacations, while falling to seventeenth in international test scores.

The struggle to provide decent health care is more than the annual application of a C.O.L.A. to Medicare. Rather, it is the moral proposition of spending 30% of precious health care dollars to prolong the last 60 days of life, while mounting percentages of children get no care at all. It is the limits on our future we are imposing by spending $18 federal dollars for every citizen over 65 for every $1 dollar we spend on those under 18.

And the issue of drug abuse is not a question of who is punished for what term. It is an honest acceptance that a child with a good family, a decent education, and a real future does not seek to escape reality. Do more than seize the drugs. Raise the issue of the world the child will face when the high is gone.

These are the issues of fundamental, deep, and strucutral change. Your country is ready to follow. Indeed, Americans have been waiting for years.

Seventeen years ago, in tutoring a young Hispanic student, I routinely asked her to recite the name of the President. She could not reply. The silence was broken by a friend who suggested that the answer was not relevant to her life. This year, half of America will vote for a new President but half will not. They too are making a statement about the relevance of the current political debate. Each vote not cast is a deafening message to those who choose to hear.

Perhaps America will not respond to all that I ask. I do not know and no one can. We can only be certain that if we do not challenge America, our potential will always be something that might have been.

Twenty years ago, Robert F. Kennedy told us that "the future is not a gift: it is an achievement. Every generation helps make its own future." Now it is our time. Join in an American future that is not imposed, but one that we have shaped and chosen. Do not limit the American future by what we are willing to propose, but by what our people are prepared to do.

Challenge America. And when we have concluded and our limits seem reached, challenge her again.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, June 28, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 29

9:00 a.m.

Labor and Human Resources

Business meeting, to resume consideration of S. 837, to provide for specified annual increases in the minimum wage and for its annual indexing.

SD-430

9:30 a.m.

Energy and Natural Resources

Business meeting, to mark up S. 1912, to authorize a study of the feasibility of establishing a National Mimbres Museum in Silver City, New Mexico, S. 2157, to authorize three feasibility studies to be conducted in New Mexico dealing with the San Gabriel Historic Landmark, the significance of the Los Luceros Hacienda, and the establishment of an interpretive center to highlight the first colonization of the interior of the United States in New Mexico, S. 1120, the Federal Coal Leasing and Utilization Act, S. 1567, to provide for refunds pursuant to rate decreases under the Federal Power Act, and S. 1415, the "Colorado Ute Indian Water Rights Settlement Act."

SD-366

Foreign Relations

To hold hearings on the nominations of Thomas E. McNamara, of Connecticut, to be Ambassador to the Republic of Colombia, and Timothy L. Towell, of Ohio, to be Ambassador to the Republic of Paraguay.

SD-419

Small Business

Rural Economy and Family Farming Subcommittee

To hold hearings to identify prospects for economic development in rural America.

SR-428A

10:00 a.m.

Banking, Housing, and Urban Affairs

Securities Subcommittee

To hold hearings on S. 2544, to amend the federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement.

SR-253

Environment and Public Works

To hold hearings on S. 2367, to promote highway traffic safety by encouraging States to establish measures for more effective enforcement of laws to prevent drunk driving, and S. 2523, to require States to promptly suspend or revoke the license of a driver found to be driving under the influence of alcohol.

SD-406

Governmental Affairs

To resume hearings on issues relative to alcoholism.

SD-342

Judiciary

To hold hearings on pending nominations.

SD-226

Veterans' Affairs

Business meeting, to consider pending calendar business.

SR-418

10:30 a.m.

Foreign Relations

Closed briefing on the situation in Haiti.

SD-419

2:00 p.m.

Joint Printing

Business meeting, to consider pending committee business.

H-328, Capitol

JULY 8

9:30 a.m.

Joint Economic

To hold hearings on the employment-unemployment situation for June.

Room to be announced

JULY 11

9:30 a.m.

Special on Aging

To resume hearings to examine certain problems and challenges surrounding the provision of health care to rural communities, and to review recommendations and innovative strategies to deal with these problems.

SD-628

2:00 p.m.

Finance

Health Subcommittee

To hold hearings on patient outcome assessment research

SD-215

JULY 12

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on the Federal Reserve's Second Monetary Policy Report of 1988.

SD-538

Commerce, Science, and Transportation

Merchant Marine Subcommittee

To hold hearings on S. 2510, to make certain United States-flag vessels eligible for operating-differential subsidies under the Merchant Marine Act, 1936.

SR-253

Energy and Natural Resources

Mineral Resources Development and Production Subcommittee

To hold oversight hearings on the Department of Interior royalty management program.

SD-366

JULY 13

9:00 a.m.

Labor and Human Resources

Business meeting, to mark up S. 2488, to grant employees parental and temporary medical leave under certain circumstances, S. 1808, to require the Secretary of Health and Human Services to determine the appropriate regulatory classification of the transitional devices of the Medical Device Amendments, S. 2229, to authorize funds for fiscal years 1989, 1990, and 1991 for health research and related teaching facilities, and training of professional health personnel as contained in title VII of the Public Health Service Act, and S. 1950, to authorize funds for adolescent family life demonstration projects.

SD-430

9:30 a.m.

Small Business

Rural Economy and Family Farming Subcommittee

To resume hearings to identify prospects for economic development in rural America.

SR-428A

10:00 a.m.

Banking, Housing, and Urban Affairs

To continue oversight hearings on the Federal Reserve's Second Monetary Policy Report of 1988.

SD-538

JULY 14

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit Subcommittee

To resume oversight hearings on the implementation of the Agricultural Credit Act (P.L. 100-233).

SR-332

Veterans' Affairs

To hold oversight hearings to examine the extent of post traumatic stress disorder on veterans.

SD-628

JULY 27

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings to review the Department of Defense safety program for chemical and biological warfare research.

SD-342

JULY 28

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To continue oversight hearings to review the Department of Defense safety program for chemical and biological warfare research.

SD-342

AUGUST 11

9:00 a.m.

Veterans' Affairs

To hold oversight hearings to review certain veterans health care programs.

SH-216

SENATE—*Tuesday, June 28, 1988*

The Senate met at 9:20 a.m., and was called to order by the Honorable BOB GRAHAM, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

***He that dwelleth in the secret place of the most High shall abide under the shadow of the Almighty. I will say of the Lord, He is my refuge and my fortress: my God; in Him will I trust.*—Psalm 91:1-2.**

Most High God, blessed Father and Saviour, give us ears to hear the truth of the psalmist. Teach us to abide in Thee. May Thy wisdom fill our minds—Thy strength fill our bodies—Thy courage fill our wills—Thy compassion fill our hearts. Lead us in Thy way. Grant that our reason for being here may be fully realized today. Thy kingdom come, Thy will be done on Earth as it is in heaven. In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, June 28, 1988.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB GRAHAM, a Senator from the State of Florida, to perform the duties of the Chair.
>
> JOHN C. STENNIS,
> *President pro tempore.*

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I thank the Chaplain for his uplifting prayer filled with scriptural words, a prayer that gives succor and strength to me today. The psalmist wrote:

> The Lord is my shepherd; I shall not want.
>
> He maketh me to lie down in green pastures: He leadeth me beside the still waters.
>
> He restoreth my soul: He leadeth me in the paths of righteousness for His name's sake.
>
> Yea, though I walk through the valley of the shadow of death, I will fear no evil: for Thou art with me; Thy rod and Thy staff they comfort me.
>
> Thou preparest a table before me in the presence of mine enemies: Thou anointest my head with oil; my cup runneth over.
>
> Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord for ever.

That is the 23d Psalm, which our Chaplain has quoted so often. That psalm gives strength to those who wish to hear.

I thank him again.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the Senate could be in late tonight. I hope that the Senate will be able to complete action on the plant-closing bill today and if not today then tomorrow.

The distinguished Republican leader and I have been discussing the possibility of extending the Independence Day break through the 6th, 7th, and 8th of July. Whether or not that break will be extended depends entirely on two things: Completing the plant-closing bill and getting an agreement on all remaining appropriations bills.

I hope that we will be able to achieve both goals and, thus, allow additional days for Senators and employees of the Senate to enjoy the Fourth of July break.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

Mr. DOLE. Mr. President, I will just take a minute or two of my time for a Bicentennial Minute.

BICENTENNIAL MINUTE

JUNE 21, 1935: YOUNGEST CONSTITUTIONALLY ELIGIBLE SENATOR SWORN IN

Mr. DOLE. Mr. President, 53 years ago this month, on June 21, 1935, Rush Holt of West Virginia became the youngest person in history to take the oath of office as a U.S. Senator, under the provisions of the Constitution. Holt had been elected the previous November at the age of 29. The Constitution provides that "no person shall be a Senator who shall not have attained the age of 30 years." Although Holt, a Democrat, filed his election credentials with the Senate on January 3, 1935, the so-called boy Senator did not attempt to claim his seat until his 30th birthday in June.

Holt's defeated Republican opponent, former Senator Henry Hatfield petitioned the Senate to invalidate Holt's election. He argued that Holt failed to meet the constitutional age requirement, both at the time of his election and at the start of the term to which he was elected. Hatfield sought to be seated as the recipient of the second highest number of votes.

The Senate Committee on Privileges and Elections disagreed and recommended that Holt be sworn in. The committee observed that Holt's age had been well known to the voters of West Virginia and that the date on which the Senator-elect presented himself in the Senate to take the oath was the only date of consequence. The committee also reaffirmed the principle that the voiding of an election does not confer the office on the candidate receiving the second highest number of votes. On June 21, by a vote of 62 to 17, the Senate agreed to seat Holt.

During the early 19th century, three Senators were seated, without challenge, before reaching the age of 30. In 1806 Henry Clay took his oath at the age of 29 years and 8 months. A decade later, the Senate admitted Armistead Mason at the age of 28 years and 5 months and 18 days. John Henry Eaton became the youngest Senator in history when he took his oath in November 1818 at the age of 28 years, 4 months, and 29 days.

RUSH D. HOLT, FORMER U.S. SENATOR

Mr. BYRD. Mr. President, a good many years ago, I had the good fortune to serve with the late Rush D. Holt in the House of Delegates of West Virginia. In that session of the legislature, I served with two former U.S. Senators—Mr. Holt and also Joseph Rosier of Fairmont, who had been appointed by Gov. M.M. Neely to fill his unexpired term of 2 years, he having been a Senator, having resigned from the Senate to become Governor, and having then appointed

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. Rosier. I was in the legislature with both Mr. Rosier and Rush D. Holt of Weston. Mr. Holt was a brilliant man, known for his oratorical ability and for his courage. He once taught my Sunday school class, the Robert C. Byrd Bible Class, at the Crab Orchard Baptist Church in Raleigh County. We had a great outpouring of people on that day and, as was expected, Rush Holt turned them on.

I thank the distinguished Republican leader for his reference to the late Senator Rush D. Holt.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:45 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

CAN THE NEXT PRESIDENT SAVE THE AMERICAN ECONOMY?

Mr. PROXMIRE. Mr. President, our country today suffers the deepest Federal, household, and business debt by any measure in history. At the same time our capital markets have become more erratic and volatile than at any time in recent years. That is not all. Our trillion dollar savings and loan industry is in very deep trouble. It is worse. Exports tell us that another disaster like last October's record market crash may very well take place again at any time. The merger mania proceeds apace driving our corporations ever deeper into debt. But isn't our country cruising along, riding the wave of the longest peacetime economic recovery in peacetime history? In the past 80 years hasn't our economy added more than 10 million new jobs? Isn't unemployment down to 5.5 percent? Inflation is rising but doesn't it remain well below its highs of a decade ago?

Mr. President, this has been a time of economic growth. It is exactly when we should have been reducing debt, stabilizing our troubled thrift industry, and steadying the erratic volatility of the Nation's equity markets. We failed to do any of this. So when the next recession strikes, as it is bound to do sometime in the next few years, the American economy will be painfully vulnerable unless we act soon. There is no time to waste.

Felix Rohatyn is a senior partner of the New York investment banking firm of Lazard Freres. He is also a wise and highly respected observer of the American economy, particularly of our financial institutions. Mr. Rohatyn has frequently and eloquently testified before congressional committees over the past 20 years. On June 24 the Wall Street Journal carried an article by Mr. Rohatyn on what is wrong with the American economy and what we can and should do about it.

All of us will acknowledge that the Federal Government debt is, indeed, the fault of the Federal Government and particularly the Congress. But few understand how directly the immense debt, the excessive speculation, the sky high risk is endangering our economy. As Mr. Rohatyn puts it:

> The fundamental weakness in the securities markets, worldwide is the result of excessive speculation, excessive use of credit, and inadequate regulation.

Mr. Rohatyn observes a critical difference between our present problem and the economic difficulties in the 1920's. It is that this time the speculative behavior is not driven by individuals, as it was in the twenties, but by institutions. Today, the driving forces are the pension funds, the banks, the savings and loans and even the insurance companies. How does the Congress come into this situation? In many cases these institutions are backed by Federal Government guarantees. Federal deposit insurance means that generally more than 95 percent of bank and S&L liabilities are insured by the Federal Government and have been since the early 1930's. For the first 40 years of this insurance, the institutions were confined to low risk investment. There were limits on the interest that insured financial institutions could pay on their deposits. There was little speculation by these Government-protected institutions. There were few failures.

But now we have a radically different situation. The savings and loan industry is now losing money at the appalling rate of $13 billion per year. With virtually all of its trillion dollars in deposits guaranteed by the Federal Government, the taxpayer already faces a potential bailout that has been most recently estimated by responsible economic exports at as high as $75 billion and rising. That is not all. Nicholas Brady headed the President's commission on the October stock market crash. Brady told our Banking Committee that another devastating stock market crash could strike at any time. As he put it, "There's a pistol pointed at our head and it's loaded." How can this happen with corporate earnings breaking all records? It could happen because higher per share earnings are based on an extraordinary leverage. Earnings per dollar of assets have risen. This has occurred at a time when corporate debt has zoomed out of sight. Because corporations are typically earning more on the total assets than the rate they pay on the interest on their huge debt, the extraordinary leverage has made earnings per share impressive. This has buoyed the stock market. But just wait until earnings per dollar of assets begin to wane. Then leverage turns around. No longer a firm friend, it becomes a fearsome enemy. The good earnings picture rapidly becomes a nightmare of losses.

So what do we do to save the American economy? Mr. Rohatyn recommends the following medicine:

First, a 50-percent tax on the profits of securities held for less than a year. At the same time reduce capital gains taxes on securities held for more than 5 years to 15 percent. Obviously this would sharply slash the erratic volatility of the market. This would be specially effective because Mr. Rohatyn would include virtually all investors—individuals, corporations, partnerships, and even currently tax free institutions.

Second, sharply limit the speculative investments of federally insured institutions.

Third, amend the care and diligence standards for fiduciaries with respect to investments by federally insured institutions and allow business judgment in foregoing quick takeover premiums in favor of long term holdings.

Fourth, encourage equity investment and discourage excessive debt leverage through changes in the tax laws.

Mr. Rohatyn has suggested some very useful options for the next President and the next Congress to consider seriously. I ask unanimous consent that the article by Felix Rohatyn in the June 24, 1988, Wall Street Journal to which I have referred be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, June 24, 1988]

Institutional "Investor" or "Speculator"?

(By Felix G. Rohatyn)

Nine months after the near collapse of the financial system and six months after the publication of the Brady Commission report, the question is asked, all over the industrialized world, as to what we are going to do to prevent a recurrence of Oct. 19 and 20, 1987. The answer, by now, is obvious: Practically nothing.

The study group set up by the administration to review the Brady Commission's report could not find even a modest area of agreement. The Brady Commission report is now a dead letter. The only firm recommendation appears to be the adoption of "circuit breakers" to close the stock markets for an hour or two if the Dow Jones index goes up or down by more than a certain number of points. But the notion that a one-hour or two-hour cross-market shutdown is an appropriate, and exclusive, cure to the disease that brought us Oct. 19 is unresponsive from a public policy point of view.

Since it is obvious that no meaningful action will be taken before the next market crisis, let's look at the overall aspects of this issue, instead of being limited to technical market questions.

It is well to remember, first, that last October's crisis was a series of interconnected collapses by securities markets world-wide. Second, it was preceded by a serious break in the credit markets. Third, it was accompanied by great volatility in the foreign-exchange markets.

And it is equally important to remember that what saved the situation on Oct. 20 was a virtual banking guarantee of the securities industry by the New York Fed, support of the Japanese stock market by the Japanese government, and massive buybacks announced by more than 150 U.S. companies.

THE FUNDAMENTAL WEAKNESS

The fundamental weakness in the securities markets, world-wide, is the result of excessive speculation, excessive use of credit, and inadequate regulation. This speculative behavior is not driven by individuals, as was the case in the 1920s, but by such institutions as pension funds, banks, savings and loans, and insurance companies. In many cases these institutions are backed by federal government guarantees. Curbing speculation and promoting investment must be the objective of reform.

To reduce speculation, it is necessary to change the behavior of institutional investors. Many types of institutions fall into that category, from hedge funds to insurance companies, from junk-bond funds to S&Ls. However, the term "institutional investor" is well on its way to becoming a contradiction in terms. Too many institutions are speculating in every type of financial vehicle—from options to junk bonds, from real estate to foreign exchange. Too many are active players in the takeover game, encouraging corporations either to sell out or to engage in drastic, highly leveraged restructurings aimed essentially at maximizing short-term profits. They are becoming active participants in proxy contests.

"Power Without Property," referring to professional managers of other people's money, was the name of a book written 30 years ago by Adolf Berle. That power, multiplied manifold, has now been combined with speculation. Many of these institutional investors are risking the assets of retirees, depositors and policyholders. Since many of these institutions carry the explicit or implicit guarantee of the federal government, they also are putting the taxpayers at risk.

The financial interests supporting such behavior are very powerful. One has only to remember that when then-Federal Reserve Chairman Paul Volcker wanted to effect a very slight change in the margin requirements of junk bonds, the board vote was 3-2 after furious lobbying that went all the way to the White House. The recent 3-2 vote by the SEC on the issue of regulation of derivative products is a similar phenomenon. Institutions' speculative behavior is affected by financial deregulation as a whole; by the lax enforcement of the remaining regulations; and by the drive for short-term performance (at the expense of long-term safety) by the asset managers.

The price that the taxpayers will pay in the long run for deregulation and laxness in oversight will be staggering. Bailouts such as the rescue of Continental Illinois Corp. and the present efforts to rescue First Republic Bank Corp. will cost billions of dollars. The bailout of the savings and loan industry could, according to some experts, ultimately cost taxpayers more than $50 billion.

Changing institutional behavior will be difficult and could include the following steps:

(1) Impose a 50 percent tax on the profit of securities held for less than a year. This tax would apply to individuals, corporations, partnerships and currently tax-free institutions. At the same time, reduce capital gains taxes, on securities held for more than five years, to 15 percent.

(2) Sharply limit the type and the proportion of speculative investments held by federally insured institutions. A lesson in speculation and the failure of deregulation is the current status of S&Ls.

(3) Amend the care and diligence standards to which trustees, directors and other fiduciaries are held with respect to investments by federally insured institutions. Penalize speculative and careless investment; at the same time, allow business judgment to be exercised in forgoing the quick takeover premium in favor of long-term holdings.

(4) Encourage equity investment and discourage excessive debt leverage through changes in the tax laws. Eliminate the double tax on dividend payments by corporations, and limit, to some extent, the tax benefits of high leverage.

Change is also clearly needed in the regulatory area: Regulation of securities and derivative products should be the sole province of the SEC. On the other hand, regulation of margins and of the capital requirements of the securities industry, which I believe to be seriously deficient, should be the province of the Fed.

LUCK MAY RUN OUT

Both the administration and Congress have to consider the likely consequences of their failure to take preventive action. We were very lucky last October. Lucky not only because decisive action by various governments (particularly the U.S. Federal Reserve Board) stabilized the situation, but also because the market collapse did not include the bond market or the dollar. Although the tendency during a stockmarket crash is a "run to quality" and, therefore, support for the credit markets, it is far from certain that this would be the case if the dollar were to come under serious pressure in a future emergency. Stabilizing the markets under those circumstances could be much more difficult.

There is obviously no guarantee that any actions will eliminate the risk of a recurrence of the market crisis. However, if we act now, it might be possible to limit its impact, thereby mitigating its damage. We have created a gigantic financial house of cards and have had fair warning about its weakness. At the very least, we should be ready to take action after the next shock to the system.

Such a shock could well be more far-reaching than the last one as a result of the delay and a possibly less benign economic climate. It is no coincidence that the explosion in speculation over the past few years has also been accompanied by a significant increase in the level of illegal or unethical behavior in the financial community. The public's confidence in the fairness of the system has been undermined by the combination of highly volatile markets and concerns about fair treatment. At a time when the need for domestic investment is very great, confidence must be restored. It can be restored only by strong action by the administration, Congress and the regulators.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO MAJORITY LEADER BYRD

Mr. BENTSEN. Mr. President, for three decades the majority leader has demonstrated an abiding commitment to the U.S. Senate, to its procedures, its history, and its role in our democracy. It is only fitting that the institution he has served with such distinction and diligence for so many years should pay tribute to a leader who has brought great credit to this Chamber and honor to public service.

I have known and worked with ROBERT BYRD as majority whip, majority leader, minority leader, and—during the 100th Congress—again as majority leader. My opinion is that my friend likes being majority leader best. And my opinion is that ROBERT BYRD has established new standards of leadership and service to his Nation, his party, and to the Senate he knows and loves so well.

Mr. President, John Kennedy was a Senate colleague of ROBERT BYRD, and it was President Kennedy who once pointed out that leadership and learning are indispensable to each other. The majority leader has spent a lifetime in public service learning about the U.S. Senate. He is the acknowledged expert on parliamentary procedure and Senate history. But he is much more than a master of procedure. He has developed a keen sense of the Senate's place in the democratic process and the traditions that are so important to the work of this body. Over the years he has used that learning to help the Senate lead the fight for what is right and just and fair for America.

Ever since his election as secretary for the Democratic Conference 20 years ago, Senator BYRD has devoted countless hours and enormous energy to the leadership of his party in the Senate. He has done an outstanding job, often under difficult circumstances. In the process he has earned the respect and admiration of every Senator, regardless of party. I can think of no Senator who has worked harder or with greater diligence in the cause of democracy.

With his decision to step down from the position of majority leader and devote his substantial energies, talents, and experience to the work of the Appropriations Committee, Senator BYRD will continue to serve the people of West Virginia and make a major contribution to the Senate.

Still, when the 101st Congress convenes in January, it will mark the first time in over 20 years that Robert Byrd of West Virginia has not been in a key democratic leadership position. I know I speak for my colleagues on both sides of the aisle when I say that his expertise, his legislative genius, his appetite for hard work, and his talent for conciliation will be missed. The U.S. Senate will simply not be the same place without the leadership of Robert Byrd.

It has been said that leaders are the custodians of a nation's ideals, of the beliefs it cherishes, of its permanent hopes, of the faith which makes a nation out of mere aggregation of individuals.[1]

Robert Byrd embodies many of the ideals and hopes cherished by the American people. His leadership has made the U.S. Senate more than a mere aggregation of individuals. He has imbued the Senate with a sense of purpose and respect and tradition that form the bedrock of our democracy. Robert Byrd has given generously of his talents and energies over the years. He has become a trusted friend and valued counselor to many Members of the Senate. He has played a major, productive role in virtually every legislative accomplishment of this generation. He has earned the enthusiastic support of those he represents and the admiration of his colleagues in the Senate.

As one of his friends and long-time admirers, I want to take this opportunity to thank him for his friendship, his many kindnesses, and his service to the Senate. But most of all I want to commend Robert Byrd of West Virginia for having the courage to lead, the presence to inspire, and the wisdom to reason.

SENATOR ROBERT BYRD

Mr. DASCHLE. Mr. President, I have now had the good fortune to serve in the Senate for nearly 18 months. During this time I have had the opportunity to make many observations.

One observation which I daresay is shared by every Senator regards our distinguished majority leader. It is that there is no one in recent history who has demonstrated a deeper appreciation of this institution, its traditions, and its principles more effectively than has he. His dedicated presence on the Senate floor, his encyclopedic knowledge of parliamentary procedure, and his determination to maintain many of the revered traditions have made his tenure as our leader a most unique one.

He has served for more than 30 years. So far as I can determine, only one other Senator, the distinguished former Senator from Montana, Mike Mansfield, has held leadership positions in this body as long as Senator Byrd. During these three decades, he has been both a witness as well as an active participant in virtually every significant moment in history.

Through it all, the leader has maintained a devotion to the Senate which finds its birth in the soul of an American who began life from modest means and who, through intelligence, hard work and dedication, rose to one of the most powerful offices in our democracy.

We are fortunate that while he has chosen to relinguish his position as majority leader, Robert Byrd will not relinguish his role as leader. He will assume new responsibilities in which his talents and overall ability will serve him and us very well. I look forward to working with him. I thank him for the service he has already so generously given to his colleagues, to the Senate, and to the country. I wish him well.

THE DISPUTE SETTLEMENT MECHANISM OF THE UNITED STATES-CANADA FREE TRADE AGREEMENT

Mr. DOMENICI. Mr. President, my colleagues are aware that the Canadian negotiators on the free trade agreement between our two nations came well prepared to the bargaining table. They had studied the issues with great care.

On the other hand, some critics of the U.S. position have questioned whether our negotiators were as well prepared and had sufficiently examined the potential problems or sufficiently consulted with Congress and the affected industries.

For example, one of the thorniest issues raised about the Canada-United States Free Trade Agreement has been the dispute settlement mechanism, which will be created under chapters 18 and 19 of that agreement.

A month ago, on May 20, the Senate Judiciary Committee held hearings on this matter. At that time, representatives of the Customs and Trade Bar Association raised some very important points challenging the constitutionality of the binational dispute settlement provisions of the agreement.

In broad terms they conclude that chapter 19 is unconstitutional because it would withdraw the jurisdiction of the U.S. courts to review antidumping and countervailing duty decisions of Federal agencies involving Canadian merchandise.

In support of this, they argue that the binational panel would modify the constitutional separation of the branches of Government, would violate article III of the Constitution, the due process provisions of the Constitution, would not be justified under article II limiting delegation of power, and would result in unequal protection of the laws.

With these concerns in mind, I ask the legal division of the Congressional Research Service of the Library of Congress to examine the dispute settlement provisions in the agreement. They responded recently with a report. I commend Ms. Jeanne Jagelski and Mr. Kenneth R. Thomas for doing us a great service by making available to us and the American people in one place a concise and comprehensive summary of the issues. No such summary existed until now.

The CRS report offers some interesting analysis favoring the constitutionality of the dispute settlement provisions.

Nevetheless, this is certain to be a difficult and contentious issue.

To give my colleagues a fuller understanding of the issue, I ask unanimous consent that both studies—the one prepared by the Customs and Trade Bar Association and the other prepared by the CRS—be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Customs and International Trade Bar Association—Supplemental Statement

I. INTRODUCTION

On December 3, 1987, the Board of Directors of the Customs and International Trade Bar Association adopted a Statement in opposition to the withdrawal of jurisdiction in the United States Court of International Trade and its appellate tribunals to review antidumping and countervailing duty decisions of Federal agencies involving Canadian merchandise.

The Statement was adopted in response to the initialed agreement of October 30, 1987, and in contemplation that the policy and constitutional questions raised therein would be considered in the negotiations which it was believed that the Executive and Legislative Branches of the Government would engage in prior to agreement to the Final Text. This unhappily did not occur and the Final Text was agreed to on December 9, 1987, without that prior consultation which had been expected.

In view of the Final Text and the expected submission of the Agreement to the Congress with implementing legislation within the near future, the Association has reexamined the position set forth in its December 3 Statement, and unanimously adopted this Supplemental Statement at its meeting of March 8, 1988. It adheres to its opposition to the divestiture of the jurisdiction of the United States courts to review antidumping and countervailing duty decisions of the International Trade Administration of the Department of Commerce (ITA) and of the International Trade Commission (ITC) on Canadian merchanise. The Final Text, while removing some of the ambiguities in the initialed summary, spells out the denial of judicial review in these matters to which we continue to be opposed both on policy and constitutional grounds.

This Statement fleshes out the constitutional bases of our objections. We did not attempt to do so in our December 3 Statement because of the time restraints and the strength of the policy reasons against denial of judicial review. We continue to believe in those policy arguments[1] and while we will summarize them in this Statement, as well as discuss particular provisions of Chapter Nineteen of the Agreement, we will emphasize the constitutional issues which we believe should compel the deletion of this chapter from the Agreement.

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[1] Walter Lippmann.

II. THE DENIAL OF JUDICIAL REVIEW OF ITA AND ITC FINAL ANTIDUMPING AND COUNTERVAILING DETERMINATIONS IS UNCONSTITUTIONAL

1. Introduction

It is important to understand that the binational panels in reviewing ITA and ITC Final Antidumping and Countervailing Determinations will be reveiwing domestic United States statutory provisions.[2] The effect of the panels' decisions can result in the assessment of dumping or countervailng duties on an importer or the denial of relief to a petitioner whether a United States manufacturer, producer, wholesaler, labor union, or consumer group seeking to have such duties assessed. Both the countervailing and antidumping laws antedate the FTA (Canada-United States Free-Trade Agreement) by over sixty years, the origins of the present countervailing duty statute being section 5 of the Tariff Act of 1897[3] and that of the antidumping provisions, the Antidumping Act of 1921.[4]

International agreements, like statutes, must conform to the Constitution. *Reid* v. *Covert,* 354 U.S. 1, 16-17 (1957); *The Cherokee Tobacco,* 78 U.S. 616, 620-21 (1871). Accordingly, it is impermissible for such agreements to modify the basic character of the Government as contemplated by the Constitution. Speaking specifically with respect to treaties, the Supreme Court stated in *Geofroy* v. *Riggs,* 133 U.S. 258, 267 (1890):

> The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the government or its departments, and those arising from the nature of the government itself and of that of the States. *It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the government or in that of one of the States,* or a cession of any portion of the territory of the latter, without its consent. [Emphasis added.]

This passage from *Riggs* was quoted and endorsed in the more recent case of *Reid* v. *Convert, supra,* 354 U.S. at 17-18. There, an argument was made that a treaty could be the basis for denying a U.S. citizen a right protected by the Sixth Amendment. Speaking in a plurality decision, Mr. Justice Black stated (354 U.S. at 15-17):

> [N]o agreement with a foreign nation can confer power on the Congress, or on any other branch of Government, which is free from the restraints of the Constitution. * * * The prohibitions of the Constitution were designed to apply to all branches of the National Government and they cannot be nullified by the Executive or by the Executive and the Senate combined.

Justice Black further stated (354 U.S. at 5-6):

> The United States is entirely a creature of the Constitution. Its power and authority have no other source. It can only act in accordance with the limitations imposed by the Constitution. [Footnote ommitted.]

It is therefore clear that the trade agreement in question must conform to the Constitutional scheme of the Government. The agreement is constitutionally defective to the extent it fails to conform to that rule.

A. The Binational Panel Would Modify the Basic Scheme of the National Government

Articles I, II, and III of the Constitution place the powers of the National Government in the three specifically identified Branches: the Legislature, the Executive, and the Judiciary, respectively. Accordingly, the power exercised by the Government must be exercised by one of these identified Branches or by an agency or other delegatee lawfully empowered to perform a governmental role. Logically, it would modify the character of the Government if any power defined by the Constitution were exercised by any other body or organization.

In broad terms, three inquiries are required to determine whether the binational panel is constitutional in the contemplation of Articles I, II, and III. The first can assume that the panel would perform a function essentially *judicial* in nature, and with this assumption the question then becomes whether the panel conforms to Article III. The second can assume that the panel would perform a function essentially *legislative* in nature, like the functions performed by "administrative courts" established by Congress under Article I (such as the Tax Court and the Court of Military Justice). When this is assumed the question becomes whether Congress may constitutionally delegate legislative power to an international forum like the binational panel which is in no way a part of the United States Government but which would perform an important law-making function. Finally it can be asked whether the establishment of the panel can be justified by inherent powers in the Executive. If the answer to all of these questions is "no", the panel is outside the scope of the Constitution and is therefore an unconstitutional institution.

For one thing, it is not an "inferior" court, *i.e.,* a court inferior to the U.S. Supreme Court. For another, its members are not Federal judges appointed for life during good behavior. The panel therefore fails, for these reasons alone, to meet the standards of Article III, so Article III cannot be the basis for justifying this would-be institution. *See,* generally, *Glidden Company* v. *Zdanok,* 370 U.S. 350 (1962).

B. The Binational Panel Would Violate Article III of the Constitution

Article III provides that "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." We believe that the attempt to preclude judicial review of ITA and ITC dumping and countervailing duty determinations that result in increased duties would be found unconstitutional as an attempt to give to the binational panel powers belonging properly to the courts of the United States.[5]

In 1956 both the Senate and House Judiciary Committees, in reports in support of the Act of July 14, 1956 recognizing the predecessor of the CIT as an Article III Court, observed:

> Customs Court handles cases which very properly come within the judicial power of the United States as set forth in article III, which provides that such judicial power shall extend to controversies to which the United States shall be a party. Thus, there can be no doubt that the Customs Court should be a constitutional Court.

In 1962 the Supreme Court blessed this action and held that Customs litigation properly belonged in an Article III Court. *Glidden Co.* v. *Zdanok,* 370 U.S. 530 (1962).

Since that time the Supreme Court in *Northern Pipeline Co.* v. *Marathon Pipe Line Co.,* 458 U.S. 50 (1982) and *Thomas* v. *Union Carbide Agric. Products Co.,* 473 U.S. 568 (1985) has recognized that whether a public rights vs. private rights rationale is used or not,[6] if the subject matter of the suit was recognized at common law or in equity at the time of the founding of the Republic, review by an Article III Court is required. As the majority said in *Thomas, supra,* (p. 587):

> Most importantly, the statute in Crowell displaced a traditional cause of action and affected a pre-existing relationship based on a common-law contract for hire. Thus it clearly fell within the range of matters reserved to Article III courts under the holding of Northern Pipeline. See 458 US, at 70-71, and n 25, 73 L Ed 2d 598, 102 S Ct 2858 (plurality opinion) (noting that matters subject to a "suit at common law or in equity or admiralty" are at "protected core" of Article III judicial powers); id., at 90, 73 L Ed 2d 598, 102 S Ct 2858 (opinion concurring in judgment) (noting that state law contract actions are "the stuff of the traditional actions at common law tried by the courts at Westminister in 1789").

Given the historical fact of customs duty suits in law or equity in England and preconstitutional United States[7], the clear expression of Congress in its 1956 recognition of the CIT's predecessor as an Article III court and the holdings of the majority of the Supreme Court on the constitutional requirement for Article III court review, there can be no doubt that the binational panel review of duty assessments against U.S. importers would be in violation of Article III.

Also, merely providing for judicial review of constitutional issues would not solve the problem for the questions raised in Customs litigation are judicial in nature[8] and their resolution by a non-judicial, non-United States body violates the tri-partiate nature of our Governmental system and denies to the importer citizen the protection afforded by an impartial and independent judiciary.[9]

C. The Binational Panel Procedure Would Violate the Due Process Provisions of the U.S. Constitution

The Supreme Court has "traditionally" held that "the Due Process Clauses protect civil litigants who seek recourse in the courts either as defendants hoping to protect their property or as plaintiffs attempting to redress grievances". *Logan* v. *Zimmerman Brush Co.,* 455 U.S. 422, 429, 71 LEd. 2d 265, 273 (1982).

The fact that a trial or hearing has been provided does not mean that due process has been completely satisfied. "[D]ue process requires, at a minimum, that absent a countervailing state interest of overriding significance, persons forced to settle their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard." *Boddie* v. *Connecticut,* 401 U.S. 371, 377, 28 L.Ed. 2d 113, 118 (1971).[10] This "opportunity" should be one which allows "for a hearing appropriate to the nature of the case" *Id.* 401 U.S. at 378, 28 L.Ed. 2d at 119 (quoting *Mullane* v. *Central Hanover Trust Co.,* 339 U.S. 306, 313, 94 L.Ed. 865, 873. (1950)).[11] However, "due process does not always require a full and formal adversary hearing." *Ong* v. *Tovey, 552 F.2d 305, 307 (9th Cir. 1977).*[12]

"Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due

Process Clause of the Fifth or Fourteenth Amendment." *Mathews* v. *Eldridge*, 424 U.S. 319, 332, 47 L.Ed. 2d 18, 31 (1976).[13] The Court in *Mathews* went on to the state that when a property interest is concerned, "some form of hearing is required." *Id.* at 333, 47 L.Ed. 2d at 32.[14] It should be noted that a cause of action has been held to be "a species of property protected by the Fourteenth Amendment's Due Process Clause." *Logan* v. *Zimmerman Brush Co.*, 455 U.S. 422, 428, 71 L.Ed. 2d 265, 273 (1982),[15] citing *Mullane* v. *Central Hanover Trust Co.*, 339 U.S. 306, 94 L.Ed 865 (1950).[16] The Court in *Logan, supra*, went on to state that: ". . . having made access to the courts an entitlement or a necessity, the state may not deprive someone of that access unless the balance of state and private interests favors the government scheme." 455 U.S. at 430 n.5, 71 L.Ed. 2d at 274. Furthermore, "[w]hile the legislature may elect not to confer a property interest . . . it may not constitutionally authorize the deprivation of such an interest, once conferred, without appropriate procedural safeguards." *Id.* at 432, 71 L.Ed. 2d at 275, quoting from *Vitek* v. *Jones*, 445 U.S., at 490-491, n.6,63 L.Ed. 2d 552,[17] quoting *Arnett* v. Kennedy, 416 U.S. at 167, 40 L.Ed. 2d 15, (opinion concurring in part).[18]

In *Mathews* v. *Eldridge*, 424 U.S. 319, 335, 47 L.Ed. 2d 18, 33 (1976), the Court denominated a three point analysis in determining what due process "dictates":

> "First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail."

While it is undoubtedly true that the amount of an importer's customs duty liability may initially be determined in an administrative proceeding such as that conducted by the ITA on Administrative Review, from the beginning of this Republic, and under the common law of England, an importer had the right to have the correctness of his duty assessments, and the decisions a part thereof, reviewed in a court of law by suits in assumpsit against the Collector or, subsequently, against the United States. The Dispute Settlement provisions attempt to deny that right to the importer and commit to a binational panel the power to interpret and apply United States domestic law and effectively set the importer's duty liability to the United States. The denial of a hearing on such a matter before an inferior court subject ultimately to review by the Supreme Court results, we believe, in the taking of an importer's property without due process of law.[19]

D. The Panel Cannot Be Justified Under Article II

It is impermissible for Congress to delegate important legislative power to an international forum like the binational panel, so the panel cannot be justified under Article II, assuming it would perform a legislative function like that of a typical "administrative court."

The reason for limiting delegations of power goes to the heart of our system of Government. Groups and organizations outside the Government are not politically responsible to the electorate, yet the Legislative Branch was always intended to be the most politically responsible Branch of Government. As explained by Professor Laurence Tribe in *American Constitutional Law* (1978) at 286:

> In general, limits on congressional capacity to delegate responsibility derive from the implicit constitutional requirements of consensual government under law. Under any theory that finds legitmacy in the supposed consent of the governed within a framework of constitutional limitations, the cooperative exercise of accountable power presupposes the possibility of tracing every such exercise to a choice made by one of the "representative" branches, a choice for which someone can be held both politically and legally responsible.

Of course, the binational panel would vest important legislative authority in ad hoc groups of private individuals, some of whom—many times, a majority of whom—would not even be citizens of the United States. This blatantly would be inconsistent with the notion of political responsibility.

E. Adoption of The Binational Disputes Resolution Panel Would Result in Unequal Protection of the Laws

In the prior sections we have discussed briefly the denial of due process and the abrogation of the judicial power inherent in the Binational Disputes Resolution Panel as applied to ITC and ITA dumping and countervailing duty provisions. There we have emphasized the abridgement of the importer's rights because he is the one who is assessed additional duties where there is an affirmative dumping or countervailing duty determination. Further, the importer's right to contest any such assessment has a common law basis. We have not referred to the petitioners in those proceedings or interested parties because theirs are statutory rights which, while obtained after years of efforts, may be withdrawn by the Congress. However, the Congress here is not limiting those rights as to all petitioners (American manufacturers, producers, or wholesalers; labor unions; consumers, etc.,) but only as to petitioners complaining about certain merchandise—that is merchandise from Canada.[20] Thus an American company facing unfair competition from dumped or subsidized goods from Canada will not be able to receive the full protection of our laws with regard to such merchandise which a competitor might be able to obtain on similar goods being dumped or subsidized from another country. Also an importer of merchandise from Canada would be denied judicial review of an ITA or ITC determination while a competitor importing similar merchandise from another country would have recourse to such review.[21] Another example of disparity would be where the ITA or ITC investigate a product which is imported from Canada *and* other countries. The final determination as to injury, which may well be a cumulative determination in these kinds of cases, would be bifurcated with the Canadian aspect going to the binational panel and the other country aspects to the courts of the United States.[22] We think it not only unequal but unworkable.

This disparity in treatment obviously raises questions as to guarantee of equal protection of the laws contained in the 14th Amendment to the Constitution, the tenets of which have been implied into the guarantees of the Due Process Clause of the Fifth Amendment.[23]

III. WHAT IS BEING "PROTECTED" FROM JUDICIAL REVIEW ARE PRIVATE ACTS NOT STATE ACTION

A number of commentators in support of the FTA speak of the right of the President to conduct our foreign relations and of Congress to regulate foreign commerce and seek to clothe the deprivation of judicial review with these undeniable Executive and Legislative powers. But a close examination of the protection afforded by our dumping and countervailing duty laws is not protection from foreign states but protection from unfair competition by foreign exporters who sell their products to the United States at less than fair market value (*i.e.*, the price at which the merchandise is sold in the home market) and are thus dumping their merchandise in the United States to the injury of American manufacturers, producers or wholesalers; or from foreign exporters who avail themselves of subsidies by their Government of a kind which are contrary to the Subsidies Agreement in the GATT and are injuring American manufacturers, producers or wholesalers, or, similarly in dumping cases, hindering the establishment of such American companies.[24] A dumping finding is directed at *companies* not countries! A countervailing duty investigation initially involves inquiries of a country as to the laws complained of, their general application, and the utilization of any suspect subsidies by particular exporters, but thereafter it is a question of whether and how much an exporter has availed itself of the subsidies.

Thus, there is no basis for contending that the binational dispute settlement panel can be defended on the ground of national sovereign interests. While it may be that Canada doesn't like our dumping and countervailing duty laws[25] to be applied to their products, until and unless those statutes are repealed they are a part of our national policy and are enforced on a case by case basis against imported merchandise whose exporters or manufacturers sell at dumped prices or at prices made uncompetitive because they have taken advantage of certain subsidies.

Certainly an importer or exporter should have the opportunity to show that there was no dumping under our laws or that his supplier was not dumping, or that the computation of the margin was arrived at not according to the statute. The failure to be able to do so leaves an importer without the ability to seek the judicial remedy historically available to him to contest what he believes to be an illegal exaction of duties. Likewise, the American petitioner should be able to show that a negative determination as to sales at less than fair market value or on injury was contrary to the statute.

IV. THERE IS NO PRECEDENT FOR A BINATIONAL PANEL DEPRIVING A CITIZEN OF A SUIT AGAINST THE UNITED STATES IN THE APPLICATION OF DOMESTIC LEGISLATION

The proposed Binational Disputes Settlement Panel in the Canada-United States FTA is not only without precedent but is an effort to lesson the right of judicial review in the Customs area at the least, if not elsewhere. Even those who most desire the FTA (and this Association is not opposed to a free trade agreement with Canada), are concerned with the danger inherent in the adoption of such a device. For example, the International Trade Policy and the International Investment Committees of the National Association of Manufacturers in a Statement adopted on November 18, 1987, said ". . . NAM is concerned, as a matter of principle, about the adverse effect that the binational panels of the AD/CVD dispute settlement mechanism will have on U.S. sovereignty, on the administration of U.S. trade law and on the ability of U.S. petitioners to secure judicial review. We accept the proposal for these panels in the context of the Canadian agreement, but we would oppose extending the use of such panels or similar techniques to other trade agreements."

Frankly, we believe this right to judicial review, which was so easily and unnecessarily bargained away, is so essential a right that Congress should make it clear that its approval of the FTA is conditioned on the elimination of Chapter 19.[26]

Some proponents of the provision for the binational panel point to international claims and boundary commissions as precedent for the proposed action here. There is no legal or factual basis to that contention. Obtaining a fund from a foreign government to settle claims of our citizens against that government without recourse to our courts, as in *Dames & Moore* v. *Regan,* 453 U.S. 654 (1981), is not analogous to depriving an importer of the right to challenge an assessment of dumping or countervailing duties in our courts.[27] Under the doctrine of sovereign immunity, our courts have no power to grant relief in suits of our citizens against foreign governments. Even where there are assets of that government in the United States, they may not be attached unless they are a part of commercial activity not *related* to governmental functions and a claim of immunity is not recognized by the State Department or by the Courts.[28] Claims commissions are established to allocate among claimants a fund received from a foreign government.

The Foreign Claims Settlement Commission is also not a precedent because the Commission was disposing of, pursuant to international law, claims by U.S. citizens against former foreign (enemy) Government action which, if proven, were paid out of assets of the foreign Government. There have been numerous binational claims commissions in our history[29] but not one of them was depriving U.S. citizens from obtaining judicial review in instances where the U.S. Government was seeking to collect additional duties. Those were cases where our Government sought to assist our citizens in realizing their claims against foreign governments, claims which without our intervention might never have been honored.[30]

Likewise, the settlement of boundary disputes between nations by a binational Boundary Commission or the International Court of Justice is again not analogous. Such disputes are patently between nations and handled diplomatically or in international fora.

We are not aware of any precedent where the United States has statutorily agreed to force its citizens or those entitled to the protection of its laws to go to a binational panel to construe United States laws and Federal agencies' actions with the ultimate determination of those rights or obligations under United States statues in that binational panel.[31]

V. THE PANEL CANNOT BE JUSTIFIED ON INHERENT EXECUTIVE POWERS

Finally, the panel cannot be justified on any power inherent in the Executive. Unlike the power to conduct foreign affairs, the power to impose customs duties and to regulate international trade is vested solely and squarely in Congress. *See* Article I, section 8. Accordingly, the Constitution provides no basis for the Executive to establish on its own an international institution empowered to exercise authority in those fields. To the contrary, the Executive can act in those areas only pursuant to a proper delegation of legislative power. *Cf. Youngstown Sheet & Tube Co.* v. *Sawyer,* 343 U.S. 579 (1952) ("The Steel Seizure Case"). It has already been demonstrated in the discussions above that Congress cannot delegate legislative power to a delegatee like the binational panel; at the same time, the Executive cannot enter into international agreements that change the character of the United States Government. Accordingly, the binational panel cannot be justified under the Executive's powers under Article II.

CONCLUSION

The United States is being asked to turn a new corner, to travel down a new road but we do not think it should because of the barrier to that travel in the Constitutional guarantees of due process, equal protection and access to our courts. It is also bad policy and full of risks for the future.

The Customs and International Trade Bar Association, while recognizing that the Final Text permits non-governmental parties to be represented at binational panel proceedings and to force matters to be heard by those panels, and is thus an improvement over the prior version, finds that the denial of the right to judicial review in United States courts by an aggrieved party, if either the United States or Canada desires to refer the matter to the binational panel, is repugnant to both the Constitution and to our national experience.

Respectfully submitted,

ANDREW P. VANCE,
Chairman, Trial and Appellate Practice Committee.

FOOTNOTES

[1] The policy arguments hitherto advanced for retaining judicial review were highlighted recently in an article in the Fall 1987 issue of *The International Lawyer* co-authored by Alan F. Holmer and Judith Hippler Bello, then General Counsel and Deputy General Counsel for the U.S. Trade Representative, writing on "The U.S.-Canadian Lumber Agreement: Past as Prologue". The authors there stated, at pp. 1197-1198:

> The lumber agreement and the developments leading to it are significant for several reasons. First, the evolution of the CVD law in general and of the specifically and subsidy tests in particular reflect Commerce's and the court's intellectual honesty and openmindedness in interpreting and applying the CVD law. The Department has shown that it is willing to reconsider issues if interested parties marshall appropriate information and arguments warranting reconsideration.
>
> Second, the litigation spawned by the 1983 Commerce decisions on natural resources demonstrates the importance and effectiveness of the substantially increased judicial review provisions enacted by the Congress in 1979.* Congress intended to provide more opportunities for judicial review, in large part as a check on Executive Branch discretion in administering the countervailing duty and antidumping laws.* Recently the courts have played a significant role in shaping the course of the CVD law. At least theoretically, this should reduce the pressure that disappointed U.S. petitioners attempt to apply to the Congress to amend the law whenever Commerce makes any determination adverse to their interests.*

*(Footnotes are omitted.)

[2] Article 1902 of Chapter 194 of the Agreement provides that "Each party reserves the right to apply *its* antidumping law and countervailing duty law to goods imported from the territory of the other Party." (Emphasis added.) Article 1911 spells out what the statutory provisions are.

[3] Act of July 24, 1897, 30 Stat. 151.

[4] Act of May 27, 1921, c. 14, 92 Stat. 11.

[5] *See* Justice Brennan's concurring opinion in *Thomas* v. *Union Carbide Agric. Products Co.,* 473 U.S. 568, 594 *ff* (1985); and Justice Brennan's plurality opinion in *Northern Pipeline Co.* v. *Marathon Pipe Line Co.,* 458 U.S. 50 (1982).

[6] Note Justice Brennan's comment on this point in *Thomas* as he refers to his opinion in *Northern Pipeline:*

> I agree with the Court that the derminative factor with respect to the proper characterization of the nature of the dispute in this case should not be the presence or absence of the Government as a party. See ante, art 586, 87 L Ed 2d, at 423. Despite the Court's contrary suggestions, the plurality opinion in North Pipeline suggests neither that "the right to an Article III forum is absolute unless the Federal Government is a party of record" nor that "Article III has no force simply because a dispute is between the Government and an individual."

[7] *Washington International Insurance Co.* v. *United States,* — CIT —, F. Supp. —, Slip Op. 88-4 (January 12, 1988).

[8] *See generally Glidden Co.* v. *Zdanok,* 370 U.S. 530, 82 S. Ct. 1459, 7 L.Ed. 2d 761, *reh'g. denied,* 371 U.S. 854, 83 S. Ct. 14, 9 L.Ed. 2d 93 (1962).

[9] The Court in *Northern Pipeline, supra* was adamant on this subject (73 L.Ed. 2d 608):

> In sum, our Constitution unambiguously enunciates a fundamental principle—that the "judicial Power of the United States" must be reposed in an independent Judiciary. It commands that the independence of the Judiciary be jealously guarded, and it provides clear institutional protections for that independence.

[10] The Court held that the refusal to permit indigent persons to bring divorce actions except on payment of court fees and service-of-process costs which they were unable to pay was a denial of due process.

[11] The *Mullane* case involved a New York statute which allowed trust companies "to pool small trust estates into one common fund for invetment administration." 339 U.S. 306, 94 L.Ed. 865 (1949). The statute also provided for "notice to interested beneficiaries of a petition of such trust company for judicial settlement of its accounts by publication in a local newspaper, setting forth merely the name and address of the trust company, the name and date of establishment of the common trust fund, and a list of all participating estates, trusts or funds". *Id.* The issues decided by the Court was whether the above notice satisfied the requirements of due process. The Court held that such method of notice did not satisfy due process as concerned the known beneficiaries of these trusts. *Id.* at 320, 94 L.Ed. 876.

[12] *Ong* v. *Tovey* involved the termination of a resident physician from the Public Health Service (PHS) Hospital surgical residency program. The Court of Appeals for the Ninth Circuit held that where the resident physician in question has been afforded the opportunity to discuss his deficiencies ". . . at meetings at which he and his attorney had [the] opportunity to question the other doctors and decision makers about how they arrived at their decision and to present his side of the story . . ." due process was not violated. 552 F.2d 305.

[13] The *Mathews* case concerned whether the "Due Process Clause of the Fifth Amendment requires that prior to the termination of Social Security disability benefit payments the recipient be afforded an opportunity for the evidentiary hearing." 424 U.S. 323, 47 L.Ed. 2d 26. The Supreme Court responded that an evidentiary hearing was not necessary in that the existing administrative procedures under the Social Security Act fully satisfied due process. *Id.*, 47 L.Ed. 2d at 25.

[14] "The 'right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society'." *Id.*, (quoting *Joint Anti-Fascist Comm.* v. *McGrath*, 341 U.S. 123, 168, 95 L.Ed. 817 (1951)) (Frankfurter, J. concurring). (Termination of government employees due to membership in organizations designated either as "Communist" or "Subversive" without notice and a fair hearing is unconstitutional).

[15] The issue in the *Logan* case was whether a cause of action could be terminated, if the termination was due to a failure to follow procedure on the part of a state official and not the plaintiff. The plaintiff in *Logan* filed charges against his employer with the Illinois Fair Employment Practices Commission for having unlawfully terminated the plaintiff's employment on the basis of the plaintiff's handicap. The Commission scheduled a "fact finding conference" 5 days after the statutory 120 days in which they had to schedule such a conference. The Supreme Court held that the action could not be terminated as it would deprive the plaintiff of a protected property interest.

[16] There are several cases which have held that there is a "Right of Access to Courts" which is a fundamental right protected by the Constitution. In *Ryland* v. *Shapiro*, 708 F.2d 967, 971 (5th Cir. 1983), the Court described this right as "basic to our system of government, and it is well established today that it is one of the fundamental rights protected by the Constitution." (*Ryland* involved a suit against state agents for having interfered with the plaintiff's right to institute wrongful death proceedings.) Bases for this right of access were also found in the First Amendment and the Due Process Clause. *Id.* at 972.

In *Doe* v. *Schneider*, 443 F. Supp. 780, 784 (D. Kan. 1978) (Action to enjoin state officers from destroying files containing information on the plaintiffs which had no lawful or valid purpose), the right to access to courts was described as a "concept which is nebulous at best." It was found by the District Court as most often finding its basis in the due process clause of the Fourteenth as well as Fifth Amendments as well as, in part, in the First Amendment. *Id.* The "right of access refers only to the right to petition the courts for redress of grievances" and not to obtain information to substantiate a claim. *Id.*, at 787.

In *Seoane* v. *Ortho Pharmaceuticals Inc.*, 660 F.2d 146, 151 (5th Cir. 1981), the Court of Appeals stated: "when a right is not fundamental, access to the courts may be restricted." Furthermore, "a party is not deprived of due process merely because it must seek administrative resolution of its claims before it has access to the courts." *West Penn Power Company* v. *Train*, 552 F.2d 302, 313 (3d. Cir. 1975) *cert. denied*, 426 U.S. 947, *reh'g. denied*, 429 U.S. 873 (1976).

[17] The involuntary transfer of a state prisoner to a state mental hospital without the benefits of notice and an adversary hearing violates the Due Process clause of the Fourteenth Amendment.

[18] Discharge procedures for non-probational governmental employees did not violate the Fifth Amendment's procedural due process requirements although they failed to provide a "trial-type" hearing before the removal of the employee.

[19] If it be deemed that the United States has simply withdrawn its consent to be sued in such matters, would that withdrawal then revive the common law right to sue the appropriate official? *See* Article VII of the Constitution preserving in common law suits the right to trial by jury. *See also Washington International Insurance Co.* v. *United States*, — CIT —, F. Supp. —, Slip Op. 88-4 (January 12, 1988) wherein in a 2-1 decision a three judge panel of the Court of International Trade held that in customs cases, an importer always has had, and has today, the Seventh Amendment right to trial by jury. In fact, an *amicus* in that case has filed a brief supporting the proposition that Customs cases are "at the core and heart of the judicial power under Article III"; that "[T]he Constitution itself provides that the government may not prohibit suits regarding the collection of customs duties"; and that the Customs Administrative Act of 1890, ch. 407, 26 Stat. 131, was unconstitutional "because it violated Article III by placing a core judicial function in an administrative agency [The Board of General Appraisers] and because it violated the Seventh Amendment trial by jury guarantee". *See Brief of Amicus Curiae, Kalan Inc.* filed March 4, 1988, in *Washington International Insurance Company* v. *United States*, Court No. 81-12-01678 (Court of International Trade).

[20] Although it is already assumed that similar limitations will be sought by Israel with regard to its FTA with the U.S., and by Mexico in its FTA negotiations.

[21] A simple illustration of this is as follows: A and B are both in the business of importing product C. A imports product C from Canada. B imports product C from France. If B has any grievances over product C in reference to antidumping or countervailing duties, he will be able to seek redress for his grievances in the Court of International Trade simply because he imported product C from France. Since A imported product C from Canada, A will be precluded from asserting any similar claims in the Court of International Trade. Except for the origin of where they import product C from, A and B should be considered similarly situated.

[22] *See, e.g., Certain Fresh Cut Flowers from Canada, Chile, Colombia, Costa Rica, Ecuador, Israel, and the Netherlands*, USITC Pub. 1956 (March 1987), at 15-20 (Imports of like flowers from all investigated countries cumulated); *Certain Brass Sheet and Strip from Brazil, Canada and the Republic of Korea*, USITC Pub. 1930 (Dec. 1986) at 12 (Imports from Canada, Brazil, France, Italy, S. Korea, Sweden, and West Germany cumulated); *Oil Country Tubular Goods from Canada and Taiwan*, USITC Pub. 1865 (June 1986) at 8 (Imports of OCTG from Canada cumulated with OCTG from Israel in the CVD case, and with Israel and Taiwan in the antidumping case); *Iron Construction Castings from Canada*, USITC Pub. 1811 (Feb. 1986) (Imports from Canada cumulated with those from Brazil, India, and the People's Republic of China).

[23] *See Weinberger* v. *Wiesenfeld*, 420 U.S. 636, 43 L. Ed. 2d 514 (1975) holding that the gender-based distincitions provided for by 42 U.S.C. §402(g) of the Social Security Act, which afforded less protection for the survival of female wage earners than for male wage earners, violate the right to equal protection of the laws under the due process clause of the Fifth Amendment.

[24] *See* 19 U.S.C.A. 1671-1677.

[25] Although it has similar domestic legislation.

[26] It would seem that a possible alternative to the binational panel is a statutory preference for these cases setting out time limitations for hearing and decision in the CIT (after the filing of the administrative record) and in the appellate tribunals. Another possibility is the voluntary utilization of the panels on the agreement of all parties to it and to be bound by the panel's decision.

[27] *Dames & Moore* v. *Regan*, 453 U.S. 654 (1981), involved an international tribunal established by the President to settle claims against the Iranian Government arising out of the hostage crisis. But that case is demonstrably inapposite here because it ultimately turned in substantial measure on the President's power to conduct foreign affairs. Thus, the Court quoted Judge Learned Hand from *Ozanic* v. *United States*, 188 F.2d 228, 231 (C A2, 1951), where Judge Hand had stated:

"The constitutional power of the President extends to the settlement of mutual claims between a foreign government and the United States, at least when it is an incident to the recognition of that government; and it would be unreasonable to circumscribe it to such controversies."

The Court further stressed that the President's settlement procedure: [was] determined [by the President] to be a necessary incident to the resolution of a major foreign policy dispute * * *.

The persistent theme of foreign affairs goes to the core of the holding in the case. The fact that the Court did not say this emphatically but engaged in an extensive analysis of statutes cannot detract from this conclusion.

Finally, *Dames & Moore* was decided on the narrowest of grounds, which is something the Court took pains to point out. *See* 453 U.S. at 660 and 688. This means that the case is unable to provide any sort of constitutional underpinning for an unprecedented institution like the U.S.-Canadian binational panel. Having to rely on *Dames & Moore* reveals the weakness of the proponents' position.

[28] *See Alfred Dunhill, Inc.* v. *Republic of Cuba*, 425 U.S. 682, 48 L.Ed. 2d 301, 96 S.Ct. 1854 (1976), and cases cited therein; *See also National City Bank* v. *Republic of China*, 348 U.S. 356, 99 L.Ed. 389, 75 S.Ct. 423, *reh'g denied*, 349 U.S. 913, 75 S.Ct. 598, 99 L.Ed. 1247 (1955).

[29] American-Mexican, American-Turkish are but two examples.

[30] One proponent has also cited *Berman* v. *Parker*, 348 U.S. 26 (1954), the case involving the District of Columbia Redevelopment Act of 1945, 60 Stat. 790. According to that proponent, the Redevelopment Act involved a Congressional delegation of legislative power to a "private group," namely, the District of Columbia Redevelopment Land Agency. But the citation and argument are difficult to understand because the facts do not support the contention being made. As a careful review of the Act itself will reveal, the Redevelopment Land Agency was established by statute (*see* section 4) and funded by public funds (*see* section 16(b)). Moreover, two of its five members were appoint-

ed by the President, and the remaining three by the Board of Commissioners of the District of Columbia, with all appointments made subject to confirmation by the Senate (*see* section 4). Clearly, this was not a mere "private group", as the proponent of the panel would have one believe. Moreover, the *Berman* case is particularly inapposite because Congress has a special responsibility in the governing of the District of Columbia. *Berman* has obviously been cited in appropriately and does nothing to justify the bi-national panel—an institution which, incidentally, is not even remotely comparable to the Redevelopment Agency.

[31] In fairness, it can be noted that an example exists of a narrow delegation of legislative power to a Tribe of American Indians. *See United States* v. *Mazurie,* 419 U.S. 544 (1975). The power delegated was the power to regulate the flow of liquor into Indian country. However, the delegation involved in *Mazurie* bears no resemblance to the binational panel, either on the facts or in fundamental footing. As for the latter, Congress and the American Indian Tribes have a highly complicated and exceptional relationship which is surely unique in American affairs. Canada is not in a comparable position; nor is a panel of private individuals established pursuant to an international agreement.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, June 10, 1988.

To: Hon. Pete V. Domenici. Attention: Victor Bonilla.
From: American Law Division.
Subject: Dispute Settlement Provisions of the United States-Canada Free Trade Agreement.

The enclosed report responds to your request for a discussion of the dispute settlement provisions of the United States-Canada Free Trade Agreement, including a description of the way in which FTA dispute settlement will operate and an examination of the constitutional arguments that have been advanced against the creation and use of a binational panel to review final antidumping and countervailing duty determinations issued by administrative agencies of the Parties. Our report was originally intended to be part of larger report being prepared for your office by the Economics Division of the Congressional Research Service, but has been issued separately by the American Law Division as a result of discussions with your office.

We hope that this report will be of assistance to you and that you will call on us if you have any additional questions.

JEANNE JAGELSKI,
Legislative Attorney,
KENNETH R. THOMAS,
Legislative Attorney,
American Law Division.

DISPUTE SETTLEMENT PROVISIONS IN THE UNITED STATES-CANADA FREE TRADE AGREEMENT

(Jeanne Jagelski)

SUMMARY

Chapter 18 and 19 of the United States-Canada Free Trade Agreement (FTA/Agreement) establish both general dispute settlement procedures to resolve questions that may arise under the FTA and a binational panel system to review final antidumping and countervailing duty determinations issued by United States and Canadian agencies. Constitutional arguments have been advanced against the creation and use of the latter, which, when requested, is intended to replace domestic judicial review.

Except for financial services issues and the review of final antidumping and countervailing duty determinations, Chapter 18 is intended to apply to all disputes involving the FTA, including situations where a Party considers that a measure of the other Party is inconsistent with FTA obligations or vitiates FTA benefits, and creates a United States-Canada Trade Commission to achieve the goals of the Chapter. Disputes that are not resolved through consultations may be referred to binding arbitration or submitted to a recommendatory panel, each operating under prescribed deadlines and procedures. Where a Party fails to implement the recommendation of an arbitration panel, or the recommendatory panel system fails to produce mutually-acceptable results, an offended Party may suspend FTA benefits accuring the other.

Chapter 19 establishes a system of five-member binational panels to review final antidumping and countervailing duty determinations issued by United States and Canadian agencies in cases involving the goods of either Party. When requested, a panel is intended to replace domestic judicial review and preclude appeal of both final determinations and panel decisions. United States implementing legislation would, however, allow for constitutional challenges of the panel system as an institution and of issues raised in the facts of specific antidumping or countervailing duty cases. The Chapter also establishes certain rights as to existing laws and their modification and provides for a small Secretariat to facilitate the operation of the Chapter and the work of panels. The Chapter contemplates as well the development of a new system of rules to govern the application of antidumping and countervailing duty laws to the Parties' trade, with the failure to implement a new regime within stated time limits a cause for either Party to terminate the FTA.

Constitutional challenges to the binational panel system hold that this type of dispute settlement violates the Appointments Clause of the United States Constitution, creates what are in effect Article III judges who at the same time lack the protections guaranteed them under that Article, and by precluding judicial review in a federal court, denies United States claimants due process protections constitutionally owed them. International legal precedents regarding international claims, the fact that the delegation of power to the binational panelists does not appear to enhance the power of one branch of the United States Government over the other, and the broad constitutional role of Congress over the judiciary and the adjudication of federally-created rights would seem to weigh heavily in favor of the constitutionality of the provision.

I. INTRODUCTION

This report describes the two chapters of the United States-Canada Free Trade Agreement (FTA/Agreement) that establish mechanisms for settling trade disputes between the Parties, and examines the constitutional arguments that have been advanced against the creation and use of a panel process for the review of antidumping and countervailing duty cases, as provided for in the second of those chapters.

Chapter 18, which in addition to creating the institutional means for managing the FTA, provides for the use of arbitration and *ad hoc* panels to resolve disputes that may arise with respect to most matters covered by the Agreement. Chapter 19 takes dispute resolution a step further in establishing a binational panel mechanism that, when requested, will generally replace judicial review of final antidumping and countervailing duty determinations issued by agencies of the United States and Canada. The combined effect of these chapters is to institute three types of dispute settlement: binding review of antidumping and countervailing duty determinations, binding arbitration, and resolution through panel recommendations.

While the use of panels to effect binding arbitration and to issue recommendations has seemed to be relatively noncontroversial, constitutional questions have been raised with respect to the use of a binational panel to review determinations made by administrative agencies of the United States Government. Arguments have been made that this type of dispute settlement mechanism violates the Appointments Clause of the United States Constitution, creates what are in effect Article III judges who at the same time lack the protections guaranteed them under that Article, and, by precluding judicial review in a federal court, denies United States claimants due process protections constitutionally owned them. In general it would seem that the panel process will withstand these constitutional challenges.

II. CHAPTER 18: GENERAL DISPUTE SETTLEMENT

Chapter 18 of the FTA shapes the resolution of disputes that may arise under the Agreement into a multi-tiered process. In providing for notification and consultation, and failing that, the invocation of an institutional mechanism of the Agreement, the FTA may be said to model itself after the dispute settlement procedures of the General Agreement on Tariffs and Trade (GATT). At the same time, the FTA sets forth specific deadlines and detailed panel procedures that give the process a greater degree of formality and, it would seem, predictability.[1] As shown below, the Agreement allows a complaining Party unilaterally to withdraw FTA benefits accruing to the other Party in the event that a dispute is not resolved through the panel process.[2]

Except for issues dealing with financial services and antidumping and countervailing duty laws, and unless the Parties decide otherwise in a particular case, Chapter 18 is intended to apply to the avoidance and settlement of all disputes regarding the interpretation or application of the FTA and to situations where a Party considers that a measure of the other Party is inconsistent with FTA obligations or nullifies or impairs FTA benefits.[3] A Party may choose to seek relief before the General Agreement on Tariffs and Trade (GATT)[4] in the event an FTA matter arises simultaneously under the General Agreement, but once dispute settlement is initiated in either forum, no other procedure may be used.[5]

The United States-Canada Trade Commission (Commission) established by Chapter 18 is charged with supervising the implementation of the FTA, resolving disputes that may arise over its interpretation and application (including invoking arbitration panels), overseeing its further elaboration, and considering any other matter that may affect the way the FTA operates.[6] The Commission, whose ranking members will be the chief international trade official of each Party or their designees, is to meet at

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Footnotes at end of article.

least once a year to review the functioning of the Agreement.[7]

The FTA requires each Party to notify the other in writing of any proposed or actual measure that it considers might materially affect the operation of the FTA,[8] and either Party may request consultations with respect to such a measure or any other matter that may affect the FTA's operation, whether or not notification has occurred.[9] If a dispute is not resolved within 30 days of a request for consultation, either Party may request a meeting of the Commission, which is generally required to convene within ten days hence and attempt to resolve the dispute promptly.[10] The Commission is authorized to call on a mutually-acceptable mediator to assist in doing so.[11] Further resolution of the dispute might then involve one of two types of *ad hoc* panels—a binding arbitration panel or a general recommendatory one.

If the Commission has not resolved the question within 30 days of the referral, it must submit to binding arbitration any disputes involving emergency action taken under Chapter 11, and may do so with respect to any other dispute.[12] If a Party fails to implement the findings of a binding arbitration panel in a timely manner, and the Parties are unable to agree on appropriate compensation or remedial action, the other Party has the right to suspend the application of equivalent FTA benefits to the noncomplying Party.[13]

A panel may also be convened, upon either Party's request, in the event a dispute referred to the Commission after consultations have failed has not been resolved in 30 days or has not been referred to arbitration.[14] Withdrawal of benefits by one Party is also authorized under this procedure where the Commission has not reached agreement on a mutually satisfactory resolution and the aggrieved Party alleges an impairment of fundamental rights or benefits.[15]

Article 1807 sets forth detailed procedures for creating the five-member arbitration panels that the Commission may invoke in either of the situations described above and contains procedures and deadlines that must be observed in dispute settlement cases. While the FTA, under Article 1806:2, requires that arbitration panels are generally to be established and function consistently with Articles 1807:1 (rosters), 1807:3 (composition of panels), and 1807:4 (rules of procedure), the Agreement does not expressly state that an arbitration panel must comply with the deadlines set forth in the remaining provisions of Article 1807. In addition, it would seem that under Article 1806:3 the decision of an arbitration panel is not subject to further Commission action as is apparently contemplated in general panel proceedings.[16]

The Commission is charged with maintaining a roster from which panelists will be chosen.[17] Panels are to be composed of five members: two Americans, two Canadians, and one chosen jointly, or failing that, by lot.[18] A panel must establish its rules of procedure, which must assure a right to at least one hearing before the panel as well as the opportunity to provide written submissions and rebuttal arguments.[19] The panel, whose proceedings must be kept confidential, is generally to base its decision on the arguments and submissions of the Parties.[20]

A panel will have three months to present the Parties with a preliminary fact-finding report, a determination as to whether the disputed measure has an inconsistent or vitiating effect, and any recommendations it may have for resolution of the dispute.[21] A Party objecting to the initial fact-finding report is entitled to present its objections to both the Commission and the panel, in which case the panel may consider other views, reconsider its report, and examine the situation further; it must apparently issue a final report within 30 days of providing its initial findings.[22]

Upon receiving the panel's final report, the Commission must agree on resolving the dispute, and normally do so in a way that will conform with panel recommendations.[23] Whenever possible, the dispute should be resolved by "nonimplementation" or removal of the offending measure, or if this fails, compensation.[24] As noted above, in the event that the Commission, within 30 days of receiving the final report, has not agreed on a means of resolving the dispute that is satisfactory to both Parties, and a Party considers that its "fundamental rights or benefits" would be impaired by the existence of the offending measure, that Party may cease to grant the other Party benefits "of equivalent effect" until both resolve the matter at issue.[25]

Finally, the Chapter provides for a means by which either Party may intervene in a domestic judicial or administrative proceeding in which an issue of Agreement interpretation arises.[26] The FTA encourages the Parties to agree on any such interpretation before submitting their views to the adjudicating body.[27]

III. CHAPTER 19; BINATIONAL DISPUTE SETTLEMENT IN ANTIDUMPING AND COUNTERVAILING DUTY CASES

Chapter 19 sets forth provisions for the creation and use of binational panels to review final administative determinations in antidumping and countervailing duty cases involving United Sates and Canadian goods. It also establishes certain rights as to existing laws and their modificatioin and provides for a Secretariat to facilitate the operation of the Chapter and the work of panels. The Chapter also contemplates the development of a new system of rules to govern the application of antidumping and countervailing duty laws to Untied States and Canadian trade.

In agreeing to the panel mechanism, the United States and Canada have retained the right to apply their antidumping and countervailing duty laws to each other's imports, as well as the right to modify these laws, provided that amendments applicable to the other Party are expressly stated in the amending statute, the other Party is notified and given the opportunity to consult, and the amendments are consistent with both the GATT and its Antidumping and Subsidies Codes and the "object and purpose" of the FTA and Chapter 19.[28] This end is described as having the dual aspect of progressive trade liberalization and the effective discipline of unfair trade practices.[29] Amendments to a Party's antidumping and countervailing duty laws may be referred to a panel for a declaratory opinion as to their conformity with the GATT and the FTA or earlier panel decisions.[30] Panel procedures, which are similar to those of the general recommendatory panels provided for in Chapter 18, are set forth in Annex 1903.2. Any panel recommendation as to remedying a non-conformity must be immediately followed by 90 days of consultations; if remedial legislation is not enacted within nine months after the end of this period, or no other agreement is reached, the requesting Party may "take comparable legislative or equivalent executive action" or terminate the Agreement upon 60-day written notice to the other Party.[31]

The heart of Chapter 19 would appear to be Article 1904, which provides for binational panel review of prospective final antidumping and countervailing duty determinations to determine whether they accord with the antidumping or countervailing duty law of the importing Party. While this procedure is intended to replace judicial review of final antidumping and countervailing determinations,[32] is is not automatic and will be available only upon request.[33] Once chosen, however, panel review is to preclude appeal in domestic courts of both final determinations and panel decisions.[34] The Chapter is inapplicable (1) where neither Party seeks panel review,[35] (2) where a revised final determination is issued as a result of judicial review of a final determination that was not the subject of panel review (that is, the former may not be treated as a new final determination for purposes of the Chapter), or (3) where a final determination is issued as a result of judicial review that was initiated before the FTA entered into force.[36] The Parties are charged with amending their domestic laws to achieve specific ends related to the successful functioning of the Chapter.[37]

Where United States law is concerned, "final determinations" are defined in Article 1911 to include the following: final affirmative and negative International Trade Commission (ITC) and Department of Commerce (DOC) determinations as to injury and the existence of subsidies and sales at less than fair value (including any negative part of an affirmative final determination, and vice versa), determinations related to administrative reviews of existing duty orders under 19 U.S.C. §1675, ITC and DOC determinations not to review a determination based on changed circumstances under 19 U.S.C. §1675(b), and ITC determinations as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.

A panel is apparently intended to review a disputed determination as would a court and, in general, panel proceedings are to resemble judicial ones.[38] In addition to specific statutory standards, a panel must apply "the general legal principles that a court of the importing Party would . . . apply" (including "principles such as standing, due process, rules of statutory construction, mootness, and exhaustion of administrative remedies," see Art. 1911) to a review of the determination at issue.[39] With respect to the former, United States determinations will be measured against the standards set forth in 19 U.S.C. §1516a(b)(1)(B) ("unsupported by substantial evidence on the record, or otherwise not in accordance with law"), except that an "arbitrary and capricious" standard will be used to examine International Trade Commission (ITC) determinations not to initiate administrative reviews because of changed circumstances.[40] Rules of procedure are to be drawn up, generally based on judicial rules of appellate procedure and containing specific deadlines aimed at producing final determinations within 315 days of the date on which a panel is requested.[41]

Panels are to be chosen from a roster of 25 Americans and 25 Canadians according to procedures set forth in Annex 1901.2. Composed of five members, one of whom will be appointed chairman,[42] the panels will be subject to codes of conduct and required to sign protective orders for proprietary business and other privileged information, with violations subject to domestic sanctions. Panel decisions will be by majority vote, based on the votes of all panel members.

Briefly, either Party may request panel review and must do so upon the request of a person who would otherwise be entitled to judicial review.[43] The request must be made in writing to the other Party generally within 30 days of the official publication of the final determination; the failure to request a panel within this time permanently precludes panel review.[44] A Party or other person who chooses to commence judicial review must be required under domestic law to notify the Parties or other persons entitled to commence judicial review of this intent no later than ten days before the latest date on which a panel may be requested.[45] Thus, if the notified Party or individual then requests a panel, judicial review would seem to be precluded in that case.[46] A Party may not allow judicial review procedures to commence before the period for requesting a panel has ended.[47]

Both the agency issuing the final determination and any party that would have standing to appear in a domestic judicial review proceeding have the right to appear and be represented by counsel before the panel.[48] The panel may uphold a final determination or remand it, with a deadline, "for action not inconsistent with the panel's decision."[49] A panel decision is intended to be "binding on the Parties with respect to the particular matter between the Parties that is before the panel."[50] An extraordinary challenge procedure is available where a Party alleges that the panel or one of its members may have committed legal or ethical improprieties, or acted beyond the scope of their legal mandate.[51]

Aside from panel review, Chapter 19 also envisions the development, through a Working Group, of a substitute system of Canadian and American rules to govern the imposition of antidumping and countervailing duties where the Parties' bilateral trade is involved.[52] Chapter 19 will be in effect for five years pending the creation of the new regime, with the period extendable for two years; failure to implement a new system at the end of this time will entitle either Party to terminate the entire FTA on six-month notice.[53]

IV. CONSTITUTIONAL ISSUES REGARDING THE FTA BINATIONAL PANEL SYSTEM

The establishment of a binational panel system which will review decisions made by administrative agencies of the United States government regarding antidumping and countervailing duties raises a number of constitutional issues. Three arguments which have been considered by various commentators with respect to the binational panels include: (1) whether the provisions of the FTA providing that Canada shall appoint at least two members of the binational panels is a violation of the Appointments Clause of the Constitution, which specifies that "[o]fficers of the United States" are to be appointed by the President and approved by the Senate; (2) whether the binational panels are exercising the "judicial power" of the United States, and thus whether the panelists' positions lack the guarantees that enable an officer to exercise judicial power under Article III of the Constitution, namely lifetime tenure and security of compensation from diminishment; and (3) whether the failure of the FTA to provide for judicial review of the decisions of the binational panels by a United States Article III court unconstitutionally precludes the possibility of the cases being heard in a United States federal court, resulting in a denial of due process.

Although United States legislation implementing an agreement with a foreign nation is subject to the constraints of the Constitution,[54] the courts have shown deference to legislation which addresses matters of international concern.[55] One such area of international concern is the settlement of claims by United States citizens against other nations or nationals of other countries. Throughout its history, the United States has sought to settle such claims through international negotiations and the establishment of international tribunals. Under longstanding principles, a claim based upon an international law violation is held to be one of the nation of which the claimant is a citizen, and not one of the claimant himself. Consequently, a United States citizen's claims, which are in effect directed against the United States, can generally be extinguished in part or entirely be the United States; further Congress may preclude judicial review based on sovereign immunity prinicples.[56] Any consitutional arguments against the FTA should be viewed in the context of these considerations and in recognition of the expansive powers of the Congress and the Executive in the area of foreign policy.

Under Article II, § 2, cl. 2 of the Constitution, "[o]fficers of the United States," a term which includes those persons who exercise significant authority pursuant to the law of the United States, must be appointed to office in accordance with the requirements of the clause.[57] This provision, referred to as the Appointments Clause, grants the President the power to appoint persons to offices established by law, where the appointments have not been otherwise provided for in the Constitution, only by and with the advice and consent of the Senate. In addition, the Congress may grant authority to the President, the courts, or heads of departments to appoint "inferior officers" without the advice and consent of the Senate. The FTA, however, requires that at least two of the panelists be chosen by Canada, impliedly without approval of the United States Executive Branch or Congress, a situation that would arguably preclude these appointments from being made in conformity with the requirements of the Appointments Clause.

For a variety of reasons, however, the requirements of the Appointments Clause appear inapplicable to the binational panelists. The Appointments Clause has generally not been interpreted to require that all persons who execute the laws of the United States be appointed by the President and approved by the Senate, or that the appointment power for such persons must reside in the Executive Branch. For example, there is precedent for Congress to assign the enforcement authority for federal laws to persons appointed or elected by non-federal bodies, such as the numerous statutes where state officers are called upon to enforce federal law.[58] The reason that such delegation is not a violation of the Constitution is that, presuming the function of the Appointments Clause is to maintain the separation of powers between the Executive Branch and the Congress, the delegation of such authority to state governments does not increase the power of one branch of the government at the expense of another.[59] As the legislation implementing the binational panels under the FTA would appear to delegate the authority to execute United States laws to an international body not controlled by either branch, the creation of the binational panels does not appear to enhance the power of one branch over another, and thus would not be prohibited by the Appointments Clause.

In addition, the premise that the binational panels will enforce domestic law may be no more than appearance. Although the panels are charged with making decisions in accordance with domestic law, they will do so pursuant to an international agreement. As domestic law is thus, in effect, incorporated into the binational agreement, the binational panels will apparently act not as an extension of the United States government, but as international bodies enforcing the FTA. Consequently, it can be argued that the FTA does not confer executive authority on the binational panels, but instead establishes a purely international legal structure.

The argument that the creation of binational panels improperly vests adjudicatory powers in judges who do not enjoy the attributes of judges appointed under Article III, §1 of the Constitution, would also appear to be diminished by the arguments noted above. In addition, the Supreme Court has long allowed Congress to create tribunals which engage in judicial activities without affording the judges of such tribunals the attributes of Article III judges, such as lifetime tenure and compensation security. For example, "Article I" courts, so named because they are created by Congress in the exercise of its Article I legislative powers, include the adjudicatory bodies contained in many modern administrative agencies. The constitutionality of these bodies is well established, and, to the extent that the binational panels may be viewed in this way, there is little likelihood that a successful constitutional challenge can be made to the FTA on this basis.

The related, but separate question of whether due process requires that parties to antidumping and countervailing duty cases must be afforded some recourse to an Article III court, is obviated to some degree by the proposed language of the House Committee on Ways and Means Committee Draft Implementing Proposal, which would allow Article III judicial review of constitutional issues regarding the binational dispute settlement system, or its application to a particular determination.[60] Many matters which involve the application of legal standards to a set of facts in such a way as to affect private interests, but which do not address constitutional issues, are decided by agencies with limited or no review by Article III courts.[61]

The consensus of may scholars and judges, although not all, is that as the Constitution created only a Supreme Court, appellate jurisdiction was left entirely to the Congress' discretion.[62] In addition, any lower courts that Congress chose to create could be conferred such original and appellate jurisdiction as the Congress desired. In general, the cases have held that when Congress creates a right or confers a benefit, as it apparently did in providing for the present system of antidumping and countervailing duties, it may determine how the right or benefit is to be administered, and may deny judicial review of the administrative determinations.[63] Again, as the final review of antidumping and countervailing duty cases will lie in an independent body, there appears to be little possibility that either branch has usurped power in derogation of separation of powers principles.

FOOTNOTES

[1] *See infra* note 4 for discussion of dispute settlement under the GATT.

[2] Under GATT Article XXIII and the Subsidies Code, see *infra* note 4, the withdrawal of concessions or the use of countermeasures must be authorized, respectively, by the Contracting Parties to the Agreement or the Committee on Subsidies an Countervailing Measures established by the Code.

[3] Art. 1801:1.

[4] *See, e.g.,* GATT, Arts. XXII (consultation) and XXIII (nullification or impairment of benefits). These provisions establish a general framework for dispute settlement, but do not mandate any specific procedures or deadlines for action by the GATT. This procedural vagueness, as well as the uncertain legal effect of GATT panels reports and Contracting Party decisions on them, has often been criticized as being less than beneficial to those who invoke GATT dispute settlement. *See, e.g.,* H.R. Rep. No. 571, 93d Cong., 1st Sess. 66-67 (1973); S. Rep. No. 1298, 93d Cong., 2d Sess. 164-65 (1974); Jackson, "The Crumbling Institutions of the Liberal Trade System," 12 J. World Trade L. 97 (1978); and, generally, Hudec, "GATT Dispute Settlement After the Tokyo Round: an Unfinished Business," 13 Cornell Int'l L. J. 146 (1980) [hereinafter cited as Hudec]. The GATT Subsidies Code negotiated during the Tokyo Round of Multilateral Trade Negotiations, GATT, BIDS, 26th Sup. 56 (1980), attempts to ameliorate this situation where complaints as to export and certain domestic subsidies are involved by providing for a more detailed system that to some extent serves as a rough model for the FTA. See Hudec, *supra,* 173-77. Other Tokyo Round agreements also contain dispute settlement provisions that are generally less formal than those of the Subsidies Code. *Id.* 174-75; Jackson, GATT Machinery and the Tokyo Round Agreements, *in* Trade Policy in the 1980's 185-87 (W. Cline ed. 1983), *reprinted in* J. Jackson & W. Davey, Legal Problems of International Economic Relations 335-36 (1986).

[5] Art. 18001:2, 3.

[6] Art. 1802:1.

[7] Art. 1802:2, 3.

[8] Art. 1803:1.

[9] Art. 1804.

[10] Art. 1805.

[11] Art. 1805:2.

[12] Art. 1806:1.

[13] Art. 1806:3.

[14] Art. 1807:2. *See* text at *supra* note 12.

[15] Art. 1807:9.

[16] Art. 1807:8.

[17] Art. 1807:1.

[18] Art. 1807:3.

[19] Art. 1807:4

[20] *Id.*

[21] Art. 1807:5.

[22] Art. 1807:6.

[23] Art. 1807:8.

[24] *Id.*

[25] Art. 1807:9.

[26] Art. 1807:8.

[27] *Id.*

[28] Art. 1902.

[29] Art. 1902:2(d)(ii).

[30] Art. 1903:1.

[31] Art. 1903:3.

[32] Art. 1904:1.

[33] Art. 1904:2.

[34] Art. 1904:11.

[35] See text at *infra* notes 43-47.

[36] Art. 1904:12. Proposed United States implementing legislation provides that judicial review is also available in antidumping and countervailing cases that involve issues of "the constitutionality of the binational dispute settlement system or its application to a particular determination" and allows such constitutional issues to be reviewed on a two-track system. General challenges that any provision or amendment in the legislation implementing the binational panel violates the Constitution are to be brought before three-judge panels of the United States Court of Appeals for the District of Columbia Circuit, and are reviewable by appeal directly to the United States Supreme Court. Issues raised in connection with the facts of a specific antidumping or countervailing duty determination will be assigned to a three-judge panel of the Court of International Trade. Interested parties may file a summons and complaint within 30 days after binational panel review is completed, with frivolous claims subject to dismissal and sanctions. *See* House Comm. on Ways and Means, 100th Cong., 2d Sess., Background and Summary of United States-Canada Free Trade Implementing Legislation 38-39 (Comm. Print 1988) [hereinafter cited as FTA Committee Print].

[37] Art. 1904:15.

[38] *See* Arts. 1904:2, 3, 14; 1911.

[39] Art. 1904:3.

[40] Art. 1904:4, 1911.

[41] Art. 1904:14.

[42] A panel, a majority of whose members are to be lawyers ordinarily chosen from the roster, is to be composed of two Americans appointed by the United States, two Canadians appointed by Canada, and a fifth member chosen jointly, or, if needed, by the four other panelists or by lot. The FTA allows a Party to exercise four peremptory challenges to the other's choices. Once a panel is chosen, the panelists must appoint a chairman from their number. Annex 1901.2:2, 3, 4.

[43] Art. 1904:4.

[44] *Id.*

[45] Art. 1904:15(g)(ii).

[46] *See* Art. 1904:11.

[47] Art. 1904:15(g)(i).

[48] Art. 1904:7.

[49] Art. 1904:8.

[50] Art. 1904:9.

[51] Art. 1904:13, Annex 1904:13.

[52] Art. 1906, 1907. The implementing legislation provides for domestic trade relief while the Working Group undertakes its work. Any United States industry having reason to believe it "(1) faces subsidized Canadian competition, and (2) is likely to experience a deterioration of its competitive position before the Working Group develops more effective rules and disciplines concerning the use of government subsidies" may request the United States Trade Representative to determine whether there is a "reasonable likelihood" that these situations exist. The legislation sets forth a number of actions that the Executive Branch may take in appropriate cases, including use of retaliatory authority under §301 of the Trade Act. FTA Committee Print, *supra* note 36, at 42-43.

[53] *Id.*

[54] *Reid* v. *Covert,* 354 U.S. 1, 16 (1957).

[55] *Missouri* v. *Holland,* 252 U.S. 416 (1920).

[56] *See Dames and Moore* v. *Regan,* 453 U.S. 654 (1981)(upholding United States-Iranian claims settlement agreements).

[57] *Buckley* v. *Valeo,* 424 U.S. 1, 109-143 (1976).

[58] *See* Warren, Federal Criminal Laws and the State Courts, 38 Harv. L. Rev. 545 (1925).

[59] *CFTC* v. *Schor,* 106 S.Ct. 3245 (1986). Conversely, Congress would be prevented by the Appointments Clause from placing the power to execute laws into the hands of an authority under congressional control. *Bowsher* v. *Synar,* 106 S. Ct. 3181 (1986).

[60] FTA Committee Print, *supra* note 36, at 38-39.

[61] *Thomas* v. *Union Carbide Agriculture Products Co.,* 473 U.S. 568, 583 (1985). *See e.g.,* Export Administration Act §13, 50 U.S.C. App. §2412(e)(Supp. III 1985) ("The Secretary's written decision [regarding an administratively-reviewed export license denial] shall be final and is not subject to judicial review").

[62] The Constitution of the United States: Analysis and Interpretation, prepared by the Congressional Research Service, S. Doc. No. 16, 99th Cong., 1st Sess. 796 (1987).

[63] *Switchmen's Union* v. *National Mediation Board,* 320 U.S. 297, 301 (1943). In *Switchmen's,* the Court stated that "[a]ll constitutional questions aside, it is for Congress to determine how the rights which it creates shall be enforced." *Id.; see also Northern Pipeline Const. Co.* v. *Marathon Pipeline Co.,* 458 U.S. 50, 80-81 (1982).

TRIBUTE TO SENATOR ROBERT C. BYRD

Mr. WARNER. Mr. President, one of the great privileges of my Senate career has been serving with our distinguished majority leader, Senator ROBERT C. BYRD, a man for whom I have the deepest admiration and respect.

Senator BYRD's prodigious capacity for hard work is widely respected and is but one of the many qualities that has characterized his three decades in the Senate. Compassion, integrity, fairmindedness and profound intelligence are among his many qualities.

Over the years, I have had the privilege of accompanying our leader on two important official missions abroad, including one to the Soviet Union where we met General Secretary Gorbachev and discussed a wide range of national defense, regional and human rights issues. Again this year, I was a member of Senator BYRD's delegation to meet with the heads of government and state of our NATO Allies (and France) to discuss the Senate's important role during the ratification process of the INF Treaty, as well as the frameworks for certain future arms control agreements.

Those of us who have traveled with Senator BYRD know that, although he is a tough and well prepared "taskmaster", we always return with a sense of pride, accomplishment and personal enjoyment.

His drive for hard work is in direct proportion to his love of country. That is to say, it is insatible. Not only the official documents reflect this, but his anecdotes and occasional resort to songs.

Many are the days that Senator BYRD has labored through the night and into the following morning caring for the Nation's business and the American people for whom he holds such respect. His wisdom is drawn from a lifetime associations with people at all levels and walks of life.

Because our two States border one another, Senator BYRD and I have worked together on a number of issues over the years in which West Virginians and Virginians share a common concern, particularly the Appalachian region.

While Senator BYRD has achieved the Senate's highest honor as our majority leader and has been involved in many of the key policy decisions facing our Nation, he has never allowed these high honors sway him from addressing the needs of the people, particularly the citizens of West Virginia.

Together we have worked to bring new economic opportunities to the people in the Appalachian regions of West Virginia and Virginia. Whether it was developing new markets for coal, or seeing that the miners of that coal received necessary treatment for medical conditions associated with the industry, Senator BYRD always has been sensitive to the needs of the people from the State he cares about so much.

When I think of West Virginia, my mind's eye naturally focuses on the mountains and the rugged terrain that typifies so much of the State. "Mountains," the writer Hawthorne observed, "are earth's undecaying monuments." When I think of individuals who have made monumental contributions to our country, and to this Senate body in particular, the name of ROBERT C. BYRD looms as large as the Shenandoah and the Allegheny mountains that cut across the West Virginia landscape. And like those mountains, the contributions and the memory of our majority leader will endure forever.

In February 1988, the leader led a delegation of the chairmen of the Foreign Relations [Mr. PELL], Armed Services [Mr. NUNN], and Intelligence [Mr. BOREN] committees and myself as a ranking member to the capitals of five European nations. It was an arduous trip and as the plane approached the Nation's capital, he sang for us this song which so characterizes the man who has humbly made history.

AMERICA FOR ME

(By Henry van Dyke)

Tis fine to see the old world, and travel up and down among the famous palaces and cities of renown, to admire the crumbly castles and the statues of the kings,—but now I think I've had enough of antiquated things.

So it's home again, and home again, America for me! My heart is turning home again, and there I long to be in the land of youth and freedom beyond the ocean bars, where the air is full of sunlight and the flag is full of stars.

Oh, London is a man's town, there's power in the air; and Paris is a woman's town, with flowers in her hair; and it's sweet to dream in Venice, and it's great to study Rome, but when it comes to living, there is no place like home.

I like the German fir-woods, in green battalions drilled; I like the gardens of Versailles with flashing fountains filled; but, oh, to take your hand, my dear, and ramble for a day in the friendly western woodland where nature has her way!

I know that Europe's wonderful, yet something seems to lack! The past is too much with her, and the people looking back, but the glory of the present is to make the future free,—We love our land for what she is and what she is to be.

Oh, it's home again, and home again, America for me! I want a ship that's westward bound to plough the rolling sea, to the blessed land of room enough beyond the ocean bars, where the air is full of sunlight and the flag is full of stars.

NEWLY FOUND MILITARY MEDICAL RECORDS: GOOD NEWS FOR VETERANS

Mr. CRANSTON. Mr. President, I would like to bring to the attention of my colleagues and others with an interest in veterans' affairs some good news that should be of assistance to many veterans who have been unable to substantiate their Veterans' Administration claims for service-connected benefits from the VA because their military records were destroyed in the fire in July 1973 at the National Personnel Records Center in St. Louis. By letter dated June 23, 1988, the VA has advised me that the National Archives and Records Administration is obtaining a collection of computer tapes containing some 10 million Army medical treatment records that were derived from Army records prior to the fire. These records should provide information that may be needed in connection with VA claims by Army and Air Force personnel and others who were treated in Army medical facilities during the years 1942-45 and 1950-54.

I ask unanimous consent that the June 23, 1988, letter from the VA, along with its enclosures consisting of a June 23, 1988, press release and a letter to Mr. R.J. Vogel, Chief Benefits Director of the VA, from Mr. David F. Peterson, Assistant Archivist for Federal Records, be printed in the RECORD.

There being no objection, the letter and enclosures are ordered to be printed in the RECORD, as follows:

VETERANS' ADMINISTRATION,
June 23, 1988.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is to give you advance notice of information which we intend to release to the general public shortly. A copy of the press release is attached.

We have been advised by the National Archives that a number of magnetic tapes have been located which contain basic extract information regarding hospital admissions in Army hospitals during the periods 1942-1945 and 1950-1954. These records, which were previously in the possession of the National Research Council, have recently been turned over to the National Personnel Records Center (NPRC) in St. Louis. Notification of the existence of these records was received by the Veterans Administration in a letter from the Assistant Archivist for Federal Record Centers dated June 17, 1988 (copy enclosed).

We anticipate that these records will help in the adjudication of claims for service connected disabilities for persons who served in the above cited periods. In particular, we expect the records to be beneficial in a number of cases which have been affected by the loss of medical records as a result of the 1973 fire at the NPRC.

The extract records, in basic form, appear to reflect 100% of the battle injuries treated in Army hospitals and also reflect a sample of hospitalizations for other reasons. The records encompass active duty personnel who served in the Army, Army Air Corps and, to some degree, personnel from other services hospitalized in Army facilities.

The NPRC currently has available records for 1944 which cover 3.5 million entries for 2.4 million service personnel. In the near future, records should be available for 1945 which will contain an additional 2 million records for approximately 1.4 million service personnel. Records covering the Korean Conflict period will follow. The conversion of these records from the tape format is technically complicated and, we are advised, the years 1942 and 1943 will be the most difficult to convert.

As an initial response, we have immediately begun arrangements to establish an interface between these tape records and our own Beneficiary Identification and Records Locator System (BIRLS) so that we can match these hospital records against existing claims files, involving both past claims and active claims.

We have set up Project Expedite, a special procedure that will not only track applicants' inquiries but will also ensure proper dissemination of information as it becomes available.

We will provide you more detailed information on this issue as it is developed. We would certainly be pleased to provide a briefing to you and your staff if desired.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

VETERANS CAN FILE NEW DISABILITY CLAIMS

Recent discovery of partial military treatment records by the National Archives and Records Administration may enable many Army and Army Air Corps veterans of World War II and the Korean Conflict to file for Veterans Administration disability compensation payments.

To speed these claims, Thomas K. Turnage, Administrator of the VA, announced that the VA has introduced special procedures, collectively called Project Expedite, which involve a massive cross-checking of files to determine cases that can be reopened.

Using the new records, the VA now hopes to assist many veterans whose claims had previously been denied because no record was available to confirm medical disabilities that occurred during military service.

Veterans and survivors unsure whether their disability compensation claims are affected should contact the nearest VA Regional Office. A toll-free number of the nearest VA Regional Office is listed in the Federal Government section of telephone directories.

The National Archives and Records Administration on June 15 advised the VA that it is obtaining a collection of computer tape containing some 10 million Army medical treatment records that partially fill a gap created when a 1973 fire destroyed millions of military files at a federal record center in St. Louis. The newly found records cover the years from 1942 to 1945 and from 1950 to 1954.

For certain veterans whose claims for disability compensation were denied since the fire, the VA may now be able to establish documentary evidence to support their claims.

The St. Louis fire on July 12, 1973, destroyed or seriously damaged some 18 million service records, making subsequent disability claims difficult and, in some cases, impossible to process. The newly found medical records are being provided to the National Archives by the National Research Council, a private organization that had been engaged in analysis of Army hospital records in the 1950s. The computerized information reflects battle injuries treated in Army hospitals and a sample of hospitalizations for other reasons. The records cover personnel who served in the Army and Army Air Corps, as well as personnel from other services who were treated in Army medical facilities.

NATIONAL ARCHIVES,
Washington, DC, June 17, 1988.
Mr. RAYMOND J. VOGEL,
Chief Benefits Director, Department of Veterans Benefits, Veterans Administration, Washington, DC.

DEAR MR. VOGEL: A new records source will soon be available at our National Personnel Records Center (NPRC) for reconstructing medical data for many veterans of the World War II and Korean Conflict periods. As you may be aware, the fire at NPRC in July 1973 destroyed the major portion of records of Army Military personnel for the period 1912 through 1959 and records of Air Force personnel with surnames Hubbard through Z for the period 1947 through 1963.

The new source consists of a collection of computer magnetic tapes that were created by the National Research Council (NRC), a private organization, from admissions punch cards prepared by the Office of the Surgeon General, Department of the Army. (The original punch cards have been destroyed.) The 91 tapes contain information for the years 1942-1945 and 1950-1954 on a large sampling of Army patients admitted to Army medical treatment facilities during those time periods. It is estimated that the tapes contain approximately 10 million records; however, an unknown number of these will be multiple entries for the same individual.

The data includes various personal indentifying and medical treatment factors such as serial number, grade or rank, age, race, length of service, date and place of admission, type of case (disease, non-battle and battle injuries, battle casualty), diagnosis, operation, circumstances surrounding injury, type and date of disposition, etc. Although the individuals' names are not included, positive identification can be made through the service number.

Although copies of the tapes finally are being duplicated and released to NARA by NRC, following authorization from the Department of the Army, certain access problems prevent us from immediately using the information.

1. Format. Each tape must be analyzed to determine its format, then reformatted to be compatible with NPRC's system. Some of the tapes have been converted to nine-track tape compatible with NPRC's system. However, the information on the tapes is in at least 10 different formats.

2. Access. The data must be cross-referenced by service number and service code to NPRC's Auxiliary File Index to facilitate inquiries. Furthermore, the information must be arranged in service number sequence to support generation of the computer output microfilm listing of each record which will be needed to produce the final "decoded" report on the individual. Production of the final report is dependent upon pc software which will decode each data element in the record(s) on the requested individual. Unfortunately, it appears that separate pc programs will be required for each segment of the file.

The system will work as follows: An inquiry by service number to the registry system will generate a "hit" on the Finding Aid Report (NA Form 13096) for each related record on the microfiche listing (see attachment 1). To interpret the coded record, a blowback copy is made of the microfiche page (see attachment 2). The codes are then entered to screen format which is part of a personal computer program. The pc software quickly interprets each code and generates a printout (see attachment 3). The "hits" will also appear on the automated VA 3101 (see attachment 4).

So far, NPRC has analyzed and reformatted the 1944 collection and added it to the registry index. (Approximately 3.4 million records pertaining to 2.4 million veterans are included in this first group.) Sets of computer output microfiche (COM) listing each coded record on the 1944 file also have been produced. The pc program has been written. NPRC expects to received tapes from NRC for all years except 1942-43 by the end of June. Indeed, we are not certain when we will receive the tapes containing data for 1942-43; it is our understanding that NRC is experiencing problems with their format. Reformatting of the other tapes by NPRC can be affected in a matter of weeks; development of the pc software within two months (i.e., every effort will be made by us to expedite this project).

Because NPRC has not yet received and added all the files to the registry system, we are extremely concerned that NPRC may be inundated with inquiries before all of the information is put into a usable format. It is probable that such a situation would have an equally serious impact on your operations, as claims previously disallowed due to the lack of supporting evidence may be resubmitted in large numbers. In the absence of the complete file, our agencies may be deluged prematurely with request which cannot be properly serviced.

It is our understanding that Ms. Judy Veres of the Compensation and Pension Service and Mr. Gray Cooper of the VA Regional Office in St. Louis met with NPRC officials on Wednesday, June 15 to discuss this matter. We also have been contacted by Mr. Herb Mars of your agency and have scheduled a meeting for June 30, 1988, at 10:00 a.m. to discuss plans for advising veterans, veterans organizations, and the Congress of this new information. Clearly, we need to notify these groups as soon as possible, but in some manner which will avoid triggering the undesirable situation described above. You may also wish to consider including a representative from the NRC in the meeting on June 30 to impress on that organization the importance of completing the transfer of the tapes to NPRC as soon as possible.

If you or your staff have any questions concerning this matter, please call Mr. Gregory Pomicter on my staff on 653-8388.

Sincerely,

DAVID F. PETERSON.

TRIBUTE TO BRENDA JOYCE GIBSON

Mr. ROCKEFELLER. Mr. President, I would like to express admiration and appreciation for an outstanding West Virginia teacher. Brenda Joyce Gibson recently received a statewide education award for her teaching excellence.

Brenda, a journalism teacher at Braxton County High School, is the kind of teacher that truly cares about her students. She was one of three winners selected by the West Virginia Education Fund in its annual Outstanding Educator Merit Awards competition.

Brenda believes in her students, and helps them in striving for the best. West Virginians are proud of the accomplishments of their teachers. They all deserve to be recognized as outstanding educators.

I would like to congratulate Brenda on her teaching award. She is truly an outstanding West Virginian.

FAREWELL BUT NOT GOODBYE TO JIM MARTIN

Mr. WIRTH. Mr. President, throughout the 14 years I have served in Congress, I have been especially fortunate to be able to lure some of my home State's most talented and dedicated individuals away from Colorado to Washington, DC, to work on my congressional staff. While many of these staff members have distinguished themselves as exemplary professionals, few have had quite the positive impact and achieved quite as much as has Jim Martin.

Jim will be leaving my Washington staff this week, after serving as my legislative assistant for environmental, energy and public lands issues for more than 2 years, to take on the responsibilities of my State director in Colorado.

Jim came to Washington, DC in March 1986, leaving behind his beloved Boulder and a job he was ideally suited for as an attorney for the Environmental Defense Fund. He did so because he saw a greater opportunity to protect the beauty and natural wealth of Colorado—and because I needed him. For more than 2 years, he has endured the separation from Colorado—as well as the intense humidity, high pollen counts, annoying traffic jams and a relentless legislative agenda that have given him very few moments of peace—with great patience and good humor.

In that time, he has become an influential and respected voice in this institution on such important issues as reauthorizing and strengthening the Clean Air Act; curbing acid rain pollutants; developing a far-sighted, broad-based energy policy; and shifting the emphasis on our public lands away from traditional uses such as mining and timbering toward recreation and tourism. His excellent staff work has prepared me well in my efforts to promote energy conservation, including advocating tougher CAFE standards for motor vehicles, and opposing opening up the Alaska National Wildlife Reserve to oil exploration until we have developed a national energy policy. Jim's efforts to help resolve the wilderness water rights dispute, streamline Federal land exchange law, move the Animas La Plata water project forward and facilitate countless other issues have served Colorado well.

I have come to rely greatly on Jim Martin, for his deep knowledge of environmental, energy and public lands issues, for the exceptional quality of his work, for his fine legal skills, for his well-grounded political instincts, and for his wise counsel. I can, without equivocation, characterize Jim as one of the best staffers I have had the good fortune to employ in my years in the Congress. Jim enjoys yet another distinction: It has become legend in my office—which is by any standard a hard-working office—that Jim works significantly more hours than any other staffer. A few hardy souls have tried to keep pace with Jim's schedule, but none have succeeded. Jim's investment of time in this job is illustrative of his dedication to Colorado, the Congress, and the progressive public policy that he has made his life's work.

I would be remiss, Mr. President, if I did not also mention that my wife, Wren, who shares with Jim an abiding interest in the environment, has also come to rely on and enjoy working with Jim, and I know she will greatly miss having him nearby.

With so much work still to be done, I would normally be very reluctant to see Jim return to Colorado. Fortunately, however, he has agreed to take over the operation of my Colorado offices as my State director. Although I will miss having the benefit of Jim's legislative work, particularly with respect to the Committee on Energy and Natural Resources, I am excited that he will remain such a vital part of my staff. I also take solace in the fact that I know he will want to continue to help guide our efforts to protect and maintain Colorado's most precious natural resource—its enormous beauty.

CONVENTIONAL MILITARY BALANCE IN EUROPE

Mr. WIRTH. Mr. President, in January of this year, Senator CARL LEVIN published a lengthy report exploring ways to assess the conventional military balance in Europe. The report's foremost focus is the inadequacy of static numerical comparisons of men and equipment for assessing the relative strengths of NATO and the Warsaw Pact. Senator LEVIN identifies 13 additional criteria, and examines them in light of both independent research and testimony before his Armed Services Subcommittee on Conventional Forces and Alliance Defense.

Senator LEVIN believes that because static "bean counts" are the simplest way to express the relative strengths of the two alliances, dependence upon them can lead to overly simplistic and potential dangerous policy judgments. To alleviate this dependence, his report offers a discussion of a variety of important factors that would affect the war-fighting capabilities of both NATO and the Warsaw Pact. Among them are; geographical deployment of forces; quality of weapon systems; sustainability; quality of personnel; and interoperability of alliance forces. His evaluations reveal strengths and weaknesses on both sides, and underline the complexity of judging an adequate defense posture.

Though not all may agree with the estimates or conclusions of Senator LEVIN's report, I believe that he has succeeded admirably in demonstrating that the scope of the debate over relative NATO/Warsaw Pact strength must be broadened. As history has noted, accurate peacetime estimates of nations' war-fighting abilities have often proven difficult; a reality which makes it incumbent upon us to insure that we take full advantage of all the analytical approaches available to us as we deliberate NATO's future course.

I am providing for the record excerpts from Senator LEVIN's lengthy effort, noting his estimates of each alliance's strengths and weaknesses in thirteen areas and a summary of his overall conclusions. I commend it to your attention.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

BEYOND THE BEAN COUNT: REALISTICALLY ASSESSING THE CONVENTIONAL MILITARY BALANCE IN EUROPE BY SENATOR CARL LEVIN ON JANUARY 20, 1988

This report examines the inadequacies of traditional "bean counts" and proposes a comprehensive set of criteria by which to render a realistic assessment of conventional balance between NATO and the Warsaw Pact.

Based on testimony before the Subcommittee on Conventional Forces and Alliance Defense and a wide-ranging review of materials from the Joint Chiefs of Staff, the Congressional Research Service, the Congressional Budget Office, intelligence briefings and the annual reports of the International Institute for Strategic Studies, 13 principal criteria were identified as necessary to a realistic assessment of the balance. Due to the complexity of the subject, there is some unavoidable overlap and the groupings are somewhat arbitrary. But reference to these criteria takes us far beyond the traditional bean count in arriving at a realistic assessment of the conventional balance of forces.

1. DEPLOYMENT OF FORCES

Estimate: The Warsaw Pact has a superior capacity for launching a surprise attack with little mobilization compared to NATO's capacity to defend against such an attack if its forces have not mobilized. The forward positioning of large numbers of ready Pact forces well-equipped for taking the offensive is highly threatening to the West. The Pact's forward positioning of such forces is in stark contrast to NATO's dispersed deployment of active duty forces in peacetime. The short-warning threat is serious particularly because NATO's vulnerabilities in the North are real, and this is the source of a great deal of the problem NATO confronts in the Central Region. The Warsaw Pact's unique forward-based offensive capability makes asymmetrical reductions in Pact armored forces in the Central Region necessary. While the conventional military balance in Europe is complex overall, the threat posed by forward-based Pact armored forces is straightforward and must be addressed in any conventional arms control negotiations in Europe.

2. QUANTITY OF MAJOR WEAPONS SYSTEMS

Estimate: The Warsaw Pact possesses a clear quantitative advantage in most categories of conventional military equipment. Numbers are very important in war and, all other things being equal, numbers prevail. The next step in making a realistic assessment of the balance in Europe is to determine whether all other things are in fact equal. If they are not, the balance will depend on whom they favor, and by how much.

3. QUALITY OF MAJOR WEAPONS SYSTEMS

Estimate: NATO has the advantage in weapons quality, and Western leads in certain key technologies could result in revolutionary advances in the effectiveness of conventional arms. However, the Soviets are striving to match Western weapons quality, and have recently introduced significantly improved weapons systems of numerous types. The Soviets' superior ability to move weapons technologies from the lab to the field allows them to stay closer to the West in this area than they otherwise might. Improvements in the West's capacity to field new technologies more quickly could thus increase NATO's lead in weapons quality.

4. FORCE READINESS

Estimate: The readiness of NATO's active duty forces is superior to that of the Warsaw Pact's forces. NATO has the capability to roughly match the Pact in the mobilization of reserve forces, and the readiness of NATO's reserve forces is superior to that of the Pact's reserves. The increased combat effectiveness which NATO's readiness advantage is likely to provide would make itself felt throughout a conventional conflict in Europe.

5. FORCE SUSTAINABILITY

Estimate: Given NATO's in-place stock shortages, the Pact has an advantage in sustainability. If the war is lost quickly because NATO forces run out of usable ammunition and spare parts, the Pact's significant weaknesses in logistic support will not be relevant. However, if NATO's pre-war stock shortages were corrected and the interoperability problems were alleviated, the Pact nations could well find themselves facing severe sustainability problems of their own.

6. NUMBER OF ACTIVE AND RESERVE PERSONNEL

Estimate: Active and reserve manpower levels of the Warsaw Pact and NATO are generally on a par when active and reserve forces are totalled. Within the NATO Guidelines area, Pact forces outnumber NATO by roughly 307,000 troops in the NGA. However, NATO holds the advantage both globally and within the Atlantic-to-the-Urals geographical area, by 317,000 and 188,000 forces, respectively, according to the International Institute for Strategic Studies. It should be noted that, while the Pact has a quantitative advantage in the number of most major ground combat weapons systems, the two alliances are at rough parity in military manpower. This is in part accounted for by NATO's greater emphasis on logistics support forces, which manifests itself in a higher support personnel to combat personnel ratio.

7. QUALITY OF PERSONNEL

Estimate: NATO's military personnel are of better quality, and thus NATO holds an advantage in this category. However, as the JCS net military assessment correctly points out, much of the difference of approach to leadership development, morale, and training reflects differences in societal norms and operational concepts. To a great extent, the degree to which quality intangibles affect combat effectiveness will depend on the length and nature of the conflict. No one doubts, for example, that the Soviet soldier will fight vigorously in defense of his country, if required. On the other hand, in the event of a Soviet attack on NATO, Soviet troops would face forces which are better prepared to fight under the constantly shifting combat conditions of modern warfare and to exploit openings as they occur. To the extent that combat is prolonged, the cohesion and therefore effectiveness of Soviet units would likely decline markedly. NATO morale will likely be high as allied troops defend Western Europe against Warsaw Pact aggression.

8. INTEROPERABILITY OF FORCES

Estimate: The Warsaw Pact's forces are more interoperable than those of NATO, giving the Pact an advantage in this category. In the event of war, the Pact is almost certain to try to exploit NATO's lack of interoperability by striking at the seams between national forces, thus requiring NATO units of different nationalities to act in support of one another in the confusion of battle.

The commonality and interoperability problem is deeply seated and could get worse for NATO without active management. First, the pressure to maintain domestic manufacturing capabilities underlies the redundancy and lack of commonality. Second, the need to replace individual items of equipment varies from country to country. When replacement investments are made, it is increasingly difficult to force commonality in procurement since countries want either better technology than is currently available or less expensive systems than currently exist. In short, lack of commonality and interoperability remain a serious deficiency in the NATO alliance.

9. COMMAND, CONTROL, COMMUNICATIONS AND INTELLIGENCE (C^{3}I)

Estimate: NATO holds the edge in C^{3}I over all. However, the centralized command structure of the Warsaw Pact gives it the edge at the theater level. The Pact would thus be at an advantage during the transition period to war. Once the transition had been made, however, NATO would probably gain the advantage due to its qualitative advantage in technology and training. In a fluid combat situation, descision-making at the tactical level—one of NATO's strengths—would be crucial.

10. RELIABILITY OF ALLIES

Estimate: NATO clearly has an advantage in the relative reliability of alliance members in the event of war. The NATO allies frequently air their differences on political issues, but can be counted on to oppose fully a Pact invasion of West Germany. In contrast, the Warsaw Pact usually speak with a unified voice in international forums, but Soviet military planners cannot rely on their allies to follow them across the West German border.

The reliability of the non-Soviet Warsaw Pact allies is likely to be a function of battlefield success and the length of the conflict. If Pact forces seem headed for a relatively quick victory, the non-Soviet allies have less likely to cause the Soviets problems. However, if the Pact attack is stalling, the Pact allies' reliability may quickly be called into question.

11. ECONOMIC AND INDUSTRIAL STRENGTH

Estimate: NATO is superior to the Warsaw Pact in terms of general economic well-being and long-term potential to sustain a prolonged conflict. NATO's advantage in technology will likely be maintained.

12. GEOGRAPHIC FACTORS

Estimate: In terms of speed of reinforcement, geographic factors favor the Warsaw Pact. However, in terms of the Pact's ability to achieve a quick victory, geography work to NATO's advantage. The limited number of access points along the inter-German border, constricted passages, force to space ratios and NATO's greater familiarity with the battlefield could slow an aggressive armored advance and extract a disproportionate rate of attrition from the attacker. Moreover, the Soviet Union is virtually encircled by potential adversaries, a fact the Soviets would have to weigh carefully in making a decision to launch an attack on NATO.

13. ABILITY TO MAKE RAPID TRANSITION TO WAR

Estimate: The Warsaw Pact is more capable than NATO of making the transition from peace to war rapidly. While the mobilization and movement of NATO forces in the Central Region is a function of independent political decisions in Bonn, Washington, London, Paris, Brussels and the Hague, etc., Moscow can virtually dictate preparation for war by the Warsaw Pact. Because NATO's ability to mount an effective conventional defense is dependent on timely mobilization in the fact of such Pact preparation, it is essential that NATO act in a unified manner in future crises in Europe.

SUMMARY CONCLUSIONS

The following are the key conclusions of this report:

1. The most common method of describing the conventional balance in Europe is a static quantitative tally, or "bean count", of the conventional arms inventories of NATO and the Warsaw Pact.

2. Such sterile quantitative analyses are an inadequate measure of the relative conventional military capabilities of the two sides. Bean counts alone do not provide a realistic assessment of the conventional military balance in Europe.

3. The balance of conventional forces in Central Europe is far more complex than usually portrayed by both Western government officials and the news media.

4. A realistic assessment of the balance must take into account many more factors than the sheer numbers of men and arms the two sides can field. In making such an assessment it is essential that the relative capabilities of NATO and the Warsaw Pact conventional forces not be compared in a vacuum. Rather, they should be assessed in the context of their respective missions.

5. An obsession with the bean count may make NATO less secure by misleading Western (and possibly Soviet) decision-makers about the prospect for a robust conventional deterrent in Europe. If emphasizing the bean count fosters the mistaken belief that NATO is hopelessly outmatched in conventional strength, we could make ourselves the victims of a self-fulfilling prophecy of conventional military inferiority or political blackmail.

6. Focusing solely on the bean count could cause Western decision-makers to overlook exploitable Warsaw Pact weaknesses, or lead NATO to squander its defense resources on efforts to redress numerical imbalances, when our most serious deficiencies may lie elsewhere.

7. A comprehensive and realistic assessment of the conventional balance is a prerequisite of proper NATO security policy making.

8. NATO has considerable strengths on which to draw, and is by no means a basket case in terms of conventional military power versus the Warsaw Pact. As Dr. Richard Kugler, the Director of the Strategic Concepts Development Center of the National Defense University, told the subcommittee:

". . . the balance in my view is sufficiently close, closer than is commonly believed, such that the pursuit of a viable conventional posture . . . is itself a viable programming goal with the resources that are likely to be available."

9. The highly respected International Institute for Strategic Studies (London) reached the following conclusion in its 1985–86 summary of the balance in Europe, a conclusion which I share:

"The conventional military balance is still such as to make general military aggression a highly risky undertaking for either side . . . there would still appear to be insufficient over all strength to guarantee victory. The consequences for an attacker would still be quite unpredictable."

TRIBUTE TO THE SIMMS FAMILY

Mr. ROCKEFELLER. Mr. President, it pleases me today to be able to bring to your attention the accomplishments of the Simms family of Hinton, WV. In this season of graduations, this family is able to boast three graduates, Mr. and Mrs. Ralph Simms and their daughter Susan.

Between the chores of running a farm, the family found time to support one another in pursuing an education and help each other with their homework. The one strongest in English helped with writing assignments while the best in mathematics assisted the other two in these areas. This example of support for the family and tenacity is typical of West Virginians who have a history of struggles and obstacles which they are intent to overcome.

We can learn a great deal about courage from these three graduates. Their decision to set a goal, work toward it, and finally achieve it, at whatever stage in life, shows us how brave it is to embark on something difficult to attain.

The journey has paid off, though. As a laid off employee in the coal industry, Mr. Simms made the decision that he would commit himself to obtaining a degree to better his chances of finding a job. He has finished his work and now has a degree from the West Virginia School of Osteopathic Medicine. Susan, ranked sixth in her graduating class, has graduated an honor student from Hinton High School and has been accepted to Concord College in Mercer County, WV. Mrs. Simms has just completed her degree from the very same institution.

I invite you, Mr. President and my distinguished colleagues, to join me and other West Virginians in congratulating the Simms family and wishing them good luck in all they endeavor. All three deserve to feel deep pride.

TRIBUTE TO SENATOR ROBERT BYRD

Mr. SHELBY. Mr. President, I rise today to pay tribute to our distinguished majority leader, a man I have come to know well and greatly respect since my arrival in the Senate just 2 years ago.

Robert Byrd embodies all of the values that we hold dear in this country—dedication, commitment, hard work, and faith. These are the same values that helped to forge 13 colonies into a world superpower—they are what make us uniquely "American."

In preparation for this tribute, I looked over Senator Byrd's biography—suggested reading for every freshman Senator. I noticed that there is one common thread that runs throughout every aspect of Senator Byrd's life—service. Service not to self, but rather to his family, community, State, and Nation.

Selfless service is the cornerstone of our Nation and it was the force behind the creation of the highest law in the land—the U.S. Constitution. As the celebration honoring the 200th anniversary of this living document continues, we can look to the 40 men who signed the Constitution to trace this legacy of service.

Consider just seven of the signers:

Ben Franklin, known as the "American Socrates," was the oldest member of the convention, but he was also an inventor, statesman, ambassador, Member of Congress, and a revered American.

Alexander Hamilton was George Washington's aid in war and peace. He was also a lawyer, author of the Federalist Papers and Secretary of the Treasury.

James Madison, known as the "Father of the Constitution," became the fourth President of the United States. He was also a Congressman, statesman, and contributing author of the Federalist Papers.

Gouverneur Morris was the composer of the Preamble of the Constitution, a lawyer, a Minister to France, and a U.S. Senator.

Charles Pinckney, the author of the Pinckney plan, was the Governor of South Carolina, a U.S. Senator, and Minister to Spain.

James Wilson, known as an advocate of the popular vote, was also a lawyer, a scholar, an associate justice, and a law professor.

George Washington was the commander-in-chief of the Continental Army, president of the Constitutional Convention, first President of the United States, statesman, and gentleman farmer.

The point to be made, I believe, is that the creation of the Constitution was not the only mark of service made by these men. Rather, each of these men have been recorded as giving a lifetime of distinguished service.

Henry Miller once said of service:

> Render a service if you would succeed. This is the supreme law of life. Be among the great servers, the benefactors. It is the only path to success. "Give, and it shall be given to you." Make society your debtor and you may find your place among the mortals.

I salute you, Senator Byrd, in the tradition of the distinguished Americans who came before, you are truly a great server.

A TRIBUTE TO SENATOR ROBERT BYRD

Mr. BRADLEY. Mr. President, in April, the distinguished Senator from West Virginia announced that he will not seek another term as the Senate's Democratic leader. I would like to take this opportunity to express my appreciation to Senator Byrd for his outstanding service to the Senate and for the guidance he has given me during my 10 years in office.

As our Democratic leader since 1977, Bob Byrd has earned a prominent place in history. This country has been greatly enriched by his leadership, dedication, compassion, and unbending pride in the principles of democracy.

All of us have benefited from Bob Byrd's skill as a parliamentary leader and from his ability to handle our individual concerns with fairness and respect. He has worked hard to maintain the dignity and traditions of the Senate—requiring order, courtesy, and respect among its Members at all times.

Despite the demands placed upon him as Democratic leader, Bob Byrd has never lost touch with the people of West Virginia, who have continued to reelect him to Congress for more than three decades. Although he will no longer be majority leader, he will continue to serve in the Senate as chairman of the Appropriations Committee.

I know that Senator Byrd will continue to play a vital role in the operation of the Senate, and I look forward to working with him during the next session of Congress.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXTENSION OF AUTHORITY FOR WORK INCENTIVE DEMONSTRATION PROGRAM

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 4731. The yeas and nays have been previously ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from California [Mr. Cranston] is necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. Helms] is necessarily absent.

The PRESIDING OFFICER. (Mr. Shelby). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—97

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—3

Biden
Cranston
Helms

So the bill (H.R. 4731) was passed.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the unfinished business, S. 2527, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2527) to require advance notification of plant closings and mass layoffs, and for other purposes.

The Senate resumed consideration of S. 2527.

Pending:

Quayle Amendment No. 2438, to require no advanced notification if the plant closing or mass layoff is due, directly or indirectly, to a strike.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, yesterday I moved to table and the Senate agreed with that motion a Hatch amendment having to do with the matter of notice being required in connection with an economic striker. Thereafter there ensued considerable discussion as to exactly the meaning of the issue raised by the Hatch amendment.

The Senator from Utah and I have now worked out clarifying language and he is about to offer a new amendment on behalf of himself and myself, and I think it should satisfy all parties. The Senator from Pennsylvania was also helpful in connection with this matter, and I understand that he would also join as a cosponsor of the amendment.

The ACTING PRESIDENT pro tempore. The Senator from Ohio will be advised there is an amendment pending by the Senator from Indiana.

The Senator from Utah.

Mr. HATCH. Mr. President, I am going to shortly ask my distinguished colleague from Indiana to temporarily set aside his amendment because he can get a vote on it, I believe, later, so that we can resolve this problem, because we have agreed on this amendment. I thank the distinguished Senator from Pennsylvania as well as the distinguished Senator from Nebraska for their efforts in trying to clarify this.

The one we have agreed on, the distinguished Senator from Ohio and myself and my friend from Pennsylvania, is the exact same language that I brought up yesterday which will clear up the problem that I cited yesterday. In fact, the first part of the revised amendment is exactly the same as the amendment we debated yesterday.

My concern was and it is that we do not create a brandnew right for voluntary strikers which does not exist now under the National Labor Relations Act.

As I pointed out the delicate balance in labor-management relations in our country reflected by the National Labor Relations Act would have been upset if this provision of S. 2527 had gone unchanged.

I believe the Members of this body share my view that such a balance should not be disturbed.

What this current amendment says is an employer's existing right under the National Labor Relations Act to replace workers deemed to be economic strikers is unchanged by this plant closing bill and that notice to such strikers is not required.

In other words, current law is maintained. The modification of my earlier amendment to which I have agreed merely states after my amendment which is in the exact form it was, that there is no preemption of a judicial or administrative ruling relating to a status of economic strikers. If such a ruling should find that strikers were replaced illegally according to the National Labor Relations Act then the employer is also liable for failure to give notice.

That is current law. This was implicit in my first amendment and I am happy to have it made explicit.

So what we have is exactly the same amendment. "Nothing in this act shall require an employer to serve written notice pursuant to section 3(a) of this act when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act".

That was the original amendment, exactly the same. Then we added, and I agree with this because it does not change the import of what amendment in any way: "provided that nothing in this act shall be deemed to validate or invalidate any judicial or administrative ruling relating to the hiring of permanent replacements for economic strikers under the National Labor Relations Act."

I agree with that. I do not want current law changed either.

I thank the distinguished Senator from Ohio for being willing to reassess and reevaluate, and I also hasten to point out this is not some inconsequential issue. This is not obfuscation. This is not for the purpose of delay or the distinguished Senator from Ohio and other colleagues as well would never have agreed to it.

Again, I thank the distinguished Senator from Pennsylvania as well and in a minute I will offer that on behalf of myself and the distinguished Senators from Ohio and Pennsylvania.

But at this point I would like to ask the distinguished Senator from Indiana if he would temporarily lay aside his amendment. Then I will put this amendment up and we will have a quick vote on it. Then some Senators, including the minority leader, who have to go to the White House can be accommodated.

The ACTING PRESIDENT pro tempore. Will the Senator yield?

Mr. QUAYLE. Is there any way we can get a time agreement on my amendment and an up-or-down-vote?

Mr. METZENBAUM. The answer is we can have a time agreement, whatever the Senator from Indiana feels is appropriate, and I do intend to offer a motion to table that amendment, but I have no objection to a time agreement, whether it is 20 minutes, 10 minutes on a side, or 30 minutes, whichever is his convenience.

Mr. HATCH. Could I suggest we have a half-hour?

Mr. QUAYLE. Mr. President, we also have an understanding there will be no amendments to the amendment.

Mr. METZENBAUM. That is correct.

Mr. QUAYLE. So we can have a unanimous consent agreement, I am perfectly agreeable to say 30 minutes equally divided——

Mr. DOLE. Forty minutes——

Mr. QUAYLE. Or 40 minutes.

Mr. METZENBAUM. Thirty minutes.

Mr. QUAYLE. My leader on this side said 40 minutes equally divided.

Mr. METZENBAUM. All right.

Mr. QUAYLE. And no amendments to the amendment.

Mr. METZENBAUM. I want to be clear that we have an understanding so there is no misunderstanding later. With respect to your amendment, I will offer a motion to table. Should that motion fail, which I do not expect it to do, but should it, the Senator from Ohio would not be precluded from offering an amendment subsequent to your amendment. But, with that understanding, I am perfectly agreeable to the 40 minutes, 20 minutes on a side, or 30 minutes or 20 minutes, whatever the Senator from Indiana wants, and then I will offer a motion to table at that time.

I would not want to leave the implication that I might not offer a second-degree amendment after the vote. I do not think that will be necessary. I think we will have sufficient votes to table. But I just want to be above board with my colleague.

Mr. QUAYLE. Is there any way we could get an agreement just to have an up or down vote on this simple amendment?

Mr. METZENBAUM. I think the Senator from Ohio would prefer to move to table. I have been offering motions to table previously. Certainly you would not want to deny me the rights which are accorded to me under the rules of the Senate.

Mr. QUAYLE. I would not have any objection if we want to enter into a time agreement on the discussion of the amendment of 40 minutes, equally divided, and then at that time you would be free to move to table or to accept it or do anything else you wanted to do with this nice, simple amendment.

Mr. HATCH. Not anything else, but he could move to table or let a vote go up or down.

Mr. QUAYLE. He could either move to table or vote up or down. We would not foreclose any of his rights. The only thing we are going to do is get unanimous consent that we have debate on this amendment for a period of 40 minutes.

UNANIMOUS CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the pending amendment be laid aside temporarily and that, on the amendment which be offered by Mr. HATCH, there be a time limitation of 2 minutes to a side on that amendment; that there be no amendment in order to the Hatch amendment; that upon the disposition of the Hatch amendment, the Senate return to the consideration of the amendment by Mr. QUAYLE; that there be a 40-minute time limitation on that amendment, and that, if the amendment is not tabled, Mr. METZENBAUM then be permitted to offer an amendment to the amendment by Mr. QUAYLE; that there be a time limitation on the Metzenbaum amendment to the amendment of 40 minutes to be equally divided; and that all agreements be in the usual form.

Mr. SPECTER. Reserving the right to object. I believe that the amendment which is about to be considered is an important one. I would like to have 3 minutes to speak on the issue of legislative history.

Mr. BYRD. Then I modify my request to provide for 5 minutes on a side on the Hatch amendment.

Mr. HATCH. That will be fine.

Mr. SPECTER. Reserving the right to object, is it understood that this Senator has 3 minutes?

Mr. HATCH. Yes, I will be happy to yield 3 of my 5 minutes to the distinguished Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished Senator.

Mr. QUAYLE. Mr. President, reserving the right to object, I have no problem up to the request that if, in fact, the motion to table fails. Then my understanding is that a second-degree amendment by the Senator from Ohio would be offered and I would have 20 minutes. I would object to that part. If, in fact, the motion to table fails, all bets are off. I cannot go along with that part of it.

I can go along with the majority leader up to the point of a motion to table. I am not going to enter into a time agreement on the second-degree Metzenbaum amendment. I do not even have a clue what it is. I am sure that I will support it, but I am not even certain what it is.

Mr. BYRD. Mr. President, I modify my request accordingly; namely, that if the motion to table fails, then there is no further agreement anent the amendment by Mr. QUAYLE; provided further, that no amendment to the Quayle amendment be in order prior to the motion to table.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute without the time being charged to anyone.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I wonder if I could also get an agreement that, either upon the disposition of the Hatch amendment or upon the disposition of the tabling motion which will be made in respect to the Quayle amendment, the Senate proceed the consideration of the Labor-HHS appropriation bill.

Mr. DOLE. Mr. President, if the majority leader will yield, I cannot get that agreement right now.

Mr. BYRD. Very well.

The ACTING PRESIDENT pro tempore. There is objection.

Mr. HATCH. Mr. President, just for the benefit of our colleagues, there will be a rollcall vote at the end of this time. I do not intend to use my full 2 minutes. I will yield 3 minutes to the distinguished Senator from Pennsylvania and I hope the distinguished Senator from Ohio will not use his 5 minutes.

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Who controls time?

Mr. HATCH. I yield 3 minutes to the distinguished Senator from Pennsylvania and reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Utah has yielded 3 minutes to the Senator from Pennsylvania.

Mr. BYRD. Will the Senator yield without the time being charged against him?

Mr. SPECTER. Yes.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the amendment by Mr. HATCH.

The ACTING PRESIDENT pro tempore. The amendment has not yet been submitted to the Senate.

AMENDMENT NO. 2439

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. METZENBAUM, and Mr. SPECTER, proposes an amendment numbered 2439.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 12, after the period, add the following: "Nothing in this Act shall require an employer to serve written notice pursuant to Section 3(a) of this Act when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act, provided that nothing in this Act shall be deemed to validate or invalidate any judicial or administrative ruling relating to the hiring of permanent replacements for economic strikers under the National Labor Relations Act."

Mr. BYRD. Mr. President, I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. The yeas and nays have been requested. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I yield 3 minutes to the Senator from Pennsylvania.

The ACTING PRESIDENT pro tempore. The Senator from Utah controls the time and yields 3 minutes to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought this limited period of time to make a brief statement on the legislative history of this important amendment.

At the outset, I commend my colleagues from Utah and Ohio in working out a compromise on what was a very complex situation as it evolved yesterday afternoon. In listening to the debate on the amendment, it seemed to this Senator that Senator HATCH and Senator METZENBAUM were very close together and we struck, I think, the appropriate legislative history yesterday afternoon in—may we have order, Mr. President.

The ACTING PRESIDENT pro tempore. The Senate will be in order. The Senate will be in order.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I believe that we struck the proper note on legislative history in an exchange among Senator METZENBAUM, Senator QUAYLE, and this Senator yesterday afternoon as to what is intended. Senator HATCH was not on the floor at that time. I think it is worth very briefly restating it.

The confusion had arisen as to whether this plant-closing legislation changed the law on the question of notice in a situation where there was a replacement to a striking worker. It was agreed at that time that the provisions of the National Labor Relations Act would continue to govern on that complex issue. And it is a complex issue, because it is different on right-to-work States and on States which do not have right-to-work laws.

So that the existing law on when there may be a replacement, which involves the issue of maintaining conditions, maintaining protection, bargaining in good faith, would stay the same under the National Labor Relations Act to make a determination when there may be a replacement for a striking worker, but this bill, plant closing, does not speak to that issue. So that if, under the National Labor Relations Act, there is a lawful replacement, the worker, the striker who is replaced, does not have notice under this plant closing act.

I would ask the distinguished Senator from Ohio if that comports with his understanding.

Mr. METZENBAUM. I apologize to my colleague from Pennsylvania. I was having another discussion. Would you be good enought to repeat the question?

Mr. SPECTER. I am going to ask the same question to the Senator from Utah. The question is: That the current law under the National Labor Relations Act, which is different on right-to-work States and on States which do not have right-to-work laws, which turns on considerations on good-faith bargaining, maintaining the same working conditions for someone who replaces a striker, which turns on protecting those who replace strikers, that that law is not affected, so that whatever decision exists under current law on the National Labor Relations Act remains the same, but the plant closing law does not give any additional rights to notice of the striking worker who is replaced when that replacement is legal under the current National Labor Relations Act.

Mr. HATCH. That is correct. It does not grant any additional rights.

Mr. SPECTER. I think that is the nub of it. I just want to be sure we establish that legislative history. The Senator from Ohio and I went through this yesterday. The Senator from Utah was not on the floor, but I can foresee issues coming before the courts on the record which we had yesterday, which would be extremely confusing. I just want the managers to state agreement with the principle just articulated.

Mr. METZENBAUM. The Senator from Pennsylvania has stated the principle in good terms, but I want to make it clear under this amendment, even as amended, we do not grant any new rights and we do not take away any rights. We conform with that which is the law under the National Labor Relations Act as interpreted by the courts.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. SPECTER. Mr. President, I ask unanimous consent for 30 additional seconds.

Mr. HATCH. I yield 30 seconds.

The ACTING PRESIDENT pro tempore. The Senator has yielded 30 seconds.

Mr. SPECTER. No additional rights are created. So when there is a conclusion under the National Labor Relations Act that there is an appropriate replacement of a striker, that striker has no rights under the Plant-Closing Act for 60 days' notice.

Mr. HATCH. That is correct.

Mr. METZENBAUM. That is correct.

Mr. SPECTER. I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Ohio controls 5 minutes.

Mr. METZENBAUM. Mr. President, I think that there was some confusion yesterday, and the Senator from Ohio at that point was saying, and repeats today, that we have attempted to stay away from the determination as to what is or is not a replacement, the replacement of a striking employee.

It is not an easy definition to arrive at. As I stand here at this moment, I can only say the whole area of that law is somewhat confusing. What we have done with this amendment, which was the original Hatch amendment, is that we have then added language making it clear provided that nothing in this act "shall be deemed to validate or invalidate any judicial or administrative rules relating to the hiring of permanent replacements for economic strikers under the National Labor Relations Act."

Therefore, what we are saying is that we are staying out of that determination. That was my concern. We have now worked that out. I am pleased that it has been worked out. I feel that we have clearly enunciated that whatever the courts say about permitting or prohibiting replacements under the NLRA will be unaffected by this bill.

I appreciate the cooperation that we have been able to bring about with the Senator from Utah and the helpfulness of the Senator from Pennsylvania, as well, I might say, as the Senator from Nebraska who addressed himself to this very same question yesterday.

Mr. HATCH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. I intend to only use 30 seconds. For the benefit of my colleagues who may not have understood this issue yesterday and who voted to table, and for those who voted with me, the amendment that we filed here this morning is exactly the same as the one yesterday. The added language does not add or detract from the amendment one bit, but it just does make it clear that neither the Senator from Ohio nor myself want to change current law.

Either way, my amendment will prevent the effects of this bill or the language of this bill from changing current law and granting an unfair advantage, which is the point I made yesterday and the point I am reiterating today, and that is an important point. I hope all our colleagues will vote for this amendment.

With that, I am prepared to yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Utah has yielded back the remainder of his time.

The Senator from Ohio.

Mr. METZENBAUM. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. No further time remaining, the yeas and nays have been ordered. The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from Alabama [Mr. BUMPERS], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], the Senator from North Carolina [Mr. STANFORD], and the Senator from Tennessee [Mr. SASSER] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS], the Senator from Alaska [Mr. STEVENS], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—91

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Symms
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—9

Biden
Bumpers
Cranston
Dodd
Helms
Sanford
Sasser
Stevens
Wallop

So the amendment (No. 2439) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agree to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I realize we have to go——

The PRESIDING OFFICER. If the Senator will suspend, the Senate is not in order. Will Senators take their seats and clear the well?

The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given just 1 minute to make a short comment about this amendment.

The PRESIDING OFFICER. If the Senator will suspend, there is so much noise.

The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given 1 minute just to make some comments about this amendment before we go into the Quayle amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah is recognized for 1 minute.

Mr. HATCH. Mr. President, yesterday I was accused of engaging in delay tactics, and of trying to obfuscate on this issue. I know we get caught up in the heat of debate sometimes and sometimes we say things we should not. And certainly I have done that myself, and I have always apologized. But as I said yesterday, this bill is unclear. It is also very complex. It is not just a simple itty-bitty plant closing 60-day notice bill. It is unclear in several key areas. I am simply trying to clarify the legislation before us. I have always thought that it is a sorry position to take, that we are simply going to pass laws that we do not understand, then leave it up to the courts to interpret those laws. Of course, I think that is the wrong way to go.

The vote we just had is rejection of legislating in the dark or legislating merely by title. I think it is a recognition that my amendment yesterday was legitimate and necessary.

I just wanted to make that point because I have some other amendments I want to bring up. I will bring them up with expedition now that the Kassebaum amendment has been disposed of. I will try to move ahead with dispatch. There are others in the Chamber who want to bring up amendments and we will certainly try to accommodate them.

That is all I care to say at this time. I thank the Chair.

The PRESIDING OFFICER. Who yields time? There is 40 minutes of debate.

AMENDMENT NO. 2438

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I yield myself such time as I may consume.

Mr. President, this amendment is a very straightforward amendment. Let me read it to the Senate to remind my colleagues of the amendment that I introduced last night. It says no notice under this act shall be required if the closing or mass layoff is due directly or indirectly to a strike. That is the end of the amendment.

The last amendment we just adopted, the Hatch amendment, dealt with notice that would be given to the strikers themselves once economic workers replace those strikers. This amendment goes to any plants that may be closed or layoffs because of a strike. For example, if an employer is being struck by a certain bargaining unit, and that employer because of that strike would have to lay off or close a plant because of that strike, he or she should not be required to give that notice because of the strike. That is a clear-cut example of what this amendment does. I believe that the importance of this amendment goes to what we have been hearing all week on why we need to have notification.

The argument goes, and I subscribe to this argument, that the reason we need notification is so we can get the workers involved in a training or education program when they do not have a chance of coming back to their place of employment. However, if someone is on strike or if somebody is laid off because of a strike or a plant would be closed because of a strike, once that strike is concluded then they have every expectation to come back to work. So they are not going to go out and seek education, and training. They are going to seek a resolution of that strike. By having a resolution of that strike, Mr. President, they will have their job back.

So you can see the argument for notice to those that would be laid off because of a strike. They do not need to have the education training because once the strike is resolved they will be coming back to their place of employment.

Mr. President, the exemption in the legislation that is found on page 8 of the bill that is before us exempts a closing or a layoff that constitutes a strike. Obviously, if you have a strike going on and other people may have to be laid off because of that strike, the people that are laid off do not want to be on strike. So that does not constitute a strike because those people are willing to come to work. They want to come to work.

Another question one has is when a craft would strike an employer, and other employees honor the picket line, is the honoring of a picket line constituting a strike? I doubt it. Would notice have to be required? I think there is ambiguity.

So what this amendment does is very delicately say that if in fact a plant closing or mass layoff is due to a strike, directly or indirectly, no notice is required. Some may argue and say well, this is already covered in the bill; that if it is an unforeseeable circumstance then the employer does not have to give notice.

Let us face it, Mr. President. When you are sitting down and you are bargaining and you know you have reached some impasses, an employer can reasonably anticipate when he is going to have a strike, or should have knowledge, particularly when you get into a court, that he should have known that he was going to have a strike.

If he should have known he was going to have a strike, he should have known so these people would have to be laid off. But I think that is an unfair requirement. Furthermore, Mr. President, if we require the employer to give the notice to those people that might be laid off because of a strike, what you are in essence implying specifically is saying that strike is going to last more than 6 months because under this legislation, if the strike or the layoff would be under 6 months in duration, no notice is required.

So by forcing the employer to give that notice, we would force the employer to say that strike is going to last more than 6 months.

I do not believe that Congress wants to involve itself in those untested waters, which are very sensitive, in the collective-bargaining process.

So what we do by this amendment is to restore, once and for all, very clearly, unambiguous language, that if the plant closing or layoff is caused by a strike, the notice requirement would be waived.

Once an employer gets into the strike, he does not know how long it is going to last. He is hoping for a resolution. But there may be times when he has to lay off people because of that strike.

Furthermore, I reiterate that the main message and the principle attached to the plant closing legislation is that we want to get the workers involved in a training and education program. I concur with that principle. It is a laudable objective. But if people are on strike or laid off because of a strike, they have every reason to believe the strike is going to be resolved, and when it is resolved, they will go back to work. In that case, they do not need the retraining and education.

This amendment, on its face, is self-explanatory, and I hope we will have a good, positive vote for the amendment. If the motion to table is offered, I hope the vote will be in opposition.

I reserve the remainder of my time.

Mr. METZENBAUM. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 10 minutes.

Mr. METZENBAUM. Mr. President, the Senator from Indiana has criticized this bill because of language regarding strikes in section 4(2).

He suggests that instead of exempting only plant closings and mass layoffs that "constitute a strike," we also should exempt closings or layoffs that are "due, directly or indirectly, to a strike."

Although the difference in words may seem small, it is significant. The Quayle amendment is ill-advised, and should be rejected.

First of all, the bill already exempts from notice workers who themselves are on strike.

Under the bill as written, if the workers in a plant go on strike, then the shutdown constitutes a strike and the employer is exempted from the notice requirement. That is section 4(2).

We have thus written into the bill that strikers themselves do not have to receive 60 days notice when their strike is what shuts down the plant. There is no effort in this bill to provide for notice when the plant is on strike.

In addition, under the modified Hatch amendment, which we have now accepted, an economic striker also is not entitled to notice if he or she is permanently replaced under the National Labor Relations Act. We have covered that point. We have clarified the original Hatch amendment.

Those two provisions fully and fairly address the notice issue with respect to strikers.

The Quayle amendment raises very different issues.

The Quayle amendment would exempt from notice thousands of workers who are not on strike and who have nothing to do with the strike.

That is wholly unnecessary. As a factual matter, management typically can make alternative arrangements well before a strike affects workers at other locations.

In most instances, an employer at a facility that is not on strike can give 60 days notice to its employees.

But what if they can not?

That is why we have an exception for business circumstances that are not reasonably foreseeable. A strike that is sudden and unexpected may well qualify as unforeseeable under our bill.

Unfortunately, the Quayle amendment ignores that exception. It assumes that notice need not be given to nonstriking employees even when it is known months in advance that the employees might lose their jobs due to a strike 200 or 2,000 miles away.

The Quayle amendment assumes that any effect of any strike, no matter how remote in time or distant in place, is enough to foreclose notice.

The Quayle amendment, frankly, goes too far. Let me give two examples to illustrate my point:

Assume an employer with 10 plants experiences a strike at its plant in New York. Eight months after the strike begins, the employer decides to shut down its plant in California. Under the Quayle amendment, employees who have nothing to do with the strike lose their jobs without notice.

As a second example, assume employees at a car manufacturing plant go on strike. Four months later, the employer that supplies batteries to that car plant shuts down. Once again, under the Quayle amendment, employees who have nothing to do with the strike would lose their jobs without notice. These employees could be thousands of miles away from the striking plant. They are employed by a different employer. They probably do not even know that a strike has taken place. All they know is that they have lost their jobs, their worlds have been turned upside down, and now Senator QUAYLE says that they are not entitled to notice.

Frankly, I do not understand why my colleague from Indiana would be so unfair and, I think, inhumane to those employees who are totally unrelated to the strike—why he would want to deny them the right to have notice, as all other employees are entitled, when there is a layoff.

In both examples, the employer knew months ahead of time that a strike somewhere else might affect its own employees. Notice easily could have been given. Under our bill, notice is due those nonstriking employees just as it would be due to any other employees. That is the right and decent thing to do.

To do anything else would be unfair; it would be inhumane.

Because it is unwise as well as unnecessary, I urge rejection of the amendment.

When the time has expired, I will offer a motion to table, although if the Senator from Indiana is prepared to yield back his time, I would be prepared to yield back my time and offer the motion earlier than the original allotted time.

I ask the Senator from Indiana whether he feels that he would be prepared to yield back his time and whether he would be ready for a motion to table at this point, or whether he desires to debate it further.

Mr. QUAYLE. I intend to respond to the statement by the Senator from Ohio.

We also have a couple of Senators who are at the White House, so I think we will go the full 40 minutes.

Mr. METZENBAUM. I appreciate the point the Senator from Indiana makes. Certainly, he is entitled to insist upon our going the full 40 minutes.

The PRESIDING OFFICER. Who yields time?

If neither side yields time, the time will be charged equally against both sides.

The Senator from Indiana.

Mr. QUAYLE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Indiana has 11½ minutes remaining.

Mr. QUAYLE. Mr. President, I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, let me make three points in response to my friend from Ohio.

One, he says that employers should have an understanding that these strikes are going to occur, that this is not sudden and unexpected and if it is sudden and unexpected then in fact it would be covered by this legislation, that they would be exempted by this legislation if in fact it is sudden and unexpected.

What if it is not sudden and unexpected? And that is clearly the case in most of these strike situations. You never know exactly when you are going to reach that impasse that is going to precipitate a strike. You bargain up to the 11th hour. You extend contracts. You keep going. Therefore, you may come to that impasse, and it could be sudden and unexpected, but that is for a court to make a determination.

Think of the lawsuits that would be involved determining whether it is sudden and unexpected. So the present exemption is just simply inadequate.

Second, let me give an example of what we are talking about in terms that perhaps my friend from Ohio would appreciate. Let us take a battery plant in the State of Ohio that is a supplier to the auto industry. If the auto industry is on strike, that battery plant which employs a couple hundred people has to make a determination under this legislation on giving notice on how long that strike is going to last because if, in fact, that strike is going to last beyond 6 months, say perhaps a year, and he is anticipating layoffs because of that strike, then he has to give notice under the Metzenbaum bill.

But what we are doing by this legislation is forcing that small businessman to make the decision on how long the strike is going to go in the auto industry. I think that is an unreasonable burden to place on him, and I am not sure we really want to do that. I am not sure that the Senator from Ohio really wants to have that kind of situation occur where an employer has to make a determination on how long that strike is going to last because that battery employer in Ohio does not know how long Detroit is going to negotiate on this particular contract. He simply does not know.

And in that kind of situation, since he does not know how long it is going to be and if, in fact, he has to have layoffs because of that strike, the 60-day advance notice places a very difficult burden on that employer.

Finally, I want to repeat what I think is the guiding principle of this legislation, and that is that the reason we want to have notification is to establish the retraining and education so someone will be equipped with the skill to get a job. Obviously, if, in fact, you have a strike or there is a layoff because of a strike, those people think they are going to get called back and have every reason to believe that once the strike is resolved they will be called back so they are not going to go out and look for retraining. They are going to wait and hope for the best, a resolution of the strike.

So, Mr. President, this is a very straightforward amendment that if, in fact, in relationship to a strike, if a strike causes those layoffs, to give 60 days' notice when the employer is thinking about calling them back is placing a tremendous burden and, furthermore, you are really putting the employer in what I think is somewhat of an irresponsible position because you are forcing that employer to predict the length of a strike. If that employer thinks he is going to go ahead and have layoffs and call them back within 6 months that is OK to do. The Senator from Ohio has no problem with that. As a matter of fact, this legislation allows for those, I suppose, inhumane layoffs as long as they do not go up to 6 months. If they go 6 months and 1 day that is when the legislation triggers in.

How is the employer to predict the length of a strike? He cannot. And particularly how can an employer predict the length of a strike that does not even happen at his plant if he is the supplier? He cannot predict the length of a strike.

But what we are saying is it is OK under the Metzenbaum bill to lay people off without notice as long as the strike does not go beyond 6 months.

How in the world is an employer unrelated to a strike, a supplier, to make that determination? I do not believe that he can. And I believe that is a tremendous burden placed upon him.

The PRESIDING OFFICER (Mr. DIXON). The Senator's time has expired.

Who yields time? If neither side yields time, time will run against both sides on an equal basis.

Mr. METZENBAUM. Mr. President, I yield myself such time as I may need.

Mr. President, addressing myself further to the Quayle amendment, if a strike is truly sudden and unanticipated and the employer of nonstriking employees could not foresee its effect, then the bill's "unforeseeable circumstances" exception covers that situation. So that what we are talking about is not an unforeseeable circumstance, we are talking about foreseeable circumstances and now the Senator from Indiana would like to provide an exception.

The Quayle amendment makes the strike exception a gaping loophole for nonstruck employers. The Quayle amendment deals both with employees who have gone on strike and those indirectly affected. The strikes may well be unforeseeable, but they are no different from other economic events in that respect.

I want to make a general point about the amendments which we have seen coming from the other side. The opponents have been straining, literally straining, to fabricate hypothetical problems or questions with this legislation.

The legislation is simple and direct. We do not have any games to play. We are just trying to say, "Look, is it not right, when an employee is laid off from a plant that closes, an employee who has given of himself or herself to that plant, is it not the right thing to do to see that that employee gets some notice that the plant is going to close down?

I had said earlier on this floor that a General Motors top executive had indicated that when they know that there is going to be a layoff or the closing of a plant, if they have additional time, they are able to work with employees to retrain them, relocate them, counsel with them, to help them get back into the job stream.

In one sense, our entire bill could be considered a jobs bill, a bill to help employees who lose their jobs by reason of a plant closing or a mass layoff to find new employment.

But it is interesting to note that nearly every one of the objections that have been raised so far focuses on an exception added to the legislation in order to accommodate business. I have read in some of the news media this morning that business recognizes that this legislation has the overwhelming support of the Senate and the House. I think it is high time that business, instead of trying to craft special kinds of exemptions or make up horror stories, come on board and support the legislation.

The faltering company exception, the purchase and sale exception, the transfer exception, and the unforeseeable circumstances exception were all added to this legislation at the request of business or on their behalf. We wanted to be reasonable and so we put in those exceptions. Would those who have criticized those provisions rather see the exceptions dropped altogether? I think not.

Why have some of the Senators making these criticisms included provisions identical to those in S. 2527 in their substitutes? They recognize the validity of the exceptions that have already been provided.

Of course, there can be questions raised about the application of particular language in particular circumstances. This is always the case with legislative language. You can always figure out some highfalutin, fandangled exception, some kind of special horror story and say this might happen or that might happen. But my own belief is that if businesses try in good faith to comply with the notice requirement, they will find that all these hypothetical nightmares will never come to pass.

The Quayle exception, in my opinion, needlessly penalizes nonstriking employees. And I want to emphasize that. The Quayle exception needlessly penalizes nonstriking employees, employees who are not on strike, have no intention of going on strike, are not a party to a strike, are not a party to the labor dispute, but who, indirectly, are affected by the strike, and the Quayle amendment would say they are not entitled to notice.

I think the amendment is too broad. I think that it is appropriate that we reject it.

As I said previously, in a few minutes I will offer—I guess the time has arrived. Has the hour of 11:22 arrived, and is that the time that was agreed upon for a motion to table?

The PRESIDING OFFICER. The Senator from Indiana still has 1 minute and 1 second, and the Senator from Ohio has 1 minute and 30 seconds.

Mr. METZENBAUM. Is the Senator from Indiana prepared to yield back his time? I am prepared to yield back my time if he is.

Mr. QUAYLE. I wonder if the Senator might just allow me to check to see where one Senator is. He was left with the impression that the full 40 minutes was going to run. I think the Senator knows who I am talking about and what the circumstances are. I could make a quick check and see if he is on his way back.

Mr. METZENBAUM. Why do we not let the time run out?

The PRESIDING OFFICER. May I say to the Senator from Indiana that there is only 1 minute remaining on his side anyway.

Mr. QUAYLE. Do I have a minute remaining?

The PRESIDING OFFICER. You have 52 seconds.

Mr. QUAYLE. Let me take my 52 seconds.

One example is when you have this employer that is not directly related to the strike. Again, I will use the battery company in Ohio that is a supplier to the auto industry. If, in fact, that battery company has to predict the duration of that strike in Detroit, you are putting a tremendous burden on that employer; as a matter of fact, a very irresponsible burden on that employer.

Furthermore, I would say to my friend from Ohio that I do not believe—maybe he would, maybe he would stand up and argue that strikers or people that are laid off because of the strike ought to go get education and training. If he wants to make that argument, I would disagree with it, because I believe people on strike and those that would be laid off because of the strike have a full expectation of going back to work when that strike is resolved.

I think this amendment is a very simple, direct amendment, and I hope it is overwhelmingly adopted.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I move to lay the amendment on the table.

Mr. QUAYLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion of the Senator from Ohio to table the amendment of the Senator from Indiana.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON] is necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—60

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Danforth
Daschle
Dodd
Durenberger
Exon
Ford
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Stennis
Weicker
Wirth

NAYS—37

Armstrong
Bond
Boschwitz
Cochran
D'Amato
DeConcini
Dixon
Dole
Domenici
Evans
Fowler
Garn
Gramm
Grassley
Hatch
Hecht
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Pressler
Quayle
Rudman
Simpson
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—3

Biden
Cranston
Helms

So the motion to lay on the table amendment No. 2438 was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2441

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2441.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 4, strike out all of lines 15 through 25, and insert in lieu thereof the following:
>
> "(1) upon the sale of part or all of an employer's business, unless after the effective date of the sale, there is a plant closing or mass layoff as those terms are defined in section 2(2) and 2(3) of this Act, provided that whenever such a plant closing or mass layoff occurs after the effective date of the sale, the employer purchasing the business shall be liable in accordance with the provisions of section 5 of the Act if notice is not given in accordance with section 3 of this Act."
>
> On page 5, line 1, insert after "(2)" the word "if".

Mr. HATCH. Mr. President, I devoted a considerable portion of my statement yesterday discussing the ambiguities in the portion of the bill which attempts to deal with the sale or purchase of business. I pointed out several problems with that provision, including, No. 1, that there is no clear definition of liability.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. There is considerable discussion on the floor. Will the Senate be in order, so that the distinguished Senator from Utah may be heard on his amendment?

Mr. HATCH. Mr. President, as I said, yesterday I raised a number of ambiguities in the current bill—ambiguities that I think are very important to resolve. I pointed out several problems with the provisions that attempt to deal with the sale or purchase of a business. I will list a couple.

No. 1, there is no clear definition of liability.

No. 2, there is ambiguity regarding the purchaser's obligation for any individual's employment under the purchase agreement.

If you read the section, subsection (b) on page 4, entitled "Exclusions From Definition of Employment Loss," it goes on to say:

> Notwithstanding subsection (a)(6), an employee may not be considered to have experienced an employment loss if—
>
> (1) the closing or layoff is the result of the sale of part or all of an employer's business and—
>
> (A) the purchaser agrees in writing, as part of the purchase agreement, to offer employment to the employee with no more than a 6-month break in employment and the agreement specifies that the employee is a third-party beneficiary; or
>
> (B) the purchaser, within 30 days after the purchase, offers employment to the employee with no more than a 6-month break in employment; or
>
> (2) the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—
>
> (A) the employer offers to transfer the employee to a different site of employment within a reasponable commuting distance with no more than a 6-month break in employment; or
>
> (B) the employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

That is the language of the bill that I think is ambiguous.

As I say, there is no clear definition of liability of the employer, so the employer will not know what to do under these circumstances and will be totally dependent upon whatever the courts say that employer must do, and that includes attorneys' fees and all kinds of court costs and other costs that the employer should not be subjected to because we do not have the time to clarify the ambiguities and do what should be done.

No. 2, the provision regarding the purchaser's obligation for any individual's continued employment under the purchase agreement is ambiguous. My amendment clarifies these points, I think. First, it clearly states that only a plant closing or a mass layoff as defined by this act, after the effective date of sale, would trigger the notice requirements. So it makes that clear. That is what I think the authors of the bill wanted to do to begin with, but they have not done so.

Second, it assigns liability for providing 60 days' notice of a closing or a layoff after the effective date of sale to the purchaser. It basically defines that—an assignment liability.

So, if Jones buys out Smith effective July 1, any reduction in work force constitutes a plant closing or mass layoff under this bill. Any reduction that Jones initiates after that date is subject to the notice requirements.

To my way of thinking, this amendment greatly simplifies this exemption, to the advantage of the employers and employees.

With regard to sale and purchase, this exemption could have a major impact on the purchase or sale of any business. It may also lead to the failure to purchase or sell any business. Thus, it may lead to the demise of business. It is another illustration of how this type of overintrusive Federal Government legislation could stifle opportunity in our society.

I think it is a good amendment. It certainly clarifies ambiguous parts of the bill, and I hope my colleagues will accept this amendment.

Mr. SIMON. Mr. President, I would hope that my colleague would go on with the unanimous-consent agreement that we set it aside temporarily so that we can see if something can be worked out on this. We will be recessing shortly for the caucus, and the staff thinks there may be at least one problem with it that can be worked out with the Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that this amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I am happy to do that.

Mr. SIMON. I thank the Senator from Utah.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

Mr. HATCH. Mr. President, you will recall we ran a quorum call for some time so that the majority can look over the language of our amendment and see if there is some way that they can accept this amendment, which is a major change again in this bill, I think a clarifying change, that gets rid of ambiguity and I think makes the bill a far superior bill, at least as far as what they are trying to do, and it certainly would resolve a lot of difficulties.

While they are doing that, I think this is an appropriate time for me to just stand up and mention something that has happened today that is very, very important.

INTERNATIONAL TEAMSTERS UNION

Mr. HATCH. As I understand it, at 11:15 today in New York City the U.S. attorney in that area went to the Federal Court for an order for free election with regard to the International Teamsters Union in this country. It is a motion for a preliminary ruling, as I understand it, that would bar up to 12 Cosa Nostra members from participating in the hierarchy of the leadership of the Teamsters Union in this country. That is No. 1.

No. 2, it is an order, as I understand it, that would request that the court take control of the International Teamsters Union.

That is a pretty important request by the U.S. attorney up there. And I have to commend his diligence in trying to resolve the Cosa Nostra problems, underworld problems, criminal problems, and the diligence with which he has pursued the criminal elements as he has served there in New York. I have great respect for him.

But also at the same time I have to decry any representative of the Justice Department attempting to trustee the whole international union.

I think it is very appropriate that I make these remarks right in the middle of plant closing discussion because it happens to involve a very, very important labor law and a set of changes that I think are going to be detrimental to our country and to show that there is a bipartisan spirit here.

I have to say that I am highly critical of this Justice Department decision to go forward and to try to trusteeship a complete union in this country. I would be very much in favor under the RICO statutes or otherwise of trusteeing individual locals where it is clear that they are mob controlled or there are La Cosa Nostra or Mafia elements in control, but I have great difficulties—and I just want to make the record clear—great difficulties in trusteeshipping a complete international union. I think it is a terrible precedent to start. I think it is something that needs to be decried in this country and I do not like to see it happen.

Let us make another thing clear: There may be those within the Teamsters who will take solace in some of the words that I am saying here today, some who desire to be leaders of that union.

Well, I want to make it clear that I am not supporting anybody in that union, although I have to say this: That Mr. Presser, regardless of what anybody else may think of him, has lived up to every promise that he made to me when I was chairman of the Labor and Human Resources Committee that he would try to clean up that union and try to do what that union needed to have done.

I have to say that I have a lot of respect for him under the circumstances. I do not know about all the other accusations, but I have a great deal of respect for him. But my comments should be deemed in no way support for anyone else.

Mr. SIMON. Will my colleague yield?

Mr. HATCH. I am delighted to yield.

Mr. SIMON. Let me just concur in saying I think we have to be very, very careful of the courts or the Justice Department or anyone else taking over a union. If someone is guilty of violation of the law, go after him and go after him vigorously. You and I agree on that. But I think we are getting on very, very thin ice, whether it is a labor union or corporation or any other entity within our free system, for the Justice Department or the courts to move in and take over.

I just want to concur with the comments of my colleague.

Mr. HATCH. Well, I appreciate those remarks. As I recall, in the past there were some attempts to do this before. They did not work then and they are not going to work now. If there are individual union leaders who are corrupt or connected with the La Cosa Nostra or, to use the common term, Mafia, then this Justice Department and our Government should come down on them with all dispatch and with all diligence. There is no question about it. But they should not try to trustee or put into trusteeship a complete union. That is not only a bad precedent, it is one that I think is a disastrous precedent to establish. Sometimes I think in the zeal to do what is right, some wrong things may very well be done.

Again, I want to reiterate that my statements, although I have said that I think Mr. Presser, for all of his problems in Cleveland, has lived up, as far as he is concerned, he has lived up to the promises that he made to me that he would do what he could to get more democracy into that union, to try to clean it up, and to try to do the things that would bring that union into the mainstream in every sense of that term of good labor-management relations in this country. And, of course, the merger with the AFL-CIO was certainly a very advantageous thing for that union, and I think for the AFL-CIO. I want to commend Mr. Presser for that.

I am not passing judgment on his difficulties in the lawsuits or the litigation in Cleveland. I wish him well.

He is in the hospital suffering greatly from cancer; or at least he is suffering from cancer, I do not know that he is in the hospital. But I have a lot of respect for him or at least that aspect that I am very familiar with.

I do not know whether any of the current leaders or trustees of the International Teamsters Union are corrupt or connected with the La Cosa Nostra. If they are, then they ought to be indicted if it can be proven. If they have a case, they ought to indict them individually and they ought to go after them with everything they can.

But the trustee of whole unions, I think, is just a very, very bad precedent and I have to decry it here today. If there are 12 of them that have La Cosa Nostra links, then, fine, by all means go after them individually or collectively as a group of people. But do not have the Federal Government come in to try and run a union. The Federal Government cannot run a union and I might as well say it because it is the truth, neither can a court in this country run a union.

Unions are very complex, very, very important entities in this society. They rise up for the purpose of protecting employees. They are very complex in all of the aspects of union organization and how they go about protecting employees, and in this case the members of the Teamsters Union. Frankly, I do not think any court of this land is capable of being a trustee over the Teamsters Union, nor do I think any member of the Justice Department is capable of doing that, I think the members of that union should have the democratic say as to who governs that union.

So I do not want this misconstrued. Other than my support for Mr. Presser and the things that he has done that are right, I do not want anybody to misconstrue what I have said here about any acting leaders in the Teamsters Union or anybody who might succeed Mr. Presser. The fact of the matter is that is a decision and a matter that has to be resolved by the members of the Teamsters Union themselves, and I hope that they will be able to resolve these problems and do it in a democratic and free and open way, which is the way the union movement really ought to be run.

So, on the one hand, while I commend those in the Justice Department and the U.S. attorney of New York for trying to stamp out crime; white collar crime and labor crime. At that, I have to condemn, not commend, but condemn any activity that would try to take the international union out of the hands of the rank and file members of that union and inject Government into control of the union. I think that is wrong, and I think everybody knows where I stand on these issues. I just would feel bad if I did not stand up and say that at this time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2469

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Parliamentary inquiry, Mr. President I understand we have temporarily set the other amendment aside.

The PRESIDING OFFICER. That is correct.

Mr. HATCH. So the bill is open for amendment?

The PRESIDING OFFICER. That is correct.

Mr. HATCH. I send an amendment to the desk and ask for its immediate consideration. I ask that a copy be made of that amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2469.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. KENNEDY. I object, Mr. President, on the basis that I have not received a copy of the amendment and no amendment has been made available to the floor manager of the bill. So I will have to insist that the amendment be read.

The PRESIDING OFFICER. Objection is heard.

The clerk will read the amendment.

The assistant legislative clerk read as follows:

On page 12, after line 8, insert the following: "Except that the mailing of notice to an employee's last known address or inclusion of notice in the employee's paycheck will constitute fulfillment of the employer's obligations to give notice under this Act.".

Mr. HATCH. Mr. President, one vague area of this entire notice requirement is to define what "sufficient notice" will include. The courts have grappled with the concept of sufficiency of notice in many ways in the past. I believe that we should provide employers a more exact description of what will suffice here.

Therefore, Mr. President, I have offered an amendment to set a reasonable basis standard for ensuring sufficient written notice as offered to affected employees.

Mr. President, there may be occasions when all employees are not at work to receive written notice. In fact, they may be on vacation, they may be on maternity leave, they may be on sick leave. I want to ensure that no court will expand the burden of notice to require that such employees must receive notice at work or that the employer must give written notice in person.

Therefore, Mr. President, I want to clarify that in situations where written notice cannot be served at the worksite, that the notice requirement will be met if the employer mails written notice to the last known address of such employee or includes it in or on the employee's paycheck. Of course, this standard would only be applicable if there were no union representation. Then, as I understand S. 2527, sufficiency of notice is completed if the representative of the union is given written notice.

So I think this would clarify what is a glaring ambiguity in the bill regarding the entire notice requirement.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. I yield the floor.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, this amendment applies to the procedure of notification to workers. Included in it is either a mailing to the last known address of the employee or inclusion in the paycheck.

At first glance, I do not believe there is going to be any resistance to this amendment. I do think that the wording might be adjusted, and I hope we might be able to temporarily set the amendment aside and try to work out particular language. If we are able to work that out—and I do not see it should be much of a problem—then I would urge my colleagues to accept the amendment. So if that is agreeable to the offeror of the amendment, I make that request.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Could I add to that request, since I have asked for the yeas and nays and since the yeas and nays have been ordered, if we agree on the amendment, or any modification, that I may be permitted to modify that amendment prior to any vote on the amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, the amendment is temporarily set aside with the understanding as set forth by the Senator from Utah.

Mr. HATCH. Mr. President, we have other amendments, but it is apparent that we should not have any votes before the caucuses at 12:45. As I understand it then, we have about 11 minutes before Democrats and Republicans will meet in their weekly meetings. I think it is fruitless to bring up any other amendments at this time, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2 o'clock p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 12:38 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SANFORD).

The PRESIDING OFFICER. As a Senator from North Carolina I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, it is my understanding that we are still trying to work out the language on these two prior amendments that might be modified so as to be acceptable to the majority.

It is my understanding that Senator DOMENICI would like to present an amendment at this time which may require a rollcall vote. Both of mine will require rollcall votes one way or the other.

I ask unanimous consent that my second amendment as well as the first amendment be temporarily set aside to be brought up as the next pending business immediately following the Domenici amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2475

(Purpose: To provide a substitute amendment)

Mr. DOMENICI. Mr. President, I send an amendment on the pending measure to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 2475.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Worker Adjustment and Retraining Notification Act".

SEC. 2. NOTICE REQUIRED BEFORE PLANT CLOSINGS AND MASS LAYOFFS.

(a) IN GENERAL.—An employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer serves written notice of a proposal to issue such an order—

(1) to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) to the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.)) and the chief elected official of the unit of local government within which such closing or layoff is to occur.

(b) MULTIPLE UNITS OF LOCAL GOVERNMENT.—If there is more than one such unit, the unit of local government that the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

(c) REDUCTION OF NOTIFICATION PERIOD.—

(1) CAPITAL OR BUSINESS.—An employer may order the shutdown of a single site of employment before the conclusion of the 60-day period if as of the time that notice would have been required the employer was actively seeking capital or business that, if obtained, would have enabled the employer to avoid or postpone indefinitely the shutdown and the employer reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.

(2) BUSINESS CIRCUMSTANCES.—An employer may order a plant closing or mass layoff before the conclusion of the 60-day period if the closing or mass layoff is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

(3) NOTICE.—An employer relying on this subsection shall give as much notice as is practicable and at that time shall give a brief statement of the basis for reducing the notification period.

(d) EXTENSION OF LAYOFF PERIOD.—A layoff of more than 6 months that, at its outset, was announced to be a layoff of 6 months or less, shall be treated as an employment loss under this Act unless—

(1) the extension beyond 6 months is caused by business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and

(2) notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required.

(e) DETERMINATIONS WITH RESPECT TO EMPLOYMENT LOSS.—For purposes of this section, in determining whether a plant closing or mass layoff has occurred or will occur, employment losses for 2 or more groups at a single site of employment, each of which is less than the minimum number of employees specified in section 9(a)(8) but which in the aggregate exceed that minimum number, and which occur within any 90-day period shall be considered to be a plant closing or mass layoff unless the employer demonstrates that the employment losses are the result of separate and distinct actions and causes and are not an attempt by the employer to evade the requirements of this Act.

SEC. 3. EXEMPTIONS.

This Act shall not apply to a plant closing or mass layoff if—

(1) the closing is of a temporary facility or the closing is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking; or

(2) the closing constitutes a strike or constitutes a lockout not intended to evade the requirements of this Act.

SEC. 4. ADMINISTRATION AND ENFORCEMENT OF REQUIREMENTS.

(a) LIABILITY TO AGGRIEVED EMPLOYEES.—

(1) IN GENERAL.—Any employer who orders a plant closing or mass layoff in violation of section 2 shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing for—

(A) back pay for each day of violation at a rate of compensation not less than the higher of—

(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) the final regular rate received by such employee; and

(B) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss that would have been covered under an employee benefit plan if the employment loss had not occurred.

(2) PERIOD OF LIABILITY.—Such liability shall be calculated for the period of the violation, up to a maximum of 60 days, but in no event for more than one-half the number of days the employee was employed by the employer.

(3) REDUCTION OF LIABILITY.—The amount for which an employer is liable under this subsection shall be reduced by—

(A) any wages paid by the employer to the employee for the period of the violation;

(B) any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

(C) any payment by the employer to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation.

(4) FURTHER REDUCTION FOR DEFINED BENEFIT PLANS.—In addition, any liability incurred under this subsection with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

(b) LIABILITY TO UNITS OF LOCAL GOVERNMENT.—Any employer who violates section 2 with respect to a unit of local government shall be subject to a civil penalty of not more than $500 for each day of such violation, except that such penalty shall not apply if the employer pays to each aggrieved employee the amount for which the employer is liable to that employee within 3 weeks from the date the employer orders the shutdown or layoff.

(c) Good Faith Violations.—If an employer that has violated this Act proves to the satisfaction of the court that the act or omission that violated this Act was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this Act, the court may, in its discretion, reduce the amount of the liability or penalty provided for in this section.

(d) Jurisdiction.—A person seeking to enforce such liability, including a representative of employees or a unit of local government aggrieved under subsection (a) or (b), may sue either for such person or for other persons similarly situated, or both, in any district court of the United States for any district in which the violation is alleged to have occurred, or in which the employer transacts business.

(e) Attorneys' Fees.—In any such suit, the court may, in addition to any judgment awarded the plaintiff or plaintiffs, allow a reasonable attorneys' fee to be paid by the defendant, together with the costs of the action.

(f) Exclusivity of Remedies.—The remedies provided for in this section shall be the exclusive remedies for any violation of this Act.

SEC. 5. PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.

The rights and remedies provided to employees by this Act are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of the employees, and are not intended to alter or affect such rights and remedies, except that the period of notification required by this Act shall run concurrently with any period of notification required by contract or by any other statute.

SEC. 6. PROCEDURES ENCOURAGED WHERE NOT REQUIRED.

It is the sense of Congress that an employer who is not required to comply with the notice requirements of section 2 should, to the extent possible, provide notice to its employees about a proposal to close a plant or permanently reduce its workforce.

SEC. 7. AUTHORITY TO PRESCRIBE REGULATIONS.

The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this Act. Such regulations shall, at a minimum, include interpretative regulations describing the methods by which employers may provide for appropriate service of notice as required by this Act.

SEC. 8. EFFECT ON OTHER LAWS.

The giving of notice pursuant to this Act, if done in good faith compliance with this Act, shall not constitute a violation of the National Labor Relations Act (29 U.S.C. 151 et seq.) or the Railway Labor Act (45 U.S.C. 151 et seq.).

SEC. 9. DEFINITIONS; EXCLUSIONS FROM DEFINITION OF LOSS OF EMPLOYMENT.

(a) Definitions.—As used in this Act:

(1) Actual change of control.—

(A) In general.—Except as provided in subparagraph (B), the term "actual change of control" means, with respect to an employer, a contest for the control of the employer that results in—

(i) any person becoming the beneficial owner of 50 percent or more of the voting securities of the employer;

(ii) any person acquiring, in one or more transactions, assets or earning power aggregating 50 percent or more of the assets or earning power of the employer; or

(iii) individuals who constitute the continuing directors of the employer ceasing for any reason to constitute at least a majority of the board of directors or other governing body of the employer.

(B) No change of control with approval.—Except as provided in subparagraph (C), no change of control shall be considered to have occurred under subparagraph (A) if an action referred to in subparagraph (A) has been approved by a majority of the continuing directors.

(C) Change of control regardless of approval.—A change of control shall be considered to have occurred as a result of an action referred to in subparagraph (A), irrespective of the approval of the action by a majority of the continuing directors, if—

(i) the aggregate consideration paid or given by such person in any transaction described in subparagraph (A) is at least 150 percent of the aggregate book value (determined in accordance with generally accepted accounting principles) of the voting securities, assets, or earning power acquired by such person; or

(ii) at any time during the 1-year period commencing on the date of such action, the employer's aggregate indebtedness exceeds its net worth by a ratio of more than three to one.

(2) Affiliate and associate.—The term "affiliate and associate" shall have the respective meanings set forth in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) as in effect on June 1, 1988.

(3) Affected employee.—The term "affected employee" means an employee who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by the employer of the employee.

(4) Aggrieved employee.—The term, "aggrieved employee" means an employee who—

(A) has worked for the employer ordering the plant closing or mass layoff; and

(B) as a result of the failure by the employer to comply with section 2, did not receive timely notice either directly or through the representative of the employee as required by section 2.

(5) Attempted change of control.—The term "attempted change of control" means, with respect to an employer, a contest for control of the employer that—

(A) occurred at such time as any person (other than the employer)—

(i) commences or makes an announcement of an intention to commence a tender offer or exchange offer if, on consummation of the offer such person, would be the beneficial owner, directly or indirectly, of 30 percent or more of the voting securities of the employer;

(ii) is or becomes the beneficial owner, directly or indirectly, of 15 percent of the voting securities of the employer (other than acquisitions of 15 percent or more of the voting securities of an employer that are made solely for purposes of investment and that involve no participation in the management of the employer);

(iii) directly or indirectly solicits proxies or written consents with respect to, or becomes a participant in an election contest relating to, the election of directors (or, in the case of unincorporated entities the individuals exercising similar functions) of the employer (except on behalf of the employer or its directors or other governing body); or

(iv) directly or indirectly joins or assists in the formation of any group (within the meaning of section 13(d)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(3)) or otherwise acts to affect control of the employer; and

(B) fails and results in no change of control of the employer.

(6) Continuing director.—The term "continuing director" means a director (or in the case of an unincorporated entity, the individuals exercising similar functions)—

(A) who—

(i) was a member of the board of directors (or other governing body of the employer) on June 1, 1988; or

(ii) became a director (or member of such other governing body) of the employer subsequent to such date; and

(B) whose election, or nomination for election by the employer's stockholders or other equity owners, was duly approved by—

(i) the continuing equity owners; or

(ii) the continuing directors then on the board of directors (or other governing body) of the employer in which such individual is named as nominee for director (or member of such other governing body),

without due objection to such nomination.

(7) Employer.—The term "employer" means—

(A) in the case of a plant closing, any business enterprise that employs—

(i) 100 or more employees, excluding part-time employees; or

(ii) 100 or more employees who in the aggregate work at least 4,000 hours per week (exclusive of hours of overtime); and

(B) in the case of a mass layoff, a targeted employer.

(8) Employment loss.—Subject to subsection (b), the term "employment loss" means—

(A) an employment termination, other than a discharge for cause, voluntary departure, or retirement;

(B) a layoff exceeding 6 months; or

(C) a reduction in hours of work of more than 50 percent during each month of any 6-month period.

(9) Indebtedness.—The term "indebtedness" means all items (except items of capital stock, partners' capital, paid-in-surplus, retained earnings, contingency reserves, reserves for deferred income taxes or other similar items) that in accordance with generally accepted accounting principles would be included in determining total liabilities as shown on the liability side of a balance sheet of such employer as of the date on which such indebtedness is determined.

(10) Mass layoff.—The term "mass layoff" means a reduction in force that—

(A) is not the result of a plant closing; and

(B) results in an employment loss at the single site of employment during any 30-day period for—

(i)(I) at least 33 percent of the employees (excluding any part-time employees); and

(II) at least 50 employees (excluding any part-time employees); or

(ii) at least 100 employees (excluding any part-time employees).

(11) Net worth.—The term "net worth" means all amounts that would, in conformity with generally accepted accounting principles, be included under stockholders' equity or partners' equity on a balance sheet of such employer as of the date on which net worth is determined.

(12) Participant.—The term "participant" shall have the same meaning set forth in Rule 14a-11 of the General Rules and Regulations under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) as in effect on June 1, 1988.

(13) PART-TIME EMPLOYEE.—The term "part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required.

(14) PERSON.—The term "person" shall mean any natural person, corporation, company, partnership, joint venture, association, joint stock company or trust, together with the affiliates and associates of such person.

(15) PLANT CLOSING.—The term "plant closing" means the permanent or temporary shutdown of a single site of employment if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees.

(16) REPRESENTATIVE.—The term "representative" means an exclusive representative of employees within the meaning of section 8(f) or 9(a) of the National Labor Relations Act (29 U.S.C. 158(f) or 159(a)) or section 2 of the Railway Labor Act (45 U.S.C. 152).

(17) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

(18) TARGETED EMPLOYER.—The term "targeted employer" means any business enterprise with respect to which either an attempted change of control or actual change of control has occurred within a period of 18 months prior to the date of a written notice required to be given pursuant to section 2.

(19) VOTING SECURITIES.—The term "voting securities" means all shares, securities, or other interests of the employer entitled to vote in elections of directors (or, in the case of unincorporated entities, the individuals exercising similar functions).

(b) EXCLUSIONS FROM DEFINITION OF EMPLOYMENT LOSS.—Notwithstanding subsection (a)(8), an employee may not be considered to have experienced an employment loss if—

(1) the closing or layoff is the result of the sale of part or all of an employer's business and—

(A) the purchaser agrees in writing, as part of the purchase agreement, to offer employment to the employee with no more than a 6-month break in employment and the agreement specifies that the employee is a third-party beneficiary; or

(B) the purchaser, within 30 days after the purchase, offers employment to the employee with no more than a 6-month break in employment; or

(2) the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—

(A) the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; or

(B) the employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect on the date that is 6 months after the date of enactment of this Act, except that the authority of the Secretary of Labor under section 7 is effective on the date of enactment of this Act.

Mr. DOMENICI. Mr. President, the amendment that I have sent to the desk, which I will henceforth call the Domenici plant layoff amendment, I believe addresses an issue that is at the heart of the plant closures and plant layoff concerns of the American people. I would like to take a few moments to explain it to the U.S. Senate.

Let me first explain what the amendment does with reference to the pending amendment that is currently called the Metzenbaum amendment. As we all know, the essence of that amendment is a 60-day notice for plant closures, and that is defined. And then there is a 60-day notice provision for layoffs, and that is defined.

The Senator from New Mexico is well aware that the distinguished junior Senator from Kansas offered an amendment that would have left intact the 60-day notice of plant closures as defined in the Metzenbaum amendment but would have deleted, for the reasons that she stated and for the reasons that many stated on the floor, the across-the-board layoff notification.

Now the Senator from New Mexico's amendment picks up where Senator KASSEBAUM's amendment started. It leaves intact the 60-day notice of plant closures as defined in the Metzenbaum amendment. Then it proceeds, with reference to layoffs and another kind of plant closure, to offer a completely different approach to notification of layoffs and closures. Permit me to explain what I am trying to get at.

First, I want everyone to remember that it leaves intact the Metzenbaum 60-day notice of closure. It removes the layoff provision. What does it put in its place, and why? Let me first suggest to the Senate, at least from the observations of the Senator from New Mexico, his intuition with reference to what is really bothering the American people about plant closures and layoffs.

Mr. President, I do not think the average working man and woman in the United States is worried about those layoffs that occur because of cyclical business activity, because of changing economic times where they clearly know that the management of a company, large or small, cannot make it and in order to survive must take some action with reference to the work force.

I think most Americans and most working men and women understand that. I have spoken to that issue before as it applies to the thousands and thousands of small businessmen and small businesswomen and their companies which have 200 or 300 or 400 workers in America, and which are clearly the backbone of this rather phenomenal economic growth, this extremely versatile American economic job machine.

But what I think they are worried about and what I think they are unsettled about and what I think they are legitimately concerned about is when there is a merger of American corporations, either by virtue of a hostile takeover, a so-called sweetheart deal, or a leverage buyout where an existing corporation is essentially taken over by another entity and the management is changed. Those who go through those kinds of activities are all in it for economic reasons. They intend to make substantial amounts of money when these mergers, these leverage buyouts, these sweetheart merger deals occur. We read about them daily. We hear about the dramatic facts as to how much has been invested in this activity in the United States. This is not a new phenomenon, but clearly in the last 5 or 6 years it has been rather dramatic.

Now in each of those deals, transactions, a conscious act takes place. A group of investors, either led by Wall Street or takeover artists or whatever we have chosen now to call this group of experts, they set about to take over and change control and management of a corporation. And there are suggestions around as to why. Some say they are trying to maximize the equity of the stockholder. Some suggest that they are trying to get rid of stodgy management. Some suggest, if not publicly at least privately, it is a very good deal to take over some of these long-standing corporations with thousands of good working men and women with great tenure that helped build them and then, piecemeal-wise, close parts of them; sell off parts of them for a whole different set of economic eventualities and a whole set of new economics to benefit those who are involved in that game. I do not use that word "game" there necessarily in a pejorative sense. It is just that that kind of device, that kind of affirmative set of acts, is all planned for some to make money. They do not do it out of charity. They do it to make money. We have all heard about the many opportunities of which investors and so-called takeover experts have availed themselves.

It just seems to this Senator that what Americans out there looking at that are asking is: Who is worried about the working men and women that are either in the companies that merged or that worked for the company that was taken over in a hostile manner? And that answer to that question is: No one. No one is worried about when that economic eventually occurs, well planned, thought out, with making money in mind. There are no rules or regulations on the books of this Nation now saying "take one other thing into consideration when you do that."

Now, the Domenici amendment simply says, when you are going to carry out those kinds of takeovers—and I will read some of the most notorious ones into the Record soon—my amendment says, you plan, then and there, for a clock starting to run when you take that act and that clock is going to run for 18 months. Any time during that 18 months if there are layoffs resulting from that—and in this case I use the same definition of layoffs that were in the Metzenbaum bill—or if there are plant closures that result during that 18 months, then the 60-day notice must be given.

Now, to me, if you are going to have a change of management in a corporation because of merger, sweetheart deal, leverage buyout, or hostile takeover, it seems to me that the minimum we could ask those kinds of American investors is to add one more ingredient to their economic planning. That is to plan that if you are going to have significant layoffs resulting from this activity which you are going to benefit the new investors or the newly formed coroprate entity, at the bare minimum, you are going to have to notify employees of plant closures and layoffs.

Mr. President, somebody who is listening that is on the committee or on the Banking Committee very familiar with these activities might say to the Senator from New Mexico: "Well, what happens when in one of these transactions that you have just described if, 8 months after the clock starts ticking"—that is, the planned event occurred—"what if they sell off one of the subsidiaries as is becoming very, very common? What happens if that subsidiary then chooses to liquidate because the whole thing was a scheme to make money on the equity and value position of that company?"

Well, I do not want anyone to misunderstand. For the 18 months from the time that clock starts running, the transaction that I just described is covered; that is, any transaction that splits off or severs the limbs or dismembers a firm's parts into a new entity, they, too, come within the purview of this timeclock of advance notice in the laws of our country; that if you are going to be part of that, plan on one other economic activity. And that is equity and fairness to the workers who built the company, the working men and women at all levels, white collar, blue collar, management, and otherwise, plan to give them 60 days' notice.

Mr. President, having seen what is the tenor of the Senate and the tenor of those who want the Metzenbaum bill, the Senator from New Mexico has no illusions about the adoption of his amendment. For those who insist that we have not only notification of plant closure, which is incorporated in this Domenici amendment, but want 60-day notice for even American small business, every business over 100 people, where there are significant layoffs; that that is the only good law for America's future, they obviously would not be for my amendment.

For most American businesses that are creating the vitality and growth in this country, businesses from 50 employees to about 750 to 800, I happen to believe there are far too many economic activities out of their control to justify the mandatory 60-day notice. In fact, I believe it is going to cost more jobs than it will ever save, because I even believe for literally hundreds of marginal American businesses—and there are many—there is no one ever going to change that in the American system because marginal businesses and bankruptcies have been there forever and they will be there forever.

As a matter of fact, in our economic system, if you take away the opportunity to fail, you take away the opportunity to succeed. So there are going to be failures. I happen to believe that the 60-day mandatory, in all events, notice of layoffs as defined in the bill is going to end up causing more companies to not make it than the success anticipated by the bill. This is because the notification that is going to be required is probably going to cause more businesses to close their doors as their creditors and others find out about their fragile nature than is going to occur if you permitted them to go through the normal ups and downs that have been there forever.

But for those major planned corporate takeovers, mergers, leveraged buyouts which have caused literally thousands and thousands of dislocations, the minimum we could ask in those kinds of activities is mandatory notification for both layoffs and closers.

I truly believe that if we did not have ourselves in the present posture—the Domenici amendment would receive broad-based support. I believe the average American person is more worried about this situation that I am describing than of the small businessmen and businesswomen in the United States, and the small corporations of 400 or 500 workers who, because of the ups and downs of seasons and marketplaces, have to lay off 100 workers. I believe they are more concerned about the games being played in corporate mergers in the name of stockholder protection that end up with plant closures to yield assets to pay the bills that they have incurred in all of these entreprenurial gymnastics. That is why I think this amendment is a good amendment. That is why I can stand up and say, as one who thinks that the dynamism of the American capitalistic system is working and we do not want to interfere with it to those who in planned takeovers and mergers intend to make large amounts of money in those schemes and take over management and remove them and put new ones in, it is only fair, and it is not disruptive, and it does nothing to the marketplace in the ups and downs of seasonal type employment and the like for them to be asked to plan for 18 months after that event 60-day notice of either closure or layoffs.

Mr. BYRD. Mr. President, will the distinguished Senator yield at that point for a unanimous-consent request?

Mr. DOMENICI. I will be pleased to yield.

Mr. BYRD. Mr. President, I understand that Mr. Hatch sought to file five amendments at or before 1 p.m. today in accordance with the cloture rule. Provision had not been made for that necessity, the Senate being in recess. I ask unanimous consent that Mr. Hatch may be allowed to file those five amendments, and they may qualify under rule XXII as having been filed prior to the hour of 1 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. And if there are other Senators—the Parliamentarians would know if there are other Senators—who approached with amendments prior to the hour of 1 p.m., if those Parliamentarians know those Senators and the number of amendments they wished to file, I ask unanimous consent that those amendments may be filed and filed forthwith so the managers of the bill will know what the amendments are. I thank the distinguished Senators.

Mr. METZENBAUM. Mr. President, not wishing to object to the unanimous-consent request but since "forthwith" may have various definitions and since it is 2:30, could we say——

Mr. BYRD. There is a dictionary around here if anybody wants to see the meaning of "forthwith." Does the Senator have a better definition than Webster?

Mr. METZENBAUM. Three-thirty this afternoon.

Mr. BYRD. Three-thirty this afternoon. But they must qualify as having made the effort to file them by 1 p.m. today. I again thank my friend for his patience and courtesy in yielding.

Mr. DOMENICI. Mr. President, I am delighted to have been of assistance.

Mr. President, I note that page 17 of the amendment I sent to the desk, which had been derived from the previous Kassebaum amendment, has a technical error. On line 3 of that page we have to insert about six additional words, and so I send an amendment to the desk—I believe I am entitled to amend my amendment—and ask that it be amended in accordance with the amendment that I sent to the desk.

The PRESIDING OFFICER. The Senator may modify his amendment.

The modification is as follows:

On page 17, line 3, strike "a" and insert in lieu thereof the following: "one or more facilities or operating units within a"

Mr. DOMENICI. Might I then continue, Mr. President. I say to my friend, Senator METZENBAUM, and those who are wondering about how long we might take, I do not think we will take over another 10 or 15 minutes and then we can be in a position to proceed however the Senator would like with reference to an ultimate vote. I think I will only need about 10 or 15 minutes. Then I will be finished on my side.

Mr. METZENBAUM. Mr. President, if I may respond to my distinguished colleague, after my colleague from New Mexico concludes his remarks, I would probably respond maybe 10 or 15 minutes or less and then make a motion to lay on the table.

Mr. DOMENICI. The Senator is going to make a motion to table my amendment?

Mr. METZENBAUM. Yes.

Mr. DOMENICI. I thank the Senator.

Mr. President, to this point I have explained what I might in a matter of substance say is about three-fourths of my amendment. I want to explain one other provision because I think there is one other situation that is very disturbing, and I am kind of torn but I chose to include this kind of transaction that I will describe. Rather than try to give it a simple name, let me describe it.

As we all know, in addition to hostile takeovers, leveraged buyouts, and so-called sweetheart deals, which are now taking on technical language and words—I use them in their now-acceptable parlance—there is another situation that is very disturbing and that comes when a hostile takeover is attempted. Incidentally, some good limitations on the ability of shell companies to take over have occurred in the last 2 or 3 years with the Federal Reserve Board intervening and treating some of those shell corporations holding junk bonds as their asset and nothing else as actual stock transfers and applying some of the rules that apply in the marketplace to buying and selling stock. So in a sense we do not have quite as many shell corporations waiting around with junk bonds to finance a transaction or takeover. Nonetheless, we are aware of a number of groups that specialize in getting enough ownership in a company to then try the hostile takeover route.

We know that one of three things happen. They either succeed in taking it over, in which event my amendment covers it, or, second, the stock value goes up and they make a whole batch of money but they do not take over. In that event, normally a third situation occurs, and that is that the company or corporation they sought to take over, takes inordinate action in order to avoid the takeover. Normally, Mr. President, that involves incurring substantial debt to avoid the transaction.

The Chair is aware of many of those cases—UNICAL and others that have gone out and had to incur huge debt to avoid the takeover.

Now, as I stated, that transaction with reference to the Domenici closure and layoff amendment bothered me, but I chose to—and everyone should know that I have—include that situation in my amendment. If to avoid a takeover, substantial debt is incurred in order to remain in control and avoid the takeover, then my 18-month clock starts to tick for that transaction. I say they made a conscious effort, made a series of determinations justifying going into the marketplace and borrowing huge amounts of money, putting that on the corporation to avoid the takeover, and I regret to say that what happens in many of those cases is that the plan is already there in advance to begin closures and sell offs in order to help pay for part of that debt.

Mr. President, I am not here on the floor as one who is a staunch defender of our entrepreneurial system, what it has done for us and what it is doing for the free industrial world. It is indeed producing a fortress in the world of material strength and growth.

I am not here critical of mergers. I would not know how to legislate them in or out. Some are very good. Some are necessary. They have existed forever in American corporate business. But it seems to me that from the standpoint of working men and women who are part of those corporate entities that if this situation occurs where in order to avoid a takeover substantial debt is incurred, that there again those who have made that conscious decision to protect their domain and their management prerogatives, also ought to plan to give notice of closures and layoffs. That is a tough one because in a sense some of them would stand before us and say we are in big trouble because we avoided a takeover, and we have to do something. And I know that.

But I believe in all of these kinds of activities, the three I explained before, and this one—that people familiar with financing, with the value of equity, with the value of plants, the value of selling of assets, and the like are far more prepared and far better equipped to protect their interests than the average working man and woman who work for those companies. Therefore, in that situation, the fourth one—I have heretofore explained three—again for 18 months following the event that I have just described, notice of disclosure or layoff would be required.

Mr. President, I repeat that I am actually sorry that we are in a situation where no amendments are going to be accepted. I understand that when the distinguished Senator from Ohio moves to table my amendment that most probably it will be tabled. But I know that I have presented in behalf of this Senator and those who support me a very fair and equitable proposition, and one that would indeed put on notice the kinds of business activity that ought to be on notice, that they have a very serious responsibility in these kinds of ventures to add one more ingredient to their planning; that is, notice of closure and layoffs.

I frankly believe that if this position was understood by the American people as one that is going to require notice of layoffs and closures, and not the average day-to-day, month-to-month business that must have ups and downs in employment, I believe an overwhelming number of concerned Americans will support this approach over the-across-the-board, 60-day notice of layoffs in all events except very few that are denominated in this bill that are going to be litigated forever.

So I want everyone to know that I offer this amendment in good faith. I believe it is an excellent opportunity for Senators to stand and be counted on the issue of a strong signal to the merger experts in this country, to the hostile takeover activists, without in any way passing judgment on whether they are good for America's economy or not so good, but to stand up and say to them there is one thing you left out; there is one thing you are leaving out. That is to give notice to the working men and women of closures or layoffs when you have completed your very complicated transactions of takeovers, buyouts, hostile takeovers, or hostile takeover avoidance by creating debt laden corporations.

I think it makes sense. I am really sorry in advance that it is not going to become part of the law of the land. I believe it is good law. I believe it could be carried out without any economic harm to the vibrant and growing American economy. It would be fair, and it would take care of one very big missing ingredient in these kinds of transactions.

Mr. President, you cannot, I must say, draft this kind of legislation without getting involved in a lot of technical definitions, without having some in and taking some out. I have tried my very best in layman's language to explain the kinds of transactions that I hope I have covered, and that I think I have explained where I truly believe the activists involved on the business and financial side, and the Wall

Streeters who are experts, ought to plug back into their computers this kind of notice for working men and women in the country.

Mr. President, let me, in conclusion, point out the following: Requiring the advance notification of mass layoffs in the regular course of business would harm U.S. competitiveness. As the President said in his veto message, it would be a mistake "for the Federal Government to arbitrarily mandate, for all conditions and under all circumstances, exactly when, and in what form that notification should take place."

However, there are some circumstances when it is proper for the Federal Government to require notification of employees.

SPECIAL RESPONSIBILITY MUST ACCOMPANY TAKEOVER ACTIVITY

One situation in which the Federal Government should look out for employees and require advance notification is with regard to employees of companies that are the targets of hostile takeovers, leveraged buyouts, and other involuntary acquisitions or mergers.

Seventy-five percent of the attempted acquisitions result in a "change in control" of the company. Usually within 18 months after the change in control, an inordinate number of shutdowns occur.

During such a takeover fight it is raider versus management, shareholders versus management, and no one looks out for the employees or the communities.

The number of these situations is significant and growing.

Testimony given before the Senate Banking Committee estimated that 500,000 jobs have been lost as a result of takeovers and takeover attempts. While it is a matter of dispute whether these jobs are permanently lost, or just short-term displacements, the disruption is very real to the families involved.

The list of jobs lost because of these control maneuvers is frightening. Here are just a few examples: 3,400 jobs lost at Phillips Petroleum in a takeover fight with T. Boone Pickens; 18,000 jobs lost in the Gulf/Chevron battle; 1,950 jobs lost at Owens-Corning in maneuvers with Wickes—1,300 in one Ohio County; 10,000 jobs lost in a Sperry-Burroughs merger.

Between 1981 and 1986 the number of merger transactions nearly doubled from 2,326 to 4,084. The value of these transactions tripled during the same period from $67.2 billion in 1981 to $192.9 billion in 1986.

Debt as a result of battles for corporate control totaled more than $177 billion in 1986. The amount spent on hostile takeovers was greater than the amount spent on new plant and equipment.

Testimony given before the Senate Banking Committee confirms that a growing number of the companies being taken over are efficiently run, well performing companies. This counters the perception that takeover targets are poorly managed or underperforming.

Workers who are the victims of such takeovers are particularly vulnerable as they are often unable to foresee hostile takeovers, or quickly realize that their jobs may be sacrificed to finance a corporate raid. This is particularly true since even profitable divisions of the target company could be victimized by such a raid.

CAMPEAU TAKEOVER OF FEDERATED: A CLASSIC EXAMPLE

One classic example of how takeovers can affect employees of target companies is being played out at this very moment.

A few months ago the Toronto, Canada-based Campeau Corp. began an acquisition bid for Federated Department Stores.

In what has become a complex takeover struggle Campeau agreed to pay $6.6 billion—making this takeover one of the biggest mergers in history.

Financing for the merger became difficult and, until recently, Campeau was still negotiating that strategy.

It is expected that they will have to borrow more than expected and use high-priced, junk bonds.

Campeau executives are now searching the newly acquired company for places where they can make millions of dollars in expense cuts.

Expansion plans have been delayed and uncertainty is critically affecting merchandising decisions throughout the stores.

On May 20 of this year Moody's downgraded about $980 million of Federated's debt from AA-2 to B—Moody's cited the takeover for significantly increasing leverage and weakening the company's cash-flow. Substantial layoffs have already occurred and more could come. Here are some examples:

At Goldsmiths—among the most profitable Federated units—600 of their 2,500 employees will be cut; in Federated's Cincinnati headquarters, 130 of their 530 employees were dismissed just last month; shortly after the Federated headquarters layoffs, Campeau announced that 1,200 of the 15,000 employees at Federated's Cincinnati-based Lazarus Department Stores would be cut.

AMENDMENT REQUIRES 60-DAY NOTICE

A mandated employee notification period can be factored into a takeover bid or leveraged buyout calculation as another cost of going forward with the transaction, and a factor to be considered in deciding whether to make a bid.

The United States is the only country that allows foreign control of companies. Other countries allow varying percentages of foreign ownership, but do not allow a majority, necessary for control, to be foreign owned. With the weakened dollar, the trend is toward increased foreign investment and control of U.S. companies. Because of this phenomenon it is a crucial time to legislate a mandated plant notification when a change of control takes place.

This provision would help protect a vulnerable class of workers from new management whose objective may be effective and lucrative hostile takeovers instead of the long-term profitability of the company.

This amendment will require 60-day notice of closings for all companies, and also require 60-day notice of mass layoffs in three types of transactions: Bidders acquiring companies through a hostile takeover; firms successfully defending an attempted takeover; and any company changing hands at more than 150 percent of the book value of the stock.

These employers must give 60-day's advance notice of any layoff affecting 100 or more employees.

This requirement would be imposed for 18 months after the takeover, or for 18 months from the tender offer or proxy solicitation in the case of failed takeover attempts.

I yield the floor at this point.

Mr. METZENBAUM addressed the chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am happy to see my colleague from New Mexico has recognized the importance of mandatory advance notice of plant closings and mass layoffs. I share his deep concern about the negative effect which hostile takeovers often have on the employees of the target company. As a matter of fact, as he was proceeding along the line of discussing his amendment, it was my opinion that he was proposing that we provide some additional protection for the employees of those plants subject to hostile takeovers and leveraged buyouts. I thought that was a pretty good idea. I thought that we were moving in the right direction. But then I continued to listen. And the more I listened the more disappointed I was because this is the Kassebaum amendment in sheep's clothing. It does not look that good. It is a Kassebaum amendment with a new twist.

Too often employees who have been working at plants that have been taken over end up as pawns in the games played by takeover tycoons.

For example, in my own State of Ohio there was the takeover of the Federated Department Stores by Campeau of Canada. As a matter of fact, I remember to the best of my recollection that when Campeau was talking about taking over this company they were going to keep the employees on. They were going to make it great for the employees. They were a wonderful company. They were coming in. It was a great package they were offering for the shareholders and for the employees as well. They took care of the employees. Yes, sir. They took care of the employees. They took care of top management. They took care of themselves with golden parachutes. But the workers got the pink slips. Hundreds of pink slips were given after that foreign company trimmed its budget after winning a bidding war.

I am pleased to see that my friend from New Mexico would require companies to give employees 60 days' advance notice or 60 days' severance pay if they are about to lose their jobs because of an attempted hostile takeover. On that 60 days' severance pay, you remember we would be revisiting another one of the amendments that we had up previously. That was the amendment offered by the distinguished Senator from Indiana.

I like the fact that the Senator from New Mexico has suddenly come around to recognize that maybe employees are entitled to some notice. The only thing is he would limit notice to a very small group, that group that is affected by hostile takeovers. But, frankly, the amendment is a diversion.

Mr. DOMENICI. Will the Senator yield?

Mr. METZENBAUM. I yield without losing my right to the floor.

Mr. DOMENICI. Of course. Let me say the Senator is in error on using severance pay in my amendment. I can understand why. I distributed two or three copies. But in my final version it is just 60 days' notice. There is no severance.

Mr. METZENBAUM. I thank the Senator from New Mexico for that correction. I guess we did see an earlier version of the amendment. I did not realize or I certainly would not have said severance pay was in it if it were not. Sometimes we get these amendments rather rapidly. We did get several different copies. I apologize.

I do not feel I was trying to misrepresent it. It was just a misunderstanding.

This amendment is a diversion from the real problem. Many more workers lose their jobs outside the context of a hostile takeover. I have no problem seeing to it that employees receive notice after a hostile takeover. It is the way it should be. But what about employees laid off due to an ordinary sale of assets. Plenty of nonhostile takeovers occur and many of them result in workers losing their jobs. What about the employees who lose their jobs because of the consolidation and reorganizations that happen every day? Are they not entitled to 60 days' notice? Is that not the humane and the right thing to do? Does it matter to the employee whether it is a hostile takeover or there is a consolidation, reorganization, or an ordinary sale of assets? All that employee wants to know is "Am I going to get my paycheck? Am I going to be out of a job?"

We are saying if he or she is going to be out of a job, give them the notice.

I appreciate the fact that the Senator from New Mexico has come along a bit. He says that under certain circumstances the employees are entitled to notice when there is a layoff. But that is not far enough.

He has accepted the concept but not the reality.

What about workers whose jobs are eliminated because of changes of technology? Are they to be considered any less loyal or less entitled to notice that their jobs have gone by the boards?

What about workers whose employer suddenly decides to relocate overseas? Many employers have done it and continue to do it. Would we deny those employees the 60 days' notice?

All these workers need advance warning that they are going to be out of a job. Just like the victims of hostile takeovers, they need time to put their lives back together after their employer deserts them.

The Senator from New Mexico is to be commended for the fact that he recognizes that those employees are entitled to notice, but he is not to be commended because he would not include in the mandatory notice all the rest of the employees who are victims and find themselves walking the streets on no notice.

As I said earlier, I have been at plant sites that closed down the very day they gave the notice. What kind of employer does that? What goes through his or her heart? How does he or she sleep that night?

What do they think of themselves when they go home and tell their families: "Well, Mom, we closed the plant today. I called the employees in at 2 o'clock and told them to pick up their lunch buckets before 3 o'clock and clean out their lockers; the plant is closing."

"Oh, Daddy, that was a wonderful thing you did. It was nice of you to give them 1 hour's notice."

We are asking for 60 days. This bill originally started off with 180 days' notice. I thought that was reasonable. I cut it to 90 days' notice. I thought that was reasonable. We compromised at 60 days. That is reasonable. To me, that is the minimum. But to deny some workers the notice and only give notice to those who are involved in hostile takeovers? No way.

We do not need to carve out a special provision for hostile takeovers. It does not belong in this bill. This is not the corporate takeover bill. That is a bill Senator PROXMIRE offered and still has on the floor of the Senate. This is a bill to give notice to all workers who lose jobs in plant closings and mass layoffs, regardless of the cause.

The Domenici amendment ignores the magnitude and the many different causes of worker dislocation. The employees covered by the Domenici amendment are only a small piece of the pie. We do not need a special amendment to assist victims of hostile takeovers. This bill already covers plant closings due to hostile takeovers.

Now that Senator DOMENICI agrees that mandatory notice should be the law of the land, I welcome him to join us in supporting S. 2527. In the meantime, his amendment should be rejected.

I move to lay the amendment on the table.

Mr. DOMENICI. Mr. President, will the Senator withhold while I take another 3 minutes?

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senator from New Mexico may be recognized for a period not to extend beyond 3 minutes, at the conclusion of which my motion to table shall proceed forward.

Mr. DOMENICI. Mr. President, reserving the right to object, I just want to ask a question.

I was not aware that we were in that much of a hurry. When I sat down, I thought I would have more time, although the Senator from Ohio felt that at some point he would move to table. Will the Senator mind if I have at least until 3 o'clock? That would give us 7 minutes. If I do not take it all, the Senator can move to table before that.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the request of the Senator?

Mr. METZENBAUM. Mr. President, I would object, but I do not object to the Senator from New Mexico being recognized for 3 minutes. If he needs 1 or 2 minutes more, I will not stand in his way.

Mr. DOMENICI. I say to my friend from Ohio, first, that the Senator from New Mexico really does not need to be advised as to whether I have a concern that is broad enough to cover the American marketplace, nor am I in the slightest bit concerned about my previous positions with reference to matters economic in this country.

Over the last 5½ years, something has happened in the American economy that is absolutely beyond the comprehension of most of us, and most of it is positive.

We have had, for the last 4 years—and I was part of it—prophets of gloom, about every year, about what was going to happen to the American economy and to jobs in the United States. I am looking back on it hindsighted now and saying that we made some very good decisions.

The tax cut was good. For those who worried about the deficit, it came at the right time. America making industrial changes to become competitive caused a lot of commotion in the marketplace. It was hard on business and labor; but I am convinced that if we did not go through a little bit of it, we would not be where we are, with the American economy poised to compete in the world, doing an absolutely incredible job of adjusting to a new and different world economy, with steel competitive, automobiles competitive, and more and more people working.

Mr. President, the only reason I am concerned about the across-the-board 60-day notice on layoffs—and I want to repeat it—is that I believe it has a prospect of costing more jobs than it has of saving jobs; causing more misery than the misery that will be avoided. If we lose thousands of jobs we would not have lost, or even hundreds of thousands, by Americans stopping to become as incentive-laden as they are, or to close their businesses, or if they are closed for them because of this notice provision, the American working man and woman is the loser in the long run.

It is for that reason that I support the plant-closing provision. But on the layoff provision, I believe we should carve out the kind of suggestion contained in this bill. I believe it will cost very few jobs in the long run, serve a very good public service, and is indeed the kind of thing that mergers, takeovers, and hostile activities ought to plan for and pay for.

Mr. President, I have no objection now to proceeding with the motion to table.

I thank the Senator for yielding.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON] and the Senator from Nebraska [Mr. EXON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

The PRESIDING OFFICER (Ms. MIKULSKI). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 62, nays 34, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—62

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Danforth
Daschle
DeConcini
Dixon
Dodd
Durenberger
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Stennis
Weicker
Wirth

NAYS—34

Armstrong
Bond
Boschwitz
Cochran
D'Amato
Dole
Domenici
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Pressler
Quayle
Rudman
Simpson
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—4

Biden
Cranston
Exon
Helms

So the motion to lay on the table the amendment (No. 2475) was agreed to.

Mr. KENNEDY. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Madam President, parliamentary inquiry.

The PRESIDING OFFICER. Will the Senator from Utah withhold? The Senate is not in order. Senators will please take their seats so that we may hear the Senator from Utah.

The Senator from Utah.

Mr. HATCH. Parliamentary inquiry, Madam President, what is the parliamentary situation at this point?

The PRESIDING OFFICER. Amendment No. 2469, the amendment by the Senator from Utah, is the pending question.

Mr. HATCH. Is that my second amendment or first amendment? We set two aside.

The PRESIDING OFFICER. It is the second amendment.

Mr. HATCH. Madam President, I ask unanimous consent that I be permitted to begin with amendment No. 2441, and I send a modification to the desk and ask for its immediate consideration.

Mr. KENNEDY. Reserving the right to object, Madam President. I do not believe we are going to have any objection to this, but I would like to object just temporarily and have a very short quorum call so I understand exactly what is being sent to the desk.

The PRESIDING OFFICER. Is the Senator from Massachusetts asking for a quorum call?

Mr. HATCH. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Madam President, I send a modification to the desk to the first amendment.

The PRESIDING OFFICER. Will the Senator withhold? Prior to the quorum call, the Senator from Utah had a unanimous consent request pending.

Mr. HATCH. I will restate that.

Madam President, there is one amendment pending. It is the second amendment (No. 2469). I ask unanimous consent that we go back to the first amendment (No. 2441) so that I can send a modification to the desk and then I will move to the second amendment and send a modification to that amendment to the desk and then request back-to-back votes.

The PRESIDING OFFICER. Is there objection? Without objection, the request of the Senator from Utah is agreed to. The pending amendment is amendment No. 1 by the Senator from Utah—the modification.

AMENDMENT NO. 2441 AS MODIFIED

Mr. HATCH. Madam President, I send a modification to amendment No. 2441 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an amendment numbered 2441 as modified.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the modification of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

Strike out all from page 4, line 13 through page 5, line 1, and insert in lieu thereof the following:

"Loss. (1) In the case of a sale of part of all of an employer's business, the seller shall be responsible for providing notice for any plant closing or mass layoff in accordance with section (3) of this Act, up to and including the effective date of the sale. After the effective date of the sale of part or all of an employer's business, the purchaser shall be responsible for providing notice for any plant closing or mass layoff in accordance with section (3) of this Act. Notwithstanding any other provision of this Act, any person who is an employee of the seller (other than a part-time employee) as of the effective date of the sale shall be considered an employee of the purchaser immediately after the effective date of the sale.

"(2) Notwithstanding subsection (a)(6), an employee may not be considered to have experienced an employment loss if the closing or layoff is the result of the reloca-"

Mr. HATCH. Madam President, we do not need to take much time because this amendment has been agreed to by the majority floor managers. I had pointed out several problems with the provision in the portion of the bill which attempts to deal with the sale and purchase of a business. One was there was no clear definition of liability and two is that there is ambiguity regarding the purchaser's obligations for any individual's continued employment under the purchase agreement. This amendment clarifies the issue on both of these points.

I am pleased that the majority agrees with me and I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. On behalf of the Senator from Ohio, Senator METZENBAUM and myself, I would urge the membership to support this particular modification and this particular amendment. The central thrust of both the managers, Senator METZENBAUM and myself, is to provide protection for the employees during the period of sale, and the clarification of this language ensures both the protection for the employees and appropriate responsibility between the seller and the purchaser in complying with the thrust of this legislation.

I think it has now been clarified and I would hope that all of those that are supporting our legislation will support this modification. I think it is a useful one.

Mr. HATCH. Thank you.

Mr. METZENBAUM. Madam President, this amendment clarifies our intent that employees receive notice if there is a plant closing or mass layoff incident to the sale of part or all of a business.

Under this amendment, employees will be protected throughout the process of sale.

And the responsibility for giving notice, the legal duty to give notice, will be apportioned fairly and logically between the seller and the purchaser.

Until the sale is completed, the seller has the duty to give notice. Immediately upon completion of the sale the duty to give notice is the purchaser's.

Employers and affected employees will always know clearly which employer must give notice if a plant closing or mass layoff is ordered.

And, most importantly, at no time will affected employees be unprotected against sudden mass layoffs or plant closings undertaken without fair notice.

AMENDMENT NO. 2469, AS MODIFIED

Mr. HATCH. Mr. President, I send a modification of amendment No. 2469 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The modification to the amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes a modification to an amendment numbered 2469.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the modification be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 12, after line 8, insert the following: "The mailing of notice to an employee's last known address or inclusion of notice in the employee's paycheck will be considered acceptable methods for fulfillment of the employer's obligation to give notice to each affected employee under this Act."

Mr. HATCH. Madam President, this amendment is also one I think we can agree on. I believe a rollcall vote has been ordered for this amendment; am I correct?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HATCH. This amendment clarifies the situation and clarifies ambiguities with regard to the notice provisions, especially with regard to employees who do not belong to a union. We think it clarifies the bill, it corrects ambiguities, and it makes the bill far better than what it was before. That is all I really need to say on it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, the original amendment provided a process for notification to the employees. That process permitted the notification of the 60 days to be triggered either in the mailing of notification to the last address of the employee or if it was included in the paycheck. We have made it very clear that it was never the intention of those who support this legislation to permit an ongoing, continued notification process by a procedure where you might have a stamp on the back of a paycheck or continued "notification," so to speak, to those employees to conform with this legislation. I believe we have clarified that situation with the modification because there is no notification in terms of the community, which is otherwise provided for in this legislation. So there could be, we do not believe, any reason to assume this kind of process would be abused. That was our principal concern in the earlier reservation.

I think the language that has been worked out meets our concerns. I think it also conforms with certain legitimate kinds of notification procedures for the employees of a plant. I would also hope that the membership that supports this legislation will support the amendment.

Mr. METZENBAUM. Madam President, the Hatch amendment states that an employer fulfills its obligation under the act to notify affected employees by either mailing the notice to the employee's last known mailing address or by including the notice in the employee's paycheck.

This amendment does not affect the employer's obligation under the act to provide notice to the employees' representative, to the local unit of government or to the State dislocated workers' unit.

With that understanding of the limited nature of this amendment, I am prepared to accept it. But before I accept the amendment I want to make one important clarification.

By accepting this amendment we in no way intend to endorse the practice of "rolling notice" or "ticketed notice" or any similar evasive tactics. In fact we strongly disapprove of such practices.

Rolling notice is the practice of giving employees notice in every paycheck, regardless of whether or not a plant closing or mass layoff is impending. Such rolling notice will not fulfill an employer's obligation to notify affected employees and is an attempt to evade the act.

Likewise, ticketed notice, where notice is preprinted on the paycheck or inserted into each pay envelope, like the fine-print disclaimers printed on ticket stubs, will not fulfill an employer's obligation to notify affected employees. Such tactics are a sign of bad faith by the employer.

Employees should not be lulled into a false sense of security by evasive notice practices. We are accepting this amendment assuming that employers will act in good faith compliance with the requirements of this act.

Mr. HATCH. The reason we sent the second modification to the desk, and basically it was a very minor modification to the original amendment that we filed, was the bill provides that the Secretary of Labor will be able to set regulations and this amendment limits the breadth of that right and, I think, helps to resolve the ambiguity that really presently exists in the bill with regard to the notice provisions. We think it will make the bill a far superior bill, although I have great questions on many aspects of the bill. But at least this is a way of trying to make the bill better by resolving ambiguities.

With that, Madam President, we are prepared to vote back to back on these amendments.

The PRESIDING OFFICER. The distinguished majority leader.

ORDER OF BUSINESS

Mr. BYRD. Have the yeas and nays been ordered on both amendments?

The PRESIDING OFFICER. Yes; they have.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. I thank the Chair. Madam President, I ask unanimous consent that the vote on the two amendments occur back to back; that no amendments to either be in order and that the first rollcall begin 5 minutes from now so Senators will have a little notice prior to the vote; and that the second rollcall vote be a 10-minute rollcall vote, with the regular order automatic.

The PRESIDING OFFICER. Is there any objection? Without objection, the unanimous-consent request is agreed to.

PROGRAM

Mr. BYRD. Madam President, the distinguished Republican leader and I have discussed briefly the possibility of having the cloture vote, which will mature on tomorrow, occur today. I have just inquired of the Republican leader. He has indicated that he does not believe that we can get an agreement to vote on cloture today. Let me inquire of him if he thinks there might be still a chance for that cloture vote to occur today?

Mr. DOLE. If the majority leader would yield I would say this was raised at our policy luncheon. I would not say it is impossible. I would say the chances are not particularly good. But there is still a possibility. We are having some discussions on this side. I may want to discuss it with some on that side in a few moments, or in another 30 minutes. But for the time being I could not give consent to vote today.

Mr. BYRD. I thank the Republican leader. Madam President, I suggest the Cloakrooms inform Senators that there will be a rollcall vote to begin within the next 3 or 4 minutes.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I ask that our staffs advise all Senators as they report on the first rollcall vote that there will be another rollcall vote immediately and that it will be a 10-minute rollcall vote. I yield the floor.

The PRESIDING OFFICER. The question is now on agreeing to the amendment numbered 2469, as modified. The yeas and nays have been ordered. The clerk will call the roll.

Mr. BYRD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Florida [Mr. CHILES], and the Senator from California [Mr. CRANSTON], are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—95

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—5

Biden
Breaux
Chiles
Cranston
Helms

So the amendment No. 2469, as modified, was agreed to.

Mr. HATCH. Madam President, I move to reconsider the vote by which the amendment was, as modified, agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2441—VOTE

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 2441, as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The Chair reminds Senators that this is a 10-minute vote.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] is necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—97

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—3

Biden
Gore
Helms

So the amendment (No. 2441), as modified, was agreed to.

Mr. HATCH. Madam President, I move to reconsider the vote by which the amendment as modified was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Madam President, we are in the process of negotiating with regard to three more Hatch amendments, two of which are agreed to. The third may not be agreed to. But we would like to see if we can. If we can, we will have a very short debate on the three amendments, and I would hope that we would be able to have one vote that would count for three votes and pass the three amendments if we can agree. If not, we will just do whatever we can.

But until then, to give us just a little bit of time in order to do that, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FOWLER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, while we are waiting for these amendments to be worked out in great harmony that is prevailing here on the floor, I thought it might be instructive to talk about the layoff crisis in America that we are addressing here, and to talk a little bit about layoffs and business failures we face today relative to the recent past. And I would also like to talk about the situation in terms of job creation relative to the blueprint after which we are now modeling American industry, that is, the European economy.

First of all, Mr. President, I think people must be somewhat mystified by the sudden interest that has occurred by the Senator from Ohio and others about plant closings. In fact, we have the lowest layoff rate today that we have had in America in 20 years. The layoff rate today is 40 percent below what it was when Jimmy Carter was President. In fact, unemployment today is at the lowest level since 1974. I wish these figures were reflected in my great State. But for the Nation as a whole we are experiencing a period of tremendous prosperity. In fact, today we have six plant openings for every one plant closing.

I thought it might be instructive to look at what is happening in terms of new businesses being created. I thought my colleagues would be interested in the fact that since 1981, 15 new businesses have opened their doors in America for every one that has gone broke.

Mr. President, I cannot help but be struck by the paradox that here we are with layoffs at a 20-year low nationwide, 40-percent below what there were when Jimmy Carter was President, when there are six plants being opened for every one that is being closed, when there are 15 new businesses opening their doors for every one that is closing their door and we are about to make a radical change in the functioning of American industry. What is so amazing to me, Mr. President, is that we are now remaking the American economy in the image of the European economy. We are remaking the American economy in the image of the European economy by injecting Government into decisions concerning the hiring and firing of people which is the indispensible part of the functioning of our great free enterprise system.

Mr. President, while our layoffs are at a 20-year low, while they are 40 percent below what they were when Carter was President, while we have created 15 million new jobs since 1982, the economical model that we are seeking to replicate here in Europe has not created a job in the last decade.

In fact, since the plant-closing bill was adopted in Germany in 1972 Germany has lost 1 million jobs. And we in the United States have created over 30 million new jobs.

Mr. President, it seems to me that Europe ought to be remaking their economy in our image and not the other way around. Interestingly enough, that is exactly what is happening. In fact, in France, the chemical industry has worked out an agreement with their unions to lower their worker notification period from 180 days to 80 days to try to promote growth in the chemical industry.

How do these worker notification provisions inhibit growth? In Germany, for example, the country now spends approximately $4.5 billion—that is billion with a "b"—in closing down plants rather than opening up plants. The problem with this bill, Mr. President, is not that it is not a worthy goal to try to have people notified when there is a plant closing, or when a business is closing; rather, the problem is that growth is a dymanic process. We have been down this road before, interestingly enough. I have not heard much mention of it on the floor here. When we passed the 1924 Railway Labor Act we set into place America's first plant-closing provision. We did not leave it alone. We amended it in 1934. It has been changed subsequently. Today on the American railway system it costs up to a quarter of a million dollars to lay off one permanent employee.

I could recite great long figures about the Krupp steel industry in Germany, the problems they have had in Europe, but in the midst of all of these negotiations, while we are waiting around to see amendments offered, I cannot help but be struck by the paradox that in the midst of the longest period of economic expansion in American history with our layoff rate at a 20-year low, with layoffs of 40 percent below what they were when Jimmy Carter was President, with six plants opening for every one that is closing, with 15 new businesses opening their doors every time one closes their door, we are trying to remake the American economy in the mold of socialism by having the Federal Government enter in and set parameters for the functioning of American labor and capital.

Mr. President, had this bill been in effect for the last 3 years in my great State, where we have been forced to cut back, tighten our belts, where good companies have been forced to lay people off, and they hated to do it but the alternative was closing down the plant forever, had this bill been in effect, in my humble opinion, the failure rate in Texas would have been far more than it has been, perhaps twice as high. I think of the Southwest Forge in Navasota, a little town just south of my hometown of College Station. The forge had up to 400 people working during the oil boom. When oil prices collapsed, they saw the problem coming, and they tried to fight it off. I guess prudent people would have known that it was coming. They tried to prevent laying people off. Ultimately, they were forced to cut back from 400 to less than 100 people. Had that little company with its limited capital been forced to give 60-day notice and keep that plant open with 400 employees for 60 days, that plant in all probability would have closed its doors forever. But they cut back on management, and they cut back on labor. They hated to lay people off, but they did not have any choice. They then went back and rebuilt their business. They got out of the oil tool business, upon which they were almost totally dependent. That has now become a small part of their business. Now they are making parts for tractors, they are making parts for jet aircraft, and they have built their employment back up to 300 jobs.

Mr. President, I ask the following question: Would the people of that little town, Navasota, be better off to have gotten a 60-day notice that they were losing 400 jobs than they have been by the company being forced to lay off 300 people, and now come back and rebuild their business back up to 300 permanent jobs? Is 300 permanent jobs better than a 60-day notice that you are losing 400 jobs? I think so, Mr. President.

I think the problem with this bill—and I think quite frankly, the problem is indicative of the people who have espoused this bill—is they are trying to hold on to the past. They are trying to hold on to the past.

They are again trying to invest America's capital in holding on to what we already have. These are the people who would have forced the gaslight industry to give all kinds of notice before they shut down and squandered their capital on keeping the gaslight company open, instead of investing the money in the electric light industry, which was clearly going to be the wave of the future.

So it is a great paradox to me—and I will conclude, assuming that we are ready with this amendment—that here we are in a period of unparalleled economic expansion, with a layoff rate at a 20-year low, and we are about to impose what is clearly a socialistic measure on the American economy.

This measure will produce fewer jobs, less growth, and lower wages, and it will do so all in the name of protecting the past at the expense of the future.

I am struck by the fact that many of my colleagues, even people on my side of the aisle, are so cowed by the prospect of somebody saying: "You know, Senator X voted against giving people 60-day notice that they were going to lose their job." Quite frankly, I think we should be here debating how we can create jobs. If the best we can do for the working men and women in America is to give them a 60-day notice that they are going to be out of work, we are not doing a very good job for the working men and women of America.

I want to have an economy that is so strong that the Chamber of Commerce and the National Association of Manufacturers will be down here pounding on our door, saying: "Pass a worker notification program, because all our people are leaving us to go to work for higher wages and better companies, and we want you to force them to give us a 60-day notice."

I would be opposed to it, and my guess is that a lot of people who are for this bill would be for it, for the same reason: they like yesterday; I like tomorrow. I am confident about the future of America, and that is why I am proud to stand up and say this bill stinks. This bill represents the worst of America. It is politics at its worst, and we are debating it today because this is a Presidential election year.

When the layoff rate is at a 20-year low, when the layoff rate is 40 percent below what it was when Jimmy Carter was President, the people who want to put somebody of that same party in the White House now desperately want us to give them 60 days' notice, maybe because they know their economic programs will put so many of them out of work.

I yield the floor.

Mr. HATCH. Mr. President, as usual, the distinguished Senator from Texas understates the case. Nevertheless, I have to say that I appreciate his remarks, because this is really a bad bill. But we are trying to make it a better bill, and I think the Hatch amendments will go a long way, because they do make substantive changes that are worthwhile.

Mr. President, I will be frank to say that we have been working on three of my amendments that have basically been accepted by the other side, or will be accepted by the other side. Shortly, I will send all three amendments to the desk, one after the other. I will then, after I explain each of them, ask unanimous consent that there be one rollcall vote, to count as three; or, at least, I will ask the majority leader to propound the unanimous-consent request that we have all three amendments voted on in one rollcall vote, which will count as three rollcall votes, if we can get that unanimous-consent agreement. I will ask the majority leader to propound that in the next few minutes.

AMENDMENT NO. 2481

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah [Mr. Hatch] proposes an amendment numbered 2481.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 20, strike the phrase, "a proposal to issue".

Mr. HATCH. Mr. President, I should like to clarify a couple of points with regard to section 3 with the distinguished Senator from Massachusetts.

Section 3(a) states that:

> An employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer serves written notice of a proposal to issue such an order.

I think the Senator from Massachusetts and the Senator from Ohio do not intend that employers have to give notice twice, once for the proposal to close a plant or lay off workers and again prior to the actual order. That is one reason this amendment is necessary.

If the employer calculates that he must close the facility no later than September 1, he has met the requirements of this act if he issues notice to his employees by July 1, even if a closing was contemplated earlier.

You have to ask the question: Does this choice of language in section 3(a) indicate any legal duty on the part of the employer to consult with the union or other worker representatives regarding the closing or layoff?

What about the two governmental entities designated to receive notice under the bill? Does the employer have to consult with the local government or the State dislocated worker unit prior to issuing the order for a plant closing or mass layoff?

Is it possible that the Secretary of Labor, current or future, would interpret this language in section 3(a) to require advance consultation on the decision to close or lay off workers and use the authority given to the Secretary by section 8 to require bargaining over a proposal to close or lay off workers?

In my opinion, of course, there should be no duty to consult. So this amendment would strike the words "a proposal to issue" from section 3(a).

This amendment would clear this up, once and for all.

So, that is what the amendment is all about, and this language would resolve the problem in section 3(a), which suggests that consultation requirements are not dead. This amendment would make those requirements dead. We have agreed that it is a good amendment and we should proceed with it.

AMENDMENT NO. 2482

Mr. HATCH. Mr. President, in light of my suggestion that the majority leader should propound a unanimous-consent request on these three amendments, I send another amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. Does the distinguished Senator from Utah wish to set aside the other amendment?

Mr. HATCH. Yes. I ask unanimous consent that the pending amendment be temporarily set aside, so that we can call up the next amendment.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment will be stated.

Mr. HATCH. This is done with the express intention, of course, of trying to ultimately get the unanimous consent agreement for all three amendments to be voted on, with one vote counting as three rollcall votes.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2482.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 6, on line 15, strike out the word "indefinitely".

Mr. HATCH. Mr. President, my remarks yesterday focused in part on some of the reasons why the faltering company exemption is almost useless to businesses in its current form.

One of those reasons is that no employer would be able to prove that the capital or business obtained kept the plant open indefinitely. How long is indefinitely? Is that 2 months, 1 year, 5 years, or is it longer? I think we can improve this provision by eliminating this one subjective test.

It is not wise to make faltering companies jump over any more hurdles than necessary in order to stay on their feet. Jobs are at stake here.

There are other ambiguities which limit the effectiveness of this provision, but this is one of the key problems. It can be corrected if this amendment is adopted.

The so-called faltering company exemption, section 3(b) of the bill, seems to recognize the point made by the business community—that is, when a company announces plant closing, the company's customers, creditors, and suppliers often abandon the company immediately, thus making advance notice of a closing or layoff a self-fulfilling prophecy. So how is an employer going to be able to comply with this exemption?

This amendment solves that problem because basically it strikes out the word "indefinitely" and I think solves the problem fully with that strike.

Mr. President, I ask unanimous consent that we lay aside this amendment as the pending amendment so that I can call up the third amendment with the expressed intention of asking the majority leader to propound a unanimous-consent request to have all three of these amendments voted on once by counting as three votes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

AMENDMENT NO. 2483

Mr. **HATCH**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report the third amendment.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2483.

Mr. **HATCH**. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objecton, it is so ordered.

The amendment is as follows:

On page 10, line 24, after the word "court" strike through page 11, line 2 and insert in lieu thereof the following: ", in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs.".

Mr. **HATCH**. Mr. President, this amendment neutralizes the bill in terms of awarding attorneys' fees.

The way the bill is presently written it would be unfairly imposing attorneys' fees on one side against the other. So we think it is not fair that the defendants, who will most likely be employers under this bill, will bear all the costs of the suits, especially if the suits that are brought are frivolous, unjustified, unwarranted, or groundless.

If the language of the bill continues to remain the same, then that is an open invitation for employees to sue if they are insulated from the costs of the suit.

Some suits that are brought may just possibly be frivolous just to get back at the employer.

This amendment does what the sponsors seem to want to do in most of the parts of this bill, and that is leave it up to the courts to decide what to do in this particular instance.

I think it is a pretty straightforward amendment. We basically on both sides agree that it is a good amendment.

With that, I yield the floor.

The **PRESIDING OFFICER**. The Senator from Massachusetts [Mr. KENNEDY].

Mr. **KENNEDY**. Mr. President, at the appropriate time, I will urge our colleagues to accept these amendments. I myself do not object to the idea of having a vote. It seems we are going to accept these, and I find it somewhat difficult to understand why we ought to get three votes for one when the floor managers are prepared to accept all of them, but I will leave that issue up to the leader.

It seems we are addressing some of these issues and there seems to be other issues that ought to be addressed and we ought to be about the business of moving ahead.

Mr. President, as has been pointed out in the first amendment the words "a proposal to issue" are being dropped. They are basically superfluous in terms of the drafting and there is no objection to the elimination of those words.

The second amendment deals with "postpone indefinitely." Was it the intention that that period would mean forever? Clearly not. It would be a reasonable period. It should not be 1 day, 2 days, but a reasonable period based on the business considerations. We were trying to work out a reasonable approach to the kinds of failing business issues and questions. And eliminating "indefinitely" is not offensive certainly to that particular provision or the intention of the managers.

The third provision deals with the changes that will conform this legislation to other legislation dealing with the attorneys' fees.

What has basically been adjusted here from the original Hatch amendment was language which would basically track the attorneys' fees provisions which have been included in the polygraph legislation which we have just passed and also in the pending fair housing legislation. It seems, I think, to clarify that particular issue and I think it is useful that we conform all of the various legislation to similar language so we avoid prolonged litigation.

The Supreme Court has addressed this issue in the Christianburg Garment case and has ruled about the adjustment on the Attorneys' fees.

I would just like to ask the manager of the bill whether his understanding of this language, should it be accepted, would be interpreted as being consistent with the Christianburg Garment case which has been decided by the Supreme Court.

Mr. **HATCH**. The Senator raises an interesting point. In my opening remarks I said it would. Attorney's fees could be awarded in the discretion of the court if the case is brought frivolously or groundlessly or—in other words, there is one other word in the Christianburg case.

Mr. **KENNEDY**. Spuriously.

Mr. **HATCH**. I cannot remember what the other word is.

But those are at least two of the three adjectives used to describe the reason for giving attorneys' fees under circumstances by the Court.

Yes, I think that case would be binding on the language in this particular bill.

Mr. **KENNEDY**. I thank the Senator from Utah. We welcome the opportunity to clarify those particular provisions.

Mr. **METZENBAUM**. Mr. President, Congress has long been concerned that plaintiffs not be discouraged from bringing lawsuits vindicating their rights.

The Supreme Court addressed the issue in the Christianburg Garment case.

I am willing to accept the amendment with the understanding that the intent is the same as the Supreme Court laid out in Christianburg.

Mr. **KENNEDY**. Mr. President, I for one would urge our colleagues to accept these amendments.

As I say, I will follow whatever the Senator from Utah and the majority leader want to do in terms of the voting.

I can speak for the Senator from Ohio. We are prepared to accept all the language without a vote or with a vote or whatever way the majority leader would like to proceed.

As I say, I would like to get them in and have a voice vote and get on to the other business. I understand there are other amendments. I will be glad to follow whatever the Senate wants.

The **PRESIDING OFFICER**. The Senator from Utah.

Mr. **HATCH**. Mr. President, I would suggest that the way to resolve this problem is to have a vote on these en bloc and have a vote up or down on them and they could either count as one or three amendments—I have no difficulties either way—and it could be a 10-minute rollcall vote if the distinguished majority leader would like.

I would ask him to propound that unanimous-consent request, and I believe it would be a good thing to vote on these amendments that way or we can vote three different ways on all three of them back to back. I think probably it would save time if we voted on them en bloc. That would solve the problem.

Mr. **BYRD**. Mr. President, will the distinguished Senator yield?

Mr. **HATCH**. I am delighted to yield.

Mr. BYRD. Would it be possible to combine the three amendments in one and just have one vote?

Mr. HATCH. Sure. That would be fine, too.

Mr. BYRD. One rollcall vote.

Mr. HATCH. Yes.

I would so modify the three amendments and combine them into one amendment if that is the way to do so.

The PRESIDING OFFICER (Mr. SIMON). The Senator has the right to modify.

Mr. HATCH. Mr. President, I ask unanimous consent that the amendments be so modified so they become one amendment modifying the bill in the three separate ways.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. HATCH. I thank the majority leader for his cogent suggestion.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I suggest that the Cloakrooms let our colleagues know that a rollcall vote is imminent, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2484

Mr. HATCH. Mr President, I ask unanimous consent that I may withdraw all three of the amendments—amendments numbered 2481, 2482, 2483—and then resubmit them as one amendment prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2484.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 20, strike the phrase, "a proposal to issue".

On page 6, on line 15, strike out the word "indefinitely".

On page 10, line 24, after the word "cost," strike through page 11, line 2 and insert in lieu thereof the following: ", in its discretion, may allow the presiding party a reasonable attorney's fee as part of the costs."

Mr. HATCH. Mr. President, I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question occurs on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana [Mr. GORE] is necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana [Mr. GORE] would vote "yea".

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—97

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—3

Biden
Gore
Helms

So the amendment (No. 2484) was agreed to.

Mr. KENNEDY. Mr. President, can we have order?

The PRESIDING OFFICER. The point is well taken. Before we proceed, break up the caucuses, please.

The Senator from Massachusetts.

Mr. BYRD. Will the Senator yield to me?

Mr. KENNEDY. Yes.

Mr. BYRD. Mr. President, I would like to see if I can get some understanding of what the game plan is. How many more amendments are there, if I may ask the distinguished Republican leader, on his side?

Mr. DOLE. I am not certain how many. This Senator has an amendment. The Senator from Indiana.

Mr. QUAYLE. There are a number of amendments that have been filed in case cloture would happen to be invoked tomorrow. I do not know how many are going to be called up, I will be honest with the leader. Some may still be worked out.

Mr. DOLE. I understand the Senator from Utah, Senator HATCH, may have a few. There may be others. But I think, I would say to the majority, we are moving on the amendments and there are also some discussions going on if there is some way to reach an agreement on a time certain to vote. So that is happening in the interim with Members on both sides.

So that is happening in the interim.

Mr. BYRD. Does the distinguished leader suggest we stay in about half the night to complete these amendments?

Mr. DOLE. No, I would not suggest that. I have had a number of inquiries on what the leader's plans are for this evening. But I think we could dispose of a few more amendments, and the cloture vote could come first thing in the morning.

Mr. BYRD. Does the leader think we are going to get cloture in the morning?

Mr. DOLE. I think it is 50-50. I hope it is 60-40.

Mr. BYRD. Fifty-fifty. I had better offer the cloture motion so we will have a vote.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 2527, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

Senators Harry Reid, J.J. Exon, Daniel K. Inouye, George J. Mitchell, Brock Adams, Claiborne Pell, Howard Metzenbaum, Bob Graham, Jeff Bingaman, Lloyd Bentsen, Bill Bradley, Edward M. Kennedy, Paul Simon, Wendell Ford, J. Bennett Johnston, and Tom Daschle.

Mr. BYRD. Mr. President, if cloture is not had tomorrow, this will mean that we will have a cloture vote the first thing on the 6th, unless Senators would prefer to continue on after tomorrow. It would be all right with me if we do not go home until Sunday or Saturday night. We can go home Sunday, stay off the 4th, and come back the next day. There has been no adjournment resolution entered.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send another cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 2527, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

Senators Harry Reid, J.J. Exon, Daniel K. Inouye, George J. Mitchell, Brock Adams, Claiborne Pell, Howard Metzenbaum, Bob Graham, Jeff Bingaman, Lloyd Bentsen, Bill Bradley, Edward M. Kennedy, Paul Simon, Wendell Ford, J. Bennett Johnston, and Tom Daschle.

Mr. BYRD. Mr. President, I was reluctant to file a cloture motion. I waited until yesterday to file a cloture motion. Yesterday was the fourth day we have been on this bill, and we are going to pass this bill sooner or later. It is inevitable. Perhaps we ought to start staying around the clock until we do it. We certainly are keeping longer hours than we have been accustomed to.

This bill is holding up other very important matters. I had indicated to all Senators that if the Senate completed action on this bill and I was given an agreement by the distinguished Republican leader to allow me to call up my appropriations bill at any time and go back and forth among those appropriations bills so I can have the utmost flexibility in utilizing the time of the Senate, then the Senate would be out the 6th, 7th, and 8th. We would extend the Independence Day holiday. But I do not know what the game plan is here. I cannot understand what is going on.

I have asked the distinguished Republican leader if we can have a vote on the cloture motion today. He has indicated that he does not think we could have that today.

I have also understood that we will not get cloture tomorrow morning, and so I hope that if the leader on the other side can determine a little clearer as to what the game plan is on that side and let me know, I will be happy to cooperate with him.

Mr. DOLE. If the majority leader will yield, I think I know what the game plan is on that side, and that is to get this bill passed before the Democratic Convention. I understand that. It may be somebody would like to pass before ours.

I think we have been offering amendments. They have been related to the bill. We have kept off some that were suggested, like the death penalty and others that Members could think of. My view was we ought to stick to amendements that are relevant or germane to this bill.

I do not know precisely what is happening myself. It is not a requirement around here.

Mr. BYRD. It might help a little.

Mr. DOLE. I know there are some discussions going on with Members who have been directly involved. I think the Senator from Ohio, the Senator from Indiana, the Senator from Utah, and the Senator from Massachusetts have been able to work some of the amendments.

I do not know of anybody on this side who has indicated to me, and I can say in all truthfulness, they want to keep talking to try to wear out the leader or anybody else. So I would say I think you have done—do you have one left?

Mr. BYRD. Yes.

CLOTURE MOTION

Mr. BYRD. I send another cloture motion to the desk.

(Applause, laughter.)

Mr. DOLE. I think you are pursuing the right course.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 2527, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

Senators Harry Reid, J.J. Exon, Daniel K. Inouye, George J. Mitchell, Brock Adams, Claiborne Pell, Howard Metzenbaum, Bob Graham, Jeff Bingaman, Lloyd Bentsen, Bill Bradley, Edward M. Kennedy, Paul Simon, Wendell Ford, J. Bennett Johnston, and Tom Daschle.

Mr. BYRD. Mr. President, I think all Senators can see I have demonstrated my good faith in trying to complete action on this bill so that all Senators may get back to their hometowns and their States and participate in the Independence Day parades.

These cloture motions are in. We may vote on two or three of them on the same day, and we will have more if need be. We are going to start taking a little more time in the interest of expediting the action on this measure. I hope it can be done.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I think we are ready to deal with other amendments. I point out, in the last 2½ hours, we have dealt with several word changes that have been unanimously accepted. We are quite prepared to deal with the substance issues.

I just want to join in commending the majority leader. There are many of us who have been strong supporters of this legislation and knew that we were going to face vigorous opposition to the legislation and urged that we move ahead with the cloture motion. It was the leader's judgment that we ought to give opportunity for full and complete debate and discussion.

I must say, he has been extraordinarily patient, I think, with all the Members here again. I think we are hopeful we can have a good deal of debate and start dealing with the substance of these matters in the time that remains.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, we will be offering an amendment. In fact, this Senator will be offering an amendment, and there will be amendments offered without delay.

This is an important political measure. I am not sure how important the measure is beyond that, but from that standpoint of hardball politics, it is an important measure. Otherwise, we would be looking at the trade bill and debating a trade bill, which is important across the board.

For some reason, when the veto was sustained, it was determined that we will not have a trade bill unless first plant closings is passed and the President's veto overridden. That is a determination, obviously, the majority can make, and it may be that there is still some possibility of working out with enough Senators on this side of the aisle changing some of the provisions, some modification that would bring about that final outcome, where the veto is overridden, and plant closing becomes law and then we get into the trade bill.

Mr. President, I say on behalf of Senator HATCH, the Senator from Utah; Senator QUAYLE, the Senator from Indiana; and others on this side, I believe so far the amendments that have been offered have been clarifying amendments.

To some extent, some have been beyond clarification, have been substantial amendments that have made improvements on the bill. There have been changes made on the bill. Some of the amendments that were defeated I thought should have been adopted. The Senator from Texas had a good amendment yesterday with S&L's entering into bankruptcy and still having to provide notice under this agreement.

There is another group that is going to be suffering before long. We have talked a lot about the drought, but I do not think we have taken time to reflect on what is going to happen 6 months from now or a year from now when some of those companies that supply farmers are going to be closing their doors. Are we going to require elevators, cooperatives, processors, and others to give 60 days' notice when they are going broke because of the widespread drought? I do not believe that was the intent of this bill. I have an amendment to address that one point. And it is not in that amendment debatable. It will be offered by this Senator to make certain that any act of God, any natural disaster that strikes, would exempt those businesses affected by drought or by flood, whatever it might be, from the implications and provisions of this act. The amendment simply states, "No notice under this act shall be required if the closing or mass layoff is due, directly or indirectly, to any form of natural disaster such as a flood, earthquake, or the drought currently ravaging the farmlands of the United States."

AMENDMENT NO. 2485

Mr. **DOLE**. I send the amendment to the desk.

The **PRESIDING OFFICER**. The clerk will report.

The legislative clerk read as follows:

> The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2485:
>
> At the appropriate place add the following: No notice under this Act shall be required if the closing or mass layoff is due, directly or indirectly, to any form of natural disaster, such as a flood, earthquake, or the drought currently ravaging the farmlands of the United States.

Mr. **DOLE**. Mr. President, I am offering this amendment which stipulates that plant closing notifications will not be required in cases where businesses are shut down due to natural disasters. The thought occurred to me, when watching any television show or picking up any newspaper, turning on any radio program, all the focus is on the drought not just on the farms but on the rivers. That is going to affect business. Some of these businesses along the Mississippi and in the Midwest are going to be forced to shut down because they are going to go broke. Now, if they have more than 100 employees, are they going to have to serve notice under this bill if it passes without change? I do not believe that was ever the intent. Maybe somebody will tell me about some language that covers that, but I want to make certain it is covered. Let us just be very specific that in a natural disaster we are not going to require some employer, who is about to take bankruptcy, to give 60 days' notice. I do not think employees would expect that.

We hear about the drought every time we turn around. It is not getting any better and the forecast is not any better. It is widespread. It is in 20 States. The cost in money alone is going to be billions of dollars. The cost in human misery and tragedy is going to go much beyond the farmer. I think right now all the focus is on the American farmer. It is going to go far beyond the American farmer. It is going to go to suppliers and processors and elevator operators and barge operators. A lot of people we have not even thought about are going to be hard-pressed to keep their doors open.

This past weekend I met with farmers in Ohio, Iowa, and South Dakota, and a common comment was potential hardships that occurred not only to farmers but also businessmen and businesswomen on Main Street.

It will not take long for the rest of the economy to realize the ripple effect caused by hard times down on the farm. We are told what some of the effects of a prolonged drought are expected to be—lower net farm income during the next 2 years, an increase in farm debt of over $3 billion, stagnant farmland values, shrinking grain reserves, rising feed costs for livestock causing herd liquidations, and the lowest water levels in the Mississippi, Illinois, and Ohio Rivers ever recorded. The low river levels give an example of how drought first affects farmers but results in affecting other sectors of the society. With barge movement at a standstill, rates will go up and less cargo tonnage will be shipped per barge. Rail rates will go up and transportation expenses will increase and some businesses dependent on transportation will fail. Fertilizer dealers, elevator operators, and manufacturers will also be hard-hit. We are told 60 million Americans live in rural America and that 40 percent of personal income comes from manufacturing jobs alone. Mr. President, drought lowers farm income. When the farmer does not make money, neither does anyone else who depends on the farmer's purchasing power.

In fact, there is a story around that for every dollar a farmer spends, it multiplies seven times. He is not going to have a dollar to spend. He is not going to have anything to spend. He may not even have his farm before it is over. So I do not think we ought to get carried away here with demands of some in organized labor that whatever happens, you are going to have to give notice. We all want workers to have notice. What we really want is workers to have jobs. There have been a lot more plant openings, by far, than plant closings. I know some of the big companies do not care about this bill at all; they give notice now under their collective bargaining agreements. I am suggesting we have a problem right now. It is called the drought. Next year it might be a flood. The next year it might be something else. It might be a tornado. I hope that we can agree that this is a legitimate amendment that ought to be adopted. If we are serious about alleviating the impact of the drought or other natural disasters on the economy, then we should agree not to hit businesses with both barrels. They are going to be hard-pressed to survive. It is the worst drought in 50 years. We do not need additional expense resulting from plant closing legislation.

We will also be assessing the extent of the drought over the next several weeks. It is clear the drought could be a national catastrophe, and I hope this amendment could be adopted. We cannot control the weather, but we can control the extent of our actions upon the economy. I urge my colleagues to support what I believe is a commonsense effort, and if it is in this bill somewhere in some of this ambiguous language that is very complicated for some of us who are not on the committee, then I do not understand it. But I think one way to clarify it is just to be very precise about it, and that is why this amendment has been offered.

The **PRESIDING OFFICER**. The Senator from Ohio.

Mr. **METZENBAUM**. Mr. President, I understand the concern expressed by the Senator from Kansas about the problems from the drought which is currently ravaging the farmlands of the United States. I think there are 100 Members of this body, and it is fair to say the Secretary of Agriculture as well, who have attempted to deal with this problem. I want to deal with it. As as matter of fact, it is my understanding that the chairman of the Agriculture Committee is presently in a meeting just off the floor of the Senate to see what can be done to help the farmers of this country because there is no group in the country that is more deserving of assistance and certainly I want to be party to that assistance.

Now, as a matter of fact, the bill presently provides for an exemption in connection with unforeseeable business circumstances. The language of the conference report reads:

> The conferees recognize that there may be cases in which unforeseeable events necessitate a plant closing or mass layoff and it is not economically feasible to require the employer to give notice and wait until the end of the notice period before effecting the plant closing or mass layoff.

Obviously we are not talking only about plant closings or mass layoffs. If an agricultural enterprise employs more than 100 employees, then it is an "employer" covered by the provisions of this act. These agricultural employers are corporate operations that should be treated like other employers covered by the act. I think everybody would agree they should be covered.

I think it is reasonable to say that if the drought is an unforeseeable event that actually causes the layoff or the closing to occur, that is one thing.

But I am frank to say that I have some difficulty with one portion of the amendment. I would like to suggest to the distinguished Senator from Kansas that we eliminate the "indirectly" because "indirectly" is such an amorphous kind of term you cannot tie it down. How far indirectly does that mean?

I would say to the Senator from Kansas if we can take out the word "indirectly" the Senator from Ohio will be prepared to accept the amendment.

Mr. DOLE. I think the word "indirectly" as we understand it, and again I defer to the judgment of the Senator from Ohio on this, is that what we are trying to cover, and we understand the direct impact it is going to have on the farmer; we understand the direct impact it is going to have on elevators and some are not going to be in business for a while; we understand the impact that is going to be direct on those who serve farmers. Whatever they sell farmers directly applies to the land. But what we are concerned about is somebody who may be downstream, somebody who may not be in the direct line selling services or products to the farmer but in any event has the same economic difficulties because of the drought.

It is not intended to be a loophole. Somebody has to be in that business. I guess we would have to define "directly" if we take out "or indirectly" or we could add in there "or indirectly certified by the Secretary of Labor" or someone to make certain there was not somebody trying to avoid the impact of the general law.

Mr. METZENBAUM. Mr. President, I suggest, in order that we might discuss this, the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that I may amend my amendment on line 2, after the word "do," strike out the comma, strike out the word "directly", the word "or," the word "indirectly" and the comma after "indirectly." So the amendment would then read "No notice under this act shall be required if the closing or mass layoff is due to any form of natural disaster," et cetera.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. METZENBAUM. Mr. President, with that modification, we are prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOLE. Mr. President, also in line 1, before the word "closing," add the word "plant." So it would read "No notice under this act shall be required if the plant closing or mass layoff is due to any form of natural disaster."

The PRESIDENT OFFICER. The amendment will be so modified.

The amendment, as modified is as follows:

At the appropriate place add the following: No notice under this Act shall be required if the plant closing or mass layoff is due to any form of natural disaster such as a flood, earthquake, or the drought currently ravaging the farmlands of the United States.

The PRESIDING OFFICER. Is there further discussions on the amendment?

Mr. KARNES addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KARNES. Mr. President, I would like to indicate my support for this amendment and the changes that have just been made to the amendment. I would like to share with my colleagues the experiences that I have had, and the chance I have had to see firsthand these last 3 weeks visiting Nebraska. I have been very disturbed about the adverse impact that this plant closing provision may have on industries that are relying solely on the inputs from agriculture.

Since I talked with the Republican leader this afternoon about this provision I have had a chance to check with people in Nebraska and have a list of industries that are going to be negatively impacted if this amendment is not adopted.

First of all, implement manufacturers in my State are very fearful of the provisions of this bill in looking down the road at what may happen because of this drought. Commodities storage manufacturers, and the meatpacking industry have a very difficult time with the herd liquidations that we see taking place right now anticipating what their slaughters will be on a day-to-day basis.

Also poultry and egg plants have contacted me concerning the impact of this legislation that they have. There is an ethanol facility in our State which is very concerned about the supplies that they are going to have in the future.

Flour mills and several bakeries we have contacted concerning this particular provision.

I think it is incumbent upon all of my colleagues to give special consideration to the devastation that is taking place in most of the agricultural States in this country regarding the drought. They need to give very special consideration to the impact which this plant closing provision will have without this amendment on their employees that are involved in agricultural production.

So I rise to strongly endorse the Republican leader's amendment, and indicate that I believe all of my colleagues should give again very serious consideration to the important industrial capability that may be impacted by this plant-closing or layoff provision in the light of the very serious drought that is spreading across our country.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I would be happy to add the distinguished Senator from Nebraska as a cosponsor. I do not want to delay this, but I will ask for the yeas and nays. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment, as modified, by the Senator from Kansas.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea.".

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS] and the Senator from North Carolina [Mr. HELMS] are necessarily absent.

The PRESIDING OFFICER (Mr. BREAUX). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 95, nays 0, as follows:

Rollcall Vote No. 218 Leg.]

YEAS—95

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth

Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—5

Biden
Evans
Gore
Helms
Stennis

So the amendment (No. 2485), as modified, was agreed to.

The **PRESIDING OFFICER.** The Senator from Kentucky.

Mr. **FORD.** Mr. President, I do not know who the managers of the bill are going to be here, and I see the distinguished Senator from Ohio and I know the Senator from Utah has been here.

We have now cast 4 or 5 votes, 97 to nothing, 95 to nothing, 97 to nothing, and I think we are beginning to look a little bit——

Mr. **PRYOR.** Ridiculous.

Mr. **FORD.** Ridiculous. That is a good word. I thank my colleague.

We could have stacked those votes and have one vote count for four.

We were forced into making those votes, and it does not make a lot of sense to this Senator.

It is after 6 o'clock. We continue to take these frivolous votes. They would have been accepted by voice vote. No. They wanted a record vote.

I wish the managers of the bill would decide that we are going to debate the amendments and stack them in the morning, start at 9 o'clock, the first vote 15 minutes and the next three, four, five, whatever they are, 10 minutes, and those who want to debate can stay here and debate. The rest of us who have other things to do could go to that.

I encourage the managers of the bill to give some consideration to what we are doing here tonight and give some of us who are good soldiers—we have labored in the vineyards and both sides are doing the same thing—I would be hopeful we may get some consideration in the next half hour or less as to what is going on.

The **PRESIDING OFFICER.** The Senator from Ohio, Senator METZENBAUM.

Mr. **METZENBAUM.** Mr. President, the Senator from Kentucky is not out of line in his comments. He is correct. On every one of these amendments where the vote was 97 to 0, or something like that, we indicated we were prepared to accept. It was the minority side that asked for a rollcall. They certainly had a right to do that. They were proceeding under their rights within the rules of the Senate.

But I agree with him.

There is no sense in just going through the motions if we are ready to accept an amendment.

I think what is happening is that our colleagues on the minority side are trying to decide for themselves where they want to go with this bill. It is obvious that there is an overwhelming support for this bill in the U.S. Senate.

I am of the opinion that there is a sufficient support to override a veto. I would hope we could bring on the entire group from the minority or at least a substantial number of them. I would hope we would not have to face a veto.

We have accepted a number of these amendments in the hope that it would make the bill more acceptable to Members of the minority.

I am proud to say that the Members of the majority have stood very firm and just about 100 percent of the Members of the majority have voted on a solid block for it and in opposition to every amendment with the exception of those that we were prepared to accept.

The **PRESIDING OFFICER.** The Senator from Kansas, Senator DOLE.

Mr. **DOLE.** Mr. President, I thank the Senator from Ohio with reference to the last amendment and I want to make one point. We did in that amendment take out both words "directly" or "indirectly." So I would not want any court that might take a look at this saying, "Why did they take out those particular words?"

We started to take out just the one word. I think the suggestion of the Senator from Ohio was good. We took them both out. Now it reads:

> No notice under this Act shall be required if the closing or mass layoff is due to any form of natural disaster, such as a flood, earthquake, or the drought currently ravaging the farmlands of the United States.

So I think the amendment is clear. I think there was some question what "directly" means and what "indirectly" means. Now it is going to be a matter of proof, and I think that is what we intended in the first place.

It may not be just those who serve the farmer. It might be somebody downstream. It might be a barge operator. It might be someone else.

The Senator from Nebraska, Senator KARNES, read off a list of businesses who contacted him today, bakeries, for example, elevators—go up and down the line—meatpacking plants, ethanol plants; all of these are going to be impacted if this drought persists, and that seems to be the direction we are heading.

I would just hope there would not be any question about this being a broad amendment. I know there is language in the bill. I think this does clarify it. It talks about natural disaster. In those cases, my understanding is we would not be exempt from any notification of layoffs or closing.

Mr. **FORD.** Mr. President, will the minority leader yield?

Mr. **DOLE.** I am happy to yield.

Mr. **FORD.** I was very much for the amendment. I think by indication of the vote we all were.

The only problem I had with the last several votes, where they were all 97 to nothing or 95 to nothing, is some were jockeyed back and forth every 15 minutes.

What I was hoping we might be able to do is work out some way we could stack the votes and vote in the morning at 9 o'clock and have the first one 15 minutes and the next one 10 minutes or under the 97-to-nothing status we could have one vote count for four. All of us would love that. It would give some continuity where we are trying to get some work done. By the time we get started we have to go back on the floor and vote.

I would hope that some consideration would be given. I am not trying to usurp the majority leader's position. He will make his own decision on that. I thought we might plow a little new ground, maybe not just disk up the old.

Mr. **DOLE.** I think it is a good suggestion. I certainly would be happy to cooperate.

Mr. **FORD.** I think that is one down and two to go, or two down and one to go.

Mr. **DOLE.** I think the other side of the coin is that we indicated to the majority leader we were not trying to stand up here and talk for 2 hours on some amendment. I know they would have accepted this amendment. It seems to me we wanted a vote in case there is a conference. In case there is an effort in the House to strip out these amendments, they know they have a pretty solid vote on the Senate side.

At the same time, the Senator from Kentucky makes a good point. I would be happy to cooperate in any way that I can so we can accommodate our Members on both sides.

Mr. **METZENBAUM.** Mr. President, we had no difficulty in accepting that previous amendment because we do have a provision in the bill having to do with business circumstance that were not reasonably foreseeable. If the effects are not reasonably foreseeable, then certainly there ought not to have to be that kind of notice.

But droughts and natural disasters may be adjusted so that notice can be given, especially by those affected downstream. This is not a carte blanche so that anybody who claims they had some impact, however small, because of the drought would not have to give notice. I think you are going to have to be able to determine whether or not the closing or mass layoff was, indeed, actually due to the natural disaster, such as flood, earthquake, or the drought currently savaging the farmlands of the United States. I think it may wind up having to be, in some instances, a court issue, were some employer to attempt to claim that somehow, in some way, the farmers could not get to work because they were on the farms and therefore they had to close the plant.

I think you could make a lot of ludicrous cases out as to what impact the drought or flood or earthquake has.

But I think the amendment as drafted was acceptable. I am pleased that it was adopted overwhelmingly by the Members of this body.

Mr. GRAMM. Mr. President, I wish we could interpret this natural disaster provision of the last amendment to apply to acts of Congress, but I guess they would be man made and, therefore, would not qualify. It would provide important relief under the bill if that were possible.

AMENDMENT NO. 2486

(Purpose: To suspend the requirement for advance notice in the event of disruption of plant operations due to employee action)

Mr. GRAMM. Mr. President, I send an amendment to the desk to address what I believe is a very serious problem in the bill and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. GRAMM) proposes and amendment numbered 2486.

Section 3(b) is amended by adding the following new paragraph:

"(4) An employer may order a plant closing or mass layoff before the conclusion of the 60-day period if, following the provision of notice as required in subsection (a), 50 per cent or more of the notified employees voluntarily terminate their employment, or if sufficient employees voluntarily terminate their employment so as to disrupt the efficient functioning of the business enterprise.".

Mr. GRAMM. Mr. President, I think this amendment addresses a very serious problem with this bill. Let me try to lay it our as an example and then I want to point out that the example has practical implications given the state of the economy in many parts of the country. Then I would like to avoid another one of these rollcalls by having the distinguished Senator from Ohio decide to accept the amendment.

Mr. President, let us say you have a plant in New Hampshire where the unemployment rate may be 2½ percent. Let us say you decide to shut it down because people are no longer wearing garters and you are manufacturing garters and you give a 60-day notice. In the first 10 days, half of your people quit and go to work for somebody else. However, you have a 60-day requirement under law that you operate the plant and that you pay these people, yet half of them have left voluntarily and you cannot operate the plant with half your people.

Now, what this amendment says, very simply, is that if over 50 percent of the affected employees who were notified leave voluntarily, or if sufficient employees voluntarily terminate their employment so as to disrupt the efficient functioning of the plant, that you can go ahead and shut it down.

Mr. President, I assume that our colleagues who see such disaster in the economy and this great suffering in the marketplace will say, "Well, this is not going to happen." Well, I remind my colleagues that layoff rates today are at the lowest level in 20 years; that, in fact, the layoff rate is 40 percent below today what it was when Jimmy Carter was President. In fact, we have the lowest unemployment rate since 1974.

Now, in my part of the country, in Louisiana and in other parts of the Southwest, our unemployment rate is very high. So if the national average is at the lowest level since 1974, if you take out the oil-producing States, what it means is that the national economy, excluding the Southwest, is so good that a lot of people are working that could be on welfare. Now, that is a state of the economy that I would like to replicate in Texas and Louisiana and everywhere else all over the world. We are not going to do that with this bill, unfortunately.

Also, I might point out to my colleagues that, with all this talk of gloom and doom, the statistics that are available indicate that since 1981 15 new businesses have opened for every one that has closed its doors and, in fact, six plants are having openings every day that one closes.

So I think having a provision in this bill that says if you happen to be lucky enough to be in one of those parts of the country that is booming and you give notification complying with this law and your employees leave to go take another job knowing you are closing, you cannot hire other people to come in and work for the 50 days you have left on the notification and, therefore, you cannot efficiently operate the plant, I cannot understand for the life of me why you would not let the guy shut down the plant.

Finally, before yielding the floor, Mr. President, let me note something here that I do not know if it struck anybody else, but it struck me, and I think it is relevant to this issue. Has it not occurred to anyone that nobody has raised the issue here of possible employer notification?

You have an employer. He has saved up his money all of his life, invested his life's savings to build a building and buy a plant and buy equipment, to turn the electricity on, to heat and air-condition the building, and nobody is saying you have to notify this fella if you are going to quit work. Everybody is saying this fella has to notify workers if he wants to close down his plant. Now, I suspect that the reason is there are a lot more people working in plants than there are people who own them. I think that goes back to politics.

My own view is that we ought to let people quit work if they want to quit work and if somebody wants to close down a plant where, in fact, they are sacrificing, in some cases, their life's savings and family's life savings, than they ought to have the freedom to do that if it is necessary to save their business.

But I am not offering an amendment that says workers have to notify the employer. I am just saying, if the employer notifies the worker and then half of the workers leave or a sufficient number leave, that the guy who has built up with his life savings in this business and now cannnot operate it, should he not then have the right to close the plant and try to save some of his life savings and some of his investment? Or is he just an irrelevant person whose existence and whose work has no meaning in a debate in the U.S. Senate?

So I think this is a serious issue. I am hopeful that the Senator from Ohio, knowing him to be concerned about these kinds of things, will decide to support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas yields the floor. Is there further debate on the amendment? The Senator from Ohio.

Mr. METZENBAUM. Mr. President, it is quite obvious that we have been prepared to accept a number of amendments today in the interests of trying to move this bill along, but this one we cannot accept. This one would do great harm to the substance of the bill. So at an appropriate point I will move to table this amendment.

Let me tell you why. The amendment allows an employer to order a plant closing or mass layoff before the end of a 60-day notice period if after notice, 50 percent of employees voluntarily terminate, or "sufficient" employees voluntarily terminate so as to "disrupt" the "efficient functioning"of the business.

There are two reasons to reject this amendment. First, it is unnecessary, all evidence—from U.S. Office of Technology Assessment, the National Academy of Sciences, and the Conference Board, shows that in fact workers do not desert their employers once notice of a plant closing is given. Canada's experience under its mandatory notice law has been the same—workers simply do not leave an employer in large numbers.

I was in a plant just the other day, Rockwell International. Rockwell International is just about closed. I saw two employees there, plus one person from management. There might have been a couple of other workers.

But, as I was walking through the plant, and they were talking about finding a new tenant for the plant to provide jobs in that area, I saw a chart. I said to the management person who was walking with me: "What is that chart?" Because I could see the line showed upward, an increase.

He said, "I am going to tell you something interesting, Senator." He said, "After we notified them that this plant was closing, we did not have one instance of any problem with any employee. The employees stayed on the job and, as a matter of fact, their productivity increased and the quality increased. We are so proud of our employees, we just cannot emphasize that to you enough."

As a matter of fact, that is not atypical. That is typical.

Former Secretary of Labor Brock's Task Force on Worker Dislocation found that "many of the fears regarding advance notification have not been realized in practice. In this regard the task force found no evidence that the productivity of the work force is adversely affected during a notification period."

The next point I would make is the National Academy of Sciences found that "there is widespread agreement among business and union leaders . . . that advance notice does not lower workers' productivity after the announcement. . . . The productivity and quality improvements that occur appear to reflect the reaction of employees to the evidence that management is concerned about their welfare . . . and the desire of workers concerned about reemployment to demonstrate to new employers that the quality of the work force in the closed plant was high."

Then there was a 1986 study by the conference board that found that where assemblyline employees received advance notice, "few actually looked for a job or left before their last day of work." The soon-to-be-displaced workers were described by their employers as "the cream of the crop," citing "the higher productivity and quality standards that the plants experienced in the period immediately prior to closing."

Finally, the Office of Technology Assessment reports that under the Canadian mandatory notice law, premature closings after notice are not a significant problem. According to the Office of Technology Assessment, a Canadian official stated that it was "rare for a closing or layoff to occur ahead of the initially announced time," and that he "had never heard anyone raise this as a problem before."

I have a lot of respect for the Senator from Texas, but the Senator from Texas does not believe that this is a good bill. He is opposed to the bill. He has made that very clear in a discussion I had with him just the other day. He made it very clear that there is no way that he could accept this bill. I think he would like a budget-balancing amendment on this bill, if my recollection of our conversation is correct. Or may be it was in another connection, but I think it was on this bill.

Mr. GRAMM. No, it was another bill, but I would take it on this one.

Mr. METZENBAUM. OK.

In sum, it hardly sounds like workers are going to stampede out the door when a plant closing is announced.

I say to my collleague. You do not like this bill. You are going to vote against it. As long as the substance of the bill was there you would be opposed to this bill. But there are an overwhelming majority of the Members of this body who want this bill and so I think your amendment is a bit suspect, particularly in view of the overwhelming evidence, from the Office of Technology Assessment, from the Brock task force, and from the National Academy of Sciences. They all say: no big deal. It is not a problem. As a matter of fact, there is no evidence.

There is no evidence that the hypothetical situation addressed by the Gramm amendment exists. For this reason, the exit of large numbers of workers from the work force clearly would be an "unforeseeable business circumstance." The bill already contains an exemption that covers such unforeseeable events. If an employer finds that so many of his employees have left that it is impossible for him to continue operating, he may shut down his business before the expiration of the notice period under the bill as it stands now. The exemption currently in the bill is more than sufficient to cover the situation described by Senator GRAMM. There is no need for this new exemption.

Apart from being unnecessary, the Gramm amendment is dangerously vague. It is full of phrases that invite lawsuits. What does the amendment mean by a "sufficient number of employees?" What does it mean to "disrupt" the "efficient functioning" of a workplace? What does that mean? That is a lawyer's bonanza, and that is the kind of thing that we do not want in this bill.

We do not want to make lawyers rich with this bill. We want to get workers back on the job. We want them retrained and counseled and assisted during the 60-day notice period.

Without a doubt, the amendment would lead to litigation over these terms.

We are seeking to minimize the confusion over this law. The amendment simply adds to the confusion, for no good reason since the situation it seeks to address is already covered by the bill.

Mr. President, I move to table the amendment.

Mr. GRAMM. If the distinguished Senator would withhold, I would like to have a couple of minutes to respond.

Mr. METZENBAUM. Mr. President, I offer my motion but would yield to the Senator from Texas for how many minutes?

Mr. GRAMM. Five minutes.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that notwithstanding the motion to table, the Senator from Texas may be recognized for a period of 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I have never heard a clearer statement that attacks the fundamental premise of this bill than I just heard. The whole objective of this bill is supposed to be that the 60-day notice gives employees an opportunity to go out and look for a job. That is the whole objective of this bill; the stated purpose of this bill. Now our colleague from Ohio quotes all these studies saying few actually looked for jobs. I thought the objective of the whole thing was not to redistribute wealth but was, instead, to give people an opportunity to go out and look for a job.

I do not think that this is a trivial issue. I think it is a real life issue. I do not know what the National Academy of Sciences or what the Office of Technology Assessment knows about economics, but I can assure you that in areas of the country that have unemployment rates under 3 percent, when you give people notification that their job is going to end in 60 days, some of those people are going to go out and look for other jobs, just as this bill is founded on the premise that they will do.

I think it is perfectly conceivable that there may be circumstances under which a company, which is trying to comply with this bill, will find itself in a position that it cannot operate efficiently because it has lost so many of its employees who have left voluntarily.

Our colleague from Ohio says that this almost never happens. If it almost never happens, then there is no problem with the amendment. If it does happen, a company ought to have a right to be protected.

Mr. President, I am again struck by the callous way in which this body treats the people who invest their money. It is as if they have no rights. It is as if they have no spokesmen in the United States. If somebody saved his whole life to open up a business, the well-being of that investor ought to be taken into account in this bill. I think this amendment does this.

Finally, I disagree with the idea that there is something ambiguous about the phrase "of a sufficient number of employees voluntarily terminating so that the plant cannot be operated efficiently." This is as clear a phrase as has been present in any amendment that we have dealt with. There is no doubt about the fact that this bill will not only make a lot of lawyers rich, whether this amendment is adopted or not, but the real objective is to reelect a lot of lawyers so they will not get rich by being out in the private sector of the economy.

I think this amendment makes sense, and I think if someone votes against this amendment, they are simply saying we do not care about the men and women of this country who save money, who invest, who create jobs. We are worried about getting the votes of the people who might be laid off, and we do not care what happens to the life savings of somebody who invested in opening up a company.

All I am saying is that if somebody gives a notification and the bill works, people go out and look for a job, they get another job, they are happy, let us not destroy the life savings of the people who own this business, be it large or be it small, to try to comply with some technical requirement of the law. If 50 percent of the people leave voluntarily or if a sufficient number leave so that the plant cannot operate efficiently, we ought to let the investor protect his or her money by shutting the plant down. I think that is a reasonable amendment, and I hope my colleagues will see the wisdom of it and that they will adopt it.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator yields back the remainder of his time.

The question is on the motion of the Senator from Ohio to table the amendment of the Senator from Texas.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Florida [Mr. CHILES], the Senator from Tennessee [Mr. GORE], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS], and the Senator from North Carolina [Mr. HELMS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 34, as follows:

[Rollcall Vote No. 219, Leg.]

YEAS—59

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Byrd
Chafee
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Harkin
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Weicker
Wirth

NAYS—34

Armstrong
Bond
Boschwitz
Cochran
D'Amato
Dole
Domenici
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Pressler
Quayle
Rudman
Simpson
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—7

Biden
Burdick
Chiles
Evans
Gore
Helms
Stennis

So the motion to lay on the table amendment No. 2486 was agreed to.

Mr. DURENBERGER. Mr. President, we will soon be voting on legislation requiring companies to provide advance notice to workers and communities of their intention to close a facility or to lay off a substantial part of the work force. I want to commend the distinguished Senator from Ohio, Senator METZENBAUM, for his diligent efforts on behalf of this legislation and I hope that the President will ultimately sign this legislation into law.

This legislation has had a long and controversial history. During last July's debate on the omnibus trade bill last year, 1987, I joined 59 of my colleagues in voting for the Senator's advance notice amendment to the Omnibus Trade and Competitiveness Act of 1989 which laid the foundation for this bill. After several months of negotiations, the plant-closing amendment was modified in the conference on the trade bill. As all of my colleagues know, the trade bill was vetoed by the President and that is why we are again considering this legislation today.

The conference report on the trade bill (H. Rept. 100-576) provides background and examples as to how the advance notice rule should operate if it becomes the law of the land. I believe that the conference report is an important source of information that will facilitate compliance with this law. I therefore recommend that the Senator include in the RECORD the portions of the conference report on H.R. 3 which provide guidance on the advance notice provisions.

Mr. METZENBAUM. I think the Senator from Minnesota, Senator DURENBERGER, has raised a valid issue, and I want to thank the Senator for raising this issue. We worked for several months in the conference on the trade bill to address many of the concerns that have been raised regarding this legislation. The conference report provides guidance that will enable employers to better understand Congress' intent in adopting this legislation and will facilitate compliance with the law.

I believe it would be appropriate to include the relevant portions of the conference report on the trade bill in the RECORD, and therefore I ask unanimous consent that pages 1045-1055 of the conference report on the Omnibus Trade and Competitiveness Act of 1988 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUBTITLE E—ADVANCE NOTIFICATION OF PLANT CLOSING AND MASS LAYOFFS

Present law

There is no present law for this provision.

House bill

The House bill contains no comparable provision.

1. SHORT TITLE (SEC. 6401 OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment has no provision for a short title. The advance notification provisions were identified as Part B of the Economic Dislocation and Worker Adjustment Assistance Act.

Conference agreement

The Conference Agreement separates the advance notification provisions from the worker adjustment provisions of the Economic Dislocation and Worker Adjustment Assistance Act. Section 6401 of the Conference Agreement creates a new subtitle for the advance notification provisions. The short title for this subtitle is the Worker Adjustment and Retraining Notification ("WARN") Act. By separating the advance notification provisions from the worker adjustment provisions, the Conferees intend as an administrative matter for the WARN Act to be an original law, not an amendment to the Job Training Partnership Act. At the same time, the Conferees reaffirm that advance notice is an essential component of a successful worker readjustment program, and they regard the two subtitles as closely interrelated.

2. DEFINITIONS/EXCLUSIONS FROM DEFINITIONS (SEC. 331, 334, (1), (2) OF SENATE AMENDMENT; SEC. 6402 OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment defines the terms "employer," "plant closing," "mass layoff," "representative," "effected employees," "employment loss," "unit of local government," "part-time employee," and "seasonal employee."

The Senate Amendment includes exemptions from notification for plant closings or mass layoffs resulting from the sale or relocation of a business. Under the exemption for sales, not notice is required if the plant closing or mass layoff results from the sale of all or part of a business and the purchaser agrees, in writing, to hire substantially all affected employees with no more than a six-month break in employment. Under the relocation exemption, no notice is required if the plant closing or mass layoff results from a relocation of a business within a reasonable commuting distance and the employer offers to transfer substantially all affected employees to the new location with no more than a six-monthy break in employment.

Conference agreement

The Conference Agreement adopts the definitions in the Senate Amendment with the following modifications:

"Employer". The Conference Agreement retains the Senate Amendment language that the term "employer" means a business enterprise. The Conferees intend that a "business enterprise" be deemed synonymous with the terms company, firm or business, and that it consist of one or more sites of employment under common ownership or control. For example, General Motors has dozens of automobile plants throughout the country. Each plant would be considered a site of employment, but as provided in the bill, there is only one "employer"—General Motors.

"Plant Closing". The Conference Agreement strikes all references to "place of employment" and replaces them with "single site of employment." This change is intended to clarify that geographically separate operations are not to be combined when determining whether the employment threshold for triggering the notice requirement is met. For example, an automobile assembly plant on the east side of town and an assembly plant on the west side of town ordinarily would be two separate "sites of employment." On the other hand, an assembly plant on the east side of town that happens to extend to both sides of a public street is *not* two distinct "sites."

The Conferees otherwise retain the Senate language, but wish to clarify that a "temporary shutdown" triggers the notice requirement only if there are a sufficient number of terminations or layoffs exceeding six months, as specified under the definition of "employment loss."

"Mass Layoff". The Conference Agreement modifies the Senate Amendment so that the 33 percent requirement applies only to a mass layoff that involves more than 49 but fewer than 500 employees. Where the employment loss involves 500 or more employees, the 33 percent requirement would not apply, and notice would be required. The Conferees believe that layoffs involving 500 or more people are likely to cause significant economic disruption in local communities, as well as the obvious disruption for the individuals involved. Thus, the rationale for advance notice is strong—the need for individuals and communities to begin planning for dislocation before the dislocation occurs. The justification for a 33 percent requirement for layoffs before notice is required has been the representation by business interests that small layoffs of 50 or 100 or even 200 employees at a single site with a workforce of perhaps a thousand or more employees are such a regular part of business that requiring notice in these circumstances would be unduly burdensome. Because a layoff of 500 employees at a site of employment is a significant and unusual action, even in a large workforce of 2000 or more employees, the requirement of advance notice in these situations should not place an undue burden on employers.

"Employment Loss." The Senate Amendment includes two kinds of layoffs that would trigger the bill's requirements—those of indefinite duration and those of definite duration exceeding 6 months. The Conference Agreement combines these into a single triggering event—a layoff exceeding 6 months. The Senate Amendment includes within its definition of an employment loss a reduction in hours of more than 50 percent during any 6-month period. The Conference Agreement clarifies that this reduction in hours must occur in each of 6 consecutive months to be considered an employment loss. As an example, an employee who works less than half-time for five consecutive months, but who works full-time in the sixth, would not be considered to have experienced an employment loss.

"Part-time employee". The Senate Amendment defines a "part-time employee" as one who is hired to work an average of fewer than 15 hours per week. It also defines a "seasonal employee" as one who is hired for a period not to exceed 3 months per year to do work that is seasonal in nature. The Conference Agreement combines these concepts into a single definition of "part-time" employee, which includes employees who work fewer than 20 hours per week or who have worked fewer than 6 months in the 12-month period prior to the point at which the employer is required to serve notice. The definition of "seasonal employee" is therefore eliminated.

Exclusions from Definition of Employment Loss. The Conference Agreement incorporates the exemptions from notification for sales and relocations of a business in modified form as exclusions from the definition of "employment loss." Thus, a closing or layoff resulting from the sale of part or all of the employer's business does not give rise to an employment loss if

(a) the employee is covered at the time of the sale by a written rehire agreement between the buyer and the seller of the business to which the employee is explicitly made a third party beneficiary with rights against the purchaser under applicable state law; or

(b) the employee within 30 days after the sale is offered employment by the buyer.

In addition, a closing or layoff resulting from the relocation or consolidation of part or all of the employer's business does not give rise to an employment loss for a particular employee if, prior to the employee's termination or layoff,

(a) the employer offers to transfer that employee within a reasonable commuting distance; or

(b) the employer offers to transfer the employee to any other site of employment regardless of distance, and the employee accepts within 30 days of the offer or of the termination or layoff, whichever is later.

An example to which this may apply would be a situation where an employer owns five grocery stores in a metropolitan area. After deciding that one of the stores is no longer competitive, the employer decides to shut it down and makes a timely offer to transfer its employees to one or more of the remaining stores with no more than a six-month break in employment.

3. NOTICE REQUIREMENTS (SEC. 332(A) OF SENATE AMENDMENT; SEC. 6403(A) OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment requires 60 days notice in advance of a plant closing or mass layoff to affected employees (or their representative), to the State dislocated worker unit designated or created under the Economic Dislocation and Worker Adjustment Assistance Act, and to the chief elected official of the unit of local government where the closing or layoff occurs.

Conference agreement

The Conference Agreement adopts the Senate provision.

4. REDUCTION OF NOTIFICATION PERIOD (SEC. 332(B) OF SENATE AMENDMENT; SEC. 6403(B) OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment provides for a reduction of the notification period in two specific circumstances. Under the "faltering company" exception, an employer actively seeking capital or business which would avoid or postpone indefinitely a shutdown, need not give the full 60 days notice if the employer reasonably and in good faith believes that notice would preclude the employer from obtaining the needed capital or business.

Under the second exception, the notice requirement is reduced if the closing or mass layoff is caused by business circumstances not reasonably foreseeable at the time notice would have been required. Both exceptions require the employer to give as much notice as is practicable and provide a brief statement of the basis for reducing the notice period.

Conference agreement

After some discussion, the Conferees agree to retain both exceptions, but wish to clarify the meaning of the Senate Amendment as follows:

Faltering Company. The provision would permit, under specifically defined circumstances, an employer to shut down one or more sites of employment without providing the full notice required by the bill. The defense is intended as a narrow one applicable only where it was unclear 60 days before the closing whether the closing would occur; the employer was actively pursuing measures that would avoid or indefinitely postpone the closing; and the employer reasonably believed both that it had a realistic opportunity of obtaining the necessary capital or business and that giving notice would prevent the employer's actions from succeeding.

The key phrases are first that the employer was "actively seeking capital or business"; second that, had the employer obtained this capital or business, it "would have enabled the employer" to prevent or forestall the shutdown; and third, that the employer "reasonably and in good faith believed" that giving the notice required would have precluded the employer from obtaining the necessary capital or business that it had a realistic opportunity to obtain. Thus, to avail itself of this defense an employer must prove the specific steps it had taken, at or shortly before the time notice would have been required, to obtain a loan, to issue bonds or stock, or to secure new business. This duty to seek capital or business falls on the employer, not the single site alone, and assumes that the employer lacks the necessary capital or business. Moreover, the employer must show the reasonable basis for its good-faith belief that giving the required notice would have prevented the employer from obtaining the capital or business that the employer had a realistic opportunity to obtain. Finally, the employer also must show that, upon learning that the workplace would be closed, it promptly notified the employees and explained why earlier notice had not been given.

Unforeseeable Business Circumstances. The Conferees recognize that there may be cases in which unforeseeable events necessitate a plant closing or mass layoff and it is not economically feasible to require the employer to give notice and wait until the end of the notice period before effecting the plant closing or mass layoff. For example, a natural disaster may destroy part of a plant; a principal client of the employer may suddenly and unexpectedly terminate or repudiate a major contract; or an employer may experience a sudden, unexpected and dramatic change in business conditions such as price, cost, or declines in customer orders. In these situations, the employer is required to give notice as soon as the closing or mass layoff becomes reasonably foreseeable, but the employer is permitted to implement the proposed closing or layoff without waiting until the end of the full notice period.

5. EXTENSION OF LAYOFF PERIOD (SEC. 332(C) OF SENATE AMENDMENT; SEC. 6403(C) OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment provides that a layoff of definite duration of less than six months that extends beyond six months shall be treated as a layoff of indefinite duration subject to notification unless (1) the extension is caused by business circumstances not reasonably foreseeable at the time of the initial layoff; and (2) notice is provided as soon as it is reasonably foreseeable that the extension is required.

Conference agreement

The Conference Agreement has eliminated the concept of a layoff of indefinite duration as was provided in the Senate Amendment. Therefore, the Conferees have modified the language of section 6403(c) to conform that section to the simplified definition in section 6402(a)(6). Employers operating under this provision lawfully may postpone giving notice until some time after a layoff has commenced *only* if they announced when ordering the layoff that the layoff would be for less than six months and if the employer proves that the layoff has been extended due to unforeseeable business circumstances.

6. DETERMINATION OF EMPLOYMENT LOSS (SEC. 333(C) OF SENATE AMENDMENT; SEC. 6403(D) OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment provides for the determination of a plant closing or mass layoff based on aggregation of smaller employment losses. Under the Amendment, employment losses at a single site for 2 or more groups of employees, each of which is less than 50 employees, but which in the aggregate total at least 50 employees, that occur within a 90-day period, will be considered a closing or layoff subject to notification, unless the employer demonstrates the employment losses result from separate and distinct actions and causes and are not an attempt to evade the notice requirements.

Conference agreement

Language has been added to conform this subsection to the definition of mass layoff that appears in section 6402(a)(3). The Conferees wish to clarify that the requirement that a mass layoff of 50 to 499 employees must affect 33 percent of the employees at a particular employment site also applies to this section. The "33 percent" requirement was inadvertently omitted from the language approved by the Senate. Thus, for example, an employer employing 300 workers at a single site which laid off 25 employees on each of four separate occasions within a 90-day period would presumptively be deemed to have implemented a mass layoff of more than 50 employees affecting 33 percent of the workforce. On the other hand, no such presumption would arise where the same employer laid off 20 employees on each of 4 occasions over the same 90-day period, because the "33 percent" requirement would not have been met.

7. EXEMPTIONS (SEC. 334(3), (4) OF SENATE AMENDMENT; SEC. 6404 OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment exempts particular plant closings and mass layoffs from the notice requirements. No notice is required if the closing is a shutdown of a temporary facility or the mass layoff results from the completion of a particular project so long as the affected employees were hired with the understanding that the job was limited to the duration of the facility or project.

The Senate Amendment also exempts from the notice requirements those closings or layoffs that constitute a strike or a lockout.

Conference agreement

As discussed earlier in this Report, the Conference Agreement transforms two exemptions in the Senate Amendment—for sale and relocation of a business—into exclusions from the definition of "employment loss." The Conference Agreement retains the remaining two exemptions as exemptions with the following modifications:

Temporary Facility. The Conference Agreement adds language to clarify that this exception applies either to a closing or to a layoff. In addition, the Agreement clarifies that the exemption from the notice requirement is available where the closing or layoff is the result of completion of a particular "undertaking," as well as a particular "project." Use of the term "project" in the Senate Amendment had been read by some as precluding its application to certain other temporary activities. The Senate floor debate included discussion of this exemption, and the Conferees felt that clarification of the intent of the Senate provision would be advisable.

There are two basic requirements for this exemption to apply. First, the employees in question must have been hired with the understanding that their jobs would last only until an obviously limited activity of the employer was completed. This condition must have been clearly stated to the employees at the time they begin work. Second, the work must in fact be temporary or limited. The Conferees do not intend that employers be able to avoid the notice requirement by a formal process of periodically telling workers that their jobs will last only until completion of a paticular project or undertaking, when both employer and employees expect and intend to continue the employment relationship indefinitely.

Thus, floor statements by the sponsors of the bill in the Senate indicate that the exemption could apply to shipbuilding and overhaul projects where employees were hired with the requisite understanding and where the work is in fact only for the duration of a particular project. Although the precise date on which operations will cease sometimes cannot be specified at the beginning of the understanding, the employees know that when the work is done, their jobs will lapse. Similarly, this exemption also applies where an employer hires employees for a specified and obviously limited term and the employees are informed in writing of the exact date of termination either at the outset or at some other point preceding the 60-day notice period.

Lockout. The Senate bill exempts closings and layoffs from the notice requirement when they constitute a strike or lockout. A lockout occurs when, for tactical reasons relating to collective bargaining, an employer refuses to utilize some or all of its employees for the performance of available work. The Conference Agreement clarifies that only lockouts not undertaken for the purpose of evading the notice requirements qualify for the exemption. An employer may not, for example, shut down an establishment and evade the notice requirement by calling the shutdown a lockout.

8. ADMINISTRATION AND ENFORCEMENT OF NOTICE REQUIREMENTS (SEC. 333(A), (B) OF SENATE AMENDMENT; SEC. 6405, 6408 OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment establishes enforcement mechanisms against an employer which fails to meet the notice requirements. An employee who suffers an employment loss and who does not receive timely notice (either directly or through the employee's representative) may bring a civil action against the employer. The employer would be liable to for back pay for each day of the violation plus the cost of related fringe benefits for each day of the violation minus any earnings or related fringe benefits received from the employer during the violation period.

If the employer does not provide timely notice to the unit of local government, the employer would be subject to a civil penalty equal to $500 for each day of the violation. If more than one unit of local government has jurisdiction over the area in which the closing or layoff will occur, the employer must notify only the unit of local government to which the employer paid the highest taxes for the year preceding the year when the notice is required.

The Senate Amendment provides that a court may reduce an employer's liability to employees or an employer's penalty to the unit of local government if that employer demonstrates that it acted in good faith and had reasonable grounds for believing it was not violating the notice requirements.

The Senate Amendment includes venue and attorneys' fees provisions. A person seeking to enforce the liability provisions of this part may sue, individually or on behalf of others similarly situated, in any U.S. district court in a district in which the violation occurred or in which the employer transacts business. A court in addition to any judgment awarded to plaintiffs under this section, may allow a reasonable attorneys' fee.

The remedies provided for in the Senate Amendment are the exclusive remedies available for violation of the notice requirements.

Conference agreement

The Conference agreement adopts the Senate provision with the following modifications:

Each day of violation. The Senate Amendment provides that an employer which violates the notice provisions of section 6403 is liable for back pay and a civil fine for "each day of violation." The Conferees wish to clarify that "each day of violation" is limited to the requisite notice period. Thus, the maximum violation period is 60 days, and it could be less depending upon the amount of notice given by the employer. For example, if the employer provides 20 days notice, then the maximum violation period for purposes of calculating back pay awards or civil fines would be 40 days. ("Violation period" refers to the period of time after a shutdown or layoff in violation of this Act, and extends for the number of days that notice was required but not given.)

Damage payments to employees. The Conference Agreement modifies the Senate Amendment language pertaining to offset. The Conferees wish to clarify that for each day of violation, an employer is liable to each aggrieved employee for the amount paid in wages and benefits to such employee prior to the layoff, as set forth in section 6405(a)(1). The Conferees also intend that an employer may satisfy its liability with respect to benefits by paying the cash value of such benefits for the period of violation, subject to the offset provisions in section 6405(a)(2).

Under 6405(a)(2), the amount owed by the employer may be reduced through certain payments made by the employer for the period of the violation. An offset would occur if the employer's mass layoff involved a reduction in hours of 75 percent for 6 consecutive months, but the employer continued to pay the affected employees 25 percent of their wages. The offset provision also would apply if an employer offers employees a payment (in the absence of any legal obligation), in a voluntary and unconditional effort to ease the burden of termination or simply as a gesture of goodwill. (The Conferees wish to note here that damages are fully satisfied when an employer makes the payment prescribed in section 6405(3)). If the employer continues to make payments to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan), which are attributable to the employee for the violation period, the payments made also would offset the back pay remedy. Finally, with respect to the portion of benefit liability arising from a defined benefit pension plan, an employer could satisfy that portion of its liability by crediting the employee with service for all purposes for the period of the violation.

By contrast, payments owing because of written or oral agreement, and made on account of the employment loss, would not offset the back pay remedy. Such payments may include severance pay, pension benefits or any other kind of benefit that an employee is entitled to receive. These are benefits that are payable as compensation for past services because a layoff or shutdown has occurred, whether or not the terms of the layoff or shutdown actually violate the Act. In addition, they are benefits that an employee would not receive if employment had continued.

Further, the only payments that may offset the back pay remedy are those made by the violating employer. Wages received from another employer, or unemployment compensation payments received from the State, may not be used to offset the remedy.

Damage payments to local governments. The Conferees intend that employers which violate the notice requirements with respect to the affected unit of local government be subject to a civil penalty of up to $500 per day of violation. Thus, the maximum penalty payable to a local government is $30,000. In the event that a violation is found, a court in determining the amount of the penalty may take into account the severity of the violation, the employer's size, and the employer's ability to pay such a penalty. The Conferees further intend to provide an incentive and a mechanism for employers to satisfy their obligation to their employees in the event they fail to provide 60 days advance notice to their employees. An employer will be relieved of the $500-a-day penalty to the local unit of government if it fully and promptly satisfies any financial liability to its employees under section 6405(a)(1). In order to avoid the payment to the unit of local government, an employer must complete full payment to its employees within 3 weeks from the point at which it orders a shutdown or layoff.

In addition, the Conferees agree that the Secretary of Labor should be authorized to promulgate regulations to ease administration and enforcement of the WARN Act. The Conference Agreement recognizes that interpretive regulations could play a constructive role in the implementation of this legislation.

Although the Department of Labor does not have an enforcement role, the Agreement authorizes the Secretary of Labor to promulgate regulations as he or she deems necessary. At a minimum, these regulations must prescribe standards governing the service of notice to affected employees. The Conferees intend that an employer be diligent in its effort to notify a representative of employees or the employees themselves. At the same time, the Conferees do not expect an employer to go to extraordinary and unreasonable lengths to notify each and every employee. For example, a mailing to the current addresses of employees might suffice, even though a few employees might have moved unbeknownst to the employer.

9. RELATION TO OTHER RIGHTS (SEC. 335 OF SENATE AMENDMENT; SEC. 6406 OF CONFERENCE AMENDMENT)

Senate amendment

The Senate Amendment provides that the rights and remedies provided under the advance notification provisions are in addition to any other contractual or federal statutory rights and remedies available to affected employees.

Conference agreement

The Conference Agreement provides that with one exception the rights and remedies provided under the advance notification provisions do not preempt or displace rights and remedies provided under other statutes or under contractual agreements. The Conferees are aware that many legal issues related to plant closings and mass layoffs currently may be addressed under collective bargaining agreements and some of these same issues also may be dealt with under state or other federal law. *See, e.g., Fort Halifax Packing Company* v. *Coyne,* 107 S. Ct. 2211 (1987) (ERISA does not preempt state law prescribing severance pay). The Conferees intend that the effect of these other laws and contracts should not be disturbed by the new federal provision. The only qualification to this rule involves the length of notice before a plant shutdown, the 60-day requirement contained in this bill will run concurrently with the 90-day requirement under state law. Similarly, if a collective bargaining agreement requires that an employer give 120 days notice before closing a plant, the new 60-day requirement will run concurrently with the longer contractual notice period.

10. SENSE OF THE CONGRESS ON NOTICE (SEC. 336 OF SENATE AMENDMENT; SEC. 6407 OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment expresses the sense of Congress that an employer not required by this Act to provide advance notice of a plant closing or mass layoff is encouraged to provide advance notice irrespective of its obligations under federal law.

Conference agreement

The Conference Agreement adopts the Senate provision.

11. EFFECT ON OTHER LAWS (SEC. 338 OF SENATE AMENDMENT; SEC. 6409 OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment provides that an employer attempting in good faith to comply with the advance notice provisions of the Act cannot be found in violation of the National Labor Relations Act or the Railway Labor Act.

Conference agreement

The Conference Agreement adopts the Senate provision.

12. EFFECTIVE DATE (SEC. 337 OF SENATE AMENDMENT; SEC. 6410 OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment provides that the advance notice requirements established by the Act shall become effective six months and two days after the date of enactment.

Conference agreement

The Conference Agreement adopts the Senate provision with two minor changes. The effective date of the advance notice provisions is changed to six months after the date of enactment. In addition, the Conference Agreement provides that the authority granted to the Secretary of Labor to prescribe regulations to carry out the advance notice provisions is effective upon the date of enactment.

Mr. METZENBAUM. I think it is also important to note that in early 1987, the Senate Labor and Human

Resources Committee held extensive hearings on the issue of advance notification of plant closings. The committee reported legislation (S. 538) providing a different version of an advance notification rule. (S. Rept. 100-62). Although that legislation has been modified, I believe that the committee report provides a helpful background and explanation as to the necessity for advance notification legislation.

Again, I want to thank the Senator for raising this issue and I want to thank the Senator for his continuous support and cosponsorship of advance notice legislation.

Mr. DURENBERGER. I thank the Senator from Ohio and commend him for his leadership on this issue.

Mr. BINGAMAN. Mr. President, I rise in support of this legislation to require advance notification of plant closings and mass layoffs.

During the debate on this legislation, both now and earlier, when we were considering the trade bill, a number of people have claimed that requiring advance notification to workers of a plant closing will hurt the ability of U.S. firms to compete in the international economy. I find their argument unconvincing. Advance notification of plant closings will not damage our economic competitiveness.

Many of our major economic competitors have long had requirements far stronger and more comprehensive than the rather modest provisions of this bill. Sweden requires 6 months notification of a layoff involving more than 100 people. In Japan, 30 days notification is required for the dismissal of any individual, except when the worker is to blame, and many companies have life-long employment. Yet, we are told that this modest provision will hinder American business' ability to compete with those European and Japanese firms. This does not make sense. Advance notification has not hurt Japan's ability to compete, and it will not hurt our ability to compete.

It is also ironic that the opponents of the plant closing provision predict it will lead to an inflexible, highly confrontational management-labor situation—the so-called Europeanization of the American economy. By their inflexible rejection of any attempt at compromise, they have succeeded in bringing about exactly the type of polarized situation they say they wish to prevent.

Far from the Europeanization of the economy, advance notification of plant closings will lead to a more flexible labor market and economy. Given the nature of our changing economy, it is crucial that we have a labor force that can adapt quickly. That means effective and efficient programs for retraining displaced workers. Study after study has concluded that advance notification increases the effectiveness of displaced worker assistance programs. Even the opponents of plant closings legislation have admitted that advance notification is desirable and business organizations have urged their members to adopt advance notification policies.

It is too bad we were forced by the President's misguided veto to remove this provision from the trade bill. He and other opponents of this measure claim it should not have been included in that bill. This reasoning is wrong. Rather than being extraneous, it was a consistent part of the strategy deeply embedded in the entire trade bill—that the goal of our policy should be positive structural adjustment.

One of the main themes of the trade bill was the promotion of structural adjustment in our economy. We are told that the United States should adjust to changes in the world economy, not attempt to protect our economy from them. But, when we attempt to include a structural adjustment program, that program was attacked for hurting our economic competitiveness and not belonging on a trade bill.

Mr. President, advance notification has been called nothing more than just common sense and simple decency. It is, however, much more than that. It is part and parcel of a positive structural adjustment program and an important step in establishing the type of flexible labor force this country needs to successfully compete in the world economy. I hope my colleagues will support this measure, and that the President will reconsider his mistaken opposition to this much needed legislation.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Republican leader.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I have followed with interest and a growing sense of concern the progress of this bill. I have watched the consideration of the amendments with mixed feelings. Some of them, it seems to me, bring into focus the main purposes and interests of the bill, but a lot are really peripheral to the underlying question.

I gather that we are approaching—at least, I hope we are—the end of the deliberation on this matter. Before we get to that stage, I want to say a word or two about the bill—not about the amendment, not about the side issues, not about who is going to get the most politically, not about what some will say about this on the campaign trail, but about the underlying question.

I rise not as one who has any professional interest in this bill. I am not on the committee that brought it to the floor. I am not involved jurisdictionally in it. I am not a person who considers himself an expert on labor law or plant closing legislation or anything like that.

I am a person who has a heart of concern for working men and women, and I have quite a few of them in my State who would like to keep their jobs and quite a number who have been unable to do so as a result of one economic circumstance or another.

This legislation holds itself out as a bill to help working men and women. I do not know whether it will have that effect in the slightest. In fact, I think it is going to make the plight of those on the margin, who are just hanging on, a little worse, their ability to hang on a little more tenuous, and I will explain why.

I represent a State which has been through a boom period. But even during the great days of the 1970's and 1980's in Colorado, we had some regions that were having a terrible time economically.

I think of Pueblo, CO, as one which was actually shrinking in population and the work force during that era because of the industries on which those communities depended. Trinidad is another, and there are others throughout the State.

Mr. President, I am going to suggest that those who are conferring on other matters might want to do it elsewhere, or I will be happy to go and make my speech elsewhere.

The PRESIDING OFFICER. Senators will please take their conversations to the rear of the Chamber or to the Cloakroom. The Chair would appreciate Senators doing so. The Senator has a right to be heard.

Mr. ARMSTRONG. Mr. President, I thank the Chair, and I thank my colleagues for their indulgence.

The point I want to make is that among the people I represent are a number who managed to keep their jobs under tough competition situations because labor and management sat down and bargained to improve the working conditions that made companies involved more competitive.

I think of DF&I, a state-of-the-art steel mill in Pueblo. It used to employ 12,000 to 15,000 people and employs much less than half of that. Those still at work are just hanging on. The reason that mill is open is because of a very high degree of statesmanship by the men and women who work there and their union representatives and the management of that company.

I mentioned that it is a state-of-the-art facility, and that is true. It is not for lack of plant that they cannot compete, nor is it for lack of skilled workers. The fact is that the international competitive situation is such that they found it harder and harder to compete. I am convinced that the mill would be closed today if there had not been a meeting of the minds—though it was painful, though everybody involved regretted it—if the workers had not been willing to give back some of the benefits, some of the wages they had spent years, even decades, in negotiating. They reached the decision, and it was a proper one, that it was better to do that in order to keep their company afloat and keep their jobs—at least some of them, because a lot of people who used to work there do not anymore—that it was better to do something along those lines than to be intransigent and lose out altogether.

Mr. President, I represent some people in Trinidad, where there was not anything they could do to save it. Trinidad was a great coal town 55 or 60 years ago and has gradually shrunk as that industry disappeared.

I also represent some areas in Colorado where new jobs have been created in computers and high-technology industries, insurance, banking, finance, and service. My State is a diverse one, and that is the perspective I bring to this bill. I do not think this is going to help working men and women, though on its face it sounds like a reasonable idea. The notion of giving to workers whose plant is going to be closed or who will be laid off in a partial shutdown a reasonable amount of notice—30, 60, or 90 days—sounds reasonable.

The ultimate effect, in my opinion, will be more unemployment, added costs, and a more precarious future—not for the big, successful company, but for those on the margin, those that will make it or not quite survive by a small amount.

Inevitably, if this bill passes and becomes law over the President's expected veto, the result will be that every director or manager, from the CEO on down to the shop foreman, will be conscious of his or her obligations, moral obligations, under this bill, and legal obligations. They will be looking over their shoulder every minute to see whether or not they are complying with this bill, whether or not they need to save a reserve of cash, a reserve of operating money, to close down the plant and provide the mandatory 60 days' notice.

At the same time, they will be thinking, in some cases, about the bankruptcy law and their personal responsibilities, about their obligation to make those payments on time.

So it adds a factor of consideration of very great weight. That might not sound like much of a burden; but a time or two in my career, I have had the unpleasant job of managing companies that were right up to that brink, and at least one one occasion, a company that did not know whether it was going to be able to meet its next payroll—that is, its payroll not for 60 days hence but for the next week or the week after that.

I have in mind one in which I was directly involved where we were fortunate enough to get it turned around. The company survived and went on for a long time thereafter. That does not always happen.

If you saddle, in these moments of crisis, the directors, and management, and foremen, and superintendents, and the working men and women with one more requirement that they have to be conscious of, which they know is going to be second guessed in court, what is their logical response? It will be that they will spend a lot of time documenting what they are doing, writing it down, making a record, holding meetings, getting it notarized, being sure that whatever happens in the company is done so that nobody can criticize them, that they will not be held legally responsible. That is not speculation. That is what is going to happen; because in every instance I can think of where we have held people accountable before the law in the manner contemplated by the bill, that is exactly what happened.

Everybody involved is going to be looking over their shoulder at how the circumstance will play out in some anticipated adjudication of this before the courts.

We are not talking about just in the day to day course of business. We are talking about in a moment of crisis because these shutdowns and mass layoffs do not occur with companies that are growing, prospering, expanding, and creating new markets. They occur precisely when a company has been hit by a loss of an important contract, when they have been shut out of an important market, when there has been a product defect show up, when some product that they manufacture or sell has been overcome by technology or has been displaced by an innovative competitor; in other words, it comes as a surprise, in a crunch, in a situation where the stress is already very great.

I will just tell you what this says is that when managements, directors, stockholders, and workers are trying to consider whether or not to make one last effort to keep things going, to keep the company open, to keep the mine from being closed, to keep the shop from being shut down, instead of giving them every incentive to focus on that, this bill gives them every incentive to be sure that they will not get blamed, to be sure that the minutes are correct, that they fulfilled every jot and tittle of a law which though well intended will have, I think, a perverse effect.

Second, it will put the courts in a position of making a lot of business judgments. On the surface the language of this bill seems reasonable. It provides for unforeseen circumstances. Who knows what constitutes an unforeseen circumstance?

We have clarified that that does include certain kinds of natural disasters, droughts, and floods. What about the natural disaster that might arise, say, from some act of Congress? There have been plenty of acts of Congress that have resulted unexpectedly in the shutdown of companies.

What if the shutdown results from an unexpected decision in a lawsuit on an unrelated matter, or from a tariff action, or an act of war, or the sinking of a tanker, any one of a thousand different things, all of which at some point will be litigated?

We have tried that experiment when we put the courts in charge of a lot of the school systems of the country, and the results at best are mixed. We have tried it when we got the courts into the business of adjudicating wilderness disputes, in labor law, and the results at very best I think it is fair to say even from those who advocate the court's supervision in these sensitive areas of our life have been very, very mixed and very, very costly. The result in terms of delay, attorney's fees, court costs, and just the inevitable grinding down of the process, has been a big burden on our economy.

I leave it to others to judge whether we can afford that kind of a burden at this moment in our national life. My conclusion is it is not likely. It is not a good practice at a time when other countries are finding a way to streamline their process to operate with greater efficiency for us to add still another layer and a heavy layer of adjudication, factfinding, determination, evidentiary proceedings, and you name it.

That sounds expensive. It sounds counterproductive. It sounds like investing in lawsuits instead of as a nation investing in research and job-producing activities.

Second, I point out that to a large extent this kind of legislation, though it is backed by organized labor, preempts the legitimate function of labor unions.

I guess we all bring to a discussion like this whatever life experiences we have had, and in my life I have been a member of three different labor organizations as a worker member, and I have negotiated as a manager with organized labor unions.

It seems to me that if there is one area where labor unions really have a job to do, it is in precisely the kinds of industrial situation that is contemplated by this bill, because we are not talking about in this bill the kind of corner enterprises that we find in small business. We are talking by definition about larger companies, many of which, perhaps most of which are in fact organized by labor unions.

It seems to me that it is up to the unions in that kind of a case to speak up for the rights of workers. Actually, it seems to me that it is up to management to be equally concerned and vigilant about the rights of workers, and increasingly I think company management and union leaders are learning to work together and to realize that they are on the same team, but to whatever extent a conflict should arise between the owners and managers and working men and women of a company, it is the unions that ought to take care of this, and I do not think it is particularly smart, nor do I think it in the long-term interest of organized labor for Congress to preempt this function.

I realize I say that over the objection of the unions themselves, most, perhaps all of which think this is a very good idea.

I just note it for the record. Maybe history will prove I am wrong. I do not think so. Maybe history will prove me right, and perhaps at some point union leaders will come around and say, "You know, Bill, you were right about that," but I do not think that is likely either.

I think a fair judgment of history is that on many occasions when Congress has stopped in to try to do a function better performed in the private sector by labor, by a company, by private charities or you name it, the results have been not very favorable.

So, all in all, Mr. President, I just wanted to get my oar in the water. It is obvious this bill is going to pass. There may be another amendment or two offered. Some may be adopted. But it is clear to me, as I am sure it is to every Senator, that this bill is destined to pass this Chamber. Then it is going to go to the President, and I guess he is going to veto it. When it comes back, then we shall have the real battle, which is whether or not we can sustain a veto.

I do not know how that is going to turn out. But I just did not want to let the moment pass without saying I think this is bad legislation. I think it is going to backfire. I think it will create a backlash. I think, though it purports to protect the interest of working men and women, it is likely to make their situation at least to some marginal degree worse, not better.

When the moment comes, I am going to vote against this bill, and my hope is that in the final analysis on the veto override when that comes that at least enough Senators to prevent it being overridden will do so as well.

Mr. President, I see no other Senators seeking the floor, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, there will be no more rollcall votes today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, I would ask my friend, the distinguished majority leader, if it is his wish that an amendment, which I have, simply be laid down this evening. If that is his wish, and he wishes there be no further votes tonight, I would simply lay the amendment down.

Mr. BYRD. Yes, that will be very agreeable. I thank the distinguished Senator for laying down his amendment tonight. There will not be any action on it tonight.

Mr. WILSON. I thank the majority leader.

AMENDMENT NO. 2487

(Purpose: To take into account inability to operate due to shortages of supplies caused by government programs or other reasons)

Mr. WILSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 2487.

At the appropriate place in the bill, add the following:

"No notice under this Act shall be required if the plant closing or mass layoff is caused by the inability of the employer to obtain at competitive cost sufficient supplies of materials required in manufacturing products or in providing services, including but not limited to an inability caused by an import restraint program of the United States, whether or not imposed by statute, and whether or not imposed unilaterally."

Mr. WILSON. Mr. President, in accordance with the wishes of the majority leader, I will wait until tomorrow to debate the measure. I ask unanimous consent that, when we resume tomorrow morning after leader time and morning business, this be the pending business.

The PRESIDING OFFICER. Is there objection to the Senator's request? Without objection, it is so ordered.

Mr. WILSON. I thank the Chair.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business at this time, and that Senators may be permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, is there further morning business?

OUTER CONTINENTAL SHELF LAND ACT AMENDMENTS OF 1978

The PRESIDING OFFICER. There is a bill at the desk which has not received a second reading.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4517) to amend title III of the Outer Continental Shelf Land Act Amendments of 1978 to provide for indemnification and hold harmless agreements.

Mr. DOLE. Mr. President, I object to any further proceeding.

The PRESIDING OFFICER. Objection having been heard, the bill will be placed on the calendar.

STERLING HEIGHTS, MICHIGAN AT 20

Mr. LEVIN. Mr. President, on July 1, 1988 Sterling Heights, MI, will be celebrating the 20th anniversary of its incorporation as a city. I look forward to joining residents of the city in celebrating this anniversary.

Of course, the story of Sterling Heights—originally called Jefferson and then Sterling—considerably predates its incorporation as a city. Back in 1875 a Macomb County atlas noted that "as a township, Sterling rates among the foremost * * * that Macomb County contains. It had the good fortune of being settled by a good class of citizens who have handed down an industrious and thriving posterity." That has not changed.

Today Sterling Height's population is estimated at over 120,000. It is the sixth largest city in Michigan. The first major industry to locate in Sterling Heights was Ford in 1956. Chrysler soon followed. Today the city houses 4 of the top 25 "Fortune 500" companies including General Motors, Ford, Chrysler, and General Dynamics.

The citizens of Sterling Heights are well-known for their civic activism. In fact, the city's motto is "To Strive on Behalf of All." The source of that activism is the pride Sterling Heights residents have in their city. Pride in a city that has been one of the fastest growing in Michigan. Pride in a city whose physical beauty has led to its being named "Tree City USA" in 1986 and 1987.

Mr. President, I salute all the citizens of Sterling Heights on this 20th anniversary. July 1, 1988 is a day that all Michiganders may join in celebrating the remarkable success story that is Sterling Heights.

DOD COST-SHARING FOR NASA NATIONAL SECURITY SPACE ACTIVITIES

Mr. GARN. Mr. President, I support and applaud the recommendation of the Senate Appropriations Committee that the Department of Defense increase its financial support of NASA activities which have a direct bearing on national security requirements. The committee recommended that $200 million be transferred from the Air Force research, development, test, and evaluation [RDT&E] account, and $400 million for the RDT&E account of the defense agencies, to NASA in fiscal year 1989.

Contrary to some of the confusing misperceptions about this recommendation, the committee is only more adequately acknowledging the substantial and direct benefit that NASA activities have for national security missions of the Department of Defense. The committee is not recommending that the DOD bear the cost of developing the civilian space station. The Department is only expected to transfer funds to NASA to reimburse that agency for expenditures made which serve identifiable DOD requirements.

Such transfers currently are made for space shuttle launch cost, NASA participation in DOD programs such as the advanced launch system [ALS], and are reflected in jointly managed programs such as the national aerospace plane [NASP]. The additional $600 million for transfers contained the defense bill merely provides a more realistic level of reimbursement for such NASA activities.

For these programmatic reasons, as well as technically, on budgetary grounds, I feel the concerns expressed by the administration over possible violations of either the spirit or the letter of last November's bipartisan budget agreement are unfounded.

With respect to the budgetary crisis confronting NASA, my concerns and distress with the allocation for the HUD-Independent Agencies Subcommittee remain unchanged. Amounts provided in this bill by the Senate Appropriations Committee are irresponsibly and unfairly low, and I remain committed to doing everything within my power to have allocated a more reasonable share of the domestic nondefense discretionary total allowed under the summit agreement.

Nominal dollar totals for the HUD-Independent Agencies Subcommittee have been cut nearly 30-percent since 1980. This equates to more than a 50-percent reduction after inflation. Even with a greater recognition of the responsibility of the Department of Defense to fund a more realistic portion of NASA national security related programs, we cannot expect to maintain a vigorous and aggressive civil space program unless a more adequae level of funding is secured for critical nonmilitary programs such as the space station in the NASA budget.

Even beyond the space station, NASA needs to move forward with initiative such as the civil space technology initiative [CSTI] and Pathfinder programs which seek to develop the technologies needed to pursue further manned exploration of our solar system, as well as a gamut of unmanned space science missions both for astronomy and for earth sciences, including expanded global climate change research. Like the space station, these activities are primarily or solely civilian in character, and remain dependent on nondefense appropriations for their support.

Mr. President, the HUD-independent agencies appropriations bill, H.R. 4800, as reported by the Senate Appropriations Committee last week, grossly underfunds these programs so critical to the future of our Nation. This has grave implications, not only in terms of leadership in space, but more generally, in basic science and technology through both NASA and the National Science Foundation. This is simply unacceptable, and it is not cured with a simple transfer from the Department of Defense for national security items.

For example, the HUD-independent agencies appropriations bill recommendation for NASA represents an overall cut of $1.4 billion from the President's budget request, including only $200 million for the space station. This is essentially termination funding, and I will urge the full Senate to reverse this incredibly shortsighted and disastrous mistake. While the committee's recommendation in the Department of Defense bill will provide critically needed relief for other reductions made in the NASA budget, such as the proposed $205 million reduction in space shuttle operations it is not applicable to the space station.

As a practical matter, this DOD transfer may enable the Congress to fashion an overall NASA budget which includes both adequate space station funding and, with increased defense support, sufficient resources to maintain other vital on-going aeronautical and space programs. It remains critical, however, that the domestic nondefense budgetary allocation be revised to address high-priority civil space, science, and technology requirements.

Mr. President, I ask unanimous consent that an outline of NASA-eligible activities be printed in the RECORD.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

INCREASED DOD COST PARTICIPATION IN NASA R&D AND LAUNCH ACTIVITIES

Aeronautics.—NASA research and development in aeronautics totals about $800 million annually. Recent analyses indicate that up to 90% of this effort is directly supportive of National Security related technologies. Indeed, since military superiority for the United States is founded on the application of cutting-edge technology, much of the aeronautical improvements developed by NASA find first application in military aircraft, whether or not such use was the focus of the research. In focused technology development efforts such as the tilt-rotor aircraft (XV-15), National Aerospace Plane (NASP) and the forward-swept wing (X-29A), DoD does participate in cost-sharing, however DoD heretofore has very limited participation in the long-term research and development that makes these focused programs possible.

Shuttle launch cost.—DoD has paid for approximately nine shuttle flights, prior to the Challenger accident, at an average per flight charge of $70 million. Current estimates of actual NASA average launch cost in the post-Challenger environment is in excess of $220 million. Although since the Challenger accident DoD has agreed to pay NASA $115 million per flight, this is still far less than what NASA requires to cover both recurring and fixed infrastructure costs. In addition, the backlog of previously manifested flights and the current ammonium perchlorate shortage is likely to greatly increase the proportion of national security shuttle flights for the new few years.

In addition the DoD did not bear any of the cost of shuttle recovery efforts, although when flights resume, it will be a major, if not predominate user of the system. Exclusive of the replacement orbiter, these recovery costs total in the range of $3.5 billion.

Other NASA activities.—A range of other NASA activities support National Security missions. Tracking and Data Relay for example, STS upgrades such as the extended duration orbiter and the ASRM all will, or are likely to have direct application in addressing military requirements.

MESSAGES FROM THE HOUSE

At 6:48 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 105. A concurrent resolution to provide for a Joint Congressional Committee on Inaugural Ceremonies.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3011. An act to amend the Truth in Lending Act to establish additional disclosure and advertising requirements for home equity loans; and

H.R. 4776. An act making appropriations for the government of the District of Columbia and for other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3011. An act to amend the Truth in Lending Act to establish additional disclosure and advertising requirements for home equity loans; to the Committee on Banking, Housing, and Urban Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the Calendar:

H.R. 4776. An act making appropriations for the government of the District of Columbia and for other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989.

The following bill was read the second time, and placed on the calendar:

H.R. 4517. An act to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to provide for indemnification and hold harmless agreements.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3464. A communication from the U.S. Trade Representative, Executive Office of the President, transmitting, pursuant to law, the second annual report required by section 1132 of the Food Security Act of 1985; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3465. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on a proposed military sale of defense articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-3466. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report required by section 1014(e) of the Congressional Budget and Impoundment Act of 1974; pursuant to the order of January 30, 1975, as amended by the order of April 11, 1986, jointly to the Committee on the Budget and the Committee on Appropriations.

EC-3467. A communication from the Chairman of the Securities and Exchange Commission, transmitting a draft of proposed legislation to amend sections 14(b) and 14(c) of the Securities Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

EC-3468. A communication from the Secretary of Transportation, transmitting, pursuant to law, the biennial report on the status of the Nation's local mass transportation: performance and conditions; to the Committee on Banking, Housing, and Urban Affairs.

EC-3469. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to provide for the collection of fees to fund appropriations for the U.S. Travel and Tourism Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-3470. A communication from the Executive Director of the United States Olympic Committee, transmitting, pursuant to law, the annual report of the Committee for the calendar year 1987; to the Committee on Commerce, Science, and Transportation.

EC-3471. A communication from the Secretary of Energy, transmitting, pursuant to law, the seventh annual revised comprehensive program management plan under section 4 of the Wind Energy Systems Act of 1980; to the Committee on Energy and Natural Resources.

EC-3472. A communication from the Assistant Secretary, Department of the Interior, transmitting a draft of proposed legislation to amend titles II, V, and VII of the Surface Mining Control and Reclamation Act of 1977 to make the mining of coal without a permit a criminal offense, and for other purposes; to the Committee on Energy and Natural Resources.

EC-3473. A communication from the General Counsel, Department of Education, transmitting a draft of proposed legislation entitled the "College Savings Bond Act of 1988"; to the Committee on Finance.

EC-3474. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the annual report a report with respect to international agreements other than treaties entered into by the United States; to the Committee on Foreign Relations.

EC-3475. A communication from the Chairman of the Board of Foreign Scholarships, transmitting, pursuant to law, the Board's 24th annual report on the Fulbright Program; to the Committee on Foreign Relations.

EC-3476. A communication from the Administrator, Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, a report of proposed Privacy Act system of records—Medicare Physician Identification and Eligibility System (MPIES); to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-565. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Appropriations.

"HOUSE CONCURRENT RESOLUTION 72

"Whereas, the mission of the United States Coast Guard is to conduct maritime operations as necessary to defend the United States, enforce its laws and treaties, and protect the lives, property and maritime resources of its citizens in the high seas and waters subject to national jurisdiction; and

"Whereas, here in the Pacific the 14th Coast Guard District is the largest geographic district encompassing 18 million square miles or roughly three times the size of the continental United States; and

"Whereas, within this area the 14th Coast Guard District is charged to maritime safety, including search and rescue and aids to navigation, and enforcement of laws and treaties within the 1.5 million-square mile United States Exclusive Economic Zone; and

"Whereas, within the 14th Coast Guard District, a total of 1,192 lives were saved and $195,574,000 worth of property was prevented from sinking between 1983 and 1987; and

"Whereas, the Congress of the United States ordered approximately $100,000,000 in cutbacks in the Coast Guard's operating budget for fiscal year 1988; and

"Whereas, the 14th District's operating budget was subsequently reduced by nearly $500,000, which will result in operation slow-downs and programmatic reductions by all district units; and

"Whereas, to accommodate this reduction, the Coast Guard announced on January 26, 1988 the decommissioning and reduction of various operational units; and

"Whereas, the residents of the island of Kauai were dismayed to learn that one of the units being closed is the search and rescue station at Nawiliwili Harbor, Kauai; and

"Whereas, the search and rescue station at Nawiliwili Harbor, Kauai has saved 34 lives and prevented $9,065,000 worth of property from sinking between 1983 and 1987; and

"Whereas, closing the station at Nawiliwili Harbor will result in the elimination of six positions and an estimated annual savings of $272,000; and

"Whereas, the close-down will be accompanied in patrol cutbacks of the Oahu-based 378-foot cutter Jarvis and three C-130 aircraft; and

"Whereas, the fiscal savings achieved by these reductions will make up only a small percentage of the $100,000,000 national cutback ordered; and

"Whereas, four patrol boats within the 14th District, three of them in the Hawaiian Islands, will get underway only for emergency search and rescue reponse and for critical law enforcement missions; and

"Whereas, all routine law enforcement patrols have now been severely curtailed; and

"Whereas, without the Kauai station, it will take approximately one hour for Coast Guard aircraft and ten hours for the nearest patrol boat to reach Kauai, a vast increase in response time to distress calls; and

"Whereas, the State of Hawaii is the only island state in the nation with the largest exclusive economic zone extending 600,000 square miles of ocean; and

"Whereas, reductions of up to 55 percent of routine patrols in Hawaiian waters will have a major detrimental impact on drug interdiction and fishery law enforcement and leave our waters more vulnerable to environmental damage; and

"Whereas, the reductions may also have a negative effect upon the possibilities of seabed mining leases issued to foreign entities and the expansion of the fishing industry in the northwestern Hawaiian Islands; and

"Whereas, it is of grave concern that if Congress does not approve the reprogramming action proposed by the United States Secretary of Transportation, further reductions of Coast Guard service will be needed; and

"Whereas, a minimum of $60,000,000 in the national Coast Guard budget is required to avoid further reductions in essential services: now, therefore, be it

"Resolved by the House of Representatives of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, the Senate concurring, That the State of Hawaii urges the Congress of the United States to rein-

state federal funds to restore the level of essential Coast Guard services in Hawaii; and be it further

"Resolved, That the Legislature finds the present reductions in life-saving services unacceptable and that further cuts to Coast Guard programs within the State of Hawaii are difficult to justify; and be it further

"Resolved, That the Legislature supports the reprogramming action proposed by the United States Secretary of Transportation to avoid further drastic reductions in vital services, especially where the safety of mariners is concerned; and be it further

"Resolved, That the members of Hawaii's delegation to the Congress of the United States is encouraged to continue efforts to correct this critical situation Hawaii faces and to expedite the appropriation of necessary funds to the 14th Coast Guard District for the next fiscal year; and

"Resolved, That the 14th Coast Guard District be commended for its intention to maintain the safety of life as its top priority with units responding to search and rescue calls, despite the fact that it will not be able to actively patrol Hawaiian waters; and be it further

"Resolved, That certified copies of this Concurrent Resolution be transmitted to the Governor of Hawaii, the Commander of the 14th Coast Guard District, the Commandant of the United States Coast Guard, members of Hawaii's delegation to the Congress of the United States, the Hawaii State Lobbyist, the Speaker of the United States House of Representatives, the President of the United States Senate, the United States Secretary of Transportation, and the President of the United States of America."

POM-566. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Commerce, Science, and Transportation:

"HOUSE RESOLUTION NO. 461

"Whereas, new technologies and scientific development, both in space (satellites) and the aquaculture industry are making these fields more attractive in helping to secure a high protein food supply for the United States and the citizens of the world; and

"Whereas, "remote sensing" from satellites has markedly expanded our knowledge of the earth during the nearly thirty years since the United States first launched a satellite for non-military purposes; and

"Whereas, in the area of applying remote sensing technology to the fishing industry, the United States is in danger of losing its premier position as other countries have moved aggressively to utilize this technology more effectively; and

"Whereas, the Japanese have developed the ability to produce detailed fisheries aid charts based on satellite measurements obtained from United States polar orbiting satellites. These charts are produced within approximately two hours after the satellite passes over Japanese waters and provide graphic information on ocean surface temperatures and pinpoint optimal fishing areas for numerous species of commercial fish in waters within several hundred miles of Japan and are available due to easy use and relatively low-cost equipment even beyond the limits of charts; and

"Whereas, Taiwan, France, and other European nations are making excellent strides in these areas using information satellites; and

"Whereas, the United Nations is attempting to assist Third World countries with fledgling fishing industries to use information from United States satellites to improve fishing harvests; and

"Whereas, by comparison, the United States is doing very little to develop any new methodologies for applying satellite measurements to the fishing industry. In addition, the experimental and operational programs for delivering fisheries aids products based on satellite measurements, which were meager to begin with, have been severely curtailed as a result of budget constraints and the lack of clear, consistent policies regarding agency responsibilities for conducting research and development of and operating programs for providing this vital information to the United States fishing industry; and

"Whereas, in October 1986, Congress reauthorized the National Aquaculture Act and the National Aquaculture Plan for another four years to reaffirm a national policy to encourage aquaculture development in both the United States continental and insular regions, designated four regional aquaculture centers to carry out research and extension education for the enhancement of viable and profitable commercial aquaculture production in the United States for the benefit of producers, consumers, and the American economy, and appropriated $3,000,000 for the first year to begin the program; and

"Whereas, Hawaii was identified as the site for the Regional Aquaculture Center for Tropical and Sub-tropical species, which will serve aquaculture development in Hawaii and the American Pacific Islands. With a broad-based management approach coupled with region-wide policy, industry, and technical representation, such a regional center could make significant contributions to the body of aquaculture technologies and to the economic growth of the Pacific; and

"Whereas, a report prepared by the United States Congress Office of Technology Assessment entitled, 'Integrated Renewable Resource Management for U.S. Insular Areas (1987),' indicates that aquaculture could well overcome common distances between islands while having a high demand for sources of input, products, or markets; and

"Whereas, the government of Guam has recognized the critical need for a tropical aquaculture hatchery and training facility for Guam and the region, and therefore, has established the Guam Aquaculture Development and Training Center (GADTC) which is a state-of-the-art aquaculture hatchery. The operation of GADTC can meet the technical, training, and commercial aquaculture needs of Guam and the region; and

"Whereas, the continuation of a Guam representative to the Aquaculture Regional Center Board of Directors, along with representation on the Technical Advisory Committee, shall assure a direct voice in the Regional Aquaculture Center while determining what aspects of the program would be most appropriate for Guam; and

"Whereas, the Hawaii State House of Representatives is vey concerned that the fiscal year 1989 budget request by the United States Department of Agriculture provides no funding for the continuation of the regional center program; and

"Whereas, the overall economy of the Pacific region and territories can be greatly enhanced by appropriate federal support for the application of satellite technology for the fishing industry and the restoration of federal funds to the United States Department of Agriculture Regional Aquaculture Center Program; now, therefore,

"Be it resolved by the House of Representatives of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, that the Congress of the United States is urged to appropriate funds to:

"(1) Establish a pilot program over a period of three to five years to provide the United States fishing industry operating in the Pacific Basin with fisheries aids products which utilize satellite observations of the ocean surface in conjunction with appropriate conventional observations;

"(2) Conduct research and development on new methodologies for fisheries applications as satellite oceanic remote sensing technology is improved or new developments are made; and

"(3) Establish an initial network of low-cost satellite receiving systems, similar to those used by the Japanese long-range fishing fleets, to provide Pacific Basin satellite coverage from the vicinity of the International Dateline to the West Coast of the United States and place the receiving and processing equipment in the vicinity of the Gulf of Alaska, the Bering Sea, northern Washington State, central Oregon, central and southern California, and Honolulu and one of the islands in the Hawaiian chain; and

"Be it further resolved that the Congress of the United States is urged to:

"(1) Require the National Oceanic and Atmospheric Administration (NOAA) to operate these programs in cooperation with the appropriate states, and that the satellite receiving and processing equipment be operated and the fisheries aid products be prepared in different instances by NOAA personnel, state agency personnel, and representatives of the fishing industry:

"(2) Establish a panel of experts to provide advice on the selection of sites, equipment, and fisheries aids products tailored to meet the specific needs of the fishing industry in a particular region; and

"Be it further resolved that the Hawaii State House of Representatives supports: the continuation and expansion of funding for the United States Department of Agriculture Regional Aquaculture Center program and the Governor of Guam's request to maintain a board member from Guam included in the Aquaculture Regional Center in Hawaii and expansion of representation on the Board of Directors to include a representative from each of the United States Affiliated Pacific Island Groups and expansion of representation on the Technical Advisory Committee and Industry Advisory Committee to include the Commonwealth of Northern Mariana Islands and all United States Affiliated Pacific Islands, allowing for complete regional representation; and

"Be it further resolved that Guam is encouraged to seek all appropriate means of federal funding for the Guam Aquaculture Development and Training Center and the federal government is strongly urged to provide Guam with a fair share of funds currently available and further appropriate funding to adequately support the Guam aquaculture effort; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, Hawaii's congressional delegation, and the Governor of Guam."

POM-567. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Energy and Natural Resources:

HOUSE CONCURRENT RESOLUTION No. 522

"Whereas, Memorials and statuary contribute a significant element to the nation's consciousness. Probably the greatest example of this is the Vietnam Veterans Memorial in Washington, D.C. The black granite wall etched with the names of those who died because of the Vietnam War has evoked intense feelings among our people; and

"Whereas, The nearby statue of the three fighting men that stands watch over the Vietnam Veterans Memorial, with its haunting faces, adds to the aura of this unforgettable scene. However, this setting, which has helped to heal many wounds, will be incomplete until an appropriate recognition of the role that women played in this conflict is established. This oversight represents a grave injustice to the more than 10,000 women who served in Vietnam; and

"Whereas, In an effort to rectify this situation, the Vietnam Women's Memorial Project, Inc., a nonprofit corporation, has been working with veterans groups, lawmakers, the Department of the Interior, and others to have a statue of a woman veteran of that era placed at the Vietnam Veterans Memorial. A prototype statue has been created to help this effort; and

"Whereas, In addition to the obvious importance of formally recognizing the valor, loyalty, and dedication of women in the Armed Forces in Vietnam, such a memorial would also serve to complete more of the healing process of the wounds that remain from the war. In a larger sense, the establishment of a memorial for women veterans also would honor the women of our country who have watched their husbands, fathers, brothers, sisters, and daughters march off to war to preserve our liberties and way of life. Nothing could be more appropriate than to recall these sacrifices; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we hereby memorialize the United States Congress to authorize the establishment of a memorial for women of the Armed Forces who served in Vietnam; and be it further

Resolved That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation."

POM-568. A resolution adopted by the Board of County Commissioners of Cherokee County, Kansas concerning the problem of acid rain; to the Committee on Environment and Public Works.

POM-569. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTION No. 174

"Whereas, in June 1983, the United States Congressional Commission on Wartime Relocation and Internment of Civilians reported that a grave injustice was done to both citizens and permanent resident aliens of Japanese ancestry by the evacuation, relocation, and internment of approximately 120,000 civilians from December 1941 to June 30, 1946; and

"Whereas, these actions were not justified by reasonable security needs, but were motivated in part by racial prejudice and wartime hysteria; and

"Whereas, the affected individuals suffered enormous damages, both material and intangible, and there were incalculable losses in education and job training, all of which resulted in significant human suffering for which appropriate compensation has never been made; and

"Whereas, Alaskan Aleuts were also evacuated by the U.S. Department of the Interior from their island homes to southeastern Alaska where they remained until the end of the war; and

"Whereas, the Commission concluded that the Alaskan Aleuts who were subjected to relocation and resettlement were forced to undergo tremendous suffering, including deplorable living conditions, inadequate medical care, lack of educational opportunities, and irretrievable loss of precious religious artifacts; and

"Whereas, for these fundamental violations of the basic civil liberties and constitutional rights of these individuals of Japanese ancestry and Alaskan Aleuts we must, as Americans, feel both apologetic and aggrieved; and

"Whereas, the Congress of the United States of America is now contemplating reparations for these injustices with H.R. 442 or S. 1009, which will:

"(1) Acknowledge and apologize on behalf of the people of the United States for the fundamental injustice of the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry and Alaskan Aleuts during World War II;

"(2) Provide for a public education fund to finance efforts to inform the public about the internment of such individuals so as to prevent the recurrence of any similar event;

"(3) Make restitution to those individuals who were interned; discourage the occurrence of similar injustices and violations of civil liberties in the future; and

"(4) Make more credible and sincere any declaration of concern by the United States over violations of human rights committed by other nations; now, therefore,

"Be it resolved by the House of Representatives of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, the Senate concurring, that the Legislature urges the Congress of the United States of America to pass H.R. 442 or S. 1009, and if passage is accomplished, respectfully requests the President of the United States to immediately sign this measure into law; and

"Be it further resolved that certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, to each member of Hawaii's Congressional delegation, and to lobbyists in Washington, D.C., who represent the State of Hawaii."

POM-570. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Veterans' Affairs:

HOUSE CONCURRENT RESOLUTION No. 19

"Whereas, although one in ten of Hawaii's people, or more than 100,000 men and women, are military veterans, Hawaii is one of only two States in the nation that do not have a Veteran's Administration Hospital; and

"Whereas, veterans receive low priority at Tripler because that hospital is required by Army regulations to care for active duty members and dependents, reserve members, and retired military personnel and dependents before it serves veterans; and

"Whereas, efforts have been made to renovate a wing at Tripler specifically for veterans, but at this time it is estimated that this wing probably will not be open for at least seven years; and

"Whereas, the number of veterans in Hawaii who are in need of the medical services which have been promised to them because of military service will continue to increase with the general aging of the population and the eligibility of the many Korean War and Vietnam-era veterans; and

"Whereas, it is truly a tragedy that those who have served their country, must often accept inadequate health care; now, therefore, be it

"Resolved, by the House of Representatives of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, the Senate concurring, that Congress is requested to establish a Veterans Administration Hospital in Hawaii; and

"Be it further resolved, that certified copies of this Resolution be transmitted to the President of the United States, the presiding officer of the United States Senate, the presiding officer of the United States House of Representatives, the Chairperson of the U.S. Senate Appropriations Committee, the Governor of the State of Hawaii, Hawaii's congressional delegation, the Director of the Veterans Administration and veterans organizations in Hawaii."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 2366. A bill to authorize appropriations for fiscal year 1989 for the Intelligence activities of the United States Government, the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 100-404).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2024. A bill to amend the Asbestos Hazard Emergecny Response Act of 1986, Public Law 99-519, to extend certain deadlines (Rept. No. 100-405).

By Mr. NUNN, from the Committee on Armed Services, without amendment:

H.R. 4229. A bill to amend title 10, United States Code, to codify in that title certain defense-related permanent free-standing provisions of law.

*Rear Adm. Everette D. Stumbaugh, U.S. Navy, to be Judge Advocate General of the Navy (Ref. 975).

*Rear Adm. Roger F. Bacon, U.S. Navy, to be vice admiral (Ref. 1065).

*Adm. Powell F. Carter, Jr., U.S. Navy, to be reassigned (Ref. 1066).

*Rear Adm. Peter M. Hekman, Jr., U.S. Navy, to be vice admiral (Ref. 1067).

*Rear Adm. William O. Studeman, U.S. Navy, to be vice admiral (Ref. 1069).

*Adm. Huntington Hardisty, U.S. Navy, to be reassigned (Ref. 1081).

*Vice Adm. James R. Hogg, U.S. Navy, to be admiral (Ref. 1102).

*In the Navy there are 24 promotions to the grade of rear admiral (list begins with Harold John Bernsen) (Ref. 1104).

*Rear Adm. Jerome L. Johnson, U.S. Navy, to be vice admiral (Ref. 1127).

*Rear Adm. Robert K. U. Kihune, U.S. Navy, to be vice admiral (Ref. 1128).

*Adm. Frank B. Kelso, II, U.S. Navy to be reassigned in the grade of admiral (Ref. 1136).

*Maj. Gen. Johnnie H. Corns, U.S. Army, to be lieutenant general (Ref. 1157).

*Maj. Gen. Robert D. Hammond, U.S. Army, to be lieutenant general (Ref. 1158).

*Maj. Gen. Leonard P. Wishart, III, U.S. Army, to be lieutenant general (Ref. 1159).

*Frank E. Peterson, U.S. Marine Corps, to be placed on the retired list in the grade of lieutenant general (Ref. 1160).

**In the Air Force there are four appointments to the grade of colonel and below (list begins with Joe E. Burton) (Ref. 1177).

**In the Air Force there are 22 promotions to the grade of colonel and below (list begins with Ali N. Baser) (Ref. 1178).

**In the Air Force Reserve there are 25 promotions to the grade of lieutenant colonel (list begins with Dana O. Adams) (Ref. 1179).

**In the Air Force there are 94 promotions to the grade of lieutenant colonel (list begins with Walter A. Aichel) (Ref. 1180).

**In the Air Force there are 485 promotions to the grade of major (list begins with Joel B. Alexander III) (Ref. 1181).

**In the Army there are 965 promotions to the grade of major (list begins with James E. Agnew) (Ref. 1182).

**In the Navy Reserve there are 211 promotions to the grade of captain (list begins with Ofelia Maral Borlongan) (Ref. 1183).

**In the Navy Reserve there are 221 promotions to the grade of commander (list begins with William Edward Adkins) (Ref. 1184).

*Lt. Gen. Melvin F. Chubb, Jr., U.S. Air Force, to be placed on the retired list in the grade of lieutenant general (Ref. 1185).

*Maj. Gen. Gordon E. Fornell, U.S. Air Force, to be lieutenant general (Ref. 1186).

*Vice Adm. Leon A. Edney, U.S. Navy, to be Vice Chief of Naval Operations in the grade of admiral (Ref. 1187).

*Vice Adm. Charles R. Larson, U.S. Navy, to be reassigned and to be senior Navy Member of the Military Staff Committee of the United Nations (Ref. 1188).

*Rear Adm. (selectee) Jeremy M. Boorda, U.S. Navy, to be Chief of Naval Personnel and vice admiral (Ref. 1189).

*Lt. Gen. Kenneth L. Peek, Jr., U.S. Air Force, to be placed on the retired list in the grade of lieutenant general (Ref. 1201).

*Maj. Gen. Donald O. Aldridge, U.S. Air Force, to be lieutenant general (Ref. 1202).

*Lt. Gen. Vincent M. Russo, U.S. Army, to be placed on the retired list in the grade of lieutenant general (Ref. 1203).

*Rear Adm. John S. Disher, U.S. Navy, to be vice admiral (Ref. 1204).

Total: 2,074.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Charles S. Whitehouse, of Virginia, to be an Assistant Secretary of Defense; and

David S.C. Chu, of the District of Columbia, to be an Assistant Secretary of Defense.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of June 20, 1988, at the end of the Senate proceedings.)

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Karen Borlaug Phillips, of Virginia, to be a member of the Interstate Commerce Commission for a term expiring December 31, 1991;

Wendy Monson DeMocker, of Virginia, to be an Assistant Secretary of Transportation; and

Charles E. Cobb, Jr. of Florida, to be Under Secretary of Commerce for Travel and Tourism.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably a nomination list in the National Oceanic and Atmospheric Administration which appeared in its entirety in the CONGRESSIONAL RECORD of June 20, 1988, and, to save the expense of reprinting on the Executive Calendar, I ask that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER (for himself, Mr. HEINZ, Mr. CHAFEE, Mr. STAFFORD, Mr. WEICKER, Mr. BOSCHWITZ and Mr. LUGAR):

S. 2576. A bill to establish a Department of Environmental Protection; to the Committee on Governmental Affairs.

By Mr. PACKWOOD:

S. 2577. A bill to exclude certain cash wages paid to seasonal agricultural laborers from coverage under old-age, survivors, and disability insurance programs; to the Committee on Finance.

By Mr. HEINZ:

S. 2578. A bill to establish the Delaware and Lehigh Navigation Canal National Heritage Corridor in the Commonwealth of Pennsylvania; to the Committee on Energy and Natural Resources.

By Mr. QUAYLE (by request):

S. 2579. A bill to improve the contribution of libraries to the education of economically disadvantaged or handicapped individuals, to increase access to library materials through resource sharing, to support research and assessment necessary to improve library services, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DOMENICI:

S. 2580. A bill to establish the Petroglyph National Monument in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DANFORTH:

S. 2581. A bill to continue the temporary suspension of duties on 4-chloro-3-methylphenol; to the Committee on Finance.

By Mr. BENTSEN:

S. 2582. A bill to establish the Amistad National Recreation Area in the State of Texas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (by request):

S. 2583. A bill to amend title 38, United States Code, to convert nonphysician directors appointed under section 4103(a)(8) of title 38, United States Code, to Senior Executive Service career appointees; to the Committee on Veterans Affairs.

By Mr. LAUTENBERG:

S. 2584. A bill to eliminate drug-related crime in public housing projects; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SASSER (for himself and Mr. GORE):

S. 2585. A bill to provide that a reduction in force order applicable to employees of the Tennessee Valley Authority shall be implemented, to the greatest extent practicable, in accordance with any collective bargaining agreement applicable to those employees; to the Committee on Environment and Public Works.

By Mr. SHELBY:

S. 2586. A bill to quiet title and possession with respect to a certain private land claim in Sumter County, Alabama; to the Committee on Energy and Natural Resources.

By Mr. BURDICK:

S.J. Res. 344. A bill to designate the week of November 20 through November 26, 1988, as "National Family Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WILSON:

S. Con. Res. 127. A concurrent resolution expressing the sense of the Congress concerning support for amateur radio and amateur radio frequency allocations vital for public safety purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOLE (for Mr. HATFIELD):

S. Con. Res. 128. A concurrent resolution expressing the sense of the Senate concerning His Majesty King Bhumibol Adulyadej of Thailand; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER (for himself, Mr. HEINZ, Mr. CHAFEE, Mr. STAFFORD, Mr.

WEICKER, Mr. BOSCHWITZ, and Mr. LUGAR):

S. 2576. A bill to establish a Department of Environmental Protection; to the Committee on Governmental Affairs.

DEPARTMENT OF ENVIRONMENTAL PROTECTION ACT

● Mr. DURENBERGER. Mr. President, today I am joining with several of my colleagues in the introduction of a bill to elevate the Environmental Protection Agency to Cabinet status. It is a simple bill. It takes what is now an executive branch agency created by President Nixon in 1970 and makes it a Cabinet department headed by a Secretary of Environmental Protection.

We are putting this bill forward now to send a signal—in the future we want environmental protection to receive a higher priority than it has in the recent past.

The central issue here is the relationship between the President of the United States and the head of our Federal agency for environmental protection. Under the existing structure that is not a closed relationship. The President is not directly involved in making environmental policy. The head of EPA does not have direct and frequent access to the President. And EPA is not involved in the Cabinet decisions which set the broad policies for our Nation. That needs to be changed.

We believe that direct Presidential involvement in the environmental issues can have some important benefits. It might help break the legislative logjam we too frequently experience on environmental bills here on the Hill. The Clean Air Act is a good example.

Presidential engagement on these questions might assure that legislation which is adopted is carried out in the way intended. We have had a very difficult time getting consensus on the implementation of Superfund and its reauthorization in 1986. There is just basic disagreement about what the statute means. That shouldn't happen.

Finally, Cabinet access might lead to more resources to follow up on the commitments that are made. For example, we still haven't funded the Clean Water Act which we passed in 1987.

A second issue here is the relationship between the environmental agency and the other Cabinet departments. Some of our worst polluters—unfortunately—are Federal agencies. We have big problems with hazardous waste sites at defense and energy facilities. EPA needs to be on equal footing with those departments as the cleanup efforts at Federal facilities are designed and carried out.

And a third issue is the environmental aspect of international relations. We will increasingly see agreements like that recently signed to protect the ozone layer which reflect an international commitment to solve global environmental problems. Many of our most difficult environmental problems—air pollution, global warming, and marine protection—can only be dealt with in the international context. We are encouraged by the strong role that the United States took in developing the ozone protocol and believe the U.S. leadership can be enhanced, if our environmental agency has Cabinet rank.

The bill we are introducing today is a very simple piece of legislation. It doesn't change the structure at the EPA at all. It just elevates the function to Cabinet rank. Each of the current officers will have a counterpart in the new department. And we are not proposing to transfer any functions from other agencies over to this new entity, although transfers may be considered as this bill moves through the legislative process.

It may be too late in this Congress to pass a bill like this. But we want to put the issue on the national agenda for the two candidates for President and for the American people. We want to make it clear that we are looking for environmental protection to receive a higher priority in the coming years. We want the next President directly involved in making environmental policy.

Mr. President, I would ask that a statement by my colleague the Senator from Rhode Island, a factsheet on this legislation and the text of the bill be included in the RECORD along with my comments this afternoon.

Thank you, Mr. President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Department of Environmental Protection Act".

SEC. 2. ESTABLISHMENT OF THE ENVIRONMENTAL PROTECTION AGENCY AS AN EXECUTIVE DEPARTMENT.

(a) REDESIGNATION.—The Environmental Protection Agency is hereby redesignated as the Department of Environmental Protection and shall be an executive department in the executive branch of the Government.

(b) SECRETARY OF ENVIRONMENTAL PROTECTION.—(1) There shall be at the head of the Department a Secretary of Environmental Protection who shall be apppointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(2) Notwithstanding section 212 of title 38, United States Code, the Secretary may not assign duties for or delegate authority for the supervision of the Assistant Secretaries, the General Counsel, or the Inspector General of the Department to any officer of the Department other than the Deputy Secretary.

(c) DEPUTY SECRETARY.—There shall be in the Department of Environmental Protection a Deputy Secretary of Environmental Protection, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary shall prescribe.

(d) OFFICE OF THE SECRETARY.—The Office of the Secretary shall consist of a Secretary and a Deputy Secretary and may include an Executive Secretary.

SEC. 3. ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department of Environmental Protection such number of Assistant Secretaries, not to exceed nine, as the Secretary shall determine, each of whom—

(1) shall be appointed by the President, by and with the advice and consent of the Senate; and

(2) shall perform such functions as the Secretary shall prescribe.

(b) FUNCTIONS OF ASSISTANT SECRETARIES.—The Secretary shall assign to Assistant Secretaries such functions as the Secretary considers appropriate, including, but not limited to: administration and resources management; enforcement and compliance monitoring; research and development; regulation of air and water pollution; regulation of pesticides, toxic substances, radiation and solid wastes; and administration of toxic chemical and other liability and emergency response programs.

(c) DESIGNATION OF FUNCTIONS PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office.

(d) CONTINUING PERFORMANCE OF ASSISTANT SECRETARY FUNCTIONS PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by an Assistant Secretary of the Department may continue to perform such functions until such functions are assigned to an individual appointed as an Assistant Secretary of the Department under this Act.

SEC. 4. DEPUTY ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department of Environment Protection such number of Deputy Assistant Secretaries, not exceeding eighteen, as the Secretary may determine.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) MINIMUM NUMBER OF DEPUTY ASSISTANT SECRETARY POSITIONS IN THE COMPETITIVE SERVICE.—At least two-thirds of the number of positions established under subsection (a) and filled under subsection (b) shall be in the competition service.

(d) FUNCTIONS.—(1) Subject to paragraph (2), functions assigned to an Assistant Secretary under section 4(b) may be performed by one or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

(2) The following functions may be performed by a Deputy Assistant Secretary only if such Deputy Assistant Secretary is in a competitive service position:

(A) Personnel management and labor relations functions.

(B) Equal opportunity functions.

SEC. 5. OFFICE OF THE GENERAL COUNSEL.

There shall be in the Department of Environmental Protection the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

SEC. 6. OFFICE OF THE INSPECTOR GENERAL.

(a) REDESIGNATION.—The Office of Inspector General of the Environmental Protection Agency, established in accordance with the Inspector General Act of 1978, is hereby redesignated as the Office of Inspector General of the Department of Environmental Protection.

SEC. 7. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

(a) TEMPORARY DETAILS TO SENIOR POSITIONS.—Notwithstanding section 3348 of title 5, United States Code, a vacancy in the position of Secretary, Deputy Secretary, Assistant Secretary, General Counsel, or Inspector General caused by death or resignation may be filled temporarily under section 3345, 3346, or 3347 of title 5, United States Code, for not more than 120 days unless a nomination to fill such vacancy has been submitted to the Senate, in which case the person so designated may serve—

(1) until the Senate confirms the nomination;

(2) for not more than 30 days after the date that the Senate rejects the nomination; or

(3) if the position is so filled during an adjournment of Congress sine die, for not more than 120 days after the Congress next convenes.

(b) LIMITATION ON NUMBER OF NONCAREER SENIOR EXECUTIVES.—Notwithstanding section 3134(d) of title 5, United States Code, the number of Senior Executive Service positions in the Department of Environmental Protection which are filled by noncareer appointees in any fiscal year may not exceed 5 percent of the total number of senior executives employed in Senior Executive Service positions in the Department at the end of the preceding fiscal year.

(c) PROHIBITED EMPLOYMENT AND ADVANCEMENT CONSIDERATIONS.—Except as otherwise provided in this Act, political affiliation or political qualification may not be taken into account in connection with the appointment of any person to any position in or to perform any services for the Department of Environmental Protection or in the assignment or advancement of any employee in the Department.

SEC. 8. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining—

(1) to the Administrator of Environmental Protection Agency shall be deemed to refer to the Secretary of Environmental Protection;

(2) to the Environmental Protection Agency shall be deemed to refer to the Department of Environmental Protection; or

(3) to the Deputy Administrator of Environmental Protection Agency shall be deemed to refer to the Deputy Secretary of Environmental Protection;

SEC. 9. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of Environmental Protection Agency, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Environmental Protection Agency, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this Act shall not affect suits commenced before the date this Act takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency, or by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall abate by reason of the enactment of this Act.

(e) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department of Environmental Protection.

SEC. 10. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of Environmental Protection".

(b) DEFINITION OF DEPARTMENT, CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Environmental Protection".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Secretary of Environmental Protection.".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking out "Administrator of Environmental Protection Agency" and inserting in lieu thereof "Deputy Secretary of Environmental Protection".

(e) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Inspector General, Environmental Protection Agency" and inserting in lieu thereof "Inspector General, Department of Environmental Protection"; and

(2) by striking each reference to an Assistant Administrator of the Environmental Protection Agency and by adding at the end thereof the following:

"Assistant Secretaries, Department of Environmental Protection (9).

"General Counsel, Department of Environmental Protection.".

(g) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

(1) in section 2(1)—

(A) by inserting "the Department of Environmental Protection,": after "Transportation,";

(B) by striking out "The Environmental Protection Agency,";

(2) in section 11(1)—

(A) by striking out "or Transportation" and inserting "Transportation, or Environmental Protection,"; and

(3) in section 11(2)—

(A) by striking out "or Transportation" and inserting "Transportation, or Environmental Protection,"; and

SEC. 11. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on Environment and Public Works of the United States Senate and the appropriate committees of the House of Representatives, the Secretary of Environemtnal Protection shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to the United States Code, and to other provisions of law, to reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the effective date of this Act.

SEC. 12. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on such date during the 6-month period beginning on the date of enactment, as the President may direct in an Executive order. If the President fails to issue an Executive order for the purpose of this section, this Act and such amendments shall take effect on July 1, 1989.

FACT SHEET

The Environmental Protection Agency was established in 1970 by President Richard Nixon through a government reorganization plan. It currently has approximately 13,500 employees and a budget of $5.4 billion including $1.6 billion for operating programs, $2.3 billion for municipal wastewater construction grants, and $1.5 billion for Superfund.

EPA administers the Clean Air Act (1970), the Clean Water Act (1972), the Federal Insecticide, Fungicide, and Rodenticide Act (1972), the Safe Drinking Water Act (1974), the Resource Conservation and Recovery Act (1976), the Toxic Substances Control Act (1976), the Comprehensive Environmental Response, Compensation and Liability Act (Superfund) (1980), the Emergency Planning and Community Right-to-Know Act (1986) and the Asbestos Hazard Emergency Response Act (1986).

These statutes provide for the regulation of air and water pollution, the registration of pesticide products, the protection of drinking water quality from public water systems, the disposal of solid and hazardous waste, the review of chemical substances sold in commerce, response to the release of hazardous substances, planning for chemical accidents and the remediation of asbestos hazards in schools. In addition EPA has offices concerned with ground water protection, the health effects of radiation, estuary and wetlands protection, underground storage tanks, ten regional offices, and a substantial research and development program.

The principal officers of EPA are the administrator, the deputy administrator, nine assistant administrators, the general counsel and the inspector general. Each of these offices would have a counterpart in the new Department of Environmental Protection.

The President's cabinet first met in 1791 and included four officers of the Federal Government: the Secretaries of State, War, and Treasury and the Attorney General. Today there are 13 cabinet departments with Housing and Urban Development, Transportation, Energy and Education as the most recent additions.

Because many of the programs administered by EPA also have a significant State or local component, the total number of government employees under EPA direction is approximately 30,000. EPA regulations also have a large impact on the economy with estimates that pollution control expenditures by all segments of the American economy range between $50 and $70 billion per year.●

● Mr. CHAFEE. Mr. President I am pleased to be joining my colleagues today in introducing a bill to elevate the Environmental Protection Agency to Cabinet-level status and creating a new Federal Department of Environmental Protection.

As we prepare for a new administration, it is time to reorder our priorities. We can no longer afford to treat environmental protection as a second level issue.

Protection of the environment has always been one of my top priorities and with this bill we are sending a message and the message is this: The Government must do a better job in the next decade than it has during the past 10 years.

We have made tremendous progress in the last decade but much more needs to be done. The problem with the status quo is this: The complex, far-reaching laws that we have passed in the last few years—the Clean Water Act Amendments of 1987, the Superfund amendments and the Safe Drinking Water Act Amendments of 1986, and the RCRA Hazardous Waste Control Amendments of 1984—demand a greater commitment of resources and interagency cooperation than we have seen in the past.

At the same time, all of the new issues that we are working on have international or interagency implications. For example:

The problem of indoor air pollution touches on the work of OSHA;

All of our work on oceans and the problems of coastal water pollution force EPA to work with NOAA in the Department of Commerce;

Ground water issues, such as preventing pollution from pesticides, involve the Departments of Agriculture and the Interior; and

Then there are the international problems of acid rain, the greenhouse effect and global climate change due to the burning of fossil fuels, where there is an obvious Department of Energy connection.

If EPA is to be an effective advocate for the environment, it must have equal status with these other Departments. Internationally, when we sit down with other countries to discuss matters such as destruction on the ozone layer, our neighbors are sending Ministers of Cabinet-level departments and we are not. That makes no sense.

As we introduce this bill today I am calling on both Presidential candidates to endorse this proposal and, if possible, to make it part of the party platform.

It is also time to recognize the tremendous importance of global pollution and the problem of global climate change due to the greenhouse effect and destruction of the ozone layer. For that reason, I believe that we must reorganize EPA and create an office or division dedicated to working on those problems.●

● Mr. WEICKER. Mr. President, I wish to join Senators DURENBERGER, STAFFORD, and others of my colleagues in introducing Senate bill 2576, legislation to elevate the Environmental Protection Agency to Cabinet-level status.

Mr. President, the summer season is upon us and once again it is providing especially dramatic evidence of the Nation's failure to live up to its commitments to clean air, clean water and landscapes free of toxic wastes and other hazardous substances.

In many of our major metropolitan areas, including the Nation's Capital, air pollution levels are deemed "unacceptable" for days on end. Older people and little children are advised to remain inside, if at all possible.

This is the season when people turn to our rivers, lakes, and oceans for recreation and retreat. As children, my generation walked the beaches looking for shells and other treasures; nowadays it is a chancy prospect, for you never know what you'll find. Great numbers of fish and other forms of marine life are dying in our bays and sounds and along our coasts every summer, people get upset and complain. Bills get introduced, hearings are held, but very little is done in the way of comprehensive solutions.

I was especially disturbed by the recent report of the Environmental Defense Fund on the role of acid rain in estuarine and coastal pollution. The EDF report calculated that acid precipitation was the second largest source of nitrates in the Chesapeake Bay. While they did not specifically look at Long Island Sound, my State of Connecticut's No. 1 natural resource, their conclusions appear to hold true for that body of water as well. Given that the State of Connecticut has estimated that the cost to New York and Connecticut of installing nitrogen removal systems in sewage treatment plants around the Sound would very likely exceed $6 billion, we can hardly afford to leave uncontrolled a source of nitrogen as significant as acid rain appears to be.

But that is just what we are doing. S. 1894, the Clean Air Act Amendments reported out of the Environment and Public Works Committee, remains bogged down. The regulation of toxic air pollutants is at an impasse. The implementation and reauthorization of Superfund occasioned a major battle. Clean water amendments came in 1987 only after a pocket veto—and we still haven't appropriated the money necessary to fully fund that act.

As a member of the Interior Appropriations Subcommittee and the Energy and Natural Resources Committee, I have worked hard to integrate policies that promote economic growth and energy independence with a strong commitment to conservation and environmental protection. Sustainable development has become one of the catch phrases of our time, but whether we are talking about the "first world" or the third, it is the only path to a secure and livable future.

However, the environment of our Nation and our planet—and with it, the possibilities for sustainable development—continues to be degraded. The legislation we introduce today acknowledges as its starting point that this degradation has to stop. We must begin to reclaim our land, air and water for ourselves and future generations by moving environmental concerns to the top of the agenda.

This bill proposes to do that by making EPA an equal partner in the executive branch with other Cabinet departments. As Senator DURENBERGER has pointed out, some of the Nation's worst polluters are Federal agencies, including the Departments of Defense and Energy. Whenever a Cabinet meeting is convened, EPA should be there to forcefully make the case for environmental conservation and protection. Instead, its absence is too often apparent in the policies—or lack of policies—that result.

Budgets for environmental protection get cut; new mandates and missions don't get funded. We are neither gaining the necessary understanding of our environment through research or, in many cases, acting on what we already know.

Cabinet status for EPA will do much for our advocacy of conservation here and abroad. The recently ratified Montreal protocol on ozone depletion is only the beginning of a series of international agreements to address global environmental problems. In the next few days, the White House Domestic Policy Council will be deciding the fate of an international protocol on nitrogen oxide emissions—with little or no input from EPA. Once again, the scientists are taking a back seat to the ideologues.

In many other nations, the counterpart to EPA is already a Cabinet department. It's time the same was true in the United States.

Mr. President, one final word concerning the bill's cosponsors, most of them Republicans. Our party originated environmental conservation as a national issue and it was a Republican President who created EPA in 1970. We are committed to renewing the Republican commitment to the environment in the time remaining in this legislative session and in the years to come. Clean air and clean water are hard work. We intend to see to it that our party takes the lead from here on out.●

By Mr. PACKWOOD:

S. 2577. A bill to exclude certain cash wages paid to seasonal agricultural laborers from coverage under old-age, survivors, and disability insurance programs; referred to the Committee on Finance.

WAGES PAID TO SEASONAL AGRICULTURAL LABORERS

Mr. PACKWOOD. Mr. President, when we passed the budget reconciliation bill last year, we made a terrible mistake with regard to berry growers. The provision I speak of may affect others the same way, but I speak today on behalf of berry growers in Oregon. What we did was change the so-called FICA provisions—that is Social Security tax in common parlance. We changed the employees upon whom taxes must be withheld and paid. We said that henceforth all agricultural employers who have an aggregate payroll of over $2,500 a year must withhold and pay FICA tax on all employees.

Now, I emphasize this change affects an employer who has $2,500 total wages for the year. That employer must withhold on everybody he hires for the year.

In the berry industry in Oregon, it is common to have the berries picked by children, and almost always by people who live at home. These people come from their homes and work on a piece-rate basis. You have dozens, scores—if you are a fair-sized operator, hundreds—of pickers there for a very short period of time picking during a berry season. Most berry seasons last from 2 to 4 weeks, some no longer than 1 week to 10 days.

What this law did was to require that, for every person who picks berries, the employee must fill out a W-4 form and the employer must withhold and pay Social Security taxes. The bookkeeping hassle of this provision is infinitely more troublesome than the change is worth. So today I introduce S. 2577, a bill to change the law so that this onerous burden is eliminated. I want to emphasize this does not mean that pickers are exempt from income taxation. It simply means the employer does not have to withhold and pay FICA taxes in the following cases: First, if the employee is working on a piece-rate basis—this is the common way of working in the berry fields; second, if the person doing the picking is paid less than $150 per year by that employer; third, if the picker commutes daily from his or her permanent residence—this would exclude almost all migrant labor; and fourth, if the picker worked less than 13 weeks performing agricultural labor in the prior calendar year.

This bill is clearly designed to exempt one specific class of person. As I say, these pickers are usually children, not always but usually children, from grade school age on up. Often they go out with their Cub Scout or Boy Scout troops and pick as a group. Berry picking is a great way for kids to earn spending money for the summer. This bill is simply designed to eliminate the obligation of the employer to withhold and pay FICA tax on these hundreds of people that may be in the fields for a very short period of time.

Although our berry season is over in Oregon for this year, it is my hope that we could make this change in this Congress, so that we would be able to have the law in place at the time that our next season starts late next spring.

The 1987 Budget Reconciliation Act changed the exemption from FICA tax for wages paid to agricultural workers. Under prior law, FICA taxes did not have to be withheld and paid on the cash wages of agricultural workers, unless the worker either worked 20 days or more during the year or was paid $150 or more. This rule was changed in 1987, so that now FICA tax must be withheld and paid for all employees if the employer's expenditures for agricultural labor equal or exceed $2,500 for this year.

I supported the revenue package that included this provision, both in the Finance Committee and on the floor. However, I have subsequently discovered that this change has worked a severe hardship on one of my State's most important industries: the berry industry.

Oregon is one of the Nation's leading producers of berries, including strawberries, raspberries, blackberries, blueberries, boysenberries, loganberries, and marionberries.

Berry growers typically harvest their berries in the late spring and early summer. The picking seasons for the various types of berries are short, usually 2 to 4 weeks in length.

Berry picking is a very labor-intensive activity. For example, the average strawberry grower may have as many as 250 pickers in his 20-acre field at any one time.

Berry growers rely heavily upon students out of school on summer vacation for this extra manpower. Native Oregonians can tell you stories about how they, as kids, got up early in the morning to go out to the berry fields to earn extra money for the summer. Berry picking is one of Oregon's rites of passage, which taught many of us, including me, the value of an honest day's work.

Typically, the growers send buses to designated locations. Kids wishing to pick berries that day merely show up at the location and are taken out to the fields. When they arrive, the kids simply get off the buses, grab a "flat" and head out to the fields to begin picking. As the flats are filled, they are turned in either for cash or for "chits" which are redeemed at the end of the day for cash. The amount you get paid depends on how much you pick. No paperwork, no administrative details.

The new FICA provision has thrown a monkey wrench into this longstanding practice. Since virtually all growers pay more than $2,500 in wages per year, the new law requires that these employers fill out W-4 forms for each and every one of the pickers who show up. No longer can the kids merely pile off the bus and begin picking. In addition, the employers must keep individual wage records for each picker, and must withhold and pay FICA tax for each as well.

Often, growers will employ 500 or more pickers during the 2- to 4-week picking season. Many of these pickers will only show up for a day or two. Nevertheless, the law now requires that a W-4 form be prepared for each, and that FICA tax be withheld and paid. This is a burden which cannot and should not be borne by these growers.

The bill that I am introducing today would lift this unintended burden. The bill would not broaden the exemption from FICA tax beyond the exemption in place before the 1987 Budget Reconciliation Act. Instead, the bill would restore an exemption from FICA only for wages paid to hand harvest laborers who: First, are paid on a piece rate basis; second, are paid less than $150 per year; third, commute daily from their permanent residence; and fourth, were employed in agriculture less than 13 weeks in the preceding calendar year.

This is a very narrowly crafted exemption, designed to address those circumstances unique to this industry. I would urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN CASH WAGES PAID TO SEASONAL AGRICULTURAL LABORERS EXCLUDED FROM OASDI COVERAGE.

(a) SOCIAL SECURITY ACT AMENDMENT.—Paragraph (2) of section 209(h) of the Social Security Act is amended to read as follows:

"(2) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless—

"(A) the cash remuneration paid in such year by the employer to the employee for such labor is $150 or more, or

"(B) the employer's expenditures for agricultural labor in such year equal or exceed $2,500,

except that subparagraph (B) shall not apply with respect to any expenditures for agricultural labor performed by any employee described in section 13(a)(6)(C) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(C));".

(b) FICA AMENDMENT.—Subparagraph (B) of section 3121(a)(8) of the Internal Revenue Code of 1986 (relating to wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless—

"(i) the cash remuneration paid in such year by the employer to the employee for such labor is $150 or more, or

"(ii) the employer's expenditures for agricultural labor in such year equal or exceed $2,500,

except that clause (ii) shall not apply with respect to any expenditures for agricultural labor performed by any employee described in section 13(a)(6)(C) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(C));".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 9002 of the Omnibus Budget Reconciliation Act of 1987.

By Mr. HEINZ:

S. 2578. A bill to establish the Delaware and Lehigh Navigation Canal National Heritage Corridor in the Commonwealth of Pennsylvania; to the Committee on Energy and Natural Resources.

DELAWARE AND LEHIGH NAVIGATION CANAL NATIONAL HERITAGE CORRIDOR ACT

Mr. HEINZ. Mr. President, I rise today to introduce legislation which would designate the Delaware and Lehigh Canals as a "National Heritage Corridor."

This bill constitutes a preservation package for the Delaware and Lehigh Canals. Enactment of this legislation will contribute to the restoration and rehabilitation of these important historic and recreation resources and also will provide an economic benefit to the region by increasing tourism.

This region is a unique resource combining Indian trails, fishing, farmland, textile mills, canal locks, railroads, industrial plants, urban and rural areas, and environmentally threatened streams. However, because of neglect or competing interests, future generations may only have history books to learn and enjoy the rich history this region holds.

These canals were the arteries supplying the lifeblood of this region during the 1800's. They were critical to the shipment of coal and other commodities from the anthracite region to Philadelphia and elsewhere—as far away as Europe. They provided the means with which to transport fuel for our factories and heat for the homes of our young Nation. These canals formed a crucial building block in our Nation's industrial development.

The primary purposes of this legislation are twofold: First, it achieves Federal recognition of the region's historic, cultural, and natural features related to the canal system, and; second, it establishes a public-private commission to coordinate preservation efforts. The bill creates a cooperative atmosphere in a region which can sometimes be faced with the conflicting interests of historic preservation, recreation, business, outdoor sportsmanship, and tourism.

Preserving an important aspect of America's heritage and reinvigorating attitudes toward communities will be accomplished through the legislation I am introducing today. A coordinated approach is vital. A small public commitment in establishing a body to coordinate resources and establish a management framework for the corridor will establish a public/private partnership which will build its future by promoting its historic past. Among the historic sites along this region is the site where Gen. George Washington crossed the Delaware River to fight the battle of Trenton during the American Revolution and Pennsbury Manor, the home of William Penn.

We already have seen what legislation such as this is capable of achieving. For example, designation of the Michigan and Illinois Canal National Heritage Corridor led to the development of an abandoned steel site into a heritage business park which is expected to create 1,500 permanent jobs and increase tourism.

The House has already held a favorable hearing on a similar version of this proposal. I urge my colleagues to join me in honoring and preserving this legacy of America's development by supporting this effort. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Delaware Canal, which opened for regular commercial navigation in 1834, provided an early and essential link in a 4,000 mile national transportation route and helped to transform Pennsylvania from an agrarian region to the center of an industrialized society.

(2) In 1855, the peak year for the transportation of goods by canal, 1,276,000 tons of coal moved down the Lehigh Canal to Easton, and the Delaware Canal, which supported the Lehigh Canal, carried 755,000 tons of coal.

(3) The Delaware Canal served as the primary means for transporting coal and other bulk goods from the "Anthracite Region" of Pennsylvania to New York, New Jersey, Philadelphia, and other industrial centers as far away as Europe.

(4) As part of an elaborate national transportation system, the Delaware and Lehigh Navigation Canal played a critical role in supplying our developing nation with the coal that fueled its factories and heated its homes.

(5) The route of the Delaware Canal parallels stagecoach routes and the trails of the Lenni-Lenape Indians, and passes numerous 18th, 19th, and 20th century sites of national and state historical significance.

(6) In 1978, the Delaware Canal was declared a National Historic Landmark, and the Lehigh Canal was declared a National Historic Site and a National Historic Trail.

SEC. 3. ESTABLISHMENT OF NATIONAL HERITAGE CORRIDOR; PURPOSE.

(a) ESTABLISHMENT.—There is hereby established in the Commonwealth of Pennsylvania the Delaware and Lehigh Navigation Canal National Heritage Corridor.

(b) PURPOSE.—It is the purpose of this Act to provide a management framework to assist the Commonwealth and its political subdivisions in developing and implementing integrated cultural, historical, and natural resource management programs that will preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, waterways, and structures within and surrounding the Canal in the Commonwealth.

SEC. 4. BOUNDARIES AND ADMINISTRATION.

(a) BOUNDARIES.—The boundaries shall include those lands generally depicted on the map entitled "Delaware and Lehigh Navigation Canal National Heritage Corridor". The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, District of Columbia, and the Pennsylvania Department of Environmental Resources. The National Park Service shall study and review the Delaware and Lehigh Canal Regions to determine sites of national historic significance, including threatened or endangered cultural resources. Not later than one year after the date of enactment of this Act, the National Park Service shall make recommendations on preserving these resources and shall provide a detailed description and map of the boundaries of the Delaware and Lehigh Navigation Canal National Heritage Corridor. Upon the completion of this study, the Secretary of the Interior shall publish such boundaries and map in the Federal Register.

(b) Administration.—The Corridor shall be administered in accordance with the provisions of this Act.

SEC. 5. DELAWARE AND LEHIGH NAVIGATION CANAL NATIONAL HERITAGE CORRIDOR COMMISSION.

(a) Establishment.—There is hereby established the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission. The Commission shall assist appropriate Federal, State, and local authorities in the development and implementation of an integrated resource management plan for the Corridor.

(b) Membership.—The Commission shall be composed of 20 members appointed by the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") as follows:

(1) The Director of the National Park Service (or his designee).

(2) Four members, appointed from recommendations submitted by the Governor of Pennsylvania, of which—

(A) one shall represent the interests of the Pennsylvania Historical and Museum Commission;

(B) one the interests of the Pennsylvania Department of Community Affairs;

(C) one the interests of the Pennsylvania Department of Commerce/Economic Development Partnership; and

(D) one the Pennsylvania Department of Environmental Resources.

(3) Nine members, appointed from the recommendations by the county commissioners or city executives in home rule counties of the Pennsylvania counties of Lehigh, Northampton, Bucks, of which three members shall be appointed from the recommendations of each such county and at least one of each being an elected official.

(4) One member, appointed from recommendations of the organization known as the "Joint Planning Commission".

(5) One member, appointed from recommendations of the organization known as the "Bucks County Conservancy".

(6) One member, appointed from recommendations of the organization known as the "Wild Lands Conservancy".

(7) One member, appointed from recommendations of the organization known as the "Friends of the Delaware Canal".

(8) One member, appointed from recommendations of the organization known as the "Delaware Canal Advisory Council".

(9) One member, appointed from recommendations of the organization known as the "Pennsylvania Federation of Sportmen's Clubs" and who shall be a representative of the Lehigh Valley region.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) Terms.—(1) Members of the Commission shall be appointed for terms of 3 years and may be reappointed.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. At the discretion of the Governor, a member may serve after the expiration of his term until his successor has taken office.

(d) Compensation.—Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(e) Chairperson.—The chairperson of the Commission shall be elected by the members of the Commission.

(f) Quorum.—(1) 11 members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, but any member so voting shall not be considered present for purposes of establishing a quorum.

(3) The affirmative vote of not less than 6 members of the Commission shall be required to approve the budget of the Commission.

(g) Meetings.—The Commission shall hold its first meeting not later than 90 days after the date on which its members are appointed, and shall meet at least quarterly at the call of the chairperson or 6 of its members. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

SEC. 6. STAFF OF THE COMMISSION.

(a) In General.—(1) The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(2) Staff appointed by the Commission—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Experts and Consultants.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) Staff of Other Agencies.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties.

(2) The Commission may accept the services of personnel detailed from the Commonwealth and any political subdivision thereof, and may reimburse the Commonwealth or such political subdivision for those services.

SEC. 7. POWERS OF COMMISSION.

(a) Hearings.—(1) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may not issue subpoenas or exercise any subpoena authority.

(b) Powers of Members and Agents.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this Act.

(c) Administrative Support Services.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) Use of Funds To Obtain Money.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) Gifts.—(1) Except as provided in subsection (g)(2)(B), the Commission may, for purposes of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(2) For purposes of section 170(c) of the Internal Revenue Code of 1986, any gift to the Commission shall be deemed to be a gift to the United States.

(g) Acquisition of Real Property.—(1) Except as provided in paragraph (2) and except with respect to any leasing of facilities under subsection (c), the Commission may not acquire any real property or interest in real property.

(2) Subject to paragraph (3), the Commission may acquire real property, or interests in real property, in the Corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, in the Corridor.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public or private land managing agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(h) Cooperative Agreements.—For purpose of carrying out the plan, the Commission may enter into cooperative agreements with the Commonwealth, with any political subdivision of the Commonwealth, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the Commonwealth, such political subdivision, or such person which may affect the implementation of the Plan.

(i) Advisory Groups.—The Commission may establish such advisory groups as it deems necessary to ensure open communication with, and assistance from, the Commonwealth, political subdivisions of the Commonwealth, and interested persons.

SEC. 8. DUTIES OF THE COMMISSION.

(a) Preparation of Plan.—Based upon review and recommendations of the National Park Service under section 4(a) of this Act and within one year after the completion of the review, the Commission shall submit to the Secretary a Cultural Heritage and Corridor Management Plan. The Plan shall be based on existing Federal, Commonwealth, and local plans, but shall coordinate those plans and present a unified historic preservation and interpretation plan for the corridor. The Plan shall—

(1) provide an inventory which includes any property in the Corridor which should be preserved, restored, managed, developed, maintained, or acquired because of its national historic or cultural significance;

(2) develop a historic interpretation plan to interpret the history of the Canal and its surrounding area;

(3) recommend policies for resource management which consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental cooperative agreements, that will protect the Corridor's historical, cultural, scenic, and natural resources in a manner consistent with supporting appropriate and compatible economic revitalization efforts;

(4) detail the ways in which local, Commonwealth, and Federal programs may best be coordinated to promote the purposes of this Act, including compatible and incompatible land uses and acquisitions; and

(5) contain a program for implementation of the Plan by the Commonwealth and its political subdivisions.

(b) IMPLEMENTATION OF PLAN.—After review and approval of the Plan by the Secretary as provided in section 8(a), the Commission shall implement the Plan by taking appropriate steps to preserve and interpret the historic resources of the Canal and its surrounding area, and to support public and private efforts in economic revitalization consistent with the goals of the Plan. These steps may include, but need not be limited to—

(1) assisting the Commonwealth in preserving the Canal;

(2) assisting the Commonwealth and local governments in designing, establishing, and maintaining visitor centers and other interpretive exhibits in the Corridor;

(3) assisting in increasing public awareness of and appreciation for the historical, architectural, and geological resources and sites in the Corridor;

(4) assisting the Commonwealth, local governments, and nonprofit organizations in the restoration of any historic building in the Corridor;

(5) encouraging by appropriate means enhanced economic and industrial development in the Corridor consistent with the goals of the Plan;

(6) encouraging local governments to adopt land use policies consistent with the management of the Corridor and the goals of the Plan, and to take actions to implement those policies; and

(7) ensuring that clear, consistent signs identifying access points and sites of interest are put in place throughout the Corridor.

SEC. 9. TERMINATION OF COMMISSION.

(a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the day occurring 5 years after the date of the enactment of this Act.

(b) EXTENSIONS.—The Commission may be extended for a period of not more than 5 years beginning on the day of termination referred to in subsection (a) if, not later than 180 days before such day—

(1) the Commission determines such extension is necessary in order to carry out the purpose of this Act;

(2) the Commission submits such proposed extension to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate; and

(3) the Governor of the Commonwealth and the Secretary each approve such extension.

SEC. 10. DUTIES OF THE SECRETARY.

(a) APPROVAL OF PLAN.—The Secretary shall approve or disapprove a Plan submitted to him by the Commission not later than 60 days after he receives such Plan. The Secretary shall approve a Plan submitted to him if—

(1) he finds that the Plan, if implemented, would adequately protect the significant historical and cultural resources of the Corridor while providing adequate and appropriate outdoor recreational opportunities and economic activities within the Corridor;

(2) he determines that the Commission held public hearings and provided adequate opportunity for public and governmental involvement in the preparation of the Plan; and

(3) he receives adequate assurances from appropriate Commonwealth officials that the recommended implementation program identified in the plan will be initiated within a reasonable time after the date of approval of the plan, and that such implementation program will ensure effective implementation of the State and local aspects of the Plan.

(b) DISAPPROVAL OF PLAN.—If the Secretary disapproves a Plan submitted to him by the Commission, he shall advise the Commission in writing of the reasons therefore and shall make recommendations for revisions in the Plan.

(c) INTERPRETIVE MATERIALS.—Following approval of the Plan as provided under subsection (a), the Secretary shall assist the Commission in designing and producing interpretive materials based on the Plan. Such materials may include—

(1) guide brochures for exploring the Corridor by automobile, train, bicycle, boat, or foot;

(2) indoor and outdoor visitor displays, which may include video presentations, at several locations along the Corridor; and

(3) a mobile display describing the history of the Corridor, to be used in the Corridor, public buildings, libraries, and schools.

(d) TECHNICAL ASSISTANCE.—The Secretary shall, upon the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the Plan.

SEC. 11. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the flow of the Canal or the natural resources of the Corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner consistent with the Plan and the provisions of this Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—There is authorized to be appropriated annually to the Commission to carry out its duties under this Act a Federal contribution of $350,000, except that the Federal contribution to the Commission shall not exceed 50 percent of the annual costs to the Commission of carrying out those duties.

(b) SECRETARY.—There are authorized to be appropriated annually to the Secretary such sums as may be necessary to carry out his duties under this Act.

(c) STUDY.—There are authorized to be appropriated to the Secretary of the Interior $200,000 for the purpose of conducting the study required by section 4(a).

SEC. 13. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) The term "Canal" means the Delaware and Lehigh Navigation Canal.

(2) The term "Commission" means the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission established under section 4(a).

(3) The term "Commonwealth" means the Commonwealth of Pennsylvania.

(4) The term "Corridor" means the Delaware and Lehigh Navigation Canal National Heritage Corridor established under section 2(a).

(5) The term "Plan" means the Cultural Heritage and Corridor Management Plan to be prepared by the Commission pursuant to section 7(a).

(6) The term "Secretary" means the Secretary of the Interior.

By Mr. QUAYLE (by request):

S. 2579. A bill to improve the contribution of libraries to the education of economically disadvantaged or handicapped individuals, to increase access to library materials through resource sharing, to support research and assessment necessary to improve library services, and for other purposes; to the Committee on Labor and Human Resources.

LIBRARY IMPROVEMENT ACT

● Mr. QUAYLE. Mr. President, I am introducing, by request, a proposal developed by the Department of Education, entitled the Library Improvement Act of 1988. This bill would restructure the Library Services and Construction Act [LSCA] and title II of the Higher Education Act.

This proposal consists of three titles. Title I would be authorized at $45 million to help States and localities provide library services to the economically disadvantaged or handicapped. Services could include adult basic education, literacy training, expansion of library collections in rural States, information and referral centers, and summer reading programs. These services can be provided under current LSCA programs, but there is no limitation on who can be served.

Title II would be authorized at $30 million to encourage increased access to library books and other materials through new or expanded library resource-sharing networks. Twenty million dollars would be allocated to States for the development of interstate and intrastate networks or for the expansion of existing ones. The remaining $10 million would be earmarked for discretionary grants for the development or expansion of library networks across State lines.

Title III would authorize $1 million to support field-initiated research, evaluation, and policy studies needed to improve and strengthen all types of libraries.

Many of the services provided for in title II of the Higher Education Act would be incorporated into the Library Improvement Act. However, fellowships for minorities and women to pursue graduate study in library science would be eliminated. Federal financial aid for such study would still be available.

Mr. President, I believe that the administration's proposal deserves to be discussed, and I am happy to introduce it on behalf of the Department of Education.

Mr. President, I ask unanimous consent that the text of the bill be printed following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Library Improvement Act of 1988".

STATEMENT OF PURPOSE

SEC. 2. (a) The purpose of this Act is to improve the contribution of libraries to education and learning by—

(1) encouraging greater use of library services by economically disadvantaged or handicapped individuals;

(2) increasing access to library materials through support for resource sharing; and

(3) supporting research and assessments needed to improve library services.

(b) Nothing in this Act shall be construed to interfere with State and local authority and responsibility for the conduct of library services, including the administration of libraries, selection of personnel and materials, and, to the extent consistent with the provisions of this Act, the determination of the best uses of funds provided under this Act.

DEFINITIONS

SEC. 3. The following definitions apply to this Act:

(1) The term "handicapped individual" means an individual who is mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or learning disabled.

(2) The term "library" includes public, school, college and university, research, special, and other libraries.

(3) The term "library service" means the performance of an activity of a library relating to the collection and organization of library materials and information, and to making these materials and information available to a clientele.

(4) The term "network" means any cooperative arrangement among two or more administratively independent libraries for the sharing of books, materials, and services.

(5) The term "Secretary" means the Secretary of Education.

(6) The term "State" means any of the several States of the United States of America, the District of Columbia, or the Commonwealth of Puerto Rico, and, except for section 5 of this Act, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Palau, or the Virgin Islands.

(7) The term "State library administrative agency" means the State agency authorized by law to extend and develop public library services throughout the State.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a) There are authorized to be appropriated $45,000,000 for fiscal year 1989, and such sums as may be necessary for each of the four succeeding fiscal years to carry out title I.

(b) There are authorized to be appropriated $30,000,000 for fiscal year 1989, and such sums as may be necessary for each of the four succeeding fiscal years to carry out title II.

(c) There are authorized to be appropriated $1,000,000 for fiscal year 1989, and such sums as may be necessary for each of the four succeeding fiscal years to carry out title III.

ALLOTMENTS

SEC. 5. (a)(1) From the amount appropriated to carry out title I for each fiscal year, the Secretary shall reserve one-half of 1 percent of the amount appropriated to carry out title I for awards to American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Palau (only to the extent authorized by section 104(c) of Public Law 99-658 and until the effective date of the Compact of Free Association with the Government of Palau), and the Virgin Islands, and shall allot the reserved amount among the recipients on the basis of the relative need for assistance.

(2) From the remainder of the amount appropriated for the Act for each fiscal year, the Secretary shall allot one-half of such remainder amoung States on the basis of their relative population and one-half of such remainder among States on the basis of their relative population below the poverty level, except that the Secretary shall allot to each State an amount equal to at least one-half of 1 percent of such remainder.

(b)(1) From the amount appropriated to carry out title II for each fiscal year, the Secretary shall reserve two-thirds for State programs under part A of title II and one-third for grants under part B of title II.

(2) From the amount reserved for State programs under part A of title II, the Secretary shall first reserve one-half of 1 percent for awards to American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Palau (only to the extent authorized by section 104(c) of Public Law 99-658 and until the effective date of the Compact of Free Association with the Government of Palau), and the Virgin Islands, and shall allot the reserved amount among the recipients on the basis of their relative need for assistance.

(3) From the remainder of the amount appropriated and available for part A of title II for each fiscal year, the Secretary shall allot an amount to each State which bears the same ratio to such remainder as the population of the State bears to the population of all States, except that the Secretary shall allot to each State an amount equal to at least one-half of 1 percent of such remainder.

(c) The Secretary may reallot all or a portion of a State's allotment for any fiscal year if the State does not submit an application to carry out a program under title I or title II, or the Secretary determines that the State does not need or cannot use the full amount of its allotment for that fiscal year. The Secretary may fix one or more dates during a fiscal year upon which to make reallotments.

(d) The population of a State, and the population below the poverty level of a State, and of all of the States, shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

STATE APPLICATIONS

SEC. 6. (a) Any State desiring to receive its allotment under title I or title II of this Act shall submit an application at such time, in such manner, and containing such information, as the Secretary may require. The State application shall—

(1) cover a period of up to 5 fiscal years;

(2) include descriptions of the goals, expressed in measurable terms, that the State seeks to achieve with its allotment under title I, title II, or both titles;

(3) the means by which the State plans to achieve the goals; and

(4) the evaluation methods the State will use to determine whether the goals have been met.

(b) Each State application shall contain such assurances as the Secretary determines are necessary to carry out the provisions of this Act, including assurances that—

(1) the State will inform interested parties or potential participants of (A) the availability of funds, (B) the State's priority geographic areas, and (C) the State's procedures for selecting projects to be supported with funds under title I, title II, or both titles;

(2) the State library administrative agency will act as administrative and fiscal agent for the programs under this Act, and will implement such fiscal control and accounting procedures as may be necessary to ensure the proper disbursement of, and accounting for, Federal funds paid to the State under this Act; and

(3) the State will discontinue support under this Act after completion of the first 2 years of a project if the project does not accomplish, or does not give reasonable promise of accomplishing, the results for which Federal assistance was provided.

TITLE I—LIBRARY SERVICES TO DISADVANTAGED AMERICANS

PROGRAM AUTHORITY

SEC. 101. (a) From the funds allotted in accordance with section 5(a) of this Act, the Secretary shall make grants to States to carry out projects or activities that provide new library services, or expand existing library services, to economically disadvantaged or handicapped individuals in order to enhance the educational opportunities of handicapped individuals, or to facilitate greater use of library services by handicapped individuals.

(b) A State library administrative agency may support projects either directly or through grants to, or contracts with, public or private agencies, organizations, or institutions, including Indian tribes. The projects may include joint projects among libraries and other types of institutions, such as schools.

AUTHORIZED ACTIVITIES

SEC. 102. States may use funds allotted under this title to support library projects or activities such as—

(1) adult basic education;

(2) literacy training;

(3) the development of library collections in rural areas;

(4) English instruction;

(5) information and referral centers;

(6) summer reading programs for school children;

(7) after-school homework programs;

(8) services to persons in correctional institutions;

(9) specialized training of library personnel to implement activities related to the purposes of this title;

(10) the purchase and distribution of large-print books and other special materials for handicapped individuals;

(11) services to individuals in nursing homes or hospitals; and

(12) the acquisition of equipment or minor structural changes that make libraries more usable for handicapped individuals.

USE OF FUNDS LIMITATIONS

SEC. 103. (a) A State shall use funds allotted under this title only for the support of new, or the expansion of existing, projects or activities.

(b) A State may not use funds allotted under this title—

(1) to support a new, or expand an existing, project or activity for a period of more than 5 years;

(2) for acquisition, expansion, or construction of buildings, other than minor remodeling needed to improve access to libraries and library services for handicapped individuals; and

(3) to pay the costs of the State library administrative agency in administering the State's program under this title.

TITLE II—LIBRARY RESOURCE SHARING

PART A—STATE GRANTS

PROGRAM AUTHORITY

SEC. 201. (a) From the funds allotted for this part in accordance with section 5(b) of this Act, the Secretary shall make grants to States to develop new interstate and intrastate library networks and to pay for the expansion of existing networks.

(b) The State library administrative agency may support projects either directly or through grants to, or contracts with, public or private organizations, agencies, or institutions, including Indian tribes.

USE OF FUNDS LIMITATIONS

SEC. 202. (a) A State may not use funds under this part to support a new, or pay for the expansion of an existing, intrastate library network for a period of more than 5 years.

(b) A State may not use funds under this part to pay the costs of the State library administrative agency in administering the State's program under this part, except that a State may expend up to 5 percent of its grant for any fiscal year for the planning of interstate library networks.

PART B—DISCRETIONARY AWARDS

PROGRAM AUTHORITY

SEC. 211. From the funds reserved for this part in accordance with section 5(b)(1) of this Act, the Secretary shall, through grants to, or cooperative agreements or contracts with, public or private organizations, agencies, or institutions, to develop new, or pay for the expansion of existing, interstate library networks.

PART C—GENERAL PROVISIONS

AUTHORIZED ACTIVITIES

SEC. 221. Funds awarded under part A or B of this title may be used for projects or activities such as—

(1) specialized training of library personnel to operate library networks;

(2) acquisition and maintenance of computer hardware, software, and communications lines;

(3) cataloging of materials into electronic data bases;

(4) restoration of rare books, if such preservation is for the purpose of sharing a national resource;

(5) purchase of materials to complete significant collections, if such purchase would create a national resource in a particular subject; and

(6) support of other activities that would lead to the sharing of books, materials, and services among libraries.

TITLE III—LIBRARY RESEARCH AND ASSESSMENT

PROGRAM AUTHORITY

SEC. 301. From the funds appropriated for this title, the Secretary shall, either directly or through grants to, or contracts or cooperative agreements with, public or private organizations, agencies, or institutions, support library research and assessment projects and activities needed to improve library services.

AUTHORIZED ACTIVITIES

SEC. 302. (a) Funds made available under this title shall be used to support—

(1) library research and development, including field-initiated research; and

(2) evaluation of Federal library programs supported under this Act as well as assessment of libraries and library conditions, including the regular collection and reporting of data on the condition of the Nation's libraries and library services.

(b) Funds made available under this title may be used for projects or activities such as—

(1) investigation of effective ways to apply new technologies to the provision of library services;

(2) investigation of ways to improve the use of library services by economically disadvantaged or handicapped individuals;

(3) investigation of methods to increase resource sharing and make library services more efficient;

(4) assessment of needs of users; and

(5) assessment of the effectiveness and efficiency of library services.

TITLE IV—REPEALS AND EFFECTIVE DATE

REPEALS

SEC. 401. (a) The Library Services and Construction Act (20 U.S.C. 351 et seq.) is repealed.

(b) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) by repealing title II; and

(2) by striking out "II," in section 356(b)(2).

(c) Section 1331 of the Higher Education Amendments of 1986 is repealed.

EFFECTIVE DATE

SEC. 402. This Act shall take effect on October 1, 1988.●

By Mr. DOMENICI:

S. 2580. A bill to establish the Petroglyphs National Monument in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

PETROGLYPH NATIONAL MONUMENT ESTABLISHMENT ACT

Mr. DOMENICI. Mr. President, I rise today to introduce legislation to designate a portion of the West Mesa Escarpment in Albuquerque, NM, as the "Petroglyphs National Monument." This legislation is needed to protect the escarpment and the thousands of ancient petroglyphs it contains from being destroyed by rapidly encroaching development.

Mr. President, I don't know if you have ever witnessed a sunset in Albuquerque, but—and I know I may have a bias—I think it is one of the most beautiful sights I have ever seen.

As the Sun sets, the sky becomes nature's palette, a rich mosaic of blue, red, yellow, purple, orange, and pink. The Sandia Mountains, which tower above the eastern edge of the city, radiate the colors of the setting Sun. The Rio Grande shimmers in the multihued light as it flows on its long, lazy trek south through a cottonwood bosque in the middle of the city.

Silhouetted before the sunset on the western edge of Albuquerque is the West Mesa Escarpment. Some 190,000 years ago, a series of volcanic eruptions along a 5-mile fissure in the Earth spewed lava in thin, but broad sheets toward the Rio Grande. Later eruptions covered the earlier lava flows, creating over time a 17-mile long, serpentine cliff—the West Mesa Escarpment—that sweeps up from the desert floor to rise 100 feet above it at some points.

Jutting up from the mesa top are five steep volcanic cones that now stand in silent testimony to the violent eruptions that created the West Mesa many eons ago. As the sky explodes in color and the Sun sets behind it, the dark ribbon of the West Mesa Escarpment and its volcanic cones deepen to a primordial black.

Mr. President, words cannot express the beauty of a sunset in Albuquerque. You have to see it. And in order for you and other people from all across America to see it, we must protect it. The people of Albuquerque have already preserved the Sandia Mountains and the cottonwood bosque along the Rio Grande. Now, it is time to preserve the West Mesa Escarpment in order to protect our sunsets.

Just as importantly, we need to preserve the escarpment in order to protect our history.

Man first arrived at the escarpment at a time when mammoths, mastodons, and giant bison roamed up and down the Rio Grande Valley. The first inhabitants of the area, people we now call the Paleo-Indians, were hunters/gatherers who followed the herds of these large animals.

In the millennia that followed, the early Pueblo Indian people came to rely more on agriculture and came to lead a less nomadic existence. It was during this time, approximately 1000 B.C. to 500 A.D., that one of the inhabitants of the Rio Grande Valley picked up a rock and used it to peck out a geometric pattern on one of the large, dark basalt boulders that were strewn along the slope of the escarpment and created the first petroglyph.

In the ensuing centuries, as the population of the pueblos that dotted the Rio Grande Valley grew, thousands more petroglyphs, picturing lizards, squirrels, men, crosses, circles, star beings, birds, flute players, serpents, and a world of other figures, were carved onto the boulders of the escarpment.

By the time that the first Spanish explorer, Vasquez de Coronado, arrived in the area in 1540, over 15,000 Indian petroglyphs stretched along the 17 miles of volcanic cliffs of the escarpment. The early Spanish settlers carved their symbols into the escarpment, creating their own petroglyphs.

The petroglyphs left by the Pueblo Indian inhabitants and the early Spanish settlers of the Rio Grande Valley can still be seen on the escarpment today. They are an important visual record of the early history of Albuquerque.

Unfortunately, the escarpment currently is being threatened by development as Albuquerque spreads to the west. Buildings have been constructed at the base of the escarpment, and hundreds of petroglyphs have already been destroyed. In order to prevent any further destruction of the escarpment and the petroglyphs, we must act to preserve this area soon. If we delay, this magnificent resource, which forms a scenic boundary of Albuquerque and contains an important part of the city's history, may be lost.

Mr. President, in 1986, at my request, the Congress directed the National Park Service to conduct a study of the West Mesa Escarpment and the petroglyphs.

The Park Service's draft report on the petroglyphs was issued last July. The final report will soon be released.

The report details that there are approximately 15,000 petroglyphs on the escarpment, most of which were created between 1300 and 1650 A.D. There are also at least 65 archeological sites along the escarpment, dating back at some 12,000 years.

According to the report, "It is important to protect the integrity of the petroglyphs for future research and study. To move or destroy the rock art and the physical setting would greatly reduce the quality of the resources."

The report also states that preservation of the escarpment will protect the scenic quality of Albuquerque.

The Park Service concludes that the escarpment is threatened by development pressures and immediate action is needed to preserve the escarpment. It recommends taking action to protect these resources using all available public and private capabilities.

The National Park Service outlines three alternatives for preserving the area:

First, an 8,500-acre national monument under National Park Service control;

Second, a 6,300-acre national monument jointly managed by the National Park Service, the State of New Mexico, and the city of Albuquerque; and

Third, Joint management of the area by the State and the city with the cooperation of private landowners and technical and financial assistance from the Federal Government.

The report stated that, because of the costs and geographic aspects of the area, an intergovernmental approach would be the most effective method for protection of the escarpment.

The National Park Service estimates that 210,000 to 400,000 persons would visit the area each year, two-thirds of whom would be out-of-State visitors. These visitors would contribute an estimated $1.7 to $3.3 million to the local economy.

Following the conclusion of the National Park Service study, I convened an advisory group of conservationists, land owners, government officials, and other concerned citizens to provide information and views on the various alternatives to the New Mexico congressional delegation as it put together the legislation to protect the escarpment.

Recently, the ad hoc advisory group presented its report to me. The advisory group supported the creation of a national monument. It made specific boundary recommendations, proposed provisions to be included in the legislation, and developed innovative proposals for land acquisition along the escarpment. Their work was essential in putting together a reasonable plan for the protection of this area.

While these efforts were underway, the city of Albuqueque was also working to protect the escarpment. Last November, the city adopted a northwest mesa escarpment plan. The plan recommends the conservation of the escarpment for the purpose of preserving the petroglyphs and the volcanic cliffs as public open space.

The city's scarpment plan proposes public ownership, through a phased acquisition program, for the escarpment and critical surrounding areas. It also provided immediate protection for the escarpment by imposing various zoning and construction restrictions, such as height and density limitations and buffer zones between development and the escarpment.

In addition, last fall the city instituted one-fourth-of-a-cent sales tax for a variety of projects to enhance the quality of life in Albuquerque. Fourteen million dollars collected under that tax are earmarked for open space acquisition along the escarpment. Last week, the city initiated its acquisition program.

The State of New Mexico has been involved in the effort to preserve the escarpment through its ownership of the existing Petroglyph State Park on the escarpment. Although the park is a State park, it is owned and operated by the city of Albuquerque and, thus, is a State park in name only. Last year, the New Mexico State Senate passed a memorial that directed the State government to assist the National Park Service and the city in the preparation of their respective plans for the preservation of the escarpment. The memorial also mandated that the State determine what its ultimate role should be in the effort to protect the escarpment.

The State supports preservation of the escarpment. It has agreed to assist with land acquisition associated with the expansion of Indian Petroglyph State Park. This year, the State legislature authorized $300,000 for the acquisition of land to expand the park.

Mr. President, the city of Albuquerque and the State of New Mexico have begun the process of protecting Albuquerque's West Mesa Escarpment and its historic petroglyphs. Now it is time for the Federal Government to establish its role in this project.

The Congressman that represents this area, Representative LUGAN, and I have worked together to develop the legislation that I am introducing in the Senate today. Representative LUJAN will be introducing identical legislation in the House of Representatives. We are pleased to be joined by the junior Senator from New Mexico, Mr. BINGAMAN, in this effort.

The bill does the following:

First. Declares that the petroglyphgs are signficant, that the State of New Mexico and city of Albuquerque have shown great leadership in the protection of the petroglyphs, and that the National Park Service has no unit specifically established for the preservation of rock art.

Second. Establishes the petroglyph national monument.

Third. Provides for the inclusion in the national monument of lands identified for acquisition by the State of New Mexico and the city of Albuquerque after the State and the city have acquired those lands.

Fourth. Allows the National Park Service to acquire lands in the national monument by donation, purchase, or exchange. State and city lands may only be acquired by donation or exchange.

Fifth. Authorizes the National Park Service to enter into cooperative agreements with the State of New Mexico and the city of Albuquerque for the administration of their lands within the national monument.

Sixth. Authorizes the National Park Service to enter into cooperative agreements with public entities for the interpretation of the petroglyphs outside the national monument. This will allow the National Park Service to provide technical and financial assistance to the State of New Mexico and the city of Albuquerque for the management of their areas along the escarpment.

Seventh. Directs the National Park Service to develop a general management plan for the monument in 3 years. The plan shall include an identification of lands for acquisition and their cost, estimated visitor use, an interpretive program, a plan to implement the American Indian Religious Freedom Act, and a monument development plan.

Eighth. Amends the El Malpais National Monument Act approved last year to include the petroglyphs national monument in the Masau Trail, the automobile touring route linking historic and prehistoric sites throughout New Mexico.

Mr. President, I realize that the bill I am introducing today needs refinement. The final boundaries of the area have yet to be determined. The complicated land ownership pattern along the escarpment needs to be more fully addressed. The Indian people and the heirs of the original Spanish settlers of the area have concerns that need to be examined. The mechanism for interaction between the State of New Mexico, the city of Albuquerque, and the Federal Government needs to be further developed. However, by introducing this bill today, I hope we can begin the process of resolving these and other issues.

I look forward to hearings on the bill so that we can fine-tune the legislation and establish the national monument so that we can save our sunsets and our history for all Americans to enjoy.

Mr. President, nature has provided a beautiful backdrop for Albuquerque, with the Sandia Mountains on the east, the Rio Grande and the bosque in the middle, and the West Mesa Escarpment on the west. The people of Albuquerque have already preserved the mountains and the bosque. Now they want to preserve the West Mesa Escarpment.

This legislation will preserve the escarpment by creating a petroglyphs national monument. In enacting this bill, we will save the vista for our sunsets and protect the petroglyphs that were left there by the original inhabitants of Albuquerque many centuries ago.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) This Act shall be known as the "Petroglyph National Monument Establishment Act of 1988."

(b) The Congress finds that—

(1) The nationally significant Las Imagines National Archeological District on the Albuquerque West Mesa Escarpment contains more than 15,000 documented prehistoric and historic petroglyphs; and

(2) This district also contains 65 other archeological sites;

(3) The City of Albuquerque has played a significant role in the preservation of the natural, cultural, and recreational resources of the West Mesa area;

(4) The State of New Mexico has shown great leadership by recognizing the importance of the archeological resources of the West Mesa escarpment through the establishment of the Las Imagines National Archeological District; and

(5) The National Park Service has no unit established for the specific purpose of protecting, preserving, and interpreting prehistoric and historic rock art.

SEC. 2. (a)(1) There is hereby established the Petroglyph National Monument (hereinafter referred to as the "monument") as a unit of the National Park System. The monument shall consist of approximately acres as generally depicted on the map entitled "Boundary Map, Petroglyph National Monument", numbered and dated , which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, in the offices of the Department of Energy, Minerals, & Natural Resources of the State of New Mexico, in the Office of the Mayor of the City of Albuquerque, New Mexico, and in locations throughout the monument as appropriate.

(2) Upon application by the City of Albuquerque, New Mexico to include the lands described on the map referred to in paragraph (1) as Area B and upon a determination by the Secretary of the Interior (hereinafter referred to as the "Secretary") that all lands therein have been acquired, the Secretary is authorized to extend the boundaries of the monument to include such lands by publication of a notice in the Federal Register.

(3) Upon application by the State of New Mexico to include the lands described on the map referred to in paragraph (1) as Area C and upon a determination by the Secretary that all lands therein have been acquired, the Secretary is authorized to extend the boundaries of the monument to include such lands by publication of a notice in the Federal Register.

(b) Within six months after the enactment of this Act, the Secretary of the Interior shall file a legal description of the monument designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, in the offices of the Department of Energy, Minerals, & Natural Resources of the State of New Mexico, in the Office of the Mayor of the City of Albuquerque, New Mexico, and in locations throughout the monument as appropriate: *Provided,* That the Secretary may from time to time, after completion of the plan referred to in section 5 of this Act, make minor adjustments to the boundary by publication of a revised map or other boundary description in the Federal Register.

SEC. 3. The Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency, except that lands or interests therein owned by the State of New Mexico or a political subdivision thereof may be acquired only by donation or exchange.

SEC. 4. (a) The Secretary shall administer the monument in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and the provisions of this Act.

(b) The Secretary is authorized to enter into cooperative agreements with either the State of New Mexico or the City of Albuquerque, New Mexico at their specific request for the purposes of management and interpretation of any lands owned by the State of New Mexico or the City of Albuquerque, New Mexico within the boundaries of the monument.

(c) In order to encourage a unified and cost effective interpretive program of the natural, cultural, and recreational resources of the West Mesa and its environs, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local public departments and agencies providing for the interpretation of these resources. Such agreements shall include, but not be limited to, authority for the Secretary to develop and operate interpretive facilities and programs on lands and interests in lands outside of the boundaries of the monument, with the concurrence of the owner or administrator thereof. Such agreements may also include authority to provide financial and technical assistance for the planning and implementation of interpretive programs and development.

SEC. 5. Within three years from the effective date of this Act, the Secretary, in cooperation with the City of Albuquerque and the State of New Mexico, shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a general management plan for the monument consistent with the purposes of this Act, including but not limited to:

(a) the lands and interests in lands adjacent or related to the monument which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this Act, and the estimated cost thereof;

(b) the number of visitors and types of public use within the monument which can be accommodated in accordance with the protection of its resources;

(c) a general interpretive program;

(d) a plan to implement the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996); and

(e) a general development plan for the monument and the estimated cost thereof.

SEC. 6. The first sentence of section 202 of the Act of December 31, 1987 (101 Stat. 1540; Public Law 100-225), is hereby amended by deleting "and Gila Cliff Dwellings National Monument." and inserting "Gila Cliff Dwellings National Monument, and Petroglyph National Monument.".

SEC. 7. There is authorized to be appropriated such sums as may be necessary for the purposes of this Act.

By Mr. DANFORTH:

S. 2581. A bill to continue the temporary suspension of duties on 4-chloro-3-methylphenol; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTY

● Mr. DANFORTH. Mr. President, today I am introducing a bill that would extend for an additional 3 years the temporary suspension of duties on 4-chloro-3-methylphenol. I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2581

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 4-CHLORO-3-METHYLPHENOL.

Item 907.08 of the Appendix to the Tariff Schedules of the United States is amended by striking out "12/31/87" and inserting in lieu thereof "12/31/90".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply to articles entered, or withdrawn from warehouse for consumption, after December 31, 1987.●

By Mr. BENTSEN:

S. 2582. A bill to establish the Amistad National Recreation Area in the State of Texas, and for other purposes; referred to the Committee on Energy and Natural Resources.

AMISTAD NATIONAL RECREATION AREA

● Mr. BENTSEN. Mr. President, today I am joining with my distinguished House colleague, Congressman ALBERT BUSTAMANTE of Texas, and a number of other members of the Texas congressional delegation to introduce legislation to establish the Amistad National Recreation Area. The Amistad dam and reservoir are located on the Rio Grande River just upstream from the cities of Del Rio, TX, and Ciudad Acuna, Coahuila.

The U.S. side of the lake is now the Amistad Recreation Area and is managed by the National Park Service under a memorandum of agreement with the International Boundary and Water Commission. This legislation would elevate the status of this area by making it a National Recreation Area. This would give the National Park Service a more permanent presence and a stronger mandate to act to preserve the area's cultural resources, which are nationally significant.

This legislation is strongly supported by the Texas Historical Commission, which has led the effort to protect the valuable cultural resources of this area. The Amistad area contains the highest concentration of prehistoric dry cave sites in Texas. These remains document 10,000 years of nearly continuous aboriginal prehistoric occupation along the Rio Grande River. The cultural remains at these sites are deeply stratified and contain textiles, bone and wood implements, decorative ornaments, food remains, and stone tools. Pictograph panels adorn many shelter walls, The human record contained in this area is unsurpassed in the State of Texas and much of North America.

However, many of these priceless sites have not been well cared for over the years. Increased visitation brought about by the completion of Amistad Dam and the filling of the lake has brought with it an increase in vandalism and other damage. Elevating the status of this important area would provide a new impetus for the conservation, preservation and interpretation to the natural and cultural resources at Amistad. This legislation would allow the lake to continue to be a wonderful spot for public outdoor recreation and enjoyment, while at the same time helping to preserve the priceless national treasures housed in and near this area.

This is a nonpartisan issue, and the legislation has been endorsed by Governor Clements, the Texas Historical Commission, the United States-Mexico International Boundary and Water Commission, and the National Park Service.

This is legislation whose time has, I think, finally come. I first introduced legislation to establish the Amistad National Recreation Area with Congressman O.C. Fisher, Congressman BUSTAMANTE's predecessor, in the early 1970's. I believe that since that time there has come about an increased sensitivity to the value of these irreplaceable reminders of our human history.

Mr. President, this is a good bill. It will achieve a worthwhile public purpose, and this change in status will not cost the taxpayers any money. I urge its passage by the Senate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill ordered to be printed in the RECORD, as follows:

S. 2582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT.

(a) IN GENERAL.—In order to—

(1) provide for public outdoor recreation use and enjoyment of the United States portion of the reservoir known as Lake Amistad, located on the boundary between the State of Texas and Mexico, and

(2) protect the scenic, scientific, cultural, and other values contributing to the public enjoyment of that area,

there is hereby established the Amistad National Recreation Area (hereafter in this Act referred to as the "recreation area").

(b) AREA INCLUDED.—The recreation area shall consist of the Federal lands, waters, and interests therein within the area generally depicted on the map entitled "Boundary Map, ," and dated . The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") may from time to time make minor revisions in the boundary of the recreation area, but the total acreage of the recreation area may not exceed 58,292 acres.

SEC. 2. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the recreation area in accordance with this Act and with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4). In the administration of such recreation area, the Secretary may utilize such statutory authority as may be available to him for the conservation of natural and cultural resources as he deems necessary to carry out the purposes of this Act.

(b) COOPERATION WITH UNITED STATES SECTION, INTERNATIONAL BOUNDARY AND WATER COMMISSION.—In recognition of the harmonious relationship between the National Park Service and the United States Section, International Boundary and Water Commission, the administration of the recreation area shall be subject to and in accordance with the Act of July 7, 1960 (Public Law 86-605; 74 Stat. 360), and the Memorandum of Agreement Relating to the Development and Administration of Recreation on the United States Side of Amistad International Dam and Reservoir, entered into on November 11, 1965, between the United States Section, International Boundary and Water Commission and the National Park Service.

(c) CULTURAL RESOURCES.—

(1) In administering the recreation area, the Secretary is authorized to enter into cooperative agreements for conducting archaeological surveys and for providing protection, preservation, and interpretation of cultural resources located adjacent to but outside of the boundaries of the recreation area.

(2) If the Secretary is unable to protect and preserve the cultural resources referred to in paragraph (1), the Secretary may acquire not more than 1,000 acres of land or rights in land by donation, exchange, or purchase from a willing seller for the purpose of protecting, preserving, and interpreting such resources.

(d) HUNTING AND FISHING.—

(1) The Secretary shall permit hunting and fishing on lands and waters within the recreation area in accordance with applicable Federal and State law.

(2) The Secretary may designate zones where, and establish periods when, fishing will not be permitted for reasons of public safety, administration, fish and wildlife management or public use and enjoyment.

(3) The Secretary may—

(A) designate zones where, and establish periods when, hunting will be permitted and when, for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment, hunting will not be permitted; and

(B) specify the types of hunting weapons which may be used.

(4) Except in emergencies any regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(e) COOPERATIVE AGREEMENTS WITH STATE.—In administering the recreation area, the Secretary is authorized to enter into cooperative agreements with the State of Texas, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventative agencies.

(f) DONATIONS.—Notwithstanding any other provision of law, the Secretary may accept, retain, and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities on the recreation area which he deems consistent with the purposes of this Act.

SEC. 3. AGREEMENTS BETWEEN THE UNITED STATES AND MEXICO.

Nothing in this Act shall be construed to conflict with the commitments or agreements of the United States and Mexico with respect to—

(1) the demarcation and maintenance of boundaries;

(2) the use, storage, and furnishing of water;

(3) control of floods;

(4) investigations relative to the operation of the Amistad Dam; and

(5) the production of hydroelectric energy made pursuant to the treaty between the United States and Mexico relating to the utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande, entered into force November 8, 1945 (59 Stat. 1219), Minute 210 of the International Boundary and Water Commission setting forth the agreement for the construction of Amistad Dam (dated January 21, 1960), and the Act of July 7, 1960 (74 Stat. 360).●

By Mr. CRANSTON (by request):

S. 2583. A bill to amend title 38, United States Code, to convert nonphysician directors appointed under section 4103(a)(8) of title 38, United States Code, to Senior Executive Service career appointees; to the Committee on Veterans' Affairs.

ACT TO CONVERT NONPHYSICIAN DIRECTORS TO THE SENIOR EXECUTIVE SERVICE

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2583, a bill to convert Veterans' Administration medical centers nonphysician directors to the senior executive service. The Administrator of Veterans' Affairs submitted this legislation by letter dated June 27, 1988, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provision of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the June 27, 1988, transmittal letter and enclosed analysis of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2583

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "the Act of Convert Nonphysician Directors to the Senior Executive Service".

SEC. 2. (a) Subsection (e) of section 4101 of title 38, United States Code, is amended by deleting "and persons appointed under section 4103(a)(8) of this chapter".

(b) Paragraph (8) of Subsection (a) of section 4103 of title 38, United States Code, is repealed. Paragraph (9) of subsection (a) of section 4103 of title 38, United States Code, is redesignated paragraph (8).

(c) Paragraphs (1) and (2) of subsection (c) of section 4107 of title 38, United States Code, are repealed.

(d) Paragraph (3) of subsection (c) of section 4107 of title 38, United States Code, is redesignated subsection "(c)" and the words "any person to whom paragraph (1) of this subsection applies and" are deleted.

SEC. 3.(a) Notwithstanding any other law or administrative provision and without regard to subsections (b) through (e) inclusive of section 3393 title 5, United States Code, all nonphysician directors appointed under section 4103(a)(8) of title 38, United States Code, shall be, and hereby are, career appointees in the Senior Executive Service established under chapter 33 of title 5, United States Code.

(b) This section shall not result in a reduction in the pay of any person.

VETERANS' ADMINISTRATION,
ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, DC, June 27, 1988.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38, United States Code, to convert non-physician directors appointed under section 4103(a)(8) of title 38, United States Code, to Senior Executive Service career appointees."

This draft bill would place non-physician facility directors appointed under 38 U.S.C. §4103(a)(8) within the Senior Executive Service (SES) established under title 5, United States Code.

Currently such directors are excluded from the SES by 38 U.S.C. §4101(e). Congress excluded the non-physician medical facility directors from the Senior Executive Service in 1980, barely two years after the SES was established, while some concern remained about the impact of the SES program upon the management of executive personnel within the Department of Medicine and Surgery. The exclusion was consistent with the VA tradition of special appointment and pay authority for health care personnel and was intended, in part, to make the management of VA's large cadre of medical center directors more efficient and flexible than was understood would be the case under the SES.

But VA experience since the 1980 exclusion has left unfulfilled the expectation that excluding the directors would enhance the agency's ability to manage them. A number of anomalies have developed or become apparent in the eight-year period.

Under current law non-physician directors are paid the same as physician directors except that they are deemed by law to be SES career appointees for the purpose of receiving certain performance awards. Pay disparities exist between some directors appointed under 38 U.S.C. §4103(a)(8) and other comparable VA executives (such as Department of Veterans Benefits Regional Office Directors) under the SES. The career path for non-physician directors from Associate Director, to Director, to Regional Director is not coherent due to the fact that both Regional Directors and Associate Directors are appointed under title 5 while the Directors are appointed under title 38.

There is also a lack of flexibility in reassigning Directors appointed under 38 U.S.C. § 4103(a)(8) to key executive positions in Central Office and vice versa because of differences in appointment authority.

The draft bill would eliminate the anomalies discussed above by placing directors appointed under 38 U.S.C. § 4103(a)(8) into the SES. There would no longer be pay disparities with other comparable SES directors in VA. The converted directors would become SES career appointees for all purposes—not just performance awards. Reassignment would be facilitated because it is expressly provided for in the SES law. The career path for these directors would be unified under title 5. Finally, the conversion of nonphysician directors to SES would contribute to one of the original goals of the SES which was the establishment of a unified personnel system covering most government executives.

The draft bill would automatically convert to the SES all nonphysician directors appointed under 38 U.S.C. § 4103(a)(8), thus minimizing any possible disruption to the operation of VA functions. The equitable treatment of those converted is assured by expressly precluding any employee's pay from being reduced by virtue of the conversion.

We estimate the cost of this proposal to be approximately $100,000 per year as a result of pay increases that would be incidental to the shift between the pay scale which currently covers them, codified at section 4107 of title 38, United States Code, to the government-wide SES pay scale.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this draft bill to the Congress.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

ANALYSIS OF PROPOSED BILL

Section 1. of the draft bill states the bills title: "The Act to Convert Non-Physician Directors to the Senior Executive Service."

Sections 2.(a) through 2.(c) of the draft bill would make changes in existing law needed to place non-physician directors appointed under 38 U.S.C. §4103(a)(8), under whose authority non-physician directors of hospitals, domiciliary facilities, medical centers and outpatient facilities are made part of the office of the Chief Medical Director, within the Senior Executive Service.

Section 2.(a) of the draft bill deletes that portion of 38 U.S.C. §4101(e) which excludes from the Senior Executive Service persons appointed under 38 U.S.C. §4103(a)(8). The deletion thus allows such persons to become Senior Executive Service career appointees.

Section 2.(b) of the draft bill would repeal 38 U.S.C. §4103(a)(8). As a result of the deletion in 38 U.S.C. §4101(e) and the repeal of 38 U.S.C. §4103(a)(8) the subsisting provisions of title 5, United States Code, would govern the appointment of nonphysician directors formerly under 38 U.S.C. §4103(a)(8).

Section 2.(c) of the draft bill would repeal paragraphs (1) and (2) of section 4107(c) of title 38, United States Code which become anomalous and unnecessary by virture of placing non-physician directors in the SES. These paragraphs provide that non-physician directors receive the same pay as physician directors and are subject to the same terms and conditions of employment as physician directors. If non-physician medical facility directors are appointed to the Senior Executive Service, the pay and terms and conditions of employment would be covered by the law contained in title 5, United States Code, governing the Senior Executive Service. It is projected the unlinking of nonphysician medical facility directors pay to the pay of physician medical directors will result in approximately $100,000 per year additional costs to VA.

Section 2.(d) of the draft bill would amend paragraph (3) of section 4107(c) of title 38, United States Code, by deleting that provision which treats non-physician directors appointed under 38 U.S.C. §4103(a)(8) the same as SES career appointees for the purpose of receiving performance awards. This provision would be unnecessary if such nonphysician directors are placed in the SES for all purposes. This amendment preserves the newly enacted section 217 of Public Law 100-322 which amended 38 U.S.C. §4107(c)(3) to make certain persons appointed under 38 U.S.C. §4103 (other than those appointed under subsection (a) paragraph (8) of section 4103) eligible to receive awards as if they were SES career appointees. Paragraph (3) of subsection (c) would be redesignated subsection (c) because the draft bill would repeal paragraphs (1) and (2) of subsection (c).

Sections 3.(a) and 3.(b) of the draft bill provides for automatic conversion of nonphysician directors to SES. Section 3.(a) of the draft bill would automatically convert non-physician directors to Senior Executive Service career appointees without having to follow the formal administrative appointment process and probationary period set out at 5 U.S.C. §3393(b)-(e). It is necessary to make the employees "career appointees" for them to be subject to SES provisions for reassignment, removal, and performance awards.

Section 3.(b) also prohibits reductions in pay resulting from the conversion to Senior Executive Service. The respective pay scales for SES employees and non-physician directors appointed under 38 U.S.C. §4103(a)(8) differ at every level. Converted employees will need to have their pay adjusted to the SES schedule. This provision will ensure a converted employee's pay will not be adjusted below the preconversion level. The effect of this section is to ensure a fair changeover to the Senior Executive Service with as little disruption as possible.

By Mr. LAUTENBERG:

S. 2584. A bill to eliminate drug-related crime in public housing projects; to the Committee on Banking, Housing, and Urban Affairs.

PUBLIC HOUSING DRUG ELIMINATION

● Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Public Housing Drug Elimination Act of 1988, to help eliminate drug-related crime in public housing.

Mr. President, drug-related crime is a growing problem that plagues public housing projects around the country. In recent years, it's reached crisis proportions.

Many public housing projects are virtual War zones. Murders and muggings are routine, everyday events. Tenants live like prisoners of war, afraid to leave their apartments.

Tenants aren't the only ones frightened. All too often, so are local law enforcement authorities. And who could blame them? Drug dealers control their territory with automatic machineguns and other weapons of war. In some areas, local police can enter public housing projects only in multimanned, heavily armed platoons.

Local law enforcement agencies are being ask to handle an exploding drug problem at the very time that their resources are being trimmed back. Municipal governments are struggling. They've been hit hard by increasing costs and dramatic reductions in Federal aid. They thus are unable to give local police the resources they need to do the job.

Many local law enforcement authorities have simply surrendered public housing to the drug dealers. Constrained by the lack of resources, and overwhelmed by the numbers and brutality of these criminals, they've thrown up their hands in fear and futility. Some won't even get near a housing project.

Public housing authorities, meanwhile, are helpless. Under the law, they are required to provide decent and safe housing for their tenants. But they can't do it on their own.

Some PHA's are trying to finance security efforts by dipping heavily into operating subsidies. In Newark, for example, the public housing authority has devoted $4 million toward security needs. Yet there simply isn't enough money to keep housing both safe and in a livable condition. So while security personnel do their best, buildings deteriorate further, heating systems fail, roofs leak, and tenants are forced to live in utterly abysmal, inhumane conditions.

Public housing operating subsidies are supposed to help pay for security costs. But the funding system is based on an outdated 1974 formula that fails to account for the increase in drug-related and other crimes. Even if operating subsidies had been enough to cover these costs in 1974—and they were not—they certainly aren't sufficient now.

I have long supported an increase in the level of operating subsidies. But simply increasing these subsidies, though necessary, it not the best way to address the problem of drug-related crime.

Nor is it enough to rely on the only other HUD funding source which could be tapped by some public housing agencies to address drug-related crime: the Comprehensive Improvement Assistance Program [CIAP]. Use of CIAP funds to combat drug problems is severely restricted and many PHA's are ineligible for funding.

We need to attack the problem directly. The security needs of PHA's vary. To best meet these needs, we need a program that will distribute resources where they are most needed and will do the most good. We also need a program that will encourage PHA's to go out and develop new and innovative approaches to the drug problem.

The Public Housing Drug Elimination Act of 1988 offers such a program. Under the bill, public housing authorities would be encouraged to develop plans for improving their anticrime efforts. They then would submit proposals to the Secretary of Housing and Urban Development, who would evaluate the applications and allocate grants accordingly.

Funding provided under the program could be used in four ways. First, the money could be used to hire security personnel. Second, it could be spent to reimburse local law enforcement agencies for additional public housing security. Third, the money could be used to make physical improvements to improve security, such as hardening locks and improving lighting. And finally, funds could be used for innovative programs designed to reduce use of illegal drugs in and around public housing projects.

The bill would initially authorize the program at $50 million annually. In a time of huge budget deficits, it may be politically unrealistic to expect more for a new program. But I would hope it could be expanded significantly once underway.

As a member of the Senate Drug Task Force, I am hopeful that this or similar legislation will be included in the task force's comprehensive antidrug proposal. I look forward to working with the other members of the task force toward that end.

It's time to end the drug dealers' reign of terror and to reclaim public housing for the tenants.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Housing Drug Elimination Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Federal Government has a duty to provide public housing that is decent, safe, and free from illegal drugs;

(2) public housing projects in many areas suffer from rampant drug-related crime;

(3) drug dealers are increasingly imposing a reign of terror on public housing tenants;

(4) the increase in drug-related crime not only leads to murders, muggings, and other forms of violence against tenants, but also to a deterioration of the physical environment that requires substantial government expenditures; and

(5) local law enforcement authorities often lack the resources to deal with the drug problem in public housing, particularly in light of the recent reductions in Federal aid to cities.

SEC. 3. PROGRAM AUTHORIZED.

The Secretary of Housing and Urban Development, in accordance with the provisions of this Act, is authorized to make grants to public housing agencies for use in eliminating drug-related crime in public housing projects.

SEC. 4. AUTHORIZED ACTIVITIES.

A public housing agency may use a grant under this Act for—

(1) the employment of security personnel in public housing projects;

(2) reimbursement of local law enforcement agencies for additional security and protective services for public housing projects;

(3) physical improvements in public housing projects which are designed to enhance security; and

(4) innovative programs designed to reduce use of illegal drugs in and around public housing projects.

SEC. 5. APPLICATION.

(a) IN GENERAL.—To receive a grant under this Act, a public housing agency shall submit an application to the Secretary of Housing and Urban Development, at such time, in such manner, and accompanied by such additional information as such Secretary may reasonably require. Such application shall include a plan for addressing the problem of drug-related crime.

(b) CRITERIA.—The Secretary of Housing and Urban Development shall approve applications based upon—

(1) the extent of the crime problem in the facilities of the public housing project; and

(2) the quality of the plan of the public housing agency to address crime in public housing projects.

SEC. 6. IMPLEMENTATION.

The Secretary of Housing and Urban Development shall promulgate rules and regulations to implement this Act within 180 days of enactment.

SEC. 7. AUTHORIZATION.

There are authorized to be appropriated to carry out the provisions of this Act $50,000,000 for fiscal year 1989.●

By Mr. BURDICK:

S.J. Res. 344. Joint resolution to designate the week of November 20 through November 26, 1988, as "National Family Week"; to the Committee on the Judiciary.

NATIONAL FAMILY WEEK

Mr. BURDICK. Mr. President, once again, I have the pleasure of introducing a joint resolution authorizing the President to proclaim Thanksgiving Week, November 20 through November 26, 1988, as "National Family Week."

I've said in the past that National Family Week is about celebrating our American heritage of strong families. We appreciate family values, family farms, family reunions, and mom-and-pop businesses. The stability and warmth of these phrases indicate the family's fundamental position in our social, economic, and political lives.

The model of the traditional nuclear family applies to just 7 percent of our population. We are seeing more single-parent families, couples without children, and any number of other variations in family structure. The Governor of North Dakota, George Sinner, recognizes the significance of these changes. He proclaimed 1988 the "Year of the Family" to call attention to day care, family counseling, and other essential issues for modern families.

National Family Week provides an opportunity to raise awareness of problems our Nation needs to face regarding our changing families. With both parents working, day care is a crucial national issue. With many single mothers living in poverty, we must improve our welfare system and expand job training programs. At the same time, National Family Week reaffirms and celebrates the traditional value and importance of the family.

National Family Week has been a tradition since 1972, and I believe it is one tradition worth continuing. I hope both Houses will again join me in support of this joint resolution.

Mr. President, I send this joint resolution to the desk and I ask unanimous consent that the full text be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, AS FOLLOWS:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of November 20, 1988 through November 26, 1988, as "National Family Week", and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 684

At the request of Mr. HEINZ, the names of the Senator from California [Mr. CRANSTON] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 684, a bill to amend the Internal Revenue Code of 1986 to make permanent the targeted jobs credit.

S. 702

At the request of Mr. SIMON, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 702, a bill to provide for the collection of data about crimes motivated by racial, religious, or ethnic hatred.

S. 889

At the request of Mr. GORE, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 889, a bill to amend the Communications Act of 1934 to provide for fair marketing practices for certain encrypted satellite communications.

S. 1817

At the request of Mr. KENNEDY, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from United States savings bonds which are transferred to an educational institution as payment for tuition and fees.

S. 1839

At the request of Mr. MELCHER, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 1839, a bill to amend title XVIII of the Social Security Act to provide for coverage of adult day health care under the Medicare Program, and for other purposes.

S. 1851

At the request of Mr. METZENBAUM, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 2199

At the request of Mr. CHAFEE, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2199, a bill to to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2211

At the request of Mr. SANFORD, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 211, a bill to amend the Congressional Budget and Impoundment Control Act of 1974 to revise the method of calculation of the federal deficit by removing the surpluses attributable to the Social Security Trust Funds from revenues by fiscal year 1991.

S. 2378

At the request of Mr. KENNEDY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 2378, a bill to amend the comprehensive Anti-Apartheid Act of 1986 to strengthen the sanctions against South Africa.

S. 2393

At the request of Mr. HARKIN, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 2393, a bill to amend the protection and Advocacy for Mentally Ill Individuals Act of 1986 to authorize such act, and for other purposes.

S. 2400

At the request of Mr. HECHT, the names of the Senator from Colorado [Mr. ARMSTRONG], the Senator from Missouri [Mr. BOND], the Senator from Mississippi [Mr. COCHRAN], the Senator from Kansas [Mr. DOLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. GARN], the Senator from North Carolina [Mr. HELMS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. MCCLURE], the Senator from Nevada [Mr. REED], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 2400, a bill to amend the National Trails System Act to designate the Pony Express National Historic Trail as a component of the National Trails System.

S. 2438

At the request of Mr. GARN, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2438, a bill to amend the Internal Revenue Code of 1986 to provide that the time for the payment of the manufacturers' excise tax on bows, arrows and accessories will be the same as the time for payment of the excise tax on sport fishing equipment.

S. 2523

At the request of Mr. REID, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2523, a bill to amend title 23, United States Code, to require States to promptly suspend or revoke the license of a driver found to be driving under the influence of alcohol and for other purposes.

S. 2544

At the request of Mr. RIEGLE, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 2544, a bill to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement.

S. 2561

At the request of Mr. HARKIN, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of S. 2561, a bill to establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes.

SENATE JOINT RESOLUTION 180

At the request of Mr. PRESSLER, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Joint Resolution 180, a joint resolution designating the honeybee as the national insect.

SENATE JOINT RESOLUTION 291

At the request of Mr. COCHRAN, the names of the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Joint Resolution 291, a joint resolution to designate the Month of September 1988 as "National Sewing Month."

SENATE JOINT RESOLUTION 296

At the request of Mr. SHELBY, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 296, a joint resolution designating April, 1989 as "National Outdoor Power Equipment Safety Month."

SENATE JOINT RESOLUTION 306

At the request of Mr. CHAFEE, the names of the Senator from California [Mr. CRANSTON], the Senator from New York [Mr. MOYNIHAN], the Senator from Delaware [Mr. ROTH], and the Senator from Connecticut [Mr. WICKER] were added as cosponsors of Senate Joint Resolution 306, a joint resolution designating the day of August 7, 1989, as "National Lighthouse Day."

SENATE JOINT RESOLUTION 325

At the request of Mr. ROCKEFELLER, the names of the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Joint Resolution 325 a joint resolution designating the third week in May 1989 as "National Tourism Week."

SENATE JOINT RESOLUTION 326

At the request of Mr. MOYNIHAN, the names of the Senator from Kansas [Mr. DOLE], the Senator from Wisconsin [Mr. KASTEN], the Senator from Rhode Island [Mr. PELL], the Senator from Illinois [Mr. DIXON], the Senator from Ohio [Mr. GLENN], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Joint Resolution 326, a joint resolution designating June 12 through 18, 1988, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 333

At the request of Mr. GORE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 333, a joint resolution to designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week."

S.J. RES. 342

At the request of Mr. MOYNIHAN, the names of the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. WIRTH], the Senator from Connecticut [Mr. WEICKER], the Senator from North Dakota [Mr. CONRAD], the Senator from Delaware [Mr. ROTH], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of S.J. Res. 342, a joint resolution to designate the week of November 28 through December 5, 1988, as "National Book Week."

S. CON. RES. 103

At the request of Mr. DECONCINI, the names of the Senator from Missouri [Mr. BOND], the Senator from Missouri [Mr. DANFORTH], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. Con. Res. 103, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

S. RES. 394

At the request of Mr. HEINZ, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. Res. 394, a bill expressing the sense of the Senate that funding in fiscal year 1989 for the Federal-aid highway and mass transit programs should be at the levels enacted in the Surface Transportation and Uniform Relocation Assistance Act of 1987.

S. RES. 404

At the request of Mr. KARNES, his name was added as a cosponsor of S. Res. 404, a resolution expressing the sense of the Senate regarding the importance of tax incentives for homeownership and that no additional restrictions or caps be placed on homeownership tax benefits.

S. RES. 432

At the request of Mr. MOYNIHAN, the names of the Senator from Washington [Mr. ADAMS], the Senator from Illinois [Mr. DIXON], the Senator from Michigan [Mr. REIGLE], the Senator from Maryland [Mr. SARBANES], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. Res. 432, a resolution to honor Eugene O'Neill for his priceless contribution to the canon of American literature in this the 100th anniversary year of his birth.

SENATE CONCURRENT RESOLUTION 127—EXPRESSING SUPPORT FOR AMATEUR RADIO

Mr. WILSON submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 127

Whereas, more than 435,000 Radio Amateurs in the United States are licensed by the Federal Communications Commission upon examination in radio regulations, technical principles and the international Morse Code, and

Whereas, by international treaty and the FCC regulation, the amateur is authorized to operate his or her station in a radio service of intercommunications and technical investigations solely with a personal aim and without pecuniary interest, and

Whereas, among the basic purposes for the Amateur Radio Service is the provision of voluntary, non-commercial radio service, particularly emergency communications, and

Whereas, volunteer amateur radio emergency communications services have consistently and reliably been provided before, during and after floods, tornadoes, forest fires, earthquakes, blizzards, train wrecks, chemical spills, and other disasters: Now therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) It strongly encourages and supports the Amateur Radio Service and its emergency communications efforts; and

(2) Government agencies shall avoid actions which would reduce amateur radio frequency allocations used for these purposes.

Mr. WILSON. Mr. President, today I am submitting a concurrent resolution to express the sense of the Congress that we support amateur radio licensees around the country in their public safety activities. More than 435,400 radio amateurs in the United States are licensed by the Federal Communications Commission [FCC].

Probably the best-known aspect of amateur radio in the public eye is its ability to provide life-saving emergency communications when normal means of contact are down. In hurricanes, earthquakes, tornadoes, airplane crashes, missing person cases, and other accidents and disasters affecting the civil population, amateur radio is often the first contact with the outside world available to an affected area. Red Cross and civil preparedness agencies often rely heavily on the services of volunteer radio amateurs.

One of the more noteworthy aspects of amateur radio is its noncommercial nature. In fact, amateurs are prohibited from receiving any form of payment for operating their stations. This means that amateur radio operators, whether they are assisting a search-and rescue operation in the high Sierras, relaying health-and-welfare messages from a disaster-stricken Caribbean island, or providing communications assistance at the Boston marathon, make available their services free of charge to insure the safety of the public. They operate their stations for the benefit of the public and for their own personal enjoyment. Perhaps the "ham" best known to the Senate is our beloved former colleague, Barry Goldwater, whose elevation to amateur radio has been a lifelong passion and one to which he continues to give substantial time and energy in retirement. The Amateur Radio Service is strictly noncommercial.

Mr. President, the Amateur Radio Service is a voluntary, disciplined communications service guided by five traditional objectives:

First, to provide emergency or public service communications when normal communications are disrupted;

Second, to advance the state of the art;

Third, to improve individual skills in radio operation;

Fourth, to provide a reserve pool of qualified radio operators and technicians; and

Fifth, to provide international goodwill.

At this time, I want to comment on the American Radio Relay League, the largest organization of radio amateurs in the Nation. The league was established in 1914, and is headquartered in Newington, CT. On behalf of its more than 150,000 members and the rest of the Amateur Radio Service, the league serves as the principal representative and spokesman for the Amateur Radio Service before Federal, State and local government agencies.

There are over 64,000 amateur radio enthusiasts in my State of California who assist and perform valuable public safety services to our citizens. As an example, lightning struck the Stanislaus National Forest in August 1987. It set off fires that eventually consumed 139,000 acres of timber, 18 homes and 24 outbuildings, and claimed one life. Amateur radio operators, who maintain their emergency-communications skills for just such occasions, responded immediately. Asked to help with communications by the California Department of Forestry [CDF] and the U.S. Forest Service [USFS], groups of amateurs belonging to the Amateur Radio Emergency Service left their families and jobs to assist with the vital job of maintaining communications links. As always, the amateurs worked as volunteers, donating their time, and in some cases risking their well-being, to help in the emergency. Amateur packet radio was used for transmission of fire status updates between the base camps and forest supervisor's office in Sonora, the USFS offices in San Andreas, the CDF regional office in Fresno, and the State Office of Emergency Services HQ in Sacremento. The timely distribution of official information of the fire progress greatly assisted evacuees—both in the assessment of possible loss of their property and also in safe return of families to their homes. A 220-megahertz voice repeater provided excellent coverage via hand-held radios throughout the area despite the rugged terrain. Similar amateur disaster assistance examples exist all around the country.

I urge my colleagues to join me and cosponsor this concurrent resolution supporting amateur radio.

SENATE CONCURRENT RESOLUTION 128—EXPRESSING THE SENSE OF THE SENATE CONCERNING HIS MAJESTY BHUMIBOL ADULYADEJ OF THAILAND

Mr. DOLE (for Mr. HATFIELD) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 128

Whereas, on July 2, 1988, His Majesty King Bhumibol Adulyadej, Monarch of the Kingdom of Thailand, will become the longest reigning monarch in Thai history;

Whereas, King Bhumibol Adulyadej follows in the line of other great and venerable monarchs, such as his great grandfather, His Majesty King Chulalongkorn, whose 42 years and 22 day reign as king is Thailand's longest;

Whereas, during the reign of His Majesty King Bhumibol Adulyadej, development throughout the country, such that the United Nations economic survey for the last two years cited Thailand as Southeast Asia's fastest growing economy;

Whereas, this steady growth had led the Kingdom of Thailand to be in a position to join the ranks of "newly industrialized countries" signaling a new era of prosperity for the people of Thailand;

Whereas the leadership of His Majesty King Bhumibol Adulyadej has been distinguished by humanitarianism, both in meeting the needs of the Thai people, and in providing shelter and protection of the hundreds of thousands of refugees who have fled to Thailand and live in refugee camps there;

Whereas the United States has a special relationship with His Majesty King Bhumibol Adulyadej because of his birthplace in Cambridge, Massachusetts, and the Congress by joint resolution commemorated his 60th birthday on December 4, 1987;

Whereas, Her Majesty Queen Sirikit, and Princess Ubol Ratana, Crown Prince Maha Vajiralongkorn, Princess Maha Chakri Sirindhorn, and Princess Chulahorn have joined with the King to distinguish the Royal Family as one devoted to the greatest principles and traditions of Thailand, and to its Constitution;

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that His Majesty King Bhumibol Adulyadej, the ninth monarch of the Royal House of Chakri, be congratulated for becoming the longest reigning monarch in the history of the Kingdom of Thailand, and that His Majesty enjoy a continued reign of prosperity, peace, and happiness for the Royal Family and for the people of Thailand.

AMENDMENTS SUBMITTED

PLANT CLOSING LEGISLATION

HATCH (AND OTHERS) AMENDMENT NO. 2439

Mr. HATCH (for himself, Mr. METZENBAUM, and Mr. SPECTER) proposed an amendment to the bill (S. 2527) to require advance notification of plant closings and mass layoffs, and for other purposes; as follows:

On page 8, line 12, after the period, add the following:

"Nothing in this Act shall require an employer to serve written notice pursuant to Section 3(a) of this Act when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act, provided that nothing in this Act shall be deemed to validate or invalidate any judicial or administrative ruling relating to the hiring of permanent replacements for economic strikers under the National Labor Relations Act."

DOLE (AND KARNES) AMENDMENT NO. 2440

(Ordered to lie on the table.)

Mr. DOLE (for himself and Mr. KARNES) submitted an amendment intended to be proposed by him to the bill S. 2527, supra; as follows:

At the appropriate place add the following: No notice under this Act shall be required if the closing or mass layoff is due, directly or indirectly, to any form of natural disaster, such as a flood, earthquake, or the drought currently ravaging the farmlands of the United States.

HATCH AMENDMENT NO. 2441

Mr. HATCH proposed an amendment, which was subsequently modified, to the bill S. 2527, supra; as follows:

Strike out all from page 4, line 13 through page 5, line 1, and insert in lieu thereof the following:

"Loss. (1) In the case of a sale of part or all of an employer's business, the seller shall be responsible for providing notice for any plant closing or mass layoff in accordance with section (3) of this Act, up to and including the effective date of the sale. After the effective date of the sale of part or all of an employer's business, the purchaser shall be responsible for providing notice for any plant closing or mass layoff in accordance with section (3) of this Act. Notwithstanding any other provision of this Act, any person who is an employee of the seller (other than a part-time employee) as of the effective date of the sale shall be considered an employee of the purchaser immediately after the effective date of the sale.

"(2) Notwithstanding subsection (a)(6), an employee may not be considered to have experienced an employment loss if the closing or layoff is the result of the reloca-"

DOLE (AND KARNES) AMENDMENTS NOS. 2442 THROUGH 2451

(Ordered to lie on the table.)

Mr. DOLE (for himself and Mr. KARNES) submitted 10 amendments intended to be proposed by him to the bill S. 2527, supra; as follows:

AMENDMENT No. 2442

At the appropriate place add the following: No notice under this Act shall be required if the closing or mass layoff is due to unforeseen circumstances affecting an ethanol supplier.

AMENDMENT No. 2443

At the appropriate place add the following: No notice under this Act shall be required if the closing or mass layoff is due to unforeseen circumstances affecting any company dependent on the agricultural sector.

AMENDMENT No. 2444

At the appropriate place add the following: No notice under this Act shall be required if the closing or mass layoff is due to unforeseen circumstances affecting a seasonal producer.

AMENDMENT No. 2445

At the appropriate place add the following: No notice under this Act shall be required if the closing or mass layoff is due to unforeseen circumstances affecting a farm supplier.

AMENDMENT No. 2446

At the appropriate place add the following: No notice under this Act shall be required if the closing or mass layoff is due to unforeseen circumstances affecting a food supplier.

AMENDMENT No. 2447

At the appropriate place add the following: No notice under this Act shall be required if the closing or mass layoff is due to unforeseen circumstances affecting a food exporter.

AMENDMENT No. 2448

At the appropriate place add the following: No notice under this Act shall be required if the closing or mass layoff is due to unforeseen circumstances affecting a food processor.

AMENDMENT No. 2449

At the appropriate place add the following: No notice under this Act shall be required if the closing or mass layoff is due to unforeseen circumstances affecting a farm implement dealer.

AMENDMENT No. 2450

At the appropriate place add the following: No notice under this Act shall be required if the closing or mass layoff is due to unforeseen circumstances affecting a seed company.

AMENDMENT No. 2451

At the appropriate place add the following: No notice under this Act shall be required if the closing or mass layoff is due to unforeseen circumstances affecting an ethanol producer.

KASSEBAUM AMENDMENT NO. 2452

(Ordered to lie on the table.)

Mrs. KASSEBAUM submitted an amendment intended to be proposed by her to the bill S. 2527, supra; as follows:

Beginning on page 2, strike out line 13 and all that follows through page 9, line 11, and insert in lieu thereof the following:

(2) the term "plant closing" means the permanent or temporary shutdown of a single site of employment if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees;

(3) the term "mass layoff" means a reduction in force which—

(A) is not the result of a plant closing; and

(B) results in an employment loss at the single site of employment during any 30-day period for—

(i)(I) at least 33 percent of the employees (excluding any part-time employees); and

(II) at least 50 employees (excluding any part-time employees); or

(ii) at least 500 employees (excluding any part-time employees);

(4) the term "representative" means an exclusive representative of employees within the meaning of section 9(a) or 8(f) of the National Labor Relations Act (29 U.S.C. 159(a) or 158(f)) or section 2 of the Railway Labor Act (45 U.S.C. 152);

(5) the term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by their employer;

(6) subject to subsection (b), the term "employment loss" means (A) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (B) a layoff exceeding 6 months, or (C) a reduction in hours of work of more than 50 percent during each month of any 6-month period;

(7) the term "unit of local government" means any general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers;

(8) the term "part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required; and

(9) the term "notification period" means a period of—

(A) 60 days, in the case of a plant closing described in paragraph (2) and, except as provided in subparagraph (B), a mass layoff described in paragraph (3); and

(B) 30 days, in the case of a mass layoff that involves a reduction in force that—

(i) is not the result of a plant closing; and

(ii) results in an employment loss at the single site of employment during any 30-day period for—

(I) at least 50 percent of the employees (excluding any part-time employees); and

(II) at least 50 employees (excluding any part-time employees).

(b) EXCLUSIONS FROM DEFINITION OF EMPLOYMENT LOSS.—Notwithstanding subsection (a)(6), an employee may not be considered to have experienced an employment loss if—

(1) the closing of layoff is the result of the sale of part or all of an employer's business and—

(A) the purchaser agrees in writing, as part of the purchase agreement, to offer employment to the employee with no more than a 6-month break in employment and the agreement specifies that the employee is a third-party beneficiary; or

(B) the purchaser, within 30 days after the purchase, offers employment to the employee with no more than a 6-month break in employment; or

(2) the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—

(A) the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; or

(B) the employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

SEC. 3. NOTICE REQUIRED BEFORE PLANT CLOSINGS AND MASS LAYOFFS.

(a) NOTICE TO EMPLOYEES, STATE DISLOCATED WORKER UNITS, AND LOCAL GOVERNMENTS.—An employer shall not order a plant closing or mass layoff until the end of the notification period after the employer serves written notice of a proposal to issue such an order—

(1) to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) to the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act) and the chief elected official of the unit of local government within which such closing or layoff is to occur.

If there is more than one such unit, the unit of local government which the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

(b) REDUCTION OF NOTIFICATION PERIOD.—(1) An employer may order the shutdown of a single site of employment before the conclusion of the notification period if as of the time that notice would have been required the employer was actively seeking capital or business which, if obtained, would have enabled the employer to avoid or postpone indefinitely the shutdown and the employer reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.

(2) An employer may order a plant closing or mass layoff before the conclusion of the notification period if the closing or mass layoff is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

(3) An employer relying on this subsection shall give as much notice as is practicable and at that time shall give a brief statement of the basis for reducing the notification period.

(c) EXTENSION OF LAYOFF PERIOD.—A layoff of more than 6 months which, at its outset, was announced to be a layoff of 6 months or less, shall be treated as an employment loss under this Act unless—

(1) the extension beyond 6 months is caused by business circumstances (including unforseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and

(2) notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required.

(d) DETERMINATIONS WITH RESPECT TO EMPLOYMENT LOSS.—For purposes of this section, in determining whether a plant closing or mass layoff has occurred or will occur, employment losses for 2 or more groups at a single site of employment, each of which is less than the minimum number of employees specified in section 2(a) (2) or (3) but which in the aggregate exceed that minimum number, and which occur within any 90-day period shall be considered to be a plant closing or mass layoff unless the employer demonstrates that the employment losses are the result of separate and distinct actions and causes and are not an attempt by the employer to evade the requirements of this Act.

SEC. 4. EXEMPTIONS.

This Act shall not apply to a plant closing or mass layoff if—

(1) the closing is of a temporary facility or the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking; or

(2) the closing or layoff constitutes a strike or constitutes a lockout not intended to evade the requirements of this Act.

SEC. 5. ADMINISTRATION AND ENFORCEMENT OF REQUIREMENTS.

(a) CIVIL ACTIONS AGAINST EMPLOYERS.—(1) Any employer who orders a plant closing or mass layoff in violation of section 3 of this Act shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing or layoff for—

(A) back pay for each day of violation at a rate of compensation not less than the higher of—

(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) the final regular rate received by such employee; and

(B) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss which would have been covered under an employee benefit plan if the employment loss had not occurred.

Such liability shall be calculated for the period of the violation, up to the maximum of days in the notification period, but in no event for more than one-half the number of days the employee was employed by the employer.

GRAMM AMENDMENTS NOS. 2453 AND 2454

(Ordered to lie on the table.)

Mr. GRAMM submitted two amendments intended to be proposed by him to the bill S. 2527, supra; as follows:

AMENDMENT No. 2453

Section 3(b) is amended by adding the following new paragraph:

"(4) An employer may order a plant closing or mass layoff before the conclusion of the 60-day period if, following the provision of notice as required in subsection (a), 50 per cent or more of the affected employees voluntarily terminate their employment, or if sufficient employees voluntarily terminates their employment so as to disrupt the efficient functioning of the business enterprise.".

AMENDMENT No. 2454

In section 2(a) (2) and (3) strike "50" each time it occurs and insert in lieu thereof "100".

QUAYLE AMENDMENTS NOS. 2455 THROUGH 2467

(Ordered to lie on the table.)

Mr. QUAYLE submitted 13 amendments intended to be proposed by him to the bill S. 2527, supra; as follows:

AMENDMENT No. 2455

At the end of the bill add the following: "Nothing in this act shall prohibit an employer from giving 60 day severance pay in lieu of 60 days notice."

AMENDMENT No. 2456

On page 3, line 7 delete "33" and insert "75".

AMENDMENT No. 2457

On page 3, line 7 delete "33" and insert "66".

AMENDMENT No. 2458

On page 3, line 7 delete "33" and insert "50".

AMENDMENT No. 2459

On page 3, line 9 delete "50" and insert "100".

AMENDMENT No. 2460

On page 3, line 11 delete "500" and insert "750".

AMENDMENT No. 2461

On page 3, line 11 delete "500" and insert "600".

AMENDMENT No. 2462

On page 2, line 18 delete "50" and insert "100".

AMENDMENT No. 2463

At the end of the bill, add the following new section:

"SEC. . Nothing in this Act, except as specifically provided for herein, shall be construed as imposing any additional costs on employers."

AMENDMENT No. 2464

At the end of the bill, add the following new section:

SEC. . Nothing in this Act shall be construed to require an employer to consult or furnish information regarding its decision to order a plant closing or mass layoff.

AMENDMENT No. 2465

At the end of the bill insert the following new section:

"SEC. 11. ATTEMPT TO PRESERVE BUSINESS.

Notwithstanding any other provision of this Act, an employer shall not be required to give advance notice of plant shutdown or mass layoff for any period during which the employer was actively trying to prevent the plant closing or mass layoff, by seeking capital, credit or new business or otherwise, and reasonably believes that providing notice would be detrimental to that objective.

AMENDMENT No. 2466

At the end of the bill insert the following new section:

SEC. . Notwithstanding any other provision of this Act, an employer in an industry marked by consistent seasonal or cyclical variations in employment (as determined under regulations issued by the Secretary) may, in lieu of the notice of mass layoff required by section 3, post notices in conspicuous places where notices to employees are regularly posted stating that

the employer is in an industry marked by consistent variations in employment

mass layoffs are to be expected in the undustry and the employer will give advance notice of mass layoff as soon as the employer has made a definite decision to issue an order for a mass layoff.

Amendment No. 2467

Page 2, line 19, after "employees" insert "and at least 33% of the employees at such site."

GRAMM AMENDMENT NO. 2468

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 2527, supra; as follows:

On page 12, between lines 13 and 14, insert the following new section:

SEC. 10. SUSPENSION OF ACT DURING EMERGENCY.

In the event of a national emergency, the President may suspend the operation of this Act.

HATCH AMENDMENT NO. 2469

Mr. HATCH proposed an amendment, which was subsequently modified, to the bill S. 2527, supra; as follows:

On page 12, after line 8, insert the following: "The mailing of notice to an employee's last known address or inclusion of notice in the employee's paycheck will be considered acceptable methods for fulfillment of the employer's obligation to give notice to each affected employee under this Act."

DOMENICI AMENDMENTS NOS. 2470 THROUGH 2474

(Ordered to lie on the table.)

Mr. DOMENICI submitted five amendments intended to be proposed by him to the bill S. 2527, supra; as follows:

Amendment No. 2470

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Worker Adjustment and Retraining Notification Act".

SEC. 2. NOTICE REQUIRED BEFORE PLANT CLOSINGS AND MASS LAYOFFS.

(a) In General.—An employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer serves written notice of a proposal to issue such an order—

(1) to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) to the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.)) and the chief elected official of the unit of local government within which such closing or layoff is to occur.

(b) Multiple Units of Local Government.—If there is more than one such unit, the unit of local government that the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

(c) Reduction of Notification Period.—

(1) Capital or business.—An employer may order the shutdown of a single site of employment before the conclusion of the 60-day period if as of the time that notice would have been required the employer was actively seeking capital or business that, if obtained, would have enabled the employer to avoid or postpone indefinitely the shutdown and the employer reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.

(2) Business circumstances.—An employer may order a plant closing or mass layoff before the conclusion of the 60-day period if the closing or mass layoff is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

(3) Notice.—An employer relying on this subsection shall give as much notice as is practicable and at that time shall give a brief statement of the basis for reducing the notification period.

(d) Extension of Layoff Period.—A layoff of more than 6 months that, at its outset, was announced to be a layoff of 6 months or less, shall be treated as an employment loss under this Act unless—

(1) the extension beyond 6 months is caused by business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and

(2) notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required.

(e) Determinations With Respect to Employment Loss.—For purposes of this section, in determining whether a plant closing or mass layoff has occurred or will occur, employment losses for 2 or more groups at a single site of employment, each of which is less than the minimum number of employees specified in section 9(a)(8) but which in the aggregate exceed that minimum number, and which occur within any 90-day period shall be considered to be a plant closing or mass layoff unless the employer demonstrates that the employment losses are the result of separate and distinct actions and causes and are not an attempt by the employer to evade the requirements of this Act.

SEC. 3. EXEMPTIONS.

This Act shall not apply to a plant closing or mass layoff if—

(1) the closing is of a temporary facility or the closing is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking; or

(2) the closing constitutes a strike or constitutes a lockout not intended to evade the requirements of this Act.

SEC. 4. ADMINISTRATION AND ENFORCEMENT OF REQUIREMENTS.

(a) Liability to Aggrieved Employees.—

(1) In general.—Any employer who orders a plant closing or mass layoff in violation of section 2 shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing for—

(A) back pay for each day of violation at a rate of compensation not less than the higher of—

(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) the final regular rate received by such employee; and

(B) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss that would have been covered under an employee benefit plan if the employment loss had not occurred.

(2) Period of liability.—Such liability shall be calculated for the period of the violation, up to a maximum of 60 days, but in no event for more than one-half the number of days the employee was employed by the employer.

(3) Reduction of liability.—The amount for which an employer is liable under this subsection shall be reduced by—

(A) any wages paid by the employer to the employee for the period of the violation;

(B) any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

(C) any payment by the employer to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation.

(4) Further reduction for defined benefit plans.—In addition, any liability incurred under this subsection with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

(b) Liability to Units of Local Government.—Any employer who violates section 2 with respect to a unit of local government shall be subject to a civil penalty of not more than $500 for each day of such violation, except that such penalty shall not apply if the employer pays to each aggrieved employee the amount for which the employer is liable to that employee within 3 weeks from the date the employer orders the shutdown or layoff.

(c) Good Faith Violations.—If an employer that has violated this Act proves to the satisfaction of the court that the Act or omission that violated this Act was in good faith and that the employer had reasonable grounds for believing that the Act or omission was not a violation of this Act, the court may, in its discretion, reduce the amount of the liability or penalty provided for in this section.

(d) Jurisdiction.—A person seeking to enforce such liability, including a representative of employees or a unit of local government aggrieved under subsection (a) or (b), may sue either for such person or for other persons similarly situated, or both, in any district court of the United States for any district in which the violation is alleged to have occurred, or in which the employer transacts business.

(e) Attorneys' Fees.—In any such suit, the court may, in addition to any judgment awarded the plaintiff or plaintiffs, allow a reasonable attorneys' fee to be paid by the defendant, together with the costs of the action.

(f) Exclusivity of Remedies.—The remedies provided for in this section shall be the exclusive remedies for any violation of this Act.

SEC. 5. PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.

The rights and remedies provided to employees by this Act are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of the employees, and are not intended to alter or affect such rights and remedies, except that the period of notification required by this Act shall run concurrently with any period of notification required by contract or by any other statute.

SEC. 6. PROCEDURES ENCOURAGED WHERE NOT REQUIRED.

It is the sense of Congress that an employer who is not required to comply with the notice requirements of section 2 should, to the extent possible, provide notice to its employees about a proposal to close a plant or permanently reduce its workforce.

SEC. 7. AUTHORITY TO PRESCRIBE REGULATIONS.

The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this Act. Such regulations shall, at a minimum, include interpretative regulations describing the methods by which employers may provide for appropriate service of notice as required by this Act.

SEC. 8. EFFECT ON OTHER LAWS.

The giving of notice pursuant to this Act, if done in good faith compliance with this Act, shall not constitute a violation of the National Labor Relations Act (29 U.S.C. 151 et seq.) or the Railway Labor Act (45 U.S.C. 151 et seq.).

SEC. 9. DEFINITIONS; EXCLUSIONS FROM DEFINITION OF LOSS OF EMPLOYMENT.

(a) Definitions.—As used in this Act:

(1) Actual change of control.—

(A) In general.—Except as provided in subparagraph (B), the term "actual change of control" means, with respect to an employer, a contest for the control of the employer that results in—

(i) any person becoming the beneficial owner of 50 percent or more of the voting securities of the employer;

(ii) any person acquiring, in one or more transactions, assets or earning power aggregating 50 percent or more of the assets or earning power of the employer; or

(iii) individuals who constitute the continuing directors of the employer ceasing for any reason to constitute at least a majority of the board of directors or other governing body of the employer.

(B) No change of control with approval.—Except as provided in subparagraph (C), no change of control shall be considered to have occurred under subparagraph (A) if an action referred to in subparagraph (A) has been approved by a majority of the continuing directors.

(C) Change of control regardless of approval.—A change of control shall be considered to have occurred as a result of an action referred to in subparagraph (A), irrespective of the approval of the action by a majority of the continuing directors, if—

(i) the aggregate consideration paid or given by such person in any transaction described in subparagraph (A) is at least 150 percent of the aggregate book value (determined in accordance with generally accepted accounting principles) of the voting securities, assets, or earning power acquired by such person; or

(ii) at any time during the 1-year period commencing on the date of such action, the employer's aggregate indebtedness exceeds its net worth by a ratio of more than three to one.

(2) Affiliate and associate.—The term "affiliate and associate" shall have the respective meanings set forth in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) as in effect on June 1, 1988.

(3) Affected employee.—The term "affected employee" means an employee who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by the employer of the employee.

(4) Aggrieved employee.—The term, "aggrieved employee" means an employee who—

(A) has worked for the employer ordering the plant closing or mass layoff; and

(B) as a result of the failure by the employer to comply with section 2, did not receive timely notice either directly or through the representative of the employee as required by section 2.

(5) Attempted change of control.—The term "attempted change of control" means, with respect to an employer, a contest for control of the employer that—

(A) occurred at such time as any person (other than the employer)—

(i) commences or makes an announcement of an intention to commence a tender offer or exchange offer if, on consummation of the offer, such person, would be the beneficial owner, directly or indirectly, of 30 percent or more of the voting securities of the employer;

(ii) is or becomes the beneficial owner, directly or indirectly, of 15 percent of the voting securities of the employer (other than acquisitions of 15 percent or more of the voting securities of an employer that are made solely for purposes of investment and that involve no participation in the management of the employer);

(iii) directly or indirectly solicits proxies or written consents with respect to, or becomes a participant in an election contest relating to, the election of directors (or, in the case of unincorporated entities the individuals exercising similar functions) of the employer (except on behalf of the employer or its directors or other governing body); or

(iv) directly or indirectly joins or assists in the formation of any group (within the meaning of section 13(d)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(3)) or otherwise acts to affect control of the employer; and

(B) fails and results in no change of control of the employer.

(6) Continuing director.—The term "continuing director" means a director (or in the case of an unincorporated entity, the individuals exercising similar functions)—

(A) who—

(i) was a member of the board of directors (or other governing body of the employer) on June 1, 1988; or

(ii) became a director (or member of such other governing body) of the employer subsequent to such date; and

(B) whose election, or nomination for election by the employer's stockholders or other equity owners, was duly approved by—

(i) the continuing equity owners; or

(ii) the continuing directors then on the board of directors (or other governing body) of the employer in which such individual is named as nominee for director (or member of such other governing body), without due objection to such nomination.

(7) Employer.—The term "employer" means—

(A) in the case of a plant closing, any business enterprise that employs—

(i) 100 or more employees, excluding part-time employees; or

(ii) 100 or more employees who in the aggregate work at least 4,000 hours per week (exclusive of hours of overtime); and

(B) in the case of a mass layoff, a targeted employer.

(8) Employment loss.—Subject to subsection (b), the term "employment loss" means—

(A) an employment termination, other than a discharge for cause, voluntary departure, or retirement;

(B) a layoff exceeding 6 months; or

(C) a reduction in hours of work of more than 50 percent during each month of any 6-month period.

(9) Indebtedness.—The term "indebtedness" means all items (except items of capital stock, partners' capital, paid-in-surplus, retained earnings, contingency reserves, reserves for deferred income taxes or other similar items) that in accordance with generally accepted accounting principles would be included in determining total liabilities as shown on the liability side of a balance sheet of such employer as of the date on which such indebtedness is determined.

(10) Mass layoff.—The term "mass layoff" means a reduction in force that—

(A) is not the result of a plant closing; and

(B) results in an employment loss at the single site of employment during any 30-day period for—

(i)(I) at least 33 percent of the employees (excluding any part-time employees); and

(II) at least 50 employees (excluding any part-time employees); or

(ii) at least 500 employees (excluding any part-time employees).

(11) Net worth.—The term "net worth" means all amounts that would, in conformity with generally accepted accounting principles, be included under stockholders' equity or partners' equity on a balance sheet of such employer as of the date on which net worth is determined.

(12) Participant.—The term "participant" shall have the same meaning set forth in Rule 14a-11 of the General Rules and Regulations under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) as in effect on June 1, 1988.

(13) Part-time employee.—The term "part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required.

(14) Person.—The term "person" shall mean any natural person, corporation, company, partnership, joint venture, association, joint stock company or trust, together with the affiliates and associates of such person.

(15) Plant closing.—The term "plant closing" means the permanent or temporary shutdown of a single site of employment if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees.

(16) Representative.—The term "representative" means an exclusive representative of employees within the meaning of section 8(f) or 9(a) of the National Labor Relations Act (29 U.S.C. 158(f) or 159(a)) or section 2 of the Railway Labor Act (45 U.S.C. 152).

(17) Unit of local government.—The term "unit of local government" means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

(18) Targeted employer.—The term "targeted employer" means any business enterprise with respect to which either an attempted change of control or actual change of control has occurred within a period of 18 months prior to the date of a written notice required to be given pursuant to section 2.

(19) Voting securities.—The term "voting securities" means all shares, securities, or other interests of the employer entitled to vote in elections of directors (or, in the case

of unincorporated entities, the individuals exercising similar functions).

(b) EXCLUSIONS FROM DEFINITION OF EMPLOYMENT LOSS.—Notwithstanding subsection (a)(8), an employee may not be considered to have experienced an employment loss if—

(1) the closing or layoff is the result of the sale of part or all of an employer's business and—

(A) the purchaser agrees in writing, as part of the purchase agreement, to offer employment to the employee with no more than a 6-month break in employment and the agreement specifies that the employee is a third-party beneficiary; or

(B) the purchaser, within 30 days after the purchase, offers employment to the employee with no more than a 6-month break in employment; or

(2) the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—

(A) the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; or

(B) the employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect on the date that is 6 months after the date of enactment of this Act, except that the authority of the Secretary of Labor under section 7 is effective on the date of enactment of this Act.

AMENDMENT NO. 2471

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Worker Adjustment and Retraining Notification Act".

SEC. 2. NOTICE REQUIRED BEFORE PLANT CLOSINGS AND MASS LAYOFFS.

(a) IN GENERAL.—An employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer serves written notice of a proposal to issue such an order—

(1) to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) to the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.)) and the chief elected official of the unit of local government within which such closing or layoff is to occur.

(b) MULTIPLE UNITS OF LOCAL GOVERNMENT.—If there is more than one such unit, the unit of local government that the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

(c) REDUCTION OF NOTIFICATION PERIOD.—

(1) CAPITAL OR BUSINESS.—An employer may order the shutdown of a single site of employment before the conclusion of the 60-day period if as of the time that notice would have been required the employer was actively seeking capital or business that, if obtained, would have enabled the employer to avoid or postpone indefinitely the shutdown and the employer reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.

(2) BUSINESS CIRCUMSTANCES.—An employer may order a plant closing or mass layoff before the conclusion of the 60-day period if the closing or mass layoff is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

(3) NOTICE.—An employer relying on this subsection shall give as much notice as is practicable and at that time shall give a brief statement of the basis for reducing the notification period.

(d) EXTENSION OF LAYOFF PERIOD.—A layoff of more than 6 months that, at its outset, was announced to be a layoff of 6 months or less, shall be treated as an employment loss under this Act unless—

(1) the extension beyond 6 months is caused by business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and

(2) notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required.

(e) DETERMINATIONS WITH RESPECT TO EMPLOYMENT LOSS.—For purposes of this section, in determining whether a plant closing or mass layoff has occurred or will occur, employment losses for 2 or more groups at a single site of employment, each of which is less than the minimum number of employees specified in section 9(a)(8) but which in the aggregate exceed that minimum number, and which occur within any 90-day period shall be considered to be a plant closing or mass layoff unless the employer demonstrates that the employment losses are the result of separate and distinct actions and causes and are not an attempt by the employer to evade the requirements of this Act.

SEC. 3. EXEMPTIONS.

This Act shall not apply to a plant closing or mass layoff if—

(1) the closing is of a temporary facility or the closing is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking; or

(2) the closing constitutes a strike or constitutes a lockout not intended to evade the requirements of this Act.

SEC. 4. ADMINISTRATION AND ENFORCEMENT OF REQUIREMENTS.

(a) LIABILITY TO AGGRIEVED EMPLOYEES.—

(1) IN GENERAL.—Any employer who orders a plant closing or mass layoff in violation of section 2 shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing for—

(A) back pay for each day of violation at a rate of compensation not less than the higher of—

(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) the final regular rate received by such employee; and

(B) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss that would have been covered under an employee benefit plan if the employment loss had not occurred.

(2) PERIOD OF LIABILITY.—Such liability shall be calculated for the period of the violation, up to a maximum of 60 days, but in no event for more than one-half the number of days the employee was employed by the employer.

(3) REDUCTION OF LIABILITY.—The amount for which an employer is liable under this subsection shall be reduced by—

(A) any wages paid by the employer to the employee for the period of the violation;

(B) any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

(C) any payment by the employer to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation.

(4) FURTHER REDUCTION FOR DEFINED BENEFIT PLANS.—In addition, any liability incurred under this subsection with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

(b) LIABILITY TO UNITS OF LOCAL GOVERNMENT.—Any employer who violates section 2 with respect to a unit of local government shall be subject to a civil penalty of not more than $500 for each day of such violation, except that such penalty shall not apply if the employer pays to each aggrieved employee the amount for which the employer is liable to that employee within 3 weeks from the date the employer orders the shutdown or layoff.

(c) GOOD FAITH VIOLATIONS.—If an employer that has violated this Act proves to the satisfaction of the court that the act or omission that violated this Act was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this Act, the court may, in its discretion, reduce the amount of the liability or penalty provided for in this section.

(d) JURISDICTION.—A person seeking to enforce such liability, including a representative of employees or a unit of local government aggrieved under subsection (a) or (b), may sue either for such person or for other persons similarly situated, or both, in any district court of the United States for any district in which the violation is alleged to have occurred, or in which the employer transacts business.

(e) ATTORNEYS' FEES.—In any such suit, the court may, in addition to any judgment awarded the plaintiff or plaintiffs, allow a reasonable attorneys' fee to be paid by the defendant, together with the costs of the action.

(f) EXCLUSIVITY OF REMEDIES.—The remedies provided for in this section shall be the exclusive remedies for any violation of this Act.

SEC. 5. PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.

The rights and remedies provided to employees by this Act are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of the employees, and are not intended to alter or affect such rights and remedies, except that the period of notification required by this Act shall run concurrently with any period of notification required by contract or by any other statute.

SEC. 6. PROCEDURES ENCOURAGED WHERE NOT REQUIRED.

It is the sense of Congress that an employer who is not required to comply with the notice requirements of section 2 should, to the extent possible, provide notice to its employees about a proposal to close a plant or permanently reduce its workforce.

SEC. 7. AUTHORITY TO PRESCRIBE REGULATIONS.

The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this Act. Such regulations shall, at a minimum, include interpretative regulations describing the methods by which employers may provide for appropriate service of notice as required by this Act.

SEC. 8. EFFECT ON OTHER LAWS.

The giving of notice pursuant to this Act, if done in good faith compliance with this Act, shall not constitute a violation of the National Labor Relations Act (29 U.S.C. 151 et seq.) or the Railway Labor Act (45 U.S.C. 151 et seq.).

SEC. 9. DEFINITIONS; EXCLUSIONS FROM DEFINITION OF LOSS OF EMPLOYMENT.

(a) DEFINITIONS.—As used in this Act:

(1) ACTUAL CHANGE OF CONTROL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "actual change of control" means, with respect to an employer, a contest for the control of the employer that results in—

(i) any person becoming the beneficial owner of 50 percent or more of the voting securities of the employer;

(ii) any person acquiring, in one or more transactions, assets or earning power aggregating 50 percent or more of the assets or earning power of the employer; or

(iii) individuals who constitute the continuing directors of the employer ceasing for any reason to constitute at least a majority of the board of directors or other governing body of the employer.

(B) NO CHANGE OF CONTROL WITH APPROVAL.—Except as provided in subparagraph (C), no change of control shall be considered to have occurred under subparagraph (A) if an action referred to in subparagraph (A) has been approved by a majority of the continuing directors.

(C) CHANGE OF CONTROL REGARDLESS OF APPROVAL.—A change of control shall be considered to have occurred as a result of an action referred to in subparagraph (A), irrespective of the approval of the action by a majority of the continuing directors, if—

(i) the aggregate consideration paid or given by such person in any transaction described in subparagraph (A) is at least 150 percent of the aggregate book value (determined in accordance with generally accepted accounting principles) of the voting securities, assets, or earning power acquired by such person; or

(ii) at any time during the 1-year period commencing on the date of such action, the employer's aggregate indebtedness exceeds its net worth by a ratio of more than three to one.

(2) AFFILIATE AND ASSOCIATE.—The term "affiliate and associate" shall have the respective meanings set forth in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) as in effect on June 1, 1988.

(3) AFFECTED EMPLOYEE.—The term "affected employee" means an employee who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by the employer of the employee.

(4) AGGRIEVED EMPLOYEE.—The term, "aggrieved employee" means an employee who—

(A) has worked for the employer ordering the plant closing or mass layoff; and

(B) as a result of the failure by the employer to comply with section 2, did not receive timely notice either directly or through the representative of the employee as required by section 2.

(5) ATTEMPTED CHANGE OF CONTROL.—The term "attempted change of control" means, with respect to an employer, a contest for control of the employer that—

(A) occurred at such time as any person (other than the employer)—

(i) commences or makes an announcement of an intention to commence a tender offer or exchange offer if, on consummation of the offer such person, would be the beneficial owner, directly or indirectly, of 30 percent or more of the voting securities of the employer;

(ii) is or becomes the beneficial owner, directly or indirectly, of 15 percent of the voting securities of the employer (other than acquisitions of 15 percent or more of the voting securities of an employer that are made solely for purposes of investment and that involve no participation in the management of the employer);

(iii) directly or indirectly solicits proxies or written consents with respect to, or becomes a participant in an election contest relating to, the election of directors (or, in the case of unincorporated entities the individuals exercising similar functions) of the employer (except on behalf of the employer or its directors or other governing body); or

(iv) directly or indirectly joins or assists in the formation of any group (within the meaning of section 13(d)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(3)) or otherwise acts to affect control of the employer; and

(B) fails and results in no change of control of the employer.

(6) CONTINUING DIRECTOR.—The term "continuing director" means a director (or in the case of an unincorporated entity, the individuals exercising similar functions)—

(A) who—

(i) was a member of the board of directors (or other governing body of the employer) on June 1, 1988; or

(ii) became a director (or member of such other governing body) of the employer subsequent to such date; and

(B) whose election, or nomination for election by the employer's stockholders or other equity owners, was duly approved by—

(i) the continuing equity owners; or

(ii) the continuing directors then on the board of directors (or other governing body) of the employer in which such individual is named as nominee for director (or member of such other governing body),

without due objection to such nomination.

(7) EMPLOYER.—The term "employer" means—

(A) in the case of a plant closing, any business enterprise that employs—

(i) 100 or more employees, excluding part-time employees; or

(ii) 100 or more employees who in the aggregate work at least 4,000 hours per week (exclusive of hours of overtime); and

(B) in the case of a mass layoff, a targeted employer.

(8) EMPLOYMENT LOSS.—Subject to subsection (b), the term "employment loss" means—

(A) an employment termination, other than a discharge for cause, voluntary departure, or retirement;

(B) a layoff exceeding 6 months; or

(C) a reduction in hours of work of more than 50 percent during each month of any 6-month period.

(9) INDEBTEDNESS.—The term "indebtedness" means all items (except items of capital stock, partners' capital, paid-in-surplus, retained earnings, contingency reserves, reserves for deferred income taxes or other similar items) that in accordance with generally accepted accounting principles would be included in determining total liabilities as shown on the liability side of a balance sheet of such employer as of the date on which such indebtedness is determined.

(10) MASS LAYOFF.—The term "mass layoff" means a reduction in force that—

(A) is not the result of a plant closing; and

(B) results in an employment loss at the single site of employment during any 30-day period for—

(i)(I) at least 33 percent of the employees (excluding any part-time employees); and

(II) at least 50 employees (excluding any part-time employees); or

(ii) at least 500 employees (excluding any part-time employees).

(11) NET WORTH.—The term "net worth" means all amounts that would, in conformity with generally accepted accounting principles, be included under stockholders' equity or partners' equity on a balance sheet of such employer as of the date on which net worth is determined.

(12) PARTICIPANT.—The term "participant" shall have the same meaning set forth in Rule 14a-11 of the General Rules and Regulations under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) as in effect on June 1, 1988.

(13) PART-TIME EMPLOYEE.—The term "part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required.

(14) PERSON.—The term "person" shall mean any natural person, corporation, company, partnership, joint venture, association, joint stock company or trust, together with the affiliates and associates of such person.

(15) PLANT CLOSING.—The term "plant closing" means the permanent or temporary shutdown of a single site of employment if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees.

(16) REPRESENTATIVE.—The term "representative" means an exclusive representative of employees within the meaning of section 8(f) or 9(a) of the National Labor Relations Act (29 U.S.C. 158(f) or 159(a)) or section 2 of the Railway Labor Act (45 U.S.C. 152).

(17) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

(18) TARGETED EMPLOYER.—The term "targeted employer" means any business enterprise with respect to which either an attempted change of control or actual change of control has occurred within a period of 18 months prior to the date of a written notice required to be given pursuant to section 2.

(19) VOTING SECURITIES.—The term "voting securities" means all shares, securities, or other interests of the employer entitled to vote in elections of directors (or, in the case of unincorporated entities, the individuals exercising similar functions).

(b) EXCLUSIONS FROM DEFINITION OF EMPLOYMENT LOSS.—Notwithstanding subsection (a)(8), an employee may not be considered to have experienced an employment loss if—

(1) the closing or layoff is the result of the sale of part or all of an employer's business and—

(A) the purchaser agrees in writing, as part of the purchase agreement, to offer employment to the employee with no more than a 6-month break in employment and the agreement specifies that the employee is a third-party beneficiary; or

(B) the purchaser, within 30 days after the purchase, offers employment to the employee with no more than a 6-month break in employment; or

(2) the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—

(A) the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; or

(B) the employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect on the date that is 6 months after the date of enactment of this Act, except that the authority of the Secretary of Labor under section 7 is effective on the date of enactment of this Act.

SEC. 11. ALTERNATIVE COMPLIANCE METHOD.

In lieu of providing notice of a plant closing or mass layoff for all or part of the period required under section 2 a targeted employer may provide to each aggrieved employee who suffers an employment loss as a result of such closing or layoff for each day the employer elects not to provide such notice—

(1) pay at a rate of compensation not less than the higher of—

(A) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(B) the final regular rate received by such employee; and

(2) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss which would have been covered under an employee benefit plan if the employment loss had not occurred.

AMENDMENT No. 2472

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Plant Closing Notification Act of 1988".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) ACTUAL CHANGE OF CONTROL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "actual change of control" means, with respect to an employer, a contest for the control of the employer that results in—

(i) any person becoming the beneficial owner of 50 percent or more of the voting securities of the employer;

(ii) any person acquiring, in one or more transactions, assets or earning power aggregating 50 percent or more of the assets or earning power of the employer; or

(iii) individuals who constitute the continuing directors of the employer ceasing for any reason to constitute at least a majority of the board of directors or other governing body of the employer.

(B) NO CHANGE OF CONTROL WITH APPROVAL.—Except as provided in subparagraph (C), no change of control shall be considered to have occurred under subparagraph (A) if an action referred to in subparagraph (A) has been approved by a majority of the continuing directors.

(C) CHANGE OF CONTROL REGARDLESS OF APPROVAL.—A change of control shall be considered to have occurred as a result of an action referred to in subparagraph (A), irrespective of the approval of the action by a majority of the continuing directors, if—

(i) the aggregate consideration paid or given by such person in any transaction described in subparagraph (A) is at least 150 percent of the aggregate book value (determined in accordance with generally accepted accounting principles) of the voting securities, assets, or earning power acquired by such person; or

(ii) at any time during the 1-year period commencing on the date of such action, the employer's aggregate indebtedness exceeds its net worth by a ratio of more than three to one.

(2) AFFECTED EMPLOYEE.—The term "affected employee" means an employee who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by their employer.

(3) AFFILIATE AND ASSOCIATE.—The term "affiliate and associate" shall have the respective meanings set forth in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) as in effect on June 1, 1988.

(4) AGGRIEVED EMPLOYEE.—The term "aggrieved employee" means an employee who has worked for the employer ordering the plant closing or mass layoff and who, as a result of the failure by the employer to comply with section 6(a), did not receive timely notice either directly or through the representative of the employee as required by section 6(a).

(5) ATTEMPTED CHANGE OF CONTROL.—The term "attempted change of control" means, with respect to an employer, a contest for control of the employer that—

(A) occurred at such time as any person (other than the employer)—

(i) commences or makes an announcement of an intention to commence a tender offer or exchange offer if, on consummation of the offer, such person would be the beneficial owner, directly or indirectly, of 30 percent or more of the voting securities of the employer;

(ii) is or becomes the beneficial owner, directly or indirectly, of 15 percent of the voting securities of the employer (other than acquisitions of 15 percent or more of the voting securities of an employer that are made solely for purposes of investment and that involve no participation in the management of the employer);

(iii) directly or indirectly solicits proxies or written consents with respect to, or becomes a participant in an election contest relating to, the election of directors (or, in the case of unincorporated entities the individuals exercising similar functions) of the employer (except on behalf of the employer or its directors or other governing body); or

(iv) directly or indirectly joins or assists in the formation of any group (within the meaning of section 13(d)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(3)) or otherwise acts to affect control of the employer; and

(B) fails and results in no change of control of the employer.

(6) CONTINUING DIRECTOR.—The term "continuing director" means a director (or in the case of an unincorporated entity, the individuals exercising similar functions)—

(A) who—

(i) was a member of the board of directors (or other governing body of the employer) on June 1, 1988; or

(ii) became a director (or member of such other governing body) of the employer subsequent to such date; and

(B) whose election, or nomination for election by the employer's stockholders or other equity owners, was duly approved by—

(i) the continuing equity owners; or

(ii) the continuing directors then on the board of directors (or other governing body) of the employer in which such individual is named as nominee for director (or member of such other governing body),

without due objection to such nomination.

(7) EMPLOYMENT LOSS.—The term "employment loss" means—

(A) an employment termination, other than a discharge for cause, voluntary departure, or retirement;

(B) a layoff exceeding 6 months; or

(C) a reduction in hours of work of more than 50 percent during each month of any 6-month period.

(9) INDEBTEDNESS.—The term "indebtedness" means all items (except items of capital stock, partners' capital, paid-in-surplus, retained earnings, contingency reserves, reserves for deferred income taxes or other similar items) that in accordance with generally accepted accounting principles would be included in determining total liabilities as shown on the liability side of a balance sheet of such employer as of the date on which such indebtedness is determined.

(10) MASS LAYOFF.—The term "mass layoff" means any permanent reduction in the workforce at any site of employment of 100 or more employees.

(11) NET WORTH.—The term "net worth" means all amounts that would, in conformity with generally accepted accounting principles, be included under stockholders' equity or partners' equity on a balance sheet of such employer as of the date on which net worth is determined.

(12) PARTICIPANT.—The term "participant" shall have the same meaning set forth in Rule 14a-11 of the General Rules and Regulations under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) as in effect on June 1, 1988.

(13) PERSON.—The term "person" shall mean any natural person, corporation, company, partnership, joint venture, association, joint stock company or trust, together with the affiliates and associates of such person.

(14) PLANT CLOSING.—The term "plant closing" means any permanent closing of a place of employment with 100 or more employees.

(15) REPRESENTATIVE.—The term "representative" means an exclusive representative of employees within the meaning of section 8(f) or 9(a) of the National Labor Relations Act (29 U.S.C. 158(f) or 159(a)) or section 2 of the Railway Labor Act (45 U.S.C. 152).

(16) TARGETED EMPLOYER.—The term "targeted employer" means any business enterprise with respect to which either an attempted change of control or actual change

of control has occurred within a period of 18 months prior to the date of a written notice required to be given pursuant to section 6.

(17) Voting securities.—The term "voting securities" means all shares, securities, or other interests of the employer entitled to vote in elections of directors (or, in the case of unincorporated entities, the individuals exercising similar functions).

SEC. 3. NOTICE OF PLANT CLOSINGS AND MASS LAYOFFS BY TARGETED EMPLOYERS.

(a) Requirement.—A targeted employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer—

(1) serves written notice of a proposal to issue such an order to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) posts notice of such proposal at the worksite of the employees.

(b) Enforcement.—

(1) In general.—Any targeted employer who orders a plant closing or mass layoff in violation of subsection (a) shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing or layoff for—

(A) back pay for each day of violation at a rate of compensation not less than the higher of—

(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) the final regular rate received by such employee; and

(B) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss that would have been covered under an employee benefit plan if the employment loss had not occurred.

(2) Period of liability.—Such liability shall be calculated for the period of the violation, up to a maximum of 60 days, but in no event for more than one-half the number of days the employee was employed by the employer.

(3) Reduction of liability.—The amount for which an employer is liable under paragraph (1) shall be reduced by—

(A) any wages paid by the employer to the employee for the period of the violation;

(B) any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

(C) any payment by the employer to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation.

(4) Further reduction for defined benefit pension plans.—In addition, any liability incurred under paragraph (1) with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

SEC. 4. ACTS OF GOD.

Section 3 shall not apply to a plant closing or mass layoff that is the result of an act of God.

SEC. 5. EFFECTIVE DATE.

(a) In General.—This Act shall become effective 6 months after the date of enactment of this Act.

Amendment No. 2473

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Plant Closing Notification Act of 1988".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) Actual change of control.—

(A) In general.—Except as provided in subparagraph (B), the term "actual change of control" means, with respect to an employer, a contest for the control of the employer that results in—

(i) any person becoming the beneficial owner of 50 percent or more of the voting securities of the employer;

(ii) any person acquiring, in one or more transactions, assets or earning power aggregating 50 percent or more of the assets or earning power of the employer; or

(iii) individuals who constitute the continuing directors of the employer ceasing for any reason to constitute at least a majority of the board of directors or other governing body of the employer.

(B) No change of control with approval.—Except as provided in subparagraph (C), no change of control shall be considered to have occurred under subparagraph (A) if an action referred to in subparagraph (A) has been approved by a majority of the continuing directors.

(C) Change of control regardless of approval.—A change of control shall be considered to have occurred as a result of an action referred to in subparagraph (A), irrespective of the approval of the action by a majority of the continuing directors, if—

(i) the aggregate consideration paid or given by such person in any transaction described in subparagraph (A) is at least 150 percent of the aggregate book value (determined in accordance with generally accepted accounting principles) of the voting securities, assets, or earning power acquired by such person; or

(ii) at any time during the 1-year period commencing on the date of such action, the employer's aggregate indebtedness exceeds its net worth by a ratio of more than three to one.

(2) Affected employee.—The term "affected employee" means an employee who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by their employer.

(3) Affiliate and associate.—The term "affiliate and associate" shall have the respective meanings set forth in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) as in effect on June 1, 1988.

(4) Aggrieved employee.—The term "aggrieved employee" means an employee who has worked for the employer ordering the plant closing or mass layoff and who, as a result of the failure by the employer to comply with section 6(a), did not receive timely notice either directly or through the representative of the employee as required by section 6(a).

(5) Attempted change of control.—The term "attempted change of control" means, with respect to an employer, a contest for control of the employer that—

(A) occurred at such time as any person (other than the employer)—

(i) commences or makes an announcement of an intention to commence a tender offer or exchange offer if, on consummation of the offer such person, would be the beneficial owner, directly or indirectly, of 30 percent or more of the voting securities of the employer;

(ii) is or becomes the beneficial owner, directly or indirectly, of 15 percent of the voting securities of the employer (other than acquisitions of 15 percent or more of the voting securities of an employer that are made solely for purposes of investment and that involve no participation in the management of the employer);

(iii) directly or indirectly solicits proxies or written consents with respect to, or becomes a participant in an election contest relating to, the election of directors (or, in the case of unincorporated entities the individuals exercising similar functions) of the employer (except on behalf of the employer or its directors or other governing body); or

(iv) directly or indirectly joins or assists in the formation of any group (within the meaning of section 13(d)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(3)) or otherwise acts to affect control of the employer; and

(B) fails and results in no change of control of the employer.

(6) Continuing director.—The term "continuing director" means a director (or in the case of an unincorporated entity, the individuals exercising similar functions)—

(A) who—

(i) was a member of the board of directors (or other governing body of the employer) on June 1, 1988; or

(ii) became a director (or member of such other governing body) of the employer subsequent to such date; and

(B) whose election, or nomination for election by the employer's stockholders or other equity owners, was duly approved by—

(i) the continuing equity owners; or

(ii) the continuing directors then on the board of directors (or other governing body) of the employer in which such individual is named as nominee for director (or member of such other governing body), without due objection to such nomination.

(7) Employment loss.—The term "employment loss" means—

(A) an employment termination, other than a discharge for cause, voluntary departure, or retirement;

(B) a layoff exceeding 6 months; or

(C) a reduction in hours of work of more than 50 percent during each month of any 6-month period.

(8) Government contractor.—The term "Government contractor" means a Government contractor that is required to file a written affirmative action compliance program pursuant to the regulations issued pursuant to Executive Order 11246.

(9) Indebtedness.—The term "indebtedness" means all items (except items of capital stock, partners' capital, paid-in-surplus, retained earnings, contingency reserves, reserves for deferred income taxes or other similar items) that in accordance with generally accepted accounting principles would be included in determining total liabilities as shown on the liability side of a balance sheet of such employer as of the date on which such indebtedness is determined.

(10) Mass layoff.—The term "mass layoff" means any permanent reduction in the workforce at any site of employment of 100 or more employees.

(11) Net worth.—The term "net worth" means all amounts that would, in conformity with generally accepted accounting principles, be included under stockholders' equity or partners' equity on a balance

sheet of such employer as of the date on which net worth is determined.

(12) Participant.—The term "participant" shall have the same meaning set forth in Rule 14a-11 of the General Rules and Regulations under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) as in effect on June 1, 1988.

(13) Person.—The term "person" shall mean any natural person, corporation, company, partnership, joint venture, association, joint stock company or trust, together with the affiliates and associates of such person.

(14) Plant closing.—The term "plant closing" means any permanent closing of a place of employment with 100 or more employees.

(15) Representative.—The term "representative" means an exclusive representative of employees within the meaning of section 8(f) or 9(a) of the National Labor Relations Act (29 U.S.C. 158(f) or 159(a)) or section 2 of the Railway Labor Act (45 U.S.C. 152).

(16) Targeted employer.—The term "targeted employer" means any business enterprise with respect to which either an attempted change of control or actual change of control has occurred within a period of 18 months prior to the date of a written notice required to be given pursuant to section 6.

(17) Voting securities.—The term "voting securities" means all shares, securities, or other interests of the employer entitled to vote in elections of directors (or, in the case of unincorporated entities, the individuals exercising similar functions).

SEC. 3. NOTICE OF PLANT CLOSINGS BY GOVERNMENT CONTRACTORS.

(a) Requirement.—A Government contractor shall not order a plant closing until the end of a 60-day period after the contractor—

(1) serves written notice of a proposal to issue such an order to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) posts notice of such proposal at the worksite of the employees.

(b) Enforcement.—

(1) In general.—Any targeted employer who orders a plant closing or mass layoff in violation of subsection (a) shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing or layoff for—

(A) back pay for each day of violation at a rate of compensation not less than the higher of—

(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) the final regular rate received by such employee; and

(B) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss that would have been covered under an employee benefit plan if the employment loss had not occurred.

(2) Period of liability.—Such liability shall be calculated for the period of the violation, up to a maximum of 60 days, but in no event for more than one-half the number of days the employee was employed by the employer.

(3) Reduction of liability.—The amount for which an employer is liable under paragraph (1) shall be reduced by—

(A) any wages paid by the employer to the employee for the period of the violation;

(B) any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

(C) any payment by the employer to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation.

(4) Further reduction for defined benefit pension plans.—In addition, any liability incurred under paragraph (1) with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

SEC. 4. ALTERNATIVE COMPLIANCE METHOD.

In lieu of providing notice of a a plant closing or mass layoff for all or part of the period required under section 3 a targeted employer may provide to each aggrieved employee who suffers an employment loss as a result of such closing or layoff for each day the employer elects not to provide such notice—

(1) pay at a rate of compensation not less than the higher of—

(A) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(B) the final regular rate received by such employee; and

(2) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss which would have been covered under an employee benefit plan if the employment loss had not occurred.

SEC. 5. ACTS OF GOD.

Sections 3 shall not apply to a plant closing or mass layoff that is the result of an act of God.

SEC. 6. EFFECTIVE DATE.

(a) In General.—This Act shall become effective 6 months after the date of enactment of this Act.

Amendment No. 2474

At the appropriate place, insert the following new section:

SEC. . REPORTS.

(a) Secretary of Labor.—The Secretary of Labor shall report annually to Congress on the degree, nature, and causes of job loss at all firms involved in leveraged buyouts, hostile takeovers, involuntary changes of control, or any other changes of control where the sale price of the stock is at least 150 percent of the price of stock on the day before the date the tender offer or other prepared acquisition was announced. In carrying out this subsection, the Secretary should track each such firm over the 2-year period beginning on such date.

(b) Chairman of the SEC.—The Chairman of the Securities and Exchange Commission shall report annually to Congress on the amount of greenmail paid to persons or firms engaged in hostile takeover activities.

DOMENICI AMENDMENT NO. 2475

Mr. DOMENICI proposed an amendment, which was subsequently modified, to the bill S. 2527, supra; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Worker Adjustment and Retraining Notification Act".

SEC. 2. NOTICE REQUIRED BEFORE PLANT CLOSINGS AND MASS LAYOFFS.

(a) In General.—An employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer serves written notice of a proposal to issue such an order—

(1) to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) to the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.)) and the chief elected official of the unit of local government within which such closing or layoff is to occur.

(b) Multiple Units of Local Government.—If there is more than one such unit, the unit of local government that the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

(c) Reduction of Notification Period.—

(1) Capital or business.—An employer may order the shutdown of a single site of employment before the conclusion of the 60-day period if as of the time that notice would have been required the employer was actively seeking capital or business that, if obtained, would have enabled the employer to avoid or postpone indefinitely the shutdown and the employer reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.

(2) Business circumstances.—An employer may order a plant closing or mass layoff before the conclusion of the 60-day period if the closing or mass layoff is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

(3) Notice.—An employer relying on this subsection shall give as much notice as is practicable and at that time shall give a brief statement of the basis for reducing the notification period.

(d) Extension of Layoff Period.—A layoff of more than 6 months that, at its outset, was announced to be a layoff of 6 months or less, shall be treated as an employment loss under this Act unless—

(1) the extension beyond 6 months is caused by business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and

(2) notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required.

(e) Determinations With Respect to Employment Loss.—For purposes of this section, in determining whether a plant closing or mass layoff has occurred or will occur, employment losses for 2 or more groups at a single site of employment, each of which is less than the minimum number of employees specified in section 9(a)(8) but which in the aggregate exceed that minimum number, and which occur within any 90-day period shall be considered to be a plant closing or mass layoff unless the employer demonstrates that the employment losses are the result of separate and distinct actions and causes and are not an attempt by the employer to evade the requirements of this Act.

SEC. 3. EXEMPTIONS.

This Act shall not apply to a plant closing or mass layoff if—

(1) the closing is of a temporary facility or the closing is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking; or

(2) the closing constitutes a strike or constitutes a lockout not intended to evade the requirements of this Act.

SEC. 4. ADMINISTRATION AND ENFORCEMENT OF REQUIREMENTS.

(a) Liability to Aggrieved Employees.—

(1) In general.—Any employer who orders a plant closing or mass layoff in violation of section 2 shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing for—

(A) back pay for each day of violation at a rate of compensation not less than the higher of—

(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) the final regular rate received by such employee; and

(B) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss that would have been covered under an employee benefit plan if the employment loss had not occurred.

(2) Period of liability.—Such liability shall be calculated for the period of the violation, up to a maximum of 60 days, but in no event for more than one-half the number of days the employee was employed by the employer.

(3) Reduction of liability.—The amount for which an employer is liable under this subsection shall be reduced by—

(A) any wages paid by the employer to the employee for the period of the violation;

(B) any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

(C) any payment by the employer to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation.

(4) Further reduction for defined benefit plans.—In addition, any liability incurred under this subsection with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

(b) Liability to Units of Local Government.—Any employer who violates section 2 with respect to a unit of local government shall be subject to a civil penalty of not more than $500 for each day of such violation, except that such penalty shall not apply if the employer pays to each aggrieved employee the amount for which the employer is liable to that employee within 3 weeks from the date the employer orders the shutdown or layoff.

(c) Good Faith Violations.—If an employer that has violated this Act proves to the satisfaction of the court that the act or omission that violated this Act was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this Act, the court may, in its discretion, reduce the amount of the liability or penalty provided for in this section.

(d) Jurisdiction.—A person seeking to enforce such liability, including a representative of employees or a unit of local government aggrieved under subsection (a) or (b), may sue either for such person or for other persons similarly situated, or both, in any district court of the United States for any district in which the violation is alleged to have occurred, or in which the employer transacts business.

(e) Attorneys' Fees.—In any such suit, the court may, in addition to any judgment awarded the plaintiff or plaintiffs, allow a reasonable attorneys' fee to be paid by the defendant, together with the costs of the action.

(f) Exclusivity of Remedies.—The remedies provided for in this section shall be the exclusive remedies for any violation of this Act.

SEC. 5. PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.

The rights and remedies provided to employees by this Act are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of the employees, and are not intended to alter or affect such rights and remedies, except that the period of notification required by this Act shall run concurrently with any period of notification required by contract or by any other statute.

SEC. 6. PROCEDURES ENCOURAGED WHERE NOT REQUIRED.

It is the sense of Congress that an employer who is not required to comply with the notice requirements of section 2 should, to the extent possible, provide notice to its employees about a proposal to close a plant or permanently reduce its workforce.

SEC. 7. AUTHORITY TO PRESCRIBE REGULATIONS.

The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this Act. Such regulations shall, at a minimum, include interpretative regulations describing the methods by which employers may provide for appropriate service of notice as required by this Act.

SEC. 8. EFFECT ON OTHER LAWS.

The giving of notice pursuant to this Act, if done in good faith compliance with this Act, shall not constitute a violation of the National Labor Relations Act (29 U.S.C. 151 et seq.) or the Railway Labor Act (45 U.S.C. 151 et seq.).

SEC. 9. DEFINITIONS; EXCLUSIONS FROM DEFINITION OF LOSS OF EMPLOYMENT.

(a) Definitions.—As used in this Act:

(1) Actual change of control.—

(A) In general.—Except as provided in subparagraph (B), the term "actual change of control" means, with respect to an employer, a contest for the control of the employer that results in—

(i) any person becoming the beneficial owner of 50 percent or more of the voting securities of the employer;

(ii) any person acquiring, in one or more transactions, assets or earning power aggregating 50 percent or more of the assets or earning power of the employer; or

(iii) individuals who constitute the continuing directors of the employer ceasing for any reason to constitute at least a majority of the board of directors or other governing body of the employer.

(B) No change of control with approval.—Except as provided in subparagraph (C), no change of control shall be considered to have occurred under subparagraph (A) if an action referred to in subparagraph (A) has been approved by a majority of the continuing directors.

(C) Change of control regardless of approval.—A change of control shall be considered to have occurred as a result of an action referred to in subparagraph (A), irrespective of the approval of the action by a majority of the continuing directors, if—

(i) the aggregate consideration paid or given by such person in any transaction described in subparagraph (A) is at least 150 percent of the aggregate book value (determined in accordance with generally accepted accounting principles) of the voting securities, assets, or earning power acquired by such person; or

(ii) at any time during the 1-year period commencing on the date of such action, the employer's aggregate indebtedness exceeds its net worth by a ratio of more than three to one.

(2) Affiliate and associate.—The term "affiliate and associate" shall have the respective meanings set forth in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) as in effect on June 1, 1988.

(3) Affected employee.—The term "affected employee" means an employee who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by the employer of the employee.

(4) Aggrieved employee.—The term, "aggrieved employee" means an employee who—

(A) has worked for the employer ordering the plant closing or mass layoff; and

(B) as a result of the failure by the employer to comply with section 2, did not receive timely notice either directly or through the representative of the employee as required by section 2.

(5) Attempted change of control.—The term "attempted change of control" means, with respect to an employer, a contest for control of the employer that—

(A) occurred at such time as any person (other than the employer)—

(i) commences or makes an announcement of an intention to commence a tender offer or exchange offer if, on consummation of the offer such person, would be the beneficial owner, directly or indirectly, of 30 percent or more of the voting securities of the employer;

(ii) is or becomes the beneficial owner, directly or indirectly, of 15 percent of the voting securities of the employer (other than acquisitions of 15 percent or more of the voting securities of an employer that are made solely for purposes of investment and that involve no participation in the management of the employer);

(iii) directly or indirectly solicits proxies or written consents with respect to, or becomes a participant in an election contest relating to, the election of directors (or, in the case of unincorporated entities the individuals exercising similar functions) of the employer (except on behalf of the employer or its directors or other governing body); or

(iv) directly or indirectly joins or assists in the formation of any group (within the meaning of section 13(d)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(3)) or otherwise acts to affect control of the employer; and

(B) fails and results in no change of control of the employer.

(6) Continuing director.—The term "continuing director" means a director (or in the

case of an unincorporated entity, the individuals exercising similar functions)—

(A) who—

(i) was a member of the board of directors (or other governing body of the employer) on June 1, 1988; or

(ii) became a director (or member of such other governing body) of the employer subsequent to such date; and

(B) whose election, or nomination for election by the employer's stockholders or other equity owners, was duly approved by—

(i) the continuing equity owners; or

(ii) the continuing directors then on the board of directors (or other governing body) of the employer in which such individual is named as nominee for director (or member of such other governing body),

without due objection to such nomination.

(7) Employer.—The term "employer" means—

(A) in the case of a plant closing, any business enterprise that employs—

(i) 100 or more employees, excluding part-time employees; or

(ii) 100 or more employees who in the aggregate work at least 4,000 hours per week (exclusive of hours of overtime); and

(B) in the case of a mass layoff, a targeted employer.

(8) Employment loss.—Subject to subsection (b), the term "employment loss" means—

(A) an employment termination, other than a discharge for cause, voluntary departure, or retirement;

(B) a layoff exceeding 6 months; or

(C) a reduction in hours of work of more than 50 percent during each month of any 6-month period.

(9) Indebtedness.—The term "indebtedness" means all items (except items of capital stock, partners' capital, paid-in-surplus, retained earnings, contingency reserves, reserves for deferred income taxes or other similar items) that in accordance with generally accepted accounting principles would be included in determining total liabilities as shown on the liability side of a balance sheet of such employer as of the date on which such indebtedness is determined.

(10) Mass layoff.—The term "mass layoff" means a reduction in force that—

(A) is not the result of a plant closing; and

(B) results in an employment loss at the single site of employment during any 30-day period for—

(i)(I) at least 33 percent of the employees (excluding any part-time employees); and

(II) at least 50 employees (excluding any part-time employees); or

(ii) at least 500 employees (excluding any part-time employees).

(11) Net worth.—The term "net worth" means all amounts that would, in conformity with generally accepted accounting principles, be included under stockholders' equity or partners' equity on a balance sheet of such employer as of the date on which net worth is determined.

(12) Participant.—The term "participant" shall have the same meaning set forth in Rule 14a-11 of the General Rules and Regulations under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) as in effect on June 1, 1988.

(13) Part-time employee.—The term "part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required.

(14) Person.—The term "person" shall mean any natural person, corporation, company, partnership, joint venture, association, joint stock company or trust, together with the affiliates and associates of such person.

(15) Plant closing.—The term "plant closing" means the permanent or temporary shutdown of one or more facilities or operating units within a single site of employment if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees.

(16) Representative.—The term "representative" means an exclusive representative of employees within the meaning of section 8(f) or 9(a) of the National Labor Relations Act (29 U.S.C. 158(f) or 159(a)) or section 2 of the Railway Labor Act (45 U.S.C. 152).

(17) Unit of local government.—The term "unit of local government" means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

(18) Targeted employer.—The term "targeted employer" means any business enterprise with respect to which either an attempted change of control or actual change of control has occurred within a period of 18 months prior to the date of a written notice required to be given pursuant to section 2.

(19) Voting securities.—The term "voting securities" means all shares, securities, or other interests of the employer entitled to vote in elections of directors (or, in the case of unincorporated entities, the individuals exercising similar functions).

(b) Exclusions From Definition of Employment Loss.—Notwithstanding subsection (a)(8), an employee may not be considered to have experienced an employment loss if—

(1) the closing or layoff is the result of the sale of part or all of an employer's business and—

(A) the purchaser agrees in writing, as part of the purchase agreement, to offer employment to the employee with no more than a 6-month break in employment and the agreement specifies that the employee is a third-party beneficiary; or

(B) the purchaser, within 30 days after the purchase, offers employment to the employee with no more than a 6-month break in employment; or

(2) the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—

(A) the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; or

(B) the employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect on the date that is 6 months after the date of enactment of this Act, except that the authority of the Secretary of Labor under section 7 is effective on the date of enactment of this Act.

HATCH AMENDMENTS NOS. 2476 THROUGH 2480

(Ordered to lie on the table.)

Mr. HATCH submitted five amendments intended to be proposed by him to the bill S. 2527, supra; as follows:

Amendment No. 2476

On page 12, following line 18, insert the following new section:

"Sec. 11. (a) No contract let by any agency or Department of the Federal government shall be terminated in full or in part for the convenience of the government or for any other reason unless the government has first given the contractor sixty (60) days notice in writing of such termination.

(b) In the event that the full or partial termination of any such contract without 60 days' notice and results in an employment loss for any of the contractor's employees, any penalties incurred by the contractor for failure to give 60 days' notice shall be considered allowable costs allocable to the contract."

Amendment No. 2477

On page 5, line 20, strike the phrase, "a proposal to issue".

Amendment No. 2478

On page 6, line 15, strike out the word "indefinitely".

Amendment No. 2479

On page 5, following line 13, add the following new subsection:

"(c) For the purposes of paragraph (2), a reasonable commuting distance shall be defined as a distance of no more than 50 miles."

Amendment No. 2480

On page 2, line 18, strike "50' and insert in lieu thereof "90 percent".

HATCH AMENDMENTS NOS. 2481 THROUGH 2483

Mr. HATCH proposed three amendments to the bill S. 2527, supra; as follows:

Amendment No. 2481

On page 5, line 20, strike the phrase, "a proposal to issue".

Amendment No. 2482

On page 6, line 15, strike out the word "indefinitely".

Amendment No. 2483

On page 10, line 24, after the word "court," strike through page 11, line 2 and insert in lieu thereof the following: ", in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs."

HATCH AMENDMENT NO. 2484

Mr. HATCH proposed an amendment to the bill S. 2527, supra; as follows:

On page 5, line 20, strike the phrase, "a proposal to issue".

On page 6, on line 15, strike out the word "indefinitely".

On page 10, line 24, after the word "court," strike through page 11, line 2 and insert in lieu thereof the following: ", in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs."

DOLE AMENDMENT NO. 2485

Mr. DOLE proposed an amendment, which was subsequently modified, to the bill S. 2527, supra; as follows:

At the appropriate place add the following: No notice under this Act shall be required if the plant closing or mass layoff is due to any form of natural disaster, such as a flood, earthquake, or the drought currently ravaging the farmlands of the United States.

GRAMM AMENDMENT NO. 2486

Mr. GRAMM proposed an amendment to the bill S. 2527, supra; as follows:

Section 3(b) is amended by adding the following new paragraph:

"(4) An employer may order a plant closing or mass layoff before the conclusion of the 60-day period if, following the provision of notice as required in subsection (a), 50 per cent or more of the notified employees voluntarily terminate their employment, or if sufficient employees voluntarily terminate their employment so as to disrupt the efficient functioning of the business enterprise.".

WILSON AMENDMENT NO. 2487

Mr. WILSON proposed an amendment to the bill S. 2527, supra; as follows:

At the appropriate place in the bill, add the following:

"No notice under this Act shall be required if the plant closing or mass layoff is caused by the inability of the employer to obtain at competitive cost sufficient supplies of materials required in manufacturing products or in providing services, including but not limited to an inability caused by an import restraint program of the United States, whether or not imposed by statute, and whether or not imposed unilaterally."

OFFICE OF GOVERNMENT ETHICS REAUTHORIZATION ACT

LEVIN (AND COHEN) AMENDMENT NO. 2488

Mr. BYRD (for Mr. LEVIN, for himself, and Mr. COHEN) proposed an amendment to the bill (S. 2344) to provide for the reauthorization of appropriations for the Office of Government Ethics, and for other purposes; as follows:

On page 5, line 12, strike out all after the comma through line 19 and insert in lieu thereof: "who shall have the same rights of appeal in such position as an employee as defined under section 7511(a)(1)(A) of title 5, United States Code, except that such official need not be in the competitive service."

On page 7, line 4, insert "assisting agencies in" after "(7)".

On page 8, line 2, strike out "counselors" and insert in lieu thereof "officials, counselors,".

On page 8, line 8, strike out "counselors" and insert in lieu thereof "officials, counselors,".

On page 8, line 14, insert before the comma "and counselors".

On page 8, line 16, insert before the semicolon "and counselors".

On page 15, line 8, strike out "$3,000,000" and insert in lieu thereof "$3,500,000".

STEVENS (AND RUDMAN) AMENDMENT NO. 2489

Mr. DOLE (for Mr. STEVENS, for himself and Mr. RUDMAN) proposed an amendment to the bill S. 2344, supra; as follows:

On page 3, lines 12, and 13, strike out "shall be removed from office during such term only for good cause" and insert in lieu thereof "may be removed from office by the President at the discretion of the President".

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. PRYOR. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on Wednesday, July 6, 1988. The subcommittee will hear witnesses from the Office of the Inspector General and the Defense Contract Audit Agency, Department of Defense, and private sector experts.

The hearing is scheduled for 10 a.m., in room SD-342 Senate Dirksen Office Building. For further information, please call Ed Gleiman, subcommittee staff director, on 224-2254.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that the July 1 field hearing in Pawhuska, OK, before the Subcommittee on Public Lands, National Parks and Forests, on S. 1967, the Tallgrass Prairie Preserve legislation, has been postponed. A new date for the hearing has not been set.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS AND COMMITTEE ON SMALL BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works and the full Committee on Small Business be authorized to meet during the session of the Senate on Tuesday, June 28, to conduct a joint hearing on S. 2246, the Lower Mississippi Delta Development Act.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, June 28, 1988, on U.S. efforts to commercialize superconductivity.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on June 28, 1988, to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 28, 1988 to receive testimony on S. 2165, a bill to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Complex in the State of Washington, and for other purposes.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 28, 1988 to receive testimony on S. 2322, to authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes; and S. 1613, to authorize the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin Project, OR, and for other purposes.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs and Alcoholism, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Tuesday, June 28, 1988 to conduct a hearing on Act for Better Child Care Services, S. 1885.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 28, 1988 to hold a hearing on pending ambassadorial nominees and treaties.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 28, 1988 in executive session to meet with the Israeli Defense Minister.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT

● Mr. MOYNIHAN. Mr. President, on June 23, I joined Senator HARKIN in introducing S. 2561, the Technology-Related Assistance for Individuals with Disabilities Act. This legislation will provide grants to States for the purpose of developing devices and providing services to aid the physically disabled. Such improvements are not only beneficial but indeed vital to the everyday living of disabled persons. In helping the disabled perform necessary tasks, assistive technology devices enable them to become more independent and selfreliant individuals.

Senator HARKIN, who chairs the Subcommittee on the Handicapped, has spent a great deal of time working with organizations, State agencies, and service companies devoted to aiding the physically disabled. Hearings were held before his subcommittee to determine both the costs and benefits of a federally funded technololgy-related assistance program. It is my understanding that many States lack the resources and personnel necessary to technologically aid the physically handicapped.

This is a carefully drawn bill whose purpose is to provide financial and educational assistance to the States in development and implementation of such programs. I know that in my own State of New York, this act will contribute much needed funding for projects such as a Center for Rehabilitation Technology.

This piece of legislation expands upon a bill which I also cosponsored, S. 1586, the Technology to Educate Handicapped Children Act, whose purpose is to provide funds for technology development specifically relating to disabled young children. It is my hope that both S. 1586 and S. 2561 will serve as models for similar innovations. Helping both disabled children and adults to lead productive lives is an extraordinarily important task; to this end, therefore, I urge my colleagues to support this legislation.●

EXTENDING THE REAGAN REVOLUTION

● Mr. KASTEN. Mr. President, the U.S. economy is in it's 6th year of expansion, over 15 million more Americans are at work, unemployment is at it's lowest rate in decades and inflation has been tamed. America's increased economic well-being is the direct consequence of President Reagan's progrowth economic policies. Our recipe for economic success—low tax rates, free markets, free enterprise, and limited Government—is being emulated across the globe in nations ranging from Great Britain to China—and even the Soviet Union.

America's future economic well-being depends on preserving and extending the "Reagan Revolution." That means keeping taxes low and reducing the heavy-hand of Government regulation and intervention in the private economy.

Mr. President, I recommend to my colleagues an article by Malcolm S. Forbes, Jr., which highlights the successes and dispells the myths about the Reagan economic legacy. Perhaps more important, Mr. Forbes sets forth a blueprint to build on that legacy—to create even more opportunity, more prosperity, and more jobs for the American people.

I ask that Mr. Forbes' article from the May/June issue of Cato Policy Report be printed at this point in the RECORD.

The article follows:

EXTENDING THE REAGAN REVOLUTION

(By Malcolm S. Forbes, Jr.)

Given the realities of the world and the frailties of human beings, the Reagan administration's economic policy to date has to be judged an enormous success. The chief achievement of the Reagan presidency is the massive reductions in individual income-tax rates. The benefits that have resulted from those tax reductions outweigh all of the shortcomings and missed opportunities in other areas of the administration's economic policy.

Taxes are not simply a means of raising revenue; they are also a price. The taxes on our income, capital gains, and corporate profits are the price we pay for the privilege of working, the price we pay for being productive, and the price we pay for being innovative and successful. If the price of those things is too high, we get less of them. If the price is lowered, we'll get more of them.

The Kemp-Roth bill of 1981 and the tax reform bill of 1986 reduced individual income-tax rates to levels we hadn't seen in 60 or 70 years. Too many of our policymakers ignore the siple fact that people make an economy run—people manage companies, not investment tax credits or accelerated depreciation schedules.

To see evidenced of that, all we have to do is look at Japan and Britain. Japan's corporate income taxes are about twice as high as ours. By contrast, for almost 30 years Britain had some of the most liberal business depreciation investment incentives and laws in the Western world. Which country has invested more in the past 30 years, Japan or Britain? Which country has had more economic growth? To ask those questions is to answer them. If people have an incentive to get ahead—if they're able to keep enough of what they earn through their labor and innovation—then the economy as a whole benefits, even if some of the traditional business incentives aren't in force.

The tax reforms of 1981 and 1986 are forcing states to reduce their marginal rates, and they're going to force other industrialized countries to reduce their onerous rates as well. We live in an age of mobility. Brains and money are mobile; they go where the opportunities are. Today the opportunities are more likely to be found in the United States than in most other industrialized nations. Why do we have a capital inflow? It's not because we are big spenders. Nor is it because we have high interest rates—if that were the reason, money would have been going to the Philippines or Zaire. Capital has been coming to this country because there are more opportunities here.

Our tax rate reductions will force other industrialized countries to lower their tax rates not because of anything we might say but because of the sheer pressure of events. In fact, several countries have already begun to compete with each other to do so. The Canadians have made a halting start; the British have said that they will be reducing their rates; the other Europeans are taking small steps; the Japanese are stumbling in that direction. So it's not just the United States that will benefit from our recent rate reductions; other nations will benefit from them as well—assuming, of course, that Congress doesn't tamper with the tax code again, which is an awfully big assumption. But if the debate in 1988 goes well, the reduced rates will remain in force, and that's going to have a powerful impact on our economy and those of the Western world.

One of the shortcomings in the economic policy of the Reagan years is that the administration did not push privatization, in every area from the Postal Service to Pentagon procurement, as early or as persuasively as it should have. In terms of cutting back programs or eliminating bad programs and curbing the growth of spending, the administration's record, to be charitable, is very mixed. Its monetary policies have been rather erratic, its approach to Third World debt rather disappointing. The administration doesn't seem to realize that Third World countries are in trouble not because of their indebtedness—which is not much worse than, say, that of Canada or Australia at the turn of the century—but because of being overtaxed, overbureaucratized, and overregulated. The Baker plan showed promise, but unfortunately there was very little effective followthrough on it. But in an imperfect world, the administration can be excused for those shortcomings, grave though they may be, because of what it has done on the tax front.

ECONOMIC HYPOCHONDRIACS

The success of the administration's tax reforms is evident from the vitriol of its opponents. Certain scholars, policymakers, and politicos seem to be prone to a kind of hypochondria when it comes to looking at the U.S. economy. From what those people write about trade, for example, you would think that America was in the red and Japan was in the black. What gets overlooked is that a trade defict or surplus is simply a number and that its significance dependes upon the particular situation. During the first 100 years of its existence, for example, the United States routinely ran trade deficits. Fortunately, in those days we didn't have an IMF or a World Bank to tell us that we were doing the wrong thing. As a result of our ignorance, we became a great industrial nation.

Japan ran big trade deficits in the 1950s and the early 1960s. It's very amusing to read what some of our experts wrote about Japan in the 1950s. They didn't write about the emergence of a giant that would humble many of our traditional industries. They wrote about what a hopeless basket case Japan was, and they often cited its large trade deficits. The Japanese were wise enough not to translate that analysis into their language, and we can see what being unaware of it did for them. By contrast, Mexico and Brazil have trade surpluses. but I doubt that even Louisiana or Texas would trade its economy for that of Mexico or Brazil.

Our large trade deficit is a sign of our strength, not our weakness. In the past four or five years our economy has grown more than those of most other natons. We've had enough money and credit to buy more goods and services from them than they have been able to buy from us. If it had not been for the American market, Europe's economy would be even more stagnant than it is, the Third World would be in even worse financial shape, and even Japan would have had considerably lower growth rates.

We've done what a great power is supposed to do: we've carried the rest of the world with us, and we've benefited from doing so as well. If the economies of other nations had grown as much as ours has, if they had done to their tax codes what we have done to ours, and if they had pushed deregulation the way we, at least sometimes, have, they would now be in a position to buy more goods and services from us, and our trade deficit would go the way of the oil shortage.

In short, a trade deficit is neither a good thing nor a bad thing per se; it depends on the circumstances. Look at West Germany. Its economy is weak in many critical respects. Its unemployment rate is high, its job-creation record is unimpressive, and it trails the United States in many areas of technology. But West Germany does have a trade surplus, and it sometimes acts as if it were the Tarzan of the international economy. Because of that one number, the West Germans think they're doing very well.

The chief reason for our budget deficit is not that we have had insufficient revenues but that until two years ago there was a rip-roaring increase in government spending. However, our revenues have grown considerably in the past four or five years. Moreover, if you look at what might be called the net government deficit—the combined federal, state, and local deficits and surpluses—as a proportion of GNP, you'll find that we've probably done better than the Japanese and not much worse than the West Europeans. That doesn't mean that we've done a good job; it just means that almost everyone else in the world has done as bad a job as we have.

In addition, the federal, state, and local governments' combined investment is very high. (Of course, that raises the question of whether governments should be making those kinds of investments. Much of that investing should probably be done by the private sector.) So if you compare the net government deficit with the net government investment, you'll find that our books are almost in balance on an expense level.

The economic hypochondriacs claim that we are a spendthrift nation. You'd never know it from reading what they write, but the net wealth of the American people in real terms is higher today than it's ever been. Our assets have been growing much faster than our liabilities. They also claim that we don't invest enough, but as Alan Reynolds, George Gilder, and others have pointed out, whereas our investment rate has been going up in recent years, those of Japan and Western Europe have been going down.

Contrary to the economic hypochondriacs, manufacturing is the same proportion of our economy today as it was 30 years ago. What we make and how we make it have changed, but our ability to make things has remained basically unchanged. Since the 1982 recession 13½ million jobs have been created, a very large percentage of which have been high-paying jobs. Even though we really misused and abused the economy during the 1970s, in the past 18 years or so we've created over 30 million jobs—more jobs than exist in West Germany, which has the largest economy in Western Europe.

THE INTELLECTUAL DEBATE

The administration has failed not in the areas to which the economic hypochondriacs point but in the intellectual debate—the ideological battle. Its opponents have raised the concern that we lack compassion. In our inner cities, we see more illegitimacy, more illiteracy, more crime, more broken families, and more members of a permanent underclass today than ever before. Those conditions, as Charles Murray and others have demonstrated, can be traced directly to social engineering on the state and federal levels. And yet the policies that have had such miserable results remain in effect because they reassure us that we are compassionate. If a law has a "compassionate" purpose, we overlook the fact that the people it was intended to help have actually been hurt by it.

The administration's opponents have been allowed to get away with promoting that way of thinking. It's sort of the equivalent of the days of religious wars, when they would burn you at the stake and you weren't supposed to mind that because it was going to save your soul. The administration has given its opponents a free ride in the intellectual debate.

Unfortunately, even in circles that should know better, people have been buying the notion that the prosperity we've enjoyed during the past few years is the result of selfishness and therefore lacks moral legitimacy. They read about the Ivan Boeskys of the world, and somehow those incidents seem to cast aspersions on our economic gains.

If we're going to succeed in preserving our recent gains and making new gains, we must get across the notion that the free enterprise system does not appeal to the worst part of human nature but brings out the best in people. We must get across the notion that free enterprise give basic rights to the individual and that letting people develop their talents to the fullest so as to meet the needs and want of others, whether perceived or unperceived, is moral as well as productive. We must get across the notion that the free enterprise system encourages people to channel their energy into constructive paths instead of the destructive paths that we see being followed in other nations' economies. Some progress has been made in those areas, but not nearly enough.

When people say that we can't let things be determined by the market, we've got to ask, "What is the market?" The market consists of people. When we talk about the discipline of the market, we're talking about individuals deciding whether to buy what's being offered to them. The nation is a democracy in terms of economics as well as politics, but until we get that point across to the public, we're going to be vulnerable to counterattacks by our ideological opponents.

Members of the administration have been weak on attacking mercantilism and beggar-thy -neighbor policies. They know that the proposed trade bill would probably have bad results. They know how much damage the Smoot-Hawley tariff did in the 1930s. But they've allowed their opponents to set the terms of the debate, and they've failed to refute the argument that we need protectionism in order to preserve jobs. We have to start pointing out that protectionism is a tax and that a protectionist trade policy would make it a crime for working people to buy a VCR. We have to bring it down to the individual level.

PROGRESS AND CHANGE

Change, not stability, is the chief characteristic of the U.S. economy. Progress always involves change, and change is sometimes unsettling. Throughout American history there have been periods that seemed like a hurricane of change, yet the nation has always emerged from those periods the stronger for having weathered the storm.

If we learn to cope with change, virtually all of us will have a chance to advance. If we interfere with change in an attempt to preserve a mythical past, we will diminish not only our present opportunities but our future ones. What makes that fact so difficult to get across is that people don't know what they will miss if they succeed in preventing change. If we had blocked the development of the automobile, we wouldn't know that it could have increased our mobility and transformed society. The real danger is that we will fail to make people understand that they will deprive themselves of future benefits if they keep change from happening.

I'm an optimist. I believe that if the debate is properly framed—if the right people take up the right cudgels—we will have an environment in which we can build on the administration's success in reducing tax rates and make more progress in promoting free enterprise. My feeling is that when historicans look back on this period, they will conclude that the nation's economy and political system had once again confounded the critics, the skeptics, and the crepe-hangers, thus enabling America to reassume its rightful role as the leader and inspiration of the world.●

DEVELOPMENTS IN TAIWAN

●Mr. SIMON. Mr. President, I wish to call the attention of my colleagues in the Senate to positive and important developments in Taiwan which are creating a freer and more democratic political life for the people of Taiwan. On the eve of the 11th Congress of the Kuomintang Party, I want to commend President Lee Teng-hui and the people of Taiwan on the steps they have taken to promote democracy. I hope that Taiwan's new political agenda is endorsed and given impetus by Congress.

A noteworthy development of the past year was the constitutional transfer of power from the late President Chiang Ching-kuo to President Lee, who, it should be noted, is a native son of Taiwan. President Lee is an accomplished public servant. He is a former mayor of Taipei, governor of Taiwan, and former Vice President. He entered government service after a successful career as an agricultural economist. Incidentally, he was educated at Iowa State and Cornell University and his doctoral thesis was published by the Cornell University Press.

During his short tenure in office, President Lee has worked to build upon the policies of his predecessor in opening up Taiwan's political life and increasing contacts between Taiwan and the People's Republic of China. The development of a consensus for democracy and for a positive foreign policy will, I hope, be strengthened during the forthcoming 11th Congress.

Certainly these policies of change will not be easy and will be unsettling to many people in Taiwan. In considering the difficult days ahead, the leaders of the Republic of China should recall Churchill's view of democratic government:

> No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of Government except all those other forms that have been tried from time to time.

I commend these words not just to the Government of Taiwan, but to all governments everywhere.●

NEOSHO NATIONAL FISH HATCHERY CENTENNIAL

● Mr. BOND. Mr. President, the third of July will mark an important anniversary in the history of the United States and in the history of Missouri. The Neosho National Fish Hatchery will be celebrating 100 years of service on that day.

The hatchery is the oldest Federal hatchery in operation today. Established in 1888, the site was chosen because of its access to the railroad and its access to spring water. Its four gravity flow springs provide 1,800 gallons of water per minute at a temperature of 54 to 64 degrees.

Since 1888, over 58.5 million fish including 11 different species have been distributed in the Midwest from Neosho. The hatchery has also distributed over 39,359,000 trout eggs. Today 130,000 rainbow trout are provided to Lake Taneycomo and Capps Creek in Missouri and 8,000 trout to Fort Riley, KS. In addition, the Norfork and Greers Ferry National Fish Hatcheries in Arkansas receive 3 million 3-inch rainbow trout every year.

The staff of the Neosho National Fish Hatchery are to be commended on the excellent job they perform. Norman Hines, hatchery manager, Dwayne Miller, assistant manager, James Rearrick, maintenance worker, and Jeffrey Messens, animal caretaker, are a lesson in efficiency for other Federal Government agencies. Through the dedication of only four staff members and one or two Youth Conservation Corps students in the summers, the hatchery has remained disease free for 20 years. The staff is careful not bring fish onto the hatchery from other places; they thoroughly disinfect every truck coming onto the hatchery; and they disinfect the 6 million eggs per year that are brought to the hatchery.

Another accomplishment of note is that the hatchery has been providing weather information for as long as it has been in service. This information is vitally important to the accurate forecasting of weather conditions in the Nation.

Mr. President, I hope my colleagues will join with me in congratulating the Neosho National Fish Hatchery on its 100th birthday.●

SMALL PROGRAMS MAKE A DIFFERENCE

● Mr. DeCONCINI. Mr. President, I rise today to express my strong support for the Farmer-to-Farmer Program administered by the Agency for International Development.

Unlike other high-cost Government programs, the Farmer-to-Farmer Program was conceived as a direct people-to-people approach to raise the income and standard of living of the rural poor in the developing world. By mobilizing the spirit of voluntarism and the practical know-how of the American farmers, this program provides an outstanding example of how foreign aid programs should work.

The Agency for International Development [AID] has effectively carried out the spirit and intent of the farmer-to-farmer legislation by engaging the Volunteers in Overseas Cooperative Assistance [VOCA]. VOCA is a private voluntary organization to recruit American farmers who wish to volunteer their time and talents working at the people-to-people level to help colleagues in the developing world. In addition to providing effective technical assistance, the VOCA volunteers have been great ambassador's of good will for the United States.

The Farmer-to-Farmer Program is a model of how Government agencies can utilize the skills and experience of private voluntary agencies to enhance their own programs in a cost-effective manner.

This year, the Peace Corps began utilizing VOCA volunteers as a means to apply the Farmer-to-Farmer Program to Peace Corps projects overseas. This enabled Peace Corps volunteers and American farmers to combine forces against the misery of world hunger and malnutrition without an added burden to the Federal budget. This is an effective use of taxpayer's money. We should not spend it on wasteful "white elephant" projects which throw moneys to bureaucracies.

Finally, I am proud to report that volunteers from the State of Arizona have played an important role in the Farmer-to-Farmer Program. Working with VOCA the University of Arizona's Bureau of Applied Research in Anthropology has placed 20 highly qualified agriculturalists throughout the developing world during the first year of the Farmer-to-Farmer Program. I am certain many other States are just as involved.

Mr. President, it is my hope and expectation that this voluntary approach will be a guide to other U.S. Government agencies interested in the Farmer-to-Farmer Program.●

BUREAUCRATIC BARRIERS TO MEDICAID BENEFITS

● Mr. DURENBERGER. Mr. President, last week I read an outstanding article in the Health section of the Washington Post entitled "Bureaucratic Barriers to Medicaid Benefits." The article cites an important study of 17 States, which has found that Medicaid applicants are much more likely to be rejected for "procedural" reasons, including failure to fill out forms correctly, than for making too much money.

Mr. President, in trying to make health care available to all Americans, we have learned that there are no universal approaches—no "magic bullets." We in Congress have worked hard to expand coverage for the neediest Americans and those most at risk, including pregnant women and young children. However, raising income requirements has not solved the more complex problem of bureaucratic barriers. It is to this issue that we must now turn our attention.

In fact, we have already enacted provisions providing options which, if adopted by the States, will significantly reduce these barriers. For example, in OBRA '86, we gave States the option to eliminate the asset test in determining Medicaid eligibility for young pregnant women. This enabled my own State of Minnesota to reduce its Medicaid form from eight pages to one page. However, even in the best of States, bureaucratic problems remain which may require Federal legislation to solve. These include mandatory verification of identity, citizenship, marital status, and income, the physical settings of the programs and program coordination.

As Luanne Nyberg, the executive director of the Children's Defense Fund of Minnesota, says, "Congress has begun to remove some of the bureaucratic barriers to Medicaid services, but more needs to be done in this area to ensure that all those who are eligible for care really have access to care."

I ask that the text of this article be printed in the RECORD.

The article follows:

BUREAUCRATIC BARRIERS TO MEDICAID BENEFITS

(By Don Colburn)

Medicaid applicants are much more likely to be rejected for "procedural" reasons, including failure to fill out forms properly, than for making too much money, a study of 17 southern states has found.

Researchers said they were surprised and concerned by the finding, which they said suggests that excessive paperwork keeps many poor people from getting needed health care promptly. Medicaid is the federal-state program covering health care for low-income people.

"The complexity of the process discourages many applicants from filing a normal application for needed benefits until such time as a health problem occurs, thus defeating efforts to promote preventive health care," the report concluded.

It also described the eligibility process for the Aid to Families With Dependent Children (AFDC) and Medicaid programs as "complex, time consuming and demeaning."

The report was commissioned by the Southern Governors Association and the Southern Legislative Conference as part of the Southern Regional Infant Mortality Project. It was prepared by Shuptrine & Associates, a health care consulting firm in Columbia, S.C., and funded by the Robert Wood Johnson Foundation.

The study covered 17 southern states, including Maryland and Virginia, during the 1985-86 fiscal year, when more than 1 million individuals in the region were denied AFDC or Medicaid assistance. Of those, only 23 percent were rejected because of "excess income."

A far more common reason for denial of benefits was "failure to comply with procedural requirements," a catch-all term that researchers said could include failure to fill out the forms properly, failure to show up for appointments with caseworkers and lack of complete financial records.

To determine what specific errors or omissions come under that heading, researchers hope to conduct a follow-up study in South Carolina, based on household interviews with residents who have recently been turned down for AFDC or Medicaid benefits.

"We suspect that the major problem is paperwork that people simply cannot cope with," said Sarah C. Shuptrine, president of Shuptrine & Associates, who headed the study. "In states with low benefits, people may not think it is worth it to go through all the paperwork."

What's more, many Medicaid applicants are not formally educated, which makes the task of filling out complicated, lengthy forms especially difficult, Shuptrine said. Lack of transportation is another problem; some applicants cannot easily get a ride to the benefits office. And for very poor families, even the cost of birth certificates to verify the ages of their children may be prohibitive, she said.

"The process is set up to deny people," said Shuptrine, a former health and human services aide to former South Carolina Gov. Richard W. Riley. "It defeats efforts to provide preventive health care to poor people, particularly children. Most of the applicants are poor people with children."

Though rejection rates vary widely from state to state, the overall pattern in the 17 southern states follows that in the nation as a whole. Nationally, 21 percent of denials were due to "excess income," while 60 percent were due to "failure to comply with procedural requirements."

In 11 of the 17 states surveyed, more than half of the applicants denied benefits were disqualified for "failure to comply with procedural requirements." The rate of rejection for that reason ranged from a low of 19 percent in North Carolina to a high of 77 percent in Texas.

Shuptrine said she had expected a higher percentage of Medicaid denials on the basis of income, because income limits are quite restrictive in southern states. Thirty-three states—including all 17 in the South—and the District of Columbia have set AFDC/Medicaid income limits at or below 50 percent of the federal poverty level, or $4,845 in annual income for a family of three.

In the past two years, Congress has amended the Medicaid law to make it more flexible and allow states to raise the income limits for eligibility for poor pregnant women, infants and young children. Fifteen of the 17 southern states—all but Louisiana and Texas—have taken advantage of this option to make AFDC/Medicaid benefits available to pregnant women and infants whose family incomes are below 100 percent of the poverty level. Last year, Congress further liberalized the Medicaid law to allow states to raise the Medicaid eligibility level for pregnant women and infants to 185 percent of the poverty level.

But such broadening of the income eligibility alone will not be enough to boost poor people's access to health care, the report concluded, because other requirements and the cumbersome nature of the application process itself remain obstacles.

"Without significant changes in the process and in some of the requirements, the full potential of expanded opportunities will not be met," the report said.

The length of the application form, including verification of information provided by the applicant, ranged from three pages to 52 pages.

Most states require applicants to provide extensive documentation of their family and financial situation when they meet with caseworkers to determine eligibility. The documents required may include: Social Security cards for all household members; pay stubs or earnings statements; proof of income from rental property; letters verifying Social Security, Supplemental Security Income, Veterans Administration, Unemployment Compensation or Workmen's Compensation benefits; proof of support or alimony payments; bank statements, checking accounts, savings account, credit union records; rent or mortgage payment receipts; utility receipts; proof of residency; verification of age of children.

Caseworkers overwhelmed by "the tremendous volume and complexity" of caseloads often have little or no time to do the outreach necessary to make Medicaid accessible to poor people, said Suzanne Hansen, head of the American Public Welfare Association's Medicaid management institute. The average caseload of an eligibility worker ranges from 62 in North Carolina to 316 in Louisiana, the Southern Governors' Association report found.

In an effort to curb waste and promote quality control, the federal government penalizes states with high error rates in determining Medicaid eligibility. But Shuptrine said the threat of such penalties gives caseworkers an incentive to deny eligibility in borderline cases. Federal penalties are applied only when benefits are wrongly granted to ineligible applicants, not when they are wrongly withheld from eligible applicants.

WHY MEDICAID APPLICANTS ARE DENIED BENEFITS

[In percent]

	Excess income	Excess resources	Failure to comply with procedural requirements	Other
Alabama	28.6	1.2	54.6	15.7
Arkansas	25.5	1.8	59.2	13.6
Delaware	61.6	1.9	27.8	8.8
Florida	26.4	1.7	67.5	4.5
Georgia	20.2	2.4	57.8	19.5
Kentucky	18.2	2.4	58.1	21.3
Louisana	28.7	6.5	44.6	20.2
Maryland	18.4	3.8	60.6	17.2
Mississippi	40.4	2.3	54.0	3.4
Missouri	53.8	8.4	32.5	5.3
North Carolina	28.5	7.4	19.1	45.0
Oklahoma	33.9	4.0	34.5	27.6
South Carolina	15.3	3.2	70.5	11.0
Tennessee	32.3	2.8	47.7	17.3
Texas	15.2	1.9	77.3	5.6
Virginia	18.8	4.5	60.4	16.3
West Virginia	15.2	10.5	67.4	6.9
Southern States	23.2	3.0	62.7	11.1
United States	21.4	4.3	59.7	14.6

SOURCE: Southern Regional Project on Infant Mortality.

"They're at no risk when they deny," Shuptrine said. "They're only at risk when they let someone in who it turns out, should not have been eligible."

Besides "excess income" and "failure to comply," another possible reason for disqualifying a Medicaid applicant is "excess resources"—meaning the person has capital assets above certain limits. One of the most controversial restrictions is on the value of the automobile an applicant may own.

Anyone owning a car with a book value of $1,500 or more is ineligible. The $1,500 limit was set in 1979 and has not been adjusted for inflation ($1,500 in 1979 dollars would be worth nearly $2,400 today). More than 10 percent of the Medicaid applicants in West Virginia, for example, were denied benefits because they owned a car valued at more than $1,500.

Shuptrine said the $1,500 limit should be raised—or dropped altogether.

"Do we need to test for a car at all?" she asked. "A car is something many people need in order to become self-sufficient—to find a job, get to work, get prenatal care."●

TRIBUTE TO SCOTTSDALE, AZ, ON ITS CENTENNIAL

● Mr. DECONCINI. Mr. President, I rise this morning to commemorate the 100th anniversary of the founding of the great city of Scottsdale, AZ, on July 2, 1988. In honor of this very special occasion, the city of Scottsdale is planning a centennial celebration that will include an evening of activities, food, and fun. As part of the celebration, a time capsule will be buried containing momentos and keepsakes representing Scottsdale in its 100th year. The capsule will not be opened until Scottsdale's bicentennial in 2088. I am honored to have been invited to submit a letter for inclusion in the Centennial Capsule, and I ask that the text of that letter be included in the RECORD.

The letter follows:

OFFICE OF COMMUNICATIONS
AND PUBLIC AFFAIRS,
Scottsdale, AZ, June 27, 1988.

DEAR FRIENDS: It is hard to imagine that the city of Scottsdale is already celebrating its 100th anniversary. Scottsdale has undergone dramatic changes since it was founded by U.S. Army Chaplain Winfield Scott, but it still remains the "West's Most Western Town." Hitching posts on Scottsdale Road and horses roaming the open trails display a magnificent image of the past. Scottsdale's heritage is celebrated every January with the Parada del Sol where we see rodeo events, a horse-drawn parade, Pony Express mail delivery, and shoot-outs on Main Street. For those who crave this excitement everyday, Scottsdale offers Rawhide—a recreation of an authentic 1880s Western town, where goats and sheep have the right-of-way on the dirt streets and craftsman sell their wares in antique shops.

Of course, Scottsdale in 1988 is much more than just a mirror of the Old West. The Borgada Center offers elegant shopping and dining, and the city is known nation-wide for its unyielding devotion to the arts. February brings the all Arabian Horse Show, which has become one of the most prestigious horse shows in the country. Just as the horse show moves out, the San Francisco Giants move in as Major League Baseball makes its annual Spring training trek into Scottsdale. Visitors to Scottsdale can also enjoy the overwhelming beauty of the desert. For this, we can thank the designers of the Indian Bend Wash greenbelt which has become a model for desert communities everywhere.

It was only thirty-five years ago that Scottsdale was a sleepy little town with a population of 2,000. Today, over 120,000 people call Scottsdale their home. By the year 2000, the population is expected to swell to nearly a quarter of a million people. We must stretch our imaginations to envision what Scottsdale will look like one hundred years from today. Yet, no matter how large the city might grow, one thing remains certain—the unique blend of traditional Western and modern living that makes Scottsdale such a special place to live will continue to thrive. Winfield Scott would be proud.●

THE DROUGHT IN ILLINOIS

● **Mr. SIMON.** Mr. President, the drought continues its stranglehold on our Nation's most productive farmland and the forecast for a change in the weather is not good. In my own State of Illinois the next 2 weeks are critical. But significant damage has already been done. In a report issued Monday, one-fifth of the corn and soybean crops is in poor condition following a week of virtually no rain and searing heat. In Tuesday's Washington Post, Bill Peterson details the problems in Dieterich, IL, a small community in the southeastern part of the State. I ask to reprint the Post article in the RECORD. In addition, I ask unanimous consent to reprint my weekly column that details the drought situation in Illinois.

The material follows:

[From the Washington Post, June 28, 1988]

ILLINOIS FARMERS AWAIT RAIN AT CRUCIAL TIME FOR CROPS

DIETERICH, IL.—Some people become nervous and edgy when they worry. Some can't sleep. Others blow off steam with emtional outbursts. Chuck Perry is different. "He carries it all inside," said his wife, Mary. "I can tell when he is worried. He gets quieter and quieter."

Perry, who operates a dairy farm on the outskirts of this southeastern Illinois town of 633, has been very quiet these first blistering hot days of summer. "I'm pretty worried," he explained, "If it doesn't rain pretty soon, it could be real bad. It could be pitiful. It's going to hurt everyone."

Perry, a tall, husky man of 37, says his pastures "are all burned up," the "hay situation is real bad," some farmers are selling cattle they cannot feed and the corn crop may be lost unless rainfalls within two weeks.

Ponds and wells are drying up, and the town of Dieterich has banned lawn sprinking and urged residents to bathe and flush toilets sparingly to conserve dwindling water.

Perry has survived several droughts since he left Chicago 17 years ago to take over his father-in-law's dairy business, and he knows what they can do to small, struggling farmers like himself.

"I don't think you ever bounce back," he said on one of the four days last week when the temperature rose above 100 degrees. "You just let a lot of things go. You just try to get by on a little less. You try to repair your machinery. You don't go to K mart and buy those expensive sweaters, T-shirts and stuff. You get by with what you've got."

Every night, Perry watches the weather forecasts and market reports on television and boils inside. "It seems we've had the same forecast every day for the last month: hot and dry, or hot and dryer," he said.

The market reports are equally frustrating. Corn, soybean and wheat prices are skyrocketing, but Perry has none to sell. "The corporations and the speculators have got all the beans," he said, shaking his head. "Most farmers operate like we do. We sell our beans in the fall. We use that money to plant our crop in the spring. The wheat crop usually goes to pay taxes. You get that money in July."

Much of Illinois has not had major rainfall since Mother's Day, and hardly a drop fell in many places in June, normally the wettest month. Yards and roadsides have turned from green to yellow to brown.

But the drought of 1988 is much more worrisome here for what it could become than for what it is. Corn and soybean fields are surprisingly green, and the state agriculture department last week classified 85 percent of the acreage in both crops in fair or better condition.

"I feel perhaps we have overexaggerated the drought," said John Unger of the Illinois Agriculture Statistics Service. "We still have the potential for a good crop."

The most immediate worry is corn. Its fate across the Midwest will be decided within two weeks, when stalks start to tassel, according to experts. The tassels drop pollen that must be caught by the silk surrounding the ears for the corn to develop.

"What happens is that if the ear hasn't emerged from the stalk and there is nothing to catch the pollen, you don't get any corn," said William H. Brink, agriculture extension agent in Effingham County, which includes Dieterich.

"We have only eight to 10 days for this to happen," he said, "and the timing has to be perfect."

No one knows what will happen to the corn—or the soybean crop, which reaches a crucial stage in late July. Will some stalks—or whole fields—be barren? Or will everything turn out all right?

"We're used to having it dry and hot in August and late July, but we've never had it so hot and dry so early," said Paul Shuler, who farms near Colfax, Ill.

"The next two weeks are do-or-die for corn," he said. "If it misses pollination, the corn can't recover. . . . I'm a little pessimistic. Everyone is right now."

Most corn here is almost waisthigh, 18 to 24 inches below normal. Stalks, split open, show tassel pushing its way to the top of stalks, but little indication of emerging ears.

There are other signs. Most corn that was seeded with a conservation technique called "no-till planting"—in which the old crop is not completely plowed under and continues to consume water—has been destroyed.

A half-mile from Perry's place, farmer Jim Westondorf has 60 acres of corn whose stalks are barely three inches high. Elsewhere, dry rot has turned parts of some soybean fields yellow.

"We're facing a complete wipeout here unless we get some rain," said extension agent Brink, who also has a struggling farm. "The sad thing is we were just getting back on our feet in this area after some bad years. Guys who have been able to pull themselves up by the bootstraps are being hit between the eyes again."

Chuck Perry, who farms 280 acres, agrees."Oh, I can see some guys going out [of business] this year. Some of them are just getting back on their feet," he said one steamy afternoon as he and his wife paused under a shade tree in their front lawn. They have four children.

Their farm will survive. They had a good year in 1987. "We got by every other time we had bad weather. We'll get by this time. We'll just do without and hope things swing around," Perry said solemnly. "You see, that's part of farming."

He is a farmer by choice, not family tradition, and somewhat of an oddity here. He grew up in Chicago and worked in a lithographic plant before moving 214 miles south in the early 1970s. "It's a good life. You're your own boss. You're outside with your kids every day. You have to take the bad with the good. You just hope for some relief."

At the Gold Rush Cafe, the J.M. Schultz Seed Co. and everywhere else in town, people talk of little but the drought and the record-breaking temperatures.

Perry takes some comfort in the drought's breadth. He was far more bothered in 1983 when his crops failed because of a local drought, he said.

"We were part of a small area then that just couldn't get rain. That's when you feel man, I'm doing something wrong. Now everyone is in the same boat. There are places a lot worse off than we are."

At midafternoon, sweat rolls down his back and forehead. "I really feel bad for my cattle," he said. "It's hot, and there's nothing out there for them to eat. As soon as a new blade of grass comes up, they'll be all over it. Mostly, all those cows want to do is lay in the shade like us."

Each day, his 35 cows produce about 50 less pounds of milk than usual; his next two-week milk check will be about $84 less than the last. A month ago, calves sold for $160 or more; now they sell for $45 to $60, he said.

By late June, Perry normally has about 10,000 bales of hay stacked in his barns. He has about one-fifth of that on hand, and he worries about how he will buy hay and corn to feed his cattle.

"But what can you do?" Perry asked with a shrug. "You can't make it rain. It's either going to rain or it's not."

(P.S./Washington, a Weekly Column by U.S. Senator Paul Simon, June 26–July 1, 1988)

DROUGHT WORSENS, FARMERS STRUGGLE

A weekend visit to farmers in Illinois is not encouraging, and my Senate colleagues in North Dakota and a few other states describe a worse situation.

Farmers are hurting.

And ultimately when farmers hurt, everyone hurts.

When farmers suffer economically, they cannot pay their tax bills, don't buy farm implements, contribute little to a church collection plate, and perhaps don't send their children to college. And on and on.

The struggle is to survive.

Perhaps typical of a cross-section of farmers I visited was this response: "If we had rain tomorrow, I'd harvest 50 percent of my crop." That is at first blush slightly better than it sounds because the price of corn and soybeans is up.

But it didn't rain the next day—or the next day or the next day or the next day.

In some areas the crops look better than others, and the nonfarm person who drives through the countryside can see only the most extreme cases. Less visible is the corn that is still green but curls its leaves.

My guess is that more and more in the years to come, farms will gradually be using some form of irrigation or sprinkler system. A few do it now. It's expensive, but not as expensive as losing a whole crop.

One farmer told me that if he doesn't get rain in the next few days he will use his corn for silage, feeding his cattle with it, and then cutting back on his cattle herd dramatically.

If farmers cut back on their cattle, that will temporarily reduce the price of beef a little. But then the price of beef will skyrocket.

When not enough food is produced, the price of food goes up—but that should not be happening already.

In Clinton, Illinois, a woman told me she noted that the price of a package of corn flakes went up 10 cents.

That is not caused by the shortage. The drought hasn't reached the grocery shelves yet except for a few people who are trying to take advantage of it.

Also, in a box of corn flakes, there's probably not more than 5 cents worth of corn, even at higher prices. In a loaf of bread there may be 3 cents worth of wheat. Farmers are not causing that rise in food prices.

But if more and more farmers go out of business, where many are headed right now, the result will be higher prices for consumers.

What can be done? Since the government cannot make it rain, many options are being examined.

A drought task force has outlined some proposals to provide federal aid to drought-stricken farmers. Task force members have urged Secretary of Agriculture Dick Lyng to use his authority to provide government-owned grain at reduced rates and to expand another cost-sharing feed purchase program.

Lawmakers are looking at legislation to guarantee deficiency payments at a certain level and relaxing requirements that advance deficiency payments be paid back if prices rise to a certain level.

The federal government would provide low-interest loans to farmers after a state has been declared a disaster area. (Although more credit is not necessarily helpful to a farmer already deep in debt.)

The Secretary also is authorized to implement a disaster low-yield program if farmers meet certain conditions.

I'm pleased Secretary Lyng has approved the release of set-aside acreage that Sen. Alan Dixon and I requested for having and grazing in all 102 Illinois counties.

Dozens of proposals are being examined and discussed. We must move carefully and still hope that some of the Illinois crop can be saved.

At a recent meeting I attended, Secretary Lyng said, "It's too soon to say we have a grim disaster nationwide, but the potential is there." The federal government should stand ready in that event.●

INFORMED CONSENT: MISSOURI

● Mr. HUMPHREY. Mr. President, I ask that two letters from Missouri be inserted in the CONGRESSIONAL RECORD.

The letters follows:

DEAR SENATOR HUMPHREY: I am an abortion victim. I was in high school and unmarried (1976). I was not informed in any way about fetal development. I was specifically told that it was a clump of tissue, like a growth or tumor, and it would be like taking out my appendix—my body wouldn't miss it. I was desperate and ignorant, so I listened to them. They were so phony. They seemed so caring until I paid the money. Then I seemed like a cow being herded. They told me it wouldn't hurt. The words will forever ring in my ears, "He's quick and he's slick." Well, it did hurt, and not just a little bit. They told me everything would be normal afterward; that I could go on with my life like nothing had happened.

They also wanted me to be quiet and not cry. They didn't tell me about the emptiness, the loss that I would feel. They didn't tell me about the need I would feel to mourn for a lost child, my lost child, yet I couldn't. I couldn't tell anyone of my feelings because I knew I had done something very wrong and I didn't want anyone to know.

They also didn't tell me what would happen years later when I had my first baby. I felt the movement, I saw the development charts, and then I saw her being born. I had to face what I had done. I still feel remorse and pain over this, but because I have given my life to Jesus my wounds have been healed and I can go on. I feel I am a woman who has lost her child, as one who has lost a child to sudden infant death syndrome or other disease. Except I can share this grief with only those closest to me because of the shame, and I alone can feel the guilt because I chose to do this thing. They gave me the "freedom to choose."

SUSIE,
Kansas City, MO.

DEAR SENATOR HUMPHREY: At the age of 13 I had heard my mother say, "If that ever happened to one of my girls I'd insist she have an abortion. I'll not have that (unwed pregnancy) in my family." Seven years later, I was in college—got pregnant out of wedlock, and had an abortion. I felt I could not go to my parents, afterall, my mother had made her feelings on this matter well known years earlier. The father of my child was a life long friend and was almost like a brother to me. We both "knew" we could not provide a home or a future for our child. He collected the $300 necessary and I left for Douglas Hospital.

I was awake through the whole thing. I heard the doctor, the nurses, the suction machine. I felt pain that I can't describe. I began crying—I wanted to stop it but it was too late, my child was no more. The doctor was the only one with any sense of compassion. He actually held me and cried with me. One of the nurses commented that she'd never known him to do that before.

My experience caused me to hemorrhage severely—I was lucky one of my friends was in medical school and was able to help stop the bleeding. I could have died and my parents would never have known what happened. I did not tell them about this until 3 years ago when I had my fourth miscarriage. I became suicidal—all I wanted out of life was a family and I couldn't seem to do that. I do not feel like a whole woman. I feel cheated. I'm now 35, divorced, I still want a child and may never have one. My baby would have been 14 in March this year.

Thank you for your concern for our well being.

Sincerely,

DEBORAH KAY WILHELM.●

COSPONSORSHIP OF THE CONSUMER FRAUD PREVENTION ACT

● Mr. HEINZ. Mr. President, I rise today to cosponsor S. 2326, the Consumer Fraud Prevention Act.

The age of electronic marketing has brought convenience to the American consumer. After receiving a department store's catalog one need only to pick up the phone, read one's credit card number, and in a month or less, the desired product is delivered right to the front door. Planning a trip is as easy as picking up the phone and booking a flight, hotel, and rental car reservations with a travel agent. After viewing an advertisement on television, one needs only to dial a toll-free number and order it. In the mail box on any given day are cards, letters, and flyers offering anything from real estate to vitamins.

Marketing increasingly is more targetted, sophisticated, and personalized. Telemarketers call directly at home. Products offered via the mail often are personally addressed, rather than to the "occupant" or "resident." While the sophistication of marketing techniques brings many advantages to the consumer, it also brings a multitude of consumer abuses.

In the Harrisburg, PA area, consumers received a personalized post card offering "an exciting prepaid vacation" to Acapulco. This trip was offered as "a way of introducing new members to our national discount consumer buying service." What the postcard did not say was that consumers had to pay the company a $398 buying-service membership fee before they qualified for the prepaid vacation. Those who did pay for the service had great difficulty in booking themselves on the trip.

Our elderly and sick in particular are vulnerable to consumer scams. Miracle cures for Alzheimer's disease, cancer, and other terrible ailments are offered as "amazing breakthroughs in medical technology." Social Security and Medicare "protection" services are offered in envelopes disguised to look like official Government documents. This legislation complements my own bill, S. 1393, "The Deceptive Mailings Prevention Act." S. 1393 is designed to prevent look-alike Government mailings and would require disclosures by any firm which sells services the Government provides for free.

Mr. President, the National Council Against Health Care Fraud estimates that health fraud is costing Americans close to $25 billion per year. Consumer fraud must be stopped. As I said before, new techniques in marketing have brought many advantages to American consumers and businesses. Relatively rare as late as 1980, telemarketing now accounts for more than $100 billion in sales. However, a recent Newsweek article estimated that fraudulent telemarketers earn from $1 billion to as much as $20 billion per year. Not only are telephones devastating American families, they also are hurting legitimate business as consumers are turning away from shopping at home, rather than run the risk of being burned.

The Federal Trade Commission has been working hard to combat consumer abuse. The good news is that since 1983 the Commission successfully has brought more than 28 Federal district court cases against nationwide telemarketing scams with aggregate sales of over $89 million. The bad news is that too many clever scam artists are getting away.

S. 2326, the Consumer Fraud Prevention Act, will provide the FTC with new and effective tools in the fight against consumer fraud. Included in this legislation are provisions which clarify the FTC's jurisdictional authority, permit greater access to information, permit the involvement of State attorneys general in enforcement of FTC regulations, and mandate the promulgation of new FTC rules in relation to telemarketing.

Consumer fraud is $1 billion industry that affects Americans from all walks of life. We must give law enforcement officials the tools they need to uncover and prosecute consumer fraud, and to protect unsuspecting Americans from being the victims of criminal sting operations conducted over the phone and through the mail. Providing the FTC with this new authority is a good first step. I urge my colleagues to support this important legislation.

I ask that a summary of S. 2326 be printed in the RECORD at this time.

The summary follows:

BILL SUMMARY—S. 2326

False advertisements concerning health care—would make it unlawful to disseminate any false advertisement for the purpose of inducing the purchase of services, such as health care or home repair services. (Currently, the FTC Act addresses only dissemination of false advertisements regarding products.)

Venue for fraud cases—would permit the Courts to join together scattered litigation concerning violations of the FTC Act or rules promulgated under the Act. Also would permit easier service of subpoenas in cases involving preliminary injunctions and temporary restraining orders.

Expanded enforcement authority—would permit the FTC to use subpoenas to obtain physical evidence, like drugs and medical devices. (Currently, the FTC Act only permits use of subpoenas for documentary evidence.)

Greater access to postal data—requires the Post Office to amend its regulations to give the Commission access to mail sent from parties suspected of consumer fraud. (The Post Office now permits such access in some cases.) The Commission would not be permitted to open or intercept the mail, but it could keep records on where the mail is sent.

Expands ability to collect financial evidence on suspects—clarifies the authority of the FTC to gain access to financial records of consumer fraud suspects if it first obtains court approval and can show that the funds that are the subject of the records are likely to be dissipated and were obtained in violation of the laws.

Enforcement assistance from states—would permit the FTC to appoint state attorneys general and their officers to enforce Commission rules. Would permit such appointment on a case-by-case basis or for ongoing enforcement.

Telemarketing—requires the FTC to extend its mail order rule to telemarketing and requires the FTC to consider including in the rule a cooling-off period and a mandatory notice to consumers of their rights under the rule. (The cooling-off rule would permit the buyer to cancel certain orders within three days.) The mail order rule requires delivery of goods within a specified time and permits the buyer to cancel the order and obtain a full refund if the order is not delivered within such specified time.

Life care facilities—requires the FTC to conduct an examination of practices in the life-care industry and initiate a rulemaking concerning the industry, if appropriate.●

THE 100th ANNIVERSARY OF THE KODAK CAMERA

● Mr. MOYNIHAN. Mr. President, I rise today to commemorate the 100th anniversary of the Kodak snapshot camera, an invention which has affected just about everyone since its introduction in June of 1888. We have all been fascinated by the camera's ability to stop time and let us preserve a moment forever. George Eastman of Rochester provided us with the first camera to combine portability and multishot film. His invention brought changes in areas ranging from legal to cultural to linguistic.

Photographic equipment in the days when Eastman was still bookkeeper at a New York bank was bulky and heavy, and the subject had to hold the same pose for half a minute. But in 1877, Eastman began to study photographic chemistry, and he devised an emulsion which, when coated on a dry plate, would allow faster shutter speeds and a shorter amount of time needed to take pictures. This began his path to the creation of the first "snapshot camera" in the early 1880s and increased interest in the science of photography.

Eastman's instincts told him that the camera could, and would, be developed even more. With an associate, Eastman created rolls of what he termed "American film" and in the mid-1880's sold a roll holder to go with it. The entire camera weighed less than 3 pounds! When some professional photographers were having trouble developing the film, Eastman responded with a novel idea: simplify the process for them and for the general public by having them send the camera back to him, film still inside, for developing.

To use the revolutionary new camera, one needed only to wind the film, pull a string to set the shutter, point the camera at the object, and press a button. The camera could take 100 pictures, and once the photographer was finished with it, he would ship the camera back to Rochester where Eastman and his company would develop the film. His slogan, "You push the button, we do the rest," became known nationwide.

The number of camera owners rapidly increased, as did the uses for the work "kodak," which he had fabricated. Soon "Kodakers" were "kodaking" everything in sight. The word became so prevalent that Eastman would later pay greatly to keep his trademark from slipping into common vocabulary.

Eastman further refined his invention and often bought out competitors and incorporated their innovations in his products. He introduced the $5 Pocket Camera in 1895 and the $1 Brownie camera in 1900. It further increased the popularity of snapshot photography. Many of our century's photographers began with a Brownie.

From the outset the camera has had a dramatic effect on people. When George Eastman brought it to the masses, he enabled most anyone to preserve a scene, an activity, or a person in a manner not previously possible. While this pleased most people framed in a Kodak lens, the public became aware that some of their less glamorous or desirable activities could end up in someone's picture as well. Snapshots soon began to be used as evidence in court. George Eastman grew rich, and it is important to note that he donated over $100 million dollars to charity in his life.

These past 100 years have seen numerous changes in the camera, but its importance to us has remained the same. I ask that my colleagues join me in celebrating and commemorating George Eastman and his invention that has provided us all with enjoyment and memories.●

CLIFF WALK FALL ANOTHER WARNING

● **Mr. PELL.** Mr. President, I rise to share with my colleagues a story that is both encouraging and troubling. It is the story of a 12-year-old girl who survived a 40-foot fall from Cliff Walk in Newport, RI. She is in the hospital in good condition because of her brother's quick thinking and the rescue work of the Newport Fire Department.

The encouraging part of the story is that when Maura McLean fell from the walk, her 15-year-old brother, Michael McLean, responded rapidly. In the emergency, with only split seconds to make decisions, Michael made all the right ones. His family, our community and all of Rhode Island should be proud of his response.

The troubling part is that Cliff Walk, which has been designated as a National Recreational Trail, is becoming increasingly dangerous. A young man fell to his death from the trail last year and Maura McLean apparently was extremely fortunate to escape serious injury in her fall yesterday.

Cliff Walk is a magnificent 3.5-mile walk, with the ocean's rugged coastline on one side and some of Newport's most elegant and historic mansions on the other. The walk, however, is gradually losing a continuing battle with the elements.

There is considerable and apparently growing support for making Cliff Walk a unit of the National Park System. I have encountered this support from Newport residents, from visitors to Rhode Island and from local, State, and Federal officials.

On the Federal level, I am happy to report that National Park Service Director William Penn Mott is among those of us who are enthusiastic about Cliff Walk. He clearly was impressed after a visit with us last year.

The National Park Service now is conducting a 1-year, $50,000 study to determine whether Cliff Walk would be a suitable addition to the National Park System. That study, which I sought and worked to initiate, is scheduled for completion later this year.

Yesterday's accident, however, should remind all of us that the longer we take to determine the fate of Cliff Walk, the greater the risk becomes that another child may fall from the trail. That is what troubles me and that is one of the reasons that I hope we will expedite our efforts to protect both Cliff Walk and those who walk the trail.

Mr. President, I ask that an article from the Providence (RI) Journal of June 28, 1988, entitled "Brother helps sister survive 40-foot fall off Cliff Walk," be reprinted in the CONGRESSIONAL RECORD.

The article follows:

BROTHER HELPS SISTER SURVIVE 40-FOOT FALL OFF CLIFF WALK

(By Martha A. Bridgegam)

NEWPORT.—Just before dark Sunday night, Maura McLean of Newport and her brother, Michael, stopped to enjoy the view of the sea from the Cliff Walk, then turned their bikes to go.

Maura swung her bicycle, a present for her 12th birthday two weeks before, and stuck out a foot to push off from a six-inch curb protecting most of a lookout point at the end of Leroy Avenue. Her foot hit nothing but air and weeds.

She tumbled 40 feet to the boulders at the bottom of the steep cliff above the waves. (Later she said the fall "felt like cartwheels.")

Michael, 15, said yesterday that he heard a noise and saw the bike against the curb and his sister gone. Then he heard her call his name from below.

He yelled to passers-by to get help, then ran to a spot along the point that sloped to the water more gradually. He clambered a short way down the rocky cliff to a concrete retaining wall, slid in loose dirt, then made his way down 15 more feet of rock.

One more obstacle: the sea. He jumped in and swam around an outcropping to his sister. He stayed by her side, giving her first aid, until fire department rescuers lifted her by stretcher to the surface.

Yesterday afternoon Maura was in good condition at Newport Hospital with a slightly deflated lung, a broken finger and cuts and bruises. Tests showed no internal injuries. Her parents, Army Lt. Col. Neil and Lucy McLean of 36 Red Cross Ave., said she was sleepy and short of breath but cheerful when they saw her yesterday.

The accident occurred not far from the spot where a Salve Regina College student fell to his death last September.

Michael said neither he nor his sister panicked. Using his Boy Scout and Rogers High School ROTC training, he took off his socks, dipped them in the salt water and used them to clean Maura's scratches and cool her head.

As a precaution against internal injuries, he propped up her feet and bleeding hand and kept her still. He said he left the flayed and broken finger alone for fear of causing an infection with the salt water. He told Maura not to look at it.

When the fire department arrived, Lt. Roscoe Mace and Pvt. Gordon Green reached the two by tying ropes to the bumper of a fire engine they parked near the cliff and rappelling down.

Mace cleaned and bandaged Maura's hand, put a cold pack on her head and fitted her with a neck brace in case of spinal injury. Then the firefighters eased Maura onto a stretcher lowered by rope from the truck's ladder, and steadied her from below with ropes while others hauled her up.

Michael was strapped into a harness and pulled up the cliff, the same method the firefighters used to get back up.

Mace said the department had practiced exactly the same type of rescue just two days before. "You're more nervous when you're practicing," he said.

Mace had praise for both brother and sister, describing Maura as "an excellent patient" with great self-control, and her brother as "a pretty cool character" who acted quickly under pressure.

Their mother, Lucy McLean, could joke about the accident yesterday afternoon. "I told (Michael), 'Well, that was a good thought, but the odor from your socks. . . .' Have you ever smelled a teenager's socks?"

The Cliff Walk, a 3.5-mile path that skirts the lawns of several mansions facing Rhode Island Sound, has been the site of several injuries and at least one death. Mace said the fire department makes four or five rescues from the cliffs each year.

Among those who have fallen on the walk is Sen. Claiborne Pell, a Newport resident. Pell avoids sections of the path, having fallen twice while jogging there.

This spring, at the urging of Pell and other officials, the National Park Service agreed to conduct a study to decide whether to incorporate the walk into its system. City and federal officials said it would take from $2 million to $5 million just to stop erosion below the path and make the paved areas safe.

Charles Tracy, project leader for the study, said yesterday that becoming a national park does not guarantee that the path will be made safe for all. He said possibilities for the path include designating certain zones as suitable for the less athletic, and others as suitable for hikers.

It was not clear yesterday who is responsible for the path's upkeep. The city routinely fills potholes and does other maintenance chores on the Cliff Walk, said Newport's director of finance, Dwain Hawthorne, but the path does not appear on a list of city properties and the city does not have an insurance policy to cover victims of accidents there. Newport has received money to renovate the walk from the state and federal governments.●

ST. VITUS DAY

● **Mr. SIMON.** Mr. President, I rise today to join Serbian-Americans and Serbians around the world in commemoration of St. Vitus Day. St. Vitus Day is the anniversary of the Battle of Kosovo, which was fought 599 years ago, on June 15, 1389. This day marks a terrible loss for Serbians: Serbian Tzar Lazar I died in the battle. Serbian independence was regained centuries later, in 1882.

Unfortunately, official observance of St. Vitus Day is banned in Yugoslavia. We in the Senate, however, have the opportunity to observe this day and commemorate its anniversary.

I urge my colleagues in the Senate to join with Serbian Americans, and Serbs in Yugoslavia, in celebrating St. Vitus Day.●

ANOTHER SEVERE BLOW AGAINST THE PEOPLE OF HAITI

● Mr. PELL. Mr. President, I lament yet another severe blow against the people of Haiti whose yearning for democracy has been only a dream. The military coup engineered by General Namphy against President Manigat has dealt a terrible setback to any hope that democratic change might emerge from the political situation in which the military was the real authority.

General Namphy must be made aware that the U.S. Congress and the American people are appalled by the blatant assault on civilian authority. Haiti is being prepared for Duvalierism without Duvalier. We are also concerned about the safety and well-being of those associated with President Manigat who are being held by the military.

United States policy toward Haiti must be directed to moving that country on the road to democracy. It was an especially long and hard road before and now the obstacles are that much greater as the coup institutionalizes military control over the country. I would hope that the United States Government would work closely with the countries of the region to develop a prodemocracy policy for Haiti. The people of Haiti, who have suffered long enough, deserve this kind of support.●

OPERATING DIFFERENTIALS UNDER THE MERCHANT MARINE ACT

● Mr. INOUYE. Mr. President, on June 14, 1988, Senator Stevens and I jointly introduced S. 2510. It is my intention when hearings commence on this bill on July 12, to offer an amendment which will place the U.S.-flag vessels subject to the bill in the same category under the ODS Program as certain recently constructed vessels in foreign shipyards under section 615 of the Merchant Marine Act, 1936, as amended. Namely, my intended amendment will preclude any vessel subsidized in connection with this legislation from retaining operating subsidy on premium-rated civilian preference cargo and on military cargo. If such cargoes are carried, the contractor will have to repay to the Secretary that portion of the operating-subsidy attributable to the carriage of these reserved cargoes which bears the same ratio to the subsidy payable for the year as the gross revenue derived from all subsidized voyages for the year. This is equitable and addresses a practice that up to now has been accepted.●

UNANIMOUS-CONSENT AGREEMENT—S. 11 AND S. 533

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of S. 11, a bill to provide for judicial review of Veterans' Administration decisions denying claims for benefits, the following time agreement apply:

That there be 2 hours of debate on the bill equally divided and controlled between Senators Cranston and Murkowski;

Two hours of debate on a Murkowski substitute amendment, the text of S. 2292, prior to a vote on a motion to table the Murkowski substitute; if the motion to table is not successful, there be 1 hour of debate on a perfecting amendment to the Murkowski substitute to be offered by Senators Kerry and Daschle;

To be provided further that there be 10 minutes on a Cranston-Simpson technical amendment; and

That no other amendments be in order; and that the agreement with respect to the division and control of time be in the usual form;

That there be 20 minutes on any debatable motion, appeal, or point of order if submitted by the Chair; that no motions to recommit with instructions be in order; and that the agreement be in the usual form;

Provided further that for purposes of this agreement, recommital would be considered to constitute disposition of the bill;

And that following disposition of S. 11, the Senate proceed to the immediate consideration of S. 533, a bill to elevate the Veterans' Administration to Cabinet-level status, and that it be considered under the following time limitation:

Two hours on the bill to be equally divided and controlled between and by Mr. Glenn and Mr. Roth;

One hour on a Murkowski amendment relative to the appointment date for the first Secretary of Veterans' Affairs;

Three hours on an amendment by Mr. Simpson relating to judicial review, 2 hours of which would be under the control of Mr. Simpson, 1 hour of which would be under the control of the majority leader or his designee; provided further that there be 30 minutes on a Cranston-Murkowski amendment relating to the organization of the Veterans' Benefits Administration.

That no other amendments be in order, other than the committee-reported substitute;

That no motions to recommit the bill, with or without instructions, be in order;

That there be 15 minutes of debate on any debatable motions, appeals, or points of order if submitted by the Chair for debate; and

That the agreement be in the usual form.

Mr. DOLE. Mr. President, I reserve the right to object, and I shall not object. I have already discussed with the majority leader the request that Senator Murkowski be notified when the bill would be coming up so he can make certain he is here. He will be here.

Mr. BYRD. Yes, Mr. President. The majority leader would proceed only after consultation with the distinguished Republican leader.

The PRESIDING OFFICER. Is there objection? Without objection, the unanimous-consent is agreed to.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 11, a bill to provide for judicial review of Veterans' Administration decisions denying claims for benefits, the following time agreement apply:

That there be 2 hours debate on a Murkowski substitute amendment (the text of S. 2292) prior to a vote on a motion to table the Murkowski substitute.

That if the motion to table is not successful, there be 1 hour of debate on a perfecting amendment to the Murkowski substitute to be offered by Senators Kerry and Daschle.

That there be 10 minutes on a Cranston/Simpson technical amendment.

That no other amendments be in order.

That there be 20 minutes on any debatable motion, appeal, or point of order if submitted by the Chair, that no motions to recommit with instructions be in order, and that the agreement be in the usual form.

That there be 2 hours debate on the bill, to be equally divided and controlled between the Senator from California (Mr. Cranston) and the Senator from Alaska (Mr. Murkowski).

Ordered further, That for the purposes of this agreement, recommittal would be considered to constitute disposition of the bill.

Ordered, That following the disposition of S. 11, the Senate proceed to the consideration of S. 533, a bill to establish the Veterans Administration as an executive department, and that there be 1 hour debate on a Murkowski amendment relative to the appointment date for the first Secretary of Veterans' Affairs, that there be 3 hours debate on a Simpson amendment relative to judicial review, to be divided with 2 hours under the control of the Senator from Wyoming (Mr. Simpson), and 1 hour under the control of the Majority Leader or his designee, and that there be 30 minutes debate on a Cranston/Murkowski amendment relative to the organization of the Veterans' Benefits Administration.

Ordered further, That no other amendments be in order other than the committee reported substitute.

Ordered further, That no motions to recommit the bill, with or without instructions, be in order.

Ordered further, That there be 2 hours debate on the bill, to be equally divided and controlled by the Senator from Ohio (Mr. Glenn) and the Senator from Delaware (Mr. Roth).

Ordered further, That there be 15 minutes of debate on any debatable motions, appeal, or points of order if submitted by the Chair for debate.

Ordered further, That the agreement be in the usual form.

OFFICE OF GOVERNMENT ETHICS AUTHORIZATION ACT

Mr. BYRD. Mr. President, on behalf of Mr. Glenn, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 750.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2344) to provide for reauthorization of appropriations for the Office of Government Ethics, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Office of Government Ethics Reauthorization Act of 1988".

OFFICE OF GOVERNMENT ETHICS AS INDEPENDENT AGENCY

SEC. 2. The Ethics in Government Act of 1978 (5 U.S.C. App. 5) (hereafter in this Act referred to as "the Act") is amended—

(1) in section 401(a) by striking out "in the Office of Personnel Management an office" and inserting in lieu thereof "in the executive branch of the United States an [independent] *executive* agency";

(2) by adding at the end of section 401 the following new subsection:

"(c) The Director may—

"(1) appoint officers and employees, including attorneys, for the agency in accordance with chapter 51 and subchapter 3 of chapter 53 of title 5, United States Code; and

"(2) contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such other Federal agency as the Director determines appropriate, for which payment shall be made in advance, or by reimbursement from funds of the [agency] *Office of Government Ethics,* in such amounts as may be agreed upon by the Director and the head of the agency providing such services."; and

(3) in section 402(a) by striking out ", in consultation with the Office of Personnel Management,".

TERM OF OFFICE FOR THE DIRECTOR OF THE OFFICE OF GOVERNMENT ETHICS

SEC. 3. Section 401(b) of the Act is amended by striking out "Effective with respect to any individual appointed or reappointed by the President as Director on or after October 1, 1983, the term of service of the Director shall be five years." and inserting in lieu thereof "The Director shall serve for a term of five years and shall be removed from office during such term only for good cause.".

AUTHORITY AND FUNCTIONS

SEC. 4. Section 402(b) of the Act is amended to read as follows:

"(b) The [Director shall] *responsibilities of the Director shall include—*

["(1) develop rules and regulations and interpret applicable laws, rules, and regulations, including—

["(A) developing, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Director pertaining to conflicts of interest and ethics in the executive branch, including rules and regulations for—]

"(1) developing, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Director pertaining to conflicts of interest and ethics in the executive branch, including rules and regulations for—

["(i) the filing, review, and public availability of financial statements filed by acting and prospective officers and employees in the executive branch as required by title II of this Act, and the evaluation of any item reported in such statements;]

"(A) the filing, review, and public availability of financial statements filed pursuant to title II of this Act;

["(ii) the identification and resolution of conflicts of interest;]

"(B) the identification and resolution of conflicts of interest, and appearances of conflicts of interest, including procedures for ordering or recommending specific action pursuant to section 403 of this title; and

["(iii) training prospective political appointees on ethics laws, rules, regulations, and standards of conduct and ethical decisionmaking;

["(iv) training Federal employees on ethics laws, rules, regulations, and standards of conduct and ethical decisionmaking; and

["(v) the designation by the head of each executive agency of an individual as the agency ethics official, which position shall be a career reserved position (as defined under section 3132(a)(8) of title 5, United States Code) in the Senior Executive Service;]

"(C) the selection by the head of each executive agency of an individual as the designated agency ethics official, which position shall be a career reserved position (as defined under section 3132(a)(8) of title 5, United States Code) in the Senior Executive Service;

["(B) interpreting rules and regulations issued by the President or the Director governing conflict of interest and ethical problems and the filing of financial statements;]

"(2) interpreting rules and regulations issued by the President or the Director governing conflict of interest and ethical problems and the filing of financial statements;

["(C) assisting the Attorney General in evaluating the effectiveness of the conflict of interest laws and in recommending appropriate amendments; and]

"(3) assisting the Attorney General in evaluating the effectiveness of the conflict of interest laws and in recommending appropriate amendments; and

["(D) evaluating, with the assistance of the Attorney General, the need for changes in rules and regulations issued by the Director, the President, and the agencies regarding conflicts of interest and ethical problems;]

"(4) evaluating, with the assistance of the Attorney General, the need for changes in rules and regulations issued by the Director, the President, and the agencies regarding conflicts of interest and standards of conduct;

["(2) advise and consult with executive agencies and Federal officials, including—

["(A) providing information on and promoting understanding of ethical standards in executive agencies;]

"(5) providing information on and promoting understanding of ethical standards in executive agencies;

"(6) training incoming political appointees on ethics laws, rules, regulations, and standards of conduct;

"(7) training officers and employees on ethics laws, rules, regulations, and standards of conduct;

["(B)(i) establishing a formal advisory opinion service to give advisory opinions on matters of general applicability or on important matters of first impression;]

"(8)(A) establishing a formal advisory opinion service to give advisory opinions on matters of general applicability or on important matters of first impression;

["(ii) providing interested parties with an opportunity to transmit written comments with respect to an advisory opinion under clause (i), before (to the extent practicable) giving such opinion; and]

"(B) providing interested parties with an opportunity to transmit written comments with respect to an advisory opinion under clause (i), before (to the extent practicable) giving such opinion; and

["(iii) compiling, publishing, and making such advisory opinions available to agency ethics counselors and the public;]

"(C) compiling, publishing, and making such advisory opinions available to agency ethics counselors and the public;

["(C) consulting with agency ethics counselors and other responsible officials regarding the resolution of conflict of interest problems in individual cases; and]

"(9) consulting with agency ethics counselors and other responsible officials regarding the resolution of conflict of interest problems in individual cases;

["(D) providing support to agency ethics officials, including helping to guarantee the integrity of the decisions of such officials;]

"(10) providing support to agency ethics officials, including helping to guarantee the integrity of the decisions of such officials;

["(3) monitor compliance of executive branch agencies and employees with ethics rules, regulations, and standards of conduct, and order actions, including—

["(A) monitoring and investigating compliance with the public financial disclosure requirements of title II of this Act by officers and employees of the executive branch and executive agency officials responsible for receiving, reviewing, and making available financial statements filed pursuant to such title;]

"(11) monitoring and investigating compliance with the public financial disclosure requirements of title II of this Act by current and incoming officers and employees of the executive branch and executive agency officials responsible for receiving, reviewing, and making available financial statements filed pursuant to such title;

["(B) monitoring and investigating individual and agency compliance with any additional financial reporting and internal review requirements established by law for the executive branch;]

"(12) monitoring and investigating individual and agency compliance with any additional financial reporting and internal review requirements established by law for the executive branch;

["(C) conducting a review of financial statements to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review;]

"(13) conducting a review of financial statements to determine whether such statements reveal possible violations of applicable conflict of interest laws, rules, or regulations or employee standards of conduct and ordering or recommending specific action pursuant to section 403 of this title;

["(D) requiring such reports from executive agencies as the Director determines necessary;]

"(14) requiring such reports from executive agencies as the Director determines necessary;

["(E) in accordance with section 403, investigating and making findings on alleged violations of applicable conflict of interest rules and regulations and employee standards of conduct by any executive branch employee, as the Director determines appropriate, and ordering action, recommending action, or both;]

"(15) in accordance with section 403, investigating and making findings on alleged violations of applicable conflict of interest rules and regulations and employee standards of conduct by any executive branch officer or employee, as the Director determines appropriate, and ordering action, recommending action, or both;

["(F) ordering the head of any agency to conform the ethics program of such agency with the Office of Government Ethics requirements, as the Director determines appropriate; and]

"(16) ordering the head of any agency to conform the ethics program of such agency with the Office of Government Ethics requirements, as the Director determines appropriate; and

["(G) cooperating with the Attorney General in developing an effective system for—

["(i) reporting allegations of violations of the conflict of interest laws to the Attorney General, as required under section 535 of title 28, United States Code; and

["(ii) ensuring that the Director has notice of any such allegation when such allegation is referred to the Attorney General.".]

"(17) cooperating with the Attorney General in developing an effective system for—

"(A) reporting allegations of violations of the conflict of interest laws to the Attorney General, as required under section 535 of title 28, United States Code; and

"(B) ensuring that the Director has notice of any such allegation when such allegation is referred to the Attorney General.".

ORDERING AND RECOMMENDING ACTION

SEC. 5. The Act is amended by redesignating sections 403 through 407 as sections 404 through 408, respectively, and by inserting after section 402 the following new section:

"ORDERING AND RECOMMENDING ACTION

"SEC. 403. (a)(1) [The Director may conduct an investigation and make findings concerning any allegation of violations pursuant to the provisions of section 402(b)(3)(E).] *Pursuant to the provisions of section 402(b)(15), the Director may conduct an investigation and make findings concerning any allegation of violations. Prior to the issuance of any such finding, the Director shall provide the officer or employee who is the subject of the allegation with an opportunity to comment, either orally or in writing, and, if requested by such officer or employee, an opportunity for a hearing.*

"(2) The Director shall send any such finding to the *officer or* employee involved in the allegation and the head of the agency of such *officer or* employee. If such *officer or* employee is the head of an agency, the Director shall send such finding to the President.

"(b)(1) If the Director finds that a violation of the conflict of interest rules or regulations or of the standards of conduct is occurring, the Director shall order the *officer or* employee to take specific action to [correct] *end* the violation, including but not limited to, divestiture, recusal, or the establishment of a blind trust.

"(2) The Director shall send a written copy of such order to the head of the agency of such *officer or* employee. If such *officer or* employee is the head of an agency, the Director shall send a written copy of such order to the President.

"(c) If the Director finds that a violation of the conflict of interest rules or regulations or of the standards of conduct is occurring or has occurred, the Director may recommend to the head of the agency of such *officer or* employee that such agency head take a specific administrative action against the *officer or* employee, including but not limited to reprimand, suspension, demotion, or dismissal. If such *officer or* employee is the head of an agency, the Director may recommend that the President take such action.

"(d)(1) If the Director determines that an *officer or* employee has not taken appropriate [corrective] action within a reasonable period of time after the Director orders such action under subsection (b), the Director shall notify in writing the head of the agency of such *officer or* employee of such determination. If such *officer or* employee is the head of an agency, the Director shall notify the President.

"(2) If the Director determines that the head of an agency has not taken appropriate administrative action within a reasonable period of time after the Director recommends action under subsection (c), the Director shall notify in writing the President of such determination.[".]

"(e) Notwithstanding any other provision of law, no record developed pursuant to the authority of this section shall be made available pursuant to section 552(a)(3) of title 5, United States Code, unless the request for such information is specific, both as to the identity of the individual to whom such records relate and the subject matter of any alleged violation to which such records relate, except that nothing in this subsection shall affect the application of the provisions of section 552(b) of title 5, United States Code, to any record so identified.".

ADMINISTRATIVE PROVISIONS

SEC. 6. Section 404 of the Act (as redesignated by section 5 of this Act) is amended by striking out "pursuant to subsection (b)(3) and (b)(4) of section 402." and inserting in lieu thereof "[and audits] pursuant to the Office of Government Ethics responsibilities under this Act. The head of any agency may detail such personnel and furnish such services, with or without reimbursement, as the Director may request to carry out the provisions of this Act [with respect to such agency].".

RULES AND REGULATIONS

SEC. 7. Section 405 of the Act (as redesignated by section 5 of this Act) is amended by inserting a heading to read as follows:

"RULES AND REGULATIONS"

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. Section 406 of the Act (as redesignated by section 5 of this Act) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof:

"(1) not to exceed $2,500,000 for the fiscal year ending September 30, 1989; and

"(2) not to exceed $3,000,000 for each of the five fiscal years thereafter.".

ANNUAL PAY OF DIRECTOR

SEC. 9. Section 407 of the Act is amended to read as follows:

"ANNUAL PAY OF DIRECTOR

"SEC. 407. Chapter 53 of title 5, United States Code, is amended—

"(1) in section 5316 by striking out:

'Director of the Office of Government Ethics.'; and

"(2) in section 5314 by adding at the end thereof:

'Director of the Office of Government Ethics.' ".

EFFECTIVE DATES

SEC. 10. The provisions of this Act shall be effective on October 1, 1988, except the amendments made by section 2 of this Act shall be effective on October 1, 1989.

Mr. GLENN. Mr. President, the Committee on Governmental Affairs recommends Senate passage of the Office of Government Ethics Reauthorization Act of 1988, a bill to reauthorize that Office for an additional 6 years, establish it as a separate executive agency and make several other changes to improve its operations.

Mr. President, we have before the Senate today what I believe to be a vital piece of legislation for ensuring public confidence in the integrity of the Federal Government. I want to commend the excellent work of Senators LEVIN and COHEN, who, as chairman and ranking minority member of the Subcommittee on Oversight of Government Management, jointly introduced this legislation and held two hearings on the state of the current Government-wide ethics program and the role of the Office of Government Ethics, OGE.

OGE was created in 1978 pursuant to title IV of the Ethics in Government Act to provide overall direction of executive branch policies on preventing conflicts of interest. OGE was reauthorized in 1983 for an additional 5 years, through September 30, 1988. During its 10 year history, OGE has served an important function as the centralized executive branch ethics office authorized to direct, monitor, and enforce compliance with ethics requirements by both agencies and individuals.

While each agency has primary responsibility for ensuring compliance by its own employees with ethics laws, rules, regulations, and standards of conduct and for the administration of its own ethics program, there remains the need for a high-profile office to act as a counselor on ethics enforcement, and when deemed appropriate by the Director, to order agencies and individual employees to take action. Indeed, recent allegations concerning the leaky procurement processes at the Pentagon and the General Services Administration suggest the need for OGE intervention to ensure that these agencies meet their responsibilities for providing ethics training to their employees and enforcing ethical standards of conduct.

We will soon face a new administration bringing thousands of new political appointees into the Federal work force. In addition to OGE's responsibility for reviewing their financial disclosure reports, this legislation would make OGE responsible for ethics training of high-level political appointees before they assume office. This should raise the consciousness of such officials concerning the ethical responsibilities of public service and encourage them to instill the same level of awareness in the employees they supervise.

Another key provision of the bill addresses OGE's placement within the executive branch. For the past 10 years, the Office has been part of the Office of Personnel Management, OPM. Beginning in 1990, OGE would become a separate executive agency. This move was recommended by prominent individuals in the ethics community, including Common Cause Chairman Archibald Cox, to enhance OGE's independence and its visibility within the executive branch. This move is being delayed to 1990 so as not to interfere with OGE's duties during the upcoming Presidential transition.

Since we are up against a September 30 deadline for reauthorizing this important Office, I urge my colleagues to give this bill their full support.

Mr. LEVIN. Mr. President, today I am pleased we are bringing to the Senate floor a bill to reauthorize the Office of Government Ethics. Established by title IV of the Ethics in Government Act of 1978, the Office was reauthorized in 1983 through September of this year. In order for the important work of the Office to continue, we must enact a reauthorization bill by October 1.

The Subcommittee on Oversight of Government Management, which I chair and on which my friend from Maine, Senator COHEN, serves as ranking Republican, has jurisdiction over this Office and held 2 days of hearings last month on the ethics program in the executive branch as well as the operation of the OGE. Based on what we learned at those hearings and in discussions with various members of the ethics community, Senator COHEN and I drafted this bill. It has been reviewed and reported by both the subcommittee and the full Governmental Affairs Committee. The bill enhances the position and role of the Office vis-a-vis the rest of the executive branch; it clarifies OGE's responsibilities and authority to order what has been called corrective action on the party of agencies and individuals; and it reauthorizes the Office for an additional 6 years.

OGE was created to "provide overall direction of executive branch policies related to preventing conflicts of interest." When OGE was initially authorized for 5 years in 1978, it was created as an office within the Office of Personnel Management, OPM. When it was reauthorized in 1983, we continued to house it in OPM but increased the Office's independence from OPM. This reauthorization completes the process begun in 1983 by establishing OGE as a separate executive agency outside of OPM.

OGE has always had unique and rather extraordinary responsibilities. It reviews the financial disclosure statements of the President and every Presidential appointee confirmed by the Senate to ensure that there are no conflicts or appearances of conflicts of interest between their official duties and their private interests. It is supposed to render judgments on the propriety of actions taken by some of the most powerful public officials in the country. When those actions are questionable, OGE has the responsibility to stand up and say so. It also reviews the ethics programs of individual agencies and, where necessary, directs the agencies on how to improve their operations. Since the executive branch ethics program is largely decentralized through the use of ethics officials designated by and housed in each agency, OGE has the important role of coordinating, monitoring, and providing support for these ethics officials on a governmentwide basis.

During the course of the subcommittee's hearings, several issues were raised that the bill addresses. Several witnesses urged that OGE should be made an independent agency because of the possible appearance of improper influence by OPM and in order to raise the stature of the Office vis-a-vis the other executive branch departments and agencies. The bill incorporates that suggestion and makes OGE a freestanding agency beginning in fiscal year 1990. The bill also enhances the stature of the OGE Director by raising the Director's position from level V to level III of the Executive Schedule. Currently, the OGE Director's position is below that of most departmental inspectors general.

Another suggestion of the hearing witnesses was to make the Director removable only "for good cause." Currently the Director serves at the pleasure of the President, and that carries the possibility that his or her actions will not appear to be free from possible undue influence. The bill as reported by the committee would make the Director removable only for good cause. However, Senators STEVENS and RUDMAN expressed concerns about this provision, and Senator STEVENS will be submitting an amendment, which will be accepted by the committee, to eliminate the good cause provision and continue to have the Director serve at the pleasure of the President. Although I believe that the OGE Director should be removable only for good cause, making OGE an independent agency and raising the status of the Director should go far toward making the Office free from undue influence and a stronger voice in the executive branch ethics system. The operation of the Office over the next few years with these changes in effect should disclose whether the additional protection of good cause removal is needed.

Another significant issue discussed at the hearings was the role of the OGE Director in ordering corrective action. Section 402(b)(9) of the current statute states that the OGE Director has responsibility for "ordering corrective action on the part of agencies and employees which the Director deems necessary." There has been some uncertainty as to what that authority includes. The bill tries to clarify that authority. In so doing, we do not intend to expand the Director's authority or limit the jurisdiction of the Department of Justice or any other investigatory or law enforcement entity. The bill gives the OGE Director the authority to investigate possible violations of the standards of conduct and the responsibility to order an individual Federal employee to take whatever action may be necessary to eliminate the appearance of or an actual conflict of interest, including requiring such steps as divestiture or recusal. Should the employee fail to take such action, the bill gives OGE the responsibility to notify the employee's agency head or, in appropriate cases, the President. It also gives the OGE Director the authority to recommend to an agency head that he or she take administrative action against an employee where appropriate. Such recommended action could include a letter of reprimand, suspension, or even termination. If an agency head fails to take appropriate action pursuant to the Director's recommendation, the Director is required to notify the President.

OGE has always had the inherent authority to develop and provide training for Federal employees on the standards of conduct. Witnesses at our hearings emphasized the importance of ethics training, particularly for political appointees prior to their assuming office. The bill therefore specifically requires OGE to train incoming political appointees on their ethical responsibilities at the front end of the process—after they are nominated but before they are confirmed. It also makes explicit OGE's continuing role in helping agency ethics officials train current Federal employees on the standards of conduct and ethics laws.

Another important element in the executive branch ethics system highlighted at the hearing is the designated agency ethics official or DAEO. Concerns were expressed that many of the DAEO's have virtually no employment protections—that is, they can be fired at the will of the agency head—yet their job is to assess the ethical propriety of top agency officials' actions and report any possible criminal violations to the Deparment to Justice. Such protections are important in giving the DAEO's greater confidence that they will not be punished for making some of the hard judgment calls we want them to make. The bill as reported by the committee sought to establish certain protections for DAEO's by making the position of DAEO a career-reserve position in the Senior Executive Service, thereby allowing the DAEO to appeal adverse personnel actions to the Merit Systems Protection Board. The committee amendment offered by myself and Senator Cohen modifies that provisions, however, to eliminate the requirement of a career-reserve position but to permit DAEO's to appeal such actions to MSPB like employees in the competitive service.

The committee amendment offered by myself and Senator Cohen would also make other changes in the bill. As reported by the committee, the bill would increase OGE's authorized appropriation from $2 million to $2.5 million in fiscal 1989 and to $3 million for the next 5 fiscal years. Those figures did not include certain administrative costs currently incurred by OPM on behalf of OGE, such as rent, postage, printing, and telephones, which OPM will not have to pay after OGE becomes a separate agency. For that reason it was necessary to increase OGE's authority by the amount necessary to cover these costs. It is expected that these administrative costs now incurred by OPM will be deducted from OPM's appropriation once they are added to OGE's appropriation. The amendment, therefore, increases OGE's authorized appropriation limits for fiscal years 1990 through 1994 to $3.5 million.

The amendment would also make certain technical changes. It makes it clear that OGE's role is to assist agencies in providing training to employees who are not political appointees, rather than to provide that training directly as the bill as reported may have implied. The amendment also standardizes references to agency ethics counselors and officials.

Mr. President, OGE plays a vital role in the execution of our conflict of interest laws and regulations. I am pleased to sponsor and bring to the Senate, along with my colleague and friend Senator Cohen, the bill that will not only renew our commitment to the work of this office, but strengthen its authority.

Mr. COHEN. Mr. President, I am pleased that the Senate is considering S. 2344, a bill to reauthorize the Office of Government Ethics for 6 years, and I strongly urge its passage. Senator Levin and I introduced this bill after holding hearings in the oversight of Government Management Subcommittee on how well the OGE has operated since its last reauthorization in 1983.

Strong ethics laws and rules are crucial to assure the public that its officials and government employees are acting in the public's interest, not just for personal gain, and that public officials' decisions are not tainted by conflicts of interest.

Time and time again, the Senate has reaffirmed its commitment to strong ethics rules as necessary to prevent conflicts of interest that can dangerously erode the public's trust in its government. Key to the successful administration of the ethics laws is the Office of Government Ethics, a very small office which is charged with the very large statutory mandate to oversee and coordinate the ethics program of the entire executive branch.

Established by the Ethics in Government Act of 1978, the Office of Government Ethics has the responsibility to provide "overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency." The statutory responsibilities of the Director of the OGE require him to assume many roles, including that of an advisor to agency personnel, an interpreter of the ethics laws and regulations, as well as an enforcer and adjudicator when there has been a possible violation of the ethics laws or standards.

These are, no doubt, very difficult responsibilities that the Congress has thrust upon the Office of Government Ethics and its Director. They are also awesome responsibilities when one considers that the reputations of public servants can be irreparably sullied if this office or its director makes ethical judgments too hastily. Nevertheless, it is crucial that a strong system be in place to deal swiftly and fairly with allegations of ethical misconduct by officials and employees.

Passage of S. 2344 will guarantee the continuation of a central ethics office to direct, monitor and enforce compliance with ethics requirements by agencies and individuals. In addition to reauthorizing the office, this legislation amends the law to clarify and strengthen the authority of the OGE in dealing with and curing conflicts of interest when they occur. The bill, for example, enhances the independence of the OGE by making it a separate agency, outside the Office of Personnel Management where it is now located. The bill also upgrades the position of the OGE Director and clarifies the authority of the Director to order and recommend actions for individuals to take in order to resolve conflicts of interest. Similarly, the bill clarifies the OGE's authority to order agencies to conform their ethics programs to comply with OGE standards.

Mr. President, as chairman and ranking minority member on the subcommittee with jurisdiction over this office, Senator Levin and I have monitored the performance of the Office of Government Ethics since its last reauthorization 5 years ago. While the OGE has performed many important functions during this period, this legislation is necessary to make changes to, and clarifications in, the Ethics in Government Act in order to achieve a more consistent and effective application of the ethics laws to officials and employees in the executive branch.

This year, the Office of Government Ethics will be especially important during the massive transition that will occur as the Reagan administration comes to a close. There will be thousands of new officials and Federal employees coming into the new administration. The OGE will perform the critical tasks of reviewing and approving the financial disclosure forms of countless political appointees, and of educating these officials about their financial disclosure and ethics requirements. This office must be equipped with adequate authority and resources if we want to be sure that the new cadre of administration officials, from whichever party holds the White House, starts off on solid ethical footing, free from conflicts of interest. The tone must be set from the first day of the administration, and a viable OGE is a crucial factor in this process.

I urge my colleagues to give their full support to this important legislation and urge its immediate passage.

The PRESIDING OFFICER. Without objection, the committee amendments are considered en bloc and agreed to en bloc.

AMENDMENT NO. 2488

(Purpose: To provide for removal and suspension appeal rights of agency ethics officials, to include agency ethics officials in certain administrative functions, and for other purposes)

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Senators Levin and Cohen and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], on behalf of Mr. LEVIN and Mr. COHEN, proposes an amendment numbered 2488.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 12, strike out all after the comma through line 19 and insert in lieu thereof: "who shall have the same rights of appeal in such position as an employee as defined under section 7511(a)(1)(A) of title 5, United States Code, except that such official need not be in the competitive service."

On page 7, line 4, insert "assisting agencies in" after "(7)".

On page 8, line 2, strike out "counselors" and insert in lieu thereof "officials, counselors,".

On page 8, line 8, strike out "counselors" and insert in lieu thereof "officials, counselors,".

On page 8, line 14, insert before the comma "and counselors".

On page 8, line 16, insert before the semicomma "and counselors".

On page 15, line 8, strike out "$3,000,000" and insert in lieu thereof "$3,500,000".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2488) was agreed to.

AMENDMENT NO. 2489

(Purpose: To provide that the President may remove the Director of the Office of Government Ethics from office.)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator STEVENS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. STEVENS, proposes an amendment numbered 2489.

On page 3, lines 12, and 13, strike out "shall be removed from office during such term only for good cause" and insert in lieu thereof "may be removed from office by the President at the discretion of the President".

Mr. STEVENS. Mr. President, today I am pleased to join with my colleagues on the Committee on Governmental Affairs in recommending to the Senate that it agree to the passage of the bill, S. 2344, which will reauthorize the Office of Government Ethics. Testimony received by the Committee on Governmental Affairs unequivocally demonstrated that the Office of Government Ethics has served a vital role within the executive branch and the Senate can be assured that OGE will continue to do so under this reauthorization.

When the committee agreed, unanimously, to report S. 2344 to the Senate, Senator WARREN RUDMAN and I expressed some limited concern with two sections of the bill. Subsequent to the committee's mark up of the bill, our concerns have been discussed with Senators LEVIN and COHEN and all of us have now reached an agreement on the disposition of those concerns. For their understanding and interest in reaching a solution on these matters, I wish to extend my thanks to Senators LEVIN and COHEN.

At the committee's mark up of S. 2344, Senator RUDMAN and I expressed the view that this bill might lead to unintended confusion on the part of the various executive branch agencies and offices which have an interest in "conflict of interest" matters. It has been argued that confusion might arise with respect to the specific jurisdiction of the Office of Government Ethics and its relationship to the Criminal Division of the Department of Justice, the office of any future independent counsel, and the various agency inspectors general. The potential for jurisdictional conflicts between these offices has, we trust, been eliminated by explanatory language on jurisdictional matters which has been included in the report which accompanies this bill.

The other issue which Senator RUDMAN and I raised was that of the right of the President to terminate the Director of the Office of Government Ethics at the discretion of the President. In our view, the Director is clearly an executive branch official exercising a clearly executive function: the implementation of various provisions of the Ethics in Government Act, Public Law 95-521, as amended, and the promulgation and enforcement of Federal personnel regulations in the area of "conflict of interest." That view is shared by the Department of Justice, as outlined in a letter to Senator LEVIN from the Department, dated May 18, 1988, which is included in the report accompanying this bill.

As reported, S. 2344 provided that the President could only remove the Director of the Office of Government Ethics "for good cause." This restriction on the power of the President, a right granted to the President in the Constitution, must, in our view, be removed from the bill. In that context, this amendment, cosponsored by Senator RUDMAN, is acceptable to the managers of S. 2344.

Mr. President, I am pleased that our amendment has been accepted. Its adoption will make S. 2344 a better bill. I thank Senators RUDMAN, LEVIN, and COHEN for all of their assistance throughout the consideration of this legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2489) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Office of Government Ethics Reauthorization Act of 1988".

OFFICE OF GOVERNMENT ETHICS AS INDEPENDENT AGENCY

SEC. 2. The Ethics in Government Act of 1978 (5 U.S.C. App. 5) (hereafter in this Act referred to as "the Act") is amended—

(1) in section 401(a) by striking out "in the Office of Personnel Management an office" and inserting in lieu thereof "in the executive branch of the United States an executive agency";

(2) by adding at the end of section 401 the following new subsection:

"(c) The Director may—

"(1) appoint officers and employees, including attorneys, for the agency in accordance with chapter 51 and subchapter 3 of chapter 53 of title 5, United States Code; and

"(2) contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such other Federal agency as the Director determines appropriate, for which payment shall be made in advance, or by reimbursement from funds of the Office of Government Ethics, in such amounts as may be agreed upon by the Director and the head of the agency providing such services."; and

(3) in section 402(a) by striking out ", in consultation with the Office of Personnel Management,".

TERM OF OFFICE FOR THE DIRECTOR OF THE OFFICE OF GOVERNMENT ETHICS

SEC. 3. Section 401(b) of the Act is amended by striking out "Effective with respect to any individual appointed or reappointed by the President as Director on or after October 1, 1983, the term of service of the Director shall be five years." and inserting in lieu thereof "The Director shall serve for a term of five years and may be removed from office by the President at the discretion of the President.".

AUTHORITY AND FUNCTIONS

SEC. 4. Section 402(b) of the Act is amended to read as follows:

"(b) The responsibilities of the Director shall include—

"(1) developing, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Director pertaining to conflicts of interest and ethics in the executive branch, including rules and regulations for—

"(A) the filing, review, and public availability of financial statements filed pursuant to title II of this Act;

"(B) the identification and resolution of conflicts of interest, and appearances of conflicts of interest, including procedures for ordering or recommending specific action pursuant to section 403 of this title; and

"(C) the selection by the head of each executive agency of an individual as the designated agency ethics official who shall have the same rights of appeal in such position as an employee as defined under section 7511(a)(1)(A) of title 5, United States Code, except that such official need not be in the competitive service;

"(2) interpreting rules and regulations issued by the President or the Director governing conflict of interest and ethical problems and the filing of financial statements;

"(3) assisting the Attorney General in evaluating the effectiveness of the conflict of interest laws and in recommending appropriate amendments; and

"(4) evaluating, with the assistance of the Attorney General, the need for changes in rules and regulations issued by the Director, the President, and the agencies regarding conflicts of interest and standards of conduct;

"(5) providing information on and promoting understanding of ethical standards in executive agencies;

"(6) training incoming political appointees on ethics laws, rules, regulations, and standards of conduct;

"(7) assisting agencies in training officers and employees on ethics laws, rules, regulations, and standards of conduct;

"(8)(A) establishing a formal advisory opinion service to give advisory opinions on matters of general applicability or on important matters of first impression;

"(B) providing interested parties with an opportunity to transmit written comments with respect to an advisory opinion under clause (i), before (to the extent practicable) giving such opinion; and

"(C) compiling, publishing, and making such advisory opinions available to agency ethics officials, counselors, and the public;

"(9) consulting with agency ethics officials, counselors, and other responsible officials regarding the resolution of conflict of interest problems in individual cases;

"(10) providing support to agency ethics officials and counselors, including helping to guarantee the integrity of the decisions of such officials and counselors;

"(11) monitoring and investigating compliance with the public financial disclosure requirements of title II of this Act by current and incoming officers and employees of the executive branch and executive agency officials responsible for receiving, reviewing, and making available financial statements filed pursuant to such title;

"(12) monitoring and investigating individual and agency compliance with any additional financial reporting and internal review requirements established by law for the executive branch;

"(13) conducting a review of financial statements to determine whether such statements reveal possible violations of applicable conflict of interest laws, rules, or regulations or employee standards of conduct and ordering or recommending specific action pursuant to section 403 of this title;

"(14) requiring such reports from executive agencies as the Director determines necessary;

"(15) in accordance with section 403, investigating and making findings on alleged violations of applicable conflict of interest rules and regulations and employee standards of conduct by any executive branch officer or employee, as the Director determines appropriate, and ordering action, recommending action, or both;

"(16) ordering the head of any agency to conform the ethics program of such agency with the Office of Government Ethics requirements, as the Director determines appropriate; and

"(17) cooperating with the Attorney General in developing an effective system for—

"(A) reporting allegations of violations of the conflict of interest laws to the Attorney General, as required under section 535 of title 28, United States Code; and

"(B) ensuring that the Director has notice of any such allegation when such allegation is referred to the Attorney General.".

ORDERING AND RECOMMENDING ACTION

SEC. 5. The Act is amended by redesignating sections 403 through 407 as sections 404 through 408, respectively, and by inserting after section 402 the following new section:

"ORDERING AND RECOMMENDING ACTION

"SEC. 403. (a)(1) Pursuant to the provisions of section 402(b)(15), the Director may conduct an investigation and make findings concerning any allegation of violations. Prior to the issuance of any such finding, the Director shall provide the officer or employee who is the subject of the allegation with an opportunity to comment, either orally or in writing, and, if requested by such officer or employee, an opportunity for a hearing.

"(2) The Director shall send any such finding to the officer or employee involved in the allegation and the head of the agency of such officer or employee. If such officer or employee is the head of an agency, the Director shall send such finding to the President.

"(b)(1) If the Director finds that a violation of the conflict of interest rules or regulations or of the standards of conduct is occurring, the Director shall order the officer or employee to take specific action to end the violation, including but not limited to, divestiture, recusal, or the establishment of a blind trust.

"(2) The Director shall send a written copy of such order to the head of the agency of such officer or employee. If such officer or employee is the head of an agency, the Director shall send a written copy of such order to the President.

"(c) If the Director finds that a violation of the conflict of interest rules or regulations or of the standards of conduct is occurring or has occurred, the Director may recommend to the head of the agency of such officer or employee that such agency head take a specific administrative action against the officer or employee, including but not limited to reprimand, suspension, demotion, or dismissal. If such officer or employee is the head of an agency, the Director may recommend that the President take such action.

"(d)(1) If the Director determines that an officer or employee has not taken appropriate action within a reasonable period of time after the Director orders such action under subsection (b), the Director shall notify in writing the head of the agency of such officer or employee of such determination. If such officer or employee is the head of an agency, the Director shall notify the President.

"(2) If the Director determines that the head of an agency has not taken appropriate administrative action within a reasonable period of time after the Director recommends action under subsection (c), the Director shall notify in writing the President of such determination.".

"(e) Notwithstanding any other provision of law, no record developed pursuant to the authority of this section shall be made available pursuant to section 552(a)(3) of title 5, United States Code, unless the request for such information is specific, both as to the identity of the individual to whom such records relate and the subject matter of any alleged violation to which such records relate, except that nothing in this subsection shall affect the application of the provisions of section 552(b) of title 5, United States Code, to any record so identified.".

ADMINISTRATIVE PROVISIONS

SEC. 6. Section 404 of the Act (as redesignated by section 5 of this Act) is amended by striking out "pursuant to subsection (b)(3) and (b)(4) of section 402." and inserting in lieu thereof "pursuant to the Office of Government Ethics responsibilities under this Act. The head of any agency may detail such personnel and furnish such services, with or without reimbursement, as the Director may request to carry out the provisions of this Act.".

RULES AND REGULATIONS

SEC. 7. Section 405 of the Act (as redesignated by section 5 of this Act) is amended by inserting a heading to read as follows:

"RULES AND REGULATIONS"

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. Section 406 of the Act (as redesignated by section 5 of this Act) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof:

"(1) not to exceed $2,500,000 for the fiscal year ending September 30, 1989; and

"(2) not to exceed $3,500,000 for each of the five fiscal years thereafter.".

ANNUAL PAY OF DIRECTOR

SEC. 9. Section 407 of the Act is amended to read as follows:

"ANNUAL PAY OF DIRECTOR

"SEC. 407. Chapter 53 of title 5, United States Code, is amended—

"(1) in section 5316 by striking out:

'Director of the Office of Government Ethics.'; and

"(2) in section 5314 by adding at the end thereof:

'Director of the Office of Government Ethics.'".

EFFECTIVE DATES

SEC. 10. The provisions of this Act shall be effective on October 1, 1988, except the amendments made by section 2 of this Act shall be effective on October 1, 1989.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO REPRINT H.R. 4776 AND TAKING CERTAIN ACTION IN RESPECT THERETO

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 4776 be reprinted and as such it have pending thereto the following committee amendments in the form and manner in the document that I send to the desk, and that any language in H.R. 4776 not appearing in S. 2562 be the subject of proposed amendments to strike.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT AMENDMENTS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2188.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2188) entitled "An Act to amend section 307 of the Federal Employees' Retirement System Act of 1986", do pass with the following amendments:

Page 1, after line 2, insert:

SECTION 1. USE OF "NORMAL-COST PERCENTAGE".

Page 1, line 3, strike out "That section", and insert: Section

Page 2, after line 17, insert:

SEC. 2. TECHNICAL AMENDMENT TO SECTION 8438 OF TITLE 5, UNITED STATES CODE.

(a) Amendment.—Section 8438(e)(3)(A) of title 5, United States Code, is amended by striking "and the earnings attributable to the investment of such sums".

(b) Applicability.—The amendment made by subsection (a) shall apply with respect to earnings attributable to contributions made to the Thrift Savings Fund on or after April 1, 1987.

SEC. 3. TECHNICAL AMENDMENT TO SECTION 8477 OF TITLE 5, UNITED STATES CODE.

(a) Amendment.—Section 8477(e) of title 5, United States Code, is amended—

(1) in paragraph (3)(C)(ii)—

(A) by striking "28, if" and inserting "28, provided that"; and

(B) by striking "is exclusive of" and inserting "shall be exclusive of"; and

(2) in paragraph (5), by striking "paragraphs (3) and (4)" and inserting "paragraph (3)".

(b) Applicability.—Section 8477(e) of title 5, United States Code, as amended by subsection (a), shall apply to any civil action or proceeding arising from any act or omission occurring on or after October 1, 1986.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

ARIZONA-FLORIDA LAND EXCHANGE

Mr. BYRD. Mr. President, I ask unanimous consent that S. 2420, the Arizona-Florida land exchange bill, be jointly referred to the Committee on Energy and Natural Resources, the Committee on Indian Affairs, and the Committee on Veterans' Affairs. I further ask unanimous consent that if the Energy Committee orders the bill to be reported, then the Veterans' Affairs Committee and the Indian Affairs Committee shall have 20 calendar days to report the bill, after which the bill will be automatically discharged if those committees have not acted.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CONGRATULATIONS TO KING BHUMIBOL ADULYADEJ

Mr. DOLE. Mr. President, I send a concurrent resolution to the desk on behalf of Senator Hatfield and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the concurrent resolution.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 128) expressing the sense of the Senate concerning His Majesty, King Bhumibol Adulyadej, of Thailand.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. HATFIELD. Mr. President, it is, indeed, my pleasure to submit today a concurrent resolution paying tribute to His Majesty, King Bhumibol Adulyadej of the Kingdom of Thailand, who on July 2 will become the longest reigning monarch in the history of Thailand.

I had the pleasure several years ago to be received by the King and Her Majesty, Queen Sirikit, at their summer residence and witnessed first hand their graciousness and hospitality. In my trips to Thailand in 1982, 1985, and 1986, I was amazed to see the steady improvement in the standard of living of the Thai people, and the steady growth of the economy. There is no question that Thailand's 10-year commitment to providing shelter and protection for the refugees fleeing Laos, Cambodia, and Vietnam carries the full support of the royal family. I have never worried about the royal Thai Government ending its policy of asylum for Indochinese refugees because such an action would be inconsistent with the great humanitarianism that the royal family has through its example encouraged its people to embrace.

On his coronation day, King Bhumibol Adulyadej stated, "We shall reign with righteousness, for the benefit and happiness of the Siamese people." In his 42 years as monarch of Thailand, King Bhumibol Adulyadej has upheld this promise and become one of this century's most interesting public figures. His practice of generosity, of moral conduct, self-sacrifice, and especially his perseverance in the Buddhist virtue of Ahimsa, or nonviolence, distinguish King Bhumibol Adulyadej as a model for his people, and as a vigilant shepherd of Thailand's constitutional monarchy.

I am pleased to submit this concurrent resolution, and I urge its immediate adoption.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 128) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. Con. Res. 128

Whereas on July 2, 1988, His Majesty King Bhumibol Adulyadej, Monarch of the Kingdom of Thailand, will become the longest reigning monarch in Thai history;

Whereas King Bhumibol Adulyadej follows in the line of other great and venerable monarchs, such as his great grandfather, His Majesty King Chulalongkorn, whose 42 years and 22 day reign as king is Thailand's longest;

Whereas during the reign of His Majesty King Bhumibol Adulyadej, the Kingdom of Thailand has experienced sustained economic development throughout the country, such that the United Nations economic survey for the last two years cited Thailand as Southeast Asia's fastest growing economy;

Whereas this steady growth has led the Kingdom of Thailand to be in a position to join the ranks of "newly industrialized countries" signaling a new era of prosperity for the people of Thailand;

Whereas the leadership of His Majesty King Bhumibol Adulyadej has been distinguished by humanitarianism, both in meeting the needs of the Thai people, and in providing shelter and protection of the hundreds of thousands of refugees who have fled to Thailand and live in refugee camps there;

Whereas the United States has a special relationship with His Majesty King Bhumibol Adulyadej because of his birthplace in Cambridge, Massachusetts, and the Congress by joint resolution commemorated his 60th birthday on December 4, 1987;

Whereas Her Majesty Queen Sirikit, and Princess Ubol Ratana, Crown Prince Maha Vajiralongkorn, Princess Maha Chakri Sirindhorn, and Princess Chulabhorn have joined with the King to distinguish the Royal Family as one devoted to the greatest principles and traditions of Thailand, and to its Constitution;

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that his Majesty King Bhumibol Adulyadej, the ninth monarch of the Royal House of Chakri, be congratulated for becoming the longest reigning monarch in the history of the Kingdom of Thailand, and that His Majesty enjoy a continued reign of prosperity, peace, and happiness for the Royal Family and for the people of Thailand.

Mr. DOLE. I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—S. 1993

Mr. BYRD. Mr. President, I ask unanimous consent that during the consideration of Calendar Order No. 753, S. 1993, there be 30 minutes of debate in order for consideration of the bill, equally divided and controlled between Mr. BUMPERS and Mr. WEICKER; that the following amendments be the only amendments in order with the following limitations on time: an amendment by Mr. NUNN, 10 minutes, and that amendment is to be identified as Pilot Preferred Surety Bond Guarantee Program; an amendment by Mr. DIXON on which there will be 10 minutes relating to liquidated damages on subcontracting plans; an amendment by Mr. HARKIN relating to modifications of contracts on which there will be 10 minutes; that there be 10 minutes on an amendment by Mr. BUMPERS relating to the geographical distribution of contracts; there be 10 minutes on a Bumpers amendment which is a technical amendment relating to size standards; that no other amendments be in order with the exception of the adoption of the committee-reported substitute; that there be 20 minutes, equally divided, on any debatable motion, appeal, or point of order submitted by the Chair; that no motion to recommit with or without instructions be in order; that the agreement be in the usual form; and that following third reading of the bill, the Senate proceed to the immediate consideration of Calendar Order No. 754, H.R. 1807; that all after the enacting clause be stricken and the text of S. 1993, as amended, if amended, be inserted; that the bill be read for a third time with no intervening debate or action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That during the consideration of S. 1993, a bill to reform and strengthen the Minority Small Business Development Program, the following amendments be the only amendments in order, with the following time limitations:

Nunn amendment, relative to pilot preferred surety bond guarantee program, 10 minutes

Dixon amendment, relative to liquidated damages on subcontracting plans, 10 minutes

Harkin amendment, relative to modifications of contracts, 10 minutes

Bumpers amendment, relative to the geographical distribution of contracts, 10 minutes

Bumpers amendment (technical), relative to size standards, 10 minutes

Ordered further, That no other amendments be in order, with the exception of the adoption of the committee reported substitute.

Ordered further, That there be 20 minutes on any debatable motion, appeal, or point of order if submitted by the Chair for debate.

Ordered further, That no motion to recommit with or without instructions be in order.

Ordered further, That there be 30 minutes debate on the bill, to be equally divided and controlled between the Senator from Arkansas (Mr. Bumpers) and the Senator from Connecticut (Mr. Weicker).

Ordered further, That the agreement be in the usual form.

Ordered further, That following third reading of the bill, the Senate proceed to the immediate consideration of H.R. 1807, that all after the enacting clause be stricken and that the text of S. 1993, as amended, be inserted, and that the bill be read for the third time with no intervening debate or action.

Mr. BYRD. Mr. President, there will be a rollcall vote on the final passage of H.R. 1807. That rollcall vote will be ordered by the usual show of seconds.

CORRECT ENROLLMENT OF S. RES. 430

Mr. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to correct the enrollment of Senate Resolution 430 agreed to by the Senate on June 23, 1988, with the following changes which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The changes are as follows:

A resolution (S. Res. 430) to order the printing of 300 additional copies of the Senate Committee Print entitled "The Older Americans Act Amendments of 1987: A Summary of Provisions"

Resolved, That 300 additional copies of Senate Committee Print 100-68, 100th Congress, 1st Session, entitled "The Older Americans Act Amendments of 1987: A Summary of Provisions" shall be printed for use by the Special Committee on Aging.

CAPTAIN NORDEEN

Mr. DOLE. Mr. President, last month I was joined by Senators GRASSLEY, PRESSLER, and NICKLES on a visit to Greece. Our purpose was to examine firsthand the state of United States-Greek relations, and the future of our important military bases there.

In doing this we were privileged to have the help of the U.S. defense attaché in Athens—a knowledgeable, professional, and friendly captain in the U.S. Navy.

His name was William Edward Nordeen.

This morning Captain Nordeen was murdered on an Athens street not far from his home. People everywhere should be repulsed and angry at this vicious and cowardly attack.

Why was Bill Nordeen murdered? Because he had dedicated his life to defending freedom as an officer in the U.S. Navy.

Captain Nordeen distinguished himself in operational and headquarters jobs alike. He served as a pilot in a number of assignments worldwide, and he earned the Bronze Star for service in Vietnam. The Navy recognized his experience and talent in asking him to command a naval air squadron in the Philippines.

Then, 3 years ago, Bill Nordeen was asked to double as our defense attaché and naval attaché in Athens. Everyone who worked with Bill at our Embassy there, and at the Department of Defense, will confirm what I observed briefly during my visit: Bill Nordeen was a great naval officer, a skillful diplomat, and a good friend.

Today Bill's wife, Patricia, and his daughter, Annabelle, should know that we remember Bill this way, that we deeply appreciate the contributions he made, and that our prayers are with him.

But there is one more step which can be taken in Bill Nordeen's name. His enemies are the enemies of freedom. It is time for decent people everywhere to recognize that there is no polite middle position on terrorism. Every country should join hands to fight terrorists as the murderers they are.

If Bill's death helps bring that about, it will not have been as senseless as it seems today.

ORDERS FOR WEDNESDAY

ORDER FOR ADJOURNMENT UNTIL 9:30 TOMORROW MORNING

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stands in adjournment until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTIONS OR RESOLUTIONS OVER UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that no motions or resolutions over under the rule come over tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the call of the calendar on tomorrow be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALLOCATION OF TIME ON TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that following the two leaders on tomorrow, the time between that point and the expiration of 1 hour be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will come in at 9:30 tomorrow morning.

There will be 1 hour under the cloture rule, after which the clerk will call the roll to establish a quorum.

Upon the establishment of a quorum, which will be around 10:45 a.m., the Senate will then proceed to vote on the motion to invoke cloture on the plant-closing legislation. If cloture is invoked, plant closing will be

the business before the Senate, to the exclusion of all other business. If cloture is not invoked, the Senate will continue debate on the plant-closing bill. Rollcall votes are expected throughout the day on tomorrow.

Does the distinguished Republican leader have any statement that he wishes to make or any further business he would like to transact?

Mr. DOLE. I have no further business.

Mr. BYRD. I thank my friend.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BYRD. Mr. President, I move that the Senate stand in adjournment until the hour of 9:30 tomorrow morning.

The motion was agreed to; and at 7:59 p.m., the Senate adjourned until tomorrow, Wednesday, June 29, 1988, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, June 28, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, gracious God, for the hostages of our world who may feel forgotten in their isolation and who are separated from those they love. We remember, too, their families who yearn for homecoming and reunion. May Your spirit of hope which transcends every human barrier comfort those who fear, give strength to those who are faint, and peace to every soul. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will announce that it is his intention to postpone 1-minute speeches, as well as votes on the suspensions considered yesterday, until after the completion of the two appropriations bills today.

PREVENTION OF ABUSES IN SUPPLEMENTAL LOANS FOR STUDENTS PROGRAM

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4639) to amend the Higher Education Act of 1965 to prevent abuses in the Supplemental Loans for Students Program under part B of title IV of the Higher Education Act of 1965, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment: Strike out all after the enacting clause and insert:

SECTION 1. PELL GRANT APPLICATION REQUIRED FOR GSL AND SLS LOANS.

Section 484(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)(1)) is amended—

(1) by striking out "section 428A, 428B, or 428C" and inserting "section 428B or 428C";

(2) by striking out subparagraph (A) and inserting the following:

"(A)(i) have received a determination of eligibility or ineligibility for a Pell Grant under such subpart 1 for such period of enrollment; and (ii) if determined to be eligible, have filed an application for a Pell Grant for such enrollment period; or".

SEC. 2. GSL LOAN APPLICATION REQUIRED FOR SLS LOANS.

Section 484(b) of the Higher Education Act of 1965 is further amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) In order to be eligible to receive any loan under section 428A for any period of enrollment, a student shall—

"(A) have received a determination of need for a loan under section 428(a)(2)(B) of this title; and

"(B) if determined to have need for a loan under section 428, have applied for such a loan.".

SEC. 3. DETERMINATION OF SLS LOAN AMOUNTS.

Section 428A(b)(3) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(b)(3)) is amended by striking out "minus (B)" and inserting "minus (B) the total of (i) any loan for which the student is eligible under section 428 and (ii)".

SEC. 4. RESTRICTIONS ON SLS LOAN ELIGIBILITY.

Section 428A(a) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(a)) is amended—

(1) in the last sentence, by striking "extenuating" and inserting "exceptional"; and

(2) by adding at the end the following: "If the financial aid administrator makes such a determination, appropriate documentation of such determination shall be maintained in the institution's records to support such determination.".

SEC. 5. SLS LOAN DISBURSEMENT.

(a) DISBURSEMENT REQUIREMENTS.—Section 428A(b) of the Higher Education Act of 1965 is further amended by inserting after paragraph (3) the following:

"(4) DISBURSEMENT.—Any loan under this section shall be disbursed in the manner required by subparagraphs (N) and (O) of section 428(b)(1).".

(b) CONFORMING AMENDMENTS.—(1) Section 427(b)(2) of such Act (20 U.S.C. 1077(b)(2)) is amended by striking out "section 428A, 428B, or 428C" and inserting "section 428B or 428C".

(2) Section 428(b)(1)(O) of such Act (20 U.S.C. 1078(b)(1)(O)) is amended by striking out "section 428A, 428B, or 428C" and inserting "section 428B or 428C".

(3) Section 428A(c) of such Act (20 U.S.C. 1078-1(c)) is amended—

(A) in paragraph (1), by inserting after "disbursed by the lender," the following: "or, if the loan is disbursed in multiple installments, not later than 60 days after the disbursement of the last such installment,";

(B) in paragraph (2), by inserting after "made under this section" the following: "which are disbursed in installments or,"; and

(C) in such paragraph (2) by inserting a comma after "428(b)(1)(M)(i)".

SEC. 6. TECHNICAL AMENDMENT CONCERNING TEACHER TRAINING PROGRAM ELIGIBILITY FOR GSL PROGRAM.

Section 484 of the Act is further amended—

(1) in subsection (a)(1), by striking out "subsection (b)(2)" and inserting in lieu thereof "subsections (b)(3) and (b)(4)"; and

(2) by adding at the end of subsection (b) the following new paragraph:

"(4) A student who—

"(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution, and

"(B) is enrolled or accepted for enrollment in a program at an eligible institution necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B of this title.".

SEC. 7. TREATMENT OF TERRITORIAL AND FOREIGN TAX PAYMENTS FOR PURPOSES OF NEED ANALYSIS.

(a) PELL GRANT NEED ANALYSIS.—Section 411F of the Higher Education Act of 1965 (20 U.S.C. 1070a-6) is amended by adding at the end thereof the following:

"(17)(A) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as United States income taxes.

"(B) References in this subpart to the Internal Revenue Code of 1986, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in subparagraph (A), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may prescribe by regulation.".

(b) GENERAL NEED ANALYSIS PROVISIONS.—Section 480 of the Higher Education Act of 1965 (20 U.S.C. 1087vv) is amended by adding at the end thereof the following:

"(i) TREATMENT OF INCOME TAXES PAID TO OTHER JURISDICTIONS.—(1) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as Federal income taxes.

"(2) References in this part to the Internal Revenue Code of 1986, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in paragraph (1), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may prescribe by regulation.".

(c) TECHNICAL AMENDMENT.—The Higher Education Act of 1965 is amended by striking out "Internal Revenue Code of 1954"

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

each time it appears and inserting in lieu thereof "Internal Revenue Code of 1986".

SEC. 8. ROBERT T. STAFFORD STUDENT LOAN PROGRAM.

Section 421(c) of the Higher Education Act of 1965 (as amended by section 2601 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988) is amended by striking out "may" and inserting in lieu thereof "shall" and by adding at the end thereof the following new sentence: "Loans made under this part shall be known as 'Stafford Loans'.".

SEC. 9. MICRONESIA PROVISION.

Section 105(h) of the Compact of Free Association Act of 1985 (99 Stat. 1794) is amended by adding at the end thereof the following new paragraph:

"(5) Federal Education Grants.—Pursuant to section 224 of the Compact or section 224 of the Compact with Palau (as contained in title II of Public Law 99-658), the Pell Grant Program, the Supplemental Educational Opportunity Grant Program, and the College Work-Study Program (as authorized by title IV of the Higher Education Act of 1965) shall be extended to students who are, or will be, citizens of the Federated States of Micronesia, or the Marshall Islands and who attend postsecondary institutions in the United States, its territories and commonwealths, the Trust Territory of the Pacific Islands, the Federated States of Micronesia, or the Marshall Islands, except that this paragraph shall not apply to any student receiving assistance pursuant to section 223 of the Compact or section 223 of the Compact with Palau (as contained in title II of Public Law 99-658).".

SEC. 10. AMENDMENTS TO TITLE III.

(a) Historically Black College Eligibility for Part A Funds.—Section 312 of the Higher Education Act of 1965 (20 U.S.C. 1058) is amended by adding at the end thereof the following new subsection:

"(f) Historically Black College or University.—For the purposes of this section, no historically black college or university which is eligible for and receives funds under part B of this title is eligible for or may receive funds under this part.".

(b) New Part B Activities.—Section 323(a) of the Higher Education Act of 1965 (20 U.S.C. 1062) is amended—

(1) by inserting a comma and "and faculty development" after "exchanges" in paragraph (3); and

(2) by inserting after paragraph (6) the following new paragraphs:

"(7) Funds and administrative management, and acquisition of equipment for use in strengthening funds management.

"(8) Joint use of facilities, such as laboratories and libraries.".

(c) Title III Eligibility.—Section 322(2) of the Act is amended—

(1) by adding a comma after the word "accreditation"; and

(2) by inserting the following before the period at the end of the sentence a comma and the following: "except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs under section 321 of this title and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from the date of enactment of this exception, be considered a part B institution".

SEC. 11. INTERNSHIP DEFERMENT.

(a) In General.—Sections 427(a)(2)(C)(vii) and 428(b)(1)(M)(vii) of the Act are each amended by inserting "after January 1, 1986," after "service".

(b) Applicability.—The amendments made by subsection (a) and section 10(b) of the Higher Education Technical Amendments Act of 1987 shall apply with respect to loans made, insured or guaranteed under part B of the Higher Education Act of 1965, on, before, or after the date of enactment of the Higher Education Technical Amendments Act of 1987.

SEC. 12. DELAY OF REGULATORY EFFECTIVE DATE.

Section 600.3 (c) and (d) of title 34 of the Code of Federal Regulations, relating to new special conditions imposed on an institution's authority to measure academic programs in clock or credit hours, shall not take effect until July 1, 1989.

SEC. 13. EFFECTIVE DATE.

(a) General Rule.—Except as otherwise provided, the amendments made by this Act to title IV of the Higher Education Act of 1965 shall be effective for any loan for which the eligibility of the borrower is certified by the institution 30 days after the date of enactment of this Act.

(b) Special Rules.—(1) The amendments made by section 5 shall be effective with respect to loans made on or after October 1, 1988.

(2) The amendments made by sections 6, 7, 8, 9, 10, 11, and 12 shall take effect on the date of enactment of this Act.

Mr. WILLIAMS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

Mr. COLEMAN of Missouri. Mr. Speaker, reserving the right to object, I appreciate the opportunity to make a comment here on this very important legislation. As a principal sponsor of H.R. 4639, I support the chairman's motion today. This will tighten up the Supplemental Loans to Students Programs and make it more workable, more efficient, and more fair.

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Montana.

Mr. WILLIAMS. I thank the gentleman for yielding.

Mr. Speaker, the House passed H.R. 4639 earlier this month. The legislation is aimed at eliminating possible abuses in SLS loans, the Supplemental Student Loan Program. When the bill reached the Senate, five noncontroversial, technical amendments were added. These amendments would:

First, rename guaranteed student loans "Stafford Loans" after the senior Senator from Vermont;

Second, continue the eligibility of residents of Micronesia and Palau in the Pell, SEOG, and college-work study programs;

Third, continue the eligibility of the Shreveport campus of Southern University in Louisiana in the title III program;

Fourth, clarify the applicability of the 2-year GSL deferment for medical interns; and

Fifth, make the Pell and GSL eligibility and application provisions in the original House-passed bill effective 30 days after the enactment of this bill.

Mr. Speaker, I move that the House agree to these Senate amendments and pass H.R. 4639.

Mr. COLEMAN of Missouri. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Montana?

There was no objection.

A motion to reconsider was laid on the table.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1989

Mr. DIXON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the reconsideration of the bill (H.R. 4776) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania [Mr. Coughlin] and myself.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from California [Mr. Dixon].

The motion was agreed to.

The SPEAKER. The Chair designated the gentleman from Tennessee [Mr. Cooper] as Chairman of the Committee of the Whole and requests the gentleman from Mississippi [Mr. Montgomery] to assume the Chair temporarily.

□ 1205

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4776, with Mr. Montgomery (Chairman pro tempore) in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN pro tempore. Under the unanimous consent agreement, the gentleman from California [Mr. Dixon] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. Coughlin] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. Dixon].

Mr. DIXON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at this time we submit for your approval the annual District of Columbia appropriations bill for fiscal year 1989. As chairman of the Subcommittee on District of Columbia Appropriations, it is a privilege for me to serve with the members of this subcommittee. On our subcommittee, we have Mr. Natcher of Kentucky, Mr. Stokes of Ohio, Mr. AuCoin of Oregon, Mr. Watkins of Oklahoma, Mr. Hoyer of Maryland, Mr. Coughlin of Pennsylvania, Mr. Green of New York, and Mr. Regula of Ohio. Mr. Coughlin of Pennsylvania has served as the ranking member of our subcommittee for a number of years and I want him to know that I appreciate his help and his efforts to look after the Federal interest while at the same time not interfering with the home rule prerogatives of the District's 625,000 citizens.

And let me make note of the fact that this marks the 35th year that my good friend from Kentucky [Mr. Natcher], has served on the subcommittee—17 of those years he served as the chairman. Let me tell you, Mr. Chairman, that is no small achievement.

TOTAL DISTRICT BUDGET

The District of Columbia under this bill will have a total of $3,206,916,000 for fiscal year 1989. This is the same as the amended budget request and $129,569,000 above the amount appropriated for fiscal year 1988.

Let me point out here that this entire increase is financed with increases in local revenues; there is absolutely no increase in Federal revenues to the District.

And Mr. Chairman, the District is required by law to have a balanced budget with revenues equal to budget authority. The budget as submitted by District officials and as recommended by the committee is in balance.

FEDERAL FUNDS

In Federal funds, we recommend a total of $541,596,000 for fiscal year 1989. This is the same as the budget request but $8,404,000 below the Federal funds appropriated last year. Included in this amount is a Federal payment of $430.5 million, the same level as the city received last year and the same as the budget request. In fact, Mr. Chairman, this Federal payment is $14 million below the Federal payment for fiscal year 1987 when it was $444.5 million.

Permanent legislation was included in section 132 of Public Law 100-202, 100 Stat. 1329-101 and 102, excluding the Federal payment from the apportionment process and requiring the Secretary of the Treasury to pay the amount appropriated to the District government within 15 days after the beginning of the fiscal year or 15 days after the date of the enactment of the appropriating act, if later. A new section 132 is included on page 28 of this bill requiring the Mayor to pay the Secretary of the Treasury within 15 days of being notified by the Secretary of any amounts sequestered pursuant to a sequestration order where the percentage is applied to each Federal appropriation account rather than the aggregate total of the Federal funds.

We are recommending $36,726,000 to pay for water and sewer services furnished to Federal facilities. This amount was included in the President's budget as a nonadd item because the administration wants the District to set up another bureaucracy to start billing these agencies.

The Comptroller General issued an opinion on April 1, 1987, stating that the District government has no statutory authority to bill or accept payments directly from individual agencies for water and sewer services. A colloquy took place on the floor during the debate on last year's bill (page H5620, June 26, 1987) between the chairman of the Committee on the District of Columbia, Mr. Dellums, and the gentleman from Texas, Mr. Armey, confirming that the administration's proposal to bill agencies requires a change in the statute. However, as I mentioned last year. I do have reservations as to the practicality and the reasons for changing the present system.

In addition, a permanent provision was included in section 133 of last year's bill. Public Law 100-202, 101 Stat. 1329-102, providing automatic apportionment of this payment in four equal amounts with each amount to be paid to the District government by the Secretary of the Treasury on the first day of the beginning of the fiscal quarter involved without further justification by the District government.

A second permanent provision was included in section 136 of Public Law 100-202, 101 Stat. 1329-102, requiring the President's annual budgets to include the Mayor's estimates for water and water services and sewer services until the statute is changed.

We also recommend $52,070,000 as requested for the Federal contribution to the police officers, firefighters, teachers, and judges retirement funds, and $20 million as a transitional payment for St. Elizabeths Hospital. In addition, we recommend the budget request of $2,300,000 in Federal funds to reimburse the city for expenses incurred in connection with the upcoming Presidential inauguration.

DISTRICT FUNDS

As I mentioned a moment ago, the bill includes $3,206,916,000 in District funds for the operation of our Nation's Capital during fiscal year 1989. This amount consists of $3,044,380,000 in operating expenses and $162,536,000 in construction projects. This $3 billion in operating expenses is financed from two major sources: First, Federal funds of $541,596,000; and second, local revenues such as income taxes, property taxes, fines, and fees of $2,502,784,000. This means that more than 82 percent of the city's operating budget is financed with its own revenues while the balance of less than 18 percent comes from Federal funds. The construction program of $162,536,000 is financed through long-term bonds which the District has been able to issue since 1985 at interest rates lower than those it was paying when it had to borrow from the Federal Treasury.

GOVERNMENTAL DIRECTION AND SUPPORT

Mr. Chairman, for governmental direction and support, we recommend $118,439,000, an increase of $9,061,000 above last year's appropriation. Included in this allowance is $23,067,000 for the Department of Finance and Revenue which is responsible for administering and enforcing the District's tax laws.

ECONOMIC DEVELOPMENT AND REGULATION

Under the economic development and regulation appropriation, the bill includes $144,616,000, an increase of $10,686,000 over last year. We recommend $23,019,000 for the new department of public and assisted housing. This department was established by splitting up the department of housing and community development and transferring the responsibilities for low-cost public and subsidized housing to this new department. For the office of business and economic development, the bill includes $6,960,000. This office is responsible for stimulating and creating new employment opportunities and undertaking industrial development initiatives to provide employment centers. The department of consumer and regulatory affairs will receive $37,534,000 in this bill, including an increase of $160,000 to implement the Alcoholic Beverage Control Amendment Act.

PUBLIC SAFETY AND JUSTICE

The bill includes $735,528,000 for the various agencies and departments under the public safety and justice appropriation account. Our recommendations reflect an increase of $85,704,000 above last year's appropriation.

Mr. Chairman, for the Metropolitan Police Department, we recommend the full request of $207,157,000 which is

$28,344,000 more than last year. We also recommend an increase of 200 positions to assist the department in its efforts to combat increased drug trafficking and crime and to provide additional police protection in sections of the city which have experienced increases in crime.

We recommend $86,488,000 for the operation of the fire department in fiscal year 1989. This allowance includes $963,000 and 41 positions for automation needs and scheduling programs for the emergency ambulance service. There were two issues that were not clear at the time we reported our bill. One has to do with the size of the fire engine companies. They are presently operated with five persons and two pieces of equipment. The Mayor wants to reduce this to four persons and one piece of equipment because of new and improved technology in firefighting equipment and budget requirements. The Mayor feels that the staffing issue is a management prerogative while the employee representatives believe it is a collective-bargaining issue and have taken the matter to court where it is now pending. I have a letter from the Mayor dated June 13, 1988, stating that he is "prepared to maintain five person, two-engine companies * * * pending completion of the judicial process."

The second issue deals with the number of ambulance units during nonpeak periods. The Mayor's budget proposed 16 units while the city council directed that at least 22 ambulances be in service at all times. While this issue was not addressed in the Mayor's letter of June 13, we would urge the Mayor and council to resolve their differences in the best interest of the city.

The bill includes $76,953,000 for the operation of the District's court system. This is $6,181,000 above the fiscal year 1988 appropriation. For the public defender service, we recommend $5,583,000 which includes an increase of $565,000. As you well know, Mr. Chairman, the public defender provides legal representation for indigent persons in criminal, juvenile, and mental health commitment matters at both the trial and appellate levels. What amazes me though is the fact that although the public defender represents the more serious cases, its budget has increased by only 85 percent since 1981, going from $3,015,000 to $5,583,000; while the budget for private counsel for indigents has increased by 351 percent, from $3,665,000 to $16,542,000, over that same period of time. I believe a larger increase in the public defender budget is warranted and could be offset by a similar or larger reduction in the budget for private counsel. We look forward to seeing next year's budget for these two programs.

For the department of corrections, we recommend $197,347,000, an increase of $17,413,000. We are hopeful that the issue of where to locate a new prison in the District to be constructed with $50 million in Federal funds previously appropriated has been resolved. The other body had requested the General Accounting Office to review four additional sites. The GAO report basically eliminated two of the sites and the Federal agencies with jurisdiction over the remaining two sites rejected the District's requests that those properties be transferred to the city. In a letter to the committee dated March 31, 1988, the Mayor recommended that the new prison be constructed on the site initially selected. Considerable work had already been done at that site and we have directed the Mayor to move forward expeditiously. The committee has also directed the Mayor to meet regularly with area residents to discuss current and future plans concerning the new prison.

PUBLIC EDUCATION SYSTEM

The bill includes $623,424,000 for the District's public education system. This allowance reflects an increase of $52,396,000 above the appropriation for fiscal year 1988 and includes $452,403,000 for the board of education to operate the public school system which expects a modest increase in enrollment for the second year in a row after 17 years of steady decline. The committee is concerned with the quality and availability of information from the school system and urges school officials to be more forthcoming with this information to District officials as well as to the public.

HUMAN SUPPORT SERVICES

For the human support services appropriation, we recommend $744,901,000, an increase of $57,238,000. The bill includes $616,555,000 for the department of human services to provide social, economic and health support services to those in need. Mr. Chairman, we recommend an increase of $2.8 million for the AIDS Program including $250,000 to subsidize the cost of the AZT drug for those persons with AIDS who are not covered by health insurance or Medicaid and $1,950,000 to provide community-based services, health education and surveillance activities to those with AIDS and HIV infection and $600,000 for an AIDS outpatient clinic at D.C. General Hospital. We also recommend an increase of $2.7 million to expand the city's drug abuse treatment program.

For the office on aging, the bill includes $13,699,000 and includes an increase of $1,061,000 above last year's appropriation. This allowance includes $175,000 to establish Alzheimer's day care and weekend programs.

PUBLIC WORKS

Mr. Chairman, for the agencies and activities funded under the public works appropriation, we recommend $218,925,000. This reflects an increase of $7,999,000 over last year.

Included in this allowance is $1,945,000 for the second year's operation of the D.C. Taxicab Commission. Mr. Chairman, we on the committee believe that the people who use taxicabs are entitled to a cab driver they can communicate with and one who knows the geography of the District.

REPAYMENT OF GENERAL FUND DEFICIT

Once again the bill includes $20 million to reduce the District's accumulated general fund deficit which has been reduced from $387.5 million at the end of fiscal year 1980 to an expected $164.6 million at the end of fiscal year 1989. This reduction of $222.9 million or almost 60 percent has been accomplished by methodically setting aside $20 million each year and through various adjustments. The committee has mandated that at least $20 million in District revenues be set aside each year until the deficit is eliminated.

CAPITAL OUTLAY

The committee recommends a total of $162,536,000 for 59 projects for the District's construction program in fiscal year 1989. These projects will be financed with long term borrowings on the commercial bond market. These projects range from public housing renovations to bridge replacements to a new replacement helicopter for the Metropolitan Police Department.

COMPARISON WITH BUDGET RESOLUTION

As far as the budget resolution is concerned, Mr. Chairman, this bill as recommended by the committee is $8 million below the 302(b) allocation in budget authority and $6 million below in outlays.

CONCLUSION

Mr. Chairman, this is a good bill. The budget is balanced with revenue equal to budget authority.

The bill is below the 302(b) allocations in both budget authority and outlays. Over 80 percent of this bill is funded with local revenues.

We recommend this bill to the Committee and respectfully request that it be accepted as reported.

Mr. Chairman, I reserve the balance of my time.

Mr. COUGHLIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill is a labor of love on the part of Chairman JULIAN DIXON and the members of the subcommittee. None of us on the subcommittee get anything for our home districts, I might say, out of this particular bill. Chairman DIXON, as well as the other members of the subcommittee, because of their love of this city and the Nation's Capital, work hard on this bill. We are careful not to inject ourselves into day-to-day operations of the city, and to do those things that are necessary to keep this city the kind of city that can be enjoyed by those who live and work here.

The chairman sets the tone for that type of approach. He is always fair and infinitely patient throughout the hearings.

□ 1215

It is very important for the Members of this body to recognize that while the bill is an increase over last year, the amount of Federal funds in the bill is not an increase. The increases in the bill are generated by the District of Columbia's own tax revenue. Federal funds dropped by $8.4 million despite a special $2.3 million payment for inaugural expenses which we carry every 4 years.

The total Federal payment is $430,500,000, which is exactly the same as last year. It is under our 302(b) allocation.

As in past years, the bill includes $20 million for reducing the District's general fund deficit. The deficit of the District of Columbia was $387 million in September 1980. The subcommittee has hammered away at this and caused the deficit to drop to $184,500,000 in September 1988. The Federal Government should do so well as to have that kind of reduction in its deficits.

Mr. Chairman, there is an area, however, in which I believe this subcommittee and the Congress has a legitimate interest. It is the safety of citizens of the District of Columbia, it is the safety of those who visit the city, and it is the safety of those who work in the city.

I have served on this subcommittee for a number of years now, and for many years the goal of this subcommittee was to have a police force of 5,100 officers. Today the police force is hovering around 3,880 officers. The District of Columbia will have further difficulties in keeping the level of its police force and its firefighters as they come into a period where many of the existing officers will be retiring. The District is having a difficult time even maintaining present levels—in fact, such a difficult time that despite the direction of this subcommittee, they have reduced the qualifications for new members of the police force.

If the District of Columbia is to maintain a police force of 3,880 officers, I believe that the residency requirements that exist must be relieved. I support having a preference for residents of the District of Columbia, but an absolute requirement hampers achieving the goals the subcommittee has set over the years of a sufficient number of officers on the police force.

In subcommittee, I offered an amendment eliminating the residency requirement for police and for firemen. It failed on a bipartisan vote of 3 yeas to 4 nays. On the floor I am going to support my good friend, the gentleman from Virginia [Mr. PARRIS] in an amendment eliminating the residency requirement for all employees of the District of Columbia, although really I would prefer to see it limited to police and fire.

I believe this is a legitimate concern of this Congress. Visitors have the right to be safe, people who come here to work have the right to be safe, and the citizens have a right to be safe in their homes.

The subcommittee had compelling testimony from two female police officers and one police wife who told of harassment and unaffordable housing. The housing that police officers of the District of Columbia can afford in the city is such that they lived there only a few months, and once it was discovered they are in fact police officers, they were harassed and abused. One police officer and wife had to move seven times in one case in order to escape harassment and abuse.

Removing the D.C. residency requirement will both increase the universe of potential officers and also permit those officers who have been harassed and abused to find housing that they can afford. It will increase the quality of the police force here in Washington, DC.

Mr. Chairman, I want to commend the chairman of the subcommittee again and the very able staff led by Americo Miconi and Kenny Kraft on the minority side, and I want to commend the members of the subcommittee who have worked so diligently on this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. DELLUMS. Mr. Chairman, will the distinguished gentleman from Pennsylvania yield to me?

Mr. COUGHLIN. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding.

I tried to listen carefully to the gentleman's comments with respect to residency, and the gentleman pointed out the right of people to be safe.

Is the gentleman asserting that residency requirements would in some way deter any police force from trying to render safe the city of Washington, DC, for its residents or its visitors?

Mr. COUGHLIN. Mr. Chairman, I am saying that the residency requirements have restricted the universe of people available to try to increase the number of people on the police force. The District of Columbia is trying to hire 200 additional officers right at the present time, and they can expect retirements. That is one reason, I think, for limiting the residency requirement.

Mr. Chairman, I do not want the gentleman to get me wrong. I approve of having a preference. We should have a preference. I approve of that, but not an absolute limitation.

Second, I believe it is important to allow the police officers and their families to be able to have residence where they can be free of harassment and where they can be free of abuse.

Mr. DELLUMS. Then, Mr. Chairman, if I understand the gentleman's response to my question, he is really not asserting the issue of safety; he is asserting the question of economic hardship on those people who have to move, is that correct?

Mr. COUGHLIN. No; I am asserting the question of safety.

Mr. DELLUMS. Will the gentleman explain that then?

Mr. COUGHLIN. Safety relates to the number of officers we have here in the District of Columbia. The goal of the city, for many years, was to have a force of 5,100 officers; now we are down to only 3,880 and are having a hard time maintaining that.

Mr. DELLUMS. Will the gentleman yield briefly again?

Mr. COUGHLIN. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Then is the gentleman suggesting that in a city of well over 600,000 people there are not 200 qualified human beings to take up the job of being police officers in the District of Columbia? Is that the gentleman's assertion?

Mr. COUGHLIN. I am saying that we both have a problem with a force that is now at 3,880 and is not going up, but, in fact, is going down. A larger universe would assist the District of Columbia to be able to hire qualified officers. District of Columbia has dropped their requirements for the hiring of police, contrary to the direction of the subcommittee, and that gives them a larger universe from which they may be able to obtain qualified officers.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for his response.

Mr. Chairman, I have one last comment. If the gentleman and I are both supporters of the concept of home rule and the principle of self-determination, I might ask my colleague this: Upon what basis does he see as a legitimacy the insertion of the amendment of the gentleman from Virginia into this debate? Why should the U.S. Congress, which ought to be dealing with grandiose issues, find itself being a super city council to the District of Columbia? On what basis are we inserting ourselves into their lives?

Mr. COUGHLIN. The U.S. Constitution provides that it is the Congress that has the duty of establishing a capital for this Nation.

Mr. DELLUMS. There is a statutory law involved.

Mr. COUGHLIN. It is established here that while we try not to interfere in the District's business, there is a very legitimate interest in terms of the Nation's Capital to provide for the safety of visitors, workers, and residents. That is a legitimate Federal concern that goes, I think, beyond home rule itself, as it always has.

Mr. DELLUMS. The burden of the author of the amendment, then, would be to prove that there would be a deleterious effect on the health and safety of visitors to the District of Columbia if this residency requirement were to continue to remain in law; is that not correct?

Mr. COUGHLIN. I think the burden is to show that the hiring of additional police officers will indeed improve the safety of visitors to the city, the safety of those who come here to work, and the safety of the District's citizens themselves.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding, and I thank him for his generosity.

Mr. COUGHLIN. Mr. Chairman, I reserve the balance of my time.

Mr. DIXON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Pennsylvania [Mr. COUGHLIN] is right. It pains me that on this particular occasion, on this very narrow issue, we in fact disagree. I do not think he and I disagree as it relates to a need for a reevaluation of the requirements for obtaining a job with the District of Columbia government. We disagree that there is such a crisis that the U.S. Congress should in fact move at this point in time.

As I understand the law of residency here in the District of Columbia, within 6 months from the date of employment, the person must move into the District in order to continue to be eligible for that job. That in effect means, with this debate and with the report language, that we have put the District on notice that if the District does not reevaluate its position, the Congress will in fact take action.

There is, as I understand it, an amendment by the ranking member today to put into place a preference system, in addition to the amendment offered by the gentleman from Virginia [Mr. PARRIS], to prohibit the use of funds to enforce the residency requirement. The floor of the House of Representatives is no place to legislate on either one of these issues, and I would state that there is time before the conference with the Senate on this bill for the District of Columbia government to move on this issue. The Senate can consider this issue, and I would say that now is not the time for this body to legislate a preference hiring system for the District government. Its immediate impact would be nil, because people can be employed from outside the District, and they would have 6 months in fact to move into the District. So we have plenty of time to work on this issue, and this House floor is not the appropriate place to do it.

Mr. FAUNTROY. Mr. Chairman, will the gentleman yield.

Mr. DIXON. I yield to the Delegate from the District of Columbia.

Mr. FAUNTROY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for noting the differences he has with the ranking minority member and, more importantly, I want to note that out of concern for the problems that may develop as a result of the residency requirement, we have in the bill instructed our locally elected government that unless they do something about this in some way, we will take action at a later time.

I can say to the gentleman that the members of our elected government are sensitive to that, and it certainly would be a travesty of justice and of the home rule principle, having made that as a committee and to us as a Congress, that having accepted this issue, we would then add that we are not going to wait now, we are going to take action now. It would be patently unfair to impose preferences now from here when the elected government has offered an opportunity to exercise its responsibilities, not only to the citizens of the District but of the Nation.

Certainly, Mr. Chairman, I commend the gentleman and thank him for his courage.

Mr. DIXON. Mr. Chairman, I reserve the balance of my time.

Mr. COUGHLIN. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Chairman, this is not a home rule issue. This is a public health, education, and safety issue, and it will be determined to be so in the debate that will ensue here on the floor.

The House will soon be faced with a vote on a motion to rise. That is a procedural tactic that is intended to prevent me and other Members of this House from introducing critically important amendments which happen to be germane to the bill and prevent them from being considered at all.

Mr. DIXON. Mr. Chairman, will the gentleman yield to me?

Mr. PARRIS. I yield briefly to the gentleman from California.

Mr. DIXON. Mr. Chairman, the chairman of the committee does not intend to offer a motion to rise. I think we should debate this issue on the merits, and I certainly will not offer a motion to rise.

Mr. PARRIS. Mr. Chairman, I appreciate the gentleman's position and his statement, and I appreciate his earnest desire to have this matter debated. I congratulate him, frankly, on deviating from the normal procedures of the House which would require that action and which in my view are unfair.

Let me simply, therefore, turn to the question of why this amendment is necessary. My amendment will seek to limit the city's residency requirement, and unless that portion of the amendment is not contested by a point of order, we would hope that an amendment to that amendment would be accepted that will provide for a preference system. I submit to my colleagues that they should not rely on the argument that this is a simple procedural matter, a home rule issue that carriers with it no accountability, no political risk, that somehow this is nothing but a party fight, and it is business as usual in the Congress. I respectfully submit none of that is correct.

□ 1230

This is, in fact, an argument about public safety. Now my colleagues are going to hear a lot of debate. They are going to hear it said that other cities have residency requirements. We keep hearing that those requirements apply across the Nation.

The gentleman from California [Mr. DELLUMS] sent out a letter last week saying there are some 30 communities that have that requirement, but his letter unfortunately contains some statements that are substantially incorrect. Of the 30 cities cited in the letter, 6 do not have a residency requirement. Thirteen of the 30 allow their employees to live in surrounding counties or within a 35-mile radius of the city that is applicable. The remaining 11 do require the employees to live in the city, but none of them come close to the average $172,000 that it costs for the average single family home in this city, and none come close to matching D.C.'s population of 13,319 people per square mile.

Mr. Chairman, its suggested that there is no shortage of applicants for D.C. jobs. My colleagues have heard that argument before. The suggestion that the city has no shortage is simply ridiculous and ignores the facts that the Mayor reported recently that they had 1,700 applications for 148 police slots when in fact the city sent out 1,000 letters and had 300 applicants take the test. In spite of that they have lowered the standards. Five months ago the Mayor said he would hire 100 new paramedics to run the ambulance services. As of today the city has hired one, and she quit because of the residency requirement. Five others have quit for the same reason in the same period of time.

That leaves the Mayor with a net loss of 5 paramedic people, and he says he is going to hire 100, and the city says there is no shortage of applicants. That is simply not correct.

The gentleman from California [Mr. DIXON], the chairman of the subcommittee, says that we have got 6 months to address this issue. We can put it in the report language. We will get the city council to do something, and we should wait for that.

Well, my colleagues, we have been debating this issue for 5 or 6 years now, and there has been no action by the City Council in this matter. There is a bill languishing in the Council Committee; it has been there for sometime, and there is no expression of interest for doing anything about it.

We have heard the argument that there have been some ads in the newspapers quoting some individuals. Some of the people have alleged that they were pressured into signing the ads. Well, we have got evidence here that refutes all of that.

Let me simply suggest that the time for the Congress to exercise its constitutionality mandated oversight responsibility is now. There is clearly a Federal interest here. We in the Congress are charged with the responsibility of legislative oversight over the Nation's Capital. This is this Capital City. This is the only one there will ever be. Let us protect it.

We have the obligation, as a Congress to do away with this example of an excess of municipal ego. I have 83,000 constituents that come into this city to work each day. They are dependent, just as dependent, I submit, as anybody who lives in this city, on the police, on the fire department, on the ambulance service, on the proper staffing and the administration of public agencies of this city. When they are in this town, there is no difference between a resident and a visitor.

My colleagues around the country, many of them on this floor, have groups of visiting school children, I see you talking to them on the floor, on the floor before the session starts and on the steps of the Capitol after. They come often to this town. They are entitled to public safety agencies that are adequately administered, adequately staffed, and have adequate personnel. They come here, tourists by the millions from all over this Nation, and they are entitled to the best public services they can get.

Mr. Chairman, I submit to my colleagues that the residency requirement is inimical to that standard and ought to be abolished for that reason. We have a duty to provide to them public safety that overrides the concerns of the obscure principle of local municipal control which is unrealistic in the first place.

I suggest to my colleagues that what we ought to do is defeat the motion to rise, if there is one. If there is not one, and I would hope there would not be, then we ought to address the issue of residency in a straightforward, up or down way consistent with our constitutional obligations and our responsibilities in this city.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The gentleman from Pennsylvania [Mr. COUGHLIN] has 12 minutes remaining and the gentleman from California [Mr. DIXON] has 20 minutes remaining.

Mr. DIXON. Mr. Chairman, I yield 5 minutes to the distinguished Delegate from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Chairman, I rise in opposition to the proposed amendment. This amendment is nothing more than a raw, naked attempt to take jobs from the District of Columbia, under the thinly veiled guise of promoting the Federal interest.

Over the past several weeks, we have been saturated by a carefully designed strategically executed program of disinformation, misinformation, half truths and whole lies aimed at convincing the public and the Congress that crime will be deterred and public safety improved if persons from Virginia and Maryland are hired as police, firefighters, and teachers by our local government.

Before addressing the many myths put forth by the proponents of this amendment, I wish to share with my colleagues a bit of background about the D.C. residency law.

The District of Columbia, like many other State and local governments, enacted in 1980 a law requiring that "new" employees of the government must move into the District within a reasonable period of time in order to work here. A person does not have to live in Washington, DC, to get a job here, but if a person chooses to work for the District government, that person must become a District resident. Persons who were employed by the District prior to enactment of the law are grandfathered; that is, they are not required to become residents. And, once a person is employed, that person has up to 180 days to move into the District. The law is more than reasonable and is being updated constantly. For example, there is proposed legislation to amend the law to provide for an exemption from the residency requirement for married couples.

The residency requirement, according to well-established law, through a string of cases in Federal and State courts over the past half century, is a reasonable and rational local legislative option. Moreover, there is widespread use of residency laws.

Approximately 70 percent of cities with populations of 250,000 or more have some form of residency law.

Let me now deal with the myths that have been asserted by those who seek to eliminate the District's residency law.

Our colleague, Mr. PARRIS has stated:

> (The District) keep(s) lowering the requirements and the training standards * * * until they get enough bodies. In addition, the educational requirements have been eroded.

That is a myth. It is misinformation.

The reality is that hiring standards for police officers are as high or higher than they were prior to enactment of the residency law. Before the law, there was an 80-item test. Today there is a 100-item test, and the number of applicants who pass now is only slightly higher than the number who passed prior to 1980. And with regard to the training program, before the law, the police academy consumed 17 weeks. Today, the training program extends over a 22-week period.

I would suggest to the opponents of the D.C. residency law that if District residents are not qualified to be police officers and firefighters, why is it that surrounding jurisdictions have an aggressive campaign to recruit them for comparable positions in their governments, offering, in some instances, attractive incentives?

Referring to the applicant pool for various D.C. law enforcement and public safety positions, Mr. PARRIS has stated:

> * * * if they cannot find anybody to take the job, they just exempt them from the residency requirement. * * *

That, Mr. Chairman, is a myth.

The reality is that for police and firefighters, over the past 5 years, the District has had at least 10 applicants for every available position.

Mr. PARRIS has further stated:

> * * * there are 300 different categories of exemptions of people who are already exempted from the residency requirement. * * *

That too is a myth.

The reality is that there are only four categories of exemptions allowed by the D.C. residency law and each is very reasonable. Among the categories of exemptions is one for hard-to-fill positions, a very common exemption, and one for positions in facilities outside the boundaries of Washington, DC. Eighty percent of the exempted persons and 90 percent of the exempted positions are for jobs in District facilities located in Virginia or Maryland. Those 4,415 jobs are paid for by District taxpayers for the benefit of Virginia and Maryland, and none of the persons who fill those positions pay 1 cent in District income tax. And yet, the proponents of this amendment want more. The writer Cicero would ask, "to whose profit?"

The reality is that this attempted job grab by proponents of this amendment wholly overlooks the fact that the District has the highest unemployment rate among all jurisdictions in the Washington metropolitan area. The District's unemployment rate is twice that of Prince Georges and Montgomery Counties and three times that of Fairfax County. Prince Georges County has seven times more residents working for the D.C. government than there are D.C. residents working for the Prince Georges County government. In 1987, $538 million was paid in wages from the District government to Maryland residents, while $118 million was paid to Virginia residents. This matter of residency is a bread-and-butter issue, going to the very heart of the District's economic base.

The amendment proposed puts at risk some 14,000 jobs and $300 million in additional income and indirect spending. The impact would be staggering, the consequences severe. Given that kind of drain on the economy, the District might not be able to pay for police officers, firefighters, and other government employees. The issue is complex. The solution proposed is not only simplistic, but it is patently unfair.

Already 60 percent of the money earned in Washington, DC, takes flight to surrounding jurisdictions at the close of every workday. Six out of every ten dollars in wages generated here go to individuals who live in Virginia or Maryland. Seven hundred thousand commuter cars enter the District every day and those commuters enjoy all the benefits of District residents, but they are not shouldered with the burden of paying taxes for those benefits. If these commuters paid taxes here, the District of Columbia would realize close to $1 billion in additional revenue.

The people of Washington, DC, are not unlike people everywhere. They work hard, pay their taxes and meet their requirements as citizens. The residency requirement is a local issue. Congress should not interfere. The Parris amendment should be rejected. Home rule does not mean House rule!

□ 1245

Mr. COUGHLIN. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, to the distinguished chairman of our subcommittee, I see that the gentleman is in a very fair mood today, but then again the gentleman always is. I would ask that over the next couple minutes the gentleman consider granting me the same privilege that the gentleman did to my good colleague from across the river, the gentleman from Virginia [Mr. PARRIS], and not demand that we defeat a motion to rise on a pro-life amendment. We know that we beat this under the narrowest of language last year, 1 year and 2 days ago, on June 26. We won, yet every year that we have tried, it dies in committee. Last year the President of the United States, who has also issued a statement against the bill as it has come out from the committee this year because of its lack of specific pro-life language, gave me a letter that said he would veto the D.C. appropriations bill if it came up as a single bill. Of course, it was rolled into the continuing resolution with everything else.

We recall that during the State of the Union Address last January, he stood up there, our great President, three times with the continuing resolution, a big stack of paper. He even told us how much each one weighed. One was almost 15 pounds. He dropped them from the Speaker's lectern on to a table there on to the side and he vowed to veto a gigantic Mussolini style continuing resolution bill this year, which means, I guess, that for the first time in several years all of our appropriations bills are going to go up singly. So he probably will veto this D.C. appropriations bill. I think we have the votes, at least in this House, to sustain a veto on prolife, if we are given a fair shot, although I honestly believe that we can defeat the motion to rise, as we did last year.

Now, there were in the District last year 3,599 tax-funded abortions. That averages out almost exactly to 10 every day like clockwork.

The stunning figure is that half of these are repeat abortions for these young mothers. That means, without any argument, that abortion is being used as a form of birth control in the District of Columbia.

I have told this story in the well before. When I first won a congressional primary in our bicentennial year, I came back here for the seminars, as both our parties do, on how to win a general election. The day before the Fourth of July I was heading back to California. As I was driving down Constitution Avenue, right about where that Vietnam Memorial is now, I was looking at the Washington Monument, all the 50 flags of our States flapping in the summer breeze, and I heard over the radio that for the first time the District of Columbia, in 1975, had more abortions than live births. That knocked me out in that bicentennial year as a congressional candidate for the first time.

More babies killed in their mothers' wombs than were allowed to be born and, of course, given the demographics and the ethnic makeup of the city, that meant that most were black children in their mothers' wombs.

We finally have in this House a nonsolid Black Caucus. We have one Member, I hope he speaks today, a black Member, a minister, who realizes the portent of what abortion does to those who are in the lower socioeconomic levels of our society.

I have said this before, Mr. Chairman, that I run into one rich Republican after another who says, "What are we going to do about them?"

And, of course, the "them" does not always mean blacks. In California it can mean Hispanics. In New York, Puerto Ricans. In Florida, until they were economically successful over the last decade, it meant Cuban-Americans.

"Them" is whoever happens to be on the bottom. My people, Irish people, were "them" at one time in this country. Jews, Poles, Italian-Americans, anybody from East or South Europe was "them" at one time.

Now, one of the outstanding Presidential candidates in the field of oratory is Jesse Jackson. Reverend Jackson in 1974, at the Biltmore Hotel in New York, Thanksgiving week, got up and gave a speech against Roe versus Wade and got 10 pounding standing ovations in 30 minutes.

When I was sworn in as a freshman in January 1977 I went to the Rose March for Life, and the outstanding orator, bar none, in that cold December day of 1977 was Rev. Jesse Jackson. He called abortion in this country a virtual genocide against his people, the black people, and other groups; not only for that matter a genocide against our own American families.

He was eloquent in those days. Why he has switched I do not know. It certainly punished our good colleague, the gentleman from Missouri, DICK GEPHARDT, to do a flipflop. A gentleman from the other body from Tennessee managed to escape by the skin of his teeth.

But why Jesse Jackson changed, I do not know, because he was certainly the most forceful and eloquent orator in this country against abortion.

Mr. Chairman, we will have to defeat the motion to rise. We will do it in the name of innocent human life.

Mr. DIXON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say to the distinguished gentleman from California that I was in error. I do not intend to offer a motion to rise before the gentleman has an opportunity to offer his amendment.

Mr. Chairman, the gentleman from California [Mr. DORNAN] and I are both from the same State and the same general area. We have discussed this issue more than any other issue in which we have a common interest.

The gentleman from California, though, skirts what the real issue is here today. The issue is not whether the President of the United States is prochoice or prolife. It is not whether a candidate for President of the United States, in this case the Reverend Jesse Jackson, is prolife or prochoice.

The issue is whether the Congress of the United States should grant to the District of Columbia the same entitlement, the same right, that the 50 States of the United States have. The bill currently contains a provision that says no Federal funds, that is, no Federal funds should be used for abortions, except in cases of rape, incest, ectopic pregnancies, or to save the life of the mother. That language allows the District to make its own decisions as it relates to the use of its own funds. It allows the District to have the same position that California has.

So the President of the United States would dare not and cannot tell California that they cannot use their own revenues for a particular purpose.

The gentleman from California [Mr. Dornan] talks about what wealthy people are saying. Wealthy people, wealthy women, based on the case of Roe versus Wade, can make their own decisions as it relates to the choice of abortion.

There are some poor people in this community who cannot financially afford an abortion, and if they so desire to take that course, then the District as a matter of public policy has decided that they will finance the abortion. That is no different than any other State in the United States.

So notwithstanding Reverend Jackson's point of view or what the President would personally like to do, were it not for the funding mechanism of this bill, we would not be allowed to tell the District what it can or cannot do with its own revenues, just as we are not allowed to tell the State of California what it can or cannot do with its own revenues.

This subject comes up time and time again but it has never focused on the issue that is before us.

I ask you, when the appropriate time comes, to reject the Dornan amendment.

Mr. COUGHLIN. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. Weldon].

Mr. WELDON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in support of the D.C. appropriation bill and to highlight the fact that I will be offering an amendment today relating to the level of manning in the fire and emergency operations of the D.C. Fire Department.

I have spent the last year and a half concentrating on fire and safety related issues, not just in the Nation's Capital but also throughout the country.

It has been brought to my attention that contained in the D.C. appropriation bill is a reduction in the manning levels for the fire department, as well as a substantial reduction in the number of ambulance units.

As we all know, the D.C. Fire Department is an outstanding organization. I have seen them in action many times. They are able to do the job today, and yet at the same point in time we cannot afford to have any reductions made in the level of manning that they have both in their ambulances and also on their fire apparatus.

In this year's D.C. budget process, the city council and the Mayor evidently agreed on the provision to change from what currently is a five-man, two-unit response team to a four-person, one-unit response team. In the transmittal letter that was sent to Chairman Dixon on the Subcommittee for the District of Columbia, which I will attach and make it part of the Record, Chairman David Clarke of the D.C. Council notes in his final paragraph:

> The language in the "Congressional Transmission" represents either an error or an effort on behalf of the District's Office of the Budget to misrepresent the District's position on these matters. If the former, then this letter should serve to correct the record. If the latter, the Congress should not permit the Executive branch to pursue before the Congress a position it has failed to use its options to pursue at the local level.

In addition, Mr. Chairman, I have letters from other city council members affirming this same response.

I also have two letters that I will be submitting later for the Record from the D.C. Federation of Civic Associations and the Federation of Citizens Associations of the District of Columbia, also opposing this planned reduction.

Mr. Chairman, what I am saying in my amendment is that we should leave the staffing levels as they currently are. The argument that was made—and by the way, I did contact the Mayor's office as soon as I found out about this discrepancy between the Mayor and the city council—I asked the Mayor to meet with me and he sent a representative over to my office. We met for about 45 minutes. I was not convinced that what was being planned was in the best interests of the life and safety of the people who live in the District of Columbia. Therefore, I am offering my amendment to set the record straight in line with the D.C. City Council.

In the appropriations markup of this bill in the subcommittee and in the committee, I understand that the same issue was raised by the gentleman from Ohio [Mr. Regula]. The question was raised about this specific letter. I understand that the chairman, the gentleman from California [Mr. Dixon], was also inquiring about the discrepancy between the Mayor and the city council in terms of the planned intent to decrease the number of people on fire apparatus, as well as to decrease the ambulance level from 26 to 16 in the District of Columbia.

I might add, there is a precedent that was established in 1984 in the appropriations bill when a similar amendment was passed and added into the appropriations bill preventing a similar reduction in manning levels.

Now the question arises, does this in fact cost additional money? The answer is in fact no. The reason why it does not result in additional costs is because the D.C. Fire Department has been spending an unusually high amount of money on overtime.

In 1987 it was in excess of $10 million. That is $8 million above what it has typically been during an average year. The reason why it has been so high in the last several years is because of a court case that was filed and a Supreme Court decision what was just handed down throwing out the District of Columbia Affirmative Action Program. Because of that, there were no new hirings allowed within the Fire Department of the District of Columbia, and therefore overtime had to be used for the existing manpower.

For that reason, I think we get back, and now that has been lifted, the D.C. Fire Department has intentions of hiring people to avoid the overtime they have used in the past, and therefore this manning reduction would not in fact save any additional funds.

In addition, on the merits of the issue, I would like to talk about those for a moment. There are those who might say, well, other cities have gone to a four-man, one-response unit. The cities that have done that are all equipped with high pressure water systems. The District of Columbia has no high pressure water system. In fact, the hydrants have not been tested since 1958. It has a low-pressure system and in a low-pressure system there is a requirement to have two pumpers available, one to respond to the actual say fire and the second to man the hydrant to boost up the pressure on the water supply that is available.

The second issue and the second reason why it is so important that we continue the current levels of manning on both the fire apparatus and the ambulance units is because the D.C. Fire Department is not allowed to preinspect and preplan the Federal complex.

Mr. Chairman, I ask for support of my amendment and will go through a further explanation at a later point in time this afternoon.

Mr. Chairman, I include the letter from the Council of the District of Columbia, as follows:

Council of the District of Columbia,
Washington, D.C. June 2, 1988.

Hon. Tom Harkin,
Chairman, Subcommittee on the District of Columbia, Committee on Apropriations, U.S. Senate.

Dear Chairman Harkin: I have recently discovered that two salient directives made by the Council in its March 22, 1988 action on the Fiscal Year 1989 Budget Request were not acknowledged in the District transmission of the Budget Request to the Congress. Both directives concern the District's Fiscal Year 1989 Budget Request for the Fire Department and I am writing to you to inform you of this inaccuracy in the Supporting Schedules for the Fiscal Year 1989 Budget Request.

The first directive of the Council concerns the number of ambulance units to be available during the course of a twenty four hour period. The Mayor's Budget request to the Council indicated that the Fire Department planned to institute a system whereby the number of available ambulances would vary according to "peak" and "non-peak" periods. During "peak" periods there would be as many as 26 units available and during "non-peak" periods as little as 16 units would be available.

The intention to institute that plan was presented to the Council on page 856 of Volume II of the Supporting Schedules for the Fiscal Year 1989 Budget Request transmission to the Council. It is repeated verbatim on page 940 of Volume II of the Supporting Schedules for the Fiscal Year 1989 Budget Request transmission to the Congress despite the clear directive of the Council as adopted by the Committee on the Judiciary and then adopted by the Council as a whole that "The Committee directs the (Ambulance) Division to maintain at least 22 ambulances in service at all times", (p. 15 Budget of the Committee on the Judiciary on the Fiscal Year 1989 Budget Request).

The second directive, also made by the Committee on the Judiciary and then adopted by the full Council, concerned the Department's plan to convert from five man/two piece company to four man/one piece company. That plan presented to the Council on page 856 of Volume II of the Supporting Schedules for the Fiscal Year 1989 Budget Request transmission to the Council. It is repeated verbatim on page 940 of Volume II of the Supporting Schedules for the Fiscal Year 1989 Budget Request transmission to the Congress despite the directive of the Council as adopted by the Committee on the Judiciary (p. 17):

"While many cities operate with one piece engine companies, this reduction would remove 33 pumping engines, 40% of our firefighting equipment, from District streets. The budget (request of the Mayor) does not speak to trial periods, increasing the number of engine companies or staggered implementation of the one piece engine company.

"The Committee (on the Judiciary) believe that the District should maintain its current 5 man/two piece company. A reduction of 20% in men and a greater percentage in available equipment would necessarily cause reduction in fire protection for district residents."

The Mayor approved the Fiscal Year 1989 Budget Request Act without exercise of his line-item veto power and thus the Council's action represents the District's position.

The language in the "Congressional Transmission" represents either an error or an effort on behalf of the District's Office of the Budget to misrepresent the District's position on these matters. If the former, then this letter should serve to correct the record. If the latter, the Congress should not permit the Executive branch to pursue before the Congress a position it has failed to use its options to pursue at the local level.

Sincerely yours.

DAVID A. CLARKE,
Chairman.

Mr. DIXON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have in the subcommittee looked at this issue just briefly. The facts are that the Mayor is advocating going from a five-person, two-piece engine company to a fourman, one-piece engine company.

The City Council does not agree with the Mayor and stated that "the District should maintain its current five-man, two-piece company."

This issue is in court. The firefighters feel it is a subject of collective bargaining while the Mayor and the administration feel that manning is a management prerogative.

What I am saying to this committee is that if we listen to ourselves talking about prohibiting the District from enforcing its hiring residency requirement, if we listen to ourselves talking about telling the District what they can do with their own money as it relates to abortion, and now we in this House have somehow acquired the expertise to get into a debate about whether there should be four or five people in a fire engine company, we are clearly acting as a city council. I believe this is wrong and at the appropriate time I will ask you to reject this amendment.

□ 1300

Mr. COUGHLIN. Mr. Chairman, I have only myself to speak.

Mr. Chairman, I just want to make, if I may, a couple of comments again on the residency requirement. This is not something that has come out of the whole cloth with these Members of Congress or with this side of the subcommittee. This is very much an issue that is supported by the D.C. firemen, by the D.C. police, by the D.C. police union and by the D.C. firemen's union. Those people have a residency requirement now, and they want to see it eliminated.

Second, I think it is important that the test for qualification has been reduced. There used to be 70 questions right out of 100 questions asked. One still has to get 70 questions right, but out of 140 questions asked. On a percentage basis, we have gone down from getting 70 percent correct to getting 50 percent correct in the test for D.C. police.

Finally let me just say that this is something that has been bouncing around this city for a number of years; it has been bouncing around this subcommittee a number of years. The subcommittee, itself, said in the language in its report that if the city did not act this year, Congress would act to eliminate the residency requirement next year. We can say that year after year after year, but it is time something gets done about it.

It is obvious the subcommittee agrees with the elimination of the residency requirement. Let us get it done.

I urge my colleagues to support the amendment of the gentleman from Virginia when that is introduced.

Mr. FAUNTROY. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I am happy to yield to the gentleman.

Mr. FAUNTROY. Mr. Chairman, the gentleman has properly noted that the committee in its recommendation to the House urges the elected officials to do something about the problems which have come to our attention. The gentleman is now saying that he does not think we should do that. What does the gentleman think we should do? Does the gentleman think we should serve notice on them; this is House rule, not home rule? "We are going to do it for you now?"

Mr. DIXON. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, it is the police and firemen, of course, who are supporting this. It is the police and the fire unions who are most interested in having this done.

I think it is important that the committee, obviously, agrees in principle with the elimination of the residency requirement because of the language we have in the report.

All the gentleman from Virginia is trying to do is implement that agreement in principle and to eliminate the residency requirement.

I will have an amendment to his amendment to allow the installation of a preference system. We, in good faith, want to be able to have a preference system to benefit residents of the District of Columbia. I realize it will be subject to a point of order. If no one makes the point of order, a preference system can be considered.

Mr. FAUNTROY. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I am happy to yield to the gentleman.

Mr. FAUNTROY. Mr. Chairman, I understand the committee has said that we want the Mayor and the City Council to address this. But the gentleman would have us say to them now, "No, you are not to address it; we will address it." We have not had hearings. We have not discussed this at length with our police and fire unions, but we will exercise House rule instead of allowing them under the home rule principle which has been acknowledged by the committee by such strong advocates of Federal restriction.

Mr. COUGHLIN. Mr. Chairman, reclaiming my time, I do not have much time left: First, we would be implementing a prohibition next year under the language that is in the committee report, ourselves. Second, if one allows the amendment that I will introduce to the amendment by the gentleman from Virginia, the City Council could have a preference system which they could enact.

Mr. FAUNTROY. But implemented now?

Mr. COUGHLIN. Mr. Chairman, it would be the kind of system that they wanted to have. Home rule would still be allowed, allowing them to enact their own system.

Mr. FAUNTROY. After we enacted it.

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 4776, the District of Columbia appropriations bill for fiscal year 1989.

At the outset, I want to commend the chairman of the subcommittee, JULIAN DIXON, and the ranking minority member, LARRY COUGHLIN, for their hard work and dedication. Without the usual benefits assocated with appropriations bills, Congressmen DIXON and COUGHLIN have taken the responsibility for our Federal seat of Government very seriously. District residents are very fortunate to have these gentlemen in leadership positions on this subcommittee.

Mr. Chairman, this bill includes Federal funds totaling $541.1 million, including $430 million for the Federal payment to the District, $36.7 million in reimbursement for water and sewer services, $52.1 million for the police, fire, judges, and teacher retirement funds, $20 million in transition funds for St. Elizabeth's Hospital, and $2.3 million for inaugural expenses.

I would point out to the committee that the Federal payment portion of this appropriation is $8.4 million less than the amount provided in fiscal year 1988.

Similarly, the transitional payment for St. Elizabeth's Hospital is $9 million less than the amount provided last fiscal year.

Despite this modest recommendation, which I might add is the same as the President's request, the administration is opposed to the bill, and in the statement of administration policy, OMB advises that "the President's senior advisors would recommend that he veto it (the bill)."

The administration's only funding objection surrounds the $36.7 million in sewer and water fees. Further legislation is required to implement the President's budget plan to allow the District to bill agencies directly for their services.

Mr. Chairman, at this point in the RECORD, I will include a copy of the statement of administration policy and supporting material.

I urge my colleagues to support the committee's recommendation.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4776—DISTRICT OF COLUMBIA APPROPRIATIONS, FY 1989 (SPONSORS: MR. WHITTEN AND MR. DIXON)

The Administration objects strongly to a number of provisions in the current bill. If the bill were presented to the President in its present form, the President's senior advisors would recommend that he veto it.

The Administration continues to oppose the use of either District funds or the Federal payment to the District to fund abortions, unless the life of the mother would be endangered if the fetus were carried to term. The bill, as reported by the Appropriations Committee, does include language prohibiting the use of Federal funds to perform abortions but did not extend the prohibition to the use of District funds. Applying this restriction solely to the Federal payment makes little sense because the Federal payment comprises only 19 percent of the total District budget. The use of public funding in the District of Columbia for abortions is an unacceptable violation of a basic civil right—the right to life. This language alone would be viewed as a sufficient reason to veto this bill.

The Administration has three other significant concerns regrading the Committee version of the bill:

The bill exceeds the President's request by $36.7 million in budget authority. The increase is due to the proposed $36.7 million to compensate the District Government for water and sewer services provided to Federal establishments by the District. The Administration objects strongly to this funding since the President's FY 1989 Budget responds to Congressional concerns and proposes legislation authorizing the District to bill agencies directly for their services, in addition to providing funds in the agencies' budgets for this purpose. The President's request is consistent with the treatment afforded other State and local governments. Moreover, such a system would result in increased accountability and efficiency by Federal agencies in their use of water and sewer services and avoid double-funding the same expenditures.

The Administration also continues to oppose any attempt to exempt the Federal payment and Federal water and sewer payments to the District Government from the Presidential apportionment process. Last year the Administration objected to section 132 of the FY 1988 District of Columbia Appropriations Act as contained in Public Law 100-202. This section excluded these Federal payments to the District from the apportionment process, resulting in a highly objectionable erosion of Executive Branch authority, established in the Anti-deficiency Act, 31 USC 1512 and 1513. The Administration believes annual appropriations bills are not appropriate vehicles for achieving permanent changes in substantive law and urges the House to correct this abuse of the legislative process by modifying the bill appropriately.

The Administration opposes section 133 to the bill which would transfer title of the 216 acre Glendale Hospital site in Prince Georges County, Maryland to the District of Columbia. This provision is contrary to the Federal Property and Administrative Services Act of 1949 that requires excess Federal property to be transferred to the General Services Administration for disposal.

The Administration does, however, commend the Committee for keeping the FY 1989 Federal payment to the District at the level proposed by the President.

The House is urged to remove the objectionable provisions noted above so that the President's senior advisors could recommend that he sign the bill.

Mr. DIXON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

H.R. 4776

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1989, and for other purposes, namely:

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1989, $430,500,000: *Provided,* That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

FEDERAL PAYMENT FOR WATER AND SEWER SERVICES

For payment to the District of Columbia for the fiscal year ending September 30, 1989, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $36,726,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43-1552 and 43-1612).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

TRANSITIONAL PAYMENT FOR SAINT ELIZABETHS HOSPITAL

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $20,000,000.

CRIMINAL JUSTICE INITIATIVE

The $50,000,000 previously appropriated under "Criminal Justice Initiative" for the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1989, for the design and construction of a prison within the District of Columbia shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, and payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison.

INAUGURAL EXPENSES PAYMENT

For payment to the District of Columbia in lieu of reimbursements for expenses incurred in connection with Presidential inauguration activities, $2,300,000, as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 1-1803).

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $118,439,000: *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That notwithstanding any other provision of law, there is hereby appropriated $6,948,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $807,000 shall be derived from the general fund and not to exceed $6,141,000 shall be derived from the earnings of the applicable retirement funds: *Provided further*, That the District of Columbia Retirement Board shall provide to the Congress and the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor for transmittal to the Council of the District of Columbia an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further*, That of the $150,000 appropriated for fiscal year 1989 for Admission to Statehood, $75,000 shall be for the Statehood Commission and $75,000 shall be for the Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That no part of these funds shall be used for lobbying to support or defeat legislation pending before Congress or any State legislature.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $144,616,000: *Provided*, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further*, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further*, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia: *Provided further*, That up to $270,000 within the 15 percent set-aside for special programs within the Tenant Assistance Program shall be targeted for the single-room occupancy initiative.

PUBLIC SAFETY AND JUSTICE

Public Safety and justice, including purchase of not to exceed 135 passenger-carrying vehicles for replacement only (including 130 for police-type use and five for fire-type use) without regard to the general purchase price limitation for the current fiscal year, $735,528,000: *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090: Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1989, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further*, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1989, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: *Provided further*, That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further*, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further*, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further*, That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the Lorton prison: *Provided further*, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County and Prince William County, Virginia for expenses incurred by the counties during fiscal year 1989 in relation to the Lorton prison complex. Such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further*, That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: *Provided further*, That none of the funds provided in this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services which are performed in emergencies by the National Guard in a militia status and which are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and their availability shall be deemed as constituting payment in advance for the emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $623,424,000, to be allocated as follows: $452,403,000 for the public schools of the District of Columbia; $70,100,000 for the District of Columbia Teachers' Retirement Fund; $76,310,000 for the University of the District of Columbia; $18,515,000 for the Public Library; $3,692,000 for the Commission on the Arts and Humanities; $1,948,000 for the District of Columbia School of Law; and $456,000 for the Educational Institution Licensure Commission: *Provided*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1989, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $744,901,000: *Provided*, That $17,000,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That of the funds provided for the D.C. General Hospital subsidy, $646,000 shall be used for providing health care to homeless persons.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $218,925,000, of which not to exceed $3,900,000 shall be available for the School

Transit Subsidy: *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $7,274,000: *Provided,* That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act amendments, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $235,796,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of reducing the $204,593,000 general fund accumulated deficit as of September 30, 1987, $20,000,000, of which not less than $19,000,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both): *Provided,* That if the Federal payment to the District of Columbia for fiscal year 1989 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order.

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $4,570,000.

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $2,569,000.

INAUGURAL EXPENSES

For reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1803), $2,300,000, which shall be apportioned by the Mayor within the various appropriation headings in this Act.

ENERGY ADJUSTMENT

The Mayor shall reduce authorized energy appropriations and expenditures within object class 30a (energy) in the amount of $2,070,000, within one or several of the various appropriation headings in this Act.

PERSONAL SERVICES ADJUSTMENT

The Mayor shall reduce appropriations and expenditures for personal services within object classes 11, 12, 13, and 14 in the amount of $2,747,000 through a selective hiring freeze within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

For construction projects, $138,336,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 to 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $10,276,000 shall be available for project management and $7,298,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be detemined by the Mayor: *Provided further,* That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That $950,000 for the Department of Recreation and $4,703,000 for the Department of Public Works for pay-as-you-go capital projects shall be financed from general fund operating revenues: *Provided further,* That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1990, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1990: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $200,805,000, of which $34,085,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $24,200,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): *Provided,* That the requirements and restrictions which are applicable to general fund capital improvement projects and are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title: *Provided further,* That of the $29,652,000 in water and sewer enterprise fund operating revenues for pay-as-you-go capital projects, $10,500,000 shall fund new authority in the fiscal year 1989 capital budget, $15,110,000 shall fund prior year capital project authority, and $4,042,000 shall provide a cash reserve in the capital projects fund in order to meet financing needs caused by the time lag in securing bond financing.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981, as amended (95 Stat. 1174, 1175; Public Law 97-91), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $8,050,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $1,000,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1989, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 38,471, the number of positions authorized by this Act.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1990, shall be transmitted to the Congress by no later than April 15, 1989.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency, Federalism and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code. sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1988 shall be deemed to be the rate of pay payable for that position for September 30, 1988.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency and the District's best interest.

Sec. 128. No later than 30 days after the end of the first quarter of fiscal year 1989, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1989 revenue estimates as of the end of the first quarter of fiscal year 1989. These estimates shall be used in the fiscal year 1990 annual budget request. The officially revised estimates at midyear shall be used for the midyear report.

Sec. 129. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1988" and inserting in lieu thereof "sold before October 1, 1989".

Sec. 130. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

Sec. 131. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

Sec. 132. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act which are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended.

Sec. 133. (a) Within 30 days after the date of the enactment of this Act, the United States, acting through a duly authorized official, shall convey to the District of Columbia, without consideration, all right, title, and interest of the United States, in the real property described in subsection (b) (and any improvements thereon).

(b) The real property referred to in subsection (a) is that property which is described in the Maryland Department of Assessments and Taxation, Prince George's County, tax map #45 grid C-2, parcel 153, and tax map #45 grid C-3, parcel 124.

Sec. 134. None of the funds available to the District of Columbia government shall be used for any purpose involved in billing individual agencies or establishments for water and water services and sanitary sewer services traditionally funded under the account "Federal Payment for Water and Sewer Services" unless and until existing statutes (sections 106 and 212 of the District of Columbia Public Works Act of 1954, as amended, Public Law 364, approved May 18, 1954; 68 Stat. 101; D.C. Code, sections 43-1552 and 43-1612), are amended to specifically provide for such billing.

This Act may be cited as the "District of Columbia Appropriations Act, 1989".

Mr. DIXON (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against any portions of the bill?

Are there any amendments?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows: On page 29, after line 21 insert the following new section:

Amendment offered by Mr. Walker:

Sec. 135. No funds appropriated under this Act shall be expended in any workplace that is not free of illegal use or possession of controlled substances which is made known to the federal entity or official to which funds are appropriated under this Act.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from California.

Mr. DIXON. Mr. Chairman, we on this side of the aisle have no objection to the gentleman's amendment. We will accept his amendment.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, the minority has no opposition to the amendment either and will accept the amendment.

Mr. WALKER. Mr. Chairman, I will not take much time here. I simply want to point out that this is the drug-free-workplace amendment. It is the short version of the amendment, the one-sentence amendment. The chairman indicated to me that he would prefer that language which is not encumbered by language in an appropriations bill. That is fine with this gentleman. I think what we are doing is establishing a record that the appropriations bills should all contain this language in order to get an overall approach at some point in the near future to deal with drug-free workplaces.

This amendment is, in fact, the same amendment that has been offered in similar versions on other bills.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. Walker].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PARRIS

Mr. PARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Parris: Page 29, after line 21, insert the following:

Sec. 135. None of the funds appropriated or otherwise made available by this Act may be used to pay the salary or expenses of any officer, employee, or agent who is engaged in implementing, administering, or enforcing a District of Columbia residency requirement under the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139; D.C. Code, sec. 1-608.1(e) and sec. 1-609.1(d)).

Mr. PARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. PARRIS. Mr. Chairman, this amendment is very simple. It says that none of the funds appropriated may be used to enforce the District of Columbia residency requirement—very simple. The reason for that is there are not enough qualified candidates in the District of Columbia for the public safety positions that need to be filled.

I will be exceedingly brief in this debate today, Mr. Chairman. We have been discussing this matter, as I have said earlier on the floor, we have been talking about this problem for at least 5 years, maybe 6, 7, or 8, I have forgotten how many. We have been waiting for the city council to act on this matter, and we have had represented to us from time to time that, "We are thinking about this, and we will take a look at that, and we will study it, and maybe we can bestir ourselves to do something." I submit to the Members, my colleagues, Mr. Chairman, that in deciding how this vote will be cast today, I ask that Members consider the following carefully: My amendment enjoys broad-based community support from the District of Columbia business community, from the clergy, from the medical community, and from almost every single labor organization in this city.

Would Members believe that a desperate municipality is going to recruit non-U.S. citizens into its police department rather than hire individuals living outside the city limits?

Would the Members believe that police recruits may join the police force even though they have a criminal record and that they are not disqualified from employment even though they have admitted previous drug use as many as 15 times and they are still eligible for employment as police officers?

As has been stated by the gentleman from Pennsylvania [Mr. COUGHLIN], my friend, applicants must answer correctly only 70 out of 145 questions, 48 percent of the questions on the police examination. This has been lowered from the original 70 out of 100, and after there is a so-called conversion factor applied, you can be hired as a policeman in this town if one only gets 35 percent of the questions right. I have not seen it, but I will bet one of the questions is "Who is buried in Lincoln's tomb," and other such difficult queries.

The necessary right questions for the policemen is 35 percent; for the fire and ambulance examinations, it is only 27 percent of the correct answers on the examination. That is wrong and the standards are too low.

Thirty-six-and-a-half percent of those hired since 1981 are still employed; only slightly more than one-third are still here 7 years later. Two-thirds of the police department, 2,351 officers, are eligible to retire by 1992, just 3 or 4 short years from now; 90.2 percent of those, after polling them, have indicated their desire to leave within 1 year of their eligibility unless the residency requirement is repealed. Ninety percent are going to quit unless we take this action today.

Where are those 2,100 additional police officers going to come from? Who is going to put on the blue suit? The answer is there are not enough qualified people in this town to do it. That is what this is all about. Fire dispatcher jobs go unfulfilled with seven current vacancies and 35 percent of the dispatchers threatened with dismissal, as we speak, 35 percent have their jobs in jeopardy because of their failure to live in the city.

With an annual starting salary of $19,110, the city cannot possibly attract top medics to fill the emergency medical service positions because of the cost of living. With 15 positions currently unfilled, basic medic units, ambulances, remain idle and are unstaffed.

Over the next 5 years the District of Columbia will need to hire literally hundreds of teachers, 450 must be hired in this year alone, and unless the residency requirement is eliminated, this need will most certainly go unmet. Three-fourths, 75 percent, of the school principals surveyed believe that the residency requirement is a "significant obstacle" to the D.C. school system's ability to hire and retain high-quality teachers and other instrumental staff. Seventy-nine percent of the principals surveyed felt that the requirement should be repealed—79 percent.

The gentleman from Virginia [Mr. WOLF], my colleague, will have some things to say about education later on in this debate.

The SPEAKER pro tempore. The time of the gentleman from Virginia [Mr. PARRIS] has expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 3 additional minutes.)

Mr. PARRIS. Mr. Chairman, entry level teacher compensation in the District of Columbia this year is $20,280. On June 23, 1988, just a week or so ago, it was reported in the Washington Post that the average price of single-family homes in the District of Columbia has now reached the sum of $172,789. This $172,000 house is supposed to be bought by a schoolteacher who gets paid $20,000. There is not a single one of them who qualifies for a mortgage to buy a house unless they are independently wealthy, and yet we say to them, "If you want and work in this city, if you have a job with this city, you have to live here, and you had better be ready to pay the $172,000 to do it."

Let me respond quickly to a couple of arguments made here. The first one is, this is a fair and evenly applied law. That is rubbish. We keep hearing that the city only has 4 exemptions to the residency law, when in fact there are 14 classes of employees who are exempted, and that includes 9 engineering exemptions, and in addition, the Mayor has recently asked the city council for 3 additional exemptions for nurses at the D.C. General Hospital, St. Elizabeths, and the Department of Health and Human Services.

The residency law simply looks like a piece of Swiss cheese, with new holes being poked in it every day.

We hear much concern expressed about the revenue loss if this residency law is abolished. The appropriate committee of the city council reported, after study of this matter, that the tax revenue generated by city employees who are residents of this city make up only 8 percent of the revenue base of the city. The tax base will not be significantly affected if we abolish the residency requirement.

The time for the Congress to exercise its constitutionally mandated oversight is now, and there is clearly a Federal interest that requires that we do so.

We in the Congress of the United States are charged with the responsibility of oversight of the Nation's Capital. We have an obligation to do away with this excess municipal ego. I would say to my colleagues that there is no ducking this issue.

There is accountability for the sense of obligation that we as elected officials have for the public safety in this city and in this Nation. I said to the Members earlier in general debate on this matter that I have got 83,000 of the people I am privileged to represent that come here every day, but that is not any different except in the magnitude of the number of the responsibility of every single one of the Members of this Congress who have tourists and constituents, by the millions, who come to this city and who are in fact entitled to our support.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. PARRIS] has again expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 1 additional minute.)

Mr. PARRIS. Mr. Chairman, I submit with all due respect to my colleagues who have an interest in home rule, in independent governing of this city, that this obligation of public safety transcends that principle.

□ 1315

The issue of public safety overrides the obscure principle of municipal control. I think the question of public safety, which clearly is not operating in the real world and in the streets and neighborhoods of the Capital of this Nation, is the obligation of the Congress of the United States and I would hope that my colleagues will take action to improve that situation this afternoon.

Mr. FAUNTROY. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to my friend from the District, the gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. I thank the gentleman for yielding.

Mr. Chairman, I promised the House that I would expose the disinformation that the gentleman in the well has been responsible for promulgating around the city and around the Congress.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. PARRIS] has expired.

(On request of Mr. FAUNTROY and by unanimous consent, Mr. PARRIS was allowed to proceed for 2 additional minutes.)

Mr. FAUNTROY. Mr. Chairman, will the gentleman continue to yield?

Mr. PARRIS. I yield to the gentleman from the District.

Mr. FAUNTROY. Mr. Chairman, on what basis does the gentleman, Mr.

PARRIS, claim the District government plans to hire non-U.S. citizens.

Mr. PARRIS. I would say to the gentleman that the Fraternal Order of Police, people who represent the majority of the members of the active police force in this city, have come to us and indicated that there is an effort to classify noncitizens as police recruits or in some category or other which are not required to be citizens of the United States. And as those persons are hired and placed in that category, they are eligible to go into the police academy and go through the training and that sort of thing as recruits. That is different than a police officer who has been designated in that category and who is in fact required to be a citizen of the United States.

Mr. FAUNTROY. Did the union inform the gentleman who these non-U.S. citizens are?

Mr. PARRIS. I would say to the gentleman I do not have a list of names, no, I do not.

Mr. FAUNTROY. Where are they from?

Mr. PARRIS. I have no idea. That is beside the point I say to the gentleman.

Mr. FAUNTROY. The point is—let me say what the point is.

Let me tell the gentleman what the point is. The point is that, yes, we are looking to recruit persons skilled in Spanish who are residents of Puerto Rico, who are citizens of the United States. And it is misleading to tell the Members of this Congress that the District of Columbia intends to hire non-U.S. citizens.

Now it is true that all of the citizens of the District of Columbia are treated as if they are noncitizens. I represent more people than reside in six States of this Union. I represent more people than reside in the district of the gentleman in the well and yet I cannot vote on this floor even though my citizens pay more per capita in Federal taxes than the per capita average in the United States.

Mr. PARRIS. If I may reclaim my time.

Mr. FAUNTROY. So the only possibility for there being an iota of truth in what the gentleman has said is that the District residents are considered nonresidents and non-U.S. citizens.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. PARRIS] has again expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 1 additional minute.)

Mr. PARRIS. I would say to the gentleman that I have heard that argument made many times before, in committee, in subcommittee, and on the floor. I reject it as being inaccurate.

The population of the District of Columbia is substantially reduced and I am informed that the census people in their original projections of the anticipated estimated 1991 population study will reveal that the gentleman's suggestion is not correct. But that is not the point, I say to the gentleman.

Mr. FAUNTROY. That is right.

Mr. PARRIS. I will say to the gentleman the issue is not whether some person or persons from Puerto Rico or anyplace else should be hired as a recruit for this police department. The issue in this debate is whether or not that person, even an alien, is, that if that person is qualified they ought to be hired because we need good people in public safety. But if that person is hired as an illegal alien, the question is should he or she be required to live in this city in order to work here? And I submit to you that the answer to that question is "no" and I yield back the balance of my time.

AMENDMENT OFFERED BY MR. COUGHLIN TO THE AMENDMENT OFFERED BY MR. PARRIS

Mr. COUGHLIN. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. COUGHLIN to the amendment offered by Mr. PARRIS:

Strike the period at the end thereof and insert the following: ", except as it may relate to the implementation of a system of preferences for the employment of District of Columbia residents, subject to the provisons of subsection (b).

"(b)(1) A preference for the employment of District of Columbia residents, granted under the system implemented pursuant to subsection (a), shall be in addition to, and not in lieu of, qualifications for the position sought.

"(2) Any individual claiming a preference under such system shall be required to assert such claim in writing and shall agree to be bound to maintain a bona fide residence in the District of Columbia for no less than 3 years. The provision of such a preference shall not apply to any employee who works at an installation not located within the geographic boundaries of the District of Columbia, nor shall any preference be given residents in connection with any promotion, increase in compensation, assignment, or job responsibility. No such preference shall have the effect of placing any person who was an employee of the District of Columbia on December 31, 1979, and on January 1, 1980, at a disadvantage with respect to other employees or applicants for employment by reason of such employees' nonresidence in the District of Columbia, nor shall such employee be required to move into the District of Columbia as a condition of retaining, holding, or accepting appointment to any position in or under the government of the District of Columbia."

Mr. COUGHLIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DIXON. Mr. Chairman, I reserve a point of order against the amendment to the amendment.

Mr. COUGHLIN. Mr. Chairman, what this amendment would do is authorize the District of Columbia government to substitute a system of hiring preferences for the current District residency requirement. They could give hiring perferences to District of Columbia residents. The provisions would require that an individual who wished to take advantage of the preference would have to assert in writing and agree to be bound to remain a resident of the District of Columbia for a fixed period of time.

Benefits of the preference would be in addition to and not in lieu of any qualification for the position and could not be used to offset any lack of qualification either for the position or as against a more qualified nonresident.

Preferences would also not be available with respect to any promotion, increase in compensation, assignment or job responsibility. Neither would it apply to any job located outside the District of Columbia. And finally, no employees not covered by the previous residency statutes could be disadvantaged by the application or assertion of a perference.

The provision does not authorize the Mayor to impose any requirements on top managers.

Mr. Chairman, this accomplished what the opponents of the amendment of the gentleman from Virginia might suggest. It allows the District to give preference in hiring of police and fire and other city officials to those who reside in the District of Columbia. It could give, depending upon what the City Council and the Mayor want, the same sort of system we do in having veterans preferences in many jobs in the Federal Government.

It gives the District of Columbia what the opponents of Mr. PARRIS' amendment want, the right in the District of Columbia, through their home rule process, to give preferences to the residents of the city.

But at the same time it would still allow hiring of people from outside of the city, officials who might be harassed in the city to move out.

We offer this in good faith, to try to indicate to the city and to those who oppose the amendment of Mr. PARRIS that we want the city to have this ability. We offer it in good faith to improve, I believe, the amendment offered by Mr. PARRIS.

It would still allow the freedom of the city to be able to hire qualified people and allow those people to go outside the city to find adequate, affordable housing.

We heard pathetic and compelling testimony before our subcommittee, people who are residents, people who are serving on our fire and police forces here, people asking that this be eliminated. It was very compelling testimony. This would allow the District to substitute a preference. I urge adoption of the amendment to the amendment.

POINT OF ORDER

Mr. DIXON. Mr. Chairman, reserving my point of order, the ranking member of the committee who has offered this legislation is absolutely correct and I feel very strongly that he offers it in good faith. Nevertheless, he offers it as legislation on an appropriations bill. He is trying to, now, perfect the amendment offered by the gentleman from Virginia [Mr. PARRIS]. It seems to me that our report language is very clear. It says that if by February 1, 1989 the District government has not adopted its own preference system, that does not preclude the hiring of noncity residents, the committee intends to include language in its 1990 appropriations bill prohibiting the continued enforcement of the residency requirement.

It is clear to me that we should allow the District to promulgate their own legislation. They may have other ideas about a preference system. And the respect that I have for the ranking member, and the good faith that it is offered, Mr. Chairman, I move to make a point of order against the amendment on the grounds that it proposes to change existing law and is legislation on a general appropriation bill and therefore violates clause 2 of rule XXI of the House.

The gentleman's amendment places additional duties and determinations on the District officials not now required by law.

Therefore, Mr. Chairman, I ask that the point of order be sustained.

Mr. PARRIS. Mr. Chairman, will the gentleman yield to me before asserting the point of order?

Mr. DIXON. I am glad to yield to the gentleman from Virginia.

Mr. PARRIS. I thank the gentleman for yielding.

Let me take just one second, if I might, to extend to the gentleman from California [Mr. DIXON] my appreciation for his gentlemanly conduct in the consideration of these matters. We are on different sides of this issue. I respect and admire the tenacity with which the gentleman defends his point of view and the fairness with which he has treated those of us who have a different point of view.

I appreciate that very much.

Let me on that point, Mr. Chairman, just suggest to my friend from California [Mr. DIXON] that I did not include this amendment in my amendment, if you will, because obviously it is subject to a point of order which I hope would not be sustained by the Chair, but nonetheless, it would have, if you will, jeopardized the entire amendment.

So that by having an amendment to the amendment, if the amendment is subject to this rule of order, then in fact my original amendment without the residency preference system, which is good for this city and which has support, I hope I can vote for this amendment, I wish it would be adopted by the House unanimously. But without that, we are forced to press on, if you will, with the elimination of the residency requirement at all, which is less desirable in my view for the District of Columbia.

So those who are supporting the preservation of the residency requirement are in fact in a kind of a backhanded way jeopardizing the preference system which would improve on no-residency at all. I would for that reason respectfully submit that the point of order should not be sustained by the House and I would hope that those who have sincere interest in addressing this problem would withdraw the point of order.

Mr. DIXON. Mr. Chairman, I insist on my point of order.

The **CHAIRMAN** (Mr. COOPER). The gentleman from California insists on his point of order.

Does any other Member wish to be heard on the point of order made by the gentleman from California?

If not, then, for the reasons stated by the gentleman from California, the point of order is sustained and the amendment to the amendment is ruled out of order as legislation on an appropriation bill though in the form of an exception from a limitation.

Does any other Member seek recognition on the Parris amendment?

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to begin with just a few extraneous issues. First, to the most recent comments made by the distinguished colleague from Virginia I find quite fascinating, when he suggested that the gentleman from California [Mr. DIXON] withdraw his objection to the amendment calling for preferential treatment, suggesting that he would then have to press forward with his own amendment which would preclude all residency requirements which, is his own terms, would be less desirable than to allow the amendment to go forward with the preferential provision.

□ 1330

I would suggest that the gentleman is asserting that we are talking about being partially pregnant here. If it is less desirable to eradicate the entire residency requirement, why would it not be less desirable under any circumstances to involve ourselves with the residency requirement in the first place?

Second, the Parris amendment, Mr. Chairman, in my humble opinion would prevent enforcement of congressional laws and seriously hamper the ability to respond to serious emergencies such as riots or multi-alarm fires.

For example, Mr. Chairman, prior to home rule, for the information of the Members, Congress has long had its own residency requirement placed on D.C. police and fire personnel. It is in section 4-129 of the District of Columbia that requires that all police and fire personnel live within 25 miles of the Capitol. It is asserted by some in this body, including the Parliamentarian, that the acceptance of the amendment from the distinguished gentleman from Virginia would preclude enforcement of this law. So Congress is already in the business of residency requirements and the gentleman from Virginia would retard that.

I would now make another comment, Mr. Chairman. If we read the amendment offered by the gentleman, he prohibits the use of all funds raised by residents of the District of Columbia, not simply Federal funds. If we were simply talking about Federal dollars, maybe one could talk about offering some amendment that is appropriately within the justification of the Congress of the United States, but what this amendment does is to go far beyond Federal dollars. It says that residents of the District of Columbia, even with respect to taxes locally raised and having nothing to do with the Congress of the United States, shall be prohibited, not allowing the residents of the District of Columbia and their duly elected representatives to do whatever they think is appropriate.

That is what this government is all about, Mr. Chairman. But the gentleman is not talking about Federal dollars. So I would assert that the gentleman's amendment, expanded across the panorama of dollars raised by the residents of the District of Columbia, is heavy-handed, Mr. Chairman. It goes beyond the pale, and it places the Congress of the United States in the role of dictator in the lives of our fellow American citizens.

We fought hard on the floor of Congress, Mr. Chairman, in the mid-1970's to bring some dignity and respect and some rights and privileges to the residents of the District of Columbia. Many people saw the District of Columbia as our last colony, and we fought hard to overcome that. It was a blight on the democratic picture that is painted to represent what the United States ought to be about. Six hundred and some odd thousand residents of the District of Columbia must always stand in fear of some amendment offered by some Member on the floor of this Congress, interjecting themselves into the lives of the residents of the District of Columbia who at this time have the right to elect and, if they choose, to unelect, to recall, to elect someone else to be the Mayor of the city, members of the City Council, or members of the school board. Yet here we are in the Congress of the United States, with war and peace issues, nuclear proliferation issues, plant closing issues, taxing problems, and deficit issues, sitting here and allowing ourselves to be super city council persons. That is not what we were elected to come to the Congress of the United States for, Mr. Chairman. If the District of Columbia wants to impose a residency requirement, they ought to have the right to do that.

What this is all about, Mr. Chairman, is an effort to intimidate the District of Columbia. I think that is wholly inappropriate. This amendment deals with the question of self-respect for the residents of the District of Columbia.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. Mr. Chairman, this is a matter of self-respect for the residents of the District of Columbia, and it is a matter of our own self-respect. If we meant the Home Rule Act to mean anything, then it is this kind of behavior that we must reject. It would seem to me that if my distinguished colleague, the gentleman from Virginia, is concerned about his residents, then why should it not be the District of Columbia government, in comity between the jurisdictions in Virginia and the jurisdictions in Maryland, that should work this matter out, using the creative and dynamic tension that exists between and among various jurisdictions when these kinds of issues are raised?

Whether it is in the context of residency requirements or in the context of commuter taxes, Mr. Chairman, these jurisdictions ought to have the right to work these matters out. It would seem to me wholly inappropriate, Mr. Chairman, for us to sit here and play God on the floor of the U.S. Congress, as if in some way the residents of the District of Columbia do not have the intelligence, the brilliance, the compassion, or the understanding to vote on measures that affect their lives in a positive and constructive way.

If the residency requirement in some way retarded the safety of the residents of the District of Columbia, does one think that the residents of the District of Columbia would in some way not understand that, that they would go to the city council, that they would not use their rights and prerogatives and privileges as any other citizen, What makes anyone think that the residents of the District of Columbia are struck dumb in some fashion, that they do not have the capacity that any other resident has?

If we are talking about safety, every American is concerned about it. The gentleman said that people come from all over the country and they should have the right to be safe. They should have the right to be safe in every town, village, and hamlet in this entire country.

Finally, the gentleman suggests that now the tests have been changed; therefore, the qualifications have been reduced. If the gentleman wanted to assert that argument to its logical extreme, then the gentleman would have to prove, Mr. Chairman, in my humble opinion, to the Members of Congress that by virtue of changing the test, we do receive an inferior police officer. That has not been asserted on the floor of Congress except by innuendo, and I do not accept innuendo. We should be here dealing with facts, not innuendo.

So if we reduce it from passing 70 percent of the test questions, that 70 percent may have been overqualification in the first place. If it comes down to passing 40 percent, those who disagree should be able to prove that the city is hiring an inferior police officer. That has not been proved. They should be able to prove on the floor of this Congress that in some way crime is rampant in the District of Columbia, far beyond any other city. Crime is in reality in America, and it needs to be dealt with, but to try to divide the District of Columbia away from the United States and impose some absurd criteria that we are not imposing upon other jurisdictions in the country is the height of folly, it seems to me, Mr. Chairman.

I would suggest that these matters ought to be debated on the floor of the City Council of the District of Columbia or the chambers of the Mayor's office, but not here on the floor of the U.S. Congress, Mr. Chairman.

If we are talking about residency requirements reducing public safety, I am sure that the residents of the District of Columbia would respond.

Finally, I think that we are treading on dangerous soil, here, Mr. Chairman, when we attempt to assert that in some way we are precluding the safety of citizens because people who work here in the District of Columbia are required to live in this city. We are walking on very thin soil there. This is a city of black and brown and red and yellow and white, and, Mr. Chairman, we have to at some point learn how to live with each other. We have to get beyond race, we have to get beyond the absurd factors that divide us as human beings. People ought to be able to live with each other without fear, and if the people in the District of Columbia, through their duly elected representatives, believe that police and fire and other personnel who work and contribute to our lives here ought to live in this city, then so be it. For the local community, let them resolve the matter, not the Congress of the United States.

Finally let me go back to the comment that the distinguished gentleman from the District of Columbia raised. The gentleman from Virginia sent out a "Dear Colleague" letter, and in that "Dear Colleague" he said, and I quote in part: "A desperate D.C. would rather recruit non-U.S. citizens into its police department than hire individuals living outside the city limits."

We are asserting, Mr. Chairman, that that is factually incorrect, and I would hope that the distinguished gentleman from Virginia would rise on the floor and remove this comment and say there is no basis for it.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. Mr. Chairman, I am not challenging the gentleman's motives because we all offer information here sometimes, as the gentleman said in his opening comments, that is incorrect and in this instance it is not correct. If we are talking about residents of Puerto Rico, then I would ask my colleague, are we making an ethnic assertion here, or are we making a territorial assertion? If we are making a territorial assertion that residents of Puerto Rico are not citizens of the United States, then we would have to make that very same comment with respect to the residents of the District of Columbia, which includes my distinguished colleague, the gentleman from the District of Columbia [Mr. FAUNTROY], saying that he is not a citizen of the United States.

So if it is not territorial, then it must be ethnic, and if it is ethnic, then that is a statement that borders on disaster, Mr. Chairman, and I do not think we ought to move beyond that pale because that opens up Pandora's box on a level none of us on the floor wants to accede to.

So I would suggest that we are not talking about nonresidence here. We are not talking about nonresidence at all. The people of the District of Columbia have a right to their own government, and I think this amendment is inappropriate. It may work hardships on some people, and I understand that as a human being, but as a Member of the U.S. Congress, I believe we are operating as a super City Council, and I do not believe that is appropriate at all on any day in the U.S. Congress. That is why we have the Home Rule Act.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] has again expired.

(On request of Mr. PARRIS, and by unanimous consent, Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I am happy to accept the additional time, and I am pleased to yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Chairman, I thank my friend, the gentleman from California.

Let me say two things very quickly. In regard to the gentleman's comment about the 25-mile provision, referring to this amendment, I did not read all of the amendment, but let me refer to the appropriate sections. It is very specific. It amends the Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139; D.C. Code, sec. 1-608.1(e) and sec. 1-609(d)).

So it is very specific. It does not apply to the 25-mile provision the gentleman cited. The 25-mile provision is not addresed in that amendment. The existing law would remain in effect.

Mr. DELLUMS. Mr. Chairman, let me first of all, make several observations. I appreciate the gentleman's clarification. However, we have been told by legislative counsel that the gentleman's amendment would affect the 25-mile limit, but for the purposes of making a legislative record and history on the floor of this Congress, I would accept the gentleman's comment that it is not his intent to include the 25-mile provision.

Mr. PARRIS. Mr. Chairman, if the gentleman will yield further, let me make one or two other very brief points, and those are to remind my colleagues of several quotes. These are quotes from Members of this Congress, from the closing debate on the 1973 Home Rule Act. I was here then, and the gentleman from California was here then. Let us refresh our memories, if we may, very quickly.

The gentleman from Kentucky [Mr. NATCHER] still a distinguished Member of this body, sitting right over here listening to this debate today, said in 1973 as the then chairman of the subcommittee of the Committee on Appropriations: "Congress must retain full residual and ultimate legislative jurisdiction over the District in conformity with the constitutional mandate."

I would also quote now Senator BROCK ADAMS, then chairman of the District of Columbia Subcommittee on Government Operations which reported on the Home Rule Act.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] has again expired.

(On request of Mr. PARRIS, and by unanimous consent, Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. PARRIS. Mr. Chairman, will the gentleman yield further?

Mr. DELLUMS. I continue to yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Chairman, I thank the gentleman for yielding.

Senator BROCK ADAMS, then chairman of the subcommittee that reported out the bill in 1973, said: "The committee foresaw a strong, vigilant and ongoing role for the Congress. Under any form of self-government, the Congress still retains and must retain its constitutional obligation to exercise exclusive legislative authority over the District of Columbia."

Mr. Diggs, then the chairman of the Committee on the District of Columbia, said: "There is a congressional process to correct what they"—meaning the Congress—"might consider to be a misaction on the part of a local legislative body."

Finally, Mr. Chairman, from a distinguished D.C. resident, Mr. Sterling Tucker, the first elected chairman of the first elected City Council in this town under this law, said: "Certainly good government in the District is in the Federal interest."

If I may repeat that, he said, "Certainly good government in the District is in the Federal interest." And here is a further quotation: "In all cases the Federal interest, as Congress chooses to define it, is protected by the U.S. Constitution which grants Congress exclusive jurisdiction over the District of Columbia."

□ 1345

In Virginia last Saturday we celebrated the 200th anniversary of the signing of the Constitution, and that document is totally clear in terms of the obligation of this Congress in this and other similar issues. And I submit to the gentleman, because we have seen fit, as we have the right to do, to delegate some responsibility to the City Council for the conduct of this, the Nation's Capital, does not eliminate the responsibility of the Congress.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] has expired.

(By unanimous consent Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Chairman, may I just answer the gentleman's comment for a moment?

I appreciate the gentleman's quotes. Let me go back to the moment of history that the gentleman recalls when we debated the issue of home rule.

The House and Senate conference committee on the Home Rule Act, as the gentleman is well aware, dealt specifically with the residency issue and the council authority with respect to it.

The conference report, Mr. Chairman, states as follows, and I quote:

> The conference committee also agreed to limit the Council's authority to require residency for District of Columbia employees to those employed after the effective date of the personnel system or systems to be adopted by the Council under this act.

Moreover, in his floor statement in opposition to the conference report before the entire House of Representatives the distinguished gentleman from northern Virginia, perhaps my colleague's predecessor, Mr. Joel Broyhill, expressed concern over the District government having the authority over the hiring and promotion of any personnel.

Mr. Broyhill commented, and I quote:

> Nothing in this bill would prevent the Council from requiring all future city government employees to reside in the District of Columbia, which in my opinion would be an injustice.

In the House approval of the conference report, Mr. Broyhill was overruled.

The information that I allude to is contained in the committee print of the background and legislative history of the Home Rule Act.

Mr. Chairman, I yield to the Delegate from the District of Columbia [Mr. FAUNTROY], and I will be happy to yield back to the gentleman from Virginia [Mr. PARRIS] momentarily.

Mr. FAUNTROY. Mr. Chairman, I want to thank the gentleman from California [Mr. DELLUMS] for yielding to me. I think he now knows that the gentleman from Virginia [Mr. PARRIS] did not answer the questions that were raised, but instead gave some irrelevancies. In the first instance he did not answer the question of whether or not his assertion on this floor was that District Government officials were looking to hire non-U.S. citizens, and he did not admit that it was wrong. Second, he brings up the very obvious.

Mr. Chairman, all of us know that the Congress retains exclusive authority to legislate. The gentleman from Kentucky [Mr. NATCHER] knew that when we passed the bill in 1973. All of us understand that. There was no need to do that. We all know that.

It is for that reason the members of the committee in their wisdom stated in this measure to our local government that we can and will exercise that exclusive jurisdiction if this issue is not addressed in a way that we think responds to some concerns that Members of this Congress have. And I hope that, having dismissed these irrelevancies, the Members of the Congress will vote in support of the committee which has stated, yes, we know there is a measure, a matter of concern here. We want to see to it that it is addressed. We have addressed it in this measure. Now, give the local elected officials the opportunity to exercise the authority to which we have delegated to them in remarks that were just referenced from Mr. Broyhill which were ignored by the Congress, and to the benefit of District residents, for the wisdom of the gentleman from Kentucky [Mr. NATCHER] in crafting a home rule charter that would allow them the privilege that we are now affording them by this measure as proposed by the committee.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] his again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Chairman, I yield to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Chairman, I thank the gentleman for his courtesy.

Mr. Chairman, I have been informed by the staff that Sgt. Robert Jenkins of the Police Recruiting Department is the gentleman who reported that the District of Columbia had retained an attorney to create a program to obtain noncitizen employees as applicants for the Police Recruiting Program, and that information was reported by a gentleman named Dick Keil verified by the Associated Press.

Mr. Chariman, those are the persons who have indicated and reported that this program is in effect in the District of Columbia.

Mr. DELLUMS. Mr. Chairman, if I may reclaim my time, in conclusion, let me just make the following comment:

I could understand pressing forward with this amendment if Members are concerned about their respective residence, I understand that in the real world. That is politics, Mr. Chairman, in his saying, "Look, I've got people in Virginia and Maryland who will be affected by it. They will have to move. They bring pressure on me."

I can understand that as a human being, but what I cannot understand is to go beyond that honest assertion that, "Look, I'm a politician from northern Virginia or Maryland, and I'm coming under the political pressures of any politician when their residents may fear that they're adversely affected."

I am a reasonable human being. I understand that, but I do not understand when we attempt to go forward and assert that in some way the Federal interest is involved here, that the health and safety of human beings are involved here. That is to press the case far beyond reality.

If we are concerned about people not being able to afford homes, that is an issue that can be dealt with; I can understand that. I can walk in those shoes. This gentleman is not independently wealthy. I work for a check like everyone else.

But, Mr. Chairman, what we are doing here is engaging in hyperbole, and that hyperbole is allowing us to move beyond the spirit and the intent of the Home Rule Act, and I think that it ought to be rejected.

The CHAIRMAN. The Chair would like to suggest to the distinguished gentleman from Virginia [Mr. PARRIS] that it was inappropriate to refer to the gallery in his remarks, and the Chair would entertain a unanimous-consent request at this time to strike those remarks referring to the gallery. Would the gentleman care to make such a request?

Mr. PARRIS. Mr. Chairman, I apologize to the Chair. I was trying to respond to the factual inquiry by the Delegate from the District of Columbia [Mr. FAUNTROY]. If I in some way have broken the rules of the House, I apologize, and I request that the words be stricken.

The CHAIRMAN. Without objection those words will be stricken.

There was no objection.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was not going to speak today and had no intentions of speaking.

But as I was on I-66 this morning coming in, I heard Dave McConnell from WTOP interview a young woman who has been a teacher in the District of Columbia for 3 years who said that unless they changed the residency requirement, she was going to leave.

Now some people will say that this is a public safety issue, and let me just back up by saying that I regret very much that the amendment of the gentleman from Pennsylvania [Mr. COUGHLIN] was not made in order. Mr. COUGHLIN's amendment is the desirable amendment. It is the right way to go. Everybody in this body, everybody in this town, knows that it is the right way to go, and yet this body is tying its hands whereby it cannot do the right thing.

Mr. Chairman, I regret that very deeply because that is the way to go.

I am the son of a Philadelphia policeman. They had a residency requirement in Philadelphia. My dad used to want to get out and live out in the suburbs and have a little land where we could have a garden, and we were not able to do it, and I used to resent it as a kid that we had to live in the city.

Mr. Chairman, I think people ought to have the right to live wherever they want. I think Fairfax County and Arlington County are better counties because we are fortunate to have teachers who come from the District of Columbia, who come from Fauquier County, who come from Prince Georges County. That cross pollenization of people coming from different places is good for the community. It is good for the citizens. And it is good, more importantly than anything else, for the students.

The debate on this issue has been on public safety, and that is important. 911 is important. Police are important. Firemen are important. But let me talk about something else. This is really an education issue.

When I talked to my staff about the residency issue, I said, "I think we should do something about this," and we got a report, Mr. Chairman, from the Washington Lawyers' Committee for Civil Rights Survey of D.C. Principals Views on D.C. residency requirements. Let me tell you what it says.

It says, Mr. Chairman:

> Among the report's major recommendations was a call for an immediate lifting of the D.C. residency requirement as it affects new teachers.

It says:

> This latest study, which produced responses from nearly 80 principals throughout the city, demonstrates overwhelming opposition to the residency requirement and strong support for its immediate repeal.

It says:

> These comments make clear an enormous negative impact which the residency requirement continues to have on the D.C. school system's ability to hire and retain the best possible teachers.

Now, if my colleagues will listen carefully for just a second, who are the people that made this report?

Charles T. Duncan, Esq., former D.C. Corporation Counsel; Marion Wright Edelman, president of the Children's Defense Fund; Peter B. Edelman, professor at Georgetown University Law Center, who was, I believe, in the Kennedy administration; John Hechinger, one of the more prominent and distinguished businessmen, who is the cochairman of the board of the Hechinger Co.; and there are many others, but just to name two others: Dr. Vincent Reed, former superintendent of schools of the District of Columbia; and last, for those who are trying to get a bipartisan flavor, Eleanor Holmes Norton, Esq., professor at Georgetown University, former Chairman of the Equal Opportunity Commission and very active in the campaign of Jesse Jackson, who was running for President.

Reading portions of this report, it said:

> The District of Columbia's residency requirement is a significant impediment in teacher recruitment.

It also says:

> Our recommendation: Waive the District's residency requirement immediately for teachers in the schools.

It says:

> Although many other cities have residency requirements for municipal employees, almost none impose it on teachers.

And it goes on, and it says:

Although the residency rule did not greatly affect teacher recruitment initially, it is now coming to have damaging effects.

It said:

According to school officials conducting teacher recruiting, candidates familiar with local housing costs and availability often reject the District schools immediately upon learning of the residency requirement.

It says:

To test this question we surveyed current teacher interns and found that 58 percent believe that the residency requirement will be a significant factor in determining whether or not they will continue teaching.

That means we may lose the best.

It also says:

Over 92 percent believe the residency requirement will be a significant factor for their colleagues.

And, Mr. Chairman, it continues and there are different quotes.

It says:

The bank of substitute teachers has been limited drastically due to the residency requirement.

Another quote says:

Teachers interviewed cannot afford to live in D.C. on the current salary, lack of available housing.

And, as the gentleman said very accurately:

Why can't a young man or young woman that live in Maryland or in Virginia live with their mom and dad in order to save a little money to buy a house and then come in and teach in the District of Columbia schools?

What if one of my children wanted to teach in the D.C. schools and wanted to live with my wife and I so they could save a little money and then later move? They could not do it under these rules. Mr. Chairman, I will end with this last statement, and I will then yield to the two gentlemen.

□ 1400

It says at the end:

Each time the city fails to attract the best possible teachers to fill new positions it diminishes the prospect that literally hundreds of District children will achieve their full potential. We have already waited too long in addressing the fundamental issues before us.

Mr. Chairman, I think you can say this is a public safety issue. This is a 911 issue. This is a fire issue; but I will tell you, this is above all an educational issue and this is a vote that will send a message to improve education to help the young students of the District of Columbia.

Mr. FAUNTROY. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. Mr. Chairman, I thank the gentleman for yielding to me.

I just want to pose three questions to the gentleman on his statement.

In the first instance, is the gentleman aware that under the committee formulation, the very distinguished persons whose names the gentleman called and who have opinions will have that opportunity to express their opinions and to bring scientifically reliable and objectively verifiable data to the attention of the locally elected Mayor and city council should we sustain the position of the committee. Is the gentleman aware of that?

Mr. WOLF. I am aware of that, and I will tell the gentleman that 2 years ago, and the distinguished chairman, the gentleman from California [Mr. DIXON], can attest to this, I put language in the D.C. appropriations bill, I was a member of that distinguished committee, asking for a report on the residency requirement under home rule, and it really was not done. If nothing else, I believe the Coughlin amendment and/or the Parris amendment will send this signal and put this body on record.

Mr. FAUNTROY. Mr. Chairman, if the gentleman will yield further, it is healthy that the committee has responded by including in its submission here to the Congress for its approval the direction that unless the locally elected government which has responsibility for these types of matters delegated to it performs by January 1 that it will consider taking action.

Second, in the gentleman's ride in from the suburbs, where $118 million flees each year in the hands of people who work here but live in Virginia, did the person report that we have only a 1-percent vacancy rate among teachers in the District of Columbia?

Did they tell the gentleman that contrary to the information suggested here that the average cost of a house in Washington is $174,000, that there are numerous communities, about 18 in the District of Columbia, where the average is about $100,000?

Obviously, all of us would like to live in Spring Valley, but certainly the teachers who wish to identify with the community and are trying to instruct would want to live in the community.

Would the gentleman also not agree that Philadelphia did a pretty good thing, not only for the citizens who had a policeman in their community, but also for the distinguished gentleman from the 10th Congressional District?

I think it turned out pretty well for the gentleman. I think it turned out pretty good, because the gentleman lived in a community that was being protected by the gentleman's own father who lived on the block.

Please, I say to the gentleman, I understand that this is purely a home rule matter. The committee has acknowledged that. Let us also acknowledge that and reject the Parris amendment.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. WOLF] has expired.

(At the request of Mr. DELLUMS, and by unanimous consent, Mr. WOLF was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding to me. I listened very carefully to every word the gentleman said.

I simply want the gentleman to understand the position this gentleman is assuming. It is not that the points the gentleman is raising are not issues that are valid enough to debate in the marketplace of ideas. I am simply saying to the gentleman the floor of the U.S. Congress is not the place where these issues ought to be debated. These issues ought to be debated at the city council level. There ought to be comity between the jurisdictions in Maryland, Virginia, and the District of Columbia.

I am saying that to place this issue on the floor of the U.S. Congress is to go far beyond the pale.

Finally, I do not agree that the Federal interest is involved here. If we reject that notion, there is no basis for that argument.

Finally, I would say to my colleagues, the gentleman and I hire staff people. I have people in California in the 8th District and they live in the 8th District. The gentleman and I know that if I hired a person, had them in Texas, we would be before the Ethics Committee.

We have a residency requirement ourselves, and we cannot sacrifice ourselves on the altar of contradiction and hypocrisy, I would say to my colleague.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. WOLF] has expired.

(By unanimous consent, Mr. WOLF was allowed to proceed for 2 additional minutes.)

Mr. WOLF. Mr. Chairman, to comment on what the gentleman said, I respect the gentleman's opinion and I think he makes a very important case.

The fact is, though, that I believe that on our side we make very valid points. This Congress in previous times has gotten involved. I have seen this Congress get involved as to whether there will be three-person car pools or four-person car pools in the State of Virginia.

I have seen this Congress get involved with regard to National Airport in my district almost on a continual basis.

It is not uncalled for or unheard of for this Congress to get involved. I think this is an issue, one that I feel very strongly about. I respect very deeply home rule. I do not believe I have ever spoken on an issue in the 8 years that I have been in Congress on home rule, but for one other issue, and that was with the gentleman from Maryland, Mr. Barnes, on the 18-year-old drinking age. I felt that in that situation it was impacting in a negative way on the people of my congressional district. I think in some respects it is also in this case.

There are many people in my congressional district who would love to have the opportunity to live with their parents and come and work in the District of Columbia and at some time move into the District of Columbia.

There are so many other issues that we could talk about, but I believe very deeply that support for the Parris amendment is really support to improve and better the District of Columbia schools, and if we do that, it will be better for all students.

I ask my colleagues on both sides of the aisle to support the Parris amendment.

Unfortunately, we do not have the opportunity for the amendment of the gentleman from Pennsylvania [Mr. Coughlin]. The best opportunity is the Parris amendment.

At this point, I submit selected quotations from the questionnaire on the DC residency requirement for DC public school principals by the Washington Lawyers' Committee for Civil Rights under Law issued June 1, 1988:

Washington Lawyers' Committee for Civil Rights Survey of D.C. Principals' Views on D.C. Residency Requirement

SELECTED QUOTATIONS FROM THE QUESTIONNAIRE ON THE D.C. RESIDENCY REQUIREMENT FOR D.C. PUBLIC SCHOOL PRINCIPALS

Question 2: Examples of problems that the DC residency requirement has caused in attempts to hire the best possible staff members:

"In such a small jurisdiction with a lack of affordable housing, the residency requirement should definitely be abolished because the best qualified teachers cannot be hired. The residency requirement causes a hardship because it can break up families or potential families."

"We have had some outstanding substitutes. Some would have been eligible for teaching positions but could not work in either capacity because of the res. req."

"High crime rate"; "lack of affordable housing"; and "a teacher was hired and when moved to the District she was robbed and raped a week later."

"If I cannot even interview some applicants, then obviously, it is a problem."

"The bank of substitute teachers has been limited drastically due to the residency rule."

"Many young college graduates were familiar with the area and wanted to live with relatives in Maryland and Virginia. The residency requirement changed their minds."

"The real estate rental and purchase values tend to be beyond the means of beginning teacher salaries—when housing is available."

"Teachers interviewed cannot afford to live in D.C. on the current salary being offered . . . Lack of available housing that is affordable."

"Job candidates found cost of housing; economic base very high; a major factor in deciding job placement."

"Two of my recently hired teachers are holding down other jobs because rent is so high. One teacher was helped by the staff with food donations so she could support herself, her mother, and her sister. Because of the requirements, I have also lost two excellent teachers—one to Fairfax and one to Montgomery County."

". . . Unavailability of affordable housing in areas of the city that are considered safe and desirable i.e. N.W."

"In at least four of the ten positions, the top candidates interviewed lived out of town. All turned the job offers down due to excess expenses in relocating and low salaries. Another consideration was high taxes on D.C. residents."

"Teacher with 16 years experience could not afford to relocate because of the cost (high) of housing . . . Teacher with 14 years experience is relocating in the Washington area. Her husband works in Virginia. She is unable to take the position because they desire to purchase property in Virginia."

"Teachers are reluctant to accept jobs based on the residency requirement, coupled with the lowest starting salary in the area. If a residency requirement continues to exist, a subsidy needs to be provided for new teachers relocating."

"Two who were interviewed and offered the job went to surrounding school systems because suitable-affordable housing was not available in D.C. and a residency requirement was not a part of the teaching requirement."

Question 4: Examples of personal experiences with good staff members who left or are considering leaving their jobs due to the residency requirement:

"The majority went to Fairfax county"

"A co-worker of mine could not find housing during the 180 day deferred residency period and was terminated. She now works in Fairfax County and earns a greater income."

"In particular experienced teachers who would like to return to teaching now that their youngest child is in school cannot displace their families in order to work in D.C.—therefore they plan to leave before the residency requirement time comes around. We have excellent teachers who will work for one year then move on to the counties."

"New teachers who take positions feel that they may not be able to satisfy the requirement of residency because of high rents. Many plan to leave if that ultimatum is given."

"New teacher who has been sharing living expenses with a roommate soon will have the full responsibility of bills. It soon will be impossible for that teacher, based on the salary received, to afford living in D.C."

"Unable to find suitable housing (apt.) in an area convenient to job location which is necessary due to a physical handicap."

"One current new teacher has had a rent increase since August and is having difficulty managing on a beginning salary."

Question 6: How frequently has the residency requirement been noted by potential recruits as a significant reason for not considering a job in the District?

"Whenever there has been a need to hire teachers with special needs, this has occurred."

"One out of three applicants—usually the most qualified rejects the position."

"About 70% of cases. Once the requirement is mentioned, they are no longer interested."

"In approximately 60% of the candidates I have interviewed, D.C. residency has been a deterrent to taking a position."

ADDITIONAL COMMENTS

"The limits of the residency requirement will become more evident the longer it stays in effect."

"Only that statistically it is difficult to prove what I believe is happening. For example, how many have we scared away? How many have not even tried for an interview?"

"The D.C. school system cannot afford to maintain any artificial barriers that discourage qualified candidates from applying. The teacher shortage in this nation is REAL!"

"The level of starting salary is insufficient to meet financial obligations."

"The residency requirement, plus low salary, plus the high cost of living are simultaneous factors which are negative facts to job acceptance in the District. The candidates had no problem with working or living in the District if they could afford reasonable living expenses."

"One of my colleagues was offered a position in Fairfax. He took it and is now making $5,000 more on a lateral move. I have also been approached by surrounding jurisdictions. It does not bode well for D.C. if things continue as they are."

"Most of the people I have spoken to about this requirement resent being told where they must live."

"The D.C. residency requirement is an obstacle in hiring and maintaining supervisory instructional staff, as well as teachers, particularly persons receiving modest salaries. Their money can be better spent in neighboring counties."

"If the residency requirements are to continue then salary and benefits must significantly improve immediately."

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I am intrigued by the direction in which this discussion this afternoon on this bill is tending.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. Wolf] has expired.

(At the request of Mr. Parris, and by unanimous consent, Mr. Wolf was allowed to proceed for 2 additional minutes.)

Mr. PARRIS. Mr. Chairman, will the gentleman yield further?

Mr. WOLF. I yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Chairman, I am puzzled, frankly, by my friend, the gentleman from California [Mr. Dellums], for whom I have enormous respect. I am puzzled by the gentleman's assertion that though it is his right to do so, I think he would not take offense if I said that he was one of the more liberally philosophically oriented persons in this body, and that I say is his absolute right. The gentleman is a government activist, but he asserts that the Congress ought not to exercise its constitutional obligations and we ought not to interfere with the prerogatives of the city council of this town, even though this is the Nation's Capital.

Now, I submit, with all due respect to my friend, the gentleman from California [Mr. DELLUMS], that the heavy hand of Big Brother, this government and this Congress, as it defines the law to be, permeates every single aspect of the life of every citizen of the United States.

Let me just give a very quick example of that. George Will in a brandnew book called "The New Season" wrote this very short paragraph:

> A veteran came back from the Korean War and went to college on the GI Bill; bought his house with the FHA loan; saw his kids born in a VA hospital; started a hardware business with SBA loans and advice; got his electricity from TVA and, later, his water from an EPA project. His parents retired to a farm on Social Security, a farm on which they got their electricity from REA and their soil testing through USDA. When his father became ill, the family was saved from financial disaster by Medicare and his life was saved with a drug developed through NIH research. His kids participated in the school lunch program, learned physics and math in high school from teachers retrained in an NSF program, and were able to go to college through the guaranteed student loans. He drove his car to work every day on the Interstate and moored his boat in a channel dredged by the Army corps of engineers. When floods hit his town, a couple of years back, he took Amtrak to Washington to apply for disaster relief, and, awaiting his meeting, spent part of his day visiting the Smithsonian museums and the Washington Monument.
>
> And then—after all that was said and done—he sat down and wrote his Congressman an angry letter asking the federal government to get off his back, and he complained about paying taxes for all those programs created for ungrateful people who were getting a free ride from the government.

Now we do not want to exert the constitutional obligation of this Congress to address the issue of public safety in this city?

The CHAIRMAN. The time of the gentleman from Virginia [Mr. WOLF] has expired.

(At the request of Mr. DELLUMS, and by unanimous consent, Mr. WOLF was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding to me.

To add a little humor to this, this gentleman probably would have voted for all those programs and the gentleman from Virginia probably would have opposed them.

But Mr. Chairman, let me just say, when the gentleman raises our constitutional responsibilities, he is clearly aware that we also insert into that equation statutory law and the statutory law that we insert into this debate is the Home Rule Act, and the Home Rule Act did establish certain rights, did establish certain prerogatives for the residents of the District of Columbia. All this gentleman is attempting to say is not that the issues the gentleman is raising are not valid issues to be debated. I am simply saying that this is an inappropriate place to do it.

I understand the concern of my colleagues from Virginia and Maryland in this matter. I am simply saying we have elevated it to the floor of the U.S. Congress and it is an inappropriate place to debate a matter that is clearly a local matter that ought to be resolved in the timeframe of the local jurisdictions.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words. I will not take the 5 minutes.

Mr. Chairman, just let me say that anyone who thinks that crime is not rampant in this city has only to read newspapers or watch television or listen to radio. The murder rate is at an historic high. Drugs are a major problem. Crimes of property are rampant, and it is almost unbelievable to think or make a claim that crime is not rampant here.

Second, I just want to say that I personally resent any implication that the amendment of the gentleman from Virginia is racially motivated. This amendment is being requested by the police of the District of Columbia, a majority of whom are black.

Finally, let me say, Mr. Chairman, that those who visit the city, my constituents and yours, have a right to be safe on these streets. Those who come to this city to work because it is the Nation's Capital have a right to be safe in their homes. Those who commute to this city from outside the city have a right to be safe in their working places. The citizens of the District of Columbia themselves have a right to be safe in their homes and on their streets.

Mr. DIXON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I obviously rise in opposition to this amendment for all the reasons that have been stated here.

My good friend, the gentleman from Pennsylvania [Mr. COUGHLIN], the ranking member of the committee, and other members have tried to cloak this amendment in better schools, have tried to cloak this amendment in the reduction of crime, have suggested that not only the police fraternal organization is supporting this amendment, but the majority of black police officers, and have talked about the issue of safety.

The amendment reads:

> None of the funds appropriated or otherwise made available by this Act may be used to pay the salary or expenses of any officer, employee or agent who is engaged in implementing, administering, or enforcing a District of Columbia residency requirement under the District of Columbia Government Comprehensive Merit Personnel Act of 1978.

Further, we address this issue as if this bill is going to be signed into law tomorrow. It will probably be September or October before it becomes law.

I agree with many of the arguments that have been put forth by the proponents of this amendment, but this amendment does not address reduction of crime. It is not going to make the schools any better.

I do not know whether half of the black officers in this community, not that it is relevant, support this issue or not, and I defy anyone to show me how this District becomes a safer District tomorrow by the adoption of this amendment.

Mr. Chairman, the issue before us is whether we will allow the District of Columbia sufficent time to legislate on this issue. That is the only issue before us; not motherhood, not safetyhood, not any of the other irrelevant conversations that have been taking place on the floor of the House.

There is a bill pending in the City Council dealing with this issue.

I made a point of order on the amendment of the gentleman from Pennsylvania [Mr. COUGHLIN], although very well meaning in nature, because it put in place a system that I feel the District of Columbia has a right to put in place themselves, and should have the opportunity to do so. They may not prefer that system. They might want to use some other hiring system.

Once again, I call attention to page 4 of the report. On page 4 of the report, it says that if the District does not move by February 1, 1989, the Congress will move. That is pretty clear.

It further states:

> In the interim, the committee urges the District not to dismiss any employees for failure to comply with the current residency requirement.

□ 1415

We have debated the issue for at least 2 hours. I think the members of this committee have worked hard on this bill. It is inappropriate for us to take this giant step forward and legislate on this issue, and I dare say that the District government has gotten the message.

I ask you to allow them to act on this message, and I urge a "no" vote.

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a difficult issue for me, because I very strongly support the home rule of the District of Columbia. Furthermore, I want to say honestly to my friend, the gentleman from Virginia, the sponsor of this amendment, that I was made somewhat uncomfortable by the analogy the gentleman made on the radio. The District of Columbia are not any of our children. The District of Columbia is a full partner in the delivering of Government services to the people of this country.

We adopted home rule because we believed, and believe now, that in America people living in a jurisdiction ought to have the right to govern themselves. I think it is unfortunate that the gentleman from the District of Columbia does not vote on this floor. He ought to. I am sorry that the States of this Nation did not ratify it.

The people of the District of Columbia believe there are some racial overtones or believe there are political overtones, but whatever the overtones or undertones are, it is unfortunately not right. We ought to move in that direction.

The fact of the matter is that this Congress does in fact have under the Constitution of the United States ultimate stewardship over the area given by the great State of Maryland. The State of Virginia gave some property, too, but they took it back. We have some stewardship and concerns, because it is a unique city in this country. It is the capital of what we believe to be the greatest, freest and most just nation on the face of this Earth.

I would like to ask the chairman a couple of questions before I proceed further.

Mr. Chairman, you alluded to, and the gentleman from the District of Columbia and the distinguished chairman of the committee, the authorizing committee of the District of Columbia, unique in this Congress because it is a committee that has jurisdiction over a city, again, the capital of our Nation; Mr. Chairman, you referred to our language which says that, "If by February 1, 1989, the District Government has not adopted its own preference system that does not preclude the hiring of noncity residents, the committee intends to include language in its fiscal year 1990 appropriations bill prohibiting the continued enforcement of the residency requirement and replacing it with a preference system developed by the committee."

That, of course, is the D.C. Appropriations Subcommittee.

Mr. Chairman, if this amendment is defeated or if it is not adopted by the Senate or if it is not signed by the President of the United States and does not become law, it is your intention to carry out the thrust of that language?

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I am happy to yield to the gentleman from California.

Mr. DIXON. Mr. Chairman, the gentleman is absolutely correct.

Mr. HOYER. Mr. Chairman, furthermore, the language goes on: "In the interim, the committee urges the District not to dismiss any employees for failure to comply with the current residency requirement."

Does that mean, Mr. Chairman, that it would be your perception that between now and the consideration by the D.C. Council and the Mayor and the people of the District of Columbia on the modification of this residency requirement, that they would not terminate employees for failure to be in concert with the residency requirement currently in law?

Mr. DIXON. Mr. Chairman, that would be my perception, and I would strongly urge the District to abide by the report language. It is obvious that the residency requirement is loosely enforced and unevenly applied, and I believe it would be in the best interests of all those concerned if the District would refrain from dismissing any employee for failure to comply with the present residency requirement until such time as this issue is resolved.

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. HOYER. Mr. Chairman, I am happy to yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Chairman, I thank the gentleman for his courtesy. Let me just say it has almost been lost in this debate the simple fact that what we are doing here is appropriating $541,596,000 of Federal taxpayers' funds, well over a half-billion dollars, which admittedly includes $2.3 million in inauguration expenses which services will be provided by the District of Columbia. That is the extent of it, $2.3 million. We are also approving the total sum of $3,206,916,000.

If that is not enough to pique the interest of the gentleman from Maryland, it is from this poor country lawyer from Virginia, and I submit to the Members that we cannot simply ignore the fact that we are in fact writing a check as we do every year for over a half a billion dollars. To me that carries with it a concomitant obligation to have some interest in where the money goes.

Mr. HOYER. Mr. Chairman, reclaiming my time, I thank the gentleman from Virginia for his comments.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. HOYER] has expired.

(By unanimous consent, Mr. HOYER was allowed to proceed for 4 additional minutes.)

Mr. HOYER. Mr. Chairman, this is language that I offered as a compromise after the Coughlin language lost in committee to try to move this ahead.

The gentleman from Virginia has correctly stated, however, that we had language in the fiscal 1987 budget offered by the gentleman from Virginia [Mr. WOLF] which urged proceeding on the residency requirement.

Members, ladies and gentlemen of this House, we are where we are and where we are is that we have an authorizing committee and an appropriations committee for the District of Columbia. When there are people who have problems, they naturally come to those who may give them some relief. If they live in Prince Georges County, they come to STENY HOYER; the gentleman from California has observed that if they live in Virginia, they come to the gentleman from Virginia, and if they live in the District of Columbia, they come to the gentleman from the District of Columbia, and if they live in Baltimore, they go to my friend.

The fact is they are not interested in the niceties as we must be. They are interested in relief. Many of my people, black and white, feel this residency requirement adversely affects their ability to live the way they want to live. Furthermore, as the gentleman from Virginia [Mr. WOLF] has pointed out, many, many very excellent people, black and nonblack, have said this residency requirement is hurting the Capital City, Washington, DC, the District of Columbia, but also the Capital City.

As a matter of fact, as a result of the 1986 bill, the fiscal 1987 budget, a study was had by the District of Columbia, and they made some findings: First, the residency requirement has made recruitment and retention of employees in certain job classifications extremely difficult.

Second, and I will get to it, because No. 1 was covered in three pages. Two, District employees who are residents do not comprise a significant portion of our taxpayers. This is the District of Columbia Committee.

Three, the residency requirement has little effect on reduction of unemployment in the District of Columbia.

Four, exemptions run counter to the goal of hiring District residents for District jobs, and as we have discussed the exemptions.

Five, granting exemptions creates inequities.

The situation that we found ourselves in as Members of Congress is that first of all there seems to be a problem. Some very, very substantive, legitimate people inside the District of Columbia on the D.C. City Council say that there is a problem. People who have testified before our committee from the Department of Education and the District of Columbia say that there is a problem. They would like the opportunity of resolving that problem themselves.

Members of this House, ladies and gentlemen, I am going to vote for the Parris amendment. I think that will make a statement of moving ahead, but whether the Parris amendment passes or not, I hope very sincerely that the District of Columbia Government, working together, the council and the Mayor and the people of the District of Columbia, will address this issue, give relief, solve a problem that the District of Columbia has.

I emphasize with the gentleman from California. It is not my role as a Member of Congress from the Fifth Congressional District of Maryland to legislate for the District of Columbia, but ultimately we all know where there is an avenue for political redress of a legitimate grievance, that avenue will be sought and ultimately that grievance will be redressed, and we will move forward.

Mr. FAUNTROY. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I am happy to yield to the gentleman.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. HOYER] has again expired.

(At the request of Mr. FAUNTROY and by unanimous consent, Mr. HOYER was allowed to proceed for 2 additional minutes.)

Mr. HOYER. Mr. Chairman, I yield to the gentleman from Washington, DC.

Mr. FAUNTROY. Mr. Chairman, I was very much encouraged by the gentleman's remarks, but quite frankly, I was disappointed that after talking east on the issue, he now is intending to walk west on the vote. The fact is that it was proper for him to inquire of the chairman as to whether or not it was the intention of the committee to take the action which the gentleman now wants us to take after February 1. If the locally elected people do not respond to many of those, the gentleman's own constituents who work in the District of Columbia and who own 20 percent of the jobs in the District of Columbia, while we only have 5 percent of the jobs in Prince Georges County, the gentleman pointed out that they will have the opportunity to go before the local forum to which we have delegated responsibility to make judgments on this, and I thought that was a good point to make.

The gentleman yielded to the gentleman from Virginia, who indicated that we are giving $500 million in the Federal payment; $3 billion, but he did not point out——

Mr. HOYER. Mr. Chairman, I did not respond to that. Let me respond without the gentleman having to say it, to the gentleman from Virginia. I believe that if the Federal Government paid an in-lieu-of-payment; that is, in lieu of the property taxes that would otherwise be accruing to the District of Columbia if the Federal establishment were not here and there were private-sector establishments would be greater, although I have been surprised, it is not as far greater as I thought it would be, but it would be greater than the Federal payment. I have no problem with the Federal payment being made as an in-lieu-of-payment for taxes, as I would expect in Maryland, and as I think the gentleman, as a matter of fact, from Virginia expects as well.

As a matter of fact, the distinguished gentleman from Kentucky [Mr. NATCHER] deals with that every year on the impact aid funds.

Mr. FAUNTROY. Mr. Chairman, It is true that we have a Federal payment or authorization that has not been raised from last year, $430 million.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. HOYER] has expired.

(At the request of Mr. FAUNTROY and by unanimous consent, Mr. HOYER was allowed to proceed for 1 additional minute.)

Mr. HOYER. I yield to the gentleman from Washington, DC.

Mr. FAUNTROY. Mr. Chairman, were it not for the Federal presence, we would be getting $417 million for 44 percent of the land that we cannot tax because of the Federal presence plus $817 million that we cannot tax in individual income because of exemptions given to military personnel in terms of individual taxes, plus $100 million that we provide for street maintenance, police and fire services, in addition to the special national security questions that revolve around demonstrations, and in the case of January 1989, the inauguration.

I had hoped the gentleman was leading to talking east and walking east, and I would hope that he would reconsider that. Certainly he can go back to his constituents and say, "I voted with the committee insisting that the locally elected people who have the responsibility will take the privilege of providing response to this appeal."

The CHAIRMAN. The time of the gentleman from Maryland [Mr. HOYER] has again expired.

(By unanimous consent, Mr. HOYER was allowed to proceed for 30 additional seconds.)

Mr. HOYER. Mr. Chairman, just to respond to my friend from the District of Columbia, just so he understands, I walk west or east depending on what one believes is at the end of the rainbow, east or west, and the amendment that I voted for was defeated. Being the person that I am, as all of us on this floor, are, I turned around and walked the other way and got a compromise which is also now before us in the terms of the report language. I have been consistent. I have just not found the route through which the door to the redress of the grievances I seek to solve can be found.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. HOYER] has again expired.

Mr. DIXON. Mr. Chairman, I ask unanimous consent that on the Parris amendment there be only 5 additional minutes for debate allowed on the amendment or any amendment thereto.

It is my understanding that there is one speaker, and the 5 minutes would allow for that time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GEKAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, members of the committee, many of us in our own jurisdictions and our own legislative districts have encountered the question and all the issues that are involved in a residency requirement, and many of us from home areas, parochial areas, have resisted the temptation to allow residency rules to be broken out beyond the immediate area about which we are concerned.

In Pennsylvania, just for an example, I do recall that all of us who always wanted to keep the community intact without allowing nonresidents to take part in the police and fire structures of the community were convinced at one point that, and now it is the law of Pennsylvania, that when firefighting is involved or when police officers are involved, namely, public safety issues, that that feature is compelling enough to allow a resilient type of residency requirement to allow a pool of available people beyond the borders of a particular municipality to apply for those jobs.

□ 1430

A criterion, of course, has been public safety and it has worked in the Commonwealth of Pennsylvania to allow nonresidents for those positions which are tough positions and for which we sometimes have to scramble to find applicants to make it easier for them to apply for a public safety position within a jurisdiction that normally would not have anything about a strict residency requirement.

I support the Parris amendment and I hope that other Members do the same.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. PARRIS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PARRIS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 246, noes 163, not voting 22, as follows:

[Roll No. 202]

AYES—246

Andrews
Annunzio
Anthony
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehlert
Boucher
Brooks
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Cardin
Carr
Chandler
Chapman
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dornan (CA)
Dowdy
Dreier
Dyson
Eckart
Edwards (OK)
Emerson
Erdreich
Fawell
Feighan
Fields
Fish
Flippo
Foley
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hoyer
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kasich
Kemp
Kolbe
Kolter
Konnyu
Kyl
LaFalce
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison (WA)
Myers
Nagle
Neal
Nelson
Nichols
Nielson
Owens (UT)
Oxley
Packard
Parris
Patterson
Payne
Penny
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Russo
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spratt
Staggers
Stallings
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Tauzin
Taylor
Thomas (CA)
Torricelli
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Weber
Weldon
Whittaker
Williams
Wolf
Wortley
Wylie
Yatron
Young (AK)
Young (FL)

NOES—163

Ackerman
Akaka
Alexander
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boxer
Brennan
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Carper
Chappell
Clay
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
de la Garza
Dellums
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Edwards (CA)
English
Espy
Evans
Fascell
Fazio
Flake
Florio
Foglietta
Ford (MI)
Frenzel
Frost
Garcia
Gejdenson
Gephardt
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Hubbard
Hughes
Jacobs
Jeffords
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kostmayer
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
Markey
Martinez
Matsui
Mavroules
Mazzoli
McHugh
Miller (CA)
Mineta
Moakley
Moody
Morrison (CT)
Mrazek
Murtha
Natcher
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Panetta
Pashayan
Pease
Pelosi
Pepper
Perkins
Rahall
Rangel
Robinson
Rodino
Rowland (GA)
Roybal
Sabo
Savage
Sawyer
Scheuer
Schroeder
Sharp
Sikorski
Skaggs
Smith (IA)
Solarz
Stark
Stokes
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Walgren
Watkins
Waxman
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates

NOT VOTING—22

Anderson
Badham
Biaggi
Boulter
Ford (TN)
Frank
Jones (TN)
Kennedy
Lott
Mack
MacKay
Mica
Mollohan
Murphy
Ray
Rose
Saiki
Schumer
Spence
St Germain
Stratton
Weiss

□ 1451

The Clerk announced the following pair:

On this vote:

Mr. Boulter for, with Mr. Frank against.

Mr. CLARKE and Mrs. LLOYD changes their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. DORNAN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dornan of California: Page 23, line 1, strike "Federal".

Page 23, line 4, strike the semicolon and all that follows through line 10 and insert a period.

Mr. DIXON. Mr. Chairman, I ask unanimous consent that all debate on the Dornan of California amendment be limited to end at 4 p.m., the time to be equally divided and controlled by those for and those against, and that the time limit apply to the amendment and any amendments thereto.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DIXON. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. Pursuant to the unanimous consent agreement, the gentleman from California [Mr. Dornan] will be recognized for 32 minutes and the gentleman from California [Mr. Dixon] will be recognized for 32 minutes on this amendment.

The Chair recognizes the gentleman from California [Mr. Dornan].

Mr. DORNAN of California. Mr. Chairman, we have debated this issue so extensively that all Members, including the new Members to the 100th Congress, are well aware of this life issue. You can use euphemisms such as "choice," but the fact remains with each passing month, actually with each passing week, there are such advances in the field of medical science that our President, Ronald Reagan, is correct, that medical science alone is proving the lack of wisdom or foresight by the Supreme Court Justices who rendered the Roe versus Wade decision on January 22 of 1973.

The reason that my good friend, the chairman, the gentleman from California [Mr. Dixon], has reserved a point of order is understandable. My amendment does have in it language to protect the life of the mother. Of course there is a duality there of principle; in defense of the life of a mother you can indirectly take human life. That is the only exception.

I have a backup amendment at the desk. We have gone through this procedure before, as the chairman well knows, where if he does exercise the point of order then I fall back to the other amendment which does not have the language that every prolifer in this Chamber and in the other body wants, the life-of-the-mother language. And we know that that language would be returned in the Senate conference committee.

So I would like to reserve any time to discuss what takes place in the District of Columbia.

There were 3,599 abortions in the District of Columbia last year, calendar year 1986; more than half of them were women coming back for a second abortion. That makes the case, rather tragically, that abortion is being used as the ultimate form of birth control in the District.

I think that this is the last loophole where Federal tax money, in a federally run district, the District of Columbia, is being used to fund abortions. Even if they use separate funds, it is still our responsibility in this Chamber, particularly those of us who believe in the sanctity of life inside the womb as well as outside of the womb, to do what we can to stop this last bastion in the United States where there is funding at the Federal level to take innocent human life of preborn children.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I gladly yield to the gentleman from Illinois.

Mr. DURBIN. I thank the gentleman for yielding.

Mr. Chairman, last year we had a similar dialog during the offering of this amendment. I would like to ask the gentleman from California whether or not the State of California uses its State funds to fund Medicaid abortions.

Mr. DORNAN of California. It does, and those of us that are prolifers in the State of California believe that the clock is ticking on that procedure also, again because of medical science.

Mr. DURBIN. Mr. Chairman, the gentleman from California acknowledges that the State of California uses its State funds for funding Medicaid abortions and I raised the point last year during this debate that I think it is unfortunate that the gentleman and others have focused on the District of Columbia in order to protest what they consider to be the misuse of public funds for abortions. It would certainly be more consistent, it would certainly show better faith had the gentleman from California offered to strike some Federal funds to his home State of California to punish them for their use of their State funds for Medicaid-funded abortions, would it not?

Mr. DORNAN of California. If I may reclaim my time, I congragulate the State of the gentleman, the great State of Illinois, because you do not do this. I think that is admirable.

I am ashamed as a Member of the Golden State, which will have 51 Congressmen in the 102d Congress when it is sworn in, but I think after a fair reapportionment—and I was the victim of an unethical, unfair, nasty, mean-spirited reapportionment that cost me 2 years in this Chamber, 1983 and 1984—I think that after a fair reapportionment of the 1990 census, California will show the wisdom that the citizens, with its congressional delegation in the lead, particularly Mr. Hyde, showed in your State which precedes us as a member of the Union by 1818 to 1850, with 32 more years of statehood wisdom.

Mr. DURBIN. Mr. Chairman, will the gentleman yield further?

Mr. DORNAN of California. I yield again to the gentleman.

Mr. DURBIN. I thank the gentleman for yielding further.

The debate today is over Federal funds to a political unit. The gentleman from California has suggested that we somehow restrict or lessen the funds to the District of Columbia because of their decision to fund Medicaid abortions. But I ask the gentleman why he has not asked for a restriction of Federal funds to his home State of California which also funds Medicaid abortions with their State funds.

□ 1500

Mr. DORNAN of California. Mr. Chairman, if I may reclaim my time, what the gentleman has done is one of the most fascinating things that takes place in any deliberative body. In cartoons it is exemplified by a light bulb over a character's head. The gentleman has created an idea. He has given this Member from California that beautiful thing that separates us from the rest of the animal kingdom. The gentleman has given me an excellent idea which I will pursue with all vigor if I am elected to 101st Congress, and I thank him for it. I want California to be as noble as the great State of Illinois.

Mr. DURBIN. Mr. Chairman, will the gentleman yield further?

Mr. DORNAN of California. Yes, I yield again for another good idea, I hope.

Mr. DURBIN. I floated that light bulb a year ago, and nothing happened. That is why I asked the gentleman this year why we have not done it.

Mr. DORNAN of California. I must have been distracted, but now the gentleman has made his point, and point I thank him.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California [Mr. Dixon] insist on his point of order?

Mr. DIXON. Yes, Mr. Chairman, I do.

Mr. Chairman, this amendment is clearly legislation on an appropriation bill since it imposes additional duties on officials and as such is in violation of clauses 2 of rule XXI of the House.

Implicit in the language of the amendment is the duty on the part of officials to ascertain from a physician that the life of the mother would be endangered if the fetus is carried to term. This imposes an additional burden on officials to make new determinations and judgments not required of them by law at the present time.

Therefore, Mr. Chairman, I make a point of order that this amendment is clearly in violation of clause 2 of rule XXI of the House.

Mr. DORNAN of California. Mr. Chairman, I understand that the chairman of the committee had to be consistent. I understand that, and I have another amendment at the desk that I wish to offer.

The CHAIRMAN. Does the Chair understand that the gentleman concedes the point of order?

Mr. DORNAN of California. I do, Mr. Chairman.

The CHAIRMAN (Mr. Cooper). The point of order is sustained.

AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. DORNAN of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the second amendment offered by the gentleman from California [Mr. Dornan].

The Clerk read as follows:

Amendment offered by Mr. Dornan of California: Page 23, line 1, strike "Federal".

Page 23, line 2, strike "except" and all that follows through line 10 and insert a period.

PARLIAMENTARY INQUIRY

Mr. DIXON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. the gentleman will state it.

Mr. DIXON. Mr. Chairman, as I understand the amendment, section 117 would read as follows: "None of the funds provided in this Act shall be used to perform abortions"?

The CHAIRMAN. That is the Chair's understanding of the amendment.

The Chair will allocate the remaining time equally which the Chair understands to be 28 minutes on each side.

The Chair recognizes the gentleman from California [Mr. Dornan].

Mr. DORNAN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as with last year, I want to make it very clear that almost every religious group in this country understands the principle of self-defense.

Only in that rarest of rare situations—I do not even believe it happens anymore; medical science has advanced so amazingly over the last couple of decades, particularly in the 15 years since the Roe versus Wade decision—and only in soap operas and old black and white movies do we ever see an OB/GYN doctor walk out and say to a perspiring father, "Do you want it to be the baby or your wife?" It just does not happen anymore.

So all the pro-lifers in this Chamber and the other body want the language: Except in that rare case to defend the life of the mother.

But I understand the problem of the committee chairman with respect to an appropriation bill. We went through this last year. I believe—and I say this with all the intensity that comes with the language of legislative intent during the discourse on an amendment—that I want these words restored, which is the way it is done in the conference committee. And I remind my colleagues, those that were not here during general debate on the D.C. appropriation bill, that President

Reagan stood at that principal lectern from whence he delivered the State of the Union Message and held up several gigantic bills, including last year's continuing resolution, and he even had it weighted out at 14 or almost 15 pounds, dropped it with a loud thump to his right, and vowed to us that he would never again sign a massive $600 billion-plus appropriations continuing resolution.

So if the President is going to veto this Mussolini style of doing government business where we put just about every spending instrument in one massive bill at the end of the year—in this last case it happened to be the night of December 20 and 21; we got out of here in the wee hours of December 22—if the President is going to stick to his guns and we are not going to press him with this type of massive legislation, then he will have the opportunity to rifle-shot each appropriation bill, even this smallest of all appropriations, whereby we in this Chamber and the other House put up the money for the District of Columbia. If that is the case, I have in writing from the White House, and I am assured I will get it again for this year, that the President will veto the D.C. appropriations bill, as he has promised to crowds as high as 50,000, 60,000 or 85,000 people on the Ellipse, sometimes when it was 20 degrees above zero. Two years ago, when there was 20 inches of snow, the year after they cancelled the inaugural parade, we were out there in the freezing weather. The President has always spoken to us by radio from the Oval Office, and he has always told Ms. Ellie Gray, the organizer of the Rose March of Life, that he will veto a D.C. appropriation bill.

So this is the year he will veto it if this language, combined with the return phrase, "except to save the life of the mother," which will be done in conference, is not there, and we will be wasting our time if out of conference we do not have this Hyde-type Dornan amendment in the D.C. appropriation bill.

I am not insisting on a recorded vote on this, and I tell my Members very frankly, as I tried to say with all sincerity a year or 2 ago, there are strongly held, sincere positions on both sides of the aisle on both sides of this issue. It has been aired significantly. Heaven knows we are going to get plenty of airing in the Presidential race, because we have different positions between the assumed winners of each of our conventions next month and the following month.

So I am willing to go without a vote. I will take a voice vote. We are going to yell very loudly on this side for life. I will only join in the debate depending on the quality of the debate from the other side. I re-emphasize strongly these words: Modern medical science, in-uteral, microscopic surgery on babies in the womb. And we are going to put this up during some of the debate on the housing provisions maybe later this afternoon—that a pregnant mother, as it says in Scripture, with the Holy Family traveling back to Bethlehem from Egypt, husband, wife, mother with child, when a couple like that appears in the door and the landlord sees a pregnant mother, is he going to reject that women when we passed overwhelmingly an amendment last Thursday that you cannot reject a couple with a little baby in swaddling clothes? I think that will pass overwhelmingly, and I think every Member of this House knows that. Certainly this grandfather of seven and father of five knows that when one of my daughters or my wife said, "Put your hand on my stomach, feel the little foot stuck in the ribs," that is a baby, a human being. And I believe I speak accurately for most Members of the House, judging by our vote, that we also believe that the infant in the womb has a human soul, and that God played a role in the procreation process, and that is a child. And it says an awful lot in this country on this one issue as to what we think about ourselves as a people, as a civilization, when we kill over 4,500 babies in their mother's wombs every day. And it starts right here in the Federal City, with 10 abortions every day, most of them little black children.

I agree with the old Jesse Jackson at the Biltmore Hotel in New York in 1974 and in the Right to Life March out on the Ellipse in January 1977; it is a genocide of several ethnic groups in this country. Truly it is a scar upon the landscape of this great country, and I am only sorry in 8 Reagan years we were not able to roll it back.

But I will leave the heavier debate for the Presidential campaign and again affirm that I am ready to accept a voice vote on this amendment, provided, of course, that my side wins.

Mr. Chairman, I will not yield back my time yet. I have my long-range artillery here on the floor, and I reserve the balance of my time.

Mr. DIXON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, as the gentleman from California [Mr. DORNAN] has indicated, we have had this debate for the past 3 or 4 years. Some of the Members who just came on the floor may not know what the status of the amendment is.

The present law as it affects the District of Columbia says that no Federal—and I stress that—no Federal funds shall be used for abortions except in cases of rape, incest, ectopic pregnancies, or to save the life of the mother. I think this body and the other body felt that the District of Columbia had a right to decide what it does with its own locally generated moneys.

The gentleman from Illinois [Mr. DURBIN] hit the nail right on the head. What he was trying to point out to us very clearly was that it does not make any difference what the new Jesse Jackson or the old Jesse Jackson feels about this issue, and it does not make any difference what the President of the United States feels about this issue, with the exception that he would have the right to veto this bill.

The President of the United States cannot dictate policy to the State of California as to whether they will spend their own State money for abortions for people who cannot economically afford them. What the people of the District want is that very same right. Every State in this Union, based on Roe versus Wade, has the opportunity to make that public policy decision for their local jurisdiction.

If it were not for the legislative process which causes all the appropriations for the District, whether they are financed with Federal funds or local funds, to move through this body, we would not have that opportunity.

Whether we are pro-choice or pro-life really has nothing to do with the issue. The issue is whether the District of Columbia should be allowed the same dignity as the 50 States, that is, to decide what it does with its own moneys as it relates to abortions. That is the only issue that is before us.

This is a matter of one group trying to press its own philosophy on the District of Columbia. So setting aside what Jesse Jackson thinks or what the President thinks or the ethnic character of the fetus, the law is clear. A woman has the right to make that decision, and each State has a right to determine if they want to finance the costs of that decision with their own money.

We are going to hear a lot of extraneous arguments and a lot of horror stories. But, believe me, the narrow issue is, does this jurisdiction have a right to determine public policy, and does it have a right to use its own money to fund that public policy?

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I am pleased to yield to my friend, the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I want to congratulate the gentleman from California [Mr. DIXON] on his very, very eloquent presentation, because the gentleman is exactly correct.

Here we are in this great legislative body that was built upon the idea of representation with taxation. Certainly the people in the District of Columbia, in this Nation's Capital, tax themselves very heavily. They do it through elected Representatives, and what we are here doing is taking away that representation by letting them keep the taxation. That is really wrong, and that is what this legislation is based on.

I think the gentleman is right. The whole focus of this issue seems to be that we want to treat the Nation's Capital differently than we treat every other State, and they should be entitled to equal rights. I think the gentleman from California has gotten right to the point. I certainly hope that this amendment is defeated, and I hope the Members remember what this Nation was built on.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I am happy to yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman for yielding, and I want to reemphasize what the gentlewoman from Colorado [Mrs. SCHROEDER] said. We want to make it very clear that this is not a debate on proabortion or antiabortion. The debate is whether or not the Federal Government is going to strong arm a group of people in the District of Columbia who want to spend their own money for something, whether it is for abortions or not for abortions.

I think the gentleman from California [Mr. DORNAN] is going to be very surprised when we have a vote on this amendment, because I think the Members of the House understand this issue better than he thinks they do, and that is that we are not here to direct how the various communities of the United States use their own money in their local tax-collecting efforts.

Mr. Chairman, I certainly would urge a strong "no" vote on this really outrageous suggestion.

□ 1515

Mr. DIXON. Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, just so that we understand this issue, the gentleman from California would say that Washington, DC, local taxpayers can no longer decide what they want to use their taxes for. If they feel in their own wisdom and in their own democratic way that the taxes can go to pay for insurance that covers abortions, that no longer would be legal.

Now I have to say, Mr. Chairman, that I am shocked that a Member of this body who comes from the side of the aisle which prides itself on getting the Federal Government off the backs of the people would sponsor such an amendment.

Now I come from local government. I was elected twice to the local Marin County Board of Supervisors, and I can tell the gentleman that the local people I represented fiercely guarded their right to choose how their funds would be spent. They fiercely guarded that right, and they had every reason to guard that right. They did not want the Federal Government announcing what they could or could not do with their hard earned tax dollars.

Now I think that the people of Washington, DC, have this right, absolutely this same right.

Mr. Chairman, we all know that the issue of abortion is a very touchy issue, and I think the gentleman from California [Mr. DIXON] was right to say that we are not going to get into it because some of us might say that it is a woman's right to choose yes or no. Others might say the woman has no right to choose.

I think we should have respect in this society for that choice to be made by every individual. It is a difficult choice but an individual one.

So, Mr. Chairman, I think that this amendment should be voted down for one very strong reason: People of goodwill will have different points of views on this issue. It is really a fundamentally moral, religious issue, the way one feels about abortion. In the argument of when life begins, one very honest person could come up with one answer and another person, the opposite answer. We in this body have no right to decide what answer is correct. We are not elected to be God. That is not our job.

Mr. Chairman, we are elected to represent the people of this great country. We are not here to impose our own religious and moral beliefs on this country. We are here to guard against the individuals right to decide what his or her religious or moral beliefs are.

So I hope we will follow the lead of the chairman, the gentleman from California [Mr. DIXON] who very clearly states the issue, that the people of Washington, DC, have the right to make their own decision, have their own right to choose. I hope that we will defeat this ill-conceived amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. DORNAN of California. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I think this is a very interesting debate and important debate over a subject literally of life and death.

I am pleased to see so many converts to the cause of local autonomy and States rights. I thought that was a concept that got overridden when we had compelling Federal interests, such as we do in fair housing and many other things, but I guess that in getting to a fundamental right that the Constitution ought to cover the Declaration of Independence which talks about the right to life, liberty, and the pursuit of happiness as being so important that they cannot be alienated. They cannot be taken away even by this Congress.

So, Mr. Chairman, we are talking about an issue that to me is a human rights issue, a civil rights issue. It is not an issue of who is going to spend whose tax dollars, although that is important, but it is an issue of whether or not a preborn child is expendable, can be thrown away like you crush a beer can, that that little developing entity is somehow subhuman. Even though it cannot vote, it cannot rise up in the streets, it cannot escape, it is a member of the human family.

Now, if my colleagues do not believe that, then listen: Abortion is a great idea. It is sort of retroactive birth control. The innocently inconvenient can be thrown away like a used Kleenex, but, if my colleagues believe that as a tiny member of the human family, maybe inconvenient, but certainly innocent; it is human life, then their agenda on the hierarchy of values becomes important. Is human life the ultimate value? Or is it who spends the dollars?

Every time in this life you have an opportunity to save a human life, you ought to take that opportunity and not shirk that duty behind some notion of home rule. The little preborn children of the District of Columbia are as important as the preborn children of San Francisco, I would suggest, and deserve protection.

But, Mr. Chairman, we are talking about a basic human right that we here today have an opportunity to reaffirm and protect. And that is what should be done.

Now it is unfortunate that the Dornan amendment had to be bifurcated so that the life of the mother, which is as important an exception as the life of the unborn, because the claim to life is equal, but because our rules do not permit legislating on an appropriation, we have to get that put on in the conference. So be it.

But do not be deceived. If my colleagues want Federal money to pay for abortions, they are paying for the killing of unborn, innocently inconvenient children, and they are demeaning and depersonalizing the ultimate human value, which is life, human life.

Mr. DORNAN of California. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I yield to the gentlewoman from San Francisco, CA.

Mrs. BOXER. Mr. Chairman, I would simply like to state that we are talking here not just about Federal funds. That has been covered. We are talking here about local District funds, and may I just ask the gentleman from Illinois [Mr. HYDE] a question from the bottom of my heart?

Mr. HYDE. Surely.

Mrs. BOXER. Would the gentleman admit that it is possible for people of good will in this Nation to be divided on this issue?

Mr. HYDE. Oh, it is not only possible, Mr. Chairman; it is the fact.

Mrs. BOXER. OK.

Mr. HYDE. Bitterly divided and people whose consciences are as sensitive as mine is or anybody else's disagree radically. That is why I am here. I do not have a machinegun. I am not picketing. I am pleading with the Members who think that human life is important to protect it with every chance.

Mr. Chairman, that chance is now.

Mrs. BOXER. Mr. Chairman, may I say to the gentleman that I have great respect for his passion and his feeling.

Mr. HYDE. And I for yours.

Mrs. BOXER. And I really feel that what this debate is all about is not whether the gentleman from Illinois' passions are correct or incorrect. The debate here is whether——

Mr. HYDE. Mr. Chairman, I ask that I be given an additional 2 minutes.

Mr. DORNAN of California. Mr. Chairman, that first minute was so exciting that I gladly yield 2 additional minutes to the gentleman for purposes of continuing this debate.

Mr. HYDE. I thank the gentleman from California [Mr. Dornan], and I continue to yield to the gentlewoman from San Francisco, where one of the greatest parades of all time was held yesterday, and I was there and enjoyed it immensely from my television set.

Mrs. BOXER. Mr. Chairman, I thank the gentleman from Illinois [Mr. Hyde] and say to him that I was here in the District, as a matter of fact responding to the President on an issue called the Pentagon scandal, but that is irrelevant.

Mr. HYDE. Oh, the gentlewoman from California was not in the parade?

Mrs. BOXER. Mr. Chairman, I was here working on a response to the President on the Pentagon scandal. I hope that the gentleman from Illinois heard it.

Mr. HYDE. No, Mr. Chairman, I missed it. I was watching the parade.

Mrs. BOXER. Well, if the gentleman from Illinois chooses to spend his time watching parades, that is fine with me. But I think what we ought to do is get back to the issue of our deeply held convictions and beliefs.

Mr. Chairman, we have a Supreme Court in this country.

Mr. HYDE. The same Court, Mr. Chairman, that decided the Dred Scott case, by the way.

Mrs. BOXER. If the gentleman is going to continue to interrupt, Mr. Chairman——

Mr. HYDE. I just thought we were going to have a little dialog. I am sorry. The gentlewoman from California [Mrs. Boxer] may go ahead. I am yielding to her, and I will not say another word until she is through.

Mrs. BOXER. No, no; I want the gentleman to, but I would just like to finish one thought, if I might.

Mr. HYDE. Finish up.

Mrs. BOXER. Mr. Chairman, the point that I am making is that people can get very passionate on both sides of the issue, and I think that the gentleman has agreed today in a very gracious way that he understands there are differences. And I think he also understands that is what makes this country a great country.

Mr. Chairman, we have a Supreme Court that has determined that life begins at a certain point, but not at the point the gentleman feels it begins at.

Mr. HYDE. Now, wait a second.

Mr. Chairman, I must recapture my time.

The Supreme Court says that it does not know. The Supreme Court says it does not know when life begins, so I just thought that I would correct the record on that.

Mrs. BOXER. That is fine, Mr. Chairman.

The Supreme Court says it does not know something the gentleman says he knows.

Mr. HYDE. Yes.

Mrs. BOXER. And that is my point, Mr. Chairman.

Mr. HYDE. And so does every——

Mrs. BOXER. Just a minute.

Mr. Chairman, I think my point is that we have to respect the intelligence, the intellectual capability of all our people, if we respect life, and, therefore, I think we cannot say to the people of the District of Columbia that we know what is best for them. This is a subject open to debate, and good people would feel differently.

Mr. HYDE. Mr. Chairman, may I recapture my time?

May I suggest that the ignorance of the Supreme Court on this issue, which was manifest in the opinion in Roe versus Wade and Doe versus Bolton, January 22, 1973, is not shared by any medical textbook in print.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HYDE. May I have 30 more seconds?

Mr. DORNAN of California. Does the gentleman promise to make it as exciting as the prior 3?

Mr. HYDE. Yes.

Mr. DORNAN of California. One more minute.

Mr. HYDE. Mr. Chairman, I thank the gentleman from California [Mr. Dornan].

Mr. Chairman, there is not a medical book in print that does not say that human life begins at the moment of conception. That is a value question. What value can be assigned to that? The scientific question is answered in any book on the subject.

So the question is: "What value do you assign that tiny, premicroscopic member of the human family?" If that is a diseased appendix, throw it away, but if it is a member of the human family, for God's sake protect it at every chance.

□ 1530

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from California.

Mrs. BOXER. Mr. Chairman, what I think we are seeing in arguing against the gentleman's amendment here is that this is an issue where there are people of good will on both sides. We say to the people of the District of Columbia, you have got a brain——

Mr. HYDE. That is what we are here to vote on.

Mrs. BOXER. You have got a brain, you grapple with this issue and we will respect you.

I think if we talk about respect for human life and respect for people and their intelligence, we will vote down this amendment.

Mr. HYDE. Well, I am sorry, I do respect human life and every chance we get we ought to reach out and protect it.

Mr. DORNAN of California. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois [Mr. Hyde] to see if he is aware of something.

Mr. HYDE. Yes, Mr. Chairman.

Mr. DORNAN of California. Mr. Chairman, is the gentleman aware that in the beautiful area of San Francisco, maybe in the gentlewoman's district, there was an automobile accident about 3 years ago and a pregnant mother was killed in the accident. They took her to a hospital. She was brain dead. They put her on a lung machine and a heart machine and for 68 days the child within her lived.

She had become legally a dead person, merely an extension through modern medical science of the heart and lung machine, an extension of the placenta in her body. That child was born, a boy, different gender, different blood type, different hair color, different eyes, and is a 3-year-old healthy young child in the San Francisco area today. That tells me something about when life begins.

Was the gentleman aware of that? Think seriously.

Mr. HYDE. Mr. Chairman, if the gentleman will yield, yes, I was. And I will tell the gentleman what I think. I think birth is a change of address. I think that little preborn child deserves protection when people bigger than itself decide that it is inconvenient to continue its innocent life.

Mr. DORNAN of California. Mr. Chairman, I yield 4 minutes to the distinguished chairman of the Pro-Life

Caucus of the House of Representatives, the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, it is with a deep sense of sadness and abiding disappointment that I rise to speak this afternoon. In my view, it is positively tragic that the Congress has yet to at least halt the expenditure of all public funds for abortion, funds that are being used today in the District of Columbia to literally dismember and to kill unborn children with hideous suction machines or to drown them in salt water, the saline solution abortion.

Of course, the killing of these young children is euphemistically marketed by the abortion industry as a women's right, and, of course, it is appropriately santitized as free choice, and, of course, in today's debate, home rule is being bandied about as some kind of extenuating circumstance; but the fact of the matter is, Mr. Chairman, that we have an ever so modest opportunity today to divest an ever so small amount of public funding from being used to subsidize abortion on demand.

You know, we talk a lot about scandals in the Congress, we talk about scandals in the executive branch. There is the emerging scandal over at the Pentagon; but it deeply saddens me that a scandal that has been right under our noses since 1973 had been paid scant attention, and has been either ignored, whitewashed, belittled, denied, distorted, or even embraced by some of our colleagues.

Mr. Chairman, over 22 million unborn baby girls and boys have been violently killed by abortion in this country. Notwithstanding incomplete reporting practices, the D.C. government says that over 168,000 unborn children have had their lives snuffed out within the District since 1973, making our Nation's Capital one of the abortion meccas in the world.

While the abortion lobby applauds these grim statistics as progress, some of us see it differently. We see it as the triumph of scandal over respect for the sanctity and dignity of human life.

Mr. Chairman, I believe that abortion on demand is a national scandal that historians will someday regard with an odd mix of curiosity, with sorrow, with incredulity and contempt; for they will wonder how a society that paid so much attention to civil rights at home and human rights abroad could have allowed, and even promoted, the deaths of millions of young children. They will wonder how an ostensibly sane, enlightened, and compassionate society, could have been so thoroughly fooled, and they will marvel at congressional acquiesence in this grisly business.

Indeed, Mr. Chairman, America's unseemly abortion culture is a scandal of breathtaking proportions. It is a scandal, however, that Congress can stop, or at least begin to stop, if we have the requisite courage to reverse course and, if necessary, take the political heat, if we have the compassion to embrace the cause of the unborn and their mothers, if we have the intellectual honesty to recognize the violence inherent in every act of induced abortion.

Mr. Chairman, it seems to me that the Dornan amendment is one small step in the direction of social justice, and I strongly urge its adoption by the committee today.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I am happy to yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman yielding to me.

I seem to recall that the gentleman himself is the father of one or more daughters; is that not correct?

Mr. SMITH of New Jersey. I am the father of four children, two of whom are daughters.

Mr. AuCOIN. I would pose the question to the gentleman, not as a Member of Congress at this moment, but as a father. If one of the gentleman's daughters, God forbid, were raped, does the gentleman's daughter produce the child of the rapist?

Mr. SMITH of New Jersey. First of all, Mr. chairman, reclaiming my time, it should be noted that most of the abortions that are done in the United States are done, 99.9 percent, are done for reasons other than rape or incest.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. SMITH] has expired.

Mr. DORNAN of California. Mr. Chairman I yield 1 additional minute to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, that argument is used time and time again to divert attention away from the carnage that is going on in this country.

The fact of the matter is, as I indicated, most of the abortions are done on demand. The D.C. government itself does not have a criteria for the use of its funds with regard to abortion.

Mr. AuCOIN. What about the answer to my question?

Mr. SMITH of New Jersey. I would just say to the gentleman, Mr. Chairman, that once conception has taken place, we are indeed talking about two lives. I believe that a compassionate society, a compassionate father and parents, would try to help their daughter through that situation. Certainly every precaution should be taken in a case of rape to prevent conception from occurring and to protect the woman from disease and infection; but if fertilization takes place—and a new life is created—then I would suggest that abortion would again be the taking of a life.

But let me advise my colleague that this is not the issue before us today. The issue before us now is abortion on demand in the District of Columbia, taxpayer subsidization of that abortion on demand.

Mr. SWINDALL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I am happy to yield to the gentleman from Georgia.

Mr. SWINDALL. Mr. Chairman, I would like to state that I think it is a crying shame when we decide to victimize——

The CHAIRMAN. The time of the gentleman form New Jersey [Mr. SMITH] has expired.

Mr. DORNAN of California. Mr. Chairman, I just want to observe that we have been very generous with the time on our side for purposes of colloquy. It has been a long time since we have had good colloquies. Today it has happened a lot on the prior amendment and this one. I thank the chairmen. I know they will be as generous.

Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. SWINDALL].

Mr. SWINDALL. Mr. Chairman, without engaging that question, other than to say I think it would be a true tragedy if we penalized an innocent young child who is the product of a rape because of the crimes of the father.

Let me further state that if the gentleman really believes that to be a legitimate issue, then I suspect that if we could prove that a 3-day-old child or a 3-year-old child were conceived in rape, that we would be able to go and kill that child by so proving.

The point is that rape and incest has nothing to do with this issue. The only issue is, is this or is this not human life?

I would say that the same type of neutrality that my colleagues are arguing with respect to abortion is precisely the reason that this Nation condoned slavery for 70 years, because people continuously said that it is an individual's right to own property, that is, human beings, slaves, and because many people said, "Well, I don't want to engage in that argument."

Or that the Federal Government ought not to place itself in this delicate socioeconomically volatile issue, we allowed slavery to continue, because people like the gentleman could stand up and say, "Let us not get the Federal Government involved. Let's let individuals decide for themselves what is wrong."

The point is that slavery is wrong. It is absolutely wrong. There is no room for neutrality.

If abortion is wrong, it is absolutely wrong. There is no room for neutrality.

The only issue is, is this or is this not human life? Our Founders had a great deal to say about it. If you read the Declaration of Independence, they say, "We hold these truths to be self-evident that all men are created equal." They did not say born equal. They said created equal.

What does the word create mean? To form.

The point being, if they wanted these rights, the right to life to attach at all, it should be born equal, so that the right attaches from birth forward. They did not say that. They said created equal.

The Supreme Court, the same body that said these innocent unborn children are not persons, actually has said that every word of the Declaration of Independence was chosen carefully by our Founders.

All I am saying is that it is a crying shame that we have never debated this issue head up in this body because the majority party refuses that debate; but at a minimum, let us not use taxpayer dollars to pay for the taking of innocent life.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield to me now?

Mr. SWINDALL. I yield to the gentlman from Oregon.

Mr. AuCOIN. Mr. Chairman, if the gentleman's thesis is correct that the right of the fetus is absolute, then the gentlemen would also have to take the position that even if the life of the mother as at risk, that fetus should be produced.

Mr. SWINDALL. Reclaiming my time, Mr. Chairman, not at all, because self-defense is one of the most fundamental rights. We all know that common law from England brought forth the right to self-defense.

What the gentleman is arguing is that if the mother's life is jeopardized by this child, of course, she has the right to self-defense. That goes back to common law.

Mr. AuCOIN. Not under the Dornan amendment.

Mr. SWINDALL. Yes, it does.

Mr. AuCOIN. Not under the Dornan amendment.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. SWINDALL] has expired.

Mr. DORNAN of California. Mr. Chairman, I yield myself 1 minute.

The gentleman from Georgia was not on the floor. I noticed the gentleman just came in on the floor.

The orginal Dornan amendment did protect the life of the mother, but we are going through the same drill that we did last year, that seems to be nobody's fault. We have these strict rules that I generally agree with on appropriation bills. It does give some sort of a requirement for decision, not now, since it is abortion on demand in the District of Columbia, virtually; but this will be returned, I have said forcefully, in the conference committee with the full adherence of the author of this amendment and the gentleman from Illinois [Mr. HYDE] the author of the paramount human life amendment on Health and Human Services.

We all want this back in. Everybody who votes today has the passive understanding that a yes on this amendment means to put it back in conference.

It also means, please, Mr. President, veto this D.C. appropriations bill if it reaches the Oval Office and does not have life-protecting language in it, including the life of the mother. He would veto it if it did not have life of the mother in it.

Mr. SWINDALL. Mr. Chairman, I stand corrected, but I do believe that the gentleman's point is well taken, and that is that the heart of this issue has to do with the 99 percent of those abortions that occur totally outside the principle of the life of the mother being the issue.

Mr. DIXON. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHEUER.]

Mr. SCHEUER. Mr. Chairman, one needs the wisdom of a Solomon to decide these excruciatingly agonizingly personal problems of a woman controlling her own body, even for herself.

It certainly requires the wisdom of a Solomon to take on the obligation of deciding these extraordinarily personal questions involving deeply held religious faiths for a whole society, a pluralistic society.

Now, we are getting to the specific problem today, we are simply not about—I do not believe this Congress is about to tell the District of Columbia that they cannot do what is federally constitutionally mandated for them to be able to do as the other 50 States are already doing.

Abortion under certain guidelines that the Supreme Court set out in 1973 is a legal activity in this Congress. Congress has spoken on the question of Federal contributions to abortions, and we respect that, but there are 50 States who can pay for Medicaid funded abortions for their women when the women to promote their lives, their well-being, the integrity of their persona, opt to terminate a pregnancy.

Are we to say sincerely today that there is something different about the District of Columbia from these other 50 States, that the District of Columbia cannot spend its own money, its own tax levies money or charitable contributions, for that matter, in a hospital to do what is constitutionally permissible all over the country, that is an activity that is aided and abetted and funded with States by their own money, just as the District of Columbia wants to do with its money?

It seems to me that if we really believe the guts of home rule, what it really means to let the city decide its own destiny, then we have got to let the city make its own choice that 50 States can make. I would like to say a word about the gentleman's phrase, "this unseemly abortion culture." Let me say another spin we could put on that would be a culture where a woman has the right to protect the integrity of her own body and make decisions about her own body.

Now, let me point out to the gentleman that we are not going to settle this issue today. We may not settle it during my tenure in Congress or my lifetime, for that matter; but I think a little humility is due in characterizing this so-called abortion culture as unseemly.

The fact is there is not a single advanced developing country in the world that does not permit a woman to protect the integrity of her own body and make decisions affecting her own body, and that includes staunchly conservative Catholic countries like France, like Italy, like Spain, all of which have sanctified the right of a woman to make decisions affecting her own body and to preserve the integrity of her own body.

So I do think, with the greatest of respect to my colleagues on the left-hand side of the aisle, a little humility is in order, a little soul searching is in order, a little deference to the other guy is in order.

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHEUER] has expired.

Mr. DORNAN of California. Mr. Chairman, if I yielded the gentleman a minute, would he take it?

Mr. SCHEUER. Of course.

Mr. DORNAN of California. Mr. Chairman, I yield the gentleman 1 minute to discuss this point, which I have not at all today in the past, of a home rule State.

Now, 43 States do not use their taxpayers' funds for elective abortion. Only seven do.

The point remains, which is a separate argument that will go on as long as we are here, the District of Columbia is simply not a State.

Mr. SCHEUER. I would like to say, Mr. Chairman, we do not tell the seven that do whether they should or they should not. We leave all 50 States to legislate according to the best of their wisdom on what they do with their own tax dollars and their own private charitable dollars. We leave that to them.

What makes the District of Columbia any different if we really believe in the principle of home rule and where no Federal dollars are involved?

Mr. DORNAN of California. Mr. Chairman, I yield myself 1 minute to make two points—probably will not use the whole time.

In the Soviet Union it was recently confirmed, not in Lancet, but in the other British medical journal, I think it is called the British Medical Journal, that it is now conceded in the Soviet Union that the principal cause of infant mortality is the trouble that that infant has clinging to life because the mother's womb has undergone 3, 4, 5, and in many cases 10 abortions. That is the ultimate extension of what the gentleman from Georgia called an unseemly abortion culture.

Another thing, when I first came to Washington there was a public service series running on television called, "You Baby's First 900 Days." I swear to my good friend, the gentleman from New York, the 900 days in this public service series about how to take care of your child, the 900 days started with the date of conception in the womb.

The first 289 days, to quote my friend, the gentleman from Illinois [Mr. HYDE], was a different address, and then the rest of the 600-plus days was outside the womb, and that was the period in a human being's continuum of life when they needed the most careful care was the first 900 days.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I do not think there is any question that any person would say that the child's 9 months in the womb means that there is a living entity there that needs prenatal health care. Of course, that conception means the woman and her infant about to be born 9 months later need a whole panoply of prenatal health care and, of course, total postnatal health care is needed also.

Mr. DORNAN of California. Mr. Chairman, I thank the gentleman, and as the gentleman from Illinois [Mr. HYDE] did with the gentlewoman from California [Mrs. BOXER], I concede the gentleman's sincerity and thoughtfulness on this issue.

Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HYDE] and 1 minute to the gentleman from Georgia [Mr. SWINDALL].

□ 1545

Mr. HYDE. Mr. Chairman, I just want to say to my friend, the gentleman from New York [Mr. SCHEUER], that there is so much in that phrase, "a woman's right to do with her own body what she chooses," that that is fallacious and clinically primitive. A woman does have a right to do what she wants to with her body until she is pregnant. Then there is a little victim, another entity, maybe a little male, a tiny little male with its own bloodstream, its own heart, its own little brain, and that person is not expendable. That is not disposable. That is not throwawayable. It is under the court case, yes.

Mr. SCHEUER. And it is in the doctrine of every other advanced, developing country in the world, and there is not one of them that——

Mr. HYDE. Ireland. I cite to my friend, the gentleman from New York, the Republic of Ireland.

Mr. SCHEUER. The Republic of Ireland has legalized abortion in one of its two houses.

Mr. HYDE. I did not yield to the gentleman, but I just wanted to point out that a woman's right to her own body terminates when she has a little baby in that body, and that little entity is entitled to life, liberty and the pursuit of happiness.

Mr. SCHEUER. All I am saying is in the civilized world women have that right, and it does not terminate when she becomes pregnant.

Mr. HYDE. They all practice slavery, too.

The CHAIRMAN. The gentleman from California [Mr. DORNAN] has 1 minute remaining and the gentleman from California [Mr. DIXON] has 17 minutes remaining.

Mr. DIXON. Mr. Chairman, let me indicate to the gentleman from California [Mr. DORNAN] that I will try to be as generous as possible. I do have Members on this side who want to speak on the issue.

Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Chairman, I thank the gentleman, the distinguished chairman of the D.C. Appropriations Subcommittee, for yielding.

Mr. Chairman, in the course of this debate we have had discussion of such complicated issues as when the human soul inheres in the fetus. That is an issue that has engaged theologians over many, many centuries. I do not think there is any medical text that gives the answer to that. In fact, it has been a source of much argument, and there was even a time when the prevailing view, at least in certain religious circles, was that the male fetus got its soul at a different time from the female fetus. I do not think we want to get into that discussion this afternoon.

What I think we ought to return to is the point made by our distinguished chairman, and that is that we are talking about an issue of home rule. The fact of the matter is we are talking about what the people of the District of Columbia may do with the money.

I will yield when I get finished with my remarks in my 3 minutes.

The people of the District of Columbia raise their own taxes, and under the home rule comeback that we have with them, they are entitled to spend that money as they want. We reserve certain rights essentially because this is the Nation's Capital, and we want to see that the visitors here have the proper police protection and things of that sort, and that is what our subcommittee addresses as we look over the funding for the District of Columbia.

I do not think that we ought to get into these matters of social and theological policy with respect to the District of Columbia. We have created an elective body in the District of Columbia which raises taxes from its citizens and decides how to spend them, and then is accountable on election day to those citizens whether it has spent the money correctly or not. If the citizens of the District of Columbia do not like what the city council and the mayor do with respect to the expenditure of city funds for city health purposes, abortion or otherwise, then they are free to defeat those members in the city council, and they are free to defeat that mayor at the next election.

We decided when we passed the home rule amendment that we were going to get out of that business, that we were turning that over to the District of Columbia, and I would urge my colleagues today not to enmesh us in issues of ensoulment, a very complicated theological issue, not to enmesh us in the question of when human life becomes a human soul. Those kinds of issues we do not have to confront this afternoon.

We have to confront only one issue and that it does the question of abortion and whether the District of Columbia decides to spend its own tax funds to permit its own citizens who cannot afford so to receive abortions, is that something which so involves the management of the Capital of the United States, is that something which so interferes with the carrying out of the Federal Government, the visits here of our constituents, that it ought not to be permitted. I say it does not, and this amendment ought to be defeated.

The CHAIRMAN. The Chair wishes to advise the Members that since the time agreement stated that all debate would end by 4 o'clock, there is 1 minute remaining on the Republican side and 9 minutes remaining on the Democratic side.

Mr. DIXON. Mr. Chairman, I yield 4 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I thank the gentleman from California for yielding.

Mr. Chairman, throughout the debate today from the side that advocates this amendment we have seen a mindset that I find truly astounding.

I will yield to the gentleman if I have time after I finish my statement.

That mindset says a lot about one's view of women. The gentleman from New Jersey, who is the father of a daughter, who supports the gentleman from California [Mr. DORNAN], the author if this amendment, said that, in answering my question, if his own daughter was a victim of a rape, he felt that it would be fine to have the Government impose on her the obligation to produce the criminal rapist's child. They'd try to work with the daughter.

I do not disagree with the gentleman for having his own opinion on this question. I disagree with that approach to parenting or to the whole morality of the issue. I would call to the attention of the Members, my colleagues, what an incredible mindset that is, that not only in the case of one's own daughter but in the case of daughters and women all over this country, and I will yield when I finish my statement, daughters and women all over this country who might be themselves victims of rape would be told by the Government that they must produce the fetus and bring to term the fetus of the criminal rapists—criminal rapists. I think that that is a mindset that is absolutely phenomenal. I do not believe that the majority of the Members of this House agree with that, but even if they do agree with that themselves, I doubt that they do, and I would suggest to them that at least on a question of this kind they ought to trust the good people, the elected representatives of the local government in the District of Columbia whose funds these are to make that decision for themselves.

I do not believe that in a woman's role as incubator, and that is the mindset that the gentleman from New Jersey is espousing, that is the sum and substance.

Mr. SMITH of New Jersey. Mr. Chairman, the gentleman was using my name. Will the gentleman yield since the gentleman is using my name?

Mr. AuCOIN. Mr. Chairman, regular order. Mr. Chairman, I will yield as soon as I am done with my statement. Could I have regular order, please?

The CHAIRMAN. The gentleman from Oregon wishes to proceed with his own statement without recognizing or yieldinig to the gentleman.

Mr. AuCOIN. Mr. Chairman, I will try to complete my statement. I will be pleased to yield to the gentleman whose views I find peculiar on this issue and with whom I strongly disagree. This is a mindset that says women's roles are as incubators, that they can be the victim of a criminal rapist, and they must produce the child of that rapist. I just think that is absolutely phenomenal. The gentleman may hold that view, and I disagree with it. I think the majority of the Members of the House do, but more than that, let the people of the District of Columbia who have their own tax money here, and that is the only reason this is before us is that because by a procedural circumstance their local funds have to come through on this appropriations bill, but let them make this decision, let them stand accountable to their own voters, to the people they represent, on whether or not to inflict that kind of pain on victims of crimes of that sort. Let them stand for election, and let them defend that record. Do not let us, coming from California or New Jersey or Georgia or Illinois, who do not stand for election in the District of Columbia, impose that kind of brutality or that kind of pain on the people of this District.

Mr. Chairman, I will yield to whoever wishes.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

□ 1555

Mr. DIXON. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from California has 5 minutes remaining.

Mr. DIXON. Mr. Chairman, I am glad to yield 1 minute to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I thank the gentleman. My colleague's name was mentioned, so I yield 30 seconds to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for yielding and thank the Chairman DIXON for his courtesy.

The gentleman from Oregon [Mr. AuCOIN], I think, has a very strange way of looking at this issue when he talks about a woman as being an incubator and tries unconvincingly to suggest that this somehow is the way pro-life Members look at the beauty and the magnificence of motherhood. If a woman is with child, that woman is a mother to suggest she is an "incubator" is insulting to women. She is not an incubator, but a participant in nuturing the gift of life of another.

Mr. Chairman, let me note here that to take the extreme example of abortion in a rape situation and then to construct a hypothetical using my daughter is way out of line.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, the law is you cannot execute a rapist. The Supreme Court has found that cruel and unusual punishment. Why execute the unborn child?

The CHAIRMAN. The gentleman from California [Mr. DORNAN] has 1 minute remaining.

Mr. DIXON. Mr. Chairman, I believe the gentleman from California [Mr. DORNAN] has the right to close the debate.

The CHAIRMAN. The gentleman from California [Mr. DIXON] has the right to close the debate.

Mr. DORNAN of California. Mr. Chairman, I yield myself my remaining 1 minute starting right now, and I hope that I have some seconds left to yield to the gentleman from Georgia.

This rape question is a very lofty point, moot to most people, but I have a very close friend who fought very hard against pornography, and against Larry Flynt, who has now been left as a crippled, drug-ridden pathetic person that we now see in a wheelchair. He came to a college campus before he was ill or wounded, and this friend of mine, whose daughter attended this college, Flynt offered $400 if anybody could get dirt on this young coed.

The next day at noon she was pulled into a parking lot by three people, unidentified, maybe students, and was raped. She was protected by her family at a rape crisis center with all of the protections that a woman is entitled to. But on the outside chance that this young girl might have gotten pregnant, and she did not, this father, who is very outspoken on the pornography issue and this abortion issue, had a press conference and said if my daughter is pregnant I will not execute the child in her womb, an innocent life, when there is no such punishment for the rapists, if we get them.

Mr. Chairman, I yield 10 seconds to the gentleman from Georgia [Mr. SWINDALL].

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has expired.

Mr. DIXON. Mr. Chairman, I am pleased to yield 30 seconds to the gentleman from Georgia [Mr. SWINDALL].

Mr. SWINDALL. Mr. Chairman, I appreciate the gentleman yielding very much.

Let me say I have two points. The first is I am appalled by those individuals arguing home rule in much the same way that I am appalled that individuals like Henry Clay argued States rights was a ground for slavery. It is exactly the same rule 100 years later.

The second point that I would like to make is that we are arguing religion in much the same way that those who clung to slavery said that they could make a case Biblically for slavery.

There is no room for those types of arguments that were made very successfully and too long 100 years ago. To argue States rights was wrong 100 years ago, and to argue home rule is wrong today. The Federal Government has an obligation to protect human rights. We cannot hide behind home rule.

Ms. PELOSI. Mr. Chairman, I rise today in opposition to the Dornan amendment prohibiting the use of local revenues to pay for abortions in the District of Columbia.

This amendment would prohibit the District from spending its own revenues on services which it deems fit. No other jurisdiction across the country is subject to this kind of judgment. Other jurisdictions have programs to assist poor women whose lives are endangered; why are we questioning this policy for the District of Columbia?

Why should poor women in the Nation's Capital be denied this critical medical service, solely because they cannot afford to pay for it. Poor women have a legitimate right to access to a wide range of medical options.

Mr. Chairman, the issue here today is that we would be restricting the use of local tax money for local programs when local and State jurisdictions throughout the country make these decisions independent of our authority. We are not here to make selective local policy.

I urge my colleagues to vote against this amendment.

Mr. DIXON. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, Henry Clay, in 1850, said I would rather be right than be President. I urge my colleagues to vote the right way today, not because I am urging them to or would impose my philosophy on their vote.

The issue here is not whether abortions will be allowed in the United States. I understand the frustration and the heart-felt feelings and the philosophies of both sides of the issue, and obviously we want to reduce this debate to the merits. The debate so far has not been on the merits of the issue.

We do not have the capacity to change the Supreme Court decision of 1973. We do not have the capacity to tell any woman in America that she cannot have an abortion. We do not even have the capacity to tell poor people or poor women in this country that they cannot have abortions.

But we do have the capacity to tell a group of women in a 68-square mile area called Washington, DC, that no public moneys, either Federal dollars or their own tax dollars, can be used for an abortion. That is wrong. Both sides of the aisles on this issue know it is wrong.

We are only here because of the politics and the frustration. Be right on this issue and vote down the Dornan amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DORNAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DORNAN of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 186, not voting 23, as follows:

[Roll No. 203]

AYES—222

Annunzio
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boggs
Boland
Bonior
Borski
Broomfield
Bruce
Buechner
Bunning
Burton
Byron
Callahan
Chapman
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Courter
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
DeWine
Dickinson
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Dreier
Durbin
Dyson
Early
Edwards (OK)
Emerson
English
Fields
Fish
Flippo
Foglietta
Gallegly
Gaydos
Gephardt
Gibbons
Gingrich
Goodling
Grandy
Grant
Gray (IL)
Gregg
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (SD)
Kanjorski
Kaptur
Kasich
Kemp
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kyl
LaFalce
Lagomarsino
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Marlenee
Martin (NY)
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Moakley
Molinari
Montgomery
Moorhead
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Ortiz
Owens (UT)
Oxley
Packard
Parris
Pashayan
Penny
Perkins
Petri
Porter
Quillen
Rahall
Ravenel
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rostenkowski
Roth
Rowland (CT)
Russo
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shumway
Shuster
Sikorski
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Staggers
Stallings
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Traxler
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whitten
Wolf
Wortley
Wylie
Yatron
Young (AK)
Young (FL)

NOES—186

Ackerman
Akaka
Alexander
Andrews
Anthony
Aspin
Atkins
AuCoin
Bateman
Beilenson
Bennett
Berman
Boehlert
Bonker
Bosco
Boucher
Boxer
Brennan
Brown (CA)
Brown (CO)
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chandler
Chappell
Clay
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coughlin
Coyne
Crockett
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Dowdy
Downey
Dwyer
Dymally
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Flake
Florio
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallo
Garcia
Gejdenson
Gekas
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray (PA)
Green
Guarini
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hefner
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jeffords
Johnson (CT)
Jones (NC)
Jontz
Kastenmeier
Kennedy
Kennelly
Kostmayer
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Markey
Martin (IL)
Martinez
Matsui
McCandless
McCurdy
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Nagle
Neal
Obey
Olin
Owens (NY)
Panetta
Patterson
Payne
Pease
Pelosi
Pepper
Pickett
Pickle
Price
Pursell
Rangel
Richardson
Ridge
Rodino
Roukema
Rowland (GA)
Roybal
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Shays
Sisisky
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Stark
Stokes
Studds
Swift
Synar
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Upton
Valentine
Vento
Visclosky
Walgren
Waxman
Wheat
Whittaker
Williams
Wilson
Wise
Wolpe
Wyden
Yates

NOT VOTING—23

Anderson
Badham
Bates
Biaggi
Boulter
Brooks
Ford (TN)
Jones (TN)
Lott
Mack
MacKay
Mica
Mollohan
Murphy
Ray
Rose
Saiki
Shaw
Spence
St Germain
Stratton
Vander Jagt
Weiss

☐ 1621

Mr. ECKART changed his vote from "aye" to "no."

Ms. KAPTUR and Mr. DICKINSON changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DIXON. Mr. Chairman, it is my understanding there are two additional amendments at the desk by the gentleman from Pennsylvania [Mr. WELDON].

Mr. Chairman, I would ask unanimous consent that each amendment be allotted 10 minutes, the time to be equally divided and controlled by the gentleman from Pennsylvania [Mr. WELDON] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. WELDON

Mr. WELDON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WELDON: At the appropriate place under the heading "PUBLIC SAFETY AND JUSTICE", insert the following:

Provided further, That none of the funds appropriated in this Act shall be used to implement the Fire Department's proposed plan to convert the District's current 5-man, 2-piece companies to 4-man, 1-piece companies, or be available for any such 4-man, 1-piece company in the District of Columbia".

Mr. WELDON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment that is being offered is being offered by myself and my colleague, the gentleman from Maryland [Mr. MCMILLEN]. It deals with the issue of fire and life safety in the District of Columbia.

Like the Parris amendment, it is something extremely important that we in this body should face today.

Mr. Chairman, the issue deals with the manning levels for the fire department in the District of Columbia and an attempt by this bill that is before us today to reduce the manning of fire apparatus from five men to four men and reduce the number of pumpers responding to alarms from two to one.

Mr. Chairman, the District of Columbia City Council duly elected by the people of the District of Columbia totally support the issue that I am raising with this amendment. I have hear a letter before me signed by David Clark, the chairman of the city council of the District of Columbia directed to the Honorable JULIAN DIXON, chairman of the Subcommittee on Appropriations, stating the fact that the city council unanimously supported a provision that the manning of the D.C. Fire Department should not be reduced from five men to four men.

This issue has been fully debated in the city council. They have resolved their concerns and they believe it is in the best interest of the city to keep the manning levels at the current status which is five men per two-station company.

Mr. Chairman, I support that effort.

In addition, I have letters from the D.C. Federation of Civil Associations and the Federation of Citizens Associations in the District of Columbia also supporting this provision in my amendment.

Mr. Chairman, on the technical merits on this issue, the D.C. Fire Department needs to have its current manning levels kept at the current level. The attempts to lower the manning levels are certainly not in the best interests of the District of Columbia citizens or those people who use our Federal complex here on Capitol Hill.

In addition, the proposed manning cuts will not in fact save money. What they are attempting to do is to redistribute the current work force within the fire department as well as the ambulance operations.

I oppose this for several reasons and therefore have offered this amendment.

First that the D.C. Fire Department has to provide protection for all the Federal buildings in the Federal complex. For that reason, the current staffing levels are absolutely necessary because they do not have the ability to go in, preplan our buildings and to lay out the necessary technical considerations for fighting fires in our complexes.

In addition, the precedent was established in 1984 that the D.C. Fire Department should not in fact reduce its levels by an amendment to the appropriation bill during that fiscal year.

In addition, the current D.C. Home Rule Charter of which I have a copy, has a provision in it that states that the manning levels of the fire department cannot be changed without a resolution passed by the city council.

Therefore, my amendment simply restates the position of the D.C. City Council, it reaffirms the need to have a five-person two-pumper operation, something that is vital to protect the interests of the people in the District of Columbia.

Therefore, I urge my colleagues to support this amendment. I ask for its consideration.

The CHAIRMAN. The gentleman from California [Mr. DIXON] is recognized for 5 minutes.

Mr. DIXON. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. MCMILLEN].

Mr. McMILLEN. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, I am very pleased to join my colleague, Mr. WELDON of Pennsylvania, in proposing the amendment that we have at the desk to maintain, and I underscore the word "maintain," the current firefighting capabilities of the D.C. Firefighting Department. Our amendment would permit the staffing levels of the five D.C. fire stations to remain constant for the coming fiscal year. This would supercede the Mayor's wish to trim back the D.C. Fire Department to just four fire stations, necessitating a cut of 20 percent of the line officers and firefighters, and a 40-percent cut in firefighting equipment. Such a move would reduce the current five-man teams to just four persons and would take away one piece of firefighting equipment per team. A total of 33 pumper trucks would be taken out of active service. Mr. WELDON and I find this to be unacceptable. Most definitely, fire safety for the hundreds of thousands of D.C. residents would be compromised. Apparently, the D.C. City Council thinks so, as they voted resoundingly against the Mayor's intentions.

Mr. Chairman, those of us who are housed in the Longworth Building are all too aware of the importance of quick response time for D.C. firefighting companies. Representative WELDON and I look forward to the support of our colleagues for this bipartisan measure to bolster the fire safety standards of the District of Columbia.

Mr. DIXON. Mr. Chairman, I yield 2 minutes to the ranking member of the subcommittee, the gentleman from Pennsylvania [Mr. COUGHLIN].

□ 1630

Mr. COUGHLIN. Mr. Chairman, it is with some reluctance that I rise in opposition to this amendment offered by my colleague, the gentleman from Pennsylvania [Mr. WELDON]. First, it is very important to point out that the bill does not reduce the number of fire units from two to one or the number of men from five to four. The bill says nothing about the number of units, and it says nothing about the number of men that are to be on the fire teams that go out in the District of Columbia.

That is a subject of dispute in the city government, with the Mayor on one side and the City Council on the other. We are silent in the bill as to what the Mayor and the City Council should do. We are not trying to referee that fight, and I do not see why we should consider it here on the floor. They cannot agree among themselves and that dispute goes on.

Mr. WELDON. Mr. Chairman, will the gentleman yield?.

Mr. COUGHLIN. I will yield as soon as I have finished.

Mr. Chairman, I do not pretend to have the expertise to determine whether this city should have two engine fire equipment manned by five people or one engine fire equipment manned by four people. That is a technical subject. Some cities have two units and five men; some cities have one unit and four men. I cannot pretend to say what Washington, DC, should have.

So, Mr. Chairman, it seems to me that the worst thing we can do is to inject ourselves into this fight between the city council and the Mayor on a subject about which we have no technical expertise ourselves. Why we would do that, I do not know.

Mr. WELDON. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to my colleague, the gentleman from Pennsylvania

Mr. WELDON. Mr. Chairman, that is exactly my point. We are infusing our input into a decision already thoroughly discussed by the D.C. City Council, and in their process of coming up with a budget for this fiscal year, they sent a directive to the subcommittee saying that the manning level should not be reduced from five to four. They have given us their feelings, they have given us their wishes, and we are now imposing our own feelings in line with what the Mayor has said. It is purely inconsistent with what the D.C. City Council has said by letter, a copy of which I have in front of me.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. Coughlin] has expired.

Mr. DIXON. Mr. Chairman, I yield 1 additional minute to the gentleman from Pennsylvania [Mr. Coughlin].

Mr. COUGHLIN. Mr. Chairman, I just want to point out that we are not injecting ourselves in it. We do not respond to the D.C. City Council. We say nothing about this. It is for the D.C. City Council and the Mayor to decide.

The CHAIRMAN. The Chair will state that the gentleman from Califorina [Mr. Dixon] has 2 minutes remaining.

Mr. DIXON. Mr. Chairman, I yield myself the balance of my time.

Mr. WELDON. Mr. Chairman, will the gentleman yield?.

Mr. DIXON. Mr. Chairman, I might indicate to the gentleman from Pennsylvania that I only have 2 minutes, and I do not intend to yield any further.

Mr. Chairman, this is micromanagement. What we are voting on here is whether it should be a 2-piece fire company, a 1-piece fire company, or whether there should be four employees versus five employees. This bill says nothing about the fire engine company dispute here in the District of Columbia.

We have a commitment from the Mayor that he will not tamper with the present arrangement until such time as the court makes a decision as it relates to whether or not the number of personnel on a fire unit is a subject of collective bargaining. None of us came here to Congress to vote on whether the District should have a two-engine, five-man company or a one engine, four man company.

Mr. Chairman, this amendment deserves a no vote.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Pennsylvania [Mr. Weldon].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WELDON. Mr. Chairman, I demand a recorded vote.

The vote was taken by electronic device, and there were—ayes 124, noes 283, answered "present" 1, not voting 23, as follows:

[Roll No. 204]

AYES—124

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bentley
Bilirakis
Boehlert
Borski
Broomfield
Buechner
Bunning
Burton
Byron
Callahan
Carper
Coble
Coleman (MO)
Combest
Craig
Crane
Davis (IL)
Davis (MI)
DeFazio
DeLay
Dickinson
DioGuardi
Dornan (CA)
Dreier
Dyson
Edwards (OK)
Emerson
Fields
Fish
Gallegly
Gallo
Gilman
Gingrich
Grandy
Gunderson
Hansen
Hastert
Henry
Hochbrueckner
Holloway
Houghton
Hunter
Hyde
Inhofe
Ireland
Kanjorski
Kasich
Konnyu
Kostmayer
Kyl
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lujan
Lukens, Donald
Lungren
Madigan
Manton
Martin (IL)
Martin (NY)
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Miller (OH)
Molinari
Moorhead
Morella
Murphy
Nielson
Owens (UT)
Oxley
Packard
Parris
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Roberts
Robinson
Roth
Roukema
Rowland (CT)
Russo
Sawyer
Schaefer
Schuette
Shumway
Shuster
Skeen
Smith (FL)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solomon
Stenholm
Stump
Sundquist
Swindall
Taylor
Upton
Vucanovich
Walker
Weldon
Whittaker
Wortley
Yatron
Young (AK)
Young (FL)

NOES—283

Ackerman
Akaka
Alexander
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bliley
Boggs
Boland
Bonior
Bonker
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Brown (CO)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Dannemeyer
Darden
Daub
de la Garza
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hiler
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kaptur
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowry (WA)
Luken, Thomas
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McHugh
Mfume
Michel
Miller (WA)
Mineta
Moakley
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Panetta
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Rahall
Rangel
Richardson
Ritter
Rodino
Roe
Rogers
Rostenkowski
Rowland (GA)
Roybal
Sabo
Savage
Saxton
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith, Robert (NH)
Solarz
Spratt
Staggers
Stallings
Stangeland
Stark
Stokes
Studds
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates

ANSWERED "PRESENT"—1

Miller (CA)

NOT VOTING—23

Anderson
Badham
Bates
Biaggi
Boulter
Crockett
Ford (TN)
Jones (TN)
Lott
Mack
MacKay
Mica
Mollohan
Ray
Rose
Saiki
Shaw
Spence
St Germain
Stratton
Vander Jagt
Weiss
Williams

□ 1651

Mr. VALENTINE changed his vote from "aye" to "no."

Mrs. ROUKEMA and Mr. NIELSON of Utah changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DIXON. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Foley] having assumed the chair, Mr. Cooper, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 4776) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PARRIS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 283, nays 125, not voting 23, as follows:

[Roll No. 205]

AYES—283

Ackerman
Akaka
Alexander
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Baker
Barnard
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Bliley
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
Darden
Davis (IL)
Davis (MI)
de la Garza
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hochbrueckner
Holloway
Horton
Houghton
Hoyer
Hubbard
Hyde
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lowery (CA)
Lujan
Luken, Thomas
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price
Pursell
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Robinson
Rodino
Roe
Rostenkowski
Rowland (GA)
Roybal
Sabo
Savage
Sawyer
Scheuer
Schneider
Schuette
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Yates
Yatron
Young (FL)

NOES—125

Archer
Armey
AuCoin
Ballenger
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Boehlert
Boxer
Broomfield
Brown (CO)
Bunning
Burton
Byron
Chandler
Cheney
Coats
Coble
Coleman (MO)
Combest
Courter
Craig
Crane
Dannemeyer
Daub
DeFazio
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
Edwards (CA)
Edwards (OK)
Emerson
English
Fields
Frenzel
Gallegly
Gallo
Gingrich
Glickman
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Hopkins
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Leath (TX)
Lewis (FL)
Lightfoot
Lloyd
Lowry (WA)
Lukens, Donald
Lungren
Marlenee
McCandless
McCollum
McCurdy
McEwen
Meyers
Molinari
Moorhead
Morrison (WA)
Murphy
Oxley
Packard
Pelosi
Petri
Quillen
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Russo
Saxton
Schaefer
Schroeder
Schulze
Sensenbrenner
Shumway
Shuster
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Snowe
Solomon
Stangeland
Stenholm
Stump
Swindall
Tauke
Taylor
Vucanovich
Walker
Weber
Weldon
Whittaker
Wyden
Wylie
Young (AK)

NOT VOTING—23

Anderson
Badham
Bates
Biaggi
Bonker
Boulter
Ford (TN)
Hertel
Jones (TN)
Lott
Mack
MacKay
Mica
Mollohan
Ray
Rose
Saiki
Shaw
Spence
St Germain
Stratton
Vander Jagt
Weiss

□ 1712

The Clerk announced the following pair:

On this vote:

Mr. Boulter for, with Mr. Shaw against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 4776, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR A JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 105) to provide for a Joint Congressional Committee on Inaugural Ceremonies, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I thank the distinguished gentleman from Minnesota, the ranking minority member of the Committee on House Administration, for yielding to me.

Mr. Speaker, Senate Concurrent Resolution 105 provides for a Joint Congressional Committee on Inaugural Ceremonies, consisting of three Senators appointed by the President of the Senate, and Three Representatives appointed by the Speaker of the House. The Joint Committee will make the arangements for the inauguration of the President and Vice President on January 20, 1989. This is the same resolution adopted by the Congress in the 96th and 98th Congresses.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, the minority concurs in the gentleman's description and believes that the resolution should be promptly passed.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 105

Resolved by the Senate (the House of Representatives concurring), That a Joint Congressional Committee on Inaugural Ceremonies consisting of three Senators and three Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice-President-elect of the United States on the 20th day of January 1989.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON TOMORROW, WEDNESDAY, JUNE 29, 1988 DURING 5-MINUTE RULE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading for amendment on tomorrow, Wednesday, June 29, 1988, for the purpose of marking up H.R. 4916, the anti-drug abuse amendments.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND INTERNATIONAL LAW OF THE COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, JUNE 29, 1988

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on Wednesday, June 29, 1988, for the purpose of marking up the bill, H.R. 4827, the refugee reauthorization amendments.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

□ 1715

METHANOL AND ALTERNATIVE FUELS PROMOTION ACT OF 1987

Mr. BRUCE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1518) to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I support this unanimous-consent request. This is done solely for the purpose of placing this legislation that passed the House under suspension of the rules last December for conference with the other body. We have no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Methanol and Alternative Fuels Promotion Act of 1987".

FINDINGS

Sec. 2. The Congress finds that—

(1) transportation uses account for more than 60 percent of the oil consumption of the Nation;

(2) continued reliance on imported oil is detrimental to the economy and security of the United States;

(3) methanol, ethanol, and natural gas are proven transportation fuels that burn more cleanly and efficiently than gasoline;

(4) conversion of a portion of the transportation fleet of the Nation to methanol and alternative fuels would stimulate development of a domestic coal-to-methanol and methane industry, create jobs, reduce air pollution, and enhance national security;

(5) the amount of carbon dioxide released with methanol from a coal-to-methanol industry using currently available technologies has been estimated in some studies to be significantly greater than the amount released with a comparable quantity of petroleum based fuel;

(6) there exists evidence that manmade pollution—the release of carbon dioxide, chlorofluorocarbons, methane, and other trace gases into the atmosphere—may be producing a long term and substantial increase in the average temperature on Earth, a phenomenon known as global warming through the greenhouse effect; and

(7) ongoing pollution and deforestation may be contributing now to an irreversible process producing unacceptable global climate changes. Necessary actions must be identified and implemented in time to protect the climate, including the development of technologies to control increased carbon dioxide emissions that result with methanol from coal-to-methanol industry.

PURPOSES

Sec. 3. The purposes of this Act are to—

(1) provide for the appropriate treatment under title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) applicable to methanol, ethanol, and natural gas powered automobiles, and dual fuel automobiles; and

(2) increase the use of methanol, ethanol, and natural gas by consumers and the production of methanol, ethanol, and natural gas powered automobiles.

MANUFACTURING INCENTIVES FOR AUTOMOBILES

Sec. 4. (a) Section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) is amended—

(1) in paragraph (1), by inserting immediately after "fuel" the first time it appears the following: ", or by methanol mixture, ethanol mixture, or natural gas"; and

(2) by adding at the end thereof the following new paragraphs:

"(15) The term 'methanol mixture' means the mixture of methanol with fuel, if any, used to operate a methanol powered automobile.

"(16) The term 'methanol powered automobile' means an automobile designed to operate on not less than 85 percent methanol.

"(17) The term 'ethanol mixture' means the mixture of ethanol with fuel, if any, used to operate an ethanol powered automobile.

"(18) The term 'ethanol powered automobile' means an automobile designed to operate on not less than 85 percent ethanol.

"(19) the term 'natural gas' means either natural gas mixture, or any mixture of natural and artificial gas.

"(20) The term 'natural gas powered automobile' means an automobile designed to operate on natural gas.

"(21) The term 'dual fuel automobile' means an automobile which—

"(A) is capable of operating on fuel and on either methanol or ethanol;

"(B) when it operates on either methanol or ethanol, operates as well as or better than when such automobile is operated on fuel for the entire range of mixtures (from 0.0 percent methanol or ethanol to at least 85 percent methanol or ethanol, as appropriate), or is capable of operating on natural gas and on fuel; and

"(C)(i) achieves a driving range of at least 250 miles, based upon the combined EPA city/highway fuel economy, as determined for average fuel economy purposes for such automobile when operating on an 85 percent methanol mixture; or (ii) achieves a driving range of at least 250 miles, based upon the combined EPA city/highway fuel economy, as determined for average fuel economy purposes for such automobile when operating on an 85 percent ethanol mixture.

The driving range for dual fuel automobiles operating on such methanol mixture or ethanol mixture specified in this paragraph may be lowered by the Secretary after a rulemaking proceeding, if the Secretary determines, as a result of such proceeding, that it is not feasible for such dual fuel automobiles to achieve such driving range, considering economic practicability, safety, and other factors determined by the Secretary to be relevant, but in no event shall the Secretary lower such requirement below 200 miles, based upon the combined EPA city/highway fuel economy.".

(b) Section 503(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)) is amended by adding at the end the following new paragraphs:

"(4)(A) In any of the consecutive model years beginning with the first model year after model year 1992 in which a manufacturer manufactures dual fuel automobiles and ending with the 10th model year or model year 2005, whichever occurs first, the EPA Administrator shall calculate the manufacturer's average fuel economy under paragraphs (1) and (2) by including as the denominator of the term for each model type of dual fuel automobile the fuel economy calculated pursuant to subsection (d)(4).

"(B) For any model year to which a calculation under subparagraph (A) applies, the EPA Administrator shall calculate the increase in a manufacturer's average fuel economy attributable to dual fuel automobiles by subtracting from the manufacturer's average fuel economy calculated under subparagraph (A) a number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in paragraphs (1) and (2) by including as the denominator for each model type of dual fuel automobile the fuel economy when such automobiles are operated on fuel.

"(C) In any of the first 5 of the consecutive model years specified in subparagraph (A), any such manufacturer shall be entitled to receive an increase in its average fuel economy, based on such manufacturer's production of dual fuel automobiles, as calculated under this paragraph. For each category of automobiles, such increase shall be the higher of—

"(i) up to 1.2 miles per gallon; or

"(ii) the increase attributable to the production of not more than 200,000 dual fuel automobiles, except that such increase shall not exceed 1.5 miles per gallon.

"(D) In any of the second 5 of the consecutive model years specified in subparagraph (A), any such manufacturer shall be entitled to receive an increase in its average fuel economy, based on such manufacturer's production of dual fuel automobiles, as calculated under this paragraph. For each category of automobiles, such increase shall be the higher of—

"(i) up to 0.9 miles per gallon; or

"(ii) the increase attributable to the production of not more than 200,000 dual fuel automobiles, except that such increase shall not exceed 1.1 miles per gallon.

"(E) Not later than January 15, 2000, the Secretary shall, in consultation with the Secretary of Energy and the EPA Administrator, complete and submit to Congress a study of whether the increases permitted in subparagraph (B), as limited by subparagraph (D), should be extended for an additional period of up to 5 consecutive model years beyond the end of the period for which each manufacturer is eligible under subparagraph (A). The Secretary shall include in such study recommendations regarding such increases. If the Secretary determines that such increases should be extended, the Secretary shall, within 120 days after submission of such study, promulgate a rule extending the availability of such increases.

"(5) Notwithstanding any other provision of this subsection, if the Secretary reduces the average fuel economy standard applicable to passenger automobiles for any model year below 27.5 miles per gallon, any increase in average fuel economy for passenger automobiles of more than 0.7 miles per gallon to which a manufacturer of dual fuel passenger automobiles would otherwise be entitled in that year pursuant to paragraph (4) shall be reduced by an amount equal to the amount of such reduction in the standard, except that such increase shall not be reduced to less than 0.7 miles per gallon.

"(6) Notwithstanding any other provision of this subsection, the average fuel economy of any manufacturer of natural gas powered automobiles or dual fuel automobiles which are capable of being operated on natural gas shall be calculated for a model year as if the vehicles were operated on fuel, if the Secretary of Energy determines, and notifies the Secretary, that entitling any manufacturer in that model year to an increase in average fuel economy calculated under paragraph (4) is likely to result in a significant increase in the average price of natural gas to consumers.".

(c) Section 503(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(d)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A) If a manufacturer manufactures any model type that is operated on methanol or ethanol, the measured fuel economy of that model type shall be based on the fuel content of the methanol or ethanol mixture used to operate such automobiles. For purposes of this section, a gallon of the methanol or ethanol mixture used to operate such automobiles shall be considered to contain 15 one-hundredths of a gallon of fuel.

"(B) If a manufacturer manufactures any model type of duel fuel automobile, the measured fuel economy of that model type shall be based on the fuel content of the methanol or ethanol mixture used to operate such automobiles. The fuel economy of a dual fuel automobile shall be determined by harmonically averaging (and equally weighting) the fuel economy when operated on fuel and when operated on a methanol or ethanol mixture. For purposes of this section, a gallon of the methanol or ethanol mixture used to operate such automobiles shall be considerd to contain 15 one-hundredths of a gallon of fuel.

"(C) If a manufacturer manufactures natural gas powered automobiles or dual fuel automobiles when operated on natural gas, the fuel economy shall be based on the fuel content of the natural gas. For purposes of this section, 100 cubic feet of the natural gas used to operate such automobiles shall be considered to contain 0.823 gallons equivalent of natural gas. A gallon equivalent of natural gas shall be considered to contain 15 one-hundredths of a gallon of fuel.".

AUTOMOBILE LABELING

Sec. 5. Section 506(a)(1)(A) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)(1)(A)) is amended—

(1) by striking "and" in clause (ii); and

(2) by inserting immediately after clause (iii) the following:

"(iv) in the case of a methanol, ethanol, or natural gas powered automobile, the fuel economy of such automobile when operated on the methanol or ethanol mixture, or natural gas, as the case may be, calculated under section 503(d)(4), multiplied by 15 percent, and

"(v) in the case of a dual fuel automobile, the fuel economy of such automobile calculated under section 503(d)(4), multiplied by 15 percent, as well as the fuel economy of such automobile when operated on gasoline,".

REPORT

Sec. 6. Section 512 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012) is amended by adding at the end thereof the following:

"(d)(1) Beginning in January 1993 and annually thereafter, the Secretary, after consultation with the Secretary of Energy, shall submit to the Congress a report which contains the information specified in paragraph (2) of this subsection, together with such other information and recommendations as the Secretary considers necessary or appropriate to carry out the purposes of the Methanol and Alternative Fuels Promotion Act of 1987.

"(2) As part of such report, the Secretary shall—

"(A) include information regarding the effects, if any, of the amendments made by such Act on the consumption of methanol, ethanol, natural gas, and gasoline on an industrywide and manufacturer-specific basis;

"(B) in consultation with the EPA Administrator, include information regarding the effects, if any, of the amendments made by such Act on the achievement of fuel economy standards specified in section 502 on an industrywide and manufacturer-specific basis; and

"(C) in consultation with the EPA Administrator, recommended changes in the definition of 'duel fuel automobile' in section 501(21) as technological developments warrant, in order to promote the actual use of methanol and ethanol, and to further the purposes of the Methanol and Alternative Fuels Promotion Act of 1987.".

ELECTRIC VEHICLES

Sec. 7. (a) The Secretary of Transportation, in consultation with the Secretary of Energy, shall conduct a comprehensive study and investigation regarding whether regulations in effect on the date of enactment of this Act should be amended or additional regulations should be promulgated to stimulate the production and introduction of electric vehicles into commerce. Such study shall also consider the feasibility and desirability of regulations to stimulate the production and introduction of solar-powered vehicles into commerce. The Secretary of Transportation shall transmit the results of such study to the Congress not later than 1 year after the date of enactment of this Act.

(b) If, as a result of the study conducted under subsection (a) of this section, the Secretary of Transportation and the Secretary of Energy determine that such regulations should be amended or that additional regulations should be promulgated, they shall commence a rulemaking proceeding for such purpose.

CONFORMING AMENDMENT TO THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

Sec. 8. Section 502(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(e)) is amended by adding at the end the following: "For purposes of this subsection, the Secretary shall not consider the fuel economy of methanol, ethanol, or natural gas powered automobiles, and the Secretary shall consider dual fuel automobiles to be operated exclusively on gasoline.".

MOTION OFFERED BY MR. BRUCE

Mr. BRUCE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bruce moves to strike all after the enacting clause of the Senate bill, S. 1518, and insert in lieu thereof the text of H.R. 3399, as passed by the House, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alternative Motor Fuels Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds and declares that—

(1) the achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(2) the displacement of energy derived from imported oil with domestically produced energy will contribute to an improved

international trade balance for the United States and increased employment opportunities for our citizens;

(3) the Nation's security and economic interests require that the Federal Government should assist a clean-burning, domestically produced transportation fuel to reach a threshold level of commercial application at which it can successfully compete with petroleum-based fuels;

(4) alcohols appear to be the alternative liquid fuel with the best technological and economic prospect of displacing significant quantities of petroleum-based transportation fuels;

(5) there are proven coal reserves in the United States sufficient to provide alcohol fuel for transportation use for at least the next four hundred years;

(6) the use of alcohols and natural gas to displace gasoline and diesel fuel in the Nation's automobiles, trucks, and buses will significantly reduce reliance on imported oil and enhance the Nation's security and environment;

(7) Federal and State agencies and the energy and motor vehicle industries have already established a base of information about alcohols and natural gas as transportation fuels, which this Act will further develop; and

(8) Federal and State governments should assist in bringing alcohol fueled vehicles to a level of commercial application comparable to other alternative fueled vehicles and should provide incentives for the adoption of nonpetroleum alternatives, and competition in the marketplace should then determine which alternative fuels become commercially accepted.

(b) Purposes.—The purposes of this Act are to provide—

(1) that the Federal Government shall—

(A) continue the development of an alcohol fuels commercial application program by increasing the purchases and use of alcohol fueled light duty vehicles, including passenger automobiles and light duty trucks, and the use of alcohol fueled heavy duty vehicles, including trucks, buses, and other heavy duty applications;

(B) in cooperation with heavy duty engine and vehicle manufacturers, establish a commercial application program for the operation of alternative fueled trucks;

(C) establish a program for the operation of alcohol, natural gas, and LP-gas fueled buses in urban areas;

(D) assist State and local entities in purchasing alcohol, natural gas, and LP-gas fueled buses;

(E) study the feasibility of a small, relocatable methane to methanol plant;

(F) remove disincentives to the use of alternative transportation fuel;

(G) promote the availability and use of alternative transportation fuels;

(H) promote the manufacture and purchase of alternative fueled vehicles by assisting engine and vehicle manufacturers in demonstrating the engine's capability to operate on alternative fuels;

(I) increase the commercial availability of alcohol fuels; and

(J) complement, support, and further existing State and manufacturer sponsored alcohol fuel programs; and

(2) for the establishment of an Interagency Commission on Methanol to develop and coordinate the implementation of a national methanol energy policy.

SEC. 3. AMENDMENT OF ENERGY POLICY AND CONSERVATION ACT.

Title III of the Energy Policy and Conservation Act is amended by adding at the end the following new part:

"PART J—ENCOURAGING THE USE OF ALTERNATIVE FUELS

"SEC. 400AA. ALTERNATIVE FUEL USE BY LIGHT DUTY FEDERAL VEHICLES.

"(a) Department of Energy Program.—(1) Beginning in the fiscal year ending September 30, 1990, the Secretary shall ensure, with the cooperation of other appropriate agencies and consistent with other Federal law, that the maximum number practicable of the passenger automobiles and light duty trucks acquired annually for use by the Federal Government shall be alcohol powered vehicles, dual energy vehicles, natural gas powered vehicles, or natural gas dual energy vehicles.

"(2) In any determination of whether the acquisition of a vehicle is practicable under paragraph (1), the cost of such vehicle to the United States shall not be considered as a factor unless the initial cost of such vehicle exceeds the initial cost of a comparable conventional fueled vehicle by at least 5 percent.

"(3) The Secretary shall, to the extent practicable and consistent with this part, ensure that the number of dual energy vehicles acquired under this subsection is at least as great as the number of alcohol powered vehicles acquired under this subsection, and that the number of natural gas dual energy vehicles acquired under this subsection is at least as great as the number of natural gas powered vehicles acquired under this subsection.

"(b) Studies.—(1) The Secretary, in cooperation with other Federal agencies regulating motor vehicles for safety and environmental purposes, shall conduct studies related to the vehicles acquired under subsection (a), including—

"(A) projects to demonstrate the performance of such vehicles,

"(B) an evaluation of the performance of such vehicles in cold weather,

"(C) an evaluation of the performance of such vehicles at high altitude,

"(D) a study of the fuel economy, safety, and emissions of such vehicles, and

"(E) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of other passenger automobiles and light duty trucks.

"(2)(A) The Secretary shall conduct a study of the advisability and feasibility of the government selling vehicles acquired under subsection (a) to the public. Such study shall take into account existing laws governing the sale of government vehicles and specifically focus on when to sell such vehicles and what price to charge so as to best induce the public to purchase such vehicles without compromising studies of the use of such vehicles authorized under this part.

"(B) The Secretary shall report the results of the study conducted under subparagraph (A) to the Congress within 6 months after the date of the enactment of this part.

"(c) Availability to the Public.—At locations where vehicles acquired under subsection (a) are supplied with alcohol, alcohol shall be offered for sale to the public for use in other vehicles, unless—

"(1) alcohol is commercially available for vehicles in the vicinity of such locations;

"(2) security considerations prevent the offering for sale of alcohol at such location; or

"(3) the sale of alcohol at such location is otherwise impracticable or inappropriate or not in accordance with applicable Federal law.

"(d) Federal Agency Use of Demonstration Vehicles.—(1) Upon the request of the head of any agency of the Federal Government, the Secretary shall ensure that such Federal agency be provided with vehicles acquired under subsection (a) to the maximum extent practicable.

"(2)(A) Funds appropriated under this section for the acquisition of vehicles under subsection (a) shall be applicable only to the portion of the cost of vehicles acquired under subsection (a) which exceeds the cost of comparable conventional fueled vehicles.

"(B) The Secretary shall ensure that the cost to any Federal agency receiving a vehicle under paragraph (1) shall not exceed the cost to such agency of a comparable conventional fueled vehicle.

"(3) Only one-half of the vehicles acquired under this section by an agency of the Federal Government shall be counted against any limitation under law, Executive order, or executive or agency policy on the number of vehicles which may be acquired by such agency.

"(4) Any Federal agency receiving a vehicle under paragraph (1) shall cooperate with studies undertaken by the Secretary under subsection (b).

"(e) Detail of Personnel.—Upon the request of the Secretary, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Department of Energy, to assist the Secretary in carrying out his duties under this section.

"(f) Exemptions.—(1) Vehicles acquired under this section shall not be counted in any calculation of the average fuel economy of the fleet of passenger automobiles acquired in a fiscal year by the United States.

"(2) The incremental cost of vehicles acquired under this section over the cost of comparable conventional fueled vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

"(g) Definitions.—For purposes of this part—

"(1) the term 'acquired' means leased for a period of sixty continuous days or more, or purchased;

"(2) the term 'alcohol' means a mixture containing 85 percent or more methanol, ethanol, or other alcohols by volume;

"(3) the term 'alcohol powered vehicle' means a vehicle designed to operate exclusively on alcohol;

"(4) the term 'dual energy vehicle' means a vehicle which—

"(A) is capable of operating on alcohol and on conventional fuel; and

"(B) provides equal or superior energy efficiency, as calculated during fuel economy testing for the Federal Government, while operating on alcohol as it does while operating on conventional fuel;

"(5) the term 'natural gas dual energy vehicle' means a vehicle which—

"(A) is capable of operating on natural gas and on conventional fuel; and

"(B) provides equal or superior energy efficiency, as calculated during fuel economy testing by the Federal Government, while operating on natural gas as it does while operating on conventional fuel; and

"(6) the term 'natural gas powered vehicle' means a vehicle designed to operate exclusively on natural gas.

"(h) FUNDING.—(1) For alcohol powered vehicles and dual energy vehicles, there is authorized to be appropriated for the fiscal year ending September 30, 1990, $5,000,000, for the fiscal year ending September 30, 1991, $3,000,000, for the fiscal year ending September 30, 1992, $2,000,000, and for the fiscal year ending September 30, 1993, $2,000,000, to carry out the purposes of this section. For natural gas powered vehicles and natural gas dual energy vehicles, there is authorized to be appropriated for the fiscal year ending September 30, 1990, $1,000,000.

"(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"SEC. 400BB. ALTERNATIVE FUELS TRUCK COMMERCIAL APPLICATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, in cooperation with manufacturers of heavy duty engines, and other Federal agencies, shall establish a commercial application program to study the use of alcohol, natural gas, and LP-gas in heavy duty trucks and other heavy duty applications if appropriate.

"(b) AVAILABILITY TO THE PUBLIC.—At locations where trucks or other heavy duty applications operating under the commercial application program established under subsection (a) are supplied with alcohol, alcohol shall be offered for sale to the public for use in other vehicles, unless—

"(1) alcohol is commercially available for trucks or other heavy duty applications in the vicinity of such locations;

"(2) security considerations prevent the offering for sale of alcohol at such location; or

"(3) the sale of alcohol at such location is otherwise impracticable or inappropriate or not in accordance with applicable Federal law.

"(c) FUNDING.—(1) There is authorized to be appropriated for the period encompassing the fiscal years ending September 30, 1989, September 30, 1990, September 30, 1991, and September 30, 1992, a total of $3,000,000 for alcohol powered vehicles and dual energy vehicles, and a total of $3,000,000 for natural gas powered vehicles and natural gas dual energy vehicles, to carry out the purposes of this section.

"(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"SEC. 400CC. ALCOHOL, NATURAL GAS, AND LP-GAS FUELED BUS PROGRAM.

"(a) IN GENERAL.—The Secretary, in cooperation with other Federal agencies regulating motor vehicles for safety and environmental purposes, shall, beginning in the fiscal year ending September 30, 1989, assist in the acquisition of buses capable of operating on alcohol, buses capable of operating on natural gas, and buses capable of operating on LP-gas.

"(b) TESTING.—The Secretary, in cooperation with other Federal agencies regulating motor vehicles for safety and environmental purposes, shall test in urban settings the emissions levels, durability, and fuel economy of buses purchased under subsection (a), comparing the different types with diesel powered buses, as such buses will be required to operate under Federal safety and environmental standards applicable to such buses for the model year 1991.

"(c) FUNDING.—(1) There is authorized to be appropriated for the period encompassing the fiscal years ending September 30, 1989, September 30, 1990, September 30, 1991, and September 30, 1992, a total of $4,000,000 to carry out the purposes of this section.

"(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'bus' means a vehicle which is designed to transport 30 individuals or more; and

"(2) the term 'LP-gas' means hydrocarbon mixtures consisting predominantly of propane and butanes.

"SEC. 400DD. INTERAGENCY COMMISSION ON ALTERNATIVE MOTOR FUELS.

"(a) ESTABLISHMENT.—There is established a commission to be known as the Interagency Commission on Alternative Motor Fuels, which shall develop a national alternative motor fuels policy and coordinate efforts to implement such policy.

"(b) MEMBERSHIP.—The Commission shall be composed of members as follows:

"(1) The Secretary of Energy, or the designee of the Secretary, who shall be the chairperson of the Commission;

"(2) the Secretary of Defense or the designee of such Secretary;

"(3) the Administrator of the Environmental Protection Agency or the designee of such Administrator;

"(4) the Secretary of Transportation or the designee of such Secretary;

"(5) the Postmaster General or the designee of the Postmaster General;

"(6) the Administrator of the General Services Administration or the designee of such Administrator;

"(7) the Administrator of the Occupational Safety and Health Administration or the designee of such Administrator; and

"(8) such other officers and employees of the Federal Government as may be appointed to the Commission by the Secretary.

"(c) OPERATIONS.—(1) The Commission shall meet as necessary to carry out the purposes of this section, at the call of the chairperson of the Commission.

"(2) One-third of the Commission shall constitute a quorum.

"(3) No member of the Commission shall receive additional pay, allowances, or benefits by reason of the service of such member on the Commission.

"(4) The Secretary shall provide the Commission with such staff and office facilities as the Secretary, following consultation with the Commission, considers necessary to permit the Commission to carry out its duties under this section.

"(d) DUTIES.—(1) The Commission shall study the following issues or ensure that such issues are studied:

"(A) The need for and benefits from use of alternative motor fuels in the United States.

"(B) The economics of significant near-term alternative motor fuels.

"(C) Environmental benefits that can be obtained from use of alternative motor fuels.

"(D) Energy security benefits that can be obtained from alternative motor fuel use.

"(E) Environment, health, and safety problems related to the use of significant near-term alternative motor fuels.

"(F) Benefits to the military from the availability of alternative motor fuels under both peacetime and war time conditions.

"(G) National alternative motor fuels policies in other nations, with special emphasis on the alcohol fuels program of Brazil, and the extent to which those policies may serve as models for a national alternative motor fuels policy in the United States.

"(H) Existing State and local laws and regulations regarding alternative motor fuels, and the extent to which such laws and regulations may impede the achievement of the purposes set forth in the Alternative Motor Fuels Act of 1987.

"(I) Whether the purposes set forth in the Alternative Motor Fuels Act of 1987 may be achieved by action of the private market, or whether and what kind of governmental action beyond that contained in this and other Acts may be necessary.

"(2) The Commission shall develop a long-term plan for the commercialization of alcohols, natural gas, and other potential alternative motor fuels.

"(3)(A) The Commission shall ensure communication between representatives of all Federal agencies that are involved in alternative motor fuels demonstration and commercialization projects or that have an interest in such projects.

"(B) The Commission shall establish a clearinghouse for the exchange of information between persons working with, or interested in working with, the commercialization of alternative motor fuels.

"(e) PRIVATE SECTOR ADVISORY PANEL.—(1) The chairperson of the Commission shall, consistent with the Federal Advisory Committee Act, establish a private sector advisory panel to inform the Commission about matters related to alternative motor fuels. Such chairperson shall appoint the members of the panel.

"(2) The members of the panel shall be persons employed in the private sector or by State or local government who are knowledgeable about alternative motor fuels and their possible uses and the production of alternative motor fuels and vehicles powered by such fuels. Such members may not be full-time officers or employees of the Federal Government.

"(3) The panel shall meet at the call of the chairperson of the Commission.

"(f) DETAIL OF FEDERAL PERSONNEL.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

"(g) REPORTS.—(1) The Commission shall, not later than September 30 of each of the years 1989, 1990, and 1991, submit an interim report to the Congress setting forth the actions taken and findings made by the Commission under subsection (d).

"(2) The Commission shall, not later than September 30, 1992, submit a final report to the Congress setting forth the actions taken and findings made by the Commission under subsection (d), including the details of the plan required by subsection (d)(2).

"(3) The results of any study or studies undertaken under subsection (d) shall be made available to the public at such times and in such manner as determined appropriate by the Secretary.

"(h) Termination.—The Commission and the panel shall terminate upon submission of the final report of the Commission under subsection (g)(2).

"(i) Definitions.—For purposes of this section—

"(1) the term 'Commission' means the Interagency Commission on Alternative Motor Fuels established in subsection (a); and

"(2) the term 'panel' means the private sector advisory panel established in subsection (e)(1).

"SEC. 400EE. STUDIES AND REPORTS.

"(a) Methanol Studies.—(1) The Secretary shall undertake a study of the comparative costs of methanol based on natural gas, methanol based on coal, and methanol based on other resources. Such study shall include a study of various sizes of facilities for each resource, and shall—

"(A) identify the optimum size for obtaining maximum economies of scale;

"(B) identify the largest size feasible consistent with current and projected near-term demand for methanol; and

"(C) consider and quantify 'learning curve' benefits associated with the sequential construction of additional facilities.

"(2)(A) In conducting studies under paragraph (1), the Secretary shall include a study of methanol plants that are—

"(i) capable of utilizing current domestic supplies of unutilized natural gas;

"(ii) relocatable; or

"(iii) suitable for natural gas to methanol conversion by natural gas distribution companies.

"(B) For purposes of this paragraph, the term 'unutilized natural gas' means gas that is available in small remote fields and cannot be economically transported to natural gas pipelines, or gas the quality of which is so poor that extensive and uneconomic pretreatment is required prior to its introduction into the natural gas distribution system.

"(b) Environmental Study.—The Administrator, in accordance with existing law, shall complete, within two years after the date of the enactment of this section, a comprehensive analysis with respect to the environmental impacts associated with the storage, distribution, and use of significant amounts of methanol as transportation fuel as compared to existing diesel and gasoline fuels.

"(c) Reports.—(1) The Secretary, with the cooperation, where appropriate, of the Administrator, shall submit semiannual reports of the actions taken and findings made under this part to the Congress. The first such report shall be submitted no later than September 30, 1988. The last such report shall be submitted no later than September 30, 1992.

"(2) The last report referred to in paragraph (1) shall summarize all actions taken and findings made under this part.

"(d) Funding.—(1) There is authorized to be appropriated to carry out the purposes of this section $975,000 for the fiscal year ending September 30, 1989.

"(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

SEC. 4. USE OF NONSTANDARD FUELS.

No guaranty or warranty with respect to any passenger automobile or light-duty truck acquired by the United States after October 1, 1988, shall be voided or reduced in effect by reason of the operation of such vehicle with any fuel for which a currently effective waiver, which includes a limitation regarding Reid vapor pressure with respect to such fuel, has been issued by the Administrator of the Environmental Protection Agency under section 211(f) of the Clean Air Act (42 U.S.C. 7545(f)).

SEC. 5. FUEL EFFICIENCY STANDARDS.

(a) Alcohol Powered Vehicles.—If a manufacturer manufactures an alcohol powered vehicle, such vehicle shall be treated as if it were propelled by fuel, for purposes of any applicable Federal average fuel economy standard. The vehicle's fuel economy shall be based on the nonalcohol fuel content of the alcohol suitable for use in operating such vehicle. For purposes of this section, a gallon of the alcohol suitable for use in operating such vehicles shall be considered to contain 15 one-hundredths of a gallon of nonalcohol fuel.

(b) Dual Energy Vehicles.—If a manufacturer manufactures a dual energy vehicle, the fuel economy of such vehicle for purposes of any applicable Federal average fuel economy standard shall be determined by adding the fuel economy of such vehicle while operating on alcohol, as calculated under subsection (a), to the fuel economy of such vehicle while operating on conventional fuel, and dividing such sum by two.

(c) Natural Gas Powered Vehicles.— If a manufacturer manufactures a natural gas powered vehicle, such vehicle shall be treated as if it were propelled by fuel, for purposes of any applicable Federal average fuel economy standard. The vehicle's fuel economy shall be based on the fuel content of the energy suitable for use in operating such vehicles. For purposes of this section, 100 cubic feet of the energy suitable for use in operating such vehicles shall be considered to contain 0.823 gallons equivalent of natural gas, and a gallon equivalent of natural gas shall be considered to have a fuel content of 15 one-hundredths of a gallon.

(d) Natural Gas Dual Energy Vehicles.— If a manufacturer manufactures a natural gas dual energy vehicle, the fuel economy of such vehicle for purposes of any applicable Federal average fuel economy standard shall be determined by adding the fuel economy of such vehicle while operating on natural gas, as calculated under subsection (c), to the fuel economy of such vehicle while operating on conventional fuel, and dividing such sum by two.

(e) Determination of Fuel Economy Standard.—(1) Vehicles described in subsection (a) or (c) shall not be taken into account in any determination of maximum feasible average fuel economy for the purpose of establishing a Federal average fuel economy standard.

(2) Vehicles described in subsection (b) or (d) shall be treated as if they will be operated exclusively on conventional fuels in any determination of maximum feasible average fuel economy for the purpose of establishing a Federal average fuel economy standard.

(3) Except as provided in paragraphs (1) or (2), alcohol and natural gas shall not be treated as a fuel for purposes of establishing a Federal average fuel economy standard.

(f) Applicability.—(1) Subsections (a), (b), (c), and (d) shall not apply to vehicles manufactured before the model year 1991.

(2) Fuel economy credits generated as a result of the application of subsections (a), (b), (c), and (d) shall not be available to a manufacturer for application to any model year before the model year 1991.

(g) Definitions.—For purposes of this section—

(1) the term "alcohol" means a mixture containing 85 percent or more methanol, ethanol, or other alcohols by volume;

(2) the term "alcohol powered vehicle" means a vehicle designed to operate exclusively on alcohol;

(3) the term "dual energy vehicle" means a vehicle which—

(A) is capable of operating on alcohol and on conventional fuel; and

(B) provides equal or superior energy efficiency, as calculated during fuel economy testing for the Federal Government, while operating on alcohol as it does while operating on conventional fuel;

(4) the term "natural gas dual energy vehicle" means a vehicle which—

(A) is capable of operating on natural gas and on conventional fuel; and

(B) provides equal or superior energy efficiency, as calculated during fuel economy testing by the Federal Government, while operating on natural gas as it does while operating on conventional fuel; and

(5) the term "natural gas powered vehicle" means a vehicle designed to operate exclusively on natural gas.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1518

Mr. BRUCE. Mr. Speaker, I ask unanimous consent to insist on the House amendment to S. 1518 and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. Dingell, Sharp Bruce, Lent, and Moorhead.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO SIT WEDNESDAY, JUNE 29, 1988, DURING 5-MINUTE RULE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be given permission to meet at 10 o'clock, Wednesday, June 29, 1988, during the 5-minute rule for the purpose of marking up the drug-free workplace bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 4794, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 482, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 482

Resolved, That during the consideration of the bill (H.R. 4794) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes, all points of order against the following provisions of the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: beginning on page 4, line 10 through page 7, line 10; beginning on page 12, line 1 through "rescinded:" on line 21; beginning on page 18, lines 9 through 22; beginning on page 19, lines 8 through 16; beginning on page 20, lines 15 through 24; beginning on page 21, line 6 through page 23, line 16; beginning on page 24, lines 1 through 23; beginning on page 25, lines 10 through 25; beginning on page 26, lines 14 through 23; beginning on page 29, lines 1 through 4; beginning on page 29, line 15 through page 33, line 9; beginning on page 36, line 11 through page 37, line 9; beginning on page 38, lines 1 through 10; beginning on page 39, lines 1 through 19; beginning on page 42, lines 14 through 20; beginning on page 43, line 4 through page 46, line 18; beginning on page 47, lines 1 through 17; beginning on page 51, lines 6 through 12; and beginning on page 51, line 21 through page 57, line 25. In any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph. The first amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as having been adopted in the House and in the Committee of the Whole. It shall be in order to consider the amendment printed in the report of the Committee on Rules, if offered by Representative Eckart of Ohio, or his designee, and all points of order against said amendment for failure to comply with the provisions of clause 2 of rule XXI are hereby waived. Said amendment shall be debatable for not to exceed one hour, equally divided and controlled by the proponent and a member opposed thereto, and shall not be subject to amendment. It shall be in order to consider the amendment printed in the report of the Committee on Rules, if offered by Representative Walker of Pennsylvania, and all points of order against said amendment for failure to comply with the provisions of clause 2(c) of rule XXI are hereby waived, if the motion to rise and support under clause 2(d) of rule XXI is rejected or not offered.

The SPEAKER. The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], and pending that, I yield myself such time as I may consume.

Mr. Speaker, because appropriations bills are privileged under the rules of the House, this rule merely provides waivers of points of order against H.R. 4794, the Transportation appropriations bill for fiscal 1989, and against two amendments to that bill. As is customary with appropriations bills, the debate time will be determined by unanimous consent request made by the manager of the bill before the bill is considered.

The rule waives clause 2 of rule XXI against specified provisions of H.R. 4794. Clause 2 of rule XXI prohibits unauthorized appropriations and legislative provisions in general appropriations bills. The provisions receiving this waiver are designated in the rule by reference to page and line in the bill.

It should be noted that the rule makes it clear that where points of order are waived against only a portion of a paragraph, a point of order against any other provision in the paragraph may be made only against such a provision and not against the entire paragraph.

The rule provides that the first amendment printed in the report accompanying the rule is considered to have been adopted in the House and in the Committee of the Whole. This amendment consists of the text of H.R. 1101, a bill to ensure the fair treatment of airline employees in airline mergers. This bill passed the House by voice vote under suspension of the rules on June 22, 1987.

The rule further makes in order the amendment printed in the report accompanying this resolution if offered by Representative ECKART of Ohio or his designee. Points of order under clause 2 of rule XXI are waived against this amendment. The Eckart amendment is debatable for 1 hour, equally divided and controlled by the proponent and a member opposed thereto, and shall not be subject to amendment. This amendment relates to funding certain search-and-rescue stations that have been closed this year through administrative action by the Coast Guard.

Finally, the rule provides that it shall be in order to consider the amendment printed in the report accompanying this rule if offered by Representative WALKER of Pennsylvania. Points of order against this amendment are waived for failure to comply with the provisions of clause 2(c) of rule XXI, if the motion to rise and report under clause 2(d) of rule XXI is rejected or not offered. Clause 2(c) of rule XXI prohibits consideration of amendments to general appropriations bills which change existing law. The Walker amendment, which mandates drug-free workplaces as a condition of receiving Federal funds, has been made in order to other appropriations bills this year by the Rules Committee.

Mr. Speaker, H.R. 4794 provides appropriations in fiscal 1989 for the Department of Transportation and for certain related agencies. This rule permits germane amendments to be offered to H.R. 4794, and I would urge my colleagues to adopt it.

Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if you are looking for a uniform rule regarding legislative and unauthorized provisions in an appropriations bill, you won't find it in the Rules Committee.

And if you are an authorizing committee, you better start worrying about your future. The more we use these appropriations bills as vehicles for matters under your committee's jurisdiction, whether or not it is with your approval, the more we are contributing to your own obsolescence.

If you ask me what factors went into deciding which items would be protected against points of order by this rule and which would not be, I would have to tell you I honestly don't know. I was not privy to the committee's majority caucus when they were either drawing straws, consulting their astrologists, or talking to friends on the phone. In any event, there is no rhyme nor reason to their waiver policy in this rule.

As I am sure most of my colleagues are aware by now, there was a considerable objection to these waivers raised by the Public Works Committee, since it had not been consulted in advance on the various unauthorized projects which are being funded by this appropriations bill. The distinguished chairman of the Public Works Committee, Mr. ANDERSON, pointed out that our policy in the past, as enunciated by the Rules Committee chairman, was not to grant waivers on unauthorized matters if the authorizing committee chairman objected. But, that policy has now apparently been thrown out the window, and the new litmus test for waivers is who knows who and gets to whom first. Of the 14 matters which the Public Works Committee asked not to be protected against points of order, the Rules Committee protected 8.

Mr. Speaker, House Resolution 482 provides for consideration of H.R. 4794, the fiscal year 1989, Department of Transportation and related agencies appropriations bill. This bill would make appropriations of $10.8 billion in new budget authority for the Department of Transportation and related agencies.

This amount is $2.03 billion over the amount requested by the President. Moreover, the majority of the increase is for the Urban Mass Transportation Administration.

But what goes against the grain is the arbitrary selection of waivers in this rule. First, it waives clause 2 of rule XXI against specified provisions in the bill. The rule goes on to provide that where points of order are waived against only a portion of a paragraph, a point of order against any other provision in the paragraph may be made only against such provision and not against the entire paragraph. Mr. Speaker, I ask, Is this cut and paste time or what?

To further compound the indignities of this rule, we have a self-executing provision that automatically adopts an entire authorization bill relating to the treatment of employees affected by airline mergers. The administration opposes this new provision.

However, there's more to add to this display of the Rule Committee sense of fair play. The rule makes in order an amendment by the gentleman from Ohio [Mr. ECKART] to mandate the Coast Guard to allocate $4.8 million to reopen nine closed Coast Guard search and rescue stations. Clause 2 of rule XXI is waived against this amendment. It is debatable for 1 hour and it is not subject to amendment.

Finally, this rule makes in order the Walker drug-free workplace amendment if the motion to rise is defeated or not offered. Unlike the Eckart amendment, the Walker amendment is amendable.

Mr. Speaker, this rule accommodates some interests, but not others, for whatever reasons. I cannot support this rule in good conscience.

We sit in meetings week after week in the Rules Committee presumably to bring some clarity and order to our proceedings. But then we come up with a rule like this that is so self-defeating of that purpose.

I ask my colleagues on both sides of the aisle to think very carefully about the dangerous waters we are treading by bringing something like this to the House floor.

We can and must put a stop to this type of rule abuse. I will not support this rule and neither should anyone else who has any concern for the jurisdictions of the legislative committees.

Mr. Speaker, I yield 5 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, once again the House is being presented a rule which contains wholesale waivers of rule XXI.

I am very disappointed that the Rules Committee continues to permit the waiver of points of order to an appropriations bill that openly, deliberately and on a massive scale contains appropriations for projects which have not been authorized.

This action is contrary to the Rules of the House which hold that projects are to be authorized before funds are appropriated.

The rule govening this specific subject was originated by a distinguished representative from Massachusetts, John Quincy Adams, more than a century and a half ago.

Very wisely and perceptively, he proposed that appropriations bills "should be stripped of everything but appropriations."

I submit that Mr. Adams would be as dismayed as I am to see that the bill we will consider shortly contains what amounts to a mini-highway bill, crafted by the Appropriations Committee and without any consultation with the Public Works and Transportation Committee on a number of its provisions.

Our committee has taken the position that rule XXI should not be tampered with. Yet, despite our pleas to the contrary, the Rules Committee has waived rule XXI with respect to almost all of the projects placed in this bill by the Appropriations Committee.

The Rules Committee did make a minor concession to us by not protecting a small number of projects. These projects were, in effect, sacrificed in an effort to placate the Public Works Committee.

Apparently the sponsors of these projects were not important enough to curry favor with the Rules Committee.

Now I fully recognize that there will be times when it will, in fact, be necessary to legislate in an appropriations bill or to appropriate funds for a project that is not authorized.

However, those instances should be very limited and should be accepted only where there has been consultation between the authorizing and appropriations committees and agreement has been reached to take certain action, such as waiving points of order. We simply cannot waive points of order every time the Appropriations Committee makes such a request. Otherwise, we might as well not even have the rule.

Unfortunately, this is by no means an isolated incident. Waiving rule XXI to permit the Appropriations Committee to put its own projects in an appropriations bill, without any consultation and agreement, is happening time after time.

What this demonstrates is the increasing encroachment of the Committee on Appropriations—with the help of the Rules Committee—on the jurisdiction of the authorizing committees in the House. It appears that the only solution to this problem is for the authorizing committees to assert themselves. A revolt is in order.

Now is the time to join together to stop this assault on the authorizing committees. If we do not work together to stop them, there will soon be super-Congressmen on the Appropriations and Rules Committees and the rest of us on the authorizing committees.

While there is not much we can do today, I plan to work in the future with the members of the authorizing committees to try to rectify this situation. This is something that all members of the authorizing committees in this body should seriously consider in the interest of preserving the integrity of the rules of this House.

☐ 1730

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, this is the first time in 16 years that I have talked to my colleagues from this side of the aisle. I want to assure them that I checked with the Parliamentarian to find out whether this is within the rules for a Member of the minority to speak from the majority side, and indeed it is the rules that I want to focus on today, most particularly rule XXI, clause 2, which once again is being violated by the legislation before us.

I also speak from this side of the aisle to emphasize that this is not a partisan issue. This is not a question of Republicans or Democrats, majority or minority, but indeed it is an issue that cuts across partisan lines and goes to the heart of the legislative process. It is an issue that says we should obey the rules of the House, an issue that says because the rules provide that the legislative committees are the committees of jurisdiction to provide authorizations, that is where that legislation should be written, and not in the Appropriations Committee. And then we find ourselves having numerous waivers of points of order so that the authorizing committees are being circumvented. That is the real issue here. And we can send a message loud and clear, particularly to those Members of this body on both sides of the aisle who are members of the authorizing committees, who have watched time and time again their jurisdiction being usurped through authorizations on appropriations.

Consider what the evidence is in recent history. If we look at the fiscal 1988 continuing resolution and look at the various appropriation bills within it, Commerce and Justice, for example, have a total of 65 violations of rule XXI. Sixty-six percent of the entire portion of the appropriation bill was in violation of rule XXI. On energy and water, 62 percent of the items were in violation of rule XXI. On the HUD appropriations, 53 percent were in violation of rule XXI. On the Interior Committee approportion, 30 percent were in violation. On military construction, 100 percent, every item in this portion of the appropriation bill was not authorized and had to have waivers, 100 percent. Transportation, 40 percent; Treasury, 8 percent, and all others together 60 percent. Overall in that massive bill 54 percent of all of the provisions were provisions which had not been authorized and required a waiver of rule XXI in the appropriations bill.

So we find ourselves today with this Transportation appropriation, and yes, once again 25 provisions of this bill have not been authorized.

So this is not an issue that is a Republican or a Democratic issue. It is not an issue that is a conservative or a liberal issue. It is an issue that gets to the heart of the rules of this House, and it is an issue that says all Members should be treated fairly. There should not be a handful of powerful Members who happen to serve on the so-called right committees, and by doing so are able to get their projects written into the appropriation bills when those projects have never been authorized.

That is the heart of this, and so we are asking our colleagues on both sides of the aisle to help send a message. This is not a Public Works and Transportation Committee issue alone. It is one that deals with every, every legislative committee of the House.

So I ask my colleagues to help today by defeating this rule and help to send a message that says yes, we Members of the House of Representatives want the rules to be honored, we want to operate within the rules, not outside of the rules. Help send a message that says we want the legislative committees to be able to exercise their jurisdiction to legislate, and yes, perhaps most importantly, help send a message today that says we want all Members to be treated fairly. We do not want a few select Members who happen to serve in key positions on certain committees to get these certain projects for themselves without regard for having to go through the legislative process, of going to the appropriate authorizing committee.

So, Mr. Speaker, for the first time in 16 years I stand here on the other side of the aisle to make the point that the issue is not a Republican or Democratic issue, but it is an issue that goes to the heart of this Congress of the United States and this beloved House. So help us help ourselves and defeat this rule and send a message that we want the rules of this House honored.

Mr. HALL of Ohio. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, I join with my colleague from Ohio, Montgomery County [Mr. HALL] in urging the House to adopt the rule that is before us this afternoon. This clearly is an opportunity for the House to make very clear that the rhetoric that we have placed behind our war on drugs is going to be filled with reality. Indeed, the Rules Committee in crafting this rule allows the committee of the gentleman from Florida [Mr. LEHMAN] to present a critical item that is going to be high on the national agenda for many years to come, drug interdiction, and to receive the kinds of adequate levels of funding that is necessary for it to carry on, and my colleagues should vote in support of this rule.

In addition, this rule allows the Coast Guard to carry forward its mission of search and rescue, of saving lives in imminent danger as well as preventing lives from becoming endangered from the illegal use of drugs in our United States. With the adoption, hopefully, of the Shumway-Eckart-Schneider amendment, we provide for the reopening of nine closed search and rescue stations.

The significance of this rule and the amendment that my colleague from California and I will be offering is not a budget buster. The costs to reopen these stations are minimal and well within the $3 billion Coast Guard budget. The cost of failing to reopen these stations, however, is significant in terms of human lives.

These particular stations have been responsible for the saving of 525 lives and over $123 million in property.

It is through the hard work of the subcommittee of the gentleman from Florida [Mr. LEHMAN] and his ranking Republican members that we bring before the Members today this Coast Guard budget and with this fine tuning of the Shumway-Eckart-Schneider amendment we will state clearly and unequivocally, with the adoption of this rule, that Congress believes its rhetoric and wants our rhetoric to become a reality in terms of drug interdiction.

The Appropriation Committee's report says most eloquently that lifesaving services should not be adversely affected by budgetary constraints. Adopting the rule gives reality to our rhetoric.

This amendment does not in any way add additional moneys above those which have already been provided for in the bill and the budget resolution.

The fiscally conservative vote is to provide for the adoption of this rule. This amendment is perfectly consistent with actions taken by this House in an overwhelmingly bipartisan vote to provide for specific language stating that the Coast Guard cuts be restored.

Health and safety means a vote for this rule. The Rules Committee efforts on behalf of myself, and my colleagues from California and Rhode Island, means the Coast Guard will not and cannot be neglected.

The Rules Committee served to protect most carefully the amendment of the gentleman from Pennsylvania dealing with a drug free workplace, again giving reality to our rhetoric, and again of significance to those of my colleagues from the Great Lakes States, States who have witnessed an economic rebirth and hopefully an opportunity to share and participate in it, this rule protects the opportunity that that gives.

So I say to my colleagues that the Rules Committee fight that we have heard discussed from some as being between the appropriations and the authorizations is really an effort, in this gentleman's view, to try to obfuscate what really has happened. Indeed, a number of the provisions the Rules Committee sought to place in this rule were approved and signed off on by the relevant authorizing committee chairmen. In testimony before the Rules Committee the chairman indicated his support for these waivers, but now finds himself constrained to oppose them on procedural grounds.

Should our constituencies be penalized for procedural faux pas? Should our constituencies be told to tread water for 2 or 3 hours with their lives in jeopardy because some committee signed off and another did not?

No, the niceties of committee jurisdiction, I submit to each of my colleagues here, are lost to a sailor, swamped in 6-foot seas as he wonder where the Coast Guard cutter is. The niceties of committee procedures are lost on the bandit sneaking in under the cover of night to enter our ports and harbors which are left unprotected by the closing of these nine Coast Guard stations, bringing death and destruction to our young people. And yes, the niceties of committee procedures will be lost upon all of our constituents if we fail to take advantage of these most unique opportunities to provide for the reopening and the protection of lives in danger and endangered from high seas or high drugs. These lifesaving services should not be adversely affected by budgetary constraints. The gentleman from Florida [Mr. LEHMAN] and his subcommittee, have labored mightily to expand the Coast Guard funding opportunities. His subcommittee deserves support, and I urge the adoption of the rule.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I rise in opposition to the rule and want to compliment the gentleman from Pennsylvania [Mr. SHUSTER] on his very erudite remarks. I did not hear them all, but what I did hear I certainly agree with, because in my compilation we have passed appropriation bills in this House now to date totaling $332 billion in unauthorized appropriations. That represents 76 percent of the total amount that we have appropriated here has been done so without authorization.

Only two subcommittees, State, Justice, and Commerce, and Labor, Health, and Human Services and Education left out the unauthorized projects.

Over the last 10 years, an average of two-thirds of all appropriation bills have been granted waivers by the Rules Committee because they contained unauthorized appropriations.

Last year's continuing resolution contained, as we said a few weeks ago in our special order, $44 billion of unauthorized appropriations. It is a lousy way to run this place, and I am going to include in the extension of my remarks today the major programs lacking specific authorizations of appropriations for the fiscal year 1989 at the time of House consideration of the fiscal year 1989 appropriation bills.

□ 1745

It is a significant list and I ought to bring it to the attention of all of our Members so that Members become better informed on what we are doing around here by eroding the time-honored process with first authorizing with good due deliberation and consideration by Members, free to offer amendments under open rules and then, finally, to have the appropriating process take over at the juncture, living within the limitations prescribed by the authorizing committee. That is the proper, appropriate, orderly way of doing business around here, Mr. Speaker, and for that reason I have to oppose this rule.

MAJOR PROGRAMS LACKING SPECIFIC AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEAR 1989 AT THE TIME OF HOUSE CONSIDERATION OF THE FISCAL YEAR 1989 APPROPRIATION BILLS[1]

[In millions of dollars]

Appropriations Subcommittee and agencies	Programs/functions	Amount	Percent of bill	Bill amount
Defense:				
Department of Defense.	All except military construction and family housing.	$282,435		
CIA and intelligence community.	All	168		
Total		282,603	100.0	$282,603
Foreign Assistance: President.	All except some multilateral assistance, emergency migration and refugee assistance, Eximbank.	12,033	90.1	13,360
Energy and Water:				
Department of Energy.	Energy supply R&D; FERC; general science and research; geothermal resources; Power Marketing Administrations; departmental administration; atomic energy defense.	11,906		
Appalachian Regional Commission.	All	107		
Nuclear Regulatory Commission.	All	420		
Total		12,433	75.3	16,512
HUD-Independent Agencies:				
National Science Foundation.	All	1,885		
NASA	All	10,731		
Environmental Protection Agency.	Wastewater treatment facility construction grants.	1,950		
Consumer Product Safety Commission.	All	35		
Federal Emergency Management Administration.	Disaster relief	200		
Total		14,801	24.8	59,710
Military Construction: Department of Defense.	Military construction and family housing.	8,669	98.6	8,796
Rural Development: Department of Agriculture.	Temporary emergency food assistance.	50	0.1	39,754
Transportation: Department of Transportation.	AMTRAK	590	5.5	10,806
Treasury, Postal Service:				
Department of the Treasury.	Customs Service salaries.	1,005		
Federal Election Commission.	All	15		
Total		1,020	6.3	16,114
Grand total		331,609	75.9	436,848

[1] A program is listed as unauthorized only if a specific authorization of appropriations (a dollar amount or such sums) for it was enacted in prior years, but had not been enacted for fiscal year 1989 at the time the House considered the appropriation bill. Only bills considered by June 28, 1988 are included. Amounts are House-passed, except for the Transportation bill, which is House-reported.

Note.—The Commerce, Justice, State and the Judiciary bill passed by the House deferred action on fiscal year 1989 funding for numerous unauthorized programs. The President's request for these programs totalled $6,688 million, about 45 percent of the Subcommittee's section 302(b) allocation. The House-passed Labor-HHS bill deferred action on unauthorized programs for which the President had requested fiscal year 1989 appropriations of $3,871 million, about 3 percent of the subcommittee's section 302(b) allocation.

Source: Congressional Budget Office (June 28, 1988).

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. I thank the gentleman for yielding.

Mr. Speaker, I appreciate this time to address a couple of thoughts during consideration of this rule.

Mr. Speaker, I find myself in the unusual position this afternoon of rising to speak in favor of a rule which indeed is controversial and perhaps for very good reason. The rule makes several waivers. It certainly creates a dispute between the authorizing and appropriating committees. But the rule also makes in order a very important amendment which I, together with the gentleman from Ohio, Congressman ECKART and the gentlewoman from Rhode Island, Miss SCHNEIDER intend to offer.

That is an amendment which I would submit falls outside of the debate between the authorizing and appropriations committees.

It is an amendment which simply seeks to tell the Coast Guard that we believe they should reopen nine search and rescue stations which they closed last February.

Mr. Speaker, they did so as an austerity measure. But I think it is austerity that was very short-sighted and ill-conceived, because figures will demonstrate that between the years 1982 and 1986 those nine stations that were closed saved 520 lives and over $123 million in property value.

Certainly with that kind of record I think it was a poor choice to close nine very significant search and rescue stations.

The Committee on Appropriations has said in their report which accompanies this bill, and I quote, "These lifesaving services should not be adversely affected by budgetary constraints."

It is simply to carry out that feeling that we are offering the amendment here this afternoon.

Let me make it very clear so that no Members will be misled, this amendment does not appropriate any additional money above that already included in the bill. It is not a budget-buster, it does no exceed the amounts in the bill. It is consistent with action taken by the House already this year since there was specific language in the fiscal year 1989 House-passed budget resolution stating that these Coast Guard cuts should be restored.

It is for that reason I appreciate the Committee on Rules allowing this amendment and I intend to vote for the rule and urge my colleagues to do so.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentlewoman from Rhode Island [Miss SCHNEIDER].

Miss SCHNEIDER. Mr. Speaker, let me say I rise in support of this modified open rule. I believe it is an appropriate rule because it does allow consideration of two important amendments. Let me say that my particular interest does relate to the Coast Guard, making sure that we provide the kind of support system that is so very necessary for drug interdiction, for safety, for environmental protection and also for fisheries enforcement, so very vital to all coastal areas throughout the United States and, of course, my own.

Let me also mention and reiterate as my colleague, the gentleman from California [Mr. SHUMWAY] has stated so clearly that this does not call for the expenditure of any additional monies but, rather, it designates specifically nine search and rescue stations. No other Coast Guard facilities will be enabled to received additional monies. This is simply a matter of making sure that those areas that are in great need, whether it be drug interdiction, environmental protection or whatever, do require the adequate funds.

I do believe this is an emergency need and I therefore stand in support of this modified open rule.

Mr. HALL of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, unfortunately Chairman GLENN ANDERSON couldn't be here today, but because he feels strongly about this rule, especially as it relates to the appropriations process in general, he has asked me to read this statement into the RECORD.

The fiscal year 1989 Transportation appropriation bill, as reported, contains a significant number of provisions which intrude upon the jurisdiction of the Committee on Public Works and Transportation. Many, though not all, of these provisions were included either with our committee or over our strong objections.

Last week, Chairman ANDERSON appeared before the Rules Committee and stated that he would not oppose the Appropriation Committee's waiver request for this bill if the Rules Committee agreed not to waive rule XXI in future year transportation appropriation bills.

Let me tell you why he suggested this approach.

Chairman ANDERSON doesn't believe any Member—and that includes the chairmen of the Public Works Committee, the Appropriations Committee, the Rules Committee, et cetera—should be put in the position of, or have the responsibility for, deciding what individual Members' items should be included in an appropriations bill.

He feels it is contrary to the standing rules of the House; it is not the right way to do things, and that it's got to end.

Starting next year, Chairman ANDERSON is prepared to say "no" to all individual requests. If there's merit in a proposal or if it is of emergency nature, he pledges to you that the Public Works Committee can and will deal with it.

But he can't be the only one to say "no." He believes that the Appropriations Committee and the Rules Committee must do the same. That's the only way we can guarantee that Congress will do the best job it can.

Unfortunately this suggestion was rejected.

However, make no mistake about it, Chairman ANDERSON will continue to pursue this because he believes that most Members realize, deep down, that what he's saying is right.

He also urged that the Rules Committee not provide a waiver of rule XXI with respect to matters not signed off by the Public Works Committee.

In some instances, that was rejected, although the Rules Committee did take a step in the right direction by allowing points of order on certain unauthorized items.

And lastly, he requested that the rule allow the Public Works Committee the opportunity to offer an amendment which would make any appropriation contingent upon enactment of an authorization.

That, too, was rejected.

Mr. Speaker, let's look at the facts.

The continuing resolution for fiscal year 1988 contained 816 appropriation items, of which 441 or 54 percent were either unauthorized appropriations or legislation in an appropriation bill.

Let me repeat that—54 percent.

In addition, the Commerce-Justice appropriation bill, as reported last year, included 98 items of which 65 were rule XXI violations. That's 66 percent of the bill.

The energy and water bill had 37 items, 23 of which or 62 percent were rule XXI violations; in the HUD bill, of the 66 items, 35 items or 53 percent were violations; and in the Transportation appropriation bill, of the 70 items, there were 28 violations of rule XXI—that is, 40 percent.

This year's bill, by our preliminary calculations, will even exceed that.

But the high percentage of violations shouldn't surprise us if history is any teacher. The fiscal year 1985 Transportation appropriation bill had 37 violations of rule XXI, or 56 percent of the 66 total items. The fiscal year 1986 Transportation bill had 35 violations out of 67 items, or 52 percent.

What we don't understand, however, is the inconsistency between what has happened and what is supposed to be the policy of the Rules Committee.

During committee consideration of the fiscal year 1986 Transportation bill, the leadership of the Rules Committee said:

> We have had a rule for some time that if the authorizing committee objected to a waiver offered by an appropriation committee, we would not grant the waiver.

And last year, they said:

> Our general rule is that when a waiver in respect to that section on an appropriation bill is requested, if the chairman of the full committee or of the subcommittee of the authorizing committee objects to the waiver, we generally don't grant it.

Mr. Speaker, unfortunately this has not been the case.

Progress has been made, but abuses remain all too common. We must do something about this recurring problem. As Chairman ANDERSON said: "The integrity of the institution is at stake."

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the House Resolution 482, the resolution presently under consideration.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. LATTA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 266, nays 143, not voting 22, as follows:

[Roll No. 206]

YEAS—266

Ackerman
Akaka
Alexander
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Brown (CO)
Bruce
Bryant
Bustamante
Byron
Callahan
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coats
Coble
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
Dicks
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Lowery (CA)
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (OH)
Moakley

Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parris
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Pursell
Rangel
Regula
Richardson
Rinaldo
Robinson
Rodino
Rogers
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Shumway
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)

NAYS—143

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Buechner
Bunning
Burton
Campbell
Chandler
Cheney
Clinger
Coleman (MO)
Combest
Conte
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeWine
Dickinson
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Goodling
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Kasich
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (WA)
Mineta
Molinari
Moorhead
Morrison (WA)
Neal
Nielson
Oxley
Packard
Pashayan
Petri
Porter
Quillen
Rahall
Ravenel
Rhodes
Ridge
Ritter
Roberts
Roe
Roth
Roukema
Rowland (CT)
Saxton
Schuette
Schulze
Sensenbrenner
Shays
Shuster
Skaggs
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Upton
Walker
Weldon
Whittaker
Wortley
Wylie
Young (FL)

NOT VOTING—22

Anderson
Bates
Biaggi
Boulter
Dingell
Ford (TN)
Hawkins
Jones (TN)
Kemp
Konnyu
Lott
Mack
MacKay
Mica
Ray
Rose
Saiki
Shaw
Spence
St Germain
Stratton
Weiss

□ 1824

The Clerk announced the following pairs:

On this vote:

Mr. Hawkins for, with Mr. Boulter against.

Mr. Stratton for, with Mr. Shaw against.

Mr. MARTIN of New York changed his vote from "yea" to "nay."

Ms. SLAUGHTER of New York and Messrs. SCHEUER, ROWLAND of Georgia, and ROGERS changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4731. An act to extend the authority for the Work Incentive Demonstration Program.

The message also announced that the Senate has passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 304. Joint resolution designating July 2, 1988, as "National Literacy Day."

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION ON H.R. 4867 DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1989

Mr. HALL of Ohio, from the Committee on Rules submitted a privileged report (Rept. No. 100-737) on the resolution (H. Res. 485) waiving certain points of order against consideration of the bill (H.R. 4767) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF THE COMMITTEE ON THE JUDICIARY TO SIT ON WEDNESDAY, JULY 6, 1988, DURING 5-MINUTE RULE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary be permitted to sit on Wednesday, July 6, 1988, during the 5-minute rule in the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. GINGRICH. Mr. Speaker, reserving the right to object, I did not quite hear that.

The SPEAKER pro tempore. The gentleman from Georgia reserves the right to object. Will the gentleman from Massachusetts [Mr. FRANK] repeat his request?

Mr. FRANK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Administrative Law of the Committee on the Judiciary be allowed to have its markup Wednesday next during the 5-minute rule at the request of the ranking subcommittee member who asked us to postpone tomorrow's meeting.

Mr. GINGRICH. Mr. Speaker, reserving the right to object, I understand this is for tomorrow.

Mr. FRANK. Mr. Speaker, it is a week from tomorrow.

Mr. GINGRICH. Mr. Speaker, I just wanted to inquire of the gentleman from Massachusetts so I could understand it better, and I appreciate his clarifying that.

Mr. FRANK. Mr. Speaker, is the gentleman from Georgia [Mr. GINGRICH] planning to come? I would hope not.

Mr. GINGRICH. Mr. Speaker, further reserving the right to object, I did not receive an invitation from the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. One will probably not be forthcoming.

Mr. GINGRICH. Mr. Speaker, I can appreciate that.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

GENERAL LEAVE

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 4794) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes, and that I be permitted to include tables, charts, and other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Mr. LEHMAN of Florida. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4794) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania [Mr. COUGHLIN] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. DAUB. Reserving the right to object, Mr. Speaker, I do not intend to object, but I would like to inquire of the chairman what the order of business will be upon the granting of the gentleman's request?

Mr. LEHMAN of Florida. Mr. Speaker, will the gentleman yield?

Mr. DAUB. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Speaker, there will be 1 hour of general debate. We have one amendment to my knowledge that will require a vote and then final passage. Will that be any help to the gentleman from Nebraska?

Mr. DAUB. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 50, noes 40.

So the motion was agreed to.

□ 1832

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4794, with Mr. PANETTA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Florida [Mr. LEHMAN] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. COUGHLIN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we submit for your consideration and for the consideration of the Committee of the Whole the bill, H.R. 4794, making appropriations for the Department of Transportation and related agencies for fiscal year 1989.

Transportation affects every aspect of our lives. Adequate transportation is essential to improving the way of life for our growing population. It allows us to live where we are most comfortable, work where we feel most productive, and play where we can have the most fun. It promotes economic development, facilitates the delivery of public and private services, shapes our cities, unifies the Nation, makes the world accessible, and plays a vital role in national defense and international trade. Neglected transportation systems can stunt our economic and social development. This bill is directed to the goal of maintaining and enhancing our transportation systems so that we can continue to raise the standard of living for all Americans.

Before I get into the details of this particular bill, I want to express my appreciation to the members who serve on the Transportation Appropriations Subcommittee. The gentleman from Pennsylvania [Mr. GRAY], the gentleman from Michigan [Mr. CARR], the gentleman from Illinois [Mr. DURBIN], the gentleman from New York [Mr. MRAZEK], and the gentleman from Minnesota [Mr. SABO] all provided insight and perspective during the 3-month in-depth review we gave to Federal transportation programs and policies during our hearing process. It is my privilege to serve with them.

The subcommittee minority members have been equally diligent. They never made enough adjectives to describe the gentleman from Massachusetts [Mr. CONTE]. He is a great combination of compassion and courage spiced with marvelous humor. The gentleman from Virginia [Mr. WOLF] and the gentleman from Texas [Mr. DELAY] both have the determination, the spirit, the concern, and the commitment to a safe and effective transportation system for this Nation.

I want to make special mention of the ranking minority member, the gentleman from Pennsylvania [Mr. COUGHLIN], who spent long and grueling hours in committee hearings and has such a great comprehensive understanding of our transportation programs and policies. I pay tribute to his knowledge, dedication, and character, and I want him to know of my great appreciation for his sound judgment and cooperation. He is my special friend. As in past years, we have tried to work as a team on this bill, rather than on a partisan basis. And I think that has been to the benefit of this country.

I must also recognize our extraordinary staff who have worked long and hard to develop a reasonable bill within extraordinary constraints.

Mr. Chairman, in preparation for this bill the committee developed a hearing record contained in seven volumes amounting to 6,457 pages. Testimony was received from more than 260 witnesses and requests were received from about 160 Members of this body.

The committee, I believe, has carefully reviewed the programs of the Department of Transportation and related agencies, and is recommending what we consider to be sufficient funds in light of current budgetary constraints to enable these agencies to help meet the requirements of our Nation's transportation system.

SUMMARY OF THE BILL

Mr. Chairman, first off, to those concerned about drug enforcement and air safety, let me say the bill, combined with previous legislative action, increases appropriations for the Coast Guard and FAA by over 15 percent without adverse and serious reductions in other transportation programs.

In total, the bill before you provides spending for Federal transportation programs of about $26.185 billion—of which approximately $10.805 billion is new budget authority and $15.379 billion is comprised of various limitations on contract authority obligations.

In terms of new budget authority, the bill is $182.4 million, about 1.7 percent, above the amount provided for similar activities in fiscal year 1988. In terms of the total amount of funding controlled by this bill—new budget authority and obligation limitations—the bill is $1.072 billion or 4.3 percent over the amounts provided last year.

BUDGET RESOLUTION TARGET

I think the Members would also be interested to know that this bill is $324,431 under our section 302(b) allocation for budget authority. As the Members know, under the Budget Act, the Budget Committee provides a lump sum allocation to the Appropriations Committee pursuant to section 302(a), and the Appropriations Committee then subdivides that among its 13 subcommittees.

BUDGET REQUEST

Mr. Chairman, I think the administration's fiscal year 1989 transportation budget deserves a special word at this point. Even though we are under our section 302(b) budget authority allocation, the bill we are considering today is $2.1 billion over the administration's budget request. That budget request is the most lopsided, unrealistic, and damaging to transportation that I have seen since I have served on this subcommittee. The administration did respond to public and congressional concerns about air safety and drugs by proposing unusually large increases for aviation and Coast Guard programs. That is good. But their pound of flesh was large, very damaging, and wholly unrealistic cuts to the surface transportation programs of the Department of Transportation that may not be a glamorous, but are just as essential. In sum, the result was a 20-percent reduction in total highway, mass transit, and railroad funding—cuts of over $3.1 billion from last year's level.

Mr. Chairman, the executives downtown have a serious responsibility to plan for and manage the limited resources available for these important programs. The citizens of this country certainly deserve better than this year's whimsical, "dippsy-do" transportation budget plan. We must reject the assumption and attitude that only two segments of our transportation system are worthwhile and important. All segments of our transportation system are vital to the economic prosperity of this country. The bill before you recognizes the real world and corrects these shortfalls—particularly in the surface transportation sector—and actually exceeds the proposed increases in the air and water sectors.

It was not easy to accomplish this. We figuratively scratched and clawed and we had to scrape a lot of barrels to find sufficient funding. And I want to thank especially our full committee chairman, the gentleman from Mississippi [Mr. WHITTEN] for his efforts in our behalf. As he so often reminds us, our Nation's public works represent the real and lasting wealth of this country. Our first rate transportation system has served our country well—and we must continue to preserve and enhance it.

SELECTED MAJOR RECOMMENDATIONS

With respect to the major recommendations in this bill, I would call the attention of the Members to pages 2 and 3 of the report. A table comparing the bill to fiscal year 1988 and the President's request appears beginning on page 138 of the report. The major highlights of this bill include:

First, a 15.9 percent increase—including expected Department of Defense appropriations—for Coast Guard programs. This total is $102.44 million more than the budget request;

Second, a 15.4-percent increase in total FAA funding—$176 million more than requested;

Third, a provision providing for obligations of not to exceed $12.38 billion for Federal-aid highways, an increase of $600 million over fiscal year 1988;

Fourth, a continuation of funding for the existing urban mass transporatation formula grant program at the current rate of $1.736 billion;

Fifth, the appropriation of $590 million for grants to the National Railroad Passenger Corporation [Amtrak], an increase of $9.2 million over fiscal year 1988—somewhat above the big fat zero in the administration's budget request;

Sixth, a provision providing for obligations of not to exceed $1.53 billion for airport development and planning grants—$261.275 million over fiscal year 1988;

Seventh, the appropriation of $1.486 billion for facilities and equipment of the Federal Aviation Administration—an increase of $378 million over fiscal year 1988—because our new generation of technology is coming on line;

Eight, a provision providing for obligations of not to exceed $1.07 billion for the discretionary grants programs of the Urban Mass Transportation Administration, excluding funding for section 9(B) formula grants;

Ninth, the appropriation of $160 million for the research, engineering, and development activities of the Federal Aviation Administration; and

Tenth, a continuation of funding for the construction of the Washington, DC, metrorail system at the fiscal year 1988 level of $180.5 million.

OFFICE OF THE SECRETARY OF TRANSPORTATION

Mr. Chairman, for salaries and expenses of the Office of the Secretary of Transportation, the bill provides a total of $52.649 million. This amount corresponds roughly to the 2-percent guideline laid out in the economic summit agreement. In addition, office-by-office statutory dollar breakdowns are specified in the bill for the Office of the Secretary. The bill also provides $29.07 million for payments to air carriers, $4.925 million for transportation planning and research, and $3.8 million for the working capital fund. With respect to the "payments to air carriers" appropriation, the committee received disturbing testimony this year from the inspector general who expressed uncertainty about the financial management of the Essential Air Service Program. The situation as described by the IG, in which 40 percent of claims submitted by air carriers were deemed questionable in terms of their accuracy, is intolerable and raises serious questions as to whether the taxpayers are being ripped off under the program. The committee has asked for a special IG review of this program with the goal of toughening up overall financial management practices.

COAST GUARD

With respect to the Coast Guard, we recommend a total program level of $3.073 billion, which includes $410 million contained in the Defense appropriations bill. This total level is $421 million, or 15.9 percent more than the total Coast Guard program level for fiscal year 1988. I would also point out that this total Coast Guard level is $102.4 million more than the total amount requested. We appreciate the help received form our colleagues on Armed Services and the Defense Appropriations Subcommittee, particularly the chairmen, the gentleman from Wisconsin [Mr. ASPIN] and the gentleman from Florida [Mr. CHAPPELL].

The bill also requires that a minimum of $492 million be made available for drug enforcement operating expenses, $63 million more than last year's level. I invite the Member's attention to pages 13-16 of the committee report regarding drug interdiction.

For Coast Guard operating expenses, the bill provides a program level of $2.086 billion for fiscal year 1989—assuming that $60 million is provided in DOD 1989 appropriation bill. This total amount is $196.9 million, or 10.4 percent more than the amount appropriated for similar activities in fiscal year 1988. It is also $14.5 million below the budget request. The reduction from the budget is primarily comprised of reductions in GSA rent and FERS payments as well as reduced dollar needs due to normal slippages in the operational dates for new vessels, shore facilities, and other equipment.

The operating expense funding level of $2.086 billion will support the full budget request of 36,771 military positions and 4,576 civilian positions.

For acquisition, construction, and improvements, we are recommending an appropriation of $102 million. This appropriation plus $350 million contained in the Defense appropriations bill will provide for a total program level of $452 million, which is $104 million above the budget request. The total program level is comprised of $144.6 million for vessels; $47 million for shore facilities; $218 million for aircraft; $20 million for command, control and communications, and related systems; and $22.4 million for administration. This level should provide sufficient funding to continue the larger procurement projects that have been initiated in prior years.

The bill also includes $14.5 million, including $6 million derived by transfer, to alter or remove four bridges that may be unreasonable obstructions to the waterborne commerce of the United States.

The sum of $410.8 million, as requested in the 1989 budget, would be appropriated for the pay of retired military personnel of the Coast Guard and Coast Guard Reserve. This is based on an average of 25,130 personnel on the retired rolls.

For reserve training, $66.65 million is recommended. This will provide for a Ready Reserve of 18,700 including a Select Reserve of 12,500.

This bill includes $18.8 million for the basic and applied scientific research, development, test, and evaluation projects necessary to maintain and expand the technology required for the Coast Guard's operational and regulatory missions. This amount is $200,000 below the fiscal year 1988 level.

For the State Recreational Boating Safety Assistance Program, we have included $30 million, $8,625,000 above last year's level.

FEDERAL AVIATION ADMINISTRATION

For the Federal Aviation Administration, we are recommending a total program level of $6.623 billion, including a $1.53 billion limitation on the use of contract authority for fiscal year 1989. This is $882 million—or 15.4 percent—more than the fiscal year 1988 level, and $176 million—or 2.7 percent—more than the budget request. I think this large increase is absolutely necessary to continue the restoration of the air traffic control system, continue modernization of the national airspace system, improve our airports, and continue important safety regulatory and research initiatives.

Mr. Chairman, there has been much discussion of late about the adequacy of FAA funding to do its important job. The focus has been on the large balance in the aviation trust fund. That balance is large for several reasons—the most important being that the development of computers and sophisticated equipment to be procured with these funds is running far behind schedule. In essence, there has been nothing to buy in the quantities and at the rates assumed back in 1982 when the trust fund taxes were enacted. It is simply wrong to take a snapshot of the trust fund balance in the early stages of a complex procurement program like the NAS plan and make sweeping generalizations about the adequacy of FAA funding because things haven't progressed as smoothly as hoped for.

But things are now starting to change—albeit slowly. This equipment is now starting to come on line. And the trust fund balance will come down in the future as we adjust spending levels upwards to procure this equipment.

But even more importantly, what many don't fully understand is the fact that 48 percent of total FAA outlays over the last 10 years have been derived from the general fund, not the trust fund. And when we look at total FAA outlays, we find that the total amount made available to the FAA has increased by 36 percent over the last 4 years—including the funds in this bill. We have increased the controller work force by 20 percent—more than 2,800 people—over this time period, and have increased the number of inspectors by more than 25 percent in the last 3 years. Mr. Chairman, in short, the need has been there, and Congress has responded to that need. I hope the members will take the time to read pages 25-27 of the report which presents a more balanced perspective of FAA funding patterns than what has been espoused by certain parties.

For FAA operations, we recommend a total program level of $3.45 billion, including $36.46 million for headquarters administration. This represents an increase of $237.18 million over the fiscal year 1988 program level of $3.209 billion. This would provide for 48,513 positions including 21,849 controllers, supervisors, and support personnel for air traffic centers and towers, and 4,392 flight service station personnel.

With respect to the air traffic control system, we recommend $1.19 billion and 21,849 positions for the operation of ATC centers, terminal radar approach control facilities, airport traffic control towers, and certain ancillary facilities. Under the committee recommendation, air traffic controller employment would increase to the requested level of 16,800 personnel by September 30, 1989. This is 900 controllers above the level projected for September 30, 1988.

Our committee remains concerned about air traffic controller work force staffing. The FAA has told us it will not be able to meet the statutory minimum FPL staffing level of 10,450 by the end of fiscal year 1988. Part of the shortfall is due to a change in the FPL definition. But another reason is the high retirement rate that has occurred.

I want to stress that while the overall number of controllers is important—and we have taken steps to address these needs—the Secretary must work harder to correct the fundamental management problems that seem to persist in this system. These problems are well documented in study after study. Yet, as evidenced by the east coast plan experience, such basic and longstanding deficiencies as consulting controllers about changes in operational practices still have not been satisfactorily implemented.

Moving on to trust fund contributions, of the $3.45 billion provided for FAA operating expenses in fiscal year 1989, the bill specifies that only $1.05 billion or 30 percent of the total, be derived from the Airport and Airway Trust Fund. This is $538 million less than it should be, but for an ill-conceived penalty clause in authorizing law. The penalty clause is one of the causes for the high trust fund balance that we currently have. It causes the users to pay less than their fair share at the expense of the general taxpayers. This penalty clause is bad legislation and ought to be repealed.

For facilities and equipment, the bill contains $1.486 billion for fiscal year 1989—an increase of $377.9 million over fiscal year 1988. This account finances the multiyear, $16 billion national airspace system plan to modernize and automate our air traffic control system. This level will continue NAS plan implementation at the pace that the FAA has demonstrated that it can efficiently use these funds. I want to stress that, although the NAS plan is behind schedule, those delays are due to technology and contractor deficiencies—not to lack of funding. As the equipment is developed and ready to purchase, the funds will be provided. And our record proves this. In fiscal year 1987, the amount appropriated for F&E was $805 million. Last year, we appropriated $1.108 billion. This year—$1.486 billion. That's an 85-percent increase over 3 years.

With respect to FAA research, engineering, and development, we recommend $160 million, which is an increase of $5 million over the budget request, and $6.575 million over fiscal year 1988.

The bill also includes a $1.53 billion obligation limitation for airport development and planning grants. This is the highest funding level ever provided for this program. The bill also prohibits the availability of these airport grant funds to the Massachusetts Port Authority until the U.S. district court and the Department of Transportation determine that the landing fee structure adopted on March 16, 1988 for Logan Airport does not violate certain provisions of Federal law. This issue is explained on page 55 of the report.

We have also recommended reducing the FAA's authority to borrow from the Treasury to pay defaulted aircraft purchase loans from $57 million to $50 million. Testimony indicates that the FAA has paid approximately $180 million as a result of defaulted loans. The amount of these defaults is alarming and we believe that the FAA should fully explore other alternatives with the creditors, such as rolling over the loan or extending the payment period before it agrees to pay for a default.

FEDERAL HIGHWAY ADMINISTRATION

Under the Federal Highway Administration, the bill provides for a total fiscal year 1989 program level of $13.843 billion in highway aid. This includes a limitation of Federal-aid highway contract authority obligations of $12.38 billion. Mr. Chairman, this program is one of the most, if not the most, important transportation program that we have. Over 90 percent of total interstate passenger miles and 20 percent of total interstate freight ton miles move on the Nation's highway system. I think the administration's proposal, which would cut total highway spending by 6 percent—nearly $800 million—is misguided and unacceptable. It is important to our continued economic development and to our national defense to maintain a first class highway system.

Mr. Chairman, the bill we are considering today would provide for an increase of $626 million, or 4.7 percent over last year's level. This is $1.417 billion more than the administration's budget request.

With respect to highway trust fund expenditures, under the provisions and assumptions in this bill, we estimate that fiscal year 1988 outlays attributable to the highway account of the trust fund will be about $13.6 billion. This compares to estimated fiscal year 1989 direct user fee income credited to the highway account of approximately $13.2 billion. In addition, the highway account of the trust fund is expected to receive general fund interest payments of $800 million. A comparison and discussion of highway spending versus trust fund revenues is found on page 57 of the report.

Mr. Chairman, the most important account in this program is the Federal-aid highways obligation limitation. We are recommending a ceiling of $12.38 billion for this account. I will insert a table at this point prepared by the Federal Highway Administration comparing their best estimates of State-by-State obligations ceiling allocations under this bill versus the enacted fiscal year 1988 level.

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, COMPARISON OF ESTIMATED OBLIGATION LIMITATION LEVELS BASED ON ACTUAL FISCAL YEAR 1988 LIMITATION (N4520.94)

[Limitation in thousands of dollars]

State	Actual fiscal year 1988 NA520.94, Dec. 23, 1987		
	$12,380,000	$11,780,000	Difference
Alabama	233,876	221,986	11,890
Alaska	135,232	128,356	6,876
Arizona	117,853	111,861	5,992
Arkansas	95,529	90,672	4,857
California	803,682	762,822	40,860
Colorado	163,441	155,131	8,310
Connecticut	247,474	234,892	12,582
Delaware	43,754	41,529	2,225
Florida	361,450	343,073	18,377
Georgia	259,650	246,449	13,201
Hawaii	122,601	116,368	6,233
Idaho	74,623	70,829	3,794
Illinois	324,759	308,248	16,511
Indiana	167,814	159,282	8,532
Iowa	145,922	138,503	7,419
Kansas	125,573	119,189	6,384
Kentucky	143,390	136,622	7,318
Louisiana	234,470	222,550	11,920
Maine	50,805	48,222	2,583
Maryland	238,289	226,174	12,115
Massachusetts	483,883	459,281	24,602
Michigan	255,449	242,462	12,987
Minnesota	182,254	172,988	9,266
Mississippi	108,355	102,846	5,509
Missouri	205,795	195,332	10,463
Montana	94,560	89,752	4,808
Nebraska	88,354	83,862	4,492
Nevada	63,073	59,866	3,207
New Hampshire	47,581	45,162	2,419
New Jersey	281,099	266,808	14,291
New Mexico	91,329	86,686	4,643
New York	567,356	538,511	28,845
North Carolina	203,660	193,306	10,354
North Dakota	64,315	61,045	3,270
Ohio	313,102	297,184	15,918
Oklahoma	129,588	122,999	6,589
Oregon	111,942	106,251	5,691
Pennsylvania	448,984	426,157	22,827
Rhode Island	91,037	86,409	4,628
South Carolina	112,259	106,551	5,708
South Dakota	65,995	62,344	3,651
Tennessee	200,279	190,097	10,182
Texas	558,828	530,417	28,411
Utah	101,603	96,437	5,166
Vermont	47,191	44,791	2,400
Virginia	218,264	207,167	11,097
Washington	242,002	229,699	12,303
West Virginia	97,720	92,751	4,969
Wisconsin	146,163	138,732	7,431
Wyoming	65,080	61,449	3,631
District of Columbia	74,673	70,876	3,797
Puerto Rico	50,096	47,313	2,783
American Samoa	368	349	19
Guam	368	349	19
Northern Marianas	368	349	19
Virgin Islands	368	349	19
Territories	10,020	9,510	510
Subtotal	9,914,098	9,409,195	504,903
Administration	204,000	204,000	0
Federal lands	235,000	235,000	0
Penalty reserve	16,791	16,791	0
Shrp/studies demos	139,635	139,635	0
Allocation reserve	1,870,476	1,775,379	95,097
Total	12,380,000	11,780,000	600,000

Mr. Chairman, the bill also provides a total of $126 million for FHWA administrative expenses, $7.9 million below the budget request.

The bill also contains an appropriation of $7.56 million for railroad-highway crossings demonstration projects in five different cities. For highway-related safety grants, an obligation limitation of $10 million is recommended, the same as the budget request. We also recommend an appropriation of $6.08 million for highway safety research and development, and appropriations totaling $83.25 million for a number of specific projects.

For motor carrier safety, the bill includes $25 million, $423,000 more than the budget estimate, to continue the activities of the Office of Motor Carrier Safety. The bill also provides $50 million to liquidate past contract authority obligations and a $60 million limitation on obligations for the motor carrier safety grant program.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

For the National Highway Traffic Safety Administration, the bill includes a total program level of $224.8 million for operations and research. This is $1.762 million more than the program level proposed in the budget request.

The bill also reserves $3 million of this appropriation for injury control research grants to be conducted at the Centers for Disease Control. Mr. Chairman, this program has been up and running for several years now—due in no small part to the members of the transportation subcommittee and to NHTSA. The National Academy of Sciences has just issued an evaluation of this program concluding, and I quote:

> * * * the study of injury presents unparelled opportunities for reducing morbidity and mortality and for realizing significant savings in both financial and human terms—all in return for a relatively modest investment.

That report also recommended that the Department of Health and Human Services take over primary responsibility for this purpose. I want to thank the gentleman from Kentucky [Mr. NATCHER], the distinguished chairman of the Departments of Labor, Health and Human Services and Education Appropriations subcommittee, who has included $20 million in his bill for fiscal year 1989. He is to be commended.

Mr. Chairman, the bill also reserves $2.78 million to continue important light truck and van safety research and analysis. The subcommittee expects to continue its support of this vital research until better safety standards are set for these vehicles.

We also recommend a limitation on obligations for the State and Community Highway Safety Grant Program of $115 million, the same as the budget request. For the alcohol safety incentive grant program, we have established a limitation on obligations of $10 million in fiscal year 1989. This is $3.5 million less than the budget request.

FEDERAL RAILROAD ADMINISTRATION

Mr. Chairman, for the Federal Railroad Administration, major recommendations include a program level of $27.825 million for railroad safety, $9.75 million for railroad research and development, and a program level of $14.975 million for office of the administrator expenses.

We are recommending $590 million for Amtrak operating and capital expenses in fiscal year 1989. Of course, the President again proposed deleting all Amtrak funds even though Congress has overwhelmingly rejected this proposal year after year. Bill language is also included continuing the statutory conditions for rehabilitating and operating a new route between Philadelphia and Atlantic City, and establishing a 60-percent Federal match for the Westside connector project in New York City.

In addition, the bill includes $15 million for Northeast corridor capital improvements. This sum will be of direct benefit to Amtrak.

URBAN MASS TRANSPORTATION ADMINISTRATION

For the Urban Mass Transportation Administration, a total program level of $3.279 billion is recommended for fiscal year 1989. This is $1.757 billion more than the budget request, and $64 million more than the fiscal year 1988 program level.

Under the formula grant program, we recommend an appropriation of $1.736 billion, including $4.75 million for 18(h) rural transportation grants. In addition, another $70 million would be made available for the formula grant program under the new section 9(B) program. The President's budget did not request any new general fund appropriations for this program in fiscal year 1989. Instead, the budget assumed enactment of new legislation to establish a formula transit grant program funded from the mass transit account of the highway trust fund. I think the President's approach amounts to almost a complete abandonment of mass transit in this country. I hope the next President will recognize the fact that we will never again see new urban freeways being built in this country to the degree we had in the 1960's and 1970's, and that we must upgrade our mass transit systems out of necessity to keep our cities livable and productive.

The operating assistance component of the formula grant appropriation is authorized by the Surface Transportation and Uniform Relocation Assistance Act of 1987. We unfortunately believe it is necessary to limit these funds to $804.692 million to meet our outlay target. This is the same as the fiscal year 1988 level.

The bill also includes language limiting obligations for transit discretionary grants and section 9(B) formula grants to $1.14 billion. This is $9.5 million more than the fiscal year 1988 limitation. This account is financed from the mass transit account of the highway trust fund. I invite the Members' attention to pages 108 through 114 of the report for a detailed description of how these funds are to be distributed.

The bill also includes $180 million for transit projects that have been substituted for interstate highway projects. Of this amount, 50 percent is to be distributed on a formula basis and 50 percent on a discretionary basis. The discretionary funds will be distributed as outlined on page 115 of the report.

The bill appropriates $180.5 million as authorized by Public Law 96-184, the "Starke-Harris" legislation, to continue construction of the Washington, DC Metrorail system.

The bill also provides a total of $42.1 million for research and administrative expenses of UMTA.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The bill includes an appropriation of $11.36 million from the harbor maintenance trust fund to finance operations and maintenance of the St. Lawrence Seaway.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

For the Research and Special Programs Administration, the bill contains an appropriation of $23.83 million, $1.452 less than the budget request. Of this amount, $9.18 million is provided to continue pipeline safety operations, research and development, and State grants-in-aid.

INSPECTOR GENERAL

For the Office of the Inspector General, the bill includes an appropriation of $29 million. This is $639,000 less than the budget request.

TITLE II—RELATED AGENCIES

Title II of the bill contains $132.839 million in new budget authority for six transportation-related agencies and commissions. This is $458,000 below the cumulative budget requests, and $437 million below last year's level.

More specifically, we recommend $2 million for the Architectural and Transportation Barriers Compliance Board, $25.36 million for the National Transportation Safety Board, $43.115 million for the Interstate Commerce Commission, $10.7 million for the Department of the Treasury to rebate St. Lawrence Seaway tolls, and $51,663,569 for the Federal share of interest payments for the bonded indebtedness of the Washington Metropolitan Area Transit Authority.

TITLE III—GENERAL PROVISIONS

Mr. Chairman, there are several general provisions in this bill that will be of interest to the Members, including section 322 that limits rental payments to GSA to 102 percent of the fiscal year 1988 level. The general provisions are summarized on pages 126 and 127 of the report.

Mr. Chairman, the bill before the body is a fiscally responsible bill which I believe provides adequate funding for our transportation programs. I say again that it is under the section 302(b) ceiling for budget authority. I ask for its favorable consideration and approval.

□ 1845

Mr. Chairman, I reserve the balance of my time.

Mr. COUGHLIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, again this year, this bill represents the parable of the loaves and the fishes. We always receive in this subcommittee many more requests than can possibly be accommodated, but the chairman, the gentleman from Florida, in his always gracious, his always accommodating and his always fair way does everything that he can to accommodate all of the Members on both sides of the aisle. I congratulate the members of the subcommittee for what I believe is a good bill, and I congratulate the staff for a superhuman job of putting this all together. Tom Kingfield, Greg Dahlberg, Linda Muir, Lucy Hand, and Meg Roberts on the majority, and Kenny Kraft and Jessica Laverty on the minority. We appreciate your good work.

The basic problem of this bill, Mr. Chairman, is that with a limited 302(b) allocation, we were dealing with substantially increased requests by the administration for the Coast Guard and for the Federal Aviation Administration and zero requests from the administration for funding for Amtrak and very limited requests for funding for mass transportation. This makes this a very, very, very tight bill.

The subcommittee has basically funded the functions other than Coast Guard and FAA at last year's level and has granted increases to both the Coast Guard and the FAA as requested by the administration. That makes for a very tight bill. The bill includes $10.8 billion in new budget authority. It is, indeed, $2 billion over the President's budget request, but that is because the President requested increases of that magnitude for the Coast Guard and for the FAA. It is within, however, the summit agreement, because it is only 1.7 percent over last year's bill, and the summit agreement said that we could be up to 2 percent over last year's bill.

There is a 15.9-percent increase in money for the Coast Guard including that that comes from the Defense Appropriations Subcommittee. There is a 15.4-percent increase for the Federal Aviation Administration. Those are two very substantial increases, 15 percent and 15 percent.

Amtrak is funded, and just under $3.3 billion is provided for the Urban Mass Transportation Administration. It is, as I have said, within both our 302(b) allocation and within the allowances provided for by the summit agreement.

As in past years, the Office of Management and Budget has objected to every instance in which we changed from the President's budget request. Of course, I think that it is important to recognize that this body has some right to set its priorities. It may disagree in some cases with priorities presented by the administration, but we have equally bright people here to try to examine the priorities for our national transportation system and to allocate funds based on our priorities as well as those of the administration.

The transportation appropriations bill is a good bill. The subcommittee has worked hard. I hope the subcommittee will stick together, and the committee will stick together, in continuing this bill on the floor.

I do not want to continue to filibuster here, but I see that some conference may be taking place to my right.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DeLay], a member of the subcommittee.

Mr. DeLAY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this bill. This is the second year I have had the privilege of serving as a member of the Subcommittee on Transportation and the second time I have been proud to stand here and ask for the support of the House for our bill.

The efforts and ability of my chairman, Bill Lehman, and of my vice chairman, Larry Coughlin, to craft a completely bipartisan and fair bill should not go unnoticed by the Members of this body. I know they have listened to every request from the Members of the House, and I don't know of anyone who feels their needs were treated with anything but consideration and fairness.

During 21 days of hearings, the committee thoroughly considered the budget request of the administration. I don't know of any committee that does a better job of keeping the agencies on their toes. The Secretary and the administrators of the Department and the related agencies know they are going to have to justify every detail of their budget when they come before our subcommittee. That is a tribute to Bill Lehman and Larry Coughlin for their diligence, patience and knowledge of the subject matter, and to the members of the subcommittee. It is also a tribute to our excellent staff who really do a great job of making us all look good.

Mr. Chairman, this is a good bill and it deserves the support of all the Members. We have heard the objections of the Public Works Committee and we have heard the objections of those who are opposed to the projects in this bill. I do not think those objections stand up on their merits. But more importantly, those objections pale in significance to the important funding levels that are in this bill.

This bill will keep us on track in getting our air transportation system in shape for the increased air travel our constituents are demanding. Air travel is increasing far beyond anyone's expectations. I can't think of a more positive development in our society. But we all know that our air traffic control system and our airport facilities are way behind where they need to be. Our bill provides a desparately needed $882 million increase for our aviation programs. This includes an increase of $261 million for construction of facilities at our Nation's airports. Many of the Members of this body have airports in their districts that are badly in need of improvements, new terminals, runways, parking lots, roads et cetera. This bill will take care of those problems.

It also includes an increase of $236 million for the operations of the FAA including the air traffic control system. We need to keep up with the program of hiring additional controllers. We need to make sure that the inspectors and safety personnel are there when they are needed.

Mr. Chairman, this bill also contains the money that will be needed to keep open the Coast Guard search and rescue stations that are under threat of closure. Last year, because of budget constraints, we were not able to appropriate adequate funding for the Coast Guard operations. Forty million dollars' worth of closures were made by the Commandant this spring. Additional closures were threatened. This bill will prevent those closures and will allow the Coast Guard to get on with its drug interdiction and safety missions.

Mr. Chairman, this bill contains an obligation ceiling on the highway program that is above the authorization. This means the improvements to our highway infrastructure, the repair of our deteriorating bridges, and the completion of the Interstate System can go forward full speed.

I am not happy with everything in this bill. I would like to eliminate the Amtrak subsidy, and reduce the operating subsidies in mass transit. But on the balance, this bill is a fair compromise and it is a bill that will benefit the constituents of every Member of this House.

Mr. COUGHLIN. Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of Florida. Mr. Chairman, I yield such time as he may consume to my friend, the gentleman from Wisconsin [Mr. Obey], for a colloquy.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as you know, due to the budget squeeze which has affected many domestic discretionary programs, the Coast Guard announced earlier this year that it was closing a number of search and rescue stations and reducing its operations at others.

Among the stations where operations have been reduced is Station Bayfield in Wisconsin, which the Coast Guard plans to operate only during the peak summer season.

The reduction in operations and personnel at Bayfield endangers the safety of visitors to the Apostle Islands National Lakeshore, which is growing rapidly in popularity, and other boaters who enjoy the waters off northern Wisconsin. Further, many boaters in this region take to the water outside of the peak summer season, at which times the frigid waters of western Lake Superior make it impossible for anyone to survive long if their boat was to capsize. A fully manned, fully operational Coast Guard Station at Bayfield to assist these boaters could mean the difference between life and death.

I understand that efforts are being made to transfer funding within Coast Guard accounts in order to reopen search and rescue stations that the Coast Guard has announced it is closing because of budget constraints, and that this can be achieved without impairing the Coast Guard's missions, including drug interdiction. I also understand that a similar transfer of no more than $140,000 would restore Bayfield to a year-round operation.

Knowing of the chairman's commitment to the various safety activities of the Coast Guard, I would like to ask the chairman if he would support a transfer of funding to restore Station Bayfield to a year-round operation.

Mr. LEHMAN of Florida. I understand the gentleman from Wisconsin's concern about boating in western Lake Superior and in the area around the Apostle Islands National Lakeshore, and I want to reassure him that if sufficient funding is available I would strongly support such a transfer of funds in order to restore Station Bayfield to a year-round operation.

Mr. OBEY. I appreciate the chairman's response, and wish to let him know that I will be more than willing to work with him to ensure that funding levels for the Coast Guard are sufficient to enable the service to carry out its vital missions and restore Station Bayfield to a year-round operation. I thank the chairman for his support.

Mr. LEHMAN of Florida. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Panetta, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4794) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time for the purpose of inquiring of the majority leader how we might resolve a problem that was initiated on our side of the aisle. We would like to facilitate the program as much as we can and still accommodate the Members, and I think in consultation with the majority leader and the Speaker, we have worked out an arrangement.

May I at the very outset express my personal thanks and appreciation to the Speaker for his consideration for our particular problem.

I yield to my friend, the distinguished majority leader, the gentleman from Washington [Mr. Foley] to outline, as he sees it, our arrangement and agreement for the balance of the evening.

Mr. FOLEY. Mr. Speaker, I thank the distinguished Republican leader, the gentleman from Illinois [Mr. Michel] for yielding.

It is our belief that perhaps the best way to expedite the evening's business would be to proceed now to the consideration of the Suspension Calendar of yesterday and to call up each matter that appears on that calendar in the hope of expeditiously completing the calendar. Following that, we would like to return to the Department of Transportation appropriation for fiscal 1989, H.R. 4794, with the understanding that we would proceed to as much of the bill as possible tonight following general debate, and that should a rollcall vote ensue, we would then rise and take up the bill tomorrow.

We would hope that as much of the bill could be considered tonight as possible, and it would be my intention to ask unanimous consent that the amendment offered by Mr. DURBIN of Illinois be considered tomorrow, that it be in order to consider that amendment tomorrow, and that that amendment and all the amendments thereto be limited to 30 minutes.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for that explanation. I might also make the observation that again, getting off early this evening, relatively so, at 7 p.m. or thereabouts, for those Members who have to depart, I think it is just incumbent upon us to remind Members that it will require a later night tomorrow night because we have not only this bill to complete, we have fair housing that ought to be completed, we have a rule on Interior, and the Interior appropriation bill, so we have got a long evening in store for us tomorrow night.

I think in deference to certainly those who have obligated themselves to be here longer tonight and then deferring to our side that we have no alternative here but to let our Members know that we will be here late tomorrow night.

□ 1900

Mr. FOLEY. I thank the gentleman for that note, and I would like to underscore that, Mr. Speaker. Our intention tomorrow would be to proceed immediately at 10 a.m. with the continuation of the Department of Transportation appropriations until conclusion; then take up the rule on the Department of Interior appropriations, consider the Department of Interior appropriations, and following that resume and complete the fair housing legislation as long as that requires tomorrow night.

The Members should be advised that tomorrow will be a very long day indeed, probably, and we hope that as much of the work as we can accomplish tonight can be accomplished to limit the schedule tomorrow.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, did the distinguished majority leader make his unanimous-consent request yet on the Durbin amendment, or is that his intention?

Mr. FOLEY. I had not made the request as yet.

Mr. HAMMERSCHMIDT. I thank the gentleman for that information.

Mr. MICHEL. We understand that the gentleman from Arkansas [Mr. HAMMERSCHMIDT] has a reservation about the Durbin amendment. It is my understanding that if he wished he could make a point of order on that.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I do not object at all to the gentleman from Illinois [Mr. DURBIN] offering his amendments. I just object to considering his amendments en bloc. I would want them to be considered as they come up, so I do not think there should be any problem.

Mr. DURBIN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Illinois if he has a comment to make that would clarify the issue.

Mr. DURBIN. Mr. Speaker, I thank my colleague from Illinois for yielding. I do not know if this will help to clarify the situation, but the three amendments that I will be offering are in fact one amendment to eliminate the essential air service subsidies and to transfer the money to the airport improvement program. It takes three amendments to do that. We can consider them individually with perhaps three different rollcalls, or we could save the time of the House and vote on the basic issue, which I think frankly is what the House will prefer doing. But I of course will defer to my colleague from Arkansas.

Mr. HAMMERSCHMIDT. If the gentleman will yield further, I would object to their being considered en bloc.

Mr. DURBIN. If the gentleman from Illinois will yield, will the gentleman from Arkansas consider a unanimous-consent request that the three amendments, not en bloc, but the three amendments separately be considered at the end of the bill? The reason I ask that is that it would give the Members an opportunity this evening and the gentleman on the minority side of the aisle to go to the meeting that they have to go to. I am trying to save some time.

Mr. MICHEL. I might say to the gentleman from Arkansas that of course the very thing we were talking about puts the amendments of the gentleman from Illinois [Mr. DURBIN] if it were to be one amendment, out of its normal order in sequence. I think it is a reasonable request that the gentleman from Illinois [Mr. DURBIN] makes, and if the objection is to having them considered en bloc, frankly the gentleman's rights would be certainly preserved on all three if he wished or intended to exercise those rights. But simply that would be the first order of business tomorrow, as I understand it; is that not correct?

Mr. DURBIN. The gentleman is correct.

Mr. MICHEL. Would the gentleman from Arkansas agree to that?

Mr. HAMMERSCHMIDT. I would agree, as long as we do not consider them en bloc, as long as we consider each one.

Mr. MICHEL. I thank the gentleman from Arkansas for his cooperation.

Mr. Speaker, I might also make the observation that if we are to consider those suspensions that were rolled over with respect to requested rollcalls, it is my understanding that there are no real reasons this evening to insist on rollcall votes on those which were requested yesterday.

Mr. DURBIN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, would it be appropriate for me at this time to restate the unanimous-consent request while the gentleman from Arkansas [Mr. HAMMERSCHMIDT] is on the floor?

Mr. MICHEL. The gentleman from Illinois is certainly free to do that on my time, if that will clarify.

Mr. DURBIN. Mr. Speaker, it is my understanding that the able majority leader may have the unanimous-consent request prepared to offer.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, it would be my intention to offer a unanimous-consent request that when the House resumes consideration of H.R. 4794 it should be in order tomorrow to return to page 4, lines 3 through 8; page 9, line 12; and page 12, line 13, in order that the gentleman from Illinois [Mr. DURBIN] be allowed to offer amendments, and that the debate on such amendments and all amendments thereto be limited to 15 minutes each.

Mr. HAMMERSCHMIDT. Reserving the right to object, may I inquire of the distinguished majority leader would those amendments be considered separately?

Mr. FOLEY. Yes.

Mr. HAMMERSCHMIDT. Seven and a half minutes for each side on each amendment?

Mr. FOLEY. The gentleman is correct.

I have not offered the unanimous-consent request, but I am explaining to the House the unanimous-consent request I may offer, if it is going to receive unanimous consent.

The SPEAKER. The gentleman from Washington has not at this point offered a unanimous-consent request.

Mr. DURBIN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, I want to make sure I understand the pending potential motion.

Mr. FOLEY. The potential unanimous-consent request.

Mr. DURBIN. As to the time frame, the gentleman is suggesting 15 minutes on each amendment?

Mr. FOLEY. Yes, considered separately.

Mr. DURBIN. Or 7½ minutes on each amendment?

Mr. FOLEY. On each side.

Mr. DURBIN. If I might, would the gentleman consider perhaps 45 minutes?

Mr. HAMMERSCHMIDT. Forty-five minutes on the first one.

Mr. DURBIN. Let us say 40 minutes on the first amendment, equally divided between the proponents and the opponents.

Mr. FOLEY. And on the other 2?

Mr. DURBIN. Twenty minutes on each, equally divided? I do not think we will use it.

Mr. FOLEY. We have gone from 45 minutes to 80 minutes. Is there any more economy that I can encourage?

Mr. HAMMERSCHMIDT. Mr. Speaker, for the last 2, 10 minutes on each one is fine.

Mr. DURBIN. That is fine.

PERMISSION TO OFFER AMENDMENTS OUT OF ORDER TO H.R. 4794, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House returns to the consideration of H.R. 4794, it be in order tomorrow to return to page 4, lines 3 to 8; page 9, line 12; and page 12, line 13 in order that the gentleman from Illinois [Mr. DURBIN] be allowed to offer three amendments and that debate on each amendment and all amendments thereto be limited as follows:

On the first amendment to 20 minutes on each side; on the second amendment to 5 minutes on each side; and on the third amendment to 5 minutes on each side.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, June 27, 1988, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 4612, de novo;
H.R. 4503, de novo;
H.R. 4604, de novo;
H.R. 4065, de novo;
H.R. 4101, de novo;
H.R. 1814 de novo; and
H.R. 2772, de novo.

FEDERAL EMPLOYEES LIABILITY REFORM AND TORT COMPENSATION ACT OF 1988

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4612, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 4612, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COMMUNITY AND MIGRANT HEALTH CENTERS AMENDMENTS OF 1988

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4503, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 4503, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INTERNATIONAL ENERGY AGENCY EXTENSION

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4604, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Indiana (Mr. SHARP) that the House suspend the rules and pass the bill, H.R. 4604, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL ENERGY MANAGEMENT IMPROVEMENT ACT OF 1988

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4065, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 4065, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TELEMARKETING FRAUD PREVENTION ACT OF 1988

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4101, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio [Mr. THOMAS A. LUKEN] that the House suspend the rules and pass the bill, H.R. 4101, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COMMERCIAL FISHING INDUSTRY VESSEL SAFETY ACT OF 1988

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1841, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 1841, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide for the establishment of additional safety requirements for fishing industry vessels, and for other purposes."

A motion to reconsider was laid on the table.

SOUTH DAKOTA WATER SUPPLY AND ASSISTANCE ACT OF 1988

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2772, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from New Mexico [Mr. Richardson] that the House suspend the rules and pass the bill, H.R. 2772, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Mr. LEHMAN of Florida. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4794) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

□ 1915

The SPEAKER. The question is on the motion offered by the gentleman from Florida [Mr. Lehman].

The motion was agreed to.

□ 1915

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4794, with Mr. Panetta in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from Florida [Mr. Lehman] had 17 minutes remaining under general debate and the gentleman from Pennsylvania [Mr. Coughlin] had 21 minutes remaining under general debate.

The Chair recognizes the gentleman from Florida [Mr. Lehman].

Mr. LEHMAN of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. Cardin] for the purpose of a colloquy.

Mr. CARDIN. I thank the gentleman for yielding this time.

Mr. Chairman, I want to commend you on successfully balancing the many competing demands in this bill. I would like to discuss with you the Coast Guard's proposed closure of the Curtis Bay Yard in Baltimore.

As you are aware, the Curtis Bay Shipyard has received many efficiency citations and has helped the Coast Guard respond effectively to numerous emergencies at sea.

The Coast Guard has proposed phasing out action at the yard, but has done so without any analysis of the efficiency of the yard or documentation of cost savings. Clearly such an action should not be taken until we are aware of the long-term impact on costs and operations. I, along with my Maryland colleagues, have requested the GAO to review this matter.

Is it your understanding that the Coast Guard will take no action in fiscal year 1989 to close or phase down operations at the yard?

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. CARDIN. I yield to the chairman of the subcommittee, the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Chairman, the gentleman from Maryland, Mr. Cardin, is correct. The committee expects the Coast Guard to take no action to phase down operations at the Curtis Bay Yard during fiscal year 1989. The committee expects the Coast Guard to perform a careful analysis of this matter and to examine the long-term impacts on cost and operations before considering action to close this facility.

Mr. CARDIN. I thank the chairman for the opportunity to discuss this matter and look forward to working with the subcommittee as the Coast Guard submits its analysis in the future.

Mr. COUGHLIN. Mr. Chairman, I yield such time as he may consume to the distinguished ranking member of the full Committee on Appropriations, the gentleman from Massachusetts [Mr. Conte].

Mr. CONTE. Mr. Chairman, I will be very brief because the hour is late.

I do want to take this opportunity to thank and congratulate my good chairman, Bill Lehman, the chairman of the Subcommittee on Transportation, for an outstanding bill that they brought forth to the House this evening. And my good friend from Pennsylvania, the ranking Republican on the subcommittee, Larry Coughlin. It has been a pleasure to serve on the Transportation Appropriation Subcommittee since it was started on that very first committee, the Subcommittee on Transportation. I have never seen a more difficult job as I have seen in the last couple of years with Gramm-Rudman-Hollings and all the other matters, the budget act, the 302(b), putting together a decent budget to satisfy the transportation needs of this country.

I know I do not have to tell the members of this House where I stand on the Coast Guard.

Mr. Chairman, I rise in support of H.R. 4794, the Department of Transportation and related agencies appropriations bill for fiscal year 1989.

The bill increases Federal funding in two key areas: the Coast Guard and the FAA. The Coast Guard is funded at $3.073 billion, $102 million over the administration's request and $420 million more than in fiscal year 1988. This amount is made up of $2.668 billion from the transportation appropriations bill and $410 million from the defense appropriations bill. Of the $3 billion total, $492 million is to be spent on drug interdiction.

As you all know, the Coast Guard performs many vital missions, ranging from saving lives and property to protecting against marine pollution to interdicting the flow of drugs into our country. Over the last 20 years, the Coast Guard's responsibilities have been ever increasing while its funding in constant dollars has stayed essentially flat since 1981.

Many of you will also remember the hardship caused in this fiscal year when Congress appropriated too little for Coast Guard operations and many many Coast Guard stations and facilities were closed. The need is clear for increased Coast Guard funding.

H.R. 4794 provides $6.6 billion for the FAA, $882 million more than in fiscal year 1988 and $176 million more than the budget request. Included in this is $3.4 billion for FAA operations and $1.486 billion for FAA facilities and equipment.

These increases are necessary to hire 900 additional air traffic controllers and 300 additional safety inspectors and to implement fully the National Airspace System plan. Without this level of funding, the safety and convenience of the Nation's aviation system would be jeopardized.

H.R. 4794 also provides $590 million for Amtrak. As you know, the President has four times proposed a zero appropriation for Amtrak. Congress has considered this proposal in depth and has rejected it as impractical every time.

At a minimum, a zero appropriation would quickly result in the termination of all Amtrak operations and probably result in the company's bankruptcy. The President's zero appropriation proposal ignores the significant progress Amtrak has made in increasing its revenues, its revenue passenger miles, and the quality of its services while holding down costs.

In response to OMB's oft-repeated arguments against Amtrak funding, I would point out that Amtrak ranks sixth among all transportation companies in terms of the number of revenue passengers carried and will carry 34 million passengers in fiscal year 1989.

Finally, the bill provides $3.3 billion for UMTA, $213 million of which is to be for public mass transit funding in small urban and rural areas. I strongly support this funding.

Many of the municipalities in my district are small, isolated, and rural. In these towns, the elderly, the disabled, and the low-income have no reliable way of getting to necessary services. Without the public transit system, these people would become immobile.

In sum, I urge my colleagues to support H.R. 4794, the 11th of the 13 appropriations bills to be brought to the House floor. H.R. 4794 proposes a total appropriation which complies with the budget summit and which is below the committee's section 302(b) allocation of $10.395 billion. It is a responsible bill.

Mr. LEHMAN of Florida. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Tennessee [Mrs. LLOYD] for the purpose of a colloquy.

Mrs. LLOYD. I thank the very gracious and able chairman for yielding time to me regarding a very important project in my home State of Tennessee.

Mr. Chairman, when the Senate Appropriations Committee marked up the transportation appropriations bill last week, they added $2,500,000 to rehabilitate the Walnut Street Bridge in Chattanooga, TN. This money will be used to repair and rehabilitate an historic bridge that has been closed for over a decade. Originally built in 1891, the Walnut Street Bridge was the first permanent structure over the Tennessee River. When it was opened, development commenced on both sides of the river.

Along the same lines, Chattanooga is currently undergoing a renewal along the river. The Walnut Street Bridge will provide essential pedestrian and vehicular access to all phases of this development, providing economic and transportation benefits to the entire city.

I was delighted by the Senate committee action. Assuming the project survives the Senate floor, it will become part of the conference between the House and Senate. At that time, I urge the chairman to agree to the Senate language and to appropriate the money for the Walnut Street Bridge.

I would like to ask the chairman, what his intentions are regarding this provision?

Mr. LEHMAN of Florida. Mr. Chairman, will the gentlewoman yield?

Mrs. LLOYD. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. I thank the gentlewoman for yielding.

Mr. Chairman, I am pleased to respond to the gentlewoman's inquiry. I have discussed this matter with her on several occasions. She has explained the benefits of this project to me, and how the city of Chattanooga will spend $1,500,000 for its part of the project. In conference, I will urge my colleagues to accept the Senate provision. I will do all I can to see that the Walnut Street Bridge project receives $2.5 million.

Mrs. LLOYD. Mr. Chairman. I thank the gentleman for his consideration.

Mr. COUGHLIN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. DAVIS].

Mr. DAVIS of Michigan. I thank the gentleman for yielding.

Mr. Chairman, I would like to engage in a colloquy with the distinguished chairman of the Subcommittee on Transportation of the Committee on Appropriations and the ranking member of that subcommittee.

Mr. Chairman, I rise in support of the Coast Guard provisions in the 1989 Department of Transportation appropriation bill. I would like to ask the distinguished chairman from Florida a question to confirm my understanding of what this bill provides in Coast Guard funding for the next fiscal year.

Mr. Chairman, it is my understanding that the 1989 Department of Transportation appropriations bill as reported by your committee provides over $3 billion for the Coast Guard. This amount is approximately $102 million over the President's request for the Coast Guard, and over $420 million over the fiscal year 1988 Coast Guard appropriation. Your committee recommends that the Coast Guard receive over $2 billion in operating expenses, an increase of nearly $197 million over the 1988 level. In addition, you have recommended that the Coast Guard receive $452 million in acquisition funding, $104 million over the President's request.

Mr. Chairman. it is my understanding that this bill provides adequate funds for the Coast Guard to fully operate in fiscal year 1989. Is my understanding correct in this regard?

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. I thank the gentleman for yielding.

The gentleman from Michigan's understanding is correct assuming that we can retain the funding for the Coast Guard currently in the DOD House-passed appropriations bill.

Mr. DAVIS of Michigan. I understand that. Is that the understanding of the ranking member also?

Mr. COUGHLIN. If the gentleman will yield, yes, assuming we get that money from the defense appropriations, this represents a 15.9-percent increase for the Coast Guard and the gentleman is correct.

Mr. DAVIS of Michigan. Mr. Chairman, I thank the chairman for his confirmation of my understanding of the provisions of this bill and I commend the effort that the chairman and the other members of the Appropriations Committee have made to restore the Coast Guard to full operation in fiscal year 1989. We have all worked hard to avoid a repeat of this year's Coast Guard budget crisis, that unfortunately resulted in drastic cutbacks in all areas of Coast Guard operations. I know that Members with Coast Guard facilities in their districts are glad that cutbacks in Coast Guard services will not have to be made next year. I can say that those of us from Michigan are relieved that the vital search and rescue, law enforcement, and the Coast Guard cutter *Mackinaw*'s icebreaking services in our area will continue next year.

The CHAIRMAN pro tempore (Mr. DELLUMS). The Chair would advise that the gentleman from Florida [Mr. LEHMAN] has 14 minutes remaining and the gentleman from Pennsylvania [Mr. COUGHLIN] has 16 minutes remaining.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I do this for the purpose of engaging in a colloquy with the gentleman from California [Mr. LEHMAN].

Mr. Chairman, a number of issues have been raised regarding the funding, adequate funding of the Coast Guard.

Mr. Chairman, one of the critical issues involving funding for the Coast Guard in the last few years has been its ability to perform its routine patrol and its search and rescue operations. I was therefore pleased to note that the committee report accompanying H.R. 4794 notes that "the committee believes that these lifesaving services should not be adversely affected by budgetary constraints."

Over the last few years, the Santa Cruz Harbor, CA, in my district, has experienced a 55-percent reduction in Coast Guard patrols which the Coast Guard itself attributes to the recent budget constraints. In those times when the Coast Guard substation in Santa Cruz is unstaffed, Coast Guard personnel from other areas must travel 1 to 2 hours to reach the area, limiting sharply their ability to respond to emergencies. The Coast Guard has indicated that it hopes that the presence in Santa Cruz can be restored, if sufficient funding is provided.

Mr. Chairman, in light of the language in the committee report, is it the committee's intention that the Coast Guard give priority consideration to its various safety activities, including the restoration of operations, such as that in Santa Cruz, which have already suffered reductions?

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the chairman of the subcommittee, the gentleman from Florida.

Mr. LEHMAN of Florida. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct. It is the committee's intention that lifesaving operations, such as that which you have described, be given priority treatment among the Coast Guard's operations.

Mr. PANETTA. I thank the gentleman, and I join in his view that protection of critical patrol and safety operations must be the highest priority of the Coast Guard. I appreciate his sensitivity to this important issue.

Mr. COUGHLIN. Mr. Chairman, I yield 5 minutes to the beautiful gentlewoman from Maine [Ms. Snowe].

Ms. SNOWE. I thank the gentleman for his nice comments and for the time.

Mr. Chairman, unfortunately a point of order will be made against the language in H.R. 4794 concerning Passport's PACE Program. I want to take this opportunity to briefly comment on the larger issue of Logan Airport's attempt to use exorbitantly increased landing fees to limit the access small airplanes will have to Logan.

Massport's plan to increase landing fees for regional commuter airlines and general aviation pilots is unconscionable and downright selfish. This plan blatantly discriminates against smaller and lighter aircraft and could have profound and far-reaching consequences for air service throughout this country. In the 10 years since the Congress deregulated the airline industry, more people flying to more locations and at generally lower prices, Logan Airport and the State of Massachusetts have obviously derived tremendous economic benefits from the increased number of passengers from New England and the Northeast region who use this airport.

However, at the time the decision to deregulate the industry was made by Congress, the assumption was also made that service would continue to less populated rural areas of this country and at the same time we expected that major airlines would withdraw service from these regions into the more competitive airline market. So therefore we would increase reliance on commuter services for these areas. Now Massport is using excessively increased landing fees to shut out these very same small air carriers out of Logan Airport. In fact, when the Secretary of Transportation asked Massport to delay implementing the PACE plan while an administrative law judge determined whether or not it complies with current Federal law, they refused to do so.

It is ironic that Logan Airport has eagerly accepted $40 million in Federal funds over the last 10 years to improve and upgrade its facilities. But when the Nation's Transportation Secretary makes a simple request to delay implementing a radical landing fee structure, Logan Airport has apparently decided that it can ignore the Federal Government's role in determining air transportation policy and intends to resume its plan on July 1.

Mr. Chairman, every Member of this House and the Congress should be concerned about what Massport is trying to do as well as the manner in which they are trying to achieve their goals.

This landing fee proposal clearly threatens important air service in Maine and New England and could set a dangerous precedent for every region of this country that relies upon a major hub airport like Logan. That is one reason why the Transportation Department and the U.S. district court in Boston are both being asked to rule that the PACE plan violates Federal statutes that prohibit airports from unjustly discriminating against air carriers.

In essence, this plan is running roughshod over the commercial interests of every State in the Northeast. Massport's director's comments about our complaints has been "These are hysterical special interests."

Pressure, in fact, has been applied to an air carrier in my State who has had to back off and withdraw from its leadership in fighting this PACE plan because the parent company was in the process of renegotiating its leases at Logan Airport.

I agree with the statements that have been made in an editorial in the Bangor Daily News, a major daily in my district, when it states, "The Massport defense is gun to the head thuggery of an appallingly low order." In fact, it goes on to state, "The word is that Bar Harbor," which is the air carrier in Maine having the problems with Massport, and will cost approximately $1.6 million as a result of this decision, "were made to sign a paper in support of PACE even though their public statements make it perfectly clear that PACE is a hopeless disruption and an intolerable bullying by a bureaucratic steamroller in another State."

□ 1930

So, Mr. Chairman, I would hope that the Members of this House would take a very careful look at what is happening here. It starts with Logan, it is going to continue with every other major airport in this country, and it is going to affect service to the smallest States and the most rural areas of our country. This will delay reasonable service to those areas.

Mr. Chairman, this is an issue we had better begin to fight now. It is terribly discriminatory, and I hope that ultimately the courts will rule in our favor.

Mr. JEFFORDS. Mr. Chairman, will the gentlewoman yield?

Ms. SNOWE. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I want to commend the gentlewoman for her very eloquent statement. She is right on. It is a very, very serious situation, especially in northern New England.

Also, Mr. Chairman, I think it is important for all Members to realize that this is a national issue. Far from being an isolated incident, this discriminatory fee structure would set a precedent that other airports might well follow.

The Secretary of Transportation is charged with maintaining a national airport system that is "available for public use on fair and reasonable terms without unjust discrimination."

Logan's proposed fee structure is unjustly discriminatory. Airport administrators have stated that their goal is to discourage smaller planes and to encourage larger planes. What better way than by dropping landing fees for large planes and at the same time raising them for the smaller?

The Federal court in Boston has agreed to hear the merits of the case. The Secretary of Transportation has agreed to conduct an investigation of this case and has requested that Massport delay implementation until his department has done their study. Massport refuses to do so.

Mr. Chairman, Logan Airport is the beneficiary of Federal funding as evidenced by the money appropriated by this bill. Logan Airport is introducing a discriminatory fee structure that goes against the Federal policy. At the very least, Logan Airport should give the Federal Government time to investigate this fee structure.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 5 minutes to my colleague, the gentleman from Florida [Mr. Hutto].

Mr. HUTTO. Mr. Chairman, I appreciate very much the distinguished subcommittee chairman's yielding time to me.

Mr. Chairman, I heard the statement of the subcommittee chairman a few minutes ago, and certainly I agree with it, that if indeed we get the money from the Department of Defense appropriations, then the Coast Guard will be in good shape. But I would ask the subcommittee chairman and the members of his subcommittee, if they will, to be pondering the situation during my statement and then possibly tell me after that what we would do if we did not get that money from DOD. In a few minutes I would ask the to expound on that, if he will.

Mr. Chairman, I would like to ask the distinguished chairman of the Transportation Appropriations Subcommittee to tell the House what will be done to save the Coast Guard if we approve this bill today and later find that the additional money that he anticipates will be provided in the Defense appropriations bill fails to materialize.

Last April, I testified before the gentleman's subcommittee about the necessity for the Coast Guard budget to be fully funded through Transportation instead of continuing to rely on the Defense Department to bail them out.

I will grant that the House amend the Defense authorization bill to delete some funding for SDI and to provide the majority of that money for procurement of equipment that would be loaned to the Coast Guard and for a small amount of operating expense funding for the Coast Guard. The House version of the Defense appropriations bill includes that same funding.

However, the conferees on the Defense authorization bill have reduced the amount of funding to be provided for drug interdiction, and, more importantly, would provide that the money be retained by the Defense Department to help cover the costs of its new mission as lead agency to detect and monitor the transit of illegal drugs into our country.

I believe it is reasonable to assume that the Defense appropriations bill approved by the Congress may mirror the authorization bill conference report that is finally approved by the Congress. If so, the Coast Guard will be in deep trouble.

I vividly recall standing here on the floor last year during the debate on the Transportation appropriations bill asking for the support of the Members to approve a very small increase in appropriations for the Coast Guard. Our efforts were not successsful. In fact, the majority of the Members of this House approved an across-the-board cut that further eroded the Coast Guard budget. Because of the shortfall in its operating expense appropriations for fiscal year 1988, the Coast Guard ended up ordering several search and rescue stations to be closed.

If my math is correct—and I admit I was in school before the new math was introduced—the Coast Guard will end up with a deficit of $74.5 million in its operating expenses account, and a deficit of $252 million in the AC&I account if no money is forthcoming from Defense.

This is an intolerable situation, and may very possibly be enough of a blow to the Coast Guard to force it to fold its tents—or more appropriately, I guess I should say its sails—and fade into the night.

The gentleman may recall that, during my testimony before his subcommittee, I made the statement that it would be a shame if the 100th Congress is remembered in history as the Congress that beached the Coast Guard. I fear that may end up being the case if we do not address this problem now. I sincerely hope that the gentleman can assure me we are not doing exactly that here today if we do not appropriate—within the Transportation bill—the full amount requested by the administration for the Coast Guard—without counting any anticipated money from the Department of Defense that very well not be approved.

So again, Mr. Chairman, I would like to ask the point of view of the chairman of the subcommittee. I think he would agree that the Coast Guard is going to be in deep, deep trouble if we do not receive the funding. So what would happen if that should occur?

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. HUTTO. I yield to the subcommittee chairman.

Mr. LEHMAN of Florida. Mr. Chairman, the gentleman is very justified in his concerns. However, we must fight one battle at a time.

As the gentleman knows, at the present time the money is in the DOD appropriations bill that passed the House. We will have to assume that when we go to conference, it will remain in the defense appropriations bill. If it is struck down because of the lack of authorization, then we will face that problem as best we can, but right now we have to fight tonight's battle. We certainly will keep in mind not only the gentleman's concerns but the concerns of this subcommittee and of this body with regard to adequate funding of the Coast Guard, especially funding for the operations account of the Coast Guard.

Mr. HUTTO. Mr. Chairman, if I understand what the gentleman is saying, one way or another we are going to provide adequate funding for the Coast Guard; is that a commitment?

Mr. LEHMAN of Florida. Mr. Chairman, I cannot make for the gentleman a "sum certain" commitment that we will provide funding should the defense money become nonattainable. We will do the best we can should that unfortunate circumstance occur.

Mr. COUGHLIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I rise in strong support of the legislation.

Mr. Chairman, I rise in strong support on this legislation. Once again I wish to express my sincere appreciation to the subcommittee chairman, the distinguished gentleman from Florida, Mr. LEHMAN, and to the distinguished ranking minority member, Mr. COUGHLIN, and your able committee for your diligent and effective efforts in bringing the Department of Transportation appropriations measure to the floor for a vote.

As a Member who has appeared before your subcommittee on numerous occasions, I appreciate the courtesy always afforded to me and my constituents. The task of deciding which among many worthy projects should receive funding during a period of tight budgetary restrictions is never easy. This Member appreciates your work and is pleased to support this legislation.

I would like to briefly mention one item in the committee bill. That is the $1.26 million earmark for Lincoln. NE's rail transportation safety project. This funding will be applied toward the final design and right of way for the L Street overpass which is part of the K and L Streets extension project. While the city requested $1.4 million this year, I understand the financial restrictions you faced which forced a 10 percent reduction in that request.

Your committee and this body have been very helpful in recognizing Lincoln's genuine need for this Federal funding. Last year the House approved a $4 million earmark for the completion of the K and L Streets extension. Realizing the economic significance and safety concerns of this project, this body saw fit to recommend full funding. The other body, however, proposed only one-tenth of that amount. In a conference largely dominated by budgetary constraints imposed by the summit agreement, Lincoln received $1.14 million.

The Federal Government has a significant investment in Lincoln's rail safety projects, and the end is in sight. There is visible evidence in the community of how successful our efforts have been. The North 27th Street viaduct was dedicated over a year ago and has eliminated enumerable headaches and safety factors for motorists traveling on 27th Street to the heavily utilized Cornhusker Highway. Now we are trying to complete the K and L Streets project, the last segment of the City of Lincoln's demonstration project.

With such severe budgetary problems at the national level, local government is attempting to pick up slack while its Federal support has decreased. The city of Lincoln and the State of Nebraska have contributed approximately 60 percent of the funding for their railroad/highway crossing project. While we will continue to seek alternative financing, the substantial investment of monetary and personnel resources that the city and State have already made warrants that Congress fulfill the obligation of the Federal Government to support the completion of our project.

I appreciate the opportunity to speak on behalf of this project.

Mr. COUGHLIN. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I wish to commend the committee for its fine work, but particularly I wish to call the attention of my colleagues to that language in the committee report commencing on page 55 which recommends a prohibition against airport grants to Massport, the Massachusetts Port Authority, until U.S. District Court for the District of Massachusetts and the Department of Transportation have determined that the new fee structure adopted on May 16, 1988, by Massport for Logan International Airport does not violate the Federal Aviation Act of 1958. There are a number of us in this body who think it does.

We all know what is happening. The gentlewoman from Maine [Ms. SNOWE] outlined it very eloquently. It amounts to nothing more than an economic lockout. You help the big guys at the expense of the little guys. In some cases this new fee structure will involve a 300-percent increase in the landing fees for commuters and general aviation and at the same time give a 50-percent landing fee reduction to the giants. If ever there has been a case of helping Goliath and giving the back of the hand to David.

All America is not part of the giant system. There are hundreds of communites from coast to coast that are served exclusively by commuter airlines. Make no mistake about it, this is one of the sleeper issues in this Congress, and if this landing fee structure is allowed to remain, others will follow suit. They are watching very attentively.

What will this do? It will deal a devastating blow to the economic development activities of hundreds of communities across this country. We believe strongly in this, and we took our case to the Secretary of Transportation. He, too, saw the potential negative impact, and in a letter dated May 20 to the Massachusetts Port Authority, he told them to back off, to hold off. The Secretary of Transportation has appointed a hearing officer to examine the potential impact of this ill-fated decision and report back by November 15.

The Regional Airline Association, the National Business Aircraft Association, and the Aircraft Owners and Pilots Association have all filed suit in district court.

What did Massport do in response to this urgent plea? They thumbed their nose at the Secretary of Transportation. They said, "We're not going to pay any attention to you. We are going to proceed on course."

Mr. Chairman, this is a serious issue for the United States of America. It is far broader than just the Massachusetts Port Authority. We have an obligation to pay attention to what is going on. The committee has done a good job, and I wish to commend it.

Mr. CARR. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I am glad to yield to my colleague, the gentleman from Michigan, who has led the effort.

Mr. CARR. Mr. Chairman, I would like to commend the gentleman from New York [Mr. BOEHLERT] and my colleague, the gentlewoman from Maine [Ms. SNOWE], for staying here late at night and addressing this issue.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

Mr. BOEHLERT. Mr. Chairman, I would ask the gentleman from Pennsylvania [Mr. COUGHLIN] to yield 30 additional seconds to me.

Mr. COUGHLIN. Mr. Chairman, may I inquire, how much time do I have remaining?

The CHAIRMAN. The Chair will state that the gentleman from Pennsylvania [Mr. COUGHLIN] has 8 minutes remaining and the gentleman from Florida [Mr. LEHMAN] has 8 minutes remaining.

Mr. COUGHLIN. Mr. Chairman, I yield 30 additional seconds to the gentleman from New York [Mr. BOEHLERT].

Mr. LEHMAN of Florida. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York [Mr. BOEHLERT].

The CHAIRMAN. The gentleman from New York [Mr. BOEHLERT] is recognized for 2 minutes and 30 seconds.

Mr. CARR. Mr. Chairman, will the gentleman now yield?

Mr. BOEHLERT. I yield to the gentleman from Michigan.

Mr. CARR. Mr. Chairman, I wish to commend the gentleman from New York [Mr. BOEHLERT] and thank him for yielding. I also commend my colleague, the gentlewoman from Maine [Ms. SNOWE], for staying here late at night, although they are not members of the committee, to address this particular issue.

This issue probably has not ripened in the newspapers all over America, but I think the gentleman and the gentlewoman have put their finger on the problem. This Congress did not deregulate the airlines or bring about economic deregulation of the airlines only to turn it over to airport authorities to commence the economic regulation of commercial and general aviation service in America.

What has happened at the Massachusetts Port Authority, as the gentleman and the gentlewoman have said, is a very ominous sign, because they are open and explicit about it, and they seek to deny access to Boston's Logan Airport by a whole category of airplanes, and they seek to pick and choose between what kinds and classes of aircraft can use Boston's Logan Airport, after it has received millions of tax dollars for the improvements at Boston Logan.

Inevitably, a partnership pertains at each and every airport in the county as to how these facilities are to be operated for the common good. But the particular attitudes as mentioned by the gentlewoman from Maine and the gentleman from New York, coming out of Massport is particularly startling to many of us who care about a unified national airspace system in America.

Mr. Chairman, I commend the gentleman for staying late and offering these comments to show that the interest in this issue goes beyond those people who happen to fly airplanes. It goes to communities around the country, and what the gentleman has done is very important.

Mr. BOEHLERT. Mr. Chairman, I thank the gentleman for his comments. I would like to thank the distinguished gentleman from Michigan for outlining the two issues here. It is one of access, and also it is a sleeper. I ask my colleagues to consider that today it may be Massport, but tomorrow it may be the rest of the country.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CARR].

Mr. DENNY SMITH. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Oregon.

Mr. DENNY SMITH. Mr. Chairman, I would just like to commend both the gentleman from New York and the gentleman from Michigan. This is a very important part of the national airspace access problem that we are going to have to fight out in the next few years. I think Massport should have all the dollars either repayed to the Federal Treasury or it should have all the dollars removed from their budget to operate. If they do not want to play in the entire national airspace plan, then they ought to have their dollars taken away.

Mr. Chairman, I commend the gentleman from New York and the gentleman from Michigan for their leadership in this area.

Mr. CARR. Mr. Chairman, I thank the gentleman for his remarks.

I would like to further commend the gentleman from Massachusetts [Mr. CONTE] who has been my partner in this particular issue. I know it is a particularly difficult one for him because he comes from Massachusetts, but he has taken a forthright stand and should be commended for it.

While we are in commendations, I would also like to commend the ranking minority member, the gentleman from Pennsylvania [Mr. COUGHLIN] and my chairman, the gentleman from Florida [Mr. LEHMAN].

I do not think the people across America or some of the people right in this room understand the hours and hours and hours of hearings and meetings in offices that are occasioned by the fact that these two gentleman had a pivitol point in financing our transportation infrastructure. People from all of our districts visit them in their offices repeatedly, and they give open access to our constituents in an effort to find a just and balanced way of putting a transportation system together.

So, Mr. Chairman, I want to add my commendations to both gentlemen for the fine work they have done on this bill.

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Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Chairman, I would like to make just a few comments about current FAA strategy and planning, plans which I find are a little misguided.

I would like to first focus on the microwave landing system which is a highly touted solution to all of the precision approach problems in this country. The FAA is planning on buying 1,250 of these systems for a total cost of some $1.6 billion. It is the second highest amount of money in the national aerospace plan, and I think that it is now 2½ years plus behind the times. It is not as qualified a system as it should be. We have purchased 178 systems under the contract, and we are putting in $178 million or $17 million for the continued research and development in this fiscal year. A recent GAO report issued only a few weeks ago says that the Secretary of Transportation should require that the FAA not proceed with the planned second FML procurement until the full potential operational and economic benefits have been adequately demonstrated, and I fully concur.

Second point, Loran C navigation. I think Loran C has the potential of saving us a great deal of money. It has the potential of providing us a terrestrial based system that will give us a much more accurate navigation system at a much lower cost. It is a bargain.

We also need to try and tie into the global positioning system, and there is money in here. I am afraid that maybe the FAA is leaning a little too much toward GPS rather than Loran C. They need to keep Loran C in their navigation plan.

The last thing I would like to talk about is the mode C rule and the 88-2 rulemaking. What this is going to do is destroy our reliever airport system.

As an example, in the some 27 TCA's that are affected in 88-2 we have 1,741 airports which are presently reliever airports which would basically be shut down to radar control only. At these some 1,741 airports there are 41,000 home-based aircraft.

What we are talking about is the same kind of thing that we were talking about in the Massport. We are talking about access to the aviation system. I think that the FAA is overreaching its potential.

Mr. COUGHLIN. Mr. Chairman, I yield an additional 30 seconds to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. At that 20 miles at approximately 1,000 feet one cannot even pick up a Mode C transponder because it does not have enough of a radar image for the radar to pick it up.

So, Mr. Chairman, we need to look at these things further, and I think that the Committee would be well-advised to watch these programs so that we get the best dollar for the taxpayer.

Mr. Chairman, I rise in opposition to the bill and would like to express to my colleagues my concerns regarding some current FAA strategy and spending plans—plans which I find misguided, as one of the pilots in Congress, I consider it my obligation to review—indeed scrutinize—the annual appropriation for the Federal Aviation Administration. We are asked on a daily basis to review and approve spending programs for every segment of the Federal Government. For those involving complex, long-term technical programs, we each must lend our expertise in analyzing where the taxpayers hard earned money is going to be spent.

I. MICRO-WAVE LANDING SYSTEM

The Micro-wave Landing System [or MLS] is the FAA's highly touted solution to airspace congestion and airport capacity problems. Over the next few years, the FAA plans to buy and install over 1,250 MLS ground stations, replacing the existing and proven instrument landing system [ILS] as the standard precision approach aid in the United States. MLS is the second most costly element of the National Airspace System Plan [NASP], with a budget of 1.6 billion.

I fly across this country every weekend, just like all of my colleagues, and I'm aware of the delay problems in our air system. I too want a long-term solution, but as a pilot, I want a proven solution. MLS is an idea that the FAA and DOT have been kicking around the block since the early seventies, and yet it remains unproven. We've signed a contract for 178 systems, the manufacturer is two and a half years behind schedule, and MLS still remains unproven. This year we are giving the FAA over $17 milion to continue MLS research and development in hopes of proving the benefits of the system. Somehow, I suspect that they'll be back next year for more money to try to prove the system.

A GAO report issued only a few weeks ago states "The Secretary of Transportation [should] require FAA not to proceed with the planned second MLS procurement unless MLS' potential operational and economic benefits have been adequately demonstrated." I could not agree more heartily. The MLS is a touted idea, but remember that tout means to deal in information regarding horse races; the FAA is gambling with $1.6 billion of the aviation trust fund money on an unproven horse.

As we vote on the DOT appropriations, I hope that the FAA will work diligently to prove their MLS promise—otherwise, they shouldn't have the horse in the race.

II. LORAN C NAVIGATION

As my colleagues may know, I am a great supporter of Loran C navigation. Long proven in the maritime community, Loran C is now seeing increasing use by the general aviation community. Over 40,000 aircraft are now equipped with Loran C receivers, Loran C is a low cost, accurate, effective method of navigation that any aircraft owner can afford. Loran C is not limited to line-of-sight reception like VOR and DME navigation systems. Loran C can be used in navigating to an airport in remote mountain locations and the signal is usable even when aircraft are parked on the ground.

For the Congress, where the price tag should be important, Loran C is a bargain. Fewer stations offer better coverage and accuracy—aproximately 20 Loran C transmitters cover the same areas as over 960 VOR transmitters. Yet, the FAA seems to be passing Loran C by. They are not interested in low cost alternatives for the public. They seem only interested in high cost, high technology, and unproven systems. This year's DOT appropriations bill includes $3,475,000 to continue the evaluation of the global positioning system [GPS] as a replacement for existing VOR/DME navigation systems.

We're back to the horse races again. We've got Loran C, a working, proven, ground-based, civilian use navigation system, and instead we're going to place our bet on GPS, a not yet fully deployed, unproven, space based, military use navigation system. When—and if—DOD finishes putting the GPS satellites in orbit, they reserve the right to shut out the civilian navigation users at any time. Based off my 10 years in the cockpit with Pan American, I find that thought frightening.

I'd like to see Loran C retained as a terrestrial backup to GPS. I'd like to see Loran C made interoperable with GPS, and I included an amendment to last year's DOT appropriation bill for just that purpose. GPS/Loran C interoperability studies are underway now at the Naval Observatory, the Transportation Systems Center, and the Coast Guard. As we vote for this year's DOT spending bill, let us remind the FAA that Loran C is out there, working today. The FAA needs to keep Loran C in their navigation planning.

III. THE MODE C RULE

Last week the FAA Administrator came up to brief me on the new mode C transponder rule. (Let me be clear that mode C has nothing to do with Loran C.) Many of you have received mail on the mode C issue, referred to as 88-2. The Administrator took great pains to explain to me how his agency had dealt with the burden that we in Congress put upon them with congressional mandates last December. Nothing could be further from the truth. The FAA issued an NPRM last February that was so sweeping, that so vastly exceeded the intent of Congress, as to be nothing but a massive airspace grab. Why do we have to continually remind the FAA that the Government is here to serve the people, not the other way around?

The new mode C transponder rule is out, and it is going to have a dire effect on reliever and general aviation airports throughout the country. These are airports that the Congress has been improving for two decades; spending money so that these outlying airports can off-load congestion and traffic at the big city, terminal control area [TCA] airports. The new rule now says you won't be allowed within 30 miles of the TCA airport without a mode C transponder.

I asked the FAA to provide me with a list of the affected airports; it arrived yesterday, and here it is. I understand that there are 1,741 affected airports listed, providing home base for over 41,000 aircraft.

I feel the breadth of the mode C rule, the incessant pushing of MLS, and the neglect of Loran C, and all examples of a need for reevaluation of the communications between the FAA and the true users of the nation's airspace. What is really unfortunate is that the flying public in America, airline passengers and general aviation users alike, are the loser in the current situation. We are all in favor of a safe, reliable, and operable air transportation system. I encourage my colleagues on the Aviation Subcommittee and the Transportation Appropriations Committee to watch these FAA programs closely, and I look forward to working with them in the future.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentlewoman from Rhode Island [Miss SCHNEIDER].

Miss SCHNEIDER. Mr. Chairman, I would like to urge my colleagues to support this very important amendment that I am offering along with my colleagues Mr. ECKART and Mr. SHUMWAY.

This amendment will reopen nine search and rescue stations that the Coast Guard announced will close this year because of budget problems. The Coast Guard, however, has put their budget crisis behind them. The Appropriations Committee has included an increase of $420 million for fiscal year 1989 over the Coast Guard's fiscal year 1988 levels. With this new influx of money it is quite reasonable to require the Coast Guard to spend only $4.8 million to reopen these essential search and rescue stations.

If we fail to require these reopenings to occur, the price will be paid with the lives of innocent boaters, fishermen, and tourists. There have already been deaths and severe injuries associated with the station closings in the few short months that some of these stations have been closed. There have been several severe injuries in my district, that appear to have been avoidable if the Coast Guard were still present on Block Island. And the busy boating season hasn't even begun yet. According to Coast Guard figures, in the past 5 years these nine stations saved the lives of 525 people. In 1987 alone 89 lives were saved. I am not willing to sacrifice 89 lives every year in order to save less than $4 million. And this Congress should not allow this potential disaster to continue.

Reopening these nine stations will also play an important role in this Nation's drug interdiction program. The loss of these strategically located stations will create gaps along our coastline that will be exploited by people attempting to smuggle drugs to our shores. The Coast Guard's expanded role in drug interdiction is justified, and retaining these important stations will only enhance their mission.

These stations also play an important role in protecting our environment. The Coast Guard is responsible for emergency response in case of hazardous waste or oil spills. These stations are located in areas with a very high recreational and environmental value, and a quick and effective response by the Coast Guard in an environmental emergency is crucial.

Closing these nine stations is not a cost-effective decision. We will pay for this decision with innocent lives and with a weakened drug interdiction program, and I am not willing to bear those costs. This amendment is not a budget buster—in fact, it does not require any new money to be appropriated. I urge all of my colleagues to support this important amendment.

Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I rise in support of the Department of Transportation appropriations bill, however, I feel it is important to note some of the gimmicks that continue to be used in this appropriation bill.

As a fiscal conservative, I have had a rule of thumb for each appropriation bill under consideration this year. I will only support a real freeze in funding for each of the 13 appropriation bills. In other words, the rate of increase of each bill should be no more than a 3-percent increase over last year's levels. This bill calls for an increase of 1.8 percent above fiscal year 1988 levels. Therefore I will support the bill. I was elected to make tough choices and I applaud the members of the Appropriations Committee who worked together to make a dent in the deficit by limiting the increase in spending to less than the rate of inflation.

However, I am disturbed by some of the gimmicks used to make our appropriation bills appear smaller. For example, by removing the Panama Canal Commission from the list of discretionary items, the Transportation Subcommittee shifted $50 million to nondiscretionary funding. This does nothing to lower the deficit and merely creates the illusion of a smaller increase in spending. In addition, the bill does not provide the full request by the administration for the Coast Guard for the war on drugs. Instead, the $400 million shortfall will be made up in the Department of Defense appropriation bill.

Additionally, I am concerned that this bill continues to subsidize Amtrak by over $600 million. Subsidizing nearly half of each Amtrak passenger's ticket is wasteful, and fails to promote competition in the passenger transportation industry.

In summary, while this bill is definitely a step in the right direction, the House still has a long way to go in our search for truth in budgeting. While we are clearly making headway, I urge my colleagues to continue to strive to wipe out the waste, gimmickry, and inefficiency contained in each of the appropriation bills brought before the House.

Mr. LEHMAN of Florida. Mr. Chairman, I thank the gentleman from Michigan [Mr. UPTON] for his kind remarks.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I would like to thank the gentleman from Florida [Mr. LEHMAN], the Chair of the committee, for all the hard work, as well as the gentleman from Pennsylvania [Mr. COUGHLIN], the ranking Republican on the subcommittee, for their hard work on this Transportation Appropriations bill, however, I would like to enter into a brief colloquy with our distinguished gentleman from Michigan [Mr. CARR] who authored a portion of the committee report dealing with the Massport so-called PACE program.

The report on page 56 says, and I quote, "The committee believes that the national impact of any such proposals should be fully viewed by the legislative and executive branches of the Federal Government before implementation is attempted."

Now some airport authorities are concerned, Mr. Chairman, that this committee report language could be read as seeking to change existing law and as encouraging general aviation commuters in major airlines to bring airport landing fee or charge controversies to Washington for final review.

Now can I assume it was not the gentleman's and the subcommittee's intention in raising this issue to change existing law and to preclude airport authorities from changing all classes of airport users for their full shares of airport costs as determined by some fair allocation process, and could it be agreed that current law does not mandate prior Federal review of landing fee increases or modifications before they can be implemented?

In other words, not in terms of any reasonable or in terms of any allocable costs, but in terms of any unreasonable or disproportionate shares of costs that may be allocated to certain classes of aircraft.

Mr. CARR. Mr. Chairman, if the gentleman will yield, I think I can assure the gentleman from California [Mr. MINETA] that we do not intend to change existing law.

The gentleman quotes a sentence from the committee report which says that such proposals should be fully reviewed. Now, if the Members read the full paragraph, they will find that such proposals refers specifically to the committee's expressed specific reservations about the Massport plan. That is the plan which is in the terms of the paragraph such a proposal.

I feel that airports around the country, as they make ordinary day-to-day adjustments in their landing fee structure in accord with Federal law, should have no fear of this particular language, nor should any airport user take any comfort in the language or use it as an excuse to start some kind of litigation, or delay or obstruction in airports managing their affairs.

On the other hand, the paragraph does stand, and I believe it will stand for the proposition that airports which seek, as the gentlewoman from Maine [Ms. SNOWE] has said, a radical restructuring of landing fees with the express purpose of denying classes and categories.

Mr. LEHMAN of Florida. I yield 30 additional seconds to the gentleman from California [Mr. MINETA].

Mr. CARR. If the gentleman will continue to yield by the same token we do not want airports around the country to take comfort in the proposals of the Massport authority and their PACE plan and think that they can operate those kinds of plans around the country either.

Mr. MINETA. Mr. Chairman, I fully agree with the gentleman from Michigan [Mr. CARR] because there are constitutional protections in terms of interstate commerce. There are ways that the FAA could withhold AIP funds, if they are not reasonable and those allocations of funds is not done on a fair and reasonable basis. So to that extent there is protection, but, as has been pointed out, it is specific to the Massport PACE plan and to any other kind of radical change that can occur.

Mr. CARR. Mr. Chairman, that is correct, and the gentleman is chairman of the subcommittee dealing with aviation and is the expert in this matter. We are acting here to protect the gentleman's jurisdiction.

Mr. MINETA. Mr. Chairman, I appreciate that and thank the gentleman from Michigan [Mr. CARR] as well as my very fine colleague, the gentleman from Florida [Mr. LEHMAN].

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Mr. COUGHLIN. Mr. Chairman, I yield my last 2 minutes to the gentleman from Arizona [Mr. RHODES] to conclude debate.

Mr. RHODES. Mr. Chairman, I would like to engage the chairman of the Transportation Appropriations Subcommittee, the gentleman from Florida [Mr. LEHMAN], in a brief colloquy.

As the gentleman knows, Sky Harbor International Airport in Phoenix, AZ, is designated by the FAA's Airport Capacity Task Force as one of 22 pacing airports in the Nation. In these instances, reliever airports—such as Chandler Municipal Airport in Chandler, AZ—are to receive priority funding.

The enlarged Chandler Municipal Airport is planned to draw general aviation and corporate business air traffic away from increasingly congested Sky Harbor Airport, which is growing at an unprecedented rate of 15 percent annually. Chandler Airport has undertaken an accelerated planning and construction program that has developed from an integrated private/public airport development effort. The program takes advantage of the as yet undeveloped land surrounding the airport, in advance of significant and certain population growth around the airport.

Is it the chairman's understanding that, in addition to the airports listed in the committee report, that the FAA be encouraged to provide special consideration to funding grant applications involving the construction or further development of the Chandler Municipal Airport in Arizona?

Mr. LEHMAN of Florida. Mr. Chairman, if the gentleman will yield, the gentleman from Arizona is correct; that is my understanding regarding the Chandler Arizona Municipal Airport.

Mr. RHODES. I thank the chairman of the subcommittee for his courtesy, and also thank the ranking minority member, the gentleman from Pennsylvania [Mr. COUGHLIN], for his consideration and cooperation.

Mr. GILMAN. Mr. Chairman, I rise in support of the Department of Transportation's fiscal year 1989 Appropriations bill. I wish to commend the gentleman from Florida [Mr. LEHMAN] for his significant work on this measure. The $10.7 billion appropriations bill includes $2.6 billion earmarked for the Coast Guard, a 5.1-percent increase from 1988 levels. Combined with the likely supplement for drug interdiction of $60 million for operations and $350 million for equipment from DOD appropriations, the total Coast Guard budget will be $3.1 billion for 1989.

The importance of the Coast Guard in our struggle against drugs cannot be over stated. They play a crucial role in interdiction, whether working bilaterally in such programs as OPBAT [Operation Bahamas and Turks and Caicos] in the Caribbean Sea, in concert with DOD through their LEDET [Law Enforcement Detachment] team program, or on their own. They have the trained personnel and a good deal of the equipment to do a first class job on interdiction; all they need is a first class budget. I believe this legislation goes a long way toward that goal.

I urge my colleagues to support this measure. We cannot stand here in this Chamber and call for a war against drugs if we do not properly supply our frontline troops. We have given the Coast Guard the very difficult and dangerous mission of interdicting the burgeoning flow of illicit drugs into our country. If we do not provide the Coast Guard with the necessary resources, drug interdiction will become our Nation's "Mission Impossible."

Mr. ALEXANDER. Mr. Chairman, I rise in support of H.R. 4794, the Transportation and Related Agencies appropriations bill for fiscal year 1989.

Simply put, this is a bill to keep the Nation moving. From the days of the Cumberland Road and Henry Clay's "American System," this House has always worked to build a transportation system that will maintain the flow of commerce. This bill follows in that old and honorable tradition. It is a good product, and I commend the chairman and the subcommittee for it.

I particularly thank them for designating the proposed airport expansion at Melbourne, AR, for priority consideration by the Federal Aviation Administration.

The Melbourne Airport has been designated as a priority project in the Senate reports accompanying the appropriations bills for fiscal years 1987 and 1988. This year, it has a similar designation in the House report.

In the Melbourne project, the goal of economic development is coequal with the goal of improving the air transportation system. I hope the FAA will grant Melbourne's modest request for money to start this project, because in so doing it will help provide jobs for people who want to work.

Melbourne is a small community of 1,619 citizens nestled in the hills of north central Arkansas. One of its biggest employers, a major aerospace firm, is considering an expansion of its Melbourne operations that could bring 500 new jobs to the community and substantially increase air traffic in and out of Melbourne.

However, this expansion is far from nailed down. To be able to compete effectively for industrial expansion, Melbourne needs an airport that can accommodate corporate jets.

The potential plant expansion could provide a major boost for the local economy. But civic leaders in Melbourne believe that the new airport is absolutely essential to ensure this opportunity.

From Henry Clay to the present, development of an infrastructure to expand commerce in rural America has been a primary goal of American transportation policy. That is what the project at Melbourne is all about.

Again, I thank chairman LEHMAN and the subcommittee for their consideration in this matter, and commend them for their excellent work on this bill.

Mr. ANDREWS. Mr. Chairman, today we discuss our support for something which may often be taken for granted in this country but which is absolutely essential for its well being—our system of transportation. In many ways, America's transportation system is the lifeblood of her economy. We depend on our air, ground, and water systems to move goods. We depend on the same systems for safe and reliable personal transportation.

Beyond this, though, we depend on the improvement and expansion of these systems to meet our growing needs for the future. It is essential that we at the Federal level continue to recognize our responsibilities as leaders in this area.

In this regard, I want to commend Chairman LEHMAN and the other members of the subcommittee for their recognition of this Federal responsibility. More specifically, I want to commend them for their support of Federal aid for urgently needed urban transit systems in our cities.

The initial funding provided in this bill for a light rail transit system for my home of Houston provides a good example. The 20-mile system, which was approved by local voters in a special referendum earlier this year, is an important element of a comprehensive, region-wide effort to improve basic mobility in the Houston metropolitan area.

The rail segment will link Houston's innovative and cost-effective suburban busway system to the downtown and other major regional employment centers. The citizens of the Houston area have pledged substantial local support for this project, and the Federal support pledged in this bill will provide the supplement necessary to begin to make it a reality.

Again, I commend the chairman and members of the subcommittee for their leadership, and I urge my colleagues to support this measure.

Mr. RAHALL. Mr. Chairman, I rise in strong support for H.R. 4794, which appropriates $10.8 billion in fiscal year 1989 for the Department of Transportation and related agencies. I would like to take this opportunity to highlight several of the programs funded in this measure that are especailly important in my home State of West Virginia.

The bill provides $662.5 million for the Federal Railroad Administration, including $590 million for Amtrak operating and capital expenses. I am pleased that yet again the committee rejected the Reagan administration's typical shortsighted and misguided attempt to zero out funding for Amtrak. Once again the House of Representatives is demonstrating that we, unlike the administration, have not forgotten those who rely so heavily on Amtrak, many of whom are the elderly and handicapped who have limited means of transportation. The Cardinal not only supplies an important means of transportation for West Virginians, but also brings people from throughout the country to enjoy the many recreational opportunities in our beautiful State.

Similar to last year's appropriations measure, H.R. 4794 also provides for large increases over the administration's requests for other mass transit programs, for a total appropriation of $2.1 billion for these programs. Under the formula grant program, which provides mass transportation capital and operating assistance, $156 million is earmarked for urban areas with populations of less than 200,000 and $53 million is allocated for nonurban areas. An additional $5 million is available to non-urban areas under the rural transportation assistance porgram. These UMTA formula grant funds are vital to the Tri-State Transit Authority located in Huntington, WV, which provides a viable means of safe, reliable and inexpensive transportation for the citizens of the Tri-State area.

Also of great significance to West Virginia is the $29.1 million appropriated in the bill for the Essential Air Service program. This, too, is a program which the Reagan administration has repeatedly attempted to kill. In West Virginia, there are five communities whose airports receive EAS assistance. Two of these areas, Beckley and Bluefield, are located in my congressional district and I can personally attest to the vital need for EAS support in these communities. The continuation of air service in southern West Virginia would be in severe jeopardy without the assistance provided by the EAS program.

Finally, I would like to mention the $13.8 billion included in H.R. 4794 for the Federal Highway Administration. The FHWA provides financial assistance to West Virginia and the other States to construct and improve roads and highways, and to enforce Federal standards in relation to interstate motor carriers and the highway transport of hazardous materials.

To close, Mr. Chairman, I urge my colleagues to support this appropriations measure, which is of such great importance to the transportation needs of all Americans.

Mr. PRICE of North Carolina. Mr. Chairman, I rise today in support of H.R. 4794, the 1989 appropriations bill for the Department of Transportation and related agencies. Chairman LEHMAN and his colleagues on the subcommittee were kind enough to allow me to testify before them in April about several items of critical importance to my district and to North Carolina, and I am pleased and gratified at the responsiveness of the subcommittee to these needs.

The first item is a key airport capacity enhancement program which is currently in the experimental stage. Last year, the FAA recognized the emergence of Raleigh-Durham Airport [RDU] as a major air transportation center and the expending role which this airport will play in the future by designating it as one of two airports at which new radar systems will be demonstrated. Raleigh-Durham Airport serves the central piedmont region of North Carolina which includes the State capital, Raleigh; four major universities among them the University of North Carolina at Chapel Hill, North Carolina State University, North Carolina Central University, and Duke University; and the widely reknowned high technology research and development center known as the Research Triangle Park. The Raleigh-Durham Airport plays a leading transportation role both in our region and in the Nation's air transportation system. Since its recent initiation as an international airport and as a major hub for American Airlines, RDU has experienced tremendous growth and heavy utilization of its facilities.

The experimental program at RDU involves installation and demonstration of a prototype radar system to monitor aircraft approaching parallel runways during instrument weather conditions. This stationary, electronically scanning radar will accurately display the positions of approaching aircraft by "refreshing" or updating their locations every half second, as opposed to every 5 seconds with ordinary, rotationally scanning radar. A successful demonstration of this system will be the first step in equipping some 75 key airports nationwide with precision radar equipment, enabling simultaneous instrument aircraft approaches to be made to parallel runways separated by less than 4,300 feet and to intersecting runways which intersect at or near their far ends.

At Raleigh-Durham, the tower for the precision radar antenna recently has been erected and installation of the antenna and other equipment will begin this summer. The demonstration is scheduled to get underway this fall and be completed next fall. The members of the Appropriations Committee have approved $5.4 million to complete the testing of this experimental radar system at Raleigh-Durham Airport. The money allocated for this program will allow our Nation to increase airport capacity in a cost-effective manner.

Second, the bill contains funds to permit the FAA, upon completion of a successful demonstration, to convert the prototype equipment to certifiable specifications and place the system in an operationally unrestricted status, thereby permanently increasing the operating capacity of the airport during instrument weather conditions and correspondingly reducing operating delays.

The basic reason for converting the system to operationally unrestricted status at the conclusion of a successful demonstration is to take advantage of the availability and capacities of this equipment during the succeeding 3-year period. During this period, the FAA will develop production equipment specifications, supplier bids will be requested and received, a procurement contract will be issued, and the equipment will be manufactured, delivered, and installed at other airports.

The continuation of an operating system during that period should help RDU maintain the level of arrival capacity developed during the demonstration phase. It should also provide additional real time operating experience with the system and data on both performances and flight crew and air traffic controller adaptability to its use, which should be invaluable in bringing the systems at other airports to full operating performance levels in a minimum amount of time once they are installed. The members of the Appropriations Committee have approved $5 million to fund the conversion of the RDU radar to operational status. This decision makes sound economic and budgetary sense.

The third item that I'd like to highlight is the need for more funds to assist in the development of general aviation airports. I am happy to note that the Appropriations Committee has increased funds toward this goal. Two examples of the need for increased funds for general aviation airports can be found in my district: in Franklin and in Randolph Counties. Franklin County is a growing county just north of Wake County, where Raleigh and the Raleigh-Durham Airport are located. Franklin County has a critical role to play in the economic growth of our region.

I have already mentioned RDU's rapid growth. With the resulting congestion, delays, and aggravation of flying in a busy area, general aviation users are looking elsewhere for facilities in the region to handle their aircraft.

Local officials have been working on plans since 1980 to develop a public airport in Franklin County, which would be the first in their county. In addition, the FAA has already designated the Franklin County Airport to be a reliever airport for the Raleigh-Durham Airport. Federal funds were obtained and used to develop an airport master plan and site selection study. The county is now ready to seek FAA funding for site acquisition and preparation for a general aviation airport which will be easily accessible to residents of Franklin County and of the Raleigh metropolitan area.

A similar situation exists in the western part of my district, at Asheboro in Randolph

County. Once again, the county has gone through a long planning process to develop a master plan for expansion and improvements at the Asheboro Airport. After several years of study and discussion, the county is now prepared to move forward with its plans.

This bill takes two important steps to increase support for general aviation airports like these. First, the appropriation of $1.160 billion in cash to liquidate contracts for planning and improving general aviation airports represents a $97 million increase from last year. More important, contract authority to fund new planning and improvement grants is set at $1.530 billion in this bill, an increase of $261 million—or more than 20 percent—over last year's level. I commend the committee's efforts to make these additional funds available so that the important airport planning and improvement projects in the Fourth District of North Carolina, and in other districts around the country, can move forward as rapidly as possible.

Mr. Chairman, I want once again to thank Chairman LEHMAN and the members of the Appropriations Subcommittee for the hard work and sound decisions which H.R. 4794 represents, and to urge my colleagues to support the Appropriations Committee's recommendations.

Mr. KOSTMAYER. Mr. Chaiman, today I rise in support of H.R. 4794, the Transportation appropriations bill for fiscal year 1989. And I rise specifically because of a key provision in this legislation regarding the Newton bypass in my congressional district.

This appropriations bill provides funding for our Federal highway program, a program which is of special importance to Pennsylvania. Federal funds are distributed to and then administered by the States. These funds are distributed on a formula basis, relying on such factors as population, road mileage and land area. For fiscal year 1989, it is estimated that Pennsylvania will receive approximately $448 million in Federal highway funds.

Mr. Chairman, included in this legislation is a provision which identifies a highway project in Bucks County, PA, as a "priority project." The project is the Newton Bypass, a route which would link the present Newtown bypass at Route 413 in Newtown Township with Interstate 95 in Lower Makefield Township.

Mr. Speaker, Bucks County, PA, is one of the fastest growing counties in the Philadephia are and in the State. As a result, the I-95 corridor and the people who live in Bucks County are consistently plagued with traffic congestion. The Newtown bypass is desperately needed to meet the transportation needs of the people of Bucks County. That is why I have worked closely with my colleagues Congressmen GRAY and COUGHLIN, members of the Transportation Appropriations Subcommittee in getting the Newtown bypass recognized as a priority project.

The estimated cost of the four-lane Newtown bypass is $20 million. So far, the State has estimated $14.5 million. Last year, in order to ensure funding for the bypass, I worked to secure $12 million in additional discretionary highway funding for the State to assist it in fulfilling its commitment to a four-lane bypass extension. In other words, in order to encourage Pennsylvania to commit funds to the bypass, Congress enlarged Pennsylvania's share in order to ensure funding for the bypass. Governor Casey and his Secretary of Transportation Howard Yerusalim have assured me of their willingness to help in expediting the construction of a four-lane Newtown bypass. I traveled to Harrisburg to meet personally with Governor Casey and Transportation Secretary Yerusalim last month. I am hopeful that a bid package can be put out this fall.

Mr. Chairman, I have been unyielding in my efforts to see that this important project is completed. I am pleased that the Subcommittee on Transportation Appropriations has at my request recognized the importance of this project. The Newtown bypass is indeed a "priority project" and I appreciate the support of my colleagues in guaranteeing its timely completion.

Ms. SLAUGHTER of New York. Mr. Chairman, I rise in strong support of H.R. 4794, the Transportation Department appropriations for fiscal year 1989. I congratulate Chairman LEHMAN for bringing this well-crafted legislation to the floor. I also wish to commend the chairmen and subcommittee chairmen of the authorizing committees for their leadership.

Mr. Chairman, this legislation goes a long way toward meeting the transportation needs of our Nation. It maintains our commitment to mass transportation by providing full funding for the programs administered by the Urban Mass Transportation Administration [UMTA] as well as Amtrak; this administration—shortsightedly in my view—had proposed to slash UMTA funding by two-thirds and eliminate Amtrak entirely.

The bill provides funding for the Federal Railroad Administration for important safety improvements in the Northeast corridor and elsewhere. It provides the Coast Guard the tools with which to wage the war against drugs.

Additionally, this measure allows us to move ahead to rebuild our highways and bridges, two important components of our infrastructure which are in great need of improvement. Under this bill, progress will continue toward the completion of the Interstate Highway System, perhaps the greatest public works project ever undertaken, begun over 30 years ago under President Eisenhower.

Mr. Chairman, H.R. 4794 also funds the overhaul of our air traffic control system and the hiring of additional air traffic controllers. This is of critical importance in our efforts to achieve the highest degree of air safety possible.

In addition, this bill appropriates fully $1.5 billion from the airport and airways trust fund for airport development and planning grants. Mr. Chairman, I am pleased that committee report names the Greater Rochester International Airport on its priority list for FAA discretionary funds.

The Greater Rochester International Airport is inextricably linked with Rochester's status as a center for international trade. Rochester accounts for fully 40 percent of New York State's exports; obviously many of those goods are transported by air.

We've known for many years that the Rochester Airport was undersized. The planned expansion of the airport will help maintain Rochester's important role in international commerce as well as preserve the airport's central role in the life of the eight county Genesse-Finger Lakes region of the State.

I would like to thank Chairman LEHMAN for his assistance on this project, as well as my colleague from New York, Mr. MRAZEK.

Mr. Chairman, I urge my colleagues to join me in a resounding "yes" vote for this important legislation.

Mr. GEJDENSON. Mr. Chairman, I rise today to express my strong support for the committee's recommendation for fiscal year 1989 appropriations for the U.S. Coast Guard. I would also like to express my support for an amendment which would reopen the search and rescue station on Block Island in the Long Island Sound.

When President Reagan came to the Coast Guard Academy last month, he strongly criticized Congress for not appropriating adequate funds for the Coast Guard. However, with this appropriations bill, Congress will have appropriated a higher budget figure for the Coast Guard, including Department of Defense funds for Coast Guard operations, than the President has requested in 6 of 8 budget years during the Reagan administration.

Though the mission and responsibilities of the U.S. Coast Guard have expanded greatly over the past few years, this appropriations bill will allow the Coast Guard to adequately carry out its mission: to minimize loss of life, personal injury, and property damage, to maintain an effective Armed Forces which must be prepared for immediate response in times of war or emergency, to enforce Federal laws and international agreements, to ensure the safety and security of vessels, ports and waterways, and to maintain or improve the quality of the marine environment.

As you may know, the committee has recommended an appropriation of $2.6 billion for the Coast Guard for fiscal year 1989. This is $127 million more than in fiscal year 1988. With the addition of $410 million in the Department of Defense funds for Coast Guard operations that was approved earlier, the Coast Guard will receive a total appropriation of $3.07 billion. This is $90 million more than the administration requested for fiscal year 1989, and $400 million more than was appropriated last year.

Second, I would like to express my strong support for the amendment to require that the Coast Guard use $4.8 million to reopen nine search and rescue stations including one on Block Island located in the Long Island Sound which was closed in February of this year because of budget shortfalls. The amendment stipulates that the Coast Guard cannot close other facilities in order to do this and that no new money will have to be appropriated.

Reestablishing these search and rescue stations will help to increase the safety of the Long Island Sound. It will help assure that despite the current emphasis on drug interdiction, lifesaving remains one of the Coast Guard's highest priorities.

The need for the reopening of the Block Island Station is clear. In Connecticut, boating fatalities are occurring at an alarming rate this year. Already this summer there have been 10 boat-related deaths in Connecticut State waters. This is the most since 1983 and the summer is only one-third over.

The State of Connecticut has seen a dramatic increase in boat traffic in recent years and currently ranks fifth in the Nation in boating congestion. As of last summer there are more than 85,539 registered boats in Connecticut which represents an increase of more than 15,000 boats since 1982.

Reopening these essential search and rescue station will not only assist in saving countless lives and property, they will also assist the Coast Guard in their efforts to interdict drugs.

With the increase in boater traffic and with the importance of the Coast Guard's role in stopping drug trafficking into the United States, this appropriations bill will provide the funds that are necessary for the Coast Guard to carry out its ever expanding and important mission.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the first amendment printed in House Report 100-723 is considered as having been adopted.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of Transportation, including not to exceed $30,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine; $1,071,000 for the Immediate Office of the Secretary; $460,000 for the Immediate Office of the Deputy Secretary; $5,925,000 for the Office of the General Counsel; $7,950,000 for the Office of the Assistant Secretary for Policy and International Affairs; $2,147,000 for the Office of the Assistant Secretary for Budget and Programs; $2,345,000 for the Office of the Assistant Secretary for Governmental Affairs; $23,375,000 for the Office of the Assistant Secretary for Administration; $1,462,000 for the Office of the Assistant Secretary for Public Affairs; $815,000 for the Executive Secretariat; $440,000 for the Contract Appeals Board; $1,270,000 for the Office of Civil Rights; $550,000 for the Office of Commercial Space Transportation; $1,734,000 for the Office of Essential Air Service; and $3,105,000 for the Office of Small and Disadvantaged Business Utilization, of which $2,275,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: *Provided,* That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, $4,925,000.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $130,350,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriations Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation; for necessary expenses associated with the development of the Departmental Accounting and Financial Information System, $3,100,000 to remain available until expended; for the Department of Transportation office space reduction initiative, $100,000; and for Departmental ADP systems development enhancements, $600,000.

PAYMENTS TO AIR CARRIERS

For payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $29,070,000, to remain available until expended.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b); and recreation and welfare, $2,026,000,000, of which $30,000,000 shall be expended from the Boat Safety Account: *Provided,* That of the funds provided for operating expenses for fiscal year 1989, in this or any other Act, not less than $492,000,000 shall be available for drug enforcement activities: *Provided further,* That the number of aircraft on hand at any one time shall not exceed two hundred and fourteen, exclusive of planes and parts stored to meet future attrition: *Provided further,* That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109 except to the extent fees are collected from yacht owners and credited to this appropriation.

AMENDMENT OFFERED BY MR. GINGRICH

Mr. GINGRICH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GINGRICH: Page 4, line 22, insert ", together with an additional $60,000,000 to be available upon enactment and to remain available until September 30, 1989, of which $4,303,000 shall be derived from unobligated balances of 'Access highways to public recreation areas on certain lakes'; $457,000 shall be derived from unobligated balances of 'Territorial highways'; $2,460,000 shall be derived from unobligated balances of 'Motor carrier safety grants'; $129,000 shall be derived from unobligated balances of 'Conrail labor protection'; $651,000 shall be derived from unobligated balances of 'Facilities, engineering and development'; not to exceed $16,000,000 shall be derived from funds recovered under sections 5, 9, and 18 of the Urban Mass Tranportation Act of 1964 which would otherwise be reapportioned on or after October 1, 1988; $2,000,000 shall be derived from unobligated balances of 'Research, training, and human resources' other than funds for the cold weather transit technology program and the phosphoric acid fuel cell bus technology program; $8,000,000 shall be derived from unobligated balances of 'Acquisition, construction, and improvements'; $8,000,000 shall be derived from unobligated balances of 'Research, development, test, and evaluation'; $5,000,000 shall be derived from unobligated balances of 'Pollution fund'; $2,000,000 shall be derived from unobligated balances of 'Offshore oil pollution compensation fund'; $1,000,000 shall be derived from unobligated balances of 'Deepwater port liability fund'; and $10,000,000 shall be derived from unobligated balances of 'Panama Canal revolving fund'" after "drug enforcement activities".

Mr. LEHMAN of Florida (during the reading). Mr. Chairman, I make a point of order against the amendment under clause 2, as unauthorized legislation on appropriations, and, therefore, in violation of clause 2 of rule XXI.

The CHAIRMAN. The gentleman from Florida will suspend. The Clerk has to complete the reading of the amendment until there is unanimous consent to suspend the reading.

The Clerk will continue to read.

The Clerk continued to read the amendment.

Mr. GINGRICH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEHMAN of Florida. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. LEHMAN] reserves a point of order. The gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes in support of his amendment.

Mr. GINGRICH. Mr. Chairman, I thank the Chair and I thank my colleague, the gentleman from Florida.

Mr. Chairman, I introduced this amendment recognizing that there might be a point of order lodged against it, but largely to put into the RECORD what I think is a very important point about public policy.

I want to do so, first of all, by reading into the RECORD two documents from the Secretary of Transportation, Jim Burnley; the first to Rev. Jesse

Jackson and the second to Gov. Michael Dukakis.

Secretary Burnley sent the following telegram to Rev. Jesse Jackson on February 19:

Department of Transportation,
Washington, DC, February 19, 1988.
Rev. Jesse Jackson, *Suite 210, 2000 South Fifth Street, Minneapolis, MN.*

In our telephone conversation of January 22, 1988, I explained to you that, contrary to your public assertions, the Reagan administration did not cut the Coast Guard operation budget by $100 million for the current fiscal year. It was the Democratic controlled Congress who enacted these cuts over our strong objections.

During our conversation you expressed a willingness to address this issue fairly and to join with the administration in urging Congress to restore additional funding this year. Yet during the nationally televised debate last night, once again, you blamed the Reagan administration for cuts made by Congress.

Your actions do a great disservice to the heroic men and women of the U.S. Coast Guard. I urge you to cease this partisan rhetoric and assist the Reagan administration in convincing the Congress to provide additional Coast Guard funding for the current fiscal year and to fully fund the President's request for 1989.

Jim Burnley,
Secretary.

Then on June 15 Secretary Burnley sent the following letter to Governor Dukakis:

The Secretary of Transportation,
Washington, DC, June 15, 1988.
Hon. Michael Dukakis,
Dukakis for President,
Washington, DC.

Dear Governor Dukakis: Your recent statement to the U.S. Conference of Mayors strongly suggests that the Reagan Administration is responsible for a reduction in the U.S. Coast Guard's Fiscal Year 1988 budget, and that the budget cut is responsible for reduction in drug patrols. This view was also expressed by Mrs. Dukakis in a recent newspaper interview (copy enclosed).

I want to take this opportunity to advise you that portions of your statement were inaccurate. The Coast Guard's 1988 budget was underfunded and our routine drug interdiction patrols *were* cut by 55%. However, it was the Democratic controlled Congress, not the Reagan Administration, that did the cutting. The President's FY 1988 budget requested $1,964,000,000 for Coast Guard operating expenses funding. The FY 1988 Appropriation enacted by Congress was $1,892,000,000. To address this funding shortfall, the Administration submitted to Congress on March 17 an emergency supplemental request for $60 million for 1988. In keeping with the Bipartisan Budget Agreement reached with the Congress last December, the Administration went to great lengths to insure that this request added no new money to the budget but rather reprogrammed the money from other existing transportation accounts. Unfortunately, even after three months, the Congress has yet to act on this emergency request.

Recognizing the need for additional resources in our war on drugs, the Administration requested a 13% increase for the Coast Guard for Fiscal Year 1989. To highlight the priority we place on the Coast Guard, you should realize that the budget agreement limited domestic discretionary growth to a total of 2%. Nonetheless, if we are to stem the flood of drugs crossing our borders every day, we must give the Coast Guard the resources it needs.

I hope this letter clarifies the situation for you. I welcome your support for a fully-funded Coast Guard and hope you will support both the supplemental reprogramming of $60 million for FY 1988 as well as the President's Budget request for FY 1989.

Sincerely,

Jim Burnley.

My only point is this. It is the Congress which cut the Coast Guard. I would urge my Democratic friends in this House to tell their candidates for President the truth. It is legitimate to debate about how we are fighting the war on drugs. It is illegitimate to challenge the Reagan administration for cuts in the Coast Guard made by the Congress.

I would say to my friend, the gentleman from Florida, that if in fact the Democrats intend to attack the Republican administration for cuts in the Coast Guard, then I would be fully prepared to appeal the ruling of the Chair to fight this whole thing out all night and all next week. We are not going to do that tonight.

But the point is simple. If you think that the administration asked for too much money and you appropriated $72 million less than the President requested, I can understand why Dukakis would say nothing. I can understand why Jackson would say nothing. But it is outrageous for your party's candidates for President to attack the administration for cuts in the Coast Guard that were made by the Democratic Congress, and I think that you owe it to the President and you owe it to the American people to ensure that your candidates for President tell the truth about who cut spending on the war against drugs.

POINT OF ORDER

The CHAIRMAN. The gentleman from Florida [Mr. Lehman] is recognized on his point of order.

Mr. LEHMAN of Florida. Mr. Chairman, I appreciate the rhetoric of my friend, the gentleman from Georgia at this point.

Mr. Chairman, I insist on my point of order against the amendment, as I stated, because it provides unauthorized legislation on appropriations and, therefore, violates clause 2 of rule XXI.

The CHAIRMAN. Does the gentleman from Georgia [Mr. Gingrich] wish to respond to the point of order?

Mr. GINGRICH. In all candor, Mr. Chairman, I would say that my hunch is that my good friend, the gentleman from Miami, FL, has an exact understanding of the rule, and it is not in order.

The CHAIRMAN (Mr. Panetta). The gentleman from Georgia concedes the point of order. The Chair sustains the point of order under clauses 2 and 6 of rule XXI.

Mr. GINGRICH. If I might say just for one moment, with the indulgence of the Chair, Mr. Chairman, I do simply want the Record to show that the committee which I believe will be bringing the supplemental forward is moving in the correct direction, that in fact there was an opportunity tonight to accept the money tonight, and that the gentleman did move a point of order against it.

Mr. HUTTO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this should not be a partisan issue.

I want to say to the gentleman that it has been the administration, OMB, and the Congress that have cut the Coast Guard.

Speaking to the point of order, I would like to respond to the comments made, and this is something that I think we all need to bear the burden of, and that is that we are not funding the Coast Guard properly and there is plenty of blame to go around for everybody, including the OMB and the Congress of the United States, because while we have spoken to the defense needs of the Nation over the last number of years and for several years had significant increases, there were no increases in the Coast Guard.

Mr. Chairman, just to say briefly, we all ought to get together and fund the Coast Guard. There is going to be an amendment later on to try to restore some funding to open rescue stations, and I am all for that, but we are going to have a real problem if we do not work together, and I sincerely hope that we do.

Mr. GINGRICH. Mr. Chairman, will the gentleman yield to me just for a moment?

Mr. HUTTO. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, I agree with the gentleman. I guess the only reason we raised this point on our side, after consulting with the Secretary of Transportation, is that there seems to be a consistent difficulty on the part of Mr. Jackson and Governor Dukakis in understanding that it was not the Reagan administration which cut the Coast Guard last year.

I just say that because if you look at the record, despite phone calls, telegrams, and letters, there does seem to be this learning gap on the part of the Democratic nominee for President in understanding exactly how the system works in Washington, and where the spending was cut, so that the only reason we are raising it is that it has been rather consistently a partisan issue on the part of Jackson and Dukakis, but I share the sentiments of my colleague, the gentleman from Florida, of this being a partisan concern.

Mr. HUTTO. Mr. Chairman, I appreciate the gentleman's comment, but I would say that I think there are a lot of people who need to be educated.

There is one thing about it. If we are going to fight the war on drugs, we are going to have to properly fund the Coast Guard if we have search and rescue to be able to rescue boaters and those in distress. If we have port security, if we have maritime defense and the many missions that we thrust upon the Coast Guard, we are going to have to fund it, and we are not funding it. It is a bipartisan thing. I hope that we will all work together to properly fund the Coast Guard.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $102,000,000, to remain available until September 30, 1993: *Provided*, That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: *Provided further*, That any such written warranty shall not apply in the case of any system or component thereof that has been furnished by the Government to a contractor: *Provided further*, That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries of the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: *Provided further*, That the requirements for such written warranties shall not cover combat damage.

AMENDMENT OFFERD BY MR. SHUMWAY

Mr. SHUMWAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUMWAY: On page 6, line 6, insert before the period the following:

"*Provided further*, That of the funds provided in this Act for acquisition, construction and improvements, or in any other Act, not less than $4.8 million shall be transferred to the Operating Expenses Account of the Coast Guard to reopen and maintain the Coast Guard search and rescue stations located at Shark River, New Jersey; East Port, Maine; Block Island, Rhode Island; Ashtabula, Ohio; North Superior, Minnesota; Lake Tahoe, California; Kennewick, Washington; Kauai, Hawaii; and Mare Island, California: Provided further, that none of the funds provided in this Act shall be available for the closing of, or reduction in forces with respect to, any Coast Guard facility or installation".

Mr. SHUMWAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Is the gentleman from California [Mr. SHUMWAY] a designee of the gentleman from Ohio [Mr. ECKART]?

Mr. SHUMWAY. That is correct, Mr. Chairman.

POINT OF ORDER

Mr. ARMEY. Mr. Chairman, I make a point of order against the amendment offered by the gentleman from California [Mr. SHUMWAY].

The CHAIRMAN. Does the gentleman from Texas reserve a point of order?

Mr. ARMEY. Mr. Chairman, I prefer to make my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ARMEY. Mr. Chairman, at this point I could offer a point of order against this amendment for violating clause 6 of rule XXI which prohibits reappropriations of unexpended balances from other acts, which this amendment would permit. The rule bringing this bill to the floor does not waive this provision of the rules of the House, and so I have no doubt that my point of order would be sustained by the Chair.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, has the gentleman made a point of order, or has he reserved a point of order?

Mr. ARMEY. I believe, if the gentleman will bear with me——

The CHAIRMAN. The gentleman is stating his point of order.

Mr. ARMEY. I am stating my point of order.

Mr. ECKART. I am sorry, Mr. Chairman. I thank the gentleman.

Mr. ARMEY. Mr. Chairman, I appreciate the gentleman's concern.

Mr. Chairman, I do not plan to press that point of order, because I believe the House should be given the opportunity to vote on this amendment.

This amendment would fund the reopening of Coast Guard installations which were closed a short time ago. While the particulars are certainly different from a base closure amendment, I am seeking the opportunity to offer when we take up the issue on July 7, there is a certain parallel.

The point I want to make to the Members here, and especially to the members of the Rules Committee, is that the House should be given the opportunity to vote on important questions like this.

So in the interest of comity and of giving this amendment its chance to be voted up or down by the House, I am going to withdraw my point of order. I can only ask that you give me the same opportunity on my base closure amendment when that occasion presents itself on July 7.

Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. Pursuant to the rule, the amendment is not subject to amendment.

The gentleman from California [Mr. SHUMWAY] as the designee of the gentleman from Ohio [Mr. ECKART] will be recognized for 30 minutes and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment on behalf of myself, as well as the gentleman from Ohio [Mr. ECKART] and the gentlewoman from Rhode Island [Miss SCHNEIDER].

Mr. Chairman, this amendment reverses the Coast Guard's decision, made last February, to close nine search and rescue stations across the Nation.

Mr. Chairman, I recognize that the Coast Guard, like many other Federal agencies, is under significant fiscal constraints and, as a result, had to make certain cuts in this fiscal year 1988. However, I don't believe closing search and rescue stations is a proper, responsible approach to deficit reduction. Search and rescue is an essential Federal function and cutting it puts potentially thousands of American lives in danger.

In the Appropriations report accompanying H.R. 4794, the committee specifically states on page 13 that "one of the Coast Guard's highest priorities is to save lives through its search and rescue and boat safety functions. The committee believes that these lifesaving services should not be adversely affected by budgetary constraints." I strongly agree with the Appropriations Committee regarding this Federal priority.

Unfortunately, Mr. Chairman, as I mentioned, these lifesaving services have already been adversely affected through administrative action by the Coast Guard. These nine station closings include the Lake Tahoe station in my California congressional district, where in 1987 the Coast Guard performed 220 search and rescue operations, saved 31 lives and approximately $414,000 in property. How much did the Coast Guard save by closing this station? A grand total of $383,000. Mr. Chairman, I would submit that $383,000 in Federal expenditures to save 31 lives is a good bargain.

In the case of the Tahoe station, Lake Tahoe involves two State jurisdictions and in California alone two county jurisdictions. Without the

Coast Guard, jurisdictional disputes are bound to result in delays and, worse yet, tragedies. The need for this search and rescue station at Lake Tahoe is clear, and this amendment to reverse the Coast Guard's decision should, therefore, be supported.

Mr. Chairman, this amendment specifically earmarks $4.8 million of the $3.07 billion which the Coast Guard receives under this bill to reopen, operate, and maintain the nine search and rescue stations they never should have cut in the first place. I'd like to be clear that this amendment does not increase the level of funding which the Appropriations Committee has included in the bill; it merely says that $4.8 million of the money already in the bill is to be used for this purpose.

Mr. Chairman, this $4.8 million earmarking should not cause any hardship on the Coast Guard since under this bill they are slated for a $420 million increase over last year's fiscal year 1988 funding level. Also, this funding is to come from the Coast Guard's acquisition, construction and improvements account, which is partially funded by the Department of Defense, and which is slated for a $185 million increase over last year's level and a $104 million increase over the administration's request.

Also, I'd like to be clear that earmarking this money will in no way diminish the Coast Guard's drug enforcement effort since the bill already says that no less than $492 million will be available for that purpose. In fact, we believe it will enhance the Coast Guard's drug enforcement efforts since several of these stations have made drug seizures in the past.

And our amendment specifically says that no other Coast Guard station should be closed in lieu of these nine stations.

Mr. Chairman, this amendment is consistent with action already taken this year by the House since there is specific language in the fiscal year 1989 House-passed budget resolution stating that these Coast Guard cuts should be restored. And again, it doesn't in any way increase the appropriations level already in the bill.

I urge Members to support this amendment to ensure that these nine Coast Guard stations are reopened, and the lives of our constituents are protected.

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Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I join in supporting the gentleman in this amendment. In my State, which has one of the busiest waterways in Long Island Sound of any place in this Nation, we have already had a larger number of boating accidents with only a third of the summer over than we had in any year since 1983.

These services are vital for the health and safety of our citizens, of our industry, with a large commercial fishing fleet out of Stonington, and I join with the gentleman and others on this amendment and commend the committee for looking at it favorably, for this great legislation amendment which will help the Coast Guard that does so much in our district and across the Nation.

Mr. SHUMWAY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Chairman, I, too, want to thank the gentleman for offering this amendment.

Mr. Chairman, I rise in strong support of the amendment offered by my colleague, the gentleman from California.

This amendment is restoring an earmark and, therefore, doesn't require new funds to be appropriated. It is a needed measure to reopen very important Coast Guard rescue service stations in my district and several other districts, which were closed last February.

The Eastport, Maine Search and Rescue station, located along Maine's northern coast, is vital to the safety of the hundreds of fishermen, sailors and other operators who travel these waters. There is an important reason why we have this station located in Eastport: to save lives and ward off disaster. That's why the Coast Guard has maintained a presence in this area since the 1800's.

This area is heavily travelled by commercial and recreational boats, from multiton cargo ships to small-size lobster boats. Through typically rough seas, dense fog and high winds, boats travelling along Maine's rugged coastline need to be able to count on the Coast Guard as an insurance policy on their lives and property.

Without a Coast Guard facility in Eastport, a boater in distress will have to wait for Coast Guard services from Jonesport, which translates into a 4½ hour wait for rescue assistance. Reopening this station, in short, amounts to preventing needless tragedy.

Furthermore, the Coast Guard has acknowledged to me that the northern Maine coastline is the only area along the contiguous seacoast of the United States which cannot be reached by boat rescuers within 2 hours, their standard measure for rescue response time. We can't tolerate being an unnecessary exception to their own reasonable safety standards.

In addition, the Eastport station has given us vital support on our drug surveillance efforts along Maine's 3,600 mile coastline.

The rural coastline of Washington County offers an expansive opportunity for illegal drug operations. The closure of the Eastport station could remove a major obstacle to this type of illegal activity. We have been made aware of recent concerns by the U.S. Customs Service that this wide-open area of the coast could become the major battleground for drug interdiction. The closing of the Eastport station could not have come at a worse time in removing an important Federal presence in the war against drugs.

Mr. Chairman, Congress has already clearly indicated its specific support for reopening these stations in the fiscal 1989 budget resolution in addition to increased funding for Coast Guard operations. The Appropriations Committee, in its committee report, indicated that saving lives through search and rescue functions "is one of the Coast Guard's highest priorities."

Closing these stations may have been accomplished to get the attention of Congress on overall budgetary problems, but fishermen in my district who depend on this station with their lives don't like the games sometimes played inside the beltway to make a point. While I know full well the budgetary restraints under which we operate, those do not justify bad decisions. As a local Maine Coast Guard Commander stated about the Eastport closure, "you may have only one housefire a year, but it doesn't mean you get rid of the fire truck."

Closing the Eastport station and sending away its 10-member crew and 41-foot lifeboat is hardly worth the $327,000 saved by its closure and the loss of the assistance our citizens need and deserve.

Mr. Chairman, this is an important and fair amendment. I urge my colleagues to support its adoption to restore services to these vital Coast Guard stations.

Mr. SHUMWAY. Mr. Chairman, I yield such time as she my consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise in strong support of the amendment proposed by my colleagues, Mr. ECKART and Mr. SHUMWAY, to provide funding to reopen the Coast Guard stations closed because of the budget crisis being faced by the Coast Guard. The cutbacks in Coast Guard operations affect the safety of lives and property, most directly in the critical areas of search and rescue, environmental response, and drug interdiction.

This amendment provides that $4.8 million of the funds provided in this act for acquisition, construction and improvement be transferred to the operating expenses account for the purpose of reopening and maintaining the nine closed Coast Guard search and rescue stations. It also ensures that none of the funds will be used to close any other search and rescue station.

Between 1982 and 1986 the Coast Guard saved 525 lives and $123 million in property at these stations. The Coast Guard spent $3.8 million in Federal funding to operate these stations in fiscal year 1988. I believe this was money well spent. Congress has an obligation to balance the budget, however, the health and safety of individuals should take priority when making budget cuts.

In addition to the search and rescue functions these stations perform, they also assist the drug interdiction effort without tapping the funds appropriated specifically for Coast Guard drug interdiction. I would also point out that this amendment is consistent with the action the House took on the budget resolution when it expressed its view that these stations should not be closed.

As my California colleague, Mr. SHUMWAY has stated, one of the stations closed was at Lake Tahoe, which lies on the border of Nevada and California. It's important to reemphasize the Coast Guard station at Lake Tahoe is credited with having performed 220 search and rescue missions, saved 31 lives and saved approximately $414,000 in property.

These Coast Guard stations perform essential rescue missions. Eliminating the funding for these stations is very dangerous and puts in jeopardy the lives of thousands of people who frequent the nine sites at which these stations are located. Therefore, I urge my colleagues to take into consideration the seriousness of these closures and vote in favor of this amendment which seeks to protect the lives and safety of thousands of people.

Mr. SHUMWAY. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. Chairman, I rise to support the efforts of my colleagues and I want to commend them for bringing this most crucial issue before the House.

This amendment would resolve a problem that has dealt a devestating blow to residents of my district. Kauai, HI, was formerly the site of a Coast Guard station. And, Kauai, HI, as most of my colleagues know, is an island, surrounded on all sides by the vast Pacific Ocean.

A few months ago, in an effort to meet reductions in funding, the Coast Guard decided to close the Kauai station down.

Were Hawaii not located in the middle of the ocean, I would likely be standing here saying that we could learn to live without the station. But, Hawaii is in the middle of the Ocean, and the fact of the matter is that we can't live without it.

Kauai and its island community have come to depend heavily upon the services of the Coast Guard; the search and rescue facility at Nawiliwili, for over 20 years, provided crucial help for Kauai residents in times of emergency. Without the Coast Guard's presence on the island, boaters and fishermen must now wait 60 minutes for aircraft assistance, and at least 10 hours for patrol boat response in times of emergency. More time than any one of us would ever want to wait, I'm sure. This is simply unacceptable, and in my opinion compelling enough for us to do something about it.

In addition to hampering the search and rescue activities, the closing of the Kauai station has reduced other essential services to the community, including the investigation of drug trafficking, harbor pollution, assisting grounded boats, responding to marine mammal harassment, and educating the public on seamanship, radio communications, and navigation.

The importance of these services, in my opinion, far outweighs any savings the Coast Guard could possibly hope to achieve by closing the station. We're talking about services that will benefit not only the population of Hawaii, but services that will benefit the millions of visitors from across the United States and abroad who come to our shores every year.

This amendment, in restoring the funds needed to reopen the station, is a good amendment. And, I urge my colleagues to support it.

Mr. SHUMWAY. Mr. Chairman, I yield such time as he may consume to my colleague, the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I thank the gentleman for yielding time to me. I am in support of the amendment and in support of the bill with appreciation to the authors of the amendment and the chairman and ranking Member who have agreed to this, as I understand it.

Mr. Chairman, I rise in support of the Department of Transportation appropriations bill for fiscal year 1989 (H.R. 4794). First, I would like to take this opportunity to commend the chairman, Mr. LEHMAN; the ranking minority Member, Mr. COUGHLIN; and the staff for the excellent job they have done in crafting this balanced bill.

H.R. 4794 appropriates $10.8 billion in fiscal year 1989 for the Department of Transportation and related agencies. Within the Transportation Department, the measure provides funding for the Coast Guard, Federal Aviation Adminstration [FAA], Federal Highway Administration [FHA], Federal Railroad Administration [FRA] and the Urban Mass Transportation Administration [UMTA].

As in previous years, this measure provides large increases in mass transit programs and Amtrak. The bill appropriates $2.1 billion for mass transit programs, for which the administration requested no moneys. H.R. 4794 also provides $590 million for Amtrak operating and capital expenses for which the administration requested no funds. I fully support the Appropriations Committee's funding of those two vital areas as mass transit is one viable solution to our growing transportation problems.

I would like to highlight a few programs of concern to the citizens of California. First, the bill appropriates $5.1 billion for the FAA in fiscal year 1989 and it authorizes the release of $1.5 billion from the Airport and Airways Trust Fund for airport development and planning grants—providing a total of $6.6 billion for the FAA in fiscal year 1989. This total is $882 million more than the fiscal year 1988 level and $176 million more than the administration request. Within the bill's $3.4 billion appropriation for FAA operations, $1.5 billion is for operation of the air traffic control system—$122 million more than the fiscal year 1988 level and $1.5 million more than the administration request. The measure provides funding for 27,277 positions for operation of the air traffic control system, 192 more positions than requested by the administration and 1,057 positions more than fiscal year 1988.

A second program I strongly support in this bill is the Offshore Oil Pollution Compensation Fund. H.R. 4794 provides $57 million for compensation for damages, including cleanup resulting from oil pollution associated with activity on the Outer Continental Shelf.

Another issue of concern to California is funding for the Coast Guard. With over 1,000 miles of coast line, California residents are very reliant on the Coast Guard's search and rescue activities. H.R. 4794 appropriates $2.6 billion for the Coast Guard in fiscal year 1988, $127 million more than the fiscal year 1988 level. In addition to the funds in this bill for the Coast Guard, the Defense appropriations bill slated $410 million for procurement and operations and maintenance to support Coast Guard activities. H.R. 4794 includes language requiring that at least $492 million of the funds provided for operating expenses be used for drug interdiction activities.

At this time, I would like to express my support for the Shumway-Eckart-Schneider amendment to this bill. The amendment which has been accepted by Chairman LEHMAN and the ranking minority member, Mr. COUGHLIN would appropriate $4.8 million to reopen the following nine Coast Guard stations which were closed in February of this year due to budget cuts:

Mare Island, CA; Lake Tahoe, CA; Eastport, ME; Block Island, RI; Shark River, NJ; Ashtabula, OH; North Superior, MN; Kennewich, WA; and Kauai, HI.

As many of my constituents live in Vallejo, the closing of the Mare Island station created an enourmous hardship on the boaters. Also, there is little doubt that the Rio Vista and San Francisco Coast Guard stations which now share the Mare Island territory, have been strained to meet the needs of the closed station. Currently, many of the boaters have to wait 1½ to 2 hours for assistance. The Solano County sheriff's department boat patrol recently stated that since the closing of the station, their workload has increased by 150 percent. Last year, the Mare Island station was credited with saving the lives of 15 people and assisting 772 others. The station also prevented a loss of over $1 million in property. Adoption of this amendment, Mr. Chairman, will help keep the lives of innocent boaters, fishermen, and tourists out of jeopardy. Again, I greatly appreciate the chairman's and ranking minority member's willingness to accept this amendment.

I strongly urge my colleagues to support the Department of Transportation appropriations for fiscal year 1989.

Mr. SHUMWAY. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, as chairman of the Coast Guard Subcommittee, it was, of course, not my desire that these stations be closed in the first place, but the gentleman is aware that the Coast Guard in the fiscal year that we are in has a $103 million shortfall which would have been even more had we not received $127 million from Defense.

I hope that the gentleman is aware, and I believe that he and others will help us to get proper funding for the Coast Guard. I would agree with the chairman, and I appreciate the work of my chairman here, the chairman of this subcommittee, Appropriations, for the work that he has done in trying to get proper funding this year.

Unfortunately $140 million of it comes from Defense, and we did all right in the House Defense appropriations bill, but we do not know what the other body is going to do, and the conference on the Defense authorization bill has already trimmed from $475 million down to $300 million and specified that this money will be used by the DOD as the lead agency in surveillance.

What I am saying to the gentleman and all those here tonight is that we are going to have to come up with some funding somehow. If we do not get it from Defense, we are going to have to get it somewhere, if we keep these stations, or if we avoid closing other stations, and I just want to make the gentleman aware of that.

Mr. SHUMWAY. Mr. Chairman, I appreciate the gentleman's comment. We have discussed this, and I have told the chairman of the Coast Guard Subcommittee that, indeed, I will support his efforts to procure that necessary funding for the Coast Guard and, indeed, I will be happy to participate in that.

Mr. Chairman, I yield such time as he may consume to the cosponsor of this amendment, the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman, I thank my colleague, the gentleman from California [Mr. SHUMWAY], for yielding.

Mr. Chairman, first of all, I would like to thank him and the gentlewoman from Rhode Island [Miss SCHNEIDER], who have been so extremely helpful, and our staffs, Larry and Phyllis, who perhaps have devoted more time on this than others, and special thanks to Messrs. HUTTO, DAVIS, LEHMAN, and COUGHLIN for their tolerance, their forgiveness, their forbearance on these matters, which is going to make life treacherous for our constituents who have been exposed to some treacherous conditions. I would extend to the gentleman from California [Mr. SHUMWAY] a special thanks, and hopefully we can get our subcommittee chairman to accept this amendment.

Mr. SHUMWAY. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, because the Department of Defense appropriations bill that the House passed last week contains $410 million for not only operating expenses, but for equipment and procurement, I do not at this time oppose this amendment.

However, we have heard all of these voices of gloom and doom. I would like to point out that as my colleague, the gentleman from Florida [Mr. HUTTO], said that if the Coast Guard funding now contained in the DOD appropriations bill is reduced, I will have to reassess the position that I am taking now about providing the funds for the continued operation of these stations. I hope this will not happen. I would be less than responsible if I did not mention this early warning a signal along with the lack of my opposition to this amendment.

Mr. SHUMWAY. Mr. Chairman, I share those conclusions. I think that we still have a great deal of work to do, and I would be very happy to work with the chairman in achieving some of those results.

Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, I just want to second what the chairman has said. We certainly support what the gentleman has done, and I think we are in a position to do this at this time. I hope that we will still be in a position, looking down the line, to be able to continue it.

Mr. SHUMWAY. Mr. Chairman, I would like to thank both gentlemen, the chairman and the ranking minority member, for their support of this amendment. Once again, certainly, I stand ready to work with them in securing the necessary funding so that this amendment as well as the entire mission of the Coast Guard might go as we desire it to go.

Mr. Chairman, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Chairman, today I rise in strong support of the Shumway-Eckart-Schneider amendment of H.R. 4794, the Department of Transportation appropriations bill for fiscal year 1989.

This amendment would redirect $4.8 million of the $3 billion appropriated for the Coast Guard for fiscal year 1989. These moneys would be used to reopen nine search and rescue stations closed earlier this year. One of those stations is located in Ashtabula, OH. This amendment requires no additional appropriation.

One of the highest priorities of the Coast Guard is to save lives through its search and rescue and boat safety functions. This amendment is essential if the Coast Guard is to maintain these essential life saving services in spite of the severe budgetary constraints.

These stations also have served an important role in our Nation's drug interdiction effort and the permanent closing of these facilities could increase drug smuggling in these areas. The cost of saving lives and reducing the flow of illegal drugs is certainly a wise investment for our Nation.

I applaud the sponsors of this amendment for their efforts and urge my colleagues to support its enactment.

Mr. PORTER. Mr. Chairman, I rise in strong support of the amendment offered by my colleagues Representatives SHUMWAY, ECKART, and SCHNEIDER. I would also like to commend Chairman BILL LEHMAN, our ranking member LARRY COUGHLIN and the other members of the Transportation Subcommittee for crafting a bill that fairly balances many important interests and which deserves the support of all Members.

This amendment, Mr. Chairman, makes clear that the Appropriations Committee and the House strongly support the Coast Guard and do not believe that its vital lifesaving functions should be curtailed. By agreeing to this amendment, the House sends perhaps its strongest message on the importance we attach to the Coast Guard's lifesaving services. The amendment transfers $4.8 million from the Coast Guard's acquisition, construction, and improvements account to the Operating Expenses account to reopen and maintain nine search and rescue stations that were closed earlier this year. In addition, and more importantly, the amendment includes the following language: "None of the funds provided in this Act shall be available for the closing of, or reduction in forces with respect to, any Coast Guard facility or installation." This language unequivocally asserts that the House of Representatives does not want search and rescue stations which save hundreds of lives a year to close—any of them. It also culminates a long line of legislative actions that represent the House's sentiment regarding these facilities.

In February of this year, Admiral Yost announced that due to a shortfall in his budget he would have to close over 30 Coast Guard installations, including a number of search and rescue stations whose mission includes essential lifesaving services. While sympathizing with the budgetary constraints placed upon the Coast Guard, many of us believed that closing stations which save lives was improper. Although the Chicago helicopter rescue station was not closed, Admiral Yost has indicated that its fate would be determined by congressional action on the agency's fiscal year 1988 reprogramming request and fiscal year 1989 budget.

The Transportation Subcommittee has reported a $60 million reprogramming requested by the Coast Guard. I worked for this reprogramming at the subcommittee levels and strongly support its enactment. While the full Appropriations Committee has not yet considered the overall supplemental, Chairman WHITTEN has indicated that positive action is expected soon.

In addition, the subcommittee has included my report language which reasserts the committee's position that lifesaving services represent one of the Coast Guard's highest priorities and should not be adversely affected by budgetary constraints.

In 1987, Coast Guard lifesaving services saved in excess of 6,500 lives. The Committee believes that one of the Coast Guard's highest priorities is to save lives through its search and rescue and boat safety functions. The Committee believes that these lifesaving services should not be adversely affected by budgetary constraints.

For fiscal year 1989, the House Transportation funding bill provides $2.03 billion for the Coast Guard's Operating Expenses account. This appropriation historically accounts for about 70 percent of the Coast Guard's total budget and is used for the operation and maintenance of lifesaving search and rescue stations. When combined with the $60 million Navy transfer included in the Defense appropriations bill that we passed in the House last week, the amount allocated for operating expenses falls just $10 million below the service's request, and $201 million above the fiscal year 1988 level.

This level of funding will enable Admiral Yost to maintain the Coast Guard's essential helicopter air rescue stations throughout the United States, including Air Station Chicago, which, over the last 7 years, has saved over 150 lives.

I would like, however, to take this opportunity to voice my concern over the way in which we continue to fund the Coast Guard. Over the last 8 years, a total of $1.4 billion in Coast Guard funding has been provided, not in this bill, but instead as part of the Defense appropriations measure. Most of these Defense moneys have been for acquisition, construction, and improvements. The problem, of course, is that in 4 of those 8 years the moneys to operate the new boats, planes, and helicopters were cut.

This year, a total of $410 million was included in the House's Defense appropriation measure; $350 million of that money is for purchasing new equipment. By funding the Coast Guard through two different functions in the budget we risk letting the service get caught in the switch at the end of the year.

Specifically, my concern is that if, in October, after the Transportation Subcommittee's conference closes, there is no guarantee that the Defense conference will include the money it was assumed they would provide. Without the $350 million included in the House Defense bill for Coast Guard procurement, the Transportation Committee's level will only provide $102 million, $246 million less than the fiscal year 1988 level.

If that happened, the Coast Guard would be forced to dip into its operating account, thus diminishing the good work the Transportation Subcommittee has done in that area. I think Chairman LEHMAN would agree with me that it would be more prudent to provide all Coast Guard funding in one bill. Only then could we ensure coordinated funding levels and a responsible acquisition policy.

Within the current appropriations practices, however, I certainly commend the chairman and his subcommittee for their actions this year in supporting the Coast Guard. If this amendment is agreed to we will take another important step to ensure that the Coast Guard continues to provide the country with essential lifesaving services.

The **CHAIRMAN.** Is there any Member who wishes to speak in opposition to this amendment?

If not, the question is on the amendment offered by the gentleman from California [Mr. SHUMWAY].

The amendment was agreed to.

The **CHAIRMAN.** The Clerk will read.

The Clerk read as follows:

ALTERATION OF BRIDGES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for alteration or removal of obstructive bridges, $8,500,000, together with $6,000,000 to be derived from "Acquisition, construction, and improvements", to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C., ch. 55), $410,800,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $66,650,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $18,800,000, to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

OFFSHORE OIL POLLUTION COMPENSATION FUND

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations in such amounts and at such times as may be necessary to the extent that appropriations are not adequate to meet the obligations of the Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $57,000,000 in fiscal year 1989 for the "Offshore Oil Pollution Compensation Fund".

DEEPWATER PORT LIABILITY FUND

The Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations in such amounts and at such times as may be necessary to the extent that available appropriations are not adequate to meet the obligations of the Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $47,500,000 in fiscal year 1989 for the "Deepwater Port Liability Fund".

BOAT SAFETY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred for recreational boating safety assistance under Public Law 92-75, as amended, $30,000,000, to be derived from the Boat Safety Account and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $30,000,000 in fiscal year 1989 for recreational boating safety assistance.

FEDERAL AVIATION ADMINISTRATION

HEADQUARTERS ADMINISTRATION

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Federal Aviation Administration, including but not limited to accounting, budgeting, legal, public affairs, and executive direction services for the Federal Aviation Administration, $36,460,000.

OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, purchase of four passenger motor vehicles for replacement only, $3,400,000,000, of which $1,050,000,000 shall be derived from the Airport and Airway Trust Fund: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities: *Provided further,* That none of these funds shall be available for new applicants for the second career training program or for a pilot test of contractor maintenance: *Provided further,* That the immediately preceding proviso shall not prohibit the augmentation of the existing field maintenance work force if it is determined to be essential for the safe operation of the air traffic control system: *Provided further,* That section 5532(f)(2) of title V, United States Code, is amended by striking "December 31, 1988" and inserting "December 31, 1989" in lieu thereof: *Provided further,* That section 8344(h) of title V, United States Code, is amended by striking "December 31, 1986" in paragraph (2) and inserting "December 31, 1987" in lieu thereof: *Provided further,* That in the event that the Federal Aviation Administrator employs annuitants subject to section 8344(h) of title V, United States Code, not to exceed $10,000,000, to be derived from the unobligated balance of any appropriation available for obligation by the Federal Aviation Administration as of the effective date of this Act, shall be available through December 31, 1989, for the purpose of funding such employment: *Provided further,* That any such funding shall be reported to the Committees on Appropriations of the Senate and the House of Representatives.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1993, $1,486,000,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, $160,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING RESCISSION)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $1,160,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,530,000,000 in fiscal year 1989 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982, as amended: *Provided further,* That $220,000,000 of unobligated contract authority available for airport development and planning pursuant to section 505(a) of the Airport and Airway Improvement Act of 1982, as amended, is rescinded: *Provided further,* That no funds appropriated in this paragraph shall be available to the Massachusetts Port Authority until the United States District Court for the District of Massachusetts, in Dockets 88-0891-MA and 88-0873-MA, and the Department of Transportation, in FAA Dockets 13-88-2, 13-88-3, and 13-88-4, have determined that the landing fee structure adopted by the Massachusetts Port Authority on March 16, 1988, for Logan International Airport does not violate the Federal Aviation Act of 1958, as amended, 49 U.S.C. Sec. 1301 et seq. and the Airport and Airway Improvement Act of 1982, 49 U.S.C. Sec. 2201 et seq.

POINT OF ORDER

Mr. KENNEDY. Mr. Chairman, I make a point of order against the language in the paragraph "Grants-in-Aid for Airports," which begins on line 21 with the words "Provided further" and continues through line 7 of the following page.

This language constitutes legislation on an appropriations bill and, therefore, is in violation of rule XXI, clause 2 of the House rules. This sentence is not protected by the rule and, therefore, is subject to a point of order.

Mr. Chairman, this provision prohibits funds appropriated under the "airport grant-in-aid program" from being awarded to the Massachusetts Port Authority until the U.S. District Court and the Department of Transportation both have determined that the landing fee structured recently adopted for Boston's Logan Airport does not violate certain statutes.

Although any limitation on appropriations places some minimal duties of Federal officials, under the House rules, an amendment or language in an appropriations bill may not impose duties not required by existing law or make the appropriation contingent upon the performance of such duties.

The language I have described specifically imposes a duty on a Federal official at the Department of Transportation to make a determination not otherwise required by law. The provision expressly conditions the availability of funds on an interpretation of law by the Department of Transportation. That condition is legislation and is clearly beyond the scope of an appropriations bill.

The provision further conditions the appropriation on a decision of the U.S. District Court. There is no requirement in existing law for any court to review the legality of landing fee structures. That is a new condition, created in this bill, which depends entirely on the resolution of a private lawsuit.

Moreover, under the language in the bill, a Federal official would have to review the decisions of the court and determine whether and to what extent the court has ruled that the landing fee structure violates the Federal statutes at issue. That judgment is yet another improper discretionary responsibility that would be imposed upon a Federal official as prior condition to the use of appropriated funds.

Mr. Chairman, I urge that my point of order be sustained.

Mr. CARR. Mr. Chairman, I would like to be heard in opposition to the point of order.

Mr. Chairman, this portion of the bill does not violate rule XXI.

The language in question is in the nature of a limitation. The limitation does not impose any new authorized duties on the Secretary or any other Federal official. The proceedings referenced in the section, those before the U.S. District Court in Massachusetts and the Department of Transportation were begun prior to consideration of this bill and will be concluded quite irrespective of any provision in this bill. Thus, no new duties or determinations are required by the provision.

Rather, the clear precedent is that the House may specify in an appropriation bill that no part of the appropriation shall go to recipients lacking certain qualifications. In this case, the recipient is the Massachusetts Port Authority and the qualification is that their landing fee schedule be deemed legal in accordance with Public Law 97-248 under the method granted to the Secretary of Transportation by law to conduct investigations and make determinations. The Secretary has undertaken such an investigation, not at our direction already authorized by law, to determine the legality of the Massport pace program.

The language does not make any funds for the agency contingent on any substantive action they or anyone else takes and does not require them to furnish any further information or justification to Congress as to their actions. Again, the question before us is the question of the qualifications of a recipient of funds.

The contingency is only procedural—it is the event itself, by itself—not the substantive decision made that is material here.

I urge that this Point of Order not be sustained.

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The CHAIRMAN. Does the gentleman from Massachusetts [Mr. KENNEDY] wish to respond any further?

Mr. KENNEDY. No, sir.

The CHAIRMAN (Mr. PANETTA). If not, the Chair is prepared to rule.

The provision to which the point of order has been made makes it contingent that no funds would be appropriated for the Massachusetts Port Authority until the U.S. District Court for the District of Massachusetts and the Department of Transportation have determined that the landing fee structure adopted by Massachusetts Port Authority for the Logan International Airport does not violate the Federal Aviation Act of 1958. In other words, a certain determination has to be made by the court and the Department of Transportation.

Under Deschler's Precedents, chapter 26, section 47.2, I quote:

> An amendment to a supplemental appropriation bill making the payment of certain contractual obligations of the United States contingent upon the adoption of a compromise agreement or upon litigation resolving the dispute was held to impose a condition on disbursement of funds not required by existing law and was ruled out on a point of order.

Based on the precedent and the stated condition, the Chair finds that this is a violation of clause 2, rule XXI and, therefore, sustains the point of order.

The Clerk will read.

The Clerk read as follows:

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). None of the funds in this Act shall be available for the implementation or execution of programs under this head the obligations for which are in excess of $50,000,000 during fiscal year 1989. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

Mr. LEHMAN of Florida. Mr. Chairman, I ask unanimous consent that the remainder of title I be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The text of the remainder of title I is as follows:

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed $216,000,000, shall be paid in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided,* That not to exceed $32,077,000 of the amount provided herein shall remain available until expended: *Provided further,* That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities, and private sources, for training expenses incurred for non-Federal employees.

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT (HIGHWAY TRUST FUND)

For necessary expenses in carrying out the provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $6,080,000.

HIGHWAY-RELATED SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $10,000,000, to be derived from the Highway Trust Fund: *Provided,* That not to exceed $100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $10,000,000 in fiscal year 1989 for "Highway-related safety grants".

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $7,560,000, of which $5,040,000 shall be derived from the Highway Trust Fund.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $12,380,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1989.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $12,700,000,000, or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

During fiscal year 1989 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $46,000,000.

MOTOR CARRIER SAFETY

For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of Transportation Act (80 Stat. 939-940), $25,000,000, of which $1,920,000 shall remain available until expended.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97-424, $50,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,000,000 for "Motor carrier safety grants".

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

Notwithstanding any other provision of law, there is appropriated $450,000 for necessary expenses of certain access highway projects, as authorized by section 155, title 23, United States Code, to remain available until expended.

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970 for the Baltimore-Washington Parkway, to remain available until expended, $12,825,000, to be derived from the Highway Trust Fund and to be withdrawn therefrom at such times and in such amounts as may be necessary.

INTERMODAL URBAN DEMONSTRATION PROJECT (HIGHWAY TRUST FUND)

For necessary expenses to carry out the provisions of section 124 of the Federal-Aid Highway Amendments of 1974, $8,550,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

For necessary expenses to carry out construction projects as authorized by Public Law 99-500 and Public Law 99-591, $8,550,000, to be derived from the Highway Trust Fund and to remain available until expended.

AIRPORT ACCESS DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses to carry out a demonstration project in the vicinity of the Ontario International Airport in San Bernardino County, California, for the purpose of demonstrating methods of improving highway access to an airport that is projected to incur a substantial increase in air service, $2,565,000, to remain available until expended and to be derived from the Highway Trust Fund.

Highway Safety Improvement Demonstration Project

(Highway Trust Fund)

For the purpose of carrying out a coordinated project of highway improvements in the vicinity of Pontiac and East Lansing, Michigan, that demonstrates methods of enhancing safety and promoting economic development through widening and resurfacing of highways on the Federal-aid primary system and on roads on the Federal-aid urban system, as authorized by Public Law 99-500 and Public Law 99-591, $1,260,000, to be derived from the Highway Trust Fund and to remain available until expended.

Highway-Railroad Grade Crossing Safety Demonstration Project

(Highway Trust Fund)

For the purpose of carrying out a coordinated project of highway-railroad grade crossing separations in Mineola, New York, that demonstrates methods of enhancing highway-railroad crossing safety while minimizing surrounding environmental effects, as authorized by Public Law 99-500 and Public Law 99-591, $8,100,000, to be derived from the Highway Trust Fund and to remain available until expended.

Nuclear Waste Transportation Safety Demonstration Project

(Highway Trust Fund)

For necessary expenses for a project to construct a relief route in the Los Alamos-Santa Fe, New Mexico corridor that demonstrates methods of improving the safety of transporting nuclear waste by constructing an alternate route with specific safety features, $7,200,000, to be derived from the Highway Trust Fund and to remain available until expended.

Highway Widening Demonstration Project

For necessary expenses to carry out a demonstration project to improve U.S. Route 202 in the vicinity of King of Prussia, Pennsylvania, as authorized by Public Law 100-202, $1,800,000, to remain available until expended.

Bridge Improvement Demonstration Project

For 80 percent of the expenses necessary to carry out a highway project in the vicinity of Jacksonville, Florida, for the purpose of demonstrating methods of reducing traffic congestion and improving efficiency in the trans-shipment of military and civilian cargo by construction of a bridge to Blount Island, widening State Highway 105 (Heckscher Drive) and constructing an interchange at the intersection of Heckscher Drive and the new Blount Island Bridge, $8,550,000, to remain available until expended.

Highway Widening and Improvement Demonstration Project

For 80 percent of the expenses necessary to carry out a highway project between Paintsville and Prestonsburg, Kentucky, that demonstrates the safety and economic benefits of widening and improving highways in mountainous areas, $8,100,000, to remain available until expended.

Intersection Safety Demonstration Project

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for the reconstruction of an intersection at Aviation Boulevard and Rosecrans Avenue to include the completion of Douglas Street in the vicinity of El Segundo, California, for the purpose of demonstrating methods of improved highway and highway safety construction, $900,000, to remain available until expended.

Highway Capacity Improvement Demonstration Project

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for U.S. Route 231 between U.S. Route 90 and the City of Campbellton in Jackson County, Florida, for the purpose of demonstrating methods of expanding a two-lane segment of a U.S. highway to four lanes, $900,000, to remain available until expended.

Climbing Lane Safety Demonstration Project

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for U.S. Route 15 in the vicinity of Tioga County, Pennsylvania, for the purpose of demonstrating methods of improved highway and highway safety construction, $450,000, to remain available until expended.

Indiana Industrial Corridor Safety Demonstration Project

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for an improved route between Wabash and Huntington, Indiana, for the purpose of demonstrating the safety and economic benefits of widening and improving rural highways, $1,125,000, to remain available until expended.

Utah Pedestrian Safety Demonstration Project

Of the funds made available to the State of Utah by section 149 of Public Law 100-17, to remain available until expended, $1,000,000 shall be available only to carry out preliminary engineering, environmental studies, and right-of-way acquisition to widen 8400 West in Magna, Utah, for the purpose of demonstrating methods of improved highway and highway safety construction.

Oklahoma Highway Widening Demonstration Project

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to widen Oklahoma State Route 53 from Interstate Highway 35 east to the entrance of the Ardmore Regional Industrial Airpark for the purpose of demonstrating methods of improved highway and highway safety construction, $450,000, to remain available until expended.

Alabama Highway Bypass Demonstration Project

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for a highway bypass project in the vicinity of Jasper, Alabama, for the purpose of demonstrating methods of improved highway and highway safety construction, $3,600,000, to remain available until expended.

Kentucky Bridge Demonstration Project

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to replace the Glover Cary Bridge in Owensboro, Kentucky, for the purpose of demonstrating methods of improved highway and highway safety construction, $3,600,000, to remain available until expended.

Virginia HOV Safety Demonstration Project

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to construct High Occupancy Vehicle lanes on Interstate Route 66 between Interstate Route 495 and U.S. Route 50 for the purpose of demonstrating methods of increasing highway capacity and safety by the use of highway shoulders to construct HOV lanes, $540,000, to remain available until expended.

Expressway Safety Improvement Demonstration Project

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to improve an interstate highway between Lake Success and Medford, New York, that demonstrates methods of enhancing safety and reducing motor vehicle congestion through widening, $2,610,000, to remain available until expended.

Urban Highway Corridor Demonstration Project

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to improve and upgrade the M-59 urban highway corridor in southeast Michigan, $225,000, to remain available until expended, for the purpose of demonstrating methods of improving congested urban corridors that have been neglected during construction of the Interstate system.

Urban Airport Access Safety Demonstration Project

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to improve and upgrade access to Detroit Metropolitan Airport in southeast Michigan, $225,000, to remain available until expended, for the purpose of demonstrating methods of improving access to major urban airports.

Alabama Feasibility Study

For expenses necessary to carry out the Alabama Feasibility Study as authorized by section 350 of the Department of Transportation and Related Agencies Appropriations Act, 1988, Public Law 100-202, as amended, $675,000, to remain available until expended: *Provided,* That section 350(b) of such Act is amended by adding the following new sentence: "Such study shall include environmental assessment, economic analysis, and engineering.": *Provided further,* That section 350(d) of such Act is amended by striking out "1 year" and inserting in lieu thereof "2 years".

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Operations and Research

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended) and the National Traffic and Motor Vehicle Safety Act, $69,049,000, of which $33,322,000 shall remain available until expended: *Provided,* That of the funds available under this head, $3,000,000 shall be available to implement the recommendations of the 1985 National Academy of Sciences report on trauma research.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under chapter 4, title 23, United States Code, to be derived from the Highway Trust Fund, $30,751,000, to remain available until expended: *Provided*, That, of the funds available under this head, $2,780,000 shall be available for light truck and van safety research and analysis.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 402, 406, and 408, and section 209 of Public Law 95-599, as amended, to remain available until expended, $130,500,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $115,000,000 in fiscal year 1989 for "State and community highway safety grants" authorized under 23 U.S.C. 402: *Provided further*, That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $10,000,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: *Provided further*, That not to exceed $4,900,000 shall be available for administering the provisions of 23 U.S.C. 402: *Provided further*, That notwithstanding any other provision of law, none of the funds in this Act shall be available for the planning or execution of programs authorized under section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of $4,750,000 in fiscal years 1982 through 1989.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $14,975,000, of which $1,075,000 shall remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $27,825,000, of which $1,140,000 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $9,750,000, to remain available until expended.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and the Rail Safety Improvement Act of 1988, $15,000,000, to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, $590,000,000: *Provided*, That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further*, That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1989: *Provided further*, That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements prohibited by this Act or not expressly provided for in an appropriations Act shall be deemed a violation of 31 U.S.C. 1341: *Provided further*, That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): *Provided further*, That none of the funds in this or any other Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Federal sources: *Provided further*, That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum of the short-term avoidable costs of operating such service in the first year of operation and 100 per centum of the short term avoidable operating costs for each year thereafter: *Provided further*, That none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Amtrak sources.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That no new loan guarantee commitments shall be made during fiscal year 1989: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Transportation shall sell securities or promissory notes with a principal value of at least $99,000,000 that are held by the Department of Transportation under authority of sections 502, 505-507, 509, and 511-513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, by no later than September 30, 1989: *Provided further*, That such securities or promissory notes authorized to be sold in the immediately preceding proviso shall be sold only for amounts greater than or equal to the net present value to the Government of each loan as determined by the Secretary of Transportation in consultation with the Secretary of the Treasury: *Provided further*, That the Secretary of Transportation shall transmit a written certification to the Committees on Appropriations of the Senate and House of Representatives before the consummation of each sale certifying that the amount to be realized is equal to or greater than the net present value to the Government of each loan: *Provided further*, That, notwithstanding any other provision of law, for fiscal year 1989 and each fiscal year thereafter all amounts realized from the sale of notes or securities sold under authority of this section shall be considered as current year domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That any underwriting fees and related expenses shall be derived solely from the proceeds of the sales.

CONRAIL COMMUTER TRANSITION ASSISTANCE

For necessary capital expenses of Conrail commuter transition assistance, not otherwise provided for, $4,500,000, to remain available until expended.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $32,100,000.

RESEARCH, TRAINING, AND HUMAN RESOURCES

For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $10,000,000: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for training.

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $1,731,703,000, together with $4,750,000 to carry out the provisions of section 18(h) of the Urban Mass

Transportation Act of 1964, as amended, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, of the funds provided under this Act for formula grants, no more than $804,691,892 may be used for operating assistance under section 9(k)(2) of the Urban Mass Transportation Act of 1964, as amended.

Discretionary Grants

(Limitation on Obligations)

(Highway Trust Fund)

None of the funds in this Act shall be available for the implementation or execution of programs in excess of $1,140,000,000 in fiscal year 1989 for grants under the contract authority authorized in section 21(a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

Mass Transit Capital Fund

(Liquidation of Contract Authorization)

(Highway Trust Fund)

For payment of obligations incurred in carrying out section 21(a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, $400,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

Interstate Transfer Grants—Transit

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $180,000,000, to remain available until expended.

Washington Metro

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, $180,500,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

Operations and Maintenance

(Harbor Maintenance Trust Fund)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $11,360,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Research and Special Programs

For expenses necessary to discharge the functions of the Research and Special Programs Administration, and for expenses for conducting research and development, $14,650,000, of which $1,650,000 shall remain available until expended: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training and for aviation information management.

Pipeline Safety

(Pipeline Safety Fund)

For expenses necessary to conduct the functions of the pipeline safety program and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, $9,180,000, to be derived from the Pipeline Safety Fund, of which $5,025,000 shall remain available until expended.

OFFICE OF THE INSPECTOR GENERAL

Salaries and Expenses

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $29,000,000.

The CHAIRMAN. Are there any points of order against that section?

POINTS OF ORDER

Mr. BALLENGER. Mr. Chairman, I make a point of order against the paragraph entitled "Access Highways to Public Recreation Areas on Certain Lakes" on page 18, lines 3 through 8 of H.R. 4794 on the grounds that such paragraph violates clause 2 of rule XXI of the Rules of the House of Representatives. It constitutes both legislation on a general appropriations bill and an unauthorized appropriation.

The CHAIRMAN (Mr. Panetta). Does any other Member wish to be heard on this point of order?

If not, the Chair finds that the paragraph is unauthorized and the point of order is sustained.

Are there any other points of order at this time?

Mr. BALLENGER. Mr. Chairman, I make a point of order against the paragraph entitled "Oklahoma Highway Widening Demonstration Project" on page 23, lines 17 through 25 of H.R. 4794 on the grounds that such paragraph violates clause 2 of rule XXI of the Rules of the House of Representatives. It is an unauthorized appropriation.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Oklahoma wish to respond to the point of order?

Mr. WATKINS. Mr. Chairman, I would like to plead for mercy.

The CHAIRMAN. The gentleman from Oklahoma is recognized for that purpose.

Mr. WATKINS. Mr. Chairman, I discussed this with the Rules Committee, and by accident they dropped this one. I know they have done some selection.

I would like to appeal to my friend to not make a point of order against this. I know he is a man of good heart and deeds, and knows that this is a very needed project in my area or I would not be here at 20 to 9 tonight missing my meal with my family, and I would appreciate it if the gentleman would withdraw.

Mr. BALLENGER. There is really nothing personal in this. I am just following my orders.

Mr. WATKINS. I am indicating to the gentleman a real need there. I do not know who is ordering the gentleman, but I would like to plead that he go back with passion and say the fellow really needed some help there, and he is here trying to make a project work in his area, and the Rules Committee said it was just an oversight, that they would have left it. As the gentleman well knows, there are some selections there, and all I would ask my good friend, I would appreciate it if he would withdraw this one.

Mr. BALLENGER. Mr. Chairman, it seems to me that a compromise was offered to the gentleman in the way of an amendment, and I do not know whether he was willing to accept that or not.

Mr. WATKINS. One was discussed, and I did want to make my appeal tonight to attempt to try to see if with understanding and passion and concern and sympathy I would prevail tonight, because this is a project that is very much needed.

Mr. BALLENGER. I can understand the gentleman's problem, but this is not the only point of order that is going to be brought up. I do not think it would be fair.

Mr. WATKINS. I am not asking about the others; I am just asking about this one.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. MRAZEK. Mr. Chairman, this gentleman would like to offer my project as a substitute for my dear friend from Oklahoma, because I am well aware of the importance of this particular project to that district.

The CHAIRMAN (Mr. Panetta). The gentleman from New York is out of order.

If there are no other Members who wish to speak to the point of order, the Chair is prepared to rule.

The Chair finds that this is an unauthorized project and, therefore, sustains the point of order.

Are there any other points of order against this title of the bill?

Mr. INHOFE. Mr. Chairman. I make a point of order against the paragraph entitled "Expressway Safety Improvement Demonstration Project" on page 25, lines 1 through 9 of H.R. 4794 on the grounds that such paragraph violates clause 2 of rule XXI of the Rules of the House of Representatives. It is not an authorized appropriation.

The CHAIRMAN. Does any Member wish to be heard in response to the point of order?

Mr. MRAZEK. Mr. Chairman, I do not expect any mercy from my distinguished colleague over there, and I do not want any mercy. We are coming back with this project because the Long Island Expressway is the biggest parking lot in the world, and this project whose time has come, and if the Public Works and Transportation Committee could produce an authorizing bill in a timely fashion, I do not think we would have some of the problems that we have to deal with in this body, and I want to thank the gentleman very much for that point of order striking out the project.

The CHAIRMAN. Is there any other Member who wishes to be heard on the point of order?

Mr. JENKINS. Mr. Chairman, as I understand the parliamentary situation the three points of order have been sustained?

The CHAIRMAN. Two points of order have been sustained so far, and we are moving toward the third.

Mr. JENKINS. As I understand it, the point of order as to page 18, Access Highways to Public Recreation Areas on Certain Lakes has been reached?

The CHAIRMAN. The gentleman is correct.

Mr. JENKINS. Mr. Chairman, at the appropriate time after the sustaining of these points of order, I wish to be recognized.

The CHAIRMAN. The gentleman from Georgia wishes to strike the last word at some point?

Mr. JENKINS. Yes, Mr. Chairman, if I could.

The CHAIRMAN (Mr. PANETTA). The Chair is prepared to rule on the last point of order.

Again, this is a project that is not authorized and, therefore, the Chair sustains the point of order.

Are there any other points of order?

Mr. INHOFE. Mr. Chairman, I have another point of order and for the same reason.

To protect the integrity of the Public Works and Transportation Committee and the system in the House, I make a point of order against the paragraph entitled "Alabama Feasibility Study" on page 26, lines 1 through 11 of H.R. 4794 on the grounds that such paragraph violates clause 2 of rule XXI of the Rules of the House of Representatives. It is not an authorized appropriation.

The CHAIRMAN (Mr. PANETTA). Does any Member wish to be heard in response to the point of order?

If not, the Chair sustains the point of order on the basis that it is an unauthorized project.

AMENDMENT OFFERED BY MR. JENKINS

Mr. JENKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JENKINS: Page 18, after line 2, add the following new paragraph:

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

Notwithstanding any other provision of law, there is appropriated $450,000 for necessary expenses of certain access highway projects, as authorized by section 155, title 23, United States Code, to remain available until expended, provided such appropriation shall be available only to the extent authorized by law after the date of enactment of such appropriation.

Mr. COUGHLIN. Mr. Chairman, I reserve a point of order against the amendment. I am not familiar with this amendment and have not seen a copy of it. I do not know what it is.

The CHAIRMAN. The gentleman from Pennsylvania reserves a point of order.

Mr. JENKINS. Mr. Chairman, recognizing that there would be a point of order raised to this particular provision, what I am attempting to do is to provide, by an amendment in this legislation, that when the authorizing committee authorizes the project, then this would be in the appropriation measure. I am not trying to do anything to bypass the jurisdiction of the authorizing committee, because it simply says at the end that "provided such appropriation shall be available only to the extent authorized by law after the date of enactment of such appropriation."

Let me say to my colleagues that this particular project, which should have been funded long ago, and this is a very small appropriation, first of all, is to a Corps of Engineers lake that is the most widely used in the United States with some 18 million people visiting this lake each and every year. At the present time the Corps as well as the State and the Federal Government have not been able to provide reasonable access to this particular lake, and recognizing the problem between the authorizing committee and the Appropriation Committee, recognizing that a point of order was going to be raised, what I am attempting to do, and I hope with the approval of both the majority and the minority, is to provide by this amendment that it will only be applicable after it has been authorized.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. COUGHLIN] wish to pursue his point of order?

Mr. COUGHLIN. Mr. Chairman, as the amendment does track the language that we already have in the bill, I withdraw my point of order.

Mr. WALKER. Mr. Chairman, I move to strike the last word largely just to ask the gentleman from Georgia a couple of questions about this amendment.

Would this particular amendment of the gentleman give this project a special priority over any other project that might be authorized by the Public Works and Transportation Committee?

Mr. JENKINS. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Georgia.

Mr. JENKINS. No, it would not.

Mr. WALKER. It does in fact though set aside moneys, does it not?

Mr. JENKINS. There is a general statute for public access roads to Corps of Engineers lakes and TVA lakes already on the books. But as I understand the parliamentary situation, nevertheless the gentleman's committee still has to authorize each and every project.

Mr. WALKER. I do not serve on that committee, but I am just trying to ascertain the situation here. The $450,000 that was in the appropriations bill, does that remain obligated under the 302 allocation of this committee?

Mr. JENKINS. It would, subject to authorization by the Public Works and Transportation Committee. There may be another bill that will come down the pike before a highway bill. There could be a Corps of Engineers authorizing bill or some other legislation that I could later get the authorizing committee to act upon.

Mr. WALKER. I understand that. But let us say, for example, the authorizing committee does not come through with authorization for this project this year. Does this $450,000 remain obligated under the 302 obligation of the committee throughout the year and then extend into the next year?

Mr. JENKINS. No, it would not. If they do not come through with it this year, as I understand, I do not believe that it would. I am not certain on that.

Mr. WALKER. I thank the gentleman.

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The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. JENKINS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WATKINS

Mr. WATKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WATKINS: Page 23, after line 16, insert the following:

OKLAHOMA HIGHWAY WIDENING DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to widen to four lanes Oklahoma State Route 53 from Interstate Highway 35 east to the entrance of the Ardmore Regional Industrial Airpark for the purpose of demonstrating methods of improved highway and highway safety construction, $450,000, to remain available until expended, subject to the enactment of law authorizing said project.

Mr. WATKINS (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COUGHLIN. Mr. Chairman, I reserve a point of order against the amendment.

Mr. WATKINS. Mr. Chairman, I come with this amendment, as one of the staff had indicated to the gentleman from Florida a while ago, saying that there was discussion of a compromise and I wanted to make an effort and talked to my good friend, the gentleman from Arkansas, Mr. JOHN PAUL HAMMERSCHMIDT. He asked me if I would include some language at the bottom of this and offer it as an amendment, that would be acceptable to him.

I want to say that I am following that, after an all-out effort to try to get the wording that I had in the bill enacted.

So I would like to offer this as a compromise with the language added to it that the gentleman from Arkansas wanted me to add.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. COUGHLIN] insist on his point of order?

Mr. COUGHLIN. Mr. Chairman, because this project was included in the bill originally, I withdraw my point of order.

The CHAIRMAN. Is there any other Member who wishes to speak on the amendment?

If not, the question is on the amendment offered by the gentleman from Oklahoma [Mr. WATKINS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHAW: Page 17, line 4, strike out the period and insert in lieu thereof the following: ", provided that none of the funds in this Act shall be available for the park and ride facilities referred to in section 139 of Public Law 100-17 which are not subject to project agreements consistent with the provisions of title 23 of the United State Code as required by such section."

Mr. LEHMAN of Florida. Mr. Chairman, I reserve a point of order against the amendment.

Mr. SHAW. Mr. Chairman, this is an amendment, unlike the others, which does not ask for any money at all but simply asks for a close look at money that has been appropriated by a previous bill.

In recent weeks, the Inspector General of the Department of Transportation has been conducting an informal inquiry into the lobbying activities of a former employee involving the selection of several sites for major park and ride projects in south Florida along the I-95 corridor.

In light of this investigation, and recognizing the controversy generated over several of these sites, I feel it would be to the best interests of all those involved and of this Congress that the Secretary of Transportation conduct a reevaluation of these sites to evaluate their usefulness and location to the park and ride projects.

The results of such an investigation would allow the Florida Department of Transportation to either proceed with the project, confident that they have chosen the sites which are capable of serving their intended purpose or else consider alternative sites before beginning construction.

There is a cloud, a possible impropriety that has been raised which hangs over these projects. I think it would be to the best interests of all of those involved, including my constituents and other people, that the amendment that I am asking for be approved and I would hope that the chairman would withdraw his point of order.

I yield back the balance of my time.

The CHAIRMAN. The gentleman from Florida [Mr. LEHMAN] has reserved a point of order.

Does the gentleman wish to make his point of order?

Mr. LEHMAN of Florida. Mr. Chairman, if the gentleman will yield to me, I would just like to address my colleague, the gentleman from Florida, to find out if he has cleared this amendment with both the chairman, the gentleman from California [Mr. ANDERSON], and the ranking minority member of the authorizing committee.

The CHAIRMAN. The gentleman continues to reserve a point of order?

Mr. LEHMAN of Florida. Mr. Chairman, I continue to reserve my point of order.

Mr. SHAW. Mr. Chairman, I would say to my friend it has not been cleared with the leadership of the Committee on Public Works and Transportation.

Mr. LEHMAN of Florida. Mr. Chairman, would the gentleman from Florida add the following language after the word "section," strike the period and put "subject to the enactment of future authorizing legislation."

Mr. SHAW. Mr. Chairman, I would say to the gentleman that in that these projects have already been authorized, I am simply asking that they take another look at them. These are authorized projects. The only limitation is a restatement of existing law. I would tell the gentleman that I feel that in that the question and the suspicion has been raised which affects the conduct of the Department of Transportation of our State that it is important that we address that issue head-on here in the Congress. There is adequate law. I would read to the chairman of the subcommittee, reading now from the 1987 law, section 139: "Eligibility of park and ride facilities." That clearly states, "The Secretary shall enter into project agreements consistent with the provisions of title XXIII of the United States Code for construction of such facilities and connectors." I believe that a statement must be made by this Congress which did authorize and appropriate these projects, that we want to be sure that things are being conducted correctly in our part of the country.

I would further say to the gentleman that one of the projects lies squarely within my district and the other just outside.

POINT OF ORDER

Mr. LEHMAN of Florida. Mr. Chairman, I fully understand the problems because, as my colleague from Florida states, the problem is right in my own backyard.

But a point of order is a point of order; if it affects one project, it should not be allowed to not affect another.

So I would have to insist on my point of order that I reserved. I insist on the point of order and make a point of order against the amendment because it is a limitation to a general appropriation bill. Under the revised clause 2, rule XXI, such amendments are not in order during the reading of a general appropriation bill.

Mr. Chairman, the revised rule states in part: "Except as provided in paragraph (D), no amendment shall be in order during consideration of a general appropriation bill proposing a limitation not specifically contained or authorized in existing law for the period of the limitation."

Mr. Chairman, the gentleman's amendment is a limitation and does not specifically contain or authorize an existing law and therefore is in violation of clause 2(c) of rule XXI.

I ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from Florida wish to respond?

Mr. SHAW. Yes, Mr. Chairman.

Mr. Chairman, this limitation is clearly a restatement of existing law and the point of order as stated by the gentleman from Florida will not lie as this particular amendment is clearly a restatement of existing law and not a limitation as stated.

The CHAIRMAN (Mr. PANETTA). The Chair at this point is in doubt with regard to whether existing law specifically authorizes the inclusion of this limitation in a general appropriation bill. The Chair views the amendment as a limitation and therefore would suggest that the gentleman offer it at the end of the bill as a limitation. This would appear to be a limitation which while it may be consistent with existing law should be offered at the end of the bill.

So the Chair will sustain the point of order at this time. The gentleman from Florida has the opportunity to offer it at the end of the bill.

Are there other amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $2,000,000.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), $25,360,000, of which not to exceed $500 may be used for official reception and representation expenses.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $1,500 for official reception and representation expenses, $43,115,000: *Provided,* That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such.

PAYMENTS FOR DIRECTED RAIL SERVICE

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $475,000 for directed rail service authorized under 49 U.S.C. 11125 or any other Act.

PANAMA CANAL COMMISSION

PANAMA CANAL REVOLVING FUND

For administrative expenses of the Panama Canal Commission, including not to exceed $10,000 for official reception and representation expenses of the Board; not to exceed $4,000 for official reception and representation expenses of the Secretary; and not to exceed $25,000 for official reception and representation expenses of the Administrator, $50,287,000, to be derived from the Panama Canal Revolving Fund: *Provided,* That none of these funds may be used for the planning or execution of non-administrative and capital programs the obligations for which are in excess of $436,548,000 in fiscal year 1989: *Provided further,* That funds available to the Panama Canal Commission shall be available for the purchase of not to exceed forty-four passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama, the purchase price of which shall not exceed $15,000 per vehicle).

DEPARTMENT OF THE TREASURY

REBATE OF SAINT LAWRENCE SEAWAY TOLLS

(HARBOR MAINTENANCE TRUST FUND)

For rebate of the United States' portion of tolls paid for use of the Saint Lawrence Seaway, pursuant to Public Law 99-662, $10,700,000, to remain available until expended and to be derived from the Harbor Maintenance Trust Fund, of which not to exceed $300,000 shall be available for expenses of administering the rebates.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

For necessary expenses for interest payments, to remain available until expended, $51,663,569: *Provided,* That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement.

Mr. LEHMAN of Florida (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any points of order against title II?

If not, are there any amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III—GENERAL PROVISIONS

(INCLUDING TRANSFER OF FUNDS AND RESCISSION)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. Funds for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law that are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

SEC. 305. None of the funds for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year nor may any be transferred to other appropriations unless expressly so provided herein.

SEC. 308. None of the funds in this or any previous or subsequent Act shall be available for the planning or implementation of any change in the current Federal status of the Transportation Systems Center, and none of the funds in this Act shall be available for the implementation of any change in the current Federal status of the Turner-Fairbank Highway Research Center.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 310. (a) For fiscal year 1989 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1988, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection: *Provided,* That this subsection shall not apply to funds obligated for the Dan Ryan Expressway.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction that have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1989, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highway program, the strategic highway research program and amounts made available under sections 149(d), 158, 159, 164, 165, and 167 of Public Law 100-17.

(d) The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1989 shall not apply to obligations for emergency relief under section 125 of title 23, United States Code; obligations under section 157 of title 23, United States Code; projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97-424, section 118 of the National Visitors Center Facilities Act of 1968, section 320 of title 23, United States Code; projects authorized by Public Law 99-500, Public Law 99-591 and Public Law 100-202; or projects covered under subsections 149 (b) and (c) of Public Law 100-17.

(e) Subject to paragraph (c)(2) of this General Provision, a State which after August 1 and on or before September 30 of fiscal year 1989 obligates the amount distributed to such State in that fiscal year under paragraphs (a) and (c) of this General Provision may obligate for Federal-aid highways and highway safety construction on or before September 30, 1989, an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 103(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.

(f) During the period August 2 through September 30, 1989, the aggregate amount which may be obligated by all States pursuant to paragraph (e) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 103(e)(4) of such title,

which would not be obligated in fiscal year 1989 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.

(g) Paragraph (e) shall not apply to any State which on or after August 1, 1989, has the amount distributed to such State under paragraph (a) for fiscal year 1989 reduced under paragraph (c)(2).

SEC. 311. None of the funds in this Act shall be available for salaries and expenses of more than one hundred twenty political and Presidential appointees in the Department of Transportation.

SEC. 312. Not to exceed $276,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 313. None of the funds in this or any other Act shall be made available for the proposed Woodward light rail line in the Detroit, Michigan area until a source of operating funds has been approved in accordance with Michigan law: *Provided*, That this limitation shall not apply to alternatives analysis studies under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended.

SEC. 314. The limitation on obligations for the Discretionary Grants program of the Urban Mass Transportation Administration shall not apply to any authority under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended, previously made available for obligation.

SEC. 315. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of, or any other costs related to, the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan.

SEC. 316. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 317. (a) SAFETY ENFORCEMENT PROGRAM PERFORMANCE.—The Secretary of Transportation shall on or before January 1 of each year transmit to the Congress a comprehensive report on the Federal Aviation Administration's prior fiscal year safety enforcement activities. The report shall include:

(1) a comparison of end-of-year staffing levels by inspector category (operations, maintenance, avionics) to staffing goals and a statement as to how staffing standards were applied to make allocations between air carrier and general aviation operations, maintenance and avionics inspectors;

(2) schedules showing the range of inspector experience by various inspector work force categories, and the number of inspectors in each of the categories who are considered fully qualified;

(3) schedules showing the number and percentage of inspectors who have received mandatory training by individual course, and the number of inspectors, by work force categories, who have received all mandatory training;

(4) a description of the criteria used to set annual work programs, an explanation of how these criteria differ from criteria used in the prior fiscal year and how the annual work programs ensure compliance with appropriate Federal regulations and safe operating practices;

(5) a comparison of actual inspections performed during the fiscal year to the annual work programs disaggregated to the field locations and, for any field location completing less than 80 percent of its planned number of inspections, an explanation as to why annual work program plans were not met;

(6) a statement of the adequacy of Federal Aviation Administration internal management controls available to ensure that field managers are complying with Federal Aviation Administration policies and procedures including those regarding inspector priorities, district office coordination, minimum inspection standards, and inspection follow-up;

(7) the status of the Federal Aviation Administration's efforts to update inspector guidance documents and Federal regulations to include technological, management, and structural changes taking place within the aviation industry, including a listing of the backlog of all proposed regulatory changes;

(8) a list of the specific operational measures of effectiveness—"best proxies" standing between the ultimate goal of accident prevention and ongoing program activities—that are being used to evaluate progress in meeting program objectives, the quality of program delivery, and the nature of emerging safety problems;

(9) a schedule showing the number of civil penalty cases closed during the two prior fiscal years, including total initial assessments, total final assessments, total dollar amount collected, range of dollar amount collected, average case processing time, and range of case processing time;

(10) a schedule showing the number of enforcement actions taken, excluding civil penalties, during the two prior fiscal years, including total number of violations cited, and the number of cited violation cases closed by certificate suspension, certification revocations, warnings, and no action taken; and

(11) schedules showing the aviation industry's safety record during the fiscal year for air carriers and general aviation, including the number of inspections performed where deficiencies were identified compared with inspections where no deficiencies were found and the frequency of safety deficiencies per carrier as well as an analysis based on the data of the general status of air carrier and general aviation compliance with Federal Aviation Regulations.

(b) LONG-RANGE NATIONAL TRANSPORTATION STRATEGIC PLANNING STUDY.—The Department of Transportation shall undertake a long-range, multi-modal national transportation strategic planning study. This study shall forecast long-term needs and costs for developing and maintaining facilities and services to achieve a desired national transportation program for moving people and goods in the year 2015. The study shall include detailed analyses of transportation needs within six to nine metropolitan areas that have diverse population, development, and demographic patterns, including at least one interstate metropolitan area. This study shall be submitted to Congress on or before October 1, 1989.

SEC. 318. Within seven calendar days of the obligation date, the Urban Mass Transportation Administration shall publish in the Federal Register an announcement of each grant obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended, including the grant number, the grant amount, and the transit property receiving each grant.

SEC. 319. None of the funds appropriated in this Act may be used to prescribe, implement, or enforce a national policy specifying that only a single type of visual glideslope indicator can be funded under the facilities and equipment account or through the airport improvement program: *Provided*, That this prohibition shall not apply in the case of airports that are certified under part 139 of the Federal Aviation Regulations.

SEC. 320. Notwithstanding any other provision of law, funds appropriated in this or any other Act intended for studies, reports, or research, and related costs thereof including necessary capital expenses, are available for such purposes to be conducted through contracts or financial assistance agreements with the educational institutions that are specified in such Acts or in any report accompanying such Acts.

SEC. 321. The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail Project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area.

SEC. 322. (a) Notwithstanding any provision of this or any other law, none of the funds provided by this Act for appropriation shall be available for payment to the General Services Administration for rental space and services at rates per square foot in excess of 102 percent of the rates paid during fiscal year 1988; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1988 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act.

(b) Notwithstanding any other provision of law, fiscal year 1989 obligations and outlays of "General Services Administration, Federal Buildings Fund" are reduced by an amount equal to the revenue reduction to such Fund pursuant to subsection (a).

Sec. 323. Notwithstanding any other provision of law, section 144(g)(2) of title 23, United States Code, shall not apply to the Virginia Street Bridge in Charleston, West Virginia.

Sec. 324. Notwithstanding any other provision of law, the Secretary shall make available $250,000 per year for a national public information program to educate the public of the inherent hazard at railway-highway crossings. Such funds shall be made available out of funds authorized to be appropriated out of the Highway Trust Fund, pursuant to section 130 of title 23, United States Code.

Sec. 325. (a) The waters described in subsection (b) are declared to be nonnavigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

(b) The waters referred to in subsection (a) are a drainage canal which—

(1) is an unnamed tributary of the creek known as Newton Creek, located at block 641 (formerly designated as block 860) in the city of Camden, New Jersey;

(2) originates at the north bank of Newton Creek approximately 1,200 feet east of the confluence of Newton Creek and the Delaware River; and

(3) terminates at drainage culverts on the west side of Interstate Highway 676.

Sec. 326. Texas Toll Road Pilot Program.—Section 129(j) of title 23, United States Code, is amended—

(1) in paragraph (6) by inserting "(and, in the case of the State of Texas, the Texas Turnpike Authority)" after "State highway department"; and

(2) by adding at the end of such section the following new paragraph:

"(10) Special rule for funding of Texas project.—Upon request of the Texas Department of Highways and Public Transportation and subject to such terms and conditions as such Department and the Texas Turnpike Authority may agree, the Secretary shall reimburse the Texas Turnpike Authority for the Federal share of the costs of construction of the project carried out in the State of Texas under this subsection in the same manner and to the same extent as such Department would be reimbursed if such project was being carried out by such Department. The reimbursement of funds under this paragraph shall be from sums apportioned to the State of Texas under this chapter and available for obligation on projects on the Federal-aid primary system in such State.".

Sec. 327. (a) International Zaragosa Bridge.—For 50 per centum of the total expenses necessary to construct the International Zaragosa Bridge in El Paso, Texas, $3,000,000 is hereby appropriated to remain available until expended: *Provided*, That, notwithstanding any other provision of law, the Secretary shall make these funds available to the City of El Paso to pay for 100 per centum of the cost of the U.S. portion of the bridge, the construction of which shall be carried out in the same manner as other similar Federal-aid highway projects: *Provided further*, That funds appropriated under this section shall not be available until an agreement has been reached between all involved entities to repay the U.S. Treasury over a 30-year time period for the amount appropriated herein, plus interest, out of any tolls collected.

(b) Rescission.—Notwithstanding any other provision of law, there is hereby rescinded, effective October 1, 1988, $3,000,000 of the funds apportioned to the State of Texas pursuant to section 157 of title 23, United States Code: *Provided*, That this rescission shall have no effect on any takedowns or limitations already made from these funds.

Sec. 328. The Secretary of Transportation shall transfer the Coast Guard Cutter "Ingham" to the Intrepid Sea-Air-Space Museum in New York, New York, for use as a Coast Guard museum and display, appropriate with the character of the long military service of the "Ingham." The Secretary shall transfer the "Ingham" along with such equipment and in such condition as the Secretary considers appropriate. The Secretary shall make the transfer upon the decommissioning of the "Ingham" or at a later time as determined appropriate by the Secretary.

Sec. 329. Notwithstanding any other provision of law, none of the funds provided by this Act or any previous or subsequent Act shall be used to plan, design, construct, or approve an interchange or any other highway facility providing access to or from I-66 between the existing United States Route 29 interchange at Gainesville (I-66 exit numbered 10) and the existing Route 234 interchange (I-66 exit numbered 11); nor shall any funds provided by this Act or any previous or subsequent Act be used to plan, design, construct, or approve an interchange or any other highway facility providing access to or from United States Route 29 between the existing I-66 interchange at Gainesville (I-66 exit numbered 10) and the existing Route 234 intersection; nor shall any funds provided by this Act or any previous or subsequent Act be used to plan, design, construct, or approve an interchange or any other highway facility that provides access to or from adjacent properties and the proposed Route 234 Bypass between I-66 and United States Route 29: *Provided*, That this section shall not apply to the use of Federal funds necessary to make safety-related improvements to existing roads.

Sec. 330. The Urban Mass Transportation Administration shall permit nonprofit social service agencies with clear needs for affordable and/or handicapped-accessible equipment to seek bids for charter services from publicly funded operators: *Provided*, That the public operator will be required to identify to the chartering organization any private operator that has notified it of its willingness and ability to provide comparable charter service: *Provided further*, That these nonprofit agencies shall be limited to government entities and those entities subject to sections 501(c) 1, 3, 4, and 19 of the Internal Revenue Code: *Provided further*, That an exemption from this rule (49 CFR Part 604—charter service) shall also be provided to those public transit authorities which purchased charter rights entirely with non-Federal funds prior to enactment of the Urban Mass Transportation Act of 1964.

Sec. 331. Of the funds made available under "Discretionary Grants" for fiscal year 1989 or prior fiscal years the Secretary of Transportation shall, on or before January 1, 1989, transfer $10,000,000 from the Urban Mass Transportation Administration to the Federal Highway Administration to cover the cost of the Federal share of the transit element of the Acosta Bridge Replacement Project in Jacksonville, Florida.

Sec. 332. That (a) section 408 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1378) is amended by adding at the end the following new subsection:

"FAIR TREATMENT OF EMPLOYEES

"(g) In any case in which the Secretary determines that the transaction which is the subject of the application would tend to cause reduction in employment or to adversely affect the wages and working conditions including the seniority of any air carrier employees, labor protective provisions calculated to mitigate such adverse consequences, including procedures culminating in binding arbitration, if necessary, shall be imposed by the Secretary as a condition of approval, unless the Secretary finds that the projected costs of protection would exceed the anticipated financial benefits of the transaction. The proponents of the transaction shall bear the burden of proving there will be no adverse employment consequences or that projected costs of protection would be excessive.".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side hearing.

"Sec. 408. Consolidation, merger, and acquisition of control."

is amended by adding at the end of the following:

"(g) Fair treatment of employees."

Mr. LEHMAN of Florida (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any points of order against or are there any amendments to title III?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Walker: On page 57, after line 25 insert the following new section:

Sec. 332. No funds appropriated under this Act shall be expended in any workplace that is not free of illegal use or possession of controlled substances which is made known to the federal entity or official to which funds are appropriated under this Act. Pursuant to this section an applicant for funds to be appropriated under this Act shall be ineligible to receive such funds if such applicant fails to include in its application an assurance that it has, and will administer in good faith, a policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances by its employees.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this is the drug-free workplace amendment. I have discussed it with both sides of the aisle. I understand the amendment is acceptable. It is the amendment that was permitted under the rule.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am very glad to yield to the gentleman from Florida.

Mr. LEHMAN of Florida. I thank the gentleman for yielding.

Mr. Chairman, I am familiar with the amendment and I have no objection to the amendment.

Mr. WALKER. I thank the gentleman.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. I thank the gentleman for yielding.

Mr. Chairman, we have no objection to the amendment.

Mr. WALKER. Mr. Chairman, I thank both gentlemen, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments to title III?

Mr. LEHMAN of Florida. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. PICKLE] having assumed the chair, Mr. PANETTA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4794) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes, had come to no resolution thereon.

VACATING SPECIAL ORDER

Mr. COUGHLIN. Mr. Speaker, I ask unanimous consent that the special order granted to Mr. DORNAN of California for 60 minutes on June 29, 1988, be vacated.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 2100

FEDERAL OCCUPATIONAL FEE FOR LIQUOR AND BEER RETAILERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. PETRI] is recognized for 5 minutes.

Mr. PETRI. Mr. Speaker, last year, the Federal occupational fee for liquor and beer retailers was raised from $54 to $250 per year.

Thousands of small tavern owners and liquor retailers will be hurt by this 400 percent increase. It is just too much for them.

Furthermore, it seems unreasonable that a small convenience store in Waupaca, WI, has to pay the same fee as a huge liquor store in a big city.

For these reasons, today I am introducing a bill which would pro-rate the fee to the amount of gross liquor receipts of the previous year.

With this change, a motel owners in Green Lake won't be forced to stop providing the occassional late night beer to his guests, and the small tavern owner in Grand Marsh won't have to consider an uncompetitive price increase.

Mr. Speaker, I believe my bill is the fairest way to implement the increase in the Federal retail liquor license fee and I urge my colleagues to support it. Thank you.

NORTH CAROLINA STATE COLLEGE BOWL NATIONAL CHAMPIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, the North Carolina State University Fact Pack are the 1988 College Bowl National Champions. The team captured the national crown at the national championship tournament held at the University of Illinois-Chicago on May 27–29, 1988.

N.C. State won the double elimination tournament by defeating Syracuse University, the defending national champion University of Minnesota, Louisiana State University, and then Emory University in the winner's bracket finals. Emory went on to capture the loser's bracket, but N.C. State won the return match to win the tourney. State won all their games impressively, winning the two games over Emory by scores of 265–145 and 325–140. Before the national tournament, N.C. State was winless in four games against Emory.

College Bowl is a question-and-answer game between two teams of four players each. The game rewards depth of knowledge and quickness. This was State's first national championship in College Bowl and was only the second time they had competed in the national tournament. Last year, the team finished in the final four.

"I don't really know if it's hit us yet," said team captain Chuck Wessell, who was named to the four person All-Star team. "It wasn't until they gave us the first place plaque at the awards banquet that I realized what we had done."

Joining Wessell, a master's student in applied mathematics from Cary, NC., on the team were Dan Petrus, a vet school student originally from New Jersey; Larry Sorrels, a May graduate in chemical engineering and economics from Raleigh; and Jay Edwards, a May graduate in aerospace engineering from Eden, NC. Ben Lea, a sophomore in physics and science education from Lexington, NC, served as the team's alternate.

Being the only N.C. State alumnus in the Congress, I am indeed proud of the school's achievement. It is comforting to know that the intercollegiate system is placing such a great emphasis on scholastic achievement.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. GARCIA] is recognized for 5 minutes.

Mr. GARCIA. Mr. Speaker, I was unavoidably delayed on Thursday, June 23, and was therefore unable to record my votes on two amendments to H.R. 1158, the fair housing amendments to title VIII of the Civil Rights Act of 1968. I have followed H.R. 1158 with great interest and would like to take the further opportunity to make clear my wholehearted support of the bill. Had I been present, I would have voted in favor of the amendment offered by Mr. FISH and against the amendment offered by Mr. SHAW.

The Fish amendment represents a bipartisan agreement to provide parties to housing discrimination suits the choice of a trial before an administrative law judge or a trial by jury in a Federal district court. The law will allow HUD to file suit against violators of the fair housing laws if conciliation efforts fail. The new administrative law judge system provides a quick and appropriate response so important in housing discrimination cases responding to fair housing violations.

The Shaw amendment would have eliminated the protection extended to families with children under the age of 18. I believe in particular that it is time to recognize the hurdles faced by families with young children and the handicapped in the housing market. With respect to the familial status provision, as a Representative from a district whose population has a significantly large population of single parent families, many of whom are young mothers, I wholeheartedly support this provision.

Many of single parent families and families with young children live below the poverty level and face each new day with the threat of homelessness. This is not uncommon even when one or both adults are working full time. As unconscionable as these economic hardships have become, discrimination in the housing market against families with children is even more outrageous. This is one hurdle to the access to decent housing that we can eliminate right now. Today more than ever before it is essential that we recognize the tenuous circumstances of single parent families and families with children and support this kind of legislation.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. McKay] is recognized for 5 minutes.

Mr. McKAY. Mr. Speaker, due to a previous commitment I missed several votes. Had I been able to vote, I would have voted against the amendment of Mr. Parris, against the amendment of Mr. Dornan, and against the amendment of Mr. Weldon to H.R. 4776 and for final passage of H.R. 4776. Further, I would have voted for House Resolution 482.

I appreciate having this opportunity to state my position on these measures.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. Saiki (at the request of Mr. Michel), for today and the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Coughlin) to revise and extend their remarks and include extraneous material:)

Mr. Burton of Indiana, for 60 minutes, today, and 60 minutes on June 29.

Mr. Dornan of California, for 5 minutes, today, and 5 minutes on June 29.

Mr. Petri, for 5 minutes, today.

(The following members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Skelton, for 5 minutes, today, and 5 minutes on June 30.

Mr. Annunzio, for 5 minutes, today.

Mr. Owens of New York, for 5 minutes, today, 5 minutes on June 29, 30, July 6, and July 7.

Mr. Jones of North Carolina, for 5 minutes, today.

Mr. Garica, for 5 minutes, today.

Mr. MacKay, for 5 minutes, today.

Mr. de Lugo, for 30 minutes, on July 6.

Mr. Hoyer, for 60 minutes, on July 6.

Mr. Owens of New York, for 60 minutes, on July 11, 12, 13, and 14.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Coughlin) and to include extraneous matter:)

Mr. Lujan.

Mr. Fish.

Mr. Broomfield in three instances.

Mrs. Roukema.

Mr. Packard in two instances.

Mr. Madigan.

Mr. Marlenee.

Mr. Solomon in two instances.

Mr. Barton of Texas.

Mr. Coughlin.

Mr. Fields.

Mr. Ravenel.

Mr. Lagomarsino.

Mr. Gilman.

Mr. Bliley.

Mrs. Morella.

Mr. Smith of New Jersey.

Mr. Grandy.

Mr. Rogers.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Rostenkowski.

Mr. Atkins in two instances.

Mr. Kanjorski.

Mr. Solarz.

Mr. Miller of California.

Mr. Biaggi.

Mr. Yates.

Mr. Hoyer.

Mr. Garcia.

Mr. Jacobs.

Mr. Skelton.

Mr. Rahall.

Mr. Rangel.

Mr. Donnelly in two instances.

Mr. Edwards of California.

Mr. Feighan.

Ms. Pelosi.

Mr. Tallon.

Mr. Carr.

Mr. Morrison of Connecticut.

Mr. Hertel.

Mrs. Schroeder.

Ms. Slaughter of New York in two instances.

Mr. Bustamante in two instances.

Mrs. Boxer.

Mr. Traficant in two instances.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follow:

S.J. Res. 304. Joint Resolution Designating July 2, 1988, as "National Literacy Day"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 3 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 29, 1988, at 10 a.m.

OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, Lewis F. Payne, Jr., do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am, about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 100th Congress, pursuant to the provisions of 2 U.S.C. 25:

Hon. Lewis F. Payne, Jr., Fifth District, Virginia.

EXECUTIVE COMMUNICATIONS, ET CETERA

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and deferred as follows:

3884. A letter from the Assistant Secretary of the Army (Installations and Logistics), transmitting notification of the decision to convert to contractor performance of the custodial function at United States Military Academy, West Point, NY, pursuant to 10 U.S.C. 2304; to the Committee on Armed Services.

3885. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer to Brazil for defense articles estimated to cost $50 million or more [Transmittal No. 88-38], pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3886. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting the seventy fourth annual report of the Board of Governors, pursuant to 12 U.S.C. 247; to the Committee on Banking, Finance, and Urban Affairs.

3887. A letter from the Director, Defense Security Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer and acceptance to Brazil for defense articles and services estimated to cost $63 million [transmittal No. 88-38], pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3888. A letter from the Secretary of State, transmitting notification of the Secretary's Determination that the furnishing of assistance to Bolivia, which is more than 6 months in default of loans made under the FAA of 1961, as amended, is in the national interest, copies of the Determination and the Justification enclosed, pursuant to 22 U.S.C. 2370(q); to the Committee on Foreign Affairs.

3889. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions for Robert L. Pugh, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Chad, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3890. A letter from the Inspector General, U.S. Department of Labor transmitting notice of a computer matching program between a sample of Job Training Partnership Act participants and Department of Education Pell Grants, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3891. A letter from the Librarian of Congress, transmitting the report of the activities of the Library of Congress, including the Copyright Office, for the fiscal year ending September 30, 1987; accompanied by a copy of the annual report of the Library of Congress Trust Fund Board, pursuant to 2 U.S.C. 139; 2 U.S.C. 163; to the Committee on House Administration.

3892. A letter from the Administrator, Federal Aviation Administration, transmitting the Administration's semiannual report on the effectiveness of the Civil Aviation Security Program for the period July 1 through December 31, 1987, pursuant to 49 U.S.C. app. 1356(a); to the Committee on Public Works and Transportation.

3893. A letter from the Secretary of the Treasury, transmitting a report on certain employee benefits not subject to Federal income tax, pursuant to Public Law 98-611, section 1(h)(2) (98 Stat. 3179); to the Committee on Ways and Means.

3894. A letter from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to convert nonphysician directors appointed under section 4103(a)(8) of title 38, United States Code, to Senior Executive Service career appointees; jointly, to the Committees on Veterans' Affairs and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASPEN: Committee on Armed Services. H.R. 4481. A bill to provide for the closing and realigning of certain military installations during a certain period; with an amendment (Rept. 100-735, Pt. 1). Ordered to be printed.

Mr. LaFALCE: Committee on Small Business. A report on new economic realities: the rise of women entrepreneurs. (Rept. 100-736). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 485. A resolution waiving certain points of order against consideration of H.R. 4867, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes. (Rept. 100-737). Referred to the House Calendar.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4200. A bill to authorize appropriations for fiscal year 1989 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission; with an amendment (Rept. 100-738). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. BROOKS: Committee on Government Operations. H.R. 4481. A bill to provide for the closing and realigning of certain military installations during a certain period, with an amendment; referred to the Committee on Rules for a period ending not later than July 6, 1988, for consideration of those portions of the amendments reported by the Committees on Armed Services and Government Operations as fall within the jurisdiction of that committee pursuant to clause 1(q), rule X. (Report No. 100-735, Pt. 2). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant marine and Fisheries. H.R. 4208. A bill to authorize appropriations to carry out title III of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, 1991, and 1992; with an amendment, referred to the Committee on Interior and Insular Affairs for a period ending not later than July 1, 1988, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(l), rule X. (Report No. 100-739, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS (for himself and Mr. Edwards of California):

H.R. 4920. A bill to amend chapter 96 of title 18, United States Code, relating to racketeer influenced and corrupt organizations, to restructure the civil claims procedures, and for other purposes; to the Committee on the Judiciary.

By Mr. BILBRAY:

H.R. 4921. A bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the U.S. Government from attempting to influence the U.S. Government while representing or advising a foreign entity for 5 years after such officer or employee leaves Government service, and for other purposes; to the Committee on the Judiciary.

By Mr. BILBRAY (for himself and Mrs. Vucanovich):

H.R. 4922. A bill to direct the Secretary of the Interior to transfer a certain parcel of land in Clark County, NV; to the Committee on the Interior and Insular Affairs.

By Mr. BOUCHER:

H.R. 4923. A bill to to amend chapter 96 (relating to racketeer influenced and corrupt organizations) of title 18, United States Code; to the Committee on the Judiciary.

By Mr. BROOMFIELD:

H.R. 4924. A bill to encourage the rendering of emergency medical care on certain commercial aircraft by relieving licensed physicians of liability for the provision of such care; to the Committee on the Judiciary.

H.R. 4925. A bill to establish a College Savings Bond Program and to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from certain savings bonds the proceeds of which are used to pay certain postsecondary educational expenses, and for other purposes; to the Committee on Ways and Means.

By Mr. BUSTAMANTE (for himself, Mr. Frost, Mr. Brooks, Mr. de la Garza, Mr. Chapman, Mr. Wilson, Mr. Bartlett, Mr. Hall of Texas, Mr. Archer, Mr. Fields, Mr. Pickle, Mr. Coleman of Texas, Mr. Stenholm, Mr. Leland, Mr. Smith of Texas, Mr. DeLay, Mr. Andrews, Mr. Ortiz, Mr. Boulter, Mr. Leath of Texas, Mr. Sweeney, and Mr. Bryant):

H.R. 4926. A bill to establish the Amistad National Recreation Area in the State of Texas, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DINGELL (for himself, Mr. Waxman, Mr. Madigan, and Mr. Wyden):

H.R. 4927. A bill to amend the Public Health Service Act to revise the authority for the regulation of clinical laboratories and for other purposes; to the Committee on Energy and Commerce.

H.R. 4928. A bill to amend titles XVIII and XIX of the Social Security Act with respect to clinical diagnostic laboratory tests under the Medicare and Medicaid Programs; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HUNTER (for himself, Mr. Madigan, Mr. Schuette, Mr. Lott, Mr. Mack, Mr. McCollum, Mr. Swindall, and Mr. Davis of Illinois):

H.R. 4929. A bill to amend the Internal Revenue Code of 1986 to allow an annual $10,000 deduction for individuals who care for a Medicare eligible, chronically ill family member in their home and to allow individuals a deduction for long-term care insurance premiums; to the Committee on Ways and Means.

By Mr. LUJAN (for himself and Mr. Richardson):

H.R. 4930. A bill to establish the Petroglyph National Monument in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MARLENEE (for himself, Mr. Grandy, Mr. Schuette, Mr. Hopkins, Mr. Thomas of Georgia, Mr. Emerson, Mr. Darden, Mr. Tallon, Mr. Robert F. Smith, and Mrs. Smith of Nebraska):

H.R. 4931. A bill to provide emergency disaster relief to farm and ranch producers who have suffered extraordinary losses due to drought, excessive heat, hail, flooding, or excessive moisture, and for other purposes; to the Committee on Agriculture.

By Mr. ORTIZ:

H.R. 4932. A bill to amend title 28, United States Code, and the Tariff Act of 1930 to provide amounts from the Department of Justice assets forfeiture fund and the Customs forfeiture fund to assist State and local governments in providing for construction, expansion, maintenance, and operation of penal facilities, and for other purposes; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. PETRI:

H.R. 4933. A bill to amend the Internal Revenue Code of 1986 to reduce the occupational tax on small retail dealers in liquors and beer by providing that the amount of such tax shall be based on gross receipts from the sale of distilled spirits, wines, and beer; to the Committee on Ways and Means.

By Mr. RICHARDSON:

H.R. 4934. A bill to provide for a viable domestic uranium industry, to establish a program to fund reclamation and other remedial actions with respect to mill tailings at active uranium and thorium sites, to establish a wholly owned Government corporation to manage the Nation's uranium enrichment enterprise, operating as a continuing, commercial enterprise on a profitable and efficient basis, and for other purposes; jointly, to the Committees on Energy and Commerce; Interior and Insular Affairs; Science, Space, and Technology; and Ways and Means.

By Mr. SOLOMON (for himself, Mr. Swindall, Mr. Rogers, Mr. Badham, Mr. Martin of New York, Mr. Dornan of California, Mr. Wortley, Mr. Craig. Mr. Parris, and Mr. Stratton):

H.R. 4935. A bill to amend the Export Administration Act of 1979 to prohibit U.S. satellites from being launched from launch vehicles owned by certain countries; jointly, to the Committees on Foreign Affairs and Science, Space, and Technology.

By Mr. Volkmer (for himself, Mr. Jontz, Mr. Vento. Mr. Morrison of Washington, Mr. Robert F. Smith, Mr. Herger, Mr. DeFazio, Mr. Lehman of California, and Mr. Schuette):

H.R. 4936. A bill to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign organizations for assistance in wildfire protection; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Foreign Affairs.

By Mr. Roberts (for himself and Mr. Brown of California):

H.R. 4937. A bill entitled the "Pesticide Food Safety Act of 1988"; jointly, to the Committees on Agriculture and Energy and Commerce.

By Mr. HAMILTON:

H.J. Res. 601. Joint resolution amending the War Powers Resolution to provide expedited procedures for legislation requiring the disengagement of U.S. Armed Forces involved in hostilities or providing specific authorization for their continued engagement in such hostilities, and for other purposes; jointly, to the Committees on Foreign Affairs and Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LaFALCE:

H.R. 4938. A bill for the relief of Danny Thomas; to the Committee on the Judiciary.

By Mr. SKELTON:

H. Con. Res. 325. Concurrent resolution commending the Hugh O'Brian Youth Foundation on the thirtieth anniversary of its founding; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 371: Mr. Garcia and Mr. Shays.

H.R. 485: Mr. Tallon.

H.R. 592: Mr. Smith of New Hampshire, Miss Schneider, Mr. Gunderson, Mr. Kastenmeier, Mr. Miller of Ohio, Mr. Wyden, and Mr. Hubbard.

H.R. 639: Mrs. Saiki, Mr. Courter, and Mr. Kennedy.

H.R. 916: Mr. Inhofe.

H.R. 956: Ms. Kaptur and Mr. Young of Alaska.

H.R. 1049: Mr. Stark.

H.R. 1140: Mr. Schuette.

H.R. 1211: Mr. Guarini and Mr. Dwyer of New Jersey.

H.R. 1794: Mr. Gilman.

H.R. 1917: Mr. Yates.

H.R. 2067: Mr. Frenzel, Mr. Matsui, Mr. LaFalce, Mr. Moorhead, Mr. Dickinson, Mr. Smith of New Hampshire, Mr. Nichols, Mr. Mica, Ms. Slaughter of New York, Mr. Fazio, Mr. Lipinski, Mr. Miller of California, Mr. Erdreich, Mr. Moakley, Mr. Quillen, Mr. Frank, Mr. McEwen, Mr. Thomas of Georgia, Mr. Richardson, Mr. Molinari, Mr. Buechner, Mr. Walgren, Mr. Skeen, Mrs. Kennelly, Mr. Clinger, Mr. Anthony, Mr. Atkins, Mr. Sikorski, and Mr. Kemp.

H.R. 2383: Mr. Shumway, Mr. Carper, and Mrs. Saiki.

H.R. 2501: Mr. Barnard.

H.R. 2649: Ms. Kaptur.

H.R. 2882: Mr. Hoyer.

H.R. 2883: Mr. Goodling and Mr. Rinaldo.

H.R. 3241: Mr. Bustamante, Mr. Roybal, Mr. Ortiz, Mr. Torres, Mr. Dellums, Mr. Foglietta, and Mr. Wheat.

H.R. 3259: Mr. Kennedy and Mr. Bates.

H.R. 3311: Mrs. Kennelly.

H.R. 3313: Mr. Walgren.

H.R. 3314: Mr. Shays, Mr. Molinari, Mr. Moorhead, Mr. Kostmayer, and Mr. Slattery.

H.R. 3486: Mr. Dicks.

H.R. 3565: Mr. Fawell.

H.R. 3620: Mr. Biaggi, Mr. Inhofe, and Mr. Rahall.

H.R. 3742: Mr. Torres.

H.R. 3768: Mr. Vento and Mr. Schuette.

H.R. 3840: Mr. Upton.

H.R. 3892: Mr. Lowry of Washington and Mrs. Kennelly.

H.R. 3907: Mr. Schaefer and Mr. Bustamante.

H.R. 3944: Mr. Tallon and Mr. Weber.

H.R. 3988: Mr. Hawkins and Mr. Torres.

H.R. 4066: Mr. Roe.

H.R. 4136: Mr. Mineta.

H.R. 4189: Mr. Kennedy and Mr. Rinaldo.

H.R. 4213: Mr. Hastert and Mr. Lantos.

H.R. 4221: Mr. Saxton, Mr. Edwards of California, Mr. Bonker, Mr. Johnson of South Dakota, and Mr. Gregg.

H.R. 4226: Mr. Clement.

H.R. 4258: Mr. Stump and Mr. Badham.

H.R. 4279: Mr. Towns.

H.R. 4297: Mr. Bereuter and Mr. Panetta.

H.R. 4329: Mr. Holloway.

H.R. 4427: Mr. Hughes and Mr. Studds.

H.R. 4451: Mr. Evans and Mr. Lowry of Washington.

H.R. 4472: Mr. Tallon, Mr. Espy, Mr. Lott, and Mr. Hochbrueckner.

H.R. 4486: Mr. Gordon, Mr. Dwyer of New Jersey, Mr. Frost, and Mr. Bilirakis.

H.R. 4548: Mr. Daub.

H.R. 4649: Mr. Dannemeyer, Mr. Pashayan, Mr. Badham, and Mr. Miller of California.

H.R. 4680: Mr. Shumway, Mr. Penny, Mr. Neal, Mr. Hyde, Mr. Nielson of Utah, Mr. Regula, Mr. Traxler, Mr. Sabo, Mr. Beilenson, and Mr. Florio.

H.R. 4732: Mr. Martinez.

H.R. 4752: Mr. Rahall.

H.R. 4796: Mr. Shumway.

H.R. 4833: Ms. Pelosi, Mr. Bonker, Mr. Gunderson, and Mr. Dowdy of Mississippi.

H.R. 4842: Mr. Bunning, Mr. Chandler, Mr. Dannemeyer, Mr. Fields, Mr. Mack, Mr. Lightfoot, Mr. Packard, Mr. Saxton, Mr. Clinger, and Mr. Broomfield.

H.R. 4894: Mrs. Saiki and Mr. Wylie.

H.R. 4907: Mr. Bryant, Mr. Bruce, and Mr. Rangel.

H.R. 4917: Mr. Shays and Mr. Spratt.

H.J. Res. 152: Mr. Sharp, Mr. Espy, Mr. Pepper, Mr. Jacobs, Mr. Dwyer of New Jersey, Mr. Tauzin, Mr. Petri, Mr. Regula, Mr. Schumer, Mr. Vento, and Mr. Clarke.

H.J. Res. 293: Mr. McCollum, Mr. Florio, Mr. Gallo, Mr. Solomon, Mr. Lantos, and Mr. Coleman of Texas.

H.J. Res. 330: Mr. Beilenson, Mr. Torricelli, Mr. Stokes, Mr. Markey, Mr. Espy, Ms. Slaughter of New York, Mr. Sabo, and Mr. Ravenel.

H.J. Res. 360: Mr. St Germain and Mr. McHugh.

H.J. Res. 367: Mr. Kildee, Mr. Wise, Mr. DeWine, Mr. Gilman, Mr. Cheney, Mr. Sawyer, and Mr. Murtha.

H.J. Res. 453: Mr. Mack, Mr. Edwards of California, Mr. Hochbrueckner, Mr. Hoyer, and Mrs. Boggs.

H.J. Res. 458: Mr. Hubbard, Mr. Dingell, Mr. Rose, Mr. Applegate, Mr. Harris, Mr. Swindall, Mr. Tauzin, Mr. Lipinski, Mr. Miller of Washington, Ms. Slaughter of New York, Mr. Vander Jagt, Mr. McHugh, Mr. Badham, Mr. Montgomery, Mr. Traficant, Mr. Oberstar, and Mr. Dannemeyer.

H.J. Res. 509: Mr. Mack, Mr. Biaggi, Mr. Kostmayer, Mr. Lent, Mr. Lehman of Florida, Mr. Leland, Mr. Evans, Mr. Clay, Mr. Hammerschmidt, Ms. Oakar, Mr. Owens of New York, Mr. Owens of Utah, Mr. Ravenel, Mr. Richardson, Mr. Rodino, Mr. Sabo, and Mr. McCollum.

H.J. Res. 528: Mr. Bartlett and Mr. Saxton.

H.J. Res. 539: Mr. Annunzio, Mr. Boehlert, Mr. Brennan, Mr. Brown of Colorado, Mr. Bryant, Mr. Burton of Indiana, Mr. Bustamante, Mr. Chandler, Mr. Dellums, Mr. Durbin, Mr. Erderich, Mr. Florio, Mr. Frenzel, Mr. Hayes of Louisiana, Mr. Hutto, Mr. Ireland, Mr. Jeffords, Mrs. Johnson of Connecticut, Mr. Kanjorski, Mr. Lent, Mr. Lewis of Georgia, Mr. Mineta, Mrs. Morella, Mr. Owens of Utah, Mr. Packard, Mr. Ravenel, Mr. Rowland of Connecticut, Mr. Skelton, Mr. Smith of Iowa, Mr. Tauzin, Mr. Walgren, and Mr. Whittaker.

H.J. Res. 544: Mr. Foley, Mr. Emerson, Mr. Fish, Mr. Fuster, Mr. Gunderson, Mr. Hochbrueckner, Mrs. Johnson of Connecticut, Mr. Espy, Mr. Green, Mr. Torres, Mr. Wise, Mr. Daub, Mr. Manton, Mr. McHugh, Mr. Martin of New York, Mr. Thomas of Georgia, Mr. Sharp, Mr. Skelton, Mr. Mrazek, Mr. Young of Alaska, Mr. Dornan of California, Mr. Dyson, Mr. Torricelli, Mr. Blaz, Mr. Kennedy, Mr. Hunter, Mr. Davis of Michigan, Mr. Donnelly, Mr. Kemp, Mr. Nelson of Florida, Mr. Brown of Colorado, Mr. Cheney, Mr. Bosco, Mr. Mfume, Mr. Campbell, Mr. DeWine, Mr. Coleman of Texas, Mr. DioGuardi, Mr. Dingell, Mr. Garcia, Mr. Coelho, Mr. Kildee, Mr. Murtha, Mr. Conyers, Mr. Nichols, Mr. Rinaldo, Mr. Savage, Mr. Boland, Mr. Hyde, Mr. Lujan, Mr. Traficant, Mr. Udall, Mr. Waxman, Mr. Weldon, Mr. Wilson, Mr. Yatron, Mr. Dannemeyer, Mr. Gray of Illinois, Mr. Hayes of Louisiana, Mr. Hefner, Mr. Mavroules, Mrs. Byron, Mr. Morrison of Connecticut, Mr. Traxler, Mr. Ireland, Mr. Moorhead, Mr. Murphy, Mr. Tauzin, Mr. McGrath, Mr. Donald E. Lukens, Mr. McMillen of Maryland, Mr. Mack, Mr.

Lehman of Florida, Mr. Lehman of California, Mr. MacKay, Mr. Wolf, Mr. Wylie, Mr. Gordon, Mr. Sunia, Mr. Evans, Ms. Pelosi, Mr. Coughlin, Mr. Ortiz, Mr. Obey, Mr. Kasich, Mr. Tauke, Mr. Taylor, Mr. Mollohan, Mr. Nagle, Mr. de Lugo, Mr. McCloskey, Mr. Towns, Mr. Weber, Mr. AuCoin, Mr. Johnson of South Dakota, Mr. Vander Jagt, Mrs. Patterson, Mr. Hall of Texas, Mr. Clinger, Mr. Bates, Mr. Darden, Mr. Bonior of Michigan, Mr. Dellums, Mr. Dicks, Mr. Dixon, Mr. Dowdy of Mississippi, Mr. Hutto, Ms. Kaptur, Mr. Markey, Mr. Barnard, Mr. Aspin, Mr. Bliley, Mr. Chandler, Mr. Dorgan of North Dakota, Mr. Molinari, and Mr. Montgomery.

H.J. Res. 566: Mr. McEwen, Mr. Holloway, Mr. Donald E. Lukens, Mr. Kolbe, Mr. Bunning, Mr. Clinger, and Mr. Boulter.

H.J. Res. 568: Mr. Towns, Mr. DeFazio, Mr. Ackerman, Mr. Rangel, Mr. Frost, Mr. Hatcher, Mr. Lancaster, Mr. Neal, Mr. Kennedy, Mr. Sisisky, Mr. Murtha, Mr. Gray of Illinois, Mr. Ritter, Mr. Roe, Mr. Rodino, Mr. Horton, Mr. Annunzio, Mr. Bilirakis, Mrs. Bentley, Mr. Tallon, Mr. Clinger, Mr. DeWine, Mr. Ray, Mr. Martin of New York, Mr. Frenzel, Mr. Garcia, Mr. Grant, Mr. Chappell, Mr. McCollum, Mr. MacKay, Mr. Ireland, Mr. Mack, Mr. Shaw, and Mr. Pepper.

H.J. Res. 571: Mrs. Bentley, Mr. Lipinski, Mr. Moorhead, Mr. Stokes, Mr. Wortley, Mr. Gekas, Mr. Carper, Mr. Annunzio, and Mr. Bateman.

H.J. Res. 581: Mr. Brooks, Mr. Chapman, Mrs. Collins, Mr. Erdreich, Mr. Gonzalez, Mr. Hughes, Mr. Matsui, Mr. Morrison of Washington, Mr. Panetta, Mr. Rahall, Mr. Rangel, Mr. Smith of New Hampshire, Mr. Wheat, Mr. Nielson of Utah, Mr. Crockett, Mr. Garcia, Mr. Mavroules, and Mr. Stump.

H.J. Res. 592: Mr. Dowdy of Mississippi, Mr. Young of Alaska, Ms. Kaptur, Mr. Roe, Mr. Towns, Mr. Hansen, Mr. Henry, Mr. Bevill, Mr. Fazio, Mr. DeFazio, Mr. Frenzel, Mr. Foglietta, Mr. Garcia, Mr. Hatcher, Mr. Hochbrueckner, Mr. Wheat, Mr. Berman, Mrs. Lloyd, Mr. Kostmayer, Mrs. Johnson of Connecticut, Mr. Akaka, Mr. Conyers, Mr. Walgren, and Mr. Flippo.

H. Con. Res. 19: Mr. Garcia.

H. Con. Res. 61: Mr. Daub, Mr. Sikorski, Mr. Beilenson, Mr. McDade, Mr. Chandler, Mr. Levine of California, Mr. Stark, Mr. Dicks, Mr. Murtha, Mr. Solomon, Mr. Owens of Utah, Mr. Panetta, Mr. Dymally, Mr. Lewis of Georgia, Mr. Schuette, Mr. Mazzoli, and Mr. Conyers.

H. Con. Res. 278: Mr. Gilman, Mr. Bryant, Mr. de Lugo, Ms. Kaptur, Mr. Coelho, Mr. Clinger, Mr. Hughes, Mr. Lowry of Washington, Mr. Towns, and Mrs. Collins.

H. Con. Res. 310: Mr. Studds, Mr. Levin of Michigan, Mr. Clinger, Mr. Solarz, Mr. Pickle, Ms. Pelosi, Mrs. Collins, and Mr. Mavroules.

H. Con. Res. 323: Mr. Fish, Mr. Hochbrueckner, Mr. Rinaldo, and Mr. DioGuardi.

EXTENSIONS OF REMARKS

TRIBUTE TO STUDENT ESSAYISTS OF MIDLAND, TX

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. SMITH of Texas. Mr. Speaker, I'd like to take this opportunity today to introduce my colleagues in the House to five of the many people of the 21st Congressional District in Texas I am proud to represent: Keth Bell, Toni DaDalt, Sheryl Moellering, Russell Van Husen, and Peter Zimmerman.

They are the winners of the speech and essay contests conducted this spring by the high schools in Midland, TX, in observance of "Just Say No to Drugs" month.

Their work so impressed the editors of the Midland Reporter-Telegram that they have reprinted one winning essay on their op-ed page each week since the middle of May. With your permission, Mr. Speaker, I would like to insert these five essays into the RECORD as well.

Their compositions are worth preserving in this way because of the enormous amount of energy, thought, craft, reason and heart that was put into each one.

[From the Midland Reporter-Telegram, May 22, 1988]

DRUG USERS FREQUENTLY DENY THEIR ADDICTION

(By Russell Van Husen)

"Sure, I do drugs, but I can quit whenever I want to." Millions of people from all over the United States use this excuse. However, the truth is that two out of every seven people in our country are addicted to drugs.

Many people who are drug addicts truly believe that they can stop anytime they want. These people do not realize the predicament they are in. As it happens in most instances, drug abuse starts from Mr. Jack Anybody with an occasional joint at a party or an occasional snort at the mall. After a while, drug use becomes a part of his regular weekend routine. Before long, Jack has to have drugs every day of the week. Although he doesn't realize it, he has become a drug addict. He buys drugs with almost every penny he earns. He becomes short-tempered and hard to get along with, but he can't understand why he is suspended from school or laid off from his job.

Now he has to steal in order to support his drug habit because his allowance has been cut off or his salary has been stopped. Before long, he is caught by the police. By now, his family suspects his problem. When they confront him about their suspicions, he denies it and becomes angry at them. He wants nothing to do with those who suspect his habit, so he runs away. Living on the streets for the rest of his life, he does nothing but deteriorate both his body and his mind.

Drugs affect the mental and social life of Jack—or you—or me. When a person becomes addicted to a drug, his whole life is controlled by that drug. The user becomes irritable and short-tempered. Often he is suspended from school or fired from his job because of this. He loses his friends because of his bad attitude. Now his only friend is his drug. When he is on the drug, he doesn't have control of his actions. He is unpredictable. Many violent crimes and murders are committed by people under the influence of drugs. When an addict is not high, he tries every possible way (begging, lying, stealing, killing) to obtain the drug in order to become high. Drug addicts often become so devoted to their drug that they lose interest in any useful or intellectual occupation or endeavor.

Drugs have many effects on the human body whether it is the body of Jack or anyone else. A major effect is that most drugs kill or damage nerve cells. Nerve cells do not regenerate; therefore, the damage caused by the drugs is irreparable. Because of this, the body's sensations are dulled and nervous twitching may occur. Nausea, vomiting, and pain in the joints are also common effects of many drugs. These symptoms may cause severe pain, but they rarely result in death. Also, many drugs stimulate the heart. "Downers" cause the heart to beat much slower. If Jack or anyone else takes an overdose of downers, it is very likely that his heart will stop beating—permanently. "Uppers" cause the heart to beat extremely fast. The use of uppers often results in a heart attack, and maybe even death. The drugs essentially control the entire life of Jack, or you, or me.

"Sure, I do drugs, but I can quit whenever I want." No, Jack, you're addicted; the drugs are in control. In reality, drugs are nothing but a one-way ticket to death. This is why Jack, you, and I should just say no.

[From the Midland Reporter-Telegram, May 29, 1988]

COCAINE OFTEN TRULY "KILLER DRUG"

(By Keith Bell)

Every year people in America are spending $50 billion on the killer drug cocaine. Over 22 million people have already tried cocaine. Twelve million people use the drug only once a year; nearly 6 million people are habitual users, and every day hundreds of other men, women, and children are introduced to cocaine. In the past five years, deaths and emergency-room cases caused by cocaine have more than tripled. To some, cocaine may be thought of as a "wonder drug," though in truth cocaine is a killer.

The effects of cocaine are more than disastrous. With just one use of cocaine, a person could die. Such results may also happen over a few months of use, although the effects will still be the same. Another effect of cocaine is that it creates hallucinations. These hallucinations can cause a user to believe that a person is trying to kill him, or that he can fly. These effects often end in severe injury and sometimes even death. Cocaine can also kill by causing seizures, respiratory failure, constricting blood vessels to the heart, or sending the heart into an abnormal heartbeat, called arrhythmia. The most devastating effect of cocaine is an aspect called cocaine psychosis, in which the user loses all sense of reality.

Another deadly form of cocaine is called crack. This form of cocaine was created by the 38-year-old Amis Chila Vik-kiv, who lived in the District of Columbia. Vik-kiv vaporized the cocaine (mixed with water and baking soda) into the bowl of a glass smoking pipe. Then, after inhaling almost one hundred dollars worth of cocaine, Vik-kiv carefully searched the floor for any cocaine that might have been spilled during the process of mixing. Eventually, the recurring need for the drug pushed Vik-kiv into a drug rehabilitation center.

Many times drugs cause emotional problems in dealing with friends, family, and occupations. An average drug user spends hundreds or possibly thousands of dollars each month on cocaine. A user may begin to borrow large amounts of money from his friends and does not repay the money. Soon, so much money is borrowed that the friends refuse to continue lending the money to the user. Then, as a result, the user may become angry and abandon his friends.

Family problems begin when the user becomes isolated from his family. When family members begin to ask questions, the user may once again become angry and abandon his family. Sooner or later the user begins to neglect his job. Most of the time he is trying to reach new highs; thus, he does not do his work. The best of the day for him is when he is alone and high. If he is lucky, someone will enter him into a drug rehabilitation center, but a part of his life has been wasted.

Just by staying away from any kind of drugs, people do not have to waste time going through drug rehabilitation. Although the drug may give a person a few moments of pleasure, it will cause him a lifetime of pain, worry, and grief. One does not have to go through the day worrying about if he is going to be able to afford one more high. All that is needed is to remember one simple word, "no."

In conclusion, drugs are not all they are said to be; they are not a "free ride." Not only do drugs cost hundreds of dollars, family, and friends, but they can also cost one his life. There is no future in the use of drugs except a life of running, lying, stealing, hiding, worry, grief, and possibly even murder, just to achieve one more rush. In the mysterious and dangerous world of drugs, there is no assurance of where a person may end up after becoming addicted to drugs. There is no truth in the saying, "drugs can not hurt." Extended use of any type of drugs can kill.

[From the Midland Reporter-Telegram, June 5, 1988]

"NO" DIFFICULT TO SAY WHEN OTHERS SAY "YES"

(By Toni DaDalt)

It was almost daybreak, in winter of 1986. Mike had been up all night. His hands were shaking as he sucked on what was left of a joint and burned his lip. He was wringing with sweat. His heart was pounding so hard that he hardly noticed the burning in his nose. He tried to blow in the crumpled, blood-stained Kleenex he had been clutch-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ing, but not much air got through. His guts ached and he was exhausted.

Suddenly, he spotted the razor blade that he had used to chop the cocaine the night before while he was sitting on the bathroom counter together with his friends. He felt suicidal and wanted to die; his trembling hand slowly reached for the razor, and in one quick and violent motion he slit his wrist. This is the real story of an American teenager who committed suicide after having used cocaine, a present for his 17th birthday, for one single night.

This is the reason why, today, I want to talk to you about drug abuse and hopefully prevent many young people from making the same mistake that Mike committed in the springtime of his life.

Drug abuse by youths and adults remains high in the U.S., but in most cases it appears to have leveled off or declined slightly. Today, statistics clearly show that the amount of drugs consumed has slightly decreased in the past 10 years. In 1979, 60.4 teenagers had used cocaine out of the past 10 graduating classes enrolled in public and private high schools across the United States. In 1984, this number dropped to 54.9. Besides according to a recent door-to-door survey across the country, three out of four young people age 12-17 said they had not tried marijuana even once. And, in a survey of high school seniors, only six out of 100 of the seniors surveyed also think smoking marijuana is dangerous and don't approve of those who use it, even occasionally. These statistics show us that it is possible to decrease the amount of drugs consumed and that more and more American teenagers are willing to say "no."

"No." It isn't a hard word to say, it's just one syllable. In fact, I've said it many times in my life. But, sometimes it can be a difficult word that singles you out when everyone else around you is saying "yes." Let's look at three main reasons why we should say no to drugs:

1. Drugs kill our personality
2. Drugs do not fill the void
3. We have a right to say "no"

One. The most fascinating thing about our world and existence is that it is unique. Every person has a specific personality that nobody else has. Besides, life is the best gift that man has ever received. There is no tenable reason for which a teenager may decide to waste it by using drugs. We must be proud of our personalities. Drugs do not only change them but such substances destroy them slowly, leaving each person with nothing but an empty body. As the writer Sol Gordon said, "I talk for people of all faiths, little faith, no faith and for those still searching for a faith. I write to encourage you to stand for something; otherwise you may fall for anything."

Two. No matter what the problem is; we can't solve it with alcohol, coke or grass. Even if we remain functional, we will become less productive, as well as nasty to those people who care about us. Besides, life can also be full of joys, pleasures and excitement. They may not last long, but nevertheless, they are real. Drugs do not fill the void we feel inside. The pleasure that drugs provide for once they are consummed is nothing compared to the damage caused. Drugs don't change reality. They just change our thoughts about reality. But, as Sol Gordon said, "We are not our thoughts, we are what we do."

Three. We have a right to "say no" to drugs. When we know the facts and know the risks that go along with drug-taking, our decisions will be easier. We don't have to explain why we don't want to use drugs if we don't want to. We can just say, "No, thanks," and if it doesn't work, we can just say it again.

In conclusion, I want to remind you that it is much easier to say no to drugs when we know their effects.

Don't think that the best way to understand a problem is to experience it. There are persons who stand for that; persons who are willing to advise you so that you won't make the same mistake that Mike did. Experiencing drugs is not as simple as touching a hot flame and realizing that it burns. Drugs are a flame that burns forever. If you have a problem, if you feel alone, try to fill the void with new ideas, alternatives, faith in the possibility that life's circumstances may change. No matter how bad things may seem, they will get better. Just hold on and have faith in yourself.

But, above all, don't allow anybody or anything to destroy something unique that only you have: your personality. As Sting, a famous English singer, said in one of his songs, "Be yourself, no matter what they say!"

[From the Midland Reporter-Telegram, June 12, 1988]

UNHOLY TRINITY HONOR STUDENTS IN CHEMICAL HIGH SCHOOL

(By Peter Zimmerman)

Welcome to Chemical High School. I'm your host, Alcohol. I was voted class favorite this year. I'm real popular in this town, and not just with students. Some parents like me, too. I'm always going to parties the parents throw for their kids so they can make sure they get drunk at home where it's safe.

I lead a real wild life; I have been in more car wrecks than a stock car racer. Kids carry me into the car more than they remember to bring licenses. I have seen more suicides than the Israelis at Masada. It isn't that hard to find me; I'm allowed in this community. I'm socially acceptable. And that's why I am so deadly. I am the most popular of all controlled substances, and I am one of the most addictive. Eighty percent of high school students use me, and many will become alcoholics. I can come on strong like whiskey or slow as in beer. I play quarters every weekend and I'm the one who really wins. You can see me in the parties at Padre or in parties of one.

But I'm not the only game in town. Drugs are popular, too. They are a close knit group, and not as easy to meet as me. But they're still around. There is at least one drug for every type of person. Need energy? Talk to speed or go out with some upper's they'll do the trick. Need to relax? Smoke some pot or take a downer out to lunch, you'll feel much better. And if you just want to have fun, there are lots that fit that category. Have some Coke and smile, we've got Coke Classic and New Coke. New Coke is a lot cheaper then Old Coke, and its a lot more concentrated. Crack is its street name. There are lots of other Drugs, and they are one group of Latin immigrants that are definitely not discriminated against. Drugs are a lot less forgiving than I am. They have their own society, their own rules, and their own way of life. They demand that everything be signed over to them. In return they will give you a ticket to heaven . . . or hell, depending upon whom you ask.

Tobacco is a good old boy who has finally gotten around to shedding his chauvinist ways. You've come a long way baby, especially in lung cancer. In 1950, the average hospital treated fewer than 10 women a year for lung cancer. In 1985, over half of the thousands of cases dealt with at Mount Sinai Hospital in New York were women.

Tobacco is an easy-going kind of guy. He doesn't affect people the way Drugs do. He won't bankrupt you or cause you to lose your job. He is not considered an immoral friend—he's more like a vulgar habit. He will stick with you through thick and thin, or at least until your lungs get so thick with disease that your life thins away. Tobacco comes in many forms, and can fit any lifestyle. Rednecks and jet-setters alike find this substance to be one that they just can't say no to. But Tobacco use has dropped off in the adult population. Every year, a higher percentage of smokers are under the age of 18. The youth of our country more readily believe the tales that Tobacco tells. "You won't get cancer; it's not like you're taking drugs; you can quit any time; use filters, they are healthy."

Drugs, Tobacco and Me. We've been called the unholy trinity of substance abuse. I am a killer, and so are my friends. I can say this to your faces because you will never believe my lies. I have no power over you. But I'm not worried. The kids today don't believe what adults tell them. Statistics mean nothing to the average youth. What they know is that Alcohol means acceptance by their peers. Tobacco is a taste of sophistication, and Drugs will do it for you when there is nothing else to turn to. And they will never believe what you tell them, unless you make them listen. Hitler killed six million before they stopped him. I've killed more than that myself. Drugs add on over a million, and Tobacco has killed as much as I in the last 20 years.

Until you realize that controlled substances are just as deadly as any other weapon, we're home free. Only you, the parents, can get your kids straight. The schools can't do it. They don't have the time or the authority. The police force can't handle the volume. My estimation is that the police stop about 20 percent of the kids out drinking and driving on a Friday night. That seems like a pretty bad record, but they do a great job for the understaffed service they provide.

It is your duty. And so now, for a limited time only, we offer The Parent. Each kid comes equipped with at least one of these amazing educational devices. One responsible adult who can help his kid just say no. One adult watching out for one or two kids, it sounds like a great system. But it isn't working. Parents continue to think that it isn't their kids. I don't just hang out with the dropouts or the losers. I am no respecter of persons. In one city, I was found in the car of the president of the local SADD chapter. I go on church youth trips. I'm imbibed by the honors students, just as much as I am by the Drug crowd. So for you, the parents, our tour of Chemical High is over. But for you kids, it has only begun. I leave you confident; confident that you will do nothing or little to stop our curriculum—confident that you will allow your students to stay enrolled at Chemical High.

For that is the real question. Are you going to let your child enroll, or are you going to try to shut this school down?

[From the Midland Reporter-Telegram, June 19, 1988]

DRUG USERS DON'T THINK THAT ADDICTION WILL HAPPEN TO THEM

(By Sheryl Moellering)

In a world where drugs are as easily accessible as buying a Coke from the local convenience store, convincing men, women, and children of all ages to "just say no" is a task of the utmost urgency. New forms of old drugs are readily available and easily addictive. Kids are trying drugs at younger ages and the casualties for all ages is higher than any of us would like. New programs are constantly being formed to deter drug addiction. Although many of these programs focus on the youth of America, there is a growing realization that the drug users are also adult businessmen and women. The highs and lows of chemical abuse know no race, religion, or occupation. They spread across social, economic, and international boundaries, causing their users to "steal, kill, and destroy" to get more of the deadly drugs to support their habits.

There are many shocking statistics that reach the newspaper headlines each day. Yet, the drug addicts do not believe that it will happen to them. They brush it aside as a fluke. Is it a fluke or a fact?

The facts are as follows, according to various brochures put out by several different interests groups such as Alcoholics Anonymous and the American Cancer Society. There are at least 10 million alcoholics in the United States today, in addition to 10 million more Americans suffer from major drinking problems that may lead to alcoholism. It is estimated that at least 5,000 people a month contact professionals for help to stop smoking marijuana, which can cause damage to unborn children. Smokeless tobacco causes more than 87 percent of the cases involving oral cancer and more than 300,000 people die annually because of smoking-related illnesses.

While these facts are about "legal" drugs, if you will, the illegal drugs find there way into many homes despite their obvious side effects. Cocaine can cause paranoia and hallucinations. Crack, the new, purer form of cocaine, causes the heartbeat to increase. After long periods of use it can cause seizures and weakening of the heart muscles.

While these facts do not paint a very pretty picture, they do outline the truth. If drugs cause so much pain and death then why do so many people insist on using them? The average age for children to try alcohol for first time is 12. By the time they reach the age of 13, 30 percent of the boys drink regularly, and 22 percent of the girls do, according to "Parent" magazine. In an article about Carrie Hamilton, Carol Burnett's daughter, in "Redbook," the author told about the trials of a young girl whose mother was famous. At the age of 13, Carrie was nicknamed "Alky" by her friends because of her alcohol problem. She thought that it was a cute nickname to have. Maybe that is the problem among drug users. They get such a high from their habits that they feel it is the thing to do. When, in essence, it is the thing not to do. The users of drugs are stoned most of the time, therefore, they have no perception of what is real, only what is imaginary. The artificial feelings of superiority they receive leave them helpless and their bodies must deal with the aftereffects of drug addiction.

If I were asked by grade school students, living in today's world, why they should not use drugs, my reply would be simply this. I would tell them that in order to be popular and fit in, it is not necessary to take drugs. Using drugs is not what makes you special or cool, it's what's inside your heart that really matters. Drugs and alcohol only delay the real world. After the high wears off you must get another hit or finally face reality. No problem is bad enough that taking drugs makes it better. Talk your problem over with someone or sleep on it, things are bound to look better after some time has passed. I would also tell them that I have never used drugs, yet I am pleased with the success I have had thus far in my life. As an athlete, I never felt that I had to use drugs to become a better basketball player. If I couldn't be good enough on my own merits, it wasn't worth having any artificial means. The old saying, "The only way to the top is through hard work" still holds true. God has given each of us our own abilities, enough to last a lifetime. Anything a drug can give you is only temporary, and many times leaves side-effects. In sharing this with them, I would hope my own life's testimony would be a good enough example to deter drug use by the young students.

Times are changing but with them the morals of what is good and right do not have to change. As young people of America, we need to take a stand for what is right. Political activists make their views known each day. Yet, seldom do we see teen-agers speking out against drugs and alcohol, even though many of them do not believe that it is right. While we sit silent, many of our classmates are taking their own lives through the incessant use of drugs. How much longer will we remain silent? Now is the time to speak up. How many more need to die before something is done to stop the killers? If alcohol and smoking are supposedly so good for us, according to the distributors, then why do the manufacturers spend millions of dollars annually on advertising, trying so hard to get us to buy it?

In conclusion, drugs are a harmful way to prolong the acceptance of life's situations. After the many films, videos, and pamphlets I have seen and read, I can honestly say that drugs do not help any problem, they only make it worse. Drugs' feelings are temporary, but life was made to last forever. After you are through with drugs, drugs aren't through with you. The long-lasting effects of drugs are damaging and irreversible. Why put your body through it? So if you're ever offered drugs just say no, you like your body the way it is.

TRIBUTE TO JUSTIN L. RADLO

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. ATKINS. Mr. Speaker, I rise to pay tribute to former chief engineer of the Massachusetts State Department of Public Works, Mr. Justin L. Radlo, who is retiring after 40 years of dedicated service.

I have known Justin for many years, having worked closely with him when I was a State senator. Through my personal contact with Justin, I have come to value his integrity, his dedication and his energy. I am honored to call him my friend.

Justin's first step toward his distinguished career as an engineer began at Northeastern University. After receiving a degree in civil engineering in 1948, he wasted no time before joining the Massachusetts DPW, landing a position as a junior civil engineer. At that time, he received assignments in various district offices, gaining valuable experience in the field. After he was transferred to department headquarters in Boston, Justin continued his tradition of diversity, working in various divisions: construction, highway engineering, and the right-of-way bureau.

In 1969, the Massachusetts DPW recognized Justin's commitment and ability. He was transferred to the department of location and surveys, one of the top management and engineering positions. Then, in 1972, he moved up even further, serving this time as the deputy chief engineer of the project division. Finally, in 1979, Justin reached the top. He became chief engineer of the Massachusetts DPW.

What I respect most about Justin is his involvement in the community. No matter what official title Justin held in any particular time, his permanent title as "Ambassador." He served as an untiring liaison between the DPW and the community, always ensuring that the department's projects did not conflict with neighboring residents' best interests. He tried his hardest never to approve a project if he thought it compromised the environment or its surrounding residents. For this, Justin must be commended as having combined those traits necessary to perform his job at the highest level: keen technical competence and compassion. Justin never simply performed his job as separate tasks; rather, he incorporated both the technical aspects along with the human element, transforming his job into true public service.

Through his extraordinary talents, perseverance, and dedication to his job, Justin has made an unforgettable impact on our community. So often we take for granted the services provided by the DPW. We must never, however, take for granted the contributions of Justin L. Radlo over the past 40 years. His will not be an easy legacy to follow.

I join Justin's wife Jackie, their three children, friends, and colleagues in congratulating him on his well-earned retirement, and in wishing him well in future endeavors.

A BILL TO PROHIBIT CONTRIBUTIONS TO CONGRESSIONAL CAMPAIGNS UNDER CERTAIN CIRCUMSTANCES

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. BENNETT. Mr. Speaker, I, this week, introduced legislation to prohibit Members of and candidates for Congress from giving campaign conributions to other Members of and candidates for Congress.

My legislation would remove any appearance that Members seeking congressional leadership positions may assist their races by distributing funds, their own or from PAC's. This growing practice of distributing funds, particularly PAC funds, is a very dangerous practice that ought to be stopped. My bill does that in a very straightforward way.

I spoke in the Democratic Caucus on this issue during the 1986-87 race for the chairmanship of the House Armed Services Committee. I stated then that two of my opponents provided many thousands of dollars to Members of Congress, or to their campaign funds. Frankly, my candidacy was uphill anyway, but the huge campaign contributions by my opponents didn't help. Numerous times I called Members for support only to be told that an opponent had given them contributions. This made it very hard for them to vote against that opponent. Is that the way Congress should operate? Isn't there a danger here that outside financial or business concerns interested in particular legislation could gain improper power over the laws of our country? Think about it.

I spoke then, but didn't introduce legislation. I didn't act right away. No one wants to be accused of sour grapes, and I had enough self depreciation then to make me want only to restore my self-confidence. Why am I doing it now? Because RollCall and other publications have pointed out that this practice is a growing blight on Congress. The story in RollCall that really spurred this legislation dealt with the current race for chairman of the House Democratic Caucus, where, it was reported at least one of the contestants is apparently openly raising money to distribute to other people running for election or reelection to Congress.

It is not my purpose to criticize any Member for past action because this practice is not now against the law. Absent such a law, no one can be criticized on firm ground. But it ought to be against the law. My bill would, in the future, prohibit Members not only from giving campaign money to other Congressmen or candidates for Congress, but would also prohibit the handing out of personal funds, thus insuring that wealthy members won't have more clout than nonwealthy ones. Anyone caught doing this would be subject to the full panoply of penalties available under the Federal Election Campaign Act of 1971, which this bill amends.

My bill also prohibits the solicitation or acceptance of contributions with respect to congressional leadership elections. Penalties available under this would be those the ethics committees of each body of Congress deem appropriate.

While the experiences outlined have been Democratic related, I have heard of instances of this being done on the Republican side. This is not a Democratic or Republican problem; if is an institutional problem.

Congress must be above reproach. Years ago only the Speaker gave out contributions to Members, and since the Speaker seldom had serious opposition, any harm seemed unconsequential. But, like other things, this trickled down into other areas. When it got into other leadership races, such as for committee chairmanships, it reached a level that cannot now be ignored.

Along with the Extensions of Remarks, I include for the CONGRESSIONAL RECORD a copy of the bill, H.R. 4918.

I urge my colleagues to support this bill and restore the battle for leadership posts to the level it was meant to be—a combination of seniority and personal politicking among Members. Positions of leadership shouldn't have the appearance of being bought and sold. In the spirit of John Houseman's popular TV commercial, they ought to be obtained the old fashioned way; they ought to be earned.

H.R. 4918

A bill to amend the Federal Election Campaign Act of 1971 to prohibit any member of or candidate for the Congress from making contributions to any other member of or candidate for the Congress and to prohibit members of the Congress from soliciting and accepting contributions with respect to elections for Congressional leadership officers within a political party

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON CONTRIBUTIONS BY MEMBERS OR OF CANDIDATES FOR CONGRESS TO CONGRESSIONAL CANDIDATES.

(a) CONTRIBUTIONS FROM CAMPAIGN FUNDS.—Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b) A Senator or Representative in, Delegate or Resident Commissioner to, or candidate for, the Congress, or any authorized committee of such individual, may not make any contribution, either directly or indirectly, to any other Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, or candidate (or any authorized committee for the candidate) for such office, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit (including any political committee) to the Senator, Representative, Delegate, Resident Commissioner, or candidate.".

(b) CONTRIBUTIONS FROM PERSONAL FUNDS.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) A Senator or Representative in, Delegate or Resident Commissioner to, or candidate for, the Congress may not make any contribution from any personal funds (including the personal funds of the immediate family of the Senator, Representative, Delegate, Resident Commissioner, or candidate), either directly or indirectly, to any other Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, or candidate (or any authorized committee for the candidate) for such office, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit (including any political committee) to the Senator, Representative, Delegate, Resident Commissioner, or candidate.".

SEC. 2. PROHIBITION ON SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS FOR ELECTION OF CONGRESSIONAL LEADERSHIP OFFICERS.

(a) IN GENERAL.—A Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may not solicit or accept any contribution with respect to any election for or selection of any Congressional leadership officer.

(b) DEFINITIONS.—For purposes of this section:

(1) CONGRESSIONAL LEADERSHIP OFFICER.—The term "Congressional leadership officer" means the President pro tempore of the Senate, Speaker of the House of Representatives, any chairman of any committee or subcommittee, the Majority Leader, Minority Leader, Majority Whip, and Minority Whip, in the Senate and the House of Representatives, and any other officer of a political party who is elected or selected for the office solely by and from among the members of the political party that are Senators or Representatives in, or Delegates or Resident Commissioners to, the Congress.

(2) CONTRIBUTION.—The term "contribution" has the meaning given the term in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).

(c) EXERCISE OF RULEMAKING POWERS.—Subsections (a) and (b) are enacted by the Congress as follows:

(1) INCLUSION IN RULES OF EACH HOUSE.—The subsections are enacted as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such the subsections shall be considered as part of the rules of each House, respectively, and shall supersede other rules only to the extent to which they are inconsistent with the other rules.

(2) POWER TO CHANGE RULES.—The subsections are enacted with full recognition of the constitutional right of either House to change the rules (so far as related to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

THE 125TH ANNIVERSARY OF CARNEY HOSPITAL

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. DONNELLY. Mr. Speaker, Carney Hospital in Dorchester, MA, is celebrating its 125th anniversary this year and I rise to call my colleagues' attention to this notable occasion.

Mr. Speaker, Carney Hospital, the first Catholic hospital in New England, was founded by the philanthropist and entrepreneur Andrew Carney in 1863. Carney's generosity was initiated by the inspirational service of Sister Ann Alexis and two other sisters who were providing care for the helpless in St. Vincent's Asylum. His first gift of $13,000 to the hospital allowed for the conversion of the J. Hall Howe Estate—presently the Manor House—to a hospital building in South Boston. Before his death in 1864, he had contributed an additional $75,000.

Henry I. Bowditch from Massachusetts General Hospital headed a board of consultants comprised of notable doctors for Sister Ann Alexis Shrob. Superior of the Daughter of Charity, Sister Ann Alexis opened the hospital on June 9, 1863.

Carney's great desire to ensure that Carney Hospital remain "as a hospital where the sick without discrimination of creed, color, or nation shall be received and cared for" has been honored by the outstanding servitude of the Daughters of Charity. Because Carney Hospital has earned numerous "firsts" throughout its 125 years of service to the community, only a selected few of its noteworthy accomplishments will be mentioned:

In 1877, Carney established the first outpatient department in Boston. It was located in two frame houses at Carney and the cost was 10 cents a visit.

The unprecedented work of Dr. John Homans with ovariectomy surgery hailed Carney as the "Birthplace of abdominal surgery in Boston" in 1882.

Continuing its example as a frontrunner in expanding the facilities and services of hospitals in America, Carney installed the first skin clinic in Boston in 1891.

One year later, New England's pioneer Catholic nursing school was founded at Carney. Today, it is known as the Catherine Laboure Nursing School, Inc. and supplies the State of Massachusetts with more nurses than any other. It is still closely affiliated with and under the control of the hospital.

Carney Hospital, in 1901, had the first permanent chiefs appointed in medicine and surgery in New England and in 1950, Dr. W.R. MacAusland, maintained Carney's tradition by performing the initial plastic hip operation in the United States. It is also the first hospital in the country to set up an orthopedic clinic.

The relocation of Carney Hospital to its current site in my hometown of Dorchester in 1953, also marked the beginning of the Daughters of Charity's present title as administrators of the hospital.

In the 1970's, Carney furthered its growth by extending its accessibility to the community by developing cooperative arrangements: the Neponset Health Center, the Mattapan Community Health Center, and the Codman Square Health Center. Later, other neighborhood centers opened including the Bowdoin Street, Little House, and Greater Roslindale Medical and Dental Health Centers.

Today, under its first lay president John W. Logue appointed in 1985, Carney Hospital offers special diagnostic services in such areas as cardiology, radiology, pulmonary medicine, and endocrinoloy.

Also, it serves as a teaching facility for Boston University School of Medicine and Tufts University School of Medicine as well as an assocation with the Harvard Medical School.

Furthermore, an Alcoholics Anonymous program, a geriatric restorative unit and a 46-bed psychiatric unit is included in Carney's community effort.

The Daughters of Charity National Health System established in 1986 makes Carney the largest nonprofit health care system in the United States today allowing it to serve the most underprivileged in Massachusetts among nonmunicipal hospitals.

Mr. Speaker, I am truly honored to bring Carney's 125 years of unprecedented service to the community to the attention of my colleagues. This year's theme of celebration entitled "The community's choice for 125 years" clearly depicts the honorable position and well-deserved reputation Carney Hospital holds today. I wish them—and I am sure that my colleagues join me—the best of luck during their 125th anniversary and in their efforts in the future.

IN-FLIGHT EMERGENCY MEDICAL ASSISTANCE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. BROOMFIELD. Mr. Speaker, today I am introducing the In-Flight Emergency Medical Assistance Act which would slice through the tangle of malpractice laws and allow qualified physicians to act in a dire emergency. It's not difficult to imagine a heart attack happening on a transcontinental airline flight. Assume that a physician is one of the passengers present during this medical emergency. Most commercial flights on average will include two or three medical doctors among the list of passengers. Would the fear of a possible malpractice lawsuit prohibit a licensed doctor from giving 100 percent assistance?

It is estimated that as many as 100 persons die each year during air travel. In-flight medical emergencies are special situations which often require victims to wait for hours before they can be transported to a medical facility. This act would free competent physicians from malpractice liability when responding to an in-flight medical emergency.

During the 99th Congress the Senate passed legislation which resulted in the inclusion of a more complete first aid kit on commercial flights. However, we are now faced with the dilemma of malpractice legislation applying to doctors who would risk using this kit in an emergency situation.

It is unfortunate that a physician's Hippocratic oath has too often run up against a wall of tort laws. Fear of a malpractice lawsuit could prevent a well qualified professional from giving the kind of assistance that saves lives. The In-Flight Emergency Medical Assistance Act will not tolerate grossly irresponsible actions: It will give doctors needed freedom to act to the best of their abilities. Passage of this bill would also free our courts from lengthy, counterproductive malpractice litigation.

Let's not wait for a needless tragedy to stir Congress to action. I urge my colleagues to examine this worthwhile bill which could mean the difference between life and death.

OPENING UP OPPORTUNITIES WITH THE DEFENSE DEPARTMENT 5-PERCENT GOAL FOR MINORITY CONTRACTING

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. BUSTAMANTE. Mr. Speaker, I commend to my colleagues' attention the remarks which the chairman of the Armed Services Committee delivered earlier today at a minority contracting forum. Mr. ASPIN expressed our commitment to open up opportunities for minority businesses in defense contracting and the need for the Defense Department to achieve the 5-percent minority contracting goal by bringing into the process more varied types of enterprises. He also correctly emphasized the crucial role prime contractors have in achieving this goal.

Mr. Speaker, I include the following text of Mr. ASPIN's remarks:

SPEECH BY REPRESENTATIVE LES ASPIN, CHAIRMAN, HOUSE ARMED SERVICES COMMITTEE

Twenty-five years ago this summer, the late Martin Luther King Jr. stood on the steps of the Lincoln Memorial and gave his "I-have-a-dream" speech. In that speech he said, and I quote: "When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every Amerian was to fall heir. * * * It is obvious today that America has defaulted on this promissory note insofar as her citizens of color are concerned. * * * But we refuse to believe that the bank of justice is bankrupt. We refuse to believe that there are insufficient funds in the great vaults of opportunity of this nation." End quote.

The words of Doctor King set the stage for your two-day forum. You will be discussing legislation that is intended to open the great vaults of opportunity of this nation to its minorities who have heretofore not enjoyed those opportunities. My task today is to get you started with some background and context on minority contracting.

I think you're all familiar with the philosophical context. There has long been a commitment by government to assist small businesses—a commitment that arises out of the general attitude that small businesses, as opposed to monstrous conglomerates, are the heart and blood of the American economic system. In setting up the Small Business Administration many years ago, Congress was merely reflecting the popular American belief that our society is healthy only so long as men and women of talent and ambition can start their own businesses and flourish. In our philosophy, it is not the Fortune 500 that represents the best of America, it is the retail shopowner, the inventor in the garage, the people who start from scratch to build something of value.

With the advent of the civil rights movement, we recognized a gap in our approach to small business. We simply weren't doing anything for minorities. If we really believed that we were opening American society in its fullest to blacks, Hispanics and other minorities, then we had to make sure that they had a real share of small business. The American dream will not be fulfilled until the talented young black knows he too can move an idea from a garage to a flourishing business. Only when minorities gain a real share of small business do they gain a real share of the American dream.

From the perspective of Capitol Hill, it is interesting that this is one of the few economic and social issues on which conservatives and liberals alike can agree. Conservatives don't want to provide welfare; but they have an ideological commitment to provide business opportunities for minorities. Liberals are prepared to provide welfare, but they primarily want to develop the middle class within minority groups and see small business as a route to that goal.

A few years ago, members of the Congressional Black Caucus pushed legislation that would require that a minimum of 10 percent of defense contracts go to minority firms. A review of that proposal produced two conclusions shared by both liberals and conservatives: first, the goal was unrealistic—there simply weren't enough minority firms to reach 10 percent; and, second, we weren't doing enough to help minority contractors; we were really only paying lip service. In other words, the 10 percent concept was patently unattainable because American society had failed so miserably for so long to do enough to make it possible for the dream to come true today.

Therefore, in 1986 we enacted Section 1207 of the National Defense Authorization Act. It established a goal—not a requirement, just a goal—that the Defense Department award 5 percent of its contracts by value to small and disadvantaged businesses. That goal was more than double the 2.3 percent then being awarded to small and minority-owned businesses.

It was a modest goal. But we felt it was a practical goal. And it was a goal that had support right across the political spectrum. It fit right in with the Reagan Administration philosophy as well as with liberal philosophy.

Passing legislation does not in itself solve any problems. In fact, sometimes new laws just create new problems. Even the best laws, however, demand a lot of tender loving care to make them work. Right now, our minority contracting statute still needs TLC.

I see three problems before us:

First, implementation that is incredibly slow;

Second, an internal bias that threatens to confine minority contracting to a narrow ghetto; and

Third, a failure so far to tap the major source of contracts on behalf of minorities.

Let me take these one-by-one.

First, the speed of implementation. When we passed the law, we forgot one thing. These set-asides are very unpopular within the bureaucracy. There was a lot of foot-dragging—a lot of foot-dragging. It took six months for the Defense Department just to produce a first draft of the implementing regulations. And that draft was controversial, so it had to suffer through a lot ot rewriting.

Deputy Defense Secretary Will Taft—the Number Two man in the Pentagon—finally weighed in with his immense authority. He committed himself to a genuine effort on behalf of minority contractors. On his say, the logjam was broken. We now have completed regulations.

But I'm still fearful of foot-dragging. And we've already lost a lot of time. This was supposed to be a three-year program to double the minority share of contracting. Yet almost two years have passed and we haven't got a lot to show for it besides the regulations. Because of these delays, Congressman Nick Mavroules of Massachusetts this year sponsored legislation to give the program another year. I'm happy to report that the Senate has agreed to the Mavroules amendment and it will appear in this year's National Defense Authorization Act, which should be sent to the President in a matter of days.

The second problem is the Pentagon's own internal bias that threatens to confine minority contracting to a narrow ghetto. By this I do not mean to say that Pentagon officials are prejudiced. The bias I refer to is a tilt built into the system. The system looked at the 5 percent goal, and then asked how it could achieve that statistic with a minimal expenditure of time and effort. The system took note of the fact that there are lots of black construction companies. So, the system has concentrated on making the 5 percent goal by shoveling construction contracts onto minority construction firms. Now, this is very, very good for minority construction firms. But it does nothing for minority research firms or minority electronics firms or minority communications firms. Continued to its logical conclusion, minorities will eventually dominate in construction. But that's all.

That's why I say the danger is that we will produce a construction ghetto. That isn't what we intended when we passed this legislation two years ago. We need a much greater commitment from the Defense Department—not just a commitment to make the numerical goal, but a commitment to fulfill the promises—to open up new opportunities and new vistas for minorities. That means a genuine effort by the Defense Department to help develop minority firms in areas where there are few minority firms now.

The third problem we face is that even if DoD does more, that still won't fulfill the promise. Most small firms don't do business directly with the Pentagon. They sell components to prime contractors. If we want to see minorities scoring successes in the hitech area, we must energize the prime contractors—the giants of the aerospace field—to consciously seek out and assist minority firms.

We in Congress are going to try to help out. We will soon finish our hearings on minority set-asides. We then plan to call a summit meeting of concerned parties. This summit will include the powerhouses of the Pentagon, the nation's leading prime contractors, and congressmen who have been deeply involved in this issue, especially members of the Black Caucus and the Hispanic Caucus.

Our goal is not to harass Big Business, but to energize it. Big Business has a social responsibility, too. A business firm owes allegiance to its stockholders, yes—but not just to the individuals who own some shares in the firm. They also owe allegiance to the citizenry at large who own stock in America.

Our claim in enacting Section 1207 was very simple. It was to pay dividends to the minorities of our nation who have been denied those dividends too long. The law lays out the goal. But there is much more that needs to be done if the dream is to be fulfilled—the dream that Doctor King expressed so well 25 years ago this summer—to open wide the great vaults of opportunity of this nation.

HEARST EDITORIAL TELLS TRUTH ABOUT REAGAN ACCOMPLISHMENTS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. SOLOMON. Mr. Speaker, even the Washington Post called it a triumphant farewell.

There is no doubt that the President's last economic summit with our allies reflected the deep respect foreign leaders have for Ronald Reagan. As well they should, after seeing America enjoy 8 years of peace and prosperity. More recently, William Randolph Hearst, Jr., editor in chief, has given us what I think should be the definitive word on Ronald Reagan's 8 years. It is my pleasure to enter this editorial in today's RECORD.

The editorial reminds us that President Reagan's "advocacy of freer trade, tax cuts, and deregulation was recognized as having helped sustain global economic growth." His firmness in standing up to the Nuclear Freezniks in 1983 is the reason, and the only reason, for the recent historic arms reduction talks with the Soviets.

Mr. Speaker, the election-year drums must subside eventually, and when they do, the American people will have the peace and quiet needed to reflect on the accomplishments of a great American President. And when they do, this editorial will have proved itself as prophetic indeed.

The editorial follows:

[From the Albany (N.Y.) Times Union, June 26, 1988]

A WELL-DESERVED TRIBUTE TO REAGAN'S ACHIEVEMENTS

(By William Randolph Hearst, Jr.)

Last week was a wonderful week for President Reagan and a particularly encouraging one for the peace and prosperity our country as a whole has enjoyed under his much maligned policies.

At the Toronto economic summit, the leaders of the six other major free world nations paid a glowing tribute to the President's economic and foreign policy achievements.

The praise of his foreign partners proved how wrong were those partisan politicians and liberal media pundits who claimed his presidency was a disaster, who predicted his economic recovery program would fail and that he would never succeed in getting a nuclear arms reduction agreement with the Soviets.

In what the Washington Post described as a "triumphant farewell," the President's economic policies were credited with enabling the seven major industrialized countries to pilot the global economy to a safe landing after the October, 1987, stock market crash. His advocacy of freer trade, tax cuts and deregulation was recognized as having helped sustain global economic growth.

A joint statement congratulated the President on what he has already accomplished in his relations with Soviet leader Gorbachev, including the treaty to eliminate midrange nuclear weapons, pursue negotiations for a 50 percent reduction in strategic missiles, carry his crusade for human rights to the heart of the Soviet empire, and generally bring about the greatest improvement in Soviet-Allied relations since the end of World War II.

British Prime Minister Margaret Thatcher praised the President for playing "such an important part" in the economic success of the world economy in the 1980s.

Japanese Prime Minister Noboru Takeshita said what the President had achieved in the summit meetings during his presidency was "historic."

Canadian Prime Minister Brian Mulroney, who hosted the Toronto summit, lauded the President for his "warmth and wisdom," and said "his leadership has been strong, his accomplishments most substantial and his place in history secure."

Few presidents in our peacetime history have received such praise from other world leaders.

It is ironic that recognition of our President's successful leadership is far greater among foreigners than among many of our own people who have apparently been misled by political demagogues and liberal ideologists.

It was gratifying to me to have my frequently expressed confidence that there would be no recession this year confirmed by the economic summitters. Prime Minister Thatcher said "the very clear message that goes out from Toronto is one of confidence" that economic growth will continue.

The conference's final communique said expanding employment, restrained inflation and lower trade imbalances were encouraging developments that are "cause for optimism."

Treasury Secretary James Baker said flatly, "There will be no recession."

Pledging themselves to continue close cooperation to maintain economic growth, the seven leaders agreed on a variety of measures including renewal of their commitment to keep the dollar stable.

Further evidence of what the longest peacetime period of economic growth in our nation's history has meant for many American families was evident in a report last week by the U.S. Bureau of Labor Statistics. The report showed our middle class is shrinking, but most of those no longer in that category have moved to the upper class, not the lower. The share of families in the upper class, defined as families with $56,000 income or over, had by 1986 virtually doubled compared with 1969—jumping from 7.5 percent to 15.3 percent.

Let us hope that between now and the time President Reagan's term expires next January, there will be greater public realization that he has been one of our most successful peacetime presidents.

REX DOUGLAS SANTEE, VOICE OF DEMOCRACY CONTEST WINNER

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. PACKARD. Mr. Speaker, I rise today to congratulate a young man from my district, Rex Douglas Santee. Mr. Santee has been selected as the winner of the Voice of Democracy contest for the State of California. This prestigious essay contest is sponsored yearly by the Veterans of Foreign Wars of the United States.

This year over 300,000 secondary school students participated in this contest. It is a rare honor for Rex to be chosen as 1 of 50 State winners. As a tribute to Rex, I would like to enter his essay in the CONGRESSIONAL RECORD.

I am proud to represent such a fine young man. It is young people like Rex Douglas Santee who represent America's future. As I read his essay, I am reminded of the glory of America and of the exciting future we may all look forward to as citizens of this great Nation.

AMERICA'S LIBERTY—OUR HERITAGE

(By Rex Douglas Santee)

Against the black of night, she stood, a colossal figure of beauty, her strength and pride in no way defying the graceful falling of the folds of her garment, but rather, enhancing the serenity of this powerful image with a sense of security. The brilliance of the shining torch that had sparkled in the night for years, along with the overwhelming immensity of her pedestal was evidence to convince most men that she was there to stay. And yet in a matter of seconds the vast space that this proud woman had occupied was empty. Unbelievably, the Statue of Liberty had disappeared!

How this effect was achieved is beyond my comprehension. The Magic of David Copperfield has astonished and boggled the minds of millions. But the purpose of this illusion is something I understand and am impressed by. Although America's liberty, the most cherished privilege of our nation, appears to be firmly rooted in the foundations of our government and culture, it is important to recognize that it is a precious inheritance, a gift that we have received, and to treat it with utmost care and sincerity in order to preserve it for the age to come.

Being one of the world's largest statues, Liberty stands 305 feet tall from the tip of her torch to the pedestal beneath her, and weighs about 450,000 pounds. These dimensions, combined with the exquisite artwork represented in her figure suggest pride and permanence. Likewise, America's Liberty has survived for over two centuries. A tradition of freedom in all areas of life has been established in American government and culture since this country was first conceived. It is this freedom that has set us apart from the rest of the world and made us the great nation we are today.

The monument on Liberty Island was a gift from the government and people of France in 1884. Donations from the French people paid for the construction of a statue for the Americans symbolizing their mutual friendship, and liberty. Liberty itself is a gift to all citizens of the United States. Bought at the price of much toil and bloodshed, the liberty our ancestors fought for is our inheritance. We enjoy the harvest of a crop that was sown by men and women who valued liberty enough to die for it. This gift deserves our appreciation. Before a live audience, and under the scrutiny of millions of T.V. viewers, the magician, David Copperfield, made the Statue of Liberty disappear. How could such an immense structure simply vanish into thin air? Just as perplexing is the thought of losing America's liberty. And yet, however impossible we may claim it to be, all that is required for us to lose our liberty is to forget we have it. Liberty for American citizens is no longer something to be obtained, but something to be preserved.

As citizens of the United States of America, we are entitled to a liberty that has placed its mark in time. The same liberty that makes us proud and strong today was given to us by our ancestors years ago. We need only show our appreciation for it by preserving it for our descendants. May we all take part in the responsibility of claiming America's liberty as our heritage.

SHELTER AID: A PARTNERSHIP TO COMBAT DOMESTIC VIOLENCE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. MILLER of California. Mr. Speaker, last week Shelter Aid celebrated its first year of innovative efforts to fund domestic violence programs. In 1987, Shelter Aid, initiated and supported by Personal Care Products, the National Council Against Domestic Violence, and over 300 retail chains and national organizations, raised $1 million for the first national toll-free domestic violence hotline. The money was raised through proof-of-purchase coupons on personal care products which were redeemed in over 20,000 retail stores nationwide. Funds also were raised to support over 600 shelters for battered women. In its second year, K-Mart Corp., will join the Shelter Aid Program in efforts to raise an additional three-quarters of a million dollars for domestic violence shelters and education campaigns.

The National Coalition Against Domestic Violence, which operates the hotline, received 25,000 calls in 1987 from battered women who had heard of the hotline from local stores or newspapers. Again and again, callers thanked hotline counselors for being there when they had nowhere else to turn.

Organizations recognized for their efforts to promote Shelter Aid in referrals, national conferences, and organizational newsletters included the American Association of University Women, American College of Obstetricians and Gynecologists, Association of Junior Leagues, Center for Women's Policy Studies, National Council of Catholic Women, National Council of Negro Women, National Education Association, Nurses Association of the American College of Obstetricians and Gynecologists, and the Young Women's Christian Association of the United States.

Sandy Rovner of the Washington Post, who also received recognition by Shelter Aid for her sensitive reporting on domestic violence, told the story of Judy McBride who, after years of abuse by her husband, and an unresponsive legal system, finally killed her husband in self-defense. If Shelter Aid had been around for Judy McBride, it might have made a difference.

The efforts of Shelter Aid to educate and assist victims of domestic violence confirm findings on the Select Committee on Children, Youth, and Families that domestic violence is not just a women's problem, but a children's issue and a family issue. It affects teenage relationships and adult relationships. Children who witness abuse often grow up to become abusers. And where there is spouse abuse, there is likely to be child abuse. Witnesses before the committee have testified that the majority of battered women and their children have critical housing, medical, employment, and child care needs. As a result, shelters need to do more than just provide a safe refuge and a warm meal. Otherwise, most battered women and their children may be forced to return to an abusive—potentially fatal—situation.

Thanks to programs like Shelter Aid and the courage of victims who continue to speak out, we in Congress and the public at large are beginning to understand that domestic violence is not a private matter but a national problem and a crime. Yet despite this growing awareness, resources for battered women and their children remain scarce. Only 1,200 shelters are available across the Nation for the more than 2 million women who are battered each year. The National Coalition for Domestic Violence reports that in 1986, only one out of three women who requested emergency services for themselves and their children received them. In Washington, DC, only one out of eight women who request emergency help can get it. While we in Congress have maintained funding for the Family Violence Prevention and Services Act at fiscal year 1988 levels, we have only appropriated one-third of what Congress initially requested.

The Shelter Aid Program, by combining corporate responsibility with grass roots activism, has stepped in to develop public awareness of domestic violence as well as provide much needed funding for domestic violence programs. Their next year will yield even greater numbers of groups and individuals committed to the Shelter Aid campaign and help thousands more battered women and their children who have nowhere else to go.

TRIBUTE TO JULES MINTZER

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. BLILEY. Mr. Speaker, I would like to ask for the indulgence of my colleagues for a moment as I pay tribute to an outstanding citizen from my district.

Jules Mintzer had dedicated his life to the support and advancement of the Jewish community in Richmond and beyond.

Beginning after his service in the U.S. Army during World War II, Jules became Deputy Director of the United Nations DP Camp Fodhrenwawld in Munich, providing 5,500 Jewish survivors of the Holocaust with the medical, educational, recreational, psychological, and spiritual care they had been denied during the reign of Nazism. Jules erected synagogues, established a school system, created police and fire brigades, and assisted Jews in locating surviving relatives in Europe and America.

From there, Jules brought his dedication to Richmond where, for 25 years, he worked tirelessly for the Jewish Community Federation of Richmond as executive director responsible for administration, staff supervision, planning and budget, fundraising, and community relations.

Jules also spent much of the last 30 years serving on virtually every standing and special committee of Richmond's Temple Beth-El and received the coveted Gerson Memorial and Distinguished Worker Awards.

Jules also made a name for himself as the Temple archivist, vice president of the United Synagogues of America Seaboard Region, chairman of the JCC's Jewish Forum, and as editor—now editor emeritus—of ADL's Quarterly Bulletin.

Appointed by the Governor to the Citizens Advisory Council of the Virginia State Department of Volunteerism, Jules also served as chairman of the Citizens Advisory Council of the Richmond Juvenile Court.

I take the time to salute Jules today and to thank him for his dedication, caring, and hard work. This country needs more people with the selfless commitment and dedication that is characteristic of Jules Mintzer.

A TRIBUTE TO URSULINE IRISH BASEBALL

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to the Fighting Irish baseball team of Youngstown Ursuline High School, a very special baseball team of the 17th Congressional District. It is a great honor for me to announce to the U.S. House of Representatives that the Ursuline baseball team won the 1988 State Championship of Ohio on June 4. It fills me with abounding pride to inform my fellow congressional Representatives about this outstanding athletic organization.

Ursuline's baseball team finished the 1988 season with a record of 29 victories and 5 defeats. This is Ursuline's best record since their baseball program began in 1975. They blasted Cincinnati McNicholas 9 to 5 in the Ohio championship game, and annihilated Hebron Lakewood 14 to 5 in the State semifinal. Besides becoming State champions, Ursuline also reigned in 1988 as Steel Valley champions, regional champions, district champions, and sectional champions.

The captain of Ursuline's baseball vessel is Matt Giambattista, who is certainly one of the finest baseball coaches in Ohio. Mr. Giambattista's helmsmen are coach Bob Mingo, coach Frank Righetti, coach Troy Radinsky, and coach Mike Popio. Credit must also be given to the excellent work of statistician Dana Bartholomew, bat boy Frank Bartholomew, manager Steve Burke, and manager Bill Valansky. And I suspect that the Fighting Irish received some help from the heavens during their games through the intervention of team chaplain Father Richard Murphy.

The stars of the 1988 State champion Ursuline Fighting Irish are: Sean Durkin, Steve Krispinsky, Jim Campana, Ron Bunofsky, Frank Czopur, Tom Mitchell, Mike Su, Bill Metzinger, Mike Flak, John Boccieri, Greg Boccieri, Brian Graygo, Ron Gizzi, Kevin Schultz, Craig Patrick, Brett Ames, Paul Simmer, and Don Depiore. I must especially note the astounding pitching of Mike Flak, who amazingly won all nine games that he pitched this year, including the State championship game.

As a former athlete for the Cardinal Mooney Cardinals, Ursuline's fellow Catholic high school in Youngstown, I must say that hearing of Ursuline's triumph was one of my happiest moments as a Member of Congress. The Ursuline baseball team embodies the combative spirit of the residents of Mahoning and Trumbull Counties, for they have never-say-die competitiveness and an obsessive drive to succeed. Thus, it is with thanks and special pleasure that I join with the people of the 17th Congressional District in saluting the grand masters of Ohio baseball—the 1988 State Champions Ursuline Fighting Irish.

OCEAN DUMPING THREATENS VIRGIN ISLANDS

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. DE LUGO. Mr. Speaker, the people and the press of the U.S. Virgin Islands are becoming aroused about a new threat to the clean waters of the Caribbean: ocean dumping of garbage and even toxic wastes.

Suddenly, we are hearing of stateside companies who would like to send barges to unload their freight of bottles, cans, ash, and other noxious materials in our waters. We are hearing of stateside companies that are willing to pay sizable fees to our neighboring islands in the Caribbean to take this stuff off their hands.

We will not stand by and let anyone turn the Caribbean into their garbage dump. Today I am submitting excellent editorials from our two newspapers, the Virgin Islands Daily News and St. Croix Avis, that show the strong public oppositon to ocean dumping.

I urge the administration and my colleagues in Congress to read these editorials, take note of this issue, and join me in finding a solution that will protect the waters of the Caribbean.

[From the Daily (VI) News, June 27, 1988]

CARIBBEAN DUMPING

Alarm bells are ringing throughout the Caribbean about certain chemical concerns and municipalities on the mainland that are searching for sites to dump trash and toxic waste.

Several stories and editorial columns in this newspaper have addressed this potential hazard to the area. Radio reports have focused on it. And at least one magazine aimed at sportsfishing enthusiasts condemned what appears to be the latest attempt to dump toxic waste in the Caribbean.

Last year's unsuccessful voyage to nowhere by the garbage barge from Islip, N.Y., should have alerted us that the threat to the region's environment is very real. It involves—directly or indirectly—the same people who look toward the Caribbean for a life of leisure and uninhibited pleasure.

But as serious as the threat is from mainland interests, the greatest threat comes from the apparent lack of concern by all islands in our own region.

When one island government was approached recently with a proposal to accommodate a trash reef, a ranking official defended the idea, saying environmental concerns were "overblown." Should the trash reef come apart, as environmentalists fear, the debris simply would drift away from that island and end up in the Virgin Islands—so, no problem for him.

But what affects the environment of any island in the region eventually affects the ecological well-being of all others. And although this official's view did not prevail, it underscores the nature of the threat both from outside the Caribbean and from within.

Big bucks are at stake here. Mainland concerns are growing frantic to find a place for thier toxic waste and accumulated garbage. They are willing to pay for the privilege. What they propose is peanuts to them, but a windfall for some poor Caribbean nations.

Thus the dumping proposals are gaining support in some island communities.

So unless we want the Caribbean to become the dumping ground for the industrialized concerns and cities of the United States and elsewhere, we must band together to stop this from happening.

Only through constant vigilance and cooperation among responsible leaders in every island of the Caribbean will we prevent this continuous onslaught.

[From the St. Croix Avis, June 25, 1988]

MORE TOXIC WASTE RENEGADE SHIPS PROWL CARIBBEAN

This month the Caribbean Conservation Association (CCA) has expressed strong new concerns about ships loaded with toxic wastes from stateside jurisdictions and prowling Caribbean waters looking for convenient inland dumping locations.

The CCA has identified many of those prowlers as renegades attempting to evade international and maritime laws that prohibit such actions. It maintains that the actions of these new pirates are potentially more harmful than drug trafficking to islanders who live where the toxic wastes are dumped.

According to regional news sources, the CCA received a report last week that the infamous ship the "Khian Sea" may well be heading for the Caribbean looking for a place to dump its 10,000 tons of toxic incinerator ash. Last February the "Khian Sea" illegally dumped thousands of tons of Philadelphia's toxic ash on a beach near Gonaives, Haiti.

The ship is apparently far from unique in its actions. Said one Greenpeace Organization researcher: "The Khian Sea is the most visible ship in an armada of vessels carrying toxic waste to developing countries with a stamp of approval from the U.S. government. But the Khian Sea is also a renegade ship whose owners have displayed complete disregard for human health, the environment and international law."

Earlier this year another ash-laden ship dumped 15,000 tons of toxins on one of Guinea, West Africa's off-shore islands. The Guinean government gave the ship a May 19 deadline to remove the ash, which it said had "withered vegetation" on the island.

For its part, the CCA has called on all Caribbean governments to take firm actions to make sure the Caribbean is not used as a toxic waste dumping ground by outside nations.

TRIBUTE TO WILLIE VELASQUEZ

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 15, 1988

Mr. SWIFT. Mr. Speaker, I would like to take a moment to pay tribute to Willie Velasquez, founder of the Southwest Voter Registration Education Project. It was not my privilege to know Mr. Velasquez personally, but in my capacity as chairman of the House Subcommittee on Elections, I certainly knew of him.

Thanks to him, millions of Hispanic citizens who once were left out of the political process in this country today are registered and voting. Hundreds of Hispanics have been elected to political office. We are richer as a nation for their participation, and for having had Mr. Velasquez as one of our outstanding citizens.

Willie Velasquez was a man who cared. He was a man who was committed to making things better. He was a man who believed in this country, and in the rights and responsibilities of all citizens to participate fully in our Nation's democracy. He was a man who was convinced that one person can make a difference—and who proved that it is true.

His life was tragically short, but he left a remarkable record of achievement behind him. That record serves both as a living memorial to his life and work, and as a challenge to all of us to continue his outstanding efforts.

THE CRIME CONTROL ACT OF 1988

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. CONYERS. Mr. Speaker, I introduce today for myself and my distinguished colleague, Mr. EDWARDS of California, the Crime Control Act of 1987.

I. COMPROMISE BILL

Mr. Speaker, last August I addressed the House on the subject of proposed legislation to strengthen or reform RICO—see 133 CONGRESSIONAL RECORD E3351, daily edition, August 7, 1987. There is no need today to repeat what I said then.

The bill that I and my colleagues are introducing today is an effort to work out a viable compromise between the legislation that I introduced then and other proposals for reform. Under the proposed bill, everyone will get something, but no one will get everything. It is not a perfect bill. No compromise can stand up to the perfect alternative. The best is always the enemy of the good as well as the bad. But the bill does make a good faith effort to go halfway toward meeting the objectives of those who support present law—indeed would strengthen it—and those who oppose how present law is said to work.

II. PRESENT LAW

In 1970, Congress enacted RICO (18 U.S.C. 1961 et seq.), which prohibits "enterprise criminality," that is, "patterns" of "racketeering," including:

First, violence;

Second, the provision of illegal goods and services;

Third, corruption in government, or unions; and

Fourth, commercial fraud;

by, through, or against various kinds of entities.

In addition to criminal sanctions, the statute authorized a treble damage claim for relief with counsel fees.

III. PROPOSED REFORM

The proposed legislation would:

Strengthen statute	Guard against abuse
1. Add appropriate new predicate offenses, particularly in the area of violence	1. Curtail the use of the "racketeer" label in civil suits not based on crimes of violence.
2. Assure that Federal and State, local governments and those who suffer bodily injury by crimes of violence may sue for treble damages.	2. Limit most suits between legal entities to recovery of actual damages plus costs and counsel fees.
3. Assure that units of local government, small investors, consumers, defense contractors, charitable organizations, welfare and pension funds, and small business may sue for double punitive damages, where certain criteria are met.	3. Exclude from RICO private suits that are primarily— a. Domestic relations, b. Products liability, c. Decent estate, or d. Landlord tenant.
4. Assure that states may sue as parens patriae	4. Exclude from RICO labor disputes.
5. Assure equitable relief for private parties	5. Establish standards for the imposition of trusteeships on labor organizations.
6. Provide for life imprisonment where death results from crimes of violence	6. Establish detailed pleading rules— a. Verification. b. Particularly for: i. fraud, ii. coercion, iii. agency, iv. respondent superior, v. accomplice, or vi. conspiracy.
7. Assure that the burden of proof on most issues in civil suits is preponderance of evidence	7. Provide for statute of limitations for government and private suits.
8. Provide for recovery of prejudgment interest on actual damages	8. Limit arbitration of RICO disputes to matters not involving violence and provide for written awards and discovery in arbitration.
9. Assurance that actual not multiple damage claims survive against a trustee in bankruptcy but that otherwise claims survive..	
10. Provides for international service of process.	

Clarify and resolve six issues in litigation:

First, enterprise may be defendant if perpetrator;

Second, no financial motive required in violence based offenses;

Third, jurisdiction exclusive in Federal courts;

Fourth, association in facts enterprise must be structured groups;

Fifth, eliminate personal act rule; and

Sixth, assure requirement of state of mind.

Mr. Speaker, I add only two additional comments. Other proposed RICO reform bills would give an exemption to the securities and the commodities industries. This proposed legislation, however, gives no special break to any special interest. Its provisions will apply the same standards to all. In addition, other proposed RICO reform legislation would apply some of its provisions retroactively to pending litigation. This proposed legislation is wholly prospective. Americans do not change the rules of the game during the game. We ought not legislate that way either.

TRIBUTE TO JEAN RATLIFF

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to bring to the attention of my colleagues the retirement of Jean Ratliff from the staff of the Committee on Ways and Means.

For 22 years, Jean has organized, updated, and overseen the production of the Calendar of the Committee on Ways and Means. Among other information, the calendar contains a record of all action taken by the committee and its subcommittees, all official communications between the executive branch and the committee, and all legislation referred to the committee.

The Calendar of the Committee on Ways and Means, which is published several times each year, is the largest such calendar in the Congress. Jean's work in assuring that the calendar was up-to-date, comprehensive, and accurate has been of invaluable assistance to Members of Congress, the executive branch, and the public.

In essence, Jean has kept the history of the Committee on Ways and Means for the past 22 years. This history includes some of the most important legislation ever passed by the Congress. Jean's devotion to the committee and her dedication to her work have made her a part of the committee's history.

Mr. Speaker, the Committee on Ways and Means and the House owe a great debt to Jean for the excellent job she has done. We wish her, and her husband Tommy, the very best.

AMERICA'S LIBERTY—OUR HERITAGE

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. ATKINS. Mr. Speaker, I rise today to salute the important work and continuing efforts of the Veterans of Foreign Wars. War is certainly a frightening and tragic experience, and our veterans have clearly shown their unyielding courage in the face of circumstances that few of us have or will ever face. Our fearless veterans have risen to the occasion of such strife in an effort to defend our great Nation and to preserve American liberty.

I wish to insert today a copy of the winning selection from the State of Massachusetts in the Veterans of Foreign Wars Voice of Democracy nationwide broadcast scriptwriting contest, the theme of which was "America's Liberty—Our Heritage." This contest involved more than 300,000 secondary school student participants competing for nine national scholarships. This winning selection was delivered by a constituent, Ms. Amy Elizabeth McKnight, of Groton, MA, and reads as follows:

AMERICA'S LIBERTY—OUR HERITAGE

What is the American Flag? On the surface it appears to be just some red, white and blue threads woven together to symbolize America. However, we should realize that behind these colors is a more complex tapestry, one of bloodshed, sacrifice and unity.

Imagine a young soldier on the battlefield, bullets flying overhead, planes dropping bombs, and around him friends are dying from enemy fire. He begins to question his presence here, "what am I fighting for?", "what is one more life?" He thinks back to his grandfather, a World War I veteran. He had fought for the preservation of America and had forced us to emerge as a dominant world power just as his uncle had died in an air-raid over Berlin during the second world war. The pride that everyone felt for his uncle, he had died for the preservation of our heritage and had secured our liberties once more. His father also served time in Korea and had protected a free country from communist insurgency. But why was he here in Vietnam, what was his reason? Overhead he saw the flag, torn and soiled, but still it waived in the midst of the battle. It is then that he realized that he was a part of that flag. Each generation, each person, is like a thread woven into that flag. It is our common tapestry to which we all give. The different ethnic backgrounds, races and creeds; individually, they all have their strengths and uniqueness to them, but together they create this never ending tapestry that grows with each individual who gives to it. Whether he be black, white, Spanish or Polish, we all give to this beautiful unique cloth of common bondage. Over the years, each generation adds to this complex unity of blood, sweat and sacrifice and thus, the colors of the flag no longer stand for just the United States, but for years of selflessness for the benefit of our republic. With the addition of each thread, we are tightening our heritage and are protecting the liberties that we all fight for. In our own unique way, each of us is America, each of us give to this tapestry, the cloth of our heritage.

What is liberty and where does it begin? Is it the right to cast your vote for the candidate of your choice? Is it being able to write a column for the local newspaper, or is it simply the right to live your life free from government intervention? Actually, liberty is all of these things and more. Yes, it does give you the right to live your life, your way, but with liberty comes responsibility. It is because past generations have seized their liberties and secured them for us all that we are a united and free nation. Who is to say that if the Articles of Confederation had not been so greatly altered that we would still be a democracy? America's past is filled with strong voices and sacrifices, both great and small. It is the people working with one another and defending the laws of the Constitution that have made us who we are. Whether they were children giving pennies to buy war stamps, women volunteering time to the local Red Cross, or the soldiers themselves, willing to die for our nation, each generation, each person has seen to it that we are a nation of open doors and not confining walls. Liberty begins with the people, just as it did two hundred years ago. It is seeing a need for change and helping to change it, making your action reflect the love you have for your country. This is a heritage we, as citizens, cannot ignore. It is up to the individual to give, in any way and to seek out ways to contribute to society. Together, we will strengthen the threads of our tapestry, the uniquely woven cloth which protects and secures our liberties and our heritage.

THE NEED FOR A TOUGHER "REVOLVING DOOR" BILL

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. BENNETT. Mr. Speaker, I invite Members of the House of Representatives to be an original cosponsor of legislation to help close, once and for all, the "revolving door" which swings between the defense industry and our top procurement officials in the Department of Defense.

Congresswoman BARBARA BOXER and I will introduce this legislation on Thursday, June 30. Members may call my office (ext. 55971) by then to let me know if they wish to join us.

I first introduced legislation similar to this in 1975. In 1985, the House approved the original Bennett-Boxer revolving door amendment 397 to 14. Unfortunately, the Senate would not agree. In 1986, the House again passed our similar amendment 347 to 60. In conference with the Senate we made a great step forward in limiting the ability of defense contractors to hire many defense Department procurement officials with whom they had been doing business. Again, however, our legislation, as finally enacted, was handicapped with added loopholes and exemptions.

The current Pentagon procurement scandal shows that the House was right. We need tough revolving door laws now. I offer to you and our colleagues the text of the legislation. This bill is the same language that passed the House overwhelmingly in 1986. I hope you can join us in calling a halt to the incestuous climate that now pervades our defense establishment and undermines our national security.

H.R. 4956

A bill to amend title 10, United States Code, to strengthen conflict-of-interest restrictions relating to defense procurement

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONFLICT-OF-INTEREST IN DEFENSE PROCUREMENT.

(a) REVISION OF 1986 PROVISIONS.—Subsections (a) through (e) of section 2397b of title 10, United States Code, are amended to read as follows:

"(a)(1) Any person—

"(A) who is a former officer or employee of the Department of Defense or a former or retired member of the armed forces; and

"(B) who, during the two-year period preceding the person's separation from service in the Department of Defense, participated personally and substantially, and in a manner involving decisionmaking responsibilities, in a procurement function with respect to a contract through contact with the contractor,

may not accept compensation from that contractor for a period of two years following the person's separation from service in the Department of Defense.

"(2) In paragraph (1), the term 'decisionmaking responsibilities' includes the following activities with respect to a contract: approval or disapproval, or making recommendations or engaging in negotiations, with regard to a procurement function.

"(3) For purposes of paragraph (1), whether or not a person is a contractor (as defined in subsection (f)(2)) is determined as of the date of the separation from service of the officer or employee of the Department of Defense or member of the armed forces involved.

"(4) Any person who knowingly violates paragraph (1) shall be imprisoned for not more than one year and shall be subject to a fine in the amount provided in title 18.

"(5) Any person who knowingly offers or provides any compensation to another person, and who knew or should have known that the acceptance of such compensation is or would be in violation of paragraph (1), shall be imprisoned for not more than one year and shall be subject to a fine in the amount provided in title 18.

"(b)(1) This section applies only to—

"(A) civilian positions for which the rate of pay is equal to or greater than the minimum rate of pay payable for grade GS-13 of the General Schedule; and

"(B) positions held by members of the armed forces in a pay grade of O-4 or higher.

"(2)(A) When a vacancy occurs in a sensitive civilian procurement executive position, the Secretary of Defense, with the concurrence of the director of the Office of Government Ethics, may exempt the person appointed to fill the vacancy from the provisions of subsection (a) by reason of service in such position.

"(B) For purposes of subparagraph (A), a sensitive civilian procurement executive position is a position—

"(i) which is identified under paragraph (1);

"(ii) which is a civilian position to which a person is appointed by the President, by and with the advice and consent of the Senate; and

"(iii) with respect to which the Secretary of Defense determines that the duties inherent in the position involve personal and substantial participation in procurement functions (to the extent to which subsection (a)(1) applies) with so many contractors that implementation of subsection (a) with respect to persons serving in the position would seriously hamper the ability of the Department of Defense to obtain the services of a highly qualified person to serve in the position.

"(C) An exemption granted under this paragraph shall not apply to the extent that the person granted the exemption acts as a government representative in the negotiation or settlement of a contract with a contractor.

"(D) Whenever the Secretary of Defense grants an exemption under this paragraph, the Secretary shall promptly submit to the Committtees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and the Judiciary of the House of Representatives a report describing the exemption and setting forth the specific reasons for the exemption.

"(c) The Secretary of Defense shall provide to each person separated from service in the Department of Defense in a position described in subsection (b)(1) who, within the two years preceding the date of such separation, participated in a procurement function of the Department a notice with respect to this section. Such notice shall include—

"(1) a written explanation of the provisions of this section; and

"(2) the name of each contractor from whom such person is prohibited from accepting compensation under this section.

"(d) This section does not apply—

"(1) to a contract for an amount less than $100,000;

"(2) to compensation of a person by an entity that did not have a Department of Defense contract in excess of $100,000 at the time the person participated personally and substantially in a procurement function (to the extent to which subsection (a)(1) applies) with respect to a contract with that entity; or

"(3) to a contractor that was awarded contracts by the Department of Defense during the preceding fiscal year in a total amount less than $100,000.

"(e)(1) A person who is considering the propriety of accepting compensation that might place the person in violation of subsection (a) may, before acceptance of such compensation, apply to the Director of the Office of Government Ethics for advice on the applicability of this section to the acceptance of such compensation.

"(2) An application under paragraph (1) shall contain such information as the Director requires.".

(b) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendment made by this section shall take effect 60 days after the date of the enactment of this Act.

(2)(A) The amendment made by this section—

(i) does not preclude the continuation of employment that began before the effective date of this section or the acceptance of compensation for such employment; and

(ii) does not, except as provided in subparagraph (B), apply to a person whose service in the Department of Defense terminates before the effective date of this section.

(B) Subparagraph (A)(ii) does not preclude the application of the amendments made by this section to a person with respect to service in the Department of Defense by such person on or after the effective date of this section.

PERSONAL EXPLANATION

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. DONNELLY. Mr. Speaker, I wish to note the action taken by the House on June 21, 1988, regarding H.R. 4150, the Postal Reorganization Act Amendments of 1988.

Due to unavoidable delays during markup of the Technical Corrections Act of 1988, before the Ways and Means Committee, I was not able to cast my vote for H.R. 4150.

I have stated my support for this worthy legislation and if I were able to be present, I would have voted in favor of H.R. 4150.

THE ROMANIAN ORTHODOX EPISCOPATE OF AMERICA CELEBRATES ITS 56TH CONGRESS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. BROOMFIELD. Mr. Speaker, this July will mark the 56th Congress of the Romanian Orthodox Episcopate of America as well as the 50th anniversary of the dedication of the "Vatra Romaneasca," the "Romanian Hearth," the diocesan headquarters of the Romanian Episcopate in Jackson, MI. I commend the Romanian Episcopate for their many successful efforts to preserve Romanian heritage in this country and for this historic celebration of religious and cultural freedom. Thousands of Orthodox Christians of Romanian heritage, from both the United States and Canada, will meet in Jackson to participate in this annual congress.

The "Romanian Hearth" is the true spiritual home for all Romanian Orthodox Christians who live outside of Romania. "Vatra Romaneasca" is a well-known center of religious, cultural and educational programs for the Romanian community. It is a place where Romanian-Americans can thank God for the freedom that we all enjoy in this great Nation, and pray that someday freedom will come to the Romanian people who still live in that totalitarian police state.

The Romanian Orthodox Episcopate of America was organized at a church congress convened in Detroit in 1929 by clergy and lay representatives of Romanian Orthodox parishes in the United States and Canada. The episcopate is headed by a bishop elected for life by a special electoral congress. There are 40,000 members of the episcopate in the United States who are concentrated in the Great Lakes industrial areas.

I am certain that all of my colleagues will join me in marking this special occasion, the 56th Congress of the Romanian Orthodox Episcopate of America and I commend the episcopate and its members for their good work in Michigan, for their dedication to religious freedom, and for their commitment to the values that have made America great.

TIME TO DESIGNATE LAKE AMISTAD AS A NATIONAL RECREATION AREA

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. BUSTAMANTE. Mr. Speaker, I am introducing legislation that would designate the U.S. side of Lake Amistad as a national recreation area. I am pleased to say that identical legislation is being introduced in the Senate by the distinguished senior Senator from Texas, Senator LLOYD BENTSEN.

Amistad Recreation Area is an immense reservoir area on the Texas-Mexico border near the town of Del Rio in Val Verde County, TX. Lake Amistad is an international reservoir project of the United States-Mexico International Boundary and Waters Commission and was formed by the building of Amistad dam in 1963-69. Under a memorandum of agreement with the U.S. section of the International Boundary and Waters Commission, the National Park Service has administered the U.S. side of the lake as a unit of the National Park System.

The Texas Historical Commission has documented that the area within Amistad Reservoir contains the highest concentration of prehistoric dry cave sites in the State of Texas. These sites contain cultural remains which record 10,000 years of aboriginal prehistoric occupation along the Rio Grande and its many tributaries. It is a human record unsurpassed in the State of Texas and much of North America. The ancient remains found in this area truly represent the cultural jewels of the Lone Star State.

Because of its unique characteristics, features, and resources, Amistad Recreation Area warrants national recognition and international attention. By elevating the status of this natural and cultural resource to the list of national sites to be preserved and protected, it is hoped that the National Park Service will redouble its efforts to conserve the important geologic, ecologic, ethnographic, archeological pictographic, historic, and recreations features found in Lake Amistad. This bill seeks to achieve that goal.

I would like to add that this bill is a noncontroversial, bipartisan issue. It has been endorsed by Gov. William Clements, the National Park Service, the Texas Historical Commission, and the International Boundary and Waters Commission. The National Park Service, IBWC, and the Texas Historical Commission were involved in the drafting of this piece of legislation. The bill is cosponsored by 22 of the 27 members of the Texas congressional delegation, and I thank my Texas colleagues for lending their support to this legislative endeavor. Also, the bill is consistent with the National Park Service's General Management Plan for Amistad Recreation Area.

In 1972 and 1973, then U.S. Representative O.C. Fisher introduced similar legislation, but because of objections raised by the Department of the Interior, that legislative effort failed to receive the approval of Congress. The Department of the Interior objected to Representative Fisher's legislation because it required the Department of the Interior to acquire 5,100 acres of privately owned land for the Amistad Recreation Area. The Interior Department also objected to the Fisher bill because it viewed the attempt to designate Lake Amistad as a national recreation area as an "empty gesture."

Times have changed since Representative Fisher ably distinguished this Chamber as a Member of Congress, and so have the minds at the Department of the Interior. The National Park Service now endorses legislation to establish Amistad as a national recreation area. In a recent letter to me, National Park Service Southwest Regional Director John E. Cook said, "* * * if Amistad were a national recreation area, the NPS would have a stronger mandate—and the internal fiscal arrangements that would accompany it—to protect the recreation area's nationally significant resources."

The value of Mr. Cook's observation cannot be underestimated. The prehistoric and historic sites at Amistad have suffered from a long history neglect, vandalism and modern development. This legislation, as Mr. Cook said, would give the National Park Service a "stronger mandate" to preserve the cultural integrity of this rich resource.

Mr. Speaker, I understand that the time remaining in this session of Congress is short. However, I hope my colleagues will join me and my Texas colleagues in supporting this measure, so that it can receive expedited consideration in committee and in Congress.

DUKAKIS VETO THREAT ENCOURAGES DISRESPECT FOR LAW

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. SOLOMON. Mr. Speaker, we would have thought that when the U.S. Supreme Court upheld the legality of my Solomon amendment 5 years ago, we had heard the last word on denying student financial aid to lawbreakers, specifically, those who failed to register for the draft.

Indeed, it did not surprise us that even lawmakers in the State of Massachusetts should see fit to pass overwhelmingly their own Solomon amendment covering State financial aid. We hadn't counted, however, that their governor should see fit to encourage disrespect for the law by promising to veto that legislation. Our concern, Mr. Speaker, is intensified by the fact that Gov. Michael Dukakis is also your party's candidate for President of the United States.

Dukakis has suggested that the State bill is unconstitutional. Perhaps the Governor's alleged quick grasp of facts is as overrated as his management competence. For some reason, not one member of his staff has gotten around to telling him that the constitutionality of this issue has already been decided.

Mr. Speaker, with the passing of every week we are getting a clearer idea of what a Dukakis administration would be like, especially in the areas of foreign policy and law and order. It is my pleasure to add my modest contribution to that growing record.

The article follows:

[From the Boston Globe, Dec. 21, 1983]

DUKAKIS VETOES BILL LINKING STUDENT AID TO DRAFT STATUS

Gov. Michael S. Dukakis yesterday vetoed legislation designed to bar state scholarship aid or student loans to college students who do not register for the draft.

It was only the second time the governor has exercised his veto during the first year of his second term.

The draft measure was passed ovewhelmingly by the House and Senate and would become law if two-thirds of the Legislature votes to override the gubernatorial veto. A spokesman for the governor yesterday said the administration intends to vigorously lobby against an override.

In his budget message, Dukakis asserted that the measure is unconstitutional and should not be permitted to become law. Last month, he returned the bill to the Legislature with amendments he said would correct its constitutional problems but the Legislature rejected them and returned the original bill to his desk.

The bill, the governor said, "seeks to take a dangerous shortcut by extracting a penalty without conviction or trial. My amendments suggested a fairer way, penalizing applicants who refuse to register only after they have been convicted. Without that requirement, the bill is unacceptable."

The legislation, sponsored by Rep. Walter A. DeFilippi (R-West Springfield) would have denied outright any state-funded scholarship aid or loan to a student who had not registered for the draft.

James Dorsey, Dukakis' press secretary, yesterday said he is optimistic that the administration has the votes in the Senate to block an override.

According to sources, administration officials had urged Dukakis to simply pocket veto the bill and allow it to become law without his signature. Legislation which is not acted upon by the governor within 10 days after being enacted automatically becomes law while the legislature is still in session.

"The governor could have allowed that to happen, but he felt very strongly about this. He felt that if he vetoed this one it would discourage similar measures from being sent to his desk, an administration official, who asked not to be identified, said in a telephone interview.

In his veto message the governor noted that there are similar bills filed for the 1984 session which tie eligibility for public housing and welfare to compliance with other Federal laws without benefit of due process.

"I am unwilling to be part of a trend that leads us to deny people basic needs as a penalty for the commission of crimes for which they have been neither convicted nor charged."

TRIBUTE TO LOUIS L'AMOUR

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. PACKARD. Mr. Speaker, I rise today to pay tribute to Louis L'Amour, a great American who recently passed away. As we all know, Louis L'Amour was one of this country's greatest writers. In fact, he has been recognized around the world as the foremost writer of Western frontier novels.

L'Amour has written over 100 books and has had more than 45 of his novels and short stories made into movies. To show his universal appeal, it is estimated that nearly 200 million copies of his books are in print in 20 different languages.

Through his meticulously researched books, millions of readers around the world have been able to relive the excitement of frontier America. They were able to read about murderous gunfighters, courageous lawmen, and various shades of drifters, townsfolk, and pioneers.

It can truly be said that to millions around the world, L'Amour and his books are synonymous with the great Western frontier in America. Louis L'Amour will be greatly missed but his name will live on through his prolific and exciting writings.

NATIONAL DRUG TRADE CONFERENCE CELEBRATES 75TH ANNIVERSARY

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. BLILEY. Mr. Speaker, recently, the National Drug Trade Conference celebrated its 75th anniversary. Mr. James Cope, president of the NDTC, delivered the following address titled "A Diamond Jubilee of Pharmacy Progress" at a dinner marking the occasion. I would like to commend the address to my colleagues.

NATIONAL DRUG TRADE CONFERENCE—75TH ANNIVERSARY

A DIAMOND JUBILEE OF PHARMACY PROGRESS

The National Drug Trade Conference, begun in 1913, provides a forum for national pharmaceutical associations to consider matters which relate to the professional practice of pharmacy and to the production and distribution of medicines. An audiovisual presentation was narrated by James D. Cope (1988 President, National Drug Trade Conference, and President, The Proprietary Association) during a dinner celebrating NDTC's 75th anniversary.

A DIAMOND JUBILEE OF PHARMACY PROGRESS

(By James D. Cope)

On behalf of the NDTC, I would like to begin by thanking Charles S. Trefrey and NWDA's professional meetings staff, headed by William C. Davis, for the excellent job they have done in planning and staging this event. We are in their debt. We also owe our thanks to the American Pharmaceutical Association. Their archives were invaluable and George Griffenhagen was most helpful in supplying visuals and in verifying professional, technical and historical facts.

The *roots* of our story begin beyond recorded history when early man squeezed a juice from a succulent leaf and pressed it against a wound. Like the origin of man himself, however, the origin of pharmacy is lost in the mists of antiquity.

But our story really begins in the year 1913—a time of budding technology in America. More than a million automobiles were on the road, although travel by car had its ups . . . and downs. Soon almost 2,000 Model Ts would roll off Henry Ford's assembly lines every day—some 27 million in all. Price: $750, available in any color you wanted—as long as it was black.

But our nation was only on the threshold of modern *medical* technology. Infant mortality was high because of infectious diseases that took the lives of more than one infant in ten before their first birthday.

Even so, 1913 saw major advances in science and medicine, including the concept of jet propulsion. And American medical and pharmaceutical education were being rebuilt on solid, scientific foundations, abandoning ancient and outmoded theories.

1913: THE BIRTH OF THE NDTC

1913 was also the year when, at the Willard Hotel, delegates from NDTC's founding associations gathered at the invitation of the American Pharmaceutical Association. APhA, founded in 1852 to represent all segments of the pharmacy profession, called the meeting at the suggestion of its Secretary, Dr. James H. Beal, a pharmacist and lawyer who had helped author model state pharmacy practice acts and federal drug laws.

The group met to discuss legislation involving the pharmacy profession and the production and distribution of medicines.

APhA was joined by a group now known as NARD—the national association of independent retail pharmacists. NARD had been founded in 1898 to advance the commercial interests of retail pharmacy. Another founding group was the National Wholesale Druggists' Association—NWDA. It had been formed in 1876 to represent wholesalers. The final two founding members (who were organized in 1907 and 1912) represented drug manufacturers. They merged in 1958 to form today's voice for the producers of prescription medicines: PMA—the Pharmaceutical Manufacturers Association.

The original NDTC members were joined in 1914—1 year later—by The Proprietary Association—founded in 1881 to seek repeal of an old Civil War tax on proprietary, or over-the-counter, medicines.

Five years later—in 1919—an organization now known as the American Association of Colleges of Pharmacy came aboard. AACP had been formed at the turn of the century to elevate the educational level of pharmacy by encouraging states to require diplomas before granting a license to practice the profession.

WORLD WAR—AND WONDER DRUGS

One year after NDTC was organized, the Nation's attention shifted to the international front when Europe burst into a conflict that changed the world forever. Even though the United States was still struggling to maintain a troubled and futile neutrality, bellhops were drilling during their lunch hour on the roof of the Willard Hotel. As "the war to end all wars" slowly spread throughout the world, U.S. medicine makers were cut off from imports from Germany and England. So, they synthesized new therapeutic compounds on their own.

THE TWENTIES: PHARMACY PROSPERITY

When the war ended in 1918, America barreled toward the roaring 1920's. The economy boomed and the stock market soared. America took to the roads—and invented the traffic jam. Nice ladies began rouging their cheeks and lips. Flappers danced the Charleston to syncopated beats of jazz and New York's Great White Way sparkled every night.

Then in 1920, America went dry—or moist, since booze leaked into the country through every border—and many bathtubs. It was a time to vote dry and drink wet—unless you had a prescription! Bootleg trade was estimated at $3½ billion a year—a somewhat sober estimate. A Presidential Commission later informed the White House that prohibition was not working. Why it took a Presidential Commission to arrive at such a conclusion is unclear.

The 1920s also brought the drugstore soda fountain to its peak of popularity. In small towns across America, community leaders gathered around the pharmacist—often called Doc—who would dispense advice as well as prescription medications. And, likely as not, he was also a school board member, city councilman or mayor.

THE THIRTIES: BOOM WENT BUST—DEPRESSION

But the fizz went out of the fountain *and* the economy on October 29, 1929. Known to this day as "Black Tuesday," the bottom fell out of the stock market, and the Great Depression was not far behind. By 1933, the Nation was desperate. But millions took heart when, in one of his patented fireside chats, President Franklin D. Roosevelt declared: "The only thing we have to fear is fear itself."

And in the 1930s Washington was wrestling with the problem of what to do with the city's worst slum section. That part of town was, and still is, known as Georgetown.

In the early days of President Roosevelt's New Deal the power of the federal government grew by leaps and bounds. In the first hundred days 15 major bills were passed by the Congress to speed recovery. And, the regulated society had begun.

One bill sought to overhaul the 1906 Pure Food and Drug Act. It proposed sweeping new powers for the FDA. The National Drug Trade Conference studied the bill, and urged alternative legislation. Because it was highly controversial, the bill languished in the Congress.

Ultimately, its sponsor asked and received the drug field's help in revamping the measure. The result was the 1938 Pure Food and Drug Act. It launched a half-century of scientific progress and consumer protection for Americans, through the Food and Drug Administration. This year we celebrate the 50th Anniversary of that landmark legislation. It still stands as a monument to effective federal law.

THE FOUNDING OF AFPE

In the 1930s, times were hard in our industry, as they were everywhere else in the economy. Pharmacy was threatened since America had no centralized funding agency to aid either schools or students. The NDTC swung into action. Through the leadership of an all-industry committee headed by Dr. Edward L. Newcomb of the National Wholesale Druggists' Association, funding was obtained and the American Foundation for Pharmaceutical Education became a permanent institution. After helping rescue some needy schools, the Foundation turned increasingly to undergraduate scholarships and—more recently—to fellowships.

One group particularly interested in the growing need for more pharmacists was the National Association of Chain Drug Stores. Organized in 1933, the NACDS provided a unified voice for the chain drugstore industry as Government regulation proliferated. NACDS later became the seventh of NDTC's current members.

As the 1930s neared an end, U.S. consumer spending for drugs was enriched by the discovery and introduction of an exciting new family of compounds—the vitamins. Most major research advances, however, were still coming from Europe—sulfanilamide, for example, which was the first of the modern therapeutics.

THE FORTIES: WAR, PEACE—ADVANCES IN MEDICINE

But, also from Europe came the winds of another world war: the invasion of Poland, the fall of France, the Battle of Britain. Then, across the globe, in 1941, came Pearl Harbor.

More than 16 million Americans went into uniform and countless others worked to support the war effort. This "Arsenal of Freedom" turned out an endless stream of ships, planes, bombs and tanks. And new medicines like penicillin. By the end of the war, thousands of lives had been saved by this first antibiotic.

THE FIFTIES: A MEDICAL RESEARCH EXPLOSION—AND TV

With the coming of peace, the American pharmaceutical industry erupted in a virtual research explosion. Worldwide soil samples had yielded bacteria that produced potent substances—the first of the broad spectrum antibiotics that conquered tuberculosis, pneumonia, syphilis, typhoid fever, diphtheria and whooping cough.

So, by the 1950s, the "golden age" of drug discovery was well under way—the "miracle drugs," as they were known. A cascade of new vaccines and pharmaceuticals arrived—against polio and measles, anxiety and psychosis, high blood pressure and diabetes, heart attack and stroke.

As a result of these and other important medical advances, Americans were living longer and better. No longer did we hear the old lament: If I had known I was going to live this long, I'd have taken better care of myself! Peacetime prosperity brought a national shopping spree unprecedented in the American experience. Suburbs and one-stop shopping were spawned and our field shared in the bounty of the good life.

But it was not without problems. Confusing marketing practices occurred when one company marketed an ingredient as a prescription drug, while another company would market the same ingredient as a nonprescription medicine. Two pharmacists in Congress, Representative Carl Durham (D-N.C.) and Senator Hubert H. Humphrey (D-Minn.) saw the problem, and in 1951 the Durham-Humphrey Amendment was passed. For the first time, Federal law made clear which medicines should be prescription products and which were to be available over-the-counter. The basic premise was—and still is—that a medicine must be sold directly to the consumer without a prescription order if it is safe and effective for lay use and if understandable directions can be written. OTC status is the rule; prescription status, the exception. This assures a wise range of products for use by consumers in self-care—the largest component of health care.

The 1950s also brought television into the average American home and in doing so, transformed forever the way we looked at the world, and the products we purchase. The TV commercial quickly became an important communications tool for American business—including our industry. Some of the early ads may have been better than the programming!

THE SIXTIES: NEW LAWS—NEW CHALLENGES

In 1962 came the Kefauver-Harris Amendments, requiring for the first time that new drugs be proven effective as well as safe before marketing. This new standard was applied retroactively by FDA to all drugs, resulting in two exhaustive evaluations, one of prescription, the other of nonprescription, medicines.

The prescription drug review was completed in the mid-1970s. The Over-the-Counter Drug Review is still in progress. Both have had far-ranging consequences for government, industry, medicine and pharmacy. And the consumer has gained new assurances that medicines on the market are not only safe, but will do what is claimed for them.

The decade of the 1980s welcomed our newest member to NDTC—the Cosmetic, Toiletry and Fragrance Association. Founded in 1894, the CTFA's aim was—and still is—to help establish and maintain standards of quality and purity for that industry's products.

TODAY: PHARMACISTS/PHARMACEUTICAL PRODUCTS KEEP AMERICA HEALTHY

Today, the twin tides of science and social change are continuing to lift the pharmacy profession and industry to even higher levels of sophistication in meeting the nation's health needs. And NDTC member associations are vital to this progress.

I believe we should spend a moment or two in identifying today's leaders who are assuring that their respective groups keep current with science and public needs. They are:

AACP

William H. Campbell, Ph.D., Professor and Chairman, Department of Pharmacy Practice, University of Washington School of Pharmacy, Seattle, Washington (AACP Chairman and President)

Carl E. Trinca, Ph.D., Executive Director

APhA

Charles R. Green, Owner, Green Brothers Pharmacy, Stockton, California (APhA Chairman)

John F. Schlegel, Pharm. D., President

CTFA

James E. Preston, President and Chief Executive Officer, Avon Division, Avon Products, Inc., New York, New York (CTFA Chairman).

E. Edward Kavanaugh, President.

NARD

Darwyn J. Williams, P.D., Owner, Williams Drug Inc., Webster City, Iowa (NARD President).

Charles M. West, P.D., Executive Vice President.

NACDS

Stewart Turley, Chairman of the Board and President, Jack Eckerd Corporation, Clearwater, Florida (NACDS Chairman).

Ronald L. Ziegler, President.

NWDA

David E. Mitiguy, President, Burlington Drug Co., Shelburne, Vermont (NWDA Chairman)

Charles S. Trefrey, President.

PMA

Eugene L. Step, President, Pharmaceutical Division, Eli Lilly and Company, Indianapolis, Indiana (PMA Chairman).

Gerald J. Mossinghoff, President.

PA

William I. Bergman, President, Richardson-Vicks U.S.A., Wilton, Connecticut (PA Chairman).

James D. Cope, President

We are pleased to have these leaders with us tonight, as well as several past leaders of our eight constituent groups, *and* of the NDTC itself, including five NDTC past presidents:

1. James E. Allen, NWDA (1961-1962);
2. George C. Straayer, NWDA 1969);
3. C. Joseph Stetler, PMA (1972);
4. Robert J. Bolger, NACDS (1974, 1982);
5. John T. Fay, Jr., Ph.D., NWDA (1979); and
6. Another very special person, the wife of the late William L. Ford of NWDA (1971, 1985)—Betty Ford.

Today's highly diverse pharmacy profession is a vital part of American health care. Whether they practice in a community pharmacy, in a hospital or long-term health care facility or in a myriad of other settings, today's pharmacists are a fountainhead of knowledge about modern medicines.

Pharmacists still do some compounding, but increasingly—as experts in drug therapy—they consult with both doctor and patient and provide many other specialized services. In addition to being highly trained in drug therapy, they have at their fingertips some of the best technology available in any field or profession.

Today's independent retail pharmacy provides high-quality pharmaceutical care and information to consumers in large and small neighborhoods across the nation. Each day, eighteen million consumers pass through the doors of our country's nearly 40,000 independent pharmacies. Service continues to be the hallmark of the independent, including computerized patient profiles, emergency prescription services, 24-hour delivery, and, most important of all, face-to-face patient counseling, which accounts for nearly 20 percent of the typical independent pharmacist's day. They have changed with the times: 60 percent of today's independent retail pharmacies are involved in home health care; more than 40 percent have built successful nursing home operations; some are apothecaries; while still others are 1980s-style corner drugstores.

Today's chain drugstores also play a key role in pharmacy. In addition to providing full pharmacy services, these pharmacies are now in a technological revolution. Already in place are computers for patient profiles to facilitate such service as advice to nursing mothers and information to patients about potential drug and food interactions. We should soon see the widespread use of point-of-sale check-out scanners and at-home shopping via television. More changes are just around the cornor. The variety of merchandise available to the busy, one-stop shopper in chain drugstores is almost mind-boggling. Trust me: If they don't have what you're looking for, you don't need it.

Wherever they practice their profession, pharmacists must maintain high standards, for on their knowledge and expertise rest the health and safety of countless Americans.

Pharmacy schools have successfully adapted their curricula to the high-tech environment resulting from a dramatic explosion in scientific knowledge of drugs and the human body. Our 74 pharmacy colleges are helping to further enhance and foundation, education, science and practice of pharmacy by such programs as close collaboration between schools of medicine and pharmacy, cooperation which facilitates important use of the pharmacists' knowledge in a clinical setting. It's no surprise that, for four years, a Gallup poll measuring public opinion of several key professions placed pharmacists second, behind only the clergy, in public esteem. The most recent poll has pharmacy as number one.

As for over-the-counter medicines, the industry's active participation and cooperation in FDA's OTC Review and its adoption of numerous voluntary industry guidelines have helped assure that today's over-the-counter drugs meet the highest possible standards of safety and effectiveness. The ongoing OTC Review has produced a quiet revolution in the field of self-care and self-medication. For example, the Review has accelerated the Rx-to-OTC switch process, resulting in more than 200 OTC products on the market today which were available only by prescription order a decade ago. OTC medicines have grown from home remedies to hydrocortisone. And, like the rest of the field, they have grown with science, with technology, and with the social and medical progress of the Nation.

THE COSMETIC INDUSTRY

Another important element in our story this evening is provided by the cosmetic, toiletry and fragrance industry. It conducts many programs—most notably the Cosmetic Ingredient Review project—which help provide further assurance that the safety, purity and quality of its products are backed by today's science and technology.

Of particular interest is a program the industry is developing called "Look Good . . . Feel Better." This program recognizes the importance and value of the quality of life, and will help cancer patients deal with the side effects caused by radiation and chemotherapy treatments—side effects such as lost hair, eyelashes and eyebrows, and changes in skin texture and pigmentation. Rather than undergo such side effects, many patients refuse treatment. And, those who do undergo it need support and help. Working with the American Cancer Society, industry is providing highly valuable information for patients, for cosmetologists, for oncologists and for oncology nurses.

RESEARCH AND DEVELOPMENT COMMITMENT

As to prescription medicines, in 1987 alone, phamaceutical manufacturers spent almost $5½ billion on research and development—up 15 percent from the year before. Those industry efforts are producing exciting new results in the fight against disease. Twenty-one new molecular entities were approved by the FDA in 1987 alone.

THE MAGIC PIPELINE

But, today's pharmaceutical products would be useless without a conduit to get them to health professionals and consumers around the country—in many cases in dramatic, lifesaving ways. Today's high value-added wholesalers provide a magic pipeline to accomplish that feat, utilizing state-of-the-art electronic data processing and distribution methods, constituting the most efficient distribution system on earth, as witnessed by their 70 percent share of all U.S. pharmaceutical distribution today. I should add that, without the adoption of the National Drug Code as a uniform, globally compatible, all-numeric code system, today's almost micraculous delivery system simply could not work. NWDA and NDTC were instrumental in helping assure the successful promulgation and use of that Code.

TOMORROW: THE REAL GOLDEN AGE

Today, we are well embarked on a brand new era in American health care—an era of emerging technologies and nearly limitless possibilities.

Today's drugs have evolved from the mortar and pestle to a new level of technology, with micropipettes, main frames and bioengineering. We're benefiting from new drug therapies for AIDS, and drugs like tissue plasminogen activators which dissolve blood clots that cause heart attacks; from ACE inhibitors to lower blood pressure; and from calcium channel blockers for heart disease.

We're seeing laser microscopes, improved monoclonal antibody technologies and drug-designing computers which will help develop a whole new generation of products to prevent or cure stroke, Alzheimer's disease, learning disabilities and many other devastating illnesses.

Our ability to further control disease will also be aided by new dosage forms, imaging, and the targeting of drug products. Even the whole field of orphan drug discovery and development will be given new emphasis.

Many of tomorrow's pharmaceutical products will be produced by genetic engineering which will alter the DNA of cells for directed drug synthesis. By the 21st Century, the production phase of nearly all new pharmaceutical products may well involve biotechnology. That technology itself will help us understand more fully how normal cells function and how disease occurs, and from that, we will learn how to prevent and cure many more diseases.

FOUR ESSENTIAL ELEMENTS FOR CONTINUED PROGRESS

But, how far we go and how much progress we actually make depends on four essential elements: First, we must have a system which encourages and rewards investment, innovation and long-term commitment to research and development.

Second, we must continue to have the best drug approval process in the world; one that employs the most enlightened approach that science can offer, through a fully funded and professionally staffed Food and Drug Administration.

Third, and critically important, is that we continue to have national uniformity in regulation to assure that the efficiencies already in place in production, labeling and distribution will not be destroyed by layer upon layer of differing, conflicting and cost-raising requirements imposed by 50 individual States.

The fourth essential is people; highly trained people in research, in pharmaceutical education and in pharmacy practice; professional people who provide that unique input which makes possible all the pharmaceutical advances for which the world awaits.

With all four of these elements firmly in place, America will continue to lead the world in the pharmaceutical sciences, and both the health and economic well-being of our citizens, as well as people around the world, will benefit from these modern miracles.

Were the 1950s the Golden Age of pharmaceutical science? Not on your life! The real Golden Age is now and tomorrow. And it is a tomorrow undreamed of by those in pharmacy who met across the street and founded NDTC 75 years ago. I look forward to sharing that tomorrow with you.

A TRIBUTE TO RALPH LaPORTA

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Mr. Ralph LaPorta, a very special resident of my 17th Congressional District. I am filled with great pride to be able to inform my fellow Members of Congress that Mr. LaPorta will be celebrating his 75th birthday on July 5, 1988. Please allow me a few moments to inform you about this outstanding human being.

Ralph LaPorta was born on July 5, 1913, in Boxite, AR. His adventurous spirit led him to move to Warren, OH, in 1929. He was known as a diligent and slavish worker for the engineering department of the Republic Steel Corp., and all of his coworkers were sad to see him retire in 1976.

The happiest day of Ralph's life occurred on December 10, 1931, when he married his one true love—Josephine Manna. Their daughter, Clementine LaPorta, is an extremely close friend of mine. Mr. LaPorta excels at the sport of fishing, and does an outstanding job as vice president of the Over 50 Club of St. Mary's Church in Warren.

Ralph has been a strong supporter of my campaigns since my entry into politics, and I am very proud to call him my confidante. I salute you Ralph, and from the bottom of my heart wish you years of happiness and success. Thus, it is with thanks and special pleasure that I join with the people of the 17th Congressional District in paying tribute to the extremely noble character and warm personality of Ralph LaPorta on his 75th birthday.

BANK BOARD APOLOGIZES TO ATLANTIC FINANCIAL

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. KANJORSKI. Mr. Speaker, Atlantic Financial is the largest savings and loan association in my home State of Pennsylvania, and 1 of the 30 largest thrifts in the Nation.

Recently Atlantic Financial was erroneously and inadvertently mentioned as a troubled thrift institution in a report to the Congress submitted by the Federal Home Loan Bank Board, "Asset Holding Corporation Feasibility Study."

Mr. Stuart D. Root, Executive Director of the Bank Board's Federal Savings and Loan Insurance Corporation [FSLIC] has written a letter of explanation to Atlantic Financial admitting its error in mentioning Atlantic Financial in the report.

In fact, Atlantic Financial was assisting the FSLIC in its management of troubled loans by acquiring a troubled institution with serious asset problems in West Virginia. It was the West Virginia thrift, and not Atlantic Financial, which was in trouble.

I want to include in the RECORD the letter of explanation from the Bank Board so that the reputation of this fine institution will not be damaged by this inadvertent inclusion in a report to the Congress. We should not have one of the stronger members of the thrift industry adversely affected by this error, and we should appreciate the contribution Atlantic Financial has made to help FSLIC and the thrift industry.

The letter follows:

FEDERAL HOME LOAN BANK BOARD,
Washington, DC, June 22, 1988.

Re Federal Home Loan Bank Board Report to Congress—Asset Holding Corporation Feasibility Study.

Mr. DONALD R. CALDWELL,
President and CEO, Atlantic Financial, Bala Cynwyd, PA.

DEAR MR. CALDWELL: This is to confirm that the reference to Atlantic Financial Federal, page 43 of the report is totally in error. It was never our intention to classify Atlantic Financial as a troubled institution. It was our intention to spell out one method dealing with troubled loans and the fact that Atlantic Financial was cooperating with the FSLIC in assisting it in its management of troubled loans through Atlantic Financial's acquisition of a troubled institution with serious asset problems in West Virginia. Please accept our letter of explanation. If you believe it is necessary we will formalize this explanation and distribute it to those whom you believe may have been adversely affected.

Sincerely,
STUART D. ROOT.

AN ARTISTIC DISCOVERY

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. CARR. Mr. Speaker, today we honor the winners of An Artistic Discovery, the Seventh High School Art Competition. These gifted student artists epitomize the excellence which we who care about the arts are striving to achieve in education in America.

This year Congress and the National Endowment for the Arts have placed a special emphasis on the study of the arts in education. Exhibited here at the Capitol is the work of America's most talented student artists, those who have honed their skills to produce wonderful works of art. But, beyond the individual artistic skills exhibited here, we hope that throughout the country elementary and secondary students are learning to appreciate the arts and to use them as a tool for anlayzing the past and preparing for the future. We want our children to learn skills for creativity and problem solving, and to understand how culture affects attitudes, beliefs, and behavior.

As we view these impressive works, we are struck by the boundless imagination and energy of our young people, and we see the payoff for our efforts in education. The variations in styles, textures, and mediums of expression, as well as the diversity in subject matter, exemplify the artistic spirit of today. And as art has always reflected our Nation's moods and identities, this exhibition has also offered us a greater insight into the thoughts and visions of today's young Americans.

We are grateful to so many people for today's successful opening: Sarah Jessica Parker and Judd Nelson, two of our most popular young films stars, who exemplify that artistic success can come at a young age with hard work and dedication. To George White, Architect of the Capitol, we extend our thanks for his efforts and the assistance of his staff in facilitating this professional exhibit. And to Roger B. Smith and General Motors Corp. for not only supporting our art competition with both resources and encouragement, but also for providing opportunities for each generation by fostering the arts and education in America.

Finally, and most importantly, we wish to thank the students, teachers, principals, parents, Members of Congress, and staff who helped make An Artistic Discovery a truly great celebration of the creative spirit of today's young people.

A TRIBUTE TO HENRY "AL" EINHEUSER

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. HERTEL. Mr. Speaker, today I am honoring the memory of a great man and a wonderful friend, Mr. Henry "Al" Einheuser.

Mr. Einheuser, who has passed away, leaves behind a tradition of fellowship and loyalty to everyone who was lucky enough to know him. He was devoted to his family, church, community, and friends.

Al and his loving wife Marie raised three fine children who, in turn, have blessed their parents with five grandchildren and six great-grandchildren.

Al Einheuser worked at the Hudson Motor Car Co. and Johnstone & Johnstone Realty. When he wasn't at work, Al enjoyed cooking and sharing this and other talents with his family and friends. He was a member of the Knights of Columbus and a devoted parishioner at St. Matthews Church.

I ask my colleagues to join me in remembering Henry Alois Einheuser. He has left a legacy of caring and love to his family and friends. Al's spirit will remain with us all.

The following is his family's remembrance of him:

FATHER HAS FALLEN ASLEEP

Father was tired and weary,
  Weary with toil and with pain;
Put by his glasses and rocker,
  He will not need them again,
Into Heaven's mansions he's entered,
  Never to sigh or to weep,
After long years with life's struggles,
  Father has fallen asleep.

Near other loved ones we laid him,
  Low in the church yard to lie,
And though our hearts are near broke,
  Yet we do not question "Why."
He does not rest 'neath the grasses,
  Tho' o'er his grave they creep,
He has gone into the kingdom
  Father has fallen asleep.

Rest the tired feet now forever,
  Dear wrinkled hands are so still,
Blast of the earth shall no longer
  Throw o'er our loved one a chill,
Angels through heaven will guide him,
  Jesus will still bless and keep
Not for the world would we wake him,
  Father has fallen asleep.

Beautiful rest for the weary,
  Well deserved rest for the true,
When our life's journey is ended
  We shall again be with you.
This helps to quiet our weeping
  Hark! Angel music so sweet!
He giveth to His beloved
  Beautiful, beautiful sleep.

TRIBUTE TO JAMES CLARK MACFARLAND

HON. ARTHUR RAVENEL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. RAVENEL. Mr. Speaker, I rise today to ask my colleagues to join me in giving proud recognition to the many accomplishments of one of my constituents, Mr. James Clark MacFarland of Summerville, SC. During his 41 years of distinguished and dedicated service, first to the U.S. Army and then to the National Industries for the Blind [NIB], Mr. MacFarland has shown a rare combination of understanding and compassion for the needs and desires of disabled Americans.

Mr. MacFarland's tireless efforts on behalf of blind people and other severely handicapped citizens should not remain unrecognized. He has devoted countless hours to the creation of new employment opportunities for blind workers under a program that began when Congress passed the Wagner-O'Day Act in 1938. This act was subsequently amended in 1971, and is now commonly known as the Javits-Wagner-O'Day Act [JWOD]. This program provides employment to thousands of blind, multihandicapped blind and other severely handicapped people. The genius of the JWOD Act is that it creates such employment opportunities and provides commodities and services to the Federal Government with limited costs to the Government.

During his 14 years with NIB, Mr. MacFarland served in various capacities including that of vice president of the government operations division. During this time, he was intimately involved in developing new products and services for manufacture by blind workers.

The remarkable growth of employment opportunities under the JWOD Act between 1968 and 1982 is a fitting tribute to his leadership and dedication to the welfare of blind and multihandicapped blind citizens. He was one of the first to recognize the important role played by workshops for the blind as demonstration facilities. As a result, he deliberately set out to identify, acquire, adapt, and assimilate brand new products and processes for manufacture by blind persons. This, in turn, has helped demonstrate the impressive production capabilities of blind persons not only to workshops and blind workers, but in a real sense to the society at large. He was awarded the prestigious R.B. Irwin Award for service to blind persons in May 1984.

In recognition of his remarkable service to blind citizens, and his knowledge of the JWOD Act, he was appointed by President Reagan in 1987 to serve as a member of the Committee for Purchase from the Blind and Other Severely Handicapped—the committee. This committee was initially created by the JWOD Act in 1971 and is charged with administering the act and creating new employment opportunities for the targeted group of blind and severely handicapped individuals. In this position, Mr. MacFarland works closely with the committee staff and assists it in making important policy decisions, always keeping in mind the congressional purpose in creating the JWOD Act of expanding employment opportunities for the specific group of blind and other severely handicapped individuals who either cannot obtain or engage in competitive employment.

Mr. MacFarland's leadership in creating jobs and raising the standards of living for blind workers has also included a strong commitment to improving working conditions and safety within the workshops and promoting upward mobility and placements, whenever possible. His commitment to improving the life satisfaction of blind and other severely handicapped workers is worthy of our support, applause and recognition.

Mr. Speaker, it is with great pride and honor that I recognize these outstanding accomplishments of a great American and a fellow South Carolinian, Mr. James Clark MacFarland.

TERRORISM STRIKES AGAIN

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. BROOMFIELD. Mr. Speaker, once again, senseless terrorism has taken the life of an innocent American. Early today in Athens, Greece, U.S. Navy Capt. William Nordeen was murdered by a group of terrorists, suspected to be the "November 17th" leftists, as he drove to work.

Cooperation among all nations is essential in the battle against the international scourge of terrorism.

My heart goes out to the family of Captain Nordeen during this hour of supreme sadness, and our thoughts and prayers are with them.

According to early reports, the Embassy's defense attaché, Captain Nordeen, was killed when explosives in a parked car were remotely detonated by Greek terrorists. His lightly armored vehicle was completely destroyed by the huge blast.

The November 17th terrorist group is anti-Western, anti-capitalist and anti-NATO. In the past, the group has targeted Greek businessmen, Greek military officers, police officers and newspaper editors. They are also responsible for killing other Americans.

This terrible atrocity illustrates the need for all nations to take a firm and uncompromising stand against terrorism.

I call upon the Greek Government to leave no stone unturned in its efforts to find and prosecute to the fullest extent of the law the guilty parties.

I hope that the Greek Government will continue to work closely with the United States in our efforts to bring to trial terrorists who commit these brutal attacks.

ANOTHER DELANCEY STREET SUCCESS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to bring an innovative project of the Delancey Street Foundation to the attention of my colleagues, and to commend both the residents of the foundation, and their president, Mimi Silbert, who is one of the most remarkable people I have ever known.

The foundation has been described by Mimi Silbert as "a self-help, re-education center for people who have hit bottom." Through counselling, training and work experience in some of the foundation's resident-run businesses, it aims to help ex-convicts and former drug addicts acquire the skills necessary to overcome their past problems.

The Embarcadero Triangle project itself is a tribute to the success of the foundation. Although the 17-year-old foundation has several business endeavors underway, none of their other efforts have come close to the magnitude and complexity of their most recent $30 million development project. Residents have solicited donations for the project from building supply manufacturers. They expect to receive about $2 million in donated supplies. About 80 percent of the labor on the construction site has been provided by Delancey Street residents, who have shown very high quality workmanship that has drawn compliments from experienced developers.

Mr. Speaker, I commend the following article to my colleagues attention. It describes a remarkable organization and its even more remarkable president. I hope my colleagues will take the time to read it and join with me in recognizing the achievements of Mimi Silbert.

The article follows:

[From the Los Angeles Times, June 26, 1988]

ONCE CONVICTS, THEY NOW BUILD FOR A BETTER LIFE

(By Ruth Ryon)

San Francisco-Ex-convicts and drug addicts are building themselves some housing, shops and restaurants on a prime downtown block near Fisherman's Wharf.

Impossible? Ridiculous?

That's what most people said before construction started last summer, but now Delancey Street's Embarcadero Triangle, a $30-million development on three acres leased for 63 years from the city's redevelopment agency, is taking shape, and there are more comments like Jack Scott's:

"I've been in the construction business for 30 years, and this project is going as well as any I ever saw.

"I've also seen a lot of local general contractors look around and then walk away in amazement that this can be done so neatly, correctly and in the time allotted, by people with essentially no construction experience."

RUNNING THE PROJECT

Scott is the project manager, and Apersey Construction is the contractor.

"We hired them to be sure all goes right, but it's Ammirato who really runs things," said Mimi Silbert, president of the Delancey Street Foundation, which she describes as "a self-help re-education center for people who have hit bottom," people like John Ammirato.

"I started shooting dope when I was 13, and I'm 34 now," he said. "When I was 17 or 18, I got married. Then I was in and out of trouble all through my 20s, until I came out here from New York in 1981. I had no address, I was just running. Then I heard about Delancey Street." He became a resident.

Most residents make a two-year commitment to the 17-year-old program, which is named for a well-known New York street and aims to stop drug and alcohol abuse and crime while teaching at least three vocational skills and high school and advanced courses. The average stay is four years, but many residents stay nine or 10, not much, considering some were prison inmates for as long as 20 years and others were functional illiterates.

Ammirato was neither, but he needed drug counseling and lacked a completed formal education.

"I pushed him to go to school, and then he didn't take a test there that he didn't get under 99%," Silbert recalled. "He zoomed ahead and got his general contractor's license."

Now he's in charge of the 250 men and women Delancey Street residents who will have worked on the four-story, 330,000-square-foot Embarcadero Triangle, on the Embarcadero between 1st and Brannan streets, by the time it opens in the fall of 1989.

Silbert says the building, which will have three levels with 177 apartments for Delancey Street residents above a ground floor of shops and restaurants—to be managed primarily by the residents.

Before construction started, Scott and the general contractor estimated that at least 60% of the labor could be performed by residents in training, but at the end of February, with 25% of the work completed, the residents had provided more than 80% of the labor themselves, Silbert said.

"I think it's probably the largest sweat-equity project going," she said. "We're also doing all the ancillary services—like accounting. We're dealing directly with all the subcontractors, and we're ordering all the products and materials."

Many of the materials are being donated. "We have 20 people on phones throughout the country, calling manufacturers and distributors, asking them to give us products and we think we'll end up with more than $2 million worth," she said.

As an example, she pointed out that much of the 600 tons of reinforcement bars supplied by Tamco Steel, of Southern California, was a gift, as were significant portions of the general contractor's and architect's (Backen, Arrigoni & Ross) work.

Lawyers handling the project's legal work, many subcontractors and a few people supervising Delancey Street residents on the job also volunteered their services.

The project is being handled much like the San Francisco-headquartered Delancey Street Foundation itself, which accepts no government funding and "has no staff," as Silbert puts it.

The residents run the organization, which provides food, clothing and shelter at no cost, in return for their work, on a space available basis. Silbert heads the foundation and is developer of the Embarcadero Triangle.

Silbert doesn't take a salary. Once described as "the only key member of Delancey Street's hierarchy who never had a drinking or drug problem of her own," Silbert is a criminologist and psycholotist who was graduated from UC Berkeley and was a student of philosophy under Jean-Paul Sartre in Paris.

She is a member of the California Board of Corrections. She has practically devoted her life to Delancey Street from its inception and lives with the residents in an old Pacific Heights mansion.

Is she the Mother Teresa of Delancey Street? "I think she would deny herself the mayonnaise," she said as a resident served her a shrimp and avocado salad.

"We teach our residents how to set a table, make lunch and go to the opera, because one of the troubles with poor people is that they don't know how to do the little things that entertain the middle class," Silbert explained.

The residents also learn financially rewarding skills.

"We earn our own money and receive donations of goods and services," Silbert said. "We learn through vocational training schools, we teach each other what we know, and we pool the income."

Delancey Street has several enterprises, including a moving and trucking company, which teaches residents how to pack and box things and how to drive a diesel truck. "And we are the largest distributors in the country to college book stores of imprinted hats and shirts," Silbert added.

Nationally, Delancey Street has about 700 residents in five locations: a ranch outside Santa Fe, N.M., which includes juveniles as well as adults; Brewster, N.Y.; Santa Monica; Greensboro, N.C., and San Francisco, which has about 350 residents and several facilities, two of which Silbert recently sold to help finance the new building.

When first faced with the prospect, she didn't even have $30,000, let alone $30 million, but she thought even then that Delancey Street labor and donated materials would save over half of the cost of construction. Since then, she also got $3.5 million from a city program requiring office developers to provide housing or an in-lieu-of fee.

"Now I'm about $2 million short," she said, "but I'm in the process of fund-raising. We don't do fund-raising for our regular operations."

She just announced at a press conference that she obtained a $10-million bank loan "as a bridge if there's a need."

She's hoping there won't be a need, but while fund-raising she has encountered some skepticism—people saying, "What do you mean that there are 75 Delancey Street people now on the job?"

"It's hard to understand," she admitted—even now that the project is getting such laudatory remarks as Bill Witte's. At a press conference announcing the $10 million loan, Witte, the city's deputy mayor, said, "To put together a development in this time frame in this city serving this population with this much support is unprecedented, even with the most experienced developer."

It's hard to understand how a psychologist can take on the role of a real estate developer for the first time at age 46, but Silbert also chalks that up to the Delancey Street philosophy that ordinary people can do extraordinary things.

Besides, she figures:

"What you need as a developer is a tough belly and a crazed vision, and I already had those two qualities, working with Delancey Street."

RECOGNITION OF THE DELANCEY STREET PROJECT

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Ms. PELOSI. Mr. Speaker, I would like to bring to the attention of my colleagues an article which appeared in the Los Angeles Times on Sunday, June 26, 1988, concerning an innovative program which addresses both drug rehabilitation and the housing shortage. The Delancey Street Foundation in San Francisco, a drug rehabilitation program, is financing and providing nearly 80 percent of the labor in the construction of the Embarcadero Triangle, which will house the program's participants. Those who participate in the program not only rid themselves of drug dependency, they also acquire useful job skills in the process. The Delancey Street Foundation has provided a model to the country of pooling resources to solve problems.

I commend Mimi Silbert, president of the Delancey Street Foundation, who developed this project, and the project's participants. Thank you.

ONCE CONVICTS, THEY NOW BUILD FOR A BETTER LIFE

(By Ruth Ryon)

San Francisco—Ex-convicts and drug addicts are building themselves some housing, shops and restaurants on a prime downtown block near Fisherman's Wharf.

Impossible? Ridiculous?

That's what most people said before construction started last summer, but now Delancey Street's Embarcadero Triangle, a $30-million development on three acres leased for 63 years from the city's redevelopment agency, is taking shape, and there are more comments like Jack Scott's:

"I've been in the construction business for 30 years, and this project is going as well as any I ever saw.

"I've also seen a lot of local general contractors look around and then walk away in amazement that this can be done so neatly, correctly and in the time allotted, by people with essentialy no construction experience."

RUNNING THE PROJECT

Scott is the project manager, and Apersey Construction is the contractor.

"We hired them to be sure all goes right, but it's Ammirato who really runs things," said Mimi Silbert, president of the Delancey Street Foundation, which she describes as "a self-help re-education center for people who have hit bottom," people like John Ammirato.

"I started shooting dope when I was 13, and I'm 34 now," he said. "When I was 17 or 18, I got married. Then I was in and out of trouble all through my 20s, until I came out here from New York in 1981. I had no address. I was just running. Then I heard about Delancey Street." He became a resident.

Most residents make a two-year commitment to the 17-year-old program, which is named for a well-known New York street and aims to stop drug and alcohol abuse and crime while teaching at least three vocational skills and high school and advanced courses. The average stay is four years, but many residents stay nine or 10, not much, considering some were prison inmates for as long as 20 years and others were functional illiterates.

Ammirato was neither, but he needed drug counseling and lacked a completed formal education.

"I pushed him to go to school, and then he didn't take a test there that he didn't get under 99%," Silbert recalled. "He zoomed ahead and got his general contractor's license."

Now he's in charge of the 250 men and women Delancey Street residents who will have worked on the four-story, 330,000-square-foot Embarcadero Triangle on the Embarcadero between 1st and Brannan streets, by the time it opens in the fall of 1989.

Silbert says the building, which will have three levels with 177 apartments for Delancey Street residents above a ground floor of shops and restaurants—to be managed primarily by the residents.

Before construction started, Scott and the general contractor estimated that at least 60% of the labor could be performed by residents in training, but at the end of February, with 25% of the work completed, the residents had provided more than 80% of the labor themselves, Silbert said.

"I think it's probably the largest sweat-equity project going," she said. "We're also doing all the ancillary services—like accounting. We're dealing directly with all the subcontractors, and we're ordering all the products and materials."

Many of the materials are being donated. "We have 20 people on phones throughout the country, calling manufacturers and distributors, asking them to give us products, and we think we'll end up with more than $2 million worth," she said.

As an example, she pointed out that much of the 600 tons of reinforcement bars supplied by Tamco Steel, of Southern California, was a gift, as were significant portions of the general contractor's and architect's (Backen, Arrigoni & Ross) work.

Lawyers handling the project's legal work, many subcontractors and a few people supervising Delancey Street residents on the job and volunteered their services.

The project is being handled much like the San Francisco headquartered Delancey Street Foundation itself, which accepts no government funding and "has no staff," as Silbert puts it.

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LETTER COMMENDING EVANSTON HOSPITAL

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. YATES. Mr. Speaker, on May 20 a tragic shooting of children and staff took place at the Hubbard Woods School in the suburban Chicago community of Winnetka. The Evanston Hospital, which is in my district, treated four of the shooting victims and I am very pleased to insert in the RECORD a very fine letter that Mr. George Fisher, the father of one of the children, sent to Evanston Hospital.

Mr. BERNARD LACHNER,
President, Evanston Hospital Corp., Evanston, Ill.

DEAR MR. LACHNER: This letter is to commend your hospital for the excellent work which enabled my daughter, Lindsay Fisher, to live after being shot at the Hubbard Woods School on May 20.

Upon learning of the shooting at the school, the Evanston Hospital notified their crisis team of the pending arrival of the injured. Dr. John C. Alexander was relieved during the course of another operation to attend to these children. Early assessment of Lindsay's condition resulted in the selection of Dr. Alexander as the cardiovascular specialist and of Dr. Stephen Sener as the abdomen specialist.

The extent of Lindsay's bullet wound created massive bleeding from multiple areas. The blood veins in an eight year old are very small and for Lindsay, were providing inadequate blood transfusions. An unusual procedure of transfusing the much needed blood directly to Lindsay's heart, while a major artery was being repaired, saved my daughter's life. Lindsay proceeded to undergo two more operations within 18 hours of the first operation. These were to perform additional closing of the wound to stop internal bleeding.

Dr. Joseph R. Hageman capably directed the post-operative care. During the first five days the Intensive Care Unit watched over my child day and night. It was not uncommon to see a desk pulled up to Lindsay's door where nurses could do daily paperwork and still maintain their vigil. The nurses on the Pediatric floor eased her pain and made Lindsay's hospital recovery quicker.

As a bystander thrust into a tragic situation, my emotional stress was severe. However, the medical staff's support of Lindsay and the knowledge of their dedication to my daughter gave me peace of mind. On many occasions I had very emotional discussions with doctors who provided us with comfort during difficult times.

It is impossible to overlook any of the staff at Evanston Hospital: they all contributed to Lindsay's recovery, especially the three doctors mentioned. Lindsay is alive today because of the grace of God, the prayers of thousands of supporters and the expert staff at the Evanston Hospital. Their actions to help my daughter will forever be my example of excellence.

Sincerely,

GEORGE C. FISHER.

UNITED STATES AID TO GUATEMALA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. EDWARDS of California. Mr. Speaker, policymakers in the United States have for years been trying to determine the proper role our Government should play in promoting peace and democracy throughout the world. Should we give foreign aid? If so, what type of aid and how can it be most effectively channeled? Clearly, there is no simple formula; every troubled nation has unique domestic and foreign characteristics that define how they can best be guided down the road to popular democracy.

A case in point is Guatemala, which recently asked our Government for renewed military aid. This deserves careful consideration: The Guatemalan military is guilty of a variety of human rights abuses, having all but silenced voices of opposition throughout their country. The military, on the other hand, maintains that the United States assistance is needed to strengthen the weak civilian government that it defends. The United States must now devise a plan that will direct aid to the most democratic purposes.

I would like to share with my colleagues a provocative article on this topic written by Caleb Rossiter and Bonnie Tenneriello, two Washington experts on Latin America, that appeared in the Christian Science Monitor on June 9, 1988.

[From the Christian Science Monitor, June 9, 1988]

CAN U.S. MILITARY AID REALLY HELP A CIVILIAN PRESIDENT?

(By Caleb Rossiter and Bonnie Tenneriello)

Guatemala's minister of defense, Gen. Héctor Gramajo, came to Capitol Hill recently to lobby for renewed military aid. His paradoxical argument was that such aid will bolster the country's fragile new civilian government. The implicit message was that Army hard-liners must be given the aid as an incentive to continue letting civilians hold office. The same argument brought the Army $7 million last year. Yet that aid failed to placate undemocratic elements in the military who recently launched an unsuccessful uprising.

In looking at this year's request, Congress must decide whether the aid really benefits the civilian side of Guatemala's delicate political balance. This decision will have important implications for United States policy toward Latin America as a whole. Guatemala is a prime example of a regional trend that is confounding policymakers: the emergence of countries in which the military has turned over office, but little real power, to elected civilians.

Members eager to support Guatemala's transition to democracy listened carefully to General Gramajo's request. Even liberals are considering supporting it, despite ongoing abuses of human rights by the Army. Not long ago, such a reception for the general would have been unthinkable. Guatemala was perhaps the most brutal of Latin America's military dictatorships.

Faced with a rural revolt in the mid-1970s, the Guatemalan Army responded to Mao Tse-tung's dictum that guerrillas move through the civilian population like fish in the sea by essentially draining the sea. The Army killed tens of thousands of Guatemalans, erasing 440 Indian villages from the map. Gramajo held important military posts during the period. US arms aid was banned.

What, then, has changed, Certainly not the Army's respect for human rights. The Army's rural massacres of the early 1980s no longer occur, largely because the guerrilla threat has been reduced to an "annoyance" of fewer than 700 rebel troops, according to Gramajo. Yet Amnesty International and others report numerous recent killings by the Army. No officer has been punished or even publicly investigated, and the Army forces some 600,000 rural Guatemalans to work for it without pay in "civil defense" patrols. Concern for human rights has certainly not changed in Congress, where such diverse cases as Iran under the Shah, Nicaragua under Somoza, and the Philippines under Marcos have created a consensus that aiding militaries that operate above the law is contrary to US security interest and values.

The change is that the request for arms aid has been sanctioned by an elected president with strong democratic credentials, Vinicio Cerezo, who took office in 1986 after 16 years of military government. There is a strong inclination to bow to his judgment when he says the aid helps him neutralize military coups.

Congress, however, has good reason to resist this inclination. President Cerezo's request for aid to please the military does not mean that such aid actually strengthens his own position. A military that receives US aid just for letting Mr. Cerezo hold office will have no incentive to let him one day also hold power.

Handing over arms aid with no strings attached could send the wrong message to the military, suggesting that the present arrangement is acceptable. The US went down this path in the late 1960's, when another reformist civilian, Julio César Méndez, became president of Guatemala. Méndez, like Cerezo, was unable to limit or punish the Army's assaults on political opponents. Then, as now, the US hoped to strengthen democracy by using aid to placate the military. Yet the aid only provided the means for the military to eliminate students, trade unionists, and peasant leaders. The recent example of neighboring El Salvador is worth pondering: Congress has opened its purse to a civilian President, giving more aid to a country than it contributes to its own budget. Yet that nation's military forces have severely restricted the President's ability to negotiate an end to the civil war or solve the economic and social problems that triggered it.

Thus, more military aid to Guatemala risks increasing the military's power at Cerezo's expense. But would denying the aid hurt Cerezo even more, perhaps leading to a military coup that cuts off any hope for a transition to democracy? This is the tough question for Congress. On balance, we think probably not: The May 11 coup attempt was defused by the same Army leaders who permitted Cerezo to become president, and for the same reason. They understand that only a civilian president can end the international isolation that has compounded Guatemala's serious economic problems.

Still, Cerezo apparently judges that he cannot afford to antagonize the military by using the aid as leverage—refusing to request it until there is progress toward civilian control. Yet Congress is in a position to use it as leverage for him, by withholding it until trials begin for officers implicated in abuses of human rights and until the "civil defense" system is shut down.

The US has a special responsibility toward the people of Guatemala. The US installed the military dictatorship in 1954, and it trained the police and military forces who presided over the slaughter of the 1970s and early '80s. Economic growth, Guatemala's traditional strong suit, has been impeded by the war. With land tenure among the most unequal in Latin America and three-fourths of its population in poverty, Guatemala clearly needs US help. There must be a better way to respond than by strengthening the military, that institution most responsible for the nation's distress.

COMMENDING THE SAN FRANCISCO COUNCIL OF CHURCHES UPON THE OCCASION OF ITS 85TH ANNIVERSARY

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mrs. BOXER. Mr. Speaker, founded in 1903, the San Francisco Council of Churches celebrates its 85th anniversary in 1988 with the announcement that in addition to continuing in its historic role of providing a variety of social service ministries to the city and county of San Francisco, it will expand its services to the religious community via an ecumenical services center. This Ecumenical Services Center will provide low-cost insurance coverage for the church buildings, and also low-cost medical and dental insurance for church employees. Other services will include: technical assistance workshops; fiscal management and accounting services; printing and other communications services; and bulk-purchasing of paper goods and other office supplies. In 1981, the council created a placement service for church musicians, (the first of its kind in the USA); this unique service matches organists, vocalists, and other church musicians with congregations throughout the San Francisco Bay Area in need of their services. Via the Ecumenical Service Center, it is planned that a placement service for retired clergy also be organized.

The San Francisco Council of Churches brings churches from many traditions together in worship, dialog, and action. Joining together in the annual Easter Sunrise Service atop Mount Davidson, in music festivals and other significant worship services, these churches draw from rich traditions and foster joint visions of the future.

Through practical service in administering, coordinating, and sponsoring programs for feeding the hungry, working with prisoners, taking care of the young, and helping the elderly and persons who are handicapped, the council helps its participating churches to spread the Gospel of care and service in effective and creative ministries. Utilizing a paid staff of over 60 and the efforts of over 2,000 volunteers, these ministries serve all the people of our community.

The San Francisco Council of Churches also provides a way for churches of many ethnic backgrounds and from diverse beliefs and traditions to learn the lessons of tolerance and understanding. As that understanding deepens, the council becomes a unique expression of education and direct action in behalf of people who are poor and opressed. In a real sense, the San Francisco Council of Churches builds bridges of friendship in our community and in the world by providing effective channels of cooperative action to serve the disadvantaged.

Over the years, the channel's board of directors has responded to needs of the community by venturing into program service areas that others were either unwilling or unable to address.

In the past, council leaders were involved in such events as: the earthquake and fire of 1906; World War I and World War II; Korea and the Vietnam eras; the founding of the United Nations in San Francisco; the Joseph McCarthy era; and the changing role of women and minorities.

In the 1970's, the council served as the sponsoring agency for San Francisco's Summer Food Program for Children, the second-largest such sponsoring agency in the entire USA. The council was sought out to serve as sponsor of a number of the city's community mental health programs and under the council's leadership these programs became sound in both program and financial administration.

The council has long been a pioneering agency, creating models of ministry and services when none existed. In 1964, the night ministry was created to respond to the obvious need for the presence of someone during the after-hours when both churches and governmental agencies were closed, but when problems and crises continued. Operating between the hours of 10 p.m. and 4 a.m. every night of the year, the council's night ministry offers a friendly voice, a trained counselor, and someone who can intervene in cases of crisis such as attempted suicide, et cetera.

Almost everyone is familiar with church-based senior centers. It was the San Francisco Council of Churches that designed this very model that is now utilized worldwide. Even today, the council continues to sponsor the St. Francis Meals Service, located in First Congregational Church; Noriega Senior Services Center, located in St. Francis United Methodist Church; and the OMI Senior Center, located in Pilgrim Community Church, in a joint effort with the San Francisco Commission on Aging.

In 1976, a child-development program was going to be lost to the Hunters Point District when the Council of Churches was asked to become the sponsoring agency for the Grace Child Development Center. This program, funded by the State Department of Education, has been recognized by the National Council of Churches as a model for church-related child care. Grace Child Development Center offers family day care via licensed family day care operators, while also providing preschool and school-age child development, cultural arts, and parent education in its own center.

In 1977, Rev. Dr. Norman E. Leach, west coast director for the Healing Community, authored what is recognized as the first comprehensive policy and program adopted by any denomination as it ministers with persons who are disabled. The document, entitled "That All May Enter," still serves as a model to other religious communities. In 1981, Dr. Leach approached Mayor Dianne Feinstein with his idea of and need for a mayor's council on disabilities concerns. The mayor approved of this proposal, established the mayor's council, and appointed him as its first president.

Thousands of persons are fed daily in San Francisco because of the San Francisco Food Bank and Emergency Food Box Program, both created and sponsored by the San Francisco Council of Churches. Over 130 nonprofit agencies utilized the Food Bank last year and, according to those agencies, the Food Bank saved them more than $1.2 million in their food budgets in a single year.

The Elizabeth Fry Center, San Francisco's first community-based alternative to incarceration program for prisoner-mothers with children under the age of 6, was created in 1987 by the council in a joint venture with the California Department of Corrections. For many years, the council has enjoyed a partnership with the community college district in providing additional services for seniors. And in January 1988, Project Opportunity began its innovative program of training and supportive employment placement for persons who are developmentally disabled. This program is endorsed by the San Francisco Labor Council AFL-CIO and others, and has as its goal placement of persons who are developmentally disabled into competitive employment settings.

Over the years, the council continued to nurture many worthwhile programs to become independent, self-sustaining agencies with nonprofit status. In addition to the San Francisco Food Bank and Emergency Food Box Programs sponsored by the San Francisco Council of Churches, the council spun off its Brown Bag Program for Seniors which had been serving some 1400 seniors weekly with a bag of groceries. Other programs begun by the council and now operating independently include: Self-Help for the Elderly; Chinese Youth Alternatives; Friendly Visitors; Geriatric Services, Community Mental Health; Junior Hwa Ching; Mission Community Mental Health Center; Northeast Community Mental Health Center; RSVP (Retired Seniors Volunteer Program); Southeast Community Mental Health Center; Summer Lunch Program for Children; Thomas Street Home for Ex-Offenders; and Thunderseed Aftercare, Community Mental Health Center.

The council enjoys a long history of providing leadership within the larger community as well. In addition to founding the Mayor's Council on Disabilities Concerns, council leadership also helped create the Mayor's Council on Food and Hunger; San Francisco Conference On Religion, Race and Social Concerns; San Francisco Bay Area Dr. Martin Luther King, Jr. Observance Committee; FEMA, Coalition of Agencies Serving the Elderly [CASE]; California Working; A World of Difference; and Intergroup Clearinghouse. Its role as leader within the interfaith and ecumenical communities was never tested so much as when in 1978 it created the Guyana Emergency Relief Committee along with the Northern California Board of Rabbis and the San Francisco Roman Catholic Archdiocese. This committee brought a sense of healing and sanity at a time when even our United States Government was incapable of responding to the tragic news coming out of Jonestown, Guyana. It brought the bodies home, to receive a caring and respectful burial.

The San Francisco Council of Churches does make a difference. Speaker of the California assembly, Willie L. Brown, Jr., observed:

> The San Francisco Council of Churches has pursued their programs quietly and with little fanfare. Now is the time for people of goodwill throughout the San Francisco Bay Area to come together to celebrate their contributions to more loving and abundant living.

As the council enters its 85th year on July 1, 1988, it is led by its newly-elected board president, Rev. Dr. Howard S. Gloyd, pastor of the city's oldest black congregation, Bethel African Methodist Episcopal Church. Giving leadership from the staff side is the council's executive director, Rev. Dr. Norman E. Leach. During the council's 75th anniversary in 1978, Mrs. Donneter E. Lane—who had served as board president and was then serving as executive director of the council—wrote these words in the book entitled "Heritage and Hope:"

> San Francisco is a global village. No other city in the United States of America reflects the globe in its diversity, pluralism and tolerance as does San Francisco . . . could it be that San Francisco is a microcosm of all God's creation, a laboratory of the future, which has been destined to become the place where 'Thy Will be done, on earth as it is in heaven' is actualized through the Church as we approach the 21st Century?

TRIBUTE TO DR. JIMMIE E. HARLEY

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. TALLON. Mr. Speaker, I rise today to pay tribute to an outstanding gentleman and a dedicated religious leader from my district and the State of South Carolina. Dr. Jimmie E. Harley has served as pastor of First Baptist Church in Florence for 10 years. He is loved, respected, and appreciated by the members of his congregation, South Carolina Baptists and national leaders of the Southern Baptist Convention as well.

Dr. Harley has faithfully pastored a number of churches in South Carolina. He is currently president of the South Carolina Baptist Convention. He is a member and past president of the board of trustees of the South Carolina Baptist Foundation. He has served as a member and vice-president of the board of trustees of the annuity board of the Southern Baptist Convention. He has also served with great distinction in numerous other positions at the conference level.

Dr. Harley is a true patriot. Every year, he leads his congregation in a celebration of Christian citizenship on the Sunday of the Fourth of July weekend. During this celebration, civic leaders and elected officials are honored for their service.

Members of the First Baptist Church family praise Dr. Harley for shepherding them with love and compassion. He is a powerful preacher and a dynamic leader.

Dr. Harley and his wife Gayle are the parents of four children. In addition to his work at First Baptist, Dr. Harley also finds time to serve the Florence community as a member of the Rotary Club and other local organizations.

Mr. Speaker, as we approach the Fourth of July, it is an honor for me to pay tribute to a distinguished member of the clergy. I join the entire membership of First Baptist Church in expressing gratitude to Dr. Harley and his family for 10 years of dedicated service. Dr. Harley is an enthusiastic and devoted leader. He leads by fine example. My sincere congratulations, prayers and best wishes to Dr. Harley. I hope that he will continue to grow in grace and wisdom.

A PIONEER BLACK STUDENT RETURNS AS A COMMENCEMENT SPEAKER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. RANGEL. Mr. Speaker, I would like to share with my colleagues a significant moment in the civil rights history of our country. A circle of pioneering achievement was completed when Charlayne Hunter-Gault, the first black woman to graduate from the University of Georgia, returned to her alma mater to deliver the commencement address. In 1963 she was a hero and a role model for black students, not only in Georgia, but throughout the South. Today she is a successful national correspondent for the MacNeil-Lehrer Newshour.

Ms. Hunter-Gault expressed feelings and memories that many of us have about the Old South. She spoke not out of bitterness for the misunderstanding and hate she and fellow black student Hamilton Holmes faced in their pioneering roles, but out of warmth for all those faculty and students many of them white, that pioneered along with them.

Though Ms. Hunter-Gault spoke of fond memories, she did not forget the racism that she and Hamilton Holmes faced, and that black students all over the country still face today. During this past academic year, racial tensions and racial incidents were reported in campuses across the country. It is our responsibility as legislators, for the sake of our young people of all races, that these obstructions of learning no longer interrupt the education of the future leaders of our country. In order to be responsible, we must be informed. It is for this reason that I give to you the remarks of Charlayne Hunter-Gault upon her return to the University of Georgia after 25 years.

GEORGIA—OF 25 YEARS AGO—ON MY MIND

(By Charlayne Hunter-Gault)

> It's good to be back home again, in a place I have always thought of as "our place." I jogged my memory about graduation day here 25 years ago by rereading the address of the late Senator Richard Russell of Georgia, and I knew what I had to talk about today was memory.
>
> It is the memory of many things: Of things taught, like Dr. Charles Kopp's lecture on how "we learn from history that we do not learn from history," and Santayana's admonition that "those who cannot remember the past are condemned to repeat it."
>
> Just the other night, as I listened to the poet Yevgeny Yevtushenko interviewed on the "Newshour," I remembered that his poetry was one of the passions I pursued at Georgia. Now he spoke passionately about

the painful Stalinist period of Russian history, in which, he said, "We destroyed memory, our national memory."

It was the week Robert Kennedy was being honored in our own national memory, and contemplating my return to Georgia, I felt, almost palpably, history coming full circle.

Robert Kennedy came to this campus shortly after I was admitted. While the wound was still wide open, the Attorney General said unflinchingly that the graduation of Hamilton Holmes and Charlayne Hunter would "without question, aid and assist in the fight against Communist political infiltration and guerrilla warfare." I almost fell over, I hadn't thought of it in quite those terms.

Yet, on my graduation day, the words spoken by Senator Russell were wedded to the past rather than a present and future symbolized by our presence in that class.

The Senator spoke of the "majesty of local law," a reference to the South's antipathy to the law of the land. The "majesty of local law" meant I could not take a bowling class at the university because the bowling alley was in Athens. The Federal law desegregating the campus did not apply in town. Nor did it apply to black citizens from Athens who came to football games on campus. They were forced to sit in what was called "the crow's nest."

Despite those facts of life 25 years ago, a watchfire was lit, celebrating a revelation. Amid misunderstanding and hate, one inquisitive black girl, who dreamed of being Brenda Starr, found the University of Georgia the place to fulfill that dream, as did one gifted young black man who wanted to become a healer.

One thing I want us all to keep alive in memory is that our days as students would have been a sojourn into unrelieved loneliness had not others pioneered with Hamp and me. They were many: faculty and students, all of them white. I must especially remember Salter Stovall, a bona fide white Southerner who boldly sought me out. I confess I was leery when he took a seat next to me during summer school. But when we spotted each other at fall registration, we hugged, and I knew we had stolen each other's heart.

He gave up going to movies because I couldn't get a seat in segregated theaters. He gave up going to the local student hangout because they would not serve me (although he told me it was because the chili dogs tasted funny). We married, despite the uproar we knew it would cause, because we loved each other. While we are now happily married to other people we love—I to Ronald, he to Sue—the reason our marriage didn't work out wasn't because we lacked courage in a time of sea changes.

I have come to understand that in this country, only the South has ever been a true melting pot. Through our toil and tumultuous history, we have become a definable people, sui generis in the way we talk, our preference for fried food and our humility as we fulfill our hopes and dreams.

No one would pretend that the Old South is dead, that the events of 25 years or even my presence here today have transformed our peculiar world beyond recognition. True, there are more than two black students in this graduating class: 300 out of 6,200. But taken together with the number of black students in the entire school, 1,200 out of 26,000—permit me to say we have failed our responsibility to this institution and this state.

The lessons I learned on this campus provided me with sharp radar for intolerance. Recently that radar has been sounding constant alarms: from campuses, where dissent is now often mean-spirited, and from the White House, where former Education Secretary Terrell Bell recalled he was "shocked to hear racist cliches" and ethnic slurs. Something, I know not exactly what, and probably a combination of things, has changed the consensus we forged.

I was struck the other day by the words of the West African novelist Ayi Kwei Armah: "Our way is not a random path . . . Our way begins from coherent understanding." I believe the South's understanding, even when it was wrong, was always more coherent than the rest of the country's, and that is one of the few hopeful signs I see.

University of Georgia president Charles Knapp's bold stroke in hiring 15 new black faculty members is part of that equation. When people at the top exercise leadership, even when they don't work miracles, they make things happen. That is true wherever the gap between what should be and what is remains a wide abyss, wherever college administrators, CEO's, news directors and others talk about their philosophical commitment to diversity, but add that they "just couldn't find any qualified" or "willing to come."

The presence of more black faculty members here will not only attract more black students. Together, their presence will move this place—our place—to a new phase in its pioneering history. By the year 2000, one out of three Americans will be a minority. In preparing for the real world, it is our turn.

I first came here, in the words of Stephen Vincent Benét, "A brown girl bearing an idle gift." I stand before you now a woman, who has drunk from the waters and wines of the world: not at peace, but confident of my capacities; praising the Shepherd's and the Lawgivers' gifts because we have had our justice after all. If I had it to do all over again, I might have hoped for less of a struggle. But even today, I would welcome the challenge.

PROTECTING HISPANIC NEIGHBORHOODS

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. PICKLE. Mr. Speaker, I rise today to commend members of the Austin police Hispanic crimes unit [HCU]. Formed in 1985, this special task force has had great success in combating crime.

The team is made up of men and women who either grew up in the barrio, or who know the area well from time spent patrolling there. This background, combined with the fact that all of its members are fluent in Spanish, has made the HCU a vital part of the Hispanic community.

Since members of the HCU are part of the police force as well as part of the Hispanic community, they have been able to bridge the gap between the two groups. They understand the special problems of the people they serve and are eager to help them.

This help can manifest itself in the tips they give to the elderly on how to protect themselves, or it could be in the time they spend counseling troubled teenagers. They serve as role models to the young people, an image of what they can achieve by staying away from the street gangs.

As Texas Attorney General Jim Mattox has said of the group:

> Perhaps just as important as their excellent police work, they have become active members of the community, friends to whom East Austin residents can turn to for help.

Since the unit's inception, police statistics show a significant decrease in violent crimes in the area patrolled by its members. In its first 2 years, the unit cleared more than 1,100 felony robberies, assaults, and burglaries. Some of the large youth gangs have been broken up, and a great many criminals have been taken off the streets. No longer are people terrified of leaving their homes after dark.

The residents of east Austin are not the only ones to recognize the fine work of the Hispanic crimes unit. In 1986, the Hundred Club of Austin, a group of civic leaders interested in improving community relations, noted the group among the outstanding law officers of Travis County. In presenting the club's award, businessman H. Ross Perot noted that present day law officers "* * * play against a stacked deck. They live in a complex environment and a very dangerous environment. Yet they are happy to do it. They make life pleasant for us and our children even if it isn't pleasant for them." The U.S. Justice Department further honored the unit with a Certificate of Appreciation for their work with the Border Patrol.

The Hispanic crimes unit has been so successful that a similar task force of black officers may be formed to investigate criminal activity in Austin's black community.

Police Chief Jim Everett has claimed that the HCU is "the best thing to happen to crime against undocumented workers since I became chief (in 1984). Their presence has enhanced the reputation and the trustworthiness of the department in the Hispanic community."

I urge my colleagues to join me in saluting the Hispanic crimes unit of the Austin Police Department and I commend these men and women for a job well done.

A TRIBUTE TO FARMINGTON, NY, ON ITS BICENTENNIAL CELEBRATION

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Ms. SLAUGHTER of New York. Mr. Speaker, I rise today to pay tribute to the town of Farmington, NY, which celebrates its 200th birthday this year. I would like to share a part of this town's heritage with my colleagues.

For many centuries the Seneca Indians hunted, fished, and camped in the area. In 1788, the Court of Sessions formed the township now known as Farmington, selling 36 square miles of land overlooking scenic Canandaigua Lake to members of the Society of Friends from Berkshire County, MA. It was the first township sold by the Phelps and Gorham proprietary. The following year, the first permanent settlement was established there. Recognizing this area's great beauty and fertile soil, the settlers returned to New England to gather their families and bring them back to the town which they christened after Farmington, CT. Soon an active agricultural community began to flourish there.

In 1796, the Quakers of this community moved their worship services out of their homes and into a new log church, the first house of worship built west of Oneida County, NY. The Quaker meetinghouse which stands on the site today is over 110 years old. The residents held their first town meeting in 1797, electing Jared Comstock, one of the original settlers, the first town supervisor. Some residents later migrated westward to found the town of Farmington Hills, MI.

Today, Farmington is a town in transition. It is the fastest growing community in Ontario County, with a population of approximately 11,000. Despite its rapid growth and industrialization, Farmington has not forgotten its rural history and still retains a warm and friendly smalltown atmosphere. The town today incorporates thriving farms with light industry, including a very popular and successful thoroughbred horserace track.

This Monday on the Fourth of July, I will be in Farmington to personally extend my warmest regards to the residents of the town on the occasion of its bicentennial. I hope my colleagues will join me today in honoring the town of Farmington and in wishing the entire community continued success and good fortune in the years to come.

EMERGENCY DROUGHT DISASTER PAYMENTS BILL

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. MARLENEE. Mr. Speaker, I am introducing today a bill (H.R. 4931) to provide emergency disaster relief to farm and ranch producers across this country who have suffered—and who will suffer—extraordinary losses due to drought, excessive heat, and other natural disasters. America's farms and ranches are being devastated by the current drought and extreme heat. With every passing day, the crisis deepens. Congress must act, and we must act with great speed if we are to avoid losing thousands of our finest producers. We must rapidly put in place a reasonable assistance package which will help these producers who have been driven to the brink of financial ruination and mental anguish.

Faced with a similar natural disaster in 1986, Congress wisely adopted disaster payment provisions as part of the 1987 continuing resolution on appropriations. That legislation provided a modest, yet vital, measure of relief to approximately 180,000 agricultural producers, and prevented hundreds of family farm bankruptcies. The bill which we introduce today is basically a renewal of the 1986 measure which worked so well. I want to briefly describe the bill's provisions, but first I wish to thank my colleagues Mr. GRANDY, Mr. SCHUETTE, Mr. HOPKINS, Mr. ROBERTS, Mr. THOMAS of Georgia, Mr. EMERSON, Mr. DARDEN, Mr. TALLON, Mr. ROBERT F. SMITH, and Mrs. SMITH of Nebraska for joining as original cosponsors of this urgently needed legislation.

The measure essentially ensures that no producer would be allowed to suffer a loss of more than 50 percent of his average, normal crop due to the drought or other disaster, and it applies to both program and nonprogram crops. In years past, disaster relief was chiefly granted only to producers of wheat, feed grains, cotton, or rice. But, in a significant departure, the 1986 Relief Program was drawn to afford protection to those who produce soybeans, cabbages, cherries, potatoes, and all other nonprogram crops. Our bill today continues this equitable and necessary philosophy.

The payment formula in the legislation rewards those producers who tried to protect themselves by purchasing crop insurance, thus retaining an incentive for others to buy the protection in the future. It requires the Secretary of Agriculture to implement the Emergency Feed Program, which is a cost-sharing formula to assist producers of livestock, swine, or poultry acquire feed for their animals. When the price of feedstuffs in a particular county rise above 150 percent of the cost of the same type of feed this time last year, then the Secretary must make the cost-share assistance available to producers in that county. The bill also permits the Secretary to offer cost-sharing to ensure that there are adequate supplies of water for the animals, or he may offer assistance in paying for transporting livestock to another location where sufficient feed, forage, and water supplies are available.

It is important to note that the language of the bill requires all payments for this disaster relief to be held within current budget levels established for the Department of Agriculture. Thus, USDA spending will not exceed those amounts already approved in our budget and appropriations process. Some may wonder just how that can be accomplished. I would simply point out that the Department will be spending amounts very significantly below earlier estimates for such items as deficiency payments, storage, handling, and transportation, and outlays related to forfeiture of collateral on crop loans. It is ironic that the same drought disaster which necessitates emergency payments serves to lower the operating costs of the Department by amounts sufficient to make the payments called for in our bill.

Mr. Speaker, I promised to be brief, and I will keep that promise. Let me say in closing that this issue is of the highest magnitude of importance and deserves our prompt, prayerful, and compassionate attention. This is not a bill which will assist only farm and ranch producers in our country. Most of the money made available by this effort will be used by agricultural producers to pay existing obligations, purchase necessities, and get started on plans for next year's crop plantings. Because of these funds as they ripple through the economy, we can correctly claim that it is also a measure to assist our small businessmen and industries throughout many economic sectors.

I urge the prompt and favorable consideration of this measure by our colleagues. Let's not leave the hard-working men and women of American agriculture "hanging out to dry" as their work of a lifetime vanishes in hundred-degree heat, and their dreams for the future are swept away on the same fiery winds which are blackening the fields and reducing mighty rivers to a trickle. Let us quickly take meaningful action to address the crisis and prove that our promises are more than mirages, shimmering elusively on a horizon littered with the bleaching bones of American agriculture.

ARGENTINA DOES NOT WANT A SUBSIDY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. GARCIA. Mr. Speaker, in the June 21 edition of the Washington Post Argentina's fine Ambassador, Enrique Candioti, wrote a letter in reply to a June 3 Post editorial. That editorial suggested that by calling for debt relief Argentine President Raul Alfonsin was really asking for a subsidy.

As Ambassador Candioti eloquently states, this is not true. I agree, and I am inserting the Ambassador's letter in the RECORD in order to permit my colleagues to have an opportunity to read his thoughtful and persuasive arguments.

ARGENTINA IS NOT ASKING FOR A HANDOUT

The Post's claim that Argentina is asking for a subsidy—a handout—is a serious misunderstanding of President Raul Alfonsin's proposal for resolving the foreign debt crisis and cannot pass unchallenged ["No Subsidy for Argentina," June 3].

The debt problem of the Third World has a number of causes, many of which are beyond the control of debtor countries. First, the second round of energy price increases in the late '70s created disposable liquidity in the international financial system, and the effort to even things out, recycling petrodollars in the Third World, generated large foreign obligations in Mexico, Brazil, Argentina and other countries. Loans were pushed on potential debtors by a banking community, and financial authorities, worried by having too much money on hand and nowhere to place it.

Unfortunately, in many countries of the underdeveloped world, nondemocratic governments and inept financial authorities funneled much of that credit into unproductive investments and speculative schemes, and part of that money ultimately returned as flight capital to be banked in the developed world.

In the case of Argentina, subsidy programs for agriculture in the industrialized countries drastically lowered the value of our agriculture exports, making it virtually impossible to pay what we owed. Furthermore, the intenational price of money rose dramatically, reflecting fiscal imbalances in some industrialized economies and the policy responses to those imbalances.

In 1981, real interest rates shot up to about 8 percent and averaged 7 percent between 1981 and 1986. This is the rate at which we have been servicing the debt. True, the real rate has come down a little in the last two years, but it is nowhere near the historical 1.5 level.

President Alfonsin's proposal calls for all rescheduled debt to be serviced at an interest rate close to historical levels in real terms for the next eight years.

This part of the plan benefits us by reducing and making manageable our debt burden. But it also benefits the commercial banks, or main creditors, who as a whole pay for the fiction that debtors should maintain themselves current at market interest rates by increasing the banks' exposure year after year. When President Alfonsin came into office in December 1983 we owed about $45 billion; today the debt totals $54 billion because we have had to take new loans in order to service old loans. The president's plan would put a stop to this hopeless accumulation of debt.

There is no question that we must restructure the Argentine economy by reducing the fiscal deficit, reforming the state, overhauling and selling state enterprises, increasing exports even at the cost of domestic consumption. And we have started to do so at a great sacrifice for the majority of our citizens. And there is no question that we must do all we can to meet our foreign obligations, and we are doing it as much as the growth of our exports, significantly limited by agricultural subsidies in the industrialized countries, allows.

But the debt crisis is not only the result of mismanagement and the distorted structure of the economies of debtor countries; it is also the result of fiscal, financial and trade imbalances in the economies of the creditor nations that are reflected in high real interest rates, subsidized policies, protectionism and slower-than-expected growth in the world economy. This is why we believe debtor and creditor countries, international financial institutions and the commercial banks have a shared responsibility in solving the problem.

President Alfonsin has presented this proposal in a spirit of cooperation. It is a call to reason before it is too late; it is a warning that if we do not act now, the future will darken. In Europe in the '20s the international community failed to respond imaginatively to the financial crisis induced by the Treaty of Versailles; the result was the growth of totalitarianism and the immense human tragedy of World War II. This is not the kind of legacy we want to bequeath to our children, and to be silent now would be to acquiesce in such a future.

JOHN D. DINGELL INTRODUCES LEGISLATION

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. DINGELL. Mr. Speaker, today, I am introducing two bills, broad in scope but modest in aim, to provide patients with assurances that laboratories performing tests undergo a modicum of scrutiny. The Clinical Laboratory Improvement Amendments amends the Clinical Laboratory Improvement Act of 1967 to improve quality in every laboratory. The Medicare and Medicaid Laboratory Amendments correct deficiencies in programs paid for with Federal tax dollars.

Every person who undergoes medical testing is entitled to reasonable assurances that the tests are necessary and accurate. Regrettably, this is often not the case. Our current regulatory system is riddled with holes. Literally thousands of laboratories are completely unregulated. And private bodies designated to oversee regulated laboratories are scarcely watched by the Federal Government. This despite alarming statistics that suggest that as many as 10 percent of all laboratories fail to achieve acceptable levels of accuracy.

Both of these bills respond to problems in our current regulatory scheme which were uncovered in work by the Oversight and Investigations Subcommittee of the Energy and Commerce Committee, by the Senate Government Affairs Committee, by the Office of the Inspector General of HHS, by journalists around the country, and by experts in the field. Most importantly, the bills respond to the needs of the vast majority of patients who lack the expertise or information to make qualified judgments about medical tests.

Many clinical laboratories are operated well: These laboratories place quality concerns first and merely seek to make reasonable profits. Unfortunately, there is also much evidence that some laboratories place profit ahead of quality and that our system not only fails to detect abuse, but encourages it.

The bills introduced today address three glaring problems.

First, a complete lack of regulation of laboratories in many settings.

Second, a confused and tangled web of statutory authorities.

Third, a system which promotes overpayment and inappropriate order of tests.

The bills I have introduced propose to remedy these problems with a series of concrete reforms.

First, every laboratory would be subject to regulation under a single, coherent system. That system would allow participation by private bodies; but it would be closely overseen by the Department of Health and Human Services. The system would require strict compliance with quality assurance measures and would provide a full range of remedies against laboratories found not to be protecting the interests of patients. Stiff penalties and injunctive relief would be available for willful violations. Lesser sanctions including directed plans of correction, which allow laboratories operating in good faith to continue operation are also allowed.

Second, the legislation establishes incentives for ordering only necessary tests and for conducting those tests in the Nation's best labs. It would provide for the collection and dissemination of information on laboratory quality. Physicians and the public would have an objective basis for evaluating the performance of laboratories and for choosing where to have testing performed. A provision requiring direct billing by those providing a service would not only prevent profiteering on tests not performed but also would encourage selection of laboratories on the basis of quality. Further, the bill would discourage inappropriate financial arrangements between physicians and laboratories which might adversely affect patient health. Consumers could be assured that tests were not being performed because of a potential financial return. Finally, as the largest consumer of laboratory services in the Nation, the Federal Government is entitled to a reasonable price—one that is determined by the market. Hence, the legislation would limit payments for laboratory services under Medicare and Medicaid to the most favorable market price available.

Third, the legislation includes special protections to assure successful use of pap smears. Pap smears are an indispensable tool in screening for cervical cancer. Nothing should interfere with the successful use of this test. However, there has been much evidence that slides are improperly collected and analyzed and that many laboratories performing slide analysis have failed to take necessary precautions to assure accurate results. The legislation would require the establishment of strict standards in this area to assure that women may continue to rely on accurate results.

In introducing this legislation, I offer special praise to Senators COHEN and LEVIN whose Oversight Subcommittee spent long hours uncovering problems in the areas and whose legislation, S. 2473, served as a model for many of the provisions introduced here, and to Senators MIKULSKI and ADAMS for their fine work in this area.

I believe that our health care system should serve the interests of patients. Too often the system has failed with respect to medical testing. The two bills I introduce today place the interests of patients first and help to build a quality system on which the American people can rely.

A TRIBUTE TO EDWARD R. DELOUISE

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. MORRISON of Connecticut. Mr. Speaker, Edward R. DeLouise will be retiring next month as the director of health for the city of New Haven after 35 years with the department. Over the years, Ed has established himself as one of the outstanding public officials in Connecticut, and I am sorry to see him leave.

Ed came to the health department immediately after graduating from college and rose quickly through its ranks. He left the department briefly 10 years later to run the division of neighborhood improvement and the Housing Code Enforcement Agency, both part of the New Haven Redevelopment Agency. In 1965, Ed returned to the health department as the director of its Bureau of Environmental Health, where he initiated and coordinated innovative programs on air pollution control, lead poisoning prevention, and vermin control. He became acting director of health in 1974, and the appointment was made permanent the following year.

Over the 14 years Ed has been in charge, the health department has become stronger despite drastic Federal budget cuts. Some of the lost Federal money has been replaced by the institution of nominal fees to users, which now return $370,000 annually to the city treasury. The New Haven Family Planning Clinic has been reorganized and relocated to improve outreach to, and accessibility for, the target population. School health services have become the responsibility of the health department—a move that has both saved money and increased compliance with vaccination and examination requirements. Maternal and child health programs and have been revitalized in response to the high infant mortality rate. The first local HIV testing and counseling center in the State was established earlier this decade in response to the AIDS epidemic. The Community High Blood Pressure Detection and Control Program, begun during Ed's tenure, has received national awards from the U.S. Department of Health and Human Services.

In addition to appointments to the faculties of Yale University and Quinnipiac College, Ed has been widely recognized by his peers for his accomplishments. He is past president of the Connecticut Environmental Health Association, the Connecticut Association of Directors of Health, the Connecticut Public Health Association, and the New England Sanitarians' Association. He is also a past member of the board of trustees of the U.S. Conference of Local Health Officers.

New Haven has been fortunate to have a director of health of Ed DeLouise's caliber. His efforts have made life for every resident of the city at least a little better. For the energy, imagination, and skill he has brought to his work over the years, I thank him and wish him well in the future.

THE DEATH OF FRANK DROZAK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. BIAGGI. Mr. Speaker, a political observer once asked Harry Truman if it were true that the President gave his adversaries hell. Truman reportedly replied, "No, I just tell the truth, and they feel like they are in hell."

When my friend Frank Drozak died on Saturday, June 11, 1988, our Nation lost a plain-speaking man who was not afraid to give the forces that threaten the American merchant marine hell. As president of the Seafarers International Union of North America [AFL-CIO] for the past 8 years, Frank led 80,000 unlicensed seamen through troubled waters.

Two of Frank's most recent victories typify his zealous defense of the American merchant marine. In an impressive show of maritime industry unity, Frank and other leaders achieved the deletion of the Transportation Annex to the United States-Canada Free Trade Agreement [FTA]. The administration's attempt to impinge on the sanctity of the Jones Act—one of the cornerstones of national maritime policy—was successfully thwarted. Another Reagan administration policy that he fought with a degree of success was the decision to man the 11 Kuwaiti tankers with foreign citizens rather than American seamen. Frank Drozak was one of the most tireless workers seeking to further the enactment of an amendment I offered to H.R. 2598, the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987. My amendment ensured that, with certain exceptions, Americans would man U.S. vessels. The amendment was part of Public Law 100-239, signed by the President on January 11, 1988. Subsequently, when the President waived the American manning provision for the reflagged Kuwaiti vessels, Frank was justifiably outraged and took part in a lawsuit seeking to overturn the President's action.

Frank Drozak did not shrink from the harsh realities facing American seamen competing in a fierce international market. He was not afraid to support wage and crew-size concessions that allowed his members to continue to work in the face of intense international competition. Creative solutions to problems others found insurmountable were his forte.

It was refreshing to work with a forward thinking man who was willing to take a flexible approach to labor relations. Frank made sure that he had all the facts, was willing to listen to those who differed with him, and worked hard to forge compromises. His dedication to merchant seamen—coupled with a fervor for fighting battles lesser men avoided—made him a formidable advocate. Further, his ability to cut through rhetoric forced thoughtful followers of the maritime industry to sit up and take notice.

Like many great leaders, Frank Drozak was a self-made man. He started as a 16-year-old shipyard worker in Mobile, AL, and climbed the Seafarers' ladder as an organizer in Mobile and later as a port agent in Philadelphia and San Francisco. His oceangoing experience included sailing with the American merchant marine during World War II. Elected vice president of the union in 1965, Frank was charged with contracts covering the Atlantic and gulf coasts—and the Great Lakes and inland waterways 7 years later. In 1980, Frank succeeded Paul Hall as the president of the SIU and head of the 44-union AFL-CIO Maritime Trades Department. A year later, he was named an AFL-CIO vice president and given one of the 35 seats on the labor federation's policymaking executive council.

Frank Drozak was blessed with a partner who matched his enthusiasm for the American merchant marine and for living life to the fullest. Marianne Rogers Drozak stayed by Frank's side as he fought for his life. In times of tragedy, we learn of the dedication and love that pull people through. I have no doubt that Marianne's unfailing support bolstered Frank's will to live and his determination to continue his life's work. I look forward to continuing to work with Marianne as the fight to strengthen our merchant marine continues.

REAL FEDERAL LIABILITIES NOW AT $14 TRILLION

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. JACOBS. Mr. Speaker, the National Taxpayers Union is not just patriotic, as George Bernard Shaw might say, but is public spirited, too.

The following is another significant contribution from the organization:

REAL FEDERAL LIABILITIES NOW AT $14 TRILLION

WASHINGTON, DC, June 2, 1988.—The National Taxpayers Union (NTU) today announced that the real and potential liabilities of the United States Government are not just the $2.8 trillion bonded debt as projected for FY 1989 by the U.S. Treasury, but according to the current NTU "Taxpayers Liability Index" (TLI), they have reached the all-time record high of $14 trillion.

Sid Taylor, Research Director for NTU said:

"The Treasury figure of $2.8 trillion (current debt ceiling) only reflects the 'bonded' debt of the U.S. Government. It excludes or omits many other financial commitments, fiscal obligations or unfunded liabilities (actuarial or contingent) of the U.S. Government.

"The issue in Washington today is not just 'off-budget' spending. The real problem is 'off-the-books' spending. Webster's Dictionary defines 'debt' as something owed; an obligation or liability. In this perspective, our national debt as compiled by the U.S. Treasury is merely the tip of a multi-million dollar 'red-ink' iceberg. Many federal programs or entitlements are enacted into law with little or no knowledge of the long-term price tags, covert costs or hidden liabilities in the fine print.

"The problem is not just 'deficit spending' " it's deceptive spending. Like the new B-2 'Stealth Bomber' program at $43 billion, designed as a threat to the Russians, we now have 'stealth spending' in Washington. This is a threat to American taxpayers. These hidden liabilities are fiscal time bombs aimed at future generations.

"Uncle Sam has become a deficitholic. Budget and foreign trade deficits have turned us into a Debtor Nation for the first time since 1914. Uncle Sam is like someone with a personal checking account that is overdrawn about $150 billion each year.

"Worse still, Uncle Sam has dozens of federal credit cards or charge-a-plates, so to speak, floating around Washington and the world. These hidden obligations or unfunded liabilities do not show up in the books or the budgets. We may be the only Debtor Nation in history that loans or gives billion of dollars to foreign countries, while at the same time paying billions of dollars of interest to foreigners on our own unpaid national debt. Interest on the national debt for 1987 was $195 billion.

"Today, nobody in Washington (including the Secretary of the Treasury) knows our real 'total' national debt. This is why we began tracking 'invisible obligations' back in 1972. It is also one more reason for a Balanced Budget Amendment to the U.S. Constitution. Congressional budgetary controls no longer work.

"Our next president in the White House may have to employ Eskimo Economics (freeze everything) if we are to stem the flow of fiscal blood (red ink) from the U.S. Treasury."

The 1988 Taxpayers Liability Index (TLI) as compiled by NTU is largely based on figures from the annual Treasury Report to Congress (31 USC 331(b)) titled *"Statement of Liabilities and Other Financial Commitments of the United States Government as of Sept. 30, 1987."* It's printed in the *Treasury Bulletin,* Winter Issue, March 1988 (pages 152-159). Copies are probably available in your local library or phone the Government Printing Office at (202) 783-3238—price $5.50 a copy.

Taxpayers liability index [TLI] 1988

Debt or liability item:	*Federal obligations (millions)*
Public debt[1]	$2,800,000
Accounts payable	228,546
Undelivered orders	581,666
Long-term contracts	13,501
Loan and credit guarantees	845,016
Insurance commitments	3,120,602
Annuity programs[2]	6,400,000
Unadjudicated claims: International commitments and other contingencies	104,465
Total	14,093,796

[1] Public debt is based on current debt ceiling.

[2] Annuity programs are an NTU estimate of the unfunded liabilities or actuarial deficits in several dozen Federal retirement or pension systems, including Social Security. No total figures are available in the Treasury report.

History: Taxpayers liability index

Year:	*Total obligations (trillions)*
1972	$2.04
1973	3.17
1974	4.47
1975	5.07
1976	6.56
1977	7.25
1978	8.09
1979	9.01
1980	9.49
1981	11.05
1982	11.65
1983	12.15
1984	12.26
1985	13.17
1986	13.30
1987	13.53
1988	14.09

PETROGLYPH NATIONAL MONUMENT

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. LUJAN. Mr. Speaker, the snake clan sign, Kokopelli the humpback flute player, an anthropomorphic star-being figure, a cruciform, a beast god of the north, and the frontal thunderbird form circumscribed Chris Quintana's recent letter to me which read as follows:

I am writing this letter in hopes that you will preserve the Escarpment of the west side of Albuquerque for wildlife, history, and of course people's enjoyment.

Recently my sixth grade class took a fieldtrip to these petroglyphs. We saw wildlife like red-tailed hawks and even found an abandoned coyote pup. If buildings are put up near here these animals and many more will either leave or die. Some people may think these petroglyphs are just a bunch of rocks but to me they are history. We learned about Kopopelli the hunchbacked flute player, and saw other anthropomorphic figures. When I grow up I want to be able to take my children there. One last thing is the vandalism on these rocks. If buildings and apartments are built near here the vandalism will increase. These are just some of the reasons I want these rocks and petroglyphs preserved and protected.

Sincerely,

CHRIS QUINTANA.

I also recently received this letter from Stephanie Hilton:

DEAR REPRESENTATIVE LUJAN: I just visited the Escarpment of Albuquerque's West Mesa, which is covered with petroglyphs, and I would like to see this place set aside as a National Monument. This place has the largest group of petroglyphs found in one place in North America, it can give education to the Nation and the world, and it will pay respect to the ancient people. Please try to preserve this area the way it is to allow the world to be more educated about our continent. You won't be sorry.

Sincerely,

STEPHANIE HILTON.

Leo Gregory referred to this expanse of high desert lying immediately west of Albuquerque, NM, in the following letter:

DEAR MR. LUJAN: We have a controversial problem on Albuquerque's West Mesa. I am referring to the escarpment. The escarpment is one of the most interesting and beautiful places I've ever been. I don't know how the city can let the land developers destroy it's natural beauty. The escarpment is hundreds even thousands of years old. The Indians used it to peck their history, beliefs, and mythology into the rocks. Destroying it would be destroying all known history on their civilization.

It should be saved because it is a place of beauty and interest. It's educational. I've been there many times and I've learned something new each time. The escarpment is also home to many animals. We would be driving them from their homes and place in the cycle of life.

Sincerely,

LEO GREGORY.

And Summere Smith, Paige Shelton, Biandon Roth, Ryan Kennedy, Ryan Smith, Kakoli Caprihan, David Ondrik, and Justine Brown wrote too. Their depictions of a few samples from the incredible collection of prehistoric incisions which populate the 17-mile stretch of basalt cliffs and talus boulders which mark Albuquerque's western city limits and their expressions of interest in the preservation of these rock drawings would be the envy of any teacher. But ours is a unique community within the richest collection of cutlures of all of the 50 states and so Eleanor K. Post, the sixth grade teacher of the Eisenhower Middle School, is probably not the only educator in our school system who has experienced and taken pride in the intellectual growth of our students.

Of course, many adults have also written to me about these petroglyphs over the years. Ike Eastvold has become a pen pal, barraging me with letters and articles and pamphlets and even a video of this archaeological treasure. And our magazines and newspapers and television commentators have been discussing and debating the question of how best to preserve these sacred rock etchings.

Nolan Hester spoke for many of us when he wrote, in the Albuquerque Journal magazine on June 23, 1987, the following:

TOUCHSTONE TO THE PAST

A blue-gray gauze of rain drapes the Sandias and cloaks Albuquerque's sprawl. Farther west, the slanting light of the storm catches the leafy tops of the Rio Grande's cottonwoods, which briefly burn gem green. From atop the dark rock of the West Mesa's lava scarpment, the great vista seems complete.

But pick your way down among the clutter of basalt—step, hop, balance, jump—and the simple cliff edge reveals more. Amid a jumble of black lava splash petals of purple and pearl, orange and yellow—the gift of the mountain rain now sweeping in. Pretty but also pretty common in the West. What rivets the eye is a suddenly lit profile, raised arm aglow, mouth agape.

Another figure rises nearby and then another—petroglyphs precisely pecked in the hard stone. In that instant, this 17-mile ribbon of rock comes alive. More than 10,000 petroglyphs 300 to 5,000 years old crowd the cliff face that runs like a snake along the city's western edge. The National Park Service is studying whether to make the cliff a national monument because it holds one of the world's largest concentrations of prehistoric rock art. The park service report, expected June 30, will further fuel the bitter debate between conservationists and cliffside landowners who fear protection will stymie development.

Confounding any search for compromise are the escarpment's size and the far-flung petroglyphs. The cliff coils against housing tracts in places and slithers into wild country elsewhere. The petroglyphs are scattered like stars along the cliff. Their appeal springs as much from the rugged country surrounding them as from their individual beauty.

Like solutions, the petroglyphs themselves can be elusive. Though not hidden in crevices or caves, they flicker in an out of sight, depending on the sun's angle. Look for them and they vanish. Only when you wait, search aimlessly, get lost and give up do the best petroglyphs appear.

Never sought, only found: a mask feathered like a Mayan king's. A star being—round face within a giant four-pointed star—appears like some ancient cartoon character. A towering double-horned creature holds out a corn stalk. The huge paw of a bear marks the navel of another figure, who flashes fangs and claws.

If such single petroglyphs are the cliff's scattered stars, the great galleries of petroglyphs are its constellations. Tucked in coves and amid rock slides along the escarpment, the galleries hold hundreds of animal figures, faces, tracks and geometric designs. The galleries drive home the energy and keenness of their creators. Even the loopy, doodle-like lines of Desert Archaic petroglyphs, some 5,000 years old, make it clear these are not idle graffiti.

Some marks are too precise, too turned to their host rocks for that. They capture the motion of animals and the vitality of human figures with just a few lines. A hawk with a banded tail, its talons and sharp beak ready, perches on a rock's shoulder. A mountain lion pads on balled feet, a sprinkling of dots showing its early-morning breath. Kokopelli, the humpbacked flute player and fertility sumbol, dances among the boulders.

It took hours and days of striking rock against rock to make these lines. Look just below many of the more elaborate petroglyphs and you find a comfortable spot to sit. The people who worked the rock understood the rock. Holes left by lava gas bubbles became ears, mouths and wombs. A crack curving across an anvil of rock cradles a cat-eyed figure holding a bow. One face splits around the straight edge of a rock, giving its nose and brow special force.

Even the burnt rock itself lives. Now frozen forever, its inky skin still ripples with flow lines, crisscrossed cracks, plunging sheets and swirls like chocolate frosting. At the great cliff's south tip, the rock has sagged and tumbled, creating three terraces. The terraces seem flat and uninviting from afar. Climb through them and high ridges slice the sky and earth into blades of blue and black. Green plots hide among the rocks, where the funneling winds dumped sand and created toeholds for plants.

The rock and weather reclaim the marks with geologic stealth. Petroglyphs 500 years old look as if they were done yesterday.

In the time it took to peck away the rock and make their visions eternal, did the ancient Indians look out upon this same view that so holds the eye today? Except for a city sprinkling the East Mesa, the land would have looked much the same. Did they, too, pause to admire the feathery halos cast by Apache plume flowers in the morning sun? Did yucca spikes, their maroon outer petals holding creamy hearts, then also perfume the arroyos that thread east from the cliff? Did they hear the mourning doves cooing in the shade?

What did they mean to say with these marked rocks? Bogus theories about the petroglyphs' meaning abound: UFO writings, signs from the Lost Tribes of Israel. The simple assumption that an animal petroglyph was made for hunting magic also misses the essential mystery of these markings. To ever understand them, you must slow down enough to sense their earthen pulse. You must look, wait and look again. Their exact meanings remain largely undeciphered, however, perhaps forever.

Archaeologists can offer only educated guesses, based on the marks similarities to modern Pueblo religious symbols and tales. Tracks and footprints abound like those in the Zuni story describing when people first emerged from the underworld. Masklike petroglyphs echo those of the Zuni gods Koyemshi and Shiwanni. Yamuhakto, with a cottonwood stick across the top of his head, also appears. Masau, the Hopi god of fire and the Fourth World, turns up often. Horned and plumed serpents, some 4 feet long, dot the cliff's rocks and bear striking similarity to the guardian of some Pueblos' sacred springs.

These clues point to times when different Indian cultures flowed and ebbed across the West Mesa. Precise answers elude scientists. But early Hispanic settlers who roamed the West Mesa's Atrisco land grant thought they knew the meaning of these markings.

They carved Spanish crosses atop the serpents, horned figures and apparent beast gods they found to exorcise demons. Their cattle brands blot out earlier petroglyphs in places. Cowboys with large hats and eyes stare down their Indian neigbhors. The settlers turned the low dams, used by earlier people to water fields, into taller corral walls for sheep. The rocks give mute testimony to past clashes of cultures. They still do.

The marks of modern civilization are everywhere: garbage, junked cars, spent shotgun shells, smashed green and brown beer bottles. Bullet holes pock the faces of petroglyphs. Some shots with the accuracy of an assassin. Others look as if the gunman simply fired from a moving pickup and never saw his target.

Older than our civilization, the petroglyphs are now utterly dependent upon us for survival.

But even such neglect cannot erase the petroglyphs' appeal. You'll find no flashing lights here, no Disney animation. Yet these simple marks beckon. For all the conflict, some bonds are obvious. Up the face of one room-sized rock run handprints. Hands like yours.

Spread your fingers and drop them into place on the rock. The hands reach across centuries and bind ancient to modern, desert dweller and city slicker. They speak of the immutable power of a place where the wind still whispers and tousles a thatch of foxtail grass. Blue-tailed lizards still hug the rocks, doing pushups to keep cool. Hawks drift overhead, as silent as the moon. The liquid solo of a canyon wren drops from high on the cliff * * * to the rocks below.

Nothing has changed—just everything.

Perhaps there is little more to be said. The National Park Service has completed its study, the city of Albuquerque has completed its study, the people who own the land and the adjacent land are working out ways to preserve the petroglyphs and now its time for Congress to move forward.

I don't usually answer letters this way, Mr. Speaker, but I will ask your indulgence on this rare occasion by answering Chris and Summere and Paige and Biandon and the two Ryans and Stephanie and Kakoli and David and Justin and Leo and Ms. Post and the many others by introducing H.R. 4930, a bill which would establish the Petroglyph National Monument in the State of New Mexico.

ARDEN HILL HOSPITAL CELEBRATES 80TH BIRTHDAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. GILMAN. Mr. Speaker, I rise to bring to the attention of my colleagues the commemoration of Arden Hill Hospital's 80 years of dedicated community service.

Goshen's Arden Hill admitted its first patient on July 5, 1908. Two historical plaques, donated by Harold and Jeanne Jonas, two of Goshen's leading citizens, will be dedicated on the site of the original two-bed emergency hospital and at the location of its successor, the Goshen Hospital.

For the past eight decades, the medical center has been the birth of many prominent community leaders as well as their passing. Arden Hill is indisputably the focal point of health services in the region. Although, recent health care legislation has not been extraordinarily beneficial to hospitals and other health care providers, Arden Hill has managed to surmount these impediments and continues to assure its patients of its high quality health care. I am honored to have the opportunity to participate in Arden Hill's celebration along with the hospital's employees and community guests.

We are proud to have such a committed health care professional organization in my district. Accordingly, it is my pleasure to bring to my colleagues attention that July 5, 1988, is Arden Hill Hospital's official birthday.

LEGISLATION TO AMEND THE PUBLIC HEALTH SERVICE ACT

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. MADIGAN. Mr. Speaker, today I join my colleagues Mr. DINGELL and Mr. WAXMAN in introducing two bills affecting the regulation of clinical laboratories. The first bill amends the Public Health Service Act, to define more clearly licensing and accreditation standards with respect to the education, training, and experience of all personnel in the laboratory. The licensure application will require details concerning the types of tests performed and methodology for various tests. In addition, the bill provides that laboratories will bill directly for tests rather than through a third party.

The provision that includes a national standard for quality assurance in cytology is a worthy and much needed requirement for laboratories conducting such examinations. It will result in careful scrutiny of the number of tests screened by a technician in a given period of time. Assurance of the continued proficiency of cytotechnologists and pathologists will be required. The bill also gives the Secretary of Health and Human Services the authority to revoke, suspend, or limit licenses and allows for an appeal process.

I have several concerns with this legislation that I intend to work with my colleagues to resolve. First, the bill provides penalties for violations of these new regulations. While I agree that penalties must be imposed for violations of the law we must be sure they are not unduly harsh. Second, the bill calls for public disclosure of information that is useful in evaluating laboratories. It will be necessary to be sure that the information released fairly represents the performance of the laboratory and that the public is sufficiently informed on how to interpret such reports. I believe these problem areas can be addressed and rectified. Most importantly, introduction of this bill will provide for an opportunity to begin to address the matter of what level of expertise is required for personnel to perform tests of various complexity in different types of testing locations.

The second bill amends the Social Security Act to include all providers of laboratory services under the same regulations. It also makes it clear that the Public Health Service clinical laboratory requirements govern with respect to laboratory quality. The bill also permits the Government to purchase laboratory services for its beneficiaries at the best possible price.

Both these bills exclude payments for services to laboratories in which physicians have a financial interest. This can be a problem in rural areas where one or two or three doctors are the only practitioners in the area and they also own and operate a laboratory to serve their patients. In this situation we must be sure rural citizens will have satisfactory and convenient laboratory facilities.

I look forward to working with Mr. DINGELL and Mr. WAXMAN to further shape these bills. I commend them on their continued commitment to improve the health care of citizens through these improvements in the Social Security Act and Public Health Service Act.

EWING TOWNSHIP PATRIOTIC COMMITTEE

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. SMITH of New Jersey. Mr. Speaker, the annual Independence Day Parade on July 4, 1988, will mark the 25th such parade sponsored, planned and conducted by the Ewing Township (NJ) Patriotic Committee. Appropriately, the theme of this year's parade will be: "Silver Anniversary, Ewing Township Patriotic Committee Independence Day Parade."

The Ewing Township Patriotic Committee is an official committee of the township which consists of representatives of some 25 organizations. These include civic, veteran, fire and rescue units, school board, business community, youth groups, and others.

While the main focus of the committee has traditionally been the Independence Day Parade, it has also been very involved in other important activities. In 1976, for example, they established a Bicentennial Subcommittee and they currently have a Constitution Bicentennial Subcommittee. The Patriotic Committee is also taking the leadership in the current "Pride in Ewing Year" being conducted in the township. In addition, to these notable activities, the committee organizes and sponsors various annual concerts such as the Air Force Band of the East. These concerts are often followed by fireworks displays.

The Ewing Township Independence Day Parade was originated under the direction of former Mayor Al Schuster, who also founded the Patriotic Committee. I commend the Ewing Township Patriotic Committee for the outstanding service they provide to their community. Through their commemoration of our Nation's history and their demonstration of community service, the Ewing Township Patriotic Committee has helped to instill a strong sense of pride and achievement that will undoubtedly be carried on by generations to come.

REV. LEON H. SULLIVAN

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. COUGHLIN. Mr. Speaker, I would like to bring to the attention of my colleagues the good works of a man who has been ahead of his time in leading the poor and underprivileged out of poverty.

Rev. Leon H. Sullivan, who delivered his last sermon as pastor of the Zion Baptist Church in north Philadelphia on Sunday, devoted his life's work to helping people help themselves.

As the founder of the Opportunities Industrialization Centers [OIC], a network of job-training facilities throughout the Nation and overseas begun in 1964, Reverend Sullivan understood that the struggle for civil rights would have two stages. In the first stage, political power would have to be secured through the intervention of government. This was the goal of the civil rights movement of the 1950's and 1960's, a goal that has largely been achieved.

But the struggle for the full rights and freedoms of black Americans and other minorities would not be complete until they had achieved economic power through real jobs that promote stable families, home ownership, higher education, and hope for the future. This second struggle continues today. And Reverend Sullivan leads the way, training those without skills to enable them to enter the work force and begin productive lives.

As a member of the board of directors of the Montgomery County OIC in the borough of Norristown in my 13th Congressional District, I can attest personally to the vital role OIC has played in job training.

The struggle for economic empowerment is not confined to the borders of the United States, however, as Reverend Sullivan has successfully advocated a similar strategy in fighting the hated apartheid regime in South Africa.

As a member of the board of directors of General Motors, he set forth the Sullivan principles for American businesses operating in South Africa. These principles were designed to empower black South Africans through the growing economic clout they were gaining as employees of United States firms. Through economic power, Reverend Sullivan understood, black South Africans could secure their political rights and freedoms. This struggle, too, continues to this day. And Reverend Sullivan will continue leading the way.

Although he is retiring after 38 years at the helm of the Zion Baptist Church, Reverend Sullivan has established the International Foundation for Education and Self Help, from which he hopes to get American institutions involved in helping the poor of Africa and Latin America.

Through this new organization, and the continued vigor and commitment of Reverend Sullivan, the final struggle for the full rights and freedoms of the poor and dispossessed will have a leader, and a successful one at that.

CONGRATULATIONS TO JAMES CARDINAL HICKEY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mrs. MORELLA. Mr. Speaker, it is a pleasure for me to congratulate James Cardinal Hickey on his elevation to the College of Cardinals. The cardinal has been Washington's archbishop since 1980, and has consistently worked to help those people most in need on the Washington Archdiocese. Some of his key accomplishments have included the opening of 13 shelters for the homeless, and the establishment of the Health Care Network, a referral service of volunteer doctors, dentists, and nurses who provide medical care to those in need. The archdiocesan school system educated 31,000 students in elementary and secondary schools last year, and the Legislative Network of the Archdiocese, begun in 1984, works to influence legislation that will help the powerless in our community.

Today as the cardinal is formally installed as a member of the College of Cardinals, I send my best wishes and heartfelt congratulations to him. His elevation is a tribute to his service to the people of the Washington Archdiocese and, indeed, an honor for our Capital City.

RELIGIOUS PERSECUTION IN THE SOVIET UNION

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. FIELDS. Mr. Speaker, there is no better time to protest the inhumane treatment of Soviet prisoners of conscience than the millenium of Christianity in the Soviet Union. A fundamental human right is the freedom to worship according to one's own conscience and belief, a right which the Soviet Union has denied its people. Soviet officials continue to ignore pledges to end persecution of religious believers as stated by the country's participation in international agreements on human rights and religious liberty.

As a devout Christian, and one who cherishes the ability to practice his own religious faith, I am appalled by the Soviet Union's systematic abuse of religious rights. While the number of active parishes are rising, the number of active clergymen and places of worship in the Soviet Union are only a small fraction of the number which existed before the 1917 revolution.

Official Soviet estimates of religious believers number 40 million out of a population of 280 million, though Western specialists double that figure. Violations connected with the practice of religious faith are severe. Career choices are narrowed and places of residence are either chosen by the Government or options are restricted. Many religious believers fear arrest will result if they are caught practicing their religion.

Hundreds of prisoners are being detained in various labor camps and psychiatric hospitals. They are regarded as mentally diseased and are injected with harmful drugs which slowly deteriorate the inmate's health. Many are subjected to daily beatings and denied visiting rights with relatives. These choices which we take for granted as basic rights are not offered to the Soviet people who wish to practice their faith, despite Gorbachev's commitment to perestroika which includes the Soviet citizen's "right to express their conviction with dignity."

General Secretary Gorbachev's call for a more tolerant attitude toward religion and his commitment to release political prisoners last November are meaningless to prisoners such as Vladmir Solovev, a Russian Orthodox priest. Mr. Solovev was originally detained in Sychevka Special Psychiatric Hospital and beaten daily for crossing himself before meals. Upon release from the psychiatric hospital, he was moved to a home in Siberia for mentally ill elderly people.

The 70th anniversary of the Bolshevik revolution last year brought with it a promise by the Soviet Union to release prisoners of conscience. While progress on behalf of religious believers has occurred, true religious freedom goes beyond amnesty for those currently imprisoned. It includes freedom for all individuals to worship according to their own conscience or belief. The time is long overdue for making the dreams of the Soviet religious believers a reality.

TRIBUTE TO NATHAN KART

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. FEIGHAN. Mr. Speaker, I would like to pay tribute today to a man who stands as an example of hard work and determination to us all. During more than 50 years of business experience in Brownsville, PA, Nathan Kart has generously returned much of what he has received. Many Brownsville projects owe their success to his fundraising efforts. I would, therefore, like to congratulate Mr. Kart on his recent award from the Brownsville Chamber of Commerce as the "Man of the Year."

Mr. Kart and his wife, Marion Kart, have been business owners in Brownsville for more than 51 years. Their downtown department store has survived through two wars and a disastrous flood less than a decade ago. Mr. Kart himself said at the time that it would have been easy to just turn the key and walk away as many business owners did, but he and his wife just wouldn't give in. Their determination helped them to survive and courageously deal with change. This same resolve has allowed them to give to their community and enhance the lives of all those with whom they have come into contact.

The Kart's love for their community is obvious in their frequent contributions and charitable activities. Just one example was Mr. Kart's successful fundraising drive to build a Brownsville hospital. Marion Kart's contributions to the Red Cross facilities in Brownsville is another. These are just a few of the reasons that they have been honored with so many richly deserved awards.

The Karts have set an example for their own business community in Brownsville, as well as for other communities around the Nation of what can be accomplished through hard work and ambition.

My congratulations go to Nathan and Marion Kart of Brownsville, PA, along with my most sincere wishes that they will be in business together for another 51 years.

DISTINGUISHED AIR FORCE OFFICER: COL. STUWART W. THOMSON

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. ASPIN. Mr. Speaker, on June 30, 1988, one of our most distinguished military officers will begin his retirement from the Air Force after contributing over 20 years of dedicated duty to our country. Col. Stuwart W. Thomson leaves as the Chief of Air Operations, Legislative Liaison, Office of the Secretary of the Air Force after 5 years of meritorious service in that position. Many of my colleagues have directly benefited from Colonel Thomson's stewardship of the Air Force's congressional travel office.

"Stu" Thomson left Westchester, NY, for the Air Force Academy with subsequent graduation and commissioning as a second lieutenant in 1968. After receiving his pilots wings and training in the C-130 aircraft, Stu served as pilot and instructor pilot at various locations in the United States and, while stationed in Thailand, performed 130 combat missions in Southeast Asia. Recognizing his ability in the airlift management arena, the Air Force sent Stu to Germany to manage the administrative and VIP airlift requirements for the entire European theater.

After 5 years in Germany, Colonel Thomson attended the Canadian Forces Staff College where he was able to contribute his considerable knowledge of airlift operations and management to our northern allies. Stu then returned to the C-130 tactical aircraft business and after 3 years in positions of great responsibility at Little Rock AFB, AR, he was assigned to the Joint Chiefs of Staff as an exercise program monitor and then assigned to Legislative Liaison, Office of the Secretary of the Air Force.

As the man in charge of the Air Force's Congressional Travel Office, Colonel Thomson was responsible for all the travel requirements of Members and staff of Congress arranged by the Air Force. Colonel Thomson's calm, logical, thorough method of dealing with the unique situations, involved some of this country's most important citizens, its legislators. I, and my colleagues who have traveled with Stu agree with me that he made it happen. Arrangements for some of these trips were not easy as Colonel Thomson was directly responsible for arranging short-notice trips to areas of national and international concern including Beruit, Grenada, Central America, the Persian Gulf, and the *Challenger* Space shuttle disaster. The true dedication to doing it right, the absolute insistence on honesty and integrity, and the patience under extreme daily pressure are the standards that Colonel Thomson leaves for all those who follow.

I join many of my colleagues who have benefited from the direct professional support Colonel Thomson has provided the Congress and wish him, his wife Jan, and their children Christopher and Lauren, the very best in their future endeavors.

Mr. Speaker, I rise today to pay tribute to Col. Stuwart W. Thomson for his unselfish dedication to duty and his outstanding performance as a military officer.

He is truly a great American.

TRIBUTE TO PAT PARLATO

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. SOLARZ. Mr. Speaker, I wish to pay tribute to the late Pat Parlato. As a 17-year veteran of the maintenance staff of Brooklyn's Manhattan Beach, Mr. Parlato suddenly passed away on January 4. His passing was a great shock and loss to all of us. In his honor, the city of New York's Parks and Recreation Commission recently renamed the Manhattan Beach playground at Oriental Boulevard and Falmouth Street the Pat Parlato Playground.

Mr. Parlato's strong commitment and unfailing dedication to his job earned him the highest respect and regard in the surrounding community. He epitomized the kind of enthusiastic public servant who touched people's hearts. He was certainly one of the best friends the parks ever had.

The parks commissioner, Henry I. Stern, noted that Pat Parlato treated Manhattan Beach like a much-loved backyard garden, tending to it with great care and concern. It is easy to be inspired by Pat's exemplary service at this seaside park. It was the community's request to rename the playground for Pat, with its welcoming benches, towering shade trees and cooling ocean breezes. Pat Parlato Playground is an enduring tribute to a distinguished parks career.

Children in the area will be able to keep the warm and loving memory of Pat Parlato alive for years and years to come. As Pat's name lives on, so will his endless and tireless contributions to one of our greatest resources, our parks.

The parks, being a great resource, represent the hard work of dedicated people, who deeply care about the community and the people in it. Pat certainly was one of these dedicated people.

It is with great honor that I pay tribute to Pat Parlato.

H.R. 4101

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mrs. ROUKEMA. Mr. Speaker, today we will consider legislation, H.R. 4101 to combat scams against consumers who buy products over the telephone. I am in strong support of this legislation and urge passage by the House.

Consider the facts: First, in 1986, telemarketing sales exceeded $100 billion. Second, the Federal Trade Commission [FTC] has estimated that fraudulent telemarketing sales amount to $1 billion annually. And, finally, and perhaps most disturbingly, the FTC does not presently prohibit fraudulent telemarketing activities. A strong case, therefore, can be made for this legislation. It is sorely needed.

The bill requires the FTC, within 6 months, to promulgate rules governing telemarketing. The legislation leaves the details of the rules to the FTC. The "teeth" in the bill exists in the provision which allows State attorney generals to bring civil actions against persons who engage in this duplicitous activity. Individuals would also be permitted, in certain circumstances, to bring civil actions against those involved in such unseemly behavior.

Especially noteworthy in the bill is a provision which mandates a study, to be coordinated by the FTC and the Federal Communications Commission, to determine the extent of telemarketing calls which are generated by computers. Many of my constituents in the medical community, that is, doctors in private practice and hospital administrators, have informed me that these calls are especially disruptive—to the detriment of patient care. The results of the study, which will be made available to Congress in 12 months, will undoubtedly prove that these calls are unduly harassing especially for the fact that they are often impossible to terminate. I had hoped the committee would have gone a step further and immediately recommended that this activity become illegal. However, the provision is an important first step in eradicating a practice which not only invades personal privacy but also is counterproductive to employers and employees in professional activity.

Mr. Speaker, the telephone is a vital tool of American business. Let's support the upright firms which conduct business over the telephone. Let's support the honest consumer. Let's crack down on telemarketing fraud. Vote "yes" on H.R. 4101.

WELCOMING PYATRAS PAKENAS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. HOYER. Mr. Speaker, today, June 28, at approximately 5 p.m., Pan Am flight No. 61 will touch down at Dulles International Airport. Why the fuss about this flight? On board will be Pyatras Pakenas, formerly of Vilnius, Lithuania, the last divided spouse of a coalition formed in 1985 here in the United States to seek reunification of Soviet spouses and fiancees.

Pyatras Pakenas is the husband of Dr. Galina Vileshina, of Boca Raton, FL. This couple had been separated from one another for more than 8 years. Galina Vileshina, has been undaunting in her efforts to free Pyatras. Her love for her husband has taken her into meetings with President Reagan, Speaker of the House Jim Wright, Secretary of State Shultz, and other Members of the House and Senate, to plead for their help in seeking his release. Today, Mr. Speaker, they can begin their life again—together—as husband and wife were meant to be.

Last month, prior to the fourth Reagan-Gorbachev summit, I joined Secretary of State Shultz, Senator Bob Graham, Congressman Clay Shaw, and Galina, her daughter, Laura, and 8-year-old grandson, Eric, in once again calling on Soviet authorities to allow Pyatras to join his family members here in the West. Our calls, and the calls of others, have been met with success, Mr. Speaker, for as I indicated, the family will be reunited today.

As Chairman of the Helsinki Commission, I urge my colleagues to join in welcoming Pyatras to our country. A reception will be held here in the Capitol in his honor on June 29 where we can personally wish him, Galina, and the family members a wonderful future together.

POUND RIDGE CELEBRATES ITS BICENTENNIAL

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. FISH. Mr. Speaker, I rise in honor of the bicentennial of the town of Pound Ridge.

It was one of 121 towns founded on February 1, 1788, as part of a strategy by George Clinton, then the Governor of New York, to thwart ratification of the U.S. Constitution, which he proposed. The Governor figured that the residents of the new towns, who were mainly farmers, were independent-minded and would oppose a strong Federal Government as envisioned in the Constitution. Fortunately, the State of New York proved him wrong by ratifying the Constitution in July 1788.

The area of Pound Ridge was settled in the 1700's by farmers. Many took part in the American War of Independence. British forces attacked the hamlet in what is known as Tarleton's raid. Tarleton and his troops were after Benjamin Tallmadge, head of George Washington's military intelligence. Tallmadge was lodged in Pound Ridge, but the British failed to capture him.

In the mid-1800's the town was known for its hand-made baskets, which constituted one of several cottage industries to supplement farmers' incomes.

The population, which had declined from the end of the Civil War to the early 20th century, picked up after World War II. By the 1960's, Pound Ridge was becoming home for employees of corporations in White Plains as well as commuters to New York City.

Today Pound Ridge retains a special charm. The smallest town in Westchester County, it has a population of 5,000 and has no traffic light. Yet it has 29 buildings on the National Register of Historic places.

I am looking forward to attending the town's bicentennial celebration, which will be this Saturday, July 2. Festivities will include a parade, skyjumpers, hot air ballons, and fireworks. Mr. Speaker, I am proud of the people of Pound Ridge and wish them all the best.

SANTA BARBARA FIRST CHRISTIAN CHURCH 100TH ANNIVERSARY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. LAGOMARSINO. Mr. Speaker, I rise to bring to the attention of my colleagues the 100th anniversary of the Santa Barbara First Christian Church.

The First Christian Church was established in Santa Barbara on July 28, 1888, and has been furnishing religious guidance to its members for 100 years. It has been an uplifting influence in the city of Santa Barbara for the past century.

The First Christian Church has grown since its establishment, and will continue to develop as an institution for youth guidance, religious training, and worship. The church has also made significant contributions through community service and betterment. The members of the First Christian Church have provided many hours of service and considerable moneys to spread the gospel around the world. Numerous underprivileged groups from the homeless to native Americans, as well as the poor of Third World nations, have been provided help to improve their standard of living.

Please join with me in proclaiming the day of July 24, 1988, as Santa Barbara First Christian Church Centennial Sunday in commemoration of their 100th anniversary.

DROUGHT RELIEF

HON. FRED GRANDY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. GRANDY. Mr. Speaker, one of the most pressing issues facing farmers and other rural residents in our country is the most severe drought in recent memory.

The U.S. Department of Agriculture has taken some positive steps to provide assistance. But as we all know, the crisis is deepening and even more work and action is needed.

On one front, across-the-board disaster relief is being acted upon. The leadership on the Senate Appropriations Committee has pledged that the leadership will attach a significant drought-relief amendment to the final Agriculture appropriations bill.

This move was encouraged by myself and other House Members in a formal letter to the chairman of the Senate Subcommittee on Agriculture and Rural Development. I applaud this type of timely and vital cooperation between the two respective bodies.

I am also seeking support in the House of Representatives for a companion measure introduced just today by my friend and colleague, Mr. Marlenee of Montana. I am an original cosponsor of this legislation, which calls for many of the same assistance provisions addressed by the Senate amendment.

On another front, we have less action than what is demanded by the acute drought situation. The Agriculture Department, to date, has resisted attempts to allow the harvesting of oats on set-aside acres. The Department says it does not want to tamper with what it calls the integrity of the farm program.

This USDA denial is unacceptable. Obviously, the severity of the drought calls for relaxed standards in the farm program. Also remember that the price of oats has rocketed to more than $4 a bushel. In addition, the United States is expected to import some 100 million bushels of oats from overseas this year.

I will continue to press for harvesting of set-aside oats, as adequate feed for our livestock is the most pressing issue at present.

But without significant rainfall, we will soon have to focus our attention on row crops. In my northwest Iowa congressional district, the corn in already withering and soybeans are not far behind.

Mr. Speaker, it is all too clear that more drought relief will be needed. I believe many, if not a majority of my fellow lawmakers are ready to take the necessary steps.

But these steps will ideally be taken in partnership with the administration and its appointed officials at the Agriculture Department—call it rain-barrel politics, if you will.

While we all pray for rain and cooler weather, let us also cooperate. At stake is the well-being and security of millions of people in rural America.

A CELEBRATION OF LIBERTY

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. BARTON of Texas. Mr. Speaker, I would like to share with my colleagues a presentation entitled "Liberty" which was presented by the members of the Central Baptist Church in Bryan, TX, in honor of Independence Day.

The congregation presented this program as a gift to the people of Brazos County on June 24 and 25. Members of Central Baptist Church worked very hard in order to honor those men and women who served their country and gave their lives to defend our freedom.

I would like to ask my colleagues to join me in recognizing the members of the Central Baptist Church for their desire to honor and pay tribute to one of the many blessings we as a nation share, our freedom.

LET'S SUPPORT OUR CHILDREN, EXCELLENCE, AND EDUCATION COSPONSOR THE RESOLUTION COMMENDING THE HUGH O'BRIAN YOUTH FOUNDATION

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mr. SKELTON. Mr. Speaker, in 1958, Hugh O'Brian, one of America's most popular television stars, for those with short memories, he was Wyatt Earp, founded the Hugh O'Brian Youth Foundation in an effort to motivate aspiring future leaders to strive for success.

Since that time, more than 70,000 high school sophomores have had the opportunity to meet with our Nation's leading professionals in business, industry, education, government, and the arts. These Americans, who volunteer their time and talents, are used as examples demonstrating the principles of strong character and sound judgment that Hugh O'Brian wishes to instill in all our young people.

Today, the Hugh O'Brian Youth Foundation is active in every State, sending students to yearly seminars where they serve as ambassadors to help build their confidence and maturity.

As the 30th anniversary of the Hugh O'Brian Youth Foundation approaches this summer, with festivities scheduled for St. Louis at the end of July, a congressional resolution honoring their worthy achievements is in order.

I hope you will take a minute to join with me to pay tribute to a man and a foundation who has dedicated his life and truly made a difference in the lives of thousands of young Americans. Support the resolution commending the Hugh O'Brian Youth Foundation.

WOMEN OWNED BUSINESS: NEW GROWTH IN SPITE OF OLD BARRIERS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1988

Mrs. SCHROEDER. Mr. Speaker, 20 years ago less than 5 percent of American businesses were owned by women. Today, they own approximately 30 percent of all sole proprietorships. If present trends continue, women will own over 50 percent by the year 2000.

Our colleague JOHN LAFALCE, chairman of the Small Business Committee, has been very active in examining the growth of women entrepreneurship, holding a series of hearings in his committee earlier this year. Last week he gave an important address to the annual convention of the National Association of Women in Business in which he documented the success of women owned business. He set forth the barriers which still hinder this vital economic development and proposed a number of policy initiatives designed to remove these barriers.

Representative LAFALCE announced that this week the Small Business Committee will release a comprehensive report on women entrepreneurs and that he will be introducing legislation to improve women's access to commercial credit, to improve access to federal procurement, to support increased management training and technical assistance and to improve government statistics.

Mr. Speaker, I ask unanimous consent that Chairman LAFALCE's speech be inserted in the RECORD and urge my colleagues to read it carefully.

REMARKS OF REPRESENTATIVE JOHN J. LAFALCE, ON WOMEN OWNED BUSINESS

I am very pleased to be your speaker this evening, particularly in light of the recent activities of the Small Business Committee relative to women owned business. But first let me express my sincere appreciation for the support and excellent contribution made by The National Association of Women Business Owners (NAWBO) and its members as Congress deliberates issues that affect women owned business and the American economy.

The Small Business Committee has just concluded the most comprehensive series of hearings ever held by a full committee of Congress on issues relating to women business owners. The hearings, six days in all, were organized to explore the rapidly increasing importance of women as entrepreneurs and what this means for our society.

Much attention has been understandably devoted to women entering the workforce, particularly over the past 20 years. But much less is known about women as entrepreneurs.

Over the years, I have tried to remain knowledgeable about these issues. But I freely admit that as the recent hearings progressed—even astounded—at the magnitude of the achievements and contributions women owned business is making to our economy. Having said this, I continue to be deeply disturbed by the persistent barriers that remain. This organization has a very succinct phrase that sums up the situation perfectly: "Against All Odds."

The exponential increase in the number of businesses owned and controlled by women has been called the most significant economic development of recent years. Prior to the 1970s, women owned less than 5 percent of American businesses. Today, women own approximately 4 million—nearly one-third of all proprietorships in the United States, and the Federal government suggests that by the year 2000, half of all such businesses could be owned by women.

Almost half of all businesses in retail trade, and nearly three-quarters of personal services businesses are now owned by women. The fact that women already predominate in service industries is significant, because in the next decade, 9 out of every 10 jobs will be generated by service industries.

This explosion of female entrepreneurship has simply not been given the attention it deserves. The economic impact of this fast growing segment of our economy, upwards of $250 billion annually, not only merits, but requires attention from policy makers.

Women owned business has become a major economic power, and constitutes a pool of talent and energy unprecedented since waves of immigrants reached our shores. Women, as owners of their own businesses, represent a major source of innovation and productive vigor, and our society needs to support and sustain this economic revolution to the fullest extent possible.

If any "theme" emerged from our Congressional hearings, it was this: It is vitally important for our future standard of living and international competitiveness that public policy affirm and assist women's business ownership. There can be no adequate assessment of the American economy today without taking into account the activities and concerns of women entrepreneurs. And as an integral part of that public policy effort, the remaining barriers to women's entrepreneurship must be eliminated.

It is true that women have suffered from centuries of prejudice, discrimination, and exploitation, and it is true that the last half century—particularly the last 20 years—has been a period of extraordinary change for women in social status and economic gains.

Their entry into the workforce has exposed women to management and technical skills that prepare them for command and entices them to start their own operations. Old sterotypes are crumbling, and modern women are entering trades and professions traditionally reserved for men. With their newly acquired independence, many women are finding it challenging and economically feasible to translate their experience and skills to the marketplace.

In spite of these accomplishments, women are still concentrated in lower paying, lesser skilled jobs and too often receive less pay for equal work. And women who seek economic independence by going into business for themselves suffer from problems and disadvantages that are related directly and indirectly to gender.

Although women are clearly becoming important economic players, it is still not a level playing field out there—yet.

In this regard, let me quote from a letter I received from the President of NAWBO shortly before our hearings started: "Women business owners are faced with many of the same barriers that impede all entrepreneurs—barriers to markets and to many—but they face more of them."

The difference in business receipts is one indication of that fact. Business receipts for the average business owned by a female lag significantly behind the average business owned by a male.

Clearly, the average size, type of business, and age of business typically owned by women are significant factors in this discrepancy. But there are other, less defensible reasons—reasons relating to discrimination and social stereotypes.

Women, as a group, are perceived as lacking in business competencies. For some women business owners, this may be true, and he reasons are indeed familiar to those in this audience. Sex sterotyping in education prompts women to elect fewer science, mathematics, and technical subjects in school; women are not encouraged to acquire practical knowledge of finance-related skills; women are not groomed for the entrepreneurial tradition as are males; and employment experience in related areas, known to be critical to entrepreneurial success, are either denied, or achieved at greater cost.

Many women are achieving success in spite of these handicaps. I believe that managerial training and technical assistance must become increasingly available to all women entrepreneurs to help eliminate this "experience gap."

Once a woman starts her own business, she still faces other handicaps unique to being female. Too often, she is not taken seriously; to often, she must submit to patronizing attitudes by those who consider her business efforts as merely a hobby. And although managerial and entrepreneurial skills are unrelated to gender, too often, her opportunities to develop and untilize these skills are limited by the cumulative effects of present and past discrimination.

In sum, the residual effects of discrimination and sex sterotyping constitute continuing barriers to women achieving the full measure of their business potential.

Our hearings gave particular attention to problems women business owners face in regard to access to busniess credit. Many women owned businesses fail to enjoy normal expansion because they are dangerously undercapitalized. Women suffer from the same disadvantages in seeking traditional sources of capital as all small business—but to a greater extent than men. Unfortunately, discrimination still exists, despite the effort of Congress to eradicate it by passage in 1974 of the Equal Credit Opportunity Act (ECOA). Women and minorities who seek business loans still suffer from subtle discrimination that is difficult to identify and prove. And when a woman is also a member of a minority group, her problem is intensified.

In addition to examples of outright discrimination, the Committee found that lenders have a great deal of misinformation about women-owned business. Much of the problem is the result of inaccurate data about women-owned business that severely limits access to credit, and affects the terms and conditions under which women are able to obtain such credit.

In service industries, where women are concentrated, lenders are unable or unwilling to collaterzlize cash-flow and other "soft" assets. Since personal services companies generally have little in the way of plant and equipment, lenders have been reluctant to devise innovative ways to assess creditworthiness. Such businesses are forced to rely, instead, on internal financing—bootstrapping—which limits their ability to expand.

Attitudes and practices must change in the private sector, and these problems must be addressed by public policymakers, if we want women business owners to achieve the full level of success their hard work should make possible.

Now let me turn to the issue of whether public policy is coming to grips with the new reality of women entrepreneurs.

During the course of our Committee hearings, it became very clear to me that, with few exceptions, the programs and policies of the Federal government in support of women owned business have been effectual in advancing the status of women as business owners.

Some of these problems have been documented for more than a decade. It is an outrage that so little has been done about them.

In preparation for our hearings, the Committee sent a questionnaire to twenty-one Federal agencies requesting information about programs and activities undertaken during the past ten years in support of women's business ownership. The results were extremely disappointing. The majority of such efforts have been superficial, unimaginative, and lacking in long-term commitment.

For example, the Executive Order issued on May 18, 1978 designated the Small Business Administration SBA to be the lead agency in matters relating to the support of women's business ownership. Since then, the following has occurred:

First, the number of Federally guaranteed business loans to women actually decreased over the past 5 years—the period of the greatest women's business activity in history;

Second, the 1987 report on the State of Small Business contained no mention whatsoever of the fastest growing segment of our nation's small business community;

Third, federal procurement contracts have essentially remained unavailable to women—the percentage of government contracts still remains at less than 1 percent.

Finally, the Interagency Committee on Women's Business Enterprise, which is supposed to coordinate and implement Federal policy on these issues, published its first annual report in 1980, and its second such "annual" report, not until 1987. That report consisted of a total of only 15 paragraphs spread over 8 pages, plus an appendix made up largely of reprinted materials.

This lack of serious commitment by our Federal agencies to the enhancement of women's business ownership is indefensible and simply unacceptable. It must change!

In order to document the issues raised during the hearings, and to establish a basis for future action, a Committee report has been prepared entitled "New Economic Realities: The Rise of Women Entrepreneurs."

That report is currently being circulated among all Committee members for comment and approval, and a final version should be ready for filing early next week. The report identifies four areas of major deficiencies that merit special attention: Management training and technical assistance to maximize growth potential; access to credit; participation in government procurement opportunities; and statistical information and data.

We have included in the report a series of policy recommendations that fall within these categories. But, I have also felt a sense of urgency as a result of the testimony received during the hearings. Therefore, I am in the process of drafting a comprehensive women's business ownership bill that would implement the recommendations contained in the Committee report. Within the next few days, I will introduce Federal legislation that would go beyond rhetoric and do the following:

1. Establish a Women's Business Council made up of high-level private sector representatives and government policy makers. That Council would be required, by the end of 1989, to submit to the President and the Congress, a multi-year plan of action with specific goals and timetables.

2. Fund, on a matching public/private partnership basis, a number of demonstraton projects throughout the country to provide sustained, high-quality management training and technical assistance for women owned business.

3. Create an SBA guaranteed "mini-loan program" utilizing expedited application and evaluation procedures for loans up to $50,000. The program would serve all small businesses, but should be especially useful to the service sector of the economy where women-owned businesses are concentrated. We need to help women get the boost they need to go from startup to growth.

4. Require the Federal Reserve Board to promulgate strict limitations regarding inquiry into marital status for commercial loans by lending institutions; and provide for retention of records, and affirmative notice of the right to receive reasons for loan denials. I have been working with the Federal Reserve Board in the hope that it will take such action administratively. If it does not by the beginning of next year, then we must move aggressively in the Congress.

5. Reform the Federal procurment system to provide greater access to women entrepreneurs by requiring: (a) Specific numerical goals for prime contracts to be awarded to women; (b) subcontracting goals for women-owned business in large government contracts which require subcontracting plans; (c) affirmative action to identify sources and encourage the participation of women-owned business in each major indus-

trial category; (d) reporting requirements on the number of women-owned businesses that are new entrants to government contracting each year; and (e) full-time Women's Business Specialists within each agency.

6. Develop, through the Bureau of Labor Statistics and the Bureau of the Census, a much-improved data base on all business organizations owned and controlled by women.

This set of recommendations is both realistic and long overdue. When I introduce the legislation, I hope—and expect—that it will receive energetic bipartisan support.

Of course, I cannot assure you that this legislation will be approved in its entirety during this Session of Congress, which is fast coming to a close. Nor do I believe that such legislation, even if fully enacted, would end discrimination.

But it is impertative that we prepare now for action in the next Congress and the next administration. Women have already become a major economic force; a political agenda should now follow.

Over the next few months, I believe we must solicit the support of both Presidential candidates, so that whoever takes the oath of office on January 20th, 1989, the next administration will already have a commitment to a specific plan of action in support of women's entrepreneurship. The time for rhetoric, "motherhood and apple pie" is past. It is now time to act.

If we do not do a fundamentally better job of removing barriers and increasing support for women entrepreneurs, the loss to this Nation will be incalculable. Let me pledge my deep commitment to the task ahead for all of us.